

**LAWS
of
UTAH 2015**

2015 General Session

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2015 First Special Session

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**2015 FIRST SPECIAL SESSION
61ST LEGISLATURE**

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LAWS
of the
STATE OF UTAH, 2015

Passed at the
GENERAL SESSION
of the
SIXTY-FIRST LEGISLATURE

Convened at the State Capitol in the City of Salt Lake
January 26, 2015
and Adjourned Sine Die on
March 12, 2015

STATE OF UTAH



OFFICE OF THE LIEUTENANT GOVERNOR

CERTIFICATE

THIS IS TO CERTIFY that the acts and resolutions published in this volume are, according to our best information and belief, full and correct copies of the originals passed at the 2015 General Session of the Sixty-first Legislature of the state of Utah, as they appear of record in the Office of the Lieutenant Governor; and

That the 2015 General Session of Sixty-first Legislature of the state of Utah convened at the Capitol in Salt Lake City on the 26th of January, 2015, and adjourned on the 12th day of March 2015.



IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Great Seal of the State of Utah at Salt Lake City, this 12th day of August, 2015.

A handwritten signature in black ink, appearing to read "Spencer J. Cox".

SPENCER J. COX
Lieutenant Governor

CHAPTER 1
H. B. 30

Passed February 6, 2015
Approved February 17, 2015
Effective February 17, 2015

**MATH TEACHER TRAINING
PROGRAM AMENDMENTS**

Chief Sponsor: Rebecca P. Edwards
Senate Sponsor: Howard A. Stephenson

LONG TITLE

General Description:

This bill modifies a grant program for teacher training in math.

Highlighted Provisions:

This bill:

- ▶ expands a grant program for teacher training in math by allowing a grant to be used to provide a stipend, professional development, and leadership opportunities to an experienced mathematics teacher to assist the teacher in becoming a teacher leader.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

53A-6-901, as enacted by Laws of Utah 2012, Chapter 287

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

Section 1. Section 53A-6-901 is amended to read:

53A-6-901. Grants for math teacher training programs.

(1) If the state obtains matching funds of equal sums from private contributors, the board may award grants to institutions of higher education or nonprofit educational organizations for programs that provide:

(a) mentoring and training leading to a secondary education license with an endorsement in mathematics for an individual who:

~~(a)~~ (i) is not a teacher in a public or private school;

~~(b)~~ (ii) does not have a teaching license;

~~(c)~~ (iii) has a bachelor's degree or higher; and

~~(d)~~ (iv) demonstrates a high level of mathematics competency by:

~~(i)~~ (A) successfully completing substantial course work in mathematics; and

~~(ii)~~ (B) passing a mathematics content exam[-];
or

(b) a stipend, professional development, and leadership opportunities to an experienced mathematics teacher who demonstrates high content knowledge and exemplary teaching and

leadership skills to assist the teacher in becoming a teacher leader.

(2) (a) The board shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that establish criteria for awarding grants under this section.

(b) In awarding grants, the board shall consider the amount or percent of matching funds provided by the grant recipient.

Section 2. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

CHAPTER 2

H.B. 1

Passed February 10, 2015
 Approved February 25, 2015
 Effective July 1, 2015

HIGHER EDUCATION BASE BUDGET

Chief Sponsor: Keith Grover
 Senate Sponsor: Stephen H. Urquhart

LONG TITLE

General Description:

This bill appropriates funds for the support and operation of Higher Education for the fiscal year beginning July 1, 2015 and ending June 30, 2016.

Highlighted Provisions:

This bill:

- ▶ provides appropriations for the use and support of certain state agencies;
- ▶ provides appropriations for other purposes as described.

Money Appropriated in this Bill:

This bill appropriates \$1,572,289,800 in operating and capital budgets for fiscal year 2016, including:

- ▶ \$423,474,200 from the General Fund;
- ▶ \$431,472,600 from the Education Fund;
- ▶ \$717,343,000 from various sources as detailed in this bill.

Other Special Clauses:

This bill takes effect on July 1, 2015.

Utah Code Sections Affected:

ENACTS UNCODIFIED MATERIAL

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

Section 1. FY 2016 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2015 and ending June 30, 2016.

Subsection 1(a). Operating and Capital Budgets. Under the terms and conditions of Utah Code Title 63J, the Legislature appropriates the following sums of money from the funds or fund accounts indicated for the use and support of the government of the State of Utah.

UNIVERSITY OF UTAH

Item 1

To University of Utah - Education and General
 From General Fund 121,811,400
 From Education Fund 86,644,700
 From Dedicated Credits Revenue ... 237,648,000
 From Dedicated Credits -
 Land Grant Management 502,100
 From Transfers - Utah System of
 Higher Education 3,556,700
 From Beginning Nonlapsing
 Appropriation Balances (4,228,100)
 From Closing Nonlapsing Appropriation
 Balances 4,228,100
 Schedule of Programs:

Education and General 450,162,900

Item 2

To University of Utah -
 Educationally Disadvantaged
 From General Fund 599,900
 From Education Fund 71,500
 From Revenue Transfers - Commission
 on Criminal and Juvenile Justice 34,500
 From Beginning Nonlapsing
 Appropriation Balances 274,100
 From Closing Nonlapsing Appropriation
 Balances (268,700)
 Schedule of Programs:
 Educationally Disadvantaged 711,300

Item 3

To University of Utah - School of Medicine
 From General Fund 888,000
 From Education Fund 29,625,300
 From Dedicated Credits Revenue ... 19,276,600
 From Beginning Nonlapsing
 Appropriation Balances 5,004,000
 From Closing Nonlapsing Appropriation
 Balances (5,004,000)
 Schedule of Programs:
 School of Medicine 49,789,900

Item 4

To University of Utah - Health Sciences
 From General Fund 1,726,900
 From General Fund Restricted -
 Cigarette Tax Restricted Account ... 4,800,000
 From General Fund Restricted -
 Tobacco Settlement Account 4,000,000
 From Beginning Nonlapsing
 Appropriation Balances 144,200
 From Closing Nonlapsing Appropriation
 Balances (144,200)
 Schedule of Programs:
 Health Sciences 10,526,900

Item 5

To University of Utah - University Hospital
 From General Fund 3,777,300
 From Education Fund 825,300
 From Dedicated Credits -
 Land Grant Management 455,800
 From Beginning Nonlapsing
 Appropriation Balances (179,100)
 From Closing Nonlapsing Appropriation
 Balances 179,100
 Schedule of Programs:
 University Hospital 4,502,900
 Miners' Hospital 555,500

Item 6

To University of Utah - Regional Dental
 Education Program
 From General Fund 471,400
 From Education Fund 60,800
 From Dedicated Credits Revenue ... 1,787,000
 From Beginning Nonlapsing
 Appropriation Balances 9,400
 From Closing Nonlapsing Appropriation
 Balances (9,400)
 Schedule of Programs:
 Regional Dental Education
 Program 2,319,200

Item 7

To University of Utah - Public Service
 From General Fund 5,700
 From Education Fund 1,680,300
 From Beginning Nonlapsing
 Appropriation Balances 76,400
 From Closing Nonlapsing Appropriation
 Balances (75,800)
 Schedule of Programs:
 Seismograph Stations 687,800
 Natural History Museum of Utah 884,900
 State Arboretum 113,900

Item 8

To University of Utah - Statewide
 TV Administration
 From General Fund 2,053,400
 From Education Fund 348,200
 From Beginning Nonlapsing
 Appropriation Balances 355,100
 From Closing Nonlapsing Appropriation
 Balances (355,100)
 Schedule of Programs:
 Public Broadcasting 2,401,600

Item 9

To University of Utah - Poison Control Center
 From General Fund 2,058,000
 From Beginning Nonlapsing
 Appropriation Balances 1,189,500
 From Closing Nonlapsing Appropriation
 Balances (791,700)
 Schedule of Programs:
 Poison Control Center 2,455,800

Item 10

To University of Utah - Center on Aging
 From General Fund 100,400
 From Beginning Nonlapsing
 Appropriation Balances 23,400
 From Closing Nonlapsing Appropriation
 Balances (23,400)
 Schedule of Programs:
 Center on Aging 100,400

Item 11

To University of Utah - Rocky Mountain Center for
 Occupational and Environmental Health
 From General Fund Restricted -
 Workplace Safety Account 154,800
 From Beginning Nonlapsing
 Appropriation Balances 36,000
 From Closing Nonlapsing Appropriation
 Balances (36,000)
 Schedule of Programs:
 Center for Occupational and
 Environmental Health 154,800

UTAH STATE UNIVERSITY

Item 12

To Utah State University - Education and General
 From General Fund 97,199,500
 From Education Fund 21,370,900
 From Dedicated Credits Revenue 90,116,000
 From Dedicated Credits -
 Land Grant Management 150,600
 From Transfers - Utah System of
 Higher Education 3,011,800

From Beginning Nonlapsing
 Appropriation Balances 7,389,000
 From Closing Nonlapsing Appropriation
 Balances (7,389,000)
 Schedule of Programs:
 Education and General 207,001,100
 USU - School of Veterinary
 Medicine 4,847,700

Item 13

To Utah State University - USU -
 Eastern Education and General
 From Education Fund 12,223,400
 From Dedicated Credits Revenue 2,805,000
 From Transfers - Utah System of
 Higher Education 127,700
 From Beginning Nonlapsing
 Appropriation Balances 1,826,100
 From Closing Nonlapsing Appropriation
 Balances (1,826,100)
 Schedule of Programs:
 USU - Eastern Education and
 General 15,156,100

Item 14

To Utah State University -
 Educationally Disadvantaged
 From General Fund 98,000
 From Beginning Nonlapsing
 Appropriation Balances 11,800
 From Closing Nonlapsing Appropriation
 Balances (11,800)
 Schedule of Programs:
 Educationally Disadvantaged 98,000

Item 15

To Utah State University - USU -
 Eastern Educationally Disadvantaged
 From General Fund 101,000
 From Education Fund 1,900
 From Beginning Nonlapsing
 Appropriation Balances 29,700
 From Closing Nonlapsing Appropriation
 Balances (29,700)
 Schedule of Programs:
 USU - Eastern Educationally
 Disadvantaged 102,900

Item 16

To Utah State University - USU - Eastern
 Career and Technical Education
 From General Fund 166,700
 From Education Fund 1,143,500
 From Dedicated Credits Revenue 61,000
 From Beginning Nonlapsing
 Appropriation Balances 350,200
 From Closing Nonlapsing Appropriation
 Balances (350,200)
 Schedule of Programs:
 USU - Eastern Career and Technical
 Education 1,371,200

Item 17

To Utah State University - Uintah Basin
 Regional Campus
 From General Fund 2,219,600
 From Education Fund 1,604,000
 From Dedicated Credits Revenue 2,155,000
 From Beginning Nonlapsing
 Appropriation Balances 361,600

From Closing Nonlapsing Appropriation
Balances (361,600)
Schedule of Programs:
 Uintah Basin Regional Campus 5,978,600

Item 18

To Utah State University -
 Southeastern Continuing Education Center
From General Fund 566,100
From Education Fund 154,700
From Dedicated Credits Revenue 1,425,000
From Beginning Nonlapsing
 Appropriation Balances 42,500
From Closing Nonlapsing Appropriation
 Balances (42,500)
Schedule of Programs:
 Southeastern Continuing Education
 Center 2,145,800

Item 19

To Utah State University - Brigham
 City Regional Campus
From General Fund 967,800
From Education Fund 5,585,300
From Dedicated Credits Revenue 20,200,000
From Transfers - Utah System of
 Higher Education 200,000
From Beginning Nonlapsing
 Appropriation Balances 1,827,500
From Closing Nonlapsing Appropriation
 Balances (1,827,500)
Schedule of Programs:
 Brigham City Regional Campus 26,953,100

Item 20

To Utah State University - Tooele
 Regional Campus
From General Fund 636,800
From Education Fund 3,357,300
From Dedicated Credits Revenue 8,605,000
From Transfers - Utah System of
 Higher Education 196,300
From Beginning Nonlapsing
 Appropriation Balances 416,200
From Closing Nonlapsing Appropriation
 Balances (416,200)
Schedule of Programs:
 Tooele Regional Campus 12,795,400

Item 21

To Utah State University - Water
 Research Laboratory
From General Fund 1,297,400
From Education Fund 494,300
From General Fund Restricted -
 Mineral Lease 1,745,800
From General Fund Restricted - Land
 Exchange Distribution Account 66,400
From Beginning Nonlapsing
 Appropriation Balances 5,304,800
From Closing Nonlapsing Appropriation
 Balances (5,304,800)
Schedule of Programs:
 Water Research Laboratory 3,603,900

Item 22

To Utah State University - Agriculture
 Experiment Station
From General Fund 939,000
From Education Fund 11,279,000

From Federal Funds 1,813,800
From Transfers - Utah System of
 Higher Education 173,800
From Beginning Nonlapsing
 Appropriation Balances 3,205,300
From Closing Nonlapsing Appropriation
 Balances (3,205,300)
Schedule of Programs:
 Agriculture Experiment Station 14,205,600

Item 23

To Utah State University - Cooperative Extension
From General Fund 989,800
From Education Fund 11,346,100
From Federal Funds 2,088,500
From Transfers - Utah System of
 Higher Education 220,400
From Beginning Nonlapsing
 Appropriation Balances 1,971,400
From Closing Nonlapsing Appropriation
 Balances (1,971,400)
Schedule of Programs:
 Cooperative Extension 14,644,800

Item 24

To Utah State University - Prehistoric Museum
From General Fund 142,200
From Education Fund 110,500
From Beginning Nonlapsing
 Appropriation Balances 136,500
From Closing Nonlapsing Appropriation
 Balances (136,500)
Schedule of Programs:
 Prehistoric Museum 252,700

Item 25

To Utah State University - Blanding Campus
From General Fund 1,603,000
From Education Fund 530,000
From Dedicated Credits Revenue 1,295,000
From Beginning Nonlapsing
 Appropriation Balances 196,300
From Closing Nonlapsing Appropriation
 Balances (196,300)
Schedule of Programs:
 Blanding Campus 3,428,000

WEBER STATE UNIVERSITY**Item 26**

To Weber State University - Education
 and General
From General Fund 61,269,200
From Education Fund 11,031,000
From Dedicated Credits Revenue 67,279,100
From Transfers - Utah System of
 Higher Education 830,800
From Beginning Nonlapsing
 Appropriation Balances 3,971,900
From Closing Nonlapsing Appropriation
 Balances (3,971,900)
Schedule of Programs:
 Education and General 140,410,100

Item 27

To Weber State University -
 Educationally Disadvantaged
From General Fund 290,800
From Education Fund 56,300
From Beginning Nonlapsing
 Appropriation Balances 51,700

From Closing Nonlapsing Appropriation
Balances (51,700)
Schedule of Programs:
 Educationally Disadvantaged 347,100

SOUTHERN UTAH UNIVERSITY

Item 28

To Southern Utah University - Education and General
From General Fund 11,126,800
From Education Fund 20,824,800
From Dedicated Credits Revenue 34,424,000
From Transfers - Utah System of Higher Education 333,100
From Beginning Nonlapsing Appropriation Balances 3,935,000
From Closing Nonlapsing Appropriation Balances (3,935,000)
Schedule of Programs:
 Education and General 66,708,700

Item 29

To Southern Utah University - Educationally Disadvantaged
From General Fund 79,800
From Education Fund 9,400
From Beginning Nonlapsing Appropriation Balances 19,000
From Closing Nonlapsing Appropriation Balances (19,000)
Schedule of Programs:
 Educationally Disadvantaged 89,200

Item 30

To Southern Utah University - Shakespeare Festival
From General Fund 8,900
From Education Fund 12,200
Schedule of Programs:
 Shakespeare Festival 21,100

Item 31

To Southern Utah University - Rural Development
From General Fund 81,000
From Education Fund 15,500
From Beginning Nonlapsing Appropriation Balances 1,400
From Closing Nonlapsing Appropriation Balances (1,400)
Schedule of Programs:
 Rural Development 96,500

UTAH VALLEY UNIVERSITY

Item 32

To Utah Valley University - Education and General
From General Fund 56,736,900
From Education Fund 35,176,800
From Dedicated Credits Revenue 99,698,200
From Transfers - Utah System of Higher Education 1,378,600
From Beginning Nonlapsing Appropriation Balances 13,641,000
From Closing Nonlapsing Appropriation Balances (13,641,000)
Schedule of Programs:
 Education and General 192,990,500

Item 33

To Utah Valley University - Educationally Disadvantaged
From General Fund 136,100
From Education Fund 23,600
From Beginning Nonlapsing Appropriation Balances 3,000
From Closing Nonlapsing Appropriation Balances (3,000)
Schedule of Programs:
 Educationally Disadvantaged 159,700

SNOW COLLEGE

Item 34

To Snow College - Education and General
From General Fund 1,539,800
From Education Fund 18,116,000
From Dedicated Credits Revenue 9,723,700
From Transfers - Utah System of Higher Education 372,400
From Beginning Nonlapsing Appropriation Balances 858,400
From Closing Nonlapsing Appropriation Balances (858,400)
Schedule of Programs:
 Education and General 29,751,900

Item 35

To Snow College - Educationally Disadvantaged
From General Fund 31,400
Schedule of Programs:
 Educationally Disadvantaged 31,400

Item 36

To Snow College - Career and Technical Education
From General Fund 1,231,100
From Education Fund 37,500
Schedule of Programs:
 Career and Technical Education 1,268,600

DIXIE STATE UNIVERSITY

Item 37

To Dixie State University - Education and General
From General Fund 2,277,400
From Education Fund 28,089,100
From Dedicated Credits Revenue 24,375,000
From Transfers - Utah System of Higher Education 460,900
From Beginning Nonlapsing Appropriation Balances 1,078,700
From Closing Nonlapsing Appropriation Balances (1,078,700)
Schedule of Programs:
 Education and General 55,202,400

Item 38

To Dixie State University - Educationally Disadvantaged
From General Fund 25,000
Schedule of Programs:
 Educationally Disadvantaged 25,000

Item 39

To Dixie State University - Zion Park Amphitheater
From General Fund 46,100
From Education Fund 5,900
From Dedicated Credits Revenue 33,500

From Beginning Nonlapsing	
Appropriation Balances	9,900
From Closing Nonlapsing Appropriation	
Balances	(9,900)
Schedule of Programs:	
Zion Park Amphitheater	85,500

SALT LAKE COMMUNITY COLLEGE

Item 40

To Salt Lake Community College -	
Education and General	
From General Fund	9,849,400
From Education Fund	69,768,100
From Dedicated Credits Revenue	58,875,500
From Transfers - Utah System of	
Higher Education	983,200
From Beginning Nonlapsing	
Appropriation Balances	3,844,400
From Closing Nonlapsing Appropriation	
Balances	(3,844,400)
Schedule of Programs:	
Education and General	139,476,200

Item 41

To Salt Lake Community College -	
Educationally Disadvantaged	
From General Fund	174,800
From Beginning Nonlapsing	
Appropriation Balances	104,500
From Closing Nonlapsing Appropriation	
Balances	(104,500)
Schedule of Programs:	
Educationally Disadvantaged	174,800

Item 42

To Salt Lake Community College -	
School of Applied Technology	
From General Fund	4,057,400
From Education Fund	1,899,900
From Dedicated Credits Revenue	1,113,800
From Beginning Nonlapsing	
Appropriation Balances	342,500
From Closing Nonlapsing Appropriation	
Balances	(342,500)
Schedule of Programs:	
School of Applied Technology	7,071,100

STATE BOARD OF REGENTS

Item 43

To State Board of Regents - Administration	
From General Fund	2,833,800
From Education Fund	794,100
From Federal Funds	303,100
From Transfers - Utah System of	
Higher Education	1,400
From Beginning Nonlapsing	
Appropriation Balances	706,100
From Closing Nonlapsing Appropriation	
Balances	(456,100)
Schedule of Programs:	
Administration	3,879,300
Federal Programs	303,100

Item 44

To State Board of Regents - Student Assistance	
From General Fund	7,423,100
From Education Fund	5,602,900

From Beginning Nonlapsing	
Appropriation Balances	111,600
From Closing Nonlapsing Appropriation	
Balances	(111,600)
Schedule of Programs:	
Regents' Scholarship	4,102,200
Student Financial Aid	3,187,800
Minority Scholarships	35,500
New Century Scholarships	1,944,200
Success Stipend	1,363,400
Western Interstate Commission	
for Higher Education	822,200
T.H. Bell Teaching Incentive	
Loans Program	1,448,200
Veterans Tuition Gap Program	122,500

Item 45

To State Board of Regents - Student Support	
From General Fund	751,500
From Education Fund	799,800
From Beginning Nonlapsing	
Appropriation Balances	55,300
From Closing Nonlapsing Appropriation	
Balances	(54,500)
Schedule of Programs:	
Services for Hearing Impaired	
Students	780,400
Concurrent Enrollment	428,200
Articulation Support	264,400
Campus Compact	79,100

Item 46

To State Board of Regents - Technology	
From General Fund	3,917,300
From Education Fund	3,122,600
From Beginning Nonlapsing	
Appropriation Balances	900
From Closing Nonlapsing Appropriation	
Balances	(900)
Schedule of Programs:	
Higher Education Technology	
Initiative	4,482,100
Utah Academic Library	
Consortium	2,557,800

Item 47

To State Board of Regents - Economic Development	
From General Fund	345,200
From Education Fund	3,000
From Beginning Nonlapsing	
Appropriation Balances	148,200
From Closing Nonlapsing Appropriation	
Balances	(148,200)
Schedule of Programs:	
Engineering Loan Repayment	37,600
Economic Development Initiatives	310,600

Item 48

To State Board of Regents - Education Excellence	
From Education Fund	981,800
From Beginning Nonlapsing	
Appropriation Balances	1,657,200
From Closing Nonlapsing Appropriation	
Balances	(1,566,700)
Schedule of Programs:	
Education Excellence	1,072,300

Item 49

To State Board of Regents - Medical	
Education Council	
From General Fund	548,400

From Dedicated Credits Revenue	476,500
From Beginning Nonlapsing	
Appropriation Balances	666,300
From Closing Nonlapsing Appropriation	
Balances	(521,300)
Schedule of Programs:	
Medical Education Council	1,169,900

UTAH COLLEGE OF APPLIED TECHNOLOGY

Item 50

To Utah College of Applied Technology - Administration	
From General Fund	2,902,000
From Education Fund	2,547,000
Schedule of Programs:	
Administration	1,804,200
Equipment	549,700
Custom Fit	3,095,100

Item 51

To Utah College of Applied Technology - Bridgerland Applied Technology College	
From General Fund	4,017,500
From Education Fund	6,686,600
From Dedicated Credits Revenue	1,367,300
From Beginning Nonlapsing	
Appropriation Balances	15,300
From Closing Nonlapsing Appropriation	
Balances	(15,300)
Schedule of Programs:	
Bridgerland Applied Technology College	12,071,400

Item 52

To Utah College of Applied Technology - Davis Applied Technology College	
From General Fund	4,083,900
From Education Fund	7,852,900
From Dedicated Credits Revenue	1,950,500
Schedule of Programs:	
Davis Applied Technology College	13,887,300

Item 53

To Utah College of Applied Technology - Dixie Applied Technology College	
From General Fund	81,100
From Education Fund	3,277,100
From Dedicated Credits Revenue	135,000
Schedule of Programs:	
Dixie Applied Technology College	3,493,200

Item 54

To Utah College of Applied Technology - Mountainland Applied Technology College	
From Education Fund	8,065,300
From Dedicated Credits Revenue	970,000
Schedule of Programs:	
Mountainland Applied Technology College	9,035,300

Item 55

To Utah College of Applied Technology - Ogden/Weber Applied Technology College	
From General Fund	4,954,900
From Education Fund	7,365,100
From Dedicated Credits Revenue	1,725,500
Schedule of Programs:	

Ogden/Weber Applied Technology College	14,045,500
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Item 56

To Utah College of Applied Technology - Southwest Applied Technology College	
From General Fund	158,100
From Education Fund	3,738,200
From Dedicated Credits Revenue	283,200
Schedule of Programs:	
Southwest Applied Technology College	4,179,500

Item 57

To Utah College of Applied Technology - Tooele Applied Technology College	
From General Fund	826,900
From Education Fund	2,114,700
From Dedicated Credits Revenue	196,000
Schedule of Programs:	
Tooele Applied Technology College	3,137,600

Item 58

To Utah College of Applied Technology - Uintah Basin Applied Technology College	
From General Fund	1,249,300
From Education Fund	4,998,400
From Dedicated Credits Revenue	490,000
Schedule of Programs:	
Uintah Basin Applied Technology College	6,737,700

Section 2. Effective Date.

This bill takes effect on July 1, 2015.

CHAPTER 3

H. B. 4

Passed February 10, 2015
 Approved February 25, 2015
 Effective July 1, 2015

**BUSINESS, ECONOMIC DEVELOPMENT,
 AND LABOR BASE BUDGET**

Chief Sponsor: Dixon M. Pitcher
 Senate Sponsor: Brian E. Shiozawa

LONG TITLE

General Description:

This bill appropriates funds for the support and operation of state government for the fiscal year beginning July 1, 2015 and ending June 30, 2016.

Highlighted Provisions:

This bill:

- ▶ provides appropriations for the use and support of certain state agencies;
- ▶ provides appropriations for other purposes as described.

Money Appropriated in this Bill:

This bill appropriates \$272,057,900 in operating and capital budgets for fiscal year 2016, including:

- ▶ \$93,300,800 from the General Fund;
- ▶ \$20,471,100 from the Education Fund;
- ▶ \$158,286,000 from various sources as detailed in this bill.

This bill appropriates \$21,344,900 in expendable funds and accounts for fiscal year 2016.

This bill appropriates \$555,000 in restricted fund and account transfers for fiscal year 2016, all of which is from the General Fund.

This bill appropriates \$265,400 in transfers to unrestricted funds for fiscal year 2016.

This bill appropriates \$9,077,500 in fiduciary funds for fiscal year 2016.

Other Special Clauses:

This bill takes effect on July 1, 2015.

Utah Code Sections Affected:

ENACTS UNCODIFIED MATERIAL

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

Section 1. FY 2016 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2015 and ending June 30, 2016.

Subsection 1(a). Operating and Capital Budgets. Under the terms and conditions of Utah Code Title 63J, the Legislature appropriates the following sums of money from the funds or fund accounts indicated for the use and support of the government of the State of Utah.

DEPARTMENT OF HERITAGE AND ARTS

Item 1

To Department of Heritage and Arts - Administration
 From General Fund 3,688,000

From Federal Funds 4,260,500
 From Dedicated Credits Revenue 186,500
 From Beginning Nonlapsing
 Appropriation Balances 593,100
 From Closing Nonlapsing Appropriation
 Balances (519,300)
 Schedule of Programs:
 Executive Director's Office 528,400
 Information Technology 1,256,200
 Administrative Services 1,510,900
 Utah Multicultural Affairs Office 348,100
 Commission on Service and
 Volunteerism 4,565,200

Item 2

To Department of Heritage and Arts -
 Historical Society
 From Dedicated Credits Revenue 47,500
 Schedule of Programs:
 State Historical Society 47,500

Item 3

To Department of Heritage and Arts - State History
 From General Fund 2,082,000
 From Federal Funds 902,700
 From Dedicated Credits Revenue 97,300
 Schedule of Programs:
 Administration 272,600
 Library and Collections 578,700
 Public History, Communication
 and Information 559,300
 Historic Preservation and
 Antiquities 1,646,400
 History Projects and Grants 25,000

Item 4

To Department of Heritage and Arts -
 Division of Arts and Museums
 From General Fund 2,367,600
 From Federal Funds 788,900
 From Dedicated Credits Revenue 48,900
 From Beginning Nonlapsing
 Appropriation Balances 954,300
 From Closing Nonlapsing Appropriation
 Balances (485,000)
 Schedule of Programs:
 Administration 556,900
 Grants to Non-profits 1,036,400
 Community Arts Outreach 2,081,400

Item 5

To Department of Heritage and Arts - Division of
 Arts and Museums - Office of Museum Services
 From General Fund 263,300
 Schedule of Programs:
 Office of Museum Services 263,300

Item 6

To Department of Heritage and Arts - State Library
 From General Fund 4,280,600
 From Federal Funds 1,833,100
 From Dedicated Credits Revenue 1,870,600
 Schedule of Programs:
 Administration 1,433,600
 Blind and Disabled 1,694,700
 Library Development 2,566,000
 Library Resources 2,290,000

Item 7

To Department of Heritage and Arts -
 Indian Affairs

From General Fund	242,500
From Dedicated Credits Revenue	47,000
From Beginning Nonlapsing Appropriation Balances	38,300
From Closing Nonlapsing Appropriation Balances	(13,200)
Schedule of Programs: Indian Affairs	314,600

Item 8

To Department of Heritage and Arts - Pass-Through From General Fund	287,000
Schedule of Programs: Pass-Through	287,000

**GOVERNOR'S OFFICE OF
ECONOMIC DEVELOPMENT**

Item 9

To Governor's Office of Economic Development - Administration From General Fund	6,874,500
From Dedicated Credits Revenue	796,800
Schedule of Programs: Administration	7,671,300

Item 10

To Governor's Office of Economic Development - STEM Action Center From General Fund	6,500,400
From Dedicated Credits Revenue	1,500,000
Schedule of Programs: STEM Action Center	3,000,400
STEM College Ready Math	5,000,000

Item 11

To Governor's Office of Economic Development - Office of Tourism From General Fund	4,031,700
From Transportation Fund	118,000
From Dedicated Credits Revenue	259,500
Schedule of Programs: Administration	1,137,400
Operations and Fulfillment	2,500,300
Film Commission	771,500

Item 12

To Governor's Office of Economic Development - Business Development From General Fund	8,395,500
From Federal Funds	1,012,500
From Dedicated Credits Revenue	354,000
From General Fund Restricted - Industrial Assistance Account	250,000
Schedule of Programs: Outreach and International Trade	5,940,000
Corporate Recruitment and Business Services	4,072,000

Item 13

To Governor's Office of Economic Development - Pete Suazo Utah Athletics Commission From General Fund	157,200
From Dedicated Credits Revenue	65,200
Schedule of Programs: Pete Suazo Utah Athletics Commission	222,400

UTAH STATE TAX COMMISSION

Item 14

To Utah State Tax Commission - Tax Administration From General Fund	26,120,500
From Education Fund	20,471,100
From Transportation Fund	5,857,400
From Federal Funds	590,600
From Dedicated Credits Revenue	9,870,800
From General Fund Restricted - Electronic Payment Fee Restricted Account	5,759,700
From General Fund Restricted - Tax Commission Administrative Charge	9,756,800
From General Fund Restricted - Tobacco Settlement Account	18,500
From Uninsured Motorist Identification Restricted Account	133,800
From Revenue Transfers - Commission on Criminal and Juvenile Justice	15,000
From Revenue Transfers - Federal Government Pass-through	121,800
From Beginning Nonlapsing Appropriation Balances	3,314,400
From Closing Nonlapsing Appropriation Balances	(1,350,700)
Schedule of Programs: Administration Division	11,154,300
Auditing Division	11,301,300
Multi-State Tax Compact	252,200
Technology Management	10,202,500
Tax Processing Division	6,901,400
Seasonal Employees	152,100
Tax Payer Services	10,613,400
Property Tax Division	4,912,400
Motor Vehicles	21,526,000
Motor Vehicle Enforcement Division	3,664,100

Item 15

To Utah State Tax Commission - License Plates Production From Dedicated Credits Revenue	2,002,900
From Beginning Nonlapsing Appropriation Balances	825,400
From Closing Nonlapsing Appropriation Balances	(310,400)
Schedule of Programs: License Plates Production	2,517,900

Item 16

To Utah State Tax Commission - Rural Health Care Facilities Distribution From General Fund Restricted - Rural Healthcare Facilities Fund	555,000
From Lapsing Balance	(336,200)
Schedule of Programs: Rural Health Care Facilities Distribution	218,800

Item 17

To Utah State Tax Commission - Liquor Profit Distribution From General Fund Restricted- Alcoholic Beverage Enforcement & Treatment	5,386,400
Schedule of Programs: Liquor Profit Distribution	5,386,400

**UTAH SCIENCE TECHNOLOGY AND
RESEARCH GOVERNING AUTHORITY**

Item 18

To Utah Science Technology and Research
Governing Authority - University Research
Teams

From General Fund 18,518,900
Schedule of Programs:

U of U Alternative Energy Center ... 1,005,100
U of U Biomedical Device 426,400
U of U Circuits of the Brain 367,000
U of U Diagnostic Imaging 64,600
U of U Digital Media 489,100
U of U Fossil Energy 678,900
U of U Health Sciences 2,627,400
U of U Imaging Technology 933,100
U of U Micro Nano/Nanoscale 360,700
U of U Nanotechnology Biosensors ... 263,800
U of U Wireless Nanosystems 1,101,100
U of U Nanoscale and Biomedical
Photonic Imaging 772,200
U of U Commercialization
Initiatives 321,900
U of U Equipment and Other 1,700,000
USU Applied Nutrition Research 135,000
USU Synthetic Bio-Manufacturing
Institute 2,371,700
USU Veterinary Diagnostics
and Infectious Disease 2,063,600
USU Utah Advanced Transportation
Institute 1,148,800
USU Energy Initiative 598,500
USU Equipment and Other 510,000
USU Commercialization Initiatives ... 580,000

Item 19

To Utah Science Technology and Research
Governing Authority - Technology Outreach and
Innovation

From General Fund 2,542,700
From Dedicated Credits Revenue 11,000
Schedule of Programs:

South 390,000
Central 568,000
North 568,000
East 558,000
Salt Lake SBIR-STTR Resource
Center 314,700
Salt Lake BioInnovations
Gateway (BiG) 155,000

Item 20

To Utah Science Technology and Research
Governing Authority - USTAR Administration

From General Fund 971,200
From Beginning Nonlapsing
Appropriation Balances 146,300

Schedule of Programs:

Administration 1,117,500

**DEPARTMENT OF ALCOHOLIC
BEVERAGE CONTROL**

Item 21

To Department of Alcoholic Beverage
Control - DABC Operations

From Liquor Control Fund 38,464,600
Schedule of Programs:

Executive Director 1,932,800
Administration 851,000
Operations 2,053,400
Warehouse and Distribution 4,665,700
Stores and Agencies 28,961,700

Item 22

To Department of Alcoholic Beverage
Control - Parents Empowered

From GFR - Underage Drinking Prevention
Media and Education Campaign
Restricted Account 2,080,800

From Beginning Nonlapsing

Appropriation Balances 47,900

From Closing Nonlapsing Appropriation

Balances (6,500)

Schedule of Programs:

Parents Empowered 2,122,200

LABOR COMMISSION

Item 23

To Labor Commission

From General Fund 5,972,800
From Federal Funds 2,955,900
From Dedicated Credits Revenue 96,900

From General Fund Restricted -

Industrial Accident Restricted
Account 2,745,300

From General Fund Restricted -

Workplace Safety Account 1,602,900

From Employers' Reinsurance Fund 73,600

From Beginning Nonlapsing

Appropriation Balances 250,000

From Closing Nonlapsing Appropriation

Balances (150,000)

Schedule of Programs:

Administration 1,804,800

Industrial Accidents 1,799,800

Appeals Board 12,100

Adjudication 1,218,200

Boiler, Elevator and Coal Mine

Safety Division 1,483,900

Workplace Safety 1,134,900

Anti-Discrimination and Labor 2,212,400

Utah OSHA 3,721,300

Building Operations and

Maintenance 160,000

DEPARTMENT OF COMMERCE

Item 24

To Department of Commerce - Commerce
General Regulation

From Federal Funds 300,000

From Dedicated Credits Revenue 1,335,700

From General Fund Restricted -

Commerce Service Account 20,395,300

From General Fund Restricted -

Commerce Service Account -

Public Utilities Regulatory Fee 4,801,700

From General Fund Restricted -

Factory Built Housing Fees 100,000

From General Fund Restricted -

Geologist Education and

Enforcement Account 10,000

From General Fund Restricted - Nurse

Education & Enforcement Account 14,700

From General Fund Restricted -

Pawnbroker Operations 129,900

From General Fund Restricted -
 Utah Housing Opportunity
 Restricted Account 20,000
 From Pass-through 50,000
 From Beginning Nonlapsing
 Appropriation Balances 1,556,600
 From Closing Nonlapsing Appropriation
 Balances (2,056,600)
 Schedule of Programs:
 Administration 3,325,300
 Occupational and Professional
 Licensing 9,678,700
 Securities 2,150,500
 Consumer Protection 1,915,800
 Corporations and Commercial
 Code 2,454,700
 Real Estate 2,228,000
 Public Utilities 3,876,300
 Office of Consumer Services 755,400
 Building Operations and
 Maintenance 272,600

Item 25

To Department of Commerce - Building
 Inspector Training
 From Dedicated Credits Revenue 262,300
 From Beginning Nonlapsing
 Appropriation Balances 975,900
 From Closing Nonlapsing Appropriation
 Balances (775,900)
 Schedule of Programs:
 Building Inspector Training 462,300

Item 26

To Department of Commerce - Public
 Utilities Professional and Technical Services
 From General Fund Restricted -
 Commerce Service Account -
 Public Utilities Regulatory Fee 150,000
 From Beginning Nonlapsing
 Appropriation Balances 2,234,300
 From Closing Nonlapsing Appropriation
 Balances (2,034,300)
 Schedule of Programs:
 Professional and Technical Services ... 350,000

Item 27

To Department of Commerce - Office of Consumer
 Services Professional and Technical Services
 From General Fund Restricted -
 Commerce Service Account -
 Public Utilities Regulatory Fee 500,100
 From Beginning Nonlapsing
 Appropriation Balances 1,850,700
 From Closing Nonlapsing Appropriation
 Balances (1,550,600)
 Schedule of Programs:
 Professional and Technical Services ... 800,200

FINANCIAL INSTITUTIONS

Item 28

To Financial Institutions - Financial
 Institutions Administration
 From General Fund Restricted -
 Financial Institutions 7,029,700
 Schedule of Programs:
 Administration 6,809,700

Building Operations and
 Maintenance 220,000

INSURANCE DEPARTMENT

Item 29

To Insurance Department - Insurance
 Department Administration
 From Federal Funds 1,231,800
 From Dedicated Credits Revenue 8,600
 From General Fund Restricted - Guaranteed
 Asset Protection Waiver 89,100
 From General Fund Restricted -
 Insurance Department Account 7,629,200
 From General Fund Restricted - Insurance
 Fraud Investigation Account 2,237,400
 From General Fund Restricted -
 Relative Value Study Account 84,000
 From General Fund Restricted -
 Technology Development 626,000
 From General Fund Restricted -
 Criminal Background Check 165,000
 From General Fund Restricted -
 Captive Insurance 987,300
 From Beginning Nonlapsing
 Appropriation Balances 800,300
 From Closing Nonlapsing Appropriation
 Balances (516,900)
 Schedule of Programs:
 Administration 8,721,000
 Relative Value Study 70,000
 Insurance Fraud Program 2,475,000
 Captive Insurers 1,065,800
 Electronic Commerce Fee 780,000
 GAP Waiver Program 55,000
 Criminal Background Checks 175,000

Item 30

To Insurance Department - Health
 Insurance Actuary
 From General Fund Restricted - Health
 Insurance Actuarial Review Account ... 147,000
 From Beginning Nonlapsing
 Appropriation Balances 137,800
 From Closing Nonlapsing Appropriation
 Balances (127,800)
 Schedule of Programs:
 Health Insurance Actuary 157,000

Item 31

To Insurance Department - Bail Bond Program
 From General Fund Restricted - Bail
 Bond Surety Administration 23,500
 Schedule of Programs:
 Bail Bond Program 23,500

Item 32

To Insurance Department - Title
 Insurance Program
 From General Fund 4,400
 From General Fund Restricted - Title
 Licensee Enforcement Account 85,200
 From Beginning Nonlapsing
 Appropriation Balances 11,700
 From Closing Nonlapsing Appropriation
 Balances (11,100)
 Schedule of Programs:
 Title Insurance Program 90,200

PUBLIC SERVICE COMMISSION**Item 33**

To Public Service Commission
 From Dedicated Credits Revenue 2,000
 From General Fund Restricted -
 Commerce Service Account -
 Public Utilities Regulatory Fee 2,370,700
 From Beginning Nonlapsing
 Appropriation Balances 611,300
 From Closing Nonlapsing Appropriation
 Balances (611,300)
 Schedule of Programs:
 Administration 2,344,000
 Building Operations and
 Maintenance 28,700

Item 34

To Public Service Commission - Speech
 and Hearing Impaired
 From Dedicated Credits Revenue 818,600
 From Beginning Nonlapsing
 Appropriation Balances 3,339,100
 From Closing Nonlapsing Appropriation
 Balances (2,689,100)
 Schedule of Programs:
 Speech and Hearing Impaired 1,468,600

Subsection 1(b). Expendable Funds and Accounts. The Legislature has reviewed the following expendable funds. Where applicable, the Legislature authorizes the State Division of Finance to transfer amounts among funds and accounts as indicated. Outlays and expenditures from the recipient funds or accounts may be made without further legislative action according to a fund or account's applicable authorizing statute.

DEPARTMENT OF HERITAGE AND ARTS**Item 35**

To Department of Heritage and Arts -
 State Library Donation Fund
 From Dedicated Credits Revenue 1,500
 From Interest Income 6,200
 Schedule of Programs:
 State Library Donation Fund 7,700

Item 36

To Department of Heritage and Arts -
 History Donation Fund
 From Interest Income 1,500
 Schedule of Programs:
 History Donation Fund 1,500

Item 37

To Department of Heritage and Arts -
 State Arts Endowment Fund
 From Dedicated Credits Revenue 9,000
 From Interest Income 1,500
 Schedule of Programs:
 State Arts Endowment Fund 10,500

**GOVERNOR'S OFFICE OF
ECONOMIC DEVELOPMENT****Item 38**

To Governor's Office of Economic Development -
 General Fund Restricted - Industrial Assistance
 Account
 From Interest Income 150,000

From Revenue Transfers -
 Within Agency (250,000)
 From Beginning Fund Balance 25,555,000
 From Ending Fund Balance (22,755,000)
 Schedule of Programs:
 General Fund Restricted - Industrial
 Assistance Account 2,700,000

Item 39

To Governor's Office of Economic Development -
 Private Proposal Restricted Revenue Fund
 From Beginning Fund Balance 7,000
 From Ending Fund Balance (7,000)

Item 40

To Governor's Office of Economic
 Development - Transient Room Tax Fund
 From Transient Room Tax Fund 2,800,000
 Schedule of Programs:
 Transient Room Tax Fund 2,800,000

DEPARTMENT OF COMMERCE**Item 41**

To Department of Commerce -
 Architecture Education and Enforcement Fund
 From Licenses/Fees 20,600
 From Beginning Fund Balance 19,400
 Schedule of Programs:
 Architecture Education and
 Enforcement Fund 40,000

Item 42

To Department of Commerce -
 Consumer Protection Education
 and Training Fund
 From Licenses/Fees 498,000
 From Interest Income 2,000
 From Beginning Fund Balance 500,000
 From Ending Fund Balance (500,000)
 Schedule of Programs:
 Consumer Protection Education
 and Training Fund 500,000

Item 43

To Department of Commerce -
 Cosmetologist/ Barber, Esthetician,
 Electrologist Fund
 From Licenses/Fees 19,500
 From Interest Income 500
 From Beginning Fund Balance 124,900
 From Ending Fund Balance (114,900)
 Schedule of Programs:
 Cosmetologist/Barber, Esthetician,
 Electrologist Fund 30,000

Item 44

To Department of Commerce -
 Land Surveyor/Engineer Education
 and Enforcement Fund
 From Licenses/Fees 500
 From Beginning Fund Balance 3,000
 From Ending Fund Balance 41,500
 Schedule of Programs:
 Land Surveyor/Engineer Education
 and Enforcement Fund 45,000

Item 45

To Department of Commerce -
 Landscapes Architects Education
 and Enforcement Fund

From Licenses/Fees 6,000
 From Beginning Fund Balance 2,400
 Schedule of Programs:
 Landscapes Architects Education
 and Enforcement Fund 8,400

Item 46

To Department of Commerce -
 Physicians Education Fund
 From Licenses/Fees 9,900
 From Interest Income 100
 From Beginning Fund Balance 49,400
 From Ending Fund Balance (29,400)
 Schedule of Programs:
 Physicians Education Fund 30,000

Item 47

To Department of Commerce -
 Real Estate Education, Research,
 and Recovery Fund
 From Licenses/Fees 147,000
 From Interest Income 3,000
 From Beginning Fund Balance 769,000
 From Ending Fund Balance (649,000)
 Schedule of Programs:
 Real Estate Education, Research,
 and Recovery Fund 270,000

Item 48

To Department of Commerce - Residence
 Lien Recovery Fund
 From Licenses/Fees 190,000
 From Interest Income 10,000
 From Beginning Fund Balance 1,396,200
 From Ending Fund Balance (596,200)
 Schedule of Programs:
 Residence Lien Recovery Fund 1,000,000

Item 49

To Department of Commerce -
 Residential Mortgage Loan Education,
 Research, and Recovery Fund
 From Licenses/Fees 217,000
 From Interest Income 3,000
 From Beginning Fund Balance 407,900
 From Ending Fund Balance (407,900)
 Schedule of Programs:
 RMLERR Fund 220,000

Item 50

To Department of Commerce - Securities
 Investor Education/Training/Enforcement Fund
 From Licenses/Fees 295,000
 From Interest Income 5,000
 From Beginning Fund Balance 180,600
 From Ending Fund Balance (180,600)
 Schedule of Programs:
 Securities Investor Education/Training/
 Enforcement Fund 300,000

INSURANCE DEPARTMENT

Item 51

To Insurance Department - Insurance
 Fraud Victim Restitution Fund
 From General Fund Restricted - Insurance
 Fraud Investigation Account 322,300
 Schedule of Programs:
 Insurance Fraud Victim
 Restitution Fund 322,300

Item 52

To Insurance Department - Title Insurance
 Recovery Education and Research Fund
 From Dedicated Credits Revenue 42,500
 From Beginning Nonlapsing
 Appropriation Balances 380,200
 From Closing Nonlapsing Appropriation
 Balances (363,200)
 Schedule of Programs:
 Title Insurance Recovery Education
 and Research Fund 59,500

PUBLIC SERVICE COMMISSION

Item 53

To Public Service Commission -
 Universal Telecommunications Support Fund
 From Licenses/Fees 13,000,000
 Schedule of Programs:
 Universal Telecom Service Fund ... 13,000,000

Subsection 1(c). Restricted Fund and

Account Transfers. The Legislature authorizes the State Division of Finance to transfer the following amounts among the following funds or accounts as indicated. Expenditures and outlays from the recipient funds must be authorized elsewhere in an appropriations act.

FUND AND ACCOUNT TRANSFERS

Item 54

To Fund and Account Transfers - General Fund
 Restricted - Rural Health Care Facilities Fund
 From General Fund 555,000
 Schedule of Programs:
 GFR - Rural Health Care Facilities
 Fund 555,000

Subsection 1(d). Transfers to Unrestricted

Funds. The Legislature authorizes the State Division of Finance to transfer the following amounts to the unrestricted General, Education, or Uniform School Fund as indicated from the restricted funds or accounts indicated. Expenditures and outlays from the General, Education, or Uniform School Fund must be authorized elsewhere in an appropriations act.

TRANSFERS TO UNRESTRICTED FUNDS

Item 55

To General Fund
 From General Fund Restricted -
 Commerce Service Account 265,400
 Schedule of Programs:
 General Fund 265,400

Subsection 1(e). Fiduciary Funds.

The Legislature has reviewed proposed revenues, expenditures, fund balances and changes in fund balances for the following fiduciary funds.

LABOR COMMISSION

Item 56

To Labor Commission - Employers
 Reinsurance Fund
 From Interest Income 2,900,000
 From Dedicated Credits -
 Investments 250,000

From Premium Tax Collections 16,940,000
From Beginning Fund Balance (37,516,400)
From Ending Fund Balance 21,702,200
Schedule of Programs:
Employers Reinsurance Fund 4,275,800

Item 57

To Labor Commission - Uninsured
Employers Fund
From Dedicated Credits Revenue 1,286,000
From Interest Income 538,000
From Premium Tax Collections 2,250,000
From Beginning Fund Balance 4,530,000
From Ending Fund Balance (3,802,300)
Schedule of Programs:
Uninsured Employers Fund 4,801,700

Section 2. Effective Date.

This bill takes effect on July 1, 2015.

CHAPTER 4

H. B. 5

Passed February 10, 2015
 Approved February 25, 2015
 Effective July 1, 2015

RETIREMENT AND INDEPENDENT ENTITIES BASE BUDGET

Chief Sponsor: Kraig Powell
 Senate Sponsor: Todd Weiler

LONG TITLE

General Description:

This bill appropriates funds for the support and operation of state government for the fiscal year beginning July 1, 2015 and ending June 30, 2016.

Highlighted Provisions:

This bill:

- ▶ provides appropriations for the use and support of certain state agencies;
- ▶ provides appropriations for other purposes as described;
- ▶ approves employment levels for internal service funds; and
- ▶ approves capital acquisition amounts for internal service funds.

Money Appropriated in this Bill:

This bill appropriates \$44,253,800 in operating and capital budgets for fiscal year 2016, including:

- ▶ \$3,494,400 from the General Fund;
- ▶ \$18,582,700 from the Education Fund;
- ▶ \$22,176,700 from various sources as detailed in this bill.

This bill appropriates \$12,054,600 in business-like activities for fiscal year 2016.

Other Special Clauses:

This bill takes effect on July 1, 2015.

Utah Code Sections Affected:

ENACTS UNCODIFIED MATERIAL

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

Section 1. FY 2016 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2015 and ending June 30, 2016.

Subsection 1(a). Operating and Capital Budgets. Under the terms and conditions of Utah Code Title 63J, the Legislature appropriates the following sums of money from the funds or fund accounts indicated for the use and support of the government of the State of Utah.

CAREER SERVICE REVIEW OFFICE

Item 1

To Career Service Review Office
 From General Fund 260,500
 From Beginning Nonlapsing
 Appropriation Balances 30,000
 From Closing Nonlapsing Appropriation
 Balances (30,000)

Schedule of Programs:

Career Service Review Office 260,500

DEPARTMENT OF HUMAN RESOURCE MANAGEMENT

Item 2

To Department of Human Resource Management - Human Resource Management

From General Fund 2,598,700
 From Dedicated Credits Revenue 200,000
 From Beginning Nonlapsing
 Appropriation Balances 198,600

Schedule of Programs:

Administration 657,800
 Policy 797,300
 ALJ Compliance 75,200
 Statewide Management Liability
 Training 248,600
 Information Technology 1,218,400

UTAH EDUCATION NETWORK

Item 3

To Utah Education Network

From General Fund 635,200
 From Education Fund 18,582,700
 From Federal Funds 3,154,900
 From Dedicated Credits Revenue 17,024,900
 From Dedicated Credits -

 Intragovernmental Revenue 455,400
 From Other Financing Sources 559,800
 From Beginning Nonlapsing

 Appropriation Balances 583,100

Schedule of Programs:

Administration 2,069,900
 Operations and Maintenance 375,400
 Public Information 211,700
 KUEN Broadcast 818,500
 Technical Services 31,345,400
 Course Management Systems 610,800
 Instructional Support 3,404,100
 Statewide Data Alliance 345,000
 Utah Telehealth Network 1,815,200

Subsection 1(b). Business-like Activities.

The Legislature has reviewed the following proprietary funds. Under the terms and conditions of Utah Code 63J-1-410, for any included Internal Service Fund the Legislature approves budgets, full-time permanent positions, and capital acquisition amounts as indicated, and appropriates to the funds as indicated estimated revenue from rates, fees, and other charges. Where applicable, the Legislature authorizes the State Division of Finance to transfer amounts among funds and accounts as indicated.

DEPARTMENT OF HUMAN RESOURCE MANAGEMENT

Item 4

To Department of Human Resource Management - Human Resources Internal Service Fund

From Dedicated Credits -
 Intragovernmental Revenue 12,054,600

Schedule of Programs:

ISF - Field Services 10,878,700
 ISF - Payroll Field Services 722,400

ISF - Legal Services 453,500
Budgeted FTE 142.0

Section 2. Effective Date.

This bill takes effect on July 1, 2015.

CHAPTER 5

H. B. 6

Passed February 10, 2015
 Approved February 25, 2015
 Effective February 25, 2015
 (Exception clause in Section 3)

INFRASTRUCTURE AND GENERAL GOVERNMENT BASE BUDGET

Chief Sponsor: Gage Froerer
 Senate Sponsor: Wayne A. Harper

LONG TITLE

Committee Note:

The Executive Appropriations Committee recommended this bill.

General Description:

This bill supplements or reduces appropriations previously provided for the use and operation of state government for the fiscal year beginning July 1, 2014 and ending June 30, 2015; and appropriates funds for the support and operation of state government for the fiscal year beginning July 1, 2015 and ending June 30, 2016.

Highlighted Provisions:

This bill:

- ▶ provides appropriations for the use and support of certain state agencies; and
- ▶ provides appropriations for other purposes as described.

Money Appropriated in this Bill:

This bill appropriates (\$1,100,000) in operating and capital budgets for fiscal year 2015, all of which is from the General Fund.

This bill appropriates \$6,000,000 in transfers to unrestricted funds for fiscal year 2015.

This bill appropriates (\$15,158,500) in capital project funds for fiscal year 2015.

This bill appropriates \$1,452,779,300 in operating and capital budgets for fiscal year 2016, including:

- ▶ \$129,745,600 from the General Fund;
- ▶ \$41,192,300 from the Education Fund;
- ▶ \$1,281,841,400 from various sources as detailed in this bill.

This bill appropriates \$346,785,000 in business-like activities for fiscal year 2016.

This bill appropriates \$14,139,000 in transfers to unrestricted funds for fiscal year 2016.

This bill appropriates \$1,046,084,300 in capital project funds for fiscal year 2016.

Other Special Clauses:

Section 1 of this bill takes effect immediately. Section 2 of this bill takes effect on July 1, 2015.

Utah Code Sections Affected:

ENACTS UNCODIFIED MATERIAL

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

Section 1. FY 2015 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2014 and

ending June 30, 2015. These are additions to amounts previously appropriated for fiscal year 2015.

Subsection 1(a). Operating and Capital Budgets.

Under the terms and conditions of Utah Code Title 63J, the Legislature appropriates the following sums of money from the funds or fund accounts indicated for the use and support of the government of the State of Utah.

DEPARTMENT OF ADMINISTRATIVE SERVICES

Item 1

To Department of Administrative Services - Finance - Mandated
 From General Fund, One-time (1,100,000)
 Schedule of Programs:
 Studies (1,100,000)

Subsection 1(b). Transfers to Unrestricted Funds.

The Legislature authorizes the State Division of Finance to transfer the following amounts to the unrestricted General, Education, or Uniform School Fund as indicated from the restricted funds or accounts indicated. Expenditures and outlays from the General, Education, or Uniform School Fund must be authorized elsewhere in an appropriations act.

TRANSFERS TO UNRESTRICTED FUNDS

Item 2

To General Fund
 From Capital Project Fund -
 Project Reserve 4,500,000
 From Capital Project Fund -
 Contingency Reserve 1,500,000
 Schedule of Programs:
 General Fund, One-time 6,000,000

Subsection 1(c). Capital Project Funds.

The Legislature has reviewed the following capital project funds. Where applicable, the Legislature authorizes the State Division of Finance to transfer amounts among funds and accounts as indicated.

TRANSPORTATION

Item 3

To Transportation - Transportation Investment Fund of 2005
 From Designated Sales Tax (15,158,500)
 Schedule of Programs:
 Transportation Investment Fund (15,158,500)

Section 2. FY 2016 Appropriations.

The following sums of money are appropriated for the fiscal year beginning July 1, 2015 and ending June 30, 2016.

Subsection 2(a). Operating and Capital Budgets.

Under the terms and conditions of Utah Code Title 63J, the Legislature appropriates the following sums of money from the funds or fund accounts indicated for the use

and support of the government of the State of Utah.

TRANSPORTATION

Item 4

To Transportation – Support Services
 From Transportation Fund 30,030,100
 From Federal Funds 2,029,300
 Schedule of Programs:
 Administrative Services 2,445,300
 Risk Management 2,953,500
 Building and Grounds 987,500
 Human Resources Management 1,300,700
 Procurement 1,104,900
 Comptroller 2,702,900
 Data Processing 11,545,300
 Internal Auditor 849,200
 Community Relations 558,700
 Ports of Entry 7,611,400

Item 5

To Transportation – Engineering Services
 From Transportation Fund 16,765,200
 From Federal Funds 15,287,000
 From Dedicated Credits Revenue 1,150,000
 Schedule of Programs:
 Program Development 11,254,100
 Preconstruction Administration 1,902,400
 Environmental 681,500
 Structures 3,116,100
 Materials Lab 4,656,700
 Engineering Services 2,341,400
 Right-of-Way 2,204,100
 Research 2,743,700
 Construction Management 1,728,400
 Civil Rights 223,100
 Engineer Development Pool 2,012,400
 Highway Project Management Team ... 338,300

Item 6

To Transportation – Operations/
 Maintenance Management
 From Transportation Fund 140,624,600
 From Transportation Investment
 Fund of 2005 6,300,000
 From Federal Funds 8,887,500
 From Dedicated Credits Revenue 1,288,300
 Schedule of Programs:
 Maintenance Administration 9,919,500
 Region 1 21,828,900
 Region 2 30,318,100
 Region 3 21,064,600
 Region 4 42,797,000
 Seasonal Pools 1,164,100
 Lands and Buildings 2,992,000
 Field Crews 12,110,100
 Traffic Safety/Tramway 3,433,100
 Traffic Operations Center 9,418,700
 Maintenance Planning 2,054,300

Item 7

To Transportation – Construction Management
 From Transportation Fund 11,028,200
 From Federal Funds 152,831,400
 From Dedicated Credits Revenue 1,550,000
 From Designated Sales Tax 43,545,800
 Schedule of Programs:
 Federal Construction – New 134,580,100

Rehabilitation/Preservation 74,375,300

Item 8

To Transportation – Region Management
 From Transportation Fund 23,242,700
 From Federal Funds 3,691,100
 From Dedicated Credits Revenue 1,147,200
 Schedule of Programs:
 Region 1 5,829,800
 Region 2 9,980,100
 Region 3 4,847,200
 Region 4 6,713,600
 Richfield 74,000
 Price 300,700
 Cedar City 335,600

Item 9

To Transportation – Equipment Management
 From Transportation Fund 1,041,000
 From Dedicated Credits Revenue 27,096,200
 Schedule of Programs:
 Equipment Purchases 6,022,200
 Shops 22,115,000

Item 10

To Transportation – Aeronautics
 From Dedicated Credits Revenue 383,600
 From Aeronautics Restricted
 Account 6,978,000
 Schedule of Programs:
 Administration 517,500
 Airport Construction 3,536,100
 Civil Air Patrol 80,000
 Aid to Local Airports 2,240,000
 Airplane Operations 988,000

Item 11

To Transportation – B and C Roads
 From Transportation Fund 128,824,000
 Schedule of Programs:
 B and C Roads 128,824,000

Item 12

To Transportation – Safe Sidewalk Construction
 From Transportation Fund 500,000
 Schedule of Programs:
 Sidewalk Construction 500,000

Item 13

To Transportation – Mineral Lease
 From General Fund Restricted –
 Mineral Lease 66,096,000
 Schedule of Programs:
 Mineral Lease Payments 63,627,000
 Payment in Lieu 2,469,000

Item 14

To Transportation – Share the Road
 From General Fund Restricted – Share
 the Road Bicycle Support 35,000
 Schedule of Programs:
 Share the Road 35,000

Item 15

To Transportation – Transportation
 Investment Fund Capacity Program
 From Transportation Investment
 Fund of 2005 202,406,000
 Schedule of Programs:
 Transportation Investment Fund
 Capacity Program 202,406,000

**DEPARTMENT OF
ADMINISTRATIVE SERVICES**

Item 16

To Department of Administrative Services - Executive Director
 From General Fund 1,192,800
 From Dedicated Credits Revenue 20,000
 From Beginning Nonlapsing Appropriation Balances 77,000
 From Closing Nonlapsing Appropriation Balances (77,000)
 Schedule of Programs:
 Executive Director 1,109,100
 Parental Defense 103,700

Item 17

To Department of Administrative Services - Inspector General of Medicaid Services
 From General Fund 1,082,200
 From Revenue Transfers - Medicaid ... 2,282,100
 From Beginning Nonlapsing Appropriation Balances 600,000
 From Closing Nonlapsing Appropriation Balances (154,700)
 Schedule of Programs:
 Inspector General of Medicaid Services 3,809,600

Item 18

To Department of Administrative Services - Administrative Rules
 From General Fund 398,800
 From Beginning Nonlapsing Appropriation Balances 15,000
 Schedule of Programs:
 DAR Administration 413,800

Item 19

To Department of Administrative Services - DFCM Administration
 From General Fund 2,314,100
 From Dedicated Credits Revenue 1,546,500
 From Capital Projects Fund 1,808,500
 From Capital Project Fund - Project Reserve 200,000
 From Capital Project Fund - Contingency Reserve 82,300
 From Beginning Nonlapsing Appropriation Balances 941,800
 From Closing Nonlapsing Appropriation Balances (941,800)
 Schedule of Programs:
 DFCM Administration 5,051,400
 Governor's Residence 119,200
 Energy Program 780,800

Item 20

To Department of Administrative Services - Building Board Program
 From Capital Projects Fund 1,255,900
 Schedule of Programs:
 Building Board Program 1,255,900

Item 21

To Department of Administrative Services - State Archives
 From General Fund 2,839,300
 From Federal Funds 30,000
 From Dedicated Credits Revenue 51,000

From Beginning Nonlapsing Appropriation Balances 71,700
 From Closing Nonlapsing Appropriation Balances (149,900)
 Schedule of Programs:
 Archives Administration 1,526,100
 Records Analysis 240,000
 Preservation Services 273,000
 Patron Services 462,300
 Records Services 340,700

Item 22

To Department of Administrative Services - Finance Administration
 From General Fund 6,258,700
 From Transportation Fund 450,000
 From Dedicated Credits Revenue 2,173,000
 From General Fund Restricted - Internal Service Fund Overhead 1,299,600
 From Beginning Nonlapsing Appropriation Balances 2,572,900
 From Closing Nonlapsing Appropriation Balances (2,534,200)
 Schedule of Programs:
 Finance Director's Office 400,300
 Payroll 1,893,100
 Payables/Disbursing 1,691,200
 Technical Services 1,144,800
 Financial Reporting 1,824,700
 Financial Information Systems 3,265,900

Item 23

To Department of Administrative Services - Finance - Mandated
 From General Fund 20,698,900
 From General Fund Restricted - Statewide Unified E-911 Emergency Account 2,990,600
 From General Fund Restricted - Economic Incentive Restricted Account 8,565,600
 From General Fund Restricted - Land Exchange Distribution Account 3,200,000
 From General Fund Restricted - Computer Aided Dispatch Account 2,573,500
 Schedule of Programs:
 Land Exchange Distribution 3,200,000
 Employee Health Benefits 3,231,800
 State Employee Benefits 4,500,000
 Development Zone Partial Rebates 8,565,600
 Jail Reimbursement 12,967,100
 Computer Aided Dispatch 2,573,500
 E-911 Emergency Services 2,990,600

Item 24

To Department of Administrative Services - Finance - Elected Official Post-Retirement Benefits Contribution
 From General Fund 1,387,600
 Schedule of Programs:
 Elected Official Post-Retirement Trust Fund 1,387,600

Item 25

To Department of Administrative Services - Post Conviction Indigent Defense

From General Fund 33,900
 From Beginning Nonlapsing
 Appropriation Balances 25,600
 Schedule of Programs:
 Post Conviction Indigent
 Defense Fund 59,500

Item 26

To Department of Administrative
 Services - Judicial Conduct Commission
 From General Fund 240,600
 Schedule of Programs:
 Judicial Conduct Commission 240,600

Item 27

To Department of Administrative
 Services - Purchasing
 From General Fund 616,500
 Schedule of Programs:
 Purchasing and General Services 616,500

**DEPARTMENT OF
 TECHNOLOGY SERVICES**

Item 28

To Department of Technology Services -
 Chief Information Officer
 From General Fund 514,700
 Schedule of Programs:
 Chief Information Officer 514,700

Item 29

To Department of Technology Services -
 Integrated Technology Division
 From General Fund 768,400
 From Federal Funds 300,000
 From Dedicated Credits Revenue 768,700
 From General Fund Restricted - Statewide
 Unified E-911 Emergency Account 329,800
 Schedule of Programs:
 Automated Geographic Reference
 Center 2,166,900

CAPITAL BUDGET

Item 30

To Capital Budget - Capital Improvements
 From General Fund 22,787,000
 From Education Fund 23,990,300
 Schedule of Programs:
 Capital Improvements 46,777,300

**STATE BOARD OF BONDING
 COMMISSIONERS - DEBT SERVICE**

Item 31

To State Board of Bonding Commissioners -
 Debt Service - Debt Service
 From General Fund 54,473,100
 From General Fund, One-time 14,139,000
 From Education Fund 17,202,000
 From Transportation Investment
 Fund of 2005 325,652,000
 From Federal Funds 15,758,900
 From Dedicated Credits Revenue 25,089,100
 From County of First Class
 State Hwy Fund 6,383,600
 From Revenue Transfers -
 Other Funds (14,139,000)

From Beginning Nonlapsing
 Appropriation Balances 7,896,600
 From Closing Nonlapsing Appropriation
 Balances (7,931,500)
 Schedule of Programs:
 General Obligation Bonds
 Debt Service 417,617,200
 Revenue Bonds Debt Service 26,906,600

Subsection 2(b). Business-like Activities.

The Legislature has reviewed the following proprietary funds. Under the terms and conditions of Utah Code 63J-1-410, for any included Internal Service Fund the Legislature approves budgets, full-time permanent positions, and capital acquisition amounts as indicated, and appropriates to the funds as indicated estimated revenue from rates, fees, and other charges. Where applicable, the Legislature authorizes the State Division of Finance to transfer amounts among funds and accounts as indicated.

**DEPARTMENT OF ADMINISTRATIVE
 SERVICES INTERNAL SERVICE FUNDS**

Item 32

To Department of Administrative
 Services - Division of Finance
 From Dedicated Credits -
 Intragovernmental Revenue 1,792,000
 Schedule of Programs:
 ISF - Purchasing Card 185,300
 ISF - Consolidated Budget and
 Accounting 1,606,700
 Budgeted FTE 20.0

Item 33

To Department of Administrative Services -
 Division of Purchasing and General Services
 From Dedicated Credits -
 Intragovernmental Revenue 19,847,500
 Schedule of Programs:
 ISF - Central Mailing 13,381,800
 ISF - Cooperative Contracting 2,882,000
 ISF - Print Services 2,972,600
 ISF - State Surplus Property 582,900
 ISF - Federal Surplus Property 28,200
 Budgeted FTE 91.0
 Authorized Capital Outlay 3,061,100

Item 34

To Department of Administrative
 Services - Division of Fleet Operations
 From Dedicated Credits -
 Intragovernmental Revenue 72,995,400
 From Sale of Fixed Assets 227,500
 Schedule of Programs:
 ISF - Motor Pool 29,597,200
 ISF - Fuel Network 43,109,600
 ISF - Travel Office 516,100
 Budgeted FTE 27.0
 Authorized Capital Outlay 16,350,000

Item 35

To Department of Administrative Services -
 Risk Management
 From Premiums 34,498,500
 From Interest Income 214,400
 From Risk Management - Workers
 Compensation Fund 9,039,900

Schedule of Programs:

ISF - Workers' Compensation	9,039,900
Risk Management OCIP	3,400
Risk Management - Property	16,510,000
Risk Management - Auto	1,855,900
Risk Management - Liability	16,343,600
Budgeted FTE	28.0
Authorized Capital Outlay	200,000

Item 36

To Department of Administrative Services -
Division of Facilities Construction and
Management - Facilities Management

From Dedicated Credits -

Intragovernmental Revenue	29,631,200
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Schedule of Programs:

ISF - Facilities Management	29,631,200
Budgeted FTE	134.0
Authorized Capital Outlay	39,000

**DEPARTMENT OF TECHNOLOGY
SERVICES INTERNAL SERVICE FUNDS**

Item 37

To Department of Technology Services -
Agency Services

From Dedicated Credits -

Intragovernmental Revenue	54,977,500
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Schedule of Programs:

ISF - Agency Services Division	54,977,500
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Item 38

To Department of Technology Services - Enterprise
Technology Division

From Dedicated Credits -

Intragovernmental Revenue	123,561,100
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Schedule of Programs:

ISF - Enterprise Technology	
Division	123,561,100
Budgeted FTE	733.0
Authorized Capital Outlay	6,000,000

Subsection 2(c). Transfers to Unrestricted Funds. The Legislature authorizes the State Division of Finance to transfer the following amounts to the unrestricted General, Education, or Uniform School Fund as indicated from the restricted funds or accounts indicated. Expenditures and outlays from the General, Education, or Uniform School Fund must be authorized elsewhere in an appropriations act.

TRANSFERS TO UNRESTRICTED FUNDS

Item 39

To General Fund
From Nonlapsing Balances -

Debt Service	14,139,000
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Schedule of Programs:

General Fund, One-time	14,139,000
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Subsection 2(d). Capital Project Funds. The Legislature has reviewed the following capital project funds. Where applicable, the Legislature authorizes the State Division of Finance to transfer amounts among funds and accounts as indicated.

TRANSPORTATION

Item 40

To Transportation - Transportation
Investment Fund of 2005

From Transportation Fund	76,633,600
From Licenses/Fees	75,276,700
From Designated Sales Tax	411,979,800
From Revenue Transfers	6,000,000

Schedule of Programs:

Transportation Investment	
Fund	569,890,100

CAPITAL BUDGET

Item 41

To Capital Budget - DFCM Capital Projects Fund

From Revenue Transfers	389,589,800
From Beginning Fund Balance	221,958,400
From Ending Fund Balance	(135,354,000)

Schedule of Programs:

DFCM Capital Projects Fund	476,194,200
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Section 3. Effective Date.

If approved by two-thirds of all the members elected to each house, Section 1 of this bill takes effect upon approval by the Governor, or the day following the constitutional time limit of Utah Constitution Article VII, Section 8 without the Governor's signature, or in the case of a veto, the date of override. Section 2 of this bill takes effect on July 1, 2015.

CHAPTER 6

H. B. 7

Passed February 10, 2015
 Approved February 25, 2015
 Effective February 25, 2015
 (Exception clause in Section 3)

**NATIONAL GUARD, VETERANS' AFFAIRS,
 AND LEGISLATURE BASE BUDGET**

Chief Sponsor: Dean Sanpei
 Senate Sponsor: Lyle W. Hillyard

LONG TITLE

General Description:

This bill supplements or reduces appropriations previously provided for the use and operation of state government for the fiscal year beginning July 1, 2014 and ending June 30, 2015; and appropriates funds for the support and operation of state government for the fiscal year beginning July 1, 2015 and ending June 30, 2016.

Highlighted Provisions:

This bill:

- ▶ provides appropriations for the use and support of certain state agencies;
- ▶ provides appropriations for other purposes as described.

Money Appropriated in this Bill:

This bill appropriates \$83,419,400 in operating and capital budgets for fiscal year 2016, including:

- ▶ \$35,788,300 from the General Fund;
- ▶ \$47,631,100 from various sources as detailed in this bill.

This bill appropriates \$20,472,500 in expendable funds and accounts for fiscal year 2016.

Other Special Clauses:

Section 1 of this bill takes effect immediately.
 Section 2 of this bill takes effect on July 1, 2015.

Utah Code Sections Affected:

ENACTS UNCODIFIED MATERIAL

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

Section 1. FY 2015 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2014 and ending June 30, 2015. These are additions to amounts previously appropriated for fiscal year 2015.

Subsection 1(a). Operating and Capital Budgets. Under the terms and conditions of Utah Code Title 63J, the Legislature appropriates the following sums of money from the funds or fund accounts indicated for the use and support of the government of the State of Utah.

CAPITOL PRESERVATION BOARD

Item 1

To Capitol Preservation Board
 From General Fund, One-time 500,000
 Schedule of Programs:

Capitol Preservation Board 500,000

LEGISLATURE

Item 2

To Legislature - Legislative Services
 From General Fund, One-time (500,000)
 Schedule of Programs:
 Administration (500,000)

Section 2. FY 2016 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2015 and ending June 30, 2016.

Subsection 2(a). Operating and Capital Budgets.

Under the terms and conditions of Utah Code Title 63J, the Legislature appropriates the following sums of money from the funds or fund accounts indicated for the use and support of the government of the State of Utah.

UTAH NATIONAL GUARD

Item 3

To Utah National Guard
 From General Fund 6,129,700
 From Federal Funds 46,309,500
 From Dedicated Credits Revenue 20,000
 Schedule of Programs:
 Administration 710,800
 Operations and Maintenance 50,748,400
 Tuition Assistance 1,000,000

**DEPARTMENT OF VETERANS'
 AND MILITARY AFFAIRS**

Item 4

To Department of Veterans' and Military Affairs - Veterans' and Military Affairs
 From General Fund 2,207,900
 From Federal Funds 523,200
 From Dedicated Credits Revenue 220,300
 From Beginning Nonlapsing
 Appropriation Balances 183,100
 Schedule of Programs:
 Administration 678,400
 Cemetery 595,600
 State Approving Agency 134,800
 Outreach Services 796,700
 Military Affairs 929,000

CAPITOL PRESERVATION BOARD

Item 5

To Capitol Preservation Board
 From General Fund 4,246,800
 From General Fund, One-time 290,000
 Schedule of Programs:
 Capitol Preservation Board 4,536,800

LEGISLATURE

Item 6

To Legislature - Senate
 From General Fund 2,685,600
 From Beginning Nonlapsing
 Appropriation Balances 1,022,400
 From Closing Nonlapsing Appropriation
 Balances (1,022,400)

Schedule of Programs:
Administration 2,685,600

Item 7

To Legislature - House of Representatives
From General Fund 4,473,000
From Beginning Nonlapsing
Appropriation Balances 1,777,000
From Closing Nonlapsing Appropriation
Balances (1,777,000)

Schedule of Programs:
Administration 4,473,000

Item 8

To Legislature - Office of the Legislative
Auditor General
From General Fund 3,587,800
From Beginning Nonlapsing
Appropriation Balances 840,300
From Closing Nonlapsing Appropriation
Balances (840,300)

Schedule of Programs:
Administration 3,587,800

Item 9

To Legislature - Office of the Legislative
Fiscal Analyst
From General Fund 3,151,100
From General Fund, One-time (60,000)
From Beginning Nonlapsing
Appropriation Balances 700,200
From Closing Nonlapsing Appropriation
Balances (700,200)

Schedule of Programs:
Administration and Research 3,091,100

Item 10

To Legislature - Legislative Printing
From General Fund 558,300
From Dedicated Credits Revenue 175,000
From Beginning Nonlapsing
Appropriation Balances 241,600
From Closing Nonlapsing Appropriation
Balances (241,600)

Schedule of Programs:
Administration 733,300

Item 11

To Legislature - Office of Legislative
Research and General Counsel
From General Fund 8,054,200
From Beginning Nonlapsing
Appropriation Balances 1,251,500
From Closing Nonlapsing Appropriation
Balances (1,251,500)

Schedule of Programs:
Administration 8,054,200

Item 12

To Legislature - Legislative Services
From General Fund 1,228,700
From General Fund, One-time (764,800)
From Beginning Nonlapsing
Appropriation Balances 241,300
From Closing Nonlapsing Appropriation
Balances (41,300)

Schedule of Programs:
Administration 663,900

Subsection 2(b). Expendable Funds and Accounts. The Legislature has reviewed the

following expendable funds. Where applicable, the Legislature authorizes the State Division of Finance to transfer amounts among funds and accounts as indicated. Outlays and expenditures from the recipient funds or accounts may be made without further legislative action according to a fund or account's applicable authorizing statute.

UTAH NATIONAL GUARD

Item 13

To Utah National Guard -
National Guard MWR Fund
From Dedicated Credits Revenue 1,538,000
From Beginning Fund Balance 50,000
From Ending Fund Balance (50,000)
Schedule of Programs:
National Guard MWR Fund 1,538,000

DEPARTMENT OF VETERANS' AND MILITARY AFFAIRS

Item 14

To Department of Veterans' and Military Affairs -
Utah Veterans' Nursing Home Fund
From Federal Funds 18,773,000
From Dedicated Credits Revenue 40,000
From Interest Income 10,000
From Beginning Fund Balance 3,739,100
From Ending Fund Balance (3,858,000)
Schedule of Programs:
Veterans' Nursing Home Fund 18,704,100

CAPITOL PRESERVATION BOARD

Item 15

To Capitol Preservation Board - State Capitol
Restricted Special Revenue Fund
From Dedicated Credits Revenue 311,600
From Beginning Fund Balance 1,316,600
From Ending Fund Balance (1,397,800)
Schedule of Programs:
State Capitol Fund 230,400

Section 3. Effective Date.

If approved by two-thirds of all the members elected to each house, Section 1 of this bill takes effect upon approval by the Governor, or the day following the constitutional time limit of Utah Constitution Article VII, Section 8 without the Governor's signature, or in the case of a veto, the date of override. Section 2 of this bill takes effect on July 1, 2015.

CHAPTER 7**S. B. 1**

Passed February 10, 2015

(Passed into law without governor's signature)

Effective July 1, 2015

**PUBLIC EDUCATION BASE
BUDGET AMENDMENTS**

Chief Sponsor: Howard A. Stephenson

House Sponsor: Steve Eliason

LONG TITLE**General Description:**

This bill appropriates funds for the support and operation of public education for the fiscal year beginning July 1, 2015, and ending June 30, 2016.

Highlighted Provisions:

This bill:

- ▶ provides appropriations for the use and support of state education agencies;
- ▶ provides appropriations for the use and support of school districts and charter schools;
- ▶ sets the value of the weighted pupil unit (WPU) initially at the same WPU value set for the 2014-15 fiscal year:
 - \$2,726 for the special education and career and technology add-on programs; and
 - \$2,972 for all other programs;
- ▶ sets the estimated minimum basic tax rate at .001416 for fiscal year 2015-16; and
- ▶ provides appropriations for other purposes as described.

Monies Appropriated in this Bill:

This bill appropriates for fiscal year 2016:

- ▶ \$7,297,700 from the General Fund;
- ▶ \$30,000,000 from the Uniform School Fund;
- ▶ \$2,657,837,300 from the Education Fund; and
- ▶ \$1,235,647,700 from various sources as detailed in this bill.

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

53A-17a-135, as last amended by Laws of Utah 2014, Chapter 4

Uncodified Material Affected:

ENACTS UNCODIFIED MATERIAL

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

Section 1. Section 53A-17a-135 is amended to read:**53A-17a-135. Minimum basic tax rate -- Certified revenue levy.**

(1) (a) In order to qualify for receipt of the state contribution toward the basic program and as its contribution toward its costs of the basic program, each school district shall impose a minimum basic tax rate per dollar of taxable value that generates [\$296,709,700] \$305,172,300 in revenues statewide.

(b) The preliminary estimate for the [2014-15] 2015-16 minimum basic tax rate is [.001477] .001416.

(c) The State Tax Commission shall certify on or before June 22 the rate that generates [\$296,709,700] \$305,172,300 in revenues statewide.

(d) If the minimum basic tax rate exceeds the certified revenue levy as defined in Section 53A-17a-103, the state is subject to the notice requirements of Section 59-2-926.

(2) (a) The state shall contribute to each district toward the cost of the basic program in the district that portion which exceeds the proceeds of the levy authorized under Subsection (1).

(b) In accord with the state strategic plan for public education and to fulfill its responsibility for the development and implementation of that plan, the Legislature instructs the State Board of Education, the governor, and the Office of Legislative Fiscal Analyst in each of the coming five years to develop budgets that will fully fund student enrollment growth.

(3) (a) If the proceeds of the levy authorized under Subsection (1) equal or exceed the cost of the basic program in a school district, no state contribution shall be made to the basic program.

(b) The proceeds of the levy authorized under Subsection (1) which exceed the cost of the basic program shall be paid into the Uniform School Fund as provided by law.

Section 2. Appropriations for state education agencies, school districts, and charter schools -- Value of the weighted pupil unit.

(1) Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, for the fiscal year beginning July 1, 2015, and ending June 30, 2016, the following sums of money are appropriated from resources not otherwise appropriated, or reduced from amounts previously appropriated, out of the funds or accounts indicated. These sums of money are in addition to any amounts previously appropriated for fiscal year 2016.

(2) The value of the weighted pupil unit for fiscal year 2015-16 is initially set at:

(a) \$2,726 for:

(i) Special Education -- Add-on; and

(ii) Career & Technical Education District Add-on; and

(b) \$2,972 for all other programs.

State Board of Education - Minimum School Program

Item 1 To State Board of Education - Minimum School Program - Basic School Program

From Uniform School Fund	30,000,000
From Education Fund	2,076,971,300
From Local Revenue	296,709,700

Schedule of Programs:		Title I Schools Paraeducators Program	300,000
Kindergarten (29,215 WPU's)	86,827,000	Item 3 To State Board of Education - Minimum School Program - Voted and Board Local Levy Programs	
Grades 1 - 12 (555,130 WPU's)	1,649,846,400	From Education Fund	76,495,800
Necessarily Existent Small Schools (9,357 WPU's)	27,809,000	From Local Revenue	355,356,000
Professional Staff (53,041 WPU's)	157,637,800	Schedule of Programs:	
Administrative Costs (1,505 WPU's)	4,472,900	Voted Local Levy Program	319,610,000
Special Education - Add-on (72,991 WPU's)	198,973,400	Board Local Levy Program	97,241,800
Special Education - Preschool (9,753 WPU's)	28,985,900	Board Local Levy Program - Reading Improvement	15,000,000
Special Education - Self-contained (14,285 WPU's)	42,455,000	School Building Programs	
Special Education - Extended School Year (429 WPU's)	1,275,000	Item 4 To School Building Programs	
Special Education - State Programs (2,907 WPU's)	8,639,600	From Education Fund	14,499,700
Career and Technical Education - Add-on (29,705 WPU's)	80,975,800	Schedule of Programs:	
Class Size Reduction (38,958 WPU's)	115,783,200	Capital Outlay Foundation Program	12,610,900
Item 2 To State Board of Education - Minimum School Program - Related to Basic School Programs		Capital Outlay Enrollment Growth Program	1,888,800
From Education Fund	406,426,100	State Board of Education	
From Interest and Dividends Account	37,580,700	Item 5 To State Board of Education - State Office of Education	
Schedule of Programs:		From General Fund	302,100
To and From School - Pupil Transportation	65,978,000	From Education Fund	30,226,000
Guarantee Transportation Program	500,000	From Federal Funds	340,417,300
Enhancement for At-Risk Students	24,376,400	From Dedicated Credits Revenue	5,885,800
Youth in Custody	19,909,000	From General Fund Restricted - Mineral Lease	3,469,900
Adult Education	9,780,000	From General Fund Restricted - Land Exchange Distribution Account	236,600
Enhancement for Accelerated Students	4,324,700	From General Fund Restricted - Substance Abuse Prevention	500,800
Concurrent Enrollment	6,270,600	From Interest and Dividends Account	604,100
School LAND Trust Program	37,580,700	From Land Grant Management Fund	2,000
Charter School Local Replacement	77,731,200	From Revenue Transfers	697,200
Charter School Administration	6,657,800	From Beginning Nonlapsing Appropriation Balances	18,206,200
K-3 Reading Improvement	12,400,000	From Closing Nonlapsing Appropriation Balances	(18,206,200)
Educator Salary Adjustments	159,951,000	Schedule of Programs:	
USFR Teacher Salary Supplement Restricted Account	5,000,000	Assessment and Accountability	18,235,900
Library Books and Electronic Resources	550,000	Educational Equity	366,200
Matching Funds for School Nurses	882,000	Board and Administration	6,761,000
Critical Languages and Dual Immersion	2,315,400	Business Services	1,937,200
Beverly Taylor Sorenson Elementary Arts	2,000,000	Career and Technical Education	20,787,200
Early Intervention	7,500,000	District Computer Services	6,967,200
		Federal Elementary and Secondary Education Act	113,182,100
		Law and Legislation	280,000
		Math Teacher Training	500,000
		Public Relations	155,400
		School Trust	678,600
		Special Education	181,335,800
		Teaching and Learning	31,155,200

Item 6 To State Board of Education - Utah State Office of Education - Initiative Programs		From Closing Nonlapsing Appropriation Balances	(48,000)
From General Fund	3,995,600	Schedule of Programs:	
From Education Fund	16,854,100	Child Nutrition	180,848,900
From General Fund Restricted - Autism Awareness Account	10,000	Item 11 To State Board of Education - Fine Arts Outreach	
From Beginning Nonlapsing Appropriation Balances	7,967,300	From Education Fund	3,325,000
From Closing Nonlapsing Appropriation Balances	(7,967,300)	From Beginning Nonlapsing Appropriation Balances	65,900
Schedule of Programs:		From Closing Nonlapsing Appropriation Balances	(65,900)
Electronic High School	997,600	Schedule of Programs:	
Upstart Early Childhood Education	4,763,900	Professional Outreach Programs	3,271,000
ProStart Culinary Arts Program	353,100	Subsidy Program	54,000
CTE Online Assessments	341,000	Item 12 To State Board of Education - State Office of Education - Educational Contracts	
General Financial Literacy	174,000	From Education Fund	3,137,800
Carson Smith Scholarships	3,995,600	From Beginning Nonlapsing Appropriation Balances	223,000
Paraeducator to Teacher Scholarships	24,500	From Closing Nonlapsing Appropriation Balances	(223,000)
Electronic Elementary Reading Tool	1,600,000	Schedule of Programs:	
ELL Software Licenses	3,000,000	Youth Center	1,153,200
Autism Awareness	10,000	Corrections Institutions	1,984,600
Early Intervention	4,600,000	Item 13 To State Board of Education - Science Outreach	
Intergenerational Poverty Interventions	1,000,000	From Education Fund	2,600,000
Item 7 To State Board of Education - State Charter School Board		From Beginning Nonlapsing Appropriation Balances	167,100
From Education Fund	3,452,300	From Closing Nonlapsing Appropriation Balances	(167,100)
From Beginning Nonlapsing Appropriation Balances	1,002,800	Schedule of Programs:	
From Closing Nonlapsing Appropriation Balances	(1,002,800)	Informal Science Education Enhancement	1,907,900
Schedule of Programs:		Requests for Proposals	225,000
State Charter School Board	3,452,300	Science Enhancement	417,100
Item 8 To State Board of Education - Utah Charter School Finance Authority		Integrated Student and New Facility Learning	50,000
From Education Fund Restricted - Charter School Reserve Account	50,000	Item 14 To State Board of Education - Utah Schools for the Deaf and the Blind	
Schedule of Programs:		From Education Fund	23,707,200
Utah Charter School Finance Authority	50,000	From Federal Funds	94,500
Item 9 To State Board of Education - Educator Licensing Professional Practices		From Dedicated Credits Revenue	1,138,600
From Professional Practices Restricted Subfund	2,119,700	From Revenue Transfers	3,934,500
Schedule of Programs:		From Revenue Transfers - Medicaid	1,250,000
Educator Licensing	2,119,700	From Beginning Nonlapsing Appropriation Balances	599,100
Item 10 To State Board of Education - State Office of Education - Child Nutrition		Schedule of Programs:	
From Education Fund	142,000	Instructional Services	14,435,700
From Federal Funds	141,444,600	Support Services	16,288,200
From Dedicated Credit - Liquor Tax	39,262,300	Item 15 To State Board of Education - School and Institutional Trust Fund Office	
From Beginning Nonlapsing Appropriation Balances	48,000	From School and Institutional Trust Fund Management Account	865,000
		Schedule of Programs:	
		School and Institutional Trust Fund Office	865,000

Item 16 To State Board of Education - Charter School Revolving Account

From Interest Income	46,200
From Repayments	1,543,900
From Beginning Fund Balance	6,741,000
From Ending Fund Balance	(6,741,000)

Schedule of Programs:

Charter School Revolving Account	1,590,100
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Item 17 To State Board of Education - School Building Revolving Account

From Interest Income	55,800
From Repayments	1,465,600
From Beginning Fund Balance	9,579,200
From Ending Fund Balance	(9,579,200)

Schedule of Programs:

School Building Revolving Account	1,521,400
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Section 3. Expendable funds and accounts.

The Legislature has reviewed the following expendable funds. Where applicable, the Legislature authorizes the state Division of Finance to transfer amounts among funds and accounts as indicated. Outlays and expenditures from the recipient funds or accounts may be made without further legislative action according to a fund or account's applicable authorizing statute.

Item 18 To State Board of Education - Child Nutrition Program Commodities Fund

From Dedicated Credits Revenue	200
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Schedule of Programs:

Child Nutrition Program Commodities Fund	200
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Item 19 To State Board of Education - Utah Community Center for the Deaf Fund

From Dedicated Credits Revenue	5,200
From Interest Income	100
From Beginning Fund Balance	13,800
From Ending Fund Balance	(5,500)

Schedule of Programs:

Utah Community Center for the Deaf Fund	13,600
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Item 20 To State Board of Education - Schools for the Deaf and the Blind Donation Fund

From Dedicated Credits Revenue	256,300
From Interest Income	2,400
From Beginning Fund Balance	389,300
From Ending Fund Balance	(389,300)

Schedule of Programs:

Schools for the Deaf and the Blind Donation Fund	258,700
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Section 4. Restricted fund and account transfers.

The Legislature authorizes the state Division of Finance to transfer the following amounts among

the following funds or accounts as indicated. Expenditures and outlays from the recipient funds must be authorized elsewhere in an appropriations act.

Item 21 To Fund and Account Transfers - General Fund Restricted - School Readiness Account

From General Fund	3,000,000
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Schedule of Programs:

General Fund Restricted - School Readiness Account	3,000,000
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Section 5. Fiduciary funds.

The Legislature has reviewed proposed revenues, expenditures, fund balances, and changes in fund balances for the following fiduciary funds.

Item 22 To State Board of Education - Education Tax Check-off Lease Refunding

From Trust and Agency Funds	27,500
From Beginning Fund Balance	17,500
From Ending Fund Balance	(9,700)

Schedule of Programs:

Education Tax Check-off Lease Refunding	35,300
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Section 6. Effective date.

This bill takes effect on July 1, 2015.

**CHAPTER 8
S. B. 5**

Passed February 10, 2015
Approved February 25, 2015
Effective July 1, 2015

**NATURAL RESOURCES, AGRICULTURE,
AND ENVIRONMENTAL QUALITY
BASE BUDGET**

Chief Sponsor: David P. Hinkins
House Sponsor: Mike K. McKell

LONG TITLE

Committee Note:

The Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee recommended this bill.

General Description:

This bill appropriates funds for the support and operation of state government for the fiscal year beginning July 1, 2015 and ending June 30, 2016.

Highlighted Provisions:

This bill:

- ▶ provides appropriations for the use and support of certain state agencies; and
- ▶ provides appropriations for other purposes as described.

Money Appropriated in this Bill:

This bill appropriates \$302,267,200 in operating and capital budgets for fiscal year 2016, including:

- ▶ \$59,466,100 from the General Fund;
- ▶ \$242,801,100 from various sources as detailed in this bill.

This bill appropriates \$7,579,500 in expendable funds and accounts for fiscal year 2016.

This bill appropriates \$68,102,300 in business-like activities for fiscal year 2016.

This bill appropriates \$5,611,100 in restricted fund and account transfers for fiscal year 2016, including:

- ▶ \$4,171,100 from the General Fund;
- ▶ \$1,440,000 from various sources as detailed in this bill.

This bill appropriates \$3,000,000 in fiduciary funds for fiscal year 2016.

Other Special Clauses:

This bill takes effect on July 1, 2015.

Utah Code Sections Affected:

ENACTS UNCODIFIED MATERIAL

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

Section 1. FY 2016 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2015 and ending June 30, 2016.

Subsection 1(a). Operating and Capital Budgets. Under the terms and conditions of Utah Code Title 63J, the Legislature appropriates the following sums of money from the funds or fund accounts indicated for the use

and support of the government of the State of Utah.

DEPARTMENT OF NATURAL RESOURCES

Item 1

To Department of Natural Resources - Administration

From General Fund	2,505,700
From General Fund Restricted - Sovereign Land Management	78,000
From Beginning Nonlapsing Appropriation Balances	225,000
From Closing Nonlapsing Appropriation Balances	(210,000)
Schedule of Programs:	
Executive Director	1,123,100
Administrative Services	970,800
Public Affairs	200,700
Lake Commissions	78,700
Law Enforcement	225,400

Item 2

To Department of Natural Resources - Species Protection

From Dedicated Credits Revenue	2,450,000
From General Fund Restricted - Species Protection	621,400
From Beginning Nonlapsing Appropriation Balances	200,000
From Closing Nonlapsing Appropriation Balances	(326,400)
Schedule of Programs:	
Species Protection	2,945,000

Item 3

To Department of Natural Resources - Building Operations

From General Fund	1,788,800
Schedule of Programs:	
Building Operations	1,788,800

Item 4

To Department of Natural Resources - Watershed

From General Fund	1,454,500
From Dedicated Credits Revenue	500,500
From General Fund Restricted - Sovereign Land Management	2,002,100
From Beginning Nonlapsing Appropriation Balances	668,500
From Closing Nonlapsing Appropriation Balances	(673,600)
Schedule of Programs:	
Watershed	3,952,000

Item 5

To Department of Natural Resources - Forestry, Fire and State Lands

From General Fund	2,446,700
From Federal Funds	6,250,000
From Dedicated Credits Revenue	6,500,000
From General Fund Restricted - Sovereign Land Management	5,691,800
From Beginning Nonlapsing Appropriation Balances	2,634,000
From Closing Nonlapsing Appropriation Balances	(2,184,200)
Schedule of Programs:	
Division Administration	1,065,200
Fire Management	1,112,200

Fire Suppression Emergencies	2,600,000
Lands Management	802,600
Forest Management	4,655,200
Program Delivery	7,027,800
Lone Peak Center	3,440,500
Project Management	634,800

Item 6

To Department of Natural Resources -	
Oil, Gas and Mining	
From General Fund	1,538,100
From Federal Funds	7,530,000
From Dedicated Credits Revenue	242,500
From General Fund Restricted -	
Oil & Gas Conservation Account	4,032,900
From Beginning Nonlapsing	
Appropriation Balances	1,568,100
From Closing Nonlapsing Appropriation	
Balances	(1,218,100)
Schedule of Programs:	
Administration	1,913,600
Board	50,000
Oil and Gas Program	3,391,500
Minerals Reclamation	947,200
Coal Program	1,966,200
OGM Misc. Nonlapsing	350,000
Abandoned Mine	5,075,000

Item 7

To Department of Natural Resources -	
Wildlife Resources	
From General Fund	5,957,900
From Federal Funds	20,791,300
From Dedicated Credits Revenue	105,600
From General Fund Restricted -	
Mule Deer Protection Account	500,000
From General Fund Restricted -	
Wildlife Conservation	
Easement Account	15,000
From General Fund Restricted -	
Wildlife Habitat	2,903,000
From General Fund Restricted -	
Wildlife Resources	34,610,200
From General Fund Restricted -	
Predator Control Account	600,000
From Revenue Transfers	106,900
From Beginning Nonlapsing	
Appropriation Balances	500,000
From Closing Nonlapsing Appropriation	
Balances	(475,000)
Schedule of Programs:	
Director's Office	2,848,700
Administrative Services	8,352,500
Conservation Outreach	4,062,200
Law Enforcement	8,091,500
Habitat Council	2,900,000
Habitat Section	5,808,300
Wildlife Section	17,252,600
Aquatic Section	16,299,100

Item 8

To Department of Natural Resources -	
Predator Control	
From General Fund	59,600
Schedule of Programs:	
Predator Control	59,600

Item 9

To Department of Natural Resources -	
Contributed Research	
From Federal Funds	1,100
From Dedicated Credits Revenue	1,500,400
Schedule of Programs:	
Contributed Research	1,501,500

Item 10

To Department of Natural Resources -	
Cooperative Agreements	
From Federal Funds	11,785,400
From Dedicated Credits Revenue	1,090,500
From General Fund Restricted -	
Wildlife Resources	2,200
From Revenue Transfers	5,562,600
Schedule of Programs:	
Cooperative Agreements	18,440,700

Item 11

To Department of Natural Resources -	
Wildlife Resources Capital Budget	
From General Fund	649,400
From Federal Funds	1,125,000
From General Fund Restricted -	
State Fish Hatchery Maintenance	1,205,000
From Beginning Nonlapsing	
Appropriation Balances	649,400
Schedule of Programs:	
Fisheries	3,628,800

Item 12

To Department of Natural Resources -	
Parks and Recreation	
From General Fund	4,151,000
From Federal Funds	1,613,000
From Dedicated Credits Revenue	754,100
From General Fund Restricted -	
Boating	4,388,300
From General Fund Restricted -	
Off-highway Vehicle	5,319,400
From General Fund Restricted -	
Off-highway Access and Education	17,500
From General Fund Restricted - Zion	
National Park Support Programs	4,000
From General Fund Restricted -	
State Park Fees	12,625,300
From Revenue Transfers	26,600
From Beginning Nonlapsing	
Appropriation Balances	206,300
Schedule of Programs:	
Executive Management	777,300
Park Operation Management	23,290,300
Planning and Design	836,200
Support Services	1,786,400
Recreation Services	1,508,900
Park Management Contracts	906,400

Item 13

To Department of Natural Resources -	
Parks and Recreation Capital Budget	
From General Fund	39,700
From Federal Funds	3,119,700
From Dedicated Credits Revenue	25,000
From General Fund Restricted -	
Boating	575,000
From General Fund Restricted -	
Off-highway Vehicle	400,000
From General Fund Restricted -	
State Park Fees	433,000

Schedule of Programs:

Renovation and Development	334,200
Major Renovation	458,500
Trails Program	1,604,700
Donated Capital Projects	197,400
Region Renovation	100,000
Land Acquisition	575,000
Land and Water Conservation	447,600
Boat Access Grants	700,000
Off-highway Vehicle Grants	175,000

Item 14

To Department of Natural Resources -

Utah Geological Survey

From General Fund	2,775,100
From Federal Funds	1,013,200
From Dedicated Credits Revenue	810,800
From General Fund Restricted -	
Mineral Lease	2,409,000
From General Fund Restricted -	
Land Exchange Distribution	
Account	106,400
From Beginning Nonlapsing	
Appropriation Balances	960,000
From Closing Nonlapsing Appropriation	
Balances	(83,200)

Schedule of Programs:

Administration	724,900
Technical Services	915,000
Geologic Hazards	943,100
Board	5,400
Geologic Mapping	342,300
Energy and Minerals	2,387,200
Ground Water and Paleontology	1,851,700
Information and Outreach	821,700

Item 15

To Department of Natural Resources -

Water Resources

From General Fund	2,846,200
From Federal Funds	300,000
From Dedicated Credits Revenue	150,000
From Water Resources Conservation	
and Development Fund	2,996,400
From Beginning Nonlapsing	
Appropriation Balances	200,000
From Closing Nonlapsing Appropriation	
Balances	(261,400)

Schedule of Programs:

Administration	623,800
Board	28,000
Interstate Streams	371,000
Planning	2,504,100
Cloudseeding	250,000
Construction	2,443,700
West Desert Operations	10,600

Item 16

To Department of Natural Resources -

Water Rights

From General Fund	7,703,700
From Federal Funds	107,900
From Dedicated Credits Revenue	1,862,300
From Beginning Nonlapsing	
Appropriation Balances	350,000
From Closing Nonlapsing Appropriation	
Balances	(51,400)

Schedule of Programs:

Administration	1,137,000
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Applications and Records	1,301,500
Dam Safety	919,700
Field Services	1,480,500
Technical Services	1,890,200
Regional Offices	3,243,600

**DEPARTMENT OF
ENVIRONMENTAL QUALITY**

Item 17

To Department of Environmental

Quality - Executive Director's Office

From General Fund	1,556,400
From Federal Funds	255,900
From General Fund Restricted -	
Environmental Quality	812,400
From Revenue Transfers	2,660,100
From Revenue Transfers -	
Within Agency	(30,600)
From Beginning Nonlapsing	
Appropriation Balances	409,100
From Closing Nonlapsing Appropriation	
Balances	(303,100)
Schedule of Programs:	
Executive Director's Office	5,360,200

Item 18

To Department of Environmental Quality -

Air Quality

From General Fund	4,794,400
From Federal Funds	4,332,000
From Dedicated Credits Revenue	5,286,300
From Clean Fuel Conversion Fund	112,300
From Revenue Transfers -	
Within Agency	(1,094,600)
From Beginning Nonlapsing	
Appropriation Balances	327,500
Schedule of Programs:	
Air Quality	13,757,900

Item 19

To Department of Environmental Quality -

Environmental Response and Remediation

From General Fund	756,200
From Federal Funds	4,112,300
From Dedicated Credits Revenue	588,000
From General Fund Restricted -	
Petroleum Storage Tank	50,000
From General Fund Restricted -	
Voluntary Cleanup	643,100
From Petroleum Storage Tank	
Trust Fund	1,719,000
From Revenue Transfers -	
Within Agency	(552,100)
Schedule of Programs:	
Environmental Response and	
Remediation	7,316,500

Item 20

To Department of Environmental

Quality - Radiation Control

From General Fund	738,700
From Federal Funds	6,100
From Dedicated Credits Revenue	263,600
From General Fund Restricted -	
Environmental Quality	2,739,600
From Revenue Transfers -	
Within Agency	(28,200)
Schedule of Programs:	
Radiation Control	3,719,800

Item 21

To Department of Environmental Quality -
 Water Quality

From General Fund	3,015,000
From Federal Funds	4,441,100
From Dedicated Credits Revenue	1,315,800
From General Fund Restricted - Underground Wastewater System	76,000
From Water Development Security Fund - Utah Wastewater Loan Program	1,352,900
From Water Development Security Fund - Water Quality Origination Fee	95,400
From Revenue Transfers - Other Agencies	264,400
From Revenue Transfers - Within Agency	(394,400)
Schedule of Programs: Water Quality	10,166,200

Item 22

To Department of Environmental
 Quality - Drinking Water

From General Fund	1,067,200
From Federal Funds	3,501,600
From Dedicated Credits Revenue	175,000
From Water Development Security Fund - Drinking Water Loan Program	145,100
From Water Development Security Fund - Drinking Water Origination Fee	206,200
From Revenue Transfers - Other Agencies	44,600
From Revenue Transfers - Within Agency	(404,400)
Schedule of Programs: Drinking Water	4,735,300

Item 23

To Department of Environmental Quality -
 Solid and Hazardous Waste

From Federal Funds	1,267,800
From Dedicated Credits Revenue	1,207,900
From General Fund Restricted - Environmental Quality	3,188,700
From General Fund Restricted - Used Oil Collection Administration	762,400
From Waste Tire Recycling Fund	136,900
From Revenue Transfers - Within Agency	(227,400)
From Beginning Nonlapsing Appropriation Balances	425,000
Schedule of Programs: Solid and Hazardous Waste	6,761,300

**PUBLIC LANDS POLICY
 COORDINATING OFFICE**

Item 24

To Public Lands Policy Coordinating Office

From General Fund	851,900
From General Fund Restricted - Constitutional Defense	741,900
From Beginning Nonlapsing Appropriation Balances	800,000
Schedule of Programs: Public Lands Office	2,393,800

GOVERNOR'S OFFICE

Item 25

To Governor's Office - Office
 of Energy Development

From General Fund	1,267,100
From Federal Funds	382,500
From Dedicated Credits Revenue	90,000
From Utah State Energy Program Revolving Loan Fund (ARRA)	110,000
From General Fund Restricted - Stripper Well-Petroleum Violation Escrow	100
From Beginning Nonlapsing Appropriation Balances	356,800
Schedule of Programs: Office of Energy Development	2,206,500

**DEPARTMENT OF
 AGRICULTURE AND FOOD**

Item 26

To Department of Agriculture
 and Food - Administration

From General Fund	3,274,800
From Federal Funds	476,200
From Dedicated Credits Revenue	373,500
From General Fund Restricted - Cat and Dog Community Spay and Neuter Program Restricted Account	81,400
From General Fund Restricted - Horse Racing	20,000
From General Fund Restricted - Agriculture and Wildlife Damage Prevention	35,000
From Beginning Nonlapsing Appropriation Balances	500,000
From Closing Nonlapsing Appropriation Balances	(426,100)
Schedule of Programs: General Administration	3,365,500
Chemistry Laboratory	904,500
Sheep Promotion	35,000
Utah Horse Commission	29,800

Item 27

To Department of Agriculture and Food -
 Animal Health

From General Fund	2,424,000
From Federal Funds	1,631,700
From Dedicated Credits Revenue	370,000
From General Fund Restricted - Livestock Brand	1,018,700
From Revenue Transfers	3,900
From Beginning Nonlapsing Appropriation Balances	300,000
From Closing Nonlapsing Appropriation Balances	(300,000)
Schedule of Programs: Animal Health	1,761,300
Auction Market Veterinarians	72,000
Brand Inspection	1,497,600
Meat Inspection	2,117,400

Item 28

To Department of Agriculture and Food -
 Plant Industry

From General Fund	1,045,600
From Federal Funds	3,263,300
From Dedicated Credits Revenue	1,955,100
From Agriculture Resource Development Fund	185,300

From Revenue Transfers 551,000
 From Pass-through 3,100
 From Beginning Nonlapsing
 Appropriation Balances 950,000
 From Closing Nonlapsing Appropriation
 Balances (650,000)
 Schedule of Programs:
 Environmental Quality 2,904,100
 Grain Inspection 230,500
 Insect Infestation 1,169,100
 Plant Industry 2,177,300
 Grazing Improvement Program 822,400

Item 29

To Department of Agriculture and
 Food - Regulatory Services
 From General Fund 1,885,100
 From Federal Funds 542,000
 From Dedicated Credits Revenue 1,787,700
 From Pass-through 55,400
 From Beginning Nonlapsing
 Appropriation Balances 750,000
 From Closing Nonlapsing Appropriation
 Balances (400,000)
 Schedule of Programs:
 Regulatory Services 4,620,200

Item 30

To Department of Agriculture and
 Food - Marketing and Development
 From General Fund 569,600
 From Beginning Nonlapsing
 Appropriation Balances 200,000
 From Closing Nonlapsing Appropriation
 Balances (50,000)
 Schedule of Programs:
 Marketing and Development 719,600

Item 31

To Department of Agriculture and Food -
 Building Operations
 From General Fund 356,600
 Schedule of Programs:
 Building Operations 356,600

Item 32

To Department of Agriculture and Food -
 Predatory Animal Control
 From General Fund 789,800
 From General Fund Restricted - Agriculture
 and Wildlife Damage Prevention 625,500
 From Revenue Transfers 60,700
 From Beginning Nonlapsing
 Appropriation Balances 320,000
 From Closing Nonlapsing Appropriation
 Balances (200,000)
 Schedule of Programs:
 Predatory Animal Control 1,596,000

Item 33

To Department of Agriculture and Food -
 Resource Conservation
 From General Fund 1,157,300
 From Agriculture Resource
 Development Fund 386,100
 From Utah Rural Rehabilitation
 Loan State Fund 123,600
 From Beginning Nonlapsing
 Appropriation Balances 200,000

From Closing Nonlapsing Appropriation
 Balances (50,000)
 Schedule of Programs:
 Resource Conservation
 Administration 374,400
 Conservation Commission 11,200
 Resource Conservation 1,431,400

Item 34

To Department of Agriculture and Food -
 Invasive Species Mitigation
 From General Fund Restricted - Invasive
 Species Mitigation Account 2,000,100
 From Beginning Nonlapsing
 Appropriation Balances 1,000,000
 From Closing Nonlapsing Appropriation
 Balances (500,000)
 Schedule of Programs:
 Invasive Species Mitigation 2,500,100

Item 35

To Department of Agriculture and
 Food - Rangeland Improvement
 From General Fund Restricted -
 Rangeland Improvement Account ... 1,491,500
 From Beginning Nonlapsing
 Appropriation Balances 1,000,000
 From Closing Nonlapsing Appropriation
 Balances (1,000,000)
 Schedule of Programs:
 Rangeland Improvement 1,491,500

Item 36

To Department of Agriculture and Food -
 Utah State Fair Corporation
 From Dedicated Credits Revenue 3,583,200
 Schedule of Programs:
 State Fair Corporation 3,583,200

**SCHOOL AND INSTITUTIONAL
 TRUST LANDS ADMINISTRATION**

Item 37

To School and Institutional Trust
 Lands Administration
 From Land Grant Management
 Fund 9,824,300
 Schedule of Programs:
 Board 91,300
 Director 450,700
 External Relations 250,000
 Administration 1,102,000
 Accounting 412,900
 Auditing 378,500
 Oil and Gas 752,300
 Mining 695,000
 Surface 1,772,100
 Development - Operating 1,517,000
 Legal/Contracts 843,200
 Information Technology Group 1,035,600
 Grazing and Forestry 523,700

Item 38

To School and Institutional Trust Lands
 Administration - Land Stewardship and
 Restoration
 From Land Grant Management Fund ... 500,000
 Schedule of Programs:
 Land Stewardship and Restoration ... 500,000

Item 39

To School and Institutional Trust Lands
Administration - School and Institutional Trust
Lands Administration Capital
From Land Grant Management
Fund 8,300,000
Schedule of Programs:
Capital 8,300,000

Subsection 1(b). Expendable Funds and

Accounts. The Legislature has reviewed the following expendable funds. Where applicable, the Legislature authorizes the State Division of Finance to transfer amounts among funds and accounts as indicated. Outlays and expenditures from the recipient funds or accounts may be made without further legislative action according to a fund or account's applicable authorizing statute.

DEPARTMENT OF NATURAL RESOURCES

Item 40

To Department of Natural Resources -
UGS Sample Library Fund
From Interest Income 400
From Beginning Fund Balance 79,500
From Ending Fund Balance (79,900)

DEPARTMENT OF ENVIRONMENTAL QUALITY

Item 41

To Department of Environmental Quality -
Hazardous Substance Mitigation Fund
From Dedicated Credits Revenue 98,000
From Beginning Fund Balance 11,833,400
From Ending Fund Balance (8,085,700)
Schedule of Programs:
Hazardous Substance Mitigation
Fund 3,845,700

Item 42

To Department of Environmental Quality -
Waste Tire Recycling Fund
From Dedicated Credits Revenue 3,359,500
From Beginning Fund Balance 3,222,100
From Ending Fund Balance (3,347,800)
Schedule of Programs:
Waste Tire Recycling Fund 3,233,800

DEPARTMENT OF AGRICULTURE AND FOOD

Item 43

To Department of Agriculture and Food -
Salinity Offset Fund
From Revenue Transfers 144,900
From Beginning Fund Balance 667,800
From Ending Fund Balance (312,700)
Schedule of Programs:
Salinity Offset Fund 500,000

Subsection 1(c). Business-like Activities.

The Legislature has reviewed the following proprietary funds. Under the terms and conditions of Utah Code 63J-1-410, for any included Internal Service Fund the Legislature approves budgets, full-time permanent

positions, and capital acquisition amounts as indicated, and appropriates to the funds as indicated estimated revenue from rates, fees, and other charges. Where applicable, the Legislature authorizes the State Division of Finance to transfer amounts among funds and accounts as indicated.

DEPARTMENT OF NATURAL RESOURCES

Item 44

To Department of Natural Resources - Water
Resources Revolving Construction Fund
From Water Resources Conservation
and Development Fund 3,800,000
Schedule of Programs:
Construction Fund 3,800,000

Item 45

To Department of Natural Resources -
Internal Service Fund
From Dedicated Credits -
Intragovernmental Revenue 733,300
Schedule of Programs:
ISF - DNR Warehouse 733,300
Budgeted FTE 2.0

DEPARTMENT OF ENVIRONMENTAL QUALITY

Item 46

To Department of Environmental Quality - Water
Security Development Account - Water Pollution
From Federal Funds 7,500,000
From Designated Sales Tax 3,587,500
From Repayments 30,471,000
Schedule of Programs:
Water Pollution 41,558,500

Item 47

To Department of Environmental Quality - Water
Security Development Account - Drinking Water
From Federal Funds 6,000,000
From Designated Sales Tax 3,587,500
From Repayments 12,011,100
Schedule of Programs:
Drinking Water 21,598,600

DEPARTMENT OF AGRICULTURE AND FOOD

Item 48

To Department of Agriculture and
Food - Agriculture Loan Programs
From Agriculture Resource Development
Fund 267,700
From Agriculture Rural Development
Loan Fund 200
From Utah Rural Rehabilitation Loan
State Fund 144,000
Schedule of Programs:
Agriculture Loan Program 411,900

Subsection 1(d). Restricted Fund and Account Transfers.

The Legislature authorizes the State Division of Finance to transfer the following amounts among the following funds or accounts as indicated. Expenditures and outlays from the recipient

funds must be authorized elsewhere in an appropriations act.

Section 2. Effective Date.
This bill takes effect on July 1, 2015.

FUND AND ACCOUNT TRANSFERS

Item 49

To Fund and Account Transfers - GFR -
Rangeland Improvement Account
From General Fund 1,346,300
Schedule of Programs:
Rangeland Improvement Account ... 1,346,300

Item 50

To Fund and Account Transfers - General
Fund Restricted - Wildlife Resources
From General Fund 74,800
Schedule of Programs:
General Fund Restricted -
Wildlife Resources 74,800

Item 51

To Fund and Account Transfers - General Fund
Restricted - Constitutional Defense Restricted
Account
From General Fund Restricted - Land
Exchange Distribution Account 1,440,000
Schedule of Programs:
Constitutional Defense Restricted
Account 1,440,000

Item 52

To Fund and Account Transfers - GFR -
Invasive Species Mitigation Account
From General Fund 2,000,000
Schedule of Programs:
Invasive Species Mitigation
Account 2,000,000

Item 53

To Fund and Account Transfers - General Fund
Restricted - Mule Deer Protection Account
From General Fund 500,000
Schedule of Programs:
General Fund Restricted - Mule
Deer Protection 500,000

Item 54

To Fund and Account Transfers - General Fund
Restricted - Agriculture and Wildlife Damage
Prevention Account
From General Fund 250,000
Schedule of Programs:
General Fund Restricted -
Agriculture and Wildlife Damage
Prevention Account 250,000

Subsection 1(e). Fiduciary Funds. The
Legislature has reviewed proposed revenues,
expenditures, fund balances and changes in
fund balances for the following fiduciary funds.

DEPARTMENT OF NATURAL RESOURCES

Item 55

To Department of Natural Resources -
Wildland Fire Suppression Fund
From Revenue Transfers 2,500,000
From Beginning Fund Balance 6,200,000
From Ending Fund Balance (5,700,000)
Schedule of Programs:
Wildland Fire Suppression Fund 3,000,000

**CHAPTER 9
S. B. 6**

Passed February 10, 2015
Approved February 25, 2015
Effective February 25, 2015
(Exception clause in Section 3)

**EXECUTIVE OFFICES AND CRIMINAL
JUSTICE BASE BUDGET**

Chief Sponsor: Daniel W. Thatcher
House Sponsor: Eric K. Hutchings

LONG TITLE

General Description:

This bill supplements or reduces appropriations previously provided for the use and operation of state government for the fiscal year beginning July 1, 2014 and ending June 30, 2015; and appropriates funds for the support and operation of state government for the fiscal year beginning July 1, 2015 and ending June 30, 2016.

Highlighted Provisions:

This bill:

- ▶ provides appropriations for the use and support of certain state agencies; and
- ▶ provides appropriations for other purposes as described.

Money Appropriated in this Bill:

This bill appropriates \$200,000 in operating and capital budgets for fiscal year 2015.

This bill appropriates \$803,469,700 in operating and capital budgets for fiscal year 2016, including:

- ▶ \$585,463,500 from the General Fund;
- ▶ \$49,000 from the Education Fund;
- ▶ \$217,957,200 from various sources as detailed in this bill.

This bill appropriates \$9,186,900 in expendable funds and accounts for fiscal year 2016.

This bill appropriates \$27,970,800 in business-like activities for fiscal year 2016.

This bill appropriates \$216,000 in restricted fund and account transfers for fiscal year 2016, all of which is from the General Fund.

Other Special Clauses:

Section 1 of this bill takes effect immediately. Section 2 of this bill takes effect on July 1, 2015.

Utah Code Sections Affected:

ENACTS UNCODIFIED MATERIAL

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

Section 1. FY 2015 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2014 and ending June 30, 2015. These are additions to amounts previously appropriated for fiscal year 2015.

Subsection 1(a). Operating and Capital Budgets. Under the terms and conditions of Utah Code Title 63J, the Legislature appropriates the following sums of money from the funds or fund accounts indicated for the use

and support of the government of the State of Utah.

GOVERNOR'S OFFICE

Item 1

To Governor's Office - Commission on Criminal and Juvenile Justice
From General Fund Restricted - Law Enforcement Services 200,000
Schedule of Programs:
CCJJ Commission 200,000

Section 2. FY 2016 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2015 and ending June 30, 2016.

Subsection 2(a). Operating and Capital Budgets. Under the terms and conditions of Utah Code Title 63J, the Legislature appropriates the following sums of money from the funds or fund accounts indicated for the use and support of the government of the State of Utah.

GOVERNOR'S OFFICE

Item 2

To Governor's Office
From General Fund 4,915,700
From Federal Funds 100,000
From Dedicated Credits Revenue 1,048,600
From General Fund Restricted - Constitutional Defense 250,000
From Beginning Nonlapsing Appropriation Balances 122,300
From Closing Nonlapsing Appropriation Balances (122,300)
Schedule of Programs:
Administration 3,496,800
Governor's Residence 315,700
Washington Funding 161,200
Lt. Governor's Office 2,090,600
Commission on Federalism 250,000

Item 3

To Governor's Office - Public Lands Litigation
From Beginning Nonlapsing Appropriation Balances 879,500
Schedule of Programs:
Public Lands Litigation 879,500

Item 4

To Governor's Office - Character Education
From General Fund 200,700
From Beginning Nonlapsing Appropriation Balances 196,400
From Closing Nonlapsing Appropriation Balances (114,900)
Schedule of Programs:
Character Education 282,200

Item 5

To Governor's Office - Emergency Fund
From Beginning Nonlapsing Appropriation Balances 100,100
From Closing Nonlapsing Appropriation Balances (100,100)

Item 6

To Governor's Office - Governor's Office of Management and Budget

From General Fund 3,760,300
 From General Fund Restricted -
 School Readiness Account 3,000,000
 From Beginning Nonlapsing
 Appropriation Balances 2,456,700
 From Closing Nonlapsing Appropriation
 Balances (4,256,700)
 Schedule of Programs:
 Administration 1,213,100
 Planning and Budget Analysis 1,548,000
 Demographic and Economic
 Analysis 1,005,600
 State and Local Planning 193,600
 School Readiness Initiative 1,000,000

Item 7

To Governor's Office - Quality Growth
 Commission - LeRay McAllister Program
 From Beginning Nonlapsing
 Appropriation Balances 14,700
 Schedule of Programs:
 LeRay McAllister Critical Land
 Conservation Program 14,700

Item 8

To Governor's Office - Commission on
 Criminal and Juvenile Justice
 From General Fund 2,302,800
 From Federal Funds 12,819,300
 From Dedicated Credits Revenue 100,500
 From General Fund Restricted -
 Law Enforcement Services 617,900
 From General Fund Restricted -
 Criminal Forfeiture Restricted
 Account 2,089,000
 From General Fund Restricted -
 Law Enforcement Operations 1,823,400
 From Crime Victim Reparations
 Fund 1,744,600
 From Beginning Nonlapsing
 Appropriation Balances 880,000
 From Closing Nonlapsing Appropriation
 Balances (1,193,200)
 Schedule of Programs:
 CCJJ Commission 9,900,800
 Utah Office for Victims of Crime 8,069,400
 Extraditions 375,300
 Substance Abuse Advisory Council 147,700
 Sentencing Commission 141,600
 State Asset Forfeiture Grant
 Program 2,089,000
 Judicial Performance Evaluation
 Commission 460,500

Item 9

To Governor's Office - CCJJ Factual
 Innocence Payments
 From Beginning Nonlapsing
 Appropriation Balances 410,900
 From Closing Nonlapsing Appropriation
 Balances (365,200)
 Schedule of Programs:
 Factual Innocence Payments 45,700

OFFICE OF THE STATE AUDITOR**Item 10**

To Office of the State Auditor - State Auditor
 From General Fund 2,810,200

From Dedicated Credits Revenue 2,468,700
 From Beginning Nonlapsing
 Appropriation Balances 653,900
 From Closing Nonlapsing Appropriation
 Balances (105,200)
 Schedule of Programs:
 State Auditor 5,827,600

STATE TREASURER**Item 11**

To State Treasurer
 From General Fund 905,500
 From Dedicated Credits Revenue 525,000
 From Unclaimed Property Trust 1,535,500
 From Beginning Nonlapsing
 Appropriation Balances 65,000
 From Closing Nonlapsing Appropriation
 Balances (65,000)
 Schedule of Programs:
 Treasury and Investment 1,348,600
 Unclaimed Property 1,528,400
 Money Management Council 89,000

ATTORNEY GENERAL**Item 12**

To Attorney General
 From General Fund 29,279,100
 From Federal Funds 1,833,200
 From Dedicated Credits Revenue 18,276,600
 From General Fund Restricted -
 Constitutional Defense 371,000
 From General Fund Restricted -
 Tobacco Settlement Account 73,500
 From Attorney General Litigation
 Fund 365,200
 From Revenue Transfers - Federal 730,500
 From Revenue Transfers -
 Other Agencies 60,000
 From Beginning Nonlapsing
 Appropriation Balances 706,400
 Schedule of Programs:
 Administration 4,645,600
 Child Protection 7,744,400
 Children's Justice 448,500
 Criminal Prosecution 18,587,100
 Civil 20,269,900

Item 13

To Attorney General - Contract Attorneys
 From Dedicated Credits Revenue 300,000
 Schedule of Programs:
 Contract Attorneys 300,000

Item 14

To Attorney General - Children's Justice Centers
 From General Fund 3,099,300
 From Federal Funds 220,600
 From Dedicated Credits Revenue 263,300
 Schedule of Programs:
 Children's Justice Centers 3,583,200

Item 15

To Attorney General - Prosecution Council
 From Federal Funds 31,900
 From Dedicated Credits Revenue 75,400
 From General Fund Restricted -
 Public Safety Support 613,800
 From Revenue Transfers - Commission
 on Criminal and Juvenile Justice 130,900

From Revenue Transfers - Federal	
Government Pass-through	132,800
From Closing Nonlapsing Appropriation	
Balances	(39,900)
Schedule of Programs:	
Prosecution Council	944,900

Item 16

To Attorney General - Domestic Violence	
From General Fund Restricted -	
Victims of Domestic Violence	
Services Account	78,300
Schedule of Programs:	
Domestic Violence	78,300

UTAH DEPARTMENT OF CORRECTIONS

Item 17

To Utah Department of Corrections -	
Programs and Operations	
From General Fund	200,800,200
From Education Fund	49,000
From Federal Funds	344,300
From Dedicated Credits Revenue	4,192,500
From G.F.R. - Interstate Compact	
for Adult Offender Supervision	29,000
From General Fund Restricted - Prison	
Telephone Surcharge Account	1,500,000
From Revenue Transfers	29,800
Schedule of Programs:	
Department Executive Director	5,268,900
Department Administrative	
Services	24,689,300
Department Training	1,612,600
Adult Probation and Parole	
Administration	1,362,300
Adult Probation and Parole	
Programs	57,612,000
Institutional Operations	
Administration	2,090,000
Institutional Operations Draper	
Facility	64,249,000
Institutional Operations Central	
Utah/Gunnison	30,123,400
Institutional Operations Inmate	
Placement	2,734,200
Institutional Operations Support	
Services	4,462,500
Programming Administration	376,700
Programming Treatment	5,165,700
Programming Skill Enhancement	5,254,500
Programming Education	1,943,700

Item 18

To Utah Department of Corrections -	
Department Medical Services	
From General Fund	28,569,300
From Dedicated Credits Revenue	609,200
Schedule of Programs:	
Medical Services	29,178,500

Item 19

To Utah Department of Corrections -	
Jail Contracting	
From General Fund	30,998,200
From Federal Funds	50,000
Schedule of Programs:	
Jail Contracting	31,048,200

BOARD OF PARDONS AND PAROLE

Item 20

To Board of Pardons and Parole	
From General Fund	4,210,200
From Dedicated Credits Revenue	2,200
Schedule of Programs:	
Board of Pardons and Parole	4,212,400

**DEPARTMENT OF HUMAN SERVICES -
DIVISION OF JUVENILE JUSTICE
SERVICES**

Item 21

To Department of Human Services - Division of	
Juvenile Justice Services - Programs and	
Operations	
From General Fund	87,457,400
From Federal Funds	3,843,200
From Dedicated Credits Revenue	2,299,000
From Revenue Transfers	(873,400)
Schedule of Programs:	
Administration	4,397,400
Early Intervention Services	15,011,400
Community Programs	23,931,600
Correctional Facilities	25,998,900
Rural Programs	23,026,000
Youth Parole Authority	360,900

**JUDICIAL COUNCIL/STATE
COURT ADMINISTRATOR**

Item 22

To Judicial Council/State Court	
Administrator - Administration	
From General Fund	93,840,000
From Federal Funds	747,300
From Dedicated Credits Revenue	2,950,800
From General Fund Restricted -	
Dispute Resolution Account	437,000
From General Fund Restricted -	
Children's Legal Defense	440,900
From General Fund Restricted -	
Court Security Account	11,164,300
From General Fund Restricted -	
Court Trust Interest	831,000
From General Fund Restricted -	
DNA Specimen Account	258,100
From General Fund Restricted - Justice	
Court Tech., Security & Training	1,160,700
From General Fund Restricted -	
Non-Judicial Adjustment Account	988,100
From General Fund Restricted - Online	
Court Assistance Account	230,100
From General Fund Restricted -	
State Court Complex Account	313,400
From General Fund Restricted -	
Substance Abuse Prevention	545,700
From General Fund Restricted -	
Tobacco Settlement Account	361,100
From Revenue Transfers	1,064,900
Schedule of Programs:	
Supreme Court	2,943,500
Law Library	1,039,000
Court of Appeals	4,058,200
District Courts	43,723,300
Juvenile Courts	37,849,500
Justice Courts	1,326,000
Courts Security	11,164,300

Administrative Office 4,419,600
 Judicial Education 688,500
 Data Processing 6,678,500
 Grants Program 1,443,000

Item 23

To Judicial Council/State Court
 Administrator - Grand Jury
 From General Fund 800
 Schedule of Programs:
 Grand Jury 800

Item 24

To Judicial Council/State Court
 Administrator - Contracts and Leases
 From General Fund 15,271,700
 From Dedicated Credits Revenue 250,000
 From General Fund Restricted -
 State Court Complex Account 4,593,500
 Schedule of Programs:
 Contracts and Leases 20,115,200

Item 25

To Judicial Council/State Court Administrator -
 Jury and Witness Fees
 From General Fund 1,563,800
 From Dedicated Credits Revenue 10,000
 From Beginning Nonlapsing
 Appropriation Balances (1,664,200)
 From Closing Nonlapsing Appropriation
 Balances 2,514,200
 Schedule of Programs:
 Jury, Witness, and Interpreter 2,423,800

Item 26

To Judicial Council/State Court Administrator -
 Guardian ad Litem
 From General Fund 6,020,800
 From Dedicated Credits Revenue 77,000
 From General Fund Restricted -
 Children's Legal Defense 470,100
 From General Fund Restricted -
 Guardian Ad Litem Services 373,500
 Schedule of Programs:
 Guardian ad Litem 6,941,400

DEPARTMENT OF PUBLIC SAFETY**Item 27**

To Department of Public Safety - Programs &
 Operations
 From General Fund 67,281,300
 From Transportation Fund 5,495,500
 From Federal Funds 2,814,700
 From Dedicated Credits Revenue 14,522,100
 From General Fund Restricted -
 Canine Body Armor 25,000
 From General Fund Restricted -
 DNA Specimen Account 1,779,400
 From General Fund Restricted -
 Fire Academy Support 6,845,400
 From General Fund Restricted -
 Firefighter Support Account 132,000
 From General Fund Restricted - Public
 Safety Honoring Heroes Account 50,000
 From General Fund Restricted -
 Public Safety Support 3,300

From General Fund Restricted -
 Reduced Cigarette Ignition
 Propensity & Firefighter Protection
 Account 76,500
 From General Fund Restricted -
 Statewide Warrant Operations 577,900
 From General Fund Restricted -
 Utah Highway Patrol Aero Bureau 206,600
 From Department of Public
 Safety Restricted Account 4,058,900
 From Revenue Transfers 1,907,900
 From General Fund Restricted -
 Firearm Safety Account 70,000
 From General Fund Restricted -
 Concealed Weapons Account 3,100,000
 From Pass-through 3,469,000
 From Beginning Nonlapsing
 Appropriation Balances 7,690,900
 Schedule of Programs:
 Department Commissioner's
 Office 8,064,800
 Aero Bureau 1,044,100
 Department Intelligence Center 1,020,900
 Department Grants 3,316,100
 Department Fleet Management 499,900
 CITS Administration 501,100
 CITS Bureau of Criminal
 Identification 16,776,600
 CITS Communications 7,538,300
 CITS State Crime Labs 5,598,400
 CITS State Bureau of
 Investigation 3,108,800
 Highway Patrol - Administration ... 1,316,000
 Highway Patrol - Field
 Operations 41,328,100
 Highway Patrol - Commercial
 Vehicle 3,743,600
 Highway Patrol - Safety
 Inspections 1,360,000
 Highway Patrol - Federal/State
 Projects 5,212,100
 Highway Patrol - Protective
 Services 4,772,800
 Highway Patrol - Special
 Services 3,565,800
 Highway Patrol - Special
 Enforcement 1,274,800
 Highway Patrol - Technology
 Services 1,382,100
 Information Management -
 Operations 1,319,700
 Fire Marshall - Fire Operations 3,305,800
 Fire Marshall - Fire Fighter
 Training 4,056,600

Item 28

To Department of Public Safety -
 Emergency Management
 From General Fund 2,120,600
 From Federal Funds 28,550,000
 From Dedicated Credits Revenue 458,000
 From Revenue Transfers 140,400
 From Pass-through 21,800
 From Beginning Nonlapsing
 Appropriation Balances 423,400
 Schedule of Programs:
 Emergency Management 31,714,200

Item 29

To Department of Public Safety - Division of Homeland Security - Emergency and Disaster Management

From Beginning Nonlapsing
 Appropriation Balances 3,002,900
 From Closing Nonlapsing Appropriation
 Balances (3,002,900)

Item 30

To Department of Public Safety - Peace Officers' Standards and Training
 From Dedicated Credits Revenue 56,000
 From General Fund Restricted - Public Safety Support 3,956,800
 Schedule of Programs:
 Basic Training 1,731,200
 Regional/Inservice Training 777,800
 POST Administration 1,503,800

Item 31

To Department of Public Safety - Driver License
 From Federal Funds 300,000
 From Dedicated Credits Revenue 9,100
 From Public Safety Motorcycle Education Fund 327,500
 From Department of Public Safety Restricted Account 26,896,000
 From Uninsured Motorist Identification Restricted Account 2,373,100
 From Pass-through 53,700
 From Beginning Nonlapsing Appropriation Balances 3,017,000
 Schedule of Programs:
 Driver License Administration 3,079,100
 Driver Services 16,738,400
 Driver Records 9,656,400
 Motorcycle Safety 329,400
 Uninsured Motorist 2,873,100
 DL Federal Grants 300,000

Item 32

To Department of Public Safety - Highway Safety
 From General Fund 55,600
 From Federal Funds 5,007,000
 From Dedicated Credits Revenue 10,600
 From Department of Public Safety Restricted Account 900,600
 From Revenue Transfers 336,200
 From Pass-through 2,200
 From Beginning Nonlapsing Appropriation Balances 346,500
 Schedule of Programs:
 Highway Safety 6,658,700

Subsection 2(b). Expendable Funds and Accounts. The Legislature has reviewed the following expendable funds. Where applicable, the Legislature authorizes the State Division of Finance to transfer amounts among funds and accounts as indicated. Outlays and expenditures from the recipient funds or accounts may be made without further

legislative action according to a fund or account's applicable authorizing statute.

GOVERNOR'S OFFICE

Item 33

To Governor's Office - Crime Victim Reparations Fund
 From Federal Funds 1,900,000
 From Dedicated Credits Revenue 7,693,700
 From Interest Income 6,200
 From Ending Fund Balance (4,786,300)
 Schedule of Programs:
 Crime Victim Reparations Fund 4,813,600

Item 34

To Governor's Office - Juvenile Accountability Incentive Block Grant Fund
 From Federal Funds 1,000,000
 From Dedicated Credits Revenue 6,000
 From Ending Fund Balance (1,006,000)

Item 35

To Governor's Office - State Elections Grant Fund
 From Federal Funds 584,000
 From Interest Income 12,000
 Schedule of Programs:
 State Elections Grant Fund 596,000

Item 36

To Governor's Office - Justice Assistance Grant Fund
 From Federal Funds 3,000,000
 From Dedicated Credits Revenue 10,000
 From Ending Fund Balance (3,010,000)

ATTORNEY GENERAL

Item 37

To Attorney General - Crime and Violence Prevention Fund
 From Beginning Fund Balance 27,100
 From Ending Fund Balance (17,900)
 Schedule of Programs:
 Crime and Violence Prevention Fund 9,200

DEPARTMENT OF PUBLIC SAFETY

Item 38

To Department of Public Safety - Alcoholic Beverage Control Act Enforcement Fund
 From Dedicated Credits Revenue 3,512,000
 From Beginning Fund Balance 2,907,900
 From Ending Fund Balance (2,651,800)
 Schedule of Programs:
 Alcoholic Beverage Control Act Enforcement Fund 3,768,100

Subsection 2(c). Business-like Activities.

The Legislature has reviewed the following proprietary funds. Under the terms and conditions of Utah Code 63J-1-410, for any included Internal Service Fund the Legislature approves budgets, full-time permanent positions, and capital acquisition amounts as indicated, and appropriates to the funds as indicated estimated revenue from rates, fees, and other charges. Where applicable, the Legislature authorizes the State Division of

Finance to transfer amounts among funds and accounts as indicated.

UTAH DEPARTMENT OF CORRECTIONS

Item 39

To Utah Department of Corrections -
Utah Correctional Industries

From Dedicated Credits Revenue	28,439,200
From Beginning Fund Balance	6,268,500
From Ending Fund Balance	(6,736,900)
Schedule of Programs:	
Utah Correctional Industries	27,970,800

Subsection 2(d). Restricted Fund and Account Transfers. The Legislature authorizes the State Division of Finance to transfer the following amounts among the following funds or accounts as indicated. Expenditures and outlays from the recipient funds must be authorized elsewhere in an appropriations act.

FUND AND ACCOUNT TRANSFERS

Item 40

To Fund and Account Transfers - General Fund
Restricted - DNA Specimen Account

From General Fund	216,000
Schedule of Programs:	
General Fund Restricted -	
DNA Specimen Account	216,000

Section 3. Effective Date.

If approved by two-thirds of all the members elected to each house, Section 1 of this bill takes effect upon approval by the Governor, or the day following the constitutional time limit of Utah Constitution Article VII, Section 8 without the Governor's signature, or in the case of a veto, the date of override. Section 2 of this bill takes effect on July 1, 2015.

**CHAPTER 10
S. B. 7**

Passed February 10, 2015
Approved February 25, 2015
Effective February 25, 2015
(Exception clause in Section 3)

SOCIAL SERVICES BASE BUDGET

Chief Sponsor: Allen M. Christensen
House Sponsor: Paul Ray

LONG TITLE

General Description:

This bill supplements or reduces appropriations previously provided for the use and operation of state government for the fiscal year beginning July 1, 2014 and ending June 30, 2015; and appropriates funds for the support and operation of state government for the fiscal year beginning July 1, 2015 and ending June 30, 2016.

Highlighted Provisions:

This bill:

- ▶ provides appropriations for the use and support of certain state agencies;
- ▶ provides appropriations for other purposes as described.

Money Appropriated in this Bill:

This bill appropriates (\$24,986,600) in operating and capital budgets for fiscal year 2015, including:

- ▶ (\$39,094,100) from the General Fund;
- ▶ \$14,107,500 from various sources as detailed in this bill.

This bill appropriates \$4,409,097,700 in operating and capital budgets for fiscal year 2016, including:

- ▶ \$824,366,500 from the General Fund;
- ▶ \$20,660,300 from the Education Fund;
- ▶ \$3,564,070,900 from various sources as detailed in this bill.

This bill appropriates \$96,980,500 in expendable funds and accounts for fiscal year 2016, including:

- ▶ \$2,242,900 from the General Fund;
- ▶ \$94,737,600 from various sources as detailed in this bill.

This bill appropriates \$283,263,400 in business-like activities for fiscal year 2016.

This bill appropriates \$665,000 in restricted fund and account transfers for fiscal year 2016, all of which is from the General Fund.

This bill appropriates \$209,192,500 in fiduciary funds for fiscal year 2016.

Other Special Clauses:

Section 1 of this bill takes effect immediately.
Section 2 of this bill takes effect on July 1, 2015.

Utah Code Sections Affected:

ENACTS UNCODIFIED MATERIAL

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

Section 1. FY 2015 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2014 and ending June 30, 2015. These are additions to

amounts previously appropriated for fiscal year 2015.

Subsection 1(a). Operating and Capital Budgets.

Under the terms and conditions of Utah Code Title 63J, the Legislature appropriates the following sums of money from the funds or fund accounts indicated for the use and support of the government of the State of Utah.

DEPARTMENT OF HEALTH

Item 1

To Department of Health - Family Health and Preparedness
From General Fund, One-time 40,000
From General Fund Restricted - Automatic Defibrillator Restricted Account 150,000
Schedule of Programs:
Maternal and Child Health 40,000
Emergency Medical Services 150,000

Item 2

To Department of Health - Disease Control and Prevention
From General Fund, One-time (40,000)
Schedule of Programs:
Health Promotion (40,000)

Item 3

To Department of Health - Medicaid and Health Financing
From General Fund, One-time (12,300)
From General Fund Restricted - Nursing Care Facilities Account 12,300

Item 4

To Department of Health - Children's Health Insurance Program
From General Fund, One-time (3,988,700)
From Federal Funds (9,608,000)
From General Fund Restricted - Tobacco Settlement Account 1,488,700
Schedule of Programs:
Children's Health Insurance Program (12,108,000)

Item 5

To Department of Health - Medicaid Mandatory Services
From General Fund, One-time (16,665,900)
From General Fund Restricted - Medicaid Restricted Account 20,765,900
From General Fund Restricted - Nursing Care Facilities Account (12,300)
Schedule of Programs:
Managed Health Care 4,100,000
Nursing Home (12,300)

Item 6

To Department of Health - Medicaid Optional Services
From General Fund, One-time (17,000,000)
Schedule of Programs:
Home and Community Based Waiver Services (1,600,000)
Other Optional Services (15,400,000)

**DEPARTMENT OF
WORKFORCE SERVICES**

Item 7

To Department of Workforce
Services - Administration
From Dedicated Credits Revenue 54,700
From General Fund Restricted -
Special Administrative Expense
Account 50,000
Schedule of Programs:
Executive Director's Office 14,700
Communications 6,900
Human Resources 17,900
Administrative Support 60,300
Internal Audit 4,900

Item 8

To Department of Workforce Services -
Operations and Policy
From General Fund, One-time (1,394,700)
From Federal Funds 1,310,900
From Dedicated Credits Revenue (54,700)
From General Fund Restricted -
Special Administrative Expense
Account (50,000)
Schedule of Programs:
Workforce Development (50,000)
Eligibility Services (138,500)

DEPARTMENT OF HUMAN SERVICES

Item 9

To Department of Human Services - Division
of Substance Abuse and Mental Health
From General Fund, One-time (32,500)
Schedule of Programs:
State Hospital (32,500)

Section 2. FY 2016 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2015 and ending June 30, 2016.

Subsection 2(a). Operating and Capital Budgets. Under the terms and conditions of Utah Code Title 63J, the Legislature appropriates the following sums of money from the funds or fund accounts indicated for the use and support of the government of the State of Utah.

DEPARTMENT OF HEALTH

Item 10

To Department of Health - Executive
Director's Operations
From General Fund 6,131,600
From Federal Funds 8,580,600
From Dedicated Credits Revenue 3,427,600
From General Fund Restricted -
Tobacco Settlement Account 200
From Revenue Transfers -
Within Agency 165,000
Schedule of Programs:
Executive Director 2,741,800
Center for Health Data and
Informatics 8,846,500
Program Operations 5,991,400
Office of Internal Audit 725,300

The Legislature intends that the Department of Health report on the following performance measures for the Executive Director's Operations line item: (1) conduct risk assessments for each information system in operation (Target = 123 information systems), (2) 95% of births occurring in a hospital are entered accurately by hospital staff into the electronic birth registration system (Target = 10 calendar days or less), and (3) percentage of all deaths registered using the electronic death registration system (Target = 75% or more) by January 1, 2016 to the Social Services Appropriations Subcommittee.

Item 11

To Department of Health - Family Health
and Preparedness
From General Fund 17,273,100
From Federal Funds 81,924,600
From Dedicated Credits Revenue 18,211,000
From General Fund Restricted -
Autism Treatment Account 100,000
From General Fund Restricted -
Children's Hearing Aid Pilot
Program Account 101,900
From General Fund Restricted -
Kurt Oscarson Children's Organ
Transplant 101,300
From Revenue Transfers -
Human Services 840,000
From Revenue Transfers - Medicaid ... 4,079,600
From Revenue Transfers -
Public Safety 189,400
From Revenue Transfers -
Within Agency 264,000
From Revenue Transfers -
Workforce Services 1,901,200
From Pass-through 65,500
From Beginning Nonlapsing
Appropriation Balances 865,500
From Lapsing Balance (365,800)
Schedule of Programs:
Director's Office 2,079,900
Maternal and Child Health 65,933,900
Child Development 27,190,300
Children with Special Health
Care Needs 10,010,900
Public Health and Preparedness 8,555,400
Emergency Medical Services 4,196,100
Health Facility Licensing and
Certification 5,077,300
Primary Care 2,507,500

The Legislature intends that the Department of Health report on the following performance measures for the Family Health and Preparedness line item: (1) The percent of children who demonstrated improvement in social-emotional skills, including social relationships (Goal = 70% or more), (2) The percent of children who demonstrated improvement in their rate of growth in acquisition and use of knowledge and skills, including early language/communication and early literacy (Goal = 75% or more), (3) The percent of children who demonstrated improvement in their rate of growth in the

use of appropriate behaviors to meet their needs (Goal = 75% or more) by January 1, 2016 to the Social Services Appropriations Subcommittee.

Item 12

To Department of Health - Disease Control and Prevention

From General Fund	12,599,400
From Federal Funds	58,643,500
From Dedicated Credits Revenue	9,131,100
From General Fund Restricted - Cancer Research Account	20,000
From General Fund Restricted - Cigarette Tax Restricted Account	3,150,000
From General Fund Restricted - Prostate Cancer Support Account	26,600
From General Fund Restricted - State Lab Drug Testing Account	678,900
From General Fund Restricted - Tobacco Settlement Account	3,936,900
From Department of Public Safety Restricted Account	100,000
From Revenue Transfers - Human Services	10,000
From Revenue Transfers - Medicaid	285,000
From Revenue Transfers - Public Safety	270,800
From Revenue Transfers - State Office of Education	17,000
From Revenue Transfers - Within Agency	140,600
From Revenue Transfers - Workforce Services	2,587,400
Schedule of Programs:	
General Administration	1,688,400
Laboratory Operations and Testing	10,411,400
Health Promotion	26,687,700
Epidemiology	22,301,600
Office of the Medical Examiner	4,006,100
Certification Programs	502,000
Vaccine Commodities	26,000,000

The Legislature intends that the Department of Health report on the following performance measures for the Disease Control and Prevention line item: (1) Gonorrhea cases per 100,000 population (Target = 18.9 people or less), (2) Percentage of Adults Who Are Current Smokers (Target = 9%), and (3) Percentage of Toxicology Cases Completed within 14 day Goal (Target = 100%) by January 1, 2016 to the Social Services Appropriations Subcommittee.

The Legislature intends that the Department of Health research and report government entities paying for services that could be provided by the State Laboratory and give this information to the Office of the Legislative Fiscal Analyst by September 1, 2015. The report shall include: (1) the name of the government entity, (2) amount paid for the service, (3) what the cost would be if the service was provided by the State Laboratory, and (4) any potential barriers to the State Laboratory for bidding on those services. The Department of Health shall also detail its

assumptions for its costs on all laboratory services that government entities are purchasing in the private sector.

Item 13

To Department of Health - Local Health Departments

From General Fund	2,137,500
Schedule of Programs:	
Local Health Department Funding	2,137,500

The Legislature intends that the Department of Health report on the following performance measures for the Local Health Departments line item: (1) Number of local health departments that maintain a board of health that annually adopts a budget, appoints a local health officer (LHO), conducts an annual performance review for the LHO, and reports to county commissioners on health issues (Target = 12 or 100%), (2) Number of local health departments that provide communicable disease epidemiology and control services including disease reporting, response to outbreaks, and measures to control tuberculosis (Target = 12 or 100%), and (3) Number of local health departments that maintain a program of environmental sanitation which provides oversight of restaurants food safety, swimming pools, and the indoor clean air act (Target = 12 or 100%) by January 1, 2016 to the Social Services Appropriations Subcommittee, (4) Achieve and maintain an effective coverage target rate of 90% for universally recommended vaccinations among young children (35 months of age), (5) Reduce the number of cases of pertussis among children under 1 year of age, and among adolescents aged 11 to 18 years, and (6) Local health departments will increase the number of health and safety related school buildings and premises inspections by 10% (from 80% to 90%).

Item 14

To Department of Health - Medicaid and Health Financing

From General Fund	4,868,300
From Federal Funds	68,055,600
From Federal Funds - American Recovery and Reinvestment Act	833,000
From Dedicated Credits Revenue	8,991,000
From General Fund Restricted - Nursing Care Facilities Account	688,200
From Transfers - Medicaid - Department of Human Services	9,102,000
From Transfers - Medicaid - Department of Administrative Services	1,065,100
From Transfers - Medicaid - Department of Workforce Services	11,159,300
From Transfers - Medicaid - Department of Health Internal	1,931,800
From Transfers - Medicaid - Utah Department of Corrections	25,000
From Transfers - Medicaid - Utah Schools for the Deaf and Blind	30,000

From Revenue Transfers -	
Within Agency	1,054,700
Schedule of Programs:	
Director's Office	2,276,400
Financial Services	13,871,500
Medicaid Operations	4,002,200
Managed Health Care	4,463,900
Authorization and Community	
Based Services	3,046,100
Contracts	1,187,400
Coverage and Reimbursement	3,344,600
Eligibility Policy	2,468,100
Department of Workforce	
Services' Seeded Services	39,392,900
Other Seeded Services	33,750,900

All General Funds appropriated to the Department of Health - Medicaid and Health Financing line item are contingent upon expenditures from Federal Funds - American Recovery and Reinvestment Act (H.R. 1, 111th United States Congress) not exceeding amounts appropriated from Federal Funds - American Recovery and Reinvestment Act in all appropriation bills passed for fiscal year 2016. If expenditures in the Medicaid and Health Financing line item from Federal Funds - American Recovery and Reinvestment Act exceed amounts appropriated to the Medicaid and Health Financing line item from Federal Funds - American Recovery and Reinvestment Act in fiscal year 2016, the Division of Finance shall reduce the General Fund allocations to the Medicaid and Health Financing line item by one dollar for every one dollar in Federal Funds - American Recovery and Reinvestment Act expenditures that exceed Federal Funds - American Recovery and Reinvestment Act appropriations.

The Legislature intends that the Department of Health report on the following performance measures for the Medicaid and Health Financing line item: (1) average decision time on pharmacy prior authorizations (Target = 24 hours or less), (2) percent of clean claims adjudicated within 30 days of submission (Target = 98%), and (3) total count of Medicaid and CHIP clients educated on proper benefit use and plan selection (Target = 90,000 or more) by January 1, 2016 to the Social Services Appropriations Subcommittee.

Item 15

To Department of Health - Medicaid Sanctions	
From Beginning Nonlapsing	
Appropriation Balances	982,900
From Closing Nonlapsing Appropriation	
Balances	(982,900)

The Legislature intends that the Department of Health report on how expenditures from the Medicaid Sanctions line item met federal requirements which constrain its use by January 1, 2016 to the Social Services Appropriations Subcommittee.

Item 16

To Department of Health - Children's	
Health Insurance Program	
From General Fund	4,188,100
From Federal Funds	60,676,800
From Dedicated Credits Revenue	1,423,200
From General Fund Restricted -	
Tobacco Settlement Account	12,979,700
From Revenue Transfers -	
Within Agency	63,000
Schedule of Programs:	
Children's Health Insurance	
Program	79,330,800

The Legislature intends that the Department of Health report on the following performance measures for the Children's Health Insurance Program line item: (1) percentage of children (less than 15 months old) that received at least six or more well-child visits (Target = 52% or more), (2) percentage of members (12 - 21 years of age) who had at least one comprehensive well-care visit (Target = 39% or more), and (3) percentage of children 5-11 years of age with persistent asthma who were appropriately prescribed medication (Target = 94% or more) by January 1, 2016 to the Social Services Appropriations Subcommittee.

Item 17

To Department of Health - Medicaid	
Mandatory Services	
From General Fund	296,110,400
From Federal Funds	961,947,400
From Dedicated Credits Revenue	28,083,000
From General Fund Restricted -	
Nursing Care Facilities Account	21,341,800
From Hospital Provider Assessment	
Fund	48,500,000
From Revenue Transfers - Administrative	
Services	500
From Revenue Transfers -	
Department of Corrections	23,900
From Revenue Transfers -	
Human Services	700
From Revenue Transfers -	
Intergovernmental	275,000
From Transfers - Medicaid - Department	
of Human Services	136,000
From Transfers - Medicaid - Department	
of Health Internal	19,100
From Revenue Transfers -	
Public Safety	5,900
From Revenue Transfers -	
State Office of Rehabilitation	128,600
From Revenue Transfers -	
Within Agency	1,308,600
From Revenue Transfers -	
Workforce Services	852,300
From Pass-through	13,707,800
Schedule of Programs:	
Inpatient Hospital	162,311,500
Managed Health Care	827,001,900
Nursing Home	182,857,800
Outpatient Hospital	59,896,900
Physician Services	62,609,000
Crossover Services	14,282,900
Medical Supplies	10,257,400

Medicaid Management Information	
System Replacement	19,000
Other Mandatory Services	53,204,600

The Legislature intends that the Department of Health report quarterly to the Office of the Legislative Fiscal Analyst on the status of replacing the Medicaid Management Information System replacement beginning September 30, 2015. The reports should include, where applicable, the responses to any requests for proposals. At least one report during FY 2016 should include the first estimate of net ongoing impacts to the State from the new system.

The Legislature intends that the Department of Health report on the following performance measures for the Medicaid Mandatory Services line item: (1) percent of adults age 45-64 with ambulatory or preventive care visits (Target = 88% or more), (2) percent of deliveries that had a post partum visit between 21 and 56 days after delivery (Target = 60% or more), and (3) percent of customers satisfied with their managed care plan (Target = 85% or more) by January 1, 2016 to the Social Services Appropriations Subcommittee.

Item 18

To Department of Health - Medicaid	
Optional Services	
From General Fund	117,037,500
From Federal Funds	552,716,400
From Federal Funds - American	
Recovery and Reinvestment Act	10,775,000
From Dedicated Credits Revenue ...	159,831,700
From General Fund Restricted -	
Nursing Care Facilities Account	3,262,300
From Revenue Transfers -	
Human Services	(649,600)
From Transfers - Medicaid - Department	
of Human Services	83,783,700
From Transfers - Medicaid - Department	
of Workforce Services	142,000
From Transfers - Medicaid - Department	
of Health Internal	2,319,500
From Transfers - Medicaid - Utah	
Schools for the Deaf and Blind	452,300
From Revenue Transfers -	
Within Agency	19,100
From Revenue Transfers -	
Workforce Services	190,600
From Revenue Transfers -	
Youth Corrections	1,425,100
From Pass-through	5,902,400
Schedule of Programs:	
Pharmacy	107,307,800
Home and Community Based	
Waiver Services	205,946,300
Capitated Mental Health	
Services	146,567,200
Intermediate Care Facilities	
for Intellectually Disabled	81,996,600
Non-service Expenses	77,806,000
Buy-in/Buy-out	44,257,200
Dental Services	46,247,100
Clawback Payments	31,008,500

Disproportionate Hospital	
Payments	31,417,700
Hospice Care Services	16,047,600
Vision Care	1,552,900
Other Optional Services	147,053,100

The Legislature intends that the Department of Health report on the following performance measures for the Medicaid Optional Services line item: (1) annual state general funds saved through preferred drug list (Target = \$8.5 million general fund or more), (2) count of new choices waiver clients coming out of nursing homes into community based care (Target = 390 or more), and (3) emergency dental program savings (Target = \$250,000 General Fund savings or more) by January 1, 2016 to the Social Services Appropriations Subcommittee.

**DEPARTMENT OF
WORKFORCE SERVICES**

Item 19

To Department of Workforce	
Services - Administration	
From General Fund	3,029,300
From Federal Funds	6,293,100
From Dedicated Credits Revenue	178,100
From General Fund Restricted -	
Mineral Lease	(3,300)
From Restricted Revenue	133,300
From Permanent Community	
Impact Loan Fund	136,000
From Revenue Transfers -	
Human Services	8,000
From Revenue Transfers -	
Medicaid	1,760,700
From Revenue Transfers -	
State Board of Regents	8,700
Schedule of Programs:	
Executive Director's Office	1,596,000
Communications	960,200
Human Resources	1,211,500
Administrative Support	7,239,900
Internal Audit	536,300

The Legislature intends that the Department of Workforce Services report on the following performance measures for the Administration line item: provide accurate and timely department-wide fiscal administration. Goal: manage, account and reconcile all funds within state finance close out time lines and with zero audit findings by January 1, 2016 to the Social Services Appropriations Subcommittee.

Item 20

To Department of Workforce Services -	
Operations and Policy	
From General Fund	46,764,700
From Federal Funds	630,136,100
From Dedicated Credits Revenue	5,303,300
From General Fund Restricted -	
Special Administrative Expense	
Account	5,000,000
From Revenue Transfers -	
Human Services	268,000
From Revenue Transfers -	
Medicaid	30,190,200

From Revenue Transfers – State Board of Regents	152,400
Schedule of Programs:	
Facilities and Pass-Through	8,575,600
Workforce Development	80,295,000
Temporary Assistance to Needy Families	55,000,000
Refugee Assistance	8,132,900
Workforce Research and Analysis ...	2,544,500
Trade Adjustment Act Assistance ...	2,784,800
Eligibility Services	56,713,600
Child Care Assistance	53,543,900
Nutrition Assistance	410,000,000
Workforce Investment Act Assistance	7,500,000
Other Assistance	325,000
Information Technology	32,399,400

The Legislature intends the Department of Workforce Services provide to the Office of the Legislative Fiscal Analyst no later than September 1, 2015 a detailed report on its Temporary Assistance for Needy Families (TANF) reserve amount including the current balance and any uses of the reserve since the 2015 General Session or planned and projected uses of the reserve in the future.

The Legislature intends that the Department of Workforce Services report on the following performance measures for the Operations and Policy line item: (1) Labor Exchange - Total job placements (Target = 50,000 placements per calendar quarter), (2) TANF Recipients - positive closure rate (Target = 70% per calendar month), and (3) Eligibility Services - internal review compliance accuracy (Target = 95%) by January 1, 2016 to the Social Services Appropriations Subcommittee.

Item 21

To Department of Workforce Services - General Assistance	
From General Fund	4,855,500
Schedule of Programs:	
General Assistance	4,855,500

The Legislature intends that the Department of Workforce Services report on the following performance measures for the General Assistance line item: (1) Positive closure rate (SSI achievement or closed with earnings) (Target = 45%), (2) General Assistance customers served (Target = 835), and (3) Internal review compliance accuracy (Target = 80%) by January 1, 2016 to the Social Services Appropriations Subcommittee.

Item 22

To Department of Workforce Services - Unemployment Insurance	
From General Fund	548,700
From Federal Funds	18,176,600
From Dedicated Credits Revenue	463,800
From General Fund Restricted - Special Administrative Expense Account	1,000,000

From Revenue Transfers - Human Services	300
From Revenue Transfers - Medicaid	225,000
From Revenue Transfers - State Board of Regents	200
Schedule of Programs:	
Unemployment Insurance Administration	17,172,900
Adjudication	3,241,700

The Legislature intends that the Department of Workforce Services report on the following performance measures for the Unemployment Insurance line item: (1) Percentage of New Employer Status Determinations made within 90 days of the last day in the quarter in which the business became Liable (Target => 70%), (2) Percentage of UI Separation Determinations with Quality scores equal to or greater than 95 points, based on the evaluation results of quarterly samples selected from all determinations (Target => 90%), and (3) Percentage of UI Benefits Payments made within 14 days after the week ending date of the first compensable week in the benefit year (Target => 87%) by January 1, 2016 to the Social Services Appropriations Subcommittee.

Item 23

To Department of Workforce Services - Housing and Community Development	
From General Fund	2,630,800
From Federal Funds	62,998,100
From Dedicated Credits Revenue	3,361,800
From General Fund Restricted - Mineral Lease	2,400
From General Fund Restricted - Pamela Atkinson Homeless Account	734,800
From General Fund Restricted - Methamphetamine Housing Reconstruction and Rehabilitation Account	8,600
From Permanent Community Impact Loan Fund	1,225,700
From Beginning Nonlapsing Appropriation Balances	1,000,000
From Lapsing Balance	(8,600)
Schedule of Programs:	
Community Development Administration	583,600
Community Development	6,999,900
Housing Development	21,102,200
Special Housing	145,000
Homeless Committee	5,775,400
HEAT	23,890,000
Weatherization Assistance	9,681,400
Community Services	3,480,300
Emergency Food Network	295,800

Item 24

To Department of Workforce Services - Special Service Districts	
From General Fund Restricted - Mineral Lease	8,545,900
Schedule of Programs:	

Special Service Districts 8,545,900

Item 25

To Department of Workforce Services -
 Community Development Capital Budget
 From Permanent Community Impact
 Loan Fund 125,180,000
 Schedule of Programs:
 Community Impact Board 125,180,000

DEPARTMENT OF HUMAN SERVICES

Item 26

To Department of Human Services -
 Executive Director Operations
 From General Fund 7,491,900
 From Federal Funds 5,923,700
 From Dedicated Credits Revenue 1,000
 From Revenue Transfers - Federal 687,900
 From Revenue Transfers -
 Indirect Costs 3,000
 From Revenue Transfers - Medicaid 899,300
 From Revenue Transfers -
 Other Agencies 28,000
 From Revenue Transfers -
 Within Agency 451,800
 Schedule of Programs:
 Executive Director's Office 3,286,700
 Legal Affairs 1,478,200
 Information Technology 1,502,800
 Fiscal Operations 3,092,700
 Human Resources 34,000
 Local Discretionary Pass-Through 1,140,700
 Office of Services Review 1,470,400
 Office of Licensing 2,660,900
 Utah Developmental Disabilities
 Council 820,200

The Legislature intends that the Department of Human Services report on the following performance measures for the Executive Director Operations line item: (1) Corrected department-wide reported fiscal issues - per reporting process and June 30 quarterly report involving Bureaus of Finance and Internal Review and Audit (Target = 70%), (2) Percentage of initial foster care homes licensed within 3 months of training completion (Target = 60%), and (3) double-read (reviewed) Case Process Reviews will be accurate in The Office of Service Review (Target = 90%) by January 1, 2016 to the Social Services Appropriations Subcommittee.

Item 27

To Department of Human Services - Division of
 Substance Abuse and Mental Health
 From General Fund 88,741,300
 From Federal Funds 25,479,300
 From Dedicated Credits Revenue 2,735,600
 From General Fund Restricted -
 Intoxicated Driver Rehabilitation
 Account 1,500,000
 From General Fund Restricted -
 Tobacco Settlement Account 2,325,400
 From Revenue Transfers -
 Child Nutrition 76,000

From Revenue Transfers - Commission
 on Criminal and Juvenile Justice 400,000
 From Revenue Transfers -
 Medicaid 12,667,000
 From Revenue Transfers -
 Other Agencies 1,660,000
 Schedule of Programs:
 Administration - DSAMH 3,031,900
 Community Mental Health
 Services 11,009,300
 Mental Health Centers 27,628,600
 Residential Mental Health Services 221,900
 State Hospital 55,796,500
 State Substance Abuse Services 5,953,300
 Local Substance Abuse Services 22,648,000
 Driving Under the Influence
 (DUI) Fines 1,500,000
 Drug Offender Reform Act
 (DORA) 2,747,100
 Drug Courts 5,048,000

The Legislature intends that the Department of Human Services report on the following performance measures for the Substance Abuse and Mental Health line item: (1) Local Substance Abuse Services - Successful completion rate (Target = 40%), (2) Mental Health Services - Adult Outcomes Questionnaire - Percent of clients stable, improved, or in recovery while in current treatment (Target = 70%), and (3) Mental Health Centers - Youth Outcomes Questionnaire - Percent of clients stable, improved, or in recovery while in current treatment (Target = 70%) by January 1, 2016 to the Social Services Appropriations Subcommittee.

Item 28

To Department of Human Services - Division of
 Services for People with Disabilities
 From General Fund 72,173,200
 From Federal Funds 1,327,100
 From Dedicated Credits Revenue 2,226,700
 From Revenue Transfers -
 Medicaid 171,552,600
 From Revenue Transfers -
 Other Agencies 286,000
 From Beginning Nonlapsing
 Appropriation Balances 2,100,000
 Schedule of Programs:
 Administration - DSPD 4,413,000
 Service Delivery 5,455,400
 Utah State Developmental
 Center 36,084,000
 Community Supports Waiver 196,499,900
 Acquired Brain Injury Waiver 3,408,000
 Physical Disabilities Waiver 2,019,800
 Non-waiver Services 1,785,500

The Legislature intends that the Division of Services for People with Disabilities (DSPD) use Fiscal Year 2016 beginning non-lapsing funds to provide services for individuals needing emergency services, individuals needing additional waiver services, individuals who turn 18 years old and leave state custody from the Divisions of Child and Family services and Juvenile Justice Services, individuals court ordered into

DSPD services and to provide increases to providers for direct care staff salaries. The legislature further intends DSPD report to the Office of Legislative Fiscal Analyst on the use of these non-lapsing funds.

The Legislature intends that the Department of Human Services report on the following performance measures for the Services for People with Disabilities line item: (1) Community Supports, Brain Injury, Physical Disability Waivers, Non-waiver Services - % providers meeting fiscal requirements of contract (Target = 100%), (2) Community Supports, Brain Injury, Physical Disability Waivers, Non-waiver Services - % providers meeting non-fiscal requirements of contracts (Target = 100%), and (3) People receive supports in employment settings rather than day programs (National ranking) (Target = #1 nationally) by January 1, 2016 to the Social Services Appropriations Subcommittee.

Item 29

To Department of Human Services - Office of Recovery Services

From General Fund	12,967,800
From Federal Funds	18,009,900
From Dedicated Credits Revenue	8,987,300
From Revenue Transfers - Medicaid ...	2,335,600
From Revenue Transfers - Other Agencies	216,600
Schedule of Programs:	
Administration - ORS	888,100
Financial Services	2,115,300
Electronic Technology	8,047,400
Child Support Services	23,216,200
Children in Care Collections	681,300
Attorney General Contract	4,405,500
Medical Collections	3,163,400

The Legislature intends that the Department of Human Services report on the following performance measures for the Office of Recovery Services line item: (1) ORS Total Collections (Target = \$250 million), (2) Child Support Services Collections (Target = \$215 million), and (3) Ratio: ORS Collections to Cost (Target = > 5.9 to 1) by January 1, 2016 to the Social Services Appropriations Subcommittee.

Item 30

To Department of Human Services - Division of Child and Family Services

From General Fund	111,573,600
From Federal Funds	57,510,700
From Dedicated Credits Revenue	2,652,200
From General Fund Restricted - Choose Life Adoption Support Account	25,000
From General Fund Restricted - Children's Account	450,000
From General Fund Restricted - Victims of Domestic Violence Services Account	975,900
From National Professional Men's Basketball Team Support of Women and Children Issues	12,500

From Revenue Transfers - Federal	250,000
From Revenue Transfers - Health	(68,200)
From Revenue Transfers - Medicaid	(6,236,500)
From Revenue Transfers - Within Agency	123,500
From Beginning Nonlapsing Appropriation Balances	400,000
From Closing Nonlapsing Appropriation Balances	(200,000)
Schedule of Programs:	
Administration - DCFS	4,441,500
Service Delivery	76,631,600
In-Home Services	2,864,200
Out-of-Home Care	41,039,300
Facility-based Services	3,656,900
Minor Grants	6,245,600
Selected Programs	4,287,000
Special Needs	1,915,200
Domestic Violence	5,721,200
Children's Account	450,000
Adoption Assistance	14,221,800
Child Welfare Management Information System	5,994,400

The Legislature intends that the Department of Human Services report on the following performance measures for the Child and Family Services line item: (1) Administrative Performance: Percent satisfactory outcomes on qualitative case reviews/system performance (Target = 85%/85%), (2) Child Protective Services: Absence of maltreatment recurrence within 6 months (Target = 94.6%), and (3) Out of home services: Percent of children reunified within 12 months (Target = 74.2%) by January 1, 2016 to the Social Services Appropriations Subcommittee.

Item 31

To Department of Human Services - Division of Aging and Adult Services

From General Fund	12,971,100
From Federal Funds	10,454,100
From Dedicated Credits Revenue	100
From Revenue Transfers - Medicaid ...	(659,300)
From Revenue Transfers - Other Agencies	19,000
Schedule of Programs:	
Administration - DAAS	1,410,800
Local Government Grants - Formula Funds	12,245,500
Non-Formula Funds	1,215,500
Adult Protective Services	2,909,300
Aging Waiver Services	1,032,000
Aging Alternatives	3,971,900

The Legislature intends that the Department of Human Services report on the following performance measures for the Aging and Adult Services line item: (1) Medicaid Aging Waiver: Average Cost of Client at 15% or less of Nursing Home Cost (Target = 15%), (2) Adult Protective Services: Protective needs resolved positively (Target = 95%), and (3) Meals on Wheels: Total meals served (Target = 10,115) by January 1, 2016 to the Social Services Appropriations Subcommittee.

STATE BOARD OF EDUCATION

Item 32

To State Board of Education - State
Office of Rehabilitation

From General Fund	272,700
From Education Fund	20,660,300
From Federal Funds	59,174,000
From Dedicated Credits Revenue	800,000

Schedule of Programs:

Executive Director	12,683,100
Blind and Visually Impaired	6,258,000
Rehabilitation Services	46,733,100
Disability Determination	12,366,700
Deaf and Hard of Hearing	2,866,100

The Legislature intends that the Utah State Office of Rehabilitation report on the following performance measures for its line item: (1) Vocational Rehabilitation - Increase the number of rehabilitation outcomes (Target = 3,665), (2) Vocational Rehabilitation - maintain or increase a successful rehabilitation closure rate (Target = 60%), and (3) Deaf and Hard of Hearing - Increase in the number of individuals served by DSDHH programs (Target = 7,144) by January 1, 2016 to the Social Services Appropriations Subcommittee.

Subsection 2(b). Expendable Funds and

Accounts. The Legislature has reviewed the following expendable funds. Where applicable, the Legislature authorizes the State Division of Finance to transfer amounts among funds and accounts as indicated. Outlays and expenditures from the recipient funds or accounts may be made without further legislative action according to a fund or account's applicable authorizing statute.

DEPARTMENT OF HEALTH

Item 33

To Department of Health - Traumatic
Brain Injury Fund

From Beginning Fund Balance	229,800
From Ending Fund Balance	(109,300)

Schedule of Programs:

Traumatic Brain Injury Fund	120,500
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Item 34

To Department of Health - Traumatic Head and
Spinal Cord Injury Rehabilitation Fund

From Dedicated Credits Revenue	170,400
From Beginning Fund Balance	476,100
From Ending Fund Balance	(508,900)

Schedule of Programs:

Traumatic Head and Spinal Cord Injury Rehabilitation Fund	137,600
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Item 35

To Department of Health - Organ
Donation Contribution Fund

From Dedicated Credits Revenue	17,700
From Interest Income	200
From Beginning Fund Balance	99,400
From Ending Fund Balance	(117,300)

DEPARTMENT OF WORKFORCE SERVICES

Item 36

To Department of Workforce Services - Permanent
Community Impact Fund

From Dedicated Credits Revenue	126,000
From Interest Income	813,000

From General Fund Restricted -
Mineral Lease
 79,192,700 |

From General Fund Restricted - Land
Exchange Distribution Account
 108,000 |

From Repayments	26,312,900
From Beginning Fund Balance	373,107,500
From Ending Fund Balance	(412,186,400)

Schedule of Programs:

Permanent Community Impact Fund	67,473,700
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Item 37

To Department of Workforce Services - Permanent
Community Impact Bonus Fund

From Dedicated Credits Revenue	700
From Interest Income	7,220,900

From General Fund Restricted -
Land Exchange Distribution Account ...
 12,000 |

From General Fund Restricted -
Mineral Bonus
 4,376,300 |

From Revenue Transfers	3,442,900
From Repayments	4,936,300
From Beginning Fund Balance	344,689,100
From Ending Fund Balance	(359,703,000)

Schedule of Programs:

Permanent Community Impact Bonus Fund	4,975,200
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Item 38

To Department of Workforce Services -
Intermountain Weatherization Training Fund

From Dedicated Credits Revenue	11,300
From Beginning Fund Balance	600

Schedule of Programs:

Intermountain Weatherization Training Fund	11,900
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Item 39

To Department of Workforce Services -
Navajo Revitalization Fund

From Interest Income	65,900
From Restricted Revenue	2,829,100
From Beginning Fund Balance	12,592,400
From Ending Fund Balance	(13,444,200)

Schedule of Programs:

Navajo Revitalization Fund	2,043,200
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Item 40

To Department of Workforce Services -
Olene Walker Housing Loan Fund

From General Fund	2,242,900
From Federal Funds	7,080,000
From Dedicated Credits Revenue	48,900
From Interest Income	1,773,700
From Revenue Transfers	13,478,900
From Beginning Fund Balance	136,557,100
From Ending Fund Balance	(146,653,500)

Schedule of Programs:

Olene Walker Housing Loan Fund	14,528,000
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Item 41

To Department of Workforce Services - Qualified
Emergency Food Agencies Fund

From Designated Sales Tax 915,000
 From Beginning Fund Balance 246,700
 From Ending Fund Balance (333,000)
 Schedule of Programs:
 Emergency Food Agencies Fund 828,700

Item 42

To Department of Workforce Services -
 Utah Basin Revitalization Fund
 From Interest Income 143,900
 From Restricted Revenue 6,517,200
 From Beginning Fund Balance 26,012,000
 From Ending Fund Balance (26,255,500)
 Schedule of Programs:
 Utah Basin Revitalization Fund ... 6,417,600

Item 43

To Department of Workforce Services -
 Child Care Fund
 From Dedicated Credits Revenue 100
 From Beginning Fund Balance 24,000
 From Ending Fund Balance (24,100)

DEPARTMENT OF HUMAN SERVICES**Item 44**

To Department of Human Services - Out and About
 Homebound Transportation Assistance Fund
 From Dedicated Credits Revenue 25,100
 From Interest Income 600
 From Beginning Nonlapsing
 Appropriation Balances 177,400
 From Closing Nonlapsing Appropriation
 Balances (203,100)

Item 45

To Department of Human Services -
 State Development Center
 Miscellaneous Donation Fund
 From Dedicated Credits Revenue 265,000
 From Interest Income 3,600
 From Beginning Nonlapsing
 Appropriation Balances 575,900
 From Closing Nonlapsing Appropriation
 Balances (579,500)
 Schedule of Programs:
 State Development Center
 Miscellaneous Donation Fund 265,000

Item 46

To Department of Human Services -
 State Development Center Workshop Fund
 From Dedicated Credits Revenue 130,000
 From Beginning Nonlapsing
 Appropriation Balances 6,100
 From Closing Nonlapsing Appropriation
 Balances (6,100)
 Schedule of Programs:
 State Development Center
 Workshop Fund 130,000

Item 47

To Department of Human Services - State Hospital
 Unit Fund
 From Dedicated Credits Revenue 34,000
 From Interest Income 900
 From Beginning Nonlapsing
 Appropriation Balances 336,200
 From Closing Nonlapsing Appropriation
 Balances (336,200)

Schedule of Programs:
 State Hospital Unit Fund 34,900

Item 48

To Department of Human Services -
 Utah State Developmental Center Land Fund
 From Interest Income 700
 From Sale of Fixed Assets 41,700
 From Revenue Transfers -
 Within Agency 38,700
 From Other Financing Sources (300)
 From Beginning Nonlapsing
 Appropriation Balances 529,000
 From Closing Nonlapsing Appropriation
 Balances (609,800)

STATE BOARD OF EDUCATION**Item 49**

To State Board of Education - Individuals
 with Visual Impairment Fund
 From Dedicated Credits Revenue 11,000
 From Interest Income 3,200
 From Beginning Nonlapsing
 Appropriation Balances 500,000
 From Closing Nonlapsing Appropriation
 Balances (500,000)
 Schedule of Programs:
 Individuals with Visual
 Disability Fund 14,200

Subsection 2(c). Business-like Activities.

The Legislature has reviewed the following proprietary funds. Under the terms and conditions of Utah Code 63J-1-410, for any included Internal Service Fund the Legislature approves budgets, full-time permanent positions, and capital acquisition amounts as indicated, and appropriates to the funds as indicated estimated revenue from rates, fees, and other charges. Where applicable, the Legislature authorizes the State Division of Finance to transfer amounts among funds and accounts as indicated.

**DEPARTMENT OF
WORKFORCE SERVICES****Item 50**

To Department of Workforce Services -
 Unemployment Compensation Fund
 From Federal Funds 17,750,900
 From Dedicated Credits Revenue ... 29,293,700
 From Premiums 330,969,400
 From Interest Income 15,932,900
 From Beginning Fund Balance 828,150,400
 From Ending Fund Balance (940,184,000)
 Schedule of Programs:
 Unemployment Compensation
 Fund 281,913,300

The Legislature intends that the Department of Workforce Services report on the following performance measures for the Unemployment Compensation Fund line item: (1) UI Trust Fund Balance is greater than the minimum adequate reserve amount and less than the maximum adequate reserve amount (Target = \$577 million to \$773 million), (2) The Average High Cost Multiple

is the UI Trust Fund balance as a percentage of Total UI Wages divided by the Average High Cost Rate (Target => 1), and (3) Contributory Employers UI Contributions Due Paid Timely (Target => 90%) by January 1, 2016 to the Social Services Appropriations Subcommittee.

Item 51

To Department of Workforce Services - State Small Business Credit Initiative Program Fund
 From Federal Funds 4,350,000
 From Dedicated Credits Revenue 65,200
 From Restricted Revenue 28,900
 From Beginning Fund Balance 9,320,400
 From Ending Fund Balance (12,414,400)
 Schedule of Programs:
 State Small Business Credit Initiative Program Fund 1,350,100

Subsection 2(d). Restricted Fund and Account Transfers.

The Legislature authorizes the State Division of Finance to transfer the following amounts among the following funds or accounts as indicated. Expenditures and outlays from the recipient funds must be authorized elsewhere in an appropriations act.

FUND AND ACCOUNT TRANSFERS

Item 52

To Fund and Account Transfers - Children's Hearing Aid Pilot Program Account
 From General Fund 100,000
 Schedule of Programs:
 GFR - Children's Hearing Aid Pilot Program Account 100,000

Item 53

To Fund and Account Transfers - GFR - Homeless Account
 From General Fund 565,000
 Schedule of Programs:
 General Fund Restricted - Pamela Atkinson Homeless Account 565,000

Subsection 2(e). Fiduciary Funds. The Legislature has reviewed proposed revenues, expenditures, fund balances and changes in fund balances for the following fiduciary funds.

DEPARTMENT OF HUMAN SERVICES

Item 54

To Department of Human Services - Human Services Client Trust Fund
 From Interest Income 5,500
 From Trust and Agency Funds 4,327,200
 From Beginning Nonlapsing Appropriation Balances 1,622,900
 From Closing Nonlapsing Appropriation Balances (1,998,300)
 Schedule of Programs:
 Human Services Client Trust Fund 3,957,300

Item 55

To Department of Human Services - Maurice N. Warshaw Trust Fund
 From Interest Income 800

From Beginning Nonlapsing Appropriation Balances 150,700
 From Closing Nonlapsing Appropriation Balances (151,500)

Item 56

To Department of Human Services - State Developmental Center Patient Account
 From Interest Income 1,600
 From Trust and Agency Funds 1,949,000
 From Beginning Nonlapsing Appropriation Balances 723,200
 From Closing Nonlapsing Appropriation Balances (709,400)
 Schedule of Programs:
 State Developmental Center Patient Account 1,964,400

Item 57

To Department of Human Services - State Hospital Patient Trust Fund
 From Trust and Agency Funds 1,179,600
 From Beginning Nonlapsing Appropriation Balances 121,000
 From Closing Nonlapsing Appropriation Balances (144,200)
 Schedule of Programs:
 State Hospital Patient Trust Fund ... 1,156,400

Item 58

To Department of Human Services - Human Services ORS Support Collections
 From Trust and Agency Funds 201,954,000
 Schedule of Programs:
 Human Services ORS Support Collections 201,954,000

STATE BOARD OF EDUCATION

Item 59

To State Board of Education - Individuals with Visual Impairment Vendor Fund
 From Interest Income 900
 From Trust and Agency Funds 127,000
 From Beginning Nonlapsing Appropriation Balances 104,500
 From Closing Nonlapsing Appropriation Balances (72,000)
 Schedule of Programs:
 Individuals with Visual Disabilities Vendor Fund 160,400

Section 3. Effective Date.

If approved by two-thirds of all the members elected to each house, Section 1 of this bill takes effect upon approval by the Governor, or the day following the constitutional time limit of Utah Constitution Article VII, Section 8 without the Governor's signature, or in the case of a veto, the date of override. Section 2 of this bill takes effect on July 1, 2015.

CHAPTER 11**S. B. 21**

Passed February 11, 2015

Approved March 2, 2015

Effective March 2, 2015

(Retrospective operation to January 1, 2010)

**SALES AND USE TAX -
MOLTEN MAGNESIUM**

Chief Sponsor: Deidre M. Henderson

House Sponsor: Merrill F. Nelson

LONG TITLE**General Description:**

This bill amends provisions related to sales and use tax exemptions.

Highlighted Provisions:

This bill:

- ▶ provides a sales and use tax exemption for a purchase or lease of molten magnesium; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides for retrospective operation.

Utah Code Sections Affected:**AMENDS:**

59-12-104, as last amended by Laws of Utah 2014, Chapters 24, 27, 122, 376, and 380

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

Section 1. Section 59-12-104 is amended to read:**59-12-104. Exemptions.**

Exemptions from the taxes imposed by this chapter are as follows:

(1) sales of aviation fuel, motor fuel, and special fuel subject to a Utah state excise tax under Chapter 13, Motor and Special Fuel Tax Act;

(2) subject to Section 59-12-104.6, sales to the state, its institutions, and its political subdivisions; however, this exemption does not apply to sales of:

(a) construction materials except:

(i) construction materials purchased by or on behalf of institutions of the public education system as defined in Utah Constitution Article X, Section 2, provided the construction materials are clearly identified and segregated and installed or converted to real property which is owned by institutions of the public education system; and

(ii) construction materials purchased by the state, its institutions, or its political subdivisions which are installed or converted to real property by employees of the state, its institutions, or its political subdivisions; or

(b) tangible personal property in connection with the construction, operation, maintenance, repair, or replacement of a project, as defined in Section

11-13-103, or facilities providing additional project capacity, as defined in Section 11-13-103;

(3) (a) sales of an item described in Subsection (3)(b) from a vending machine if:

(i) the proceeds of each sale do not exceed \$1; and

(ii) the seller or operator of the vending machine reports an amount equal to 150% of the cost of the item described in Subsection (3)(b) as goods consumed; and

(b) Subsection (3)(a) applies to:

(i) food and food ingredients; or

(ii) prepared food;

(4) (a) sales of the following to a commercial airline carrier for in-flight consumption:

(i) alcoholic beverages;

(ii) food and food ingredients; or

(iii) prepared food;

(b) sales of tangible personal property or a product transferred electronically:

(i) to a passenger;

(ii) by a commercial airline carrier; and

(iii) during a flight for in-flight consumption or in-flight use by the passenger; or

(c) services related to Subsection (4)(a) or (b);

(5) (a) (i) beginning on July 1, 2008, and ending on September 30, 2008, sales of parts and equipment:

(A) (I) by an establishment described in NAICS Code 336411 or 336412 of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; and

(II) for:

(Aa) installation in an aircraft, including services relating to the installation of parts or equipment in the aircraft;

(Bb) renovation of an aircraft; or

(Cc) repair of an aircraft; or

(B) for installation in an aircraft operated by a common carrier in interstate or foreign commerce; or

(ii) beginning on October 1, 2008, sales of parts and equipment for installation in an aircraft operated by a common carrier in interstate or foreign commerce; and

(b) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund, a person may claim the exemption allowed by Subsection (5)(a)(i)(B) for a sale by filing for a refund:

(i) if the sale is made on or after July 1, 2008, but on or before September 30, 2008;

(ii) as if Subsection (5)(a)(i)(B) were in effect on the day on which the sale is made;

(iii) if the person did not claim the exemption allowed by Subsection (5)(a)(i)(B) for the sale prior to filing for the refund;

(iv) for sales and use taxes paid under this chapter on the sale;

(v) in accordance with Section 59-1-1410; and

(vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if the person files for the refund on or before September 30, 2011;

(6) sales of commercials, motion picture films, prerecorded audio program tapes or records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture exhibitor, distributor, or commercial television or radio broadcaster;

(7) (a) subject to Subsection (7)(b), sales of cleaning or washing of tangible personal property if the cleaning or washing of the tangible personal property is not assisted cleaning or washing of tangible personal property;

(b) if a seller that sells at the same business location assisted cleaning or washing of tangible personal property and cleaning or washing of tangible personal property that is not assisted cleaning or washing of tangible personal property, the exemption described in Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning or washing of the tangible personal property; and

(c) for purposes of Subsection (7)(b) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules:

(i) governing the circumstances under which sales are at the same business location; and

(ii) establishing the procedures and requirements for a seller to separately account for sales of assisted cleaning or washing of tangible personal property;

(8) sales made to or by religious or charitable institutions in the conduct of their regular religious or charitable functions and activities, if the requirements of Section 59-12-104.1 are fulfilled;

(9) sales of a vehicle of a type required to be registered under the motor vehicle laws of this state if the vehicle is:

(a) not registered in this state; and

(b) (i) not used in this state; or

(ii) used in this state:

(A) if the vehicle is not used to conduct business, for a time period that does not exceed the longer of:

(I) 30 days in any calendar year; or

(II) the time period necessary to transport the vehicle to the borders of this state; or

(B) if the vehicle is used to conduct business, for the time period necessary to transport the vehicle to the borders of this state;

(10) (a) amounts paid for an item described in Subsection (10)(b) if:

(i) the item is intended for human use; and

(ii) (A) a prescription was issued for the item; or

(B) the item was purchased by a hospital or other medical facility; and

(b) (i) Subsection (10)(a) applies to:

(A) a drug;

(B) a syringe; or

(C) a stoma supply; and

(ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the terms:

(A) "syringe"; or

(B) "stoma supply";

(11) purchases or leases exempt under Section 19-12-201;

(12) (a) sales of an item described in Subsection (12)(c) served by:

(i) the following if the item described in Subsection (12)(c) is not available to the general public:

(A) a church; or

(B) a charitable institution;

(ii) an institution of higher education if:

(A) the item described in Subsection (12)(c) is not available to the general public; or

(B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan offered by the institution of higher education; or

(b) sales of an item described in Subsection (12)(c) provided for a patient by:

(i) a medical facility; or

(ii) a nursing facility; and

(c) Subsections (12)(a) and (b) apply to:

(i) food and food ingredients;

(ii) prepared food; or

(iii) alcoholic beverages;

(13) (a) except as provided in Subsection (13)(b), the sale of tangible personal property or a product transferred electronically by a person:

(i) regardless of the number of transactions involving the sale of that tangible personal property or product transferred electronically by that person; and

(ii) not regularly engaged in the business of selling that type of tangible personal property or product transferred electronically;

(b) this Subsection (13) does not apply if:

(i) the sale is one of a series of sales of a character to indicate that the person is regularly engaged in

the business of selling that type of tangible personal property or product transferred electronically;

(ii) the person holds that person out as regularly engaged in the business of selling that type of tangible personal property or product transferred electronically;

(iii) the person sells an item of tangible personal property or product transferred electronically that the person purchased as a sale that is exempt under Subsection (25); or

(iv) the sale is of a vehicle or vessel required to be titled or registered under the laws of this state in which case the tax is based upon:

(A) the bill of sale or other written evidence of value of the vehicle or vessel being sold; or

(B) in the absence of a bill of sale or other written evidence of value, the fair market value of the vehicle or vessel being sold at the time of the sale as determined by the commission; and

(c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules establishing the circumstances under which:

(i) a person is regularly engaged in the business of selling a type of tangible personal property or product transferred electronically;

(ii) a sale of tangible personal property or a product transferred electronically is one of a series of sales of a character to indicate that a person is regularly engaged in the business of selling that type of tangible personal property or product transferred electronically; or

(iii) a person holds that person out as regularly engaged in the business of selling a type of tangible personal property or product transferred electronically;

(14) (a) amounts paid or charged for a purchase or lease:

(i) by a manufacturing facility located in the state; and

(ii) of machinery, equipment, or normal operating repair or replacement parts if the machinery, equipment, or normal operating repair or replacement parts have an economic life of three or more years and are used:

(A) in the manufacturing process to manufacture an item sold as tangible personal property; or

(B) for a scrap recycler, to process an item sold as tangible personal property;

(b) amounts paid or charged for a purchase or lease:

(i) by an establishment:

(A) described in NAICS Subsector 212, Mining (except Oil and Gas), or NAICS Code 213113, Support Activities for Coal Mining, 213114, Support Activities for Metal Mining, or 213115, Support Activities for Nonmetallic Minerals (except

Fuels) Mining, of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; and

(B) located in the state; and

(ii) of machinery, equipment, or normal operating repair or replacement parts if the machinery, equipment, or normal operating repair or replacement parts have an economic life of three or more years and are used in:

(A) the production process to produce an item sold as tangible personal property;

(B) research and development;

(C) transporting, storing, or managing tailings, overburden, or similar waste materials produced from mining;

(D) developing or maintaining a road, tunnel, excavation, or similar feature used in mining; or

(E) preventing, controlling, or reducing dust or other pollutants from mining;

(c) amounts paid or charged for a purchase or lease:

(i) by an establishment:

(A) described in NAICS Code 518112, Web Search Portals, of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; and

(B) located in the state; and

(ii) of machinery, equipment, or normal operating repair or replacement parts if the machinery, equipment, or normal operating repair or replacement parts:

(A) are used in the operation of the web search portal; and

(B) have an economic life of three or more years;

(d) for purposes of this Subsection (14) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission:

(i) shall by rule define the term "establishment"; and

(ii) may by rule define what constitutes:

(A) processing an item sold as tangible personal property;

(B) the production process, to produce an item sold as tangible personal property; or

(C) research and development; and

(e) on or before October 1, 2016, and every five years after October 1, 2016, the commission shall:

(i) review the exemptions described in this Subsection (14) and make recommendations to the Revenue and Taxation Interim Committee concerning whether the exemptions should be continued, modified, or repealed; and

(ii) include in its report:

(A) an estimate of the cost of the exemptions;

(B) the purpose and effectiveness of the exemptions; and

(C) the benefits of the exemptions to the state;

(15) (a) sales of the following if the requirements of Subsection (15)(b) are met:

(i) tooling;

(ii) special tooling;

(iii) support equipment;

(iv) special test equipment; or

(v) parts used in the repairs or renovations of tooling or equipment described in Subsections (15)(a)(i) through (iv); and

(b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:

(i) the tooling, equipment, or parts are used or consumed exclusively in the performance of any aerospace or electronics industry contract with the United States government or any subcontract under that contract; and

(ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i), title to the tooling, equipment, or parts is vested in the United States government as evidenced by:

(A) a government identification tag placed on the tooling, equipment, or parts; or

(B) listing on a government-approved property record if placing a government identification tag on the tooling, equipment, or parts is impractical;

(16) sales of newspapers or newspaper subscriptions;

(17) (a) except as provided in Subsection (17)(b), tangible personal property or a product transferred electronically traded in as full or part payment of the purchase price, except that for purposes of calculating sales or use tax upon vehicles not sold by a vehicle dealer, trade-ins are limited to other vehicles only, and the tax is based upon:

(i) the bill of sale or other written evidence of value of the vehicle being sold and the vehicle being traded in; or

(ii) in the absence of a bill of sale or other written evidence of value, the then existing fair market value of the vehicle being sold and the vehicle being traded in, as determined by the commission; and

(b) Subsection (17)(a) does not apply to the following items of tangible personal property or products transferred electronically traded in as full or part payment of the purchase price:

(i) money;

(ii) electricity;

(iii) water;

(iv) gas; or

(v) steam;

(18) (a) (i) except as provided in Subsection (18)(b), sales of tangible personal property or a product transferred electronically used or consumed primarily and directly in farming operations, regardless of whether the tangible personal property or product transferred electronically:

(A) becomes part of real estate; or

(B) is installed by a:

(I) farmer;

(II) contractor; or

(III) subcontractor; or

(ii) sales of parts used in the repairs or renovations of tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically is exempt under Subsection (18)(a)(i); and

(b) amounts paid or charged for the following are subject to the taxes imposed by this chapter:

(i) (A) subject to Subsection (18)(b)(i)(B), the following if used in a manner that is incidental to farming:

(I) machinery;

(II) equipment;

(III) materials; or

(IV) supplies; and

(B) tangible personal property that is considered to be used in a manner that is incidental to farming includes:

(I) hand tools; or

(II) maintenance and janitorial equipment and supplies;

(ii) (A) subject to Subsection (18)(b)(ii)(B), tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically is used in an activity other than farming; and

(B) tangible personal property or a product transferred electronically that is considered to be used in an activity other than farming includes:

(I) office equipment and supplies; or

(II) equipment and supplies used in:

(Aa) the sale or distribution of farm products;

(Bb) research; or

(Cc) transportation; or

(iii) a vehicle required to be registered by the laws of this state during the period ending two years after the date of the vehicle's purchase;

(19) sales of hay;

(20) exclusive sale during the harvest season of seasonal crops, seedling plants, or garden, farm, or other agricultural produce if the seasonal crops are,

seedling plants are, or garden, farm, or other agricultural produce is sold by:

(a) the producer of the seasonal crops, seedling plants, or garden, farm, or other agricultural produce;

(b) an employee of the producer described in Subsection (20)(a); or

(c) a member of the immediate family of the producer described in Subsection (20)(a);

(21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;

(22) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags, nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor, wholesaler, or retailer for use in packaging tangible personal property to be sold by that manufacturer, processor, wholesaler, or retailer;

(23) a product stored in the state for resale;

(24) (a) purchases of a product if:

(i) the product is:

(A) purchased outside of this state;

(B) brought into this state:

(I) at any time after the purchase described in Subsection (24)(a)(i)(A); and

(II) by a nonresident person who is not living or working in this state at the time of the purchase;

(C) used for the personal use or enjoyment of the nonresident person described in Subsection (24)(a)(i)(B)(II) while that nonresident person is within the state; and

(D) not used in conducting business in this state; and

(ii) for:

(A) a product other than a boat described in Subsection (24)(a)(ii)(B), the first use of the product for a purpose for which the product is designed occurs outside of this state;

(B) a boat, the boat is registered outside of this state; or

(C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered outside of this state;

(b) the exemption provided for in Subsection (24)(a) does not apply to:

(i) a lease or rental of a product; or

(ii) a sale of a vehicle exempt under Subsection (33); and

(c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for purposes of Subsection (24)(a), the commission may by rule define what constitutes the following:

(i) conducting business in this state if that phrase has the same meaning in this Subsection (24) as in Subsection (63);

(ii) the first use of a product if that phrase has the same meaning in this Subsection (24) as in Subsection (63); or

(iii) a purpose for which a product is designed if that phrase has the same meaning in this Subsection (24) as in Subsection (63);

(25) a product purchased for resale in this state, in the regular course of business, either in its original form or as an ingredient or component part of a manufactured or compounded product;

(26) a product upon which a sales or use tax was paid to some other state, or one of its subdivisions, except that the state shall be paid any difference between the tax paid and the tax imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax Act;

(27) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a person for use in compounding a service taxable under the subsections;

(28) purchases made in accordance with the special supplemental nutrition program for women, infants, and children established in 42 U.S.C. Sec. 1786;

(29) sales or leases of rolls, rollers, refractory brick, electric motors, or other replacement parts used in the furnaces, mills, or ovens of a steel mill described in SIC Code 3312 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget;

(30) sales of a boat of a type required to be registered under Title 73, Chapter 18, State Boating Act, a boat trailer, or an outboard motor if the boat, boat trailer, or outboard motor is:

(a) not registered in this state; and

(b) (i) not used in this state; or

(ii) used in this state:

(A) if the boat, boat trailer, or outboard motor is not used to conduct business, for a time period that does not exceed the longer of:

(I) 30 days in any calendar year; or

(II) the time period necessary to transport the boat, boat trailer, or outboard motor to the borders of this state; or

(B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time period necessary to transport the boat, boat trailer, or outboard motor to the borders of this state;

(31) sales of aircraft manufactured in Utah;

(32) amounts paid for the purchase of telecommunications service for purposes of providing telecommunications service;

(33) sales, leases, or uses of the following:

(a) a vehicle by an authorized carrier; or

(b) tangible personal property that is installed on a vehicle:

(i) sold or leased to or used by an authorized carrier; and

(ii) before the vehicle is placed in service for the first time;

(34) (a) 45% of the sales price of any new manufactured home; and

(b) 100% of the sales price of any used manufactured home;

(35) sales relating to schools and fundraising sales;

(36) sales or rentals of durable medical equipment if:

(a) a person presents a prescription for the durable medical equipment; and

(b) the durable medical equipment is used for home use only;

(37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in Section 72-11-102; and

(b) the commission shall by rule determine the method for calculating sales exempt under Subsection (37)(a) that are not separately metered and accounted for in utility billings;

(38) sales to a ski resort of:

(a) snowmaking equipment;

(b) ski slope grooming equipment;

(c) passenger ropeways as defined in Section 72-11-102; or

(d) parts used in the repairs or renovations of equipment or passenger ropeways described in Subsections (38)(a) through (c);

(39) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;

(40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for amusement, entertainment, or recreation an unassisted amusement device as defined in Section 59-12-102;

(b) if a seller that sells or rents at the same business location the right to use or operate for amusement, entertainment, or recreation one or more unassisted amusement devices and one or more assisted amusement devices, the exemption described in Subsection (40)(a) applies if the seller separately accounts for the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for the assisted amusement devices; and

(c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3, Utah

Administrative Rulemaking Act, the commission may make rules:

(i) governing the circumstances under which sales are at the same business location; and

(ii) establishing the procedures and requirements for a seller to separately account for the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for assisted amusement devices;

(41) (a) sales of photocopies by:

(i) a governmental entity; or

(ii) an entity within the state system of public education, including:

(A) a school; or

(B) the State Board of Education; or

(b) sales of publications by a governmental entity;

(42) amounts paid for admission to an athletic event at an institution of higher education that is subject to the provisions of Title IX of the Education Amendments of 1972, 20 U.S.C. Sec. 1681 et seq.;

(43) (a) sales made to or by:

(i) an area agency on aging; or

(ii) a senior citizen center owned by a county, city, or town; or

(b) sales made by a senior citizen center that contracts with an area agency on aging;

(44) sales or leases of semiconductor fabricating, processing, research, or development materials regardless of whether the semiconductor fabricating, processing, research, or development materials:

(a) actually come into contact with a semiconductor; or

(b) ultimately become incorporated into real property;

(45) an amount paid by or charged to a purchaser for accommodations and services described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section 59-12-104.2;

(46) beginning on September 1, 2001, the lease or use of a vehicle issued a temporary sports event registration certificate in accordance with Section 41-3-306 for the event period specified on the temporary sports event registration certificate;

(47) (a) sales or uses of electricity, if the sales or uses are made under a tariff adopted by the Public Service Commission of Utah only for purchase of electricity produced from a new alternative energy source, as designated in the tariff by the Public Service Commission of Utah; and

(b) the exemption under Subsection (47)(a) applies to the portion of the tariff rate a customer pays under the tariff described in Subsection (47)(a) that exceeds the tariff rate under the tariff described in Subsection (47)(a) that the customer would have paid absent the tariff;

(48) sales or rentals of mobility enhancing equipment if a person presents a prescription for the mobility enhancing equipment;

(49) sales of water in a:

- (a) pipe;
- (b) conduit;
- (c) ditch; or
- (d) reservoir;

(50) sales of currency or coins that constitute legal tender of a state, the United States, or a foreign nation;

(51) (a) sales of an item described in Subsection (51)(b) if the item:

(i) does not constitute legal tender of a state, the United States, or a foreign nation; and

(ii) has a gold, silver, or platinum content of 50% or more; and

(b) Subsection (51)(a) applies to a gold, silver, or platinum:

- (i) ingot;
- (ii) bar;
- (iii) medallion; or
- (iv) decorative coin;

(52) amounts paid on a sale-leaseback transaction;

(53) sales of a prosthetic device:

(a) for use on or in a human; and

(b) (i) for which a prescription is required; or

(ii) if the prosthetic device is purchased by a hospital or other medical facility;

(54) (a) except as provided in Subsection (54)(b), purchases, leases, or rentals of machinery or equipment by an establishment described in Subsection (54)(c) if the machinery or equipment is primarily used in the production or postproduction of the following media for commercial distribution:

- (i) a motion picture;
- (ii) a television program;
- (iii) a movie made for television;
- (iv) a music video;
- (v) a commercial;
- (vi) a documentary; or

(vii) a medium similar to Subsections (54)(a)(i) through (vi) as determined by the commission by administrative rule made in accordance with Subsection (54)(d); or

(b) purchases, leases, or rentals of machinery or equipment by an establishment described in Subsection (54)(c) that is used for the production or postproduction of the following are subject to the taxes imposed by this chapter:

(i) a live musical performance;

(ii) a live news program; or

(iii) a live sporting event;

(c) the following establishments listed in the 1997 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, apply to Subsections (54)(a) and (b):

(i) NAICS Code 512110; or

(ii) NAICS Code 51219; and

(d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule:

(i) prescribe what constitutes a medium similar to Subsections (54)(a)(i) through (vi); or

(ii) define:

(A) "commercial distribution";

(B) "live musical performance";

(C) "live news program"; or

(D) "live sporting event";

(55) (a) leases of seven or more years or purchases made on or after July 1, 2004, but on or before June 30, 2027, of tangible personal property that:

(i) is leased or purchased for or by a facility that:

(A) is an alternative energy electricity production facility;

(B) is located in the state; and

(C) (I) becomes operational on or after July 1, 2004; or

(II) has its generation capacity increased by one or more megawatts on or after July 1, 2004, as a result of the use of the tangible personal property;

(ii) has an economic life of five or more years; and

(iii) is used to make the facility or the increase in capacity of the facility described in Subsection (55)(a)(i) operational up to the point of interconnection with an existing transmission grid including:

(A) a wind turbine;

(B) generating equipment;

(C) a control and monitoring system;

(D) a power line;

(E) substation equipment;

(F) lighting;

(G) fencing;

(H) pipes; or

(I) other equipment used for locating a power line or pole; and

(b) this Subsection (55) does not apply to:

(i) tangible personal property used in construction of:

(A) a new alternative energy electricity production facility; or

(B) the increase in the capacity of an alternative energy electricity production facility;

(ii) contracted services required for construction and routine maintenance activities; and

(iii) unless the tangible personal property is used or acquired for an increase in capacity of the facility described in Subsection (55)(a)(i)(C)(II), tangible personal property used or acquired after:

(A) the alternative energy electricity production facility described in Subsection (55)(a)(i) is operational as described in Subsection (55)(a)(iii); or

(B) the increased capacity described in Subsection (55)(a)(i) is operational as described in Subsection (55)(a)(iii);

(56) (a) leases of seven or more years or purchases made on or after July 1, 2004, but on or before June 30, 2027, of tangible personal property that:

(i) is leased or purchased for or by a facility that:

(A) is a waste energy production facility;

(B) is located in the state; and

(C) (I) becomes operational on or after July 1, 2004; or

(II) has its generation capacity increased by one or more megawatts on or after July 1, 2004, as a result of the use of the tangible personal property;

(ii) has an economic life of five or more years; and

(iii) is used to make the facility or the increase in capacity of the facility described in Subsection (56)(a)(i) operational up to the point of interconnection with an existing transmission grid including:

(A) generating equipment;

(B) a control and monitoring system;

(C) a power line;

(D) substation equipment;

(E) lighting;

(F) fencing;

(G) pipes; or

(H) other equipment used for locating a power line or pole; and

(b) this Subsection (56) does not apply to:

(i) tangible personal property used in construction of:

(A) a new waste energy facility; or

(B) the increase in the capacity of a waste energy facility;

(ii) contracted services required for construction and routine maintenance activities; and

(iii) unless the tangible personal property is used or acquired for an increase in capacity described in Subsection (56)(a)(i)(C)(II), tangible personal property used or acquired after:

(A) the waste energy facility described in Subsection (56)(a)(i) is operational as described in Subsection (56)(a)(iii); or

(B) the increased capacity described in Subsection (56)(a)(i) is operational as described in Subsection (56)(a)(iii);

(57) (a) leases of five or more years or purchases made on or after July 1, 2004 but on or before June 30, 2027, of tangible personal property that:

(i) is leased or purchased for or by a facility that:

(A) is located in the state;

(B) produces fuel from alternative energy, including:

(I) methanol; or

(II) ethanol; and

(C) (I) becomes operational on or after July 1, 2004; or

(II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004, as a result of the installation of the tangible personal property;

(ii) has an economic life of five or more years; and

(iii) is installed on the facility described in Subsection (57)(a)(i);

(b) this Subsection (57) does not apply to:

(i) tangible personal property used in construction of:

(A) a new facility described in Subsection (57)(a)(i); or

(B) the increase in capacity of the facility described in Subsection (57)(a)(i); or

(ii) contracted services required for construction and routine maintenance activities; and

(iii) unless the tangible personal property is used or acquired for an increase in capacity described in Subsection (57)(a)(i)(C)(II), tangible personal property used or acquired after:

(A) the facility described in Subsection (57)(a)(i) is operational; or

(B) the increased capacity described in Subsection (57)(a)(i) is operational;

(58) (a) subject to Subsection (58)(b) or (c), sales of tangible personal property or a product transferred electronically to a person within this state if that tangible personal property or product transferred electronically is subsequently shipped outside the state and incorporated pursuant to contract into and becomes a part of real property located outside of this state;

(b) the exemption under Subsection (58)(a) is not allowed to the extent that the other state or political entity to which the tangible personal property is

shipped imposes a sales, use, gross receipts, or other similar transaction excise tax on the transaction against which the other state or political entity allows a credit for sales and use taxes imposed by this chapter; and

(c) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund, a person may claim the exemption allowed by this Subsection (58) for a sale by filing for a refund:

(i) if the sale is made on or after July 1, 2004, but on or before June 30, 2008;

(ii) as if this Subsection (58) as in effect on July 1, 2008, were in effect on the day on which the sale is made;

(iii) if the person did not claim the exemption allowed by this Subsection (58) for the sale prior to filing for the refund;

(iv) for sales and use taxes paid under this chapter on the sale;

(v) in accordance with Section 59-1-1410; and

(vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if the person files for the refund on or before June 30, 2011;

(59) purchases:

(a) of one or more of the following items in printed or electronic format:

(i) a list containing information that includes one or more:

(A) names; or

(B) addresses; or

(ii) a database containing information that includes one or more:

(A) names; or

(B) addresses; and

(b) used to send direct mail;

(60) redemptions or repurchases of a product by a person if that product was:

(a) delivered to a pawnbroker as part of a pawn transaction; and

(b) redeemed or repurchased within the time period established in a written agreement between the person and the pawnbroker for redeeming or repurchasing the product;

(61) (a) purchases or leases of an item described in Subsection (61)(b) if the item:

(i) is purchased or leased by, or on behalf of, a telecommunications service provider; and

(ii) has a useful economic life of one or more years; and

(b) the following apply to Subsection (61)(a):

(i) telecommunications enabling or facilitating equipment, machinery, or software;

(ii) telecommunications equipment, machinery, or software required for 911 service;

(iii) telecommunications maintenance or repair equipment, machinery, or software;

(iv) telecommunications switching or routing equipment, machinery, or software; or

(v) telecommunications transmission equipment, machinery, or software;

(62) (a) beginning on July 1, 2006, and ending on June 30, 2027, purchases of tangible personal property or a product transferred electronically that are used in the research and development of alternative energy technology; and

(b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may, for purposes of Subsection (62)(a), make rules defining what constitutes purchases of tangible personal property or a product transferred electronically that are used in the research and development of alternative energy technology;

(63) (a) purchases of tangible personal property or a product transferred electronically if:

(i) the tangible personal property or product transferred electronically is:

(A) purchased outside of this state;

(B) brought into this state at any time after the purchase described in Subsection (63)(a)(i)(A); and

(C) used in conducting business in this state; and

(ii) for:

(A) tangible personal property or a product transferred electronically other than the tangible personal property described in Subsection (63)(a)(ii)(B), the first use of the property for a purpose for which the property is designed occurs outside of this state; or

(B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered outside of this state;

(b) the exemption provided for in Subsection (63)(a) does not apply to:

(i) a lease or rental of tangible personal property or a product transferred electronically; or

(ii) a sale of a vehicle exempt under Subsection (33); and

(c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for purposes of Subsection (63)(a), the commission may by rule define what constitutes the following:

(i) conducting business in this state if that phrase has the same meaning in this Subsection (63) as in Subsection (24);

(ii) the first use of tangible personal property or a product transferred electronically if that phrase has the same meaning in this Subsection (63) as in Subsection (24); or

(iii) a purpose for which tangible personal property or a product transferred electronically is

designed if that phrase has the same meaning in this Subsection (63) as in Subsection (24);

(64) sales of disposable home medical equipment or supplies if:

(a) a person presents a prescription for the disposable home medical equipment or supplies;

(b) the disposable home medical equipment or supplies are used exclusively by the person to whom the prescription described in Subsection (64)(a) is issued; and

(c) the disposable home medical equipment and supplies are listed as eligible for payment under:

(i) Title XVIII, federal Social Security Act; or

(ii) the state plan for medical assistance under Title XIX, federal Social Security Act;

(65) sales:

(a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit District Act; or

(b) of tangible personal property to a subcontractor of a public transit district, if the tangible personal property is:

(i) clearly identified; and

(ii) installed or converted to real property owned by the public transit district;

(66) sales of construction materials:

(a) purchased on or after July 1, 2010;

(b) purchased by, on behalf of, or for the benefit of an international airport:

(i) located within a county of the first class; and

(ii) that has a United States customs office on its premises; and

(c) if the construction materials are:

(i) clearly identified;

(ii) segregated; and

(iii) installed or converted to real property:

(A) owned or operated by the international airport described in Subsection (66)(b); and

(B) located at the international airport described in Subsection (66)(b);

(67) sales of construction materials:

(a) purchased on or after July 1, 2008;

(b) purchased by, on behalf of, or for the benefit of a new airport:

(i) located within a county of the second class; and

(ii) that is owned or operated by a city in which an airline as defined in Section 59-2-102 is headquartered; and

(c) if the construction materials are:

(i) clearly identified;

(ii) segregated; and

(iii) installed or converted to real property:

(A) owned or operated by the new airport described in Subsection (67)(b);

(B) located at the new airport described in Subsection (67)(b); and

(C) as part of the construction of the new airport described in Subsection (67)(b);

(68) sales of fuel to a common carrier that is a railroad for use in a locomotive engine;

(69) purchases and sales described in Section 63H-4-111;

(70) (a) sales of tangible personal property to an aircraft maintenance, repair, and overhaul provider for use in the maintenance, repair, overhaul, or refurbishment in this state of a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration lists a state or country other than this state as the location of registry of the fixed wing turbine powered aircraft; or

(b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul provider in connection with the maintenance, repair, overhaul, or refurbishment in this state of a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration lists a state or country other than this state as the location of registry of the fixed wing turbine powered aircraft;

(71) subject to Section 59-12-104.4, sales of a textbook for a higher education course:

(a) to a person admitted to an institution of higher education; and

(b) by a seller, other than a bookstore owned by an institution of higher education, if 51% or more of that seller's sales revenue for the previous calendar quarter are sales of a textbook for a higher education course;

(72) a license fee or tax a municipality imposes in accordance with Subsection 10-1-203(5) on a purchaser from a business for which the municipality provides an enhanced level of municipal services;

(73) amounts paid or charged for construction materials used in the construction of a new or expanding life science research and development facility in the state, if the construction materials are:

(a) clearly identified;

(b) segregated; and

(c) installed or converted to real property;

(74) amounts paid or charged for:

(a) a purchase or lease of machinery and equipment that:

(i) are used in performing qualified research:

(A) as defined in Section 59-7-612;

- (B) in the state; and
- (C) with respect to which the purchaser pays or incurs a qualified research expense as defined in Section 59-7-612; and
- (ii) have an economic life of three or more years; and
- (b) normal operating repair or replacement parts:
- (i) for the machinery and equipment described in Subsection (74)(a); and
- (ii) that have an economic life of three or more years;
- (75) a sale or lease of tangible personal property used in the preparation of prepared food if:
- (a) for a sale:
- (i) the ownership of the seller and the ownership of the purchaser are identical; and
- (ii) the seller or the purchaser paid a tax under this chapter on the purchase of that tangible personal property prior to making the sale; or
- (b) for a lease:
- (i) the ownership of the lessor and the ownership of the lessee are identical; and
- (ii) the lessor or the lessee paid a tax under this chapter on the purchase of that tangible personal property prior to making the lease;
- (76) (a) purchases of machinery or equipment if:
- (i) the purchaser is an establishment described in NAICS Subsector 713, Amusement, Gambling, and Recreation Industries, of the 2012 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;
- (ii) the machinery or equipment:
- (A) has an economic life of three or more years; and
- (B) is used by one or more persons who pay admission or user fees described in Subsection 59-12-103(1)(f) to the purchaser of the machinery and equipment; and
- (iii) 51% or more of the purchaser's sales revenue for the previous calendar quarter is:
- (A) amounts paid or charged as admission or user fees described in Subsection 59-12-103(1)(f); and
- (B) subject to taxation under this chapter;
- (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules for verifying that 51% of a purchaser's sales revenue for the previous calendar quarter is:
- (i) amounts paid or charged as admission or user fees described in Subsection 59-12-103(1)(f); and
- (ii) subject to taxation under this chapter; and
- (c) on or before the November 2018 interim meeting, and every five years after the November 2018 interim meeting, the commission shall review the exemption provided in this Subsection (76) and report to the Revenue and Taxation Interim Committee on:
- (i) the revenue lost to the state and local taxing jurisdictions as a result of the exemption;
- (ii) the purpose and effectiveness of the exemption; and
- (iii) whether the exemption benefits the state;
- (77) purchases of a short-term lodging consumable by a business that provides accommodations and services described in Subsection 59-12-103(1)(i);
- (78) amounts paid or charged to access a database:
- (a) if the primary purpose for accessing the database is to view or retrieve information from the database; and
- (b) not including amounts paid or charged for a:
- (i) digital audiowork;
- (ii) digital audio-visual work; or
- (iii) digital book;
- (79) amounts paid or charged for a purchase or lease made by an electronic financial payment service, of:
- (a) machinery and equipment that:
- (i) are used in the operation of the electronic financial payment service; and
- (ii) have an economic life of three or more years; and
- (b) normal operating repair or replacement parts that:
- (i) are used in the operation of the electronic financial payment service; and
- (ii) have an economic life of three or more years;
- (80) beginning on April 1, 2013, sales of a fuel cell as defined in Section 54-15-102;
- (81) amounts paid or charged for a purchase or lease of tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically:
- (a) is stored, used, or consumed in the state; and
- (b) is temporarily brought into the state from another state:
- (i) during a disaster period as defined in Section 53-2a-1202;
- (ii) by an out-of-state business as defined in Section 53-2a-1202;
- (iii) for a declared state disaster or emergency as defined in Section 53-2a-1202; and
- (iv) for disaster- or emergency-related work as defined in Section 53-2a-1202; ~~and~~

(82) sales of goods and services at a morale, welfare, and recreation facility, as defined in Section 39-9-102, made pursuant to Title 39, Chapter 9, State Morale, Welfare, and Recreation Program[.]; and

(83) amounts paid or charged for a purchase or lease of molten magnesium.

Section 2. Effective date -- Retrospective operation.

(1) If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

(2) This bill has retrospective operation to January 1, 2010, for a transaction that is the subject of an appeal pending on, or filed on or after, September 1, 2013.

CHAPTER 12**S. B. 75**

Passed February 11, 2015

Approved March 2, 2015

Effective March 2, 2015

ELEMENTARY ARTS LEARNING PROGRAM AMENDMENTS

Chief Sponsor: Curtis S. Bramble

House Sponsor: Val L. Peterson

LONG TITLE**General Description:**

This bill modifies the Beverley Taylor Sorenson Elementary Arts Learning Program.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ modifies a grant program for integrated elementary arts education;
- ▶ increases a local education agency's flexibility in the number and types of art specialist positions the agency may hire through the program;
- ▶ increases the matching funds that a local education agency must provide to 20% of the grant amount;
- ▶ allows an integrated arts program at an endowed university in the college where the endowed chair resides to:
 - provide high quality professional development in elementary integrated arts education in accordance with professional learning standards;
 - conduct research on elementary integrated arts education; and
 - provide the public with elementary integrated arts education resources;
- ▶ removes the requirement for an independent evaluation; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

53A-17a-162, as last amended by Laws of Utah 2011, Chapter 330

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

Section 1. Section 53A-17a-162 is amended to read:**53A-17a-162. Beverley Taylor Sorenson Elementary Arts Learning Program.**

(1) As used in this section:

(a) "Endowed chair" means a person who holds an endowed position or administrator of an endowed program for the purpose of arts and integrated arts instruction at an endowed university.

(b) "Endowed university" means an institution of higher education in the state that:

(i) awards elementary education degrees in arts instruction;

(ii) has received a major philanthropic donation for the purpose of arts and integrated arts instruction; and

(iii) has created an endowed position as a result of a donation described in Subsection (1)(b)(ii).

(c) "Integrated arts advocate" means a person who:

(i) advocates for arts and integrated arts instruction in the state; and

(ii) coordinates with an endowed chair pursuant to the agreement creating the endowed chair.

(d) "Local education agency" or "LEA" means:

(i) a school district;

(ii) a charter school; or

(iii) the Utah Schools for the Deaf and the Blind.

~~[(4)]~~ (2) The Legislature finds that a strategic placement of arts in elementary education can impact the critical thinking of students in other core subject areas, including mathematics, reading, and science.

~~[(2)]~~ (3) The Beverley Taylor Sorenson Elementary Arts Learning Program is created to enhance the social, emotional, academic, and arts learning of students in kindergarten through grade six by integrating arts teaching and learning into core subject areas and providing professional development for positions that support elementary arts and integrated arts education.

~~[(3)]~~ (4) From money appropriated for the Beverley Taylor Sorenson Elementary Arts Learning Program, and subject to Subsection (5), the State Board of Education shall, after consulting with ~~[the Utah Arts Council]~~ endowed chairs and the integrated arts advocate and receiving their recommendations, administer a grant program to enable LEAs to:

(a) ~~[subject to Subsection (6), establish a grant program to allow school districts and charter schools to] hire [50] highly qualified[, full-time] arts specialists [to be based at 50 schools], art coordinators, and other positions that support arts education and arts integration;~~

(b) provide up to \$10,000 in one-time funds for each new school arts specialist described under Subsection ~~[(3)]~~ (4)(a) to purchase supplies and equipment; and

~~[(c) establish a grant program to allow 10 school districts to hire art coordinators, provided that a qualifying school district provides matching funds in an amount equal to the grant amount; and]~~

~~[(d) annually contract with an independent, qualified evaluator, selected through a request for proposals process, to evaluate the Beverley Taylor Sorenson Elementary Arts Learning Program.]~~

~~[(4) Beverley Taylor Sorenson Elementary Arts Learning Program money may not be used to supplant funds for existing programs funded by the state, but shall be used to augment existing programs.]~~

~~[(5) Schools that participate in the Beverley Taylor Sorenson Elementary Arts Learning Program shall partner with institutions of higher education that award elementary education degrees to obtain quality pre-service and in-service training, research, and leadership development for arts education.]~~

~~[(6) (a) Beginning with the 2011-12 school year, a school district or charter school may receive a grant under Subsection (3)(a) if the school district or charter school provides matching funds for 10% of the grant amount.]~~

~~[(b) A qualifying school district or charter school under Subsection (6)(a) shall increase its match amount by an additional 10% each subsequent year, until the school district or charter school provides matching funds in an amount equal to the grant amount.]~~

~~[(7) Beginning with the 2011-12 school year, the State Board of Education shall make funds available for additional schools to participate in the Beverly Taylor Sorenson Elementary Arts Learning Program, corresponding to the amount of the matching funds required from schools under Subsection (6).]~~

~~(c) engage in other activities that improve the quantity and quality of integrated arts education.~~

~~(5) (a) An LEA that receives a grant under Subsection (4) shall provide matching funds of no less than 20% of the grant amount, including no less than 20% of the grant amount for actual salary and benefit costs per full-time equivalent position funded under Subsection (4)(a).~~

~~(b) An LEA may not:~~

~~(i) include administrative, facility, or capital costs to provide the matching funds required under Subsection (5)(a); or~~

~~(ii) use funds from the Beverley Taylor Sorenson Elementary Arts Learning Program to supplant funds for existing programs.~~

~~(6) An LEA that receives a grant under this section shall partner with an endowed chair to provide professional development in integrated elementary arts education.~~

~~(7) From money appropriated for the Beverley Taylor Sorenson Elementary Arts Learning Program, the State Board of Education shall administer a grant program to fund activities within arts and the integrated arts programs at an endowed university in the college where the endowed chair resides to:~~

~~(a) provide high quality professional development in elementary integrated arts education in accordance with the professional~~

~~learning standards in Section 53A-3-701 to LEAs that receive a grant under Subsection (4);~~

~~(b) design and conduct research on:~~

~~(i) elementary integrated arts education and instruction;~~

~~(ii) implementation and evaluation of the Beverley Taylor Sorenson Elementary Arts Learning Program; and~~

~~(iii) effectiveness of the professional development under Subsection (7)(a); and~~

~~(c) provide the public with integrated elementary arts education resources.~~

~~(8) The State Board of Education shall[;]:~~

~~(a) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to administer the Beverley Taylor Sorenson Elementary Arts Learning Program; and~~

~~(b) after consultation with [the Utah Arts Council, make] endowed chairs and the integrated arts advocate, submit an annual written report [during the 2009, 2010, and 2011 interims] to the Education Interim Committee describing the program's impact on students in kindergarten through grade six.~~

Section 2. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

CHAPTER 13**S. B. 296**

Passed March 11, 2015
 Approved March 12, 2015
 Effective May 12, 2015

**ANTIDISCRIMINATION AND
 RELIGIOUS FREEDOM AMENDMENTS**

Chief Sponsor: Stephen H. Urquhart
 House Sponsor: Brad L. Dee

LONG TITLE**General Description:**

This bill modifies the Utah Antidiscrimination Act and the Utah Fair Housing Act to address discrimination and religious freedoms.

Highlighted Provisions:

This bill:

- ▶ modifies definition provisions related to employment and housing discrimination, including defining “employer,” “gender identity,” and “sexual orientation”;
- ▶ includes sexual orientation and gender identity as prohibited bases for discrimination in employment;
- ▶ provides that the remedies in the Utah Antidiscrimination Act and the Utah Fair Housing Act preempt local government remedies;
- ▶ provides that protections for employment and housing do not create a special or protected class for other purposes;
- ▶ modifies powers of the Division of Antidiscrimination and Labor;
- ▶ addresses the Utah Antidiscrimination Act’s application to:
 - employee dress and grooming standards;
 - sex-specific facilities; and
 - freedom of expressive association and the free exercise of religion;
- ▶ addresses employee free speech in the workplace;
- ▶ prohibits an employer from taking certain actions in response to certain employee speech outside the workplace;
- ▶ modifies exemptions to the Utah Fair Housing Act;
- ▶ includes sexual orientation and gender identity as prohibited bases for discrimination in housing;
- ▶ includes nonseverability clauses; and
- ▶ makes technical and conforming amendments.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides revisor instructions.

Utah Code Sections Affected:**AMENDS:**

- 34A-5-102, as last amended by Laws of Utah 2011, Chapter 413
 34A-5-104, as last amended by Laws of Utah 2012, Chapter 369
 34A-5-106, as last amended by Laws of Utah 2013, Chapter 278
 34A-5-107, as last amended by Laws of Utah 2008, Chapter 382
 57-21-2, as last amended by Laws of Utah 2010, Chapter 379
 57-21-3, as last amended by Laws of Utah 1993, Chapter 114
 57-21-5, as last amended by Laws of Utah 2011, Chapter 366
 57-21-6, as last amended by Laws of Utah 1993, Chapter 114
 57-21-7, as last amended by Laws of Utah 1993, Chapter 114
 57-21-12, as last amended by Laws of Utah 1999, Chapter 160

ENACTS:

- 34A-5-102.5, Utah Code Annotated 1953
 34A-5-102.7, Utah Code Annotated 1953
 34A-5-109, Utah Code Annotated 1953
 34A-5-110, Utah Code Annotated 1953
 34A-5-111, Utah Code Annotated 1953
 34A-5-112, Utah Code Annotated 1953
 57-21-2.5, Utah Code Annotated 1953
 57-21-2.7, Utah Code Annotated 1953

**Utah Code Sections Affected by Revisor
 Instructions:**

- 34A-5-102.7, Utah Code Annotated 1953
 57-21-2.7, Utah Code Annotated 1953

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

Section 1. Section 34A-5-102 is amended to read:

34A-5-102. Definitions -- Unincorporated entities.

(1) As used in this chapter:

(a) “Affiliate” means the same as that term is defined in Section 16-6a-102.

~~[(a)]~~ (b) “Apprenticeship” means a program for the training of apprentices including a program providing the training of those persons defined as apprentices by Section 35A-6-102.

~~[(b)]~~ (c) “Bona fide occupational qualification” means a characteristic applying to an employee that:

(i) is necessary to the operation; or

(ii) is the essence of the employee’s employer’s business.

~~[(c)]~~ (d) “Court” means:

(i) the district court in the judicial district of the state in which the asserted unfair employment practice ~~occurred~~ occurs; or

(ii) if ~~this~~ the district court is not in session at that time, a judge of the court described in Subsection (1)~~[(c)]~~(d)(i).

~~(d)~~ (e) “Director” means the director of the division.

(e) (f) “Disability” means a physical or mental disability as defined and covered by the Americans with Disabilities Act of 1990, 42 U.S.C. Sec. 12102.

~~(f)~~ (g) “Division” means the Division of Antidiscrimination and Labor.

~~(g)~~ (h) “Employee” means ~~any~~ a person applying with or employed by an employer.

~~(h)~~ (i) (i) “Employer” means:

(A) the state;

(B) ~~any~~ a political subdivision;

(C) a board, commission, department, institution, school district, trust, or agent of the state or ~~its~~ a political ~~subdivisions~~ subdivision of the state; or

(D) a person employing 15 or more employees within the state for each working day in each of 20 calendar weeks or more in the current or preceding calendar year.

(ii) “Employer” does not include:

(A) a religious organization ~~or association~~, a religious corporation sole, a religious association, a religious society, a religious educational institution, or a religious leader, when that individual is acting in the capacity of a religious leader;

~~(B) a religious corporation sole; or~~

~~(C) (B) any corporation or association constituting an affiliate, a wholly owned subsidiary, or an agency of any religious organization ~~or association or religious corporation sole~~, religious corporation sole, religious association, or religious society; or~~

(C) the Boy Scouts of America or its councils, chapters, or subsidiaries.

~~(i)~~ (j) “Employment agency” means ~~any~~ a person:

(i) undertaking to procure employees or opportunities to work for any other person; or

(ii) holding the person out to be equipped to take an action described in Subsection (1)~~(i)~~(j)(i).

(k) “Gender identity” has the meaning provided in the Diagnostic and Statistical Manual (DSM-5). A person’s gender identity can be shown by providing evidence, including, but not limited to, medical history, care or treatment of the gender identity, consistent and uniform assertion of the gender identity, or other evidence that the gender identity is sincerely held, part of a person’s core identity, and not being asserted for an improper purpose.

~~(j)~~ (l) “Joint apprenticeship committee” means ~~any~~ an association of representatives of a labor organization and an employer providing, coordinating, or controlling an apprentice training program.

~~(k)~~ (m) “Labor organization” means ~~any~~ an organization that exists for the purpose in whole or in part of:

(i) collective bargaining;

(ii) dealing with employers concerning grievances, terms or conditions of employment; or

(iii) other mutual aid or protection in connection with employment.

~~(l)~~ (n) “National origin” means the place of birth, domicile, or residence of an individual or of an individual’s ancestors.

~~(m)~~ (o) “On-the-job-training” means ~~any~~ a program designed to instruct a person who, while learning the particular job for which the person is receiving instruction:

(i) is also employed at that job; or

(ii) may be employed by the employer conducting the program during the course of the program, or when the program is completed.

~~(n)~~ (p) “Person” means:

(i) one or more individuals, partnerships, associations, corporations, legal representatives, trusts or trustees, or receivers~~;~~;

(ii) the state; and ~~all political subdivisions and agencies of the state.~~

(iii) a political subdivision of the state.

~~(o)~~ (q) “Presiding officer” means the same as that term is defined in Section 63G-4-103.

~~(p)~~ (r) “Prohibited employment practice” means a practice specified as discriminatory, and therefore unlawful, in Section 34A-5-106.

(s) “Religious leader” means an individual who is associated with, and is an authorized representative of, a religious organization or association or a religious corporation sole, including a member of clergy, a minister, a pastor, a priest, a rabbi, an imam, or a spiritual advisor.

~~(q)~~ (t) “Retaliate” means the taking of adverse action by an employer, employment agency, labor organization, apprenticeship program, on-the-job training program, or vocational school against one of its employees, applicants, or members because the employee, applicant, or member ~~has~~:

(i) ~~opposed any~~ opposes an employment practice prohibited under this chapter; or

(ii) ~~filed charges, testified, assisted, or participated~~ files charges, testifies, assists, or participates in any way in ~~any~~ a proceeding, investigation, or hearing under this chapter.

(u) “Sexual orientation” means an individual’s actual or perceived orientation as heterosexual, homosexual, or bisexual.

~~(r)~~ (v) “Unincorporated entity” means an entity organized or doing business in the state that is not:

(i) an individual;

(ii) a corporation; or

(iii) publicly traded.

[(s)] (w) "Vocational school" means [any] a school or institution conducting a course of instruction, training, or retraining to prepare individuals to follow an occupation or trade, or to pursue a manual, technical, industrial, business, commercial, office, personal services, or other nonprofessional occupations.

(2) (a) For purposes of this chapter, an unincorporated entity that is required to be licensed under Title 58, Chapter 55, Utah Construction Trades Licensing Act, is presumed to be the employer of each individual who, directly or indirectly, holds an ownership interest in the unincorporated entity.

(b) Pursuant to rules made by the commission in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, an unincorporated entity may rebut the presumption under Subsection (2)(a) for an individual by establishing by clear and convincing evidence that the individual:

(i) is an active manager of the unincorporated entity;

(ii) directly or indirectly holds at least an 8% ownership interest in the unincorporated entity; or

(iii) is not subject to supervision or control in the performance of work by:

(A) the unincorporated entity; or

(B) a person with whom the unincorporated entity contracts.

(c) As part of the rules made under Subsection (2)(b), the commission may define:

(i) "active manager";

(ii) "directly or indirectly holds at least an 8% ownership interest"; and

(iii) "subject to supervision or control in the performance of work."

Section 2. Section 34A-5-102.5 is enacted to read:

34A-5-102.5. Supremacy over local regulations -- No special class created for other purposes.

(1) Consistent with the requirements of Subsection 34A-5-107(15), this chapter supersedes and preempts any ordinance, regulation, standard, or other legal action by a local government entity, a state entity, or the governing body of a political subdivision that relates to the prohibition of discrimination in employment.

(2) This chapter shall not be construed to create a special or protected class for any purpose other than employment.

Section 3. Section 34A-5-102.7 is enacted to read:

34A-5-102.7. Nonseverability.

This bill is the result of the Legislature's balancing of competing interests. Accordingly, if any phrase, clause, sentence, provision, or subsection enacted or amended in this chapter by this bill is held invalid in a final judgment by a court of last resort, the remainder of the enactments and amendments of this bill affecting this chapter shall be thereby rendered without effect and void.

Section 4. Section 34A-5-104 is amended to read:

34A-5-104. Powers.

(1) (a) The commission has jurisdiction over the subject of employment practices and discrimination made unlawful by this chapter.

(b) The commission may adopt, publish, amend, and rescind rules, consistent with, and for the enforcement of this chapter.

(2) The division may:

(a) appoint and prescribe the duties of [investigators and other employees and agents that it] an investigator, other employee, or agent of the commission that the commission considers necessary for the enforcement of this chapter;

(b) receive, reject, investigate, and pass upon complaints alleging:

(i) discrimination in:

(A) employment;

(B) an apprenticeship [programs] program;

(C) an on-the-job training [programs] program; [and] or

(D) a vocational [schools] school; or

(ii) the existence of a discriminatory or prohibited employment practice by:

(A) a person;

(B) an employer;

(C) an employment agency;

(D) a labor organization;

(E) [the employees or members] an employee or member of an employment agency or labor organization;

(F) a joint apprenticeship committee; and

(G) a vocational school;

(c) investigate and study the existence, character, causes, and extent of discrimination in employment, apprenticeship programs, on-the-job training programs, and vocational schools in this state by:

(i) employers;

(ii) employment agencies;

(iii) labor organizations;

(iv) joint apprenticeship committees; and

(v) vocational schools;

(d) formulate plans for the elimination of discrimination by educational or other means;

- (e) hold hearings upon complaint made against:
 - (i) a person;
 - (ii) an employer;
 - (iii) an employment agency;
 - (iv) a labor organization;
 - (v) ~~the employees or members~~ an employee or member of an employment agency or labor organization;
 - (vi) a joint apprenticeship committee; or
 - (vii) a vocational school;
- (f) issue publications and reports of investigations and research that:
 - (i) promote good will among the various racial, religious, and ethnic groups of the state; and
 - (ii) minimize or eliminate discrimination in employment because of race, color, sex, religion, national origin, age, ~~or~~ disability, sexual orientation, or gender identity;
- (g) prepare and transmit to the governor, at least once each year, reports describing:
 - (i) ~~its~~ the division's proceedings, investigations, and hearings;
 - (ii) the outcome of those hearings;
 - (iii) decisions the division ~~has rendered~~ renders; and
 - (iv) the other work performed by the division;
- (h) recommend policies to the governor, and submit recommendation to employers, employment agencies, and labor organizations to implement those policies;
- (i) recommend any legislation to the governor that the division considers necessary concerning discrimination because of:
 - (i) race;
 - (ii) sex;
 - (iii) color;
 - (iv) national origin;
 - (v) religion;
 - (vi) age;
 - (vii) disability ~~to the governor that it considers necessary; and~~;
 - (viii) sexual orientation; or
 - (ix) gender identity; and
- (j) within the limits of any appropriations made for its operation, cooperate with other agencies or organizations, both public and private, in the planning and conducting of educational programs designed to eliminate discriminatory practices prohibited under this chapter.

(3) The division shall investigate an alleged discriminatory practice involving

~~officers or employees~~ an officer or employee of state government if requested to do so by the Career Service Review Office.

(4) (a) In any a hearing held under this chapter, the division may:

- (i) subpoena witnesses and compel their attendance at the hearing;
- (ii) administer oaths and take the testimony of any a person under oath; and
- (iii) compel any a person to produce for examination ~~any books, papers~~ a book, paper, or other information relating to the matters raised by the complaint.

(b) The division director or a hearing examiner appointed by the division director may conduct ~~hearings~~ a hearing.

(c) If a witness fails or refuses to obey a subpoena issued by the division, the division may petition the district court to enforce the subpoena.

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

Section 5. Section 34A-5-106 is amended to read:

34A-5-106. Discriminatory or prohibited employment practices -- Permitted practices.

(1) It is a discriminatory or prohibited employment practice to take any an action described in Subsections (1)(a) through (f).

(a) (i) An employer may not refuse to hire, promote, discharge, demote, or terminate any a person, or to retaliate against, harass, or discriminate in matters of compensation or in terms, privileges, and conditions of employment against any a person otherwise qualified, because of:

- (A) race;
- (B) color;
- (C) sex;
- (D) pregnancy, childbirth, or pregnancy-related conditions;
- (E) age, if the individual is 40 years of age or older;
- (F) religion;
- (G) national origin; ~~or~~
- (H) disability~~[-]~~;
- I) sexual orientation; or
- J) gender identity.

(ii) A person may not be considered "otherwise qualified," unless that person possesses the following required by an employer for any particular job, job classification, or position:

- (A) education;

(B) training;

(C) ability, with or without reasonable accommodation;

(D) moral character;

(E) integrity;

(F) disposition to work;

(G) adherence to reasonable rules and regulations; and

(H) other job related qualifications required by an employer.

(iii) (A) As used in this chapter, “to discriminate in matters of compensation” means the payment of differing wages or salaries to employees having substantially equal experience, responsibilities, and skill for the particular job.

(B) Notwithstanding Subsection (1)(a)(iii)(A):

(I) nothing in this chapter prevents [increases] an increase in pay as a result of longevity with the employer, if the salary [increases are] increase is uniformly applied and available to all employees on a substantially proportional basis; and

(II) nothing in this section prohibits an employer and employee from agreeing to a rate of pay or work schedule designed to protect the employee from loss of Social Security payment or benefits if the employee is eligible for those payments.

(b) An employment agency may not:

(i) refuse to list and properly classify for employment, or refuse to refer an individual for employment, in a known available job for which the individual is otherwise qualified, because of:

(A) race;

(B) color;

(C) sex;

(D) pregnancy, childbirth, or pregnancy-related conditions;

(E) religion;

(F) national origin;

(G) age, if the individual is 40 years of age or older; ~~or~~

(H) disability; ~~or~~

(I) sexual orientation; or

(J) gender identity; or

(ii) comply with a request from an employer for referral of [applicants] an applicant for employment if the request indicates either directly or indirectly that the employer discriminates in employment on account of:

(A) race;

(B) color;

(C) sex;

(D) pregnancy, childbirth, or pregnancy-related conditions;

(E) religion;

(F) national origin;

(G) age, if the individual is 40 years of age or older; ~~or~~

(H) disability~~[-];~~

(I) sexual orientation; or

(J) gender identity.

(c) (i) A labor organization may not for a reason listed in Subsection (1)(c)(ii):

(A) exclude ~~any~~ an individual otherwise qualified from full membership rights in the labor organization~~[-];~~

(B) expel the individual from membership in the labor organization~~[-];~~ or

(C) otherwise discriminate against or harass ~~any of the labor organization's members~~ a member of the labor organization in full employment of work opportunity, or representation~~[-because of].~~

(ii) A labor organization may not take an action listed in this Subsection (1)(c) because of:

~~(i)~~ (A) race;

~~(ii)~~ (B) sex;

~~(iii)~~ (C) pregnancy, childbirth, or pregnancy-related conditions;

~~(iv)~~ (D) religion;

~~(v)~~ (E) national origin;

~~(vi)~~ (F) age, if the individual is 40 years of age or older; ~~or~~

~~(vii)~~ (G) disability~~[-];~~

(H) sexual orientation; or

(I) gender identity.

(d) (i) Unless based upon a bona fide occupational qualification, or required by and given to an agency of government for a security ~~reasons~~ reason, an employer, employment agency, or labor organization may not do the following if the statement, advertisement, publication, form, or inquiry violates Subsection (1)(d)(ii):

(A) print, ~~or~~ circulate, or cause to be printed or circulated~~[-any]~~ a statement, advertisement, or publication~~[-];~~

(B) use ~~any~~ a form of application for employment or membership~~[-];~~ or

(C) make any inquiry in connection with prospective employment or membership ~~[that expresses, either directly or indirectly: (i) any].~~

(ii) This Subsection (1)(d) applies to a statement, advertisement, publication, form, or inquiry that directly expresses a limitation, specification, or discrimination as to:

(A) race;

- (B) color;
- (C) religion;
- (D) sex;
- (E) pregnancy, childbirth, or pregnancy-related conditions;
- (F) national origin;
- (G) age, if the individual is 40 years of age or older; [øf]
- (H) disability; [øf]
- ~~[(ii) the intent to make any limitation, specification, or discrimination described in Subsection (1)(d)(i).]~~

- (I) sexual orientation; or
- (J) gender identity.

(e) A person, whether or not an employer, an employment agency, a labor organization, or ~~[the employees or members]~~ an employee or member of an employer, employment agency, or labor organization, may not:

- (i) aid, incite, compel, or coerce the doing of an act defined in this section to be a discriminatory or prohibited employment practice;
- (ii) obstruct or prevent [any] a person from complying with this chapter, or any order issued under this chapter; or
- (iii) attempt, either directly or indirectly, to commit [any] an act prohibited in this section.

(f) (i) An employer, labor organization, joint apprenticeship committee, or vocational school^[s] providing, coordinating, or controlling an apprenticeship ~~[programs,]~~ program or providing, coordinating, or controlling an on-the-job-training ~~[programs]~~ program, instruction, training, or retraining ~~[programs]~~ program may not:

(A) deny to, or withhold from, any qualified person^[s] the right to be admitted to^[s] or participate in [any] an apprenticeship training program, on-the-job-training program, or other occupational instruction, training, or retraining program because of:

- (I) race;
- (II) color;
- (III) sex;
- (IV) pregnancy, childbirth, or pregnancy-related conditions;
- (V) religion;
- (VI) national origin;
- (VII) age, if the individual is 40 years of age or older; [øf]
- (VIII) disability;
- (IX) sexual orientation; or
- (X) gender identity;

(B) discriminate against or harass [any] a qualified person in that person's pursuit of ~~[programs]~~ a program described in Subsection (1)(f)(i)(A)~~[, or to]~~ because of:

- (I) race;
- (II) color;
- (III) sex;
- (IV) pregnancy, childbirth, or pregnancy-related conditions;
- (V) religion;
- (VI) national origin;
- (VII) age, if the individual is 40 years of age or older;
- (VIII) disability;
- (IX) sexual orientation; or
- (X) gender identity;

(C) discriminate against ~~[such]~~ a qualified person in the terms, conditions, or privileges of ~~[programs]~~ a program described in Subsection (1)(f)(i)(A), because of:

- (I) race;
- (II) color;
- (III) sex;
- (IV) pregnancy, childbirth, or pregnancy-related conditions;
- (V) religion;
- (VI) national origin;
- (VII) age, if the individual is 40 years of age or older; [øf]
- (VIII) disability; [øf]
- (IX) sexual orientation; or
- (X) gender identity; or

~~[(C)] (D)~~ except as provided in Subsection (1)(f)(ii), print, publish, or cause to be printed or published, [any] a notice or advertisement relating to employment by the employer, or membership in or [any] a classification or referral for employment by a labor organization, or relating to [any] a classification or referral for employment by an employment agency, indicating [any] a preference, limitation, specification, or discrimination based on:

- (I) race;
- (II) color;
- (III) sex;
- (IV) pregnancy, childbirth, or pregnancy-related conditions;
- (V) religion;
- (VI) national origin;
- (VII) age, if the individual is 40 years of age or older; [øf]

(VIII) disability[-];

(IX) sexual orientation; or

(X) gender identity.

(ii) Notwithstanding Subsection (1)(f)(i)(~~C~~)(D), if the following is a bona fide occupational qualification for employment, a notice or advertisement described in Subsection (1)(f)(i)(~~C~~)(D) may indicate a preference, limitation, specification, or discrimination based on:

(A) race;

(B) color;

(C) religion;

(D) sex;

(E) pregnancy, childbirth, or pregnancy-related conditions;

(F) age;

(G) national origin; ~~or~~

(H) disability[-];

(I) sexual orientation; or

(J) gender identity.

(2) ~~Nothing contained in~~ Subsections (1)(a) through (1)(f) ~~shall~~ may not be construed to prevent:

(a) the termination of employment of an individual who, with or without reasonable accommodation, is physically, mentally, or emotionally unable to perform the duties required by that individual's employment;

(b) the variance of insurance premiums or coverage on account of age; or

(c) a restriction on the activities of ~~individuals licensed by the liquor authority with respect to persons~~ a person licensed in accordance with Title 32B, Alcoholic Beverage Control Act, with respect to an individual who is under 21 years of age.

(3) (a) It is not a discriminatory or prohibited employment practice:

(i) for an employer to hire and employ ~~employees~~ an employee, for an employment agency to classify or refer for employment ~~any~~ an individual, for a labor organization to classify its membership or to classify or refer for employment ~~any~~ an individual, or for an employer, labor organization, or joint labor-management committee controlling an apprenticeship or other training or retraining ~~programs~~ program to admit or employ ~~any~~ an individual in ~~any such~~ the program[,], on the basis of religion, sex, pregnancy, childbirth, or pregnancy-related conditions, age, national origin, ~~or~~ disability, sexual orientation, or gender identity in those certain instances ~~where~~ when religion, sex, pregnancy, childbirth, or pregnancy-related conditions, age, if the individual is 40 years of age or older, national origin, ~~or~~ disability, sexual orientation, or gender identity is a bona fide

occupational qualification reasonably necessary to the normal operation of that particular business or enterprise;

(ii) for a school, college, university, or other educational institution to hire and employ ~~employees~~ an employee of a particular religion if:

(A) the school, college, university, or other educational institution is, in whole or in substantial part, owned, supported, controlled, or managed by a particular religious corporation, association, or society; or

(B) the curriculum of the school, college, university, or other educational institution is directed toward the propagation of a particular religion;

(iii) for an employer to give preference in employment to:

(A) the employer's:

(I) spouse;

(II) child; or

(III) son-in-law or daughter-in-law;

(B) ~~any~~ a person for whom the employer is or would be liable to furnish financial support if ~~these persons~~ the person were unemployed;

(C) ~~any~~ a person to whom the employer during the preceding six months ~~has furnished~~ furnishes more than one-half of total financial support regardless of whether or not the employer was or is legally obligated to furnish support; or

(D) ~~any~~ a person whose education or training ~~was~~ is substantially financed by the employer for a period of two years or more.

(b) Nothing in this chapter applies to ~~any~~ a business or enterprise on or near an Indian reservation with respect to ~~any~~ a publicly announced employment practice of the business or enterprise under which preferential treatment is given to ~~any~~ an individual because that individual is a native American Indian living on or near an Indian reservation.

(c) Nothing in this chapter ~~shall~~ may be interpreted to require ~~any~~ an employer, employment agency, labor organization, vocational school, joint labor-management committee, or apprenticeship program subject to this chapter to grant preferential treatment to ~~any~~ an individual or to ~~any~~ a group because of the race, color, religion, sex, age, national origin, ~~or~~ disability, sexual orientation, or gender identity of the individual or group on account of an imbalance ~~which~~ that may exist with respect to the total number or percentage of persons of ~~any~~ a race, color, religion, sex, age, national origin, ~~or~~ disability, sexual orientation, or gender identity employed by ~~any~~ an employer, referred or classified for employment by an employment agency or labor organization, admitted to membership or classified by ~~any~~ a labor organization, or admitted to or employed in, any apprenticeship or other training program, in

comparison with the total number or percentage of persons of that race, color, religion, sex, age, national origin, ~~or~~ disability, sexual orientation, or gender identity in any community or county or in the available work force in any community or county.

(4) It is not a discriminatory or prohibited practice with respect to age to observe the terms of a bona fide seniority system or any bona fide employment benefit plan such as a retirement, pension, or insurance plan that is not a subterfuge to evade the purposes of this chapter, except that ~~no such~~ an employee benefit plan ~~shall~~ may not excuse the failure to hire an individual.

(5) Notwithstanding Subsection (4), or ~~any other statutory provision~~ another statute to the contrary, a person may not be subject to involuntary termination or retirement from employment on the basis of age alone, if the individual is 40 years of age or older, except:

(a) under Subsection (6); and

(b) when age is a bona fide occupational qualification.

(6) Nothing in this section prohibits compulsory retirement of an employee who has attained at least 65 years of age, and who, for the two-year period immediately before retirement, is employed in a bona fide executive or a high policymaking position, if:

(a) that employee is entitled to an immediate nonforfeitable annual retirement benefit from the employee's employer's pension, profit-sharing, savings, or deferred compensation plan, or any combination of those plans; and

(b) the benefit described in Subsection (6)(a) equals, in the aggregate, at least \$44,000.

Section 6. Section 34A-5-107 is amended to read:

34A-5-107. Procedure for aggrieved person to file claim -- Investigations -- Adjudicative proceedings -- Settlement -- Reconsideration -- Determination.

(1) (a) ~~Any~~ A person claiming to be aggrieved by a discriminatory or prohibited employment practice may, or that person's attorney or agent may, make, sign, and file with the division a request for agency action.

(b) ~~Every~~ A request for agency action shall be verified under oath or affirmation.

(c) A request for agency action made under this section shall be filed within 180 days after the alleged discriminatory or prohibited employment practice ~~occurred~~ occurs.

(d) The division may transfer a request for agency action filed with the division pursuant to this section to the federal Equal Employment Opportunity Commission in accordance with ~~the provisions of any~~ a work-share agreement that is:

(i) between the division and the Equal Employment Opportunity Commission; and

(ii) in effect on the day on which the request for agency action is transferred.

(2) ~~Any~~ An employer, labor organization, joint apprenticeship committee, or vocational school who has an employee or member who refuses or threatens to refuse to comply with this chapter may file with the division a request for agency action asking the division for assistance to obtain the employee's or member's compliance by conciliation or other remedial action.

(3) (a) Before a hearing is set or held as part of any adjudicative proceeding, the division shall promptly assign an investigator to attempt a settlement between the parties by conference, conciliation, or persuasion.

(b) If no settlement is reached, the investigator shall make a prompt impartial investigation of all allegations made in the request for agency action.

(c) The division and its staff, agents, and employees:

(i) shall conduct every investigation in fairness to all parties and agencies involved; and

(ii) may not attempt a settlement between the parties if it is clear that no discriminatory or prohibited employment practice has occurred.

(d) An aggrieved party may withdraw the request for agency action prior to the issuance of a final order.

(4) (a) If the initial attempts at settlement are unsuccessful, and the investigator uncovers insufficient evidence during the investigation to support the allegations of a discriminatory or prohibited employment practice set out in the request for agency action, the investigator shall formally report these findings to the director or the director's designee.

(b) Upon receipt of the investigator's report described in Subsection (4)(a), the director or the director's designee may issue a determination and order for dismissal of the adjudicative proceeding.

(c) A party may make a written request to the Division of Adjudication for an evidentiary hearing to review de novo the director's or the director's designee's determination and order within 30 days of the date the determination and order for dismissal is issued.

(d) If the director or the director's designee receives no timely request for a hearing, the determination and order issued by the director or the director's designee becomes the final order of the commission.

(5) (a) If the initial attempts at settlement are unsuccessful and the investigator uncovers sufficient evidence during the investigation to support the allegations of a discriminatory or prohibited employment practice set out in the request for agency action, the investigator shall formally report these findings to the director or the director's designee.

(b) (i) Upon receipt of the investigator's report described in Subsection (5)(a), the director or the director's designee may issue a determination and order based on the investigator's report.

(ii) A determination and order issued under this Subsection (5)(b) shall:

(A) direct the respondent to cease any discriminatory or prohibited employment practice; and

(B) provide relief to the aggrieved party as the director or the director's designee determines is appropriate.

(c) A party may file a written request to the Division of Adjudication for an evidentiary hearing to review de novo the director's or the director's designee's determination and order within 30 days of the date the determination and order is issued.

(d) If the director or the director's designee receives no timely request for a hearing, the determination and order issued by the director or the director's designee in accordance with Subsection (5)(b) becomes the final order of the commission.

(6) In ~~any~~ an adjudicative proceeding to review the director's or the director's designee's determination that a prohibited employment practice has occurred, the division shall present the factual and legal basis of the determination or order issued under Subsection (5).

(7) (a) ~~Prior to~~ Before the commencement of an evidentiary hearing:

(i) the party filing the request for agency action may reasonably and fairly amend any allegation; and

(ii) the respondent may amend its answer.

(b) An amendment permitted under this Subsection (7) may be made:

(i) during or after a hearing; and

(ii) only with permission of the presiding officer.

(8) (a) If, upon reviewing all the evidence at a hearing, the presiding officer finds that a respondent has not engaged in a discriminatory or prohibited employment practice, the presiding officer shall issue an order dismissing the request for agency action containing the allegation of a discriminatory or prohibited employment practice.

(b) The presiding officer may order that the respondent be reimbursed by the complaining party for the respondent's attorneys' fees and costs.

(9) If, upon reviewing all the evidence at the hearing, the presiding officer finds that a respondent has engaged in a discriminatory or prohibited employment practice, the presiding officer shall issue an order requiring the respondent to:

(a) cease any discriminatory or prohibited employment practice; and

(b) provide relief to the complaining party, including:

(i) reinstatement;

(ii) back pay and benefits;

(iii) ~~attorneys'~~ attorney fees; and

(iv) costs.

(10) Conciliation between the parties is to be urged and facilitated at all stages of the adjudicative process.

(11) (a) Either party may file with the Division of Adjudication a written request for review before the commissioner or Appeals Board of the order issued by the presiding officer in accordance with:

(i) Section 63G-4-301; and

(ii) Chapter 1, Part 3, Adjudicative Proceedings.

(b) If there is no timely request for review, the order issued by the presiding officer becomes the final order of the commission.

(12) An order of the commission under Subsection (11)(a) is subject to judicial review as provided in:

(a) Section 63G-4-403; and

(b) Chapter 1, Part 3, Adjudicative Proceedings.

(13) The commission ~~shall have authority to~~ may make rules concerning procedures under this chapter in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(14) The commission and its staff may not divulge or make public ~~any~~ an information gained from ~~any~~ an investigation, settlement negotiation, or proceeding before the commission except as provided in Subsections (14)(a) through (d).

(a) Information used by the director or the director's designee in making ~~any~~ a determination may be provided to all interested parties for the purpose of preparation for and participation in proceedings before the commission.

(b) General statistical information may be disclosed provided the identities of the individuals or parties are not disclosed.

(c) Information may be disclosed for inspection by the attorney general or other legal representatives of the state or the commission.

(d) Information may be disclosed for information and reporting requirements of the federal government.

(15) The procedures contained in this section are the exclusive remedy under state law for employment discrimination based upon:

(a) race;

(b) color;

(c) sex;

(d) retaliation;

(e) pregnancy, childbirth, or pregnancy-related conditions;

- (f) age;
- (g) religion;
- (h) national origin; [or]
- (i) disability[-];
- (j) sexual orientation; or
- (k) gender identity.

(16) (a) The commencement of an action under federal law for relief based upon ~~[any]~~ an act prohibited by this chapter bars the commencement or continuation of ~~[any]~~ an adjudicative proceeding before the commission in connection with the same ~~[claims]~~ claim under this chapter.

(b) The transfer of a request for agency action to the Equal Employment Opportunity Commission in accordance with Subsection (1)(d) is considered the commencement of an action under federal law for purposes of Subsection (16)(a).

(c) Nothing in this Subsection (16) is intended to alter, amend, modify, or impair the exclusive remedy provision set forth in Subsection (15).

Section 7. Section 34A-5-109 is enacted to read:

34A-5-109. Application to employee dress and grooming standards.

This chapter may not be interpreted to prohibit an employer from adopting reasonable dress and grooming standards not prohibited by other provisions of federal or state law, provided that the employer's dress and grooming standards afford reasonable accommodations based on gender identity to all employees.

Section 8. Section 34A-5-110 is enacted to read:

34A-5-110. Application to sex-specific facilities.

This chapter may not be interpreted to prohibit an employer from adopting reasonable rules and policies that designate sex-specific facilities, including restrooms, shower facilities, and dressing facilities, provided that the employer's rules and policies adopted under this section afford reasonable accommodations based on gender identity to all employees.

Section 9. Section 34A-5-111 is enacted to read:

34A-5-111. Application to the freedom of expressive association and the free exercise of religion.

This chapter may not be interpreted to infringe upon the freedom of expressive association or the free exercise of religion protected by the First Amendment of the United States Constitution and Article I, Sections 1, 4, and 15 of the Utah Constitution.

Section 10. Section 34A-5-112 is enacted to read:

34A-5-112. Religious liberty protections -- Expressing beliefs and commitments in workplace -- Prohibition on employment actions against certain employee speech.

(1) An employee may express the employee's religious or moral beliefs and commitments in the workplace in a reasonable, non-disruptive, and non-harassing way on equal terms with similar types of expression of beliefs or commitments allowed by the employer in the workplace, unless the expression is in direct conflict with the essential business-related interests of the employer.

(2) An employer may not discharge, demote, terminate, or refuse to hire any person, or retaliate against, harass, or discriminate in matters of compensation or in terms, privileges, and conditions of employment against any person otherwise qualified, for lawful expression or expressive activity outside of the workplace regarding the person's religious, political, or personal convictions, including convictions about marriage, family, or sexuality, unless the expression or expressive activity is in direct conflict with the essential business-related interests of the employer.

Section 11. Section 57-21-2 is amended to read:

57-21-2. Definitions.

As used in this chapter:

(1) "Affiliate" means the same as that term is defined in Section 16-6a-102.

~~[(4)]~~ (2) "Aggrieved person" includes [any] a person who:

(a) claims to have been injured by a discriminatory housing practice; or

(b) believes that the person will be injured by a discriminatory housing practice that is about to occur.

~~[(2)]~~ (3) "Commission" means the Labor Commission.

~~[(3)]~~ (4) "Complainant" means an aggrieved person, including the director, who has commenced a complaint with the division.

~~[(4)]~~ (5) "Conciliation" means the attempted resolution of [issues] an issue raised [by] in a complaint of discriminatory housing practices by the investigation of the complaint through informal negotiations involving the complainant, the respondent, and the division.

~~[(5)]~~ (6) "Conciliation agreement" means a written agreement setting forth the resolution of the issues in conciliation.

~~[(6)]~~ (7) "Conciliation conference" means the attempted resolution of [issues] an issue raised [by] in a complaint or by the investigation of a complaint through informal negotiations involving the complainant, the respondent, and the division. The

conciliation conference is not subject to Title 63G, Chapter 4, Administrative Procedures Act.

~~[(7)]~~ (8) “Covered multifamily [~~dwelling~~”] dwelling” means:

(a) [~~buildings~~] a building consisting of four or more dwelling units if the [~~buildings have~~] building has one or more elevators; and

(b) the ground floor units in other buildings consisting of four or more dwelling units.

~~[(8)]~~ (9) “Director” means the director of the division or a designee.

~~[(9)]~~ (10) (a) “Disability” means a physical or mental impairment that substantially limits one or more of a person’s major life activities, including a person having a record of such an impairment or being regarded as having such an impairment.

(b) “Disability” does not include current illegal use of, or addiction to, any federally controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C. Sec. 802.

~~[(10)]~~ (11) “Discriminate” includes segregate or separate.

~~[(11)]~~ (12) “Discriminatory housing practice” means an act that is unlawful under this chapter.

~~[(12)]~~ (13) “Division” means the Division of Antidiscrimination and Labor established under the commission.

~~[(13)(a)]~~ (14) “Dwelling” means [~~any~~]:

(a) a building or structure, or a portion of a building or structure, occupied as, [~~or~~] designed as, or intended for occupancy as[;] a residence of one or more families[;]; or

(b) [~~“Dwelling” also includes~~] vacant land that is offered for sale or lease for the construction or location of a dwelling as described in Subsection ~~[(13)]~~ (14)(a).

~~[(14)]~~ (15) (a) “Familial status” means one or more individuals who have not attained the age of 18 years being domiciled with:

(i) a parent or another person having legal custody of the [~~individual~~] one or more individuals; or

(ii) the designee of the parent or other person having custody, with the written permission of the parent or other person.

(b) The protections afforded against discrimination on the basis of familial status [~~shall~~] apply to [~~any~~] a person who:

(i) is pregnant;

(ii) is in the process of securing legal custody of any individual who has not attained the age of 18 years; or

(iii) is a single individual.

(16) “Gender identity” has the meaning provided in the Diagnostic and Statistical Manual (DSM-5).

A person’s gender identity can be shown by providing evidence, including, but not limited to, medical history, care or treatment of the gender identity, consistent and uniform assertion of the gender identity, or other evidence that the gender identity is sincerely held, part of a person’s core identity, and not being asserted for an improper purpose.

~~[(15)]~~ (17) “National origin” means the place of birth of an individual or of any lineal ancestors.

~~[(16)]~~ (18) “Person” includes one or more individuals, corporations, limited liability companies, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in cases under the United States Bankruptcy Code, receivers, and fiduciaries.

~~[(17)]~~ (19) “Presiding officer” has the same meaning as provided in Section 63G-4-103.

~~[(18)]~~ (20) “Real estate broker” or “salesperson” means a principal broker, an associate broker, or a sales agent as those terms are defined in Section 61-2f-102.

~~[(19)]~~ (21) “Respondent” means a person against whom a complaint of housing discrimination has been initiated.

~~[(20)]~~ (22) “Sex” means gender and includes pregnancy, childbirth, and disabilities related to pregnancy or childbirth.

(23) “Sexual orientation” means an individual’s actual or perceived orientation as heterosexual, homosexual, or bisexual.

~~[(21)]~~ (24) “Source of income” means the verifiable condition of being a recipient of federal, state, or local assistance, including medical assistance, or of being a tenant receiving federal, state, or local subsidies, including rental assistance or rent supplements.

Section 12. Section 57-21-2.5 is enacted to read:

57-21-2.5. Supremacy over local regulations -- No special class created for other purposes.

(1) This chapter supersedes and preempts any ordinance, regulation, standard, or other legal action by a local government entity, a state entity, or the governing body of a political subdivision that relates to the prohibition of discrimination in housing.

(2) This chapter shall not be construed to create a special or protected class for any purpose other than housing.

Section 13. Section 57-21-2.7 is enacted to read:

57-21-2.7. Nonseverability.

This bill is the result of the Legislature’s balancing of competing interests. Accordingly, if any phrase, clause, sentence, provision, or subsection enacted or amended in this chapter by

this bill is held invalid in a final judgment by a court of last resort, the remainder of the enactments and amendments of this bill affecting this chapter shall be thereby rendered without effect and void.

Section 14. Section 57-21-3 is amended to read:

57-21-3. Exemptions -- Sale by private individuals -- Nonprofit organizations -- Noncommercial transactions.

(1) This chapter does not apply to [any] a single-family dwelling unit sold or rented by its owner if:

(a) the owner is not a partnership, association, corporation, or other business entity;

(b) the owner does not own [any] an interest in four or more single-family dwelling units held for sale or lease at the same time;

(c) during a 24-month period, the owner does not sell two or more single-family dwelling units in which the owner was not residing or was not the most recent resident at the time of sale;

(d) the owner does not retain or use the facilities or services of [any] a real estate broker or salesperson; and

(e) the owner does not use [any] a discriminatory housing practice under Subsection 57-21-5(2) in the sale or rental of the dwelling.

(2) This chapter does not apply to a dwelling or a temporary or permanent residence facility [operated by a nonprofit or charitable organization, including any dormitory operated by a public or private educational institution,] if:

(a) the discrimination is by sex, sexual orientation, gender identity, or familial status for reasons of personal modesty or privacy, or in the furtherance of a religious institution's free exercise of religious rights under the First Amendment of the United States Constitution[,] or the Utah Constitution; and

(b) the dwelling or the temporary or permanent residence facility is:

(i) operated by a nonprofit or charitable organization;

(ii) owned by, operated by, or under contract with a religious organization, a religious association, a religious educational institution, or a religious society;

(iii) owned by, operated by, or under contract with an affiliate of an entity described in Subsection (2)(b)(ii); or

(iv) owned by or operated by a person under contract with an entity described in Subsection (2)(b)(ii).

(3) This chapter, except for Subsection 57-21-5(2), does not apply to the rental of a room in [the] a single-family dwelling by an

owner-occupant of [a] the single-family dwelling to another person if:

(a) the dwelling is designed for occupancy by four or fewer families[;]; and

(b) the owner-occupant resides in one of the units.

~~[(4) This chapter does not prohibit a religious organization, association, or society, or any nonprofit institution or organization operated, supervised, or controlled by or in conjunction with a religious organization, association, or society, from]~~

(4) (a) (i) Unless membership in a religion is restricted by race, color, sex, or national origin, this chapter does not prohibit an entity described in Subsection (4)(a)(ii) from:

(A) limiting the sale, rental, or occupancy of [dwellings it] a dwelling or temporary or permanent residence facility the entity owns or operates for primarily noncommercial purposes to persons of the same religion[;]; or [from giving preference to such persons, unless membership in the religion is restricted by race, color, sex, or national origin.]

(B) giving preference to persons of the same religion when selling, renting, or selecting occupants for a dwelling, or a temporary or permanent residence facility, the entity owns or operates for primarily noncommercial purposes.

(ii) The following entities are entitled to the exemptions described in Subsection (4)(a)(i):

(A) a religious organization, association, or society; or

(B) a nonprofit institution or organization operated, supervised, or controlled by or in conjunction with a religious organization, association, or society.

(b) (i) This chapter does not prohibit an entity described in Subsection (4)(b)(ii) from:

(A) limiting the sale, rental, or occupancy of a dwelling, or a temporary or permanent residence facility, the entity owns or operates to persons of a particular religion, sex, sexual orientation, or gender identity; or

(B) giving preference to persons of a particular religion, sex, sexual orientation, or gender identity when selling, renting, or selecting occupants for a dwelling, or a temporary or permanent residence facility, the entity owns or operates.

(ii) The following entities are entitled to the exemptions described in Subsection (4)(b)(i):

(A) an entity described in Subsection (4)(a)(ii); and

(B) a person who owns a dwelling, or a temporary or permanent residence facility, that is under contract with an entity described in Subsection (4)(a)(ii).

(5) [This] (a) If the conditions of Subsection (5)(b) are met, this chapter does not prohibit a private club not open to the public, including [fraternities

and ~~sororities~~] a fraternity or sorority associated with ~~[institutions]~~ an institution of higher education, from:

(i) limiting the rental or occupancy of lodgings to members; or ~~from~~

(ii) giving preference to its members, ~~but only if it~~.

(b) This Subsection (5) applies only if the private club owns or operates the lodgings as an incident to its primary purpose and not for a commercial purpose.

(6) This chapter does not prohibit distinctions based on inability to fulfill the terms and conditions, including financial obligations, of a lease, rental agreement, contract of purchase or sale, mortgage, trust deed, or other financing agreement.

(7) This chapter does not prohibit ~~[any]~~ a nonprofit educational institution from:

(a) requiring its single students to live in ~~[housing approved, operated, or owned by the institution]~~ a dwelling, or a temporary or permanent residence facility, that is owned by, operated by, or under contract with the nonprofit educational institution;

(b) segregating ~~[housing that the institution approves, operates, or owns]~~ a dwelling, or a temporary or permanent residence facility, that is owned by, operated by, or under contract with the nonprofit educational institution on the basis of sex or familial status or both:

(i) for reasons of personal modesty or privacy~~;~~; or

(ii) in the furtherance of a religious institution's free exercise of religious rights under the First Amendment of the United States Constitution or the Utah Constitution; or

(c) otherwise assisting ~~[others]~~ another person in making ~~[sex-segregated housing]~~ a dwelling, or a temporary or permanent residence facility, available to students on a sex-segregated basis as may be permitted by:

(i) regulations implementing the federal Fair Housing Amendments Act of 1988 ~~[and]~~;

(ii) Title IX of the Education Amendments of 1972~~;~~; or

(iii) other applicable law.

(8) This chapter does not prohibit any reasonable local, state, or federal ~~[restrictions]~~ restriction regarding the maximum number of occupants permitted to occupy a dwelling.

(9) ~~[The provisions pertaining]~~ A provision of this chapter that pertains to familial status ~~[do]~~ does not apply to the existence, development, sale, rental, advertisement, or financing of ~~[any]~~ an apartment complex, condominium, or other housing development designated as housing for older persons, as defined by Title VIII of the Civil Rights Act of 1968, as amended.

Section 15. Section 57-21-5 is amended to read:

57-21-5. Discriminatory practices enumerated -- Protected persons, classes enumerated.

(1) It is a discriminatory housing practice to do any of the following because of a person's race, color, religion, sex, national origin, familial status, source of income, ~~[or]~~ disability, sexual orientation, or gender identity:

(a) (i) refuse to sell or rent after the making of a bona fide offer~~;~~;

(ii) refuse to negotiate for the sale or rental~~;~~; or

(iii) otherwise deny or make unavailable ~~[any]~~ a dwelling from any person;

(b) discriminate against ~~[any]~~ a person in the terms, conditions, or privileges:

(i) of the sale or rental of ~~[any]~~ a dwelling; or

(ii) in providing facilities or services in connection with the dwelling; or

(c) represent to ~~[any]~~ a person that ~~[any]~~ a dwelling is not available for inspection, sale, or rental when ~~[in fact]~~ the dwelling is available.

(2) It is a discriminatory housing practice to make a representation orally or in writing or make, print, circulate, publish, post, or cause to be made, printed, circulated, published, or posted any notice, statement, or advertisement, or to use any application form for the sale or rental of a dwelling, that directly or indirectly expresses any preference, limitation, or discrimination based on race, color, religion, sex, national origin, familial status, source of income, ~~[or]~~ disability, sexual orientation, or gender identity, or expresses any intent to make any such preference, limitation, or discrimination.

(3) It is a discriminatory housing practice to induce or attempt to induce, for profit, ~~[any]~~ a person to buy, sell, or rent ~~[any]~~ a dwelling by making ~~[representations]~~ a representation about the entry or prospective entry into the neighborhood of persons of a particular race, color, religion, sex, national origin, familial status, source of income, ~~[or]~~ disability, sexual orientation, or gender identity.

(4) A discriminatory housing practice includes:

(a) a refusal to permit, at the expense of the person with a disability, reasonable modifications of existing premises occupied or to be occupied by the person if the modifications are necessary to afford that person full enjoyment of the premises, except that in the case of a rental, the landlord, where it is reasonable to do so, may condition permission for a modification on the renter agreeing to restore the interior of the premises, when reasonable, to the condition that existed before the modification, reasonable wear and tear excepted;

(b) a refusal to make a reasonable ~~[accommodations in rules, policies, practices, or services when the accommodations]~~ accommodation in a rule, policy, practice, or service

when the accommodation may be necessary to afford the person equal opportunity to use and enjoy a dwelling; and

(c) in connection with the design and construction of covered multifamily dwellings for first occupancy after March 13, 1991, a failure to design and construct ~~those~~ the covered multifamily dwellings in a manner that:

(i) the covered multifamily dwellings have at least one building entrance on an accessible route, unless it is impracticable to have one because of the terrain or unusual characteristics of the site; and

(ii) with respect to covered multifamily dwellings with a building entrance on an accessible route:

(A) the public use and common use portions of the covered multifamily dwelling are readily accessible to and usable by a person with a disability;

(B) all the doors designed to allow passage into and within the covered multifamily dwellings are sufficiently wide to allow passage by a person with a disability who is in a wheelchair; and

(C) all premises within ~~these~~ the covered multifamily dwellings contain the following features of adaptive design:

(I) an accessible route into and through the covered multifamily dwelling;

(II) light switches, electrical outlets, thermostats, and other environmental controls in accessible locations;

(III) reinforcements in the bathroom walls to allow later installation of grab bars; and

(IV) kitchens and bathrooms such that an individual in a wheelchair can maneuver about and use the space.

(5) This section also applies to discriminatory housing practices because of race, color, religion, sex, national origin, familial status, source of income, ~~or~~ disability, sexual orientation, or gender identity based upon a person's association with another person.

Section 16. Section 57-21-6 is amended to read:

57-21-6. Discriminatory housing practices regarding residential real estate-related transactions -- Discriminatory housing practices regarding the provisions of brokerage services.

(1) (a) It is a discriminatory housing practice for ~~any~~ a person whose business includes engaging in residential real estate-related transactions to discriminate against ~~any~~ a person in making available ~~such~~ a residential real estate-related transaction, or in the terms or conditions of the residential real estate-related transaction, because of race, color, religion, sex, disability, familial status, source of income, ~~or~~ national origin, sexual orientation, or gender identity.

(b) Residential real estate-related transactions include:

~~(a)~~ (i) making or purchasing loans or providing other financial assistance:

~~(4)~~ (A) for purchasing, constructing, improving, repairing, or maintaining a dwelling; or

~~(ii)~~ (B) secured by residential real estate; or

~~(b)~~ (ii) selling, brokering, or appraising residential real property.

(2) It is a discriminatory housing practice to, because of race, color, religion, sex, disability, familial status, source of income, national origin, sexual orientation, or gender identity:

(a) deny ~~any~~ a person access to, or membership or participation in, ~~any~~ a multiple-listing service, real estate brokers' organization, or other service, organization, or facility relating to the business of selling or renting dwellings; or ~~to~~

(b) discriminate against ~~any~~ a person in the terms or conditions of access, membership, or participation in the organization, service, or facility ~~because of race, color, religion, sex, disability, familial status, source of income, or national origin~~.

(3) This section also applies to a discriminatory housing ~~practices~~ practice because of race, color, religion, sex, national origin, familial status, source of income, ~~or~~ disability, sexual orientation, or gender identity based upon a person's association with another person.

Section 17. Section 57-21-7 is amended to read:

57-21-7. Prohibited conduct -- Aiding or abetting in discriminatory actions -- Obstruction of division investigation -- Reprisals.

(1) It is a discriminatory housing practice to do any of the following:

(a) coerce, intimidate, threaten, or interfere with ~~any~~ a person:

(i) in the exercise or enjoyment of ~~any~~ a right granted or protected under this chapter;

(ii) because that person exercised ~~any~~ a right granted or protected under this chapter; or

(iii) because that person aided or encouraged any other person in the exercise or enjoyment of ~~any~~ a right granted or protected under this chapter;

(b) aid, abet, incite, compel, or coerce a person to engage in ~~any of the practices~~ a practice prohibited by this chapter;

(c) attempt to aid, abet, incite, compel, or coerce a person to engage in ~~any of the practices~~ a practice prohibited by this chapter;

(d) obstruct or prevent ~~any~~ a person from complying with this chapter, or any order issued under this chapter;

(e) resist, prevent, impede, or interfere with the director or ~~any division employees or representatives~~ a division employee or representative in the performance of duty under this chapter; or

(f) engage in ~~[any]~~ a reprisal against ~~[any]~~ a person because that person:

(i) opposed a practice prohibited under this chapter; or

(ii) filed a complaint, testified, assisted, or participated in any manner in ~~[any]~~ an investigation, proceeding, or hearing under this chapter.

(2) This section also applies to discriminatory housing practices because of race, color, religion, sex, national origin, familial status, source of income, ~~[or]~~ disability, sexual orientation, or gender identity based upon a person's association with another person.

Section 18. Section 57-21-12 is amended to read:

57-21-12. Other rights of action.

(1) In addition to the procedure outlined in Subsection 57-21-9(1), a person aggrieved by a discriminatory housing practice may commence a private civil action in a court of competent jurisdiction within two years after an alleged discriminatory housing practice occurred, within two years after the termination of an alleged discriminatory housing practice, or within two years after a breach of a conciliation agreement. The division shall inform the aggrieved person in writing about this option within 30 days after the aggrieved person files a complaint under Section 57-21-9.

(2) (a) Except as provided in Subsection (2)(b), the computation of this two-year time period does not include any time during which an administrative proceeding under this chapter was pending with respect to a complaint filed under this chapter.

(b) The tolling of the two-year time period does not apply to actions arising from a breach of a conciliation agreement.

(3) An aggrieved person may commence a private civil action even though a complaint has been filed with the division, in which case the division is barred from continuing or commencing any adjudicative proceeding in connection with the same claims under this chapter after:

(a) the beginning of a civil action brought by a complainant or aggrieved person; or

(b) the parties have reached an agreement in settlement of claims arising from the complaint.

(4) An aggrieved person may not file a private civil action under this section if:

(a) the division has obtained a conciliation agreement, except for the purpose of enforcing the terms of the conciliation agreement; or

(b) a formal adjudicative hearing has been commenced under Section 57-21-10 regarding the same complaint.

(5) Upon written application by a person alleging a discriminatory housing practice prohibited under this chapter in a private civil action, or by a person

against whom the violations are alleged, the court may:

(a) appoint an attorney for the applicant; and

(b) authorize the commencement or continuation of a private civil action without the payment of fees, costs, or security if, in the opinion of the court, the applicant is financially unable to bear the costs of the civil action.

(6) Upon timely application, the division may intervene in a private civil action brought under this subsection if the division certifies that the case is of general importance.

(7) In a private civil action, if the court finds that a discriminatory housing practice has occurred or is about to occur, the court may:

(a) order the respondent to cease any discriminatory housing practice;

(b) award to the plaintiff actual damages, punitive damages, and reasonable ~~[attorneys']~~ attorney fees and costs; and

(c) grant, as the court considers appropriate, any permanent or temporary injunction, temporary restraining order, or other order as may be appropriate, including civil penalties under Section 57-21-11.

(8) This chapter does not preclude any private right of action by an aggrieved person based on otherwise applicable law not included in this chapter.

Section 19. Revisor instructions.

The Legislature intends that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, modify the language in Sections 34A-5-102.7 and 57-21-2.7 from "this bill" to the bill's designated chapter number in the Laws of Utah.

CHAPTER 14

H. B. 3

Passed March 10, 2015
 Approved March 18, 2015
 Effective March 18, 2015

**CURRENT FISCAL YEAR
 SUPPLEMENTAL APPROPRIATIONS**

Chief Sponsor: Dean Sanpei
 Senate Sponsor: Lyle W. Hillyard

LONG TITLE

General Description:

This bill supplements or reduces appropriations previously provided for the use and operation of state government for the fiscal year beginning July 1, 2014 and ending June 30, 2015.

Highlighted Provisions:

This bill:

- ▶ provides appropriations for the use and support of higher education and certain state agencies;
- ▶ provides appropriations for other purposes as described; and
- ▶ provides intent language.

Money Appropriated in this Bill:

This bill appropriates \$30,146,400 in operating and capital budgets for fiscal year 2015, including:

- ▶ (\$62,008,000) from the General Fund;
- ▶ \$75,472,900 from the Education Fund;
- ▶ \$16,681,500 from various sources as detailed in this bill.

This bill appropriates \$4,637,000 in expendable funds and accounts for fiscal year 2015, including:

- ▶ \$4,525,000 from the General Fund;
- ▶ \$112,000 from various sources as detailed in this bill.

This bill appropriates \$250,000 in business-like activities for fiscal year 2015.

This bill appropriates \$2,902,800 in restricted fund and account transfers for fiscal year 2015, including:

- ▶ \$766,500 from the General Fund;
- ▶ \$2,136,300 from various sources as detailed in this bill.

This bill appropriates \$18,162,000 in transfers to unrestricted funds for fiscal year 2015.

This bill appropriates \$15,158,500 in capital project funds for fiscal year 2015.

Other Special Clauses:

This bill takes effect immediately.

Utah Code Sections Affected:

ENACTS UNCODIFIED MATERIAL

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

Section 1. FY 2015 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2014 and ending June 30, 2015. These are additions to

amounts previously appropriated for fiscal year 2015.

Subsection 1(a). Operating and Capital

Budgets. Under the terms and conditions of Utah Code Title 63J, the Legislature appropriates the following sums of money from the funds or fund accounts indicated for the use and support of the government of the State of Utah.

**EXECUTIVE OFFICES AND
 CRIMINAL JUSTICE**

GOVERNOR’S OFFICE

Item 1

To Governor’s Office

From Federal Funds 111,300
 Schedule of Programs:

Lt. Governor’s Office 111,300

Under section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided to the Governor’s Office in Item 13, Chapter 14, Laws of Utah 2014 not lapse at the close of Fiscal Year 2015.

Item 2

To Governor’s Office – Character Education

Under section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided to the Governor’s Office – Character Education in Item 15, Chapter 14, Laws of Utah 2014 not lapse at the close of Fiscal Year 2015.

Item 3

To Governor’s Office – Emergency Fund

Under section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided to the Governor’s Office – Emergency Fund in Item 16, Chapter 14, Laws of Utah 2014 not lapse at the close of Fiscal Year 2015.

Item 4

To Governor’s Office – Governor’s Office of Management and Budget

From Dedicated Credits Revenue 26,000
 Schedule of Programs:

Operational Excellence 26,000

Under section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided to the Governor’s Office of Management and Budget in Item 17, Chapter 14, Laws of Utah 2014 not lapse at the close of Fiscal Year 2015.

Item 5

To Governor’s Office – Quality Growth Commission – LeRay McAllister Program

Under section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided to the Governor’s Office Quality Growth Commission – LeRay McAllister in Item 18, Chapter 14, Laws of Utah 2014 not lapse at the close of Fiscal Year 2015.

Item 6

To Governor’s Office – Commission on Criminal and Juvenile Justice

Under section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided to the Commission on Criminal and Juvenile Justice in Item 19, Chapter 14, Laws of Utah 2014 not lapse at the close of Fiscal Year 2015.

Item 7

To Governor’s Office – CCJJ Factual Innocence Payments
From General Fund, One-time 118,200
Schedule of Programs:
Factual Innocence Payments 118,200

Under section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided to the Commission on Criminal and Juvenile Justice for Factual Innocence Payments not lapse at the close of Fiscal Year 2015. Factual Innocence Payments are set in statute in section 78B-9-405(2)b.

OFFICE OF THE STATE AUDITOR

Item 8

To Office of the State Auditor – State Auditor

Under section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided to the State Auditor in Item 20, Chapter 14, Laws of Utah 2014 not lapse at the close of Fiscal Year 2015.

STATE TREASURER

Item 9

To State Treasurer

Under section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided to the State Treasurer in Item 21, Chapter 14, Laws of Utah 2014 not lapse at the close of Fiscal Year 2015.

ATTORNEY GENERAL

Item 10

To Attorney General

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided to the Attorney General in Item 22, Chapter 14, Laws of Utah 2014 not lapse at the close of Fiscal Year 2015.

Item 11

To Attorney General – Contract Attorneys
From General Fund, One-time 50,000
Schedule of Programs:
Contract Attorneys 50,000

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided to the Attorney General – Contract Attorneys in Item 23, Chapter 14, Laws of Utah 2014 not lapse at the close of Fiscal Year 2015.

Item 12

To Attorney General – Children’s Justice Centers

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided to the Attorney General – Children’s Justice Centers in Item 24, Chapter 14, Laws of Utah 2014 not lapse at the close of Fiscal Year 2015.

Item 13

To Attorney General – Prosecution Council
From Dedicated Credits Revenue 31,800
Schedule of Programs:
Prosecution Council 31,800

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided to the Attorney General – Utah Prosecution Council in Item 25, Chapter 14, Laws of Utah 2014 not lapse at the close of Fiscal Year 2015.

Item 14

To Attorney General – State Settlement Agreements
From General Fund, One-time 115,000
Schedule of Programs:
State Settlement Agreements 115,000

UTAH DEPARTMENT OF CORRECTIONS

Item 15

To Utah Department of Corrections – Programs and Operations

Under Section 63J-1-603 of the Utah Code, the Legislature intends that the appropriations for the Utah Department of Corrections – Programs and Operations in item 27 of chapter 14, Laws of Utah 2014 not lapse at the close of Fiscal Year 2015.

The Legislature intends that, if the Department of Corrections is able to reallocate resources internally to fund additional Adult Probation and Parole agents, for every two agents hired, the Legislature grants authority to purchase one vehicle with Department funds.

Item 16

To Utah Department of Corrections – Department Medical Services
From General Fund, One-time 500,000
Schedule of Programs:
Medical Services 500,000

Under Section 63J-1-603 of the Utah Code, the Legislature intends that the appropriations for the Utah Department of Corrections – Medical Services in item 28 of chapter 14, Laws of Utah 2014 not lapse at the close of Fiscal Year 2015.

Item 17

To Utah Department of Corrections – Jail Contracting

Under Section 63J-1-603 of the Utah Code, the Legislature intends that the appropriations for the Utah Department of Corrections – Jail Contracting in item 29 of chapter 14, Laws of Utah 2014 not lapse at the close of Fiscal Year 2015.

BOARD OF PARDONS AND PAROLE

Item 18

To Board of Pardons and Parole

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations of up to \$400,000 provided for the Board of Pardons and Parole in Item 30 of Chapter 14 Laws of Utah 2014 not lapse at the close of Fiscal Year 2015. The use of any non-lapsing funds shall be limited to capital equipment or improvements, computer equipment/software, employee/training incentives, equipment/supplies, and costs associated with changing office locations based upon a future possible move of the main Utah prison.

**DEPARTMENT OF HUMAN SERVICES -
DIVISION OF JUVENILE JUSTICE
SERVICES**

Item 19

To Department of Human Services - Division of Juvenile Justice Services - Programs and Operations

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Division of Juvenile Justice Services not lapse at the close of Fiscal Year 2015. The use of any non-lapsing funds is limited to expenditures for data processing and technology based expenditures; facility repairs, maintenance, and improvements; other charges and pass through expenditures; and, short-term projects and studies that promote efficiency and service improvement.

The Legislature intends that in order to decrease recidivism and more effectively utilize state resources, that private providers that contract with the Division of Juvenile Justice Services for residential, community-based services, including both family-based and group home services, will adhere to evidence-based practices proven to reduce recidivism as directed by the Division of Juvenile Justice Services.

**JUDICIAL COUNCIL/STATE
COURT ADMINISTRATOR**

Item 20

To Judicial Council/State Court Administrator - Administration

Under Section 63J-1-603 of the Utah Code, the Legislature intends that the appropriations provided for in the Administration line item not lapse at the close of Fiscal Year 2015.

Item 21

To Judicial Council/State Court Administrator - Grand Jury

Under Section 63J-1-603 of the Utah Code, the Legislature intends that the appropriations provided for in the Grand

Jury line item not lapse at the close of Fiscal Year 2015.

Item 22

To Judicial Council/State Court Administrator - Contracts and Leases

Under Section 63J-1-603 of the Utah Code, the Legislature intends that the appropriations provided for in the Contracts & Leases line item not lapse at the close of Fiscal Year 2015.

Item 23

To Judicial Council/State Court Administrator - Jury and Witness Fees

From General Fund, One-time 814,200
Schedule of Programs:

Jury, Witness, and Interpreter 814,200

Under Section 63J-1-603 of the Utah Code, the Legislature intends that the appropriations provided for in the Juror, Witness, and Interpreter line item not lapse at the close of Fiscal Year 2015.

Item 24

To Judicial Council/State Court Administrator - Guardian ad Litem

Under Section 63J-1-603 of the Utah Code, the Legislature intends that the appropriations provided for in the Guardian ad Litem line item not lapse at the close of Fiscal Year 2015.

DEPARTMENT OF PUBLIC SAFETY

Item 25

To Department of Public Safety - Programs & Operations

From General Fund, One-time (2,266,500)
From Dedicated Credits Revenue 303,000

From Closing Nonlapsing Appropriation Balances 2,266,500

Schedule of Programs:

Department Commissioner's Office 163,000
CITS Bureau of Criminal

Identification 40,000
Highway Patrol - Field Operations 100,000

Under section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for The Department of Public Safety - Programs and Operations line item not lapse at the close of Fiscal Year 2015.

Item 26

To Department of Public Safety - Emergency Management

From Dedicated Credits Revenue 50,000

Schedule of Programs:

Emergency Management 50,000

Under section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for The Department of Public Safety -Emergency Management line item not lapse at the close of Fiscal Year 2015.

Item 27

To Department of Public Safety - Division of Homeland Security - Emergency and Disaster Management

Under section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for The Department of Public Safety -Division of Homeland Security - Emergency and Disaster Management line item not lapse at the close of Fiscal Year 2015.

Item 28

To Department of Public Safety - Peace Officers' Standards and Training
From General Fund, One-time 500,000
Schedule of Programs:
Basic Training 500,000

Under section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for The Department of Public Safety -Peace Officers' Standards and Training line item not lapse at the close of Fiscal Year 2015.

Item 29

To Department of Public Safety - Driver License
From Department of Public Safety Restricted Account 400,000
Schedule of Programs:
Driver License Administration 400,000

Under section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for The Department of Public Safety -Driver License line item not lapse at the close of Fiscal Year 2015

Item 30

To Department of Public Safety - Highway Safety
Under section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for The Department of Public Safety -Highway Safety line item not lapse at the close of Fiscal Year 2015.

**INFRASTRUCTURE AND
GENERAL GOVERNMENT**

TRANSPORTATION

Item 31

To Transportation - Support Services
Under the terms of Utah Annotated Code 63J-1-603(3)(a), the Legislature intends that appropriations provided for Support Services in Item 1, Chapter 4, Laws of Utah 2014, shall not lapse at the close of Fiscal Year 2015. The use of any non-lapsing funds is limited to the following: Computer Software Development Projects (\$300,000) and Building Improvements (\$500,000).

Item 32

To Transportation - Engineering Services
From Transportation Fund, One-time .. (70,500)
Schedule of Programs:
Materials Lab (70,500)

Under terms of Utah Code Annotated Section 63J-1-603(3)(a), the Legislature intends that appropriations provided for Engineering Services in Item 2 of Chapter 4 Laws of Utah 2014 not lapse at the close of Fiscal Year 2015. The use of any non-lapsing

funds is limited to the following: Engineering Services Special Projects (\$300,000).

Item 33

To Transportation - Operations/Maintenance Management
From Transportation Fund, One-time .. (68,400)
Schedule of Programs:
Field Crews 25,400
Traffic Safety/Tramway (93,800)

Under terms of Section 63J-1-603(3)(a) Utah Code Annotated, the Legislature intends that appropriations provided for Operations in Item 2 of Chapter 4, Laws of Utah 2014 shall not lapse at the close of Fiscal Year 2015. The use of any non-lapsing funds is limited to the following: Highway Maintenance (\$2,000,000).

Item 34

To Transportation - Region Management
From Transportation Fund, One-time ... 138,900
Schedule of Programs:
Region 2 (51,400)
Region 3 190,300

Under the terms of Utah Annotated Code 63J-1-603(3)(a) , the Legislature intends that appropriations provided for Region Management in Item 5, Chapter 4, Laws of Utah 2014, not lapse at the close of Fiscal Year 2015. The use of any non-lapsing funds is limited to Region Management (\$200,000).

Item 35

To Transportation - Equipment Management
Under terms of Utah Annotated Code Section 63J-1-603(3)(a) the Legislature intends that appropriations provided for Equipment Management in Item 6 of Chapter 4 Laws of Utah 2014 not lapse at the close of Fiscal Year 2015. The use of any non-lapsing funds is limited to the following: Equipment Purchases \$200,000.

Item 36

To Transportation - Aeronautics
Under terms of Section 63J-1-603(3)(a) Utah Code Annotated, the Legislature intends that the one-time appropriation of \$5,000,000 from the Aeronautics Restricted Account to Airport Construction in Item 22, Chapter 282, Laws of Utah 2014, not lapse at the end of FY 2015.

**DEPARTMENT OF
ADMINISTRATIVE SERVICES**

Item 37

To Department of Administrative Services - Executive Director

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for Executive Director in Item 13, Chapter 11, Laws of Utah 2014, shall not lapse at the close of FY 2015. Expenditures of these funds are limited to customer service and Department optimization projects, shared services, IT

security auditing and prevention, internal auditing, website maintenance, and marketing: \$100,000; and, Child Welfare Parental Defense expenses: \$75,000.

Item 38

To Department of Administrative Services - Inspector General of Medicaid Services

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for Inspector General of Medicaid Services in Item 14, Chapter 11, Laws of Utah 2014, shall not lapse at the close of FY 2015. Expenditures of these funds are limited to monitor compliance with State and Federal Regulations and implement measures to identify, prevent and reduce fraud, waste, and abuse, and monitor the quality and reliability of Utah Medicaid providers service delivery and accuracy of billing: \$750,000.

Item 39

To Department of Administrative Services - Administrative Rules

From Nonlapsing Balances - Division of Finance 25,000
 Schedule of Programs:
 DAR Administration 25,000

Item 40

To Department of Administrative Services - DFCM Administration

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for DFCM Administration in Item 16, Chapter 11, Laws of Utah 2014, shall not lapse at the close of FY 2015. Expenditures of these funds are limited to information technology projects, customer service, optimization efficiency projects, time limited FTE's and Governor's Mansion maintenance: \$750,000; and, Energy Program operations: \$500,000.

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that the appropriation of \$3,417,000 provided to the Department of Administrative Services - DFCM Administration in Chapter 211, Laws of Utah 2014, shall not lapse at the close of FY 2015. Expenditures of these funds are limited to prison relocation purposes as stated in the intent language following the appropriation in Chapter 211, Laws of Utah 2014.

Item 41

To Department of Administrative Services - Building Board Program

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for Building Board Program in Item 30, Chapter 282, Laws of Utah 2014, shall not lapse at the close of FY 2015. Expenditures of these funds are limited to facilities conditions assessments: \$100,000.

Item 42

To Department of Administrative Services - State Archives

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for State Archives in Item 17, Chapter 11, Laws of Utah 2014, shall not lapse at the close of FY 2015. Expenditures of these funds are limited to regional repository program support, electronic archives preservation and management, GRAMA and transparency improvements, and building Automated Storage and Retrieval System software and maintenance needs: \$300,000.

Item 43

To Department of Administrative Services - Finance Administration

From Nonlapsing Balances - Division of Finance (400,000)
 From Closing Nonlapsing Appropriation Balances 400,000

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for Finance Administration in Item 18, Chapter 11, Laws of Utah 2014, shall not lapse at the close of FY 2015. Expenditures of these funds are limited to maintenance and operation of statewide systems and websites, studies, training, information technology support and hardware and administration costs for the Executive Branch Ethics Commission: \$2,900,000.

Item 44

To Department of Administrative Services - Finance - Mandated

From General Fund Restricted - Economic Incentive Restricted Account (5,343,600)
 From General Fund Restricted - Land Exchange Distribution Account (8,000,000)
 Schedule of Programs:
 Land Exchange Distribution (8,000,000)
 Development Zone Partial Rebates (5,343,600)

The Legislature intends that, if revenues deposited in the Land Exchange Distribution Account exceed appropriations from the account, the Division of Finance distribute the excess deposits according to the formula provided in UCA 53C-3-203(4).

Item 45

To Department of Administrative Services - Finance - Mandated - Ethics Commission

From General Fund, One-time 50,000
 Schedule of Programs:
 Executive Branch Ethics Commission 50,000

The Legislature intends that the FY 2015 appropriation of \$50,000 for the Executive Branch Ethics Commission shall not lapse at the close of FY 2015.

Item 46

To Department of Administrative Services - Post Conviction Indigent Defense

From Nonlapsing Balances - Division of Finance 100,000
 Schedule of Programs:
 Post Conviction Indigent Defense Fund 100,000

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for Post Conviction Indigent Defense in Item 21, Chapter 11, Laws of Utah 2014, shall not lapse at the close of FY 2015. Expenditures of these funds are limited to legal costs for death row inmates: \$220,000.

Item 47

To Department of Administrative Services - Judicial Conduct Commission
 From Nonlapsing Balances - Division of Finance 25,000
 Schedule of Programs:
 Judicial Conduct Commission 25,000

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for Judicial Conduct Commission in Item 22, Chapter 11, Laws of Utah 2014, shall not lapse at the close of FY 2015. Expenditures of these funds are limited to professional services for investigations: \$100,000.

DEPARTMENT OF TECHNOLOGY SERVICES

Item 48

To Department of Technology Services - Chief Information Officer

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for Chief Information Officer in Item 24, Chapter 11, Laws of Utah 2014, shall not lapse at the close of FY 2015. Expenditures of these funds are limited to costs associated with DTS rate study and/or optimization initiatives: \$30,000.

Item 49

To Department of Technology Services - Integrated Technology Division
 From Dedicated Credits Revenue 500,000
 Schedule of Programs:
 Automated Geographic Reference Center 500,000

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for Integrated Technology Division in Item 25, Chapter 11, Laws of Utah 2014, shall not lapse at the close of FY 2015. Expenditures of these funds are limited to Geographic Reference Center projects: \$400,000; and, Global Positioning System Reference Network upgrades and maintenance: \$100,000.

CAPITAL BUDGET

Item 50

To Capital Budget - Capital Improvements
 From General Fund, One-time 395,200
 Schedule of Programs:
 Capital Improvements 395,200

STATE BOARD OF BONDING COMMISSIONERS - DEBT SERVICE

Item 51

To State Board of Bonding Commissioners - Debt Service - Debt Service
 From General Fund, One-time 49,400
 From Education Fund, One-time 20,400
 From Transportation Investment Fund of 2005, One-time 14,900
 From Federal Funds (17,000)
 From County of First Class State Hwy Fund 300
 From Revenue Transfers 15,200
 Schedule of Programs:
 General Obligation Bonds
 Debt Service 83,200

The Legislature intends that in the event that sequestration or other federal action reduces the anticipated Build America Bond subsidy payments that are deposited into the Debt Service line item as federal funds, the Division of Finance, acting on behalf of the State Board of Bonding Commissioners, shall reduce the appropriated transfer from Nonlapsing Balances - Debt Service to the General Fund, One-time proportionally to the reduction in subsidy payment received, thus holding the Debt Service fund harmless.

BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR

DEPARTMENT OF HERITAGE AND ARTS

Item 52

To Department of Heritage and Arts - Administration

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$537,800 of any remaining amount of the \$3,620,200 ongoing General Fund appropriation provided by Item 1, Chapter 10, Laws of Utah 2014 for the Department of Heritage of Arts - Administration not lapse at the close of Fiscal Year 2015. These funds will be used for digitization projects and maintenance.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$116,900 of any remaining amount of the \$3,620,200 ongoing General Fund appropriation provided by Item 1, Chapter 10, Laws of Utah 2014 for the Department of Heritage of Arts - Administration not lapse at the close of Fiscal Year 2015. These funds will be used for application development rate payments to DTS.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$200,000 of any remaining amount of the \$3,620,200

ongoing General Fund appropriation provided by Item 1, Chapter 10, Laws of Utah 2014 for the Department of Heritage of Arts - Administration not lapse at the close of Fiscal Year 2015. These funds will be used for building renovation.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$292,800 of the funds provided by Item 1, Chapter 10, Laws of Utah 2014 for the Department of Heritage of Arts - Multicultural Affairs not lapse at the close of Fiscal Year 2015.

Item 53

To Department of Heritage and Arts - Historical Society

Under Section 63J-1-603 of the Utah Code, the Legislature intends that \$104,400 in Dedicated Credits provided by Item 2, Chapter 10, Laws of Utah 2014 for the Department of Heritage and Arts - Historical Society not lapse at the close of Fiscal Year 2015.

Item 54

To Department of Heritage and Arts - State Library

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$230,000 of the \$4,209,500 ongoing General Fund provided by Item 6, Chapter 10, Laws of Utah 2014 for the Department of Heritage and Arts - State Library not lapse at the close of Fiscal Year 2015. The State Library shall use the funds for CLEF (Community Library Enhancement Fund) grants in FY 2016.

Item 55

To Department of Heritage and Arts - Indian Affairs

Under Section 63J-1-603 of the Utah Code, the Legislature intends that any remaining amount of the \$218,200 ongoing General Fund and \$25,000 Dedicated Credit appropriation provided by Item 7, Chapter 10, Laws of Utah 2014 for the Department of Heritage and Arts - Indian Affairs not lapse at the close of Fiscal Year 2015.

GOVERNOR'S OFFICE OF ECONOMIC DEVELOPMENT

Item 56

To Governor's Office of Economic Development - Administration

From General Fund, One-time (10,000)
 Schedule of Programs:

Administration (10,000)

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Governor's Office of Economic Development Administration in Laws of Utah 2014, Chapter 10, Item 8 shall not lapse at the close of FY 2015. The use of any non-lapsing funds is limited to system management enhancements: \$200,000; business marketing efforts: \$300,000; and health system reform: \$700,000.

Item 57

To Governor's Office of Economic Development - STEM Action Center

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the STEM Action Center in Laws of Utah 2014, Chapter 10, Item 9 not lapse at the close of FY 2015. The use of any non-lapsing funds is limited to STEM Center Administrative activities: \$2,000,000.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the STEM Action Center, in Laws of Utah 2014, Chapter 318, Section 11 (6)(a)(b) and (7)(a)(b) shall not lapse at the close of FY 2015. The use of any non-lapsing funds is limited to STEM Action Center activities as indicated.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the STEM Action Center, in Laws of Utah 2013, Chapter 336, Section 9(4)(b) and (5)(b) shall not lapse at the close of FY 2015. The use of any non-lapsing funds is limited to STEM Action Center activities as indicated.

Item 58

To Governor's Office of Economic Development - Office of Tourism

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Governor's Office of Economic Development Office of Tourism, in Laws of Utah 2014, Chapter 10, Item 10 shall not lapse at the close of FY 2015. The use of any non-lapsing funds is limited to contractual obligations and support: \$350,000.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Tourism Marketing Performance Fund in Laws of Utah 2014, Chapter 282, Item 51 not lapse at the close of FY 2015. The use of any non-lapsing funds is limited to advertising and promotion: \$5,500,000.

Under Section 63J-1-602.4 of the Utah Code, the Legislature intends that appropriations provided for the Motion Picture Incentive Fund shall not lapse at the close of FY 2015. The use of any non-lapsing funds is limited to \$5,000,000.

Item 59

To Governor's Office of Economic Development - Business Development

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Governor's Office of Economic Development Business Development, Laws of Utah 2014, Chapter 10, Item 11 shall not lapse at the close of FY 2015. The use of any non-lapsing funds is limited to Business Cluster support: \$75,000; Business Resource Centers: \$350,000; Technology Commercialization and

Innovation Program contracts: \$3,000,000; International Development contracts and support: \$500,000; Procurement and Technical Assistance Center contracts: \$175,000; Rural Development contracts and support: \$200,000; and Corporate Recruitment contracts and support: \$100,000.

Item 60

To Governor’s Office of Economic Development - Pete Suazo Utah Athletics Commission

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Pete Suazo Utah Athletic Commission in Laws of Utah 2014, Chapter 10, Item 12 shall not lapse at the close of Fiscal Year 2015. The use of any non-lapsing funds is limited to the Pete Suazo Utah Athletic Program: \$175,000.

UTAH STATE TAX COMMISSION

Item 61

To Utah State Tax Commission - Tax Administration

From General Fund Restricted - Electronic Payment Fee Restricted

Account	300,000
Schedule of Programs:	
Motor Vehicles	300,000

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided to the Utah State Tax Commission in Item 13, Chapter 10, Laws of Utah 2014 not lapse at the close of Fiscal Year 2015. The use of nonlapsing funds is limited to the costs directly related to the modernization of tax and motor vehicle systems and processes.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that unspent funds available from Temporary Permit Fees paid to the Motor Vehicle Enforcement Division shall transfer at the close of Fiscal Year 2015 to the new restricted fund created for the deposit of these fees.

UTAH SCIENCE TECHNOLOGY AND RESEARCH GOVERNING AUTHORITY

Item 62

To Utah Science Technology and Research Governing Authority - University Research Teams

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$3,500,000 of any remaining amount of the \$11,111,300 ongoing General Fund appropriation provided by Item 18, Chapter 10, Laws of Utah 2014 for Utah Science Technology and Research Governing Authority - University of Utah Research Teams shall not lapse at the close of Fiscal Year 2015. Appropriation and Non-lapsing funds may be used, if approved by the USTAR Governing Authority, to transfer the financial obligation of researcher startup funds to the Research University.

The Research University shall account on the use of these funds annually and by request of the USTAR Governing Authority.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$2,500,000 of any remaining amount of the \$7,407,600 ongoing General Fund appropriation provided by Item 19, Chapter 10, Laws of Utah 2014 for Utah Science Technology and Research Governing Authority - Utah State University Research Teams shall not lapse at the close of Fiscal Year 2015. Appropriation and Non-lapsing funds may be used, if approved by the USTAR Governing Authority, to transfer the financial obligation of researcher startup funds to the Research University. The Research University shall account on the use of these funds annually and by request of the USTAR Governing Authority.

Item 63

To Utah Science Technology and Research Governing Authority - Technology Outreach and Innovation

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$332,000 of any remaining amount of the \$2,802,700 ongoing General Fund appropriation provided by Item 20, Chapter 10, Laws of Utah 2014 for Utah Science Technology and Research Governing Authority Technology Outreach and Innovation shall not lapse at the close of Fiscal Year 2015. These funds will be used for Go-to-market program and program impact survey.

Item 64

To Utah Science Technology and Research Governing Authority - USTAR Administration

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$350,000 of any remaining amount of the \$711,200 ongoing General Fund appropriation provided by Item 21, Chapter 10, Laws of Utah 2014 for Utah Science Technology and Research Governing Authority USTAR Administration shall not lapse at the close of Fiscal Year 2015. These funds will be used for a program assessment, audit and website.

DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

Item 65

To Department of Alcoholic Beverage Control - DABC Operations

Under Section 63J-1-603 of the Utah Code, the Legislature intends that any remaining amount from the \$2,050,000 one-time bond payment savings appropriation provided by Item 19, Chapter 10, Laws of Utah 2014 for the Department of Alcoholic Beverage Control - DABC Operations not lapse at the close of Fiscal Year 2015. These funds will be used for completion of the warehouse management software project.

LABOR COMMISSION

Item 66

To Labor Commission

Under section 63J-1-603 of the Utah code, the Legislature intends that appropriations provided to the Labor Commission in Item 21, Chapter 10, Laws of Utah 2014 not lapse at the close of Fiscal Year 2015. Nonlapsing funds shall be used for computer projects.

DEPARTMENT OF COMMERCE

Item 67

To Department of Commerce - Commerce General Regulation

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Office of Consumer Services in Item 22 of Chapter 10, Laws of Utah 2014, lapse to the Offices' Professional and Technical Services Fund at the close of Fiscal Year 2015.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Department of Commerce, Division of Public Utilities in Item 22 of Chapter 10, Laws of Utah 2014, lapse to the Divisions' Professional and Technical Services Fund at the close of Fiscal Year 2015.

Item 68

To Department of Commerce - Building Inspector Training

To Department of Commerce - Building Inspector Training Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Building Codes Education Funds received by the Division of Occupational and Professional Licensing under the authority of Section 15A-1-209-5 of the Utah Code Item 23 of Chapter 10, Laws of Utah 2014, shall not lapse at the close of Fiscal Year 2015.

Item 69

To Department of Commerce - Public Utilities Professional and Technical Services

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Division of Public Utilities Technical Services Fund in Item 24 of Chapter 10, Laws of Utah 2014, shall not lapse at the close of Fiscal Year 2015.

Item 70

To Department of Commerce - Office of Consumer Services Professional and Technical Services

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Professional and Technical Services Fund of the Office of Consumer Services in Item 25 of Chapter 10, Laws of Utah 2014, shall not lapse at the close of Fiscal Year 2015.

INSURANCE DEPARTMENT

Item 71

To Insurance Department - Insurance Department Administration

From Federal Funds 374,000
 Schedule of Programs:
 Administration 374,000

Under Section 63J-1-603 of the Utah Code the Legislature intends that appropriations for Insurance Department Administration not lapse at the close of Fiscal Year 2015. Any appropriations related to the transfer of federal funds of \$374,000 from the closing of the Comprehensive Health Insurance Pool program and \$100,000 for general program revenues shall not lapse at the close of FY 2015. Transferred funds from the Comprehensive Health Insurance Pool program shall be utilized for any late claims from former program participants, audit costs, legal fees related to the program and health outreach activities. Any other funds are for replacement of computers, printers and copy machines, and scanners for electronic storage of documents.

Item 72

To Insurance Department - Comprehensive Health Insurance Pool

The Legislature intends that any non-lapsing balances remaining from the Comprehensive Health Insurance Pool after the program close out lapse to the General Fund.

PUBLIC SERVICE COMMISSION

Item 73

To Public Service Commission

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided to the Public Service Commission in Item 32, Chapter 10, Laws of Utah 2014 not lapse at the close of Fiscal Year 2015. The use of nonlapsing funds is limited to maintenance, upgrades, and licensing for the Public Service Commission's document management system; computer equipment and software upgrades; employee training and incentives; and special projects/studies that might require consultants or temporary employees.

Item 74

To Public Service Commission - Speech and Hearing Impaired

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided to the Public Service Commission in Item 33, Chapter 10, Laws of Utah 2014 not lapse at the close of Fiscal Year 2015. Ending balances for the Speech and Hearing Impaired program are non-lapsing under section 54-8b-10(5)(d).

SOCIAL SERVICES

DEPARTMENT OF HEALTH

Item 75

To Department of Health - Executive
 Director's Operations
 From Federal Funds (30,800)
 Schedule of Programs:
 Program Operations (30,800)

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Department of Health's Executive Director's Office in Item 20 of Chapter 13, Laws of Utah 2014 shall not lapse at the close of Fiscal Year 2015. The use of any nonlapsing funds is limited to \$225,000 for computer equipment, information technology hosting and storage costs, software development, and employee training.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Department of Health's Executive Director's Office in Item 20 of Chapter 13, Laws of Utah 2014 shall not lapse at the close of Fiscal Year 2015. The use of any nonlapsing funds is limited to \$375,000 for: (1) federal indirect reimbursement of \$150,000 due to an over-collection of Department of Technology Services encryption costs during FY 2015. The federal reimbursement will be reflected in lower indirect rates for Fiscal Year 2016; (2) Rewrite of the Utah Medical Examiners Database and the Electronic Death Entry Network which do not support mobile device and broad Internet interfaces; (3) Replacement of personal computers, software development, and information technology equipment in Executive Directors Office; and (4) Temporary Information Technology Manager to support server consolidation efforts and implementation of the Change Management initiative.

The Legislature intends that the Department of Health prepare proposed performance measures for all new state funding or TANF federal funds for building blocks and give this information to the Office of the Legislative Fiscal Analyst by June 30, 2015. At a minimum the proposed measures should include those presented to the Subcommittee during the requests for funding. If the same measures are not included, a detailed explanation as to why should be included. The Department of Health shall provide its first report on its performance measures to the Office of the Legislative Fiscal Analyst by October 31, 2015. The Office of the Legislative Fiscal Analyst shall give this information to the legislative staff of the Health and Human Services Interim Committee.

The Legislature intends the departments of Health, Human Services, and Workforce Services and the Utah State Office of

Rehabilitation provide to the Office of the Legislative Fiscal Analyst by June 1, 2015 a report outlining how funds are distributed within the state when passed through to local government entities or allocated to various regions and how often these distributions are reviewed and altered to reflect the relevant factors associated with the programs. (1) Is the program considered a statewide program (this would include something that serves all rural areas)? a. Is the implementation of the program really statewide? If not, is there a compelling reason why? (2) Who gets the money (by county)? (3) What is the methodology for distributing the money? a. How does the distribution compare to actual need as expressed by population? i. [If distributions are not reflecting current need (as represented by population), please explain why not?] b. If not done by population, what is the reason? (4) Does statute say anything about distribution and equity for the program?

Item 76

To Department of Health - Family Health
 and Preparedness
 From General Fund, One-time 56,000
 From Federal Funds 8,079,800
 Schedule of Programs:
 Maternal and Child Health 7,778,100
 Health Facility Licensing and
 Certification 357,700

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$50,000 of Item 21 of Chapter 13, Laws of Utah 2014, funds appropriated for the Department of Health's Assistance for People with Bleeding Disorders Program shall not lapse at the close of Fiscal Year 2015. The use of any nonlapsing funds is limited to services to eligible clients.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$250,000 of Item 21 of Chapter 13, Laws of Utah 2014 for the Department of Health's Emergency Medical Services shall not lapse at the close of Fiscal Year 2015. The use of any nonlapsing funds is limited to testing, certifications, background screenings, replacement testing equipment and testing supplies.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that civil money penalties collected for the Department of Health's Child Care Licensing and Health Care Licensing in Item 21 of Chapter 13, Laws of Utah 2014 from childcare and health care provider violations shall not lapse at the close of Fiscal Year 2015. The use of any nonlapsing funds is limited to trainings for providers and staff, as well as upgrades to the Child Care Licensing database.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$245,000 of Item 21 of Chapter 13, Laws of Utah 2014 for the Department of Health's Family Health and Preparedness line item not lapse at the close of Fiscal Year 2015. The use of any

nonlapsing funds is limited to health facility licensure and certification activities.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$210,000 of Item 21 of Chapter 13, Laws of Utah 2014 from fees collected for the purpose of plan reviews by the Department of Health's Bureau of Health Facility Licensure, Certification and Resident Assessment shall not lapse at the close of Fiscal Year 2015. The use of any nonlapsing funds is limited to plan review activities.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that criminal fines and forfeiture money collected for the Department of Health's Emergency Medical Services in Item 21 of Chapter 13, Laws of Utah 2014 shall not lapse at the close of Fiscal Year 2015. The use of any nonlapsing funds is limited to purposes outlined in Section 26-8a-207(2).

Item 77

To Department of Health - Disease Control and Prevention

From General Fund, One-time	(58,400)
From Federal Funds	(19,190,500)
From Dedicated Credits Revenue	148,100
Schedule of Programs:	
Laboratory Operations and Testing	89,700
Health Promotion	(22,346,300)
Epidemiology	3,155,800

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$500,000 of Item 22 of Chapter 13, Laws of Utah 2014, for the Department of Health's Disease Control and Prevention line item for alcohol, tobacco, and other drug prevention reduction, cessation, and control programs shall not lapse at the close of Fiscal Year 2015. The use of any nonlapsing funds is limited to alcohol, tobacco, and other drug prevention, reduction, cessation, and control programs or for emergent disease control and prevention needs.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$525,000 of Item 22 of Chapter 13, Laws of Utah 2014 for the Department of Health's Disease Control and Prevention line item shall not lapse at the close of Fiscal Year 2015. The use of any nonlapsing funds is limited to laboratory equipment, computer equipment, software, and building improvements.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$175,000 of Item 22 of Chapter 13, Laws of Utah 2014 for the Department of Health's Disease Control and Prevention line item shall not lapse at the close of Fiscal Year 2015. The use of any nonlapsing funds is limited to maintenance or replacement of computer equipment, software, or other purchases or services that improve or expand the services provided by the Bureau of Epidemiology.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$250,000 of Item 21 of Chapter 13, Laws of Utah 2014 fees collected for the Newborn Screening Program shall not lapse at the close of Fiscal Year 2015. The use of any nonlapsing funds is limited to maintenance, upgrading, replacement, or purchase of laboratory or computer equipment and software.

Item 78

To Department of Health - Medicaid and Health Financing

Under Section 63J-1-603 of the Utah Code, the Legislature intends up to \$475,000 provided for the Department of Health's Medicaid and Health Financing line item in Item 24 of Chapter 13, Laws of Utah 2014 shall not lapse at the close of Fiscal Year 2015. The use of nonlapsing funds is limited to compliance with federally mandated projects and the purchase of computer equipment and software.

Under Section 63J-1-603 of the Utah Code, the Legislature intends up to \$1,000,000 provided for the Department of Health's Medicaid and Health Financing line item in Item 70 of Chapter 282, Laws of Utah 2014 shall not lapse at the close of Fiscal Year 2015. The use of nonlapsing funds is limited to the purchase of telehealth equipment.

Item 79

To Department of Health - Medicaid Sanctions

Under Section 63J-1-603 of the Utah Code, funds collected as a result of sanctions imposed under Section 1919 of Title XIX of the Federal Social Security Act and authorized in Section 26-18-3 of the Utah Code shall not lapse at the close of Fiscal Year 2015. The use of any nonlapsing funds is limited to the purposes outlined in Section 1919.

Item 80

To Department of Health - Children's Health Insurance Program

From General Fund, One-time	4,288,700
From Federal Funds	8,153,400
From General Fund Restricted -	
Tobacco Settlement Account	(1,488,700)
Schedule of Programs:	
Children's Health Insurance	
Program	10,953,400

Item 81

To Department of Health - Medicaid Mandatory Services

From General Fund, One-time	3,137,000
From Federal Funds	680,000
Schedule of Programs:	
Managed Health Care	3,817,000

Under Section 63J-1-603 of the Utah Code, the Legislature intends up to \$3,500,000 provided for the Department of Health's Medicaid Management Information System Replacement in Item 72 of Chapter 282, Laws of Utah 2014 shall not lapse at the close of Fiscal Year 2015. The use of any nonlapsing

funds is limited to the redesign and replacement of the Medicaid Management Information System.

Item 82

To Department of Health - Medicaid
Optional Services
From General Fund, One-time 5,350,000
Schedule of Programs:
Other Optional Services 5,350,000

**DEPARTMENT OF
WORKFORCE SERVICES**

Item 83

To Department of Workforce
Services - Administration

Under Section 63J-1-603 of the Utah Code the Legislature intends that up to \$200,000 of the appropriations provided for the Administration line item in Item 29 of Chapter 13 Laws of Utah 2014 not lapse at the close of Fiscal Year 2015. The use of any nonlapsing funds is limited to computer equipment and software and special projects and studies.

The Legislature intends that the Department of Workforce Services prepare proposed performance measures for all new state funding or TANF federal funds for building blocks and give this information to the Office of the Legislative Fiscal Analyst by June 30, 2015. At a minimum the proposed measures should include those presented to the Subcommittee during the requests for funding. If the same measures are not included, a detailed explanation as to why should be included. The Department of Workforce Services shall provide its first report on its performance measures to the Office of the Legislative Fiscal Analyst by October 31, 2015. The Office of the Legislative Fiscal Analyst shall give this information to the legislative staff of the Health and Human Services Interim Committee.

The Legislature intends the departments of Health, Human Services, and Workforce Services and the Utah State Office of Rehabilitation provide to the Office of the Legislative Fiscal Analyst by June 1, 2015 a report outlining how funds are distributed within the state when passed through to local government entities or allocated to various regions and how often these distributions are reviewed and altered to reflect the relevant factors associated with the programs. (1) Is the program considered a statewide program (this would include something that serves all rural areas)? a. Is the implementation of the program really statewide? If not, is there a compelling reason why? (2) Who gets the money (by county)? (3) What is the methodology for distributing the money? a. How does the distribution compare to actual need as expressed by population? i. [If distributions are not reflecting current need (as represented by population), please

explain why not?] b. If not done by population, what is the reason? (4) Does statute say anything about distribution and equity for the program?

Item 84

To Department of Workforce Services -
Operations and Policy
From Federal Funds 14,438,600
Schedule of Programs:
Temporary Assistance to Needy
Families 7,196,000
Refugee Assistance 2,188,600
Eligibility Services 5,054,000

Under Section 63J-1-603 of the Utah Code the Legislature intends that up to \$3,100,000 of the appropriations provided for the Operation and Policy line item in Item 30 of Chapter 13 Laws of Utah 2014 not lapse at the close of Fiscal Year 2015. The use of any nonlapsing funds is limited to computer equipment and software and one-time projects associated with addressing client services due to caseload growth or refugee services.

Under Section 63J-1-603 of the Utah Code the Legislature intends that up to \$2,500,000 of the appropriations provided for the Operation and Policy line item in Item 75 of Chapter 282 Laws of Utah 2014 for the Special Administrative Expense Account not lapse at the close of Fiscal Year 2015. The use of any non-lapsing funds is limited to employment development projects and activities or one-time projects associated with client services.

Item 85

To Department of Workforce Services -
General Assistance
From Beginning Nonlapsing
Appropriation Balances (647,600)
Schedule of Programs:
General Assistance (647,600)

Notwithstanding intent language passed in Item 11, Chapter 13 Laws of Utah 2014 for the Department of Workforce Services General Assistance line item, the Legislature authorizes transferring \$647,600 beginning nonlapsing balances from the General Assistance line item to the General Fund Restricted - Pamela Atkinson Homeless Account.

Item 86

To Department of Workforce
Services - Unemployment Insurance

Under Section 63J-1-603 of the Utah Code the Legislature intends that up to \$60,000 of the appropriations provided for the Unemployment Insurance line item in Item 32 of Chapter 13 Laws of Utah 2014 not lapse at the close of Fiscal Year 2015. The use of any nonlapsing funds is limited to computer equipment and software and one-time projects associated with addressing appeals or public assistance overpayment caseload growth.

Item 87

To Department of Workforce Services - Housing and Community Development

Under Section 63J-1-603 of the Utah Code, the Legislature intends that General Fund appropriations provided by Item 33 Chapter 13 Laws of Utah 2014 for the Department of Workforce Services' Housing and Community Development line item not lapse at the close of Fiscal Year 2015. The amount of any nonlapsing funds shall not exceed \$1,000,000. The use of any nonlapsing authority is limited to general funds appropriated by the Legislature for building projects.

DEPARTMENT OF HUMAN SERVICES

Item 88

To Department of Human Services - Executive Director Operations

From Federal Funds 964,000
 Schedule of Programs:
 Fiscal Operations 964,000

The Legislature intends the Department of Human Services and the Department of Human Resource Management provide information to the Office of the Legislative Fiscal Analyst no later than June 1, 2015 regarding the following: 1) a listing of programs throughout the Department of Human Services by agency and by program documenting where drug testing of job applicants is taking place as well as where drug testing of job applicants is not currently taking place and 2) any formal or informal state policies regarding the use or discouragement of drug testing of job applicants.

The Legislature intends that the Department of Human Services prepare proposed performance measures for all new state funding or TANF federal funds for building blocks and give this information to the Office of the Legislative Fiscal Analyst by June 30, 2015. At a minimum the proposed measures should include those presented to the Subcommittee during the requests for funding. If the same measures are not included, a detailed explanation as to why should be included. The Department of Human Services shall provide its first report on its performance measures to the Office of the Legislative Fiscal Analyst by October 31, 2015. The Office of the Legislative Fiscal Analyst shall give this information to the legislative staff of the Health and Human Services Interim Committee.

The Legislature intends the departments of Health, Human Services, and Workforce Services and the Utah State Office of Rehabilitation provide to the Office of the Legislative Fiscal Analyst by June 1, 2015 a report outlining how funds are distributed within the state when passed through to local government entities or allocated to various

regions and how often these distributions are reviewed and altered to reflect the relevant factors associated with the programs. (1) Is the program considered a statewide program (this would include something that serves all rural areas)? a. Is the implementation of the program really statewide? If not, is there a compelling reason why? (2) Who gets the money (by county)? (3) What is the methodology for distributing the money? a. How does the distribution compare to actual need as expressed by population? i. [If distributions are not reflecting current need (as represented by population), please explain why not?] b. If not done by population, what is the reason? (4) Does statute say anything about distribution and equity for the program?

Item 89

To Department of Human Services - Division of Substance Abuse and Mental Health

From Federal Funds 3,002,700
 Schedule of Programs:
 Community Mental Health Services 3,002,700

Under Section 63J-1-603 of the Utah Code, the Legislature intends that any remaining funds provided by Item 38, Chapter 13, Laws of Utah 2014 for the Drug Courts program within the Department of Human Services' Division of Substance Abuse and Mental Health line item not lapse at the close of Fiscal Year 2015. The use of any non-lapsing funds is limited to "other charges/pass through" expenditures consistent with the requirements found at UCA 63J-1-603(3)(b).

Under Section 63J-1-603 of the Utah Code, the Legislature intends that any remaining funds provided by Item 38, Chapter 13, Laws of Utah 2014 for State Substance Abuse Services and Local Substance Abuse Services within the Department of Human Services' Division of Substance Abuse and Mental Health line item not lapse at the close of Fiscal Year 2015. The use of any non-lapsing funds is limited to "other charges/pass through" expenditures consistent with the requirements found at UCA 63J-1-603(3)(b).

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$50,000 of appropriations provided for the Department of Human Services' Division of Substance Abuse and Mental Health line item in Item 38, Chapter 13, Laws of Utah 2014 not lapse at the close of Fiscal Year 2015. These funds are to be used for the purchase of computer equipment and software, capital equipment or improvements, equipment, or supplies.

Item 90

To Department of Human Services - Division of Services for People with Disabilities

From General Fund, One-time (5,426,200)
 From Revenue Transfers - Medicaid ... 2,961,600
 Schedule of Programs:
 Community Supports Waiver (2,464,600)

Item 91

To Department of Human Services -
 Office of Recovery Services
 From Federal Funds 996,200
 Schedule of Programs:
 Financial Services 996,200

Item 92

To Department of Human Services - Division of
 Child and Family Services
 From General Fund, One-time 28,000
 From Federal Funds 1,402,900
 Schedule of Programs:
 Administration - DCFS 28,000
 Service Delivery 1,402,900

Under Section 63J-1-603 of the Utah Code, the Legislature intends that any remaining funds provided for the Division of Child and Family Services, in Item 41, Chapter 13, Laws of Utah 2014 not lapse at the close of FY 2015. The Legislature further intends that these non-lapsing funds are to be used for Adoption Assistance, Out of Home Care, Service Delivery, In-Home Services, Special Needs, and SAFE Management Information System modernization consistent with the requirements found at UCA 63J-1-603(3)(b).

Item 93

To Department of Human Services - Division of
 Aging and Adult Services
 From Federal Funds 333,200
 Schedule of Programs:
 Non-Formula Funds 333,200

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$50,000 of appropriations provided for the Department of Human Services' Division of Aging and Adult Services - Adult Protective Services, in Item 42, Chapter 13, Laws of Utah 2014 not lapse at the close of Fiscal Year 2015. These funds are to be used for the purchase of computer equipment and software, capital equipment or improvements, equipment, or supplies.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that any remaining funds provided by Item 42, Chapter 13, Laws of Utah 2014 for the Department of Human Services' Division of Aging and Adult Services not lapse at the close of Fiscal Year 2015. It is further the intent of the Legislature that these non-lapsing funds are to be used for client services for the Aging Waiver consistent with the requirements found at UCA 63J-1-603(3)(b).

STATE BOARD OF EDUCATION

Item 94

To State Board of Education - State Office of
 Rehabilitation
 From Education Fund, One-time 6,183,100
 From Federal Funds 6,400,000
 From Dedicated Credits Revenue 116,900
 From Revenue Transfers -
 Indirect Costs (2,011,200)

Schedule of Programs:

Executive Director 6,124,000
 Blind and Visually Impaired (106,600)
 Rehabilitation Services 5,427,900
 Disability Determination (671,500)
 Deaf and Hard of Hearing (85,000)

The Legislature intends that the Utah State Office of Rehabilitation prepare proposed performance measures for all new state funding or TANF federal funds for building blocks and give this information to the Office of the Legislative Fiscal Analyst by June 30, 2015. At a minimum the proposed measures should include those presented to the Subcommittee during the requests for funding. If the same measures are not included, a detailed explanation as to why should be included. The Utah State Office of Rehabilitation shall provide its first report on its performance measures to the Office of the Legislative Fiscal Analyst by October 31, 2015. The Office of the Legislative Fiscal Analyst shall give this information to the legislative staff of the Health and Human Services Interim Committee.

The Legislature intends the departments of Health, Human Services, and Workforce Services and the Utah State Office of Rehabilitation provide to the Office of the Legislative Fiscal Analyst by June 1, 2015 a report outlining how funds are distributed within the state when passed through to local government entities or allocated to various regions and how often these distributions are reviewed and altered to reflect the relevant factors associated with the programs. (1) Is the program considered a statewide program (this would include something that serves all rural areas)? a. Is the implementation of the program really statewide? If not, is there a compelling reason why? (2) Who gets the money (by county)? (3) What is the methodology for distributing the money? a. How does the distribution compare to actual need as expressed by population? i. [If distributions are not reflecting current need (as represented by population), please explain why not?] b. If not done by population, what is the reason? (4) Does statute say anything about distribution and equity for the program?

HIGHER EDUCATION

UNIVERSITY OF UTAH

Item 95

To University of Utah - Education and General
 From General Fund, One-time (70,000,000)
 From Education Fund, One-time 70,000,000

UTAH STATE UNIVERSITY

Item 96

To Utah State University - Education and General
 From Education Fund, One-time (730,600)
 Schedule of Programs:
 Education and General (730,600)

Item 97

To Utah State University - Water
 Research Laboratory
 From General Fund Restricted - Land
 Exchange Distribution Account (166,000)
 Schedule of Programs:
 Water Research Laboratory (166,000)

**NATURAL RESOURCES, AGRICULTURE,
 AND ENVIRONMENTAL QUALITY**

DEPARTMENT OF NATURAL RESOURCES

Item 98

To Department of Natural Resources -
 Administration

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for DNR Administration in Item 1, Chapter 5, Laws of Utah 2014, shall not lapse at the close of FY 2015. Expenditures of these funds are limited to: Capital Projects \$25,000; Operating Budget Items \$200,000.

Item 99

To Department of Natural Resources - Species
 Protection

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Species Protection program in Item 2, Chapter 5, Laws of Utah 2014, shall not lapse at the close of FY 2015. Expenditures of these funds are limited to projects started in 2015: \$200,000.

Item 100

To Department of Natural Resources - Watershed

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Watershed program in Item 4, Chapter 5, Laws of Utah 2014, shall not lapse at the close of FY 2015. Expenditures of these funds are limited to projects started in 2015: \$700,000.

Item 101

To Department of Natural Resources - Forestry,
 Fire and State Lands

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Division of Forestry, Fire, and State Lands in Item 5, Chapter 5, Laws of Utah 2014, shall not lapse at the close of FY 2015. Expenditures of these funds are limited to: Sovereign Lands Projects \$1,210,000; Bear River Migratory Bird Refuge Dispute \$100,000; Little Willow Water Line \$32,000; Navigational Hazards Removal \$20,000; Lands Maintenance \$50,000; Information Database \$110,000; Jordan River Assessment \$27,000; Bear River Baseline \$35,000; Bear Lake Public Access \$50,000, Cedar City Office Building \$1,000,000.

The Legislature intends that Division of Forestry, Fire, and State Lands purchase two

new vehicles in FY 2015 through the Division of Fleet Operations.

Item 102

To Department of Natural Resources - Oil, Gas and
 Mining

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Division of Oil, Gas, and Mining in Item 6, Chapter 5, Laws of Utah 2014, shall not lapse at the close of FY 2015. Expenditures of these funds are limited to: Mining Special Projects/Studies \$250,000; Computer Equipment/Software \$50,000; Employee Training/Incentives \$50,000; Equipment/Supplies \$50,000.

Item 103

To Department of Natural Resources - Wildlife
 Resources

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Wildlife Resources line item in Item 7, Chapter 5, Laws of Utah 2014, shall not lapse at the close of FY 2015. Expenditures of these funds are limited to projects funded from the Mule Deer Protection Restricted Account \$300,000; and projects funded from the Predator Control Restricted Account \$200,000.

The Legislature intends that up to \$180,000 be spent on livestock damage. \$90,000 will be from the General Fund and up to \$90,000 will be from the General Fund Restricted - Wildlife Resources account. The Legislature also intends that this appropriation shall not lapse at the close of FY 2015.

The Legislature intends that up to \$700,000 of Wildlife Resources budget may be used for big game depredation expenses. The Legislature also intends that half of these funds be from the General Fund Restricted - Wildlife Resources account and half from the General Fund. The Legislature also intends that this appropriation shall not lapse at the close of FY 2015.

Item 104

To Department of Natural Resources - Wildlife
 Resources Capital Budget

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Wildlife Resources Capital line item in Item 12, Chapter 5, Laws of Utah 2014, shall not lapse at the close of FY 2015. Expenditures of these funds are limited to Operations and Maintenance of the Hatchery Systems in the state: \$649,400.

Item 105

To Department of Natural Resources - Parks and
 Recreation Capital Budget
 From General Fund Restricted -
 State Park Fees 260,000
 Schedule of Programs:
 Renovation and Development 260,000

Item 106

To Department of Natural Resources -
 Utah Geological Survey
 From General Fund, One-time 300,000
 Schedule of Programs:
 Technical Services 300,000

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Utah Geological Survey in Item 14, Chapter 5, Laws of Utah 2014, shall not lapse at the close of FY 2015. Expenditures of these funds are limited to: Mineral Lease Projects \$830,000; Computer Equipment/Software \$60,000; Equipment/Supplies \$40,000; Employee Training/Incentives \$30,000.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that \$300,000 appropriated to assist with Geological Survey shortfall not lapse at the close of FY 2015.

Item 107

To Department of Natural Resources -
 Water Resources
 From Federal Funds 510,000
 Schedule of Programs:
 Construction 510,000

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Division of Water Resources in Item 15, Chapter 5, Laws of Utah 2014, shall not lapse at the close of FY 2015. Expenditures of these funds are limited to: Current Expenses \$50,000; Computer Equipment/Software \$25,000; Special Projects/Studies \$125,000.

Item 108

To Department of Natural Resources -
 Water Rights

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Division of Water Rights in Item 16, Chapter 5, Laws of Utah 2014, shall not lapse at the close of FY 2015. Expenditures of these funds are limited to: Computer Equipment/Software \$40,000; Adjudication \$50,000, Special Projects/Studies \$150,000; Employee Incentive/Training \$30,000, Equipment/Supplies \$50,000, Current Expense \$30,000.

DEPARTMENT OF ENVIRONMENTAL QUALITY

Item 109

To Department of Environmental Quality -
 Executive Director's Office

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for Executive Directors Office in Item 17, Chapter 5, Laws of Utah 2014, shall not lapse at the close of FY 2015. Expenditures of these funds are limited to high level nuclear waste opposition \$127,400; capital improvements/

maintenance and equipment \$350,000; administrative law judge \$150,000.

Item 110

To Department of Environmental Quality -
 Air Quality
 From General Fund, One-time 43,600
 Schedule of Programs:
 Air Quality 43,600

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for Division of Air Quality in Item 18, Chapter 5, Laws of Utah 2014, shall not lapse at the close of FY 2015. Expenditures of these funds are limited to reducing future operating permit fees \$100,000; air monitoring equipment \$200,000; public awareness campaign \$100,000.

Item 111

To Department of Environmental Quality -
 Environmental Response and Remediation
 From Petroleum Storage Tank
 Trust Fund (421,700)
 From Petroleum Storage Tank
 Loan Fund (173,300)
 Schedule of Programs:
 Environmental Response and
 Remediation (595,000)

Item 112

To Department of Environmental
 Quality - Radiation Control
 From Federal Funds 37,800
 Schedule of Programs:
 Radiation Control 37,800

Item 113

To Department of Environmental Quality -
 Water Quality
 From Dedicated Credits Revenue 496,900
 Schedule of Programs:
 Water Quality 496,900

Item 114

To Department of Environmental Quality -
 Drinking Water

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for Division of Drinking Water in Item 22, Chapter 5, Laws of Utah 2014, shall not lapse at the close of FY 2015. Expenditures of these funds are limited to computer and printer replacements \$10,000; special studies and database development \$200,000.

Item 115

To Department of Environmental Quality - Solid
 and Hazardous Waste

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for Division of Solid and Hazardous Waste in Item 23, Chapter 5, Laws of Utah 2014, shall not lapse at the close of FY 2015. Expenditures of these funds are limited to antifreeze collection tanks \$300,000; community outreach and public education \$125,000.

**PUBLIC LANDS POLICY
COORDINATING OFFICE**

Item 116

To Public Lands Policy Coordinating Office

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Public Lands Policy Coordinating Office in Item 24, Chapter 5, Laws of Utah 2014, shall not lapse at the close of FY 2015. Expenditures of these funds are limited to litigation expenses: \$800,000.

Item 117

To Public Lands Policy Coordinating Office -
Commission for Stewardship of Public Lands

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Commission for the Stewardship of Public Lands in Item 117, Chapter 422, Laws of Utah 2014, shall not lapse at the close of FY 2015. Expenditures of these funds are for the Commission to use at its discretion in carrying out its statutory duties: \$2,000,000.

Item 118

To Public Lands Policy Coordinating Office - Public
Lands Litigation

Under section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided to the Governor's Office - Public Lands Litigation in Item 14, Chapter 14, and Item 2, Chapter 282, Laws of Utah 2014 not lapse at the close of Fiscal Year 2015.

The Legislature intends that, should revenue to the GFR - Constitutional Defense Restricted Account (CDRA), created in UCA 63C-4a-402, come in lower than appropriations from the CDRA in Fiscal Year 2015, the Division of Finance not reduce the \$1,000,000 CDRA appropriation to the Governors Office - Public Lands Litigation line item but rather reduce other recipients' CDRA appropriations proportionately to the revenue decrease.

Item 119

To Public Lands Policy Coordinating Office -
Constitutional Defense Council

Under section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided to the Governor's Office - Constitutional Defense Council in Item 27, Chapter 417, Laws of Utah 2012 not lapse at the close of Fiscal Year 2015.

GOVERNOR'S OFFICE

Item 120

To Governor's Office - Office of
Energy Development

From Federal Funds 125,900

Schedule of Programs:

Office of Energy Development 125,900

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that

appropriations provided for the Office of Energy Development in Item 25, Chapter 5, Laws of Utah 2014, shall not lapse at the close of FY 2015. Expenditures of these funds are limited to commercial and industrial energy efficiency and renewable energy programs involving building improvements, infrastructure, transportation and agriculture: \$620,900; and, programs aimed at accomplishing the Governors 10-year strategic energy plan: \$150,200.

**DEPARTMENT OF
AGRICULTURE AND FOOD**

Item 121

To Department of Agriculture and
Food - Administration

From General Fund, One-time (40,800)

From Federal Funds 155,900

Schedule of Programs:

General Administration 129,100

Chemistry Laboratory (10,800)

Plant Industry (3,200)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the General Administration line item in Item 26, Chapter 5, Laws of Utah 2014, shall not lapse at the close of FY 2015. Expenditures of these funds are limited to: Computer Equipment/Software \$35,000; Employee Training/Incentives \$140,000; Equipment/Supplies \$75,000; Special Projects/Studies \$250,000.

Item 122

To Department of Agriculture and Food -
Animal Health

From General Fund, One-time 144,800

From Federal Funds (73,900)

Schedule of Programs:

Animal Health (96,000)

Auction Market Veterinarians (12,200)

Brand Inspection 35,700

Meat Inspection 143,400

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the General Administration line item in Item 27, Chapter 5, Laws of Utah 2014, shall not lapse at the close of FY 2015. Expenditures of these funds are limited to: Employee Training/Incentives \$75,000; Special Projects/Studies \$225,000.

Item 123

To Department of Agriculture and Food -
Plant Industry

From General Fund, One-time (222,900)

From Federal Funds (63,000)

Schedule of Programs:

Environmental Quality (189,900)

Grain Inspection 1,500

Insect Infestation (203,400)

Plant Industry 208,600

Grazing Improvement Program (102,700)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the General

Administration line item in Item 28, Chapter 5, Laws of Utah 2014, shall not lapse at the close of FY 2015. Expenditures of these funds are limited to: Capital Equipment or Improvements \$100,000; Computer Equipment/Software \$50,000; Employee Training/Incentives \$60,000; Equipment/Supplies \$100,000; Vehicles \$40,000; Special Projects/Studies \$600,000.

Item 124

To Department of Agriculture and Food - Regulatory Services
From General Fund, One-time 102,700
From Federal Funds (19,000)
From Dedicated Credits Revenue 415,900
Schedule of Programs:
Regulatory Services 499,600

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the General Administration line item in Item 26, Chapter 5, Laws of Utah 2014, shall not lapse at the close of FY 2015. Expenditures of these funds are limited to: Computer Equipment/Software \$50,000; Employee Training/Incentives \$80,000; Equipment/Supplies \$100,000; Special Projects/Studies \$520,000.

The Legislature intends that Department of Agriculture and Food purchase one new vehicle in FY 2015 for the Regulatory Services line item.

Item 125

To Department of Agriculture and Food - Marketing and Development
From General Fund, One-time 16,200
Schedule of Programs:
Marketing and Development 16,200

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the General Administration line item in Item 26, Chapter 5, Laws of Utah 2014, shall not lapse at the close of FY 2015. Expenditures of these funds are limited to: Employee Training/Incentives \$40,000; Equipment/Supplies \$50,000; Special Projects/Studies \$110,000.

Item 126

To Department of Agriculture and Food - Predatory Animal Control

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for Predatory Animal Control in Item 30, Chapter 5, Laws of Utah 2014, shall not lapse at the close of FY 2015. Expenditures of these funds are limited to: Employee Training/Incentives \$40,000; Equipment/Supplies \$50,000; Vehicles \$30,000; Special Projects/Studies \$200,000.

The Legislature intends that Department of Agriculture and Food purchase one new vehicle in FY 2015 for the Predatory Animal Control line item.

Item 127

To Department of Agriculture and Food - Resource Conservation

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for Resource Conservation in Item 32, Chapter 5, Laws of Utah 2014, shall not lapse at the close of FY 2015. Expenditures of these funds are limited to: Capital Equipment or Improvements \$30,000; Computer Equipment/Software \$25,000; Employee Training/Incentives \$20,000; Equipment/Supplies \$20,000; Vehicles \$25,000; Special Projects/Studies \$80,000.

The Legislature intends that Department of Agriculture and Food purchase seven new vehicles in FY 2015 for the Resource Conservation line item.

Item 128

To Department of Agriculture and Food - Invasive Species Mitigation

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for Invasive Species Mitigation in Item 32, Chapter 5, Laws of Utah 2014, shall not lapse at the close of FY 2015. Expenditures of these funds are limited to invasive species mitigation projects \$1,000,000.

Item 129

To Department of Agriculture and Food - Rangeland Improvement

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for Rangeland Improvement in Item 33, Chapter 5, Laws of Utah 2014, shall not lapse at the close of FY 2015. Expenditures of these funds are limited to rangeland improvement projects \$1,000,000.

RETIREMENT AND INDEPENDENT ENTITIES

CAREER SERVICE REVIEW OFFICE

Item 130

To Career Service Review Office

Under the terms of Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Career Service Review Office in Laws of Utah 2014, Chapter 6, Item 2 shall not lapse at the close of fiscal year 2015. The use of any nonlapsing funds is limited to \$30,000 for grievance resolution.

DEPARTMENT OF HUMAN RESOURCE MANAGEMENT

Item 131

To Department of Human Resource Management - Human Resource Management

Under the terms of Section 63J-1-603 of the Utah Code, the Legislature intends that

appropriations provided for the Career Service Review Office in Laws of Utah 2014, Chapter 6, Item 3 shall not lapse at the close of fiscal year 2015. The use of any nonlapsing funds is limited to \$250,000 for Human Resource Enterprise system rebuild and \$50,000 for Statewide Management Training.

EXECUTIVE APPROPRIATIONS

UTAH NATIONAL GUARD

Item 132

To Utah National Guard
 From Federal Funds 30,000
 Schedule of Programs:
 Operations and Maintenance 30,000

Under terms of Section 63J-1-603(3)(a) Utah Code Annotated, the Legislature intends that appropriations provided for the Utah National Guard in item 1, Chapter 12, Laws of Utah 2014 not lapse at the close of Fiscal Year 2015.

DEPARTMENT OF VETERANS' AND MILITARY AFFAIRS

Item 133

To Department of Veterans' and Military Affairs - Veterans' and Military Affairs

Under terms of Section 63J-1-603(3)(a) Utah Code Annotated, the Legislature intends that appropriations provided for the Department of Veterans' and Military Affairs in item 2, Chapter 12, Laws of Utah 2014 not lapse at the close of Fiscal Year 2015.

Under terms of Section 63J-1-603(3)(a) Utah Code Annotated, the Legislature intends that appropriations provided for the Department of Veterans' and Military Affairs to develop a plan to move the Utah Air National Guard to Hill Air Force Base in item 139, Chapter 282, Laws of Utah 2014 not lapse at the close of Fiscal Year 2015. The use of any nonlapsing funds is limited to the same purpose as the original appropriation.

CAPITOL PRESERVATION BOARD

Item 134

To Capitol Preservation Board
 From General Fund, One-time 7,800
 Schedule of Programs:
 Capitol Preservation Board 7,800

Under terms of Section 63J-1-603(3)(a) Utah Code Annotated, the Legislature intends that appropriations provided for the Capitol Preservation Board in item 3, Chapter 12, Laws of Utah 2014 not lapse at the close of Fiscal Year 2015.

LEGISLATURE

Item 135

To Legislature - Senate

From General Fund, One-time (25,000)
 Schedule of Programs:
 Administration (25,000)

Item 136

To Legislature - House of Representatives
 From General Fund, One-time (25,000)
 Schedule of Programs:
 Administration (25,000)

Item 137

To Legislature - Legislative Printing
 From Dedicated Credits Revenue 75,000
 Schedule of Programs:
 Administration 75,000

Subsection 1(b). Expendable Funds and

Accounts. The Legislature has reviewed the following expendable funds. Where applicable, the Legislature authorizes the State Division of Finance to transfer amounts among funds and accounts as indicated. Outlays and expenditures from the recipient funds or accounts may be made without further legislative action according to a fund or account's applicable authorizing statute.

BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR

GOVERNOR'S OFFICE OF ECONOMIC DEVELOPMENT

Item 138

To Governor's Office of Economic Development - Industrial Assistance Fund
 From General Fund, One-time 4,525,000
 Schedule of Programs:
 Industrial Assistance Fund 4,525,000

PUBLIC SERVICE COMMISSION

Item 139

To Public Service Commission - Universal Telecommunications Support Fund

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided to the Public Service Commission in Item 35, Chapter 10, Laws of Utah 2014 not lapse at the close of Fiscal Year 2015. The Universal Telecommunications Support Fund is set in statute under section 54-8b-15.

SOCIAL SERVICES

DEPARTMENT OF WORKFORCE SERVICES

Item 140

To Department of Workforce Services - Permanent Community Impact Bonus Fund
 From General Fund Restricted - Land Exchange Distribution Account 12,000
 Schedule of Programs:
 Permanent Community Impact Bonus Fund 12,000

EXECUTIVE APPROPRIATIONS

CAPITOL PRESERVATION BOARD

Item 141

To Capitol Preservation Board - State Capitol Restricted Special Revenue Fund
 From Dedicated Credits Revenue 100,000
 Schedule of Programs:
 State Capitol Fund 100,000

Subsection 1(c). Business-like Activities.

The Legislature has reviewed the following proprietary funds. Under the terms and conditions of Utah Code 63J-1-410, for any included Internal Service Fund the Legislature approves budgets, full-time permanent positions, and capital acquisition amounts as indicated, and appropriates to the funds as indicated estimated revenue from rates, fees, and other charges. Where applicable, the Legislature authorizes the State Division of Finance to transfer amounts among funds and accounts as indicated.

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

UTAH DEPARTMENT OF CORRECTIONS

Item 142

To Utah Department of Corrections - Utah Correctional Industries

Under Section 63J-1-603 of the Utah Code, the Legislature intends that the appropriations for the Utah Department of Corrections - Utah Correctional Industries in item 43 of chapter 14, Laws of Utah 2014 not lapse at the close of Fiscal Year 2015.

INFRASTRUCTURE AND GENERAL GOVERNMENT

DEPARTMENT OF ADMINISTRATIVE SERVICES INTERNAL SERVICE FUNDS

Item 143

To Department of Administrative Services - Division of Fleet Operations
 From Nonlapsing Balances - Division of Finance 250,000
 Schedule of Programs:
 ISF - Motor Pool 250,000

The Legislature intends that appropriations for Fleet Operations not lapse capital outlay authority granted within Fiscal Year 2015 for vehicles not delivered by the end of Fiscal Year 2015 in which vehicle purchase orders were issued obligating capital outlay funds.

Subsection 1(d). Restricted Fund and Account Transfers. The Legislature authorizes the State Division of Finance to transfer the following amounts among the following funds or accounts as indicated. Expenditures and outlays from the recipient

funds must be authorized elsewhere in an appropriations act.

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

FUND AND ACCOUNT TRANSFERS

Item 144

To Fund and Account Transfers - General Fund Restricted - UHP Aero Bureau Restricted Account
 From General Fund, One-time 766,500
 Schedule of Programs:
 General Fund Restricted - UHP Aero Bureau Restricted Account 766,500

SOCIAL SERVICES

FUND AND ACCOUNT TRANSFERS

Item 145

To Fund and Account Transfers - GFR - Homeless Account
 From Beginning Nonlapsing Appropriation Balances 647,600
 Schedule of Programs:
 General Fund Restricted - Pamela Atkinson Homeless Account 647,600

Notwithstanding intent language passed in Item 11, Chapter 13 Laws of Utah 2014 for the Department of Workforce Services General Assistance line item, the Legislature authorizes transferring \$647,600 beginning nonlapsing balances from the General Assistance line item to the General Fund Restricted - Pamela Atkinson Homeless Account.

Item 146

To Fund and Account Transfers - State Endowment Fund
 From General Fund Restricted - Tobacco Settlement Account 1,488,700
 Schedule of Programs:
 State Endowment Fund 1,488,700

Subsection 1(e). Transfers to Unrestricted Funds. The Legislature authorizes the State Division of Finance to transfer the following amounts to the unrestricted General, Education, or Uniform School Fund as indicated from the restricted funds or accounts indicated. Expenditures and outlays from the General, Education, or Uniform School Fund must be authorized elsewhere in an appropriations act.

BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR

TRANSFERS TO UNRESTRICTED FUNDS

Item 147

To General Fund
 From Comprehensive Health Insurance Pool 16,204,500
 From Consumer Protection Education & Training Fund 1,973,000
 Schedule of Programs:

General Fund, One-time 18,177,500

SOCIAL SERVICES

TRANSFERS TO UNRESTRICTED FUNDS

Item 148

To General Fund

From General Fund Restricted -

Victims of Domestic Violence

Services Account (15,500)

Schedule of Programs:

General Fund, One-time (15,500)

Subsection 1(f). Capital Project Funds. The Legislature has reviewed the following capital project funds. Where applicable, the Legislature authorizes the State Division of Finance to transfer amounts among funds and accounts as indicated.

**INFRASTRUCTURE AND
GENERAL GOVERNMENT**

TRANSPORTATION

Item 149

To Transportation - Transportation Investment Fund of 2005

From Designated Sales Tax 15,158,500

Schedule of Programs:

Transportation Investment Fund . . . 15,158,500

CAPITAL BUDGET

Item 150

To Capital Budget - DFCM Capital Projects Fund

The Legislature intends that the Division of Facilities Construction and Management (DFCM) transfer \$960,700 from the Project Reserve Fund to the Department of Corrections (UDC) to be used in the following manner: (1) \$190,700 for equipment and furnishings for the new 192 bed Gunnison pod, and (2) \$770,000 for the purchase of vehicles. This funding comes from surplus money that was transferred from UDC to DFCM in previous years for the retrofit of the Fortitude Parole Violator Center.

The Legislature intends that the Division of Facilities and Construction Management transfer \$993,600 from the Capital Projects Fund to the Department of Corrections - Programs and Operations to be held by the Department of Corrections until such time as needed to help purchase a new prison site. This funding comes from surplus money that was transferred from Corrections to DFCM in previous years for the retrofit of the Fortitude Parole Violator Center.

Section 2. Effective Date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the Governor, or the day following the constitutional time limit of Utah Constitution Article VII, Section 8 without the Governor's signature, or in the case of a veto, the date of override.

CHAPTER 15**H. B. 17**

Passed February 12, 2015

Approved March 20, 2015

Effective May 12, 2015

MOTOR VEHICLE EMISSIONS

Chief Sponsor: Lee B. Perry

Senate Sponsor: Curtis S. Bramble

LONG TITLE**General Description:**

This bill modifies provisions relating to motor vehicle emissions.

Highlighted Provisions:

This bill:

- ▶ amends the visible contaminant emission standards for certain diesel engines;
- ▶ amends the penalty for violating the motor vehicle visible emissions limits; and
- ▶ makes technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

41-6a-1626, as renumbered and amended by Laws of Utah 2005, Chapter 2

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

Section 1. Section 41-6a-1626 is amended to read:**41-6a-1626. Mufflers -- Prevention of noise, smoke, and fumes -- Air pollution control devices.**

(1) (a) A vehicle shall be equipped, maintained, and operated to prevent excessive or unusual noise.

(b) A motor vehicle shall be equipped with a muffler or other effective noise suppressing system in good working order and in constant operation.

(c) A person may not use a muffler cut-out, bypass, or similar device on a vehicle.

(2) (a) Except while the engine is being warmed to the recommended operating temperature, the engine and power mechanism of a ~~[(i)]~~ gasoline-powered motor vehicle may not emit visible contaminants during operation~~[(i)]~~.

~~[(ii) diesel engine manufactured on or after January 1, 1973, may not emit visible contaminants of a shade or density darker than 20% opacity; and]~~

~~[(iii) diesel engine manufactured before January 1, 1973, may not emit visible contaminants of a shade or density darker than 40% opacity.]~~

(b) (i) As used in this Subsection (2)(b), "heavy tow" means a tow that exceeds the vehicle's maximum tow weight.

(ii) A diesel engine manufactured on or after January 1, 2008, may not emit visible contaminants during operation:

(A) except while the engine is being warmed to the recommended operating temperature or under a heavy tow; or

(B) unless the diesel engine is in a vehicle with a manufacturer's gross vehicle weight rating in excess of 26,000 pounds.

(iii) A diesel engine manufactured before January 1, 2008, may not emit visible contaminants of a shade or density that obscures a contrasting background by more than 20%, for more than five consecutive seconds:

(A) except while the engine is being warmed to the recommended operating temperature or under a heavy tow; or

(B) unless the diesel engine is in a vehicle with a manufacturer's gross vehicle weight rating in excess of 26,000 pounds.

~~[(b)]~~ (c) A person who violates the provisions of Subsection (2)(a) is guilty of a class C misdemeanor and shall be fined:

(i) not less than \$50 for a violation; or

(ii) not less than \$100 for a second or subsequent violation within three years of a previous violation of this section.

(3) (a) ~~[A]~~ If a motor vehicle is equipped by a manufacturer with air pollution control devices ~~[shall maintain]~~, the devices shall be maintained in good working order and in constant operation.

(b) For purposes of the first sale of a vehicle at retail, an air pollution control device may be substituted for the manufacturer's original device if the substituted device is at least as effective in the reduction of emissions from the vehicle motor as the air pollution control device furnished by the manufacturer of the vehicle as standard equipment for the same vehicle class.

(c) A person who renders inoperable an air pollution control device on a motor vehicle is guilty of a class B misdemeanor.

(4) Subsection (3) does not apply to a motor vehicle altered and modified to use clean fuel, as defined under Section 59-13-102, when the emissions from the modified or altered motor vehicle are at levels that comply with existing state or federal standards for the emission of pollutants from a motor vehicle of the same class.

CHAPTER 16**H. B. 18**

Passed March 5, 2015

Approved March 20, 2015

Effective July 1, 2015

**CHILDREN'S HEARING AID
PROGRAM AMENDMENTS**

Chief Sponsor: Rebecca P. Edwards

Senate Sponsor: Aaron Osmond

LONG TITLE**General Description:**

This bill amends provisions related to providing hearing aids for children.

Highlighted Provisions:

This bill:

- ▶ converts the Children's Hearing Aid Pilot Program to a permanent program;
- ▶ modifies eligibility requirements for the program;
- ▶ establishes a repeal date for certain sections of the Utah Health Code; and
- ▶ makes technical and conforming amendments.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

26-10-11, as enacted by Laws of Utah 2013, Chapter 195

63I-1-226, as last amended by Laws of Utah 2014, Chapters 25 and 118

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

Section 1. Section 26-10-11 is amended to read:**26-10-11. Children's Hearing Aid Program.**

(1) ~~[(a) There is established a pilot] The department shall offer a program to provide hearing aids to children [younger than three years old with hearing loss] who qualify under this section.~~

~~[(b) The department shall administer the program beginning on July 1, 2013, and ending June 30, 2015.]~~

(2) The department shall provide hearing aids to a child who:

(a) is younger than six years old;

~~[(a)]~~ (b) is a resident of Utah;

~~[(b)]~~ (c) has been diagnosed with hearing loss by ~~[an audiologist with pediatric expertise as having hearing loss;]~~

(i) an audiologist with pediatric expertise; and

(ii) a physician;

~~[(e)]~~ (d) provides documentation from an audiologist with pediatric expertise certifying that the child needs hearing aids;

~~[(d)]~~ (e) has obtained medical clearance by a medical provider for hearing aid fitting;

~~[(e) is younger than three years old;]~~

(f) does not qualify to receive a contribution that equals the full cost of a hearing aid ~~[through] from the state's Medicaid program or the Utah Children's Health Insurance Program; and~~

(g) meets the financial need qualification criteria established by the department by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for participation in the ~~[pilot]~~ program.

(3) (a) There is established the Children's Hearing Aid Advisory Committee.

(b) The committee shall be composed of five members appointed by the executive director, and shall include:

(i) one audiologist with pediatric expertise;

(ii) one speech language pathologist;

(iii) one teacher, certified under Title 53A, State System of Public Education, as a teacher of the deaf or a listening and spoken language therapist;

(iv) one ear, nose, and throat specialist; and

(v) one parent ~~[who has a child older than three years old with hearing loss.]~~ whose child:

(A) is six years old or older; and

(B) has hearing loss.

(c) A majority of the members constitutes a quorum.

(d) A vote of the majority of the members, with a quorum present, constitutes an action of the committee.

(e) The committee shall elect a chair from its members.

(f) The committee shall:

(i) meet at least quarterly;

(ii) recommend to the department medical criteria and procedures for selecting children who may qualify for assistance from the account; and

(iii) review rules developed by the department.

(g) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with Sections 63A-3-106 and 63A-3-107 and rules made by the Division of Finance, pursuant to Sections 63A-3-106 and 63A-3-107.

(h) The department shall provide staff to the committee.

(4) (a) There is created within the General Fund a restricted account known as the "Children's Hearing Aid ~~[Pilot]~~ Program Restricted Account."

(b) The Children's Hearing Aid [Pilot] Program Restricted Account shall consist of:

(i) amounts appropriated to the account by the Legislature; and

(ii) gifts, grants, devises, donations, and bequests of real property, personal property, or services, from any source, or any other conveyance that may be made to the account from private sources.

(c) Upon appropriation, all actual and necessary operating expenses for the committee [under] described in Subsection (3) shall be paid by the account.

(d) Upon appropriation, no more than 9% of the account money may be used for [administrative or other expenses of the department] the department's expenses.

(e) If this account is repealed in accordance with Section 63I-1-226, any remaining assets in the account shall be deposited into the General Fund.

(5) The department shall make rules [establishing a process to], in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish procedures for:

(a) [identify] identifying the children who are financially eligible to receive services under the [pilot] program; and

(b) [review and pay] reviewing and paying for services provided to a child under the [pilot] program.

~~[(6) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding implementation of the pilot program created under this section.]~~

~~[(7) The services provided under the pilot program created by this section:]~~

~~[(a) do not constitute a legal right or an entitlement of any kind; and]~~

~~[(b) may be withdrawn from a person at any time without notice and without cause.]~~

~~[(8) (a) The department shall make midterm and final reports to the Health and Human Services Interim Committee.]~~

~~[(b) The midterm and final reports shall identify the operation and accomplishments of the pilot program described in this section.]~~

~~[(c) The final report shall:]~~

~~[(i) recommend whether the Legislature should convert the pilot program to an ongoing program within the department; and]~~

~~[(ii) recommend statutory changes, if any, relating to the program.]~~

~~[(9) The Health and Human Services Interim Committee shall:]~~

~~[(a) determine whether the pilot program described in this section should be converted to an ongoing program within the department; and]~~

~~[(b) if the Health and Human Services Interim Committee determines that the pilot program should be converted to an ongoing program, prepare legislation to implement that conversion.]~~

(6) The department shall, before December 1 of each year, submit a report to the Health and Human Services Interim Committee that describes the operation and accomplishments of the program.

Section 2. Section 63I-1-226 is amended to read:

63I-1-226. Repeal dates, Title 26.

(1) Title 26, Chapter 9f, Utah Digital Health Service Commission Act, is repealed July 1, 2015.

(2) Section 26-10-11 is repealed July 1, [2015] 2020.

(3) Section 26-18-12, Expansion of 340B drug pricing programs, is repealed July 1, 2013.

(4) Section 26-21-23, Licensing of non-Medicaid nursing care facility beds, is repealed July 1, 2018.

(5) Section 26-21-211 is repealed July 1, 2013.

(6) Title 26, Chapter 33a, Utah Health Data Authority Act, is repealed July 1, 2024.

(7) Title 26, Chapter 36a, Hospital Provider Assessment Act, is repealed July 1, 2016.

(8) Section 26-38-2.5 is repealed July 1, 2017.

(9) Section 26-38-2.6 is repealed July 1, 2017.

(10) Title 26, Chapter 56, Hemp Extract Registration Act, is repealed July 1, 2016.

Section 3. Effective date.

This bill takes effect on July 1, 2015.

CHAPTER 17**H. B. 20**

Passed February 12, 2015

Approved March 20, 2015

Effective May 12, 2015

JURY DUTY AMENDMENTS

Chief Sponsor: Craig Hall

Senate Sponsor: Aaron Osmond

LONG TITLE**General Description:**

This bill amends provisions related to the Jury and Witness Act to address jury service requirements for specific counties.

Highlighted Provisions:

This bill:

- ▶ exempts counties of the fourth, fifth, and sixth class and counties of the third class with populations up to 75,000 from certain jury service requirements.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

78B-1-110, as last amended by Laws of Utah 2013, Chapter 202

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

Section 1. Section 78B-1-110 is amended to read:**78B-1-110. Limitations on jury service.**

(1) In any two-year period, a person may not:

~~[(1)]~~ (a) be required to serve on more than one grand jury;

~~[(2)]~~ (b) be required to serve as both a grand and trial juror;

~~[(3)]~~ (c) be required to attend court for prospective jury service as a trial juror more than one court day, except if necessary to complete service in a particular case; or

~~[(4)]~~ (d) if summoned for prospective jury service and the summons is complied with as directed, be selected for the qualified jury list more than once.

(2) (a) Subsection (1)(d) does not apply to counties of the fourth, fifth, and sixth class and counties of the third class with populations up to 75,000.

(b) (i) All population figures used for this section shall be derived from the most recent official census or census estimate of the United States Census Bureau.

(ii) If population estimates are not available from the United States Census Bureau, population figures shall be derived from the estimate of the Utah Population Estimates Committee.

CHAPTER 18**H. B. 35**

Passed March 9, 2015

Approved March 20, 2015

Effective May 12, 2015

PARENT-TIME SCHEDULE AMENDMENTS

Chief Sponsor: V. Lowry Snow
Senate Sponsor: Lyle W. Hillyard

LONG TITLE**General Description:**

This bill creates an optional parent-time schedule.

Highlighted Provisions:

This bill:

- ▶ creates an optional parent-time schedule of 145 overnights;
- ▶ sets holiday schedules; and
- ▶ provides for specific elections by the noncustodial parent.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

30-3-34, as last amended by Laws of Utah 2008, Chapter 146

ENACTS:

30-3-35.1, Utah Code Annotated 1953

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

Section 1. Section 30-3-34 is amended to read:**30-3-34. Best interests -- Rebuttable presumption.**

(1) If the parties are unable to agree on a parent-time schedule, the court may establish a parent-time schedule consistent with the best interests of the child.

(2) The advisory guidelines as provided in Section 30-3-33 and the parent-time schedule as provided in Sections 30-3-35 and 30-3-35.5 shall be presumed to be in the best interests of the child unless the court determines that Section 30-3-35.1 should apply. The parent-time schedule shall be considered the minimum parent-time to which the noncustodial parent and the child shall be entitled unless a parent can establish otherwise by a preponderance of the evidence that more or less parent-time should be awarded based upon any of the following criteria:

- (a) parent-time would endanger the child's physical health or significantly impair the child's emotional development;
- (b) the distance between the residency of the child and the noncustodial parent;
- (c) a substantiated or unfounded allegation of child abuse has been made;

(d) the lack of demonstrated parenting skills without safeguards to ensure the child's well-being during parent-time;

(e) the financial inability of the noncustodial parent to provide adequate food and shelter for the child during periods of parent-time;

(f) the preference of the child if the court determines the child to be of sufficient maturity;

(g) the incarceration of the noncustodial parent in a county jail, secure youth corrections facility, or an adult corrections facility;

(h) shared interests between the child and the noncustodial parent;

(i) the involvement or lack of involvement of the noncustodial parent in the school, community, religious, or other related activities of the child;

(j) the availability of the noncustodial parent to care for the child when the custodial parent is unavailable to do so because of work or other circumstances;

(k) a substantial and chronic pattern of missing, canceling, or denying regularly scheduled parent-time;

(l) the minimal duration of and lack of significant bonding in the parents' relationship prior to the conception of the child;

(m) the parent-time schedule of siblings;

(n) the lack of reasonable alternatives to the needs of a nursing child; and

(o) any other criteria the court determines relevant to the best interests of the child.

(3) The court shall enter the reasons underlying its order for parent-time that:

(a) incorporates a parent-time schedule provided in Section 30-3-35 or 30-3-35.5; or

(b) provides more or less parent-time than a parent-time schedule provided in Section 30-3-35 or 30-3-35.5.

(4) Once the parent-time schedule has been established, the parties may not alter the schedule except by mutual consent of the parties or a court order.

Section 2. Section 30-3-35.1 is enacted to read:**30-3-35.1. Optional schedule for parent-time for children 5 to 18 years of age.**

(1) The optional parent-time schedule in this section applies to children 5 to 18 years of age. This schedule is 145 overnights. Any impact on child support shall be consistent with Subsection 78B-12-102(14).

(2) The parents and the court may consider the following increased parent-time schedule as a minimum when the parties agree or the noncustodial parent can demonstrate the following:

- (a) the noncustodial parent has been actively involved in the child's life;

(b) the parties are able to communicate effectively regarding the child, or the noncustodial parent has a plan to accomplish effective communications regarding the child;

(c) the noncustodial parent has the ability to facilitate the increased parent-time;

(d) the increased parent-time would be in the best interest of the child; and

(e) any other factor the court considers relevant.

(3) In determining whether a noncustodial parent has been actively involved in the child's life, the court shall consider:

(a) demonstrated responsibility in caring for the child;

(b) involvement in day care;

(c) presence or volunteer efforts in the child's school and at extracurricular activities;

(d) assistance with the child's homework;

(e) involvement in preparation of meals, bath time, and bedtime for the child;

(f) bonding with the child; and

(g) any other factor the court considers relevant.

(4) In determining whether a noncustodial parent has the ability to facilitate the increased parent-time, the court shall consider:

(a) the geographic distance between the residences of the parents and the distance between the parents' residences and the child's school;

(b) the noncustodial parent's ability to assist with after school care;

(c) the health of the child and the noncustodial parent, consistent with Subsection 30-3-10(4);

(d) flexibility of employment or other schedule of the parent;

(e) ability to provide appropriate playtime with the child;

(f) history and ability of the parent to implement a flexible schedule for the child;

(g) physical facilities of the noncustodial parent's residence; and

(h) any other factor the court considers relevant.

(5) Any elections required to be made in accordance with this section by either parent concerning parent-time shall be made a part of the decree and made a part of the parent-time order. Elections may only be changed by mutual agreement, court order, or by the noncustodial parent in the event of a change in the child's schedule.

(6) If the parties agree or the court enters an order for the optional parent-time schedule as set forth in this section, a parenting plan in compliance with Sections 30-1-10.7 through 30-3-10.10 shall be

filed with any order incorporating the following optional parent-time schedule:

(a) The noncustodial parent or the court may specify one weekday for parent-time. If no day is specified, weekday parent-time shall be on Wednesday from 5:30 p.m. until the following day when delivering the child to school, or until 8 a.m., if there is no school the following day. Once the election of the weekday is made, it may only be changed in accordance with Subsection (5). At the election of the noncustodial parent, weekday parent-time may commence:

(i) from the time the child's school is regularly dismissed; or

(ii) if school is not in session, and the parent is available to be with the child, at approximately 8 a.m., accommodating the custodial parent's work schedule.

(b) Beginning on the first weekend after the entry of the decree, the noncustodial parent shall be entitled to alternating weekends beginning on the first weekend after the entry of the decree from 6 p.m. on Friday until Monday when delivering the child to school, or until 8 a.m. if there is no school on Monday. At the election of the noncustodial parent, weekend parent-time may commence:

(i) from the time the child's school is regularly dismissed on Friday; or

(ii) if school is not in session, and the parent is available to be with the child, at approximately 8 a.m. on Friday, accommodating the custodial parent's work schedule.

(c) The provisions of Subsections 30-3-35(2)(f) through (o) shall be incorporated here and constitute the parent-time schedule with the exception that all instances that require the noncustodial parent to return the child at any time after 6 p.m. be changed so that the noncustodial parent is required to return the child to school the next morning or at 8 a.m., if there is no school.

(7) A stepparent, grandparent, or other responsible adult designated by the noncustodial parent may pick up the child if the custodial parent is aware of the identity of the individual, and if the noncustodial parent will be with the child by 7 p.m.

(8) Weekends include any "snow" days, teacher development days, or other days when school is not scheduled and that are contiguous to the weekend period.

(9) Holidays include any "snow" days, teacher development days after the child begins the school year, or other days when school is not scheduled, contiguous to the holiday period, and take precedence over weekend parent-time. Changes may not be made to the regular rotation of the alternating weekend parent-time schedule.

(a) If a holiday falls on a school day, the noncustodial parent shall be responsible for the child's attendance at school for that school day.

(b) If a holiday falls on a weekend or on a Friday or Monday and the total holiday period extends

beyond that time so that the child is free from school and the parent is free from work, the noncustodial parent shall be entitled to this lengthier holiday period.

(c) At the election of the noncustodial parent, parent-time over a scheduled holiday weekend may begin from the time the child's school is dismissed at the beginning of the holiday weekend or, if school is not in session, and if the noncustodial parent is available to be with the child, parent-time over a scheduled holiday weekend may begin at approximately 8 a.m., accommodating the custodial parent's work schedule, unless the court directs the application of Subsection (6)(a).

(10) Birthdays take precedence over holidays and extended parent-time, except Mother's Day and Father's Day. Birthdays do not take precedence over uninterrupted parent-time if the parent exercising uninterrupted time is out of town for the uninterrupted extended parent-time. At the discretion of the noncustodial parent, other siblings may be taken along for birthdays.

(11) Notwithstanding Subsection (9)(b), the Halloween holiday may not be extended beyond the hours designated in Subsection 30-3-35(2)(g)(vi).

(12) If there are children aged 5 to 18 and children under the age of five who are the natural or adopted children of the parties, the parents and the court should consider an upward deviation for parent-time with all the minor children so that parent-time is uniform based on a schedule pursuant to this section.

CHAPTER 19**H. B. 51**

Passed March 2, 2015
 Approved March 20, 2015
 Effective May 12, 2015

VOTER ELIGIBILITY AMENDMENTS

Chief Sponsor: R. Curt Webb
 Senate Sponsor: Jerry W. Stevenson

LONG TITLE**General Description:**

This bill amends the process by which a challenge to a voter's right to vote is reviewed.

Highlighted Provisions:

This bill:

- ▶ allows a person who challenges a voter's right to vote to submit documents in support of the person's claim;
- ▶ allows a challenged voter to submit documents in support of the challenged voter's right to vote; and
- ▶ limits the scope of a district court's review of an election officer's decision on a challenge to a voter's right to vote.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

20A-3-202.3, as enacted by Laws of Utah 2010, Chapter 83

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

Section 1. Section 20A-3-202.3 is amended to read:**20A-3-202.3. Pre-election challenges to a voter's eligibility in writing -- Procedure -- Form of challenge.**

(1) (a) A person may challenge the right to vote of a person whose name appears on the official register by filing with the election officer, during regular business hours and not later than 21 days before the date that early voting commences, a written statement that:

(i) lists the name and address of the person filing the challenge;

(ii) for each voter who is challenged:

(A) identifies the name of the challenged voter;

(B) lists the last known address or telephone number of the challenged voter;

(C) provides the basis for the challenge, as provided under Section 20A-3-202; ~~and~~

(D) provides facts and circumstances supporting the basis provided; and

(E) may include supporting documents, affidavits, or other evidence; and

(iii) includes a signed affidavit, which is subject to penalties of perjury, swearing that:

(A) the filer exercised due diligence to personally verify the facts and circumstances establishing the basis for the challenge; and

(B) according to the filer's personal knowledge and belief, the basis for the challenge under Section 20A-3-202 for each challenged voter is valid.

(b) The challenge may not be based on unsupported allegations or allegations by an anonymous person.

(c) The election officer may provide a form that meets the requirements of this section for challenges filed under this section.

(2) (a) If the challenge is not in the proper form or if the basis for the challenge does not meet the requirements of this part, the election officer may dismiss the challenge and notify the filer in writing of the reasons for the dismissal.

(b) A challenge is not in the proper form if the challenge form is incomplete.

(3) Upon receipt of a challenge that meets the requirements for filing under this section, the election officer shall, at least 14 days before the day on which early voting commences, attempt to notify each challenged voter:

(a) that a challenge has been filed against the challenged voter and the challenged voter may be required to cast a provisional ballot at the time of voting;

(b) of the basis for the challenge, which may include providing a copy of the written statement to the challenged voter; and

(c) that the challenged voter may submit information, a sworn statement, supporting documents, affidavits, or other evidence supporting the challenged voter's right to vote in the election to the election officer no later than seven days before the day on which early voting commences.

(4) (a) Before the day on which early voting commences, the election officer shall determine whether each challenged voter is eligible to vote.

(b) (i) The filer of the challenge has the burden to prove, by clear and convincing evidence, that the basis for challenging the voter's right to vote is valid.

(ii) The election officer shall resolve the challenge based on the available facts and information submitted, which may include voter registration records and other documents or information available to the election officer.

(5) A person who files a challenge under the requirements of this section is subject to criminal penalties for false statements as provided under Sections 76-8-503 and 76-8-504 and any other applicable criminal provision.

(6) (a) A decision of the election officer regarding a person's eligibility to vote may be appealed to the

district court having jurisdiction over the location where the challenge was filed.

(b) The district court shall uphold the decision of the election officer unless the district court determines that the decision was arbitrary, capricious, or unlawful.

(c) In making the district court's determination, the district court's review is limited to:

(i) the information submitted under Subsection (1)(a) by the person challenging the voter's eligibility;

(ii) the information submitted under Subsection (3)(c) by the challenged voter; and

(iii) any additional facts and information used by the election official to determine whether the challenged voter is eligible to vote, as indicated by the election official.

(7) A challenged voter may register to vote or change the location of the voter's voter registration if otherwise legally entitled to do so.

(8) All documents pertaining to a voter challenge are public records.

CHAPTER 20**H. B. 57**

Passed February 18, 2015

Approved March 20, 2015

Effective May 12, 2015

BENEFIT CORPORATIONS AMENDMENTS

Chief Sponsor: Keven J. Stratton
Senate Sponsor: Curtis S. Bramble

LONG TITLE**General Description:**

This bill modifies benefit corporations amendments.

Highlighted Provisions:

This bill:

- ▶ corrects the definition of “minimum status vote”;
- ▶ requires annual benefit reports to be filed with the Division of Corporations and Commercial Code at the same time the corporation files the annual report with the Division of Corporations and Commercial Code; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

16-10b-103, as enacted by Laws of Utah 2014, Chapter 394
16-10b-402, as enacted by Laws of Utah 2014, Chapter 394

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

Section 1. Section 16-10b-103 is amended to read:**16-10b-103. Definitions.**

As used in this chapter:

- (1) “Annual benefit report” means a report required under Section 16-10b-401.
- (2) “Benefit corporation” means a business corporation:
 - (a) that elects to become subject to this chapter; and
 - (b) the status of which as a benefit corporation has not been terminated.
- (3) “Benefit director” means the director designated as the benefit director of a benefit corporation under Section 16-10b-302.
- (4) “Benefit enforcement proceeding” means a proceeding in a court of competent jurisdiction for:
 - (a) failure of a benefit corporation to pursue or create general public benefit or a specific public benefit purpose set forth in its articles of incorporation; or
 - (b) a violation of an obligation, duty, or standard of conduct under this chapter.

(5) “Benefit officer” means the individual designated as the benefit officer of a benefit corporation under Section 16-10b-304.

(6) “Business corporation” means a corporation formed under Chapter 10a, Utah Revised Business Corporation Act, or Chapter 11, Professional Corporation Act.

(7) “Division” means the Division of Corporations and Commercial Code.

(8) “Executive officer” means:

- (a) a benefit corporation’s president;
- (b) a vice president of the benefit corporation in charge of a principal business unit, division, or function; or
- (c) any other officer who performs a policy-making function for the benefit corporation.

(9) “General public benefit” means a material positive impact on society and the environment:

- (a) taken as a whole;
- (b) assessed against a third-party standard; and
- (c) from the business of a benefit corporation.

(10) “Immediate family” means a parent, spouse, surviving spouse, child, or sibling of a person.

(11) (a) “Independent” means having no material relationship with a benefit corporation or a subsidiary of the benefit corporation.

(b) Serving as a benefit director or benefit officer does not make an individual not independent.

(c) A material relationship between an individual and a benefit corporation or any of its subsidiaries will be conclusively presumed to exist if one or more of the following apply:

- (i) the individual is, or has been within the last three years, an employee other than a benefit officer of the benefit corporation or a subsidiary of the benefit corporation;
- (ii) an immediate family member of the individual is, or has been within the last three years, an executive officer other than a benefit officer of the benefit corporation or a subsidiary of the benefit corporation; or
- (iii) there is beneficial or record ownership of 5% or more of the outstanding shares of the benefit corporation, calculated as if all outstanding rights to acquire equity interests in the benefit corporation had been exercised, by:
 - (A) the individual; or
 - (B) an entity of which the individual is a director, an officer, or a manager, or in which the individual owns beneficially or of record 5% or more of the outstanding equity interests, calculated as if all outstanding rights to acquire equity interests in the entity had been exercised.

(12) “Minimum status vote” means:

(a) in the case of a business corporation, in addition to any other required approval or vote, the satisfaction of the following conditions:

(12) “Minimum status vote” means:

(a) in the case of a business corporation, in addition to any other required approval or vote, the satisfaction of the following conditions:

(i) the shareholders of every class or series may vote as a separate voting group on the corporate action regardless of a limitation stated in the articles of incorporation or bylaws on the voting rights of a class or series; ~~and~~ and

(ii) the corporate action is required to be approved by vote of the shareholders of each class or series entitled to cast at least two-thirds of the votes that all shareholders of the class or series are entitled to cast on the action; or

(b) in the case of a domestic entity other than a business corporation, in addition to any other required approval, vote, or consent, the satisfaction of the following conditions:

(i) the holders of every class or series of equity interest in the entity that are entitled to receive a distribution of any kind from the entity may vote on or consent to the action regardless of any otherwise applicable limitation on the voting or consent rights of a class or series; ~~and~~ and

(ii) the action must be approved by vote or consent of the holders described in Subsection (12)(b)(i) entitled to cast at least two-thirds of the votes or consents that all of those holders are entitled to cast on the action.

(13) “Publicly traded corporation” means a business corporation that has shares listed on a national securities exchange or traded in a market maintained by one or more members of a national securities association.

(14) “Specific public benefit” includes:

(a) providing low-income or underserved individuals or communities with beneficial products or services;

(b) promoting economic opportunity for individuals or communities beyond the creation of jobs in the normal course of business;

(c) protecting or restoring the environment;

(d) improving human health;

(e) promoting the arts, sciences, or advancement of knowledge;

(f) increasing the flow of capital to entities with a purpose to benefit society or the environment; and

(g) conferring any other particular benefit on society or the environment.

(15) “Subsidiary” means, in relation to a person, an entity in which the person owns beneficially or of record 50% or more of the outstanding equity interests, calculated as if all outstanding rights to acquire equity interests in the entity had been exercised.

(16) “Third-party standard” means a recognized standard for defining, reporting, and assessing corporate social and environmental performance that:

(a) assesses the effect of the business and its operations upon the interests listed in Subsections 16-10b-301(1)(a)(ii), (iii), (iv), and (v);

(b) is developed by an entity that is not controlled by the benefit corporation;

(c) is developed by an entity that both:

(i) has access to necessary expertise to assess overall corporate social and environmental performance; and

(ii) uses a balanced multistakeholder approach to develop the standard, including a reasonable public comment period; or

(d) makes the following information publicly available:

(i) about the standard:

(A) the criteria considered when measuring the overall social and environmental performance of a business; and

(B) the relative weightings, if any, of those criteria; and

(ii) about the development and revision of the standard:

(A) the identity of the directors, officers, material owners, and the governing body of the entity that developed and controls revisions to the standard;

(B) the process by which revisions to the standard and changes to the membership of the governing body are made; or

(C) an accounting of the revenue and sources of financial support for the entity, with sufficient detail to disclose a relationship that could reasonably be considered to present a potential conflict of interest.

Section 2. Section 16-10b-402 is amended to read:

16-10b-402. Availability of annual benefit report.

(1) A benefit corporation shall send its annual benefit report required by Section 16-10b-401 to each shareholder on the earlier of:

(a) 120 days following the end of the fiscal year of the benefit corporation; or

(b) the same time that the benefit corporation delivers another annual report to its shareholders.

(2) A benefit corporation shall post all of its annual benefit reports on the public portion of its Internet website, if any, but financial or proprietary information included in the annual benefit reports may be omitted from the annual benefit reports as posted.

(3) If a benefit corporation does not have an Internet website, the benefit corporation shall provide a copy of its most recent annual benefit report, without charge, to a person that requests a copy, but financial or proprietary information included in the annual benefit report may be omitted from the copy of the benefit report provided.

(4) (a) ~~[Concurrently with the delivery of the benefit report to shareholders under Subsection (2),]~~ At the same time that the benefit corporation

files its annual report with the division in accordance with Section ~~16-10a-1607~~, the benefit corporation shall deliver [a] the most recent copy of the annual benefit report to the division for filing, but financial or proprietary information included in the annual benefit report may be omitted from the annual benefit report as delivered to the division.

(b) The division shall charge a fee established by the division in accordance with Section 63J-1-504 for filing an annual benefit report.

(c) The benefit corporation shall file the annual benefit report in addition to the annual report required by Section [~~16-10a-1603~~] 16-10a-1607.

CHAPTER 21**H. B. 91**

Passed March 12, 2015
 Approved March 20, 2015
 Effective May 12, 2015

**CAMPAIGN CONTRIBUTIONS
 AMENDMENTS**

Chief Sponsor: Kraig Powell
 Senate Sponsor: Todd Weiler

LONG TITLE**General Description:**

This bill amends campaign finance provisions.

Highlighted Provisions:

This bill:

- ▶ amends definitions;
- ▶ requires a candidate to disburse an anonymous contribution or public service assistance that is cash or a negotiable instrument and over \$50 to:
 - the state or a political subdivision for deposit into its general fund; or
 - an organization that is exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code;
- ▶ prohibits a filing entity, other than a candidate, from using an anonymous contribution that is cash or a negotiable instrument in excess of \$50 for a political purpose or as a political issues expenditure;
- ▶ modifies the fine imposed against certain reporting entities that fail to report a contribution; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

10-3-208, as last amended by Laws of Utah 2012, Chapters 190, 190, 230, and 230
 17-16-6.5, as last amended by Laws of Utah 2014, Chapter 337
 20A-11-101, as last amended by Laws of Utah 2014, Chapters 18, 158, and 337
 20A-11-201, as last amended by Laws of Utah 2014, Chapter 335
 20A-11-301, as last amended by Laws of Utah 2014, Chapter 335
 20A-11-401, as last amended by Laws of Utah 2011, Chapters 297 and 347
 20A-11-505.7, as enacted by Laws of Utah 2011, Chapter 396
 20A-11-602, as last amended by Laws of Utah 2013, Chapter 420
 20A-11-802, as last amended by Laws of Utah 2013, Chapter 420
 20A-11-1301, as last amended by Laws of Utah 2014, Chapters 335 and 337
 20A-12-301, as enacted by Laws of Utah 2001, Chapter 166
 20A-12-303, as last amended by Laws of Utah 2014, Chapter 335

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

Section 1. Section 10-3-208 is amended to read:

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

- (1) As used in this section:
- (a) "Reporting date" means:
- (i) 10 days before a municipal general election, for a campaign finance statement required to be filed no later than seven days before a municipal general election; and
 - (ii) the day of filing, for a campaign finance statement required to be filed no later than 30 days after a municipal primary or general election.
- (b) "Reporting limit" means for each calendar year:
- (i) \$50; or
 - (ii) an amount lower than \$50 that is specified in an ordinance of the municipality.
- (2) (a) (i) Each candidate for municipal office:
- (A) shall deposit a campaign contribution in a separate campaign account in a financial institution; and
 - (B) may not deposit or mingle any campaign contributions received into a personal or business account.
- (ii) Each candidate for municipal office who is not eliminated at a municipal primary election shall file with the municipal clerk or recorder a campaign finance statement:
- (A) no later than seven days before the date of the municipal general election; and
 - (B) no later than 30 days after the date of the municipal general election.
- (iii) Each candidate for municipal office who is eliminated at a municipal primary election shall file with the municipal clerk or recorder a campaign finance statement no later than 30 days after the date of the municipal primary election.
- (b) Each campaign finance statement under Subsection (2)(a) shall:
- (i) except as provided in Subsection (2)(b)(ii):
 - (A) report all of the candidate's itemized and total:
 - (I) campaign contributions, including in-kind and other nonmonetary contributions, received before the close of the reporting date; and
 - (II) campaign expenditures made through the close of the reporting date; and
 - (B) identify:
 - (I) for each contribution that exceeds the reporting limit, the amount of the contribution and the name of the donor, if known;
 - (II) the aggregate total of all contributions that individually do not exceed the reporting limit; and

(III) for each campaign expenditure, the amount of the expenditure and the name of the recipient of the expenditure; or

(ii) report the total amount of all campaign contributions and expenditures if the candidate receives \$500 or less in campaign contributions and spends \$500 or less on the candidate's campaign.

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

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

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

(3) (a) As used in this Subsection (3), "account" means an account in a financial institution:

(i) that is not described in Subsection (2)(a)(i)(A); and

(ii) into which or from which a person who, as a candidate for an office, other than a municipal office for which the person files a declaration of candidacy or federal office, or as a holder of an office, other than a municipal office for which the person files a declaration of candidacy or federal office, deposits a contribution or makes an expenditure.

(b) A municipal office candidate shall include on any campaign finance statement filed in accordance with this section:

(i) a contribution deposited in an account:

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

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

(ii) an expenditure made from an account:

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

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

(4) (a) A municipality may, by ordinance:

(i) provide a reporting limit lower than \$50;

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

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

(b) A candidate for municipal office is subject to the provisions of this section and not the provisions of an ordinance adopted by the municipality under Subsection (4)(a) if:

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

(ii) the municipal clerk or recorder fails to notify the candidate of the provisions of the ordinance as required in Subsection (5).

(5) Each municipal clerk or recorder shall, at the time the candidate for municipal office files a declaration of candidacy, and again 14 days before each municipal general election, notify the candidate in writing of:

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

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

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

(6) Notwithstanding any provision of Title 63G, Chapter 2, Government Records Access and Management Act, the municipal clerk or recorder shall:

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

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

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

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

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

(7) (a) If a candidate fails to file a campaign finance statement before the municipal general election by the deadline specified in Subsection (2)(a)(ii)(A), the municipal clerk or recorder shall inform the appropriate election official who:

(i) shall:

(A) if practicable, remove the candidate's name from the ballot by blacking out the candidate's name before the ballots are delivered to voters; or

(B) if removing the candidate's name from the ballot is not practicable, inform the voters by any practicable method that the candidate has been disqualified and that votes cast for the candidate will not be counted; and

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

(b) Notwithstanding Subsection (7)(a), a candidate who files a campaign finance statement seven days before a municipal general election is not disqualified if:

(i) the statement details accurately and completely the information required under Subsection (2)(b), except for inadvertent omissions or insignificant errors or inaccuracies; and

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

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

(9) (a) A private party in interest may bring a civil action in district court to enforce the provisions of this section or an ordinance adopted under this section.

(b) In a civil action under Subsection (9)(a), the court may award costs and attorney fees to the prevailing party.

Section 2. Section 17-16-6.5 is amended to read:

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

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

(i) candidates for county office; and

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

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

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

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

(iii) a requirement that the financial reports identify:

(A) for each contribution of more than \$50, the name of the donor of the contribution, if known, and the amount of the contribution; and

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

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

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

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

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

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

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

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

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

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

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

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

(2) If any county fails to adopt a campaign finance disclosure ordinance described in Subsection (1), candidates for county office, other than community council office, and candidates for local school board office shall comply with the financial reporting requirements contained in Subsections (3) through ~~[(7)]~~ (8).

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

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

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

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

(a) seven days before the date of the regular general election, reporting each contribution of more than \$50 and each expenditure as of 10 days before the date of the regular general election; and

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

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

(i) a list of each contribution of more than \$50 received by the candidate, and the name of the donor, if known;

(ii) an aggregate total of all contributions of \$50 or less received by the candidate; and

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

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

(i) a list of each contribution of more than \$50 received after the cutoff date for the statement filed seven days before the election, and the name of the donor;

(ii) an aggregate total of all contributions of \$50 or less received by the candidate after the cutoff date for the statement filed seven days before the election; and

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

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

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

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

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

(i) a contribution deposited in an account:

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

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

(ii) an expenditure made from an account:

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

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

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

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

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

[~~(7)~~] (8) Candidates for elective office in any county, and candidates for local school board office, who are eliminated at a primary election shall file a signed campaign financial statement containing the information required by this section not later than 30 days after the primary election.

[~~(8)~~] (9) Any person who fails to comply with this section is guilty of an infraction.

[~~(9)~~] (10) (a) Counties may, by ordinance, enact requirements that:

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

(ii) impose additional penalties.

(b) The requirements described in Subsection [~~(9)~~] (10)(a) apply to a local school board office candidate who resides in that county.

[~~(10)~~] (11) (a) If a candidate fails to file an interim report due before the election, the county clerk shall, after making a reasonable attempt to discover if the report was timely mailed, inform the appropriate election officials who:

(i) (A) shall, if practicable, remove the name of the candidate by blacking out the candidate's name before the ballots are delivered to voters; or

(B) shall, if removing the candidate's name from the ballot is not practicable, inform the voters by any practicable method that the candidate has been disqualified and that votes cast for the candidate will not be counted; and

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

(b) Notwithstanding Subsection [~~(10)~~] (11)(a), a candidate is not disqualified if:

(i) the candidate files the reports required by this section;

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

(iii) those omissions, errors, or inaccuracies are corrected in an amended report or in the next scheduled report.

(c) A report is considered filed if:

(i) it is received in the county clerk's office no later than 5 p.m. on the date that it is due;

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

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

[~~(11)~~] (12) (a) Any private party in interest may bring a civil action in district court to enforce the

provisions of this section or any ordinance adopted under this section.

(b) In a civil action filed under Subsection [(11)] (12)(a), the court shall award costs and ~~attorney's~~ attorney fees to the prevailing party.

[(12)] (13) Notwithstanding any provision of Title 63G, Chapter 2, Government Records Access and Management Act, the county clerk shall:

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

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

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

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

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

Section 3. Section 20A-11-101 is amended to read:

20A-11-101. Definitions.

As used in this chapter:

(1) "Address" means the number and street where an individual resides or where a reporting entity has its principal office.

(2) "Agent of a reporting entity" means:

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

(b) a person employed by a reporting entity in the reporting entity's capacity as a reporting entity;

(c) the personal campaign committee of a candidate or officeholder;

(d) a member of the personal campaign committee of a candidate or officeholder in the member's capacity as a member of the personal campaign committee of the candidate or officeholder; or

(e) a political consultant of a reporting entity.

(3) "Ballot proposition" includes initiatives, referenda, proposed constitutional amendments, and any other ballot propositions submitted to the voters that are authorized by the Utah Code Annotated 1953.

(4) "Candidate" means any person who:

(a) files a declaration of candidacy for a public office; or

(b) receives contributions, makes expenditures, or gives consent for any other person to receive contributions or make expenditures to bring about the person's nomination or election to a public office.

(5) "Chief election officer" means:

(a) the lieutenant governor for state office candidates, legislative office candidates, officeholders, political parties, political action committees, corporations, political issues committees, state school board candidates, judges, and labor organizations, as defined in Section 20A-11-1501; and

(b) the county clerk for local school board candidates.

(6) (a) "Contribution" means any of the following when done for political purposes:

(i) a gift, subscription, donation, loan, advance, or deposit of money or anything of value given to the filing entity;

(ii) an express, legally enforceable contract, promise, or agreement to make a gift, subscription, donation, unpaid or partially unpaid loan, advance, or deposit of money or anything of value to the filing entity;

(iii) any transfer of funds from another reporting entity to the filing entity;

(iv) compensation paid by any person or reporting entity other than the filing entity for personal services provided without charge to the filing entity;

(v) remuneration from:

(A) any organization or its directly affiliated organization that has a registered lobbyist; or

(B) any agency or subdivision of the state, including school districts;

(vi) a loan made by a candidate deposited to the candidate's own campaign; and

(vii) in-kind contributions.

(b) "Contribution" does not include:

(i) services provided by individuals volunteering a portion or all of their time on behalf of the filing entity if the services are provided without compensation by the filing entity or any other person;

(ii) money lent to the filing entity by a financial institution in the ordinary course of business; or

(iii) goods or services provided for the benefit of a candidate or political party at less than fair market value that are not authorized by or coordinated with the candidate or political party.

(7) "Coordinated with" means that goods or services provided for the benefit of a candidate or political party are provided:

(a) with the candidate's or political party's prior knowledge, if the candidate or political party does not object;

(b) by agreement with the candidate or political party;

(c) in coordination with the candidate or political party; or

(d) using official logos, slogans, and similar elements belonging to a candidate or political party.

(8) (a) "Corporation" means a domestic or foreign, profit or nonprofit, business organization that is registered as a corporation or is authorized to do business in a state and makes any expenditure from corporate funds for:

(i) the purpose of expressly advocating for political purposes; or

(ii) the purpose of expressly advocating the approval or the defeat of any ballot proposition.

(b) "Corporation" does not mean:

(i) a business organization's political action committee or political issues committee; or

(ii) a business entity organized as a partnership or a sole proprietorship.

(9) "County political party" means, for each registered political party, all of the persons within a single county who, under definitions established by the political party, are members of the registered political party.

(10) "County political party officer" means a person whose name is required to be submitted by a county political party to the lieutenant governor in accordance with Section 20A-8-402.

(11) "Detailed listing" means:

(a) for each contribution or public service assistance:

(i) the name and address of the individual or source making the contribution or public service assistance, except to the extent that the name or address of the individual or source is unknown;

(ii) the amount or value of the contribution or public service assistance; and

(iii) the date the contribution or public service assistance was made; and

(b) for each expenditure:

(i) the amount of the expenditure;

(ii) the person or entity to whom it was disbursed;

(iii) the specific purpose, item, or service acquired by the expenditure; and

(iv) the date the expenditure was made.

(12) (a) "Donor" means a person that gives money, including a fee, due, or assessment for membership in the corporation, to a corporation without receiving full and adequate consideration for the money.

(b) "Donor" does not include a person that signs a statement that the corporation may not use the

money for an expenditure or political issues expenditure.

(13) "Election" means each:

(a) regular general election;

(b) regular primary election; and

(c) special election at which candidates are eliminated and selected.

(14) "Electioneering communication" means a communication that:

(a) has at least a value of \$10,000;

(b) clearly identifies a candidate or judge; and

(c) is disseminated through the Internet, newspaper, magazine, outdoor advertising facility, direct mailing, broadcast, cable, or satellite provider within 45 days of the clearly identified candidate's or judge's election date.

(15) (a) "Expenditure" means any of the following made by a reporting entity or an agent of a reporting entity on behalf of the reporting entity:

(i) any disbursement from contributions, receipts, or from the separate bank account required by this chapter;

(ii) a purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of value made for political purposes;

(iii) an express, legally enforceable contract, promise, or agreement to make any purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of value for political purposes;

(iv) compensation paid by a filing entity for personal services rendered by a person without charge to a reporting entity;

(v) a transfer of funds between the filing entity and a candidate's personal campaign committee; or

(vi) goods or services provided by the filing entity to or for the benefit of another reporting entity for political purposes at less than fair market value.

(b) "Expenditure" does not include:

(i) services provided without compensation by individuals volunteering a portion or all of their time on behalf of a reporting entity;

(ii) money lent to a reporting entity by a financial institution in the ordinary course of business; or

(iii) anything listed in Subsection (15)(a) that is given by a reporting entity to candidates for office or officeholders in states other than Utah.

(16) "Federal office" means the office of president of the United States, United States Senator, or United States Representative.

(17) "Filing entity" means the reporting entity that is required to file a financial statement required by this chapter or Chapter 12, Part 2, Judicial Retention Elections.

(18) "Financial statement" includes any summary report, interim report, verified financial

statement, or other statement disclosing contributions, expenditures, receipts, donations, or disbursements that is required by this chapter or Chapter 12, Part 2, Judicial Retention Elections.

(19) "Governing board" means the individual or group of individuals that determine the candidates and committees that will receive expenditures from a political action committee, political party, or corporation.

(20) "Incorporation" means the process established by Title 10, Chapter 2, Part 1, Incorporation, by which a geographical area becomes legally recognized as a city or town.

(21) "Incorporation election" means the election authorized by Section 10-2-111 or 10-2-127.

(22) "Incorporation petition" means a petition authorized by Section 10-2-109 or 10-2-125.

(23) "Individual" means a natural person.

(24) "In-kind contribution" means anything of value, other than money, that is accepted by or coordinated with a filing entity.

(25) "Interim report" means a report identifying the contributions received and expenditures made since the last report.

(26) "Legislative office" means the office of state senator, state representative, speaker of the House of Representatives, president of the Senate, and the leader, whip, and assistant whip of any party caucus in either house of the Legislature.

(27) "Legislative office candidate" means a person who:

(a) files a declaration of candidacy for the office of state senator or state representative;

(b) declares oneself to be a candidate for, or actively campaigns for, the position of speaker of the House of Representatives, president of the Senate, or the leader, whip, and assistant whip of any party caucus in either house of the Legislature; or

(c) receives contributions, makes expenditures, or gives consent for any other person to receive contributions or make expenditures to bring about the person's nomination, election, or appointment to a legislative office.

(28) "Major political party" means either of the two registered political parties that have the greatest number of members elected to the two houses of the Legislature.

(29) "Officeholder" means a person who holds a public office.

(30) "Party committee" means any committee organized by or authorized by the governing board of a registered political party.

(31) "Person" means both natural and legal persons, including individuals, business organizations, personal campaign committees,

party committees, political action committees, political issues committees, and labor organizations, as defined in Section 20A-11-1501.

(32) "Personal campaign committee" means the committee appointed by a candidate to act for the candidate as provided in this chapter.

(33) "Personal use expenditure" has the same meaning as provided under Section 20A-11-104.

(34) (a) "Political action committee" means an entity, or any group of individuals or entities within or outside this state, a major purpose of which is to:

(i) solicit or receive contributions from any other person, group, or entity for political purposes; or

(ii) make expenditures to expressly advocate for any person to refrain from voting or to vote for or against any candidate or person seeking election to a municipal or county office.

(b) "Political action committee" includes groups affiliated with a registered political party but not authorized or organized by the governing board of the registered political party that receive contributions or makes expenditures for political purposes.

(c) "Political action committee" does not mean:

(i) a party committee;

(ii) any entity that provides goods or services to a candidate or committee in the regular course of its business at the same price that would be provided to the general public;

(iii) an individual;

(iv) individuals who are related and who make contributions from a joint checking account;

(v) a corporation, except a corporation a major purpose of which is to act as a political action committee; or

(vi) a personal campaign committee.

(35) (a) "Political consultant" means a person who is paid by a reporting entity, or paid by another person on behalf of and with the knowledge of the reporting entity, to provide political advice to the reporting entity.

(b) "Political consultant" includes a circumstance described in Subsection (35)(a), where the person:

(i) has already been paid, with money or other consideration;

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

(iii) understands that the person may, in the discretion of the reporting entity or another person on behalf of and with the knowledge of the reporting entity, be paid in the future, with money or other consideration.

(36) "Political convention" means a county or state political convention held by a registered political party to select candidates.

(37) (a) “Political issues committee” means an entity, or any group of individuals or entities within or outside this state, a major purpose of which is to:

(i) solicit or receive donations from any other person, group, or entity to assist in placing a ballot proposition on the ballot, assist in keeping a ballot proposition off the ballot, or to advocate that a voter refrain from voting or vote for or vote against any ballot proposition;

(ii) make expenditures to expressly advocate for any person to sign or refuse to sign a ballot proposition or incorporation petition or refrain from voting, vote for, or vote against any proposed ballot proposition or an incorporation in an incorporation election; or

(iii) make expenditures to assist in qualifying or placing a ballot proposition on the ballot or to assist in keeping a ballot proposition off the ballot.

(b) “Political issues committee” does not mean:

(i) a registered political party or a party committee;

(ii) any entity that provides goods or services to an individual or committee in the regular course of its business at the same price that would be provided to the general public;

(iii) an individual;

(iv) individuals who are related and who make contributions from a joint checking account; or

(v) a corporation, except a corporation a major purpose of which is to act as a political issues committee.

(38) (a) “Political issues contribution” means any of the following:

(i) a gift, subscription, unpaid or partially unpaid loan, advance, or deposit of money or anything of value given to a political issues committee;

(ii) an express, legally enforceable contract, promise, or agreement to make a political issues donation to influence the approval or defeat of any ballot proposition;

(iii) any transfer of funds received by a political issues committee from a reporting entity;

(iv) compensation paid by another reporting entity for personal services rendered without charge to a political issues committee; and

(v) goods or services provided to or for the benefit of a political issues committee at less than fair market value.

(b) “Political issues contribution” does not include:

(i) services provided without compensation by individuals volunteering a portion or all of their time on behalf of a political issues committee; or

(ii) money lent to a political issues committee by a financial institution in the ordinary course of business.

(39) (a) “Political issues expenditure” means any of the following when made by a political issues committee or on behalf of a political issues committee by an agent of the reporting entity:

(i) any payment from political issues contributions made for the purpose of influencing the approval or the defeat of:

(A) a ballot proposition; or

(B) an incorporation petition or incorporation election;

(ii) a purchase, payment, distribution, loan, advance, deposit, or gift of money made for the express purpose of influencing the approval or the defeat of:

(A) a ballot proposition; or

(B) an incorporation petition or incorporation election;

(iii) an express, legally enforceable contract, promise, or agreement to make any political issues expenditure;

(iv) compensation paid by a reporting entity for personal services rendered by a person without charge to a political issues committee; or

(v) goods or services provided to or for the benefit of another reporting entity at less than fair market value.

(b) “Political issues expenditure” does not include:

(i) services provided without compensation by individuals volunteering a portion or all of their time on behalf of a political issues committee; or

(ii) money lent to a political issues committee by a financial institution in the ordinary course of business.

(40) “Political purposes” means an act done with the intent or in a way to influence or tend to influence, directly or indirectly, any person to refrain from voting or to vote for or against any candidate or a person seeking a municipal or county office at any caucus, political convention, or election.

(41) (a) “Poll” means the survey of a person regarding the person’s opinion or knowledge of an individual who has filed a declaration of candidacy for public office, or of a ballot proposition that has legally qualified for placement on the ballot, which is conducted in person or by telephone, facsimile, Internet, postal mail, or email.

(b) “Poll” does not include:

(i) a ballot; or

(ii) an interview of a focus group that is conducted, in person, by one individual, if:

(A) the focus group consists of more than three, and less than thirteen, individuals; and

(B) all individuals in the focus group are present during the interview.

(42) “Primary election” means any regular primary election held under the election laws.

[445] (43) “Publicly identified class of individuals” means a group of 50 or more individuals sharing a common occupation, interest, or association that contribute to a political action committee or political issues committee and whose names can be obtained by contacting the political action committee or political issues committee upon whose financial statement the individuals are listed.

[443] (44) “Public office” means the office of governor, lieutenant governor, state auditor, state treasurer, attorney general, state school board member, state senator, state representative, speaker of the House of Representatives, president of the Senate, and the leader, whip, and assistant whip of any party caucus in either house of the Legislature.

[444] (45) (a) “Public service assistance” means the following when given or provided to an officeholder to defray the costs of functioning in a public office or aid the officeholder to communicate with the officeholder’s constituents:

(i) a gift, subscription, donation, unpaid or partially unpaid loan, advance, or deposit of money or anything of value to an officeholder; or

(ii) goods or services provided at less than fair market value to or for the benefit of the officeholder.

(b) “Public service assistance” does not include:

(i) anything provided by the state;

(ii) services provided without compensation by individuals volunteering a portion or all of their time on behalf of an officeholder;

(iii) money lent to an officeholder by a financial institution in the ordinary course of business;

(iv) news coverage or any publication by the news media; or

(v) any article, story, or other coverage as part of any regular publication of any organization unless substantially all the publication is devoted to information about the officeholder.

(46) “Receipts” means contributions and public service assistance.

(47) “Registered lobbyist” means a person registered under Title 36, Chapter 11, Lobbyist Disclosure and Regulation Act.

(48) “Registered political action committee” means any political action committee that is required by this chapter to file a statement of organization with the Office of the Lieutenant Governor.

(49) “Registered political issues committee” means any political issues committee that is required by this chapter to file a statement of organization with the Office of the Lieutenant Governor.

(50) “Registered political party” means an organization of voters that:

(a) participated in the last regular general election and polled a total vote equal to 2% or more of the total votes cast for all candidates for the United States House of Representatives for any of its candidates for any office; or

(b) has complied with the petition and organizing procedures of Chapter 8, Political Party Formation and Procedures.

(51) (a) “Remuneration” means a payment:

(i) made to a legislator for the period the Legislature is in session; and

(ii) that is approximately equivalent to an amount a legislator would have earned during the period the Legislature is in session in the legislator’s ordinary course of business.

(b) “Remuneration” does not mean anything of economic value given to a legislator by:

(i) the legislator’s primary employer in the ordinary course of business; or

(ii) a person or entity in the ordinary course of business:

(A) because of the legislator’s ownership interest in the entity; or

(B) for services rendered by the legislator on behalf of the person or entity.

(52) “Reporting entity” means a candidate, a candidate’s personal campaign committee, a judge, a judge’s personal campaign committee, an officeholder, a party committee, a political action committee, a political issues committee, a corporation, or a labor organization, as defined in Section 20A-11-1501.

(53) “School board office” means the office of state school board.

(54) (a) “Source” means the person or entity that is the legal owner of the tangible or intangible asset that comprises the contribution.

(b) “Source” means, for political action committees and corporations, the political action committee and the corporation as entities, not the contributors to the political action committee or the owners or shareholders of the corporation.

(55) “State office” means the offices of governor, lieutenant governor, attorney general, state auditor, and state treasurer.

(56) “State office candidate” means a person who:

(a) files a declaration of candidacy for a state office; or

(b) receives contributions, makes expenditures, or gives consent for any other person to receive contributions or make expenditures to bring about the person’s nomination, election, or appointment to a state office.

(57) “Summary report” means the year end report containing the summary of a reporting entity’s contributions and expenditures.

(58) "Supervisory board" means the individual or group of individuals that allocate expenditures from a political issues committee.

Section 4. Section 20A-11-201 is amended to read:

20A-11-201. State office candidate -- Separate bank account for campaign funds -- No personal use -- Contribution reporting deadline -- Report other accounts -- Anonymous contributions.

(1) (a) Each state office candidate or the candidate's personal campaign committee shall deposit each contribution and public service assistance received in one or more separate campaign accounts in a financial institution.

(b) A state office candidate or a candidate's personal campaign committee may not use money deposited in a campaign account for:

- (i) a personal use expenditure; or
- (ii) an expenditure prohibited by law.

(2) A state office candidate or the candidate's personal campaign committee may not deposit or mingle any contributions received into a personal or business account.

(3) If a person who is no longer a state office candidate chooses not to expend the money remaining in a campaign account, the person shall continue to file the year-end summary report required by Section 20A-11-203 until the statement of dissolution and final summary report required by Section 20A-11-205 are filed with the lieutenant governor.

(4) (a) Except as provided in Subsection (4)(b) and Section 20A-11-402, a person who is no longer a state office candidate may not expend or transfer the money in a campaign account in a manner that would cause the former state office candidate to recognize the money as taxable income under federal tax law.

(b) A person who is no longer a state office candidate may transfer the money in a campaign account in a manner that would cause the former state office candidate to recognize the money as taxable income under federal tax law if the transfer is made to a campaign account for federal office.

(5) (a) As used in this Subsection (5) and Section 20A-11-204, "received" means:

- (i) for a cash contribution, that the cash is given to a state office candidate or a member of the candidate's personal campaign committee;
- (ii) for a contribution that is a negotiable instrument or check, that the negotiable instrument or check is negotiated; and
- (iii) for any other type of contribution, that any portion of the contribution's benefit inures to the state office candidate.

(b) Each state office candidate shall report to the lieutenant governor each contribution and public

service assistance received by the state office candidate:

(i) except as provided in Subsection (5)(b)(ii), within 30 days after the day on which the contribution or public service assistance is received; or

(ii) within three business days after the day on which the contribution or public service assistance is received, if:

(A) the state office candidate is contested in a convention and the contribution or public service assistance is received within 30 days before the day on which the convention is held;

(B) the state office candidate is contested in a primary election and the contribution or public service assistance is received within 30 days before the day on which the primary election is held; or

(C) the state office candidate is contested in a general election and the contribution or public service assistance is received within 30 days before the day on which the general election is held.

(c) ~~[Except as provided in Subsection (5)(d), for]~~ For each contribution or provision of public service assistance that a state office candidate fails to report within the time period described in Subsection (5)(b), the lieutenant governor shall impose a fine against the state office candidate in an amount equal to:

(i) ~~[the greater of \$50 or 15%]~~ (A) 10% of the amount of the contribution, if the state office candidate reports the contribution within 60 days after the day on which the time period described in Subsection (5)(b) ends; or

(B) 20% of the amount of the contribution, if the state office candidate fails to report the contribution within 60 days after the day on which the time period described in Subsection (5)(b) ends; or

(ii) ~~[the greater of \$50 or 15%]~~ (A) 10% of the value of the public service assistance~~[-, if the state office candidate reports the public service assistance within 60 days after the day on which the time period described in Subsection (5)(b) ends; or]~~

(B) 20% of the amount of the public service assistance, if the state office candidate fails to report the public service assistance within 60 days after the day on which the time period described in Subsection (5)(b) ends.

~~[(d) A fine described in Subsection (5)(c) may not exceed the amount of the contribution or the value of the public service assistance to which the fine relates.]~~

~~[(e)]~~ (d) The lieutenant governor shall:

(i) deposit money received under Subsection (5)(c) into the General Fund; and

(ii) report on the lieutenant governor's website, in the location where reports relating to each state office candidate are available for public access:

(A) each fine imposed by the lieutenant governor against the state office candidate;

(B) the amount of the fine;

(C) the amount of the contribution to which the fine relates; and

(D) the date of the contribution.

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

(i) that is not described in Subsection (1)(a); and

(ii) into which or from which a person who, as a candidate for an office, other than the state office for which the person files a declaration of candidacy or federal office, or as a holder of an office, other than a state office for which the person files a declaration of candidacy or federal office, deposits a contribution or makes an expenditure.

(b) A state office candidate shall include on any financial statement filed in accordance with this part:

(i) a contribution deposited in an account:

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

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

(ii) an expenditure made from an account:

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

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

(7) Within 30 days after receiving a contribution that is cash or a negotiable instrument, exceeds \$50, and is from an unknown source, a state office candidate shall disburse the amount of the contribution to:

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

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

Section 5. Section 20A-11-301 is amended to read:

20A-11-301. Legislative office candidate -- Campaign finance requirements -- Candidate as a political action committee officer -- No personal use -- Contribution reporting deadline -- Report other accounts -- Anonymous contributions.

(1) (a) (i) Each legislative office candidate shall deposit each contribution and public service assistance received in one or more separate accounts in a financial institution that are dedicated only to that purpose.

(ii) A legislative office candidate may:

(A) receive a contribution or public service assistance from a political action committee registered under Section 20A-11-601; and

(B) be designated by a political action committee as an officer who has primary decision-making authority as described in Section 20A-11-601.

(b) A legislative office candidate or the candidate's personal campaign committee may not use money deposited in an account described in Subsection (1)(a)(i) for:

(i) a personal use expenditure; or

(ii) an expenditure prohibited by law.

(2) A legislative office candidate may not deposit or mingle any contributions or public service assistance received into a personal or business account.

(3) If a person who is no longer a legislative candidate chooses not to expend the money remaining in a campaign account, the person shall continue to file the year-end summary report required by Section 20A-11-302 until the statement of dissolution and final summary report required by Section 20A-11-304 are filed with the lieutenant governor.

(4) (a) Except as provided in Subsection (4)(b) and Section 20A-11-402, a person who is no longer a legislative office candidate may not expend or transfer the money in a campaign account in a manner that would cause the former legislative office candidate to recognize the money as taxable income under federal tax law.

(b) A person who is no longer a legislative office candidate may transfer the money in a campaign account in a manner that would cause the former legislative office candidate to recognize the money as taxable income under federal tax law if the transfer is made to a campaign account for federal office.

(5) (a) As used in this Subsection (5) and Section 20A-11-303, "received" means:

(i) for a cash contribution, that the cash is given to a legislative office candidate or a member of the candidate's personal campaign committee;

(ii) for a contribution that is a negotiable instrument or check, that the negotiable instrument or check is negotiated; and

(iii) for any other type of contribution, that any portion of the contribution's benefit inures to the legislative office candidate.

(b) Each legislative office candidate shall report to the lieutenant governor each contribution and public service assistance received by the legislative office candidate:

(i) except as provided in Subsection (5)(b)(ii), within 30 days after the day on which the contribution or public service assistance is received; or

(ii) within three business days after the day on which the contribution or public service assistance is received, if:

(A) the legislative office candidate is contested in a convention and the contribution or public service

assistance is received within 30 days before the day on which the convention is held;

(B) the legislative office candidate is contested in a primary election and the contribution or public service assistance is received within 30 days before the day on which the primary election is held; or

(C) the legislative office candidate is contested in a general election and the contribution or public service assistance is received within 30 days before the day on which the general election is held.

(c) ~~[Except as provided in Subsection (5)(d), for] For each contribution or provision of public service assistance that a legislative office candidate fails to report within the time period described in Subsection (5)(b), the lieutenant governor shall impose a fine against the legislative office candidate in an amount equal to:~~

~~(i) [the greater of \$50 or 15%] (A) 10% of the amount of the contribution, if the legislative office candidate reports the contribution within 60 days after the day on which the time period described in Subsection (5)(b) ends; or~~

~~(B) 20% of the amount of the contribution, if the legislative office candidate fails to report the contribution within 60 days after the day on which the time period described in Subsection (5)(b) ends; or~~

~~(ii) [the greater of \$50 or 15%] (A) 10% of the value of the public service assistance~~[-]~~, if the legislative office candidate reports the public service assistance within 60 days after the day on which the time period described in Subsection (5)(b) ends; or~~

~~(B) 20% of the amount of the public service assistance, if the legislative office candidate fails to report the public service assistance within 60 days after the day on which the time period described in Subsection (5)(b) ends.~~

~~[(d) A fine described in Subsection (5)(c) may not exceed the amount of the contribution or the value of the public service assistance to which the fine relates.]~~

~~[(e) (d) The lieutenant governor shall:~~

~~(i) deposit money received under Subsection (5)(c) into the General Fund; and~~

~~(ii) report on the lieutenant governor's website, in the location where reports relating to each legislative office candidate are available for public access:~~

~~(A) each fine imposed by the lieutenant governor against the legislative office candidate;~~

~~(B) the amount of the fine;~~

~~(C) the amount of the contribution to which the fine relates; and~~

~~(D) the date of the contribution.~~

~~(6) Within 30 days after receiving a contribution that is cash or a negotiable instrument, exceeds~~

~~\$50, and is from an unknown source, a legislative office candidate shall disburse the amount of the contribution to:~~

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

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

~~[(6)] (7) (a) As used in this Subsection [(6)] (7), "account" means an account in a financial institution:~~

~~(i) that is not described in Subsection (1)(a)(i); and~~

~~(ii) into which or from which a person who, as a candidate for an office, other than a legislative office for which the person files a declaration of candidacy or federal office, or as a holder of an office, other than a legislative office for which the person files a declaration of candidacy or federal office, deposits a contribution or makes an expenditure.~~

~~(b) A legislative office candidate shall include on any financial statement filed in accordance with this part:~~

~~(i) a contribution deposited in an account:~~

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

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

~~(ii) an expenditure made from an account:~~

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

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

Section 6. Section 20A-11-401 is amended to read:

20A-11-401. Officeholder financial reporting requirements -- Year-end summary report -- Officeholder as a political action committee officer -- Anonymous contribution or public service assistance.

(1) (a) Each officeholder shall file a summary report by January 10 of each year.

(b) An officeholder that is required to file a summary report both as an officeholder and as a candidate for office under the requirements of this chapter may file a single summary report as a candidate and an officeholder, provided that the combined report meets the requirements of:

(i) this section; and

(ii) the section that provides the requirements for the summary report filed by the officeholder in the officeholder's capacity of a candidate for office.

(2) (a) Each summary report shall include the following information as of December 31 of the previous year:

(i) the net balance of the last summary report, if any;

(ii) a single figure equal to the total amount of receipts received since the last summary report, if any;

(iii) a single figure equal to the total amount of expenditures made since the last summary report, if any;

(iv) a detailed listing of each contribution and public service assistance received since the last summary report;

(v) for each nonmonetary contribution:

(A) the fair market value of the contribution with that information provided by the contributor; and

(B) a specific description of the contribution;

(vi) a detailed listing of each expenditure made since the last summary report;

(vii) for each nonmonetary expenditure, the fair market value of the expenditure;

(viii) a net balance for the year consisting of the net balance from the last summary report plus all receipts minus all expenditures; and

(ix) the name of a political action committee for which the officeholder is designated as an officer who has primary decision-making authority under Section 20A-11-601.

(b) (i) For all individual contributions or public service assistance of \$50 or less, a single aggregate figure may be reported without separate detailed listings.

(ii) Two or more contributions from the same source that have an aggregate total of more than \$50 may not be reported in the aggregate, but shall be reported separately.

(c) In preparing the report, all receipts and expenditures shall be reported as of December 31 of the previous year.

(3) The summary report shall contain a paragraph signed by the officeholder certifying that, to the best of the officeholder's knowledge, all receipts and all expenditures have been reported as of December 31 of the last calendar year and that there are no bills or obligations outstanding and unpaid except as set forth in that report.

(4) An officeholder may:

(a) receive public service assistance from a political action committee registered under Section 20A-11-601; and

(b) be designated by a political action committee as an officer who has primary decision-making authority as described in Section 20A-11-601.

(5) Within 30 days after receiving a contribution or public service assistance that is cash or a negotiable instrument, exceeds \$50, and is from an unknown source, an officeholder shall disburse the

amount of the contribution or public service assistance to:

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

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

Section 7. Section 20A-11-505.7 is amended to read:

20A-11-505.7. Separate account for contributions for registered political party -- Anonymous contributions to registered political party or county political party.

(1) A registered political party shall deposit a contribution received in one or more separate campaign accounts in a financial institution.

(2) A registered political party may not deposit or mingle a contribution received into a personal or business account.

(3) A registered political party or county political party may not expend a contribution for political purposes or a political issues expenditure if the contribution:

(a) is cash or a negotiable instrument;

(b) exceeds \$50; and

(c) is from an unknown source.

Section 8. Section 20A-11-602 is amended to read:

20A-11-602. Political action committees -- Financial reporting.

(1) (a) Each registered political action committee that has received contributions totaling at least \$750, or disbursed expenditures totaling at least \$50, during a calendar year shall file a verified financial statement with the lieutenant governor's office:

(i) on January 10, reporting contributions and expenditures as of December 31 of the previous year;

(ii) seven days before the state political convention of each major political party;

(iii) seven days before the regular primary election date;

(iv) on August 31; and

(v) seven days before:

(A) the municipal general election; and

(B) the regular general election date.

(b) The registered political action committee shall report:

(i) a detailed listing of all contributions received and expenditures made since the last statement; and

(ii) for financial statements filed under Subsections (1)(a)(ii) through (iv), all contributions

and expenditures as of five days before the required filing date of the financial statement.

(c) The registered political action committee need not file a statement under this section if it received no contributions and made no expenditures during the reporting period.

(2) (a) The verified financial statement shall include:

(i) the name and address of any individual ~~that~~ who makes a contribution to the reporting political action committee, if known, and the amount of the contribution;

(ii) the identification of any publicly identified class of individuals that makes a contribution to the reporting political action committee, if known, and the amount of the contribution;

(iii) the name and address of any political action committee, group, or entity, if known, that makes a contribution to the reporting political action committee, and the amount of the contribution;

(iv) for each nonmonetary contribution, the fair market value of the contribution;

(v) the name and address of each reporting entity that received an expenditure from the reporting political action committee, and the amount of each expenditure;

(vi) for each nonmonetary expenditure, the fair market value of the expenditure;

(vii) the total amount of contributions received and expenditures disbursed by the reporting political action committee;

(viii) a statement by the political action committee's treasurer or chief financial officer certifying that, to the best of the person's knowledge, the financial report is accurate; and

(ix) a summary page in the form required by the lieutenant governor that identifies:

(A) beginning balance;

(B) total contributions during the period since the last statement;

(C) total contributions to date;

(D) total expenditures during the period since the last statement; and

(E) total expenditures to date.

(b) (i) Contributions received by a political action committee that have a value of \$50 or less need not be reported individually, but shall be listed on the report as an aggregate total.

(ii) Two or more contributions from the same source that have an aggregate total of more than \$50 may not be reported in the aggregate, but shall be reported separately.

(3) A group or entity may not divide or separate into units, sections, or smaller groups for the purpose of avoiding the financial reporting requirements of this chapter, and substance shall

prevail over form in determining the scope or size of a political action committee.

(4) (a) As used in this Subsection (4), "received" means:

(i) for a cash contribution, that the cash is given to a political action committee;

(ii) for a contribution that is a negotiable instrument or check, that the negotiable instrument or check is negotiated; and

(iii) for any other type of contribution, that any portion of the contribution's benefit inures to the political action committee.

(b) A political action committee shall report each contribution to the lieutenant governor within 30 days after the contribution is received.

(5) A political action committee may not expend a contribution for political purposes if the contribution:

(a) is cash or a negotiable instrument;

(b) exceeds \$50; and

(c) is from an unknown source.

Section 9. Section 20A-11-802 is amended to read:

20A-11-802. Political issues committees -- Financial reporting.

(1) (a) Each registered political issues committee that has received political issues contributions totaling at least \$750, or disbursed political issues expenditures totaling at least \$50, during a calendar year, shall file a verified financial statement with the lieutenant governor's office:

(i) on January 10, reporting contributions and expenditures as of December 31 of the previous year;

(ii) seven days before the state political convention of each major political party;

(iii) seven days before the regular primary election date;

(iv) seven days before the date of an incorporation election, if the political issues committee has received donations or made disbursements to affect an incorporation;

(v) at least three days before the first public hearing held as required by Section 20A-7-204.1;

(vi) if the political issues committee has received or expended funds in relation to an initiative or referendum, at the time the initiative or referendum sponsors submit:

(A) the verified and certified initiative packets as required by Section 20A-7-206; or

(B) the signed and verified referendum packets as required by Section 20A-7-306;

(vii) on August 31; and

(viii) seven days before:

(A) the municipal general election; and

- (B) the regular general election.
- (b) The political issues committee shall report:
- (i) a detailed listing of all contributions received and expenditures made since the last statement; and
- (ii) all contributions and expenditures as of five days before the required filing date of the financial statement, except for a financial statement filed on January 10.
- (c) The political issues committee need not file a statement under this section if it received no contributions and made no expenditures during the reporting period.
- (2) (a) That statement shall include:
- (i) the name and address, if known, of any individual ~~that~~ who makes a political issues contribution to the reporting political issues committee, and the amount of the political issues contribution;
- (ii) the identification of any publicly identified class of individuals that makes a political issues contribution to the reporting political issues committee, and the amount of the political issues contribution;
- (iii) the name and address, if known, of any political issues committee, group, or entity that makes a political issues contribution to the reporting political issues committee, and the amount of the political issues contribution;
- (iv) the name and address of each reporting entity that makes a political issues contribution to the reporting political issues committee, and the amount of the political issues contribution;
- (v) for each nonmonetary contribution, the fair market value of the contribution;
- (vi) except as provided in Subsection (2)(c), the name and address of each individual, entity, or group of individuals or entities that received a political issues expenditure of more than \$50 from the reporting political issues committee, and the amount of each political issues expenditure;
- (vii) for each nonmonetary expenditure, the fair market value of the expenditure;
- (viii) the total amount of political issues contributions received and political issues expenditures disbursed by the reporting political issues committee;
- (ix) a statement by the political issues committee's treasurer or chief financial officer certifying that, to the best of the person's knowledge, the financial statement is accurate; and
- (x) a summary page in the form required by the lieutenant governor that identifies:
- (A) beginning balance;
- (B) total contributions during the period since the last statement;
- (C) total contributions to date;

(D) total expenditures during the period since the last statement; and

(E) total expenditures to date.

(b) (i) Political issues contributions received by a political issues committee that have a value of \$50 or less need not be reported individually, but shall be listed on the report as an aggregate total.

(ii) Two or more political issues contributions from the same source that have an aggregate total of more than \$50 may not be reported in the aggregate, but shall be reported separately.

(c) When reporting political issue expenditures made to circulators of initiative petitions, the political issues committee:

(i) need only report the amount paid to each initiative petition circulator; and

(ii) need not report the name or address of the circulator.

(3) (a) As used in this Subsection (3), "received" means:

(i) for a cash contribution, that the cash is given to a political issues committee;

(ii) for a contribution that is a negotiable instrument or check, that the negotiable instrument or check is negotiated; and

(iii) for any other type of contribution, that any portion of the contribution's benefit inures to the political issues committee.

(b) A political issues committee shall report each contribution to the lieutenant governor within 30 days after the contribution is received.

(4) A political issues committee may not expend a contribution for a political issues expenditure if the contribution:

(a) is cash or a negotiable instrument;

(b) exceeds \$50; and

(c) is from an unknown source.

Section 10. Section 20A-11-1301 is amended to read:

20A-11-1301. School board office candidate -- Campaign finance requirements -- Candidate as a political action committee officer -- No personal use -- Contribution reporting deadline -- Report other accounts -- Anonymous contributions.

(1) (a) (i) Each school board office candidate shall deposit each contribution and public service assistance received in one or more separate accounts in a financial institution that are dedicated only to that purpose.

(ii) A school board office candidate may:

(A) receive a contribution or public service assistance from a political action committee registered under Section 20A-11-601; and

(B) be designated by a political action committee as an officer who has primary decision-making authority as described in Section 20A-11-601.

(b) A school board office candidate may not use money deposited in an account described in Subsection (1)(a)(i) for:

- (i) a personal use expenditure; or
- (ii) an expenditure prohibited by law.

(2) A school board office candidate may not deposit or mingle any contributions or public service assistance received into a personal or business account.

(3) A school board office candidate may not make any political expenditures prohibited by law.

(4) If a person who is no longer a school board candidate chooses not to expend the money remaining in a campaign account, the person shall continue to file the year-end summary report required by Section 20A-11-1302 until the statement of dissolution and final summary report required by Section 20A-11-1304 are filed with the lieutenant governor.

(5) (a) Except as provided in Subsection (5)(b) and Section 20A-11-402, a person who is no longer a school board candidate may not expend or transfer the money in a campaign account in a manner that would cause the former school board candidate to recognize the money as taxable income under federal tax law.

(b) A person who is no longer a school board candidate may transfer the money in a campaign account in a manner that would cause the former school board candidate to recognize the money as taxable income under federal tax law if the transfer is made to a campaign account for federal office.

(6) (a) As used in this Subsection (6) and Section 20A-11-1303, "received" means:

- (i) for a cash contribution, that the cash is given to a school board office candidate or a member of the candidate's personal campaign committee;
- (ii) for a contribution that is a negotiable instrument or check, that the negotiable instrument or check is negotiated; and
- (iii) for any other type of contribution, that any portion of the contribution's benefit inures to the school board office candidate.

(b) Each school board office candidate shall report to the chief election officer each contribution and public service assistance received by the school board office candidate:

(i) except as provided in Subsection (6)(b)(ii), within 30 days after the day on which the contribution or public service assistance is received; or

(ii) within three business days after the day on which the contribution or public service assistance is received, if:

(A) the school board office candidate is contested in a primary election and the contribution or public service assistance is received within 30 days before the day on which the primary election is held; or

(B) the school board office candidate is contested in a general election and the contribution or public service assistance is received within 30 days before the day on which the general election is held.

(c) ~~Except as provided in Subsection (6)(d), for~~ For each contribution or provision of public service assistance that a school board office candidate fails to report within the time period described in Subsection (6)(b), the chief election officer shall impose a fine against the school board office candidate in an amount equal to:

(i) ~~[the greater of \$50 or 15%]~~ (A) 10% of the amount of the contribution, if the school board office candidate reports the contribution within 60 days after the day on which the time period described in Subsection (6)(b) ends; or

(B) 20% of the amount of the contribution, if the school board office candidate fails to report the contribution within 60 days after the day on which the time period described in Subsection (6)(b) ends; or

(ii) ~~[the greater of \$50 or 15%]~~ (A) 10% of the value of the public service assistance~~[-]~~, if the school board office candidate reports the public service assistance within 60 days after the day on which the time period described in Subsection (6)(b) ends; or

(B) 20% of the amount of the public service assistance, if the school board office candidate fails to report the public service assistance within 60 days after the day on which the time period described in Subsection (6)(b) ends.

~~[(d) A fine described in Subsection (6)(c) may not exceed the amount of the contribution or the value of the public service assistance to which the fine relates.]~~

~~[(e)]~~ (d) The chief election officer shall:

(i) deposit money received under Subsection (6)(c) into the General Fund; and

(ii) report on the chief election officer's website, in the location where reports relating to each school board office candidate are available for public access:

(A) each fine imposed by the chief election officer against the school board office candidate;

(B) the amount of the fine;

(C) the amount of the contribution to which the fine relates; and

(D) the date of the contribution.

(7) Within 30 days after receiving a contribution that is cash or a negotiable instrument, exceeds \$50, and is from an unknown source, a school board office candidate shall disburse the contribution to:

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

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

[(7)] (8) (a) As used in this Subsection [(7)] (8), “account” means an account in a financial institution:

(i) that is not described in Subsection (1)(a)(i); and

(ii) into which or from which a person who, as a candidate for an office, other than a school board office for which the person files a declaration of candidacy or federal office, or as a holder of an office, other than a school board office for which the person files a declaration of candidacy or federal office, deposits a contribution or makes an expenditure.

(b) A school board office candidate shall include on any financial statement filed in accordance with this part:

(i) a contribution deposited in an account:

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

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

(ii) an expenditure made from an account:

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

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

Section 11. Section 20A-12-301 is amended to read:

20A-12-301. Definitions.

As used in this part:

(1) (a) “Contribution” means any of the following when done for political purposes:

(i) a gift, subscription, donation, loan, advance, or deposit of money or anything of value given to the judge or the judge’s personal campaign committee;

(ii) an express, legally enforceable contract, promise, or agreement to make a gift, subscription, donation, unpaid or partially unpaid loan, advance, or deposit of money or anything of value to the judge or the judge’s personal campaign committee;

(iii) any transfer of funds from another reporting entity or a corporation to the judge or the judge’s personal campaign committee;

(iv) compensation paid by any person or reporting entity other than the judge or the judge’s personal campaign committee for personal services provided without charge to the judge or the judge’s personal campaign committee; and

(v) goods or services provided to or for the benefit of the judge or the judge’s personal campaign committee at less than fair market value.

(b) “Contribution” does not include:

(i) services provided without compensation by individuals volunteering a portion or all of their time on behalf of the judge or the judge’s personal campaign committee; or

(ii) money lent to the judge or the judge’s personal campaign committee by a financial institution in the ordinary course of business.

(2) (a) “Corporation” means a domestic or foreign, profit or nonprofit, business organization that is registered as a corporation or is authorized to do business in a state and makes any expenditure from corporate funds for political purposes.

(b) “Corporation” does not mean:

(i) a business organization’s political action committee as defined in Section 20A-11-101 or political issues committee as defined in Section 20A-11-101; or

(ii) a business entity organized as a partnership or a sole proprietorship.

(3) “Detailed listing” means:

(a) for each contribution:

(i) the name and address of the individual or source making the contribution, to the extent that the name or address of the individual or source is known;

(ii) the amount or value of the contribution; and

(iii) the date the contribution was made; and

(b) for each expenditure:

(i) the amount of the expenditure;

(ii) the person or entity to whom it was disbursed;

(iii) the specific purpose, item, or service acquired by the expenditure; and

(iv) the date the expenditure was made.

(4) (a) “Expenditure” means:

(i) any disbursement from contributions or from the separate bank account required by this chapter;

(ii) a purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of value made for political purposes;

(iii) an express, legally enforceable contract, promise, or agreement to make any purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of value for political purposes;

(iv) compensation paid by a corporation or reporting entity for personal services rendered by a person without charge to the judge or the judge’s personal campaign committee;

(v) a transfer of funds between the judge’s personal campaign committee and another judge’s personal campaign committee; or

(vi) goods or services provided by the judge’s personal campaign committee to or for the benefit of another judge for political purposes at less than fair market value.

(b) “Expenditure” does not include:

(i) services provided without compensation by individuals volunteering a portion or all of their

time on behalf of the judge or judge's personal campaign committee; or

(ii) money lent to a judge's personal campaign committee by a financial institution in the ordinary course of business.

(5) "Individual" means a natural person.

(6) "Interim report" means a report identifying the contributions received and expenditures made since the last report.

(7) "Personal campaign committee" means the committee appointed by a judge to act for the judge as provided in this chapter.

(8) "Political purposes" means an act done with the intent or in a way to influence or tend to influence, directly or indirectly, any person to refrain from voting or to vote for or against any judge standing for retention at any election.

(9) "Reporting entity" means a judge, judge's personal campaign committee, candidate, a candidate's personal campaign committee, an officeholder, and a party committee, a political action committee, and a political issues committee.

(10) "Summary report" means the year-end report containing the summary of a reporting entity's contributions and expenditures.

Section 12. Section 20A-12-303 is amended to read:

20A-12-303. Separate account for campaign funds -- Reporting contributions.

(1) The judge or the judge's personal campaign committee shall deposit each contribution in one or more separate personal campaign accounts in a financial institution.

(2) The judge or the judge's personal campaign committee may not deposit or mingle any contributions received into a personal or business account.

(3) (a) As used in this Subsection (3) and Section 20A-12-305, "received" means:

(i) for a cash contribution, that the cash is given to a judge or the judge's personal campaign committee;

(ii) for a contribution that is a negotiable instrument or check, that the negotiable instrument or check is negotiated; and

(iii) for any other type of contribution, that any portion of the contribution's benefit inures to the judge.

(b) The judge or the judge's personal campaign committee shall report to the lieutenant governor each contribution received by the judge, within 30 days after the day on which the contribution is received.

(c) ~~Except as provided in Subsection (3)(d), for~~ For each contribution that a judge fails to report within the time period described in Subsection (3)(b), the lieutenant governor shall impose a fine

against the judge in an amount equal to ~~the greater of \$50 or 15%];~~

(i) 10% of the amount of the contribution[-, if the judge reports the contribution within 60 days after the day on which the time period described in Subsection (3)(b) ends; or

(ii) 20% of the amount of the contribution, if the judge fails to report the contribution within 60 days after the day on which the time period described in Subsection (3)(b) ends.

~~[(d) A fine described in Subsection (3)(c) may not exceed the amount of the contribution to which the fine relates.]~~

~~[(e)] (d)~~ The lieutenant governor shall:

(i) deposit money received under Subsection (3)(c) into the General Fund; and

(ii) report on the lieutenant governor's website, in the location where reports relating to each judge are available for public access:

(A) each fine imposed by the lieutenant governor against the judge;

(B) the amount of the fine;

(C) the amount of the contribution to which the fine relates; and

(D) the date of the contribution.

(4) Within 30 days after receiving a contribution that is cash or a negotiable instrument, exceeds \$50, and is from an unknown source, a judge or the judge's personal campaign committee shall disburse the amount of the contribution to:

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

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

CHAPTER 22**H. B. 98**

Passed February 24, 2015

Approved March 20, 2015

Effective May 12, 2015

ASSOCIATION AMENDMENTS

Chief Sponsor: Gage Froerer
Senate Sponsor: Stephen H. Urquhart

LONG TITLE**General Description:**

This bill modifies provisions of the Condominium Ownership Act and the Community Association Act.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ addresses the requirements and prohibitions that apply to rules of an association or an association of unit owners;
- ▶ modifies the method by which an association or an association of unit owners may restrict or prohibit rentals;
- ▶ modifies the circumstances under which an association or an association of unit owners may assess a fine;
- ▶ clarifies the procedures by which a lot owner or a unit owner may appeal an assessed fine; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

57-8-3, as last amended by Laws of Utah 2013, Chapters 95 and 152

57-8-10.1, as enacted by Laws of Utah 2014, Chapter 397

57-8-37, as last amended by Laws of Utah 2014, Chapter 116

57-8a-102, as last amended by Laws of Utah 2013, Chapters 95 and 152

57-8a-208, as last amended by Laws of Utah 2014, Chapter 116

57-8a-209, as last amended by Laws of Utah 2014, Chapter 397

57-8a-218, as enacted by Laws of Utah 2011, Chapter 355

ENACTS:

57-8-8.1, Utah Code Annotated 1953

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

Section 1. Section 57-8-3 is amended to read:**57-8-3. Definitions.**

As used in this chapter:

(1) "Assessment" means any charge imposed by the association, including:

(a) common expenses on or against a unit owner pursuant to the provisions of the declaration, bylaws, or this chapter; and

(b) an amount that an association of unit owners assesses to a unit owner under Subsection 57-8-43(9)(g).

(2) "Association of unit owners" means all of the unit owners:

(a) acting as a group in accordance with the declaration and bylaws; or

(b) organized as a legal entity in accordance with the declaration.

(3) "Building" means a building, containing units, and comprising a part of the property.

(4) "Commercial condominium project" means a condominium project that has no residential units within the project.

(5) "Common areas and facilities" unless otherwise provided in the declaration or lawful amendments to the declaration means:

(a) the land included within the condominium project, whether leasehold or in fee simple;

(b) the foundations, columns, girders, beams, supports, main walls, roofs, halls, corridors, lobbies, stairs, stairways, fire escapes, entrances, and exits of the building;

(c) the basements, yards, gardens, parking areas, and storage spaces;

(d) the premises for lodging of janitors or persons in charge of the property;

(e) installations of central services such as power, light, gas, hot and cold water, heating, refrigeration, air conditioning, and incinerating;

(f) the elevators, tanks, pumps, motors, fans, compressors, ducts, and in general all apparatus and installations existing for common use;

(g) such community and commercial facilities as may be provided for in the declaration; and

(h) all other parts of the property necessary or convenient to its existence, maintenance, and safety, or normally in common use.

(6) "Common expenses" means:

(a) all sums lawfully assessed against the unit owners;

(b) expenses of administration, maintenance, repair, or replacement of the common areas and facilities;

(c) expenses agreed upon as common expenses by the association of unit owners; and

(d) expenses declared common expenses by this chapter, or by the declaration or the bylaws.

(7) "Common profits," unless otherwise provided in the declaration or lawful amendments to the declaration, means the balance of all income, rents, profits, and revenues from the common areas and

facilities remaining after the deduction of the common expenses.

(8) “Condominium” means the ownership of a single unit in a multiunit project together with an undivided interest in common in the common areas and facilities of the property.

(9) “Condominium plat” means a plat or plats of survey of land and units prepared in accordance with Section 57-8-13.

(10) “Condominium project” means a real estate condominium project; a plan or project whereby two or more units, whether contained in existing or proposed apartments, commercial or industrial buildings or structures, or otherwise, are separately offered or proposed to be offered for sale. Condominium project also means the property when the context so requires.

(11) “Condominium unit” means a unit together with the undivided interest in the common areas and facilities appertaining to that unit. Any reference in this chapter to a condominium unit includes both a physical unit together with its appurtenant undivided interest in the common areas and facilities and a time period unit together with its appurtenant undivided interest, unless the reference is specifically limited to a time period unit.

(12) “Contractible condominium” means a condominium project from which one or more portions of the land within the project may be withdrawn in accordance with provisions of the declaration and of this chapter. If the withdrawal can occur only by the expiration or termination of one or more leases, then the condominium project is not a contractible condominium within the meaning of this chapter.

(13) “Convertible land” means a building site which is a portion of the common areas and facilities, described by metes and bounds, within which additional units or limited common areas and facilities may be created in accordance with this chapter.

(14) “Convertible space” means a portion of the structure within the condominium project, which portion may be converted into one or more units or common areas and facilities, including limited common areas and facilities in accordance with this chapter.

(15) “Declarant” means all persons who execute the declaration or on whose behalf the declaration is executed. From the time of the recordation of any amendment to the declaration expanding an expandable condominium, all persons who execute that amendment or on whose behalf that amendment is executed shall also come within this definition. Any successors of the persons referred to in this subsection who come to stand in the same relation to the condominium project as their predecessors also come within this definition.

(16) “Declaration” means the instrument by which the property is submitted to the provisions of

this act, as it from time to time may be lawfully amended.

(17) “Expandable condominium” means a condominium project to which additional land or an interest in it may be added in accordance with the declaration and this chapter.

(18) “Governing documents”:

(a) means a written instrument by which an association of unit owners may:

(i) exercise powers; or

(ii) manage, maintain, or otherwise affect the property under the jurisdiction of the association of unit owners; and

(b) includes:

(i) articles of incorporation;

(ii) bylaws;

(iii) a plat;

(iv) a declaration of covenants, conditions, and restrictions; and

(v) rules of the association of unit owners.

(19) “Independent third party” means a person that:

(a) is not related to the unit owner;

(b) shares no pecuniary interests with the unit owner; and

(c) purchases the unit in good faith and without the intent to defraud a current or future lienholder.

(20) “Leasehold condominium” means a condominium project in all or any portion of which each unit owner owns an estate for years in his unit, or in the land upon which that unit is situated, or both, with all those leasehold interests to expire naturally at the same time. A condominium project including leased land, or an interest in the land, upon which no units are situated or to be situated is not a leasehold condominium within the meaning of this chapter.

(21) “Limited common areas and facilities” means those common areas and facilities designated in the declaration as reserved for use of a certain unit or units to the exclusion of the other units.

(22) “Majority” or “majority of the unit owners,” unless otherwise provided in the declaration or lawful amendments to the declaration, means the owners of more than 50% in the aggregate in interest of the undivided ownership of the common areas and facilities.

(23) “Management committee” means the committee as provided in the declaration charged with and having the responsibility and authority to make and to enforce all of the reasonable rules covering the operation and maintenance of the property.

(24) (a) “Means of electronic communication” means an electronic system that allows individuals to communicate orally in real time.

(b) “Means of electronic communication” includes:

- (i) web conferencing;
- (ii) video conferencing; and
- (iii) telephone conferencing.

[~~(24)~~ (25) “Mixed-use condominium project” means a condominium project that has both residential and commercial units in the condominium project.

[~~(25)~~ (26) “Par value” means a number of dollars or points assigned to each unit by the declaration. Substantially identical units shall be assigned the same par value, but units located at substantially different heights above the ground, or having substantially different views, or having substantially different amenities or other characteristics that might result in differences in market value, may be considered substantially identical within the meaning of this subsection. If par value is stated in terms of dollars, that statement may not be considered to reflect or control the sales price or fair market value of any unit, and no opinion, appraisal, or fair market transaction at a different figure may affect the par value of any unit, or any undivided interest in the common areas and facilities, voting rights in the unit owners’ association, liability for common expenses, or right to common profits, assigned on the basis thereof.

[~~(26)~~ (27) “Person” means an individual, corporation, partnership, association, trustee, or other legal entity.

[~~(27)~~ (28) “Property” means the land, whether leasehold or in fee simple, the building, if any, all improvements and structures thereon, all easements, rights, and appurtenances belonging thereto, and all articles of personal property intended for use in connection therewith.

[~~(28)~~ (29) “Record,” “recording,” “recorded,” and “reorder” have the meaning stated in Title 57, Chapter 3, Recording of Documents.

(30) “Rentals” or “rental unit” means:

(a) a unit owned by an individual not described in Subsection (30)(b) that is occupied by someone while no unit owner occupies the unit as the unit owner’s primary residence; and

(b) a unit owned by an entity or trust, regardless of who occupies the unit.

[~~(29)~~ (31) “Size” means the number of cubic feet, or the number of square feet of ground or floor space, within each unit as computed by reference to the record of survey map and rounded off to a whole number. Certain spaces within the units including attic, basement, or garage space may be omitted from the calculation or be partially discounted by the use of a ratio, if the same basis of calculation is employed for all units in the condominium project and if that basis is described in the declaration.

[~~(30)~~ (32) “Time period unit” means an annually recurring part or parts of a year specified in the declaration as a period for which a unit is separately owned and includes a timeshare estate as defined in Subsection 57-19-2(19).

[~~(31)~~ (33) “Unit” means either a separate physical part of the property intended for any type of independent use, including one or more rooms or spaces located in one or more floors or part or parts of floors in a building or a time period unit, as the context may require. A convertible space shall be treated as a unit in accordance with Subsection 57-8-13.4(3). A proposed condominium unit under an expandable condominium project, not constructed, is a unit two years after the date the recording requirements of Section 57-8-13.6 are met.

[~~(32)~~ (34) “Unit number” means the number, letter, or combination of numbers and letters designating the unit in the declaration and in the record of survey map.

[~~(33)~~ (35) “Unit owner” means the person or persons owning a unit in fee simple and an undivided interest in the fee simple estate of the common areas and facilities in the percentage specified and established in the declaration or, in the case of a leasehold condominium project, the person or persons whose leasehold interest or interests in the condominium unit extend for the entire balance of the unexpired term or terms.

Section 2. Section 57-8-8.1 is enacted to read:

57-8-8.1. Equal treatment by rules required -- Limits on rules.

(1) (a) Except as provided in Subsection (1)(b), a rule shall treat similarly situated unit owners similarly.

(b) Notwithstanding Subsection (1)(a), a rule may:

(i) vary according to the level and type of service that the association of unit owners provides to unit owners; and

(ii) differ between residential and nonresidential uses.

(2) (a) If a unit owner owns a rental unit and is in compliance with the association of unit owners’ governing documents and any rule that the association of unit owners adopts under Subsection (4), a rule may not treat the unit owner differently because the unit owner owns a rental unit.

(b) Notwithstanding Subsection (2)(a), a rule may:

(i) limit or prohibit a rental unit owner from using the common areas for purposes other than attending an association meeting or managing the rental unit;

(ii) if the rental unit owner retains the right to use the association of unit owners’ common areas, even occasionally, charge a rental unit owner a fee to use the common areas; or

(iii) include a provision in the association of unit owners' governing documents that:

(A) requires each tenant of a rental unit to abide by the terms of the governing documents; and

(B) holds the tenant and the rental unit owner jointly and severally liable for a violation of a provision of the governing documents.

(3) (a) A rule may not interfere with the freedom of a unit owner to determine the composition of the unit owner's household.

(b) Notwithstanding Subsection (3)(a), an association of unit owners may:

(i) require that all occupants of a dwelling be members of a single housekeeping unit; or

(ii) limit the total number of occupants permitted in each residential dwelling on the basis of the residential dwelling's:

(A) size and facilities; and

(B) fair use of the common areas.

(4) Unless contrary to a declaration, a rule may require a minimum lease term.

(5) Unless otherwise provided in the declaration, an association of unit owners may by rule:

(a) regulate the use, maintenance, repair, replacement, and modification of common areas;

(b) impose and receive any payment, fee, or charge for:

(i) the use, rental, or operation of the common areas, except limited common areas; and

(ii) a service provided to a unit owner;

(c) impose a charge for a late payment of an assessment; or

(d) provide for the indemnification of the association of unit owners' officers and board consistent with Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act.

(6) A rule shall be reasonable.

(7) A declaration, or an amendment to a declaration, may vary any of the requirements of Subsections (1) through (5), except Subsection (1)(b)(ii).

(8) This section applies to an association regardless of when the association is created.

Section 3. Section 57-8-10.1 is amended to read:

57-8-10.1. Rental restrictions.

[(1) As used in this section, "rentals" or "rental unit" means:]

[(a) a unit owned by an individual not described in Subsection (1)(b) that is occupied by someone while no unit owner occupies the unit as the unit owner's primary residence; and]

[(b) a unit owned by an entity or trust, regardless of who occupies the unit.]

[(2)] (1) (a) Subject to Subsections [(2)] (1)(b), [(6)] (5), and [(7)] (6), an association of unit owners may:

(i) create restrictions on the number and term of rentals in a condominium project; or

(ii) prohibit rentals in the condominium project.

(b) An association of unit owners that creates a rental restriction or prohibition in accordance with Subsection [(2)] (1)(a) shall create the rental restriction or prohibition in a declaration or by amending the declaration.

[(3)] (2) If an association of unit owners prohibits or imposes restrictions on the number and term of rentals, the restrictions shall include:

(a) a provision that requires a condominium project to exempt from the rental restrictions the following unit owner and the unit owner's unit:

(i) a unit owner in the military for the period of the unit owner's deployment;

(ii) a unit occupied by a unit owner's parent, child, or sibling;

(iii) a unit owner whose employer has relocated the unit owner for no less than two years; or

(iv) a unit owned by a trust or other entity created for estate planning purposes if the trust or other estate planning entity was created for the estate of:

(A) a current resident of the unit; or

(B) the parent, child, or sibling of the current resident of the unit;

(b) a provision that allows a unit owner who has a rental in the condominium project before the time the rental restriction described in Subsection [(2)] (1)(a) is recorded with the county recorder of the county in which the condominium project is located to continue renting until:

(i) the unit owner occupies the unit; or

(ii) an officer, owner, member, trustee, beneficiary, director, or person holding a similar position of ownership or control of an entity or trust that holds an ownership interest in the unit, occupies the unit; and

(c) a requirement that the association of unit owners create, by rule or resolution, procedures to:

(i) determine and track the number of rentals and units in the condominium project subject to the provisions described in Subsections [(3)] (2)(a) and (b); and

(ii) ensure consistent administration and enforcement of the rental restrictions.

[(4)] (3) For purposes of Subsection [(3)] (2)(b), a transfer occurs when one or more of the following occur:

(a) the conveyance, sale, or other transfer of a unit by deed;

(b) the granting of a life estate in the unit; or

(c) if the unit is owned by a limited liability company, corporation, partnership, or other business entity, the sale or transfer of more than 75% of the business entity's share, stock, membership interests, or partnership interests in a 12-month period.

[(5)] (4) This section does not limit or affect residency age requirements for an association of unit owners that complies with the requirements of the Housing for Older Persons Act, 42 U.S.C. Sec. 3607.

[(6)] (5) A declaration or amendment to a declaration recorded before transfer of the first unit from the initial declarant may prohibit or restrict rentals without providing for the exceptions, provisions, and procedures required under Subsection [(3)] (2)(a).

[(7)] (6) Subsections [(2)] (1) through [(6)] (5) do not apply to:

(a) a condominium project that contains a time period unit as defined in Section 57-8-3;

(b) any other form of timeshare interest as defined in Section 57-19-2; or

(c) a condominium project in which the initial declaration is recorded before May 12, 2009[-], unless, on or after May 12, 2015, the association of unit owners:

(i) adopts a rental restriction or prohibition; or

(ii) amends an existing rental restriction or prohibition.

[(8)] (7) Notwithstanding this section, an association of unit owners may[, upon unanimous approval by all unit owners,] restrict or prohibit rentals without an exception described in Subsection [(3)-] (2) if:

(a) the restriction or prohibition receives unanimous approval by all unit owners; and

(b) when the restriction or prohibition requires an amendment to the association of unit owners' declaration, the association of unit owners fulfills all other requirements for amending the declaration described in the association of unit owners' governing documents.

[(9)] (8) Except as provided in Subsection [(10)] (9), an association of unit owners may not require a unit owner who owns a rental unit to:

(a) obtain the association of unit owners' approval of a prospective renter; [or]

(b) give the association of unit owners:

(i) a copy of a rental application;

(ii) a copy of a renter's or prospective renter's credit information or credit report;

(iii) a copy of a renter's or prospective renter's background check; or

(iv) documentation to verify the renter's age[-]; or

(c) pay an additional assessment, fine, or fee because the unit is a rental unit.

[(10)] (9) (a) A unit owner who owns a rental unit shall give an association of unit owners the documents described in Subsection [(9)] (8)(b) if the unit owner is required to provide the documents by court order or as part of discovery under the Utah Rules of Civil Procedure.

(b) If an association of unit owners' declaration lawfully prohibits or restricts occupancy of the units by a certain class of individuals, the association of unit owners may require a unit owner who owns a rental unit to give the association of unit owners the information described in Subsection [(9)] (8)(b), if:

(i) the information helps the association of unit owners determine whether the renter's occupancy of the unit complies with the association of unit owners' declaration; and

(ii) the association of unit owners uses the information to determine whether the renter's occupancy of the unit complies with the association of unit owners' declaration.

(10) The provisions of Subsections (8) and (9) apply to an association of unit owners regardless of when the association of unit owners is created.

Section 4. Section 57-8-37 is amended to read:

57-8-37. Fines.

(1) [~~(a) If authorized in the declaration, bylaws, or association rules, the~~] A management committee [~~of a residential condominium project~~] may assess a fine against a unit owner [~~after the requirements of Subsection (2) have been met for a violation of the rules and regulations of the association of unit owners which have been promulgated in accordance with this chapter and the declaration and bylaws~~] for a violation of the association of unit owners' governing documents in accordance with the provisions of this section.

[(b) The management committee of a nonresidential condominium project may not assess a fine against a unit owner.]

(2) (a) Before assessing a fine under Subsection (1), the management committee shall give [~~notice to the unit owner of the violation and inform the owner that a fine will be imposed if the violation is not cured within the time provided in the declaration, bylaws, or association rules, which shall be at least 48 hours-~~] the unit owner a written warning that:

(i) describes the violation;

(ii) states the rule or provision of the association of unit owners' governing documents that the unit owner's conduct violates;

(iii) states that the management committee may, in accordance with the provisions of this section, assess fines against the unit owner if a continuing violation is not cured or if the unit owner commits similar violations within one year after the day on which the management committee gives the unit owner the written warning or assesses a fine against the unit owner under this section; and

(iv) if the violation is a continuing violation, states a time that is not less than 48 hours after the day on which the management committee gives the unit owner the written warning by which the unit owner shall cure the violation.

(b) A management committee may assess a fine against a unit owner if:

(i) within one year after the day on which the management committee gives the unit owner a written warning described in Subsection (2)(a), the unit owner commits another violation of the same rule or provision identified in the written warning; or

(ii) for a continuing violation, the unit owner does not cure the violation within the time period that is stated in the written warning described in Subsection (2)(a).

(c) If permitted by the association of unit owners' governing documents, after a management committee assesses a fine against a unit owner under this section, the management committee may, without further warning under this Subsection (2), assess an additional fine against the unit owner each time the unit owner:

(i) commits a violation of the same rule or provision within one year after the day on which the management committee assesses a fine for a violation of the same rule or provision; or

(ii) allows a violation to continue for 10 days or longer after the day on which the management committee assesses the fine.

(d) The aggregate amount of fines assessed against a unit owner for violations of the same rule or provision of the governing documents may not exceed \$500 in any one calendar month.

(3) ~~(a)~~ A fine assessed under Subsection (1) shall:

~~(4)~~ (a) be made only for a violation of a rule ~~or regulation which is specifically listed in the declaration, bylaws, or association rules as an offense which is subject to a fine~~, covenant, condition, or restriction that is in the association of unit owners' governing documents;

~~(4)~~ (b) be in the amount ~~specifically~~ provided for in the ~~declaration, bylaws, or association rules for that specific type of violation, not to exceed \$500~~ association of unit owners' governing documents and in accordance with Subsection (2)(d); and

~~(4)~~ (c) accrue interest and late fees as provided in the ~~declaration, bylaws, or association rules~~ association of unit owners' governing documents.

~~(b) Cumulative fines for a continuing violation may not exceed \$500 per month.~~

(4) (a) A unit owner who is assessed a fine under Subsection (1) may request an informal hearing before the management committee to ~~protest or~~ dispute the fine within 30 days ~~from the date~~ after the day on which the unit owner receives notice that the fine is assessed. ~~The hearing shall be conducted~~

in accordance with the standards provided in the declaration, bylaws, or association rules. No]

(b) At a hearing described in Subsection (4)(a), the management committee shall:

(i) provide the unit owner a reasonable opportunity to present the unit owner's position to the management committee; and

(ii) allow the unit owner, a committee member, or any other person involved in the hearing to participate in the hearing by means of electronic communication.

(c) If a unit owner timely requests an informal hearing under Subsection (4)(a), no interest or late fees may accrue until after the management committee conducts the hearing ~~has been conducted~~ and the unit owner receives a final decision ~~has been rendered~~.

(5) A unit owner may appeal a fine ~~issued~~ assessed under Subsection (1) by initiating a civil action within 180 days after:

~~(a) a hearing has been held and a final decision has been rendered by the management committee under Subsection (4); or~~

(a) if the unit owner timely requests an informal hearing under Subsection (4), the day on which the unit owner receives a final decision from the management committee; or

(b) if the unit owner does not timely request an informal hearing under Subsection (4), the day on which the time to request an informal hearing under Subsection (4) ~~has expired without the unit owner making such a request~~ expires.

(6) (a) Subject to Subsection (6)(b), a management committee may delegate the management committee's rights and responsibilities under this section to a managing agent.

(b) A management committee may not delegate the management committee's rights or responsibilities described in Subsection (4)(b).

(7) The provisions of this section apply to an association of unit owners regardless of when the association of unit owners is created.

Section 5. Section 57-8a-102 is amended to read:

57-8a-102. Definitions.

As used in this chapter:

(1) (a) "Assessment" means a charge imposed or levied:

(i) by the association;

(ii) on or against a lot or a lot owner; and

(iii) pursuant to a governing document recorded with the county recorder.

(b) "Assessment" includes:

(i) a common expense; and

(ii) an amount assessed against a lot owner under Subsection 57-8a-405(7).

(2) (a) Except as provided in Subsection (2)(b), “association” means a corporation or other legal entity, any member of which:

(i) is an owner of a residential lot located within the jurisdiction of the association, as described in the governing documents; and

(ii) by virtue of membership or ownership of a residential lot is obligated to pay:

- (A) real property taxes;
- (B) insurance premiums;
- (C) maintenance costs; or

(D) for improvement of real property not owned by the member.

(b) “Association” or “homeowner association” does not include an association created under Title 57, Chapter 8, Condominium Ownership Act.

(3) “Board of directors” or “board” means the entity, regardless of name, with primary authority to manage the affairs of the association.

(4) “Common areas” means property that the association:

- (a) owns;
- (b) maintains;
- (c) repairs; or
- (d) administers.

(5) “Common expense” means costs incurred by the association to exercise any of the powers provided for in the association’s governing documents.

(6) “Declarant”:

(a) means the person who executes a declaration and submits it for recording in the office of the recorder of the county in which the property described in the declaration is located; and

(b) includes the person’s successor and assign.

(7) (a) “Governing documents” means a written instrument by which the association may:

(i) exercise powers; or

(ii) manage, maintain, or otherwise affect the property under the jurisdiction of the association.

(b) “Governing documents” includes:

- (i) articles of incorporation;
- (ii) bylaws;
- (iii) a plat;
- (iv) a declaration of covenants, conditions, and restrictions; and

(v) rules of the association.

(8) “Independent third party” means a person that:

(a) is not related to the owner of the residential lot;

(b) shares no pecuniary interests with the owner of the residential lot; and

(c) purchases the residential lot in good faith and without the intent to defraud a current or future lienholder.

(9) “Judicial foreclosure” means a foreclosure of a lot:

- (a) for the nonpayment of an assessment; and
- (b) (i) in the manner provided by law for the foreclosure of a mortgage on real property; and
- (ii) as provided in Part 3, Collection of Assessments.

(10) “Lease” or “leasing” means regular, exclusive occupancy of a lot:

(a) by a person or persons other than the owner; and

(b) for which the owner receives a consideration or benefit, including a fee, service, gratuity, or emolument.

(11) “Limited common areas” means common areas described in the declaration and allocated for the exclusive use of one or more lot owners.

(12) “Lot” means:

- (a) a lot, parcel, plot, or other division of land:
 - (i) designated for separate ownership or occupancy; and
 - (ii) (A) shown on a recorded subdivision plat; or
 - (B) the boundaries of which are described in a recorded governing document; or
- (b) (i) a unit in a condominium association if the condominium association is a part of a development; or
- (ii) a unit in a real estate cooperative if the real estate cooperative is part of a development.

(13) (a) “Means of electronic communication” means an electronic system that allows individuals to communicate orally in real time.

(b) “Means of electronic communication” includes:

- (i) web conferencing;
- (ii) video conferencing; and
- (iii) telephone conferencing.

[13] (14) “Mixed-use project” means a project under this chapter that has both residential and commercial lots in the project.

[14] (15) “Nonjudicial foreclosure” means the sale of a lot:

- (a) for the nonpayment of an assessment; and
- (b) (i) in the same manner as the sale of trust property under Sections 57-1-19 through 57-1-34; and
- (ii) as provided in Part 3, Collection of Assessments.

[14] (14) “Mixed-use project” means a project under this chapter that has both residential and commercial lots in the project.

[14] (15) “Nonjudicial foreclosure” means the sale of a lot:

- (a) for the nonpayment of an assessment; and
- (b) (i) in the same manner as the sale of trust property under Sections 57-1-19 through 57-1-34; and
- (ii) as provided in Part 3, Collection of Assessments.

(16) "Rentals" or "rental lot" means:

(a) a lot owned by an individual not described in Subsection (16)(b) that is occupied by someone while no lot owner occupies the lot as the lot owner's primary residence; and

(b) a lot owned by an entity or trust, regardless of who occupies the lot.

[(15)] (17) "Residential lot" means a lot, the use of which is limited by law, covenant, or otherwise to primarily residential or recreational purposes.

Section 6. Section 57-8a-208 is amended to read:

57-8a-208. Fines.

(1) [~~Unless otherwise provided in the association's governing documents, the~~ A board [of an association] may assess a fine against a lot owner for a violation of the association's governing documents [~~after the requirements described in Subsection (2) are met~~] in accordance with the provisions of this section.

(2) (a) Before assessing a fine under Subsection (1), the board shall give the lot owner a written warning that:

[(a) notify the lot owner of the violation; and]

[(b) inform the owner that a fine will be imposed if the violation is not remedied within the time provided in the association's governing documents, which shall be at least 48 hours.]

(i) describes the violation;

(ii) states the rule or provision of the association's governing documents that the lot owner's conduct violates;

(iii) states that the board may, in accordance with the provisions of this section, assess fines against the lot owner if a continuing violation is not cured or if the lot owner commits similar violations within one year after the day on which the board gives the lot owner the written warning or assesses a fine against the lot owner under this section; and

(iv) if the violation is a continuing violation, states a time that is not less than 48 hours after the day on which the board gives the lot owner the written warning by which the lot owner shall cure the violation.

(b) A board may assess a fine against a lot owner if:

(i) within one year after the day on which the board gives the lot owner a written warning described in Subsection (2)(a), the lot owner commits another violation of the same rule or provision identified in the written warning; or

(ii) for a continuing violation, the lot owner does not cure the violation within the time period that is stated in the written warning described in Subsection (2)(a).

(c) If permitted by the association's governing documents, after the board assesses a fine against a

lot owner under this section, the board may, without further warning under this Subsection (2), assess an additional fine against the lot owner each time the lot owner:

(i) commits a violation of the same rule or provision within one year after the day on which the board assesses a fine for a violation of the same rule or provision; or

(ii) allows a violation to continue for 10 days or longer after the day on which the board assesses the fine.

(3) [(a)] A fine assessed under Subsection (1) shall:

[(i)] (a) be made only for a violation of a rule, covenant, condition, or restriction that is [specifically listed] in the association's governing documents;

[(ii)] (b) be in the amount [specifically] provided for in the association's governing documents [for that specific type of violation or in an amount commensurate with the nature of the violation]; and

[(iii)] (c) accrue interest and late fees as provided in the association's governing documents.

[(b) Unpaid fines may be collected as an unpaid assessment as set forth in the association's governing documents or in this chapter.]

(4) (a) A lot owner who is assessed a fine under Subsection (1) may request an informal hearing before the board to [protest or] dispute the fine within 30 days after the day on which the lot owner receives notice that the fine is assessed.

[(b) A hearing requested under Subsection (4)(a) shall be conducted in accordance with standards provided in the association's governing documents.]

(b) At a hearing described in Subsection (4)(a), the board shall:

(i) provide the lot owner a reasonable opportunity to present the lot owner's position to the board; and

(ii) allow the lot owner, a board member, or any other person involved in the hearing to participate in the hearing by means of electronic communication.

(c) [No] If a lot owner timely requests an informal hearing under Subsection (4)(a), no interest or late fees may accrue until after the board conducts the hearing [has been conducted] and the lot owner receives a final decision [has been rendered].

(5) A lot owner may appeal a fine [issued] assessed under Subsection (1) by initiating a civil action within 180 days after:

(a) if the lot owner timely requests an informal hearing under Subsection (4), [within 180 days after] the day on which the lot owner receives a final decision from the [informal hearing is issued] board; or

(b) if the lot owner does not timely request an informal hearing under Subsection (4), [within 180 days after] the day on which the time to request an informal hearing under Subsection (4) expires.

(6) (a) Subject to Subsection (6)(b), a board may delegate the board's rights and responsibilities under this section to a managing agent.

(b) A board may not delegate the board's rights or responsibilities described in Subsection (4)(b).

(7) The provisions of this section apply to an association regardless of when the association is created.

Section 7. Section 57-8a-209 is amended to read:

57-8a-209. Rental restrictions.

~~[(1) As used in this section, "rentals" or "rental lot" means:]~~

~~[(a) a lot owned by an individual not described in Subsection (1)(b) that is occupied by someone while no lot owner occupies the lot as the lot owner's primary residence; and]~~

~~[(b) a lot owned by an entity or trust, regardless of who occupies the lot.]~~

~~[(2)] (1) (a) Subject to Subsections ~~[(2)]~~ (1)(b), ~~[(6)]~~ (5), and ~~[(7)]~~ (6), an association may:~~

~~(i) create restrictions on the number and term of rentals in an association; or~~

~~(ii) prohibit rentals in the association.~~

~~(b) An association that creates a rental restriction or prohibition in accordance with Subsection (1)(a)~~[(4)]~~ shall create the rental restriction or prohibition in a recorded declaration of covenants, conditions, and restrictions, or by amending the recorded declaration of covenants, conditions, and restrictions.~~

~~[(3)] (2) If an association prohibits or imposes restrictions on the number and term of rentals, the restrictions shall include:~~

~~(a) a provision that requires the association to exempt from the rental restrictions the following lot owner and the lot owner's lot:~~

~~(i) a lot owner in the military for the period of the lot owner's deployment;~~

~~(ii) a lot occupied by a lot owner's parent, child, or sibling;~~

~~(iii) a lot owner whose employer has relocated the lot owner for no less than two years; or~~

~~(iv) a lot owned by a trust or other entity created for estate planning purposes if the trust or other estate planning entity was created for:~~

~~(A) the estate of a current resident of the lot; or~~

~~(B) the parent, child, or sibling of the current resident of the lot;~~

~~(b) a provision that allows a lot owner who has a rental in the association before the time the rental restriction described in Subsection ~~[(2)]~~ (1)(a) is recorded with the county recorder of the county in which the association is located to continue renting until:~~

~~(i) the lot owner occupies the lot; or~~

~~(ii) an officer, owner, member, trustee, beneficiary, director, or person holding a similar position of ownership or control of an entity or trust that holds an ownership interest in the lot, occupies the lot; and~~

~~(c) a requirement that the association create, by rule or resolution, procedures to:~~

~~(i) determine and track the number of rentals and lots in the association subject to the provisions described in Subsections ~~[(3)]~~ (2)(a) and (b); and~~

~~(ii) ensure consistent administration and enforcement of the rental restrictions.~~

~~[(4)] (3) For purposes of Subsection ~~[(3)]~~ (2)(b), a transfer occurs when one or more of the following occur:~~

~~(a) the conveyance, sale, or other transfer of a lot by deed;~~

~~(b) the granting of a life estate in the lot; or~~

~~(c) if the lot is owned by a limited liability company, corporation, partnership, or other business entity, the sale or transfer of more than 75% of the business entity's share, stock, membership interests, or partnership interests in a 12-month period.~~

~~[(5)] (4) This section does not limit or affect residency age requirements for an association that complies with the requirements of the Housing for Older Persons Act, 42 U.S.C. Sec. 3607.~~

~~[(6) The] (5) A declaration of covenants, conditions, and restrictions or amendments to the declaration of covenants, conditions, and restrictions recorded before the transfer of the first lot from the initial declarant may prohibit or restrict rentals without providing for the exceptions, provisions, and procedures required under Subsection ~~[(3)]~~ (2)(a).~~

~~[(7)] (6) Subsections ~~[(2)]~~ (1) through ~~[(6)]~~ (5) do not apply to:~~

~~(a) an association that contains a time period unit as defined in Section 57-8-3;~~

~~(b) any other form of timeshare interest as defined in Section 57-19-2; or~~

~~(c) an association in which the initial declaration of covenants, conditions, and restrictions is recorded before May 12, 2009[-], unless, on or after May 12, 2015, the association:~~

~~(i) adopts a rental restriction or prohibition; or~~

~~(ii) amends an existing rental restriction or prohibition.~~

~~[(8)] (7) Notwithstanding this section, an association may, ~~upon unanimous approval by all lot owners,~~ restrict or prohibit rentals without an exception described in Subsection ~~[(3)-] (2) if:~~~~

~~(a) the restriction or prohibition receives unanimous approval by all lot owners; and~~

~~(b) when the restriction or prohibition requires an amendment to the association's recorded~~

declaration of covenants, conditions, and restrictions, the association fulfills all other requirements for amending the recorded declaration of covenants, conditions, and restrictions described in the association's governing documents.

[(9)] (8) Except as provided in Subsection [(10)] (9), an association may not require a lot owner who owns a rental lot to:

(a) obtain the association's approval of a prospective renter; ~~or~~

(b) give the association:

(i) a copy of a rental application;

(ii) a copy of a renter's or prospective renter's credit information or credit report;

(iii) a copy of a renter's or prospective renter's background check; or

(iv) documentation to verify the renter's age~~[-]~~; or

(c) pay an additional assessment, fine, or fee because the lot is a rental lot.

[(10)] (9) (a) A lot owner who owns a rental lot shall give an association the documents described in Subsection [(9)] (8)(b) if the lot owner is required to provide the documents by court order or as part of discovery under the Utah Rules of Civil Procedure.

(b) If an association's declaration of covenants, conditions, and restrictions lawfully prohibits or restricts occupancy of the lots by a certain class of individuals, the association may require a lot owner who owns a rental lot to give the association the information described in Subsection [(9)] (8)(b), if:

(i) the information helps the association determine whether the renter's occupancy of the lot complies with the association's declaration of covenants, conditions, and restrictions; and

(ii) the association uses the information to determine whether the renter's occupancy of the lot complies with the association's declaration of covenants, conditions, and restrictions.

(10) The provisions of Subsections (8) and (9) apply to an association regardless of when the association is created.

Section 8. Section 57-8a-218 is amended to read:

57-8a-218. Equal treatment by rules required -- Limits on association rules and design criteria.

(1) (a) Except as provided in Subsection (1)(b), a rule shall treat similarly situated lot owners similarly.

(b) Notwithstanding Subsection (1)(a), a rule may:

(i) vary according to the level and type of service that the association provides to lot owners; and

(ii) differ between residential and nonresidential uses.

(2) (a) If a lot owner owns a rental lot and is in compliance with the association's governing documents and any rule that the association adopts under Subsection (4), a rule may not treat the lot owner differently because the lot owner owns a rental lot.

(b) Notwithstanding Subsection (2)(a), a rule may:

(i) limit or prohibit a rental lot owner from using the common areas for purposes other than attending an association meeting or managing the rental lot;

(ii) if the rental lot owner retains the right to use the association's common areas, even occasionally, charge a rental lot owner a fee to use the common areas; or

(iii) include a provision in the association's governing documents that:

(A) requires each tenant of a rental lot to abide by the terms of the governing documents; and

(B) holds the tenant and the rental lot owner jointly and severally liable for a violation of a provision of the governing documents.

[(2)] (3) (a) A rule criterion may not abridge the rights of a lot owner to display religious and holiday signs, symbols, and decorations inside a dwelling on a lot.

(b) Notwithstanding Subsection [(2)] (3)(a), the association may adopt time, place, and manner restrictions with respect to displays visible from outside the dwelling or lot.

[(3)] (4) (a) A rule may not regulate the content of political signs.

(b) Notwithstanding Subsection [(3)] (4)(a):

(i) a rule may regulate the time, place, and manner of posting a political sign; and

(ii) an association design provision may establish design criteria for political signs.

[(4)] (5) (a) A rule may not interfere with the freedom of a lot owner to determine the composition of the lot owner's household.

(b) Notwithstanding Subsection [(4)] (5)(a), an association may:

(i) require that all occupants of a dwelling be members of a single housekeeping unit; ~~and~~ or

(ii) limit the total number of occupants permitted in each residential dwelling on the basis of the residential dwelling's:

(A) size and facilities; and

(B) fair use of the common areas.

[(5)] (6) (a) A rule may not interfere with an activity of a lot owner within the confines of a dwelling or lot, to the extent that the activity is in compliance with local laws and ordinances.

(b) Notwithstanding Subsection ~~[(5)]~~ (6)(a), a rule may prohibit an activity within a dwelling on an owner's lot if the activity:

(i) is not normally associated with a project restricted to residential use; or

(ii) (A) creates monetary costs for the association or other lot owners;

(B) creates a danger to the health or safety of occupants of other lots;

(C) generates excessive noise or traffic;

(D) creates unsightly conditions visible from outside the dwelling;

(E) creates an unreasonable source of annoyance to persons outside the lot; or

(F) if there are attached dwellings, creates the potential for smoke to enter another lot owner's dwelling, the common areas, or limited common areas.

(c) If permitted by law, an association may adopt rules described in Subsection ~~[(5)]~~ (6)(b) that affect the use of or behavior inside the dwelling.

~~[(6)]~~ (7) (a) A rule may not, to the detriment of a lot owner and over the lot owner's written objection to the board, alter the allocation of financial burdens among the various lots.

(b) Notwithstanding Subsection ~~[(6)]~~ (7)(a), an association may:

(i) change the common areas available to a lot owner;

(ii) adopt generally applicable rules for the use of common areas; or

(iii) deny use privileges to a lot owner who:

(A) is delinquent in paying assessments;

(B) abuses the common areas; or

(C) violates the governing documents.

(c) This Subsection ~~[(6)]~~ (7) does not permit a rule that:

(i) alters the method of levying assessments; or

(ii) increases the amount of assessments as provided in the declaration.

~~[(7)]~~ (8) (a) Subject to Subsection ~~[(7)]~~ (8)(b), a rule may not:

(i) prohibit the transfer of a lot; or

(ii) require the consent of the association or board to transfer a lot.

(b) Unless contrary to a declaration, a rule may require a minimum lease term.

~~[(8)]~~ (9) (a) A rule may not require a lot owner to dispose of personal property that was in or on a lot before the adoption of the rule or design criteria if the personal property was in compliance with all

rules and other governing documents previously in force.

(b) The exemption in Subsection ~~[(8)]~~ (9)(a):

(i) applies during the period of the lot owner's ownership of the lot; and

(ii) does not apply to a subsequent lot owner who takes title to the lot after adoption of the rule described in Subsection ~~[(8)]~~ (9)(a).

~~[(9)]~~ (10) A rule or action by the association or action by the board may not unreasonably impede a declarant's ability to satisfy existing development financing for community improvements and right to develop:

(a) the project; or

(b) other properties in the vicinity of the project.

~~[(10)]~~ (11) A rule or association or board action may not interfere with:

(a) the use or operation of an amenity that the association does not own or control; or

(b) the exercise of a right associated with an easement.

~~[(11)]~~ (12) A rule may not divest a lot owner of the right to proceed in accordance with a completed application for design review, or to proceed in accordance with another approval process, under the terms of the governing documents in existence at the time the completed application was submitted by the owner for review.

~~[(12)]~~ (13) Unless otherwise provided in the declaration, an association may by rule:

(a) regulate the use, maintenance, repair, replacement, and modification of common areas;

(b) impose and receive any payment, fee, or charge for:

(i) the use, rental, or operation of the common areas, except limited common areas; and

(ii) a service provided to a lot owner;

(c) impose a charge for a late payment of an assessment; or

(d) provide for the indemnification of ~~[(its)]~~ the association's officers and board consistent with Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act.

~~[(13)]~~ (14) A rule shall be reasonable.

~~[(14)]~~ (15) A declaration, or an amendment to a declaration, may vary any of the requirements of Subsections (1) through ~~[(12)]~~ (13), except Subsection (1)(b)(ii).

~~[(15)]~~ (16) A rule may not be inconsistent with a provision of ~~[(a)]~~ the association's declaration, bylaws, or articles of incorporation.

(17) This section applies to an association regardless of when the association is created.

CHAPTER 23**H. B. 105**

Passed March 11, 2015
 Approved March 20, 2015
 Effective May 12, 2015

ANTIDISCRIMINATION MODIFICATIONS

Chief Sponsor: Justin J. Miller
 Senate Sponsor: Jani Iwamoto

LONG TITLE**General Description:**

This bill modifies the Utah Antidiscrimination Act to address breastfeeding or medical conditions related to breastfeeding.

Highlighted Provisions:

This bill:

- ▶ includes breastfeeding or medical conditions related to breastfeeding under pregnancy, childbirth, or pregnancy-related conditions; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

34A-5-102, as last amended by Laws of Utah 2011, Chapter 413

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

Section 1. Section 34A-5-102 is amended to read:**34A-5-102. Definitions -- Unincorporated entities.**

- (1) As used in this chapter:
- (a) "Apprenticeship" means a program for the training of apprentices including a program providing the training of those persons defined as apprentices by Section 35A-6-102.
- (b) "Bona fide occupational qualification" means a characteristic applying to an employee that:
- (i) is necessary to the operation; or
 - (ii) is the essence of the employee's employer's business.
- (c) "Court" means:
- (i) the district court in the judicial district of the state in which the asserted unfair employment practice occurred; or
 - (ii) if this court is not in session at that time, a judge of the court described in Subsection (1)(c)(i).
- (d) "Director" means the director of the division.
- (e) "Disability" means a physical or mental disability as defined and covered by the Americans with Disabilities Act of 1990, 42 U.S.C. Sec. 12102.

(f) "Division" means the Division of Antidiscrimination and Labor.

(g) "Employee" means any person applying with or employed by an employer.

(h) (i) "Employer" means:

- (A) the state;
- (B) any political subdivision;

(C) a board, commission, department, institution, school district, trust, or agent of the state or its political subdivisions; or

(D) a person employing 15 or more employees within the state for each working day in each of 20 calendar weeks or more in the current or preceding calendar year.

(ii) "Employer" does not include:

- (A) a religious organization or association;
- (B) a religious corporation sole; or

(C) any corporation or association constituting a wholly owned subsidiary or agency of any religious organization or association or religious corporation sole.

(i) "Employment agency" means any person:

(i) undertaking to procure employees or opportunities to work for any other person; or

(ii) holding the person out to be equipped to take an action described in Subsection (1)(i)(i).

(j) "Joint apprenticeship committee" means any association of representatives of a labor organization and an employer providing, coordinating, or controlling an apprentice training program.

(k) "Labor organization" means any organization that exists for the purpose in whole or in part of:

- (i) collective bargaining;
- (ii) dealing with employers concerning grievances, terms or conditions of employment; or
- (iii) other mutual aid or protection in connection with employment.

(l) "National origin" means the place of birth, domicile, or residence of an individual or of an individual's ancestors.

(m) "On-the-job-training" means any program designed to instruct a person who, while learning the particular job for which the person is receiving instruction:

- (i) is also employed at that job; or
- (ii) may be employed by the employer conducting the program during the course of the program, or when the program is completed.

(n) "Person" means one or more individuals, partnerships, associations, corporations, legal representatives, trusts or trustees, receivers, the state and all political subdivisions and agencies of the state.

(o) “Pregnancy, childbirth, or pregnancy-related conditions” includes breastfeeding or medical conditions related to breastfeeding.

~~[(p)]~~ (p) “Presiding officer” means the same as that term is defined in Section 63G-4-103.

~~[(q)]~~ (q) “Prohibited employment practice” means a practice specified as discriminatory, and therefore unlawful, in Section 34A-5-106.

~~[(r)]~~ (r) “Retaliate” means the taking of adverse action by an employer, employment agency, labor organization, apprenticeship program, on-the-job training program, or vocational school against one of its employees, applicants, or members because the employee, applicant, or member has:

(i) opposed any employment practice prohibited under this chapter; or

(ii) filed charges, testified, assisted, or participated in any way in any proceeding, investigation, or hearing under this chapter.

~~[(s)]~~ (s) “Unincorporated entity” means an entity organized or doing business in the state that is not:

- (i) an individual;
- (ii) a corporation; or
- (iii) publicly traded.

~~[(t)]~~ (t) “Vocational school” means any school or institution conducting a course of instruction, training, or retraining to prepare individuals to follow an occupation or trade, or to pursue a manual, technical, industrial, business, commercial, office, personal services, or other nonprofessional occupations.

(2) (a) For purposes of this chapter, an unincorporated entity that is required to be licensed under Title 58, Chapter 55, Utah Construction Trades Licensing Act, is presumed to be the employer of each individual who, directly or indirectly, holds an ownership interest in the unincorporated entity.

(b) Pursuant to rules made by the commission in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, an unincorporated entity may rebut the presumption under Subsection (2)(a) for an individual by establishing by clear and convincing evidence that the individual:

(i) is an active manager of the unincorporated entity;

(ii) directly or indirectly holds at least an 8% ownership interest in the unincorporated entity; or

(iii) is not subject to supervision or control in the performance of work by:

(A) the unincorporated entity; or

(B) a person with whom the unincorporated entity contracts.

(c) As part of the rules made under Subsection (2)(b), the commission may define:

(i) “active manager”;

(ii) “directly or indirectly holds at least an 8% ownership interest”; and

(iii) “subject to supervision or control in the performance of work.”

CHAPTER 24**H. B. 121**

Passed February 24, 2015

Approved March 20, 2015

Effective May 12, 2015

**INTERSTATE MEDICAL
LICENSURE COMPACT**

Chief Sponsor: Raymond P. Ward

Senate Sponsor: Evan J. Vickers

LONG TITLE**General Description:**

This bill enacts an interstate licensing compact to streamline the licensing of a physician in multiple states.

Highlighted Provisions:

This bill:

- ▶ establishes the purpose of the compact;
- ▶ defines terms;
- ▶ establishes eligibility for licensure under the compact;
- ▶ establishes a license application issuance and renewal process;
- ▶ establishes a database for physician licensure;
- ▶ provides a process for joint investigations and disciplinary actions;
- ▶ creates an Interstate Medical Licensure Compact Commission;
- ▶ creates powers and duties for the Interstate Medical Licensure Compact Commission, including:
 - finance powers;
 - organization and operation;
 - rulemaking; and
 - oversight;
- ▶ establishes an enforcement mechanism and dispute resolution process for the Interstate Medical Licensure Compact; and
- ▶ provides a process for withdrawal from the compact and dissolution of the compact.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

58-67b-101, Utah Code Annotated 1953
 58-67b-102, Utah Code Annotated 1953
 58-67b-103, Utah Code Annotated 1953
 58-67b-104, Utah Code Annotated 1953
 58-67b-105, Utah Code Annotated 1953
 58-67b-106, Utah Code Annotated 1953
 58-67b-107, Utah Code Annotated 1953
 58-67b-108, Utah Code Annotated 1953
 58-67b-109, Utah Code Annotated 1953
 58-67b-110, Utah Code Annotated 1953
 58-67b-111, Utah Code Annotated 1953
 58-67b-112, Utah Code Annotated 1953
 58-67b-113, Utah Code Annotated 1953
 58-67b-114, Utah Code Annotated 1953
 58-67b-115, Utah Code Annotated 1953
 58-67b-116, Utah Code Annotated 1953
 58-67b-117, Utah Code Annotated 1953

58-67b-118, Utah Code Annotated 1953
 58-67b-119, Utah Code Annotated 1953
 58-67b-120, Utah Code Annotated 1953
 58-67b-121, Utah Code Annotated 1953
 58-67b-122, Utah Code Annotated 1953
 58-67b-123, Utah Code Annotated 1953
 58-67b-124, Utah Code Annotated 1953
 58-67b-125, Utah Code Annotated 1953

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

Section 1. Section 58-67b-101 is enacted to read:**CHAPTER 67b. INTERSTATE MEDICAL
LICENSURE COMPACT****58-67b-101. Title.**

This chapter is known as the "Interstate Medical Licensure Compact."

Section 2. Section 58-67b-102 is enacted to read:**58-67b-102. Section 1 -- Purpose.**

In order to strengthen access to health care, and in recognition of the advances in the delivery of health care, the member states of the Interstate Medical Licensure Compact have allied in common purpose to develop a comprehensive process that complements the existing licensing and regulatory authority of state medical boards and provides a streamlined process that allows physicians to become licensed in multiple states, thereby enhancing the portability of a medical license and ensuring the safety of patients. The Compact creates another pathway for licensure and does not otherwise change a state's existing medical practice act. The Compact also adopts the prevailing standard for licensure and affirms that the practice of medicine occurs where the patient is located at the time of the physician-patient encounter, and therefore, requires the physician to be under the jurisdiction of the state medical board where the patient is located. State medical boards that participate in the Compact retain the jurisdiction to impose an adverse action against a license to practice medicine in that state issued to a physician through the procedures in the Compact.

Section 3. Section 58-67b-103 is enacted to read:**58-67b-103. Section 2 -- Definitions.**

In this compact:

(1) "Bylaws" means those bylaws established by the Interstate Commission pursuant to Section 58-67b-112 for its governance, or for directing and controlling its actions and conduct.

(2) "Commissioner" means the voting representative appointed by each member board pursuant to Section 58-67b-112.

(3) "Conviction" means a finding by a court that an individual is guilty of a criminal offense through adjudication, or entry of a plea of guilt or no contest to the charge by the offender. Evidence of an entry of a conviction of a criminal offense by the court

shall be considered final for purposes of disciplinary action by a member board.

(4) “Expedited license” means a full and unrestricted medical license granted by a member state to an eligible physician through the process set forth in the Compact.

(5) “Interstate Commission” means the interstate commission created pursuant to Section 58-67b-112.

(6) “License” means authorization by a state for a physician to engage in the practice of medicine, which would be unlawful without the authorization.

(7) “Medical practice act” means laws and regulations governing the practice of allopathic and osteopathic medicine within a member state.

(8) “Member board” means a state agency in a member state that acts in the sovereign interests of the state by protecting the public through licensure, regulation, and education of physicians as directed by the state government.

(9) “Member state” means a state that has enacted the Compact.

(10) “Offense” means a felony, gross misdemeanor, or crime of moral turpitude.

(11) “Physician” means any person who:

(a) is a graduate of a medical school accredited by the Liaison Committee on Medical Education, the Commission on Osteopathic College Accreditation, or a medical school listed in the International Medical Education Directory or its equivalent;

(b) passed each component of the United States Medical Licensing Examination (USMLE) or the Comprehensive Osteopathic Medical Licensing Examination (COMLEX-USA) within three attempts, or any of its predecessor examinations accepted by a state medical board as an equivalent examination for licensure purposes;

(c) successfully completed graduate medical education approved by the Accreditation Council for Graduate Medical Education or the American Osteopathic Association;

(d) holds specialty certification or a time-unlimited specialty certificate recognized by the American Board of Medical Specialties or the American Osteopathic Association’s Bureau of Osteopathic Specialists;

(e) possesses a full and unrestricted license to engage in the practice of medicine issued by a member board;

(f) has never been convicted, received adjudication, deferred adjudication, community supervision, or deferred disposition for any offense by a court of appropriate jurisdiction;

(g) has never held a license authorizing the practice of medicine subjected to discipline by a licensing agency in any state, federal, or foreign

jurisdiction, excluding any action related to non-payment of fees related to a license;

(h) has never had a controlled substance license or permit suspended or revoked by a state or the United States Drug Enforcement Administration; and

(i) is not under active investigation by a licensing agency or law enforcement authority in any state, federal, or foreign jurisdiction.

(12) “Practice of medicine” means the clinical prevention, diagnosis, or treatment of human disease, injury, or condition requiring a physician to obtain and maintain a license in compliance with the medical practice act of a member state.

(13) “Rule” means a written statement by the Interstate Commission promulgated pursuant to Section 58-67b-113 that is of general applicability, implements, interprets, or prescribes a policy or provision of the Compact, or an organizational, procedural, or practice requirement of the Interstate Commission, and has the force and effect of statutory law in a member state, and includes the amendment, repeal, or suspension of an existing rule.

(14) “State” means any state, commonwealth, district, or territory of the United States.

(15) “State of principal license” means a member state where a physician holds a license to practice medicine and which has been designated as such by the physician for purposes of registration and participation in the Compact.

Section 4. Section 58-67b-104 is enacted to read:

58-67b-104. Section 3 -- Eligibility.

(1) A physician must meet the eligibility requirements as defined in Subsection 58-67b-103(1) to receive an expedited license under the terms and provisions of the Compact.

(2) A physician who does not meet the requirements of Subsection 58-67b-103(1) may obtain a license to practice medicine in a member state if the individual complies with all laws and requirements, other than the Compact, relating to the issuance of a license to practice medicine in that state.

Section 5. Section 58-67b-105 is enacted to read:

58-67b-105. Section 4 -- Designation of state of principal license.

(1) A physician shall designate a member state as the state of principal license for purposes of registration for expedited licensure through the Compact if the physician possesses a full and unrestricted license to practice medicine in that state, and the state is:

(a) the state of primary residence for the physician;

(b) the state where at least 25% of the practice of medicine occurs;

(c) the location of the physician's employer; or

(d) if no state qualifies under Subsection (1)(a), Subsection (1)(b), or Subsection (1)(c), the state designated as state of residence for purpose of federal income tax.

(2) A physician may redesignate a member state as state of principal license at any time, as long as the state meets the requirements in Subsection (1).

(3) The Interstate Commission is authorized to develop rules to facilitate redesignation of another member state as the state of principal license.

Section 6. Section 58-67b-106 is enacted to read:

58-67b-106. Section 5 -- Application and issuance of expedited licensure.

(1) A physician seeking licensure through the Compact shall file an application for an expedited license with the member board of the state selected by the physician as the state of principal license.

(2) Upon receipt of an application for an expedited license, the member board within the state selected as the state of principal license shall evaluate whether the physician is eligible for expedited licensure and issue a letter of qualification, verifying or denying the physician's eligibility, to the Interstate Commission, including:

(a) static qualifications, which include verification of medical education, graduate medical education, results of any medical or licensing examination, and other qualifications as determined by the Interstate Commission through rule, shall not be subject to additional primary source verification where the primary source has already been verified by the state of principal license;

(b) (i) the member board within the state selected as the state of principal license shall, in the course of verifying eligibility, perform a criminal background check of an applicant, including the use of the results of fingerprint or other biometric data checks compliant with the requirements of the Federal Bureau of Investigation, with the exception of federal employees who have suitability determination in accordance with U.S. C.F.R. Sec. 731.202; and

(ii) if the state selected as the state of principal license is Utah:

(A) the member board in Utah shall submit the applicant's fingerprints and any other personal identification information necessary for the performance of the background check to the Bureau of Criminal Identification within the Utah Department of Public Safety; and

(B) the Bureau of Criminal Identification shall perform the background check, including submitting the personal identification information to the Federal Bureau of Investigation, and inform the member board of the results; and

(c) appeal on the determination of eligibility shall be made to the member state where the application was filed and shall be subject to the law of that state.

(3) Upon verification in Subsection (2), physicians eligible for an expedited license shall complete the registration process established by the Interstate Commission to receive a license in a member state selected pursuant to Subsection (1), including the payment of any applicable fees.

(4) After receiving verification of eligibility under Subsection (2) and any fees under Subsection (3), a member board shall issue an expedited license to the physician. This license shall authorize the physician to practice medicine in the issuing state consistent with the medical practice act and all applicable laws and regulations of the issuing member board and member state.

(5) An expedited license shall be valid for a period consistent with the licensure period in the member state and in the same manner as required for other physicians holding a full and unrestricted license within the member state.

(6) An expedited license obtained through the Compact shall be terminated if a physician fails to maintain a license in the state of principal licensure for a non-disciplinary reason, without redesignation of a new state of principal licensure.

(7) The Interstate Commission is authorized to develop rules regarding the application process, including payment of any applicable fees, and the issuance of an expedited license.

Section 7. Section 58-67b-107 is enacted to read:

58-67b-107. Section 6 -- Fees for expedited licensure.

(1) A member state issuing an expedited license authorizing the practice of medicine in that state may impose a fee for a license issued or renewed through the Compact.

(2) The Interstate Commission is authorized to develop rules regarding fees for expedited licenses.

Section 8. Section 58-67b-108 is enacted to read:

58-67b-108. Section 7 -- Renewal and continued participation.

(1) A physician seeking to renew an expedited license granted in a member state shall complete a renewal process with the Interstate Commission if the physician:

(a) maintains a full and unrestricted license in a state of principal licensure;

(b) has not been convicted or received adjudication, deferred adjudication, community supervision, or deferred disposition for any offense by a court of appropriate jurisdiction;

(c) has not had a license authorizing the practice of medicine subject to discipline by a licensing agency in any state, federal, or foreign jurisdiction, excluding any action related to non-payment of fees related to a license; and

(d) has not had a controlled substance license or permit suspended or revoked by a state or the United States Drug Enforcement Administration.

(2) Physicians shall comply with all continuing professional development or continuing medical education requirements for renewal of a license issued by a member state.

(3) The Interstate Commission shall collect any renewal fees charged for the renewal of a license and distribute the fees to the applicable member board.

(4) Upon receipt of any renewal fees collected in Subsection (3), a member board shall renew the physician's license.

(5) Physician information collected by the Interstate Commission during the renewal process will be distributed to all member boards.

(6) The Interstate Commission is authorized to develop rules to address renewal of licenses obtained through the Compact.

Section 9. Section 58-67b-109 is enacted to read:

58-67b-109. Section 8 -- Coordinated information system.

(1) The Interstate Commission shall establish a database of all physicians licensed, or who have applied for licensure, under Section 58-67b-106.

(2) Notwithstanding any other provision of law, member boards shall report to the Interstate Commission any public action or complaints against a licensed physician who has applied or received an expedited license through the Compact.

(3) Member boards shall report disciplinary or investigatory information determined as necessary and proper by rule of the Interstate Commission.

(4) Member boards may report any non-public complaint, disciplinary, or investigatory information not required by Subsection (3) to the Interstate Commission.

(5) Member boards shall share complaint or disciplinary information about a physician upon request of another member board.

(6) All information provided to the Interstate Commission or distributed by member boards shall be confidential, filed under seal, and used only for investigatory or disciplinary matters.

(7) The Interstate Commission is authorized to develop rules for mandated or discretionary sharing of information by member boards.

Section 10. Section 58-67b-110 is enacted to read:

58-67b-110. Section 9 -- Joint investigations.

(1) Licensure and disciplinary records of physicians are deemed investigative.

(2) In addition to the authority granted to a member board by its respective medical practice act

or other applicable state law, a member board may participate with other member boards in joint investigations of physicians licensed by the member boards.

(3) A subpoena issued by a member state shall be enforceable in other member states.

(4) Member boards may share any investigative, litigation, or compliance materials in furtherance of any joint or individual investigation initiated under the Compact.

(5) Any member state may investigate actual or alleged violations of the statutes authorizing the practice of medicine in any other member state in which a physician holds a license to practice medicine.

Section 11. Section 58-67b-111 is enacted to read:

58-67b-111. Section 10 -- Disciplinary actions.

(1) Any disciplinary action taken by any member board against a physician licensed through the Compact shall be deemed unprofessional conduct which may be subject to discipline by other member boards, in addition to any violation of the medical practice act or regulations in that state.

(2) If a license granted to a physician by the member board in the state of principal license is revoked, surrendered or relinquished in lieu of discipline, or suspended, then all licenses issued to the physician by member boards shall automatically be placed, without further action necessary by any member board, on the same status. If the member board in the state of principal license subsequently reinstates the physician's license, a license issued to the physician by any other member board shall remain encumbered until that respective member board takes action to reinstate the license in a manner consistent with the medical practice act of that state.

(3) If disciplinary action is taken against a physician by a member board not in the state of principal license, any other member board may deem the action conclusive as to matter of law and fact decided, and:

(a) impose the same or lesser sanctions against the physician so long as such sanctions are consistent with the medical practice act of that state; or

(b) pursue separate disciplinary action against the physician under its respective medical practice act, regardless of the action taken in other member states.

(4) If a license granted to a physician by a member board is revoked, surrendered or relinquished in lieu of discipline, or suspended, then any licenses issued to the physician by any other member boards shall be suspended, automatically and immediately without further action necessary by the other member boards, for 90 days upon entry of the order by the disciplining board, to permit the member boards to investigate the basis for the action under the medical practice act of that state. A member

board may terminate the automatic suspension of the license it issued prior to the completion of the 90-day suspension period in a manner consistent with the medical practice act of that state.

Section 12. Section 58-67b-112 is enacted to read:

58-67b-112. Section 11 -- Interstate Medical Licensure Compact Commission.

(1) The member states hereby create the "Interstate Medical Licensure Compact Commission."

(2) The purpose of the Interstate Commission is the administration of the Interstate Medical Licensure Compact, which is a discretionary state function.

(3) The Interstate Commission shall be a body corporate and joint agency of the member states and shall have all the responsibilities, powers, and duties set forth in the Compact, and such additional powers as may be conferred upon it by a subsequent concurrent action of the respective legislatures of the member states in accordance with the terms of the Compact.

(4) The Interstate Commission shall consist of two voting representatives appointed by each member state who shall serve as commissioners. In states where allopathic and osteopathic physicians are regulated by separate member boards, or if the licensing and disciplinary authority is split between multiple member boards within a member state, the member state shall appoint one representative from each member board. A commissioner shall be:

(a) an allopathic or osteopathic physician appointed to a member board;

(b) an executive director, executive secretary, or similar executive of a member board; or

(c) a member of the public appointed to a member board.

(5) The Interstate Commission shall meet at least once each calendar year. A portion of this meeting shall be a business meeting to address such matters as may properly come before the commission, including the election of officers. The chairperson may call additional meetings and shall call for a meeting upon the request of a majority of the member states.

(6) The bylaws may provide for meetings of the Interstate Commission to be conducted by telecommunication or electronic communication.

(7) Each commissioner participating at a meeting of the Interstate Commission is entitled to one vote. A majority of commissioners shall constitute a quorum for the transaction of business, unless a larger quorum is required by the bylaws of the Interstate Commission. A commissioner shall not delegate a vote to another commissioner. In the absence of its commissioner, a member state may delegate voting authority for a specified meeting to another person from that state who shall meet the requirements of Subsection (4).

(8) The Interstate Commission shall provide public notice of all meetings and all meetings shall be open to the public. The Interstate Commission may close a meeting, in full or in portion, where it determines by a two-thirds vote of the commissioners present that an open meeting would be likely to:

(a) relate solely to the internal personnel practices and procedures of the Interstate Commission;

(b) discuss matters specifically exempted from disclosure by federal statute;

(c) discuss trade secrets, commercial, or financial information that is privileged or confidential;

(d) involve accusing a person of a crime, or formally censuring a person;

(e) discuss information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(f) discuss investigative records compiled for law enforcement purposes; or

(g) specifically relate to the participation in a civil action or other legal proceeding.

(9) The Interstate Commission shall keep minutes which shall fully describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, including record of any roll call votes.

(10) The Interstate Commission shall make its information and official records, to the extent not otherwise designated in the Compact or by its rules, available to the public for inspection.

(11) The Interstate Commission shall establish an executive committee, which shall include officers, members, and others as determined by the bylaws. The executive committee shall have the power to act on behalf of the Interstate Commission, with the exception of rulemaking, during periods when the Interstate Commission is not in session. When acting on behalf of the Interstate Commission, the executive committee shall oversee the administration of the Compact including enforcement and compliance with the provisions of the Compact, its bylaws and rules, and other such duties as necessary.

(12) The Interstate Commission may establish other committees for governance and administration of the Compact.

Section 13. Section 58-67b-113 is enacted to read:

58-67b-113. Section 12 -- Powers and duties of the Interstate Commission.

The Interstate Commission shall have the duty and power to:

(1) oversee and maintain the administration of the Compact;

(2) promulgate rules which shall be binding to the extent and in the manner provided for in the Compact;

(3) issue, upon the request of a member state or member board, advisory opinions concerning the meaning or interpretation of the Compact, its bylaws, rules, and actions;

(4) enforce compliance with Compact provisions, the rules promulgated by the Interstate Commission, and the bylaws, using all necessary and proper means, including but not limited to the use of judicial process;

(5) establish and appoint committees including, but not limited to, an executive committee as required by Section 58-67b-112, which shall have the power to act on behalf of the Interstate Commission in carrying out its powers and duties;

(6) pay, or provide for the payment of the expenses related to the establishment, organization, and ongoing activities of the Interstate Commission;

(7) establish and maintain one or more offices;

(8) borrow, accept, hire, or contract for services of personnel;

(9) purchase and maintain insurance and bonds;

(10) employ an executive director who shall have the power to employ, select, or appoint employees, agents, or consultants, and to determine their qualifications, define their duties, and fix their compensation;

(11) establish personnel policies and programs relating to conflicts of interest, rates of compensation, and qualifications of personnel;

(12) accept donations and grants of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose of it in a manner consistent with the conflict of interest policies established by the Interstate Commission;

(13) lease, purchase, accept contributions or donations of, or otherwise own, hold, improve, or use, any property, real, personal, or mixed;

(14) sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal, or mixed;

(15) establish a budget and make expenditures;

(16) adopt a seal and bylaws governing the management and operation of the Interstate Commission;

(17) report annually to the legislatures and governors of the member states concerning the activities of the Interstate Commission during the preceding year, which shall include reports of financial audits and any recommendations that may have been adopted by the Interstate Commission;

(18) coordinate education, training, and public awareness regarding the Compact, its implementation, and its operation;

(19) maintain records in accordance with the bylaws;

(20) seek and obtain trademarks, copyrights, and patents; and

(21) perform such functions as may be necessary or appropriate to achieve the purposes of the Compact.

Section 14. Section 58-67b-114 is enacted to read:

58-67b-114. Section 13 -- Finance powers.

(1) The Interstate Commission may levy and collect an annual assessment from each member state to cover the cost of the operations and activities of the Interstate Commission and its staff. The total assessment must be sufficient to cover the annual budget approved each year for which revenue is not provided by other sources. The aggregate annual assessment amount shall be allocated upon a formula to be determined by the Interstate Commission, which shall promulgate a rule binding upon all member states.

(2) The Interstate Commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same.

(3) The Interstate Commission shall not pledge the credit of any of the member states, except by, and with the authority of, the member state.

(4) The Interstate Commission shall be subject to a yearly financial audit conducted by a certified or licensed public accountant and the report of the audit shall be included in the annual report of the Interstate Commission.

Section 15. Section 58-67b-115 is enacted to read:

58-67b-115. Section 14 -- Organization and operation of the Interstate Commission.

(1) The Interstate Commission shall, by a majority of commissioners present and voting, adopt bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes of the Compact within 12 months of the first Interstate Commission meeting.

(2) The Interstate Commission shall elect or appoint annually from among its commissioners a chairperson, a vice-chairperson, and a treasurer, each of whom shall have such authority and duties as may be specified in the bylaws. The chairperson, or in the chairperson's absence or disability, the vice-chairperson, shall preside at all meetings of the Interstate Commission.

(3) Officers selected in Subsection (2) shall serve without remuneration from the Interstate Commission.

(4) (a) The officers and employees of the Interstate Commission shall be immune from suit and liability, either personally or in their official capacity, for a claim for damage to or loss of property or personal injury or other civil liability caused or arising out of, or relating to, an actual or alleged act, error, or omission that occurred, or that such person had a reasonable basis for believing occurred, within the scope of Interstate Commission employment, duties, or responsibilities, provided

that such person shall not be protected from suit or liability for damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of such person.

(b) The liability of the executive director and employees of the Interstate Commission or representatives of the Interstate Commission, acting within the scope of such person's employment or duties for acts, errors, or omissions occurring within such person's state, may not exceed the limits of liability set forth under the constitution and laws of that state for state officials, employees, and agents. The Interstate Commission is considered to be an instrumentality of the states for the purposes of any such action. Nothing in this Subsection (4)(b) shall be construed to protect such person from suit or liability for damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of such person.

(c) The Interstate Commission shall defend the executive director, its employees, and subject to the approval of the attorney general or other appropriate legal counsel of the member state represented by an Interstate Commission representative, such Interstate Commission representative in any civil action seeking to impose liability arising out of an actual or alleged act, error, or omission that occurred within the scope of Interstate Commission employment, duties or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such person.

(d) To the extent not covered by the state involved, the member state, or the Interstate Commission, the representatives or employees of the Interstate Commission shall be held harmless in the amount of a settlement or judgment, including attorney fees and costs, obtained against such persons arising out of an actual or alleged act, error, or omission that occurred within the scope of Interstate Commission employment, duties, or responsibilities, or that such persons had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such persons.

Section 16. Section 58-67b-116 is enacted to read:

58-67b-116. Section 15 -- Rulemaking functions of the Interstate Commission.

(1) The Interstate Commission shall promulgate reasonable rules in order to effectively and efficiently achieve the purposes of the Compact. Notwithstanding the foregoing, in the event the Interstate Commission exercises its rulemaking authority in a manner that is beyond the scope of the purposes of the Compact, or the powers granted hereunder, then such an action by the Interstate

Commission shall be invalid and have no force or effect.

(2) Rules deemed appropriate for the operations of the Interstate Commission shall be made pursuant to a rulemaking process that substantially conforms to the "Revised Model State Administrative Procedure Act" of 2010, and subsequent amendments thereto.

(3) Not later than 30 days after a rule is promulgated, any person may file a petition for judicial review of the rule in the United States District Court for the District of Columbia or the federal district where the Interstate Commission has its principal offices, provided that the filing of such a petition shall not stay or otherwise prevent the rule from becoming effective unless the court finds that the petitioner has a substantial likelihood of success. The court shall give deference to the actions of the Interstate Commission consistent with applicable law and shall not find the rule to be unlawful if the rule represents a reasonable exercise of the authority granted to the Interstate Commission.

Section 17. Section 58-67b-117 is enacted to read:

58-67b-117. Section 16 -- Oversight of Interstate Compact.

(1) The executive, legislative, and judicial branches of state government in each member state shall enforce the Compact and shall take all actions necessary and appropriate to effectuate the Compact's purposes and intent. The provisions of the Compact and the rules promulgated hereunder shall have standing as statutory law but shall not override existing state authority to regulate the practice of medicine.

(2) All courts shall take judicial notice of the Compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of the Compact which may affect the powers, responsibilities, or actions of the Interstate Commission.

(3) The Interstate Commission shall be entitled to receive all service of process in any such proceeding, and shall have standing to intervene in the proceeding for all purposes. Failure to provide service of process to the Interstate Commission shall render a judgment or order void as to the Interstate Commission, the Compact, or promulgated rules.

Section 18. Section 58-67b-118 is enacted to read:

58-67b-118. Section 17 -- Enforcement of Interstate Compact.

(1) The Interstate Commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of the Compact.

(2) The Interstate Commission may, by majority vote of the commissioners, initiate legal action in the United States District Court for the District of Columbia, or, at the discretion of the Interstate Commission, in the federal district where the

Interstate Commission has its principal offices, to enforce compliance with the provisions of the Compact, and its promulgated rules and bylaws, against a member state in default. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation including reasonable attorney fees.

(3) The remedies herein shall not be the exclusive remedies of the Interstate Commission. The Interstate Commission may avail itself of any other remedies available under state law or the regulation of a profession.

Section 19. Section 58-67b-119 is enacted to read:

58-67b-119. Section 18 -- Default procedures.

(1) The grounds for default include, but are not limited to, failure of a member state to perform such obligations or responsibilities imposed upon it by the Compact, or the rules and bylaws of the Interstate Commission promulgated under the Compact.

(2) If the Interstate Commission determines that a member state has defaulted in the performance of its obligations or responsibilities under the Compact, or the bylaws or promulgated rules, the Interstate Commission shall:

(a) provide written notice to the defaulting state and other member states, of the nature of the default, the means of curing the default, and any action taken by the Interstate Commission. The Interstate Commission shall specify the conditions by which the defaulting state must cure its default; and

(b) provide remedial training and specific technical assistance regarding the default.

(3) If the defaulting state fails to cure the default, the defaulting state shall be terminated from the Compact upon an affirmative vote of a majority of the commissioners and all rights, privileges, and benefits conferred by the Compact shall terminate on the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of the default.

(4) Termination of membership in the Compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to terminate shall be given by the Interstate Commission to the governor, the majority and minority leaders of the defaulting state's legislature, and each of the member states.

(5) The Interstate Commission shall establish rules and procedures to address licenses and physicians that are materially impacted by the termination of a member state, or the withdrawal of a member state.

(6) The member state which has been terminated is responsible for all dues, obligations, and

liabilities incurred through the effective date of termination including obligations, the performance of which extends beyond the effective date of termination.

(7) The Interstate Commission shall not bear any costs relating to any state that has been found to be in default or which has been terminated from the Compact, unless otherwise mutually agreed upon in writing between the Interstate Commission and the defaulting state.

(8) The defaulting state may appeal the action of the Interstate Commission by petitioning the United States District Court for the District of Columbia or the federal district where the Interstate Commission has its principal offices. The prevailing party shall be awarded all costs of such litigation including reasonable attorney fees.

Section 20. Section 58-67b-120 is enacted to read:

58-67b-120. Section 19 -- Dispute resolution.

(1) The Interstate Commission shall attempt, upon the request of a member state, to resolve disputes which are subject to the Compact and which may arise among member states or member boards.

(2) The Interstate Commission shall promulgate rules providing for both mediation and binding dispute resolution as appropriate.

Section 21. Section 58-67b-121 is enacted to read:

58-67b-121. Section 20 -- Member states, effective date and amendment.

(1) Any state is eligible to become a member state of the Compact.

(2) The Compact shall become effective and binding upon legislative enactment of the Compact into law by no less than seven states. Thereafter, it shall become effective and binding on a state upon enactment of the Compact into law by that state.

(3) The governors of non-member states, or their designees, shall be invited to participate in the activities of the Interstate Commission on a non-voting basis prior to adoption of the Compact by all states.

(4) The Interstate Commission may propose amendments to the Compact for enactment by the member states. No amendment shall become effective and binding upon the Interstate Commission and the member states unless and until it is enacted into law by unanimous consent of the member states.

Section 22. Section 58-67b-122 is enacted to read:

58-67b-122. Section 21 -- Withdrawal.

(1) Once effective, the Compact shall continue in force and remain binding upon each and every member state, provided that a member state may withdraw from the Compact by specifically

repealing the statute that enacted the Compact into law.

(2) Withdrawal from the Compact shall be by the enactment of a statute repealing the same, but shall not take effect until one year after the effective date of such statute and until written notice of the withdrawal has been given by the withdrawing state to the governor of each other member state.

(3) The withdrawing state shall immediately notify the chairperson of the Interstate Commission in writing upon the introduction of legislation repealing the Compact in the withdrawing state.

(4) The Interstate Commission shall notify the other member states of the withdrawing state's intent to withdraw within 60 days of its receipt of notice provided under Subsection (3).

(5) The withdrawing state is responsible for all dues, obligations, and liabilities incurred through the effective date of withdrawal, including obligations, the performance of which extend beyond the effective date of withdrawal.

(6) Reinstatement following withdrawal of a member state shall occur upon the withdrawing state reenacting the Compact or upon such later date as determined by the Interstate Commission.

(7) The Interstate Commission is authorized to develop rules to address the impact of the withdrawal of a member state on licenses granted in other member states to physicians who designated the withdrawing member state as the state of principal license.

Section 23. Section 58-67b-123 is enacted to read:

58-67b-123. Section 22 -- Dissolution.

(1) The Compact shall dissolve effective upon the date of the withdrawal or default of the member state that reduces the membership in the Compact to one member state.

(2) Upon the dissolution of the Compact, the Compact becomes null and void and shall be of no further force or effect, and the business and affairs of the Interstate Commission shall be concluded and surplus funds shall be distributed in accordance with the bylaws.

Section 24. Section 58-67b-124 is enacted to read:

58-67b-124. Section 23 -- Severability and construction.

(1) The provisions of the Compact shall be severable, and if any phrase, clause, sentence, or provision is deemed unenforceable, the remaining provisions of the Compact shall be enforceable.

(2) The provisions of the Compact shall be liberally construed to effectuate its purposes.

(3) Nothing in the Compact shall be construed to prohibit the applicability of other interstate compacts to which the states are members.

Section 25. Section 58-67b-125 is enacted to read:

58-67b-125. Section 24 -- Binding effect of Compact and other laws.

(1) Nothing herein prevents the enforcement of any other law of a member state that is not inconsistent with the Compact.

(2) All laws in a member state, including Title 63G, Chapter 4, Administrative Procedures Act, in conflict with the Compact are superseded to the extent of the conflict.

(3) All lawful actions of the Interstate Commission, including all rules and bylaws promulgated by the Commission, are binding upon the member states.

(4) All agreements between the Interstate Commission and the member states are binding in accordance with their terms.

(5) In the event any provision of the Compact exceeds the constitutional limits imposed on the legislature of any member state, such provision shall be ineffective to the extent of the conflict with the constitutional provision in question in that member state.

CHAPTER 25**H. B. 125**

Passed February 12, 2015

Approved March 20, 2015

Effective May 12, 2015

FISHING LICENSE AMENDMENTS

Chief Sponsor: Bruce R. Cutler
Senate Sponsor: Brian E. Shiozawa

LONG TITLE**General Description:**

This bill authorizes a person under the age of 16 to fish without a license under certain circumstances.

Highlighted Provisions:

This bill:

- ▶ authorizes a person under the age of 16 to fish without a license during a youth organization or school activity; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

23-19-14.5, as last amended by Laws of Utah 2013, Chapter 270

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

Section 1. Section 23-19-14.5 is amended to read:**23-19-14.5. Persons participating in youth organization or school activity authorized to fish without license.**

- (1) As used in this section:
- (a) "School" means an elementary school or a secondary school that:
- (i) is a public or private school located in the state; and
 - (ii) provides student instruction for one or more years of kindergarten through grade 9.
- (b) "Youth organization" means a local Utah chapter of:
- (i) the Boy Scouts of America;
 - (ii) the Girls Scouts of the USA; or
 - (iii) an organization that:
 - (A) is exempt from taxation under Section 501(c)(3), Internal Revenue Code; and
 - (B) promotes character building through outdoor activities.
- (2) The Division of Wildlife Resources shall permit a person to fish without a license during a youth organization or school activity if:
- (a) the person is:
 - (i) (A) a member of the youth organization; or

- (B) a student enrolled in the school; and
 - (ii) younger than [14] 16 years old;
 - (b) the fishing is in compliance with all fishing statutes and rules;
 - (c) the activity is part of a recreational or instructional program of the youth organization or school; and
 - (d) an adult leader of the activity obtains from the youth organization or school:
 - (i) a valid tour permit; or
 - (ii) documentation that specifies:
 - (A) the date and place of the fishing activity;
 - (B) the name of the adult leader that will supervise the fishing; and
 - (C) that the activity is officially sanctioned or authorized by the youth organization or school.
 - (3) (a) The adult leader shall:
 - (i) possess a valid Utah fishing or combination license; and
 - (ii) instruct the activity participants on fishing statutes and rules.
 - (b) The division shall provide educational materials on its website to assist the adult leader in complying with Subsection (3)(a).
- (4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Wildlife Board shall adopt rules specifying the form of the documentation required under Subsection (2)(d)(ii).

CHAPTER 26**H. B. 136**

Passed March 6, 2015

Approved March 20, 2015

Effective May 12, 2015

**CAMPAIGN DISCLOSURES FOR
JUDICIAL RETENTION ELECTIONS**

Chief Sponsor: Brad King

Senate Sponsor: Stephen H. Urquhart

LONG TITLE**General Description:**

This bill amends the definition of “political purposes” as it relates to campaign and financial reporting requirements.

Highlighted Provisions:

This bill:

- ▶ amends the definition of “political purposes,” as it relates to campaign and financial reporting requirements, to include an act done to influence a judicial retention election.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

20A-11-101, as last amended by Laws of Utah 2014, Chapters 18, 158, and 337

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

Section 1. Section 20A-11-101 is amended to read:**20A-11-101. Definitions.**

As used in this chapter:

(1) “Address” means the number and street where an individual resides or where a reporting entity has its principal office.

(2) “Agent of a reporting entity” means:

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

(b) a person employed by a reporting entity in the reporting entity’s capacity as a reporting entity;

(c) the personal campaign committee of a candidate or officeholder;

(d) a member of the personal campaign committee of a candidate or officeholder in the member’s capacity as a member of the personal campaign committee of the candidate or officeholder; or

(e) a political consultant of a reporting entity.

(3) “Ballot proposition” includes initiatives, referenda, proposed constitutional amendments, and any other ballot propositions submitted to the voters that are authorized by the Utah Code Annotated 1953.

(4) “Candidate” means any person who:

(a) files a declaration of candidacy for a public office; or

(b) receives contributions, makes expenditures, or gives consent for any other person to receive contributions or make expenditures to bring about the person’s nomination or election to a public office.

(5) “Chief election officer” means:

(a) the lieutenant governor for state office candidates, legislative office candidates, officeholders, political parties, political action committees, corporations, political issues committees, state school board candidates, judges, and labor organizations, as defined in Section 20A-11-1501; and

(b) the county clerk for local school board candidates.

(6) (a) “Contribution” means any of the following when done for political purposes:

(i) a gift, subscription, donation, loan, advance, or deposit of money or anything of value given to the filing entity;

(ii) an express, legally enforceable contract, promise, or agreement to make a gift, subscription, donation, unpaid or partially unpaid loan, advance, or deposit of money or anything of value to the filing entity;

(iii) any transfer of funds from another reporting entity to the filing entity;

(iv) compensation paid by any person or reporting entity other than the filing entity for personal services provided without charge to the filing entity;

(v) remuneration from:

(A) any organization or its directly affiliated organization that has a registered lobbyist; or

(B) any agency or subdivision of the state, including school districts;

(vi) a loan made by a candidate deposited to the candidate’s own campaign; and

(vii) in-kind contributions.

(b) “Contribution” does not include:

(i) services provided by individuals volunteering a portion or all of their time on behalf of the filing entity if the services are provided without compensation by the filing entity or any other person;

(ii) money lent to the filing entity by a financial institution in the ordinary course of business; or

(iii) goods or services provided for the benefit of a candidate or political party at less than fair market value that are not authorized by or coordinated with the candidate or political party.

(7) “Coordinated with” means that goods or services provided for the benefit of a candidate or political party are provided:

(a) with the candidate's or political party's prior knowledge, if the candidate or political party does not object;

(b) by agreement with the candidate or political party;

(c) in coordination with the candidate or political party; or

(d) using official logos, slogans, and similar elements belonging to a candidate or political party.

(8) (a) "Corporation" means a domestic or foreign, profit or nonprofit, business organization that is registered as a corporation or is authorized to do business in a state and makes any expenditure from corporate funds for:

(i) the purpose of expressly advocating for political purposes; or

(ii) the purpose of expressly advocating the approval or the defeat of any ballot proposition.

(b) "Corporation" does not mean:

(i) a business organization's political action committee or political issues committee; or

(ii) a business entity organized as a partnership or a sole proprietorship.

(9) "County political party" means, for each registered political party, all of the persons within a single county who, under definitions established by the political party, are members of the registered political party.

(10) "County political party officer" means a person whose name is required to be submitted by a county political party to the lieutenant governor in accordance with Section 20A-8-402.

(11) "Detailed listing" means:

(a) for each contribution or public service assistance:

(i) the name and address of the individual or source making the contribution or public service assistance;

(ii) the amount or value of the contribution or public service assistance; and

(iii) the date the contribution or public service assistance was made; and

(b) for each expenditure:

(i) the amount of the expenditure;

(ii) the person or entity to whom it was disbursed;

(iii) the specific purpose, item, or service acquired by the expenditure; and

(iv) the date the expenditure was made.

(12) (a) "Donor" means a person that gives money, including a fee, due, or assessment for membership in the corporation, to a corporation without receiving full and adequate consideration for the money.

(b) "Donor" does not include a person that signs a statement that the corporation may not use the money for an expenditure or political issues expenditure.

(13) "Election" means each:

(a) regular general election;

(b) regular primary election; and

(c) special election at which candidates are eliminated and selected.

(14) "Electioneering communication" means a communication that:

(a) has at least a value of \$10,000;

(b) clearly identifies a candidate or judge; and

(c) is disseminated through the Internet, newspaper, magazine, outdoor advertising facility, direct mailing, broadcast, cable, or satellite provider within 45 days of the clearly identified candidate's or judge's election date.

(15) (a) "Expenditure" means any of the following made by a reporting entity or an agent of a reporting entity on behalf of the reporting entity:

(i) any disbursement from contributions, receipts, or from the separate bank account required by this chapter;

(ii) a purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of value made for political purposes;

(iii) an express, legally enforceable contract, promise, or agreement to make any purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of value for political purposes;

(iv) compensation paid by a filing entity for personal services rendered by a person without charge to a reporting entity;

(v) a transfer of funds between the filing entity and a candidate's personal campaign committee; or

(vi) goods or services provided by the filing entity to or for the benefit of another reporting entity for political purposes at less than fair market value.

(b) "Expenditure" does not include:

(i) services provided without compensation by individuals volunteering a portion or all of their time on behalf of a reporting entity;

(ii) money lent to a reporting entity by a financial institution in the ordinary course of business; or

(iii) anything listed in Subsection (15)(a) that is given by a reporting entity to candidates for office or officeholders in states other than Utah.

(16) "Federal office" means the office of president of the United States, United States Senator, or United States Representative.

(17) "Filing entity" means the reporting entity that is required to file a financial statement required by this chapter or Chapter 12, Part 2, Judicial Retention Elections.

(18) "Financial statement" includes any summary report, interim report, verified financial statement, or other statement disclosing contributions, expenditures, receipts, donations, or disbursements that is required by this chapter or Chapter 12, Part 2, Judicial Retention Elections.

(19) "Governing board" means the individual or group of individuals that determine the candidates and committees that will receive expenditures from a political action committee, political party, or corporation.

(20) "Incorporation" means the process established by Title 10, Chapter 2, Part 1, Incorporation, by which a geographical area becomes legally recognized as a city or town.

(21) "Incorporation election" means the election authorized by Section 10-2-111 or 10-2-127.

(22) "Incorporation petition" means a petition authorized by Section 10-2-109 or 10-2-125.

(23) "Individual" means a natural person.

(24) "In-kind contribution" means anything of value, other than money, that is accepted by or coordinated with a filing entity.

(25) "Interim report" means a report identifying the contributions received and expenditures made since the last report.

(26) "Legislative office" means the office of state senator, state representative, speaker of the House of Representatives, president of the Senate, and the leader, whip, and assistant whip of any party caucus in either house of the Legislature.

(27) "Legislative office candidate" means a person who:

(a) files a declaration of candidacy for the office of state senator or state representative;

(b) declares oneself to be a candidate for, or actively campaigns for, the position of speaker of the House of Representatives, president of the Senate, or the leader, whip, and assistant whip of any party caucus in either house of the Legislature; or

(c) receives contributions, makes expenditures, or gives consent for any other person to receive contributions or make expenditures to bring about the person's nomination, election, or appointment to a legislative office.

(28) "Major political party" means either of the two registered political parties that have the greatest number of members elected to the two houses of the Legislature.

(29) "Officeholder" means a person who holds a public office.

(30) "Party committee" means any committee organized by or authorized by the governing board of a registered political party.

(31) "Person" means both natural and legal persons, including individuals, business

organizations, personal campaign committees, party committees, political action committees, political issues committees, and labor organizations, as defined in Section 20A-11-1501.

(32) "Personal campaign committee" means the committee appointed by a candidate to act for the candidate as provided in this chapter.

(33) "Personal use expenditure" has the same meaning as provided under Section 20A-11-104.

(34) (a) "Political action committee" means an entity, or any group of individuals or entities within or outside this state, a major purpose of which is to:

(i) solicit or receive contributions from any other person, group, or entity for political purposes; or

(ii) make expenditures to expressly advocate for any person to refrain from voting or to vote for or against any candidate or person seeking election to a municipal or county office.

(b) "Political action committee" includes groups affiliated with a registered political party but not authorized or organized by the governing board of the registered political party that receive contributions or makes expenditures for political purposes.

(c) "Political action committee" does not mean:

(i) a party committee;

(ii) any entity that provides goods or services to a candidate or committee in the regular course of its business at the same price that would be provided to the general public;

(iii) an individual;

(iv) individuals who are related and who make contributions from a joint checking account;

(v) a corporation, except a corporation a major purpose of which is to act as a political action committee; or

(vi) a personal campaign committee.

(35) (a) "Political consultant" means a person who is paid by a reporting entity, or paid by another person on behalf of and with the knowledge of the reporting entity, to provide political advice to the reporting entity.

(b) "Political consultant" includes a circumstance described in Subsection (35)(a), where the person:

(i) has already been paid, with money or other consideration;

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

(iii) understands that the person may, in the discretion of the reporting entity or another person on behalf of and with the knowledge of the reporting entity, be paid in the future, with money or other consideration.

(36) "Political convention" means a county or state political convention held by a registered political party to select candidates.

(37) (a) “Political issues committee” means an entity, or any group of individuals or entities within or outside this state, a major purpose of which is to:

(i) solicit or receive donations from any other person, group, or entity to assist in placing a ballot proposition on the ballot, assist in keeping a ballot proposition off the ballot, or to advocate that a voter refrain from voting or vote for or vote against any ballot proposition;

(ii) make expenditures to expressly advocate for any person to sign or refuse to sign a ballot proposition or incorporation petition or refrain from voting, vote for, or vote against any proposed ballot proposition or an incorporation in an incorporation election; or

(iii) make expenditures to assist in qualifying or placing a ballot proposition on the ballot or to assist in keeping a ballot proposition off the ballot.

(b) “Political issues committee” does not mean:

(i) a registered political party or a party committee;

(ii) any entity that provides goods or services to an individual or committee in the regular course of its business at the same price that would be provided to the general public;

(iii) an individual;

(iv) individuals who are related and who make contributions from a joint checking account; or

(v) a corporation, except a corporation a major purpose of which is to act as a political issues committee.

(38) (a) “Political issues contribution” means any of the following:

(i) a gift, subscription, unpaid or partially unpaid loan, advance, or deposit of money or anything of value given to a political issues committee;

(ii) an express, legally enforceable contract, promise, or agreement to make a political issues donation to influence the approval or defeat of any ballot proposition;

(iii) any transfer of funds received by a political issues committee from a reporting entity;

(iv) compensation paid by another reporting entity for personal services rendered without charge to a political issues committee; and

(v) goods or services provided to or for the benefit of a political issues committee at less than fair market value.

(b) “Political issues contribution” does not include:

(i) services provided without compensation by individuals volunteering a portion or all of their time on behalf of a political issues committee; or

(ii) money lent to a political issues committee by a financial institution in the ordinary course of business.

(39) (a) “Political issues expenditure” means any of the following when made by a political issues committee or on behalf of a political issues committee by an agent of the reporting entity:

(i) any payment from political issues contributions made for the purpose of influencing the approval or the defeat of:

(A) a ballot proposition; or

(B) an incorporation petition or incorporation election;

(ii) a purchase, payment, distribution, loan, advance, deposit, or gift of money made for the express purpose of influencing the approval or the defeat of:

(A) a ballot proposition; or

(B) an incorporation petition or incorporation election;

(iii) an express, legally enforceable contract, promise, or agreement to make any political issues expenditure;

(iv) compensation paid by a reporting entity for personal services rendered by a person without charge to a political issues committee; or

(v) goods or services provided to or for the benefit of another reporting entity at less than fair market value.

(b) “Political issues expenditure” does not include:

(i) services provided without compensation by individuals volunteering a portion or all of their time on behalf of a political issues committee; or

(ii) money lent to a political issues committee by a financial institution in the ordinary course of business.

(40) “Political purposes” means an act done with the intent or in a way to influence or tend to influence, directly or indirectly, any person to refrain from voting or to vote for or against any:

(a) candidate or a person seeking a municipal or county office at any caucus, political convention, or election[-]; or

(b) judge standing for retention at any election.

(41) (a) “Poll” means the survey of a person regarding the person’s opinion or knowledge of an individual who has filed a declaration of candidacy for public office, or of a ballot proposition that has legally qualified for placement on the ballot, which is conducted in person or by telephone, facsimile, Internet, postal mail, or email.

(b) “Poll” does not include:

(i) a ballot; or

(ii) an interview of a focus group that is conducted, in person, by one individual, if:

(A) the focus group consists of more than three, and less than thirteen, individuals; and

(B) all individuals in the focus group are present during the interview.

(42) “Primary election” means any regular primary election held under the election laws.

(43) “Public office” means the office of governor, lieutenant governor, state auditor, state treasurer, attorney general, state school board member, state senator, state representative, speaker of the House of Representatives, president of the Senate, and the leader, whip, and assistant whip of any party caucus in either house of the Legislature.

[445] (44) “Publicly identified class of individuals” means a group of 50 or more individuals sharing a common occupation, interest, or association that contribute to a political action committee or political issues committee and whose names can be obtained by contacting the political action committee or political issues committee upon whose financial statement the individuals are listed.

[444] (45) (a) “Public service assistance” means the following when given or provided to an officeholder to defray the costs of functioning in a public office or aid the officeholder to communicate with the officeholder’s constituents:

(i) a gift, subscription, donation, unpaid or partially unpaid loan, advance, or deposit of money or anything of value to an officeholder; or

(ii) goods or services provided at less than fair market value to or for the benefit of the officeholder.

(b) “Public service assistance” does not include:

(i) anything provided by the state;

(ii) services provided without compensation by individuals volunteering a portion or all of their time on behalf of an officeholder;

(iii) money lent to an officeholder by a financial institution in the ordinary course of business;

(iv) news coverage or any publication by the news media; or

(v) any article, story, or other coverage as part of any regular publication of any organization unless substantially all the publication is devoted to information about the officeholder.

(46) “Receipts” means contributions and public service assistance.

(47) “Registered lobbyist” means a person registered under Title 36, Chapter 11, Lobbyist Disclosure and Regulation Act.

(48) “Registered political action committee” means any political action committee that is required by this chapter to file a statement of organization with the Office of the Lieutenant Governor.

(49) “Registered political issues committee” means any political issues committee that is required by this chapter to file a statement of organization with the Office of the Lieutenant Governor.

(50) “Registered political party” means an organization of voters that:

(a) participated in the last regular general election and polled a total vote equal to 2% or more of the total votes cast for all candidates for the United States House of Representatives for any of its candidates for any office; or

(b) has complied with the petition and organizing procedures of Chapter 8, Political Party Formation and Procedures.

(51) (a) “Remuneration” means a payment:

(i) made to a legislator for the period the Legislature is in session; and

(ii) that is approximately equivalent to an amount a legislator would have earned during the period the Legislature is in session in the legislator’s ordinary course of business.

(b) “Remuneration” does not mean anything of economic value given to a legislator by:

(i) the legislator’s primary employer in the ordinary course of business; or

(ii) a person or entity in the ordinary course of business:

(A) because of the legislator’s ownership interest in the entity; or

(B) for services rendered by the legislator on behalf of the person or entity.

(52) “Reporting entity” means a candidate, a candidate’s personal campaign committee, a judge, a judge’s personal campaign committee, an officeholder, a party committee, a political action committee, a political issues committee, a corporation, or a labor organization, as defined in Section 20A-11-1501.

(53) “School board office” means the office of state school board.

(54) (a) “Source” means the person or entity that is the legal owner of the tangible or intangible asset that comprises the contribution.

(b) “Source” means, for political action committees and corporations, the political action committee and the corporation as entities, not the contributors to the political action committee or the owners or shareholders of the corporation.

(55) “State office” means the offices of governor, lieutenant governor, attorney general, state auditor, and state treasurer.

(56) “State office candidate” means a person who:

(a) files a declaration of candidacy for a state office; or

(b) receives contributions, makes expenditures, or gives consent for any other person to receive contributions or make expenditures to bring about the person’s nomination, election, or appointment to a state office.

(57) “Summary report” means the year end report containing the summary of a reporting entity’s contributions and expenditures.

(58) “Supervisory board” means the individual or group of individuals that allocate expenditures from a political issues committee.

CHAPTER 27**H. B. 149**

Passed February 26, 2015

Approved March 20, 2015

Effective July 1, 2015

**UTAH RESEARCH INSTITUTE FOR
MINE SAFETY AND PRODUCTIVITY**

Chief Sponsor: Mark A. Wheatley

Senate Sponsor: David P. Hinkins

LONG TITLE**General Description:**

This bill designates the University of Utah Center for Mining Safety and Health Excellence as the Utah Research Institute for Mine Safety and Productivity.

Highlighted Provisions:

This bill:

- ▶ designates the University of Utah Center for Mining Safety and Health Excellence as the Utah Research Institute for Mine Safety and Productivity and describes the institute's duties.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2016:

- ▶ to the University of Utah Center for Mining Safety and Health Excellence as a one-time appropriation:
 - from the General Fund, \$9,999.

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**ENACTS:**

40-2-205, Utah Code Annotated 1953

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

Section 1. Section 40-2-205 is enacted to read:**40-2-205. Utah Research Institute for Mine Safety and Productivity -- Designation -- Duties.**

(1) As used in this section, "institute" means the University of Utah Center for Mining Safety and Health Excellence, designated as the Utah Research Institute for Mine Safety and Productivity in Subsection (2).

(2) The University of Utah Center for Mining Safety and Health Excellence is designated as the Utah Research Institute for Mine Safety and Productivity.

(3) In coordination with the council, the institute may:

- (a) organize symposia, presentations, or other academic meetings; and
- (b) identify and propose research projects on topics related to mining safety and productivity.

Section 2. Appropriation.

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, for the fiscal

year beginning July 1, 2015, and ending June 30, 2016, the following sums of money are appropriated from resources not otherwise appropriated, or reduced from amounts previously appropriated, out of the funds or accounts indicated. These sums of money are in addition to any amounts previously appropriated for fiscal year 2016.

To the University of Utah Center for Mining Safety and Health Excellence	From General Fund,
One-time \$9,999	Schedule of
Programs:	Utah
Research Institute for Mine Safety and Productivity	\$9,999
	The

Legislature intends that the appropriation under this section be used to carry out the requirements of Section 40-2-205.

Section 3. Effective date.

This bill takes effect on July 1, 2015.

CHAPTER 28**H. B. 194**

Passed February 26, 2015

Approved March 20, 2015

Effective May 12, 2015

**OCCUPATIONAL THERAPY
LICENSE AMENDMENTS**

Chief Sponsor: Carol Spackman Moss

Senate Sponsor: Jani Iwamoto

LONG TITLE**General Description:**

This bill modifies the Occupational Therapy Practice Act.

Highlighted Provisions:

This bill:

- ▶ modifies the qualifications for an individual to get a license as an occupational therapist or as an occupational therapy assistant.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:**AMENDS:**

58-42a-302, as last amended by Laws of Utah 2009, Chapter 183

Utah Code Sections Affected by Coordination Clause:

58-42a-302, as last amended by Laws of Utah 2009, Chapter 183

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

Section 1. Section 58-42a-302 is amended to read:**58-42a-302. Qualifications for licensure.**

(1) All applicants for licensure as an occupational therapist shall:

(a) submit an application in a form as prescribed by the division;

(b) pay a fee as determined by the department under Section 63J-1-504;

(c) be of good moral character as it relates to the functions and responsibilities of the practice of occupational therapy;

(d) graduate with a bachelors or graduate degree in occupational therapy from a program accredited by the Accreditation Council for Occupational Therapy Education; and

(e) be certified by the National Board for Certification in Occupational Therapy as an occupational therapist registered.

(2) All applicants for licensure as an occupational therapist assistant shall:

(a) submit an application in a form as prescribed by the division;

(b) pay a fee as determined by the department under Section 63J-1-504;

(c) be of good moral character as it relates to the functions and responsibilities of the practice of occupational therapy;

(d) graduate with a two-year associate degree in occupational therapy from a program accredited by the Accreditation Council for Occupational Therapy Education; and

(e) be certified by the National Board for Certification in Occupational Therapy as a certified occupational therapist assistant.

(3) Notwithstanding the other requirements of this section, the division may issue a license as an occupational therapist or as an occupational therapy assistant to an applicant who:

(a) meets the requirements of receiving a license by endorsement under Section 58-1-302; or

(b) has been licensed in a state, district, or territory of the United States, or in a foreign country, where the education, experience, or examination requirements are not substantially equal to the requirements of this state, if the applicant passes an examination approved by the division in consultation with the board.

Section 2. Coordinating H.B. 194 with S.B. 131 -- Substantive and technical amendments.

If this H.B. 194 and S.B. 131, Occupational Therapists Amendments, both pass and become law, it is the intent of the Legislature that the amendments to Subsection 58-42a-302(3)(b) in S.B. 131 supersede the amendments to Subsection 58-42a-302(3)(b) in this bill when the Office of Legislative Research and General Counsel prepares the Utah Code database for publication.

CHAPTER 29**H. B. 218**

Passed February 26, 2015

Approved March 20, 2015

Effective May 12, 2015

NURSE PRACTICE ACT AMENDMENTS

Chief Sponsor: Sophia M. DiCaro

Senate Sponsor: Evan J. Vickers

LONG TITLE**General Description:**

This bill modifies the Nurse Practice Act.

Highlighted Provisions:

This bill:

- ▶ amends the requirements for a nursing education program to qualify as an approved education program;
- ▶ amends the division's rulemaking authority related to limited-time approved education programs; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

58-31b-601, as last amended by Laws of Utah 2013, Chapter 262

*Be it enacted by the Legislature of the state of Utah:***Section 1. Section 58-31b-601 is amended to read:****58-31b-601. Minimum standards for nursing programs -- Medication aide training.**

(1) Except as provided in Subsection (2), to qualify as an approved education program for the purpose of qualifying graduates for licensure under this chapter, a nursing education program shall be accredited by ~~[the:]~~ an accrediting body for nursing education that is approved by the United States Department of Education.

~~[(a) Commission on Collegiate Nursing Education;]~~

~~[(b) National League for Nursing Accrediting Commission; or]~~

~~[(c) Council on Accreditation of Nurse Anesthesia Educational Programs.]~~

(2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division, in consultation with the board, may make rules establishing requirements for a nursing education program to qualify for a limited time as an approved education program for the purpose of qualifying graduates for licensure under this chapter, ~~[prior to its obtaining an]~~ if the program:

(a) is in the process of obtaining the accreditation described in Subsection (1)[.];

(b) has recently been denied accreditation after seeking to obtain the accreditation described in Subsection (1); or

(c) has recently lost the accreditation described in Subsection (1).

(3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and the provisions of this chapter, the division shall make rules defining the minimum standards for a medication aide certified training program to qualify a person for certification under this chapter as a medication aide certified.

CHAPTER 30**S. B. 13**

Passed February 18, 2015

Approved March 20, 2015

Effective May 12, 2015

(Retrospective operation to January 1, 2015)

INCOME TAX AMENDMENTS

Chief Sponsor: Deidre M. Henderson

House Sponsor: Daniel McCay

LONG TITLE**General Description:**

This bill repeals and amends provisions related to income taxes.

Highlighted Provisions:

This bill:

- ▶ repeals provisions related to corporate and individual income tax credits;
- ▶ exempts a tax credit for a combat related death from certain provisions that require the State Tax Commission to remove a tax credit from a tax return and prohibit a taxpayer from claiming or carrying forward a tax credit;
- ▶ repeals provisions related to individual income tax contributions; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides for retrospective operation.

Utah Code Sections Affected:**AMENDS:**

- 23-14-13, as last amended by Laws of Utah 2010, Chapter 278
- 59-7-105, as last amended by Laws of Utah 2010, Chapters 6 and 198
- 59-7-106, as last amended by Laws of Utah 2014, Chapter 273
- 59-7-614, as last amended by Laws of Utah 2014, Chapter 407
- 59-10-1002.1, as renumbered and amended by Laws of Utah 2008, Chapter 389
- 59-10-1304, as last amended by Laws of Utah 2013, Chapters 235 and 338
- 63M-1-1102, as renumbered and amended by Laws of Utah 2008, Chapter 382

REPEALS:

- 59-7-602, as last amended by Laws of Utah 2011, Chapter 366
- 59-7-603, as enacted by Laws of Utah 1993, Chapter 169
- 59-7-608, as last amended by Laws of Utah 2003, Chapter 198
- 59-7-614.3, as last amended by Laws of Utah 2011, Chapter 384
- 59-10-1011, as last amended by Laws of Utah 2011, Chapter 366
- 59-10-1305, as renumbered and amended by Laws of Utah 2008, Chapter 389

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

Section 1. Section 23-14-13 is amended to read:**23-14-13. Wildlife Resources Account.**

(1) There is created a restricted account within the General Fund known as the "Wildlife Resources Account."

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

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

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

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

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

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

~~[(f) contributions made in accordance with Section 59-10-1305; and]~~

~~[(g)]~~ (f) interest, dividends, or other income earned on account money.

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

Section 2. Section 59-7-105 is amended to read:**59-7-105. Additions to unadjusted income.**

In computing adjusted income the following amounts shall be added to unadjusted income:

(1) interest from bonds, notes, and other evidences of indebtedness issued by any state of the United States, including any agency and instrumentality of a state of the United States;

(2) the amount of any deduction taken on a corporation's federal return for taxes paid by a corporation:

(a) to Utah for taxes imposed by this chapter; and

(b) to another state of the United States, a foreign country, a United States possession, or the Commonwealth of Puerto Rico for taxes imposed for the privilege of doing business, or exercising its corporate franchise, including income, franchise, corporate stock and business and occupation taxes;

(3) the safe harbor lease adjustment required under Subsections 59-7-111(1)(a) and (2)(a);

(4) capital losses that have been deducted on a Utah corporate return in previous years;

(5) any deduction on the federal return that has been previously deducted on the Utah return;

~~[(6) the amount of contributions claimed as a tax credit pursuant to Section 59-7-602;]~~

~~[(7) the amount of the deduction taken pursuant to Section 59-7-603 for sophisticated technological equipment;]~~

~~[(8)] (6) charitable contributions, to the extent deducted on the federal return when determining federal taxable income;~~

~~[(9)] (7) the amount of gain or loss determined under Section 59-7-114 relating to a target corporation under Section 338, Internal Revenue Code, unless such gain or loss has already been included in the unadjusted income of the target corporation;~~

~~[(10)] (8) the amount of gain or loss determined under Section 59-7-115 relating to corporations treated for federal purposes as having disposed of its assets under Section 336(e), Internal Revenue Code, unless such gain or loss has already been included in the unadjusted income of the target corporation;~~

~~[(11)] (9) adjustments to gains, losses, depreciation expense, amortization expense, and similar items due to a difference between basis for federal purposes and basis as computed under Section 59-7-107;~~

~~[(12)] (10) the amount withdrawn under Title 53B, Chapter 8a, Utah Educational Savings Plan, from the account of a corporation that is an account owner as defined in Section 53B-8a-102, for the taxable year for which the amount is withdrawn, if that amount withdrawn from the account of the corporation that is the account owner:~~

(a) is not expended for:

(i) higher education costs as defined in Section 53B-8a-102; or

(ii) a payment or distribution that qualifies as an exception to the additional tax for distributions not used for educational expenses provided in Sections 529(c) and 530(d), Internal Revenue Code; and

(b) is subtracted by the corporation:

(i) that is the account owner; and

(ii) in accordance with Subsection 59-7-106 (1)(r); and

~~[(13)] (11) the amount of the deduction for dividends paid, as defined in Section 561, Internal Revenue Code, that is allowed under Section 857(b)(2)(B), Internal Revenue Code, in computing the taxable income of a captive real estate investment trust, if that captive real estate investment trust is subject to federal income taxation.~~

Section 3. Section 59-7-106 is amended to read:

59-7-106. Subtractions from unadjusted income.

(1) In computing adjusted income the following amounts shall be subtracted from unadjusted income:

(a) the foreign dividend gross-up included in gross income for federal income tax purposes under Section 78, Internal Revenue Code;

(b) subject to Subsection (2), the net capital loss, as defined for federal purposes, if the taxpayer elects to deduct the net capital loss on the return filed under this chapter for the taxable year for which the net capital loss is incurred;

(c) the decrease in salary expense deduction for federal income tax purposes due to claiming the federal work opportunity credit under Section 51, Internal Revenue Code;

(d) the decrease in qualified research and basic research expense deduction for federal income tax purposes due to claiming the federal credit for increasing research activities under Section 41, Internal Revenue Code;

(e) the decrease in qualified clinical testing expense deduction for federal income tax purposes due to claiming the federal credit for clinical testing expenses for certain drugs for rare diseases or conditions under Section 45C, Internal Revenue Code;

(f) any decrease in any expense deduction for federal income tax purposes due to claiming any other federal credit;

(g) the safe harbor lease adjustment required under Subsections 59-7-111(1)(b) and (2)(b);

(h) any income on the federal corporation income tax return that has been previously taxed by Utah;

(i) an amount included in federal taxable income that is due to a refund of a tax, including a franchise tax, an income tax, a corporate stock and business tax, or an occupation tax:

(i) if that tax is imposed for the privilege of:

(A) doing business; or

(B) exercising a corporate franchise;

(ii) if that tax is paid by the corporation to:

(A) Utah;

(B) another state of the United States;

(C) a foreign country;

(D) a United States possession; or

(E) the Commonwealth of Puerto Rico; and

(iii) to the extent that tax was added to unadjusted income under Section 59-7-105;

(j) a charitable contribution, to the extent the charitable contribution is allowed as a subtraction under Section 59-7-109;

(k) subject to Subsection (3), 50% of a dividend considered to be received or received from a subsidiary that:

(i) is a member of the unitary group;

(ii) is organized or incorporated outside of the United States; and

(iii) is not included in a combined report under Section 59-7-402 or 59-7-403;

(l) subject to Subsection (4) and Section 59-7-401, 50% of the adjusted income of a foreign operating company;

(m) the amount of gain or loss that is included in unadjusted income but not recognized for federal purposes on stock sold or exchanged by a member of a selling consolidated group as defined in Section 338, Internal Revenue Code, if an election has been made in accordance with Section 338(h)(10), Internal Revenue Code;

(n) the amount of gain or loss that is included in unadjusted income but not recognized for federal purposes on stock sold, exchanged, or distributed by a corporation in accordance with Section 336(e), Internal Revenue Code, if an election under Section 336(e), Internal Revenue Code, has been made for federal purposes;

(o) subject to Subsection (5), an adjustment to the following due to a difference between basis for federal purposes and basis as computed under Section 59-7-107:

(i) an amortization expense;

(ii) a depreciation expense;

(iii) a gain;

(iv) a loss; or

(v) an item similar to Subsections (1)(o)(i) through (iv);

(p) an interest expense that is not deducted on a federal corporation income tax return under Section 265(b) or 291(e), Internal Revenue Code;

(q) 100% of dividends received from a subsidiary that is an insurance company if that subsidiary that is an insurance company is:

(i) exempt from this chapter under Subsection 59-7-102(1)(c); and

(ii) under common ownership;

(r) subject to Subsection 59-7-105[(12)](10), the amount of a qualified investment as defined in Section 53B-8a-102 that:

(i) a corporation that is an account owner as defined in Section 53B-8a-102 makes during the taxable year;

(ii) the corporation described in Subsection 1)(r)(i) does not deduct on a federal corporation income tax return; and

(iii) does not exceed the maximum amount of the qualified investment that may be subtracted from unadjusted income for a taxable year in accordance with Subsection 53B-8a-106(1);

(s) for purposes of income included in a combined report under Part 4, Combined Reporting, the

entire amount of the dividends a member of a unitary group receives or is considered to receive from a captive real estate investment trust; and

(t) the increase in income for federal income tax purposes due to claiming a:

(i) qualified tax credit bond credit under Section 54A, Internal Revenue Code; or

(ii) qualified zone academy bond under Section 1397E, Internal Revenue Code.

(2) For purposes of Subsection (1)(b):

(a) the subtraction shall be made by claiming the subtraction on a return filed:

(i) under this chapter for the taxable year for which the net capital loss is incurred; and

(ii) by the due date of the return, including extensions; and

(b) a net capital loss for a taxable year shall be:

(i) subtracted for the taxable year for which the net capital loss is incurred; or

(ii) carried forward as provided in Sections 1212(a)(1)(B) and (C), Internal Revenue Code.

(3) (a) For purposes of calculating the subtraction provided for in Subsection (1)(k), a taxpayer shall first subtract from a dividend considered to be received or received an expense directly attributable to that dividend.

(b) For purposes of Subsection (3)(a), the amount of an interest expense that is considered to be directly attributable to a dividend is calculated by multiplying the interest expense by a fraction:

(i) the numerator of which is the taxpayer's average investment in the dividend paying subsidiaries; and

(ii) the denominator of which is the taxpayer's average total investment in assets.

(c) (i) For purposes of calculating the subtraction allowed by Subsection (1)(k), in determining income apportionable to this state, a portion of the factors of a foreign subsidiary that has dividends that are partially subtracted under Subsection (1)(k) shall be included in the combined report factors as provided in this Subsection (3)(c).

(ii) For purposes of Subsection (3)(c)(i), the portion of the factors of a foreign subsidiary that has dividends that are partially subtracted under Subsection (1)(k) that shall be included in the combined report factors is calculated by multiplying each factor of the foreign subsidiary by a fraction:

(A) not to exceed 100%; and

(B) (I) the numerator of which is the amount of the dividend paid by the foreign subsidiary that is included in adjusted income; and

(II) the denominator of which is the current year earnings and profits of the foreign subsidiary as determined under the Internal Revenue Code.

(4) (a) For purposes of Subsection (1)(l), a taxpayer may not make a subtraction under Subsection (1)(l):

(i) if the taxpayer elects to file a worldwide combined report as provided in Section 59-7-403; or

(ii) for the following:

(A) income generated from intangible property; or

(B) a capital gain, dividend, interest, rent, royalty, or other similar item that is generated from an asset held for investment and not from a regular business trading activity.

(b) In calculating the subtraction provided for in Subsection (1)(l), a foreign operating company:

(i) may not subtract an amount provided for in Subsection (1)(k) or (l); and

(ii) prior to determining the subtraction under Subsection (1)(l), shall eliminate a transaction that occurs between members of a unitary group.

(c) For purposes of the subtraction provided for in Subsection (1)(l), in determining income apportionable to this state, the factors for a foreign operating company shall be included in the combined report factors in the same percentages as the foreign operating company's adjusted income is included in the combined adjusted income.

(d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes:

(i) income generated from intangible property; or

(ii) a capital gain, dividend, interest, rent, royalty, or other similar item that is generated from an asset held for investment and not from a regular business trading activity.

(5) (a) For purposes of the subtraction provided for in Subsection (1)(o), the amount of a reduction in basis shall be allowed as an expense for the taxable year in which a federal tax credit is claimed if:

(i) there is a reduction in federal basis for a federal tax credit; and

(ii) there is no corresponding tax credit allowed in this state.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes an item similar to Subsections (1)(o)(i) through (iv).

Section 4. Section 59-7-614 is amended to read:

59-7-614. Renewable energy systems tax credit -- Definitions -- Limitations -- Certification -- Rulemaking authority.

(1) As used in this section:

(a) "Active solar system":

(i) means a system of equipment capable of collecting and converting incident solar radiation

into thermal, mechanical, or electrical energy, and transferring these forms of energy by a separate apparatus to storage or to the point of use; and

(ii) includes water heating, space heating or cooling, and electrical or mechanical energy generation.

(b) "Biomass system" means any system of apparatus and equipment for use in converting material into biomass energy, as defined in Section 59-12-102, and transporting that energy by separate apparatus to the point of use or storage.

(c) "Business entity" means any sole proprietorship, estate, trust, partnership, association, corporation, cooperative, or other entity under which business is conducted or transacted.

(d) "Commercial energy system" means any active solar, passive solar, geothermal electricity, direct-use geothermal, geothermal heat-pump system, wind, hydroenergy, or biomass system used to supply energy to a commercial unit or as a commercial enterprise.

(e) "Commercial enterprise" means a business entity whose purpose is to produce electrical, mechanical, or thermal energy for sale from a commercial energy system.

(f) (i) "Commercial unit" means any building or structure that a business entity uses to transact its business.

(ii) Notwithstanding Subsection (1)(f)(i):

(A) in the case of an active solar system used for agricultural water pumping or a wind system, each individual energy generating device shall be a commercial unit; and

(B) if an energy system is the building or structure that a business entity uses to transact its business, a commercial unit is the complete energy system itself.

(g) "Direct-use geothermal system" means a system of apparatus and equipment enabling the direct use of thermal energy, generally between 100 and 300 degrees Fahrenheit, that is contained in the earth to meet energy needs, including heating a building, an industrial process, and aquaculture.

(h) "Geothermal electricity" means energy contained in heat that continuously flows outward from the earth that is used as a sole source of energy to produce electricity.

(i) "Geothermal heat-pump system" means a system of apparatus and equipment enabling the use of thermal properties contained in the earth at temperatures well below 100 degrees Fahrenheit to help meet heating and cooling needs of a structure.

(j) "Hydroenergy system" means a system of apparatus and equipment capable of intercepting and converting kinetic water energy into electrical or mechanical energy and transferring this form of energy by separate apparatus to the point of use or storage.

(k) "Individual taxpayer" means any person who is a taxpayer as defined in Section 59-10-103 and an individual as defined in Section 59-10-103.

(l) "Office" means the Office of Energy Development created in Section 63M-4-401.

(m) "Passive solar system":

(i) means a direct thermal system that utilizes the structure of a building and its operable components to provide for collection, storage, and distribution of heating or cooling during the appropriate times of the year by utilizing the climate resources available at the site; and

(ii) includes those portions and components of a building that are expressly designed and required for the collection, storage, and distribution of solar energy.

(n) "Residential energy system" means any active solar, passive solar, biomass, direct-use geothermal, geothermal heat-pump system, wind, or hydroenergy system used to supply energy to or for any residential unit.

(o) "Residential unit" means any house, condominium, apartment, or similar dwelling unit that serves as a dwelling for a person, group of persons, or a family but does not include property subject to a fee under:

- (i) Section 59-2-404;
- (ii) Section 59-2-405;
- (iii) Section 59-2-405.1;
- (iv) Section 59-2-405.2; or
- (v) Section 59-2-405.3.

(p) "Wind system" means a system of apparatus and equipment capable of intercepting and converting wind energy into mechanical or electrical energy and transferring these forms of energy by a separate apparatus to the point of use, sale, or storage.

(2) (a) (i) A business entity that purchases and completes or participates in the financing of a residential energy system to supply all or part of the energy required for a residential unit owned or used by the business entity and located in the state may claim a nonrefundable tax credit as provided in this Subsection (2)(a).

(ii) (A) The tax credit is equal to 25% of the reasonable costs of each residential energy system installed with respect to each residential unit the business entity owns or uses, including installation costs, against any tax due under this chapter for the taxable year in which the energy system is completed and placed in service.

(B) The total amount of each tax credit under this Subsection (2)(a) may not exceed \$2,000 per residential unit.

(C) The tax credit under this Subsection (2)(a) is allowed for any residential energy system completed and placed in service on or after January 1, 2007.

(iii) If a business entity sells a residential unit to an individual taxpayer before making a claim for

the tax credit under this Subsection (2)(a), the business entity may:

(A) assign its right to this tax credit to the individual taxpayer; and

(B) if the business entity assigns its right to the tax credit to an individual taxpayer under Subsection (2)(a)(iii)(A), the individual taxpayer may claim the tax credit as if the individual taxpayer had completed or participated in the costs of the residential energy system under Section 59-10-1014.

(b) (i) A business entity that purchases or participates in the financing of a commercial energy system situated in Utah may claim a refundable tax credit as provided in this Subsection (2)(b) if the commercial energy system does not use wind, geothermal electricity, solar, or biomass equipment capable of producing a total of 660 or more kilowatts of electricity or if the commercial energy system does not use solar equipment capable of producing 2,000 or more kilowatts of electricity, and:

(A) the commercial energy system supplies all or part of the energy required by commercial units owned or used by the business entity; or

(B) the business entity sells all or part of the energy produced by the commercial energy system as a commercial enterprise.

(ii) (A) A business entity is entitled to a tax credit of up to 10% of the reasonable costs of any commercial energy system installed, including installation costs, against any tax due under this chapter for the taxable year in which the commercial energy system is completed and placed in service.

(B) Notwithstanding Subsection (2)(b)(ii)(A), the total amount of the tax credit under this Subsection (2)(b) may not exceed \$50,000 per commercial unit.

(C) The tax credit under this Subsection (2)(b) is allowed for any commercial energy system completed and placed in service on or after January 1, 2007.

(iii) A business entity that leases a commercial energy system installed on a commercial unit is eligible for the tax credit under this Subsection (2)(b) if the lessee can confirm that the lessor irrevocably elects not to claim the tax credit.

(iv) Only the principal recovery portion of the lease payments, which is the cost incurred by a business entity in acquiring a commercial energy system, excluding interest charges and maintenance expenses, is eligible for the tax credit under this Subsection (2)(b).

(v) A business entity that leases a commercial energy system is eligible to use the tax credit under this Subsection (2)(b) for a period no greater than seven years from the initiation of the lease.

(vi) A tax credit allowed by this Subsection (2)(b) may not be carried forward or carried back.

(c) (i) A business entity that owns a commercial energy system located in the state using wind,

geothermal electricity, or biomass equipment capable of producing a total of 660 or more kilowatts of electricity may claim a refundable tax credit as provided in this Subsection (2)(c) if:

(A) the commercial energy system supplies all or part of the energy required by commercial units owned or used by the business entity; or

(B) the business entity sells all or part of the energy produced by the commercial energy system as a commercial enterprise.

(ii) (A) A business entity may claim a tax credit under this section equal to the product of:

(I) 0.35 cents; and

(II) the kilowatt hours of electricity produced and either used or sold during the taxable year.

(B) (I) The tax credit calculated under Subsection (2)(c)(ii)(A) may be claimed for production occurring during a period of 48 months beginning with the month in which the commercial energy system is placed in commercial service.

(II) The tax credit allowed by this Subsection (2)(c) for each year may not be carried forward or carried back.

(C) The tax credit under this Subsection (2)(c) is allowed for any commercial energy system completed and placed in service on or after January 1, 2007.

(iii) A business entity that leases a commercial energy system installed on a commercial unit is eligible for the tax credit under this Subsection (2)(c) if the lessee can confirm that the lessor irrevocably elects not to claim the tax credit.

(d) (i) A tax credit under Subsection (2)(a) or (b) may be claimed for the taxable year in which the energy system is completed and placed in service.

(ii) Additional energy systems or parts of energy systems may be claimed for subsequent years.

(iii) If the amount of a tax credit under Subsection (2)(a) exceeds a business entity's tax liability under this chapter for a taxable year, the amount of the tax credit exceeding the liability may be carried forward for a period that does not exceed the next four taxable years.

(3) (a) A business entity that owns a commercial energy system located in the state that uses solar equipment capable of producing a total of 660 or more kilowatts of electricity may claim a refundable tax credit as provided in this Subsection (3) if:

(i) (A) the commercial energy system supplies all or part of the energy required by commercial units owned or used by the business entity; or

(B) the business entity sells all or part of the energy produced by the commercial energy system as a commercial enterprise; and

(ii) the business entity does not claim a tax credit under Subsection (2)(b).

(b) A business entity may claim a tax credit under this section equal to the product of:

(i) 0.35 cents; and

(ii) the kilowatt hours of electricity produced and either used or sold during the taxable year.

(c) The tax credit under this Subsection (3) may be claimed for production occurring during a period of 48 months beginning with the month in which the commercial energy system is placed in commercial service.

(d) The tax credit under this Subsection (3) may not be carried forward or carried back.

(e) The tax credit under this Subsection (3) is allowed for a commercial energy system completed and placed in service on or after January 1, 2015.

(f) A business entity that leases a commercial energy system installed on a commercial unit may claim a tax credit under this Subsection (3) if the business entity that is the lessee can confirm that the lessor irrevocably elects not to claim the tax credit.

(4) (a) ~~[Except as provided in Subsection (4)(b), the]~~ The tax credits provided for under Subsection (2) or (3) are in addition to any tax credits provided under the laws or rules and regulations of the United States.

~~[(b) A purchaser of one or more solar units that claims a tax credit under Section 59-7-614.3 for the purchase of the one or more solar units may not claim a tax credit under this section for that purchase.]~~

~~[(e)]~~ (b) (i) The office may set standards for residential and commercial energy systems claiming a tax credit under Subsections (2)(a) and (b) that cover the safety, reliability, efficiency, leasing, and technical feasibility of the systems to ensure that the systems eligible for the tax credit use the state's renewable and nonrenewable energy resources in an appropriate and economic manner.

(ii) The office may set standards for residential and commercial energy systems that establish the reasonable costs of an energy system, as used in Subsections (2)(a)(ii)(A) and (2)(b)(ii)(A), as an amount per unit of energy production.

(iii) A tax credit may not be taken under Subsection (2) or (3) until the office has certified that the energy system has been completely installed and is a viable system for saving or production of energy from renewable resources.

~~[(d)]~~ (c) The office and the commission may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that are necessary to implement this section.

(5) (a) On or before October 1, 2012, and every five years thereafter, the Revenue and Taxation Interim Committee shall review each tax credit provided by this section and report its recommendations to the Legislative Management Committee concerning whether the tax credit should be continued, modified, or repealed.

(b) The Revenue and Taxation Interim Committee's report under Subsection (5)(a) shall include information concerning the cost of the tax credit, the purpose and effectiveness of the tax credit, and the state's benefit from the tax credit.

Section 5. Section 59-10-1002.1 is amended to read:

59-10-1002.1. Removal of tax credit from tax return and prohibition on claiming or carrying forward a tax credit -- Conditions for removal and prohibition on claiming or carrying forward a tax credit -- Exception -- Commission reporting requirements.

(1) As used in this section, "tax return" means a tax return filed in accordance with this chapter.

(2) ~~[Beginning]~~ Except as provided in Subsection (4), beginning two taxable years after the requirements of Subsection (3) are met:

(a) the commission shall remove a tax credit allowed under this part from each tax return on which the tax credit appears; and

(b) a claimant, estate, or trust filing a tax return may not claim or carry forward the tax credit.

(3) ~~[The]~~ Except as provided in Subsection (4), the commission shall remove a tax credit allowed under this part from a tax return and a claimant, estate, or trust filing a tax return may not claim or carry forward the tax credit as provided in Subsection (2) if:

(a) the total amount of the tax credit claimed or carried forward by all claimants, estates, or trusts filing tax returns is less than \$10,000 per year for three consecutive taxable years beginning on or after January 1, 2002; and

(b) less than 10 claimants, estates, and trusts per year for the three consecutive taxable years described in Subsection (3)(a), file a tax return claiming or carrying forward the tax credit.

(4) This section does not apply to a tax credit under Section 59-10-1027.

~~[4]~~ (5) The commission shall, on or before the November interim meeting of the year after the taxable year in which the requirements of Subsection (3) are met:

(a) report to the Revenue and Taxation Interim Committee that in accordance with this section:

(i) the commission is required to remove a tax credit from each tax return on which the tax credit appears; and

(ii) a claimant, estate, or trust filing a tax return may not claim or carry forward the tax credit; and

(b) notify each state agency required by statute to assist in the administration of the tax credit that in accordance with this section:

(i) the commission is required to remove a tax credit from each tax return on which the tax credit appears; and

(ii) a claimant, estate, or trust filing a tax return may not claim or carry forward the tax credit.

Section 6. Section 59-10-1304 is amended to read:

59-10-1304. Removal of designation and prohibitions on collection for certain contributions on income tax return -- Conditions for removal and prohibitions on collection -- Commission reporting requirements.

(1) (a) If a contribution or combination of contributions described in Subsection (1)(b) generate less than \$30,000 per year for three consecutive years, the commission shall remove the designation for the contribution from the individual income tax return and may not collect the contribution from a resident or nonresident individual beginning two taxable years after the three-year period for which the contribution generates less than \$30,000 per year.

(b) The following contributions apply to Subsection (1)(a):

~~(i) the contribution provided for in Section 59-10-1305;~~

~~(ii)~~ (i) the contribution provided for in Section 59-10-1306;

~~(iii)~~ (ii) the sum of the contributions provided for in Subsection 59-10-1307(1);

~~(iv)~~ (iii) the contribution provided for in Section 59-10-1308;

~~(v)~~ (iv) the contribution provided for in Section 59-10-1310;

~~(vi)~~ (v) the contribution provided for in Section 59-10-1315;

~~(vii)~~ (vi) the sum of the contributions provided for in:

(A) Section 59-10-1316; and

(B) Section 59-10-1317; or

~~(viii)~~ (vii) the contribution provided for in Section 59-10-1318.

(2) If the commission removes the designation for a contribution under Subsection (1), the commission shall report to the Revenue and Taxation Interim Committee that the commission removed the designation on or before the November interim meeting of the year in which the commission determines to remove the designation.

Section 7. Section 63M-1-1102 is amended to read:

63M-1-1102. Definitions.

As used in this part:

(1) "Composting" means the controlled decay of landscape waste or sewage sludge and organic industrial waste, or a mixture of these, by the action of bacteria, fungi, molds, and other organisms.

(2) "Postconsumer waste material" means any product generated by a business or consumer that

has served its intended end use, and that has been separated from solid waste for the purposes of collection, recycling, and disposition and that does not include secondary waste material.

(3) (a) “Recovered materials” means waste materials and by-products that have been recovered or diverted from solid waste.

(b) “Recovered materials” does not include those materials and by-products generated from, and commonly reused within, an original manufacturing process.

(4) (a) “Recycling” means the diversion of materials from the solid waste stream and the beneficial use of the materials and includes a series of activities by which materials that would become or otherwise remain waste are diverted from the waste stream for collection, separation, and processing, and are used as raw materials or feedstocks in lieu of or in addition to virgin materials in the manufacture of goods sold or distributed in commerce or the reuse of the materials as substitutes for goods made from virgin materials.

(b) “Recycling” does not include burning municipal solid waste for energy recovery.

(5) “Recycling market development zone” or “zone” means an area designated by the office as meeting the requirements of this part.

(6) (a) “Secondary waste material” means industrial by-products that go to disposal facilities and waste generated after completion of a manufacturing process.

(b) “Secondary waste material” does not include internally generated scrap commonly returned to industrial or manufacturing processes, such as home scrap and mill broke.

(7) [~~“State tax incentives,” “tax incentives,” or “tax benefits”~~] “Tax incentive” means [~~the~~] a nonrefundable tax [~~credits~~] credit available under [~~Sections 59-7-608 and~~] Section 59-7-610 or 59-10-1007.

Section 8. Repealer.

This bill repeals:

Section 59-7-602, Credit for cash contributions to sheltered workshops.

Section 59-7-603, Credit for sophisticated technological equipment donated to schools.

Section 59-7-608, Targeted jobs tax credit.

Section 59-7-614.3, Nonrefundable tax credit for qualifying solar projects.

Section 59-10-1011, Tutoring tax credits for dependents with a disability.

Section 59-10-1305, Nongame wildlife contribution -- Credit to Wildlife Resources Account.

Section 9. Effective date.

(1) Except as provided in Subsection (2), this bill takes effect on May 12, 2015.

(2) The actions affecting the following have retrospective operation for a taxable year beginning on or after January 1, 2015:

(a) Section 59-7-105;

(b) Section 59-7-106;

(c) Section 59-7-602;

(d) Section 59-7-603;

(e) Section 59-7-608;

(f) Section 59-7-614;

(g) Section 59-7-614.3;

(h) Section 59-10-1002.1;

(i) Section 59-10-1011;

(j) Section 59-10-1304;

(k) Section 59-10-1305; and

(l) Section 63M-1-1102.

CHAPTER 31**S. B. 19**

Passed February 12, 2015

Approved March 20, 2015

Effective May 12, 2015

**DIGITAL HEALTH
SERVICES COMMISSION**

Chief Sponsor: Brian E. Shiozawa

House Sponsor: Stewart Barlow

LONG TITLE**General Description:**

This bill amends the Legislative Oversight and Sunset Act.

Highlighted Provisions:

This bill:

- ▶ reauthorizes the Digital Health Services Commission.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63I-1-226, as last amended by Laws of Utah 2014, Chapters 25 and 118

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

Section 1. Section 63I-1-226 is amended to read:**63I-1-226. Repeal dates, Title 26.**

(1) Title 26, Chapter 9f, Utah Digital Health Service Commission Act, is repealed July 1, ~~2015~~ 2025.

(2) Section 26-10-11 is repealed July 1, 2015.

(3) Section 26-18-12, Expansion of 340B drug pricing programs, is repealed July 1, 2013.

(4) Section 26-21-23, Licensing of non-Medicaid nursing care facility beds, is repealed July 1, 2018.

(5) Section 26-21-211 is repealed July 1, 2013.

(6) Title 26, Chapter 33a, Utah Health Data Authority Act, is repealed July 1, 2024.

(7) Title 26, Chapter 36a, Hospital Provider Assessment Act, is repealed July 1, 2016.

(8) Section 26-38-2.5 is repealed July 1, 2017.

(9) Section 26-38-2.6 is repealed July 1, 2017.

(10) Title 26, Chapter 56, Hemp Extract Registration Act, is repealed July 1, 2016.

CHAPTER 32**S. B. 32**

Passed February 26, 2015

Approved March 20, 2015

Effective May 12, 2015

AMENDMENTS TO LIMITATIONS AND REPORTING FOR FOOD AND AWARDS

Chief Sponsor: Karen Mayne

House Sponsor: Brad King

LONG TITLE**General Description:**

This bill amends provisions of the Lobbyist Disclosure and Regulation Act in relation to limitations and reporting for food and awards.

Highlighted Provisions:

This bill:

- ▶ provides that an expenditure does not include a plaque, commendation, or award that is presented in public and has the name of the individual receiving the plaque, commendation, or award inscribed, etched, printed, or otherwise permanently marked on the plaque, commendation, or award; and
- ▶ amends limitations and reporting requirements relating to food and beverages.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

36-11-102, as last amended by Laws of Utah 2014, Chapter 335

36-11-304, as repealed and reenacted by Laws of Utah 2010, Chapter 325

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

Section 1. Section 36-11-102 is amended to read:**36-11-102. Definitions.**

As used in this chapter:

(1) "Aggregate daily expenditures" means:

(a) for a single lobbyist, principal, or government officer, the total of all expenditures made within a calendar day by the lobbyist, principal, or government officer for the benefit of an individual public official;

(b) for an expenditure made by a member of a lobbyist group, the total of all expenditures made within a calendar day by every member of the lobbyist group for the benefit of an individual public official; or

(c) for a multiclient lobbyist, the total of all expenditures made by the multiclient lobbyist within a calendar day for the benefit of an individual public official, regardless of whether the expenditures were attributed to different clients.

(2) "Approved meeting or activity" means a meeting or activity:

(a) (i) to which a legislator is invited; and

(ii) attendance at which is approved by:

(A) the speaker of the House of Representatives, if the public official is a member of the House of Representatives; or

(B) the president of the Senate, if the public official is a member of the Senate; or

(b) (i) to which a public official who holds a position in the executive branch of state government is invited; and

(ii) attendance at which is approved by the governor or the lieutenant governor.

(3) "Capitol hill complex" is as defined in Section 63C-9-102.

(4) (a) "Compensation" means anything of economic value, however designated, that is paid, loaned, granted, given, donated, or transferred to an individual for the provision of services or ownership before any withholding required by federal or state law.

(b) "Compensation" includes:

(i) a salary or commission;

(ii) a bonus;

(iii) a benefit;

(iv) a contribution to a retirement program or account;

(v) a payment includable in gross income, as defined in Section 62, Internal Revenue Code, and subject to Social Security deductions, including a payment in excess of the maximum amount subject to deduction under Social Security law;

(vi) an amount that the individual authorizes to be deducted or reduced for salary deferral or other benefits authorized by federal law; or

(vii) income based on an individual's ownership interest.

(5) "Compensation payor" means a person who pays compensation to a public official in the ordinary course of business:

(a) because of the public official's ownership interest in the compensation payor; or

(b) for services rendered by the public official on behalf of the compensation payor.

(6) "Executive action" means:

(a) a nomination or appointment by the governor;

(b) the proposal, drafting, amendment, enactment, or defeat by a state agency of a rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(c) agency ratemaking proceedings; or

(d) an adjudicative proceeding of a state agency.

(7) (a) “Expenditure” means any of the items listed in this Subsection (7)(a) when given to or for the benefit of a public official unless consideration of equal or greater value is received:

- (i) a purchase, payment, or distribution;
- (ii) a loan, gift, or advance;
- (iii) a deposit, subscription, or forbearance;
- (iv) services or goods;
- (v) money;
- (vi) real property;
- (vii) a ticket or admission to a sporting, recreational, or artistic event; or
- (viii) a contract, promise, or agreement, whether or not legally enforceable, to provide any item listed in Subsections (7)(a)(i) through (vii).

(b) “Expenditure” does not mean:

- (i) a commercially reasonable loan made in the ordinary course of business;
- (ii) a campaign contribution reported in accordance with Title 20A, Chapter 11, Campaign and Financial Reporting Requirements;
- (iii) printed informational material that is related to the performance of the recipient’s official duties;
- (iv) a devise or inheritance;
- (v) any item listed in Subsection (7)(a) if:
 - (A) given by a relative;
 - (B) given by a compensation payor for a purpose solely unrelated to the public official’s position as a public official; [ø]

(C) the item is food or beverage with a value that does not exceed the food reimbursement rate, and the aggregate daily expenditures for food and beverage do not exceed the food reimbursement rate; or

~~[(C)-(I)]~~ (D) the item is not food or beverage, has a value of less than \$10~~;~~, and ~~[(II)]~~ the aggregate daily expenditures do not exceed \$10;

(vi) food or beverage that is provided at an event to which the following are invited:

- (A) all members of the Legislature;
- (B) all members of a standing or interim committee;
- (C) all members of an official legislative task force;
- (D) all members of a party caucus; or
- (E) all members of a group described in Subsections (7)(b)(vi)(A) through (D) who are attending a meeting of a national organization whose primary purpose is addressing general legislative policy;

(vii) food or beverage that is provided at an event to a public official who is:

- (A) giving a speech at the event;
- (B) participating in a panel discussion at the event; or
- (C) presenting or receiving an award at the event;
- (viii) a plaque, commendation, or award that:
 - (A) is presented in public [~~and having a cash value not exceeding \$50~~]; and
 - (B) has the name of the individual receiving the plaque, commendation, or award inscribed, etched, printed, or otherwise permanently marked on the plaque, commendation, or award;
- (ix) admission to or attendance at an event, the primary purpose of which is:

(A) to solicit contributions reportable under:

- (I) Title 20A, Chapter 11, Campaign and Financial Reporting Requirements; or
- (II) 2 U.S.C. Sec. 434; or
- (B) charitable solicitation, as defined in Section 13-22-2;

(x) travel to, lodging at, food or beverage served at, and admission to an approved meeting or activity;

(xi) sponsorship of an official event or official entertainment of an approved meeting or activity;

(xii) notwithstanding Subsection (7)(a)(vii), admission to or attendance at an event:

- (A) that is sponsored by a governmental entity; or
- (B) that is widely attended and related to a governmental duty of a public official; or

(xiii) travel to a widely attended event related to a governmental duty of a public official if that travel results in a financial savings to the state.

(8) “Food reimbursement rate” means the total amount set by the director of the Division of Finance, by rule, under Subsection 63A-3-107, for in-state meal reimbursement, for an employee of the executive branch, for an entire day.

~~[(8)]~~ (9) (a) “Government officer” means:

- (i) an individual elected to a position in state or local government, when acting within the government officer’s official capacity; or
- (ii) an individual appointed to or employed in a full-time position by state or local government, when acting within the scope of the individual’s employment.
- (b) “Government officer” does not mean a member of the legislative branch of state government.

~~[(9)]~~ (10) “Immediate family” means:

- (a) a spouse;
- (b) a child residing in the household; or

(c) an individual claimed as a dependent for tax purposes.

[40] (11) “Legislative action” means:

(a) a bill, resolution, amendment, nomination, veto override, or other matter pending or proposed in either house of the Legislature or its committees or requested by a legislator; and

(b) the action of the governor in approving or vetoing legislation.

[41] (12) “Lobbying” means communicating with a public official for the purpose of influencing the passage, defeat, amendment, or postponement of legislative or executive action.

[42] (13) (a) “Lobbyist” means:

(i) an individual who is employed by a principal; or

(ii) an individual who contracts for economic consideration, other than reimbursement for reasonable travel expenses, with a principal to lobby a public official.

(b) “Lobbyist” does not include:

(i) a government officer;

(ii) a member or employee of the legislative branch of state government;

(iii) a person while appearing at, or providing written comments to, a hearing conducted in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act or Title 63G, Chapter 4, Administrative Procedures Act;

(iv) a person participating on or appearing before an advisory or study task force, commission, board, or committee, constituted by the Legislature or any agency or department of state government, except legislative standing, appropriation, or interim committees;

(v) a representative of a political party;

(vi) an individual representing a bona fide church solely for the purpose of protecting the right to practice the religious doctrines of the church, unless the individual or church makes an expenditure that confers a benefit on a public official;

(vii) a newspaper, television station or network, radio station or network, periodical of general circulation, or book publisher for the purpose of publishing news items, editorials, other comments, or paid advertisements that directly or indirectly urge legislative or executive action; or

(viii) an individual who appears on the individual’s own behalf before a committee of the Legislature or an agency of the executive branch of state government solely for the purpose of testifying in support of or in opposition to legislative or executive action.

[43] (14) “Lobbyist group” means two or more lobbyists, principals, government officers, or any combination of lobbyists, principals, and officers

who each contribute a portion of an expenditure made to benefit a public official or member of the public official’s immediate family.

[44] (15) “Multiclient lobbyist” means a single lobbyist, principal, or government officer who represents two or more clients and divides the aggregate daily expenditure made to benefit a public official or member of the public official’s immediate family between two or more of those clients.

[45] (16) “Principal” means a person that employs an individual to perform lobbying, either as an employee or as an independent contractor.

[46] (17) “Public official” means:

(a) (i) a member of the Legislature;

(ii) an individual elected to a position in the executive branch of state government; or

(iii) an individual appointed to or employed in a position in the executive or legislative branch of state government if that individual:

(A) occupies a policymaking position or makes purchasing or contracting decisions;

(B) drafts legislation or makes rules;

(C) determines rates or fees; or

(D) makes adjudicative decisions; or

(b) an immediate family member of a person described in Subsection [46] (17)(a).

[47] (18) “Public official type” means a notation to identify whether a public official is:

(a) (i) a member of the Legislature;

(ii) an individual elected to a position in the executive branch of state government;

(iii) an individual appointed to or employed in a position in the legislative branch of state government who meets the definition of public official under Subsection [46] (17)(a)(iii); or

(iv) an individual appointed to or employed in a position in the executive branch of state government who meets the definition of public official under Subsection [46] (17)(a)(iii); or

(b) an immediate family member of a person described in Subsection [46] (17)(a).

[48] (19) “Quarterly reporting period” means the three-month period covered by each financial report required under Subsection 36-11-201(2)(a).

[49] (20) “Related person” means a person, agent, or employee who knowingly and intentionally assists a lobbyist, principal, or government officer in lobbying.

[20] (21) “Relative” means a spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, first cousin, or spouse of any of these individuals.

Section 2. Section 36-11-304 is amended to read:

36-11-304. Expenditures over certain amounts prohibited -- Exceptions.

(1) Except as provided in Subsection (2), a lobbyist, principal, or government officer may not make or offer to make aggregate daily expenditures that exceed ~~[\$10,]~~:

(a) for food or beverage, the food reimbursement rate; or

(b) \$10 for expenditures other than food or beverage.

(2) A lobbyist, principal, or government officer may make aggregate daily expenditures that exceed ~~[\$10]~~ the limits described in Subsection (1):

(a) for the following items, if the expenditure is reported in accordance with Section 36-11-201:

(i) food;

(ii) beverage;

(iii) travel;

(iv) lodging; or

(v) admission to or attendance at a meeting or activity that is not an approved meeting or activity; or

(b) if the expenditure is made for a purpose solely unrelated to the public official's position as a public official.

CHAPTER 33**S. B. 56**

Passed February 25, 2015

Approved March 20, 2015

Effective May 12, 2015

WILDLAND FIRE POLICYChief Sponsor: Evan J. Vickers
House Sponsor: Joel K. Briscoe**LONG TITLE****General Description:**

This bill modifies the responsibilities of the Division of Forestry, Fire, and State Lands.

Highlighted Provisions:

This bill:

- ▶ requires the director of the Division of Forestry, Fire, and State Lands to:
 - coordinate the development of a state-wide wildland fire policy; and
 - report to the Natural Resources, Agriculture, and Environment Interim Committee on the director's recommendation for a state-wide wildland fire policy;
- ▶ describes the goals of a state-wide catastrophic wildfire reduction strategy; and
- ▶ states that the division may use funds to promote wildfire prevention, wildfire mitigation, and wildfire preparedness.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

65A-8-103, as last amended by Laws of Utah 2011, Chapter 342

ENACTS:

65A-8-103.5, Utah Code Annotated 1953

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

Section 1. Section 65A-8-103 is amended to read:**65A-8-103. Forestry and fire control funds.**

(1) The division shall use money available to it to meet the costs of:

- (a) controlling forest, range, and watershed fires;
- (b) controlling insect and disease epidemics;
- (c) rehabilitating or reforesting nonfederal forest, range, and watershed lands; ~~and~~
- (d) promoting wildfire preparedness, wildfire mitigation, and wildfire prevention; and

~~[(d)]~~ (e) carrying on the purposes of this chapter.

(2) All money available to the division to meet the costs of Subsections (1)(a) through ~~[(d)]~~ (e) is nonlapsing and available to the division until expended.

(3) (a) The collection and disbursement of all money made available to the division shall be in accordance with the rules of the Division of Finance.

(b) Money collected by the division from fees, rentals, sales, contributions, reimbursements, and other such sources shall be deposited in the appropriate account.

Section 2. Section 65A-8-103.5 is enacted to read:**65A-8-103.5. Wildland fire policy -- Report.**

(1) The director shall:

(a) coordinate the development of a comprehensive, state-wide wildland fire prevention, preparedness, and suppression policy;

(b) coordinate with applicable state agencies to identify critical wildlife habitat areas as the policy described in Subsection (1)(a) is developed; and

(c) report to the Natural Resources, Agriculture, and Environment Interim Committee by November 30, 2015, on the director's recommendation for the policy described in Subsection (1)(a).

(2) The goals of the state-wide catastrophic wildfire reduction policy described in Subsection (1)(a) shall be to:

(a) restore and maintain landscapes, ensuring landscapes across the state are resilient to wildfire-related disturbances in accordance with fire management objectives;

(b) create fire-adapted communities, ensuring that human populations and infrastructure can withstand a wildfire without loss of life or property;

(c) improve wildfire response, ensuring that all political subdivisions can participate in making and implementing safe, effective, and efficient risk-based wildfire management decisions; and

(d) reduce risks to wildlife, such as the greater sage grouse, which can be devastated by wildfire.

(3) In developing the wildland fire policy described in Subsection (1)(a), the director shall coordinate with representatives of counties, cities, and towns in the state, along with any other stakeholders the director considers necessary and relevant, including the Catastrophic Wildfire Reduction Strategy Statewide Steering Committee and six regional work groups.

CHAPTER 34**S. B. 80**

Passed March 5, 2015

Approved March 20, 2015

Effective May 12, 2015

**HOMEOWNERS' ASSOCIATION
RESERVE FUND**

Chief Sponsor: Stephen H. Urquhart

House Sponsor: Don L. Ipson

LONG TITLE**General Description:**

This bill amends provisions of the Condominium Ownership Act and the Community Association Act relating to reserve funds.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ provides that a declarant shall make certain disclosures to a purchaser during the period of administrative control; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

57-8-3, as last amended by Laws of Utah 2013, Chapters 95 and 152

57-8-7.5, as last amended by Laws of Utah 2014, Chapter 189

57-8a-102, as last amended by Laws of Utah 2013, Chapters 95 and 152

57-8a-104, as last amended by Laws of Utah 2011, Chapter 137

57-8a-211, as last amended by Laws of Utah 2013, Chapters 152 and 419

57-8a-224, as enacted by Laws of Utah 2013, Chapter 152

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

Section 1. Section 57-8-3 is amended to read:**57-8-3. Definitions.**

As used in this chapter:

(1) "Assessment" means any charge imposed by the association, including:

(a) common expenses on or against a unit owner pursuant to the provisions of the declaration, bylaws, or this chapter; and

(b) an amount that an association of unit owners assesses to a unit owner under Subsection 57-8-43(9)(g).

(2) "Association of unit owners" means all of the unit owners:

(a) acting as a group in accordance with the declaration and bylaws; or

(b) organized as a legal entity in accordance with the declaration.

(3) "Building" means a building, containing units, and comprising a part of the property.

(4) "Commercial condominium project" means a condominium project that has no residential units within the project.

(5) "Common areas and facilities" unless otherwise provided in the declaration or lawful amendments to the declaration means:

(a) the land included within the condominium project, whether leasehold or in fee simple;

(b) the foundations, columns, girders, beams, supports, main walls, roofs, halls, corridors, lobbies, stairs, stairways, fire escapes, entrances, and exits of the building;

(c) the basements, yards, gardens, parking areas, and storage spaces;

(d) the premises for lodging of janitors or persons in charge of the property;

(e) installations of central services such as power, light, gas, hot and cold water, heating, refrigeration, air conditioning, and incinerating;

(f) the elevators, tanks, pumps, motors, fans, compressors, ducts, and in general all apparatus and installations existing for common use;

(g) such community and commercial facilities as may be provided for in the declaration; and

(h) all other parts of the property necessary or convenient to its existence, maintenance, and safety, or normally in common use.

(6) "Common expenses" means:

(a) all sums lawfully assessed against the unit owners;

(b) expenses of administration, maintenance, repair, or replacement of the common areas and facilities;

(c) expenses agreed upon as common expenses by the association of unit owners; and

(d) expenses declared common expenses by this chapter, or by the declaration or the bylaws.

(7) "Common profits," unless otherwise provided in the declaration or lawful amendments to the declaration, means the balance of all income, rents, profits, and revenues from the common areas and facilities remaining after the deduction of the common expenses.

(8) "Condominium" means the ownership of a single unit in a multiunit project together with an undivided interest in common in the common areas and facilities of the property.

(9) "Condominium plat" means a plat or plats of survey of land and units prepared in accordance with Section 57-8-13.

(10) "Condominium project" means a real estate condominium project; a plan or project whereby two

or more units, whether contained in existing or proposed apartments, commercial or industrial buildings or structures, or otherwise, are separately offered or proposed to be offered for sale. Condominium project also means the property when the context so requires.

(11) "Condominium unit" means a unit together with the undivided interest in the common areas and facilities appertaining to that unit. Any reference in this chapter to a condominium unit includes both a physical unit together with its appurtenant undivided interest in the common areas and facilities and a time period unit together with its appurtenant undivided interest, unless the reference is specifically limited to a time period unit.

(12) "Contractible condominium" means a condominium project from which one or more portions of the land within the project may be withdrawn in accordance with provisions of the declaration and of this chapter. If the withdrawal can occur only by the expiration or termination of one or more leases, then the condominium project is not a contractible condominium within the meaning of this chapter.

(13) "Convertible land" means a building site which is a portion of the common areas and facilities, described by metes and bounds, within which additional units or limited common areas and facilities may be created in accordance with this chapter.

(14) "Convertible space" means a portion of the structure within the condominium project, which portion may be converted into one or more units or common areas and facilities, including limited common areas and facilities in accordance with this chapter.

(15) "Declarant" means all persons who execute the declaration or on whose behalf the declaration is executed. From the time of the recordation of any amendment to the declaration expanding an expandable condominium, all persons who execute that amendment or on whose behalf that amendment is executed shall also come within this definition. Any successors of the persons referred to in this subsection who come to stand in the same relation to the condominium project as their predecessors also come within this definition.

(16) "Declaration" means the instrument by which the property is submitted to the provisions of this act, as it from time to time may be lawfully amended.

(17) "Expandable condominium" means a condominium project to which additional land or an interest in it may be added in accordance with the declaration and this chapter.

(18) "Governing documents":

(a) means a written instrument by which an association of unit owners may:

(i) exercise powers; or

(ii) manage, maintain, or otherwise affect the property under the jurisdiction of the association of unit owners; and

(b) includes:

(i) articles of incorporation;

(ii) bylaws;

(iii) a plat;

(iv) a declaration of covenants, conditions, and restrictions; and

(v) rules of the association of unit owners.

(19) "Independent third party" means a person that:

(a) is not related to the unit owner;

(b) shares no pecuniary interests with the unit owner; and

(c) purchases the unit in good faith and without the intent to defraud a current or future lienholder.

(20) "Leasehold condominium" means a condominium project in all or any portion of which each unit owner owns an estate for years in his unit, or in the land upon which that unit is situated, or both, with all those leasehold interests to expire naturally at the same time. A condominium project including leased land, or an interest in the land, upon which no units are situated or to be situated is not a leasehold condominium within the meaning of this chapter.

(21) "Limited common areas and facilities" means those common areas and facilities designated in the declaration as reserved for use of a certain unit or units to the exclusion of the other units.

(22) "Majority" or "majority of the unit owners," unless otherwise provided in the declaration or lawful amendments to the declaration, means the owners of more than 50% in the aggregate in interest of the undivided ownership of the common areas and facilities.

(23) "Management committee" means the committee as provided in the declaration charged with and having the responsibility and authority to make and to enforce all of the reasonable rules covering the operation and maintenance of the property.

(24) "Mixed-use condominium project" means a condominium project that has both residential and commercial units in the condominium project.

(25) "Par value" means a number of dollars or points assigned to each unit by the declaration. Substantially identical units shall be assigned the same par value, but units located at substantially different heights above the ground, or having substantially different views, or having substantially different amenities or other characteristics that might result in differences in market value, may be considered substantially identical within the meaning of this subsection. If par value is stated in terms of dollars, that statement may not be considered to reflect or control the sales price or fair market value of any

unit, and no opinion, appraisal, or fair market transaction at a different figure may affect the par value of any unit, or any undivided interest in the common areas and facilities, voting rights in the unit owners' association, liability for common expenses, or right to common profits, assigned on the basis thereof.

(26) "Period of administrative control" means the period of control described in Subsection 57-8-16.5(1).

(27) "Person" means an individual, corporation, partnership, association, trustee, or other legal entity.

(28) "Property" means the land, whether leasehold or in fee simple, the building, if any, all improvements and structures thereon, all easements, rights, and appurtenances belonging thereto, and all articles of personal property intended for use in connection therewith.

(29) "Record," "recording," "recorded," and "recorder" have the meaning stated in Title 57, Chapter 3, Recording of Documents.

(30) "Size" means the number of cubic feet, or the number of square feet of ground or floor space, within each unit as computed by reference to the record of survey map and rounded off to a whole number. Certain spaces within the units including attic, basement, or garage space may be omitted from the calculation or be partially discounted by the use of a ratio, if the same basis of calculation is employed for all units in the condominium project and if that basis is described in the declaration.

(31) "Time period unit" means an annually recurring part or parts of a year specified in the declaration as a period for which a unit is separately owned and includes a timeshare estate as defined in Subsection 57-19-2(19).

(32) "Unit" means either a separate physical part of the property intended for any type of independent use, including one or more rooms or spaces located in one or more floors or part or parts of floors in a building or a time period unit, as the context may require. A convertible space shall be treated as a unit in accordance with Subsection 57-8-13.4(3). A proposed condominium unit under an expandable condominium project, not constructed, is a unit two years after the date the recording requirements of Section 57-8-13.6 are met.

(33) "Unit number" means the number, letter, or combination of numbers and letters designating the unit in the declaration and in the record of survey map.

(34) "Unit owner" means the person or persons owning a unit in fee simple and an undivided interest in the fee simple estate of the common areas and facilities in the percentage specified and established in the declaration or, in the case of a leasehold condominium project, the person or persons whose leasehold interest or

interests in the condominium unit extend for the entire balance of the unexpired term or terms.

Section 2. Section 57-8-7.5 is amended to read:

57-8-7.5. Reserve analysis -- Reserve fund.

(1) As used in this section:

(a) "Reserve analysis" means an analysis to determine:

(i) the need for a reserve fund to accumulate ~~money to cover the cost of repairing, replacing, or restoring common areas and facilities that have a useful life of three years or more and a remaining useful life of less than 30 years, if the cost cannot reasonably be funded from the general budget or other funds of the association of unit owners~~ reserve funds; and

(ii) the appropriate amount of any reserve fund.

(b) "Reserve fund line item" means the line item in an association of unit owners' annual budget that identifies the amount to be placed into a reserve fund.

(c) "Reserve funds" means money to cover the cost of repairing, replacing, or restoring common areas and facilities that have a useful life of three years or more and a remaining useful life of less than 30 years, if the cost cannot reasonably be funded from the general budget or other funds of the association of unit owners.

(2) Except as otherwise provided in the declaration, a management committee shall:

(a) cause a reserve analysis to be conducted no less frequently than every six years; and

(b) review and, if necessary, update a previously conducted reserve analysis no less frequently than every three years.

(3) The management committee may conduct a reserve analysis itself or may engage a reliable person or organization, as determined by the management committee, to conduct the reserve analysis.

(4) A reserve fund analysis shall include:

(a) a list of the components identified in the reserve analysis that will reasonably require reserve funds;

(b) a statement of the probable remaining useful life, as of the date of the reserve analysis, of each component identified in the reserve analysis;

(c) an estimate of the cost to repair, replace, or restore each component identified in the reserve analysis;

(d) an estimate of the total annual contribution to a reserve fund necessary to meet the cost to repair, replace, or restore each component identified in the reserve analysis during the component's useful life and at the end of the component's useful life; and

(e) a reserve funding plan that recommends how the association of unit owners may fund the annual contribution described in Subsection (4)(d).

(5) An association of unit owners shall:

(a) annually provide unit owners a summary of the most recent reserve analysis or update; and

(b) provide a copy of the complete reserve analysis or update to a unit owner who requests a copy.

(6) In formulating its budget each year, an association of unit owners shall include a reserve fund line item in:

(a) an amount the management committee determines, based on the reserve analysis, to be prudent; or

(b) an amount required by the declaration, if the declaration requires an amount higher than the amount determined under Subsection (6)(a).

(7) (a) Within 45 days after the day on which an association of unit owners adopts its annual budget, the unit owners may veto the reserve fund line item by a 51% vote of the allocated voting interests in the association of unit owners at a special meeting called by the unit owners for the purpose of voting whether to veto a reserve fund line item.

(b) If the unit owners veto a reserve fund line item under Subsection (7)(a) and a reserve fund line item exists in a previously approved annual budget of the association of unit owners that was not vetoed, the association of unit owners shall fund the reserve account in accordance with that prior reserve fund line item.

(8) (a) Subject to Subsection (8)(b), if an association of unit owners does not comply with the requirements of Subsection (5), (6), or (7) and fails to remedy the noncompliance within the time specified in Subsection (8)(c), a unit owner may file an action in state court for:

(i) injunctive relief requiring the association of unit owners to comply with the requirements of Subsection (5), (6), or (7);

(ii) \$500 or actual damages, whichever is greater;

(iii) any other remedy provided by law; and

(iv) reasonable costs and attorney fees.

(b) No fewer than 90 days before the day on which a unit owner files a complaint under Subsection (8)(a), the unit owner shall deliver written notice described in Subsection (8)(c) to the association of unit owners.

(c) A notice under Subsection (8)(b) shall state:

(i) the requirement in Subsection (5), (6), or (7) with which the association of unit owners has failed to comply;

(ii) a demand that the association of unit owners come into compliance with the requirements; and

(iii) a date, no fewer than 90 days after the day on which the unit owner delivers the notice, by which the association of unit owners shall remedy its noncompliance.

(d) In a case filed under Subsection (8)(a), a court may order an association of unit owners to produce

the summary of the reserve analysis or the complete reserve analysis on an expedited basis and at the association of unit owners' expense.

(9) (a) A management committee may not use money in a reserve fund:

(i) for daily maintenance expenses, unless a majority of the members of the association of unit owners vote to approve the use of reserve fund money for that purpose; or

(ii) for any purpose other than the purpose for which the reserve fund was established.

(b) A management committee shall maintain a reserve fund separate from other funds of the association of unit owners.

(c) This Subsection (9) may not be construed to limit a management committee from prudently investing money in a reserve fund, subject to any investment constraints imposed by the declaration.

(10) Subsections (2) through (9) do not apply to an association of unit owners during the period of ~~declarant control described in Subsection 57-8-16.5(1)~~ administrative control.

(11) For a condominium project whose initial declaration is recorded on or after May 12, 2015, during the period of administrative control, for any property that the declarant sells to a third party, the declarant shall give the third party:

(a) a copy of the association of unit owners' governing documents; and

(b) a copy of the association of unit owners' most recent financial statement that includes any reserve funds held by the association of unit owners or by a subsidiary of the association of unit owners.

~~[(11) This]~~ (12) Except as otherwise provided in this section, this section applies to each association of unit owners, regardless of when the association of unit owners was created.

Section 3. Section 57-8a-102 is amended to read:

57-8a-102. Definitions.

As used in this chapter:

(1) (a) "Assessment" means a charge imposed or levied:

(i) by the association;

(ii) on or against a lot or a lot owner; and

(iii) pursuant to a governing document recorded with the county recorder.

(b) "Assessment" includes:

(i) a common expense; and

(ii) an amount assessed against a lot owner under Subsection 57-8a-405(7).

(2) (a) Except as provided in Subsection (2)(b), "association" means a corporation or other legal entity, any member of which:

(i) is an owner of a residential lot located within the jurisdiction of the association, as described in the governing documents; and

(ii) by virtue of membership or ownership of a residential lot is obligated to pay:

- (A) real property taxes;
- (B) insurance premiums;
- (C) maintenance costs; or

(D) for improvement of real property not owned by the member.

(b) "Association" or "homeowner association" does not include an association created under Title 57, Chapter 8, Condominium Ownership Act.

(3) "Board of directors" or "board" means the entity, regardless of name, with primary authority to manage the affairs of the association.

(4) "Common areas" means property that the association:

- (a) owns;
- (b) maintains;
- (c) repairs; or
- (d) administers.

(5) "Common expense" means costs incurred by the association to exercise any of the powers provided for in the association's governing documents.

(6) "Declarant":

(a) means the person who executes a declaration and submits it for recording in the office of the recorder of the county in which the property described in the declaration is located; and

(b) includes the person's successor and assign.

(7) (a) "Governing documents" means a written instrument by which the association may:

- (i) exercise powers; or
- (ii) manage, maintain, or otherwise affect the property under the jurisdiction of the association.

(b) "Governing documents" includes:

- (i) articles of incorporation;
- (ii) bylaws;
- (iii) a plat;
- (iv) a declaration of covenants, conditions, and restrictions; and
- (v) rules of the association.

(8) "Independent third party" means a person that:

- (a) is not related to the owner of the residential lot;
- (b) shares no pecuniary interests with the owner of the residential lot; and
- (c) purchases the residential lot in good faith and without the intent to defraud a current or future lienholder.

(9) "Judicial foreclosure" means a foreclosure of a lot:

- (a) for the nonpayment of an assessment; and
- (b) (i) in the manner provided by law for the foreclosure of a mortgage on real property; and
- (ii) as provided in Part 3, Collection of Assessments.

(10) "Lease" or "leasing" means regular, exclusive occupancy of a lot:

- (a) by a person or persons other than the owner; and
- (b) for which the owner receives a consideration or benefit, including a fee, service, gratuity, or emolument.

(11) "Limited common areas" means common areas described in the declaration and allocated for the exclusive use of one or more lot owners.

(12) "Lot" means:

- (a) a lot, parcel, plot, or other division of land:
 - (i) designated for separate ownership or occupancy; and
 - (ii) (A) shown on a recorded subdivision plat; or
 - (B) the boundaries of which are described in a recorded governing document; or

(b) (i) a unit in a condominium association if the condominium association is a part of a development; or

(ii) a unit in a real estate cooperative if the real estate cooperative is part of a development.

(13) "Mixed-use project" means a project under this chapter that has both residential and commercial lots in the project.

(14) "Nonjudicial foreclosure" means the sale of a lot:

- (a) for the nonpayment of an assessment; and
- (b) (i) in the same manner as the sale of trust property under Sections 57-1-19 through 57-1-34; and
- (ii) as provided in Part 3, Collection of Assessments.

(15) "Period of administrative control" means the period during which the person who filed the association's governing documents or the person's successor in interest retains authority to:

- (a) appoint or remove members of the association's board of directors; or
- (b) exercise power or authority assigned to the association under the association's governing documents.

~~[(15)]~~ (16) "Residential lot" means a lot, the use of which is limited by law, covenant, or otherwise by primarily residential or recreational purposes.

Section 4. Section 57-8a-104 is amended to read:

57-8a-104. Limitation on requirements for amending governing documents -- Limitation on contracts.

~~[(1) As used in this section, "period of administrative control" means the period during which the person who filed the association's governing documents or a successor in interest retains authority to:]~~

~~[(a) appoint or remove members of the association's board of directors; or]~~

~~[(b) exercise power or authority assigned to the association under its governing documents.]~~

~~[(2)] (1) (a) (i) Governing documents may not require that an amendment to the governing documents adopted after the period of administrative control be approved by more than 67% of the voting interests.~~

~~(ii) The vote required to adopt an amendment to governing documents may not be greater than 67% of the voting interests, notwithstanding a provision of the governing documents requiring a greater percentage and regardless of whether the governing documents were adopted before, on, or after May 10, 2011.~~

~~(b) Subsection [(2)] (1)(a) does not apply to an amendment affecting only:~~

~~(i) lot boundaries; or~~

~~(ii) members' voting rights.~~

~~[(3)] (2) (a) A contract for services such as garbage collection, maintenance, lawn care, or snow removal executed on behalf of the association during a period of administrative control is binding beyond the period of administrative control unless terminated by the board of directors after the period of administrative control ends.~~

~~(b) Subsection [(3)] (2)(a) does not apply to golf course and amenity management, utilities, cable services, and other similar services that require an investment of infrastructure or capital.~~

~~[(4)] (3) Voting interests under [Subsections (2) and (3)] Subsection (1) are calculated in the manner required by the governing documents.~~

~~[(5)] (4) Nothing in this section affects any other rights reserved by the person who filed the association's original governing documents or a successor in interest.~~

Section 5. Section 57-8a-211 is amended to read:

57-8a-211. Reserve analysis -- Reserve fund.

(1) As used in this section:

(a) "Reserve analysis" means an analysis to determine:

(i) the need for a reserve fund to accumulate ~~[money to cover the cost of repairing, replacing, or restoring common areas that have a useful life of three years or more and a remaining useful life of less than 30 years, if the cost cannot reasonably be funded from the association's general budget or from other association funds]~~ reserve funds; and

(ii) the appropriate amount of any reserve fund.

(b) "Reserve fund line item" means the line item in an association's annual budget that identifies the amount to be placed into a reserve fund.

(c) "Reserve funds" means money to cover the cost of repairing, replacing, or restoring common areas and facilities that have a useful life of three years or more and a remaining useful life of less than 30 years, if the cost cannot reasonably be funded from the general budget or other funds of the association.

(2) Except as otherwise provided in the governing documents, a board shall:

(a) cause a reserve analysis to be conducted no less frequently than every six years; and

(b) review and, if necessary, update a previously conducted reserve analysis no less frequently than every three years.

(3) The board may conduct a reserve analysis itself or may engage a reliable person or organization, as determined by the board, to conduct the reserve analysis.

(4) A reserve fund analysis shall include:

(a) a list of the components identified in the reserve analysis that will reasonably require reserve funds;

(b) a statement of the probable remaining useful life, as of the date of the reserve analysis, of each component identified in the reserve analysis;

(c) an estimate of the cost to repair, replace, or restore each component identified in the reserve analysis;

(d) an estimate of the total annual contribution to a reserve fund necessary to meet the cost to repair, replace, or restore each component identified in the reserve analysis during the component's useful life and at the end of the component's useful life; and

(e) a reserve funding plan that recommends how the association may fund the annual contribution described in Subsection (4)(d).

(5) An association shall:

(a) annually provide lot owners a summary of the most recent reserve analysis or update; and

(b) provide a copy of the complete reserve analysis or update to a lot owner who requests a copy.

(6) In formulating its budget each year, an association shall include a reserve fund line item in:

(a) an amount the board determines, based on the reserve analysis, to be prudent; or

(b) an amount required by the governing documents, if the governing documents require an amount higher than the amount determined under Subsection (6)(a).

(7) (a) Within 45 days after the day on which an association adopts its annual budget, the lot owners may veto the reserve fund line item by a 51% vote of the allocated voting interests in the association at a special meeting called by the lot owners for the

purpose of voting whether to veto a reserve fund line item.

(b) If the lot owners veto a reserve fund line item under Subsection (7)(a) and a reserve fund line item exists in a previously approved annual budget of the association that was not vetoed, the association shall fund the reserve account in accordance with that prior reserve fund line item.

(8) (a) Subject to Subsection (8)(b), if an association does not comply with the requirements described in Subsection (5), (6), or (7) and fails to remedy the noncompliance within the time specified in Subsection (8)(c), a lot owner may file an action in state court for:

(i) injunctive relief requiring the association to comply with the requirements of Subsection (5), (6), or (7);

(ii) \$500 or the lot owner's actual damages, whichever is greater;

(iii) any other remedy provided by law; and

(iv) reasonable costs and attorney fees.

(b) No fewer than 90 days before the day on which a lot owner files a complaint under Subsection (8)(a), the lot owner shall deliver written notice described in Subsection (8)(c) to the association.

(c) A notice under Subsection (8)(b) shall state:

(i) the requirement in Subsection (5), (6), or (7) with which the association has failed to comply;

(ii) a demand that the association come into compliance with the requirements; and

(iii) a date, no fewer than 90 days after the day on which the lot owner delivers the notice, by which the association shall remedy its noncompliance.

(d) In a case filed under Subsection (8)(a), a court may order an association to produce the summary of the reserve analysis or the complete reserve analysis on an expedited basis and at the association's expense.

(9) (a) A board may not use money in a reserve fund:

(i) for daily maintenance expenses, unless a majority of association members vote to approve the use of reserve fund money for that purpose; or

(ii) for any purpose other than the purpose for which the reserve fund was established.

(b) A board shall maintain a reserve fund separate from other association funds.

(c) This Subsection (9) may not be construed to limit a board from prudently investing money in a reserve fund, subject to any investment constraints imposed by the governing documents.

(10) Subsections (2) through (9) do not apply to an association during the period of administrative control.

(11) For a project whose initial declaration of covenants, conditions, and restrictions is recorded on or after May 12, 2015, during the period of administrative control, for any property that the declarant sells to a third party, the declarant shall give the third party:

(a) a copy of the association's governing documents; and

(b) a copy of the association's most recent financial statement that includes any reserve funds held by the association or by a subsidiary of the association.

[(11) This] (12) Except as otherwise provided in this section, this section applies to each association, regardless of when the association was created.

Section 6. Section 57-8a-224 is amended to read:

57-8a-224. Responsibility for the maintenance, repair, and replacement of common area and lots.

(1) As used in this section:

(a) "Emergency repair" means a repair that, if not made in a timely manner, will likely result in immediate and substantial damage to a common area or to another lot.

(b) "Reasonable notice" means:

(i) written notice that is hand delivered to the lot at least 24 hours before the proposed entry; or

(ii) in the case of an emergency repair, notice that is reasonable under the circumstances.

(2) Except as otherwise provided in the declaration or Part 4, Insurance:

(a) an association is responsible for the maintenance, repair, and replacement of common areas; and

(b) a lot owner is responsible for the maintenance, repair, and replacement of the lot owner's lot.

(3) After reasonable notice to the occupant of the lot being entered, the board may access a lot:

(a) from time to time during reasonable hours, as necessary for the maintenance, repair, or replacement of any of the common areas; or

(b) for making an emergency repair.

(4) (a) An association is liable to repair damage it causes to the common areas or to a lot the association uses to access the common areas.

(b) An association shall repair damage described in Subsection (4)(a) within a time that is reasonable under the circumstances.

(5) Subsections (2), (3), and (4) do not apply during the period of administrative control [as defined in Section 57-8a-104].

CHAPTER 35**S. B. 86**

Passed February 17, 2015

Approved March 20, 2015

Effective May 12, 2015

(Retrospective operation to January 1, 2015)

**REGISTRATION FEES FOR
EMERGENCY MEDICAL AIRCRAFT**

Chief Sponsor: Curtis S. Bramble

House Sponsor: Daniel McCay

LONG TITLE**General Description:**

This bill addresses registration fees for emergency medical aircraft.

Highlighted Provisions:

This bill:

- ▶ addresses registration fees for emergency medical aircraft.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides for retrospective operation.

Utah Code Sections Affected:**AMENDS:**

72-10-110, as last amended by Laws of Utah 2012, Chapter 8

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

Section 1. Section 72-10-110 is amended to read:**72-10-110. Aircraft registration information requirements -- Registration fee -- Administration -- Partial year registration.**

(1) All applications for aircraft registration shall contain:

- (a) a description of the aircraft, including:
 - (i) the manufacturer or builder;
 - (ii) the aircraft registration number, type, year of manufacture, or if an experimental aircraft, the year the aircraft was completed and certified for air worthiness by an inspector of the Federal Aviation Administration; and
 - (iii) gross weight;
- (b) the name and address of the owner of the aircraft; and
- (c) where the aircraft is located, or the address where the aircraft is usually used or based.

(2) (a) Except as provided in Subsection (3), at the time application is made for registration or renewal of registration of an aircraft under this chapter, an annual registration fee of 0.4% of the average wholesale value of the aircraft shall be paid.

(b) For purposes of calculating the value of the aircraft under Subsection (2)(a) or (3)(d), the Tax

Commission shall use the average wholesale value as stated in the Aircraft Bluebook Price Digest.

(3) (a) An annual registration fee of \$100 is imposed on the following aircraft:

- (i) an aircraft not listed in the Aircraft Bluebook Price Digest;
- (ii) an experimental aircraft; or
- (iii) [a-helicopter] an aircraft that is used:

(A) exclusively by an entity that is exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code, and exempt from property taxation under Title 59, Chapter 2, Property Tax Act; and

(B) for the emergency transportation of medical patients for at least 95% of its flight time.

(b) An annual registration fee is imposed on an aircraft 50 years or older equal to the lesser of:

- (i) \$100; or
- (ii) the annual registration fee provided for under Subsection (2)(a).

(c) An aircraft that does not have a valid airworthiness certificate for a period of six months or more:

- (i) may not apply for a certificate of registration required under Section 72-10-109; and
- (ii) is exempt from an annual registration fee until the aircraft has a valid airworthiness certificate.

(d) An annual registration fee of .25% of the average wholesale value of the aircraft is imposed on an aircraft if the aircraft is:

- (i) used by an air charter service for air charter; and
- (ii) owned by a person other than the air charter service.

(4) (a) The Tax Commission shall provide a registration card to an owner of an aircraft if:

- (i) the owner complies with the registration requirements of this section; and
- (ii) the owner of the aircraft states that the aircraft has a valid airworthiness certificate.

(b) An owner of an aircraft shall carry the registration card in the registered aircraft.

(5) The registration fees assessed under this chapter shall be collected by the Tax Commission to be distributed as provided in Subsection (6).

(6) After deducting the costs of administering all aircraft registrations under this chapter, the Tax Commission shall deposit all remaining aircraft registration fees in the Aeronautics Restricted Account created by Section 72-2-126.

(7) Aircraft which are registered under this chapter for less than a full calendar year shall be charged a registration fee which is reduced in

proportion to the fraction of the calendar year during which the aircraft is registered in this state.

(8) (a) The Utah Division of Aeronautics shall maintain a statewide database of all aircraft based within the state.

(b) On or before October 1 of each year, the Utah Division of Aeronautics shall provide the Tax Commission with the data the Tax Commission requires from the database described in Subsection (8)(a).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the contents of the database described in Subsection (8)(a).

(d) The Tax Commission shall annually provide the Utah Division of Aeronautics a list of all aircraft registered in this state.

(9) The Tax Commission may suspend or revoke a registration if it determines that the required fee has not been paid and the fee is not paid upon reasonable notice and demand.

Section 2. Retrospective operation.

This bill has retrospective operation to January 1, 2015.

CHAPTER 36**S. B. 89**

Passed February 25, 2015

Approved March 20, 2015

Effective July 1, 2015

AQUATIC INVASIVE SPECIES FEE

Chief Sponsor: Scott K. Jenkins

House Sponsor: Lee B. Perry

LONG TITLE**General Description:**

This bill imposes a fee on certain motorboats and sailboats.

Highlighted Provisions:

This bill:

- ▶ imposes an aquatic invasive species fee on certain motorboats and sailboats;
- ▶ provides that the fees be used for the purpose of aquatic invasive species interdiction; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

73-18-22, as last amended by Laws of Utah 2003, Chapter 212

ENACTS:

73-18-26, Utah Code Annotated 1953

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

Section 1. Section 73-18-22 is amended to read:**73-18-22. Boating Account created -- Contents -- Use of money.**

(1) There is created within the General Fund a restricted account known as the Boating Account.

(2) The restricted account shall consist of:

~~[(2) Except]~~ (a) except as provided under Sections 73-18-24 and 73-18-25, all registration fees and related money collected by the division or ~~[any] an~~ authorized agent, less the costs of collecting motorboat and sailboat registration fees by an authorized agent, ~~shall be deposited into the Boating Account.~~; and

(b) aquatic invasive species mitigation fees collected under Section 73-18-26.

(3) The amount retained by an authorized agent under Subsection (2)(a) may not exceed 20% of the fees charged in Section 73-18-7.

(4) ~~[Money]~~ Except as provided in Subsection (5), money in the Boating Account may be used for:

(a) the construction, improvement, operation, and maintenance of publicly owned boating facilities;

(b) boater education; and

(c) the payment of the costs and expenses of the division in administering and enforcing this chapter.

(5) Fees collected under Section 73-18-26 and deposited into the Boating Account shall be used for aquatic invasive species interdiction.

Section 2. Section 73-18-26 is enacted to read:**73-18-26. Aquatic invasive species fee -- Amount -- Deposit.**

(1) In addition to the registration fee imposed under Section 73-18-7, there is imposed an aquatic invasive species mitigation fee of \$10 on a motorboat or sailboat required to be registered under Section 73-18-7.

(2) The fee imposed under Subsection (1) shall be deposited in the Boating Account created in Section 73-18-22 for the purpose of aquatic invasive species interdiction.

Section 3. Effective date.

This bill takes effect on July 1, 2015.

CHAPTER 37**S. B. 109**

Passed February 27, 2015

Approved March 20, 2015

Effective May 12, 2015

**REMOVAL FROM
DATABASE AMENDMENTS**

Chief Sponsor: Daniel W. Thatcher

House Sponsor: Rich Cunningham

LONG TITLE**General Description:**

This bill adds language regarding a person's reputation to the statute on removing a person from the National Instant Check System database.

Highlighted Provisions:

This bill:

- ▶ adds language allowing a court to take evidence regarding a person's reputation and character to the provisions for removal from the National Instant Check System database.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

76-10-532, as enacted by Laws of Utah 2013, Chapter 424

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

Section 1. Section 76-10-532 is amended to read:**76-10-532. Removal from National Instant Check System database.**

(1) A person who is subject to the restrictions in Subsection 76-10-503(1)(b)(v), (vi), or (vii), or 18 U.S.C. 922(d)(4) and (g)(4) based on a commitment, finding, or adjudication that occurred in this state may petition the district court in the county in which the commitment, finding, or adjudication occurred to remove the disability imposed.

(2) The petition shall be filed in the district court in the county where the commitment, finding, or adjudication occurred. The petition shall include:

(a) a listing of facilities, with their addresses, where the petitioner has ever received mental health treatment;

(b) a release signed by the petitioner to allow the prosecutor or county attorney to obtain the petitioner's mental health records;

(c) a verified report of a mental health evaluation conducted by a licensed psychiatrist occurring within 30 days prior to the filing of the petition, which shall include a statement regarding:

(i) the nature of the commitment, finding, or adjudication that resulted in the restriction on the petitioner's ability to purchase or possess a dangerous weapon;

(ii) the petitioner's previous and current mental health treatment;

(iii) the petitioner's previous violent behavior, if any;

(iv) the petitioner's current mental health medications and medication management;

(v) the length of time the petitioner has been stable;

(vi) external factors that may influence the petitioner's stability;

(vii) the ability of the petitioner to maintain stability with or without medication; and

(viii) whether the petitioner is dangerous to public safety; and

(d) a copy of the petitioner's state and federal criminal history record.

(3) The petitioner shall serve the petition on the prosecuting entity that prosecuted the case or, if the disability is not based on a criminal case, on the county or district attorney's office having jurisdiction where the petition was filed and the individual who filed the original action which resulted in the disability.

(4) The court shall schedule a hearing as soon as practicable. The petitioner may present evidence and subpoena witnesses to appear at the hearing. The prosecuting, county attorney, or the individual who filed the original action which resulted in the disability may object to the petition and present evidence in support of the objection.

(5) The court shall consider the following evidence:

(a) the facts and circumstances that resulted in the commitment, finding, or adjudication; ~~and~~

(b) the person's mental health and criminal history records~~[-];~~ and

(c) the person's reputation, including the testimony of character witnesses.

(6) The court shall grant the relief if the court finds by clear and convincing evidence that:

(a) the person is not a danger to the person or to others;

(b) the person is not likely to act in a manner dangerous to public safety; and

(c) the requested relief would not be contrary to the public interest.

(7) The court shall issue an order with its findings and send a copy to the bureau.

(8) The bureau, upon receipt of a court order removing a person's disability under Subsection 76-10-503(1)(b)(vii), shall send a copy of the court order to the National Instant Check System requesting removal of the person's name from the database. In addition, if the person is listed in a state database utilized by the bureau to determine eligibility for the purchase or possession of a firearm or to obtain a concealed firearm permit, the

bureau shall remove the petitioner's name or send a copy of the court's order to the agency responsible for the database for removal of the petitioner's name.

(9) If the court denies the petition, the petitioner may not petition again for relief until at least two years after the date of the court's final order.

(10) The petitioner may appeal a denial of the requested relief. The review on appeal shall be de novo.

CHAPTER 38**S. B. 112**

Passed February 26, 2015

Approved March 20, 2015

Effective May 12, 2015

PUBLIC REPORTING REQUIREMENTS

Chief Sponsor: Wayne A. Harper

House Sponsor: Ken Ivory

LONG TITLE**General Description:**

This bill modifies the Utah Public Finance Website requirements for reporting public financial information.

Highlighted Provisions:

This bill:

- ▶ clarifies that public financial information of component units of state entities, local entities, and independent entities is required to be included on the Utah Public Finance Website; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63A-3-401, as last amended by Laws of Utah 2014, Chapter 185

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

Section 1. Section 63A-3-401 is amended to read:**63A-3-401. Definitions.**

As used in this part:

(1) "Board" means the Utah Transparency Advisory Board created under Section 63A-3-403.

(2) "Division" means the Division of Finance of the Department of Administrative Services.

(3) (a) "Independent entity," except as provided in Subsection ~~[(3)(b), is as]~~ (3)(c), means the same as that term is defined in Section 63E-1-102.

(b) "Independent entity" includes an entity that is part of an independent entity described in this Subsection (3), if the entity is considered a component unit of the independent entity under the governmental accounting standards issued by the Governmental Accounting Standards Board.

~~[(b)]~~ (c) "Independent entity" does not include:

(i) the Workers' Compensation Fund created in Section 31A-33-102; or

(ii) the Utah State Retirement Office created in Section 49-11-201.

(4) "Participating local entity" means each of the following local entities, if the entity meets the size or budget thresholds established by the board under Subsection 63A-3-403(3)(e):

(a) a county;

(b) a municipality;

(c) a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts;

(d) a special service district under Title 17D, Chapter 1, Special Service District Act;

(e) a school district;

(f) a charter school; ~~and]~~

(g) except for a taxed interlocal entity described in Section 11-13-315, an interlocal entity as defined in Section 11-13-103[-]; and

(h) except for a taxed interlocal entity described in Section 11-13-315, an entity that is part of an entity described in Subsections (4)(a) through (g), if the entity is considered a component unit of the entity described in Subsections (4)(a) through (g) under the governmental accounting standards issued by the Governmental Accounting Standards Board.

(5) (a) "Participating state entity" means the state of Utah, including its executive, legislative, and judicial branches, its departments, divisions, agencies, boards, commissions, councils, committees, and institutions.

(b) "Participating state entity" includes an entity that is part of an entity described in Subsection (5)(a), if the entity is considered a component unit of the entity described in Subsection (5)(a) under the governmental accounting standards issued by the Governmental Accounting Standards Board.

(6) "Public financial information" means records that are required to be made available on the Utah Public Finance Website, a participating local entity's website, or an independent entity's website as required by this part, and as the term "public financial information" is defined by rule under Section 63A-3-404.

CHAPTER 39**S. B. 113**

Passed February 12, 2015

Approved March 20, 2015

Effective May 12, 2015

SEX OFFENDER TESTING AMENDMENTS

Chief Sponsor: Ann Millner

House Sponsor: Lee B. Perry

LONG TITLE**General Description:**

This bill modifies the Utah Criminal Code regarding exposure of an alleged victim to conduct posing a risk of HIV transmission.

Highlighted Provisions:

This bill:

- ▶ modifies offender HIV testing procedures by providing that an alleged victim who has been subject to conduct that may result in HIV infection may request that the alleged sex offender be tested for HIV.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

76-5-501, as last amended by Laws of Utah 2011, Chapter 177

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

Section 2. Section 76-5-501 is amended to read:**76-5-501. Definitions.**

For purposes of this part:

(1) "Alleged sexual offender" means a person or a minor regarding whom an indictment, petition, or an information has been filed or an arrest has been made alleging the commission of a sexual offense or an attempted sexual offense under Title 76, Chapter 5, Part 4, Sexual Offenses, and regarding which:

(a) a judge has signed an accompanying arrest warrant, pickup order, or any other order based upon probable cause regarding the alleged offense; and

(b) the judge has found probable cause to believe that the alleged victim has been exposed to conduct or activities that may result in an HIV infection as a result of the alleged offense.

(2) "Department of Health" means the state Department of Health as defined in Section 26-1-2.

(3) "HIV infection" means an indication of Human Immunodeficiency Virus (HIV) infection determined by current medical standards and detected by any of the following:

(a) presence of antibodies to HIV, verified by a positive "confirmatory" test, such as Western blot or

other method approved by the Utah State Health Laboratory. Western blot interpretation will be based on criteria currently recommended by the Association of State and Territorial Public Health Laboratory Directors;

(b) presence of HIV antigen;

(c) isolation of HIV; or

(d) demonstration of HIV proviral DNA.

(4) "HIV positive individual" means a person who is HIV positive as determined by the State Health Laboratory.

(5) "Local department of health" means the department as defined in Subsection 26A-1-102(5).

(6) "Minor" means a person younger than 18 years of age.

(7) "Positive" means an indication of the HIV infection as defined in Subsection (3).

(8) "Sexual offense" means a violation of state law prohibiting a sexual offense under Title 76, Chapter 5, Part 4, Sexual Offenses.

(9) "Test" or "testing" means a test or tests for HIV infection conducted by and in accordance with standards recommended by the Department of Health.

CHAPTER 40**S. B. 140**

Passed February 19, 2015

Approved March 20, 2015

Effective May 12, 2015

**HEALTH CARE PROVIDERS
IMMUNITY FROM LIABILITY
ACT REAUTHORIZATION**

Chief Sponsor: Evan J. Vickers

House Sponsor: Jon E. Stanard

LONG TITLE**General Description:**

This bill reauthorizes the Health Care Providers Immunity from Liability Act.

Highlighted Provisions:

This bill:

- ▶ amends the Legislative Oversight and Sunset Act to reauthorize the Health Care Providers Immunity from Liability Act.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63I-1-258, as last amended by Laws of Utah 2014, Chapters 25, 72, and 181

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

Section 1. Section 63I-1-258 is amended to read:**63I-1-258. Repeal dates, Title 58.**

(1) Title 58, Chapter 13, Health Care Providers Immunity from Liability Act, is repealed July 1, [2016] 2026.

(2) Title 58, Chapter 15, Health Facility Administrator Act, is repealed July 1, 2015.

(3) Title 58, Chapter 20a, Environmental Health Scientist Act, is repealed July 1, 2018.

(4) Section 58-37-4.3 is repealed July 1, 2016.

(5) Title 58, Chapter 40, Recreational Therapy Practice Act, is repealed July 1, 2023.

(6) Title 58, Chapter 41, Speech-Language Pathology and Audiology Licensing Act, is repealed July 1, 2019.

(7) Title 58, Chapter 42a, Occupational Therapy Practice Act, is repealed July 1, 2015.

(8) Title 58, Chapter 46a, Hearing Instrument Specialist Licensing Act, is repealed July 1, 2023.

(9) Title 58, Chapter 47b, Massage Therapy Practice Act, is repealed July 1, 2024.

(10) Section 58-69-302.5 is repealed on July 1, 2015.

(11) Title 58, Chapter 72, Acupuncture Licensing Act, is repealed July 1, 2017.

CHAPTER 41**S. B. 144**

Passed February 18, 2015

Approved March 20, 2015

Effective May 12, 2015

MODIFICATIONS TO INCOME TAX

Chief Sponsor: Deidre M. Henderson
House Sponsor: Craig Hall

LONG TITLE**General Description:**

This bill amends provisions related to income tax credits and contributions.

Highlighted Provisions:

This bill:

- ▶ repeals provisions requiring the State Tax Commission to notify certain state agencies that the State Tax Commission is required to remove certain tax credits from tax returns;
- ▶ enacts provisions requiring the State Tax Commission to publish certain information pertaining to the requirement that the State Tax Commission remove certain tax credits and contributions from tax returns; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

59-7-903, as enacted by Laws of Utah 2014, Chapter 315

59-10-1002.1, as renumbered and amended by Laws of Utah 2008, Chapter 389

59-10-1304, as last amended by Laws of Utah 2013, Chapters 235 and 338

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

Section 1. Section 59-7-903 is amended to read:**59-7-903. Removal of tax credit from tax return -- Prohibition on claiming or carrying forward a tax credit -- Commission publishing requirements.**

(1) Subject to Subsection (2), the commission shall remove a tax credit from a tax return and a person filing a tax return may not claim or carry forward the tax credit if:

(a) the total amount of tax credit claimed or carried forward by all persons who file a tax return is less than \$10,000 per taxable year for three consecutive taxable years; and

(b) less than 10 persons per year for the three consecutive taxable years described in Subsection (1)(a) file a tax return claiming or carrying forward the tax credit.

(2) If the commission determines the requirements of Subsection (1) are met, the commission shall remove a tax credit from a tax

return and a person filing a tax return may not claim or carry forward the tax credit beginning two taxable years after the January 1 immediately following the date the commission determines the requirements of Subsection (1) are met.

(3) The commission shall, on or before the November interim meeting of the year after the taxable year in which the commission determines the requirements of Subsection (1) are met~~[-(a)]~~, report to the Revenue and Taxation Interim Committee that, in accordance with this section:

~~(4)~~ (a) the commission is required to remove a tax credit from a return on which the tax credit appears; and

~~(ii)~~ (b) a person filing a tax return may not claim or carry forward the tax credit~~[-and]~~.

~~(b) notify each state agency required by statute to assist in the administration of the tax credit that, in accordance with this section:]~~

~~(i) the commission is required to remove a tax credit from a return on which the tax credit appears; and]~~

~~(ii) a person filing a tax return may not claim or carry forward the tax credit.]~~

(4) (a) Within a 30-day period after making the report required by Subsection (3), the commission shall publish a list in accordance with Subsection (4)(b) stating each tax credit that the commission will remove from a return on which the tax credit appears.

(b) The list shall:

(i) be published on:

(A) the commission's website; and

(B) the public legal notice website in accordance with Section 45-1-101;

(ii) include a statement that:

(A) the commission is required to remove the tax credit from each return on which the tax credit appears; and

(B) the tax credit may not be claimed or carried forward on a return;

(iii) state the taxable year for which the removal described in Subsection (4)(a) takes effect; and

(iv) remain available for viewing and searching until the commission publishes a new list in accordance with this Subsection (4).

Section 2. Section 59-10-1002.1 is amended to read:**59-10-1002.1. Removal of tax credit from tax return and prohibition on claiming or carrying forward a tax credit -- Conditions for removal and prohibition on claiming or carrying forward a tax credit -- Commission publishing requirements.**

(1) As used in this section, "tax return" means a tax return filed in accordance with this chapter.

(2) Beginning two taxable years after the requirements of Subsection (3) are met:

(a) the commission shall remove a tax credit allowed under this part from each tax return on which the tax credit appears; and

(b) a claimant, estate, or trust filing a tax return may not claim or carry forward the tax credit.

(3) The commission shall remove a tax credit allowed under this part from a tax return and a claimant, estate, or trust filing a tax return may not claim or carry forward the tax credit as provided in Subsection (2) if:

(a) the total amount of the tax credit claimed or carried forward by all claimants, estates, or trusts filing tax returns is less than \$10,000 per year for three consecutive taxable years beginning on or after January 1, 2002; and

(b) less than 10 claimants, estates, and trusts per year for the three consecutive taxable years described in Subsection (3)(a), file a tax return claiming or carrying forward the tax credit.

(4) The commission shall, on or before the November interim meeting of the year after the taxable year in which the requirements of Subsection (3) are met~~[-(a)]~~, report to the Revenue and Taxation Interim Committee that in accordance with this section:

~~[(4)]~~ (a) the commission is required to remove a tax credit from each tax return on which the tax credit appears; and

~~[(ii)]~~ (b) a claimant, estate, or trust filing a tax return may not claim or carry forward the tax credit~~[-and]~~.

~~[(b) notify each state agency required by statute to assist in the administration of the tax credit that in accordance with this section:]~~

~~[(i) the commission is required to remove a tax credit from each tax return on which the tax credit appears; and]~~

~~[(ii) a claimant, estate, or trust filing a tax return may not claim or carry forward the tax credit.]~~

(5) (a) Within a 30-day period after making the report required by Subsection (4), the commission shall publish a list in accordance with Subsection (5)(b) stating each tax credit that the commission will remove from a return on which the tax credit appears.

(b) The list shall:

(i) be published on:

(A) the commission's website; and

(B) the public legal notice website in accordance with Section 45-1-101;

(ii) include a statement that:

(A) the commission is required to remove the tax credit from each return on which the tax credit appears; and

(B) the tax credit may not be claimed or carried forward on a return;

(iii) state the taxable year for which the removal described in Subsection (5)(a) takes effect; and

(iv) remain available for viewing and searching until the commission publishes a new list in accordance with this Subsection (5).

Section 3. Section 59-10-1304 is amended to read:

59-10-1304. Removal of designation and prohibitions on collection for certain contributions on income tax return -- Conditions for removal and prohibitions on collection -- Commission publication requirements.

(1) (a) If a contribution or combination of contributions described in Subsection (1)(b) generate less than \$30,000 per year for three consecutive years, the commission shall remove the designation for the contribution from the individual income tax return and may not collect the contribution from a resident or nonresident individual beginning two taxable years after the three-year period for which the contribution generates less than \$30,000 per year.

(b) The following contributions apply to Subsection (1)(a):

(i) the contribution provided for in Section 59-10-1305;

(ii) the contribution provided for in Section 59-10-1306;

(iii) the sum of the contributions provided for in Subsection 59-10-1307(1);

(iv) the contribution provided for in Section 59-10-1308;

(v) the contribution provided for in Section 59-10-1310;

(vi) the contribution provided for in Section 59-10-1315;

(vii) the sum of the contributions provided for in:

(A) Section 59-10-1316; and

(B) Section 59-10-1317; or

(viii) the contribution provided for in Section 59-10-1318.

(2) If the commission removes the designation for a contribution under Subsection (1), the commission shall report to the Revenue and Taxation Interim Committee that the commission removed the designation on or before the November interim meeting of the year in which the commission determines to remove the designation.

(3) (a) Within a 30-day period after making the report required by Subsection (2), the commission shall publish a list in accordance with Subsection (3)(b) stating each contribution that the commission will remove from the individual income tax return.

(b) The list shall:

(i) be published on:

(A) the commission's website; and

(B) the public legal notice website in accordance with Section 45-1-101;

(ii) include a statement that the commission:

(A) is required to remove the contribution from the individual income tax return; and

(B) may not collect the contribution;

(iii) state the taxable year for which the removal described in Subsection (3)(a) takes effect; and

(iv) remain available for viewing and searching until the commission publishes a new list in accordance with this Subsection (3).

CHAPTER 42**S. B. 154**

Passed March 4, 2015

Approved March 20, 2015

Effective May 12, 2015

COAL ASH REGULATION AMENDMENTS

Chief Sponsor: Ralph Okerlund
House Sponsor: Stephen G. Handy

LONG TITLE**General Description:**

This bill amends a definition in the Solid and Hazardous Waste Act.

Highlighted Provisions:

This bill:

- ▶ amends the definition of solid waste in the Solid and Hazardous Waste Act; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

19-6-102, as last amended by Laws of Utah 2012, Chapter 360

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

Section 1. Section 19-6-102 is amended to read:**19-6-102. Definitions.**

As used in this part:

(1) "Board" means the Solid and Hazardous Waste Control Board created in Section 19-1-106.

(2) "Closure plan" means a plan under Section 19-6-108 to close a facility or site at which the owner or operator has disposed of nonhazardous solid waste or has treated, stored, or disposed of hazardous waste including, if applicable, a plan to provide postclosure care at the facility or site.

(3) (a) "Commercial nonhazardous solid waste treatment, storage, or disposal facility" means a facility that receives, for profit, nonhazardous solid waste for treatment, storage, or disposal.

(b) "Commercial nonhazardous solid waste treatment, storage, or disposal facility" does not include a facility that:

- (i) receives waste for recycling;
- (ii) receives waste to be used as fuel, in compliance with federal and state requirements; or
- (iii) is solely under contract with a local government within the state to dispose of nonhazardous solid waste generated within the boundaries of the local government.

(4) "Construction waste or demolition waste":

(a) means waste from building materials, packaging, and rubble resulting from construction, demolition, remodeling, and repair of pavements, houses, commercial buildings, and other structures, and from road building and land clearing; and

(b) does not include: asbestos; contaminated soils or tanks resulting from remediation or cleanup at any release or spill; waste paints; solvents; sealers; adhesives; or similar hazardous or potentially hazardous materials.

(5) "Demolition waste" has the same meaning as the definition of construction waste in this section.

(6) "Director" means the director of the Division of Solid and Hazardous Waste.

(7) "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid or hazardous waste into or on any land or water so that the waste or any constituent of the waste may enter the environment, be emitted into the air, or discharged into any waters, including groundwaters.

(8) "Division" means the Division of Solid and Hazardous Waste, created in Subsection 19-1-105(1)(e).

(9) "Generation" or "generated" means the act or process of producing nonhazardous solid or hazardous waste.

(10) "Hazardous waste" means a solid waste or combination of solid wastes other than household waste which, because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness or may pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

(11) "Health facility" means hospitals, psychiatric hospitals, home health agencies, hospices, skilled nursing facilities, intermediate care facilities, intermediate care facilities for people with an intellectual disability, residential health care facilities, maternity homes or birthing centers, free standing ambulatory surgical centers, facilities owned or operated by health maintenance organizations, and state renal disease treatment centers including free standing hemodialysis units, the offices of private physicians and dentists whether for individual or private practice, veterinary clinics, and mortuaries.

(12) "Household waste" means any waste material, including garbage, trash, and sanitary wastes in septic tanks, derived from households, including single-family and multiple-family residences, hotels and motels, bunk houses, ranger stations, crew quarters, campgrounds, picnic grounds, and day-use recreation areas.

(13) "Infectious waste" means a solid waste that contains or may reasonably be expected to contain

pathogens of sufficient virulence and quantity that exposure to the waste by a susceptible host could result in an infectious disease.

(14) “Manifest” means the form used for identifying the quantity, composition, origin, routing, and destination of hazardous waste during its transportation from the point of generation to the point of disposal, treatment, or storage.

(15) “Mixed waste” means any material that is a hazardous waste as defined in this chapter and is also radioactive as defined in Section 19-3-102.

(16) “Modification plan” means a plan under Section 19-6-108 to modify a facility or site for the purpose of disposing of nonhazardous solid waste or treating, storing, or disposing of hazardous waste.

(17) “Operation plan” or “nonhazardous solid or hazardous waste operation plan” means a plan or approval under Section 19-6-108, including:

(a) a plan to own, construct, or operate a facility or site for the purpose of disposing of nonhazardous solid waste or treating, storing, or disposing of hazardous waste;

(b) a closure plan;

(c) a modification plan; or

(d) an approval that the director is authorized to issue.

(18) “Permittee” means a person who is obligated under an operation plan.

(19) (a) “Solid waste” means any garbage, refuse, sludge, including sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility, or other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining, or agricultural operations and from community activities but does not include solid or dissolved materials in domestic sewage or in irrigation return flows or discharges for which a permit is required under Title 19, Chapter 5, Water Quality Act, or under the Water Pollution Control Act, 33 U.S.C. [Section] Sec. 1251[7] et seq.

(b) “Solid waste” does not include any of the following wastes unless the waste causes a public nuisance or public health hazard or is otherwise determined to be a hazardous waste:

(i) certain large volume wastes, such as inert construction debris used as fill material;

(ii) drilling muds, produced waters, and other wastes associated with the exploration, development, or production of oil, gas, or geothermal energy;

~~[(iii) fly ash waste, bottom ash waste, slag waste, and flue gas emission control waste generated primarily from the combustion of coal or other fossil fuels;]~~

~~[(iv)]~~ (iii) solid wastes from the extraction, beneficiation, and processing of ores and minerals; or

~~[(v)]~~ (iv) cement kiln dust.

(20) “Storage” means the actual or intended containment of solid or hazardous waste either on a temporary basis or for a period of years in such a manner as not to constitute disposal of the waste.

(21) “Transportation” means the off-site movement of solid or hazardous waste to any intermediate point or to any point of storage, treatment, or disposal.

(22) “Treatment” means a method, technique, or process designed to change the physical, chemical, or biological character or composition of any solid or hazardous waste so as to neutralize the waste or render the waste nonhazardous, safer for transport, amenable for recovery, amenable to storage, or reduced in volume.

(23) “Underground storage tank” means a tank which is regulated under Subtitle I of the Resource Conservation and Recovery Act, 42 U.S.C. [Section] Sec. 6991[7] et seq.

CHAPTER 43**S. B. 159**

Passed March 5, 2015
 Approved March 20, 2015
 Effective May 12, 2015

**BACKGROUND CHECKS
 FOR STATE ACCOUNTANTS**

Chief Sponsor: Deidre M. Henderson
 House Sponsor: Steve Eliason

LONG TITLE**General Description:**

This bill enacts language related to background checks for certain public employees.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ permits the Division of Finance to require background checks or credit history reports of a public employee in a public funds position;
- ▶ classifies the background check or credit history report as a private record; and
- ▶ makes technical and conforming amendments.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63A-3-201, as renumbered and amended by Laws of Utah 1993, Chapter 212

63G-2-302, as last amended by Laws of Utah 2014, Chapter 373

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

Section 1. Section 63A-3-201 is amended to read:

63A-3-201. Appointment of accounting and other officers and employees by director of the Division of Finance -- Delegation of powers and duties by director -- Background checks.

(1) With the approval of the executive director, the director of the Division of Finance shall appoint an accounting officer and other administrative officers that are necessary to efficiently and economically perform the functions of the Division of Finance.

(2) The director of the Division of Finance may:

(a) organize the division and employ other assistants to discharge the functions of the division;

(b) delegate to assistants, officers, and employees any of the powers and duties of the office subject to his or her control and subject to any conditions he may prescribe; and

(c) delegate the powers and duties of the office only by written order filed with the lieutenant governor.

(3) (a) As used in this Subsection (3):

(i) "Public employee" means a person employed by a state agency.

(ii) "Public funds" means money, funds, and accounts, regardless of the source from which the money, funds, and accounts are derived, that are owned, held, or administered by a state agency.

(iii) "Public funds position" means employment with a state agency that requires:

(A) physical or electronic access to public funds;

(B) performing internal control functions or accounting;

(C) creating reports on public funds; or

(D) using, operating, or accessing state systems that account for or help account for public funds.

(iv) "State agency" means an executive branch:

(A) department;

(B) agency;

(C) board;

(D) commission;

(E) division;

(F) office; or

(G) state educational institution with the exception of an institution defined in Subsection 53B-1-102(1).

(b) The Division of Finance may require that a public employee who applies for or holds a public funds position:

(i) submit a fingerprint card in a form acceptable to the division;

(ii) consent to a criminal background check by:

(A) the Federal Bureau of Investigation;

(B) the Utah Bureau of Criminal Identification; or

(C) another agency of any state that performs criminal background checks; or

(iii) consent to a credit history report, subject to the requirements of the Fair Credit Reporting Act, 15 U.S.C. Sec. 1681 et seq.

(c) The Division of Finance may, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, adopt rules to implement this section.

Section 2. Section 63G-2-302 is amended to read:

63G-2-302. Private records.

(1) The following records are private:

(a) records concerning an individual's eligibility for unemployment insurance benefits, social services, welfare benefits, or the determination of benefit levels;

(b) records containing data on individuals describing medical history, diagnosis, condition, treatment, evaluation, or similar medical data;

(c) records of publicly funded libraries that when examined alone or with other records identify a patron;

(d) records received by or generated by or for:

(i) the Independent Legislative Ethics Commission, except for:

(A) the commission's summary data report that is required under legislative rule; and

(B) any other document that is classified as public under legislative rule; or

(ii) a Senate or House Ethics Committee in relation to the review of ethics complaints, unless the record is classified as public under legislative rule;

(e) records received by, or generated by or for, the Independent Executive Branch Ethics Commission, except as otherwise expressly provided in Title 63A, Chapter 14, Review of Executive Branch Ethics Complaints;

(f) records received or generated for a Senate confirmation committee concerning character, professional competence, or physical or mental health of an individual:

(i) if, prior to the meeting, the chair of the committee determines release of the records:

(A) reasonably could be expected to interfere with the investigation undertaken by the committee; or

(B) would create a danger of depriving a person of a right to a fair proceeding or impartial hearing; and

(ii) after the meeting, if the meeting was closed to the public;

(g) employment records concerning a current or former employee of, or applicant for employment with, a governmental entity that would disclose that individual's home address, home telephone number, Social Security number, insurance coverage, marital status, or payroll deductions;

(h) records or parts of records under Section 63G-2-303 that a current or former employee identifies as private according to the requirements of that section;

(i) that part of a record indicating a person's Social Security number or federal employer identification number if provided under Section 31A-23a-104, 31A-25-202, 31A-26-202, 58-1-301, 58-55-302, 61-1-4, or 61-2f-203;

(j) that part of a voter registration record identifying a voter's:

(i) driver license or identification card number;

(ii) Social Security number, or last four digits of the Social Security number;

(iii) email address; or

(iv) date of birth;

(k) a voter registration record that is classified as a private record by the lieutenant governor or a county clerk under Subsection 20A-2-104(4)(f);

(l) a record that:

(i) contains information about an individual;

(ii) is voluntarily provided by the individual; and

(iii) goes into an electronic database that:

(A) is designated by and administered under the authority of the Chief Information Officer; and

(B) acts as a repository of information about the individual that can be electronically retrieved and used to facilitate the individual's online interaction with a state agency;

(m) information provided to the Commissioner of Insurance under:

(i) Subsection 31A-23a-115(2)(a);

(ii) Subsection 31A-23a-302(3); or

(iii) Subsection 31A-26-210(3);

(n) information obtained through a criminal background check under Title 11, Chapter 40, Criminal Background Checks by Political Subdivisions Operating Water Systems;

(o) information provided by an offender that is:

(i) required by the registration requirements of Title 77, Chapter 41, Sex and Kidnap Offender Registry; and

(ii) not required to be made available to the public under Subsection 77-41-110(4);

(p) a statement and any supporting documentation filed with the attorney general in accordance with Section 34-45-107, if the federal law or action supporting the filing involves homeland security;

(q) electronic toll collection customer account information received or collected under Section 72-6-118 and customer information described in Section 17B-2a-815 received or collected by a public transit district, including contact and payment information and customer travel data;

(r) an email address provided by a military or overseas voter under Section 20A-16-501;

(s) a completed military-overseas ballot that is electronically transmitted under Title 20A, Chapter 16, Uniform Military and Overseas Voters Act;

(t) records received by or generated by or for the Political Subdivisions Ethics Review Commission established in Section 11-49-201, except for:

(i) the commission's summary data report that is required in Section 11-49-202; and

(ii) any other document that is classified as public in accordance with Title 11, Chapter 49, Political Subdivisions Ethics Review Commission; ~~and~~

(u) a record described in Subsection 53A-11a-203(3) that verifies that a parent was notified of an incident or threat[-]; and

(v) a criminal background check or credit history report conducted in accordance with Section 63A-3-201.

(2) The following records are private if properly classified by a governmental entity:

(a) records concerning a current or former employee of, or applicant for employment with a governmental entity, including performance evaluations and personal status information such as race, religion, or disabilities, but not including records that are public under Subsection 63G-2-301(2)(b) or 63G-2-301(3)(o) or private under Subsection (1)(b);

(b) records describing an individual's finances, except that the following are public:

(i) records described in Subsection 63G-2-301(2);

(ii) information provided to the governmental entity for the purpose of complying with a financial assurance requirement; or

(iii) records that must be disclosed in accordance with another statute;

(c) records of independent state agencies if the disclosure of those records would conflict with the fiduciary obligations of the agency;

(d) other records containing data on individuals the disclosure of which constitutes a clearly unwarranted invasion of personal privacy;

(e) records provided by the United States or by a government entity outside the state that are given with the requirement that the records be managed as private records, if the providing entity states in writing that the record would not be subject to public disclosure if retained by it; and

(f) any portion of a record in the custody of the Division of Aging and Adult Services, created in Section 62A-3-102, that may disclose, or lead to the discovery of, the identity of a person who made a report of alleged abuse, neglect, or exploitation of a vulnerable adult.

(3) (a) As used in this Subsection (3), "medical records" means medical reports, records, statements, history, diagnosis, condition, treatment, and evaluation.

(b) Medical records in the possession of the University of Utah Hospital, its clinics, doctors, or affiliated entities are not private records or controlled records under Section 63G-2-304 when the records are sought:

(i) in connection with any legal or administrative proceeding in which the patient's physical, mental, or emotional condition is an element of any claim or defense; or

(ii) after a patient's death, in any legal or administrative proceeding in which any party relies upon the condition as an element of the claim or defense.

(c) Medical records are subject to production in a legal or administrative proceeding according to state or federal statutes or rules of procedure and

evidence as if the medical records were in the possession of a nongovernmental medical care provider.

CHAPTER 44

S. B. 188

Passed March 4, 2015

Approved March 20, 2015

Effective May 12, 2015

OIL, GAS, AND MINING AMENDMENTS

Chief Sponsor: Kevin T. Van Tassell

House Sponsor: Scott H. Chew

LONG TITLE

General Description:

This bill amends provisions relating to drilling units.

Highlighted Provisions:

This bill:

- ▶ allows the Board of Oil, Gas, and Mining to allow more than one well to be drilled in a drilling unit under certain circumstances; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

40-6-6, as repealed and reenacted by Laws of Utah 1992, Chapter 34

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

Section 1. Section 40-6-6 is amended to read:

40-6-6. Drilling units -- Establishment by board -- Modifications -- Prohibitions.

(1) The board may order the establishment of drilling units for ~~[any]~~ a pool.

(2) Within each drilling unit, only one well may be drilled for production from the common source of supply, except as provided in ~~[Subsection]~~ Subsections (6) and (7).

(3) A drilling unit may not be smaller than the maximum area that can be efficiently and economically drained by one well.

(4) (a) Each drilling unit within a pool shall be of uniform size and shape, unless the board finds that it must make an exception due to geologic, geographic, or other factors.

(b) If the board finds it necessary to divide a pool into zones and establish drilling units for each zone, drilling units may differ in size and shape for each zone.

(5) An order of the board that establishes drilling units for a pool shall:

(a) be made upon terms and conditions that are just and reasonable;

(b) include all lands determined by the board to overlay the pool;

(c) specify the acreage and shape of each drilling unit as determined by the board; and

(d) specify the location of the well in terms of distance from drilling unit boundaries and other wells.

(6) The board may establish a drilling unit and concurrently authorize the drilling of more than one well in a drilling unit if the board finds that:

(a) engineering or geologic characteristics justify the drilling of more than one well in that drilling unit; and

(b) the drilling of more than one well in the drilling unit will not result in waste.

~~[(6)]~~ (7) The board may modify an order that establishes drilling units for a pool to provide for:

(a) an exception to the authorized location of a well;

(b) the inclusion of additional areas which the board determines overlays the pool;

(c) the increase or decrease of the size of drilling units; or

(d) the drilling of additional wells within drilling units.

~~[(7)]~~ (8) (a) After an order establishing drilling units has been entered by the board, the drilling of ~~[any]~~ a well into the pool at a location other than that authorized by the order is prohibited.

(b) The operation of ~~[any]~~ a well drilled in violation of an order fixing drilling units is prohibited.

CHAPTER 45**S. B. 191**

Passed March 2, 2015

Approved March 20, 2015

Effective July 1, 2015

**UNIFORM INTERSTATE FAMILY
SUPPORT ACT AMENDMENTS**

Chief Sponsor: Lyle W. Hillyard

House Sponsor: Jack R. Draxler

LONG TITLE**General Description:**

This bill makes changes to the Uniform Interstate Family Support Act.

Highlighted Provisions:

This bill:

- ▶ renames the Uniform Interstate Family Support Act to the Utah Uniform Interstate Family Support Act; and
- ▶ makes conforming amendments with the uniform act to comply with a treaty on international child support orders.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

- 30-3-4, as last amended by Laws of Utah 2008, Chapter 3
- 30-3-15.3, as last amended by Laws of Utah 2008, Chapter 3
- 62A-11-104, as last amended by Laws of Utah 2012, Chapter 369
- 62A-11-305, as last amended by Laws of Utah 2008, Chapter 3
- 78B-12-102, as last amended by Laws of Utah 2009, Chapter 142
- 78B-14-101, as renumbered and amended by Laws of Utah 2008, Chapter 3
- 78B-14-102 (Effective 07/01/15), as and further amended by Revisor Instructions, Laws of Utah 2013, Chapter 245
- 78B-14-201 (Effective 07/01/15), as and further amended by Revisor Instructions, Laws of Utah 2013, Chapter 245
- 78B-14-204 (Effective 07/01/15), as and further amended by Revisor Instructions, Laws of Utah 2013, Chapter 245
- 78B-14-205, as renumbered and amended by Laws of Utah 2008, Chapter 3
- 78B-14-307 (Effective 07/01/15), as and further amended by Revisor Instructions, Laws of Utah 2013, Chapter 245
- 78B-14-310 (Effective 07/01/15), as and further amended by Revisor Instructions, Laws of Utah 2013, Chapter 245
- 78B-14-316 (Effective 07/01/15), as and further amended by Revisor Instructions, Laws of Utah 2013, Chapter 245
- 78B-14-317 (Effective 07/01/15), as and further amended by Revisor Instructions, Laws of Utah 2013, Chapter 245
- 78B-14-502, as renumbered and amended by Laws

- of Utah 2008, Chapter 3
- 78B-14-503, as renumbered and amended by Laws of Utah 2008, Chapter 3
- 78B-14-507 (Effective 07/01/15), as and further amended by Revisor Instructions, Laws of Utah 2013, Chapter 245
- 78B-14-601 (Effective 07/01/15), as and further amended by Revisor Instructions, Laws of Utah 2013, Chapter 245
- 78B-14-602 (Effective 07/01/15), as and further amended by Revisor Instructions, Laws of Utah 2013, Chapter 245
- 78B-14-603 (Effective 07/01/15), as and further amended by Revisor Instructions, Laws of Utah 2013, Chapter 245
- 78B-14-605 (Effective 07/01/15), as and further amended by Revisor Instructions, Laws of Utah 2013, Chapter 245
- 78B-14-606 (Effective 07/01/15), as and further amended by Revisor Instructions, Laws of Utah 2013, Chapter 245
- 78B-14-612, as renumbered and amended by Laws of Utah 2008, Chapter 3
- 78B-14-613, as renumbered and amended by Laws of Utah 2008, Chapter 3
- 78B-14-708 (Effective 07/01/15), as and further amended by Revisor Instructions, Laws of Utah 2013, Chapter 245
- 78B-14-902 (Effective 07/01/15), as and further amended by Revisor Instructions, Laws of Utah 2013, Chapter 245
- 78B-15-610, as renumbered and amended by Laws of Utah 2008, Chapter 3

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

Section 1. Section 30-3-4 is amended to read:**30-3-4. Pleadings -- Decree -- Use of affidavit -- Private records.**

(1) (a) The complaint shall be in writing and signed by the petitioner or petitioner's attorney.

(b) A decree of divorce may not be granted upon default or otherwise except upon legal evidence taken in the cause. If the decree is to be entered upon the default of the respondent, evidence to support the decree may be submitted upon the affidavit of the petitioner with the approval of the court.

(c) If the petitioner and the respondent have a child or children, a decree of divorce may not be granted until both parties have attended the mandatory course described in Section 30-3-11.3, and have presented a certificate of course completion to the court. The court may waive this requirement, on its own motion or on the motion of one of the parties, if it determines course attendance and completion are not necessary, appropriate, feasible, or in the best interest of the parties.

(d) All hearings and trials for divorce shall be held before the court or the court commissioner as provided by Section 78A-5-107 and rules of the Judicial Council. The court or the commissioner in all divorce cases shall enter the decree upon the

evidence or, in the case of a decree after default of the respondent, upon the petitioner's affidavit.

(2) (a) A party to an action brought under this title or to an action under Title 78B, Chapter 12, Utah Child Support Act, Title 78B, Chapter 13, Utah Uniform Child Custody Jurisdiction and Enforcement Act, Title 78B, Chapter 14, Utah Uniform Interstate Family Support Act, Title 78B, Chapter 15, Utah Uniform Parentage Act, or to an action to modify or enforce a judgment in the action may file a motion to have the file other than the final judgment, order, or decree classified as private.

(b) If the court finds that there are substantial interests favoring restricting access that clearly outweigh the interests favoring access, the court may classify the file, or any part thereof other than the final order, judgment, or decree, as private. An order classifying part of the file as private does not apply to subsequent filings.

(c) The record is private until the judge determines it is possible to release the record without prejudice to the interests that justified the closure. Any interested person may petition the court to permit access to a record classified as private under this section. The petition shall be served on the parties to the closure order.

Section 2. Section 30-3-15.3 is amended to read:

30-3-15.3. Commissioners -- Powers.

Commissioners shall:

- (1) secure compliance with court orders;
- (2) require attendance at the mandatory course as provided in Section 30-3-11.3;
- (3) serve as judge pro tempore, master or referee on:
 - (a) assignment of the court; and
 - (b) with the written consent of the parties:
 - (i) orders to show cause where no contempt is alleged;
 - (ii) default divorces where the parties have had marriage counseling but there has been no reconciliation;
 - (iii) uncontested actions under Title 78B, Chapter 15, Utah Uniform Parentage Act;
 - (iv) actions under Title 78B, Chapter 12, Utah Child Support Act; and
 - (v) actions under Title 78B, Chapter 14, Utah Uniform Interstate Family Support Act; and
 - (4) represent the interest of children in divorce or annulment actions, and the parties in appropriate cases.

Section 3. Section 62A-11-104 is amended to read:

62A-11-104. Duties of office.

- (1) The office has the following duties:

(a) except as provided in Subsection (2), to provide child support services if:

(i) the office has received an application for child support services;

(ii) the state has provided public assistance; or

(iii) a child lives out of the home in the protective custody, temporary custody, or custody or care of the state;

(b) to carry out the obligations of the department contained in this chapter and in Title 78B, Chapter 12, Utah Child Support Act; Chapter 14, Utah Uniform Interstate Family Support Act; and Chapter 15, Utah Uniform Parentage Act, for the purpose of collecting child support;

(c) to collect money due the department which could act to offset expenditures by the state;

(d) to cooperate with the federal government in programs designed to recover health and social service funds;

(e) to collect civil or criminal assessments, fines, fees, amounts awarded as restitution, and reimbursable expenses owed to the state or any of its political subdivisions, if the office has contracted to provide collection services;

(f) to implement income withholding for collection of child support in accordance with Part 4, Income Withholding in IV-D Cases, of this chapter;

(g) to enter into agreements with financial institutions doing business in the state to develop and operate, in coordination with such financial institutions, a data match system in the manner provided for in Section 62A-11-304.5;

(h) to establish and maintain the state case registry in the manner required by the Social Security Act, 42 U.S.C. Sec. 654a, which shall include a record in each case of:

(i) the amount of monthly or other periodic support owed under the order, and other amounts, including arrearages, interest, late payment penalties, or fees, due or overdue under the order;

(ii) any amount described in Subsection (1)(h)(i) that has been collected;

(iii) the distribution of collected amounts;

(iv) the birth date of any child for whom the order requires the provision of support; and

(v) the amount of any lien imposed with respect to the order pursuant to this part;

(i) to contract with the Department of Workforce Services to establish and maintain the new hire registry created under Section 35A-7-103;

(j) to determine whether an individual who has applied for or is receiving cash assistance or Medicaid is cooperating in good faith with the office as required by Section 62A-11-307.2;

(k) to finance any costs incurred from collections, fees, General Fund appropriation, contracts, and federal financial participation; and

(1) to provide notice to a noncustodial parent in accordance with Section 62A-11-304.4 of the opportunity to contest the accuracy of allegations by a custodial parent of nonpayment of past-due child support, prior to taking action against a noncustodial parent to collect the alleged past-due support.

(2) The office may not provide child support services to the Division of Child and Family Services for a calendar month when the child to whom the child support services relate is:

(a) in the custody of the Division of Child and Family Services; and

(b) lives in the home of a custodial parent of the child for more than seven consecutive days, regardless of whether:

(i) the greater than seven consecutive day period starts during one month and ends in the next month; and

(ii) the child is living in the home on a trial basis.

(3) The Division of Child and Family Services is not entitled to child support, for a child to whom the child support relates, for a calendar month when child support services may not be provided under Subsection (2).

Section 4. Section 62A-11-305 is amended to read:

62A-11-305. Support collection services requested by agency of another state.

(1) In accordance with Title 78B, Chapter 14, Utah Uniform Interstate Family Support Act, the office may proceed to issue or modify an order under Section 62A-11-304.2 to collect under this part from an obligor who is located in or is a resident of this state regardless of the presence or residence of the obligee if:

(a) support collection services are requested by an agency of another state that is operating under Part IV-D of the Social Security Act; or

(b) an individual applies for services.

(2) The office shall use high-volume automated administrative enforcement, to the same extent it is used for intrastate cases, in response to a request made by another state's IV-D child support agency to enforce support orders.

(3) A request by another state shall constitute a certification by the requesting state:

(a) of the amount of support under the order of payment of which is in arrears; and

(b) that the requesting state has complied with procedural due process requirements applicable to the case.

(4) The office shall give automated administrative interstate enforcement requests the same priority as a two-state referral received from another state to enforce a support order.

(5) The office shall promptly report the results of the enforcement procedures to the requesting state.

(6) As required by the Social Security Act, 42 U.S.C. Sec. 666(a)(14), the office shall maintain records of:

(a) the number of requests for enforcement assistance received by the office under this section;

(b) the number of cases for which the state collected support in response to those requests; and

(c) the amount of support collected.

Section 5. Section 78B-12-102 is amended to read:

78B-12-102. Definitions.

As used in this chapter:

(1) "Adjusted gross income" means income calculated under Subsection 78B-12-204(1).

(2) "Administrative agency" means the Office of Recovery Services or the Department of Human Services.

(3) "Administrative order" means an order that has been issued by the Office of Recovery Services, the Department of Human Services, or an administrative agency of another state or other comparable jurisdiction with similar authority to that of the office.

(4) "Base child support award" means the award that may be ordered and is calculated using the guidelines before additions for medical expenses and work-related child care costs.

(5) "Base combined child support obligation table," "child support table," "base child support obligation table," "low income table," or "table" means the appropriate table in Part 3, Tables.

(6) "Cash medical support" means an obligation to equally share all reasonable and necessary medical and dental expenses of children.

(7) "Child" means:

(a) a son or daughter under the age of 18 years who is not otherwise emancipated, self-supporting, married, or a member of the armed forces of the United States;

(b) a son or daughter over the age of 18 years, while enrolled in high school during the normal and expected year of graduation and not otherwise emancipated, self-supporting, married, or a member of the armed forces of the United States; or

(c) a son or daughter of any age who is incapacitated from earning a living and, if able to provide some financial resources to the family, is not able to support self by own means.

(8) "Child support" means a base child support award, or a monthly financial award for uninsured medical expenses, ordered by a tribunal for the support of a child, including current periodic payments, all arrearages which accrue under an order for current periodic payments, and sum certain judgments awarded for arrearages, medical expenses, and child care costs.

(9) “Child support order” or “support order” means a judgment, decree, or order of a tribunal whether interlocutory or final, whether or not prospectively or retroactively modifiable, whether incidental to a proceeding for divorce, judicial or legal separation, separate maintenance, paternity, guardianship, civil protection, or otherwise which:

- (a) establishes or modifies child support;
- (b) reduces child support arrearages to judgment; or
- (c) establishes child support or registers a child support order under Chapter 14, Utah Uniform Interstate Family Support Act.

(10) “Child support services” or “IV-D child support services” means services provided pursuant to Part D of Title IV of the Social Security Act, 42 U.S.C. Section 651 et seq.

(11) “Court” means the district court or juvenile court.

(12) “Guidelines” means the directions for the calculation and application of child support in Part 2, Calculation and Adjustment.

(13) “Income” means earnings, compensation, or other payment due to an individual, regardless of source, whether denominated as wages, salary, commission, bonus, pay, allowances, contract payment, or otherwise, including severance pay, sick pay, and incentive pay. “Income” includes:

- (a) all gain derived from capital assets, labor, or both, including profit gained through sale or conversion of capital assets;
- (b) interest and dividends;
- (c) periodic payments made under pension or retirement programs or insurance policies of any type;
- (d) unemployment compensation benefits;
- (e) workers’ compensation benefits; and
- (f) disability benefits.

(14) “Joint physical custody” means the child stays with each parent overnight for more than 30% of the year, and both parents contribute to the expenses of the child in addition to paying child support.

(15) “Medical expenses” means health and dental expenses and related insurance costs.

(16) “Obligee” means an individual, this state, another state, or another comparable jurisdiction to whom child support is owed or who is entitled to reimbursement of child support or public assistance.

(17) “Obligor” means any person owing a duty of support.

(18) “Office” means the Office of Recovery Services within the Department of Human Services.

(19) “Parent” includes a natural parent, or an adoptive parent.

(20) “Split custody” means that each parent has physical custody of at least one of the children.

(21) “State” includes any state, territory, possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Native American Tribe, or other comparable domestic or foreign jurisdiction.

(22) “Temporary” means a period of time that is projected to be less than 12 months in duration.

(23) “Third party” means an agency or a person other than the biological or adoptive parent or a child who provides care, maintenance, and support to a child.

(24) “Tribunal” means the district court, the Department of Human Services, Office of Recovery Services, or court or administrative agency of any state, territory, possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Native American Tribe, or other comparable domestic or foreign jurisdiction.

(25) “Work-related child care costs” means reasonable child care costs for up to a full-time work week or training schedule as necessitated by the employment or training of a parent under Section 78B-12-215.

(26) “Worksheets” means the forms used to aid in calculating the base child support award.

Section 6. Section 78B-14-101 is amended to read:

CHAPTER 14. UTAH UNIFORM INTERSTATE FAMILY SUPPORT ACT

78B-14-101. Title.

This chapter is known as the “Utah Uniform Interstate Family Support Act.”

Section 7. Section 78B-14-102 (Effective 07/01/15) is amended to read:

78B-14-102 (Effective 07/01/15). Definitions.

As used in this chapter:

(1) “Child” means an individual, whether over or under the age of majority, who is or is alleged to be owed a duty of support by the individual’s parent or who is or is alleged to be the beneficiary of a support order directed to the parent.

(2) “Child support order” means a support order for a child, including a child who has attained the age of majority under the law of the issuing state or foreign country.

(3) “Convention” means the convention on the International Recovery of Child Support and Other Forms of Family Maintenance, concluded at The Hague on November 23, 2007.

(4) “Duty of support” means an obligation imposed or imposable by law to provide support for a child, spouse, or former spouse, including an unsatisfied obligation to provide support.

(5) “Foreign country” means a country, including a political subdivision thereof, other than the United States, that authorizes the issuance of support orders and:

(a) which has been declared under the law of the United States to be a foreign reciprocating country;

(b) which has established a reciprocal arrangement for child support with this state as provided in Section 78B-14-308;

(c) which has enacted a law or established procedures for the issuance and enforcement of support orders which are substantially similar to the procedures under this chapter; or

(d) in which the convention is in force with respect to the United States.

(6) “Foreign support order” means a support order of a foreign tribunal.

(7) “Foreign tribunal” means a court, administrative agency, or quasi-judicial entity of a foreign country which is authorized to establish, enforce, or modify support orders or to determine parentage of a child. The term includes a competent authority under the convention.

(8) “Home state” means the state or foreign country in which a child lived with a parent or a person acting as parent for at least six consecutive months immediately preceding the time of filing of a petition or comparable pleading for support and, if a child is less than six months old, the state or foreign country in which the child lived from birth with any of them. A period of temporary absence of any of them is counted as part of the six-month or other period.

(9) “Income” includes earnings or other periodic entitlements to money from any source and any other property subject to withholding for support under the law of this state.

(10) “Income-withholding order” means an order or ~~notice~~ other legal process directed to an obligor’s employer or other source of income as defined in Section 62A-11-103, to withhold support from the income of the obligor ~~[in accordance with Title 62A, Chapter 11, Part 4, Income Withholding in IV-D Cases, or Part 5, Income Withholding in Non-IV-D Cases]~~.

(11) “Initiating tribunal” means the tribunal of a state or foreign country from which a petition or comparable pleading is forwarded or in which a petition or comparable pleading is filed for forwarding to another state or foreign country.

(12) “Issuing foreign country” means the foreign country in which a tribunal issues a support order or a judgment determining parentage of a child.

(13) “Issuing state” means the state in which a tribunal issues a support order or a judgment determining parentage of a child.

(14) “Issuing tribunal” means the tribunal of a state or foreign country that issues a support order or a judgment determining parentage of a child.

(15) “Law” includes decisional and statutory law and rules and regulations having the force of law.

(16) “Obligee” means:

(a) an individual to whom a duty of support is or is alleged to be owed or in whose favor a support order or a judgment determining parentage of a child has been issued;

(b) a foreign country, state, or political subdivision of a state to which the rights under a duty of support or support order have been assigned or which has independent claims based on financial assistance provided to an individual obligee in place of child support;

(c) an individual seeking a judgment determining parentage of the individual’s child; or

(d) a person who is a creditor in a proceeding under Part 7, Support Proceedings Under Convention.

(17) “Obligor” means an individual who, or the estate of a decedent that:

(a) owes or is alleged to owe a duty of support;

(b) is alleged but has not been adjudicated to be a parent of a child;

(c) is liable under a support order; or

(d) is a debtor in a proceeding under Part 7, Support Proceedings Under Convention.

(18) “Outside this state” means a location in another state or a country other than the United States, whether or not the country is a foreign country.

(19) “Person” means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government, governmental subdivision, agency, or instrumentality, public corporation, or any other legal or commercial entity.

(20) “Record” means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(21) “Register” means to file in a tribunal of this state a support order or judgment determining parentage of a child issued in another state or a foreign country.

(22) “Registering tribunal” means a tribunal in which a support order ~~[of]~~ or judgment determining parentage of a child is registered.

(23) “Responding state” means a state in which a petition or comparable pleading for support or to determine parentage of a child is filed or to which a petition or comparable pleading is forwarded for filing from another state or a foreign country.

(24) “Responding tribunal” means the authorized tribunal in a responding state or foreign country.

(25) “Spousal support order” means a support order for a spouse or former spouse of the obligor.

(26) “State” means a state of the United States, the District of Columbia, Puerto Rico, the United

States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States. The term includes an Indian nation or tribe.

(27) "Support enforcement agency" means a public official, governmental entity, or private agency authorized to:

- (a) seek enforcement of support orders or laws relating to the duty of support;
- (b) seek establishment or modification of child support;
- (c) request determination of parentage of a child;
- (d) attempt to locate obligors or their assets; or
- (e) request determination of the controlling child support order.

(28) "Support order" means a judgment, decree, order, decision, or directive, whether temporary, final, or subject to modification, issued in a state or foreign country for the benefit of a child, a spouse, or a former spouse, which provides for monetary support, health care, arrearages, retroactive support, or reimbursement for financial assistance provided to an individual obligee in place of child support. The term may include related costs and fees, interest, income withholding, automatic adjustment, reasonable attorney fees, and other relief.

(29) "Tribunal" means a court, administrative agency, or quasi-judicial entity authorized to establish, enforce, or modify support orders or to determine parentage of a child.

Section 8. Section 78B-14-201 (Effective 07/01/15) is amended to read:

78B-14-201 (Effective 07/01/15). Bases for jurisdiction over nonresident.

(1) In a proceeding to establish or enforce a support order or to determine parentage of a child, a tribunal of this state may exercise personal jurisdiction over a nonresident individual, or the individual's guardian or conservator, if:

- (a) the individual is personally served with notice within this state;
- (b) the individual submits to the jurisdiction of this state by consent in a record, by entering a general appearance, or by filing a responsive document having the effect of waiving any contest to personal jurisdiction;
- (c) the individual resided with the child in this state;
- (d) the individual resided in this state and provided prenatal expenses or support for the child;
- (e) the child resides in this state as a result of the acts or directives of the individual;
- (f) the individual engaged in sexual intercourse in this state and the child may have been conceived by that act of intercourse;
- (g) the individual asserted parentage of a child in the putative father registry maintained in this state

by the state registrar of vital records in the Department of Health pursuant to Title 78B, Chapter 6, Part 1, Utah Adoption Act; or

(h) there is any other basis consistent with the constitutions of this state and the United States for the exercise of personal jurisdiction.

(2) The bases of personal jurisdiction set forth in Subsection (1) or in any other law of this state may not be used to acquire personal jurisdiction for a tribunal of this state to modify a child support order of another state unless the requirements of Section 78B-14-611 are met, or, in the case of a foreign support order, unless the requirements of Section 78B-14-615 are met.

Section 9. Section 78B-14-204 (Effective 07/01/15) is amended to read:

78B-14-204 (Effective 07/01/15). Simultaneous proceedings in another state.

(1) A tribunal of this state may exercise jurisdiction to establish a support order if the petition or comparable pleading is filed after a [~~petition or comparable~~] pleading is filed in another state or a foreign country only if:

- (a) [~~if~~] the petition or comparable pleading in this state is filed before the expiration of the time allowed in the other state or the foreign country for filing a responsive pleading challenging the exercise of jurisdiction by the other state or the foreign country;
- (b) [~~if~~] the contesting party timely challenges the exercise of jurisdiction in the other state or the foreign country; and
- (c) if relevant, this state is the home state of the child.

(2) A tribunal of this state may not exercise jurisdiction to establish a support order if the petition or comparable pleading is filed before a petition or comparable pleading is filed in another state or a foreign country if:

- (a) [~~if~~] the petition or comparable pleading in the other state or foreign country is filed before the expiration of the time allowed in this state [~~or foreign country~~] for filing a responsive pleading challenging the exercise of jurisdiction by this state;
- (b) [~~if~~] the contesting party timely challenges the exercise of jurisdiction in this state; and
- (c) if relevant, the other state or foreign country is the home of the child.

Section 10. Section 78B-14-205 is amended to read:

78B-14-205. Continuing, exclusive jurisdiction to modify child support order.

(1) A tribunal of this state that has issued a [~~child support~~] child support order consistent with the law of this state has and shall exercise continuing, exclusive jurisdiction to modify its [~~child support~~] child support order if the order is the controlling order, and:

(a) at the time of the filing of a request for modification, this state is the residence of the obligor, the individual obligee, or the child for whose benefit the support order is issued; or

(b) even if this state is not the residence of the obligor, the individual obligee, or the child for whose benefit the support order is issued, the parties consent in a record or in open court that the tribunal of this state may continue to exercise jurisdiction to modify its order.

(2) A tribunal of this state that has issued a ~~[child-support]~~ child support order consistent with the law of this state may not exercise continuing, exclusive jurisdiction to modify the order if:

(a) all of the parties who are individuals file consent in a record with the tribunal of this state that a tribunal of another state that has jurisdiction over at least one of the parties who is an individual or that is located in the state of residence of the child may modify the order and assume continuing, exclusive jurisdiction; or

(b) its order is not the controlling order.

(3) If a tribunal of another state has issued a ~~[child-support]~~ child support order pursuant to ~~[this chapter]~~ the Uniform Interstate Family Support Act or a law substantially similar to ~~[this chapter]~~ the act, which modifies a ~~[child-support]~~ child support order of a tribunal of this state, tribunals of this state shall recognize the continuing, exclusive jurisdiction of the tribunal of the other state.

(4) A tribunal of this state that lacks continuing, exclusive jurisdiction to modify a ~~[child-support]~~ child support order may serve as an initiating tribunal to request a tribunal ~~[of]~~ of another state to modify a support order issued in that state.

(5) A temporary support order issued ex parte or pending resolution of a jurisdictional conflict does not create continuing, exclusive jurisdiction in the issuing tribunal.

Section 11. Section 78B-14-307 (Effective 07/01/15) is amended to read:

78B-14-307 (Effective 07/01/15). Duties of support enforcement agency.

(1) A support enforcement agency of this state, upon request, shall provide services to a petitioner in a proceeding under this chapter.

(2) A support enforcement agency of this state that is providing services to the petitioner shall:

(a) take all steps necessary to enable an appropriate tribunal of this state, another state, or a foreign country to obtain jurisdiction over the respondent;

(b) request an appropriate tribunal to set a date, time, and place for a hearing;

(c) make a reasonable effort to obtain all relevant information, including information as to income and property of the parties;

(d) within 10 days, exclusive of Saturdays, Sundays, and legal holidays, after receipt of ~~[a written]~~ notice in a record from an initiating, responding, or registering tribunal, send a copy of the notice to the petitioner;

(e) within 10 days, exclusive of Saturdays, Sundays, and legal holidays, after receipt of ~~[a written]~~ communication in a record from the respondent or the respondent's attorney, send a copy of the communication to the petitioner; and

(f) notify the petitioner if jurisdiction over the respondent cannot be obtained.

(3) A support enforcement agency of this state that requests registration of a child support order in this state for enforcement or for modification shall make reasonable efforts:

(a) to ensure that the order to be registered is the controlling order; or

(b) if two or more child support orders exist and the identity of the controlling order has not been determined, to ensure that a request for such a determination is made in a tribunal having jurisdiction to do so.

(4) A support enforcement agency of this state that requests registration and enforcement of a support order, arrears, or judgment stated in a foreign currency shall convert the amounts stated in the foreign currency into the equivalent amounts in dollars under the applicable official or market exchange rate as publicly reported.

(5) A support enforcement agency of this state shall issue or request a tribunal of this state to issue a child support order and an income-withholding order that redirects payment of current support, arrears, and interest if requested to do so by a support enforcement agency of another state pursuant to Section 78B-14-319.

(6) This chapter does not create or negate a relationship of attorney and client or other fiduciary relationship between a support enforcement agency or the attorney for the agency and the individual being assisted by the agency.

Section 12. Section 78B-14-310 (Effective 07/01/15) is amended to read:

78B-14-310 (Effective 07/01/15). Duties of state information agency.

(1) The Office of Recovery Services is the state information agency under this chapter.

(2) The state information agency shall:

(a) compile and maintain a current list, including addresses, of the tribunals in this state which have jurisdiction under this chapter and any support enforcement agencies in this state and transmit a copy to the state information agency of every other state;

(b) maintain a register of names and addresses of tribunals and support enforcement agencies received from other states;

(c) forward to the appropriate tribunal in the county in this state in which the obligee who is an

individual or the obligor resides, or in which the obligor's property is believed to be located, all documents concerning a proceeding under this chapter received from another state or a foreign country; and

(d) obtain information concerning the location of the obligor and the obligor's property within this state not exempt from execution, by such means as postal verification and federal or state locator services, examination of telephone directories, requests for the obligor's address from employers, and examination of governmental records, including, to the extent not prohibited by law, those relating to real property, vital ~~records~~ statistics, law enforcement, taxation, motor vehicles, ~~driver's~~ driver licenses, and ~~[Social Security number]~~ Social Security.

Section 13. Section 78B-14-316 (Effective 07/01/15) is amended to read:

78B-14-316 (Effective 07/01/15). Special rules of evidence and procedure.

(1) The physical presence of a nonresident party who is an individual in a tribunal of this state is not required for the establishment, enforcement, or modification of a support order or the rendition of a judgment determining parentage of a child.

(2) An affidavit, a document substantially complying with federally mandated forms, or a document incorporated by reference in any of them, which would not be excluded under the hearsay rule if given in person, is admissible in evidence if given under penalty of perjury by a party or witness residing outside this state.

(3) A copy of the record of child support payments certified as a true copy of the original by the custodian of the record may be forwarded to a responding tribunal. The copy is evidence of facts asserted in it and is admissible to show whether payments were made.

(4) Copies of bills for testing for parentage of a child, and for prenatal and postnatal health care of the mother and child, furnished to the adverse party at least 10 days before trial, are admissible in evidence to prove the amount of the charges billed and that the charges were reasonable, necessary, and customary.

(5) Documentary evidence transmitted from outside this state to a tribunal of this state by telephone, telecopier, or other electronic means that do not provide an original record may not be excluded from evidence on an objection based on the means of transmission.

(6) In a proceeding under this chapter, a tribunal of this state shall permit a party or witness residing outside this state to be deposed or to testify under penalty of perjury by telephone, audiovisual means, or other electronic means at a designated tribunal or other location. A tribunal of this state shall cooperate with other tribunals ~~[of other states]~~ in designating an appropriate location for the deposition or testimony.

(7) If a party called to testify at a civil hearing refuses to answer on the ground that the testimony may be self-incriminating, the trier of fact may draw an adverse inference from the refusal.

(8) A privilege against disclosure of communications between spouses does not apply in a proceeding under this chapter.

(9) The defense of immunity based on the relationship of husband and wife or parent and child does not apply in a proceeding under this chapter.

(10) A voluntary acknowledgment of paternity, certified as a true copy, is admissible to establish parentage of the child.

Section 14. Section 78B-14-317 (Effective 07/01/15) is amended to read:

78B-14-317 (Effective 07/01/15).

Communications between tribunals.

A tribunal of this state may communicate with a tribunal outside this state in a record, or by telephone, electronic mail, or other means, to obtain information concerning the laws, the legal effect of a judgment, decree, or order of that tribunal, and the status of a proceeding. A tribunal of this state may furnish similar information by similar means to a tribunal outside this state ~~[or foreign country or political subdivision]~~.

Section 15. Section 78B-14-502 is amended to read:

78B-14-502. Employer's compliance with income withholding order of another state.

(1) Upon receipt of an income-withholding order, the obligor's employer shall immediately provide a copy of the order to the obligor.

(2) The employer shall treat an income-withholding order issued in another state which appears regular on its face as if it had been issued by a tribunal of this state.

(3) Except as otherwise provided in Subsection (4) and Section 78B-14-503, the employer shall withhold and distribute the funds as directed in the withholding order by complying with terms of the order which specify:

(a) the duration and amount of periodic payments of current ~~[child support]~~ child support, stated as a sum certain;

(b) the person designated to receive payments and the address to which the payments are to be forwarded;

(c) medical support, whether in the form of periodic cash payment, stated as a sum certain, or ordering the obligor to provide health insurance coverage for the child under a policy available through the obligor's employment;

(d) the amount of periodic payments of fees and costs for a support-enforcement agency, the issuing tribunal, and the obligee's attorney, stated as sums certain; and

(e) the amount of periodic payments of arrearages and interest on arrearages, stated as sums certain.

(4) An employer shall comply with the law of the state of the obligor's principal place of employment for withholding from income with respect to:

(a) the employer's fee for processing an income withholding order;

(b) the maximum amount permitted to be withheld from the obligor's income; and

(c) the times within which the employer must implement the withholding order and forward the [~~child-support~~] child support payment.

Section 16. Section 78B-14-503 is amended to read:

78B-14-503. Compliance with multiple income-withholding orders.

If an obligor's employer receives two or more income-withholding orders with respect to the earnings of the same obligor, the employer satisfies the terms of the multiple orders if the employer complies with the law of the state of the obligor's principal place of employment to establish the priorities for the withholding and allocating income withheld for two or more child support obligees.

Section 17. Section 78B-14-507 (Effective 07/01/15) is amended to read:

78B-14-507 (Effective 07/01/15).

Administrative enforcement of orders.

(1) A party or support enforcement agency seeking to enforce a support order or an income-withholding order, or both, issued in another state, or seeking to enforce a foreign [~~country~~] support order, may send the documents required for registering the order to a support enforcement agency of this state.

(2) Upon receipt of the documents, the support enforcement agency, without initially seeking to register the order, shall consider and, if appropriate, use any administrative procedure authorized by the law of this state to enforce a support order or an income-withholding order, or both. If the obligor does not contest administrative enforcement, the order need not be registered. If the obligor contests the validity or administrative enforcement of the order, the support enforcement agency shall register the order pursuant to this chapter.

Section 18. Section 78B-14-601 (Effective 07/01/15) is amended to read:

78B-14-601 (Effective 07/01/15).

Registration of order for enforcement.

A support order or income-withholding order issued in another state, or a foreign [~~country~~] support order, may be registered in this state for enforcement.

Section 19. Section 78B-14-602 (Effective 07/01/15) is amended to read:

78B-14-602 (Effective 07/01/15). Procedure to register order for enforcement.

(1) Except as otherwise provided in Section 78B-14-706, a support order or income-withholding order of another state, or a foreign [~~country~~] support order, may be registered in this state by sending the following records to the appropriate tribunal in this state:

(a) a letter of transmittal to the tribunal requesting registration and enforcement;

(b) two copies, including one certified copy, of the order to be registered, including any modification of the order;

(c) a sworn statement by the person requesting registration or a certified statement by the custodian of the records showing the amount of any arrearage;

(d) the name of the obligor and, if known:

(i) the obligor's address and Social Security number;

(ii) the name and address of the obligor's employer and any other source of income of the obligor; and

(iii) a description and the location of property of the obligor in this state not exempt from execution; and

(e) except as otherwise provided in Section 78B-14-312, the name and address of the obligee and, if applicable, the person to whom support payments are to be remitted.

(2) On receipt of a request for registration, the registering tribunal shall cause the order to be filed as an order of a tribunal of another state, or a foreign [~~country~~] support order, together with one copy of the documents and information, regardless of their form.

(3) A petition or comparable pleading seeking a remedy that shall be affirmatively sought under law of this state may be filed at the same time as the request for registration or later. The pleading shall specify the grounds for the remedy sought.

(4) If two or more orders are in effect, the person requesting registration shall:

(a) furnish to the tribunal a copy of every support order asserted to be in effect in addition to the documents specified in this section;

(b) specify the order alleged to be the controlling order, if any; and

(c) specify the amount of consolidated arrears, if any.

(5) A request for a determination of which is the controlling order may be filed separately or with a request for registration and enforcement or for registration and modification. The person requesting registration shall give notice of the request to each party whose rights may be affected by the determination.

Section 20. Section 78B-14-603 (Effective 07/01/15) is amended to read:

78B-14-603 (Effective 07/01/15). Effect of registration for enforcement.

(1) A support order or income-withholding order issued in another state, or a foreign ~~[country]~~ support order, is registered when the order is filed in the registering tribunal of this state.

(2) A registered support order issued in another state or a foreign country is enforceable in the same manner and is subject to the same procedures as an order issued by a tribunal of this state.

(3) Except as otherwise provided in this chapter, a tribunal of this state shall recognize and enforce, but may not modify, a registered support order if the issuing tribunal had jurisdiction.

Section 21. Section 78B-14-605 (Effective 07/01/15) is amended to read:

78B-14-605 (Effective 07/01/15). Notice of registration of order.

(1) When a support order or income-withholding order issued in another state, or a foreign ~~[country]~~ support order, is registered, the registering tribunal of this state shall notify the nonregistering party. The notice shall be accompanied by a copy of the registered order and the documents and relevant information accompanying the order.

(2) A notice shall inform the nonregistering party:

(a) that a registered order is enforceable as of the date of registration in the same manner as an order issued by a tribunal of this state;

(b) that a hearing to contest the validity or enforcement of the registered order shall be requested within 20 days after ~~[the date of mailing or personal service of the]~~ notice, unless the registered order is under Section 78B-14-707;

(c) that failure to contest the validity or enforcement of the registered order in a timely manner will result in confirmation of the order and enforcement of the order and the alleged arrearages ~~[and precludes further contest of that order with respect to any matter that could have been asserted];~~ and

(d) of the amount of any alleged arrearages.

(3) If the registering party asserts that two or more orders are in effect, a notice shall also:

(a) identify the two or more orders and the order alleged by the registering party to be the controlling order and the consolidated arrearages, if any;

(b) notify the nonregistering party of the right to a determination of which is the controlling order;

(c) state that the procedures provided in Subsection (2) apply to the determination of which is the controlling order; and

(d) state that failure to contest the validity or enforcement of the order alleged to be the controlling order in a timely manner may result in confirmation that the order is the controlling order.

(4) Upon registration of an income-withholding order for enforcement, the support enforcement agency or the registering tribunal shall notify the obligor's employer pursuant to Title 62A, Chapter 11, Part 4, Income Withholding in IV-D Cases.

Section 22. Section 78B-14-606 (Effective 07/01/15) is amended to read:

78B-14-606 (Effective 07/01/15). Procedure to contest validity or enforcement of registered support order.

(1) A nonregistering party seeking to contest the validity or enforcement of a registered support order in this state shall request a hearing within the time required by Section 78B-14-605. The nonregistering party may seek to vacate the registration, to assert any defense to an allegation of noncompliance with the registered order, or to contest the remedies being sought or the amount of any alleged arrearages pursuant to Section 78B-14-607.

(2) If the nonregistering party fails to contest the validity or enforcement of the registered support order in a timely manner, the order is confirmed by operation of law.

(3) If a nonregistering party requests a hearing to contest the validity or enforcement of the registered support order, the registering tribunal shall schedule the matter for hearing and give notice to the parties of the date, time, and place of the hearing.

Section 23. Section 78B-14-612 is amended to read:

78B-14-612. Recognition of order modified in another state.

If a ~~[child-support]~~ child support order issued by a tribunal of this state is modified by a tribunal of another state ~~[which]~~ that assumed jurisdiction pursuant to ~~[this chapter]~~ the Uniform Interstate Family Support Act, a tribunal of this state:

(1) may enforce its order that was modified only as to arrearages and interest accruing before the modification;

(2) may provide appropriate relief for violations of its order which occurred before the effective date of the modification; and

(3) shall recognize the modifying order of the other state, upon registration, for the purpose of enforcement.

Section 24. Section 78B-14-613 is amended to read:

78B-14-613. Jurisdiction to modify child support order of another state when individual parties reside in this state.

(1) If all of the parties who are individuals reside in this state and the child does not reside in the issuing state, a tribunal of this state has jurisdiction to enforce and to modify the issuing state's child support order in a proceeding to register that order.

(2) A tribunal of this state exercising jurisdiction under this section shall apply the provisions of

Parts 1 and 2, this part, and the procedural and substantive law of this state to the proceeding for enforcement [e]f or modification. Parts 3, 4, 5, 7, and 8 do not apply.

Section 25. Section 78B-14-708 (Effective 07/01/15) is amended to read:

78B-14-708 (Effective 07/01/15). Recognition and enforcement of registered convention support order.

(1) Except as otherwise provided in Subsection (2), a tribunal of this state shall recognize and enforce a registered convention support order.

(2) The following grounds are the only grounds on which a tribunal of this state may refuse recognition and enforcement of a registered convention support order:

(a) recognition and enforcement of the order is manifestly incompatible with public policy, including the failure of the issuing tribunal to observe minimum standards of due process, which include notice and an opportunity to be heard;

(b) the issuing tribunal lacked personal jurisdiction consistent with Section 78B-14-201;

(c) the order is not enforceable in the issuing country;

(d) the order was obtained by fraud in connection with a matter of procedure;

(e) a record transmitted in accordance with Section 78B-14-706 lacks authenticity or integrity;

(f) a proceeding between the same parties and having the same purpose is pending before a tribunal of this state and that proceeding was the first to be filed;

(g) the order is incompatible with a more recent support order involving the same parties and having the same purpose if the more recent support order is entitled to recognition and enforcement under this chapter in this state;

(h) payment, to the extent alleged arrears have been paid in whole or in part;

(i) in a case in which the respondent neither appeared nor was represented in the proceeding in the issuing foreign country:

(i) if the law of that country provides for prior notice of proceedings, the respondent did not have proper notice of the proceedings and an opportunity to be heard; or

(ii) if the law of that country does not provide for prior notice of the proceedings, the respondent did not have proper notice of the order and an opportunity to be heard in a challenge or appeal on fact or law before a tribunal; or

(j) the order was made in violation of Section 78B-14-711.

(3) If a tribunal of this state does not recognize a convention support order under Subsection (2)(b), (d), [e], or (i):

(a) the tribunal may not dismiss the proceeding without allowing a reasonable time for a party to request the establishment of a new convention support order; and

(b) the Department of Human Services shall take all appropriate measures to request a child support order for the obligee if the application for recognition and enforcement was received under Section 78B-14-704.

Section 26. Section 78B-14-902 (Effective 07/01/15) is amended to read:

78B-14-902 (Effective 07/01/15). Transitional provision.

~~[The 2011 amendments to this chapter apply]~~
This chapter applies to proceedings begun on or after ~~[May 10, 2011]~~ July 1, 2015:

(1) to establish a support order or determine parentage of a child; or

(2) to register, recognize, enforce, or modify a prior support order, determination, or agreement, whenever issued or entered.

Section 27. Section 78B-15-610 is amended to read:

78B-15-610. Joinder of judicial proceedings.

(1) Except as otherwise provided in Subsection (2), a judicial proceeding to adjudicate parentage may be joined with a proceeding for adoption, termination of parental rights, child custody or visitation, child support, divorce, annulment, legal separation or separate maintenance, probate or administration of an estate, or other appropriate proceeding.

(2) A respondent may not join a proceeding described in Subsection (1) with a proceeding to adjudicate parentage brought under Title 78B, Chapter 14, Utah Uniform Interstate Family Support Act.

Section 28. Effective date.

This bill takes effect on July 1, 2015.

CHAPTER 46**S. B. 297**

Passed March 12, 2015

Approved March 20, 2015

Effective May 12, 2015

**PROTECTIONS FOR RELIGIOUS
EXPRESSION AND BELIEFS ABOUT
MARRIAGE, FAMILY, OR SEXUALITY**Chief Sponsor: J. Stuart Adams
House Sponsor: LaVar Christensen**LONG TITLE****General Description:**

This bill provides certain protections and remedies for individuals, religious officials, religious organizations, and government officers and employees concerning the free exercise of religion and religious or deeply held beliefs about marriage, family, and sexuality.

Highlighted Provisions:

This bill:

- ▶ requires a county clerk, or a willing designee of the county clerk, to be available during business hours to solemnize a legal marriage;
- ▶ removes a requirement that a designee for solemnizing marriages be an office employee;
- ▶ creates a new chapter to establish certain religious protections;
- ▶ defines terms;
- ▶ requires that the chapter be broadly construed in favor of broad protection of religious beliefs, exercises, and conscience;
- ▶ addresses the scope of state and local governments' authority to enforce certain laws;
- ▶ provides protections for a religious official or organization that declines to solemnize or recognize for ecclesiastical purposes a marriage because of the official's or organization's religious beliefs;
- ▶ prohibits government from:
 - removing a religious official's or organization's authority to solemnize a marriage based on religious beliefs;
 - requiring a religious official or organization to provide services or accommodations for a marriage that is contrary to the official's or organization's religious beliefs;
 - requiring a religious official or organization to promote marriage that is contrary to the official's or organization's religious beliefs; and
 - retaliating against an individual, a religious official, or a religious organization for exercising protections contained in this legislation;
- ▶ prohibits government and a government officials from taking negative action against a licensee who holds a professional or business license based on the licensee's beliefs or the licensee's lawful expression of those beliefs in a nonprofessional setting;
- ▶ prohibits an individual from requiring a religious official or organization to provide services or accommodations for a marriage that is contrary to the official's or organization's religious beliefs;

- ▶ provides remedies for violations; and
- ▶ provides a severability clause and revisor instructions.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides revisor instructions.

Utah Code Sections Affected:**AMENDS:**

- 17-20-4, as last amended by Laws of Utah 2001, Chapter 241
- 30-1-6, as last amended by Laws of Utah 2010, Chapter 132

ENACTS:

- 63G-20-101, Utah Code Annotated 1953
- 63G-20-102, Utah Code Annotated 1953
- 63G-20-103, Utah Code Annotated 1953
- 63G-20-201, Utah Code Annotated 1953
- 63G-20-202, Utah Code Annotated 1953
- 63G-20-203, Utah Code Annotated 1953
- 63G-20-204, Utah Code Annotated 1953
- 63G-20-301, Utah Code Annotated 1953
- 63G-20-302, Utah Code Annotated 1953
- 63G-20-303, Utah Code Annotated 1953

Uncodified Material Affected:

ENACTS UNCODIFIED MATERIAL

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

Section 1. Section 17-20-4 is amended to read:**17-20-4. Duties of county clerk.**

A county clerk shall:

- (1) establish policies to issue all marriage licenses and keep a register of marriages as provided by law;
- (2) establish policies to ensure that the county clerk, or a designee of the county clerk who is willing, is available during business hours to solemnize a legal marriage for which a marriage license has been issued;

~~[(2)]~~ (3) execute under the clerk's seal and in the name of and for the county, all deeds and conveyances of all real estate conveyed by the county;

~~[(3)]~~ (4) take and certify acknowledgments and administer oaths;

~~[(4)]~~ (5) keep a fee book as provided by law; and

~~[(5)]~~ (6) take charge of and safely keep the seal of the county, and keep other records and perform other duties as may be prescribed by law.

Section 2. Section 30-1-6 is amended to read:**30-1-6. Who may solemnize marriages -- Certificate.**

~~[(1) Marriages may be solemnized by the following persons only:]~~

- (1) Except for a county clerk, or a county clerk's designee, as provided below, the following persons may solemnize a marriage at that person's discretion:

(a) ministers, rabbis, or priests of any religious denomination who are:

(i) in regular communion with any religious society; and

(ii) 18 years of age or older;

(b) Native American spiritual advisors;

(c) the governor;

(d) the lieutenant governor;

(e) mayors of municipalities or county executives;

(f) a justice, judge, or commissioner of a court of record;

(g) a judge of a court not of record of the state;

(h) judges or magistrates of the United States;

(i) the county clerk of any county in the state ~~if the clerk chooses to solemnize marriages~~ or the county clerk's designee as authorized by Section 17-20-4;

(j) the president of the Senate;

(k) the speaker of the House of Representatives; or

(l) a judge or magistrate who holds office in Utah when retired, under rules set by the Supreme Court.

(2) A person authorized under Subsection (1) who solemnizes a marriage shall give to the couple married a certificate of marriage that shows the:

(a) name of the county from which the license is issued; and

(b) date of the license's issuance.

(3) As used in this section:

(a) "Judge or magistrate of the United States" means:

(i) a justice of the United States Supreme Court;

(ii) a judge of a court of appeals;

(iii) a judge of a district court;

(iv) a judge of any court created by an act of Congress the judges of which are entitled to hold office during good behavior;

(v) a judge of a bankruptcy court;

(vi) a judge of a tax court; or

(vii) a United States magistrate.

(b) (i) "Native American spiritual advisor" means a person who:

(A) ~~[(A)]~~ leads, instructs, or facilitates a Native American religious ceremony or service~~;~~ or ~~[(A)]~~ provides religious counseling; and

(B) is recognized as a spiritual advisor by a federally recognized Native American tribe.

(ii) "Native American spiritual advisor" includes a sweat lodge leader, medicine person, traditional religious practitioner, or holy man or woman.

(4) ~~[Notwithstanding]~~ Except as provided in Section 17-20-4, and notwithstanding any other provision in law, no person authorized under Subsection (1) to solemnize a marriage may delegate or deputize another person to perform the function of solemnizing a marriage ~~except that only employees of the office responsible for the issuance of marriage licenses may be deputized~~.

Section 3. Section 63G-20-101 is enacted to read:

**CHAPTER 20. RELIGIOUS PROTECTIONS
IN RELATION TO MARRIAGE, FAMILY, OR
SEXUALITY**

Part 1. General Provisions

63G-20-101. Title.

This chapter is known as "Religious Protections in Relation to Marriage, Family, or Sexuality."

Section 4. Section 63G-20-102 is enacted to read:

63G-20-102. Definitions.

As used in this chapter:

(1) "Government retaliation" means an action by a state or local government or an action by a state or local government official that:

(a) is taken in response to a person's exercise of a protection contained in Section 17-20-4, 63G-20-201, or 63G-20-301; and

(b) (i) imposes a formal penalty on, fines, disciplines, discriminates against, denies the rights of, denies benefits to, or denies tax-exempt status to a person; or

(ii) subjects a person to an injunction or to an administrative claim or proceeding.

(2) (a) "Religious official" means an officer or official of a religion, when acting as such.

(b) "Religious official" includes an individual designated by the religion as clergy, minister, priest, pastor, rabbi, imam, bishop, stake president, or sealer, when that individual is acting as such.

(3) "Religious organization" means:

(a) a religious organization, association, educational institution, or society;

(b) a religious corporation sole; or

(c) any corporation or association constituting a wholly owned subsidiary, affiliate, or agency of any religious organization, association, educational institution, society, or religious corporation sole.

(4) "Sexuality" includes legal sexual conduct, legal sexual expression, sexual desires, and the status of a person as male or female.

(5) "State or local government" means:

(a) a state government entity, agency, or instrumentality; or

(b) a local government entity, agency, or instrumentality.

(6) "State or local government official" means an officer, employee, or appointee of a state or local government.

Section 5. Section 63G-20-103 is enacted to read:

63G-20-103. Interpretation.

(1) Utah state courts and courts of the United States shall broadly construe this chapter in favor of a broad protection of religious beliefs, exercises, and conscience to the maximum extent permitted by the terms of this chapter and the Utah and United States constitutions.

(2) Nothing in this chapter may be construed to limit:

(a) the authority of a state or local government or a state or local government official to protect the health, safety, or property of Utah residents through lawful means;

(b) the application of Utah's criminal laws;

(c) the application of Utah's laws barring discrimination in employment or housing; or

(d) the application of Utah's laws barring discrimination in public accommodations, subject to Section 63G-20-201.

Section 6. Section 63G-20-201 is enacted to read:

Part 2. Government Entities Prohibited from Certain Burdens on Religious Beliefs

63G-20-201. Provisions governing solemnizing or recognizing a marriage -- Prohibition against employment actions.

Notwithstanding any other provision of law, a state or local government or a state or local government official may not:

(1) require a religious official, when acting as such, or religious organization to solemnize or recognize for ecclesiastical purposes a marriage that is contrary to that religious official's or religious organization's religious beliefs;

(2) if the religious official or religious organization is authorized to solemnize a marriage by Section 30-1-6, deny a religious official, when acting as such, or religious organization the authority to legally solemnize a legal marriage based on the religious official's or religious organization's refusal to solemnize any legal marriage that is contrary to the religious official's or religious organization's religious beliefs;

(3) require a religious official, when acting as such, or religious organization to provide goods, accommodations, advantages, privileges, services, facilities, or grounds for activities connected with the solemnization or celebration of a marriage that is contrary to that religious official's or religious organization's religious beliefs; or

(4) require a religious official, when acting as such, or religious organization to promote marriage through religious programs, counseling, courses, or retreats in a way that is contrary to that religious official's or religious organization's religious beliefs.

Section 7. Section 63G-20-202 is enacted to read:

63G-20-202. Prohibition on government retaliation.

Notwithstanding any other law, a state or local government or a state or local government official may not engage in government retaliation against an individual, a religious official when acting as such, or a religious organization for exercising the protections contained in Section 17-20-4, 63G-20-201, or 63G-20-301.

Section 8. Section 63G-20-203 is enacted to read:

63G-20-203. Prohibition on licensing disadvantages based on beliefs.

Notwithstanding any other law, a state or local government, a state or local government official, or another accrediting, certifying, or licensing body may not:

(1) deny, revoke, or suspend a licensee's professional or business license based on that licensee's beliefs or the licensee's lawful expressions of those beliefs in a nonprofessional setting, including the licensee's religious beliefs regarding marriage, family, or sexuality; or

(2) penalize, discipline, censure, disadvantage, discriminate against, or retaliate against a licensee who holds a professional or business license based on that licensee's beliefs or lawful expressions of those beliefs in a nonprofessional setting, including the licensee's religious beliefs regarding marriage, family, or sexuality.

Section 9. Section 63G-20-204 is enacted to read:

63G-20-204. Remedies -- Attorney fees and costs.

(1) (a) A person aggrieved by a violation of this part may:

(i) seek injunctive or other civil relief to require a state or local government or a state or local government official to comply with the requirements of this part; or

(ii) seek removal of the local government official for malfeasance in office according to the procedures and requirements of Title 77, Chapter 6, Removal by Judicial Proceedings.

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

(2) (a) A person aggrieved by a violation of this part may bring a civil action in district court.

(b) If the plaintiff establishes one or more violations of this part by a preponderance of the evidence, the court:

(i) shall grant the plaintiff appropriate legal or equitable relief; and

(ii) may award reasonable attorney fees and costs to the prevailing party.

Section 10. Section 63G-20-301 is enacted to read:

Part 3. Prohibitions on Certain Burdens on a Religious Official's or Religious Organization's Religious Beliefs about Marriage, Family, or Sexuality

63G-20-301. Prohibitions relating to refusing to solemnize a marriage.

Notwithstanding any other provision of law, an individual may not require a religious official, when acting as such, or religious organization to provide goods, accommodations, advantages, privileges, services, facilities, or grounds for activities connected with the solemnization or celebration of a marriage that is contrary to that religious official's or religious organization's religious beliefs about marriage, family, or sexuality.

Section 11. Section 63G-20-302 is enacted to read:

63G-20-302. Remedies -- Civil action -- Attorney fees and costs.

(1) A person aggrieved by a violation of this part may bring a civil action in district court.

(2) If the plaintiff establishes one or more violations of this part by a preponderance of the evidence, the court:

(a) shall grant the plaintiff appropriate legal or equitable relief; and

(b) may award reasonable attorney fees and costs to the prevailing party.

Section 12. Section 63G-20-303 is enacted to read:

63G-20-303. Severability clause.

If any provision of this bill or its application to any person or circumstance is found to be unconstitutional, or in conflict with or superseded by federal law, the remainder of the bill and the application of the provision to other persons or circumstances is not affected by the finding.

Section 13. Revisor instructions.

It is the intent of the Legislature that, in preparing the Utah Code database for publication, the Office of Legislative Research and General Counsel shall replace the phrases "this bill" and "the bill" in Section 63G-20-303 with the bill's designated chapter number in the 2015 Laws of Utah.

CHAPTER 47**H. B. 11**

Passed March 10, 2015
 Approved March 23, 2015
 Effective May 12, 2015

**DEATH PENALTY
 PROCEDURE AMENDMENTS**

Chief Sponsor: Paul Ray
 Senate Sponsor: David P. Hinkins

LONG TITLE**General Description:**

This bill modifies the Utah Code of Criminal Procedure regarding the execution of the death penalty.

Highlighted Provisions:

This bill:

- ▶ provides that if substances are not available to carry out the death penalty by lethal injection on the date specified by warrant, the death penalty shall be carried out by firing squad.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

76-2-404, as last amended by Laws of Utah 2004, Chapter 51
 77-18-5.5, as last amended by Laws of Utah 2004, Chapter 51
 77-19-10, as last amended by Laws of Utah 2004, Chapter 51

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

Section 1. Section 76-2-404 is amended to read:

76-2-404. Peace officer's use of deadly force.

(1) A peace officer, or any person acting by [his] the officer's command in [his] providing aid and assistance, is justified in using deadly force when:

(a) the officer is acting in obedience to and in accordance with the judgment of a competent court in executing a penalty of death under Subsection 77-18-5.5[~~(3)~~ or (4)](2), (3), or (4);

(b) effecting an arrest or preventing an escape from custody following an arrest, where the officer reasonably believes that deadly force is necessary to prevent the arrest from being defeated by escape; and

(i) the officer has probable cause to believe that the suspect has committed a felony offense involving the infliction or threatened infliction of death or serious bodily injury; or

(ii) the officer has probable cause to believe the suspect poses a threat of death or serious bodily injury to the officer or to others if apprehension is delayed; or

(c) the officer reasonably believes that the use of deadly force is necessary to prevent death or serious bodily injury to the officer or another person.

(2) If feasible, a verbal warning should be given by the officer prior to any use of deadly force under Subsection (1)(b) or (1)(c).

Section 2. Section 77-18-5.5 is amended to read:

77-18-5.5. Judgment of death -- Method is lethal injection -- Exceptions for use of firing squad.

(1) (a) When a defendant is convicted of a capital felony and the judgment of death has been imposed, lethal intravenous injection is the method of execution.

[~~(2)~~] (b) Subsection (1)(a) applies to any defendant sentenced to death on or after May 3, 2004, except under Subsections (2), (3), and (4).

[~~(3)~~] (2) If a court holds that a defendant has a right to be executed by a firing squad, the method of execution for that defendant shall be a firing squad. This Subsection [~~(3)~~] (2) applies to any defendant whose right to be executed by a firing squad is preserved by that judgment.

[~~(4)~~] (3) (a) If a court holds that execution by lethal injection is unconstitutional on its face, the method of execution shall be a firing squad.

(b) If a court holds that execution by lethal injection is unconstitutional as applied, the method of execution for that defendant shall be a firing squad.

(4) The method of execution for the defendant is the firing squad if the sentencing court determines the state is unable to lawfully obtain the substance or substances necessary to conduct an execution by lethal intravenous injection 30 or more days prior to the date specified in the warrant issued upon a judgment of death under Section 77-19-6.

Section 3. Section 77-19-10 is amended to read:

77-19-10. Judgment of death -- Location and procedures for execution.

(1) The executive director of the Department of Corrections or [his] a designee shall ensure that the method of judgment of death specified in the warrant or as required under Section 77-18-5.5 is carried out at a secure correctional facility operated by the department and at an hour determined by the department on the date specified in the warrant.

(2) When the judgment of death is to be carried out by lethal intravenous injection, the executive director of the department or [his] a designee shall select two or more persons trained in accordance with accepted medical practices to administer intravenous injections, who shall each administer a continuous intravenous injection, one of which shall be of a lethal quantity of:

(a) sodium thiopental; or

(b) other equally or more effective substance sufficient to cause death.

(3) If the judgment of death is to be carried out by firing squad under Subsection 77-18-5.5~~(3) or (4)~~, (2), (3), or (4) the executive director of the department or ~~his~~ a designee shall select a five-person firing squad of peace officers.

(4) Compensation for persons administering intravenous injections and for members of a firing squad under Subsection 77-18-5.5~~(3) or (4)~~(2), (3), or (4) shall be in an amount determined by the director of the Division of Finance.

(5) Death under this section shall be certified by a physician.

(6) The department shall adopt and enforce rules governing procedures for the execution of judgments of death.

CHAPTER 48**H. B. 13**

Passed February 11, 2015

Approved March 23, 2015

Effective May 12, 2015

JAIL REIMBURSEMENT AMENDMENTS

Chief Sponsor: Paul Ray
Senate Sponsor: Daniel W. Thatcher

LONG TITLE**General Description:**

This bill modifies Title 64, State Institutions, regarding the reporting requirements of agencies to the Law Enforcement and Criminal Justice Interim Committee.

Highlighted Provisions:

This bill:

- ▶ modifies the reporting requirement regarding jail reimbursements for housing state inmates by transferring responsibility for the report from the Department of Corrections to the Commission on Criminal and Juvenile Justice;
- ▶ requires the Commission on Criminal and Juvenile Justice to report to the Law Enforcement and Criminal Justice Interim Committee by November 1 annually regarding jail reimbursements for housing state inmates; and
- ▶ requires the report to include:
 - the number of state parole inmates housed by each county; and
 - the number of state probationary inmates housed by each county.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

64-13e-106, as last amended by Laws of Utah 2011, Chapter 51

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

Section 1. Section 64-13e-106 is amended to read:

64-13e-106. Report to Legislature.

(1) Before November 1 of each year, the department shall provide to the Law Enforcement and Criminal Justice Interim Committee of the Legislature a written report regarding the housing of state inmates~~[- state parole inmates, and state probationary inmates]~~ under this chapter, including:

~~[(1)]~~ (a) the final state daily incarceration rate established under this chapter;

~~[(2)]~~ (b) the rates described in Subsections 64-13e-103(3) and 64-13e-104(2);

~~[(3)]~~ (c) participating counties; and

~~[(4)]~~ (d) the number of state inmates housed by each county~~[;]~~.

~~[(5) the number of state parole inmates housed by each county; and]~~

~~[(6) the number of state probationary inmates housed by each county.]~~

(2) Before November 1 of each year, beginning in 2015, the Commission on Criminal and Juvenile Justice shall provide to the Law Enforcement and Criminal Justice Interim Committee of the Legislature a written report regarding state parole inmates and state probationary inmates under this chapter, including:

(a) the number of state parole inmates housed by each county; and

(b) the number of state probationary inmates housed by each county.

CHAPTER 49**H. B. 14**

Passed March 6, 2015
 Approved March 23, 2015
 Effective March 23, 2015

**APPROPRIATIONS LIMIT AND
 MATHEMATICAL FORMULA
 AMENDMENTS**

Chief Sponsor: Craig Hall
 Senate Sponsor: Curtis S. Bramble

LONG TITLE**General Description:**

This bill amends provisions related to formulas in the Utah Code.

Highlighted Provisions:

This bill:

- ▶ directs the legislative fiscal analyst to, in collaboration with the executive branch, create mathematical equations for certain formulas in the Utah Code; and
- ▶ directs the legislative fiscal analyst to create a mathematical equation for the state appropriations limit formula.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**ENACTS:**

63I-6-101, Utah Code Annotated 1953
 63I-6-102, Utah Code Annotated 1953
 63I-6-103, Utah Code Annotated 1953
 63J-3-206, Utah Code Annotated 1953

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

Section 1. Section 63I-6-101 is enacted to read:

**CHAPTER 6. MATHEMATICAL EQUATIONS
 ACT**

63I-6-101. Title.

This chapter is known as "Mathematical Equations Act."

Section 2. Section 63I-6-102 is enacted to read:

63I-6-102. Definitions.

As used in this chapter:

(1) "Formula" means a description of or directions for a computation in the Utah Code.

(2) "Mathematical equation" means a symbolic expression of a formula that is created by the legislative fiscal analyst under Subsection 63I-6-103(1).

Section 3. Section 63I-6-103 is enacted to read:

63I-6-103. Converting a formula into a mathematical equation.

(1) The legislative fiscal analyst shall, when directed by statute and in consultation with the executive branch, convert a formula into a mathematical equation that:

(a) accurately expresses the formula with mathematical symbols as a mathematical equation; and

(b) is mathematically unambiguous.

(2) The legislative fiscal analyst shall include each mathematical equation described in Subsection (1) that has not yet been approved under Subsection (3) in an annual appropriations act.

(3) If, for a formula, the mathematical equation described in Subsection (1) is approved by the Legislature in an appropriations act:

(a) the mathematical equation is the authoritative version of the formula until:

(i) the legislative fiscal analyst determines that the mathematical equation is inaccurate; or

(ii) the statutory language upon which the mathematical equation is based is changed; and

(b) the legislative fiscal analyst shall post the mathematical equation on the Internet for public access.

Section 4. Section 63J-3-206 is enacted to read:

**63J-3-206. Appropriations limit formula --
 Mathematical equation.**

The legislative fiscal analyst shall create, in accordance with Section 63I-6-103, a mathematical equation for the state appropriations limit formula described in this part.

Section 5. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

CHAPTER 50**H. B. 19**

Passed February 5, 2015
 Approved March 23, 2015
 Effective May 12, 2015

INSURANCE COMPARISON TABLES

Chief Sponsor: Timothy D. Hawkes
 Senate Sponsor: Curtis S. Bramble

LONG TITLE**General Description:**

This bill modifies oversight provisions to remove the insurance comparison tables requirements from the sunset act.

Highlighted Provisions:

This bill:

- ▶ removes the requirement that the Insurance Department produce certain comparison tables from the Legislative Oversight and Sunset Act; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63I-1-231, as last amended by Laws of Utah 2014, Chapters 379, 425, and 425

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

Section 1. Section 63I-1-231 is amended to read:**63I-1-231. Repeal dates, Title 31A.**

~~[(1) Section 31A-2-208.5, Comparison tables, is repealed July 1, 2015.]~~

~~[(2)] (1) Section 31A-2-217, Coordination with other states, is repealed July 1, 2023.~~

~~[(3)] (2) Section 31A-22-619.6, Coordination of benefits with workers' compensation claim--Health insurer's duty to pay, is repealed on July 1, 2018.~~

~~[(4)] (3) Title 31A, Chapter 29, Comprehensive Health Insurance Pool Act, is repealed July 1, 2015.~~

~~[(5)] (4) Section 31A-22-642, Insurance coverage for autism spectrum disorder, is repealed on January 1, 2019.~~

CHAPTER 51**H. B. 21**

Passed February 5, 2015
 Approved March 23, 2015
 Effective May 12, 2015

**DEPARTMENT OF WORKFORCE
 SERVICES SUNSET AUTHORIZATION**

Chief Sponsor: Rebecca P. Edwards
 Senate Sponsor: Aaron Osmond

LONG TITLE**General Description:**

This bill modifies the Legislative Oversight and Sunset Act by removing the repeal date of Title 35A, Utah Workforce Services Code.

Highlighted Provisions:

This bill:

- ▶ modifies the Legislative Oversight and Sunset Act by removing the repeal date of Title 35A, Utah Workforce Services Code, thereby allowing Title 35A, Utah Workforce Services Code, to remain in effect after July 1, 2015; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63I-1-235, as last amended by Laws of Utah 2014, Chapter 127

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

Section 1. Section 63I-1-235 is amended to read:

63I-1-235. Repeal dates, Title 35A.

~~[(1) Title 35A, Utah Workforce Services Code, is repealed July 1, 2015.]~~

~~[(2)] (1) Title 35A, Chapter 8, Part 7, Utah Housing Corporation Act, is repealed July 1, 2016.~~

~~[(3) Title 35A, Chapter 8, Part 18, Transitional Housing and Community Development Advisory Council, is repealed July 1, 2014.]~~

~~[(4)] (2) Title 35A, Chapter 11, Women in the Economy Commission Act, is repealed July 1, 2016.~~

CHAPTER 52**H. B. 26**

Passed February 20, 2015

Approved March 23, 2015

Effective July 1, 2015

**AMENDMENTS TO DRIVER
LICENSE RECORDS**

Chief Sponsor: Eric K. Hutchings

Senate Sponsor: Karen Mayne

LONG TITLE**General Description:**

This bill modifies the Uniform Driver License Act by amending provisions relating to driver license records.

Highlighted Provisions:

This bill:

- ▶ provides definitions;
- ▶ authorizes the Driver License Division to disclose portions of a driving record to:
 - an employer or a designee of an employer, for purposes of monitoring the driving record and status of current employees who drive as a responsibility of the employees' employment, if the requester demonstrates that the requester has obtained the written consent of the individual to whom the information pertains; and
 - an employer or the employer's agents to obtain or verify information relating to a holder of a commercial driver license that is required under federal law;
- ▶ requires that the authorized disclosure of a driving record be limited to the driving record of a current employee of the employer;
- ▶ amends provisions regarding the content of and requirements for disclosing a commercial driver license motor vehicle record; and
- ▶ makes technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides a coordination clause.

Utah Code Sections Affected:**AMENDS:**

53-3-102, as last amended by Laws of Utah 2014, Chapter 252

53-3-109, as last amended by Laws of Utah 2011, Chapters 190 and 243

53-3-221, as last amended by Laws of Utah 2014, Chapters 101 and 225

53-3-402, as last amended by Laws of Utah 2013, Chapter 411

53-3-410.1, as last amended by Laws of Utah 2013, Chapter 411

53-3-420, as last amended by Laws of Utah 2007, Chapter 53

53-3-709, as renumbered and amended by Laws of Utah 1993, Chapter 234

72-9-107, as last amended by Laws of Utah 2009, Chapters 155 and 356

Utah Code Sections Affected by Coordination Clause:

53-3-102, as last amended by Laws of Utah 2014, Chapter 252

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

Section 1. Section 53-3-102 is amended to read:**53-3-102. Definitions.**

As used in this chapter:

(1) "Cancellation" means the termination by the division of a license issued through error or fraud or for which consent under Section 53-3-211 has been withdrawn.

(2) "Class D license" means the class of license issued to drive motor vehicles not defined as commercial motor vehicles or motorcycles under this chapter.

(3) "Commercial driver instruction permit" or "CDIP" means a permit issued under Section 53-3-408.

~~[(3)]~~ (4) "Commercial driver license" or "CDL" means a license:

(a) issued substantially in accordance with the requirements of Title XII, Pub. L. 99-570, the Commercial Motor Vehicle Safety Act of 1986, and in accordance with Part 4, Uniform Commercial Driver License Act, which authorizes the holder to drive a class of commercial motor vehicle; and

(b) that was obtained by providing evidence of lawful presence in the United States with one of the document requirements described in Subsection 53-3-410(1)(i).

(5) (a) "Commercial driver license motor vehicle record" or "CDL MVR" means a driving record that:

(i) applies to a person who holds or is required to hold a commercial driver instruction permit or a CDL license; and

(ii) contains the following:

(A) information contained in the driver history, including convictions, pleas held in abeyance, disqualifications, and other licensing actions for violations of any state or local law relating to motor vehicle traffic control, committed in any type of vehicle;

(B) driver self-certification status information under Section 53-3-410.1; and

(C) information from medical certification record keeping in accordance with 49 C.F.R. Sec. 383.73(o).

(b) "Commercial driver license motor vehicle record" or "CDL MVR" does not mean a motor vehicle record described in Subsection 53-3-102(28).

~~[(4)]~~ (6) (a) "Commercial motor vehicle" means a motor vehicle or combination of motor vehicles designed or used to transport passengers or property if the motor vehicle:

(i) has a gross vehicle weight rating of 26,001 or more pounds or a lesser rating as determined by federal regulation;

(ii) is designed to transport 16 or more passengers, including the driver; or

(iii) is transporting hazardous materials and is required to be placarded in accordance with 49 C.F.R. Part 172, Subpart F.

(b) The following vehicles are not considered a commercial motor vehicle for purposes of Part 4, Uniform Commercial Driver License Act:

(i) equipment owned and operated by the United States Department of Defense when driven by any active duty military personnel and members of the reserves and national guard on active duty including personnel on full-time national guard duty, personnel on part-time training, and national guard military technicians and civilians who are required to wear military uniforms and are subject to the code of military justice;

(ii) vehicles controlled and driven by a farmer to transport agricultural products, farm machinery, or farm supplies to or from a farm within 150 miles of his farm but not in operation as a motor carrier for hire;

(iii) firefighting and emergency vehicles; and

(iv) recreational vehicles that are not used in commerce and are driven solely as family or personal conveyances for recreational purposes.

~~[(5)]~~ (7) “Conviction” means any of the following:

(a) an unvacated adjudication of guilt or a determination that a person has violated or failed to comply with the law in a court of original jurisdiction or an administrative proceeding;

(b) an unvacated forfeiture of bail or collateral deposited to secure a person’s appearance in court;

(c) a plea of guilty or nolo contendere accepted by the court;

(d) the payment of a fine or court costs; or

(e) violation of a condition of release without bail, regardless of whether the penalty is rebated, suspended, or probated.

~~[(6)]~~ (8) “Denial” or “denied” means the withdrawal of a driving privilege by the division to which the provisions of Title 41, Chapter 12a, Part 4, Proof of Owner’s or Operator’s Security, do not apply.

~~[(7)]~~ (9) “Director” means the division director appointed under Section 53-3-103.

~~[(8)]~~ (10) “Disqualification” means either:

(a) the suspension, revocation, cancellation, denial, or any other withdrawal by a state of a person’s privileges to drive a commercial motor vehicle;

(b) a determination by the Federal Highway Administration, under 49 C.F.R. Part 386, that a

person is no longer qualified to drive a commercial motor vehicle under 49 C.F.R. Part 391; or

(c) the loss of qualification that automatically follows conviction of an offense listed in 49 C.F.R. Part 383.51.

~~[(9)]~~ (11) “Division” means the Driver License Division of the department created in Section 53-3-103.

~~[(10)]~~ (12) “Downgrade” means to obtain a lower license class than what was originally issued during an existing license cycle.

~~[(11)]~~ (13) “Drive” means:

(a) to operate or be in physical control of a motor vehicle upon a highway; and

(b) in Subsections 53-3-414(1) through (3), Subsection 53-3-414(5), and Sections 53-3-417 and 53-3-418, the operation or physical control of a motor vehicle at any place within the state.

~~[(12)]~~ (14) (a) “Driver” means any person who drives, or is in actual physical control of a motor vehicle in any location open to the general public for purposes of vehicular traffic.

(b) In Part 4, Uniform Commercial Driver License Act, “driver” includes any person who is required to hold a CDL under Part 4 or federal law.

~~[(13)]~~ (15) “Driving privilege card” means the evidence of the privilege granted and issued under this chapter to drive a motor vehicle to a person whose privilege was obtained without providing evidence of lawful presence in the United States.

~~[(14)]~~ (16) “Extension” means a renewal completed in a manner specified by the division.

~~[(15)]~~ (17) “Farm tractor” means every motor vehicle designed and used primarily as a farm implement for drawing plows, mowing machines, and other implements of husbandry.

~~[(16)]~~ (18) “Highway” means the entire width between property lines of every way or place of any nature when any part of it is open to the use of the public, as a matter of right, for traffic.

~~[(17)]~~ (19) “Identification card” means a card issued under Part 8, Identification Card Act, to a person for identification purposes.

~~[(18)]~~ (20) “Indigent” means that a person’s income falls below the federal poverty guideline issued annually by the U.S. Department of Health and Human Services in the Federal Register.

~~[(19)]~~ (21) “License” means the privilege to drive a motor vehicle.

~~[(20)]~~ (22) (a) “License certificate” means the evidence of the privilege issued under this chapter to drive a motor vehicle.

(b) “License certificate” evidence includes a:

(i) regular license certificate;

(ii) limited-term license certificate;

(iii) driving privilege card;

- (iv) CDL license certificate;
- (v) limited-term CDL license certificate;
- (vi) temporary regular license certificate; and
- (vii) temporary limited-term license certificate.

[~~24~~] (23) "Limited-term commercial driver license" or "limited-term CDL" means a license:

(a) issued substantially in accordance with the requirements of Title XII, Pub. L. 99-570, the Commercial Motor Vehicle Safety Act of 1986, and in accordance with Part 4, Uniform Commercial Driver License Act, which authorizes the holder to drive a class of commercial motor vehicle; and

(b) that was obtained by providing evidence of lawful presence in the United States with one of the document requirements described in Subsection 53-3-410(1)(i)(ii).

[~~22~~] (24) "Limited-term identification card" means an identification card issued under this chapter to a person whose card was obtained by providing evidence of lawful presence in the United States with one of the document requirements described in Subsection 53-3-804(2)(i)(ii).

[~~23~~] (25) "Limited-term license certificate" means the evidence of the privilege granted and issued under this chapter to drive a motor vehicle to a person whose privilege was obtained providing evidence of lawful presence in the United States with one of the document requirements described in Subsection 53-3-205(8)(a)(ii)(B).

[~~24~~] (26) "Motorboat" has the same meaning as provided under Section 73-18-2.

[~~25~~] (27) "Motorcycle" means every motor vehicle, other than a tractor, having a seat or saddle for the use of the rider and designed to travel with not more than three wheels in contact with the ground.

(28) "Motor vehicle record" or "MVR" means a driving record under Subsection 53-3-109(6)(a).

[~~26~~] (29) "Office of Recovery Services" means the Office of Recovery Services, created in Section 62A-11-102.

[~~27~~] (30) (a) "Owner" means a person other than a lien holder having an interest in the property or title to a vehicle.

(b) "Owner" includes a person entitled to the use and possession of a vehicle subject to a security interest in another person but excludes a lessee under a lease not intended as security.

[~~28~~] (31) "Regular identification card" means an identification card issued under this chapter to a person whose card was obtained by providing evidence of lawful presence in the United States with one of the document requirements described in Subsection 53-3-804(2)(i)(i).

[~~29~~] (32) "Regular license certificate" means the evidence of the privilege issued under this chapter to drive a motor vehicle whose privilege was obtained by providing evidence of lawful presence

in the United States with one of the document requirements described in Subsection 53-3-205(8)(a)(ii)(A).

[~~30~~] (33) "Renewal" means to validate a license certificate so that it expires at a later date.

[~~31~~] (34) "Reportable violation" means an offense required to be reported to the division as determined by the division and includes those offenses against which points are assessed under Section 53-3-221.

[~~32~~] (35) (a) "Resident" means an individual who:

(i) has established a domicile in this state, as defined in Section 41-1a-202, or regardless of domicile, remains in this state for an aggregate period of six months or more during any calendar year;

(ii) engages in a trade, profession, or occupation in this state, or who accepts employment in other than seasonal work in this state, and who does not commute into the state;

(iii) declares himself to be a resident of this state by obtaining a valid Utah driver license certificate or motor vehicle registration; or

(iv) declares himself a resident of this state to obtain privileges not ordinarily extended to nonresidents, including going to school, or placing children in school without paying nonresident tuition or fees.

(b) "Resident" does not include any of the following:

(i) a member of the military, temporarily stationed in this state;

(ii) an out-of-state student, as classified by an institution of higher education, regardless of whether the student engages in any type of employment in this state;

(iii) a person domiciled in another state or country, who is temporarily assigned in this state, assigned by or representing an employer, religious or private organization, or a governmental entity; or

(iv) an immediate family member who resides with or a household member of a person listed in Subsections [~~32~~] (35)(b)(i) through (iii).

[~~33~~] (36) "Revocation" means the termination by action of the division of a licensee's privilege to drive a motor vehicle.

[~~34~~] (37) (a) "School bus" means a commercial motor vehicle used to transport pre-primary, primary, or secondary school students to and from home and school, or to and from school sponsored events.

(b) "School bus" does not include a bus used as a common carrier as defined in Section 59-12-102.

[~~35~~] (38) "Suspension" means the temporary withdrawal by action of the division of a licensee's privilege to drive a motor vehicle.

[~~(36)~~] (39) "Taxicab" means any class D motor vehicle transporting any number of passengers for hire and that is subject to state or federal regulation as a taxi.

Section 2. Section 53-3-109 is amended to read:

53-3-109. Records -- Access -- Fees -- Rulemaking.

(1) (a) Except as provided in this section, all records of the division shall be classified and disclosed in accordance with Title 63G, Chapter 2, Government Records Access and Management Act.

(b) The division may only disclose personal identifying information:

(i) when the division determines it is in the interest of the public safety to disclose the information; and

(ii) in accordance with the federal Driver's Privacy Protection Act of 1994, 18 U.S.C. Chapter 123.

(c) The division may disclose personal identifying information:

(i) to a licensed private investigator holding a valid agency license, with a legitimate business need;

(ii) to an insurer, insurance support organization, or a self-insured entity, or its agents, employees, or contractors that issues any motor vehicle insurance under Title 31A, Chapter 22, Part 3, Motor Vehicle Insurance, for use in connection with claims investigation activities, antifraud activities, rating, or underwriting for any person issued a license certificate under this chapter; or

(iii) to a depository institution as defined in Section 7-1-103 for use in accordance with the federal Driver's Privacy Protection Act of 1994, 18 U.S.C. Chapter 123.

(2) (a) A person who receives personal identifying information shall be advised by the division that the person may not:

(i) disclose the personal identifying information from that record to any other person; or

(ii) use the personal identifying information from that record for advertising or solicitation purposes.

(b) Any use of personal identifying information by an insurer or insurance support organization, or by a self-insured entity or its agents, employees, or contractors not authorized by Subsection (1)(c)(ii) is:

(i) an unfair marketing practice under Section 31A-23a-402; or

(ii) an unfair claim settlement practice under Subsection 31A-26-303(3).

(3) (a) Notwithstanding the provisions of Subsection (1)(b), the division or its designee may disclose portions of a driving record, in accordance with this Subsection (3), to:

(i) an insurer as defined under Section 31A-1-301, or a designee of an insurer, for purposes of assessing driving risk on the insurer's current motor vehicle insurance policyholders[-];

(ii) an employer or a designee of an employer, for purposes of monitoring the driving record and status of current employees who drive as a responsibility of the employee's employment if the requester demonstrates that the requester has obtained the written consent of the individual to whom the information pertains; and

(iii) an employer or the employer's agents to obtain or verify information relating to a holder of a commercial driver license that is required under 49 U.S.C. Chapter 313.

(b) ~~[The]~~ A disclosure under Subsection (3)(a)(i) shall:

(i) include the licensed driver's name, driver license number, date of birth, and an indication of whether the driver has had a moving traffic violation that is a reportable violation, as defined under Section 53-3-102 during the previous month;

(ii) be limited to the records of drivers who, at the time of the disclosure, are covered under a motor vehicle insurance policy of the insurer; and

(iii) be made under a contract with the insurer or a designee of an insurer.

(c) A disclosure under Subsection (3)(a)(ii) or (iii) shall:

(i) include the licensed driver's name, driver license number, date of birth, and an indication of whether the driver has had a moving traffic violation that is a reportable violation, as defined under Section 53-3-102, during the previous month;

(ii) be limited to the records of a current employee of an employer;

(iii) be made under a contract with the employer or a designee of an employer; and

(iv) include an indication of whether the driver has had a change reflected in the driver's driving status or license class.

~~[(e)]~~ (d) The contract under Subsection (3)(b)(iii) or (c)(iii) shall specify:

(i) the criteria for searching and compiling the driving records being requested;

(ii) the frequency of the disclosures;

(iii) the format of the disclosures, which may be in bulk electronic form; and

(iv) a reasonable charge for the driving record disclosures under this Subsection (3).

(4) The division may:

(a) collect fees in accordance with Section 53-3-105 for searching and compiling its files or furnishing a report on the driving record of a person;

(b) prepare under the seal of the division and deliver upon request, a certified copy of any record of the division, and charge a fee under Section 63J-1-504 for each document authenticated; and

(c) charge reasonable fees established in accordance with the procedures and requirements of Section 63J-1-504 for disclosing personal identifying information under Subsection (1)(c).

(5) Each certified copy of a driving record furnished in accordance with this section is admissible in any court proceeding in the same manner as the original.

(6) (a) A driving record furnished under this section may only report on the driving record of a person for a period of 10 years.

(b) Subsection (6)(a) does not apply to court or law enforcement reports, reports of commercial driver license violations, or reports for commercial driver license holders.

(7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules to designate:

(a) what information shall be included in a report on the driving record of a person;

(b) the form of a report or copy of the report which may include electronic format;

(c) the form of a certified copy, as required under Section 53-3-216, which may include electronic format;

(d) the form of a signature required under this chapter which may include electronic format;

(e) the form of written request to the division required under this chapter which may include electronic format;

(f) the procedures, requirements, and formats for disclosing personal identifying information under Subsection (1)(c); and

(g) the procedures, requirements, and formats necessary for the implementation of Subsection (3).

(8) (a) It is a class B misdemeanor for a person to knowingly or intentionally access, use, disclose, or disseminate a record created or maintained by the division or any information contained in a record created or maintained by the division for a purpose prohibited or not permitted by statute, rule, regulation, or policy of a governmental entity.

(b) A person who discovers or becomes aware of any unauthorized use of records created or maintained by the division shall inform the commissioner and the division director of the unauthorized use.

Section 3. Section 53-3-221 is amended to read:

53-3-221. Offenses that may result in denial, suspension, disqualification, or revocation of license -- Additional grounds for suspension -- Point system for

traffic violations -- Notice and hearing -- Reporting of traffic violation procedures.

(1) By following the procedures in Title 63G, Chapter 4, Administrative Procedures Act, the division may deny, suspend, disqualify, or revoke the license or permit of any person without receiving a record of the person's conviction of crime when the division has been notified or has reason to believe the person:

(a) has committed any offenses for which mandatory suspension or revocation of a license is required upon conviction under Section 53-3-220;

(b) has, by reckless or unlawful driving of a motor vehicle, caused or contributed to an accident resulting in death or injury to any other person, or serious property damage;

(c) is incompetent to drive a motor vehicle or mobility vehicle or has a mental or physical disability rendering it unsafe for the person to drive a motor vehicle or mobility vehicle upon the highways;

(d) has committed a serious violation of the motor vehicle laws of this state;

(e) has knowingly committed a violation of Section 53-3-229; or

(f) has been convicted of serious offenses against traffic laws governing the movement of motor vehicles with a frequency that indicates a disrespect for traffic laws and a disregard for the safety of other persons on the highways.

(2) (a) The division may suspend the license of a person under Subsection (1) when the person has failed to comply with the terms stated on a traffic citation issued in this state, except this Subsection (2) does not apply to highway weight limit violations or violations of law governing the transportation of hazardous materials.

(b) This Subsection (2) applies to parking and standing violations only if a court has issued a warrant for the arrest of a person for failure to post bail, appear, or otherwise satisfy the terms of the citation.

(c) (i) This Subsection (2) may not be exercised unless notice of the pending suspension of the driving privilege has been sent at least 10 days previously to the person at the address provided to the division.

(ii) After clearance by the division, a report authorized by Section 53-3-104 may not contain any evidence of a suspension that occurred as a result of failure to comply with the terms stated on a traffic citation.

(3) (a) The division may suspend the license of a person under Subsection (1) when the division has been notified by a court that the person has an outstanding unpaid fine, an outstanding incomplete restitution requirement, or an outstanding warrant levied by order of a court.

(b) The suspension remains in effect until the division is notified by the court that the order has been satisfied.

(c) After clearance by the division, a report authorized by Section 53-3-104 may not contain any evidence of the suspension.

(d) The provisions of Subsection (3)(c) do not apply to:

(i) a CDIP or CDL license holder; or

(ii) a violation that occurred in a commercial motor vehicle.

(4) (a) The division shall make rules establishing a point system as provided for in this Subsection (4).

(b) (i) The division shall assign a number of points to each type of moving traffic violation as a measure of its seriousness.

(ii) The points shall be based upon actual relationships between types of traffic violations and motor vehicle traffic accidents.

(iii) Except as provided in Subsection (4)(b)(iv), the division may not assess points against a person's driving record for a conviction of a traffic violation:

(A) that occurred in another state; and

(B) that was committed on or after July 1, 2011.

(iv) The provisions of Subsection (4)(b)(iii) do not apply to:

(A) a reckless or impaired driving violation or a speeding violation for exceeding the posted speed limit by 21 or more miles per hour; or

(B) an offense committed in another state which, if committed within Utah, would result in the mandatory suspension or revocation of a license upon conviction under Section 53-3-220.

(c) Every person convicted of a traffic violation shall have assessed against the person's driving record the number of points that the division has assigned to the type of violation of which the person has been convicted, except that the number of points assessed shall be decreased by 10% if on the abstract of the court record of the conviction the court has graded the severity of violation as minimum, and shall be increased by 10% if on the abstract the court has graded the severity of violation as maximum.

(d) (i) A separate procedure for assessing points for speeding offenses shall be established by the division based upon the severity of the offense.

(ii) The severity of a speeding violation shall be graded as:

(A) "minimum" for exceeding the posted speed limit by up to 10 miles per hour;

(B) "intermediate" for exceeding the posted speed limit by from 11 to 20 miles per hour; and

(C) "maximum" for exceeding the posted speed limit by 21 or more miles per hour.

(iii) Consideration shall be made for assessment of no points on minimum speeding violations, except for speeding violations in school zones.

(e) (i) Points assessed against a person's driving record shall be deleted for violations occurring before a time limit set by the division.

(ii) The time limit may not exceed three years.

(iii) The division may also delete points to reward violation-free driving for periods of time set by the division.

(f) (i) By publication in two newspapers having general circulation throughout the state, the division shall give notice of the number of points it has assigned to each type of traffic violation, the time limit set by the division for the deletion of points, and the point level at which the division will generally take action to deny or suspend under this section.

(ii) The division may not change any of the information provided above regarding points without first giving new notice in the same manner.

(5) (a) (i) If the division finds that the license of a person should be denied, suspended, disqualified, or revoked under this section, the division shall immediately notify the licensee in a manner specified by the division and afford the person an opportunity for a hearing in the county where the licensee resides.

(ii) The hearing shall be documented, and the division or its authorized agent may administer oaths, may issue subpoenas for the attendance of witnesses and the production of relevant books and papers, and may require a reexamination of the licensee.

(iii) One or more members of the division may conduct the hearing, and any decision made after a hearing before any number of the members of the division is as valid as if made after a hearing before the full membership of the division.

(iv) After the hearing the division shall either rescind or affirm its decision to deny, suspend, disqualify, or revoke the license.

(b) The denial, suspension, disqualification, or revocation of the license remains in effect pending qualifications determined by the division regarding a person:

(i) whose license has been denied or suspended following reexamination;

(ii) who is incompetent to drive a motor vehicle;

(iii) who is afflicted with mental or physical infirmities that might make him dangerous on the highways; or

(iv) who may not have the necessary knowledge or skill to drive a motor vehicle safely.

(6) (a) Subject to Subsection (6)(d), the division shall suspend a person's license when the division receives notice from the Office of Recovery Services that the Office of Recovery Services has ordered the suspension of the person's license.

(b) A suspension under Subsection (6)(a) shall remain in effect until the division receives notice from the Office of Recovery Services that the Office

of Recovery Services has rescinded the order of suspension.

(c) After an order of suspension is rescinded under Subsection (6)(b), a report authorized by Section 53-3-104 may not contain any evidence of the suspension.

(d) (i) If the division suspends a person's license under this Subsection (6), the division shall, upon application, issue a temporary limited driver license to the person if that person needs a driver license for employment, education, or child visitation.

(ii) The temporary limited driver license described in this section:

(A) shall provide that the person may operate a motor vehicle only for the purpose of driving to or from the person's place of employment, education, or child visitation;

(B) shall prohibit the person from driving a motor vehicle for any purpose other than a purpose described in Subsection (6)(d)(ii)(A); and

(C) shall expire 90 days after the day on which the temporary limited driver license is issued.

(iii) (A) During the period beginning on the day on which a temporary limited driver license is issued under this Subsection (6), and ending on the day that the temporary limited driver license expires, the suspension described in this Subsection (6) only applies if the person who is suspended operates a motor vehicle for a purpose other than employment, education, or child visitation.

(B) Upon expiration of a temporary limited driver license described in this Subsection (6)(d):

(I) a suspension described in Subsection (6)(a) shall be in full effect until the division receives notice, under Subsection (6)(b), that the order of suspension is rescinded; and

(II) a person suspended under Subsection (6)(a) may not drive a motor vehicle for any reason.

(iv) The division is not required to issue a limited driver license to a person under this Subsection (6)(d) if there are other legal grounds for the suspension of the person's driver license.

(v) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement the provisions of this part.

(7) (a) The division may suspend or revoke the license of any resident of this state upon receiving notice of the conviction of that person in another state of an offense committed there that, if committed in this state, would be grounds for the suspension or revocation of a license.

(b) The division may, upon receiving a record of the conviction in this state of a nonresident driver of a motor vehicle or motorboat of any offense under the motor vehicle laws of this state, forward a certified copy of the record to the motor vehicle

administrator in the state where the person convicted is a resident.

(8) (a) The division may suspend or revoke the license of any nonresident to drive a motor vehicle in this state for any cause for which the license of a resident driver may be suspended or revoked.

(b) Any nonresident who drives a motor vehicle upon a highway when the person's license has been suspended or revoked by the division is guilty of a class C misdemeanor.

(9) (a) The division may not deny or suspend the license of any person for a period of more than one year except:

(i) for failure to comply with the terms of a traffic citation under Subsection (2);

(ii) upon receipt of a second or subsequent order suspending juvenile driving privileges under Section 53-3-219;

(iii) when extending a denial or suspension upon receiving certain records or reports under Subsection 53-3-220(2);

(iv) for failure to give and maintain owner's or operator's security under Section 41-12a-411;

(v) when the division suspends the license under Subsection (6); or

(vi) when the division denies the license under Subsection (14).

(b) The division may suspend the license of a person under Subsection (2) until the person shows satisfactory evidence of compliance with the terms of the traffic citation.

(10) (a) By following the procedures in Title 63G, Chapter 4, Administrative Procedures Act, the division may suspend the license of any person without receiving a record of the person's conviction for a crime when the division has reason to believe that the person's license was granted by the division through error or fraud or that the necessary consent for the license has been withdrawn or is terminated.

(b) The procedure upon suspension is the same as under Subsection (5), except that after the hearing the division shall either rescind its order of suspension or cancel the license.

(11) (a) The division, having good cause to believe that a licensed driver is incompetent or otherwise not qualified to be licensed, may upon notice in a manner specified by the division of at least five days to the licensee require him to submit to an examination.

(b) Upon the conclusion of the examination the division may suspend or revoke the person's license, permit him to retain the license, or grant a license subject to a restriction imposed in accordance with Section 53-3-208.

(c) Refusal or neglect of the licensee to submit to an examination is grounds for suspension or revocation of the licensee's license.

(12) (a) Except as provided in Subsection (12)(b), a report authorized by Section 53-3-104 may not

contain any evidence of a conviction for speeding on an interstate system in this state if the conviction was for a speed of 10 miles per hour or less, above the posted speed limit and did not result in an accident, unless authorized in a manner specified by the division by the individual whose report is being requested.

(b) The provisions of Subsection (12)(a) do not apply for:

- (i) a CDIP or CDL license holder; or
- (ii) a violation that occurred in a commercial motor vehicle.

(13) (a) By following the procedures in Title 63G, Chapter 4, Administrative Procedures Act, the division may suspend the license of a person if it has reason to believe that the person is the owner of a motor vehicle for which security is required under Title 41, Chapter 12a, Financial Responsibility of Motor Vehicle Owners and Operators Act, and has driven the motor vehicle or permitted it to be driven within this state without the security being in effect.

(b) The division may suspend a driving privilege card holder's driving privilege card if the division receives notification from the Motor Vehicle Division that:

- (i) the driving privilege card holder is the registered owner of a vehicle; and
- (ii) the driving privilege card holder's vehicle registration has been revoked under Subsection 41-1a-110(2)(a)(ii)(A).

(c) Section 41-12a-411 regarding the requirement of proof of owner's or operator's security applies to persons whose driving privileges are suspended under this Subsection (13).

(14) The division may deny an individual's license if the person fails to comply with the requirement to downgrade the person's CDL to a class D license under Section 53-3-410.1.

(15) The division may deny a person's class A, B, C, or D license if the person fails to comply with the requirement to have a K restriction removed from the person's license.

(16) Any suspension or revocation of a person's license under this section also disqualifies any license issued to that person under Part 4, Uniform Commercial Driver License Act.

Section 4. Section 53-3-402 is amended to read:

53-3-402. Definitions.

As used in this part:

- (1) "Alcohol" means any substance containing any form of alcohol, including ethanol, methanol, propanol, and isopropanol.
- (2) "Alcohol concentration" means the number of grams of alcohol per:
 - (a) 100 milliliters of blood;

(b) 210 liters of breath; or

(c) 67 milliliters of urine.

~~[(3) "Commercial driver instruction permit" or "CDIP" means a permit issued under Section 53-3-408.]~~

~~[(4) (3) "Commercial driver license information system" or "CDLIS" means the information system established under Title XII, Pub. L. 99-570, the Commercial Motor Vehicle Safety Act of 1986, as a clearinghouse for information related to the licensing and identification of commercial motor vehicle drivers.~~

~~[(5) (4) "Controlled substance" means any substance so classified under Section 102(6) of the Controlled Substance Act, 21 U.S.C. 802(6), and includes all substances listed on the current Schedules I through V of 21 C.F.R., Part 1308 as they may be revised from time to time.~~

~~[(6) (5) "Employee" means any driver of a commercial motor vehicle, including:~~

~~(a) full-time, regularly employed drivers;~~

~~(b) casual, intermittent, or occasional drivers;~~

~~(c) leased drivers; and~~

~~(d) independent, owner-operator contractors while in the course of driving a commercial motor vehicle who are either directly employed by or under lease to an employer.~~

~~[(7) (6) "Employer" means any individual or person including the United States, a state, or a political subdivision of a state, who owns or leases a commercial motor vehicle, or assigns an individual to drive a commercial motor vehicle.~~

~~[(8) (7) "Felony" means any offense under state or federal law that is punishable by death or imprisonment for a term of more than one year.~~

~~[(9) (8) "Foreign jurisdiction" means any jurisdiction other than the United States or a state of the United States.~~

~~[(10) (9) "Gross vehicle weight rating" or "GVWR" means the value specified by the manufacturer as the maximum loaded weight of a single vehicle or GVWR of a combination or articulated vehicle, and includes the GVWR of the power unit plus the total weight of all towed units and the loads on those units.~~

~~[(11) (10) "Hazardous material" has the same meaning as defined under 49 C.F.R. Sec. 383.5.~~

~~[(12) (11) "Imminent hazard" means the existence of a condition, practice, or violation that presents a substantial likelihood that death, serious illness, severe personal injury, or a substantial endangerment to health, property, or the environment is expected to occur immediately, or before the condition, practice, or violation can be abated.~~

~~[(13) (12) "Medical certification status" means the medical certification of a commercial driver license holder or commercial motor vehicle operator in any of the following categories:~~

(a) Non-excepted interstate. A person shall certify that the person:

(i) operates or expects to operate in interstate commerce;

(ii) is both subject to and meets the qualification requirements under 49 C.F.R. Part 391; and

(iii) is required to obtain a medical examiner's certificate under 49 C.F.R. Sec. 391.45.

(b) Excepted interstate. A person shall certify that the person:

(i) operates or expects to operate in interstate commerce, but engages exclusively in transportation or operations excepted under 49 C.F.R. Sec. 390.3(f), 391.2, 391.68, or 398.3 from all or parts of the qualification requirements of 49 C.F.R. Part 391; and

(ii) is not required to obtain a medical examiner's certificate under 49 C.F.R. Sec. 391.45.

(c) Non-excepted intrastate. A person shall certify that the person:

(i) operates only in intrastate commerce; and

(ii) is subject to state driver qualification requirements under Sections 53-3-303.5, 53-3-304, and 53-3-414.

(d) Excepted intrastate. A person shall certify that the person:

(i) operates in intrastate commerce; and

(ii) engages exclusively in transportation or operations excepted from all parts of the state driver qualification requirements.

~~[(14)]~~ (13) "NDR" means the National Driver Register.

~~[(15)]~~ (14) "Nonresident CDL" means a commercial driver license issued by a state to an individual who resides in a foreign jurisdiction.

~~[(16)]~~ (15) "Out-of-service order" means a temporary prohibition against driving a commercial motor vehicle.

~~[(17)]~~ (16) "Port-of-entry agent" has the same meaning as provided in Section 72-1-102.

~~[(18)]~~ (17) "Serious traffic violation" means a conviction of any of the following:

(a) speeding 15 or more miles per hour above the posted speed limit;

(b) reckless driving as defined by state or local law;

(c) improper or erratic traffic lane changes;

(d) following the vehicle ahead too closely;

(e) any other motor vehicle traffic law which arises in connection with a fatal traffic accident;

(f) operating a commercial motor vehicle without a CDL or a CDIP;

(g) operating a commercial motor vehicle without the proper class of CDL or CDL endorsement for the type of vehicle group being operated or for the passengers or cargo being transported;

(h) operating a commercial motor vehicle without a CDL or CDIP license certificate in the driver's possession in violation of Section 53-3-404;

(i) using a handheld wireless communication device in violation of Section 41-6a-1716 while operating a commercial motor vehicle; or

(j) using a hand-held mobile telephone while operating a commercial motor vehicle in violation of 49 C.F.R. Sec. 392.82.

~~[(19)]~~ (18) "State" means a state of the United States, the District of Columbia, any province or territory of Canada, or Mexico.

~~[(20)]~~ (19) "United States" means the 50 states and the District of Columbia.

Section 5. Section 53-3-410.1 is amended to read:

53-3-410.1. Medical certification requirements.

(1) A person whose medical certification status is:

(a) "non-excepted interstate" under Subsection 53-3-402~~[(13)]~~(12)(a) is required to provide the division a medical self certification and an updated medical examiner's certificate under 49 C.F.R. Sec. 391.45 upon request by the division;

(b) "excepted interstate" under Subsection 53-3-402~~[(13)]~~(12)(b) is required to provide to the division a medical self certification upon request by the division;

(c) "non-excepted intrastate" under Subsection 53-3-402~~[(13)]~~(12)(c) is required to, upon request by the division:

(i) provide to the division a medical self certification; and

(ii) comply with the requirements of Section 53-3-303.5; or

(d) "excepted intrastate" under Subsection 53-3-402~~[(13)]~~(12)(b) is required to, upon request by the division:

(i) provide to the division a medical self certification; and

(ii) (A) provide to the division an updated medical examiner's certificate under 49 C.F.R. Sec. 391.45; or

(B) comply with the requirements of Section 53-3-303.5.

(2) A request by the division for a person to comply with Subsection (1) shall correspond with the expiration of the previously submitted medical examiner's certificate.

(3) If a person fails to comply with a request under this section, the person shall be required to downgrade the person's CDL to a class D license.

(4) Failure to comply with the requirement of this section shall result in the denial of the license under Section 53-3-221.

Section 6. Section 53-3-420 is amended to read:

53-3-420. Driver's driving record available for certain purposes.

The division shall provide ~~[full information regarding the driving record]~~ the CDL MVR of any holder of a CDIP or CDL within 10 days of a request to:

~~[(1) the driver license administrator of any other state requesting that information;]~~

(1) another state;

(2) ~~[any employer or prospective employer of a person to drive a commercial motor vehicle upon request]~~ a motor carrier, prospective motor carrier, or authorized agent of a motor carrier or prospective motor carrier after notification to the driver and payment of a fee under Section 53-3-105;

(3) ~~[insurers of commercial motor vehicle drivers]~~ the subject of the record upon request and payment of a fee under Section 53-3-105; and

(4) the Secretary of the United States Department of Transportation.

Section 7. Section 53-3-709 is amended to read:

53-3-709. Amendment of compact.

(1) (a) This compact may be amended from time to time.

(b) Amendments shall be presented in resolution form to the chairman of the board of compact administrators and may be initiated by one or more party jurisdictions.

(2) Adoption of an amendment requires endorsement of all party jurisdictions and becomes effective 30 days after the date of the last endorsement.

(3) (a) Failure of a party jurisdiction to respond to the compact chairman within 120 days after receipt of the proposed amendment constitutes endorsement.

(b) A report authorized by Section 53-3-104 may not contain any evidence of a suspension that occurred as a result of failure to comply with the requirements of this part.

(c) The provisions of Subsection (3)(b) do not apply to:

(i) a CDIP or CDL license holder; or

(ii) a violation that occurred in a commercial motor vehicle.

Section 8. Section 72-9-107 is amended to read:

72-9-107. Medical exemptions for farm vehicle operators.

Except as provided in Section 53-3-206, an operator of a farm vehicle or combination of farm vehicles is exempt from additional requirements for physical qualifications, medical examinations, and medical certification if the farm vehicle or combination of farm vehicles being operated is:

(1) under 26,001 pounds gross vehicle weight rating;

(2) not operated as a commercial motor vehicle in accordance with Subsection 53-3-102~~(4)~~(6)(b)(ii); and

(3) not operated as an interstate commercial motor vehicle.

Section 9. Effective date.

This bill takes effect on July 1, 2015.

Section 10. Coordinating H.B. 26 with S.B. 20 -- Substantive and technical amendments.

If this H.B. 26 and S.B. 20, Uniform Driver License Act Amendments, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel shall prepare the Utah Code database for publication by amending Subsection 53-3-102(3) to read:

“(3) “Commercial driver instruction permit” or “CDIP” means a commercial learner permit:

(a) issued under Section 53-3-408; or

(b) issued by a state or other jurisdiction of domicile in compliance with the standards contained in 49 C.F.R. Part 383.”

CHAPTER 53**H. B. 33**

Passed February 12, 2015

Approved March 23, 2015

Effective March 23, 2015

**AMERICAN INDIAN-ALASKAN
NATIVE EDUCATION AMENDMENTS**

Chief Sponsor: Jack R. Draxler
 Senate Sponsor: Kevin T. Van Tassell
 Cosponsors: Kay L. McIff
 Michael E. Noel
 Marie H. Poulson
 Angela Romero
 Douglas V. Sagers
 Mark A. Wheatley

LONG TITLE**General Description:**

This bill modifies provisions related to American Indian-Alaskan Native education.

Highlighted Provisions:

This bill:

- ▶ enacts a chapter providing for an American Indian-Alaskan Native Education State Plan, including:
 - defining terms;
 - providing the position of American Indian-Alaskan Native Public Education Liaison;
 - requiring reporting to the Native American Legislative Liaison Committee;
 - creating the American Indian-Alaskan Native Education Commission;
 - establishing the duties of the commission; and
 - providing for the adoption of a state plan to address the educational achievement gap of the state's American Indian-Alaskan Native students; and
- ▶ makes technical and conforming amendments.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

9-9-104.6, as last amended by Laws of Utah 2014, Chapter 387

ENACTS:

53A-31-101, Utah Code Annotated 1953
 53A-31-102, Utah Code Annotated 1953
 53A-31-201, Utah Code Annotated 1953
 53A-31-202, Utah Code Annotated 1953
 53A-31-203, Utah Code Annotated 1953
 53A-31-301, Utah Code Annotated 1953
 53A-31-302, Utah Code Annotated 1953

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

Section 1. Section 9-9-104.6 is amended to read:**9-9-104.6. Participation of state agencies in meetings with tribal leaders -- Contact information.**

(1) For at least three of the joint meetings described in Subsection 9-9-104.5(2)(a), the division shall coordinate with representatives of tribal governments and the entities listed in Subsection (2) to provide for the broadest participation possible in the joint meetings.

(2) The following may participate in all meetings described in Subsection (1):

(a) the chairs of the Native American Legislative Liaison Committee created in Section 36-22-1;

(b) the governor or the governor's designee;

(c) (i) the American Indian-Alaskan Native Health Liaison appointed in accordance with Section 26-7-2.5; or

(ii) if the American Indian-Alaskan Native Health Liaison is not appointed, a representative of the Department of Health appointed by the executive director of the Department of Health; [~~and~~]

(d) the American Indian-Alaskan Native Public Education Liaison appointed in accordance with Section 53A-31-201; and

~~(d)~~ (e) a representative appointed by the chief administrative officer of the following:

(i) the Department of Human Services;

(ii) the Department of Natural Resources;

(iii) the Department of Workforce Services;

(iv) the Governor's Office of Economic Development;

~~(v) the State Office of Education; and~~

(v) the State Board of Education; and

(vi) the State Board of Regents.

(3) (a) The chief administrative officer of the agencies listed in Subsection (3)(b) shall:

(i) designate the name of a contact person for that agency that can assist in coordinating the efforts of state and tribal governments in meeting the needs of the Native Americans residing in the state; and

(ii) notify the division:

(A) who is the designated contact person described in Subsection (3)(a)(i); and

(B) of any change in who is the designated contact person described in Subsection (3)(a)(i).

(b) This Subsection (3) applies to:

(i) the Department of Agriculture and Food;

(ii) the Department of Heritage and Arts;

(iii) the Department of Corrections;

- (iv) the Department of Environmental Quality;
- (v) the Department of Public Safety;
- (vi) the Department of Transportation;
- (vii) the Office of the Attorney General;
- (viii) the State Tax Commission; and
- (ix) any agency described in [Subsection] Subsections (2)(c) [~~or (d)~~] through (e).

(c) At the request of the division, a contact person listed in Subsection (3)(b) may participate in a meeting described in Subsection (1).

(4) (a) A participant under this section who is not a legislator may not receive compensation or benefits for the participant's service, but may receive per diem and travel expenses as allowed in:

- (i) Section 63A-3-106;
- (ii) Section 63A-3-107; and
- (iii) rules made by the Division of Finance according to Sections 63A-3-106 and 63A-3-107.

(b) Compensation and expenses of a participant who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

Section 2. Section 53A-31-101 is enacted to read:

**CHAPTER 31. AMERICAN
INDIAN-ALASKAN NATIVE EDUCATION
STATE PLAN**

Part 1. General Provisions

53A-31-101. Title.

This chapter is known as the "American Indian-Alaskan Native Education State Plan."

Section 3. Section 53A-31-102 is enacted to read:

53A-31-102. Definitions.

As used in this chapter:

(1) "Commission" means the American Indian-Alaskan Native Education Commission created in Section 53A-31-202.

(2) "Liaison" means the individual appointed under Section 53A-31-201.

(3) "Native American Legislative Liaison Committee" means the committee created in Section 36-22-1.

(4) "State plan" means the state plan adopted under Section 53A-31-301.

(5) "Superintendent" means the superintendent of public instruction appointed under Section 53A-1-301.

Section 4. Section 53A-31-201 is enacted to read:

Part 2. Liaison and Commission

53A-31-201. American Indian-Alaskan Native Public Education Liaison.

(1) Subject to budget constraints, the superintendent shall appoint an individual as the American Indian-Alaskan Native Public Education Liaison.

(2) The liaison shall work under the direction of the superintendent in the development and implementation of the state plan.

(3) The liaison shall annually report to the Native American Legislative Liaison Committee about:

- (a) the liaison's activities; and
- (b) the activities related to the education of American Indians and Alaskan Natives in the state's public school system and efforts to close the achievement gap.

Section 5. Section 53A-31-202 is enacted to read:

53A-31-202. Commission created.

(1) There is created a commission known as the "American Indian-Alaskan Native Education Commission." The commission shall consist of 16 members as follows:

- (a) the superintendent;
- (b) the liaison;
- (c) two individuals appointed by the State Board of Education that are coordinators funded in whole or in part under Title VII, Elementary and Secondary Education Act;
- (d) three members of the Native American Legislative Liaison Committee appointed by the chairs of the Native American Legislative Liaison Committee;
- (e) a representative of the Navajo Nation who resides in Utah selected by the Navajo Utah Commission;
- (f) a representative of the Ute Indian Tribe of the Uintah and Ouray Reservation who resides in Utah selected by the Uintah and Ouray Tribal Business Committee;

(g) a representative of the Paiute Indian Tribe of Utah who resides in Utah selected by the Paiute Indian Tribe of Utah Tribal Council;

(h) a representative of the Northwestern Band of the Shoshone Nation who resides in Utah selected by the Northwestern Band of the Shoshone Nation Tribal Council;

(i) a representative of the Confederated Tribes of the Goshute who resides in Utah selected by the Confederated Tribes of the Goshute Reservation Tribal Council;

(j) a representative of the Skull Valley Band of Goshute Indians who resides in Utah selected by the Skull Valley Band of Goshute Indian Tribal Executive Committee;

(k) a representative of the Ute Mountain Ute Tribe who resides in Utah selected by the Ute Mountain Ute Tribal Council;

(l) a representative of the San Juan Southern Paiute Tribe who resides in Utah selected by the San Juan Southern Paiute Tribal Council; and

(m) an appointee from the governor.

(2) Unless otherwise determined by the State Board of Education, the superintendent shall chair the commission.

(3) (a) The superintendent shall call meetings of the commission.

(b) Eight members of the commission constitute a quorum of the commission.

(c) The action of a majority of the commission at a meeting when a quorum is present constitutes action of the commission.

(4) If a vacancy occurs in the membership for any reason, the replacement shall be appointed in the same manner of the original appointment for the vacant position.

(5) The commission may adopt procedures or requirements for:

(a) voting, when there is a tie of the commission members; and

(b) the frequency of meetings.

(6) (a) A member of the commission may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(i) Section 63A-3-106;

(ii) Section 63A-3-107; and

(iii) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(b) Compensation and expenses of a participant who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

(7) The staff of the State Board of Education shall staff the commission.

(8) The commission shall be dissolved on December 31, 2015.

Section 6. Section 53A-31-203 is enacted to read:

53A-31-203. Duties of the commission.

(1) The commission shall develop a proposed state plan to be presented to the Native American Legislative Liaison Committee to address the educational achievement gap of the American Indian and Alaskan Native students in the state.

(2) The proposed state plan shall:

(a) identify the most critical academic needs of Utah's American Indian and Alaskan Native students;

(b) recommend a course of action to meet the identified needs;

(c) be based on, and include, a summary of the best available evidence and most recent data;

(d) focus on specific actions;

(e) identify existing programs and resources;

(f) prioritize more efficient and better use of existing programs and resources to meet the needs of American Indian and Alaskan Native students;

(g) include ongoing reporting to the Native American Legislative Liaison Committee;

(h) include a plan to hire, retain, and promote highly qualified teachers as quickly as feasible; and

(i) add a process for sharing data with tribal education leaders.

(3) The commission shall present the proposed state plan developed under Subsection (1) to the Native American Legislative Liaison Committee by no later than October 31, 2015.

Section 7. Section 53A-31-301 is enacted to read:

Part 3. State Plan

53A-31-301. Adoption of state plan.

(1) After receipt of the proposed state plan from the commission in accordance with Section 53A-31-203, the Native American Legislative Liaison Committee may review the proposed state plan and make changes to the proposed state plan that the Native American Legislative Liaison Committee considers beneficial to addressing the educational achievement gap of the state's American Indian and Alaskan Native students.

(2) (a) The Native American Legislative Liaison Committee shall submit the proposed state plan as modified by the Native American Legislative Liaison Committee to the Utah State Board of Education.

(b) The Utah State Board of Education shall, by majority vote, within 60 days after receipt of the state plan under Subsection (2)(a), adopt, modify, or reject the state plan. If the Utah State Board of Education does not act within 60 days after receipt of the state plan, the state plan is considered adopted by the Utah State Board of Education.

(3) The Native American Legislative Liaison Committee may prepare legislation to implement the state plan adopted under this section.

Section 8. Section 53A-31-302 is enacted to read:

53A-31-302. Changes to state plan.

(1) The Native American Legislative Liaison Committee may recommend to the Utah State Board of Education changes to the state plan adopted under Section 53A-31-301 to ensure that the state plan continues to meet the academic needs of the state's American Indian and Alaskan Native students.

(2) The Native American Legislative Liaison Committee may recommend to the superintendent

that the commission be reconstituted for an 18-month period if the Native American Legislative Liaison Committee determines that a substantial review of the state plan is necessary. If reconstituted under this Subsection (2), the commission shall comply with the requirements of Part 2, Liaison and Commission.

Section 9. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

CHAPTER 54**H. B. 48**

Passed March 12, 2015
Approved March 23, 2015
Effective May 12, 2015

POWDERED ALCOHOL AMENDMENTS

Chief Sponsor: Steve Eliason
Senate Sponsor: Curtis S. Bramble

LONG TITLE**General Description:**

This bill modifies the Alcoholic Beverage Control Act to address powdered alcohol.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ prohibits certain actions related to powdered alcohol; and
- ▶ provides exemptions.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

32B-4-424, Utah Code Annotated 1953

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

Section 1. Section 32B-4-424 is enacted to read:**32B-4-424. Powdered alcohol.**

(1) As used in this section, “powdered alcohol” means a product that is in a powdered or crystalline form and contains any amount of alcohol.

(2) It is unlawful for a person to use, offer for use, purchase, offer to purchase, sell, offer to sell, furnish, or possess powdered alcohol for human consumption.

(3) It is unlawful for a holder of a retail license to use powdered alcohol as an alcoholic product.

(4) This section does not apply to the use of powdered alcohol for a commercial use specifically approved by state law or bona fide research purposes by a:

(a) health care practitioner that operates primarily for the purpose of conducting scientific research;

(b) department, commission, board, council, agency, institution, division, office, committee, authority, laboratory, library, unit, bureau, panel, or other administrative unit of the state, including a state institution of higher education listed in Section 53B-2-101;

(c) private college or university research facility;
or

(d) pharmaceutical or biotechnology company.

CHAPTER 55**H. B. 72**

Passed March 4, 2015
 Approved March 23, 2015
 Effective May 12, 2015

BALLOT PUBLISHING AMENDMENTS

Chief Sponsor: John Knotwell
 Senate Sponsor: Alvin B. Jackson

LONG TITLE**General Description:**

This bill amends provisions of the Election Code relating to taking a photograph of a ballot.

Highlighted Provisions:

This bill:

- ▶ makes it a class C misdemeanor to take a photograph of a ballot, other than the voter's own ballot, at a polling place;
- ▶ allows an individual to take, share, or publish a photograph of the individual's ballot; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

20A-3-504, as last amended by Laws of Utah 1993, Chapter 38

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

Section 1. Section 20A-3-504 is amended to read:**20A-3-504. Violations -- Penalties.**

(1) Except as allowed by Subsection (3) or Section 20A-3-108, [a person] an individual is guilty of a class C misdemeanor if the individual:

(a) [he] allows [his] the individual's ballot to be seen by [any other person] another with [an] the intent to reveal how [he] the individual is about to vote;

(b) [he] states falsely that [he] the individual is unable to mark [his] the individual's ballot;

(c) [he] interferes or attempts to interfere with any [person] individual who is inside the voting booth or who is marking a ballot; [or]

(d) [he] induces or attempts to induce any voter who is inside a voting booth or who is marking a ballot to vote to show how [he] the voter marked [his] the voter's ballot[.]; or

(e) takes a photograph of a ballot, other than the individual's own ballot, at a polling place.

(2) The election judges and clerks shall report any [person violating] individual who violates this section to the county attorney or district attorney having state criminal jurisdiction for prosecution.

(3) Subsection (1) does not prohibit an individual from transferring a photograph of the individual's

own ballot in a manner that allows the photograph to be viewed by the individual or another.

CHAPTER 56**H. B. 73**

Passed February 27, 2015

Approved March 23, 2015

Effective May 12, 2015

NEPOTISM AMENDMENTS

Chief Sponsor: Bruce R. Cutler

Senate Sponsor: Jani Iwamoto

LONG TITLE**General Description:**

This bill amends provisions prohibiting a public officer from employing a relative.

Highlighted Provisions:

This bill:

- ▶ amends the definition of “relative”;
- ▶ revises nepotism provisions; and
- ▶ makes technical and conforming amendments.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

52-3-1, as last amended by Laws of Utah 2010, Chapter 324

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

Section 1. Section 52-3-1 is amended to read:**52-3-1. Employment of relatives prohibited -- Exceptions.**

(1) For purposes of this section:

(a) “Appointee” means an employee whose salary, wages, pay, or compensation is paid from public funds.

(b) “Chief administrative officer” means the person who has ultimate responsibility for the operation of the department or agency of the state or a political subdivision.

(c) “Public officer” means a person who holds a position that is compensated by public funds.

(d) “Relative” means a father, mother, husband, wife, son, daughter, sister, brother, grandfather, grandmother, uncle, aunt, nephew, niece, grandson, granddaughter, first cousin, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, or daughter-in-law.

(2) (a) No public officer may employ, appoint, or vote for or recommend the appointment of a relative in or to any position or employment, when the salary, wages, pay, or compensation of the appointee will be paid from public funds and the appointee will be directly supervised by a relative, except as follows:

(i) the appointee is eligible or qualified to be employed by a department or agency of the state or a political subdivision of the state as a result of his

compliance with civil service laws or regulations, or merit system laws or regulations;

(ii) the appointee will be compensated from funds designated for vocational training;

(iii) the appointee will be employed for a period of 12 weeks or less;

(iv) the appointee is a volunteer as defined by the employing entity; or

(v) the chief administrative officer determines that the appointee is the only or best person available, qualified, or eligible for the position~~;~~

~~[(vi) the chief administrative officer determines that the public officer is the only person available or best qualified to perform supervisory functions for the appointee.]~~

(b) No public officer may directly supervise an appointee who is a relative when the salary, wages, pay, or compensation of the relative will be paid from public funds, except as follows:

(i) the relative was appointed or employed before the public officer assumed his position, if the relative’s appointment did not violate the provisions of this chapter in effect at the time of his appointment;

(ii) the appointee is eligible or qualified to be employed by a department or agency of the state or a political subdivision of the state as a result of his compliance with civil service laws or regulations, or merit system laws or regulations;

(iii) the appointee will be compensated from funds designated for vocational training;

(iv) the appointee will be employed for a period of 12 weeks or less;

(v) the appointee is a volunteer as defined by the employing entity;

(vi) the appointee is the only person available, qualified, or eligible for the position; or

(vii) the chief administrative officer determines that the public officer is the only person available or best qualified to perform supervisory functions for the appointee.

(c) When a public officer supervises a relative under Subsection (2)(b):

(i) the public officer shall make a complete written disclosure of the relationship to the chief administrative officer of the agency or institution; and

(ii) the public officer who exercises authority over a relative may not evaluate the relative’s job performance or recommend salary increases for the relative.

(3) No appointee may accept or retain employment if he is paid from public funds, and he is under the direct supervision of a relative, except as follows:

(a) the relative was appointed or employed before the public officer assumed his position, if the

relative's appointment did not violate the provisions of this chapter in effect at the time of his appointment;

(b) the appointee was or is eligible or qualified to be employed by a department or agency of the state or a political subdivision of the state as a result of his compliance with civil service laws or regulations, or merit system laws or regulations;

(c) the appointee is the only person available, qualified, or eligible for the position;

(d) the appointee is compensated from funds designated for vocational training;

(e) the appointee is employed for a period of 12 weeks or less;

(f) the appointee is a volunteer as defined by the employing entity; or

(g) the chief administrative officer has determined that the appointee's relative is the only person available or qualified to supervise the appointee.

CHAPTER 57**H. B. 74**

Passed February 20, 2015

Approved March 23, 2015

Effective May 12, 2015

**CONSENT DEFINITION
FOR SEXUAL OFFENSE**

Chief Sponsor: Angela Romero

Senate Sponsor: Todd Weiler

Cosponsors: Patrice M. Arent

Joel K. Briscoe

Rebecca Chavez-Houck

Sophia M. DiCaro

Susan Duckworth

Rebecca P. Edwards

Sandra Hollins

Brad King

Brian S. King

Justin J. Miller

Carol Spackman Moss

Marie H. Poulson

Mark A. Wheatley

LONG TITLE**General Description:**

This bill modifies the definition of consent in the Criminal Code regarding sexual offenses.

Highlighted Provisions:

This bill:

- ▶ amends the definition of “without consent of the victim” regarding sexual offenses in the following provisions:
 - when the defendant knows the victim is unconscious or unaware, the provision requiring proof that the victim has not consented is removed; and
 - when the defendant knows that the victim is incapable of understanding or resisting the offense, the cause of the incapacity includes any other reason, in addition to the current reasons of mental disease or defect.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

76-5-406, as last amended by Laws of Utah 2014, Chapters 135 and 141

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

Section 2. Section 76-5-406 is amended to read:**76-5-406. Sexual offenses against the victim without consent of victim -- Circumstances.**

An act of sexual intercourse, rape, attempted rape, rape of a child, attempted rape of a child, object rape, attempted object rape, object rape of a child, attempted object rape of a child, sodomy, attempted sodomy, forcible sodomy, attempted forcible sodomy, sodomy on a child, attempted

sodomy on a child, forcible sexual abuse, attempted forcible sexual abuse, sexual abuse of a child, attempted sexual abuse of a child, aggravated sexual abuse of a child, attempted aggravated sexual abuse of a child, or simple sexual abuse is without consent of the victim under any of the following circumstances:

(1) the victim expresses lack of consent through words or conduct;

(2) the actor overcomes the victim through the actual application of physical force or violence;

(3) the actor is able to overcome the victim through concealment or by the element of surprise;

(4) (a) (i) the actor coerces the victim to submit by threatening to retaliate in the immediate future against the victim or any other person, and the victim perceives at the time that the actor has the ability to execute this threat; or

(ii) the actor coerces the victim to submit by threatening to retaliate in the future against the victim or any other person, and the victim believes at the time that the actor has the ability to execute this threat;

(b) as used in this Subsection (4), “to retaliate” includes threats of physical force, kidnapping, or extortion;

(5) ~~the victim has not consented and~~ the actor knows the victim is unconscious, unaware that the act is occurring, or physically unable to resist;

(6) the actor knows that as a result of mental disease or defect, or for any other reason the victim is at the time of the act incapable either of appraising the nature of the act or of resisting it;

(7) the actor knows that the victim submits or participates because the victim erroneously believes that the actor is the victim’s spouse;

(8) the actor intentionally impaired the power of the victim to appraise or control his or her conduct by administering any substance without the victim’s knowledge;

(9) the victim is younger than 14 years of age;

(10) the victim is younger than 18 years of age and at the time of the offense the actor was the victim’s parent, stepparent, adoptive parent, or legal guardian or occupied a position of special trust in relation to the victim as defined in Section 76-5-404.1;

(11) the victim is 14 years of age or older, but younger than 18 years of age, and the actor is more than three years older than the victim and entices or coerces the victim to submit or participate, under circumstances not amounting to the force or threat required under Subsection (2) or (4); or

(12) the actor is a health professional or religious counselor, as those terms are defined in this Subsection (12), the act is committed under the guise of providing professional diagnosis, counseling, or treatment, and at the time of the act the victim reasonably believed that the act was for medically or professionally appropriate diagnosis,

counseling, or treatment to the extent that resistance by the victim could not reasonably be expected to have been manifested; for purposes of this Subsection (12):

(a) “health professional” means an individual who is licensed or who holds himself or herself out to be licensed, or who otherwise provides professional physical or mental health services, diagnosis, treatment, or counseling including, but not limited to, a physician, osteopathic physician, nurse, dentist, physical therapist, chiropractor, mental health therapist, social service worker, clinical social worker, certified social worker, marriage and family therapist, professional counselor, psychiatrist, psychologist, psychiatric mental health nurse specialist, or substance abuse counselor; and

(b) “religious counselor” means a minister, priest, rabbi, bishop, or other recognized member of the clergy.

CHAPTER 58**H. B. 78**

Passed February 11, 2015

Approved March 23, 2015

Effective May 12, 2015

**GENERATOR SITE ACCESS
PERMITS AMENDMENTS**

Chief Sponsor: Brad L. Dee

Senate Sponsor: Ralph Okerlund

LONG TITLE**General Description:**

This bill modifies provisions of the Environmental Quality Code related to radioactive materials.

Highlighted Provisions:

This bill:

- ▶ modifies the criteria under which the director of the Division of Environmental Quality may grant a generator site access permit.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

19-3-106.4, as last amended by Laws of Utah 2013, Chapter 330

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

Section 1. Section 19-3-106.4 is amended to read:**19-3-106.4. Generator site access permits.**

(1) A generator or broker may not transfer radioactive waste to a commercial radioactive waste treatment or disposal facility in the state without first obtaining a generator site access permit from the director.

(2) The director may ~~not~~ grant a generator site access permit to a generator or broker ~~unless~~ if:

(a) the Nuclear Regulatory Commission or the agreement state where the generator's or broker's facility is located has the jurisdiction to regulate the generator's or broker's handling, packaging, or transporting of radioactive materials; or

(b) the generator or broker agrees to grant the division reasonable access to its facilities for the inspection and verification of radioactive waste using Nuclear Regulatory Commission approved accountability guidelines.

(3) The board may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, governing a generator site access permit program.

(4) (a) Except as provided in Subsection (4)(b), the division shall establish fees for generator site access permits in accordance with Section 63J-1-504.

(b) On and after July 1, 2001 through June 30, 2002, the fees are:

(i) \$1,300 for generators transferring 1,000 or more cubic feet of radioactive waste per year;

(ii) \$500 for generators transferring less than 1,000 cubic feet of radioactive waste per year; and

(iii) \$5,000 for brokers.

(c) The division shall deposit fees received under this section into the Environmental Quality Restricted Account created in Section 19-1-108.

(5) This section does not apply to a generator or broker transferring radioactive waste to a uranium mill licensed under 10 C.F.R. Part 40, Domestic Licensing of Source Material.

CHAPTER 59**H. B. 79**

Passed March 10, 2015
 Approved March 23, 2015
 Effective May 12, 2015

SAFETY BELT LAW AMENDMENTS

Chief Sponsor: Lee B. Perry
 Senate Sponsor: Curtis S. Bramble
 Cosponsors: Patrice M. Arent
 Joel K. Briscoe
 Rebecca Chavez-Houck
 Rich Cunningham
 Jack R. Draxler
 Susan Duckworth
 Rebecca P. Edwards
 Sandra Hollins
 Don L. Ipson
 Brian S. King
 Justin J. Miller
 Carol Spackman Moss
 Marie H. Poulson
 Paul Ray
 Edward H. Redd
 Angela Romero
 Scott D. Sandall
 Mark A. Wheatley

LONG TITLE**General Description:**

This bill modifies the Traffic Code by amending provisions relating to safety belt restraints.

Highlighted Provisions:

This bill:

- ▶ amends the provision that provides that a state or local law enforcement officer may only enforce the safety belt restraint requirement as a secondary action in certain circumstances to only apply beginning on a specified date;
- ▶ provides that until a specified date, a peace officer may not issue a citation to an individual for a violation if the person has not previously been warned for a violation but shall issue the individual a warning;
- ▶ amends the requirements for the court to waive the fine for a safety belt violation; and
- ▶ makes technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 41-6a-1803, as last amended by Laws of Utah 2008, Chapter 160
 41-6a-1805, as renumbered and amended by Laws of Utah 2005, Chapter 2

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

Section 1. Section 41-6a-1803 is amended to read:**41-6a-1803. Driver and passengers -- Seat belt or child restraint device required.**

(1) (a) The operator of a motor vehicle operated on a highway shall:

(i) wear a properly adjusted and fastened safety belt;

(ii) provide for the protection of each person younger than eight years of age by using a child restraint device to restrain each person in the manner prescribed by the manufacturer of the device; and

(iii) provide for the protection of each person eight years of age up to 16 years of age by securing, or causing to be secured, a properly adjusted and fastened safety belt on each person.

(b) Notwithstanding the requirement under Subsection (1)(a)(ii), a child under eight years of age who is 57 inches tall or taller:

(i) is exempt from the requirement in Subsection (1)(a)(ii) to be in a child restraint device; and

(ii) shall use a properly adjusted and fastened safety belt as required in Subsection (1)(a)(iii).

(2) A ~~passenger who is~~ person 16 years of age or older ~~of~~ who is a passenger in a motor vehicle operated on a highway shall wear a properly adjusted and fastened safety belt.

(3) If more than one person is not using a child restraint device or wearing a safety belt in violation of Subsection (1), it is considered only one offense, and the driver may receive only one citation for that offense.

(4) ~~For~~ Beginning on July 1, 2018, and for a person 19 years of age or older who violates Subsection (1)(a)(i) or (2), enforcement by a state or local law enforcement officer shall be only as a secondary action when the person has been detained for a suspected violation of Title 41, Motor Vehicles, other than Subsection (1)(a)(i) or (2), or for another offense.

Section 2. Section 41-6a-1805 is amended to read:**41-6a-1805. Penalty for violation.**

(1) (a) A person who violates Section 41-6a-1803 is guilty of an infraction and shall be fined a maximum of \$45.

(b) Until July 1, 2018, a peace officer may not issue a citation to an individual for a violation of Section 41-6a-1803 if the person has not previously been warned for a violation of Section 41-6a-1803 but shall issue the individual a warning informing the individual that operating or being a passenger in a vehicle without wearing a properly adjusted and fastened safety belt is prohibited.

~~(b)~~ (c) The court shall waive all ~~but \$15~~ of the fine for a violation of Section 41-6a-1803 if a person:

(i) shows evidence of completion of a ~~two-hour~~ 30 minute course approved by the commissioner of the Department of Public Safety that includes education on the benefits of using a safety belt ~~and~~ or child restraint device; and

(ii) if the violation is for an offense under Subsection 41-6a-1803(1)(b), submits proof of acquisition, rental, or purchase of a child restraint device.

(2) Points for a motor vehicle reportable violation, as defined under Section 53-3-102, may not be assessed against a person for a violation of Section 41-6a-1803.

CHAPTER 60**H. B. 81**

Passed February 13, 2015

Approved March 23, 2015

Effective May 12, 2015

**LOCAL SCHOOL BOARD
MEETINGS REQUIREMENTS**Chief Sponsor: Craig Hall
Senate Sponsor: Deidre M. Henderson**LONG TITLE****General Description:**

This bill establishes meeting location requirements for local school boards.

Highlighted Provisions:

This bill:

- ▶ requires a local school board to hold the local school board's public meetings within the geographic boundary of the local school board's school district;
- ▶ provides an exception for:
 - a meeting held during a disaster or local emergency; or
 - a meeting held during a site visit; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53A-3-106, as enacted by Laws of Utah 2011, Chapter 107

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

Section 1. Section 53A-3-106 is amended to read:**53A-3-106. Local school board meetings -- Rules of order and procedure -- Location requirements.**

~~[(1) As used in this section, "rules of order and procedure" means a set of rules that govern and prescribe in a public meeting:]~~

~~[(a) parliamentary order and procedure;]~~

~~[(b) ethical behavior; and]~~

~~[(c) civil discourse.]~~

(1) As used in this section:

(a) "Disaster" means an event that:

(i) causes, or threatens to cause, loss of life, human suffering, public or private property damage, or economic or social disruption resulting from attack, internal disturbance, natural phenomenon, or technological hazard; and

(ii) requires resources that are beyond the scope of local agencies in routine responses to emergencies and accidents and may be of a

magnitude or involve unusual circumstances that require a response by a governmental, not-for-profit, or private entity.

(b) "Local emergency" means a condition in any municipality or county of the state that requires that emergency assistance be provided by the affected municipality or county or another political subdivision to save lives and protect property within its jurisdiction in response to a disaster or to avoid or reduce the threat of a disaster.

(c) "Rules of order and procedure" means a set of rules that governs and prescribes in a public meeting:

(i) parliamentary order and procedure;

(ii) ethical behavior; and

(iii) civil discourse.

(2) Subject to Subsection (3), a local school board or charter school governing board shall:

(a) adopt rules of order and procedure to govern a public meeting of the local school board;

(b) conduct a public meeting in accordance with the rules of order and procedure described in Subsection (2)(a); and

(c) make the rules of order and procedure described in Subsection (2)(a) available to the public:

(i) at each public meeting of the local school board; and

(ii) on the local school board's public website, if available.

(3) (a) Except as provided in Subsections (3)(b) and (c), a local school board may not hold a public meeting outside of the geographic boundary of the local school board's school district.

(b) A local school board may hold a public meeting outside of the geographic boundary of the local school board's school district if it is necessary for the local school board to hold a meeting during a disaster or local emergency.

(c) A local school board may hold a public meeting outside of the geographic boundary of the local school board's school district to conduct a site visit if:

(i) the location of the site visit provides the local school board members the opportunity to see or experience an activity that:

(A) relates to the local school board's responsibilities; and

(B) does not exist within the geographic boundaries of the local school board's school district; and

(ii) the local school board does not vote or take other action during the public meeting held at the site visit location.

(d) This Subsection (3) does not apply to a charter school governing board.

~~[(3) Subjection (2)(a) does]~~ (4) The requirements of this section do not affect a local school ~~[board's]~~ board or charter school governing board's duty to comply with Title 52, Chapter 4, Open and Public Meetings Act.

CHAPTER 61**H. B. 88**

Passed February 19, 2015

Approved March 23, 2015

Effective May 12, 2015

**VETERINARY PRACTICE
ACT AMENDMENTS**Chief Sponsor: Jeremy A. Peterson
Senate Sponsor: Kevin T. Van Tassell**LONG TITLE****General Description:**

This bill modifies provisions related to the licensing of veterinarians.

Highlighted Provisions:

This bill:

- ▶ modifies unprofessional conduct standards for licensed veterinarians; and
- ▶ amends provisions relating to the ownership or control of a veterinary organization.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

58-28-502, as enacted by Laws of Utah 2006, Chapter 109

ENACTS:

58-28-606, Utah Code Annotated 1953

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

Section 1. Section 58-28-502 is amended to read:**58-28-502. Unprofessional conduct.**

(1) "Unprofessional conduct" includes, in addition to the definitions in Section 58-1-501:

(a) applying unsanitary methods or procedures in the treatment of any animal, contrary to rules adopted by the board and approved by the division;

(b) procuring any fee or recompense on the assurance that a manifestly incurable diseased condition of the body of an animal can be permanently cured;

~~[(e) rendering professional service in association with a person who is not licensed and does not hold a temporary permit;]~~

~~[(d) sharing fees with any person, except a licensed veterinarian, for services actually performed;]~~

[(e)] (c) selling any biologics containing living or dead organisms or products or such organisms, except in a manner which will prevent indiscriminate use of such biologics;

[(f)] (d) swearing falsely in any testimony or affidavit, relating to, or in the course of, the practice of veterinary medicine, surgery, or dentistry;

~~[(g)]~~ (e) willful failure to report any dangerous, infectious, or contagious disease, as required by law;

~~[(h)]~~ (f) willful failure to report the results of any medical tests, as required by law, or rule adopted pursuant to law;

[(i)] (g) violating Chapter 37, Utah Controlled Substances Act;

[(j)] (h) delegating tasks to unlicensed assistive personnel in violation of standards of the profession and in violation of Subsection (2); and

~~[(k)]~~ (i) making any unsubstantiated claim of superiority in training or skill as a veterinarian in the performance of professional services.

(2) (a) "Unprofessional conduct" does not include the following:

(i) delegating to a veterinary technologist, while under the indirect supervision of a veterinarian licensed under this chapter, patient care and treatment that requires a technical understanding of veterinary medicine if written or oral instructions are provided to the technologist by the veterinarian;

(ii) delegating to a veterinary technician, while under the direct supervision of a veterinarian licensed under this chapter, patient care and treatment that requires a technical understanding of veterinary medicine if written or oral instructions are provided to the technician by the veterinarian; and

(iii) delegating to a veterinary assistant, under the immediate supervision of a licensed veterinarian, tasks that are consistent with the standards and ethics of the profession.

(b) The delegation of tasks permitted under Subsection (2)(a) does not include:

(i) diagnosing;

(ii) prognosing;

(iii) surgery; or

(iv) prescribing drugs, medicines, or appliances.

Section 2. Section 58-28-606 is enacted to read:**58-28-606. Veterinary corporations, partnerships, and limited liability companies -- Unlicensed individuals -- Ownership of capital stock -- Service as officer or director.**

(1) As used in this section:

(a) "Veterinary corporation" means a professional corporation organized to render veterinary services under Title 16, Chapter 11, Professional Corporation Act.

(b) "Veterinary limited liability company" means a limited liability company organized to render veterinary services under Title 48, Chapter 2c, Utah Revised Limited Liability Company Act.

(c) “Veterinary partnership” means a partnership or limited liability partnership organized to render veterinary services under Title 48, Chapter 1, General and Limited Liability Partnerships.

(2) A veterinary corporation may issue or transfer shares of the veterinary corporation’s capital stock to a person that is not licensed to practice veterinary medicine, surgery, and dentistry under this chapter.

(3) An individual who is not licensed to practice veterinary medicine, surgery, and dentistry under this chapter:

(a) may not serve as an officer or director of a veterinary corporation; and

(b) may serve as secretary or treasurer of a veterinary corporation.

(4) A veterinary limited liability company or a veterinary partnership may include an individual who is not licensed to practice veterinary medicine, surgery, and dentistry under this chapter.

CHAPTER 62**H. B. 101**

Passed February 9, 2015
 Approved March 23, 2015
 Effective May 12, 2015

RURAL RESIDENCY TRAINING PROGRAM REAUTHORIZATION

Chief Sponsor: Edward H. Redd
 Senate Sponsor: Evan J. Vickers

LONG TITLE**General Description:**

This bill reauthorizes the Rural Residency Training Program.

Highlighted Provisions:

This bill:

- ▶ makes technical amendments to the Rural Residency Training Program; and
- ▶ reauthorizes the Rural Residency Training Program until July 1, 2020.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53B-24-402, as last amended by Laws of Utah 2013, Chapter 167 and renumbered and amended by Laws of Utah 2013, Chapter 28

63I-1-253, as last amended by Laws of Utah 2014, Chapters 189, 226, and 412

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

Section 1. Section 53B-24-402 is amended to read:**53B-24-402. Rural residency training program.**

(1) For purposes of this section:

(a) "Physician" means:

(i) a person licensed to practice medicine under Title 58, Chapter 67, Utah Medical Practice Act or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; and

(ii) a person licensed to practice dentistry under Title 58, Chapter 69, Dentist and Dental Hygienist Practice Act.

(b) "Rural residency training program" means an accredited clinical training program as defined in Section 53B-24-102 which places a physician into a rural county for a part or all of the physician's clinical training.

(2) (a) Subject to appropriations from the Legislature, the council shall establish a pilot program to place physicians into rural residency training programs.

(b) The [pilot] program shall [begin July 1, 2005 and] sunset [July 1, 2015,] in accordance with Section [63I-1-263] 63I-1-253.

Section 2. Section 63I-1-253 is amended to read:**63I-1-253. Repeal dates, Titles 53, 53A, and 53B.**

The following provisions are repealed on the following dates:

(1) Section 53-3-232, Conditional license, is repealed July 1, 2015.

(2) Subsection 53-10-202(18) is repealed July 1, 2018.

(3) Section 53-10-202.1 is repealed July 1, 2018.

(4) Title 53A, Chapter 1a, Part 6, Public Education Job Enhancement Program is repealed July 1, 2020.

(5) Title 53A, Chapter 11, Part 15, School Safety Tip Line, is repealed July 1, 2015.

(6) The State Instructional Materials Commission, created in Section 53A-14-101, is repealed July 1, 2016.

(7) Subsections 53A-16-113(3) and (4) are repealed December 31, 2016.

(8) Section 53A-16-114 is repealed December 31, 2016.

(9) Section 53A-17a-163, Performance-based Compensation Pilot Program is repealed July 1, 2016.

(10) Section 53B-24-402, Rural residency training program, is repealed July 1, [2015] 2020.

(11) Subsection 53C-3-203(4)(b)(vii), which provides for the distribution of money from the Land Exchange Distribution Account to the Geological Survey for test wells, other hydrologic studies, and air quality monitoring in the West Desert, is repealed July 1, 2020.

CHAPTER 63**H. B. 102**

Passed March 6, 2015

Approved March 23, 2015

Effective May 12, 2015

AGRICULTURAL TOURISM AMENDMENTS

Chief Sponsor: Lee B. Perry
Senate Sponsor: Ralph Okerlund

LONG TITLE**General Description:**

This bill regulates agricultural tourism activities.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ states that a participant in an agricultural tourism activity may not make a claim against, or recover damages from, an operator for injury resulting from:
 - an inherent risk of an agricultural tourism activity; or
 - the participant's failure to follow instructions or exercise reasonable care; and
- ▶ requires an operator of an agricultural tourism activity to post signs describing the inherent risks of an activity and the limited liability of the operator.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

78B-4-512, as enacted by Laws of Utah 2008, Chapter 132

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

Section 1. Section 78B-4-512 is amended to read:**78B-4-512. Definitions -- Participation in an agricultural tourism activity -- Limitations on civil liability.**

~~[(1) As used in this section, "agri-tourism" means an activity that allows members of the general public to view or enjoy agricultural related activities, including farming, ranching, or historic, cultural, or natural attractions, for recreational, entertainment, or educational purposes.]~~

~~[(a) An activity may be an agri-tourism activity whether or not the participant pays to participate in the activity.]~~

~~[(b) An activity is not an agri-tourism activity if the participant is paid to participate in the activity.]~~

(1) As used in this section:

(a) "Agricultural tourism activity" means an educational or recreational activity that:

(i) takes place on a farm or ranch or other commercial agricultural, aquacultural, horticultural, or forestry operation; and

(ii) allows an individual to tour, explore, observe, learn about, participate in, or be entertained by an aspect of agricultural operations.

(b) "Agritourism" means the travel or visit by the general public to a working farm, ranch, or other commercial agricultural, aquacultural, horticultural, or forestry operation for the enjoyment of, education about, or participation in the activities of the farm, ranch, or other commercial agricultural, aquacultural, horticultural, or forestry operation.

(c) "Inherent risk" means a danger, hazard, or condition which is an integral part of an agricultural tourism activity and that cannot be eliminated by the exercise of reasonable care, including:

(i) natural surface and subsurface conditions of land, vegetation, and water on the property;

(ii) unpredictable behavior of domesticated or farm animals on the property; or

(iii) reasonable dangers of structures or equipment ordinarily used where agricultural or horticultural crops are grown or farm animals or farmed fish are raised.

(d) "Operator" means:

(i) a person who operates, provides, or demonstrates an agricultural tourism activity; or

(ii) an employee of a person described in Subsection (1)(d)(i).

(e) (i) "Participant" means an individual, other than a provider or operator, who observes or participates in an agricultural tourism activity, regardless of whether the individual paid to observe or participate in an agricultural tourism activity.

(ii) "Participant" does not mean an individual who is paid to participate in an agricultural tourism activity.

(f) "Property" means the real property where an agricultural tourism activity takes place and the buildings, structures, and improvements on that real property.

(2) A participant in an agricultural tourism activity may not make any claim against, or recover damages from, any operator for injury primarily resulting from:

(a) an inherent risk of agritourism; or

(b) the participant's failure to:

(i) follow instructions given by the operator; or

(ii) exercise reasonable caution while engaged in an agricultural tourism activity.

(3) An operator shall post and maintain, in a clearly visible location at each entrance to the property where an agricultural tourism activity takes place or at the location of each agricultural tourism activity, a sign describing:

(a) the inherent risks of the activity; and

(b) the limitations on liability of the operators.

~~[(2)]~~ (4) In any action for damages for personal injury, death, or property damage in which an owner or operator of an ~~[agri-tourism]~~ agritourism activity is named as a defendant, ~~[it shall be an affirmative defense to liability that]~~ the court shall undergo a comparative negligence analysis and consider whether:

(a) the injured person deliberately disregarded conspicuously posted signs, verbal instructions, or other warnings regarding safety measures during the activity; or

(b) any equipment, animals, or appliance used by the injured person during the activity were used in a manner or for a purpose other than that for which a reasonable person should have known they were intended.

CHAPTER 64**H. B. 119**

Passed March 10, 2015
 Approved March 23, 2015
 Effective May 12, 2015

**CHARTER SCHOOL
 FINANCE AMENDMENTS**

Chief Sponsor: Bradley G. Last
 Senate Sponsor: Howard A. Stephenson

LONG TITLE**General Description:**

This bill modifies funding for charter schools.

Highlighted Provisions:

This bill:

- ▶ requires a school district to allocate 25% of district per pupil revenues for each student of the school district who is enrolled in a charter school regardless of the charter school students' average local revenues.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53A-1a-513, as last amended by Laws of Utah 2013, Chapter 470

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

Section 1. Section 53A-1a-513 is amended to read:

53A-1a-513. Funding for charter schools.

- (1) As used in this section:
- (a) "Charter school students' average local revenues" means the amount determined as follows:
- (i) for each student enrolled in a charter school on the previous October 1, calculate the district per pupil local revenues of the school district in which the student resides;
- (ii) sum the district per pupil local revenues for each student enrolled in a charter school on the previous October 1; and
- (iii) divide the sum calculated under Subsection (1)(a)(ii) by the number of students enrolled in charter schools on the previous October 1.
- (b) "District local property tax revenues" means the sum of a school district's revenue received from the following levies:
- (i) (A) a voted levy imposed under Section 53A-17a-133;
- (B) a board levy imposed under Section 53A-17a-134;
- (C) a 10% of basic levy imposed under Section 53A-17a-145;

(D) a tort liability levy imposed under Section 63G-7-704;

(E) a capital outlay levy imposed under Section 53A-16-107; and

(F) a voted capital outlay levy imposed under Section 53A-16-110; or

(ii) (A) a voted local levy imposed under Section 53A-17a-133;

(B) a board local levy imposed under Section 53A-17a-164, excluding revenues expended for:

(I) recreational facilities and activities authorized under Title 11, Chapter 2, Playgrounds;

(II) pupil transportation, up to the amount of revenue generated by a .0003 per dollar of taxable value of the school district's board local levy; and

(III) the K-3 Reading Improvement Program, up to the amount of revenue generated by a .000121 per dollar of taxable value of the school district's board local levy; and

(C) a capital local levy imposed under Section 53A-16-113.

(c) "District per pupil local revenues" means an amount equal to the following, using data from the most recently published school district annual financial reports and state superintendent's annual report:

(i) district local property tax revenues; divided by

(ii) the sum of:

(A) a school district's average daily membership; and

(B) the average daily membership of a school district's resident students who attend charter schools.

(d) "Resident student" means a student who is considered a resident of the school district under Title 53A, Chapter 2, Part 2, District of Residency.

(e) "Statewide average debt service revenues" means the amount determined as follows, using data from the most recently published state superintendent's annual report:

(i) sum the revenues of each school district from the debt service levy imposed under Section 11-14-310; and

(ii) divide the sum calculated under Subsection (1)(e)(i) by statewide school district average daily membership.

(2) (a) Charter schools shall receive funding as described in this section, except Subsections (3) through (8) do not apply to charter schools described in Subsection (2)(b).

(b) Charter schools authorized by local school boards that are converted from district schools or operate in district facilities without paying reasonable rent shall receive funding as prescribed in Section 53A-1a-515.

(3) (a) Except as provided in Subsections (3)(b) and (3)(c), a charter school shall receive state funds,

as applicable, on the same basis as a school district receives funds.

(b) For the 2013-14 and 2014-15 school years, the number of weighted pupil units assigned to a charter school for the kindergarten and grades 1 through 12 programs of the Basic School Program shall be:

(i) based on the higher of:

(A) October 1 enrollment in the current school year; or

(B) average daily membership in the prior school year plus growth as determined under Section 53A-17a-106; and

(ii) weighted as provided in Subsection (3)(c).

(c) In distributing funds under Chapter 17a, Minimum School Program Act, to charter schools, charter school pupils shall be weighted, where applicable, as follows:

(i) .55 for kindergarten pupils;

(ii) .9 for pupils in grades 1 through 6;

(iii) .99 for pupils in grades 7 through 8; and

(iv) 1.2 for pupils in grades 9 through 12.

(4) (a) (i) A school district shall allocate a portion of school district revenues for each resident student of the school district who is enrolled in a charter school on October 1 equal to 25% of the ~~lesser of:~~ ~~(A)~~ district per pupil local revenues~~[-or-]~~.

~~[(B) charter school students' average local revenues.]~~

(ii) Nothing in this Subsection (4)(a) affects the school bond guarantee program established under Chapter 28, Utah School Bond Guaranty Act.

(b) The State Board of Education shall:

(i) deduct an amount equal to the allocation provided under Subsection (4)(a) from state funds the school district is authorized to receive under Chapter 17a, Minimum School Program Act; and

(ii) remit the money to the student's charter school.

(c) Notwithstanding the method used to transfer school district revenues to charter schools as provided in Subsection (4)(b), a school district may deduct the allocations to charter schools under this section from:

(i) unrestricted revenues available to the school district; or

(ii) the revenue sources listed in Subsection (1)(b) based on the portion of the allocations to charter schools attributed to each of the revenue sources listed in Subsection (1)(b).

(d) (i) Subject to future budget constraints, the Legislature shall provide an appropriation for charter schools for each student enrolled on October 1 to supplement the allocation of school district revenues under Subsection (4)(a).

(ii) Except as provided in Subsection (4)(d)(iii), the amount of money provided by the state for a charter school student shall be the sum of:

(A) charter school students' average local revenues minus the allocation of school district revenues under Subsection (4)(a); and

(B) statewide average debt service revenues.

(iii) If the total of a school district's allocation for a charter school student under Subsection (4)(a) and the amount provided by the state under Subsection (4)(d)(ii) is less than \$1427, the state shall provide an additional supplement so that a charter school receives at least \$1427 per student under this Subsection (4).

(iv) (A) If the appropriation provided under this Subsection (4)(d) is less than the amount prescribed by Subsection (4)(d)(ii) or (4)(d)(iii), the appropriation shall be allocated among charter schools in proportion to each charter school's enrollment as a percentage of the total enrollment in charter schools.

(B) If the State Board of Education makes adjustments to Minimum School Program allocations as provided under Section 53A-17a-105, the allocation provided in Subsection (4)(d)(iv)(A) shall be determined after adjustments are made under Section 53A-17a-105.

(e) Of the money provided to a charter school under this Subsection (4), 10% shall be expended for funding school facilities only.

(5) Charter schools are eligible to receive federal funds if they meet all applicable federal requirements and comply with relevant federal regulations.

(6) The State Board of Education shall distribute funds for charter school students directly to the charter school.

(7) (a) Notwithstanding Subsection (3), a charter school is not eligible to receive state transportation funding.

(b) The board shall also adopt rules relating to the transportation of students to and from charter schools, taking into account Sections 53A-2-210 and 53A-17a-127.

(c) The governing body of the charter school may provide transportation through an agreement or contract with the local school board, a private provider, or with parents.

(8) (a) (i) In accordance with Section 53A-1a-513.5, the State Charter School Board may allocate grants for start-up costs to charter schools from money appropriated for charter school start-up costs.

(ii) The governing board of a charter school that receives money from a grant under Section 53A-1a-513.5 shall use the grant for expenses for planning and implementation of the charter school.

(b) The State Board of Education shall coordinate the distribution of federal money appropriated to help fund costs for establishing and maintaining charter schools within the state.

(9) (a) A charter school may receive, hold, manage and use any devise, bequest, grant, endowment, gift, or donation of any property made to the school for any of the purposes of this part.

(b) It is unlawful for any person affiliated with a charter school to demand or request any gift, donation, or contribution from a parent, teacher, employee, or other person affiliated with the charter school as a condition for employment or enrollment at the school or continued attendance at the school.

CHAPTER 65**H. B. 123**

Passed February 24, 2015

Approved March 23, 2015

Effective May 12, 2015

**TUITION AND FEES ASSISTANCE FOR
UTAH NATIONAL GUARD MEMBERS**

Chief Sponsor: Val L. Peterson

Senate Sponsor: Peter C. Knudson

LONG TITLE**General Description:**

This bill expands the allowable tuition assistance for a Utah National Guard member to include fees.

Highlighted Provisions:

This bill:

- ▶ modifies the tuition assistance the Utah National Guard may provide to an active member to attend an institution of higher education to include fees;
- ▶ defines terms; and
- ▶ makes technical amendments.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

39-1-63, as last amended by Laws of Utah 1998, Chapter 233

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

Section 1. Section 39-1-63 is amended to read:**39-1-63. Tuition and fees assistance for Utah National Guard members -- Use and allocation -- Appropriation.**

(1) (a) As used in this section, "fees" means general course fees, in addition to tuition, that are:

(i) imposed by an institution of higher education; and

(ii) required to be paid by a student to engage in a course of study at the institution of higher education.

(b) "Fees" does not include a special course fee.

~~[(4)] (2) The Utah National Guard may provide tuition and fees assistance to [members for study at postsecondary institutions of learning, including Applied Technology Centers] a member of the Utah National Guard for study at an institution of higher education, subject to the following requirements:~~

(a) the individual must be, at the time [he or she] the individual receives the assistance, an active member of the Utah National Guard[.]; and

(b) the assistance is for tuition and fees only and [shall be not] may not be more than the resident tuition and fees for the actual course of postsecondary study engaged in by the individual.

~~[(2)] (3) (a) Tuition and fees assistance shall be awarded for each academic year. [Students]~~

(b) An individual may apply to the adjutant general of the state for assistance for each year during which [he or she] the individual is an active member of the Utah National Guard.

(c) In awarding assistance, the adjutant general shall consider the recruitment and retention needs of the Utah National Guard.

~~[(3) Tuition assistance is to be paid by the]~~

(4) The adjutant general of the state shall pay the tuition and fees assistance directly to [the institutions involved] an institution of higher education from the funds appropriated.

~~[(4)] (5) The adjutant general of the state shall establish regulations, procedures, forms, and reports necessary to administer the allocation of assistance and payment of funds under this section.~~

~~[(5)] (6) The adjutant general of the state shall include a request each year for funds for this program in the annual budget for the Utah National Guard.~~

~~[(6) A person] (7) An individual who transfers from the Select Reserve to the Utah National Guard is not eligible for the tuition and fees assistance in this section for one year from the date of transfer.~~

CHAPTER 66**H. B. 131**

Passed March 9, 2015

Approved March 23, 2015

Effective May 12, 2015

TOBACCO SHOP AMENDMENTS

Chief Sponsor: Kraig Powell
Senate Sponsor: Allen M. Christensen

LONG TITLE**General Description:**

This bill amends provisions related to tobacco shops.

Highlighted Provisions:

This bill:

- ▶ provides that an individual less than 19 years old cannot, under certain conditions, be present in a tobacco specialty shop; and
- ▶ modifies a definition of electronic cigarette.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

76-10-101, as last amended by Laws of Utah 2010, Chapter 114

76-10-105.1, as last amended by Laws of Utah 2010, Chapter 114

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

Section 1. Section 76-10-101 is amended to read:**76-10-101. Definitions.**

As used in this part:

(1) "Cigar" means a product that contains nicotine, is intended to be burned under ordinary conditions of use, and consists of any roll of tobacco wrapped in leaf tobacco, or in any substance containing tobacco, other than any roll of tobacco that is a cigarette as described in Subsection (2).

(2) "Cigarette" means a product that contains nicotine, is intended to be burned under ordinary conditions of use, and consists of:

(a) any roll of tobacco wrapped in paper or in any substance not containing tobacco; or

(b) any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in Subsection (2)(a).

(3) (a) "Electronic cigarette" means [~~any device, other than a cigarette or cigar, intended to deliver vapor containing nicotine into a person's respiratory system.~~];

(i) an electronic device used to deliver or capable of delivering vapor containing nicotine to an individual's respiratory system; or

(ii) any component of or accessory intended for use with the device described in Subsection (3)(a)(i).

(b) "Electronic cigarette" includes an e-cigarette as defined in Section 26-38-2.

(4) "Electronic cigarette product" means an electronic cigarette or an electronic cigarette substance.

(5) "Electronic cigarette substance" means any substance, including liquid containing nicotine, used or intended for use in an electronic cigarette.

[4] (6) "Place of business" includes:

- (a) a shop;
- (b) a store;
- (c) a factory;
- (d) a public garage;
- (e) an office;
- (f) a theater;
- (g) a recreation hall;
- (h) a dance hall;
- (i) a poolroom;
- (j) a cafe;
- (k) a cafeteria;
- (l) a cabaret;
- (m) a restaurant;
- (n) a hotel;
- (o) a lodging house;
- (p) a streetcar;
- (q) a bus;
- (r) an interurban or railway passenger coach;
- (s) a waiting room; and
- (t) any other place of business.

[5] (7) "Smoking" means the possession of any lighted cigar, cigarette, pipe, or other lighted smoking equipment.

Section 2. Section 76-10-105.1 is amended to read:**76-10-105.1. Requirement of direct, face-to-face sale of cigarettes, tobacco, and electronic cigarettes -- Minors not allowed in tobacco specialty shop -- Penalties.**

(1) As used in this section:

[~~(a) "Cigarette tobacco" means a product that consists of loose tobacco that contains or delivers nicotine and is intended for use by a consumer in a cigarette.~~]

[~~(b) "Pipe tobacco" means a product that consists of loose tobacco that contains or delivers nicotine~~

and is intended to be smoked by a consumer in a pipe.]

(a) “Cigarette” means the same as that term is defined in Section 59-14-102.

(b) (i) “Face-to-face exchange” means a transaction made in person between an individual and a retailer or retailer’s employee.

(ii) “Face-to-face exchange” does not include a sale through a:

- (A) vending machine; or
- (B) self-service display.

(c) “Retailer” means a person who [sells cigarettes, electronic cigarettes, cigars, cigarette tobacco, pipe tobacco, or smokeless tobacco to individuals for personal consumption or who]:

(i) sells a cigarette, tobacco, or an electronic cigarette product to an individual for personal consumption; or

(ii) operates a facility [where a vending machine or a self-service display is permitted under Subsection (3)(b)] with a vending machine that sells a cigarette, tobacco, or an electronic cigarette product.

(d) “Self-service display” means a display of [cigarettes, electronic cigarettes, cigars, cigarette tobacco, pipe tobacco, or smokeless tobacco products] a cigarette, tobacco, or an electronic cigarette product to which the public has access without the intervention of a [retail] retailer or retailer’s employee.

(e) “Smokeless tobacco” means a product that consists of cut, ground, powdered, or leaf tobacco that contains nicotine and that is intended to be placed in the oral cavity.]

(e) “Tobacco” means any product, except a cigarette, made of or containing tobacco.

(f) “Tobacco specialty shop” means a retailer with a physical location that derives at least 80% of its total sales from the sale of cigarettes, tobacco, or electronic cigarette products.

(2) [(a)] Except as provided in Subsection (3), a retailer may sell [cigarettes, electronic cigarettes, cigars, cigarette tobacco, pipe tobacco, and smokeless tobacco only in a direct, face-to-face exchange between:] a cigarette, tobacco, or an electronic cigarette product only in a face-to-face exchange.

- [(i) an employee of the retailer; and]
- [(ii) the purchaser.]

[(b) Examples of methods that are not permitted include vending machines and self-service displays.]

[(c) Subsections (2)(a) and (b) do not prohibit the use or display of locked cabinets containing cigarettes, electronic cigarettes, cigars, cigarette tobacco, pipe tobacco, or smokeless tobacco if the

locked cabinets are accessible only to the retailer or the retailer’s employees.]

[(3) The following sales are permitted as exceptions to Subsection (2):]

[(a) mail-order sales, if the provisions of Section 59-14-509 are met;]

[(b) sales from vending machines, including vending machines that sell packaged, single cigarettes or cigars, and self-service displays that are located in a separate and defined area within a facility where the retailer ensures that no person younger than 19 years of age is present, or permitted to enter, at any time, unless accompanied by a parent or legal guardian; and]

[(c) sales by a retailer from a retail store which derives at least 80% of its revenue from tobacco and tobacco related products and where the retailer ensures that no person younger than 19 years of age is present, or permitted to enter at any time, unless accompanied by a parent or legal guardian.]

[(4) Any ordinance, regulation, or rule adopted by the governing body of a political subdivision of the state or by a state agency that affects the sale, placement, or display of cigarettes, electronic cigarettes, cigars, cigarette tobacco, pipe tobacco, or smokeless tobacco that is not essentially identical to the provisions of this section and Section 76-10-102 is superseded.]

[(5) (a) A parent or legal guardian who accompanies a person younger than 19 years of age into an area described in Subsection (3)(b) or into a retail store as described in Subsection (3)(c) and permits the person younger than 19 years of age to purchase or otherwise take a cigar, cigarette, electronic cigarette, or tobacco in any form is guilty of providing tobacco as provided for in Section 76-10-104 and the penalties provided for in that section.]

[(b) Nothing in this section may be construed as permitting a person to provide tobacco to a minor in violation of Section 76-10-104.]

(3) The face-to-face sale requirement in Subsection (2) does not apply to:

(a) a mail-order, telephone, or Internet sale made in compliance with Section 59-14-509;

(b) a sale from a vending machine or self-service display that is located in an area of a retailer’s facility:

(i) that is distinct and separate from the rest of the facility; and

(ii) where the retailer only allows an individual who complies with Subsection (4) to be present; or

(c) a sale at a tobacco specialty shop.

(4) An individual who is less than 19 years old may not enter or be present at a tobacco specialty shop unless the individual is:

(a) accompanied by a parent or legal guardian;

(b) present at the tobacco shop for a bona fide commercial purpose other than to purchase a cigarette, tobacco, or an electronic cigarette; or

(c) 18 years old or older and an active duty member of the United States Armed Forces, as demonstrated by a valid, government-issued military identification card.

(5) A parent or legal guardian who accompanies, under Subsection (4)(a), an individual into an area described in Subsection (3)(b), or into a tobacco specialty shop, may not allow the individual to purchase a cigarette, tobacco, or an electronic cigarette product.

(6) ~~[Violation]~~ A violation of Subsection (2) or ~~[(3)]~~ (4) is a:

- (a) class C misdemeanor on the first offense;
- (b) class B misdemeanor on the second offense; and
- (c) class A misdemeanor on the third and all subsequent offenses.

(7) An individual who violates Subsection (5) is guilty of providing tobacco to a minor under Section 76-10-104.

(8) Any ordinance, regulation, or rule adopted by the governing body of a political subdivision of the state or by a state agency that affects the sale, placement, or display of cigarettes, tobacco, or electronic cigarette products that is not essentially identical to the provisions of this section and Section 76-10-102 is superseded.

(9) Subsection (8) does not apply to the adoption or enforcement of a land use ordinance by a municipal or county government.

CHAPTER 67**H. B. 139**

Passed February 20, 2015

Approved March 23, 2015

Effective May 12, 2015

FOSTER HOME AMENDMENTS

Chief Sponsor: Brad M. Daw
Senate Sponsor: Deidre M. Henderson

LONG TITLE**General Description:**

This bill amends the definitions in the Utah Human Services Code.

Highlighted Provisions:

This bill:

- ▶ amends the definition of “foster home.”

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

62A-2-101, as last amended by Laws of Utah 2014, Chapter 240

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

Section 1. Section 62A-2-101 is amended to read:**62A-2-101. Definitions.**

As used in this chapter:

(1) “Adult day care” means nonresidential care and supervision:

(a) for three or more adults for at least four but less than 24 hours a day; and

(b) that meets the needs of functionally impaired adults through a comprehensive program that provides a variety of health, social, recreational, and related support services in a protective setting.

(2) (a) “Boarding school” means a private school that:

(i) uses a regionally accredited education program;

(ii) provides a residence to the school’s students:

(A) for the purpose of enabling the school’s students to attend classes at the school; and

(B) as an ancillary service to educating the students at the school;

(iii) has the primary purpose of providing the school’s students with an education, as defined in Subsection (2)(b)(i); and

(iv) (A) does not provide the treatment or services described in Subsection (26)(a); or

(B) provides the treatment or services described in Subsection (26)(a) on a limited basis, as described in Subsection (2)(b)(ii).

(b) (i) For purposes of Subsection (2)(a)(iii), “education” means a course of study for one or more of grades kindergarten through 12th grade.

(ii) For purposes of Subsection (2)(a)(iv)(B), a private school provides the treatment or services described in Subsection (26)(a) on a limited basis if:

(A) the treatment or services described in Subsection (26)(a) are provided only as an incidental service to a student; and

(B) the school does not:

(I) specifically solicit a student for the purpose of providing the treatment or services described in Subsection (26)(a); or

(II) have a primary purpose of providing the services described in Subsection (26)(a).

(c) “Boarding school” does not include a therapeutic school.

(3) “Child” means a person under 18 years of age.

(4) “Child placing” means receiving, accepting, or providing custody or care for any child, temporarily or permanently, for the purpose of:

(a) finding a person to adopt the child;

(b) placing the child in a home for adoption; or

(c) foster home placement.

(5) “Client” means an individual who receives or has received services from a licensee.

(6) “Day treatment” means specialized treatment that is provided to:

(a) a client less than 24 hours a day; and

(b) four or more persons who:

(i) are unrelated to the owner or provider; and

(ii) have emotional, psychological, developmental, physical, or behavioral dysfunctions, impairments, or chemical dependencies.

(7) “Department” means the Department of Human Services.

(8) “Direct access” means that an individual has, or likely will have, contact with or access to a child or vulnerable adult that provides the individual with an opportunity for personal communication or touch.

(9) “Director” means the director of the Office of Licensing.

(10) “Domestic violence” [is as] means the same as that term is defined in Section 77-36-1.

(11) “Domestic violence treatment program” means a nonresidential program designed to provide psychological treatment and educational services to perpetrators and victims of domestic violence.

(12) “Elder adult” means a person 65 years of age or older.

(13) “Executive director” means the executive director of the department.

(14) “Foster home” means a temporary residential living environment for the care of:

(a) (i) fewer than ~~four~~ five foster children in the home of a licensed ~~or certified~~ foster parent; or

~~(b) ~~four~~~~ (ii) five or more foster children in the home of a licensed ~~or certified~~ foster parent if ~~[the children are siblings.]~~ there are no foster children or if there is one foster child in the home at the time of the placement of a sibling group; or

(b) (i) fewer than four foster children in the home of a certified foster parent; or

(ii) four or more foster children in the home of a certified foster parent if there are no foster children or if there is one foster child in the home at the time of the placement of a sibling group.

(15) (a) “Human services program” means a:

(i) foster home;

(ii) therapeutic school;

(iii) youth program;

(iv) resource family home;

(v) recovery residence; or

(vi) facility or program that provides:

(A) secure treatment;

(B) inpatient treatment;

(C) residential treatment;

(D) residential support;

(E) adult day care;

(F) day treatment;

(G) outpatient treatment;

(H) domestic violence treatment;

(I) child placing services;

(J) social detoxification; or

(K) any other human services that are required by contract with the department to be licensed with the department.

(b) “Human services program” does not include a boarding school.

(16) “Licensee” means a person or human services program licensed by the office.

(17) “Local government” means a:

(a) city; or

(b) county.

(18) “Minor” has the same meaning as “child.”

(19) “Office” means the Office of Licensing within the Department of Human Services.

(20) “Outpatient treatment” means individual, family, or group therapy or counseling designed to improve and enhance social or psychological functioning for those whose physical and emotional

status allows them to continue functioning in their usual living environment.

(21) (a) “Person associated with the licensee” means a person:

(i) affiliated with a licensee as an owner, director, member of the governing body, employee, agent, provider of care, or volunteer; or

(ii) applying to become affiliated with a licensee in any capacity listed under Subsection (21)(a)(i).

(b) Notwithstanding Subsection (21)(a), “person associated with the licensee” does not include an individual serving on the following bodies unless that individual has direct access to children or vulnerable adults:

(i) a local mental health authority under Section 17-43-301;

(ii) a local substance abuse authority under Section 17-43-201; or

(iii) a board of an organization operating under a contract to provide:

(A) mental health or substance abuse programs; or

(B) services for the local mental health authority or substance abuse authority.

(c) “Person associated with the licensee” does not include a guest or visitor whose access to children or vulnerable adults is directly supervised by the licensee at all times.

(22) “Recovery residence” means a home or facility, other than a residential treatment or residential support program, that meets at least two of the following requirements:

(a) provides a supervised living environment for individuals recovering from a substance abuse disorder;

(b) requires more than half of the individuals in the residence to be recovering from a substance abuse disorder;

(c) provides or arranges for residents to receive services related to their recovery from a substance abuse disorder, either on or off site;

(d) holds the home or facility out as being a recovery residence; or

(e) (i) receives public funding; or

(ii) runs the home or facility as a commercial venture for financial gain.

(23) “Regular business hours” means:

(a) the hours during which services of any kind are provided to a client; or

(b) the hours during which a client is present at the facility of a licensee.

(24) (a) “Residential support” means arranging for or providing the necessities of life as a protective service to individuals or families who have a disability or who are experiencing a dislocation or emergency that prevents them from providing these services for themselves or their families.

(b) “Residential support” includes providing a supervised living environment for persons with dysfunctions or impairments that are:

- (i) emotional;
- (ii) psychological;
- (iii) developmental; or
- (iv) behavioral.

(c) Treatment is not a necessary component of residential support.

- (d) “Residential support” does not include:
- (i) a recovery residence; or
 - (ii) residential services that are performed:

(A) exclusively under contract with the Division of Services for People with Disabilities; or

(B) in a facility that serves fewer than four individuals.

(25) (a) “Residential treatment” means a 24-hour group living environment for four or more individuals unrelated to the owner or provider that offers room or board and specialized treatment, behavior modification, rehabilitation, discipline, emotional growth, or habilitation services for persons with emotional, psychological, developmental, or behavioral dysfunctions, impairments, or chemical dependencies.

- (b) “Residential treatment” does not include a:
- (i) boarding school;
 - (ii) foster home; or
 - (iii) recovery residence.

(26) “Residential treatment program” means a human services program that provides:

- (a) residential treatment; or
- (b) secure treatment.

(27) (a) “Secure treatment” means 24-hour specialized residential treatment or care for persons whose current functioning is such that they cannot live independently or in a less restrictive environment.

(b) “Secure treatment” differs from residential treatment to the extent that it requires intensive supervision, locked doors, and other security measures that are imposed on residents with neither their consent nor control.

(28) “Social detoxification” means short-term residential services for persons who are experiencing or have recently experienced drug or alcohol intoxication, that are provided outside of a health care facility licensed under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act, and that include:

- (a) room and board for persons who are unrelated to the owner or manager of the facility;
- (b) specialized rehabilitation to acquire sobriety; and

(c) aftercare services.

(29) “Substance abuse treatment program” means a program:

- (a) designed to provide:
 - (i) specialized drug or alcohol treatment;
 - (ii) rehabilitation; or
 - (iii) habilitation services; and
- (b) that provides the treatment or services described in Subsection (29)(a) to persons with:

- (i) a diagnosed substance abuse disorder; or
- (ii) chemical dependency disorder.

(30) “Therapeutic school” means a residential group living facility:

(a) for four or more individuals that are not related to:

- (i) the owner of the facility; or
- (ii) the primary service provider of the facility;

(b) that serves students who have a history of failing to function:

- (i) at home;
- (ii) in a public school; or
- (iii) in a nonresidential private school; and

(c) that offers:

- (i) room and board; and
- (ii) an academic education integrated with:
 - (A) specialized structure and supervision; or
 - (B) services or treatment related to:

- (I) a disability;
- (II) emotional development;
- (III) behavioral development;
- (IV) familial development; or
- (V) social development.

(31) “Unrelated persons” means persons other than parents, legal guardians, grandparents, brothers, sisters, uncles, or aunts.

(32) “Vulnerable adult” means an elder adult or an adult who has a temporary or permanent mental or physical impairment that substantially affects the person’s ability to:

- (a) provide personal protection;
- (b) provide necessities such as food, shelter, clothing, or mental or other health care;
- (c) obtain services necessary for health, safety, or welfare;
- (d) carry out the activities of daily living;
- (e) manage the adult’s own resources; or
- (f) comprehend the nature and consequences of remaining in a situation of abuse, neglect, or exploitation.

(33) (a) “Youth program” means a nonresidential program designed to provide behavioral, substance abuse, or mental health services to minors that:

- (i) serves adjudicated or nonadjudicated youth;
- (ii) charges a fee for its services;
- (iii) may or may not provide host homes or other arrangements for overnight accommodation of the youth;
- (iv) may or may not provide all or part of its services in the outdoors;
- (v) may or may not limit or censor access to parents or guardians; and
- (vi) prohibits or restricts a minor’s ability to leave the program at any time of the minor’s own free will.

(b) “Youth program” does not include recreational programs such as Boy Scouts, Girl Scouts, 4-H, and other such organizations.

CHAPTER 68**H. B. 148**

Passed March 11, 2015
 Approved March 23, 2015
 Effective May 12, 2015

STATE EMPLOYEE HEALTH CLINIC

Chief Sponsor: Stewart Barlow
 Senate Sponsor: J. Stuart Adams

LONG TITLE**General Description:**

This bill amends the Public Employees' Benefit and Insurance Program Act to establish a pilot program for a state employee health clinic.

Highlighted Provisions:

This bill:

- ▶ within state premiums paid to the state risk pool, requires the Public Employees' Benefit and Insurance Program to establish an on-site employee health clinic:
 - by affiliating with an existing clinic; or
 - by issuing a bid for the on-site health clinic; and
- ▶ establishes some minimum criteria for the on-site health clinic.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

49-20-412, Utah Code Annotated 1953

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

Section 1. Section 49-20-412 is enacted to read:**49-20-412. (Codified as 49-20-413)****Pilot program for on-site employee clinic.**

(1) Within state premiums paid to the state risk pool from the Legislature, the program shall establish a primary care clinic:

- (a) for state employees and their dependents;
- (b) within a state building that is accessible to a large number of state employees; and
- (c) in accordance with Subsection (2).

(2) The program shall:

- (a) affiliate with an existing clinic:
 - (i) located in a building accessible to a large number of state employees; and

(ii) managed by a physician licensed in this state under Title 58, Chapter 67, Utah Medical Practice Act, or Chapter 68, Utah Osteopathic Medical Practice Act; or

(b) request bids from private entities to establish the on-site primary care clinic in accordance with criteria established by the program, which shall include at least the following:

(i) the entity's ability to establish a primary care clinic that is designed to:

(A) be convenient for employees and their dependents;

(B) increase health of employees;

(C) increase compliance with health care screening and management of chronic health care conditions; and

(D) dispense commonly used, pre-packaged drugs in a cost effective manner;

(ii) the entity's organizational and financial independence from any particular hospital network, network of clinics, or network of health care providers; and

(iii) management of the clinic by a physician licensed in the state under Title 58, Chapter 67, Utah Medical Practice Act, or Chapter 68, Utah Osteopathic Medical Practice Act.

CHAPTER 69**H. B. 154**

Passed February 19, 2015

Approved March 23, 2015

Effective May 12, 2015

JURY DUTY EXEMPTION AMENDMENTS

Chief Sponsor: Mike K. McKell
 Senate Sponsor: Deidre M. Henderson
 Cosponsors: Rich Cunningham
 Craig Hall
 Justin J. Miller

LONG TITLE**General Description:**

This bill amends provisions relating to exemptions from jury service.

Highlighted Provisions:

This bill:

- ▶ provides that a mother who is breastfeeding a child may be excused from jury service; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

78B-1-109, as renumbered and amended by Laws of Utah 2008, Chapter 3

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

Section 1. Section 78B-1-109 is amended to read:**78B-1-109. Excuse from jury service -- Postponement.**

(1) A ~~[person may be excused]~~ court may excuse an individual from jury service ~~[by the court]:~~

(a) upon a showing:

(i) of undue hardship[;];

(ii) of public necessity[;];

(iii) that the individual is a mother who is breastfeeding a child; or

(iv) that the ~~[person]~~ individual is incapable of jury service~~[-The excused period may be];~~ and

(b) for any period for which the grounds described in Subsection (1)(a) exist.

(2) ~~[The grounds for excusal from jury service shall be shown]~~ An individual described in Subsection (1) shall make the showing described in Subsection (1)(a) by affidavit, sworn testimony, or other competent evidence.

(3) The court may postpone jury service upon a showing of good cause.

CHAPTER 70**H. B. 157**

Passed February 24, 2015

Approved March 23, 2015

Effective May 12, 2015

**UTAH CODE OF MILITARY
JUSTICE AMENDMENTS**

Chief Sponsor: Val L. Peterson

Senate Sponsor: Peter C. Knudson

LONG TITLE**General Description:**

This bill provides Utah military commanders authority to prosecute or punish violations of the Utah Code of Military Justice when committed while on federal military status.

Highlighted Provisions:

This bill:

- ▶ amends Utah Code to grant commanders authority to punish violators under duty governed by Title 32, United States Code; and
- ▶ makes technical corrections to definitions and designations for the Utah Code of Military Justice.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

39-1-40.5, as last amended by Laws of Utah 1996, Chapter 198

39-6-1, as enacted by Laws of Utah 1988, Chapter 210

39-6-2, as last amended by Laws of Utah 2008, Chapter 287

39-6-15, as enacted by Laws of Utah 1988, Chapter 210

39-6-113, as last amended by Laws of Utah 1988, Second Special Session, Chapter 9

39-6-114, as last amended by Laws of Utah 1996, Chapter 79

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

Section 1. Section 39-1-40.5 is amended to read:**39-1-40.5. Utah Code of Military Justice -- Procedures -- Jurisdiction.**

(1) Title 39, Chapter 6, is adopted as the Utah Code of Military Justice, which may also be referred to as the [UCMJ] UtCMJ.

(2) The [UCMJ] UtCMJ sets forth offenses which, if committed by personnel of the Utah National Guard serving under this title or Title 32, United States Code, are punishable as the Utah Military Court directs under regulations made and published under the [UCMJ] UtCMJ.

(3) The Utah Military Court is a court of the state, convened under orders issued by the governor or the adjutant general. Judges of the court may issue summons, executions, and other process. The

process shall be served by county sheriffs, at the expense of the state.

(4) Judgments for fines or forfeitures may be docketed in the same manner as district court judgments in each county, and without costs.

(5) Appeals shall be taken to the Court of Appeals.

(6) Sentences of the Utah Military Court shall be served in a county jail. Costs incurred by the county shall be paid out of the General Fund of the state.

(7) Certification as counsel for prosecution or defense, or as a judge of the Utah Military Court, is under orders issued by the adjutant general, and is limited to attorneys who are members of the Utah State Bar and are serving as judge advocates in the Utah National Guard.

(8) A defendant may retain, at no cost to the state or National Guard, civilian counsel to represent him before the Utah Military Court.

(9) The Utah Military Court may impose fines not exceeding \$2,500, restitution to victims, statutory surcharges, and may issue all writs and judgments for the execution of any of them.

(10) When consistent with the Utah Manual for Military Courts, the Utah Rules of Criminal Procedure apply in Utah Military Courts.

Section 2. Section 39-6-1 is amended to read:**CHAPTER 6. UTAH CODE OF MILITARY
JUSTICE****39-6-1. Title.**

This chapter is known [~~and may be cited~~] as the "Utah Code of Military Justice," and may also be cited as the [~~"UCMJ."~~] "UtCMJ."

Section 3. Section 39-6-2 is amended to read:**39-6-2. Definitions.**

As used in this chapter:

- (1) "Accuser" means a person who:
 - (a) signs and swears to charges;
 - (b) directs that charges nominally be signed and sworn to by another; or
 - (c) any other person who has an interest other than an official interest in the prosecution of the accused.
- (2) "Commanding officer" means both a commissioned officer and a warrant officer designated as a commander.
- (3) "Commissioned officer" includes a commissioned warrant officer.
- (4) "Convening authority" means the governor or the adjutant general.
- (5) "Duty status other than state active duty" means any other type of duty, and includes going to and returning from the duty.

(6) “Enlisted member” means a person in an enlisted grade.

(7) “Grade” means a step or degree in a graduated scale of office or military rank, established and designated as a grade by law or regulation.

(8) “Legal officer” means any commissioned officer of the organized National Guard of the state designated to perform legal duties for a command.

(9) “Major command” or “MACOM” means a major subdivision of the Utah National Guard.

(10) “Military” means any or all of the armed forces of the United States.

(11) “Military court” means a court-martial, a court of inquiry, or a provost court.

(12) “Military judge” means a qualified staff judge advocate officer of a military court detailed under Section 39-6-20.

(13) “National Guard” means the Utah Army and Air National Guard, including part-time and full-time active guard and reserve (AGR), and includes the Utah unorganized militia when called to active duty by the governor of the state.

(14) “Officer” means commissioned or warrant officer.

(15) “Rank” means the order of precedence among members of the armed forces.

(16) “State active duty” means full-time duty in the active military service of the state under an order of the governor, issued pursuant to the governor’s authority, and includes going to and returning from the duty.

(17) “State judge advocate” or “SJA” means the commissioned officer responsible for supervising the administration of the military justice in the National Guard, and qualified and designated as judge advocate general corps officer.

(18) “Superior commissioned officer” means a commissioned officer superior to another in rank or command.

(19) [~~“UCMJ”~~] “UtCMJ” means Title 39, Chapter 6, Utah Code of Military Justice.

Section 4. Section 39-6-15 is amended to read:

39-6-15. Military court -- Composition.

(1) In the National Guard that is not in federal service, there is a military court to hear matters designated under the [~~UCMJ~~] UtCMJ.

(2) The court shall be composed of:

(a) a military judge and not fewer than three members; or

(b) a military judge, if before the court is assembled, the accused, knowing the identity of the military judge and after consultation with his defense counsel, requests in writing a court composed only of a military judge, and the military judge approves the request.

Section 5. Section 39-6-113 is amended to read:

39-6-113. Jurisdiction over offenses.

(1) A [~~person~~] member may not be tried or punished by court-martial or non-judicial punishment respectively for any offense under Sections 39-6-66 through 39-6-106, unless the offense was committed while [~~he~~] the member was in a military duty status [~~that includes but is not limited to annual training, inactive duty for training, drill, duty~~] under Title [~~10-07~~] 32, United States Code, or while on state active duty orders.

(2) Nothing in this section shall limit a commander’s authority to use adverse administrative action to address misconduct by a member, regardless of the member’s status at the time of the misconduct.

Section 6. Section 39-6-114 is amended to read:

39-6-114. Chapter interpretation -- Federal law.

Cases from the [~~federal~~] Supreme Court of the United States and the Court of Appeals for the Armed Forces [~~and the federal Courts of Criminal Appeals~~] that interpret provisions of the Uniform Code of Military Justice [~~shall be followed~~] and the Manual for Courts-Martial United States shall be relied upon in interpretation of [~~Section 39-6-24 and Sections 39-6-66 through 39-6-106, where appropriate and applicable~~] corresponding provisions of Title 39, Chapter 6, Utah Code of Military Justice.

CHAPTER 71**H. B. 165**

Passed January 29, 2015
 Approved March 23, 2015
 Effective May 12, 2015

**LEGISLATIVE IN-SESSION
 EMPLOYEE AMENDMENTS**

Chief Sponsor: James A. Dunnigan
 Senate Sponsor: Ralph Okerlund

LONG TITLE**General Description:**

This bill amends the provision that defines legislative in-session employees.

Highlighted Provisions:

This bill:

- modifies the definition of legislative in-session employees.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

36-2-1, as last amended by Laws of Utah 1975,
 Chapter 108

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

Section 1. Section 36-2-1 is amended to read:

36-2-1. Legislative in-session employees.

~~[The in-session]~~ In-session employees of the Legislature ~~[shall consist of a secretary of the Senate and a chief clerk of the House, a minute]~~ are those employees who are hired to perform seasonal work associated with a legislative session, and may consist of a journal clerk of the Senate and a ~~[minute]~~ journal clerk of the House, a docket clerk of the Senate and a docket clerk of the House, a reading clerk of the Senate and a reading clerk of the House, and such other ~~[assistants]~~ employees as may be found necessary.

CHAPTER 72**H. B. 173**

Passed March 6, 2015
 Approved March 23, 2015
 Effective May 12, 2015

**RECOVERY DOG
 TRAINING AMENDMENTS**

Chief Sponsor: Dixon M. Pitcher
 Senate Sponsor: Ann Millner

LONG TITLE**General Description:**

This bill amends provisions to related an unclaimed dead body.

Highlighted Provisions:

This bill:

- ▶ allows the medical examiner to retain tissue from an unclaimed body in order to donate the tissue to an individual for the purpose of training a dog to search for human remains.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

26-4-4, as last amended by Laws of Utah 2007, Chapter 60
 35A-3-401, as last amended by Laws of Utah 2004, Chapter 29
 53B-17-301, as enacted by Laws of Utah 1987, Chapter 167

REPEALS AND REENACTS:

26-4-25, as last amended by Laws of Utah 1998, Chapter 153

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

Section 1. Section 26-4-4 is amended to read:

**26-4-4. Chief medical examiner --
 Appointment -- Qualifications --
 Authority.**

(1) The executive director, with the advice of an advisory board consisting of the chairman of the Department of Pathology at the University of Utah medical school and the dean of the law school at the University of Utah, shall appoint a chief medical examiner who shall be licensed to practice medicine in the state and shall meet the qualifications of a forensic pathologist, certified by the American Board of Pathologists.

(2) (a) The medical examiner shall serve at the will of the executive director.

(b) The medical examiner has authority to:

(i) employ medical, technical and clerical personnel as may be required to effectively administer this chapter, subject to the rules of the department and the state merit system;

(ii) conduct investigations and pathological examinations;

(iii) perform autopsies authorized in this title;

(iv) conduct or authorize necessary examinations on dead bodies; and

(v) notwithstanding the provisions of Subsection 26-28-122(3), retain tissues and biological samples:

(A) for scientific purposes [~~and those the medical examiner considers~~];

(B) where necessary to accurately certify the cause and manner of death[-]; or

(C) for tissue from an unclaimed body, subject to Section 26-4-25, in order to donate the tissue or biological sample to an individual who is affiliated with an established search and rescue dog organization, for the purpose of training a dog to search for human remains.

(c) In the case of an unidentified body, the medical examiner shall authorize or conduct investigations, tests and processes in order to determine its identity as well as the cause of death.

(3) The medical examiner may appoint regional pathologists, each of whom shall be approved by the executive director.

Section 2. Section 26-4-25 is repealed and reenacted to read:

**26-4-25. Burial of an unclaimed body --
 Request by the school of medicine at the
 University of Utah -- Medical examiner
 may retain tissue for dog training.**

(1) Except as described in Subsection (2) or (3), a county shall provide, at the county's expense, decent burial for an unclaimed body found in the county.

(2) A county is not responsible for decent burial of an unclaimed body found in the county if the body is requested by the dean of the school of medicine at the University of Utah under Section 53B-17-301.

(3) For an unclaimed body that is temporarily in the medical examiner's custody before burial under Subsection (1), the medical examiner may retain tissue from the unclaimed body in order to donate the tissue to an individual who is affiliated with an established search and rescue dog organization, for the purpose of training a dog to search for human remains.

Section 3. Section 35A-3-401 is amended to read:**35A-3-401. General Assistance.**

(1) (a) General Assistance may be provided to individuals who are not receiving cash assistance under Part 3, Family Employment Program, or Supplemental Security Income, and who are unemployable according to standards established by the department.

(b) (i) General Assistance may be provided by payment in cash or in kind.

(ii) The office may provide an amount less than the existing payment level for an otherwise similarly situated client of cash assistance under Part 3, Family Employment Program.

(c) The office shall establish asset limitations for General Assistance clients.

(d) (i) General Assistance may be granted to meet special nonrecurrent needs of an applicant for the federal Supplemental Security Income program, if the applicant agrees to reimburse the division for assistance advanced while awaiting the determination of eligibility by the Social Security Administration.

(ii) General Assistance payments may not be made to a current client of cash assistance or Supplemental Security Income.

(e) (i) General Assistance may be used for the reasonable cost of burial for a client, if heirs or relatives are not financially able to assume this expense.

(ii) Notwithstanding Subsection (1)(e)(i), if the body of a person is unclaimed, Section [53B-17-301] 26-4-25 applies.

(iii) The department shall fix the cost of a reasonable burial and conditions under which burial expenditures may be made.

(2) The division may cooperate with any governmental unit or agency, or any private nonprofit agency in establishing work projects to provide employment for employable persons.

Section 4. Section 53B-17-301 is amended to read:

53B-17-301. Unclaimed dead bodies -- Notice to school of medicine at the University of Utah -- Preservation of dead bodies.

~~[(1) Any person who has charge over an unclaimed dead body that is to be buried at public expense shall notify the dean of the School of Medicine at the University of Utah within 24 hours after taking charge of the body.]~~

(1) A county shall, within 24 hours after assuming custody of an unclaimed body for which the county is required to provide burial under Section 26-4-25, provide notice of the county's custody of the body to the dean of the school of medicine at the University of Utah.

(2) The notice described in Subsection (1) shall specify the body's probable cause of death.

(3) [At the dean's request, the person shall] Subject to Section 26-4-25, the county shall, at the request of the dean of the school of medicine at the University of Utah, forward the body to the university, at [its] the university's expense, within 24 hours of receiving the dean's request.

~~[(4) The delivered body shall be properly embalmed and preserved for not less than 60 days. If a personal friend or relative of the deceased person requests the body for a private burial, during~~

~~this time period, the person is given possession of the body.]~~

(4) The school of medicine at the University of Utah shall, for a body it receives under Subsection (3):

(a) properly embalm and preserve the body for at least 60 days; and

(b) upon request, release the body to a person with priority to control the disposition of the body under Section 58-9-602.

CHAPTER 73

H. B. 175

Passed March 12, 2015

Approved March 23, 2015

Effective May 12, 2015

ALZHEIMER STATE PLAN AMENDMENTS

Chief Sponsor: Paul Ray
Senate Sponsor: Allen M. Christensen

LONG TITLE

General Description:

This bill amends the duties of the Department of Health.

Highlighted Provisions:

This bill:

- ▶ makes technical amendments; and
- ▶ requires the Department of Health to designate Alzheimer's disease and related dementia as a public health issue and implement a state plan for Alzheimer's disease and related dementia.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

26-1-30, as last amended by Laws of Utah 2012, Chapters 24 and 267

26-6b-3, as last amended by Laws of Utah 2011, Chapter 297

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

Section 1. Section 26-1-30 is amended to read:

26-1-30. Powers and duties of department.

[4] The department shall exercise the following powers and duties, in addition to other powers and duties established in this chapter:

[a] (1) enter into cooperative agreements with the Department of Environmental Quality to delineate specific responsibilities to assure that assessment and management of risk to human health from the environment are properly administered; ~~and~~

[b] (2) consult with the Department of Environmental Quality and enter into cooperative agreements, as needed, to ensure efficient use of resources and effective response to potential health and safety threats from the environment, and to prevent gaps in protection from potential risks from the environment to specific individuals or population groups[-];

~~[(2) In addition to all other powers and duties of the department, it shall have and exercise the following powers and duties:]~~

[a] (3) promote and protect the health and wellness of the people within the state;

[b] (4) establish, maintain, and enforce rules necessary or desirable to carry out the provisions

and purposes of this title to promote and protect the public health or to prevent disease and illness;

~~[(e)]~~ (5) investigate and control the causes of epidemic, infectious, communicable, and other diseases affecting the public health;

~~[(d)]~~ (6) provide for the detection, reporting, prevention, and control of communicable, infectious, acute, chronic, or any other disease or health hazard which the department considers to be dangerous, important, or likely to affect the public health;

~~[(e)]~~ (7) collect and report information on causes of injury, sickness, death, and disability and the risk factors that contribute to the causes of injury, sickness, death, and disability within the state;

~~[(f)]~~ (8) collect, prepare, publish, and disseminate information to inform the public concerning the health and wellness of the population, specific hazards, and risks that may affect the health and wellness of the population and specific activities which may promote and protect the health and wellness of the population;

~~[(g)]~~ (9) establish and operate programs necessary or desirable for the promotion or protection of the public health and the control of disease or which may be necessary to ameliorate the major causes of injury, sickness, death, and disability in the state, except that the programs may not be established if adequate programs exist in the private sector;

~~[(h)]~~ (10) establish, maintain, and enforce isolation and quarantine, and for this purpose only, exercise physical control over property and individuals as the department finds necessary for the protection of the public health;

~~[(i)]~~ (11) close theaters, schools, and other public places and forbid gatherings of people when necessary to protect the public health;

~~[(j)]~~ (12) abate nuisances when necessary to eliminate sources of filth and infectious and communicable diseases affecting the public health;

~~[(k)]~~ (13) make necessary sanitary and health investigations and inspections in cooperation with local health departments as to any matters affecting the public health;

~~[(l)]~~ (14) establish laboratory services necessary to support public health programs and medical services in the state;

~~[(m)]~~ (15) establish and enforce standards for laboratory services which are provided by any laboratory in the state when the purpose of the services is to protect the public health;

~~[(n)]~~ (16) cooperate with the Labor Commission to conduct studies of occupational health hazards and occupational diseases arising in and out of employment in industry, and make recommendations for elimination or reduction of the hazards;

~~[(o)]~~ (17) cooperate with the local health departments, the Department of Corrections, the

Administrative Office of the Courts, the Division of Juvenile Justice Services, and the Crime Victim Reparations Board to conduct testing for HIV infection of alleged sexual offenders, convicted sexual offenders, and any victims of a sexual offense;

~~[(p)]~~ (18) investigate the causes of maternal and infant mortality;

~~[(q)]~~ (19) establish, maintain, and enforce a procedure requiring the blood of adult pedestrians and drivers of motor vehicles killed in highway accidents be examined for the presence and concentration of alcohol;

~~[(r)]~~ (20) provide the Commissioner of Public Safety with monthly statistics reflecting the results of the examinations provided for in Subsection ~~[(2)(q)]~~ (19) and provide safeguards so that information derived from the examinations is not used for a purpose other than the compilation of statistics authorized in this Subsection ~~[(2)(r)]~~ (20);

~~[(s)]~~ (21) establish qualifications for individuals permitted to draw blood pursuant to Subsection 41-6a-523(1)(a)(vi), 53-10-405(2)(a)(vi), or 72-10-502(5)(a)(vi), and to issue permits to individuals it finds qualified, which permits may be terminated or revoked by the department;

~~[(t)]~~ (22) establish a uniform public health program throughout the state which includes continuous service, employment of qualified employees, and a basic program of disease control, vital and health statistics, sanitation, public health nursing, and other preventive health programs necessary or desirable for the protection of public health;

~~[(u)]~~ (23) adopt rules and enforce minimum sanitary standards for the operation and maintenance of:

~~[(i)]~~ (a) orphanages;

~~[(ii)]~~ (b) boarding homes;

~~[(iii)]~~ (c) summer camps for children;

~~[(iv)]~~ (d) lodging houses;

~~[(v)]~~ (e) hotels;

~~[(vi)]~~ (f) restaurants and all other places where food is handled for commercial purposes, sold, or served to the public;

~~[(vii)]~~ (g) tourist and trailer camps;

~~[(viii)]~~ (h) service stations;

~~[(ix)]~~ (i) public conveyances and stations;

~~[(x)]~~ (j) public and private schools;

~~[(xi)]~~ (k) factories;

~~[(xii)]~~ (l) private sanatoria;

~~[(xiii)]~~ (m) barber shops;

~~[(xiv)]~~ (n) beauty shops;

~~[(xv)]~~ (o) physician offices;

~~[(xvi)]~~ (p) dentist offices;

~~[(xvii)]~~ (q) workshops;

~~[(xviii)]~~ (r) industrial, labor, or construction camps;

~~[(xix)]~~ (s) recreational resorts and camps;

~~[(xx)]~~ (t) swimming pools, public baths, and bathing beaches;

~~[(xxi)]~~ (u) state, county, or municipal institutions, including hospitals and other buildings, centers, and places used for public gatherings; and

~~[(xxii)]~~ (v) any other facilities in public buildings or on public grounds;

~~[(v)]~~ (24) conduct health planning for the state;

~~[(w)]~~ (25) monitor the costs of health care in the state and foster price competition in the health care delivery system;

~~[(x)]~~ (26) adopt rules for the licensure of health facilities within the state pursuant to Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act;

~~[(y)]~~ (27) license the provision of child care;

~~[(z)]~~ (28) accept contributions to and administer the funds contained in the Organ Donation Contribution Fund created in Section 26-18b-101;

~~[(aa)]~~ (29) serve as the collecting agent, on behalf of the state, for the nursing care facility assessment fee imposed under Title 26, Chapter 35a, Nursing Care Facility Assessment Act, and adopt rules for the enforcement and administration of the nursing facility assessment consistent with the provisions of Title 26, Chapter 35a; ~~and~~

~~[(bb)]~~ (30) establish methods or measures for health care providers, public health entities, and health care insurers to coordinate among themselves to verify the identity of the individuals they serve[-]; and

(31) (a) designate Alzheimer's disease and related dementia as a public health issue and, within budgetary limitations, implement a state plan for Alzheimer's disease and related dementia by incorporating the plan into the department's strategic planning and budgetary process; and

(b) coordinate with other state agencies and other organizations to implement the state plan for Alzheimer's disease and related dementia.

Section 2. Section 26-6b-3 is amended to read:

26-6b-3. Order of restriction.

(1) The department having jurisdiction over the location where an individual or a group of individuals who are subject to restriction are found may:

(a) issue a written order of restriction for the individual or group of individuals pursuant to ~~Subsection 26-1-30(2) or~~ Section 26-1-30 or Subsection 26A-1-114(1)(b) upon compliance with the requirements of this chapter; and

(b) issue a verbal order of restriction for an individual or group of individuals pursuant to Subsection (2)(c).

(2) (a) A department's determination to issue an order of restriction shall be based upon the totality of circumstances reported to and known by the department, including:

(i) observation;

(ii) information that the department determines is credible and reliable information; and

(iii) knowledge of current public health risks based on medically accepted guidelines as may be established by the Department of Health by administrative rule.

(b) An order of restriction issued by a department shall:

(i) in the opinion of the public health official, be for the shortest reasonable period of time necessary to protect the public health;

(ii) use the least intrusive method of restriction that, in the opinion of the department, is reasonable based on the totality of circumstances known to the health department issuing the order of restriction;

(iii) be in writing unless the provisions of Subsection (2)(c) apply; and

(iv) contain notice of an individual's rights as required in Section 26-6b-3.3.

(c) (i) A department may issue a verbal order of restriction, without prior notice to the individual or group of individuals if the delay in imposing a written order of restriction would significantly jeopardize the department's ability to prevent or limit:

(A) the transmission of a communicable or possibly communicable disease that poses a threat to public health;

(B) the transmission of an infectious agent or possibly infectious agent that poses a threat to public health;

(C) the exposure or possible exposure of a chemical or biological agent that poses a threat to public health; or

(D) the exposure or transmission of a condition that poses a threat to public health.

(ii) A verbal order of restriction issued under the provisions of Subsection (2)(c)(i):

(A) is valid for 24 hours from the time the order of restriction is issued;

(B) may be verbally communicated to the individuals or group of individuals subject to restriction by a first responder;

(C) may be enforced by the first responder until the department is able to establish and maintain the place of restriction; and

(D) may only be continued beyond the initial 24 hours if a written order of restriction is issued pursuant to the provisions of Section 26-6b-3.3.

(3) Pending issuance of a written order of restriction under Section 26-6b-3.3, or judicial review of an order of restriction by the district court pursuant to Section 26-6b-6, an individual who is subject to the order of restriction may be required to submit to involuntary examination, quarantine, isolation, or treatment in the individual's home, a hospital, or any other suitable facility under reasonable conditions prescribed by the department.

(4) The department that issued the order of restriction shall take reasonable measures, including the provision of medical care, as may be necessary to assure proper care related to the reason for the involuntary examination, treatment, isolation, or quarantine of an individual ordered to submit to an order of restriction.

CHAPTER 74**H. B. 189**

Passed March 12, 2015

Approved March 23, 2015

Effective May 12, 2015

CHILD WELFARE MEDIATION

Chief Sponsor: Eric K. Hutchings

Senate Sponsor: Lyle W. Hillyard

LONG TITLE**General Description:**

This bill amends provisions relating to the Dispute Resolution Account.

Highlighted Provisions:

This bill:

- ▶ increases the amount of fees deposited into the Dispute Resolution Account.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

78B-6-209, as last amended by Laws of Utah 2011, Chapter 22

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

Section 1. Section 78B-6-209 is amended to read:**78B-6-209. Dispute Resolution Account -- Appropriation.**

There is created a restricted account within the General Fund known as the "Dispute Resolution Account." ~~Three~~ Five dollars of the fees established in Subsections 78A-2-301(1)(a) through (e), (1)(g), and (1)(s) shall be allocated to and deposited ~~in~~ into the ~~restricted account~~ Dispute Resolution Account. The Legislature shall annually appropriate money from the Dispute Resolution Account to the Administrative Office of the Courts to implement the purposes of ~~the~~ Title 78B, Chapter 6, Part 2, Alternative Dispute Resolution Act.

CHAPTER 75**H. B. 192**

Passed February 26, 2015

Approved March 23, 2015

Effective May 12, 2015

**PROPERTY RIGHTS
OMBUDSMAN AMENDMENTS**

Chief Sponsor: Timothy D. Hawkes

Senate Sponsor: Todd Weiler

LONG TITLE**General Description:**

This bill enacts language related to the Office of the Property Rights Ombudsman.

Highlighted Provisions:

This bill:

- ▶ prohibits the Office of the Property Rights Ombudsman from representing a person in a legal action;
- ▶ provides that an action by the Office of the Property Rights Ombudsman or its associates does not create an attorney-client privilege; and
- ▶ makes technical and conforming amendments.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

13-43-203, as last amended by Laws of Utah 2013, Chapter 327

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

Section 1. Section 13-43-203 is amended to read:**13-43-203. Office of the Property Rights Ombudsman -- Duties.**

(1) (a) The Office of the Property Rights Ombudsman shall:

(i) develop and maintain expertise in and understanding of takings, eminent domain, and land use law;

(ii) clearly identify the specific information that is prepared for distribution to property owners whose land is being acquired under the provisions of Section 78B-6-505;

(iii) assist state agencies and local governments in developing the guidelines required by Title 63L, Chapter 4, Constitutional Taking Issues Act;

(iv) at the request of a state agency or local government, assist the state agency or local government, in analyzing actions with potential takings implications or other land use issues;

(v) advise real property owners who:

(A) have a legitimate potential or actual takings claim against a state or local government entity or

have questions about takings, eminent domain, and land use law; or

(B) own a parcel of property that is landlocked, as to the owner's rights and options with respect to obtaining access to a public street;

(vi) identify state or local government actions that have potential takings implications and, if appropriate, advise those state or local government entities about those implications; and

(vii) provide information to private citizens, civic groups, government entities, and other interested parties about takings, eminent domain, and land use law and their rights, including a right to just compensation, and responsibilities under the takings, eminent domain, or land use laws through seminars and publications, and by other appropriate means.

(b) The Office of the Property Rights Ombudsman shall:

(i) provide the information described in Section 78B-6-505 on its website in a form that is easily accessible; and

(ii) ensure that the information is current.

(2) ~~[The]~~ (a) Neither the Office of the Property Rights Ombudsman ~~[may not]~~ nor its individual attorneys may represent private ~~[property owners]~~ parties, state agencies, ~~[or]~~ local governments ~~[in court or in adjudicative proceedings under Title 63G, Chapter 4, Administrative Procedures Act]~~, or any other individual or entity in a legal action that arises from or relates to a matter addressed in this chapter.

(b) An action by an attorney employed by the Office of the Property Rights Ombudsman, by a neutral third party acting as mediator or arbitrator under Section 13-43-204, or by a neutral third party rendering an advisory opinion under Section 13-43-205 or 13-43-206, taken within the scope of the duties set forth in this chapter, does not create an attorney-client relationship between the Office of the Property Rights Ombudsman, or the office's attorneys or appointees, and an individual or entity.

(3) No member of the Office of the Property Rights Ombudsman nor a neutral third party rendering an advisory opinion under Section 13-43-205 or 13-43-206, may be compelled to testify in a civil action filed concerning the subject matter of any review, mediation, or arbitration by, or arranged through, the office.

(4) (a) Except as provided in Subsection (4)(b), evidence of a review by the Office of the Property Rights Ombudsman and the opinions, writings, findings, and determinations of the Office of the Property Rights Ombudsman are not admissible as evidence in a judicial action.

(b) Subsection (4)(a) does not apply to:

(i) actions brought under authority of Title 78A, Chapter 8, Small Claims Courts;

(ii) a judicial confirmation or review of the arbitration itself as authorized in Title 78B, Chapter 11, Utah Uniform Arbitration Act;

(iii) actions for de novo review of an arbitration award or issue brought under the authority of Subsection 13-43-204(3)(a)(i); or

(iv) advisory opinions provided for in Sections 13-43-205 and 13-43-206.

CHAPTER 76**H. B. 195**

Passed February 26, 2015

Approved March 23, 2015

Effective May 12, 2015

TRAFFIC CODE REPEALER

Chief Sponsor: Lee B. Perry
Senate Sponsor: Curtis S. Bramble
Cosponsors: Patrice M. Arent
Joel K. Briscoe
Rebecca Chavez-Houck
Rich Cunningham
Jack R. Draxler
Susan Duckworth
Steve Eliason
Sandra Hollins
Don L. Ipson
Brad King
Brian S. King
Carol Spackman Moss
Marie H. Poulson
Paul Ray
Edward H. Redd
Angela Romero
Scott D. Sandall
Mark A. Wheatley

LONG TITLE**General Description:**

This bill modifies the Traffic Code by repealing restrictions on operating a motor vehicle.

Highlighted Provisions:

This bill:

- ▶ repeals restrictions on an operator of a motor vehicle traveling through a defile or canyon or on a mountain highway; and
- ▶ repeals coasting restrictions on an operator of a motor vehicle.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**REPEALS:**

41-6a-1708, as renumbered and amended by Laws of Utah 2005, Chapter 2

41-6a-1709, as renumbered and amended by Laws of Utah 2005, Chapter 2

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

Section 1. Repealer.

This bill repeals:

Section 41-6a-1708, Driving in canyons and on mountain highways.

Section 41-6a-1709, Coasting prohibited.

CHAPTER 77**H. B. 209**

Passed March 6, 2015
Approved March 23, 2015
Effective May 12, 2015

**SUICIDE PREVENTION
PROGRAM AMENDMENTS**

Chief Sponsor: Justin L. Fawson
Senate Sponsor: Brian E. Shiozawa

LONG TITLE**General Description:**

This bill modifies provisions related to suicide prevention training for behavioral health professionals.

Highlighted Provisions:

This bill:

- ▶ requires an individual to complete a course in suicide prevention in order to obtain or renew a license in a behavioral health profession.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 58-40-302, as last amended by Laws of Utah 2014, Chapter 189
58-40-304, as enacted by Laws of Utah 2012, Chapter 82
58-60-105, as enacted by Laws of Utah 1994, Chapter 32
58-60-205, as last amended by Laws of Utah 2013, Chapters 16 and 262
58-60-305, as last amended by Laws of Utah 2013, Chapter 16
58-60-405, as last amended by Laws of Utah 2013, Chapter 16
58-60-506, as last amended by Laws of Utah 2014, Chapter 189

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

Section 1. Section 58-40-302 is amended to read:**58-40-302. Qualifications for licensure.**

(1) An applicant for licensure under this chapter shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504; and

(c) be of good moral character.

(2) In addition to the requirements of Subsection (1), an applicant for licensure as a master therapeutic recreation specialist under this chapter shall as defined by division rule:

(a) complete an approved graduate degree;

(b) complete 4,000 qualifying hours of paid experience as:

(i) a licensed therapeutic recreation specialist if completed in the state; or

(ii) a certified therapeutic recreation specialist certified by the National Council for Therapeutic Recreation Certification if completed outside of the state; and

(c) pass an approved examination.

(3) In addition to the requirements of Subsection (1), an applicant for licensure as a therapeutic recreation specialist under this chapter shall, as defined by division rule:

(a) complete an approved:

(i) bachelor's degree in therapeutic recreation or recreational therapy;

(ii) bachelor's degree with an approved emphasis, option, or concentration in therapeutic recreation or recreational therapy; or

(iii) graduate degree;

(b) complete an approved practicum; and

(c) pass an approved examination.

(4) In addition to the requirements of Subsection (1), an applicant for licensure as a therapeutic recreation technician under this chapter shall, as defined by division rule:

(a) have a high school diploma or GED equivalent;

(b) complete an approved:

(i) educational course in therapeutic recreation taught by a licensed master therapeutic recreation specialist; or

(ii) six semester hours or nine quarter hours in therapeutic recreation or recreational therapy from an accredited college or university;

(c) complete an approved practicum under the supervision of:

(i) a licensed master therapeutic recreation specialist; or

(ii) an on-site, full-time, employed therapeutic recreation specialist; ~~and~~

(d) pass an approved examination~~[-]; and~~

(e) complete a minimum of two hours of training in suicide prevention via a course that the division designates as approved.

Section 2. Section 58-40-304 is amended to read:**58-40-304. Continuing education.**

(1) In collaboration with the board, the division shall make rules to provide that as a condition precedent for license renewal, a licensee shall complete continuing education requirements during each license period.

(2) In addition to a continuing education requirement provided by the division under

Subsection (1), the division shall require a licensee, as a condition of renewal of the licensee's license, to complete a minimum of two hours of training in suicide prevention via a course that the division designates as approved.

Section 3. Section 58-60-105 is amended to read:

58-60-105. Continuing education.

(1) By rule made under Section 58-1-203, the division may establish a continuing education requirement as a condition for renewal of any license classification under this chapter upon finding continuing education for that profession is necessary to reasonably protect the public health, safety, or welfare.

(2) If a renewal cycle is extended or shortened under Section 58-60-104, the continuing education hours required for license renewal under this section shall be increased or decreased proportionally.

(3) The division shall, in addition to a continuing education requirement the division establishes under Subsection (1), require an individual licensed under this chapter, as a condition of renewing the individual's license, to complete a minimum of two hours of training in suicide prevention via a course that the division designates as approved.

Section 4. Section 58-60-205 is amended to read:

58-60-205. Qualifications for licensure or certification as a clinical social worker, certified social worker, and social service worker.

(1) An applicant for licensure as a clinical social worker shall:

(a) submit an application on a form provided by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) be of good moral character;

(d) produce certified transcripts from an accredited institution of higher education recognized by the division in collaboration with the board verifying satisfactory completion of an education and earned degree as follows:

(i) an earned master's degree in social work resulting from completion of an education program accredited by the Council on Social Work Education; or

(ii) an earned doctoral degree in social work that results from successful completion of a clinical concentration and practicum approved by the division and defined by rule under Section 58-1-203;

(e) have completed a minimum of 4,000 hours of clinical social work training as defined by division rule under Section 58-1-203;

(i) in not less than two years ~~and~~;

(ii) under the supervision of a clinical social worker supervisor approved by the division in collaboration with the board; and

(iii) including a minimum of two hours of training in suicide prevention via a course that the division designates as approved;

(f) document successful completion of not less than 1,000 hours of supervised training in mental health therapy obtained after completion of the education requirement in Subsection (1)(d), which training may be included as part of the 4,000 hours of training in Subsection (1)(e), and of which documented evidence demonstrates not less than 100 of the hours were obtained under the direct supervision of a clinical social worker, as defined by rule;

(g) have completed a case work, group work, or family treatment course sequence with a clinical practicum in content as defined by rule under Section 58-1-203; and

(h) pass the examination requirement established by rule under Section 58-1-203.

(2) An applicant for licensure as a certified social worker shall:

(a) submit an application on a form provided by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) be of good moral character;

(d) produce certified transcripts from an accredited institution of higher education recognized by the division in collaboration with the Social Worker Licensing Board verifying satisfactory completion of an education and an earned degree as follows:

(i) a social work education program accredited by the Council on Social Work Education and an earned master's degree resulting from completion of that program; or

(ii) an education program that contains approved clinical social work concentration and practicum in content as defined by rule under Section 58-1-203 and an earned doctorate resulting from completion of that program; and

(e) pass the examination requirement established by rule under Section 58-1-203.

(3) (a) An applicant for certification as a certified social worker intern shall meet the requirements of Subsections (2)(a), (b), (c), and (d).

(b) Certification under Subsection (3)(a) is limited to the time necessary to pass the examination required under Subsection (2)(e) or six months, whichever occurs first.

(c) A certified social worker intern may provide mental health therapy under the general supervision of a clinical social worker.

(4) An applicant for licensure as a social service worker shall:

(a) submit an application on a form provided by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) be of good moral character;

(d) produce certified transcripts from an accredited institution of higher education recognized by the division in collaboration with the Social Worker Licensing Board verifying satisfactory completion of an earned degree resulting from education as follows:

(i) a bachelor's degree in a social work program accredited by the Council on Social Work Education;

(ii) a master's degree in a field approved by the division in collaboration with the social worker board;

(iii) a bachelor's degree in any field if the applicant:

(A) has completed at least three semester hours, or the equivalent, in each of the following areas:

(I) social welfare policy;

(II) human growth and development; and

(III) social work practice methods, as defined by rule; and

(B) provides documentation that the applicant has completed at least 2,000 hours of qualifying experience under the supervision of a mental health therapist, which experience is approved by the division in collaboration with the Social Worker Licensing Board, and which is performed after completion of the requirements to obtain the bachelor's degree required under this Subsection (4); or

(iv) successful completion of the first academic year of a Council on Social Work Education approved master's of social work curriculum and practicum; and

(e) pass the examination requirement established by rule under Section 58-1-203.

(5) The division shall ensure that the rules for an examination described under Subsections (1)(h), (2)(e), and (4)(e) allow additional time to complete the examination if requested by an applicant who is:

(a) a foreign born legal resident of the United States for whom English is a second language; or

(b) an enrolled member of a federally recognized Native American tribe.

Section 5. Section 58-60-305 is amended to read:

58-60-305. Qualifications for licensure.

(1) All applicants for licensure as marriage and family therapists shall:

(a) submit an application on a form provided by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) be of good moral character;

(d) produce certified transcripts evidencing completion of a masters or doctorate degree in marriage and family therapy from:

(i) a program accredited by the Commission on Accreditation for Marriage and Family Therapy Education; or

(ii) an accredited institution meeting criteria for approval established by rule under Section 58-1-203;

(e) have completed a minimum of 4,000 hours of marriage and family therapy training as defined by division rule under Section 58-1-203[~~5~~];

(i) in not less than two years[~~7~~];

(ii) under the supervision of a marriage and family therapist supervisor who meets the requirements of Section 58-60-307[~~and~~];

(iii) obtained after completion of the education requirement in Subsection (1)(d); and

(iv) including a minimum of two hours of training in suicide prevention via a course that the division designates as approved;

(f) document successful completion of not less than 1,000 hours of supervised training in mental health therapy obtained after completion of the education requirement described in Subsection (1)(d)(i) or (1)(d)(ii), which training may be included as part of the 4,000 hours of training described in Subsection (1)(e), and of which documented evidence demonstrates not less than 100 of the supervised hours were obtained during direct, personal supervision by a marriage and family therapist supervisor qualified under Section 58-60-307, as defined by rule; and

(g) pass the examination requirement established by division rule under Section 58-1-203.

(2) (a) All applicants for licensure as an associate marriage and family therapist shall comply with the provisions of Subsections (1)(a), (b), (c), and (d).

(b) An individual's license as an associate marriage and family therapist is limited to the period of time necessary to complete clinical training as described in Subsections (1)(e) and (f) and extends not more than one year from the date the minimum requirement for training is completed, unless the individual presents satisfactory evidence to the division and the appropriate board that the individual is making reasonable progress toward passing of the qualifying examination for that profession or is otherwise on a course reasonably expected to lead to licensure, but the period of time under this Subsection (2)(b) may not exceed two years past the date the minimum supervised clinical training requirement has been completed.

Section 6. Section 58-60-405 is amended to read:

58-60-405. Qualifications for licensure.

(1) An applicant for licensure as a clinical mental health counselor shall:

(a) submit an application on a form provided by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) be of good moral character;

(d) produce certified transcripts from an accredited institution of higher education recognized by the division in collaboration with the board verifying satisfactory completion of:

(i) an education and degree in an education program in counseling with a core curriculum defined by division rule under Section 58-1-203 preparing one to competently engage in mental health therapy; and

(ii) an earned doctoral or master's degree resulting from that education program;

(e) have completed a minimum of 4,000 hours of clinical mental health counselor training as defined by division rule under Section 58-1-203^[7]:

(i) in not less than two years^[7];

(ii) under the supervision of a clinical mental health counselor, psychiatrist, psychologist, clinical social worker, registered psychiatric mental health nurse specialist, or marriage and family therapist supervisor approved by the division in collaboration with the board^[7]; and^[7];

(iii) obtained after completion of the education requirement in Subsection (1)(d); and

(iv) including a minimum of two hours of training in suicide prevention via a course that the division designates as approved;

(f) document successful completion of not less than 1,000 hours of supervised training in mental health therapy obtained after completion of the education requirement in Subsection (1)(d), which training may be included as part of the 4,000 hours of training in Subsection (1)(e), and of which documented evidence demonstrates not less than 100 of the hours were obtained under the direct supervision of a mental health therapist, as defined by rule; and

(g) pass the examination requirement established by division rule under Section 58-1-203.

(2) (a) An applicant for licensure as an associate clinical mental health counselor shall comply with the provisions of Subsections (1)(a), (b), (c), and (d).

(b) Except as provided under Subsection (2)(c), an individual's licensure as an associate clinical mental health counselor is limited to the period of time necessary to complete clinical training as described in Subsections (1)(e) and (f) and extends not more than one year from the date the minimum requirement for training is completed.

(c) The time period under Subsection (2)(b) may be extended to a maximum of two years past the

date the minimum supervised clinical training requirement has been completed, if the applicant presents satisfactory evidence to the division and the appropriate board that the individual is:

(i) making reasonable progress toward passing of the qualifying examination for that profession; or

(ii) otherwise on a course reasonably expected to lead to licensure.

Section 7. Section 58-60-506 is amended to read:

58-60-506. Qualifications for licensure.

(1) An applicant for licensure under this part on and after July 1, 2012, must meet the following qualifications:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) be of good moral character;

(d) satisfy the requirements of Subsection (2), (3), (4), (5), (6), or (7) respectively; and

(e) except for licensure as a certified substance use disorder counselor intern and a certified advanced substance use disorder counselor intern, satisfy the examination requirement established by division rule under Section 58-1-203.

(2) In accordance with division rules, an applicant for licensure as an advanced substance use disorder counselor shall produce:

(a) certified transcripts from an accredited institution of higher education that:

(i) meet division standards;

(ii) verify the satisfactory completion of a baccalaureate or graduate degree; and

(iii) verify the completion of prerequisite courses established by division rules;

(b) documentation of the applicant's completion of a substance use disorder education program that includes:

(i) at least 300 hours of substance use disorder related education, of which 200 hours may have been obtained while qualifying for a substance use disorder counselor license; and

(ii) a supervised practicum of at least 350 hours, of which 200 hours may have been obtained while qualifying for a substance use disorder counselor license; and

(c) documentation of the applicant's completion of at least 4,000 hours of supervised experience in substance use disorder treatment, of which 2,000 hours may have been obtained while qualifying for a substance use disorder counselor license, that:

(i) meets division standards; and

(ii) is performed within a four-year period after the applicant's completion of the substance use disorder education program described in

Subsection (2)(b), unless, as determined by the division after consultation with the board, the time for performance is extended due to an extenuating circumstance.

(3) An applicant for licensure as a certified advanced substance use disorder counselor shall meet the requirements in Subsections (2)(a) and (b).

(4) (a) An applicant for licensure as a certified advanced substance use disorder counselor intern shall meet the requirements in Subsections (2)(a) and (b).

(b) A certified advanced substance use disorder counselor intern license expires at the earlier of:

(i) the licensee passing the examination required for licensure as a certified advanced substance use disorder counselor; or

(ii) six months after the certified advanced substance use disorder counselor intern license is issued.

(5) In accordance with division rules, an applicant for licensure as a substance use disorder counselor shall produce:

(a) certified transcripts from an accredited institution that:

(i) meet division standards;

(ii) verify satisfactory completion of an associate's degree or equivalent as defined by the division in rule; and

(iii) verify the completion of prerequisite courses established by division rules;

(b) documentation of the applicant's completion of a substance use disorder education program that includes:

(i) completion of at least 200 hours of substance use disorder related education; ~~and~~

(ii) included in the 200 hours described in Subsection (5)(b)(i), a minimum of two hours of training in suicide prevention via a course that the division designates as approved; and

~~[(iii)]~~ (iii) completion of a supervised practicum of at least ~~200~~ hours; and

(c) documentation of the applicant's completion of at least 2,000 hours of supervised experience in substance use disorder treatment that:

(i) meets division standards; and

(ii) is performed within a two-year period after the applicant's completion of the substance use disorder education program described in Subsection (5)(b), unless, as determined by the division after consultation with the board, the time for performance is extended due to an extenuating circumstance.

(6) An applicant for licensure as a certified substance use disorder counselor shall meet the requirements of Subsections (5)(a) and (b).

(7) (a) An applicant for licensure as a certified substance use disorder counselor intern shall meet the requirements of Subsections (5)(a) and (b).

(b) A certified substance use disorder counselor intern license expires at the earlier of:

(i) the licensee passing the examination required for licensure as a certified substance use disorder counselor; or

(ii) six months after the certified substance use disorder counselor intern license is issued.

CHAPTER 78**H. B. 212**

Passed March 11, 2015

Approved March 23, 2015

Effective May 12, 2015

**WILDLAND FIRE
LIABILITY AMENDMENTS**

Chief Sponsor: Mark A. Wheatley

Senate Sponsor: Luz Escamilla

LONG TITLE**General Description:**

This bill amends wildland fire prevention provisions.

Highlighted Provisions:

This bill:

- ▶ allows the use of certain kinds of ammunition under certain circumstances.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

65A-3-2, as last amended by Laws of Utah 2012, Chapter 361

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

Section 1. Section 65A-3-2 is amended to read:**65A-3-2. Wildland fire prevention --
Prohibited acts.**

(1) A person is guilty of a class B misdemeanor who:

(a) throws or places ~~any~~ a lighted cigarette, cigar, firecracker, ashes, or other flaming or glowing substance that may cause a fire on a highway or a wildland fire;

(b) obstructs the state forester, an employee of the division, or an agent of the division, in the performance of controlling a fire;

(c) refuses, on proper request of the state forester, an employee of the division, or an agent of the division, to assist in the controlling of a fire, without good and sufficient reason; or

(d) fires ~~any~~ a tracer or incendiary ammunition ~~[anywhere except]~~:

(i) anywhere except within the confines of established military reservations[-]; or

(ii) except with the written permission of the director of the Division of Forestry, Fire, and State Lands, given upon written request, if the director:

(A) specifies a limited period of time and a limited area in which the ammunition may be used; and

(B) issues the written permission in accordance with this title and applicable rules.

(2) Fines assessed under this section are deposited in the General Fund.

CHAPTER 79**H. B. 219**

Passed March 5, 2015

Approved March 23, 2015

Effective May 12, 2015

**ELECTION DAY VOTER REGISTRATION
PILOT PROJECT AMENDMENTS**

Chief Sponsor: Rebecca Chavez-Houck

Senate Sponsor: Deidre M. Henderson

LONG TITLE**General Description:**

This bill expands the Election Day Voter Registration Pilot Project to permit an individual to register to vote, and vote, on a day when early voting is held.

Highlighted Provisions:

This bill:

- ▶ expands the Election Day Voter Registration Pilot Project to permit an individual to register to vote, and vote, on a day when early voting is held.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 20A-2-307, as last amended by Laws of Utah 2014, Chapter 231
- 20A-3-601, as last amended by Laws of Utah 2013, Chapter 182
- 20A-4-108, as enacted by Laws of Utah 2014, Chapter 231 and last amended by Coordination Clause, Laws of Utah 2014, Chapter 231

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

Section 1. Section 20A-2-307 is amended to read:**20A-2-307. County clerks' instructions to election judges.**

(1) Each county clerk shall instruct election judges to allow a voter to vote a regular ballot if:

(a) the voter has moved from one address within a voting precinct to another address within the same voting precinct; and

(b) the voter affirms the change of address orally or in writing before the election judges.

(2) Each county clerk shall instruct election judges to allow a person to vote a provisional ballot if:

(a) the person registers to vote during early voting or on election day, in accordance with the pilot project described in Section 20A-4-108, by casting a provisional ballot in a municipality or county that is participating in the pilot project;

(b) the voter's name does not appear on the official register; or

(c) the voter is challenged as provided in Section 20A-3-202.

Section 2. Section 20A-3-601 is amended to read:**20A-3-601. Early voting.**

(1) ~~[A person]~~ (a) An individual who is registered to vote may vote before the election date in accordance with this section.

(b) An individual who is not registered to vote may register to vote and vote before the election date in accordance with this section if the individual:

(i) is otherwise legally entitled to vote the ballot in a jurisdiction that is approved by the lieutenant governor to participate in the pilot project described in Section 20A-4-108; and

(ii) casts a provisional ballot in accordance with Section 20A-4-108.

(2) Except as provided in Section 20A-1-308, the early voting period shall:

(a) begin on the date that is 14 days before the date of the election; and

(b) continue through the Friday before the election if the election date is a Tuesday.

(3) Except as provided in Section 20A-1-308, during the early voting period, the election officer:

(a) for a local special election, a municipal primary election, and a municipal general election:

(i) shall conduct early voting on a minimum of four days during each week of the early voting period; and

(ii) shall conduct early voting on the last day of the early voting period; and

(b) for all other elections:

(i) shall conduct early voting on each weekday; and

(ii) may elect to conduct early voting on a Saturday, Sunday, or holiday.

(4) Except as specifically provided in this Part 6, Early Voting, or Section 20A-1-308, early voting shall be administered according to the requirements of this title.

Section 3. Section 20A-4-108 is amended to read:**20A-4-108. Election Day Voter Registration Pilot Project.**

(1) There is created, beginning on June 1, 2014, and ending on January 1, 2017, an election day voter registration pilot project, as described in this section.

(2) A county may participate in the pilot project if the county clerk submits to the lieutenant governor a written application to participate in the pilot project that contains:

(a) the name of the county;

(b) a request that the county be permitted to participate in the pilot project;

(c) an estimate of the extent to which election day voter registration may increase voter participation; and

(d) any other reasons that the county desires to participate in the project.

(3) A municipality may participate in the pilot project for a municipal election if the municipal clerk submits to the lieutenant governor a written application to participate in the pilot project that contains:

(a) the name of the municipality;

(b) a request that the municipality be permitted to participate in the pilot project;

(c) an estimate of the extent to which election day voter registration may increase voter participation; and

(d) any other reasons that the municipality desires to participate in the project.

(4) Within 10 business days after the day on which the lieutenant governor receives an application described in Subsection (2) or (3), the lieutenant governor shall approve the application if:

(a) the application complies with the requirements described in Subsection (2) or (3), as applicable; and

(b) the lieutenant governor determines, based on the information contained in the application, that implementing the pilot project in the county or municipality:

(i) will yield valuable information to determine whether election day voter registration should be implemented on a permanent, statewide basis; and

(ii) will not adversely affect the rights of voters or candidates.

(5) For a county or municipality that is approved by the lieutenant governor to participate in the pilot project, if, under Subsection 20A-2-201(3)(b)(ii), a registration form is submitted to the county clerk on the date of the election or during the seven calendar days before an election, the county clerk shall:

(a) if the person desires to vote in the pending election, inform the person that the person must, during early voting or on election day, register to vote by casting a provisional ballot in accordance with Subsection (10); or

(b) if the person does not desire to vote in the pending election:

(i) accept a registration form from the person if, on the date of the election, the person will be legally qualified and entitled to vote in a voting precinct in the county or municipality; and

(ii) inform the person that the person will be registered to vote but may not vote in the pending election because the person registered too late and

chose not to register and vote as described in Subsection (5)(a).

(6) For a county or municipality that is approved by the lieutenant governor to participate in the pilot project, if, under Subsection 20A-2-202(3)(a), the county clerk receives a correctly completed by-mail voter registration form that is postmarked after the voter registration deadline, the county clerk shall:

(a) unless the applicant registers during early voting or on election day by casting a provisional ballot in accordance with Subsection (10), register the applicant for the next election; and

(b) if possible, promptly phone, mail, or email a notice to the applicant before the election, informing the applicant that:

(i) the applicant's registration will not be effective until after the election; and

(ii) the applicant may register to vote during early voting or on election day by casting a provisional ballot in accordance with Subsection (10).

(7) For a county or municipality that is approved by the lieutenant governor to participate in the pilot project, if, under Subsection 20A-2-204(5)(a), the county clerk receives a correctly completed voter registration form that is dated after the voter registration deadline, the county clerk shall:

(a) unless the applicant registers to vote during early voting or on election day by casting a provisional ballot in accordance with Subsection (10), register the applicant after the next election; and

(b) if possible, promptly phone, mail, or email a notice to the applicant before the election, informing the applicant that:

(i) the applicant's registration will not be effective until after the election; and

(ii) the applicant may register to vote during early voting or on election day by casting a provisional ballot in accordance with Subsection (10).

(8) For a county or municipality that is approved by the lieutenant governor to participate in the pilot project, if, under Subsection 20A-2-205(7)(a), the county clerk receives a correctly completed voter registration form that is dated after the voter registration deadline, the county clerk shall:

(a) unless the applicant registers to vote during early voting or on election day by casting a provisional ballot in accordance with Subsection (10), register the applicant after the next election; and

(b) if possible, promptly phone, mail, or email a notice to the applicant before the election, informing the applicant that:

(i) the applicant's registration will not be effective until after the election; and

(ii) the applicant may register to vote during early voting or on election day by casting a

provisional ballot in accordance with Subsection (10).

(9) For a county or municipality that is approved by the lieutenant governor to participate in the pilot project, if, under Subsection 20A-2-206(8)(c), an individual applies to register under this section during the six calendar days before an election, the county clerk shall:

(a) if the individual desires to vote in the pending election, inform the individual that the individual must, during early voting or on election day, register to vote by casting a provisional ballot in accordance with Subsection (10); or

(b) if the individual does not desire to vote in the pending election:

(i) accept the application for registration if the individual, on the date of the election, will be legally qualified and entitled to vote in a voting precinct in the state; and

(ii) inform the individual that the individual is registered to vote but may not vote in the pending election because the individual registered too late and chose not to register and vote as described in Subsection (9)(a).

(10) For a county or municipality that is approved by the lieutenant governor to participate in the pilot project:

(a) the election officer shall take the action described in Subsection (10)(b) in relation to a provisional ballot if the election officer determines that:

(i) the person who voted the ballot is not registered to vote, but is otherwise legally entitled to vote the ballot;

(ii) the ballot that the person voted is identical to the ballot for the precinct in which the person resides;

(iii) the information on the ballot is complete; and

(iv) the person provided valid voter identification and proof of residence to the poll worker;

(b) if a provisional ballot and the person who voted the provisional ballot comply with the requirements described in Subsection (10)(a), the election officer shall:

(i) consider the provisional ballot a voter registration form;

(ii) place the ballot with the absentee ballots, to be counted with those ballots at the canvass; and

(iii) as soon as reasonably possible, register the person to vote; and

(c) except as provided in Subsection (11), the election officer shall retain a provisional ballot envelope, unopened, for the period specified in Section 20A-4-202, if the election officer determines that the person who voted the ballot:

(i) (A) is not registered to vote in this state; and

(B) is not eligible for registration under Subsection (10); or

(ii) is not legally entitled to vote the ballot that the person voted.

(11) Subsection (10)(c) does not apply if a court orders the election officer to produce or count the provisional ballot.

(12) For a county or municipality that is approved by the lieutenant governor to participate in the pilot project, if, under Subsection 20A-4-107(4), the election officer determines that the person is not registered to vote in this state, that the information on the provisional ballot envelope is complete, and that the provisional ballot and the person who voted the provisional ballot do not comply with the requirements described in Subsection (10)(a), the election officer shall:

(a) consider the provisional ballot envelope a voter registration form for the person's county of residence; and

(b) (i) register the person if the voter's county of residence is within the county; or

(ii) forward the voter registration form to the election officer of the person's county of residence, which election officer shall register the person.

(13) (a) The county clerk of a county that is approved to participate in the pilot project, and the municipal clerk of a municipality that is approved to participate in the pilot project, shall provide training for the poll workers of the county or municipality on administering the pilot program.

(b) The lieutenant governor shall, for a county or municipality that is approved to participate in the pilot project, provide information relating to the pilot project in accordance with the provisions of Subsection 67-1a-2(2)(a)(iv).

(14) The lieutenant governor and each county and municipality that is approved by the lieutenant governor to participate in the pilot project shall:

(a) report to the Government Operations Interim Committee, on or before October 31 of each year that the pilot project is in effect, regarding:

(i) the implementation of the pilot project;

(ii) the number of ballots cast by voters who registered on election day;

(iii) any difficulties resulting from the pilot project; and

(iv) whether, in the opinion of the lieutenant governor, the county, or the municipality, the state would benefit from implementing election day voter registration permanently and on a statewide basis; and

(b) on or before December 31, 2016, report to the Legislative Management Committee regarding the matters described in Subsection (14)(a).

(15) During the 2016 interim, the Government Operations Interim Committee shall study and make a recommendation to the Legislature regarding whether to implement statewide election day voter registration on a permanent, statewide basis.

CHAPTER 80**H. B. 226**

Passed March 11, 2015

Approved March 23, 2015

Effective May 12, 2015

AIR QUALITY REVISIONS

Chief Sponsor: Rebecca P. Edwards

Senate Sponsor: Todd Weiler

LONG TITLE**General Description:**

This bill modifies the rulemaking authority of the Division of Air Quality.

Highlighted Provisions:

This bill:

- ▶ authorizes the Division of Air Quality to create rules that are different than corresponding federal regulations if additional regulations will provide added protections to public health and the environment; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

19-2-106, as renumbered and amended by Laws of Utah 1991, Chapter 112

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

Section 1. Section 19-2-106 is amended to read:**19-2-106. Rulemaking authority and procedure.**

(1) ~~[Except as provided in Subsection (2), no rule which the]~~ (a) In carrying out the duties of Section 19-2-104, the board [makes] may make rules for the purpose of administering a program under the federal Clean Air Act [may be more stringent] different than the corresponding federal regulations which address the same circumstances[-] if:

(i) the board holds a public comment period, as described in Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and a public hearing; and

(ii) the board finds that the different rule will provide reasonable added protections to public health or the environment of the state or a particular region of the state.

(b) The board shall consider the differences between an industry that continuously produces emissions and an industry that episodically produces emissions, and make rules that reflect those differences.

(2) The findings described in Subsection (1)(a)(ii) shall be:

(a) in writing; and

(b) based on evidence, studies, or other information contained in the record that relates to the state of Utah and type of source involved.

(3) In making rules, the board may incorporate by reference corresponding federal regulations.

~~[(2) The board may make rules more stringent than corresponding federal regulations for the purpose described in Subsection (1), only if it makes a written finding after public comment and hearing and based on evidence in the record, that corresponding federal regulations are not adequate to protect public health and the environment of the state. Those findings shall be accompanied by an opinion referring to and evaluating the public health and environmental information and studies contained in the record which form the basis for the board's conclusion.]~~

CHAPTER 81**H. B. 238**

Passed February 26, 2015

Approved March 23, 2015

Effective May 12, 2015

**LICENSE PLATE
OBSTRUCTION AMENDMENTS**

Chief Sponsor: Edward H. Redd

Senate Sponsor: Karen Mayne

LONG TITLE**General Description:**

This bill modifies the Motor Vehicle Act by amending license plate display requirements.

Highlighted Provisions:

This bill:

- ▶ exempts certain devices that may obscure the display of a license plate from clear license plate visibility requirements; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

41-1a-404, as last amended by Laws of Utah 2008, Chapter 106

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

Section 1. Section 41-1a-404 is amended to read:**41-1a-404. Location and position of plates
-- Visibility of plates -- Exceptions.**

(1) License plates issued for a vehicle other than a motorcycle, trailer, or semitrailer shall be attached to the vehicle, one in the front and the other in the rear.

(2) The license plate issued for a motorcycle, trailer, or semitrailer shall be attached to the rear of the motorcycle, trailer, or semitrailer.

(3) ~~Every~~ Except as provided in Subsection (5), a license plate shall at all times be:

- (a) securely fastened:
 - (i) in a horizontal position to the vehicle for which it is issued to prevent the plate from swinging;
 - (ii) at a height of not less than 12 inches from the ground, measuring from the bottom of the plate; and
 - (iii) in a place and position to be clearly visible; and
 - (b) maintained:
 - (i) free from foreign materials; and
 - (ii) in a condition to be clearly legible.
- (4) Enforcement by a state or local law enforcement officer of the requirement under

Subsection (1) to attach a license plate to the front of a vehicle shall be only as a secondary action when the vehicle has been detained for a suspected violation by any person in the vehicle of Title 41, Motor Vehicles, other than the requirement under Subsection (1) to attach a license plate to the front of the vehicle, or for another offense.

(5) The provisions of Subsections (3)(a)(iii) and (3)(b) do not apply to a license plate that is obscured exclusively by one or more of the following devices or by the cargo the device is carrying, if the device is installed according to manufacturer specifications or generally accepted installation practices:

- (a) a trailer hitch;
- (b) a wheelchair lift or wheelchair carrier;
- (c) a trailer being towed by the vehicle;
- (d) a bicycle rack, ski rack, or luggage rack; or
- (e) a similar cargo carrying device.

CHAPTER 82**H. B. 277**

Passed March 11, 2015
 Approved March 23, 2015
 Effective March 23, 2015

**STATUTE OF LIMITATIONS
FOR CIVIL ACTIONS**

Chief Sponsor: Ken Ivory
 Senate Sponsor: Aaron Osmond
 Cosponsors: Jacob L. Anderegg
 Patrice M. Arent
 Joel K. Briscoe
 Rebecca Chavez-Houck
 Susan Duckworth
 Keith Grover
 Sandra Hollins
 Michael S. Kennedy
 David E. Lifferth
 Carol Spackman Moss
 Marie H. Poulson
 Angela Romero
 Keven J. Stratton
 Mark A. Wheatley

LONG TITLE**General Description:**

This bill eliminates the statute of limitations for civil actions for child sexual abuse.

Highlighted Provisions:

This bill:

- ▶ provides that a victim of child sexual abuse may file a civil action at any time.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

78B-2-308, as renumbered and amended by Laws of Utah 2008, Chapter 3

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

Section 1. Section 78B-2-308 is amended to read:**78B-2-308. Civil actions for sexual abuse of a child.**

(1) As used in this section:

(a) "Child" means a person under 18 years of age.

(b) "Discovery" means when a person knows or reasonably should know that the injury or illness was caused by the intentional or negligent sexual abuse.

(c) "Injury or illness" means either a physical injury or illness or a psychological injury or illness. A psychological injury or illness need not be accompanied by physical injury or illness.

(d) "Molestation" means touching the anus, buttocks, or genitalia of any child, the breast of a

female child younger than 14 years of age, or otherwise taking indecent liberties with a child, or causing a child to take indecent liberties with the perpetrator or another, with the intent to arouse or gratify the sexual desire of any person.

(e) "Negligently" means a failure to act to prevent the child sexual abuse from further occurring or to report the child sexual abuse to law enforcement when the adult who could act knows or reasonably should know of the child sexual abuse and is the victim's parent, stepparent, adoptive parent, foster parent, legal guardian, ancestor, descendant, brother, sister, uncle, aunt, first cousin, nephew, niece, grandparent, stepgrandparent, or any person cohabiting in the child's home.

(f) "Person" means an individual who was intentionally or negligently sexually abused. It does not include individuals whose claims are derived through another individual who was sexually abused.

(g) "Perpetrator" means an individual who has committed an act of sexual abuse.

~~(g)~~ (h) "Sexual abuse" means acts or attempted acts of sexual intercourse, sodomy, or molestation by an adult directed towards a child.

(2) (a) A person ~~shall~~ may file a civil action against a perpetrator for intentional or negligent sexual abuse suffered as a child~~;~~ at any time.

(b) A person may file a civil action against a non-perpetrator for intentional or negligent sexual abuse suffered as a child:

~~(a)~~ (i) within four years after the person attains the age of 18 years; or

~~(b)~~ (ii) if a person discovers sexual abuse only after attaining the age of 18 years, that person may bring a civil action for such sexual abuse within four years after discovery of the sexual abuse, whichever period expires later.

(3) The victim need not establish which act in a series of continuing sexual abuse incidents caused the injury complained of, but may compute the date of discovery from the date of discovery of the last act by the same perpetrator which is part of a common scheme or plan of sexual abuse.

(4) The knowledge of a custodial parent or guardian may not be imputed to a person under the age of 18 years.

(5) A civil action may be brought only against a living person who intentionally perpetrated the sexual abuse or negligently permitted the sexual abuse to occur.

Section 2. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

CHAPTER 83**H. B. 280**

Passed March 3, 2015

Approved March 23, 2015

Effective May 12, 2015

**UTAH NATIONAL GUARD COMMAND
STRUCTURE AMENDMENTS**

Chief Sponsor: Val L. Peterson

Senate Sponsor: Margaret Dayton

LONG TITLE**General Description:**

This bill updates terms of usage for describing certain military positions.

Highlighted Provisions:

This bill:

- ▶ eliminates the term "deputy commander" and replaces it with "director of joint staff";
- ▶ clarifies that a general grade officer may fill the position of the Utah Air National Guard's chief of staff; and
- ▶ makes technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

39-1-18, as last amended by Laws of Utah 2012, Chapter 215

39-1-32, as last amended by Laws of Utah 1963, Chapter 61

39-6-2, as last amended by Laws of Utah 2008, Chapter 287

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

Section 1. Section 39-1-18 is amended to read:

39-1-18. Director of joint staff -- Assistant adjutant general for the army -- Assistant adjutant general for air -- Commander, land component command -- Chief of staff for air -- Officer for permanent duty as personnel officer.

(1) There is authorized a director of joint staff.

(a) The adjutant general, with the approval of the governor, may detail the joint forces headquarters [~~deputy commander~~] director of joint staff.

(b) The director of joint staff shall be at least a field grade federally recognized commissioned officer of the Utah National Guard with not less than five years military service in the armed forces of a state or of the United States, at least three of which shall have been commissioned in the Utah National Guard. The officer shall:

(i) hold office at the pleasure of the adjutant general; and

(ii) devote all the time during office hours of the military department to the duties of the office.

(2) There is authorized an assistant adjutant general for the army and an assistant adjutant general for air.

(a) The adjutant general with the approval of the governor may detail the assistant adjutant general for the army or the assistant adjutant general for air for permanent duty.

(b) The assistant adjutant general for the army and the assistant adjutant general for air shall be at least federally recognized field grade commissioned officers of the Utah National Guard with not less than five years military service in the armed forces of a state or of the United States, at least three of which shall have been commissioned in the Utah National Guard. The officer shall:

(i) hold office at the pleasure of the adjutant general; and

(ii) devote all the time during office hours of the military department to the duties of the office.

(3) There is authorized a commander, land component command.

(a) The adjutant general, with the approval of the governor, may detail the commander, land component command.

(b) The commander, land component command shall be at least a field grade federally recognized commissioned officer of the Utah National Guard with not less than five years military service in the armed forces of a state or of the United States, at least three of which shall have been commissioned in the Utah National Guard. The officer shall:

(i) hold office at the pleasure of the adjutant general; and

(ii) devote all the time during office hours of the military department to the duties of the office.

(4) There is authorized a chief of staff for air.

(a) The adjutant general, with the approval of the governor, may detail the chief of staff for air.

(b) The chief of staff for air shall be at least a field grade federally recognized commissioned officer of the Utah National Guard with not less than five years of military service in the armed forces of a state or of the United States, at least three of which shall have been commissioned in the [~~Air~~] Utah National Guard [~~of the United States~~]. The officer shall:

(i) hold office at the pleasure of the adjutant general; and

(ii) devote all the time during office hours of the military department to the duties of the office.

(5) The adjutant general, with the approval of the governor, may detail one officer or retired officer of the Utah National Guard for permanent duty as the personnel officer.

(a) The officer shall be a federally recognized commissioned officer, or former federally recognized commissioned officer, of the Utah National Guard with not less than three years military service in the armed forces of a state or of

the United States, at least one of which shall have been commissioned in the Utah National Guard.

(b) The officer shall hold office at the pleasure of the adjutant general.

(c) The duties of the personnel officer shall be as the adjutant general may direct, to include the normal duty of the staff G-1.

(d) The officer shall devote all the time during office hours of the military department to the duties of the office.

(e) A former federally recognized retired officer may serve in this capacity while awaiting a finding of indispensability.

(6) The adjutant general may detail an officer without the required commissioned service in the Utah National Guard to a position in this section only with written approval of the governor.

Section 2. Section 39-1-32 is amended to read:

39-1-32. National Guard -- Enlistment -- Qualifications -- Discharge.

Any [male] person between the ages of 18 and 45 years, who is a citizen of the United States or who has declared [his] an intention to become a citizen, not prohibited by the laws of the state or of the United States, may be enlisted in the National Guard, subject to such physical and other examinations as may be prescribed by the National Guard Bureau. [~~All persons herein named who shall enlist~~] A person who enlists in the National Guard shall take and subscribe the oath provided by the laws of the United States[,] and upon so doing shall become [members] a member of the National Guard for [such] the period [as may be] prescribed by the laws of the United States, unless sooner discharged. [~~Enlisted men~~] An enlisted person may be discharged as provided by the laws of the United States and regulations of the National Guard Bureau.

Section 3. Section 39-6-2 is amended to read:

39-6-2. Definitions.

As used in this chapter:

- (1) "Accuser" means a person who:
 - (a) signs and swears to charges;
 - (b) directs that charges nominally be signed and sworn to by another; or
 - (c) any other person who has an interest other than an official interest in the prosecution of the accused.
- (2) "Commanding officer" means both a commissioned officer and a warrant officer designated as a commander.
- (3) "Commissioned officer" includes a commissioned warrant officer.
- (4) "Convening authority" means the governor or the adjutant general.

(5) "Duty status other than state active duty" means any other type of duty, and includes going to and returning from the duty.

(6) "Enlisted member" means a person in an enlisted grade.

(7) "Grade" means a step or degree in a graduated scale of office or military rank, established and designated as a grade by law or regulation.

(8) "Legal officer" means any commissioned officer of the organized National Guard of the state designated to perform legal duties for a command.

(9) "Major command" or "MACOM" means a major subdivision of the Utah National Guard.

(10) "Military" means any or all of the armed forces of the United States.

(11) "Military court" means a court-martial, a court of inquiry, or a provost court.

(12) "Military judge" means a qualified staff judge advocate officer of a military court detailed under Section 39-6-20.

(13) "National Guard" means the Utah Army and Air National Guard, including part-time and full-time active guard and reserve (AGR), and includes the Utah unorganized militia when called to active duty by the governor of the state.

(14) "Officer" means commissioned or warrant officer.

(15) "Rank" means the order of precedence among members of the armed forces.

(16) "State active duty" means full-time duty in the active military service of the state under an order of the governor, issued pursuant to the governor's authority, and includes going to and returning from the duty.

(17) "State judge advocate" or "SJA" means the commissioned judge advocate general's corps officer responsible for supervising the [administration of the military justice] delivery of legal services in the National Guard[, and qualified and designated as judge advocate general corps officer].

(18) "State staff judge advocate" or "SSJA" means the commissioned judge advocate general's corps officer appointed as the senior legal officer for the Utah National Guard.

[~~(18)~~] (19) "Superior commissioned officer" means a commissioned officer superior to another in rank or command.

[~~(19)~~ "UCMJ"] (20) "UtCMJ" means Title 39, Chapter 6, Utah Code of Military Justice.

CHAPTER 84**H. B. 303**

Passed March 12, 2015
 Approved March 23, 2015
 Effective May 12, 2015

**LEGISLATIVE APPROVAL
 OF LAND TRANSFERS**

Chief Sponsor: Keven J. Stratton
 Senate Sponsor: David P. Hinkins

LONG TITLE**General Description:**

This bill describes the procedure for selling or exchanging governmentally controlled land.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires a governmental entity to submit a proposal to sell or exchange 500 acres or more of governmentally controlled land for legislative approval;
- ▶ requires a governmental entity to notify the Legislative Management Committee of any proposal to sell or exchange less than 500 acres of governmentally controlled land to the federal government; and
- ▶ requires a governmental entity that enters into a discussion with a federal agent that may result in certain actions to provide written notice to the Legislature.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63L-2-201, as last amended by Laws of Utah 2014, Chapters 157 and 328

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

Section 1. Section 63L-2-201 is amended to read:

63L-2-201. Federal government acquisition of real property in the state.

(1) As used in this chapter:

~~[(a) "Agency" is defined in Section 63G-10-102.]~~

~~[(b) "Agency" includes:]~~

~~[(i) the School and Institutional Trust Lands Administration created in Section 53C-1-201; and]~~

~~[(ii) the School and Institutional Trust Lands Board of Trustees created in Section 53C-1-202.]~~

(a) "Governmental entity" means:

(i) an agency, as that term is defined in Subsection 63G-10-102(2);

(ii) the School and Institutional Trust Lands Administration created in Section 53C-1-201;

(iii) the School and Institutional Trust Lands Board of Trustees created in Section 53C-1-202; or

(iv) a county.

(b) "Governmentally controlled land" means land owned or managed by a governmental entity.

(2) (a) Before legally binding the state by executing an agreement to sell or transfer to the United States government [10,000] 500 or more acres of ~~[any state lands]~~ governmentally controlled land or school and institutional trust lands, ~~[an agency]~~ a governmental entity shall submit the agreement or proposal:

(i) to the Legislature for its approval or rejection; or

(ii) in the interim, to the Legislative Management Committee for review of the agreement or proposal.

(b) The Legislative Management Committee may:

(i) recommend that the ~~[agency]~~ governmental entity execute the agreement or proposal;

(ii) recommend that the ~~[agency]~~ governmental entity reject the agreement or proposal; or

(iii) recommend to the governor that the governor call a special session of the Legislature to review and approve or reject the agreement or proposal.

(3) Before legally binding the state by executing an agreement to sell or transfer to the United States government less than [10,000] 500 acres of any ~~[state lands]~~ governmentally controlled land or school and institutional trust lands, ~~[an agency]~~ a governmental entity shall notify the Natural Resources, Agriculture, and Environment Interim Committee.

(4) Notwithstanding Subsections (2) and (3), the Legislature approves all conveyances of school trust lands to the United States government made for the purpose of completing the Red Cliffs National Conservation Area in Washington County.

(5) A governmental entity may, in its discretion, give written notice to the Legislative Management Committee of formal negotiations it enters into with a federal agent or entity intended or likely to result in:

(a) the sale, exchange, or transfer of specific governmentally controlled land or school and institutional trust lands to the federal government; or

(b) designation of specific governmentally controlled land or school and institutional trust lands as a federal park, monument, or wilderness area.

CHAPTER 85**H. B. 364**

Passed March 12, 2015

Approved March 23, 2015

Effective May 12, 2015

SUICIDE PREVENTION AMENDMENTS

Chief Sponsor: Steve Eliason
 Senate Sponsor: J. Stuart Adams
 Cosponsor: Justin L. Fawson

LONG TITLE**General Description:**

This bill amends provisions related to suicide prevention.

Highlighted Provisions:

This bill:

- ▶ amends State Board of Education and Division of Substance Abuse and Mental Health program components for suicide prevention; and
- ▶ amends interim committee reporting requirements.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2015:

- ▶ to State Board of Education - Office of Education, as a one-time appropriation:
 - from Education Fund, \$150,000; and
- ▶ to Department of Human Services - Division of Substance Abuse and Mental Health, as a one-time appropriation:

- from General Fund, \$210,000.

This bill appropriates in fiscal year 2016:

- ▶ to Department of Public Safety - Programs and Operations - Bureau of Criminal Identification, as an ongoing appropriation:
 - from Restricted - Firearm Safety Account, \$15,000;
- ▶ to Department of Human Services - Division of Substance Abuse and Mental Health, as an ongoing appropriation:
 - from General Fund, \$191,000; and
- ▶ to State Board of Education - Office of Education, as an ongoing appropriation:
 - from General Fund, \$50,000.

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

53A-15-1301, as last amended by Laws of Utah 2014, Chapters 214 and 349

53A-15-1302, as last amended by Laws of Utah 2014, Chapter 349

62A-15-1101, as last amended by Laws of Utah 2014, Chapter 226

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

Section 1. Section 53A-15-1301 is amended to read:

53A-15-1301. Youth suicide prevention programs required in secondary schools -- State Board of Education to develop model programs -- Reporting requirements.

(1) As used in the section:

- (a) "Board" means the State Board of Education.
- (b) "Intervention" means an effort to prevent a student from attempting suicide.
- (c) "Postvention" means mental health intervention after a suicide attempt or death to prevent or contain contagion.
- (d) "Program" means a youth suicide prevention program described in Subsection (2).
- (e) "Secondary grades":
 - (i) means grades 7 through 12; and
 - (ii) if a middle or junior high school includes grade 6, includes grade 6.
- (f) "State Office of Education suicide prevention coordinator" means a person designated by the board as described in Subsection (3).
- (g) "State suicide prevention coordinator" means the state suicide prevention coordinator described in Section 62A-15-1101.

(2) (a) In collaboration with the State Office of Education suicide prevention coordinator, a school district or charter school shall implement a youth suicide prevention program in the secondary grades of the school district or charter school.

(b) A school district or charter school's program shall include the following components:

(i) in collaboration with the training, programs, and initiatives described in Section 53A-11a-401, programs and training to address bullying and cyberbullying, as those terms are defined in Section 53A-11a-102;

~~(i)~~ (ii) prevention of youth suicides;

~~(ii)~~ (iii) youth suicide intervention; and

~~(iii)~~ (iv) postvention for family, students, and faculty.

(3) The board shall:

(a) designate a State Office of Education suicide prevention coordinator; and

(b) in collaboration with the Department of Health and the state suicide prevention coordinator, develop model programs to provide to school districts and charter schools:

(i) program training; and

(ii) resources regarding the required components described in Subsection (2)(b).

(4) The State Office of Education suicide prevention coordinator shall:

(a) oversee the youth suicide prevention programs of school districts and charter schools; and

(b) coordinate prevention and postvention programs, services, and efforts with the state suicide prevention coordinator.

(5) A public school suicide prevention program may allow school personnel to ask a student

questions related to youth suicide prevention, intervention, or postvention.

(6) (a) Subject to legislative appropriation, the board may distribute money to a school district or charter school to be used to implement evidence-based practices and programs, or emerging best practices and programs, for preventing suicide in the school district or charter school.

(b) The board shall distribute money under Subsection (6)(a) so that each school that enrolls students in grade 7 or a higher grade receives an allocation of at least \$500, or a lesser amount per school if the legislative appropriation is not sufficient to provide at least \$500 per school.

(c) (i) A school shall use money allocated to the school under Subsection (6)(b) to implement evidence-based practices and programs, or emerging best practices and programs, for preventing suicide.

(ii) Each school may select the evidence-based practices and programs, or emerging best practices and programs, for preventing suicide that the school implements.

(7) (a) The board shall provide a written report, and shall orally report to the Legislature's Education Interim Committee, by the [November 2014] October 2015 meeting, jointly with the State Office of Education suicide prevention coordinator and the state suicide prevention coordinator, on:

(i) the progress of school district and charter school [programs; and] youth suicide prevention programs, including rates of participation by school districts, charter schools, and students;

(ii) the board's coordination efforts with the Department of Health and the state suicide prevention coordinator[-];

(iii) the State Office of Education suicide prevention coordinator's model program for training and resources related to youth suicide prevention, intervention, and postvention;

(iv) data measuring the effectiveness of youth suicide programs;

(v) funds appropriated to each school district and charter school for youth suicide prevention programs; and

(vi) five-year trends of youth suicides per school, school district, and charter school.

(b) School districts and charter schools shall provide to the board information that is necessary for the board's report to the Legislature's Education Interim Committee as required in Subsection (7)(a).

Section 2. Section 53A-15-1302 is amended to read:

53A-15-1302. Parent education -- Mental health -- Bullying -- Safety.

(1) (a) Except as provided in Subsection (5), a school district shall offer a seminar for parents of students in the school district that:

- (i) is offered at no cost to parents;
- (ii) begins at or after 6 p.m.;
- (iii) is held in at least one school located in the school district; and
- (iv) covers the topics described in Subsection (2).

(b) (i) A school district shall annually offer one parent seminar for each 11,000 students enrolled in the school district.

(ii) Notwithstanding Subsection (1)(b)(i), a school district may not be required to offer more than three seminars.

(c) A school district may:

(i) develop its own curriculum for the seminar described in Subsection (1)(a); or

(ii) use the curriculum developed by the State Board of Education under Subsection (2).

(d) A school district shall notify each charter school located in the attendance boundaries of the school district of the date and time of a parent seminar, so the charter school may inform parents of the seminar.

(2) The State Board of Education shall:

(a) develop a curriculum for the parent seminar described in Subsection (1) that includes information on:

(i) substance abuse, including illegal drugs and prescription drugs and prevention;

(ii) bullying;

(iii) mental health, depression, suicide awareness, and suicide prevention, including education on limiting access to fatal means; and

(iv) Internet safety, including pornography addiction; and

(b) provide the curriculum, including resources and training, to school districts upon request.

~~[(3) The State Board of Education shall report to the Legislature's Education Interim Committee, by the November 2013 meeting, on the progress of implementation of the parent seminar, including if a local school board has opted out of providing the parent seminar, as described in Subsection (5), and the reasons why a local school board opted out.]~~

~~[(4)] (3) The State Board of Education shall report to the Legislature's Education Interim Committee, by the [November 2014] October 2015 meeting, on:~~

~~(a) the progress of implementation of the parent seminar;~~

~~(b) the number of parent seminars conducted in each school district;~~

~~[(b)] (c) the estimated attendance reported by each school district;~~

~~[(e)] (d) a recommendation of whether to continue the parent seminar program; and~~

~~[(d)] (e) if a local school board has opted out of providing the parent seminar, as described in~~

Subsection ~~[(5)]~~ (4), ~~[and]~~ the reasons why a local school board opted out.

~~[(5)]~~ (4) (a) A school district is not required to offer the parent seminar if the local school board determines that the topics described in Subsection (2) are not of significant interest or value to families in the school district.

(b) If a local school board chooses not to offer the parent seminar, the local school board shall notify the State Board of Education and provide the reasons why the local school board chose not to offer the parent seminar.

Section 3. Section 62A-15-1101 is amended to read:

62A-15-1101. Suicide prevention -- Reporting requirements.

(1) As used in the section:

(a) "Bureau" means the Bureau of Criminal Identification created in Section 53-10-201 within the Department of Public Safety.

(b) "Division" means the [State] Division of Substance Abuse and Mental Health.

(c) "Intervention" means an effort to prevent a person from attempting suicide.

(d) "Postvention" means mental health intervention after a suicide attempt or death to prevent or contain contagion.

(e) "State suicide prevention coordinator" means an individual designated by the division as described in Subsections (2) and (3).

(2) The division shall appoint a state suicide prevention coordinator to administer a state suicide prevention program composed of suicide prevention, intervention, and postvention programs, services, and efforts.

(3) The state suicide prevention program may include the following components:

(a) delivery of resources, tools, and training to community-based coalitions;

(b) evidence-based suicide risk assessment tools and training;

(c) town hall meetings for building community-based suicide prevention strategies;

(d) suicide prevention gatekeeper training;

(e) training to identify warning signs and to manage an at-risk individual's crisis;

(f) evidence-based intervention training;

(g) intervention skills training; and

(h) postvention training.

~~[(3)]~~ (4) The state suicide prevention coordinator shall coordinate ~~[the suicide prevention program, including suicide prevention, intervention, and postvention programs, services, and efforts statewide,]~~ with at least the following:

(a) local mental health and substance abuse authorities;

(b) the State Board of Education, including the State Office of Education suicide prevention coordinator described in Section 53A-15-1301;

(c) the Department of Health;

(d) health care providers, including emergency rooms; and

(e) other public health suicide prevention efforts.

(5) The state suicide prevention coordinator shall provide a written report, and shall orally report to the Health and Human Services Interim Committee, by the October meeting every year, on:

(a) implementation of the state suicide prevention program, as described in Subsections (2) and (3);

(b) data measuring the effectiveness of each component of the state suicide prevention program;

(c) funds appropriated for each component of the state suicide prevention program; and

(d) five-year trends of suicides in Utah, including subgroups of youths and adults and other subgroups identified by the state suicide prevention coordinator.

~~[(4)]~~ (6) The state suicide prevention coordinator shall report to the Legislature's Education Interim Committee, by the ~~[November 2014]~~ October 2015 meeting, jointly with the State Board of Education, on the coordination of suicide prevention programs and efforts with the State Board of Education and the State Office of Education suicide prevention coordinator as described in Section 53A-15-1301.

~~[(5)]~~ (7) The state suicide prevention coordinator shall consult with the bureau to implement and manage the operation of a firearm safety program, as described in Subsection 53-10-202(18) and Section 53-10-202.1.

(8) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules governing the implementation of the state suicide prevention program, consistent with this section.

Section 4. Appropriation.

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, for the fiscal year beginning July 1, 2014, and ending June 30, 2015, the following sums of money are appropriated from resources not otherwise appropriated, or reduced from amounts previously appropriated, out of the funds or accounts indicated. These sums of money are in addition to any amounts previously appropriated for fiscal year 2015.

To State Board of Education - Office of Education	
From Education Fund, One-time	\$100,000

Schedule of Programs:

Anti-bullying programs	\$100,000
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The Legislature intends that the State Board of Education

(1) expend appropriations under this section to implement the programs and training described in Section 53A-15-1301 addressing bullying and cyberbullying; and

(2) make up to \$1,500 available to each requesting school, for the school to choose a program or training curriculum from a Utah-based organization that is tax exempt under Section 501(c)(3), Internal Revenue Code, and that is focused on programs and training addressing bullying and cyberbullying

To State Board of Education - Office of Education
From Education Fund, One-time \$50,000

Schedule of Programs:

State suicide prevention coordinator \$50,000

The Legislature intends that the State Board of Education expend appropriations under this section for the state suicide prevention coordinator's implementation of the programs described in Section 53A-15-1301.

To Department of Human Services - Division of Substance Abuse and Mental Health

From General Fund, One-time \$210,000

Schedule of Programs:

State suicide prevention program \$210,000

Section 5. Appropriation.

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, for the fiscal year beginning July 1, 2015, and ending June 30, 2016, the following sums of money are appropriated from resources not otherwise appropriated, or reduced from amounts previously appropriated, out of the funds or accounts indicated. These sums of money are in addition to any amounts previously appropriated for fiscal year 2016.

To General Fund Restricted - Firearm Safety Account

From General Fund \$15,000

To General Fund Restricted - Firearm Safety Account \$15,000

To Department of Public Safety - Programs and Operations

From General Fund Restricted - Firearm Safety Account \$15,000

Schedule of Programs:

Bureau of Criminal Identification \$15,000

To Department of Human Services - Division of Substance Abuse and Mental Health

From General Fund \$191,000

Schedule of Programs:

State Suicide Prevention Program \$191,000

To State Board of Education - Office of Education
From General Fund \$50,000

Schedule of Programs:

Teaching and Learning \$50,000

Section 6. Effective date.

(1) Except as provided in Subsection (2), this bill takes effect on May 12, 2015.

(2) Uncodified Section 5, Appropriation, takes effect on July 1, 2015.

CHAPTER 86**H. B. 382**

Passed March 12, 2015
 Approved March 23, 2015
 Effective May 12, 2015

**UTAH NATIONAL GUARD
 FUND AMENDMENTS**

Chief Sponsor: Val L. Peterson
 Senate Sponsor: Peter C. Knudson

LONG TITLE**General Description:**

This bill provides that Utah National Guard funds are nonlapsing.

Highlighted Provisions:

This bill:

- ▶ adds Utah National Guard funds to a list of nonlapsing funds.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63J-1-602.2, as last amended by Laws of Utah 2013, Chapter 338

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

Section 1. Section 63J-1-602.2 is amended to read:

63J-1-602.2. List of nonlapsing funds and accounts -- Title 31 through Title 45.

(1) Appropriations from the Technology Development Restricted Account created in Section 31A-3-104.

(2) Appropriations from the Criminal Background Check Restricted Account created in Section 31A-3-105.

(3) Appropriations from the Captive Insurance Restricted Account created in Section 31A-3-304, except to the extent that Section 31A-3-304 makes the money received under that section free revenue.

(4) Appropriations from the Title Licensee Enforcement Restricted Account created in Section 31A-23a-415.

(5) Appropriations from the Health Insurance Actuarial Review Restricted Account created in Section 31A-30-115.

(6) Appropriations from the Insurance Fraud Investigation Restricted Account created in Section 31A-31-108.

(7) Appropriations from the Underage Drinking Prevention Media and Education Campaign Restricted Account created in Section 32B-2-306.

(8) The Youth Development Organization Restricted Account created in Section 35A-8-1903.

(9) The Youth Character Organization Restricted Account created in Section 35A-8-2003.

(10) Funding for a new program or agency that is designated as nonlapsing under Section 36-24-101.

(11) Appropriations to the Utah National Guard, created in Title 39, Militia and Armories.

[(41)] (12) Appropriations from the Oil and Gas Conservation Account created in Section 40-6-14.5.

[(42)] (13) Appropriations from the Electronic Payment Fee Restricted Account created by Section 41-1a-121 to the Motor Vehicle Division.

[(43)] (14) Funds available to the State Tax Commission under Section 41-1a-1201 for the:

- (a) purchase and distribution of license plates and decals; and
- (b) administration and enforcement of motor vehicle registration requirements.

CHAPTER 87**H. B. 384**

Passed March 12, 2015

Approved March 23, 2015

Effective May 12, 2015

GRAZING ZONES AMENDMENTS

Chief Sponsor: Michael E. Noel
Senate Sponsor: Evan J. Vickers

LONG TITLE**General Description:**

This bill establishes and modifies Utah Grazing Agricultural Commodity Zones.

Highlighted Provisions:

This bill:

- ▶ establishes Utah Grazing Agricultural Commodity Zones in Washington County;
- ▶ authorizes counties to pursue certain grazing-related options to mitigate wildfire risk on grazing zones located on federal land; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63J-8-105.8, as enacted by Laws of Utah 2014, Chapter 321

63J-8-105.9, as enacted by Laws of Utah 2014, Chapter 321

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

Section 1. Section 63J-8-105.8 is amended to read:**63J-8-105.8. Utah Grazing Agricultural Commodity Zones established -- Findings -- Management and land use priorities.**

(1) There are established Utah Grazing Agricultural Commodity Zones in the counties of Beaver, Emery, Garfield, Kane, Piute, Iron, Sanpete, San Juan, Sevier, Washington, and Wayne for the purpose of:

(a) preserving and protecting the agricultural livestock industry from ongoing threats;

(b) preserving and protecting the history, culture, custom, and economic value of the agricultural livestock industry from ongoing threats; and

(c) maximizing efficient and responsible restoration, reclamation, preservation, enhancement, and development of forage and watering resources for grazing and wildlife[;] practices[;] and affected natural, historical, and cultural activities [~~from ongoing threats~~].

(2) The titles, land area, and boundaries of the zones are as follows:

(a) "Escalante Region Grazing Zone," consisting of certain BLM and Forest Service [~~land~~] lands in the following townships in Garfield and Kane

counties, as more fully illustrated in the map jointly prepared by the Garfield County and Kane County Geographic Information Systems departments entitled "Escalante Region Grazing Zone":

(i) in Garfield County, Township 32S Range 6E, Township 32S Range 7E, Township 33S Range 4E, Township 33S Range 5E, Township 33S Range 6E, Township 33S Range 7E, Township 33S Range 8E, Township 34S Range 2E, Township 34S Range 3E, Township 34S Range 4E, Township 34S Range 5E, Township 34S Range 6E, Township 34S Range 7E, Township 34S Range 8E, Township 35S Range 1E, Township 35S Range 2E, Township 35S Range 3E, Township 35S Range 4E, Township 35S Range 5E, Township 35S Range 6E, Township 35S Range 7E, Township 35S Range 8E, Township 36S Range 1W, Township 36S Range 2W, Township 36S Range 3W, Township 36S Range 1E, Township 36S Range 2E, Township 36S Range 3E, Township 36S Range 4E, Township 36S Range 5E, Township 36S Range 6E, Township 36S Range 7E, Township 36S Range 8E, Township 36S Range 9E, Township 37S Range 1W, Township 37S Range 2W, Township 37S Range 3W, Township 37S Range 4W, Township 37S Range 1E, Township 37S Range 2E, Township 37S Range 3E, Township 37S Range 4E, Township 37S Range 5E, Township 37S Range 6E, Township 37S Range 7E, Township 37S Range 8E, and Township 37S Range 9E; and

(ii) in Kane County, Township 38S Range 1W, Township 38S Range 2W, Township 38S Range 3W, Township 38S Range 4W, Township 38S Range 1E, Township 38S Range 2E, Township 38S Range 3E, Township 38S Range 4E, Township 38S Range 5E, Township 38S Range 6E, Township 38S Range 7E, Township 38S Range 8E, Township 38S Range 9E, Township 39S Range 1W, Township 39S Range 2W, Township 39S Range 3W, Township 39S Range 4W, Township 39S Range 4.5W, Township 39S Range 1E, Township 39S Range 2E, Township 39S Range 3E, Township 39S Range 4E, Township 39S Range 5E, Township 39S Range 6E, Township 39S Range 7E, Township 39S Range 8E, Township 39S Range 9E, Township 40S Range 1W, Township 40S Range 2W, Township 40S Range 3W, Township 40S Range 4W, Township 40S Range 4.5W, Township 40S Range 5W, Township 40S Range 1E, Township 40S Range 2E, Township 40S Range 3E, Township 40S Range 4E, Township 40S Range 5E, Township 40S Range 6E, Township 40S Range 7E, Township 40S Range 8E, Township 40S Range 9E, Township 41S Range 1W, Township 41S Range 2W, Township 41S Range 3W, Township 41S Range 4W, Township 41S Range 4.5W, Township 41S Range 5W, Township 41S Range 1E, Township 41S Range 2E, Township 41S Range 3E, Township 41S Range 4E, Township 41S Range 5E, Township 41S Range 6E, Township 41S Range 7E, Township 41S Range 8E, Township 41S Range 9E, Township 42S Range 1W, Township 42S Range 2W, Township 42S Range 3W, Township 42S Range 4W, Township 42S Range 4.5W, Township 42S Range 5W, Township 42S Range 1E, Township 42S Range 2E, Township 42S Range 3E, Township 42S Range 4E, Township 42S Range 5E, Township 42S Range 6E, Township 42S Range 7E, Township 42S Range 8E, Township 42S Range 9E, Township

42.5S Range 6.5E, Township 42.5S Range 7E, Township 43S Range 1W, Township 43S Range 2W, Township 43S Range 3W, Township 43S Range 4W, Township 43S Range 4.5W, Township 43S Range 5W, Township 43S Range 1E, Township 43S Range 2E, Township 43S Range 3E, Township 43S Range 4E, Township 43S Range 5E, Township 43S Range 6E, Township 44S Range 1W, Township 44S Range 2W, Township 44S Range 3W, Township 44S Range 4W, Township 44S Range 4.5W, Township 44S Range 5W, Township 44S Range 1E, Township 44S Range 2E, Township 44S Range 3E, Township 44S Range 4E, and Township 44S Range 5E;

(b) “Beaver County Southwest Desert Region Grazing Zone,” consisting of certain BLM lands in the following townships in Beaver County, as more fully illustrated in the map prepared by the Beaver County Geographic Information Systems Departments entitled “Beaver County Southeast Desert Grazing Zone”: Township 26S Range 11W, Township 27S Range 11W, Township 28S Range 11W, Township 29S Range 11W, Township 30S Range 11W, Township 26S Range 12W, Township 27S Range 12W, Township 28S Range 12W, Township 29S Range 12W, Township 30S Range 12W, Township 26S Range 13W, Township 27S Range 13W, Township 28S Range 13W, Township 29S Range 13W, Township 30S Range 13W, Township 26S Range 14W, Township 27S Range 14W, Township 28S Range 14W, Township 29S Range 14W, Township 30S Range 14W, Township 26S Range 15W, Township 27S Range 15W, Township 28S Range 15W, Township 29S Range 15W, Township 30S Range 15W, Township 26S Range 16W, Township 27S Range 16W, Township 28S Range 16W, Township 29S Range 16W, Township 30S Range 16W, Township 26S Range 17W, Township 27S Range 17W, Township 28S Range 17W, Township 29S Range 17W, Township 30S Range 17W, Township 26S Range 18W, Township 27S Range 18W, Township 28S Range 18W, Township 29S Range 18W, Township 30S Range 18W, Township 26S Range 19W, Township 27S Range 19W, Township 28S Range 19W, Township 29S Range 19W, Township 30S Range 19W, Township 26S Range 20W, Township 27S Range 20W, Township 28S Range 20W, Township 29S Range 20W, and Township 30S Range 20W;

(c) “Tushar Mountain Region Grazing Zone,” consisting of certain BLM and Forest Service lands in the following townships in Beaver, Garfield, and Piute counties, as more fully illustrated in the map jointly prepared by the Beaver, Garfield, and Piute counties GIS departments in February 2014, entitled “Tushar Mountain Region Grazing Zone”:

(i) in Beaver County, Township 28S Range 4W, Township 29S Range 4W, Township 27S Range 5W, Township 28S Range 5W, Township 29S Range 5W, Township 30S Range 5W, Township 26S Range 6W, Township 27S Range 6W, Township 28S Range 6W, Township 29S Range 6W, and Township 30S Range 6W;

(ii) in Piute County, Township 26S Range 6W, Township 27S Range 6W, Township 26S Range 5W, Township 27S Range 5W, Township 28S Range 5W,

Township 29S Range 5W, Township 30S Range 5W, Township 26S Range 4.5W, Township 26S Range 4W, Township 27S Range 4W, Township 28S Range 4W, Township 29S Range 4W, and Township 30S Range 4W; and

(iii) in Garfield County, Township 32S Range 5 1/2 W, Township 31S Range 5W, Township 32S Range 5W, Township 33S Range 5W, Township 32S Range 4 1/2W, Township 33S Range 4 1/2W, Township 31S Range 4W, and Township 31S Range 3W;

(d) “Last Chance Region Grazing Zone,” consisting of certain BLM and Forest Service lands in the following townships in Sevier County, as more fully illustrated in the map prepared by the Sevier County GIS department in February 2014, entitled “Last Chance Region Grazing Zone”: Township 23S Range 5E, Township 24S Range 4E, Township 24S Range 5E, Township 25S Range 5E, and Township 26S Range 5E;

(e) “Muddy Creek Region Grazing Zone,” consisting of certain BLM lands in the following townships [œf] in Emery County, as more fully illustrated in the map prepared by the Emery County GIS department in February 2014, entitled “Muddy Creek Region Grazing Zone”: Township 22S Range 7E, Township 23S Range 7E, Township 24S Range 7E, Township 25S Range 7E, Township 22S Range 8E, Township 23S Range 8E, Township 24S Range 8E, Township 25S Range 8E, Township 23S Range 9E, and Township 24S Range 9E;

(f) “McKay Flat Region Grazing Zone,” consisting of certain BLM lands in the following townships [œf] in Emery County, as more fully illustrated in the map prepared by the Emery County GIS department in February 2014, entitled “McKay Flat Region Grazing Zone”: Township 25S Range 9E, Township 26S Range 9E, Township 23S Range 10E, Township 24S Range 10E, Township 25S Range 10E, Township 24S Range 11E, and Township 25S Range 11E;

(g) “Sinbad Region Grazing Zone,” consisting of certain BLM lands in the following townships [œf] in Emery County, as more fully illustrated in the map prepared by the Emery County GIS department in February 2014, entitled “Sinbad Region Grazing Zone”: Township 20S Range 11E, Township 21S Range 11E, Township 21S Range 12E, Township 22S Range 12E, Township 23S Range 12E, Township 21S Range 13E, Township 22S Range 13E, and Township 23S Range 13E;

(h) “Robbers Roost Region Grazing Zone,” consisting of certain BLM lands in the following townships [œf] in Emery County, as more fully illustrated in the map prepared by the Emery County GIS department in February 2014, entitled “Robbers Roost Region Grazing Zone”: Township 25S Range 13E, Township 26S Range 13E, Township 25S Range 14E, Township 26S Range 14E, Township 25S Range 15E, and Township 26S Range 15E;

(i) “Western Iron County Region Grazing Zone,” consisting of certain BLM and Forest Service lands in the following townships in Iron County, as more

fully illustrated in the map [jointly] prepared by the Iron County GIS department in February 2014, entitled “Western Iron County Region Grazing Zone”: Township 31S Range 7W, Township 31S Range 8W, Township 31S Range 9W, Township 31S Range 10W, Township 31S Range 11W, Township 31S Range 12W, Township 31S Range 13W, Township 31S Range 14W, Township 31S Range 15W, Township 31S Range 16W, Township 31S Range 17W, Township 31S Range 18W, Township 31S Range 19W, Township 31S Range 20W, Township 32S Range 8W, Township 32S Range 9W, Township 32S Range 10W, Township 32S Range 11W, Township 32S Range 12W, Township 32S Range 13W, Township 32S Range 14W, Township 32S Range 15W, Township 32S Range 16W, Township 32S Range 17W, Township 32S Range 18W, Township 32S Range 19W, Township 32S Range 20W, Township 33S Range 8W, Township 33S Range 9W, Township 33S Range 10W, Township 33S Range 11W, Township 33S Range 12W, Township 33S Range 13W, Township 33S Range 14W, Township 33S Range 15W, Township 33S Range 16W, Township 33S Range 17W, Township 33S Range 18W, Township 33S Range 19W, Township 33S Range 20W, Township 34S Range 9W, Township 34S Range 10W, Township 34S Range 11W, Township 34S Range 12W, Township 34S Range 13W, Township 34S Range 14W, Township 34S Range 15W, Township 34S Range 17W, Township 34S Range 18W, Township 34S Range 19W, Township 34S Range 20W, Township 35S Range 10W, Township 35S Range 12W, Township 35S Range 13W, Township 35S Range 14W, Township 35S Range 15W, Township 35S Range 17W, Township 35S Range 18W, Township 35S Range 19W, Township 35S Range 20W, Township 36S Range 11W, Township 36S Range 12W, Township 36S Range 13W, Township 36S Range 14W, Township 36S Range 15W, Township 36S Range 17W, Township 36S Range 18W, Township 36S Range 19W, Township 36S Range 20W, Township 37S Range 12W, Township 37S Range 13W, Township 37S Range 14W, and Township 38S Range 12W;

(j) “Eastern Iron County Region Grazing Zone,” consisting of certain BLM and Forest Service lands in the following townships in Iron County, as more fully illustrated in the map [jointly] prepared by the Iron County GIS department in February 2014, entitled “Eastern Iron County Region Grazing Zone”: Township 31S Range 6W, Township 31S Range 7W, Township 32S Range 6W, Township 32S Range 7W, Township 33S Range 6W, Township 33S Range 7W, Township 33S Range 8W, Township 34S Range 7W, Township 34S Range 8W, Township 34S Range 9W, Township 35S Range 8W, Township 35S Range 9W, Township 35S Range 10W, Township 36S Range 8W, Township 36S Range 9W, Township 36S Range 10W, Township 36S Range 11W, Township 37S Range 8W, Township 37S Range 9W, Township 37S Range 11W, Township 37S Range 12W, Township 38S Range 11W, Township 38S Range 12W, Township 38S Range 10W, Township 38S Range 11W, and Township 38S Range 12W, excluding Zion National Park;

(k) “Panguitch Lake Region Grazing Zone,” consisting of certain BLM and Forest Service lands in the following townships in Kane and Garfield counties, as more fully illustrated in the map prepared by the Kane County GIS department in February 2014, entitled “Panguitch Lake Region Grazing Zone”:

(i) in Kane County, Township 38S Range 9W, Township 38S Range 8W, Township 38S Range 7W, Township 38S Range 6W, Township 39S Range 8W, and Township 39S Range 7W; and

(ii) in Garfield County, Township 35S Range 7W, Township 36S Range 7W, Township 34S Range 6W, Township 35S Range 6W, Township 36S Range 6W, Township 37S Range 6W, Township 34S Range 5W, Township 35S Range 5W, Township 36S Range 5W, and Township 37S Range 5W;

(l) “East Fork Region Grazing Zone,” [the land area of which consists] consisting of certain BLM and Forest Service lands [situated] in the following townships in Kane and Garfield counties, as more fully illustrated in the map jointly prepared by the Kane and Garfield counties GIS departments in February 2014, entitled “East Fork Region Grazing Zone”:

(i) in Kane County, Township 38S Range 5W, Township 38S Range 4.5W, Township 39S Range 5W, and Township 39S Range 4.5W; and

(ii) in Garfield County, Township 34S Range 4 1/2W, Township 35S Range 4 1/2W, Township 36S Range 4 1/2W, Township 37S Range 4 1/2W, Township 33S Range 4W, Township 34S Range 4W, Township 35S Range 4W, Township 36S Range 4W, Township 37S Range 4W, Township 33S Range 3W, Township 34S Range 3W, Township 35S Range 3W, Township 36S Range 3W, Township 33S Range 2W, Township 34S Range 2W, and Township 35S Range 2W;

(m) “Sevier River Region Grazing Zone,” consisting of certain BLM and Forest Service lands in the following townships in Piute County, as more fully illustrated in the map prepared by the Piute GIS department in February 2014, entitled “Sevier River Region Grazing Zone”: Township 27S Range 3W, Township 28S Range 3W, and Township 29S Range 3W;

(n) “Kingston Canyon Region Grazing Zone,” [the land area of which consists] consisting of certain BLM and Forest Service lands [situated] in the following townships in Piute and Garfield counties, as more fully illustrated in the map jointly prepared by the Piute and Garfield counties GIS departments in February 2014, entitled “Kingston Canyon Region Grazing Zone”:

(i) in Piute County, Township 30S Range 3W, Township 30S Range 2.5W, and Township 30S Range 2W; and

(ii) in Garfield County, Township 32S Range 4W, Township 31S Range 3W, Township 32S Range 3W, Township 31S Range 2 1/2W, Township 31S Range 2W, Township 32S Range 2W, Township 31S Range 1W, and Township 32S Range 1W;

(o) “Monroe Mountain Region Grazing Zone,” consisting of certain BLM and Forest Service lands in the following townships in Piute County, as more fully illustrated in the map prepared by the Piute County GIS department in February 2014, entitled “Monroe Mountain Region Grazing Zone”: Township 26S Range 3W, Township 27S Range 2.5W, Township 28S Range 2.5W, Township 29S Range 2.5W, Township 26S Range 2W, Township 27S Range 2W, Township 28S Range 2W, Township 29S Range 2W, Township 26S Range 1W, and Township 27S Range 1W;

(p) “Parker Mountain Region Grazing Zone,” consisting of certain BLM and Forest Service lands in the following townships in Wayne County, as more fully illustrated in the map [jointly] prepared by the Wayne County GIS department in February 2014, entitled “Parker Mountain Region Grazing Zone”: Township 26S Range 2E, Township 27S Range 2E, Township 28S Range 2E, Township 29S Range 2E, and Township 30S Range 2E;

(q) “Boulder Mountain Region Grazing Zone,” [~~the land area of which consists~~] consisting of certain Forest Service lands [situated] in the following townships in Wayne and Garfield counties, as more fully illustrated in the map jointly prepared by the Wayne and Garfield counties GIS departments in February 2014, entitled “Boulder Mountain Region Grazing Zone”:

(i) in Wayne County, Township 30S Range 3E, Township 30S Range 4E, and Township 30S Range 5E; and

(ii) in Garfield County, Township 35S Range 3W, Township 33S Range 2W, Township 34S Range 2W, Township 35S Range 2W, Township 31S Range 1W, Township 32S Range 1W, Township 33S Range 1W, Township 34S Range 1W, Township 35S Range 1W, Township 31S Range 1E, Township 32S Range 1E, Township 33S Range 1E, Township 34S Range 1E, Township 31S Range 2E, Township 32S Range 2E, Township 33S Range 2E, Township 34S Range 2E, Township 31S Range 3E, Township 32S Range 3E, Township 33S Range 3E, Township 31S Range 4E, Township 32S Range 4E, Township 33S Range 4E, Township 30 1/2S Range 5E, Township 31S Range 5E, Township 32S Range 5E, and Township 31S Range 6E;

(r) “Thousand Lake Region Grazing Zone,” consisting of certain Forest Service lands in the following townships in Wayne County, as more fully illustrated in the map [jointly] prepared by the Wayne County GIS department in February 2014, entitled “Thousand Lake Region Grazing Zone”: Township 26S Range 4E, Township 27S Range 4E, and Township 28S Range 4E;

(s) “Hartnet-Middle Desert Region Grazing Zone,” consisting of certain BLM lands in the following townships in Wayne County, as more fully illustrated in the map [jointly] prepared by the Wayne County GIS department in February 2014, entitled “Hartnet-Middle Desert Region Grazing Zone”: Township 28S Range 7E, Township 27S Range 8E, and Township 28S Range 8E;

(t) “Sandy No. 1 Region Grazing Zone,” consisting of certain BLM lands [situated] in the following townships in Wayne County, as more fully illustrated in the map [jointly] prepared by the Wayne County GIS department in February 2014, entitled “Sandy No. 1 Region Grazing Zone”: Township 29S Range 8E[~~7~~] and Township 30S Range 8E;

(u) “Blue Benches Region Grazing Zone,” consisting of certain BLM lands in the following townships in Wayne County, as more fully illustrated in the map [jointly] prepared by the Wayne County GIS department in February 2014, entitled “Blue Benches Region Grazing Zone”: Township 29S Range 9E, Township 29S Range 10E, and Township 30S Range 10E;

(v) “Wild Horse Region Grazing Zone,” consisting of certain BLM lands in the following townships in Wayne County, as more fully illustrated in the map [jointly] prepared by the Wayne County GIS department in February 2014, entitled “Wild Horse Region Grazing Zone”: Township 27S Range 10E[~~7~~] and Township 27S Range 11E;

(w) “Hanksville Region Grazing Zone,” consisting of certain BLM lands in the following townships in Wayne County, as more fully illustrated in the map [jointly] prepared by the Wayne County GIS department in February 2014, entitled “Hanksville Region Grazing Zone”: Township 29S Range 11E, Township 30S Range 11E, Township 28S Range 12E, Township 29S Range 12E, Township 30S Range 12E, and Township 30S Range 13E;

(x) “Jeffery Wells Region Grazing Zone,” consisting of certain BLM lands in the following townships in Wayne County, as more fully illustrated in the map [jointly] prepared by the Wayne County GIS department in February 2014, entitled “Jeffery Wells Region Grazing Zone”: Township 27S Range 14E and Township 27S Range 15E;

(y) “Robbers Roost Region Grazing Zone,” consisting of certain BLM lands [situated] in the following townships in Wayne County, as more fully illustrated in the map [jointly] prepared by the Wayne County GIS department in February 2014, entitled “Robbers Roost Region Grazing Zone”: Township 29S Range 14E;

(z) “French Springs Region Grazing Zone,” [~~the land area of which consists~~] consisting of certain BLM lands [situated] in the following townships in Wayne County, as more fully illustrated in the map [jointly] prepared by the Wayne County GIS department in February 2014, entitled “French Springs Region Grazing Zone”: Township 30S Range 16E;

(aa) “12 Mile C&H Region Grazing Zone,” consisting of certain Forest Service lands in the following townships [of] in Sanpete County, as more fully illustrated in the map prepared by the Sanpete County GIS department in February 2014, entitled “12 Mile C&H Region Grazing Zone”: Township 19S Range 3E and Township 20S Range 3E;

(bb) “Horseshoe Region Grazing Zone,” consisting of certain Forest Service lands in the

following townships [øf] in Sanpete County, as more fully illustrated in the map prepared by the Sanpete County GIS department in February 2014, entitled "Horseshoe Region Grazing Zone": Township 14S Range 5E, Township 14S Range 6E, Township 15S Range 5E, and Township 15S Range 6E;

(cc) "Nokai Dome Region Grazing Zone," consisting of certain BLM and National Park Service lands in the following townships [øf] in San Juan County, as more fully illustrated in the map prepared by the San Juan County GIS department in February 2014, entitled "Nokai Dome Region Grazing Zone": Township 38S Range 11E, Township 38S Range 12E, Township 39S Range 11E, Township 39S Range 12E, Township 39S Range 13E, Township 39S Range 14E, Township 39S Range 15E, Township 40S Range 10E, Township 40S Range 11E, Township 40S Range 12E, Township 40S Range 13E, Township 40S Range 14E, Township 41S Range 9E, Township 41S Range 10E, Township 41S Range 11E, and Township 41S Range 12E;

(dd) "Grand Gulch Region Grazing Zone," consisting of certain BLM and National Park Service lands in the following townships [øf] in San Juan County, as more fully illustrated in the map prepared by the San Juan County GIS department in February 2014, entitled "Grand Gulch Region Grazing Zone": Township 37S Range 17E, Township 37S Range 18E, Township 38S Range 16E, Township 38S Range 17E, Township 38S Range 18E, Township 39S Range 14E, Township 39S Range 15E, Township 39S Range 16E, Township 39S Range 17E, Township 39S Range 18E, Township 40S Range 14E, Township 40S Range 15E, Township 40S Range 16E, Township 40S Range 17E, and Township 40S Range 18E;

(ee) "Cedar Mesa East Region Grazing Zone," consisting of certain BLM and National Park Service lands in the following townships [øf] in San Juan County, as more fully illustrated in the map prepared by the San Juan County GIS department in February 2014, entitled "Cedar Mesa East Region Grazing Zone": Township 36S Range 20E, Township 37S Range 18E, Township 37S Range 19E, Township 37S Range 20E, Township 37S Range 21E, Township 38S Range 18E, Township 38S Range 19E, Township 38S Range 20E, Township 38S Range 21E, Township 39S Range 18E, Township 39S Range 19E, Township 39S Range 20E, Township 39S Range 21E, Township 39S Range 22E, Township 40S Range 18E, Township 40S Range 19E, Township 40S Range 20E, Township 40S Range 21E, Township 41S Range 18E, Township 41S Range 19E, Township 41S Range 20E, and Township 41S Range 21E;

(ff) "Mancos Mesa Region Grazing Zone," consisting of certain BLM and National Park Service lands in the following townships [øf] in San Juan County, as more fully illustrated in the map prepared by the San Juan County GIS department in February 2014, entitled "Mancos Mesa Region Grazing Zone": Township 35S Range 13E, Township 36S Range 12E, Township 36S Range 13E, Township 36S Range 14E, Township 37S

Range 12E, Township 37S Range 13E, Township 37S Range 14E, Township 37S Range 15E, Township 38S Range 11E, Township 38S Range 12E, Township 38S Range 13E, Township 38S Range 14E, Township 38S Range 15E, Township 38S Range 18E, Township 39S Range 13E, Township 39S Range 14E, and Township 39S Range 15E;

(gg) "Red Canyon Region Grazing Zone," consisting of certain BLM and National Park Service lands in the following townships [øf] in San Juan County, as more fully illustrated in the map prepared by the San Juan County GIS department in February 2014, entitled "Red Canyon Region Grazing Zone": Township 33S Range 14E, Township 34S Range 13E, Township 34S Range 14E, Township 34S Range 15E, Township 35S Range 13E, Township 35S Range 14E, Township 35S Range 15E, Township 36S Range 14E, Township 36S Range 15E, Township 36S Range 16E, Township 36S Range 17E, Township 37S Range 14E, Township 37S Range 15E, Township 37S Range 16E, Township 37S Range 17E, Township 38S Range 15E, and Township 38S Range 16E;

(hh) "White Canyon Region Grazing Zone," consisting of certain BLM and National Park Service lands in the following townships [øf] in San Juan County, as more fully illustrated in the map prepared by the San Juan County GIS department in February 2014, entitled "White Canyon Region Grazing Zone": Township 33S Range 14E, Township 33S Range 15E, Township 33S Range 16E, Township 34S Range 14E, Township 34S Range 15E, Township 34S Range 16E, Township 34S Range 17E, Township 35S Range 15E, Township 35S Range 16E, Township 35S Range 17E, Township 35S Range 18E, Township 36S Range 15E, Township 36S Range 16E, Township 36S Range 17E, Township 36S Range 18E, Township 37S Range 17E, and Township 37S Range 18E;

(ii) "Dark Canyon/Hammond Canyon Region Grazing Zone," consisting of certain Forest Service lands in the following townships [øf] in San Juan County, as more fully illustrated in the map prepared by the San Juan County GIS department in February 2014, entitled "Dark Canyon/Hammond Canyon Region Grazing Zone": Township 34S Range 17E, Township 34S Range 18E, Township 34S Range 19E, Township 34S Range 20E, Township 35S Range 17E, Township 35S Range 18E, Township 35S Range 19E, Township 35S Range 20E, Township 36S Range 18E, Township 36S Range 19E, Township 36S Range 20E, and Township 37S Range 19E;

(jj) "Chippean/Indian Creek Region Grazing Zone," consisting of certain Forest Service lands in the following townships [øf] in San Juan County, as more fully illustrated in the map prepared by the San Juan County GIS department in February 2014, entitled "Chippean/Indian Creek Region Grazing Zone": Township 32S Range 21E, Township 32S Range 22E, Township 33S Range 21E, Township 33S Range 22E, Township 34S Range 20E, Township 34S Range 21E, Township

34S Range 22E, Township 35S Range 20E, Township 35S Range 21E, and Township 35S Range 22E;

(kk) “Henry Mountain Region Grazing Zone,” ~~[the land area of which consists]~~ consisting of certain BLM lands ~~[situated]~~ in the following townships in Garfield County, as more fully illustrated in the map prepared by the Garfield County GIS department in February 2014, entitled “Henry Mountain Region Grazing Zone”: Township 31S Range 7E, Township 31S Range 8E, Township 32S Range 8E, Township 33S Range 8E, Township 34S Range 8E, Township 31S Range 9E, Township 32S Range 9E, Township 33S Range 9E, Township 34S Range 9E, Township 35S Range 9E, Township 31S Range 10E, Township 32S Range 10E, Township 33S Range 10E, Township 34S Range 10E, Township 35S Range 10E, Township 31S Range 11E, Township 32S Range 11E, Township 33S Range 11E, Township 34S Range 11E, Township 32S Range 12E, Township 33S Range 12E, and Township 34S Range 12E;

(ll) “Glen Canyon Region Grazing Zone,” ~~[the land area of which consists]~~ consisting of certain BLM and ~~[Natural]~~ National Park Service lands ~~[situated]~~ in the following townships in Garfield County, as more fully illustrated in the map prepared by the Garfield County GIS department in February 2014, entitled “Glen Canyon Region Grazing Zone”: Township 36S Range 9E, Township 36S Range 10E, Township 37S Range 10E, Township 35S Range 11E, Township 36S Range 11E, Township 37S Range 11E, Township 31S Range 12E, Township 32S Range 12E, Township 33S Range 12E, Township 34S Range 12E, Township 35S Range 12E, Township 35 1/2S Range 12E, Township 36S Range 12E, Township 37S Range 12E, Township 31S Range 13E, Township 32S Range 13E, Township 33S Range 13E, Township 34S Range 13E, Township 35S Range 13E, Township 35 1/2S Range 13E, Township 36S Range 13E, Township 31S Range 14E, Township 32S Range 14E, Township 32 1/2S Range 14E, Township 33S Range 14E, Township 31S Range 15E, Township 32S Range 15E, Township 32 1/2S Range 15E, Township 33S Range 15E, Township 30 1/2S Range 16E, Township 31S Range 16E, Township 32S Range 16E, Township 30 1/2S Range 17E, Township 31S Range 17E, Township 32S Range 17E, Township 30 1/2S Range 18E, and Township 31S Range 18E;

(mm) “Glendale Bench Region Grazing Zone,” ~~[the land area of which consists]~~ consisting of certain BLM and Forest Service lands ~~[situated]~~ in the following townships in Kane County, as more fully illustrated in the map prepared by the Kane County GIS department in February 2014, entitled “Glendale Bench Region Grazing Zone”: Township 39S Range 6W, Township 39S Range 5W, Township 39S Range 4.5W, Township 40S Range 7W, Township 40S Range 6W, Township 41S Range 7W, and Township 41S Range 6W; ~~[and]~~

(nn) “John R. Region Grazing Zone,” ~~[the land area of which consists]~~ consisting of certain BLM and Forest Service lands ~~[situated]~~ in the following

townships in Kane County, as more fully illustrated in the map prepared by the Kane County GIS department in February 2014, entitled “John R. Region Grazing Zone”: Township 41S Range 7W, Township 41S Range 6W, Township 42S Range 7W, Township 42S Range 6W, Township 43S Range 6W, and Township 44S Range 6W~~[-]~~;

(oo) “Beaver Dam Scope Region Grazing Zone,” consisting of certain BLM lands in the following townships in Washington County, as more fully illustrated in the map prepared by the Washington County GIS department: Township 42 South Range 17 West, Township 43 South Range 18 West, Township 43 South Range 19 West, Township 43 South Range 20 West, Township 42 South Range 18 West, Township 42 South Range 19 West, Township 42 South Range 20 West, Township 41 South Range 17 West, Township 41 South Range 18 West, Township 41 South Range 19 West, Township 41 South Range 20 West, Township 40 South Range 18 West, Township 40 South Range 19 West, and Township 40 South Range 20 West;

(pp) “Square Top Daggett Flat Region Grazing Zone,” consisting of certain BLM lands in the following townships in Washington County, as more fully illustrated in the map prepared by the Washington County GIS department: Township 40 South Range 17 West, Township 40 South Range 18 West, Township 40 South Range 19 West, Township 40 South Range 20 West, Township 39 South Range 16 West, Township 39 South Range 17 West, Township 39 South Range 18 West, Township 39 South Range 19 West, Township 39 South Range 20 West, Township 38 South Range 18 West, Township 38 South Range 19 West, and Township 38 South Range 20 West;

(qq) “Enterprise Region Grazing Zone,” consisting of certain BLM and Forest Service lands in the following townships in Washington County, as more fully illustrated in the map prepared by the Washington County GIS department: Township 37 South Range 17 West and Township 37 South Range 18 West;

(rr) “Apex Region Grazing Zone,” consisting of certain BLM lands in the following townships in Washington County, as more fully illustrated in the map prepared by the Washington County GIS department: Township 42 South Range 16 West, Township 42 South Range 17 West, Township 43 South Range 16 West, and Township 43 South Range 17 West;

(ss) “Veyo/Gunlock Region Grazing Zone,” consisting of certain BLM lands in the following townships in Washington County, as more fully illustrated in the map prepared by the Washington County GIS department: Township 39 South Range 16 West, Township 39 South Range 17 West, Township 40 South Range 16 West, Township 40 South Range 17 West, Township 41 South Range 16 West, Township 41 South Range 17 West, and Township 41 South Range 18 West;

(tt) “Pine Valley Dixie National Forest Grazing Zone,” consisting of certain Forest Service lands in the following townships in Washington County, as more fully illustrated in the map prepared by the

Washington County GIS department: Township 37 South Range 15 West, Township 37 South Range 16 West, Township 37 South Range 17 West, Township 37 South Range 18 West, Township 37 South Range 19 West, Township 37 South Range 20 West, Township 38 South Range 13 West, Township 38 South Range 14 West, Township 38 South Range 15 West, Township 38 South Range 16 West, Township 38 South Range 17 West, Township 38 South Range 18 West, Township 38 South Range 19 West, Township 39 South Range 13 West, Township 39 South Range 14 West, Township 39 South Range 15 West, Township 39 South Range 16 West, Township 39 South Range 17 West, and Township 39 South Range 18 West;

(uu) “New Harmony Region Grazing Zone,” consisting of certain BLM lands in the following township in Washington County, as more fully illustrated in the map prepared by the Washington County GIS department: Township 38 South Range 13 West;

(vv) “Kanarra Region Grazing Zone,” consisting of certain BLM lands in the following township in Washington County, as more fully illustrated in the map prepared by the Washington County GIS department: Township 38 South Range 11 West;

(ww) “Kolob Region Grazing Zone,” consisting of certain BLM lands in the following townships in Washington County, as more fully illustrated in the map prepared by the Washington County GIS department: Township 38 South Range 10 West and Township 39 South Range 10 West;

(xx) “La Verkin Creek/Dry Creek Region Grazing Zone,” consisting of certain BLM lands in the following townships in Washington County, as more fully illustrated in the map prepared by the Washington County GIS department: Township 39 South Range 11 West, Township 39 South Range 12 West, Township 39 South Range 13 West, Township 40 South Range 11 West, Township 40 South Range 12 West, Township 40 South Range 13 West, Township 41 South Range 11 West, Township 41 South Range 12 West, and Township 41 South Range 13 West;

(yy) “Grafton Region Grazing Zone,” consisting of certain BLM lands in the following townships in Washington County: Township 41 South Range 11 West, Township 41 South Range 12 West, Township 41 South Range 13 West, Township 42 South Range 11 West, Township 42 South Range 12 West, and Township 42 South Range 13 West;

(zz) “Hurricane Region Grazing Zone,” consisting of certain BLM lands in the following townships in Washington County, as more fully illustrated in the map prepared by the Washington County GIS department: Township 42 South Range 13 West, Township 42 South Range 14 West, Township 42 South Range 15 West, Township 43 South Range 13 West, Township 43 South Range 14 West, and Township 43 South Range 15 West;

(aaa) “Little Creek Region Grazing Zone,” consisting of certain BLM lands in the following townships in Washington County, as more fully

illustrated in the map prepared by the Washington County GIS department: Township 42 South Range 11 West, Township 42 South Range 12 West, Township 42 South Range 13 West, Township 43 South Range 11 West, Township 43 South Range 12 West, and Township 43 South Range 13 West; and

(bbb) “Canaan Mountain Grazing Zone,” consisting of certain BLM lands in the following townships in Washington County, as more fully illustrated in the map prepared by the Washington County GIS department: Township 42 South Range 9.5 West, Township 42 South Range 10 West, Township 42 South Range 11 West, Township 43 South Range 9.5 West, Township 43 South Range 10 West, and Township 43 South Range 11 West.

(3) Printed copies of the maps referenced in Subsection (2) shall be available for inspection by the public at the offices of the Utah Association of Counties.

(4) The state finds with respect to the grazing zones described in Subsection (2) that:

(a) agricultural livestock industry on the lands comprising these zones has provided a significant contribution to the history, customs, culture, economy, welfare, and other values of each area for more than 100 years;

(b) the potential for abundant natural and vegetative resources exists within these zones if managed properly, that will support and expand continued, responsible agricultural livestock activities and wildlife habitat;

(c) agricultural livestock activities in these zones and the associated historic resources, human history, shaping of human endeavors, variety of cultural resources, landmarks, structures, and other objects of historic or scientific interest are worthy of recognition, preservation, and protection;

(d) (i) the highest management priority for lands within these zones is the preservation, restoration, and enhancement of watershed and rangeland health to sustain and expand forage production for both livestock grazing and wildlife habitat, and the restoration and development of historic, existing, and future livestock grazing and wildlife habitat resources in order to provide protection for the resources, objects, customs, culture, and values identified above; and

(ii) notwithstanding Subsection (4)(d)(i), if part or all of any zone lies within a sage grouse management area, then the management priorities for such part shall be consistent with the management priorities set forth in Subsection (4)(d)(i) to the maximum extent consistent with the management priorities of the sage grouse management area;

(e) subject to Subsection (4)(d)(ii), responsible development of any deposits of energy and mineral resources, including oil, natural gas, oil shale, oil sands, coal, phosphate, gold, uranium, and copper, as well as areas with wind and solar energy potential, that may exist in these zones is compatible with the management priorities of Subsection (4)(d)(i) in these zones; and

(f) subject to Subsection (4)(d)(ii), responsible development of any recreation resources, including roads, campgrounds, water resources, trails, OHV use, sightseeing, canyoneering, hunting, fishing, trapping, and hiking resources that may exist in these grazing zones is compatible with the management priorities of Subsection (4)(d)(i) in these grazing zones.

(5) The state finds with respect to the zones described in Subsection (2) that the historic levels of livestock grazing activity and other values identified in Subsection (4) in each zone have greatly diminished, or are under other serious threat, due to:

(a) unreasonable, arbitrary, and unlawfully restrictive federal management policies, including:

(i) de facto managing for wilderness in nonwilderness areas and non-WSAs;

(ii) ignoring the chiefly valuable for grazing designation of the Secretary of the Interior applicable to each of these zones; and

(iii) the arbitrary administrative reductions in animal unit months of permitted forage;

(b) inflexible federal grazing practices that disallow grazing at different times each year proven to be most effective for maintaining and enhancing rangeland conditions;

(c) mismanagement of wild horses and burros resulting in competition for forage by excess and mismanaged populations of wild horses and burros in Beaver and Emery counties;

(d) improper management of vegetation resulting in the overgrowth of pinion, invasive species, and juniper, and other woody vegetation that:

(i) compromise watershed and rangeland health;

(ii) crowd out grazing forage;

(iii) degrade habitat and limit wildlife populations;

(iv) reduce water yield; and

(v) heighten the risk of catastrophic wildfire; and

(e) other practices that degrade overall rangeland health.

(6) To protect and preserve against the threats described in Subsection (5), the state supports the following with respect to the zones described in Subsection (2):

(a) efficient and sustained policies, programs, and practices directed at preserving, restoring, and enhancing watershed and rangeland health to maximize:

(i) all permitted forage production for livestock grazing and other compatible uses, including flexible grazing on and off dates adaptive to yearly climate and range conditions; and

(ii) forage for fish and wildlife;

(b) a cooperative management approach by federal agencies, the state, and local government agencies to achieve broadly supported management plans for the full development of:

(i) forage resources for grazing livestock and wildlife; and

(ii) other uses compatible with livestock grazing and wildlife utilization;

(c) effective and responsible management of wild horses and burros to eliminate excess populations; and

(d) effective and responsible management of wildlife habitat.

(7) The state requests that the federal agencies that administer lands within each grazing zone:

(a) fully cooperate and coordinate with the state and the respective counties within which each grazing zone is situated to develop, amend, and implement land and resource management plans, and implement management decisions that are consistent with the purposes, goals, and policies described in this section to the maximum extent allowed under federal law;

(b) expedite the processing, granting, and streamlining of grazing permits, range improvements, and applications to enhance and otherwise develop all existing and permitted grazing resources located within each grazing zone, including renewable vegetative resources;

(c) allow continued maintenance and increased development of roads, power lines, pipeline infrastructure, and other utilities necessary to achieve the goals, purposes, and policies described in this section and consistent with multiple use and sustained yield principles;

(d) refrain from any planning decisions and management actions that will undermine, restrict, or diminish the goals, purposes, and policies for each grazing zone as stated in this section;

(e) subject to Subsection (4)(d)(ii), refrain from implementing a policy that is contrary to the goals and purposes described within this section; and

(f) refrain from implementing utilization standards less than 50%, unless:

(i) implementing a standard of less than 50% utilization on a temporary basis is necessary to resolve site-specific concerns; and

(ii) the federal agency consults, coordinates, and cooperates fully with local governments.

(8) (a) If a grazing zone described in Subsection (2) is managed or neglected in such a way as to increase the risk of catastrophic wildfire, and if the chief executive officer of a county or a county sheriff finds that the catastrophic wildfire risk adversely affects the health, safety, and welfare of the people of the political subdivision and that increased livestock grazing in part or all of the grazing zone would substantially reduce that adverse effect:

(i) Subsections 11-51-103(1)(a) and (b) shall govern and apply to the chief executive officer and

the county sheriff with respect to making increased livestock grazing available in the grazing zone; and

(ii) Subsection 11-51-103(1)(b) shall govern and apply to the attorney general with respect to making increased livestock grazing available in the grazing zone.

(b) If a grazing zone described in Subsection (2) is managed or neglected in such a way as to increase the risk of catastrophic wildfire, and if the chief executive officer of a county or a county sheriff finds that the catastrophic wildfire risk constitutes an imminent threat to the health, safety, and welfare of the people of the political subdivision and that increased livestock grazing in part or all of the grazing zone would substantially reduce that imminent threat:

(i) Subsections 11-51-103(2) and (3) shall govern and apply to the chief executive officer and the county sheriff with respect to making increased livestock grazing available in the grazing zone; and

(ii) Subsection 11-51-103(3) and Section 11-51-104 shall govern and apply to the attorney general with respect to making increased livestock grazing available in the grazing zone.

[48] (9) (a) The state recognizes the importance of all grazing districts on Utah BLM and Forest Service lands but establishes the grazing zones described in Subsection (2) to provide special protection and preservation against the identified threats found in Subsection (5) to exist in these zones.

(b) It is the intent of the state to designate additional grazing agricultural commodity zones in future years, if circumstances warrant special protection and preservation for new zones.

[49] (10) The state calls upon applicable federal, state, and local agencies to coordinate with each other and establish applicable intergovernmental standing commissions, with membership consisting of representatives from the United States government, the state, and local governments to coordinate and achieve consistency in planning decisions and management actions in zones described in Subsection (2) in order to achieve the goals, purposes, and policies described in this section.

[40] (11) Notwithstanding the provisions of this section, and subject to Subsection (4)(d)(ii), the state's mineral, oil, gas, and energy policies and plans on land within the zones described in Subsection (2) shall be governed by Sections 63J-4-401 and 63J-8-104.

Section 2. Section 63J-8-105.9 is amended to read:

63J-8-105.9. Utah Timber Agricultural Commodity Zones established -- Findings -- Management and land use priorities.

(1) There are established and designated Utah Timber Agricultural Commodity Zones for the purpose of:

(a) preserving and protecting the agricultural timber, logging, and forest products industry within these zones from ongoing threats;

(b) preserving and protecting the significant history, culture, customs, and economic value of the agricultural timber, logging, and forest products industry within these zones from ongoing threats; and

(c) maximizing efficient and responsible restoration, reclamation, preservation, enhancement, and development of timber, logging, and forest products and affected natural, historical, and cultural activities within these zones, in order to protect and preserve these zones from ongoing threats.

(2) The titles, land area, and boundaries of these zones are described as follows:

(a) "Tushar Mountain Region Timber Zone," [the land area of which consists] consisting of certain Forest Service lands in the following townships in Beaver County and Piute County, as more fully illustrated in the map jointly prepared by the Beaver and Piute counties GIS departments in February 2014, entitled "Tushar Mountain Region Timber Zone":

(i) in Beaver County, Township 28S Range 4W, Township 29S Range 4W, Township 27S Range 5W, Township 28S Range 5W, Township 29S Range 5W, Township 30S Range 5W, Township 26S Range 6W, Township 27S Range 6W, Township 28S Range 6W, Township 29S Range 6W, and Township 30S Range 6W; and

(ii) in Piute County, Township 26S Range 6W, Township 27S Range 6W, Township 26S Range 5W, Township 27S Range 5W, Township 28S Range 5W, Township 29S Range 5W, Township 30S Range 5W, Township 26S Range 4.5W, Township 26S Range 4W, Township 28S Range 4W, Township 29S Range 4W, and Township 30S Range 4W;

(b) "Panguitch Lake Region Timber Zone," [the land area of which consists] consisting of certain Forest Service lands situated in the following townships in Iron, Kane, and Garfield counties, as more fully illustrated in the map jointly prepared by the Iron, Kane, and Garfield counties GIS departments in February 2014, entitled "Panguitch Lake Region Timber Zone":

(i) in Iron County, Township 34S Range 7W, Township 35S Range 8W, Township 36S Range 8W, Township 36S Range 9W (excluding Cedar Breaks National Monument and Ashdown Wilderness Area), Township 37S Range 8W, and Township 37S Range 9W;

(ii) in Kane County, Township 38S Range 9W, Township 38S Range 8W, Township 38S Range 7W, Township 38S Range 6W, Township 39S Range 8W, Township 39S Range 7W, and Township 39S Range 6W; and

(iii) in Garfield County, Township 35S Range 7W, Township 35S Range 6W, Township 36S Range 7W, Township 36S Range 6W, Township 37S Range 7W, and Township 37S Range 6W;

(c) “Monroe Mountain Region Timber Zone,” consisting of certain Forest Service lands in the following townships in Piute County, as more fully illustrated in the map prepared by the Piute County GIS department in February 2014, entitled “Monroe Mountain Region Timber Zone”: Township 26S Range 3W, Township 27S Range 2.5W, Township 28S Range 2.5W, Township 29S Range 2.5W, Township 26S Range 2W, Township 27S Range 2W, Township 28S Range 2W, Township 29S Range 2W, Township 26S Range 1W, and Township 7S Range 1W;

(d) “Boulder Mountain Region Timber Zone,” ~~[the land area of which consists]~~ consisting of certain Forest Service lands situated in the following townships in Wayne and Garfield counties, as more fully illustrated in the map jointly prepared by the Wayne and Garfield counties GIS departments in February 2014, entitled “Boulder Mountain Region Timber Zone”:

(i) in Wayne County, Township 30S Range 3E, Township 30S Range 4E, and Township 30S Range 5E; and

(ii) in Garfield County, Township 31S Range 1E, Township 31S Range 2E, Township 31S Range 3E, Township 32S Range 2E, Township 32S Range 3E, Township 32S Range 4E, Township 33S Range 3E, Township 33S Range 4E, Township 30 1/2S Range 5E, Township 31S Range 5E, Township 31S Range 6E, Township 32S Range 5E, and Township 32S Range 6E;

(e) “Thousand Lake Region Timber Zone,” consisting of certain Forest Service lands in the following townships in Wayne County, as more fully illustrated in the map ~~[jointly]~~ prepared by the Wayne County GIS department in February 2014, entitled “Thousand Lake Region Timber Zone”: Township 26S Range 4E, Township 27S Range 4E, and Township 28S Range 4E;

(f) “Millers Flat Region Timber Zone,” ~~[the land area of which consists]~~ consisting of certain Forest Service lands situated in the following townships in Sanpete County, as more fully illustrated in the map ~~[jointly]~~ prepared by the Sanpete County GIS department in February 2014, entitled “Millers Flat Region Timber Zone”: Township 16S Range 5E, Township 17S Range 5E, Township 17S Range 4E, and Township 17S Range 6E;

(g) “East Fork Timber Zone,” ~~[the land area of which consists]~~ consisting of certain Forest Service lands situated in the following townships in Garfield and Kane counties, as more fully illustrated in the map jointly prepared by the Garfield and Kane counties GIS departments in February 2014, entitled “East Fork Region Timber Zone”:

(i) in Garfield County, Township 36S Range 4 1/2W, Township 36S Range 4W, Township 37S Range 5W, Township 37S Range 4 1/2W, and Township 37S Range 4W; and

(ii) in Kane County, Township 38S Range 5W, Township 38S Range 4.5W, Township 39S Range 5W, and Township 39S Range 4.5W;

(h) “Upper Valley Timber Zone,” ~~[the land area of which consists]~~ consisting of certain Forest Service lands situated in the following townships in Garfield County, as more fully illustrated in the map ~~[jointly]~~ prepared by the Garfield County GIS department in February 2014, entitled “Upper Valley Region Timber Zone”: Township 34S Range 1W, Township 35S Range 1W, Township 35S Range 1E, Township 36S Range 1W, Township 36S Range 1E, and Township 37S Range 1E;

(i) “Iron Springs Timber Zone,” ~~[the land area of which consists]~~ consisting of certain Forest Service lands situated in the following townships in Garfield County, as more fully illustrated in the map ~~[jointly]~~ prepared by the Garfield County GIS department in February 2014, entitled “Iron Springs Region Timber Zone”: Township 32S Range 1E, Township 33S Range 1W, Township 33S Range 1E, and Township 34S Range 1W; and

(j) “Dutton Timber Zone,” ~~[the land area of which consists]~~ consisting of certain Forest Service lands situated in the following townships in Garfield County, as more fully illustrated in the map ~~[jointly]~~ prepared by the Garfield County GIS department in February 2014, entitled “Dutton Region Timber Zone”: Township 32S Range 3W, Township 32S Range 2W, Township 33S Range 3W, and Township 33S Range 2W.

(3) Printed copies of the maps referenced in Subsection (2) shall be available for inspection by the public at the offices of the Utah Association of Counties.

(4) The state finds with respect to the zones described in Subsection (2) that:

(a) agricultural timber, logging, and forest product industries on the lands comprising these timber zones have provided a significant contribution to the history, customs, culture, economy, welfare, and other values of each area for many decades;

(b) abundant natural and vegetative resources exist within these zones to support and expand continued, responsible timber, logging, and other forest product activities;

(c) agricultural timber, logging, and forest product activities in these zones, and the associated historic resources, human history, shaping of human endeavors, variety of cultural resources, landmarks, structures, and other objects of historic or scientific interest are worthy of recognition, preservation, and protection;

(d) (i) the highest management priority for lands within these zones is maintenance and promotion of forest and vegetation ecosystem health achieved by responsible active management in development of historic, existing, and future timber, logging, and forest product resources in order to provide protection for the resources, objects, customs, culture, and values identified above; and

(ii) notwithstanding Subsection (4)(d)(i), if part or all of any zone lies within a sage grouse management area, then the management priorities for such part shall be consistent with the

management priorities set forth in Subsection (4)(d)(i) to the maximum extent consistent with the management priorities of the sage grouse management area;

(e) subject to Subsection (4)(d)(ii), responsible development of any deposits of energy and mineral resources, including oil, natural gas, oil shale, oil sands, coal, phosphate, gold, uranium, and copper, as well as areas with wind and solar energy potential, that may exist in these zones is compatible with the management priorities of Subsection (4)(d)(i) in these zones; and

(f) subject to Subsection (4)(d)(ii), responsible development of any recreation resources, including wildlife, roads, campgrounds, water resources, trails, OHV use, sightseeing, canyoneering, hunting, fishing, trapping, and hiking resources that may exist in these timber zones is compatible with the management priorities of Subsection (4)(d)(i) in these timber zones.

(5) The state finds that the historic levels of timber, logging, and forest products activities in the zones described in Subsection (2) have greatly diminished, or are under serious threat, due to:

(a) unreasonable, arbitrary, and unlawfully restrictive federal management policies, including:

(i) de facto managing for wilderness in nonwilderness areas;

(ii) ignoring the multiple use sustained yield mission of the Forest Service;

(iii) ignoring the fact that the Forest Service's parent agency is the United States Department of Agriculture whose mission includes providing timber as an important agriculture resource; and

(iv) the arbitrary administrative reductions in timber, logging, and forest products activities;

(b) improper management of forest vegetation resulting in the overcrowding of old growth alpine species and the crowding out of aspen diversity, all of which results in:

(i) devastation of entire mountainsides due to insect infestation and disease;

(ii) reduced water yield;

(iii) increased catastrophic wildfire;

(iv) increased soil erosion;

(v) degradation of wildlife habitat; and

(vi) suppression and threatened extinction of important rural economic activities; and

(c) other practices that degrade overall forest health.

(6) To protect and preserve against the threats described in Subsection (5), the state supports the following with respect to the zones described in Subsection (2):

(a) efficient and responsible development, within each timber zone, of:

(i) robust timber thinning and harvesting programs and activities; and

(ii) other uses compatible with increased timber, logging, and forest product activities, including a return to historic levels of timber, logging, and forest product activity in each of these zones;

(b) a cooperative management approach by federal agencies, the state, and local governments to achieve broadly supported management plans for the full development, within each timber zone, of:

(i) forest product resources; and

(ii) other uses compatible with timber activities; and

(c) effective and responsible management of wildlife habitat.

(7) The state requests that the federal agencies that administer lands within each timber zone:

(a) fully cooperate and coordinate with the state and the respective counties within which each timber zone is situated to develop, amend, and implement land and resource management plans and implement management decisions that are consistent with the purposes, goals, and policies described in this section to the maximum extent allowed under federal law;

(b) expedite the processing, granting, and streamlining of logging and forest product harvesting permits, range improvements, and applications to enhance and otherwise develop existing and permitted timber resources located within each timber zone, including renewable vegetative resources;

(c) expedite stewardship programs to allow private enterprise to carry out the timber, logging, and forest activities described in this section;

(d) allow continued maintenance and increased development of roads, power lines, pipeline infrastructure, and other utilities necessary to achieve the goals, purposes, and policies described in this section and consistent with multiple use and sustained yield principles;

(e) refrain from any planning decisions and management actions that will undermine, restrict, or diminish the goals, purposes, and policies for each timber zone as stated in this section; and

(f) subject to Subsection (4)(d)(ii), refrain from implementing a policy that is contrary to the goals and purposes described within this section.

(8) (a) The state recognizes the importance of all areas on BLM and Forest Service lands high value lumber and forest product resources but establishes the special Timber Agricultural Commodity Zones to provide special protection and preservation against the identified threats found in Subsection (5) to exist in these zones.

(b) It is the intent of the Legislature to designate additional Timber Agricultural Commodity Zones in future years, if circumstances warrant special protection and preservation for new zones.

(9) The state calls upon applicable federal, state, and local agencies to coordinate with each other and

establish applicable intergovernmental standing commissions, with membership consisting of representatives from the United States government, the state, and local governments to coordinate and achieve consistency in planning decisions and management actions in the zones described in Subsection (2).

(10) Notwithstanding the provisions of this section, and subject to Subsection (4)(d)(ii), the state's mineral, oil, gas, and energy policies, as well as its grazing policies, on land within zones described in Subsection (2), shall continue to be governed by Sections 63J-4-401 and 63J-8-104.

CHAPTER 88**H. B. 393**

Passed March 10, 2015
 Approved March 23, 2015
 Effective March 23, 2015

ENERGY ZONES AMENDMENTS

Chief Sponsor: Michael E. Noel
 Senate Sponsor: David P. Hinkins

LONG TITLE**General Description:**

This bill modifies the Utah resource management plan for federal lands.

Highlighted Provisions:

This bill:

- ▶ creates the San Juan County Energy Zone;
- ▶ adopts energy exploration, access, and development policy for the San Juan County Energy Zone; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

- 63J-8-102, as last amended by Laws of Utah 2014, Chapter 321
 63J-8-105, as last amended by Laws of Utah 2014, Chapter 321
 63J-8-105.5, as last amended by Laws of Utah 2014, Chapter 321

ENACTS:

- 63J-8-105.2, Utah Code Annotated 1953

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

Section 1. Section 63J-8-102 is amended to read:**63J-8-102. Definitions.**

As used in this chapter:

- (1) "ACEC" means an area of critical environmental concern as defined in 43 U.S.C. Sec. 1702.
- (2) "AUM" means animal unit months, a unit of grazing forage.
- (3) "BLM" means the United States Bureau of Land Management.
- (4) "BLM recommended wilderness" means a wilderness study area recommended for wilderness designation in the final report of the president of the United States to the United States Congress in 1993.
- (5) "Federal land use designation" means one or a combination of the following congressional or federal actions included in proposed congressional land use legislation:
 - (a) designation of wilderness within the National Wilderness Preservation System;

- (b) designation of a national conservation area;
- (c) designation of a watercourse within the National Wild and Scenic River System;

- (d) designation of an ACEC;

- (e) designation of a national monument in accordance with the Antiquities Act of 1906, 16 U.S.C. Sec. 431 et seq. or by Congress;

- (f) designation of a national park within the National Park System;

- (g) designation of a national recreational area; or

- (h) any other designation, classification, categorization, reservation, withdrawal, or similar action that has the purpose or effect of eliminating, restricting, or reducing energy and mineral development, motorized travel, grazing, active vegetation management, or any other traditional multiple use on public land.

- (6) "FLPMA" means the Federal Land Policy and Management Act of 1976, 43 U.S.C. Sec. 1701 et seq.

- (7) "Forest Service" means the United States Forest Service within the United States Department of Agriculture.

- (8) "Green River Energy Zone" means the lands described as follows in Subsections (8)(a) and (b), as more fully illustrated in the maps prepared by the Carbon County and Emery County GIS Departments in February 2013, each entitled "2013 Green River Energy Zone":

- (a) BLM and Forest Service lands in Carbon County that are situated in the following townships: Township 12S Range 6E, Township 12S Range 7E, Township 12S Range 8E, Township 12S Range 9E, Township 12S Range 10E, Township 12S Range 11E, Township 12S Range 12E, Township 12S Range 13E, Township 12S Range 14E, Township 12S Range 15E, Township 12S Range 16E, Township 12S Range 17E, Township 12S Range 18E, Township 13S Range 6E, Township 13S Range 8E, Township 13S Range 9E, Township 13S Range 10E, Township 13S Range 11E, Township 13S Range 12E, Township 13S Range 13E, Township 13S Range 14E, Township 13S Range 15E, Township 13S Range 16E, Township 13S Range 17E, Township 14S Range 6E, Township 14S Range 8E, Township 14S Range 9E, Township 14S Range 11E, Township 14S Range 12E, Township 14S Range 13E, Township 14S Range 14E, Township 14S Range 15E, Township 14S Range 16E, Township 14S Range 17E, Township 15S Range 7E, Township 15S Range 8E, Township 15S Range 9E, Township 15S Range 10E, Township 15S Range 11E, Township 15S Range 12E, Township 15S Range 13E, Township 15S Range 14E, Township 15S Range 15E, and Township 15S Range 16E; and

- (b) BLM and Forest Service lands in Emery County, excluding any areas that are or may be designated as wilderness, national conservation areas, or wild or scenic rivers, that are situated in the following townships and represented in the Emery County Public Land Management Act DRAFT Map prepared by Emery County and

available at emerycounty.com/publiclands/LANDS-USE-15.pdf: Township 13S Range 6E, Township 14S Range 6E, Township 14S Range 7E, Township 15S Range 6E, Township 15S Range 7E, Township 16S Range 6E, Township 16S Range 7E, Township 16S Range 8E, Township 16S Range 9E, Township 16S Range 10E, Township 16S Range 11E, Township 16S Range 12E, Township 16S Range 13E, Township 16S Range 14E, Township 16S Range 15E, Township 17S Range 6E, Township 17S Range 7E, Township 17S Range 8E, Township 17S Range 9E, Township 17S Range 10E, Township 17S Range 11E, Township 17S Range 12E, Township 17S Range 13E, Township 17S Range 14E, Township 17S Range 15E, Township 18S Range 6E, Township 18S Range 7E, Township 18S Range 8E, Township 18S Range 9E, Township 18S Range 10E, Township 18S Range 11E, Township 18S Range 12E, Township 18S Range 13E, Township 18S Range 14E, Township 18S Range 15E, Township 19S Range 6E, Township 19S Range 7E, Township 19S Range 8E, Township 19S Range 9E, Township 19S Range 10E, Township 19S Range 11E, Township 19S Range 12E, Township 19S Range 13E, Township 19S Range 14E, Township 19S Range 15E, Township 20S Range 6E, Township 20S Range 7E, Township 20S Range 8E, Township 20S Range 9E, Township 20S Range 10E, Township 20S Range 11E, Township 20S Range 12E, Township 20S Range 13E, Township 20S Range 14E, Township 20S Range 15E, Township 21S Range 6E, Township 21S Range 7E, Township 21S Range 8E, Township 21S Range 9E, Township 21S Range 14E, Township 21S Range 15E, Township 21S Range 16E, Township 22S Range 6E, Township 22S Range 7E, Township 22S Range 8E, Township 22S Range 9E, Township 22S Range 14E, Township 22S Range 15E, Township 22S Range 16E, Township 23S Range 6E, Township 23S Range 7E, Township 23S Range 8E, Township 23S Range 9E, Township 23S Range 13E, Township 23S Range 14E, Township 23S Range 15E, Township 23S Range 16E, Township 24S Range 6E, Township 24S Range 7E, Township 24S Range 8E, Township 24S Range 12E, Township 24S Range 13E, Township 24S Range 14E, Township 24S Range 15E, Township 24S Range 16E, Township 24S Range 17E, Township 25S Range 6E, Township 25S Range 7E, Township 25S Range 8E, Township 25S Range 11E, Township 25S Range 12E, Township 25S Range 13E, Township 25S Range 14E, Township 26S Range 6E, Township 26S Range 7E, Township 26S Range 8E, Township 26S Range 9E, Township 26S Range 10E, Township 26S Range 11E, Township 26S Range 12E, Township 26S Range 13E, Township 26S Range 14E, Township 26S Range 15E, Township 26S Range 16E, and Township 26S Range 17E.

(9) “Multiple use” means proper stewardship of the subject lands pursuant to Section 103(c) of FLPMA, 43 U.S.C. Sec. 1702(c).

(10) “National conservation area” means an area designated by Congress and managed by the BLM.

(11) “National wild and scenic river” means a watercourse:

(a) identified in a BLM or Forest Service planning process; or

(b) designated as part of the National Wild and Scenic River System.

(12) “National Wild and Scenic River System” means the National Wild and Scenic River System established in 16 U.S.C. Sec. 1271 et seq.

(13) “Office” means the Public Lands Policy Coordinating Office created in Section 63J-4-602.

(14) “OHV” means off-highway vehicle as defined in Section 41-22-2.

(15) “Proposed congressional land use legislation” means a draft or a working document of congressional legislation prepared by a person that includes a federal land use designation.

(16) “RARE II” means the second United States Forest Service Roadless Area Review and Evaluation report of 1984.

(17) “R.S. 2477 right-of-way” means a right-of-way established in accordance with 43 U.S.C. Sec. 932 repealed by FLPMA 1976.

(18) “San Juan County Energy Zone” means BLM and Forest Service lands situated in the following townships in San Juan County, as more fully illustrated in the map prepared by the San Juan County GIS department in December 2014 entitled “San Juan County Energy Zone”: Township 26S Range 21E, Township 26S Range 22E, Township 26S Range 23E, Township 26S Range 24E, Township 26S Range 25E, Township 26S Range 26E, Township 27S Range 21E, Township 27S Range 22E, Township 27S Range 23E, Township 27S Range 24E, Township 27S Range 25E, Township 27S Range 26E, Township 28S Range 21E, Township 28S Range 22E, Township 28S Range 23E, Township 28S Range 24E, Township 28S Range 25E, Township 28S Range 26E, Township 29S Range 21E, Township 29S Range 22E, Township 29S Range 23E, Township 29S Range 24E, Township 29S Range 25E, Township 29S Range 26E, Township 30S Range 21E, Township 30S Range 22E, Township 30S Range 23E, Township 30S Range 24E, Township 30S Range 25E, Township 30S Range 26E, Township 31S Range 22E, Township 31S Range 23E, Township 31S Range 24E, Township 31S Range 25E, Township 31S Range 26E, Township 32S Range 20E, Township 32S Range 21E, Township 32S Range 22E, Township 32S Range 23E, Township 32S Range 24E, Township 32S Range 25E, Township 32S Range 26E, Township 33S Range 19E, Township 33S Range 20E, Township 33S Range 21E, Township 33S Range 22E, Township 33S Range 23E, Township 33S Range 24E, Township 33S Range 25E, Township 33S Range 26E, Township 34S Range 19E, Township 34S Range 20E, Township 34S Range 21E, Township 34S Range 22E, Township 34S Range 23E, Township 34S Range 24E, Township 34S Range 25E, Township 34S Range 26E, Township 35S Range 14E, Township 35S Range 15E,

Township 35S Range 16E, Township 35S Range 17E, Township 35S Range 18E, Township 35S Range 19E, Township 35S Range 20E, Township 35S Range 21E, Township 35S Range 22E, Township 35S Range 23E, Township 35S Range 24E, Township 35S Range 25E, Township 35S Range 26E, Township 36S Range 14E, Township 36S Range 15E, Township 36S Range 16E, Township 36S Range 17E, Township 36S Range 18E, Township 36S Range 19E, Township 36S Range 21E, Township 36S Range 22E, Township 36S Range 23E, Township 36S Range 24E, Township 36S Range 25E, Township 36S Range 26E, Township 37S Range 14E, Township 37S Range 15E, Township 37S Range 16E, Township 37S Range 17E, Township 37S Range 21E, Township 37S Range 22E, Township 37S Range 23E, Township 37S Range 24E, Township 37S Range 25E, Township 37S Range 26E, Township 38S Range 12E, Township 38S Range 21E, Township 38S Range 22E, Township 38S Range 23E, Township 38S Range 24E, Township 38S Range 25E, Township 38S Range 26E, Township 39S Range 12E, Township 39S Range 13E, Township 39S Range 15E, Township 39S Range 21E, Township 39S Range 22E, Township 39S Range 23E, Township 39S Range 24E, Township 39S Range 25E, Township 39S Range 26E, Township 40S Range 14E, Township 40S Range 15E, Township 40S Range 16E, Township 40S Range 19E, Township 40S Range 20E, Township 40S Range 21E, Township 40S Range 22E, Township 40S Range 23E, Township 40S Range 24E, Township 40S Range 25E, Township 40S Range 26E, Township 41S Range 16E, Township 41S Range 17E, Township 41S Range 18E, Township 41S Range 19E, Township 41S Range 20E, Township 41S Range 21E, Township 41S Range 22E, Township 41S Range 23E, Township 41S Range 24E, Township 41S Range 25E, Township 41S Range 26E, Township 42S Range 14E, Township 42S Range 15E, Township 42S Range 16E, Township 42S Range 17E, Township 42S Range 18E, Township 42S Range 19E, Township 42S Range 20E, Township 42S Range 21E, Township 42S Range 22E, Township 42S Range 23E, Township 42S Range 24E, Township 42S Range 25E, Township 42S Range 26E, Township 43S Range 14E, Township 43S Range 15E, Township 43S Range 16E, Township 43S Range 17E, Township 43S Range 18E, Township 43S Range 19E, Township 43S Range 20E, Township 43S Range 21E, Township 43S Range 22E, Township 43S Range 23E, Township 43S Range 24E, Township 43S Range 25E, and Township 43S Range 26E.

[448] (19) "Settlement Agreement" means the written agreement between the state and the Department of the Interior in 2003 (revised in 2005) that resolved the case of State of Utah v. Gale Norton, Secretary of Interior (United States District Court, D. Utah, Case No. 2:96cv0870).

[449] (20) "SITLA" means the School and Institutional Trust Lands Administration as created in Section 53C-1-201.

[420] (21) (a) "Subject lands" means the following non-WSA BLM lands:

(i) in Beaver County:

(A) Mountain Home Range South, Jackson Wash, The Toad, North Wah Wah Mountains, Central Wah Wah Mountains, and San Francisco Mountains according to the region map entitled "Great Basin Central" linked in the webpage entitled "Citizen's Proposal for Wilderness in Utah" at <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on February 17, 2011; and

(B) White Rock Range, South Wah Wah Mountains, and Granite Peak according to the region map entitled "Great Basin South" linked in the webpage entitled "Citizen's Proposal for Wilderness in Utah" at <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on February 17, 2011;

(ii) in Box Elder County: Little Goose Creek, Grouse Creek Mountains North, Grouse Creek Mountains South, Bald Eagle Mountain, Central Pilot Range, Pilot Peak, Crater Island West, Crater Island East, Newfoundland Mountains, and Grassy Mountains North according to the region map entitled "Great Basin North" linked in the webpage entitled "Citizen's Proposal for Wilderness in Utah" at <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on February 17, 2011;

(iii) in Carbon County: Desbrough Canyon and Turtle Canyon according to the region map entitled "Book Cliffs" linked in the webpage entitled "Citizen's Proposal for Wilderness in Utah" at <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on February 17, 2011;

(iv) in Daggett County: Goslin Mountain, Home Mountain, Red Creek Badlands, O-wi-yu-kuts, Lower Flaming Gorge, Crouse Canyon, and Diamond Breaks according to the region map entitled "Dinosaur" linked in the webpage entitled "Citizen's Proposal for Wilderness in Utah" at <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on February 17, 2011;

(v) in Duchesne County: Desbrough Canyon according to the region map entitled "Book Cliffs" linked in the webpage entitled "Citizen's Proposal for Wilderness in Utah" at <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on February 17, 2011;

(vi) in Emery County:

(A) San Rafael River and Sweetwater Reef, according to the region map entitled "Canyonlands Basin" linked in the webpage entitled "Citizen's Proposal for Wilderness in Utah" at <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on February 17, 2011;

(B) Flat Tops according to the region map entitled "Glen Canyon," which is available by clicking the link entitled "Dirty Devil" at the webpage entitled "Citizen's Proposal for Wilderness in Utah" at

<http://www.protectwildutah.org/proposal/index.html> as the webpage existed on February 17, 2011; and

(C) Price River, Lost Spring Wash, Eagle Canyon, Upper Muddy Creek, Molen Reef, Rock Canyon, Mussentuchit Badland, and Muddy Creek, according to the region map entitled "San Rafael Swell" linked at the webpage entitled "Citizen's Proposal for Wilderness in Utah" at <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on February 17, 2011;

(vii) in Garfield County:

(A) Pole Canyon, according to the region map entitled "Great Basin South" linked in the webpage entitled "Citizen's Proposal for Wilderness in Utah" at <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on February 17, 2011;

(B) Dirty Devil, Fiddler Butte, Little Rockies, Cane Spring Desert, and Cane Spring Desert Adjacents, according to the region map entitled "Glen Canyon," which is available by clicking the link entitled "Dirty Devil" at the webpage entitled "Citizen's Proposal for Wilderness in Utah" at <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on February 17, 2011;

(C) Lampstand, Wide Hollow, Steep Creek, Brinkerhof Flats, Little Valley Canyon, Death Hollow, Studhorse Peaks, Box Canyon, Heaps Canyon, North Escalante Canyon, Colt Mesa, East of Bryce, Slopes of Canaan Peak, Horse Spring Canyon, Muley Twist Flank, Pioneer Mesa, Slopes of Bryce, Blue Hills, Mud Springs Canyon, Carcass Canyon, Willis Creek North, Kodachrome Basin, and Kodachrome Headlands, according to the region map entitled "Grand Staircase Escalante" linked at the webpage entitled "Citizen's Proposal for Wilderness in Utah" at <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on February 17, 2011; and

(D) Notom Bench, Mount Ellen, Bull Mountain, Dogwater Creek, Ragged Mountain, Mount Pennell, Mount Hillers, Bullfrog Creek, and Long Canyon, according to the region map entitled "Henry Mountains" linked at the webpage entitled "Citizen's Proposal for Wilderness in Utah" at <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on February 17, 2011;

(viii) in Iron County: Needle Mountains, Steamboat Mountain, Broken Ridge, Paradise Mountains, Crook Canyon, Hamlin, North Peaks, Mount Escalante, and Antelope Ridge, according to the region map entitled "Great Basin South" linked in the webpage entitled "Citizen's Proposal for Wilderness in Utah" at <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on February 17, 2011;

(ix) in Juab County: Deep Creek Mountains, Essex Canyon, Kern Mountains, Wild Horse Pass, Disappointment Hills, Granite Mountain, Middle Mountains, Tule Valley, Fish Springs Ridge, Thomas Range, Drum Mountains, Dugway Mountains, Keg Mountains West, Keg Mountains

East, Lion Peak, and Rockwell Little Sahara, according to the region map entitled "Great Basin Central" linked in the webpage entitled "Citizen's Proposal for Wilderness in Utah" at <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on February 17, 2011;

(x) in Kane County:

(A) Willis Creek North, Willis Creek, Kodachrome Badlands, Mud Springs Canyon, Carcass Canyon, Scorpion, Bryce Boot, Paria-Hackberry Canyons, Fiftymile Canyon, Hurricane Wash, Upper Kanab Creek, Timber Mountain, Nephi Point, Paradise Canyon, Wahweap Burning Hills, Fiftymile Bench, Forty Mile Gulch, Sooner Bench 1, 2, & 3, Rock Cove, Warm Bench, Andalex Not, Vermillion Cliffs, Ladder Canyon, The Cockscomb, Nipple Bench, Moquith Mountain, Bunting Point, Glass Eye Canyon, and Pine Hollow, according to the region map entitled "Grand Staircase Escalante" linked at the webpage entitled "Citizen's Proposal for Wilderness in Utah" at <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on February 17, 2011; and

(B) Orderville Canyon, Jolley Gulch, and Parunuweap Canyon, according to the region map entitled "Zion/Mohave" linked at the webpage entitled "Citizen's Proposal for Wilderness in Utah" at <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on February 17, 2011;

(xi) in Millard County: Kern Mountains, Wild Horse Pass, Disappointment Hills, Granite Mountain, Middle Mountains, Tule Valley, Swasey Mountain, Little Drum Mountains North, Little Drum Mountains South, Drum Mountains, Snake Valley, Coyote Knoll, Howell Peak, Tule Valley South, Ledger Canyon, Chalk Knolls, Orr Ridge, Notch View, Bullgrass Knoll, Notch Peak, Barn Hills, Cricket Mountains, Burbank Pass, Middle Burbank Hills, King Top, Barn Hills, Red Tops, Middle Burbank Hills, Juniper, Painted Rock Mountain, Black Hills, Tunnel Springs, Red Canyon, Sand Ridge, Little Sage Valley, Cat Canyon, Headlight Mountain, Black Hills, Mountain Range Home North, Tweedy Wash, North Wah Wah Mountains, Jackson Wash, and San Francisco Mountains, according to the region map entitled "Great Basin Central" linked in the webpage entitled "Citizen's Proposal for Wilderness in Utah" at <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on February 17, 2011;

(xii) in Piute County: Kingston Ridge, Rocky Ford, and Phonolite Hill, according to the region map entitled "Great Basin South" linked in the webpage entitled "Citizen's Proposal for Wilderness in Utah" at <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on February 17, 2011;

(xiii) in San Juan County:

(A) Horseshoe Point, Deadhorse Cliffs, Gooseneck, Demon's Playground, Hatch Canyon, Lockhart Basin, Indian Creek, Hart's Point, Butler

Wash, Bridger Jack Mesa, and Shay Mountain, according to the region map entitled "Canyonlands Basin" linked in the webpage entitled "Citizen's Proposal for Wilderness in Utah" at <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on February 17, 2011;

(B) Dark Canyon, Copper Point, Fortknocker Canyon, White Canyon, The Needle, Red Rock Plateau, Upper Red Canyon, and Tuwa Canyon, according to the region map entitled "Glen Canyon," which is available by clicking the link entitled "Dirty Devil" at the webpage entitled "Citizen's Proposal for Wilderness in Utah" at <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on February 17, 2011;

(C) Hunters Canyon, Behind the Rocks, Mill Creek, and Coyote Wash, according to the region map entitled "Moab/La Sal" linked at the webpage entitled "Citizen's Proposal for Wilderness in Utah" at <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on February 17, 2011; and

(D) Hammond Canyon, Allen Canyon, Mancos Jim Butte, Arch Canyon, Monument Canyon, Tin Cup Mesa, Cross Canyon, Nokai Dome, Grand Gulch, Fish and Owl Creek Canyons, Comb Ridge, Road Canyon, The Tabernacle, Lime Creek, San Juan River, and Valley of the Gods, according to the region map entitled "San Juan" linked at the webpage entitled "Citizen's Proposal for Wilderness in Utah" at <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on February 17, 2011;

(xiv) in Sevier County: Rock Canyon, Mussentuchit Badland, Limestone Cliffs, and Jones' Bench, according to the region map entitled "San Rafael Swell" linked at the webpage entitled "Citizen's Proposal for Wilderness in Utah" at <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on February 17, 2011;

(xv) in Tooele County:

(A) Silver Island Mountains, Crater Island East, Grassy Mountains North, Grassy Mountains South, Stansbury Island, Cedar Mountains North, Cedar Mountains Central, Cedar Mountains South, North Stansbury Mountains, Oquirrh Mountains, and Big Hollow, according to the region map entitled "Great Basin North" linked in the webpage entitled "Citizen's Proposal for Wilderness in Utah" at <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on February 17, 2011, excluding the areas that Congress designated as wilderness under the National Defense Authorization Act for Fiscal Year 2006; and

(B) Ochre Mountain, Deep Creek Mountains, Dugway Mountains, Indian Peaks, and Lion Peak, according to the region map entitled "Great Basin Central" linked in the webpage entitled "Citizen's Proposal for Wilderness in Utah" at <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on February 17, 2011;

(xvi) in Uintah County:

(A) White River, Lower Bitter Creek, Sunday School Canyon, Dragon Canyon, Wolf Point, Winter Ridge, Seep Canyon, Bitter Creek, Hideout Canyon, Sweetwater Canyon, and Hell's Hole, according to the region map entitled "Book Cliffs" linked in the webpage entitled "Citizen's Proposal for Wilderness in Utah" at <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on February 17, 2011; and

(B) Lower Flaming Gorge, Crouse Canyon Stone Bridge Draw, Diamond Mountain, Wild Mountain, Split Mountain Benches, Vivas Cake Hill, Split Mountain Benches South, Beach Draw, Stuntz Draw, Moonshine Draw, Bourdette Draw, and Bull Canyon, according to the region map entitled "Dinosaur" linked in the webpage entitled "Citizen's Proposal for Wilderness in Utah" at <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on February 17, 2011;

(xvii) in Washington County: Cougar Canyon, Docs Pass, Slaughter Creek, Butcher Knife Canyon, Square Top, Scarecrow Creek, Beaver Dam Wash, Beaver Dam Mountains North, Beaver Dam Mountains South, Joshua Tree, Beaver Dam Wilderness Expansion, Red Mountain, Cottonwood Canyon, Taylor Canyon, LaVerkin Creek, Beartrap Canyon, Deep Creek, Black Ridge, Red Butte, Kolob Creek, Goose Creek, Dry Creek, Zion National Park Adjacent, Crater Hill, The Watchman, and Canaan Mountain, according to the region map entitled "Zion/Mohave" linked at the webpage entitled "Citizen's Proposal for Wilderness in Utah" at <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on February 17, 2011, excluding the areas that Congress designated as wilderness and conservation areas under the Omnibus Public Lands Management Act of 2009; and

(xviii) in Wayne County:

(A) Sweetwater Reef, Upper Horseshoe Canyon, and Labyrinth Canyon, according to the region map entitled "Canyonlands Basin" linked in the webpage entitled "Citizen's Proposal for Wilderness in Utah" at <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on February 17, 2011;

(B) Flat Tops and Dirty Devil, according to the region map entitled "Glen Canyon," which is available by clicking the link entitled "Dirty Devil" at the webpage entitled "Citizen's Proposal for Wilderness in Utah" at <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on February 17, 2011;

(C) Fremont Gorge, Pleasant Creek Bench, Notom Bench, Mount Ellen, and Bull Mountain, according to the region map entitled "Henry Mountains" linked at the webpage entitled "Citizen's Proposal for Wilderness in Utah" at <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on February 17, 2011; and

(D) Capital Reef Adjacent, Muddy Creek, Wild Horse Mesa, North Blue Flats, Red Desert, and Factory Butte, according to the region map entitled

“San Rafael Swell” linked at the webpage entitled “Citizen’s Proposal for Wilderness in Utah” at <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on February 17, 2011.

(b) “Subject lands” also includes all BLM and Forest Service lands in the state that are not Wilderness Area or Wilderness Study Areas;

(c) “Subject lands” does not include the following lands that are the subject of consideration for a possible federal lands bill and should be managed according to the 2008 Price BLM Field Office Resource Management Plan until a federal lands bill provides otherwise:

(i) Turtle Canyon and Desolation Canyon according to the region map entitled “Book Cliffs” linked in the webpage entitled “Citizen’s Proposal for Wilderness in Utah” at <http://protectwildutah.org/proposal/index.html> as the webpage existed on February 17, 2011;

(ii) Labyrinth Canyon, Duma Point, and Horseshoe Point, according to the region map entitled “Canyonlands Basin” linked in the webpage entitled “Citizen’s Proposal for Wilderness in Utah” at <http://protectwildutah.org/proposal/index.html> as the webpage existed on February 17, 2011; and

(iii) Devil’s Canyon, Sid’s Mountain, Mexican Mountain, San Rafael Reef, Hondu Country, Cedar Mountain, and Wild Horse, according to the region map entitled “San Rafael Swell” linked at the webpage entitled “Citizen’s Proposal for Wilderness in Utah” at <http://protectwildutah.org/proposal/index.html> as the webpage existed on February 17, 2011.

[(21)] (22) “Uintah Basin Energy Zone” means BLM and Forest Service lands situated in the following townships in Daggett, Duchesne, and Uintah counties, as more fully illustrated in the map prepared by the Uintah County GIS Department in February 2012 entitled “Uintah Basin Utah Energy Zone”:

(a) in Daggett County, Township 3N Range 17 E, Township 3N Range 18E, Township 3N Range 19E, Township 3N Range 20E, Township 3N Range 22E, Township 3N Range 23E, Township 3N Range 24E, Township 3N Range 25E, Township 2N Range 17E, Township 2N Range 18E, Township 2N Range 19E, Township 2N Range 20E, Township 2N Range 21E, and Township 2S Range 25E;

(b) in Duchesne County, Township 3N Range 4W, Township 3N Range 3W, Township 3N Range 2W, Township 3N Range 1W, Township 2N Range 6W, Township 2N Range 5W, Township 2N Range 4W, Township 2N Range 3W, Township 2N Range 1W, Township 1N Range 9W, Township 1N Range 8W, Township 1N Range 7W, Township 1N Range 6W, Township 1S Range 9W, Township 1S Range 8W, Township 4S Range 9W, Township 4S Range 3W, Township 4S Range 2W, Township 4S Range 1W, Township 8S Range 15E, Township 8S Range 16E, Township 8S Range 17E, Township 5S Range 9W, Township 5S Range 3W, Township 9S Range 15E, Township 9S Range 16E, Township 9S Range 17E,

Township 6S Range 9W, Township 6S Range 8W, Township 6S Range 7W, Township 6S Range 6W, Township 6S Range 5W, Township 6S Range 3W, Township 10S Range 15E, Township 10S Range 16E, Township 10S Range 17E, Township 7S Range 9W, Township 7S Range 8W, Township 7S Range 7W, Township 7S Range 6W, Township 7S Range 5W, Township 7S Range 4W, Township 10S Range 11E, Township 10S Range 12E, Township 10S Range 13E, Township 10S Range 14E, Township 10S Range 15E, Township 10S Range 16E, Township 10S Range 17E, Township 11S Range 10E, Township 11S Range 11E, Township 11S Range 12E, Township 11S Range 13E, Township 11S Range 14E, Township 11S Range 15E, Township 11S Range 16E, and Township 11S Range 17E; and

(c) in Uintah County: Township 2S Range 18E, Township 2S Range 19E, Township 2S Range 20E, Township 2S Range 21E, Township 2S Range 22E, Township 2S Range 23E, Township 2S Range 24E, Township 2N Range 1W, Township 2N Range 1E, Township 2N Range 2E, Township 3S Range 18E, Township 3S Range 19E, Township 3S Range 20E, Township 3S Range 21E, Township 3S Range 22E, Township 3S Range 23E, Township 3S Range 24E, Township 4S Range 19E, Township 4S Range 20E, Township 4S Range 21E, Township 4S Range 22E, Township 4S Range 23E, Township 4S Range 24E, Township 4S Range 25E, Township 5S Range 19E, Township 5S Range 20E, Township 5S Range 21E, Township 5S Range 22E, Township 5S Range 23E, Township 5S Range 24E, Township 5S Range 25E, Township 6S Range 19E, Township 6S Range 20E, Township 6S Range 21E, Township 6S Range 22E, Township 6S Range 23E, Township 6S Range 24E, Township 6S Range 25E, Township 7S Range 19E, Township 7S Range 20E, Township 7S Range 21E, Township 7S Range 22E, Township 7S Range 23E, Township 7S Range 24E, Township 7S Range 25E, Township 8S Range 17E, Township 8S Range 18E, Township 8S Range 19E, Township 8S Range 20E, Township 8S Range 21E, Township 8S Range 22E, Township 8S Range 23E, Township 8S Range 24E, Township 8S Range 25E, Township 9S Range 17E, Township 9S Range 18E, Township 9S Range 19E, Township 9S Range 20E, Township 9S Range 21E, Township 9S Range 22E, Township 9S Range 23E, Township 9S Range 24E, Township 9S Range 25E, Township 10S Range 17E, Township 10S Range 18E, Township 10S Range 19E, Township 10S Range 20E, Township 10S Range 21E, Township 10S Range 22E, Township 10S Range 23E, Township 10S Range 24E, Township 10S Range 25E, Township 11S Range 17E, Township 11S Range 18E, Township 11S Range 19E, Township 11S Range 20E, Township 11S Range 21E, Township 11S Range 22E, Township 11S Range 23E, Township 11S Range 24E, Township 11S Range 25E, Township 12S Range 20E, Township 12S Range 21E, Township 12S Range 22E, Township 12S Range 23E, Township 12S Range 24E, Township 12S Range 25E, Township 13S Range 20E, Township 13S Range 21E, Township 13S Range 22E, Township 13S Range 23E, Township 13S Range 24E, Township 13S Range 25E, Township 13S Range 26 E, Township 14S

Range 21E, Township 14S Range 22E, Township 14S Range 23E, Township 14S Range 24E, Township 14S Range 25E, and Township 14S Range 26E.

[(22)] (23) "Wilderness" [is-as] means the same as that term is defined in 16 U.S.C. Sec. 1131.

[(23)] (24) "Wilderness area" means those BLM and Forest Service lands added to the National Wilderness Preservation System by an act of Congress.

[(24)] (25) "Wilderness Preservation System" means the Wilderness Preservation System established in 16 U.S.C. Sec. 1131 et seq.

[(25)] (26) "WSA" and "Wilderness Study Area" mean the BLM lands in Utah that were identified as having the necessary wilderness character and were classified as wilderness study areas during the BLM wilderness review conducted between 1976 and 1993 by authority of 43 U.S.C. Sec. 1782 and labeled as Wilderness Study Areas within the final report of the President of the United States to the United States Congress in 1993.

Section 2. Section 63J-8-105 is amended to read:

63J-8-105. Maps available for public review.

A printed copy of the maps referenced in Subsections 63J-8-102(8), [(20)] (18), [and] (21), and (22) shall be available for inspection by the public at the offices of the Utah Association of Counties.

Section 3. Section 63J-8-105.2 is enacted to read:

63J-8-105.2. San Juan County Energy Zone established -- Finding -- Management and land use priorities.

(1) There is established the San Juan County Energy Zone in San Juan County for the purpose of maximizing efficient and responsible development of energy and mineral resources.

(2) The land area and boundaries of the San Juan County Energy Zone are described in Subsection 63J-8-102(18) and illustrated on the map described in Section 63J-8-105.

(3) The state finds that:

(a) the lands comprising the San Juan County Energy Zone contain abundant world-class deposits of energy and mineral resources, including oil, natural gas, potash, uranium, vanadium, limestone, copper, sand, gravel, wind, and solar; and

(b) the highest management priority is the responsible management, development, and extraction of existing energy and mineral resources in order to provide long-term domestic energy and supplies for the state and the United States.

(4) The state supports:

(a) efficient and responsible full development of all existing energy and mineral resources located within the San Juan County Energy Zone, including oil, natural gas, potash, uranium, vanadium, limestone, copper, sand, gravel, wind, and solar; and

(b) a cooperative management approach by federal agencies, the state, and local governments to achieve broadly supported management plans for the full development of all energy and mineral resources within the San Juan County Energy Zone.

(5) The state requests that the federal agencies that administer lands within the San Juan County Energy Zone:

(a) fully cooperate and coordinate with the state and with San Juan County to develop, amend, and implement land and resource management plans and to implement management decisions that are consistent with the purposes, goals, and policies described in this section to the maximum extent allowed under federal law;

(b) expedite the processing, granting, and streamlining of mineral and energy leases and applications to drill, extract, and otherwise develop all existing energy and mineral resources located within the San Juan County Energy Zone, including oil, natural gas, potash, uranium, vanadium, copper, sand, gravel, wind, and solar resources;

(c) allow continued maintenance and increased development of roads, power lines, pipeline infrastructure, and other utilities necessary to achieve the goals, purposes, and policies described in this section;

(d) refrain from any planning decisions and management actions that will undermine, restrict, or diminish the goals, purposes, and policies for the San Juan County Energy Zone as stated in this section; and

(e) refrain from implementing a policy that is contrary to the goals and purposes within this section.

(6) The state calls upon Congress to establish an intergovernmental standing commission, with membership consisting of representatives from the United States government, the state, and local governments, to guide and control planning and management actions in the San Juan County Energy Zone in order to achieve and maintain the goals, purposes, and policies described in this section.

(7) Notwithstanding the provisions of this section, the state's grazing and livestock policies and plans on land within the San Juan County Energy Zone shall continue to be governed by Sections 63J-4-401 and 63J-8-104.

Section 4. Section 63J-8-105.5 is amended to read:

63J-8-105.5. Uintah Basin Energy Zone established -- Findings -- Management and land use priorities.

(1) There is established the Uintah Basin Energy Zone in Daggett, Uintah, and Duchesne Counties for the purpose of maximizing efficient and responsible development of energy and mineral resources.

(2) The land area and boundaries of the Uintah Basin Energy Zone are described in Subsection 63J-8-102[(21)](22) and illustrated on the map described in Section 63J-8-105.

(3) The state finds that:

(a) the lands comprising the Uintah Basin Energy Zone contain abundant, world-class deposits of energy and mineral resources, including oil, natural gas, oil shale, oil sands, gilsonite, coal, phosphate, gold, uranium, and copper, as well as areas with high wind and solar energy potential; and

(b) the highest management priority for all lands within the Uintah Basin Energy Zone is responsible management and development of existing energy and mineral resources in order to provide long-term domestic energy and supplies for Utah and the United States.

(4) The state supports:

(a) efficient and responsible full development of all existing energy and mineral resources located within the Uintah Basin Energy Zone, including oil, oil shale, natural gas, oil sands, gilsonite, phosphate, gold, uranium, copper, solar, and wind resources; and

(b) a cooperative management approach among federal agencies, state, and local governments to achieve broadly supported management plans for the full development of all energy and mineral resources within the Uintah Basin Energy Zone.

(5) The state calls upon the federal agencies who administer lands within the Uintah Basin Energy Zone to:

(a) fully cooperate and coordinate with the state and with Daggett, Uintah, and Duchesne Counties to develop, amend, and implement land and resource management plans and to implement management decisions that are consistent with the purposes, goals, and policies described in this section to the maximum extent allowed under federal law;

(b) expedite the processing, granting, and streamlining of mineral and energy leases and applications to drill, extract, and otherwise develop all existing energy and mineral resources located within the Uintah Basin Energy Zone, including oil, natural gas, oil shale, oil sands, gilsonite, phosphate, gold, uranium, copper, solar, and wind resources;

(c) allow continued maintenance and increased development of roads, power lines, pipeline

infrastructure, and other utilities necessary to achieve the goals, purposes, and policies described in this section;

(d) refrain from any planning decisions and management actions that will undermine, restrict, or diminish the goals, purposes, and policies for the Uintah Basin Energy Zone as stated in this section; and

(e) refrain from implementing a policy that is contrary to the goals and purposes described within this section.

(6) The state calls upon Congress to establish an intergovernmental standing commission among federal, state, and local governments to guide and control planning decisions and management actions in the Uintah Basin Energy Zone in order to achieve and maintain the goals, purposes, and policies described in this section.

(7) Notwithstanding the provisions of this section, the state's grazing and livestock policies and plans on land within the Uintah Basin Energy Zone shall continue to be governed by Sections 63J-4-401 and 63J-8-104.

Section 5. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

CHAPTER 89**H. B. 395**

Passed March 12, 2015
 Approved March 23, 2015
 Effective July 1, 2015

**CONTROLLED SUBSTANCE
 DATABASE AMENDMENTS**

Chief Sponsor: Edward H. Redd
 Senate Sponsor: Curtis S. Bramble
 Cosponsors: Brad M. Daw
 Michael E. Noel
 Robert M. Spendlove
 Raymond P. Ward

LONG TITLE**General Description:**

This bill modifies provisions of the Controlled Substance Database Act.

Highlighted Provisions:

This bill:

- ▶ requires the Division of Occupational and Professional Licensing to implement options for:
 - real-time submission of data into the controlled substance database; and
 - 24-hour daily or next business day batch submission of data;
- ▶ requires a pharmacist to comply with the real-time or 24-hour submission requirements on and after January 1, 2016;
- ▶ provides that a physician employed as medical director for a licensed workers' compensation insurer or an approved self-insured employer may have access to the database regarding requests for workers' compensation;
- ▶ authorizes additional rulemaking authority;
- ▶ repeals provisions of a pilot program; and
- ▶ makes technical corrections.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2016:

- ▶ to the Department of Commerce - Division of Occupational and Professional Licensing - Controlled Substance Database, as an ongoing appropriation:
 - from the General Fund, \$46,000.

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

58-37f-203, as last amended by Laws of Utah 2014, Chapter 72
 58-37f-301, as last amended by Laws of Utah 2014, Chapters 68 and 401

REPEALS:

58-37f-801, as last amended by Laws of Utah 2013, Chapter 167

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

Section 1. Section 58-37f-203 is amended to read:

58-37f-203. Submission, collection, and maintenance of data.

(1) (a) The division shall implement on a statewide basis, including non-resident pharmacies as defined in Section 58-17b-102, the following two options for a pharmacist to submit information:

(i) real-time submission of the information required to be submitted under this part to the controlled substance database; and

(ii) 24-hour daily or next business day, whichever is later, batch submission of the information required to be submitted under this part to the controlled substance database.

(b) (i) On and after January 1, 2016, a pharmacist shall comply with either:

(A) the submission time requirements established by the division under Subsection (1)(a)(i); or

(B) the submission time requirements established by the division under Subsection (1)(a)(ii).

(ii) Prior to January 1, 2016, a pharmacist may submit information using either option under this Subsection (1).

(c) The division shall comply with Title 63G, Chapter 6a, Utah Procurement Code.

~~(1)~~ (2) (a) The pharmacist in charge of the drug outlet where a controlled substance is dispensed shall submit the data described in this section to the division:

(i) in accordance with the requirements of this section;

(ii) in accordance with the procedures established by the division; and

(iii) in the format established by the division.

(b) A dispensing medical practitioner licensed under Chapter 17b, Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, shall comply with the provisions of this section and the dispensing medical practitioner shall assume the duties of the pharmacist under this chapter.

~~(2)~~ (3) The pharmacist described in Subsection ~~(1)~~ (2) shall, for each controlled substance dispensed by a pharmacist under the pharmacist's supervision other than those dispensed for an inpatient at a health care facility, submit to the division the following information:

(a) the name of the prescribing practitioner;

(b) the date of the prescription;

(c) the date the prescription was filled;

(d) the name of the individual for whom the prescription was written;

(e) positive identification of the individual receiving the prescription, including the type of identification and any identifying numbers on the identification;

(f) the name of the controlled substance;

(g) the quantity of the controlled substance prescribed;

(h) the strength of the controlled substance;

(i) the quantity of the controlled substance dispensed;

(j) the dosage quantity and frequency as prescribed;

(k) the name of the drug outlet dispensing the controlled substance;

(l) the name of the pharmacist dispensing the controlled substance; and

(m) other relevant information as required by division rule.

~~[(3)-(a)]~~ (4) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish submission requirements under this part, including the electronic format in which the information required under this section shall be submitted to the division.

~~[(4b)]~~ (5) The division shall ensure that the database system records and maintains for reference:

~~[(4)]~~ (a) the identification of each individual who requests or receives information from the database;

~~[(4ii)]~~ (b) the information provided to each individual; and

~~[(4iii)]~~ (c) the date and time that the information is requested or provided.

Section 2. Section 58-37f-301 is amended to read:

58-37f-301. Access to database.

(1) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(a) effectively enforce the limitations on access to the database as described in this part; and

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

(2) The division shall make information in the database and information obtained from other state or federal prescription monitoring programs by means of the database available only to the following individuals, in accordance with the requirements of this chapter and division rules:

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

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

(c) in accordance with a written agreement entered into with the department, employees of the Department of Health:

(i) whom the director of the Department of Health assigns to conduct scientific studies regarding the use or abuse of controlled substances, if the identity of the individuals and pharmacies in the database are confidential and are not disclosed in any manner to any individual who is not directly involved in the scientific studies; or

(ii) when the information is requested by the Department of Health in relation to a person or provider whom the Department of Health suspects may be improperly obtaining or providing a controlled substance;

(d) in accordance with a written agreement entered into with the department, a designee of the director of the Department of Health, who is not an employee of the Department of Health, whom the director of the Department of Health assigns to conduct scientific studies regarding the use or abuse of controlled substances pursuant to an application process established in rule by the Department of Health, if:

(i) the designee provides explicit information to the Department of Health regarding the purpose of the scientific studies;

(ii) the scientific studies to be conducted by the designee:

(A) fit within the responsibilities of the Department of Health for health and welfare;

(B) are reviewed and approved by an Institutional Review Board that is approved for human subject research by the United States Department of Health and Human Services; and

(C) are not conducted for profit or commercial gain; and

(D) are conducted in a research facility, as defined by division rule, that is associated with a university or college in the state accredited by ~~[the Northwest Commission on Colleges and Universities]~~ one or more regional or national accrediting agencies recognized by the United States Department of Education;

(iii) the designee protects the information as a business associate of the Department of Health; and

(iv) the identity of the prescribers, patients, and pharmacies in the database are de-identified, confidential, not disclosed in any manner to the designee or to any individual who is not directly involved in the scientific studies;

(e) in accordance with the written agreement entered into with the department and the Department of Health, authorized employees of a managed care organization, as defined in 42 C.F.R. Sec. 438, if:

(i) the managed care organization contracts with the Department of Health under the provisions of Section 26-18-405 and the contract includes provisions that:

(A) require a managed care organization employee who will have access to information from the database to submit to a criminal background check; and

(B) limit the authorized employee of the managed care organization to requesting either the division or the Department of Health to conduct a search of the database regarding a specific Medicaid enrollee and to report the results of the search to the authorized employee; and

(ii) the information is requested by an authorized employee of the managed care organization in relation to a person who is enrolled in the Medicaid program with the managed care organization, and the managed care organization suspects the person may be improperly obtaining or providing a controlled substance;

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

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

(B) is provided to or sought by the practitioner for the purpose of:

(I) prescribing or considering prescribing any controlled substance to the current or prospective patient;

(II) diagnosing the current or prospective patient;

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

(IV) determining whether the current or prospective patient:

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

(Bb) has fraudulently obtained, or attempted to fraudulently obtain, a controlled substance from the practitioner;

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

(B) is provided to or sought by the practitioner for the purpose of determining whether the former patient has fraudulently obtained, or has attempted to fraudulently obtain, a controlled substance from the practitioner;

(iii) relates specifically to an individual who has access to the practitioner's Drug Enforcement Administration identification number, and the practitioner suspects that the individual may have used the practitioner's Drug Enforcement Administration identification number to fraudulently acquire or prescribe a controlled substance;

(iv) relates to the practitioner's own prescribing practices, except when specifically prohibited by the division by administrative rule;

(v) relates to the use of the controlled substance database by an employee of the practitioner, described in Subsection (2)(g); or

(vi) relates to any use of the practitioner's Drug Enforcement Administration identification number to obtain, attempt to obtain, prescribe, or attempt to prescribe, a controlled substance;

(g) in accordance with Subsection (3)(a), an employee of a practitioner described in Subsection (2)(f), for a purpose described in Subsection (2)(f)(i) or (ii), if:

(i) the employee is designated by the practitioner as an individual authorized to access the information on behalf of the practitioner;

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

(iii) the division:

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

(B) provides the employee with a password that is unique to that employee to access the database in order to permit the division to comply with the requirements of Subsection 58-37f-203[(3)(b)](5) with respect to the employee;

(h) an employee of the same business that employs a licensed practitioner under Subsection (2)(f) if:

(i) the employee is designated by the practitioner as an individual authorized to access the information on behalf of the practitioner;

(ii) the practitioner and the employing business provide written notice to the division of the identity of the designated employee; and

(iii) the division:

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

(B) provides the employee with a password that is unique to that employee to access the database in order to permit the division to comply with the requirements of Subsection 58-37f-203[(3)(b)](5) with respect to the employee;

(i) a licensed pharmacist having authority to dispense a controlled substance to the extent the information is provided or sought for the purpose of:

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

(ii) determining whether a person:

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

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

(j) in accordance with Subsection (3)(a), a licensed pharmacy technician who is an employee of a pharmacy as defined in Section 58-17b-102, for the purposes described in Subsection (2)(h)(i) or (ii), if:

(i) the employee is designated by the pharmacist-in-charge as an individual authorized to access the information on behalf of a licensed pharmacist employed by the pharmacy;

(ii) the pharmacist-in-charge provides written notice to the division of the identity of the employee; and

(iii) the division:

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

(B) provides the employee with a password that is unique to that employee to access the database in order to permit the division to comply with the requirements of Subsection 58-37f-203~~(3)(b)~~(5) with respect to the employee;

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

(i) regulating controlled substances;

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

(iii) providing information about a criminal defendant to defense counsel, upon request during the discovery process, for the purpose of establishing a defense in a criminal case;

(l) employees of the Office of Internal Audit and Program Integrity within the Department of Health who are engaged in their specified duty of ensuring Medicaid program integrity under Section 26-18-2.3;

(m) a mental health therapist, if:

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

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

(B) receiving treatment from, or under the direction of, the mental health therapist as part of the patient's participation in the licensed substance abuse treatment program described in Subsection (2)(m)(i)(A);

(ii) the information is sought for the purpose of determining whether the patient is using a controlled substance while the patient is enrolled in the licensed substance abuse treatment program described in Subsection (2)(m)(i)(A); and

(iii) the licensed substance abuse treatment program described in Subsection (2)(m)(i)(A) is associated with a practitioner who:

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

(B) is available to consult with the mental health therapist regarding the information obtained by the mental health therapist, under this Subsection (2)(m), from the database;

(n) an individual who is the recipient of a controlled substance prescription entered into the database, upon providing evidence satisfactory to the division that the individual requesting the information is in fact the individual about whom the data entry was made;

(o) the inspector general, or a designee of the inspector general, of the Office of Inspector General of Medicaid Services, for the purpose of fulfilling the duties described in Title 63A, Chapter 13, Part 2, Office and Powers; and

(p) the following licensed physicians for the purpose of reviewing and offering an opinion on an individual's request for workers' compensation benefits under Title 34A, Chapter 2, Workers' Compensation Act, or Title 34A, Chapter 3, Utah Occupational Disease Act:

(i) a member of the medical panel described in Section 34A-2-601; ~~or~~

(ii) a physician employed as medical director for a licensed workers' compensation insurer or an approved self-insured employer; or

~~(iii)~~ (iii) a physician offering a second opinion regarding treatment.

(3) (a) (i) A practitioner described in Subsection (2)(f) may designate up to three employees to access information from the database under Subsection (2)(g), (2)(h), or (4)(c).

(ii) A pharmacist described in Subsection (2)(i) who is a pharmacist-in-charge may designate up to three employees to access information from the database under Subsection (2)(j).

(b) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(i) establish background check procedures to determine whether an employee designated under Subsection (2)(g), (2)(h), or (4)(c) should be granted access to the database; and

(ii) establish the information to be provided by an emergency room employee under Subsection (4).

(c) The division shall grant an employee designated under Subsection (2)(g), (2)(h), or (4)(c) access to the database, unless the division determines, based on a background check, that the employee poses a security risk to the information contained in the database.

(4) (a) An individual who is employed in the emergency room of a hospital may exercise access to the database under this Subsection (4) on behalf of a licensed practitioner if the individual is designated under Subsection (4)(c) and the licensed practitioner:

(i) is employed in the emergency room;

(ii) is treating an emergency room patient for an emergency medical condition; and

(iii) requests that an individual employed in the emergency room and designated under Subsection (4)(c) obtain information regarding the patient from the database as needed in the course of treatment.

(b) The emergency room employee obtaining information from the database shall, when gaining access to the database, provide to the database the name and any additional identifiers regarding the requesting practitioner as required by division

administrative rule established under Subsection (3)(b).

(c) An individual employed in the emergency room under this Subsection (4) may obtain information from the database as provided in Subsection (4)(a) if:

(i) the employee is designated by the practitioner as an individual authorized to access the information on behalf of the practitioner;

(ii) the practitioner and the hospital operating the emergency room provide written notice to the division of the identity of the designated employee; and

(iii) the division:

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

(B) provides the employee with a password that is unique to that employee to access the database in order to permit the division to comply with the requirements of Subsection 58-37f-203~~(3)(b)~~(5) with respect to the employee.

(d) The division may impose a fee, in accordance with Section 63J-1-504, on a practitioner who designates an employee under Subsection (2)(g), (2)(h), or (4)(c) to pay for the costs incurred by the division to conduct the background check and make the determination described in Subsection (3)(b).

(5) (a) An individual who is granted access to the database based on the fact that the individual is a licensed practitioner or a mental health therapist shall be denied access to the database when the individual is no longer licensed.

(b) An individual who is granted access to the database based on the fact that the individual is a designated employee of a licensed practitioner shall be denied access to the database when the practitioner is no longer licensed.

Section 3. Repealer.

This bill repeals:

Section 58-37f-801, Pilot program for real-time reporting for controlled substance database -- Statewide implementation.

Section 4. Appropriation.

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, for the fiscal year beginning July 1, 2015, and ending June 30, 2016, the following sums of money are appropriated from resources not otherwise appropriated, or reduced from amounts previously appropriated, out of the funds or accounts indicated. These sums of money are in addition to any amounts previously appropriated for fiscal year 2016.

To Department of Commerce - Division of Occupational and Professional Licensing

<u>From General Fund</u>	<u>\$46,000</u>
<u>Schedule of Programs:</u>	
<u>Controlled Substance Database</u>	<u>\$46,000</u>

Section 5. Effective date.

This bill takes effect on July 1, 2015.

CHAPTER 90**H. B. 401**

Passed March 12, 2015

Approved March 23, 2015

Effective March 23, 2015

(Retrospective operation to October 25, 1972)

**STATUTE OF LIMITATIONS
MODIFICATIONS**

Chief Sponsor: Michael E. Noel

Senate Sponsor: David P. Hinkins

LONG TITLE**General Description:**

This bill provides that actions against the federal government regarding real property are subject to the federal Quiet Title Act.

Highlighted Provisions:

This bill:

- ▶ provides that actions against the federal government regarding real property are subject to the federal Quiet Title Act and do not expire.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides retrospective operation.

Utah Code Sections Affected:**ENACTS:**

78B-2-118, Utah Code Annotated 1953

*Be it enacted by the Legislature of the state of Utah:***Section 1. Section 78B-2-118 is enacted to read:****78B-2-118. Actions against the United States.**

Actions against the federal government regarding real property and that are subject to the federal Quiet Title Act, 28 U.S.C. Sec. 2409a, do not expire under this chapter.

Section 2. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

Section 3. Retrospective operation.

This bill has retrospective operation to October 25, 1972.

CHAPTER 91**H. B. 447**

Passed March 11, 2015
 Approved March 23, 2015
 Effective May 12, 2015

PROTECTIONS ON PARENTAL GUIDANCE IN PUBLIC SCHOOLS

Chief Sponsor: Brad L. Dee
 Senate Sponsor: J. Stuart Adams

LONG TITLE**General Description:**

This bill amends provisions related to human sexuality instruction in public schools.

Highlighted Provisions:

This bill:

- ▶ requires a school to obtain prior written consent from a student's parent before the school can provide human sexuality instruction to a student;
- ▶ at a parent's choosing, requires a school to:
 - waive a student's human sexuality instruction requirements; or
 - provide a student with a reasonable alternative to the human sexuality instruction requirement; and
- ▶ provides that a student's academic or citizenship performance may not be penalized if a parent chooses not to have a student participate in human sexuality instruction.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53A-13-101.2, as last amended by Laws of Utah 2007, Chapter 114

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

Section 1. Section 53A-13-101.2 is amended to read:**53A-13-101.2. Waivers of participation -- Required parental consent for human sexuality instruction.**

(1) As used in this section:

(a) (i) "Human sexuality instruction" means any course material, unit, class, lesson, activity, or presentation that, as the focus of the discussion, provides instruction or information to a student about:

- (A) sexual abstinence;
- (B) human sexuality;
- (C) human reproduction;
- (D) reproductive anatomy;
- (E) physiology;
- (F) pregnancy;

(G) marriage;

(H) childbirth;

(I) parenthood;

(J) contraception;

(K) HIV/AIDS; or

(L) sexually transmitted diseases.

(ii) "Human sexuality instruction" does not include child sexual abuse prevention instruction described in Section 53A-13-112.

(b) "Parent" means a parent or legal guardian.

(c) "School" means a public school.

~~(1)~~ (2) If a parent [with legal custody or other legal guardian] of a student, or a secondary student, determines that the student's participation in a portion of the curriculum or in an activity would require the student to affirm or deny a religious belief or right of conscience, or engage or refrain from engaging in a practice forbidden or required in the exercise of a religious right or right of conscience, the parent[, guardian,] or the secondary student may request:

(a) a waiver of the requirement to participate; or

(b) a reasonable alternative that requires reasonably equivalent performance by the student of the secular objectives of the curriculum or activity in question.

~~(2)~~ (3) The school shall promptly notify a student's parent [or guardian] if the secondary student makes a request under Subsection ~~(1)~~ (2).

~~(3)~~ (4) If a request is made under Subsection ~~(1)~~ (2), the school shall:

(a) waive the participation requirement;

(b) provide a reasonable alternative to the requirement; or

(c) notify the requesting party that participation is required.

~~(4)~~ (5) The school shall ensure that the provisions of Subsection 53A-13-101.3(3) are met in connection with any required participation under Subsection ~~(3)~~ (4)(c).

(6) A school shall obtain prior written consent from a student's parent before the school may provide human sexuality instruction to the student.

(7) If a student's parent chooses not to have the student participate in human sexuality instruction, a school shall:

(a) waive the requirement for the student to participate in the human sexuality instruction; or

(b) provide the student with a reasonable alternative to the human sexuality instruction requirement.

(8) In cooperation with the student's teacher or school, a parent shall take responsibility for the parent's student's human sexuality instruction if a school:

(a) waives the student's human sexuality instruction requirement in Subsection (7)(a); or

(b) provides the student with a reasonable alternative to the human sexuality instruction requirement described in Subsection (7)(b).

~~[(5)]~~ (9) A student's academic or citizenship performance may not be penalized ~~[by school officials for the]~~ if:

(a) the secondary student or the student's parent chooses to exercise [of] a religious right or right of conscience in accordance with the provisions of this section[.]; or

(b) the student's parent chooses not to have the student participate in human sexuality instruction as described in Subsection (7).

CHAPTER 92**S. B. 29**

Passed February 25, 2015

Approved March 23, 2015

Effective May 12, 2015

**SCHOOL PLANNING
AND ZONING PROCESS**Chief Sponsor: Evan J. Vickers
House Sponsor: Rich Cunningham**LONG TITLE****General Description:**

This bill amends the notification requirements for a public school to a local government if the public school intends to acquire a school site or construct a school building.

Highlighted Provisions:

This bill:

- ▶ requires a school district or charter school to:
 - meet with a local governmental entity about a proposed acquisition;
 - provide certain information regarding the acquisition to the local governmental entity; and
 - submit a rough proposed site plan to a design review committee;
- ▶ requires a design review committee to provide comments on a rough proposed site plan;
- ▶ authorizes a local governmental entity, in certain circumstances, to request a traffic study; and
- ▶ makes technical and conforming amendments.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53A-20-108, as last amended by Laws of Utah 2005, Chapter 7

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

Section 1. Section 53A-20-108 is amended to read:**53A-20-108. Notification to local government of intent to acquire school site or construction of school building -- Negotiation of fees -- Confidentiality.**

(1) (a) A school district or charter school shall notify the affected local governmental entity without delay prior to the ~~[purchase]~~ acquisition of a school site or construction of a school building of ~~[its intent to purchase]~~ the school district's or charter school's intent to acquire or construct.

(b) (i) Representatives of the local governmental entity and the school district or charter school shall meet as soon as possible after ~~[delivery of the notice]~~ the notification under Subsection (1)(a) takes place in order to:

(A) subject to Subsection (1)(b)(ii), review information provided by the school district or charter school about the proposed acquisition;

~~[(4)]~~ (B) discuss concerns that each may have, including potential community impacts and site safety;

~~[(iii)]~~ (C) assess the availability of infrastructure for the site; and

~~[(iii)]~~ (D) discuss any fees that might be charged by the local governmental entity in connection with a building project.

(ii) The school district or charter school shall provide for review under Subsection (1)(b)(i) the following information, if available, regarding the proposed acquisition:

(A) potential community impacts;

(B) approximate lot size;

(C) approximate building size and use;

(D) estimated student enrollment;

(E) proposals for ingress and egress, parking, and fire lane location; and

(F) building footprint and location.

(2) (a) After the purchase or an acquisition, but before construction begins:

~~[(2) Representatives]~~ (i) representatives of the local governmental entity and the school district or charter school shall meet as soon as possible ~~[after the purchase of a school site to discuss concerns that each may have, including potential community impacts, and]~~ to review a rough proposed site plan provided by the school district or charter school, review the information listed in Subsection (1)(b)(ii), and negotiate any fees that might be charged by the local governmental entity in connection with a building project~~[-]~~;

(ii) (A) the school district or charter school shall submit the rough proposed site plan to the local governmental entity's design review committee for comments; and

(B) subject to the priority requirement of Subsection 10-9a-305(7)(b), the local governmental entity's design review committee shall provide comments on the rough proposed site plan to the school district or charter school no later than 30 days after the day that the plan is submitted to the design review committee in accordance with this Subsection (2)(a)(ii); and

(iii) the local governmental entity may require that the school district or charter school provide a traffic study by an independent third party qualified to perform the study if the local governmental entity determines that traffic flow, congestion, or other traffic concerns may require the study if otherwise permitted under Subsection 10-9a-305(3)(b).

(b) A review conducted by or comment provided by a local governmental entity design review committee under Subsection (2)(a) may not be interpreted as an action that completes a land use

application for the purpose of entitling the school district or charter school to a substantive land use review of a land use application under Section 10-9a-509 or 17-27a-508.

(3) A local governmental entity may not increase a previously agreed-upon fee after the district or charter school has signed contracts to begin construction.

(4) Prior to the filing of a formal application by the affected school district or charter school, a local governmental entity may not disclose information obtained from a school district or charter school regarding the district's or charter school's consideration of, or intent to, [~~purchase~~] acquire a school site or construct a school building, without first obtaining the consent of the district or charter school.

CHAPTER 93**S. B. 51**

Passed February 19, 2015

Approved March 23, 2015

Effective July 1, 2015

**MOTOR VEHICLE ENFORCEMENT
DIVISION ACCOUNT AMENDMENTS**Chief Sponsor: Wayne A. Harper
House Sponsor: Johnny Anderson**LONG TITLE****General Description:**

This bill enacts and amends provisions relating to the Motor Vehicle Enforcement Division Temporary Permit Restricted Account.

Highlighted Provisions:

This bill:

- ▶ creates the Motor Vehicle Enforcement Division Temporary Permit Restricted Account;
- ▶ specifies the revenue sources for the Motor Vehicle Enforcement Division Temporary Permit Restricted Account;
- ▶ specifies the uses of funds in the Motor Vehicle Enforcement Division Temporary Permit Restricted Account;
- ▶ requires that certain temporary permit fees be deposited into the Motor Vehicle Enforcement Division Temporary Permit Restricted Account rather than being used as dedicated credits for the costs of the Motor Vehicle Enforcement Division;
- ▶ provides that appropriations from the Motor Vehicle Enforcement Division Temporary Permit Restricted Account to the Tax Commission are nonlapsing; and
- ▶ makes technical corrections.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2016:

- ▶ to the Utah State Tax Commission - Tax Administration as a one-time appropriation:
 - from the General Fund Restricted - Motor Vehicle Enforcement Division Temporary Permit Restricted Account, \$3,764,500.
 - from Dedicated Credits Revenue, (\$3,764,500).

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

41-3-601, as last amended by Laws of Utah 2010, Chapter 391

63J-1-602.2, as last amended by Laws of Utah 2013, Chapter 338

ENACTS:

41-3-110, Utah Code Annotated 1953

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

Section 1. Section 41-3-110 is enacted to read:**41-3-110. Motor Vehicle Enforcement
Division Temporary Permit Restricted
Account.**

(1) As used in this section, "account" means the Motor Vehicle Enforcement Division Temporary Permit Restricted Account created by this section.

(2) There is created within the General Fund a restricted account known as the Motor Vehicle Enforcement Division Temporary Permit Restricted Account.

(3) (a) The account shall be funded from the fees deposited into the account in accordance with Section 41-3-601.

(b) The fees described in Subsection (3)(a) shall be paid to the division, which shall deposit them into the account.

(4) The Legislature may appropriate the funds in the account to the commission to cover the costs of the division.

(5) In accordance with Section 63J-1-602.2, appropriations made to the commission from the account are nonlapsing.

Section 2. Section 41-3-601 is amended to read:**41-3-601. Fees.**

(1) ~~[To pay for administering and enforcing this chapter, the]~~ The administrator shall collect fees determined by the commission under Section 63J-1-504 for each of the following:

- (a) new motor vehicle dealer's license;
- (b) used motor vehicle dealer's license;
- (c) new motorcycle, off-highway vehicle, and small trailer dealer;
- (d) used motorcycle, off-highway vehicle, and small trailer dealer;
- (e) motor vehicle salesperson's license;
- (f) motor vehicle salesperson's transfer or reissue fee;
- (g) motor vehicle manufacturer's license;
- (h) motor vehicle transporter's license;
- (i) motor vehicle dismantler's license;
- (j) motor vehicle crusher's license;
- (k) motor vehicle remanufacturer's license;
- (l) body shop's license;
- (m) distributor or factory branch and distributor branch's license;
- (n) representative's license;
- (o) dealer plates;
- (p) dismantler plates;
- (q) manufacturer plates;
- (r) transporter plates;
- (s) damaged plate replacement;
- (t) in-transit permits;
- (u) loaded demonstration permits;

- (v) additional place of business;
- (w) special equipment dealer's license;
- (x) temporary permits; and
- (y) temporary sports event registration certificates.

(2) (a) To pay for training certified vehicle inspectors and enforcement under Sections 41-1a-1001 through 41-1a-1008, the State Tax Commission shall establish and the administrator shall collect inspection fees determined by the commission under Section 63J-1-504.

(b) The division shall use fees collected under Subsection (2)(a) as dedicated credits to be used toward the costs of the division.

(3) (a) At the time of application, the administrator shall collect a fee of \$200 for each salvage vehicle buyer license.

(b) The administrator may retain a portion of the fee under Subsection (3)(a) to offset the administrator's actual costs of administering and enforcing salvage vehicle buyer licenses.

~~[(4) The division shall use fees collected under Subsections (1)(x) and (y) as dedicated credits to be used toward the costs of the division.]~~

(4) A fee imposed under Subsection (1)(x) or (y):

(a) shall be deposited into the Motor Vehicle Enforcement Division Temporary Permit Restricted Account created by Section 41-3-110; and

(b) is not subject to Subsection 63J-2-202(2).

Section 3. Section 63J-1-602.2 is amended to read:

63J-1-602.2. List of nonlapsing funds and accounts -- Title 31 through Title 45.

(1) Appropriations from the Technology Development Restricted Account created in Section 31A-3-104.

(2) Appropriations from the Criminal Background Check Restricted Account created in Section 31A-3-105.

(3) Appropriations from the Captive Insurance Restricted Account created in Section 31A-3-304, except to the extent that Section 31A-3-304 makes the money received under that section free revenue.

(4) Appropriations from the Title License Enforcement Restricted Account created in Section 31A-23a-415.

(5) Appropriations from the Health Insurance Actuarial Review Restricted Account created in Section 31A-30-115.

(6) Appropriations from the Insurance Fraud Investigation Restricted Account created in Section 31A-31-108.

(7) Appropriations from the Underage Drinking Prevention Media and Education Campaign Restricted Account created in Section 32B-2-306.

(8) The Youth Development Organization Restricted Account created in Section 35A-8-1903.

(9) The Youth Character Organization Restricted Account created in Section 35A-8-2003.

(10) Funding for a new program or agency that is designated as nonlapsing under Section 36-24-101.

(11) Appropriations from the Oil and Gas Conservation Account created in Section 40-6-14.5.

(12) Appropriations from the Electronic Payment Fee Restricted Account created by Section 41-1a-121 to the Motor Vehicle Division.

(13) Funds available to the Tax Commission under Section 41-1a-1201 for the:

(a) purchase and distribution of license plates and decals; and

(b) administration and enforcement of motor vehicle registration requirements.

(14) Appropriations from the Motor Vehicle Enforcement Division Temporary Permit Restricted Account created by Section 41-3-110 to the Tax Commission.

Section 4. Appropriation.

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the following sums of money are appropriated from resources not otherwise appropriated, or reduced from amounts previously appropriated, out of the funds or accounts indicated for the fiscal year beginning July 1, 2015 and ending June 30, 2016. These are additions to amounts previously appropriated for fiscal year 2016.

To Utah State Tax Commission - Tax Administration

From General Fund Restricted - Motor Vehicle Enforcement Division

Temporary Permit Restricted Account \$3,764,500
From Dedicated Credits Revenue (\$3,764,500)

Section 5. Effective date.

This bill takes effect on July 1, 2015.

CHAPTER 94**S. B. 64**

Passed February 25, 2015

Approved March 23, 2015

Effective May 12, 2015

(Retrospective operation to January 1, 2015)

**UTAH EDUCATIONAL
SAVINGS PLAN AMENDMENTS**Chief Sponsor: Todd Weiler
House Sponsor: Eric K. Hutchings**LONG TITLE****General Description:**

This bill amends tax deduction, contribution, and credit provisions related to Utah Educational Savings Plan accounts.

Highlighted Provisions:

This bill:

- ▶ modifies tax deduction and credit provisions related to Utah Educational Savings Plan accounts;
- ▶ modifies tax return contribution provisions related to Utah Educational Savings Plan accounts; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides for retrospective operation.

Utah Code Sections Affected:**AMENDS:**

53B-8a-102, as last amended by Laws of Utah 2011, Chapter 46

53B-8a-106, as last amended by Laws of Utah 2010, Chapter 6

59-7-106, as last amended by Laws of Utah 2014, Chapter 273

59-10-1017, as last amended by Laws of Utah 2010, Chapter 6

59-10-1313, as last amended by Laws of Utah 2011, Chapter 46

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

Section 1. Section 53B-8a-102 is amended to read:**53B-8a-102. Definitions.**

As used in this chapter:

(1) "Account agreement" means an agreement between an account owner and the Utah Educational Savings Plan entered into under this chapter.

(2) "Account owner" means a person, estate, or trust, if that person, estate, or trust has entered into an account agreement under this chapter to save for the higher education costs on behalf of a beneficiary.

(3) "Administrative fund" means the money used to administer the Utah Educational Savings Plan.

(4) "Beneficiary" means the individual designated in an account agreement to benefit from the amount saved for higher education costs.

(5) "Board" means the board of directors of the Utah Educational Savings Plan which is the state Board of Regents acting in its capacity as the Utah Higher Education Assistance Authority under Title 53B, Chapter 12, Higher Education Assistance Authority.

(6) "Endowment fund" means the endowment fund established under Section 53B-8a-107 which is held as a separate fund within the Utah Educational Savings Plan.

(7) "Executive director" means the administrator appointed to administer and manage the Utah Educational Savings Plan.

(8) "Federally insured depository institution" means an institution whose deposits and accounts are to any extent insured by a federal deposit insurance agency, including the Federal Deposit Insurance Corporation and the National Credit Union Administration.

(9) "Grantor trust" means a trust, the income of which is for the benefit of the grantor under Section 677, Internal Revenue Code.

~~[(9)]~~ (10) "Higher education costs" means qualified higher education expenses as defined in Section 529(e)(3), Internal Revenue Code.

(11) "Owner of the grantor trust" means one or more individuals who are treated as an owner of a trust under Section 677, Internal Revenue Code, if that trust is a grantor trust.

~~[(10)]~~ (12) "Plan" means the Utah Educational Savings Plan created in Section 53B-8a-103.

~~[(11)]~~ (13) "Program fund" means the program fund created under Section 53B-8a-107, which is held as a separate fund within the Utah Educational Savings Plan.

~~[(12)]~~ (14) "Qualified investment" means an amount invested in accordance with an account agreement established under this chapter.

~~[(13)]~~ (15) "Tuition and fees" means the quarterly or semester charges imposed to attend an institution of higher education and required as a condition of enrollment.

Section 2. Section 53B-8a-106 is amended to read:**53B-8a-106. Account agreements.**

The plan may enter into account agreements with account owners on behalf of beneficiaries under the following terms and agreements:

(1) (a) An account agreement may require an account owner to agree to invest a specific amount of money in the plan for a specific period of time for the benefit of a specific beneficiary, not to exceed an amount determined by the executive director.

(b) Account agreements may be amended to provide for adjusted levels of payments based upon changed circumstances or changes in educational plans.

(c) An account owner may make additional optional payments as long as the total payments for a specific beneficiary do not exceed the total estimated higher education costs as determined by the executive director.

(d) Subject to Subsections (1)(f) and (g), the maximum amount of a qualified investment that a corporation that is an account owner may subtract from unadjusted income for a taxable year in accordance with Title 59, Chapter 7, Corporate Franchise and Income Taxes, is \$1,710 for each individual beneficiary for the taxable year beginning on or after January 1, 2010, but beginning on or before December 31, 2010.

(e) Subject to Subsections (1)(f) and (g), the maximum amount of a qualified investment that may be used as the basis for claiming a tax credit in accordance with Section 59-10-1017, is:

(i) subject to Subsection (1)(e)(iv), for a resident or nonresident estate or trust that is an account owner, \$1,710 for each individual beneficiary for the taxable year beginning on or after January 1, 2010, but beginning on or before December 31, 2010;

(ii) subject to Subsection (1)(e)(iv), for a resident or nonresident individual that is an account owner, other than a husband and wife who are account owners and file a single return jointly under Title 59, Chapter 10, Individual Income Tax Act, \$1,710 for each individual beneficiary for the taxable year beginning on or after January 1, 2010, but beginning on or before December 31, 2010; [ø]

(iii) subject to Subsection (1)(e)(iv), for a husband and wife who are account owners and file a single return jointly under Title 59, Chapter 10, Individual Income Tax Act, \$3,420 for each individual beneficiary:

(A) for the taxable year beginning on or after January 1, 2010, but beginning on or before December 31, 2010; and

(B) regardless of whether the plan has entered into:

(I) a separate account agreement with each spouse; or

(II) a single account agreement with both spouses jointly[-]; or

(iv) for a grantor trust:

(A) if the owner of the grantor trust has a single filing status or head of household filing status as defined in Section 59-10-1018, the amount described in Subsection (1)(e)(ii); or

(B) if the owner of the grantor trust has a joint filing status as defined in Section 59-10-1018, the amount described in Subsection (1)(e)(iii).

(f) (i) For taxable years beginning on or after January 1, 2011, the executive director shall annually increase the maximum amount of a qualified investment described in Subsections (1)(d) and (1)(e)(i) and (ii), by a percentage equal to

the increase in the consumer price index for the preceding calendar year.

(ii) After making an increase required by Subsection (1)(f)(i), the executive director shall:

(A) round the maximum amount of the qualified investments described in Subsections (1)(d) and (1)(e)(i) and (ii) increased under Subsection (1)(f)(i) to the nearest 10 dollar increment; and

(B) increase the maximum amount of the qualified investment described in Subsection (1)(e)(iii) so that the maximum amount of the qualified investment described in Subsection (1)(e)(iii) is equal to the product of:

(I) the maximum amount of the qualified investment described in Subsection (1)(e)(ii) as rounded under Subsection (1)(f)(ii)(A); and

(II) two.

(iii) For purposes of Subsections (1)(f)(i) and (ii), the executive director shall calculate the consumer price index as provided in Sections 1(f)(4) and 1(f)(5), Internal Revenue Code.

(g) For taxable years beginning on or after January 1, 2011, the executive director shall keep the previous year's maximum amount of a qualified investment described in Subsections (1)(d) and (1)(e)(i) and (ii) if the consumer price index for the preceding calendar year decreases.

(2) (a) Beneficiaries designated in account agreements must be designated after birth and before age 19 for an account owner to:

(i) subtract a qualified investment from income under Title 59, Chapter 7, Corporate Franchise and Income Taxes; or

(ii) use a qualified investment as the basis for claiming a tax credit in accordance with Section 59-10-1017.

(b) Account owners may designate a beneficiary age 19 or older, but investments for that beneficiary are not eligible to be:

(i) subtracted from income under Title 59, Chapter 7, Corporate Franchise and Income Taxes; or

(ii) used as the basis for claiming a tax credit in accordance with Section 59-10-1017.

(3) Each account agreement shall state clearly that there are no guarantees regarding money in the plan as to the return of principal and that losses could occur.

(4) Each account agreement shall provide that:

(a) a contributor to, or designated beneficiary under, an account agreement may not direct the investment of any contributions or earnings on contributions;

(b) any part of the money in any account may not be used as security for a loan; and

(c) an account owner may not borrow from the plan.

(5) The execution of an account agreement by the plan may not guarantee in any way that higher education costs will be equal to projections and estimates provided by the plan or that the beneficiary named in any account agreement will:

(a) be admitted to an institution of higher education;

(b) if admitted, be determined a resident for tuition purposes by the institution of higher education;

(c) be allowed to continue attendance at the institution of higher education following admission; or

(d) graduate from the institution of higher education.

(6) A beneficiary may be changed as permitted by the rules and regulations of the board upon written request of the account owner prior to the date of admission of any beneficiary under an account agreement by an institution of higher education so long as the substitute beneficiary is eligible for participation.

(7) An account agreement may be freely amended throughout the term of the account agreement in order to enable an account owner to increase or decrease the level of participation, change the designation of beneficiaries, and carry out similar matters as authorized by rule.

(8) Each account agreement shall provide that:

(a) the account agreement may be canceled upon the terms and conditions, and upon payment of the fees and costs set forth and contained in the board's rules and regulations; and

(b) the executive director may amend the agreement unilaterally and retroactively, if necessary, to maintain the plan as a qualified tuition program under Section 529, Internal Revenue Code.

Section 3. Section 59-7-106 is amended to read:

59-7-106. Subtractions from unadjusted income.

(1) In computing adjusted income the following amounts shall be subtracted from unadjusted income:

(a) the foreign dividend gross-up included in gross income for federal income tax purposes under Section 78, Internal Revenue Code;

(b) subject to Subsection (2), the net capital loss, as defined for federal purposes, if the taxpayer elects to deduct the net capital loss on the return filed under this chapter for the taxable year for which the net capital loss is incurred;

(c) the decrease in salary expense deduction for federal income tax purposes due to claiming the federal work opportunity credit under Section 51, Internal Revenue Code;

(d) the decrease in qualified research and basic research expense deduction for federal income tax purposes due to claiming the federal credit for increasing research activities under Section 41, Internal Revenue Code;

(e) the decrease in qualified clinical testing expense deduction for federal income tax purposes due to claiming the federal credit for clinical testing expenses for certain drugs for rare diseases or conditions under Section 45C, Internal Revenue Code;

(f) any decrease in any expense deduction for federal income tax purposes due to claiming any other federal credit;

(g) the safe harbor lease adjustment required under Subsections 59-7-111(1)(b) and (2)(b);

(h) any income on the federal corporation income tax return that has been previously taxed by Utah;

(i) an amount included in federal taxable income that is due to a refund of a tax, including a franchise tax, an income tax, a corporate stock and business tax, or an occupation tax: (i) if that tax is imposed for the privilege of:

(A) doing business; or

(B) exercising a corporate franchise;

(ii) if that tax is paid by the corporation to:

(A) Utah;

(B) another state of the United States;

(C) a foreign country;

(D) a United States possession; or

(E) the Commonwealth of Puerto Rico; and

(iii) to the extent that tax was added to unadjusted income under Section 59-7-105;

(j) a charitable contribution, to the extent the charitable contribution is allowed as a subtraction under Section 59-7-109;

(k) subject to Subsection (3), 50% of a dividend considered to be received or received from a subsidiary that:

(i) is a member of the unitary group;

(ii) is organized or incorporated outside of the United States; and

(iii) is not included in a combined report under Section 59-7-402 or 59-7-403;

(l) subject to Subsection (4) and Section 59-7-401, 50% of the adjusted income of a foreign operating company;

(m) the amount of gain or loss that is included in unadjusted income but not recognized for federal purposes on stock sold or exchanged by a member of a selling consolidated group as defined in Section 338, Internal Revenue Code, if an election has been made in accordance with Section 338(h)(10), Internal Revenue Code;

(n) the amount of gain or loss that is included in unadjusted income but not recognized for federal

purposes on stock sold, exchanged, or distributed by a corporation in accordance with Section 336(e), Internal Revenue Code, if an election under Section 336(e), Internal Revenue Code, has been made for federal purposes;

(o) subject to Subsection (5), an adjustment to the following due to a difference between basis for federal purposes and basis as computed under Section 59-7-107:

- (i) an amortization expense;
- (ii) a depreciation expense;
- (iii) a gain;
- (iv) a loss; or

(v) an item similar to Subsections (1)(o)(i) through (iv);

(p) an interest expense that is not deducted on a federal corporation income tax return under Section 265(b) or 291(e), Internal Revenue Code;

(q) 100% of dividends received from a subsidiary that is an insurance company if that subsidiary that is an insurance company is:

(i) exempt from this chapter under Subsection 59-7-102(1)(c); and

(ii) under common ownership;

(r) subject to Subsection 59-7-105(12), a corporation that is an account owner as defined in Section 53B-8a-102 shall subtract the amount of a qualified investment as defined in Section 53B-8a-102 [that]:

(i) [a corporation that is an account owner as defined in Section 53B-8a-102] that the corporation or a person other than the corporation makes into an account owned by the corporation during the taxable year;

(ii) to the extent that neither the corporation nor the person other than the corporation described in Subsection (1)(r)(i) [does not deduct] deducts the qualified investment on a federal [corporation] income tax return; and

(iii) to the extent the qualified investment does not exceed the maximum amount of the qualified investment that may be subtracted from unadjusted income for a taxable year in accordance with Subsection 53B-8a-106(1);

(s) for purposes of income included in a combined report under Part 4, Combined Reporting, the entire amount of the dividends a member of a unitary group receives or is considered to receive from a captive real estate investment trust; and

(t) the increase in income for federal income tax purposes due to claiming a:

(i) qualified tax credit bond credit under Section 54A, Internal Revenue Code; or

(ii) qualified zone academy bond under Section 1397E, Internal Revenue Code.

(2) For purposes of Subsection (1)(b):

(a) the subtraction shall be made by claiming the subtraction on a return filed:

(i) under this chapter for the taxable year for which the net capital loss is incurred; and

(ii) by the due date of the return, including extensions; and

(b) a net capital loss for a taxable year shall be:

(i) subtracted for the taxable year for which the net capital loss is incurred; or

(ii) carried forward as provided in Sections 1212(a)(1)(B) and (C), Internal Revenue Code.

(3) (a) For purposes of calculating the subtraction provided for in Subsection (1)(k), a taxpayer shall first subtract from a dividend considered to be received or received an expense directly attributable to that dividend.

(b) For purposes of Subsection (3)(a), the amount of an interest expense that is considered to be directly attributable to a dividend is calculated by multiplying the interest expense by a fraction:

(i) the numerator of which is the taxpayer's average investment in the dividend paying subsidiaries; and

(ii) the denominator of which is the taxpayer's average total investment in assets.

(c) (i) For purposes of calculating the subtraction allowed by Subsection (1)(k), in determining income apportionable to this state, a portion of the factors of a foreign subsidiary that has dividends that are partially subtracted under Subsection (1)(k) shall be included in the combined report factors as provided in this Subsection (3)(c).

(ii) For purposes of Subsection (3)(c)(i), the portion of the factors of a foreign subsidiary that has dividends that are partially subtracted under Subsection (1)(k) that shall be included in the combined report factors is calculated by multiplying each factor of the foreign subsidiary by a fraction:

(A) not to exceed 100%; and

(B) (I) the numerator of which is the amount of the dividend paid by the foreign subsidiary that is included in adjusted income; and

(II) the denominator of which is the current year earnings and profits of the foreign subsidiary as determined under the Internal Revenue Code.

(4) (a) For purposes of Subsection (1)(l), a taxpayer may not make a subtraction under Subsection (1)(l):

(i) if the taxpayer elects to file a worldwide combined report as provided in Section 59-7-403; or

(ii) for the following:

(A) income generated from intangible property; or

(B) a capital gain, dividend, interest, rent, royalty, or other similar item that is generated from an asset held for investment and not from a regular business trading activity.

(b) In calculating the subtraction provided for in Subsection (1)(l), a foreign operating company:

(i) may not subtract an amount provided for in Subsection (1)(k) or (l); and

(ii) prior to determining the subtraction under Subsection (1)(l), shall eliminate a transaction that occurs between members of a unitary group.

(c) For purposes of the subtraction provided for in Subsection (1)(l), in determining income apportionable to this state, the factors for a foreign operating company shall be included in the combined report factors in the same percentages as the foreign operating company's adjusted income is included in the combined adjusted income.

(d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes:

(i) income generated from intangible property; or

(ii) a capital gain, dividend, interest, rent, royalty, or other similar item that is generated from an asset held for investment and not from a regular business trading activity.

(5) (a) For purposes of the subtraction provided for in Subsection (1)(o), the amount of a reduction in basis shall be allowed as an expense for the taxable year in which a federal tax credit is claimed if:

(i) there is a reduction in federal basis for a federal tax credit; and

(ii) there is no corresponding tax credit allowed in this state.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes an item similar to Subsections (1)(o)(i) through (iv).

Section 4. Section 59-10-1017 is amended to read:

59-10-1017. Utah Educational Savings Plan tax credit.

(1) As used in this section:

(a) "Account owner" ~~is as~~ means the same as that term is defined in Section 53B-8a-102.

(b) "Grantor trust" means the same as that term is defined in Section 53B-8a-102.

~~(b)~~ (c) "Higher education costs" ~~is as~~ means the same as that term is defined in Section 53B-8a-102.

~~(e)~~ (d) "Maximum amount of a qualified investment for the taxable year" means, for a taxable year, the product of 5% and:

(i) subject to Subsection (1)(d)(iii), for a claimant, estate, or trust that is an account owner, if that claimant, estate, or trust is other than husband and

wife account owners who file a single return jointly, the maximum amount of a qualified investment:

(A) listed in Subsection 53B-8a-106(1)(e)(ii); and

(B) increased or kept for that taxable year in accordance with Subsections 53B-8a-106(1)(f) and (g); ~~or~~

(ii) subject to Subsection (1)(d)(iii), for claimants who are husband and wife account owners who file a single return jointly, the maximum amount of a qualified investment:

(A) listed in Subsection 53B-8a-106(1)(e)(iii); and

(B) increased or kept for that taxable year in accordance with Subsections 53B-8a-106(1)(f) and (g)~~[-]; or~~

(iii) for a grantor trust:

(A) if the owner of the grantor trust has a single filing status or head of household filing status as defined in Section 59-10-1018, the amount described in Subsection (1)(d)(i); or

(B) if the owner of the grantor trust has a joint filing status as defined in Section 59-10-1018, the amount described in Subsection (1)(d)(ii).

(e) "Owner of the grantor trust" means the same as that term is defined in Section 53B-8a-102.

~~(f)~~ (f) "Qualified investment" ~~is as~~ means the same as that term is defined in Section 53B-8a-102.

(2) Except as provided in Section 59-10-1002.2 and subject to the other provisions of this section, a claimant, estate, or trust that is an account owner may claim a nonrefundable tax credit equal to the product of:

~~(a) the lesser of:~~

~~(i)~~ (i) the amount of a qualified investment ~~the~~ made:

(i) during the taxable year; and

(ii) into an account owned by the claimant, estate, or trust~~[-]; and~~

~~(A) makes during the taxable year; and]~~

~~(B) does not deduct;]~~

(b) 5%.

(3) A claimant, estate, or trust, or a person other than the claimant, estate, or trust, may make a qualified investment described in Subsection (2).

~~(I) for a claimant, on the claimant's federal individual income tax return; or]~~

~~(II) for an estate or trust, on the estate's or trust's federal income tax return for estates and trusts; or]~~

(4) A tax credit under this section may not be claimed with respect to any portion of a qualified investment described in Subsection (2) that a claimant, estate, trust, or person described in Subsection (3) deducts on a federal income tax return.

~~[(iii)] (5) A tax credit under this section may not exceed the maximum amount of a qualified investment for the taxable year [if the amount described in Subsection (2)(a)(i) is greater than the maximum amount of a qualified investment for the taxable year; and].~~

~~[(b) 5%.]~~

~~[(3)] (6) A tax credit under this section may not be carried forward or carried back.~~

Section 5. Section 59-10-1313 is amended to read:

59-10-1313. Contribution to a Utah Educational Savings Plan account.

(1) (a) If a resident or nonresident individual is owed an individual income tax refund for the taxable year, the individual may designate on the resident or nonresident individual's income tax return a contribution to a Utah Educational Savings Plan account established under Title 53B, Chapter 8a, Utah Educational Savings Plan, ~~[in the amount of the entire individual income tax refund]~~ as provided in this part.

(b) If a resident or nonresident individual is not owed an individual income tax refund for the taxable year, the individual may not designate on the resident or nonresident's individual income tax return a contribution to a Utah Educational Savings Plan account.

(2) (a) The commission shall send the contribution to the Utah Educational Savings Plan along with the following information:

(i) the amount of the individual income tax refund; and

(ii) the taxpayer's:

(A) name;

(B) Social Security number or taxpayer identification number; and

(C) address.

(b) The commission shall provide the taxpayer's telephone number and number of dependents claimed, as requested, to the Utah Educational Savings Plan.

(c) If a contribution to a Utah Educational Savings Plan account is designated in a single individual income tax return filed jointly by a husband and wife, the commission shall send the information described under Subsection (2)(a) or (b) for both the husband and wife to the Utah Educational Savings Plan.

(3) (a) If the taxpayer owns a Utah Educational Savings Plan account, the Utah Educational Savings Plan shall deposit the contribution into the account.

(b) If the taxpayer owns more than one Utah Educational Savings Plan account, the Utah Educational Savings Plan shall allocate the contribution among the accounts in equal amounts.

(c) (i) If the taxpayer does not own a Utah Educational Savings Plan account, the Utah Educational Savings Plan shall send the taxpayer an account agreement.

(ii) If the taxpayer does not sign and return the account agreement by the date specified by the Utah Educational Savings Plan, the Utah Educational Savings Plan shall return the contribution to the taxpayer without any interest or earnings.

(4) For the purpose of determining interest on an overpayment or refund under Section 59-1-402, no interest accrues after the commission sends the contribution to the Utah Educational Savings Plan.

Section 6. Effective date -- Retrospective operation.

(1) The actions affecting Sections 53B-8a-102, 53B-8a-106, 59-7-106, and 59-10-1017 have retrospective operation for a taxable year beginning on or after January 1, 2015.

(2) The actions affecting Section 59-10-1313 take effect for a taxable year beginning on or after January 1, 2016.

CHAPTER 95**S. B. 66**

Passed February 25, 2015

Approved March 23, 2015

Effective May 12, 2015

**UNAUTHORIZED ACTIVITY
ON STATE LAND**

Chief Sponsor: Margaret Dayton

House Sponsor: Keith Grover

LONG TITLE**General Description:**

This bill prohibits certain activities on state land.

Highlighted Provisions:

This bill:

- ▶ prohibits an individual from:
 - starting a campfire on the bed of a navigable lake or river, except in a posted and designated area;
 - posting a sign claiming private property on state land; or
 - prohibiting, preventing, or obstructing public entry onto state land where public entry is authorized by the division; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

65A-3-1, as last amended by Laws of Utah 2013, Chapter 370

*Be it enacted by the Legislature of the state of Utah:***Section 1. Section 65A-3-1 is amended to read:****65A-3-1. Trespassing on state lands -- Penalties.**

- (1) As used in this section:
- (a) "Anchored" is as defined in Section 73-18-2.
- (b) "Beached" is as defined in Section 73-18-2.
- (c) "Vessel" is as defined in Section 73-18-2.
- (2) A person is guilty of a class B misdemeanor and liable for the civil damages prescribed in Subsection (4) if, without written authorization from the division, the person:
- (a) removes, extracts, uses, consumes, or destroys any mineral resource, gravel, sand, soil, vegetation, or improvement on state lands;
- (b) grazes livestock on state lands;
- (c) uses, occupies, or constructs improvements or structures on state lands;
- (d) uses or occupies state lands for more than 30 days after the cancellation or expiration of written authorization;

(e) knowingly and willfully uses state lands for commercial gain;

(f) appropriates, alters, injures, or destroys any historical, prehistorical, archaeological, or paleontological resource on state lands;

(g) starts a campfire or camps on the [beds] bed of a navigable [lakes or rivers] lake or river except in a posted and designated [areas] area;

(h) camps on sovereign land for longer than 15 consecutive days at the same location or within one mile of the same location;

(i) camps on sovereign land for 15 consecutive days, and then returns to camp at the same location before 15 consecutive days have elapsed after the day on which the person left that location;

(j) leaves an anchored or beached vessel unattended for longer than 48 hours on sovereign land or navigable lakes or rivers;

(k) anchors or beaches a vessel for longer than 72 hours at the same location, on sovereign land or navigable lakes or rivers, and then fails to move the vessel at least two miles from that location; [or]

(l) parks or operates motor vehicles on the beds of navigable lakes and rivers except in those areas supervised by the Division of Parks and Recreation or other state or local enforcement entity and which are posted as open to vehicle use[-];

(m) posts a sign claiming state land as private property; or

(n) prohibits, prevents, or obstructs public entry to state land where public entry is authorized by the division.

(3) A person is guilty of a class C misdemeanor and liable for civil damages described in Subsection (4) if, on state lands surrounding Bear Lake and without written authorization of the division, the person:

(a) parks or operates a motor vehicle in an area on the exposed lake bed that is not specifically posted by the division as open for usage;

(b) launches or retrieves a vessel in an area not specifically designated by the division as open for launching or retrieving a vessel;

(c) exceeds a speed limit of 15 miles per hour while operating a motor vehicle;

(d) except as necessary while launching or retrieving a vessel in an area where the person is permitted to launch or retrieve a vessel, parks or operates a motor vehicle within an area between the water's edge and a line posted by the division;

(e) except as allowed and posted by the division, travels in a motor vehicle parallel to the water's edge;

(f) parks or operates a motor vehicle between the hours of 10 p.m. and 7 a.m.; or

(g) starts a campfire or uses fireworks.

(4) A person who commits any act described in Subsection (2) or (3) is liable for damages in the amount of:

(a) three times the value of the mineral or other resource removed, destroyed, or extracted;

(b) three times the value of damage committed; or

(c) three times the consideration which would have been charged by the division for use of the land during the period of trespass.

(5) In addition to the damages described in Subsection (4), a person found guilty of a misdemeanor under Subsection (2) or (3) is subject to the penalties provided in Section 76-3-204.

(6) Money collected under this section shall be deposited in the fund in which similar revenues from that land would be deposited.

CHAPTER 96**S. B. 95**

Passed February 19, 2015

Approved March 23, 2015

Effective May 12, 2015

TOWN AMENDMENTS

Chief Sponsor: Jani Iwamoto

House Sponsor: Carol Spackman Moss

LONG TITLE**General Description:**

This bill amends town incorporation provisions.

Highlighted Provisions:

This bill:

- ▶ corrects an incorrect reference in the town incorporation code.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

10-2-127, as last amended by Laws of Utah 2014, Chapter 158

*Be it enacted by the Legislature of the state of Utah:***Section 1. Section 10-2-127 is amended to read:****10-2-127. Incorporation of town -- Election to incorporate -- Ballot form.**

(1) (a) Upon receipt of a certified petition [~~under Subsection 10-2-110(1)(b)(i)~~] or a certified [~~modified~~] amended petition under [~~Subsection 10-2-110(3)~~] Section 10-2-125, the county legislative body shall determine and set an election date for the incorporation election that is:

(i) (A) on a general election date under Section 20A-1-201; or

(B) on a local special election date under Section 20A-1-203; and

(ii) at least 65 days after the day that the legislative body receives the certified petition.

(b) Unless a person is a registered voter who resides, as defined in Section 20A-1-102, within the boundaries of the proposed town, the person may not vote on the proposed incorporation.

(2) (a) The county clerk shall publish notice of the election:

(i) in a newspaper of general circulation, within the area proposed to be incorporated, at least once a week for three successive weeks; and

(ii) in accordance with Section 45-1-101 for three weeks.

(b) The notice required by Subsection (2)(a) shall contain:

- (i) a statement of the contents of the petition;

(ii) a description of the area proposed to be incorporated as a town;

(iii) a statement of the date and time of the election and the location of polling places; and

(iv) the county Internet website address, if applicable, and the address of the county office where the feasibility study is available for review.

(c) The last publication of notice required under Subsection (2)(a) shall occur at least one day but no more than seven days before the election.

(d) (i) In accordance with Subsection (2)(a)(i), if there is no newspaper of general circulation within the proposed town, the county clerk shall post at least one notice of the election per 100 population in conspicuous places within the proposed town that are most likely to give notice of the election to the voters of the proposed town.

(ii) The clerk shall post the notices under Subsection (2)(d)(i) at least seven days before the election under Subsection (1)(a).

(3) The ballot at the incorporation election shall pose the incorporation question substantially as follows:

Shall the area described as (insert a description of the proposed town) be incorporated as the town of (insert the proposed name of the proposed town)?

(4) The ballot shall provide a space for the voter to answer yes or no to the question in Subsection (3).

(5) If a majority of those casting votes within the area boundaries of the proposed town vote to incorporate as a town, the area shall incorporate.

CHAPTER 97**S. B. 121**

Passed February 26, 2015

Approved March 23, 2015

Effective May 12, 2015

PROCUREMENT CODE REVISIONS

Chief Sponsor: Karen Mayne
House Sponsor: Mike K. McKell

LONG TITLE**General Description:**

This bill modifies the Utah Procurement Code relating to work site safety programs.

Highlighted Provisions:

This bill:

- ▶ includes information about a work site safety program in information that a person submitting a statement of qualification may be required to provide; and
- ▶ includes a work site safety program among the criteria that may be used to evaluate a bid or proposal.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63G-6a-403, as last amended by Laws of Utah 2014, Chapter 196

63G-6a-606, as last amended by Laws of Utah 2014, Chapter 196

63G-6a-707, as last amended by Laws of Utah 2014, Chapter 196

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

Section 1. Section 63G-6a-403 is amended to read:**63G-6a-403. Prequalification of potential vendors.**

(1) As used in this section:

(a) "Closed-ended prequalification process" means a process to prequalify potential vendors under this section that is characterized by:

(i) a short, specified period of time during which potential vendors may be prequalified; and

(ii) a specified date at which prequalifications expire.

(b) "Open-ended prequalification process" means a process to prequalify vendors and potential vendors under this section that is characterized by an indeterminate period of time during any part of which vendors or potential vendors may be prequalified and the prequalification of previously prequalified vendors or potential vendors may be periodically renewed.

(c) "Vendor" means:

(i) a bidder;

(ii) an offeror; or

(iii) a contractor, including an architect or an engineer.

(2) A procurement unit may, in accordance with this section:

(a) using a closed-ended prequalification process or an open-ended prequalification process:

(i) prequalify potential vendors to provide any procurement item or type of procurement item specified by the procurement unit; or

(ii) rank architects, engineers, or other professional service providers to begin the fee negotiation process, as provided in this chapter; and

(b) limit participation in a standard procurement process to the prequalified potential vendors for the specified procurement item or type of procurement item.

(3) To prequalify potential vendors or rank professional service providers, a procurement unit shall issue a request for statement of qualifications.

(4) A procurement unit that issues a request for statement of qualifications:

(a) shall:

(i) publish the request for statement of qualifications in accordance with the requirements of Section 63G-6a-406; and

(ii) state in the request for statement of qualifications:

(A) the procurement item or type of procurement item to which the request for statement of qualifications relates;

(B) the scope of work to be performed;

(C) the instructions and deadline for submitting a statement of qualifications;

(D) the criteria by which the procurement unit will evaluate statements of qualifications;

(E) whether the prequalification process is a closed-ended prequalification process or an open-ended prequalification process;

(F) if the prequalification process is a closed-ended prequalification process, the period of time during which the list of prequalified potential vendors will remain in effect, which may not be longer than 18 months after the list of prequalified potential vendors is made available to the public under Subsection (1)(b);

(G) if the prequalification process is an open-ended prequalification process, when a potential vendor may submit a statement of qualifications for the potential vendor to be considered for inclusion on the list of prequalified potential vendors; and

(H) that a procurement unit may limit participation in an invitation for bids or a request for proposals to the potential vendors that are prequalified to provide the specified procurement item or type of procurement item; and

(b) may request the person submitting a statement of qualifications to provide:

- (i) basic information about the person;
- (ii) the person's experience and work history;
- (iii) information about the person's management and staff;
- (iv) information about the person's licenses, certifications, and other qualifications;
- (v) any applicable performance ratings;
- (vi) financial statements reporting the person's financial condition; ~~and~~
- (vii) information about the person's work site safety program, including any requirement that the person imposes on subcontractors for a work site safety program; and
- ~~(vii)~~ (viii) any other pertinent information.

(5) (a) In order to renew a prequalification, a vendor or potential vendor that has been previously prequalified through an open-ended prequalification process shall submit a statement of qualifications no more than 18 months after the previous prequalification of that vendor or potential vendor.

(b) A previously prequalified vendor or potential vendor submitting a statement of qualifications under Subsection (5)(a) shall comply with all requirements applicable at that time to a potential vendor seeking prequalification for the first time.

(6) A procurement unit may at any time modify prequalification requirements of an open-ended prequalification process.

(7) The criteria described in Subsection (4)(a)(ii)(D):

- (a) shall include the prequalification requirements unique to the procurement;
- (b) may include performance rating criteria; and
- (c) may not be so restrictive that the criteria unreasonably limit competition.

(8) A procurement unit may, before making a final list of prequalified vendors, request additional information to clarify responses made to the request for statement of qualifications.

(9) A potential vendor shall be included on the list of prequalified potential vendors if the potential vendor:

- (a) submits a timely, responsive response to the request for statement of qualifications; and
 - (b) meets the criteria for qualification described in Subsection (4)(a)(ii)(D).
- (10) If a request for statement of qualifications will result in only one potential vendor being placed on the list of prequalified potential vendors:

(a) the procurement unit shall cancel the request for statement of qualifications; and

(b) the list may not be used by the procurement unit.

(11) The procurement unit shall:

(a) before making the list of prequalified potential vendors available to the public, provide each potential vendor who provided information in response to the request, but who did not meet the minimum qualifications for placement on the list, a written justification statement describing why the potential vendor did not meet the criteria for inclusion on the list; and

(b) make the list of prequalified potential vendors available to the public within 30 days after:

- (i) completing the evaluation process, if the prequalification process is a closed-ended prequalification process; or
- (ii) updating the list of prequalified potential vendors, if the prequalification process is an open-ended prequalification process.

Section 2. Section 63G-6a-606 is amended to read:

63G-6a-606. Evaluation of bids -- Award -- Cancellation -- Disqualification.

(1) A procurement unit that conducts a procurement using a bidding standard procurement process shall evaluate each bid using the objective criteria described in the invitation for bids, which may include:

- (a) experience;
- (b) performance ratings;
- (c) inspection;
- (d) testing;
- (e) quality;
- (f) workmanship;
- (g) time and manner of delivery;
- (h) references;
- (i) financial stability;
- (j) cost;
- (k) suitability for a particular purpose; ~~or~~

(l) the contractor's work site safety program, including any requirement that the contractor imposes on subcontractors for a work site safety program; or

~~(4)~~ (m) other objective criteria specified in the invitation for bids.

(2) Criteria not described in the invitation for bids may not be used to evaluate a bid.

(3) The conducting procurement unit shall:

- (a) award the contract as soon as practicable to:
 - (i) the lowest responsive and responsible bidder who meets the objective criteria described in the invitation for bids; or

(ii) if, in accordance with Subsection (4), the procurement officer or the head of the conducting procurement unit disqualifies the bidder described in Subsection (3)(a)(i), the next lowest responsive and responsible bidder who meets the objective criteria described in the invitation for bids; or

(b) cancel the invitation for bids without awarding a contract.

(4) In accordance with Subsection (5), the procurement officer or the head of the conducting procurement unit may disqualify a bidder for:

(a) a violation of this chapter;

(b) a violation of a requirement of the invitation for bids;

(c) unlawful or unethical conduct; or

(d) a change in circumstance that, had the change been known at the time the bid was submitted, would have caused the bidder to not be the lowest responsive and responsible bidder who meets the objective criteria described in the invitation for bids.

(5) A procurement officer or head of a conducting procurement unit who disqualifies a bidder under Subsection (4) shall:

(a) make a written finding, stating the reasons for disqualification; and

(b) provide a copy of the written finding to the disqualified bidder.

(6) If a conducting procurement unit cancels an invitation for bids without awarding a contract, the conducting procurement unit shall make available for public inspection a written justification for the cancellation.

Section 3. Section 63G-6a-707 is amended to read:

63G-6a-707. Evaluation of proposals -- Evaluation committee.

(1) To determine which proposal provides the best value to the procurement unit, the evaluation committee shall evaluate each responsive and responsible proposal that has not been disqualified from consideration under the provisions of this chapter, using the criteria described in the request for proposals, which may include:

(a) experience;

(b) performance ratings;

(c) inspection;

(d) testing;

(e) quality;

(f) workmanship;

(g) time, manner, or schedule of delivery;

(h) references;

(i) financial solvency;

(j) suitability for a particular purpose;

(k) management plans;

(l) the presence and quality of a work site safety program, including any requirement that the offeror imposes on subcontractors for a work site safety program;

~~[(4)]~~ (m) cost; or

~~[(4m)]~~ (n) other subjective or objective criteria specified in the request for proposals.

(2) Criteria not described in the request for proposals may not be used to evaluate a proposal.

(3) The conducting procurement unit shall:

(a) appoint an evaluation committee consisting of at least three individuals; and

(b) ensure that the evaluation committee and each member of the evaluation committee:

(i) does not have a conflict of interest with any of the offerors;

(ii) can fairly evaluate each proposal;

(iii) does not contact or communicate with an offeror concerning the procurement outside the official evaluation committee process; and

(iv) conducts the evaluation in a manner that ensures a fair and competitive process and avoids the appearance of impropriety.

(4) The evaluation committee may, with the approval of the head of the conducting procurement unit, enter into discussions or conduct interviews with, or attend presentations by, the offerors.

(5) (a) Except as provided in Subsections (5)(b) and (8), each member of the evaluation committee is prohibited from knowing, or having access to, any information relating to the cost, or the scoring of the cost, of a proposal until after the evaluation committee submits its final recommended scores on all other criteria to the issuing procurement unit.

(b) The issuing procurement unit shall:

(i) if applicable, assign an individual who is not a member of the evaluation committee to calculate scores for cost based on the applicable scoring formula, weighting, and other scoring procedures contained in the request for proposals;

(ii) review the evaluation committee's scores and correct any errors, scoring inconsistencies, and reported noncompliance with this chapter;

(iii) add the scores calculated for cost, if applicable, to the evaluation committee's final recommended scores on criteria other than cost to derive the total combined score for each responsive and responsible proposal; and

(iv) provide to the evaluation committee the total combined score calculated for each responsive and responsible proposal, including any applicable cost formula, weighting, and scoring procedures used to calculate the total combined scores.

(c) The evaluation committee may not:

(i) change its final recommended scores described in Subsection (5)(a) after the evaluation committee

has submitted those scores to the issuing procurement unit; or

(ii) change cost scores calculated by the issuing procurement unit.

(6) (a) As used in this Subsection (6), “management fee” includes only the following fees of the construction manager/general contractor:

(i) preconstruction phase services;

(ii) monthly supervision fees for the construction phase; and

(iii) overhead and profit for the construction phase.

(b) When selecting a construction manager/general contractor for a construction project, the evaluation committee:

(i) may score a construction manager/general contractor based upon criteria contained in the solicitation, including qualifications, performance ratings, references, management plan, certifications, and other project specific criteria described in the solicitation;

(ii) may, as described in the solicitation, weight and score the management fee as a fixed rate or as a fixed percentage of the estimated contract value;

(iii) may, at any time after the opening of the responses to the request for proposals, have access to, and consider, the management fee proposed by the offerors; and

(iv) except as provided in Subsection (7), may not know or have access to any other information relating to the cost of construction submitted by the offerors, until after the evaluation committee submits its final recommended scores on all other criteria to the issuing procurement unit.

(7) (a) The deliberations of an evaluation committee may be held in private.

(b) If the evaluation committee is a public body, as defined in Section 52-4-103, the evaluation committee shall comply with Section 52-4-205 in closing a meeting for its deliberations.

(8) An issuing procurement unit is not required to comply with Subsection (5) if the head of the issuing procurement unit or a person designated by rule made by the applicable rulemaking authority:

(a) signs a written statement:

(i) indicating that, due to the nature of the proposal or other circumstances, it is in the best interest of the procurement unit to waive compliance with Subsection (5); and

(ii) describing the nature of the proposal and the other circumstances relied upon to waive compliance with Subsection (5); and

(b) makes the written statement available to the public, upon request.

CHAPTER 98**S. B. 122**

Passed March 11, 2015
 Approved March 23, 2015
 Effective May 12, 2015

**STATE SURPLUS
 PROPERTY AMENDMENTS**

Chief Sponsor: Todd Weiler
 House Sponsor: Brad M. Daw

LONG TITLE**General Description:**

This bill modifies provisions relating to state surplus property.

Highlighted Provisions:

This bill:

- ▶ modifies definitions applicable to the Division of Purchasing and General Services and state surplus property;
- ▶ modifies provisions relating to the administration of the state surplus property program;
- ▶ modifies property that is included within the definition of state surplus property; and
- ▶ modifies provisions relating to the disposition of state surplus property with a minimal value.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 63A-2-101.5, as last amended by Laws of Utah 2013, Chapter 151
 63A-2-102, as last amended by Laws of Utah 1997, Chapter 252
 63A-2-103, as last amended by Laws of Utah 2013, Chapter 151
 63A-2-104, as last amended by Laws of Utah 1997, Chapter 252
 63A-2-105, as last amended by Laws of Utah 1997, Chapter 252
 63A-2-401, as last amended by Laws of Utah 2013, Chapters 49 and 151
 63A-2-405, as last amended by Laws of Utah 2013, Chapter 151
 63A-2-408, as last amended by Laws of Utah 2013, Chapter 151
 63A-2-409, as last amended by Laws of Utah 2013, Chapters 15 and 151
 63A-2-410, as enacted by Laws of Utah 2013, Chapter 151

REPEALS AND REENACTS:

- 63A-2-411, as enacted by Laws of Utah 2013, Chapter 151

REPEALS:

- 63A-2-406, as renumbered and amended by Laws of Utah 2011, Chapter 207
 63A-2-407, as renumbered and amended by Laws of Utah 2011, Chapter 207

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

Section 1. Section 63A-2-101.5 is amended to read:

63A-2-101.5. Definitions.

As used in this chapter:

(1) "Division" means the Division of Purchasing and General Services created under Section 63A-2-101.

(2) "Federal surplus property" means surplus property of the federal government of the United States.

(3) "Information technology equipment" means equipment ~~[that is designed to electronically manipulate, store, or transfer a form of data.]~~ capable of downloading, accessing, manipulating, storing, or transferring electronic data, including:

~~[(4) "Inventory property" means property in the possession of the division that is available for purchase by an agency or the public.]~~

~~[(5) "Judicial district" means a geographic district established by Section 78A-1-102.]~~

(a) a computer;

(b) a smart phone, electronic tablet, personal digital assistant, or other portable electronic device;

(c) a digital copier or multifunction printer;

(d) a flash drive or other portable electronic data storage device;

(e) a server; and

(f) any other similar device.

~~[(6)] (4) "Person with a disability" means a person with a severe, chronic disability that:~~

(a) is attributable to a mental or physical impairment or a combination of mental and physical impairments; and

(b) is likely to continue indefinitely.

~~[(7) "Personal handheld electronic device":]~~

~~[(a) means an electronic device that is designed for handheld use and permits the user to store or access information, the primary value of which is specific to the user of the device; and]~~

~~[(b) includes a mobile phone, pocket personal computer, personal digital assistant, or similar device.]~~

~~[(8)] (5) "Property act" means the Federal Property and Administrative Services Act of 1949, 40 U.S.C. Sec. 549.~~

(6) "Purchasing director" means the director of the division appointed under Section 63A-2-102.

(7) "Smart phone" means an electronic device that combines a cell phone with a hand-held computer, typically offering Internet access, data storage, and text and email capabilities.

(8) "State agency" means any executive branch department, division, or other agency of the state.

(9) "State surplus property" ~~means surplus property that is not:~~

(a) means state-owned property, whether acquired by purchase, seizure, donation, or otherwise:

~~[(a) a vehicle; or]~~

~~[(b) federal surplus property.]~~

(i) that is no longer being used by the state or no longer usable by the state;

(ii) that is out of date;

(iii) that is damaged and cannot be repaired or cannot be repaired at a cost that is less than the property's value;

(iv) whose useful life span has expired; or

(v) that the state agency possessing the property determines is not required to meet the needs or responsibilities of the state agency;

(b) includes:

(i) a motor vehicle;

(ii) equipment;

(iii) furniture;

(iv) information technology equipment; and

(v) a supply; and

(c) does not include:

(i) real property;

(ii) an asset of the School and Institutional Trust Lands Administration, established in Section 53C-1-201;

(iii) a firearm or ammunition; or

(iv) an office or household item made of aluminum, paper, plastic, cardboard, or other recyclable material, without any meaningful value except for recycling purposes.

(10) "State surplus property contractor" means ~~[the] a person [described in Section 63A-2-410 that the state contracts with to administer the state's program for the disposition of] in the private sector under contract with the state to provide one or more services related to the division's program for the management and disposition of state surplus property.~~

~~[(11)(a) "Surplus property" means property that an agency:]~~

~~[(i) intends to divest itself of; and]~~

~~[(ii) has acquired by purchase, seizure, or donation.]~~

~~[(b) "Surplus property" does not include:]~~

~~[(i) real property;]~~

~~[(ii) assets of the School and Institutional Trust Lands Administration; or]~~

~~[(iii) an aluminum can or an item made primarily of paper, plastic, or cardboard that is:]~~

~~[(A) discarded; and]~~

~~[(B) recyclable.]~~

Section 2. Section 63A-2-102 is amended to read:

63A-2-102. Director of division -- Appointment.

(1) The executive director ~~[of the department]~~ shall appoint the director of the Division of Purchasing and General Services with the approval of the governor.

(2) The purchasing director ~~[of the Division of Purchasing and General Services]~~ is also the state's chief procurement officer.

Section 3. Section 63A-2-103 is amended to read:

63A-2-103. General services provided -- Subscription by state departments, state agencies, and certain local governmental entities -- Fee schedule.

(1) The purchasing director ~~[of the division]:~~

(a) shall operate, manage, and maintain:

(i) a central mailing service; and

(ii) an electronic central store system for procuring goods and services;

(b) shall, except when a state surplus property contractor administers the state's program for disposition of state surplus property, operate, manage, and maintain the state surplus property program;

(c) shall, when a state surplus property contractor administers the state's program for disposition of state surplus property, oversee the state surplus property contractor's administration of the state surplus property program in accordance with Part 4, Surplus Property Services; and

(d) may establish microfilming, duplicating, printing, addressograph, and other central services.

(2) (a) Each state ~~[department and]~~ agency shall subscribe to all of the services described in ~~[Subsections] Subsection (1)(a)[(i) and (ii)]~~, unless the director delegates the director's authority to a ~~[department or]~~ state agency under Section 63A-2-104.

(b) An institution of higher education, school district, or political subdivision of the state may subscribe to one or more of the services described in ~~[Subsections] Subsection (1)(a)[(i) and (ii)]~~.

(3) (a) The purchasing director shall:

~~[(a) except as provided in Part 4, Surplus Property Services,]~~

(i) prescribe a schedule of fees to be charged for all services provided by the division ~~[to any department or agency]~~ after the purchasing director:

(~~4~~) (A) submits the proposed rate, fees, or other amounts for services provided by the division's internal service fund to the Rate Committee established in Section 63A-1-114; and

(~~4~~) (B) obtains the approval of the Legislature, as required by [~~Sections 63J-1-410 and~~] Section 63J-1-504;

(~~b~~) [~~when practicable,~~] (ii) ensure that the fees are approximately equal to the cost of providing the services; and

(~~c~~) [~~periodically,~~] (iii) annually conduct a market analysis of fees [~~, which analysis~~].

(b) A market analysis under Subsection (3)(a)(iii) shall include a comparison of the division's rates with the fees of other public or private sector providers [~~where~~] if comparable services and rates are reasonably available.

Section 4. Section 63A-2-104 is amended to read:

63A-2-104. Delegation of general services to departments or agencies -- Writing required -- Contents -- Termination.

(1) The purchasing director [~~of the Division of Purchasing and General Services~~], with the approval of the executive director, may delegate, in writing, [~~his~~] the purchasing director's authority to perform or control any general services function to [~~either~~] another state [~~agencies and institutions~~] agency by contract or other means authorized by law, if:

(a) in the judgment of the executive director, the state [~~department or~~] agency has requested the authority; and

(b) the state [~~department or~~] agency has the necessary resources and skills to perform or control the functions.

(2) The purchasing director may delegate [~~his~~] the purchasing director's authority only when the delegation would result in net cost savings or improved service delivery to the state as a whole.

(3) The written delegation shall contain [~~the following~~]:

(a) a precise definition of each function to be delegated;

(b) a clear description of the standards to be met in performing each function delegated;

(c) a provision for periodic administrative audits by the department; and

(d) a date on which the agreement shall terminate if not previously terminated or renewed.

(4) An agreement to delegate functions to a state agency [~~or institution~~] may be terminated by the department if the results of an administrative [~~audits~~] audit conducted by the department reveal lack of compliance with the terms of the agreement.

Section 5. Section 63A-2-105 is amended to read:

63A-2-105. Director to approve certain purchases.

(1) [~~Each~~] A state agency that intends to purchase any mail-related equipment or copy machine shall submit a purchase request to the purchasing director [~~of the Division of General Services~~].

(2) The purchasing director shall review [~~those requests~~] a request under Subsection (1) to ensure that:

(a) the authority to perform those functions has been appropriately delegated to the state agency under this part;

(b) the equipment meets proper specifications; and

(c) the benefits from the state agency's purchase of the equipment outweigh the benefits of having the same functions performed by the [~~Division of Purchasing and General Services~~] division.

Section 6. Section 63A-2-401 is amended to read:

63A-2-401. Utah surplus property program -- Definitions -- Administration.

(~~1~~) ~~As used in this part, "agency" means:~~

(~~a~~) ~~the Utah Departments of Administrative Services, Agriculture and Food, Alcoholic Beverage Control, Commerce, Heritage and Arts, Corrections, Workforce Services, Health, Human Resource Management, Human Services, Insurance, Natural Resources, Public Safety, Technology Services, and Transportation and the Labor Commission;~~

(~~b~~) ~~the Utah Offices of the Auditor, Attorney General, Court Administrator, Utah Office for Victims of Crime, Rehabilitation, and Treasurer;~~

(~~c~~) ~~the Public Service Commission and State Tax Commission;~~

(~~d~~) ~~the State Boards of Education, Pardons and Parole, and Regents;~~

(~~e~~) ~~the Career Service Review Office;~~

(~~f~~) ~~other state agencies designated by the governor;~~

(~~g~~) ~~the legislative branch, the judicial branch, and the State Board of Regents; and~~

(~~h~~) ~~an institution of higher education, its president, and its board of trustees for purposes of Section 63A-2-402.~~

(1) The division shall determine the appropriate method for disposing of state surplus property.

(2) In accordance with Title 63G, Chapter 6a, Utah Procurement Code, the division may contract with one or more state surplus property contractors to assist with the disposition of state surplus property by:

(a) online auction;

- (b) live auction;
- (c) pick up, sale, and disposal;
- (d) disposal;
- (e) destruction; or
- (f) another method approved by the purchasing director.

(3) (a) A state agency shall use the services of the state surplus property contractors under contract with the division for the disposition of state surplus property unless the purchasing director authorizes an exception in writing.

(b) Justification for an exception under Subsection (3)(a) includes:

- (i) a security issue;
- (ii) the need for restricted public access to the state surplus property;
- (iii) a lack of adequate storage space; and
- (iv) an issue specific to the state agency, as approved by the purchasing director.

~~[(2)-(a)]~~ (4) (a) By following the procedures and requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules establishing a surplus property program that meets the requirements of this chapter by following the procedures and requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) The rules under Subsection (4)(a) shall include:

- (i) procedures and requirements for transferring state surplus property directly from one state agency to another [agency];
- (ii) procedures and requirements governing division administration requirements that [an agency must] a state agency is required to follow;
- (iii) requirements governing purchase priorities;
- (iv) requirements governing accounting, reimbursement, and payment procedures;
- (v) ~~[except as provided in Subsection (2)(d),]~~ procedures for collecting bad debts;
- (vi) requirements and procedures for the disposition of firearms;
- (vii) ~~[except as provided in Subsection (2)(d),]~~ the elements of the rates or other charges assessed by the division for services and handling;
- (viii) ~~[except as provided in Subsection (2)(d),]~~ procedures governing the timing and location of public sales of state surplus property; [and]
- (ix) procedures governing the [transfer] disposition of information technology equipment; and
- (x) procedures governing the transfer of information technology equipment by state agencies directly to public schools.

(c) Except as it relates to a vehicle or federal surplus property, the rules described in Subsection [(2)] (4)(b)(i) may not require approval by the division, the purchasing director [of the division], or any other person, for [an] a state agency to transfer state surplus property directly to another state agency.

~~[(d) When a state surplus property contractor administers the state's program for disposition of state surplus property:]~~

~~[(i) rules made under the rulemaking authority described in Subsections (2)(b)(v) and (vii) apply only to surplus vehicles; and]~~

~~[(ii) rules made under the rulemaking authority described in Subsection (2)(b)(viii) apply only to surplus vehicles and federal surplus property.]~~

~~[(3) In creating and administering the program, as it relates to surplus vehicles and federal surplus property only, the division shall, when conditions, inventory, and demand permit:]~~

(5) The division may:

(a) establish facilities to store [inventory] state surplus property at [geographically dispersed] appropriate locations throughout the state; [and]

(b) hold public sales of state surplus property at geographically dispersed locations throughout the state;

~~[(c) except as provided in Subsection (3)(d):]~~

~~[(i) establish,]~~ (c) after consultation with the state agency requesting the sale of state surplus property, establish the price at which the surplus property shall be sold; and

~~[(ii)]~~ (d) as provided in Title 63J, Chapter 1, Budgetary Procedures Act, transfer proceeds [arising from] generated by the sale of state surplus property to the state agency requesting the sale [in accordance with Title 63J, Chapter 1, Budgetary Procedures Act, less], reduced by a fee approved in accordance with [Sections 63A-1-114 and 63J-1-410,] Subsection 63A-2-103(3) to pay the division's costs of administering the state surplus property program.

~~[(d) When a state surplus property contractor administers the state's program for disposition of state surplus property, the provisions on Subsection (3)(e) only apply to surplus vehicles.]~~

~~[(4)]~~ (6) Except as otherwise expressly provided in this part, or by explicit reference to this part, each state agency shall divest and acquire state surplus property only by participating in the division's program.

(7) A state agency may declare property owned by the state agency to be state surplus property by making a written determination that the property:

- (a) is excess property that is no longer being used;
- (b) has exceeded its useful life;
- (c) is no longer usable;
- (d) (i) is damaged; and

(ii) (A) cannot be repaired; or

(B) cannot be repaired at a cost that is less than the property's value; or

(e) is no longer required to meet the state agency's needs or responsibilities.

Section 7. Section 63A-2-405 is amended to read:

63A-2-405. Charges and fees assessed for surplus property.

[(4)] If approved in accordance with Sections [63A-1-114 and] 63J-1-410[;] and 63J-1-504, the division may:

[(a) may] (1) assess charges and fees for the acquisition, warehousing, distribution, or transfer of state surplus property or of federal surplus property [for educational, public health, or civil defense purposes, including research, only if those charges and fees are reasonably] [related] to cover the division's [care and] costs of handling [costs of], acquiring, receipting, warehousing, distributing, or transferring [the] state surplus property or federal surplus property; and

[(b) may] (2) reduce or eliminate charges on state surplus property or federal surplus property that is found not to be usable for the purpose for which it was procured.

[(2) When there is a state surplus property contractor:]

[(a) the division may not assess charges or fees to an agency for the acquisition, warehousing, distribution, sale, transfer, or handling of state surplus property; and]

[(b) unless expressly provided otherwise in the contract between the division and the state surplus contractor, the state surplus contractor may not assess charges or fees to an agency for the acquisition, warehousing, distribution, sale, transfer, or handling of state surplus property.]

Section 8. Section 63A-2-408 is amended to read:

63A-2-408. Authority of state or local subdivision to receive property -- Revocation of authority of officer.

(1) Notwithstanding any other provision of law, the governing board or the executive director of any state department, instrumentality, or agency that is not a state agency, or the legislative body of any city, county, school district, or other political subdivision may by order or resolution give any officer or employee the authority to:

[(a) as it relates to federal surplus property:]

[(i)] (a) secure the transfer [to it] of state surplus property or federal surplus property through the division under the property act; and

[(ii)] (b) obligate the state or political subdivision and its funds to the extent necessary to comply with the terms and conditions of those transfers[; and].

[(b) as it relates to surplus property other than federal surplus property:]

[(i) secure the direct transfer of surplus property to it; and]

[(ii) obligate the state or political subdivision and its funds to the extent necessary to comply with the terms and conditions of those transfers.]

(2) The authority conferred upon any officer or employee by an order or resolution remains in effect until:

(a) the order or resolution is revoked; and

(b) the division has received written notice of the revocation.

Section 9. Section 63A-2-409 is amended to read:

63A-2-409. Disposal of certain surplus property.

This part does not apply to disposition by:

(1) the legislative branch of surplus property that is information technology equipment [~~or a personal handheld electronic device~~], if the Legislative Management Committee, by rule, establishes its own policy for disposition, by the legislative branch, of surplus property that is information technology equipment [~~or a personal handheld electronic device~~]; or

(2) the Department of Transportation of surplus personal property that was acquired as part of a transaction or legal action by the Department of Transportation acquiring real property for a state transportation purpose.

Section 10. Section 63A-2-410 is amended to read:

63A-2-410. State surplus property contractor -- Deposit of proceeds.

(1) [(a)] The division [shall, after issuing a request for proposals,] may, as the purchasing director determines, issue a solicitation under Title 63G, Chapter 6a, Utah Procurement Code, and award a contract to a person in the private sector to provide services necessary to administer the state's program for disposition of state surplus property.

[(b) The request for proposals shall seek:]

[(i) proposals that provide that the sole source of payment to the contractor will be a percentage of the amount for which the contractor sells state surplus property; and]

[(ii) proposals that provide for alternative methods of payment.]

[(2) The contract shall:]

[(a) provide that the contractor may sell state surplus property by auction, bid, or other manner designed to get the best price available for the state surplus property;]

[(b) prohibit the contractor from engaging in the sale of state surplus property in a manner that would constitute a conflict of interest;]

~~[(c) require regular and detailed accounting to the division of;]~~

~~[(i) the receipt and sale of state surplus property; and]~~

~~[(ii) the receipt and payment of funds by the contractor; and]~~

~~[(d) ensure public transparency regarding the sale of state surplus property by requiring that the contractor:]~~

~~[(1) post online information related to a sale or attempted sale of state surplus property, including:]~~

~~[(A) a description of the state surplus property;]~~

~~[(B) the agency that requested sale of the surplus property;]~~

~~[(C) the price at which the surplus property was sold; and]~~

~~[(D) the date that the surplus property was sold; and]~~

~~[(ii) post the information described in Subsection (2)(c)(i);]~~

~~[(A) within a time frame described in the contract; and]~~

~~[(B) for a period of time described in the contract.]~~

~~[(3) The contractor may not:]~~

~~[(a) unless expressly provided otherwise in the contract between the division and the contractor:]~~

~~[(i) be required to store state surplus property; or]~~

~~[(ii) charge for the storage of state surplus property;]~~

~~[(b) administer the direct transfer of state surplus property from one agency to another agency;]~~

~~[(c) administer the disposal or destruction, by an agency, of state surplus property as waste;]~~

~~[(d) administer the donation by an agency of state surplus property to a charity; or]~~

~~[(e) administer the disposition of state surplus property under Section 63A-2-406, 63A-2-407, 63A-2-408, or 63A-2-409.]~~

~~[(4) The division shall, after paying the amount owed to the state surplus property contractor, transfer the remaining money received for the sale of a particular item of state surplus property to the agency that requested the sale of the particular item of state surplus property, in accordance with Title 63J, Chapter 1, Budgetary Procedures Act.]~~

~~[(5) The division shall:]~~

~~[(a) on or before August 31, 2013, give an oral report to the Government Operations Interim Committee regarding:]~~

~~[(i) the division's progress and plans in relation to issuing the request for proposals described in this section; and]~~

~~[(ii) rules passed or proposed, on or after May 14, 2013, in relation to the state surplus property program; and]~~

~~[(b) (i) issue the request for proposals described in this section on or before September 30, 2013; or]~~

~~[(ii) in November 2013, give an oral report to the Government Operations Interim Committee, explaining why the request for proposals was not issued on or before September 30, 2013.]~~

(2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules pertaining to the process and procedures relating to services provided by a person awarded a contract under Subsection (1).

Section 11. Section 63A-2-411 is repealed and reenacted to read:

63A-2-411. Disposal of state surplus property with minimal value.

(1) As used in this section, "minimal value" means a value of less than \$100.

(2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules that permit a state agency to dispose of property with a minimal value that the state agency has declared to be state surplus property as provided in Subsection 63A-2-401(7).

(3) The division's rules under Subsection (2) shall permit a state agency to dispose of state surplus property with a minimal value by:

(a) destroying the property;

(b) disposing of the property as waste; or

(c) donating the property to:

(i) a charitable organization; or

(ii) an employee of the state agency.

(4) Property of a state agency is presumed to have a minimal value if the property is not purchased after the state agency offers the property for sale to the public at a price above \$100 for at least seven days:

(a) through an online auction;

(b) through a live auction;

(c) at a retail location managed by the division; or

(d) through another sale method approved by the director.

Section 12. Repealer.

This bill repeals:

Section 63A-2-406, Rulemaking on giving priority to state and local agencies in purchasing surplus property -- Rulemaking on the sale or use of a personal handheld electronic device.

Section 63A-2-407, Transfer of information technology equipment for persons with a disability.

CHAPTER 99**S. B. 141**

Passed February 25, 2015

Approved March 23, 2015

Effective May 12, 2015

JUDICIARY AMENDMENTS

Chief Sponsor: Lyle W. Hillyard

House Sponsor: Kraig Powell

LONG TITLE**General Description:**

This bill makes amendments related to the judiciary.

Highlighted Provisions:

This bill:

- ▶ requires that a petitioner attend the divorce orientation course within 30 days before filing in order to obtain the course discount fee;
- ▶ provides that a magistrate may set bail when making a probable cause determination, and that a bail commissioner may set bail in misdemeanor cases;
- ▶ requires an officer to submit a request for a court order for a criminal investigation of records concerning an electronic communication system or service or remote computing service to a magistrate rather than a district court judge;
- ▶ corrects a reference to the Utah Rules of Civil Procedure regarding depositions;
- ▶ corrects a statutory reference regarding justice court appeals;
- ▶ increases the amount of the court security surcharge;
- ▶ requires the justice court nominating commission to submit three names to the appointing authority;
- ▶ allows a justice court to follow either the established disbursement process for the local jurisdiction, or the procedure as outlined by statute, for juror and witness reimbursement; and
- ▶ makes technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 10-3-920, as last amended by Laws of Utah 2003, Chapter 292
- 17-32-1, as last amended by Laws of Utah 1993, Chapter 227
- 77-20-1, as last amended by Laws of Utah 2013, Chapter 240
- 77-22-2.5, as last amended by Laws of Utah 2014, Chapter 47
- 78A-2-301, as last amended by Laws of Utah 2014, Chapters 189 and 263
- 78A-2-601, as last amended by Laws of Utah 2009, Chapter 200
- 78A-7-118, as last amended by Laws of Utah 2012, Chapters 205 and 380
- 78A-7-202, as last amended by Laws of Utah 2012, Chapter 205

78B-1-122, as renumbered and amended by Laws of Utah 2008, Chapter 3

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

Section 1. Section 10-3-920 is amended to read:**10-3-920. Bail commissioner -- Powers and duties.**

(1) With the advice and consent of the city council and the board of commissioners in other cities, the mayor of a city of the third, fourth, or fifth class may appoint from among the officers and members of the police department of the city one or more discreet persons as a bail commissioner.

(2) A bail commissioner shall have authority to fix and receive bail for a person arrested within the corporate limits of the city in accordance with the uniform bail schedule adopted by the Judicial Council or a reasonable bail for city ordinances not contained in the schedule for:

- (a) misdemeanors under the laws of the state; or
- (b) violation of the city ordinances.

(3) A person who has been ordered by a bail commissioner to give bail may deposit with the bail commissioner the amount:

(a) in money, by cash, certified or cashier's check, personal check with check guarantee card, money order, or credit card, if the bail commissioner has chosen to establish any of those options; or

(b) by a bond issued by a licensed bail bond surety ~~[qualified under the rules of the Judicial Council]~~.

(4) Any money or bond collected by a bail commissioner shall be delivered to the appropriate court within three days of receipt of the money or bond.

(5) The court may review the amount of bail ordered by a bail commissioner and modify the amount of bail required for good cause.

Section 2. Section 17-32-1 is amended to read:**17-32-1. Powers and duties of bail commissioners.**

(1) The county executive, with the advice and consent of the county legislative body, may appoint one or more responsible and discreet members of the sheriff's department of the county as a bail commissioner.

(2) A bail commissioner ~~[shall have authority to]~~ may:

(a) receive bail for persons arrested in the county for a felony; and

(b) fix and receive bail for persons arrested in the county for [misdemeanors] a misdemeanor under the laws of the state, or for a violation of any of the county ordinances in accordance with the uniform bail schedule adopted by the Judicial Council or a reasonable bail for county ordinances not contained in the schedule.

(3) Any person who has been ordered by a magistrate, judge, or bail commissioner to give bail may deposit the amount with the bail commissioner:

(a) in money, by cash, certified or cashier's check, personal check with check guarantee card, money order, or credit card, if the bail commissioner has chosen to establish any of those options; or

(b) by a bond issued by a licensed bail bond surety ~~[qualified under the rules of the Judicial Council].~~

(4) Any money or bond collected by a bail commissioner shall be delivered to the appropriate court within three days of receipt of the money or bond.

(5) The court may review the amount of bail ordered by a bail commissioner and may modify the amount of bail required for good cause.

Section 3. Section 77-20-1 is amended to read:

77-20-1. Right to bail -- Denial of bail -- Hearing.

(1) A person charged with or arrested for a criminal offense shall be admitted to bail as a matter of right, except if the person is charged with a:

(a) capital felony, when the court finds there is substantial evidence to support the charge;

(b) felony committed while on probation or parole, or while free on bail awaiting trial on a previous felony charge, when the court finds there is substantial evidence to support the current felony charge;

(c) felony when there is substantial evidence to support the charge and the court finds by clear and convincing evidence that the person would constitute a substantial danger to any other person or to the community, or is likely to flee the jurisdiction of the court, if released on bail; or

(d) felony when the court finds there is substantial evidence to support the charge and it finds by clear and convincing evidence that the person violated a material condition of release while previously on bail.

(2) Any person who may be admitted to bail may be released either on the person's own recognizance or upon posting bail, on condition that the person appear in court for future court proceedings in the case, and on any other conditions imposed in the discretion of the magistrate or court that will reasonably:

(a) ensure the appearance of the accused;

(b) ensure the integrity of the court process;

(c) prevent direct or indirect contact with witnesses or victims by the accused, if appropriate; and

(d) ensure the safety of the public.

(3) (a) ~~[The]~~ Except as otherwise provided, the initial order denying or fixing the amount of bail shall be issued by the magistrate or court issuing the warrant of arrest ~~[or by the magistrate or court presiding over the accused's first judicial appearance].~~

(b) A magistrate may set bail upon determining that there was probable cause for a warrantless arrest.

(c) A bail commissioner may set bail in a misdemeanor case in accordance with Sections 10-3-920 and 17-32-1.

~~(b)~~ (d) A person arrested for a violation of a jail release agreement or jail release order issued pursuant to Section 77-36-2.5:

(i) may not be released before the accused's first judicial appearance; and

(ii) may be denied bail by the court under Subsection 77-36-2.5(8) or (12).

(4) The magistrate or court may rely upon information contained in:

(a) the indictment or information;

(b) any sworn probable cause statement;

(c) information provided by any pretrial services agency; or

(d) any other reliable record or source.

(5) (a) A motion to modify the initial order may be made by a party at any time upon notice to the opposing party sufficient to permit the opposing party to prepare for hearing and to permit any victim to be notified and be present.

(b) Hearing on a motion to modify may be held in conjunction with a preliminary hearing or any other pretrial hearing.

(c) The magistrate or court may rely on information as provided in Subsection (4) and may base its ruling on evidence provided at the hearing so long as each party is provided an opportunity to present additional evidence or information relevant to bail.

(6) Subsequent motions to modify bail orders may be made only upon a showing that there has been a material change in circumstances.

(7) An appeal may be taken from an order of any court denying bail to the Supreme Court, which shall review the determination under Subsection (1).

(8) For purposes of this section, any arrest or charge for a violation of Section 76-5-202, Aggravated murder, is a capital felony unless:

(a) the prosecutor files a notice of intent to not seek the death penalty; or

(b) the time for filing a notice to seek the death penalty has expired and the prosecutor has not filed a notice to seek the death penalty.

Section 4. Section 77-22-2.5 is amended to read:

77-22-2.5. Court orders for criminal investigations for records concerning an electronic communications system or service or remote computing service -- Content -- Fee for providing information.

(1) As used in this section:

(a) (i) "Electronic communication" means any transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photoelectronic, or photooptical system.

(ii) "Electronic communication" does not include:

(A) any wire or oral communication;

(B) any communication made through a tone-only paging device;

(C) any communication from a tracking device; or

(D) electronic funds transfer information stored by a financial institution in a communications system used for the electronic storage and transfer of funds.

(b) "Electronic communications service" means any service which provides for users the ability to send or receive wire or electronic communications.

(c) "Electronic communications system" means any wire, radio, electromagnetic, photooptical, or photoelectronic facilities for the transmission of wire or electronic communications, and any computer facilities or related electronic equipment for the electronic storage of the communication.

(d) "Internet service provider" has the same definition as in Section 76-10-1230.

(e) "Prosecutor" has the same definition as in Section 77-22-2.

~~[(f) "Sexual offense against a minor" means:]~~

~~[(i) sexual exploitation of a minor as defined in Section 76-5b-201 or attempted sexual exploitation of a minor;]~~

~~[(ii) a sexual offense or attempted sexual offense committed against a minor in violation of Title 76, Chapter 5, Part 4, Sexual Offenses;]~~

~~[(iii) dealing in or attempting to deal in material harmful to a minor in violation of Section 76-10-1206; or]~~

~~[(iv) enticement of a minor or attempted enticement of a minor in violation of Section 76-4-401.]~~

~~[(g) "Remote computing service" means the provision to the public of computer storage or processing services by means of an electronic communications system.]~~

(f) "Remote computing service" means the provision to the public of computer storage or processing services by means of an electronic communications system.

(g) "Sexual offense against a minor" means:

(i) sexual exploitation of a minor as defined in Section 76-5b-201 or attempted sexual exploitation of a minor;

(ii) a sexual offense or attempted sexual offense committed against a minor in violation of Title 76, Chapter 5, Part 4, Sexual Offenses;

(iii) dealing in or attempting to deal in material harmful to a minor in violation of Section 76-10-1206; or

(iv) enticement of a minor or attempted enticement of a minor in violation of Section 76-4-401.

(2) When a law enforcement agency is investigating a sexual offense against a minor, an offense of stalking under Section 76-5-106.5, or an offense of child kidnapping under Section 76-5-301.1, and has reasonable suspicion that an electronic communications system or service or remote computing service has been used in the commission of a criminal offense, a law enforcement agent shall:

(a) articulate specific facts showing reasonable grounds to believe that the records or other information sought, as designated in [Subsection] Subsections (1)(c)(i) through (v), are relevant and material to an ongoing investigation;

(b) present the request to a prosecutor for review and authorization to proceed; and

(c) submit the request to a [district court judge] magistrate for a court order, consistent with 18 U.S.C. 2703 and 18 U.S.C. 2702, to the electronic communications system or service or remote computing service provider that owns or controls the Internet protocol address, websites, email address, or service to a specific telephone number, requiring the production of the following information, if available, upon providing in the court order the Internet protocol address, email address, telephone number, or other identifier, and the dates and times the address, telephone number, or other identifier was suspected of being used in the commission of the offense:

(i) names of subscribers, service customers, and users;

(ii) addresses of subscribers, service customers, and users;

(iii) records of session times and durations;

(iv) length of service, including the start date and types of service utilized; and

(v) telephone or other instrument subscriber numbers or other subscriber identifiers, including any temporarily assigned network address.

(3) A court order issued under this section shall state that the electronic communications system or service or remote computing service provider shall produce any records under Subsections (2)(c)(i) through (v) that are reasonably relevant to the investigation of the suspected criminal activity or offense as described in the court order.

(4) (a) An electronic communications system or service or remote computing service provider that provides information in response to a court order issued under this section may charge a fee, not to exceed the actual cost, for providing the information.

(b) The law enforcement agency conducting the investigation shall pay the fee.

(5) The electronic communications system or service or remote computing service provider served with or responding to the court order may not disclose the court order to the account holder identified pursuant to the court order for a period of 90 days.

(6) If the electronic communications system or service or remote computing service provider served with the court order does not own or control the Internet protocol address, websites, or email address, or provide service for the telephone number that is the subject of the court order, the provider shall notify the investigating law enforcement agency that it does not have the information.

(7) There is no cause of action against any provider or wire or electronic communication service, or its officers, employees, agents, or other specified persons, for providing information, facilities, or assistance in accordance with the terms of the court order issued under this section or statutory authorization.

(8) (a) A court order issued under this section is subject to the provisions of Title 77, Chapter 23b, Access to Electronic Communications.

(b) Rights and remedies for providers and subscribers under Title 77, Chapter 23b, Access to Electronic Communications, apply to providers and subscribers subject to a court order issued under this section.

(9) Every prosecutorial agency shall annually on or before February 15 report to the Commission on Criminal and Juvenile Justice:

(a) the number of requests for court orders authorized by the prosecutorial agency;

(b) the number of orders issued by the court and the criminal offense, pursuant to Subsection (2), each order was used to investigate; and

(c) if the court order led to criminal charges being filed, the type and number of offenses charged.

Section 5. Section 78A-2-301 is amended to read:

78A-2-301. Civil fees of the courts of record -- Courts complex design.

(1) (a) The fee for filing any civil complaint or petition invoking the jurisdiction of a court of record not governed by another subsection is \$360.

(b) The fee for filing a complaint or petition is:

(i) \$75 if the claim for damages or amount in interpleader exclusive of court costs, interest, and attorney fees is \$2,000 or less;

(ii) \$185 if the claim for damages or amount in interpleader exclusive of court costs, interest, and attorney fees is greater than \$2,000 and less than \$10,000;

(iii) \$360 if the claim for damages or amount in interpleader is \$10,000 or more;

(iv) \$310 if the petition is filed under Title 30, Chapter 3, Divorce, or Title 30, Chapter 4, Separate Maintenance;

(v) \$35 for a motion for temporary separation order filed under Section 30-3-4.5; and

(vi) \$125 if the petition is for removal from the Sex Offender and Kidnap Offender Registry under Section 77-41-112.

(c) The fee for filing a small claims affidavit is:

(i) \$60 if the claim for damages or amount in interpleader exclusive of court costs, interest, and attorney fees is \$2,000 or less;

(ii) \$100 if the claim for damages or amount in interpleader exclusive of court costs, interest, and attorney fees is greater than \$2,000, but less than \$7,500; and

(iii) \$185 if the claim for damages or amount in interpleader exclusive of court costs, interest, and attorney fees is \$7,500 or more.

(d) The fee for filing a counter claim, cross claim, complaint in intervention, third party complaint, or other claim for relief against an existing or joined party other than the original complaint or petition is:

(i) \$55 if the claim for relief exclusive of court costs, interest, and attorney fees is \$2,000 or less;

(ii) \$150 if the claim for relief exclusive of court costs, interest, and attorney fees is greater than \$2,000 and less than \$10,000;

(iii) \$155 if the original petition is filed under Subsection (1)(a), the claim for relief is \$10,000 or more, or the party seeks relief other than monetary damages; and

(iv) \$115 if the original petition is filed under Title 30, Chapter 3, Divorce, or Title 30, Chapter 4, Separate Maintenance.

(e) The fee for filing a small claims counter affidavit is:

(i) \$50 if the claim for relief exclusive of court costs, interest, and attorney fees is \$2,000 or less;

(ii) \$70 if the claim for relief exclusive of court costs, interest, and attorney fees is greater than \$2,000, but less than \$7,500; and

(iii) \$120 if the claim for relief exclusive of court costs, interest, and attorney fees is \$7,500 or more.

(f) The fee for depositing funds under Section 57-1-29 when not associated with an action already before the court is determined under Subsection (1)(b) based on the amount deposited.

(g) The fee for filing a petition is:

(i) \$225 for trial de novo of an adjudication of the justice court or of the small claims department; and

(ii) \$65 for an appeal of a municipal administrative determination in accordance with Section 10-3-703.7.

(h) The fee for filing a notice of appeal, petition for appeal of an interlocutory order, or petition for writ of certiorari is \$225.

(i) The fee for filing a petition for expungement is \$135.

(j) (i) Fifteen dollars of the fees established by Subsections (1)(a) through (i) shall be allocated to and between the Judges' Contributory Retirement Trust Fund and the Judges' Noncontributory Retirement Trust Fund, as provided in Title 49, Chapter 17, Judges' Contributory Retirement Act, and Title 49, Chapter 18, Judges' Noncontributory Retirement Act.

(ii) Four dollars of the fees established by Subsections (1)(a) through (i) shall be allocated by the state treasurer to be deposited in the restricted account, Children's Legal Defense Account, as provided in Section 51-9-408.

(iii) Three dollars of the fees established under Subsections (1)(a) through (e), (1)(g), and (1)(s) shall be allocated to and deposited with the Dispute Resolution Account as provided in Section 78B-6-209.

(iv) Fifteen dollars of the fees established by Subsections (1)(a), (1)(b)(iii) and (iv), (1)(d)(iii) and (iv), (1)(g)(ii), (1)(h), and (1)(i) shall be allocated by the state treasurer to be deposited in the restricted account, Court Security Account, as provided in Section 78A-2-602.

(v) Five dollars of the fees established by Subsections (1)(b)(i) and (ii), (1)(d)(ii) and (1)(g)(i) shall be allocated by the state treasurer to be deposited in the restricted account, Court Security Account, as provided in Section 78A-2-602.

(k) The fee for filing a judgment, order, or decree of a court of another state or of the United States is \$35.

(l) The fee for filing a renewal of judgment in accordance with Section 78B-6-1801 is 50% of the fee for filing an original action seeking the same relief.

(m) The fee for filing probate or child custody documents from another state is \$35.

(n) (i) The fee for filing an abstract or transcript of judgment, order, or decree of the Utah State Tax Commission is \$30.

(ii) The fee for filing an abstract or transcript of judgment of a court of law of this state or a judgment, order, or decree of an administrative agency, commission, board, council, or hearing officer of this state or of its political subdivisions other than the Utah State Tax Commission, is \$50.

(o) The fee for filing a judgment by confession without action under Section 78B-5-205 is \$35.

(p) The fee for filing an award of arbitration for confirmation, modification, or vacation under Title 78B, Chapter 11, Utah Uniform Arbitration Act, that is not part of an action before the court is \$35.

(q) The fee for filing a petition or counter-petition to modify a domestic relations order other than a protective order or stalking injunction is \$100.

(r) The fee for filing any accounting required by law is:

(i) \$15 for an estate valued at \$50,000 or less;

(ii) \$30 for an estate valued at \$75,000 or less but more than \$50,000;

(iii) \$50 for an estate valued at \$112,000 or less but more than \$75,000;

(iv) \$90 for an estate valued at \$168,000 or less but more than \$112,000; and

(v) \$175 for an estate valued at more than \$168,000.

(s) The fee for filing a demand for a civil jury is \$250.

(t) The fee for filing a notice of deposition in this state concerning an action pending in another state under Utah ~~Rule~~ Rules of Civil Procedure ~~[26]~~, Rule 30 is \$35.

(u) The fee for filing documents that require judicial approval but are not part of an action before the court is \$35.

(v) The fee for a petition to open a sealed record is \$35.

(w) The fee for a writ of replevin, attachment, execution, or garnishment is \$50 in addition to any fee for a complaint or petition.

(x) (i) The fee for a petition for authorization for a minor to marry required by Section 30-1-9 is \$5.

(ii) The fee for a petition for emancipation of a minor provided in Title 78A, Chapter 6, Part 8, Emancipation, is \$50.

(y) The fee for a certificate issued under Section 26-2-25 is \$8.

(z) The fee for a certified copy of a document is \$4 per document plus 50 cents per page.

(aa) The fee for an exemplified copy of a document is \$6 per document plus 50 cents per page.

(bb) The Judicial Council shall by rule establish a schedule of fees for copies of documents and forms and for the search and retrieval of records under Title 63G, Chapter 2, Government Records Access and Management Act. Fees under this Subsection (1)(bb) shall be credited to the court as a reimbursement of expenditures.

(cc) There is no fee for services or the filing of documents not listed in this section or otherwise provided by law.

(dd) Except as provided in this section, all fees collected under this section are paid to the General

Fund. Except as provided in this section, all fees shall be paid at the time the clerk accepts the pleading for filing or performs the requested service.

(ee) The filing fees under this section may not be charged to the state, its agencies, or political subdivisions filing or defending any action. In judgments awarded in favor of the state, its agencies, or political subdivisions, except the Office of Recovery Services, the court shall order the filing fees and collection costs to be paid by the judgment debtor. The sums collected under this Subsection (1)(ee) shall be applied to the fees after credit to the judgment, order, fine, tax, lien, or other penalty and costs permitted by law.

(2) (a) (i) From March 17, 1994 until June 30, 1998, the administrator of the courts shall transfer all revenues representing the difference between the fees in effect after May 2, 1994, and the fees in effect before February 1, 1994, as dedicated credits to the Division of Facilities Construction and Management Capital Projects Fund.

(ii) (A) Except as provided in Subsection (2)(a)(ii)(B), the Division of Facilities Construction and Management shall use up to \$3,750,000 of the revenue deposited in the Capital Projects Fund under this Subsection (2)(a) to design and take other actions necessary to initiate the development of a courts complex in Salt Lake City.

(B) If the Legislature approves funding for construction of a courts complex in Salt Lake City in the 1995 Annual General Session, the Division of Facilities Construction and Management shall use the revenue deposited in the Capital Projects Fund under this Subsection (2)(a)(ii) to construct a courts complex in Salt Lake City.

(C) After the courts complex is completed and all bills connected with its construction have been paid, the Division of Facilities Construction and Management shall use any money remaining in the Capital Projects Fund under this Subsection (2)(a)(ii) to fund the Vernal District Court building.

(iii) The Division of Facilities Construction and Management may enter into agreements and make expenditures related to this project before the receipt of revenues provided for under this Subsection (2)(a)(iii).

(iv) The Division of Facilities Construction and Management shall:

(A) make those expenditures from unexpended and unencumbered building funds already appropriated to the Capital Projects Fund; and

(B) reimburse the Capital Projects Fund upon receipt of the revenues provided for under this Subsection (2).

(b) After June 30, 1998, the administrator of the courts shall ensure that all revenues representing the difference between the fees in effect after May 2, 1994, and the fees in effect before February 1, 1994, are transferred to the Division of Finance for deposit in the restricted account.

(c) The Division of Finance shall deposit all revenues received from the court administrator into the restricted account created by this section.

(d) (i) From May 1, 1995, until June 30, 1998, the administrator of the courts shall transfer \$7 of the amount of a fine or bail forfeiture paid for a violation of Title 41, Motor Vehicles, in a court of record to the Division of Facilities Construction and Management Capital Projects Fund. The division of money pursuant to Section 78A-5-110 shall be calculated on the balance of the fine or bail forfeiture paid.

(ii) After June 30, 1998, the administrator of the courts or a municipality shall transfer \$7 of the amount of a fine or bail forfeiture paid for a violation of Title 41, Motor Vehicles, in a court of record to the Division of Finance for deposit in the restricted account created by this section. The division of money pursuant to Section 78A-5-110 shall be calculated on the balance of the fine or bail forfeiture paid.

(3) (a) There is created within the General Fund a restricted account known as the State Courts Complex Account.

(b) The Legislature may appropriate money from the restricted account to the administrator of the courts for the following purposes only:

(i) to repay costs associated with the construction of the court complex that were funded from sources other than revenues provided for under this Subsection (3)(b)(i); and

(ii) to cover operations and maintenance costs on the court complex.

Section 6. Section 78A-2-601 is amended to read:

78A-2-601. Security surcharge -- Application and exemptions -- Deposit in restricted account.

(1) In addition to any fine, penalty, forfeiture, or other surcharge, a security surcharge of [~~\$33~~] \$43 shall be assessed in all courts of record on all criminal convictions and juvenile delinquency judgments.

(2) The security surcharge may not be imposed upon:

(a) nonmoving traffic violations;

(b) community service; and

(c) penalties assessed by the juvenile court as part of the nonjudicial adjustment of a case under Section 78A-6-602.

(3) The security surcharge shall be collected after the surcharge under Section 51-9-401, but before any fine, and deposited with the state treasurer. A fine that would otherwise have been charged may not be reduced due to the imposition of the security surcharge.

(4) The state treasurer shall deposit the collected security surcharge in the restricted account, Court Security Account, as provided in Section 78A-2-602.

Section 7. Section 78A-7-118 is amended to read:

78A-7-118. Appeals from justice court -- Trial or hearing de novo in district court.

(1) In a criminal case, a defendant is entitled to a trial de novo in the district court only if the defendant files a notice of appeal within 30 days of:

(a) sentencing, except as provided in Subsection [(3)] (4)(b); or

(b) a plea of guilty or no contest in the justice court that is held in abeyance.

(2) Upon filing a proper notice of appeal, any term of a sentence imposed by the justice court shall be stayed as provided for in Section 77-20-10 and the Rules of Criminal Procedure.

(3) If an appeal under Subsection (1) is of a plea entered pursuant to negotiation with the prosecutor, and the defendant did not reserve the right to appeal as part of the plea negotiation, the negotiation is voided by the appeal.

(4) A defendant convicted and sentenced in justice court is entitled to a hearing de novo in the district court on the following matters, if the defendant files a notice of appeal within 30 days of:

(a) an order revoking probation;

(b) an order entering a judgment of guilt pursuant to the person's failure to fulfil the terms of a plea in abeyance agreement;

(c) a sentence entered pursuant to Subsection (4)(b); or

(d) an order denying a motion to withdraw a plea.

(5) The prosecutor is entitled to a hearing de novo in the district court on:

(a) a final judgment of dismissal;

(b) an order arresting judgment;

(c) an order terminating the prosecution because of a finding of double jeopardy or denial of a speedy trial;

(d) a judgment holding invalid any part of a statute or ordinance;

(e) a pretrial order excluding evidence, when the prosecutor certifies that exclusion of that evidence prevents continued prosecution of an infraction or class C misdemeanor;

(f) a pretrial order excluding evidence, when the prosecutor certifies that exclusion of that evidence impairs continued prosecution of a class B misdemeanor; or

(g) an order granting a motion to withdraw a plea of guilty or no contest.

(6) A notice of appeal for a hearing de novo in the district court on a pretrial order excluding evidence under Subsection (5)(e) or (f) shall be filed within 30 days of the order excluding the evidence.

(7) Upon entering a decision in a hearing de novo, the district court shall remand the case to the justice court unless:

(a) the decision results in immediate dismissal of the case;

(b) with agreement of the parties, the district court consents to retain jurisdiction; or

(c) the defendant enters a plea of guilty or no contest in the district court.

(8) The district court shall retain jurisdiction over the case on trial de novo.

(9) The decision of the district court is final and may not be appealed unless the district court rules on the constitutionality of a statute or ordinance.

Section 8. Section 78A-7-202 is amended to read:

78A-7-202. Justice court judges to be appointed -- Procedure.

(1) As used in this section:

(a) "Local government executive" means:

(i) for a county:

(A) the chair of the county commission in a county operating under the county commission or expanded county commission form of county government;

(B) the county executive in a county operating under the county executive-council form of county government; and

(C) the county manager in a county operating under the council-manager form of county government; and

(ii) for a city or town:

(A) the mayor of the city or town; or

(B) the city manager, in the council-manager form of government described in Subsection 10-3b-103(6).

(b) "Local legislative body" means:

(i) for a county, the county commission or county council; and

(ii) for a city or town, the council of the city or town.

(2) There is created in each county a county justice court nominating commission to review applicants and make recommendations to the appointing authority for a justice court position. The commission shall be convened when a new justice court judge position is created or when a vacancy in an existing court occurs for a justice court located within the county.

(a) Membership of the justice court nominating commission shall be as follows:

(i) one member appointed by:

(A) the county commission if the county has a county commission form of government; or

(B) the county executive if the county has an executive-council form of government;

(ii) one member appointed by the municipalities in the counties as follows:

(A) if the county has only one municipality, appointment shall be made by the governing authority of that municipality; or

(B) if the county has more than one municipality, appointment shall be made by a municipal selection committee composed of the mayors of each municipality in the county;

(iii) one member appointed by the county bar association; and

(iv) two members appointed by the governing authority of the jurisdiction where the judicial office is located.

(b) If there is no county bar association, the member in Subsection (2)(a)(iii) shall be appointed by the regional bar association. If no regional bar association exists, the state bar association shall make the appointment.

(c) Members appointed under Subsections (2)(a)(i) and (ii) may not be the appointing authority or an elected official of a county or municipality.

(d) The nominating commission shall submit at least ~~two~~ three names to the appointing authority of the jurisdiction expected to be served by the judge. The local government executive shall appoint a judge from the list submitted and the appointment ratified by the local legislative body.

(e) The state court administrator shall provide staff to the commission. The Judicial Council shall establish rules and procedures for the conduct of the commission.

(3) Judicial vacancies shall be advertised in a newspaper of general circulation, through the Utah State Bar, and other appropriate means.

(4) Selection of candidates shall be based on compliance with the requirements for office and competence to serve as a judge.

(5) Once selected, every prospective justice court judge shall attend an orientation seminar conducted under the direction of the Judicial Council. Upon completion of the orientation program, the Judicial Council shall certify the justice court judge as qualified to hold office.

(6) The selection of a person to fill the office of justice court judge is effective upon certification of the judge by the Judicial Council. A justice court judge may not perform judicial duties until certified by the Judicial Council.

Section 9. Section 78B-1-122 is amended to read:

78B-1-122. Jurors and witnesses -- Justice court judge -- Certificate of attendance -- Records and reporting.

Every justice court shall follow the established disbursement process for juror and witness fees

within the town, city, or county, or use the following procedure.

(1) ~~Every~~ A justice court judge shall ~~give~~ provide to each person who has served ~~before him~~ as a juror or as a witness in a criminal ~~cause~~ case when summoned for the prosecution by the county or city attorney, or for the defense by order of the court, a numbered certificate~~, in which must be stated~~ that contains:

(a) the name of the juror or witness;

(b) the title of the proceeding;

(c) the number of days in attendance;

(d) the number of miles traveled if the witness has traveled more than 50 miles in going only; and

(e) the amount due.

(2) The certificate shall be presented to the county or city attorney. When certified as being correct, it shall be presented to the county or city auditor and when allowed by the county executive or town council, the auditor shall draw a warrant for it on the treasurer.

(3) Every justice court judge shall keep a record of all certificates issued. The record shall show all of the facts stated in each certificate. On the first Monday of each month a detailed statement of all certificates issued shall be filed with the treasurer.

CHAPTER 100**H. B. 27**

Passed February 19, 2015

Approved March 24, 2015

Effective May 12, 2015

**DEPARTMENT OF CORRECTIONS
RETIREMENT AMENDMENTS**Chief Sponsor: Eric K. Hutchings
Senate Sponsor: Jerry W. Stevenson**LONG TITLE****General Description:**

This bill modifies the Public Safety Contributory Retirement Act and the Public Safety Noncontributory Retirement Act by amending system membership provisions for employees of the Department of Corrections.

Highlighted Provisions:

This bill:

- ▶ provides that an employee of the Department of Corrections shall continue to earn public safety service credit in the Public Safety Retirement System if the employee's position is no longer covered for new employees and the employee:
 - remains employed by the Department of Corrections;
 - meets the eligibility requirements of the system;
 - was hired into a covered position prior to July 1, 2015; and
 - has not had a break in service on or after July 1, 2015; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

49-14-201, as last amended by Laws of Utah 2014, Chapter 15

49-15-201, as last amended by Laws of Utah 2014, Chapter 15

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

Section 1. Section 49-14-201 is amended to read:**49-14-201. System membership -- Eligibility.**

(1) Except as provided in Section 49-15-201, a public safety service employee of a participating employer participating in this system is eligible for service credit in this system at the earliest of:

(a) July 1, 1969, if the public safety service employee was employed by the participating employer on July 1, 1969, and the participating employer was participating in this system on that date;

(b) the date the participating employer begins participating in this system if the public safety

service employee was employed by the participating employer on that date; or

(c) the date the public safety service employee is employed by the participating employer and is eligible to perform public safety service, except that a public safety service employee initially entering employment with a participating employer on or after July 1, 2011, who does not have service credit accrued before July 1, 2011, in a Tier I system or plan administered by the board, may not participate in this system.

(2) (a) (i) A participating employer that has public safety service and firefighter service employees that require cross-training and duty shall enroll those dual purpose employees in the system in which the greatest amount of time is actually worked.

(ii) The employees shall either be full-time public safety service or full-time firefighter service employees of the participating employer.

(b) (i) Prior to transferring a dual purpose employee from one system to another, the participating employer shall receive written permission from the office.

(ii) The office may request documentation to verify the appropriateness of the transfer.

(3) The board may combine or segregate the actuarial experience of participating employers in this system for the purpose of setting contribution rates.

(4) (a) (i) Each participating employer participating in this system shall annually submit to the office a schedule indicating the positions to be covered under this system in accordance with this chapter.

(ii) The office may require documentation to justify the inclusion of any position under this system.

(b) If there is a dispute between the office and a participating employer or employee over any position to be covered, the disputed position shall be submitted to the Peace Officer Standards and Training Council established under Section 53-6-106 for determination.

(c) (i) The Peace Officer Standards and Training Council's authority to decide eligibility for public safety service credit is limited to claims for coverage under this system for time periods after July 1, 1989.

(ii) A decision of the Peace Officer Standards and Training Council may not be applied to service credit earned in another system prior to July 1, 1989.

(iii) Except as provided under Subsection (4)(c)(iv), a decision of the Peace Officer Standards and Training Council granting a position coverage under this system may only be applied prospectively from the date of that decision.

(iv) A decision of the Peace Officer Standards and Training Council granting a position coverage

under this system may be applied retroactively only if:

(A) the participating employer covered other similarly situated positions under this system during the time period in question; and

(B) the position otherwise meets all eligibility requirements for receiving service credit in this system during the period for which service credit is to be granted.

(5) The Peace Officer Standards and Training Council may use a subcommittee to provide a recommendation to the council in determining disputes between the office and a participating employer or employee over a position to be covered under this system.

(6) The Peace Officer Standards and Training Council shall comply with Title 63G, Chapter 4, Administrative Procedures Act, in resolving coverage disputes in this system.

(7) A public safety employee who is transferred or promoted to an administration position not covered by this system shall continue to earn public safety service credit in this system as long as the employee remains employed in the same department.

(8) An employee of the Department of Corrections shall continue to earn public safety service credit in this system if:

(a) the employee's position is no longer covered under this system for new employees hired on or after July 1, 2015; and

(b) the employee:

(i) remains employed by the Department of Corrections;

(ii) meets the eligibility requirements of this system;

(iii) was hired into a position covered by this system prior to July 1, 2015; and

(iv) has not had a break in service on or after July 1, 2015.

~~[(8) Any]~~ (9) An employee who is reassigned to the Department of Technology Services or to the Department of Human Resource Management, and who was a member of this system, ~~shall be~~ is entitled to remain a member of this system.

[(9)] (10) (a) To determine that a position is covered under this system, the office and, if a coverage dispute arises, the Peace Officer Standards and Training Council shall find that the position requires the employee to:

(i) place the employee's life or personal safety at risk; and

(ii) complete training as provided in Section 53-13-103, 53-13-104, or 53-13-105.

(b) If a position satisfies the requirements of Subsection [(9)] (10)(a), the office and the Peace Officer Standards and Training Council shall

consider whether or not the position requires the employee to:

(i) perform duties that consist primarily of actively preventing or detecting crime and enforcing criminal statutes or ordinances of this state or any of its political subdivisions;

(ii) perform duties that consist primarily of providing community protection; and

(iii) respond to situations involving threats to public safety and make emergency decisions affecting the lives and health of others.

[(40)] (11) If a subcommittee is used to recommend the determination of disputes to the Peace Officer Standards and Training Council, the subcommittee shall comply with the requirements of Subsection [(9)] (10) in making its recommendation.

[(41)] (12) A final order of the Peace Officer Standards and Training Council regarding a dispute is a final agency action for purposes of Title 63G, Chapter 4, Administrative Procedures Act.

[(42)] (13) Except as provided under Subsection [(43)] (14), if a participating employer's public safety service employees are not covered by this system or under Chapter 15, Public Safety Noncontributory Retirement Act, as of January 1, 1998, those public safety service employees who may otherwise qualify for membership in this system shall, at the discretion of the participating employer, remain in their current retirement system.

[(43)] (14) (a) A public safety service employee employed by an airport police department, which elects to cover its public safety service employees under the Public Safety Noncontributory Retirement System under Subsection [(42)] (13), may elect to remain in the public safety service employee's current retirement system.

(b) The public safety service employee's election to remain in the current retirement system under Subsection [(43)] (14)(a):

(i) shall be made at the time the employer elects to move its public safety service employees to a public safety retirement system;

(ii) documented by written notice to the participating employer; and

(iii) is irrevocable.

[(44)] (15) Notwithstanding any other provision of this section, a person initially entering employment with a participating employer on or after July 1, 2011, who does not have service credit accrued before July 1, 2011, in a Tier I system or plan administered by the board, may not participate in this system.

Section 2. Section 49-15-201 is amended to read:

49-15-201. System membership -- Eligibility.

(1) (a) A public safety service employee employed by the state after July 1, 1989, but before July 1, 2011, is eligible for service credit in this system.

(b) A public safety service employee employed by the state prior to July 1, 1989, may either elect to receive service credit in this system or continue to receive service credit under the system established under Chapter 14, Public Safety Contributory Retirement Act, by following the procedures established by the board under this chapter.

(2) (a) Public safety service employees of a participating employer other than the state that elected on or before July 1, 1989, to remain in the Public Safety Contributory Retirement System shall be eligible only for service credit in that system.

(b) (i) A participating employer other than the state that elected on or before July 1, 1989, to participate in this system shall, have allowed, prior to July 1, 1989, a public safety service employee to elect to participate in either this system or the Public Safety Contributory Retirement System.

(ii) Except as expressly allowed by this title, the election of the public safety service employee is final and may not be changed.

(c) A public safety service employee hired by a participating employer other than the state after July 1, 1989, but before July 1, 2011, shall become a member in this system.

(d) A public safety service employee of a participating employer other than the state who began participation in this system after July 1, 1989, but before July 1, 2011, is only eligible for service credit in this system.

(e) A person initially entering employment with a participating employer on or after July 1, 2011, who does not have service credit accrued before July 1, 2011, in a Tier I system or plan administered by the board, may not participate in this system.

(3) (a) (i) A participating employer that has public safety service and firefighter service employees that require cross-training and duty shall enroll those dual purpose employees in the system in which the greatest amount of time is actually worked.

(ii) The employees shall either be full-time public safety service or full-time firefighter service employees of the participating employer.

(b) (i) Prior to transferring a dual purpose employee from one system to another, the participating employer shall receive written permission from the office.

(ii) The office may request documentation to verify the appropriateness of the transfer.

(4) The board may combine or segregate the actuarial experience of participating employers in this system for the purpose of setting contribution rates.

(5) (a) (i) Each participating employer participating in this system shall annually submit to the office a schedule indicating the positions to be covered under this system in accordance with this chapter.

(ii) The office may require documentation to justify the inclusion of any position under this system.

(b) If there is a dispute between the office and a participating employer or employee over any position to be covered, the disputed position shall be submitted to the Peace Officer Standards and Training Council established under Section 53-6-106 for determination.

(c) (i) The Peace Officer Standards and Training Council's authority to decide eligibility for public safety service credit is limited to claims for coverage under this system for time periods after July 1, 1989.

(ii) A decision of the Peace Officer Standards and Training Council may not be applied to service credit earned in another system prior to July 1, 1989.

(iii) Except as provided under Subsection (5)(c)(iv), a decision of the Peace Officer Standards and Training Council granting a position coverage under this system may only be applied prospectively from the date of that decision.

(iv) A decision of the Peace Officer Standards and Training Council granting a position coverage under this system may be applied retroactively only if:

(A) the participating employer covered other similarly situated positions under this system during the time period in question; and

(B) the position otherwise meets all eligibility requirements for receiving service credit in this system during the period for which service credit is to be granted.

(6) The Peace Officer Standards and Training Council may use a subcommittee to provide a recommendation to the council in determining disputes between the office and a participating employer or employee over a position to be covered under this system.

(7) The Peace Officer Standards and Training Council shall comply with Title 63G, Chapter 4, Administrative Procedures Act, in resolving coverage disputes in this system.

(8) A public safety service employee who is transferred or promoted to an administration position not covered by this system shall continue to earn public safety service credit in this system as long as the employee remains employed in the same department.

(9) An employee of the Department of Corrections shall continue to earn public safety service credit in this system if:

(a) the employee's position is no longer covered under this system for new employees hired on or after July 1, 2015; and

(b) the employee:

(i) remains employed by the Department of Corrections;

(ii) meets the eligibility requirements of this system;

(iii) was hired into a position covered by this system prior to July 1, 2015; and

(iv) has not had a break in service on or after July 1, 2015.

[(9)] (10) Any employee who is reassigned to the Department of Technology Services or to the Department of Human Resource Management, and who was a member in this system, shall be entitled to remain a member in this system.

[(40)] (11) (a) To determine that a position is covered under this system, the office and, if a coverage dispute arises, the Peace Officer Standards and Training Council shall find that the position requires the employee to:

(i) place the employee's life or personal safety at risk; and

(ii) complete training as provided in Section 53-13-103, 53-13-104, or 53-13-105.

(b) If a position satisfies the requirements of Subsection [(40)] (11)(a), the office and Peace Officer Standards and Training Council shall consider whether the position requires the employee to:

(i) perform duties that consist primarily of actively preventing or detecting crime and enforcing criminal statutes or ordinances of this state or any of its political subdivisions;

(ii) perform duties that consist primarily of providing community protection; and

(iii) respond to situations involving threats to public safety and make emergency decisions affecting the lives and health of others.

[(41)] (12) If a subcommittee is used to recommend the determination of disputes to the Peace Officer Standards and Training Council, the subcommittee shall comply with the requirements of Subsection [(40)] (11) in making its recommendation.

[(42)] (13) A final order of the Peace Officer Standards and Training Council regarding a dispute is a final agency action for purposes of Title 63G, Chapter 4, Administrative Procedures Act.

[(43)] (14) Except as provided under Subsection [(44)] (15), if a participating employer's public safety service employees are not covered by this system or under Chapter 14, Public Safety Contributory Retirement Act, as of January 1, 1998, those public safety service employees who may otherwise qualify for membership in this system shall, at the discretion of the participating employer, remain in their current retirement system.

[(44)] (15) (a) A public safety service employee employed by an airport police department, which elects to cover its public safety service employees under the Public Safety Noncontributory Retirement System under Subsection [(13)] (14), may elect to remain in the public safety service employee's current retirement system.

(b) The public safety service employee's election to remain in the current retirement system under Subsection [(44)] (15)(a):

(i) shall be made at the time the employer elects to move its public safety service employees to a public safety retirement system;

(ii) shall be documented by written notice to the participating employer; and

(iii) is irrevocable.

[(45)] (16) Notwithstanding any other provision of this section, a person initially entering employment with a participating employer on or after July 1, 2011, who does not have service credit accrued before July 1, 2011, in a Tier I system or plan administered by the board, may not participate in this system.

CHAPTER 101**H. B. 29**

Passed February 12, 2015

Approved March 24, 2015

Effective May 12, 2015

**LIQUEFIED PETROLEUM
GAS BOARD AMENDMENTS**Chief Sponsor: Fred C. Cox
Senate Sponsor: Curtis S. Bramble**LONG TITLE****General Description:**

This bill modifies provisions relating to the Liquefied Petroleum Gas Board.

Highlighted Provisions:

This bill:

- ▶ allows the State Fire Marshal Division to send an official ballot and instructions to a licensee by registered or certified United States mail or by email.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53-7-304, as last amended by Laws of Utah 2010, Chapter 286

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

Section 1. Section 53-7-304 is amended to read:**53-7-304. Liquefied Petroleum Gas Board
-- Creation -- Composition --
Appointment -- Terms of officers --
Meetings -- Compensation.**

(1) (a) There is created within the division the Liquefied Petroleum Gas Board.

(b) The board is composed of seven members:

- (i) two Utah fire chiefs or marshals;
- (ii) two members of the general public; and
- (iii) three members who are representatives of the LPG industry.

(2) The fire chiefs or marshals and the members of the general public shall be appointed by the governor, on a nonpartisan basis.

(3) Members of the board who are representatives of the LPG industry shall have been legal residents of the state for at least one year immediately preceding the date of appointment and have been actively engaged in the LPG industry for a period of at least five years.

(4) The LPG industry representatives shall be appointed by the governor from a list of at least five but no more than the 12 nominees receiving the largest number of votes according to written ballots executed by representatives of the licensees under Subsection (7).

(5) (a) Except as required by Subsection (5)(b), as terms of current board members expire, the governor shall appoint each new member or reappointed member to a four-year term.

(b) Notwithstanding the requirements of Subsection (5)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

(c) Members serve from the date of appointment until a replacement is appointed.

(6) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(7) (a) The balloting of licensees shall be conducted by the division.

(b) For the appointments, the division shall forward to each licensee ~~[by registered or certified United States mail]~~ an official ballot for each staffed plant or facility held under Section 53-7-309, with instructions for executing the ballot and returning it to the division.

(c) The division shall send the official ballot and instructions described in Subsection (7)(b) by:

- (i) registered or certified United States mail; or
- (ii) email.

(8) (a) The board shall elect its own chair and vice chair at its first regular meeting each calendar year.

(b) All meetings of the board shall be held on a prescribed date, at least quarterly, and at any time a majority of the board members sends a request to the board chair.

(c) A majority of the members of the board is a quorum for the transaction of business.

(9) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

- (a) Section 63A-3-106;
- (b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

CHAPTER 102**H. B. 31**

Passed February 5, 2015
 Approved March 24, 2015
 Effective May 12, 2015

NATURAL GAS AMENDMENTS

Chief Sponsor: Stephen G. Handy
 Senate Sponsor: Kevin T. Van Tassell

LONG TITLE**General Description:**

This bill amends provisions of the Public Utilities Code related to natural gas pipelines.

Highlighted Provisions:

This bill:

- ▶ modifies civil penalties for violating a provision of the Public Utilities Code; and
- ▶ requires a person engaged in intrastate pipeline transportation to maintain an inspection plan.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

54-13-3, as enacted by Laws of Utah 1989, Chapter 131
 54-13-8, as enacted by Laws of Utah 2011, Chapter 426

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

Section 1. Section 54-13-3 is amended to read:**54-13-3. Rules.**

The commission shall adopt and enforce rules pursuant to Section 54-13-2 including rules which:

- (1) incorporate the safety standards established under the federal Natural Gas Pipeline Safety Act that are applicable to intrastate pipeline transportation; and
- (2) require persons engaged in intrastate pipeline transportation to:
 - (a) maintain records and to submit reports and information to the commission to enable the commission to determine whether the person is acting in compliance with this chapter or rules adopted under this chapter; and
 - (b) [file, with the commission for its approval,] maintain a plan for inspection and maintenance of each pipeline facility that is available to the commission upon commission request.

Section 2. Section 54-13-8 is amended to read:**54-13-8. Violation of chapter -- Penalty.**

(1) Any person engaged in intrastate pipeline transportation who is determined by the commission, after notice and an opportunity for a hearing, to have violated any provision of this

chapter or any rule or order issued under this chapter, is liable for a civil penalty of not more than ~~[\$10,000]~~ \$100,000 for each violation for each day the violation persists.

(2) The maximum civil penalty assessed under this section may not exceed ~~[\$500,000]~~ \$1,000,000 for any related series of violations.

(3) The amount of the penalty shall be assessed by the commission by written notice.

(4) In determining the amount of the penalty, the commission shall consider:

- (a) the nature, circumstances, and gravity of the violation; and
- (b) with respect to the person found to have committed the violation:
 - (i) the degree of culpability;
 - (ii) any history of prior violations;
 - (iii) the effect on the person's ability to continue to do business;
 - (iv) any good faith in attempting to achieve compliance;
 - (v) the person's ability to pay the penalty; and
 - (vi) any other matter, as justice may require.

(5) (a) A civil penalty assessed under this section may be recovered in an action brought by the attorney general on behalf of the state in the appropriate district court, or before referral to the attorney general, it may be compromised by the commission.

(b) The amount of the penalty, when finally determined, or agreed upon in compromise, may be deducted from any sum owed by the state to the person charged.

(6) Any penalty collected under this section shall be deposited in the General Fund.

CHAPTER 103**H. B. 44**

Passed February 19, 2015

Approved March 24, 2015

Effective May 12, 2015

**SURFACE LEASES
PROCEDURE AMENDMENTS**Chief Sponsor: Mike K. McKell
Senate Sponsor: David P. Hinkins**LONG TITLE****General Description:**

This bill amends provisions related to the leasing of state lands.

Highlighted Provisions:

This bill:

- ▶ amends provisions relating to the issuance of a lease for the construction of a highway facility over sovereign lakebed lands.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

65A-7-5, as last amended by Laws of Utah 2011, Chapter 256

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

Section 1. Section 65A-7-5 is amended to read:**65A-7-5. Surface leases -- Procedures for issuing leases -- Leases for the construction of a highway facility.**

(1) The division may issue surface leases of state lands for any period up to 99 years.

(2) This section does not apply to leases for oil and gas, grazing, or mining purposes.

(3) The division shall disclose any known geologic hazard affecting leased property.

(4) (a) (i) Surface leases may be entered into by negotiation, public auction, or other public competitive bidding process as determined by rules of the division.

(ii) Requests for proposals (RFP) on state lands may be offered by the division after public notice.

(b) (i) A notice of an invitation for bids or a public auction shall, prior to the auction or acceptance of a bid, be published at least once a week for three consecutive weeks in one or more newspapers of general circulation in the county in which the lease is offered.

(ii) The notice shall be sent, by certified mail, at least 30 days prior to the auction or acceptance of a bid, to each person who owns property adjoining the state lands offered for lease.

(c) (i) Surface leases entered into through negotiation shall be published in the manner set

forth in Subsection (4)(b) 30 days prior to final approval.

(ii) The notice shall include, at a minimum, a general description of the lands proposed for lease and the type of lease.

(5) (a) The division may not issue a lease to a private entity for the construction of a highway facility over sovereign lakebed lands unless the applicant for the lease submits an approval for the construction of a highway facility over sovereign lakebed lands from the Transportation Commission in accordance with Section 72-6-303 with the application for the lease.

(b) The division shall consider the information and analysis provided by the Transportation Commission under Section 72-6-303 when making its determination as to whether to issue a lease for the construction of a highway facility over sovereign lakebed lands.

(c) A lease for the construction of a highway facility over sovereign lakebed lands:

(i) may include an option to renew the lease upon expiration; and

(ii) shall include a provision that requires that at the termination of the lease:

(A) the ownership of the highway facility shall revert to the state;

(B) the highway facility shall be in a state of proper maintenance as outlined in the agreement under Subsection 72-6-303(4)(e) and determined by the Department of Transportation; and

(C) the highway facility shall be returned to the Department of Transportation in satisfactory condition at no further cost to the Department of Transportation, in a condition of good repair.

(d) The requirements under this Subsection (5) apply to all pending and future applications for a lease for the construction of a highway facility over sovereign lakebed lands.

CHAPTER 104**H. B. 55**

Passed February 19, 2015

Approved March 24, 2015

Effective May 12, 2015

**REPEAL OF METHAMPHETAMINE
HOUSING RECONSTRUCTION AND
REHABILITATION ACCOUNT**

Chief Sponsor: Edward H. Redd

Senate Sponsor: Karen Mayne

LONG TITLE**General Description:**

This bill repeals the Methamphetamine Housing Reconstruction and Rehabilitation Account Act.

Highlighted Provisions:

This bill:

- ▶ repeals the Methamphetamine Housing Reconstruction and Rehabilitation Account Act and related provisions; and
- ▶ provides that funds remaining in the Methamphetamine Housing Reconstruction and Rehabilitation Account on June 30, 2015, shall be deposited into the Olene Walker Housing Loan Fund.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

35A-8-1103, as renumbered and amended by Laws of Utah 2012, Chapter 212

ENACTS:

63I-2-235, Utah Code Annotated 1953

REPEALS:

59-10-1314, as last amended by Laws of Utah 2012, Chapter 212

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

Section 1. Section 35A-8-1103 is amended to read:**35A-8-1103. Methamphetamine Housing Reconstruction and Rehabilitation Account -- Creation -- Interest -- Use of contributions and interest.**

(1) There is created within the General Fund a restricted account known as the Methamphetamine Housing Reconstruction and Rehabilitation Account.

(2) The account shall be funded by:

(a) contributions deposited into the account in accordance with Section 59-10-1314; and

(b) interest described in Subsection (3).

(3) (a) The account shall earn interest.

(b) Interest earned on the account shall be deposited into the account.

(4) (a) [The] Except as provided in Subsection (7), the division shall distribute contributions and interest deposited into the account to one or more qualified housing organizations.

(b) (i) Subject to Subsection (4)(b)(ii), a qualified housing organization that receives a distribution from the division in accordance with Subsection (4)(a) shall expend the distribution to:

(A) reconstruct or rehabilitate one or more residences that are:

(I) sold to low-income persons selected by the qualified housing organization in accordance with any rules the division makes as authorized by this section; and

(II) financed with loans that are not subject to interest as determined by the qualified housing organization in accordance with any rules the division makes as authorized by this section; or

(B) purchase property upon which a residence described in Subsection (4)(b)(i)(A) is reconstructed or rehabilitated.

(ii) A qualified housing organization may not expend a distribution the qualified housing organization receives in accordance with this Subsection (4) for any administrative cost relating to an expenditure authorized by Subsection (4)(b)(i).

(5) (a) In accordance with any rules the division makes as authorized under Subsection (6)(c), a qualified housing organization may apply to the division to receive a distribution under Subsection (4).

(b) A qualified housing organization may apply to the division to receive a distribution under Subsection (4) by filing an application with the division:

(i) on or before November 1; and

(ii) on a form provided by the division.

(c) The application:

(i) shall include information required by the division establishing that the qualified housing organization owns each residence with respect to which the qualified housing organization plans to expend a distribution under Subsection (4);

(ii) shall include information required by the division establishing the qualified housing organization's plan to expend the distribution for a purpose described in Subsection (4)(b)(i);

(iii) shall include information required by the division establishing that the qualified housing organization's plan to expend the distribution meets conditions established in accordance with Title 19, Chapter 6, Part 9, Illegal Drug Operations Site Reporting and Decontamination Act, for a local health department to remove the residence from the local health department's decontamination list; and

(iv) may include other information the division requires by rule.

(d) The division shall determine on or before the November 30 immediately following the November 1 described in Subsection (5)(b)(i) whether a qualified housing organization's application to the division meets the requirements of Subsection (5)(c).

(e) (i) The division shall distribute money credited to the account to each qualified housing organization that meets the requirements of Subsection (5)(c) as determined by the division:

(A) on or before the December 31 immediately following the November 1 described in Subsection (5)(b)(i); and

(B) in accordance with this Subsection (5)(e).

(ii) The division shall determine:

(A) the population of the county in which a qualified housing organization that meets the requirements of Subsection (5)(c) is headquartered; and

(B) the total population of all of the counties in which the qualified housing organizations that meet the requirements of Subsection (5)(c) are headquartered.

(iii) Except as provided in Subsection (5)(e)(iv), the division shall determine a qualified housing organization's distribution by making the following calculation:

(A) calculating a percentage determined by dividing the population of the county in which the qualified housing organization that meets the requirements of Subsection (5)(c) is headquartered by the population calculated under Subsection (5)(e)(ii)(B); and

(B) multiplying the percentage determined under Subsection (5)(e)(iii)(A) by the account balance.

(iv) If two or more qualified housing organizations that meet the requirements of Subsection (5)(c) as determined by the division are headquartered within one county, the division shall determine each qualified housing organization's distribution by:

(A) making the calculation required by Subsection (5)(e)(iii); and

(B) dividing the amount calculated under Subsection (5)(e)(iii) by the number of qualified housing organizations that meet the requirements of Subsection (5)(c) as determined by the division that are headquartered within the county.

(6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules:

(a) to define what constitutes:

(i) a low-income person;

(ii) a loan that is not subject to interest; and

(iii) an apartment or other rental unit;

(b) for determining the circumstances under which real property is appurtenant to a residence;

(c) prescribing information a qualified housing organization is required to include with an application under Subsection (5);

(d) for purposes of Subsection (5)(e), for determining the population of a county; and

(e) for determining the county in which a qualified housing organization is headquartered.

(7) Any contributions and interest remaining in the Methamphetamine Housing Reconstruction and Rehabilitation Account on June 30, 2015, shall be deposited into the Olene Walker Housing Loan Fund created in Section 35A-8-502 and may be used for any of the purposes described in Section 35A-8-505.

Section 2. Section 63I-2-235 is enacted to read:

63I-2-235. Repeal dates -- Title 35A.

Title 35A, Chapter 8, Part 11, Methamphetamine Housing Reconstruction and Rehabilitation Account Act, is repealed July 1, 2015.

Section 3. Repealer.

This bill repeals:

Section 59-10-1314, Contribution to Methamphetamine Housing Reconstruction and Rehabilitation Account.

CHAPTER 105**H. B. 59**

Passed February 19, 2015

Approved March 24, 2015

Effective May 12, 2015

AGRICULTURE MODIFICATIONS

Chief Sponsor: Mike K. McKell
Senate Sponsor: David P. Hinkins

LONG TITLE**General Description:**

This bill regulates the killing of feral swine.

Highlighted Provisions:

This bill:

- ▶ amends definitions;
- ▶ defines terms;
- ▶ prohibits an individual from releasing a:
 - swine on public or private property for hunting purposes; or
 - feral swine on public or private property for any purpose;
- ▶ describes the circumstances under which an individual may kill a feral swine;
- ▶ prohibits an individual from receiving, or seeking to receive, compensation for killing a feral swine;
- ▶ states that an individual who kills a swine is not liable to the owner of the swine unless the swine was conspicuously identified by an ear tag or other form of visual identification and the individual knew the swine was conspicuously identified; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

4-25-1, as last amended by Laws of Utah 1988, Chapter 139

4-25-12.1, as enacted by Laws of Utah 2012, Chapter 331

ENACTS:

4-25-12.3, Utah Code Annotated 1953

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

Section 1. Section 4-25-1 is amended to read:**4-25-1. Definitions.**

For the purpose of this chapter:

[~~"estrays"~~] (1) (a) "Estray" means [~~any~~];

(i) ~~an unbranded sheep, [cattle, horses, mules, or asses] cow, horse, mule, ass, or domestic mink found running at large[; or any];~~

(ii) ~~a branded sheep, [cattle, horses, mules, or asses] cow, horse, mule, ass, or domestic mink found running at large whose owner cannot be found after reasonable search[; or any]; or~~

(iii) ~~a swine found running at large whose owner cannot be found after reasonable search[; but it].~~

(b) "Estray" does not mean [~~nor include~~] any unweaned animal specified in this section that is running with its mother.

(2) "Feral swine" means any species, or hybrid species:

(a) of the family Suidae, including the European boar, the Eurasian boar, the Russian boar, a feral hog, or a domestic pig;

(b) that is not conspicuously identified by an ear tag or other form of visual identification; and

(c) that is roaming freely upon public land or private land without the permission of the landowner.

(3) "Swine" means any domesticated species of the family Suidae that is conspicuously identified by an ear tag or other form of visible identification.

Section 2. Section 4-25-12.1 is amended to read:**4-25-12.1. Release of swine or feral swine for any purpose.**

A person may not release a:

(1) swine on public or private property for hunting purposes[;]; or

(2) feral swine on public or private property for any purpose.

Section 3. Section 4-25-12.3 is enacted to read:**4-25-12.3. Feral swine detrimental to state's interests -- Seizure, capture, or destruction of feral swine.**

(1) Feral swine are detrimental to the state's interests in agriculture and wildlife.

(2) Feral swine may be seized, captured, or destroyed at any time, in any place, and in any manner by:

(a) the department and its authorized agents;

(b) the Division of Wildlife Resources and its authorized agents; or

(c) a certified peace officer.

(3) (a) Notwithstanding Section 76-9-301, and subject to the requirements of this section, an individual may kill a feral swine roaming on private or public land.

(b) An individual shall obtain the consent of the landowner before killing a feral swine on private land.

(c) Feral swine may be killed:

(i) year-round;

(ii) in any number; and

(iii) with a firearm, bow and arrow, or crossbow.

(4) Feral swine may not be hunted or killed under Subsection (3)(c):

(a) with the use of artificial light or night vision equipment, except as authorized by county ordinance; or

(b) from or with any airborne vehicle or device, except as provided in Section 4-23-6.

(5) An individual may not receive compensation, or attempt to receive compensation, from hunting feral swine.

(6) An individual who kills a swine under this section is not liable to the owner for the loss of the swine, unless:

(a) the swine is conspicuously identified by an ear tag or other form of visual identification; and

(b) the individual who killed the swine knew the swine was identified by an ear tag or other form of usual identification.

CHAPTER 106**H. B. 70**

Passed February 17, 2015

Approved March 24, 2015

Effective May 12, 2015

**POSTING POLITICAL SIGNS
ON PUBLIC PROPERTY**Chief Sponsor: Bradley M. Daw
Senate Sponsor: Alvin B. Jackson**LONG TITLE****General Description:**

This bill addresses the posting of political signs on public property.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ provides that a local government entity, a local government officer, a local government employee, or another person with authority or control over public property that posts or permits a person to post a political sign on public property shall permit any other person to post a political sign on the public property, subject to the same requirements and restrictions imposed on all other political signs posted on the public property; and
- ▶ prohibits a local government entity, a local government officer, a local government employee, or another person with authority or control over public property from imposing a requirement or restriction on the posting of a political sign on public property if the requirement or restriction is not politically neutral and content neutral.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

20A-17-103, Utah Code Annotated 1953

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

Section 1. Section 20A-17-103 is enacted to read:**20A-17-103. Posting political signs on public property.**

(1) As used in this section:

(a) "Local government entity" means:

(i) a county, municipality, or other political subdivision;

(ii) a local district, as defined in Section 17B-1-102;

(iii) a special service district, as defined in Section 17D-1-102;

(iv) a local building authority, as defined in Section 17D-2-102;

(v) a conservation district, as defined in Section 17D-3-102;

(vi) an independent entity, as defined in Section 63E-1-102;

(vii) a public corporation, as defined in Section 63E-1-102;

(viii) a public transit district, organized under Title 17B, Chapter 2a, Part 8, Public Transit District Act;

(ix) a school district;

(x) a public school, including a charter school or other publicly funded school;

(xi) a state institution of higher education;

(xii) an entity that expends public funds; and

(xiii) each office, agency, or other division of an entity described in Subsections (1)(a)(i) through (xii).

(b) "Political sign" means any sign or document that advocates:

(i) the election or defeat of a candidate for public office; or

(ii) the approval or defeat of a ballot proposition.

(c) (i) "Public property" means any real property, building, or structure owned or leased by a local government entity.

(ii) "Public property" does not include any real property, building, or structure during a period of time that the real property, building, or structure is rented out by a government entity to a private party for a meeting, convention, or similar event.

(2) A local government entity, a local government officer, a local government employee, or another person with authority or control over public property that posts or permits a person to post a political sign on public property:

(a) shall permit any other person to post a political sign on the public property, subject to the same requirements and restrictions imposed on all other political signs permitted to be posted on the public property; and

(b) may not impose a requirement or restriction on the posting of a political sign if the requirement or restriction is not politically neutral and content neutral.

CHAPTER 107**H. B. 75**

Passed February 12, 2015

Approved March 24, 2015

Effective May 12, 2015

**CHILDREN'S HEALTH INSURANCE
PROGRAM AMENDMENTS**

Chief Sponsor: Timothy D. Hawkes

Senate Sponsor: Peter C. Knudson

LONG TITLE**General Description:**

This bill amends the Utah Children's Health Insurance Program.

Highlighted Provisions:

This bill:

- ▶ amends membership provisions of the Utah Children's Health Insurance Program Advisory Council;
- ▶ deletes obsolete provisions;
- ▶ deletes a provision requiring the Department of Health to request bids for Utah Children's Health Insurance Program benefits at least once every five years;
- ▶ deletes provisions requiring the executive director of the Department of Health to consult with the Utah Children's Health Insurance Program Advisory Council under certain circumstances; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 26-40-104, as last amended by Laws of Utah 2010, Chapter 286
- 26-40-106, as last amended by Laws of Utah 2012, Chapter 279
- 26-40-110, as last amended by Laws of Utah 2013, Chapter 103
- 26-40-115, as enacted by Laws of Utah 2011, Chapter 400
- 49-20-201, as last amended by Laws of Utah 2007, Chapter 130

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

Section 1. Section 26-40-104 is amended to read:**26-40-104. Utah Children's Health Insurance Program Advisory Council.**

(1) There is created a Utah Children's Health Insurance Program Advisory Council consisting of at least ~~[eight]~~ five and no more than ~~[11]~~ eight members appointed by the executive director of the department. The term of each appointment shall be three years. The appointments shall be staggered at one-year intervals to ensure continuity of the advisory council.

(2) The advisory council shall meet at least quarterly.

(3) The membership of the advisory council shall include at least one representative from each of the following groups:

(a) child health care providers;

~~[(b) parents and guardians of children enrolled in the program;]~~

~~[(e)]~~ (b) ethnic populations other than American Indians;

~~[(d)]~~ (c) American Indians;

~~[(e) the Utah Association of Health Care Providers;]~~

~~[(f)]~~ (d) health and accident and health insurance providers; and

~~[(g)]~~ (e) the general public.

(4) The advisory council shall advise the department on:

(a) benefits design;

(b) eligibility criteria;

(c) outreach;

(d) evaluation; and

(e) special strategies for under-served populations.

(5) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Section 2. Section 26-40-106 is amended to read:**26-40-106. Program benefits.**

~~[(1) Until the department implements a plan under Subsection (2), program benefits may include:]~~

~~[(a) hospital services;]~~

~~[(b) physician services;]~~

~~[(c) laboratory services;]~~

~~[(d) prescription drugs;]~~

~~[(e) mental health services;]~~

~~[(f) basic dental services;]~~

~~[(g) preventive care including:]~~

~~[(i) routine physical examinations;]~~

~~[(ii) immunizations;]~~

~~[(iii) basic vision services; and]~~

~~[(iv) basic hearing services;]~~

~~[(h) limited home health and durable medical equipment services; and]~~

~~[(i) hospice care.]~~

~~[(2)(a)] (1) Except as provided in Subsection [(2)(d), no later than July 1, 2008, the] (4), medical program benefits shall be benchmarked, in accordance with 42 U.S.C. Sec. 1397cc, to be actuarially equivalent to a health benefit plan with the largest insured commercial enrollment offered by a health maintenance organization in the state.~~

~~[(b)] (2) Except as provided in Subsection [(2)(d), after July 1, 2012] (4):~~

~~[(i)] (a) medical program benefits may not exceed the benefit level described in Subsection [(2)(a)] (1); and~~

~~[(ii)] (b) medical program benefits shall be adjusted every July 1 [thereafter] to meet the benefit level described in Subsection [(2)(a)] (1).~~

~~[(e)] (3) The dental benefit plan shall be benchmarked, in accordance with the Children's Health Insurance Program Reauthorization Act of 2009, to be equivalent to a dental benefit plan that has the largest insured, commercial, non-Medicaid enrollment of covered lives that is offered in the state, except that the utilization review mechanism for orthodontia shall be based on medical necessity. Dental program benefits shall be adjusted on July 1, 2012, and on July 1 every three years thereafter to meet the benefit level required by this Subsection [(2)(e)] (3).~~

~~[(d)] (4) The program benefits for enrollees who are at or below 100% of the federal poverty level are exempt from the benchmark requirements of Subsections [(2)(a)] (1) and (2)[(b)].~~

Section 3. Section 26-40-110 is amended to read:

26-40-110. Managed care -- Contracting for services.

(1) Program benefits provided to enrollees under the program, as described in Section 26-40-106, shall be delivered ~~[in]~~ by a managed care ~~[system]~~ organization if the department determines that adequate services are available where the enrollee lives or resides.

(2) ~~[(a)]~~ The department may contract with a managed care organization to provide program benefits. The department shall use the following criteria to evaluate ~~[bids from health plans]~~ a potential contract with a managed care organization:

(a) the managed care organization's:

(i) ability to manage medical expenses, including mental health costs;

(ii) proven ability to handle accident and health insurance;

(iii) efficiency of claim paying procedures;

(iv) proven ability for managed care and quality assurance;

(v) provider contracting and discounts;

(vi) pharmacy benefit management;

(vii) ~~[an estimate of]~~ estimated total charges for administering the pool;

(viii) ability to administer the pool in a cost-efficient manner;

(ix) ~~[the]~~ ability to provide adequate providers and services in the state; and

~~[(x) for contracts entered into or renewed on or after January 1, 2014,]~~

(x) ~~[the]~~ ability to meet quality measures for emergency room use and access to primary care established by the department under Subsection 26-18-408(4); and

~~[(xi)] (b) other criteria established by the department.~~

~~[(b)] (3) The department may enter into separate contracts to provide dental benefits required by Section 26-40-106 [may be bid out separately from other program benefits].~~

~~[(c) Except for dental benefits, the department shall request bids for the program's benefits in 2008. The department shall request bids for the program's dental benefits in 2009. The department shall request bids for the program's benefits at least once every five years thereafter.]~~

~~[(d)] (4) The department's contract with a health [plans] or dental plan for the program's benefits shall include risk sharing provisions in which the [health] plan shall accept at least 75% of the risk for any difference between the department's premium payments per client and actual medical expenditures.~~

~~[(3) The executive director shall report to and seek recommendations from the Health Advisory Council created in Section 26-1-7.5.]~~

~~[(a) if the division receives less than two bids or proposals under this section that are acceptable to the division or responsive to the bid; and]~~

~~[(b) before awarding a contract to a managed care system.]~~

~~[(4) (a) The department shall award contracts to responsive bidders if the department determines that a bid is acceptable and meets the criteria of Subsections (2)(a) and (d).]~~

~~[(b)] (5) (a) The department may contract with the Group Insurance Division within the Utah State Retirement Office to provide services under Subsection (1) if: no other health or dental plan is willing to contract with the department or the department determines no other plan meets the criteria established under Subsection (2).~~

~~[(i) the executive director seeks the recommendation of the Health Advisory Council under Subsection (3); and]~~

~~[(ii) the executive director determines that the bids were not acceptable to the department.]~~

~~[(e)] (b) In accordance with Section 49-20-201, a contract awarded under Subsection [(4)(b)] (5)(a) is not subject to the risk sharing required by Subsection [(2)(d)] (4).~~

[~~(5) Title 63G, Chapter 6a, Utah Procurement Code, shall apply to this section.~~]

Section 4. Section 26-40-115 is amended to read:

26-40-115. State contractor -- Employee and dependent health benefit plan coverage.

For purposes of Sections 17B-2a-818.5, 19-1-206, 63A-5-205, 63C-9-403, 72-6-107.5, and 79-2-404, "qualified health insurance coverage" means, at the time the contract is entered into or renewed:

(1) a health benefit plan and employer contribution level with a combined actuarial value at least actuarially equivalent to the combined actuarial value of the benchmark plan determined by the ~~[Children's Health Insurance]~~ program under Subsection 26-40-106~~(2)(a)~~(1), and a contribution level of 50% of the premium for the employee and the dependents of the employee who reside or work in the state, in which:

(a) the employer pays at least 50% of the premium for the employee and the dependents of the employee who reside or work in the state; and

(b) for purposes of calculating actuarial equivalency under this Subsection (1)(b):

(i) rather ~~[that]~~ than the benchmark plan's deductible, and the benchmark plan's out-of-pocket maximum based on income levels:

(A) the deductible is \$1,000 per individual and \$3,000 per family; and

(B) the out-of-pocket maximum is \$3,000 per individual and \$9,000 per family;

(ii) dental coverage is not required; and

(iii) other than Subsection 26-40-106~~(2)(a)~~(1), the provisions of Section 26-40-106 do not apply; or

(2) a federally qualified high deductible health plan that, at a minimum:

(a) has a deductible that is either:

(i) the lowest deductible permitted for a federally qualified high deductible health plan; or

(ii) a deductible that is higher than the lowest deductible permitted for a federally qualified high deductible health plan, but includes an employer contribution to a health savings account in a dollar amount at least equal to the dollar amount difference between the lowest deductible permitted for a federally qualified high deductible plan and the deductible for the employer offered federally qualified high deductible plan;

(b) has an out-of-pocket maximum that does not exceed three times the amount of the annual deductible; and

(c) the employer pays 60% of the premium for the employee and the dependents of the employee who work or reside in the state.

Section 5. Section 49-20-201 is amended to read:

49-20-201. Program participation -- Eligibility -- Optional for certain groups.

(1) (a) The state shall participate in the program on behalf of its employees.

(b) Other employers, including political subdivisions and educational institutions, are eligible, but are not required, to participate in the program on behalf of their employees.

(2) (a) ~~[The]~~ As provided in Subsection 26-40-110(5), the Department of Health may participate in the program for the purpose of providing health and dental benefits to children enrolled in the Utah Children's Health Insurance Program created in Title 26, Chapter 40, Utah Children's Health Insurance Act~~[, if the provisions in Subsection 26-40-110(4) occur].~~

(b) If the Department of Health participates in the program under the provisions of this Subsection (2), all insurance risk associated with the Utah Children's Health Insurance Program shall be the responsibility of the Department of Health and not the program or the office.

(3) A covered individual shall be eligible for coverage after termination of employment under rules adopted by the board.

(4) Only the following are eligible for Medicare supplement coverage under this chapter upon becoming eligible for Medicare Part A and Part B coverage:

(a) retirees;

(b) members;

(c) participants;

(d) employees who have medical employee benefit plan coverage at the time of their retirement; and

(e) current spouses of those who are eligible under Subsections (4)(a) through (d).

CHAPTER 108**H. B. 84**

Passed February 26, 2015

Approved March 24, 2015

Effective May 12, 2015

LEAD RECYCLING AMENDMENTS

Chief Sponsor: Merrill F. Nelson
Senate Sponsor: Scott K. Jenkins

LONG TITLE**General Description:**

This bill modifies the Utah Criminal Code regarding the regulation of metal dealers.

Highlighted Provisions:

This bill:

- ▶ requires that automotive and industrial lead batteries be handled by metal dealers and recyclers as a suspect regulated metal;
- ▶ adds automotive and industrial lead batteries as suspect regulated metal regarding transactions with recyclers and metal dealers; and
- ▶ exempts from the definition of a dealer specified types of businesses that accept lead batteries for recycling.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

76-6-1402, as last amended by Laws of Utah 2014, Chapter 261

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

Section 1. Section 76-6-1402 is amended to read:**76-6-1402. Definitions.**

As used in this part:

(1) "Catalytic converter" means a motor vehicle exhaust system component that reduces vehicle emissions by breaking down harmful exhaust emissions.

(2) "Dealer" means:

(a) a scrap metal processor or secondary metals dealer or recycler, but does not include:

(i) junk dealers [ø] as defined in Section 76-6-1402;

(ii) solid waste management facilities as defined in Section 19-6-502; or

(iii) the following businesses that are authorized to accept delivery of used lead batteries for recycling under Sections 19-6-603, 19-6-604, and 19-6-605:

(A) retailers;

(B) wholesalers;

(C) battery manufacturers; and

(D) secondary lead smelters.

(b) a metals refiner.

(3) "Ferrous metal" means a metal that contains significant quantities of iron or steel.

(4) "Identification" means a form of positive identification issued by a state of the United States or the United States federal government that:

(a) contains a numerical identifier and a photograph of the person identified;

(b) provides the date of birth of the person identified; and

(c) includes a state identification card, a state driver license, a United States military identification card, or a United States passport.

(5) "Junk dealer" means all persons, firms, or corporations engaged in the business of purchasing or selling secondhand or castoff material, including ropes, cordage, bottles, bagging, rags, rubber, paper, and other like materials, but not including regulated metal.

(6) "Local law enforcement agency" means the law enforcement agency that has jurisdiction over the area where the dealer's business is located.

(7) "Metals refiner" means an individual or business that refines or melts any regulated metal, but does not include an individual or business that primarily uses ore, concentrate, or other primary materials in refining, melting, or producing any regulated metal.

(8) "Nonferrous metal":

(a) means a metal that does not contain significant quantities of iron or steel; and

(b) includes copper, brass, aluminum, bronze, lead, zinc, nickel, and their alloys.

(9) (a) "Regulated metal" means any item composed primarily of nonferrous metal, except as provided in Subsection (9)(c).

(b) "Regulated metal" includes:

(i) aluminum, brass, copper, lead, chromium, tin, nickel, or alloys of these metals, except under Subsection (9)(c), and lead that is a part of an automotive or industrial lead battery;

(ii) property that is a regulated metal and that is owned by, and also identified by marking or other means as the property of:

(A) a telephone, cable, electric, water, or other utility; or

(B) a railroad company;

(iii) unused and undamaged building construction materials made of metal or alloy, including:

(A) copper pipe, tubing, or wiring; and

(B) aluminum wire, siding, downspouts, or gutters;

(iv) oil well rigs, including any part of the rig;

(v) nonferrous materials, stainless steel, and nickel; and

(vi) irrigation pipe.

(c) “Regulated metal” does not include:

(i) ferrous metal, except as provided in Subsection (9)(b)(ii) or (iv);

(ii) household-generated recyclable materials;

(iii) items composed wholly of light iron or sheet steel;

(iv) aluminum beverage containers; or

(v) containers used solely for containing food.

~~[(11)]~~ (10) “Scrap metal processor” means any person:

(a) who, from a fixed location, utilizes machinery and equipment for processing and manufacturing iron, steel, or nonferrous scrap into prepared grades; and

(b) whose principal product is scrap iron, scrap steel, or nonferrous metallic scrap, not including precious metals, for sale for remelting purposes.

~~[(10)]~~ (11) “Secondary metals dealer or recycler” means any person who:

(a) is engaged in the business of purchasing, collecting, or soliciting regulated metal; or

(b) operates or maintains a facility where regulated metal is purchased or kept for shipment, sale, transfer, or salvage.

(12) “Suspect metal items” are the following items made of regulated metal:

(a) manhole covers and sewer grates;

(b) gas meters and water meters;

(c) traffic signs, street signs, aluminum street light poles, communications transmission towers, and guard rails;

(d) grave site monument vases and monument plaques;

(e) any monument plaque;

(f) brass or bronze bar stock and bar ends;

(g) ingots;

(h) nickel and nickel alloys containing greater than 50% nickel;

(i) #1 and #2 copper as defined by the most recent institute of Scrap Recycling Industries, Inc., Scrap Specifications Circular;

(j) unused and undamaged building materials, including:

(i) greenline copper;

(ii) copper pipe, tubing, or wiring; and

(iii) aluminum wire, siding, downspouts, or gutters;

(k) catalytic converters; ~~[and]~~

(l) automotive and industrial lead batteries; and

~~[(4)]~~ (m) wire that has been burned or that has the appearance of having been burned.

CHAPTER 109**H. B. 85**

Passed March 11, 2015
 Approved March 24, 2015
 Effective May 12, 2015

**PEACE OFFICER
 TRAINING AMENDMENTS**

Chief Sponsor: Marc K. Roberts
 Senate Sponsor: Deidre M. Henderson
 Cosponsor: Brian M. Greene

LONG TITLE**General Description:**

This bill modifies Title 41, Motor Vehicles Code, regarding the uses of the Uninsured Motorist Identification Restricted Account.

Highlighted Provisions:

This bill:

- ▶ provides that the Legislature may appropriate up to \$500,000 from the Uninsured Motorist Identification Restricted Account each year to the Peace Officer Standards and Training Division for law enforcement training through July 1, 2020; and
- ▶ provides a repeal date.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

41-12a-806, as last amended by Laws of Utah 2014, Chapter 382
 63I-1-241, as last amended by Laws of Utah 2010, Chapter 319

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

Section 1. Section 41-12a-806 is amended to read:

41-12a-806. Restricted account -- Creation -- Funding -- Interest -- Purposes.

(1) There is created within the Transportation Fund a restricted account known as the "Uninsured Motorist Identification Restricted Account."

(2) The account consists of money generated from the following revenue sources:

(a) money received by the state under Section 41-1a-1218, the uninsured motorist identification fee;

(b) money received by the state under Section 41-1a-1220, the registration reinstatement fee; and

(c) appropriations made to the account by the Legislature.

(3) (a) The account shall earn interest.

(b) All interest earned on account money shall be deposited into the account.

(4) ~~[Money shall be appropriated from the account by the]~~ The Legislature shall appropriate money from the account to:

(a) the department to fund the contract with the designated agent;

(b) the department to offset the costs to state and local law enforcement agencies of using the information for the purposes authorized under this part;

(c) the Tax Commission to offset the costs to the Motor Vehicle Division for revoking and reinstating vehicle registrations under Subsection 41-1a-110(2)(a)(ii); and

(d) the department to reimburse a person for the costs of towing and storing the person's vehicle if:

(i) the person's vehicle was impounded in accordance with Subsection 41-1a-1101(2);

(ii) the impounded vehicle had owner's or operator's security in effect for the vehicle at the time of the impoundment;

(iii) the database indicated that owner's or operator's security was not in effect for the impounded vehicle; and

(iv) the department determines that the person's vehicle was wrongfully impounded.

(5) The Legislature may appropriate not more than \$500,000 annually from the account to the Peace Officer Standards and Training Division, created under Section 53-6-103, for use in law enforcement training, including training on the use of the Uninsured Motorist Identification Database Program created under Title 41, Chapter 12a, Part 8, Uninsured Motorist Identification Database Program.

~~[(5)]~~ (6) (a) By following the procedures in Title 63G, Chapter 4, Administrative Procedures Act, the department shall hold a hearing to determine whether a person's vehicle was wrongfully impounded under Subsection 41-1a-1101(2).

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules establishing procedures for a person to apply for a reimbursement under Subsection (4)(d).

(c) A person is not eligible for a reimbursement under Subsection (4)(d) unless the person applies for the reimbursement within six months from the date that the motor vehicle was impounded.

Section 2. Section 63I-1-241 is amended to read:

63I-1-241. Repeal dates, Title 41.

Subsection 41-12a-806(5) is repealed on July 1, 2020.

CHAPTER 110**H. B. 94**

Passed March 2, 2015

Approved March 24, 2015

Effective May 12, 2015

**INVESTIGATIONAL DRUG AND DEVICE
ACCESS FOR TERMINALLY ILL PATIENTS**Chief Sponsor: Gage Froerer
Senate Sponsor: Evan J. Vickers**LONG TITLE****General Description:**

This bill amends provisions related to investigational drugs and devices.

Highlighted Provisions:

This bill:

- ▶ provides that a terminally ill patient may obtain an investigational drug or device from the drug's or device's manufacturer under certain circumstances;
- ▶ exempts certain conduct from the definition of unlawful and unprofessional conduct for a physician who administers an investigational drug or uses an investigational device to treat a terminally ill patient;
- ▶ allows an insurance company to deny, under certain circumstances, coverage to an individual who is treated with an investigational drug or device; and
- ▶ provides that certain health care providers are not subject to civil or criminal liability or licensure sanctions for treating a patient with an investigational drug or device.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

58-67-501, as last amended by Laws of Utah 2001, Chapter 116

58-67-502, as last amended by Laws of Utah 2014, Chapter 72

58-68-501, as last amended by Laws of Utah 2001, Chapter 116

58-68-502, as last amended by Laws of Utah 2014, Chapter 72

ENACTS:

58-85-101, Utah Code Annotated 1953

58-85-102, Utah Code Annotated 1953

58-85-103, Utah Code Annotated 1953

58-85-104, Utah Code Annotated 1953

58-85-105, Utah Code Annotated 1953

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

Section 1. Section 58-67-501 is amended to read:**58-67-501. Unlawful conduct.**

(1) "Unlawful conduct" includes, in addition to the definition in Section 58-1-501:

(a) buying, selling, or fraudulently obtaining, any medical diploma, license, certificate, or registration;

(b) aiding or abetting the buying, selling, or fraudulently obtaining of any medical diploma, license, certificate, or registration;

(c) substantially interfering with a licensee's lawful and competent practice of medicine in accordance with this chapter by:

(i) any person or entity that manages, owns, operates, or conducts a business having a direct or indirect financial interest in the licensee's professional practice; or

(ii) anyone other than another physician licensed under this title, who is engaged in direct clinical care or consultation with the licensee in accordance with the standards and ethics of the profession of medicine; or

(d) entering into a contract that limits a licensee's ability to advise the licensee's patients fully about treatment options or other issues that affect the health care of the licensee's patients.

(2) "Unlawful conduct" does not include:

(a) establishing, administering, or enforcing the provisions of a policy of accident and health insurance by an insurer doing business in this state in accordance with Title 31A, Insurance Code;

(b) adopting, implementing, or enforcing utilization management standards related to payment for a licensee's services, provided that:

(i) utilization management standards adopted, implemented, and enforced by the payer have been approved by a physician or by a committee that contains one or more physicians; and

(ii) the utilization management standards does not preclude a licensee from exercising independent professional judgment on behalf of the licensee's patients in a manner that is independent of payment considerations;

(c) developing and implementing clinical practice standards that are intended to reduce morbidity and mortality or developing and implementing other medical or surgical practice standards related to the standardization of effective health care practices, provided that:

(i) the practice standards and recommendations have been approved by a physician or by a committee that contains one or more physicians; and

(ii) the practice standards do not preclude a licensee from exercising independent professional judgment on behalf of the licensee's patients in a manner that is independent of payment considerations;

(d) requesting or recommending that a patient obtain a second opinion from a licensee;

(e) conducting peer review, quality evaluation, quality improvement, risk management, or similar

activities designed to identify and address practice deficiencies with health care providers, health care facilities, or the delivery of health care;

(f) providing employment supervision or adopting employment requirements that do not interfere with the licensee's ability to exercise independent professional judgment on behalf of the licensee's patients, provided that employment requirements that may not be considered to interfere with an employed licensee's exercise of independent professional judgment include:

(i) an employment requirement that restricts the licensee's access to patients with whom the licensee's employer does not have a contractual relationship, either directly or through contracts with one or more third-party payers; or

(ii) providing compensation incentives that are not related to the treatment of any particular patient;

(g) providing benefit coverage information, giving advice, or expressing opinions to a patient or to a family member of a patient to assist the patient or family member in making a decision about health care that has been recommended by a licensee; [ø]]

(h) in compliance with Section 58-85-103:

(i) obtaining an investigational drug or investigational device;

(ii) administering the investigational drug to an eligible patient; or

(iii) treating an eligible patient with the investigational drug or investigational device; or

[4] (i) any otherwise lawful conduct that does not substantially interfere with the licensee's ability to exercise independent professional judgment on behalf of the licensee's patients and that does not constitute the practice of medicine as defined in this chapter.

Section 2. Section 58-67-502 is amended to read:

58-67-502. Unprofessional conduct.

(1) "Unprofessional conduct" includes, in addition to the definition in Section 58-1-501:

[1] (a) using or employing the services of any individual to assist a licensee in any manner not in accordance with the generally recognized practices, standards, or ethics of the profession, state law, or division rule;

[2] (b) making a material misrepresentation regarding the qualifications for licensure under Section 58-67-302.7; or

[3] (c) violating the dispensing requirements of Section 58-17b-309 or Chapter 17b, Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, if applicable.

(2) "Unprofessional conduct" does not include, in compliance with Section 58-85-103:

(a) obtaining an investigational drug or investigational device;

(b) administering the investigational drug to an eligible patient; or

(c) treating an eligible patient with the investigational drug or investigational device.

Section 3. Section 58-68-501 is amended to read:

58-68-501. Unlawful conduct.

(1) "Unlawful conduct" includes, in addition to the definition in Section 58-1-501:

(a) buying, selling, or fraudulently obtaining any osteopathic medical diploma, license, certificate, or registration; and

(b) aiding or abetting the buying, selling, or fraudulently obtaining of any osteopathic medical diploma, license, certificate, or registration;

(c) substantially interfering with a licensee's lawful and competent practice of medicine in accordance with this chapter by:

(i) any person or entity that manages, owns, operates, or conducts a business having a direct or indirect financial interest in the licensee's professional practice; or

(ii) anyone other than another physician licensed under this title, who is engaged in direct clinical care or consultation with the licensee in accordance with the standards and ethics of the profession of medicine; or

(d) entering into a contract that limits a licensee's ability to advise the licensee's patients fully about treatment options or other issues that affect the health care of the licensee's patients.

(2) "Unlawful conduct" does not include:

(a) establishing, administering, or enforcing the provisions of a policy of accident and health insurance by an insurer doing business in this state in accordance with Title 31A, Insurance Code;

(b) adopting, implementing, or enforcing utilization management standards related to payment for a licensee's services, provided that:

(i) utilization management standards adopted, implemented, and enforced by the payer have been approved by a physician or by a committee that contains one or more physicians; and

(ii) the utilization management standards does not preclude a licensee from exercising independent professional judgment on behalf of the licensee's patients in a manner that is independent of payment considerations;

(c) developing and implementing clinical practice standards that are intended to reduce morbidity and mortality or developing and implementing other medical or surgical practice standards related to the standardization of effective health care practices, provided that:

(i) the practice standards and recommendations have been approved by a physician or by a

committee that contains one or more physicians; and

(i) the practice standards do not preclude a licensee from exercising independent professional judgment on behalf of the licensee's patients in a manner that is independent of payment considerations;

(d) requesting or recommending that a patient obtain a second opinion from a licensee;

(e) conducting peer review, quality evaluation, quality improvement, risk management, or similar activities designed to identify and address practice deficiencies with health care providers, health care facilities, or the delivery of health care;

(f) providing employment supervision or adopting employment requirements that do not interfere with the licensee's ability to exercise independent professional judgment on behalf of the licensee's patients, provided that employment requirements that may not be considered to interfere with an employed licensee's exercise of independent professional judgment include:

(i) an employment requirement that restricts the licensee's access to patients with whom the licensee's employer does not have a contractual relationship, either directly or through contracts with one or more third-party payers; or

(ii) providing compensation incentives that are not related to the treatment of any particular patient;

(g) providing benefit coverage information, giving advice, or expressing opinions to a patient or to a family member of a patient to assist the patient or family member in making a decision about health care that has been recommended by a licensee; ~~or~~

(h) in compliance with Section 58-85-103:

(i) obtaining an investigational drug or investigational device;

(ii) administering the investigational drug to an eligible patient; or

(iii) treating an eligible patient with the investigational drug or investigational device; or

~~(4)~~ (i) any otherwise lawful conduct that does not substantially interfere with the licensee's ability to exercise independent professional judgment on behalf of the licensee's patients and that does not constitute the practice of medicine as defined in this chapter.

Section 4. Section 58-68-502 is amended to read:

58-68-502. Unprofessional conduct.

(1) "Unprofessional conduct" includes, in addition to the definition in Section 58-1-501:

~~(4)~~ (a) using or employing the services of any individual to assist a licensee in any manner not in accordance with the generally recognized practices,

standards, or ethics of the profession, state law, or division rule; or

~~(2)~~ (b) violating the dispensing requirements of Section 58-17b-309 or Chapter 17b, Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, if applicable.

(2) "Unprofessional conduct" does not include, in compliance with Section 58-85-103:

(a) obtaining an investigational drug or investigational device;

(b) administering the investigational drug to an eligible patient; or

(c) treating an eligible patient with the investigational drug or investigational device.

Section 5. Section 58-85-101 is enacted to read:

CHAPTER 85. UTAH RIGHT TO TRY ACT

58-85-101. Title.

This chapter is known as the "Utah Right to Try Act."

Section 6. Section 58-85-102 is enacted to read:

58-85-102. Definitions.

As used in this chapter:

(1) "Eligible patient" means an individual who has been diagnosed with a terminal illness by a physician.

(2) "Insurer" means the same as that term is defined in Section 31A-1-301.

(3) "Investigational device" means a device that:

(a) meets the definition of "investigational device" in 21 C.F.R. Sec. 812.3; and

(b) has successfully completed the United States Food and Drug Administration Phase 1 testing for an investigational device described in 21 C.F.R. Part 812.

(4) "Investigational drug" means a drug that:

(a) meets the definition of "investigational new drug" in 21 C.F.R. Sec. 312.3; and

(b) has successfully completed the United States Food and Drug Administration Phase 1 testing for an investigational new drug described in 21 C.F.R. Part 312.

(5) "Physician" means an individual who is licensed under:

(a) Title 58, Chapter 67, Utah Medical Practice Act; or

(b) Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

(6) "Terminal illness" means a condition of a patient that:

(a) as determined by a physician:

(i) is likely to pose a greater risk to the patient than the risk posed to the patient by treatment with an investigational drug or investigational device; and

(ii) will inevitably lead to the patient's death; and

(b) presents the patient, after the patient has explored conventional therapy options, with no treatment option that is satisfactory or comparable to treatment with an investigational drug or device.

Section 7. Section 58-85-103 is enacted to read:

58-85-103. Right to request investigational drug or device.

(1) An eligible patient may obtain an investigational drug through an agreement with the investigational drug's manufacturer and the eligible patient's physician that provides:

(a) for the transfer of the investigational drug from the manufacturer to the physician; and

(b) that the physician will administer the investigational drug to the patient.

(2) An eligible patient may obtain an investigational device through an agreement with the investigational device's manufacturer and the eligible patient's physician that provides:

(a) for the transfer of the investigational device from the manufacturer to the physician; and

(b) that the physician will use the investigational device to treat the patient.

(3) An agreement described in Subsection (1) or (2), between an eligible patient, a physician, and a manufacturer, shall include an informed consent document that, based on the physician's knowledge of the relevant investigational drug or investigational device:

(a) describes the possible positive and negative outcomes the eligible patient could experience if the physician treats the eligible patient with the investigational drug or investigational device, including that the investigational drug or investigational device could increase the possibility of death;

(b) states that an insurer is not required to cover the cost of providing the investigational drug or investigational device to the patient;

(c) states that, subject to Section 58-85-105, an insurer may deny coverage for the eligible patient; and

(d) states that the patient may be liable for all expenses caused by the physician treating the patient with the investigational drug or investigational device, unless the agreement provides otherwise.

(4) A physician or an eligible patient shall notify the eligible patient's insurer of the day on which the physician treated an eligible patient with an

investigational drug or investigational device, and the investigational drug or device used, under an agreement described in Subsection (1) or (2).

Section 8. Section 58-85-104 is enacted to read:

58-85-104. Standard of care -- Medical practitioners not liable -- No private right of action.

(1) It is not a breach of the applicable standard of care for a physician, other licensed health care provider, or hospital to treat an eligible patient with an investigational drug or investigational device under this chapter.

(2) A physician, other licensed health care provider, or hospital that treats an eligible patient with an investigational drug or investigational device under this chapter may not, for any harm done to the eligible patient by the investigational drug or device, be subject to:

(a) civil liability;

(b) criminal liability;

(c) licensure sanctions under:

(i) for a physician:

(A) Title 58, Chapter 67, Utah Medical Practice Act; or

(B) Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;

(ii) for the other licensed health care provider, the act governing the other licensed health care provider's license; or

(iii) for the hospital, Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.

(3) This chapter does not:

(a) require a manufacturer of an investigational drug or investigational device to agree to make an investigational drug or investigational device available to an eligible patient or an eligible patient's physician;

(b) require a physician to agree to:

(i) administer an investigational drug to an eligible patient under this chapter; or

(ii) treat an eligible patient with an investigational device under this chapter; or

(c) create a private right of action for an eligible patient:

(i) against a physician or hospital, for the physician's or hospital's refusal to:

(A) administer an investigational drug to an eligible patient under this chapter; or

(B) treat an eligible patient with an investigational device under this chapter; or

(ii) against a manufacturer, for the manufacturer's refusal to provide an eligible patient with an investigational drug or an investigational device under this chapter.

Section 9. Section 58-85-105 is enacted to read:

58-85-105. Insurance coverage.

(1) This chapter does not:

(a) require an insurer to cover the cost of:

(i) administering an investigational drug under this chapter; or

(ii) treating a patient with an investigational device under this chapter; or

(b) prohibit an insurer from covering the cost of:

(i) administering an investigational drug under this chapter; or

(ii) treating a patient with an investigational device under this chapter.

(2) Except as described in Subsection (3), an insurer may deny coverage to an eligible patient who is treated with an investigational drug or investigational device, for harm to the eligible patient caused by the investigational drug or investigational device.

(3) An insurer may not deny coverage to an eligible patient under Subsection (2) for:

(a) the eligible patient's preexisting condition;

(b) benefits that commenced before the day on which the eligible patient is treated with the investigational drug or investigational device; or

(c) palliative or hospice care for an eligible patient that has been treated with an investigational drug or device, but is no longer receiving curative treatment with the investigational drug or device.

CHAPTER 111**H. B. 97**

Passed February 24, 2015

Approved March 24, 2015

Effective May 12, 2015

**ELECTION OF OFFICIALS
OF NEW MUNICIPALITY**Chief Sponsor: Jon Cox
Senate Sponsor: Evan J. Vickers**LONG TITLE****General Description:**

This bill amends provisions related to the election of an officer for a newly incorporated city and town.

Highlighted Provisions:

This bill:

- ▶ amends provisions governing a primary and final election of officers for a newly incorporated city;
- ▶ assigns certain duties to the county clerk in regard to the officer election in a newly incorporated city and town;
- ▶ provides for the determination of council officer terms in a newly incorporated town;
- ▶ requires that the county clerk publish notice regarding candidacy filing and terms of office for council members of a newly incorporated town;
- ▶ enacts provisions governing a primary and final election of officers of a newly incorporated town; and
- ▶ makes technical and conforming amendments.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 10-2-102, as last amended by Laws of Utah 2012, Chapter 359
- 10-2-111, as last amended by Laws of Utah 2014, Chapter 158
- 10-2-115, as last amended by Laws of Utah 2009, Chapter 388
- 10-2-116, as last amended by Laws of Utah 2012, Chapter 359
- 10-2-119, as last amended by Laws of Utah 2009, Chapter 350
- 10-2-120, as last amended by Laws of Utah 2009, Chapter 350
- 10-2-121, as last amended by Laws of Utah 2009, Chapter 350
- 10-2-127, as last amended by Laws of Utah 2014, Chapter 158
- 10-2-129, as enacted by Laws of Utah 2012, Chapter 359
- 20A-1-203, as last amended by Laws of Utah 2014, Chapter 158
- 20A-1-204, as last amended by Laws of Utah 2013, Chapters 295 and 415

ENACTS:

10-2-128.1, Utah Code Annotated 1953

10-2-128.2, Utah Code Annotated 1953

REPEALS AND REENACTS:

10-2-128, as enacted by Laws of Utah 2012, Chapter 359

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

Section 1. Section 10-2-102 is amended to read:**10-2-102. Incorporation of a contiguous area -- Governing provisions of city or town incorporation.**

(1) A contiguous area of a county not within a municipality may incorporate as a municipality as provided in this part.

(2) (a) Incorporation as a city is governed by Sections 10-2-103 through 10-2-124.

(b) Incorporation as a town is governed by Sections 10-2-125 through ~~10-2-129~~ 10-2-131.

Section 2. Section 10-2-111 is amended to read:**10-2-111. Incorporation election.**

(1) (a) Upon receipt of a certified petition under Subsection 10-2-110(1)(b)(i) or a certified modified petition under Subsection 10-2-110(3), the county legislative body shall determine and set an election date for the incorporation election that is:

(i) (A) on a regular general election date under Section 20A-1-201; or

(B) on a local special election date under Section 20A-1-203; and

(ii) at least 65 days after the day that the legislative body receives the certified petition.

(b) Unless a person is a registered voter who resides, as defined in Section 20A-1-102, within the boundaries of the proposed city, the person may not vote on the proposed incorporation.

(2) (a) The county clerk shall publish notice of the election:

(i) in a newspaper of general circulation within the area proposed to be incorporated at least once a week for three successive weeks; and

(ii) in accordance with Section 45-1-101 for three weeks.

(b) The notice required by Subsection (2)(a) shall contain:

(i) a statement of the contents of the petition;

(ii) a description of the area proposed to be incorporated as a city;

(iii) a statement of the date and time of the election and the location of polling places; and

(iv) the feasibility study summary under Subsection 10-2-106(3)(b) and a statement that a full copy of the study is available for inspection and copying at the office of the county clerk.

(c) The last publication of notice required under Subsection (2)(a) shall occur at least one day but no more than seven days before the election.

(d) (i) In accordance with Subsection (2)(a)(i), if there is no newspaper of general circulation within the proposed city, the county clerk shall post at least one notice of the election per 1,000 population in conspicuous places within the proposed city that are most likely to give notice of the election to the voters of the proposed city.

(ii) The clerk shall post the notices under Subsection (2)(d)(i) at least seven days before the election under Subsection (1).

(3) If a majority of those casting votes within the area boundaries of the proposed city vote to incorporate as a city, the area shall incorporate.

Section 3. Section 10-2-115 is amended to read:

10-2-115. Notice of number of commission or council members to be elected and of district boundaries -- Declaration of candidacy for city office.

(1) (a) Within 20 days of the county legislative body's receipt of the information under Subsection 10-2-114(1)(d), the county clerk shall publish, in accordance with Subsection (1)(b), notice containing:

(i) the number of commission or council members to be elected for the new city;

(ii) if some or all of the commission or council members are to be elected by district, a description of the boundaries of those districts as designated by the petition sponsors under Subsection 10-2-114(1)(b);

(iii) information about the deadline for filing a declaration of candidacy for those seeking to become candidates for mayor or city commission or council; and

(iv) information about the length of the initial term of each of the city officers, as determined by the petition sponsors under Subsection 10-2-114(1)(c).

(b) The notice under Subsection (1)(a) shall be published:

(i) in a newspaper of general circulation within the future city at least once a week for two successive weeks; and

(ii) in accordance with Section 45-1-101 for two weeks.

(c) (i) In accordance with Subsection (1)(b)(i), if there is no newspaper of general circulation within the future city, the county clerk shall post at least one notice per 1,000 population in conspicuous places within the future city that are most likely to give notice to the residents of the future city.

(ii) The notice under Subsection (1)(c)(i) shall contain the information required under Subsection (1)(a).

(iii) The petition sponsors shall post the notices under Subsection (1)(c)(i) at least seven days before the deadline for filing a declaration of candidacy under Subsection (2).

(2) Notwithstanding Subsection 20A-9-203(2)(a), each person seeking to become a candidate for mayor or city commission or council of a city incorporating under this part shall ~~within 45 days of the incorporation election under Section 10-2-111,~~ file a declaration of candidacy with the clerk of the county in which the future city is located and in accordance with the deadlines set by the clerk as authorized by Section 10-2-116.

Section 4. Section 10-2-116 is amended to read:

10-2-116. Election of officers of new city -- Primary and final election dates -- County clerk duties -- Candidate duties -- Occupation of office.

(1) For the election of city officers, the county legislative body shall:

(a) unless a primary election is prohibited by Subsection 20A-9-404(2), hold a primary election; and

(b) unless the election may be cancelled in accordance with Section 20A-1-206, hold a final election.

(2) Each election under Subsection (1) shall be:

(a) appropriate to the form of government chosen by the voters at the incorporation election;

(b) consistent with the voters' decision about whether to elect commission or council members by district and, if applicable, consistent with the boundaries of those districts as determined by the petition sponsors; and

(c) consistent with the sponsors' determination of the number of commission or council members to be elected and the length of their initial term.

(3) (a) Subject to Subsection (3)(b), the primary election under Subsection (1)(a) shall be held at the earliest of the next:

(i) notwithstanding Subsection 20A-1-201.5(2), regular general election under Section 20A-1-201;

(ii) notwithstanding Subsection 20A-1-201.5(2), regular primary election under Subsection 20A-1-201.5(1);

~~(iii)~~ (iii) municipal primary election under Section 20A-9-404; or

~~(iii)~~ (iv) notwithstanding Subsection 20A-1-201.5(2), municipal general election under Section 20A-1-202~~;~~ or

~~(iv) special election under Section 20A-1-204.]~~

~~(b) Notwithstanding Subsection (3)(a), the primary election under Subsection (1)(a) may not be held until]~~

(b) The county shall hold the primary election, if necessary, on the next earliest election date listed in Subsection (3)(a)(i), (ii), (iii), or (iv) that is at least:

(i) 75 days after the incorporation election under Section 10-2-111[-]; and

(ii) 65 days after the last day of the candidate filing period.

(4) ~~[The]~~ (a) Subject to Subsection (4)(b), the county shall hold the final election under Subsection (1)(b) ~~[shall be held at the next special election date under Section 20A-1-204: (a) after the primary election; or]~~ on one of the following election dates:

(i) regular general election under Section 20A-1-201;

(ii) municipal primary election under Section 20A-9-404;

(iii) regular municipal general election under Section 20A-1-202; or

(iv) regular primary election under Section 20A-1-201.5.

(b) The county shall hold the final election on the earliest of the next election date that is listed in Subsection (4)(a)(i), (ii), (iii), or (iv):

(i) that is after a primary election; or

~~[(b)]~~ (ii) if there is no primary election, ~~[more than]~~ that is at least:

(A) 75 days after the incorporation election under Section 10-2-111[-]; and

(B) 65 days after the candidate filing period.

(5) (a) (i) The county clerk shall publish notice of an election under this section:

(A) at least once a week for two successive weeks in a newspaper of general circulation within the future city; and

(B) in accordance with Section 45-1-101 for two weeks.

(ii) The later notice under Subsection (5)(a)(i) shall be at least one day but no more than seven days before the election.

(b) (i) In accordance with Subsection (5)(a)(i)(A), if there is no newspaper of general circulation within the future city, the county clerk shall post at least one notice of the election per 1,000 population in conspicuous places within the future city that are most likely to give notice of the election to the voters.

(ii) The county clerk shall post the notices under Subsection (5)(b)(i) at least seven days before each election under Subsection (1).

(6) (a) Until the city is incorporated, the county clerk:

(i) is the election officer for all purposes in an election of officers of the city approved at an incorporation election[-]; and

(ii) may, as necessary, determine appropriate deadlines, procedures, and instructions that are not otherwise contrary to law.

(b) The county clerk shall require and determine deadlines for the filing of campaign financial disclosures of city officer candidates in accordance with Section 10-3-208.

(c) The county clerk is responsible to ensure that:

(i) a primary or final election for the officials of a newly incorporated city is held on a date authorized by this section; and

(ii) the ballot for the election includes each office that is required to be included in the election for officers of the newly incorporated city and the term of each office.

(7) A person who has filed as a candidate for an office described in this section shall comply with the campaign finance disclosure requirements of Section 10-3-208 and requirements and deadlines as lawfully set forth by the county clerk.

(8) Notwithstanding Section 10-3-201, the officers elected at a final election described in Subsection (4)(a) shall take office:

(a) after taking the oath of office; and

(b) at noon on the first Monday following the day on which the election official transmits a certificate of nomination or election under the officer's seal to each elected candidate in accordance with Subsection 20A-4-304(2)(c)(ii).

Section 5. Section 10-2-119 is amended to read:

10-2-119. Filing of notice and approved final local entity plat with lieutenant governor -- Effective date of incorporation -- Necessity of recording documents and effect of not recording.

(1) The ~~[mayor-elect]~~ mayor of the future city shall:

(a) within 30 days after the canvass of the final election of city officers under Section 10-2-116, file with the lieutenant governor:

(i) a copy of a notice of an impending boundary action, as defined in Section 67-1a-6.5, that meets the requirements of Subsection 67-1a-6.5(3); and

(ii) a copy of an approved final local entity plat, as defined in Section 67-1a-6.5; and

(b) upon the lieutenant governor's issuance of a certificate of incorporation under Section 67-1a-6.5:

(i) if the city is located within the boundary of a single county, submit to the recorder of that county the original:

(A) notice of an impending boundary action;

(B) certificate of incorporation; and

(C) approved final local entity plat; or

(ii) if the city is located within the boundaries of more than a single county, submit the original of the documents listed in Subsections (1)(b)(i)(A), (B), and (C) to one of those counties and a certified copy of those documents to each other county.

(2) (a) The incorporation is effective upon the lieutenant governor's issuance of a certificate of incorporation under Section 67-1a-6.5.

(b) Notwithstanding any other provision of law, a city is conclusively presumed to be lawfully incorporated and existing if, for two years following the city's incorporation:

(i) (A) the city has levied and collected a property tax; or

(B) for a city incorporated on or after July 1, 1998, the city has imposed a sales and use tax; and

(ii) no challenge to the existence or incorporation of the city has been filed in the district court for the county in which the city is located.

(3) (a) The effective date of an incorporation for purposes of assessing property within the new city is governed by Section 59-2-305.5.

(b) Until the documents listed in Subsection (1)(b) are recorded in the office of the recorder of each county in which the property is located, a newly incorporated city may not:

(i) levy or collect a property tax on property within the city;

(ii) levy or collect an assessment on property within the city; or

(iii) charge or collect a fee for service provided to property within the city.

Section 6. Section 10-2-120 is amended to read:

10-2-120. Powers of officers.

(1) Upon the canvass of the final election of city officers under Section 10-2-116 and until the future city becomes legally incorporated, the officers of the future city may:

(a) prepare and adopt, under Chapter 6, Uniform Fiscal Procedures Act for Utah Cities, a proposed budget and compilation of ordinances;

(b) negotiate and make personnel contracts and hirings;

(c) negotiate and make service contracts;

(d) negotiate and make contracts to purchase equipment, materials, and supplies;

(e) borrow funds from the county in which the future city is located under Subsection 10-2-121(3);

(f) borrow funds for startup expenses of the future city;

(g) issue tax anticipation notes in the name of the future city; and

(h) make appointments to the city's planning commission.

(2) The city's legislative body shall review and ratify each contract made by the ~~[officers-eleet]~~ officers under Subsection (1) within 30 days after

the effective date of incorporation under Section 10-2-119.

Section 7. Section 10-2-121 is amended to read:

10-2-121. Division of municipal-type services revenues -- County may provide startup funds.

(1) The county in which an area incorporating under this part is located shall, until the date of the city's incorporation under Section 10-2-119, continue:

(a) to levy and collect ad valorem property tax and other revenues from or pertaining to the future city; and

(b) except as otherwise agreed by the county and the ~~[officers-eleet]~~ officers of the city, to provide the same services to the future city as the county provided before the commencement of the incorporation proceedings.

(2) (a) The legislative body of the county in which a newly incorporated city is located shall share pro rata with the new city, based on the date of incorporation, the taxes and service charges or fees levied and collected by the county under Section 17-34-3 during the year of the new city's incorporation if and to the extent that the new city provides, by itself or by contract, the same services for which the county levied and collected the taxes and service charges or fees.

(b) (i) The legislative body of a county in which a city incorporated after January 1, 2004, is located may share with the new city taxes and service charges or fees that were levied and collected by the county under Section 17-34-3:

(A) before the year of the new city's incorporation;

(B) from the previously unincorporated area that, because of the city's incorporation, is located within the boundaries of the newly incorporated city; and

(C) for the purpose of providing services to the area that before the new city's incorporation was unincorporated.

(ii) A county legislative body may share taxes and service charges or fees under Subsection (2)(b)(i) by a direct appropriation of funds or by a credit or offset against amounts due under a contract for municipal-type services provided by the county to the new city.

(3) (a) The legislative body of a county in which an area incorporating under this part is located may appropriate county funds to:

(i) before incorporation but after the canvass of the final election of city officers under Section 10-2-116, the ~~[officers-eleet]~~ officers of the future city to pay startup expenses of the future city; or

(ii) after incorporation, the new city.

(b) Funds appropriated under Subsection (3)(a) may be distributed in the form of a grant, a loan, or as an advance against future distributions under Subsection (2).

Section 8. Section 10-2-127 is amended to read:

10-2-127. Incorporation of town -- Election to incorporate -- Ballot form.

(1) (a) Upon receipt of a certified petition under Subsection 10-2-110(1)(b)(i) or a certified modified petition under Subsection 10-2-110(3), the county legislative body shall determine and set an election date for the incorporation election that is:

(i) (A) on a regular general election date under Section 20A-1-201; or

(B) on a local special election date under Section 20A-1-203; and

(ii) at least 65 days after the day that the legislative body receives the certified petition.

(b) Unless a person is a registered voter who resides, as defined in Section 20A-1-102, within the boundaries of the proposed town, the person may not vote on the proposed incorporation.

(2) (a) The county clerk shall publish notice of the election:

(i) in a newspaper of general circulation, within the area proposed to be incorporated, at least once a week for three successive weeks; and

(ii) in accordance with Section 45-1-101 for three weeks.

(b) The notice required by Subsection (2)(a) shall contain:

(i) a statement of the contents of the petition;

(ii) a description of the area proposed to be incorporated as a town;

(iii) a statement of the date and time of the election and the location of polling places; and

(iv) the county Internet website address, if applicable, and the address of the county office where the feasibility study is available for review.

(c) The last publication of notice required under Subsection (2)(a) shall occur at least one day but no more than seven days before the election.

(d) (i) In accordance with Subsection (2)(a)(i), if there is no newspaper of general circulation within the proposed town, the county clerk shall post at least one notice of the election per 100 population in conspicuous places within the proposed town that are most likely to give notice of the election to the voters of the proposed town.

(ii) The clerk shall post the notices under Subsection (2)(d)(i) at least seven days before the election under Subsection (1)(a).

(3) The ballot at the incorporation election shall pose the incorporation question substantially as follows:

Shall the area described as (insert a description of the proposed town) be incorporated as the town of (insert the proposed name of the proposed town)?

(4) The ballot shall provide a space for the voter to answer yes or no to the question in Subsection (3).

(5) If a majority of those casting votes within the area boundaries of the proposed town vote to incorporate as a town, the area shall incorporate.

Section 9. Section 10-2-128 is repealed and reenacted to read:

10-2-128. Form of government --

Determination of council officer terms -- Hearings and notice.

(1) A newly incorporated town shall operate under the five-member council form of government as defined in Section 10-3b-102.

(2) If the incorporation proposal passes, the petition sponsors shall, within 25 days of the canvass of the election under Section 10-2-127:

(a) determine the initial terms of the mayor and members of the city council so that:

(i) the mayor and approximately half the members of the town council are elected to serve an initial term, of no less than one year, that allows their successors to serve a full four-year term that coincides with the schedule established in Subsection 10-3-205(1); and

(ii) the remaining members of the town council are elected to serve an initial term, of no less than one year, that allows their successors to serve a full four-year term that coincides with the schedule established in Subsection 10-3-205(2); and

(b) submit in writing to the county legislative body the results of the sponsors' determinations under Subsection (2)(a).

(3) (a) Before making a determination under Subsection (2)(a), the petition sponsors shall hold a public hearing within the future town on the applicable issues under Subsections (2)(a)(i) and (ii).

(b) (i) The petition sponsors shall publish notice of the public hearing under Subsection (3)(a):

(A) in a newspaper of general circulation within the future town at least once a week for two successive weeks before the day of the hearing; and

(B) on the Utah Public Notice Website, created in Section 63F-1-701, for two weeks before the day of the hearing.

(ii) The last publication of notice under Subsection (3)(b)(i)(A) shall be at least three days before the day of the public hearing under Subsection (3)(a).

(c) (i) In accordance with Subsection (3)(b)(i)(A), if there is no newspaper of general circulation within the future town, the petition sponsors shall post at least one notice of the hearing per 1,000 population in conspicuous places within the future town that are most likely to give notice of the hearing to the residents of the future town.

(ii) The petition sponsors shall post the notices under Subsection (3)(c)(i) at least seven days before

the day that the hearing is held under Subsection (3)(a).

Section 10. Section 10-2-128.1 is enacted to read:

10-2-128.1. (Codified as 10-2a-305.1) Notice of number of council members to be elected and of district boundaries -- Declaration of candidacy for city office -- Occupation of office.

(1) (a) Within 20 days of the county legislative body's receipt of the information under Subsection 10-2-128(2)(b), the county clerk shall publish, in accordance with Subsection (1)(b), notice containing:

(i) information about the deadline for filing a declaration of candidacy for those seeking to become candidates for mayor or town council; and

(ii) information about the length of the initial term of each of the town officers, as determined by the petition sponsors under Subsection 10-2-128(2)(a).

(b) The notice under Subsection (1)(a) shall be published:

(i) in a newspaper of general circulation within the future town at least once a week for two successive weeks; and

(ii) in accordance with Section 45-1-101 for two weeks.

(c) (i) In accordance with Subsection (1)(b)(i), if there is no newspaper of general circulation within the future city, the county clerk shall post at least one notice per 1,000 population in conspicuous places within the future town that are most likely to give notice to the residents of the future town.

(ii) The notice under Subsection (1)(c)(i) shall contain the information required under Subsection (1)(a).

(iii) The petition sponsors shall post the notices under Subsection (1)(c)(i) at least seven days before the deadline for filing a declaration of candidacy under Subsection (2).

(2) Notwithstanding Subsection 20A-9-203(2)(a), each person seeking to become a candidate for mayor or town council of a town incorporating under this part shall, within 45 days of the incorporation election under Section 10-2-127, file a declaration of candidacy with the clerk of the county in which the future town is located.

Section 11. Section 10-2-128.2 is enacted to read:

10-2-128.2. (Codified as 10-2a-305.2) Election of officers of new town -- Primary and final election dates -- County clerk duties -- Candidate duties -- Occupation of office.

(1) For the election of town officers, the county legislative body shall:

(a) unless a primary election is prohibited by Subsection 20A-9-404(2), hold a primary election; and

(b) hold a final election unless the election may be cancelled in accordance with Section 20A-1-206.

(2) Each election under Subsection (1) shall be consistent with the petition sponsors' determination of the length of each council member's initial term.

(3) (a) Subject to Subsection (3)(b), the primary election under Subsection (1)(a) shall be held on one of the following election dates:

(i) notwithstanding Subsection 20A-1-201.5(2), regular general election under Section 20A-1-201;

(ii) notwithstanding Subsection 20A-1-201.5(2), regular primary election under Subsection 20A-1-201.5(1);

(iii) municipal primary election under Section 20A-9-404; or

(iv) notwithstanding Subsection 20A-1-201.5(2), municipal general election under Section 20A-1-202.

(b) The county shall hold the primary election, if necessary, at the earliest of the next election date listed in Subsection (3)(a)(i), (ii), (iii), or (iv) that is at least:

(i) 75 days after the incorporation election under Section 10-2-127; and

(ii) 65 days after the last day of the candidate filing period.

(4) (a) Subject to Subsection (4)(b), the county shall hold the final election under Subsection (1)(b) on one of the following election dates:

(i) regular general election under Section 20A-1-201;

(ii) municipal primary election under Section 20A-9-404;

(iii) municipal general election under Section 20A-1-202; or

(iv) regular primary election under Section 20A-1-201.5.

(b) The county shall hold the final election on the next earliest election date listed in Subsection (4)(a)(i), (ii), (iii), or (iv):

(i) that is after a primary election; or

(ii) if there is no primary election, that is at least:

(A) 75 days after the incorporation election under Section 10-2-111; and

(B) 65 days after the candidate filing period.

(5) (a) (i) The county clerk shall publish notice of an election under this section:

(A) at least once a week for two successive weeks in a newspaper of general circulation within the future town; and

(B) in accordance with Section 45-1-101 for two weeks.

(ii) The later notice under Subsection (5)(a)(i) shall be at least one day but no more than seven days before the election.

(b) (i) In accordance with Subsection (5)(a)(i)(A), if there is no newspaper of general circulation within the future town, the county clerk shall post at least one notice of the election per 1,000 population in conspicuous places within the future town that are most likely to give notice of the election to the voters.

(ii) The county clerk shall post the notices under Subsection (5)(b)(i) at least seven days before an election under Subsection (1)(a) or (b).

(6) (a) Until the town is incorporated, the county clerk:

(i) is the election officer for all purposes in an election of officers of the town approved at an incorporation election; and

(ii) may, as necessary, determine appropriate deadlines, procedures, and instructions that are not otherwise contrary to law.

(b) The county clerk shall require and determine deadlines for the filing of campaign financial disclosures of town officer candidates in accordance with Section 10-3-208.

(c) The county clerk is responsible to ensure that:

(i) a primary or final election for the officials of a newly incorporated town is held on a date authorized by this section; and

(ii) the ballot for the election includes each office that is required to be included in the election for officers of the newly incorporated town and the term of each office.

(7) A person who has filed as a candidate for an office described in this section shall comply with the campaign finance disclosure requirements of Section 10-3-208 and requirements and deadlines as lawfully set forth by the county clerk.

(8) Notwithstanding Section 10-3-201, the officers elected at a final election described in Subsection (4)(a) shall take office:

(a) after taking the oath of office; and

(b) at noon on the first Monday following the day on which the election official transmits a certificate of nomination or election under the officer's seal to each elected candidate in accordance with Subsection 20A-4-304(2)(c)(ii).

Section 12. Section 10-2-129 is amended to read:

10-2-129. Notice to lieutenant governor -- Effective date of incorporation -- Effect of recording documents.

(1) The [mayor-eleet] mayor of the future town shall:

(a) within 30 days after the canvass of the election of town officers under Section [10-2-128] 10-2-128.2, file with the lieutenant governor:

(i) a copy of a notice of an impending boundary action, as defined in Section 67-1a-6.5, that meets the requirements of Subsection 67-1a-6.5(3); and

(ii) a copy of an approved final local entity plat, as defined in Section 67-1a-6.5; and

(b) upon the lieutenant governor's issuance of a certificate of incorporation under Section 67-1a-6.5:

(i) if the town is located within the boundary of a single county, submit to the recorder of that county the original:

(A) notice of an impending boundary action;

(B) certificate of incorporation; and

(C) approved final local entity plat; or

(ii) if the town is located within the boundaries of more than a single county, submit the original of the documents listed in Subsections (1)(b)(i)(A), (B), and (C) to one of those counties and a certified copy of those documents to each other county.

(2) (a) A new town is incorporated:

(i) on December 31 of the year in which the lieutenant governor issues a certificate of incorporation under Section 67-1a-6.5, if the election of town officers under Section [10-2-128] 10-2-128.2 is held on a regular general or municipal general election date; or

(ii) on the last day of the month during which the lieutenant governor issues a certificate of incorporation under Section 67-1a-6.5, if the election of town officers under Section [10-2-128] 10-2-128.2 is held on any other date.

(b) (i) The effective date of an incorporation for purposes of assessing property within the new town is governed by Section 59-2-305.5.

(ii) Until the documents listed in Subsection (1)(b)(i) are recorded in the office of the recorder of each county in which the property is located, a newly incorporated town may not:

(A) levy or collect a property tax on property within the town;

(B) levy or collect an assessment on property within the town; or

(C) charge or collect a fee for service provided to property within the town.

Section 13. Section 20A-1-203 is amended to read:

20A-1-203. Calling and purpose of special elections -- Two-thirds vote limitations.

(1) Statewide and local special elections may be held for any purpose authorized by law.

(2) (a) Statewide special elections shall be conducted using the procedure for regular general elections.

(b) Except as otherwise provided in this title, local special elections shall be conducted using the procedures for regular municipal elections.

(3) The governor may call a statewide special election by issuing an executive order that designates:

- (a) the date for the statewide special election; and
- (b) the purpose for the statewide special election.

(4) The Legislature may call a statewide special election by passing a joint or concurrent resolution that designates:

- (a) the date for the statewide special election; and
- (b) the purpose for the statewide special election.

(5) (a) The legislative body of a local political subdivision may call a local special election only for:

- (i) a vote on a bond or debt issue;
- (ii) a vote on a voted local levy authorized by Section 53A-16-110 or 53A-17a-133;
- (iii) an initiative authorized by Chapter 7, Part 5, Local Initiatives - Procedures;
- (iv) a referendum authorized by Chapter 7, Part 6, Local Referenda - Procedures;
- (v) if required or authorized by federal law, a vote to determine whether or not Utah's legal boundaries should be changed;
- (vi) a vote authorized or required by Title 59, Chapter 12, Sales and Use Tax Act;
- (vii) a vote to elect members to school district boards for a new school district and a remaining school district, as defined in Section 53A-2-117, following the creation of a new school district under Section 53A-2-118.1;

~~[(viii) an election of town officers of a newly incorporated town under Section 10-2-128;]~~

~~[(ix) an election of officers for a new city under Section 10-2-116;]~~

~~[(x)]~~ (viii) a vote on a municipality providing cable television services or public telecommunications services under Section 10-18-204;

~~[(xi)]~~ (ix) a vote to create a new county under Section 17-3-1;

~~[(xii)]~~ (x) a vote on the creation of a study committee under Sections 17-52-202 and 17-52-203.5;

~~[(xiii)]~~ (xi) a vote on a special property tax under Section 53A-16-110;

~~[(xiv)]~~ (xii) a vote on the incorporation of a city in accordance with Section 10-2-111; or

~~[(xv)]~~ (xiii) a vote on the incorporation of a town in accordance with Section 10-2-127.

(b) The legislative body of a local political subdivision may call a local special election by adopting an ordinance or resolution that designates:

- (i) the date for the local special election as authorized by Section 20A-1-204; and

- (ii) the purpose for the local special election.

(c) A local political subdivision may not call a local special election unless the ordinance or resolution calling a local special election under Subsection (5)(b) is adopted by a two-thirds majority of all members of the legislative body, if the local special election is for:

- (i) a vote on a bond or debt issue as described in Subsection (5)(a)(i);
- (ii) a vote on a voted leeway or levy program as described in Subsection (5)(a)(ii); or
- (iii) a vote authorized or required for a sales tax issue as described in Subsection (5)(a)(vi).

Section 14. Section 20A-1-204 is amended to read:

20A-1-204. Date of special election -- Legal effect.

(1) (a) Except as provided by Subsection (1)(d), the governor, Legislature, or the legislative body of a local political subdivision calling a statewide special election or local special election under Section 20A-1-203 shall schedule the special election to be held on:

- (i) the fourth Tuesday in June; or
- (ii) the first Tuesday after the first Monday in November~~[-or-]~~.

~~[(iii) for an election of town officers of a newly incorporated town under Section 10-2-128, on any date that complies with the requirements of that subsection.]~~

(b) Except as provided in Subsection (1)(c), the governor, Legislature, or the legislative body of a local political subdivision calling a statewide special election or local special election under Section 20A-1-203 may not schedule a special election to be held on any other date.

(c) (i) Notwithstanding the requirements of Subsection (1)(b) or (1)(d), the legislative body of a local political subdivision may call a local special election on a date other than those specified in this section if the legislative body:

(A) determines and declares that there is a disaster, as defined in Section 53-2a-102, requiring that a special election be held on a date other than the ones authorized in statute;

(B) identifies specifically the nature of the disaster, as defined in Section 53-2a-102, and the reasons for holding the special election on that other date; and

(C) votes unanimously to hold the special election on that other date.

(ii) The legislative body of a local political subdivision may not call a local special election for the date established in Chapter 9, Part 8, Western States Presidential Primary, for Utah's Western States Presidential Primary.

(d) The legislative body of a local political subdivision may only call a special election for a

ballot proposition related to a bond, debt, leeway, levy, or tax on the first Tuesday after the first Monday in November.

(e) Nothing in this section prohibits:

(i) the governor or Legislature from submitting a matter to the voters at the regular general election if authorized by law; or

(ii) a local government from submitting a matter to the voters at the regular municipal election if authorized by law.

(2) (a) Two or more entities shall comply with Subsection (2)(b) if those entities hold a special election within a county on the same day as:

(i) another special election;

(ii) a regular general election; or

(iii) a municipal general election.

(b) Entities described in Subsection (2)(a) shall, to the extent practicable, coordinate:

(i) polling places;

(ii) ballots;

(iii) election officials; and

(iv) other administrative and procedural matters connected with the election.

CHAPTER 112**H. B. 104**

Passed March 12, 2015
 Approved March 24, 2015
 Effective May 12, 2015

COW-SHARE PROGRAM AMENDMENTS

Chief Sponsor: Marc K. Roberts
 Senate Sponsor: Mark B. Madsen

LONG TITLE**General Description:**

This bill modifies the Utah Dairy Act by removing a prohibition on cow-sharing programs.

Highlighted Provisions:

This bill:

- ▶ modifies definitions;
- ▶ removes the prohibition on owning, operating, organizing, or otherwise participating in a cow-share program where the milk producing hoofed animal is located in Utah;
- ▶ states that the Utah Dairy Act does not apply to milk or milk products produced on the farm if the milk or milk products are consumed by participants in a cow-share program;
- ▶ states that the Department of Agriculture and Food may not adopt rules restricting an individual's ability to transfer or obtain:
 - raw milk in accordance with the terms of a cow-share agreement; or
 - an interest in a cow-share program in accordance with the terms of the cow-share program agreement; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

4-3-1, as last amended by Laws of Utah 2007, Chapters 165 and 179

4-3-10, as last amended by Laws of Utah 2007, Chapters 165 and 179

4-3-13, as enacted by Laws of Utah 1979, Chapter 2

ENACTS:

4-3-1.3, Utah Code Annotated 1953

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

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

As used in this chapter:

- (1) "Adulterated" means any dairy product that:
- (a) contains any poisonous or deleterious substance that may render it injurious to health;
 - (b) has been produced, prepared, packaged, or held:
 - (i) under unsanitary conditions;
 - (ii) where it may have become contaminated; or

(iii) where it may have become diseased or injurious to health;

(c) contains any food additive that is unsafe within the meaning of 21 U.S.C. Sec. 348;

(d) contains:

- (i) any filthy, putrid, or decomposed substance;
- (ii) fresh fluid milk with a lactic acid level at or above .0018; or

(iii) cream with a lactic acid level at or above .008 or that is otherwise unfit for human food;

(e) is the product of:

- (i) a diseased animal;
- (ii) an animal that died otherwise than by slaughter; or
- (iii) an animal fed upon uncooked offal;

(f) has intentionally been subjected to radiation, unless the use of the radiation is in conformity with a rule or exemption promulgated by the department; or

(g) (i) has any valuable constituent omitted or abstracted;

(ii) has any substance substituted in whole or in part;

(iii) has damage or inferiority concealed in any manner; or

(iv) has any substance added, mixed, or packed with the product to:

- (A) increase its bulk or weight;
- (B) reduce its quality or strength; or
- (C) make it appear better or of greater value.

(2) "Cow-share program" means a program in which a person acquires an undivided interest in a milk producing hoofed mammal through an agreement with a producer that includes:

(a) a bill of sale for an interest in the mammal;

(b) a boarding arrangement under which the person boards the mammal with the producer for the care and milking of the mammal and the boarding arrangement and bill of sale documents remain with the program operator; [and]

(c) an arrangement under which the person receives raw milk for personal [~~consumption.~~] use not to be sold or distributed in a retail environment or for profit; and

(d) no more than two cows, 10 goats, and 10 sheep per farm in the program.

(3) "Dairy product" means any product derived from raw or pasteurized milk.

(4) "Distributor" means any person who distributes a dairy product.

(5) (a) "Filled milk" means any milk, cream, or skimmed milk, whether condensed, evaporated, concentrated, powdered, dried, or desiccated, that

has fat or oil other than milk fat added, blended, or compounded with it so that the resultant product is an imitation or semblance of milk, cream, or skimmed milk.

(b) "Filled milk" does not include any distinctive proprietary food compound:

(i) that is prepared and designated for feeding infants and young children, which is customarily used upon the order of a licensed physician;

(ii) whose product name and label does not contain the word "milk"; and

(iii) whose label conforms with the food labeling requirements.

(6) "Frozen dairy products" mean dairy products normally served to the consumer in a frozen or semifrozen state.

(7) "Grade A milk," "grade A milk products," and "milk" have the same meaning that is accorded the terms in the federal standards for grade A milk and grade A milk products unless modified by rules of the department.

(8) "License" means a document allowing a person or plant to process, manufacture, supply, test, haul, or pasteurize milk or milk products or conduct other activity specified by the license.

(9) "Manufacturer" means any person who processes milk in a way that changes the milk's character.

(10) "Manufacturing milk" means milk used in the production of non-grade A dairy products.

(11) "Misbranded" means:

(a) any dairy product whose label is false or misleading in any particular, or whose label or package fails to conform to any federal regulation adopted by the department that pertains to packaging and labeling;

(b) any dairy product in final packaged form manufactured in this state that does not bear:

(i) the manufacturer's, packer's, or distributor's name, address, and plant number, if applicable;

(ii) a clear statement of the product's common or usual name, quantity, and ingredients, if applicable; and

(iii) any other information required by rule of the department;

(c) any butter in consumer package form that is not at least B grade, or that does not meet the grade claimed on the package, measured by U.S.D.A. butter grade standards;

(d) any imitation butter made in whole or in part from material other than wholesome milk or cream, except clearly labeled "margarine";

(e) renovated butter unless the words "renovated butter," in letters not less than 1/2-inch in height appear on each package, roll, square, or container of such butter; or

(f) any dairy product in final packaged form that makes nutritional claims or adds or adjusts nutrients that are not so labeled.

(12) "Pasteurization" means any process that renders dairy products practically free of disease organisms and is accepted by federal standards.

(13) "Permit or certificate" means a document allowing a person to market milk.

(14) "Plant" means any facility where milk is processed or manufactured.

(15) "Processor" means any person who subjects milk to a process.

(16) "Producer" means a person who owns a cow or other milk producing hoofed mammal that produces milk for consumption by persons other than the producer's family, employees, or nonpaying guests.

(17) "Raw milk" means unpasteurized milk.

(18) "Renovated butter" means butter that is reduced to a liquid state by melting and drawing off such liquid or butter oil and churning or otherwise manipulating it in connection with milk or any product of milk.

(19) "Retailer" means any person who sells or distributes dairy products directly to the consumer.

Section 2. Section 4-3-1.3 is enacted to read:

4-3-1.3. Cow share program notification.

(1) A producer who is in a cow-share program, as defined in Section 4-3-1, shall notify the department of the cow-share program and include in the notification:

(a) the producer's name; and

(b) a valid, current address of the farm on which the milk producing hoofed mammal in the cow-share program is located.

(2) Upon receipt, the department shall keep a notification of a cow-share program described in Subsection (1) on file.

Section 3. Section 4-3-10 is amended to read:

4-3-10. Unlawful acts specified.

It is unlawful for any person in this state to:

(1) operate a plant without a license issued by the department;

(2) market milk without a permit or certificate issued by the department;

(3) manufacture butter or cheese, pasteurize milk, test milk for payment, or haul milk in bulk without a special license to perform the particular activity designated in this Subsection (3); unless if more than one person working in a plant is engaged in the performance of a single activity designated in this Subsection (3), the person who directs the activity is licensed;

(4) manufacture, distribute, sell, deliver, hold, store, or offer for sale any adulterated or misbranded dairy product;

(5) manufacture, distribute, sell, deliver, hold, store, or offer for sale any dairy product without a license, permit, or certificate required by this chapter;

(6) sell or offer for sale any milk not intended for human consumption unless it is denatured or decharacterized in accordance with the rules of the department;

(7) manufacture, distribute, sell, or offer for sale any filled milk labeled as milk or as a dairy product;

(8) keep any animals with brucellosis, tuberculosis, or other infectious or contagious diseases communicable to humans in any place where they may come in contact with cows or other milking animals;

(9) draw milk for human food from cows or other milking animals that are infected with tuberculosis, running sores, communicable diseases, or from animals that are fed feed that will produce milk that is adulterated;

(10) accept or process milk from any producer without verification that the producer holds a valid permit or certification or, if milk is accepted from out of the state, without verification that the producer holds a permit or certification from the appropriate regulatory agency of that state;

(11) use any contaminated or unclean equipment or container to process, manufacture, distribute, deliver, or sell a dairy product;

(12) remove, change, conceal, erase, or obliterate any mark or tag placed upon any equipment, tank, or container by the department except to clean and sanitize it;

(13) use any tank or container used for the transportation of milk or other dairy products that is unclean or contaminated;

(14) refuse to allow the department to take samples for testing; or

(15) prohibit adding vitamin compounds in the processing of milk and dairy products in accordance with rules of the department[; ~~or~~].

[~~(16) own, operate, organize, or otherwise participate in a cow-share program where the milk producing hooved mammal is located in Utah.~~]

Section 4. Section 4-3-13 is amended to read:

4-3-13. Exemption.

(1) This chapter [~~is inapplicable~~] does not apply to milk or milk products produced on the farm if such milk or milk products are [~~consumed~~] used by:

(a) the owner of the farm [~~or~~];

(b) a member of the [~~members of such~~] owner's immediate family[.];

(c) a participant in a cow-share program; or

(d) a member of a participant in a cow-share program's immediate family.

(2) The department may not adopt a rule that restricts, limits, or imposes additional requirements on an individual obtaining:

(a) raw milk in accordance with the terms of a cow-share program agreement; or

(b) an interest in a cow-share program in accordance with the terms of the cow-share program agreement.

CHAPTER 113**H. B. 116**

Passed February 19, 2015

Approved March 24, 2015

Effective May 12, 2015

BOATING SAFETY AMENDMENTS

Chief Sponsor: Scott H. Chew
Senate Sponsor: Kevin T. Van Tassell

LONG TITLE**General Description:**

This bill modifies the State Boating Act.

Highlighted Provisions:

This bill:

- ▶ defines the term “racing shell”;
- ▶ clarifies boating safety equipment requirements; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

73-18-2, as last amended by Laws of Utah 2011, Chapter 386

73-18-8, as last amended by Laws of Utah 2010, Chapter 256

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

Section 1. Section 73-18-2 is amended to read:**73-18-2. Definitions.**

As used in this chapter:

(1) “Anchored” means a vessel that is temporarily attached to the bed or shoreline of a waterbody by any method and the hull of the vessel is not touching the bed or shoreline.

(2) “Beached” means that a vessel’s hull is resting on the bed or shoreline of a waterbody.

(3) “Board” means the Board of Parks and Recreation.

(4) “Boat livery” means a person that holds a vessel for renting or leasing.

(5) “Carrying passengers for hire” means to transport persons on vessels or to lead persons on vessels for consideration.

(6) “Consideration” means something of value given or done in exchange for something given or done by another.

(7) “Dealer” means any person who is licensed by the appropriate authority to engage in and who is engaged in the business of buying and selling vessels or of manufacturing them for sale.

(8) “Derelict vessel”:

(a) means a vessel that is left, stored, or abandoned upon the waters of this state in a wrecked, junked, or substantially dismantled condition; and

(b) includes:

(i) a vessel left at a Utah port or marina without consent of the agency or other entity administering the port or marine area; and

(ii) a vessel left docked or grounded upon a property without the property owner’s consent.

(9) “Division” means the Division of Parks and Recreation.

(10) “Moored” means long term, on the water vessel storage in an area designated and properly marked by the division or other applicable managing agency.

(11) “Motorboat” means any vessel propelled by machinery, whether or not the machinery is the principal source of propulsion.

(12) “Operate” means to navigate, control, or otherwise use a vessel.

(13) “Operator” means the person who is in control of a vessel while it is in use.

(14) “Outfitting company” means any person who, for consideration:

(a) provides equipment to transport persons on all waters of this state; and

(b) supervises a person who:

(i) operates a vessel to transport passengers; or

(ii) leads a person on a vessel.

(15) (a) “Owner” means a person, other than a lien holder, holding a proprietary interest in or the title to a vessel.

(b) “Owner” includes a person entitled to the use or possession of a vessel subject to an interest by another person, reserved or created by agreement and securing payment or performance of an obligation.

(c) “Owner” does not include a lessee under a lease not intended as security.

(16) “Personal watercraft” means a motorboat that is:

(a) less than 16 feet in length;

(b) propelled by a water jet pump; and

(c) designed to be operated by a person sitting, standing, or kneeling on the vessel, rather than sitting or standing inside the vessel.

(17) “Racing shell” means a long, narrow watercraft:

(a) outfitted with long oars and sliding seats; and

(b) specifically designed for racing or exercise.

[47] (18) “Sailboat” means any vessel having one or more sails and propelled by wind.

[418] (19) "Vessel" means every type of watercraft, other than a seaplane on the water, used or capable of being used as a means of transportation on water.

[419] (20) "Wakeless speed" means an operating speed at which the vessel does not create or make a wake or white water trailing the vessel. This speed is not in excess of five miles per hour.

[209] (21) "Waters of this state" means any waters within the territorial limits of this state.

Section 2. Section 73-18-8 is amended to read:

73-18-8. Safety equipment required to be on board vessels.

(1) (a) Except as provided in Subsection (1)(c), each vessel shall have, for each person on board, one wearable personal flotation device that is approved for the type of use by the commandant of the United States Coast Guard.

(b) Each personal flotation device shall be:

- (i) in serviceable condition;
- (ii) legally marked with the United States Coast Guard approval number; and
- (iii) of an appropriate size for the person for whom it is intended.

(c) (i) Sailboards and racing shells are exempt from the provisions of ~~[Subsection]~~ Subsections (1)(a) and (e).

(ii) The board may exempt certain types of vessels from the provisions of Subsection (1)(a) under certain conditions or upon certain waters.

(d) The board may require by rule for personal flotation devices to be worn:

- (i) while a person is on board a certain type of vessel;
- (ii) by a person under a certain age; or
- (iii) on certain waters of the state.

(e) For vessels 16 feet or more in length, there shall also be on board~~[, one Type IV]~~ one throwable personal flotation device which is approved for this use by the commandant of the United States Coast Guard.

(2) The operator of a vessel operated between sunset and sunrise shall display lighted navigation lights approved by the division.

(3) If a vessel is not entirely open and it carries or uses any flammable or toxic fluid in any enclosure for any purpose, the vessel shall be equipped with an efficient natural or mechanical ventilation system that is capable of removing resulting gases before and during the time the vessel is occupied by any person.

(4) Each vessel shall have fire extinguishing equipment on board.

(5) Any inboard gasoline engine shall be equipped with a carburetor backfire flame control device.

(6) The board may:

- (a) require additional safety equipment by rule; and
- (b) adopt rules conforming with the requirements of this section which govern specifications for and the use of safety equipment.

(7) A person may not operate or give permission for the operation of a vessel that is not equipped as required by this section or rules promulgated under this section.

CHAPTER 114**H. B. 122**

Passed February 24, 2015

Approved March 24, 2015

Effective May 12, 2015

TECHNOLOGY SERVICES AMENDMENTS

Chief Sponsor: Angela Romero
Senate Sponsor: Scott K. Jenkins

LONG TITLE**General Description:**

This bill amends provisions related to information technology accessibility.

Highlighted Provisions:

This bill:

- ▶ requires the chief information officer to set standards for accessibility of executive branch information technology by individuals with disabilities.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63F-1-102, as last amended by Laws of Utah 2011, Chapter 270

63F-1-205, as last amended by Laws of Utah 2014, Chapter 196

63F-1-206, as last amended by Laws of Utah 2008, Chapter 382

ENACTS:

63F-1-210, Utah Code Annotated 1953

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

Section 1. Section 63F-1-102 is amended to read:**63F-1-102. Definitions.**

As used in this title:

(1) "Board" means the Technology Advisory Board created in Section 63F-1-202.

(2) "Chief information officer" means the chief information officer appointed under Section 63F-1-201.

(3) "Computer center" means the location at which a central data processing platform is managed to serve multiple executive branch agencies.

(4) "Data center" means a centralized repository for the storage, management, and dissemination of data.

(5) "Department" means the Department of Technology Services.

(6) (a) Except as provided in Subsection (6)(b), "executive branch agency" means an agency or administrative subunit of state government.

(b) "Executive branch agency" does not include:

- (i) the legislative branch;
- (ii) the judicial branch;
- (iii) the State Board of Education;
- (iv) the Board of Regents;
- (v) institutions of higher education;
- (vi) independent entities as defined in Section 63E-1-102; and
- (vii) elective constitutional offices of the executive department which includes:
 - (A) the state auditor;
 - (B) the state treasurer; and
 - (C) the attorney general.

(7) "Executive branch strategic plan" means the executive branch strategic plan created under Section 63F-1-203.

(8) "Individual with a disability" means an individual with a condition that meets the definition of "disability" in 42 U.S.C. Sec. 12102.

~~[(8)]~~ (9) "Information technology" means all computerized and auxiliary automated information handling, including:

- (a) systems design and analysis;
- (b) acquisition, storage, and conversion of data;
- (c) computer programming;
- (d) information storage and retrieval;
- (e) voice, radio, video, and data communications;
- (f) requisite systems controls;
- (g) simulation; and
- (h) all related interactions between people and machines.

~~[(9)]~~ (10) "State information architecture" means a logically consistent set of principles, policies, and standards that guide the engineering of state government's information technology and infrastructure in a way that ensures alignment with state government's business and service needs.

~~[(10)]~~ (11) "Telecommunications" means the transmission or reception of signs, signals, writing, images, sounds, messages, data, or other information of any nature by wire, radio, light waves, or other electromagnetic means.

Section 2. Section 63F-1-205 is amended to read:**63F-1-205. Approval of acquisitions of information technology.**

(1) (a) Except as provided in Title 63M, Chapter 1, Part 26, Government Procurement Private Proposal Program, in accordance with Subsection (2), the chief information officer shall approve the acquisition by an executive branch agency of:

- (i) information technology equipment;
- (ii) telecommunications equipment;

- (iii) software;
- (iv) services related to the items listed in Subsections (1)(a)(i) through (iii); and
- (v) data acquisition.
- (b) The chief information officer may negotiate the purchase, lease, or rental of private or public information technology or telecommunication services or facilities in accordance with this section.
- (c) Where practical, efficient, and economically beneficial, the chief information officer shall use existing private and public information technology or telecommunication resources.
- (d) Notwithstanding another provision of this section, an acquisition authorized by this section shall comply with rules made by the applicable rulemaking authority under Title 63G, Chapter 6a, Utah Procurement Code.
- (2) Before negotiating a purchase, lease, or rental under Subsection (1) for an amount that exceeds the value established by the chief information officer by rule in accordance with Section 63F-1-206, the chief information officer shall:
- (a) conduct an analysis of the needs of executive branch agencies and subscribers of services and the ability of the proposed information technology or telecommunications services or supplies to meet those needs; and
- (b) for purchases, leases, or rentals not covered by an existing statewide contract, provide in writing to the chief procurement officer in the Division of Purchasing and General Services that:
- (i) the analysis required in Subsection (2)(a) was completed; and
- (ii) based on the analysis, the proposed purchase, lease, rental, or master contract of services, products, or supplies is practical, efficient, and economically beneficial to the state and the executive branch agency or subscriber of services.
- (3) In approving an acquisition described in Subsections (1) and (2), the chief information officer shall:
- (a) establish by administrative rule, in accordance with Section 63F-1-206, standards under which an agency must obtain approval from the chief information officer before acquiring the items listed in Subsections (1) and (2);
- (b) for those acquisitions requiring approval, determine whether the acquisition is in compliance with:
- (i) the executive branch strategic plan;
- (ii) the applicable agency information technology plan;
- (iii) the budget for the executive branch agency or department as adopted by the Legislature; ~~and~~
- (iv) Title 63G, Chapter 6a, Utah Procurement Code; and

(v) the information technology accessibility standards described in Section 63F-1-210; and

(c) in accordance with Section 63F-1-207, require coordination of acquisitions between two or more executive branch agencies if it is in the best interests of the state.

(4) (a) Each executive branch agency shall provide the chief information officer with complete access to all information technology records, documents, and reports:

(i) at the request of the chief information officer; and

(ii) related to the executive branch agency's acquisition of any item listed in Subsection (1).

(b) Beginning July 1, 2006 and in accordance with administrative rules established by the department under Section 63F-1-206, no new technology projects may be initiated by an executive branch agency or the department unless the technology project is described in a formal project plan and the business case analysis has been approved by the chief information officer and agency head. The project plan and business case analysis required by this Subsection (4) shall be in the form required by the chief information officer, and shall include:

(i) a statement of work to be done and existing work to be modified or displaced;

(ii) total cost of system development and conversion effort, including system analysis and programming costs, establishment of master files, testing, documentation, special equipment cost and all other costs, including overhead;

(iii) savings or added operating costs that will result after conversion;

(iv) other advantages or reasons that justify the work;

(v) source of funding of the work, including ongoing costs;

(vi) consistency with budget submissions and planning components of budgets; and

(vii) whether the work is within the scope of projects or initiatives envisioned when the current fiscal year budget was approved.

(5) (a) The chief information officer and the Division of Purchasing and General Services shall work cooperatively to establish procedures under which the chief information officer shall monitor and approve acquisitions as provided in this section.

(b) The procedures established under this section shall include at least the written certification required by Subsection 63G-6a-303(1)(e).

Section 3. Section 63F-1-206 is amended to read:

63F-1-206. Rulemaking -- Policies.

(1) (a) Except as provided in Subsection (2), in accordance with Title 63G, Chapter 3, Utah

Administrative Rulemaking Act, the chief information officer shall make rules that:

(i) provide standards that impose requirements on executive branch agencies that:

(A) are related to the security of the statewide area network; and

(B) establish standards for when an agency must obtain approval before obtaining items listed in Subsection 63F-1-205(1);

(ii) specify the detail and format required in an agency information technology plan submitted in accordance with Section 63F-1-204;

(iii) provide for standards related to the privacy policies of websites operated by or on behalf of an executive branch agency;

(iv) provide for the acquisition, licensing, and sale of computer software;

(v) specify the requirements for the project plan and business case analysis required by Section 63F-1-205;

(vi) provide for project oversight of agency technology projects when required by Section 63F-1-205;

(vii) establish, in accordance with Subsection 63F-1-205(2), the implementation of the needs assessment for information technology purchases; [and]

(viii) establish telecommunications standards and specifications in accordance with Section 63F-1-404[-]; and

(ix) establish standards for accessibility of information technology by individuals with disabilities in accordance with Section 63F-1-210.

(b) The rulemaking authority in this Subsection (1) is in addition to any other rulemaking authority granted by this title.

(2) (a) Notwithstanding Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and subject to Subsection (2)(b), the chief information officer may adopt a policy that outlines procedures to be followed by the chief information officer in facilitating the implementation of this title by executive branch agencies if the policy:

(i) is consistent with the executive branch strategic plan; and

(ii) is not required to be made by rule under Subsection (1) or Section 63G-3-201.

(b) (i) A policy adopted by the chief information officer under Subsection (2)(a) may not take effect until 30 days after the day on which the chief information officer submits the policy to:

(A) the governor; and

(B) all cabinet level officials.

(ii) During the 30-day period described in Subsection (2)(b)(i), cabinet level officials may

review and comment on a policy submitted under Subsection (2)(b)(i).

(3) (a) Notwithstanding Subsection (1) or (2) or Title 63G, Chapter 3, Utah Administrative Rulemaking Act, without following the procedures of Subsection (1) or (2), the chief information officer may adopt a security procedure to be followed by executive branch agencies to protect the statewide area network if:

(i) broad communication of the security procedure would create a significant potential for increasing the vulnerability of the statewide area network to breach or attack; and

(ii) after consultation with the chief information officer, the governor agrees that broad communication of the security procedure would create a significant potential increase in the vulnerability of the statewide area network to breach or attack.

(b) A security procedure described in Subsection (3)(a) is classified as a protected record under Title 63G, Chapter 2, Government Records Access and Management Act.

(c) The chief information officer shall provide a copy of the security procedure as a protected record to:

(i) the chief justice of the Utah Supreme Court for the judicial branch;

(ii) the speaker of the House of Representatives and the president of the Senate for the legislative branch;

(iii) the chair of the Board of Regents; and

(iv) the chair of the State Board of Education.

Section 4. Section 63F-1-210 is enacted to read:

63F-1-210. Accessibility standards for executive branch agency information technology.

(1) The chief information officer shall establish, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(a) minimum standards for accessibility of executive branch agency information technology by an individual with a disability that:

(i) include accessibility criteria for:

(A) agency websites;

(B) hardware and software procured by an executive branch agency; and

(C) information systems used by executive branch agency employees; and

(ii) include a protocol to evaluate the standards via testing by individuals with a variety of access limitations;

(b) grievance procedures for an individual with a disability who is unable to access executive branch agency information technology, including:

(i) a process for an individual with a disability to report the access issue to the chief information officer; and

(ii) a mechanism through which the chief information officer can respond to the report; and

(c) are, at minimum, consistent with the Web Content Accessibility 2.0 guidelines published by the World Wide Web Consortium.

(2) The chief information officer shall update the standards described in Subsection (1)(a) at least every three years to reflect advances in technology.

CHAPTER 115**H. B. 129**

Passed February 19, 2015

Approved March 24, 2015

Effective May 12, 2015

**ECONOMIC DEVELOPMENT
INCENTIVE AMENDMENTS**Chief Sponsor: Kraig Powell
Senate Sponsor: Ralph Okerlund**LONG TITLE****General Description:**

This bill modifies provisions related to the Industrial Assistance Account and the Rural Fast Track Program.

Highlighted Provisions:

This bill:

- ▶ amends the definition of “economic opportunities” to include the development of recreation infrastructure; and
- ▶ modifies which companies may qualify to receive incentives under the Rural Fast Track Program, including companies located in counties of the third, fourth, fifth, and sixth class under certain circumstances.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63M-1-902, as last amended by Laws of Utah 2010, Chapters 245 and 278

63M-1-904, as last amended by Laws of Utah 2014, Chapter 371

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

Section 1. Section 63M-1-902 is amended to read:**63M-1-902. Definitions.**

As used in this part:

- (1) “Administrator” means the director or the director’s designee.
- (2) “Board” means the Board of Business and Economic Development.
- (3) “Company creating an economic impediment” means a company that discourages economic development within a reasonable radius of its location because of:
 - (a) odors;
 - (b) noise;
 - (c) pollution;
 - (d) health hazards; or
 - (e) other activities similar to those described in Subsections (3)(a) through (d).
- (4) “Economic opportunities” means unique business situations or community circumstances,

including the development of recreation infrastructure, which lend themselves to the furtherance of the economic interests of the state by providing a catalyst or stimulus to the growth or retention, or both, of commerce and industry in the state, including retention of companies whose relocation outside the state would have a significant detrimental economic impact on the state as a whole, regions of the state, or specific components of the state as determined by the board.

(5) “Economically disadvantaged rural area” means a geographic area designated by the board under Section 63M-1-910.

(6) “Replacement company” means a company locating its business or part of its business in a location vacated by a company creating an economic impediment.

(7) “Restricted Account” means the restricted account known as the Industrial Assistance Account created in Section 63M-1-903.

(8) “Targeted industry” means an industry or group of industries targeted by the board under Section 63M-1-910, for economic development in the state.

Section 2. Section 63M-1-904 is amended to read:**63M-1-904. Rural Fast Track Program -- Creation -- Funding -- Qualifications for program participation -- Awards -- Reports.**

(1) (a) There is created the Rural Fast Track Program.

(b) The program is a funded component of the economically disadvantaged rural areas designation in Subsection 63M-1-903(1)(a).

(2) The purpose of the program is to provide an efficient way for small companies in rural areas of the state to receive incentives for creating high paying jobs in those areas of the state.

(3) (a) Twenty percent of the unencumbered amount in the Industrial Assistance Account created in Subsection 63M-1-903(1) at the beginning of each fiscal year shall be used to fund the program.

(b) The 20% referred to in Subsection (3)(a) is not in addition to but is a part of the up to 50% designation for economically disadvantaged rural areas referred to in Subsection 63M-1-903(1)(a).

(c) If any of the 20% allocation referred to in Subsection (3)(a) has not been used in the program by the end of the third quarter of each fiscal year, that money may be used for any other loan, grant, or assistance program offered through the Industrial Assistance Account during the fiscal year.

(4) (a) To qualify for participation in the program a company ~~shall~~:

(i) ~~shall~~ complete and file with the office an application for participation in the program, signed by an officer of the company;

(ii) ~~shall~~ be located and conduct its business operations in a county in the state ~~[that has: (A) a~~

population of less than 30,000; and] of the third, fourth, fifth, or sixth class as described in Section 17-50-501;

[(B) an average household income of less than \$60,000 as reflected in the most recently available data collected and reported by the United States Census Bureau;]

(iii) which is located and conducts its business operations in a third class county as described in Section 17-50-501, may not be located and conduct its business operations within a city that has a:

(A) population of more than 20,000; or

(B) median household income of more than \$70,000 as reflected in the most recently available data collected and reported by the United States Census Bureau;

[(iii)] (iv) shall have been in business in the state for at least two years; and

[(iv)] (v) shall have at least two employees.

(b) (i) The office shall verify an applicant's qualifications under Subsection (4)(a).

(ii) The application must be approved by the administrator in order for a company to receive an incentive or other assistance under this section.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the administrator may make rules governing:

(i) the content of the application form referred to in Subsection (4)(a)(i);

(ii) who qualifies as an employee under Subsection (4)(a)(iv); and

(iii) the verification procedure referred to in Subsection (4)(b).

(5) (a) The administrator shall make incentive cash awards to small companies under this section based on the following criteria:

(i) \$1,000 for each new incremental job that pays over 110% of the county's ~~average~~ median annual wage;

(ii) \$1,250 for each incremental job that pays over 115% of the county's ~~average~~ median annual wage; and

(iii) \$1,500 for each incremental job that pays over 125% of the county's ~~average~~ median annual wage.

(b) The administrator shall make a cash award under Subsection (5)(a) when a new incremental job has been in place for at least 12 months.

(c) The creation of a new incremental job by a company is based on the number of employees at the company during the previous 24 months.

(d) (i) A small company may also apply for grants, loans, or other financial assistance under the program to help develop its business in rural Utah and may receive up to \$50,000 under the program if approved by the administrator.

(ii) The board must approve a distribution that exceeds the \$50,000 cap under Subsection (5)(d)(i).

(6) The administrator shall make a quarterly report to the board of the awards made by the administrator under this section and submit a report to the office on the awards and their impact on economic development in the state's rural areas for inclusion in the office's annual written report described in Section 63M-1-206.

CHAPTER 116**H. B. 146**

Passed February 20, 2015

Approved March 24, 2015

Effective May 12, 2015

**DRIVING UNDER THE
INFLUENCE REVISIONS**Chief Sponsor: Steve Eliason
Senate Sponsor: Curtis S. Bramble**LONG TITLE****General Description:**

This bill modifies the Traffic Code by amending provisions relating to driving under the influence.

Highlighted Provisions:

This bill:

- ▶ provides that for driving under the influence sentencing purposes a prior conviction shall be within 10 years of:
 - the current conviction; or
 - the commission of the offense upon which the current conviction is based; and
- ▶ makes technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

41-6a-505, as last amended by Laws of Utah 2013, Chapter 71

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

Section 1. Section 41-6a-505 is amended to read:**41-6a-505. Sentencing requirements for driving under the influence of alcohol, drugs, or a combination of both violations.**

(1) As part of any sentence for a first conviction of Section 41-6a-502:

- (a) the court shall:
 - (i) (A) impose a jail sentence of not less than 48 consecutive hours;
 - (B) require the person to work in a compensatory-service work program for not less than 48 hours; or
 - (C) require the person to participate in home confinement of not fewer than 48 consecutive hours through the use of electronic monitoring in accordance with Section 41-6a-506;
- (ii) order the person to participate in a screening;
- (iii) order the person to participate in an assessment, if it is found appropriate by a screening under Subsection (1)(a)(ii);
- (iv) order the person to participate in an educational series if the court does not order

substance abuse treatment as described under Subsection (1)(b);

- (v) impose a fine of not less than \$700; and
- (vi) order probation for the person in accordance with Section 41-6a-507, if there is admissible evidence that the person had a blood alcohol level of .16 or higher; and
- (b) the court may:
 - (i) order the person to obtain substance abuse treatment if the substance abuse treatment program determines that substance abuse treatment is appropriate; or
 - (ii) order probation for the person in accordance with Section 41-6a-507.

(2) If a person [is convicted under Section 41-6a-502 within 10 years of a prior conviction as defined in Subsection 41-6a-501(2)] has a prior conviction as defined in Subsection 41-6a-501(2) that is within 10 years of the current conviction under Section 41-6a-502 or the commission of the offense upon which the current conviction is based:

- (a) the court shall:
 - (i) (A) impose a jail sentence of not less than 240 consecutive hours;
 - (B) require the person to work in a compensatory-service work program for not less than 240 hours; or
 - (C) require the person to participate in home confinement of not fewer than 240 consecutive hours through the use of electronic monitoring in accordance with Section 41-6a-506;
- (ii) order the person to participate in a screening;
- (iii) order the person to participate in an assessment, if it is found appropriate by a screening under Subsection (2)(a)(ii);
- (iv) order the person to participate in an educational series if the court does not order substance abuse treatment as described under Subsection (2)(b);
- (v) impose a fine of not less than \$800; and
- (vi) order probation for the person in accordance with Section 41-6a-507; and
- (b) the court may order the person to obtain substance abuse treatment if the substance abuse treatment program determines that substance abuse treatment is appropriate.
- (3) Under Subsection 41-6a-503(2), if the court suspends the execution of a prison sentence and places the defendant on probation:
 - (a) the court shall impose:
 - (i) a fine of not less than \$1,500;
 - (ii) a jail sentence of not less than 1,500 hours;
 - (iii) supervised probation; and
 - (iv) an order requiring the person to obtain a screening and assessment and substance abuse

treatment at a substance abuse treatment program providing intensive care or inpatient treatment and long-term closely supervised follow-through after treatment for not less than 240 hours; and

(b) in lieu of Subsection (3)(a)(ii), the court may require the person to participate in home confinement of not fewer than 1,500 hours through the use of electronic monitoring in accordance with Section 41-6a-506.

(4) (a) The requirements of Subsections (1)(a), (2)(a), and (3)(a) may not be suspended.

(b) Probation or parole resulting from a conviction for a violation under this section may not be terminated.

(5) If a person is convicted of a violation of Section 41-6a-502 and there is admissible evidence that the person had a blood alcohol level of .16 or higher, the court shall order the following, or describe on record why the order or orders are not appropriate:

(a) treatment as described under Subsection (1)(b), (2)(b), or (3)(a)(iv); and

(b) one or more of the following:

(i) the installation of an ignition interlock system as a condition of probation for the person in accordance with Section 41-6a-518;

(ii) the imposition of an ankle attached continuous transdermal alcohol monitoring device as a condition of probation for the person; or

(iii) the imposition of home confinement through the use of electronic monitoring in accordance with Section 41-6a-506.

CHAPTER 117**H. B. 163**

Passed February 24, 2015

Approved March 24, 2015

Effective May 12, 2015

STUDENT DATA BREACH REQUIREMENTS

Chief Sponsor: John Knotwell
Senate Sponsor: J. Stuart Adams

LONG TITLE**General Description:**

This bill amends provisions related to student data privacy.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires an education entity to make notification if there is a release of personally identifiable student data due to a security breach; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53A-13-301, as last amended by Laws of Utah 2011, Chapter 401

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

Section 1. Section 53A-13-301 is amended to read:

53A-13-301. Application of state and federal law to the administration and operation of public schools -- Student information confidentiality standards -- Local school board and charter school governing board policies.

~~[(1) An employee, student aide, volunteer, or other agent of the state's public education system]~~

(1) As used in this section "education entity" means:

- (a) the State Board of Education;
- (b) a local school board or charter school governing board;
- (c) a school district;
- (d) a public school; or
- (e) the Utah Schools for the Deaf and the Blind.

(2) An education entity and an employee, student aide, volunteer, third party contractor, or other agent of an education entity shall protect the privacy of [students, their parents, and their families,] a student, the student's parents, and the student's family and support parental involvement in the education of their children through compliance with the protections provided for family and student privacy under Section 53A-13-302 and the Federal Family Educational Rights and Privacy

Act and related provisions under 20 U.S.C. Secs. 1232g and 1232h, in the administration and operation of all public school programs, regardless of the source of funding.

~~[(2)]~~ (3) A local school board or charter school governing board shall enact policies governing the protection of family and student privacy as required by this section.

~~[(3)]~~ (4) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Board of Education shall make rules to establish standards for public education employees, student aides, and volunteers in public schools regarding the confidentiality of student information and student records.

(b) The rules described in Subsection ~~[(3)]~~ (4)(a) shall provide that a local school board or charter school governing board may adopt policies related to public school student confidentiality to address the specific needs or priorities of the school district or charter school.

~~[(4)]~~ (5) The State Board of Education shall:

(a) develop resource materials for purposes of training employees, student aides, and volunteers of a school district or charter school regarding the confidentiality of student information and student records; and

(b) provide the materials described in Subsection ~~[(4)]~~ (5)(a) to each school district and charter school.

(6) An education entity shall notify the parent or guardian of a student if there is a release of the student's personally identifiable student data due to a security breach.

CHAPTER 118**H. B. 170**

Passed February 20, 2015

Approved March 24, 2015

Effective May 12, 2015

LEGISLATIVE AUDIT AMENDMENTS

Chief Sponsor: LaVar Christensen
Senate Sponsor: Deidre M. Henderson

LONG TITLE**General Description:**

This bill addresses a provision relating to audits of executive branch entities' appropriations.

Highlighted Provisions:

This bill:

- ▶ modifies the number of executive branch entities whose appropriations the legislative auditor general is annually required to audit; and
- ▶ eliminates a repealer of a provision relating to legislative auditor general audits of executive branch entities' appropriations.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

36-12-15.1, as last amended by Laws of Utah 2012, Chapter 369

63I-2-236, as last amended by Laws of Utah 2014, Chapters 150 and 189

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

Section 1. Section 36-12-15.1 is amended to read:**36-12-15.1. Budget and appropriation audits.**

(1) As used in this section, "entity" means an entity in the executive branch that receives an ongoing line item appropriation in an appropriations act.

(2) The Office of Legislative Auditor General shall:

(a) each year perform an audit of at least [~~two entities~~] one entity's appropriations, in addition to other audits performed by the Office of Legislative Auditor General, that evaluates:

(i) the extent to which the entity has efficiently and effectively used the appropriation by identifying:

- (A) the entity's appropriation history;
- (B) the entity's spending and efficiency history; and

(C) historic trends in the entity's operational performance effectiveness;

(ii) whether the entity's size and operation are commensurate with the entity's spending history; and

(iii) whether the entity is diligent in its stewardship of state resources;

(b) if possible, incorporate the audit methodology described in Subsection (2)(a) in other audits performed by the Office of Legislative Auditor General;

(c) conduct the audits described in Subsection (2)(a) according to the process established for the Audit Subcommittee created in Section 36-12-8;

(d) after release of an audit report by the Audit Subcommittee, make the audit report available to:

(i) each member of the Senate and the House of Representatives; and

(ii) the governor or the governor's designee; and

(e) summarize the findings of an audit described in Subsection (2)(a) in:

(i) a unique section of the legislative auditor general's annual report; and

(ii) a format that the legislative fiscal analyst may use in preparation of the annual appropriations no later than 30 days before the day on which the Legislature convenes.

(3) The Office of Legislative Auditor General shall consult with the legislative fiscal analyst in preparing the summary required by Subsection (2)(e).

(4) The Legislature, in evaluating an entity's request for an increase in its base budget, shall:

(a) review the audit report required by this section and any relevant audits; and

(b) consider the entity's request for an increase in its base budget in light of the entity's prior history of savings and efficiencies as evidenced by the audit report required by this section.

Section 2. Section 63I-2-236 is amended to read:**63I-2-236. Repeal dates -- Title 36.**

~~(1) Section 36-12-15.1 is repealed July 1, 2015.~~

~~(2) Sections 36-28-101 through 36-28-104 are repealed July 1, 2019.~~

CHAPTER 119**H. B. 179**

Passed March 3, 2015

Approved March 24, 2015

Effective July 1, 2015

LICENSE PLATE FEE AMENDMENTS

Chief Sponsor: John R. Westwood
Senate Sponsor: Evan J. Vickers

LONG TITLE**General Description:**

This bill modifies the Motor Vehicle Act to exempt from a license fee peace officer recipients of the Purple Heart Award.

Highlighted Provisions:

This bill:

- ▶ provides an exemption from a new license plate fee for peace officer recipients of the Purple Heart Award or military recipients of the Purple Heart Award.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

41-1a-1211, as last amended by Laws of Utah 2011, Chapter 189

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

Section 1. Section 41-1a-1211 is amended to read:**41-1a-1211. License plate fees --****Application fees for issuance and renewal of personalized and special group license plates -- Replacement fee for license plates -- Postage fees.**

(1) (a) Except as provided in Subsections (11) [and], (12), (13), and (14), a license plate fee established in accordance with Section 63J-1-504 shall be paid to the division for the issuance of any new license plate under Part 4, License Plates and Registration Indicia.

(b) The license plate fee shall be deposited as follows:

- (i) \$1 in the Transportation Fund; and
- (ii) the remainder of the fee charged under Subsection (1)(a), as provided in Section 41-1a-1201.

(2) An applicant for original issuance of personalized license plates issued under Section 41-1a-410 shall pay a \$50 per set license plate application fee in addition to the fee required in Subsection (1).

(3) Beginning July 1, 2003, a person who applies for a special group license plate shall pay a \$5 fee for the original set of license plates in addition to the fee required under Subsection (1).

(4) An applicant for original issuance of personalized special group license plates shall pay the license plate application fees required in Subsection (2) in addition to the license plate fees and license plate application fees established under Subsections (1) and (3).

(5) An applicant for renewal of personalized license plates issued under Section 41-1a-410 shall pay a \$10 per set application fee.

(6) (a) The division may charge a fee established under Section 63J-1-504 to recover the costs for the replacement of any license plate issued under Part 4, License Plates and Registration Indicia.

(b) The license plate fee shall be deposited as follows:

- (i) \$1 in the Transportation Fund; and
- (ii) the remainder of the fee charged under Subsection (6)(a), as provided in Section 41-1a-1201.

(7) The division may charge a fee established under Section 63J-1-504 to recover its costs for the replacement of decals issued under Section 41-1a-418.

(8) The division may charge a fee established under Section 63J-1-504 to recover the cost of issuing stickers under Section 41-1a-416.

(9) In addition to any other fees required by this section, the division shall assess a fee established under Section 63J-1-504 to cover postage expenses if new or replacement license plates are mailed to the applicant.

(10) The fees required under this section are separate from and in addition to registration fees required under Section 41-1a-1206.

(11) (a) An applicant for a license plate issued under Section 41-1a-407 is not subject to the license plate fee under Subsection (1).

(b) An applicant for a Purple Heart special group license plate issued in accordance with Section 41-1a-421 is exempt from the fees under Subsections (1), (3), and (7).

(12) A person is exempt from the fee under Subsection (1) or (6) if the person:

(a) was issued a clean fuel special group license plate in accordance with Section 41-1a-418 prior to the effective date of rules made by the Department of Transportation under Subsection 41-6a-702(5)(b);

(b) beginning on the effective date of rules made by the Department of Transportation authorized under Subsection 41-6a-702(5)(b), is no longer eligible for a clean fuel special group license plate under the rules made by the Department of Transportation; and

(c) upon renewal or reissuance, is required to replace the clean fuel special group license plate with a new license plate.

(13) Until June 30, 2011, a person is exempt from the license plate fee under Subsection (1) or (6) if the person:

(a) was issued a firefighter recognition special group license plate in accordance with Section 41-1a-418 prior to July 1, 2009;

(b) upon renewal of the person's vehicle registration on or after July 1, 2009, is not a contributor to the Firefighter Support Restricted Account as required under Section 41-1a-418; and

(c) is required to replace the firefighter special group license plate with a new license plate in accordance with Section 41-1a-418.

(14) A person is not subject to the license plate fee under Subsection (1) if the person presents official documentation that the person is a recipient of the Purple Heart Award issued:

(a) by a recognized association representing peace officers who:

(i) receives a salary from a federal, state, county, or municipal government or any subdivision of the state; and

(ii) works in the state; or

(b) in accordance with Subsection 41-1a-421(2).

Section 2. Effective date.

This bill takes effect on July 1, 2015.

CHAPTER 120**H. B. 185**

Passed February 20, 2015

Approved March 24, 2015

Effective May 12, 2015

**CHARITABLE SOLICITATION
ACT AMENDMENTS**Chief Sponsor: Bruce R. Cutler
Senate Sponsor: Curtis S. Bramble**LONG TITLE****General Description:**

This bill amends provisions relating to charitable organizations.

Highlighted Provisions:

This bill:

- ▶ clarifies defined terms;
- ▶ modifies the registration fee for a certified local museum;
- ▶ provides that the Division of Consumer Protection may require an exempt organization to file a renewal of a notice of claim of exemption;
- ▶ addresses the financial reporting requirements for a charitable organization;
- ▶ modifies the requirements for a charitable organization and a professional fund raiser relating to separate accounts for contributions and receipts for contributions;
- ▶ requires a charitable organization and a professional fund raiser to develop and maintain adequate internal controls for receipt, management, and disbursement of money; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 13-22-2, as last amended by Laws of Utah 2001, Chapter 210
- 13-22-6, as last amended by Laws of Utah 2009, Chapter 183
- 13-22-8, as last amended by Laws of Utah 2014, Chapter 189
- 13-22-15, as last amended by Laws of Utah 2001, Chapter 210
- 13-22-16, as last amended by Laws of Utah 2001, Chapter 210

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

Section 1. Section 13-22-2 is amended to read:**13-22-2. Definitions.**

As used in this chapter:

(1) (a) "Charitable organization" or "organization" means any person, joint venture, partnership, limited liability company, corporation, association, group, or other entity:

- (i) ~~that~~ who is or holds itself out to be:

(A) a benevolent, educational, voluntary health, philanthropic, humane, patriotic, religious or eleemosynary, social welfare or advocacy, public health, environmental or conservation, or civic organization;

(B) for the benefit of a public safety, law enforcement, or firefighter fraternal association; or

(C) established for any charitable purpose;

(ii) who solicits or obtains contributions solicited from the public for a charitable purpose; or

(iii) in any manner employs a charitable appeal as the basis of any solicitation or employs an appeal that reasonably suggests or implies that there is a charitable purpose to any solicitation.

(b) "Charitable organization" includes a ~~["chapter," "branch," "area," "office," or similar "affiliate"]~~ chapter, branch, area, office, or similar affiliate or any person ~~[soliciting]~~ who solicits contributions within the state for a charitable organization ~~[that has its]~~ whose principal place of business is outside the state.

(2) "Charitable purpose" means any benevolent, educational, philanthropic, humane, patriotic, religious, eleemosynary, social welfare or advocacy, public health, environmental, conservation, civic, or other charitable objective or for the benefit of a public safety, law enforcement, or firefighter fraternal association.

~~[(4)]~~ (3) "Charitable sales promotion" means an advertising or sales campaign, conducted by a commercial co-venturer, which represents that the purchase or use of goods or services offered by the commercial co-venturer will benefit, in whole or in part, a charitable organization or purpose.

~~[(3)]~~ (4) (a) "Charitable solicitation" or "solicitation" means any request, directly or indirectly, for money, credit, property, financial assistance, or any other thing of value on the plea or representation that it will be used for a charitable purpose. ~~[A charitable solicitation may be made in any manner, including:]~~

(b) "Charitable solicitation" or "solicitation" includes:

~~[(a)]~~ (i) any oral or written request, including any request by telephone, radio or television, or other advertising or communications media;

~~[(b)]~~ (ii) the distribution, circulation, or posting of any handbill, written advertisement, or publication; ~~[(c)]~~

(iii) an application or other request for a grant; or

~~[(e)]~~ (iv) the sale of, offer or attempt to sell, or request of donations in exchange for any advertisement, ~~[book, card, chance, coupon, device, magazine,]~~ membership, ~~[merchandise,]~~ subscription, ~~[ticket, flower, flag, button, sticker, ribbon, token, trinket, tag, souvenir, candy,]~~ or ~~[any]~~ other article in connection with which any appeal is made for any charitable purpose, or the use of the name of any charitable organization or movement as an inducement or reason for making any

purchase donation, or, in connection with any sale or donation, stating or implying that the whole or any part of the proceeds of any sale or donation will go to or be donated to any charitable purpose.

(5) “Commercial co-venturer” means a person who for profit is regularly and primarily engaged in trade or commerce other than in connection with soliciting for a charitable ~~[organizations or purposes]~~ organization or purpose.

(6) (a) “Contribution” means the pledge or grant for a charitable purpose of any money or property of any kind, including any of the following:

(i) a gift, subscription, loan, advance, or deposit of money or anything of value;

(ii) a contract, promise, or agreement, express or implied, whether or not legally enforceable, to make a contribution for charitable purposes; ~~and~~ or

(iii) fees, dues, or assessments paid by members, when membership is conferred solely as consideration for making a contribution.

(b) “Contribution” does not include:

(i) money loaned to a charitable organization by a financial institution in the ordinary course of business; or

(ii) fees, dues, or assessments paid by members when membership is not conferred solely as consideration for making a contribution.

(7) “Contributor” means any donor, pledgor, purchaser, or other person who makes a contribution.

(8) “Director” means the director of the Division of Consumer Protection.

(9) “Division” means the Division of Consumer Protection of the Department of Commerce.

(10) “Material fact” means information that a person of ordinary intelligence and prudence would consider relevant in deciding whether or not to make a contribution in response to a charitable solicitation.

(11) (a) “Professional fund raiser[;]” ~~[except as provided in Subsection (11)(b),]~~ means ~~[any]~~ a person who:

(i) for compensation or any other consideration solicits contributions for charitable purposes, or plans or manages the solicitation of contributions for or on behalf of any charitable organization or any other person;

(ii) engages in, or ~~[who holds himself out to persons in this state as]~~ represents being independently engaged in, the business of soliciting contributions for a charitable organization;

(iii) manages, supervises, or trains any solicitor whether as an employee or otherwise; or

(iv) uses a vending device or vending device decal for financial or other consideration that implies a

solicitation of contributions or donations for any charitable organization or charitable purposes.

(b) “Professional fund raiser” does not include a bona fide officer, director, volunteer, or full-time employee of a charitable organization.

(12) (a) “Professional fund raising counsel or consultant” or other comparable designation or title means a person who:

(i) for compensation plans, manages, advises, counsels, consults, or prepares material for, or with respect to, the solicitation in this state of contributions for a charitable organization, whether or not at any time the person has custody of contributions from a solicitation;

(ii) does not solicit contributions; and

(iii) does not employ, procure, or engage any compensated person to solicit or receive contributions.

(b) “Professional fund raising counsel or consultant” does not include an attorney, investment counselor, or banker who in the conduct of that person’s profession advises a client when actually engaged in the giving of legal, investment, or financial advice.

(13) “Vending device” means a container used by a charitable organization or professional fund raiser, for the purpose of collecting a charitable solicitation, contribution, or donation whether or not the device offers a product or item in return for the contribution or donation. “Vending device” includes machines, boxes, jars, wishing wells, barrels, or any other container.

(14) “Vending device decal” means any decal, tag, or similar designation material that is attached to a vending device, whether or not used or placed by a charitable organization or professional fund raiser, that would indicate that all or a portion of the proceeds from the purchase of items from the vending device will go to a specific charitable organization.

Section 2. Section 13-22-6 is amended to read:

13-22-6. Application for registration.

(1) An applicant for registration or renewal of registration as a charitable organization shall:

(a) pay an application fee as determined under Section 63J-1-504; and

(b) submit an application on a form approved by the division which shall include:

(i) the organization’s name, address, telephone number, facsimile number, if any, and the names and addresses of any organizations or persons controlled by, controlling, or affiliated with the applicant;

(ii) the specific legal nature of the organization, that is, whether ~~[it]~~ the organization is an individual, joint venture, partnership, limited liability company, corporation, association, or other entity;

(iii) the names and residence addresses of the officers and directors of the organization;

(iv) the name and address of the registered agent for service of process and a consent to service of process;

(v) the purpose of the solicitation and use of the contributions to be solicited;

(vi) the method by which the solicitation will be conducted and the projected length of time ~~it~~ the solicitation is to be conducted;

(vii) the anticipated expenses of the solicitation, including all commissions, costs of collection, salaries, and any other items;

(viii) a statement of what percentage of the contributions collected as a result of the solicitation are projected to remain available for application to the charitable purposes declared in the application, including a satisfactory statement of the factual basis for the projected percentage;

(ix) a statement of total contributions collected or received by the organization within the calendar year immediately preceding the date of the application, including a description of the expenditures made from or the use made of the contributions;

(x) a copy of any written agreements with any professional fund raiser involved with the solicitation;

(xi) disclosure of any injunction, judgment, or administrative order or conviction of any crime involving moral turpitude with respect to any officer, director, manager, operator, or principal of the organization;

(xii) a copy of all agreements to which the applicant is, or proposes to be, a party regarding the use of proceeds for the solicitation or fundraising;

(xiii) a statement of whether ~~or not~~ the [charity] charitable organization, or [its] the charitable organization's parent foundation, will be using the services of a professional fund raiser or of a professional fund raising counsel or consultant;

(xiv) if either the ~~[charity or its]~~ charitable organization or the charitable organization's parent foundation will be using the services of a professional fund raiser or a professional fund raising counsel or consultant:

(A) a copy of all agreements related to the services; and

(B) an acknowledgment that fund raising in the state will not commence until both the charitable organization, its parent foundation, if any, and the professional fund raiser or professional fund raising counsel or consultant are registered and in compliance with this chapter; ~~and~~

(xv) any documents required under Section 13-22-15; and

~~(xv)~~ (xvi) any additional information the division may require by rule.

(2) If any information contained in the application for registration becomes incorrect or incomplete, the applicant or registrant shall, within 30 days after the information becomes incorrect or incomplete, correct the application or file the complete information required by the division.

(3) In addition to the registration fee, an organization failing to file a registration application or renewal by the due date or filing an incomplete registration application or renewal shall pay an additional fee of \$25 for each month or part of a month after the date on which the registration application or renewal were due to be filed.

(4) Notwithstanding Subsection (1)(a), the registration fee for a certified local museum under Section 9-6-603 is ~~[65% of]~~ \$25 less than the registration fee established under Subsection (1).

Section 3. Section 13-22-8 is amended to read:

13-22-8. Exemptions.

(1) Section 13-22-5 does not apply to:

(a) a solicitation that an organization conducts among ~~[its]~~ the organization's own established and bona fide membership exclusively through the voluntarily donated efforts of other members or officers of the organization;

(b) a bona fide religious, ecclesiastical, or denominational organization if:

(i) the solicitation is made for a church, missionary, religious, or humanitarian purpose; and

(ii) the organization is either:

(A) a lawfully organized corporation, institution, society, church, or established physical place of worship, at which nonprofit religious services and activities are regularly conducted and carried on;

(B) a bona fide religious group:

(I) that does not maintain specific places of worship;

(II) that is not subject to federal income tax; and

(III) not required to file an IRS Form 990 under any circumstance; or

(C) a separate group or corporation that is an integral part of an institution that is an income tax exempt organization under 26 U.S.C. Sec. 501(c)(3) and is not primarily supported by funds solicited outside ~~[its]~~ the group's or corporation's own membership or congregation;

(c) a solicitation by a broadcast media owned or operated by an educational institution or governmental entity, or any entity organized solely for the support of that broadcast media;

(d) except as provided in Subsection 13-22-21(1), a solicitation for the relief of any person sustaining a life-threatening illness or injury specified by name at the time of solicitation if the entire amount collected without any deduction is turned over to the named person;

(e) a political party authorized to transact [its] the political party's affairs within this state and any candidate and campaign worker of the political party if the content and manner of any solicitation make clear that the solicitation is for the benefit of the political party or candidate;

(f) a political action committee or group soliciting funds relating to issues or candidates on the ballot if the committee or group is required to file financial information with a federal or state election commission;

(g) any school accredited by the state, any accredited institution of higher learning, or club or parent, teacher, or student organization within and authorized by the school in support of the operations or extracurricular activities of the school;

(h) a public or higher education foundation established under Title 53A, State System of Public Education, or Title 53B, State System of Higher Education;

(i) a television station, radio station, or newspaper of general circulation that donates air time or print space for no consideration as part of a cooperative solicitation effort on behalf of a charitable organization, whether or not that organization is required to register under this chapter;

(j) a volunteer fire department, rescue squad, or local civil defense organization whose financial oversight is under the control of a local governmental entity;

(k) any governmental unit of any state or the United States; and

(l) any corporation:

(i) established by an act of the United States Congress; and

(ii) that is required by federal law to submit an annual report:

(A) on the activities of the corporation, including an itemized report of all receipts and expenditures of the corporation; and

(B) to the United States Secretary of Defense to be:

(I) audited; and

(II) submitted to the United States Congress.

(2) Any organization claiming an exemption under this section bears the burden of proving its eligibility for, or the applicability of, the exemption claimed.

(3) Each organization exempt from registration pursuant to this section that makes a material change in [its] the organization's legal status, officers, address, or similar changes shall file a report informing the division of [its] the organization's current legal status, business address, business phone, officers, and primary contact person within 30 days of the change.

(4) The division may by rule:

(a) require [organizations] an organization that is exempt from registration [pursuant to] under this section to:

(i) file a notice of claim of exemption; and

(ii) file a renewal of a notice of claim of exemption;

(b) prescribe the contents of [the] a notice of claim of exemption and a renewal of a notice of claim of exemption; and

(c) require a filing fee for [the] a notice[s] of claim of exemption and a renewal of a notice of claim of exemption as determined under Section 63J-1-504.

Section 4. Section 13-22-15 is amended to read:

13-22-15. Financial reports required.

(1) (a) [Each] Except as provided in Subsection (1)(c), as part of a charitable organization's application for registration or renewal of registration described in Section 13-22-6, each charitable organization [registered under this chapter] shall file [each year of registration]:

(i) an annual financial report [ø] on a form prescribed by the division;

(ii) an IRS Form 990, 990EZ, 990N, or 990PF[. The financial report or IRS Form 990, 990EZ, or 990PF shall be filed with the division within 30 days after the end of the year reported. If an annual financial report or IRS Form 990, 990EZ, or 990PF are]; or

(iii) both the documents described in Subsections (1)(a)(i) and (ii).

(b) The division shall instruct each applicant for registration or renewal of registration as a charitable organization on which documents to file under Subsection (1)(a).

(c) If a document required under Subsections (1)(a) and (b) is not available during [its] the charitable organization's first year of registration, upon request from the division, the charitable organization shall provide a quarterly financial [reports] report to the division within 30 days after the [end of the quarter reported] day on which the division requests the quarterly financial report.

(2) Each annual or quarterly financial report shall disclose:

(a) the gross amount of contributions received;

(b) the amount of contributions disbursed or to be disbursed to each charitable organization or charitable purpose represented;

(c) aggregate amounts paid to any professional fund raiser;

(d) amounts spent for overhead, expenses, commissions, and similar purposes; and

(e) unless disclosed in another part of the charitable organization's application for registration or renewal of registration, the name

and address of any professional fund raiser used by the charitable organization.

(3) Each report required under this section shall be signed under oath by an officer or principal of the charitable organization.

~~[(4) The registration of any organization that fails to file a timely report or IRS Form 990, 990EZ, or 990PF as required in this section or files an incomplete report or IRS Form 990, 990EZ, or 990PF is automatically suspended pending a final order of the division under Section 13-22-12. The division may reinstate the registration after receiving:]~~

~~[(a) a report or IRS Form 990, 990EZ, or 990PF fulfilling the requirements of this section;]~~

~~[(b) an application for renewed registration; and]~~

~~[(c) a penalty of \$25 for each month or part of a month after the date on which the quarterly report or IRS Form 990 was due to be filed.]~~

(4) (a) If a charitable organization fails to timely file a quarterly financial report in accordance with Subsection (1)(c), the charitable organization's registration is immediately and automatically suspended pending a final order of the division under Section 13-22-12.

(b) The division may reinstate the charitable organization's registration after the division receives:

(i) the quarterly financial report requested in accordance with Subsection (1)(c); and

(ii) a penalty of \$25 for each full or partial calendar month after the day on which the quarterly report was due.

Section 5. Section 13-22-16 is amended to read:

13-22-16. Separate accounts and receipts required.

(1) (a) Each ~~organization required to be registered under this chapter and each~~ professional fund raiser shall segregate and maintain all contributed funds in an account held separately from ~~its~~ the professional fund raiser's operating account.

(b) Each contribution in the control or custody of the professional ~~solicitor~~ fund raiser shall, ~~in its entirety and within~~ no later than 10 days ~~[of its receipt,]~~ after the day on which the contribution is received, be deposited ~~in~~ into an account at a bank or other federally insured financial institution ~~[which shall be]~~ that is in the name of the charitable organization.

(c) The charitable organization shall maintain and administer the account and shall have sole control of all withdrawals.

(2) Each organization required to be registered under this chapter and each professional fund raiser shall ~~maintain and use duplicate receipts for contributions of money, securities, and cash equivalents so that one receipt is issued to each~~

~~contributor and one is maintained by the charitable organization.];~~

(a) maintain a record of each contribution of money, securities, or cash equivalent sufficient to allow the organization or professional fund raiser to provide a receipt to the contributor upon request or as required by law; and

(b) provide a contributor a receipt for each contribution upon request or as required by law.

(3) An organization required to be registered under this chapter and each professional fund raiser shall develop and maintain adequate internal controls for receipt, management, and disbursement of money that are reasonable in light of the organization's or professional fund raiser's assets and organizational complexity.

CHAPTER 121**H. B. 187**

Passed February 26, 2015

Approved March 24, 2015

Effective May 12, 2015

**AMENDMENTS TO HEALTH
AND HUMAN SERVICES FUNDS**Chief Sponsor: Edward H. Redd
Senate Sponsor: Allen M. Christensen**LONG TITLE****General Description:**

This bill amends provisions related to restricted funds administered by the Department of Human Services.

Highlighted Provisions:

This bill:

- ▶ describes requirements for the use of the Utah State Developmental Center Miscellaneous Donation Fund and the State Hospital Fund; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

62A-5-206.5, as enacted by Laws of Utah 2013, Chapter 21

62A-15-604, as renumbered and amended by Laws of Utah 2002, Fifth Special Session, Chapter 8

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

Section 1. Section 62A-5-206.5 is amended to read:**62A-5-206.5. Utah State Developmental Center Miscellaneous Donation Fund -- Use.**

(1) There is created an expendable special revenue fund known as the "Utah State Developmental Center Miscellaneous Donation Fund."

(2) The division shall deposit donations made to the Utah State Developmental Center under Section 62A-1-111 into the expendable special revenue fund described in Subsection (1).

(3) Except as provided in Subsection (5), no expenditure or appropriation may be made from the Utah State Developmental Center Miscellaneous Donation Fund.

(4) The state treasurer shall invest the money in the fund described in Subsection (1) according to the procedures and requirements of Title 51, Chapter 7, State Money Management Act, and the interest shall remain with the fund described in Subsection (1).

(5) (a) Subject to the requirements of Subsection (6), money and interest in the fund described in Subsection (1) may only be spent:

~~[(a)]~~ (i) as designated by the donor; or

~~[(b)]~~ (ii) for the benefit of ~~[the Utah State Developmental Center and its]~~ clients of the Utah State Developmental Center.

~~[(6) Money may not be expended from the fund described in Subsection (1) unless the expenditure is approved by the director in consultation with the executive director of the Department of Human Services.]~~

(b) Money and interest in the fund may not be used for items normally paid for by operating revenues or for items related to personnel costs without specific legislative authorization.

(6) (a) Single expenditures from the fund described in Subsection (1) in amounts of \$5,000 or less shall be approved by the superintendent.

(b) Single expenditures exceeding \$5,000 must be preapproved by the superintendent and the division director.

(c) Expenditures described in this Subsection (6) shall be used for the benefit of patients at the Utah State Developmental Center.

Section 2. Section 62A-15-604 is amended to read:**62A-15-604. Receipt of gift -- Transfer of persons from other institutions.**

(1) The division may take and hold by gift, devise, or bequest real and personal property required for the use of the state hospital. With the approval of the governor [it] the division may convert that property ~~[which]~~ that is not suitable for ~~[its]~~ the state hospital's use into money or property that is suitable for ~~[that]~~ the state hospital's use.

(2) The state hospital is authorized to receive from any other institution within the department ~~[any person]~~ an individual committed to that institution, when a careful evaluation of the treatment needs of the ~~[person]~~ individual and of the treatment programs available at the state hospital indicates that the transfer would be in the interest of that ~~[person]~~ individual.

(3) (a) For the purposes of this Subsection (3), "contributions" means gifts, grants, devises, and donations.

(b) Notwithstanding the provisions of Subsection 62A-1-111(10), the state hospital is authorized to receive ~~[gifts, grants, devises, and donations]~~ contributions and ~~[shall]~~ deposit ~~[them]~~ the contributions into an interest-bearing restricted special revenue fund. The state treasurer may invest the fund, and all interest ~~[is to]~~ will remain ~~[with]~~ in the fund.

~~[(b) These gifts, grants, devises, donations, and the proceeds thereof shall be used by the superintendent or his designee for the use and benefit of patients at the state hospital.]~~

(c) (i) Single expenditures from the fund in amounts of \$5,000 or less shall be approved by the superintendent.

(ii) Single expenditures exceeding \$5,000 must be preapproved by the superintendent and the division director.

(iii) Expenditures described in this Subsection (3) shall be used for the benefit of patients at the state hospital.

(d) Money and interest in the fund may not be used for items normally paid for by operating revenues or for items related to personnel costs without specific legislative authorization.

CHAPTER 122**H. B. 203**

Passed March 12, 2015
 Approved March 24, 2015
 Effective July 1, 2015

**TEACHER SALARY SUPPLEMENT
 PROGRAM AMENDMENTS**

Chief Sponsor: Bradley G. Last
 Senate Sponsor: Howard A. Stephenson

LONG TITLE**General Description:**

This bill amends provisions related to the Teacher Salary Supplement Program.

Highlighted Provisions:

This bill:

- ▶ amends the definition of an eligible teacher and a qualifying educational background;
- ▶ changes the entity that distributes money for the Teacher Salary Supplement Program; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

53A-17a-156, as last amended by Laws of Utah 2014, Chapter 351
 53A-17a-157, as enacted by Laws of Utah 2008, Chapter 397

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

Section 1. Section 53A-17a-156 is amended to read:

53A-17a-156. Teacher Salary Supplement Program -- Appeal process.

- (1) As used in this section:
- (a) "Board" means the State Board of Education.
- (b) "Eligible teacher" means a teacher who:
- (i) has an assignment to teach:
- (A) a secondary school level mathematics course;
- (B) integrated science in grade seven or eight;
- (C) chemistry; ~~or~~
- (D) physics; or
- (E) computer science;
- (ii) holds the appropriate endorsement for the assigned course;
- (iii) has qualifying educational background; and
- (iv) (A) is a new employee; or
- (B) received a satisfactory rating or above on the teacher's most recent evaluation.
- (c) "Qualifying educational background" means:

(i) for a teacher who is assigned a secondary school level mathematics course:

(A) a bachelor's degree major, master's degree, or doctoral degree in mathematics; or

(B) a bachelor's degree major, master's degree, or doctoral degree that has course requirements that are substantially equivalent to the course requirements for a bachelor's degree major, master's degree, or doctoral degree in mathematics; and

(ii) for a teacher who is assigned a grade seven or eight integrated science course, chemistry course, or physics course, a bachelor's degree major, master's degree, or doctoral degree in:

(A) integrated science;

(B) chemistry;

(C) physics;

(D) physical science;

(E) general science; or

(F) a bachelor's degree major, master's degree, or doctoral degree that has course requirements that are substantially equivalent to the course requirements of those required for a degree listed in Subsections (1)(c)(ii)(A) through (E)[-];

(iii) for a teacher who is assigned a computer science course, a bachelor's degree major, master's degree, or doctoral degree in:

(A) computer science;

(B) computer information technology; or

(C) a bachelor's degree major, master's degree, or doctoral degree that has course requirements that are substantially equivalent to the course requirements of those required for a degree listed in Subsections (1)(c)(iii)(A) and (B).

(2) (a) Subject to future budget constraints, the Legislature shall annually appropriate money to the Teacher Salary Supplement Restricted Account established in Section 53A-17a-157 to fund the Teacher Salary Supplement Program.

(b) Money appropriated for the Teacher Salary Supplement Program shall include money for the following employer-paid benefits:

(i) retirement;

(ii) workers' compensation;

(iii) Social Security; and

(iv) Medicare.

~~[(3) (a) Beginning in fiscal year 2008-09, the annual salary supplement is \$4,100 for an eligible teacher who:]~~

~~[(i) is assigned full time to teach one or more courses listed in Subsections (1)(b)(i)(A) through (D); and]~~

~~[(ii) meets the requirements of Subsections (1)(b)(ii) and (iii) for each course assignment.]~~

(3) (a) The annual salary supplement for an eligible teacher who is assigned full time to teach

one or more courses listed in Subsections (1)(b)(i)(A) through (E) is \$4,100.

(b) An eligible teacher who has a part-time assignment to teach one or more courses listed in Subsections (1)(b)(i)(A) through ~~(D)~~ (E) shall receive a partial salary supplement based on the number of hours worked in a course assignment that meets the requirements of Subsections (1)(b)(ii) and (iii).

(4) The board shall:

(a) create an online application system for a teacher to apply to receive a salary supplement through the Teacher Salary Supplement Program;

(b) determine if a teacher:

(i) is an eligible teacher; and

(ii) has a course assignment as listed in Subsections (1)(b)(i)(A) through ~~(D)~~ (E); and

(c) verify, as needed, the determinations made under Subsection (4)(b) with school district and school administrators~~;~~ and~~].~~

~~[(d) certify a list of eligible teachers and the amount of their salary supplement, sorted by school district and charter school, to the Division of Finance.]~~

(5) (a) An eligible teacher shall apply with the board before the conclusion of a school year to receive the salary supplement authorized in this section.

(b) An eligible teacher may apply with the board, after verification that the requirements under this section have been satisfied, to receive a salary supplement after the completion of:

(i) the school year as an annual award; or

(ii) a semester or trimester as a partial award based on the portion of the school year that has been completed.

(6) (a) The board shall establish and administer an appeal process for a teacher to follow if the teacher applies for the salary supplement and is not certified under Subsection (4)~~[(d)].~~

(b) (i) The appeal process established in Subsection (6)(a) shall allow a teacher to appeal on the basis that the teacher has a degree or degree major with course requirements that are substantially equivalent to the course requirements for a degree listed in:

(A) Subsection (1)(c)(i)(A) [ø];

(B) Subsections (1)(c)(ii)(A) through (E)[-]; or

(C) Subsections (1)(c)(iii)(A) and (B).

(ii) A teacher shall provide transcripts and other documentation to the board in order for the board to determine if the teacher has a degree or degree major with course requirements that are substantially equivalent to the course requirements for a degree listed in:

(A) Subsection (1)(c)(i)(A) [ø];

(B) Subsections (1)(c)(ii)(A) through (E)[-]; or

(C) Subsections (1)(c)(iii)(A) and (B).

(7) (a) The ~~[Division of Finance]~~ board shall distribute money from the Teacher Salary Supplement Restricted Account to school districts and charter schools for the Teacher Salary Supplement Program in accordance with the provisions of this section.

(b) The board shall include the employer-paid benefits described under Subsection (2)(b) in the amount of each salary supplement ~~[certified to the Division of Finance].~~

(c) The employer-paid benefits described under Subsection (2)(b) are an addition to the salary supplement limits described under Subsection (3).

(8) (a) Money received from the Teacher Salary Supplement Restricted Account shall be used by a school district or charter school to provide a salary supplement equal to the amount specified in Subsection (3) for each eligible teacher.

(b) The salary supplement is part of the teacher's base pay, subject to the teacher's qualification as an eligible teacher every year, semester, or trimester.

(9) Notwithstanding the provisions of this section, if the appropriation for the program is insufficient to cover the costs associated with salary supplements, the board may limit or reduce the salary supplements.

Section 2. Section 53A-17a-157 is amended to read:

53A-17a-157. Teacher Salary Supplement Restricted Account.

(1) There is created within the Uniform School Fund a restricted account known as the "Teacher Salary Supplement Restricted Account."

(2) The account shall be funded from appropriations made to the account by the Legislature.

(3) The account shall be used to fund teacher salary supplements for school districts and charter schools as provided in Section 53A-17a-156.

(4) The ~~[Division of Finance]~~ State Board of Education shall distribute account money to school districts and charter schools for the Teacher Salary Supplement Program as provided in Section 53A-17a-156.

Section 3. Effective date.

This bill takes effect on July 1, 2015.

CHAPTER 123**H. B. 205**

Passed March 2, 2015

Approved March 24, 2015

Effective May 12, 2015

**VETERAN CLAIM
ASSISTANCE DISCLOSURE**

Chief Sponsor: Marie H. Poulson

Senate Sponsor: Peter C. Knudson

LONG TITLE**General Description:**

This bill provides for disclosure of compliance with federal laws governing assistance to claimants for veteran benefits, a notification requirement for providers of assistance, and requires the Department of Veterans' and Military Affairs to keep a list of accredited claim representatives.

Highlighted Provisions:

This bill:

- ▶ creates definitions;
- ▶ requires anyone providing assistance to be accredited by the VA;
- ▶ provides disclosure requirements for any accredited individual assisting with a claim for VA benefits;
- ▶ specifies that the disclosure shall include the federal restrictions for charging a fee for assistance;
- ▶ requires that disclosures be in writing and copies provided to the claimant;
- ▶ creates certain duties for the executive director of the Department of Veterans' and Military Affairs in processing benefit assistance complaints by veterans; and
- ▶ exempts certain veteran's service organizations.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

71-13-101, Utah Code Annotated 1953

71-13-102, Utah Code Annotated 1953

71-13-103, Utah Code Annotated 1953

71-13-104, Utah Code Annotated 1953

71-13-105, Utah Code Annotated 1953

71-13-106, Utah Code Annotated 1953

*Be it enacted by the Legislature of the state of Utah:***Section 1. Section 71-13-101 is enacted to read:****CHAPTER 13. VETERAN BENEFITS
ASSISTANCE ACT****71-13-101. Title.**

This chapter shall be known as the "Veteran Benefits Assistance Act."

Section 2. Section 71-13-102 is enacted to read:**71-13-102. Definitions.**As used in this chapter:

(1) "Accredited" means a service organization representative, agent, or attorney to whom authority has been granted by the VA to provide assistance to claimants in the preparation, presentation, and prosecution of claims for VA benefits.

(2) "Assistance" means an accredited individual providing claimant-specific recommendations or preparing or submitting an application for VA benefits on behalf of a claimant.

(3) "Certify" means to submit in writing to a veteran or the veteran's dependents certain disclosure forms provided by the department.

(4) "Claimant" means a person who has filed or has expressed to a service organization representative, agent, or attorney an intention to file a written application for determination of entitlement to benefits provided under United States Code, Title 38, and implementing directives.

(5) "Department" means the Utah Department of Veterans' and Military Affairs.

(6) "Executive director" means the executive director of the Utah Department of Veterans' and Military Affairs.

(7) "Non-compliant referral" means referring a veteran's or a veteran's dependent's original claim for veteran benefits for assistance to an individual who is in violation of the provisions of this chapter.

(8) "Referring entity" means an individual, business, or organization licensed in this state who refers or assists a veteran or a veteran's dependents for assistance with an original claim for veteran benefits.

(9) "VA" means the United States Department of Veterans Affairs.

(10) "VA benefits" means any payment, service, commodity, function, or status entitlement which is determined under laws administered by the VA pertaining to veterans, dependents, and survivors as well as other potential beneficiaries under United States Code, Title 38.

(11) "Veteran" includes all eligible dependents.

Section 3. Section 71-13-103 is enacted to read:**71-13-103. Disclosure requirement for assisting a claimant.**

(1) Each person offering to assist veterans in applying for benefits shall:

(a) be accredited, in compliance with the provisions of C.F.R., Title 38, Pensions, Bonuses, and Veterans' Relief, or, if under the supervision of an accredited attorney meet the provisions of C.F.R., Title 38 pertaining to authorized claim representation under an attorney; and

(b) disclose in writing, in a format approved by the department that the claimant can retain, the federal laws, regulations, and rules governing assistance for VA benefits.

(2) The disclosure required by Subsection (1)(b) shall specifically include:

- (a) the individual's name;
- (b) the individual's business address;
- (c) the individual's business phone number;
- (d) the individual's registration number from the VA;

(e) a statement of the claimant's rights regarding the assistance for VA benefits, including that there is no charge to the claimant or a member of the claimant's family for assistance with the initial benefits application; and

(f) a statement that if, as a result of the individual providing assistance for a claim, income is accrued to the assisting individual from the sale of a product or other services to the claimant, the income is both justified and reasonable as compared with income from similar products and services available in the state.

(3) No provisions of the form may be struck out or designated as nonapplicable.

(4) Disclosure forms, when completed, shall be:

(a) signed by both the individual providing assistance and the claimant; and

(b) retained for three years by the assisting individual.

(5) Copies of the disclosure form shall be provided to:

(a) the veteran on the day the form is completed and signed; and

(b) the department within five working days.

Section 4. Section 71-13-104 is enacted to read:

71-13-104. Education requirements.

(1) All individuals and attorneys providing assistance to a veteran shall complete three hours of qualifying education as specified in 38 C.F.R. 14.629(b) during the first 12 month period following the date of initial accreditation; and

(2) an additional three hours of qualifying continuing education every two years following the initial 12-month period.

Section 5. Section 71-13-105 is enacted to read:

71-13-105. Department responsibilities -- Notification -- Assistance -- Complaints -- Claimant responsibilities.

(1) The Utah Department of Veterans' and Military Affairs shall notify in writing each veteran for whom the department has contact information that any individual or business offering to assist veterans in applying for benefits shall disclose in writing to the veteran the following:

(a) 38 C.F.R. 14.629 and 38 C.F.R. 14.630 require that any individual providing assistance be accredited by the VA;

(b) federal law restricts charging a veteran a fee for assisting in the initial application for VA benefits; and

(c) the department's website has a list with contact information of VA accredited claim representatives.

(2) Beginning July 1, 2015, and every three years after the department shall:

(a) notify the Insurance Department regarding the federal law governing assistance for VA benefits, and the Insurance Department shall notify all individual producers and consultants licensed by the Insurance Department at the time of initial licensing and upon license renewal of those same federal laws governing assistance for VA benefits;

(b) contact the Utah State Bar regarding federal law governing legal assistance for claimants applying for benefits and request that the association provide continuing legal education on federal laws governing assistance; and

(c) notify the Department of Health regarding federal law governing the assistance for claimants applying for benefits, and the Department of Health shall notify all assisted living and nursing care facilities of those federal laws.

(3) The executive director may establish procedures for processing complaints related to assistance regarding a claim for VA benefits.

(4) For violations by accredited or non-accredited individuals who offer assistance with VA benefits, the executive director may audit selected assisting individuals and referring entities for compliance with this chapter and federal laws which govern the provision of assistance to claimants.

Section 6. Section 71-13-106 is enacted to read:

71-13-106. Exempt organizations.

Accredited representatives of the following organizations are exempt from the provisions of this chapter:

- (1) American Legion;
- (2) Veterans of Foreign Wars;
- (3) Disabled American Veterans;
- (4) Vietnam Veterans of America;
- (5) American Veterans (AMVET);
- (6) Military Order of the Purple Heart; and
- (7) other VA recognized service organizations as determined by the executive director.

CHAPTER 124**H. B. 220**

Passed March 4, 2015
Approved March 24, 2015
Effective May 12, 2015

VOTE BY MAIL AMENDMENTS

Chief Sponsor: Rebecca Chavez-Houck
Senate Sponsor: Peter C. Knudson

LONG TITLE**General Description:**

This bill amends provisions relating to when an absentee ballot is considered valid.

Highlighted Provisions:

This bill:

- ▶ provides that when an absentee ballot is submitted by mail, the ballot is timely if the ballot is clearly postmarked, or otherwise clearly marked as received by the post office, before election day.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

20A-3-306, as last amended by Laws of Utah 2013, Chapters 198, 219, 320 and last amended by Coordination Clause, Laws of Utah 2013, Chapter 198
20A-4-108, as enacted by Laws of Utah 2014, Chapter 231 and last amended by Coordination Clause, Laws of Utah 2014, Chapter 231

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

Section 1. Section 20A-3-306 is amended to read:**20A-3-306. Voting ballot -- Returning ballot.**

(1) (a) Except as provided by Section 20A-1-308, to vote a mail-in absentee ballot, the absentee voter shall:

- (i) complete and sign the affidavit on the envelope;
- (ii) mark the votes on the absentee ballot;
- (iii) place the voted absentee ballot in the envelope;
- (iv) securely seal the envelope; and
- (v) attach postage, unless voting in accordance with Section 20A-3-302, and deposit the envelope in the mail or deliver it in person to the election officer from whom the ballot was obtained.

(b) Except as provided by Section 20A-1-308, to vote an absentee ballot in person at the office of the election officer, the absent voter shall:

- (i) complete and sign the affidavit on the envelope;
- (ii) mark the votes on the absent-voter ballot;
- (iii) place the voted absent-voter ballot in the envelope;
- (iv) securely seal the envelope; and
- (v) give the ballot and envelope to the election officer.

(2) Except as provided by Section 20A-1-308, an absentee ballot is not valid unless:

(a) in the case of an absentee ballot that is voted in person, the ballot is:

(i) applied for and cast in person at the office of the appropriate election officer no later than the Thursday before election day; or

(ii) submitted on election day at a polling location in the political subdivision where the absentee voter resides;

(b) in the case of an absentee ballot that is submitted by mail, the ballot is:

(i) clearly postmarked before election day, or otherwise clearly marked by the post office as received by the post office before election day; and

(ii) received in the office of the election officer before noon on the day of the official canvass following the election; or

(c) in the case of a military-overseas ballot, the ballot is submitted in accordance with Section 20A-16-404.

(3) An absentee voter may submit a completed absentee ballot at a polling location in a political subdivision holding the election, if the absentee voter resides in the political subdivision.

(4) An absentee voter may submit an incomplete absentee ballot at a polling location for the voting precinct where the voter resides, request that the ballot be declared spoiled, and vote in person.

Section 2. Section 20A-4-108 is amended to read:**20A-4-108. Election Day Voter Registration Pilot Project.**

(1) There is created, beginning on June 1, 2014, and ending on January 1, 2017, an election day voter registration pilot project, as described in this section.

(2) A county may participate in the pilot project if the county clerk submits to the lieutenant governor a written application to participate in the pilot project that contains:

- (a) the name of the county;
- (b) a request that the county be permitted to participate in the pilot project;
- (c) an estimate of the extent to which election day voter registration may increase voter participation; and

(d) any other reasons that the county desires to participate in the project.

(3) A municipality may participate in the pilot project for a municipal election if the municipal clerk submits to the lieutenant governor a written application to participate in the pilot project that contains:

(a) the name of the municipality;

(b) a request that the municipality be permitted to participate in the pilot project;

(c) an estimate of the extent to which election day voter registration may increase voter participation; and

(d) any other reasons that the municipality desires to participate in the project.

(4) Within 10 business days after the day on which the lieutenant governor receives an application described in Subsection (2) or (3), the lieutenant governor shall approve the application if:

(a) the application complies with the requirements described in Subsection (2) or (3), as applicable; and

(b) the lieutenant governor determines, based on the information contained in the application, that implementing the pilot project in the county or municipality:

(i) will yield valuable information to determine whether election day voter registration should be implemented on a permanent, statewide basis; and

(ii) will not adversely affect the rights of voters or candidates.

(5) For a county or municipality that is approved by the lieutenant governor to participate in the pilot project, if, under Subsection 20A-2-201(3)(b)(ii), a registration form is submitted to the county clerk on the date of the election or during the seven calendar days before an election, the county clerk shall:

(a) if the person desires to vote in the pending election, inform the person that the person must, on election day, register to vote by casting a provisional ballot in accordance with Subsection (10); or

(b) if the person does not desire to vote in the pending election:

(i) accept a registration form from the person if, on the date of the election, the person will be legally qualified and entitled to vote in a voting precinct in the county or municipality; and

(ii) inform the person that the person will be registered to vote but may not vote in the pending election because the person registered too late and chose not to register and vote as described in Subsection (5)(a).

(6) For a county or municipality that is approved by the lieutenant governor to participate in the pilot project, if, under Subsection 20A-2-202(3)(a), the

county clerk receives a correctly completed by-mail voter registration form that is postmarked after the voter registration deadline, and is not otherwise marked by the post office as received by the post office before the voter registration deadline, the county clerk shall:

(a) unless the applicant registers on election day by casting a provisional ballot in accordance with Subsection (10), register the applicant for the next election; and

(b) if possible, promptly phone, mail, or email a notice to the applicant before the election, informing the applicant that:

(i) the applicant's registration will not be effective until after the election; and

(ii) the applicant may register to vote on election day by casting a provisional ballot in accordance with Subsection (10).

(7) For a county or municipality that is approved by the lieutenant governor to participate in the pilot project, if, under Subsection 20A-2-204(5)(a), the county clerk receives a correctly completed voter registration form that is dated after the voter registration deadline, the county clerk shall:

(a) unless the applicant registers to vote on election day by casting a provisional ballot in accordance with Subsection (10), register the applicant after the next election; and

(b) if possible, promptly phone, mail, or email a notice to the applicant before the election, informing the applicant that:

(i) the applicant's registration will not be effective until after the election; and

(ii) the applicant may register to vote on election day by casting a provisional ballot in accordance with Subsection (10).

(8) For a county or municipality that is approved by the lieutenant governor to participate in the pilot project, if, under Subsection 20A-2-205(7)(a), the county clerk receives a correctly completed voter registration form that is dated after the voter registration deadline, the county clerk shall:

(a) unless the applicant registers to vote on election day by casting a provisional ballot in accordance with Subsection (10), register the applicant after the next election; and

(b) if possible, promptly phone, mail, or email a notice to the applicant before the election, informing the applicant that:

(i) the applicant's registration will not be effective until after the election; and

(ii) the applicant may register to vote on election day by casting a provisional ballot in accordance with Subsection (10).

(9) For a county or municipality that is approved by the lieutenant governor to participate in the pilot project, if, under Subsection 20A-2-206(8)(c), an individual applies to register under this section

during the six calendar days before an election, the county clerk shall:

(a) if the individual desires to vote in the pending election, inform the individual that the individual must, on election day, register to vote by casting a provisional ballot in accordance with Subsection (10); or

(b) if the individual does not desire to vote in the pending election:

(i) accept the application for registration if the individual, on the date of the election, will be legally qualified and entitled to vote in a voting precinct in the state; and

(ii) inform the individual that the individual is registered to vote but may not vote in the pending election because the individual registered too late and chose not to register and vote as described in Subsection (9)(a).

(10) For a county or municipality that is approved by the lieutenant governor to participate in the pilot project:

(a) the election officer shall take the action described in Subsection (10)(b) in relation to a provisional ballot if the election officer determines that:

(i) the person who voted the ballot is not registered to vote, but is otherwise legally entitled to vote the ballot;

(ii) the ballot that the person voted is identical to the ballot for the precinct in which the person resides;

(iii) the information on the ballot is complete; and

(iv) the person provided valid voter identification and proof of residence to the poll worker;

(b) if a provisional ballot and the person who voted the provisional ballot comply with the requirements described in Subsection (10)(a), the election officer shall:

(i) consider the provisional ballot a voter registration form;

(ii) place the ballot with the absentee ballots, to be counted with those ballots at the canvass; and

(iii) as soon as reasonably possible, register the person to vote; and

(c) except as provided in Subsection (11), the election officer shall retain a provisional ballot envelope, unopened, for the period specified in Section 20A-4-202, if the election officer determines that the person who voted the ballot:

(i) (A) is not registered to vote in this state; and

(B) is not eligible for registration under Subsection (10); or

(ii) is not legally entitled to vote the ballot that the person voted.

(11) Subsection (10)(c) does not apply if a court orders the election officer to produce or count the provisional ballot.

(12) For a county or municipality that is approved by the lieutenant governor to participate in the pilot project, if, under Subsection 20A-4-107(4), the election officer determines that the person is not registered to vote in this state, that the information on the provisional ballot envelope is complete, and that the provisional ballot and the person who voted the provisional ballot do not comply with the requirements described in Subsection (10)(a), the election officer shall:

(a) consider the provisional ballot envelope a voter registration form for the person's county of residence; and

(b) (i) register the person if the voter's county of residence is within the county; or

(ii) forward the voter registration form to the election officer of the person's county of residence, which election officer shall register the person.

(13) (a) The county clerk of a county that is approved to participate in the pilot project, and the municipal clerk of a municipality that is approved to participate in the pilot project, shall provide training for the poll workers of the county or municipality on administering the pilot program.

(b) The lieutenant governor shall, for a county or municipality that is approved to participate in the pilot project, provide information relating to the pilot project in accordance with the provisions of Subsection 67-1a-2(2)(a)(iv).

(14) The lieutenant governor and each county and municipality that is approved by the lieutenant governor to participate in the pilot project shall:

(a) report to the Government Operations Interim Committee, on or before October 31 of each year that the pilot project is in effect, regarding:

(i) the implementation of the pilot project;

(ii) the number of ballots cast by voters who registered on election day;

(iii) any difficulties resulting from the pilot project; and

(iv) whether, in the opinion of the lieutenant governor, the county, or the municipality, the state would benefit from implementing election day voter registration permanently and on a statewide basis; and

(b) on or before December 31, 2016, report to the Legislative Management Committee regarding the matters described in Subsection (14)(a).

(15) During the 2016 interim, the Government Operations Interim Committee shall study and make a recommendation to the Legislature regarding whether to implement statewide election day voter registration on a permanent, statewide basis.

CHAPTER 125**H. B. 233**

Passed March 10, 2015
 Approved March 24, 2015
 Effective May 12, 2015

MILITARY EDUCATION AMENDMENTS

Chief Sponsor: Curtis Oda
 Senate Sponsor: Peter C. Knudson

LONG TITLE**General Description:**

This bill amends resident student state status definitions.

Highlighted Provisions:

This bill:

- ▶ defines an eligible person and the criteria for establishing resident student status.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53B-8-102, as last amended by Laws of Utah 2014, Chapter 216

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

Section 1. Section 53B-8-102 is amended to read:**53B-8-102. Definitions -- Resident student status -- Exceptions.**

(1) As used in this section:

(a) “Eligible person” means an individual who is entitled to benefits under 38 U.S.C. Chapter 30, Montgomery G.I. Bill - Active Duty Educational Assistance Program, or Chapter 33, Post 9/11 Educational Assistance Program.

~~(a)~~ (b) “Immediate family member” means an individual’s spouse or child.

~~(b)~~ (c) “Military servicemember” means:

(i) an individual who is serving on active duty in the United States Armed Forces within the state of Utah;

(ii) an individual who is a member of a reserve component of the United States Armed Forces assigned in Utah; or

(iii) an individual who is a member of the Utah National Guard.

~~(a)~~ (d) “Military veteran” means an individual who:

(i) has served on active duty;

(A) in the United States Armed Forces for at least 180 consecutive days or was a member of a reserve component and has been separated or retired with an honorable or general discharge; or

(B) in the National Guard and has been separated or retired with an honorable or general discharge; or

(ii) incurred an actual service-related injury or disability in the line of duty regardless of whether that person completed 180 days of active duty.

~~(d)~~ (e) “Parent” means a student’s biological or adoptive parent.

(2) The meaning of “resident student” is determined by reference to the general law on the subject of domicile, except as provided in this section.

(3) (a) Institutions within the state system of higher education may grant resident student status to any student who has come to Utah and established residency for the purpose of attending an institution of higher education, and who, prior to registration as a resident student:

(i) has maintained continuous Utah residency status for one full year;

(ii) has signed a written declaration that the student has relinquished residency in any other state; and

(iii) has submitted objective evidence that the student has taken overt steps to establish permanent residency in Utah and that the student does not maintain a residence elsewhere.

(b) Evidence to satisfy the requirements under Subsection (3)(a)(iii) includes:

(i) a Utah high school transcript issued in the past year confirming attendance at a Utah high school in the past 12 months;

(ii) a Utah voter registration dated a reasonable period prior to application;

(iii) a Utah driver license or identification card with an original date of issue or a renewal date several months prior to application;

(iv) a Utah vehicle registration dated a reasonable period prior to application;

(v) evidence of employment in Utah for a reasonable period prior to application;

(vi) proof of payment of Utah resident income taxes for the previous year;

(vii) a rental agreement showing the student’s name and Utah address for at least 12 months prior to application; and

(viii) utility bills showing the student’s name and Utah address for at least 12 months prior to application.

(c) A student who is claimed as a dependent on the tax returns of a person who is not a resident of Utah is not eligible to apply for resident student status.

(4) Except as provided in Subsection (8), an institution within the state system of higher education may establish stricter criteria for determining resident student status.

(5) If an institution does not have a minimum credit-hour requirement, that institution shall honor the decision of another institution within the state system of higher education to grant a student resident student status, unless:

(a) the student obtained resident student status under false pretenses; or

(b) the facts existing at the time of the granting of resident student status have changed.

(6) Within the limits established in Title 53B, Chapter 8, Tuition Waiver and Scholarships, each institution within the state system of higher education may, regardless of its policy on obtaining resident student status, waive nonresident tuition either in whole or in part, but not other fees.

(7) In addition to the waivers of nonresident tuition under Subsection (6), each institution may, as athletic scholarships, grant full waiver of fees and nonresident tuition, up to the maximum number allowed by the appropriate athletic conference as recommended by the president of each institution.

(8) Notwithstanding Subsection (3), an institution within the state system of higher education shall grant resident student status for tuition purposes to:

(a) a military servicemember, if the military servicemember provides:

(i) the military servicemember's current United States military identification card; and

(ii) a statement from the military servicemember's current commander, or equivalent, stating that the military servicemember is assigned in Utah;

(b) a military servicemember's immediate family member, if the military servicemember's immediate family member provides:

(i) one of the following:

(A) the military servicemember's current United States military identification card; or

(B) the immediate family member's current United States military identification card; and

(ii) a statement from the military servicemember's current commander, or equivalent, stating that the military servicemember is assigned in Utah;

(c) a military veteran, regardless of whether the military veteran served in Utah, if the military veteran provides:

(i) evidence of an honorable or general discharge;

(ii) a signed written declaration that the military veteran has relinquished residency in any other state and does not maintain a residence elsewhere;

(iii) objective evidence that the military veteran has ~~taken overt steps to relinquish residency in any other state and~~ demonstrated an intent to

establish residency in Utah, which may include any one of the following:

(A) a Utah voter registration card;

(B) a Utah driver license or identification card;

(C) a Utah vehicle registration;

(D) evidence of employment in Utah;

(E) a rental agreement showing the military veteran's name and Utah address; or

(F) utility bills showing the military veteran's name and Utah address; ~~and~~

(d) a military veteran's immediate family member, regardless of whether the military veteran served in Utah, if the military veteran's immediate family member provides:

(i) evidence of the military veteran's honorable or general discharge within the last five years;

(ii) a signed written declaration that the military veteran's immediate family member has relinquished residency in any other state and does not maintain a residence elsewhere; and

(iii) objective evidence that the military veteran's immediate family member has ~~taken overt steps to relinquish residency in any other state and~~ demonstrated an intent to establish residency in Utah, which may include any one of the items described in Subsection (8)(c)(iii)[-]; and

(e) an eligible person who provides:

(i) evidence of eligibility under 38 U.S.C. Chapter 30, Montgomery G.I. Bill - Active Duty Educational Assistance Program or Chapter 33, Post 9/11 Educational Assistance Program;

(ii) a signed written declaration that the eligible person will use the G.I. Bill benefits; and

(iii) objective evidence that the eligible person has demonstrated an intent to establish residency in Utah, which may include any one of the items described in Subsection (8)(c)(iii).

(9) (a) Aliens who are present in the United States on visitor, student, or other visas which authorize only temporary presence in this country, do not have the capacity to intend to reside in Utah for an indefinite period and therefore are classified as nonresidents.

(b) Aliens who have been granted immigrant or permanent resident status in the United States are classified for purposes of resident student status according to the same criteria applicable to citizens.

(10) Any American Indian who is enrolled on the tribal rolls of a tribe whose reservation or trust lands lie partly or wholly within Utah or whose border is at any point contiguous with the border of Utah, and any American Indian who is a member of a federally recognized or known Utah tribe and who has graduated from a high school in Utah, is entitled to resident student status.

(11) A Job Corps student is entitled to resident student status if the student:

(a) is admitted as a full-time, part-time, or summer school student in a program of study leading to a degree or certificate; and

(b) submits verification that the student is a current Job Corps student.

(12) A person is entitled to resident student status and may immediately apply for resident student status if the person:

(a) marries a Utah resident eligible to be a resident student under this section; and

(b) establishes his or her domicile in Utah as demonstrated by objective evidence as provided in Subsection (3).

(13) Notwithstanding Subsection (3)(c), a dependent student who has at least one parent who has been domiciled in Utah for at least 12 months prior to the student's application is entitled to resident student status.

(14) (a) A person who has established domicile in Utah for full-time permanent employment may rebut the presumption of a nonresident classification by providing substantial evidence that the reason for the individual's move to Utah was, in good faith, based on an employer requested transfer to Utah, recruitment by a Utah employer, or a comparable work-related move for full-time permanent employment in Utah.

(b) All relevant evidence concerning the motivation for the move shall be considered, including:

(i) the person's employment and educational history;

(ii) the dates when Utah employment was first considered, offered, and accepted;

(iii) when the person moved to Utah;

(iv) the dates when the person applied for admission, was admitted, and was enrolled as a postsecondary student;

(v) whether the person applied for admission to an institution of higher education sooner than four months from the date of moving to Utah;

(vi) evidence that the person is an independent person who is:

(A) at least 24 years of age; or

(B) not claimed as a dependent on someone else's tax returns; and

(vii) any other factors related to abandonment of a former domicile and establishment of a new domicile in Utah for purposes other than to attend an institution of higher education.

(15) (a) A person who is in residence in Utah to participate in a United States Olympic athlete training program, at a facility in Utah, approved by the governing body for the athlete's Olympic sport, shall be entitled to resident status for tuition purposes.

(b) Upon the termination of the athlete's participation in the training program, the athlete shall be subject to the same residency standards applicable to other persons under this section.

(c) Time spent domiciled in Utah during the Olympic athlete training program in Utah counts for Utah residency for tuition purposes upon termination of the athlete's participation in a Utah Olympic athlete training program.

(16) (a) A person who has established domicile in Utah for reasons related to divorce, the death of a spouse, or long-term health care responsibilities for an immediate family member, including the person's spouse, parent, sibling, or child, may rebut the presumption of a nonresident classification by providing substantial evidence that the reason for the individual's move to Utah was, in good faith, based on the long-term health care responsibilities.

(b) All relevant evidence concerning the motivation for the move shall be considered, including:

(i) the person's employment and educational history;

(ii) the dates when the long-term health care responsibilities in Utah were first considered, offered, and accepted;

(iii) when the person moved to Utah;

(iv) the dates when the person applied for admission, was admitted, and was enrolled as a postsecondary student;

(v) whether the person applied for admission to an institution of higher education sooner than four months from the date of moving to Utah;

(vi) evidence that the person is an independent person who is:

(A) at least 24 years of age; or

(B) not claimed as a dependent on someone else's tax returns; and

(vii) any other factors related to abandonment of a former domicile and establishment of a new domicile in Utah for purposes other than to attend an institution of higher education.

(17) The board, after consultation with the institutions, shall make rules not inconsistent with this section:

(a) concerning the definition of resident and nonresident students;

(b) establishing procedures for classifying and reclassifying students;

(c) establishing criteria for determining and judging claims of residency or domicile;

(d) establishing appeals procedures; and

(e) other matters related to this section.

(18) A student shall be exempt from paying the nonresident portion of total tuition if the student:

(a) is a foreign national legally admitted to the United States;

(b) attended high school in this state for three or more years; and

(c) graduated from a high school in this state or received the equivalent of a high school diploma in this state.

CHAPTER 126**H. B. 237**

Passed March 6, 2015

Approved March 24, 2015

Effective May 12, 2015

VISION SCREENING AMENDMENTS

Chief Sponsor: Melvin R. Brown
Senate Sponsor: Allen M. Christensen

LONG TITLE**General Description:**

This bill amends provisions related to vision screening services for children.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires a school district or charter school to ensure that certain volunteers hold a certificate issued by the division as a condition of providing vision screening services;
- ▶ requires the Division of Services for the Blind and Visually Impaired (division) to issue a certificate to a volunteer who successfully completes vision screening training provided by the division; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53A-11-203, as last amended by Laws of Utah 2011, Chapter 132

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

Section 1. Section 53A-11-203 is amended to read:**53A-11-203. Vision screening.**

(1) As used in this section, “division”:

(a) “Division” means the Division of Services for the Blind and Visually Impaired, ~~State Office of Education~~ created under Section 53A-24-302.

(b) “Qualifying child” means a child who is at least 3-1/2 years old, but is less than nine years old.

(2) A child under ~~eight~~ nine years ~~of age~~ old entering school for the first time in this state must present the following to the school:

(a) a certificate signed by a licensed physician, optometrist, or other licensed health professional approved by the division, stating that the child has received vision screening to determine the presence of amblyopia or other visual defects; or

(b) a written statement signed by at least one parent or legal guardian of the child that the screening violates the personal beliefs of the parent or legal guardian.

(3) (a) The division:

(i) shall provide vision screening report forms to a person approved by the division to conduct a free vision screening for ~~children aged 3-1/2 to eight; and~~ a qualifying child;

(ii) may work with health care professionals, teachers, and vision screeners to develop protocols that may be used by a parent, teacher, or vision screener to help identify a child who may have conditions that are not detected in a vision screening, such as problems with eye focusing, eye tracking, visual perceptual skills, visual motor integration, and convergence insufficiency; and

(iii) shall, once protocols are established under Subsection (3)(a)(ii), develop language regarding the vision problems identified in Subsection (3)(a)(ii) to be included in the notice required by Subsection (3)(b).

(b) The report forms shall include the following information for a parent or guardian: “vision screening is not a substitute for a complete eye exam and vision evaluation by an eye doctor.”

(4) A school district or charter school may conduct free vision screening clinics for ~~children aged 3-1/2 to eight~~ a qualifying child.

(5) (a) The division shall maintain a central register of ~~children, aged 3-1/2 to eight,~~ qualifying children who fail vision screening and who are referred for follow-up treatment.

(b) The register described in Subsection (5)(a) shall include the name of the child, age or birthdate, address, cause for referral, and follow-up results.

(c) A school district or charter school shall report to the division referral follow-up results for ~~children aged 3-1/2 to eight to the division~~ a qualifying child.

~~(6) (a) The division shall coordinate and supervise the training of a person who serves as a vision screener for a free vision screening clinic for children aged 3-1/2 to eight.~~

~~(b) A volunteer vision screener providing services under Subsection (6)(a) is not liable for any civil damages as a result of acts or omissions related to the vision screening unless the acts or omissions were willful or grossly negligent.~~

(6) (a) A school district or charter school shall ensure that a volunteer who serves as a vision screener for a free vision screening clinic for a qualifying child:

(i) is a school nurse;

(ii) holds a certificate issued by the division under Subsection (6)(b)(ii); or

(iii) is directly supervised by an individual described in Subsection (6)(a)(i) or (ii).

(b) The division shall:

(i) provide vision screening training to a volunteer seeking a certificate described in Subsection (6)(b)(ii), using curriculum established by the division; and

(ii) issue a certificate to a volunteer who successfully completes the vision screening training described in Subsection (6)(b)(i).

(c) An individual described in Subsection (6)(a) is not liable for damages that result from acts or omissions related to the vision screening, unless the acts or omissions are willful or grossly negligent.

(7) (a) Except as provided in Subsection (7)(b), a licensed health professional providing vision care to private patients may not participate as a screener in a free vision screening program provided by a school district.

(b) A school district or charter school may:

(i) allow a licensed health professional who provides vision care to private patients to participate as a screener in a free vision screening program for a child ~~nine~~ 3-1/2 years ~~of age~~ old or older;

(ii) establish guidelines to administer a free vision screening program described in Subsection (7)(b)(i); and

(iii) establish penalties for a violation of the requirements of Subsection (7)(c).

(c) A licensed health professional or other person who participates as a screener in a free vision screening program described in Subsection (7)(b):

(i) may not market, advertise, or promote the licensed health professional's business in connection with providing the free screening at the school; and

(ii) shall provide the child's results of the free vision screening on a form produced by the school or school district, which:

(A) may not include contact information other than the name of the licensed health professional; and

(B) shall include a statement: "vision screening is not a substitute for a complete eye exam and vision evaluation by an eye doctor."

(d) A school district or charter school may provide information to a parent or guardian of the availability of follow up vision services for a student.

(8) The Department of Health shall:

(a) by rule, set standards and procedures for vision screening required by this chapter, which shall include a process for notifying the parent or guardian of a child who fails a vision screening or is identified as needing follow-up care; and

(b) provide the division with copies of rules, standards, instructions, and test charts necessary for conducting vision screening.

(9) The division shall supervise screening, referral, and follow-up required by this chapter.

CHAPTER 127**H. B. 248**

Passed March 4, 2015
 Approved March 24, 2015
 Effective May 12, 2015

**CAMPAIGN FINANCE
 REPORTING REVISIONS**

Chief Sponsor: Craig Hall
 Senate Sponsor: Aaron Osmond

LONG TITLE**General Description:**

This bill removes the minimum \$50 fine imposed against certain reporting entities that fail to report a contribution.

Highlighted Provisions:

This bill:

- ▶ removes the minimum \$50 fine imposed against certain reporting entities that fail to report a contribution; and
- ▶ makes conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 20A-11-201, as last amended by Laws of Utah 2014, Chapter 335
 20A-11-301, as last amended by Laws of Utah 2014, Chapter 335
 20A-11-1301, as last amended by Laws of Utah 2014, Chapters 335 and 337
 20A-12-303, as last amended by Laws of Utah 2014, Chapter 335

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

Section 1. Section 20A-11-201 is amended to read:

20A-11-201. State office candidate -- Separate bank account for campaign funds -- No personal use -- Contribution reporting deadline -- Report other accounts.

(1) (a) Each state office candidate or the candidate's personal campaign committee shall deposit each contribution and public service assistance received in one or more separate campaign accounts in a financial institution.

(b) A state office candidate or a candidate's personal campaign committee may not use money deposited in a campaign account for:

- (i) a personal use expenditure; or
- (ii) an expenditure prohibited by law.

(2) A state office candidate or the candidate's personal campaign committee may not deposit or mingle any contributions received into a personal or business account.

(3) If a person who is no longer a state office candidate chooses not to expend the money remaining in a campaign account, the person shall continue to file the year-end summary report required by Section 20A-11-203 until the statement of dissolution and final summary report required by Section 20A-11-205 are filed with the lieutenant governor.

(4) (a) Except as provided in Subsection (4)(b) and Section 20A-11-402, a person who is no longer a state office candidate may not expend or transfer the money in a campaign account in a manner that would cause the former state office candidate to recognize the money as taxable income under federal tax law.

(b) A person who is no longer a state office candidate may transfer the money in a campaign account in a manner that would cause the former state office candidate to recognize the money as taxable income under federal tax law if the transfer is made to a campaign account for federal office.

(5) (a) As used in this Subsection (5) and Section 20A-11-204, "received" means:

(i) for a cash contribution, that the cash is given to a state office candidate or a member of the candidate's personal campaign committee;

(ii) for a contribution that is a negotiable instrument or check, that the negotiable instrument or check is negotiated; and

(iii) for any other type of contribution, that any portion of the contribution's benefit inures to the state office candidate.

(b) Each state office candidate shall report to the lieutenant governor each contribution and public service assistance received by the state office candidate:

(i) except as provided in Subsection (5)(b)(ii), within 30 days after the day on which the contribution or public service assistance is received; or

(ii) within three business days after the day on which the contribution or public service assistance is received, if:

(A) the state office candidate is contested in a convention and the contribution or public service assistance is received within 30 days before the day on which the convention is held;

(B) the state office candidate is contested in a primary election and the contribution or public service assistance is received within 30 days before the day on which the primary election is held; or

(C) the state office candidate is contested in a general election and the contribution or public service assistance is received within 30 days before the day on which the general election is held.

(c) ~~[Except as provided in Subsection (5)(d), for]~~ For each contribution or provision of public service assistance that a state office candidate fails to report within the time period described in Subsection (5)(b), the lieutenant governor shall

impose a fine against the state office candidate in an amount equal to:

(i) ~~[the greater of \$50 or]~~ 15% of the amount of the contribution; or

(ii) ~~[the greater of \$50 or]~~ 15% of the value of the public service assistance.

~~[(d) A fine described in Subsection (5)(c) may not exceed the amount of the contribution or the value of the public service assistance to which the fine relates.]~~

~~[(e) (d) The lieutenant governor shall:~~

~~(i) deposit money received under Subsection (5)(c) into the General Fund; and~~

~~(ii) report on the lieutenant governor's website, in the location where reports relating to each state office candidate are available for public access:~~

~~(A) each fine imposed by the lieutenant governor against the state office candidate;~~

~~(B) the amount of the fine;~~

~~(C) the amount of the contribution to which the fine relates; and~~

~~(D) the date of the contribution.~~

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

(i) that is not described in Subsection (1)(a); and

(ii) into which or from which a person who, as a candidate for an office, other than the state office for which the person files a declaration of candidacy or federal office, or as a holder of an office, other than a state office for which the person files a declaration of candidacy or federal office, deposits a contribution or makes an expenditure.

(b) A state office candidate shall include on any financial statement filed in accordance with this part:

(i) a contribution deposited in an account:

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

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

(ii) an expenditure made from an account:

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

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

Section 2. Section 20A-11-301 is amended to read:

20A-11-301. Legislative office candidate -- Campaign finance requirements -- Candidate as a political action committee officer -- No personal use -- Contribution reporting deadline -- Report other accounts.

(1) (a) (i) Each legislative office candidate shall deposit each contribution and public service assistance received in one or more separate accounts in a financial institution that are dedicated only to that purpose.

(ii) A legislative office candidate may:

(A) receive a contribution or public service assistance from a political action committee registered under Section 20A-11-601; and

(B) be designated by a political action committee as an officer who has primary decision-making authority as described in Section 20A-11-601.

(b) A legislative office candidate or the candidate's personal campaign committee may not use money deposited in an account described in Subsection (1)(a)(i) for:

(i) a personal use expenditure; or

(ii) an expenditure prohibited by law.

(2) A legislative office candidate may not deposit or mingle any contributions or public service assistance received into a personal or business account.

(3) If a person who is no longer a legislative candidate chooses not to expend the money remaining in a campaign account, the person shall continue to file the year-end summary report required by Section 20A-11-302 until the statement of dissolution and final summary report required by Section 20A-11-304 are filed with the lieutenant governor.

(4) (a) Except as provided in Subsection (4)(b) and Section 20A-11-402, a person who is no longer a legislative office candidate may not expend or transfer the money in a campaign account in a manner that would cause the former legislative office candidate to recognize the money as taxable income under federal tax law.

(b) A person who is no longer a legislative office candidate may transfer the money in a campaign account in a manner that would cause the former legislative office candidate to recognize the money as taxable income under federal tax law if the transfer is made to a campaign account for federal office.

(5) (a) As used in this Subsection (5) and Section 20A-11-303, "received" means:

(i) for a cash contribution, that the cash is given to a legislative office candidate or a member of the candidate's personal campaign committee;

(ii) for a contribution that is a negotiable instrument or check, that the negotiable instrument or check is negotiated; and

(iii) for any other type of contribution, that any portion of the contribution's benefit inures to the legislative office candidate.

(b) Each legislative office candidate shall report to the lieutenant governor each contribution and public service assistance received by the legislative office candidate:

(i) except as provided in Subsection (5)(b)(ii), within 30 days after the day on which the contribution or public service assistance is received; or

(ii) within three business days after the day on which the contribution or public service assistance is received, if:

(A) the legislative office candidate is contested in a convention and the contribution or public service assistance is received within 30 days before the day on which the convention is held;

(B) the legislative office candidate is contested in a primary election and the contribution or public service assistance is received within 30 days before the day on which the primary election is held; or

(C) the legislative office candidate is contested in a general election and the contribution or public service assistance is received within 30 days before the day on which the general election is held.

(c) ~~[Except as provided in Subsection (5)(d), for]~~ For each contribution or provision of public service assistance that a legislative office candidate fails to report within the time period described in Subsection (5)(b), the lieutenant governor shall impose a fine against the legislative office candidate in an amount equal to:

(i) ~~[the greater of \$50 or]~~ 15% of the amount of the contribution; or

(ii) ~~[the greater of \$50 or]~~ 15% of the value of the public service assistance.

~~[(d) A fine described in Subsection (5)(c) may not exceed the amount of the contribution or the value of the public service assistance to which the fine relates.]~~

~~[(e) d]~~ The lieutenant governor shall:

(i) deposit money received under Subsection (5)(c) into the General Fund; and

(ii) report on the lieutenant governor's website, in the location where reports relating to each legislative office candidate are available for public access:

(A) each fine imposed by the lieutenant governor against the legislative office candidate;

(B) the amount of the fine;

(C) the amount of the contribution to which the fine relates; and

(D) the date of the contribution.

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

(i) that is not described in Subsection (1)(a)(i); and

(ii) into which or from which a person who, as a candidate for an office, other than a legislative office for which the person files a declaration of candidacy or federal office, or as a holder of an office, other than a legislative office for which the person files a declaration of candidacy or federal office, deposits a contribution or makes an expenditure.

(b) A legislative office candidate shall include on any financial statement filed in accordance with this part:

(i) a contribution deposited in an account:

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

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

(ii) an expenditure made from an account:

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

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

Section 3. Section 20A-11-1301 is amended to read:

20A-11-1301. School board office candidate -- Campaign finance requirements -- Candidate as a political action committee officer -- No personal use -- Contribution reporting deadline -- Report other accounts.

(1) (a) (i) Each school board office candidate shall deposit each contribution and public service assistance received in one or more separate accounts in a financial institution that are dedicated only to that purpose.

(ii) A school board office candidate may:

(A) receive a contribution or public service assistance from a political action committee registered under Section 20A-11-601; and

(B) be designated by a political action committee as an officer who has primary decision-making authority as described in Section 20A-11-601.

(b) A school board office candidate may not use money deposited in an account described in Subsection (1)(a)(i) for:

(i) a personal use expenditure; or

(ii) an expenditure prohibited by law.

(2) A school board office candidate may not deposit or mingle any contributions or public service assistance received into a personal or business account.

(3) A school board office candidate may not make any political expenditures prohibited by law.

(4) If a person who is no longer a school board candidate chooses not to expend the money remaining in a campaign account, the person shall continue to file the year-end summary report required by Section 20A-11-1302 until the statement of dissolution and final summary report required by Section 20A-11-1304 are filed with the lieutenant governor.

(5) (a) Except as provided in Subsection (5)(b) and Section 20A-11-402, a person who is no longer a school board candidate may not expend or transfer the money in a campaign account in a manner that would cause the former school board candidate to

recognize the money as taxable income under federal tax law.

(b) A person who is no longer a school board candidate may transfer the money in a campaign account in a manner that would cause the former school board candidate to recognize the money as taxable income under federal tax law if the transfer is made to a campaign account for federal office.

(6) (a) As used in this Subsection (6) and Section 20A-11-1303, "received" means:

(i) for a cash contribution, that the cash is given to a school board office candidate or a member of the candidate's personal campaign committee;

(ii) for a contribution that is a negotiable instrument or check, that the negotiable instrument or check is negotiated; and

(iii) for any other type of contribution, that any portion of the contribution's benefit inures to the school board office candidate.

(b) Each school board office candidate shall report to the chief election officer each contribution and public service assistance received by the school board office candidate:

(i) except as provided in Subsection (6)(b)(ii), within 30 days after the day on which the contribution or public service assistance is received; or

(ii) within three business days after the day on which the contribution or public service assistance is received, if:

(A) the school board office candidate is contested in a primary election and the contribution or public service assistance is received within 30 days before the day on which the primary election is held; or

(B) the school board office candidate is contested in a general election and the contribution or public service assistance is received within 30 days before the day on which the general election is held.

(c) ~~Except as provided in Subsection (6)(d), for~~ For each contribution or provision of public service assistance that a school board office candidate fails to report within the time period described in Subsection (6)(b), the chief election officer shall impose a fine against the school board office candidate in an amount equal to:

(i) ~~the greater of \$50 or~~ 15% of the amount of the contribution; or

(ii) ~~the greater of \$50 or~~ 15% of the value of the public service assistance.

~~[(d) A fine described in Subsection (6)(c) may not exceed the amount of the contribution or the value of the public service assistance to which the fine relates.]~~

(e) (d) The chief election officer shall:

(i) deposit money received under Subsection (6)(c) into the General Fund; and

(ii) report on the chief election officer's website, in the location where reports relating to each school board office candidate are available for public access:

(A) each fine imposed by the chief election officer against the school board office candidate;

(B) the amount of the fine;

(C) the amount of the contribution to which the fine relates; and

(D) the date of the contribution.

(7) (a) As used in this Subsection (7), "account" means an account in a financial institution:

(i) that is not described in Subsection (1)(a)(i); and

(ii) into which or from which a person who, as a candidate for an office, other than a school board office for which the person files a declaration of candidacy or federal office, or as a holder of an office, other than a school board office for which the person files a declaration of candidacy or federal office, deposits a contribution or makes an expenditure.

(b) A school board office candidate shall include on any financial statement filed in accordance with this part:

(i) a contribution deposited in an account:

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

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

(ii) an expenditure made from an account:

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

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

Section 4. Section 20A-12-303 is amended to read:

20A-12-303. Separate account for campaign funds -- Reporting contributions.

(1) The judge or the judge's personal campaign committee shall deposit each contribution in one or more separate personal campaign accounts in a financial institution.

(2) The judge or the judge's personal campaign committee may not deposit or mingle any contributions received into a personal or business account.

(3) (a) As used in this Subsection (3) and Section 20A-12-305, "received" means:

(i) for a cash contribution, that the cash is given to a judge or the judge's personal campaign committee;

(ii) for a contribution that is a negotiable instrument or check, that the negotiable instrument or check is negotiated; and

(iii) for any other type of contribution, that any portion of the contribution's benefit inures to the judge.

(b) The judge or the judge's personal campaign committee shall report to the lieutenant governor each contribution received by the judge, within 30 days after the day on which the contribution is received.

(c) ~~[Except as provided in Subsection (3)(d), for]~~ For each contribution that a judge fails to report within the time period described in Subsection (3)(b), the lieutenant governor shall impose a fine against the judge in an amount equal to ~~[the greater of \$50 or]~~ 15% of the amount of the contribution.

~~[(d) A fine described in Subsection (3)(c) may not exceed the amount of the contribution to which the fine relates.]~~

~~[(e)]~~ (d) The lieutenant governor shall:

(i) deposit money received under Subsection (3)(c) into the General Fund; and

(ii) report on the lieutenant governor's website, in the location where reports relating to each judge are available for public access:

(A) each fine imposed by the lieutenant governor against the judge;

(B) the amount of the fine;

(C) the amount of the contribution to which the fine relates; and

(D) the date of the contribution.

CHAPTER 128**H. B. 261**

Passed March 12, 2015
Approved March 24, 2015
Effective May 12, 2015

HORSE TRIPPING AMENDMENTS

Chief Sponsor: Ken Ivory
Senate Sponsor: Alvin B. Jackson

LONG TITLE**General Description:**

This bill deals with horse tripping.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ modifies the duties of the Agricultural Advisory Board;
- ▶ requires a venue that holds a horse event to report certain information to the Department of Agriculture and Food;
- ▶ authorizes the Department of Agriculture and Food, in consultation with Agricultural Advisory Board, to make rules;
- ▶ requires a report to the Natural Resources, Agriculture, and Environment Interim Committee; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

4-2-7, as last amended by Laws of Utah 2013, Chapter 461

ENACTS:

4-2-501, Utah Code Annotated 1953
4-2-502, Utah Code Annotated 1953
4-2-503, Utah Code Annotated 1953
4-2-504, Utah Code Annotated 1953

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

Section 1. Section 4-2-7 is amended to read:

4-2-7. Agricultural Advisory Board created -- Composition -- Responsibility -- Terms of office -- Compensation.

(1) There is created the Agricultural Advisory Board composed of 16 members, with each member representing one of the following:

- (a) Utah Farm Bureau Federation;
- (b) Utah Farmers Union;
- (c) Utah Cattlemen's Association;
- (d) Utah Wool Growers' Association;
- (e) Utah Dairymen's Association;
- (f) Utah Pork Producer's Association;
- (g) egg and poultry producers;

- (h) Utah Veterinary Medical Association;
- (i) Livestock Auction Marketing Association;
- (j) Utah Association of Conservation Districts;
- (k) the Utah horse industry;
- (l) the food processing industry;
- (m) the fruit and vegetable industry;
- (n) the turkey industry;
- (o) manufacturers of food supplements; and
- (p) a consumer affairs group.

(2) (a) The Agricultural Advisory Board shall advise the commissioner regarding:

~~(a)~~ (i) the planning, implementation, and administration of the department's programs; and

~~(b)~~ (ii) the establishment of standards governing the care of livestock and poultry, including consideration of:

~~(i)~~ (A) food safety;

~~(ii)~~ (B) local availability and affordability of food; and

~~(iii)~~ (C) acceptable practices for livestock and farm management.

(b) The Agricultural Advisory Board shall fulfill the duties described in Title 4, Chapter 2, Part 5, Horse Tripping Awareness.

(3) (a) Except as required by Subsection (3)(c), members are appointed by the commissioner to four-year terms of office.

(b) The commissioner shall appoint representatives of the organizations cited in Subsections (1)(a) through (h) to the Agricultural Advisory Board from a list of nominees submitted by each organization.

(c) Notwithstanding the requirements of Subsection (3)(a), the commissioner shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

(d) Members may be removed at the discretion of the commissioner upon the request of the group they represent.

(e) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(4) The board shall elect one member to serve as chair of the Agricultural Advisory Board for a term of one year.

(5) (a) The board shall meet four times annually, but may meet more often at the discretion of the chair.

(b) Attendance of nine members at a duly called meeting constitutes a quorum for the transaction of official business.

(6) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

- (a) Section 63A-3-106;
- (b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Section 2. Section 4-2-501 is enacted to read:

Part 5. Horse Tripping Awareness

4-2-501. Title.

This part is known as "Horse Tripping Awareness."

Section 3. Section 4-2-502 is enacted to read:

4-2-502. Definitions.

As used in this part:

(1) "Board" means the Agricultural Advisory Board created in Section 4-2-7.

(2) "Horse event" means an event in which horses are roped or tripped for the purpose of a specific event or contest.

(3) (a) "Horse tripping" means the lassoing or roping of the legs of an equine, or otherwise tripping or causing an equine to fall by any means, for the purpose of entertainment, sport, or contest, or practice for entertainment, sport, or contest.

(b) "Horse tripping" does not include accepted animal husbandry practices, customary farming practices, or commonly accepted practices occurring in conjunction with a sanctioned rodeo, animal race, or pulling contest.

Section 4. Section 4-2-503 is enacted to read:

4-2-503. Event reporting requirements.

(1) The owner of a venue holding a horse event shall:

(a) at least 30 days before the day on which the horse event is to be held, notify the board of the date, time, and name of the horse event; and

(b) no later than 30 days after the day on which the horse event is held, notify the board of:

(i) the number and type of competitions held at the horse event;

(ii) the number of horses used;

(iii) whether horse tripping occurred, and if so how many horses were used in horse tripping and how many times each horse was tripped; and

(iv) whether a veterinarian was called during the horse event, and if so:

(A) the name and contact information of the veterinarian;

(B) the outcome of the veterinarian's examination of a horse; and

(C) all veterinarian charges incurred.

(2) (a) The department shall compile all reports received pursuant to Subsection (1) and provide the information to the board.

(b) The board shall, at a meeting described in Subsection 4-2-7(5)(a):

(i) review the information described in Subsection (2)(a); and

(ii) if necessary, make recommendations for rules or legislation designed to prohibit horse tripping.

(3) The department shall fine the owner of a venue that fails to fulfill the duties described in Subsection (1) \$500 per violation.

(4) The department, in consultation with the board, shall make rules in accordance with Title 63, Chapter 3, Utah Administrative Rulemaking Act, as necessary to enforce this part.

Section 5. Section 4-2-504 is enacted to read:

4-2-504. Horse tripping education -- Reporting requirements.

(1) The department, in conjunction with the board, shall:

(a) send a letter, annually, to venues that host horse events:

(i) outlining the reporting requirements of Section 4-2-503; and

(ii) providing educational information on the negative effects of horse tripping; and

(b) promote, as funding allows, policies regarding the safety and welfare of horses involved in horse events, such as horse roping and horse tripping.

(2) The department and the board shall, by November 30, 2015, report to the Natural Resources, Agriculture, and Environment Interim Committee about:

(a) reported incidents of horse tripping;

(b) any recommendations made by the board pursuant to Subsection 4-2-503(2)(b); and

(c) the progress made in educating the public under Subsection (1).

CHAPTER 129**H. B. 276**

Passed March 10, 2015
 Approved March 24, 2015
 Effective May 12, 2015

**AGRICULTURE
 STRUCTURE AMENDMENTS**

Chief Sponsor: Mike K. McKell
 Senate Sponsor: Karen Mayne

LONG TITLE**General Description:**

This bill addresses the regulation and taxation of certain structures used in agriculture.

Highlighted Provisions:

This bill:

- ▶ defines the term “high tunnel”;
- ▶ states that a municipality building code does not apply to a high tunnel;
- ▶ states that a high tunnel is exempt from assessment for taxation purposes; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

59-2-507, as last amended by Laws of Utah 2001, Chapter 9
 59-2-1101, as last amended by Laws of Utah 2013, Chapter 248
 59-2-1102, as last amended by Laws of Utah 2012, Chapter 369

ENACTS:

10-9a-525, Utah Code Annotated 1953

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

Section 1. Section 10-9a-525 is enacted to read:**10-9a-525. High tunnels -- Exemption from municipal regulation.**

(1) As used in this section, “high tunnel” means a structure that:

- (a) is not a permanent structure;
- (b) is used for the keeping, storing, sale, or shelter of an agricultural commodity; and
- (c) has a:
 - (i) metal, wood, or plastic frame;
 - (ii) plastic, woven textile, or other flexible covering; and
 - (iii) floor made of soil, crushed stone, matting, pavers, or a floating concrete slab.

(2) A municipal building code does not apply to a high tunnel.

(3) No building permit shall be required for the construction of a high tunnel.

Section 2. Section 59-2-507 is amended to read:**59-2-507. Land included as agricultural -- Site of farmhouse excluded -- Taxation of structures and site of farmhouse.**

(1) (a) Land under barns, sheds, silos, cribs, greenhouses and like structures, lakes, dams, ponds, streams, and irrigation ditches and like facilities is included in determining the total area of land actively devoted to agricultural use.

(b) Land [which] that is under [the] a farmhouse and land used in connection with [the] a farmhouse is excluded from [that] the determination described in Subsection (1)(a).

(2) [~~All structures which are located on land in agricultural use, the farmhouse and the land on which the farmhouse is located, and land used in connection with the farmhouse,~~] The following shall be valued, assessed, and taxed using the same standards, methods, and procedures that apply to other taxable structures and other land in the county[-]:

(a) a structure, except as provided in Subsection (3), that is located on land in agricultural use;

(b) a farmhouse and the land on which the farmhouse is located; and

(c) land used in connection with a farmhouse.

(3) A high tunnel, as defined in Section 10-9a-525, is exempt from assessment for taxation purposes.

Section 3. Section 59-2-1101 is amended to read:**59-2-1101. Definitions -- Exemption of certain property -- Proportional payments for certain property -- County legislative body authority to adopt rules or ordinances.**

(1) As used in this section:

(a) “Educational purposes” includes:

(i) the physical or mental teaching, training, or conditioning of competitive athletes by a national governing body of sport recognized by the United States Olympic Committee that qualifies as being tax exempt under Section 501(c)(3) of the Internal Revenue Code; and

(ii) an activity in support of or incidental to the teaching, training, or conditioning described in Subsection (1)(a)(i).

(b) “Exclusive use exemption” means a property tax exemption under Subsection (3)(a)(iv), for property owned by a nonprofit entity used exclusively for religious, charitable, or educational purposes.

(c) “Government exemption” means a property tax exemption provided under Subsection (3)(a)(i), (ii), or (iii).

(d) “Nonprofit entity” includes an entity if the:

(i) entity is treated as a disregarded entity for federal income tax purposes;

(ii) entity is wholly owned by, and controlled under the direction of, a nonprofit entity; and

(iii) net earnings and profits of the entity irrevocably inure to the benefit of a nonprofit entity.

(e) "Tax relief" means an exemption, deferral, or abatement that is authorized by this part.

(2) (a) Except as provided in Subsection (2)(b) or (c), tax relief may be allowed only if the claimant is the owner of the property as of January 1 of the year the exemption is claimed.

(b) Notwithstanding Subsection (2)(a), a claimant shall collect and pay a proportional tax based upon the length of time that the property was not owned by the claimant if:

(i) the claimant is a federal, state, or political subdivision entity described in Subsection (3)(a)(i), (ii), or (iii); or

(ii) pursuant to Subsection (3)(a)(iv):

(A) the claimant is a nonprofit entity; and

(B) the property is used exclusively for religious, charitable, or educational purposes.

(c) Notwithstanding Subsection (2)(a), a claimant may be allowed a veteran's exemption in accordance with Sections 59-2-1104 and 59-2-1105 regardless of whether the claimant is the owner of the property as of January 1 of the year the exemption is claimed if the claimant is:

(i) the unmarried surviving spouse of:

(A) a deceased veteran with a disability as defined in Section 59-2-1104; or

(B) a veteran who was killed in action or died in the line of duty as defined in Section 59-2-1104; or

(ii) a minor orphan of:

(A) a deceased veteran with a disability as defined in Section 59-2-1104; or

(B) a veteran who was killed in action or died in the line of duty as defined in Section 59-2-1104.

(3) (a) The following property is exempt from taxation:

(i) property exempt under the laws of the United States;

(ii) property of:

(A) the state;

(B) school districts; and

(C) public libraries;

(iii) except as provided in Title 11, Chapter 13, Interlocal Cooperation Act, property of:

(A) counties;

(B) cities;

(C) towns;

(D) local districts;

(E) special service districts; and

(F) all other political subdivisions of the state;

(iv) property owned by a nonprofit entity used exclusively for religious, charitable, or educational purposes;

(v) places of burial not held or used for private or corporate benefit;

(vi) farm equipment and machinery;

(vii) a high tunnel, as defined in Section 10-9a-525;

[~~(vii)~~] (viii) intangible property; and

[~~(viii)~~] (ix) the ownership interest of an out-of-state public agency, as defined in Section 11-13-103:

(A) if that ownership interest is in property providing additional project capacity, as defined in Section 11-13-103; and

(B) on which a fee in lieu of ad valorem property tax is payable under Section 11-13-302.

(b) For purposes of a property tax exemption for property of school districts under Subsection (3)(a)(ii)(B), a charter school under Title 53A, Chapter 1a, Part 5, The Utah Charter Schools Act, is considered to be a school district.

(4) Subject to Subsection (5), if property that is allowed an exclusive use exemption or a government exemption ceases to qualify for the exemption because of a change in the ownership of the property:

(a) the new owner of the property shall pay a proportional tax based upon the period of time:

(i) beginning on the day that the new owner acquired the property; and

(ii) ending on the last day of the calendar year during which the new owner acquired the property; and

(b) the new owner of the property and the person from whom the new owner acquires the property shall notify the county assessor, in writing, of the change in ownership of the property within 30 days from the day that the new owner acquires the property.

(5) Notwithstanding Subsection (4)(a), the proportional tax described in Subsection (4)(a):

(a) is subject to any exclusive use exemption or government exemption that the property is entitled to under the new ownership of the property; and

(b) applies only to property that is acquired after December 31, 2005.

(6) A county legislative body may adopt rules or ordinances to:

(a) effectuate the exemptions, deferrals, abatements, or other relief from taxation provided in this part; and

(b) designate one or more persons to perform the functions given the county under this part.

Section 4. Section 59-2-1102 is amended to read:

59-2-1102. Determination of exemptions by board of equalization -- Appeal -- Application for exemption -- Annual statement -- Exceptions.

(1) (a) For property assessed under Part 3, County Assessment, the county board of equalization may, after giving notice in a manner prescribed by rule, determine whether certain property within the county is exempt from taxation.

(b) The decision of the county board of equalization described in Subsection (1)(a) shall:

- (i) be in writing; and
- (ii) include:
 - (A) a statement of facts; and
 - (B) the statutory basis for its decision.

(c) Except as provided in Subsection (11)(a), a copy of the decision described in Subsection (1)(a) shall be sent on or before May 15 to the person applying for the exemption.

(2) The county board of equalization shall notify an owner of exempt property that has previously received an exemption but failed to file an annual statement in accordance with Subsection (9)(c), of the county board of equalization's intent to revoke the exemption on or before April 1.

(3) (a) Except as provided in Subsection (8) and subject to Subsection (9), a reduction may not be made under this part in the value of property and an exemption may not be granted under this part unless the party affected or the party's agent:

- (i) makes and files with the county board of equalization a written application for the reduction or exemption, verified by signed statement; and
- (ii) appears before the county board of equalization and shows facts upon which it is claimed the reduction should be made, or exemption granted.

(b) Notwithstanding Subsection (9), the county board of equalization may waive:

- (i) the application or personal appearance requirements of Subsection (3)(a), (4)(b), or (9)(a); or
- (ii) the annual statement requirements of Subsection (9)(c).

(4) (a) Before the county board of equalization grants any application for exemption or reduction, the county board of equalization may examine under oath the person or agent making the application.

(b) Except as provided in Subsection (3)(b), a reduction may not be made or exemption granted unless the person or the agent making the application attends and answers all questions pertinent to the inquiry.

(5) For the hearing on the application, the county board of equalization may subpoena any witnesses,

and hear and take any evidence in relation to the pending application.

(6) Except as provided in Subsection (11)(b), the county board of equalization shall hold hearings and render a written decision to determine any exemption on or before May 1 in each year.

(7) Any property owner dissatisfied with the decision of the county board of equalization regarding any reduction or exemption may appeal to the commission under Section 59-2-1006.

(8) Notwithstanding Subsection (3)(a), a county board of equalization may not require an owner of property to file an application in accordance with this section in order to claim an exemption for the property under the following:

- (a) Subsections 59-2-1101(3)(a)(i) through (iii);
- (b) Subsection 59-2-1101(3)(a)(vi) or [~~(vii)~~] (viii);
- (c) Section 59-2-1110;
- (d) Section 59-2-1111;
- (e) Section 59-2-1112;
- (f) Section 59-2-1113; or
- (g) Section 59-2-1114.

(9) (a) Except as provided in Subsections (3)(b) and (9)(b), for property described in Subsection 59-2-1101(3)(a)(iv) or (v), a county board of equalization shall, consistent with Subsection (10), require an owner of that property to file an application in accordance with this section in order to claim an exemption for that property.

(b) Notwithstanding Subsection (9)(a), a county board of equalization may not require an owner of property described in Subsection 59-2-1101(3)(a)(iv) or (v) to file an application under Subsection (9)(a) if:

(i) (A) the owner filed an application under Subsection (9)(a); or

(B) the county board of equalization waived the application requirements in accordance with Subsection (3)(b);

(ii) the county board of equalization determines that the owner may claim an exemption for that property; and

(iii) the exemption described in Subsection (9)(b)(ii) is in effect.

(c) (i) Except as provided in Subsection (3)(b), for the time period that an owner is granted an exemption in accordance with this section for property described in Subsection 59-2-1101(3)(a)(iv) or (v), a county board of equalization shall require the owner to file an annual statement on a form prescribed by the commission establishing that the property continues to be eligible for the exemption.

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules providing:

(A) the form for the annual statement required by Subsection (9)(c)(i);

(B) the contents of the form for the annual statement required by Subsection (9)(c)(i); and

(C) procedures and requirements for making the annual statement required by Subsection (9)(c)(i).

(iii) The commission shall make the form described in Subsection (9)(c)(ii)(A) available to counties.

(10) (a) For purposes of this Subsection (10), "exclusive use exemption" is as defined in Section 59-2-1101.

(b) (i) For purposes of Subsection (1)(a), and except as provided in Subsections (10)(b)(ii) and (iii), when a person acquires property on or after January 1 that qualifies for an exclusive use exemption, that person may apply for the exclusive use exemption on or before the later of:

(A) the day set by rule as the deadline for filing a property tax exemption application; or

(B) 30 days after the day on which the property is acquired.

(ii) Notwithstanding Subsection (10)(b)(i), a person who acquires property on or after January 1, 2004, and before January 1, 2005, that qualifies for an exclusive use exemption, may apply for the exclusive use exemption for the 2004 calendar year on or before September 30, 2005.

(iii) Notwithstanding Subsection (10)(b)(i), a person who acquires property on or after January 1, 2005, and before January 1, 2006, that qualifies for an exclusive use exemption, may apply for the exclusive use exemption for the 2005 calendar year on or before the later of:

(A) September 30, 2005; or

(B) 30 days after the day on which the property is acquired.

(11) (a) Notwithstanding Subsection (1)(c), if an application for an exemption is filed under Subsection (10), a county board of equalization shall send a copy of the decision described in Subsection (1)(c) to the person applying for the exemption on or before the later of:

(i) May 15; or

(ii) 45 days after the day on which the application for the exemption is filed.

(b) Notwithstanding Subsection (6), if an application for an exemption is filed under Subsection (10), a county board of equalization shall hold the hearing and render the decision described in Subsection (6) on or before the later of:

(i) May 1; or

(ii) 30 days after the day on which the application for the exemption is filed.

CHAPTER 130**H. B. 340**

Passed March 12, 2015
 Approved March 24, 2015
 Effective May 12, 2015

**VOTER PREREGISTRATION
 AMENDMENTS**

Chief Sponsor: Jon Cox
 Senate Sponsor: Deidre M. Henderson

LONG TITLE**General Description:**

This bill allows an individual who is 16 or 17 years of age to preregister to vote in an election.

Highlighted Provisions:

This bill:

- ▶ allows an individual who is 16 or 17 years of age to preregister to vote in an election;
- ▶ prohibits an individual who preregisters to vote from voting in an election until the individual is at least 18 years of age;
- ▶ establishes processing requirements for a county clerk;
- ▶ amends the voter registration form;
- ▶ establishes preregistration procedures and methods;
- ▶ establishes penalties;
- ▶ designates as a private record the voter registration record of an individual who preregisters to vote until the individual turns 18 years of age; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

20A-2-104, as last amended by Laws of Utah 2014, Chapter 373
 20A-2-108, as last amended by Laws of Utah 2014, Chapter 373
 20A-2-201, as last amended by Laws of Utah 2014, Chapters 98, 231 and last amended by Coordination Clause, Laws of Utah 2014, Chapter 231
 20A-2-202, as last amended by Laws of Utah 2014, Chapter 231
 20A-2-204, as last amended by Laws of Utah 2014, Chapter 231
 20A-2-205, as last amended by Laws of Utah 2014, Chapter 231
 20A-2-206, as last amended by Laws of Utah 2014, Chapters 95, 98, 231 and last amended by Coordination Clause, Laws of Utah 2014, Chapter 231
 20A-2-302, as last amended by Laws of Utah 2008, Chapter 103
 20A-2-401, as last amended by Laws of Utah 2008, Chapter 276
 20A-4-108, as enacted by Laws of Utah 2014, Chapter 231 and last amended by Coordination Clause, Laws of Utah 2014, Chapter 231

63G-2-302, as last amended by Laws of Utah 2014, Chapter 373

ENACTS:

20A-2-101.1, Utah Code Annotated 1953

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

Section 1. Section 20A-2-101.1 is enacted to read:

20A-2-101.1. Preregistering to vote.

(1) An individual may preregister to vote if the individual:

(a) is 16 or 17 years of age;

(b) will not be 18 years of age before the next election;

(c) is a citizen of the United States;

(d) has been a resident of Utah for at least 30 days; and

(e) currently resides within the voting district or precinct in which the individual preregisters to vote.

(2) An individual described in Subsection (1) may not vote in an election and is not registered to vote until:

(a) the individual is at least 18 years of age; and

(b) the county clerk registers the individual to vote under Subsection (4).

(3) An individual who preregisters to vote shall:

(a) complete a voter registration form, including an indication that the individual is preregistering to vote; and

(b) submit the voter registration form to a county clerk in person, by mail, or in any other manner authorized by this chapter for the submission of a voter registration form.

(4) (a) A county clerk shall:

(i) retain the voter registration form of an individual who meets the qualifications for preregistration and who submits a completed voter registration form to the county clerk under Subsection (3)(b);

(ii) register the individual to vote in the next election in which the individual will be eligible to vote, before the voter registration deadline established in Section 20A-2-102.5 for that election; and

(iii) send a notice to the individual that:

(A) informs the individual that the individual's voter registration form has been accepted as an application for preregistration;

(B) informs the individual that the individual will be registered to vote in the next election in which the individual will be eligible to vote; and

(C) indicates in which election the individual will be registered to vote.

(b) An individual who the county clerk registers under Subsection (4)(a)(ii) is considered to have applied for voter registration on the earlier of:

(i) the day of the voter registration deadline immediately preceding the election day on which the individual will be at least 18 years of age; or

(ii) the day on which the individual turns 18 years of age.

(c) A county clerk shall refer a voter registration form to the county attorney for investigation and possible prosecution if the clerk or the clerk's designee believes the individual is attempting to preregister to vote in an election:

(i) that will be held on or after the day on which the individual turns 18 years of age; and

(ii) in which the individual will not be legally entitled to vote.

(5) (a) The lieutenant governor or a county clerk shall classify the voter registration record of an individual who preregisters to vote as a private record until the day on which the individual turns 18 years of age.

(b) On the day on which the individual described in Subsection (5)(a) turns 18 years of age, the lieutenant governor or county clerk shall classify the individual's voter registration record as a public record in accordance with Subsection 63G-2-301(2)(l).

(6) If an individual who is at least 18 years of age erroneously indicates on the voter registration form that the individual is preregistering to vote, the county clerk shall consider the form as a voter registration form and shall process the form in accordance with this chapter.

Section 2. Section 20A-2-104 is amended to read:

20A-2-104. Voter registration form -- Registered voter lists -- Fees for copies.

(1) ~~[Every person applying to be registered]~~ An individual applying for voter registration, or an individual preregistering to vote, shall complete a voter registration form [printed] in substantially the following form:

UTAH ELECTION REGISTRATION FORM
Are you a citizen of the United States of America?
Yes No

If you checked "no" to the above question, do not complete this form. Will you be 18 years ~~[old]~~ of age on or before election day? Yes No

If you checked "no" to the above question, are you 16 or 17 years of age and preregistering to vote?
Yes No

If you checked "no" to ~~[either]~~ both of the ~~[above]~~ prior two questions, do not complete this form.

Name of Voter

First Middle Last

Utah Driver License or Utah Identification Card Number _____

Date of Birth _____

Street Address of Principal Place of Residence _____
City County State Zip Code

Telephone Number (optional) _____

Last four digits of Social Security Number _____

Last former address at which I was registered to vote (if known) _____

City County State Zip Code

Political Party

(a listing of each registered political party, as defined in Section 20A-8-101 and maintained by the lieutenant governor under Section 67-1a-2, with each party's name preceded by a checkbox) Unaffiliated (no political party preference) Other (Please specify) _____

I do swear (or affirm), subject to penalty of law for false statements, that the information contained in this form is true, and that I am a citizen of the United States and a resident of the state of Utah, residing at the above address. Unless I have indicated above that I am preregistering to vote in a later election, I will be at least 18 years ~~[old]~~ of age and will have resided in Utah for 30 days immediately before the next election. I am not a convicted felon currently incarcerated for commission of a felony.

Signed and sworn

Voter's Signature
(month/day/year).

"The portion of a voter registration form that lists a person's driver license or identification card number, Social Security number, and email address is a private record. The portion of a voter registration form that lists a person's date of birth is a private record, the use of which is restricted to government officials, government employees, political parties, or certain other persons.

If you believe that disclosure of any information contained in this voter registration form to a person other than a government official or government employee is likely to put you or a member of your household's life or safety at risk, or to put you or a member of your household at risk of being stalked or harassed, you may apply to the lieutenant governor or your county clerk to have your entire voter registration record classified as private."

CITIZENSHIP AFFIDAVIT

Name:

Name at birth, if different:

Place of birth:

Date of birth:

Date and place of naturalization (if applicable):

I hereby swear and affirm, under penalties for voting fraud set forth below, that I am a citizen and that to the best of my knowledge and belief the information above is true and correct.

Signature of Applicant

In accordance with Section 20A-2-401, the penalty for willfully causing, procuring, or allowing yourself to be registered or preregistered to vote if you know you are not entitled to register or preregister to vote is up to one year in jail and a fine of up to \$2,500.

NOTICE: IN ORDER TO BE ALLOWED TO VOTE, YOU MUST PRESENT VALID VOTER IDENTIFICATION TO THE POLL WORKER BEFORE VOTING, WHICH MUST BE A VALID FORM OF PHOTO IDENTIFICATION THAT SHOWS YOUR NAME AND PHOTOGRAPH; OR

TWO DIFFERENT FORMS OF IDENTIFICATION THAT SHOW YOUR NAME AND CURRENT ADDRESS.

FOR OFFICIAL USE ONLY

Type of I.D. _____
Voting Precinct _____
Voting I.D. Number _____

(2) (a) Except as provided under Subsection (2)(b), the county clerk shall retain a copy of each voter registration form in a permanent countywide alphabetical file, which may be electronic or some other recognized system.

(b) The county clerk may transfer a superceded voter registration form to the Division of Archives and Records Service created under Section 63A-12-101.

(3) (a) Each county clerk shall retain lists of currently registered voters.

(b) The lieutenant governor shall maintain a list of registered voters in electronic form.

(c) If there are any discrepancies between the two lists, the county clerk's list is the official list.

(d) The lieutenant governor and the county clerks may charge the fees established under the authority of Subsection 63G-2-203(10) to individuals who wish to obtain a copy of the list of registered voters.

(4) (a) As used in this Subsection (4), "qualified person" means:

(i) a government official or government employee acting in the government official's or government employee's capacity as a government official or a government employee;

(ii) a health care provider, as defined in Section 26-33a-102, or an agent, employee, or independent contractor of a health care provider;

(iii) an insurance company, as defined in Section 67-4a-102, or an agent, employee, or independent contractor of an insurance company;

(iv) a financial institution, as defined in Section 7-1-103, or an agent, employee, or independent contractor of a financial institution;

(v) a political party, or an agent, employee, or independent contractor of a political party; or

(vi) a person, or an agent, employee, or independent contractor of the person, who:

(A) provides the date of birth of a registered voter that is obtained from the list of registered voters only to a person who is a qualified person;

(B) verifies that a person, described in Subsection (4)(a)(vi)(A), to whom a date of birth that is obtained from the list of registered voters is provided, is a qualified person;

(C) ensures, using industry standard security measures, that the date of birth of a registered voter that is obtained from the list of registered voters may not be accessed by a person other than a qualified person;

(D) verifies that each qualified person, other than a qualified person described in Subsection (4)(a)(i) or (v), to whom the person provides the date of birth of a registered voter that is obtained from the list of registered voters, will only use the date of birth to verify the accuracy of personal information submitted by an individual or to confirm the identity of a person in order to prevent fraud, waste, or abuse;

(E) verifies that each qualified person described in Subsection (4)(a)(i), to whom the person provides the date of birth of a registered voter that is obtained from the list of registered voters, will only use the date of birth in the qualified person's capacity as a government official or government employee; and

(F) verifies that each qualified person described in Subsection (4)(a)(v), to whom the person provides the date of birth of a registered voter that is obtained from the list of registered voters, will only use the date of birth for a political purpose.

(b) Notwithstanding Subsection 63G-2-302(1)(j)(iv), and except as provided in Subsection 63G-2-302(1)(k), the lieutenant governor or a county clerk shall, when providing the list of registered voters to a qualified person under this section, include, with the list, the dates of birth of the registered voters, if:

(i) the lieutenant governor or a county clerk verifies the identity of the person and that the person is a qualified person; and

(ii) the qualified person signs a document that includes the following:

(A) the name, address, and telephone number of the person requesting the list of registered voters;

(B) an indication of the type of qualified person that the person requesting the list claims to be;

(C) a statement regarding the purpose for which the person desires to obtain the dates of birth;

(D) a list of the purposes for which the date of birth of a registered voter that is obtained from the list of registered voters may be used;

(E) a statement that the date of birth of a registered voter that is obtained from the list of registered voters may not be provided or used for a purpose other than a purpose described under Subsection (4)(b)(ii)(D);

(F) a statement that if the person obtains the date of birth of a registered voter from the list of registered voters under false pretenses, or provides or uses the date of birth of a registered voter that is obtained from the list of registered voters in a manner that is prohibited by law, is guilty of a class A misdemeanor and is subject to a civil fine;

(G) an assertion from the person that the person will not provide or use the date of birth of a registered voter that is obtained from the list of registered voters in a manner that is prohibited by law; and

(H) notice that if the person makes a false statement in the document, the person is punishable by law under Section 76-8-504.

(e) The lieutenant governor or a county clerk may not disclose the date of birth of a registered voter to a person that the lieutenant governor or county clerk reasonably believes:

(i) is not a qualified person or a person described in Subsection (4)(k); or

(ii) will provide or use the date of birth in a manner prohibited by law.

(d) The lieutenant governor or a county clerk may not disclose the voter registration form of a person, or information included in the person's voter registration form, whose voter registration form is classified as private under Subsection (4)(f) to a person other than a government official or government employee acting in the government official's or government employee's capacity as a government official or government employee.

(e) A person is guilty of a class A misdemeanor if the person:

(i) obtains the date of birth of a registered voter from the list of registered voters under false pretenses; or

(ii) uses or provides the date of birth of a registered voter that is obtained from the list of registered voters, in a manner that is not permitted by law.

(f) The lieutenant governor or a county clerk shall classify the voter registration record of a voter as a private record if the voter submits:

(i) a written application, created by the lieutenant governor, requesting that the voter's voter registration record be classified as private; and

(ii) provides evidence to the lieutenant governor or a county clerk establishing that release of the information on the voter's voter registration record is likely to put the voter or a member of the voter's household's life or safety at risk, or to put the voter or a member of the voter's household at risk of being stalked or harassed.

(g) The evidence described in Subsection (4)(f) may include:

(i) a protective order;

(ii) a police report; or

(iii) other evidence designated by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, by the director of elections within the Office of the Lieutenant Governor.

(h) In addition to any criminal penalty that may be imposed under this section, the lieutenant governor may impose a civil fine against a person who obtains the date of birth of a registered voter from the list of registered voters under false pretenses, or provides or uses a date of birth of a registered voter that is obtained from the list of registered voters in a manner that is not permitted by law, in an amount equal to the greater of:

(i) the product of 30 and the square root of the total number of dates of birth obtained, provided, or used unlawfully, rounded to the nearest whole dollar; or

(ii) \$200.

(i) A qualified person may not obtain, provide, or use the date of birth of a registered voter, if the date of birth is obtained from the list of registered voters or from a voter registration record, unless the person:

(i) is a government official or government employee who obtains, provides, or uses the date of birth in the government official's or government employee's capacity as a government official or government employee;

(ii) is a qualified person described in Subsection (4)(a)(ii), (iii), or (iv) and obtains or uses the date of birth only to verify the accuracy of personal information submitted by an individual or to confirm the identity of a person in order to prevent fraud, waste, or abuse;

(iii) is a qualified person described in Subsection (4)(a)(v) and obtains, provides, or uses the date of birth for a political purpose; or

(iv) is a qualified person described in Subsection (4)(a)(vi) and obtains, provides, or uses the date of birth to provide the date of birth to another qualified person to verify the accuracy of personal information submitted by an individual or to confirm the identity of a person in order to prevent fraud, waste, or abuse.

(j) A person who is not a qualified person may not obtain, provide, or use the date of birth of a registered voter, if the date of birth is obtained from the list of registered voters or from a voter registration record, unless the person:

(i) is a candidate for public office and uses the date of birth only for a political purpose; or

(ii) obtains the date of birth from a political party or a candidate for public office and uses the date of birth only for the purpose of assisting the political party or candidate for public office to fulfill a political purpose.

(k) The lieutenant governor or a county clerk may provide a date of birth to a member of the media, in relation to an individual designated by the member of the media, in order for the member of the media to verify the identity of the individual.

(5) When political parties not listed on the voter registration form qualify as registered political parties under Title 20A, Chapter 8, Political Party Formation and Procedures, the lieutenant governor shall inform the county clerks about the name of the new political party and direct the county clerks to ensure that the voter registration form is modified to include that political party.

(6) Upon receipt of a voter registration form from an applicant, the county clerk or the clerk's designee shall:

(a) review each voter registration form for completeness and accuracy; and

(b) if the county clerk believes, based upon a review of the form, that [a person] an individual may be seeking to register or preregister to vote who is not legally entitled to register or preregister to vote, refer the form to the county attorney for investigation and possible prosecution.

Section 3. Section 20A-2-108 is amended to read:

20A-2-108. Driver license registration form -- Transmittal of information.

(1) The lieutenant governor and the Driver License Division shall design the driver license application and renewal forms to include the [question] following questions:

(a) "If you are not registered to vote where you live now, would you like to register to vote today?"; and

(b) "If you are 16 or 17 years of age, and will not be 18 years of age before the date of the next election, would you like to preregister to vote today?"

(2) (a) The lieutenant governor and the Driver License Division shall design a motor voter registration form to be used in conjunction with driver license application and renewal forms.

(b) Each driver license application and renewal form shall contain:

(i) a place for the applicant to decline to register or preregister to vote;

(ii) an eligibility statement in substantially the following form:

"I do swear (or affirm), subject to penalty of law for false statements, that the information contained in this form is true, and that I am a citizen of the

United States and a resident of the state of Utah, residing at the above address. Unless I have indicated above that I am preregistering to vote in a later election, I will be at least 18 years [old] of age and will have resided in Utah for 30 days immediately before the next election. Signed and sworn

Voter's Signature

_____(month \day \year)";

(iii) a citizenship affidavit in substantially the following form:

"CITIZENSHIP AFFIDAVIT

Name:

Name at birth, if different:

Place of birth:

Date of birth:

Date and place of naturalization (if applicable):

I hereby swear and affirm, under penalties for voting fraud set forth below, that I am a citizen and that to the best of my knowledge and belief the information above is true and correct.

Signature of Applicant

In accordance with Section 20A-2-401, the penalty for willfully causing, procuring, or allowing yourself to be registered or preregistered to vote if you know you are not entitled to register or preregister to vote is up to one year in jail and a fine of up to \$2,500";

(iv) a statement that if an applicant declines to register or preregister to vote, the fact that the applicant has declined to register or preregister will remain confidential and will be used only for voter registration purposes;

(v) a statement that if an applicant does register or preregister to vote, the office at which the applicant submits a voter registration application will remain confidential and will be used only for voter registration purposes; and

(vi) the following statement:

"The portion of a voter registration form that lists a person's driver license or identification card number, Social Security number, and email address is a private record. The portion of a voter registration form that lists a person's date of birth is a private record, the use of which is restricted to government officials, government employees, political parties, or certain other persons.

If you believe that disclosure of any information contained in this voter registration form to a person other than a government official or government employee is likely to put you or a member of your household's life or safety at risk, or to put you or a member of your household at risk of being stalked or harassed, you may apply to the lieutenant governor or your county clerk to have your entire voter registration record classified as private."

(3) Upon receipt of a voter registration form from an applicant, the county clerk or the clerk's designee shall:

(a) review the voter registration form for completeness and accuracy; and

(b) if the county clerk believes, based upon a review of the form, that a person may be seeking to register or preregister to vote who is not legally entitled to register or preregister to vote, refer the form to the county attorney for investigation and possible prosecution.

Section 4. Section 20A-2-201 is amended to read:

20A-2-201. Registering to vote at office of county clerk.

(1) Except as provided in Subsection (3), the county clerk shall register to vote each individual who registers in person at the county clerk's office during designated office hours if the individual will, on the date of the election, be legally eligible to vote in a voting precinct in the county in accordance with Section 20A-2-101.

(2) If an individual who is registering to vote submits a registration form in person at the office of the county clerk during designated office hours, during the period beginning on the date after the voter registration deadline and ending on the date that is 15 calendar days before the date of the election, the county clerk shall:

(a) accept ~~[a registration form from each individual who submits a registration form in person at the clerk's office during designated office hours]~~ the form if the individual, on the date of the election, will be legally qualified and entitled to vote in a voting precinct in the county; and

(b) inform the individual that the individual will be registered to vote in the pending election.

(3) If an individual who is registering to vote and who will be legally qualified and entitled to vote in a voting precinct in the county on the date of an election appears in person, during designated office hours, and submits a registration form on the date of the election or during the 14 calendar days before an election, the county clerk shall:

(a) accept the registration form; and

(b) (i) if it is more than seven calendar days before the date of an election:

(A) inform the individual that the individual is registered to vote in the pending election; and

(B) for the pending election, the individual must vote on the day of the election and is not eligible to vote using early voting under Chapter 3, Part 6, Early Voting, because the individual registered too late; or

(ii) except as provided in Subsection 20A-4-108(5), if it is on the date of an election or during the seven calendar days before an election, inform the individual that the individual will be registered to vote but may not vote in the pending election because the individual registered too late.

Section 5. Section 20A-2-202 is amended to read:

20A-2-202. Registration by mail.

(1) (a) A citizen who will be qualified to vote at the next election may register by mail.

(b) To register by mail, a citizen shall complete and sign the by-mail registration form and mail or deliver it to the county clerk of the county in which the citizen resides.

(c) In order to register to vote in a particular election, the citizen shall:

(i) address the by-mail voter registration form to the county clerk; and

(ii) ensure that it is postmarked on or before the voter registration deadline.

(d) The citizen has effectively registered to vote under this section only when the county clerk's office has received a correctly completed by-mail voter registration form.

(2) Upon receipt of a correctly completed by-mail voter registration form, the county clerk shall, unless the individual named in the form is preregistering to vote:

(a) enter the applicant's name on the list of registered voters for the voting precinct in which the applicant resides; and

(b) mail confirmation of registration to the newly registered voter after entering the applicant's voting precinct number on that copy.

(3) (a) Except as provided in Subsection 20A-4-108(6), if the county clerk receives a correctly completed by-mail voter registration form that is postmarked after the voter registration deadline, the county clerk shall, unless the individual named in the form is preregistering to vote:

(i) register the applicant after the next election; and

(ii) if possible, promptly phone or mail a notice to the applicant before the election, informing the applicant that his registration will not be effective until after the election.

(b) When the county clerk receives a correctly completed by-mail voter registration form at least seven days before an election that is postmarked on or before the date of the voter registration deadline, the county clerk shall:

(i) process the by-mail voter registration form; and

(ii) record the new voter in the official register.

(4) If the county clerk determines that a registration form received by mail or otherwise is incorrect because of an error or because it is incomplete, the county clerk shall mail notice to the person attempting to register or preregister, stating that the person has not been registered or preregistered because of an error or because the form is incomplete.

Section 6. Section 20A-2-204 is amended to read:

20A-2-204. Registering to vote when applying for or renewing a driver license.

(1) As used in this section, "voter registration form" means the driver license application/voter registration form and the driver license renewal/voter registration form required by Section 20A-2-108.

(2) Any citizen who is qualified to vote may register to vote, and any citizen who is qualified to preregister to vote may preregister to vote, by completing the voter registration form.

(3) The Driver License Division shall:

(a) assist applicants in completing the voter registration form unless the applicant refuses assistance;

(b) accept a completed [forms for transmittal to the appropriate election official] voter registration form and transmit the form to the county clerk of the county in which the applicant resides within five days after the day on which the division receives the form;

~~[(e) transmit a copy of each voter registration form to the appropriate election official within five days after it is received by the division;]~~

~~[(d)]~~ (c) transmit each address change within five days after [it is received by the division] the day on which the division receives the address change; and

~~[(e)]~~ (d) transmit electronically to the lieutenant governor's office the name, address, birth date, and driver license number of each [person] individual who answers "yes" to [the] a question [on the driver license form about registering to vote] described in Subsection 20A-2-108(1), and indicate whether the individual is registering or preregistering to vote.

(4) (a) Upon receipt of a correctly completed voter registration form from an individual who is registering to vote, the county clerk shall:

~~[(a)]~~ (i) enter the applicant's name on the list of registered voters for the voting precinct in which the applicant resides; and

~~[(b)]~~ (ii) notify the applicant of registration.

(b) Upon receipt of a correctly completed voter registration form from an individual who is preregistering to vote, the county clerk shall process the form in accordance with the requirements of Section 20A-2-101.1.

(5) (a) Except as provided in Subsection 20A-4-108(7), if the county clerk receives a correctly completed voter registration form that is dated after the voter registration deadline, the county clerk shall, unless the individual named in the form is preregistering to vote:

(i) register the applicant after the next election; and

(ii) if possible, promptly phone or mail a notice to the applicant before the election, informing the

applicant that his registration will not be effective until after the election.

(b) When the county clerk receives a correctly completed voter registration form at least seven days before an election that is dated on or before the voter registration deadline, the county clerk shall, unless the individual named in the form is preregistering to vote:

(i) process the voter registration form; and

(ii) record the new voter in the official register.

(6) If the county clerk determines that a voter registration form received from the Driver License Division is incorrect because of an error or because it is incomplete, the county clerk shall mail notice to the [person] individual attempting to register or preregister to vote, stating that the [person] individual has not been registered or preregistered because of an error or because the form is incomplete.

Section 7. Section 20A-2-205 is amended to read:

20A-2-205. Registration at voter registration agencies.

(1) As used in this section:

(a) "Discretionary voter registration agency" means ~~[each office designated by the county clerk under Part 3, County Clerk's Voter Registration Responsibilities, to provide by mail voter registration forms to the public]~~ the same as that term is defined in Section 20A-2-300.5.

(b) "Public assistance agency" means each office in Utah that provides:

(i) public assistance; or

(ii) state funded programs primarily engaged in providing services to people with disabilities.

(2) ~~[Any person]~~ An individual may obtain and complete a by-mail registration form at a public assistance agency or discretionary voter registration agency.

(3) Each public assistance agency and discretionary voter registration agency shall provide, either as part of existing forms or on a separate form, the following information in substantially the following form:

"REGISTERING TO VOTE

If you are not registered to vote where you live now, would you like to apply to register or preregister to vote here today? [~~Applying to register to vote or declining to register to vote~~] (The decision of whether to register or preregister to vote will not affect the amount of assistance that you will be provided by this agency.) Yes ___ No ___ IF YOU DO NOT CHECK EITHER BOX, YOU WILL BE CONSIDERED TO HAVE DECIDED NOT TO REGISTER OR PREREGISTER TO VOTE AT THIS TIME. If you would like help in filling out the voter registration [application] form, we will help you. The decision about whether [~~or not~~] to seek or accept help is yours. You may fill out the

application form in private. If you believe that someone has interfered with your right to register or preregister or to decline to register or preregister to vote, your right to privacy in deciding whether ~~or not~~ to register or preregister, or in applying to register or preregister to vote, or your right to choose your own political party or other political preference, you may file a complaint with the Office of the Lieutenant Governor, State Capitol Building, Salt Lake City, Utah 84114. (The phone number of the Office of the Lieutenant Governor).”

(4) Unless a person applying for service or assistance from a public assistance agency or discretionary voter registration agency declines, in writing, to register or preregister to vote, each public assistance agency and discretionary voter registration agency shall:

(a) distribute a by-mail voter registration form with each application for service or assistance provided by the agency or office;

(b) assist applicants in completing the voter registration form unless the applicant refuses assistance;

(c) accept completed forms for transmittal to the appropriate election official; and

(d) transmit a copy of each voter registration form to the appropriate election official within five days after it is received by the division.

(5) A person in a public assistance agency or a discretionary voter registration agency that helps a person complete the voter registration form may not:

(a) seek to influence an applicant's political preference or party registration;

(b) display any political preference or party allegiance;

(c) make any statement to an applicant or take any action that has the purpose or effect of discouraging the applicant from registering to vote; or

(d) make any statement to an applicant or take any action that has the purpose or effect of leading the applicant to believe that a decision ~~to register or not to register~~ of whether to register or preregister has any bearing upon the availability of services or benefits.

(6) Upon receipt of a correctly completed voter registration form, the county clerk shall, unless the individual named in the form is preregistering to vote:

(a) enter the applicant's name on the list of registered voters for the voting precinct in which the applicant resides; and

(b) notify the applicant of registration.

(7) (a) Except as provided in Subsection 20A-4-108(8), if the county clerk receives a correctly completed voter registration form that is dated after the voter registration deadline, the

county clerk shall, unless the individual named in the form is preregistering to vote:

(i) register the applicant after the next election; and

(ii) if possible, promptly phone or mail a notice to the applicant before the election, informing the applicant that his registration will not be effective until after the election.

(b) When the county clerk receives a correctly completed voter registration form at least seven days before an election that is dated on or before the voter registration deadline, the county clerk shall:

(i) process the voter registration form; and

(ii) record the new voter in the official register.

(8) If the county clerk determines that a voter registration form received from a public assistance agency or discretionary voter registration agency is incorrect because of an error or because it is incomplete, the county clerk shall mail notice to the ~~person~~ individual attempting to register or preregister to vote, stating that the ~~person~~ individual has not been registered or preregistered to vote because of an error or because the form is incomplete.

Section 8. Section 20A-2-206 is amended to read:

20A-2-206. Electronic registration -- Requests for absentee ballot application.

(1) The lieutenant governor may create and maintain an electronic system ~~[for voter registration and requesting]~~ that is publicly available on the Internet for an individual to apply for voter registration or preregistration and for an individual to request an absentee ballot ~~[that is publicly available on the Internet].~~

(2) An electronic system for voter registration or preregistration shall require:

(a) that an applicant have a valid driver license or identification card, issued under Title 53, Chapter 3, Uniform Driver License Act, that reflects the ~~person's~~ applicant's current principal place of residence;

(b) that the applicant provide the information required by Section 20A-2-104, except that the applicant's signature may be obtained in the manner described in Subsections (2)(d) and (4);

(c) that the applicant attest to the truth of the information provided; and

(d) that the applicant authorize the lieutenant governor's and county clerk's use of the applicant's:

(i) driver license or identification card signature, obtained under Title 53, Chapter 3, Uniform Driver License Act, for voter registration purposes; or

(ii) signature on file in the lieutenant governor's statewide voter registration database developed under Section 20A-2-109.

(3) Notwithstanding Section 20A-2-104, an applicant using the electronic system for voter

registration or preregistration created under this section is not required to complete a printed registration form.

(4) A system created and maintained under this section shall provide the notices concerning a voter's presentation of identification contained in Subsection 20A-2-104(1).

(5) The lieutenant governor shall:

(a) obtain a digital copy of the applicant's driver license or identification card signature from the Driver License Division; or

(b) ensure that the applicant's signature is already on file in the lieutenant governor's statewide voter registration database developed under Section 20A-2-109.

(6) The lieutenant governor shall send the information to the county clerk for the county in which the applicant's principal place of residence is found for further action as required by Section 20A-2-304 after:

(a) receiving all information from an applicant; and

(b) (i) receiving all information from the Driver License Division; or

(ii) ensuring that the applicant's signature is already on file in the lieutenant governor's statewide voter registration database developed under Section 20A-2-109.

(7) The lieutenant governor may use additional security measures to ensure the accuracy and integrity of an electronically submitted voter registration.

(8) (a) If an individual applies to register under this section during the period beginning on the date after the voter registration deadline and ending on the date that is 15 calendar days before the date of an election, the county clerk shall, unless the individual is preregistering to vote:

(i) accept the application for registration if the individual, on the date of the election, will be legally qualified and entitled to vote in a voting precinct in the state; and

(ii) inform the individual that the individual is registered to vote in the pending election.

(b) If an individual applies to register under this section during the period beginning on the date that is 14 calendar days before the election and ending on the date that is seven calendar days before the election, the county clerk shall, unless the individual is preregistering to vote:

(i) accept the application for registration if the individual, on the date of the election, will be legally qualified and entitled to vote in a voting precinct in the state; and

(ii) inform the individual that:

(A) the individual is registered to vote in the pending election; and

(B) for the pending election, the individual must vote on the day of the election and is not eligible to vote using early voting under Chapter 3, Part 6, Early Voting, because the individual registered too late.

(c) Except as provided in Subsection 20A-4-108(9), if an individual applies to register under this section during the six calendar days before an election, the county clerk shall, unless the individual is preregistering to vote:

(i) accept the application for registration if the individual, on the date of the election, will be legally qualified and entitled to vote in a voting precinct in the state; and

(ii) inform the individual that the individual is registered to vote but may not vote in the pending election because the individual registered too late.

(9) (a) A registered voter may file an application for an absentee ballot in accordance with Section 20A-3-304 on the electronic system for voter registration established under this section.

(b) The lieutenant governor shall provide a means by which a registered voter shall sign the application form as provided in Section 20A-3-304.

Section 9. Section 20A-2-302 is amended to read:

20A-2-302. Voter registration forms for high school students.

(1) (a) ~~[The]~~ A county clerk may:

(i) contact each high school and each accredited nonpublic high school in the county;

(ii) determine the number of high school seniors; and

(iii) distribute by-mail voter registration forms to each accredited public or private high school in an amount sufficient for distribution to each high school senior.

(b) The county clerk shall ~~[keep on file the returned high school student by-mail voter registration forms until the applicant turns 18 years old and then register the applicant to vote]~~ process a voter registration form received from an individual under this section in accordance with Section 20A-2-101.1.

(2) Each public school and accredited nonpublic school may:

(a) include the by-mail voter registration form in the senior registration packet; and

(b) collect and forward completed by-mail voter registration forms to the county clerk.

Section 10. Section 20A-2-401 is amended to read:

20A-2-401. Fraudulent registration -- Penalty.

(1) ~~[A person]~~ (a) An individual may not willfully register to vote, or cause, procure, or allow himself or herself to be registered to vote, knowing that ~~[he]~~ the individual is not eligible to register to vote under Section 20A-2-101.

~~[(2)] (b) A person may not willfully cause, procure, advise, encourage, or assist any [other person] individual to be registered to vote, knowing or believing that the [person] individual is not eligible to register to vote under Section 20A-2-101.~~

(2) (a) An individual may not willfully preregister to vote, or allow himself or herself to be preregistered to vote, knowing that the individual is not eligible to preregister to vote under Section 20A-2-101.1.

(b) A person may not willfully cause, advise, encourage, or assist an individual to preregister to vote, knowing or believing that the individual is not eligible to preregister to vote under Section 20A-2-101.1.

~~(3) [Any] A person who violates this section is guilty of a class A misdemeanor.~~

Section 11. Section 20A-4-108 is amended to read:

20A-4-108. Election Day Voter Registration Pilot Project.

(1) There is created, beginning on June 1, 2014, and ending on January 1, 2017, an election day voter registration pilot project, as described in this section.

(2) A county may participate in the pilot project if the county clerk submits to the lieutenant governor a written application to participate in the pilot project that contains:

(a) the name of the county;

(b) a request that the county be permitted to participate in the pilot project;

(c) an estimate of the extent to which election day voter registration may increase voter participation; and

(d) any other reasons that the county desires to participate in the project.

(3) A municipality may participate in the pilot project for a municipal election if the municipal clerk submits to the lieutenant governor a written application to participate in the pilot project that contains:

(a) the name of the municipality;

(b) a request that the municipality be permitted to participate in the pilot project;

(c) an estimate of the extent to which election day voter registration may increase voter participation; and

(d) any other reasons that the municipality desires to participate in the project.

(4) Within 10 business days after the day on which the lieutenant governor receives an application described in Subsection (2) or (3), the lieutenant governor shall approve the application if:

(a) the application complies with the requirements described in Subsection (2) or (3), as applicable; and

(b) the lieutenant governor determines, based on the information contained in the application, that implementing the pilot project in the county or municipality:

(i) will yield valuable information to determine whether election day voter registration should be implemented on a permanent, statewide basis; and

(ii) will not adversely affect the rights of voters or candidates.

(5) For a county or municipality that is approved by the lieutenant governor to participate in the pilot project, if, under Subsection 20A-2-201(3)(b)(ii), a registration form is submitted to the county clerk on the date of the election or during the seven calendar days before an election, the county clerk shall, unless the individual named in the form is preregistering to vote:

(a) if the person desires to vote in the pending election, inform the person that the person must, on election day, register to vote by casting a provisional ballot in accordance with Subsection (10); or

(b) if the person does not desire to vote in the pending election:

(i) accept a registration form from the person if, on the date of the election, the person will be legally qualified and entitled to vote in a voting precinct in the county or municipality; and

(ii) inform the person that the person will be registered to vote but may not vote in the pending election because the person registered too late and chose not to register and vote as described in Subsection (5)(a).

(6) For a county or municipality that is approved by the lieutenant governor to participate in the pilot project, if, under Subsection 20A-2-202(3)(a), the county clerk receives a correctly completed by-mail voter registration form that is postmarked after the voter registration deadline, the county clerk shall, unless the individual named in the form is preregistering to vote:

(a) unless the applicant registers on election day by casting a provisional ballot in accordance with Subsection (10), register the applicant for the next election; and

(b) if possible, promptly phone, mail, or email a notice to the applicant before the election, informing the applicant that:

(i) the applicant's registration will not be effective until after the election; and

(ii) the applicant may register to vote on election day by casting a provisional ballot in accordance with Subsection (10).

(7) For a county or municipality that is approved by the lieutenant governor to participate in the pilot project, if, under Subsection 20A-2-204(5)(a), the county clerk receives a correctly completed voter

registration form that is dated after the voter registration deadline, the county clerk shall, unless the individual named in the form is preregistering to vote:

(a) unless the applicant registers to vote on election day by casting a provisional ballot in accordance with Subsection (10), register the applicant after the next election; and

(b) if possible, promptly phone, mail, or email a notice to the applicant before the election, informing the applicant that:

(i) the applicant's registration will not be effective until after the election; and

(ii) the applicant may register to vote on election day by casting a provisional ballot in accordance with Subsection (10).

(8) For a county or municipality that is approved by the lieutenant governor to participate in the pilot project, if, under Subsection 20A-2-205(7)(a), the county clerk receives a correctly completed voter registration form that is dated after the voter registration deadline, the county clerk shall, unless the individual named in the form is preregistering to vote:

(a) unless the applicant registers to vote on election day by casting a provisional ballot in accordance with Subsection (10), register the applicant after the next election; and

(b) if possible, promptly phone, mail, or email a notice to the applicant before the election, informing the applicant that:

(i) the applicant's registration will not be effective until after the election; and

(ii) the applicant may register to vote on election day by casting a provisional ballot in accordance with Subsection (10).

(9) For a county or municipality that is approved by the lieutenant governor to participate in the pilot project, if, under Subsection 20A-2-206(8)(c), an individual applies to register to vote under this section during the six calendar days before an election, the county clerk shall:

(a) if the individual desires to vote in the pending election, inform the individual that the individual must, on election day, register to vote by casting a provisional ballot in accordance with Subsection (10); or

(b) if the individual does not desire to vote in the pending election:

(i) accept the application for registration if the individual, on the date of the election, will be legally qualified and entitled to vote in a voting precinct in the state; and

(ii) inform the individual that the individual is registered to vote but may not vote in the pending election because the individual registered too late and chose not to register and vote as described in Subsection (9)(a).

(10) For a county or municipality that is approved by the lieutenant governor to participate in the pilot project:

(a) the election officer shall take the action described in Subsection (10)(b) in relation to a provisional ballot if the election officer determines that:

(i) the person who voted the ballot is not registered to vote, but is otherwise legally entitled to vote the ballot;

(ii) the ballot that the person voted is identical to the ballot for the precinct in which the person resides;

(iii) the information on the ballot is complete; and

(iv) the person provided valid voter identification and proof of residence to the poll worker;

(b) if a provisional ballot and the person who voted the provisional ballot comply with the requirements described in Subsection (10)(a), the election officer shall:

(i) consider the provisional ballot a voter registration form;

(ii) place the ballot with the absentee ballots, to be counted with those ballots at the canvass; and

(iii) as soon as reasonably possible, register the person to vote; and

(c) except as provided in Subsection (11), the election officer shall retain a provisional ballot envelope, unopened, for the period specified in Section 20A-4-202, if the election officer determines that the person who voted the ballot:

(i) (A) is not registered to vote in this state; and

(B) is not eligible for registration under Subsection (10); or

(ii) is not legally entitled to vote the ballot that the person voted.

(11) Subsection (10)(c) does not apply if a court orders the election officer to produce or count the provisional ballot.

(12) For a county or municipality that is approved by the lieutenant governor to participate in the pilot project, if, under Subsection 20A-4-107(4), the election officer determines that the person is not registered to vote in this state, that the person is otherwise legally entitled to vote, that the information on the provisional ballot envelope is complete, and that the provisional ballot and the person who voted the provisional ballot do not comply with the requirements described in Subsection (10)(a), the election officer shall:

(a) consider the provisional ballot envelope a voter registration form for the person's county of residence; and

(b) (i) register the person if the voter's county of residence is within the county; or

(ii) forward the voter registration form to the election officer of the person's county of residence, which election officer shall register the person.

(13) (a) The county clerk of a county that is approved to participate in the pilot project, and the municipal clerk of a municipality that is approved to participate in the pilot project, shall provide training for the poll workers of the county or municipality on administering the pilot program.

(b) The lieutenant governor shall, for a county or municipality that is approved to participate in the pilot project, provide information relating to the pilot project in accordance with the provisions of Subsection 67-1a-2(2)(a)(iv).

(14) The lieutenant governor and each county and municipality that is approved by the lieutenant governor to participate in the pilot project shall:

(a) report to the Government Operations Interim Committee, on or before October 31 of each year that the pilot project is in effect, regarding:

- (i) the implementation of the pilot project;
- (ii) the number of ballots cast by voters who registered on election day;
- (iii) any difficulties resulting from the pilot project; and
- (iv) whether, in the opinion of the lieutenant governor, the county, or the municipality, the state would benefit from implementing election day voter registration permanently and on a statewide basis; and

(b) on or before December 31, 2016, report to the Legislative Management Committee regarding the matters described in Subsection (14)(a).

(15) During the 2016 interim, the Government Operations Interim Committee shall study and make a recommendation to the Legislature regarding whether to implement statewide election day voter registration on a permanent, statewide basis.

Section 12. Section 63G-2-302 is amended to read:

63G-2-302. Private records.

(1) The following records are private:

(a) records concerning an individual's eligibility for unemployment insurance benefits, social services, welfare benefits, or the determination of benefit levels;

(b) records containing data on individuals describing medical history, diagnosis, condition, treatment, evaluation, or similar medical data;

(c) records of publicly funded libraries that when examined alone or with other records identify a patron;

(d) records received by or generated by or for:

(i) the Independent Legislative Ethics Commission, except for:

(A) the commission's summary data report that is required under legislative rule; and

(B) any other document that is classified as public under legislative rule; or

(ii) a Senate or House Ethics Committee in relation to the review of ethics complaints, unless the record is classified as public under legislative rule;

(e) records received by, or generated by or for, the Independent Executive Branch Ethics Commission, except as otherwise expressly provided in Title 63A, Chapter 14, Review of Executive Branch Ethics Complaints;

(f) records received or generated for a Senate confirmation committee concerning character, professional competence, or physical or mental health of an individual:

(i) if, prior to the meeting, the chair of the committee determines release of the records:

(A) reasonably could be expected to interfere with the investigation undertaken by the committee; or

(B) would create a danger of depriving a person of a right to a fair proceeding or impartial hearing; and

(ii) after the meeting, if the meeting was closed to the public;

(g) employment records concerning a current or former employee of, or applicant for employment with, a governmental entity that would disclose that individual's home address, home telephone number, Social Security number, insurance coverage, marital status, or payroll deductions;

(h) records or parts of records under Section 63G-2-303 that a current or former employee identifies as private according to the requirements of that section;

(i) that part of a record indicating a person's Social Security number or federal employer identification number if provided under Section 31A-23a-104, 31A-25-202, 31A-26-202, 58-1-301, 58-55-302, 61-1-4, or 61-2f-203;

(j) that part of a voter registration record identifying a voter's:

(i) driver license or identification card number;

(ii) Social Security number, or last four digits of the Social Security number;

(iii) email address; or

(iv) date of birth;

(k) a voter registration record that is classified as a private record by the lieutenant governor or a county clerk under Subsection 20A-2-104(4)(f) or 20A-1-101.1(5)(a);

(l) a record that:

(i) contains information about an individual;

(ii) is voluntarily provided by the individual; and

(iii) goes into an electronic database that:

(A) is designated by and administered under the authority of the Chief Information Officer; and

(B) acts as a repository of information about the individual that can be electronically retrieved and used to facilitate the individual's online interaction with a state agency;

(m) information provided to the Commissioner of Insurance under:

- (i) Subsection 31A-23a-115(2)(a);
- (ii) Subsection 31A-23a-302(3); or
- (iii) Subsection 31A-26-210(3);

(n) information obtained through a criminal background check under Title 11, Chapter 40, Criminal Background Checks by Political Subdivisions Operating Water Systems;

(o) information provided by an offender that is:

(i) required by the registration requirements of Title 77, Chapter 41, Sex and Kidnap Offender Registry; and

(ii) not required to be made available to the public under Subsection 77-41-110(4);

(p) a statement and any supporting documentation filed with the attorney general in accordance with Section 34-45-107, if the federal law or action supporting the filing involves homeland security;

(q) electronic toll collection customer account information received or collected under Section 72-6-118 and customer information described in Section 17B-2a-815 received or collected by a public transit district, including contact and payment information and customer travel data;

(r) an email address provided by a military or overseas voter under Section 20A-16-501;

(s) a completed military-overseas ballot that is electronically transmitted under Title 20A, Chapter 16, Uniform Military and Overseas Voters Act;

(t) records received by or generated by or for the Political Subdivisions Ethics Review Commission established in Section 11-49-201, except for:

(i) the commission's summary data report that is required in Section 11-49-202; and

(ii) any other document that is classified as public in accordance with Title 11, Chapter 49, Political Subdivisions Ethics Review Commission; and

(u) a record described in Subsection 53A-11a-203(3) that verifies that a parent was notified of an incident or threat.

(2) The following records are private if properly classified by a governmental entity:

(a) records concerning a current or former employee of, or applicant for employment with a governmental entity, including performance evaluations and personal status information such as race, religion, or disabilities, but not including records that are public under Subsection 63G-2-301(2)(b) or 63G-2-301(3)(o) or private under Subsection (1)(b);

(b) records describing an individual's finances, except that the following are public:

(i) records described in Subsection 63G-2-301(2);

(ii) information provided to the governmental entity for the purpose of complying with a financial assurance requirement; or

(iii) records that must be disclosed in accordance with another statute;

(c) records of independent state agencies if the disclosure of those records would conflict with the fiduciary obligations of the agency;

(d) other records containing data on individuals the disclosure of which constitutes a clearly unwarranted invasion of personal privacy;

(e) records provided by the United States or by a government entity outside the state that are given with the requirement that the records be managed as private records, if the providing entity states in writing that the record would not be subject to public disclosure if retained by it; and

(f) any portion of a record in the custody of the Division of Aging and Adult Services, created in Section 62A-3-102, that may disclose, or lead to the discovery of, the identity of a person who made a report of alleged abuse, neglect, or exploitation of a vulnerable adult.

(3) (a) As used in this Subsection (3), "medical records" means medical reports, records, statements, history, diagnosis, condition, treatment, and evaluation.

(b) Medical records in the possession of the University of Utah Hospital, its clinics, doctors, or affiliated entities are not private records or controlled records under Section 63G-2-304 when the records are sought:

(i) in connection with any legal or administrative proceeding in which the patient's physical, mental, or emotional condition is an element of any claim or defense; or

(ii) after a patient's death, in any legal or administrative proceeding in which any party relies upon the condition as an element of the claim or defense.

(c) Medical records are subject to production in a legal or administrative proceeding according to state or federal statutes or rules of procedure and evidence as if the medical records were in the possession of a nongovernmental medical care provider.

CHAPTER 131**H. B. 378**

Passed March 11, 2015
 Approved March 24, 2015
 Effective May 12, 2015

WHITE COLLAR CRIME REGISTRY

Chief Sponsor: Mike K. McKell
 Senate Sponsor: Curtis S. Bramble

LONG TITLE**General Description:**

This bill modifies the Utah Code of Criminal Procedure to include a registry for persons who commit specified white collar crimes.

Highlighted Provisions:

This bill:

- ▶ authorizes the Office of the Attorney General to develop, operate, and maintain the Utah White Collar Crime Offender Registry website;
- ▶ provides the manner and process by which the Office of the Attorney General disseminates information from the Utah White Collar Crime Offender Registry website to the public, including the type of information that will be provided;
- ▶ provides the offenses for which a person must be registered with the Utah White Collar Crime Offender Registry website;
- ▶ provides that offenders who were convicted of the specified offenses between December 31, 2005, and the time this bill is enacted will not be placed on the Utah White Collar Crime Offender Registry if they:
 - have complied with all court orders;
 - have paid all restitution claims; and
 - have not been convicted of any other offenses for which registration would be required;
- ▶ provides the duration for which offenders will be placed on the Utah White Collar Crime Offender Registry;
- ▶ provides rulemaking authority for the Office of the Attorney General to implement the Utah White Collar Crime Offender Registry; and
- ▶ provides the process and conditions under which a person may petition to have his or her name and information removed from the Utah White Collar Crime Offender Registry.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

76-8-504.6, as last amended by Laws of Utah 2010, Chapter 283

ENACTS:

77-42-101, Utah Code Annotated 1953
 77-42-102, Utah Code Annotated 1953
 77-42-103, Utah Code Annotated 1953
 77-42-104, Utah Code Annotated 1953
 77-42-105, Utah Code Annotated 1953
 77-42-106, Utah Code Annotated 1953
 77-42-107, Utah Code Annotated 1953
 77-42-108, Utah Code Annotated 1953

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

Section 1. Section 76-8-504.6 is amended to read:**76-8-504.6. False or misleading information.**

(1) A person is guilty of a class B misdemeanor if the person, not under oath or affirmation, intentionally or knowingly provides false or misleading material information to:

(a) an officer of the court for the purpose of influencing a criminal proceeding; or

(b) the Bureau of Criminal Identification for the purpose of obtaining a certificate of eligibility for:

(i) expungement[-]; or

(ii) removal of the person's name from the White Collar Crime Registry created in Title 77, Chapter 42, Utah White Collar Crime Offender Registry.

(2) For the purposes of this section "officer of the court" means:

(a) prosecutor;

(b) judge;

(c) court clerk;

(d) interpreter;

(e) presentence investigator;

(f) probation officer;

(g) parole officer; and

(h) any other person reasonably believed to be gathering information for a criminal proceeding.

(3) This section does not apply under circumstances amounting to Section 76-8-306 or any other provision of this code carrying a greater penalty.

Section 2. Section 77-42-101 is enacted to read:**CHAPTER 42. UTAH WHITE COLLAR CRIME OFFENDER REGISTRY****77-42-101. Title.**

This chapter is known as the "Utah White Collar Crime Offender Registry."

Section 3. Section 77-42-102 is enacted to read:**77-42-102. Definitions.**

As used in this chapter:

(1) "Attorney general" means the Utah attorney general or a deputy attorney general.

(2) "Bureau" means the Bureau of Criminal Identification of the Department of Public Safety established in Section 53-10-201.

(3) "Business day" means a day on which state offices are open for regular business.

(4) "Certificate of eligibility" means a document issued by the Bureau of Criminal Identification stating that the offender has met the requirements of Section 77-42-108.

(5) "Offender" means an individual required to register as provided in Section 77-42-105.

(6) "Register" means to comply with the requirements of this chapter and rules of the Office of the Attorney General made under this chapter.

Section 4. Section 77-42-103 is enacted to read:

77-42-103. Duties.

(1) The attorney general shall:

(a) develop and operate a system to collect, analyze, maintain, and disseminate information on offenders; and

(b) make information listed in Section 77-42-104 available to the public.

(2) Any attorney general, county attorney, or district attorney shall, in the manner prescribed by the attorney general, inform the attorney general of a person who is convicted of any of the offenses listed in Section 77-42-105 within 45 business days.

(3) The attorney general shall:

(a) provide the following additional information when available:

(i) the crimes for which the offender has been convicted, noting cases in which the offender is still awaiting sentencing or has appealed the conviction;

(ii) a description of the offender's targets; and

(iii) any other relevant identifying information as determined by the attorney general;

(b) maintain the Utah White Collar Crime Offender Registry website; and

(c) ensure that information is entered into the offender registry in a timely manner.

Section 5. Section 77-42-104 is enacted to read:

77-42-104. Utah White Collar Crime Offender Registry -- Attorney general to maintain.

(1) The attorney general shall maintain the Utah White Collar Crime Offender Registry website on the Internet, which shall contain a disclaimer informing the public that:

(a) the information contained on the website is obtained from public records and the attorney general does not guarantee the website's accuracy or completeness;

(b) members of the public are not allowed to use the information to harass or threaten offenders or members of their families; and

(c) harassment, stalking, or making threats against offenders or their families is prohibited and may violate Utah criminal laws.

(2) The Utah White Collar Crime Offender Registry website shall be indexed by the surname of the offender.

(3) The attorney general shall construct the Utah White Collar Crime Offender Registry website so that before accessing registry information, users must indicate that they have read and understand the disclaimer and agree to comply with the disclaimer's terms.

(4) Except as provided in Subsection (6), the Utah White Collar Crime Offender Registry website shall include the following registry information:

(a) all names and aliases by which the offender is or has been known, but not including any online or Internet identifiers;

(b) a physical description, including the offender's date of birth, height, weight, and eye and hair color;

(c) a recent photograph of the offender; and

(d) the crimes listed in Section 77-42-105 of which the offender has been convicted.

(5) The Office of the Attorney General and any individual or entity acting at the request or upon the direction of the attorney general are immune from civil liability for damages and will be presumed to have acted in good faith by reporting information.

(6) The attorney general shall redact the names, addresses, phone numbers, Social Security numbers, and other information that, if disclosed, specifically identifies individual victims.

Section 6. Section 77-42-105 is enacted to read:

77-42-105. Registerable offenses.

A person shall be required to register with the Office of the Attorney General for a conviction of any of the following offenses as a second degree felony:

(1) Section 61-1-1 or Section 61-1-2, securities fraud;

(2) Section 76-6-405, theft by deception;

(3) Section 76-6-513, unlawful dealing of property by fiduciary;

(4) Section 76-6-521, fraudulent insurance;

(5) Section 76-6-1203, mortgage fraud;

(6) Section 76-10-1801, communications fraud; and

(7) Section 76-10-1903, money laundering.

Section 7. Section 77-42-106 is enacted to read:

77-42-106. Registration of offenders -- Utah White Collar Crime Offender Registry.

(1) An offender who has been convicted of any offense listed in Section 77-42-105 shall be on the Utah White Collar Crime Offender Registry for:

- (a) a period of 10 years for a first offense;
- (b) a second period of 10 years for a second conviction under this section; and
- (c) a lifetime period if convicted a third time under this section.

(2) Except as provided in Subsection (3), an offender who has been convicted of any offense listed in Section 77-42-105 after December 31, 2005, shall register with the attorney general to be included in the Utah White Collar Crime Offender Registry.

(3) An offender is not required to register as provided in Subsection (2) if the offender:

- (a) has complied with all court orders at the time of sentencing;
- (b) has paid in full all court-ordered amounts of restitution to victims; and
- (c) has not been convicted of any other offense for which registration would be required.

Section 8. Section 77-42-107 is enacted to read:

77-42-107. Department and agency requirements.

(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the attorney general shall make rules necessary to implement this chapter, including:

- (a) the method for dissemination of registry information; and
- (b) instructions to the public regarding acceptable use of the information.

(2) Any information regarding the identity or location of a victim may be redacted by the attorney general from information provided under Subsection 77-42-104(6).

Section 9. Section 77-42-108 is enacted to read:

77-42-108. Removal from the Utah White Collar Crime Offender Registry.

(1) An offender may petition the court where the offender was convicted of the offense for which registration with the Utah White Collar Crime Offender Registry is required, for an order to remove the offender from the Utah White Collar Crime Offender Registry, if:

- (a) five years have passed since the completion of the offender's sentence;
- (b) the offender has successfully completed all treatment ordered by the court or the Board of Pardons and Parole relating to the conviction;
- (c) (i) the offender has not been convicted of any other crime, excluding traffic offenses, as evidenced

by a certificate of eligibility issued by the bureau; and

(ii) as used in this section, "traffic offense" does not include a violation of Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving;

(d) the offender has paid all restitution ordered by the court;

(e) notice has been delivered to the victims and the office that prosecuted the offender; and

(f) the offender has not been found to be civilly liable in any case in which fraud, misrepresentation, deceit, breach of fiduciary duty, or the misuse or misappropriation of funds is an element.

(2) (a) (i) An offender seeking removal from the White Collar Crime Offender Registry shall apply for a certificate of eligibility from the bureau.

(ii) An offender who intentionally or knowingly provides any false or misleading information to the bureau when applying for a certificate of eligibility is guilty of a class B misdemeanor and subject to prosecution under Section 76-8-504.6.

(iii) Regardless of whether the offender is prosecuted, the bureau may deny a certificate of eligibility to anyone providing false information on an application under this Subsection (2).

(b) (i) The bureau shall check the records of governmental agencies, including national criminal databases, to determine whether an offender is eligible to receive a certificate of eligibility under this section.

(ii) If the offender meets all of the criteria under Subsections (1)(a) through (d), the bureau shall issue a certificate of eligibility to the offender which shall be valid for a period of 90 days from the date the certificate is issued.

(c) (i) The bureau shall charge an application fee for the certificate of eligibility in accordance with the process in Section 63J-1-504.

(ii) The fee shall be paid at the time the offender submits an application for a certificate of eligibility to the bureau.

(iii) If the bureau determines that the issuance of a certificate of eligibility is appropriate, the bureau shall issue to the offender a certificate of eligibility at no additional charge.

(d) Funds generated under this Subsection (2) shall be deposited in the General Fund as a dedicated credit by the department to cover the costs incurred in determining eligibility.

(3) The offender shall:

(a) file with the court the following information:

- (i) the petition;
- (ii) the original information;
- (iii) the court docket; and

(iv) an affidavit certifying that the offender is in compliance with the provisions of Subsection (1); and

(b) deliver a copy of the petition to the office of the prosecutor.

(4) (a) Upon receipt of a petition for removal from the Utah White Collar Crime Offender Registry, the office of the prosecutor shall provide notice of the petition by first-class mail to the victims at the most recent addresses of record on file.

(b) The notice shall:

(i) include a copy of the petition for removal from the registry;

(ii) state that the victim has a right to object to the removal of the offender from the registry; and

(iii) provide instructions for filing an objection with the court.

(5) The office of the prosecutor shall provide the following, if available, to the court within 30 days after receiving the petition:

(a) a presentence report;

(b) any evaluation done as part of sentencing; and

(c) any other information the office of the prosecutor feels the court should consider.

(6) The victim may respond to the petition by filing a recommendation or objection with the court within 45 days after the mailing of the petition to the victim.

(7) The court shall:

(a) review the petition and all documents submitted with the petition; and

(b) hold a hearing if requested by the office of the prosecutor or the victim.

(8) When considering a petition for removal from the registry, the court shall consider whether the offender has paid all restitution ordered by the court or the Board of Pardons and Parole.

(9) If the court determines that it is not contrary to the interests of the public to do so, the court may grant the petition and order removal of the offender from the registry.

(10) If the court grants the petition, the court shall forward a copy of the order directing removal of the offender from the registry to the attorney general and the office of the prosecutor.

(11) The office of the prosecutor shall notify the victims of the court's decision in the same manner as the notification required in Subsection (3)(a).

(12) The attorney general shall remove an offender from the registry upon the offender providing satisfactory evidence to the attorney general that:

(a) each conviction listed in Section 77-42-105 has either been expunged or reduced in degree below a second degree felony; and

(b) the offender has paid all court-ordered restitution to victims.

CHAPTER 132**H. B. 415**

Passed March 12, 2015
 Approved March 24, 2015
 Effective July 1, 2015

**REGULATION OF
 ELECTRONIC CIGARETTES**

Chief Sponsor: Paul Ray
 Senate Sponsor: Curtis S. Bramble

LONG TITLE**General Description:**

This bill enacts and amends provisions related to electronic cigarette products.

Highlighted Provisions:

This bill:

- ▶ requires a person to obtain a license in order to sell or distribute an electronic cigarette product;
- ▶ provides criminal penalties for a person that sells an electronic cigarette without a license; and
- ▶ gives the Department of Health the authority to determine product quality, nicotine content, packaging, and labeling standards for an electronic cigarette substance.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides a coordination clause.

Utah Code Sections Affected:**AMENDS:**

- 26-42-102, as enacted by Laws of Utah 1998, Chapter 319
 26-42-103, as last amended by Laws of Utah 2011, Chapter 96
 26-42-107, as enacted by Laws of Utah 1998, Chapter 319
 76-10-101, as last amended by Laws of Utah 2010, Chapter 114
 76-10-105.1, as last amended by Laws of Utah 2010, Chapter 114

ENACTS:

- 26-57-101, Utah Code Annotated 1953
 26-57-102, Utah Code Annotated 1953
 26-57-103, Utah Code Annotated 1953
 59-14-801, Utah Code Annotated 1953
 59-14-802, Utah Code Annotated 1953
 59-14-803, Utah Code Annotated 1953

Utah Code Sections Affected by Coordination Clause:

- 76-10-101, as last amended by Laws of Utah 2010, Chapter 114

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

Section 1. Section 26-42-102 is amended to read:**26-42-102. Definitions.**

As used in this chapter:

(1) "Commission" means the Utah State Tax Commission.

(2) "Employee" means an employee of a licensee.

(3) "Enforcing agency" means the state Department of Health, or any local health department enforcing the provisions of this chapter.

(4) "Licensee" means a person licensed:

(a) under Section 59-14-201 to sell cigarettes at retail; ~~or~~

(b) under Section 59-14-301 to sell tobacco products at retail~~[-]; or~~

(c) under Section 59-14-803 to sell an electronic cigarette product.

(5) "License to sell tobacco" or "license" means a license issued:

(a) under Section 59-14-201 to sell cigarettes at retail; ~~or~~

(b) under Section 59-14-301 to sell tobacco products at retail~~[-]; or~~

(c) under Section 59-14-803 to sell an electronic cigarette product.

(6) "Tobacco" means ~~[cigarettes or tobacco products];~~

(a) a cigarette or a tobacco product, as defined in Section 59-14-102[-]; or

(b) an electronic cigarette product, as defined in Section 59-14-802.

Section 2. Section 26-42-103 is amended to read:**26-42-103. Violations and penalties -- Imposition by enforcing agency and tax commission.**

(1) If, following an investigation or issuance of a citation or information under Section 77-39-101, an enforcing agency determines under Section 26-42-104 that a licensee or any employee has sold tobacco to a person younger than 19 years of age, as prohibited by Section 76-10-104, the enforcing agency may impose upon the licensee the following administrative penalties:

(a) upon the first violation, a penalty of not more than \$300;

(b) upon a second violation at the same retail location, and within 12 months of the first violation, a penalty of not more than \$750; and

(c) upon a third or subsequent violation at the same retail location and within 12 months of the first violation, a penalty of not more than \$1,000.

(2) The enforcing agency shall notify the commission in writing of any order or order of default finding a violation of Subsection (1) which is a third or fourth violation.

(3) The commission, upon receipt of the written notification under Subsection (2), shall take action under Section 59-14-203.5 or 59-14-301.5 against the licensee to sell tobacco:

(a) by suspending the licensee's license to sell tobacco at that location for not more than 30 days,

upon receipt of notification of a third violation under Subsection (1)(c); and

(b) by revoking the license to sell tobacco at that location held by the licensee, including any license under suspension, upon receipt of notification of a fourth violation under Subsection (1)(c).

(4) When the commission revokes a license under Subsection (3)(b), the commission may not issue to the licensee, or to the business entity using the license that is revoked, a license under Section 59-14-202 ~~[or]~~, 59-14-301, or 59-14-803 to sell tobacco at the location for which the license was issued for one year after:

(a) the day on which the time for filing an appeal of the revocation ends; or

(b) if the revocation is appealed, the day on which the decision to uphold the revocation becomes final.

(5) This section does not prevent any bona fide purchaser of the business, who is not a sole proprietor, director, corporate officer, or partner or other holder of significant interest in the entity selling the business, from immediately applying for and obtaining a license to sell tobacco.

Section 3. Section 26-42-107 is amended to read:

26-42-107. Allocation of civil penalties.

Civil monetary penalties collected under this chapter shall be allocated as follows:

(1) if a local health department conducts an adjudicative proceeding under Section 26-42-104, the penalty shall be paid to the treasurer of the county in which the violation was committed, and transferred to:

(a) the local health department if it conducts a civil hearing under Section 26-42-104 alone; or

(b) in equal portions to the local health department and the other agencies that participated in the hearing process;

(2) if the state Department of Health conducts a civil hearing under Section 26-42-104, the penalty shall be deposited in the state's General Fund, and may be appropriated by the Legislature to the state Department of Health for use in enforcement of this chapter; and

(3) if the civil penalty involves suspension or revocation of a license to sell tobacco under Section 59-14-203.5 ~~[or]~~, 59-14-301.5, or 59-14-803, half of the penalty shall be paid to the commission, and the other half shall be allocated under Subsection (1) or (2), as appropriate.

Section 4. Section 26-57-101 is enacted to read:

CHAPTER 57. ELECTRONIC CIGARETTE REGULATION ACT

26-57-101. Title.

This chapter is known as the "Electronic Cigarette Regulation Act."

Section 5. Section 26-57-102 is enacted to read:

26-57-102. Definitions.

As used in this chapter:

(1) "Cigarette" means the same as that term is defined in Section 59-14-102.

(2) "Electronic cigarette" means the same as that term is defined in Section 59-14-802.

(3) "Electronic cigarette product" means an electronic cigarette or an electronic cigarette substance.

(4) "Electronic cigarette substance" means the same as that term is defined in Section 59-14-802.

(5) "Manufacture" includes:

(a) to cast, construct, or make electronic cigarettes; or

(b) to blend, make, process, or prepare an electronic cigarette substance.

(6) "Manufacturer sealed electronic cigarette substance" means an electronic cigarette substance that is sold in a container that:

(a) is pre-filled by the electronic cigarette substance manufacturer; and

(b) the electronic cigarette manufacturer does not intend for a consumer to open.

Section 6. Section 26-57-103 is enacted to read:

26-57-103. Electronic cigarette products -- Labeling -- Manufacturing and quality control standards -- Advertising.

(1) The department shall, in consultation with a local health department, as defined in Section 26A-1-102, and with input from members of the public, establish, no later than January 1, 2016, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, standards for electronic cigarette substance:

(a) labeling;

(b) nicotine content;

(c) packaging; and

(d) product quality.

(2) The standards established by the department under Subsection (1) do not apply to a manufacturer sealed electronic cigarette substance.

(3) Beginning on July 1, 2016, a person may not sell an electronic cigarette substance unless the electronic cigarette substance complies with the standards established by the department under Subsection (1).

(4) (a) Beginning on July 1, 2016, a local health department may not enact a rule or regulation regarding electronic cigarette substance labeling,

nicotine content, packaging, or product quality that is not identical to the standards established by the department under Subsection (1).

(b) Except as provided in Subsection (4)(c), a local health department may enact a rule or regulation regarding electronic cigarette substance manufacturing.

(c) A local health department may not enact a rule or regulation regarding a manufacturer sealed electronic cigarette substance.

(5) Beginning on July 1, 2016, a person may not advertise an electronic cigarette product:

- (a) as a tobacco cessation device;
- (b) if the person is not licensed to sell an electronic cigarette product under Section 59-14-803; or
- (c) during a period of time when the person's license to sell an electronic cigarette product under Section 59-14-803 has been suspended or revoked.

Section 7. Section 59-14-801 is enacted to read:

Part 8. Electronic Cigarette Licensing Act 59-14-801. Title.

This part is known as the "Electronic Cigarette Licensing Act."

Section 8. Section 59-14-802 is enacted to read:

59-14-802. Definitions.

As used in this part:

(1) "Cigarette" means the same as that term is defined in Section 59-14-102.

(2) (a) "Electronic cigarette" means:

(i) an electronic device used to deliver or capable of delivering vapor containing nicotine to an individual's respiratory system;

(ii) a component of the device described in Subsection (2)(a)(i); or

(iii) an accessory sold in the same package as the device described in Subsection (2)(a)(i).

(b) "Electronic cigarette" includes an e-cigarette as defined in Section 26-38-2.

(3) "Electronic cigarette product" means an electronic cigarette or an electronic cigarette substance.

(4) "Electronic cigarette substance" means any substance, including liquid containing nicotine, used or intended for use in an electronic cigarette.

(5) "Enforcing agency" means the Department of Health, a county health department, or a local health department, when enforcing:

(i) Title 26, Chapter 42, Civil Penalties for Tobacco Sales to Underage Persons; or

(ii) Title 26, Chapter 57, Electronic Cigarette Regulation Act.

(6) "Licensee" means a person that holds a valid license to sell electronic cigarette products.

(7) "License to sell an electronic cigarette product" means a license issued by the commission under Subsection 59-14-803(3).

Section 9. Section 59-14-803 is enacted to read:

59-14-803. License to sell electronic cigarette products.

(1) Except as provided in Subsection (2), a person may not sell, offer to sell, or distribute an electronic cigarette product in Utah without first obtaining a license to sell an electronic cigarette product from the commission under this section.

(2) A person that holds a valid license to sell cigarettes under Section 59-14-201, or a person that holds a valid license to sell tobacco products under Section 59-14-301, may, without obtaining a separate license to sell an electronic cigarette product under this part, sell, offer to sell, or distribute an electronic cigarette product in Utah in accordance with this part.

(3) Except as provided in Subsection (6), the commission shall issue a license to sell an electronic cigarette product to a person that:

(a) submits an application, on a form created by the commission, that includes:

- (i) the person's name;
- (ii) the address of the facility where the person will sell an electronic cigarette product; and
- (iii) any other information the commission requires to implement this chapter; and

(b) pays a fee:

- (i) in the amount of \$30; or
- (ii) if renewing the person's license, in the amount of \$20.

(4) A license described in Subsection (3) is:

- (a) valid only at one fixed business address;
- (b) valid for three years;
- (c) valid only for a physical location; and

(d) renewable if a licensee meets the criteria for licensing described in Subsection (3).

(5) The commission shall, after notifying a licensee, revoke a license described in Subsection (3) if an enforcing agency determines the licensee has violated a provision of:

(a) Title 26, Chapter 42, Civil Penalties for Tobacco Sales to Underage Persons; or

(b) Title 26, Chapter 57, Electronic Cigarette Regulation Act.

(6) If the commission revokes a person's license to sell an electronic cigarette product under Subsection (5), the commission may not issue a license to sell an electronic cigarette product, a license to sell cigarettes under Section 59-14-201,

or a license to sell tobacco under Section 59-14-301 to the person until one year after:

(a) the day on which the time for filing an appeal of the revocation ends, as determined by the enforcing agency; or

(b) if the person appeals the enforcing agency's decision to revoke the license to sell an electronic cigarette product, the day on which the enforcing agency's decision to uphold the revocation is final.

(7) If the commission revokes a person's license under Subsection (5), the commission shall also revoke the person's license to sell cigarettes under Section 59-14-201, if any, and the person's license to sell tobacco under Section 59-14-301, if any.

(8) The commission may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish the additional information described in Subsection (3)(a)(iii) that a person must provide in the application described in Subsection (3)(a).

(9) It is a class B misdemeanor for a person to violate Subsection (1).

Section 10. Section 76-10-101 is amended to read:

76-10-101. Definitions.

As used in this part:

(1) "Cigar" means a product that contains nicotine, is intended to be burned under ordinary conditions of use, and consists of any roll of tobacco wrapped in leaf tobacco, or in any substance containing tobacco, other than any roll of tobacco that is a cigarette as described in Subsection (2).

(2) "Cigarette" means a product that contains nicotine, is intended to be burned under ordinary conditions of use, and consists of:

(a) any roll of tobacco wrapped in paper or in any substance not containing tobacco; or

(b) any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in Subsection (2)(a).

(3) "Electronic cigarette" means ~~any device, other than a cigarette or cigar, intended to deliver vapor containing nicotine into a person's respiratory system~~ an electronic cigarette product, as defined in Section 59-14-802.

(4) "Place of business" includes:

- (a) a shop;
- (b) a store;
- (c) a factory;
- (d) a public garage;
- (e) an office;
- (f) a theater;

(g) a recreation hall;

(h) a dance hall;

(i) a poolroom;

(j) a cafe;

(k) a cafeteria;

(l) a cabaret;

(m) a restaurant;

(n) a hotel;

(o) a lodging house;

(p) a streetcar;

(q) a bus;

(r) an interurban or railway passenger coach;

(s) a waiting room; and

(t) any other place of business.

(5) "Smoking" means the possession of any lighted cigar, cigarette, pipe, or other lighted smoking equipment.

Section 11. Section 76-10-105.1 is amended to read:

76-10-105.1. Requirement of direct, face-to-face sale of tobacco products and electronic cigarettes -- Supremacy clause -- Penalties.

(1) As used in this section:

(a) "Cigarette tobacco" means a product that consists of loose tobacco that contains or delivers nicotine and is intended for use by a consumer in a cigarette.

(b) "Pipe tobacco" means a product that consists of loose tobacco that contains or delivers nicotine and is intended to be smoked by a consumer in a pipe.

(c) "Retailer" means a person who sells cigarettes, electronic cigarettes, cigars, cigarette tobacco, pipe tobacco, or smokeless tobacco to individuals for personal consumption or who operates a facility where a vending machine or a self-service display is permitted under Subsection (3)(b).

(d) "Self-service display" means a display of cigarettes, electronic cigarettes, cigars, cigarette tobacco, pipe tobacco, or smokeless tobacco products to which the public has access without the intervention of a retail employee.

(e) "Smokeless tobacco" means a product that consists of cut, ground, powdered, or leaf tobacco that contains nicotine and that is intended to be placed in the oral cavity.

(2) (a) Except as provided in Subsection (3), a retailer may sell cigarettes, ~~electronic cigarettes~~ an electronic cigarette, cigars, cigarette tobacco, pipe tobacco, and smokeless tobacco only in a direct, face-to-face exchange between:

- (i) an employee of the retailer; and
- (ii) the purchaser.

(b) Examples of methods that are not permitted include vending machines and self-service displays.

(c) Subsections (2)(a) and (b) do not prohibit the use or display of locked cabinets containing cigarettes, ~~[electronic cigarettes]~~ an electronic cigarette, cigars, cigarette tobacco, pipe tobacco, or smokeless tobacco if the locked cabinets are accessible only to the retailer or the retailer's employees.

(3) The following sales are permitted as exceptions to Subsection (2):

(a) mail-order sales, if the provisions of Section 59-14-509 are met;

(b) sales from vending machines, including vending machines that sell packaged, single cigarettes or cigars, and self-service displays that are located in a separate and defined area within a facility where the retailer ensures that no person younger than 19 years of age is present, or permitted to enter, at any time, unless accompanied by a parent or legal guardian; and

(c) sales by a retailer from a retail store which derives at least 80% of its revenue from tobacco and tobacco related products and where the retailer ensures that no person younger than 19 years of age is present, or permitted to enter at any time, unless accompanied by a parent or legal guardian.

(4) Any ordinance, regulation, or rule adopted by the governing body of a political subdivision of the state or by a state agency that affects the sale, placement, or display of cigarettes, electronic cigarettes, cigars, cigarette tobacco, pipe tobacco, or smokeless tobacco that is not essentially identical to the provisions of this section and Section 76-10-102 is superseded.

(5) (a) A parent or legal guardian who accompanies a person younger than 19 years of age into an area described in Subsection (3)(b) or into a retail store as described in Subsection (3)(c) and permits the person younger than 19 years of age to purchase or otherwise take a cigar, cigarette, ~~[electronic cigarette]~~ an electronic cigarette, or tobacco in any form is guilty of providing tobacco as provided for in Section 76-10-104 and the penalties provided for in that section.

(b) Nothing in this section may be construed as permitting a person to provide tobacco to a minor in violation of Section 76-10-104.

(6) Violation of Subsection (2) or (3) is a:

(a) class C misdemeanor on the first offense;

(b) class B misdemeanor on the second offense; and

(c) class A misdemeanor on the third and all subsequent offenses.

Section 12. Effective date.

This bill takes effect on July 1, 2015.

Section 13. Coordinating H.B. 415 with H.B. 131 -- Substantive amendments.

If this H.B. 415 and H.B. 131, Tobacco Shop Amendments, both pass and become law, it is the intent of the Legislature that, when the Office of Legislative Research and General Counsel prepares the Utah Code database for publication:

(1) the amendments to Section 76-10-101 in this bill supersede the amendments to Section 76-10-101 in H.B. 131; and

(2) Section 76-10-105.1 shall be amended to read: "76-10-105.1 Requirement of direct, face-to-face sale of cigarettes, tobacco, and electronic cigarettes -- Minors not allowed in tobacco specialty shop -- Penalties.

(1) As used in this section:

~~[(a) "Cigarette tobacco" means a product that consists of loose tobacco that contains or delivers nicotine and is intended for use by a consumer in a cigarette.]~~

~~[(b) "Pipe tobacco" means a product that consists of loose tobacco that contains or delivers nicotine and is intended to be smoked by a consumer in a pipe.]~~

(a) "Cigarette" means the same as that term is defined in Section 59-14-102.

(b) (i) "Face-to-face exchange" means a transaction made in person between an individual and a retailer or retailer's employee.

(ii) "Face-to-face exchange" does not include a sale through a:

(A) vending machine; or

(B) self-service display.

(c) "Retailer" means a person who ~~[sells cigarettes, electronic cigarettes, cigars, cigarette tobacco, pipe tobacco, or smokeless tobacco to individuals for personal consumption or who]~~:

(i) sells a cigarette, tobacco, or an electronic cigarette to an individual for personal consumption;
or

(ii) operates a facility [where a vending machine or a self-service display is permitted under Subsection (3)(b)] with a vending machine that sells a cigarette, tobacco, or an electronic cigarette.

(d) "Self-service display" means a display of ~~[cigarettes, electronic cigarettes, cigars, cigarette tobacco, pipe tobacco, or smokeless tobacco products]~~ a cigarette, tobacco, or an electronic cigarette to which the public has access without the intervention of a ~~[retail]~~ retailer or retailer's employee.

~~[(e) "Smokeless tobacco" means a product that consists of cut, ground, powdered, or leaf tobacco that contains nicotine and that is intended to be placed in the oral cavity.]~~

(e) "Tobacco" means any product, except a cigarette, made of or containing tobacco.

(f) "Tobacco specialty shop" means a retailer with a physical location that derives at least 80% of its

total sales from the sale of cigarettes, tobacco, or electronic cigarettes.

(2) ~~[(a)] Except as provided in Subsection (3), a retailer may sell [cigarettes, electronic cigarettes, cigars, cigarette tobacco, pipe tobacco, and smokeless tobacco only in a direct, face-to-face exchange between:] a cigarette, tobacco, or an electronic cigarette only in a face-to-face exchange.~~

~~[(i) an employee of the retailer; and]~~

~~[(ii) the purchaser.]~~

~~[(b) Examples of methods that are not permitted include vending machines and self-service displays.]~~

~~[(c) Subsections (2)(a) and (b) do not prohibit the use or display of locked cabinets containing cigarettes, electronic cigarettes, cigars, cigarette tobacco, pipe tobacco, or smokeless tobacco if the locked cabinets are accessible only to the retailer or the retailer's employees.]~~

~~[(3) The following sales are permitted as exceptions to Subsection (2):]~~

~~[(a) mail-order sales, if the provisions of Section 59-14-509 are met;]~~

~~[(b) sales from vending machines, including vending machines that sell packaged, single cigarettes or cigars, and self-service displays that are located in a separate and defined area within a facility where the retailer ensures that no person younger than 19 years of age is present, or permitted to enter, at any time, unless accompanied by a parent or legal guardian; and]~~

~~[(c) sales by a retailer from a retail store which derives at least 80% of its revenue from tobacco and tobacco related products and where the retailer ensures that no person younger than 19 years of age is present, or permitted to enter at any time, unless accompanied by a parent or legal guardian.]~~

~~[(4) Any ordinance, regulation, or rule adopted by the governing body of a political subdivision of the state or by a state agency that affects the sale, placement, or display of cigarettes, electronic cigarettes, cigars, cigarette tobacco, pipe tobacco, or smokeless tobacco that is not essentially identical to the provisions of this section and Section 76-10-102 is superseded.]~~

~~[(5) (a) A parent or legal guardian who accompanies a person younger than 19 years of age into an area described in Subsection (3)(b) or into a retail store as described in Subsection (3)(c) and permits the person younger than 19 years of age to purchase or otherwise take a cigar, cigarette, electronic cigarette, or tobacco in any form is guilty of providing tobacco as provided for in Section 76-10-104 and the penalties provided for in that section.]~~

~~[(b) Nothing in this section may be construed as permitting a person to provide tobacco to a minor in violation of Section 76-10-104.]~~

~~(3) The face-to-face sale requirement in Subsection (2) does not apply to:~~

(a) a mail-order, telephone, or Internet sale made in compliance with Section 59-14-509;

(b) a sale from a vending machine or self-service display that is located in an area of a retailer's facility:

(i) that is distinct and separate from the rest of the facility; and

(ii) where the retailer only allows an individual who complies with Subsection (4) to be present; or

(c) a sale at a tobacco specialty shop.

(4) An individual who is less than 19 years old may not enter or be present at a tobacco specialty shop unless the individual is:

(a) accompanied by a parent or legal guardian;

(b) present at the tobacco shop for a bona fide commercial purpose other than to purchase a cigarette, tobacco, or an electronic cigarette; or

(c) 18 years old or older and an active duty member of the United States Armed Forces, as demonstrated by a valid, government-issued military identification card.

(5) A parent or legal guardian who accompanies, under Subsection (4)(a), an individual into an area described in Subsection (3)(b), or into a tobacco specialty shop, may not allow the individual to purchase a cigarette, tobacco, or an electronic cigarette.

(6) [Violation] A violation of Subsection (2) or [(3)] (4) is a:

(a) class C misdemeanor on the first offense;

(b) class B misdemeanor on the second offense; and

(c) class A misdemeanor on the third and all subsequent offenses.

(7) An individual who violates Subsection (5) is guilty of providing tobacco to a minor under Section 76-10-104.

(8) (a) Any ordinance, regulation, or rule adopted by the governing body of a political subdivision of the state or by a state agency that affects the sale, placement, or display of cigarettes, tobacco, or electronic cigarettes that is not essentially identical to the provisions of this section and Section 76-10-102 is superseded.

(b) Subsection (8)(a) does not apply to the adoption or enforcement of a land use ordinance by a municipal or county government."

CHAPTER 133**S. B. 14**

Passed February 26, 2015

Approved March 24, 2015

Effective May 12, 2015

(Retrospective operation to January 1, 2015)

**RENEWABLE ENERGY
TAX CREDIT AMENDMENTS**

Chief Sponsor: Ralph Okerlund

House Sponsor: Brad L. Dee

LONG TITLE**General Description:**

This bill addresses renewable energy tax credits.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ addresses renewable energy tax credits; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides for retrospective operation.

This bill provides a coordination clause.

Utah Code Sections Affected:**AMENDS:**

59-2-102, as last amended by Laws of Utah 2014, Chapters 65 and 411

59-7-614, as last amended by Laws of Utah 2014, Chapter 407

59-10-1014, as last amended by Laws of Utah 2012, Chapter 37

59-10-1106, as last amended by Laws of Utah 2012, Chapter 37

Utah Code Sections Affected by Coordination Clause:

59-7-614, as last amended by Laws of Utah 2014, Chapter 407

*Be it enacted by the Legislature of the state of Utah:***Section 1. Section 59-2-102 is amended to read:****59-2-102. Definitions.**

As used in this chapter and title:

(1) "Aerial applicator" means aircraft or rotorcraft used exclusively for the purpose of engaging in dispensing activities directly affecting agriculture or horticulture with an airworthiness certificate from the Federal Aviation Administration certifying the aircraft or rotorcraft's use for agricultural and pest control purposes.

(2) "Air charter service" means an air carrier operation which requires the customer to hire an entire aircraft rather than book passage in whatever capacity is available on a scheduled trip.

(3) "Air contract service" means an air carrier operation available only to customers who engage the services of the carrier through a contractual agreement and excess capacity on any trip and is not available to the public at large.

(4) "Aircraft" is as defined in Section 72-10-102.

(5) (a) Except as provided in Subsection (5)(b), "airline" means an air carrier that:

(i) operates:

(A) on an interstate route; and

(B) on a scheduled basis; and

(ii) offers to fly one or more passengers or cargo on the basis of available capacity on a regularly scheduled route.

(b) "Airline" does not include an:

(i) air charter service; or

(ii) air contract service.

(6) "Assessment roll" means a permanent record of the assessment of property as assessed by the county assessor and the commission and may be maintained manually or as a computerized file as a consolidated record or as multiple records by type, classification, or categories.

(7) (a) "Certified revenue levy" means a property tax levy that provides an amount of ad valorem property tax revenue equal to the sum of:

(i) the amount of ad valorem property tax revenue to be generated statewide in the previous year from imposing a school minimum basic tax rate, as specified in Subsection 53A-17a-135(1)(a), or multicounty assessing and collecting levy, as specified in Section 59-2-1602; and

(ii) the product of:

(A) new growth, as defined in:

(I) Section 59-2-924; and

(II) rules of the commission; and

(B) the school minimum basic tax rate or multicounty assessing and collecting levy certified by the commission for the previous year.

(b) For purposes of this Subsection (7), "ad valorem property tax revenue" does not include property tax revenue received by a taxing entity from personal property that is:

(i) assessed by a county assessor in accordance with Part 3, County Assessment; and

(ii) semiconductor manufacturing equipment.

(c) For purposes of calculating the certified revenue levy described in this Subsection (7), the commission shall use:

(i) the taxable value of real property assessed by a county assessor contained on the assessment roll;

(ii) the taxable value of real and personal property assessed by the commission; and

(iii) the taxable year end value of personal property assessed by a county assessor contained on the prior year's assessment roll.

(8) "County-assessed commercial vehicle" means:

(a) any commercial vehicle, trailer, or semitrailer which is not apportioned under Section 41-1a-301 and is not operated interstate to transport the vehicle owner's goods or property in furtherance of the owner's commercial enterprise;

(b) any passenger vehicle owned by a business and used by its employees for transportation as a company car or vanpool vehicle; and

(c) vehicles that are:

(i) especially constructed for towing or wrecking, and that are not otherwise used to transport goods, merchandise, or people for compensation;

(ii) used or licensed as taxicabs or limousines;

(iii) used as rental passenger cars, travel trailers, or motor homes;

(iv) used or licensed in this state for use as ambulances or hearses;

(v) especially designed and used for garbage and rubbish collection; or

(vi) used exclusively to transport students or their instructors to or from any private, public, or religious school or school activities.

(9) (a) Except as provided in Subsection (9)(b), for purposes of Section 59-2-801, "designated tax area" means a tax area created by the overlapping boundaries of only the following taxing entities:

(i) a county; and

(ii) a school district.

(b) Notwithstanding Subsection (9)(a), "designated tax area" includes a tax area created by the overlapping boundaries of:

(i) the taxing entities described in Subsection (9)(a); and

(ii) (A) a city or town if the boundaries of the school district under Subsection (9)(a) and the boundaries of the city or town are identical; or

(B) a special service district if the boundaries of the school district under Subsection (9)(a) are located entirely within the special service district.

(10) "Eligible judgment" means a final and unappealable judgment or order under Section 59-2-1330:

(a) that became a final and unappealable judgment or order no more than 14 months prior to the day on which the notice required by Section 59-2-919.1 is required to be mailed; and

(b) for which a taxing entity's share of the final and unappealable judgment or order is greater than or equal to the lesser of:

(i) \$5,000; or

(ii) 2.5% of the total ad valorem property taxes collected by the taxing entity in the previous fiscal year.

(11) (a) "Escaped property" means any property, whether personal, land, or any improvements to the property, subject to taxation and is:

(i) inadvertently omitted from the tax rolls, assigned to the incorrect parcel, or assessed to the wrong taxpayer by the assessing authority;

(ii) undervalued or omitted from the tax rolls because of the failure of the taxpayer to comply with the reporting requirements of this chapter; or

(iii) undervalued because of errors made by the assessing authority based upon incomplete or erroneous information furnished by the taxpayer.

(b) Property that is undervalued because of the use of a different valuation methodology or because of a different application of the same valuation methodology is not "escaped property."

(12) "Fair market value" means the amount at which property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of the relevant facts. For purposes of taxation, "fair market value" shall be determined using the current zoning laws applicable to the property in question, except in cases where there is a reasonable probability of a change in the zoning laws affecting that property in the tax year in question and the change would have an appreciable influence upon the value.

(13) "Farm machinery and equipment," for purposes of the exemption provided under Section 59-2-1101, means tractors, milking equipment and storage and cooling facilities, feed handling equipment, irrigation equipment, harvesters, choppers, grain drills and planters, tillage tools, scales, combines, spreaders, sprayers, haying equipment, including balers and cubers, and any other machinery or equipment used primarily for agricultural purposes; but does not include vehicles required to be registered with the Motor Vehicle Division or vehicles or other equipment used for business purposes other than farming.

(14) "Geothermal fluid" means water in any form at temperatures greater than 120 degrees centigrade naturally present in a geothermal system.

(15) "Geothermal resource" means:

(a) the natural heat of the earth at temperatures greater than 120 degrees centigrade; and

(b) the energy, in whatever form, including pressure, present in, resulting from, created by, or which may be extracted from that natural heat, directly or through a material medium.

(16) (a) "Goodwill" means:

(i) acquired goodwill that is reported as goodwill on the books and records:

(A) of a taxpayer; and

(B) that are maintained for financial reporting purposes; or

(ii) the ability of a business to:

(A) generate income:

(I) that exceeds a normal rate of return on assets; and

(II) resulting from a factor described in Subsection (16)(b); or

(B) obtain an economic or competitive advantage resulting from a factor described in Subsection (16)(b).

(b) The following factors apply to Subsection (16)(a)(ii):

(i) superior management skills;

(ii) reputation;

(iii) customer relationships;

(iv) patronage; or

(v) a factor similar to Subsections (16)(b)(i) through (iv).

(c) "Goodwill" does not include:

(i) the intangible property described in Subsection (20)(a) or (b);

(ii) locational attributes of real property, including:

(A) zoning;

(B) location;

(C) view;

(D) a geographic feature;

(E) an easement;

(F) a covenant;

(G) proximity to raw materials;

(H) the condition of surrounding property; or

(I) proximity to markets;

(iii) value attributable to the identification of an improvement to real property, including:

(A) reputation of the designer, builder, or architect of the improvement;

(B) a name given to, or associated with, the improvement; or

(C) the historic significance of an improvement; or

(iv) the enhancement or assemblage value specifically attributable to the interrelation of the existing tangible property in place working together as a unit.

(17) "Governing body" means:

(a) for a county, city, or town, the legislative body of the county, city, or town;

(b) for a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, the local district's board of trustees;

(c) for a school district, the local board of education; or

(d) for a special service district under Title 17D, Chapter 1, Special Service District Act:

(i) the legislative body of the county or municipality that created the special service district, to the extent that the county or municipal legislative body has not delegated authority to an administrative control board established under Section 17D-1-301; or

(ii) the administrative control board, to the extent that the county or municipal legislative body has delegated authority to an administrative control board established under Section 17D-1-301.

(18) (a) For purposes of Section 59-2-103:

(i) "household" means the association of persons who live in the same dwelling, sharing its furnishings, facilities, accommodations, and expenses; and

(ii) "household" includes married individuals, who are not legally separated, that have established domiciles at separate locations within the state.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining the term "domicile."

(19) (a) Except as provided in Subsection (19)(c), "improvement" means a building, structure, fixture, fence, or other item that is permanently attached to land, regardless of whether the title has been acquired to the land, if:

(i) (A) attachment to land is essential to the operation or use of the item; and

(B) the manner of attachment to land suggests that the item will remain attached to the land in the same place over the useful life of the item; or

(ii) removal of the item would:

(A) cause substantial damage to the item; or

(B) require substantial alteration or repair of a structure to which the item is attached.

(b) "Improvement" includes:

(i) an accessory to an item described in Subsection (19)(a) if the accessory is:

(A) essential to the operation of the item described in Subsection (19)(a); and

(B) installed solely to serve the operation of the item described in Subsection (19)(a); and

(ii) an item described in Subsection (19)(a) that:

(A) is temporarily detached from the land for repairs; and

(B) remains located on the land.

(c) Notwithstanding Subsections (19)(a) and (b), "improvement" does not include:

(i) an item considered to be personal property pursuant to rules made in accordance with Section 59-2-107;

(ii) a moveable item that is attached to land:

(A) for stability only; or

(B) for an obvious temporary purpose;

(iii) (A) manufacturing equipment and machinery; or

(B) essential accessories to manufacturing equipment and machinery;

(iv) an item attached to the land in a manner that facilitates removal without substantial damage to:

(A) the land; or

(B) the item; or

(v) a transportable factory-built housing unit as defined in Section 59-2-1502 if that transportable factory-built housing unit is considered to be personal property under Section 59-2-1503.

(20) "Intangible property" means:

(a) property that is capable of private ownership separate from tangible property, including:

(i) money;

(ii) credits;

(iii) bonds;

(iv) stocks;

(v) representative property;

(vi) franchises;

(vii) licenses;

(viii) trade names;

(ix) copyrights; and

(x) patents;

(b) a low-income housing tax credit;

(c) goodwill; or

(d) a renewable energy tax credit or incentive, including:

(i) a federal renewable energy production tax credit under Section 45, Internal Revenue Code;

(ii) a federal energy credit for qualified renewable electricity production facilities under Section 48, Internal Revenue Code;

(iii) a federal grant for a renewable energy property under American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, Section 1603; and

(iv) a tax credit under Subsection 59-7-614~~(2)(e)~~(5).

(21) "Livestock" means:

(a) a domestic animal;

(b) a fur-bearing animal;

(c) a honeybee; or

(d) poultry.

(22) "Low-income housing tax credit" means:

(a) a federal low-income housing tax credit under Section 42, Internal Revenue Code; or

(b) a low-income housing tax credit under:

(i) Section 59-7-607; or

(ii) Section 59-10-1010.

(23) "Metalliferous minerals" includes gold, silver, copper, lead, zinc, and uranium.

(24) "Mine" means a natural deposit of either metalliferous or nonmetalliferous valuable mineral.

(25) "Mining" means the process of producing, extracting, leaching, evaporating, or otherwise removing a mineral from a mine.

(26) (a) "Mobile flight equipment" means tangible personal property that is:

(i) owned or operated by an:

(A) air charter service;

(B) air contract service; or

(C) airline; and

(ii) (A) capable of flight;

(B) attached to an aircraft that is capable of flight; or

(C) contained in an aircraft that is capable of flight if the tangible personal property is intended to be used:

(I) during multiple flights;

(II) during a takeoff, flight, or landing; and

(III) as a service provided by an air charter service, air contract service, or airline.

(b) (i) "Mobile flight equipment" does not include a spare part other than a spare engine that is rotated:

(A) at regular intervals; and

(B) with an engine that is attached to the aircraft.

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining the term "regular intervals."

(27) "Nonmetalliferous minerals" includes, but is not limited to, oil, gas, coal, salts, sand, rock, gravel, and all carboniferous materials.

(28) "Part-year residential property" means property that is not residential property on January 1 of a calendar year but becomes residential property after January 1 of the calendar year.

(29) "Personal property" includes:

(a) every class of property as defined in Subsection (30) that is the subject of ownership and not included within the meaning of the terms “real estate” and “improvements”;

(b) gas and water mains and pipes laid in roads, streets, or alleys;

(c) bridges and ferries;

(d) livestock; and

(e) outdoor advertising structures as defined in Section 72-7-502.

(30) (a) “Property” means property that is subject to assessment and taxation according to its value.

(b) “Property” does not include intangible property as defined in this section.

(31) “Public utility,” for purposes of this chapter, means the operating property of a railroad, gas corporation, oil or gas transportation or pipeline company, coal slurry pipeline company, electrical corporation, telephone corporation, sewerage corporation, or heat corporation where the company performs the service for, or delivers the commodity to, the public generally or companies serving the public generally, or in the case of a gas corporation or an electrical corporation, where the gas or electricity is sold or furnished to any member or consumers within the state for domestic, commercial, or industrial use. Public utility also means the operating property of any entity or person defined under Section 54-2-1 except water corporations.

(32) (a) Subject to Subsection (32)(b), “qualifying exempt primary residential rental personal property” means household furnishings, furniture, and equipment that:

(i) are used exclusively within a dwelling unit that is the primary residence of a tenant;

(ii) are owned by the owner of the dwelling unit that is the primary residence of a tenant; and

(iii) after applying the residential exemption described in Section 59-2-103, are exempt from taxation under this chapter in accordance with Subsection 59-2-1115(2).

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term “dwelling unit” for purposes of this Subsection (32) and Subsection (35).

(33) “Real estate” or “real property” includes:

(a) the possession of, claim to, ownership of, or right to the possession of land;

(b) all mines, minerals, and quarries in and under the land, all timber belonging to individuals or corporations growing or being on the lands of this state or the United States, and all rights and privileges appertaining to these; and

(c) improvements.

(34) “Relationship with an owner of the property’s land surface rights” means a relationship described in Subsection 267(b), Internal Revenue Code:

(a) except that notwithstanding Subsection 267(b), Internal Revenue Code, the term 25% shall be substituted for the term 50% in Subsection 267(b), Internal Revenue Code; and

(b) using the ownership rules of Subsection 267(c), Internal Revenue Code, for determining the ownership of stock.

(35) (a) Subject to Subsection (35)(b), “residential property,” for the purposes of the reductions and adjustments under this chapter, means any property used for residential purposes as a primary residence.

(b) Subject to Subsection (35)(c), “residential property”:

(i) except as provided in Subsection (35)(b)(ii), includes household furnishings, furniture, and equipment if the household furnishings, furniture, and equipment are:

(A) used exclusively within a dwelling unit that is the primary residence of a tenant; and

(B) owned by the owner of the dwelling unit that is the primary residence of a tenant; and

(ii) does not include property used for transient residential use.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term “dwelling unit” for purposes of Subsection (32) and this Subsection (35).

(36) “Split estate mineral rights owner” means a person who:

(a) has a legal right to extract a mineral from property;

(b) does not hold more than a 25% interest in:

(i) the land surface rights of the property where the wellhead is located; or

(ii) an entity with an ownership interest in the land surface rights of the property where the wellhead is located;

(c) is not an entity in which the owner of the land surface rights of the property where the wellhead is located holds more than a 25% interest; and

(d) does not have a relationship with an owner of the land surface rights of the property where the wellhead is located.

(37) (a) “State-assessed commercial vehicle” means:

(i) any commercial vehicle, trailer, or semitrailer which operates interstate or intrastate to transport passengers, freight, merchandise, or other property for hire; or

(ii) any commercial vehicle, trailer, or semitrailer which operates interstate and transports the

vehicle owner's goods or property in furtherance of the owner's commercial enterprise.

(b) "State-assessed commercial vehicle" does not include vehicles used for hire which are specified in Subsection (8)(c) as county-assessed commercial vehicles.

(38) "Taxable value" means fair market value less any applicable reduction allowed for residential property under Section 59-2-103.

(39) "Tax area" means a geographic area created by the overlapping boundaries of one or more taxing entities.

(40) "Taxing entity" means any county, city, town, school district, special taxing district, local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, or other political subdivision of the state with the authority to levy a tax on property.

(41) "Tax roll" means a permanent record of the taxes charged on property, as extended on the assessment roll and may be maintained on the same record or records as the assessment roll or may be maintained on a separate record properly indexed to the assessment roll. It includes tax books, tax lists, and other similar materials.

Section 2. Section 59-7-614 is amended to read:

59-7-614. Renewable energy systems tax credits -- Definitions -- Certification -- Rulemaking authority -- Revenue and Taxation Interim Committee study.

(1) As used in this section:

(a) (i) "Active solar system"~~[-(i)]~~ means a system of equipment that is capable of:

(A) collecting and converting incident solar radiation into thermal, mechanical, or electrical energy~~[-];~~ and

(B) transferring ~~[these forms]~~ a form of energy described in Subsection (1)(a)(i)(A) by a separate apparatus to storage or to the point of use~~[-]; and~~.

(ii) "Active solar system" includes water heating, space heating or cooling, and electrical or mechanical energy generation.

(b) "Biomass system" means ~~[any]~~ a system of apparatus and equipment for use in:

(i) converting material into biomass energy, as defined in Section 59-12-102~~[-];~~ and

(ii) transporting ~~[that]~~ the biomass energy by separate apparatus to the point of use or storage.

~~[(c) "Business entity" means any sole proprietorship, estate, trust, partnership, association, corporation, cooperative, or other entity under which business is conducted or transacted.]~~

~~[(d) (c) "Commercial energy system" means [any active solar, passive solar, geothermal electricity, direct-use geothermal, geothermal heat pump~~

~~system, wind, hydroenergy, or biomass system used] a system that is:~~

~~(i) (A) an active solar system;~~

~~(B) a biomass system;~~

~~(C) a direct use geothermal system;~~

~~(D) a geothermal electricity system;~~

~~(E) a geothermal heat pump system;~~

~~(F) a hydroenergy system;~~

~~(G) a passive solar system; or~~

~~(H) a wind system;~~

~~(ii) located in the state; and~~

~~(iii) used:~~

~~(A) to supply energy to a commercial unit; or~~

~~(B) as a commercial enterprise.~~

~~[(e) (d) "Commercial enterprise" means [a business] an entity [whose], the purpose of which is to produce electrical, mechanical, or thermal energy for sale from a commercial energy system.~~

~~[(f) (e) (i) "Commercial unit" means [any] a building or structure that [a-business] an entity uses to transact [its] business.~~

~~(ii) Notwithstanding Subsection (1)[(f)](e)(i):~~

~~(A) [in the case of] with respect to an active solar system used for agricultural water pumping or a wind system, each individual energy generating device [shall] is considered to be a commercial unit; [and] or~~

~~(B) if an energy system is the building or structure that [a-business] an entity uses to transact [its] business, a commercial unit is the complete energy system itself.~~

~~[(g) (f) "Direct use geothermal system" means a system of apparatus and equipment [enabling] that enables the direct use of [thermal] geothermal energy[-, generally between 100 and 300 degrees Fahrenheit, that is contained in the earth] to meet energy needs, including heating a building, an industrial process, and aquaculture.~~

~~[(h) (g) "Geothermal electricity" means energy that is:~~

~~(i) contained in heat that continuously flows outward from the earth [that is]; and~~

~~(ii) used as a sole source of energy to produce electricity.~~

~~(h) "Geothermal energy" means energy generated by heat that is contained in the earth.~~

~~(i) "Geothermal heat pump system" means a system of apparatus and equipment [enabling] that:~~

~~(i) enables the use of thermal properties contained in the earth at temperatures well below 100 degrees Fahrenheit [to help]; and~~

~~(ii) helps meet heating and cooling needs of a structure.~~

(j) “Hydroenergy system” means a system of apparatus and equipment that is capable of:

(i) intercepting and converting kinetic water energy into electrical or mechanical energy; and

(ii) transferring this form of energy by separate apparatus to the point of use or storage.

~~[(k) “Individual taxpayer” means any person who is a taxpayer as defined in Section 59-10-103 and an individual as defined in Section 59-10-103.]~~

~~[(4)] (k) “Office” means the Office of Energy Development created in Section 63M-4-401.~~

~~[(m)] (l) (i) “Passive solar system”~~[-(i)]~~ means a direct thermal system that utilizes the structure of a building and its operable components to provide for collection, storage, and distribution of heating or cooling during the appropriate times of the year by utilizing the climate resources available at the site; and~~

(ii) “Passive solar system” includes those portions and components of a building that are expressly designed and required for the collection, storage, and distribution of solar energy.

(m) (i) “Principal recovery portion” means the portion of a lease payment that constitutes the cost a person incurs in acquiring a commercial energy system.

(ii) “Principal recovery portion” does not include:

(A) an interest charge; or

(B) a maintenance expense.

(n) “Residential energy system” means [any active solar, passive solar, biomass, direct use geothermal, geothermal heat pump system, wind, or hydroenergy system] the following used to supply energy to or for [any] a residential unit[-]:

(i) an active solar system;

(ii) a biomass system;

(iii) a direct use geothermal system;

(iv) a geothermal heat pump system;

(v) a hydroenergy system;

(vi) a passive solar system; or

(vii) a wind system.

(o) (i) “Residential unit” means [any] a house, condominium, apartment, or similar dwelling unit that:

(A) is located in the state; and

(B) serves as a dwelling for a person, group of persons, or a family [but].

(ii) “Residential unit” does not include property subject to a fee under:

[(4)] (A) Section 59-2-404;

[(4)] (B) Section 59-2-405;

[(4)] (C) Section 59-2-405.1;

~~[(4)] (D) Section 59-2-405.2; or~~

~~[(4)] (E) Section 59-2-405.3.~~

(p) “Wind system” means a system of apparatus and equipment that is capable of:

(i) intercepting and converting wind energy into mechanical or electrical energy; and

(ii) transferring these forms of energy by a separate apparatus to the point of use, sale, or storage.

~~[(2) (a) (i) A business entity that purchases and completes or participates in the financing of a residential energy system to supply all or part of the energy required for a residential unit owned or used by the business entity and located in the state may claim a nonrefundable tax credit as provided in this Subsection (2)(a).]~~

(2) A taxpayer may claim an energy system tax credit as provided in this section against a tax due under this chapter for a taxable year.

(3) (a) Subject to the other provisions of this Subsection (3), a taxpayer may claim a nonrefundable tax credit under this Subsection (3) with respect to a residential unit the taxpayer owns or uses if:

(i) the taxpayer:

(A) purchases and completes a residential energy system to supply all or part of the energy required for the residential unit; or

(B) participates in the financing of a residential energy system to supply all or part of the energy required for the residential unit;

(ii) the residential energy system is completed and placed in service on or after January 1, 2007; and

(iii) the taxpayer obtains a written certification from the office in accordance with Subsection (7).

~~[(ii) (A) The] (b) (i) Subject to Subsections (3)(b)(ii) through (v), the tax credit is equal to 25% of the reasonable costs of each residential energy system installed with respect to each residential unit the [business entity] taxpayer owns or uses[, including].~~

(ii) A tax credit under this Subsection (3) may include installation costs[, against any tax due under this chapter].

(iii) A taxpayer may claim a tax credit under this Subsection (3) for the taxable year in which the residential energy system is completed and placed in service.

(iv) If the amount of a tax credit under this Subsection (3) exceeds a taxpayer’s tax liability under this chapter for a taxable year, the amount of the tax credit exceeding the liability may be carried forward for a period that does not exceed the next four taxable years.

~~[(B)] (v) The total amount of [each] tax credit a taxpayer may claim under this Subsection [(2)(a)] (3) may not exceed \$2,000 per residential unit.~~

~~[(C) The tax credit under this Subsection (2)(a) is allowed for any residential energy system completed and placed in service on or after January 1, 2007.]~~

~~[(iii) (c) If a [business entity] taxpayer sells a residential unit to [an individual taxpayer] another person before [making a claim for] the taxpayer claims the tax credit under this Subsection [(2)(a) (3)], the business entity may:]~~

~~[(A) (i) the taxpayer may assign [its right to this] the tax credit to the [individual taxpayer] other person; and~~

~~[(B) (ii) (A) [if the business entity assigns its right to the tax credit to an individual taxpayer under Subsection (2)(a)(iii)(A), the individual taxpayer] if the other person files a return under this chapter, the other person may claim the tax credit under this section as if the [individual taxpayer had completed or participated in the costs of the residential energy system under Section 59-10-1014.] other person had met the requirements of this section to claim the tax credit; or~~

~~(B) if the other person files a return under Chapter 10, Individual Income Tax Act, the other person may claim the tax credit under Section 59-10-1014 as if the other person had met the requirements of Section 59-10-1014 to claim the tax credit.~~

~~[(b) (i) A business entity that purchases or participates in the financing of a commercial energy system situated in Utah may claim a refundable tax credit as provided in this Subsection (2)(b) if the commercial energy system does not use wind, geothermal electricity, solar, or biomass equipment capable of producing a total of 660 or more kilowatts of electricity or if the commercial energy system does not use solar equipment capable of producing 2,000 or more kilowatts of electricity, and:]~~

~~(4) (a) Subject to the other provisions of this Subsection (4), a taxpayer may claim a refundable tax credit under this Subsection (4) with respect to a commercial energy system if:~~

~~(i) the commercial energy system does not use:~~

~~(A) wind, geothermal electricity, solar, or biomass equipment capable of producing a total of 660 or more kilowatts of electricity; or~~

~~(B) solar equipment capable of producing 2,000 or more kilowatts of electricity;~~

~~(ii) the taxpayer purchases or participates in the financing of the commercial energy system;~~

~~(iii) (A) the commercial energy system supplies all or part of the energy required by commercial units owned or used by the [business entity] taxpayer; or~~

~~(B) the [business entity] taxpayer sells all or part of the energy produced by the commercial energy system as a commercial enterprise[-];~~

~~(iv) the commercial energy system is completed and placed in service on or after January 1, 2007; and~~

~~(v) the taxpayer obtains a written certification from the office in accordance with Subsection (7).~~

~~[(ii) (A) A business entity is entitled to a] (b) (i) Subject to Subsections (4)(b)(ii) through (v), the tax credit [of up] is equal to 10% of the reasonable costs of [any] the commercial energy system [installed, including].~~

~~(ii) A tax credit under this Subsection (4) may include installation costs[-, against any tax due under this chapter].~~

~~(iii) A taxpayer may claim a tax credit under this Subsection (4) for the taxable year in which the commercial energy system is completed and placed in service.~~

~~(iv) A tax credit under this Subsection (4) may not be carried forward or carried back.~~

~~[(B) Notwithstanding Subsection (2)(b)(ii)(A), the]~~

~~(v) The total amount of [the] tax credit a taxpayer may claim under this Subsection [(2)(b)] (4) may not exceed \$50,000 per commercial unit.~~

~~[(C) The tax credit under this Subsection (2)(b) is allowed for any commercial energy system completed and placed in service on or after January 1, 2007.]~~

~~[(iii) (c) (i) [A business entity that leases] Subject to Subsections (4)(c)(ii) and (iii), a taxpayer that is a lessee of a commercial energy system installed on a commercial unit [is eligible for the] may claim a tax credit under this Subsection [(2)(b)] (4) if the [lessee can confirm] taxpayer confirms that the lessor irrevocably elects not to claim the tax credit.~~

~~[(iv) Only] (ii) A taxpayer described in Subsection (4)(c)(i) may claim as a tax credit under this Subsection (4) only the principal recovery portion of the lease payments[-, which is the cost incurred by a business entity in acquiring a commercial energy system, excluding interest charges and maintenance expenses, is eligible for the tax credit under this Subsection (2)(b)].~~

~~[(v) A business entity that leases a commercial energy system is eligible to use the]~~

~~(iii) A taxpayer described in Subsection (4)(c)(i) may claim a tax credit under this Subsection [(2)(b)] (4) for a period [no greater than] that does not exceed seven taxable years [from the initiation of the lease] after the date the lease begins, as stated in the lease agreement.~~

~~[(vi) A tax credit allowed by this Subsection (2)(b) may not be carried forward or carried back.]~~

~~[(e) (i) A business entity that owns a commercial energy system located in the state using wind, geothermal electricity, or biomass equipment capable of producing a total of 660 or more kilowatts of electricity may claim a refundable tax credit as provided in this Subsection (2)(e) if:]~~

~~(5) (a) Subject to the other provisions of this Subsection (5), a taxpayer may claim a refundable tax credit under this Subsection (5) with respect to a commercial energy system if:~~

(i) the commercial energy system uses wind, geothermal electricity, or biomass equipment capable of producing a total of 660 or more kilowatts of electricity;

(ii) (A) the commercial energy system supplies all or part of the energy required by commercial units owned or used by the ~~[business entity]~~ taxpayer; or

(B) the ~~[business entity]~~ taxpayer sells all or part of the energy produced by the commercial energy system as a commercial enterprise[.];

(iii) the commercial energy system is completed and placed in service on or after January 1, 2007; and

(iv) the taxpayer obtains a written certification from the office in accordance with Subsection (7).

~~[(ii) (A) A business entity may claim]~~

(b) (i) Subject to Subsections (5)(b)(ii) and (iii), a tax credit under this ~~[section]~~ Subsection (5) is equal to the product of:

~~[(4) (A) 0.35 cents; and~~

~~[(4) (B) the kilowatt hours of electricity produced and [either] used or sold during the taxable year.~~

~~[(B) (I) The tax credit calculated under Subsection (2)(e)(ii)(A)]~~

(ii) A tax credit under this Subsection (5) may be claimed for production occurring during a period of 48 months beginning with the month in which the commercial energy system is placed in commercial service.

~~[(II) The tax credit allowed by this Subsection (2)(e) for each year]~~

(iii) A tax credit under this Subsection (5) may not be carried forward or carried back.

~~[(C) The tax credit under this Subsection (2)(e) is allowed for any commercial energy system completed and placed in service on or after January 1, 2007.]~~

~~[(iii) A business entity that leases]~~

(c) A taxpayer that is a lessee of a commercial energy system installed on a commercial unit ~~[is eligible for the]~~ may claim a tax credit under this Subsection ~~[(2)(e)]~~ (5) if the ~~[lessee can confirm]~~ taxpayer confirms that the lessor irrevocably elects not to claim the tax credit.

~~[(d) (i) A tax credit under Subsection (2)(a) or (b) may be claimed for the taxable year in which the energy system is completed and placed in service.]~~

~~[(ii) Additional energy systems or parts of energy systems may be claimed for subsequent years.]~~

~~[(iii) If the amount of a tax credit under Subsection (2)(a) exceeds a business entity's tax liability under this chapter for a taxable year, the amount of the tax credit exceeding the liability may be carried forward for a period that does not exceed the next four taxable years.]~~

~~[(3) (a) A business entity that owns a commercial energy system located in the state that uses solar equipment capable of producing a total of 660 or more kilowatts of electricity]~~

(6) (a) Subject to the other provisions of this Subsection (6), a taxpayer may claim a refundable tax credit as provided in this Subsection ~~[(3)]~~ (6) if:

(i) the taxpayer owns a commercial energy system that uses solar equipment capable of producing a total of 660 or more kilowatts of electricity;

~~[(4) (ii) (A) the commercial energy system supplies all or part of the energy required by commercial units owned or used by the [business entity] taxpayer; or~~

(B) the ~~[business entity]~~ taxpayer sells all or part of the energy produced by the commercial energy system as a commercial enterprise; ~~[and]~~

~~[(ii) (iii) the [business entity] taxpayer does not claim a tax credit under Subsection [(2)(b)].] (4);~~

(iv) the commercial energy system is completed and placed in service on or after January 1, 2015; and

(v) the taxpayer obtains a written certification from the office in accordance with Subsection (7).

(b) ~~[A business entity may claim]~~ (i) Subject to Subsections (6)(b)(ii) and (iii), a tax credit under this ~~[section]~~ Subsection (6) is equal to the product of:

~~[(4) (A) 0.35 cents; and~~

~~[(ii) (B) the kilowatt hours of electricity produced and [either] used or sold during the taxable year.~~

~~[(e) The] (ii) A tax credit under this Subsection [(3)] (6) may be claimed for production occurring during a period of 48 months beginning with the month in which the commercial energy system is placed in commercial service.~~

~~[(d) The] (iii) A tax credit under this Subsection [(3)] (6) may not be carried forward or carried back.~~

~~[(e) The tax credit under this Subsection (3) is allowed for a commercial energy system completed and placed in service on or after January 1, 2015.]~~

~~[(4) (c) A [business entity that leases] taxpayer that is a lessee of a commercial energy system installed on a commercial unit may claim a tax credit under this Subsection [(3)] (6) if the [business entity that is the lessee can confirm] taxpayer confirms that the lessor irrevocably elects not to claim the tax credit.~~

~~[(4) (a) Except as provided in Subsection (4)(b), the tax credits provided for under Subsection (2) or (3) are]~~

(7) (a) Before a taxpayer may claim a tax credit under this section, the taxpayer shall obtain a written certification from the office.

(b) The office shall issue a taxpayer a written certification if the office determines that:

(i) the taxpayer meets the requirements of this section to receive a tax credit; and

(ii) the residential energy system or commercial energy system with respect to which the taxpayer seeks to claim a tax credit:

(A) has been completely installed;

(B) is a viable system for saving or producing energy from renewable resources; and

(C) is safe, reliable, efficient, and technically feasible to ensure that the residential energy system or commercial energy system uses the state's renewable and nonrenewable energy resources in an appropriate and economic manner.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules:

(i) for determining whether a residential energy system or commercial energy system meets the requirements of Subsection (7)(b)(ii); and

(ii) for purposes of a tax credit under Subsection (3) or (4), establishing the reasonable costs of a residential energy system or a commercial energy system, as an amount per unit of energy production.

(d) A taxpayer that obtains a written certification from the office shall retain the certification for the same time period a person is required to keep books and records under Section 59-1-1406.

(8) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules to address the certification of a tax credit under this section.

(9) A tax credit under this section is in addition to any tax credits provided under the laws or rules and regulations of the United States.

~~(b) (10) A purchaser of one or more solar units that claims a tax credit under Section 59-7-614.3 for the purchase of the one or more solar units may not claim a tax credit under this section for that purchase.~~

~~(c) (i) The office may set standards for residential and commercial energy systems claiming a tax credit under Subsections (2)(a) and (b) that cover the safety, reliability, efficiency, leasing, and technical feasibility of the systems to ensure that the systems eligible for the tax credit use the state's renewable and nonrenewable energy resources in an appropriate and economic manner.~~

~~(ii) The office may set standards for residential and commercial energy systems that establish the reasonable costs of an energy system, as used in Subsections (2)(a)(ii)(A) and (2)(b)(ii)(A), as an amount per unit of energy production.~~

~~(iii) A tax credit may not be taken under Subsection (2) or (3) until the office has certified that the energy system has been completely installed and is a viable system for saving or production of energy from renewable resources.~~

~~(d) The office and the commission may make rules in accordance with Title 63G, Chapter 3, Utah~~

~~Administrative Rulemaking Act, that are necessary to implement this section.~~

~~(5) (1) (a) On or before October 1, [2012] 2017, and every five years [thereafter] after 2017, the Revenue and Taxation Interim Committee shall review each tax credit provided by this section and report its recommendations to the Legislative Management Committee concerning whether the tax credit should be continued, modified, or repealed.~~

~~(b) The Revenue and Taxation Interim Committee's report under Subsection [(5)] (1)(a) shall include information concerning the cost of the tax credit, the purpose and effectiveness of the tax credit, and the state's benefit from the tax credit.~~

Section 3. Section 59-10-1014 is amended to read:

59-10-1014. Nonrefundable renewable energy systems tax credits -- Definitions -- Certification -- Rulemaking authority -- Revenue and Taxation Interim Committee study.

(1) As used in this [part] section:

(a) (i) "Active solar system"[-:(i)] means a system of equipment that is capable of:

(A) collecting and converting incident solar radiation into thermal, mechanical, or electrical energy[;]; and

(B) transferring [these forms] a form of energy described in Subsection (1)(a)(i)(A) by a separate apparatus to storage or to the point of use[; and].

(ii) "Active solar system" includes water heating, space heating or cooling, and electrical or mechanical energy generation.

(b) "Biomass system" means [any] a system of apparatus and equipment for use in:

(i) converting material into biomass energy, as defined in Section 59-12-102[;]; and

(ii) transporting [that] the biomass energy by separate apparatus to the point of use or storage.

~~(c) "Business entity" means any entity under which business is conducted or transacted.~~

~~(d) (c) "Direct use geothermal system" means a system of apparatus and equipment [enabling] that enables the direct use of [thermal] geothermal energy[, generally between 100 and 300 degrees Fahrenheit, that is contained in the earth] to meet energy needs, including heating a building, an industrial process, and aquaculture.~~

~~(e) (d) "Geothermal electricity" means energy that is:~~

~~(i) contained in heat that continuously flows outward from the earth [that is]; and~~

~~(ii) used as a sole source of energy to produce electricity.~~

~~(e) "Geothermal energy" means energy generated by heat that is contained in the earth.~~

(f) “Geothermal heat pump system” means a system of apparatus and equipment ~~[enabling]~~ that:

(i) enables the use of thermal properties contained in the earth at temperatures well below 100 degrees Fahrenheit ~~[to help]~~; and

(ii) helps meet heating and cooling needs of a structure.

(g) “Hydroenergy system” means a system of apparatus and equipment that is capable of:

(i) intercepting and converting kinetic water energy into electrical or mechanical energy; and

(ii) transferring this form of energy by separate apparatus to the point of use or storage.

(h) “Office” means the Office of Energy Development created in Section 63M-4-401.

(i) (i) “Passive solar system”~~[(i)]~~ means a direct thermal system that utilizes the structure of a building and its operable components to provide for collection, storage, and distribution of heating or cooling during the appropriate times of the year by utilizing the climate resources available at the site; ~~and].~~

(ii) “Passive solar system” includes those portions and components of a building that are expressly designed and required for the collection, storage, and distribution of solar energy.

(j) (i) “Principal recovery portion” means the portion of a lease payment that constitutes the cost a person incurs in acquiring a residential energy system.

(ii) “Principal recovery portion” does not include:

(A) an interest charge; or

(B) a maintenance expense.

~~[(j)]~~ (k) “Residential energy system” means ~~[any active solar, passive solar, biomass, direct use geothermal, geothermal heat pump system, wind, or hydroenergy system]~~ the following used to supply energy to or for ~~[any]~~ a residential unit~~[-]~~:

(i) an active solar system;

(ii) a biomass system;

(iii) a direct use geothermal system;

(iv) a geothermal heat pump system;

(v) a hydroenergy system;

(vi) a passive solar system; or

(vii) a wind system.

~~[(k)]~~ (l) (i) “Residential unit” means ~~[any]~~ a house, condominium, apartment, or similar dwelling unit that:

(A) is located in the state; and

(B) serves as a dwelling for a person, group of persons, or a family [but].

(ii) “Residential unit” does not include property subject to a fee under:

~~[(i)]~~ (A) Section 59-2-404;

~~[(ii)]~~ (B) Section 59-2-405;

~~[(iii)]~~ (C) Section 59-2-405.1;

~~[(iv)]~~ (D) Section 59-2-405.2; or

~~[(v)]~~ (E) Section 59-2-405.3.

~~[(4)]~~ (m) “Wind system” means a system of apparatus and equipment that is capable of:

(i) intercepting and converting wind energy into mechanical or electrical energy; and

(ii) transferring these forms of energy by a separate apparatus to the point of use or storage.

~~[(2) For taxable years beginning on or after January 1, 2007, a claimant, estate, or trust may claim a nonrefundable tax credit as provided in this section if:]~~

~~[(a) a claimant, estate, or trust that is not a business entity purchases and completes or participates in the financing of a residential energy system to supply all or part of the energy for the claimant’s, estate’s, or trust’s residential unit in the state; or]~~

~~[(b) (i) a claimant, estate, or trust that is a business entity sells a residential unit to another claimant, estate, or trust that is not a business entity before making a claim for a tax credit under Subsection (6) or Section 59-7-614; and]~~

~~[(ii) the claimant, estate, or trust that is a business entity assigns its right to the tax credit to the claimant, estate, or trust that is not a business entity as provided in Subsection (6)(e) or Subsection 59-7-614(2)(a)(iii).]~~

(2) A claimant, estate, or trust may claim an energy system tax credit as provided in this section against a tax due under this chapter for a taxable year.

(3) (a) Subject to the other provisions of this Subsection (3), a claimant, estate, or trust may claim a nonrefundable tax credit under this Subsection (3) with respect to a residential unit the claimant, estate, or trust owns or uses if:

(i) the claimant, estate, or trust:

(A) purchases and completes a residential energy system to supply all or part of the energy required for the residential unit; or

(B) participates in the financing of a residential energy system to supply all or part of the energy required for the residential unit;

(ii) the residential energy system is completed and placed in service on or after January 1, 2007; and

(iii) the claimant, estate, or trust obtains a written certification from the office in accordance with Subsection (4).

~~[(3) (a) The]~~ (b) (i) Subject to Subsections (3)(b)(ii) through (vi), the tax credit ~~[described in Subsection~~

(2) is equal to 25% of the reasonable costs of each residential energy system~~[, including installation costs, against any income tax liability of the claimant, estate, or trust under this chapter for the taxable year in which the residential energy system is completed and placed in service]~~ installed with respect to each residential unit the claimant, estate, or trust owns or uses.

~~[(b) The total amount of each tax credit under this section may not exceed \$2,000 per residential unit.]~~

~~[(c) The tax credit under this section is allowed for any residential energy system completed and placed in service on or after January 1, 2007.]~~

~~[(4) (a) The tax credit provided for in this section shall be claimed in the return for the taxable year in which the residential energy system is completed and placed in service.]~~

~~(ii) A tax credit under this Subsection (3) may include installation costs.~~

~~(iii) A claimant, estate, or trust may claim a tax credit under this Subsection (3) for the taxable year in which the residential energy system is completed and placed in service.~~

~~(iv) If the amount of a tax credit under this Subsection (3) exceeds a claimant's, estate's, or trust's tax liability under this chapter for a taxable year, the amount of the tax credit exceeding the liability may be carried forward for a period that does not exceed the next four taxable years.~~

~~(v) The total amount of tax credit a claimant, estate, or trust may claim under this Subsection (3) may not exceed \$2,000 per residential unit.~~

~~[(b) Additional] (vi) A claimant, estate, or trust may claim a tax credit with respect to additional residential energy systems or parts of residential energy systems [may be similarly claimed in returns] for a subsequent taxable [years as long as] year if the total amount [claimed] of tax credit the claimant, estate, or trust claims does not exceed \$2,000 per residential unit.~~

~~[(c) If the amount of the tax credit under this section exceeds the income tax liability of the claimant, estate, or trust claiming the tax credit under this section for that taxable year, then the amount not used may be carried over for a period that does not exceed the next four taxable years.]~~

~~[(5)(a) A] (c) (i) Subject to Subsections (3)(c)(ii) and (iii), a claimant, estate, or trust [that is not a business entity] that leases a residential energy system installed on a residential unit [is eligible for the residential energy] may claim a tax credit under this Subsection (3) if [that] the claimant, estate, or trust confirms that the lessor irrevocably elects not to claim the tax credit.~~

~~[(b) Only] (ii) A claimant, estate, or trust described in Subsection (3)(c)(i) that leases a residential energy system may claim as a tax credit under this Subsection (3) only the principal recovery portion of the lease payments[, which is the cost incurred by the claimant, estate, or trust in acquiring the residential energy system excluding~~

~~interest charges and maintenance expenses, is eligible for the tax credits].~~

~~[(e) (iii) A claimant, estate, or trust described in [this] Subsection [(5) (3)(c)(i) that leases a residential energy system may [use the tax credits] claim a tax credit under this Subsection (3) for a period that does not exceed seven taxable years [from the initiation of the lease,] after the date the lease begins, as stated in the lease agreement.~~

~~(d) If a claimant, estate, or trust sells a residential unit to another person before the claimant, estate, or trust claims the tax credit under this Subsection (3):~~

~~(i) the claimant, estate, or trust may assign the tax credit to the other person; and~~

~~(ii) (A) if the other person files a return under Chapter 7, Corporate Franchise and Income Taxes, the other person may claim the tax credit as if the other person had met the requirements of Section 59-7-614 to claim the tax credit; or~~

~~(B) if the other person files a return under this chapter, the other person may claim the tax credit under this section as if the other person had met the requirements of this section to claim the tax credit.~~

~~[(6) (a) A claimant, estate, or trust that is a business entity that purchases and completes or participates in the financing of a residential energy system to supply all or part of the energy required for a residential unit owned or used by the claimant, estate, or trust that is a business entity and situated in Utah is entitled to a nonrefundable tax credit as provided in this Subsection (6).]~~

~~[(b) (i) For taxable years beginning on or after January 1, 2007, a claimant, estate, or trust that is a business entity is entitled to a nonrefundable tax credit equal to 25% of the reasonable costs of a residential energy system installed with respect to each residential unit it owns or uses, including installation costs, against any tax due under this chapter for the taxable year in which the energy system is completed and placed in service.]~~

~~[(ii) The total amount of the tax credit under this Subsection (6) may not exceed \$2,000 per residential unit.]~~

~~[(iii) The tax credit under this Subsection (6) is allowed for any residential energy system completed and placed in service on or after January 1, 2007.]~~

~~[(c) If a claimant, estate, or trust that is a business entity sells a residential unit to a claimant, estate, or trust that is not a business entity before making a claim for the tax credit under this Subsection (6), the claimant, estate, or trust that is a business entity may:]~~

~~[(i) assign its right to this tax credit to the claimant, estate, or trust that is not a business entity; and]~~

~~[(ii) if the claimant, estate, or trust that is a business entity assigns its right to the tax credit to a claimant, estate, or trust that is not a business entity under Subsection (6)(e)(i), the claimant,~~

estate, or trust that is not a business entity may claim the tax credit as if that claimant, estate, or trust that is not a business entity had completed or participated in the costs of the residential energy system under this section.]

[~~(7) (a) A tax credit under this section may be claimed for the taxable year in which the residential energy system is completed and placed in service.~~]

[~~(b) Additional residential energy systems or parts of residential energy systems may be claimed for subsequent years.~~]

[~~(c) If the amount of a tax credit under this section exceeds the tax liability of the claimant, estate, or trust claiming the tax credit under this section for a taxable year, the amount of the tax credit exceeding the tax liability may be carried over for a period which does not exceed the next four taxable years.~~]

[~~(8) (a) Except as provided in Subsection (8)(b), tax credits provided for under this section are~~]

~~(4) (a) Before a claimant, estate, or trust may claim a tax credit under this section, the claimant, estate, or trust shall obtain a written certification from the office.~~

~~(b) The office shall issue a claimant, estate, or trust a written certification if the office determines that:~~

~~(i) the claimant, estate, or trust meets the requirements of this section to receive a tax credit; and~~

~~(ii) the office determines that the residential energy system with respect to which the claimant, estate, or trust seeks to claim a tax credit:~~

~~(A) has been completely installed;~~

~~(B) is a viable system for saving or producing energy from renewable resources; and~~

~~(C) is safe, reliable, efficient, and technically feasible to ensure that the residential energy system uses the state's renewable and nonrenewable energy resources in an appropriate and economic manner.~~

~~(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules:~~

~~(i) for determining whether a residential energy system meets the requirements of Subsection (4)(b)(ii); and~~

~~(ii) for purposes of a tax credit under Subsection (3), establishing the reasonable costs of a residential energy system, as an amount per unit of energy production.~~

~~(d) A claimant, estate, or trust that obtains a written certification from the office shall retain the certification for the same time period a person is required to keep books and records under Section 59-1-1406.~~

~~(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission~~

may make rules to address the certification of a tax credit under this section.

(6) A tax credit under this section is in addition to any tax credits provided under the laws or rules and regulations of the United States.

[~~(b)~~] (7) A purchaser of one or more solar units that claims a tax credit under Section 59-10-1024 for the purchase of the one or more solar units may not claim a tax credit under this section for that purchase.

[~~(9) (a) The office may set standards for residential energy systems that cover the safety, reliability, efficiency, leasing, and technical feasibility of the systems to ensure that the systems eligible for the tax credit use the state's renewable and nonrenewable energy resources in an appropriate and economic manner.~~]

[~~(b) The office may set standards for residential and commercial energy systems that establish the reasonable costs of an energy system, as used in Subsections (3)(a) and (6)(b)(i), as an amount per unit of energy production.~~]

[~~(c) A tax credit may not be taken under this section until the office has certified that the energy system has been completely installed and is a viable system for saving or production of energy from renewable resources.~~]

[~~(10) The office and the commission may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that are necessary to implement this section.~~]

[~~(11) (8) (a) On or before October 1, [2012] 2017, and every five years [thereafter] after 2017, the Revenue and Taxation Interim Committee shall review each tax credit provided by this section and report its recommendations to the Legislative Management Committee concerning whether the tax credit should be continued, modified, or repealed.~~]

(b) The Revenue and Taxation Interim Committee's report under Subsection [~~(11)~~] (8)(a) shall include information concerning the cost of the tax credit, the purpose and effectiveness of the tax credit, and the state's benefit from the tax credit.

Section 4. Section 59-10-1106 is amended to read:

59-10-1106. Refundable renewable energy systems tax credits -- Definitions -- Certification -- Rulemaking authority -- Revenue and Taxation Interim Committee study.

(1) As used in this section:

(a) "Active solar system" [is] has the same meaning as defined in Section 59-10-1014.

(b) "Biomass system" [is] has the same meaning as defined in Section 59-10-1014.

[~~(c) "Business entity" is as defined in Section 59-10-1014.~~]

[~~(d) (c) "Commercial energy system" [means any active solar, passive solar, geothermal electricity,~~

~~direct use geothermal, geothermal heat pump system, wind, hydroenergy, or biomass system used to supply energy to a commercial unit or as a commercial enterprise] has the same meaning as defined in Section 59-7-614.~~

~~[(e)] (d) “Commercial enterprise” [means a business entity that:] has the same meaning as defined in Section 59-7-614.~~

~~[(i) is a claimant, estate, or trust; and]~~

~~[(ii) has the purpose of producing electrical, mechanical, or thermal energy for sale from a commercial energy system.]~~

~~[(f)] (e) (i) “Commercial unit” [means any building or structure that a business entity that is a claimant, estate, or trust uses to transact its business] has the same meaning as defined in Section 59-7-614.~~

~~(ii) Notwithstanding Subsection (1)[(f)](e)(i):~~

~~(A) [in the case of] with respect to an active solar system used for agricultural water pumping or a wind system, each individual energy generating device [shall] is considered to be a commercial unit; [and] or~~

~~(B) if an energy system is the building or structure that [a business entity that is] a claimant, estate, or trust uses to transact [its] business, a commercial unit is the complete energy system itself.~~

~~[(g)] (f) “Direct use geothermal system” [is] has the same meaning as defined in Section 59-10-1014.~~

~~[(h)] (g) “Geothermal electricity” [is] has the same meaning as defined in Section 59-10-1014.~~

~~(h) “Geothermal energy” has the same meaning as defined in Section 59-10-1014.~~

~~(i) “Geothermal heat pump system” [is] has the same meaning as defined in Section 59-10-1014.~~

~~(j) “Hydroenergy system” [is] has the same meaning as defined in Section 59-10-1014.~~

~~(k) “Office” means the Office of Energy Development created in Section 63M-4-401.~~

~~(l) “Passive solar system” [is] has the same meaning as defined in Section 59-10-1014.~~

~~(m) “Principal recovery portion” has the same meaning as defined in Section 59-10-1014.~~

~~[(m)] (n) “Wind system” [is] has the same meaning as defined in Section 59-10-1014.~~

~~[(2) (a) (i) A business entity that is a claimant, estate, or trust that purchases or participates in the financing of a commercial energy system situated in Utah is entitled to a refundable tax credit as provided in this Subsection (2)(a) if the commercial energy system does not use wind, geothermal electricity, or biomass equipment capable of producing a total of 660 or more kilowatts of electricity and:]~~

~~(2) A claimant, estate, or trust may claim an energy system tax credit as provided in this section against a tax due under this chapter for a taxable year.~~

~~(3) (a) Subject to the other provisions of this Subsection (3), a claimant, estate, or trust may claim a refundable tax credit under this Subsection (3) with respect to a commercial energy system if:~~

~~(i) the commercial energy system does not use:~~

~~(A) wind, geothermal electricity, solar, or biomass equipment capable of producing a total of 660 or more kilowatts of electricity; or~~

~~(B) solar equipment capable of producing 2,000 or more kilowatts of electricity;~~

~~(ii) the claimant, estate, or trust purchases or participates in the financing of the commercial energy system;~~

~~(iii) (A) the commercial energy system supplies all or part of the energy required by commercial units owned or used by the [business entity that is a] claimant, estate, or trust; or~~

~~(B) the [business entity that is a] claimant, estate, or trust sells all or part of the energy produced by the commercial energy system as a commercial enterprise[-];~~

~~(iv) the commercial energy system is completed and placed in service on or after January 1, 2007; and~~

~~(v) the claimant, estate, or trust obtains a written certification from the office in accordance with Subsection (6).~~

~~[(ii) (A) A business entity that is a claimant, estate, or trust is entitled to a] (b) (i) Subject to Subsections (3)(b)(ii) through (v), the tax credit [of up] is equal to 10% of the reasonable costs of [any] the commercial energy system [installed, including].~~

~~(ii) A tax credit under this Subsection (3) may include installation costs[-, against any tax due under this chapter].~~

~~(iii) A claimant, estate, or trust may claim a tax credit under this Subsection (3) for the taxable year in which the commercial energy system is completed and placed in service.~~

~~(iv) A tax credit under this Subsection (3) may not be carried forward or carried back.~~

~~[(B) Notwithstanding Subsection (2)(a)(ii)(A), the]~~

~~(v) The total amount of [the] tax credit a claimant, estate, or trust may claim under this Subsection [(2)(a)] (3) may not exceed \$50,000 per commercial unit.~~

~~[(C) The credit under this Subsection (2)(a) is allowed for any commercial energy system completed and placed in service on or after January 1, 2007.]~~

~~[(iii)] (c) (i) [A business entity that is a claimant, estate, or trust that leases] Subject to Subsections~~

(3)(c)(ii) and (iii), a claimant, estate, or trust that is a lessee of a commercial energy system installed on a commercial unit ~~[is eligible for the]~~ may claim a tax credit under this Subsection ~~[(2)(a)]~~ (3) if the ~~[lessee can confirm]~~ claimant, estate, or trust confirms that the lessor irrevocably elects not to claim the tax credit.

~~[(iv)—Only]~~ (ii) A claimant, estate, or trust described in Subsection (3)(c)(i) may claim as a tax credit under this Subsection (3) only the principal recovery portion of the lease payments~~[, which is the cost incurred by a business entity that is a claimant, estate, or trust in acquiring a commercial energy system, excluding interest charges and maintenance expenses, is eligible for the tax credit under this Subsection (2)(a)].~~

~~[(v) A business entity that is a claimant, estate, or trust that leases a commercial energy system is eligible to use the]~~

(iii) A claimant, estate, or trust described in Subsection (3)(c)(i) may claim a tax credit under this Subsection ~~[(2)(a)]~~ (3) for a period ~~[no greater than]~~ that does not exceed seven taxable years ~~[from the initiation of the lease]~~ after the date the lease begins, as stated in the lease agreement.

~~[(b) (i) A business entity that is a claimant, estate, or trust that owns a commercial energy system situated in Utah using wind, geothermal electricity, or biomass equipment capable of producing a total of 660 or more kilowatts of electricity is entitled to a refundable tax credit as provided in this section if:]~~

(4) (a) Subject to the other provisions of this Subsection (4), a claimant, estate, or trust may claim a refundable tax credit under this Subsection (4) with respect to a commercial energy system if:

(i) the commercial energy system uses wind, geothermal electricity, or biomass equipment capable of producing a total of 660 or more kilowatts of electricity;

(ii) (A) the commercial energy system supplies all or part of the energy required by commercial units owned or used by the ~~[business entity that is a]~~ claimant, estate, or trust; or

(B) the ~~[business entity that is a]~~ claimant, estate, or trust sells all or part of the energy produced by the commercial energy system as a commercial enterprise~~[-];~~

(iii) the commercial energy system is completed and placed in service on or after January 1, 2007; and

(iv) the claimant, estate, or trust obtains a written certification from the office in accordance with Subsection (6).

~~[(ii) A business entity that is a claimant, estate, or trust is entitled to]~~

(b) (i) Subject to Subsections (4)(b)(ii) and (iii), a tax credit under this Subsection ~~[(2)(b)]~~ (4) is equal to the product of:

(A) 0.35 cents; and

(B) the kilowatt hours of electricity produced and ~~[either]~~ used or sold during the taxable year.

~~[(iii) The credit allowed by this Subsection (2)(b):]~~

~~[(A)]~~ (ii) A tax credit under this Subsection (4) may be claimed for production occurring during a period of 48 months beginning with the month in which the commercial energy system is placed in commercial service~~[-]; and]~~.

~~[(B)]~~ (iii) A tax credit under this Subsection (4) may not be carried forward or back.

~~[(iv) A business entity that is a claimant, estate, or trust that leases]~~

(c) A claimant, estate, or trust that is a lessee of a commercial energy system installed on a commercial unit ~~[is eligible for the]~~ may claim a tax credit under this ~~[section]~~ Subsection (4) if the ~~[lessee can confirm]~~ claimant, estate, or trust confirms that the lessor irrevocably elects not to claim the tax credit.

~~[(3) The tax credits provided for under this section are]~~

(5) (a) Subject to the other provisions of this Subsection (5), a claimant, estate, or trust may claim a refundable tax credit as provided in this Subsection (5) if:

(i) the claimant, estate, or trust owns a commercial energy system that uses solar equipment capable of producing a total of 660 or more kilowatts of electricity;

(ii) (A) the commercial energy system supplies all or part of the energy required by commercial units owned or used by the claimant, estate, or trust; or

(B) the claimant, estate, or trust sells all or part of the energy produced by the commercial energy system as a commercial enterprise;

(iii) the claimant, estate, or trust does not claim a tax credit under Subsection (3);

(iv) the commercial energy system is completed and placed in service on or after January 1, 2015; and

(v) the claimant, estate, or trust obtains a written certification from the office in accordance with Subsection (6).

(b) (i) Subject to Subsections (5)(b)(ii) and (iii), a tax credit under this Subsection (5) is equal to the product of:

(A) 0.35 cents; and

(B) the kilowatt hours of electricity produced and used or sold during the taxable year.

(ii) A tax credit under this Subsection (5) may be claimed for production occurring during a period of 48 months beginning with the month in which the commercial energy system is placed in commercial service.

(iii) A tax credit under this Subsection (5) may not be carried forward or carried back.

(c) A claimant, estate, or trust that is a lessee of a commercial energy system installed on a

commercial unit may claim a tax credit under this Subsection (5) if the claimant, estate, or trust confirms that the lessor irrevocably elects not to claim the tax credit.

(6) (a) Before a claimant, estate, or trust may claim a tax credit under this section, the claimant, estate, or trust shall obtain a written certification from the office.

(b) The office shall issue a claimant, estate, or trust a written certification if the office determines that:

(i) the claimant, estate, or trust meets the requirements of this section to receive a tax credit; and

(ii) the office determines that the commercial energy system with respect to which the claimant, estate, or trust seeks to claim a tax credit:

(A) has been completely installed;

(B) is a viable system for saving or producing energy from renewable resources; and

(C) is safe, reliable, efficient, and technically feasible to ensure that the commercial energy system uses the state's renewable and nonrenewable resources in an appropriate and economic manner.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules:

(i) for determining whether a commercial energy system meets the requirements of Subsection (6)(b)(ii); and

(ii) for purposes of a tax credit under Subsection (3), establishing the reasonable costs of a commercial energy system, as an amount per unit of energy production.

(d) A claimant, estate, or trust that obtains a written certification from the office shall retain the certification for the same time period a person is required to keep books and records under Section 59-1-1406.

(7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules to address the certification of a tax credit under this section.

(8) A tax credit under this section is in addition to any tax credits provided under the laws or rules and regulations of the United States.

~~[(4) (a) The office may set standards for commercial energy systems claiming a tax credit under Subsection (2)(a) that cover the safety, reliability, efficiency, leasing, and technical feasibility of the systems to ensure that the systems eligible for the tax credit use the state's renewable and nonrenewable energy resources in an appropriate and economic manner.]~~

~~[(b) A tax credit may not be taken under this section until the office has certified that the commercial energy system has been completely~~

~~installed and is a viable system for saving or production of energy from renewable resources.]~~

~~[(5) The office and the commission may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that are necessary to implement this section.]~~

(9) A purchaser of one or more solar units that claims a tax credit under Section 59-10-1024 for the purchase of the one or more solar units may not claim a tax credit under this section for that purchase.

~~[(6)] (10) (a) On or before October 1, [2012] 2017, and every five years [thereafter] after 2017, the Revenue and Taxation Interim Committee shall review each tax credit provided by this section and report its recommendations to the Legislative Management Committee concerning whether the credit should be continued, modified, or repealed.~~

(b) The Revenue and Taxation Interim Committee's report under Subsection ~~[(6)] (10)(a)~~ shall include information concerning the cost of the credit, the purpose and effectiveness of the credit, and the state's benefit from the credit.

Section 5. Effective date -- Retrospective operation.

(1) This bill takes effect on May 12, 2015.

(2) The actions affecting the following sections have retrospective operation for a taxable year beginning on or after January 1, 2015:

(a) Section 59-7-614;

(b) Section 59-10-1014; and

(c) Section 59-10-1106.

Section 6. Coordinating S.B. 14 with S.B. 13 -- Substantive and technical amendments.

If this S.B. 14 and S.B. 13, Income Tax Amendments, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel prepare the Utah Code database for publication as follows:

(1) Section 59-7-614 in this bill supersedes Section 59-7-614 in S.B. 13;

(2) delete all of Subsection 59-7-614(10) in this bill; and

(3) renumber Subsection 59-7-614(11) in this bill, including the references to Subsection 59-7-614(11) in this bill, to Subsection (10).

CHAPTER 134**S. B. 52**

Passed February 25, 2015

Approved March 24, 2015

Effective July 1, 2015

ASSET FORFEITURE AMENDMENTS

Chief Sponsor: Howard A. Stephenson

House Sponsor: John Knotwell

LONG TITLE**General Description:**

This bill modifies the Forfeiture and Disposition of Property Act by requiring annual reports from law enforcement agencies conducting forfeitures and a summary of the reports by the Commission on Criminal and Juvenile Justice.

Highlighted Provisions:

This bill:

- ▶ deletes current provisions regarding forfeiture reports;
- ▶ establishes detailed requirements for law enforcement agencies to prepare reports providing information regarding any forfeiture actions the agencies have taken;
- ▶ requires agency reports regarding any awards received under the State Asset Forfeiture Grant Program; and
- ▶ establishes a procedure for the compilation of the annual agency reports, the preparation of the reports by the Commission on Criminal and Juvenile Justice, and distribution of the reports to the Legislature.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

24-4-114, as last amended by Laws of Utah 2014, Chapter 112

24-4-117, as last amended by Laws of Utah 2014, Chapter 171

ENACTS:

24-4-118, Utah Code Annotated 1953

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

Section 1. Section 24-4-114 is amended to read:**24-4-114. Transfer and sharing procedures.**

(1) (a) Seizing agencies or prosecuting attorneys authorized to bring forfeiture proceedings under this chapter may not directly or indirectly transfer property held for forfeiture and not already named in a criminal indictment to any federal agency or any governmental entity not created under and subject to state law unless the court enters an order, upon petition of the prosecuting attorney, authorizing the property to be transferred.

(b) The court may not enter an order authorizing a transfer under Subsection (1)(a) unless:

(i) the conduct giving rise to the investigation or seizure is interstate in nature and sufficiently complex to justify the transfer;

(ii) the property may only be forfeited under federal law; or

(iii) pursuing forfeiture under state law would unreasonably burden prosecuting attorneys or state law enforcement agencies.

(c) A petition to transfer property to a federal agency under this section shall include:

(i) a detailed description of the property seized;

(ii) the location where the property was seized;

(iii) the date the property was seized;

(iv) the case number assigned by the seizing law enforcement agency; and

(v) a declaration that:

(A) states the basis for relinquishing jurisdiction to a federal agency;

(B) contains the names and addresses of any claimants then known; and

(C) is signed by the prosecutor.

(d) The court may not authorize the transfer of property to the federal government if the transfer would circumvent the protections of the Utah Constitution or of this chapter that would otherwise be available to the property owner.

(e) (i) Prior to granting any order to transfer pursuant to this section, the court shall give any claimant the right to be heard with regard to the transfer by the mailing of a notice to each address contained in the declaration.

(ii) If no claimant objects to the petition to transfer property within 10 days of the mailing of the notice, the court shall issue its order under this section.

(iii) If the declaration does not include an address for a claimant, the court shall delay its order under this section for 20 days to allow time for the claimant to appear and make an objection.

(f) (i) If a claimant contests a petition to transfer property to a federal agency, the court shall promptly set the matter for hearing.

(ii) (A) The court shall determine whether the state may relinquish jurisdiction by a standard of preponderance of the evidence.

(B) In making the determination, the court shall consider evidence regarding hardship, complexity, judicial and law enforcement resources, and any other matter the court determines to be relevant.

(2) All property, money, or other things of value received by an agency pursuant to federal law, which authorizes the sharing or transfer of all or a portion of forfeited property or the proceeds of the sale of forfeited property to an agency:

(a) shall be used in compliance with federal laws and regulations relating to equitable sharing;

(b) may be used for those law enforcement purposes specified in Subsection 24-4-117(9); and

(c) may not be used for those law enforcement purposes prohibited in Subsection 24-4-117(10).

(3) A state or local law enforcement agency awarded any equitable share of property forfeited by the federal government may only use the award money after approval of the use by the agency's legislative body.

~~[(4) Each year, every agency awarded any equitable share of property forfeited by the federal government shall file with the commission:]~~

~~[(a) a copy of that agency's federal equitable sharing certification; and]~~

~~[(b) information, on a form provided by the commission, that details all awards received from the federal government during the preceding reporting period, including:]~~

~~[(i) the agency's case number or other identification;]~~

~~[(ii) the amount of the award;]~~

~~[(iii) the date of the award;]~~

~~[(iv) the identity of any federal agency involved in the forfeiture;]~~

~~[(v) how the awarded property has been used; and]~~

~~[(vi) a statement signed by both the agency's executive officer or designee and by the agency's legal counsel confirming that the agency has only used the awarded property for crime reduction or law enforcement purposes authorized under Section 24-4-117, and only upon approval by the agency's legislative body.]~~

Section 2. Section 24-4-117 is amended to read:

24-4-117. State Asset Forfeiture Grant Program.

(1) There is created the State Asset Forfeiture Grant Program.

(2) The program shall fund crime prevention, crime victim reparations, and law enforcement activities that have the purpose of:

(a) deterring crime by depriving criminals of the profits and proceeds of their illegal activities;

(b) weakening criminal enterprises by removing the instrumentalities of crime;

(c) reducing crimes involving substance abuse by supporting the creation, administration, or operation of drug court programs throughout the state;

(d) encouraging cooperation between local, state, and multijurisdictional law enforcement agencies;

(e) allowing the costs and expenses of law enforcement to be defrayed by the forfeited proceeds of crime;

(f) increasing the equitability and accountability of the use of forfeited property used to assist law enforcement in reducing and preventing crime; and

(g) providing aid to victims of criminally injurious conduct, as defined in Section 63M-7-502, who may be eligible for assistance under Title 63M, Chapter 7, Part 5, Utah Office for Victims of Crime.

(3) (a) When property is forfeited under this chapter and transferred to the account, upon appropriation the commission shall allocate and administer grants to state agencies, local law enforcement agencies, multijurisdictional law enforcement agencies, or political subdivisions of the state in compliance with this section and to further the program purposes under Subsection (2).

(b) The commission may retain up to 3% of the annual appropriation from the account to pay for administrative costs incurred by the commission, including salary and benefits, equipment, supplies, or travel costs that are directly related to the administration of the program.

(4) Agencies or political subdivisions shall apply for an award from the program by completing and submitting forms specified by the commission.

(5) In granting the awards, the commission shall ensure that the amount of each award takes into consideration the:

(a) demonstrated needs of the agency;

(b) demonstrated ability of the agency to appropriately use the award;

(c) degree to which the agency's need is offset through the agency's participation in federal equitable sharing or through other federal and state grant programs; and

(d) agency's cooperation with other state and local agencies and task forces.

(6) Applying agencies or political subdivisions shall demonstrate compliance with all reporting and policy requirements applicable under this chapter and under Title 63M, Chapter 7, Criminal Justice and Substance Abuse, in order to qualify as a potential award recipient.

(7) (a) Recipient law enforcement agencies may only use award money after approval by the agency's legislative body.

(b) The award money is nonlapsing.

(8) A recipient state agency, local law enforcement agency, multijurisdictional law enforcement agency, or political subdivision shall use awards only for law enforcement purposes as described in this section or for victim reparations as described in Subsection (2)(g), and only as these purposes are specified by the agency or political subdivision in its application for the award.

(9) Permissible law enforcement purposes for which award money may be used include:

(a) controlled substance interdiction and enforcement activities;

(b) drug court programs;

(c) activities calculated to enhance future law enforcement investigations;

(d) law enforcement training that includes:

(i) implementation of the Fourth Amendment to the United States Constitution and Utah Constitution, Article I, Section 7, and that addresses the protection of the individual's right of due process;

(ii) protection of the rights of innocent property holders; and

(iii) the Tenth Amendment to the United States Constitution regarding states' sovereignty and the states' reserved rights;

(e) law enforcement or detention facilities;

(f) law enforcement operations or equipment that are not routine costs or operational expenses;

(g) drug, gang, or crime prevention education programs that are sponsored in whole or in part by the law enforcement agency or its legislative body;

(h) matching funds for other state or federal law enforcement grants; and

(i) the payment of legal costs, attorney fees, and postjudgment interest in forfeiture actions.

(10) Law enforcement purposes for which award money may not be granted or used include:

(a) payment of salaries, retirement benefits, or bonuses to any person;

(b) payment of expenses not related to law enforcement;

(c) uses not specified in the agency's award application;

(d) uses not approved by the agency's legislative body;

(e) payments, transfers, or pass-through funding to entities other than law enforcement agencies; or

(f) uses, payments, or expenses that are not within the scope of the agency's functions.

~~[(11) (a) For each fiscal year, any state, local, or multijurisdictional agency or political subdivision that received an award shall prepare, and file with the commission, a report in a form specified by the commission.]~~

~~[(b) The report shall include the following regarding each award:]~~

~~[(i) the agency's name;]~~

~~[(ii) the amount of the award;]~~

~~[(iii) the date of the award;]~~

~~[(iv) how the award has been used; and]~~

~~[(v) a statement signed by both the agency's or political subdivision's executive officer or designee and by the agency's legal counsel, that:]~~

~~[(A) the agency or political subdivision has complied with all inventory, policy, and reporting requirements of this chapter; and]~~

~~[(B) all awards were used for crime reduction, crime victim reparations, or law enforcement purposes as specified in the application and only upon approval by the agency's or political subdivision's legislative body.]~~

~~[(12) (a) The commission shall report in writing to the legislative Law Enforcement and Criminal Justice Interim Committee annually regarding the forfeited property transferred to the account, awards made by the program, uses of program awards, and any equitable share of property forfeited by the federal government as reported by agencies pursuant to Subsection 24-4-114(4).]~~

~~[(b) The report shall be submitted annually on or before November 1.]~~

Section 3. Section 24-4-118 is enacted to read:

24-4-118. Forfeiture reporting requirements.

(1) On and after January 1, 2016, every state, county, municipal, or other law enforcement agency shall, when transferring the final disposition of any civil or criminal forfeiture matter to the Commission on Criminal and Juvenile Justice as required under this chapter, provide all available data described in Subsection (5), along with the transfer of any applicable forfeited property.

(2) The Commission on Criminal and Juvenile Justice shall develop a standardized report format that each agency shall use in reporting the data required under this section.

(3) The Commission on Criminal and Juvenile Justice shall annually, on or before April 30, prepare a summary report of the case data submitted by each agency under Subsection (1) during the prior calendar year.

(4) (a) If an agency does not comply with the reporting requirements under this section, the Commission on Criminal and Juvenile Justice shall contact the agency and request that the agency comply with the required reporting provisions.

(b) If an agency fails to comply with the reporting requirements under this section within 30 days after receiving the request to comply, the Commission on Criminal and Juvenile Justice shall report the noncompliance to the Utah attorney general, the speaker of the House of Representatives, and the president of the Senate.

(5) The data for any civil or criminal forfeiture matter for which final disposition has been made under Subsection (1) shall include:

(a) the agency that conducted the seizure;

(b) the case number or other identification;

(c) the date or dates on which the seizure was conducted;

(d) the number of individuals having a known property interest in each seizure of property;

- (e) the type of property seized;
- (f) the alleged offense that was the cause for seizure of the property;
- (g) the type of enforcement action that resulted in the seizure, including an enforcement stop, a search warrant, or an arrest warrant;
- (h) whether the forfeiture procedure was civil or criminal;
- (i) the final disposition of the matter, including whether final disposition was entered by stipulation of the parties, including the amount of property returned to any claimant, by default, by summary judgment, by jury award, or by guilty plea or verdict in a criminal forfeiture; and
- (j) if the property was transferred to a federal agency or any governmental entity not created under and subject to state law:
- (i) the date of the transfer;
- (ii) the name of the federal agency or entity to which the property was transferred;
- (iii) a reference to which reason under Subsection 24-4-114(1)(a) justified the transfer;
- (iv) the court or agency where the forfeiture case was heard;
- (v) the date of the order of transfer of the property; and
- (vi) the value of the property transferred to the federal agency, including currency and the estimated market value of any tangible property.
- (6) On and after January 1, 2016, every state, county, municipal, or other law enforcement agency shall annually on or before April 30 submit a report for the prior calendar year to the Commission on Criminal and Juvenile Justice which states:
- (a) whether the agency received an award from the State Asset Forfeiture Grant Program under Section 24-4-117 and, if so, the following information for each award:
- (i) the amount of the award;
- (ii) the date of the award;
- (iii) how the award was used or is planned to be used; and
- (iv) a statement signed by both the agency's executive officer or designee and by the agency's legal counsel, that:
- (A) the agency has complied with all inventory, policy, and reporting requirements under Section 24-4-117; and
- (B) all awards were used for crime reduction or law enforcement purposes as specified in the application and that the awards were used only upon approval by the agency's legislative body; and
- (b) whether the agency received any property, money, or other things of value pursuant to federal law as described in Subsection 24-4-114(2) and, if

so, the following information for each piece of property, money, or other thing of value:

- (i) the case number or other case identification;
- (ii) the value of the award and the property, money, or other things of value received by the agency;
- (iii) the date of the award;
- (iv) the identity of any federal agency involved in the forfeiture;
- (v) how the awarded property has been used or is planned to be used; and
- (vi) a statement signed by both the agency's executive officer or designee and by the agency's legal counsel, that the agency has only used the award for crime reduction or law enforcement purposes authorized under Section 24-4-117, and that the award was used only upon approval by the agency's legislative body.

(7) (a) On or before July 1 of each year, the Commission on Criminal and Juvenile Justice shall submit notice of the annual reports in Subsection (3) and Subsection (6), in electronic format, to:

- (i) the Utah attorney general;
- (ii) the speaker of the House of Representatives, for referral to any House standing or interim committees with oversight over law enforcement and criminal justice;
- (iii) the president of the Senate, for referral to any Senate standing or interim committees with oversight over law enforcement and criminal justice; and
- (iv) each law enforcement agency.

(b) The reports described in Subsection (3) and Subsection (6), as well as the individual case data described in Subsection (1) for the previous calendar year, shall be published on the Utah Open Government website at open.utah.gov on or before July 15 of each year.

Section 4. Effective date.

This bill takes effect on July 1, 2015.

CHAPTER 135**S. B. 61**

Passed February 23, 2015

Approved March 24, 2015

Effective May 12, 2015

MEDICAID AUDIT AMENDMENTS

Chief Sponsor: Lyle W. Hillyard
House Sponsor: Edward H. Redd

LONG TITLE**General Description:**

This bill establishes Medicaid audit standards for the Medicaid program administered by the Department of Health, and for the Office of Inspector General of Medicaid Services.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires the Department of Health to adopt administrative rules, in consultation with providers, for Medicaid audit and investigation procedures;
- ▶ establishes certain audit and investigation standards for audits and investigations conducted by the Medicaid program within the Department of Health and by the Office of Inspector General of Medicaid Services;
- ▶ makes technical amendments to the Medicaid audit functions of the Office of Internal Audit and Program Integrity within the Department of Health; and
- ▶ makes technical amendments.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

26-18-602, as enacted by Laws of Utah 2011, Chapter 362

26-18-603, as enacted by Laws of Utah 2011, Chapter 362

26-18-604, as last amended by Laws of Utah 2013, Chapter 167

26-18-605, as enacted by Laws of Utah 2011, Chapter 362

63A-13-102, as renumbered and amended by Laws of Utah 2013, Chapter 12

63A-13-204, as last amended by Laws of Utah 2013, Chapter 359 and renumbered and amended by Laws of Utah 2013, Chapter 12

ENACTS:

26-18-20, Utah Code Annotated 1953

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

Section 1. Section 26-18-20 is enacted to read:**26-18-20. Review of claims -- Audit and investigation procedures.**

(1) (a) The department shall adopt administrative rules in accordance with Title 63G,

Chapter 3, Utah Administrative Rulemaking Act, and in consultation with providers and health care professionals subject to audit and investigation under the state Medicaid program, to establish procedures for audits and investigations that are fair and consistent with the duties of the department as the single state agency responsible for the administration of the Medicaid program under Section 26-18-3 and Title XIX of the Social Security Act.

(b) If the providers and health care professionals do not agree with the rules proposed or adopted by the department under Subsection (1)(a), the providers or health care professionals may:

(i) request a hearing for the proposed administrative rule or seek any other remedies under the provisions of Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(ii) request a review of the rule by the Legislature's Administrative Rules Review Committee created in Section 63G-3-501.

(2) The department shall:

(a) notify and educate providers and health care professionals subject to audit and investigation under the Medicaid program of the providers' and health care professionals' responsibilities and rights under the administrative rules adopted by the department under the provisions of this section;

(b) ensure that the department, or any entity that contracts with the department to conduct audits:

(i) has on staff or contracts with a medical or dental professional who is experienced in the treatment, billing, and coding procedures used by the type of provider being audited; and

(ii) uses the services of the appropriate professional described in Subsection (3)(b)(i) if the provider who is the subject of the audit disputes the findings of the audit;

(c) ensure that a finding of overpayment or underpayment to a provider is not based on extrapolation, as defined in Section 63A-13-102, unless:

(i) there is a determination that the level of payment error involving the provider exceeds a 10% error rate:

(A) for a sample of claims for a particular service code; and

(B) over a three year period of time;

(ii) documented education intervention has failed to correct the level of payment error; and

(iii) the value of the claims for the provider, in aggregate, exceeds \$200,000 in reimbursement for a particular service code on an annual basis; and

(d) require that any entity with which the office contracts, for the purpose of conducting an audit of a service provider, shall be paid on a flat fee basis for identifying both overpayments and underpayments.

(3) (a) If the department, or a contractor on behalf of the department:

(i) intends to implement the use of extrapolation as a method of auditing claims, the department shall, prior to adopting the extrapolation method of auditing, report its intent to use extrapolation to the Social Services Appropriations Subcommittee; and

(ii) determines Subsections (2)(c)(i) through (iii) are applicable to a provider, the department or the contractor may use extrapolation only for the service code associated with the findings under Subsections (2)(c)(i) through (iii).

(b) (i) If extrapolation is used under this section, a provider may, at the provider's option, appeal the results of the audit based on:

(A) each individual claim; or

(B) the extrapolation sample.

(ii) Nothing in this section limits a provider's right to appeal the audit under Title 63G, Administrative Code, Title 63G, Chapter 4, Administrative Procedures Act, the Medicaid program and its manual or rules, or other laws or rules that may provide remedies to providers.

Section 2. Section 26-18-602 is amended to read:

26-18-602. Definitions.

As used in this part:

(1) "Abuse" means:

(a) an action or practice that:

(i) is inconsistent with sound fiscal, business, or medical practices; and

(ii) results, or may result, in unnecessary Medicaid related costs or other medical or hospital assistance costs; or

(b) reckless or negligent upcoding.

(2) "Auditor's Office" means the Office of Internal Audit [~~and Program Integrity~~], within the department.

(3) "Fraud" means intentional or knowing:

(a) deception, misrepresentation, or upcoding in relation to Medicaid funds, costs, claims, reimbursement, or practice; or

(b) deception or misrepresentation in relation to medical or hospital assistance funds, costs, claims, reimbursement, or practice.

(4) "Medical or hospital assistance" is as defined in Section 26-18-2.

(5) "Upcoding" means assigning an inaccurate billing code for a service that is payable or reimbursable by Medicaid funds, if the correct billing code for the service, taking into account reasonable opinions derived from official published coding definitions, would result in a lower Medicaid payment or reimbursement.

(6) "Waste" means overutilization of resources or inappropriate payment.

Section 3. Section 26-18-603 is amended to read:

26-18-603. Adjudicative proceedings related to Medicaid funds.

(1) If a proceeding of the department, under Title 63G, Chapter 4, Administrative Procedures Act, relates in any way to recovery of Medicaid funds:

(a) the presiding officer shall be designated by the executive director of the department and report directly to the executive director or, in the discretion of the executive director, report directly to the director of the Office of Internal Audit [~~and Program Integrity~~]; and

(b) the decision of the presiding officer is the recommended decision to the executive director of the department or a designee of the executive director who is not in the division.

(2) Subsection (1) does not apply to hearings conducted by the Department of Workforce Services relating to medical assistance eligibility determinations.

(3) If a proceeding of the department, under Title 63G, Chapter 4, Administrative Procedures Act, relates in any way to Medicaid or Medicaid funds, the following may attend and present evidence or testimony at the proceeding:

(a) the director of the Office of Internal Audit [~~and Program Integrity~~], or the director's designee; and

(b) the inspector general of Medicaid services [~~if an Office of Inspector General of Medicaid Services is created by statute~~], or the inspector general's designee.

(4) In relation to a proceeding of the department under Title 63G, Chapter 4, Administrative Procedures Act, a person may not, outside of the actual proceeding, attempt to influence the decision of the presiding officer.

Section 4. Section 26-18-604 is amended to read:

26-18-604. Division duties -- Reporting.

(1) The division shall:

(a) develop and implement procedures relating to Medicaid funds and medical or hospital assistance funds to ensure that providers do not receive:

(i) duplicate payments for the same goods or services;

(ii) payment for goods or services by resubmitting a claim for which:

(A) payment has been disallowed on the grounds that payment would be a violation of federal or state law, administrative rule, or the state plan; and

(B) the decision to disallow the payment has become final;

(iii) payment for goods or services provided after a recipient's death, including payment for pharmaceuticals or long-term care; or

(iv) payment for transporting an unborn infant;

(b) consult with the Centers for Medicaid and Medicare Services, other states, and the Office of Inspector General ~~for~~ of Medicaid Services, ~~if one is created by statute,~~ to determine and implement best practices for discovering and eliminating fraud, waste, and abuse of Medicaid funds and medical or hospital assistance funds;

(c) actively seek repayment from providers for improperly used or paid:

- (i) Medicaid funds; and
- (ii) medical or hospital assistance funds;

(d) coordinate, track, and keep records of all division efforts to obtain repayment of the funds described in Subsection (1)(c), and the results of those efforts;

(e) keep Medicaid pharmaceutical costs as low as possible by actively seeking to obtain pharmaceuticals at the lowest price possible, including, on a quarterly basis for the pharmaceuticals that represent the highest 45% of state Medicaid expenditures for pharmaceuticals and on an annual basis for the remaining pharmaceuticals:

(i) tracking changes in the price of pharmaceuticals;

(ii) checking the availability and price of generic drugs;

(iii) reviewing and updating the state's maximum allowable cost list; and

(iv) comparing pharmaceutical costs of the state Medicaid program to available pharmacy price lists; and

(f) provide training, on an annual basis, to the employees of the division who make decisions on billing codes, or who are in the best position to observe and identify upcoding, in order to avoid and detect upcoding.

(2) Each year, the division shall report the following to the Social Services Appropriations Subcommittee:

(a) incidents of improperly used or paid Medicaid funds and medical or hospital assistance funds;

(b) division efforts to obtain repayment from providers of the funds described in Subsection (2)(a);

(c) all repayments made of funds described in Subsection (2)(a), including the total amount recovered; and

(d) the division's compliance with the recommendations made in the December 2010 Performance Audit of Utah Medicaid Provider Cost Control published by the Office of Legislative Auditor General.

Section 5. Section 26-18-605 is amended to read:
26-18-605. Utah Office of Internal Audit.

The Utah Office of Internal Audit ~~and Program Integrity~~:

(1) may not be placed within the division;

(2) shall be placed directly under, and report directly to, the executive director of the Department of Health; and

(3) shall have full access to all records of the division.

Section 6. Section 63A-13-102 is amended to read:

63A-13-102. Definitions.

As used in this chapter:

(1) "Abuse" means:

(a) an action or practice that:

(i) is inconsistent with sound fiscal, business, or medical practices; and

(ii) results, or may result, in unnecessary Medicaid related costs; or

(b) reckless or negligent upcoding.

(2) "Claimant" means a person that:

(a) provides a service; and

(b) submits a claim for Medicaid reimbursement for the service.

(3) "Department" means the Department of Health, created in Section 26-1-4.

(4) "Division" means the Division of Health Care Financing, created in Section 26-18-2.1.

(5) "Extrapolation" means a method of using a mathematical formula that takes the audit results from a small sample of Medicaid claims and projects those results over a much larger group of Medicaid claims.

~~(5)~~ (6) "Fraud" means intentional or knowing:

(a) deception, misrepresentation, or upcoding in relation to Medicaid funds, costs, a claim, reimbursement, or services; or

(b) a violation of a provision of Sections 26-20-3 through 26-20-7.

~~(6)~~ (7) "Fraud unit" means the Medicaid Fraud Control Unit of the attorney general's office.

~~(7)~~ (8) "Health care professional" means a person licensed under:

(a) Title 58, Chapter 5a, Podiatric Physician Licensing Act;

(b) Title 58, Chapter 16a, Utah Optometry Practice Act;

(c) Title 58, Chapter 17b, Pharmacy Practice Act;

(d) Title 58, Chapter 24b, Physical Therapy Practice Act;

(e) Title 58, Chapter 31b, Nurse Practice Act;

(f) Title 58, Chapter 40, Recreational Therapy Practice Act;

(g) Title 58, Chapter 41, Speech-Language Pathology and Audiology Licensing Act;

(h) Title 58, Chapter 42a, Occupational Therapy Practice Act;

(i) Title 58, Chapter 44a, Nurse Midwife Practice Act;

(j) Title 58, Chapter 49, Dietitian Certification Act;

(k) Title 58, Chapter 60, Mental Health Professional Practice Act;

(l) Title 58, Chapter 67, Utah Medical Practice Act;

(m) Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;

(n) Title 58, Chapter 69, Dentist and Dental Hygienist Practice Act;

(o) Title 58, Chapter 70a, Physician Assistant Act; and

(p) Title 58, Chapter 73, Chiropractic Physician Practice Act.

[~~8~~] (9) "Inspector general" means the inspector general of the office, appointed under Section 63A-13-201.

[~~9~~] (10) "Office" means the Office of Inspector General of Medicaid Services, created in Section 63A-13-201.

[~~10~~] (11) "Provider" means a person that provides:

(a) medical assistance, including supplies or services, in exchange, directly or indirectly, for Medicaid funds; or

(b) billing or recordkeeping services relating to Medicaid funds.

[~~11~~] (12) "Upcoding" means assigning an inaccurate billing code for a service that is payable or reimbursable by Medicaid funds, if the correct billing code for the service, taking into account reasonable opinions derived from official published coding definitions, would result in a lower Medicaid payment or reimbursement.

[~~12~~] (13) "Waste" means overutilization of resources or inappropriate payment.

Section 7. Section 63A-13-204 is amended to read:

63A-13-204. Selection and review of claims.

(1) (a) The office shall periodically select and review a representative sample of claims submitted for reimbursement under the state Medicaid program to determine whether fraud, waste, or abuse occurred.

(b) The office shall limit its review for waste and abuse under Subsection (1)(a) to 36 months prior to the date of the inception of the investigation or 72 months if there is a credible allegation of fraud. In the event the office or the fraud unit determines

that there is fraud as defined in [Subsection] Section 63A-13-102[~~5~~], then the statute of limitations defined in Subsection 26-20-15(1) shall apply.

(2) The office may directly contact the recipient of record for a Medicaid reimbursed service to determine whether the service for which reimbursement was claimed was actually provided to the recipient of record.

(3) The office shall:

(a) generate statistics from the sample described in Subsection (1) to determine the type of fraud, waste, or abuse that is most advantageous to focus on in future audits or investigations[-];

(b) ensure that the office, or any entity that contracts with the office to conduct audits:

(i) has on staff or contracts with a medical or dental professional who is experienced in the treatment, billing, and coding procedures used by the type of provider being audited; and

(ii) uses the services of the appropriate professional described in Subsection (3)(b)(i) if the provider who is the subject of the audit disputes the findings of the audit;

(c) ensure that a finding of overpayment or underpayment to a provider is not based on extrapolation, unless:

(i) there is a determination that the level of payment error involving the provider exceeds a 10% error rate:

(A) for a sample of claims for a particular service code; and

(B) over a three year period of time;

(ii) documented education intervention has failed to correct the level of payment error; and

(iii) the value of the claims for the provider, in aggregate, exceeds \$200,000 in reimbursement for a particular service code on an annual basis; and

(d) require that any entity with which the office contracts, for the purpose of conducting an audit of a service provider, shall be paid on a flat fee basis for identifying both overpayments and underpayments.

(4) (a) If the office, or a contractor on behalf of the department:

(i) intends to implement the use of extrapolation as a method of auditing claims, the department shall, prior to adopting the extrapolation method of auditing, report its intent to use extrapolation to:

(A) the Social Services Appropriations Subcommittee; and

(B) the Executive Appropriations Committee pursuant to Section 63A-13-502; and

(ii) determines Subsections (2)(c)(i) through (iii) are applicable to a provider, the office or the contractor may use extrapolation only for the service code associated with the findings under Subsections (2)(c)(i) through (iii).

(b) (i) If extrapolation is used under this section, a provider may, at the provider's option, appeal the results of the audit based on:

(A) each individual claim; or

(B) the extrapolation sample.

(ii) Nothing in this section limits a provider's right to appeal the audit under Title 63G, Administrative Code, Title 63G, Chapter 4, Administrative Procedures Act, the Medicaid program and its manual or rules, or other laws or rules that may provide remedies to providers.

CHAPTER 136**S. B. 76**

Passed March 12, 2015
 Approved March 24, 2015
 Effective May 12, 2015

**RURAL PHYSICIAN LOAN
 REPAYMENT PROGRAM**

Chief Sponsor: David P. Hinkins
 House Sponsor: Stewart Barlow

LONG TITLE**General Description:**

This bill creates the Rural Physician Loan Repayment Program.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ creates the Rural Physician Loan Repayment Program within the Department of Health;
- ▶ grants rulemaking authority;
- ▶ creates the Rural Physician Loan Repayment Program Advisory Committee; and
- ▶ amends the Budgetary Procedures Act to specify that revenues and appropriations to the program are nonlapsing.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63J-1-602.1, as last amended by Laws of Utah 2014, Chapter 384

ENACTS:

26-46a-101, Utah Code Annotated 1953
 26-46a-102, Utah Code Annotated 1953
 26-46a-103, Utah Code Annotated 1953
 26-46a-104, Utah Code Annotated 1953

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

Section 1. Section 26-46a-101 is enacted to read:**CHAPTER 46a. RURAL PHYSICIAN LOAN
 REPAYMENT PROGRAM****26-46a-101. Title.**

This chapter is known as “Rural Physician Loan Repayment Program.”

Section 2. Section 26-46a-102 is enacted to read:**26-46a-102. Definitions.**

As used in this chapter:

(1) “Hospital” means a general acute hospital, as defined in Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.

(2) “Physician” means a person:

(a) licensed as a physician under Title 58, Chapter 67, Utah Medical Practice Act; or

(b) licensed as a physician under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

(3) “Rural county” means a county with a population of less than 50,000, as determined by:

(a) the most recent official census or census estimate of the United States Census Bureau; or

(b) the most recent population estimate for the county from the Utah Population Estimates Committee, if a population figure for the county is not available under Subsection (3)(a).

(4) “Rural hospital” means a hospital located within a rural county.

Section 3. Section 26-46a-103 is enacted to read:**26-46a-103. Rural Physician Loan****Repayment Program -- Purpose --****Repayment limit -- Funding -- Reporting -- Rulemaking -- Advisory committee.**

(1) There is created within the department the Rural Physician Loan Repayment Program to provide, within funding appropriated by the Legislature for this purpose, education loan repayment assistance to physicians in accordance with Subsection (2).

(2) The department may enter into an education loan repayment assistance contract with a physician if:

(a) the physician:

(i) locates or continues to practice in a rural county; and

(ii) has a written commitment from a rural hospital that the hospital will provide education loan repayment assistance to the physician;

(b) the assistance provided by the program does not exceed the assistance provided by the rural hospital; and

(c) the physician is otherwise eligible for assistance under administrative rules adopted under Subsection (6).

(3) Funding for the program:

(a) shall be a line item within an appropriations act;

(b) may be used to pay for the per diem and travel expenses of the Rural Physician Loan Repayment Program Advisory Committee under Subsection 26-46a-104(5); and

(c) may be used to pay for department expenses incurred in the administration of the program:

(i) including administrative support provided to the Rural Physician Loan Repayment Program Advisory Committee created under Subsection 26-46a-104(7); and

(ii) in an amount not exceeding 10% of funding for the program.

(4) Refunds of loan repayment assistance, penalties for breach of contract, and other payments to the program are dedicated credits to the program.

(5) The department shall prepare an annual report of the program's revenues, expenditures, and outcomes.

(6) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules governing the administration of the program, including rules that address:

(i) application procedures;

(ii) eligibility criteria;

(iii) verification of the amount provided by a rural hospital to a physician for repayment of the physician's education loans;

(iv) service conditions, which at a minimum shall include professional service by the physician in the rural hospital providing loan repayment assistance to the physician;

(v) selection criteria and assistance amounts;

(vi) penalties for failure to comply with service conditions or other terms of a loan repayment assistance contract; and

(vii) criteria for modifying or waiving service conditions or penalties in the case of extreme hardship or for other good cause.

(b) The department shall seek and consider the recommendations of the Rural Physician Loan Repayment Program Advisory Committee created under Section 26-46a-104 as it develops and modifies rules to administer the program.

Section 4. Section 26-46a-104 is enacted to read:

26-46a-104. Rural Physician Loan Repayment Program Advisory Committee -- Membership -- Compensation -- Duties.

(1) There is created the Rural Physician Loan Repayment Program Advisory Committee consisting of the following eight members appointed by the executive director:

(a) two legislators whose districts include rural counties;

(b) five administrators of rural hospitals nominated by an association representing Utah hospitals, no more than two of whom are employed by hospitals affiliated by ownership; and

(c) a physician currently practicing in a rural county.

(2) An appointment to the committee shall be for a four-year term unless the member is appointed to complete an unexpired term. The executive director shall adjust the length of term at the time of appointment or reappointment so that approximately one-half of the committee is appointed every two years. The executive director

shall annually appoint a committee chair from among the members of the committee.

(3) (a) The committee shall meet at the call of:

(i) the chair;

(ii) at least three members of the committee; or

(iii) the executive director.

(b) The committee shall meet at least once each calendar year.

(4) A majority of the members of the committee constitutes a quorum. The action of a majority of a quorum constitutes the action of the committee.

(5) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(6) The committee shall make recommendations to the department for the development and modification of rules to administer the Rural Physician Loan Repayment Program.

(7) As funding permits, the department shall provide staff and other administrative support to the committee.

Section 5. Section 63J-1-602.1 is amended to read:

63J-1-602.1. List of nonlapsing accounts and funds -- General authority and Title 1 through Title 30.

(1) Appropriations made to the Legislature and its committees.

(2) The Percent-for-Art Program created in Section 9-6-404.

(3) The Martin Luther King, Jr. Civil Rights Support Restricted Account created in Section 9-18-102.

(4) The LeRay McAllister Critical Land Conservation Program created in Section 11-38-301.

(5) An appropriation made to the Division of Wildlife Resources for the appraisal and purchase of lands under the Pelican Management Act, as provided in Section 23-21a-6.

(6) Award money under the State Asset Forfeiture Grant Program, as provided under Section 24-4-117.

(7) Funds collected from the emergency medical services grant program, as provided in Section 26-8a-207.

(8) The Prostate Cancer Support Restricted Account created in Section 26-21a-303.

(9) State funds appropriated for matching federal funds in the Children's Health Insurance Program as provided in Section 26-40-108.

(10) The Utah Health Care Workforce Financial Assistance Program created in Section 26-46-102.

(11) The primary care grant program created in Section 26-10b-102.

(12) The Rural Physician Loan Repayment Program created in Section 26-46a-103.

CHAPTER 137**S. B. 77**

Passed March 11, 2015
 Approved March 24, 2015
 Effective May 12, 2015

**ADOPTION RECORDS
ACCESS AMENDMENTS**

Chief Sponsor: Todd Weiler
 House Sponsor: V. Lowry Snow

LONG TITLE**General Description:**

This bill modifies provisions related to accessing adoption documents.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ establishes procedures for the Office of Vital Records and Statistics (the office) to make adoption documents available for inspection and copying;
- ▶ provides that a birth parent may elect to permit identifying information about the birth parent to be made available for inspection and copying;
- ▶ provides for the establishment of fees relating to use of a mutual-consent, voluntary adoption registry (the registry) and other requests for adoption records;
- ▶ provides for the release of information from the registry if a birth parent dies;
- ▶ provides for funding, automating, and improving the services described in this bill;
- ▶ requires the office to establish a fee relating to requesting adoption documents; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2016:

- ▶ to the Department of Health - Adoption Records Access:
 - from the General Fund, \$55,000, subject to intent language that the appropriation shall be used for the purposes described in Subsection 78B-6-144.5(2); and
 - from the Dedicated Credits Revenue, \$26,200, subject to intent language that the appropriation shall be used for the purposes described in Subsection 78B-6-144.5(2).

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

- 26-2-2, as last amended by Laws of Utah 2013, Chapter 397
 26-2-10, as last amended by Laws of Utah 2008, Chapter 3
 26-2-22, as last amended by Laws of Utah 2012, Chapter 391
 63J-1-602.5, as last amended by Laws of Utah 2011, Chapters 208, 303, and 342
 78B-6-103, as last amended by Laws of Utah 2012, Chapter 340
 78B-6-115, as last amended by Laws of Utah 2012, Chapter 340

78B-6-116, as renumbered and amended by Laws of Utah 2008, Chapter 3

78B-6-141, as last amended by Laws of Utah 2012, Chapter 340

78B-6-144, as last amended by Laws of Utah 2012, Chapter 340

ENACTS:

78B-6-144.5, Utah Code Annotated 1953

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

Section 1. Section 26-2-2 is amended to read:**26-2-2. Definitions.**

As used in this chapter:

(1) "Adoption document" means an adoption-related document filed with the office, a petition for adoption, a decree of adoption, an original birth certificate, or evidence submitted in support of a supplementary birth certificate.

~~(1)~~ (2) "Advanced practice registered nurse" means a person licensed to practice as an advanced practice registered nurse in this state under Title 58, Chapter 31b, Nurse Practice Act.

~~(2)~~ (3) "Custodial funeral service director" means a funeral service director who:

(a) is employed by a licensed funeral establishment; and

(b) has custody of a dead body.

~~(3)~~ (4) "Dead body" or "decedent" means a human body or parts of the human body from the condition of which it reasonably may be concluded that death occurred.

~~(4)~~ (5) "Dead fetus" means a product of human conception, other than those circumstances described in Subsection 76-7-301(1):

(a) of 16 weeks' gestation or more, calculated from the date the last normal menstrual period began to the date of delivery; and

(b) that was not born alive.

~~(5)~~ (6) "Declarant father" means a male who claims to be the genetic father of a child, and, along with the biological mother, signs a voluntary declaration of paternity to establish the child's paternity.

~~(6)~~ (7) "Dispositioner" means:

(a) a person designated in a written instrument, under Subsection 58-9-602(1), as having the right and duty to control the disposition of the decedent, if the person voluntarily acts as the dispositioner; or

(b) the next of kin of the decedent, if:

(i) (A) a person has not been designated as described in Subsection ~~[(6)]~~ (7)(a); or

(B) the person described in Subsection ~~[(6)]~~ (7)(a) is unable or unwilling to exercise the right and duty described in Subsection ~~[(6)]~~ (7)(a); and

(ii) the next of kin voluntarily acts as the dispositioner.

[47] (8) "File" means the submission of a completed certificate or other similar document, record, or report as provided under this chapter for registration by the state registrar or a local registrar.

[48] (9) "Funeral service director" means the same as that term is [as] defined in Section 58-9-102.

[49] (10) "Health care facility" means the same as that term is [as] defined in Section 26-21-2.

[40] (11) "Health care professional" means a physician or nurse practitioner.

[41] (12) "Licensed funeral establishment" means a funeral service establishment, as defined in Section 58-9-102, that is licensed under Title 58, Chapter 9, Funeral Services Licensing Act.

[42] (13) "Live birth" means the birth of a child who shows evidence of life after the child is entirely outside of the mother.

[43] (14) "Local registrar" means a person appointed under Subsection 26-2-3(2)(b).

[44] (15) "Nurse practitioner" means an advanced practice registered nurse specializing as a nurse practitioner who has completed an education program regarding the completion of a certificate of death developed by the department by administrative rule adopted in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

[16] "Office" means the Office of Vital Records and Statistics within the Department of Health, operating under Title 26, Chapter 2, Utah Vital Statistics Act.

[45] (17) "Physician" means a person licensed to practice as a physician or osteopath in this state under Title 58, Chapter 67, Utah Medical Practice Act or Chapter 68, Utah Osteopathic Medical Practice Act.

[46] (18) "Presumed father" means the father of a child conceived or born during a marriage as defined in Section 30-1-17.2.

[47] (19) "Registration" or "register" means acceptance by the local or state registrar of a certificate and incorporation of the certificate into the permanent records of the state.

[48] (20) "State registrar" means the state registrar of vital records appointed under Subsection 26-2-3(1)(e).

[49] (21) "Vital records" means:

(a) registered certificates or reports of birth, death, fetal death, marriage, divorce, dissolution of marriage, or annulment;

(b) amendments to any of the registered certificates or reports described in Subsection [(49)] (21)(a); and

(c) an adoption document; and

[(e)] (d) other similar documents.

[(20)] (22) "Vital statistics" means the data derived from registered certificates and reports of birth, death, fetal death, induced termination of pregnancy, marriage, divorce, dissolution of marriage, or annulment.

Section 2. Section 26-2-10 is amended to read:

26-2-10. Supplementary certificate of birth.

(1) Any person born in this state who is legitimized by the subsequent marriage of [his] the person's natural parents, or whose parentage has been determined by any U.S. state court or Canadian provincial court having jurisdiction, or who has been legally adopted under the law of this or any other state or any province of Canada, may request the state registrar to register a supplementary birth certificate [of birth] on the basis of that status.

(2) The application for registration of a supplementary birth certificate may be made by the person requesting registration, if [he] the person is of legal age, by a legal representative, or by any agency authorized to receive children for placement or adoption under the laws of this or any other state.

(3) (a) The state registrar shall require that an applicant submit identification and proof according to department rules.

(b) In the case of an adopted person, that proof may be established by order of the court in which the adoption proceedings were held.

(4) (a) After the supplementary birth certificate is registered, any information disclosed from the record shall be from the supplementary birth certificate.

(b) Access to the original birth certificate and to the evidence submitted in support of the supplementary birth certificate are not open to inspection except upon the order of a Utah district court or as provided under Section 78B-6-141 or Section 78B-6-144.

Section 3. Section 26-2-22 is amended to read:

26-2-22. Inspection of vital records.

(1) (a) The vital records shall be open to inspection, but only in compliance with the provisions of this chapter, department rules, and [Section] Sections 78B-6-141 and 78B-6-144.

(b) It is unlawful for any state or local officer or employee to disclose data contained in vital records contrary to this chapter [or], department rule, Section 78B-6-141, or Section 78B-6-144.

(c) (i) An adoption document is open to inspection as provided in Section 78B-6-141 or Section 78B-6-144.

(ii) A birth parent may not access an adoption document under Subsection 78B-6-141(3).

[(e)] (d) A custodian of vital records may permit inspection of a vital record or issue a certified copy of a record or a part of a record when the custodian is satisfied that the applicant has demonstrated a direct, tangible, and legitimate interest.

(2) A direct, tangible, and legitimate interest in a vital record is present only if:

(a) the request is from:

(i) the subject;

(ii) a member of the subject's immediate family;

(iii) the guardian of the subject;

(iv) a designated legal representative of the subject; or

(v) a person, including a child-placing agency as defined in Section 78B-6-103, with whom a child has been placed pending finalization of an adoption of the child;

(b) the request involves a personal or property right of the subject of the record;

(c) the request is for official purposes of a public health authority or a state, local, or federal governmental agency;

(d) the request is for a statistical or medical research program and prior consent has been obtained from the state registrar; or

(e) the request is a certified copy of an order of a court of record specifying the record to be examined or copied.

(3) For purposes of Subsection (2):

(a) "immediate family member" means a spouse, child, parent, sibling, grandparent, or grandchild;

(b) a designated legal representative means an attorney, physician, funeral service director, genealogist, or other agent of the subject or the subject's immediate family who has been delegated the authority to access vital records;

(c) except as provided in Title 78B, Chapter 6, Part 1, Utah Adoption Act, a parent, or the immediate family member of a parent, who does not have legal or physical custody of or visitation or parent-time rights for a child because of the termination of parental rights pursuant to Title 78A, Chapter 6, Juvenile Court Act of 1996, or by virtue of consenting to or relinquishing a child for adoption pursuant to Title 78B, Chapter 6, Part 1, Utah Adoption Act, may not be considered as having a direct, tangible, and legitimate interest; and

(d) a commercial firm or agency requesting names, addresses, or similar information may not be considered as having a direct, tangible, and legitimate interest.

(4) Upon payment of a fee established in accordance with Section 63J-1-504, the ~~following records shall be~~ office shall make the following records available to the public:

(a) except as provided in Subsection 26-2-10(4)(b), a birth record, excluding confidential information collected for medical and health use, if 100 years or more have passed since the date of birth;

(b) a death record if 50 years or more have passed since the date of death; and

(c) a vital record not subject to Subsection (4)(a) or (b) if 75 years or more have passed since the date of the event upon which the record is based.

(5) Upon payment of a fee established in accordance with Section 63J-1-504, the office shall make an adoption document available as provided in Sections 78B-6-141 and 78B-6-144.

(6) The office shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing procedures and the content of forms as follows:

(a) for a birth parent's election to permit identifying information about the birth parent to be made available, under Section 78B-6-141;

(b) for the release of information by the mutual-consent, voluntary adoption registry, under Section 78B-6-144; and

(c) for collecting fees and donations pursuant to Section 78B-6-144.5.

Section 4. Section 63J-1-602.5 is amended to read:

63J-1-602.5. List of nonlapsing funds and accounts -- Title 64 and thereafter.

(1) Funds collected by the housing of state probationary inmates or state parole inmates, as provided in Subsection 64-13e-104(2).

(2) Certain forestry and fire control funds utilized by the Division of Forestry, Fire, and State Lands, as provided in Section 65A-8-103.

(3) The Department of Human Resource Management user training program, as provided in Section 67-19-6.

(4) Funds for the University of Utah Poison Control Center program, as provided in Section 69-2-5.5.

(5) The Traffic Noise Abatement Program created in Section 72-6-112.

(6) Certain funds received by the Office of the State Engineer for well drilling fines or bonds, as provided in Section 73-3-25.

(7) Certain money appropriated from the Water Resources Conservation and Development Fund, as provided in Section 73-23-2.

(8) Certain funds appropriated for compensation for special prosecutors, as provided in Section 77-10a-19.

(9) Funds donated or paid to a juvenile court by private sources, as provided in Subsection 78A-6-203(1)(c).

(10) A state rehabilitative employment program, as provided in Section 78A-6-210.

(11) Fees for certificate of admission created under Section 78A-9-102.

(12) The money for the Utah Geological Survey, as provided in Section 79-3-401.

(13) Revenue for golf user fees at the Wasatch Mountain State Park, Palisades State Park, Jordan River State Park, and Green River State Park, as provided under Section 79-4-403.

(14) Certain funds received by the Division of Parks and Recreation from the sale or disposal of buffalo, as provided under Section 79-4-1001.

(15) The Bonneville Shoreline Trail Program created under Section 79-5-503.

(16) Funds appropriated and collected for adoption document access as provided in Sections 78B-6-141, 78B-6-144, and 78B-6-144.5.

Section 5. Section 78B-6-103 is amended to read:

78B-6-103. Definitions.

As used in this part:

(1) "Adoptee" means a person who:

- (a) is the subject of an adoption proceeding; or
- (b) has been legally adopted.

(2) "Adoption" means the judicial act that:

(a) creates the relationship of parent and child where it did not previously exist; and

(b) except as provided in Subsection 78B-6-138(2), terminates the parental rights of any other person with respect to the child.

(3) "Adoption document" means an adoption-related document filed with the office, a petition for adoption, a decree of adoption, an original birth certificate, or evidence submitted in support of a supplementary birth certificate.

~~[(3)]~~ (4) "Adoption service provider" means a:

- (a) child-placing agency; or
- (b) licensed counselor who has at least one year of experience providing professional social work services to:

- (i) adoptive parents;

- (ii) prospective adoptive parents; or

- (iii) birth parents.

~~[(4)]~~ (5) "Adoptive parent" means a person who has legally adopted an adoptee.

~~[(5)]~~ (6) "Adult" means a person who is 18 years of age or older.

~~[(6)]~~ (7) "Adult adoptee" means an adoptee who is 18 years of age or older and was adopted as a minor.

~~[(7)]~~ (8) "Adult sibling" means a brother or sister of the adoptee, who is 18 years of age or older and whose birth mother or father is the same as that of the adoptee.

~~[(8)]~~ (9) "Birth mother" means the biological mother of a child.

~~[(9)]~~ (10) "Birth parent" means:

- (a) a birth mother;

- (b) a man whose paternity of a child is established;

- (c) a man who:

- (i) has been identified as the father of a child by the child's birth mother; and

- (ii) has not denied paternity; or

- (d) an unmarried biological father.

~~[(10)]~~ (11) "Child-placing agency" means an agency licensed to place children for adoption under Title 62A, Chapter 4a, Part 6, Child Placing.

~~[(11)]~~ (12) "Cohabiting" means residing with another person and being involved in a sexual relationship with that person.

~~[(12)]~~ (13) "Division" means the Division of Child and Family Services, within the Department of Human Services, created in Section 62A-4a-103.

~~[(13)]~~ (14) "Extra-jurisdictional child-placing agency" means an agency licensed to place children for adoption by a district, territory, or state of the United States, other than Utah.

~~[(14)]~~ (15) "Genetic and social history" means a comprehensive report, when obtainable, on an adoptee's birth parents, aunts, uncles, and grandparents, which contains the following information:

- (a) medical history;
- (b) health status;
- (c) cause of and age at death;
- (d) height, weight, and eye and hair color;
- (e) ethnic origins;
- (f) where appropriate, levels of education and professional achievement; and
- (g) religion, if any.

~~[(15)]~~ (16) "Health history" means a comprehensive report of the adoptee's health status at the time of placement for adoption, and medical history, including neonatal, psychological, physiological, and medical care history.

~~[(16)]~~ (17) "Identifying information" means information in the possession of the office, which contains the name and address of a pre-existing parent or adult adoptee, or other specific information ~~[which]~~ that by itself or in reasonable conjunction with other information may be used to identify that person, including information on a birth certificate or in an adoption document.

~~[(17)]~~ (18) "Licensed counselor" means a person who is licensed by the state, or another state, district, or territory of the United States as a:

- (a) certified social worker;
- (b) clinical social worker;
- (c) psychologist;
- (d) marriage and family therapist;
- (e) professional counselor; or

(f) an equivalent licensed professional of another state, district, or territory of the United States.

[(18)] (19) “Man” means a male individual, regardless of age.

(20) “Mature adoptee” means an adoptee who is adopted when the adoptee is an adult.

[(19)] (21) “Office” means the Office of Vital Records and Statistics within the Department of Health operating under Title 26, Chapter 2, Utah Vital Statistics Act.

[(20)] (22) “Parent,” for purposes of Section 78B-6-119, means any person described in Subsections 78B-6-120(1)(b) through (f) from whom consent for adoption or relinquishment for adoption is required under Sections 78B-6-120 through 78B-6-122.

[(21)] (23) “Potential birth father” means a man who:

(a) is identified by a birth mother as a potential biological father of the birth mother’s child, but whose genetic paternity has not been established; and

(b) was not married to the biological mother of the child described in Subsection [(21)] (23)(a) at the time of the child’s conception or birth.

[(22)] (24) “Pre-existing parent” means:

(a) a birth parent; or

(b) a person who, before an adoption decree is entered, is, due to an earlier adoption decree, legally the parent of the child being adopted.

[(23)] (25) “Prospective adoptive parent” means a person who seeks to adopt an adoptee.

[(24)] (26) “Unmarried biological father” means a person who:

(a) is the biological father of a child; and

(b) was not married to the biological mother of the child described in Subsection [(24)] (26)(a) at the time of the child’s conception or birth.

Section 6. Section 78B-6-115 is amended to read:

78B-6-115. Who may adopt -- Adoption of minor -- Adoption of adult.

(1) For purposes of this section, “vulnerable adult” means:

(a) a person 65 years of age or older; or

(b) an adult, 18 years of age or older, who has a mental or physical impairment which substantially affects that person’s ability to:

(i) provide personal protection;

(ii) provide necessities such as food, shelter, clothing, or medical or other health care;

(iii) obtain services necessary for health, safety, or welfare;

(iv) carry out the activities of daily living;

(v) manage the adult’s own resources; or

(vi) comprehend the nature and consequences of remaining in a situation of abuse, neglect, or exploitation.

(2) Subject to this section and Section 78B-6-117, any adult may be adopted by another adult.

(3) The following provisions of this part apply to the adoption of an adult just as though the person being adopted were a minor:

(a) (i) Section 78B-6-108;

(ii) Section 78B-6-114;

(iii) Section 78B-6-116;

(iv) Section 78B-6-118;

(v) Section 78B-6-124;

(vi) Section 78B-6-136;

(vii) Section 78B-6-137;

(viii) Section 78B-6-138;

(ix) Section 78B-6-139;

(x) Section 78B-6-141; and

(xi) Section 78B-6-142;

(b) Subsections 78B-6-105(1)(a), (1)(b)(i), (1)(b)(ii), (2), and (7), except that the juvenile court does not have jurisdiction over a proceeding for adoption of an adult, unless the adoption arises from a case where the juvenile court has continuing jurisdiction over the [adult] mature adoptee; and

(c) if the [adult] mature adoptee is a vulnerable adult, Sections 78B-6-128 through 78B-6-131, regardless of whether the [adult] mature adoptee resides, or will reside, with the adoptors, unless the court, based on a finding of good cause, waives the requirements of those sections.

(4) Before a court enters a final decree of adoption of [an adult] a mature adoptee, the mature adoptee and the prospective adoptive parent or parents shall appear before the court presiding over the adoption proceedings and execute consent to the adoption.

(5) No provision of this part, other than those listed or described in this section or Section 78B-6-117, apply to the adoption of an adult.

Section 7. Section 78B-6-116 is amended to read:

78B-6-116. Notice and consent for adoption of an adult.

(1) (a) Consent to the adoption of an adult is required from:

(i) the [adult] mature adoptee;

(ii) any person who is adopting the adult;

(iii) the spouse of a person adopting the adult; and

(iv) any legally appointed guardian or custodian of the adult adoptee.

(b) No person, other than a person described in Subsection (1)(a), may consent, or withhold consent, to the adoption of an adult.

(2) (a) Except as provided in Subsection (2)(b), notice of a proceeding for the adoption of an adult shall be served on each person described in Subsection (1)(a) and the spouse of the mature adoptee.

(b) The notice described in Subsection (2)(a) may be waived, in writing, by the person entitled to receive notice.

(3) The notice described in Subsection (2):

(a) shall be served at least 30 days before the day on which the adoption is finalized;

(b) shall specifically state that the person served must respond to the petition within 30 days of service if the person intends to intervene in the adoption proceeding;

(c) shall state the name of the person to be adopted;

(d) may not state the name of a person adopting the mature adoptee, unless the person consents, in writing, to disclosure of the person's name;

(e) with regard to a person described in Subsection (1)(a):

(i) except as provided in Subsection (2)(b), shall be in accordance with the provisions of the Utah Rules of Civil Procedure; and

(ii) may not be made by publication; and

(f) with regard to the spouse of the mature adoptee, may be made:

(i) in accordance with the provisions of the Utah Rules of Civil Procedure;

(ii) by certified mail, return receipt requested; or

(iii) by publication, posting, or other means if:

(A) the service described in Subsection (3)(f)(ii) cannot be completed after two attempts; and

(B) the court issues an order providing for service by publication, posting, or other means.

(4) Proof of service of the notice on each person to whom notice is required by this section shall be filed with the court before the adoption is finalized.

(5) (a) Any person who is served with notice of a proceeding for the adoption of an adult and who wishes to intervene in the adoption shall file a motion in the adoption proceeding:

(i) within 30 days after the day on which the person is served with notice of the adoption proceeding;

(ii) that sets forth the specific relief sought; and

(iii) that is accompanied by a memorandum specifying the factual and legal grounds upon which the motion is made.

(b) A person who fails to file the motion described in Subsection (5)(a) within the time described in Subsection (5)(a)(i):

(i) waives any right to further notice of the adoption proceeding; and

(ii) is barred from intervening in, or bringing or maintaining any action challenging, the adoption proceeding.

(6) Except as provided in Subsection (7), after a court enters a final decree of adoption of an adult, the ~~adult~~ mature adoptee shall:

(a) serve notice of the finalization of the adoption, pursuant to the Utah Rules of Civil Procedure, on each person who was a legal parent of the adult adoptee before the final decree of adoption described in this Subsection (6) was entered; and

(b) file with the court proof of service of the notice described in Subsection (6)(a).

(7) A court may, based on a finding of good cause, waive the notification requirement described in Subsection (6).

Section 8. Section 78B-6-141 is amended to read:

78B-6-141. Petition, report, and documents sealed -- Exceptions.

~~[(1) A petition for adoption, the written report described in Section 78B-6-135, and any other documents filed in connection with the petition are sealed.]~~

(1) An adoption document is sealed.

(2) ~~[The documents described in Subsection (1)]~~ An adoption document may only be open to inspection and copying as follows:

(a) in accordance with Subsection ~~[(3)]~~ (4)(a), by a party to the adoption proceeding:

(i) while the proceeding is pending; or

(ii) within six months after the day on which the adoption decree is entered;

(b) subject to Subsection ~~[(3)]~~ (4)(b), if a court enters an order permitting access to the documents by a person who has appealed the denial of that person's motion to intervene;

(c) upon order of the court expressly permitting inspection or copying, after good cause has been shown;

(d) as provided under Section 78B-6-144;

(e) ~~[those records shall become]~~ when the adoption document becomes public on the one hundredth anniversary of the date the final decree of adoption was entered; ~~[or]~~

(f) when the birth certificate becomes public on the one hundredth anniversary of the date of birth;

~~[(f) if the adoptee is an adult at the time the final decree of adoption is entered, the documents described in this section are open to inspection and copying without a court order by the adoptee or a parent who adopted the adoptee]~~

(g) to a mature adoptee or a parent who adopted the mature adoptee, without a court order, unless

the final decree of adoption is entered by the juvenile court under Subsection 78B-6-115(3)(b)[-]; or

(h) to an adult adoptee, to the extent permitted under Subsection (3).

(3) (a) For an adoption finalized on or after January 1, 2016, a birth parent may elect, on a written consent form provided by the office, to permit identifying information about the birth parent to be made available for inspection by an adult adoptee.

(b) A birth parent may, at any time, file a written document with the office to:

(i) change the election described in Subsection (3)(a); or

(ii) elect to make other information about the birth parent, including an updated medical history, available for inspection by an adult adoptee.

(c) A birth parent may not access any identifying information or an adoption document under this Subsection (3).

[~~(3)~~] (4) (a) A person who files a motion to intervene in an adoption proceeding:

(i) is not a party to the adoption proceeding, unless the motion to intervene is granted; and

(ii) may not be granted access to the documents described in Subsection (1), unless the motion to intervene is granted.

(b) An order described in Subsection (2)(b) shall:

(i) prohibit the person described in Subsection (2)(b) from inspecting a document described in Subsection (1) that contains identifying information of the adoptive or prospective adoptive parent; and

(ii) permit the person described in Subsection [~~(3)~~] (4)(b)(i) to review a copy of a document described in Subsection [~~(3)~~] (4)(b)(i) after the identifying information described in Subsection [~~(3)~~] (4)(b)(i) is redacted from the document.

Section 9. Section 78B-6-144 is amended to read:

78B-6-144. Mutual-consent, voluntary adoption registry -- Procedures -- Fees.

(1) The office shall establish a mutual-consent, voluntary adoption registry.

(a) [~~Adult adoptees and birth parents of adult adoptees~~] An adult adoptee or a birth parent of an adult adoptee, upon presentation of positive identification, may request identifying information from the office, in the form established by the office. A court of competent jurisdiction or a child-placing agency may accept that request from the adult adoptee or birth parent, in the form provided by the office, and transfer that request to the office. The adult adoptee or birth parent is responsible for notifying the office of any change in information contained in the request.

(b) [~~The~~] Except as otherwise provided in this part, the office may only release identifying information to an adult adoptee or birth parent when it receives requests from both the adoptee and the adoptee's birth parent.

(c) After matching the request of an adult adoptee with that of at least one of the adoptee's birth parents, the office shall notify both the adult adoptee and the birth parent that the requests have been matched, and disclose the identifying information to those parties. However, if that adult adoptee has a sibling of the same birth parent who is under the age of 18 years, and who was raised in the same family setting as the adult adoptee, the office [~~shall~~] may not disclose the requested identifying information to that adult adoptee or the adoptee's birth parent.

(2) (a) Adult adoptees and adult siblings of adult adoptees, upon presentation of positive identification, may request identifying information from the office, in the form established by the office. A court of competent jurisdiction or a child-placing agency may accept that request from the adult adoptee or adult sibling, in the form provided by the office, and transfer that request to the office. The adult adoptee or adult sibling is responsible for notifying the office of any change in information contained in the request.

(b) The office may only release identifying information to an adult adoptee or adult sibling when it receives requests from both the adult adoptee and the adult adoptee's adult sibling.

(c) After matching the request of an adult adoptee with that of the adoptee's adult sibling, if the office [~~has been provided with~~] determines that the office has sufficient information to make that match, the office shall notify both the adult adoptee and the adult sibling that the requests have been matched, and disclose the identifying information to those parties.

(d) After receiving a request for information from an adult adoptee and a birth parent under this section, the office shall:

(i) search the office's vital records for the adult adoptee's birth parent; and

(ii) if the search described in Subsection (2)(d)(i) reveals that the birth parent who had requested information under this section is dead, inform the adult adoptee that the birth parent is dead and disclose the identity of the birth parent.

(e) The office shall attempt to notify an individual who requests information under this section:

(i) of the results of the initial search for a match; and

(ii) if the initial search does not produce a match, that the office will keep the request on file and will attempt to notify the individual in the event of a match.

(3) Information registered with the [~~bureau~~] office under this section is available only to a registered adult adoptee and the adoptee's registered birth parent or registered adult sibling, under the terms of this section.

(4) ~~[Information]~~ Except as provided in Section 78B-6-141, the office may not disclose information regarding a birth parent who has not registered a request with the ~~[bureau may not be disclosed]~~ office.

~~[(5) The bureau may charge a fee for services provided under this section, limited to the cost of providing those services.]~~

(5) The office shall, on or before October 31, make an annual report on the effectiveness of the mutual-consent, voluntary adoption registry to the Health and Human Services Interim Committee.

(6) Nothing in this section limits the disclosure of information in accordance with Section 78B-6-141.

Section 10. Section 78B-6-144.5 is enacted to read:

78B-6-144.5. Adoption records fees.

(1) (a) The office shall, in accordance with Section 63J-1-504, establish a fee to be paid by an individual who requests information or other services under Section 78B-6-141 or Section 78B-6-144, and to cover the costs related to providing the information, services, and improvements described in Subsection (2).

(b) The office may accept donations or grants from public or private entities to cover the costs related to providing the information, services, and improvements described in Subsection (2).

(2) The office shall deposit fees and donations collected under Subsection (1) into the General Fund as dedicated credits and may be used only to:

(a) fund, automate, and improve the provision of services described in Sections 78B-6-141 and 78B-6-144; or

(b) implement means of maximizing potential matches for the services described in Sections 78B-6-141 and 78B-6-144, including the use of broad search terms and methods.

Section 11. Appropriation.

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, for the fiscal year beginning July 1, 2015, and ending June 30, 2016, the following sums of money are appropriated from resources not otherwise appropriated, or reduced from amounts previously appropriated, out of the funds or accounts indicated. These sums of money are in addition to any amounts previously appropriated for fiscal year 2016.

To Department of Health -- Adoption Records Access

From General Fund	\$55,000
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From Dedicated Credits Revenue	\$26,200
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Schedule of Programs:

Adoption Records Access	\$81,200
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The Legislature intends that appropriations provided under this section be used by the office for the purposes described in Subsection

78B-6-144.5(2). Under Section 63J-1-603, the Legislature intends that appropriations provided under this section not lapse at the close of fiscal year 2016. The use of any nonlapsing funds is limited to the purposes described in Subsection 78B-6-144.5(2).

Section 12. Effective date.

(1) Except as provided in Subsection (2), this bill takes effect on May 12, 2015.

(2) Uncodified Section 11, Appropriation, takes effect on July 1, 2015.

CHAPTER 138**S. B. 132**

Passed March 5, 2015

Approved March 24, 2015

Effective March 24, 2015

(Retrospective operation to January 1, 2014)

FISCAL REQUIREMENTS FOR LOCAL GOVERNMENTS AND NONPROFITS

Chief Sponsor: Curtis S. Bramble

House Sponsor: Sophia M. DiCaro

LONG TITLE**General Description:**

This bill modifies provisions related to fiscal requirements for local governments and nonprofits.

Highlighted Provisions:

This bill:

- ▶ modifies definitions;
- ▶ amends the threshold for certain accounting reports;
- ▶ repeals a requirement of writing for grants to nonprofit entities;
- ▶ requires different levels of review for certain nonprofit corporations' financial information;
- ▶ requires reporting under certain circumstances;
- ▶ repeals requirements related to nonprofit entities receipt of state money by way of a grant, including a state agency's ability to seek return of state money if the nonprofit entity did not comply with certain requirements;
- ▶ provides exceptions; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides retrospective operation.

Utah Code Sections Affected:**AMENDS:**

51-2a-102, as last amended by Laws of Utah 2014, Chapter 341

51-2a-201, as last amended by Laws of Utah 2013, Chapter 162

51-2a-301, as last amended by Laws of Utah 2008, Chapter 382

53A-1a-511, as last amended by Laws of Utah 2012, Chapter 347

ENACTS:

51-2a-201.5, Utah Code Annotated 1953

REPEALS:

51-2a-204, as enacted by Laws of Utah 2014, Chapter 341

63J-9-101, as enacted by Laws of Utah 2014, Chapter 341

63J-9-102, as enacted by Laws of Utah 2014, Chapter 341

63J-9-201, as enacted by Laws of Utah 2014, Chapter 341

63J-9-202, as enacted by Laws of Utah 2014, Chapter 341

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

Section 1. Section 51-2a-102 is amended to read:**51-2a-102. Definitions.**

As used in this chapter:

(1) "Accounting reports" means an audit, a review, a compilation, or a fiscal report.

(2) "Audit" means an examination that:

~~[(a) analyzes the accounts of all officers of the entity having responsibility for the care, management, collection, or disbursement of money belonging to it or appropriated by law or otherwise acquired for its use or benefit;]~~

~~[(b)]~~ (a) is performed in accordance with generally accepted government auditing standards, or for nonprofit corporations described in Subsection (6)(f), in accordance with generally accepted auditing standards; and

~~[(e)]~~ (b) conforms to the uniform classification of accounts established or approved by the state auditor or any other classification of accounts established by any federal government agency.

(3) "Audit report" means:

(a) the financial statements presented in conformity with generally accepted accounting principles;

(b) the auditor's opinion on the financial statements;

(c) a statement by the auditor expressing positive assurance of compliance with state fiscal laws identified by the state auditor;

(d) a copy of the auditor's letter to management that identifies any material weakness in internal controls discovered by the auditor and other financial issues related to the expenditure of funds received from federal, state, or local governments to be considered by management; and

(e) management's response to the specific recommendations.

(4) "Compilation" means information presented in the form of financial statements presented in conformity with generally accepted accounting principles that are the representation of management without the accountant undertaking to express any assurances on the statements.

(5) "Fiscal report" means providing information detailing revenues and expenditures of all funds ~~[using forms provided]~~ in a format prescribed by the state auditor.

(6) "Governing board" means:

(a) the governing board of each political subdivision;

(b) the governing board of each interlocal organization having the power to tax or to expend public funds;

(c) the governing board of any local mental health authority established under the authority of Title

62A, Chapter 15, Substance Abuse and Mental Health Act;

(d) the governing board of any substance abuse authority established under the authority of Title 62A, Chapter 15, Substance Abuse and Mental Health Act;

(e) the governing board of any area agency established under the authority of Title 62A, Chapter 3, Aging and Adult Services;

(f) the governing board of any nonprofit corporation that receives ~~an amount of money requiring an accounting report under Section 51-2a-201.5;~~

~~(i) at least 50% of its funds from federal, state, and local government entities through contracts; or~~

~~(ii) an amount from state entities that is equal to or exceeds the amount specified in Subsection 51-2a-201(1) that would require an audit to be made by a competent certified public accountant;~~

(g) the governing board of any other entity established by a local governmental unit that receives tax exempt status for bonding or taxing purposes; and

(h) in municipalities organized under an optional form of municipal government, the municipal legislative body.

(7) "Review" means performing inquiry and analytical procedures that provide the accountant with a reasonable basis for expressing limited assurance that there are no material modifications that should be made to the financial statements for them to be in conformity with generally accepted accounting principles.

~~(8) "State entity" means a department, commission, board, council, agency, institution, officer, corporation, fund, division, office, committee, authority, laboratory, library, unit, bureau, panel, or other administrative unit of the state.~~

Section 2. Section 51-2a-201 is amended to read:

51-2a-201. Accounting reports required.

(1) The governing board of an entity whose revenues or expenditures of all funds is ~~[\$500,000]~~ \$750,000 or more shall cause an audit to be made of its accounts by a competent certified public accountant.

(2) The governing board of an entity whose revenues or expenditures of all funds is less than ~~[\$500,000]~~ \$750,000 shall cause a financial report to be made in the manner prescribed by the state auditor.

Section 3. Section 51-2a-201.5 is enacted to read:

51-2a-201.5. Accounting reports required -- Reporting to state auditor.

(1) As used in this section:

(a) (i) "Federal pass through money" means federal money received by a nonprofit corporation through a subaward or contract from the state or a political subdivision.

(ii) "Federal pass through money" does not include federal money received by a nonprofit corporation as payment for goods or services purchased by the state or political subdivision from the nonprofit corporation.

(b) (i) "Local money" means money that is owned, held, or administered by a political subdivision of the state that is derived from fee or tax revenues.

(ii) "Local money" does not include:

(A) money received by a nonprofit corporation as payment for goods or services purchased from the nonprofit corporation; or

(B) contributions or donations received by the political subdivision.

(c) (i) "State money" means money that is owned, held, or administered by a state agency and derived from state fee or tax revenues.

(ii) "State money" does not include:

(A) money received by a nonprofit corporation as payment for goods or services purchased from the nonprofit corporation; or

(B) contributions or donations received by the state agency.

(2) (a) The governing board of a nonprofit corporation whose revenues or expenditures of federal pass through money, state money, and local money is \$750,000 or more shall cause an audit to be made of its accounts by an independent certified public accountant.

(b) The governing board of a nonprofit corporation whose revenues or expenditures of federal pass through money, state money, and local money is at least \$350,000 but less than \$750,000 shall cause a review to be made of its accounts by an independent certified public accountant.

(c) The governing board of a nonprofit corporation whose revenues or expenditures of federal pass through money, state money, and local money is at least \$100,000 but less than \$350,000 shall cause a compilation to be made of its accounts by an independent certified public accountant.

(d) The governing board of a nonprofit corporation whose revenues or expenditures of federal pass through money, state money, and local money is less than \$100,000 but greater than \$25,000 shall cause a fiscal report to be made in a format prescribed by the state auditor.

(3) A nonprofit corporation described in Subsection 51-2a-102(6)(f) shall provide the state auditor a copy of an accounting report prepared under this section within six months of the end of the nonprofit corporation's fiscal year.

(4) (a) A state agency that disburses federal pass through money or state money to a nonprofit corporation shall enter into a written agreement

with the nonprofit corporation that requires the nonprofit corporation to annually disclose whether:

(i) the nonprofit corporation met or exceeded the dollar amounts listed in Subsection (2) in the previous fiscal year of the nonprofit corporation; or

(ii) the nonprofit corporation anticipates meeting or exceeding the dollar amounts listed in Subsection (2) in the fiscal year the money is disbursed.

(b) If the nonprofit corporation discloses to the state agency that the nonprofit corporation meets or exceeds the dollar amounts as described in Subsection (4)(a), the state agency shall notify the state auditor.

(5) This section does not apply to a nonprofit corporation that is a charter school created under Title 53A, Chapter 1a, Part 5, The Utah Charter Schools Act. A charter school is subject to the requirements of Section 53A-1a-507.

(6) A nonprofit corporation is exempt from Section 51-2a-201.

Section 4. Section 51-2a-301 is amended to read:

51-2a-301. State auditor responsibilities.

(1) Except for political subdivisions that do not receive or expend public funds, the state auditor shall adopt guidelines, qualifications criteria, and procurement procedures for use in the procurement of audit services for all entities that are required by Section 51-2a-201 to cause an accounting report to be made.

(2) The state auditor shall follow the notice, hearing, and publication requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(3) The state auditor shall:

(a) review the accounting report submitted to ~~him~~ the state auditor under Section 51-2a-201; and

(b) if necessary, conduct additional inquiries or examinations of financial statements of the entity submitting that information.

(4) The governing board of each entity required by Section 51-2a-201 to submit an accounting report to the state auditor's office shall comply with the guidelines, criteria, and procedures established by the state auditor.

(5) Each fifth year, the state auditor shall:

(a) review the dollar criteria established in Section 51-2a-201 to determine if they need to be increased or decreased; and

(b) if the state auditor determines that they need to be increased or decreased, notify the Legislature of that need.

(6) (a) The state auditor may require a higher level of accounting report than is required under Section 51-2a-201.

(b) The state auditor shall:

(i) develop criteria under which a higher level of accounting report may be required; and

(ii) provide copies of those criteria to entities required to analyze and report under Section 51-2a-201.

(7) This section does not apply to a nonprofit corporation that submits an accounting report under Section 51-2a-201.5.

Section 5. Section 53A-1a-511 is amended to read:

53A-1a-511. Waivers from state board rules -- Application of statutes and rules to charter schools.

(1) A charter school shall operate in accordance with its charter and is subject to Title 53A, State System of Public Education, and other state laws applicable to public schools, except as otherwise provided in this part.

(2) (a) A charter school or any other public school or school district may apply to the State Board of Education for a waiver of any state board rule that inhibits or hinders the school or the school district from accomplishing its mission or educational goals set out in its strategic plan or charter.

(b) The state board may grant the waiver, unless:

(i) the waiver would cause the school district or the school to be in violation of state or federal law; or

(ii) the waiver would threaten the health, safety, or welfare of students in the district or at the school.

(c) If the State Board of Education denies the waiver, the reason for the denial shall be provided in writing to the waiver applicant.

(3) (a) Except as provided in Subsection (3)(b), State Board of Education rules governing the following do not apply to a charter school:

(i) school libraries;

(ii) required school administrative and supervisory services; and

(iii) required expenditures for instructional supplies.

(b) A charter school shall comply with rules implementing statutes that prescribe how state appropriations may be spent.

(4) The following provisions of Title 53A, State System of Public Education, and rules adopted under those provisions, do not apply to a charter school:

(a) Sections 53A-1a-108 and 53A-1a-108.5, requiring the establishment of a school community council and school improvement plan;

(b) Sections 53A-3-413 and 53A-3-414, pertaining to the use of school buildings as civic centers;

(c) Section 53A-3-420, requiring the use of activity disclosure statements;

(d) Section 53A-12-207, requiring notification of intent to dispose of textbooks;

(e) Section 53A-13-107, requiring annual presentations on adoption;

(f) Chapter 19, Part 1, Fiscal Procedures, pertaining to fiscal procedures of school districts and local school boards; and

(g) Section 53A-14-107, requiring an independent evaluation of instructional materials.

(5) For the purposes of Title 63G, Chapter 6a, Utah Procurement Code, a charter school shall be considered a local public procurement unit.

(6) Each charter school shall be subject to:

(a) Title 52, Chapter 4, Open and Public Meetings Act; and

(b) Title 63G, Chapter 2, Government Records Access and Management Act.

(7) A charter school is exempt from Section 51-2a-201.5, requiring accounting reports of certain nonprofit corporations. A charter school is subject to the requirements of Section 53A-1a-507.

~~[(7)]~~ (8) (a) The State Charter School Board shall, in concert with the charter schools, study existing state law and administrative rules for the purpose of determining from which laws and rules charter schools should be exempt.

(b) (i) The State Charter School Board shall present recommendations for exemption to the State Board of Education for consideration.

(ii) The State Board of Education shall consider the recommendations of the State Charter School Board and respond within 60 days.

Section 6. Repealer.

This bill repeals:

Section 51-2a-204, Grants to nonprofit corporations -- Reporting to the state auditor.

Section 63J-9-101, Title.

Section 63J-9-102, Definitions.

Section 63J-9-201, Conditions for providing state grant money to a nonprofit entity.

Section 63J-9-202, Nonprofit entity's return of state money.

Section 7. Effective date -- Retrospective operation.

(1) If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

(2) This bill has retrospective operation to January 1, 2014.

CHAPTER 139**S. B. 165**

Passed March 11, 2015
 Approved March 24, 2015
 Effective January 1, 2016

PROPERTY TAX VALUATION AND ASSESSMENT MODIFICATIONS

Chief Sponsor: Curtis S. Bramble
 House Sponsor: Daniel McCay

LONG TITLE**General Description:**

This bill modifies provisions related to property assessed by the State Tax Commission.

Highlighted Provisions:

This bill:

- ▶ authorizes the State Tax Commission to consult with a county during the valuation process;
- ▶ addresses provisions related to objections that are required to be contained in certain property tax notices;
- ▶ addresses objections to a property tax assessment with respect to property assessed by the State Tax Commission;
- ▶ requires a study by the Revenue and Taxation Interim Committee and provides a repeal date for the study;
- ▶ repeals obsolete language; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

- 59-2-201, as last amended by Laws of Utah 2009, Chapters 226 and 235
 59-2-802, as last amended by Laws of Utah 1997, Chapter 309
 59-2-803, as last amended by Laws of Utah 1997, Chapter 309
 59-2-1007, as last amended by Laws of Utah 2008, Chapter 382
 63I-2-259, as last amended by Laws of Utah 2014, Chapter 256

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

Section 1. Section 59-2-201 is amended to read:

59-2-201. Assessment by commission -- Determination of value of mining property -- Notification of assessment -- Local assessment of property assessed by the unitary method -- Commission may consult with county.

(1) (a) By May 1 of each year the following property, unless otherwise exempt under the Utah Constitution or under Part 11, Exemptions, Deferrals, and Abatements, shall be assessed by the commission at 100% of fair market value, as valued on January 1, in accordance with this chapter:

(i) except as provided in Subsection (2), all property which operates as a unit across county lines, if the values must be apportioned among more than one county or state;

(ii) all property of public utilities;

(iii) all operating property of an airline, air charter service, and air contract service;

(iv) all geothermal fluids and geothermal resources;

(v) all mines and mining claims except in cases, as determined by the commission, where the mining claims are used for other than mining purposes, in which case the value of mining claims used for other than mining purposes shall be assessed by the assessor of the county in which the mining claims are located; and

(vi) all machinery used in mining, all property or surface improvements upon or appurtenant to mines or mining claims. For the purposes of assessment and taxation, all processing plants, mills, reduction works, and smelters which are primarily used by the owner of a mine or mining claim for processing, reducing, or smelting minerals taken from a mine or mining claim shall be considered appurtenant to that mine or mining claim, regardless of actual location.

(b) (i) For purposes of Subsection (1)(a)(iii), operating property of an air charter service does not include an aircraft that is:

(A) used by the air charter service for air charter; and

(B) owned by a person other than the air charter service.

(ii) For purposes of this Subsection (1)(b):

(A) "person" means a natural person, individual, corporation, organization, or other legal entity; and

(B) a person does not qualify as a person other than the air charter service as described in Subsection (1)(b)(i)(B) if the person is:

(I) a principal, owner, or member of the air charter service; or

(II) a legal entity that has a principal, owner, or member of the air charter service as a principal, owner, or member of the legal entity.

(2) The commission shall assess and collect property tax on state-assessed commercial vehicles at the time of original registration or annual renewal.

(a) The commission shall assess and collect property tax annually on state-assessed commercial vehicles which are registered pursuant to Section 41-1a-222 or 41-1a-228.

(b) State-assessed commercial vehicles brought into the state which are required to be registered in Utah shall, as a condition of registration, be subject to ad valorem tax unless all property taxes or fees imposed by the state of origin have been paid for the current calendar year.

(c) Real property, improvements, equipment, fixtures, or other personal property in this state owned by the company shall be assessed separately by the local county assessor.

(d) The commission shall adjust the value of state-assessed commercial vehicles as necessary to comply with 49 U.S.C. Sec. 14502, and the commission shall direct the county assessor to apply the same adjustment to any personal property, real property, or improvements owned by the company and used directly and exclusively in their commercial vehicle activities.

(3) The method for determining the fair market value of productive mining property is the capitalized net revenue method or any other valuation method the commission believes, or the taxpayer demonstrates to the commission's satisfaction, to be reasonably determinative of the fair market value of the mining property. The rate of capitalization applicable to mines shall be determined by the commission, consistent with a fair rate of return expected by an investor in light of that industry's current market, financial, and economic conditions. In no event may the fair market value of the mining property be less than the fair market value of the land, improvements, and tangible personal property upon or appurtenant to the mining property.

(4) Immediately following the assessment, the owner or operator of the assessed property shall be notified of the assessment by certified mail. The assessor of the county in which the property is located shall also be immediately notified of the assessment by certified mail.

(5) The commission may consult with a county in valuing property in accordance with this part.

~~[(5)] (6) Property assessed by the unitary method, which is not necessary to the conduct and does not contribute to the income of the business as determined by the commission, shall be assessed separately by the local county assessor.~~

~~[(6) (a) Except as provided in Subsection (6)(b), for calendar years beginning on or after January 1, 2009 and ending on or before December 31, 2010, the method for determining the fair market value of an aircraft, aircraft type, or mobile flight equipment assessed under this part is equal to:]~~

~~[(i) the value referenced in the Used Price for Avg Aeft Wholesale column of the Airliner Price Guide by make, model, series, and year of manufacture; minus]~~

~~[(ii) 20% of the value described in Subsection (6)(a)(i).]~~

~~[(b) Notwithstanding Subsection (6)(a), for calendar years beginning on or after January 1, 2009 and ending on or before December 1, 2010, the method for determining the fair market value of an aircraft not listed in the Airliner Price Guide is equal to:]~~

~~[(i) the value references in the Average Wholesale column of the Aircraft Bluebook Price Digest by~~

~~make, model, series, and year of manufacture; minus]~~

~~[(ii) 20% of the value described in Subsection (6)(b)(i).]~~

Section 2. Section 59-2-802 is amended to read:

59-2-802. Statement of commission transmitted to county auditors -- Contents of statement -- Duties of auditors -- Change of assessment prohibited.

(1) The commission shall, before June 8, annually transmit to the county auditor of each county to which an apportionment has been made a statement showing:

(a) the property assessed;

(b) the value of the property, as fixed and apportioned to the tax areas; and

(c) the aggregate amount of taxable value placed in dispute ~~[by property owners within the county pursuant to]~~ in accordance with Section 59-2-1007.

(2) The county auditor shall enter the:

(a) statement on the county assessment roll or book; and

(b) amount of the assessment apportioned to the county in the column of the assessment book or roll which shows for the county the total taxable value of all property.

(3) A county board of equalization may not change any assessment fixed by the commission.

Section 3. Section 59-2-803 is amended to read:

59-2-803. Statement transmitted by county auditors to governing bodies -- Contents of statement.

(1) The county auditor shall transmit to the governing bodies of taxing entities in which the property is located, or to which any of the value is apportioned, a statement of the valuation of all property as fixed and apportioned by the commission and reported under Section 59-2-802.

(2) The statement under Subsection (1) shall contain the aggregate amount of taxable value placed in dispute ~~[by property owners within the county pursuant to]~~ in accordance with Section 59-2-1007.

(3) The statement shall be transmitted at the same time and in the same manner as the statement is transmitted under Section 59-2-924.

Section 4. Section 59-2-1007 is amended to read:

59-2-1007. Objection to assessment by commission -- Application -- Contents of application -- Amending an application -- Hearings -- Appeals.

(1) (a) ~~[If]~~ Subject to the other provisions of this section, if the owner of ~~[any]~~ property assessed by the commission ~~[, or any county upon a showing of~~

~~reasonable cause,] objects to the assessment, the owner [or the county may,] may apply to the commission for a hearing on the objection on or before the later of:~~

~~(i) June 1; or [a day within]~~

~~(ii) 30 days [of] after the date the commission mails the notice of assessment[is mailed by the commission pursuant to] in accordance with Section 59-2-201[, apply to the commission for a hearing].~~

~~(b) The commission shall allow [the following] an owner that meets the requirements of Subsection (1)(a) to be a party at a hearing under this section[.].~~

~~(i) the owner; and]~~

~~[(ii) the county upon a showing of reasonable cause.]~~

~~(2) Subject to the other provisions of this section, a county that objects to the assessment of property assessed by the commission may apply to the commission for a hearing on the objection:~~

~~(a) for an assessment with respect to which the owner has applied to the commission for a hearing on the objection under Subsection (1), if the county applies to the commission to become a party to the hearing on the objection no later than 30 days after the date the owner applied to the commission for the hearing on the objection; or~~

~~(b) for an assessment with respect to which the owner has not applied to the commission for a hearing on the objection under Subsection (1), if the county:~~

~~(i) reasonably believes that the commission should have assessed the property for the current calendar year at a fair market value that is at least the lesser of an amount that is:~~

~~(A) 50% greater than the value at which the commission is assessing the property for the current calendar year; or~~

~~(B) 50% greater than the value at which the commission assessed the property for the prior calendar year; and~~

~~(ii) applies to the commission for a hearing on the objection no later than 30 days after the last day on which the owner could have applied to the commission for a hearing on the objection under Subsection (1).~~

~~(3) Before a county may apply to the commission for a hearing under this section on an objection to an assessment, a majority of the members of the county legislative body shall approve filing an application under this section.~~

~~(4) (a) The commission shall allow a county that meets the requirements of Subsections (2) and (3) to be a party at a hearing under this section.~~

~~(b) The commission shall allow an owner to be a party at a hearing under this section on an objection to an assessment a county files in accordance with Subsection (2)(b).~~

~~[(2) The] (5) An owner or a county shall include in [the] an application under [Subsection (1)(a)] this section:~~

~~(a) a written statement:~~

~~(i) setting forth the known facts and legal basis supporting a different fair market value than the value assessed by the commission; and~~

~~(ii) for an assessment described in Subsection (2)(b), establishing the county's reasonable belief that the commission should have assessed the property for the current calendar year at a fair market value that is at least the lesser of an amount that is:~~

~~(A) 50% greater than the value at which the commission is assessing the property for the current calendar year; or~~

~~(B) 50% greater than the value at which the commission assessed the property for the prior calendar year; and~~

~~(b) the owner's or county's estimate of the fair market value of the property.~~

~~[(3) (6) (a) [An] Except as provided in Subsection (6)(b), an owner's or a county's estimate on an application under [Subsection (2)] this section of the fair market value of the property may be amended prior to the hearing as provided by rule.~~

~~(b) A county may not amend the fair market value of property under this Subsection (6) to equal an amount that is less than the lesser of:~~

~~(i) the value at which the commission is assessing the property for the current calendar year plus 50%; or~~

~~(ii) the value at which the commission assessed the property for the prior calendar year plus 50%.~~

~~[(4) (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules governing the procedures for amending an estimate of fair market value under this Subsection [(3)(a)] (6).~~

~~(7) In applying to the commission for a hearing on an objection under this section:~~

~~(a) a county may estimate the fair market value of the property using a valuation methodology the county considers to be appropriate, regardless of:~~

~~(i) the valuation methodology used previously in valuing the property; or~~

~~(ii) the valuation methodology an owner asserts; and~~

~~(b) an owner may estimate the fair market value of the property using a valuation methodology the owner considers to be appropriate, regardless of:~~

~~(i) the valuation methodology used previously in valuing the property; or~~

~~(ii) the valuation methodology a county asserts.~~

~~[(4) (8) (a) An owner [applying] who applies to the commission for a hearing in accordance with Subsection (1) shall, for the property for which the~~

owner objects to the commission's assessment, file a copy of the application with the county auditor of each county in which the property is located.

(b) A county auditor ~~[receiving]~~ who receives a copy of an application in accordance with Subsection ~~[(4)]~~ ~~(8)~~(a) shall provide a copy of the application to the county:

- (i) assessor;
- (ii) attorney;
- (iii) legislative body; and
- (iv) treasurer.

~~[(5)]~~ (9) (a) On or before August 1, the commission shall conduct a scheduling conference with all parties to a hearing under this section.

(b) At the scheduling conference under Subsection ~~[(5)]~~ ~~(9)~~(a), the commission shall establish dates for:

- (i) the completion of discovery;
- (ii) the filing of prehearing motions; and
- (iii) conducting a hearing on the objection to the assessment.

~~[(6)]~~ (10) (a) The commission shall issue a written decision no later than 120 days after the later of the date:

- (i) the hearing ~~[described in Subsection (5)(b)]~~ under this section is completed; or
- (ii) all posthearing briefs are submitted.

(b) ~~[Any applications not resolved by the commission within]~~ If the commission does not issue a written decision on an objection to an assessment under this section within a two-year period ~~[from the date of filing are]~~ after the date an application under this section is filed, the objection is considered to be denied, unless the parties stipulate to a different time period for resolving ~~[an application]~~ the objection.

(c) A party may appeal to the district court ~~[pursuant to]~~ in accordance with Section 59-1-601 within 30 days ~~[from the day on which]~~ after the date an ~~[application]~~ objection is considered to be denied.

~~[(7)]~~ (11) At the hearing on ~~[the application]~~ an objection under this section, the commission may increase, lower, or sustain the assessment if:

- (a) the commission finds an error in the assessment; or
- (b) the commission determines that increasing, lowering, or sustaining the assessment is necessary to equalize the assessment with other similarly assessed property.

~~[(8)]~~ (12) (a) ~~[(i)]~~ The commission shall send notice of a commission action under Subsection ~~[(7)]~~ (11) to a county auditor if:

~~[(A)]~~ (i) the commission proposes to adjust an assessment ~~[which was made pursuant to]~~ the

commission made in accordance with Section 59-2-201;

~~[(B)]~~ (ii) the county's tax revenues may be affected by the commission's decision; and

~~[(C)]~~ (iii) the county ~~[has not already been made a party pursuant to Subsection (1)]~~ is not a party to the hearing under this section.

~~[(ii)]~~ (b) The written notice ~~[sent by the commission under Subsection (8)(a)(i)]~~ described in Subsection (12)(a):

~~[(A)]~~ (i) may be transmitted by:

~~[(I)]~~ (A) any form of electronic communication;

~~[(II)]~~ (B) first class mail; or

~~[(III)]~~ (C) private carrier; and

~~[(B)]~~ (ii) shall request the county to show good cause why the commission should not adjust the assessment by requesting the county to provide to the commission a written statement ~~[-(I)]~~ setting forth the known facts and legal basis for not adjusting the assessment ~~[-and (II)]~~ within 30 days from the date of the written notice.

~~[(b)]~~ (c) If a county provides a written statement described in Subsection (12)(b) to the commission ~~[a written statement in accordance with Subsection (8)(a)(ii)(B)]~~, the commission shall:

- (i) hold a hearing or take other appropriate action to consider the good cause ~~[alleged by the county]~~ the county provides in the written statement; and
- (ii) issue a written decision increasing, lowering, or sustaining the assessment.

~~[(e)]~~ (d) If a county does not provide ~~[to the commission]~~ a written statement ~~[in accordance with Subsection (8)(a)(ii)(B)]~~ described in Subsection (12)(b) to the commission within 30 days after the commission sends the notice described in Subsection ~~[(8)]~~ (12)(a), the commission shall adjust the assessment and send a copy of the commission's written decision to the county.

~~[(9)]~~ (13) Subsection ~~[(8)]~~ (12) does not limit the rights of ~~[any county as described in Subsection (1)]~~ a county as provided in Subsections (2) and (4)(a).

(14) (a) On or before the November 2018 interim meeting, the Revenue and Taxation Interim Committee shall study the process for a county to object to an assessment of property assessed by the commission.

(b) As part of the study required by Subsection (14)(a), the Revenue and Taxation Interim Committee shall determine whether to draft legislation to modify the process for a county to object to an assessment of property assessed by the commission.

Section 5. Section 63I-2-259 is amended to read:

63I-2-259. Repeal dates -- Title 59.

(1) Subsection 59-2-919(10) is repealed December 31, 2015.

(2) Subsection 59-2-919.1(4) is repealed December 31, 2015.

(3) Subsection 59-2-1007(14) is repealed on December 31, 2018.

Section 6. Effective date.

This bill takes effect on January 1, 2016.

CHAPTER 140**S. B. 257**

Passed March 12, 2015

Approved March 24, 2015

Effective May 12, 2015

ANTITRUST AMENDMENTS

Chief Sponsor: Curtis S. Bramble

House Sponsor: Mike K. McKell

LONG TITLE**General Description:**

This bill modifies the Utah Antitrust Act.

Highlighted Provisions:

This bill:

- ▶ authorizes the attorney general to enter into a confidentiality agreement when conducting a civil antitrust investigation;
- ▶ authorizes a court to issue a confidentiality order in any civil antitrust action;
- ▶ specifies conditions and requirements regarding a confidentiality agreement or a confidentiality order;
- ▶ defines terms; and
- ▶ makes technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

76-10-3103, as renumbered and amended by Laws of Utah 2013, Chapter 187

76-10-3107, as renumbered and amended by Laws of Utah 2013, Chapter 187

*Be it enacted by the Legislature of the state of Utah:***Section 1. Section 76-10-3103 is amended to read:****76-10-3103. Definitions.**As used in this ~~act~~ part:

(1) "Attempt to monopolize" means action taken without a legitimate business purpose and with a specific intent of destroying competition or controlling prices to substantially lessen competition, or creating a monopoly, where there is a dangerous probability of creating a monopoly.

(2) "Attorney general" means the attorney general of the state or one of the attorney general's assistants.

~~(2)~~ (3) "Commodity" includes any product of the soil, any article of merchandise or trade or commerce, and any other kind of real or personal property.

~~(3)~~ (4) "Manufacturer" means the producer or originator of any commodity or service.

~~(4)~~ (5) "Service" includes any activity that is performed in whole or in part for the purpose of financial gain including, but not limited to, personal

service, professional service, rental, leasing or licensing for use.

~~(5)~~ (6) "Trade or commerce" includes all economic activity involving, or relating to, any commodity, service, or business activity, including the cost of exchange or transportation.

Section 2. Section 76-10-3107 is amended to read:**76-10-3107. Civil antitrust investigations -- Demand for production of documents and responses to written interrogatories -- Oral examination -- Judicial order for compliance -- Confidentiality -- Subpoenas precluded.**

(1) When the attorney general has reasonable cause to believe that any person may be in possession, custody, or control of any information, including any document, material, or testimony, relevant to a civil antitrust investigation, ~~the~~ ~~attorney general may, prior to the commencement of a civil action~~ ~~thereon~~, issue and cause to be served upon that person a written civil investigative demand requesting that person to:

(a) produce ~~the documentary~~ any document or material for inspection, copying, or reproduction by the state where the ~~documents are~~ document or material is located or produced;

(b) give oral testimony under oath, concerning the subject of the investigation;

(c) respond to written interrogatories; or

(d) furnish any combination of these.

(2) (a) Each demand shall state:

(i) the nature of the activities under investigation, constituting the alleged antitrust violation, which may result in a violation of this ~~act~~ part and the applicable provision of law;

(ii) that the recipient is entitled to counsel;

(iii) that the ~~documents, materials, or testimony~~ information received in response to the demand may be used in a civil or criminal proceeding;

(iv) that if the recipient does not comply with the demand, the ~~Office of the Attorney General~~ attorney general may compel compliance by appearance, upon reasonable notice to the recipient, before the district court in the judicial district ~~wherein~~ where the recipient resides or does business and only upon a showing before that district court that the requirements of Subsection (7) have been met;

(v) that the recipient has the right at any time before the return date of the demand, or within 30 days, whichever period is shorter, to seek a court order determining the validity of the demand; and

(vi) that at any time during the proceeding the person may assert any applicable privilege.

(b) If the demand is for production of ~~documentary material, it~~ any document or material, the demand shall also:

(i) describe the ~~documentary~~ document or material to be produced with sufficient definiteness

and certainty as to permit the document or material to be fairly identified;

(ii) prescribe return dates that provide a reasonable period of time within which the document or material demanded may be assembled and made available for inspection and reproduction; and

(iii) identify the individual at the [~~attorney general's office~~] Office of the Attorney General to whom the document or material shall be made available.

(c) If the demand is for the giving of oral testimony, [~~it~~] the demand shall also:

(i) prescribe the date, time, and place at which oral testimony shall be commenced;

(ii) state that [~~a member~~] an employee of the [attorney general's office staff] Office of the Attorney General shall conduct the examination; and

(iii) state that the recording or the transcript of [~~such~~] the examination shall be submitted to and maintained by the Office of the Attorney General.

(d) If the demand is for responses to written interrogatories, [~~it~~] the demand shall also:

(i) state that each interrogatory shall be answered separately and fully in writing and under oath, unless the person objects to the interrogatory, in which event the reasons for objection shall be stated in lieu of an answer;

(ii) state that the answers are to be signed by the person making them, and the objections are to be signed by the attorney making them;

(iii) identify by name and address the individual at the Office of the Attorney General on whom answers and objections provided under this Subsection (2)(d) are to be served; and

(iv) prescribe the date on or before which these answers and objections are to be served on the identified individual.

(3) The civil investigative demand may be served upon any person who is subject to the jurisdiction of any Utah court and shall be served upon the person in the manner provided for service of a subpoena.

(4) (a) [~~The documents~~] Any document or material submitted in response to a demand served under this section shall be accompanied by an affidavit, in the form the demand designates, by the person, if a natural person, to whom the demand is directed or, if not a natural person, by a person having knowledge of the facts and circumstances relating to the production.

(b) The affidavit shall state that [~~all of the documentary~~] every document or material required by the demand and in the possession, custody, or control of the person to whom the demand is directed has in good faith been produced and made available to the Office of the Attorney General.

(c) The affidavit shall identify any demanded [~~documents~~] document or material that [~~are~~] is not produced and state the reason why each [~~document~~] item was not produced.

(5) (a) [~~The~~] An examination of any person pursuant to a demand for oral testimony served under this section [~~shall~~] may only be taken before an officer authorized to administer oaths or affirmations by the laws of the United States or of the place where the examination is held. The officer before whom the testimony is to be taken shall put the witness on oath or affirmation and shall personally, or by someone acting under [~~his~~] the officer's direction and in [~~his~~] the officer's presence, record the testimony of the witness. If the testimony is taken stenographically, it shall be transcribed and the officer before whom the testimony is taken shall promptly transmit the transcript of the testimony to the Office of the Attorney General.

(b) When taking oral testimony, all persons other than personnel from the [~~attorney general's office~~] Office of the Attorney General, the witness, counsel for the witness, and the officer before whom the testimony is to be taken shall be excluded from the place where the examination is held.

(c) The oral testimony of any person taken pursuant to a demand served under this section shall be taken in the county where the person resides or transacts business or in any other place agreed upon by the attorney general and the person.

(d) When testimony is fully transcribed, the transcript shall be certified by the officer before whom the testimony was taken and submitted to the witness for examination and signing, in accordance with [~~Rule 30(e) of~~] the Utah Rules of Civil Procedure, Rule 30(e). A copy of the deposition shall be furnished free of charge to [~~each~~] a witness upon [~~his~~] the witness's request.

(e) Any change in testimony recorded by nonstenographic means shall be made in the manner provided in [~~Rule 30 of~~] the Utah Rules of Civil Procedure, Rule 30, for changing deposition testimony recorded by nonstenographic means.

(f) Any person compelled to appear under a demand for oral testimony under this section may be accompanied, represented, and advised by counsel. Counsel may advise the person, in confidence, either upon the request of the person or upon counsel's own initiative, with respect to any question asked of the person. The person or counsel may object on the record to any question, in whole or in part, and shall briefly state for the record the reason for the objection. An objection may properly be made, received, and entered upon the record when it is claimed that the person is entitled to refuse to answer the question on grounds of any constitutional or other legal right or privilege, including the privilege against self-incrimination. If the person refuses to answer any question, the attorney general may petition the district court for an order compelling the person to answer the question.

(g) If any person compelled to appear under a demand for oral testimony or other information pursuant to this section refuses to answer any questions or produce information on grounds of the privilege against self-incrimination, the testimony of that person may be compelled as in criminal cases.

(h) Any person appearing for oral examination pursuant to a demand served under this section is entitled to the same fees and mileage which are paid to witnesses in the district courts of the state of Utah. Witness fees and expenses shall be tendered and paid as in any civil action.

(6) The providing of any ~~[testimony, documents, or objects]~~ information in response to a civil investigative demand issued pursuant to the provisions of this ~~[act]~~ part shall be considered part of an official proceeding as defined in Section 76-8-501.

(7) (a) If a person fails to comply with the demand served upon him under this section, the attorney general may file in the district court of the county in which the person resides, is found, or does business, a petition for an order compelling compliance with the demand. Notice of hearing of the petition and a copy of the petition shall be served upon the person, who may appear in opposition to the petition. If the court finds that the demand is proper, that there is reasonable cause to believe there has been a violation of this ~~[act]~~ part, and that the information sought ~~[or document or object demanded]~~ is relevant to the violation, it shall order the person to comply with the demand, subject to modifications the court may prescribe.

(b) (i) At any time before the return date specified in a demand or within 30 days after the demand has been served, whichever period is shorter, the person who has been served may file a petition for an order modifying or setting aside the demand. This petition shall be filed in the district court in the county of the person's residence, principal office, or place of business, or in the district court in Salt Lake County. The petition shall specify each ground upon which the petitioner relies in seeking the relief sought. The petition may be based upon any failure of the demand to comply with the provisions of this section or upon any constitutional or other legal right or privilege of the petitioner. The petitioner shall serve notice of hearing of the petition and a copy of the petition upon the attorney general. The attorney general may submit an answer to the petition within 30 days after receipt of the petition.

(ii) After a hearing on the petition described in Subsection (7)(b)(i), and for good cause shown, the court may make any further order in the proceedings that justice requires to protect the person from unreasonable annoyance, embarrassment, oppression, burden, or expense. At any hearing pursuant to this section it is the attorney general's burden to establish that the demand is proper, that there is reasonable cause to believe that there has been a violation of this ~~[act]~~ part, and that the information sought ~~[or document or object demanded]~~ is relevant to the violation.

(8) (a) The attorney general may enter into a confidentiality agreement in lieu of, or in addition to, issuing a civil investigative demand, when the attorney general has reasonable cause to believe that any person may be in possession, custody, or control of any information relevant to a civil antitrust investigation or civil antitrust action.

(b) In any civil antitrust action, the court may issue a confidentiality order, which may incorporate a confidentiality agreement.

(c) The confidentiality agreement or confidentiality order may address any procedure, testimony taken, or document or material produced under this section. The agreement or order may define to whom access will be given, the conditions and the restrictions to the access, and how the testimony, document, or material will be safeguarded. The agreement or order may require that documentation of testimony and any other document or material:

(i) be returned to the designated person; or

(ii) notwithstanding the provisions of Section 63A-12-105 and any retention schedule promulgated pursuant to Section 63G-2-604, be destroyed by the attorney general at a designated time, in which case this requirement is binding upon the attorney general.

~~[(8)]~~ (9) (a) Any procedure, testimony taken, or document or material produced under this section, whether produced pursuant to a civil investigative demand, confidentiality agreement, or confidentiality order, shall be kept confidential by the attorney general unless confidentiality is waived in writing by the person who has testified, or produced ~~[documents]~~ a document or ~~[objects]~~ material.

(b) Any testimony taken or document or material produced under this section may be used in a civil antitrust action, provided that the use is not restricted or prohibited under a confidentiality agreement or confidentiality order, unless that restriction or prohibition is waived by the person from whom the information was obtained.

~~[(b)]~~ (c) Notwithstanding any other provision of this section, the attorney general may disclose testimony taken or ~~[documents]~~ a document or material obtained under this section, without either the consent of the person from whom it was received or the person being investigated, to:

(i) any grand jury; and

(ii) officers and employees of federal or state law enforcement agencies, provided the person from whom the information~~[, documents, or objects were]~~ was obtained is notified 20 days prior to disclosure, and the federal or state law enforcement agency certifies that the information will be:

(A) maintained in confidence, as required by Subsection ~~[(8)]~~ (9)(a); and

(B) used only for official law enforcement purposes.

~~[(9)]~~ (10) Use of a civil investigative demand under this action precludes the invocation by the attorney general of Section 77-22-2.

CHAPTER 141**H. B. 36**

Passed March 6, 2015
Approved March 25, 2015
Effective July 1, 2016

VETERANS DEFINITION

Chief Sponsor: Paul Ray
Senate Sponsor: Peter C. Knudson

LONG TITLE**General Description:**

This bill makes coordinating changes to the definition of veteran.

Highlighted Provisions:

This bill:

- ▶ adds the term “veteran” to the general definitions for the Utah Code;
- ▶ makes coordinating changes to the definition of veteran; and
- ▶ makes other technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

26-8a-106, as last amended by Laws of Utah 2011, Chapter 181
53B-8-102, as last amended by Laws of Utah 2014, Chapter 216
53B-13b-102, as enacted by Laws of Utah 2014, Chapter 87
68-3-12.5, as last amended by Laws of Utah 2011, Chapter 366
71-7-3, as last amended by Laws of Utah 2013, Chapter 214
71-8-1, as last amended by Laws of Utah 2014, Chapter 85
71-12-102, as enacted by Laws of Utah 2014, Chapter 91

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

Section 1. Section 26-8a-106 is amended to read:**26-8a-106. Waiver of rules.**

(1) Upon application, the committee or department may waive the requirements of a rule it has adopted if:

(a) the person applying for the waiver satisfactorily demonstrates that:

(i) the waiver is necessary for a pilot project to be undertaken by the applicant;

(ii) in the particular situation, the requirement serves no beneficial public purpose; or

(iii) circumstances warrant that waiver of the requirement outweighs the public benefit to be gained by adherence to the rule; and

(b) for a waiver granted under Subsection (1)(a)(ii) or (iii), the committee or department:

(i) extends the waiver to similarly situated persons upon application; or

(ii) amends the rule to be consistent with the waiver.

(2) A waiver of education, licensing, or certification requirements may be granted to a veteran, as defined in Section ~~[71-8-1]~~ 68-3-12.5, if the veteran:

(a) provides to the committee or department documentation showing military education and training in the field in which certification or licensure is sought; and

(b) successfully passes any examination required.

(3) No waiver may be granted under this section that is inconsistent with the provisions of this chapter.

Section 2. Section 53B-8-102 is amended to read:**53B-8-102. Definitions -- Resident student status -- Exceptions.**

(1) As used in this section:

(a) “Immediate family member” means an individual’s spouse or child.

(b) “Military servicemember” means:

(i) an individual who is serving on active duty in the United States Armed Forces within the state of Utah;

(ii) an individual who is a member of a reserve component of the United States Armed Forces assigned in Utah; or

(iii) an individual who is a member of the Utah National Guard.

~~[(c) “Military veteran” means an individual who:]~~

~~[(i) has served on active duty;]~~

~~[(A) in the United States Armed Forces for at least 180 consecutive days or was a member of a reserve component and has been separated or retired with an honorable or general discharge; or]~~

~~[(B) in the National Guard and has been separated or retired with an honorable or general discharge; or]~~

~~[(ii) incurred an actual service-related injury or disability in the line of duty regardless of whether that person completed 180 days of active duty;]~~

~~(c) “Military veteran” has the same meaning as veteran in Section 68-3-12.5.~~

(d) “Parent” means a student’s biological or adoptive parent.

(2) The meaning of “resident student” is determined by reference to the general law on the subject of domicile, except as provided in this section.

(3) (a) Institutions within the state system of higher education may grant resident student status to any student who has come to Utah and

established residency for the purpose of attending an institution of higher education, and who, prior to registration as a resident student:

(i) has maintained continuous Utah residency status for one full year;

(ii) has signed a written declaration that the student has relinquished residency in any other state; and

(iii) has submitted objective evidence that the student has taken overt steps to establish permanent residency in Utah and that the student does not maintain a residence elsewhere.

(b) Evidence to satisfy the requirements under Subsection (3)(a)(iii) includes:

(i) a Utah high school transcript issued in the past year confirming attendance at a Utah high school in the past 12 months;

(ii) a Utah voter registration dated a reasonable period prior to application;

(iii) a Utah driver license or identification card with an original date of issue or a renewal date several months prior to application;

(iv) a Utah vehicle registration dated a reasonable period prior to application;

(v) evidence of employment in Utah for a reasonable period prior to application;

(vi) proof of payment of Utah resident income taxes for the previous year;

(vii) a rental agreement showing the student's name and Utah address for at least 12 months prior to application; and

(viii) utility bills showing the student's name and Utah address for at least 12 months prior to application.

(c) A student who is claimed as a dependent on the tax returns of a person who is not a resident of Utah is not eligible to apply for resident student status.

(4) Except as provided in Subsection (8), an institution within the state system of higher education may establish stricter criteria for determining resident student status.

(5) If an institution does not have a minimum credit-hour requirement, that institution shall honor the decision of another institution within the state system of higher education to grant a student resident student status, unless:

(a) the student obtained resident student status under false pretenses; or

(b) the facts existing at the time of the granting of resident student status have changed.

(6) Within the limits established in Title 53B, Chapter 8, Tuition Waiver and Scholarships, each institution within the state system of higher education may, regardless of its policy on obtaining resident student status, waive nonresident tuition either in whole or in part, but not other fees.

(7) In addition to the waivers of nonresident tuition under Subsection (6), each institution may, as athletic scholarships, grant full waiver of fees and nonresident tuition, up to the maximum number allowed by the appropriate athletic conference as recommended by the president of each institution.

(8) Notwithstanding Subsection (3), an institution within the state system of higher education shall grant resident student status for tuition purposes to:

(a) a military servicemember, if the military servicemember provides:

(i) the military servicemember's current United States military identification card; and

(ii) a statement from the military servicemember's current commander, or equivalent, stating that the military servicemember is assigned in Utah;

(b) a military servicemember's immediate family member, if the military servicemember's immediate family member provides:

(i) one of the following:

(A) the military servicemember's current United States military identification card; or

(B) the immediate family member's current United States military identification card; and

(ii) a statement from the military servicemember's current commander, or equivalent, stating that the military servicemember is assigned in Utah;

(c) a military veteran, regardless of whether the military veteran served in Utah, if the military veteran provides:

(i) evidence of an honorable or general discharge;

(ii) a signed written declaration that the military veteran has relinquished residency in any other state and does not maintain a residence elsewhere;

(iii) objective evidence that the military veteran has taken overt steps to relinquish residency in any other state and establish residency in Utah, which may include any one of the following:

(A) a Utah voter registration card;

(B) a Utah driver license or identification card;

(C) a Utah vehicle registration;

(D) evidence of employment in Utah;

(E) a rental agreement showing the military veteran's name and Utah address; or

(F) utility bills showing the military veteran's name and Utah address; and

(d) a military veteran's immediate family member, regardless of whether the military veteran served in Utah, if the military veteran's immediate family member provides:

(i) evidence of the military veteran's honorable or general discharge within the last five years;

(ii) a signed written declaration that the military veteran's immediate family member has relinquished residency in any other state and does not maintain a residence elsewhere; and

(iii) objective evidence that the military veteran's immediate family member has taken overt steps to relinquish residency in any other state and establish residency in Utah, which may include any one of the items described in Subsection (8)(c)(iii).

(9) (a) Aliens who are present in the United States on visitor, student, or other visas which authorize only temporary presence in this country, do not have the capacity to intend to reside in Utah for an indefinite period and therefore are classified as nonresidents.

(b) Aliens who have been granted immigrant or permanent resident status in the United States are classified for purposes of resident student status according to the same criteria applicable to citizens.

(10) Any American Indian who is enrolled on the tribal rolls of a tribe whose reservation or trust lands lie partly or wholly within Utah or whose border is at any point contiguous with the border of Utah, and any American Indian who is a member of a federally recognized or known Utah tribe and who has graduated from a high school in Utah, is entitled to resident student status.

(11) A Job Corps student is entitled to resident student status if the student:

(a) is admitted as a full-time, part-time, or summer school student in a program of study leading to a degree or certificate; and

(b) submits verification that the student is a current Job Corps student.

(12) A person is entitled to resident student status and may immediately apply for resident student status if the person:

(a) marries a Utah resident eligible to be a resident student under this section; and

(b) establishes his or her domicile in Utah as demonstrated by objective evidence as provided in Subsection (3).

(13) Notwithstanding Subsection (3)(c), a dependent student who has at least one parent who has been domiciled in Utah for at least 12 months prior to the student's application is entitled to resident student status.

(14) (a) A person who has established domicile in Utah for full-time permanent employment may rebut the presumption of a nonresident classification by providing substantial evidence that the reason for the individual's move to Utah was, in good faith, based on an employer requested transfer to Utah, recruitment by a Utah employer, or a comparable work-related move for full-time permanent employment in Utah.

(b) All relevant evidence concerning the motivation for the move shall be considered, including:

(i) the person's employment and educational history;

(ii) the dates when Utah employment was first considered, offered, and accepted;

(iii) when the person moved to Utah;

(iv) the dates when the person applied for admission, was admitted, and was enrolled as a postsecondary student;

(v) whether the person applied for admission to an institution of higher education sooner than four months from the date of moving to Utah;

(vi) evidence that the person is an independent person who is:

(A) at least 24 years of age; or

(B) not claimed as a dependent on someone else's tax returns; and

(vii) any other factors related to abandonment of a former domicile and establishment of a new domicile in Utah for purposes other than to attend an institution of higher education.

(15) (a) A person who is in residence in Utah to participate in a United States Olympic athlete training program, at a facility in Utah, approved by the governing body for the athlete's Olympic sport, shall be entitled to resident status for tuition purposes.

(b) Upon the termination of the athlete's participation in the training program, the athlete shall be subject to the same residency standards applicable to other persons under this section.

(c) Time spent domiciled in Utah during the Olympic athlete training program in Utah counts for Utah residency for tuition purposes upon termination of the athlete's participation in a Utah Olympic athlete training program.

(16) (a) A person who has established domicile in Utah for reasons related to divorce, the death of a spouse, or long-term health care responsibilities for an immediate family member, including the person's spouse, parent, sibling, or child, may rebut the presumption of a nonresident classification by providing substantial evidence that the reason for the individual's move to Utah was, in good faith, based on the long-term health care responsibilities.

(b) All relevant evidence concerning the motivation for the move shall be considered, including:

(i) the person's employment and educational history;

(ii) the dates when the long-term health care responsibilities in Utah were first considered, offered, and accepted;

(iii) when the person moved to Utah;

(iv) the dates when the person applied for admission, was admitted, and was enrolled as a postsecondary student;

(v) whether the person applied for admission to an institution of higher education sooner than four months from the date of moving to Utah;

(vi) evidence that the person is an independent person who is:

(A) at least 24 years of age; or

(B) not claimed as a dependent on someone else's tax returns; and

(vii) any other factors related to abandonment of a former domicile and establishment of a new domicile in Utah for purposes other than to attend an institution of higher education.

(17) The board, after consultation with the institutions, shall make rules not inconsistent with this section:

(a) concerning the definition of resident and nonresident students;

(b) establishing procedures for classifying and reclassifying students;

(c) establishing criteria for determining and judging claims of residency or domicile;

(d) establishing appeals procedures; and

(e) other matters related to this section.

(18) A student shall be exempt from paying the nonresident portion of total tuition if the student:

(a) is a foreign national legally admitted to the United States;

(b) attended high school in this state for three or more years; and

(c) graduated from a high school in this state or received the equivalent of a high school diploma in this state.

Section 3. Section 53B-13b-102 is amended to read:

53B-13b-102. Definitions.

As used in this chapter:

(1) "Federal program" means the Post-9/11 Veterans Educational Assistance Act of 2008, Pub. L. No. 110-252.

(2) "Institution of higher education" or "institution" means a:

(a) credit-granting higher education institution within the state system of higher education; or

(b) an institution of higher learning, as defined in the federal program, that is located in the state.

(3) "Program" means the Veterans Tuition Gap Program created in this chapter.

(4) (a) "Qualifying military veteran" means an individual a veteran, as defined in Section 68-3-12.5, who:

(i) is a resident student under Section 53B-8-102 and rules of the board;

(ii) is accepted into an institution and enrolled in a program leading to a bachelor's degree;

(iii) has qualified for the federal program;

(iv) has maximized the federal benefit under the federal program; and

(v) has not completed a bachelor's degree.

(b) "Qualifying military veteran" does not include a family member.

Section 4. Section 68-3-12.5 is amended to read:

68-3-12.5. Definitions for Utah Code.

(1) The definitions listed in this section apply to the Utah Code, unless:

(a) the definition is inconsistent with the manifest intent of the Legislature or repugnant to the context of the statute; or

(b) a different definition is expressly provided for the respective title, chapter, part, section, or subsection.

(2) "Adjudicative proceeding" means:

(a) an action by a board, commission, department, officer, or other administrative unit of the state that determines the legal rights, duties, privileges, immunities, or other legal interests of one or more identifiable persons, including an action to grant, deny, revoke, suspend, modify, annul, withdraw, or amend an authority, right, or license; and

(b) judicial review of an action described in Subsection (2)(a).

(3) "Administrator" includes "executor" when the subject matter justifies the use.

(4) "Advisory board," "advisory commission," and "advisory council" mean a board, commission, committee, or council that:

(a) is created by, and whose duties are provided by, statute or executive order;

(b) performs its duties only under the supervision of another person as provided by statute; and

(c) provides advice and makes recommendations to another person that makes policy for the benefit of the general public.

(5) "County executive" means:

(a) the county commission, in the county commission or expanded county commission form of government established under Title 17, Chapter 52, Changing Forms of County Government;

(b) the county executive, in the county executive-council optional form of government authorized by Section 17-52-504; or

(c) the county manager, in the council-manager optional form of government authorized by Section 17-52-505.

(6) "County legislative body" means:

(a) the county commission, in the county commission or expanded county commission form of government established under Title 17, Chapter 52, Changing Forms of County Government;

(b) the county council, in the county executive-council optional form of government authorized by Section 17-52-504; and

(c) the county council, in the council-manager optional form of government authorized by Section 17-52-505.

(7) “Depose” means to make a written statement made under oath or affirmation.

(8) “Executor” includes “administrator” when the subject matter justifies the use.

(9) “Guardian” includes a person who:

(a) qualifies as a guardian of a minor or incapacitated person pursuant to testamentary or court appointment; or

(b) is appointed by a court to manage the estate of a minor or incapacitated person.

(10) “Highway” includes:

(a) a public bridge;

(b) a county way;

(c) a county road;

(d) a common road; and

(e) a state road.

(11) “Intellectual disability” means a significant, subaverage general intellectual functioning that:

(a) exists concurrently with deficits in adaptive behavior; and

(b) is manifested during the developmental period as defined in the current edition of the Diagnostic and Statistical Manual of Mental Disorders, published by the American Psychiatric Association.

(12) “Intermediate care facility for people with an intellectual disability” means an intermediate care facility for the mentally retarded, as defined in Title XIX of the Social Security Act.

(13) “Land” includes:

(a) land;

(b) a tenement;

(c) a hereditament;

(d) a water right;

(e) a possessory right; and

(f) a claim.

(14) “Month” means a calendar month, unless otherwise expressed.

(15) “Oath” includes “affirmation.”

(16) “Person” means:

(a) an individual;

(b) an association;

(c) an institution;

(d) a corporation;

(e) a company;

(f) a trust;

(g) a limited liability company;

(h) a partnership;

(i) a political subdivision;

(j) a government office, department, division, bureau, or other body of government; and

(k) any other organization or entity.

(17) “Personal property” includes:

(a) money;

(b) goods;

(c) chattels;

(d) effects;

(e) evidences of a right in action;

(f) a written instrument by which a pecuniary obligation, right, or title to property is created, acknowledged, transferred, increased, defeated, discharged, or diminished; and

(g) a right or interest in an item described in Subsections (17)(a) through (f).

(18) “Personal representative,” “executor,” and “administrator” include:

(a) an executor;

(b) an administrator;

(c) a successor personal representative;

(d) a special administrator; and

(e) a person who performs substantially the same function as a person described in Subsections (18)(a) through (d) under the law governing the person’s status.

(19) “Policy board,” “policy commission,” or “policy council” means a board, commission, or council that:

(a) is authorized to make policy for the benefit of the general public;

(b) is created by, and whose duties are provided by, the constitution or statute; and

(c) performs its duties according to its own rules without supervision other than under the general control of another person as provided by statute.

(20) “Population” is shown by the most recent state or national census, unless expressly provided otherwise.

(21) “Process” means a writ or summons issued in the course of a judicial proceeding.

(22) “Property” includes both real and personal property.

(23) “Real estate” or “real property” includes:

(a) land;

(b) a tenement;

(c) a hereditament;

(d) a water right;

(e) a possessory right; and

(f) a claim.

(24) “Review board,” “review commission,” and “review council” mean a board, commission, committee, or council that:

(a) is authorized to approve policy made for the benefit of the general public by another body or person;

(b) is created by, and whose duties are provided by, statute; and

(c) performs its duties according to its own rules without supervision other than under the general control of another person as provided by statute.

(25) “Road” includes:

(a) a public bridge;

(b) a county way;

(c) a county road;

(d) a common road; and

(e) a state road.

(26) “Signature” includes a name, mark, or sign written with the intent to authenticate an instrument or writing.

(27) “State,” when applied to the different parts of the United States, includes a state, district, or territory of the United States.

(28) “Swear” includes “affirm.”

(29) “Testify” means to make an oral statement under oath or affirmation.

(30) “United States” includes each state, district, and territory of the United States of America.

(31) “Utah Code” means the 1953 recodification of the Utah Code, as amended, unless the text expressly references a portion of the 1953 recodification of the Utah Code as it existed:

(a) on the day on which the 1953 recodification of the Utah Code was enacted; or

(b) (i) after the day described in Subsection (31)(a); and

(ii) before the most recent amendment to the referenced portion of the 1953 recodification of the Utah Code.

(32) “Vessel,” when used with reference to shipping, includes a steamboat, canal boat, and every structure adapted to be navigated from place to place.

(33) (a) “Veteran” means an individual who:

(i) has served in the United States Armed Forces for at least 180 days:

(A) on active duty; or

(B) in a reserve component, to include the National Guard; or

(ii) has incurred an actual service-related injury or disability while in the United States Armed Forces regardless of whether the individual completed 180 days; and

(iii) was separated or retired under conditions characterized as honorable or general.

(b) This definition is not intended to confer eligibility for benefits.

~~[(33)]~~ (34) “Will” includes a codicil.

~~[(34)]~~ (35) “Writ” means an order or precept in writing, issued in the name of:

(a) the state;

(b) a court; or

(c) a judicial officer.

~~[(35)]~~ (36) “Writing” includes:

(a) printing;

(b) handwriting; and

(c) information stored in an electronic or other medium if the information is retrievable in a perceivable format.

Section 5. Section 71-7-3 is amended to read:

71-7-3. Development, operation, and maintenance of Utah Veterans’ Cemetery and Memorial Park -- Responsibilities of Department of Veterans’ and Military Affairs -- Costs -- Definition.

(1) The Department of Veterans’ and Military Affairs, in consultation with the Veterans’ Memorial Park Board, shall develop, operate, and maintain a veterans’ cemetery and memorial park.

(2) To help pay the costs of developing, constructing, operating, and maintaining a veterans’ cemetery and memorial park, the Department of Veterans’ and Military Affairs may:

(a) by following the procedures and requirements of Title 63J, Chapter 5, Federal Funds Procedures Act, receive federal funds, and may receive state funds, contributions from veterans’ organizations, and other private donations; and

(b) charge fees for at least the cost of the burial of veterans’ spouses and other persons, whom the department and the Veterans’ Memorial Park Board determines are eligible to be buried in a veterans’ cemetery established by the state.

(3) ~~[As used in this chapter, “veteran” has the same meaning as in Section 71-8-1] “Veteran” has the same meaning as defined in Section 68-3-12.5.~~

Section 6. Section 71-8-1 is amended to read:

71-8-1. Definitions.

As used in this ~~chapter~~ title:

(1) “Contractor” means a person who is or may be awarded a government entity contract.

(2) "Council" means the Veterans' Advisory Council.

(3) "Department" means the Department of Veterans' and Military Affairs.

(4) "Executive director" means the executive director of the Department of Veterans' and Military Affairs.

(5) "Government entity" means the state and any county, municipality, local district, special service district, and any other political subdivision or administrative unit of the state, including state institutions of education.

(6) "Specialist" means a full-time employee of a government entity who is tasked with responding to, and assisting, veterans who are employed by the entity or come to the entity for assistance.

[~~(7) "Veteran" means:~~]

~~[(a) an individual who has served on active duty in the armed forces for at least 180 consecutive days or was a member of a reserve component, and who has been was separated or retired under honorable or general conditions; or]~~

~~[(b) any individual incurring an actual service-related injury or disability in the line of duty whether or not that person completed 180 days of active duty.]~~

(7) "Veteran" has the same meaning as defined in Section 68-3-12.5.

Section 7. Section 71-12-102 is amended to read:

71-12-102. Definitions.

As used in this chapter:

(1) "Council" means the Veterans' Advisory Council as created in Section 71-8-4.

(2) "Department" means the Department of Veterans' and Military Affairs as created in Section 71-8-2.

(3) "Donor" means an individual or entity that provides material goods, services, or labor without charge to veterans in accordance with this chapter.

(4) "Recipient" means a veteran as defined in Section ~~[71-8-1]~~ 68-3-12.5, or a veteran's dependent spouse and children.

Section 8. Effective date.

This bill takes effect on July 1, 2016.

CHAPTER 142**H. B. 39**

Passed February 20, 2015

Approved March 25, 2015

Effective May 12, 2015

EMERGENCY PLACEMENT OF CHILDREN

Chief Sponsor: Johnny Anderson

Senate Sponsor: Gene Davis

LONG TITLE**General Description:**

This bill amends provisions related to the emergency placement of a child who has been removed by the Division of Child and Family Services.

Highlighted Provisions:

This bill:

- ▶ permits the Division of Child and Family Services (the division) to place a child in an emergency placement with a friend, designated by the custodial parent or guardian, who is not a licensed foster parent;
- ▶ modifies the definition of “relative” as it relates to abuse, neglect, and dependency proceedings;
- ▶ permits the division to place a child in an emergency placement with an adult who is an adoptive parent of the child’s sibling; and
- ▶ permits the court to award custody of a child with an adult who is an adoptive parent of a child’s sibling.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

62A-4a-209, as last amended by Laws of Utah 2013, Chapter 416

78A-6-307, as last amended by Laws of Utah 2013, Chapter 416

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

Section 1. Section 62A-4a-209 is amended to read:**62A-4a-209. Emergency placement.**

(1) As used in this section:

(a) “Friend” means the same as that term is defined in Subsection 78A-6-307(1)(a).

~~(a)~~ (b) “Nonrelative” means an individual, other than a noncustodial parent or a relative.

~~(b)~~ (c) “Relative” ~~is as~~ means the same as that term is defined in Subsection 78A-6-307(1)~~(b)~~~~(c)~~.

(2) The division may use an emergency placement under Subsection 62A-4a-202.1(4)(b)(ii) when:

(a) the case worker has made the determination that:

(i) the child’s home is unsafe;

(ii) removal is necessary under the provisions of Section 62A-4a-202.1; and

(iii) the child’s custodial parent or guardian will agree to not remove the child from the home of the person that serves as the placement and not have any contact with the child until after the shelter hearing required by Section 78A-6-306;

(b) a person, with preference being given in accordance with Subsection (4), can be identified who has the ability and is willing to provide care for the child who would otherwise be placed in shelter care, including:

(i) taking the child to medical, mental health, dental, and educational appointments at the request of the division; and

(ii) making the child available to division services and the guardian ad litem; and

(c) the person described in Subsection (2)(b) agrees to care for the child on an emergency basis under the following conditions:

(i) the person meets the criteria for an emergency placement under Subsection (3);

(ii) the person agrees to not allow the custodial parent or guardian to have any contact with the child until after the shelter hearing unless authorized by the division in writing;

(iii) the person agrees to contact law enforcement and the division if the custodial parent or guardian attempts to make unauthorized contact with the child;

(iv) the person agrees to allow the division and the child’s guardian ad litem to have access to the child;

(v) the person has been informed and understands that the division may continue to search for other possible placements for long-term care, if needed;

(vi) the person is willing to assist the custodial parent or guardian in reunification efforts at the request of the division, and to follow all court orders; and

(vii) the child is comfortable with the person.

(3) Except as otherwise provided in Subsection (5), before the division places a child in an emergency placement, the division:

(a) may request the name of a reference and may contact the reference to determine the answer to the following questions:

(i) would the person identified as a reference place a child in the home of the emergency placement; and

(ii) are there any other relatives or friends to consider as a possible emergency or long-term placement for the child;

(b) shall have the custodial parent or guardian sign an emergency placement agreement form during the investigation;

(c) (i) if the emergency placement will be with a relative of the child, shall comply with the background check provisions described in Subsection (7); or

(ii) if the emergency placement will be with a person other than a noncustodial parent or a relative, shall comply with the criminal background check provisions described in Section 78A-6-308 for adults living in the household where the child will be placed;

(d) shall complete a limited home inspection of the home where the emergency placement is made; and

(e) shall have the emergency placement approved by a family service specialist.

(4) (a) The following order of preference shall be applied when determining the person with whom a child will be placed in an emergency placement described in this section, provided that the person is willing, and has the ability, to care for the child:

(i) a noncustodial parent of the child in accordance with Section 78A-6-307;

(ii) a relative of the child;

(iii) subject to Subsection (4)(b), a friend designated by the custodial parent or guardian of the child~~[-, if the friend is a licensed foster parent]~~; and

(iv) a shelter facility, former foster placement, or other foster placement designated by the division.

(b) Unless the division agrees otherwise, the custodial parent or guardian described in Subsection (4)(a)(iii) may designate up to two friends as a potential emergency placement.

(5) (a) The division may, pending the outcome of the investigation described in Subsections (5)(b) and (c), place a child in emergency placement with the child's noncustodial parent if, based on a limited investigation, prior to making the emergency placement, the division:

(i) determines that the noncustodial parent has regular, unsupervised visitation with the child that is not prohibited by law or court order;

(ii) determines that there is not reason to believe that the child's health or safety will be endangered during the emergency placement; and

(iii) has the custodial parent or guardian sign an emergency placement agreement.

(b) Either before or after making an emergency placement with the noncustodial parent of the child, the division may conduct the investigation described in Subsection (3)(a) in relation to the noncustodial parent.

(c) Before, or within one day, excluding weekends and holidays, after a child is placed in an emergency placement with the noncustodial parent of the child, the division shall conduct a limited:

(i) background check of the noncustodial parent, pursuant to Subsection (7); and

(ii) inspection of the home where the emergency placement is made.

(6) After an emergency placement, the division caseworker must:

(a) respond to the emergency placement's calls within one hour if the custodial parents or guardians attempt to make unauthorized contact with the child or attempt to remove the child;

(b) complete all removal paperwork, including the notice provided to the custodial parents and guardians under Section 78A-6-306;

(c) contact the attorney general to schedule a shelter hearing;

(d) complete the placement procedures required in Section 78A-6-307; and

(e) continue to search for other relatives as a possible long-term placement, if needed.

(7) (a) The background check described in Subsection (3)(c)(i) shall include:

(i) completion of a nonfingerprint-based, Utah Bureau of Criminal Identification background check; and

(ii) a completed search of the Management Information System described in Section 62A-4a-1003.

(b) The division shall determine whether a person passes the background check described in this Subsection (7) pursuant to the provisions of Subsections 62A-2-120(2), (3), and (8).

(c) Notwithstanding Subsection (7)(b), the division may not place a child with an individual who is prohibited by court order from having access to that child.

Section 2. Section 78A-6-307 is amended to read:

78A-6-307. Shelter hearing -- Placement -- DCFS custody.

(1) As used in this section:

(a) "Friend" means an adult the child knows and is comfortable with.

~~[(a)]~~ (b) (i) "Natural parent," notwithstanding the provisions of Section 78A-6-105, means:

(A) a biological or adoptive mother;

(B) an adoptive father; or

(C) a biological father who:

(I) was married to the child's biological mother at the time the child was conceived or born; or

(II) has strictly complied with the provisions of Sections 78B-6-120 through 78B-6-122, prior to removal of the child or voluntary surrender of the child by the custodial parent.

(ii) The definition of "natural parent" described in Subsection (1)~~[(a)]~~(b)(i) applies regardless of whether the child has been or will be placed with adoptive parents or whether adoption has been or will be considered as a long-term goal for the child.

~~(b)~~ (c) "Relative" means:

(i) an adult who is a grandparent, great grandparent, aunt, great aunt, uncle, great uncle, brother-in-law, sister-in-law, stepparent, first cousin, stepsibling, sibling of a child, or a first cousin of the child's parent; ~~and~~

(ii) an adult who is an adoptive parent of the child's sibling; or

~~(iii)~~ (iii) in the case of a child defined as an "Indian" under the Indian Child Welfare Act, 25 U.S.C. Sec. 1903, "relative" also means an "extended family member" as defined by that statute.

(2) (a) At the shelter hearing, when the court orders that a child be removed from the custody of the child's parent in accordance with the requirements of Section 78A-6-306, the court shall first determine whether there is another natural parent with whom the child was not residing at the time the events or conditions that brought the child within the court's jurisdiction occurred, who desires to assume custody of the child.

(b) If another natural parent requests custody under Subsection (2)(a), the court shall place the child with that parent unless it finds that the placement would be unsafe or otherwise detrimental to the child.

(c) The provisions of this Subsection (2) are limited by the provisions of Subsection (18)(b).

(d) (i) The court shall make a specific finding regarding the fitness of the parent described in Subsection (2)(b) to assume custody, and the safety and appropriateness of the placement.

(ii) The court shall, at a minimum, order the division to visit the parent's home, comply with the criminal background check provisions described in Section 78A-6-308, and check the division's management information system for any previous reports of abuse or neglect received by the division regarding the parent at issue.

(iii) The court may order the division to conduct any further investigation regarding the safety and appropriateness of the placement.

(iv) The division shall report its findings in writing to the court.

(v) The court may place the child in the temporary custody of the division, pending its determination regarding that placement.

(3) If the court orders placement with a parent under Subsection (2):

(a) the child and the parent are under the continuing jurisdiction of the court;

(b) the court may order:

(i) that the parent assume custody subject to the supervision of the court; and

(ii) that services be provided to the parent from whose custody the child was removed, the parent who has assumed custody, or both; and

(c) the court shall order reasonable parent-time with the parent from whose custody the child was removed, unless parent-time is not in the best interest of the child.

(4) The court shall periodically review an order described in Subsection (3) to determine whether:

(a) placement with the parent continues to be in the child's best interest;

(b) the child should be returned to the original custodial parent;

(c) the child should be placed in the custody of a relative, pursuant to Subsections (7) through (12); or

(d) the child should be placed in the custody of the division.

(5) The time limitations described in Section 78A-6-312 with regard to reunification efforts, apply to children placed with a previously noncustodial parent in accordance with Subsection (2).

(6) Legal custody of the child is not affected by an order entered under Subsection (2) or (3). In order to affect a previous court order regarding legal custody, the party must petition that court for modification of the order.

(7) If, at the time of the shelter hearing, a child is removed from the custody of the child's parent and is not placed in the custody of the child's other parent, the court:

(a) shall, at that time, determine whether, subject to Subsections (18)(c) through (e), there is a relative of the child or a friend of a parent of the child who is able and willing to care for the child;

(b) may order the division to conduct a reasonable search to determine whether, subject to Subsections (18)(c) through (e), there are relatives of the child or friends of a parent of the child who are willing and appropriate, in accordance with the requirements of this part and Title 62A, Chapter 4a, Part 2, Child Welfare Services, for placement of the child;

(c) shall order the parents to cooperate with the division, within five working days, to, subject to Subsections (18)(c) through (e), provide information regarding relatives of the child or friends who may be able and willing to care for the child; and

(d) may order that the child be placed in the custody of the division pending the determination under Subsection (7)(a).

(8) This section may not be construed as a guarantee that an identified relative or friend will receive custody of the child.

(9) Subject to Subsections (18)(c) through (e), preferential consideration shall be given to a relative's or a friend's request for placement of the

child, if it is in the best interest of the child, and the provisions of this section are satisfied.

(10) (a) If a willing relative or friend is identified under Subsection (7)(a), the court shall make a specific finding regarding:

(i) the fitness of that relative or friend as a placement for the child; and

(ii) the safety and appropriateness of placement with that relative or friend.

(b) In order to be considered a "willing relative or friend" under this section, the relative or friend shall be willing to cooperate with the child's permanency goal.

(11) (a) In making the finding described in Subsection (10)(a), the court shall, at a minimum, order the division to:

(i) if the child may be placed with a relative of the child, conduct a background check that includes:

(A) completion of a nonfingerprint-based, Utah Bureau of Criminal Identification background check of the relative;

(B) a completed search, relating to the relative, of the Management Information System described in Section 62A-4a-1003; and

(C) a background check that complies with the criminal background check provisions described in Section 78A-6-308, of each nonrelative, as defined in Subsection 62A-4a-209(1)(a)(b), of the child who resides in the household where the child may be placed;

(ii) if the child will be placed with a noncustodial parent of the child, complete a background check that includes:

(A) the background check requirements applicable to an emergency placement with a noncustodial parent that are described in Subsections 62A-4a-209(5) and (7);

(B) a completed search, relating to the noncustodial parent of the child, of the Management Information System described in Section 62A-4a-1003; and

(C) a background check that complies with the criminal background check provisions described in Section 78A-6-308, of each nonrelative, as defined in Subsection 62A-4a-209(1)(a)(b), of the child who resides in the household where the child may be placed;

(iii) if the child may be placed with an individual other than a noncustodial parent or a relative of the child, conduct a criminal background check of the individual, and each adult that resides in the household where the child may be placed, that complies with the criminal background check provisions described in Section 78A-6-308;

(iv) visit the relative's or friend's home;

(v) check the division's management information system for any previous reports of abuse or neglect regarding the relative or friend at issue;

(vi) report the division's findings in writing to the court; and

(vii) provide sufficient information so that the court may determine whether:

(A) the relative or friend has any history of abusive or neglectful behavior toward other children that may indicate or present a danger to this child;

(B) the child is comfortable with the relative or friend;

(C) the relative or friend recognizes the parent's history of abuse and is committed to protect the child;

(D) the relative or friend is strong enough to resist inappropriate requests by the parent for access to the child, in accordance with court orders;

(E) the relative or friend is committed to caring for the child as long as necessary; and

(F) the relative or friend can provide a secure and stable environment for the child.

(b) The division may determine to conduct, or the court may order the division to conduct, any further investigation regarding the safety and appropriateness of the placement.

(c) The division shall complete and file its assessment regarding placement with a relative or friend as soon as practicable, in an effort to facilitate placement of the child with a relative or friend.

(12) (a) The court may place a child described in Subsection (2)(a) in the temporary custody of the division, pending the division's investigation pursuant to Subsections (10) and (11), and the court's determination regarding the appropriateness of that placement.

(b) The court shall ultimately base its determination regarding the appropriateness of a placement with a relative or friend on the best interest of the child.

(13) When the court awards custody and guardianship of a child with a relative or friend:

(a) the court shall order that:

(i) the relative or friend assume custody, subject to the continuing supervision of the court; and

(ii) any necessary services be provided to the child and the relative or friend;

(b) the child and any relative or friend with whom the child is placed are under the continuing jurisdiction of the court;

(c) the court may enter any order that it considers necessary for the protection and best interest of the child;

(d) the court shall provide for reasonable parent-time with the parent or parents from whose

custody the child was removed, unless parent-time is not in the best interest of the child; and

(e) the court shall conduct a periodic review no less often than every six months, to determine whether:

(i) placement with the relative or friend continues to be in the child's best interest;

(ii) the child should be returned home; or

(iii) the child should be placed in the custody of the division.

(14) No later than 12 months after placement with a relative or friend, the court shall schedule a hearing for the purpose of entering a permanent order in accordance with the best interest of the child.

(15) The time limitations described in Section 78A-6-312, with regard to reunification efforts, apply to children placed with a relative or friend pursuant to Subsection (7).

(16) (a) If the court awards custody of a child to the division, and the division places the child with a relative, the division shall:

(i) conduct a criminal background check of the relative that complies with the criminal background check provisions described in Section 78A-6-308; and

(ii) if the results of the criminal background check described in Subsection (16)(a)(i) would prohibit the relative from having direct access to the child under Section 62A-2-120, the division shall:

(A) take the child into physical custody; and

(B) within three days, excluding weekends and holidays, after taking the child into physical custody under Subsection (16)(a)(ii)(A), give written notice to the court, and all parties to the proceedings, of the division's action.

(b) Nothing in Subsection (16)(a) prohibits the division from placing a child with a relative, pending the results of the background check described in Subsection (16)(a) on the relative.

(17) When the court orders that a child be removed from the custody of the child's parent and does not award custody and guardianship to another parent, relative, or friend under this section, the court shall order that the child be placed in the temporary custody of the Division of Child and Family Services, to proceed to adjudication and disposition and to be provided with care and services in accordance with this chapter and Title 62A, Chapter 4a, Child and Family Services.

(18) (a) Any preferential consideration that a relative or friend is initially granted pursuant to Subsection (9) expires 120 days from the date of the shelter hearing. After that time period has expired, a relative or friend who has not obtained custody or asserted an interest in a child, may not be granted preferential consideration by the division or the court.

(b) When the time period described in Subsection (18)(a) has expired, the preferential consideration, which is initially granted to a natural parent in accordance with Subsection (2), is limited. After that time the court shall base its custody decision on the best interest of the child.

(c) Prior to the expiration of the 120-day period described in Subsection (18)(a), the following order of preference shall be applied when determining the person with whom a child will be placed, provided that the person is willing, and has the ability, to care for the child:

(i) a noncustodial parent of the child;

(ii) a relative of the child;

(iii) subject to Subsection (18)(d), a friend of a parent of the child, if the friend is a licensed foster parent; and

(iv) other placements that are consistent with the requirements of law.

(d) In determining whether a friend is a willing and appropriate placement for a child, neither the court, nor the division, is required to consider more than one friend designated by each parent of the child.

(e) If a parent of the child is not able to designate a friend who is a licensed foster parent for placement of the child, but is able to identify a friend who is willing to become licensed as a foster parent:

(i) the department shall fully cooperate to expedite the licensing process for the friend; and

(ii) if the friend becomes licensed as a foster parent within the time frame described in Subsection (18)(a), the court shall determine whether it is in the best interests of the child to place the child with the friend.

(19) If, following the shelter hearing, the child is placed with a person who is not a parent of the child, a relative of the child, a friend of a parent of the child, or a former foster parent of the child, priority shall be given to a foster placement with a man and a woman who are married to each other, unless it is in the best interests of the child to place the child with a single foster parent.

(20) In determining the placement of a child, neither the court, nor the division, may take into account, or discriminate against, the religion of a person with whom the child may be placed, unless the purpose of taking religion into account is to place the child with a person or family of the same religion as the child.

CHAPTER 143**H. B. 65**

Passed March 6, 2015

Approved March 25, 2015

Effective May 12, 2015

WORKFORCE SERVICES AMENDMENTS

Chief Sponsor: Rebecca P. Edwards

Senate Sponsor: Aaron Osmond

LONG TITLE**General Description:**

This bill modifies provisions of the Utah Workforce Services Code.

Highlighted Provisions:

This bill:

- ▶ removes certain limitations on education and training assistance for a participant in the Family Employment Program;
- ▶ allows the Unemployment Insurance Division to disclose certain information to a division of the United States Department of Labor;
- ▶ grants certain rulemaking authority to the division; and
- ▶ provides a sunset date.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

35A-3-304, as last amended by Laws of Utah 2012, Chapter 354

35A-4-312, as last amended by Laws of Utah 2013, Chapter 473

63I-1-235, as last amended by Laws of Utah 2014, Chapter 127

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

Section 1. Section 35A-3-304 is amended to read:**35A-3-304. Assessment -- Participation requirements and limitations -- Mentors.**

(1) (a) Within 20 business days of the date of enrollment, a parent client shall:

- (i) be assigned an employment counselor; and
- (ii) complete an assessment provided by the division regarding the parent client's:
 - (A) family circumstances;
 - (B) education;
 - (C) work history;
 - (D) skills;
 - (E) ability to become self-sufficient; and
 - (F) likelihood of a substance use disorder involving the misuse of a controlled substance.

(b) The assessment provided under Subsection (1)(a)(ii) shall include:

(i) a survey to be completed by the parent client with the assistance of the division; and

(ii) a written questionnaire to be completed by the parent client designed to accurately determine the likelihood of the parent client having a substance use disorder involving the misuse of a controlled substance.

(c) In addition to the other requirements of this part, if the results of the written questionnaire taken by a parent client indicate a reasonable likelihood that the parent client has a substance use disorder involving the misuse of a controlled substance, the parent client may only receive cash assistance provided under this part in accordance with the additional requirements of Section 35A-3-304.5.

(2) (a) Within 15 business days of a parent client completing an assessment, the division and the parent client shall enter into an employment plan.

(b) The employment plan shall have a target date for entry into employment.

(c) The division shall provide a copy of the employment plan to the parent client.

(d) As to the parent client, the plan may include:

(i) job searching requirements;

(ii) if the parent client does not have a high school diploma, participation in an educational program to obtain a high school diploma, or its equivalent;

(iii) education or training necessary to obtain employment;

(iv) a combination of work and education or training;

(v) assisting the Office of Recovery Services in good faith to:

(A) establish the paternity of a minor child; and

(B) establish or enforce a child support order.

(e) If the parent client tests positive for the unlawful use of a controlled substance after taking a drug test under Section 35A-3-304.5, the employment plan shall include an agreement by the parent client to participate in treatment for a substance use disorder and meet the other requirements of Section 35A-3-304.5.

(f) As to the division, the plan may include:

(i) providing cash and other types of public and employment assistance, including child care;

(ii) assisting the parent client to obtain education or training necessary for employment;

(iii) assisting the parent client to set up and follow a household budget; and

(iv) assisting the parent client to obtain employment.

(g) The division may amend the employment plan to reflect new information or changed circumstances.

(h) If immediate employment is an activity contained in the employment plan the parent client shall:

(i) promptly commence a search for a specified number of hours each week for employment; and

(ii) regularly submit a report to the division on:

(A) how time was spent in search for a job;

(B) the number of job applications completed;

(C) the interviews attended;

(D) the offers of employment extended; and

(E) other related information required by the division.

(i) (i) If full-time education or training to secure employment is an activity contained in an employment plan, the parent client shall promptly undertake a full-time education or training program.

(ii) The employment plan may describe courses, education or training goals, and classroom hours.

(j) (i) As a condition of receiving cash assistance under this part, a parent client shall agree to make a good faith effort to comply with the employment plan.

(ii) If a parent client consistently fails to show good faith in complying with the employment plan, the division may seek under Subsection (2)(i)(iii) to terminate all or part of the cash assistance services provided under this part.

(iii) The division shall establish a process to reconcile disputes between a client and the division as to whether:

(A) the parent client has made a good faith effort to comply with the employment plan; or

(B) the division has complied with the employment plan.

~~[(3) (a) Except as provided in Subsection (3)(b), a parent client's participation in education or training beyond that required to obtain a high school diploma or its equivalent is limited to the lesser of:]~~

~~[(i) 24 months; or]~~

~~[(ii) the completion of the education and training requirements of the employment plan.]~~

~~[(b) A parent client may participate in education or training for up to six months beyond the 24-month limit of Subsection (3)(a)(i) if:]~~

~~[(i) the parent client is employed for 80 or more hours a month; and]~~

~~[(ii) the extension is for good cause shown and approved by the director.]~~

~~[(c) A parent client who receives an extension under Subsection (3)(b) remains subject to Subsection (4).]~~

~~[(4) (a) A parent client with a high school diploma or equivalent who has received 24 months of education or training shall participate in full-time work activities.]~~

~~[(b) The 24 months need not be continuous and the department may define "full-time work activities" by rule.]~~

~~[(5) (3) As a condition for receiving cash assistance on behalf of a minor child under this part, the minor child shall be:~~

~~(a) enrolled in and attending school in compliance with Sections 53A-11-101.5 and 53A-11-101.7; or~~

~~(b) exempt from school attendance under Section 53A-11-102.~~

~~[(6) (4) This section does not apply to a person who has received diversion assistance under Section 35A-3-303.~~

~~[(7) (5) (a) The division shall recruit and train volunteers to serve as mentors for parent clients.~~

~~(b) A mentor may advocate on behalf of a parent client and help a parent client:~~

~~(i) develop life skills;~~

~~(ii) implement an employment plan; or~~

~~(iii) obtain services and supports from:~~

~~(A) the volunteer mentor;~~

~~(B) the division; or~~

~~(C) civic organizations.~~

Section 2. Section 35A-4-312 is amended to read:

35A-4-312. Records.

(1) (a) An employing unit shall keep true and accurate work records containing information the department may prescribe by rule.

(b) A record shall be open to inspection and subject to being copied by the division or its authorized representatives at a reasonable time and as often as necessary.

(c) An employing unit shall make a record available in the state for three years after the calendar year in which the services are rendered.

(2) The division may require from an employing unit a sworn or unsworn report with respect to a person employed by the employing unit that the division considers necessary for the effective administration of this chapter.

(3) Except as provided in this section or in Sections 35A-4-103 and 35A-4-106, information obtained under this chapter or obtained from an individual may not be published or open to public inspection in a manner revealing the employing unit's or individual's identity.

(4) (a) The information obtained by the division under this section may not be used in court or admitted into evidence in an action or proceeding, except:

(i) in an action or proceeding arising out of this chapter;

(ii) if the Labor Commission enters into a written agreement with the division under Subsection

(6)(b), in an action or proceeding by the Labor Commission to enforce:

- (A) Title 34, Chapter 23, Employment of Minors;
- (B) Title 34, Chapter 28, Payment of Wages;
- (C) Title 34, Chapter 40, Utah Minimum Wage Act; or

(D) Title 34A, Utah Labor Code;

(iii) under the terms of a court order obtained under Subsection 63G-2-202(7) and Section 63G-2-207; or

(iv) under the terms of a written agreement between the Office of State Debt Collection and the division as provided in Subsection (5).

(b) The information obtained by the division under this section shall be disclosed to:

(i) a party to an unemployment insurance hearing before an administrative law judge of the department or a review by the Workforce Appeals Board to the extent necessary for the proper presentation of the party's case; or

(ii) an employer, upon request in writing for information concerning a claim for a benefit with respect to a former employee of the employer.

(5) The information obtained by the division under this section may be disclosed to:

(a) an employee of the department in the performance of the employee's duties in administering this chapter or other programs of the department;

(b) an employee of the Labor Commission for the purpose of carrying out the programs administered by the Labor Commission;

(c) an employee of the Department of Commerce for the purpose of carrying out the programs administered by the Department of Commerce;

(d) an employee of the governor's office or another state governmental agency administratively responsible for statewide economic development, to the extent necessary for economic development policy analysis and formulation;

(e) an employee of another governmental agency that is specifically identified and authorized by federal or state law to receive the information for the purposes stated in the law authorizing the employee of the agency to receive the information;

(f) an employee of a governmental agency or workers' compensation insurer to the extent the information will aid in:

(i) the detection or avoidance of duplicate, inconsistent, or fraudulent claims against:

- (A) a workers' compensation program; or
- (B) public assistance funds; or

(ii) the recovery of overpayments of workers' compensation or public assistance funds;

(g) an employee of a law enforcement agency to the extent the disclosure is necessary to avoid a significant risk to public safety or in aid of a felony criminal investigation;

(h) an employee of the State Tax Commission or the Internal Revenue Service for the purposes of:

- (i) audit verification or simplification;
- (ii) state or federal tax compliance;
- (iii) verification of a code or classification of the:

(A) 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget; or

(B) 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; and

(iv) statistics;

(i) an employee or contractor of the department or an educational institution, or other governmental entity engaged in workforce investment and development activities under the Workforce Investment Act of 1998 for the purpose of:

- (i) coordinating services with the department;
- (ii) evaluating the effectiveness of those activities; and

(iii) measuring performance;

(j) an employee of the Governor's Office of Economic Development, for the purpose of periodically publishing in the Directory of Business and Industry, the name, address, telephone number, number of employees by range, code or classification of an employer, and type of ownership of Utah employers;

(k) the public for any purpose following a written waiver by all interested parties of their rights to nondisclosure;

(l) an individual whose wage data is submitted to the department by an employer, if no information other than the individual's wage data and the identity of the employer who submitted the information is provided to the individual;

(m) an employee of the Insurance Department for the purpose of administering Title 31A, Chapter 40, Professional Employer Organization Licensing Act;

(n) an employee of the Office of State Debt Collection for the purpose of collecting state accounts receivable as provided in Section 63A-3-502; ~~or~~

(o) a creditor, under a court order, to collect on a judgment as provided in Section 35A-4-314[-]; or

(p) an employee of the Wage and Hour Division of the United States Department of Labor for the purpose of carrying out the programs administered by the Wage and Hour Division as permitted under 20 C.F.R. 603.5(e), if the information is subject to the payment of costs described in 20 C.F.R. 603.8(d) and:

(i) is limited to:

(A) the name and identifying information of an employer found by the department to have misclassified one or more workers under Subsection 35A-4-204(3);

(B) the total number of misclassified workers for that employer; and

(C) the aggregate amount of misclassified wages for that employer;

(ii) an employer is given the opportunity to cure a misclassification of one or more workers, in a manner established by division rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, before the information is disclosed as described in this Subsection (5)(p); and

(iii) an annual report regarding the benefit to the state from disclosure of information under this Subsection (5)(p) is provided to the department for inclusion in the department's annual report described in Section 35A-1-109.

(6) Disclosure of private information under Subsection (4)(a)(ii) or Subsection (5), with the exception of Subsections (5)(a), (g), and (o), may be made if:

(a) the division determines that the disclosure will not have a negative effect on:

(i) the willingness of employers to report wage and employment information; or

(ii) the willingness of individuals to file claims for unemployment benefits; and

(b) the agency enters into a written agreement with the division in accordance with rules made by the department.

(7) (a) The employees of a division of the department other than the Workforce Development and Information Division and the Unemployment Insurance Division or an agency receiving private information from the division under this chapter are subject to the same requirements of privacy and confidentiality and to the same penalties for misuse or improper disclosure of the information as employees of the division.

(b) Use of private information obtained from the department by a person or for a purpose other than one authorized in Subsection (4) or (5) violates Subsection 76-8-1301(4).

Section 3. Section 63I-1-235 is amended to read:

63I-1-235. Repeal dates, Title 35A.

(1) Title 35A, Utah Workforce Services Code, is repealed July 1, 2015.

(2) Subsection 35A-4-312(5)(p) is repealed July 1, 2017.

~~[(2)]~~ (3) Title 35A, Chapter 8, Part 7, Utah Housing Corporation Act, is repealed July 1, 2016.

~~[(3)]~~ (4) Title 35A, Chapter 8, Part 18, Transitional Housing and Community Development Advisory Council, is repealed July 1, 2014.

~~[(4)]~~ (5) Title 35A, Chapter 11, Women in the Economy Commission Act, is repealed July 1, 2016.

CHAPTER 144**H. B. 80**

Passed February 20, 2015

Approved March 25, 2015

Effective May 12, 2015

**TRANSPORTATION
PROJECT AMENDMENTS**

Chief Sponsor: V. Lowry Snow

Senate Sponsor: Todd Weiler

LONG TITLE**General Description:**

This bill modifies the Transportation Code by amending provisions relating to participation in a federal program assuming responsibility for environmental review of highway projects.

Highlighted Provisions:

This bill:

- ▶ authorizes the Department of Transportation to assume federal responsibilities with respect to one or more highway projects within the state under the National Environmental Policy Act of 1969 for environmental review, consultation, or other action required under any federal environmental law pertaining to the review or approval of a specific highway project;
- ▶ requires the state to waive its immunity under the Eleventh Amendment to the United States Constitution and consent to suit in a federal court for lawsuits arising out of the department's compliance, discharge, or enforcement of the assumed responsibilities;
- ▶ requires the executive director of the Department of Transportation to execute a memorandum of understanding with the United States Department of Transportation accepting the jurisdiction of the federal courts for acts or omissions that relate to compliance, discharge, or enforcement of responsibilities assumed by the department; and
- ▶ makes technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

72-1-207, as last amended by Laws of Utah 2007, Chapter 333

72-6-120, as last amended by Laws of Utah 2008, Chapter 382

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

Section 1. Section 72-1-207 is amended to read:

72-1-207. Department may sue and be sued -- Legal adviser of department -- Partial waiver of Eleventh Amendment immunity.

(1) The department may sue, and it may be sued only on written contracts made by it or under its authority.

(2) The department may sue in the name of the state.

(3) In all matters requiring legal advice in the performance of its duties and in the prosecution or defense of any action growing out of the performance of its duties, the attorney general is the legal adviser of the commission, and the department, and shall perform any and all legal services required by the commission and the department without other compensation than his salary.

(4) Upon request of the department, the attorney general shall aid in any investigation, hearing, or trial under the provisions of Chapter 9, Motor Carrier Safety Act, and institute and prosecute actions or proceedings for the enforcement of the provisions of the Constitution and statutes of this state or any rule or order of the department affecting motor carriers of persons and property.

(5) (a) The state waives its immunity under the 11th Amendment of the United States Constitution and consents to suit in a federal court for lawsuits arising out of the department's compliance, discharge, or enforcement of responsibilities assumed pursuant to 23 U.S.C. [See.] Secs. 326 and 327.

(b) The waiver of immunity under this Subsection (5) is valid only if:

(i) the executive director or the executive director's designee executes a memorandum of understanding with the United States Department of Transportation accepting the jurisdiction of the federal courts as required by 23 U.S.C. [See.] Secs. 326(c) and 327(c);

(ii) before execution of the memorandum of understanding under Subsection (5)(b)(i), the attorney general has issued an opinion letter to the executive director and the administrator of the Federal Highway Administration that the memorandum of understanding and the waiver of immunity are valid and binding upon the state;

(iii) the act or omission that is the subject of the lawsuit arises out of or relates to compliance, discharge, or enforcement of responsibilities assumed by the department pursuant to 23 U.S.C. [See.] Secs. 326 and 327; and

(iv) the memorandum of understanding is in effect when the act or omission that is the subject of the federal lawsuit occurred.

Section 2. Section 72-6-120 is amended to read:

72-6-120. Department authorized to participate in federal program assuming responsibility for environmental review of highway projects -- Rulemaking authority.

(1) The department may:

(a) assume responsibilities under 23 U.S.C. Sec. 326 for:

(i) determining whether state highway design and construction projects are categorically excluded from requirements for environmental

assessments or environmental impact statements;
and

(ii) environmental review, consultation, or other actions required under federal law for categorically excluded projects;

(b) assume responsibilities under 23 U.S.C. Sec. 327 with respect to one or more highway projects within the state under the National Environmental Policy Act of 1969 for environmental review, consultation, or other action required under any federal environmental law pertaining to the review or approval of a specific highway project;

~~[(b)]~~ (c) enter one or more memoranda of understanding with the United States Department of Transportation related to federal highway programs as provided in 23 U.S.C. [See.] Secs. 326 and 327 subject to the requirements of Subsection 72-1-207(5);

~~[(e)]~~ (d) accept, receive, and administer grants, other money, or gifts from public and private agencies, including the federal government, for the purpose of carrying out the programs authorized under this section; and

~~[(d)]~~ (e) cooperate with the federal government in implementing this section and any memorandum of understanding entered into under Subsection 72-1-207(5).

(2) Notwithstanding any other provision of law, in implementing a program under this section that is approved by the United States Department of Transportation, the department is authorized to:

(a) perform or conduct any of the activities described in a memorandum of understanding entered into under Subsection 72-1-207(5);

(b) take actions necessary to implement the program; and

(c) adopt relevant federal environmental standards as the standards for this state for categorically excluded projects.

(3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make rules to implement the provisions of this section.

CHAPTER 145**H. B. 141**

Passed March 9, 2015

Approved March 25, 2015

Effective May 30, 2015

INSURANCE RELATED INDUCEMENTS

Chief Sponsor: John Knotwell
Senate Sponsor: Curtis S. Bramble

LONG TITLE**General Description:**

This bill modifies the Insurance Code to address inducements.

Highlighted Provisions:

This bill:

- ▶ addresses when goods and services may be provided;
- ▶ provides for disclosures; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

31A-23a-402.5, as last amended by Laws of Utah 2014, Chapters 290 and 300

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

Section 1. Section 31A-23a-402.5 is amended to read:**31A-23a-402.5. Inducements.**

(1) (a) Except as provided in Subsection (2), a producer, consultant, or other licensee under this title, or an officer or employee of a licensee, may not induce a person to enter into, continue, or terminate an insurance contract by offering a benefit that is not:

- (i) specified in the insurance contract; or
- (ii) directly related to the insurance contract.

(b) An insurer may not make or knowingly allow an agreement of insurance that is not clearly expressed in the insurance contract to be issued or renewed.

(c) A licensee under this title may not absorb the tax under Section 31A-3-301.

(2) This section does not apply to a title insurer, an individual title insurance producer, or agency title insurance producer, or an officer or employee of a title insurer, an individual title insurance producer, or an agency title insurance producer.

(3) Items not prohibited by Subsection (1) include an insurer:

- (a) reducing premiums because of expense savings;
- (b) providing to a policyholder or insured one or more incentives, as defined by the commissioner by

rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to participate in a program or activity designed to reduce claims or claim expenses, including:

(i) a premium discount offered to a small or large employer group based on a wellness program if:

(A) the premium discount for the employer group does not exceed 20% of the group premium; and

(B) the premium discount based on the wellness program is offered uniformly by the insurer to all employer groups in the large or small group market;

(ii) a premium discount offered to employees of a small or large employer group in an amount that does not exceed federal limits on wellness program incentives; or

(iii) a combination of premium discounts offered to the employer group and the employees of an employer group, based on a wellness program, if:

(A) the premium discounts for the employer group comply with Subsection (3)(b)(i); and

(B) the premium discounts for the employees of an employer group comply with Subsection (3)(b)(ii); or

(c) receiving premiums under an installment payment plan.

(4) Items not prohibited by Subsection (1) include a producer, consultant, or other licensee, or an officer or employee of a licensee, either directly or through a third party:

(a) engaging in a usual kind of social courtesy if receipt of the social courtesy is not conditioned on a quote or the purchase of a particular insurance product;

(b) extending credit on a premium to the insured:

(i) without interest, for no more than 90 days from the effective date of the insurance contract;

(ii) for interest that is not less than the legal rate under Section 15-1-1, on the unpaid balance after the time period described in Subsection (4)(b)(i); and

(iii) except that an installment or payroll deduction payment of premiums on an insurance contract issued under an insurer's mass marketing program is not considered an extension of credit for purposes of this Subsection (4)(b);

(c) preparing or conducting a survey that:

(i) is directly related to an accident and health insurance policy purchased from the licensee; or

(ii) is used by the licensee to assess the benefit needs and preferences of insureds, employers, or employees directly related to an insurance product sold by the licensee;

(d) providing limited human resource services that are directly related to an insurance product sold by the licensee, including:

(i) answering questions directly related to:

(A) an employee benefit offering or administration, if the insurance product purchased

from the licensee is accident and health insurance or health insurance; and

(B) employment practices liability, if the insurance product offered by or purchased from the licensee is property or casualty insurance; and

(ii) providing limited human resource compliance training and education directly pertaining to an insurance product purchased from the licensee;

(e) providing the following types of information or guidance:

(i) providing guidance directly related to compliance with federal and state laws for an insurance product purchased from the licensee;

(ii) providing a workshop or seminar addressing an insurance issue that is directly related to an insurance product purchased from the licensee; or

(iii) providing information regarding:

(A) employee benefit issues;

(B) directly related insurance regulatory and legislative updates; or

(C) similar education about an insurance product sold by the licensee and how the insurance product interacts with tax law;

(f) preparing or providing a form that is directly related to an insurance product purchased from, or offered by, the licensee;

(g) preparing or providing documents directly related to a premium only cafeteria plan within the meaning of Section 125, Internal Revenue Code, or a flexible spending account, but not providing ongoing administration of a flexible spending account;

(h) providing enrollment and billing assistance, including:

(i) providing benefit statements or new hire insurance benefits packages; and

(ii) providing technology services such as an electronic enrollment platform or application system;

(i) communicating coverages in writing and in consultation with the insured and employees;

(j) providing employee communication materials and notifications directly related to an insurance product purchased from a licensee;

(k) providing claims management and resolution to the extent permitted under the licensee's license;

(l) providing underwriting or actuarial analysis or services;

(m) negotiating with an insurer regarding the placement and pricing of an insurance product;

(n) recommending placement and coverage options;

(o) providing a health fair or providing assistance or advice on establishing or operating a wellness

program, but not providing any payment for or direct operation of the wellness program;

(p) providing COBRA and Utah mini-COBRA administration, consultations, and other services directly related to an insurance product purchased from the licensee;

(q) assisting with a summary plan description, including providing a summary plan description wraparound;

(r) providing information necessary for the preparation of documents directly related to the Employee Retirement Income Security Act of 1974, 29 U.S.C. Sec. 1001, et seq., as amended;

(s) providing information or services directly related to the Health Insurance Portability and Accountability Act of 1996, Pub. L. 104-191, 110 Stat. 1936, as amended, such as services directly related to health care access, portability, and renewability when offered in connection with accident and health insurance sold by a licensee;

(t) sending proof of coverage to a third party with a legitimate interest in coverage;

(u) providing information in a form approved by the commissioner and directly related to determining whether an insurance product sold by the licensee meets the requirements of a third party contract that requires or references insurance coverage;

(v) facilitating risk management services directly related to property and casualty insurance products sold or offered for sale by the licensee, including:

(i) risk management;

(ii) claims and loss control services;

(iii) risk assessment consulting, including analysis of:

(A) employer's job descriptions; or

(B) employer's safety procedures or manuals; and

(iv) providing information and training on best practices;

(w) otherwise providing services that are legitimately part of servicing an insurance product purchased from a licensee; and

(x) providing other directly related services approved by the department.

(5) An inducement prohibited under Subsection (1) includes a producer, consultant, or other licensee, or an officer or employee of a licensee:

(a) (i) providing a rebate;

(ii) paying the salary of an employee of a person who purchases an insurance product from the licensee; or

(iii) if the licensee is an insurer, or a third party administrator who contracts with an insurer, paying the salary for an onsite staff member to perform an act prohibited under Subsection (5)(b)(xii); or

(b) except as provided in Subsection (10), engaging in one or more of the following, unless a fee is paid in accordance with Subsection (8):

(i) performing background checks of prospective employees;

(ii) providing legal services by a person licensed to practice law;

(iii) performing drug testing that is directly related to an insurance product purchased from the licensee;

(iv) preparing employer or employee handbooks, except that a licensee may:

(A) provide information for a medical benefit section of an employee handbook;

(B) provide information for the section of an employee handbook directly related to an employment practices liability insurance product purchased from the licensee; or

(C) prepare or print an employee benefit enrollment guide;

(v) providing job descriptions, postings, and applications for a person;

(vi) providing payroll services;

(vii) providing performance reviews or performance review training;

(viii) providing union advice;

(ix) providing accounting services;

(x) providing data analysis information technology programs, except as provided in Subsection (4)(h)(ii);

(xi) providing administration of health reimbursement accounts or health savings accounts; or

(xii) if the licensee is an insurer, or a third party administrator who contracts with an insurer, the insurer issuing an insurance policy that lists in the insurance policy one or more of the following prohibited benefits:

(A) performing background checks of prospective employees;

(B) providing legal services by a person licensed to practice law;

(C) performing drug testing that is directly related to an insurance product purchased from the insurer;

(D) preparing employer or employee handbooks;

(E) providing job descriptions postings, and applications;

(F) providing payroll services;

(G) providing performance reviews or performance review training;

(H) providing union advice;

(I) providing accounting services;

(J) providing discrimination testing; or

(K) providing data analysis information technology programs.

(6) A producer, consultant, or other licensee or an officer or employee of a licensee shall itemize and bill separately from any other insurance product or service offered or provided under Subsection (5)(b).

(7) (a) A de minimis gift or meal not to exceed a fair market value of \$25 for each individual receiving the gift or meal is presumed to be a social courtesy not conditioned on a quote or purchase of a particular insurance product for purposes of Subsection (4)(a).

(b) Notwithstanding Subsection (4)(a), a de minimis gift or meal not to exceed \$10 may be conditioned on receipt of a quote of a particular insurance product.

(8) If as provided under Subsection (5)(b) a producer, consultant, or other licensee is paid a fee to provide an item listed in Subsection (5)(b), the licensee shall comply with Subsection 31A-23a-501(2) in charging the fee, except that the fee paid for the item shall equal or exceed the fair market value of the item.

(9) For purposes of this section, "fair market value" is determined on the basis of what an individual insured or policyholder would pay on the open market for that item.

(10) Notwithstanding any other provision of this section, a producer, consultant, or other licensee, or an officer or employee of a licensee, may offer, make available, or provide goods or services, whether or not the goods or services are directly related to an insurance contract, for free or for less than fair market value if:

(a) the goods or services are available on the same terms to the general public;

(b) receipt of the goods or services is not contingent upon the immediate or future purchase, continuation, or termination of an insurance product or receipt of a quote for an insurance product; and

(c) the producer, consultant, or other licensee, or an officer or an employee of a licensee, does not retroactively charge for the goods or services based on an event subsequent to receipt of the goods or services.

(11) (a) A producer, consultant, or other licensee, or an officer or employee of a licensee, that provides or offers goods or services that are not described in Subsection (3) or (4) for free or less than fair market value shall conspicuously disclose to the recipient before the purchase of insurance, receipt of a quote for insurance, or designation of an agent of record, that receipt of the goods or services is not contingent on the purchase, continuation, or termination of an insurance product or receiving a quote for an insurance product.

(b) A producer, consultant, or other licensee, or an officer or employee of the licensee, may comply with this Subsection (11) by an oral or written disclosure.

Section 2. Effective date.

This bill takes effect on May 30, 2015.

CHAPTER 146**H. B. 160**

Passed February 20, 2015

Approved March 25, 2015

Effective May 12, 2015

**DRIVE-THROUGH SERVICE
USAGE AMENDMENTS**Chief Sponsor: Johnny Anderson
Senate Sponsor: Wayne A. Harper**LONG TITLE****General Description:**

This bill prohibits a municipality or county from making certain requirements of a business with drive-through service.

Highlighted Provisions:

This bill:

- ▶ defines terms; and
- ▶ prohibits a municipality or county from requiring a business with a drive-through service:
 - to accommodate in the drive-through service a person who is not in a motorized vehicle; and
 - to maintain the same business hours in the business lobby as the drive-through service.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

10-8-44.6, Utah Code Annotated 1953

17-50-329.5, Utah Code Annotated 1953

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

Section 1. Section 10-8-44.6 is enacted to read:**10-8-44.6. Regulation of drive-through facilities.**

(1) As used in this section:

(a) "Business" means a private enterprise carried on for the purpose of gain or economic profit.

(b) (i) "Business lobby" means a public area, including a lobby, dining area, or other area accessible to the public where business is conducted within a place of business.

(ii) "Business lobby" does not include the area of a business where drive-through service is conducted.

(c) "Land use application" means the same as that term is defined in Section 10-9a-103.

(d) "Motorcycle" means a motor vehicle having a saddle for the use of the operator and designed to travel on not more than two tires.

(e) (i) "Motor vehicle" means a self-propelled vehicle, including a motorcycle, intended primarily for use and operation on the highways.

(ii) "Motor vehicle" does not include an off-highway vehicle.

(f) "Off-highway vehicle" means any snowmobile, all-terrain type I vehicle, or all-terrain type II vehicle.

(2) A municipality may not withhold a business license, deny a land use application, or otherwise require a business that has a drive-through service as a component of its business operations to:

(a) allow a person other than a person in a motorized vehicle to use the drive-through service; or

(b) offer designated hours of the day that a customer is accommodated and business is conducted in the business lobby that are the same as or exceed the hours of the day that a customer is accommodated and business is conducted in the drive-through service.

Section 2. Section 17-50-329.5 is enacted to read:**17-50-329.5. Regulation of drive-through facilities.**

(1) As used in this section:

(a) "Business" means a private enterprise carried on for the purpose of gain or economic profit.

(b) (i) "Business lobby" means a public area, including a lobby, dining area, or other area accessible to the public where business is conducted within a place of business.

(ii) "Business lobby" does not include the area of a business where drive-through service is conducted.

(c) "Land use application" means the same as that term is defined in Section 17-27a-103.

(d) "Motorcycle" means a motor vehicle having a saddle for the use of the operator and designed to travel on not more than two tires.

(e) (i) "Motor vehicle" means a self-propelled vehicle, including a motorcycle, intended primarily for use and operation on the highways.

(ii) "Motor vehicle" does not include an off-highway vehicle.

(f) "Off-highway vehicle" means any snowmobile, all-terrain type I vehicle, or all-terrain type II vehicle.

(2) A county may not withhold a business license, deny a land use application, or otherwise require a business that has a drive-through service as a component of its business operations to:

(a) allow a person other than a person in a motorized vehicle to use the drive-through service; or

(b) offer designated hours of the day that a customer is accommodated and business is conducted in the business lobby that are the same as or exceed the hours of the day that a customer is accommodated and business is conducted in the drive-through service.

CHAPTER 147**H. B. 184**

Passed February 26, 2015

Approved March 25, 2015

Effective May 12, 2015

VICTIM RESTITUTION AMENDMENTS

Chief Sponsor: Brad R. Wilson
Senate Sponsor: Todd Weiler

LONG TITLE**General Description:**

This bill makes changes to the Crime Victims Restitution Act.

Highlighted Provisions:

This bill:

- ▶ makes a victim's application for and receipt of reparations protected records under the Government Records Access and Management Act;
- ▶ allows the Utah Office for Victims of Crime to pursue restitution from a criminal offender by filing a claim directly with the sentencing court; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63G-2-305, as last amended by Laws of Utah 2014, Chapters 90 and 320

63M-7-503, as last amended by Laws of Utah 2011, Chapter 131

76-3-201, as last amended by Laws of Utah 2013, Chapter 74

77-38a-102, as last amended by Laws of Utah 2005, Chapter 96

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

Section 1. Section 63G-2-305 is amended to read:**63G-2-305. Protected records.**

The following records are protected if properly classified by a governmental entity:

(1) trade secrets as defined in Section 13-24-2 if the person submitting the trade secret has provided the governmental entity with the information specified in Section 63G-2-309;

(2) commercial information or nonindividual financial information obtained from a person if:

(a) disclosure of the information could reasonably be expected to result in unfair competitive injury to the person submitting the information or would impair the ability of the governmental entity to obtain necessary information in the future;

(b) the person submitting the information has a greater interest in prohibiting access than the public in obtaining access; and

(c) the person submitting the information has provided the governmental entity with the information specified in Section 63G-2-309;

(3) commercial or financial information acquired or prepared by a governmental entity to the extent that disclosure would lead to financial speculations in currencies, securities, or commodities that will interfere with a planned transaction by the governmental entity or cause substantial financial injury to the governmental entity or state economy;

(4) records, the disclosure of which could cause commercial injury to, or confer a competitive advantage upon a potential or actual competitor of, a commercial project entity as defined in Subsection 11-13-103(4);

(5) test questions and answers to be used in future license, certification, registration, employment, or academic examinations;

(6) records, the disclosure of which would impair governmental procurement proceedings or give an unfair advantage to any person proposing to enter into a contract or agreement with a governmental entity, except, subject to Subsections (1) and (2), that this Subsection (6) does not restrict the right of a person to have access to, after the contract or grant has been awarded and signed by all parties, a bid, proposal, application, or other information submitted to or by a governmental entity in response to:

(a) an invitation for bids;

(b) a request for proposals;

(c) a request for quotes;

(d) a grant; or

(e) other similar document;

(7) information submitted to or by a governmental entity in response to a request for information, except, subject to Subsections (1) and (2), that this Subsection (7) does not restrict the right of a person to have access to the information, after:

(a) a contract directly relating to the subject of the request for information has been awarded and signed by all parties; or

(b) (i) a final determination is made not to enter into a contract that relates to the subject of the request for information; and

(ii) at least two years have passed after the day on which the request for information is issued;

(8) records that would identify real property or the appraisal or estimated value of real or personal property, including intellectual property, under consideration for public acquisition before any rights to the property are acquired unless:

(a) public interest in obtaining access to the information is greater than or equal to the governmental entity's need to acquire the property on the best terms possible;

(b) the information has already been disclosed to persons not employed by or under a duty of confidentiality to the entity;

(c) in the case of records that would identify property, potential sellers of the described property have already learned of the governmental entity's plans to acquire the property;

(d) in the case of records that would identify the appraisal or estimated value of property, the potential sellers have already learned of the governmental entity's estimated value of the property; or

(e) the property under consideration for public acquisition is a single family residence and the governmental entity seeking to acquire the property has initiated negotiations to acquire the property as required under Section 78B-6-505;

(9) records prepared in contemplation of sale, exchange, lease, rental, or other compensated transaction of real or personal property including intellectual property, which, if disclosed prior to completion of the transaction, would reveal the appraisal or estimated value of the subject property, unless:

(a) the public interest in access is greater than or equal to the interests in restricting access, including the governmental entity's interest in maximizing the financial benefit of the transaction; or

(b) when prepared by or on behalf of a governmental entity, appraisals or estimates of the value of the subject property have already been disclosed to persons not employed by or under a duty of confidentiality to the entity;

(10) records created or maintained for civil, criminal, or administrative enforcement purposes or audit purposes, or for discipline, licensing, certification, or registration purposes, if release of the records:

(a) reasonably could be expected to interfere with investigations undertaken for enforcement, discipline, licensing, certification, or registration purposes;

(b) reasonably could be expected to interfere with audits, disciplinary, or enforcement proceedings;

(c) would create a danger of depriving a person of a right to a fair trial or impartial hearing;

(d) reasonably could be expected to disclose the identity of a source who is not generally known outside of government and, in the case of a record compiled in the course of an investigation, disclose information furnished by a source not generally known outside of government if disclosure would compromise the source; or

(e) reasonably could be expected to disclose investigative or audit techniques, procedures, policies, or orders not generally known outside of government if disclosure would interfere with enforcement or audit efforts;

(11) records the disclosure of which would jeopardize the life or safety of an individual;

(12) records the disclosure of which would jeopardize the security of governmental property,

governmental programs, or governmental recordkeeping systems from damage, theft, or other appropriation or use contrary to law or public policy;

(13) records that, if disclosed, would jeopardize the security or safety of a correctional facility, or records relating to incarceration, treatment, probation, or parole, that would interfere with the control and supervision of an offender's incarceration, treatment, probation, or parole;

(14) records that, if disclosed, would reveal recommendations made to the Board of Pardons and Parole by an employee of or contractor for the Department of Corrections, the Board of Pardons and Parole, or the Department of Human Services that are based on the employee's or contractor's supervision, diagnosis, or treatment of any person within the board's jurisdiction;

(15) records and audit workpapers that identify audit, collection, and operational procedures and methods used by the State Tax Commission, if disclosure would interfere with audits or collections;

(16) records of a governmental audit agency relating to an ongoing or planned audit until the final audit is released;

(17) records that are subject to the attorney client privilege;

(18) records prepared for or by an attorney, consultant, surety, indemnitor, insurer, employee, or agent of a governmental entity for, or in anticipation of, litigation or a judicial, quasi-judicial, or administrative proceeding;

(19) (a) (i) personal files of a state legislator, including personal correspondence to or from a member of the Legislature; and

(ii) notwithstanding Subsection (19)(a)(i), correspondence that gives notice of legislative action or policy may not be classified as protected under this section; and

(b) (i) an internal communication that is part of the deliberative process in connection with the preparation of legislation between:

(A) members of a legislative body;

(B) a member of a legislative body and a member of the legislative body's staff; or

(C) members of a legislative body's staff; and

(ii) notwithstanding Subsection (19)(b)(i), a communication that gives notice of legislative action or policy may not be classified as protected under this section;

(20) (a) records in the custody or control of the Office of Legislative Research and General Counsel, that, if disclosed, would reveal a particular legislator's contemplated legislation or contemplated course of action before the legislator has elected to support the legislation or course of action, or made the legislation or course of action public; and

(b) notwithstanding Subsection (20)(a), the form to request legislation submitted to the Office of

Legislative Research and General Counsel is a public document unless a legislator asks that the records requesting the legislation be maintained as protected records until such time as the legislator elects to make the legislation or course of action public;

(21) research requests from legislators to the Office of Legislative Research and General Counsel or the Office of the Legislative Fiscal Analyst and research findings prepared in response to these requests;

(22) drafts, unless otherwise classified as public;

(23) records concerning a governmental entity's strategy about:

(a) collective bargaining; or

(b) imminent or pending litigation;

(24) records of investigations of loss occurrences and analyses of loss occurrences that may be covered by the Risk Management Fund, the Employers' Reinsurance Fund, the Uninsured Employers' Fund, or similar divisions in other governmental entities;

(25) records, other than personnel evaluations, that contain a personal recommendation concerning an individual if disclosure would constitute a clearly unwarranted invasion of personal privacy, or disclosure is not in the public interest;

(26) records that reveal the location of historic, prehistoric, paleontological, or biological resources that if known would jeopardize the security of those resources or of valuable historic, scientific, educational, or cultural information;

(27) records of independent state agencies if the disclosure of the records would conflict with the fiduciary obligations of the agency;

(28) records of an institution within the state system of higher education defined in Section 53B-1-102 regarding tenure evaluations, appointments, applications for admissions, retention decisions, and promotions, which could be properly discussed in a meeting closed in accordance with Title 52, Chapter 4, Open and Public Meetings Act, provided that records of the final decisions about tenure, appointments, retention, promotions, or those students admitted, may not be classified as protected under this section;

(29) records of the governor's office, including budget recommendations, legislative proposals, and policy statements, that if disclosed would reveal the governor's contemplated policies or contemplated courses of action before the governor has implemented or rejected those policies or courses of action or made them public;

(30) records of the Office of the Legislative Fiscal Analyst relating to budget analysis, revenue estimates, and fiscal notes of proposed legislation

before issuance of the final recommendations in these areas;

(31) records provided by the United States or by a government entity outside the state that are given to the governmental entity with a requirement that they be managed as protected records if the providing entity certifies that the record would not be subject to public disclosure if retained by it;

(32) transcripts, minutes, or reports of the closed portion of a meeting of a public body except as provided in Section 52-4-206;

(33) records that would reveal the contents of settlement negotiations but not including final settlements or empirical data to the extent that they are not otherwise exempt from disclosure;

(34) memoranda prepared by staff and used in the decision-making process by an administrative law judge, a member of the Board of Pardons and Parole, or a member of any other body charged by law with performing a quasi-judicial function;

(35) records that would reveal negotiations regarding assistance or incentives offered by or requested from a governmental entity for the purpose of encouraging a person to expand or locate a business in Utah, but only if disclosure would result in actual economic harm to the person or place the governmental entity at a competitive disadvantage, but this section may not be used to restrict access to a record evidencing a final contract;

(36) materials to which access must be limited for purposes of securing or maintaining the governmental entity's proprietary protection of intellectual property rights including patents, copyrights, and trade secrets;

(37) the name of a donor or a prospective donor to a governmental entity, including an institution within the state system of higher education defined in Section 53B-1-102, and other information concerning the donation that could reasonably be expected to reveal the identity of the donor, provided that:

(a) the donor requests anonymity in writing;

(b) any terms, conditions, restrictions, or privileges relating to the donation may not be classified protected by the governmental entity under this Subsection (37); and

(c) except for an institution within the state system of higher education defined in Section 53B-1-102, the governmental unit to which the donation is made is primarily engaged in educational, charitable, or artistic endeavors, and has no regulatory or legislative authority over the donor, a member of the donor's immediate family, or any entity owned or controlled by the donor or the donor's immediate family;

(38) accident reports, except as provided in Sections 41-6a-404, 41-12a-202, and 73-18-13;

(39) a notification of workers' compensation insurance coverage described in Section 34A-2-205;

(40) (a) the following records of an institution within the state system of higher education defined in Section 53B-1-102, which have been developed, discovered, disclosed to, or received by or on behalf of faculty, staff, employees, or students of the institution:

- (i) unpublished lecture notes;
- (ii) unpublished notes, data, and information:

(A) relating to research; and

(B) of:

(I) the institution within the state system of higher education defined in Section 53B-1-102; or

(II) a sponsor of sponsored research;

(iii) unpublished manuscripts;

(iv) creative works in process;

(v) scholarly correspondence; and

(vi) confidential information contained in research proposals;

(b) Subsection (40)(a) may not be construed to prohibit disclosure of public information required pursuant to Subsection 53B-16-302(2)(a) or (b); and

(c) Subsection (40)(a) may not be construed to affect the ownership of a record;

(41) (a) records in the custody or control of the Office of Legislative Auditor General that would reveal the name of a particular legislator who requests a legislative audit prior to the date that audit is completed and made public; and

(b) notwithstanding Subsection (41)(a), a request for a legislative audit submitted to the Office of the Legislative Auditor General is a public document unless the legislator asks that the records in the custody or control of the Office of Legislative Auditor General that would reveal the name of a particular legislator who requests a legislative audit be maintained as protected records until the audit is completed and made public;

(42) records that provide detail as to the location of an explosive, including a map or other document that indicates the location of:

(a) a production facility; or

(b) a magazine;

(43) information:

(a) contained in the statewide database of the Division of Aging and Adult Services created by Section 62A-3-311.1; or

(b) received or maintained in relation to the Identity Theft Reporting Information System (IRIS) established under Section 67-5-22;

(44) information contained in the Management Information System and Licensing Information System described in Title 62A, Chapter 4a, Child and Family Services;

(45) information regarding National Guard operations or activities in support of the National Guard's federal mission;

(46) records provided by any pawn or secondhand business to a law enforcement agency or to the central database in compliance with Title 13, Chapter 32a, Pawnshop and Secondhand Merchandise Transaction Information Act;

(47) information regarding food security, risk, and vulnerability assessments performed by the Department of Agriculture and Food;

(48) except to the extent that the record is exempt from this chapter pursuant to Section 63G-2-106, records related to an emergency plan or program, a copy of which is provided to or prepared or maintained by the Division of Emergency Management, and the disclosure of which would jeopardize:

(a) the safety of the general public; or

(b) the security of:

(i) governmental property;

(ii) governmental programs; or

(iii) the property of a private person who provides the Division of Emergency Management information;

(49) records of the Department of Agriculture and Food that provides for the identification, tracing, or control of livestock diseases, including any program established under Title 4, Chapter 24, Utah Livestock Brand and Anti-Theft Act or Title 4, Chapter 31, Control of Animal Disease;

(50) as provided in Section 26-39-501:

(a) information or records held by the Department of Health related to a complaint regarding a child care program or residential child care which the department is unable to substantiate; and

(b) information or records related to a complaint received by the Department of Health from an anonymous complainant regarding a child care program or residential child care;

(51) unless otherwise classified as public under Section 63G-2-301 and except as provided under Section 41-1a-116, an individual's home address, home telephone number, or personal mobile phone number, if:

(a) the individual is required to provide the information in order to comply with a law, ordinance, rule, or order of a government entity; and

(b) the subject of the record has a reasonable expectation that this information will be kept confidential due to:

(i) the nature of the law, ordinance, rule, or order; and

(ii) the individual complying with the law, ordinance, rule, or order;

(52) the name, home address, work addresses, and telephone numbers of an individual that is

engaged in, or that provides goods or services for, medical or scientific research that is:

(a) conducted within the state system of higher education, as defined in Section 53B-1-102; and

(b) conducted using animals;

(53) an initial proposal under Title 63M, Chapter 1, Part 26, Government Procurement Private Proposal Program, to the extent not made public by rules made under that chapter;

(54) in accordance with Section 78A-12-203, any record of the Judicial Performance Evaluation Commission concerning an individual commissioner's vote on whether or not to recommend that the voters retain a judge;

(55) information collected and a report prepared by the Judicial Performance Evaluation Commission concerning a judge, unless Section 20A-7-702 or Title 78A, Chapter 12, Judicial Performance Evaluation Commission Act, requires disclosure of, or makes public, the information or report;

(56) records contained in the Management Information System created in Section 62A-4a-1003;

(57) records provided or received by the Public Lands Policy Coordinating Office in furtherance of any contract or other agreement made in accordance with Section 63J-4-603;

(58) information requested by and provided to the Utah [State] 911 Committee under Section 63H-7-303;

(59) in accordance with Section 73-10-33:

(a) a management plan for a water conveyance facility in the possession of the Division of Water Resources or the Board of Water Resources; or

(b) an outline of an emergency response plan in possession of the state or a county or municipality;

(60) the following records in the custody or control of the Office of Inspector General of Medicaid Services, created in Section 63A-13-201:

(a) records that would disclose information relating to allegations of personal misconduct, gross mismanagement, or illegal activity of a person if the information or allegation cannot be corroborated by the Office of Inspector General of Medicaid Services through other documents or evidence, and the records relating to the allegation are not relied upon by the Office of Inspector General of Medicaid Services in preparing a final investigation report or final audit report;

(b) records and audit workpapers to the extent they would disclose the identity of a person who, during the course of an investigation or audit, communicated the existence of any Medicaid fraud, waste, or abuse, or a violation or suspected violation of a law, rule, or regulation adopted under the laws of this state, a political subdivision of the state, or any recognized entity of the United States, if the

information was disclosed on the condition that the identity of the person be protected;

(c) before the time that an investigation or audit is completed and the final investigation or final audit report is released, records or drafts circulated to a person who is not an employee or head of a governmental entity for the person's response or information;

(d) records that would disclose an outline or part of any investigation, audit survey plan, or audit program; or

(e) requests for an investigation or audit, if disclosure would risk circumvention of an investigation or audit;

(61) records that reveal methods used by the Office of Inspector General of Medicaid Services, the fraud unit, or the Department of Health, to discover Medicaid fraud, waste, or abuse;

(62) information provided to the Department of Health or the Division of Occupational and Professional Licensing under Subsection 58-68-304(3) or (4);

(63) a record described in Section 63G-12-210; [and]

(64) captured plate data that is obtained through an automatic license plate reader system used by a governmental entity as authorized in Section 41-6a-2003[.]; and

(65) any record in the custody of the Utah Office for Victims of Crime relating to a victim, including:

(a) a victim's application or request for benefits;

(b) a victim's receipt or denial of benefits; and

(c) any administrative notes or records made or created for the purpose of, or used to, evaluate or communicate a victim's eligibility for or denial of benefits from the Crime Victim Reparations Fund.

Section 2. Section 63M-7-503 is amended to read:

63M-7-503. Restitution -- Reparations not to supplant restitution -- Assignment of claim for restitution judgment to Reparations Office.

(1) A reparations award may not supplant restitution as established under Title 77, Chapter 38a, Crime Victims Restitution Act, or as established by any other provisions.

(2) The court may not reduce an order of restitution based on a reparations award.

(3) If, due to reparation payments to a victim, the Utah Office for Victims of Crime is assigned under Section 63M-7-519 a claim for the victim's judgment for restitution or a portion of the restitution, the office may file with the sentencing court a notice of [the assignment. The notice of assignment shall be signed by the victim and a reparations officer and shall contain an affidavit detailing the specific amounts of pecuniary damages paid on behalf of the victim. A copy of the notice of assignment and affidavit shall be mailed

by certified mail to the defendant at his last known address 20 days prior to sentencing, entry of any judgment or order of restitution, or modification of any existing judgment or order of restitution.] restitution listing the amounts or estimated future amounts of payments made or anticipated to be made to or on behalf of the victim. The Utah Office for Victims of Crime may provide a restitution notice to the victim or victim's representative prior to or at sentencing. The amount of restitution sought by the office may be updated at any time, subject to the right of the defendant to object. Failure to provide the notice may not invalidate the imposition of the judgment or order of restitution provided the defendant is given the opportunity to object and be heard as provided in this chapter. Any objection by the defendant to the imposition or amount of restitution shall be made at the time of sentencing or in writing within 20 days of the receipt of notice, to be filed with the court and a copy mailed to the [office] Utah Office for Victims of Crime. Upon the filing of the objection, the court shall allow the defendant a full hearing on the issue as provided by Subsection 77-38a-302(4).

(4) If no objection is made or filed by the defendant, then upon conviction and sentencing, the court shall enter a judgment for complete restitution pursuant to the provisions of Subsections 76-3-201(4)(c) and (d) and identify the office as the assignee of the assigned portion of the judgment and order of restitution.

(5) If the notice of [assignment] restitution is filed after sentencing but during the term of probation or parole, the court or Board of Pardons shall modify any existing civil judgment and order of restitution to include expenses paid by the office on behalf of the victim and identify the office as the assignee of the assigned portion of the judgment and order of restitution. If no judgment or order of restitution has been entered, the court shall enter a judgment for complete restitution and [court-ordered] court-ordered restitution pursuant to the provisions of Sections 77-38a-302 and 77-38a-401.

Section 3. Section 76-3-201 is amended to read:

76-3-201. Definitions -- Sentences or combination of sentences allowed -- Civil penalties.

(1) As used in this section:

(a) "Conviction" includes a:

- (i) judgment of guilt; and
- (ii) plea of guilty.

(b) "Criminal activities" means any offense of which the defendant is convicted or any other criminal conduct for which the defendant admits responsibility to the sentencing court with or without an admission of committing the criminal conduct.

(c) "Pecuniary damages" means all special damages, but not general damages, which a person could recover against the defendant in a civil action

arising out of the facts or events constituting the defendant's criminal activities and includes the money equivalent of property taken, destroyed, broken, or otherwise harmed, and losses including earnings and medical expenses.

(d) "Restitution" means full, partial, or nominal payment for pecuniary damages to a victim, and payment for expenses to a governmental entity for extradition or transportation and as further defined in Title 77, Chapter 38a, Crime Victims Restitution Act.

(e) (i) "Victim" means any person or entity, including the Utah Office for Victims of Crime, who the court determines has suffered pecuniary damages as a result of the defendant's criminal activities.

(ii) "Victim" does not include ~~any co-participant in the defendant's criminal activities~~ a codefendant or accomplice.

(2) Within the limits prescribed by this chapter, a court may sentence a person convicted of an offense to any one of the following sentences or combination of them:

- (a) to pay a fine;
- (b) to removal or disqualification from public or private office;
- (c) to probation unless otherwise specifically provided by law;
- (d) to imprisonment;
- (e) on or after April 27, 1992, to life in prison without parole; or
- (f) to death.

(3) (a) This chapter does not deprive a court of authority conferred by law to:

- (i) forfeit property;
- (ii) dissolve a corporation;
- (iii) suspend or cancel a license;
- (iv) permit removal of a person from office;
- (v) cite for contempt; or
- (vi) impose any other civil penalty.

(b) A civil penalty may be included in a sentence.

(4) (a) When a person is convicted of criminal activity that has resulted in pecuniary damages, in addition to any other sentence it may impose, the court shall order that the defendant make restitution to the victims, or for conduct for which the defendant has agreed to make restitution as part of a plea agreement.

(b) In determining whether restitution is appropriate, the court shall follow the criteria and procedures as provided in Title 77, Chapter 38a, Crime Victims Restitution Act.

(c) In addition to any other sentence the court may impose, the court, pursuant to the provisions of Sections 63M-7-503 and 77-38a-401, shall enter:

(i) a civil judgment for complete restitution for the full amount of expenses paid on behalf of the victim by the Utah Office for Victims of Crime; and

(ii) an order of restitution for restitution payable to the Utah Office for Victims of Crime in the same amount unless otherwise ordered by the court pursuant to Subsection (4)(d).

(d) In determining whether to order that the restitution required under Subsection (4)(c) be reduced or that the defendant be exempted from the restitution, the court shall consider the criteria under Subsections 77-38a-302(5)(c)(i) through (vi) and provide findings of its decision on the record.

(5) (a) In addition to any other sentence the court may impose, and unless otherwise ordered by the court, the defendant shall pay restitution of governmental transportation expenses if the defendant was:

(i) transported pursuant to court order from one county to another within the state at governmental expense to resolve pending criminal charges;

(ii) charged with a felony or a class A, B, or C misdemeanor; and

(iii) convicted of a crime.

(b) The court may not order the defendant to pay restitution of governmental transportation expenses if any of the following apply:

(i) the defendant is charged with an infraction or on a subsequent failure to appear a warrant is issued for an infraction; or

(ii) the defendant was not transported pursuant to a court order.

(c) (i) Restitution of governmental transportation expenses under Subsection (5)(a)(i) shall be calculated according to the following schedule:

(A) \$100 for up to 100 miles a defendant is transported;

(B) \$200 for 100 up to 200 miles a defendant is transported; and

(C) \$350 for 200 miles or more a defendant is transported.

(ii) The schedule of restitution under Subsection (5)(c)(i) applies to each defendant transported regardless of the number of defendants actually transported in a single trip.

(d) If a defendant has been extradited to this state under Title 77, Chapter 30, Extradition, to resolve pending criminal charges and is convicted of criminal activity in the county to which he has been returned, the court may, in addition to any other sentence it may impose, order that the defendant make restitution for costs expended by any governmental entity for the extradition.

(6) (a) In addition to any other sentence the court may impose, and unless otherwise ordered by the court pursuant to Subsection (6)(c), the defendant shall pay restitution to the county for the cost of

incarceration and costs of medical care provided to the defendant while in the county correctional facility before and after sentencing if:

(i) the defendant is convicted of criminal activity that results in incarceration in the county correctional facility; and

(ii) (A) the defendant is not a state prisoner housed in a county correctional facility through a contract with the Department of Corrections; or

(B) the reimbursement does not duplicate the reimbursement provided under Section 64-13e-104 if the defendant is a state probationary inmate, as defined in Section 64-13e-102, or a state parole inmate, as defined in Section 64-13e-102.

(b) (i) The costs of incarceration under Subsection (6)(a) are the amount determined by the county correctional facility, but may not exceed the daily inmate incarceration costs and medical and transportation costs for the county correctional facility.

(ii) The costs of incarceration under Subsection (6)(a) do not include expenses incurred by the county correctional facility in providing reasonable accommodation for an inmate qualifying as an individual with a disability as defined and covered by the federal Americans with Disabilities Act of 1990, 42 U.S.C. 12101 through 12213, including medical and mental health treatment for the inmate's disability.

(c) In determining whether to order that the restitution required under this Subsection (6) be reduced or that the defendant be exempted from the restitution, the court shall consider the criteria under Subsections 77-38a-302(5)(c)(i) through (vi) and shall enter the reason for its order on the record.

(d) If on appeal the defendant is found not guilty of the criminal activity under Subsection (6)(a)(i) and that finding is final as defined in Section 76-1-304, the county shall reimburse the defendant for restitution the defendant paid for costs of incarceration under Subsection (6)(a).

Section 4. Section 77-38a-102 is amended to read:

77-38a-102. Definitions.

As used in this chapter:

(1) "Conviction" includes a:

(a) judgment of guilt;

(b) a plea of guilty; or

(c) a plea of no contest.

(2) "Criminal activities" means any offense of which the defendant is convicted or any other criminal conduct for which the defendant admits responsibility to the sentencing court with or without an admission of committing the criminal conduct.

(3) "Department" means the Department of Corrections.

(4) “Diversion” means suspending criminal proceedings prior to conviction on the condition that a defendant agree to participate in a rehabilitation program, make restitution to the victim, or fulfill some other condition.

(5) “Party” means the prosecutor, defendant, or department involved in a prosecution.

(6) “Pecuniary damages” means all demonstrable economic injury, whether or not yet incurred, which a person could recover in a civil action arising out of the facts or events constituting the defendant’s criminal activities and includes the fair market value of property taken, destroyed, broken, or otherwise harmed, and losses including lost earnings and medical expenses, but excludes punitive or exemplary damages and pain and suffering.

(7) “Plea agreement” means an agreement entered between the prosecution and defendant setting forth the special terms and conditions and criminal charges upon which the defendant will enter a plea of guilty or no contest.

~~[(49)]~~ (8) “Plea disposition” means an agreement entered into between the prosecution and defendant including diversion, plea agreement, plea in abeyance agreement, or any agreement by which the defendant may enter a plea in any other jurisdiction or where charges are dismissed without a plea.

~~[(8)]~~ (9) “Plea in abeyance” means an order by a court, upon motion of the prosecution and the defendant, accepting a plea of guilty or of no contest from the defendant but not, at that time, entering judgment of conviction against him nor imposing sentence upon him on condition that he comply with specific conditions as set forth in a plea in abeyance agreement.

~~[(9)]~~ (10) “Plea in abeyance agreement” means an agreement entered into between the prosecution and the defendant setting forth the specific terms and conditions upon which, following acceptance of the agreement by the court, a plea may be held in abeyance.

(11) “Restitution” means full, partial, or nominal payment for pecuniary damages to a victim, including prejudgment interest, the accrual of interest from the time of sentencing, insured damages, reimbursement for payment of a reward, and payment for expenses to a governmental entity for extradition or transportation and as may be further defined by law.

(12) (a) “Reward” means a sum of money:

(i) offered to the public for information leading to the arrest and conviction of an offender; and

(ii) that has been paid to a person or persons who provide this information, except that the person receiving the payment may not be a codefendant, an accomplice, or a bounty hunter.

(b) “Reward” does not include any amount paid in excess of the sum offered to the public.

(13) “Screening” means the process used by a prosecuting attorney to terminate investigative action, proceed with prosecution, move to dismiss a prosecution that has been commenced, or cause a prosecution to be diverted.

(14) (a) “Victim” means any person ~~[whom]~~ or entity, including the Utah Office for Victims of Crime, who the court determines has suffered pecuniary damages as a result of the defendant’s criminal activities.

(b) “Victim” may not include a codefendant or accomplice.

CHAPTER 148**H. B. 193**

Passed March 11, 2015
 Approved March 25, 2015
 Effective May 12, 2015

**CONTINUING EDUCATION FOR
 GENERAL CONTRACTOR LICENSING**

Chief Sponsor: Francis D. Gibson
 Senate Sponsor: J. Stuart Adams

LONG TITLE**General Description:**

This bill modifies the Utah Construction Trades Licensing Act.

Highlighted Provisions:

This bill:

- ▶ modifies the continuing education requirements for certain contractor licensees; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

58-55-302.5, as last amended by Laws of Utah 2013, Chapter 430

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

Section 1. Section 58-55-302.5 is amended to read:

58-55-302.5. Continuing education requirements for contractor licensees -- Continuing education courses.

(1) Each contractor licensee under a license issued under this chapter shall complete six hours of approved continuing education during each two-year renewal cycle established by rule under Subsection 58-55-303(1).

(2) (a) The commission shall, with the concurrence of the division, establish by rule a program of approved continuing education for contractor licensees.

(b) Beginning on or after June 1, 2015, only courses offered by any of the following may be included in the program of approved continuing education for contractor licensees:~~(b) Before a new course or a course being considered for reapproval may be included in the program of approved continuing education for contractor licensees, the commission and the division shall invite and consider written input, received within 30 days of the invitation, regarding the course from:~~

- (i) the Associated General Contractors of Utah;
- (ii) Associated Builders and Contractors, Utah Chapter;

~~[(iv)] (iii) the Home Builders Association of Utah;~~

~~[(iii) the Utah Subcontractors Council;]~~

~~(iv) the National Electrical Contractors Association;~~

~~[(iv)] (v) the Utah Plumbing & Heating Contractors Association;~~

~~[(v)] (vi) the Independent Electrical Contractors of Utah; [and]~~

~~[(vi)] (vii) the Rocky Mountain Gas Association[-];]~~

~~(viii) the Utah Mechanical Contractors Association;~~

~~(ix) the Sheet Metal Contractors Association;~~

~~(x) the Intermountain Electrical Association;~~

~~(xi) the Builders Bid Service of Utah;~~

~~(xii) Utah Roofing Contractors Association;~~

~~(xiii) a nationally or regionally accredited college or university that has a physical campus in the state; or~~

~~(xiv) an agency of the state.~~

~~(c) Each entity listed in Subsections (2)(b)(iv) through (2)(b)(xii) may only offer and market continuing education courses to a licensee who is a member of the entity.~~

(3) The division may contract with a person to establish and maintain a continuing education registry to include:

~~[(a) an online application for a continuing education course provider to apply to the division for approval of the course for inclusion in the program of approved continuing education;]~~

~~[(b)] (a) a list of courses that the division has approved for inclusion in the program of approved continuing education; and~~

~~[(e)] (b) a list of courses that:~~

(i) a contractor licensee has completed under the program of approved continuing education; and

(ii) the licensee may access to monitor the licensee's compliance with the continuing education requirement established under Subsection (1).

(4) The division may charge a fee, as established by the division under Section 63J-1-504, to administer the requirements of this section.

CHAPTER 149**H. B. 198**

Passed March 12, 2015

Approved March 25, 2015

Effective May 12, 2015

**STRENGTHENING COLLEGE
AND CAREER READINESS**Chief Sponsor: Patrice M. Arent
Senate Sponsor: Stephen H. Urquhart**LONG TITLE****General Description:**

This bill creates a program to provide grants to local education agencies for professional development for school counselors.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ creates the Strengthening College and Career Readiness Program, a grant program for local education agencies, to improve students' college and career readiness through enhancing the skill level of school counselors to provide college and career counseling; and
- ▶ directs the State Board of Education to:
 - develop a certificate for school counselors that certifies that a school counselor is highly skilled at providing college and career counseling;
 - award grants to local education agencies, on a competitive basis, for payment of course fees for courses required to earn the certificate;
 - make rules; and
 - report to the Education Interim Committee.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2016:

- ▶ to the State Board of Education – State Office of Education, as a one-time appropriation:
 - from the Education Fund, One-time, \$400,000

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**ENACTS:**

53A-15-1501, Utah Code Annotated 1953

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

Section 1. Section 53A-15-1501 is enacted to read:**53A-15-1501. (Codified as 53A-15-1601)****Initiative to strengthen college and career readiness.**

- (1) As used in this section:
- (a) “College and career counseling” means:
- (i) nurturing college and career aspirations;
- (ii) assisting students in planning an academic program that connects to college and career goals;

(iii) providing early and ongoing exposure to information necessary to make informed decisions when selecting a college and career;

(iv) promoting participation in college and career assessments;

(v) providing financial aid information; and

(vi) increasing understanding about college admission processes.

(b) “LEA” or “local education agency” means a school district or charter school.

(2) There is created the Strengthening College and Career Readiness Program, a grant program for LEAs, to improve students' college and career readiness through enhancing the skill level of school counselors to provide college and career counseling.

(3) The State Board of Education shall:

(a) on or before August 1, 2015, collaborate with the State Board of Regents, and business, community, and education stakeholders to develop a certificate for school counselors that:

(i) certifies that a school counselor is highly skilled at providing college and career counseling; and

(ii) is aligned with the Utah Comprehensive Counseling and Guidance Program as defined in rules established by the State Board of Education;

(b) subject to legislative appropriations, award grants to LEAs, on a competitive basis, for payment of course fees for courses required to earn the certificate developed by the State Board of Education under Subsection (3)(a); and

(c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules specifying:

(i) procedures for applying for and awarding grants under this section;

(ii) criteria for awarding grants; and

(iii) reporting requirements for grantees.

(4) An LEA that receives a grant under this section shall use the grant for payment of course fees for courses required to attain the certificate as determined by the State Board of Education under Subsection (3)(a).

(5) The State Board of Education shall report to the Education Interim Committee on the status of the Strengthening College and Career Readiness Program on or before:

(a) November 1, 2016; and

(b) November 1, 2017.

Section 2. Appropriation.

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, for the fiscal year beginning July 1, 2015, and ending June 30, 2016, the following sums of money are appropriated from resources not otherwise appropriated, or

reduced from amounts previously appropriated, out of the funds or accounts indicated. These sums of money are in addition to any amounts previously appropriated for fiscal year 2016.

To State Board of Education State Office of Education Initiative Programs

From Education Fund, One-time \$400,000

Schedule of Programs:

Contracts and Grants Strengthening College and Career Readiness Pilot Program \$400,000

The Legislature intends that:

(1) The State Office of Education expend appropriations under this section in fiscal years 2016, 2017, and 2018; and

(2) Under 63J-1-603, appropriations provided under this section not lapse.

Section 3. Effective date.

(1) Except as provided in Subsection (2), this bill takes effect on May 12, 2015.

(2) Uncodified Section 2, Appropriation, takes effect on July 1, 2015.

CHAPTER 150**H. B. 213**

Passed March 11, 2015

Approved March 25, 2015

Effective May 12, 2015

**SAFE TECHNOLOGY UTILIZATION
AND DIGITAL CITIZENSHIP IN
PUBLIC SCHOOLS**

Chief Sponsor: Keven J. Stratton

Senate Sponsor: Howard A. Stephenson

LONG TITLE**General Description:**

This bill amends and enacts provisions related to educational technology, school community councils, and charter schools.

Highlighted Provisions:

This bill:

- ▶ requires a school district or charter school that purchases educational technology to ensure that adequate on and off campus Internet filtering is in place;
- ▶ requires a school community council to fulfill certain duties related to safe technology utilization and digital citizenship;
- ▶ requires a charter school governing board, or a certain council established by a charter school governing board, to fulfill certain duties related to safe technology utilization and digital citizenship; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53A-1-706, as last amended by Laws of Utah 2012, Chapter 347

53A-1a-108, as last amended by Laws of Utah 2014, Chapters 332 and 346

53A-1a-511, as last amended by Laws of Utah 2012, Chapter 347

ENACTS:

53A-1a-524, Utah Code Annotated 1953

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

Section 1. Section 53A-1-706 is amended to read:**53A-1-706. Purchases of educational technology.**

(1) (a) A school district, charter school, or college of education shall comply with Title 63G, Chapter 6a, Utah Procurement Code, in purchasing technology, except as otherwise provided in Subsection (1)(b).

(b) A school district or charter school may purchase computers from, and contract for the repair or refurbishing of computers with, the Utah Correctional Industries without going through the

bidding or competition procedures outlined in Title 63G, Chapter 6a, Utah Procurement Code.

(2) A school district, charter school, or college of education may purchase technology through cooperative purchasing contracts administered by the state Division of Purchasing or through its own established purchasing program.

(3) A school district or charter school that purchases technology under this section shall ensure that adequate on and off campus Internet filtering is installed and consistently configured to prevent viewing of harmful content by students and school personnel.

Section 2. Section 53A-1a-108 is amended to read:**53A-1a-108. School community councils -- Duties -- Composition -- Election procedures and selection of members.**

(1) As used in this section:

(a) “Digital citizenship” means the norms of appropriate, responsible, and healthy behavior related to technology use, including digital literacy, ethics, etiquette, and security.

~~(a)~~ (b) “Educator” [~~has the meaning~~] means the same as that term is defined in Section 53A-6-103.

~~(b)~~ (c) (i) “Parent or guardian member” means a member of a school community council who is a parent or guardian of a student who:

(A) is attending the school; or

(B) will be enrolled at the school during the parent’s or guardian’s term of office.

(ii) “Parent or guardian member” may not include an educator who is employed at the school.

~~(c)~~ (d) “School employee member” means a member of a school community council who is a person employed at the school by the school or school district, including the principal.

~~(d)~~ (e) “School LAND Trust Program money” means money allocated to a school pursuant to Section 53A-16-101.5.

(2) Each public school, in consultation with its local school board, shall establish a school community council at the school building level for the purpose of:

(a) involving parents or guardians of students in decision making at the school level;

(b) improving the education of students;

(c) prudently expending School LAND Trust Program money for the improvement of students’ education through collaboration among parents and guardians, school employees, and the local school board; and

(d) increasing public awareness of:

(i) school trust lands and related land policies;

(ii) management of the State School Fund established in Utah Constitution Article X, Section V; and

(iii) educational excellence.

(3) (a) Except as provided in Subsection (3)(b), a school community council shall:

(i) create a school improvement plan in accordance with Section 53A-1a-108.5;

(ii) create the School LAND Trust Program in accordance with Section 53A-16-101.5;

(iii) assist in the creation and implementation of a professional development plan; and

(iv) advise and make recommendations to school and school district administrators and the local school board regarding:

(A) the school and its programs[-];

(B) school district programs[-];

(C) a child access routing plan in accordance with Section 53A-3-402[- and];

(D) safe technology utilization and digital citizenship; and

(E) other issues relating to the community environment for students[-];

(v) provide for education and awareness on safe technology utilization and digital citizenship that empowers:

(A) a student to make smart media and online choices; and

(B) a parent or guardian to know how to discuss safe technology use with the parent's or guardian's child; and

(vi) partner with the school's principal and other administrators to ensure that adequate on and off campus Internet filtering is installed and consistently configured to prevent viewing of harmful content by students and school personnel, in accordance with Subsection 53A-1-706(3).

(b) To fulfill the school community council's duties described in Subsection (3)(a)(v) and (vi), a school community council may:

(i) partner with one or more non-profit organizations; and

(ii) create a subcommittee.

~~(4)~~ (c) In addition to the duties specified in Subsection (3)(a), a school community council for an elementary school shall create a reading achievement plan in accordance with Section 53A-1-606.5.

~~(e)~~ (d) A school or school district administrator may not prohibit or discourage a school community council from discussing issues, or offering advice or recommendations, regarding the school and its programs, school district programs, the curriculum, or the community environment for students.

(4) (a) Each school community council shall consist of school employee members and parent or guardian members in accordance with this section.

(b) Except as provided in Subsection (4)(c) or (d):

(i) each school community council for a high school shall have six parent or guardian members and four school employee members, including the principal; and

(ii) each school community council for a school other than a high school shall have four parent or guardian members and two school employee members, including the principal.

(c) A school community council may determine the size of the school community council by a majority vote of a quorum of the school community council provided that:

(i) the membership includes two or more parent or guardian members than the number of school employee members; and

(ii) there are at least two school employee members on the school community council.

(d) (i) The number of parent or guardian members of a school community council who are not educators employed by the school district shall exceed the number of parent or guardian members who are educators employed by the school district.

(ii) If, after an election, the number of parent or guardian members who are not educators employed by the school district does not exceed the number of parent or guardian members who are educators employed by the school district, the parent or guardian members of the school community council shall appoint one or more parent or guardian members to the school community council so that the number of parent or guardian members who are not educators employed by the school district exceeds the number of parent or guardian members who are educators employed by the school district.

(5) (a) Except as provided in Subsection (5)(f), a school employee member, other than the principal, shall be elected by secret ballot by a majority vote of the school employees and serve a two-year term. The principal shall serve as an ex officio member with full voting privileges.

(b) (i) Except as provided in Subsection (5)(f), a parent or guardian member shall be elected by secret ballot at an election held at the school by a majority vote of those voting at the election and serve a two-year term.

(ii) Only parents or guardians of students attending the school may vote at the election under Subsection (5)(b)(i).

(iii) Any parent or guardian of a student who meets the qualifications of this section may file or declare the parent's or guardian's candidacy for election to a school community council.

(iv) (A) Subject to Subsections (5)(b)(iv)(B) and (5)(b)(iv)(C), a timeline for the election of parent or guardian members of a school community council shall be established by a local school board for the schools within the school district.

(B) An election for the parent or guardian members of a school community council shall be held near the beginning of the school year or held in the spring and completed before the last week of school.

(C) Each school shall establish a time period for the election of parent or guardian members of a school community council under Subsection (5)(b)(iv)(B) that is consistent for at least a four-year period.

(c) (i) The principal of the school, or the principal's designee, shall provide notice of the available community council positions to school employees, parents, and guardians at least 10 days before the date that voting commences for the elections held under Subsections (5)(a) and (5)(b).

(ii) The notice shall include:

(A) the dates and times of the elections;

(B) a list of council positions that are up for election; and

(C) instructions for becoming a candidate for a community council position.

(iii) The principal of the school, or the principal's designee, shall oversee the elections held under Subsections (5)(a) and (5)(b).

(iv) Ballots cast in an election held under Subsection (5)(b) shall be deposited in a secure ballot box.

(d) Results of the elections held under Subsections (5)(a) and (5)(b) shall be made available to the public upon request.

(e) (i) If a parent or guardian position on a school community council remains unfilled after an election is held, the other parent or guardian members of the council shall appoint a parent or guardian who meets the qualifications of this section to fill the position.

(ii) If a school employee position on a school community council remains unfilled after an election is held, the other school employee members of the council shall appoint a school employee to fill the position.

(iii) A member appointed to a school community council under Subsection (5)(e)(i) or (ii) shall serve a two-year term.

(f) (i) If the number of candidates who file for a parent or guardian position or school employee position on a school community council is less than or equal to the number of open positions, an election is not required.

(ii) If an election is not held pursuant to Subsection (5)(f)(i) and a parent or guardian position remains unfilled, the other parent or guardian members of the council shall appoint a parent or guardian who meets the qualifications of this section to fill the position.

(iii) If an election is not held pursuant to Subsection (5)(f)(i) and a school employee position remains unfilled, the other school employee members of the council shall appoint a school employee who meets the qualifications of this section to fill the position.

(g) The principal shall enter the names of the council members on the School LAND Trust website on or before October 20 of each year, pursuant to Section 53A-1a-108.1.

(h) Terms shall be staggered so that approximately half of the council members stand for election each year.

(i) A school community council member may serve successive terms provided the member continues to meet the definition of a parent or guardian member or school employee member as specified in Subsection (1).

(j) Each school community council shall elect:

(i) a chair from its parent or guardian members; and

(ii) a vice chair from either its parent or guardian members or school employee members, excluding the principal.

(6) (a) A school community council may create subcommittees or task forces to:

(i) advise or make recommendations to the council; or

(ii) develop all or part of a plan listed in Subsection (3).

(b) Any plan or part of a plan developed by a subcommittee or task force shall be subject to the approval of the school community council.

(c) A school community council may appoint individuals who are not council members to serve on a subcommittee or task force, including parents or guardians, school employees, or other community members.

(7) (a) A majority of the members of a school community council is a quorum for the transaction of business.

(b) The action of a majority of the members of a quorum is the action of the school community council.

(8) A local school board shall provide training for a school community council each year, including training:

(a) for the chair and vice chair about their responsibilities;

(b) on resources available on the School LAND Trust website; and

(c) on the following statutes governing school community councils:

(i) Section 53A-1a-108;

(ii) Section 53A-1a-108.1;

(iii) Section 53A-1a-108.5; and

(iv) Section 53A-16-101.5.

Section 3. Section 53A-1a-511 is amended to read:

53A-1a-511. Waivers from state board rules -- Application of statutes and rules to charter schools.

(1) A charter school shall operate in accordance with its charter and is subject to Title 53A, State System of Public Education, and other state laws applicable to public schools, except as otherwise provided in this part.

(2) (a) A charter school or any other public school or school district may apply to the State Board of Education for a waiver of any state board rule that inhibits or hinders the school or the school district from accomplishing its mission or educational goals set out in its strategic plan or charter.

(b) The state board may grant the waiver, unless:

(i) the waiver would cause the school district or the school to be in violation of state or federal law; or

(ii) the waiver would threaten the health, safety, or welfare of students in the district or at the school.

(c) If the State Board of Education denies the waiver, the reason for the denial shall be provided in writing to the waiver applicant.

(3) (a) Except as provided in Subsection (3)(b), State Board of Education rules governing the following do not apply to a charter school:

(i) school libraries;

(ii) required school administrative and supervisory services; and

(iii) required expenditures for instructional supplies.

(b) A charter school shall comply with rules implementing statutes that prescribe how state appropriations may be spent.

(4) The following provisions of Title 53A, State System of Public Education, and rules adopted under those provisions, do not apply to a charter school:

(a) Sections 53A-1a-108 and 53A-1a-108.5, requiring the establishment of a school community council and school improvement plan;

(b) Sections 53A-3-413 and 53A-3-414, pertaining to the use of school buildings as civic centers;

(c) Section 53A-3-420, requiring the use of activity disclosure statements;

(d) Section 53A-12-207, requiring notification of intent to dispose of textbooks;

(e) Section 53A-13-107, requiring annual presentations on adoption;

(f) Chapter 19, Part 1, Fiscal Procedures, pertaining to fiscal procedures of school districts and local school boards; and

(g) Section 53A-14-107, requiring an independent evaluation of instructional materials.

(5) For the purposes of Title 63G, Chapter 6a, Utah Procurement Code, a charter school ~~shall be~~ is considered ~~a local public~~ an educational procurement unit as defined in Subsection 63G-6a-104(7).

(6) Each charter school shall be subject to:

(a) Title 52, Chapter 4, Open and Public Meetings Act; and

(b) Title 63G, Chapter 2, Government Records Access and Management Act.

(7) (a) The State Charter School Board shall, in concert with the charter schools, study existing state law and administrative rules for the purpose of determining from which laws and rules charter schools should be exempt.

(b) (i) The State Charter School Board shall present recommendations for exemption to the State Board of Education for consideration.

(ii) The State Board of Education shall consider the recommendations of the State Charter School Board and respond within 60 days.

Section 4. Section 53A-1a-524 is enacted to read:

53A-1a-524. Safe technology utilization and digital citizenship.

A charter school governing board, or a council formed by a charter school governing board to prepare a plan for the use of School LAND Trust Program money under Section 53A-16-101.5:

(1) shall provide for education and awareness on safe technology utilization and digital citizenship that empowers:

(a) a student to make smart media and online choices; and

(b) a parent or guardian to know how to discuss safe technology use with the parent's or guardian's child;

(2) shall partner with the school's principal and other administrators to ensure that adequate on and off campus Internet filtering is installed and consistently configured to prevent viewing of harmful content by students and school personnel, in accordance with Subsection 53A-1-706(3); and

(3) may partner with one or more non-profit organizations to fulfill the duties described in Subsections (1) and (2).

CHAPTER 151**H. B. 214**

Passed March 11, 2015

Approved March 25, 2015

Effective May 12, 2015

**MISREPRESENTATION OF TELEPHONE
AND TEXT IDENTIFICATION**

Chief Sponsor: David E. Lifferth

Senate Sponsor: Todd Weiler

LONG TITLE**General Description:**

This bill modifies the Utah Criminal Code regarding telephone and VoIP communications.

Highlighted Provisions:

This bill:

- ▶ prohibits making telephone calls or text messages that provide false or inaccurate caller or text message identification information with the intent to harm;
- ▶ prohibits making telephone calls or text messages that provide false or inaccurate caller or text message identification information to a public safety answering point when reporting an emergency;
- ▶ provides that a first violation is a class C misdemeanor and that any subsequent violation is a class B misdemeanor;
- ▶ provides that the recipient of the call or text may bring a civil action for damages; and
- ▶ provides that an Internet service provider or hosting company, a provider of public telecommunications services, or a text message service that transmits, routes, or otherwise manages data without selecting the content is not subject to these prohibitions.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

76-10-1802, Utah Code Annotated 1953

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

Section 1. Section 76-10-1802 is enacted to read:**Part 18. Communications Fraud and Misrepresentation****76-10-1802. Misrepresentation of call or text communication identification.**(1) As used in this section:

(a) "Caller or text message identification information" means information provided by a caller identification service or text message service regarding the telephone number or other information regarding the origination of a call or text message made using a telecommunications service or VoIP voice service.

(b) "Caller or text message identification service" means any service or device designed to provide the

user of the service or device with the telephone number of, or other information regarding, the origination of a call or text message made using a telecommunications service or VoIP voice service, including automatic number identification services.

(c) "Text message":

(i) means a real-time or near real-time message consisting of text, images, sounds, or other information transmitted from or received by a device identified by a telephone number; and

(ii) does not include a real-time, two-way voice or video communication.

(d) "VoIP" means a technology that allows telephone calls to be made over computer networks, including the Internet.

(2) It is unlawful for any person or individual, in connection with any telecommunications service or VoIP voice service, to knowingly cause any caller identification service or text message service to transmit false, misleading, or inaccurate caller or text message identification information:

(a) with the intent to harm the recipient of the call or text message; or

(b) to a public safety answering point when reporting an emergency.

(3) This section does not prevent or restrict any person or individual from blocking the capability of any caller or text message identification service to transmit caller or text message identification information.

(4) The following are exempt from this section:

(a) the lawful investigative, protective, or intelligence activity of a law enforcement agency; and

(b) a court order that specifically authorizes the use of caller or text message identification manipulation.

(5) Each separate call or text message transmitted in violation of this section is:

(a) for a first violation, a class C misdemeanor; and

(b) for a second or subsequent violation, a class B misdemeanor.

(6) Violations may be enforced in a civil action initiated by the recipient of a call, message, or text message made in violation of this section, a criminal action initiated by a prosecuting attorney, or both.

(7) This section does not apply to an Internet service provider or hosting company, a provider of public telecommunications services, or a text message service by reason of the fact that the Internet service provider, hosting company, text message service, or provider of public telecommunications services:

(i) transmits, routes, or provides connections for material without selecting the material;

(ii) stores or delivers the material at the direction of a user; or

(iii) provides a caller or text message identification service.

CHAPTER 152**H. B. 217**

Passed March 4, 2015
 Approved March 25, 2015
 Effective May 12, 2015

UNIFORMED SERVICES AMENDMENTS

Chief Sponsor: Paul Ray
 Senate Sponsor: Peter C. Knudson

LONG TITLE**General Description:**

This bill adds a definition of armed forces and uniformed services to the statutory construction list of definitions.

Highlighted Provisions:

This bill:

- ▶ defines armed forces and uniformed services.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

68-3-12.5, as last amended by Laws of Utah 2011, Chapter 366

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

Section 1. Section 68-3-12.5 is amended to read:**68-3-12.5. Definitions for Utah Code.**

(1) The definitions listed in this section apply to the Utah Code, unless:

(a) the definition is inconsistent with the manifest intent of the Legislature or repugnant to the context of the statute; or

(b) a different definition is expressly provided for the respective title, chapter, part, section, or subsection.

(2) "Adjudicative proceeding" means:

(a) an action by a board, commission, department, officer, or other administrative unit of the state that determines the legal rights, duties, privileges, immunities, or other legal interests of one or more identifiable persons, including an action to grant, deny, revoke, suspend, modify, annul, withdraw, or amend an authority, right, or license; and

(b) judicial review of an action described in Subsection (2)(a).

(3) "Administrator" includes "executor" when the subject matter justifies the use.

(4) "Advisory board," "advisory commission," and "advisory council" mean a board, commission, committee, or council that:

(a) is created by, and whose duties are provided by, statute or executive order;

(b) performs its duties only under the supervision of another person as provided by statute; and

(c) provides advice and makes recommendations to another person that makes policy for the benefit of the general public.

(5) "Armed forces" means the United States Army, Navy, Air Force, Marine Corps, and Coast Guard.

[~~5~~] (6) "County executive" means:

(a) the county commission, in the county commission or expanded county commission form of government established under Title 17, Chapter 52, Changing Forms of County Government;

(b) the county executive, in the county executive-council optional form of government authorized by Section 17-52-504; or

(c) the county manager, in the council-manager optional form of government authorized by Section 17-52-505.

[~~6~~] (7) "County legislative body" means:

(a) the county commission, in the county commission or expanded county commission form of government established under Title 17, Chapter 52, Changing Forms of County Government;

(b) the county council, in the county executive-council optional form of government authorized by Section 17-52-504; and

(c) the county council, in the council-manager optional form of government authorized by Section 17-52-505.

[~~7~~] (8) "Depose" means to make a written statement made under oath or affirmation.

[~~8~~] (9) "Executor" includes "administrator" when the subject matter justifies the use.

[~~9~~] (10) "Guardian" includes a person who:

(a) qualifies as a guardian of a minor or incapacitated person pursuant to testamentary or court appointment; or

(b) is appointed by a court to manage the estate of a minor or incapacitated person.

[~~10~~] (11) "Highway" includes:

(a) a public bridge;

(b) a county way;

(c) a county road;

(d) a common road; and

(e) a state road.

[~~11~~] (12) "Intellectual disability" means a significant, subaverage general intellectual functioning that:

(a) exists concurrently with deficits in adaptive behavior; and

(b) is manifested during the developmental period as defined in the current edition of the Diagnostic and Statistical Manual of Mental

Disorders, published by the American Psychiatric Association.

[(42)] (13) "Intermediate care facility for people with an intellectual disability" means an intermediate care facility for the mentally retarded, as defined in Title XIX of the Social Security Act.

[(43)] (14) "Land" includes:

- (a) land;
- (b) a tenement;
- (c) a hereditament;
- (d) a water right;
- (e) a possessory right; and
- (f) a claim.

[(44)] (15) "Month" means a calendar month, unless otherwise expressed.

[(45)] (16) "Oath" includes "affirmation."

[(46)] (17) "Person" means:

- (a) an individual;
- (b) an association;
- (c) an institution;
- (d) a corporation;
- (e) a company;
- (f) a trust;
- (g) a limited liability company;
- (h) a partnership;
- (i) a political subdivision;
- (j) a government office, department, division, bureau, or other body of government; and

(k) any other organization or entity.

[(47)] (18) "Personal property" includes:

- (a) money;
- (b) goods;
- (c) chattels;
- (d) effects;
- (e) evidences of a right in action;
- (f) a written instrument by which a pecuniary obligation, right, or title to property is created, acknowledged, transferred, increased, defeated, discharged, or diminished; and
- (g) a right or interest in an item described in Subsections [(47)] (18)(a) through (f).

[(48)] (19) "Personal representative," "executor," and "administrator" include:

- (a) an executor;
- (b) an administrator;
- (c) a successor personal representative;

(d) a special administrator; and

(e) a person who performs substantially the same function as a person described in Subsections [(48)] (19)(a) through (d) under the law governing the person's status.

[(49)] (20) "Policy board," "policy commission," or "policy council" means a board, commission, or council that:

- (a) is authorized to make policy for the benefit of the general public;
- (b) is created by, and whose duties are provided by, the constitution or statute; and
- (c) performs its duties according to its own rules without supervision other than under the general control of another person as provided by statute.

[(20)] (21) "Population" is shown by the most recent state or national census, unless expressly provided otherwise.

[(21)] (22) "Process" means a writ or summons issued in the course of a judicial proceeding.

[(22)] (23) "Property" includes both real and personal property.

[(23)] (24) "Real estate" or "real property" includes:

- (a) land;
- (b) a tenement;
- (c) a hereditament;
- (d) a water right;
- (e) a possessory right; and
- (f) a claim.

[(24)] (25) "Review board," "review commission," and "review council" mean a board, commission, committee, or council that:

- (a) is authorized to approve policy made for the benefit of the general public by another body or person;
- (b) is created by, and whose duties are provided by, statute; and
- (c) performs its duties according to its own rules without supervision other than under the general control of another person as provided by statute.

[(25)] (26) "Road" includes:

- (a) a public bridge;
- (b) a county way;
- (c) a county road;
- (d) a common road; and
- (e) a state road.

[(26)] (27) "Signature" includes a name, mark, or sign written with the intent to authenticate an instrument or writing.

[(27)] (28) "State," when applied to the different parts of the United States, includes a state, district, or territory of the United States.

~~[(28)]~~ (29) "Swear" includes "affirm."

~~[(29)]~~ (30) "Testify" means to make an oral statement under oath or affirmation.

(31) "Uniformed services" means:

(a) the armed forces;

(b) the commissioned corps of the National Oceanic and Atmospheric Administration; and

(c) the Commissioned Corps of the United States Public Health Service.

~~[(30)]~~ (32) "United States" includes each state, district, and territory of the United States of America.

~~[(31)]~~ (33) "Utah Code" means the 1953 recodification of the Utah Code, as amended, unless the text expressly references a portion of the 1953 recodification of the Utah Code as it existed:

(a) on the day on which the 1953 recodification of the Utah Code was enacted; or

(b) (i) after the day described in Subsection ~~[(31)]~~ (33)(a); and

(ii) before the most recent amendment to the referenced portion of the 1953 recodification of the Utah Code.

~~[(32)]~~ (34) "Vessel," when used with reference to shipping, includes a steamboat, canal boat, and every structure adapted to be navigated from place to place.

~~[(33)]~~ (35) "Will" includes a codicil.

~~[(34)]~~ (36) "Writ" means an order or precept in writing, issued in the name of:

(a) the state;

(b) a court; or

(c) a judicial officer.

~~[(35)]~~ (37) "Writing" includes:

(a) printing;

(b) handwriting; and

(c) information stored in an electronic or other medium if the information is retrievable in a perceivable format.

CHAPTER 153**H. B. 228**

Passed March 12, 2015

Approved March 25, 2015

Effective March 25, 2015

APPELLATE BOND AMENDMENTS

Chief Sponsor: Douglas V. Sagers

Senate Sponsor: Curtis S. Bramble

LONG TITLE**General Description:**

This bill repeals and reenacts provisions relating to appellate bonds for political subdivisions.

Highlighted Provisions:

This bill:

- ▶ repeals and reenacts provisions relating to appellate bonds for political subdivisions.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**REPEALS AND REENACTS:**

78B-5-805, as repealed and reenacted by Laws of Utah 2013, Chapter 33

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

Section 1. Section 78B-5-805 is repealed and reenacted to read:**78B-5-805. State, state officers, and political subdivisions not required to give bond.**

(1) In any civil action or proceeding in which the state is a party plaintiff, or any state officer in an official capacity or on behalf of the state, or any county or city or other public corporation is a party plaintiff or defendant, no bond, written undertaking, or security may be required of the state, or any state officer, or of any county, city, or other public corporation.

(2) Upon compliance with the other provisions of the law, the state or any state officer acting in an official capacity, or any county, city, or other public corporation, has the same rights, remedies, and benefits as if the bond, undertaking, or security were given and approved as required by law.

Section 2. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

CHAPTER 154**H. B. 229**

Passed March 11, 2015
 Approved March 25, 2015
 Effective May 12, 2015

AIR QUALITY MODIFICATIONS

Chief Sponsor: Rebecca P. Edwards
 Senate Sponsor: Todd Weiler

LONG TITLE**General Description:**

This bill amends provisions relating to air quality.

Highlighted Provisions:

This bill:

- ▶ amends definitions;
- ▶ modifies the powers and duties of the Air Quality Board;
- ▶ modifies the powers and duties of the director of the Division of Air Quality;
- ▶ modifies provisions relating to asbestos worker certifications;
- ▶ modifies fee provisions;
- ▶ modifies provisions relating to asbestos testing;
- ▶ removes outdated provisions;
- ▶ repeals private sector air quality permitting professionals certification;
- ▶ modifies provisions relating to controlled burning by fire departments;
- ▶ modifies provisions relating to tax exemptions for environmental controls; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 19-2-102, as last amended by Laws of Utah 2014, Chapter 24
 19-2-103, as last amended by Laws of Utah 2012, Chapter 360
 19-2-104, as last amended by Laws of Utah 2014, Chapter 230
 19-2-105.3, as last amended by Laws of Utah 2010, Chapter 236
 19-2-107, as last amended by Laws of Utah 2014, Chapter 230
 19-2-108, as last amended by Laws of Utah 2012, Chapters 333 and 360
 19-2-109.1, as last amended by Laws of Utah 2012, Chapters 360 and 369
 19-2-109.2, as last amended by Laws of Utah 2012, Chapter 360
 19-2-112, as last amended by Laws of Utah 2012, Chapter 333
 19-2-113, as last amended by Laws of Utah 2011, Chapter 297
 19-2-114, as last amended by Laws of Utah 1991, Chapter 86
 19-2-117, as last amended by Laws of Utah 2012, Chapter 360
 19-2-119, as renumbered and amended by Laws of Utah 1991, Chapter 112

- 19-2-120, as last amended by Laws of Utah 2012, Chapter 360
 19-2-122, as renumbered and amended by Laws of Utah 1991, Chapter 112
 19-12-102, as enacted by Laws of Utah 2014, Chapter 24
 19-12-201, as enacted by Laws of Utah 2014, Chapter 24

REPEALS:

- 19-2-109.5, as last amended by Laws of Utah 2009, Chapters 183 and 377

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

Section 1. Section 19-2-102 is amended to read:**19-2-102. Definitions.**

As used in this chapter:

~~[(1) "Air contaminant" means any particulate matter or any gas, vapor, suspended solid, or any combination of them, excluding steam and water vapors.]~~

~~[(2) "Air contaminant source" means all sources of emission of air contaminants whether privately or publicly owned or operated.]~~

(1) "Air pollutant" means a substance that qualifies as an air pollutant as defined in 42 U.S.C. Sec. 7602.

(2) "Air pollutant source" means private and public sources of emissions of air pollutants.

(3) "Air pollution" means the presence [in the ambient air of one or more air contaminants] of an air pollutant in the ambient air in the quantities [and], for a duration, and under the conditions and circumstances [as is or tends to be] that are injurious to human health or welfare, animal or plant life, or property, or would unreasonably interfere with the enjoyment of life or use of property, as determined by the rules adopted by the board.

(4) "Ambient air" means [the surrounding or outside air] that portion of the atmosphere, external to buildings, to which the general public has access.

(5) "Asbestos" means the asbestiform varieties of serpentine (chrysotile), riebeckite (crocidolite), cummingtonite-grunerite, anthophyllite, [and] actinolite-tremolite, and libby amphibole.

(6) "Asbestos-containing material" means [any] a material containing more than 1% asbestos, as determined using the method adopted in 40 [CFR] C.F.R. Part 61, Subpart M, National Emission Standard for Asbestos.

(7) "Asbestos inspection" means an activity undertaken to determine the presence or location, or to assess the condition of, asbestos-containing material or suspected asbestos-containing material, whether by visual or physical examination, or by taking samples of the material.

(8) "Board" means the Air Quality Board.

(9) "Clean school bus" [has] means the same [meaning] as that term is defined in 42 U.S.C. Sec. 16091.

(10) "Director" means the director of the Division of Air Quality.

(11) "Division" means the Division of Air Quality created in Section 19-1-105.

(12) "Friable asbestos-containing material" means ~~any~~ a material containing more than 1% asbestos, as determined using the method adopted in 40 [CFR] C.F.R. Part 61, Subpart M, National Emission Standard for Asbestos, that hand pressure can crumble, pulverize, or reduce to powder when dry.

(13) "Indirect source" means a facility, building, structure, or installation which attracts or may attract mobile source activity that results in emissions of a pollutant for which there is a national standard.

Section 2. Section 19-2-103 is amended to read:

19-2-103. Members of board -- Appointment -- Terms -- Organization -- Per diem and expenses.

(1) The board consists of the following nine members:

(a) the following non-voting member, except that the member may vote to break a tie vote between the voting members:

(i) the executive director; or

(ii) an employee of the department designated by the executive director; and

(b) the following eight voting members, who shall be appointed by the governor with the consent of the Senate:

(i) one representative who:

(A) is not connected with industry;

(B) is an expert in air quality matters; and

(C) is a Utah-licensed physician, a Utah-licensed professional engineer, or a scientist with relevant training and experience;

(ii) two government representatives who do not represent the federal government;

(iii) one representative from the mining industry;

(iv) one representative from the fuels industry;

(v) one representative from the manufacturing industry;

(vi) one representative from the public who represents:

(A) an environmental nongovernmental organization; or

(B) a nongovernmental organization that represents community interests and does not represent industry interests; and

(vii) one representative from the public who is trained and experienced in public health.

(2) A member of the board shall:

(a) be knowledgeable about air pollution matters, as evidenced by a professional degree, a professional accreditation, or documented experience;

(b) be a resident of Utah;

(c) attend board meetings in accordance with the attendance rules made by the department under Subsection 19-1-201(1)(d)(i)(A); and

(d) comply with all applicable statutes, rules, and policies, including the conflict of interest rules made by the department under Subsection 19-1-201(1)(d)(i)(B).

(3) No more than five of the appointed members of the board shall belong to the same political party.

(4) A majority of the members of the board may not derive any significant portion of their income from persons subject to permits or orders under this chapter.

(5) (a) Members shall be appointed for a term of four years.

(b) Notwithstanding the requirements of Subsection (5)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that half of the appointed board is appointed every two years.

~~[(c) (i) Notwithstanding Subsection (5)(a), the term of a board member who is appointed before March 1, 2013, shall expire on February 28, 2013.]~~

~~[(ii) On March 1, 2013, the governor shall appoint or reappoint board members in accordance with this section.]~~

(6) A member may serve more than one term.

(7) A member shall hold office until the expiration of the member's term and until the member's successor is appointed, but not more than 90 days after the expiration of the member's term.

(8) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(9) The board shall elect annually a chair and a vice chair from its members.

(10) (a) The board shall meet at least quarterly.

(b) Special meetings may be called by the chair upon the chair's own initiative, upon the request of the director, or upon the request of three members of the board.

(c) Three days' notice shall be given to each member of the board before ~~any~~ a meeting.

(11) Five members constitute a quorum at ~~any~~ a meeting, and the action of a majority of members present is the action of the board.

(12) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

- (a) Section 63A-3-106;
- (b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Section 3. Section 19-2-104 is amended to read:

19-2-104. Powers of board.

(1) The board may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(a) regarding the control, abatement, and prevention of air pollution from all sources and the establishment of the maximum quantity of air [~~contaminants~~] pollutants that may be emitted by [~~any air contaminant~~] an air pollutant source;

(b) establishing air quality standards;

(c) requiring persons engaged in operations [~~which~~] that result in air pollution to:

(i) install, maintain, and use emission monitoring devices, as the board finds necessary;

(ii) file periodic reports containing information relating to the rate, period of emission, and composition of the air [~~contaminant~~] pollutant; and

(iii) provide access to records relating to emissions which cause or contribute to air pollution;

(d) (i) implementing:

(A) Toxic Substances Control Act, Subchapter II, Asbestos Hazard Emergency Response, 15 U.S.C. 2601 et seq.;

(B) 40 C.F.R. Part 763, Asbestos; and

(C) 40 C.F.R. Part 61, National Emission Standards for Hazardous Air Pollutants, Subpart M, National Emission Standard for Asbestos; and

(ii) reviewing and approving asbestos management plans submitted by local education agencies under the Toxic Substances Control Act, Subchapter II, Asbestos Hazard Emergency Response, 15 U.S.C. 2601 et seq.;

(e) establishing a requirement for a diesel emission opacity inspection and maintenance program for diesel-powered motor vehicles;

(f) implementing an operating permit program as required by and in conformity with Titles IV and V of the federal Clean Air Act Amendments of 1990;

(g) establishing requirements for county emissions inspection and maintenance programs after obtaining agreement from the counties that would be affected by the requirements;

(h) with the approval of the governor, implementing in air quality nonattainment areas employer-based trip reduction programs applicable to businesses having more than 100 employees at a single location and applicable to federal, state, and local governments to the extent necessary to attain and maintain ambient air quality standards consistent with the state

implementation plan and federal requirements under the standards set forth in Subsection (2);

(i) implementing lead-based paint [~~remediation~~] training, certification, and performance requirements in accordance with 15 U.S.C.[A.] 2601 et seq., Toxic Substances Control Act, Subchapter IV -- Lead Exposure Reduction, Sections 402 and 406; and

(j) to implement the requirements of Section 19-2-107.5.

(2) When implementing Subsection (1)(h) the board shall take into consideration:

(a) the impact of the business on overall air quality; and

(b) the need of the business to use automobiles in order to carry out its business purposes.

(3) (a) The board may:

(i) hold a hearing that is not an adjudicative proceeding relating to any aspect of, or matter in, the administration of this chapter;

(ii) [~~order~~] recommend that the director [~~to~~];

(A) issue orders necessary to enforce the provisions of this chapter;

(B) enforce the orders by appropriate administrative and judicial proceedings; [~~or~~]

(C) institute judicial proceedings to secure compliance with this chapter; or

[~~(iii)~~] (D) advise, consult, contract, and cooperate with other agencies of the state, local governments, industries, other states, interstate or interlocal agencies, the federal government, or interested persons or groups[.]; and

(iii) establish certification requirements for asbestos project monitors, which shall provide for experience-based certification of a person who:

(A) receives relevant asbestos training, as defined by rule; and

(B) has acquired a minimum of 1,000 hours of asbestos project monitoring related work experience.

(b) The board shall:

(i) to ensure compliance with applicable statutes and regulations:

(A) review a settlement negotiated by the director in accordance with Subsection 19-2-107(2)(b)(viii) that requires a civil penalty of \$25,000 or more; and

(B) approve or disapprove the settlement;

(ii) encourage voluntary cooperation by persons and affected groups to achieve the purposes of this chapter;

[~~(iii) require the owner and operator of each new source which directly emits or has the potential to emit 100 tons per year or more of any air contaminant or the owner or operator of each existing source which by modification will increase emissions or have the potential of increasing~~

emissions by 100 tons per year or more of any air contaminant, to pay a fee sufficient to cover the reasonable costs of:]

~~[(A) reviewing and acting upon the notice required under Section 19-2-108; and]~~

~~[(B) implementing and enforcing requirements placed on the sources by any approval order issued pursuant to notice, not including any court costs associated with any enforcement action;]~~

~~[(4v)] (iii) meet the requirements of federal air pollution laws;~~

~~[(v)] (iv) by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establish work practice[,] and certification[,] and clearance air sampling] requirements for persons who:~~

(A) contract for hire to conduct demolition, renovation, salvage, encapsulation work involving friable asbestos-containing materials, or asbestos inspections if:

(I) the contract work is done on a site other than a residential property with four or fewer units; or

(II) the contract work is done on a residential property with four or fewer units where a tested sample contained greater than 1% of asbestos;

(B) conduct work described in Subsection (3)(b)(~~(v)~~)(iv)(A) in areas to which the general public has unrestrained access or in school buildings that are subject to the federal Asbestos Hazard Emergency Response Act of 1986;

(C) conduct asbestos inspections in facilities subject to 15 U.S.C.[A.] 2601 et seq., Toxic Substances Control Act, Subchapter II - Asbestos Hazard Emergency Response; or

(D) conduct lead-based paint inspections in facilities subject to 15 U.S.C.[A.] 2601 et seq., Toxic Substances Control Act, Subchapter IV -- Lead Exposure Reduction;

~~[(vi)] (v) establish certification requirements for [persons] a person required under 15 U.S.C.[A.] 2601 et seq., Toxic Substances Control Act, Subchapter II - Asbestos Hazard Emergency Response, to be accredited as [inspectors, management planners, abatement project designers, asbestos abatement contractors and supervisors, or asbestos abatement workers] an inspector, management planner, abatement project designer, asbestos abatement contractor and supervisor, or an asbestos abatement worker;~~

~~[(vii) establish certification requirements for asbestos project monitors, which shall provide for experience based certification of persons who, prior to establishment of the certification requirements, had received relevant asbestos training, as defined by rule, and had acquired at least 1,000 hours of experience as project monitors;]~~

~~[(viii)] (vi) establish certification procedures and requirements for certification of the conversion of a motor vehicle to a clean-fuel vehicle, certifying the~~

vehicle is eligible for the tax credit granted in Section 59-7-605 or 59-10-1009;

~~[(ix) establish a program to certify private sector air quality permitting professionals (AQPP), as described in Section 19-2-109.5;]~~

~~[(x)] (vii) establish certification requirements for [persons] a person required under 15 U.S.C.[A.] 2601 et seq., Toxic Control Act, Subchapter IV -[-] Lead Exposure Reduction, to be accredited as [inspectors, risk assessors, supervisors, project designers, or abatement workers] an inspector, risk assessor, supervisor, project designer, abatement worker, renovator, or dust sampling technician; and~~

~~[(xi)] (viii) assist the State Board of Education in adopting school bus idling reduction standards and implementing an idling reduction program in accordance with Section 41-6a-1308.~~

(4) ~~[Any rules]~~ A rule adopted under this chapter shall be consistent with provisions of federal laws, if any, relating to control of motor vehicles or motor vehicle emissions.

(5) Nothing in this chapter authorizes the board to require installation of or payment for any monitoring equipment by the owner or operator of a source if the owner or operator has installed or is operating monitoring equipment that is equivalent to equipment which the board would require under this section.

(6) (a) The board may not require testing for asbestos or related materials on a residential property with four or fewer units, unless:

(i) the property's construction was completed before January 1, 1981; or

(ii) the testing is for:

~~[(A) a sprayed acoustical ceiling;]~~

~~[(B) transite siding;]~~

~~[(C) vinyl floor tile;]~~

(A) a sprayed-on or painted on ceiling treatment that contained or may contain asbestos fiber;

(B) asbestos cement siding or roofing materials;

(C) resilient flooring products including vinyl asbestos tile, sheet vinyl products, resilient flooring backing material, whether attached or unattached, and mastic;

(D) thermal-system insulation or tape on a duct or furnace; or

(E) vermiculite type insulation materials.

(b) A residential property with four or fewer units is subject to an abatement rule made under Subsection (1) or (3)(b)(~~(v)~~)(iv) if:

(i) a sample from the property is tested for asbestos; and

(ii) the sample contains asbestos measuring greater than 1%.

(7) The board may not issue, amend, renew, modify, revoke, or terminate any of the following

that are subject to the authority granted to the director under Section 19-2-107 or 19-2-108:

- (a) a permit;
- (b) a license;
- (c) a registration;
- (d) a certification; or
- (e) another administrative authorization made by the director.

(8) A board member may not speak or act for the board unless the board member is authorized by a majority of a quorum of the board in a vote taken at a meeting of the board.

(9) Notwithstanding Subsection (7), the board may exercise all authority granted to the board by a federally enforceable state implementation plan.

Section 4. Section 19-2-105.3 is amended to read:

19-2-105.3. Clean fuel requirements for fleets.

- (1) As used in this section:
- (a) "1990 Clean Air Act" means the federal Clean Air Act as amended in 1990.
 - (b) "Clean fuel" means:
 - (i) propane, compressed natural gas, or electricity;
 - (ii) other fuel the [Air Quality Board created in Title 19, Chapter 2, Air Conservation Act,] board determines annually on or before July 1 is at least as effective as fuels under Subsection (1)(b)(i) in reducing air pollution; and
 - (iii) other fuel that meets the clean fuel vehicle standards in the 1990 Clean Air Act.
 - (c) "Fleet" means 10 or more vehicles:
 - (i) owned or operated by a single entity as defined by board rule; and
 - (ii) capable of being fueled or that are fueled at a central location.
 - (d) "Fleet" does not include motor vehicles that are:
 - (i) held for lease or rental to the general public;
 - (ii) held for sale or used as demonstration vehicles by motor vehicle dealers;
 - (iii) used by motor vehicle manufacturers for product evaluations or tests;
 - (iv) authorized emergency vehicles as defined in Section 41-6a-102;
 - (v) registered under Title 41, Chapter 1a, Part 2, Registration, as farm vehicles;
 - (vi) special mobile equipment as defined in Section 41-1a-102;
 - (vii) heavy duty trucks with a gross vehicle weight rating of more than 26,000 pounds;

(viii) regularly used by employees to drive to and from work, parked at the employees' personal residences when they are not at their employment, and not practicably fueled at a central location;

(ix) owned, operated, or leased by public transit districts; or

(x) exempted by board rule.

(2) (a) After evaluation of reasonably available pollution control strategies, and as part of the state implementation plan demonstrating attainment of the national ambient air quality standards, the board may by rule[, subject to Subsection (2)(e),] require fleets in specified geographical areas to use clean fuels if the board determines fleet use of clean fuels is:

(i) necessary to demonstrate attainment of the national ambient air quality standards in [any] an area where they are required; and

(ii) reasonably cost effective when compared to other similarly beneficial control strategies for demonstrating attainment of the national ambient air quality standards.

~~[(b) State implementation plans developed prior to July 1, 1995, may require fleets to use clean fuels no earlier than July 1, 1995, unless the board determines fleet use of clean fuels is necessary prior to July 1, 1995, to demonstrate attainment of the national ambient air quality standards in any area by an attainment date established by federal law.]~~

~~[(c) The board may not require more than 50% of those trucks in a fleet that are heavy duty trucks having a gross vehicle weight rating of more than 8,500 pounds and not more than 26,000 pounds to convert to clean fuels under Subsection (2)(b).]~~

~~[(d) (b) A vehicle retrofit to operate on compressed natural gas in accordance with Section 19-1-406 qualifies as a clean fuel vehicle under this section.~~

(3) ~~[(a)]~~ After evaluation of reasonably available pollution control strategies, and as part of a state implementation plan demonstrating only maintenance of the national ambient air quality standards, the board may by rule[, subject to Subsection (3)(b),] require fleets in specified geographical areas to use clean fuels if the board determines fleet use of clean fuels is:

~~[(i)]~~ (a) necessary to demonstrate maintenance of the national ambient air quality standards in [any] an area where they are required; and

~~[(ii)]~~ (b) reasonably cost effective as compared with other similarly beneficial control strategies for demonstrating maintenance of the national ambient air quality standards.

~~[(b) Under Subsection (3)(a) the board may require no more than:]~~

~~[(i) 30% of a fleet to use clean fuels before January 1, 1998;]~~

~~[(ii) 50% of a fleet to use clean fuels before January 1, 1999; and]~~

~~[(iii) 70% of a fleet to use clean fuels before January 1, 2000.]~~

~~[(c) The board may not require more than 50% of those trucks in a fleet that are heavy-duty trucks having a gross vehicle weight rating of more than 8,500 pounds and not more than 26,000 pounds to convert to clean fuels under Subsection (3)(b).]~~

(4) Rules the board makes under this section may include:

(a) dates by which fleets are required to convert to clean fuels under the provisions of this section;

(b) definitions of fleet owners or operators;

(c) definitions of vehicles exempted from this section by rule;

(d) certification requirements for persons who install clean fuel conversion equipment, including testing and certification standards regarding installers; and

(e) certification fees for installers, established under Section 63J-1-504.

(5) Implementation of this section and rules made under this section are subject to the reasonable availability of clean fuel in the local market as determined by the board.

Section 5. Section 19-2-107 is amended to read:

19-2-107. Director -- Appointment -- Powers.

(1) The executive director shall appoint the director. The director shall serve under the administrative direction of the executive director.

(2) (a) The director shall:

(i) prepare and develop comprehensive plans for the prevention, abatement, and control of air pollution in Utah;

(ii) advise, consult, and cooperate with other agencies of the state, the federal government, other states and interstate agencies, and affected groups, political subdivisions, and industries in furtherance of the purposes of this chapter;

(iii) review plans, specifications, or other data relative to air pollution control ~~[systems] equipment or any part of the [systems provided in this chapter]~~ air pollution control equipment;

(iv) under the direction of the executive director, represent the state in all matters relating to interstate air pollution, including interstate compacts and similar agreements;

(v) secure necessary scientific, technical, administrative, and operational services, including laboratory facilities, by contract or otherwise;

(vi) encourage voluntary cooperation by persons and affected groups to achieve the purposes of this chapter;

(vii) encourage local units of government to handle air pollution within their respective jurisdictions on a cooperative basis and provide technical and consulting assistance to them;

(viii) determine by means of field studies and sampling the degree of air contamination and air pollution in all parts of the state;

(ix) monitor the effects of the emission of air ~~[contaminants]~~ pollutants from motor vehicles on the quality of the outdoor atmosphere in all parts of Utah and take appropriate responsive action;

(x) collect and disseminate information relating to air contamination and air pollution and conduct educational and training programs relating to air contamination and air pollution;

(xi) assess and collect noncompliance penalties as required in Section 120 of the federal Clean Air Act, 42 U.S.C. Section 7420;

(xii) comply with the requirements of federal air pollution laws;

(xiii) subject to the provisions of this chapter, enforce rules through the issuance of orders, including:

(A) prohibiting or abating discharges of wastes affecting ambient air;

(B) requiring the construction of new control facilities or any parts of new control facilities or the modification, extension, or alteration of existing control facilities or any parts of new control facilities; or

(C) adopting other remedial measures to prevent, control, or abate air pollution; and

(xiv) as authorized by the board and subject to the provisions of this chapter, act as executive secretary of the board under the direction of the chairman of the board.

(b) The director may:

(i) employ full-time, temporary, part-time, and contract employees necessary to carry out this chapter;

(ii) subject to the provisions of this chapter, authorize ~~[any]~~ an employee or representative of the department to enter at reasonable time and upon reasonable notice in or upon public or private property for the purposes of inspecting and investigating conditions and plant records concerning possible air pollution;

(iii) encourage, participate in, or conduct studies, investigations, research, and demonstrations relating to air pollution and its causes, effects, prevention, abatement, and control, as advisable and necessary for the discharge of duties assigned under this chapter, including the establishment of inventories of pollution sources;

(iv) collect and disseminate information relating to air pollution and the prevention, control, and abatement of it;

(v) cooperate with studies and research relating to air pollution and its control, abatement, and prevention;

(vi) subject to Subsection (3), upon request, consult concerning the following with ~~[any]~~ a person proposing to construct, install, or otherwise

acquire an air [contaminant] pollutant source in Utah:

(A) the efficacy of [any] proposed [control device or proposed control system] air pollution control equipment for the source; or

(B) the air pollution problem that may be related to the source[, device, or system];

(vii) accept, receive, and administer grants or other funds or gifts from public and private agencies, including the federal government, for the purpose of carrying out any of the functions of this chapter;

(viii) subject to Subsection 19-2-104(3)(b)(i), settle or compromise [any] a civil action initiated by the division to compel compliance with this chapter or the rules made under this chapter; or

(ix) [as authorized by the board and] subject to the provisions of this chapter, exercise all incidental powers necessary to carry out the purposes of this chapter, including certification to [any] state or federal authorities for tax purposes [the fact of construction, installation, or acquisition of any facility, land, building, machinery, or equipment or any part of them, in conformity with this chapter] that air pollution control equipment has been certified in conformity with Title 19, Chapter 12, Pollution Control Act.

(3) A consultation described in Subsection (2)(b)(vi) does not relieve a person from the requirements of this chapter, the rules adopted under this chapter, or any other provision of law.

Section 6. Section 19-2-108 is amended to read:

19-2-108. Notice of construction or modification of installations required -- Authority of director to prohibit construction -- Hearings -- Limitations on authority of director -- Inspections authorized.

(1) Notice shall be given to the director by [any] a person planning to construct a new installation which will or might reasonably be expected to be a source or indirect source of air pollution or to make modifications to an existing installation which will or might reasonably be expected to increase the amount of or change the character or effect of air [contaminants] pollutants discharged, so that the installation may be expected to be a source or indirect source of air pollution, or by [any] a person planning to install an air cleaning device or other equipment intended to control emission of air [contaminants] pollutants.

(2) (a) [(4)] The director may require, as a condition precedent to the construction, modification, installation, or establishment of the air [contaminant] pollutant source or indirect source, the submission of plans, specifications, and other information as he finds necessary to determine whether the proposed construction, modification, installation, or establishment will be in accord with applicable rules in force under this chapter.

[(ii) Plan approval for an indirect source may be delegated by the director to a local authority when requested and upon assurance that the local authority has and will maintain sufficient expertise to insure that the planned installation will meet the requirements established by law.]

(b) If within 90 days after the receipt of plans, specifications, or other information required under this subsection, the director determines that the proposed construction, installation, or establishment or any part of it will not be in accord with the requirements of this chapter or applicable rules or that further time, not exceeding three extensions of 30 days each, is required by the director to adequately review the plans, specifications, or other information, he shall issue an order prohibiting the construction, installation, or establishment of the air [contaminant] pollutant source or sources in whole or in part.

(3) In addition to any other remedies, [any] a person aggrieved by the issuance of an order either granting or denying a request for the construction of a new installation, and prior to invoking any such other remedies shall, upon request, in accordance with the rules of the department, be entitled to a permit review adjudicative proceeding conducted by an administrative law judge as provided by Section 19-1-301.5.

(4) Any features, machines, and devices constituting parts of or called for by plans, specifications, or other information submitted under Subsection (1) shall be maintained in good working order.

(5) This section does not authorize the director to require the use of machinery, devices, or equipment from a particular supplier or produced by a particular manufacturer if the required performance standards may be met by machinery, devices, or equipment otherwise available.

(6) (a) [Any] An authorized officer, employee, or representative of the director may enter and inspect any property, premise, or place on or at which an air [contaminant] pollutant source is located or is being constructed, modified, installed, or established at any reasonable time for the purpose of ascertaining the state of compliance with this chapter and the rules adopted under it.

(b) (i) A person may not refuse entry or access to [any] an authorized representative of the director who requests entry for purposes of inspection and who presents appropriate credentials.

(ii) A person may not obstruct, hamper, or interfere with [any] an inspection.

(c) If requested, the owner or operator of the premises shall receive a report setting forth all facts found which relate to compliance status.

Section 7. Section 19-2-109.1 is amended to read:

19-2-109.1. Operating permit required -- Emissions fee -- Implementation.

(1) As used in this section and Sections 19-2-109.2 and 19-2-109.3:

~~[(a) "EPA" means the federal Environmental Protection Agency.]~~

~~[(b) "1990 Clean Air Act" means the federal Clean Air Act as amended in 1990.]~~

(a) "1990 Clean Air Act" means the federal Clean Air Act as amended in 1990.

(b) "EPA" means the federal Environmental Protection Agency.

(c) "Operating permit" means a permit issued by the director to sources of air pollution that meet the requirements of Titles IV and V of the 1990 Clean Air Act.

(d) "Program" means the air pollution operating permit program established under this section to comply with Title V of the 1990 Clean Air Act.

(e) "Regulated pollutant" ~~[has the same meaning]~~ means the same as that term is defined in Title V of the 1990 Clean Air Act and implementing federal regulations.

(2) ~~[(a)]~~ A person may not operate ~~[any]~~ a source of air pollution required to have a permit under Title V of the 1990 Clean Air Act without having obtained an operating permit from the director under procedures the board establishes by rule.

~~[(b) A person is not required to submit an operating permit application until the governor has submitted an operating permit program to the EPA.]~~

~~[(c) Any operating permit issued under this section may not become effective until the day after the EPA issues approval of the permit program or November 15, 1995, whichever occurs first.]~~

(3) (a) Operating permits issued under this section shall be for a period of five years unless the director makes a written finding, after public comment and hearing, and based on substantial evidence in the record, that an operating permit term of less than five years is necessary to protect the public health and the environment of the state.

(b) The director may issue, modify, or renew an operating permit only after providing public notice, an opportunity for public comment, and an opportunity for a public hearing.

(c) The director shall, in conformity with the 1990 Clean Air Act and implementing federal regulations, revise the conditions of issued operating permits to incorporate applicable federal regulations in conformity with Section 502(b)(9) of the 1990 Clean Air Act, if the remaining period of the permit is three or more years.

(d) The director may terminate, modify, revoke, or reissue an operating permit for cause.

(4) (a) The board shall establish a proposed annual emissions fee that conforms with Title V of the 1990 Clean Air Act for each ton of regulated pollutant, applicable to all sources required to obtain a permit. The emissions fee established under this section is in addition to fees assessed

under Section 19-2-108 for issuance of an approval order.

(b) In establishing the fee the board shall comply with the provisions of Section 63J-1-504 that require a public hearing and require the established fee to be submitted to the Legislature for its approval as part of the department's annual appropriations request.

(c) The fee shall cover all reasonable direct and indirect costs required to develop and administer the program and the small business assistance program established under Section 19-2-109.2. The director shall prepare an annual report of the emissions fees collected and the costs covered by those fees under this Subsection (4).

(d) The fee shall be established uniformly for all sources required to obtain an operating permit under the program and for all regulated pollutants.

(e) The fee may not be assessed for emissions of any regulated pollutant if the emissions are already accounted for within the emissions of another regulated pollutant.

(f) An emissions fee may not be assessed for any amount of a regulated pollutant emitted by any source in excess of 4,000 tons per year of that regulated pollutant.

~~(5) Emissions fees [accrued on and after July 1, 1993, but before issuance of an operating permit, shall be based on the most recent emissions inventory, unless a source elects before July 1, 1992, to base the fee on allowable emissions, if applicable for a regulated pollutant. (6) After an operating permit is issued the emissions fee] shall be based on actual emissions for a regulated pollutant unless a source elects, prior to the issuance or renewal of a permit, to base the fee during the period of the permit on allowable emissions for that regulated pollutant.~~

~~[(7)] (6)~~ If the owner or operator of a source subject to this section fails to timely pay an annual emissions fee, the director may:

(a) impose a penalty of not more than 50% of the fee, in addition to the fee, plus interest on the fee computed at 12% annually; or

(b) revoke the operating permit.

~~[(8)] (7)~~ The owner or operator of a source subject to this section may contest an emissions fee assessment or associated penalty in an adjudicative hearing under the Title 63G, Chapter 4, Administrative Procedures Act, and Section 19-1-301, as provided in this Subsection ~~[(8)] (7)~~.

(a) The owner or operator shall pay the fee under protest prior to being entitled to a hearing. Payment of an emissions fee or penalty under protest is not a waiver of the right to contest the fee or penalty under this section.

(b) A request for a hearing under this Subsection ~~[(8)] (7)~~ shall be made after payment of the emissions fee and within six months after the emissions fee was due.

[49] (8) To reinstate an operating permit revoked under Subsection [47] (6) the owner or operator shall pay all outstanding emissions fees, a penalty of not more than 50% of all outstanding fees, and interest on the outstanding emissions fees computed at 12% annually.

[40] (9) All emissions fees and penalties collected by the department under this section shall be deposited in the General Fund as the Air Pollution Operating Permit Program dedicated credit to be used solely to pay for the reasonable direct and indirect costs incurred by the department in developing and administering the program and the small business assistance program under Section 19-2-109.2.

[41] (10) Failure of the director to act on ~~any~~ an operating permit application or renewal is a final administrative action only for the purpose of obtaining judicial review by any of the following persons to require the director to take action on the permit or its renewal without additional delay:

- (a) the applicant;
- (b) ~~any~~ a person who participated in the public comment process; or
- (c) ~~any other~~ a person who could obtain judicial review of that action under applicable law.

Section 8. Section 19-2-109.2 is amended to read:

19-2-109.2. Small business assistance program.

(1) The ~~board~~ division shall establish a small business stationary source technical and environmental compliance assistance program that conforms with Title V of the 1990 Clean Air Act to assist small businesses to comply with state and federal air pollution laws.

(2) There is created the Compliance Advisory Panel to advise and monitor the program created in Subsection (1). The seven panel members are:

- (a) two members who are not owners or representatives of owners of small business stationary air pollution sources, selected by the governor to represent the general public;
- (b) four members who are owners or who represent owners of small business stationary sources selected by leadership of the Utah Legislature as follows:
 - (i) one member selected by the majority leader of the Senate;
 - (ii) one member selected by the minority leader of the Senate;
 - (iii) one member selected by the majority leader of the House of Representatives; and
 - (iv) one member selected by the minority leader of the House of Representatives; and
- (c) one member selected by the executive director to represent the Division of Air Quality, Department of Environmental Quality.

(3) (a) Except as required by Subsection (3)(b), as terms of current panel members expire, the department shall appoint each new member or reappointed member to a four-year term.

(b) Notwithstanding the requirements of Subsection (3)(a), the department shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of panel members are staggered so that approximately half of the panel is appointed every two years.

(4) Members may serve more than one term.

(5) Members shall hold office until the expiration of their terms and until their successors are appointed, but not more than 90 days after the expiration of their terms.

(6) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(7) Every two years, the panel shall elect a chair from its members.

(8) (a) The panel shall meet as necessary to carry out its duties. Meetings may be called by the chair, the director, or upon written request of three of the members of the panel.

(b) Three days' notice shall be given to each member of the panel prior to a meeting.

(9) Four members constitute a quorum at ~~any~~ a meeting, and the action of the majority of members present is the action of the panel.

(10) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

- (a) Section 63A-3-106;
- (b) Section 63A-3-107; and
- (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Section 9. Section 19-2-112 is amended to read:

19-2-112. Generalized condition of air pollution creating emergency -- Sources causing imminent danger to health -- Powers of executive director -- Declaration of emergency.

(1) (a) Title 63G, Chapter 4, Administrative Procedures Act, and any other provision of law to the contrary notwithstanding, if the executive director finds that a generalized condition of air pollution exists and that it creates an emergency requiring immediate action to protect human health or safety, the executive director, with the concurrence of the governor, shall order persons causing or contributing to the air pollution to reduce or discontinue immediately the emission of air ~~contaminants~~ pollutants.

(b) The order shall fix a place and time, not later than 24 hours after its issuance, for a hearing to be held before the governor.

(c) Not more than 24 hours after the commencement of this hearing, and without

adjournment of it, the governor shall affirm, modify, or set aside the order of the executive director.

(2) (a) In the absence of a generalized condition of air pollution referred to in Subsection (1), but if the executive director finds that emissions from the operation of one or more air [contaminant] pollutant sources is causing imminent danger to human health or safety, the executive director may commence adjudicative proceedings under Section 63G-4-502.

(b) Notwithstanding Section 19-1-301 or 19-1-301.5, the executive director may conduct the emergency adjudicative proceeding in place of an administrative law judge.

(3) Nothing in this section limits any power that the governor or any other officer has to declare an emergency and act on the basis of that declaration.

Section 10. Section 19-2-113 is amended to read:

19-2-113. Variances -- Judicial review.

(1) (a) [Any] A person who owns or is in control of [any] a plant, building, structure, establishment, process, or equipment may apply to the board for a variance from its rules.

(b) The board may grant the requested variance following an announced public meeting, if it finds, after considering the endangerment to human health and safety and other relevant factors, that compliance with the rules from which variance is sought would produce serious hardship without equal or greater benefits to the public.

(2) A variance may not be granted under this section until the board has considered the relative interests of the applicant, other owners of property likely to be affected by the discharges, and the general public.

(3) [Any] A variance or renewal of a variance shall be granted within the requirements of Subsection (1) and for time periods and under conditions consistent with the reasons for it, and within the following limitations:

(a) if the variance is granted on the grounds that there are no practicable means known or available for the adequate prevention, abatement, or control of the air pollution involved, it shall be only until the necessary means for prevention, abatement, or control become known and available, and subject to the taking of any substitute or alternate measures that the board may prescribe;

(b) (i) if the variance is granted on the grounds that compliance with the requirements from which variance is sought will require that measures, because of their extent or cost, must be spread over a long period of time, the variance shall be granted for a reasonable time that, in the view of the board, is required for implementation of the necessary measures; and

(ii) a variance granted on this ground shall contain a timetable for the implementation of

remedial measures in an expeditious manner and shall be conditioned on adherence to the timetable; or

(c) if the variance is granted on the ground that it is necessary to relieve or prevent hardship of a kind other than that provided for in Subsection (3)(a) or (b), it may not be granted for more than one year.

(4) (a) [Any] A variance granted under this section may be renewed on terms and conditions and for periods that would be appropriate for initially granting a variance.

(b) If a complaint is made to the board because of the variance, a renewal may not be granted unless, following an announced public meeting, the board finds that renewal is justified.

(c) To receive a renewal, an applicant shall submit a request for agency action to the board requesting a renewal.

(d) Immediately upon receipt of an application for renewal, the board shall give public notice of the application as required by its rules.

(5) (a) A variance or renewal is not a right of the applicant or holder but may be granted at the board's discretion.

(b) A person aggrieved by the board's decision may obtain judicial review.

(c) Venue for judicial review of informal adjudicative proceedings is in the district court in which the air [contaminant] pollutant source is situated.

(6) (a) The board may review [any] a variance during the term for which it was granted.

(b) The review procedure is the same as that for an original application.

(c) The variance may be revoked upon a finding that:

(i) the nature or amount of emission has changed or increased; or

(ii) if facts existing at the date of the review had existed at the time of the original application, the variance would not have been granted.

(7) Nothing in this section and no variance or renewal granted pursuant to it shall be construed to prevent or limit the application of the emergency provisions and procedures of Section 19-2-112 to [any] a person or property.

Section 11. Section 19-2-114 is amended to read:

19-2-114. Activities not in violation of chapter or rules.

The following are not a violation of this chapter or of [any rules] a rule made under it:

(1) burning incident to horticultural or agricultural operations of:

(a) prunings from trees, bushes, and plants; or

(b) dead or diseased trees, bushes, and plants, including stubble;

(2) burning of weed growth along ditch banks incident to clearing these ditches for irrigation purposes;

(3) controlled heating of orchards or other crops to lessen the chances of their being frozen so long as the emissions from this heating do not violate minimum standards set by the board; and

(4) the controlled burning of not more than two structures per year by an organized and operating fire department for the purpose of training fire service personnel when the United States Weather Service clearing index for the area where the burn is to occur is above 500.

Section 12. Section 19-2-117 is amended to read:

19-2-117. Attorney general as legal advisor to board -- Duties of attorney general and county attorneys.

(1) ~~The~~ Except as provided in Section 63G-7-902, the attorney general is the legal advisor to the board and the director and shall defend them or any of them in all actions or proceedings brought against them or any of them.

(2) The county attorney in the county in which a cause of action arises may, upon request of the board or the director, bring ~~any~~ an action, civil or criminal, to abate a condition which exists in violation of, or to prosecute for the violation of or to enforce, this chapter or the standards, orders, or rules of the board or the director issued under this chapter.

(3) The director may bring ~~any~~ an action and be represented by the attorney general.

(4) In the event ~~any~~ a person fails to comply with a cease and desist order of the board or the director that is not subject to a stay pending administrative or judicial review, the director may initiate an action for, and is entitled to, injunctive relief to prevent any further or continued violation of the order.

Section 13. Section 19-2-119 is amended to read:

19-2-119. Civil or criminal remedies not excluded -- Actionable rights under chapter -- No liability for acts of God or other catastrophes.

(1) Existing civil or criminal remedies for ~~any~~ a wrongful action ~~which~~ that is a violation of ~~any part of~~ the law are not excluded by this chapter.

(2) ~~Persons~~ Except as provided in Sections 19-1-301 and 19-1-301.5, and rules implementing those provisions, persons other than the state or the board do not acquire actionable rights by virtue of this chapter.

(3) The liabilities imposed for violation of this chapter are not imposed for ~~any~~ a violation caused by an act of God, war, strike, riot, or other catastrophe.

Section 14. Section 19-2-120 is amended to read:

19-2-120. Information required of owners or operators of air pollutant sources.

The owner or operator of ~~any~~ a stationary air ~~contaminant~~ pollutant source in the state shall furnish to the director the reports required by rules made in accordance with Section 19-2-104 and any other information the director finds necessary to determine whether the source is in compliance with state and federal regulations and standards. The information shall be correlated with applicable emission standards or limitations and shall be available to the public during normal business hours at the office of the division.

Section 15. Section 19-2-122 is amended to read:

19-2-122. Cooperative agreements between political subdivisions and department.

(1) ~~Any~~ A political subdivision of the state may enter into and perform, with other political subdivisions of the state or with the department, contracts and agreements as they find proper for establishing, planning, operating, and financing air pollution programs.

(2) The agreements may provide for an agency to:

(a) supervise and operate an air pollution program;

(b) prescribe, ~~subject to the approval of the board,~~ the agency's powers and duties; and

(c) fix the compensation of the agency's members and employees.

Section 16. Section 19-12-102 is amended to read:

19-12-102. Definitions.

As used in this chapter:

(1) "Air ~~contaminant~~ is as pollutant" means the same as that term is defined in Section 19-2-102.

(2) "Air ~~contaminant~~ pollutant source" ~~is as~~ means the same as that term is defined in Section 19-2-102.

(3) "Air pollution" ~~is as~~ means the same as that term is defined in Section 19-2-102.

(4) "Director" means:

(a) for purposes of an application or certification under this chapter related to air pollution, the director of the Division of Air Quality; or

(b) for purposes of an application or certification under this chapter related to water pollution, the director of the Division of Water Quality.

(5) (a) "Freestanding pollution control property" means tangible personal property located in the state, regardless of whether a purchaser purchases the tangible personal property voluntarily or to comply with a requirement of a governmental entity, if:

(i) the primary purpose of the tangible personal property is the prevention, control, or reduction of air or water pollution by:

(A) the disposal or elimination of, or redesign to eliminate, waste, and the use of treatment works for industrial waste; or

(B) the disposal, elimination, or reduction of, or redesign to eliminate or reduce, air [contaminants] pollutants, air pollution, or air contamination sources, and the use of one or more air cleaning devices; and

(ii) the tangible personal property is not used at, in the construction of, or incorporated into a pollution control facility.

(b) "Freestanding pollution control property" does not include:

(i) a consumable:

(A) chemical that is not reusable;

(B) cleaning material that is not reusable; or

(C) supply that is not reusable;

(ii) the following used for human waste:

(A) a septic tank; or

(B) other property;

(iii) property installed, constructed, or used for the moving of sewage to a collection facility of a public or quasi-public sewerage system;

(iv) the following used for the comfort of personnel:

(A) an air conditioner;

(B) a fan; or

(C) an item similar to Subsection (5)(b)(iv)(A) or (B); or

(v) office equipment or an office supply if the primary purpose of the office equipment or office supply is not the prevention, control, or reduction of air or water pollution by:

(A) the disposal or elimination of, or redesign to eliminate, waste, and the use of treatment works for industrial waste; or

(B) the disposal, elimination, or reduction of, or redesign to eliminate or reduce, air [contaminants] pollutants, air pollution, or air contamination sources, and the use of one or more air cleaning devices.

(6) (a) "Pollution control facility" means real property in the state, regardless of whether a purchaser purchases the real property voluntarily or to comply with a requirement of a governmental entity, if the primary purpose of the real property is the prevention, control, or reduction of air pollution or water pollution by:

(i) the disposal or elimination of, or redesign to eliminate:

(A) waste; and

(B) the use of treatment works for industrial waste; or

(ii) (A) the disposal, elimination, or reduction of, or redesign to eliminate or reduce, air [contaminants] pollutants, air pollution, or air contamination sources; and

(B) the use of one or more air cleaning devices.

(b) "Pollution control facility" includes:

(i) an addition to real property described in Subsection (6)(a);

(ii) the reconstruction of real property described in Subsection (6)(a); or

(iii) an improvement to real property described in Subsection (6)(a).

(c) "Pollution control facility" does not include:

(i) a consumable:

(A) chemical that is not reusable;

(B) cleaning material that is not reusable; or

(C) supply that is not reusable;

(ii) the following used for human waste:

(A) a septic tank; or

(B) another facility;

(iii) property installed, constructed, or used for the moving of sewage to a collection facility of a public or quasi-public sewerage system;

(iv) the following used for the comfort of personnel:

(A) an air conditioner;

(B) a fan; or

(C) an item similar to Subsection (6)(c)(iv)(A) or (B); or

(v) office equipment or an office supply if the primary purpose of the office equipment or office supply is not the prevention, control, or reduction of air or water pollution by:

(A) the disposal or elimination of, or redesign to eliminate[,] waste, and the use of treatment works for industrial waste; or

(B) the disposal, elimination, or reduction of, or redesign to eliminate[,] or reduce, air [contaminants] pollutants, air pollution, or air contamination sources, and the use of one or more air cleaning devices.

(7) "Treatment works" [is-as] means the same as that term is defined in Section 19-5-102.

(8) "Waste" [is-as] means the same as that term is defined in Section 19-5-102.

(9) "Water pollution" has the same meaning as "pollution" under Section 19-5-102.

Section 17. Section 19-12-201 is amended to read:

19-12-201. Sales and use tax exemption for certain purchases or leases related to pollution control.

(1) Except as provided in Subsection (2), a purchase or lease of the following is exempt from a tax imposed under Title 59, Chapter 12, Sales and Use Tax Act:

- (a) freestanding pollution control property;
- (b) tangible personal property if the tangible personal property is:
 - (i) incorporated into freestanding pollution control property; or
 - (ii) used at, used in the construction of, or incorporated into a pollution control facility;
- (c) a part, if the part is used in the repair or replacement of property described in Subsection (1)(a) or (b);
- (d) a product transferred electronically, if the property transferred electronically is:
 - (i) incorporated into freestanding pollution control property; or
 - (ii) used at, used in the construction of, or incorporated into a pollution control facility; or
- (e) a service, if the service is performed on:
 - (i) freestanding pollution control property;
 - (ii) a pollution control facility; or
 - (iii) property described in Subsection (1)(b), a part described in Subsection (1)(c), or a product described in Subsection (1)(d).

(2) A purchase or lease of the following is not exempt under this section:

- (a) a consumable chemical that is not reusable;
- (b) a consumable cleaning material that is not reusable; or
- (c) a consumable supply that is not reusable.

(3) A purchase or lease of office equipment or an office supply is not exempt under this section if the primary purpose of the office equipment or office supply is not the prevention, control, or reduction of air or water pollution by:

- (a) the disposal or elimination of, or redesign to eliminate, waste, and the use of treatment works for industrial waste; or
- (b) the disposal, elimination, or reduction of, or redesign to eliminate or reduce, air ~~[contaminants]~~ pollutants, air pollution, or air ~~[contamination]~~ pollution sources, and the use of one or more air cleaning devices.

Section 18. Repealer.

This bill repeals:

Section 19-2-109.5, Private sector air quality permitting professionals certification program.

CHAPTER 155**H. B. 239**

Passed March 11, 2015

Approved March 25, 2015

Effective July 1, 2015

**HUMAN RESOURCE MANAGEMENT
MARKET RESEARCH AMENDMENTS**

Chief Sponsor: Eric K. Hutchings

Senate Sponsor: Todd Weiler

LONG TITLE**General Description:**

This bill amends provisions related to human resource management.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ exempts certain employees from and amends provisions related to a position classification plan;
- ▶ requires the executive director to submit an annual compensation plan to the governor;
- ▶ repeals outdated language; and
- ▶ makes technical and conforming amendments.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

- 49-20-401, as last amended by Laws of Utah 2012, Chapters 28 and 173
- 67-19-3, as last amended by Laws of Utah 2013, Chapter 109
- 67-19-12, as last amended by Laws of Utah 2013, Chapters 109 and 310
- 67-19-14.1, as last amended by Laws of Utah 2013, Chapter 277
- 67-19-15.7, as last amended by Laws of Utah 2013, Chapter 109

REPEALS:

- 67-19-12.1, as enacted by Laws of Utah 2006, Chapter 338
- 67-19-12.3, as last amended by Laws of Utah 2007, Chapter 140

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

Section 1. Section 49-20-401 is amended to read:**49-20-401. Program -- Powers and duties.**

(1) The program shall:

- (a) act as a self-insurer of employee benefit plans and administer those plans;
- (b) enter into contracts with private insurers or carriers to underwrite employee benefit plans as considered appropriate by the program;
- (c) indemnify employee benefit plans or purchase commercial reinsurance as considered appropriate by the program;

(d) provide descriptions of all employee benefit plans under this chapter in cooperation with covered employers;

(e) process claims for all employee benefit plans under this chapter or enter into contracts, after competitive bids are taken, with other benefit administrators to provide for the administration of the claims process;

(f) obtain an annual actuarial review of all health and dental benefit plans and a periodic review of all other employee benefit plans;

(g) consult with the covered employers to evaluate employee benefit plans and develop recommendations for benefit changes;

(h) annually submit a budget and audited financial statements to the governor and Legislature which includes total projected benefit costs and administrative costs;

(i) maintain reserves sufficient to liquidate the unrevealed claims liability and other liabilities of the employee benefit plans as certified by the program's consulting actuary;

(j) submit, in advance, its recommended benefit adjustments for state employees to:

(i) the Legislature; and

(ii) the executive director of the state Department of Human Resource Management;

(k) determine benefits and rates, upon approval of the board, for multiemployer risk pools, retiree coverage, and conversion coverage;

(l) determine benefits and rates based on the total estimated costs and the employee premium share established by the Legislature, upon approval of the board, for state employees;

(m) administer benefits and rates, upon ratification of the board, for single employer risk pools;

(n) request proposals for provider networks or health and dental benefit plans administered by third party carriers at least once every three years for the purposes of:

(i) stimulating competition for the benefit of covered individuals;

(ii) establishing better geographical distribution of medical care services; and

(iii) providing coverage for both active and retired covered individuals;

(o) offer proposals which meet the criteria specified in a request for proposals and accepted by the program to active and retired state covered individuals and which may be offered to active and retired covered individuals of other covered employers at the option of the covered employer;

(p) perform the same functions established in Subsections (1)(a), (b), (e), and (h) for the Department of Health if the program provides program benefits to children enrolled in the Utah Children's Health Insurance Program created in

Title 26, Chapter 40, Utah Children's Health Insurance Act;

(q) establish rules and procedures governing the admission of political subdivisions or educational institutions and their employees to the program;

(r) contract directly with medical providers to provide services for covered individuals;

(s) take additional actions necessary or appropriate to carry out the purposes of this chapter; and

(t) (i) require state employees and their dependents to participate in the electronic exchange of clinical health records in accordance with Section 26-1-37 unless the enrollee opts out of participation; and

(ii) prior to enrolling the state employee, each time the state employee logs onto the program's website, and each time the enrollee receives written enrollment information from the program, provide notice to the enrollee of the enrollee's participation in the electronic exchange of clinical health records and the option to opt out of participation at any time.

(2) (a) Funds budgeted and expended shall accrue from rates paid by the covered employers and covered individuals.

(b) Administrative costs shall be approved by the board and reported to the governor and the Legislature.

(3) The Department of Human Resource Management shall include the benefit adjustments described in Subsection (1)(j) in the total compensation plan recommended to the governor required under Subsection 67-19-12[(7)](5)(a).

Section 2. Section 67-19-3 is amended to read:

67-19-3. Definitions.

As used in this chapter:

(1) "Agency" means any department or unit of Utah state government with authority to employ personnel.

(2) "Career service" means positions under schedule B as defined in Section 67-19-15.

(3) "Career service employee" means an employee who has successfully completed a probationary period of service in a position covered by the career service.

(4) "Career service status" means status granted to employees who successfully complete probationary periods for competitive career service positions.

(5) "Classified service" means those positions subject to the classification and compensation provisions of Section 67-19-12.

(6) "Controlled substance" means controlled substance as defined in Section 58-37-2.

(7) (a) "Demotion" means a disciplinary action resulting in a reduction of an employee's current actual wage.

(b) "Demotion" does not mean:

(i) a nondisciplinary movement of an employee to another position without a reduction in the current actual wage; or

(ii) a reclassification of an employee's position under the provisions of Subsection 67-19-12(3) and rules made by the department.

(8) "Department" means the Department of Human Resource Management.

(9) "Disability" means a physical or mental disability as defined and protected under the Americans with Disabilities Act, 42 U.S.C. Section 12101 et seq.

(10) "Employee" means any individual in a paid status covered by the career service or classified service provisions of this chapter.

(11) "Examining instruments" means written or other types of proficiency tests.

(12) "Executive director," except where otherwise specified, means the executive director of the Department of Human Resource Management.

(13) "Human resource function" means those duties and responsibilities specified:

(a) under Section 67-19-6;

(b) under rules of the department; and

(c) under other state or federal statute.

(14) "Market comparability adjustment" means a salary range adjustment determined necessary through a market survey of salary [~~ranges of a reasonable cross section of comparable benchmark positions in private and public employment~~] data and other relevant information.

(15) "Probationary employee" means an employee serving a probationary period in a career service position but who does not have career service status.

(16) "Probationary period" means that period of time determined by the department that an employee serves in a career service position as part of the hiring process before career service status is granted to the employee.

(17) "Probationary status" means the status of an employee between the employee's hiring and the granting of career service status.

(18) "Structure adjustment" means a department modification of salary ranges.

[(18)] (19) "Temporary employee" means career service exempt employees described in Subsection 67-19-15(1)(p).

[(19)] (20) "Total compensation" means salaries and wages, bonuses, paid leave, group insurance plans, retirement, and all other benefits offered to state employees as inducements to work for the state.

Section 3. Section 67-19-12 is amended to read:

67-19-12. State pay plans -- Applicability of section -- Exemptions -- Duties of the executive director.

(1) (a) This section, and the rules adopted by the department to implement this section, apply to each career and noncareer employee not specifically exempted under Subsection (2).

(b) If not exempted under Subsection (2), an employee is considered to be in classified service.

(2) The following employees are exempt from this section:

(a) members of the Legislature and legislative employees;

(b) members of the judiciary and judicial employees;

(c) elected members of the executive branch and employees ~~[under]~~ designated as schedule AC as provided under Subsection 67-19-15(1)(c);

(d) employees of the State Board of Education who are licensed by the State Board of Education;

(e) officers, faculty, and other employees of state institutions of higher education;

(f) employees in a position that is specified by statute to be exempt from this Subsection (2);

(g) employees in the Office of the Attorney General;

(h) department heads and other persons appointed by the governor under statute;

(i) ~~[exempt]~~ schedule AS employees as provided under Subsection 67-19-15(1)(l);

~~[(j) employees of the Utah Schools for the Deaf and the Blind who are:]~~

~~[(i) educators as defined by Section 53A-25b-102; or]~~

~~[(ii) educational interpreters as classified by the department; and]~~

(j) department deputy directors, division directors, and other employees designated as schedule AD as provided under Subsection 67-19-15(1)(d);

(k) employees that determine and execute policy designated as schedule AR as provided under Subsection 67-19-15(1)(k);

(l) teaching staff, educational interpreters, and educators designated as schedule AH as provided under Subsection 67-19-15(1)(f);

~~[(k)]~~ (m) temporary employees described in Subsection 67-19-15(1)(p)[.];

(n) patients and inmates designated as schedule AU as provided under Subsection 67-19-15(1)(n) who are employed by state institutions; and

(o) members of state and local boards and councils and other employees designated as schedule AQ as provided under Subsection 67-19-15(1)(j).

(3) (a) The executive director shall prepare, maintain, and revise a position classification plan for each employee position not exempted under Subsection (2) to provide equal pay for equal work.

(b) Classification of positions shall be based upon similarity of duties performed and responsibilities assumed, so that the same job requirements and the same salary range may be applied equitably to each position in the same class.

(c) The executive director shall allocate or reallocate the position of each employee in classified service to one of the classes in the classification plan.

(d) (i) The department shall conduct periodic studies and ~~[desk audits]~~ interviews to provide that the classification plan remains reasonably current and reflects the duties and responsibilities assigned to and performed by employees.

(ii) The executive director shall determine the ~~[schedule]~~ need for studies and ~~[desk audits]~~ interviews after considering factors such as changes in duties and responsibilities of positions or agency reorganizations.

(4) (a) With the approval of the governor, the executive director shall develop and adopt pay plans for each position in classified service.

(b) The executive director shall design each pay plan to achieve, to the degree that funds permit, comparability of state salary ranges to ~~[salary ranges used by]~~ the market using data obtained from private enterprise and other public employment for similar work.

(c) The executive director shall adhere to the following in developing each pay plan:

(i) Each pay plan shall consist of sufficient salary ranges to:

(A) permit adequate salary differential among the various classes of positions in the classification plan[.]; and

(B) reflect the normal growth and productivity potential of employees in that class.

~~[(ii) (A) The executive director shall assign each class of positions in the classification plan to a salary range and shall set the width of the salary range to reflect the normal growth and productivity potential of employees in that class.]~~

~~[(B) The width of the ranges need not be uniform for all classes of positions in the plan.]~~

~~[(iii) (A)]~~ (ii) The executive director shall issue rules for the administration of pay plans.

(d) The establishing of a salary range is a nondelegable activity and is not appealable under the grievance procedures of Sections 67-19-30 through 67-19-32, Chapter 19a, Grievance Procedures, or otherwise.

~~[(B)]~~ (e) The executive director shall issue rules providing for ~~[salary adjustments].;~~

~~[(iv) Merit increases shall be granted, on a uniform and consistent basis in accordance with appropriations made by the Legislature, to employees who receive a rating of "successful" or higher in an annual evaluation of their productivity and performance.]~~

~~[(v) By October 31 of each year, the executive director shall submit market comparability adjustments to the executive director of the Governor's Office of Management and Budget for consideration to be included as part of the affected agency's base budgets.]~~

~~[(vi) By October 31 of each year, the executive director shall recommend a compensation package to the governor.]~~

~~[(vii) (A) Adjustments shall incorporate the results of a total compensation market survey of salary ranges and benefits of a reasonable cross section of comparable benchmark positions in private and public employment in the state.]~~

~~[(B) The survey may also study comparable unusual positions requiring recruitment in other states.]~~

~~[(C) The executive director may cooperate with other public and private employers in conducting the survey.]~~

~~(i) agency approved salary adjustments within approved salary ranges, including an administrative salary adjustment;~~

~~(ii) legislatively approved salary adjustments within approved salary ranges, including a merit increase, subject to Subsection (4)(f), or general increase; and~~

~~(iii) structure adjustments that modify salary ranges, including a cost of living adjustment or market comparability adjustment.~~

~~(f) A merit increase shall be granted on a uniform and consistent basis to each employee who receives a rating of "successful" or higher in an annual evaluation of the employee's productivity and performance.~~

~~(5) (a) By October 31 of each year, the executive director shall submit an annual compensation plan to the governor for consideration in the executive budget.~~

~~(b) The plan described in Subsection (5)(a) may include recommendations, including:~~

~~(i) salary increases that generally affect employees, including a general increase or merit increase;~~

~~(ii) salary increases that address compensation issues unique to an agency or occupation;~~

~~(iii) structure adjustments, including a cost of living adjustment or market comparability adjustment; or~~

~~(iv) changes to employee benefits.~~

~~(c) (i) (A) Subject to Subsection (5)(c)(i)(B) or (C), the executive director shall incorporate the results~~

~~of a salary survey of a reasonable cross section of comparable positions in private and public employment in the state into the annual compensation plan.~~

~~(B) The salary survey for a law enforcement officer, as defined in Section 53-13-103, a correctional officer, as defined in Section 53-13-104, or a dispatcher, as defined in Section 53-6-102, shall at minimum include the three largest political subdivisions in the state that employ, respectively, comparable positions.~~

~~(C) The salary survey for an examiner or supervisor described in Title 7, Chapter 1, Part 2, Department of Financial Institutions, shall at minimum include the Federal Deposit Insurance Corporation, Federal Reserve, and National Credit Union Administration.~~

~~[(viii) (A) The executive director shall establish criteria to assure the adequacy and accuracy of the survey and shall use methods and techniques similar to and consistent with those used in private sector surveys.]~~

~~[(B) Except as provided under Sections 67-19-12.1 and 67-19-12.3, the survey shall include a reasonable cross section of employers.]~~

~~[(C) (i) The executive director may cooperate with or participate in any survey conducted by other public and private employers.~~

~~[(D) (ii) The executive director shall obtain information for the purpose of constructing the survey from the Division of Workforce Information and Payment Services and shall include employer name, number of persons employed by the employer, employer contact information and job titles, county code, and salary if available.~~

~~[(E) (iv) The department shall acquire and protect the needed records in compliance with the provisions of Section 35A-4-312.~~

~~[(ix) The establishing of a salary range is a nondelegable activity and is not appealable under the grievance procedures of Sections 67-19-30 through 67-19-32, Chapter 19a, Grievance Procedures, or otherwise.]~~

~~(d) The executive director may incorporate any other relevant information in the plan described in Subsection (5)(a), including information on staff turnover, recruitment data, or external market trends.~~

~~(e) The executive director shall:~~

~~(i) establish criteria to assure the adequacy and accuracy of data used to make recommendations described in this Subsection (5); and~~

~~(ii) when preparing recommendations use accepted methodologies and techniques similar to and consistent with those used in the private sector.~~

~~(f) (i) Upon request and subject to Subsection (5)(f)(ii), the department shall make available foundational information used by the department or director in the drafting of a plan described in Subsection (5)(a), including:~~

- (A) demographic and labor market information;
- (B) information on employee turnover;
- (C) salary information;
- (D) information on recruitment; and
- (E) geographic data.

(ii) The department may not provide under Subsection (5)(f)(i) information or other data that is proprietary or otherwise protected under the terms of a contract or by law.

~~[(x)]~~ (g) The governor shall:

~~[(A)]~~ (i) consider salary and structure adjustments recommended under Subsection ~~[(4)(e)(vi)]~~ (5)(b) in preparing the executive budget and shall recommend the method of distributing the adjustments;

~~[(B)]~~ (ii) submit compensation recommendations to the Legislature; and

~~[(C)]~~ (iii) support the recommendation with schedules indicating the cost to individual departments and the source of funds.

~~[(xi)]~~ (h) If funding is approved by the Legislature in a general appropriations act, the adjustments take effect on the July 1 following the enactment unless otherwise indicated.

~~[(5)]~~ (6) (a) The executive director shall issue rules for the granting of incentive awards, including awards for cost saving actions, awards for commendable actions by an employee, or a market-based award to attract or retain employees.

(b) An agency may not grant a market-based award unless the award is previously approved by the department.

(c) In accordance with Subsection ~~[(5)]~~ (6)(b), an agency requesting the department's approval of a market-based award shall submit a request and documentation, subject to Subsection ~~[(5)]~~ (6)(d), to the department.

(d) In the documentation required in Subsection ~~[(5)]~~ (6)(c), the requesting agency shall identify for the department:

(i) any benefit the market-based award would provide for the agency, including:

- (A) budgetary advantages; or
- (B) recruitment advantages;

(ii) a mission critical need to attract or retain unique or hard to find skills in the market; or

(iii) any other advantage the agency would gain through the utilization of a market-based award.

~~[(6)]~~ (7) (a) The executive director shall regularly evaluate the total compensation program of state employees in the classified service.

(b) The department shall determine if employee benefits are comparable to those offered by other

private and public employers using information from:

~~[(i) the most recent edition of the Employee Benefits Survey Data conducted by the U.S. Chamber of Commerce Research Center; or]~~

(i) a study conducted by a third-party consultant; or

(ii) the most recent edition of a nationally recognized benefits survey.

~~[(7) (a) The executive director shall submit proposals for a state employee compensation plan to the governor by October 31 of each year, setting forth findings and recommendations affecting employee compensation.]~~

~~[(b) The governor shall consider the executive director's proposals in preparing budget recommendations for the Legislature.]~~

~~[(c) The governor's budget proposals to the Legislature shall include a specific recommendation on employee compensation.]~~

Section 4. Section 67-19-14.1 is amended to read:

67-19-14.1. Converted sick leave.

~~[(1) Until January 1, 2014, an employee who has 144 hours of accumulated unused sick leave immediately prior to the beginning of a calendar year, may elect to convert any unused sick leave hours accumulated during that calendar year, in excess of 64 hours, to converted sick leave.]~~

~~[(2) The conversion is made at the beginning of the next calendar year for unused sick leave hours earned during a calendar year under Subsection (1).]~~

~~[(3) Converted sick leave hours that are not used prior to an employee's retirement date shall be used under the:~~

~~[(a) (1) Unused Sick Leave Retirement Option Program I under Section 67-19-14.2 if earned prior to January 1, 2006, unless the transfer is made under Subsection 67-19-14.4(1)(c); or~~

~~[(b) (2) Unused Sick Leave Retirement Option Program II under Section 67-19-14.4 if earned on or after January 1, 2006.~~

Section 5. Section 67-19-15.7 is amended to read:

67-19-15.7. Promotion -- Reclassification -- Market adjustment.

(1) (a) If an employee is promoted or the employee's position is reclassified to a higher salary range maximum, the agency shall place the employee within the new range of the position.

(b) An agency may not set an employee's salary:

(i) higher than the maximum in the new salary range; and

(ii) lower than the minimum in the new salary range of the position.

(c) Except for an employee described in Subsection 67-19-15(1)(p), the agency shall grant a salary increase of at least 5% to an employee who is promoted.

(2) An agency shall adjust the salary range for an employee whose salary range is approved by the Legislature for a market comparability adjustment consistent with Subsection 67-19-12~~[(4)(e)(v)]~~(5)(b)(i):

(a) at the beginning of the next fiscal year; and

(b) consistent with appropriations made by the Legislature.

(3) Department-initiated revisions in the state classification system that result in consolidation or reduction of class titles or broadening of pay ranges:

(a) may not be regarded as a reclassification of the position or promotion of the employee; and

(b) are exempt from the provisions of Subsection (1).

Section 6. Repealer.

This bill repeals:

Section 67-19-12.1, Department of Financial Institutions pay plans.

Section 67-19-12.3, Peace officer, correctional officer, and public safety dispatch personnel pay plans.

Section 7. Effective date.

This bill takes effect on July 1, 2015.

CHAPTER 156**H. B. 242**

Passed March 11, 2015
 Approved March 25, 2015
 Effective May 12, 2015

**STATE AND LOCAL
 GOVERNMENT EMPLOYEE POLICIES**

Chief Sponsor: Justin J. Miller
 Senate Sponsor: Jani Iwamoto

LONG TITLE**General Description:**

This bill enacts language related to the accommodation of public employees who are breastfeeding.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires a public employer to:
 - provide reasonable breaks for a public employee who is breastfeeding;
 - provide a public employee access to a room with privacy and a refrigerator for breastfeeding purposes; and
 - adopt policies to support breastfeeding; and
- ▶ prohibits a public employer from discriminating against an employee who is breastfeeding in the workplace.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

34-49-101, Utah Code Annotated 1953
 34-49-102, Utah Code Annotated 1953
 34-49-201, Utah Code Annotated 1953
 34-49-202, Utah Code Annotated 1953
 34-49-203, Utah Code Annotated 1953
 34-49-204, Utah Code Annotated 1953

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

Section 1. Section 34-49-101 is enacted to read:**CHAPTER 49. NURSING MOTHERS IN THE WORKPLACE****Part 1. General Provisions****34-49-101. Title.**

(1) This chapter is known as "Nursing Mothers in the Workplace."

(2) This part is known as "General Provisions."

Section 2. Section 34-49-102 is enacted to read:**34-49-102. Definitions.**

As used in this chapter:

(1) "Public employee" means a person:

(a) employed by a public employer; and

(b) who is breastfeeding.

(2) "Public employer" means the following entities:

(a) a department, division, board, council, committee, institution, office, bureau, or other similar administrative unit of the executive branch of state government;

(b) a municipality;

(c) a county;

(d) a school district; or

(e) an institution of higher education as described in Section 53B-2-101.

Section 3. Section 34-49-201 is enacted to read:**Part 2. Breastfeeding in the Workplace****34-49-201. Title.**

This part is known as "Breastfeeding in the Workplace."

Section 4. Section 34-49-202 is enacted to read:**34-49-202. Reasonable breaks and private room required.**

(1) (a) A public employer shall:

(i) provide for at least one year after the birth of a public employee's child reasonable breaks for each time the public employee needs to breast feed or express milk; and

(ii) consult with the public employee to determine the frequency and duration of the breaks.

(b) A break required under Subsection (1)(a) shall, to the extent possible, run concurrent with any other break period otherwise provided to the public employee.

(2) (a) A public employer shall provide for a public employee a room or other location in close proximity to the public employee's work area.

(b) The room described in Subsection (2)(a):

(i) may not be a bathroom or toilet stall; and

(ii) shall:

(A) be maintained in a clean and sanitary condition;

(B) provide privacy shielded from the view of and intrusion from coworkers or the public;

(C) be available at the times and for a duration required by the public employee as determined in consultation with the public employee under Subsection (1)(a)(ii); and

(D) have an electrical outlet.

(c) (i) Notwithstanding Subsection (2)(a), an employer is not required to comply with the requirements of Subsections (2)(a) and (b) if compliance would create an undue hardship on the operations of the employer.

(ii) For purposes of Subsection (2)(c)(i), an undue hardship is a requirement that would cause the employer significant difficulty or expense when considered in relation to the size, financial resources, nature, or structure of the employer's operations.

(3) A public employer shall provide access to a clean and well-maintained refrigerator or freezer for the temporary storage of the public employee's breast milk.

Section 5. Section 34-49-203 is enacted to read:

34-49-203. Policies.

A public employer shall adopt written policies that:

(1) support breastfeeding; and

(2) identify the means by which the public employer will comply with Section 34-49-202.

Section 6. Section 34-49-204 is enacted to read:

34-49-204. Discrimination prohibited.

A public employer may not refuse to hire, promote, discharge, demote, or terminate a person, or may not retaliate against, harass, or discriminate in matters of compensation or in terms, privileges, and conditions of employment against a person otherwise qualified because the person breastfeeds or expresses milk in the workplace.

CHAPTER 157**H. B. 245**

Passed March 10, 2015
 Approved March 25, 2015
 Effective May 12, 2015

**INCORPORATION PROCESS
 FOR CITIES AND TOWNS**

Chief Sponsor: Melvin R. Brown
 Senate Sponsor: Kevin T. Van Tassell

LONG TITLE**General Description:**

This bill amends provisions in the city and town incorporation code.

Highlighted Provisions:

This bill:

- ▶ requires the lieutenant governor, rather than a county, to facilitate proceedings for and pay for the expenses incurred from the incorporation of a city or town;
- ▶ removes obsolete language;
- ▶ requires a newly incorporated city or town to reimburse the lieutenant governor for incorporation expenses; and
- ▶ makes technical and conforming amendments.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides revisor instructions.

Utah Code Sections Affected:**AMENDS:**

- 10-2-102, as last amended by Laws of Utah 2012, Chapter 359
- 10-2-103, as last amended by Laws of Utah 2000, Chapter 184
- 10-2-104, as last amended by Laws of Utah 2012, Chapter 359
- 10-2-105, as last amended by Laws of Utah 2012, Chapter 359
- 10-2-106, as last amended by Laws of Utah 2012, Chapter 359
- 10-2-107, as last amended by Laws of Utah 2000, Chapter 184
- 10-2-108, as last amended by Laws of Utah 2012, Chapter 359
- 10-2-109, as last amended by Laws of Utah 2012, Chapter 359
- 10-2-110, as last amended by Laws of Utah 1997, Second Special Session, Chapter 3
- 10-2-111, as last amended by Laws of Utah 2014, Chapter 158
- 10-2-123, as enacted by Laws of Utah 1997, Chapter 389
- 10-2-125, as last amended by Laws of Utah 2014, Chapter 189
- 10-2-126, as last amended by Laws of Utah 2014, Chapter 189
- 10-2-127, as last amended by Laws of Utah 2014, Chapter 158
- 63I-2-210, as last amended by Laws of Utah 2014, Chapter 405

ENACTS:

10-2-102.13, Utah Code Annotated 1953
 10-2-131, Utah Code Annotated 1953
 Utah Code Sections Affected by Revisor Instructions:
 10-2-102.13, Utah Code Annotated 1953

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

Section 1. Section 10-2-102 is amended to read:

10-2-102. Incorporation of a contiguous area -- Governing provisions of city or town incorporation.

(1) A contiguous area of a county not within a municipality may incorporate as a municipality as provided in this part.

(2) (a) Incorporation as a city is governed by Sections 10-2-103 through 10-2-124.

(b) Incorporation as a town is governed by Sections 10-2-125 through ~~[10-2-129]~~ 10-2-131.

Section 2. Section 10-2-102.13 is enacted to read:**10-2-102.13. (Codified as 10-2a-106)**

Feasibility study or petition to incorporate filed before May 12, 2015.

(1) If a request for a feasibility study to incorporate a city is filed under Section 10-2-103 before May 12, 2015, the request and a subsequent feasibility study, petition, public hearing, election, and any other city incorporation action applicable to that request shall be filed with and be acted upon, held, processed, or paid for by the county legislative body or county clerk, as applicable, as designated, directed, or authorized before this bill takes effect.

(2) If a petition to incorporate a town is filed under Section 10-2-125 before May 12, 2015, the petition and a subsequent feasibility study, petition, public hearing, election, and any other town incorporation action applicable to that petition to incorporate, including a township incorporation procedure as defined in Section 10-2-130, shall be filed with and be acted upon, held, processed, or paid for by the county legislative body or county clerk, as applicable, as designated, directed, or authorized before this bill takes effect.

Section 3. Section 10-2-103 is amended to read:

10-2-103. Request for feasibility study -- Requirements -- Limitations.

(1) The process to incorporate a contiguous area of a county as a city is initiated by a request for a feasibility study filed with the ~~[clerk of the county in which the area is located]~~ Office of the Lieutenant Governor.

(2) Each request under Subsection (1) shall:

(a) be signed by the owners of private real property that:

(i) is located within the area proposed to be incorporated;

(ii) covers at least 10% of the total private land area within the area; and

(iii) is equal in value to at least 7% of the value of all private real property within the area;

(b) indicate the typed or printed name and current residence address of each owner signing the request;

(c) describe the contiguous area proposed to be incorporated as a city;

(d) designate up to five signers of the request as sponsors, one of whom shall be designated as the contact sponsor, with the mailing address and telephone number of each;

(e) be accompanied by and circulated with an accurate map or plat, prepared by a licensed surveyor, showing the boundaries of the proposed city; and

(f) request the ~~[county legislative body]~~ lieutenant governor to commission a study to determine the feasibility of incorporating the area as a city.

(3) A request for a feasibility study under this section may not propose for incorporation an area that includes some or all of an area that is the subject of a completed feasibility study or supplemental feasibility study whose results comply with Subsection 10-2-109(3) unless:

(a) the proposed incorporation that is the subject of the completed feasibility study or supplemental feasibility study has been defeated by the voters at an election under Section 10-2-111; or

(b) the time provided under Subsection 10-2-109(1) for filing an incorporation petition based on the completed feasibility study or supplemental feasibility study has elapsed without the filing of a petition.

(4) (a) Except as provided in Subsection (4)(b), a request under this section may not propose for incorporation an area that includes some or all of an area proposed for annexation in an annexation petition under Section 10-2-403 that:

(i) was filed before the filing of the request; and

(ii) is still pending on the date the request is filed.

(b) Notwithstanding Subsection (4)(a), a request may propose for incorporation an area that includes some or all of an area proposed for annexation in an annexation petition described in Subsection (4)(a) if:

(i) the proposed annexation area that is part of the area proposed for incorporation does not exceed 20% of the area proposed for incorporation;

(ii) the request complies with Subsections (2) and (3) with respect to the area proposed for incorporation excluding the proposed annexation area; and

(iii) excluding the area proposed for annexation from the area proposed for incorporation would not

cause the area proposed for incorporation to lose its contiguousness.

(c) Except as provided in Section 10-2-107, each request to which Subsection (4)(b) applies shall be considered as not proposing the incorporation of the area proposed for annexation.

(5) At the time of filing the request for a feasibility study with the ~~[county clerk]~~ Office of the Lieutenant Governor, the sponsors of the request shall mail or deliver a copy of the request to the chair of the planning commission of each township in which any part of the area proposed for incorporation is located.

Section 4. Section 10-2-104 is amended to read:

10-2-104. Notice to owner of property -- Exclusion of property from proposed boundaries.

(1) As used in this section:

(a) "Assessed value" with respect to property means the value at which the property would be assessed without regard to a valuation for agricultural use under Section 59-2-503.

(b) "Owner" means a person having an interest in real property, including an affiliate, subsidiary, or parent company.

(c) "Urban" means an area with a residential density of greater than one unit per acre.

(2) Within seven calendar days of the date on which a request under Section 10-2-103 is filed, the ~~[county clerk]~~ lieutenant governor shall send written notice of the proposed incorporation to each record owner of real property owning more than:

(a) 1% of the assessed value of all property in the proposed incorporation boundaries; or

(b) 10% of the total private land area within the proposed incorporation boundaries.

(3) If an owner owns, controls, or manages more than 1% of the assessed value of all property in the proposed incorporation boundaries, or owns, controls, or manages 10% or more of the total private land area in the proposed incorporation boundaries, the owner may exclude all or part of the property owned, controlled, or managed by the owner from the proposed boundaries by filing a Notice of Exclusion with the ~~[county legislative body]~~ Office of the Lieutenant Governor within 15 calendar days of receiving the clerk's notice under Subsection (2).

(4) The ~~[county legislative body]~~ lieutenant governor shall exclude the property identified by an owner in the Notice of Exclusion from the proposed incorporation boundaries unless the ~~[county legislative body]~~ lieutenant governor finds by clear and convincing evidence in the record that:

(a) the exclusion will leave an unincorporated island within the proposed municipality; and

(b) the property to be excluded:

(i) is urban; and

(ii) currently receives from the county a majority of municipal-type services including:

- (A) culinary or irrigation water;
- (B) sewage collection or treatment;
- (C) storm drainage or flood control;
- (D) recreational facilities or parks;
- (E) electric generation or transportation;
- (F) construction or maintenance of local streets and roads;
- (G) curb and gutter or sidewalk maintenance;
- (H) garbage and refuse collection; and
- (I) street lighting.

(5) This section applies only to counties of the first or second class.

(6) If the ~~[county legislative body]~~ lieutenant governor excludes property from the proposed boundaries under Subsection (4), the ~~[county legislative body]~~ lieutenant governor shall, within five days of the exclusion, send written notice of the exclusion to the contact sponsor.

Section 5. Section 10-2-105 is amended to read:

10-2-105. Processing a request for incorporation -- Certification or rejection by lieutenant governor -- Processing priority -- Limitations -- Township planning commission recommendation.

(1) Within 45 days of the filing of a request under Section 10-2-103, the ~~[county clerk]~~ lieutenant governor shall:

(a) with the assistance of other county officers of the county in which the incorporation is proposed from whom the ~~[clerk]~~ lieutenant governor requests assistance, determine whether the request complies with Section 10-2-103; and

(b) (i) if the ~~[clerk]~~ lieutenant governor determines that the request complies with Section 10-2-103:

(A) certify the request ~~[and deliver the certified request to the county legislative body];~~ and

(B) mail or deliver written notification of the certification to:

(I) the contact sponsor; and

(II) the chair of the planning commission of each township in which any part of the area proposed for incorporation is located; or

(ii) if the ~~[clerk]~~ lieutenant governor determines that the request fails to comply with Section 10-2-103 requirements, reject the request and notify the contact sponsor in writing of the rejection and the reasons for the rejection.

(2) The ~~[county clerk]~~ lieutenant governor shall certify or reject requests under Subsection (1) in the order in which they are filed.

(3) (a) (i) If the ~~[county clerk]~~ lieutenant governor rejects a request under Subsection (1)(b)(ii), the request may be amended to correct the deficiencies for which it was rejected and then refiled with the ~~[county clerk]~~ lieutenant governor.

(ii) A signature on a request under Section 10-2-103 may be used toward fulfilling the signature requirement of Subsection 10-2-103(2)(a) for the request as modified under Subsection (3)(a)(i).

(b) If a request is amended and refiled under Subsection (3)(a) after having been rejected by the ~~[county clerk]~~ lieutenant governor under Subsection (1)(b)(ii), it shall be considered as a newly filed request, and its processing priority is determined by the date on which it is refiled.

Section 6. Section 10-2-106 is amended to read:

10-2-106. Feasibility study -- Feasibility study consultant.

(1) Within ~~[60]~~ 90 days of receipt of a certified request under Subsection 10-2-105(1)(b)(i), the ~~[county legislative body]~~ lieutenant governor shall engage the feasibility consultant chosen under Subsection (2) to conduct a feasibility study.

(2) The feasibility consultant shall be chosen:

(a) (i) by the contact sponsor of the incorporation petition with the consent of the ~~[county]~~ lieutenant governor; or

(ii) by the ~~[county]~~ lieutenant governor if the designated sponsors state, in writing, that the contact sponsor defers selection of the feasibility consultant to the ~~[county]~~ lieutenant governor; and

(b) in accordance with applicable ~~[county]~~ procurement procedures.

(3) The ~~[county legislative body]~~ lieutenant governor shall require the feasibility consultant to:

(a) complete the feasibility study and submit the written results to the lieutenant governor, the county legislative body of the county in which the incorporation is proposed, and the contact sponsor no later than 90 days after the feasibility consultant is engaged to conduct the study;

(b) submit with the full written results of the feasibility study a summary of the results no longer than one page in length; and

(c) attend the public hearings under Subsection 10-2-108(1) and present the feasibility study results and respond to questions from the public at those hearings.

(4) (a) The feasibility study shall consider:

(i) population and population density within the area proposed for incorporation and the surrounding area;

(ii) current and five-year projections of demographics and economic base in the proposed city and surrounding area, including household size and income, commercial and industrial development, and public facilities;

(iii) projected growth in the proposed city and in adjacent areas during the next five years;

(iv) subject to Subsection (4)(b), the present and five-year projections of the cost, including overhead, of governmental services in the proposed city, including:

- (A) culinary water;
- (B) secondary water;
- (C) sewer;
- (D) law enforcement;
- (E) fire protection;
- (F) roads and public works;
- (G) garbage;
- (H) weeds; and
- (I) government offices;

(v) assuming the same tax categories and tax rates as currently imposed by the county and all other current service providers, the present and five-year projected revenue for the proposed city;

(vi) a projection of any new taxes per household that may be levied within the incorporated area within five years of incorporation; and

(vii) the fiscal impact on unincorporated areas, other municipalities, local districts, special service districts, and other governmental entities in the county.

(b) (i) For purposes of Subsection (4)(a)(iv), the feasibility consultant shall assume a level and quality of governmental services to be provided to the proposed city in the future that fairly and reasonably approximate the level and quality of governmental services being provided to the proposed city at the time of the feasibility study.

(ii) In determining the present cost of a governmental service, the feasibility consultant shall consider:

(A) the amount it would cost the proposed city to provide governmental service for the first five years after incorporation; and

(B) the county's present and five-year projected cost of providing governmental service.

(iii) The costs calculated under Subsection (4)(a)(iv), shall take into account inflation and anticipated growth.

(5) If the five year projected revenues under Subsection (4)(a)(v) exceed the five year projected costs under Subsection (4)(a)(iv) by more than 5%, the feasibility consultant shall project and report the expected annual revenue surplus to the contact sponsor and the lieutenant governor.

(6) If the results of the feasibility study or revised feasibility study do not meet the requirements of Subsection 10-2-109(3), the feasibility consultant shall, as part of the feasibility study or revised feasibility study and if requested by the sponsors of

the request, make recommendations as to how the boundaries of the proposed city may be altered so that the requirements of Subsection 10-2-109(3) may be met.

~~[(7) (a) For purposes of this Subsection (7), "pending" means that the process to incorporate an unincorporated area has been initiated by the filing of a request for feasibility study under Section 10-2-103 but that, as of May 8, 2012, a petition under Section 10-2-109 has not yet been filed.]~~

~~[(b) The amendments to Subsection (4) that become effective upon the effective date of this Subsection (7):]~~

~~[(i) apply to each pending proceeding proposing the incorporation of an unincorporated area; and]~~

~~[(ii) do not apply to a municipal incorporation proceeding under this part in which a petition under Section 10-2-109 has been filed.]~~

~~[(c) (i) If, in a pending incorporation proceeding, the feasibility consultant has, as of May 8, 2012, already completed the feasibility study, the county legislative body shall, within 20 days after the effective date of this Subsection (7) and except as provided in Subsection (7)(c)(iii), engage the feasibility consultant to revise the feasibility study to take into account the amendments to Subsection (4) that became effective on the effective date of this Subsection (7).]~~

~~[(ii) Except as provided in Subsection (7)(c)(iii), the county legislative body shall require the feasibility consultant to complete the revised feasibility study under Subsection (7)(c)(i) within 20 days after being engaged to do so.]~~

~~[(iii) Notwithstanding Subsections (7)(c)(i) and (ii), a county legislative body is not required to engage the feasibility consultant to revise the feasibility study if, within 15 days after the effective date of this Subsection (7), the request sponsors file with the county clerk a written withdrawal of the request signed by all the request sponsors.]~~

~~[(d) All provisions of this part that set forth the incorporation process following the completion of a feasibility study shall apply with equal force following the completion of a revised feasibility study under this Subsection (7), except that, if a petition under Section 10-2-109 has already been filed based on the feasibility study that is revised under this Subsection (7):]~~

~~[(i) the notice required by Section 10-2-108 for the revised feasibility study shall include a statement informing signers of the petition of their right to withdraw their signatures from the petition and of the process and deadline for withdrawing a signature from the petition;]~~

~~[(ii) a signer of the petition may withdraw the signer's signature by filing with the county clerk a written withdrawal within 30 days after the final notice under Subsection 10-2-108(3) has been given with respect to the revised feasibility study; and]~~

~~[(iii) unless withdrawn, a signature on the petition may be used toward fulfilling the signature~~

requirements under Subsection 10-2-109(2)(a) for a petition based on the revised feasibility study.]

Section 7. Section 10-2-107 is amended to read:

10-2-107. Modified request for feasibility study -- Supplemental feasibility study.

(1) (a) (i) The sponsors of a request may modify the request to alter the boundaries of the proposed city and then refile the request, as modified, with the [county clerk] lieutenant governor if:

(A) the results of the feasibility study do not meet the requirements of Subsection 10-2-109(3); or

(B) (I) the request meets the conditions of Subsection 10-2-103(4)(b);

(II) the annexation petition that proposed the annexation of an area that is part of the area proposed for incorporation has been denied; and

(III) an incorporation petition based on the request has not been filed.

(ii) (A) A modified request under Subsection (1)(a)(i)(A) may not be filed more than 90 days after the feasibility consultant's submission of the results of the study.

(B) A modified request under Subsection (1)(a)(i)(B) may not be filed more than 18 months after the filing of the original request under Section 10-2-103.

(b) (i) Subject to Subsection (1)(b)(ii), each modified request under Subsection (1)(a) shall comply with the requirements of Subsections 10-2-103(2), (3), (4), and (5).

(ii) Notwithstanding Subsection (1)(b)(i), a signature on a request filed under Section 10-2-103 may be used toward fulfilling the signature requirement of Subsection 10-2-103(2)(a) for the request as modified under Subsection (1)(a), unless the modified request proposes the incorporation of an area that is more than 20% greater or smaller than the area described by the original request in terms of:

(A) private land area; or

(B) value of private real property.

(2) Within 20 days after the [county clerk's] lieutenant governor's receipt of the modified request, the [county clerk] lieutenant governor shall follow the same procedure for the modified request as provided under Subsection 10-2-105(1) for an original request.

(3) The timely filing of a modified request under Subsection (1) gives the modified request the same processing priority under Subsection 10-2-105(2) as the original request.

(4) Within 10 days after the [county legislative body's] lieutenant governor's receipt of a certified modified request under Subsection (1)(a)(i)(A) or a certified modified request under Subsection (1)(a)(i)(B) that was filed after the completion of a

feasibility study on the original request, the [county legislative body] lieutenant governor shall commission the feasibility consultant who conducted the feasibility study to supplement the feasibility study to take into account the information in the modified request that was not included in the original request.

(5) The [county legislative body] lieutenant governor shall require the feasibility consultant to complete the supplemental feasibility study and to submit written results of the supplemental study to the [county legislative body] lieutenant governor and to the contact sponsor no later than 30 days after the feasibility consultant is commissioned to conduct the supplemental feasibility study.

(6) (a) Subject to Subsection (6)(b), if the results of the supplemental feasibility study do not meet the requirements of Subsection 10-2-109(3):

(i) the sponsors may file a further modified request as provided in Subsection (1); and

(ii) Subsections (2), (4), and (5) apply to a further modified request under Subsection (6)(a)(i).

(b) A further modified request under Subsection (6)(a) shall, for purposes of its processing priority, be considered as an original request for a feasibility study under Section 10-2-103.

Section 8. Section 10-2-108 is amended to read:

10-2-108. Public hearings on feasibility study results -- Notice of hearings.

(1) If the results of the feasibility study or supplemental feasibility study meet the requirements of Subsection 10-2-109(3), the [county legislative body] lieutenant governor shall, [at its next regular meeting] after receipt of the results of the feasibility study or supplemental feasibility study, schedule at least two public hearings to be held:

(a) within the following 60 days after receipt of the results;

(b) at least seven days apart;

(c) in geographically diverse locations within the proposed city; and

(d) for the purpose of allowing:

(i) the feasibility consultant to present the results of the study; and

(ii) the public to become informed about the feasibility study results and to ask questions about those results of the feasibility consultant.

(2) At a public hearing described in Subsection (1), the [county legislative body] lieutenant governor shall:

(a) provide a map or plat of the boundary of the proposed city;

(b) provide a copy of the feasibility study for public review; and

(c) allow the public to express its views about the proposed incorporation, including its view about the proposed boundary.

(3) (a) (i) The ~~[county clerk]~~ lieutenant governor shall publish notice of the public hearings required under Subsection (1):

(A) at least once a week for three successive weeks in a newspaper of general circulation within the proposed city; and

(B) on the Utah Public Notice Website created in Section 63F-1-701, for three weeks.

(ii) The last publication of notice required under Subsection (3)(a)(i)(A) shall be at least three days before the first public hearing required under Subsection (1).

(b) (i) If, under Subsection (3)(a)(i)(A), there is no newspaper of general circulation within the proposed city, the ~~[county clerk]~~ lieutenant governor shall post at least one notice of the hearings per 1,000 population in conspicuous places within the proposed city that are most likely to give notice of the hearings to the residents of the proposed city.

(ii) The ~~[clerk]~~ lieutenant governor shall post the notices under Subsection (3)(b)(i) at least seven days before the first hearing under Subsection (1).

(c) The notice under Subsections (3)(a) and (b) shall include the feasibility study summary under Subsection 10-2-106(3)(b) and shall indicate that a full copy of the study is available for inspection and copying at the ~~[office of the county clerk]~~ Office of the Lieutenant Governor.

(d) The lieutenant governor shall post a copy of the feasibility study on the lieutenant governor's website and make a copy available for public review at the Office of the Lieutenant Governor.

Section 9. Section 10-2-109 is amended to read:

10-2-109. Incorporation petition -- Requirements and form.

(1) At any time within one year of the completion of the public hearings required under Subsection 10-2-108(1), a petition for incorporation of the area proposed to be incorporated as a city may be filed in the ~~[office of the clerk of the county in which the area is located]~~ Office of the Lieutenant Governor.

(2) Each petition under Subsection (1) shall:

(a) be signed by:

(i) 10% of all registered voters within the area proposed to be incorporated as a city, according to the official voter registration list maintained by the county on the date the petition is filed; and

(ii) 10% of all registered voters within, subject to Subsection (5), 90% of the voting precincts within the area proposed to be incorporated as a city, according to the official voter registration list maintained by the county on the date the petition is filed;

(b) indicate the typed or printed name and current residence address of each owner signing the petition;

(c) describe the area proposed to be incorporated as a city, as described in the feasibility study request or modified request that meets the requirements of Subsection (3);

(d) state the proposed name for the proposed city;

(e) designate five signers of the petition as petition sponsors, one of whom shall be designated as the contact sponsor, with the mailing address and telephone number of each;

(f) state that the signers of the petition appoint the sponsors, if the incorporation measure passes, to represent the signers in the process of:

(i) selecting the number of commission or council members the new city will have; and

(ii) drawing district boundaries for the election of commission or council members, if the voters decide to elect commission or council members by district;

(g) be accompanied by and circulated with an accurate plat or map, prepared by a licensed surveyor, showing the boundaries of the proposed city; and

(h) substantially comply with and be circulated in the following form:

PETITION FOR INCORPORATION OF (insert the proposed name of the proposed city)

To the Honorable ~~[County Legislative Body of (insert the name of the county in which the proposed city is located) County, Utah]~~ Lieutenant Governor:

We, the undersigned owners of real property within the area described in this petition, respectfully petition the lieutenant governor to direct the county legislative body to submit to the registered voters residing within the area described in this petition, at the next regular general election, the question of whether the area should incorporate as a city. Each of the undersigned affirms that each has personally signed this petition and is an owner of real property within the described area, and that the current residence address of each is correctly written after the signer's name. The area proposed to be incorporated as a city is described as follows: (insert an accurate description of the area proposed to be incorporated).

(3) A petition for incorporation of a city under Subsection (1) may not be filed unless the results of the feasibility study or supplemental feasibility study show that the average annual amount of revenue under Subsection 10-2-106(4)(a)(v) does not exceed the average annual amount of cost under Subsection 10-2-106(4)(a)(iv) by more than 5%.

(4) A signature on a request under Section 10-2-103 or a modified request under Section 10-2-107 may be used toward fulfilling the signature requirement of Subsection (2)(a):

(a) if the request under Section 10-2-103 or modified request under Section 10-2-107 notified the signer in conspicuous language that the signature, unless withdrawn, would also be used for purposes of a petition for incorporation under this section; and

(b) unless the signer files with the [county clerk] lieutenant governor a written withdrawal of the signature before the petition under this section is filed with the [clerk] lieutenant governor.

(5) (a) A signature does not qualify as a signature to meet the requirement described in Subsection (2)(a)(ii) if the signature is gathered from a voting precinct that:

(i) is not located entirely within the boundaries of the proposed city; or

(ii) includes less than 50 registered voters.

(b) A voting precinct that is not located entirely within the boundaries of the proposed city does not qualify as a voting precinct to meet the precinct requirements of Subsection (2)(a)(ii).

Section 10. Section 10-2-110 is amended to read:

10-2-110. Processing of petition by lieutenant governor -- Certification or rejection -- Processing priority.

(1) Within 45 days of the filing of a petition under Section 10-2-109, the [county clerk] lieutenant governor shall:

(a) with the assistance of other county officers of the county in which the incorporation is proposed from whom the [clerk] lieutenant governor requests assistance, determine whether the petition meets the requirements of Section 10-2-109; and

(b) (i) if the [clerk] lieutenant governor determines that the petition meets those requirements, certify the petition~~, deliver it to the county legislative body,~~ and notify in writing the contact sponsor of the certification; or

(ii) if the [clerk] lieutenant governor determines that the petition fails to meet any of those requirements, reject the petition and notify the contact sponsor in writing of the rejection and the reasons for the rejection.

(2) (a) If the [county clerk] lieutenant governor rejects a petition under Subsection (1)(b)(ii), the petition may be modified to correct the deficiencies for which it was rejected and then refiled with the [county clerk] lieutenant governor.

(b) A modified petition under Subsection (2)(a) may be filed at any time until 30 days after the [county clerk] lieutenant governor notifies the contact sponsor under Subsection (1)(b)(ii), even though the modified petition is filed after the expiration of the deadline provided in Subsection 10-2-109(1).

(c) A signature on an incorporation petition under Section 10-2-109 may be used toward fulfilling the signature requirement of Subsection 10-2-109(2)(a) for the petition as modified under Subsection (2)(a).

(3) (a) Within 20 days of the [county clerk's] lieutenant governor's receipt of a modified petition under Subsection (2)(a), the [county clerk] lieutenant governor shall follow the same

procedure for the modified petition as provided under Subsection (1) for an original petition.

(b) If [a county clerk] the lieutenant governor rejects a modified petition under Subsection (1)(b)(ii), no further modification of that petition may be filed.

Section 11. Section 10-2-111 is amended to read:

10-2-111. Incorporation election.

(1) (a) Upon receipt of a certified petition under Subsection 10-2-110(1)(b)(i) or a certified modified petition under Subsection 10-2-110(3), the [county legislative body] lieutenant governor shall:

(i) determine and set an election date for the incorporation election that is:

[(4)] (A) on a general election date under Section 20A-1-201~~;~~ or [(B)] on a local special election date under Section 20A-1-203; and

[(ii)] (B) at least 65 days after the day that the [legislative body] lieutenant governor receives the certified petition~~;~~ and

(ii) direct the county legislative body of the county in which the incorporation is proposed to hold the election on the date determined by the lieutenant governor in accordance with Subsection (1)(a)(i).

(b) The county shall hold the election as directed by the lieutenant governor in accordance with Subsection (1)(a)(ii).

[(4)] (c) Unless a person is a registered voter who resides, as defined in Section 20A-1-102, within the boundaries of the proposed city, the person may not vote on the proposed incorporation.

(2) (a) The county clerk shall publish notice of the election:

(i) in a newspaper of general circulation within the area proposed to be incorporated at least once a week for three successive weeks; and

(ii) in accordance with Section 45-1-101 for three weeks.

(b) The notice required by Subsection (2)(a) shall contain:

(i) a statement of the contents of the petition;

(ii) a description of the area proposed to be incorporated as a city;

(iii) a statement of the date and time of the election and the location of polling places; and

(iv) the feasibility study summary under Subsection 10-2-106(3)(b) and a statement that a full copy of the study is available for inspection and copying at the [office of the county clerk] Office of the Lieutenant Governor.

(c) The last publication of notice required under Subsection (2)(a) shall occur at least one day but no more than seven days before the election.

(d) (i) In accordance with Subsection (2)(a)(i), if there is no newspaper of general circulation within

the proposed city, the county clerk shall post at least one notice of the election per 1,000 population in conspicuous places within the proposed city that are most likely to give notice of the election to the voters of the proposed city.

(ii) The clerk shall post the notices under Subsection (2)(d)(i) at least seven days before the election under Subsection (1).

(3) If a majority of those casting votes within the area boundaries of the proposed city vote to incorporate as a city, the area shall incorporate.

Section 12. Section 10-2-123 is amended to read:

10-2-123. Costs of city incorporation -- Fees established by lieutenant governor.

(1) ~~[Subject to Subsection (2), all costs of the]~~ (a) The lieutenant governor shall establish a fee in accordance with Section 63J-1-504 for a cost incurred by the lieutenant governor for an incorporation proceeding, including:

- (i) a request certification^[7];
- (ii) a feasibility study^[7];
- (iii) a petition certification^[7];
- (iv) publication of notices^[7];
- (v) public hearings^[7], and elections, shall be paid by the county in which the proposed city is located.;

~~[(2) If incorporation occurs, the new municipality shall reimburse the county for the costs of the notices and hearing under Section 10-2-114, the notices and elections under Section 10-2-116, and]~~

(vi) all other incorporation activities occurring after the elections [under Section 10-2-116.]; and

(vii) any other cost incurred by the lieutenant governor in relation to an incorporation proceeding.

(b) A cost under Subsection (1)(a) does not include a cost incurred by a county for holding an election under Section 10-2-111.

(2) Subject to Subsection (3)(a), the lieutenant governor shall, by supplemental appropriations, pay for a cost described in Subsections (1)(a)(i) through (vii).

(3) If incorporation occurs, the new city shall pay:

(a) to the lieutenant governor each fee established under Subsection (1) for each incurred cost described in Subsections (1)(a)(i) through (vii); and

(b) the county for a cost described in Subsection (1)(b).

Section 13. Section 10-2-125 is amended to read:

10-2-125. Incorporation of a town -- Petition.

(1) As used in this section:

(a) "Assessed value," with respect to agricultural land, means the value at which the land would be

assessed without regard to a valuation for agricultural use under Section 59-2-503.

~~[(c)]~~ (b) "Feasibility consultant" means a person or firm:

(i) with expertise in the processes and economics of local government; and

(ii) who is independent of and not affiliated with a county or sponsor of a petition to incorporate.

~~[(b)]~~ (c) "Financial feasibility study" means a study described in Subsection (7).

(d) "Municipal service" means a publicly provided service that is not provided on a countywide basis.

(e) "Nonurban" means having a residential density of less than one unit per acre.

(2) (a) (i) A contiguous area of a county not within a municipality, with a population of at least 100 but less than 1,000, may incorporate as a town as provided in this section.

(ii) An area within a county of the first class is not contiguous for purposes of Subsection (2)(a)(i) if:

(A) the area includes a strip of land that connects geographically separate areas; and

(B) the distance between the geographically separate areas is greater than the average width of the strip of land connecting the geographically separate areas.

(b) The population figure under Subsection (2)(a) shall be determined:

(i) as of the date the incorporation petition is filed; and

(ii) by the Utah Population Estimates Committee within 20 days after the county clerk's certification under Subsection (6) of a petition filed under Subsection (4).

(3) (a) The process to incorporate an area as a town is initiated by filing a petition to incorporate the area as a town with the ~~[clerk of the county in which the area is located]~~ Office of the Lieutenant Governor.

(b) A petition under Subsection (3)(a) shall:

(i) be signed by:

(A) the owners of private real property that:

(I) is located within the area proposed to be incorporated; and

(II) is equal in assessed value to more than 1/5 of the assessed value of all private real property within the area; and

(B) 1/5 of all registered voters within the area proposed to be incorporated as a town, according to the official voter registration list maintained by the county on the date the petition is filed;

(ii) designate as sponsors at least five of the property owners who have signed the petition, one of whom shall be designated as the contact sponsor, with the mailing address of each owner signing as a sponsor;

(iii) be accompanied by and circulated with an accurate map or plat, prepared by a licensed surveyor, showing a legal description of the boundary of the proposed town; and

(iv) substantially comply with and be circulated in the following form:

PETITION FOR INCORPORATION OF (insert the proposed name of the proposed town)

To the Honorable [~~County Legislative Body of (insert the name of the county in which the proposed town is located)~~ County, Utah] Lieutenant Governor:

We, the undersigned owners of real property and registered voters within the area described in this petition, respectfully petition the lieutenant governor to direct the county legislative body to submit to the registered voters residing within the area described in this petition, at the next regular general election, the question of whether the area should incorporate as a town. Each of the undersigned affirms that each has personally signed this petition and is an owner of real property or a registered voter residing within the described area, and that the current residence address of each is correctly written after the signer's name. The area proposed to be incorporated as a town is described as follows: (insert an accurate description of the area proposed to be incorporated).

(c) A petition under this Subsection (3) may not describe an area that includes some or all of an area proposed for annexation in an annexation petition under Section 10-2-403 that:

- (i) was filed before the filing of the petition; and
- (ii) is still pending on the date the petition is filed.

(d) A petition may not be filed under this section if the private real property owned by the petition sponsors, designated under Subsection (3)(b)(ii), cumulatively exceeds 40% of the total private land area within the area proposed to be incorporated as a town.

(e) A signer of a petition under this Subsection (3) may withdraw or, after withdrawn, reinstate the signer's signature on the petition:

- (i) at any time until the [~~county clerk~~] lieutenant governor certifies the petition under Subsection (5); and
- (ii) by filing a signed, written withdrawal or reinstatement with the [~~county clerk~~] lieutenant governor.

(4) (a) If a petition is filed under Subsection (3)(a) proposing to incorporate as a town an area located within a county of the first class, the [~~county clerk~~] lieutenant governor shall deliver written notice of the proposed incorporation:

(i) to each owner of private real property owning more than 1% of the assessed value of all private real property within the area proposed to be incorporated as a town; and

(ii) within seven calendar days after the date on which the petition is filed.

(b) A private real property owner described in Subsection (4)(a)(i) may exclude all or part of the owner's property from the area proposed to be incorporated as a town by filing a notice of exclusion:

- (i) with the [~~county clerk~~] lieutenant governor; and
- (ii) within 10 calendar days after receiving the clerk's notice under Subsection (4)(a).

(c) The [~~county legislative body~~] lieutenant governor shall exclude from the area proposed to be incorporated as a town the property identified in the notice of exclusion under Subsection (4)(b) if:

- (i) the property:
 - (A) is nonurban; and
 - (B) does not and will not require a municipal service; and
- (ii) exclusion will not leave an unincorporated island within the proposed town.

(d) If the [~~county legislative body~~] lieutenant governor excludes property from the area proposed to be incorporated as a town, the [~~county legislative body~~] lieutenant governor shall send written notice of the exclusion to the contact sponsor within five days after the exclusion.

(5) No later than 20 days after the filing of a petition under Subsection (3), the [~~county clerk~~] lieutenant governor shall:

(a) with the assistance of other county officers of the county in which the incorporation is proposed from whom the [~~clerk~~] lieutenant governor requests assistance, determine whether the petition complies with the requirements of Subsection (3); and

(b) (i) if the [~~clerk~~] lieutenant governor determines that the petition complies with those requirements:

- (A) certify the petition [~~and deliver the certified petition to the county legislative body~~]; and
- (B) mail or deliver written notification of the certification to:

(I) the contact sponsor;

(II) if applicable, the chair of the planning commission of each township in which any part of the area proposed for incorporation is located; and

(III) the Utah Population Estimates Committee; or

(ii) if the [~~clerk~~] lieutenant governor determines that the petition fails to comply with any of those requirements, reject the petition and notify the contact sponsor in writing of the rejection and the reasons for the rejection.

(6) (a) (i) A petition that is rejected under Subsection (5)(b)(ii) may be amended to correct a

deficiency for which it was rejected and then refiled with the ~~[county clerk]~~ lieutenant governor.

(ii) A valid signature on a petition filed under Subsection (3)(a) may be used toward fulfilling the signature requirement of Subsection (3)(b) for the same petition that is amended under Subsection (6)(a)(i) and then refiled with the ~~[county clerk]~~ lieutenant governor.

(b) If a petition is amended and refiled under Subsection (6)(a)(i) after having been rejected by the ~~[county clerk]~~ lieutenant governor under Subsection (5)(b)(i):

(i) the amended petition shall be considered as a newly filed petition; and

(ii) the amended petition's processing priority is determined by the date on which it is refiled.

(7) (a) (i) ~~[The legislative body of a county with which]~~ If a petition is filed under Subsection (4) and certified under Subsection (6), the lieutenant governor shall commission and pay for a financial feasibility study.

(ii) The feasibility consultant shall be chosen:

(A) (I) by the contact sponsor of the incorporation petition, as described in Subsection (3)(b)(ii), with the consent of the ~~[county]~~ lieutenant governor; or

(II) by the ~~[county]~~ lieutenant governor if the contact sponsor states, in writing, that the sponsor defers selection of the feasibility consultant to the ~~[county]~~ lieutenant governor; and

(B) in accordance with applicable ~~[county]~~ procurement procedure.

(iii) The ~~[county legislative body]~~ lieutenant governor shall require the feasibility consultant to complete the financial feasibility study and submit written results of the study to the ~~[county legislative body]~~ lieutenant governor no later than 30 days after the feasibility consultant is engaged to conduct the financial feasibility study.

(b) The financial feasibility study shall consider the:

(i) population and population density within the area proposed for incorporation and the surrounding area;

(ii) current and five-year projections of demographics and economic base in the proposed town and surrounding area, including household size and income, commercial and industrial development, and public facilities;

(iii) projected growth in the proposed town and in adjacent areas during the next five years;

(iv) subject to Subsection (7)(c), the present and five-year projections of the cost, including overhead, of governmental services in the proposed town, including:

(A) culinary water;

(B) secondary water;

(C) sewer;

(D) law enforcement;

(E) fire protection;

(F) roads and public works;

(G) garbage;

(H) weeds; and

(I) government offices;

(v) assuming the same tax categories and tax rates as currently imposed by the county and all other current service providers, the present and five-year projected revenue for the proposed town; and

(vi) a projection of any new taxes per household that may be levied within the incorporated area within five years of incorporation.

(c) (i) For purposes of Subsection (7)(b)(iv), the feasibility consultant shall assume a level and quality of governmental services to be provided to the proposed town in the future that fairly and reasonably approximate the level and quality of governmental services being provided to the proposed town at the time of the feasibility study.

(ii) In determining the present cost of a governmental service, the feasibility consultant shall consider:

(A) the amount it would cost the proposed town to provide governmental service for the first five years after incorporation; and

(B) the county's present and five-year projected cost of providing governmental service.

(iii) The costs calculated under Subsection (7)(b)(iv), shall take into account inflation and anticipated growth.

(d) If the five year projected revenues under Subsection (7)(b)(v) exceed the five-year projected costs under Subsection (7)(b)(iv) by more than 10%, the feasibility consultant shall project and report the expected annual revenue surplus to the contact sponsor and the lieutenant governor.

(e) The lieutenant governor shall post a copy of the feasibility study on the lieutenant governor's website and make a copy available for public review at the Office of the Lieutenant Governor.

~~[(e) (f)]~~ The ~~[county legislative body]~~ lieutenant governor shall approve a certified petition proposing the incorporation of a town and hold a public hearing as provided in Section 10-2-126.

Section 14. Section 10-2-126 is amended to read:

10-2-126. Incorporation of town -- Public hearing on feasibility.

(1) If, in accordance with Section 10-2-125, the ~~[county clerk]~~ lieutenant governor certifies a petition for incorporation or an amended petition for incorporation, the ~~[county legislative body]~~ lieutenant governor shall, ~~[at its next regular~~

meeting] after completion of the feasibility study, schedule a public hearing to:

(a) be held no later than 60 days after the day on which the feasibility study is completed; and

(b) consider, in accordance with Subsection (3)(b), the feasibility of incorporation for the proposed town.

(2) (a) The ~~[county legislative body]~~ lieutenant governor shall give notice of the public hearing on the proposed incorporation by:

~~[(a) posting notice of the public hearing on the county's Internet website, if the county has an Internet website;]~~

~~[(b)]~~ (i) (A) publishing notice of the public hearing at least once a week for two consecutive weeks in a newspaper of general circulation within the proposed town; or

~~[(ii)]~~ (B) if there is no newspaper of general circulation within the proposed town, posting notice of the public hearing in at least five conspicuous public places within the proposed town; and

~~[(c)]~~ (ii) publishing notice of the public hearing on the Utah Public Notice Website created in Section 63F-1-701.

(b) The county in which the incorporation is proposed shall post the notice described in Subsection (2)(a)(i) on the county's website, if the county has a website, for at least two consecutive weeks before the day of the public hearing.

(3) At the public hearing scheduled in accordance with Subsection (1), the ~~[county legislative body]~~ lieutenant governor shall:

(a) (i) provide a copy of the feasibility study; and

(ii) present the results of the feasibility study to the public; and

(b) allow the public to:

(i) review the map or plat of the boundary of the proposed town;

(ii) ask questions and become informed about the proposed incorporation; and

(iii) express its views about the proposed incorporation, including their views about the boundary of the area proposed to be incorporated.

(4) A county under the direction of the lieutenant governor may not hold an election on the incorporation of a town in accordance with Section 10-2-127 if the results of the feasibility study show that the five-year projected revenues under Subsection 10-2-125(7)(b)(v) exceed the five-year projected costs under Subsection 10-2-125(7)(b)(iv) by more than 10%.

Section 15. Section 10-2-127 is amended to read:

10-2-127. Incorporation of town -- Election to incorporate -- Ballot form.

(1) (a) Upon receipt of a certified petition ~~[under Subsection 10-2-110(1)(b)(i)]~~ or a certified ~~[modified]~~ amended petition under ~~[Subsection 10-2-110(3)]~~ Section 10-2-125, the ~~[county legislative body]~~ lieutenant governor shall:

(i) determine and set an election date for the incorporation election that is:

~~[(i)]~~ (A) on a general election date under Section 20A-1-201[;] or ~~[(B)]~~ on a local special election date under Section 20A-1-203; and

~~[(ii)]~~ (B) at least 65 days after the day that the legislative body receives the certified petition[;] and

(ii) direct the county legislative body of the county in which the incorporation is proposed to hold the election on the date determined by the lieutenant governor in accordance with Subsection (1)(a)(i).

(b) The county shall hold the election as directed by the lieutenant governor in accordance with Subsection (1)(a)(ii).

~~[(b)]~~ (c) Unless a person is a registered voter who resides, as defined in Section 20A-1-102, within the boundaries of the proposed town, the person may not vote on the proposed incorporation.

(2) (a) The county clerk shall publish notice of the election:

(i) in a newspaper of general circulation, within the area proposed to be incorporated, at least once a week for three successive weeks; and

(ii) in accordance with Section 45-1-101 for three weeks.

(b) The notice required by Subsection (2)(a) shall contain:

(i) a statement of the contents of the petition;

(ii) a description of the area proposed to be incorporated as a town;

(iii) a statement of the date and time of the election and the location of polling places; and

(iv) the ~~[county]~~ lieutenant governor's Internet website address, if applicable, and the address of the ~~[county office]~~ Office of the Lieutenant Governor where the feasibility study is available for review.

(c) The last publication of notice required under Subsection (2)(a) shall occur at least one day but no more than seven days before the election.

(d) (i) In accordance with Subsection (2)(a)(i), if there is no newspaper of general circulation within the proposed town, the county clerk shall post at least one notice of the election per 100 population in conspicuous places within the proposed town that are most likely to give notice of the election to the voters of the proposed town.

(ii) The clerk shall post the notices under Subsection (2)(d)(i) at least seven days before the election under Subsection (1)(a).

(3) The ballot at the incorporation election shall pose the incorporation question substantially as follows:

Shall the area described as (insert a description of the proposed town) be incorporated as the town of (insert the proposed name of the proposed town)?

(4) The ballot shall provide a space for the voter to answer yes or no to the question in Subsection (3).

(5) If a majority of those casting votes within the area boundaries of the proposed town vote to incorporate as a town, the area shall incorporate.

Section 16. Section 10-2-131 is enacted to read:

10-2-131. (Codified as 10-2a-307) Costs of town incorporation -- Fees established by lieutenant governor.

(1) (a) The lieutenant governor shall establish a fee in accordance with Section 63J-1-504 for a cost of an incorporation proceeding, including:

(i) a request certification;

(ii) a feasibility study;

(iii) a petition certification;

(iv) publication of notices;

(v) public hearings;

(vi) all other incorporation activities occurring after the elections; and

(vii) any other cost incurred by the lieutenant governor in relation to an incorporation proceeding.

(b) A cost under Subsection (1)(a) does not include a cost incurred by a county for holding an election under Section 10-2-127.

(2) Subject to Subsection (3)(a), the lieutenant governor shall, by supplemental appropriations, pay for a cost described in Subsections (1)(a)(i) through (vii).

(3) If incorporation occurs, the new town shall pay:

(a) to the lieutenant governor each fee established under Subsection (1) for each incurred cost described in Subsections (1)(a)(i) through (vii); and

(b) the county for a cost described in Subsection (1)(b).

Section 17. Section 63I-2-210 is amended to read:

63I-2-210. Repeal dates -- Title 10.

(1) Subsection 10-2-102.13(2), the language that states “, including a township incorporation procedure as defined in Section 10-2-130,” is repealed July 1, 2016.

[4] (2) Section 10-2-130 is repealed July 1, 2016.

[2] (3) Subsection 10-9a-305(2) is repealed July 1, 2013.

Section 18. Revisor instructions.

The Legislature intends that the Office of Legislative Research and General Counsel, in

preparing the Utah Code database for publication, replace the references in Subsections 10-2-102.13(1) and (2) from “this bill” to the bill’s designated chapter number in the Laws of Utah.

CHAPTER 158**H. B. 246**

Passed March 9, 2015

Approved March 25, 2015

Effective May 12, 2015

AMENDMENTS TO FIRE CODE

Chief Sponsor: Michael S. Kennedy

Senate Sponsor: Alvin B. Jackson

LONG TITLE**General Description:**

This bill amends provisions of the State Fire Code Act.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ modifies provisions relating to a person's right to appeal a fire code official's order, decision, or determination;
- ▶ addresses the timing for a secondary school in a Group E occupancy to perform certain emergency evacuation drills for fire; and
- ▶ addresses the process for accounting for and securing a key to a key box that a state fire official requires a person to install in accordance with the provisions of this bill.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

15A-5-102, as last amended by Laws of Utah 2012, Chapter 148

15A-5-202, as last amended by Laws of Utah 2013, Chapters 199, 357 and last amended by Coordination Clause, Laws of Utah 2013, Chapter 199

15A-5-202.5, as last amended by Laws of Utah 2014, Chapter 243

15A-5-203, as last amended by Laws of Utah 2013, Chapter 199

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

Section 1. Section 15A-5-102 is amended to read:**15A-5-102. Definitions.**

As used in this chapter:

(1) "Appreciable depth" means a depth greater than 1/4 inch.

(2) "AHJ" means "authority having jurisdiction," which is:

- (a) the State Fire Marshal;
- (b) an authorized deputy of the State Fire Marshal; or
- (c) the local fire enforcement authority.

(3) "Division" means the State Fire Marshal Division created in Section 53-7-103.

(4) (a) "Dwelling Unit" means one or more rooms arranged for the use of one or more individuals living together, as in a single housekeeping unit normally having cooking, living, sanitary, and sleeping facilities.

(b) "Dwelling unit" includes a hotel room, dormitory room, apartment, condominium, sleeping room in a nursing home, or similar living unit.

(5) "Fire jurisdiction" means a contiguous geographic area for which there is a single authority having jurisdiction.

~~[(5)]~~ (6) "IFC" means the edition of the International Fire Code adopted under Section 15A-5-103.

~~[(6)]~~ (7) "NFPA" means the edition of the National Fire Protection Association adopted under Section 15A-5-103.

~~[(7)]~~ (8) "Premixed" means the state of an antifreeze and water solution that results from the solution being prepared by the manufacturer with a quality control procedure that ensures that the antifreeze and water solution does not separate.

~~[(8)]~~ (9) "UL" means Underwriters Laboratories, Inc.

Section 2. Section 15A-5-202 is amended to read:**15A-5-202. Amendments and additions to IFC related to administration, permits, definitions and general and emergency planning.**

(1) For IFC, Chapter 1, Scope and Administration:

(a) IFC, Chapter 1, Section 102.9, is amended by adding the following immediately before the period: "on an emergency basis if:

(a) the facts known to the fire code official show that an immediate and significant danger to the public health, safety, or welfare exists; and

(b) the threat requires immediate action by the fire code official.

(2) In issuing its emergency order, the fire code official shall:

(a) limit the order to require only the action necessary to prevent or avoid the danger to the public health, safety, or welfare; and

(b) give immediate notice to the persons who are required to comply with the order, that includes a brief statement of the reasons for the fire code official's order.

(3) (a) If the emergency order issued under this section will result in the continued infringement or impairment of any legal right or interest of any party, the party shall have a right to appeal the fire code official's order in accordance with IFC, Chapter 1, Section 108."

(b) IFC, Chapter 1, Section 105.6.16, Flammable and combustible liquids, is amended to add the

following section: "12. The owner of an underground tank that is out of service for longer than one year shall receive a Temporary Closure Notice from the Department of Environmental Quality and a copy shall be given to the AHJ."

(c) In IFC, Chapter 1, Section 108, a new Section 108.4, Notice of right to appeal, is added as follows: "At the time a fire code official makes an order, decision, or determination that relates to the application or interpretation of this chapter, the fire code official shall inform the person affected by the order, decision, or determination of the person's right to appeal under this section. Upon request, the fire code official shall provide a person affected by an order, decision, or determination that relates to the application or interpretation of this chapter a written notice that describes the person's right to appeal under this section."

[(e)] (d) IFC, Chapter 1, Section 109.3, Notice of violation, is amended as follows: On line three, after the words "is in violation of this code," insert in the section the phrase "or other pertinent laws or ordinances".

(2) For IFC, Chapter 2, Definitions:

(a) IFC, Chapter 2, Section 202, General Definitions, the following definition is added for Ambulatory Surgical Center: "AMBULATORY SURGICAL CENTER. A building or portion of a building licensed by the Utah Department of Health where procedures are performed that may render patients incapable of self preservation where care is less than 24 hours."

(b) IFC, Chapter 2, Section 202, General Definitions, FOSTER CARE FACILITIES is amended as follows: the word "Foster" is changed to the word "Child."

(c) IFC, Chapter 2, Section 202, General Definitions, Occupancy Classification, Educational Group E, Day care facilities, is amended as follows: On line three delete the word "five" and replace it with the word "four". On line four after the word "supervision" add the words "child care centers."

(d) IFC, Chapter 2, Section 202, General Definitions, Occupancy Classification, Educational Group E, Five or fewer children is amended as follows: On line one the word "five" is deleted and replaced with the word "four" in both places.

(e) IFC, Chapter 2, Section 202, General Definitions, Occupancy Classification, Educational Group E, Five or fewer children in a dwelling unit, the word "five" is deleted and replaced with the word "four" in both places.

(f) IFC, Chapter 2, Section 202, General Definitions, Occupancy Classification, Educational Group E, a new section is added as follows: "Child Day Care -- Residential Certificate or a Family License. Areas used for child day care purposes with a Residential Certificate R430-50 or a Family License, as defined in Utah Administrative Code, R430-90, Licensed Family Child Care, may be located in a Group R-2 or R-3 occupancy as provided in Residential Group R-3, or shall comply

with the International Residential Code in accordance with Section R101.2."

(g) IFC, Chapter 2, Section 202, General Definitions, Occupancy Classification, Educational Group E, a new section is added as follows: "Child Care Centers. Areas used for Hourly Child Care Centers, as defined in Utah Administrative Code, R430-60, Child Care Center as defined in Utah Administrative Code, R430-100, or Out of School Time Programs, as defined in Utah Administrative Code, R430-70, may be classified as accessory occupancies."

(h) IFC, Chapter 2, Section 202, General Definitions, Occupancy Classification, Institutional Group I, Group I-1, is amended as follows: On line 8 add "Type I" in front of the words "Assisted living facilities".

(i) IFC, Chapter 2, Section 202, General Definitions, Occupancy Classification, Institutional Group I, Five or fewer persons receiving care is amended as follows: On line four after "International Residential Code" the rest of the section is deleted.

(j) IFC, Chapter 2, Section 202, General Definitions, Occupancy Classification, Institutional Group I, Group I-2, is amended as follows:

(i) On line three delete the word "five" and insert the word "three".

(ii) On line six the word "foster" is deleted and replaced with the word "child".

(iii) On line 10, after the words "Psychiatric hospitals", add the following to the list: "both intermediate nursing care and skilled nursing care facilities, ambulatory surgical centers with five or more operating rooms, and Type II assisted living facilities. Type II assisted living facilities with five or fewer persons shall be classified as a Group R-4. Type II assisted living facilities with at least six and not more than 16 residents shall be classified as a Group I-1 facility".

(k) IFC, Chapter 2, Section 202, General Definitions, Occupancy Classification, Institutional Group I, Group I-4, Day care facilities, Classification as Group E, is amended as follows:

(i) On line two delete the word "five" and replace it with the word "four".

(ii) On line three delete the words "2 1/2 years or less of age" and replace with the words "under the age of two".

(l) IFC, Chapter 2, Section 202, General Definitions, Occupancy Classification, Institutional Group Care I, Group I-4, Day care facilities, Five or fewer occupants receiving care in a dwelling unit, is amended as follows: On lines one and two the word "five" is deleted and replaced with the word "four".

(m) IFC, Chapter 2, Section 202, General Definitions, Occupancy Classification, Residential Group R-3, the words "and single family dwellings

complying with the IRC” are added after the word “Residential occupancies”.

(n) IFC, Chapter 2, Section 202, General Definitions, Occupancy Classification, Residential Group R-3, Care facilities within a dwelling, is amended as follows: On line three after the word “dwelling” insert “other than child care”.

(o) IFC, Chapter 2, Section 202, General Definitions, Occupancy Classification, Residential Group R-3, a new section is added as follows: “Child Care. Areas used for child care purposes may be located in a residential dwelling unit when all of the following conditions are met:

1. Compliance with Utah Administrative Code, R710-8, Day Care Rules, as enacted under the authority of the Utah Fire Prevention Board;

2. Use is approved by the Utah Department of Health under the authority of the Utah Code, Title 26, Chapter 39, Utah Child Care Licensing Act, and in any of the following categories:

1.1. Utah Administrative Code, R430-50, Residential Certificate Child Care; or

1.2. Utah Administrative Code, R430-90, Licensed Family Child Care; and

3. Compliance with all zoning regulations of the local regulator.”

(p) IFC, Chapter 2, Section 202, General Definitions, RECORD DRAWINGS, the definition for “RECORD DRAWINGS” is modified by deleting the words “a fire alarm system” and replacing them with “any fire protection system”.

Section 3. Section 15A-5-202.5 is amended to read:

15A-5-202.5. Amendments and additions to Chapters 3 and 4 of IFC.

(1) For IFC, Chapter 3, General Requirements:

(a) IFC, Chapter 3, Section 304.1.2, Vegetation, is amended as follows: Delete line six and replace it with: “the Utah Administrative Code, R652-122-200, Minimum Standards for Wildland Fire Ordinance”.

(b) IFC, Chapter 3, Section 308.1.2, Throwing or Placing Sources of Ignition, is deleted and rewritten as follows: “No person shall throw or place, or cause to be thrown or placed, a lighted match, cigar, cigarette, matches, lighters, or other flaming or glowing substance or object on any surface or article where it can cause an unwanted fire.”

(c) IFC, Chapter 3, Section 310.8, Hazardous and Environmental Conditions, is deleted and rewritten as follows: “When the fire code official determines that hazardous environmental conditions necessitate controlled use of any ignition source, including fireworks, lighters, matches, sky lanterns, and smoking materials, any of the following may occur:

1. If the hazardous environmental conditions exist in a municipality, the legislative body of the municipality may prohibit the ignition or use of an

ignition source in mountainous, brush-covered, or forest-covered areas or the wildland urban interface area, which means the line, area, or zone where structures or other human development meet or intermingle with undeveloped wildland or land being used for an agricultural purpose.

2. Except as provided in paragraph 3, if the hazardous environmental conditions exist in an unincorporated area, the state forester may prohibit the ignition or use of an ignition source in all or part of the areas described in paragraph 1 that are within the unincorporated area, after consulting with the county fire code official who has jurisdiction over that area.

3. If the hazardous environmental conditions exist in a township created under Section 17-27a-306 that is in a county of the first class, the county legislative body may prohibit the ignition or use of an ignition source in all or part of the areas described in paragraph 1 that are within the township.”

(d) IFC, Chapter 3, Section 311.1.1, Abandoned Premises, is amended as follows: On line 10 delete the words “International Property Maintenance Code and the”.

(e) IFC, Chapter 3, Section 311.5, Placards, is amended as follows: On line three delete the word “shall” and replace it with the word “may”.

(f) IFC, Chapter 3, Section 315.2.1, Ceiling Clearance, is amended to add the following: “Exception: Where storage is not directly below the sprinkler heads, storage is allowed to be placed to the ceiling on wall-mounted shelves that are protected by fire sprinkler heads in occupancies meeting classification as light or ordinary hazard.”

(2) IFC, Chapter 4, Emergency Planning and Preparedness:

(a) IFC, Chapter 4, Section 404.2, Where required, Subsection 8, is amended as follows: After the word “buildings” add “to include sororities and fraternity houses”.

(b) IFC, Chapter 4, Section 405.2, Table 405.2, is amended to add the following footnotes:

(i) “e. Secondary schools in Group E occupancies shall have an emergency evacuation drill for fire conducted at least every two months, to a total of four emergency evacuation drills during the nine-month school year. The first emergency evacuation drill for fire shall be conducted within 10 school days after the beginning of classes~~, and the~~. The third emergency evacuation drill for fire, weather permitting, shall be conducted 10 school days after the beginning of the next calendar year. The second and fourth emergency evacuation drills may be substituted by a security or safety drill to include shelter in place, earthquake drill, or lock down for violence. If inclement weather causes a secondary school to miss the 10-day deadline for the third emergency evacuation drill for fire, the secondary school shall perform the third emergency evacuation drill for fire as soon as practicable after the missed deadline.”

(ii) “f. In Group E occupancies, excluding secondary schools, if the AHJ approves, the

monthly required emergency evacuation drill can be substituted by a security or safety drill to include shelter in place, earthquake drill, or lock down for violence. The routine emergency evacuation drill for fire must be conducted at least every other evacuation drill.”

(iii) “g. A-3 occupancies in academic buildings of institutions of higher learning are required to have one emergency evacuation drill per year, provided the following conditions are met:

(A) The building has a fire alarm system in accordance with Section 907.2.

(B) The rooms classified as assembly shall have fire safety floor plans as required in Section 404.3.2(4) posted.

(C) The building is not classified a high-rise building.

(D) The building does not contain hazardous materials over the allowable quantities by code.”

Section 4. Section 15A-5-203 is amended to read:

15A-5-203. Amendments and additions to IFC related to fire safety, building, and site requirements.

(1) For IFC, Chapter 5, Fire Service Features:

(a) In IFC, Chapter 5, a new Section 501.5, Access grade and fire flow, is added as follows: “An authority having jurisdiction over a structure built in accordance with the requirements of the International Residential Code as adopted in the State Construction Code, may require an automatic fire sprinkler system for the structure only by ordinance and only if any of the following conditions exist:

(i) the structure:

(A) is located in an urban-wildland interface area as provided in the Utah Wildland Urban Interface Code adopted as a construction code under the State Construction Code; and

(B) does not meet the requirements described in Utah Code, Subsection 65A-8-203(3)(a) and Utah Administrative Code, R652-122-200, Minimum Standards for Wildland Fire Ordinance;

(ii) the structure is in an area where a public water distribution system with fire hydrants does not exist as required in Utah Administrative Code, R309-550-5, Water Main Design;

(iii) the only fire apparatus access road has a grade greater than 10% for more than 500 continual feet; or

(iv) (A) the water supply to the structure does not provide at least 500 gallons fire flow per minute for a minimum of 30 minutes, if the total square foot living space of the structure is equal to or less than 5,000 square feet;

(B) the water supply to the structure does not provide at least 750 gallons per minute fire flow for a minimum of 30 minutes, if the total square foot

living space exceeds 5,000 square feet, but is equal to or less than 10,000 square feet; or

(C) the water supply to the structure does not provide at least 1,000 gallons per minute fire flow for a minimum of 30 minutes, if the total square foot living space exceeds 10,000 square feet.”

(b) In IFC, Chapter 5, Section 506.1, Where Required, is deleted and rewritten as follows: “Where access to or within a structure or an area is restricted because of secured openings or where immediate access is necessary for life-saving or fire-fighting purposes, the fire code official, after consultation with the building owner, may require a key box to be installed in an approved location. The key box shall contain keys to gain necessary access as required by the fire code official. For each fire jurisdiction that has at least one building with a required key box, the fire jurisdiction shall adopt an ordinance, resolution, or other operating rule or policy that creates a process to ensure that each key to each key box is properly accounted for and secure.”

(c) In IFC, Chapter 5, a new Section 507.1.1, Isolated one- and two-family dwellings, is added as follows: “Fire flow may be reduced for an isolated one- and two-family dwelling when the authority having jurisdiction over the dwelling determines that the development of a full fire-flow requirement is impractical.”

(d) In IFC, Chapter 5, a new Section 507.1.2, Pre-existing subdivision lots, is added as follows: “Total water supply requirements shall not exceed the fire flows described in Section 501.5(iv) for the largest one- or two-family dwelling, protected by an automatic fire sprinkler system, on a subdivision lot platted before December 31, 1980, unless the municipality or county in which the lot is located provides the required fire flow capacity.”

(e) In IFC, Chapter 5, Section 510.1, Emergency Responder Radio Coverage in New Buildings, is amended by adding: “When required by the fire code official,” at the beginning of the first paragraph.

(2) For IFC, Chapter 6, Building Services and Systems:

(a) In IFC, Chapter 6, Section 605.11.3.3.1, Access, is deleted and rewritten as follows: “There shall be a minimum three foot wide (914 mm) clear perimeter around the edges of the roof.”

(b) In IFC, Chapter 6, Section 605.11.3.3.2, Pathways, is deleted and rewritten as follows: “The solar installation shall be designed to provide designated pathways. The pathways shall meet the following requirements:

1. The pathway shall be over areas capable of supporting the live load of fire fighters accessing the roof.

2. The centerline axis pathways shall be provided in both axes of the roof. Centerline axis pathways shall run where the roof structure is capable of supporting the live load of fire fighters accessing the roof.

3. Smoke and heat vents required by Section 910.2.1 or 910.2.2 of this Code, shall be provided

with a clear pathway width of not less than three feet (914 mm) to vents.

4. Access to roof area required by Section 504.2 or 1009.16 of this Code, shall be provided with a clear pathway width of not less than three feet (914 mm) around access opening and at least three feet (914 mm) clear pathway to parapet or roof edge.”

(c) In IFC, Chapter 6, Section 605.11.3.2, Residential Systems for One and Two Family Dwellings, is deleted and rewritten as follows: “Access to residential systems for one and two family dwellings shall be provided in accordance with Sections 605.11.3.2.1 through 605.11.3.2.4.

Exception: Reduction in pathways and clear access width shall be permitted where shown that a rational approach has been used and that such reductions are warranted when approved by the Fire Code Official.”

(d) In IFC, Chapter 6, Section 605.11.3.3.3, Smoke Ventilation, is deleted and rewritten as follows: “The solar installation shall be designed to meet the following requirements:

1. Arrays shall be no greater than 150 feet (45.720 mm) by 150 feet (45.720 mm) in distance in either axis in order to create opportunities for fire department smoke ventilation operations.

2. Smoke ventilation options between array sections shall be one of the following:

2.1. A pathway six feet (1829 mm) or greater in width.

2.2. A three foot (914 mm) or greater in width pathway and bordering roof skylights or smoke and heat vents when required by Section 910.2.1 or Section 910.2.2 of this Code.

2.3. Smoke and heat vents designed for remote operation using devices that can be connected to the vent by mechanical, electrical, or any other suitable means, shall be protected as necessary to remain operable for the design period. Controls for remote operation shall be located in a control panel, clearly identified and located in an approved location.”

(e) In IFC, Chapter 6, Section 607.4, Elevator Key Location, is deleted and rewritten as follows: “Firefighter service keys shall be kept in a “Supra-Stor-a-key” elevator key box or similar box with corresponding key system that is adjacent to the elevator for immediate use by the fire department. The key box shall contain one key for each elevator, one key for lobby control, and any other keys necessary for emergency service. The elevator key box shall be accessed using a 6049 numbered key.”

(f) In IFC, Chapter 6, Section 609.1, General, is amended as follows: On line three, after the word “Code”, add the words “and NFPA 96”.

(3) For IFC, Chapter 7, Fire-Resistance-Rated Construction, IFC, Chapter 7, Section 703.2, is amended to add the following: “Exception: In Group E Occupancies, where the corridor serves an occupant load greater than 30 and the building does

not have an automatic fire sprinkler system installed, the door closers may be of the friction hold-open type on classrooms’ doors with a rating of 20 minutes or less only.”

CHAPTER 159**H. B. 249**

Passed March 12, 2015
 Approved March 25, 2015
 Effective May 12, 2015

**RIGHTS OF CHILDREN CONCEIVED
 THROUGH ARTIFICIAL INSEMINATION**

Chief Sponsor: Dixon M. Pitcher
 Senate Sponsor: Brian E. Shiozawa

LONG TITLE**General Description:**

This bill amends provisions related to assisted reproduction.

Highlighted Provisions:

This bill:

- ▶ allows a person conceived through assisted reproduction access to nonidentifying medical history of the donor from the fertility clinic; and
- ▶ relieves the donor of financial liability for the resulting child.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

78B-15-708, Utah Code Annotated 1953

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

Section 1. Section 78B-15-708 is enacted to read:

78B-15-708. Access to identifying information and medical history.

(1) A person conceived through assisted reproduction who is at least 18 years of age shall be provided, upon the person's request, access to the nonidentifying medical history of the donor who assisted in the reproduction process that resulted in the person's birth.

(2) Under no circumstance may a person who donated to a fertility clinic for the purpose of assisted reproduction be liable for financial support to the child conceived through assisted reproduction or the child's parent.

(3) Except as provided in this section, a donor's request to remain anonymous shall be given full deference.

CHAPTER 160**H. B. 252**

Passed March 6, 2015

Approved March 25, 2015

Effective May 12, 2015

HUMAN TRAFFICKING AMENDMENTS

Chief Sponsor: Brian S. King
Senate Sponsor: Luz Escamilla

LONG TITLE**General Description:**

This bill modifies the Utah Criminal Code regarding the kidnapping, trafficking, and smuggling of persons younger than 18 years of age.

Highlighted Provisions:

This bill:

- ▶ modifies the definition of the crime of human trafficking of a child; and
- ▶ provides that a person who is convicted of human trafficking of a child is guilty of a first degree felony.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

76-5-309, as last amended by Laws of Utah 2014, Chapters 135 and 141

76-5-310, as last amended by Laws of Utah 2013, Chapter 196

ENACTS:

76-5-308.5, Utah Code Annotated 1953

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

Section 1. Section 76-5-308.5 is enacted to read:**76-5-308.5. Human trafficking of a child -- Penalties.**

(1) “Commercial sexual activity with a child” means any sexual act with a child, on account of which anything of value is given to or received by any person.

(2) An actor commits human trafficking of a child if the actor recruits, harbors, transports, or obtains a child for sexual exploitation or forced labor.

(3) (a) Human trafficking of a child for forced labor includes labor in industrial facilities, sweatshops, households, agricultural enterprises, or any other workplace.

(b) Human trafficking of a child for sexual exploitation includes all forms of commercial sexual activity with a child, including sexually explicit performance, prostitution, participation in the production of pornography, performance in a strip club, and exotic dancing or display.

(4) Human trafficking of a child in violation of this section is a first degree felony.

Section 2. Section 76-5-309 is amended to read:**76-5-309. Human trafficking and human smuggling -- Penalties.**

(1) Human trafficking for forced labor and human trafficking for forced sexual exploitation are each a second degree felony, except under Section 76-5-310.

(2) Human smuggling under Section 76-5-308 of one or more persons is a third degree felony, except under Section 76-5-310.

(3) Human trafficking for forced labor or for forced sexual exploitation, human trafficking of a child, and human smuggling are each a separate offense from any other crime committed in relationship to the commission of either of these offenses.

(4) Under circumstances not amounting to aggravated sexual abuse of a child, a violation of Subsection 76-5-404.1(4)(h), a person who benefits, receives, or exchanges anything of value from knowing participation in:

(a) human trafficking for forced labor or for forced sexual exploitation in violation of Section 76-5-308 is guilty of a second degree felony; and

(b) human smuggling is guilty of a third degree felony.

(5) A person commits a separate offense of human trafficking, human trafficking of a child, or human smuggling for each person who is smuggled or trafficked under Section 76-5-308, 76-5-308.5, or 76-5-310.

Section 3. Section 76-5-310 is amended to read:**76-5-310. Aggravated human trafficking and aggravated human smuggling -- Penalties.**

(1) An actor commits aggravated human trafficking for forced labor or forced sexual exploitation or aggravated human smuggling if, in the course of committing a human trafficking for forced labor or for forced sexual exploitation, a violation of Section 76-5-308, or human smuggling offense under Section 76-5-308, the offense:

(a) results in the death of the trafficked or smuggled person;

(b) results in serious bodily injury of the trafficked or smuggled person;

(c) involves:

(i) rape under Section 76-5-402;

(ii) rape of a child under Section 76-5-402.1;

(iii) object rape under Section 76-5-402.2;

(iv) object rape of a child under Section 76-5-402.3;

(v) forcible sodomy under Section 76-5-403;

(vi) sodomy on a child under Section 76-5-403.1;

(vii) aggravated sexual abuse of a child under Section 76-5-404.1; or

(viii) aggravated sexual assault under 76-5-405;

(d) involves 10 or more victims in a single episode of human trafficking or human smuggling; or

(e) involves a victim who is held against the victim's will for longer than 30 consecutive days.

~~[(2) An actor commits aggravated human trafficking for forced labor or forced sexual exploitation if the actor recruits, harbors, transports, or obtains a child for forced labor or forced sexual exploitation.]~~

~~[(3)]~~ (2) An actor commits aggravated human smuggling if the actor commits human smuggling under Section 76-5-308 and any human being whom the person engages in smuggling is:

(a) a child; and

(b) not accompanied by a family member who is 18 years of age or older.

~~[(4)]~~ (3) (a) Aggravated human trafficking is a first degree felony.

(b) Aggravated human smuggling is a second degree felony.

(c) Aggravated human trafficking and aggravated human smuggling are each a separate offense from any other crime committed in relationship to the commission of either of these offenses.

CHAPTER 161**H. B. 254**

Passed March 6, 2015

Approved March 25, 2015

Effective May 12, 2015

LIVESTOCK BRANDING AMENDMENTS

Chief Sponsor: Michael E. Noel

Senate Sponsor: Ralph Okerlund

LONG TITLE**General Description:**

This bill deals with the transportation and sale of livestock.

Highlighted Provisions:

This bill:

- ▶ defines the term “livestock emergency”;
- ▶ states that in a livestock emergency, the commissioner may require that a person transporting livestock have the livestock brand inspected;
- ▶ states that a website created and maintained within the state that markets the sale of livestock shall include a statement about the legal requirements surrounding the sale and purchase of livestock;
- ▶ describes criminal and administrative penalties; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

4-24-16.3, Utah Code Annotated 1953

4-24-31, Utah Code Annotated 1953

4-24-32, Utah Code Annotated 1953

REPEALS:

4-24-16, as last amended by Laws of Utah 1988, Chapter 139

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

Section 1. Section 4-24-16.3 is enacted to read:**4-24-16.3. Livestock emergency.**

(1) As used in this section, “livestock emergency” means:

(a) the presence of a contagious, infectious, or transmissible disease risk to livestock; or

(b) a natural disaster which may affect livestock.

(2) During a livestock emergency, the department may require a person transporting livestock to present the livestock for brand inspection.

Section 2. Section 4-24-31 is enacted to read:**4-24-31. Websites promoting the sale of livestock.**

(1) A website, created and maintained within the state, that markets the sale of livestock shall have

the following statement clearly visible on each web page that displays advertised livestock: “Legality of Sales and Purchase, Health Laws. If you sell or purchase livestock on this site, you shall comply with all applicable legal requirements governing the transfer and shipment of livestock, including Utah Code Title 4, Chapter 24, Utah Livestock Brand and Anti-Theft Act, and Title 4, Chapter 31, Control of Animal Disease. Please contact the Utah Department of Agriculture and Food at 801-538-7137 with any questions.”

(2) A person who violates this section shall be subject to the penalties described in Section 4-24-32.

Section 3. Section 4-24-32 is enacted to read:**4-24-32. Penalties.**

A person who violates a provision of this chapter:

(1) is guilty of a class B misdemeanor; and

(2) may be subject to administrative fines, payable to the department, of up to \$1,000 per violation.

Section 4. Repealer.

This bill repeals:

Section 4-24-16, Transportation of cattle and calves between brand inspection districts -- Brand inspection required -- Exception -- No fee for reinspection -- Application for brand inspection -- Time and place of inspection -- Applicability to horses and mules.

CHAPTER 162**H. B. 256**

Passed March 9, 2015

Approved March 25, 2015

Effective May 12, 2015

REVENUE REVIEWS FOR CERTAIN FUNDS

Chief Sponsor: Steve Eliason
Senate Sponsor: Curtis S. Bramble

LONG TITLE**General Description:**

This bill enacts provisions relating to contribution dependant accounts.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires that the Division of Finance prepare an annual report that recommends that the Legislature close each contribution dependant account that does not generate a certain amount of revenue.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

63A-3-8, Utah Code Annotated 1953

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

Section 1. Section 63A-3-8 is enacted to read:**63A-3-8. (Codified as 63A-3-108)****Contribution dependant accounts -- Annual report.**

(1) As used in this section:

(a) (i) "Contribution" means a voluntary donation of money or other valuable property to a state fund or account.

(ii) "Contribution" does not include:

(A) a fee or tax levied by a state entity; or

(B) a voluntary donation made under Title 41, Chapter 1a, Motor Vehicle Act or Title 59, Chapter 10, Part 13, Individual Income Tax Contribution Act.

(b) (i) "Contribution dependant account" means a state fund or account that:

(A) receives at least 50% of the fund's or account's revenue from contributions; and

(B) is not intended to be used to directly provide services exclusively to a person who makes a contribution to the fund or account.

(ii) "Contribution dependant account" does not include a trust and agency fund as defined in Section 51-5-4.

(2) The Division of Finance shall annually prepare a report that:

(a) lists each contribution dependant account that did not receive at least \$30,000 in contributions during at least one of the three fiscal years before the day on which the report is compiled; and

(b) recommends that the Legislature close each contribution dependant account listed in the report.

(3) The Division of Finance shall present the report described in Subsection (2) to the Executive Appropriations Committee by November 30 of each year.

CHAPTER 163**H. B. 259**

Passed March 6, 2015

Approved March 25, 2015

Effective May 12, 2015

**AMENDMENTS TO POWERS
AND DUTIES OF STATE PARKS**Chief Sponsor: Kraig Powell
Senate Sponsor: David P. Hinkins**LONG TITLE****General Description:**

This bill modifies the duties of the Division of Parks and Recreation.

Highlighted Provisions:

This bill:

- ▶ states that the Division of Parks and Recreation permit multiple use of state parks, including camping; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

79-4-203, as last amended by Laws of Utah 2012, Chapter 347

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

Section 1. Section 79-4-203 is amended to read:**79-4-203. Powers and duties of division.**

(1) As used in this section, "real property" includes land under water, upland, and all other property commonly or legally defined as real property.

(2) The Division of Wildlife Resources shall retain the power and jurisdiction conferred upon it by law within state parks and on property controlled by the Division of Parks and Recreation with reference to fish and game.

(3) The division shall permit multiple use of state parks and property controlled by it for purposes such as grazing, fishing, hunting, camping, mining, and the development and utilization of water and other natural resources.

(4) (a) The division may acquire real and personal property in the name of the state by all legal and proper means, including purchase, gift, devise, eminent domain, lease, exchange, or otherwise, subject to the approval of the executive director and the governor.

(b) In acquiring any real or personal property, the credit of the state may not be pledged without the consent of the Legislature.

(5) (a) Before acquiring any real property, the division shall notify the county legislative body of

the county where the property is situated of its intention to acquire the property.

(b) If the county legislative body requests a hearing within 10 days of receipt of the notice, the division shall hold a public hearing in the county concerning the matter.

(6) Acceptance of gifts or devises of land or other property is at the discretion of the division, subject to the approval of the executive director and the governor.

(7) The division shall acquire property by eminent domain in the manner authorized by Title 78B, Chapter 6, Part 5, Eminent Domain.

(8) (a) The division may make charges for special services and use of facilities, the income from which is available for park and recreation purposes.

(b) The division may conduct and operate those services necessary for the comfort and convenience of the public.

(9) (a) The division may lease or rent concessions of all lawful kinds and nature in state parks and property to persons, partnerships, and corporations for a valuable consideration upon the recommendation of the board.

(b) The division shall comply with Title 63G, Chapter 6a, Utah Procurement Code, in selecting concessionaires.

(10) The division shall proceed without delay to negotiate with the federal government concerning the Weber Basin and other recreation and reclamation projects.

(11) The division shall receive and distribute voluntary contributions collected under Section 41-1a-422 in accordance with Section 79-4-404.

CHAPTER 164**H. B. 273**

Passed March 9, 2015

Approved March 25, 2015

Effective May 12, 2015

INTEREST RATE SWAP AMENDMENTS

Chief Sponsor: John Knotwell
Senate Sponsor: Wayne A. Harper

LONG TITLE**General Description:**

This bill amends provisions related to an interest rate contract.

Highlighted Provisions:

This bill:

- ▶ requires the Utah Housing Corporation or a public treasurer to receive approval from the state treasurer when entering into an interest rate contract.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

35A-8-712, as renumbered and amended by Laws of Utah 2012, Chapter 212

51-7-17, as last amended by Laws of Utah 2014, Chapter 307

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

Section 1. Section 35A-8-712 is amended to read:**35A-8-712. Corporation -- Additional powers.**

(1) To accomplish the declared purposes of this part, the corporation has the following powers:

(a) to purchase mortgage loans originated by mortgage lenders or local public bodies made for the purpose of financing the construction, development, rehabilitation, or purchase of residential housing for low and moderate income persons;

(b) to make mortgage loans and to provide financial assistance to housing sponsors for the purpose of financing the construction, development, rehabilitation, or purchase of residential housing for low and moderate income persons;

(c) to make mortgage loans and provide financial assistance to housing sponsors for the purpose of financing the operations of a housing development that are necessary or desirable to enable the housing development to remain available as residential housing for low and moderate income persons, whether or not the housing development has been financed by the corporation;

(d) to provide financial assistance to any housing authority created under Part 4, Housing

Authorities, which housing authorities may enter into commitments for and accept loans for a housing project as defined in Section 35A-8-401; and

(e) to make mortgage loans and to provide financial assistance to low and moderate income persons for the construction, rehabilitation, or purchase of residential housing.

(2) The corporation may issue bonds to purchase loans under Subsection (1)(a) only after a determination by the corporation that the loans are not otherwise available upon reasonably equivalent terms and conditions from private lenders.

(3) Loans for owner-occupied housing made under Subsection (1)(a) may not include a penalty for prepayment.

(4) The corporation shall make rules or adopt policies and procedures to govern the activities authorized under this section, including:

(a) procedures for the submission of requests or the invitation of proposals for the purchase and sale of mortgage loans and the making of mortgage loans;

(b) rates, fees, charges, and other terms and conditions of originating or servicing mortgage loans in order to protect against a realization of an excessive financial return or benefit by the originator or servicer;

(c) the type and amount of collateral, payment bonds, performance bonds, or other security to be provided for construction loans made by the corporation;

(d) the nature and amounts of fees to be charged by the corporation to provide for expenses and reserves of the corporation;

(e) procedures allowing the corporation to prohibit persons who fail to comply with the rules of the corporation with respect to the operations of a program of the corporation from participating, either directly or indirectly, in the programs of the corporation;

(f) the terms and conditions under which the corporation may purchase and make mortgage loans under each program of the corporation;

(g) the terms and conditions under which the corporation may provide financial assistance under each program of the corporation;

(h) the terms and conditions under which the corporation may guarantee mortgage loans under each program of the corporation; and

(i) any other matters related to the duties or exercise of powers under this section.

(5) (a) (i) The trustees of the corporation shall elect the directors, trustees, and members, if any, of each subsidiary.

(ii) Service by a trustee of the corporation in any of these capacities does not constitute a conflict of interest for any purpose.

(iii) The corporation may delegate any of its powers and duties under this part to any subsidiary.

(iv) Subsidiaries shall constitute legal entities separate and distinct from each other, the corporation, and the state.

(b) A note, bond, and other obligation of a subsidiary shall contain on its face a statement to the effect that:

(i) the subsidiary is obligated to pay the note, bond, or other obligation solely from the revenues or other funds of the subsidiary;

(ii) neither the corporation nor the state nor any of its political subdivisions is obligated to pay the note, bond, or other obligation; and

(iii) neither the faith and credit nor the taxing power of the state or its political subdivisions is pledged to the payment of principal, or redemption price of, or the interest on the note, bond, or other obligation.

(c) Upon dissolution of a subsidiary of the corporation, any assets shall revert to the corporation or to a successor to the corporation or, failing this succession, to the state.

(6) (a) The corporation may, with the approval of the state treasurer:

(i) enter into interest rate contracts that its trustees determine are necessary, convenient, or appropriate for the control or management of debt or for the cost of servicing debt; and

(ii) use corporation funds to satisfy its payment obligations under those contracts.

(b) An interest rate contract may contain payment, security, default, termination, remedy, and other terms and conditions that the trustees consider appropriate.

(c) An interest rate contract and funds used in connection with an interest rate contract may not be considered a deposit or investment.

Section 2. Section 51-7-17 is amended to read:

51-7-17. Criteria for investments.

(1) As used in this section:

(a) "Affiliate" means, in relation to a provider:

(i) an entity controlled, directly or indirectly, by the provider;

(ii) an entity that controls, directly or indirectly, the provider; or

(iii) an entity directly or indirectly under common control with the provider.

(b) "Control" means ownership of a majority of the voting power of the entity or provider.

(2) (a) A public treasurer shall consider and meet the following objectives when depositing and investing public funds:

(i) safety of principal;

(ii) protection of principal during periods of financial market volatility;

(iii) need for liquidity;

(iv) yield on investments;

(v) recognition of the different investment objectives of operating and permanent funds; and

(vi) maturity of investments, so that the maturity date of the investment does not exceed the anticipated date of the expenditure of funds.

(b) A public treasurer shall invest the proceeds of general obligation bond issues, tax anticipation note issues, and funds pledged or otherwise dedicated to the payment of interest and principal of general obligation bonds and tax anticipation notes issued by the state or a political subdivision of the state in accordance with:

(i) Section 51-7-11; or

(ii) the terms of the borrowing instrument applicable to those issues and funds, if those terms are more restrictive than Section 51-7-11.

(c) A public treasurer shall invest the proceeds of bonds other than general obligation bonds and the proceeds of notes other than tax anticipation notes issued by the state or a political subdivision of the state, and all funds pledged or otherwise dedicated to the payment of interest and principal of those notes and bonds:

(i) in accordance with the terms of the borrowing instruments applicable to those bonds or notes; or

(ii) if none of those provisions are applicable, in accordance with Section 51-7-11.

(d) A public treasurer may invest proceeds of bonds, notes, or other money pledged or otherwise dedicated to the payment of debt service on the bonds or notes in investment agreements if:

(i) the investment is permitted by the terms of the borrowing instrument applicable to those bonds or notes or the borrowing instrument authorizes the investment as an investment permitted by the State Money Management Act;

(ii) either the provider of the investment agreement or an entity fully, unconditionally, and irrevocably guaranteeing the provider's obligations under the investment agreement has received a rating of:

(A) at least "AA-" from S&P or "Aa3" from Moody's for investment agreements having a term of more than one year; or

(B) at least "A-1+" from S&P or "P-1" from Moody's for investment agreements having a term of one year or less;

(iii) the investment agreement contains provisions approved by the public treasurer that provide that, in the event of a rating downgrade of the provider or its affiliate guarantor, as applicable, by either S&P or Moody's below the "A" category or its equivalent, or a rating downgrade of a nonaffiliate guarantor by either S&P or Moody's

below the “AA” category or its equivalent, the provider must, within 30 days after receipt of notice of the downgrade:

(A) collateralize the investment agreement with direct obligations of, or obligations guaranteed by, the United States of America having a market value at least equal to 105% of the amount of the money invested, valued at least quarterly, and deposit the collateral with a third-party custodian or trustee selected by the public treasurer; or

(B) terminate the agreement without penalty and repay all of the principal invested and the interest accrued on the investment to the date of termination; and

(iv) the public treasurer receives an enforceability opinion from the legal counsel of the investment agreement provider and, if there is a guarantee, an enforceability opinion from the legal counsel of the guarantor with respect to the guarantee.

(3) (a) As used in this Subsection (3), “interest rate contract” means interest rate exchange contracts, interest rate floor contracts, interest rate ceiling contracts, or other similar contracts authorized by resolution of the governing board or issuing authority, as applicable.

(b) A public treasurer may, with the approval of the state treasurer:

(i) enter into interest rate contracts that the governing board or issuing authority determines are necessary, convenient, or appropriate for the control or management of debt or for the cost of servicing debt; and

(ii) use its public funds to satisfy its payment obligations under those contracts.

(c) Those contracts:

(i) shall comply with the requirements established by council rules; and

(ii) may contain payment, security, default, termination, remedy, and other terms and conditions that the governing board or issuing authority considers appropriate.

(d) Neither interest rate contracts nor public funds used in connection with these interest rate contracts may be considered a deposit or investment.

(4) A public treasurer shall ensure that all public funds invested in deposit instruments are invested with qualified depositories within Utah, except:

(a) for deposits made in accordance with Section 53B-7-601 in a foreign depository institution as defined in Section 7-1-103;

(b) reciprocal deposits, subject to rules made by the council under Subsection 51-7-18(2); or

(c) if national market rates on instruments of similar quality and term exceed those offered by qualified depositories, investments in out-of-state deposit instruments may be made only with

institutions that meet quality criteria set forth by the rules of the council.

CHAPTER 165**H. B. 284**

Passed March 11, 2015

Approved March 25, 2015

Effective May 12, 2015

MINOR ALCOHOL OR DRUG RELATED OFFENSES AND DRIVING PRIVILEGES

Chief Sponsor: Edward H. Redd

Senate Sponsor: Scott K. Jenkins

LONG TITLE**General Description:**

This bill modifies provisions relating to sentencing requirements for certain alcohol or drug related offenses.

Highlighted Provisions:

This bill:

- ▶ authorizes a court to order a screening, an assessment, and an educational series or substance abuse treatment if found appropriate by the screening or assessment for a first violation of certain alcohol or drug related offenses committed by a minor;
- ▶ requires a court to order a screening, an assessment, and an educational series or substance abuse treatment if found appropriate by the screening or assessment for a second or subsequent violation of certain alcohol or drug related offenses committed by a minor;
- ▶ authorizes a court to reduce a driver license suspension period for certain alcohol or drug related offenses committed by a minor;
- ▶ amends the requirements for a court to reduce a driver license suspension period for certain alcohol or drug related offenses committed by a minor; and
- ▶ makes conforming and technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

32B-4-409, as last amended by Laws of Utah 2014, Chapter 314

32B-4-410, as last amended by Laws of Utah 2014, Chapter 314

32B-4-411, as enacted by Laws of Utah 2010, Chapter 276

53-3-220, as last amended by Laws of Utah 2010, Chapters 276 and 374

58-37-8, as last amended by Laws of Utah 2014, Chapters 19 and 51

76-9-701, as last amended by Laws of Utah 2014, Chapter 314

78A-6-606, as last amended by Laws of Utah 2014, Chapter 314

ENACTS:

58-37a-7, Utah Code Annotated 1953

58-37b-9, Utah Code Annotated 1953

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

Section 1. Section 32B-4-409 is amended to read:**32B-4-409. Unlawful purchase, possession, consumption by minor -- Measurable amounts in body.**

(1) Unless specifically authorized by this title, it is unlawful for a minor to:

- (a) purchase an alcoholic product;
- (b) attempt to purchase an alcoholic product;
- (c) solicit another person to purchase an alcoholic product;
- (d) possess an alcoholic product;
- (e) consume an alcoholic product; or
- (f) have measurable blood, breath, or urine alcohol concentration in the minor's body.

(2) It is unlawful for the purpose of purchasing or otherwise obtaining an alcoholic product for a minor for:

- (a) a minor to misrepresent the minor's age; or
- (b) any other person to misrepresent the age of a minor.

(3) It is unlawful for a minor to possess or consume an alcoholic product while riding in a limousine or chartered bus.

(4) (a) If a minor is found by a court to have violated this section and the violation is the minor's ~~second or subsequent~~ first violation of this section, the court may:

~~[(a) shall order the minor to participate in an educational series as defined in Section 41-6a-501; and]~~

~~[(b) may order the minor to participate in a screening as defined in Section 41-6a-501.]~~

(i) order the minor to complete a screening as defined in Section 41-6a-501;

(ii) order the minor to complete an assessment as defined in Section 41-6a-501 if the screening indicates an assessment to be appropriate; and

(iii) order the minor to complete an educational series as defined in Section 41-6a-501 or substance abuse treatment as indicated by an assessment.

(b) If a minor is found by a court to have violated this section and the violation is the minor's second or subsequent violation of this section, the court shall:

(i) order the minor to complete a screening as defined in Section 41-6a-501;

(ii) order the minor to complete an assessment as defined in Section 41-6a-501 if the screening indicates an assessment to be appropriate; and

(iii) order the minor to complete an educational series as defined in Section 41-6a-501 or substance abuse treatment as indicated by an assessment.

(5) (a) When a minor who is at least 18 years old, but younger than 21 years old, is found by a court to

have violated this section, except as provided in Section 32B-4-411, the court hearing the case shall suspend the minor's driving privileges under Section 53-3-219.

(b) Notwithstanding the provision in Subsection (5)(a), the court may reduce the suspension period required under Section 53-3-219 if:

(i) the violation is the minor's first violation of this section; and

(ii) (A) the minor completes an educational series as defined in Section 41-6a-501[-]; or

(B) the minor demonstrates substantial progress in substance abuse treatment.

(c) Notwithstanding the requirement in Subsection (5)(a) and in accordance with the requirements of Section 53-3-219, the court may reduce the suspension period required under Section 53-3-219 if:

(i) the violation is the minor's second or subsequent violation of this section; ~~and~~

(ii) the minor has completed an educational series as defined in Section 41-6a-501 or demonstrated substantial progress in substance abuse treatment; and

~~(iii)~~ (iii) (A) the person is 18 years of age or older and provides a sworn statement to the court that the person has not unlawfully consumed alcohol or drugs for at least a one-year consecutive period during the suspension period imposed under Subsection (5)(a); or

(B) the person is under 18 years of age and has the person's parent or legal guardian provide an affidavit or sworn statement to the court certifying that to the parent or legal guardian's knowledge the person has not unlawfully consumed alcohol or drugs for at least a one-year consecutive period during the suspension period imposed under Subsection (5)(a).

(6) When a minor who is at least 13 years old, but younger than 18 years old, is found by the court to have violated this section, Section 78A-6-606 applies to the violation.

(7) When a court issues an order suspending a person's driving privileges for a violation of this section, the Driver License Division shall suspend the person's license under Section 53-3-219.

(8) When the Department of Public Safety receives the arrest or conviction record of a person for a driving offense committed while the person's license is suspended pursuant to this section, the Department of Public Safety shall extend the suspension for an additional like period of time.

(9) This section does not apply to a minor's consumption of an alcoholic product in accordance with this title:

(a) for medicinal purposes if:

(i) the minor is at least 18 years old; or

(ii) the alcoholic product is furnished by:

(A) the parent or guardian of the minor; or

(B) the minor's health care practitioner, if the health care practitioner is authorized by law to write a prescription; or

(b) as part of a religious organization's religious services.

Section 2. Section 32B-4-410 is amended to read:

32B-4-410. Unlawful admittance or attempt to gain admittance by minor.

(1) It is unlawful for a minor to gain admittance or attempt to gain admittance to the premises of:

(a) a tavern; or

(b) a social club licensee, except to the extent authorized by Section 32B-6-406.1.

(2) A minor who violates this section is guilty of a class C misdemeanor.

(3) (a) If a minor is found by a court to have violated this section and the violation is the minor's [second or subsequent] first violation of this section, the court may:

~~[(a) shall order the minor to participate in an educational series as defined in Section 41-6a-501; and]~~

~~[(b) may order the minor to participate in a screening as defined in Section 41-6a-501.]~~

(i) order the minor to complete a screening as defined in Section 41-6a-501;

(ii) order the minor to complete an assessment as defined in Section 41-6a-501 if the screening indicates an assessment to be appropriate; and

(iii) order the minor to complete an educational series as defined in Section 41-6a-501 or substance abuse treatment as indicated by an assessment.

(b) If a minor is found by a court to have violated this section and the violation is the minor's second or subsequent violation of this section, the court shall:

(i) order the minor to complete a screening as defined in Section 41-6a-501;

(ii) order the minor to complete an assessment as defined in Section 41-6a-501 if the screening indicates an assessment to be appropriate; and

(iii) order the minor to complete an educational series as defined in Section 41-6a-501 or substance abuse treatment as indicated by an assessment.

(4) (a) When a minor who is at least 18 years old, but younger than 21 years old, is found by a court to have violated this section, except as provided in Section 32B-4-411, the court hearing the case shall suspend the minor's driving privileges under Section 53-3-219.

(b) Notwithstanding the provision in Subsection (4)(a), the court may reduce the suspension period required under Section 53-3-219 if:

(i) the violation is the minor's first violation of this section; and

(i) (A) the minor completes an educational series as defined in Section 41-6a-501[.]; or

(B) the minor demonstrates substantial progress in substance abuse treatment.

(c) Notwithstanding the requirement in Subsection (4)(a) and in accordance with the requirements of Section 53-3-219, the court may reduce the suspension period required under Section 53-3-219 if:

(i) the violation is the minor's second or subsequent violation of this section; ~~and~~

(ii) the minor has completed an educational series as defined in Section 41-6a-501 or demonstrated substantial progress in substance abuse treatment; and

~~(iii)~~ (iii) (A) the person is 18 years of age or older and provides a sworn statement to the court that the person has not unlawfully consumed alcohol or drugs for at least a one-year consecutive period during the suspension period imposed under Subsection (4)(a); or

(B) the person is under 18 years of age and has the person's parent or legal guardian provide an affidavit or sworn statement to the court certifying that to the parent or legal guardian's knowledge the person has not unlawfully consumed alcohol or drugs for at least a one-year consecutive period during the suspension period imposed under Subsection (4)(a).

(5) When a minor who is at least 13 years old, but younger than 18 years old, is found by a court to have violated this section, Section 78A-6-606 applies to the violation.

(6) When a court issues an order suspending a person's driving privileges for a violation of this section, the Driver License Division shall suspend the person's license under Section 53-3-219.

(7) When the Department of Public Safety receives the arrest or conviction record of a person for a driving offense committed while the person's license is suspended pursuant to this section, the Department of Public Safety shall extend the suspension for an additional like period of time.

Section 3. Section 32B-4-411 is amended to read:

32B-4-411. Minor's unlawful use of proof of age.

(1) As used in this section, "proof of age violation" means a violation by a minor of:

(a) Chapter 1, Part 4, Proof of Age Act; or

(b) if as part of the violation the minor uses a proof of age in violation of Chapter 1, Part 4, Proof of Age Act:

(i) Section 32B-4-409; or

(ii) Section 32B-4-410.

(2) If a court finds a minor engaged in a proof of age violation, notwithstanding the penalties provided for in Subsection (1):

(a) (i) for a first violation, the minor is guilty of a class B misdemeanor;

(ii) for a second violation, the minor is guilty of a class A misdemeanor; and

(iii) for a third or subsequent violation, the minor is guilty of a class A misdemeanor, except that the court may impose:

(A) a fine of up to \$5,000;

(B) screening, assessment, or substance abuse treatment, as defined in Section 41-6a-501;

(C) an educational series, as defined in Section 41-6a-501;

(D) alcoholic product related community service or compensatory service work program hours;

(E) fees for restitution and treatment costs;

(F) defensive driver education courses; or

(G) a combination of these penalties; and

(b) (i) for a minor who is at least 13 years old, but younger than 18 years old:

(A) the court shall forward to the Driver License Division a record of an adjudication under Title 78A, Chapter 6, Juvenile Court Act of 1996, for a violation under this section; and

(B) the provisions regarding suspension of a driver license under Section 78A-6-606 apply; and

(ii) for a minor who is at least 18 years old, but younger than 21 years old:

(A) the court shall forward to the Driver License Division a record of conviction for a violation under this section; and

(B) the Driver License Division shall suspend the person's license under Section 53-3-220.

(3) (a) Notwithstanding the requirement in Subsection (2)(b), the court may reduce the suspension period under Subsection 53-3-220(1)(e) or 78A-6-606(2)(d) if:

(i) the violation is the minor's first violation of Section 32B-4-411; and

(ii) (A) the minor completes an educational series as defined in Section 41-6a-501; or

(B) the minor demonstrates substantial progress in substance abuse treatment.

(b) Notwithstanding the requirement in Subsection (2)(b), the court may reduce the suspension period under Subsection 53-3-220(1)(e) or 78A-6-606(2)(d) if:

(i) the violation is the minor's second or subsequent violation of Section 32B-4-411;

(ii) the person has completed an educational series as defined in Section 41-6a-501 or demonstrated substantial progress in substance abuse treatment; and

(iii) (A) the person is 18 years of age or older and provides a sworn statement to the court that the person has not unlawfully consumed alcohol or drugs for at least a one-year consecutive period during the suspension period imposed under Subsection 53-3-220(1)(e) or 78A-6-606(2)(d); or

(B) the minor is under 18 years of age and has the minor's parent or legal guardian provide an affidavit or sworn statement to the court certifying that to the parent or legal guardian's knowledge the minor has not unlawfully consumed alcohol or drugs for at least a one-year consecutive period during the suspension period imposed under Subsection 53-3-220(1)(e) or 78A-6-606(2)(d).

[~~(3)~~] (4) When the Department of Public Safety receives the arrest or conviction record of an individual for a driving offense committed while the individual's license is suspended pursuant to this section, the Department of Public Safety shall extend the suspension for an additional like period of time.

[~~(4)~~] (5) A court may not fail to enter a judgment of conviction under this section under a plea in abeyance agreement.

Section 4. Section 53-3-220 is amended to read:

53-3-220. Offenses requiring mandatory revocation, denial, suspension, or disqualification of license -- Offense requiring an extension of period -- Hearing -- Limited driving privileges.

(1) (a) The division shall immediately revoke or, when this chapter, Title 41, Chapter 6a, Traffic Code, or Section 76-5-303, specifically provides for denial, suspension, or disqualification, the division shall deny, suspend, or disqualify the license of a person upon receiving a record of the person's conviction for:

(i) manslaughter or negligent homicide resulting from driving a motor vehicle, or automobile homicide under Section 76-5-207 or 76-5-207.5;

(ii) driving or being in actual physical control of a motor vehicle while under the influence of alcohol, any drug, or combination of them to a degree that renders the person incapable of safely driving a motor vehicle as prohibited in Section 41-6a-502 or as prohibited in an ordinance that complies with the requirements of Subsection 41-6a-510(1);

(iii) driving or being in actual physical control of a motor vehicle while having a blood or breath alcohol content as prohibited in Section 41-6a-502 or as prohibited in an ordinance that complies with the requirements of Subsection 41-6a-510(1);

(iv) perjury or the making of a false affidavit to the division under this chapter, Title 41, Motor Vehicles, or any other law of this state requiring the registration of motor vehicles or regulating driving on highways;

(v) any felony under the motor vehicle laws of this state;

(vi) any other felony in which a motor vehicle is used to facilitate the offense;

(vii) failure to stop and render aid as required under the laws of this state if a motor vehicle accident results in the death or personal injury of another;

(viii) two charges of reckless driving, impaired driving, or any combination of reckless driving and impaired driving committed within a period of 12 months; but if upon a first conviction of reckless driving or impaired driving the judge or justice recommends suspension of the convicted person's license, the division may after a hearing suspend the license for a period of three months;

(ix) failure to bring a motor vehicle to a stop at the command of a peace officer as required in Section 41-6a-210;

(x) any offense specified in Part 4, Uniform Commercial Driver License Act, that requires disqualification;

(xi) a felony violation of Section 76-10-508 or 76-10-508.1 involving discharging or allowing the discharge of a firearm from a vehicle;

(xii) using, allowing the use of, or causing to be used any explosive, chemical, or incendiary device from a vehicle in violation of Subsection 76-10-306(4)(b);

(xiii) operating or being in actual physical control of a motor vehicle while having any measurable controlled substance or metabolite of a controlled substance in the person's body in violation of Section 41-6a-517;

(xiv) until July 30, 2015, operating or being in actual physical control of a motor vehicle while having any alcohol in the person's body in violation of Section 53-3-232;

(xv) operating or being in actual physical control of a motor vehicle while having any measurable or detectable amount of alcohol in the person's body in violation of Section 41-6a-530;

(xvi) engaging in a motor vehicle speed contest or exhibition of speed on a highway in violation of Section 41-6a-606;

(xvii) operating or being in actual physical control of a motor vehicle in this state without an ignition interlock system in violation of Section 41-6a-518.2; or

(xviii) custodial interference, under:

(A) Subsection 76-5-303(3), which suspension shall be for a period of 30 days, unless the court provides the division with an order of suspension for a shorter period of time;

(B) Subsection 76-5-303(4), which suspension shall be for a period of 90 days, unless the court provides the division with an order of suspension for a shorter period of time; or

(C) Subsection 76-5-303(5), which suspension shall be for a period of 180 days, unless the court

provides the division with an order of suspension for a shorter period of time.

(b) The division shall immediately revoke the license of a person upon receiving a record of an adjudication under Title 78A, Chapter 6, Juvenile Court Act of 1996, for:

(i) a felony violation of Section 76-10-508 or 76-10-508.1 involving discharging or allowing the discharge of a firearm from a vehicle; or

(ii) using, allowing the use of, or causing to be used any explosive, chemical, or incendiary device from a vehicle in violation of Subsection 76-10-306(4)(b).

(c) Except when action is taken under Section 53-3-219 for the same offense, the division shall immediately suspend for six months the license of a person upon receiving a record of conviction for:

(i) any violation of:

(A) Title 58, Chapter 37, Utah Controlled Substances Act;

(B) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;

(C) Title 58, Chapter 37b, Imitation Controlled Substances Act;

(D) Title 58, Chapter 37c, Utah Controlled Substance Precursor Act; or

(E) Title 58, Chapter 37d, Clandestine Drug Lab Act; or

(ii) any criminal offense that prohibits:

(A) possession, distribution, manufacture, cultivation, sale, or transfer of any substance that is prohibited under the acts described in Subsection (1)(c)(i); or

(B) the attempt or conspiracy to possess, distribute, manufacture, cultivate, sell, or transfer any substance that is prohibited under the acts described in Subsection (1)(c)(i).

(d) (i) The division shall immediately suspend a person's driver license for conviction of the offense of theft of motor vehicle fuel under Section 76-6-404.7 if the division receives:

(A) an order from the sentencing court requiring that the person's driver license be suspended; and

(B) a record of the conviction.

(ii) An order of suspension under this section is at the discretion of the sentencing court, and may not be for more than 90 days for each offense.

(e) (i) The division shall immediately suspend for one year the license of a person upon receiving a record of:

(A) conviction for the first time for a violation under Section 32B-4-411; or

(B) an adjudication under Title 78A, Chapter 6, Juvenile Court Act of 1996, for a violation under Section 32B-4-411.

(ii) The division shall immediately suspend for a period of two years the license of a person upon receiving a record of:

(A) (I) conviction for a second or subsequent violation under Section 32B-4-411; and

(II) the violation described in Subsection (1)(e)(ii)(A)(I) is within 10 years of a prior conviction for a violation under Section 32B-4-411; or

(B) (I) a second or subsequent adjudication under Title 78A, Chapter 6, Juvenile Court Act of 1996, for a violation under Section 32B-4-411; and

(II) the adjudication described in Subsection (1)(e)(ii)(B)(I) is within 10 years of a prior adjudication under Title 78A, Chapter 6, Juvenile Court Act of 1996, for a violation under Section 32B-4-411.

(iii) Upon receipt of a record under Subsection (1)(e)(i) or (ii), the division shall:

(A) for a conviction or adjudication described in Subsection (1)(e)(i):

(I) impose a suspension for one year beginning on the date of conviction; or

(II) if the person is under the age of eligibility for a driver license, impose a suspension that begins on the date of conviction and continues for one year beginning on the date of eligibility for a driver license; or

(B) for a conviction or adjudication described in Subsection (1)(e)(ii):

(I) impose a suspension for a period of two years; or

(II) if the person is under the age of eligibility for a driver license, impose a suspension that begins on the date of conviction and continues for two years beginning on the date of eligibility for a driver license.

(iv) Upon receipt of the first order suspending a person's driving privileges under Section 32B-4-411, the division shall reduce the suspension period under Subsection (1)(e)(i) if ordered by the court in accordance with Subsection 32B-4-411(3)(a).

(v) Upon receipt of the second or subsequent order suspending a person's driving privileges under Section 32B-4-411, the division shall reduce the suspension period under Subsection (1)(e)(ii) if ordered by the court in accordance with Subsection 32B-4-411(3)(b).

(2) The division shall extend the period of the first denial, suspension, revocation, or disqualification for an additional like period, to a maximum of one year for each subsequent occurrence, upon receiving:

(a) a record of the conviction of any person on a charge of driving a motor vehicle while the person's license is denied, suspended, revoked, or disqualified;

(b) a record of a conviction of the person for any violation of the motor vehicle law in which the person was involved as a driver;

(c) a report of an arrest of the person for any violation of the motor vehicle law in which the person was involved as a driver; or

(d) a report of an accident in which the person was involved as a driver.

(3) When the division receives a report under Subsection (2)(c) or (d) that a person is driving while the person's license is denied, suspended, disqualified, or revoked, the person is entitled to a hearing regarding the extension of the time of denial, suspension, disqualification, or revocation originally imposed under Section 53-3-221.

(4) (a) The division may extend to a person the limited privilege of driving a motor vehicle to and from the person's place of employment or within other specified limits on recommendation of the judge in any case where a person is convicted of any of the offenses referred to in Subsections (1) and (2) except:

(i) automobile homicide under Subsection (1)(a)(i);

(ii) those offenses referred to in Subsections (1)(a)(ii), (iii), (xi), (xii), (xiii), (1)(b), and (1)(c); and

(iii) those offenses referred to in Subsection (2) when the original denial, suspension, revocation, or disqualification was imposed because of a violation of Section 41-6a-502, 41-6a-517, a local ordinance which complies with the requirements of Subsection 41-6a-510(1), Section 41-6a-520, or Section 76-5-207, or a criminal prohibition that the person was charged with violating as a result of a plea bargain after having been originally charged with violating one or more of these sections or ordinances, unless:

(A) the person has had the period of the first denial, suspension, revocation, or disqualification extended for a period of at least three years;

(B) the division receives written verification from the person's primary care physician that:

(I) to the physician's knowledge the person has not used any narcotic drug or other controlled substance except as prescribed by a licensed medical practitioner within the last three years; and

(II) the physician is not aware of any physical, emotional, or mental impairment that would affect the person's ability to operate a motor vehicle safely; and

(C) for a period of one year prior to the date of the request for a limited driving privilege:

(I) the person has not been convicted of a violation of any motor vehicle law in which the person was involved as the operator of the vehicle;

(II) the division has not received a report of an arrest for a violation of any motor vehicle law in which the person was involved as the operator of the vehicle; and

(III) the division has not received a report of an accident in which the person was involved as an operator of a vehicle.

(b) (i) Except as provided in Subsection (4)(b)(ii), the discretionary privilege authorized in this Subsection (4):

(A) is limited to when undue hardship would result from a failure to grant the privilege; and

(B) may be granted only once to any person during any single period of denial, suspension, revocation, or disqualification, or extension of that denial, suspension, revocation, or disqualification.

(ii) The discretionary privilege authorized in Subsection (4)(a)(iii):

(A) is limited to when the limited privilege is necessary for the person to commute to school or work; and

(B) may be granted only once to any person during any single period of denial, suspension, revocation, or disqualification, or extension of that denial, suspension, revocation, or disqualification.

(c) A limited CDL may not be granted to a person disqualified under Part 4, Uniform Commercial Driver License Act, or whose license has been revoked, suspended, cancelled, or denied under this chapter.

Section 5. Section 58-37-8 is amended to read:

58-37-8. Prohibited acts -- Penalties.

(1) Prohibited acts A -- Penalties:

(a) Except as authorized by this chapter, it is unlawful for any person to knowingly and intentionally:

(i) produce, manufacture, or dispense, or to possess with intent to produce, manufacture, or dispense, a controlled or counterfeit substance;

(ii) distribute a controlled or counterfeit substance, or to agree, consent, offer, or arrange to distribute a controlled or counterfeit substance;

(iii) possess a controlled or counterfeit substance with intent to distribute; or

(iv) engage in a continuing criminal enterprise where:

(A) the person participates, directs, or engages in conduct which results in any violation of any provision of Title 58, Chapters 37, 37a, 37b, 37c, or 37d that is a felony; and

(B) the violation is a part of a continuing series of two or more violations of Title 58, Chapters 37, 37a, 37b, 37c, or 37d on separate occasions that are undertaken in concert with five or more persons with respect to whom the person occupies a position of organizer, supervisor, or any other position of management.

(b) Any person convicted of violating Subsection (1)(a) with respect to:

(i) a substance or a counterfeit of a substance classified in Schedule I or II, a controlled substance

analog, or gammahydroxybutyric acid as listed in Schedule III is guilty of a second degree felony and upon a second or subsequent conviction is guilty of a first degree felony;

(ii) a substance or a counterfeit of a substance classified in Schedule III or IV, or marijuana, or a substance listed in Section 58-37-4.2 is guilty of a third degree felony, and upon a second or subsequent conviction is guilty of a second degree felony; or

(iii) a substance or a counterfeit of a substance classified in Schedule V is guilty of a class A misdemeanor and upon a second or subsequent conviction is guilty of a third degree felony.

(c) Any person who has been convicted of a violation of Subsection (1)(a)(ii) or (iii) may be sentenced to imprisonment for an indeterminate term as provided by law, but if the trier of fact finds a firearm as defined in Section 76-10-501 was used, carried, or possessed on his person or in his immediate possession during the commission or in furtherance of the offense, the court shall additionally sentence the person convicted for a term of one year to run consecutively and not concurrently; and the court may additionally sentence the person convicted for an indeterminate term not to exceed five years to run consecutively and not concurrently.

(d) Any person convicted of violating Subsection (1)(a)(iv) is guilty of a first degree felony punishable by imprisonment for an indeterminate term of not less than seven years and which may be for life. Imposition or execution of the sentence may not be suspended, and the person is not eligible for probation.

(2) Prohibited acts B -- Penalties:

(a) It is unlawful:

(i) for any person knowingly and intentionally to possess or use a controlled substance analog or a controlled substance, unless it was obtained under a valid prescription or order, directly from a practitioner while acting in the course of the person's professional practice, or as otherwise authorized by this chapter;

(ii) for any owner, tenant, licensee, or person in control of any building, room, tenement, vehicle, boat, aircraft, or other place knowingly and intentionally to permit them to be occupied by persons unlawfully possessing, using, or distributing controlled substances in any of those locations; or

(iii) for any person knowingly and intentionally to possess an altered or forged prescription or written order for a controlled substance.

(b) Any person convicted of violating Subsection (2)(a)(i) with respect to:

(i) marijuana, if the amount is 100 pounds or more, is guilty of a second degree felony;

(ii) a substance classified in Schedule I or II, marijuana, if the amount is more than 16 ounces, but less than 100 pounds, or a controlled substance analog, is guilty of a third degree felony; or

(iii) marijuana, if the marijuana is not in the form of an extracted resin from any part of the plant, and the amount is more than one ounce but less than 16 ounces, is guilty of a class A misdemeanor.

(c) Upon a person's conviction of a violation of this Subsection (2) subsequent to a conviction under Subsection (1)(a), that person shall be sentenced to a one degree greater penalty than provided in this Subsection (2).

(d) Any person who violates Subsection (2)(a)(i) with respect to all other controlled substances not included in Subsection (2)(b)(i), (ii), or (iii), including a substance listed in Section 58-37-4.2, or less than one ounce of marijuana, is guilty of a class B misdemeanor. Upon a second conviction the person is guilty of a class A misdemeanor, and upon a third or subsequent conviction the person is guilty of a third degree felony.

(e) Any person convicted of violating Subsection (2)(a)(i) while inside the exterior boundaries of property occupied by any correctional facility as defined in Section 64-13-1 or any public jail or other place of confinement shall be sentenced to a penalty one degree greater than provided in Subsection (2)(b), and if the conviction is with respect to controlled substances as listed in:

(i) Subsection (2)(b), the person may be sentenced to imprisonment for an indeterminate term as provided by law, and:

(A) the court shall additionally sentence the person convicted to a term of one year to run consecutively and not concurrently; and

(B) the court may additionally sentence the person convicted for an indeterminate term not to exceed five years to run consecutively and not concurrently; and

(ii) Subsection (2)(d), the person may be sentenced to imprisonment for an indeterminate term as provided by law, and the court shall additionally sentence the person convicted to a term of six months to run consecutively and not concurrently.

(f) Any person convicted of violating Subsection (2)(a)(ii) or (iii) is:

(i) on a first conviction, guilty of a class B misdemeanor;

(ii) on a second conviction, guilty of a class A misdemeanor; and

(iii) on a third or subsequent conviction, guilty of a third degree felony.

(g) A person is subject to the penalties under Subsection (2)(h) who, in an offense not amounting to a violation of Section 76-5-207:

(i) violates Subsection (2)(a)(i) by knowingly and intentionally having in the person's body any measurable amount of a controlled substance; and

(i) operates a motor vehicle as defined in Section 76-5-207 in a negligent manner, causing serious bodily injury as defined in Section 76-1-601 or the death of another.

(h) A person who violates Subsection (2)(g) by having in the person's body:

(i) a controlled substance classified under Schedule I, other than those described in Subsection (2)(h)(ii), or a controlled substance classified under Schedule II is guilty of a second degree felony;

(ii) marijuana, tetrahydrocannabinols, or equivalents described in Subsection 58-37-4(2)(a)(iii)(S) or (AA), or a substance listed in Section 58-37-4.2 is guilty of a third degree felony; or

(iii) any controlled substance classified under Schedules III, IV, or V is guilty of a class A misdemeanor.

(i) A person is guilty of a separate offense for each victim suffering serious bodily injury or death as a result of the person's negligent driving in violation of Subsection 58-37-8(2)(g) whether or not the injuries arise from the same episode of driving.

(3) Prohibited acts C -- Penalties:

(a) It is unlawful for any person knowingly and intentionally:

(i) to use in the course of the manufacture or distribution of a controlled substance a license number which is fictitious, revoked, suspended, or issued to another person or, for the purpose of obtaining a controlled substance, to assume the title of, or represent oneself to be, a manufacturer, wholesaler, apothecary, physician, dentist, veterinarian, or other authorized person;

(ii) to acquire or obtain possession of, to procure or attempt to procure the administration of, to obtain a prescription for, to prescribe or dispense to any person known to be attempting to acquire or obtain possession of, or to procure the administration of any controlled substance by misrepresentation or failure by the person to disclose receiving any controlled substance from another source, fraud, forgery, deception, subterfuge, alteration of a prescription or written order for a controlled substance, or the use of a false name or address;

(iii) to make any false or forged prescription or written order for a controlled substance, or to utter the same, or to alter any prescription or written order issued or written under the terms of this chapter; or

(iv) to make, distribute, or possess any punch, die, plate, stone, or other thing designed to print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or device of another or any likeness of any of the foregoing upon any drug or container or labeling so as to render any drug a counterfeit controlled substance.

(b) Any person convicted of violating Subsection (3)(a) is guilty of a third degree felony.

(4) Prohibited acts D -- Penalties:

(a) Notwithstanding other provisions of this section, a person not authorized under this chapter who commits any act declared to be unlawful under this section, Title 58, Chapter 37a, Utah Drug Paraphernalia Act, or under Title 58, Chapter 37b, Imitation Controlled Substances Act, is upon conviction subject to the penalties and classifications under this Subsection (4) if the trier of fact finds the act is committed:

(i) in a public or private elementary or secondary school or on the grounds of any of those schools;

(ii) in a public or private vocational school or postsecondary institution or on the grounds of any of those schools or institutions;

(iii) in those portions of any building, park, stadium, or other structure or grounds which are, at the time of the act, being used for an activity sponsored by or through a school or institution under Subsections (4)(a)(i) and (ii);

(iv) in or on the grounds of a preschool or child-care facility;

(v) in a public park, amusement park, arcade, or recreation center;

(vi) in or on the grounds of a house of worship as defined in Section 76-10-501;

(vii) in a shopping mall, sports facility, stadium, arena, theater, movie house, playhouse, or parking lot or structure adjacent thereto;

(viii) in or on the grounds of a library;

(ix) within any area that is within 1,000 feet of any structure, facility, or grounds included in Subsections (4)(a)(i), (ii), (iv), (vi), and (vii);

(x) in the presence of a person younger than 18 years of age, regardless of where the act occurs; or

(xi) for the purpose of facilitating, arranging, or causing the transport, delivery, or distribution of a substance in violation of this section to an inmate or on the grounds of any correctional facility as defined in Section 76-8-311.3.

(b) (i) A person convicted under this Subsection (4) is guilty of a first degree felony and shall be imprisoned for a term of not less than five years if the penalty that would otherwise have been established but for this Subsection (4) would have been a first degree felony.

(ii) Imposition or execution of the sentence may not be suspended, and the person is not eligible for probation.

(c) If the classification that would otherwise have been established would have been less than a first degree felony but for this Subsection (4), a person convicted under this Subsection (4) is guilty of one degree more than the maximum penalty prescribed for that offense. This Subsection (4)(c) does not apply to a violation of Subsection (2)(g).

(d) (i) If the violation is of Subsection (4)(a)(xi):

(A) the person may be sentenced to imprisonment for an indeterminate term as provided by law, and the court shall additionally sentence the person convicted for a term of one year to run consecutively and not concurrently; and

(B) the court may additionally sentence the person convicted for an indeterminate term not to exceed five years to run consecutively and not concurrently; and

(ii) the penalties under this Subsection (4)(d) apply also to any person who, acting with the mental state required for the commission of an offense, directly or indirectly solicits, requests, commands, coerces, encourages, or intentionally aids another person to commit a violation of Subsection (4)(a)(xi).

(e) It is not a defense to a prosecution under this Subsection (4) that the actor mistakenly believed the individual to be 18 years of age or older at the time of the offense or was unaware of the individual's true age; nor that the actor mistakenly believed that the location where the act occurred was not as described in Subsection (4)(a) or was unaware that the location where the act occurred was as described in Subsection (4)(a).

(5) Any violation of this chapter for which no penalty is specified is a class B misdemeanor.

(6) For purposes of penalty enhancement under Subsections (1)(b) and (2)(c), a plea of guilty or no contest to a violation of this section which is held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction, even if the charge has been subsequently reduced or dismissed in accordance with the plea in abeyance agreement.

(7) A person may be charged and sentenced for a violation of this section, notwithstanding a charge and sentence for a violation of any other section of this chapter.

(8) (a) Any penalty imposed for violation of this section is in addition to, and not in lieu of, any civil or administrative penalty or sanction authorized by law.

(b) Where violation of this chapter violates a federal law or the law of another state, conviction or acquittal under federal law or the law of another state for the same act is a bar to prosecution in this state.

(9) In any prosecution for a violation of this chapter, evidence or proof which shows a person or persons produced, manufactured, possessed, distributed, or dispensed a controlled substance or substances, is prima facie evidence that the person or persons did so with knowledge of the character of the substance or substances.

(10) This section does not prohibit a veterinarian, in good faith and in the course of the veterinarian's professional practice only and not for humans, from prescribing, dispensing, or administering controlled substances or from causing the

substances to be administered by an assistant or orderly under the veterinarian's direction and supervision.

(11) Civil or criminal liability may not be imposed under this section on:

(a) any person registered under this chapter who manufactures, distributes, or possesses an imitation controlled substance for use as a placebo or investigational new drug by a registered practitioner in the ordinary course of professional practice or research; or

(b) any law enforcement officer acting in the course and legitimate scope of the officer's employment.

(12) (a) Civil or criminal liability may not be imposed under this section on any Indian, as defined in Subsection 58-37-2(1)(v), who uses, possesses, or transports peyote for bona fide traditional ceremonial purposes in connection with the practice of a traditional Indian religion as defined in Subsection 58-37-2(1)(w).

(b) In a prosecution alleging violation of this section regarding peyote as defined in Subsection 58-37-4(2)(a)(iii)(V), it is an affirmative defense that the peyote was used, possessed, or transported by an Indian for bona fide traditional ceremonial purposes in connection with the practice of a traditional Indian religion.

(c) (i) The defendant shall provide written notice of intent to claim an affirmative defense under this Subsection (12) as soon as practicable, but not later than 10 days prior to trial.

(ii) The notice shall include the specific claims of the affirmative defense.

(iii) The court may waive the notice requirement in the interest of justice for good cause shown, if the prosecutor is not unfairly prejudiced by the lack of timely notice.

(d) The defendant shall establish the affirmative defense under this Subsection (12) by a preponderance of the evidence. If the defense is established, it is a complete defense to the charges.

(13) (a) It is an affirmative defense that the person produced, possessed, or administered a controlled substance listed in Section 58-37-4.2 if the person:

(i) was engaged in medical research; and

(ii) was a holder of a valid license to possess controlled substances under Section 58-37-6.

(b) It is not a defense under Subsection (13)(a) that the person prescribed or dispensed a controlled substance listed in Section 58-37-4.2.

(14) It is an affirmative defense that the person possessed, in the person's body, a controlled substance listed in Section 58-37-4.2 if:

(a) the person was the subject of medical research conducted by a holder of a valid license to possess controlled substances under Section 58-37-6; and

(b) the substance was administered to the person by the medical researcher.

(15) The application of any increase in penalty under this section to a violation of Subsection (2)(a)(i) may not result in any greater penalty than a second degree felony. This Subsection (15) takes precedence over any conflicting provision of this section.

(16) (a) It is an affirmative defense to an allegation of the commission of an offense listed in Subsection (16)(b) that the person:

(i) reasonably believes that the person or another person is experiencing an overdose event due to the ingestion, injection, inhalation, or other introduction into the human body of a controlled substance or other substance;

(ii) reports in good faith the overdose event to a medical provider, an emergency medical service provider as defined in Section 26-8a-102, a law enforcement officer, a 911 emergency call system, or an emergency dispatch system, or the person is the subject of a report made under this Subsection (16);

(iii) provides in the report under Subsection (16)(a)(ii) a functional description of the actual location of the overdose event that facilitates responding to the person experiencing the overdose event;

(iv) remains at the location of the person experiencing the overdose event until a responding law enforcement officer or emergency medical service provider arrives, or remains at the medical care facility where the person experiencing an overdose event is located until a responding law enforcement officer arrives;

(v) cooperates with the responding medical provider, emergency medical service provider, and law enforcement officer, including providing information regarding the person experiencing the overdose event and any substances the person may have injected, inhaled, or otherwise introduced into the person's body; and

(vi) is alleged to have committed the offense in the same course of events from which the reported overdose arose.

(b) The offenses referred to in Subsection (16)(a) are:

(i) the possession or use of less than 16 ounces of marijuana;

(ii) the possession or use of a scheduled or listed controlled substance other than marijuana; and

(iii) any violation of Chapter 37a, Utah Drug Paraphernalia Act, or Chapter 37b, Imitation Controlled Substances Act.

(c) As used in this Subsection (16) and in Section 76-3-203.11, "good faith" does not include seeking medical assistance under this section during the course of a law enforcement agency's execution of a search warrant, execution of an arrest warrant, or other lawful search.

(17) If any provision of this chapter, or the application of any provision to any person or

circumstances, is held invalid, the remainder of this chapter shall be given effect without the invalid provision or application.

(18) A legislative body of a political subdivision may not enact an ordinance that is less restrictive than any provision of this chapter.

(19) (a) If a minor who is under 18 years of age is found by a court to have violated this section and the violation is the minor's first violation of this section, the court may:

(i) order the minor to complete a screening as defined in Section 41-6a-501;

(ii) order the minor to complete an assessment as defined in Section 41-6a-501 if the screening indicates an assessment to be appropriate; and

(iii) order the minor to complete an educational series as defined in Section 41-6a-501 or substance abuse treatment as indicated by an assessment.

(b) If a minor who is under 18 years of age is found by a court to have violated this section and the violation is the minor's second or subsequent violation of this section, the court shall:

(i) order the minor to complete a screening as defined in Section 41-6a-501;

(ii) order the minor to complete an assessment as defined in Section 41-6a-501 if the screening indicates an assessment to be appropriate; and

(iii) order the minor to complete an educational series as defined in Section 41-6a-501 or substance abuse treatment as indicated by an assessment.

Section 6. Section 58-37a-7 is enacted to read:

58-37a-7. Sentencing requirements for minors.

(1) If a minor who is under 18 years of age is found by a court to have violated this chapter and the violation is the minor's first violation of this chapter, the court may:

(a) order the minor to complete a screening as defined in Section 41-6a-501;

(b) order the minor to complete an assessment as defined in Section 41-6a-501 if the screening indicates an assessment to be appropriate; and

(c) order the minor to complete an educational series as defined in Section 41-6a-501 or substance abuse treatment as indicated by an assessment.

(2) If a minor who is under 18 years of age is found by a court to have violated this chapter and the violation is the minor's second or subsequent violation of this chapter, the court shall:

(a) order the minor to complete a screening as defined in Section 41-6a-501;

(b) order the minor to complete an assessment as defined in Section 41-6a-501 if the screening indicates an assessment to be appropriate; and

(c) order the minor to complete an educational series as defined in Section 41-6a-501 or substance abuse treatment as indicated by an assessment.

Section 7. Section 58-37b-9 is enacted to read:

58-37b-9. Sentencing requirements for minors.

(1) If a minor who is under 18 years of age is found by a court to have violated this chapter and the violation is the minor's first violation of this chapter, the court may:

(a) order the minor to complete a screening as defined in Section 41-6a-501;

(b) order the minor to complete an assessment as defined in Section 41-6a-501 if the screening indicates an assessment to be appropriate; and

(c) order the minor to complete an educational series as defined in Section 41-6a-501 or substance abuse treatment as indicated by an assessment.

(2) If a minor is found by a court to have violated this chapter and the violation is the minor's second or subsequent violation of this chapter, the court shall:

(a) order the minor to complete a screening as defined in Section 41-6a-501;

(b) order the minor to complete an assessment as defined in Section 41-6a-501 if the screening indicates an assessment to be appropriate; and

(c) order the minor to complete an educational series as defined in Section 41-6a-501 or substance abuse treatment as indicated by an assessment.

Section 8. Section 76-9-701 is amended to read:

76-9-701. Intoxication -- Release of arrested person or placement in detoxification center.

(1) A person is guilty of intoxication if the person is under the influence of alcohol, a controlled substance, or any substance having the property of releasing toxic vapors, to a degree that the person may endanger the person or another, in a public place or in a private place where the person unreasonably disturbs other persons.

(2) (a) A peace officer or a magistrate may release from custody a person arrested under this section if the peace officer or magistrate believes imprisonment is unnecessary for the protection of the person or another.

(b) A peace officer may take the arrested person to a detoxification center or other special facility as an alternative to incarceration or release from custody.

(3) (a) If a minor is found by a court to have violated this section and the violation is the minor's [second or subsequent] first violation of this section, the court may:

[~~(a) shall order the minor to participate in an educational series as defined in Section 41-6a-501; and~~]

[~~(b) may order the minor to participate in a screening as defined in Section 41-6a-501.~~]

(i) order the minor to complete a screening as defined in Section 41-6a-501;

(ii) order the minor to complete an assessment as defined in Section 41-6a-501 if the screening indicates an assessment to be appropriate; and

(iii) order the minor to complete an educational series as defined in Section 41-6a-501 or substance abuse treatment as indicated by an assessment.

(b) If a minor is found by a court to have violated this section and the violation is the minor's second or subsequent violation of this section, the court shall:

(i) order the minor to complete a screening as defined in Section 41-6a-501;

(ii) order the minor to complete an assessment as defined in Section 41-6a-501 if the screening indicates an assessment to be appropriate; and

(iii) order the minor to complete an educational series as defined in Section 41-6a-501 or substance abuse treatment as indicated by an assessment.

(4) (a) When a minor who is at least 18 years old, but younger than 21 years old, is found by a court to have violated this section, the court hearing the case shall suspend the minor's driving privileges under Section 53-3-219.

(b) Notwithstanding the requirement in Subsection (4)(a), the court may reduce the suspension period required under Section 53-3-219 if:

(i) the violation is the minor's first violation of this section; and

(ii) (A) the minor completes an educational series as defined in Section 41-6a-501[-]; or

(B) the minor demonstrates substantial progress in substance abuse treatment.

(c) Notwithstanding the requirement in Subsection (4)(a) and in accordance with the requirements of Section 53-3-219, the court may reduce the suspension period required under Section 53-3-219 if:

(i) the violation is the minor's second or subsequent violation of this section; ~~and~~

(ii) the minor has completed an educational series as defined in Section 41-6a-501 or demonstrated substantial progress in substance abuse treatment; and

[~~(iii)~~] (iii) (A) the person is 18 years of age or older and provides a sworn statement to the court that the person has not unlawfully consumed alcohol or drugs for at least a one-year consecutive period during the suspension period imposed under Subsection (4)(a); or

(B) the person is under 18 years of age and has the person's parent or legal guardian provide an affidavit or sworn statement to the court certifying that to the parent or legal guardian's knowledge the person has not unlawfully consumed alcohol or drugs for at least a one-year consecutive period during the suspension period imposed under Subsection (4)(a).

(5) When a person who is at least 13 years old, but younger than 18 years old, is found by a court to have violated this section, the provisions regarding suspension of the driver's license under Section 78A-6-606 apply to the violation.

(6) When the court issues an order suspending a person's driving privileges for a violation of this section, the person's driver license shall be suspended under Section 53-3-219.

(7) An offense under this section is a class C misdemeanor.

Section 9. Section 78A-6-606 is amended to read:

78A-6-606. Suspension of license for certain offenses.

(1) This section applies to a minor who is at least 13 years of age when found by the court to be within its jurisdiction by the commission of an offense under:

- (a) Section 32B-4-409;
- (b) Section 32B-4-410;
- (c) Section 32B-4-411;
- (d) Section 58-37-8;
- (e) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;
- (f) Title 58, Chapter 37b, Imitation Controlled Substances Act; or
- (g) Subsection 76-9-701(1).

(2) If the court hearing the case determines that the minor committed an offense under Section 58-37-8 or Title 58, Chapter 37a or 37b, the court shall prepare and send to the Driver License Division of the Department of Public Safety an order to suspend that minor's driving privileges.

(3) (a) The court hearing the case shall suspend the minor's driving privileges if ~~[(i)]~~ the minor violated Section 32B-4-409, Section 32B-4-410, or Subsection 76-9-701(1) ~~[(i)]~~ and].

~~[(ii) the violation described in Subsection (3)(a)(i) was committed on or after July 1, 2009.]~~

(b) Notwithstanding the requirement in Subsection (2) or (3)(a), the court may reduce the suspension period required under Section 53-3-219 if:

- (i) the violation is the minor's first violation of:
 - (A) Section 32B-4-409[;];
 - (B) Section 32B-4-410[;];
 - (C) Section 58-37-8;
 - (D) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;
 - (E) Title 58, Chapter 37b, Imitation Controlled Substances Act; or
 - (F) Subsection 76-9-701(1); and

(ii) (A) the minor completes an educational series as defined in Section 41-6a-501[.]; or

(B) the minor demonstrates substantial progress in substance abuse treatment.

(c) Notwithstanding the requirement in Subsection (2) or (3)(a) and in accordance with the requirements of Section 53-3-219, the court may reduce the suspension period required under Section 53-3-219 if:

(i) the violation is the minor's second or subsequent violation of:

- (A) Section 32B-4-409[;];
- (B) Section 32B-4-410[;];
- (C) Section 58-37-8;
- (D) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;
- (E) Title 58, Chapter 37b, Imitation Controlled Substances Act; or
- (F) Subsection 76-9-701(1); and

(ii) the minor has completed an educational series as defined in Section 41-6a-501 or demonstrated substantial progress in substance abuse treatment; and

~~[(iii)]~~ (iii) (A) the person is 18 years of age or older and provides a sworn statement to the court that the person has not unlawfully consumed alcohol or drugs for at least a one-year consecutive period during the suspension period imposed under Subsection (3)(a); or

(B) the person is under 18 years of age and has the person's parent or legal guardian provide an affidavit or sworn statement to the court certifying that to the parent or legal guardian's knowledge the person has not unlawfully consumed alcohol or drugs for at least a one-year consecutive period during the suspension period imposed under Subsection (3)(a).

(d) If a minor commits a proof of age violation, as defined in Section 32B-4-411:

(i) the court shall forward a record of adjudication to the Department of Public Safety for a first or subsequent violation; and

(ii) the minor's driving privileges will be suspended:

(A) for a period of at least one year under Section 53-3-220 for a first conviction for a violation of Section 32B-4-411; or

(B) for a period of two years for a second or subsequent conviction for a violation of Section 32B-4-411.

(e) Notwithstanding the requirement in Subsection (3)(d), the court may reduce the suspension period imposed under Subsection (3)(d)(ii)(A) if:

(i) the violation is the minor's first violation of Section 32B-4-411; and

(ii) (A) the minor completes an educational series as defined in Section 41-6a-501; or

(B) the minor demonstrates substantial progress in substance abuse treatment.

(iii) the minor has completed an educational series as defined in Section 41-6a-501 or demonstrated substantial progress in substance abuse treatment; and

(iv) the person is 18 years of age or older and provides a sworn statement to the court that the person has not unlawfully consumed alcohol or drugs for at least a one-year consecutive period during the suspension period imposed under Subsection (3)(a); or

(B) the minor demonstrates substantial progress in substance abuse treatment.

(f) Notwithstanding the requirement in Subsection (3)(d), the court may reduce the suspension period imposed under Subsection (3)(d)(ii)(B) if:

(i) the violation is the minor's second or subsequent violation of Section 32B-4-411;

(ii) the minor has completed an educational series as defined in Section 41-6a-501 or demonstrated substantial progress in substance abuse treatment; and

(iii) (A) the person is 18 years of age or older and provides a sworn statement to the court that the person has not unlawfully consumed alcohol or drugs for at least a one-year consecutive period during the suspension period imposed under Subsection (3)(d)(ii)(B); or

(B) the person is under 18 years of age and has the person's parent or legal guardian provide an affidavit or sworn statement to the court certifying that to the parent or legal guardian's knowledge the person has not unlawfully consumed alcohol or drugs for at least a one-year consecutive period during the suspension period imposed under Subsection (3)(d)(ii)(B).

(4) A minor's license shall be suspended under Section 53-3-219 when a court issues an order suspending the minor's driving privileges for a violation of:

- (a) Section 32B-4-409;
- (b) Section 32B-4-410;
- (c) Section 58-37-8;
- (d) Title 58, Chapter 37a or 37b; or
- (e) Subsection 76-9-701(1).

(5) When the Department of Public Safety receives the arrest or conviction record of a person for a driving offense committed while the person's license is suspended under this section, the Department of Public Safety shall extend the suspension for a like period of time.

CHAPTER 166**H. B. 288**

Passed March 12, 2015

Approved March 25, 2015

Effective July 1, 2015

**LINE-OF-DUTY DEATH BENEFITS FOR
PEACE OFFICERS AND FIREFIGHTERS**

Chief Sponsor: Paul Ray
Senate Sponsor: Alvin B. Jackson

LONG TITLE**General Description:**

This bill modifies the Utah State Retirement and Insurance Benefit Act and the Public Safety Code by amending death benefits provisions.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ amends line-of-duty lump sum benefit amounts for public safety officers and firefighters;
- ▶ provides an exception to restrictions from changing Tier II benefits in certain circumstances;
- ▶ requires an employer to provide certain health coverage for the surviving spouse and children of a peace officer or firefighter who dies in the line of duty under certain circumstances;
- ▶ allows employers to enter cost-sharing agreements to participate in a trust fund;
- ▶ requires certain reporting;
- ▶ allows certain rulemaking;
- ▶ creates the Local Public Safety and Firefighter Surviving Spouse Trust Fund and board and establishes board duties;
- ▶ requires an employer to provide assistance for applying for a death benefit to a surviving spouse of a public safety officer or firefighter; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

- 49-14-501, as last amended by Laws of Utah 2014, Chapter 15
- 49-14-502, as last amended by Laws of Utah 2011, Chapters 366 and 439
- 49-15-501, as last amended by Laws of Utah 2014, Chapter 15
- 49-15-502, as last amended by Laws of Utah 2011, Chapters 366 and 439
- 49-16-501, as last amended by Laws of Utah 2011, Chapter 439
- 49-16-502, as last amended by Laws of Utah 2011, Chapters 366 and 439
- 49-23-301, as last amended by Laws of Utah 2011, Chapter 439
- 49-23-503, as last amended by Laws of Utah 2014, Chapter 15

ENACTS:

- 53-17-101, Utah Code Annotated 1953
- 53-17-102, Utah Code Annotated 1953
- 53-17-201, Utah Code Annotated 1953
- 53-17-301, Utah Code Annotated 1953
- 53-17-401, Utah Code Annotated 1953
- 53-17-402, Utah Code Annotated 1953
- 53-17-501, Utah Code Annotated 1953

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

Section 1. Section 49-14-501 is amended to read:**49-14-501. Death of active member in Division A -- Payment of benefits.**

(1) If an active member of this system enrolled in Division A under Section 49-14-301 dies, benefits are payable as follows:

(a) If the death is classified by the office as a line-of-duty death, the spouse at the time of death shall receive a lump sum [of \$1,000] equal to six months of the active member's final average salary and an allowance equal to 30% of the deceased member's final average monthly salary.

(b) If the death is not classified by the office as a line-of-duty death, benefits are payable as follows:

(i) If the member has accrued less than 10 years of public safety service credit, the beneficiary shall receive the sum of \$1,000 or a refund of the member's member contributions, whichever is greater.

(ii) If the member has accrued 10 or more years of public safety service credit at the time of death, the spouse at the time of death shall receive the sum of \$500, plus an allowance equal to 2% of the member's final average monthly salary for each year of service credit accrued by the member up to a maximum of 30% of the member's final average monthly salary.

(2) Except as provided under Subsection (1)(b)(i), benefits are not payable to minor children of members covered under Division A.

(3) If a benefit is not distributed under this section, and the member has designated a beneficiary, the member's member contributions shall be paid to the beneficiary.

(4) (a) A spouse who requests a benefit under this section shall apply in writing to the office.

(b) The allowance shall begin on the first day of the month following the month in which the:

(i) member died, if the application is received by the office within 90 days of the member's death; or

(ii) application is received by the office, if the application is received by the office more than 90 days after the member's death.

Section 2. Section 49-14-502 is amended to read:**49-14-502. Death of active member in Division B -- Payment of benefits.**

(1) If an active member of this system enrolled in Division B under Section 49-14-301 dies, benefits are payable as follows:

(a) If the death is classified by the office as a line-of-duty death, the spouse at the time of death shall receive:

(i) a lump sum ~~[of \$1,500]~~ equal to six months of the active member's final average salary; and

(ii) an allowance equal to 37.5% of the member's final average monthly salary.

(b) If the death is not classified by the office as a line-of-duty death, benefits are payable as follows:

(i) If the member has accrued two or more years of public safety service credit at the time of death, the death is considered a line-of-duty death and the ~~[benefit shall be paid]~~ spouse at the time of death shall receive:

(A) a lump sum of \$1,500; and

(B) an allowance as provided under Subsection (1)(a)(ii).

(ii) If the member has accrued less than two years of public safety service credit at the time of death, the spouse at the time of death shall receive a refund of the member's member contributions, plus 50% of the member's most recent 12 months' compensation.

(c) (i) If the member has accrued two or more years of public safety service credit at the time of death, each of the member's unmarried children to age 18 or dependent unmarried children with a mental or physical disability shall receive a monthly allowance of \$50.

(ii) Payments shall be made to the surviving parent or to a duly appointed guardian, or as otherwise provided under Sections 49-11-609 and 49-11-610.

(2) In the event of the death of both parents, the spouse's benefit shall be prorated and paid to each of the member's unmarried children to age 18.

(3) If a benefit is not distributed under the previous subsections, and the member has designated a beneficiary, the member's member contributions shall be paid to the beneficiary.

(4) The combined annual payments made to the beneficiaries of any member under this section may not exceed 75% of the member's final average monthly salary.

(5) (a) A spouse who requests a benefit under this section shall apply in writing to the office.

(b) The allowance shall begin on the first day of the month:

(i) following the month in which the member died, if the application is received by the office within 90 days of the member's death; or

(ii) following the month in which the application is received by the office, if the application is received by the office more than 90 days after the member's death.

Section 3. Section 49-15-501 is amended to read:

49-15-501. Death of active member in Division A -- Payment of benefits.

(1) If an active member of this system enrolled in Division A under Section 49-15-301 dies, benefits are payable as follows:

(a) If the death is classified by the office as a line-of-duty death, benefits are payable as follows:

(i) If the member has accrued less than 20 years of public safety service credit, the spouse at the time of death shall receive a lump sum ~~[of \$1,000]~~ equal to six months of the active member's final average salary and an allowance equal to 30% of the member's final average monthly salary.

(ii) If the member has accrued 20 or more years of public safety service credit, the member shall be considered to have retired with an allowance calculated under Section 49-15-402 and the spouse at the time of death shall receive the death benefit payable to a spouse at the time of death under Section 49-15-504.

(b) If the death is not classified as a line-of-duty death by the office, benefits are payable as follows:

(i) If the member has accrued less than 10 years of public safety service credit, the beneficiary shall receive the sum of \$1,000 or a refund of the member's member contributions, whichever is greater.

(ii) If the member has accrued 10 or more years, but less than 20 years of public safety service credit at the time of death, the spouse at the time of death shall receive the sum of \$500, plus an allowance equal to 2% of the member's final average monthly salary for each year of service credit accrued by the member up to a maximum of 30% of the member's final average monthly salary.

(iii) If the member has accrued 20 or more years of public safety service credit, the benefit shall be calculated as provided in Subsection (1)(a)(ii).

(2) Except as provided under Subsection (1)(b)(i), benefits are not payable to minor children under Division A.

(3) If a benefit is not distributed under this section, and the member has designated a beneficiary, the member's member contribution shall be paid to the beneficiary.

(4) (a) A spouse who requests a benefit under this section shall apply in writing to the office.

(b) The allowance shall begin on the first day of the month following the month in which the:

(i) member died, if the application is received by the office within 90 days of the member's death; or

(ii) application is received by the office, if the application is received by the office more than 90 days after the member's death.

Section 4. Section 49-15-502 is amended to read:

49-15-502. Death of active member in Division B -- Payment of benefits.

(1) If an active member of this system enrolled in Division B under Section 49-15-301 dies, benefits are payable as follows:

(a) If the death is classified by the office as a line-of-duty death, the spouse at the time of death shall receive:

(i) a lump sum ~~[of \$1,500]~~ equal to six months of the active member's final average salary; and

(ii) an allowance equal to 37.5% of the member's final average monthly salary.

(b) If the death is not classified by the office as a line-of-duty death, and the member has accrued two or more years of public safety service credit at the time of death, the death is considered line-of-duty and the ~~[benefit shall be paid]~~ spouse at the time of death shall receive:

(i) a lump sum of \$1,500; and

(ii) an allowance as provided under Subsection (1)(a)(ii).

(c) If the death is not classified by the office as a line-of-duty death, and the member has accrued less than two years of public safety service credit at the time of death, the spouse at the time of death shall receive a refund of the member's member contributions, plus 50% of the member's most recent 12 months' compensation.

(d) (i) If the member has accrued two or more years of public safety service credit at the time of death, each of the member's unmarried children to age 18 or dependent unmarried children with a mental or physical disability shall receive an allowance of \$50.

(ii) Payments shall be made to the surviving parent or to a duly appointed guardian, or as otherwise provided under Section 49-11-609 or 49-11-610.

(2) In the event of the death of both parents, the spouse's benefit shall be prorated and paid to each of the member's unmarried children to age 18.

(3) If a benefit is not distributed under the previous subsections, and the member has designated a beneficiary, the member's member contributions shall be paid to the beneficiary.

(4) The combined payments to beneficiaries of any member under this section may not exceed 75% of the member's final average monthly salary.

(5) (a) A spouse who requests a benefit under this section shall apply in writing to the office.

(b) The allowance shall begin on the first day of the month:

(i) following the month in which the member died, if the application is received by the office within 90 days of the member's death; or

(ii) following the month in which the application is received by the office, if the application is received

by the office more than 90 days after the member's death.

Section 5. Section 49-16-501 is amended to read:

49-16-501. Death of active member in Division A -- Payment of benefits.

(1) If an active member of this system enrolled in Division A under Section 49-16-301 dies, benefits are payable as follows:

(a) If the death is classified by the office as a line-of-duty death, benefits are payable as follows:

(i) If the member has accrued less than 20 years of firefighter service credit, the spouse at the time of death shall receive a lump sum ~~[of \$1,500]~~ equal to six months of the active member's final average salary and an allowance equal to 30% of the member's final average monthly salary.

(ii) If the member has accrued 20 or more years of firefighter service credit, the member shall be considered to have retired with an allowance calculated under Section 49-16-402 and the spouse at the time of death shall receive the death benefit payable to a spouse under Section 49-16-504.

(b) If the death is not classified as a line-of-duty death by the office, benefits are payable as follows:

(i) If the member has accrued less than 10 years of firefighter service credit, the beneficiary shall receive a sum of \$1,000 or a refund of the member's member contributions, whichever is greater.

(ii) If the member has accrued 10 or more years of firefighter service credit the spouse at the time of death shall receive a sum of \$500, plus an allowance equal to 2% of the member's final average monthly salary for each year of service credit accrued by the member up to a maximum of 30% of the member's final average monthly salary.

(2) (a) If the member dies without a current spouse, the spouse's allowance shall be equally divided and paid to each unmarried child until the child reaches age 21.

(b) The payment shall be made to a duly appointed guardian or as provided under Sections 49-11-609 and 49-11-610.

(3) If the benefit is not distributed under this section, and the member has designated a beneficiary, the member's member contributions shall be paid to the beneficiary.

(4) (a) A spouse who requests a benefit under this section shall apply in writing to the office.

(b) The allowance shall begin on the first day of the month:

(i) following the month in which the member died, if the application is received by the office within 90 days of the member's death; or

(ii) following the month in which the application is received by the office, if the application is received by the office more than 90 days after the member's death.

Section 6. Section 49-16-502 is amended to read:

49-16-502. Death of active member in Division B -- Payment of benefits.

(1) If an active member of this system enrolled in Division B under Section 49-16-301 dies, benefits are payable as follows:

(a) If the death is classified by the office as a line-of-duty death, benefits are payable as follows:

(i) If the member has accrued less than 20 years of firefighter service credit, the spouse at the time of death shall receive:

(A) a lump sum [of \$1,500] equal to six months of the active member's final average salary; and

(B) an allowance equal to 37.5% of the member's final average monthly salary.

(ii) If the member has accrued 20 or more years of firefighter service credit, the member shall be considered to have retired with an allowance calculated under Section 49-16-402 and the spouse at the time of death shall receive the death benefit payable to a spouse under Section 49-16-504.

(b) If the death is not classified by the office as a line-of-duty death, the benefits are payable as follows:

(i) If the member has accrued five or more years of firefighter service credit, the death is considered line-of-duty and the ~~[same benefits are payable]~~ spouse at time of death shall receive:

(A) a lump sum of \$1,500; and

(B) an allowance as established under Subsection (1)(a)(i)(B).

(ii) If the member has accrued less than five years of firefighter service credit, the spouse at the time of death shall receive a refund of the member's contributions, plus 50% of the member's most recent 12 months compensation.

(c) If the member has accrued five or more years of firefighter service credit, the member's unmarried children until they reach age 21 or dependent unmarried children with a mental or physical disability, shall receive a monthly allowance of \$75.

(2) (a) In the event of the death of the member and spouse, the spouse's benefits are equally divided and paid to each unmarried child until the child reaches age 21.

(b) The payments shall be made to the surviving parent or duly appointed guardian or as provided under Sections 49-11-609 and 49-11-610.

(3) If a benefit is not distributed under the previous subsections, and the member has designated a beneficiary, the member's member contributions shall be paid to the beneficiary.

(4) The combined monthly payments made to the beneficiaries of any member under this section may not exceed 75% of the member's final average monthly salary.

(5) (a) A spouse who requests a benefit under this section shall apply in writing to the office.

(b) The allowance shall begin on the first day of the month:

(i) following the month in which the member died, if the application is received by the office within 90 days of the member's death; or

(ii) following the month in which the application is received by the office, if the application is received by the office more than 90 days after the member's death.

Section 7. Section 49-23-301 is amended to read:

49-23-301. Contributions.

(1) Participating employers and members shall pay the certified contribution rates to the office to maintain the defined benefit portion of this system on a financially and actuarially sound basis in accordance with Subsection (2).

(2) (a) A participating employer shall pay up to 12% of compensation toward the certified contribution rate to the office for the defined benefit portion of this system.

(b) A member shall only pay to the office the amount, if any, of the certified contribution rate for the defined benefit portion of this system that exceeds the percent of compensation paid by the participating employer under Subsection (2)(a).

(c) In addition to the percent specified under Subsection (2)(a), the participating employer shall pay the corresponding Tier I system amortization rate of the employee's compensation to the office to be applied to the employer's corresponding Tier I system liability.

(3) A participating employer may not elect to pay all or part of the required member contributions under Subsection (2)(b), in addition to the required participating employer contributions.

(4) (a) A member contribution is credited by the office to the account of the individual member.

(b) This amount, together with refund interest, is held in trust for the payment of benefits to the member or the member's beneficiaries.

(c) A member contribution is vested and nonforfeitable.

(5) (a) Each member is considered to consent to payroll deductions of member contributions.

(b) The payment of compensation less these payroll deductions is considered full payment for services rendered by the member.

(6) [Benefits] Except as provided under Subsection (7), benefits provided under the defined benefit portion of the Tier II hybrid retirement system created under this part:

(a) may not be increased unless the actuarial funded ratios of all systems under this title reach 100%; and

(b) may be decreased only in accordance with the provisions of Section 49-23-309.

(7) The Legislature authorizes an increase to the death benefit provided to a Tier II public safety service employee or firefighter member's surviving spouse at the time of death effective on May 12, 2015, as provided in Section 49-23-503.

Section 8. Section 49-23-503 is amended to read:

49-23-503. Death of active member in line of duty -- Payment of benefits.

If an active member of this system dies, benefits are payable as follows:

(1) If the death is classified by the office as a line-of-duty death, benefits are payable as follows:

(a) If the member has accrued less than 20 years of public safety service or firefighter service credit, the spouse at the time of death shall receive a lump sum [of \$1,000] equal to six months of the active member's final average salary and an allowance equal to 30% of the member's final average monthly salary.

(b) If the member has accrued 20 or more years of public safety service or firefighter service credit, the member shall be considered to have retired with an Option One allowance calculated without an actuarial reduction under Section 49-23-304 and the spouse at the time of death shall receive the allowance that would have been payable to the member.

(2) (a) A volunteer firefighter is eligible for a line-of-duty death benefit under this section if the death results from external force, violence, or disease directly resulting from firefighter service.

(b) The lowest monthly compensation of firefighters of a city of the first class in this state at the time of death shall be considered to be the final average monthly salary of a volunteer firefighter for purposes of computing these benefits.

(c) Each volunteer fire department shall maintain a current roll of all volunteer firefighters which meet the requirements of Subsection 49-23-102(12) to determine the eligibility for this benefit.

(3) (a) If the death is classified as a line-of-duty death by the office, death benefits are payable under this section and the spouse at the time of death is not eligible for benefits under Section 49-23-502.

(b) If the death is not classified as a line-of-duty death by the office, benefits are payable in accordance with Section 49-23-502.

(4) (a) A spouse who qualifies for a monthly benefit under this section shall apply in writing to the office.

(b) The allowance shall begin on the first day of the month following the month in which the:

(i) member or participant died, if the application is received by the office within 90 days of the date of death of the member or participant; or

(ii) application is received by the office, if the application is received by the office more than 90 days after the date of death of the member or participant.

Section 9. Section 53-17-101 is enacted to read:

CHAPTER 17. PUBLIC SAFETY OFFICER AND FIREFIGHTER LINE-OF-DUTY DEATH ACT

Part 1. General Provisions

53-17-101. Title.

This chapter is known as the "Public Safety Officer and Firefighter Line-of-Duty Death Act."

Section 10. Section 53-17-102 is enacted to read:

53-17-102. Definitions.

As used in this chapter:

(1) "Board" means Local Public Safety and Firefighter Surviving Spouse Trust Fund Board of Trustees created in Section 53-17-402.

(2) "Child" or "children" means a child of a member, including a stepchild and a legally adopted child who is under the age of 26.

(3) "Employer" means a law enforcement agency or other state or local government agency that:

(a) is a participating employer as defined in Section 49-11-102; and

(b) employs one or more public safety service employees or firefighter service employees who are eligible to earn service credit in a Utah Retirement System under Title 49, Utah State Retirement and Insurance Benefit Act.

(4) "Member" means the same as that term is defined in Section 49-11-102.

(5) "Trust Fund" means the Local Public Safety and Firefighter Surviving Spouse Trust Fund created in Section 53-17-301.

Section 11. Section 53-17-201 is enacted to read:

Part 2. Health Coverage for a Surviving Spouse

53-17-201. Surviving spouse and children health coverage for line-of-duty death.

(1) (a) Subject to Subsection (1)(b), and in accordance with this section, an employer shall allow the surviving spouse and children of a member whose death is classified by the Utah State Retirement Office as a line-of-duty death under the provisions of Title 49, Utah State Retirement and Insurance Benefit Act, to remain eligible for health coverage under the employer's group health plan as if the surviving spouse was an employee of the employer.

(b) (i) The employer shall pay 100% of the premium costs and, if the health coverage is a high-deductible plan, the employer share of any contribution into a health savings account for the

surviving spouse and dependent children as described under Subsections (1)(a) and (2), and may not require payment from the surviving spouse for premium costs or health savings account contributions as a condition of qualifying to continue to receive the health coverage.

(ii) For the first 24 months after the line-of-duty death, the employer shall pay the amount specified under Subsection (1)(b)(i).

(iii) Beginning 25 months after the line-of-duty death, an employer may pay the amount specified under Subsection (1)(b)(i) through a cost-sharing agreement associated with the trust fund created under Section 53-17-301.

(2) An employer shall allow a surviving spouse and children to remain eligible to receive health coverage from the employer under this section at the option of the surviving spouse until:

(a) the surviving spouse remarries or becomes eligible for Medicare whichever come first; and

(b) a child reaches the age of 26.

(3) This section does not apply to a member who:

(a) does not qualify for a line-of-duty death benefit under the provisions of Title 49, Utah State Retirement and Insurance Benefit Act;

(b) at the time of death did not receive or qualify to receive employer group health coverage; or

(c) is covered under the provisions of Section 49-20-406.

Section 12. Section 53-17-301 is enacted to read:

Part 3. Cost-Sharing Agreements

53-17-301. Cost-sharing agreements -- Deadlines -- Terms -- Reports -- Rulemaking.

(1) An employer may elect until June 30, 2017, to participate in the trust fund by:

(a) entering into a cost-sharing agreement with the commissioner under this section; and

(b) paying the cost-sharing rate determined by the board.

(2) (a) An employer that does not participate in the trust fund by entering into a cost-sharing agreement in accordance with this section, shall pay the full amount required under Subsection 53-17-201(1)(b)(i).

(b) Subject to the terms of the cost-sharing agreement, an employer that elects to participate in accordance with this section, and stays current with its payments, shall be considered to have paid the employer's full obligation under Subsection 53-17-201(1)(b)(i).

(c) An employer that elects to participate in accordance with this section and that does not stay current with its payments may not be covered from the trust fund for more than the employer's actual

contributions to the trust fund, without interest earnings.

(3) The commissioner shall:

(a) in consultation with the board, establish a form and language for a cost-sharing agreement required to use trust funds in accordance with this section;

(b) as directed by the board, assess the annual fee amount established by the board;

(c) prepare and submit to the governor and the Legislature, by October 1 of each year, an annual written report of the trust fund, including its balance, expenditures, and revenues, and the operations and activities of the board under this chapter; and

(d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to implement this chapter.

Section 13. Section 53-17-401 is enacted to read:

Part 4. Local Public Safety and Firefighter Surviving Spouse Trust Fund

53-17-401. Local Public Safety and Firefighter Surviving Spouse Trust Fund.

(1) There is created a private purpose trust fund entitled the "Local Public Safety and Firefighter Surviving Spouse Trust Fund."

(2) The trust fund consists of:

(a) fees established in Subsection 53-17-402(2)(a);

(b) appropriations made to the fund by the Legislature, if any;

(c) private donations and grants; and

(d) other revenue received from other sources.

(3) The Department of Public Safety shall account for the receipt and expenditures of trust fund money.

(4) The trust fund shall earn interest.

(5) The revenue and interest in the account, less actual administrative costs to the department, shall be used to lower fees paid by an employer under Section 53-17-201.

(6) The board of trustees created in Section 53-17-402 may expend money from the trust fund for health coverage for a surviving spouse and children under Subsection 53-17-201(1)(b)(iii) by paying:

(a) (i) premium costs; or

(ii) if the health coverage is a high-deductible plan, premium costs and the employer contribution to a health savings account; and

(b) reasonable administrative costs that the department and the board of trustees incur in performing their duties for the trust fund.

(7) Money deposited into the trust fund is irrevocable and is expended only for the purposes described in this chapter.

(8) Assets of the trust fund are dedicated for the purposes established by statute and administrative rule.

(9) Creditors of the board of trustees and of employers liable for the benefits paid under this chapter may not seize, attach, or otherwise obtain assets of the trust fund.

Section 14. Section 53-17-402 is enacted to read:

53-17-402. Local Public Safety and Firefighter Surviving Spouse Trust Fund Board of Trustees -- Quorum -- Duties -- Establish rates.

(1) (a) There is created the Local Public Safety and Firefighter Surviving Spouse Trust Fund Board of Trustees composed of four members:

(i) the commissioner of public safety or the commissioner's designee;

(ii) the executive director of the Governor's Office of Management and Budget or the executive director's designee;

(iii) one person representing municipalities, designated by the Utah League of Cities and Towns; and

(iv) one person representing counties, designated by the Utah Association of Counties.

(b) The commissioner of public safety, or the commissioner's designee, is chair of the board.

(c) Three members of the board are a quorum.

(d) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(i) Section 63A-3-106;

(ii) Section 63A-3-107; and

(iii) rules made by the Division of Finance according to Sections 63A-3-106 and 63A-3-107.

(e) (i) The Department of Public Safety shall staff the board of trustees.

(ii) The department shall provide accounting services for the trust fund.

(2) The board shall:

(a) establish rates to charge each employer based on the number of public safety service employees and firefighter service employees who are eligible for the health coverage under this chapter;

(b) act as trustee of the trust fund and exercise the state's fiduciary responsibilities;

(c) meet at least once per year;

(d) review and approve all policies, projections, rules, criteria, procedures, forms, standards, performance goals, and actuarial reports;

(e) review and approve the budget for the trust fund;

(f) review financial records of the trust fund, including trust fund receipts, expenditures, and investments;

(g) commission and obtain financial or actuarial studies of the liabilities for the trust fund;

(h) calculate and approve administrative expenses of the trust fund; and

(i) do any other things necessary to perform the fiduciary obligations under the trust.

Section 15. Section 53-17-501 is enacted to read:

Part 5. Death Benefit Assistance

53-17-501. Death benefit assistance.

(1) An employer shall notify the governor's office of the line-of-duty death of an active member.

(2) The governor's office shall ensure that the spouse, at the time of death of the active member, or the beneficiary are provided assistance to understand and apply for any death benefit for which the surviving spouse or beneficiaries may be eligible under this chapter, other Utah law, federal law, or local policy or ordinance.

Section 16. Effective date.

This bill takes effect on July 1, 2015.

CHAPTER 167**H. B. 292**

Passed March 12, 2015

Approved March 25, 2015

Effective May 12, 2015

EMERGENCY MEDICAL SERVICE PROVIDERS AMENDMENTS

Chief Sponsor: Daniel McCay
Senate Sponsor: Aaron Osmond

LONG TITLE**General Description:**

This bill amends the Utah Emergency Medical Services System Act in the Utah Health Code.

Highlighted Provisions:

This bill:

- ▶ requires the Department of Health to establish a peer review board for emergency medical service personnel certified by the department;
- ▶ requires administrative rulemaking; and
- ▶ provides that the peer review board shall advise the department regarding disciplinary procedures and actions involving emergency medical service personnel.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

26-8a-105, as last amended by Laws of Utah 2013, Chapter 350

26-8a-503, as last amended by Laws of Utah 2008, Chapter 382

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

Section 1. Section 26-8a-105 is amended to read:**26-8a-105. Department powers.**

The department shall:

- (1) coordinate the emergency medical services within the state;
- (2) administer this chapter and the rules established pursuant to it;
- (3) establish a voluntary task force representing a diversity of emergency medical service providers to advise the department and the committee on rules; ~~and~~
- (4) establish an emergency medical service personnel peer review board to advise the department concerning discipline of emergency medical service personnel under this chapter;

~~[(4)]~~ (5) adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

- (a) license ambulance providers and paramedic providers;

(b) permit ambulances and emergency medical response vehicles, including approving an emergency vehicle operator's course in accordance with Section 26-8a-304;

(c) establish:

- (i) the qualifications for membership of the peer review board created by this section;
- (ii) a process for placing restrictions on a certification while an investigation is pending;
- (iii) the process for the investigation and recommendation by the peer review board; and
- (iv) the process for determining the status of a license or certification while a peer review board investigation is pending;

~~[(e)]~~ (d) establish application, submission, and procedural requirements for licenses, designations, certificates, and permits; and

~~[(d)]~~ (e) establish and implement the programs, plans, and responsibilities as specified in other sections of this chapter~~[-];~~ and

(6) report to the Legislature's Health and Human Services Interim Committee on or before July 15, 2015, regarding rules developed under Subsection (5)(c).

Section 2. Section 26-8a-503 is amended to read:**26-8a-503. Discipline of emergency medical services personnel.**

(1) The department may refuse to issue a certificate or renewal, or revoke, suspend, restrict, or place on probation an individual's certificate if:

- (a) the individual does not meet the qualifications for certification under Section 26-8a-302;
- (b) the individual has engaged in conduct, as defined by committee rule, that:
 - (i) is unprofessional;
 - (ii) is adverse to the public health, safety, morals, or welfare; or
 - (iii) would adversely affect public trust in the emergency medical service system;
- (c) the individual has violated Section 26-8a-502 or other provision of this chapter;
- (d) a court of competent jurisdiction has determined the individual to be mentally incompetent for any reason; or

(e) the individual is unable to provide emergency medical services with reasonable skill and safety because of illness, drunkenness, use of drugs, narcotics, chemicals, or any other type of material, or as a result of any other mental or physical condition, when the individual's condition demonstrates a clear and unjustifiable threat or potential threat to oneself, coworkers, or the public health, safety, or welfare that cannot be reasonably mitigated.

- (2) (a) An action to revoke, suspend, restrict, or place a certificate on probation shall be done in:

(i) consultation with the peer review board created in Section 26-8a-105; and

(ii) accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(b) Notwithstanding Subsection (2)(a), the department may issue a cease and desist order under Section 26-8a-507 to immediately suspend an individual's certificate pending an administrative proceeding to be held within 30 days if there is evidence to show that the individual poses a clear, immediate, and unjustifiable threat or potential threat to the public health, safety, or welfare.

(3) An individual whose certificate has been suspended, revoked, or restricted may apply for reinstatement of the certificate at reasonable intervals and upon compliance with any conditions imposed upon the certificate by statute, committee rule, or the terms of the suspension, revocation, or restriction.

(4) In addition to taking disciplinary action under Subsection (1), the department may impose sanctions in accordance with Section 26-23-6.

CHAPTER 168**H. B. 299**

Passed March 6, 2015

Approved March 25, 2015

Effective May 12, 2015

ATTORNEYS LIEN AMENDMENTS

Chief Sponsor: Timothy D. Hawkes
Senate Sponsor: Todd Weiler

LONG TITLE**General Description:**

This bill modifies provisions relating to attorney's liens.

Highlighted Provisions:

This bill:

- ▶ clarifies that an attorney may have an attorney's lien on intangible property;
- ▶ modifies the requirements for a notice of lien for an attorney's lien;
- ▶ addresses the methods by which an attorney may enforce an attorney's lien; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

38-2-7, as renumbered and amended by Laws of Utah 2001, Chapter 4 and repealed and reenacted by Laws of Utah 2001, Chapter 360

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

Section 1. Section 38-2-7 is amended to read:**38-2-7. Compensation -- Attorney's lien.**

(1) The compensation of an attorney is governed by agreement between the attorney and a client, express or implied, which is not restrained by law.

(2) An attorney shall have a lien for the balance of compensation due from a client on any money or property owned by the client that is the subject of or connected with work performed for the client, including[, but not limited to]:

(a) any real [or], personal, or intangible property that is the subject of or connected with the work performed for the client;

(b) any funds held by the attorney for the client, including any amounts paid as a retainer to the attorney by the client; and

(c) any settlement, verdict, report, decision, or judgment in the client's favor in any matter or action in which the attorney assisted, including any proceeds derived from the matter or action, whether or not the attorney is employed by the client at the time the settlement, verdict, report, decision, or judgment is obtained.

(3) An attorney's lien commences at the time of employment of the attorney by the client.

(4) (a) An attorney may enforce a lien under this section by:

(i) moving to intervene in a pending legal action:

(A) in which the attorney has assisted or performed work[;]; or

(B) in which the property subject to the attorney's lien may be disposed of or otherwise encumbered; or

(ii) by filing a separate legal action.

(b) An attorney may not move to intervene in an action or file a separate legal action to enforce a lien before 30 days has expired after a demand for payment has been made and not been complied with.

(5) An attorney may file a notice of lien:

(a) in a pending legal action in which the attorney has assisted or performed work for which the attorney has a lien under this section[. In addition, an attorney may file a notice of lien];

(b) with the county recorder of the county in which real property that is subject to a lien under this section is located[-]; or

(c) with the state or federal government office that receives filings that relate to the ownership of the property.

(6) A notice of lien described in Subsection (5) shall include the following:

(a) the name, address, and telephone number of the attorney claiming the lien;

(b) the name of the client who is the owner of the property subject to the lien;

(c) a verification that:

(i) the property is the subject of or connected with work performed by the attorney for the client; and [that]

(ii) (A) the attorney made a demand for payment of the amounts owed to the attorney for the work [has been made and not been paid] and the client did not pay the amounts owed within 30 days [of] after the day on which the attorney made the demand; or

(B) the attorney is filing the notice of lien in accordance with a written agreement between the attorney and the client;

(d) the date on which the attorney first provided services to the client;

(e) a description of the property, sufficient for identification; [and]

(f) the signature of the [lien claimant] attorney claiming the lien; and

(g) an acknowledgment or certificate as required under Title 57, Chapter 3, Recording of Documents.

[46] (7) Within 30 days after [filing] the day on which the notice of lien is filed, the attorney shall

deliver or mail by certified mail to the client a copy of the notice of lien.

~~[(7)]~~ (8) Any person who takes an interest in any property, other than real property, that is subject to an attorney's lien with actual or constructive knowledge of the attorney's lien, takes ~~[his or her]~~ the interest subject to the attorney's lien.

(9) An attorney's lien on real property has as its priority the date and time when a notice of lien is filed with the county recorder of the county in which real property that is subject to a lien under this section is located.

~~[(8)]~~ (10) This section does not alter or diminish in any way an attorney's common law retaining lien rights.

~~[(9)]~~ (11) This section does not authorize an attorney to have a lien in the representation of a client in a criminal matter or domestic relations matter where a final order of divorce has not been secured unless:

(a) (i) the criminal matter has been concluded or the domestic relations matter has been concluded by the securing of a final order of divorce; or

(ii) the attorney/client relationship has terminated; and

(b) the client has failed to fulfill the client's financial obligation to the attorney.

CHAPTER 169**H. B. 310**

Passed March 3, 2015

Approved March 25, 2015

Effective May 12, 2015

VINTAGE MOTORCYCLE AMENDMENTS

Chief Sponsor: Jeremy A. Peterson
Senate Sponsor: Deidre M. Henderson

LONG TITLE**General Description:**

This bill modifies the Motor Vehicles code by amending provisions relating to vintage vehicles.

Highlighted Provisions:

This bill:

- ▶ includes a motorcycle that meets certain requirements in the definition of a vintage vehicle; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

41-21-1, as last amended by Laws of Utah 2012, Chapter 299

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

Section 1. Section 41-21-1 is amended to read:**41-21-1. Street rod, vintage vehicle, and vintage travel trailer defined.**

(1) (a) "Street rod" means a motor vehicle or motorcycle that:

- (i) (A) was manufactured in 1948 or before; or
- (B) (I) was manufactured after 1948 to resemble a vehicle that was manufactured in 1948 or before; and
- (II) (Aa) has been altered from the manufacturer's original design; or
- (Bb) has a body constructed from non-original materials; and
- (ii) is primarily a collector's item that is used for:
 - (A) club activities;
 - (B) exhibitions;
 - (C) tours;
 - (D) parades;
 - (E) occasional transportation; and
 - (F) other similar uses.

(b) "Street rod" does not include a motor vehicle or motorcycle that is used for general, daily transportation.

(2) (a) "Vintage travel trailer" means a travel trailer, camping trailer, or fifth wheel trailer that is:

- (i) 30 years old or older, from the current year; and
- (ii) primarily a collector's item that is used for:
 - (A) participation in club activities;
 - (B) exhibitions;
 - (C) tours;
 - (D) parades;
 - (E) occasional recreational or vacation use; and
 - (F) other similar uses.

(b) "Vintage travel trailer" does not include a travel trailer, camping trailer, or fifth wheel trailer that is used for the general, daily transportation of persons or property.

(3) (a) "Vintage vehicle" means a motor vehicle or motorcycle that:

- (i) is 30 years old or older from the current year;
- (ii) displays a unique vehicle type special group license plate issued in accordance with Section 41-1a-418; and
- (iii) is primarily a collector's item that is used for:
 - (A) participation in club activities;
 - (B) exhibitions;
 - (C) tours;
 - (D) parades;
 - (E) occasional transportation; and
 - (F) other similar uses.
- (b) "Vintage vehicle" does not include a motor vehicle or motorcycle that is used for general, daily transportation.

(c) "Vintage vehicle" includes a:

- (i) street rod; and
- (ii) vintage travel trailer.

CHAPTER 170**H. B. 311**

Passed March 12, 2015
 Approved March 25, 2015
 Effective May 12, 2015

**PRIVATE INVESTIGATOR AND BAIL
RECOVERY LICENSURE AMENDMENTS**

Chief Sponsor: Curtis Oda
 Senate Sponsor: Margaret Dayton

LONG TITLE**General Description:**

This bill amends provisions relating to private investigator and bail recovery licensure.

Highlighted Provisions:

This bill:

- ▶ removes certain licensee insurance requirements;
- ▶ requires the posting of, and describes the requirements for, a surety bond by a licensee; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 53-9-110, as last amended by Laws of Utah 2011, Chapter 432
- 53-11-102, as enacted by Laws of Utah 1998, Chapter 257
- 53-11-110, as enacted by Laws of Utah 1998, Chapter 257
- 53-11-113, as enacted by Laws of Utah 1998, Chapter 257
- 53-11-115, as last amended by Laws of Utah 2013, Chapter 396

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

Section 1. Section 53-9-110 is amended to read:**53-9-110. Application for registrant or apprentice license.**

(1) Every application for a registrant or apprentice license shall provide to the bureau:

- (a) the full name and address of the applicant;
- (b) one passport-size color photograph of the applicant;
- (c) the name of the licensed agency for which the applicant will be an employee, apprentice, or contract registrant, if applicable;
- (d) authorization of the licensed agency or its designee to employ the apprentice or contract with the registrant, if applicable;
- (e) a verified statement of the applicant's experience and qualifications as provided in Section 53-9-108; and

(f) the fee prescribed in Section 53-9-111.

(2) An application for a registrant or apprentice license or renewal shall be accompanied by a surety bond in the amount of \$10,000.

(3) The surety bond required by this section shall:

~~[(a) protect against liability to third persons;]~~

~~[(b) be continuous in form and run concurrently with the license period; and]~~

~~[(c) provide for notice to the bureau in the event of cancellation of the surety bond.]~~

(a) be in effect throughout the entire licensing period; and

(b) provide that the issuer of the surety bond will notify the bureau if the bond is cancelled or expired.

(4) (a) The bureau shall cancel a license when it receives notice from the insurer that the bond required in Subsection (2) has expired or been ~~renewed~~ cancelled.

(b) The licensee shall be notified by the bureau when a license has been cancelled under this Subsection (4).

(c) The license may be reinstated when the licensee:

(i) files proof of a bond for the remainder of the license period; and

(ii) pays the reinstatement fee prescribed in Section 53-9-111.

Section 2. Section 53-11-102 is amended to read:**53-11-102. Definitions.**

As used in this chapter:

(1) "Applicant" means a person who has submitted to the department a completed application and all required application and processing fees.

(2) "Bail bond agency" means a bail enforcement agent licensed under this chapter who operates a business to carry out the functions of a bail enforcement agent, and to conduct this business:

(a) employs one or more persons licensed under this chapter for wages or salary, and withholds all legally required deductions and contributions; or

(b) contracts with a bail recovery agent or bail recovery apprentice on a part-time or case-by-case basis.

(3) "Bail enforcement agent" means an individual licensed under this chapter as a bail enforcement agent to enforce the terms and conditions of a defendant's release on bail in a civil or criminal proceeding, to apprehend a defendant or surrender a defendant to custody, or both, as is appropriate, and who:

(a) is appointed by a bail bond surety; and

(b) receives or is promised money or other things of value for this service.

(4) “Bail recovery agent” means an individual employed by a bail enforcement agent to assist the bail enforcement agent regarding civil or criminal defendants released on bail by:

(a) presenting a defendant for required court appearances;

(b) apprehending or surrendering a defendant to a court; or

(c) keeping the defendant under necessary surveillance.

(5) “Bail recovery apprentice” means any individual licensed under this chapter as a bail recovery apprentice, and who:

(a) has not met the requirements for licensure as a bail recovery agent or bail enforcement agent; and

(b) is employed by a bail enforcement agent, and works under the direct supervision of a bail enforcement agent or bail recovery agent employed also by the bail enforcement agent, unless the bail recovery apprentice is conducting activities at the direction of the employing bail enforcement agent that under this chapter do not require direct supervision.

(6) “Board” means the Bail Bond Recovery Licensure Board created under Section 53-11-104.

(7) “Bureau” means the Bureau of Criminal Identification created in Section 53-10-201 within the Department of Public Safety.

[~~(7)~~] (8) “Commissioner” means the commissioner of public safety as defined under Section 53-1-107, or his designee.

[~~(8)~~] (9) “Contract employee” or “independent contractor” means a person who works for an agency as an independent contractor.

[~~(9)~~] (10) “Conviction” means an adjudication of guilt by a federal, state, or local court resulting from a trial or plea, including a plea of no contest or nolo contendere, regardless of whether the imposition of sentence was suspended.

[~~(10)~~] (11) “Department” means the Department of Public Safety.

[~~(11)~~] (12) “Direct supervision” means a bail enforcement agent employing or contracting with a bail recovery apprentice, or a bail recovery agent employed by or contracting with that bail enforcement agent who:

(a) takes responsibility for and assigns the work a bail recovery apprentice may conduct; and

(b) closely supervises, within close physical proximity, and provides direction and guidance to the bail recovery apprentice regarding the assigned work.

[~~(12)~~] (13) “Emergency action” means a summary suspension of a license issued under this chapter pending revocation, suspension, or probation, in order to protect the public health, safety, or welfare.

[~~(13)~~] (14) “Identification card” means a card issued by the commissioner to an applicant qualified for licensure under this chapter.

[~~(14)~~] (15) “Letter of concern” means an advisory letter to notify a licensee that while there is insufficient evidence to support probation, suspension, or revocation of a license, the department believes:

(a) the licensee should modify or eliminate certain practices; and

(b) continuation of the activities that led to the information being submitted to the department may result in further disciplinary action against the licensee.

[~~(15)~~] (16) “Occupied structure” means any edifice, including residential and public buildings, vehicles, or any other structure that could reasonably be expected to house or shelter persons.

[~~(16)~~] (17) “Supervision” means the employing bail enforcement agent is responsible for and authorizes the type and extent of work assigned to a bail recovery agent who is his employee or contract employee.

[~~(17)~~] (18) “Unprofessional conduct” means:

(a) engaging or offering to engage by fraud or misrepresentation in any activities regulated by this chapter;

(b) aiding or abetting a person who is not licensed pursuant to this chapter in representing that person as a bail recovery agent in this state;

(c) gross negligence in the practice of a bail recovery agent;

(d) committing a felony or a misdemeanor involving any crime that is grounds for denial, suspension, or revocation of a bail recovery license, and conviction by a court of competent jurisdiction or a plea of no contest is conclusive evidence of the commission; or

(e) making a fraudulent or untrue statement to the board, department, its investigators, or staff.

Section 3. Section 53-11-110 is amended to read:

53-11-110. Bail enforcement agent as agency -- Surety bond -- Workers' compensation.

(1) An applicant for licensure as a bail enforcement agent who will operate a bail bond recovery agency shall provide the following information as part of the application:

(a) the full name and business address of the applicant;

(b) two passport-size color photographs of the applicant;

(c) the name under which the applicant intends to conduct the business;

(d) a statement that the applicant intends to engage in the bail bond recovery business;

(e) a notarized statement of the applicant's qualifications as required by Sections 53-11-108 and 53-11-109;

(f) the fee required by Section 53-11-115;

(g) a certificate of workers' compensation insurance, if applicable; and

(h) proof of completion of a training program approved by the board.

(2) An applicant for licensure, or renewal of licensure, as a bail enforcement agent shall include with the application a surety bond:

(a) in the amount of \$10,000;

(b) that is in effect throughout the entire licensing period; and

(c) that provides that the issuer of the surety bond will notify the bureau if the bond is cancelled or expired.

[2] (3) The license for a bail enforcement agent shall indicate on its face if the holder is licensed to act as a bail bond recovery agency.

(4) The bureau shall:

(a) cancel a license if the bureau receives notice that the surety bond described in Subsection (2) is cancelled or expired;

(b) notify a licensee when the bureau cancels a license under Subsection (4)(a); and

(c) reinstate a license that has been cancelled under Subsection (4)(a), and has not otherwise been revoked, when the person whose license was cancelled:

(i) files a surety bond described in Subsection (2) that is in effect for the remainder of the licensing period; and

(ii) pays the licensing fee described in Section 53-11-115.

Section 4. Section 53-11-113 is amended to read:

53-11-113. Bail recovery agent and bail recovery apprentice licensure -- Surety bond -- Fee -- Workers' compensation.

(1) An applicant for licensure as a bail recovery agent or as a bail recovery apprentice shall provide as part of the application:

(a) the full name and address of the applicant;

(b) two passport-size color photographs of the applicant;

(c) the name of the bail bond recovery agency for which the applicant will be an employee or with which the applicant will be an independent contractor;

(d) written indication by a bail bond recovery agency or its designee that it intends to employ or contract with the applicant; and

(e) a notarized statement of the applicant's experience and qualifications required under Section 53-11-111 or 53-11-112, as appropriate.

(2) The licensure application or renewal shall be accompanied by the fee required under Section 53-11-115.

(3) An applicant for licensure, or renewal of licensure, as a bail recovery agent or a bail recovery apprentice shall include with the application a surety bond:

(a) in the amount of \$10,000;

(b) that is in effect throughout the entire licensing period; and

(c) that provides that the issuer of the surety bond will notify the bureau if the bond is cancelled or expired.

(4) The bureau shall:

(a) cancel a license if the bureau receives notice that the surety bond described in Subsection (3) is cancelled or expired;

(b) notify a licensee when the bureau cancels a license under Subsection (4)(a); and

(c) reinstate a license that has been cancelled under Subsection (4)(a), and has not otherwise been revoked, when the person whose license was cancelled:

(i) files a surety bond described in Subsection (3) that is in effect for the remainder of the licensing period; and

(ii) pays the licensing fee described in Section 53-11-115.

[3] (5) (a) A license or a license renewal for a bail recovery agent or a bail recovery apprentice may not be granted to an applicant unless the employing bail bond recovery agency has on file with the department evidence of current workers' compensation coverage.

(b) A bail recovery agent or bail recovery apprentice license may not be reinstated without providing verification of the reinstatement of the workers' compensation coverage and payment of the reinstatement fee required in Section 53-11-115.

(c) The provisions of this Subsection [(3)] (5) do not apply to a bail recovery agent or bail recovery apprentice who is working for a bail bond recovery agency as an independent contractor.

Section 5. Section 53-11-115 is amended to read:

53-11-115. License fees -- Deposit in General Fund.

(1) Fees for licensure, registration, and renewal are:

(a) for an original bail enforcement agent license application and license, \$250, which shall include the costs of fingerprint processing and background investigation;

(b) for the renewal of a bail enforcement agent or bail bond recovery agency license, \$150;

(c) for an original bail recovery agent license application and license, \$150, which shall include the costs of fingerprint processing and background investigation;

(d) for the renewal of each bail recovery agent license, \$100;

(e) for an original bail recovery apprentice license application and license, \$150, which shall include the costs of fingerprint processing and background investigation;

(f) for the renewal of each bail recovery apprentice license, \$100;

(g) for filing a renewal application under Subsection (1)(b) more than 30 days after the expiration date of the license, a delinquency fee of \$50;

(h) for filing a renewal application under Subsection (1)(d) more than 30 days after the expiration date of the registration, a delinquency fee of \$30;

(i) for filing a renewal application under Subsection (1)(f) more than 30 days after the expiration date of the apprentice license, a delinquency fee of \$30;

(j) for the reinstatement of a bail enforcement agent or bail bond recovery agency license, \$50;

(k) for a duplicate identification card, \$10; and

(l) for reinstatement of an identification card, \$10.

(2) (a) The bureau may renew a license granted under this chapter upon receipt of an application on forms as prescribed by the board and upon receipt of the fees prescribed in Subsection (1), if the licensee's application meets all the requirements for renewal.

(b) If the bureau determines the license renewal application does not meet all the requirements for renewal, the bureau shall submit the renewal application to the board for review and action.

~~[(e) The renewal of a bail enforcement agent, bail recovery agent, or bail recovery apprentice license requires the filing of a liability insurance policy as required in Subsections 53-9-110(2) and (3).]~~

~~[(d)]~~ (c) A license may not be renewed more than 90 days after its expiration.

~~[(e)]~~ (d) A licensee may not engage in any activity subject to this chapter during any period between the date of expiration of the license and the renewal of the license.

(3) (a) The board may reinstate a suspended license upon completion of the term of suspension.

(b) Renewal of the license does not entitle the licensee, while the license remains suspended and until it is reinstated, to engage in any activity regulated by this chapter, or in any other activity or

conduct in violation of the order or judgment by which the license was suspended.

(4) The board may not reinstate a revoked license or accept an application for a license from a person whose license has been revoked for at least one year after the date of revocation.

(5) All fees collected by the department under this section shall be deposited in the General Fund.

CHAPTER 171**H. B. 314**

Passed March 11, 2015
 Approved March 25, 2015
 Effective May 12, 2015

**MONEY MANAGEMENT
 ACT AMENDMENTS**

Chief Sponsor: Rich Cunningham
 Senate Sponsor: Curtis S. Bramble

LONG TITLE**General Description:**

This bill modifies provisions of the State Money Management Act.

Highlighted Provisions:

This bill:

- ▶ modifies provisions relating to authorized deposits or investments of public funds;
- ▶ provides for a transition of investments that were previously authorized; and
- ▶ repeals provisions relating to the State School Fund report.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

51-7-11, as last amended by Laws of Utah 2013, Chapters 204 and 388
 51-7-23, as last amended by Laws of Utah 1989, Chapter 66

REPEALS:

51-7-9.5, as last amended by Laws of Utah 2014, Chapter 307

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

Section 1. Section 51-7-11 is amended to read:**51-7-11. Authorized deposits or investments of public funds.**

(1) (a) Except as provided in Subsections (1)(b) and (1)(c), a public treasurer shall conduct investment transactions through qualified depositories, certified dealers, or directly with issuers of the investment securities.

(b) A public treasurer may designate a certified investment adviser to make trades on behalf of the public treasurer.

(c) A public treasurer may make a deposit in accordance with Section 53B-7-601 in a foreign depository institution as defined in Section 7-1-103.

(2) The remaining term to maturity of the investment may not exceed the period of availability of the funds to be invested.

(3) Except as provided in Subsection (4), all public funds shall be deposited or invested in the following assets that meet the criteria of Section 51-7-17:

(a) negotiable or nonnegotiable deposits of qualified depositories;

(b) qualifying or nonqualifying repurchase agreements and reverse repurchase agreements with qualified depositories using collateral consisting of:

(i) Government National Mortgage Association mortgage pools;

(ii) Federal Home Loan Mortgage Corporation mortgage pools;

(iii) Federal National Mortgage Corporation mortgage pools;

(iv) Small Business Administration loan pools;

(v) Federal Agriculture Mortgage Corporation pools; or

(vi) other investments authorized by this section;

(c) qualifying repurchase agreements and reverse repurchase agreements with certified dealers, permitted depositories, or qualified depositories using collateral consisting of:

(i) Government National Mortgage Association mortgage pools;

(ii) Federal Home Loan Mortgage Corporation mortgage pools;

(iii) Federal National Mortgage Corporation mortgage pools;

(iv) Small Business Administration loan pools; or

(v) other investments authorized by this section;

(d) commercial paper that is classified as "first tier" by two nationally recognized statistical rating organizations, which has a remaining term to maturity of:

(i) 270 days or fewer for paper issued under 15 U.S.C. Sec. 77c(a)(3); or

(ii) 365 days or fewer for paper issued under 15 U.S.C. Sec. 77d(2);

(e) bankers' acceptances that:

(i) are eligible for discount at a Federal Reserve bank; and

(ii) have a remaining term to maturity of 270 days or fewer;

(f) fixed rate negotiable deposits issued by a permitted depository that have a remaining term to maturity of 365 days or fewer;

(g) obligations of the United States Treasury, including United States Treasury bills, United States Treasury notes, and United States Treasury bonds[;] that, unless the funds invested are pledged or otherwise deposited in an irrevocable trust escrow account, have a remaining term to final maturity of:

(i) five years or less; or

(ii) if the funds are invested by an institution of higher education as defined in Section 53B-3-102,

a city of the first class, or a county of the first class, 10 years or less;

(h) obligations other than mortgage pools and other mortgage derivative products that:

(i) are issued by, or fully guaranteed as to principal and interest by, the following agencies or instrumentalities of the United States in which a market is made by a primary reporting government securities dealer, unless the agency or instrumentality has become private and is no longer considered to be a government entity:

[(iv)] (A) Federal Farm Credit banks;

[(iii)] (B) Federal Home Loan banks;

[(iii)] (C) Federal National Mortgage Association;

[(iv)] (D) Federal Home Loan Mortgage Corporation;

[(v)] (E) Federal Agriculture Mortgage Corporation; and

[(vi)] (F) Tennessee Valley Authority; and

(ii) unless the funds invested are pledged or otherwise deposited in an irrevocable trust escrow account, have a remaining term to final maturity of:

(A) five years or less; or

(B) if the funds are invested by an institution of higher education as defined in Section 53B-3-102, a city of the first class, or a county of the first class, 10 years or less;

(i) fixed rate corporate obligations that:

(i) are rated "A" or higher or the equivalent of "A" or higher by two nationally recognized statistical rating organizations;

(ii) are senior unsecured or secured obligations of the issuer, excluding covered bonds;

(iii) are publicly traded; and

(iv) have a remaining term to final maturity of 15 months or less or are subject to a hard put at par value or better, within 365 days;

(j) tax anticipation notes and general obligation bonds of the state or a county, incorporated city or town, school district, or other political subdivision of the state, including bonds offered on a when-issued basis without regard to the limitations described in Subsection (7)[5] that, unless the funds invested are pledged or otherwise deposited in an irrevocable trust escrow account, have a remaining term to final maturity of:

(i) five years or less; or

(ii) if the funds are invested by an institution of higher education as defined in Section 53B-3-102, a city of the first class, or a county of the first class, 10 years or less;

(k) bonds, notes, or other evidence of indebtedness of a county, incorporated city or town, school district, or other political subdivision of the state that are payable from assessments or from

revenues or earnings specifically pledged for payment of the principal and interest on these obligations, including bonds offered on a when-issued basis without regard to the limitations described in Subsection (7)[5] that, unless the funds invested are pledged or otherwise deposited in an irrevocable trust escrow account, have a remaining term to final maturity of:

(i) five years or less; or

(ii) if the funds are invested by an institution of higher education as defined in Section 53B-3-102, a city of the first class, or a county of the first class, 10 years or less;

(l) shares or certificates in a money market mutual fund;

(m) variable rate negotiable deposits that:

(i) are issued by a qualified depository or a permitted depository;

(ii) are repriced at least semiannually; and

(iii) have a remaining term to final maturity not to exceed three years;

(n) variable rate securities that:

(i) (A) are rated "A" or higher or the equivalent of "A" or higher by two nationally recognized statistical rating organizations;

(B) are senior unsecured or secured obligations of the issuer, excluding covered bonds;

(C) are publicly traded;

(D) are repriced at least semiannually; and

(E) have a remaining term to final maturity not to exceed three years or are subject to a hard put at par value or better, within 365 days;

(ii) are not mortgages, mortgage-backed securities, mortgage derivative products, or a security making unscheduled periodic principal payments other than optional redemptions; and

(o) reciprocal deposits made in accordance with Subsection 51-7-17(4).

(4) The following public funds are exempt from the requirements of Subsection (3):

(a) the Employers' Reinsurance Fund created in Section 34A-2-702;

(b) the Uninsured Employers' Fund created in Section 34A-2-704;

(c) a local government other post-employment benefits trust fund under Section 51-7-12.2; and

(d) a nonnegotiable deposit made in accordance with Section 53B-7-601 in a foreign depository institution as defined in Section 7-1-103.

(5) If any of the deposits authorized by Subsection (3)(a) are negotiable or nonnegotiable large time deposits issued in amounts of \$100,000 or more, the interest shall be calculated on the basis of the actual number of days divided by 360 days.

(6) A public treasurer may maintain fully insured deposits in demand accounts in a federally insured

nonqualified depository only if a qualified depository is not reasonably convenient to the entity's geographic location.

(7) Except as provided under Subsections (3)(j) and (k), the public treasurer shall ensure that all purchases and sales of securities are settled within:

(a) 15 days of the trade date for outstanding issues; and

(b) 30 days for new issues.

Section 2. Section 51-7-23 is amended to read:

51-7-23. Transition of investments previously authorized.

(1) Any investment held by a public treasurer that as of ~~[January 1, 1989, was previously authorized, but no longer qualifies under]~~ June 30, 2015, is not in compliance with the provisions of this chapter~~[, is considered an authorized investment until it matures or is sold]~~ is subject to review by the council.

(2) (a) No later than July 31, 2015, a public treasurer who holds an investment described in Subsection (1) shall provide the council a written report that outlines a reasonable plan to bring the investment into compliance.

(b) A plan described in Subsection (2)(a) is subject to annual review by the council.

Section 3. Repealer.

This bill repeals:

Section 51-7-9.5, State School Fund report.

CHAPTER 172**H. B. 317**

Passed March 6, 2015

Approved March 25, 2015

Effective May 12, 2015

DESTRUCTION OF LIVESTOCK

Chief Sponsor: Merrill F. Nelson
 Senate Sponsor: David P. Hinkins
 Cosponsors: Melvin R. Brown
 Scott H. Chew
 Gage Froerer
 Douglas V. Sagers
 Scott D. Sandall

LONG TITLE**General Description:**

This bill modifies the Utah Criminal Code regarding destruction of livestock.

Highlighted Provisions:

This bill:

- ▶ establishes a guideline for a court when ordering a person convicted of wanton destruction of livestock to pay restitution for cattle and sheep that are destroyed.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

76-6-111, as last amended by Laws of Utah 2010, Chapter 193

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

Section 1. Section 76-6-111 is amended to read:

76-6-111. Wanton destruction of livestock -- Penalties -- Restitution criteria -- Seizure and disposition of property.

(1) As used in this section:

(a) "Law enforcement officer" [is-as] means the same as that term is defined in Section 53-13-103.

(b) "Livestock" means a domestic animal or fur bearer raised or kept for profit, including:

- (i) cattle;
- (ii) sheep;
- (iii) goats;
- (iv) swine;
- (v) horses;
- (vi) mules;
- (vii) poultry; and

(viii) domesticated elk as defined in Section 4-39-102.

(2) Unless authorized by Section 4-25-4, 4-25-5, 4-25-14, 4-39-401, or 18-1-3, a person is guilty of wanton destruction of livestock if that person:

(a) injures, physically alters, releases, or causes the death of livestock; and

(b) does so:

(i) intentionally or knowingly; and

(ii) without the permission of the owner of the livestock.

(3) Wanton destruction of livestock is punishable as a:

(a) class B misdemeanor if the aggregate value of the livestock is \$500 or less;

(b) class A misdemeanor if the aggregate value of the livestock is more than \$500, but does not exceed \$1,500;

(c) third degree felony if the aggregate value of the livestock is more than \$1,500, but does not exceed \$5,000; and

(d) second degree felony if the aggregate value of the livestock is more than \$5,000.

(4) When a court orders a person who is convicted of wanton destruction of livestock to pay restitution under Title 77, Chapter 38a, Crime Victims Restitution Act, the court shall consider, in addition to the restitution criteria in Section 77-38a-302, the restitution guidelines in Subsection (5) when setting the amount.

(5) The minimum restitution value for cattle and sheep is the sum of the following, unless the court states on the record why it finds the sum to be inappropriate:

(a) the fair market value of the animal, using as a guide the market information obtained from the Department of Agriculture and Food created under Section 4-2-1; and

(b) 10 years times the average annual value of offspring, for which average annual value is determined using data obtained from the National Agricultural Statistics Service within the United States Department of Agriculture, for the most recent 10-year period available.

[(4)] (6) A material, device, or vehicle used in violation of Subsection (2) is subject to forfeiture under the procedures and substantive protections established in Title 24, [Chapter 1, Utah Uniform Forfeiture Procedures Act] Forfeiture and Disposition of Property Act.

[(5)] (7) A peace officer may seize a material, device, or vehicle used in violation of Subsection (2):

(a) upon notice and service of process issued by a court having jurisdiction over the property; or

(b) without notice and service of process if:

(i) the seizure is incident to an arrest under:

(A) a search warrant; or

(B) an inspection under an administrative inspection warrant;

(ii) the material, device, or vehicle has been the subject of a prior judgment in favor of the state in a criminal injunction or forfeiture proceeding under this section; or

(iii) the peace officer has probable cause to believe that the property has been used in violation of Subsection (2).

[~~(6)~~] (8) (a) A material, device, or vehicle seized under this section is not repleviable but is in custody of the law enforcement agency making the seizure, subject only to the orders and decrees of a court or official having jurisdiction.

(b) A peace officer who seizes a material, device, or vehicle under this section may:

- (i) place the property under seal;
- (ii) remove the property to a place designated by the warrant under which it was seized; or
- (iii) take custody of the property and remove it to an appropriate location for disposition in accordance with law.

CHAPTER 173**H. B. 321**

Passed March 10, 2015

Approved March 25, 2015

Effective May 12, 2015

VOTE BY MAIL REVISIONS

Chief Sponsor: John R. Westwood

Senate Sponsor: Peter C. Knudson

LONG TITLE**General Description:**

This bill amends the requirements for an election administered entirely by absentee ballot.

Highlighted Provisions:

This bill:

- ▶ requires a county that administers an election entirely by absentee ballot to provide at least one election day voting center;
- ▶ changes notification requirements; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

20A-3-302, as last amended by Laws of Utah 2013, Chapter 320

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

Section 1. Section 20A-3-302 is amended to read:**20A-3-302. Conducting entire election by absentee ballot.**

(1) Notwithstanding Section 17B-1-306, an election officer may administer an election entirely by absentee ballot.

(2) If the election officer decides to administer an election entirely by absentee ballot, the election officer shall mail to each registered voter within that voting precinct:

(a) an absentee ballot;

~~(b) a statement that there will be no polling place in the voting precinct for the election;~~

(b) for an election administered by a county clerk, information regarding the location and hours of operation of any election day voting center at which the voter may vote;

(c) a ~~business~~ courtesy reply mail envelope;

(d) instructions for returning the ballot that include an express notice about any relevant deadlines that the voter must meet in order for the voter's vote to be counted; and

(e) for an election administered by an election officer other than a county clerk, if the election officer does not operate a polling location or an election day voting center, a warning, on a separate page of colored paper in bold face print, indicating

that if the voter fails to follow the instructions included with the absentee ballot, the voter will be unable to vote in that election because there will be no polling place in the voting precinct on the day of the election.

(3) ~~Any~~ A voter who votes by absentee ballot under this section is not required to apply for an absentee ballot as required by this part.

(4) An election officer who administers an election entirely by absentee ballot shall:

(a) (i) obtain, in person, the signatures of each voter within that voting precinct before the election; or

(ii) obtain the signature of each voter within the voting precinct from the county clerk; and

(b) maintain the signatures on file in the election officer's office.

(5) (a) Upon receiving the returned absentee ballots, the election officer shall compare the signature on each absentee ballot with the voter's signature that is maintained on file and verify that the signatures are the same.

(b) If the election officer questions the authenticity of the signature on the absentee ballot, the election officer shall immediately contact the voter to verify the signature.

(c) If the election official determines that the signature on the absentee ballot does not match the voter's signature that is maintained on file, the election officer shall:

(i) unless the absentee ballot application deadline described in Section 20A-3-304 has passed, immediately send another absentee ballot and other voting materials as required by this section to the voter; and

(ii) disqualify the initial absentee ballot.

(6) A county that administers an election entirely by absentee ballot:

(a) shall provide at least one election day voting center in accordance with Title 20A, Chapter 3, Part 7, Election Day Voting Center;

(b) shall ensure that an election day voting center operated by the county has at least one voting device that is accessible, in accordance with the Help America Vote Act of 2002, Pub. L. No. 107-252, for individuals with disabilities; and

(c) is not required to pay return postage for an absentee ballot.

CHAPTER 174**H. B. 338**

Passed March 11, 2015
 Approved March 25, 2015
 Effective May 12, 2015

**RESOLVING GOVERNMENT
 RECORD DISPUTES**

Chief Sponsor: Rebecca Chavez-Houck
 Senate Sponsor: Howard A. Stephenson

LONG TITLE**General Description:**

This bill modifies provisions related to a process for resolving disputes concerning government records.

Highlighted Provisions:

This bill:

- ▶ modifies duties of the State Records Committee;
- ▶ authorizes the state auditor to submit to the State Records Committee a dispute about the public release of a record in conjunction with the release of an audit report; and
- ▶ provides for judicial review of a State Records Committee determination of a record dispute submitted by the state auditor.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63G-2-502, as last amended by Laws of Utah 2011, Chapter 340
 67-3-1, as last amended by Laws of Utah 2014, Chapter 377

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

Section 1. Section 63G-2-502 is amended to read:**63G-2-502. State Records Committee -- Duties.**

- (1) The records committee shall:
 - (a) meet at least once every three months;
 - (b) review and approve schedules for the retention and disposal of records;
 - (c) hear appeals from determinations of access as provided by Section 63G-2-403; ~~and~~
 - (d) determine disputes submitted by the state auditor under Subsection 67-3-1(15)(d); and
 - ~~(d)~~ (e) appoint a chairman from among its members.
- (2) The records committee may:
 - (a) make rules to govern its own proceedings as provided by Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and
 - (b) by order, after notice and hearing, reassign classification and designation for any record series by a governmental entity if the governmental

entity's classification or designation is inconsistent with this chapter.

(3) The records committee shall annually appoint an executive secretary to the records committee. The executive secretary may not serve as a voting member of the committee.

(4) Five members of the records committee are a quorum for the transaction of business.

(5) The state archives shall provide staff and support services for the records committee.

(6) If the records committee reassigns the classification or designation of a record or record series under Subsection (2)(b), any affected governmental entity or any other interested person may appeal the reclassification or redesignation to the district court. The district court shall hear the matter de novo.

(7) The Office of the Attorney General shall provide counsel to the records committee and shall review proposed retention schedules.

Section 2. Section 67-3-1 is amended to read:**67-3-1. Functions and duties.**

(1) (a) The state auditor is the auditor of public accounts and is independent of any executive or administrative officers of the state.

(b) The state auditor is not limited in the selection of personnel or in the determination of the reasonable and necessary expenses of the state auditor's office.

(2) The state auditor shall examine and certify annually in respect to each fiscal year, financial statements showing:

- (a) the condition of the state's finances;
- (b) the revenues received or accrued;
- (c) expenditures paid or accrued;

(d) the amount of unexpended or unencumbered balances of the appropriations to the agencies, departments, divisions, commissions, and institutions; and

(e) the cash balances of the funds in the custody of the state treasurer.

(3) (a) The state auditor shall:

(i) audit each permanent fund, each special fund, the General Fund, and the accounts of any department of state government or any independent agency or public corporation as the law requires, as the auditor determines is necessary, or upon request of the governor or the Legislature;

(ii) perform the audits in accordance with generally accepted auditing standards and other auditing procedures as promulgated by recognized authoritative bodies;

(iii) as the auditor determines is necessary, conduct the audits to determine:

- (A) honesty and integrity in fiscal affairs;

(B) accuracy and reliability of financial statements;

(C) effectiveness and adequacy of financial controls; and

(D) compliance with the law.

(b) If any state entity receives federal funding, the state auditor shall ensure that the audit is performed in accordance with federal audit requirements.

(c) (i) The costs of the federal compliance portion of the audit may be paid from an appropriation to the state auditor from the General Fund.

(ii) If an appropriation is not provided, or if the federal government does not specifically provide for payment of audit costs, the costs of the federal compliance portions of the audit shall be allocated on the basis of the percentage that each state entity's federal funding bears to the total federal funds received by the state.

(iii) The allocation shall be adjusted to reflect any reduced audit time required to audit funds passed through the state to local governments and to reflect any reduction in audit time obtained through the use of internal auditors working under the direction of the state auditor.

(4) (a) Except as provided in Subsection (4)(b), the state auditor shall, in addition to financial audits, and as the auditor determines is necessary, conduct performance and special purpose audits, examinations, and reviews of any entity that receives public funds, including a determination of any or all of the following:

(i) the honesty and integrity of all its fiscal affairs;

(ii) whether or not its administrators have faithfully complied with legislative intent;

(iii) whether or not its operations have been conducted in an efficient, effective, and cost-efficient manner;

(iv) whether or not its programs have been effective in accomplishing the intended objectives; and

(v) whether or not its management, control, and information systems are adequate, effective, and secure.

(b) The auditor may not conduct performance and special purpose audits, examinations, and reviews of any entity that receives public funds if the entity:

(i) has an elected auditor; and

(ii) has, within the entity's last budget year, had its financial statements or performance formally reviewed by another outside auditor.

(5) The state auditor shall administer any oath or affirmation necessary to the performance of the duties of the auditor's office, and may subpoena witnesses and documents, whether electronic or otherwise, and examine into any matter that the auditor considers necessary.

(6) The state auditor may require all persons who have had the disposition or management of any property of this state or its political subdivisions to submit statements regarding it at the time and in the form that the auditor requires.

(7) The state auditor shall:

(a) except where otherwise provided by law, institute suits in Salt Lake County in relation to the assessment, collection, and payment of its revenues against:

(i) persons who by any means have become entrusted with public money or property and have failed to pay over or deliver the money or property; and

(ii) all debtors of the state;

(b) collect and pay into the state treasury all fees received by the state auditor;

(c) perform the duties of a member of all boards of which the state auditor is a member by the constitution or laws of the state, and any other duties that are prescribed by the constitution and by law;

(d) stop the payment of the salary of any state official or state employee who:

(i) refuses to settle accounts or provide required statements about the custody and disposition of public funds or other state property;

(ii) refuses, neglects, or ignores the instruction of the state auditor or any controlling board or department head with respect to the manner of keeping prescribed accounts or funds; or

(iii) fails to correct any delinquencies, improper procedures, and errors brought to the official's or employee's attention;

(e) establish accounting systems, methods, and forms for public accounts in all taxing or fee-assessing units of the state in the interest of uniformity, efficiency, and economy;

(f) superintend the contractual auditing of all state accounts;

(g) subject to Subsection (8)(a), withhold state allocated funds or the disbursement of property taxes from a state or local taxing or fee-assessing unit, if necessary, to ensure that officials and employees in those taxing units comply with state laws and procedures in the budgeting, expenditures, and financial reporting of public funds; and

(h) subject to Subsection (9), withhold the disbursement of tax money from any county, if necessary, to ensure that officials and employees in the county comply with Section 59-2-303.1.

(8) (a) Except as otherwise provided by law, the state auditor may not withhold funds under Subsection (7)(g) until a state or local taxing or fee-assessing unit has received formal written notice of noncompliance from the auditor and has been given 60 days to make the specified corrections.

(b) If, after receiving notice under Subsection (8)(a), a state or independent local fee-assessing unit that exclusively assesses fees has not made corrections to comply with state laws and procedures in the budgeting, expenditures, and financial reporting of public funds, the state auditor:

(i) shall provide a recommended timeline for corrective actions; and

(ii) may prohibit the state or local fee-assessing unit from accessing money held by the state; and

(iii) may prohibit a state or local fee-assessing unit from accessing money held in an account of a financial institution by filing an action in district court requesting an order of the court to prohibit a financial institution from providing the fee-assessing unit access to an account.

(c) The state auditor shall remove a limitation on accessing funds under Subsection (8)(b) upon compliance with state laws and procedures in the budgeting, expenditures, and financial reporting of public funds.

(d) If a local taxing or fee-assessing unit has not adopted a budget in compliance with state law, the state auditor:

(i) shall provide notice to the taxing or fee-assessing unit of the unit's failure to comply;

(ii) may prohibit the taxing or fee-assessing unit from accessing money held by the state; and

(iii) may prohibit a taxing or fee-assessing unit from accessing money held in an account of a financial institution by:

(A) contacting the taxing or fee-assessing unit's financial institution and requesting that the institution prohibit access to the account; or

(B) filing an action in district court requesting an order of the court to prohibit a financial institution from providing the taxing or fee-assessing unit access to an account.

(e) If the local taxing or fee-assessing unit adopts a budget in compliance with state law, the state auditor shall eliminate a limitation on accessing funds described in Subsection (8)(d).

(9) The state auditor may not withhold funds under Subsection (7)(h) until a county has received formal written notice of noncompliance from the auditor and has been given 60 days to make the specified corrections.

(10) Notwithstanding Subsection (7)(g), (7)(h), (8)(b), or (8)(d) the state auditor:

(a) shall authorize a disbursement by a state or local taxing or fee-assessing unit if the disbursement is necessary to:

(i) avoid a major disruption in the operations of the state or local taxing or fee-assessing unit; or

(ii) meet debt service obligations; and

(b) may authorize a disbursement by a state or local taxing or fee-assessing unit as the state auditor determines is appropriate.

(11) The state auditor shall:

(a) establish audit guidelines and procedures for audits of local mental health and substance abuse authorities and their contract providers, conducted pursuant to Title 17, Chapter 43, Parts 2, Local Substance Abuse Authorities and 3, Local Mental Health Authorities, Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act, and Title 62A, Chapter 15, Substance Abuse and Mental Health Act; and

(b) ensure that those guidelines and procedures provide assurances to the state that:

(i) state and federal funds appropriated to local mental health authorities are used for mental health purposes;

(ii) a private provider under an annual or otherwise ongoing contract to provide comprehensive mental health programs or services for a local mental health authority is in compliance with state and local contract requirements, and state and federal law;

(iii) state and federal funds appropriated to local substance abuse authorities are used for substance abuse programs and services; and

(iv) a private provider under an annual or otherwise ongoing contract to provide comprehensive substance abuse programs or services for a local substance abuse authority is in compliance with state and local contract requirements, and state and federal law.

(12) The state auditor may, in accordance with the auditor's responsibilities for political subdivisions of the state as provided in Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act, initiate audits or investigations of any political subdivision that are necessary to determine honesty and integrity in fiscal affairs, accuracy and reliability of financial statements, effectiveness, and adequacy of financial controls and compliance with the law.

(13) (a) The state auditor may not audit work that the state auditor performed before becoming state auditor.

(b) If the state auditor has previously been a responsible official in state government whose work has not yet been audited, the Legislature shall:

(i) designate how that work shall be audited; and

(ii) provide additional funding for those audits, if necessary.

(14) The state auditor shall:

(a) with the assistance, advice, and recommendations of an advisory committee appointed by the state auditor from among local district boards of trustees, officers, and employees

and special service district boards, officers, and employees:

(i) prepare a Uniform Accounting Manual for Local Districts that:

(A) prescribes a uniform system of accounting and uniform budgeting and reporting procedures for local districts under Title 17B, Limited Purpose Local Government Entities - Local Districts, and special service districts under Title 17D, Chapter 1, Special Service District Act;

(B) conforms with generally accepted accounting principles; and

(C) prescribes reasonable exceptions and modifications for smaller districts to the uniform system of accounting, budgeting, and reporting;

(ii) maintain the manual under Subsection (14)(a) so that it continues to reflect generally accepted accounting principles;

(iii) conduct a continuing review and modification of procedures in order to improve them;

(iv) prepare and supply each district with suitable budget and reporting forms; and

(v) prepare instructional materials, conduct training programs, and render other services considered necessary to assist local districts and special service districts in implementing the uniform accounting, budgeting, and reporting procedures; and

(b) continually analyze and evaluate the accounting, budgeting, and reporting practices and experiences of specific local districts and special service districts selected by the state auditor and make the information available to all districts.

(15) (a) The following records in the custody or control of the state auditor are protected records under Title 63G, Chapter 2, Government Records Access and Management Act:

(i) records that would disclose information relating to allegations of personal misconduct, gross mismanagement, or illegal activity of a past or present governmental employee if the information or allegation cannot be corroborated by the state auditor through other documents or evidence, and the records relating to the allegation are not relied upon by the state auditor in preparing a final audit report;

(ii) records and audit workpapers to the extent they would disclose the identity of a person who during the course of an audit, communicated the existence of any waste of public funds, property, or manpower, or a violation or suspected violation of a law, rule, or regulation adopted under the laws of this state, a political subdivision of the state, or any recognized entity of the United States, if the information was disclosed on the condition that the identity of the person be protected;

(iii) before an audit is completed and the final audit report is released, records or drafts circulated to a person who is not an employee or head of a

governmental entity for their response or information;

(iv) records that would disclose an outline or part of any audit survey plans or audit program; and

(v) requests for audits, if disclosure would risk circumvention of an audit.

(b) The provisions of Subsections (15)(a)(i), (ii), and (iii) do not prohibit the disclosure of records or information that relate to a violation of the law by a governmental entity or employee to a government prosecutor or peace officer.

(c) The provisions of this Subsection (15) do not limit the authority otherwise given to the state auditor to classify a document as public, private, controlled, or protected under Title 63G, Chapter 2, Government Records Access and Management Act.

(d) (i) As used in this Subsection (15)(d), "record dispute" means a dispute between the state auditor and the subject of an audit performed by the state auditor as to whether the state auditor may release a record, as defined in Section 63G-2-103, to the public that the state auditor gained access to in the course of the state auditor's audit but which the subject of the audit claims is not subject to disclosure under Title 63G, Chapter 2, Government Records Access and Management Act.

(ii) The state auditor may submit a record dispute to the State Records Committee, created in Section 63G-2-501, for a determination of whether the state auditor may, in conjunction with the state auditor's release of an audit report, release to the public the record that is the subject of the record dispute.

(iii) The state auditor or the subject of the audit may seek judicial review of a State Records Committee determination under Subsection (15)(d)(ii), as provided in Section 63G-2-404.

(16) If the state auditor conducts an audit of an entity that the state auditor has previously audited and finds that the entity has not implemented a recommendation made by the state auditor in a previous audit, the state auditor shall notify the Legislative Management Committee through its audit subcommittee that the entity has not implemented that recommendation.

CHAPTER 175**H. B. 341**

Passed March 12, 2015
 Approved March 25, 2015
 Effective May 12, 2015

CONSTITUTIONAL DEBT

Chief Sponsor: John Knotwell
 Senate Sponsor: Deidre M. Henderson

LONG TITLE**General Description:**

This bill enacts provisions relating to the constitutional debt limit.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ addresses the publication of the state's constitutional debt limit;
- ▶ modifies the contents of the governor's proposed budget;
- ▶ provides priority appropriation for debt service; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 63A-3-103, as last amended by Laws of Utah 2011, Chapter 79
 63J-1-102, as enacted by Laws of Utah 2009, Chapters 183 and 368
 63J-1-201, as last amended by Laws of Utah 2014, Chapters 320, 344, and 430
 67-19-6, as last amended by Laws of Utah 2012, Chapter 173

ENACTS:

63J-1-205.1, Utah Code Annotated 1953

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

Section 1. Section 63A-3-103 is amended to read:**63A-3-103. Duties of director of division -- Application to institutions of higher education.**

- (1) The director of the Division of Finance shall:
- (a) define fiscal procedures relating to approval and allocation of funds;
 - (b) provide for the accounting control of funds;
 - (c) approve proposed expenditures for the purchase of supplies and services;
 - (d) promulgate rules that:
 - (i) establish procedures for maintaining detailed records of all types of leases;
 - (ii) account for all types of leases in accordance with generally accepted accounting principles;

(iii) require the performance of a lease with an option to purchase study by state agencies prior to any lease with an option to purchase acquisition of capital equipment; and

(iv) require that the completed lease with an option to purchase study be approved by the director of the Division of Finance;

(e) if the department operates the Division of Finance as an internal service fund agency in accordance with Section 63A-1-109.5, submit to the Rate Committee established in Section 63A-1-114:

(i) the proposed rate and fee schedule as required by Section 63A-1-114; and

(ii) other information or analysis requested by the Rate Committee;

(f) oversee the Office of State Debt Collection; [and]

(g) publish the state's current constitutional debt limit on the Utah Public Finance Website, created in Section 63A-3-402; and

~~[(g)]~~ (h) prescribe other fiscal functions required by law or under the constitutional authority of the governor to transact all executive business for the state.

(2) (a) Institutions of higher education are subject to the provisions of Title 63A, Chapter 3, Part 1, General Provisions, and Part 2, Accounting System, only to the extent expressly authorized or required by the State Board of Regents under Title 53B, State System of Higher Education.

(b) Institutions of higher education shall submit financial data for the past fiscal year conforming to generally accepted accounting principles to the director of the Division of Finance.

(3) The Division of Finance shall prepare financial statements and other reports in accordance with legal requirements and generally accepted accounting principles for the state auditor's examination and certification:

(a) not later than 60 days after a request from the state auditor; and

(b) at the end of each fiscal year.

Section 2. Section 63J-1-102 is amended to read:**63J-1-102. Definitions.**

(1) "Debt service" means the money that is required annually to cover the repayment of interest and principal on state debt.

~~[(1)]~~ (2) "Dedicated credits" means collections by an agency that are deposited directly into an account for expenditure on a separate line item and program.

~~[(2)]~~ (3) "Federal revenues" means collections by an agency from a federal source that are deposited into an account for expenditure on a separate line item and program.

~~[(3)]~~ (4) "Fixed collections" means collections that are:

(a) fixed at a specific amount by law or by an appropriation act; and

(b) required to be deposited into a separate line item and program.

[44] (5) "Free revenue" includes:

(a) collections that are required by law to be deposited in:

- (i) the General Fund;
- (ii) the Education Fund;
- (iii) the Uniform School Fund; or
- (iv) the Transportation Fund;

(b) collections that are not otherwise designated by law;

(c) collections that are not externally restricted; and

(d) collections that are not included in an approved work program.

[45] (6) "Major revenue types" means:

- (a) free revenue;
- (b) restricted revenue;
- (c) dedicated credits; and
- (d) fixed collections.

[46] (7) "Restricted revenue" means collections that are:

(a) deposited, by law, into a separate fund, subfund, or account; and

(b) designated for a specific program or purpose.

Section 3. Section 63J-1-201 is amended to read:

63J-1-201. Governor's proposed budget to Legislature -- Contents -- Preparation -- Appropriations based on current tax laws and not to exceed estimated revenues.

(1) The governor shall deliver, not later than 30 days before the date the Legislature convenes in the annual general session, a confidential draft copy of the governor's proposed budget recommendations to the Office of the Legislative Fiscal Analyst according to the requirements of this section.

(2) (a) When submitting a proposed budget, the governor shall, within the first three days of the annual general session of the Legislature, submit to the presiding officer of each house of the Legislature:

- (i) a proposed budget for the ensuing fiscal year;
- (ii) a schedule for all of the proposed changes to appropriations in the proposed budget, with each change clearly itemized and classified; and
- (iii) as applicable, a document showing proposed changes in estimated revenues that are based on changes in state tax laws or rates.

(b) The proposed budget shall include:

(i) a projection of:

- (A) estimated revenues by major tax type;
- (B) 15-year trends for each major tax type;
- (C) estimated receipts of federal funds; and
- (D) appropriations for the next fiscal year;

(ii) the source of changes to all direct, indirect, and in-kind matching funds for all federal grants or assistance programs included in the budget;

(iii) changes to debt service;

[44] (iv) a plan of proposed changes to appropriations and estimated revenues for the next fiscal year that is based upon the current fiscal year state tax laws and rates and considers projected changes in federal grants or assistance programs included in the budget;

[44] (v) an itemized estimate of the proposed changes to appropriations for:

(A) the Legislative Department as certified to the governor by the president of the Senate and the speaker of the House;

(B) the Executive Department;

(C) the Judicial Department as certified to the governor by the state court administrator;

(D) changes to salaries payable by the state under the Utah Constitution or under law for lease agreements planned for the next fiscal year; and

(E) all other changes to ongoing or one-time appropriations, including dedicated credits, restricted funds, nonlapsing balances, grants, and federal funds;

[44] (vi) for each line item, the average annual dollar amount of staff funding associated with all positions that were vacant during the last fiscal year;

[44] (vii) deficits or anticipated deficits;

[44] (viii) the recommendations for each state agency for new full-time employees for the next fiscal year, which shall also be provided to the State Building Board as required by Subsection 63A-5-103(2);

[44] (ix) any explanation that the governor may desire to make as to the important features of the budget and any suggestion as to methods for the reduction of expenditures or increase of the state's revenue; and

[44] (x) information detailing certain fee increases as required by Section 63J-1-504.

(3) For the purpose of preparing and reporting the proposed budget:

(a) The governor shall require the proper state officials, including all public and higher education officials, all heads of executive and administrative departments and state institutions, bureaus, boards, commissions, and agencies expending or supervising the expenditure of the state money, and all institutions applying for state money and

appropriations, to provide itemized estimates of changes in revenues and appropriations.

(b) The governor may require the persons and entities subject to Subsection (3)(a) to provide other information under these guidelines and at times as the governor may direct, which may include a requirement for program productivity and performance measures, where appropriate, with emphasis on outcome indicators.

(c) The governor may require representatives of public and higher education, state departments and institutions, and other institutions or individuals applying for state appropriations to attend budget meetings.

(4) (a) The Governor's Office of Management and Budget shall provide to the Office of Legislative Fiscal Analyst, as soon as practicable, but no later than November 15 of each year, data, analysis, or requests used in preparing the governor's budget recommendations, notwithstanding the restrictions imposed on such recommendations by available revenue.

(b) The information under Subsection (4)(a) shall include:

(i) actual revenues and expenditures for the fiscal year ending the previous June 30;

(ii) estimated or authorized revenues and expenditures for the current fiscal year;

(iii) requested revenues and expenditures for the next fiscal year;

(iv) detailed explanations of any differences between the amounts appropriated by the Legislature in the current fiscal year and the amounts reported under Subsections (4)(b)(ii) and (iii);

(v) a statement of agency and program objectives, effectiveness measures, and program size indicators; and

(vi) other budgetary information required by the Legislature in statute.

(c) The budget information under Subsection (4)(a) shall cover:

(i) all items of appropriation, funds, and accounts included in appropriations acts for the current and previous fiscal years; and

(ii) any new appropriation, fund, or account items requested for the next fiscal year.

(d) The information provided under Subsection (4)(a) may be provided as a shared record under Section 63G-2-206 as considered necessary by the Governor's Office of Management and Budget.

(5) (a) In submitting the budget for the Department of Public Safety, the governor shall include a separate recommendation in the governor's budget for maintaining a sufficient number of alcohol-related law enforcement officers to maintain the enforcement ratio equal to or below the number specified in Subsection 32B-1-201(2).

(b) If the governor does not include in the governor's budget an amount sufficient to maintain the number of alcohol-related law enforcement officers described in Subsection (5)(a), the governor shall include a message to the Legislature regarding the governor's reason for not including that amount.

(6) (a) The governor may revise all estimates, except those relating to the Legislative Department, the Judicial Department, and those providing for the payment of principal and interest to the state debt and for the salaries and expenditures specified by the Utah Constitution or under the laws of the state.

(b) The estimate for the Judicial Department, as certified by the state court administrator, shall also be included in the budget without revision, but the governor may make separate recommendations on the estimate.

(7) The total appropriations requested for expenditures authorized by the budget may not exceed the estimated revenues from taxes, fees, and all other sources for the next ensuing fiscal year.

(8) If any item of the budget as enacted is held invalid upon any ground, the invalidity does not affect the budget itself or any other item in it.

Section 4. Section 63J-1-205.1 is enacted to read:

63J-1-205.1. Legislature to pay debt service first.

In appropriating money from the General Fund, the Legislature shall appropriate money to debt service before making any other appropriation.

Section 5. Section 67-19-6 is amended to read:

67-19-6. Responsibilities of the executive director.

(1) The executive director shall:

(a) develop, implement, and administer a statewide program of human resource management that will:

(i) aid in the efficient execution of public policy;

(ii) foster careers in public service for qualified employees; and

(iii) render assistance to state agencies in performing their missions;

(b) design and administer the state pay plan;

(c) design and administer the state classification system and procedures for determining schedule assignments;

(d) design and administer the state recruitment and selection system;

(e) administer agency human resource practices and ensure compliance with federal law, state law, and state human resource rules, including equal employment opportunity;

(f) consult with agencies on decisions concerning employee corrective action and discipline;

- (g) maintain central personnel records;
- (h) perform those functions necessary to implement this chapter unless otherwise assigned or prohibited;
- (i) perform duties assigned by the governor or statute;
- (j) adopt rules for human resource management according to the procedures of Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
- (k) establish and maintain a management information system that will furnish the governor, the Legislature, and agencies with current information on authorized positions, payroll, and related matters concerning state human resources;
 - (l) conduct research and planning activities to:
 - (i) determine and prepare for future state human resource needs;
 - (ii) develop methods for improving public human resource management; and
 - (iii) propose needed policy changes to the governor;
 - (m) study the character, causes, and extent of discrimination in state employment and develop plans for its elimination through programs consistent with federal and state laws governing equal employment opportunity in employment;
 - (n) when requested by counties, municipalities, and other political subdivisions of the state, provide technical service and advice on human resource management at a charge determined by the executive director;
 - (o) establish compensation policies and procedures for early voluntary retirement;
 - (p) confer with the heads of other agencies about human resource policies and procedures;
 - (q) submit an annual report to the governor and the Legislature; and
 - (r) assist with the development of a vacant position report required under Subsection 63J-1-201(2)(b)~~(v)~~(vi).
- (2) (a) After consultation with the governor and the heads of other agencies, the executive director shall establish and coordinate statewide training programs, including and subject to available funding, the development of manager and supervisor training.
 - (b) The programs developed under this Subsection (2) shall have application to more than one agency.
 - (c) The department may not establish training programs that train employees to perform highly specialized or technical jobs and tasks.
- (3) (a) (i) The department may collect fees for training as authorized by this Subsection (3).
 - (ii) Training funded from General Fund appropriations shall be treated as a separate program within the department budget.

(iii) All money received from fees under this section will be accounted for by the department as a separate user driven training program.

(iv) The user training program includes the costs of developing, procuring, and presenting training and development programs, and other associated costs for these programs.

(b) (i) Funds remaining at the end of the fiscal year in the user training program are nonlapsing.

(ii) Each year, as part of the appropriations process, the Legislature shall review the amount of nonlapsing funds remaining at the end of the fiscal year and may, by statute, require the department to lapse a portion of the funds.

CHAPTER 176**H. B. 347**

Passed March 11, 2015
 Approved March 25, 2015
 Effective May 12, 2015

RETIREMENT WINDOW AMENDMENTS

Chief Sponsor: Rich Cunningham
 Senate Sponsor: Curtis S. Bramble

LONG TITLE**General Description:**

This bill modifies the Utah State Retirement and Insurance Benefit Act by adding a conversion window for certain employees.

Highlighted Provisions:

This bill:

- ▶ adds a six-month window for employers of certain entities to elect to participate in the Public Employees' Noncontributory Retirement System and for eligible employees to elect to participate in that system.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

49-13-205, as last amended by Laws of Utah 2009, Chapter 221

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

Section 1. Section 49-13-205 is amended to read:**49-13-205. Conversion to system -- Time schedule -- Conversion windows.**

(1) An employee governed under Section 49-13-201 shall make the election to participate in this system within six months of July 1, 1986.

(2) (a) (i) An employer governed under Sections 49-13-201 and 49-13-202 shall make the election to participate in this system within six months of July 1, 1986.

(ii) The employer shall indicate whether or not it elects to participate by enacting a resolution or ordinance to that effect.

(iii) Prior to the enactment of the resolution or ordinance, a hearing shall be held by the employer, at which all employees of the political subdivision shall be given an opportunity to be heard on the question of participating in this system.

(iv) Notice of the hearing shall be mailed to all employees within 30 days of the hearing and shall contain the time, place, and purpose of the hearing.

(b) A regular full-time employee has six months from the date the employer elects to participate in this system in which to make the election to participate in this system and become eligible for service credit in this system.

(3) Subsections (1) and (2) shall be used to provide a second time period of conversion to this system beginning July 1, 1990.

(4) Subsections (1) and (2) shall be used to provide a third time period of conversion to this system beginning July 1, 1995.

(5) Subsection (2) shall be used to provide a fourth time period of conversion to this system beginning July 1, 2009 for an entity created under the authority of Title 11, Chapter 13, Interlocal Cooperation Act, and the entity's employees.

(6) Subsection (2) shall be used to provide a fifth time period of conversion to this system beginning July 1, 2015.

~~[(6)]~~ (7) A member of the Contributory Retirement System who is employed by one agency and who either transfers to or is reemployed by another agency shall be enrolled in the Noncontributory Retirement System as of the date of employment, if the participating employer has elected to participate in the Noncontributory Retirement System.

CHAPTER 177**H. B. 349**

Passed March 12, 2015

Approved March 25, 2015

Effective May 12, 2015

**SCHOOL AND INSTITUTIONAL TRUST
LANDS BUDGET AMENDMENTS**

Chief Sponsor: Melvin R. Brown

Senate Sponsor: Lyle W. Hillyard

LONG TITLE**General Description:**

This bill addresses appropriation issues with the School and Institutional Trust Lands Administration.

Highlighted Provisions:

This bill:

- ▶ authorizes the School and Institutional Trust Lands Administration to transfer money from one line item of appropriation to another line item, under certain circumstances; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53C-1-201, as last amended by Laws of Utah 2014, Chapter 426

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

Section 1. Section 53C-1-201 is amended to read:**53C-1-201. Creation of administration -- Purpose -- Director -- Participation in Risk Management Fund.**

(1) (a) There is established within state government the School and Institutional Trust Lands Administration.

(b) The administration shall manage all school and institutional trust lands and assets within the state, except as otherwise provided in Title 53C, Chapter 3, Deposit and Allocation of Revenue from Trust Lands, and Title 53D, Chapter 1, School and Institutional Trust Fund Management Act.

(2) The administration is an independent state agency and not a division of any other department.

(3) (a) It is subject to the usual legislative and executive department controls except as provided in this Subsection (3).

(b) (i) The director may make rules as approved by the board that allow the administration to classify a business proposal submitted to the administration as protected under Section 63G-2-305, for as long as is necessary to evaluate the proposal.

(ii) The administration shall return the proposal to the party who submitted the proposal, and incur

no further duties under Title 63G, Chapter 2, Government Records Access and Management Act, if the administration determines not to proceed with the proposal.

(iii) The administration shall classify the proposal pursuant to law if it decides to proceed with the proposal.

(iv) Section 63G-2-403 does not apply during the review period.

(c) The director shall make rules in compliance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, except that the administration is not subject to Subsections 63G-3-301(6) and (7) and Section 63G-3-601, and the director, with the board's approval, may establish a procedure for the expedited approval of rules, based on written findings by the director showing:

(i) the changes in business opportunities affecting the assets of the trust;

(ii) the specific business opportunity arising out of those changes which may be lost without the rule or changes to the rule;

(iii) the reasons the normal procedures under Section 63G-3-301 cannot be met without causing the loss of the specific opportunity;

(iv) approval by at least five board members; and

(v) that the director has filed a copy of the rule and a rule analysis, stating the specific reasons and justifications for its findings, with the Division of Administrative Rules and notified interested parties as provided in Subsection 63G-3-301(10).

(d) (i) The administration shall comply with Title 67, Chapter 19, Utah State Personnel Management Act, except as provided in this Subsection (3)(d).

(ii) The board may approve, upon recommendation of the director, that exemption for specific positions under Subsections 67-19-12(2) and 67-19-15(1) is required in order to enable the administration to efficiently fulfill its responsibilities under the law. The director shall consult with the executive director of the Department of Human Resource Management prior to making such a recommendation.

(iii) The positions of director, deputy director, associate director, assistant director, legal counsel appointed under Section 53C-1-305, administrative assistant, and public affairs officer are exempt under Subsections 67-19-12(2) and 67-19-15(1).

(iv) Salaries for exempted positions, except for the director, shall be set by the director, after consultation with the executive director of the Department of Human Resource Management, within ranges approved by the board. The board and director shall consider salaries for similar positions in private enterprise and other public employment when setting salary ranges.

(v) The board may create an annual incentive and bonus plan for the director and other administration employees designated by the board,

based upon the attainment of financial performance goals and other measurable criteria defined and budgeted in advance by the board.

(e) The administration shall comply with Title 63G, Chapter 6a, Utah Procurement Code, except where the board approves, upon recommendation of the director, exemption from the Utah Procurement Code, and simultaneous adoption of rules under Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for procurement, which enable the administration to efficiently fulfill its responsibilities under the law.

(f) (i) Except as provided in Subsection (3)(f)(ii), the administration is not subject to the fee agency requirements of Section 63J-1-504.

(ii) The following fees of the administration are subject to the requirements of Section 63J-1-504: application, assignment, amendment, affidavit for lost documents, name change, reinstatement, grazing nonuse, extension of time, partial conveyance, patent reissue, collateral assignment, electronic payment, and processing.

(g) (i) The administration is not subject to Subsection 63J-1-206(3)(f).

(ii) Before transferring appropriated funds between line items, the administration shall submit a proposal to the board for its approval.

(iii) If the board gives approval to a proposal to transfer appropriated funds between line items, the administration shall submit the proposal to the Legislative Executive Appropriations Committee for its review and recommendations.

(iv) The Legislative Executive Appropriations Committee may recommend:

(A) that the administration transfer the appropriated funds between line items;

(B) that the administration not transfer the appropriated funds between line items; or

(C) to the governor that the governor call a special session of the Legislature to supplement the appropriated budget for the administration.

(4) The administration is managed by a director of school and institutional trust lands appointed by a majority vote of the board of trustees with the consent of the governor.

(5) (a) The board of trustees shall provide policies for the management of the administration and for the management of trust lands and assets.

(b) The board shall provide policies for the ownership and control of Native American remains that are discovered or excavated on school and institutional trust lands in consultation with the Division of Indian Affairs and giving due consideration to Title 9, Chapter 9, Part 4, Native American Grave Protection and Repatriation Act. The director may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement policies provided by the board regarding Native American remains.

(6) In connection with joint ventures and other transactions involving trust lands and minerals approved under Sections 53C-1-303 and 53C-2-401, the administration, with board approval, may become a member of a limited liability company under Title 48, Chapter 2c, Utah Revised Limited Liability Company Act, or Title 48, Chapter 3a, Utah Revised Uniform Limited Liability Company Act, as appropriate pursuant to Section 48-3a-1405 and is considered a person under Section 48-2c-102 or Section 48-3a-102.

(7) Subject to the requirements of Subsection 63E-1-304(2), the administration may participate in coverage under the Risk Management Fund created by Section 63A-4-201.

CHAPTER 178**H. B. 361**

Passed March 12, 2015

Approved March 25, 2015

Effective May 12, 2015

**INVESTIGATION PROTOCOLS FOR
PEACE OFFICER USE OF FORCE**

Chief Sponsor: Marc K. Roberts

Senate Sponsor: Deidre M. Henderson

LONG TITLE**General Description:**

This bill modifies the Utah Criminal Code regarding the investigation of peace officer use of force.

Highlighted Provisions:

This bill:

- ▶ requires the chief executive of a law enforcement agency to work with the district or county attorney to designate an agency to investigate instances of a peace officer use of force;
- ▶ requires that the investigating agency not be the agency where the officer is employed; and
- ▶ requires each law enforcement agency to adopt and post by December 31, 2015:
 - the policies and procedures the agency has adopted to select the investigating agency if an officer-involved critical incident occurs in its jurisdiction; and
 - the protocols the agency has adopted to ensure that any investigation of officer-involved incidents occurring in its jurisdiction are conducted professionally, thoroughly, and impartially.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

76-2-408, Utah Code Annotated 1953

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

Section 1. Section 76-2-408 is enacted to read:**76-2-408. Peace officer use of force --
Investigations.**

(1) As used in this section:

(a) "Dangerous weapon" is a firearm or an object that in the manner of its use or intended use is capable of causing death or serious bodily injury.

(b) "Investigating agency" is a law enforcement agency, the county or district attorney's office, or an interagency task force composed of officers from multiple law enforcement agencies.

(c) "Officer" is a law enforcement officer as defined in Section 53-13-103.

(d) "Officer-involved critical incident" is any of the following:

(i) the use of a dangerous weapon by an officer against a person that causes injury to any person;

(ii) a fatal injury to any person except the officer, resulting from the use of a motor vehicle by an officer;

(iii) the death of a person who is in law enforcement custody, but not including deaths that are the result of disease, natural causes, or conditions that have been medically diagnosed prior to the person's death; or

(iv) a fatal injury to a person resulting from the efforts of an officer attempting to prevent a person's escape from custody, make an arrest, or otherwise gain physical control of a person.

(2) When an officer-involved critical incident occurs:

(a) upon receiving notice of the officer-involved critical incident, the law enforcement agency having jurisdiction where the incident occurred shall, as soon as practical, notify the county or district attorney having jurisdiction where the incident occurred; and

(b) the chief executive of the law enforcement agency and the county or district attorney having jurisdiction where the incident occurred shall:

(i) jointly designate an investigating agency for the officer-involved critical incident; and

(ii) designate which agency is the lead investigative agency if the officer-involved critical incident involves multiple investigations.

(3) The investigating agency under Subsection (2) may not be the law enforcement agency employing the officer who is alleged to have caused or contributed to the officer-involved critical incident.

(4) This section does not preclude the law enforcement agency employing an officer alleged to have caused or contributed to the officer-involved critical incident from conducting an internal administrative investigation.

(5) Each law enforcement agency that is part of or administered by the state or any of its political subdivisions shall, by December 31, 2015, adopt and post on its publicly accessible website:

(a) the policies and procedures the agency has adopted to select the investigating agency if an officer-involved critical incident occurs in its jurisdiction and one of its officers is alleged to have caused or contributed to the officer-involved incident; and

(b) the protocols the agency has adopted to ensure that any investigation of officer-involved incidents occurring in its jurisdiction are conducted professionally, thoroughly, and impartially.

CHAPTER 179**H. B. 379**

Passed March 12, 2015
 Approved March 25, 2015
 Effective July 1, 2015

**UNDERGROUND STORAGE
TANK AMENDMENTS**

Chief Sponsor: Steve Eliason
 Senate Sponsor: Howard A. Stephenson

LONG TITLE**General Description:**

This bill requires the Division of Fleet Operations to ensure that certain underground storage tanks qualify for a risk-based environmental assurance fee rebate.

Highlighted Provisions:

This bill:

- ▶ requires the Division of Fleet Operations to ensure that certain underground storage tanks qualify for a risk-based environmental assurance fee rebate;
- ▶ provides reporting requirements; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

This bill appropriates for fiscal year 2016:

- ▶ to the Department of Administrative Services Division of Fleet Operations:
 - from the General Fund, one-time, \$150,000 to pay for upgrading the condition of underground storage tanks.

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

63A-9-401, as last amended by Laws of Utah 2014, Chapter 190

63J-1-602.4, as last amended by Laws of Utah 2014, Chapters 37, 186, and 189

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

Section 1. Section 63A-9-401 is amended to read:**63A-9-401. Division -- Duties.**

- (1) The division shall:
 - (a) perform all administrative duties and functions related to management of state vehicles;
 - (b) coordinate all purchases of state vehicles;
 - (c) establish one or more fleet automation and information systems for state vehicles;
 - (d) make rules establishing requirements for:
 - (i) maintenance operations for state vehicles;
 - (ii) use requirements for state vehicles;
 - (iii) fleet safety and loss prevention programs;
 - (iv) preventative maintenance programs;

- (v) procurement of state vehicles, including:
 - (A) vehicle standards;
 - (B) alternative fuel vehicle requirements;
 - (C) short-term lease programs;
 - (D) equipment installation; and
 - (E) warranty recovery programs;
 - (vi) fuel management programs;
 - (vii) cost management programs;
 - (viii) business and personal use practices, including commute standards;
 - (ix) cost recovery and billing procedures;
 - (x) disposal of state vehicles;
 - (xi) reassignment of state vehicles and reallocation of vehicles throughout the fleet;
 - (xii) standard use and rate structures for state vehicles; and
 - (xiii) insurance and risk management requirements;
- (e) establish a parts inventory;
 - (f) create and administer a fuel dispensing services program that meets the requirements of Subsection (2);
 - (g) emphasize customer service when dealing with agencies and agency employees;
 - (h) conduct an annual audit of all state vehicles for compliance with division requirements;
 - (i) before charging a rate, fee, or other amount to an executive branch agency, or to a subscriber of services other than an executive branch agency:
 - (i) submit the proposed rates, fees, and cost analysis to the Rate Committee established in Section 63A-1-114; and
 - (ii) obtain the approval of the Legislature as required by Section 63J-1-410; and
 - (j) conduct an annual market analysis of proposed rates and fees, which analysis shall include a comparison of the division's rates and fees with the fees of other public or private sector providers where comparable services and rates are reasonably available.
- (2) The division shall operate a fuel dispensing services program in a manner that:
 - (a) reduces the risk of environmental damage and subsequent liability for leaks involving state-owned underground storage tanks;
 - (b) eliminates fuel site duplication and reduces overall costs associated with fuel dispensing;
 - (c) provides efficient fuel management and efficient and accurate accounting of fuel-related expenses;
 - (d) where practicable, privatizes portions of the state's fuel dispensing system;

(e) provides central planning for fuel contingencies;

(f) establishes fuel dispensing sites that meet geographical distribution needs and that reflect usage patterns;

(g) where practicable, uses alternative sources of energy; and

(h) provides safe, accessible fuel supplies in an emergency.

(3) The division shall:

(a) ensure that the state and each of its agencies comply with state and federal law and state and federal rules and regulations governing underground storage tanks;

(b) coordinate the installation of new state-owned underground storage tanks and the upgrading or retrofitting of existing underground storage tanks; ~~and~~

(c) by no later than June 30, 2025, ensure that an underground storage tank qualifies for a rebate, provided under Subsection 19-6-410.5(5)(d), of a portion of the environmental assurance fee described in Subsection 19-6-410.5(4), if the underground storage tank is owned by:

(i) the state;

(ii) a state agency; or

(iii) a county, municipality, school district, local district, special service district, or federal agency that has subscribed to the fuel dispensing service provided by the division under Subsection (6)(b);

(d) report to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee by no later than:

(i) November 30, 2020, on the status of the requirements of Subsection (3)(c); and

(ii) November 30, 2024, on whether:

(A) the requirements of Subsection (3)(c) have been met; and

(B) additional funding is needed to accomplish the requirements of Subsection (3)(c); and

~~[(e)]~~ (e) ensure that counties, municipalities, school districts, local districts, and special service districts subscribing to services provided by the division sign a contract that:

(i) establishes the duties and responsibilities of the parties;

(ii) establishes the cost for the services; and

(iii) defines the liability of the parties.

(4) In fulfilling the requirements of Subsection (3)(c), the division may give priority to underground storage tanks owned by the state or a state agency under Subsections (3)(c)(i) and (ii).

~~[(4)]~~ (5) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the director of the Division of Fleet Operations:

(i) may make rules governing fuel dispensing; and

(ii) shall make rules establishing standards and procedures for purchasing the most economically appropriate size and type of vehicle for the purposes and driving conditions for which the vehicle will be used, including procedures for granting exceptions to the standards by the executive director of the Department of Administrative Services.

(b) Rules made under Subsection ~~[(4)]~~ (5)(a)(ii):

(i) shall designate a standard vehicle size and type that shall be designated as the statewide standard vehicle for fleet expansion and vehicle replacement;

(ii) may designate different standard vehicle size and types based on defined categories of vehicle use;

(iii) may, when determining a standard vehicle size and type for a specific category of vehicle use, consider the following factors affecting the vehicle class:

(A) size requirements;

(B) economic savings;

(C) fuel efficiency;

(D) driving and use requirements;

(E) safety;

(F) maintenance requirements;

(G) resale value; and

(H) the requirements of Section 63A-9-403; and

(iv) shall require agencies that request a vehicle size and type that is different from the standard vehicle size and type to:

(A) submit a written request for a nonstandard vehicle to the division that contains the following:

(I) the make and model of the vehicle requested, including acceptable alternate vehicle makes and models as applicable;

(II) the reasons justifying the need for a nonstandard vehicle size or type;

(III) the date of the request; and

(IV) the name and signature of the person making the request; and

(B) obtain the division's written approval for the nonstandard vehicle.

~~[(5)]~~ (6) (a) (i) Each state agency and each higher education institution shall subscribe to the fuel dispensing services provided by the division.

(ii) A state agency may not provide or subscribe to any other fuel dispensing services, systems, or products other than those provided by the division.

(b) Counties, municipalities, school districts, local districts, special service districts, and federal agencies may subscribe to the fuel dispensing services provided by the division if:

(i) the county or municipal legislative body, the school district, or the local district or special service

district board recommends that the county, municipality, school district, local district, or special service district subscribe to the fuel dispensing services of the division; and

(ii) the division approves participation in the program by that government unit.

~~[(6)]~~ (7) The director, with the approval of the executive director, may delegate functions to institutions of higher education, by contract or other means authorized by law, if:

(a) the agency or institution of higher education has requested the authority;

(b) in the judgment of the director, the state agency or institution has the necessary resources and skills to perform the delegated responsibilities; and

(c) the delegation of authority is in the best interest of the state and the function delegated is accomplished according to provisions contained in law or rule.

Section 2. Section 63J-1-602.4 is amended to read:

63J-1-602.4. List of nonlapsing funds and accounts -- Title 61 through Title 63M.

(1) Funds paid to the Division of Real Estate for the cost of a criminal background check for a mortgage loan license, as provided in Section 61-2c-202.

(2) Funds paid to the Division of Real Estate for the cost of a criminal background check for principal broker, associate broker, and sales agent licenses, as provided in Section 61-2f-204.

(3) Certain funds donated to the Department of Human Services, as provided in Section 62A-1-111.

(4) Appropriations from the National Professional Men's Basketball Team Support of Women and Children Issues Restricted Account created in Section 62A-1-202.

(5) Certain funds donated to the Division of Child and Family Services, as provided in Section 62A-4a-110.

(6) Appropriations from the Choose Life Adoption Support Restricted Account created in Section 62A-4a-608.

(7) Appropriations to the Division of Services for People with Disabilities, as provided in Section 62A-5-102.

(8) Appropriations to the Division of Fleet Operations for the purpose of upgrading underground storage tanks under Section 63A-9-401.

~~[(8)]~~ (9) A portion of the funds appropriated to the Utah Seismic Safety Commission, as provided in Section 63C-6-104.

~~[(9)]~~ (10) Certain money payable for commission expenses of the Pete Suazo Utah Athletic

Commission, as provided under Section 63C-11-301.

~~[(10)]~~ (11) Funds appropriated or collected for publishing the Division of Administrative Rules' publications, as provided in Section 63G-3-402.

~~[(11)]~~ (12) The Immigration Act Restricted Account created in Section 63G-12-103.

~~[(12)]~~ (13) Money received by the military installation development authority, as provided in Section 63H-1-504.

~~[(13)]~~ (14) Appropriations to fund the Governor's Office of Economic Development's Enterprise Zone Act, as provided in Title 63M, Chapter 1, Part 4, Enterprise Zone Act.

~~[(14)]~~ (15) The Motion Picture Incentive Account created in Section 63M-1-1803.

Section 3. Appropriation.

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, for the fiscal year beginning July 1, 2015, and ending June 30, 2016, the following sums of money are appropriated from resources not otherwise appropriated, or reduced from amounts previously appropriated, out of the funds or accounts indicated. These sums of money are in addition to any amounts previously appropriated for fiscal year 2016.

To the Department of Administrative Services - Division of Fleet Operations

<u>From General Fund, One-time</u>	<u>\$150,000</u>
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Schedule of Programs:

<u>Fuel Dispensing Program</u>	<u>\$150,000</u>
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Under Section 63J-1-603 the Legislature intends that appropriations provided under this section not lapse at the close of fiscal year 2016. The use of any nonlapsing funds is limited to fulfilling the requirements of Subsection 63A-9-401(3)(e).

The Legislature intends that the appropriation under this section be used to carry out the requirements of Subsection 63A-9-401(3)(c).

Section 4. Effective date.

This bill takes effect on July 1, 2015.

CHAPTER 180**H. B. 390**

Passed March 12, 2015

Approved March 25, 2015

Effective May 12, 2015

**LOCAL HEALTH DEPARTMENTS
EMERGENCY FUNDING**Chief Sponsor: Paul Ray
Senate Sponsor: Evan J. Vickers**LONG TITLE****General Description:**

This bill amends provisions related to local health department funding for a local health emergency.

Highlighted Provisions:

This bill:

- ▶ allows a local health department to determine whether an event is considered a local health emergency.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

26-1-38, as last amended by Laws of Utah 2013, Chapter 167

63J-1-602.1, as last amended by Laws of Utah 2014, Chapter 384

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

Section 1. Section 26-1-38 is amended to read:**26-1-38. Local health emergency assistance program.**

(1) As used in this section:

(a) "Local health department" [~~has the same meaning as~~] means the same as that term is defined in Section 26A-1-102.

(b) "Local health emergency" means an unusual event or series of events causing or resulting in a substantial risk or substantial potential risk to the health of a significant portion of the population within the boundary of a local health department, as determined by the local health department.

(c) "Program" means the local health emergency assistance program that the department is required to establish under this section.

(d) "Program fund" means money that the Legislature appropriates to the department for use in the program and other money otherwise made available for use in the program.

(2) The department shall establish, to the extent of funds appropriated by the Legislature or otherwise made available to the program fund, a local health emergency assistance program.

(3) Under the program, the department shall:

(a) provide a method for a local health department to seek reimbursement from the program fund for local health department expenses incurred in responding to a local health emergency;

(b) require matching funds from any local health department seeking reimbursement from the program fund;

(c) establish a method for apportioning money in the program fund to multiple local health departments when the total amount of concurrent requests for reimbursement by multiple local health departments exceeds the balance in the program fund; and

(d) establish by rule other provisions that the department considers necessary or advisable to implement the program.

(4) (a) (i) Subject to Subsection (4)(a)(ii), the department shall use money in the program fund exclusively for purposes of the program.

(ii) The department may use money in the program fund to cover its costs of administering the program.

(b) Money that the Legislature appropriates to the program fund is nonlapsing in accordance with Section 63J-1-602.1.

(c) Any interest earned on money in the program fund shall be deposited to the General Fund.

Section 2. Section 63J-1-602.1 is amended to read:**63J-1-602.1. List of nonlapsing accounts and funds -- General authority and Title 1 through Title 30.**

(1) Appropriations made to the Legislature and its committees.

(2) The Percent-for-Art Program created in Section 9-6-404.

(3) The Martin Luther King, Jr. Civil Rights Support Restricted Account created in Section 9-18-102.

(4) The LeRay McAllister Critical Land Conservation Program created in Section 11-38-301.

(5) An appropriation made to the Division of Wildlife Resources for the appraisal and purchase of lands under the Pelican Management Act, as provided in Section 23-21a-6.

(6) Award money under the State Asset Forfeiture Grant Program, as provided under Section 24-4-117.

(7) Funds collected from the program fund for local health department expenses incurred in responding to a local health emergency under Section 26-1-38.

~~(7)~~ (8) Funds collected from the emergency medical services grant program, as provided in Section 26-8a-207.

~~(8)~~ (9) The Prostate Cancer Support Restricted Account created in Section 26-21a-303.

~~[(9)]~~ (10) State funds appropriated for matching federal funds in the Children's Health Insurance Program as provided in Section 26-40-108.

~~[(10)]~~ (11) The Utah Health Care Workforce Financial Assistance Program created in Section 26-46-102.

~~[(11)]~~ (12) The primary care grant program created in Section 26-10b-102.

CHAPTER 181**H. B. 410**

Passed March 12, 2015

Approved March 25, 2015

Effective May 12, 2015

**STATE AND LOCAL ENERGY
EFFICIENCY PROGRAMS**

Chief Sponsor: Jack R. Draxler

Senate Sponsor: Kevin T. Van Tassell

LONG TITLE**General Description:**

This bill addresses state and local energy efficiency programs.

Highlighted Provisions:

This bill:

- ▶ modifies and renames the Facility Energy Efficiency Act;
- ▶ modifies provisions relating to the State Building Energy Efficiency Program; and
- ▶ modifies state and local provisions relating to energy efficiency programs.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 11-44-101, as enacted by Laws of Utah 2010, Chapter 244
- 11-44-102, as enacted by Laws of Utah 2010, Chapter 244
- 11-44-201, as enacted by Laws of Utah 2010, Chapter 244
- 11-44-202, as last amended by Laws of Utah 2012, Chapter 347
- 11-44-203, as enacted by Laws of Utah 2010, Chapter 244
- 11-44-301, as last amended by Laws of Utah 2012, Chapter 347
- 11-44-302, as enacted by Laws of Utah 2010, Chapter 244
- 63A-1-112, as last amended by Laws of Utah 2008, Chapter 382
- 63A-5-701, as last amended by Laws of Utah 2012, Chapter 242

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

Section 1. Section 11-44-101 is amended to read:**CHAPTER 44. PERFORMANCE
EFFICIENCY ACT****11-44-101. Title.**

This chapter is known as the “[~~Facility Energy~~] Performance Efficiency Act.”

Section 2. Section 11-44-102 is amended to read:**11-44-102. Definitions.**

As used in this chapter:

(1) “Alternative fuel vehicle” means a motor vehicle that is not powered exclusively by a petroleum fuel source.

[~~(4)~~] (2) “Cost savings” means a decrease in an expenditure, including a future replacement expenditure, by a political subdivision resulting from [~~an energy~~] a performance efficiency measure adopted under this chapter.

[~~(4)~~] (3) (a) “Facility” means a building, structure, or other improvement that is constructed on property owned by a political subdivision.

(b) “Facility” does not mean a privately owned structure that is located on property owned by a political subdivision.

[~~(3)~~] [~~Energy savings~~] (4) “Performance efficiency agreement” means [~~a contract~~] an agreement between a political subdivision and a qualified [~~energy~~] performance efficiency service provider for evaluation, recommendation, and implementation of one or more [~~energy~~] performance efficiency measures.

[~~(2)~~] (5) (a) “[~~Energy~~] Performance efficiency measure” means an action taken by a political subdivision that reduces the political subdivision’s:

- (i) energy consumption;
- (ii) water use; [~~or~~]
- (iii) sewage use[~~-~~]; or
- (iv) operation and maintenance costs.

(b) “[~~Energy~~] Performance efficiency measure” includes:

- (i) insulation installed in a wall, roof, floor, foundation, or heating and cooling distribution system;
- (ii) a storm window or door, multiglazed window or door, heat absorbing or heat reflective glazed and coated window or door system, additional glazing, or reduction in glass area;
- (iii) an automatic energy control system;
- (iv) a heating, ventilating, or air conditioning and distribution system modification or replacement in a facility;
- (v) caulking and weatherstripping;
- (vi) a replacement or modification of a lighting fixture to increase the energy efficiency of the lighting system without increasing the overall illumination of a facility unless the increase in illumination is necessary to conform to the applicable building code for the proposed lighting system;
- (vii) an energy recovery system;
- (viii) a cogeneration system that produces steam or another form of energy for use primarily within a facility;
- (ix) a renewable energy or alternate energy system;
- (x) a change in operation or maintenance practice;

(xi) a procurement of a low-cost energy supply, including electricity, natural gas, or water;

(xii) an indoor air quality improvement that conforms to applicable building code requirements;

(xiii) a daylighting system;

(xiv) a building operation program that provides cost savings, including computerized energy management and consumption tracking programs or staff and occupant training; ~~or~~

(xv) a service to reduce utility costs by identifying utility errors and optimizing rate schedules~~;~~ or

(xvi) the purchase and operation of an alternative fuel vehicle and the infrastructure to support the operation of alternative fuel vehicles.

~~[(5) “Facility energy] (6) “Performance efficiency program” means a program established by a political subdivision under this chapter to adopt [an energy] a performance efficiency measure.~~

~~[(6)] (7) “Qualified [energy] performance efficiency service provider” means a person who:~~

~~(a) has a record of successful [energy savings] performance efficiency agreements; or~~

~~(b) has:~~

~~(i) experience in the design, implementation, and installation of [energy] performance efficiency measures;~~

~~(ii) technical capabilities to ensure that [an energy efficient] a performance efficiency measure generates cost savings; and~~

~~(iii) the ability to secure the financing necessary to support the proposed [energy] performance efficiency measure.~~

Section 3. Section 11-44-201 is amended to read:

11-44-201. Political subdivision responsibilities -- State responsibilities.

(1) A political subdivision may:

(a) enter into ~~[an energy savings] a performance efficiency agreement;~~

(b) develop and administer a ~~[facility energy] performance efficiency program;~~

(c) analyze energy consumption by the political subdivision;

(d) designate a staff member who is responsible for a ~~[facility energy] performance efficiency program; and~~

(e) provide the governing body of the political subdivision with information regarding the ~~[facility energy] performance efficiency program.~~

(2) The following entities may provide information, technical resources, and other assistance to a political subdivision acting under this chapter:

(a) the Utah Geological Survey, created in Section 79-3-201;

(b) the State Board of Education, under Title 53A, Chapter 1, Administration of Public Education at the State Level;

(c) the Division of Purchasing and General Services, created in Section 63A-2-101; and

(d) the Division of Facilities Construction and Management, created in Section 63A-5-201.

Section 4. Section 11-44-202 is amended to read:

11-44-202. Types of agreements.

Notwithstanding Section 63G-6a-1205, a political subdivision shall structure ~~[an energy service] a performance efficiency agreement as a guaranteed [energy savings] performance [contract] efficiency agreement,~~ which shall include:

(1) the design and installation of ~~[an energy] a performance efficiency measure,~~ if applicable;

(2) operation and maintenance of ~~[any energy] a performance efficiency measure implemented; and~~

(3) guaranteed annual cost savings that meet or exceed the total annual ~~[contract] agreement payments by the political subdivision under the [contract] agreement,~~ including financing charges incurred by the political subdivision over the life of the ~~[contract] agreement.~~

Section 5. Section 11-44-203 is amended to read:

11-44-203. Length of agreements.

A political subdivision may only enter into ~~[an energy savings] a performance efficiency agreement for more than one year if the political subdivision finds that the amount the political subdivision would spend on the [energy] performance efficiency measure will not exceed the amount of the cost savings over 20 years from the date of installation of the [energy] performance efficiency measure.~~

Section 6. Section 11-44-301 is amended to read:

11-44-301. Selection.

(1) A political subdivision shall follow the procedures outlined in Title 63G, Chapter 6a, Utah Procurement Code, when selecting a qualified ~~[energy] performance efficiency service provider.~~

(2) The Division of Purchasing shall maintain a list of qualified ~~[energy] performance efficiency service providers.~~

(3) The qualified ~~[energy] performance efficiency service provider selected from the bid process shall prepare an investment grade [energy] audit, which shall become part of the final [contract] agreement between the political subdivision and the qualified [energy] performance efficiency service provider.~~

(4) The audit shall include:

(a) a detailed description of the [energy] performance efficiency measure;

(b) an estimated cost; and

(c) a projected cost savings.

Section 7. Section 11-44-302 is amended to read:

11-44-302. Annual reports.

During the term of [an energy savings] a performance efficiency agreement, the qualified [energy] performance efficiency service provider shall submit an annual report to the political subdivision that provides the cost savings attributable to the [energy] performance efficiency measures taken by the political subdivision.

Section 8. Section 63A-1-112 is amended to read:

63A-1-112. Certificates of participation -- Legislative approval required -- Definition -- Exception.

(1) (a) Certificates of participation for either capital facilities or capital improvements may not be issued by the department, its subdivisions, or any other state agency after July 1, 1985, without prior legislative approval.

(b) Nothing in this section affects the rights and obligations surrounding certificates of participation that were issued prior to July 1, 1985.

(2) (a) As used in this section, "certificate of participation" means an instrument that acts as evidence of the certificate holder's undivided interest in property being lease-purchased, the payment on which is subject to appropriation by the Legislature.

(b) (i) ~~[For purposes of]~~ As used in this Subsection (2)(b), "[energy savings] performance efficiency agreement" [has the meaning as] means the same as that term is defined in Section 63A-5-701.

(ii) "Certificate of participation" does not include [an energy savings] a performance efficiency agreement.

Section 9. Section 63A-5-701 is amended to read:

63A-5-701. State Building Energy Efficiency Program.

(1) For purposes of this section:

(a) "Division" means the Division of Facilities Construction and Management established in Section 63A-5-201.

~~[(b) "Energy efficiency measures" means actions taken or initiated by a state agency that reduce the state agency's energy use, increase the state agency's energy efficiency, reduce source energy consumption, reduce water consumption, or lower the costs of energy or water to the state agency.]~~

(b) "Energy efficiency measure" means an action taken or initiated by a state agency that:

(i) reduces the state agency's energy or fuel use or resource energy consumption, water or other resource consumption, operation and maintenance costs, or cost of energy, fuel, water, or other resource; or

(ii) increases the state agency's energy or fuel efficiency or resource consumption efficiency.

(c) ~~["Energy savings]~~ "Performance efficiency agreement" means an agreement entered into by a state agency whereby the state agency implements one or more energy efficiency measures and finances the costs associated with implementation of [energy] performance efficiency measures using the stream of expected savings in [utility] costs resulting from implementation of the [energy] performance efficiency measures as ~~[the]~~ a funding source for repayment.

(d) "State agency" means each executive, legislative, and judicial branch department, agency, board, commission, or division, and includes a state institution of higher education as defined in Section 53B-3-102.

(e) "State Building Energy Efficiency Program" means a program established under this section for the purpose of improving energy efficiency measures and reducing the energy costs for state facilities.

(f) (i) "State facility" means any building, structure, or other improvement that is constructed on property owned by the state, its departments, commissions, institutions, or agencies, or a state institution of higher education.

(ii) "State facility" does not mean:

(A) an unoccupied structure that is a component of the state highway system;

(B) a privately owned structure that is located on property owned by the state, its departments, commissions, institutions, or agencies, or a state institution of higher education; or

(C) a structure that is located on land administered by the School and Institutional Trust Lands Administration under a lease, permit, or contract with the School and Institutional Trust Lands Administration.

(2) The division shall:

(a) develop and administer the state building energy efficiency program, which shall include guidelines and procedures to improve energy efficiency in the maintenance and management of state facilities;

(b) provide information and assistance to state agencies in their efforts to improve energy efficiency;

(c) analyze energy consumption by state agencies to identify opportunities for improved energy efficiency;

(d) establish an advisory group composed of representatives of state agencies to provide information and assistance in the development and

implementation of the state building energy efficiency program; and

(e) submit to the governor and to the Infrastructure and General Government Appropriations Subcommittee of the Legislature an annual report that:

(i) identifies strategies for long-term improvement in energy efficiency;

(ii) identifies goals for energy conservation for the upcoming year; and

(iii) details energy management programs and strategies that were undertaken in the previous year to improve the energy efficiency of state agencies and the energy savings achieved.

(3) Each state agency shall:

(a) designate a staff member that is responsible for coordinating energy efficiency efforts within the agency;

(b) provide energy consumption and costs information to the division;

(c) develop strategies for improving energy efficiency and reducing energy costs; and

(d) provide the division with information regarding the agency's energy efficiency and reduction strategies.

(4) (a) A state agency may enter into [~~an energy savings~~] a performance efficiency agreement for a term of up to 20 years.

(b) Before entering into [~~an energy savings~~] a performance efficiency agreement, the state agency shall:

(i) utilize the division to oversee the project unless the project is exempt from the division's oversight or the oversight is delegated to the agency under the provisions of Section 63A-5-206;

(ii) obtain the prior approval of the governor or the governor's designee; and

(iii) provide the Office of Legislative Fiscal Analyst with a copy of the proposed agreement before the agency enters into the agreement.

CHAPTER 182**H. B. 454**

Passed March 12, 2015

Approved March 25, 2015

Effective May 12, 2015

PRISON DEVELOPMENT AMENDMENTS

Chief Sponsor: Brad R. Wilson
Senate Sponsor: Jerry W. Stevenson

LONG TITLE**General Description:**

This bill modifies and enacts provisions relating to the development of a new prison.

Highlighted Provisions:

This bill:

- ▶ modifies the duties and authority of the Prison Relocation Commission;
- ▶ creates the Prison Development Commission and provides for its membership, duties, and operation;
- ▶ provides for Division of Facilities Construction and Management oversight of the prison design and construction project, in consultation with the Prison Development Commission;
- ▶ enacts a local option sales and use tax for a city or town that has a new state correctional facility;
- ▶ authorizes the issuance of bonds for the prison project;
- ▶ creates a restricted account and capital projects fund for the prison project;
- ▶ provides a process for the choice of a new prison site; and
- ▶ modifies a repeal provision relating to the Prison Relocation Commission and enacts a repeal provision relating to the Prison Development Commission.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

59-12-102, as last amended by Laws of Utah 2014, Chapters 380 and 414

59-12-403, as last amended by Laws of Utah 2012, Chapter 254

63C-15-102, as enacted by Laws of Utah 2014, Chapter 211

63C-15-201, as enacted by Laws of Utah 2014, Chapter 211

63C-15-203, as enacted by Laws of Utah 2014, Chapter 211

63I-1-263, as last amended by Laws of Utah 2014, Chapters 113, 189, 195, 211, 419, 429, and 435

63I-2-263, as last amended by Laws of Utah 2014, Chapters 172, 423, and 427

ENACTS:

59-12-400, Utah Code Annotated 1953

59-12-402.1, Utah Code Annotated 1953

63A-5-225, Utah Code Annotated 1953

63B-24-101, Utah Code Annotated 1953

63C-16-101, Utah Code Annotated 1953

63C-16-102, Utah Code Annotated 1953

63C-16-201, Utah Code Annotated 1953

63C-16-202, Utah Code Annotated 1953

63C-16-203, Utah Code Annotated 1953

63C-16-204, Utah Code Annotated 1953

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

Section 1. Section 59-12-102 is amended to read:**59-12-102. Definitions.**

As used in this chapter:

(1) "800 service" means a telecommunications service that:

(a) allows a caller to dial a toll-free number without incurring a charge for the call; and

(b) is typically marketed:

(i) under the name 800 toll-free calling;

(ii) under the name 855 toll-free calling;

(iii) under the name 866 toll-free calling;

(iv) under the name 877 toll-free calling;

(v) under the name 888 toll-free calling; or

(vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the Federal Communications Commission.

(2) (a) "900 service" means an inbound toll telecommunications service that:

(i) a subscriber purchases;

(ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to the subscriber's:

(A) prerecorded announcement; or

(B) live service; and

(iii) is typically marketed:

(A) under the name 900 service; or

(B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal Communications Commission.

(b) "900 service" does not include a charge for:

(i) a collection service a seller of a telecommunications service provides to a subscriber; or

(ii) the following a subscriber sells to the subscriber's customer:

(A) a product; or

(B) a service.

(3) (a) "Admission or user fees" includes season passes.

(b) "Admission or user fees" does not include annual membership dues to private organizations.

(4) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on November 12, 2002, including amendments made to the Streamlined Sales and Use Tax Agreement after November 12, 2002.

(5) “Agreement combined tax rate” means the sum of the tax rates:

(a) listed under Subsection (6); and

(b) that are imposed within a local taxing jurisdiction.

(6) “Agreement sales and use tax” means a tax imposed under:

(a) Subsection 59-12-103(2)(a)(i)(A);

(b) Subsection 59-12-103(2)(b)(i);

(c) Subsection 59-12-103(2)(c)(i);

(d) Subsection 59-12-103(2)(d)(i)(A)(I);

(e) Section 59-12-204;

(f) Section 59-12-401;

(g) Section 59-12-402;

(h) Section 59-12-402.1;

~~[(h)]~~ (i) Section 59-12-703;

~~[(i)]~~ (j) Section 59-12-802;

~~[(j)]~~ (k) Section 59-12-804;

~~[(k)]~~ (l) Section 59-12-1102;

~~[(l)]~~ (m) Section 59-12-1302;

~~[(m)]~~ (n) Section 59-12-1402;

~~[(n)]~~ (o) Section 59-12-1802;

~~[(o)]~~ (p) Section 59-12-2003;

~~[(p)]~~ (q) Section 59-12-2103;

~~[(q)]~~ (r) Section 59-12-2213;

~~[(r)]~~ (s) Section 59-12-2214;

~~[(s)]~~ (t) Section 59-12-2215;

~~[(t)]~~ (u) Section 59-12-2216;

~~[(u)]~~ (v) Section 59-12-2217; or

~~[(v)]~~ (w) Section 59-12-2218.

(7) “Aircraft” is as defined in Section 72-10-102.

(8) “Aircraft maintenance, repair, and overhaul provider” means a business entity:

(a) except for:

(i) an airline as defined in Section 59-2-102; or

(ii) an affiliated group, as defined in Section 59-7-101, except that “affiliated group” includes a corporation that is qualified to do business but is not otherwise doing business in the state, of an airline; and

(b) that has the workers, expertise, and facilities to perform the following, regardless of whether the business entity performs the following in this state:

(i) check, diagnose, overhaul, and repair:

(A) an onboard system of a fixed wing turbine powered aircraft; and

(B) the parts that comprise an onboard system of a fixed wing turbine powered aircraft;

(ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft engine;

(iii) perform at least the following maintenance on a fixed wing turbine powered aircraft:

(A) an inspection;

(B) a repair, including a structural repair or modification;

(C) changing landing gear; and

(D) addressing issues related to an aging fixed wing turbine powered aircraft;

(iv) completely remove the existing paint of a fixed wing turbine powered aircraft and completely apply new paint to the fixed wing turbine powered aircraft; and

(v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that results in a change in the fixed wing turbine powered aircraft’s certification requirements by the authority that certifies the fixed wing turbine powered aircraft.

(9) “Alcoholic beverage” means a beverage that:

(a) is suitable for human consumption; and

(b) contains .5% or more alcohol by volume.

(10) “Alternative energy” means:

(a) biomass energy;

(b) geothermal energy;

(c) hydroelectric energy;

(d) solar energy;

(e) wind energy; or

(f) energy that is derived from:

(i) coal-to-liquids;

(ii) nuclear fuel;

(iii) oil-impregnated diatomaceous earth;

(iv) oil sands;

(v) oil shale;

(vi) petroleum coke; or

(vii) waste heat from:

(A) an industrial facility; or

(B) a power station in which an electric generator is driven through a process in which water is heated, turns into steam, and spins a steam turbine.

(11) (a) Subject to Subsection (11)(b), “alternative energy electricity production facility” means a facility that:

(i) uses alternative energy to produce electricity; and

(ii) has a production capacity of two megawatts or greater.

(b) A facility is an alternative energy electricity production facility regardless of whether the facility is:

- (i) connected to an electric grid; or
- (ii) located on the premises of an electricity consumer.

(12) (a) “Ancillary service” means a service associated with, or incidental to, the provision of telecommunications service.

- (b) “Ancillary service” includes:
- (i) a conference bridging service;
 - (ii) a detailed communications billing service;
 - (iii) directory assistance;
 - (iv) a vertical service; or
 - (v) a voice mail service.

(13) “Area agency on aging” is as defined in Section 62A-3-101.

(14) “Assisted amusement device” means an amusement device, skill device, or ride device that is started and stopped by an individual:

(a) who is not the purchaser or renter of the right to use or operate the amusement device, skill device, or ride device; and

(b) at the direction of the seller of the right to use the amusement device, skill device, or ride device.

(15) “Assisted cleaning or washing of tangible personal property” means cleaning or washing of tangible personal property if the cleaning or washing labor is primarily performed by an individual:

(a) who is not the purchaser of the cleaning or washing of the tangible personal property; and

(b) at the direction of the seller of the cleaning or washing of the tangible personal property.

(16) “Authorized carrier” means:

(a) in the case of vehicles operated over public highways, the holder of credentials indicating that the vehicle is or will be operated pursuant to both the International Registration Plan and the International Fuel Tax Agreement;

(b) in the case of aircraft, the holder of a Federal Aviation Administration operating certificate or air carrier’s operating certificate; or

(c) in the case of locomotives, freight cars, railroad work equipment, or other rolling stock, a person who uses locomotives, freight cars, railroad work equipment, or other rolling stock in more than one state.

(17) (a) Except as provided in Subsection (17)(b), “biomass energy” means any of the following that is used as the primary source of energy to produce fuel or electricity:

- (i) material from a plant or tree; or

(ii) other organic matter that is available on a renewable basis, including:

- (A) slash and brush from forests and woodlands;
- (B) animal waste;
- (C) waste vegetable oil;
- (D) methane or synthetic gas produced at a landfill, as a byproduct of the treatment of wastewater residuals, or through the conversion of a waste material through a nonincineration, thermal conversion process;
- (E) aquatic plants; and
- (F) agricultural products.

(b) “Biomass energy” does not include:

- (i) black liquor; or
- (ii) treated woods.

(18) (a) “Bundled transaction” means the sale of two or more items of tangible personal property, products, or services if the tangible personal property, products, or services are:

- (i) distinct and identifiable; and
- (ii) sold for one nonitemized price.

(b) “Bundled transaction” does not include:

(i) the sale of tangible personal property if the sales price varies, or is negotiable, on the basis of the selection by the purchaser of the items of tangible personal property included in the transaction;

(ii) the sale of real property;

(iii) the sale of services to real property;

(iv) the retail sale of tangible personal property and a service if:

(A) the tangible personal property:

(I) is essential to the use of the service; and

(II) is provided exclusively in connection with the service; and

(B) the service is the true object of the transaction;

(v) the retail sale of two services if:

(A) one service is provided that is essential to the use or receipt of a second service;

(B) the first service is provided exclusively in connection with the second service; and

(C) the second service is the true object of the transaction;

(vi) a transaction that includes tangible personal property or a product subject to taxation under this chapter and tangible personal property or a product that is not subject to taxation under this chapter if the:

(A) seller’s purchase price of the tangible personal property or product subject to taxation under this chapter is de minimis; or

(B) seller's sales price of the tangible personal property or product subject to taxation under this chapter is de minimis; and

(vii) the retail sale of tangible personal property that is not subject to taxation under this chapter and tangible personal property that is subject to taxation under this chapter if:

(A) that retail sale includes:

- (I) food and food ingredients;
- (II) a drug;
- (III) durable medical equipment;
- (IV) mobility enhancing equipment;
- (V) an over-the-counter drug;
- (VI) a prosthetic device; or
- (VII) a medical supply; and

(B) subject to Subsection (18)(f):

(I) the seller's purchase price of the tangible personal property subject to taxation under this chapter is 50% or less of the seller's total purchase price of that retail sale; or

(II) the seller's sales price of the tangible personal property subject to taxation under this chapter is 50% or less of the seller's total sales price of that retail sale.

(c) (i) For purposes of Subsection (18)(a)(i), tangible personal property, a product, or a service that is distinct and identifiable does not include:

(A) packaging that:

(I) accompanies the sale of the tangible personal property, product, or service; and

(II) is incidental or immaterial to the sale of the tangible personal property, product, or service;

(B) tangible personal property, a product, or a service provided free of charge with the purchase of another item of tangible personal property, a product, or a service; or

(C) an item of tangible personal property, a product, or a service included in the definition of "purchase price."

(ii) For purposes of Subsection (18)(c)(i)(B), an item of tangible personal property, a product, or a service is provided free of charge with the purchase of another item of tangible personal property, a product, or a service if the sales price of the purchased item of tangible personal property, product, or service does not vary depending on the inclusion of the tangible personal property, product, or service provided free of charge.

(d) (i) For purposes of Subsection (18)(a)(ii), property sold for one nonitemized price does not include a price that is separately identified by tangible personal property, product, or service on the following, regardless of whether the following is in paper format or electronic format:

(A) a binding sales document; or

(B) another supporting sales-related document that is available to a purchaser.

(ii) For purposes of Subsection (18)(d)(i), a binding sales document or another supporting sales-related document that is available to a purchaser includes:

- (A) a bill of sale;
- (B) a contract;
- (C) an invoice;
- (D) a lease agreement;
- (E) a periodic notice of rates and services;
- (F) a price list;
- (G) a rate card;
- (H) a receipt; or
- (I) a service agreement.

(e) (i) For purposes of Subsection (18)(b)(vi), the sales price of tangible personal property or a product subject to taxation under this chapter is de minimis if:

(A) the seller's purchase price of the tangible personal property or product is 10% or less of the seller's total purchase price of the bundled transaction; or

(B) the seller's sales price of the tangible personal property or product is 10% or less of the seller's total sales price of the bundled transaction.

(ii) For purposes of Subsection (18)(b)(vi), a seller:

(A) shall use the seller's purchase price or the seller's sales price to determine if the purchase price or sales price of the tangible personal property or product subject to taxation under this chapter is de minimis; and

(B) may not use a combination of the seller's purchase price and the seller's sales price to determine if the purchase price or sales price of the tangible personal property or product subject to taxation under this chapter is de minimis.

(iii) For purposes of Subsection (18)(b)(vi), a seller shall use the full term of a service contract to determine if the sales price of tangible personal property or a product is de minimis.

(f) For purposes of Subsection (18)(b)(vii)(B), a seller may not use a combination of the seller's purchase price and the seller's sales price to determine if tangible personal property subject to taxation under this chapter is 50% or less of the seller's total purchase price or sales price of that retail sale.

(19) "Certified automated system" means software certified by the governing board of the agreement that:

(a) calculates the agreement sales and use tax imposed within a local taxing jurisdiction:

(i) on a transaction; and

(ii) in the states that are members of the agreement;

(b) determines the amount of agreement sales and use tax to remit to a state that is a member of the agreement; and

(c) maintains a record of the transaction described in Subsection (19)(a)(i).

(20) “Certified service provider” means an agent certified:

(a) by the governing board of the agreement; and

(b) to perform all of a seller’s sales and use tax functions for an agreement sales and use tax other than the seller’s obligation under Section 59-12-124 to remit a tax on the seller’s own purchases.

(21) (a) Subject to Subsection (21)(b), “clothing” means all human wearing apparel suitable for general use.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:

(i) listing the items that constitute “clothing”; and

(ii) that are consistent with the list of items that constitute “clothing” under the agreement.

(22) “Coal-to-liquid” means the process of converting coal into a liquid synthetic fuel.

(23) “Commercial use” means the use of gas, electricity, heat, coal, fuel oil, or other fuels that does not constitute industrial use under Subsection (55) or residential use under Subsection (105).

(24) (a) “Common carrier” means a person engaged in or transacting the business of transporting passengers, freight, merchandise, or other property for hire within this state.

(b) (i) “Common carrier” does not include a person who, at the time the person is traveling to or from that person’s place of employment, transports a passenger to or from the passenger’s place of employment.

(ii) For purposes of Subsection (24)(b)(i), in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining what constitutes a person’s place of employment.

(25) “Component part” includes:

(a) poultry, dairy, and other livestock feed, and their components;

(b) baling ties and twine used in the baling of hay and straw;

(c) fuel used for providing temperature control of orchards and commercial greenhouses doing a majority of their business in wholesale sales, and for providing power for off-highway type farm machinery; and

(d) feed, seeds, and seedlings.

(26) “Computer” means an electronic device that accepts information:

(a) (i) in digital form; or

(ii) in a form similar to digital form; and

(b) manipulates that information for a result based on a sequence of instructions.

(27) “Computer software” means a set of coded instructions designed to cause:

(a) a computer to perform a task; or

(b) automatic data processing equipment to perform a task.

(28) “Computer software maintenance contract” means a contract that obligates a seller of computer software to provide a customer with:

(a) future updates or upgrades to computer software;

(b) support services with respect to computer software; or

(c) a combination of Subsections (28)(a) and (b).

(29) (a) “Conference bridging service” means an ancillary service that links two or more participants of an audio conference call or video conference call.

(b) “Conference bridging service” may include providing a telephone number as part of the ancillary service described in Subsection (29)(a).

(c) “Conference bridging service” does not include a telecommunications service used to reach the ancillary service described in Subsection (29)(a).

(30) “Construction materials” means any tangible personal property that will be converted into real property.

(31) “Delivered electronically” means delivered to a purchaser by means other than tangible storage media.

(32) (a) “Delivery charge” means a charge:

(i) by a seller of:

(A) tangible personal property;

(B) a product transferred electronically; or

(C) services; and

(ii) for preparation and delivery of the tangible personal property, product transferred electronically, or services described in Subsection (32)(a)(i) to a location designated by the purchaser.

(b) “Delivery charge” includes a charge for the following:

(i) transportation;

(ii) shipping;

(iii) postage;

(iv) handling;

(v) crating; or

(vi) packing.

(33) “Detailed telecommunications billing service” means an ancillary service of separately

stating information pertaining to individual calls on a customer's billing statement.

(34) "Dietary supplement" means a product, other than tobacco, that:

- (a) is intended to supplement the diet;
- (b) contains one or more of the following dietary ingredients:
 - (i) a vitamin;
 - (ii) a mineral;
 - (iii) an herb or other botanical;
 - (iv) an amino acid;
 - (v) a dietary substance for use by humans to supplement the diet by increasing the total dietary intake; or
 - (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient described in Subsections (34)(b)(i) through (v);

(c) (i) except as provided in Subsection (34)(c)(ii), is intended for ingestion in:

- (A) tablet form;
 - (B) capsule form;
 - (C) powder form;
 - (D) softgel form;
 - (E) gelcap form; or
 - (F) liquid form; or
- (ii) if the product is not intended for ingestion in a form described in Subsections (34)(c)(i)(A) through (F), is not represented:

- (A) as conventional food; and
- (B) for use as a sole item of:
 - (I) a meal; or
 - (II) the diet; and
- (d) is required to be labeled as a dietary supplement:

(i) identifiable by the "Supplemental Facts" box found on the label; and

(ii) as required by 21 C.F.R. Sec. 101.36.

[~~(36)~~] (35) "Digital audio-visual work" means a series of related images which, when shown in succession, imparts an impression of motion, together with accompanying sounds, if any.

[~~(35)~~] (36) (a) "Digital audio work" means a work that results from the fixation of a series of musical, spoken, or other sounds.

(b) "Digital audio work" includes a ringtone.

(37) "Digital book" means a work that is generally recognized in the ordinary and usual sense as a book.

(38) (a) "Direct mail" means printed material delivered or distributed by United States mail or other delivery service:

- (i) to:
 - (A) a mass audience; or
 - (B) addressees on a mailing list provided:
 - (I) by a purchaser of the mailing list; or
 - (II) at the discretion of the purchaser of the mailing list; and
 - (ii) if the cost of the printed material is not billed directly to the recipients.

(b) "Direct mail" includes tangible personal property supplied directly or indirectly by a purchaser to a seller of direct mail for inclusion in a package containing the printed material.

(c) "Direct mail" does not include multiple items of printed material delivered to a single address.

(39) "Directory assistance" means an ancillary service of providing:

- (a) address information; or
- (b) telephone number information.

(40) (a) "Disposable home medical equipment or supplies" means medical equipment or supplies that:

- (i) cannot withstand repeated use; and
- (ii) are purchased by, for, or on behalf of a person other than:
 - (A) a health care facility as defined in Section 26-21-2;
 - (B) a health care provider as defined in Section 78B-3-403;
 - (C) an office of a health care provider described in Subsection (40)(a)(ii)(B); or
 - (D) a person similar to a person described in Subsections (40)(a)(ii)(A) through (C).

(b) "Disposable home medical equipment or supplies" does not include:

- (i) a drug;
- (ii) durable medical equipment;
- (iii) a hearing aid;
- (iv) a hearing aid accessory;
- (v) mobility enhancing equipment; or
- (vi) tangible personal property used to correct impaired vision, including:
 - (A) eyeglasses; or
 - (B) contact lenses.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes medical equipment or supplies.

(41) (a) “Drug” means a compound, substance, or preparation, or a component of a compound, substance, or preparation that is:

(i) recognized in:

(A) the official United States Pharmacopoeia;

(B) the official Homeopathic Pharmacopoeia of the United States;

(C) the official National Formulary; or

(D) a supplement to a publication listed in Subsections (41)(a)(i)(A) through (C);

(ii) intended for use in the:

(A) diagnosis of disease;

(B) cure of disease;

(C) mitigation of disease;

(D) treatment of disease; or

(E) prevention of disease; or

(iii) intended to affect:

(A) the structure of the body; or

(B) any function of the body.

(b) “Drug” does not include:

(i) food and food ingredients;

(ii) a dietary supplement;

(iii) an alcoholic beverage; or

(iv) a prosthetic device.

(42) (a) Except as provided in Subsection (42)(c), “durable medical equipment” means equipment that:

(i) can withstand repeated use;

(ii) is primarily and customarily used to serve a medical purpose;

(iii) generally is not useful to a person in the absence of illness or injury; and

(iv) is not worn in or on the body.

(b) “Durable medical equipment” includes parts used in the repair or replacement of the equipment described in Subsection (42)(a).

(c) “Durable medical equipment” does not include mobility enhancing equipment.

(43) “Electronic” means:

(a) relating to technology; and

(b) having:

(i) electrical capabilities;

(ii) digital capabilities;

(iii) magnetic capabilities;

(iv) wireless capabilities;

(v) optical capabilities;

(vi) electromagnetic capabilities; or

(vii) capabilities similar to Subsections (43)(b)(i) through (vi).

(44) “Electronic financial payment service” means an establishment:

(a) within NAICS Code 522320, Financial Transactions Processing, Reserve, and Clearinghouse Activities, of the 2012 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; and

(b) that performs electronic financial payment services.

(45) “Employee” is as defined in Section 59-10-401.

(46) “Fixed guideway” means a public transit facility that uses and occupies:

(a) rail for the use of public transit; or

(b) a separate right-of-way for the use of public transit.

(47) “Fixed wing turbine powered aircraft” means an aircraft that:

(a) is powered by turbine engines;

(b) operates on jet fuel; and

(c) has wings that are permanently attached to the fuselage of the aircraft.

(48) “Fixed wireless service” means a telecommunications service that provides radio communication between fixed points.

(49) (a) “Food and food ingredients” means substances:

(i) regardless of whether the substances are in:

(A) liquid form;

(B) concentrated form;

(C) solid form;

(D) frozen form;

(E) dried form; or

(F) dehydrated form; and

(ii) that are:

(A) sold for:

(I) ingestion by humans; or

(II) chewing by humans; and

(B) consumed for the substance’s:

(I) taste; or

(II) nutritional value.

(b) “Food and food ingredients” includes an item described in Subsection (90)(b)(iii).

(c) “Food and food ingredients” does not include:

(i) an alcoholic beverage;

- (ii) tobacco; or
- (iii) prepared food.
- (50) (a) “Fundraising sales” means sales:
- (i) (A) made by a school; or
- (B) made by a school student;
- (ii) that are for the purpose of raising funds for the school to purchase equipment, materials, or provide transportation; and
- (iii) that are part of an officially sanctioned school activity.
- (b) For purposes of Subsection (50)(a)(iii), “officially sanctioned school activity” means a school activity:
- (i) that is conducted in accordance with a formal policy adopted by the school or school district governing the authorization and supervision of fundraising activities;
- (ii) that does not directly or indirectly compensate an individual teacher or other educational personnel by direct payment, commissions, or payment in kind; and
- (iii) the net or gross revenues from which are deposited in a dedicated account controlled by the school or school district.
- (51) “Geothermal energy” means energy contained in heat that continuously flows outward from the earth that is used as the sole source of energy to produce electricity.
- (52) “Governing board of the agreement” means the governing board of the agreement that is:
- (a) authorized to administer the agreement; and
- (b) established in accordance with the agreement.
- (53) (a) For purposes of Subsection 59-12-104(41), “governmental entity” means:
- (i) the executive branch of the state, including all departments, institutions, boards, divisions, bureaus, offices, commissions, and committees;
- (ii) the judicial branch of the state, including the courts, the Judicial Council, the Office of the Court Administrator, and similar administrative units in the judicial branch;
- (iii) the legislative branch of the state, including the House of Representatives, the Senate, the Legislative Printing Office, the Office of Legislative Research and General Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal Analyst;
- (iv) the National Guard;
- (v) an independent entity as defined in Section 63E-1-102; or
- (vi) a political subdivision as defined in Section 17B-1-102.
- (b) “Governmental entity” does not include the state systems of public and higher education, including:
- (i) a college campus of the Utah College of Applied Technology;
- (ii) a school;
- (iii) the State Board of Education;
- (iv) the State Board of Regents; or
- (v) an institution of higher education.
- (54) “Hydroelectric energy” means water used as the sole source of energy to produce electricity.
- (55) “Industrial use” means the use of natural gas, electricity, heat, coal, fuel oil, or other fuels:
- (a) in mining or extraction of minerals;
- (b) in agricultural operations to produce an agricultural product up to the time of harvest or placing the agricultural product into a storage facility, including:
- (i) commercial greenhouses;
- (ii) irrigation pumps;
- (iii) farm machinery;
- (iv) implements of husbandry as defined in Section 41-1a-102 that are not registered under Title 41, Chapter 1a, Part 2, Registration; and
- (v) other farming activities;
- (c) in manufacturing tangible personal property at an establishment described in SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget;
- (d) by a scrap recycler if:
- (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process one or more of the following items into prepared grades of processed materials for use in new products:
- (A) iron;
- (B) steel;
- (C) nonferrous metal;
- (D) paper;
- (E) glass;
- (F) plastic;
- (G) textile; or
- (H) rubber; and
- (ii) the new products under Subsection (55)(d)(i) would otherwise be made with nonrecycled materials; or
- (e) in producing a form of energy or steam described in Subsection 54-2-1(2)(a) by a cogeneration facility as defined in Section 54-2-1.
- (56) (a) Except as provided in Subsection (56)(b), “installation charge” means a charge for installing:

- (i) tangible personal property; or
 - (ii) a product transferred electronically.
- (b) "Installation charge" does not include a charge for:
- (i) repairs or renovations of:
 - (A) tangible personal property; or
 - (B) a product transferred electronically; or
 - (ii) attaching tangible personal property or a product transferred electronically:
 - (A) to other tangible personal property; and
 - (B) as part of a manufacturing or fabrication process.
- (57) "Institution of higher education" means an institution of higher education listed in Section 53B-2-101.
- (58) (a) "Lease" or "rental" means a transfer of possession or control of tangible personal property or a product transferred electronically for:
- (i) (A) a fixed term; or
 - (B) an indeterminate term; and
 - (ii) consideration.
- (b) "Lease" or "rental" includes an agreement covering a motor vehicle and trailer if the amount of consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue Code.
- (c) "Lease" or "rental" does not include:
- (i) a transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments;
 - (ii) a transfer of possession or control of property under an agreement that requires the transfer of title:
 - (A) upon completion of required payments; and
 - (B) if the payment of an option price does not exceed the greater of:
 - (I) \$100; or
 - (II) 1% of the total required payments; or
 - (iii) providing tangible personal property along with an operator for a fixed period of time or an indeterminate period of time if the operator is necessary for equipment to perform as designed.
 - (d) For purposes of Subsection (58)(c)(iii), an operator is necessary for equipment to perform as designed if the operator's duties exceed the:
 - (i) set-up of tangible personal property;
 - (ii) maintenance of tangible personal property; or
 - (iii) inspection of tangible personal property.

(59) "Life science establishment" means an establishment in this state that is classified under the following NAICS codes of the 2007 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget:

(a) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;

(b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus Manufacturing; or

(c) NAICS Code 334517, Irradiation Apparatus Manufacturing.

(60) "Life science research and development facility" means a facility owned, leased, or rented by a life science establishment if research and development is performed in 51% or more of the total area of the facility.

(61) "Load and leave" means delivery to a purchaser by use of a tangible storage media if the tangible storage media is not physically transferred to the purchaser.

(62) "Local taxing jurisdiction" means a:

(a) county that is authorized to impose an agreement sales and use tax;

(b) city that is authorized to impose an agreement sales and use tax; or

(c) town that is authorized to impose an agreement sales and use tax.

(63) "Manufactured home" is as defined in Section 15A-1-302.

(64) "Manufacturing facility" means:

(a) an establishment described in SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget;

(b) a scrap recycler if:

(i) from a fixed location, the scrap recycler utilizes machinery or equipment to process one or more of the following items into prepared grades of processed materials for use in new products:

(A) iron;

(B) steel;

(C) nonferrous metal;

(D) paper;

(E) glass;

(F) plastic;

(G) textile; or

(H) rubber; and

(ii) the new products under Subsection (64)(b)(i) would otherwise be made with nonrecycled materials; or

(c) a cogeneration facility as defined in Section 54-2-1 if the cogeneration facility is placed in service on or after May 1, 2006.

(65) “Member of the immediate family of the producer” means a person who is related to a producer described in Subsection 59-12-104(20)(a) as a:

(a) child or stepchild, regardless of whether the child or stepchild is:

- (i) an adopted child or adopted stepchild; or
- (ii) a foster child or foster stepchild;
- (b) grandchild or stepgrandchild;
- (c) grandparent or stepgrandparent;
- (d) nephew or stepnephew;
- (e) niece or stepniece;
- (f) parent or stepparent;
- (g) sibling or stepsibling;
- (h) spouse;

(i) person who is the spouse of a person described in Subsections (65)(a) through (g); or

(j) person similar to a person described in Subsections (65)(a) through (i) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(66) “Mobile home” is as defined in Section 15A-1-302.

(67) “Mobile telecommunications service” is as defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

(68) (a) “Mobile wireless service” means a telecommunications service, regardless of the technology used, if:

(i) the origination point of the conveyance, routing, or transmission is not fixed;

(ii) the termination point of the conveyance, routing, or transmission is not fixed; or

(iii) the origination point described in Subsection (68)(a)(i) and the termination point described in Subsection (68)(a)(ii) are not fixed.

(b) “Mobile wireless service” includes a telecommunications service that is provided by a commercial mobile radio service provider.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define “commercial mobile radio service provider.”

(69) (a) Except as provided in Subsection (69)(c), “mobility enhancing equipment” means equipment that is:

(i) primarily and customarily used to provide or increase the ability to move from one place to another;

(ii) appropriate for use in a:

(A) home; or

(B) motor vehicle; and

(iii) not generally used by persons with normal mobility.

(b) “Mobility enhancing equipment” includes parts used in the repair or replacement of the equipment described in Subsection (69)(a).

(c) “Mobility enhancing equipment” does not include:

(i) a motor vehicle;

(ii) equipment on a motor vehicle if that equipment is normally provided by the motor vehicle manufacturer;

(iii) durable medical equipment; or

(iv) a prosthetic device.

(70) “Model 1 seller” means a seller registered under the agreement that has selected a certified service provider as the seller’s agent to perform all of the seller’s sales and use tax functions for agreement sales and use taxes other than the seller’s obligation under Section 59-12-124 to remit a tax on the seller’s own purchases.

(71) “Model 2 seller” means a seller registered under the agreement that:

(a) except as provided in Subsection (71)(b), has selected a certified automated system to perform the seller’s sales tax functions for agreement sales and use taxes; and

(b) retains responsibility for remitting all of the sales tax:

(i) collected by the seller; and

(ii) to the appropriate local taxing jurisdiction.

(72) (a) Subject to Subsection (72)(b), “model 3 seller” means a seller registered under the agreement that has:

(i) sales in at least five states that are members of the agreement;

(ii) total annual sales revenues of at least \$500,000,000;

(iii) a proprietary system that calculates the amount of tax:

(A) for an agreement sales and use tax; and

(B) due to each local taxing jurisdiction; and

(iv) entered into a performance agreement with the governing board of the agreement.

(b) For purposes of Subsection (72)(a), “model 3 seller” includes an affiliated group of sellers using the same proprietary system.

(73) “Model 4 seller” means a seller that is registered under the agreement and is not a model 1 seller, model 2 seller, or model 3 seller.

(74) “Modular home” means a modular unit as defined in Section 15A-1-302.

(75) "Motor vehicle" is as defined in Section 41-1a-102.

(76) "Oil sands" means impregnated bituminous sands that:

(a) contain a heavy, thick form of petroleum that is released when heated, mixed with other hydrocarbons, or otherwise treated;

(b) yield mixtures of liquid hydrocarbon; and

(c) require further processing other than mechanical blending before becoming finished petroleum products.

(77) "Oil shale" means a group of fine black to dark brown shales containing kerogen material that yields petroleum upon heating and distillation.

(78) "Optional computer software maintenance contract" means a computer software maintenance contract that a customer is not obligated to purchase as a condition to the retail sale of computer software.

(79) (a) "Other fuels" means products that burn independently to produce heat or energy.

(b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible personal property.

(80) (a) "Paging service" means a telecommunications service that provides transmission of a coded radio signal for the purpose of activating a specific pager.

(b) For purposes of Subsection (80)(a), the transmission of a coded radio signal includes a transmission by message or sound.

(81) "Pawnbroker" is as defined in Section 13-32a-102.

(82) "Pawn transaction" is as defined in Section 13-32a-102.

(83) (a) "Permanently attached to real property" means that for tangible personal property attached to real property:

(i) the attachment of the tangible personal property to the real property:

(A) is essential to the use of the tangible personal property; and

(B) suggests that the tangible personal property will remain attached to the real property in the same place over the useful life of the tangible personal property; or

(ii) if the tangible personal property is detached from the real property, the detachment would:

(A) cause substantial damage to the tangible personal property; or

(B) require substantial alteration or repair of the real property to which the tangible personal property is attached.

(b) "Permanently attached to real property" includes:

(i) the attachment of an accessory to the tangible personal property if the accessory is:

(A) essential to the operation of the tangible personal property; and

(B) attached only to facilitate the operation of the tangible personal property;

(ii) a temporary detachment of tangible personal property from real property for a repair or renovation if the repair or renovation is performed where the tangible personal property and real property are located; or

(iii) property attached to oil, gas, or water pipelines, except for the property listed in Subsection (83)(c)(iii) or (iv).

(c) "Permanently attached to real property" does not include:

(i) the attachment of portable or movable tangible personal property to real property if that portable or movable tangible personal property is attached to real property only for:

(A) convenience;

(B) stability; or

(C) for an obvious temporary purpose;

(ii) the detachment of tangible personal property from real property except for the detachment described in Subsection (83)(b)(ii);

(iii) an attachment of the following tangible personal property to real property if the attachment to real property is only through a line that supplies water, electricity, gas, telecommunications, cable, or supplies a similar item as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(A) a computer;

(B) a telephone;

(C) a television; or

(D) tangible personal property similar to Subsections (83)(c)(iii)(A) through (C) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(iv) an item listed in Subsection (123)(c).

(84) "Person" includes any individual, firm, partnership, joint venture, association, corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city, municipality, district, or other local governmental entity of the state, or any group or combination acting as a unit.

(85) "Place of primary use":

(a) for telecommunications service other than mobile telecommunications service, means the street address representative of where the customer's use of the telecommunications service primarily occurs, which shall be:

(i) the residential street address of the customer; or

(ii) the primary business street address of the customer; or

(b) for mobile telecommunications service, is as defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

(86) (a) "Postpaid calling service" means a telecommunications service a person obtains by making a payment on a call-by-call basis:

(i) through the use of a:

- (A) bank card;
- (B) credit card;
- (C) debit card; or
- (D) travel card; or

(ii) by a charge made to a telephone number that is not associated with the origination or termination of the telecommunications service.

(b) "Postpaid calling service" includes a service, except for a prepaid wireless calling service, that would be a prepaid wireless calling service if the service were exclusively a telecommunications service.

(87) "Postproduction" means an activity related to the finishing or duplication of a medium described in Subsection 59-12-104(54)(a).

(88) "Prepaid calling service" means a telecommunications service:

(a) that allows a purchaser access to telecommunications service that is exclusively telecommunications service;

(b) that:

- (i) is paid for in advance; and
- (ii) enables the origination of a call using an:
 - (A) access number; or
 - (B) authorization code;
 - (c) that is dialed:
 - (i) manually; or
 - (ii) electronically; and
 - (d) sold in predetermined units or dollars that decline:
 - (i) by a known amount; and
 - (ii) with use.

(89) "Prepaid wireless calling service" means a telecommunications service:

- (a) that provides the right to utilize:
 - (i) mobile wireless service; and
 - (ii) other service that is not a telecommunications service, including:

(A) the download of a product transferred electronically;

(B) a content service; or

(C) an ancillary service;

(b) that:

- (i) is paid for in advance; and
- (ii) enables the origination of a call using an:
 - (A) access number; or
 - (B) authorization code;
 - (c) that is dialed:
 - (i) manually; or
 - (ii) electronically; and
 - (d) sold in predetermined units or dollars that decline:
 - (i) by a known amount; and
 - (ii) with use.

(90) (a) "Prepared food" means:

(i) food:

- (A) sold in a heated state; or
- (B) heated by a seller;

(ii) two or more food ingredients mixed or combined by the seller for sale as a single item; or

(iii) except as provided in Subsection (90)(c), food sold with an eating utensil provided by the seller, including a:

- (A) plate;
- (B) knife;
- (C) fork;
- (D) spoon;
- (E) glass;
- (F) cup;
- (G) napkin; or
- (H) straw.

(b) "Prepared food" does not include:

- (i) food that a seller only:
 - (A) cuts;
 - (B) repackages; or
 - (C) pasteurizes; or
 - (ii) (A) the following:
 - (I) raw egg;
 - (II) raw fish;
 - (III) raw meat;
 - (IV) raw poultry; or
 - (V) a food containing an item described in Subsections (90)(b)(ii)(A)(I) through (IV); and
 - (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the Food and Drug Administration's Food Code that a consumer cook the items described in Subsection (90)(b)(ii)(A) to prevent food borne illness; or

(iii) the following if sold without eating utensils provided by the seller:

(A) food and food ingredients sold by a seller if the seller's proper primary classification under the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, is manufacturing in Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla Manufacturing;

(B) food and food ingredients sold in an unheated state:

- (I) by weight or volume; and
- (II) as a single item; or
- (C) a bakery item, including:
 - (I) a bagel;
 - (II) a bar;
 - (III) a biscuit;
 - (IV) bread;
 - (V) a bun;
 - (VI) a cake;
 - (VII) a cookie;
 - (VIII) a croissant;
 - (IX) a danish;
 - (X) a donut;
 - (XI) a muffin;
 - (XII) a pastry;
 - (XIII) a pie;
 - (XIV) a roll;
 - (XV) a tart;
 - (XVI) a torte; or
 - (XVII) a tortilla.

(c) An eating utensil provided by the seller does not include the following used to transport the food:

- (i) a container; or
- (ii) packaging.

(91) "Prescription" means an order, formula, or recipe that is issued:

- (a) (i) orally;
- (ii) in writing;
- (iii) electronically; or
- (iv) by any other manner of transmission; and

(b) by a licensed practitioner authorized by the laws of a state.

(92) (a) Except as provided in Subsection (92)(b)(ii) or (iii), "prewritten computer software" means computer software that is not designed and developed:

(i) by the author or other creator of the computer software; and

(ii) to the specifications of a specific purchaser.

(b) "Prewritten computer software" includes:

(i) a prewritten upgrade to computer software if the prewritten upgrade to the computer software is not designed and developed:

(A) by the author or other creator of the computer software; and

(B) to the specifications of a specific purchaser;

(ii) computer software designed and developed by the author or other creator of the computer software to the specifications of a specific purchaser if the computer software is sold to a person other than the purchaser; or

(iii) except as provided in Subsection (92)(c), prewritten computer software or a prewritten portion of prewritten computer software:

(A) that is modified or enhanced to any degree; and

(B) if the modification or enhancement described in Subsection (92)(b)(iii)(A) is designed and developed to the specifications of a specific purchaser.

(c) "Prewritten computer software" does not include a modification or enhancement described in Subsection (92)(b)(iii) if the charges for the modification or enhancement are:

(i) reasonable; and

(ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), separately stated on the invoice or other statement of price provided to the purchaser at the time of sale or later, as demonstrated by:

(A) the books and records the seller keeps at the time of the transaction in the regular course of business, including books and records the seller keeps at the time of the transaction in the regular course of business for nontax purposes;

(B) a preponderance of the facts and circumstances at the time of the transaction; and

(C) the understanding of all of the parties to the transaction.

(93) (a) "Private communication service" means a telecommunications service:

(i) that entitles a customer to exclusive or priority use of one or more communications channels between or among termination points; and

(ii) regardless of the manner in which the one or more communications channels are connected.

(b) "Private communications service" includes the following provided in connection with the use of one or more communications channels:

(i) an extension line;

(ii) a station;

(iii) switching capacity; or

(iv) another associated service that is provided in connection with the use of one or more communications channels as defined in Section 59-12-215.

(94) (a) Except as provided in Subsection (94)(b), “product transferred electronically” means a product transferred electronically that would be subject to a tax under this chapter if that product was transferred in a manner other than electronically.

(b) “Product transferred electronically” does not include:

- (i) an ancillary service;
- (ii) computer software; or
- (iii) a telecommunications service.

(95) (a) “Prosthetic device” means a device that is worn on or in the body to:

- (i) artificially replace a missing portion of the body;
- (ii) prevent or correct a physical deformity or physical malfunction; or
- (iii) support a weak or deformed portion of the body.

(b) “Prosthetic device” includes:

(i) parts used in the repairs or renovation of a prosthetic device;

- (ii) replacement parts for a prosthetic device;
- (iii) a dental prosthesis; or
- (iv) a hearing aid.

(c) “Prosthetic device” does not include:

- (i) corrective eyeglasses; or
- (ii) contact lenses.

(96) (a) “Protective equipment” means an item:

- (i) for human wear; and
- (ii) that is:

(A) designed as protection:

- (I) to the wearer against injury or disease; or
- (II) against damage or injury of other persons or property; and

(B) not suitable for general use.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:

(i) listing the items that constitute “protective equipment”; and

(ii) that are consistent with the list of items that constitute “protective equipment” under the agreement.

(97) (a) For purposes of Subsection 59-12-104(41), “publication” means any written or printed matter, other than a photocopy:

(i) regardless of:

- (A) characteristics;
- (B) copyright;
- (C) form;
- (D) format;
- (E) method of reproduction; or
- (F) source; and

(ii) made available in printed or electronic format.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term “photocopy.”

(98) (a) “Purchase price” and “sales price” mean the total amount of consideration:

(i) valued in money; and

(ii) for which tangible personal property, a product transferred electronically, or services are:

- (A) sold;
- (B) leased; or
- (C) rented.

(b) “Purchase price” and “sales price” include:

(i) the seller’s cost of the tangible personal property, a product transferred electronically, or services sold;

(ii) expenses of the seller, including:

- (A) the cost of materials used;
- (B) a labor cost;
- (C) a service cost;
- (D) interest;
- (E) a loss;
- (F) the cost of transportation to the seller; or
- (G) a tax imposed on the seller;

(iii) a charge by the seller for any service necessary to complete the sale; or

(iv) consideration a seller receives from a person other than the purchaser if:

(A) (I) the seller actually receives consideration from a person other than the purchaser; and

(II) the consideration described in Subsection (98)(b)(iv)(A)(I) is directly related to a price reduction or discount on the sale;

(B) the seller has an obligation to pass the price reduction or discount through to the purchaser;

(C) the amount of the consideration attributable to the sale is fixed and determinable by the seller at the time of the sale to the purchaser; and

(D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the seller to claim a price reduction or discount; and

(Bb) a person other than the seller authorizes, distributes, or grants the certificate, coupon, or other documentation with the understanding that the person other than the seller will reimburse any seller to whom the certificate, coupon, or other documentation is presented;

(II) the purchaser identifies that purchaser to the seller as a member of a group or organization allowed a price reduction or discount, except that a preferred customer card that is available to any patron of a seller does not constitute membership in a group or organization allowed a price reduction or discount; or

(III) the price reduction or discount is identified as a third party price reduction or discount on the:

(Aa) invoice the purchaser receives; or

(Bb) certificate, coupon, or other documentation the purchaser presents.

(c) "Purchase price" and "sales price" do not include:

(i) a discount:

(A) in a form including:

(I) cash;

(II) term; or

(III) coupon;

(B) that is allowed by a seller;

(C) taken by a purchaser on a sale; and

(D) that is not reimbursed by a third party; or

(ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), the following if separately stated on an invoice, bill of sale, or similar document provided to the purchaser at the time of sale or later, as demonstrated by the books and records the seller keeps at the time of the transaction in the regular course of business, including books and records the seller keeps at the time of the transaction in the regular course of business for nontax purposes, by a preponderance of the facts and circumstances at the time of the transaction, and by the understanding of all of the parties to the transaction:

(A) the following from credit extended on the sale of tangible personal property or services:

(I) a carrying charge;

(II) a financing charge; or

(III) an interest charge;

(B) a delivery charge;

(C) an installation charge;

(D) a manufacturer rebate on a motor vehicle; or

(E) a tax or fee legally imposed directly on the consumer.

(99) "Purchaser" means a person to whom:

(a) a sale of tangible personal property is made;

(b) a product is transferred electronically; or

(c) a service is furnished.

(100) "Regularly rented" means:

(a) rented to a guest for value three or more times during a calendar year; or

(b) advertised or held out to the public as a place that is regularly rented to guests for value.

(101) "Rental" is as defined in Subsection (58).

(102) (a) Except as provided in Subsection (102)(b), "repairs or renovations of tangible personal property" means:

(i) a repair or renovation of tangible personal property that is not permanently attached to real property; or

(ii) attaching tangible personal property or a product transferred electronically to other tangible personal property or detaching tangible personal property or a product transferred electronically from other tangible personal property if:

(A) the other tangible personal property to which the tangible personal property or product transferred electronically is attached or from which the tangible personal property or product transferred electronically is detached is not permanently attached to real property; and

(B) the attachment of tangible personal property or a product transferred electronically to other tangible personal property or detachment of tangible personal property or a product transferred electronically from other tangible personal property is made in conjunction with a repair or replacement of tangible personal property or a product transferred electronically.

(b) "Repairs or renovations of tangible personal property" does not include:

(i) attaching prewritten computer software to other tangible personal property if the other tangible personal property to which the prewritten computer software is attached is not permanently attached to real property; or

(ii) detaching prewritten computer software from other tangible personal property if the other tangible personal property from which the prewritten computer software is detached is not permanently attached to real property.

(103) "Research and development" means the process of inquiry or experimentation aimed at the discovery of facts, devices, technologies, or applications and the process of preparing those devices, technologies, or applications for marketing.

(104) (a) "Residential telecommunications services" means a telecommunications service or an ancillary service that is provided to an individual for personal use:

(i) at a residential address; or

(ii) at an institution, including a nursing home or a school, if the telecommunications service or ancillary service is provided to and paid for by the individual residing at the institution rather than the institution.

(b) For purposes of Subsection (104)(a)(i), a residential address includes an:

- (i) apartment; or
- (ii) other individual dwelling unit.

(105) “Residential use” means the use in or around a home, apartment building, sleeping quarters, and similar facilities or accommodations.

(106) “Retail sale” or “sale at retail” means a sale, lease, or rental for a purpose other than:

- (a) resale;
- (b) sublease; or
- (c) subrent.

(107) (a) “Retailer” means any person engaged in a regularly organized business in tangible personal property or any other taxable transaction under Subsection 59-12-103(1), and who is selling to the user or consumer and not for resale.

(b) “Retailer” includes commission merchants, auctioneers, and any person regularly engaged in the business of selling to users or consumers within the state.

(108) (a) “Sale” means any transfer of title, exchange, or barter, conditional or otherwise, in any manner, of tangible personal property or any other taxable transaction under Subsection 59-12-103(1), for consideration.

(b) “Sale” includes:

- (i) installment and credit sales;
- (ii) any closed transaction constituting a sale;
- (iii) any sale of electrical energy, gas, services, or entertainment taxable under this chapter;
- (iv) any transaction if the possession of property is transferred but the seller retains the title as security for the payment of the price; and
- (v) any transaction under which right to possession, operation, or use of any article of tangible personal property is granted under a lease or contract and the transfer of possession would be taxable if an outright sale were made.

(109) “Sale at retail” is as defined in Subsection (106).

(110) “Sale-leaseback transaction” means a transaction by which title to tangible personal property or a product transferred electronically that is subject to a tax under this chapter is transferred:

- (a) by a purchaser-lessee;
- (b) to a lessor;
- (c) for consideration; and

(d) if:

(i) the purchaser-lessee paid sales and use tax on the purchaser-lessee’s initial purchase of the tangible personal property or product transferred electronically;

(ii) the sale of the tangible personal property or product transferred electronically to the lessor is intended as a form of financing:

(A) for the tangible personal property or product transferred electronically; and

(B) to the purchaser-lessee; and

(iii) in accordance with generally accepted accounting principles, the purchaser-lessee is required to:

(A) capitalize the tangible personal property or product transferred electronically for financial reporting purposes; and

(B) account for the lease payments as payments made under a financing arrangement.

(111) “Sales price” is as defined in Subsection (98).

(112) (a) “Sales relating to schools” means the following sales by, amounts paid to, or amounts charged by a school:

(i) sales that are directly related to the school’s educational functions or activities including:

(A) the sale of:

- (I) textbooks;
- (II) textbook fees;
- (III) laboratory fees;
- (IV) laboratory supplies; or
- (V) safety equipment;

(B) the sale of a uniform, protective equipment, or sports or recreational equipment that:

(I) a student is specifically required to wear as a condition of participation in a school-related event or school-related activity; and

(II) is not readily adaptable to general or continued usage to the extent that it takes the place of ordinary clothing;

(C) sales of the following if the net or gross revenues generated by the sales are deposited into a school district fund or school fund dedicated to school meals:

- (I) food and food ingredients; or
- (II) prepared food; or

(D) transportation charges for official school activities; or

(ii) amounts paid to or amounts charged by a school for admission to a school-related event or school-related activity.

(b) “Sales relating to schools” does not include:

(i) bookstore sales of items that are not educational materials or supplies;

(ii) except as provided in Subsection (112)(a)(i)(B):

- (A) clothing;
- (B) clothing accessories or equipment;
- (C) protective equipment; or
- (D) sports or recreational equipment; or

(iii) amounts paid to or amounts charged by a school for admission to a school-related event or school-related activity if the amounts paid or charged are passed through to a person:

(A) other than a:

(I) school;

(II) nonprofit organization authorized by a school board or a governing body of a private school to organize and direct a competitive secondary school activity; or

(III) nonprofit association authorized by a school board or a governing body of a private school to organize and direct a competitive secondary school activity; and

(B) that is required to collect sales and use taxes under this chapter.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining the term "passed through."

(113) For purposes of this section and Section 59-12-104, "school":

(a) means:

(i) an elementary school or a secondary school that:

(A) is a:

- (I) public school; or
- (II) private school; and

(B) provides instruction for one or more grades kindergarten through 12; or

(ii) a public school district; and

(b) includes the Electronic High School as defined in Section 53A-15-1002.

(114) "Seller" means a person that makes a sale, lease, or rental of:

- (a) tangible personal property;
- (b) a product transferred electronically; or
- (c) a service.

(115) (a) "Semiconductor fabricating, processing, research, or development materials" means tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically is:

(i) used primarily in the process of:

(A) (I) manufacturing a semiconductor;

(II) fabricating a semiconductor; or

(III) research or development of a:

(Aa) semiconductor; or

(Bb) semiconductor manufacturing process; or

(B) maintaining an environment suitable for a semiconductor; or

(ii) consumed primarily in the process of:

(A) (I) manufacturing a semiconductor;

(II) fabricating a semiconductor; or

(III) research or development of a:

(Aa) semiconductor; or

(Bb) semiconductor manufacturing process; or

(B) maintaining an environment suitable for a semiconductor.

(b) "Semiconductor fabricating, processing, research, or development materials" includes:

(i) parts used in the repairs or renovations of tangible personal property or a product transferred electronically described in Subsection (115)(a); or

(ii) a chemical, catalyst, or other material used to:

(A) produce or induce in a semiconductor a:

- (I) chemical change; or
- (II) physical change;

(B) remove impurities from a semiconductor; or

(C) improve the marketable condition of a semiconductor.

(116) "Senior citizen center" means a facility having the primary purpose of providing services to the aged as defined in Section 62A-3-101.

(117) (a) Subject to Subsections (117)(b) and (c), "short-term lodging consumable" means tangible personal property that:

(i) a business that provides accommodations and services described in Subsection 59-12-103(1)(i) purchases as part of a transaction to provide the accommodations and services to a purchaser;

(ii) is intended to be consumed by the purchaser; and

(iii) is:

(A) included in the purchase price of the accommodations and services; and

(B) not separately stated on an invoice, bill of sale, or other similar document provided to the purchaser.

(b) "Short-term lodging consumable" includes:

- (i) a beverage;
- (ii) a brush or comb;
- (iii) a cosmetic;
- (iv) a hair care product;

(v) lotion;

(vi) a magazine;

(vii) makeup;

(viii) a meal;

(ix) mouthwash;

(x) nail polish remover;

(xi) a newspaper;

(xii) a notepad;

(xiii) a pen;

(xiv) a pencil;

(xv) a razor;

(xvi) saline solution;

(xvii) a sewing kit;

(xviii) shaving cream;

(xix) a shoe shine kit;

(xx) a shower cap;

(xxi) a snack item;

(xxii) soap;

(xxiii) toilet paper;

(xxiv) a toothbrush;

(xxv) toothpaste; or

(xxvi) an item similar to Subsections (117)(b)(i) through (xxv) as the commission may provide by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(c) "Short-term lodging consumable" does not include:

(i) tangible personal property that is cleaned or washed to allow the tangible personal property to be reused; or

(ii) a product transferred electronically.

(118) "Simplified electronic return" means the electronic return:

(a) described in Section 318(C) of the agreement; and

(b) approved by the governing board of the agreement.

(119) "Solar energy" means the sun used as the sole source of energy for producing electricity.

(120) (a) "Sports or recreational equipment" means an item:

(i) designed for human use; and

(ii) that is:

(A) worn in conjunction with:

(I) an athletic activity; or

(II) a recreational activity; and

(B) not suitable for general use.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:

(i) listing the items that constitute "sports or recreational equipment"; and

(ii) that are consistent with the list of items that constitute "sports or recreational equipment" under the agreement.

(121) "State" means the state of Utah, its departments, and agencies.

(122) "Storage" means any keeping or retention of tangible personal property or any other taxable transaction under Subsection 59-12-103(1), in this state for any purpose except sale in the regular course of business.

(123) (a) Except as provided in Subsection (123)(d) or (e), "tangible personal property" means personal property that:

(i) may be:

(A) seen;

(B) weighed;

(C) measured;

(D) felt; or

(E) touched; or

(ii) is in any manner perceptible to the senses.

(b) "Tangible personal property" includes:

(i) electricity;

(ii) water;

(iii) gas;

(iv) steam; or

(v) prewritten computer software, regardless of the manner in which the prewritten computer software is transferred.

(c) "Tangible personal property" includes the following regardless of whether the item is attached to real property:

(i) a dishwasher;

(ii) a dryer;

(iii) a freezer;

(iv) a microwave;

(v) a refrigerator;

(vi) a stove;

(vii) a washer; or

(viii) an item similar to Subsections (123)(c)(i) through (vii) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(d) "Tangible personal property" does not include a product that is transferred electronically.

(e) "Tangible personal property" does not include the following if attached to real property, regardless

of whether the attachment to real property is only through a line that supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

- (i) a hot water heater;
- (ii) a water filtration system; or
- (iii) a water softener system.

(124) (a) “Telecommunications enabling or facilitating equipment, machinery, or software” means an item listed in Subsection (124)(b) if that item is purchased or leased primarily to enable or facilitate one or more of the following to function:

(i) telecommunications switching or routing equipment, machinery, or software; or

(ii) telecommunications transmission equipment, machinery, or software.

(b) The following apply to Subsection (124)(a):

- (i) a pole;
- (ii) software;
- (iii) a supplementary power supply;
- (iv) temperature or environmental equipment or machinery;
- (v) test equipment;
- (vi) a tower; or
- (vii) equipment, machinery, or software that functions similarly to an item listed in Subsections (124)(b)(i) through (vi) as determined by the commission by rule made in accordance with Subsection (124)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections (124)(b)(i) through (vi).

(125) “Telecommunications equipment, machinery, or software required for 911 service” means equipment, machinery, or software that is required to comply with 47 C.F.R. Sec. 20.18.

(126) “Telecommunications maintenance or repair equipment, machinery, or software” means equipment, machinery, or software purchased or leased primarily to maintain or repair one or more of the following, regardless of whether the equipment, machinery, or software is purchased or leased as a spare part or as an upgrade or modification to one or more of the following:

(a) telecommunications enabling or facilitating equipment, machinery, or software;

(b) telecommunications switching or routing equipment, machinery, or software; or

(c) telecommunications transmission equipment, machinery, or software.

(127) (a) “Telecommunications service” means the electronic conveyance, routing, or transmission of audio, data, video, voice, or any other information or signal to a point, or among or between points.

(b) “Telecommunications service” includes:

(i) an electronic conveyance, routing, or transmission with respect to which a computer processing application is used to act:

(A) on the code, form, or protocol of the content;

(B) for the purpose of electronic conveyance, routing, or transmission; and

(C) regardless of whether the service:

(I) is referred to as voice over Internet protocol service; or

(II) is classified by the Federal Communications Commission as enhanced or value added;

(ii) an 800 service;

(iii) a 900 service;

(iv) a fixed wireless service;

(v) a mobile wireless service;

(vi) a postpaid calling service;

(vii) a prepaid calling service;

(viii) a prepaid wireless calling service; or

(ix) a private communications service.

(c) “Telecommunications service” does not include:

(i) advertising, including directory advertising;

(ii) an ancillary service;

(iii) a billing and collection service provided to a third party;

(iv) a data processing and information service if:

(A) the data processing and information service allows data to be:

(I) (Aa) acquired;

(Bb) generated;

(Cc) processed;

(Dd) retrieved; or

(Ee) stored; and

(II) delivered by an electronic transmission to a purchaser; and

(B) the purchaser’s primary purpose for the underlying transaction is the processed data or information;

(v) installation or maintenance of the following on a customer’s premises:

(A) equipment; or

(B) wiring;

(vi) Internet access service;

(vii) a paging service;

(viii) a product transferred electronically, including:

- (A) music;
- (B) reading material;
- (C) a ring tone;
- (D) software; or
- (E) video;

(ix) a radio and television audio and video programming service:

- (A) regardless of the medium; and
- (B) including:

(I) furnishing conveyance, routing, or transmission of a television audio and video programming service by a programming service provider;

(II) cable service as defined in 47 U.S.C. Sec. 522(6); or

(III) audio and video programming services delivered by a commercial mobile radio service provider as defined in 47 C.F.R. Sec. 20.3;

- (x) a value-added nonvoice data service; or
- (xi) tangible personal property.

(128) (a) "Telecommunications service provider" means a person that:

(i) owns, controls, operates, or manages a telecommunications service; and

(ii) engages in an activity described in Subsection (128)(a)(i) for the shared use with or resale to any person of the telecommunications service.

(b) A person described in Subsection (128)(a) is a telecommunications service provider whether or not the Public Service Commission of Utah regulates:

- (i) that person; or
- (ii) the telecommunications service that the person owns, controls, operates, or manages.

(129) (a) "Telecommunications switching or routing equipment, machinery, or software" means an item listed in Subsection (129)(b) if that item is purchased or leased primarily for switching or routing:

- (i) an ancillary service;
- (ii) data communications;
- (iii) voice communications; or
- (iv) telecommunications service.

(b) The following apply to Subsection (129)(a):

- (i) a bridge;
- (ii) a computer;
- (iii) a cross connect;
- (iv) a modem;

(v) a multiplexer;

(vi) plug in circuitry;

(vii) a router;

(viii) software;

(ix) a switch; or

(x) equipment, machinery, or software that functions similarly to an item listed in Subsections (129)(b)(i) through (ix) as determined by the commission by rule made in accordance with Subsection (129)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections (129)(b)(i) through (ix).

(130) (a) "Telecommunications transmission equipment, machinery, or software" means an item listed in Subsection (130)(b) if that item is purchased or leased primarily for sending, receiving, or transporting:

- (i) an ancillary service;
- (ii) data communications;
- (iii) voice communications; or
- (iv) telecommunications service.

(b) The following apply to Subsection (130)(a):

- (i) an amplifier;
- (ii) a cable;
- (iii) a closure;
- (iv) a conduit;
- (v) a controller;
- (vi) a duplexer;
- (vii) a filter;
- (viii) an input device;
- (ix) an input/output device;
- (x) an insulator;
- (xi) microwave machinery or equipment;
- (xii) an oscillator;
- (xiii) an output device;
- (xiv) a pedestal;
- (xv) a power converter;
- (xvi) a power supply;
- (xvii) a radio channel;
- (xviii) a radio receiver;
- (xix) a radio transmitter;
- (xx) a repeater;
- (xxi) software;
- (xxii) a terminal;

(xxiii) a timing unit;

(xxiv) a transformer;

(xxv) a wire; or

(xxvi) equipment, machinery, or software that functions similarly to an item listed in Subsections (130)(b)(i) through (xxv) as determined by the commission by rule made in accordance with Subsection (130)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections (130)(b)(i) through (xxv).

(131) (a) "Textbook for a higher education course" means a textbook or other printed material that is required for a course:

(i) offered by an institution of higher education; and

(ii) that the purchaser of the textbook or other printed material attends or will attend.

(b) "Textbook for a higher education course" includes a textbook in electronic format.

(132) "Tobacco" means:

(a) a cigarette;

(b) a cigar;

(c) chewing tobacco;

(d) pipe tobacco; or

(e) any other item that contains tobacco.

(133) "Unassisted amusement device" means an amusement device, skill device, or ride device that is started and stopped by the purchaser or renter of the right to use or operate the amusement device, skill device, or ride device.

(134) (a) "Use" means the exercise of any right or power over tangible personal property, a product transferred electronically, or a service under Subsection 59-12-103(1), incident to the ownership or the leasing of that tangible personal property, product transferred electronically, or service.

(b) "Use" does not include the sale, display, demonstration, or trial of tangible personal property, a product transferred electronically, or a service in the regular course of business and held for resale.

(135) "Value-added nonvoice data service" means a service:

(a) that otherwise meets the definition of a telecommunications service except that a computer processing application is used to act primarily for a purpose other than conveyance, routing, or transmission; and

(b) with respect to which a computer processing application is used to act on data or information:

(i) code;

(ii) content;

(iii) form; or

(iv) protocol.

(136) (a) Subject to Subsection (136)(b), "vehicle" means the following that are required to be titled, registered, or titled and registered:

(i) an aircraft as defined in Section 72-10-102;

(ii) a vehicle as defined in Section 41-1a-102;

(iii) an off-highway vehicle as defined in Section 41-22-2; or

(iv) a vessel as defined in Section 41-1a-102.

(b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:

(i) a vehicle described in Subsection (136)(a); or

(ii) (A) a locomotive;

(B) a freight car;

(C) railroad work equipment; or

(D) other railroad rolling stock.

(137) "Vehicle dealer" means a person engaged in the business of buying, selling, or exchanging a vehicle as defined in Subsection (136).

(138) (a) "Vertical service" means an ancillary service that:

(i) is offered in connection with one or more telecommunications services; and

(ii) offers an advanced calling feature that allows a customer to:

(A) identify a caller; and

(B) manage multiple calls and call connections.

(b) "Vertical service" includes an ancillary service that allows a customer to manage a conference bridging service.

(139) (a) "Voice mail service" means an ancillary service that enables a customer to receive, send, or store a recorded message.

(b) "Voice mail service" does not include a vertical service that a customer is required to have in order to utilize a voice mail service.

(140) (a) Except as provided in Subsection (140)(b), "waste energy facility" means a facility that generates electricity:

(i) using as the primary source of energy waste materials that would be placed in a landfill or refuse pit if it were not used to generate electricity, including:

(A) tires;

(B) waste coal;

(C) oil shale; or

(D) municipal solid waste; and

(ii) in amounts greater than actually required for the operation of the facility.

(b) "Waste energy facility" does not include a facility that incinerates:

(i) hospital waste as defined in 40 C.F.R. 60.51c; or

(ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.

(141) "Watercraft" means a vessel as defined in Section 73-18-2.

(142) "Wind energy" means wind used as the sole source of energy to produce electricity.

(143) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic location by the United States Postal Service.

Section 2. Section 59-12-400 is enacted to read:

Part 4. Impacted Communities Taxes Act

59-12-400. Title.

This part is known as the "Impacted Communities Taxes Act."

Section 3. Section 59-12-402.1 is enacted to read:

59-12-402.1. State correctional facility sales and use tax -- Base -- Rate -- Collection fees -- Imposition -- Prohibition of military installation development authority imposition of tax.

(1) As used in this section, "new state correctional facility" means a new prison in the state:

(a) that is operated by the Department of Corrections;

(b) the construction of which begins on or after May 12, 2015; and

(c) that provides a capacity of 2,500 or more inmate beds.

(2) Subject to the other provisions of this part, a city or town legislative body may impose a tax under this section if the construction of a new state correctional facility has begun within the boundaries of the city or town.

(3) For purposes of this section, the tax rate may not exceed .5%.

(4) Except as provided in Subsection (5), a tax under this section shall be imposed on the transactions described in Subsection 59-12-103(1) within the city or town.

(5) A city or town may not impose a tax under this section on:

(a) the sale of:

(i) a motor vehicle;

(ii) an aircraft;

(iii) a watercraft;

(iv) a modular home;

(v) a manufactured home; or

(vi) a mobile home;

(b) the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt under Section 59-12-104; and

(c) except as provided in Subsection (7), amounts paid or charged for food and food ingredients.

(6) For purposes of this section, the location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.

(7) A city or town that imposes a tax under this section shall impose the tax on amounts paid or charged for food and food ingredients if the food and food ingredients are sold as part of a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients.

(8) A city or town may impose a tax under this section by majority vote of the members of the city or town legislative body.

(9) A city or town that imposes a tax under this section is not subject to Section 59-12-405.

(10) A military installation development authority may not impose a tax under this section.

Section 4. Section 59-12-403 is amended to read:

59-12-403. Enactment or repeal of tax -- Tax rate change -- Effective date -- Notice requirements -- Administration, collection, and enforcement of tax -- Administrative charge.

(1) For purposes of this section:

(a) "Annexation" means an annexation to a city or town under Title 10, Chapter 2, Part 4, Annexation.

(b) "Annexing area" means an area that is annexed into a city or town.

(2) (a) Except as provided in Subsection (2)(c) or (d), if, on or after April 1, 2008, a city or town enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal, or change shall take effect:

(i) on the first day of a calendar quarter; and

(ii) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (2)(b) from the city or town.

(b) The notice described in Subsection (2)(a)(ii) shall state:

(i) that the city or town will enact or repeal a tax or change the rate of a tax under this part;

(ii) the statutory authority for the tax described in Subsection (2)(b)(i);

(iii) the effective date of the tax described in Subsection (2)(b)(i); and

(iv) if the city or town enacts the tax or changes the rate of the tax described in Subsection (2)(b)(i), the rate of the tax.

(c) (i) The enactment of a tax or a tax rate increase takes effect on the first day of the first billing period:

(A) that begins on or after the effective date of the enactment of the tax or the tax rate increase; and

(B) if the billing period for the transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under~~[:]~~ Section 59-12-401, 59-12-402, or 59-12-402.1.

~~[(I) Section 59-12-401; or]~~

~~[(II) Section 59-12-402.]~~

(ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing statement for the billing period is rendered on or after the effective date of the repeal of the tax or the tax rate decrease imposed under~~[:]~~ Section 59-12-401, 59-12-402, or 59-12-402.1.

~~[(A) Section 59-12-401; or]~~

~~[(B) Section 59-12-402.]~~

(d) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax described in Subsection (2)(a) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment, repeal, or change in the rate of the tax under Subsection (2)(a).

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term “catalogue sale.”

(3) (a) Except as provided in Subsection (3)(c) or (d), if, for an annexation that occurs on or after July 1, 2004, the annexation will result in the enactment, repeal, or change in the rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take effect:

(i) on the first day of a calendar quarter; and

(ii) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (3)(b) from the city or town that annexes the annexing area.

(b) The notice described in Subsection (3)(a)(ii) shall state:

(i) that the annexation described in Subsection (3)(a) will result in an enactment, repeal, or change in the rate of a tax under this part for the annexing area;

(ii) the statutory authority for the tax described in Subsection (3)(b)(i);

(iii) the effective date of the tax described in Subsection (3)(b)(i); and

(iv) if the city or town enacts the tax or changes the rate of the tax described in Subsection (3)(b)(i), the rate of the tax.

(c) (i) The enactment of a tax or a tax rate increase takes effect on the first day of the first billing period:

(A) that begins on or after the effective date of the enactment of the tax or the tax rate increase; and

(B) if the billing period for the transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under~~[:]~~ Section 59-12-401, 59-12-402, or 59-12-402.1.

~~[(I) Section 59-12-401; or]~~

~~[(II) Section 59-12-402.]~~

(ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing statement for the billing period is rendered on or after the effective date of the repeal of the tax or the tax rate decrease imposed under~~[:]~~ Section 59-12-401, 59-12-402, or 59-12-402.1.

~~[(A) Section 59-12-401; or]~~

~~[(B) Section 59-12-402.]~~

(d) (i) Notwithstanding Subsection (3)(a), if a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax described in Subsection (3)(a) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment, repeal, or change in the rate of the tax under Subsection (3)(a).

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term “catalogue sale.”

(4) (a) Except as provided in Subsection (4)(b), a tax authorized under this part shall be administered, collected, and enforced in accordance with:

(i) the same procedures used to administer, collect, and enforce the tax under:

(A) Part 1, Tax Collection; or

(B) Part 2, Local Sales and Use Tax Act; and

(ii) Chapter 1, General Taxation Policies.

(b) Notwithstanding Subsection (4)(a), a tax under this part is not subject to Subsections 59-12-205(2) through (6).

(5) The commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenues the commission collects from a tax under this part.

Section 5. Section 63A-5-225 is enacted to read:

63A-5-225. Development of new correctional facilities.

(1) As used in this section:

(a) “Commission” means the Prison Development Commission, created in Section 63C-16-201.

(b) “New correctional facilities” means a new prison and related facilities to be constructed to replace the state prison located in Draper.

(c) “Prison project” means all aspects of a project for the design and construction of new correctional facilities on the selected site, including:

(i) the acquisition of land, interests in land, easements, or rights-of-way;

(ii) site improvement; and

(iii) the acquisition, construction, equipping, or furnishing of facilities, structures, infrastructure, roads, parking facilities, utilities, and improvements, whether on or off the selected site, that are necessary, incidental, or convenient to the development of new correctional facilities on the selected site.

(d) “Selected site” means the same as that term is defined in Section 63C-16-102.

(2) In consultation with the commission, the division shall oversee the prison project, as provided in this section.

(3) (a) In accordance with Title 63G, Chapter 6a, Utah Procurement Code, and this section, the division shall:

(i) enter into contracts with persons providing professional and construction services for the prison project;

(ii) in determining contract types for the prison project, consult with and consider recommendations from the commission or the commission’s designee;

(iii) provide reports to the commission regarding the prison project, as requested by the commission; and

(iv) consider input from the commission on the prison project, subject to Subsection (3)(b).

(b) The division may not consult with or receive input from the commission regarding:

(i) the evaluation of proposals from persons seeking to provide professional and construction services for the prison project; or

(ii) the selection of persons to provide professional and construction services for the prison project.

(c) A contract with a project manager or person with a comparable position on the prison project shall include a provision that requires the project manager or other person to provide reports to the commission regarding the prison project, as requested by the commission.

(4) All contracts associated with the design or construction of new correctional facilities shall be awarded and managed by the division in accordance with Title 63G, Chapter 6a, Utah Procurement Code, and this section.

(5) The division shall coordinate with the Department of Corrections, created in Section

64-13-2, and the State Commission on Criminal and Juvenile Justice, created in Section 63M-7-201, during the prison project to help ensure that the design and construction of new correctional facilities are conducive to and consistent with, and help to implement any reforms of or changes to, the state’s corrections system and corrections programs.

(6) (a) There is created within the General Fund a restricted account known as the “Prison Development Restricted Account.”

(b) The account created in Subsection (6)(a) is funded by legislative appropriations.

(c) (i) The account shall earn interest or other earnings.

(ii) The Division of Finance shall deposit interest or other earnings derived from the investment of account funds into the account.

(d) Upon appropriation from the Legislature, money from the account shall be used to fund the Prison Project Fund created in Subsection (7).

(7) (a) There is created a capital projects fund known as the “Prison Project Fund.”

(b) The fund consists of:

(i) money appropriated to the fund by the Legislature; and

(ii) proceeds from the issuance of bonds authorized in Section 63B-24-101 to provide funding for the prison project.

(c) (i) The fund shall earn interest or other earnings.

(ii) The Division of Finance shall deposit interest or other earnings derived from the investment of fund money into the fund.

(d) Money in the fund shall be used by the division to fund the prison project.

Section 6. Section 63B-24-101 is enacted to read:

63B-24-101. (Codified as 63B-25-101)

General obligation bonds for prison project -- Maximum amount -- Use of proceeds.

(1) As used in this section:

(a) “Prison project” means the same as that term is defined in Section 63C-16-102.

(b) “Prison project fund” means the capital projects fund created in Subsection 63A-5-225(7).

(2) The commission may issue general obligation bonds as provided in this section.

(3) (a) The total amount of bonds to be issued under this section may not exceed \$470,000,000, plus additional amounts necessary to pay costs of issuance, to pay capitalized interest, and to fund any debt service reserve requirements, with the total amount of the bonds not to exceed \$474,700,000.

(b) The maturity of bonds issued under this section shall be seven years.

(4) The commission shall ensure that proceeds from the issuance of bonds under this section are deposited into the Prison Project Fund for use by the division to pay all or part of the cost of the prison project, including:

(a) interest estimated to accrue on the bonds authorized in this section until the completion of construction of the prison project, plus a period of 12 months after the end of construction; and

(b) all related engineering, architectural, and legal fees.

(5) (a) The division may enter into agreements related to the prison project before the receipt of proceeds of bonds issued under this section.

(b) The division shall make those expenditures from unexpended and unencumbered building funds already appropriated to the Prison Project Fund.

(c) The division shall reimburse the Prison Project Fund upon receipt of the proceeds of bonds issued under this chapter.

(d) The state intends to use proceeds of tax-exempt bonds to reimburse itself for expenditures for costs of the prison project.

(6) Before issuing bonds authorized under this section, the commission shall request and consider a recommendation from the Prison Development Commission, created in Section 63C-16-201, regarding the timing and amount of the issuance.

Section 7. Section 63C-15-102 is amended to read:

63C-15-102. Definitions.

As used in this chapter:

(1) "Commission" means the Prison Relocation Commission, created in Section 63C-15-201.

(2) "Department" means the Department of Corrections, created in Section 64-13-2.

(3) "Division" means the Division of Facilities Construction and Management, created in Section 63A-5-201.

(4) "Justice commission" means the State Commission on Criminal and Juvenile Justice, created in Section 63M-7-201.

(5) "New prison facilities" means correctional facilities to be constructed to replace the state prison.

~~(5)~~ (6) "State prison" means the prison that the state operates in [Salt Lake County] Draper.

Section 8. Section 63C-15-201 is amended to read:

63C-15-201. Commission created -- Membership -- Cochairs -- Removal -- Vacancy.

(1) There is created ~~[an advisory]~~ a commission known as the Prison Relocation Commission, composed of:

(a) three members of the Senate, appointed by the president of the Senate, no more than two of whom may be from the same political party;

(b) four members of the House of Representatives, appointed by the speaker of the House of Representatives, no more than three of whom may be from the same political party;

(c) the executive director of the justice commission, appointed under Section 63M-7-203; and

(d) the executive director of the department, appointed under Section 64-13-3, or the executive director's designee.

(2) The commission members from the Senate and House of Representatives are voting members of the commission, and the members appointed under Subsections (1)(c) and (d) are nonvoting members of the commission.

(3) The president of the Senate shall appoint one of the commission members from the Senate as cochair of the commission, and the speaker of the House of Representatives shall appoint one of the commission members from the House of Representatives as cochair of the commission.

(4) The president of the Senate may remove a member appointed under Subsection (1)(a), and the speaker of the House of Representatives may remove a member appointed under Subsection (1)(b).

(5) A vacancy of a member appointed under Subsection (1)(a) or (b) shall be filled in the same manner as an appointment of the member whose departure from the commission creates the vacancy.

(6) A commission member shall serve until a successor is duly appointed and qualified.

Section 9. Section 63C-15-203 is amended to read:

63C-15-203. Commission duties and responsibilities.

(1) The commission shall:

(a) carefully and deliberately consider, study, and evaluate how and where to move the state prison, and in that process:

(i) consider whether to locate new prison facilities on land already owned by the state or on land that is currently in other public or private ownership but that the state may acquire or lease, whether to locate new prison facilities at one location or multiple locations, and to what extent future corrections needs may be met by existing state and county facilities; and

(ii) take into account relevant objectives, including:

(A) coordinating the commission's efforts with the efforts of the justice commission and the department to evaluate criminal justice policies to increase public safety, reduce recidivism, and reduce prison population growth;

(B) ensuring that new prison facilities are conducive to future inmate programming that encourages a reduction in recidivism;

(C) locating new prison facilities to help facilitate an adequate level of volunteer and staff support that will allow for a correctional program that is commensurate with the high standards that should be maintained in the state;

(D) locating new prison facilities within a reasonable distance of comprehensive medical facilities;

(E) locating new prison facilities to be compatible with surrounding land uses for the foreseeable future;

(F) locating new prison facilities with careful consideration given to the concerns of access to courts, visiting and public access, expansion capabilities, emergency response factors, and the availability of infrastructure;

(G) supporting new prison facilities by one or more appropriations from the Legislature;

(H) developing performance specifications for new prison facilities that facilitate a high quality correctional program;

(I) phasing in construction over a period of time; and

(J) making every reasonable effort to maximize efficiencies and cost savings that result from building and operating newer, more efficient prison facilities;

(b) invite the participation in commission meetings of interested parties, the public, experts in the area of prison facilities, and any others the commission considers to have information or ideas that would be useful to the commission;

(c) formulate recommendations concerning:

(i) the location or locations to which the new prison facilities should be moved;

(ii) the type of facilities that should be constructed to accommodate the prison population and to facilitate implementation of any new corrections programs; and

(iii) the extent to which future corrections needs can be met by existing state or county facilities; and

~~[(d) before the start of the 2015 General Session of the Legislature, report the commission's recommendations in writing to the Legislature and governor.]~~

(d) sponsor one or more public information and feedback events in communities within which or adjacent to which a site under final consideration for new prison facilities is located, as the commission or its chairs consider appropriate.

(2) (a) On or before August 1, 2015, the commission shall:

(i) choose the site for the construction of new prison facilities from among the sites that the

commission recommended as potential sites in the commission's report to the governor and the Legislature, adopted on and dated February 27, 2015; and

(ii) report the commission's choice to the president of the Senate, the speaker of the House of Representatives, and the governor.

(b) The site chosen by the commission under Subsection (2)(a) shall be the site for the construction of new prison facilities if the site is approved by the Legislature at:

(i) a special session of the Legislature that the governor convenes for that purpose; or

(ii) an annual general session of the Legislature.

~~[(2)] (3) The commission may:~~

~~(a) meet as many times as the commission considers necessary or advisable in order to fulfill its responsibilities under this part;~~

~~(b) hire or direct the hiring of one or more consultants with experience or expertise in a subject under consideration by the commission, to assist the commission in fulfilling its duties under this part; and~~

~~[(e) in its discretion, elect to succeed to the position of the Prison Relocation and Development Authority under a contract that the Prison Relocation and Development Authority is a party to, subject to applicable contractual provisions.]~~

(c) extend the deadline under Subsection (2)(a) for a one-month period, as many times as the commission considers appropriate and necessary.

~~[(3)] (4) The commission may not:~~

~~(a) consider or evaluate future uses of the property on which the state prison is currently located;~~

~~(b) make recommendations concerning the future use or development of the land on which the state prison is currently located;~~

~~(c) make any commitments or enter into any contracts for the acquisition of land for new state prison facilities or regarding the construction of new state prison facilities; or~~

~~(d) initiate or pursue the procurement of a person to design or construct new prison facilities.~~

Section 10. Section 63C-16-101 is enacted to read:

CHAPTER 16. PRISON DEVELOPMENT COMMISSION ACT

63C-16-101. Title.

This chapter is known as the "Prison Development Commission Act."

Section 11. Section 63C-16-102 is enacted to read:

63C-16-102. Definitions.

As used in this chapter:

(1) “Commission” means the Prison Development Commission, created in Section 63C-16-201.

(2) “Department” means the Department of Corrections, created in Section 64-13-2.

(3) “Division” means the Division of Facilities Construction and Management, created in Section 63A-5-201.

(4) “Justice commission” means the State Commission on Criminal and Juvenile Justice, created in Section 63M-7-201.

(5) “New correctional facilities” means a new prison and related facilities to be constructed to replace the state prison located in Draper.

(6) “Prison project” means the same as that term is defined in Section 63A-5-225.

(7) “Selected site” means the site selected under Subsection 63C-15-203(2) as the site for new correctional facilities.

Section 12. Section 63C-16-201 is enacted to read:

63C-16-201. Commission created -- Membership -- Cochairs -- Removal -- Vacancy.

(1) There is created a commission known as the Prison Development Commission, composed of:

(a) three members of the Senate, appointed by the president of the Senate, no more than two of whom may be from the same political party;

(b) four members of the House of Representatives, appointed by the speaker of the House of Representatives, no more than three of whom may be from the same political party;

(c) the executive director of the justice commission, appointed under Section 63M-7-203;

(d) the executive director of the department, appointed under Section 64-13-3, or the executive director’s designee; and

(e) a citizen member who is a resident of the community in or near which the selected site is located, appointed by the governor.

(2) The president of the Senate shall appoint one of the commission members from the Senate as cochair of the commission, and the speaker of the House of Representatives shall appoint one of the commission members from the House of Representatives as cochair of the commission.

(3) The president of the Senate may remove a member appointed under Subsection (1)(a), the speaker of the House of Representatives may remove a member appointed under Subsection (1)(b), and the governor may remove a member appointed under Subsection (1)(e).

(4) A vacancy of a member appointed under Subsection (1)(a), (b), or (e) shall be filled in the same manner as an appointment of the member

whose departure from the commission creates the vacancy.

(5) A commission member shall serve until a successor is duly appointed and qualified.

Section 13. Section 63C-16-202 is enacted to read:

63C-16-202. Quorum and voting requirements -- Bylaws -- Per diem and expenses -- Staff.

(1) A majority of the commission members constitutes a quorum, and the action of a majority of a quorum constitutes action of the commission.

(2) The commission may adopt bylaws to govern its operations and proceedings.

(3) (a) Per diem and expenses of commission members who are legislators shall be paid in accordance with Section 36-2-2 and Legislative Joint Rules, Title 5, Chapter 3, Legislative Compensation.

(b) A commission member who is not a legislator may not receive compensation, benefits, per diem, or expense reimbursement for the member’s service on the commission.

(4) The Office of Legislative Research and General Counsel shall provide staff support to the commission.

Section 14. Section 63C-16-203 is enacted to read:

63C-16-203. Commission duties and responsibilities.

(1) The commission shall:

(a) advise and consult with the division as the division oversees the prison project as provided in Section 63A-5-225;

(b) consult with, make recommendations to, and receive reports from the division regarding the prison project, consistent with Section 63A-5-225;

(c) fulfill other responsibilities specified in Section 63A-5-225; and

(d) undertake any other action the commission considers appropriate to support or help facilitate the successful completion of the prison project, consistent with Section 63A-5-225.

(2) The commission may:

(a) meet as many times as the commission or its chairs consider necessary or advisable in order to fulfill the commission’s responsibilities under this part; and

(b) hire or direct the hiring of one or more consultants or experts to assist the commission in fulfilling the commission’s responsibilities under this part.

(3) The commission may not consider or evaluate future uses or development of the property in Draper on which a state prison is located.

Section 15. Section 63C-16-204 is enacted to read:

63C-16-204. Other agencies' cooperation and actions.

All state agencies and political subdivisions of the state shall, upon the commission's request:

(1) reasonably cooperate with the commission to facilitate the fulfillment of the commission's responsibilities; and

(2) provide information or assistance to the commission that the commission reasonably needs to fulfill its responsibilities.

Section 16. Section 63I-1-263 is amended to read:

63I-1-263. Repeal dates, Titles 63A to 63M.

(1) Section 63A-4-204, authorizing the Risk Management Fund to provide coverage to any public school district which chooses to participate, is repealed July 1, 2016.

(2) Subsection 63A-5-104(4)(h) is repealed on July 1, 2024.

(3) Section 63A-5-603, State Facility Energy Efficiency Fund, is repealed July 1, 2016.

(4) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July 1, 2018.

(5) Title 63C, Chapter 14, Federal Funds Commission, is repealed July 1, 2018.

~~[(6) Title 63C, Chapter 15, Prison Relocation Commission, is repealed July 1, 2017.]~~

(6) Title 63C, Chapter 16, Prison Development Commission Act, is repealed July 1, 2020.

(7) Subsection 63G-6a-1402(7) authorizing certain transportation agencies to award a contract for a design-build transportation project in certain circumstances, is repealed July 1, 2015.

(8) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1, 2020.

(9) The Resource Development Coordinating Committee, created in Section 63J-4-501, is repealed July 1, 2015.

(10) Title 63M, Chapter 1, Part 4, Enterprise Zone Act, is repealed July 1, 2018.

(11) (a) Title 63M, Chapter 1, Part 11, Recycling Market Development Zone Act, is repealed January 1, 2021.

(b) Subject to Subsection (11)(c), Sections 59-7-610 and 59-10-1007 regarding tax credits for certain persons in recycling market development zones, are repealed for taxable years beginning on or after January 1, 2021.

(c) A person may not claim a tax credit under Section 59-7-610 or 59-10-1007:

(i) for the purchase price of machinery or equipment described in Section 59-7-610 or

59-10-1007, if the machinery or equipment is purchased on or after January 1, 2021; or

(ii) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), if the expenditure is made on or after January 1, 2021.

(d) Notwithstanding Subsections (11)(b) and (c), a person may carry forward a tax credit in accordance with Section 59-7-610 or 59-10-1007 if:

(i) the person is entitled to a tax credit under Section 59-7-610 or 59-10-1007; and

(ii) (A) for the purchase price of machinery or equipment described in Section 59-7-610 or 59-10-1007, the machinery or equipment is purchased on or before December 31, 2020; or

(B) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), the expenditure is made on or before December 31, 2020.

(12) Section 63M-1-3412 is repealed on July 1, 2021.

~~[(13) (a) Section 63M-1-2507, Health Care Compact is repealed on July 1, 2014.]~~

~~[(b) (i) The Legislature shall, before reauthorizing the Health Care Compact:]~~

~~[(A) direct the Health System Reform Task Force to evaluate the issues listed in Subsection (13)(b)(ii), and by January 1, 2013, develop and recommend criteria for the Legislature to use to negotiate the terms of the Health Care Compact; and]~~

~~[(B) prior to July 1, 2014, seek amendments to the Health Care Compact among the member states that the Legislature determines are appropriate after considering the recommendations of the Health System Reform Task Force.]~~

~~[(ii) The Health System Reform Task Force shall evaluate and develop criteria for the Legislature regarding:]~~

~~[(A) the impact of the Supreme Court ruling on the Affordable Care Act;]~~

~~[(B) whether Utah is likely to be required to implement any part of the Affordable Care Act prior to negotiating the compact with the federal government, such as Medicaid expansion in 2014;]~~

~~[(C) whether the compact's current funding formula, based on adjusted 2010 state expenditures, is the best formula for Utah and other state compact members to use for establishing the block grants from the federal government;]~~

~~[(D) whether the compact's calculation of current year inflation adjustment factor, without consideration of the regional medical inflation rate in the current year, is adequate to protect the state from increased costs associated with administering a state based Medicaid and a state based Medicare program;]~~

~~[(E) whether the state has the flexibility it needs under the compact to implement and fund state based initiatives, or whether the compact requires~~

~~uniformity across member states that does not benefit Utah;~~

~~[(F) whether the state has the option under the compact to refuse to take over the federal Medicare program;]~~

~~[(G) whether a state based Medicare program would provide better benefits to the elderly and disabled citizens of the state than a federally run Medicare program;]~~

~~[(H) whether the state has the infrastructure necessary to implement and administer a better state based Medicare program;]~~

~~[(I) whether the compact appropriately delegates policy decisions between the legislative and executive branches of government regarding the development and implementation of the compact with other states and the federal government; and]~~

~~[(J) the impact on public health activities, including communicable disease surveillance and epidemiology.]~~

~~[(14)] (13) (a) Title 63M, Chapter 1, Part 35, Utah Small Business Jobs Act, is repealed January 1, 2021.~~

~~(b) Section 59-9-107 regarding tax credits against premium taxes is repealed for calendar years beginning on or after January 1, 2021.~~

~~(c) Notwithstanding Subsection ~~[(14)] (13)~~(b), an entity may carry forward a tax credit in accordance with Section 59-9-107 if:~~

~~(i) the person is entitled to a tax credit under Section 59-9-107 on or before December 31, 2020; and~~

~~(ii) the qualified equity investment that is the basis of the tax credit is certified under Section 63M-1-3503 on or before December 31, 2023.~~

~~[(15)] (14) The Crime Victim Reparations and Assistance Board, created in Section 63M-7-504, is repealed July 1, 2017.~~

~~[(16)] (15) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2017.~~

Section 17. Section 63I-2-263 is amended to read:

63I-2-263. Repeal dates, Title 63A to Title 63M.

~~[(1) Section 63A-1-115 is repealed on July 1, 2014.]~~

~~[(2)] (1) Section 63C-9-501.1 is repealed on July 1, 2015.~~

~~(2) Title 63C, Chapter 15, Prison Relocation Commission, is repealed on January 1, 2016.~~

~~[(3) Subsection 63J-1-218(3) is repealed on December 1, 2013.]~~

~~[(4) Subsection 63J-1-218(4) is repealed on December 1, 2013.]~~

~~[(5) Section 63M-1-207 is repealed on December 1, 2014.]~~

~~[(6)] (3) Subsection 63M-1-903(1)(d) is repealed on July 1, 2015.~~

~~[(7) Subsection 63M-1-1406(9) is repealed on January 1, 2015.]~~

CHAPTER 183**S. B. 10**

Passed February 11, 2015

Approved March 25, 2015

Effective May 12, 2015

(Exception clause in Section 3)

**COMPACT FOR INTERSTATE SHARING OF
PUTATIVE FATHER REGISTRY
INFORMATION**

Chief Sponsor: Luz Escamilla

House Sponsor: Jacob L. Anderegg

LONG TITLE**General Description:**

This bill enacts the Compact for Interstate Sharing of Putative Father Registry Information.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ describes the purpose of the Compact for Interstate Sharing of Putative Father Registry Information;
- ▶ describes the process for entering, withdrawing from, and amending the compact;
- ▶ describes the responsibilities and privileges of states participating in the compact;
- ▶ addresses the privacy, retention, and use of putative father registry information shared under the compact;
- ▶ includes a severability clause; and
- ▶ requires the state registrar, appointed by the Department of Health, to study the procedures necessary to implement the Compact for Interstate Sharing of Putative Father Registry Information.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

26-2-3, as last amended by Laws of Utah 2013, Chapter 474

ENACTS:

78B-6-121.5, Utah Code Annotated 1953

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

Section 1. Section 26-2-3 is amended to read:**26-2-3. Department duties and authority.**

(1) As used in this section:

(a) “Compact” means the Compact for Interstate Sharing of Putative Father Registry Information created in Section 78B-6-121.5, effective on May 10, 2016.

(b) “Putative father”:

(i) means the same as that term is as defined in Section 78B-6-121.5; and

(ii) includes an unmarried biological father.

(c) “State registrar” means the state registrar of vital records appointed under Subsection (2)(e).

(d) “Unmarried biological father” means the same as that term is defined in Section 78B-6-103.

(1) (2) The department shall:

(a) provide offices properly equipped for the preservation of vital records made or received under this chapter;

(b) establish a statewide vital records system for the registration, collection, preservation, amendment, and certification of vital records and other similar documents required by this chapter and activities related to them, including the tabulation, analysis, and publication of vital statistics;

(c) prescribe forms for certificates, certification, reports, and other documents and records necessary to establish and maintain a statewide system of vital records;

(d) prepare an annual compilation, analysis, and publication of statistics derived from vital records; and

(e) appoint a state registrar to direct the statewide system of vital records.

(2) (3) The department may:

(a) divide the state from time to time into registration districts; and

(b) appoint local registrars for registration districts who under the direction and supervision of the state registrar shall perform all duties required of them by this chapter and department rules.

(3) (4) The state registrar appointed under Subsection [(1)(e)] (2)(e) shall, ~~during the 2013 interim, report to the Health and Human Services Interim Committee on the feasibility of partnering with the public legal notice website described in Subsection 45-1-101(2)(b) to create a national putative father registry.~~

(a) with the input of Utah stakeholders and the Uniform Law Commission, study the following items for the state’s implementation of the compact:

(i) the feasibility of using systems developed by the National Association for Public Health Statistics and Information Systems, including the State and Territorial Exchange of Vital Events (STEVE) system and the Electronic Verification of Vital Events (EVVE) system, or similar systems, to exchange putative father registry information with states that are parties to the compact;

(ii) procedures necessary to share putative father information, located in the confidential registry maintained by the state registrar, upon request from the state registrar of another state that is a party to the compact;

(iii) procedures necessary for the state registrar to access putative father information located in a state that is a party to the compact, and share that information with persons who request a certificate from the state registrar;

(iv) procedures necessary to ensure that the name of the mother of the child who is the subject of a putative father's notice of commencement, filed pursuant to Section 78B-6-121, is kept confidential when a state that is a party to the compact accesses this state's confidential registry through the state registrar; and

(v) procedures necessary to ensure that a putative father's registration with a state that is a party to the compact is given the same effect as a putative father's notice of commencement filed pursuant to Section 78B-6-121; and

(b) report to the Health and Human Services Interim Committee before November 1, 2015, on the study items described in Subsection (4)(a).

Section 2. Section 78B-6-121.5 is enacted to read:

78B-6-121.5. Compact for Interstate Sharing of Putative Father Registry Information -- Severability clause.

COMPACT FOR INTERSTATE SHARING
OF PUTATIVE FATHER REGISTRY
INFORMATION
ARTICLE I
PURPOSE

This compact enables the sharing of putative father registry information collected by a state that is a party to the compact with all other states that are parties to the compact.

ARTICLE II
DEFINITIONS

(1) "Putative father" means a man who may be the biological father of a child because the man had a sexual relationship with a woman to whom he is not married.

(2) "Putative father registry" mean a registry of putative fathers maintained and used by a state as part of its legal process for protecting a putative father's rights.

(3) "State" includes a state, district, or territory of the United States.

ARTICLE III
ENTRY, WITHDRAWAL, AND AMENDMENTS

(1) A state is a party to this compact upon enactment of this compact by the state into state law.

(2) Upon providing at least 60 days' notice of withdrawal from this compact to each party to the compact and repealing the compact from state law, a state is no longer party to this compact.

(3) This compact is amended upon enactment of the amendment into state law by each party to the compact.

ARTICLE IV
INTERSTATE SHARING OF PUTATIVE
FATHER REGISTRY INFORMATION

(1) A party to this compact shall communicate information in its putative father registry about a

specific putative father to any other party to this compact in a timely manner upon request by the other party.

(2) A party to this compact is not required to have a putative father registry in order to request putative father registry information from another party to the compact.

(3) Putative father registry information requested by a party to this compact from another party to this compact is subject to the laws of the requesting party governing the privacy, retention, and authorized uses of putative father information or, if the requesting party does not have a putative father registry, the laws of the party supplying the information governing the privacy, retention, and authorized uses of putative father information.

(4) Notwithstanding Article IV, Subsection (3) of this compact, the request for or receipt of putative father registry information by a party to this compact from another party to this compact does not affect the application of the requesting party's laws, including laws regarding adoption or the protection of a putative father's rights, except as explicitly provided by the requesting party's laws.

(5) Failure by a party to this compact to provide accurate putative father registry information in a timely manner to another party to this compact upon request does not affect application of the requesting party's laws, including laws governing adoption and the protection of a putative father's rights, except as explicitly provided by the requesting party's laws.

(6) Each party to this compact shall work with every other party to this compact to facilitate the timely communication of putative father registry information between compact parties upon request.

ARTICLE V
SEVERABILITY

The provisions of this compact are severable. If any provision of this compact or the application of any provision of this compact to any person or circumstance is held invalid by a final decision of a court of competent jurisdiction for a state that is a member of this compact, the remainder of this compact shall be given effect within that state without the invalid provision or application. If a provision of this compact is severed in one or more states as a result of one or more court decisions, the provision shall remain in force in all other states that are parties to this compact.

Section 3. Effective date.

(1) Except as provided in Subsection (2), this bill takes effect on May 12, 2015.

(2) The actions affecting Section 78B-6-121.5 take effect on May 10, 2016.

CHAPTER 184**S. B. 16**

Passed February 4, 2015
 Approved March 25, 2015
 Effective May 12, 2015

**CERTIFICATE OF STILLBIRTH
 AMENDMENTS**

Chief Sponsor: Evan J. Vickers
 House Sponsor: Michael S. Kennedy

LONG TITLE**General Description:**

This bill amends the Utah Vital Statistics Act related to stillbirths.

Highlighted Provisions:

This bill:

- ▶ amends the definition of “dead fetus” in the Utah Vital Statistics Act; and
- ▶ directs the state registrar to issue a certificate of early term stillbirth to a parent who requests the certificate under certain circumstances.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

26-2-2, as last amended by Laws of Utah 2013, Chapter 397

ENACTS:

26-2-14.3, Utah Code Annotated 1953

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

Section 1. Section 26-2-2 is amended to read:

26-2-2. Definitions.

As used in this chapter:

(1) “Advanced practice registered nurse” means a person licensed to practice as an advanced practice registered nurse in this state under Title 58, Chapter 31b, Nurse Practice Act.

(2) “Custodial funeral service director” means a funeral service director who:

(a) is employed by a licensed funeral establishment; and

(b) has custody of a dead body.

(3) “Dead body” or “decedent” means a human body or parts of the human body from the condition of which it reasonably may be concluded that death occurred.

(4) “Dead fetus” means a product of human conception, other than those circumstances described in Subsection 76-7-301(1):

(a) of [16] 20 weeks’ gestation or more, calculated from the date the last normal menstrual period began to the date of delivery; and

(b) that was not born alive.

(5) “Declarant father” means a male who claims to be the genetic father of a child, and, along with the biological mother, signs a voluntary declaration of paternity to establish the child’s paternity.

(6) “Dispositioner” means:

(a) a person designated in a written instrument, under Subsection 58-9-602(1), as having the right and duty to control the disposition of the decedent, if the person voluntarily acts as the dispositioner; or

(b) the next of kin of the decedent, if:

(i) (A) a person has not been designated as described in Subsection (6)(a); or

(B) the person described in Subsection (6)(a) is unable or unwilling to exercise the right and duty described in Subsection (6)(a); and

(ii) the next of kin voluntarily acts as the dispositioner.

(7) “File” means the submission of a completed certificate or other similar document, record, or report as provided under this chapter for registration by the state registrar or a local registrar.

(8) “Funeral service director” is as defined in Section 58-9-102.

(9) “Health care facility” is as defined in Section 26-21-2.

(10) “Health care professional” means a physician or nurse practitioner.

(11) “Licensed funeral establishment” means a funeral service establishment, as defined in Section 58-9-102, that is licensed under Title 58, Chapter 9, Funeral Services Licensing Act.

(12) “Live birth” means the birth of a child who shows evidence of life after the child is entirely outside of the mother.

(13) “Local registrar” means a person appointed under Subsection 26-2-3(2)(b).

(14) “Nurse practitioner” means an advanced practice registered nurse specializing as a nurse practitioner who has completed an education program regarding the completion of a certificate of death developed by the department by administrative rule adopted in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(15) “Physician” means a person licensed to practice as a physician or osteopath in this state under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

(16) “Presumed father” means the father of a child conceived or born during a marriage as defined in Section 30-1-17.2.

(17) “Registration” or “register” means acceptance by the local or state registrar of a certificate and incorporation of the certificate into the permanent records of the state.

(18) “State registrar” means the state registrar of vital records appointed under Subsection 26-2-3(1)(e).

(19) "Vital records" means:

(a) registered certificates or reports of birth, death, fetal death, marriage, divorce, dissolution of marriage, or annulment;

(b) amendments to any of the registered certificates or reports described in Subsection (19)(a); and

(c) other similar documents.

(20) "Vital statistics" means the data derived from registered certificates and reports of birth, death, fetal death, induced termination of pregnancy, marriage, divorce, dissolution of marriage, or annulment.

Section 2. Section 26-2-14.3 is enacted to read:

26-2-14.3. Certificate of early term stillbirth.

(1) As used in this section, "early term stillborn child" means a product of human conception, other than in the circumstances described in Subsection 76-7-301(1), that:

(a) is of at least 16 weeks' gestation but less than 20 weeks' gestation, calculated from the day on which the mother's last normal menstrual period began to the day of delivery; and

(b) is not born alive.

(2) The state registrar shall issue a certificate of early term stillbirth to a parent of an early term stillborn child if:

(a) the parent requests, on a form created by the state registrar, that the state registrar register and issue a certificate of early term stillbirth for the early term stillborn child; and

(b) the parent files with the state registrar:

(i) (A) a signed statement from a physician confirming the delivery of the early term stillborn child; or

(B) an accurate copy of the parent's medical records related to the early term stillborn child; and

(ii) any other record the state registrar determines, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, is necessary for accurate recordkeeping.

(3) The certificate of early term stillbirth described in Subsection (2) shall meet all of the format and filing requirements of Section 26-2-4.

(4) A person who prepares a certificate of early term stillbirth under this section shall leave blank any references to an early term stillborn child's name if the early term stillborn child's parent does not wish to provide a name for the early term stillborn child.

CHAPTER 185**S. B. 22**

Passed February 11, 2015

Approved March 25, 2015

Effective May 12, 2015

FIRE CODE AMENDMENTS

Chief Sponsor: Curtis S. Bramble
House Sponsor: James A. Dunnigan

LONG TITLE**General Description:**

This bill modifies provisions of the State Fire Code relating to carbon monoxide detection.

Highlighted Provisions:

This bill:

- ▶ modifies references to certain standards established by Underwriters Laboratories, Inc. that relate to carbon monoxide detection systems.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

15A-5-204, as last amended by Laws of Utah 2014, Chapters 74 and 243

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

Section 1. Section 15A-5-204 is amended to read:**15A-5-204. Amendments and additions to IFC related to fire protection systems.**

For IFC, Fire Protection Systems:

(1) IFC, Chapter 9, Section 901.2, Construction Documents, is amended to add the following at the end of the section: "The code official has the authority to request record drawings ("as built") to verify any modifications to the previously approved construction documents."

(2) IFC, Chapter 9, Section 901.4.6, Pump and Riser Room Size, is deleted and replaced with the following: "Pump and Riser Room Size. Fire pump and automatic sprinkler system riser rooms shall be designed with adequate space for all installed equipment necessary for the installation and to provide sufficient working space around the stationary equipment. Clearances around equipment shall be in accordance with manufacturer requirements and not less than the following minimum elements: >language<901.4.6.1A minimum clear and unobstructed distance of 12 inches shall be provided from the installed equipment to the elements of permanent construction.

901.4.6.2 A minimum clear and unobstructed distance of 12 inches shall be provided between all other installed equipment and appliances.

901.4.6.3 A clear and unobstructed width of 36 inches shall be provided in front of all installed

equipment and appliances, to allow for inspection, service, repair or replacement without removing such elements of permanent construction or disabling the function of a required fire-resistance-rated assembly.

901.4.6.4 Automatic sprinkler system riser rooms shall be provided with a clear and unobstructed passageway to the riser room of not less than 36 inches, and openings into the room shall be clear and unobstructed, with doors swinging in the outward direction from the room and the opening providing a clear width of not less than 34 inches and a clear height of the door opening shall not be less than 80 inches.

901.4.6.5 Fire pump rooms shall be provided with a clear and unobstructed passageway to the fire pump room of not less than 72 inches, and openings into the room shall be clear, unobstructed and large enough to allow for the removal of the largest piece of equipment, with doors swinging in the outward direction from the room and the opening providing a clear width of not less than 68 inches and a clear height of the door opening shall not be less than 80 inches."

(3) IFC, Chapter 9, Section 903.2.1.2, Group A-2, is amended to add the following subsection: "4. An automatic fire sprinkler system shall be provided throughout Group A-2 occupancies where indoor pyrotechnics are used."

(4) IFC, Chapter 9, Section 903.2.2, Ambulatory Health Care Facilities, is amended as follows: On line two delete the words "all fire areas floor" and replace with the word "buildings" and delete the last paragraph.

(5) IFC, Chapter 9, Section 903.2.4, Group F-1, Subsection 2, is deleted and rewritten as follows: "A Group F-1 fire area is located more than three stories above the lowest level of fire department vehicle access."

(6) IFC, Chapter 9, Section 903.2.7, Group M, Subsection 2, is deleted and rewritten as follows: "A Group M fire area is located more than three stories above the lowest level of fire department vehicle access."

(7) IFC, Chapter 9, Section 903.2.8 Group R, is amended to add the following: "Exception: Detached one- and two-family dwellings and multiple single-family dwellings (townhouses) constructed in accordance with the International Residential Code for one- and two-family dwellings."

(8) IFC, Chapter 9, Section 903.2.8, Group R, is amended to add a second exception as follows: "Exception: Group R-4 fire areas not more than 4,500 gross square feet and not containing more than 16 residents, provided the building is equipped throughout with an approved fire alarm system that is interconnected and receives its primary power from the building wiring and a commercial power system."

(9) IFC, Chapter 9, Section 903.2.8 Group R, is amended to add a third exception as follows: "Exception: Single story group R-1 occupancies

with fire areas not more than 2,000 square feet that contain no installed plumbing or heating, where no cooking occurs, and constructed of Type I-A, I-B, II-A, or II-B construction.”

(10) IFC, Chapter 9, Section 903.2.9, Group S-1, Subsection 2, is deleted and rewritten as follows: “A Group S-1 fire area is located more than three stories above the lowest level of fire department vehicle access.”

(11) IFC, Chapter 9, Section 903.3.1.1 is amended by adding the following subsection: “903.3.1.1.2 Antifreeze Limitations. Antifreeze used in a new automatic sprinkler system installed in accordance with NFPA 13 may not exceed a maximum concentration of 38% premixed propylene glycol or 48% premixed glycerin, and the capacity of the system may not exceed 150 gallons.”

(12) IFC, Chapter 9, Section 903.3.1.2 is amended by adding the following subsection: “903.3.1.2.2 Antifreeze Limitations. Antifreeze used in a new automatic sprinkler system installed in accordance with NFPA 13R may not exceed a maximum concentration of 38% premixed propylene glycol or 48% premixed glycerin, and the capacity of the system may not exceed 150 gallons.”

(13) IFC, Chapter 9, Section 903.3.1.3 is amended by adding the following subsection: “903.3.1.3.1 Antifreeze Limitations. Antifreeze used in a new automatic sprinkler system installed in accordance with NFPA 13D may not exceed a maximum concentration of 38% premixed propylene glycol or 48% premixed glycerin, and the capacity of the system may not exceed 150 gallons.”

(14) IFC, Chapter 9, Section 903.3.5, Water supplies, is amended as follows: On line six, after the word “Code”, add “and as amended in Utah’s State Construction Code”.

(15) IFC, Chapter 9, Section 903.5 is amended to add the following subsection: “903.5.1 Tag and Information. A tag shall be attached to the riser indicating the date the antifreeze solution was tested. The tag shall also indicate the type and concentration of antifreeze solution by volume with which the system is filled, the name of the contractor that tested the antifreeze solution, the contractor’s license number, and a warning to test the concentration of the antifreeze solutions at yearly intervals.”

(16) IFC, Chapter 9, Section 904.11, Commercial cooking systems, is deleted and rewritten as follows: “The automatic fire extinguishing system for commercial cooking systems shall be of a type recognized for protection of commercial cooking equipment and exhaust systems. Pre-engineered automatic extinguishing systems shall be tested in accordance with UL300 and listed and labeled for the intended application. The system shall be installed in accordance with this code, its listing and the manufacturer’s installation instructions. The exception in Section 904.11 is not deleted and shall remain as currently written in the IFC.”

(17) IFC, Chapter 9, Section 904.11.3, Carbon dioxide systems, and Section 904.11.3.1,

Ventilation system, are deleted and rewritten as follows:

(a) “Existing automatic fire extinguishing systems used for commercial cooking that use dry chemical are prohibited and shall be removed from service.”

(b) “Existing wet chemical fire extinguishing systems used for commercial cooking that are not UL300 listed and labeled are prohibited and shall be either removed or upgraded to a UL300 listed and labeled system.”

(18) IFC, Chapter 9, Section 904.11.4, Special provisions for automatic sprinkler systems, is amended to add the following subsection: “904.11.4.2 Existing automatic fire sprinkler systems protecting commercial cooking equipment, hood, and exhaust systems that generate appreciable depth of cooking oils shall be replaced with a UL300 system that is listed and labeled for the intended application.”

(19) IFC, Chapter 9, Section 904.11.6.2, Extinguishing system service, is amended to add the following: “Exception: Automatic fire extinguishing systems located in occupancies where usage is limited and less than six consecutive months may be serviced annually if the annual service is conducted immediately before the period of usage, and approval is received from the AHJ.”

(20) IFC, Chapter 9, Section 905.3.9 is a new subsection as follows: “Open Parking Garages. Open parking garages shall be equipped with an approved Class I manual standpipe system when fire department access is not provided for firefighting operations to within 150 feet of all portions of the open parking garage as measured from the approved fire department vehicle access. Class I manual standpipe shall be accessible throughout the parking garage such that all portions of the parking structure are protected within 150 feet of a hose connection.

Exception: Open parking garages equipped throughout with an automatic sprinkler system in accordance with Section 903.3.1.1.”

(21) IFC, Chapter 9, Section 905.8, Dry Standpipes, Exception is deleted and rewritten as follows: “Where subject to freezing conditions and approved by the fire code official.”

(22) IFC, Chapter 9, Section 905.11, Existing buildings, and IFC, Chapter 11, Section 1103.6, Standpipes, are deleted.

(23) In IFC, Chapter 9, Section 906.1, Where Required, the exception under paragraph 1 is deleted and rewritten to read: “Exception: In new and existing Group A, B, and E occupancies equipped with quick response sprinklers, portable fire extinguishers shall be required only in locations specified in items 2 through 6.

(24) IFC, Chapter 9, Section 907.2.3 Group E:

(a) The first sentence is deleted and rewritten as follows: “A manual fire alarm system that initiates the occupant notification system in accordance with Section 907.5 and installed in accordance with

Section 907.6 shall be installed in Group E occupancies.”

(b) Exception number 3, on line five, delete the words, “emergency voice/alarm communication system” and replace with “occupant notification system.”

(25) IFC, Chapter 9, 907.8, Inspection, testing, and maintenance, is amended to add the following sentences at the end of the section: “Increases in nuisance alarms shall require the fire alarm system to be tested for sensitivity. Fire alarm systems that continue after sensitivity testing with unwarranted nuisance alarms shall be replaced as directed by the AHJ.”

(26) IFC, Chapter 9, Section 908.7, Carbon Monoxide Alarms, is deleted and rewritten as follows:

“908.7 Carbon Monoxide Detection.

908.7.1 Groups R-1, R-2, R-3, R-4, I-1, and I-4. Carbon monoxide detection shall be installed on each habitable level of a dwelling unit or a sleeping unit in Groups R-1, R-2, R-3, R-4, I-1, and I-4 occupancies that are equipped with a fuel-burning appliance.

908.7.1.1 If more than one carbon monoxide detector is required, the carbon monoxide detectors shall be interconnected as required in IFC, Chapter 9, Section 907.2.11.3.

908.7.1.2 In new construction, a carbon monoxide detector shall receive its primary power as required under IFC, Chapter 9, Section 907.2.11.4.

908.7.1.3 Upon completion of the installation, a carbon monoxide detector system shall meet the requirements listed in NFPA 720, Installation of Carbon Monoxide Detection and Warning Equipment and [~~UL 2034, Standard for Single and Multiple Carbon Monoxide Alarms~~] UL 2075, Standard for Gas and Vapor Detectors and Sensors.

908.7.2 Group E. A carbon monoxide detection system shall be installed in new buildings that contain Group E occupancies in accordance with IFC, Chapter 9, Sections 908.7.2.1 through 908.7.2.6. A carbon monoxide detection system shall be installed in existing buildings that contain Group E occupancies in accordance with IFC, Chapter 11, Section 1103.9.

908.7.2.1 Where required. In Group E occupancies, a carbon monoxide detection system shall be provided where a fuel-burning appliance, a fuel-burning fireplace, or a fuel-burning forced air furnace is present.

908.7.2.2 Detection equipment. Each carbon monoxide detection system shall be installed in accordance with NFPA 720 and the manufacturer’s instructions, and be listed as complying with [~~UL 2034 and~~] UL 2075.

908.7.2.3 Locations. Each carbon monoxide detection system shall be installed in the locations specified in NFPA 720.

908.7.2.4 Combination detectors. A combination carbon monoxide/smoke detector is an acceptable alternative to a carbon monoxide detection system if the combination carbon monoxide/smoke detector is listed in accordance with UL 2075 and UL 268.

908.7.2.5 Power source. Each carbon monoxide detection system shall receive primary power from the building wiring if the wiring is served from a commercial source. If primary power is interrupted, each carbon monoxide detection system shall receive power from a battery. Wiring shall be permanent and without a disconnecting switch other than that required for over-current protection.

908.7.2.6 Maintenance. Each carbon monoxide detection system shall be maintained in accordance with NFPA 720. A carbon monoxide detection system that becomes inoperable or begins to produce end-of-life signals shall be replaced.”

(27) IFC Section 908.7.1 is renumbered to 908.7.3.

CHAPTER 186**S. B. 26**

Passed February 11, 2015

Approved March 25, 2015

Effective May 12, 2015

**OCCUPATIONAL THERAPY PRACTICE
ACT REAUTHORIZATION**

Chief Sponsor: Wayne A. Harper

House Sponsor: Brian M. Greene

LONG TITLE**General Description:**

This bill extends the repeal date of the Occupational Therapy Practice Act.

Highlighted Provisions:

This bill:

- ▶ extends the repeal date of the Occupational Therapy Practice Act to July 1, 2025.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63I-1-258, as last amended by Laws of Utah 2014, Chapters 25, 72, and 181

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

Section 1. Section 63I-1-258 is amended to read:**63I-1-258. Repeal dates, Title 58.**

(1) Title 58, Chapter 13, Health Care Providers Immunity from Liability Act, is repealed July 1, 2016.

(2) Title 58, Chapter 15, Health Facility Administrator Act, is repealed July 1, 2015.

(3) Title 58, Chapter 20a, Environmental Health Scientist Act, is repealed July 1, 2018.

(4) Section 58-37-4.3 is repealed July 1, 2016.

(5) Title 58, Chapter 40, Recreational Therapy Practice Act, is repealed July 1, 2023.

(6) Title 58, Chapter 41, Speech-Language Pathology and Audiology Licensing Act, is repealed July 1, 2019.

(7) Title 58, Chapter 42a, Occupational Therapy Practice Act, is repealed July 1, [2015] 2025.

(8) Title 58, Chapter 46a, Hearing Instrument Specialist Licensing Act, is repealed July 1, 2023.

(9) Title 58, Chapter 47b, Massage Therapy Practice Act, is repealed July 1, 2024.

(10) Section 58-69-302.5 is repealed on July 1, 2015.

(11) Title 58, Chapter 72, Acupuncture Licensing Act, is repealed July 1, 2017.

CHAPTER 187**S. B. 27**

Passed February 11, 2015

Approved March 25, 2015

Effective May 12, 2015

**HEALTH FACILITY ADMINISTRATOR
ACT REAUTHORIZATION**Chief Sponsor: Karen Mayne
House Sponsor: Brian M. Greene**LONG TITLE****General Description:**

This bill extends the repeal date of the Health Facility Administrator Act.

Highlighted Provisions:

This bill:

- ▶ extends the repeal date of the Health Facility Administrator Act to July 1, 2025.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63I-1-258, as last amended by Laws of Utah 2014, Chapters 25, 72, and 181

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

Section 1. Section 63I-1-258 is amended to read:**63I-1-258. Repeal dates, Title 58.**

(1) Title 58, Chapter 13, Health Care Providers Immunity from Liability Act, is repealed July 1, 2016.

(2) Title 58, Chapter 15, Health Facility Administrator Act, is repealed July 1, ~~2015~~ 2025.

(3) Title 58, Chapter 20a, Environmental Health Scientist Act, is repealed July 1, 2018.

(4) Section 58-37-4.3 is repealed July 1, 2016.

(5) Title 58, Chapter 40, Recreational Therapy Practice Act, is repealed July 1, 2023.

(6) Title 58, Chapter 41, Speech-Language Pathology and Audiology Licensing Act, is repealed July 1, 2019.

(7) Title 58, Chapter 42a, Occupational Therapy Practice Act, is repealed July 1, 2015.

(8) Title 58, Chapter 46a, Hearing Instrument Specialist Licensing Act, is repealed July 1, 2023.

(9) Title 58, Chapter 47b, Massage Therapy Practice Act, is repealed July 1, 2024.

(10) Section 58-69-302.5 is repealed on July 1, 2015.

(11) Title 58, Chapter 72, Acupuncture Licensing Act, is repealed July 1, 2017.

CHAPTER 188**S. B. 31**

Passed March 11, 2015

Approved March 25, 2015

Effective May 12, 2015

**LOBBYIST DISCLOSURE AND
REGULATION ACT AMENDMENTS**

Chief Sponsor: Todd Weiler

House Sponsor: Mike K. McKell

LONG TITLE**General Description:**

This bill amends provisions of the Lobbyist Disclosure and Regulation Act.

Highlighted Provisions:

This bill:

- ▶ defines and modifies terms;
- ▶ makes exceptions to the definition of a lobbyist;
- ▶ defines, and clarifies the difference between, an event, a tour, and a meeting;
- ▶ describes reporting and other requirements relating to an event, a tour, and a meeting;
- ▶ provides that the lieutenant governor shall deposit a license fee collected under the Lobbyist Disclosure and Regulation Act into the General Fund as a dedicated credit to be used by the lieutenant governor to pay the cost of administering the license program; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

36-11-102, as last amended by Laws of Utah 2014, Chapter 335

36-11-103, as last amended by Laws of Utah 2014, Chapter 335

36-11-304, as repealed and reenacted by Laws of Utah 2010, Chapter 325

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

Section 1. Section 36-11-102 is amended to read:**36-11-102. Definitions.**

As used in this chapter:

(1) "Aggregate daily expenditures" means:

(a) for a single lobbyist, principal, or government officer, the total of all expenditures made within a calendar day by the lobbyist, principal, or government officer for the benefit of an individual public official;

(b) for an expenditure made by a member of a lobbyist group, the total of all expenditures made within a calendar day by every member of the lobbyist group for the benefit of an individual public official; or

(c) for a multiclient lobbyist, the total of all expenditures made by the multiclient lobbyist

within a calendar day for the benefit of an individual public official, regardless of whether the expenditures were attributed to different clients.

(2) "Approved [~~meeting or~~] activity" means a tour or a meeting [~~or activity~~]:

- (a) (i) to which a legislator is invited; and
- (ii) attendance at which is approved by:

(A) the speaker of the House of Representatives, if the public official is a member of the House of Representatives; or

(B) the president of the Senate, if the public official is a member of the Senate; or

(b) (i) to which a public official who holds a position in the executive branch of state government is invited; and

(ii) attendance at which is approved by the governor or the lieutenant governor.

(3) "Capitol hill complex" is as defined in Section 63C-9-102.

(4) (a) "Compensation" means anything of economic value, however designated, that is paid, loaned, granted, given, donated, or transferred to an individual for the provision of services or ownership before any withholding required by federal or state law.

(b) "Compensation" includes:

(i) a salary or commission;

(ii) a bonus;

(iii) a benefit;

(iv) a contribution to a retirement program or account;

(v) a payment includable in gross income, as defined in Section 62, Internal Revenue Code, and subject to Social Security deductions, including a payment in excess of the maximum amount subject to deduction under Social Security law;

(vi) an amount that the individual authorizes to be deducted or reduced for salary deferral or other benefits authorized by federal law; or

(vii) income based on an individual's ownership interest.

(5) "Compensation payor" means a person who pays compensation to a public official in the ordinary course of business:

(a) because of the public official's ownership interest in the compensation payor; or

(b) for services rendered by the public official on behalf of the compensation payor.

(6) "Event" means entertainment, a performance, a contest, or a recreational activity that an individual participates in or is a spectator at, including a sporting event, an artistic event, a play, a movie, dancing, or singing.

[~~(6)~~] (7) "Executive action" means:

(a) a nomination or appointment by the governor;

(b) the proposal, drafting, amendment, enactment, or defeat by a state agency of a rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(c) agency ratemaking proceedings; or

(d) an adjudicative proceeding of a state agency.

[~~(7)~~] (8) (a) "Expenditure" means any of the items listed in this Subsection [~~(7)~~] (8)(a) when given to or for the benefit of a public official unless consideration of equal or greater value is received:

(i) a purchase, payment, or distribution;

(ii) a loan, gift, or advance;

(iii) a deposit, subscription, or forbearance;

(iv) services or goods;

(v) money;

(vi) real property;

(vii) a ticket or admission to [~~a sporting, recreational, or artistic~~] an event; or

(viii) a contract, promise, or agreement, whether or not legally enforceable, to provide any item listed in Subsections [~~(7)~~] (8)(a)(i) through (vii).

(b) "Expenditure" does not mean:

(i) a commercially reasonable loan made in the ordinary course of business;

(ii) a campaign contribution reported in accordance with Title 20A, Chapter 11, Campaign and Financial Reporting Requirements;

(iii) printed informational material that is related to the performance of the recipient's official duties;

(iv) a devise or inheritance;

(v) any item listed in Subsection [~~(7)~~] (8)(a) if:

(A) given by a relative;

(B) given by a compensation payor for a purpose solely unrelated to the public official's position as a public official; or

(C) (I) the item has a value of less than \$10; and

(II) the aggregate daily expenditures do not exceed \$10;

(vi) food or beverage that is provided at an event, a tour, or a meeting to which the following are invited:

(A) all members of the Legislature;

(B) all members of a standing or interim committee;

(C) all members of an official legislative task force;

(D) all members of a party caucus; or

(E) all members of a group described in Subsections [~~(7)~~] (8)(b)(vi)(A) through (D) who are attending a meeting of a national organization

whose primary purpose is addressing general legislative policy;

(vii) food or beverage that is provided at an event, a tour, or a meeting to a public official who is:

(A) giving a speech at the event;

(B) participating in a panel discussion at the event; or

(C) presenting or receiving an award at the event;

(viii) a plaque, commendation, or award presented in public and having a cash value not exceeding \$50;

(ix) admission to or attendance at an event, a tour, or a meeting, the primary purpose of which is:

(A) to solicit contributions reportable under:

(I) Title 20A, Chapter 11, Campaign and Financial Reporting Requirements; or

(II) 2 U.S.C. Sec. 434; or

(B) charitable solicitation, as defined in Section 13-22-2;

(x) travel to, lodging at, food or beverage served at, and admission to an approved [~~meeting or~~] activity;

(xi) sponsorship of an [~~official event or official entertainment of~~] event that is an approved [~~meeting or~~] activity;

(xii) notwithstanding Subsection [~~(7)~~] (8)(a)(vii), admission to [~~or~~], attendance at, or travel to or from an event, a tour, or a meeting:

(A) that is sponsored by a governmental entity; or

(B) that is widely attended and related to a governmental duty of a public official; or

(xiii) travel to a widely attended [~~event~~] tour or meeting related to a governmental duty of a public official if that travel results in a financial savings to the state.

[~~(8)~~] (9) (a) "Government officer" means:

(i) an individual elected to a position in state or local government, when acting within the government officer's official capacity; or

(ii) an individual appointed to or employed in a full-time position by state or local government, when acting within the scope of the individual's employment.

(b) "Government officer" does not mean a member of the legislative branch of state government.

[~~(9)~~] (10) "Immediate family" means:

(a) a spouse;

(b) a child residing in the household; or

(c) an individual claimed as a dependent for tax purposes.

[~~(10)~~] (11) "Legislative action" means:

(a) a bill, resolution, amendment, nomination, veto override, or other matter pending or proposed

in either house of the Legislature or its committees or requested by a legislator; and

(b) the action of the governor in approving or vetoing legislation.

~~[(11)]~~ (12) “Lobbying” means communicating with a public official for the purpose of influencing the passage, defeat, amendment, or postponement of legislative or executive action.

~~[(12)]~~ (13) (a) “Lobbyist” means:

(i) an individual who is employed by a principal; or

(ii) an individual who contracts for economic consideration, other than reimbursement for reasonable travel expenses, with a principal to lobby a public official.

(b) “Lobbyist” does not include:

(i) a government officer;

(ii) a member or employee of the legislative branch of state government;

(iii) a person, including a principal, while appearing at, or providing written comments to, a hearing conducted in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act or Title 63G, Chapter 4, Administrative Procedures Act;

(iv) a person participating on or appearing before an advisory or study task force, commission, board, or committee, constituted by the Legislature or any agency or department of state government, except legislative standing, appropriation, or interim committees;

(v) a representative of a political party;

(vi) an individual representing a bona fide church solely for the purpose of protecting the right to practice the religious doctrines of the church, unless the individual or church makes an expenditure that confers a benefit on a public official;

(vii) a newspaper, television station or network, radio station or network, periodical of general circulation, or book publisher for the purpose of publishing news items, editorials, other comments, or paid advertisements that directly or indirectly urge legislative or executive action; ~~or~~

(viii) an individual who appears on the individual’s own behalf before a committee of the Legislature or an agency of the executive branch of state government solely for the purpose of testifying in support of or in opposition to legislative or executive action~~[-]; or~~

(ix) an individual representing a business, entity, or industry, who:

(A) interacts with a public official, in the public official’s capacity as a public official, while accompanied by a registered lobbyist who is lobbying in relation to the subject of the interaction or while presenting at a legislative committee meeting at the same time that the registered

lobbyist is attending another legislative committee meeting; and

(B) does not make an expenditure for, or on behalf of, a public official in relation to the interaction or during the period of interaction.

~~[(13)]~~ (14) “Lobbyist group” means two or more lobbyists, principals, government officers, or any combination of lobbyists, principals, and officers who each contribute a portion of an expenditure made to benefit a public official or member of the public official’s immediate family.

(15) “Meeting” means a gathering of people to discuss an issue, receive instruction, or make a decision, including a conference, seminar, or summit.

~~[(14)]~~ (16) “Multiclient lobbyist” means a single lobbyist, principal, or government officer who represents two or more clients and divides the aggregate daily expenditure made to benefit a public official or member of the public official’s immediate family between two or more of those clients.

~~[(15)]~~ (17) “Principal” means a person that employs an individual to perform lobbying, either as an employee or as an independent contractor.

~~[(16)]~~ (18) “Public official” means:

(a) (i) a member of the Legislature;

(ii) an individual elected to a position in the executive branch of state government; or

(iii) an individual appointed to or employed in a position in the executive or legislative branch of state government if that individual:

(A) occupies a policymaking position or makes purchasing or contracting decisions;

(B) drafts legislation or makes rules;

(C) determines rates or fees; or

(D) makes adjudicative decisions; or

(b) an immediate family member of a person described in Subsection ~~[(16)]~~ (18)(a).

~~[(17)]~~ (19) “Public official type” means a notation to identify whether a public official is:

(a) (i) a member of the Legislature;

(ii) an individual elected to a position in the executive branch of state government;

(iii) an individual appointed to or employed in a position in the legislative branch of state government who meets the definition of public official under Subsection ~~[(16)]~~ (18)(a)(iii); or

(iv) an individual appointed to or employed in a position in the executive branch of state government who meets the definition of public official under Subsection ~~[(16)]~~ (18)(a)(iii); or

(b) an immediate family member of a person described in Subsection ~~[(16)]~~ (18)(a).

~~[(18)]~~ (20) “Quarterly reporting period” means the three-month period covered by each financial report required under Subsection 36-11-201(2)(a).

(19) (21) “Related person” means a person, agent, or employee who knowingly and intentionally assists a lobbyist, principal, or government officer in lobbying.

(20) (22) “Relative” means a spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, first cousin, or spouse of any of these individuals.

(23) “Tour” means visiting a location, for a purpose relating to the duties of a public official, and not primarily for entertainment, including:

(a) viewing a facility;

(b) viewing the sight of a natural disaster; or

(c) assessing a circumstance in relation to which a public official may need to take action within the scope of the public official’s duties.

Section 2. Section 36-11-103 is amended to read:

36-11-103. Licensing requirements.

(1) (a) Before engaging in any lobbying, a lobbyist shall obtain a license from the lieutenant governor by completing the form required by this section.

(b) The lieutenant governor shall issue licenses to qualified lobbyists.

(c) The lieutenant governor shall prepare a Lobbyist License Application Form that includes:

(i) a place for the lobbyist’s name and business address;

(ii) a place for the following information for each principal for whom the lobbyist works or is hired as an independent contractor:

(A) the principal’s name;

(B) the principal’s business address;

(C) the name of each public official that the principal employs and the nature of the employment with the public official; and

(D) the general purposes, interests, and nature of the principal;

(iii) a place for the name and address of the person who paid or will pay the lobbyist’s registration fee, if the fee is not paid by the lobbyist;

(iv) a place for the lobbyist to disclose:

(A) any elected or appointed position that the lobbyist holds in state or local government, if any; and

(B) the name of each public official that the lobbyist employs and the nature of the employment with the public official, if any;

(v) a place for the lobbyist to disclose the types of expenditures for which the lobbyist will be reimbursed; and

(vi) a certification to be signed by the lobbyist that certifies that the information provided in the form is

true, accurate, and complete to the best of the lobbyist’s knowledge and belief.

(2) Each lobbyist who obtains a license under this section shall update the licensure information when the lobbyist accepts employment for lobbying by a new client.

(3) (a) Except as provided in Subsection (4), the lieutenant governor shall grant a lobbying license to an applicant who:

(i) files an application with the lieutenant governor that contains the information required by this section; and

(ii) pays a \$110 filing fee.

(b) A license entitles a person to serve as a lobbyist on behalf of one or more principals and expires on December 31 of each even-numbered year.

(4) (a) The lieutenant governor may disapprove an application for a lobbying license:

(i) if the applicant has been convicted of violating Section 76-8-103, 76-8-107, 76-8-108, or 76-8-303 within five years before the date of the lobbying license application;

(ii) if the applicant has been convicted of violating Section 76-8-104 or 76-8-304 within one year before the date of the lobbying license application;

(iii) for the term of any suspension imposed under Section 36-11-401;

(iv) if, within one year before the date of the lobbying license application, the applicant has been found to have willingly and knowingly:

(A) violated this section or Section 36-11-201, 36-11-301, 36-11-302, 36-11-303, 36-11-304, 36-11-305, or 36-11-403; or

(B) filed a document required by this chapter that the lobbyist knew contained materially false information or omitted material information; or

(v) if the applicant is prohibited from becoming a lobbyist under Title 67, Chapter 24, Lobbying Restrictions Act.

(b) An applicant may appeal the disapproval in accordance with the procedures established by the lieutenant governor under this chapter and Title 63G, Chapter 4, Administrative Procedures Act.

(5) The lieutenant governor shall ~~deposit \$100 of each license fee into the General Fund; and~~ ~~(a) deposit \$10 of~~ deposit each license fee into the General Fund as a dedicated credit to be used by the lieutenant governor to pay the cost of administering the license program described in this section.

(6) A principal need not obtain a license under this section, but if the principal makes expenditures to benefit a public official without using a lobbyist as an agent to confer those benefits, the principal shall disclose those expenditures as required by Section 36-11-201.

(7) Government officers need not obtain a license under this section, but shall disclose any

expenditures made to benefit public officials as required by Section 36-11-201.

(8) Surrender, cancellation, or expiration of a lobbyist license does not absolve the lobbyist of the duty to file the financial reports if the lobbyist is otherwise required to file the reports by Section 36-11-201.

Section 3. Section 36-11-304 is amended to read:

36-11-304. Expenditures over \$10 prohibited -- Exceptions.

(1) Except as provided in Subsection (2), a lobbyist, principal, or government officer may not make or offer to make aggregate daily expenditures that exceed \$10.

(2) A lobbyist, principal, or government officer may make aggregate daily expenditures that exceed \$10:

(a) for the following items, if the expenditure is reported in accordance with Section 36-11-201:

- (i) food;
- (ii) beverage;
- (iii) travel;
- (iv) lodging; or

(v) admission to or attendance at a tour or meeting [~~or activity~~] that is not an approved [~~meeting or~~] activity; or

(b) if the expenditure is made for a purpose solely unrelated to the public official's position as a public official.

CHAPTER 189**S. B. 42**

Passed March 12, 2015
 Approved March 25, 2015
 Effective May 12, 2015

**GENERAL ASSISTANCE
PROGRAM CHANGES**

Chief Sponsor: Luz Escamilla
 House Sponsor: Edward H. Redd

LONG TITLE**General Description:**

This bill modifies provisions related to the Department of Workforce Services' General Assistance program.

Highlighted Provisions:

This bill:

- ▶ establishes that the first \$250,000 of reimbursements to the Department of Workforce Services collected in a fiscal year for General Assistance paid to a recipient while the recipient is awaiting the determination of federal Supplemental Security Income may be used by the department for the General Assistance program;
- ▶ makes funding for General Assistance nonlapsing; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

35A-3-401, as last amended by Laws of Utah 2004, Chapter 29

63J-1-602.2, as last amended by Laws of Utah 2013, Chapter 338

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

Section 1. Section 35A-3-401 is amended to read:**35A-3-401. General Assistance.**

(1) (a) The department may provide General Assistance [may be provided] to individuals who are:

(i) not receiving cash assistance under Part 3, Family Employment Program, or Supplemental Security Income[;]; and [who are]

(ii) unemployable according to standards established by the department.

(b) (i) General Assistance [may be provided by] described in Subsection (1)(a) may include payment in cash or in kind.

(ii) The [office] department may provide General Assistance up to an amount [less] that is no more than the existing payment level for an otherwise similarly situated [client-of] recipient receiving cash assistance under Part 3, Family Employment Program.

(iii) Funding for General Assistance is nonlapsing.

(c) The [office] department shall establish asset limitations for a General Assistance [clients] applicant.

(d) (i) General Assistance may be granted to meet special nonrecurrent needs of an applicant for the federal Supplemental Security Income [program] for the Aged, Blind, and Disabled program provided under 20 C.F.R. Sec. 416, if the applicant agrees to reimburse the [division] department for assistance advanced to the applicant while awaiting the determination of eligibility by the Social Security Administration.

(ii) (A) Reimbursements to the department described in Subsection (1)(d)(i) up to and including \$250,000 collected in a fiscal year shall be used by the department to administer the General Assistance program and provide General Assistance to eligible applicants.

(B) Reimbursements to the department described in Subsection (1)(d)(i) over \$250,000 collected in a fiscal year shall be deposited into the General Fund.

[~~(ii)~~] (iii) General Assistance payments may not be made to a [current-client-of] recipient currently receiving:

(A) cash assistance; or

(B) Supplemental Security Income.

(e) (i) General Assistance may be used for the reasonable cost of burial for a [client,] recipient if heirs or relatives are not financially able to assume this expense.

(ii) Notwithstanding Subsection (1)(e)(i), if the body of a person is unclaimed, Section 53B-17-301 applies.

(iii) The department shall fix the cost of a reasonable burial and conditions under which burial expenditures may be made.

(2) The [division] department may cooperate with any governmental unit or agency, or any private nonprofit agency, in establishing work projects to provide employment for employable persons.

Section 2. Section 63J-1-602.2 is amended to read:**63J-1-602.2. List of nonlapsing funds and accounts -- Title 31 through Title 45.**

(1) Appropriations from the Technology Development Restricted Account created in Section 31A-3-104.

(2) Appropriations from the Criminal Background Check Restricted Account created in Section 31A-3-105.

(3) Appropriations from the Captive Insurance Restricted Account created in Section 31A-3-304, except to the extent that Section 31A-3-304 makes the money received under that section free revenue.

(4) Appropriations from the Title Licensee Enforcement Restricted Account created in Section 31A-23a-415.

(5) Appropriations from the Health Insurance Actuarial Review Restricted Account created in Section 31A-30-115.

(6) Appropriations from the Insurance Fraud Investigation Restricted Account created in Section 31A-31-108.

(7) Appropriations from the Underage Drinking Prevention Media and Education Campaign Restricted Account created in Section 32B-2-306.

(8) Funding for the General Assistance program administered by the Department of Workforce Services, as provided in Section 35A-3-401.

~~[(8)]~~ (9) The Youth Development Organization Restricted Account created in Section 35A-8-1903.

~~[(9)]~~ (10) The Youth Character Organization Restricted Account created in Section 35A-8-2003.

~~[(10)]~~ (11) Funding for a new program or agency that is designated as nonlapsing under Section 36-24-101.

~~[(11)]~~ (12) Appropriations from the Oil and Gas Conservation Account created in Section 40-6-14.5.

~~[(12)]~~ (13) Appropriations from the Electronic Payment Fee Restricted Account created by Section 41-1a-121 to the Motor Vehicle Division.

~~[(13)]~~ (14) Funds available to the Tax Commission under Section 41-1a-1201 for the:

(a) purchase and distribution of license plates and decals; and

(b) administration and enforcement of motor vehicle registration requirements.

CHAPTER 190**S. B. 47**

Passed February 11, 2015

Approved March 25, 2015

Effective May 12, 2015

**TEMPORARY ASSISTANCE
FOR NEEDY FAMILIES**

Chief Sponsor: Allen M. Christensen

House Sponsor: Daniel McCay

LONG TITLE**General Description:**

This bill modifies provisions of the Federal Funds Procedures Act.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ makes certain expenditures from federal Temporary Assistance for Needy Families (TANF) funds subject to the Federal Funds Procedures Act;
- ▶ amends the definition of “new federal funds” to include a one-time TANF request greater than \$1,000,000 over the amount most recently approved by the Legislature; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63J-5-102, as last amended by Laws of Utah 2011, Chapter 326

63J-5-103, as last amended by Laws of Utah 2013, Chapter 295

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

Section 1. Section 63J-5-102 is amended to read:**63J-5-102. Definitions.**

(1) As used in this chapter:

(a) (i) “Agency” means a department, division, committee, commission, council, court, or other administrative subunit of the state.

(ii) “Agency” includes executive branch entities and judicial branch entities.

(iii) “Agency” does not mean higher education institutions or political subdivisions.

(b) (i) “Federal funds” means cash or other money received from the United States government or from other individuals or entities for or on behalf of the United States and deposited with the state treasurer or any agency of the state.

(ii) “Federal funds” includes federal assistance and federal assistance programs, however described.

(iii) “Federal funds” does not include money received from the United States government to reimburse the state for money expended by the state.

(c) “Federal funds reauthorization” means:

(i) the formal submission from an agency to the federal government applying for or seeking reauthorization of federal funds which the state is currently receiving;

(ii) the formal submission from an agency to the federal government applying for or seeking reauthorization to participate in a federal program in which the state is currently participating that will result in federal funds being transferred to an agency; or

(iii) that period after the first year of a previously authorized and awarded grant or funding award, during which federal funds are disbursed or are scheduled to be disbursed after the first year because the term of the grant or financial award extends for more than one year.

(d) “Federal funds request summary” means a document detailing:

(i) the amount of money that is being requested or is available to be received by the state from the federal government for each federal funds reauthorization or new federal funds request;

(ii) those federal funds reauthorizations and new federal funds requests that are included as part of the agency’s proposed budget for the fiscal year, and the amount of those requests;

(iii) the amount of new state money, if any, that will be required to receive the federal funds or participate in the federal program;

(iv) the number of additional permanent full-time employees, additional permanent part-time employees, or combination of additional permanent full-time employees and additional permanent part-time employees, if any, that the state estimates are needed in order to receive the federal funds or participate in the federal program; and

(v) any requirements that the state must meet as a condition for receiving the federal funds or participating in the federal program.

(e) “Federal maintenance of effort requirements” means any matching, level of effort, or earmarking requirements, as defined in Office of Management and Budget Circular A-133, Compliance Requirement G, that are imposed on an agency as a condition of receiving federal funds.

(f) “New federal funds” means:

(i) federal assistance or other federal funds that are available from the federal government that:

(A) the state is not currently receiving; or

(B) exceed the federal funds amount [previously] most recently approved by the Legislature by more than 25% for a federal grant or program in which the state is currently participating; [or]

(ii) a federal assistance program or other federal program in which the state is not currently participating[-]; or

(iii) a one-time TANF request.

(g) “New federal funds request” means:

(i) the formal submission from an agency to the federal government:

~~(4)~~ (A) applying for or otherwise seeking to obtain new federal funds; or

~~(4ii)~~ (B) applying for or seeking to participate in a new federal program that will result in federal funds being transferred to an agency[-]; or

(ii) a one-time TANF request.

(h) (i) “New state money” means money, whether specifically appropriated by the Legislature or not, that the federal government requires Utah to expend as a condition for receiving the federal funds or participating in the federal program.

(ii) “New state money” includes money expended to meet federal maintenance of effort requirements.

(i) “One-time TANF request” means a proposed expenditure by the Department of Workforce Services from its reserves of federal Temporary Assistance for Needy Families funds:

(i) for a project or program that will last for a fixed amount of time and is not an ongoing project or program of the Department of Workforce Services; and

(ii) that is greater than \$1,000,000 over the amount most recently approved by the Legislature.

~~(4)~~ (j) “Pass-through federal funds” means federal funds provided to an agency that are distributed to local governments or private entities without being used by the agency.

~~(4)~~ (k) “State” means the state of Utah and all of its agencies, and any administrative subunits of those agencies.

(2) When this chapter describes an employee as a “permanent full-time employee” or a “permanent part-time employee,” it is not intended to, and may not be construed to, affect the employee’s status as an at-will employee.

Section 2. Section 63J-5-103 is amended to read:

63J-5-103. Scope and applicability of chapter.

(1) Except as provided in Subsection (2), and except as otherwise provided by a statute superseding provisions of this chapter by explicit reference to this chapter, the provisions of this chapter apply to each agency and govern each federal funds request.

(2) This chapter does not govern federal funds requests for:

(a) the Medical Assistance Program, commonly known as Medicaid;

(b) the Children’s Health Insurance Program;

(c) the Women, Infant, and Children program;

(d) the Temporary Assistance [tø] for Needy Families program, except for a one-time TANF request as defined in Section 63J-5-102;

(e) Social Security Act money;

(f) the Substance Abuse Prevention and Treatment program;

(g) Child Care and Development Block Grant;

(h) SNAP Administration and Training money;

(i) Unemployment Insurance Operations money;

(j) Federal Highway Administration money;

(k) the Utah National Guard; or

(l) pass-through federal funds.

(3) The governor need not seek legislative review or approval of federal funds received by the state if:

(a) the governor has declared a state of emergency; and

(b) the federal funds are received to assist victims of the state of emergency under ~~[Subsection]~~ Section 53-2a-204(1).

CHAPTER 191**S. B. 54**

Passed March 6, 2015
 Approved March 25, 2015
 Effective January 1, 2016

CREDIT MONITORING FOR MINORS

Chief Sponsor: Aaron Osmond
 House Sponsor: Rich Cunningham

LONG TITLE**General Description:**

This bill modifies and enacts provisions of the Consumer Credit Protection Act relating to certain minors, incapacitated adults, and protected persons.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ upon request and in accordance with the provisions of this bill, requires a credit reporting agency to place a security freeze for:
 - an individual who is less than 16 years of age;
 - an incapacitated adult; or
 - a protected person;
- ▶ provides a procedure by which an individual or an individual's representative may remove a security freeze;
- ▶ allows, under certain circumstances, a credit reporting agency to charge a reasonable fee for the placement or removal of a security freeze;
- ▶ provides that the attorney general may enforce the provisions of this bill; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

- 13-45-102, as enacted by Laws of Utah 2006, Chapter 344
 13-45-201, as enacted by Laws of Utah 2006, Chapter 344
 13-45-202, as enacted by Laws of Utah 2006, Chapter 344
 13-45-401, as enacted by Laws of Utah 2006, Chapter 344

ENACTS:

- 13-45-501, Utah Code Annotated 1953
 13-45-502, Utah Code Annotated 1953
 13-45-503, Utah Code Annotated 1953
 13-45-504, Utah Code Annotated 1953
 13-45-505, Utah Code Annotated 1953
 13-45-506, Utah Code Annotated 1953

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

Section 1. Section 13-45-102 is amended to read:**13-45-102. Definitions.**

As used in this chapter:

(1) "Consumer" means [a natural person] an individual who is not a protected consumer.

(2) "Consumer reporting agency" means a person who, for fees, dues, or on a cooperative basis, regularly engages in whole or in part in the practice of assembling or evaluating information concerning a consumer's credit or other information for the purpose of furnishing a credit report to another person.

(3) "Consumer who is subject to a protected consumer security freeze" means an individual:

(a) for whom a credit reporting agency placed a security freeze under Section 13-45-503; and

(b) who, on the day on which a request for the removal of the security freeze is submitted under Section 13-45-504, is not a protected consumer.

~~[(3)]~~ (4) "Credit report" means a consumer report, as defined in 15 U.S.C. Sec. 1681a, that is used or collected in whole or part for the purpose of serving as a factor in establishing a consumer's eligibility for credit for personal, family, or household purposes.

(5) "File" is as defined in 15 U.S.C. Sec. 1681a.

(6) "Incapacitated person" means an individual who is incapacitated, as defined in Section 75-1-201.

~~[(4)]~~ (7) "Normal business hours" means Sunday through Saturday, between the hours of 6:00 a.m. and 9:30 p.m., Mountain Standard or Mountain Daylight Time.

~~[(5)]~~ (8) (a) "Personal information" means personally identifiable financial information:

(i) provided by a consumer to another person;

(ii) resulting from any transaction with the consumer or any service performed for the consumer; or

(iii) otherwise obtained by another person.

(b) "Personal information" does not include:

(i) publicly available information, as that term is defined by the regulations prescribed under 15 U.S.C. Sec. 6804; or

(ii) any list, description, or other grouping of consumers, and publicly available information pertaining to the consumers, that is derived without using any nonpublic personal information.

(c) Notwithstanding Subsection ~~[(5)]~~ (8)(b), "personal information" includes any list, description, or other grouping of consumers, and publicly available information pertaining to the consumers, that is derived using any nonpublic personal information other than publicly available information.

~~[(6)]~~ (9) "Proper identification" has the same meaning as in 15 U.S.C. Sec. 1681h(a)(1), and includes:

(a) the consumer's full name, including first, last, and middle names and any suffix;

(b) any name the consumer previously used;

(c) the consumer's current and recent full addresses, including street address, any apartment number, city, state, and ZIP code;

(d) the consumer's Social Security number; and

(e) the consumer's date of birth.

[(7)] "Security freeze" means a prohibition, consistent with Section 13-45-201, on a consumer reporting agency's furnishing of a consumer's credit report to a third party intending to use the credit report to determine the consumer's eligibility for credit.

(10) "Protected consumer" means an individual who, at the time a request for a security freeze is made, is:

(a) less than 16 years of age;

(b) an incapacitated person; or

(c) a protected person.

(11) "Protected person" means the same as that term is defined in Section 75-5b-102.

(12) "Record" means a compilation of information that:

(a) identifies a protected consumer;

(b) is created by a consumer reporting agency solely for the purpose of complying with this section; and

(c) may not be created or used to consider the protected consumer's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living.

(13) "Representative" means a person who provides to a consumer reporting agency sufficient proof of authority to act on behalf of a protected consumer.

(14) (a) "Sufficient proof of authority" means documentation that shows that a person has authority to act on behalf of a protected consumer.

(b) "Sufficient proof of authority" includes:

(i) a court order;

(ii) a lawfully executed power of attorney; or

(iii) a written, notarized statement signed by the person that expressly describes the person's authority to act on behalf of the protected consumer.

(15) (a) "Sufficient proof of identification" means information or documentation that identifies a protected consumer or a representative.

(b) "Sufficient proof of identification" includes:

(i) a Social Security number or a copy of a Social Security card issued by the United States Social Security Administration;

(ii) a certified or official copy of a birth certificate; or

(iii) a copy of a government issued driver license or identification card.

Section 2. Section 13-45-201 is amended to read:

13-45-201. Security freeze.

(1) As used in this part, "security freeze" means a prohibition, consistent with the provisions of this section, on a consumer reporting agency's furnishing of a consumer's credit report to a third party intending to use the credit report to determine the consumer's eligibility for credit.

[(1)] (2) A consumer may place a security freeze on the consumer's credit report by:

(a) making a request to a consumer reporting agency in writing by certified mail;

(b) providing proper identification; and

(c) paying the fee required by the consumer reporting agency in accordance with Section 13-45-204.

[(2)] (3) If a security freeze is in place, a consumer reporting agency may not release a consumer's credit report, or information from the credit report, to a third party that intends to use the information to determine a consumer's eligibility for credit without prior authorization from the consumer.

[(3)] (4) (a) Notwithstanding Subsection [(2)] (3), a consumer reporting agency may communicate to a third party requesting a consumer's credit report that a security freeze is in effect on the consumer's credit report.

(b) If a third party requesting a consumer's credit report in connection with the consumer's application for credit is notified of the existence of a security freeze under Subsection [(3)] (4)(a), the third party may treat the consumer's application as incomplete.

[(4)] (5) Upon receiving a request from a consumer under Subsection [(4)] (2), the consumer reporting agency shall:

(a) place a security freeze on the consumer's credit report within five business days after receiving the consumer's request;

(b) send a written confirmation of the security freeze to the consumer within 10 business days after placing the security freeze; and

(c) provide the consumer with a unique personal identification number or password to be used by the consumer when providing authorizations for removal or temporary removal of the security freeze under Section 13-45-202.

[(5)] (6) A consumer reporting agency shall require proper identification of the consumer requesting to place, remove, or temporarily remove a security freeze.

[(6)] (7) (a) A consumer reporting agency shall develop a contact method to receive and process a consumer's request to place, remove, or temporarily remove a security freeze.

(b) A contact method under Subsection [(6)] (7)(a) shall include:

(i) a postal address;

(ii) an electronic contact method chosen by the consumer reporting agency, which may include the use of fax, Internet, or other electronic means; and

(iii) the use of telephone in a manner that is consistent with any federal requirements placed on the consumer reporting agency.

[~~(7)~~] (8) A security freeze placed under this section may be removed only in accordance with Section 13-45-202.

Section 3. Section 13-45-202 is amended to read:

13-45-202. Removal of security freeze -- Requirements and timing.

(1) A consumer reporting agency may remove a security freeze from a consumer's credit report only if:

(a) (i) the consumer reporting agency receives the consumer's request through a contact method established and required in accordance with Subsection 13-45-201[~~(6)~~](7); and

(ii) the consumer reporting agency receives the consumer's proper identification and:

(A) other information sufficient to identify the consumer; or

(B) the consumer provides the consumer's personal identification number or password; or

(b) the consumer makes a material misrepresentation of fact in connection with the placement of the security freeze and the consumer reporting agency notifies the consumer in writing before removing the security freeze.

(2) (a) A consumer reporting agency shall temporarily remove a security freeze upon receipt of:

(i) the consumer's request through the contact method established by the consumer reporting agency in accordance with Subsection 13-45-201[~~(6)~~](7);

(ii) the consumer's proper identification and:

(A) other information sufficient to identify the consumer; or

(B) personal identification number or password;

(iii) a specific designation of the period of time for which the security freeze is to be removed; and

(iv) the consumer reporting agency receives the payment of any fee required under Section 13-45-204.

(b) A consumer reporting agency shall remove a security freeze from a consumer's credit report within:

(i) three business days after the business day on which the consumer's written request to remove the security freeze is received by the consumer reporting agency at the postal address chosen by

the consumer reporting agency in accordance with Subsection 13-45-201[~~(6)~~](7); or

(ii) 15 minutes after the consumer's request is received by the consumer reporting agency through the electronic contact method chosen by the consumer reporting agency in accordance with Subsection 13-45-201[~~(6)~~](7), or the use of telephone, during normal business hours and includes the consumer's proper identification and correct personal identification number or password.

(3) A consumer reporting agency need not remove a security freeze within the time provided in Subsection (2)(b)(ii) if:

(a) the consumer fails to meet the requirements of Subsection 13-45-202(1); or

(b) the consumer reporting agency's ability to remove the security freeze within 15 minutes is prevented by:

(i) an act of God, including fire, earthquakes, hurricanes, storms, or similar natural disaster or phenomena;

(ii) unauthorized or illegal acts by a third party, including terrorism, sabotage, riot, vandalism, labor strikes or disputes disrupting operations, or similar occurrence;

(iii) operational interruption, including electrical failure, unanticipated delay in equipment or replacement part delivery, computer hardware or software failures inhibiting response time, or similar disruption;

(iv) governmental action, including emergency orders or regulations, judicial or law enforcement action, or similar directives;

(v) regularly scheduled maintenance, during other than normal business hours, of, or updates to, the consumer reporting agency's systems;

(vi) commercially reasonable maintenance of, or repair to, the consumer reporting agency's systems that is unexpected or unscheduled; or

(vii) receipt of a removal request outside of normal business hours.

Section 4. Section 13-45-401 is amended to read:

13-45-401. Enforcement.

(1) The attorney general may enforce [~~this chapter's provisions~~] the provisions of this chapter.

(2) A person who violates [~~this chapter's provisions~~] a provision of Section 13-45-201, 13-45-202, 13-45-203, 13-45-204, 13-45-205, or 13-45-301 is subject to a civil fine of:

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

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

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

injunctive relief to prevent future violations of this chapter in:

- (a) the district court located in Salt Lake City; or
- (b) the district court for the district in which resides a consumer who is the subject of a credit report on which a violation occurs.

Section 5. Section 13-45-501 is enacted to read:

Part 5. Credit Report Protection for Minors
13-45-501. Title.

This part is known as "Credit Report Protection for Minors."

Section 6. Section 13-45-502 is enacted to read:

13-45-502. Definitions.

As used in this part, "security freeze" means:

(1) if a consumer reporting agency does not have a file that pertains to a protected consumer, a restriction that:

(a) is placed on the protected consumer's record in accordance with this part; and

(b) except as otherwise provided in this part, prohibits the consumer reporting agency from releasing the protected consumer's record; or

(2) if a consumer reporting agency has a file that pertains to the protected consumer, a restriction that:

(a) is placed on the protected consumer's credit report in accordance with this part; and

(b) except as otherwise provided in this part, prohibits the consumer reporting agency from releasing the protected consumer's credit report or any information derived from the protected consumer's credit report.

Section 7. Section 13-45-503 is enacted to read:

13-45-503. Applicability.

This part does not apply to the use of a protected consumer's credit report or record by:

(1) a person administering a credit file monitoring subscription service to which:

(a) the protected consumer has subscribed; or

(b) the protected consumer's representative has subscribed on the protected consumer's behalf;

(2) a person who, upon request from the protected consumer or the protected consumer's representative, provides the protected consumer or the protected consumer's representative with a copy of the protected consumer's credit report;

(3) a check services or fraud prevention services company that issues:

(a) reports on incidents of fraud; or

(b) authorizations for the purpose of approving or processing negotiable instruments, electronic funds transfers, or similar payment methods;

(4) a deposit account information service company that issues reports regarding account closures due to fraud, substantial overdrafts, automated teller machine abuse, or similar information regarding an individual to inquiring banks or other financial institutions for use only in reviewing an individual's request for a deposit account at the inquiring bank or financial institution;

(5) an insurance company for the purpose of conducting the insurance company's ordinary business;

(6) a consumer reporting agency that:

(a) only resells credit information by assembling and merging information contained in a database of another consumer reporting agency or multiple consumer reporting agencies; and

(b) does not maintain a permanent database of credit information from which new credit reports are produced; or

(7) a consumer reporting agency's database or file that consists of information that:

(a) concerns and is used for:

(i) criminal record information;

(ii) fraud prevention or detection;

(iii) personal loss history information; or

(iv) employment, tenant, or individual background screening; and

(b) is not used for credit granting purposes.

Section 8. Section 13-45-504 is enacted to read:

13-45-504. Security freeze for protected consumer.

(1) A consumer reporting agency shall place a security freeze for a protected consumer if:

(a) the consumer reporting agency receives a request from the protected consumer's representative for the placement of the security freeze; and

(b) the protected consumer's representative:

(i) submits the request described in Subsection (1)(a):

(A) to the address or other point of contact provided by the consumer reporting agency; and

(B) in the manner specified by the consumer reporting agency;

(ii) submits to the consumer reporting agency:

(A) sufficient proof of identification of the protected consumer;

(B) sufficient proof of identification of the protected consumer's representative; and

(C) sufficient proof of authority to act on behalf of the protected consumer; and

(iii) if applicable, pays the consumer reporting agency a fee described in Subsection 13-45-506(2).

(2) If a consumer reporting agency does not have a file that pertains to a protected consumer when the consumer reporting agency receives a request described in Subsection (1), the consumer reporting agency shall create a record for the protected consumer.

(3) A consumer reporting agency shall place a security freeze for a protected consumer within 30 days after the day on which the consumer reporting agency receives a request described in Subsection (1).

(4) After a consumer reporting agency places a security freeze under this section, the consumer reporting agency may not release the protected consumer's credit report, any information derived from the protected consumer's credit report, or any record created for the protected consumer, unless the security freeze for the protected consumer is removed in accordance with Section 13-45-505.

(5) A security freeze that is placed in accordance with this section shall remain in effect until:

(a) the protected consumer's representative or the consumer who is subject to a protected consumer security freeze requests the consumer reporting agency remove the security freeze in accordance with Subsection 13-45-505(1); or

(b) the security freeze is removed in accordance with Subsection 13-45-505(3).

Section 9. Section 13-45-505 is enacted to read:

13-45-505. Removal of security freeze for protected consumer.

(1) To remove a security freeze that is placed under this part, the protected consumer's representative or the consumer who is subject to a protected consumer security freeze shall:

(a) submit a request for the removal of the security freeze to the consumer reporting agency:

(i) at the address or other point of contact provided by the consumer reporting agency; and

(ii) in the manner specified by the consumer reporting agency;

(b) provide to the consumer reporting agency:

(i) in the case of a request by a protected consumer's representative:

(A) sufficient proof of identification of the protected consumer;

(B) sufficient proof of identification of the protected consumer's representative; and

(C) sufficient proof of authority to act on behalf of the protected consumer; or

(ii) in the case of a request by the consumer who is subject to a protected consumer security freeze:

(A) sufficient proof of identification of the consumer who is subject to a protected consumer security freeze; and

(B) proof that the consumer who is subject to a protected consumer security freeze is not a protected consumer; and

(c) if applicable, pay the consumer reporting agency a fee described in Subsection 13-45-506(2).

(2) Within 30 days after the day on which a consumer reporting agency receives a request under Subsection (1), the consumer reporting agency shall remove the security freeze.

(3) A consumer reporting agency may remove a security freeze for a protected consumer or delete a record of a protected consumer if the security freeze was placed or the record was created based on a material misrepresentation of fact by the protected consumer or the protected consumer's representative.

Section 10. Section 13-45-506 is enacted to read:

13-45-506. Fees.

(1) Except as provided in Subsection (2), a consumer reporting agency may not charge a fee for any service performed under this part.

(2) A consumer reporting agency may charge a reasonable fee, which does not exceed \$5, for each placement or removal of a security freeze under this part, unless:

(a) the protected consumer's representative:

(i) has obtained a police report that states the protected consumer is the alleged victim of identity fraud; and

(ii) provides a copy of the report to the consumer reporting agency; or

(b) (i) the protected consumer is less than 16 years of age at the time the request is submitted to the consumer reporting agency; and

(ii) the consumer reporting agency has a file that pertains to the protected consumer.

Section 11. Effective date.

This bill takes effect on January 1, 2016.

CHAPTER 192**S. B. 68**

Passed February 25, 2015

Approved March 25, 2015

Effective May 12, 2015

EMINENT DOMAIN AMENDMENTS

Chief Sponsor: Lyle W. Hillyard

House Sponsor: Gage Froerer

LONG TITLE**General Description:**

This bill amends provisions related to the disposal of surplus property.

Highlighted Provisions:

This bill:

- ▶ amends provisions concerning the Utah Department of Transportation's disposal of surplus property.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

72-5-111, as last amended by Laws of Utah 2012, Chapters 121 and 129

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

Section 1. Section 72-5-111 is amended to read:**72-5-111. Disposal of real property.**

(1) (a) If the department determines that any real property or interest in real property, acquired for a highway purpose, is no longer necessary for the purpose, the department may lease, sell, exchange, or otherwise dispose of the real property or interest in the real property.

(b) (i) Real property may be sold at private or public sale.

(ii) Except as provided in Subsection (1)(c) related to exchanges and Subsection (1)(d) related to the proceeds of any sale of real property from a maintenance facility, proceeds of any sale shall be deposited with the state treasurer and credited to the Transportation Fund.

(c) If approved by the commission, real property or an interest in real property may be exchanged by the department for other real property or interest in real property, including improvements, for highway purposes.

(d) Proceeds from the sale of real property or an interest in real property from a maintenance facility may be used by the department for the purchase or improvement of another maintenance facility, including real property.

(2) (a) In the disposition of real property at any private sale, first consideration shall be given to the original grantor ~~[or the original grantor's heirs]~~.

(b) Notwithstanding the provisions of Section 78B-6-521, if no portion of a parcel of real property acquired by the department is used for transportation purposes, then the original grantor ~~[or the grantor's heirs]~~ shall be given the opportunity to repurchase the parcel of real property at the department's original purchase price from the grantor.

(c) In accordance with Section 72-5-404, this Subsection (2) does not apply to property rights acquired in proposed transportation corridors using funds from the Marda Dillree Corridor Preservation Fund created in Section 72-2-117.

(d) Nothing in this Subsection (2) or Section 78B-6-521 creates an assignable right.

(3) (a) Any sale, exchange, or disposal of real property or interest in real property made by the department under this section, is exempt from the mineral reservation provisions of Title 65A, Chapter 6, Mineral Leases.

(b) Any deed made and delivered by the department under this section without specific reservations in the deed is a conveyance of all the state's right, title, and interest in the real property or interest in the real property.

CHAPTER 193**S. B. 73**

Passed February 19, 2015

Approved March 25, 2015

Effective May 12, 2015

**OFFICE OF STATE DEBT
COLLECTION AMENDMENTS**

Chief Sponsor: Lyle W. Hillyard

House Sponsor: Jack R. Draxler

LONG TITLE**General Description:**

This bill modifies provisions relating to fines and fees charged by the Office of State Debt Collection.

Highlighted Provisions:

This bill:

- ▶ provides that all interest, fees, and other amounts authorized to be charged by the Office of State Debt Collection:
 - are penalties that may be charged by the office; and
 - are not compensation for actual pecuniary loss; and
- ▶ makes technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63A-3-502, as last amended by Laws of Utah 2013, Chapter 74

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

Section 1. Section 63A-3-502 is amended to read:**63A-3-502. Office of State Debt Collection created -- Duties.**

(1) The state and each state agency shall comply with the requirements of this chapter and any rules established by the Office of State Debt Collection.

(2) There is created the Office of State Debt Collection in the Division of Finance.

(3) The office shall:

(a) have overall responsibility for collecting and managing state receivables;

(b) assist the Division of Finance to develop consistent policies governing the collection and management of state receivables;

(c) oversee and monitor state receivables to ensure that state agencies are:

(i) implementing all appropriate collection methods;

(ii) following established receivables guidelines; and

(iii) accounting for and reporting receivables in the appropriate manner;

(d) assist the Division of Finance to develop policies, procedures, and guidelines for accounting, reporting, and collecting money owed to the state;

(e) provide information, training, and technical assistance to each state agency on various collection-related topics;

(f) write an inclusive receivables management and collection manual for use by each state agency;

(g) prepare quarterly and annual reports of the state's receivables;

(h) create or coordinate a state accounts receivable database;

(i) develop reasonable criteria to gauge state agencies' efforts in maintaining an effective accounts receivable program;

(j) identify any state agency that is not making satisfactory progress toward implementing collection techniques and improving accounts receivable collections;

(k) coordinate information, systems, and procedures between each state agency to maximize the collection of past-due accounts receivable;

(l) establish an automated cash receipt process between each state agency;

(m) assist the Division of Finance to establish procedures for writing off accounts receivable for accounting and collection purposes;

(n) establish standard time limits after which an agency will delegate responsibility to collect state receivables to the office or its designee;

(o) be a real party in interest for an account receivable referred to the office by any state agency or for any restitution to victims referred to the office by a court; and

(p) allocate money collected for judgments registered under Section 77-18-6 in accordance with Sections 51-9-402, 63A-3-506, and 78A-5-110.

(4) The office may:

(a) recommend to the Legislature new laws to enhance collection of past-due accounts by state agencies;

(b) collect accounts receivables for higher education entities, if the higher education entity agrees;

(c) prepare a request for proposal for consulting services to:

(i) analyze the state's receivable management and collection efforts; and

(ii) identify improvements needed to further enhance the state's effectiveness in collecting its receivables;

(d) contract with private or state agencies to collect past-due accounts;

(e) perform other appropriate and cost-effective coordinating work directly related to collection of state receivables;

(f) obtain access to records and databases of any state agency that are necessary to the duties of the office by following the procedures and requirements of Section 63G-2-206, including the financial disclosure form described in Section [78-38a-204] 77-38a-204;

(g) collect interest and fees related to the collection of receivables under this chapter, and establish, by following the procedures and requirements of Section 63J-1-504:

(i) a fee to cover the administrative costs of collection, on accounts administered by the office;

(ii) a late penalty fee that may not be more than 10% of the account receivable on accounts administered by the office;

(iii) an interest charge that is:

(A) the postjudgment interest rate established by Section 15-1-4 in judgments established by the courts; or

(B) not more than 2% above the prime rate as of July 1 of each fiscal year for accounts receivable for which no court judgment has been entered; and

(iv) fees to collect accounts receivable for higher education;

(h) collect reasonable attorney fees and reasonable costs of collection that are related to the collection of receivables under this chapter;

(i) make rules that allow accounts receivable to be collected over a reasonable period of time and under certain conditions with credit cards;

(j) file a satisfaction of judgment in the court by following the procedures and requirements of the Utah Rules of Civil Procedure;

(k) ensure that judgments for which the office is the judgment creditor are renewed, as necessary;

(l) notwithstanding Section 63G-2-206, share records obtained under Subsection (4)(f) with private sector vendors under contract with the state to assist state agencies in collecting debts owed to the state agencies without changing the classification of any private, controlled, or protected record into a public record; and

(m) enter into written agreements with other governmental agencies to obtain information for the purpose of collecting state accounts receivable and restitution for victims.

(5) The office shall ensure that:

(a) a record obtained by the office or a private sector vendor as referred to in Subsection (4)(l):

(i) is used only for the limited purpose of collecting accounts receivable; and

(ii) is subject to federal, state, and local agency records restrictions; and

(b) any person employed by, or formerly employed by, the office or a private sector vendor as referred to in Subsection (4)(l) is subject to:

(i) the same duty of confidentiality with respect to the record imposed by law on officers and employees of the state agency from which the record was obtained; and

(ii) any civil or criminal penalties imposed by law for violations of lawful access to a private, controlled, or protected record.

(6) (a) The office shall collect accounts receivable ordered by a court as a result of prosecution for a criminal offense that have been transferred to the office under Subsection 76-3-201.1(5)(h) or (8).

(b) The office may not assess the interest charge established by the office under Subsection (4) on an account receivable subject to the postjudgment interest rate established by Section 15-1-4.

(7) The office shall require a state agency to:

(a) transfer collection responsibilities to the office or its designee according to time limits established by the office;

(b) make annual progress towards implementing collection techniques and improved accounts receivable collections;

(c) use the state's accounts receivable system or develop systems that are adequate to properly account for and report their receivables;

(d) develop and implement internal policies and procedures that comply with the collections policies and guidelines established by the office;

(e) provide internal accounts receivable training to staff involved in the management and collection of receivables as a supplement to statewide training;

(f) bill for and make initial collection efforts of its receivables up to the time the accounts must be transferred; and

(g) submit quarterly receivable reports to the office that identify the age, collection status, and funding source of each receivable.

(8) The office shall use the information provided by the agencies and any additional information from the office's records to compile a one-page summary report of each agency.

(9) The summary shall include:

(a) the type of revenue that is owed to the agency;

(b) any attempted collection activity; and

(c) any costs incurred in the collection process.

(10) The office shall annually provide copies of each agency's summary to the governor and to the Legislature.

(11) All interest, fees, and other amounts authorized to be charged by the office under Subsection (4):

(a) are penalties that may be charged by the office; and

(b) are not compensation for actual pecuniary loss.

CHAPTER 194**S. B. 101**

Passed March 11, 2015
 Approved March 25, 2015
 Effective May 12, 2015

ADOPTION AMENDMENTS

Chief Sponsor: Todd Weiler
 House Sponsor: V. Lowry Snow

LONG TITLE**General Description:**

This bill amends the Utah Adoption Act.

Highlighted Provisions:

This bill:

- ▶ provides a definition;
- ▶ requires an unmarried biological father to file a petition in district court for an order establishing temporary child support before the unmarried biological father may consent to the adoption of a child who is six months of age or less; and
- ▶ creates a process for the court's consideration of multiple petitions for adoption.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

78B-6-103, as last amended by Laws of Utah 2012, Chapter 340
 78B-6-111, as renumbered and amended by Laws of Utah 2008, Chapter 3
 78B-6-121, as last amended by Laws of Utah 2013, Chapters 278 and 458
 78B-6-133, as last amended by Laws of Utah 2010, Chapter 237

REPEALS:

78B-6-132, as last amended by Laws of Utah 2012, Chapter 281

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

Section 1. Section 78B-6-103 is amended to read:**78B-6-103. Definitions.**

As used in this part:

- (1) "Adoptee" means a person who:
 - (a) is the subject of an adoption proceeding; or
 - (b) has been legally adopted.
- (2) "Adoption" means the judicial act that:
 - (a) creates the relationship of parent and child where it did not previously exist; and
 - (b) except as provided in Subsection 78B-6-138(2), terminates the parental rights of any other person with respect to the child.
- (3) "Adoption service provider" means a:
 - (a) child-placing agency; or

(b) licensed counselor who has at least one year of experience providing professional social work services to:

- (i) adoptive parents;
 - (ii) prospective adoptive parents; or
 - (iii) birth parents.
- (4) "Adoptive parent" means a person who has legally adopted an adoptee.
- (5) "Adult" means a person who is 18 years of age or older.
- (6) "Adult adoptee" means an adoptee who is 18 years of age or older.
- (7) "Adult sibling" means a brother or sister of the adoptee, who is 18 years of age or older and whose birth mother or father is the same as that of the adoptee.
- (8) "Birth mother" means the biological mother of a child.
- (9) "Birth parent" means:
 - (a) a birth mother;
 - (b) a man whose paternity of a child is established;
 - (c) a man who:
 - (i) has been identified as the father of a child by the child's birth mother; and
 - (ii) has not denied paternity; or
 - (d) an unmarried biological father.
- (10) "Child-placing agency" means an agency licensed to place children for adoption under Title 62A, Chapter 4a, Part 6, Child Placing.
- (11) "Cohabiting" means residing with another person and being involved in a sexual relationship with that person.
- (12) "Division" means the Division of Child and Family Services, within the Department of Human Services, created in Section 62A-4a-103.
- (13) "Extra-jurisdictional child-placing agency" means an agency licensed to place children for adoption by a district, territory, or state of the United States, other than Utah.
- (14) "Genetic and social history" means a comprehensive report, when obtainable, on an adoptee's birth parents, aunts, uncles, and grandparents, which contains the following information:
 - (a) medical history;
 - (b) health status;
 - (c) cause of and age at death;
 - (d) height, weight, and eye and hair color;
 - (e) ethnic origins;
 - (f) where appropriate, levels of education and professional achievement; and

(g) religion, if any.

(15) "Health history" means a comprehensive report of the adoptee's health status at the time of placement for adoption, and medical history, including neonatal, psychological, physiological, and medical care history.

(16) "Identifying information" means the name and address of a pre-existing parent or adult adoptee, or other specific information which by itself or in reasonable conjunction with other information may be used to identify that person.

(17) "Licensed counselor" means a person who is licensed by the state, or another state, district, or territory of the United States as a:

- (a) certified social worker;
- (b) clinical social worker;
- (c) psychologist;
- (d) marriage and family therapist;
- (e) professional counselor; or
- (f) an equivalent licensed professional of another state, district, or territory of the United States.

(18) "Man" means a male individual, regardless of age.

(19) "Office" means the Office of Vital Records and Statistics within the Department of Health operating under Title 26, Chapter 2, Utah Vital Statistics Act.

(20) "Parent," for purposes of Section 78B-6-119, means any person described in Subsections 78B-6-120(1)(b) through (f) from whom consent for adoption or relinquishment for adoption is required under Sections 78B-6-120 through 78B-6-122.

(21) "Potential birth father" means a man who:

(a) is identified by a birth mother as a potential biological father of the birth mother's child, but whose genetic paternity has not been established; and

(b) was not married to the biological mother of the child described in Subsection (21)(a) at the time of the child's conception or birth.

(22) "Pre-existing parent" means:

- (a) a birth parent; or
- (b) a person who, before an adoption decree is entered, is, due to an earlier adoption decree, legally the parent of the child being adopted.

(23) "Prospective adoptive parent" means a person who seeks to adopt an adoptee.

(24) "Relative" means:

(a) an adult who is a grandparent, great grandparent, aunt, great aunt, uncle, great uncle, brother-in-law, sister-in-law, stepparent, first cousin, stepsibling, sibling of a child, or first cousin of the child's parent; and

(b) in the case of a child defined as an "Indian" under the Indian Child Welfare Act, 25 U.S.C. Sec. 1903, an "extended family member" as defined by that statute.

~~[(24)]~~ (25) "Unmarried biological father" means a person who:

(a) is the biological father of a child; and

(b) was not married to the biological mother of the child described in Subsection ~~[(24)]~~ (25)(a) at the time of the child's conception or birth.

Section 2. Section 78B-6-111 is amended to read:

78B-6-111. Criminal sexual offenses.

~~[A] An unmarried biological father is not entitled to notice of an adoption proceeding, nor is the consent of [a] an unmarried biological father required in connection with an adoption proceeding, in cases where it is shown that the child who is the subject of the proceeding was conceived as a result of conduct [which would constitute any] that constitutes a sexual offense [described in] under Title 76, Chapter 5, Part 4, Sexual Offenses, or under the laws of the state where the child was conceived, regardless of whether the unmarried biological father is formally charged with or convicted of a criminal offense.~~

Section 3. Section 78B-6-121 is amended to read:

78B-6-121. Consent of unmarried biological father.

(1) Except as provided in Subsections (2)(a) and 78B-6-122(1), and subject to Subsections (5) and (6), with regard to a child who is placed with prospective adoptive parents more than six months after birth, consent of an unmarried biological father is not required unless the unmarried biological father:

(a) (i) developed a substantial relationship with the child by:

(A) visiting the child monthly, unless the unmarried biological father was physically or financially unable to visit the child on a monthly basis; or

(B) engaging in regular communication with the child or with the person or authorized agency that has lawful custody of the child;

(ii) took some measure of responsibility for the child and the child's future; and

(iii) demonstrated a full commitment to the responsibilities of parenthood by financial support of the child of a fair and reasonable sum in accordance with the father's ability; or

(b) (i) openly lived with the child:

(A) (I) for a period of at least six months during the one-year period immediately preceding the day on which the child is placed with prospective adoptive parents; or

(II) if the child is less than one year old, for a period of at least six months during the period of

time beginning on the day on which the child is born and ending on the day on which the child is placed with prospective adoptive parents; and

(B) immediately preceding placement of the child with prospective adoptive parents; and

(ii) openly held himself out to be the father of the child during the six-month period described in Subsection (1)(b)(i)(A).

(2) (a) If an unmarried biological father was prevented from complying with a requirement of Subsection (1) by the person or authorized agency having lawful custody of the child, the unmarried biological father is not required to comply with that requirement.

(b) The subjective intent of an unmarried biological father, whether expressed or otherwise, that is unsupported by evidence that the requirements in Subsection (1) have been met, shall not preclude a determination that the father failed to meet the requirements of Subsection (1).

(3) Except as provided in Subsections (6) and 78B-6-122(1), and subject to Subsection (5), with regard to a child who is six months of age or less at the time the child is placed with prospective adoptive parents, consent of an unmarried biological father is not required unless, prior to the time the mother executes her consent for adoption or relinquishes the child for adoption, the unmarried biological father:

(a) initiates proceedings in a district court of Utah to establish paternity under Title 78B, Chapter 15, Utah Uniform Parentage Act;

(b) files with the court that is presiding over the paternity proceeding a sworn affidavit:

(i) stating that he is fully able and willing to have full custody of the child;

(ii) setting forth his plans for care of the child; and

(iii) agreeing to a court order of child support and the payment of expenses incurred in connection with the mother's pregnancy and the child's birth;

(c) consistent with Subsection (4), files notice of the commencement of paternity proceedings, described in Subsection (3)(a), with the state registrar of vital statistics within the Department of Health, in a confidential registry established by the department for that purpose; and

(d) offered to pay and paid, during the pregnancy and after the child's birth, a fair and reasonable amount of the expenses incurred in connection with the mother's pregnancy and the child's birth, in accordance with his financial ability, unless:

(i) he did not have actual knowledge of the pregnancy;

(ii) he was prevented from paying the expenses by the person or authorized agency having lawful custody of the child; or

(iii) the mother [~~refuses~~] refused to accept the unmarried biological father's offer to pay the expenses described in this Subsection (3)(d).

(4) (i) The notice described in Subsection (3)(c) is considered filed when received by the state registrar of vital statistics.

(ii) If the unmarried biological father fully complies with the requirements of Subsection (3), and an adoption of the child is not completed, the unmarried biological father shall, without any order of the court, be legally obligated for a reasonable amount of child support, pregnancy expenses, and child birth expenses, in accordance with his financial ability.

(5) Unless his ability to assert the right to consent has been lost for failure to comply with Section 78B-6-110.1, or lost under another provision of Utah law, an unmarried biological father shall have at least one business day after the child's birth to fully and strictly comply with the requirements of Subsection (3).

(6) Consent of an unmarried biological father is not required under this section if:

(a) the court determines, in accordance with the requirements and procedures of Title 78A, Chapter 6, Part 5, Termination of Parental Rights Act, that the unmarried biological father's rights should be terminated, based on the petition of any interested party;

(b) (i) a declaration of paternity declaring the unmarried biological father to be the father of the child is rescinded under Section 78B-15-306; and

(ii) the unmarried biological father fails to comply with Subsection (3) within 10 business days after the day that notice of the rescission described in Subsection (6)(b)(i) is mailed by the Office of Vital Records within the Department of Health as provided in Section 78B-15-306; or

(c) the unmarried biological father is notified under Section 78B-6-110.1 and fails to preserve his rights in accordance with the requirements of that section.

(7) Unless the adoptee is conceived or born within a marriage, the petitioner in an adoption proceeding shall, prior to entrance of a final decree of adoption, file with the court a certificate from the state registrar of vital statistics within the Department of Health, stating:

(a) that a diligent search has been made of the registry of notices from unmarried biological fathers described in Subsection (3)(~~e~~)(d); and

(b) (i) that no filing has been found pertaining to the father of the child in question; or

(ii) if a filing is found, the name of the putative father and the time and date of filing.

Section 4. Section 78B-6-133 is amended to read:

78B-6-133. Contested adoptions -- Rights of parties -- Determination of custody.

(1) If a person whose consent for an adoption is required pursuant to Subsection 78B-6-120(1)(b),

(c), (d), (e), or (f) refused to consent, the court shall determine whether proper grounds exist for the termination of that person's rights pursuant to the provisions of this chapter or Title 78A, Chapter 6, Part 5, Termination of Parental Rights Act.

(2) (a) If there are proper grounds to terminate the person's parental rights, the court shall order that the person's rights be terminated.

(b) If there are not proper grounds to terminate the person's parental rights, the court shall:

- (i) dismiss the adoption petition;
- (ii) conduct an evidentiary hearing to determine who should have custody of the child; and
- (iii) award custody of the child in accordance with the child's best interest.

(3) Evidence considered at the custody hearing may include:

(a) evidence of psychological or emotional bonds that the child has formed with a third person, including the prospective adoptive parent; and

(b) any detriment that a change in custody may cause the child.

(4) If the court dismisses the adoption petition, the fact that a person relinquished a child for adoption or consented to the adoption may not be considered as evidence in a custody proceeding described in this section, or in any subsequent custody proceeding, that it is not in the child's best interest for custody to be awarded to such person or that:

(a) the person is unfit or incompetent to be a parent;

(b) the person has neglected or abandoned the child;

(c) the person is not interested in having custody of the child; or

(d) the person has forfeited the person's parental presumption.

(5) Any custody order entered pursuant to this section may also:

- (a) include provisions for:
 - (i) parent-time; or
 - (ii) visitation by an interested third party; and
- (b) provide for the financial support of the child.

(6) (a) If a person or entity whose consent is required for an adoption under Subsection 78B-6-120(1)(a) or (g) refuses to consent, the court shall proceed with an evidentiary hearing and award custody as set forth in Subsection (2).

(b) The court may also finalize the adoption if doing so is in the best interest of the child.

(7) (a) A person may not contest an adoption after the final decree of adoption is entered, if that person:

(i) was a party to the adoption proceeding;

(ii) was served with notice of the adoption proceeding; or

(iii) executed a consent to the adoption or relinquishment for adoption.

(b) No person may contest an adoption after one year from the day on which the final decree of adoption is entered.

(c) The limitations on contesting an adoption action, described in this Subsection (7), apply to all attempts to contest an adoption:

(i) regardless of whether the adoption is contested directly or collaterally; and

(ii) regardless of the basis for contesting the adoption, including claims of fraud, duress, undue influence, lack of capacity or competency, mistake of law or fact, or lack of jurisdiction.

(d) The limitations on contesting an adoption action, described in this Subsection (7), do not prohibit a timely appeal of:

(i) a final decree of adoption; or

(ii) a decision in an action challenging an adoption, if the action was brought within the time limitations described in Subsections (7)(a) and (b).

(8) A court that has jurisdiction over a child for whom more than one petition for adoption is filed shall grant a hearing only under the following circumstances:

(a) to a petitioner:

(i) with whom the child is placed;

(ii) who has custody or guardianship of the child;

(iii) who has filed a written statement with the court within 120 days after the day on which the shelter hearing is held:

(A) requesting immediate placement of the child with the petitioner; and

(B) expressing the petitioner's intention of adopting the child; or

(iv) who is a relative:

(A) with whom the child has a significant and substantial relationship; and

(B) who was unaware, within the first 120 days after the day on which the shelter hearing is held, of the child's removal from the child's parent; or

(b) if the child:

(i) has been in the current placement for less than 180 days before the day on which the petitioner files the petition for adoption; or

(ii) is placed with, or is in the custody or guardianship of, an individual who previously informed the division or the court that the individual is unwilling or unable to adopt the child.

(9) (a) If the court grants a hearing on more than one petition for adoption, there is a rebuttable

presumption that it is in the best interest of a child to be placed for adoption with a petitioner:

(i) who has fulfilled the requirements described in Title 78B, Chapter 6, Part 1, Utah Adoption Act; and

(ii) (A) with whom the child has continuously resided for six months;

(B) who has filed a written statement with the court within 120 days after the day on which the shelter hearing is held, as described in Subsection (8)(a)(iii); or

(C) who is a relative described in Subsection (8)(a)(iv).

(b) The court may consider other factors relevant to the best interest of the child to determine whether the presumption is rebutted.

(c) The court shall weigh the best interest of the child uniformly between petitioners if more than one petitioner satisfies a rebuttable presumption condition described in Subsection (9)(a).

(10) Nothing in this section shall be construed to prevent the division or the child's guardian ad litem from appearing or participating in any proceeding for a petition for adoption.

(11) Neither the court nor the division is obligated to inform a petitioner of the petitioner's rights or duties under this section.

Section 5. Repealer.

This bill repeals:

Section 78B-6-132, Children in the custody of the Division of Child and Family Services -- Consideration of child's relationship with foster parents who petition for adoption.

CHAPTER 195**H. B. 23**

Passed February 5, 2015
 Approved March 26, 2015
 Effective May 12, 2015

INSURANCE LICENSEE AMENDMENTS

Chief Sponsor: Jon E. Stanard
 Senate Sponsor: Curtis S. Bramble

LONG TITLE**General Description:**

This bill modifies the Insurance Code to address licensees.

Highlighted Provisions:

This bill:

- ▶ addresses the amount and type of noncommission compensation;
- ▶ modifies the disclosure requirements related to health benefit plans; and
- ▶ makes technical and conforming amendments.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

31A-23a-501, as last amended by Laws of Utah 2014, Chapters 290 and 300

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

Section 1. Section 31A-23a-501 is amended to read:**31A-23a-501. Licensee compensation.**

(1) As used in this section:

(a) "Commission compensation" includes funds paid to or credited for the benefit of a licensee from:

(i) commission amounts deducted from insurance premiums on insurance sold by or placed through the licensee;

(ii) commission amounts received from an insurer or another licensee as a result of the sale or placement of insurance; or

(iii) overrides, bonuses, contingent bonuses, or contingent commissions received from an insurer or another licensee as a result of the sale or placement of insurance.

(b) (i) "Compensation from an insurer or third party administrator" means commissions, fees, awards, overrides, bonuses, contingent commissions, loans, stock options, gifts, prizes, or any other form of valuable consideration:

(A) whether or not payable pursuant to a written agreement; and

(B) received from:

(I) an insurer; or

(II) a third party to the transaction for the sale or placement of insurance.

(ii) "Compensation from an insurer or third party administrator" does not mean compensation from a customer that is:

(A) a fee or pass-through costs as provided in Subsection (1)(e); or

(B) a fee or amount collected by or paid to the producer that does not exceed an amount established by the commissioner by administrative rule.

(c) (i) "Customer" means:

(A) the person signing the application or submission for insurance; or

(B) the authorized representative of the insured actually negotiating the placement of insurance with the producer.

(ii) "Customer" does not mean a person who is a participant or beneficiary of:

(A) an employee benefit plan; or

(B) a group or blanket insurance policy or group annuity contract sold, solicited, or negotiated by the producer or affiliate.

(d) (i) "Noncommission compensation" includes all funds paid to or credited for the benefit of a licensee other than commission compensation.

(ii) "Noncommission compensation" does not include charges for pass-through costs incurred by the licensee in connection with obtaining, placing, or servicing an insurance policy.

(e) "Pass-through costs" include:

(i) costs for copying documents to be submitted to the insurer; and

(ii) bank costs for processing cash or credit card payments.

(2) A licensee may receive from an insured or from a person purchasing an insurance policy, noncommission compensation if the noncommission compensation is stated on a separate, written disclosure.

(a) The disclosure required by this Subsection (2) shall:

(i) include the signature of the insured or prospective insured acknowledging the noncommission compensation;

(ii) clearly specify:

(A) the amount [~~or extent~~] of [the] any known noncommission compensation; and

(B) the type and amount, if known, of any potential and contingent noncommission compensation; and

(iii) be provided to the insured or prospective insured before the performance of the service.

(b) Noncommission compensation shall be:

(i) limited to actual or reasonable expenses incurred for services; and

(ii) uniformly applied to all insureds or prospective insureds in a class or classes of business or for a specific service or services.

(c) A copy of the signed disclosure required by this Subsection (2) shall be maintained by any licensee who collects or receives the noncommission compensation or any portion of the noncommission compensation.

(d) All accounting records relating to noncommission compensation shall be maintained by the person described in Subsection (2)(c) in a manner that facilitates an audit.

(3) (a) A licensee may receive noncommission compensation when acting as a producer for the insured in connection with the actual sale or placement of insurance if:

(i) the producer and the insured have agreed on the producer's noncommission compensation; and

(ii) the producer has disclosed to the insured the existence and source of any other compensation that accrues to the producer as a result of the transaction.

(b) The disclosure required by this Subsection (3) shall:

(i) include the signature of the insured or prospective insured acknowledging the noncommission compensation;

(ii) clearly specify:

(A) the amount [or extent] of [the] any known noncommission compensation [and];

(B) the type and amount, if known, of any potential and contingent noncommission compensation; and

(C) the existence and source of any other compensation; and

(iii) be provided to the insured or prospective insured before the performance of the service.

(c) The following additional noncommission compensation is authorized:

(i) compensation received by a producer of a compensated corporate surety who under procedures approved by a rule or order of the commissioner is paid by surety bond principal debtors for extra services;

(ii) compensation received by an insurance producer who is also licensed as a public adjuster under Section 31A-26-203, for services performed for an insured in connection with a claim adjustment, so long as the producer does not receive or is not promised compensation for aiding in the claim adjustment prior to the occurrence of the claim;

(iii) compensation received by a consultant as a consulting fee, provided the consultant complies with the requirements of Section 31A-23a-401; or

(iv) other compensation arrangements approved by the commissioner after a finding that they do not violate Section 31A-23a-401 and are not harmful to the public.

(d) Subject to Section 31A-23a-402.5, a producer for the insured may receive compensation from an insured through an insurer, for the negotiation and sale of a health benefit plan, if there is a separate written agreement between the insured and the licensee for the compensation. An insurer who passes through the compensation from the insured to the licensee under this Subsection (3)(d) is not providing direct or indirect compensation or commission compensation to the licensee.

(4) (a) For purposes of this Subsection (4), ~~“producer” includes~~:

(i) “Large customer” means an employer who, with respect to a calendar year and to a plan year:

(A) employed an average of at least 100 eligible employees on each business day during the preceding calendar year; and

(B) employs at least two employees on the first day of the plan year.

(ii) “Producer” includes:

~~(i)~~ (A) a producer;

~~(ii)~~ (B) an affiliate of a producer; or

~~(iii)~~ (C) a consultant.

(b) A producer may not accept or receive any compensation from an insurer or third party administrator for the initial placement of a health benefit plan, other than a hospital confinement indemnity policy, unless prior to ~~the~~ a large customer's initial purchase of the health benefit plan the producer discloses in writing to the large customer that the producer will receive compensation from the insurer or third party administrator for the placement of insurance, including the amount or type of compensation known to the producer at the time of the disclosure.

(c) A producer shall:

(i) obtain the large customer's signed acknowledgment that ~~the~~ disclosure under Subsection (4)(b) was made to the large customer; or

(ii) (A) sign a statement that the disclosure required by Subsection (4)(b) was made to the large customer; and

(B) keep the signed statement on file in the producer's office while the health benefit plan placed with the large customer is in force.

(d) ~~(i)~~ A licensee who collects or receives any part of the compensation from an insurer or third party administrator in a manner that facilitates an audit shall, while the health benefit plan placed with the large customer is in force, maintain a copy of:

~~(A)~~ (i) the signed acknowledgment described in Subsection (4)(c)(i); or

~~(B)~~ (ii) the signed statement described in Subsection (4)(c)(ii).

~~[(ii) The standard application developed in accordance with Section 31A-22-635 shall include a place for a producer to provide the disclosure required by this Subsection (4), and if completed, shall satisfy the requirement of Subsection (4)(d)(i).]~~

(e) Subsection (4)(c) does not apply to:

(i) a person licensed as a producer who acts only as an intermediary between an insurer and the customer's producer, including a managing general agent; or

(ii) the placement of insurance in a secondary or residual market.

(f) (i) A producer shall provide to a large customer listed in this Subsection (4)(f) an annual accounting, as defined by rule made by the department in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, of all amounts the producer receives in commission compensation from an insurer or third party administrator as a result of the sale or placement of insurance to a large customer that is:

(A) the state;

(B) a political subdivision or instrumentality of the state or a combination thereof primarily engaged in educational activities or the administration or servicing of educational activities, including the State Board of Education and its instrumentalities, an institution of higher education and its branches, a school district and its instrumentalities, a vocational and technical school, and an entity arising out of a consolidation agreement between entities described under this Subsection (4)(f)(i)(B);

(C) a county, city, town, local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, special service district under Title 17D, Chapter 1, Special Service District Act, an entity created by an interlocal cooperation agreement under Title 11, Chapter 13, Interlocal Cooperation Act, or any other governmental entity designated in statute as a political subdivision of the state; or

(D) a quasi-public corporation, that has the same meaning as defined in Section 63E-1-102.

(ii) The department shall pattern the annual accounting required by this Subsection (4)(f) on the insurance related information on Internal Revenue Service Form 5500 and its relevant attachments.

(g) At the request of the department, a producer shall provide the department a copy of:

(i) a disclosure required by this Subsection (4); or

(ii) an Internal Revenue Service Form 5500 and its relevant attachments.

(5) This section does not alter the right of any licensee to recover from an insured the amount of any premium due for insurance effected by or through that licensee or to charge a reasonable rate of interest upon past-due accounts.

(6) This section does not apply to bail bond producers or bail enforcement agents as defined in Section 31A-35-102.

(7) A licensee may not receive noncommission compensation from an insured or enrollee for providing a service or engaging in an act that is required to be provided or performed in order to receive commission compensation, except for the surplus lines transactions that do not receive commissions.

CHAPTER 196**H. B. 45**

Passed February 23, 2015

Approved March 26, 2015

Effective May 12, 2015

LOCAL GOVERNING BODY AMENDMENTS

Chief Sponsor: Rich Cunningham
Senate Sponsor: Aaron Osmond

LONG TITLE**General Description:**

This bill enacts language related to a municipal or county governing body or local school board.

Highlighted Provisions:

This bill:

- ▶ with certain exceptions, prohibits a municipal or county governing body or local school board from expelling a member of the body from an open public meeting or prohibiting the member from attending; and
- ▶ makes technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53A-3-106, as enacted by Laws of Utah 2011, Chapter 107

ENACTS:

17-53-206.5, Utah Code Annotated 1953

REPEALS AND REENACTS:

10-3-607, as enacted by Laws of Utah 1977, Chapter 48

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

Section 1. Section 10-3-607 is repealed and reenacted to read:**10-3-607. Expulsion of members prohibited -- Exception for disorderly conduct.**

(1) Except as provided in Subsection (2), the governing body may not expel a member of the governing body from an open public meeting or prohibit the member from attending an open public meeting.

(2) Except as provided in Subsection (3), following a two-thirds vote of the members of the governing body, the governing body may fine or expel a member of the governing body for:

- (a) disorderly conduct at the open public meeting;
- (b) a member's direct or indirect financial conflict of interest regarding an issue discussed at or action proposed to be taken at the open public meeting; or
- (c) a commission of a crime during the open public meeting.

(3) A governing body may adopt rules or ordinances that expand the reasons or establish

more restrictive procedures for the expulsion of a member from a public meeting.

Section 2. Section 17-53-206.5 is enacted to read:**17-53-206.5. Expulsion of members prohibited -- Exception for disorderly conduct.**

(1) Except as provided in Subsection (2), the governing body may not expel a member of the governing body from an open public meeting or prohibit the member from attending an open public meeting.

(2) Except as provided in Subsection (3), following a two-thirds vote of the members of the governing body, the governing body may fine or expel a member of the governing body for:

- (a) disorderly conduct at the open public meeting;
- (b) a member's direct or indirect financial conflict of interest regarding an issue discussed at or action proposed to be taken at the open public meeting; or
- (c) a commission of a crime during the open public meeting.

(3) A governing body may adopt rules or ordinances that expand the reasons or establish more restrictive procedures for the expulsion of a member from a public meeting.

Section 3. Section 53A-3-106 is amended to read:**53A-3-106. Public meetings -- Rules of order and procedure -- Expulsion of members prohibited -- Exceptions.**

(1) As used in this section, "rules of order and procedure" means a set of rules that govern and prescribe in a public meeting:

- (a) parliamentary order and procedure;
- (b) ethical behavior; and
- (c) civil discourse.

(2) Subject to Subsection (3), a local school board shall:

(a) adopt rules of order and procedure to govern a public meeting of the local school board;

(b) conduct a public meeting in accordance with the rules of order and procedure described in Subsection (2)(a); and

(c) make the rules of order and procedure described in Subsection (2)(a) available to the public:

- (i) at each public meeting of the local school board; and
- (ii) on the local school board's public website, if available.

(3) ~~Subsection~~ Subsection (2)(a) does not affect a local school board's duty to comply with Title 52, Chapter 4, Open and Public Meetings Act.

(4) (a) Except as provided in Subsection (4)(b), a local school board may not expel a member of the

school board from an open public meeting or prohibit the member from attending an open public meeting.

(b) Except as provided in Subsection (4)(c), following a two-thirds vote of the members of the local school board, the local school board may fine or expel a member of the local school board for:

(i) disorderly conduct at the open public meeting;

(ii) a member's direct or indirect financial conflict of interest regarding an issue discussed at or action proposed to be taken at the open public meeting; or

(iii) a commission of a crime during the open public meeting.

(c) A local school board may adopt rules or ordinances that expand the reasons or establish more restrictive procedures for the expulsion of a member from a public meeting.

CHAPTER 197**H. B. 52**

Passed February 18, 2015

Approved March 26, 2015

Effective May 12, 2015

**MENTAL HEALTH PROFESSIONAL
PRACTICE AMENDMENTS**

Chief Sponsor: Michael S. Kennedy

Senate Sponsor: Peter C. Knudson

LONG TITLE**General Description:**

This bill amends provisions for externship licenses issued by the Division of Occupational and Professional Licensing.

Highlighted Provisions:

This bill:

- ▶ amends provisions for an externship license issued under the Social Worker Licensing Act, the Marriage and Family Therapist Licensing Act, or the Clinical Mental Health Counselor Licensing Act.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

58-60-117, as last amended by Laws of Utah 2012, Chapter 179

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

Section 1. Section 58-60-117 is amended to read:**58-60-117. Externship licenses.**

(1) The division shall issue a temporary license under Part 2, Social Worker Licensing Act, Part 3, Marriage and Family Therapist Licensing Act, or Part 4, Clinical Mental Health Counselor Licensing Act, of this chapter to a person who:

(a) submits an application for licensure under Part 2, Social Worker Licensing Act, Part 3, Marriage and Family Therapist Licensing Act, or Part 4, Clinical Mental Health Counselor Licensing Act;

(b) pays a fee determined by the department under Section 63J-1-504;

(c) holds an earned doctoral degree or master's degree in a discipline that is a prerequisite for practice as a mental health therapist;

(d) has ~~[one or more deficiencies]~~ a deficiency, as defined by division rule, in course work[, experience, or training];

(e) provides mental health therapy as an employee of a public or private organization, which provides mental health therapy, while under the supervision of a person licensed under this chapter; and

(f) is of good moral character and has no disciplinary action pending or in effect against the applicant in connection with the practice of mental health therapy, in any jurisdiction.

(2) A temporary license issued under this section shall expire upon the earlier of:

(a) issuance of the license applied for; or

(b) three years from the date the temporary license was issued.

(3) The temporary license issued under this section is an externship license.

CHAPTER 198**H. B. 56**

Passed February 12, 2015

Approved March 26, 2015

Effective May 12, 2015

(Retrospective operation to January 1, 2015)

**PROPERTY TAX
DEFINITION AMENDMENTS**

Chief Sponsor: V. Lowry Snow

Senate Sponsor: Wayne A. Harper

LONG TITLE**General Description:**

This bill amends a definition related to property taxes.

Highlighted Provisions:

This bill:

- ▶ amends a definition related to property taxes; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides for retrospective operation.

Utah Code Sections Affected:**AMENDS:**

59-2-102, as last amended by Laws of Utah 2014, Chapters 65 and 411

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

Section 1. Section 59-2-102 is amended to read:**59-2-102. Definitions.**

As used in this chapter and title:

(1) "Aerial applicator" means aircraft or rotorcraft used exclusively for the purpose of engaging in dispensing activities directly affecting agriculture or horticulture with an airworthiness certificate from the Federal Aviation Administration certifying the aircraft or rotorcraft's use for agricultural and pest control purposes.

(2) "Air charter service" means an air carrier operation which requires the customer to hire an entire aircraft rather than book passage in whatever capacity is available on a scheduled trip.

(3) "Air contract service" means an air carrier operation available only to customers who engage the services of the carrier through a contractual agreement and excess capacity on any trip and is not available to the public at large.

(4) "Aircraft" is as defined in Section 72-10-102.

(5) (a) Except as provided in Subsection (5)(b), "airline" means an air carrier that:

(i) operates:

(A) on an interstate route; and

(B) on a scheduled basis; and

(ii) offers to fly one or more passengers or cargo on the basis of available capacity on a regularly scheduled route.

(b) "Airline" does not include an:

(i) air charter service; or

(ii) air contract service.

(6) "Assessment roll" means a permanent record of the assessment of property as assessed by the county assessor and the commission and may be maintained manually or as a computerized file as a consolidated record or as multiple records by type, classification, or categories.

(7) (a) "Certified revenue levy" means a property tax levy that provides an amount of ad valorem property tax revenue equal to the sum of:

(i) the amount of ad valorem property tax revenue to be generated statewide in the previous year from imposing a school minimum basic tax rate, as specified in Subsection 53A-17a-135(1)(a), or multicounty assessing and collecting levy, as specified in Section 59-2-1602; and

(ii) the product of:

(A) new growth, as defined in:

(I) Section 59-2-924; and

(II) rules of the commission; and

(B) the school minimum basic tax rate or multicounty assessing and collecting levy certified by the commission for the previous year.

(b) For purposes of this Subsection (7), "ad valorem property tax revenue" does not include property tax revenue received by a taxing entity from personal property that is:

(i) assessed by a county assessor in accordance with Part 3, County Assessment; and

(ii) semiconductor manufacturing equipment.

(c) For purposes of calculating the certified revenue levy described in this Subsection (7), the commission shall use:

(i) the taxable value of real property assessed by a county assessor contained on the assessment roll;

(ii) the taxable value of real and personal property assessed by the commission; and

(iii) the taxable year end value of personal property assessed by a county assessor contained on the prior year's assessment roll.

(8) "County-assessed commercial vehicle" means:

(a) any commercial vehicle, trailer, or semitrailer which is not apportioned under Section 41-1a-301 and is not operated interstate to transport the vehicle owner's goods or property in furtherance of the owner's commercial enterprise;

(b) any passenger vehicle owned by a business and used by its employees for transportation as a company car or vanpool vehicle; and

- (c) vehicles that are:
- (i) especially constructed for towing or wrecking, and that are not otherwise used to transport goods, merchandise, or people for compensation;
 - (ii) used or licensed as taxicabs or limousines;
 - (iii) used as rental passenger cars, travel trailers, or motor homes;
 - (iv) used or licensed in this state for use as ambulances or hearses;
 - (v) especially designed and used for garbage and rubbish collection; or
 - (vi) used exclusively to transport students or their instructors to or from any private, public, or religious school or school activities.
- (9) (a) Except as provided in Subsection (9)(b), for purposes of Section 59-2-801, “designated tax area” means a tax area created by the overlapping boundaries of only the following taxing entities:
- (i) a county; and
 - (ii) a school district.
- (b) Notwithstanding Subsection (9)(a), “designated tax area” includes a tax area created by the overlapping boundaries of:
- (i) the taxing entities described in Subsection (9)(a); and
 - (ii) (A) a city or town if the boundaries of the school district under Subsection (9)(a) and the boundaries of the city or town are identical; or
 - (B) a special service district if the boundaries of the school district under Subsection (9)(a) are located entirely within the special service district.
- (10) “Eligible judgment” means a final and unappealable judgment or order under Section 59-2-1330:
- (a) that became a final and unappealable judgment or order no more than 14 months prior to the day on which the notice required by Section 59-2-919.1 is required to be mailed; and
 - (b) for which a taxing entity’s share of the final and unappealable judgment or order is greater than or equal to the lesser of:
 - (i) \$5,000; or
 - (ii) 2.5% of the total ad valorem property taxes collected by the taxing entity in the previous fiscal year.
- (11) (a) “Escaped property” means any property, whether personal, land, or any improvements to the property, subject to taxation and is:
- (i) inadvertently omitted from the tax rolls, assigned to the incorrect parcel, or assessed to the wrong taxpayer by the assessing authority;
 - (ii) undervalued or omitted from the tax rolls because of the failure of the taxpayer to comply with the reporting requirements of this chapter; or

- (iii) undervalued because of errors made by the assessing authority based upon incomplete or erroneous information furnished by the taxpayer.
 - (b) Property that is undervalued because of the use of a different valuation methodology or because of a different application of the same valuation methodology is not “escaped property.”
- (12) “Fair market value” means the amount at which property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of the relevant facts. For purposes of taxation, “fair market value” shall be determined using the current zoning laws applicable to the property in question, except in cases where there is a reasonable probability of a change in the zoning laws affecting that property in the tax year in question and the change would have an appreciable influence upon the value.
- (13) “Farm machinery and equipment,” for purposes of the exemption provided under Section 59-2-1101, means tractors, milking equipment and storage and cooling facilities, feed handling equipment, irrigation equipment, harvesters, choppers, grain drills and planters, tillage tools, scales, combines, spreaders, sprayers, haying equipment, including balers and cubers, and any other machinery or equipment used primarily for agricultural purposes; but does not include vehicles required to be registered with the Motor Vehicle Division or vehicles or other equipment used for business purposes other than farming.
- (14) “Geothermal fluid” means water in any form at temperatures greater than 120 degrees centigrade naturally present in a geothermal system.
- (15) “Geothermal resource” means:
- (a) the natural heat of the earth at temperatures greater than 120 degrees centigrade; and
 - (b) the energy, in whatever form, including pressure, present in, resulting from, created by, or which may be extracted from that natural heat, directly or through a material medium.
- (16) (a) “Goodwill” means:
- (i) acquired goodwill that is reported as goodwill on the books and records:
 - (A) of a taxpayer; and
 - (B) that are maintained for financial reporting purposes; or
 - (ii) the ability of a business to:
 - (A) generate income:
 - (I) that exceeds a normal rate of return on assets; and
 - (II) resulting from a factor described in Subsection (16)(b); or
 - (B) obtain an economic or competitive advantage resulting from a factor described in Subsection (16)(b).

(b) The following factors apply to Subsection (16)(a)(ii):

- (i) superior management skills;
- (ii) reputation;
- (iii) customer relationships;
- (iv) patronage; or
- (v) a factor similar to Subsections (16)(b)(i) through (iv).

(c) "Goodwill" does not include:

(i) the intangible property described in Subsection (20)(a) or (b);

(ii) locational attributes of real property, including:

- (A) zoning;
- (B) location;
- (C) view;
- (D) a geographic feature;
- (E) an easement;
- (F) a covenant;
- (G) proximity to raw materials;
- (H) the condition of surrounding property; or
- (I) proximity to markets;

(iii) value attributable to the identification of an improvement to real property, including:

(A) reputation of the designer, builder, or architect of the improvement;

(B) a name given to, or associated with, the improvement; or

(C) the historic significance of an improvement; or

(iv) the enhancement or assemblage value specifically attributable to the interrelation of the existing tangible property in place working together as a unit.

(17) "Governing body" means:

(a) for a county, city, or town, the legislative body of the county, city, or town;

(b) for a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, the local district's board of trustees;

(c) for a school district, the local board of education; or

(d) for a special service district under Title 17D, Chapter 1, Special Service District Act:

(i) the legislative body of the county or municipality that created the special service district, to the extent that the county or municipal legislative body has not delegated authority to an administrative control board established under Section 17D-1-301; or

(ii) the administrative control board, to the extent that the county or municipal legislative body has delegated authority to an administrative control board established under Section 17D-1-301.

(18) (a) For purposes of Section 59-2-103:

(i) "household" means the association of persons who live in the same dwelling, sharing its furnishings, facilities, accommodations, and expenses; and

(ii) "household" includes married individuals, who are not legally separated, that have established domiciles at separate locations within the state.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining the term "domicile."

(19) (a) Except as provided in Subsection (19)(c), "improvement" means a building, structure, fixture, fence, or other item that is permanently attached to land, regardless of whether the title has been acquired to the land, if:

(i) (A) attachment to land is essential to the operation or use of the item; and

(B) the manner of attachment to land suggests that the item will remain attached to the land in the same place over the useful life of the item; or

(ii) removal of the item would:

(A) cause substantial damage to the item; or

(B) require substantial alteration or repair of a structure to which the item is attached.

(b) "Improvement" includes:

(i) an accessory to an item described in Subsection (19)(a) if the accessory is:

(A) essential to the operation of the item described in Subsection (19)(a); and

(B) installed solely to serve the operation of the item described in Subsection (19)(a); and

(ii) an item described in Subsection (19)(a) that:

(A) is temporarily detached from the land for repairs; and

(B) remains located on the land.

(c) Notwithstanding Subsections (19)(a) and (b), "improvement" does not include:

(i) an item considered to be personal property pursuant to rules made in accordance with Section 59-2-107;

(ii) a moveable item that is attached to land:

(A) for stability only; or

(B) for an obvious temporary purpose;

(iii) (A) manufacturing equipment and machinery; or

(B) essential accessories to manufacturing equipment and machinery;

(iv) an item attached to the land in a manner that facilitates removal without substantial damage to:

- (A) the land; or
- (B) the item; or
- (v) a transportable factory-built housing unit as defined in Section 59-2-1502 if that transportable factory-built housing unit is considered to be personal property under Section 59-2-1503.
- (20) "Intangible property" means:
- (a) property that is capable of private ownership separate from tangible property, including:
- (i) money;
- (ii) credits;
- (iii) bonds;
- (iv) stocks;
- (v) representative property;
- (vi) franchises;
- (vii) licenses;
- (viii) trade names;
- (ix) copyrights; and
- (x) patents;
- (b) a low-income housing tax credit;
- (c) goodwill; or
- (d) a renewable energy tax credit or incentive, including:
- (i) a federal renewable energy production tax credit under Section 45, Internal Revenue Code;
- (ii) a federal energy credit for qualified renewable electricity production facilities under Section 48, Internal Revenue Code;
- (iii) a federal grant for a renewable energy property under American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, Section 1603; and
- (iv) a tax credit under Subsection 59-7-614(2)(c).
- (21) "Livestock" means:
- (a) a domestic animal;
- (b) a fish;
- ~~[(b)]~~ (c) a fur-bearing animal;
- ~~[(c)]~~ (d) a honeybee; or
- ~~[(d)]~~ (e) poultry.
- (22) "Low-income housing tax credit" means:
- (a) a federal low-income housing tax credit under Section 42, Internal Revenue Code; or
- (b) a low-income housing tax credit under:
- (i) Section 59-7-607; or
- (ii) Section 59-10-1010.
- (23) "Metalliferous minerals" includes gold, silver, copper, lead, zinc, and uranium.

- (24) "Mine" means a natural deposit of either metalliferous or nonmetalliferous valuable mineral.
- (25) "Mining" means the process of producing, extracting, leaching, evaporating, or otherwise removing a mineral from a mine.
- (26) (a) "Mobile flight equipment" means tangible personal property that is:
- (i) owned or operated by an:
- (A) air charter service;
- (B) air contract service; or
- (C) airline; and
- (ii) (A) capable of flight;
- (B) attached to an aircraft that is capable of flight; or
- (C) contained in an aircraft that is capable of flight if the tangible personal property is intended to be used:
- (I) during multiple flights;
- (II) during a takeoff, flight, or landing; and
- (III) as a service provided by an air charter service, air contract service, or airline.
- (b) (i) "Mobile flight equipment" does not include a spare part other than a spare engine that is rotated:
- (A) at regular intervals; and
- (B) with an engine that is attached to the aircraft.
- (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining the term "regular intervals."
- (27) "Nonmetalliferous minerals" includes, but is not limited to, oil, gas, coal, salts, sand, rock, gravel, and all carboniferous materials.
- (28) "Part-year residential property" means property that is not residential property on January 1 of a calendar year but becomes residential property after January 1 of the calendar year.
- (29) "Personal property" includes:
- (a) every class of property as defined in Subsection (30) that is the subject of ownership and not included within the meaning of the terms "real estate" and "improvements";
- (b) gas and water mains and pipes laid in roads, streets, or alleys;
- (c) bridges and ferries;
- (d) livestock; and
- (e) outdoor advertising structures as defined in Section 72-7-502.
- (30) (a) "Property" means property that is subject to assessment and taxation according to its value.
- (b) "Property" does not include intangible property as defined in this section.

(31) "Public utility," for purposes of this chapter, means the operating property of a railroad, gas corporation, oil or gas transportation or pipeline company, coal slurry pipeline company, electrical corporation, telephone corporation, sewerage corporation, or heat corporation where the company performs the service for, or delivers the commodity to, the public generally or companies serving the public generally, or in the case of a gas corporation or an electrical corporation, where the gas or electricity is sold or furnished to any member or consumers within the state for domestic, commercial, or industrial use. Public utility also means the operating property of any entity or person defined under Section 54-2-1 except water corporations.

(32) (a) Subject to Subsection (32)(b), "qualifying exempt primary residential rental personal property" means household furnishings, furniture, and equipment that:

(i) are used exclusively within a dwelling unit that is the primary residence of a tenant;

(ii) are owned by the owner of the dwelling unit that is the primary residence of a tenant; and

(iii) after applying the residential exemption described in Section 59-2-103, are exempt from taxation under this chapter in accordance with Subsection 59-2-1115(2).

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "dwelling unit" for purposes of this Subsection (32) and Subsection (35).

(33) "Real estate" or "real property" includes:

(a) the possession of, claim to, ownership of, or right to the possession of land;

(b) all mines, minerals, and quarries in and under the land, all timber belonging to individuals or corporations growing or being on the lands of this state or the United States, and all rights and privileges appertaining to these; and

(c) improvements.

(34) "Relationship with an owner of the property's land surface rights" means a relationship described in Subsection 267(b), Internal Revenue Code:

(a) except that notwithstanding Subsection 267(b), Internal Revenue Code, the term 25% shall be substituted for the term 50% in Subsection 267(b), Internal Revenue Code; and

(b) using the ownership rules of Subsection 267(c), Internal Revenue Code, for determining the ownership of stock.

(35) (a) Subject to Subsection (35)(b), "residential property," for the purposes of the reductions and adjustments under this chapter, means any property used for residential purposes as a primary residence.

(b) Subject to Subsection (35)(c), "residential property":

(i) except as provided in Subsection (35)(b)(ii), includes household furnishings, furniture, and equipment if the household furnishings, furniture, and equipment are:

(A) used exclusively within a dwelling unit that is the primary residence of a tenant; and

(B) owned by the owner of the dwelling unit that is the primary residence of a tenant; and

(ii) does not include property used for transient residential use.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "dwelling unit" for purposes of Subsection (32) and this Subsection (35).

(36) "Split estate mineral rights owner" means a person who:

(a) has a legal right to extract a mineral from property;

(b) does not hold more than a 25% interest in:

(i) the land surface rights of the property where the wellhead is located; or

(ii) an entity with an ownership interest in the land surface rights of the property where the wellhead is located;

(c) is not an entity in which the owner of the land surface rights of the property where the wellhead is located holds more than a 25% interest; and

(d) does not have a relationship with an owner of the land surface rights of the property where the wellhead is located.

(37) (a) "State-assessed commercial vehicle" means:

(i) any commercial vehicle, trailer, or semitrailer which operates interstate or intrastate to transport passengers, freight, merchandise, or other property for hire; or

(ii) any commercial vehicle, trailer, or semitrailer which operates interstate and transports the vehicle owner's goods or property in furtherance of the owner's commercial enterprise.

(b) "State-assessed commercial vehicle" does not include vehicles used for hire which are specified in Subsection (8)(c) as county-assessed commercial vehicles.

(38) "Taxable value" means fair market value less any applicable reduction allowed for residential property under Section 59-2-103.

(39) "Tax area" means a geographic area created by the overlapping boundaries of one or more taxing entities.

(40) "Taxing entity" means any county, city, town, school district, special taxing district, local district under Title 17B, Limited Purpose Local

Government Entities - Local Districts, or other political subdivision of the state with the authority to levy a tax on property.

(41) "Tax roll" means a permanent record of the taxes charged on property, as extended on the assessment roll and may be maintained on the same record or records as the assessment roll or may be maintained on a separate record properly indexed to the assessment roll. It includes tax books, tax lists, and other similar materials.

Section 2. Retrospective operation.

This bill has retrospective operation to January 1, 2015.

CHAPTER 199**H. B. 103**

Passed February 19, 2015

Approved March 26, 2015

Effective January 1, 2016

TAXATION OF PROPERTY AMENDMENTS

Chief Sponsor: Douglas V. Sagers

Senate Sponsor: Evan J. Vickers

LONG TITLE**General Description:**

This bill amends provisions related to the taxation of property.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires a county assessor to consider certain factors in determining the fair market value of property; and
- ▶ provides that provisions requiring a county assessor to consider certain factors in determining the fair market value of property apply to the privilege tax.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

59-4-101, as last amended by Laws of Utah 2006, Chapter 36

ENACTS:

59-2-301.7, Utah Code Annotated 1953

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

Section 1. Section 59-2-301.7 is enacted to read:**59-2-301.7. Definitions -- Assessment of property used for radioactive or hazardous waste storage.**

(1) As used in this section:

(a) "Hazardous waste" has the same meaning as that term is defined in Section 19-6-102.

(b) (i) "Radioactive waste" means:

(A) low-level radioactive waste as defined in 42 U.S.C. Sec. 10101; or

(B) high-level radioactive waste as defined in 42 U.S.C. Sec. 10101.

(ii) "Radioactive waste" does not include naturally occurring radioactive materials.

(2) Subject to Subsection (3), in assessing the fair market value of property, a county assessor shall consider, as part of the determination of fair market value, whether property that is not currently used for the storage of hazardous waste or radioactive waste has been used in the past for the storage of hazardous waste or radioactive waste in a manner that affects:

(a) the functionality of the property;

(b) the ability to use the property; or

(c) property rights.

(3) Subsection (2) applies to the extent a county assessor knows, or reasonably should have known, that property has been used in the past for the storage of hazardous waste or radioactive waste.

(4) This section does not prohibit a county assessor from including as part of a determination of the fair market value of property any other factor affecting the fair market value of the property.

Section 2. Section 59-4-101 is amended to read:**59-4-101. Tax basis -- Exceptions -- Assessment and collection.**

(1) (a) Except as provided in Subsections (1)(b) and (c), a tax is imposed on the possession or other beneficial use enjoyed by any person of any real or personal property which for any reason is exempt from taxation, if that property is used in connection with a business conducted for profit.

(b) Any interest remaining in the state in state lands after subtracting amounts paid or due in part payment of the purchase price as provided in Subsection 59-2-1103(2)(b)(i) under a contract of sale is subject to taxation under this chapter regardless of whether the property is used in connection with a business conducted for profit.

(c) The tax imposed under Subsection (1)(a) does not apply to property exempt from taxation under Section 59-2-1114.

(2) The tax imposed under this chapter is the same amount that the ad valorem property tax would be if the possessor or user were the owner of the property. The amount of any payments which are made in lieu of taxes is credited against the tax imposed on the beneficial use of property owned by the federal government.

(3) A tax is not imposed under this chapter on the following:

(a) the use of property which is a concession in, or relative to, the use of a public airport, park, fairground, or similar property which is available as a matter of right to the use of the general public;

(b) the use or possession of property by a religious, educational, or charitable organization;

(c) the use or possession of property if the revenue generated by the possessor or user of the property through its possession or use of the property inures only to the benefit of a religious, educational, or charitable organization and not to the benefit of any other person;

(d) the possession or other beneficial use of public land occupied under the terms of an agricultural lease or permit issued by the United States or this state;

(e) the use or possession of any lease, permit, or easement unless the lease, permit, or easement entitles the lessee or permittee to exclusive

possession of the premises to which the lease, permit, or easement relates. Every lessee, permittee, or other holder of a right to remove or extract the mineral covered by the holder's lease, right, permit, or easement except from brines of the Great Salt Lake, is considered to be in possession of the premises, notwithstanding the fact that other parties may have a similar right to remove or extract another mineral from the same lands or estates;

(f) the use or possession of property by a public agency, as defined in Section 11-13-103, to the extent that the ownership interest of the public agency in that property is subject to a fee in lieu of ad valorem property tax under Section 11-13-302; or

(g) the possession or beneficial use of public property as a tollway by a private entity through a tollway development agreement as defined in Section 72-6-202.

(4) A tax imposed under this chapter is assessed to the possessors or users of the property on the same forms, and collected and distributed at the same time and in the same manner, as taxes assessed owners, possessors, or other claimants of property which is subject to ad valorem property taxation. The tax is not a lien against the property, and no tax-exempt property may be attached, encumbered, sold, or otherwise affected for the collection of the tax.

(5) Sections 59-2-301.1 through 59-2-301.7 apply for purposes of assessing a tax under this chapter.

Section 3. Effective date.

This bill takes effect on January 1, 2016.

CHAPTER 200**H. B. 106**

Passed February 11, 2015

Approved March 26, 2015

Effective May 12, 2015

WILDLIFE AMENDMENTS

Chief Sponsor: Mike Schultz

Senate Sponsor: Allen M. Christensen

LONG TITLE**General Description:**

This bill modifies commercial hunting area provisions.

Highlighted Provisions:

This bill:

- ▶ modifies age requirements;
- ▶ modifies hunter education requirements; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

23-17-6, as last amended by Laws of Utah 2011, Chapter 297

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

Section 1. Section 23-17-6 is amended to read:**23-17-6. Commercial hunting area -- Registration -- Requirements for hunters.**

(1) (a) [~~Any~~] A person desiring to operate a commercial hunting area within [~~this~~] the state to permit the releasing and shooting of pen-raised birds may apply to the Wildlife Board for authorization to do so.

(b) The Wildlife Board may issue the applicant a certificate of registration to operate a commercial hunting area in accordance with rules prescribed by the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(c) The Wildlife Board may determine the number of commercial hunting areas that may be established in each county of the state.

(2) [~~Any~~] (a) A certificate of registration issued under Subsection (1) shall specify the species of birds that the applicant may propagate, keep, and release for shooting on the area covered by the certificate of registration.

(b) The applicant may charge a fee for harvesting [~~these~~] the birds specified under Subsection (2)(a).

(3) (a) [~~Any~~] A person hunting within the state on [~~any~~] a commercial hunting area shall:

[(i) be at least 12 years old;]

[(ii)] (i) (A) possess proof of passing a division-approved hunter education course, if the person was born after December 31, 1965; [~~and~~] or

(B) possess a trial hunting authorization issued under Section 23-19-14.6;

(ii) comply with the accompaniment requirements of Sections 23-19-14.6 and 23-20-20, if applicable; and

(iii) have the permission of the owner or operator of the commercial hunting area.

(b) The operator of a commercial hunting area shall verify that each hunter on the commercial hunting area meets the requirements of [Subsections] Subsection (3)(a)(i) [~~and (3)(a)(ii)~~].

(4) Hunting on commercial hunting areas [~~shall be~~] is permitted only during the commercial hunting area season prescribed by the Wildlife Board.

CHAPTER 201**H. B. 111**

Passed February 20, 2015

Approved March 26, 2015

Effective May 12, 2015

**PAYMENT OF PROPERTY
TAX AMENDMENTS**

Chief Sponsor: R. Curt Webb

Senate Sponsor: Kevin T. Van Tassell

LONG TITLE**General Description:**

This bill addresses the payment of property taxes.

Highlighted Provisions:

This bill:

- ▶ addresses due dates for the payment of property taxes;
- ▶ addresses closure of the county treasurer's office for the posting of property tax payments;
- ▶ provides that a county treasurer or other public official, public entity, or public employee may not require a property tax to be paid before the due date; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

59-2-1330, as last amended by Laws of Utah 2008, Chapters 61, 231, 236, and 301

59-2-1331, as last amended by Laws of Utah 2014, Chapter 279

59-2-1332, as last amended by Laws of Utah 2009, Chapter 388

59-2-1332.5, as last amended by Laws of Utah 2011, Chapter 422

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

Section 1. Section 59-2-1330 is amended to read:

59-2-1330. Payment of property taxes -- Payments to taxpayer by state or taxing entity -- Refund of penalties paid by taxpayer -- Refund of interest paid by taxpayer -- Payment of interest to taxpayer -- Judgment levy -- Objections to assessments by the commission -- Time periods for making payments to taxpayer.

(1) Unless otherwise specifically provided by statute, property taxes shall be paid directly to the county assessor or the county treasurer:

(a) on the date that the property taxes are due; and

(b) as provided in this chapter.

(2) A taxpayer shall receive payment as provided in this section if a reduction in the amount of any tax levied against any property for which the taxpayer paid a tax or any portion of a tax under this chapter

for a calendar year is required by a final and unappealable judgment or order described in Subsection (3) issued by:

- (a) a county board of equalization;
- (b) the commission; or
- (c) a court of competent jurisdiction.

(3) (a) For purposes of Subsection (2), the state or any taxing entity that has received property taxes or any portion of property taxes from a taxpayer described in Subsection (2) shall pay the taxpayer if:

(i) the taxes the taxpayer paid in accordance with Subsection (2) are collected by an authorized officer of the:

- (A) county; or
- (B) state; and

(ii) the taxpayer obtains a final and unappealable judgment or order:

- (A) from:
 - (I) a county board of equalization;
 - (II) the commission; or
 - (III) a court of competent jurisdiction;
- (B) against:

(I) the taxing entity or an authorized officer of the taxing entity; or

(II) the state or an authorized officer of the state; and

(C) ordering a reduction in the amount of any tax levied against any property for which a taxpayer paid a tax or any portion of a tax under this chapter for the calendar year.

(b) The amount that the state or a taxing entity shall pay a taxpayer shall be determined in accordance with Subsections (4) through (7).

(4) For purposes of Subsections (2) and (3), the amount the state shall pay to a taxpayer is equal to the sum of:

(a) if the difference described in this Subsection (4)(a) is greater than \$0, the difference between:

(i) the tax the taxpayer paid to the state in accordance with Subsection (2); and

(ii) the amount of the taxpayer's tax liability to the state after the reduction in the amount of tax levied against the property in accordance with the final and unappealable judgment or order described in Subsection (3);

(b) if the difference described in this Subsection (4)(b) is greater than \$0, the difference between:

(i) any penalties the taxpayer paid to the state in accordance with Section 59-2-1331; and

(ii) the amount of penalties the taxpayer is liable to pay to the state in accordance with Section 59-2-1331 after the reduction in the amount of tax levied against the property in accordance with the final and unappealable judgment or order described in Subsection (3);

(c) as provided in Subsection (6)(a), interest the taxpayer paid in accordance with Section 59-2-1331 on the amounts described in Subsections (4)(a) and (4)(b); and

(d) as provided in Subsection (6)(b), interest on the sum of the amounts described in:

- (i) Subsection (4)(a);
- (ii) Subsection (4)(b); and
- (iii) Subsection (4)(c).

(5) For purposes of Subsections (2) and (3), the amount a taxing entity shall pay to a taxpayer is equal to the sum of:

(a) if the difference described in this Subsection (5)(a) is greater than \$0, the difference between:

(i) the tax the taxpayer paid to the taxing entity in accordance with Subsection (2); and

(ii) the amount of the taxpayer's tax liability to the taxing entity after the reduction in the amount of tax levied against the property in accordance with the final and unappealable judgment or order described in Subsection (3);

(b) if the difference described in this Subsection (5)(b) is greater than \$0, the difference between:

(i) any penalties the taxpayer paid to the taxing entity in accordance with Section 59-2-1331; and

(ii) the amount of penalties the taxpayer is liable to pay to the taxing entity in accordance with Section 59-2-1331 after the reduction in the amount of tax levied against the property in accordance with the final and unappealable judgment or order described in Subsection (3);

(c) as provided in Subsection (6)(a), interest the taxpayer paid in accordance with Section 59-2-1331 on the amounts described in Subsections (5)(a) and (5)(b); and

(d) as provided in Subsection (6)(b), interest on the sum of the amounts described in:

- (i) Subsection (5)(a);
- (ii) Subsection (5)(b); and
- (iii) Subsection (5)(c).

(6) Except as provided in Subsection (7):

(a) interest shall be refunded to a taxpayer on the amount described in Subsection (4)(c) or (5)(c) in an amount equal to the amount of interest the taxpayer paid in accordance with Section 59-2-1331; and

(b) interest shall be paid to a taxpayer on the amount described in Subsection (4)(d) or (5)(d):

(i) beginning on the later of:

(A) the day on which the taxpayer paid the tax in accordance with Subsection (2); or

(B) January 1 of the calendar year immediately following the calendar year for which the tax was due;

(ii) ending on the day on which the state or a taxing entity pays to the taxpayer the amount required by Subsection (4) or (5); and

(iii) at the interest rate earned by the state treasurer on public funds transferred to the state treasurer in accordance with Section 51-7-5.

(7) Notwithstanding Subsection (6):

(a) the state may not pay or refund interest to a taxpayer under Subsection (6) on any tax the taxpayer paid in accordance with Subsection (2) that exceeds the amount of tax levied by the state for that calendar year as stated on the notice required by Section 59-2-1317; and

(b) a taxing entity may not pay or refund interest to a taxpayer under Subsection (6) on any tax the taxpayer paid in accordance with Subsection (2) that exceeds the amount of tax levied by the taxing entity for that calendar year as stated on the notice required by Section 59-2-1317.

(8) (a) Each taxing entity may levy a tax to pay its share of the final and unappealable judgment or order described in Subsection (3) if:

(i) the final and unappealable judgment or order is issued no later than 15 days prior to the date the [levy] certified tax rate is set under [Subsection] Section 59-2-924(3)(a);

(ii) the amount of the judgment levy is included on the notice under Section 59-2-919.1; and

(iii) the final and unappealable judgment or order is an eligible judgment, as defined in Section 59-2-102.

(b) The levy under Subsection (8)(a) is in addition to, and exempt from, the maximum levy established for the taxing entity.

(9) (a) A taxpayer that objects to the assessment of property assessed by the commission shall pay, on or before the property tax due date [of delinquency] established under Subsection 59-2-1331(1) or Section 59-2-1332, the full amount of taxes stated on the notice required by Section 59-2-1317 if:

(i) the taxpayer has applied to the commission for a hearing in accordance with Section 59-2-1007 on the objection to the assessment; and

(ii) the commission has not issued a written decision on the objection to the assessment in accordance with Section 59-2-1007.

(b) A taxpayer that pays the full amount of taxes due under Subsection (9)(a) is not required to pay penalties or interest on an assessment described in Subsection (9)(a) unless:

(i) a final and unappealable judgment or order establishing that the property described in Subsection (9)(a) has a value greater than the value stated on the notice required by Section 59-2-1317 is issued by:

(A) the commission; or

(B) a court of competent jurisdiction; and

(ii) the taxpayer fails to pay the additional tax liability resulting from the final and unappealable judgment or order described in Subsection (9)(b)(i) within a 45-day period after the county bills the taxpayer for the additional tax liability.

(10) (a) Except as provided in Subsection (10)(b), a payment that is required by this section shall be paid to a taxpayer:

(i) within 60 days after the day on which the final and unappealable judgment or order is issued in accordance with Subsection (3); or

(ii) if a judgment levy is imposed in accordance with Subsection (8):

(A) if the payment to the taxpayer required by this section is \$5,000 or more, no later than December 31 of the year in which the judgment levy is imposed; and

(B) if the payment to the taxpayer required by this section is less than \$5,000, within 60 days after the date the final and unappealable judgment or order is issued in accordance with Subsection (3).

(b) Notwithstanding Subsection (10)(a), a taxpayer may enter into an agreement:

(i) that establishes a time period other than a time period described in Subsection (10)(a) for making a payment to the taxpayer that is required by this section; and

(ii) with:

(A) an authorized officer of a taxing entity for a tax imposed by a taxing entity; or

(B) an authorized officer of the state for a tax imposed by the state.

Section 2. Section 59-2-1331 is amended to read:

59-2-1331. Property tax due date -- Date tax is delinquent -- Penalty -- Interest -- Payments -- Refund of prepayment.

(1) (a) Except as provided in Subsection (1)(b) and subject to Subsections (1)(c) and (d), all property taxes, unless otherwise specifically provided for under Section 59-2-1332, or other law, ~~[unpaid or postmarked after]~~ are due on November 30 of each year following the date of levy~~[-are delinquent, and the county treasurer shall close the treasurer's office for the posting of current year tax payments until a delinquent list has been prepared].~~

(b) ~~[Notwithstanding Subsection (1)(a), if]~~ If November 30 falls on a Saturday, Sunday, or holiday:

(i) the date of the next following day that is not a Saturday, Sunday, or holiday shall be substituted in Subsection (1)(a) and Subsection 59-2-1332(1) for November 30; and

(ii) the date of the day occurring 30 days after the date under Subsection (1)(b)(i) shall be substituted in Subsection 59-2-1332(1) for December 30.

(c) If a property tax is paid or postmarked after the due date described in this Subsection (1) the property tax is delinquent.

(d) A county treasurer or other public official, public entity, or public employee may not require the payment of a property tax before the due date described in this Subsection (1).

(2) (a) Except as provided in Subsection (2)(e), for each parcel, all delinquent taxes on each separately assessed parcel are subject to a penalty of 2.5% of the amount of the delinquent taxes or \$10, whichever is greater.

(b) Unless the delinquent taxes, together with the penalty, are paid on or before January 31, the amount of taxes and penalty shall bear interest on a per annum basis from the January 1 immediately following the delinquency date.

(c) Except as provided in Subsection (2)(d), for purposes of Subsection (2)(b), the interest rate is equal to the sum of:

(i) 6%; and

(ii) the federal funds rate target:

(A) established by the Federal Open Markets Committee; and

(B) that exists on the January 1 immediately following the date of delinquency.

(d) The interest rate described in Subsection (2)(c) may not be:

(i) less than 7%; or

(ii) more than 10%.

(e) The penalty described in Subsection (2)(a) is 1% of the amount of the delinquent taxes or \$10, whichever is greater, if all delinquent taxes and the penalty are paid on or before the January 31 immediately following the delinquency date.

(3) If the delinquency exceeds one year, the amount of taxes and penalties for that year and all succeeding years shall bear interest until settled in full through redemption or tax sale. The interest rate to be applied shall be calculated for each year as established under Subsection (2) and shall apply on each individual year's delinquency until paid.

(4) The county treasurer may accept and credit on account against taxes becoming due during the current year, at any time before or after the tax rates are adopted, but not subsequent to the date of delinquency, either:

(a) payments in amounts of not less than \$10; or

(b) the full amount of the unpaid tax.

(5) (a) At any time before the county treasurer provides the tax notice described in Section 59-2-1317, the county treasurer may refund amounts accepted and credited on account against taxes becoming due during the current year.

(b) Upon recommendation by the county treasurer, the county legislative body shall adopt rules or ordinances to implement the provisions of this Subsection (5).

Section 3. Section 59-2-1332 is amended to read:

59-2-1332. Extension of date of delinquency.

(1) (a) The county legislative body may, upon a petition of not less than 100 taxpayers or upon its own motion for good cause, by proclamation, extend the property tax due date [~~when taxes become delinquent~~] from November 30 to noon on December 30.

(b) If the county legislative body [~~se~~] extends [~~this~~] the property tax due date under Subsection (1)(a), the county legislative body shall publish a notice of the proclamation covering this extension:

(i) in a newspaper of general circulation in the county in at least two issues before November 1 of the year in which the taxes are to be paid; and

(ii) in accordance with Section 45-1-101 for two weeks before November 1.

(2) In all cases where the county legislative body extends the property tax due date [~~when taxes become delinquent~~] under Subsection (1), the date for the selling of property to the county for delinquent taxes shall be extended 30 days from the dates provided by law.

Section 4. Section 59-2-1332.5 is amended to read:

59-2-1332.5. Mailing notice of delinquency or publication of delinquent list -- Contents -- Notice -- Definitions.

(1) The county treasurer shall provide notice of delinquency in the payment of property taxes:

(a) except as provided in Subsection (4), on or before December 31 of each calendar year; and

(b) in a manner described in Subsection (2).

(2) A notice of delinquency in the payment of property taxes shall be provided by:

(a) (i) mailing a written notice, postage prepaid:

(A) to each delinquent taxpayer; and

(B) that includes the information required by Subsection (3)(a); and

(ii) making available to the public a list of delinquencies in the payment of property taxes:

(A) by electronic means; and

(B) that includes the information required by Subsection (3)(b); or

(b) publishing a list of delinquencies in the payment of property taxes:

(i) in one issue of a newspaper having general circulation in the county;

(ii) that lists each delinquency in alphabetical order by:

(A) the last name of the delinquent taxpayer; or

(B) if the delinquent taxpayer is a business entity, the name of the business entity; and

(iii) that includes the information required by Subsection (3)(b).

(3) (a) A written notice of delinquency in the payment of property taxes described in Subsection (2)(a)(i) shall include:

(i) a statement that delinquent taxes are due;

(ii) the amount of delinquent taxes due, not including any penalties imposed in accordance with this chapter;

(iii) (A) the name of the delinquent taxpayer; or

(B) if the delinquent taxpayer is a business entity, the name of the business entity;

(iv) (A) a description of the delinquent property; or

(B) the property identification number of the delinquent property;

(v) a statement that a penalty shall be imposed in accordance with this chapter; and

(vi) a statement that interest accrues as of January 1 following the date of the delinquency unless on or before January 31 the following are paid:

(A) the delinquent taxes; and

(B) the penalty.

(b) The list of delinquencies described in Subsection (2)(a)(ii) or (2)(b) shall include:

(i) the amount of delinquent taxes due, not including any penalties imposed in accordance with this chapter;

(ii) (A) the name of the delinquent taxpayer; or

(B) if the delinquent taxpayer is a business entity, the name of the business entity;

(iii) (A) a description of the delinquent property; or

(B) the property identification number of the delinquent property;

(iv) a statement that a penalty shall be imposed in accordance with this chapter; and

(v) a statement that interest accrues as of January 1 following the date of the delinquency unless on or before January 31 the following are paid:

(A) the delinquent taxes; and

(B) the penalty.

(4) Notwithstanding Subsection (1)(a), if the county legislative body extends the [~~date when taxes become delinquent~~] property tax due date under Subsection 59-2-1332(1), the notice of delinquency in the payment of property taxes shall be provided on or before January 10.

(5) (a) In addition to the notice of delinquency in the payment of property taxes required by

Subsection (1), a county treasurer may in accordance with this Subsection (5) mail a notice that property taxes are delinquent:

(i) to:

(A) a delinquent taxpayer;

(B) an owner of record of the delinquent property;

(C) any other interested party that requests notice; or

(D) a combination of Subsections (5)(a)(i)(A) through (C); and

(ii) at any time that the county treasurer considers appropriate.

(b) A notice mailed in accordance with this Subsection (5):

(i) shall include the information required by Subsection (3)(a); and

(ii) may include any information that the county treasurer finds is useful to the owner of record of the delinquent property in determining:

(A) the status of taxes owed on the delinquent property;

(B) any penalty that is owed on the delinquent property;

(C) any interest charged under Section 59-2-1331 on the delinquent property; or

(D) any related matters concerning the delinquent property.

(6) As used in this section, "business entity" means:

(a) an association;

(b) a corporation;

(c) a limited liability company;

(d) a partnership;

(e) a trust; or

(f) a business entity similar to Subsections (6)(a) through (e).

CHAPTER 202**H. B. 117**

Passed February 26, 2015

Approved March 26, 2015

Effective May 12, 2015

**PUBLIC MEETING
NOTICE REQUIREMENTS**Chief Sponsor: Jon E. Stanard
Senate Sponsor: Evan J. Vickers**LONG TITLE****General Description:**

This bill modifies a provision of the Open and Public Meetings Act.

Highlighted Provisions:

This bill:

- ▶ eliminates language that excuses specified local government entities with an annual budget of less than \$1,000,000 from the requirement to post certain notices to the Utah Public Notice Website; and
- ▶ makes conforming changes to a provision relating to notice of a municipality's intent to prepare a general plan or amendment.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

10-9a-203, as last amended by Laws of Utah 2009, Chapter 188

52-4-202, as last amended by Laws of Utah 2014, Chapter 434

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

Section 1. Section 10-9a-203 is amended to read:**10-9a-203. Notice of intent to prepare a general plan or comprehensive general plan amendments in certain municipalities.**

(1) Before preparing a proposed general plan or a comprehensive general plan amendment, each municipality within a county of the first or second class shall provide 10 calendar days notice of its intent to prepare a proposed general plan or a comprehensive general plan amendment:

- (a) to each affected entity;
- (b) to the Automated Geographic Reference Center created in Section 63F-1-506;
- (c) to the association of governments, established pursuant to an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act, of which the municipality is a member; and
- (d) [(4)] on the Utah Public Notice Website created under Section 63F-1-701[~~, if the municipality~~].

~~[(A) is required under Subsection 52-4-202(3) to use that website to provide public notice of a meeting; or]~~

~~[(B) voluntarily chooses to provide notice on that website despite not being required to do so under Subsection (1)(d)(i)(A); or]~~

~~[(ii) to the state planning coordinator appointed under Section 63J-4-202, if the municipality does not provide notice on the Utah Public Notice Website under Subsection (1)(d)(i).]~~

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

(a) indicate that the municipality intends to prepare a general plan or a comprehensive general plan amendment, as the case may be;

(b) describe or provide a map of the geographic area that will be affected by the general plan or amendment;

(c) be sent by mail, e-mail, or other effective means;

(d) invite the affected entities to provide information for the municipality to consider in the process of preparing, adopting, and implementing a general plan or amendment concerning:

(i) impacts that the use of land proposed in the proposed general plan or amendment may have; and

(ii) uses of land within the municipality that the affected entity is considering that may conflict with the proposed general plan or amendment; and

(e) include the address of an Internet website, if the municipality has one, and the name and telephone number of a person where more information can be obtained concerning the municipality's proposed general plan or amendment.

Section 2. Section 52-4-202 is amended to read:**52-4-202. Public notice of meetings --
Emergency meetings.**

(1) (a) (i) A public body shall give not less than 24 hours' public notice of each meeting.

(ii) A specified body shall give not less than 24 hours' public notice of each meeting that the specified body holds on the capitol hill complex.

(b) The public notice required under Subsection (1)(a) shall include the meeting:

- (i) agenda;
- (ii) date;
- (iii) time; and
- (iv) place.

(2) (a) In addition to the requirements under Subsection (1), a public body which holds regular meetings that are scheduled in advance over the course of a year shall give public notice at least once each year of its annual meeting schedule as provided in this section.

(b) The public notice under Subsection (2)(a) shall specify the date, time, and place of the scheduled meetings.

(3) (a) A public body or specified body satisfies a requirement for public notice by:

(i) posting written notice:

(A) at the principal office of the public body or specified body, or if no principal office exists, at the building where the meeting is to be held; and

(B) [~~beginning October 1, 2008 and except as provided in Subsection (3)(b),~~] on the Utah Public Notice Website created under Section 63F-1-701; and

(ii) providing notice to:

(A) at least one newspaper of general circulation within the geographic jurisdiction of the public body; or

(B) a local media correspondent.

~~[(b) A public body of a municipality under Title 10, Utah Municipal Code, a local district under Title 17B, Limited Purpose Local Government Entities—Local Districts, or a special service district under Title 17D, Chapter 1, Special Service District Act, is encouraged, but not required, to post written notice on the Utah Public Notice Website, if the municipality or district has a current annual budget of less than \$1 million.]~~

~~[(e)] (b) A public body or specified body is in compliance with the provisions of Subsection (3)(a)(ii) by providing notice to a newspaper or local media correspondent under the provisions of Subsection 63F-1-701(4)(d).~~

(c) A public body whose limited resources make compliance with Subsection (3)(a)(i)(B) difficult may request the Division of Archives and Records Service, created in Section 63A-12-101, to provide technical assistance to help the public body in its effort to comply.

(4) A public body and a specified body are encouraged to develop and use additional electronic means to provide notice of their meetings under Subsection (3).

(5) (a) The notice requirement of Subsection (1) may be disregarded if:

(i) because of unforeseen circumstances it is necessary for a public body or specified body to hold an emergency meeting to consider matters of an emergency or urgent nature; and

(ii) the public body or specified body gives the best notice practicable of:

(A) the time and place of the emergency meeting; and

(B) the topics to be considered at the emergency meeting.

(b) An emergency meeting of a public body may not be held unless:

(i) an attempt has been made to notify all the members of the public body; and

(ii) a majority of the members of the public body approve the meeting.

(6) (a) A public notice that is required to include an agenda under Subsection (1) shall provide reasonable specificity to notify the public as to the topics to be considered at the meeting. Each topic shall be listed under an agenda item on the meeting agenda.

(b) Subject to the provisions of Subsection (6)(c), and at the discretion of the presiding member of the public body, a topic raised by the public may be discussed during an open meeting, even if the topic raised by the public was not included in the agenda or advance public notice for the meeting.

(c) Except as provided in Subsection (5), relating to emergency meetings, a public body may not take final action on a topic in an open meeting unless the topic is:

(i) listed under an agenda item as required by Subsection (6)(a); and

(ii) included with the advance public notice required by this section.

CHAPTER 203**H. B. 118**

Passed March 11, 2015

Approved March 26, 2015

Effective May 12, 2015

**PUBLIC EDUCATION HUMAN RESOURCE
MANAGEMENT ACT REVISIONS**

Chief Sponsor: Bradley G. Last

Senate Sponsor: Aaron Osmond

LONG TITLE**General Description:**

This bill modifies provisions related to the dismissal of public education employees.

Highlighted Provisions:

This bill:

- ▶ modifies the definition of unsatisfactory performance; and
- ▶ addresses dismissal procedures for a career employee who exhibits both unsatisfactory performance and conduct that is a cause for dismissal.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53A-8a-102, as renumbered and amended by Laws of Utah 2012, Chapter 425

53A-8a-501, as renumbered and amended by Laws of Utah 2012, Chapter 425

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

Section 1. Section 53A-8a-102 is amended to read:**53A-8a-102. Definitions.**

As used in this chapter:

(1) "Career employee" means an employee of a school district who has obtained a reasonable expectation of continued employment based upon Section 53A-8a-201 and an agreement with the employee or the employee's association, district practice, or policy.

(2) "Contract term" or "term of employment" means the period of time during which an employee is engaged by the school district under a contract of employment, whether oral or written.

(3) "Dismissal" or "termination" means:

(a) termination of the status of employment of an employee;

(b) failure to renew or continue the employment contract of a career employee beyond the then-current school year;

(c) reduction in salary of an employee not generally applied to all employees of the same category employed by the school district during the employee's contract term; or

(d) change of assignment of an employee with an accompanying reduction in pay, unless the assignment change and salary reduction are agreed to in writing.

(4) (a) "Employee" means a career or provisional employee of a school district, except as provided in Subsection (4)(b).

(b) For purposes of Part 2, Status of Employment, Part 4, Educator Evaluations, and Part 5, Orderly School Termination Procedures, "employee" does not include:

(i) the district superintendent, or the equivalent at the Schools for the Deaf and the Blind;

(ii) the district business administrator or the equivalent at the Schools for the Deaf and the Blind; or

(iii) a temporary employee.

(5) "Last-hired, first-fired layoff policy" means a staff reduction policy that mandates the termination of an employee who started to work for the district most recently before terminating a more senior employee.

(6) "Provisional employee" means an individual, other than a career employee or a temporary employee, who is employed by a school district.

(7) "School board" or "board" means a district school board or its equivalent at the Schools for the Deaf and the Blind.

(8) "School district" or "district" means:

(a) a public school district; or

(b) the Schools for the Deaf and the Blind.

(9) "Temporary employee" means an individual who is employed on a temporary basis as defined by policies adopted by the local board of education. If the class of employees in question is represented by an employee organization recognized by the local board, the board shall adopt its policies based upon an agreement with that organization. Temporary employees serve at will and have no expectation of continued employment.

(10) (a) "Unsatisfactory performance" means a deficiency in performing work tasks which may be:

(i) due to insufficient or undeveloped skills~~[,]~~ or a lack of knowledge or aptitude~~[, poor attitude, or insufficient effort]~~; and

(ii) remediated through training, study, mentoring, or practice~~[, or greater effort]~~.

(b) "Unsatisfactory performance" does not include the following conduct that is designated as a cause for termination under Section 53A-8a-501 or a reason for license discipline by the State Board of Education or Utah Professional Practices Advisory Commission:

(i) a violation of work rules;

(ii) a violation of local school board policies, State Board of Education rules, or law;

(iii) a violation of standards of ethical, moral, or professional conduct; or

(iv) insubordination.

Section 2. Section 53A-8a-501 is amended to read:

53A-8a-501. Local school board to establish dismissal procedures.

(1) A local school board shall, by contract with its employees or their associations, or by resolution of the board, establish procedures for dismissal of employees in an orderly manner without discrimination.

(2) The procedures shall include:

- (a) standards of due process;
- (b) causes for dismissal; and

(c) procedures and standards related to developing and implementing a plan of assistance for a career employee whose performance is unsatisfactory.

(3) Procedures and standards for a plan of assistance adopted under Subsection (2)(c) shall require a plan of assistance to identify:

(a) specific, measurable, and actionable deficiencies;

(b) the available resources provided for improvement; and

(c) a course of action to improve employee performance.

(4) If a career employee exhibits both unsatisfactory performance as described in Subsection 53A-8a-102(10)(a) and conduct described in Subsection 53A-8a-102(10)(b), an employer:

(a) may:

(i) attempt to remediate the conduct of the career employee; or

(ii) terminate the career employee for cause if the conduct merits dismissal consistent with procedures established by the local school board; and

(b) is not required to develop and implement a plan of assistance for the career employee, as provided in Section 53A-8a-503.

(5) If the conduct of a career employee described in Subsection (4) is satisfactorily remediated, and unsatisfactory performance issues remain, an employer shall develop and implement a plan of assistance for the career employee, as provided in Section 53A-8a-503.

(6) If the conduct of a career employee described in Subsection (4) is not satisfactorily remediated, an employer:

(a) may dismiss the career employee for cause in accordance with procedures established by the local school board that include standards of due process and causes for dismissal; and

(b) is not required to develop and implement a plan of assistance for the career employee, as provided in Section 53A-8a-503.

CHAPTER 204**H. B. 120**

Passed March 4, 2015

Approved March 26, 2015

Effective May 12, 2015

MODIFICATIONS TO ELECTION LAW

Chief Sponsor: Craig Hall
Senate Sponsor: Todd Weiler

LONG TITLE**General Description:**

This bill changes the date on which certain filing entities are required to submit certain financial disclosures.

Highlighted Provisions:

This bill:

- ▶ changes the date on which certain filing entities are required to file a financial disclosures report;
- ▶ amends provisions relating to providing notice that a candidate on a ballot has been disqualified; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

20A-11-204, as last amended by Laws of Utah 2013, Chapters 170 and 420
20A-11-206, as last amended by Laws of Utah 2013, Chapters 170, 252, 317, and 420
20A-11-303, as last amended by Laws of Utah 2013, Chapters 170 and 420
20A-11-305, as last amended by Laws of Utah 2013, Chapters 170, 252, 317, and 420
20A-11-507, as last amended by Laws of Utah 2010, Chapter 389
20A-11-508, as last amended by Laws of Utah 2013, Chapters 252 and 420
20A-11-511, as enacted by Laws of Utah 2011, Chapter 396
20A-11-512, as last amended by Laws of Utah 2013, Chapters 252 and 420
20A-11-602, as last amended by Laws of Utah 2013, Chapter 420
20A-11-603, as last amended by Laws of Utah 2013, Chapters 252 and 420
20A-11-701, as last amended by Laws of Utah 2013, Chapters 318 and 420
20A-11-702, as last amended by Laws of Utah 2013, Chapters 318 and 420
20A-11-802, as last amended by Laws of Utah 2013, Chapter 420
20A-11-803, as last amended by Laws of Utah 2013, Chapter 420
20A-11-1303, as last amended by Laws of Utah 2014, Chapter 337
20A-11-1305, as last amended by Laws of Utah 2014, Chapter 337
20A-11-1502, as enacted by Laws of Utah 2010, Chapter 389

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

Section 1. Section 20A-11-204 is amended to read:**20A-11-204. State office candidate and state officeholder -- Financial reporting requirements -- Interim reports.**

(1) (a) As used in this Subsection (1), "campaign account" means a separate campaign account required under Subsection 20A-11-201(1)(a).

(b) Except as provided in Subsection (1)(c), each state office candidate shall file an interim report at the following times in any year in which the candidate has filed a declaration of candidacy for a public office:

- (i) seven days before the candidate's political convention;
- (ii) seven days before the regular primary election date;
- (iii) ~~August 31~~ September 30; and
- (iv) seven days before the regular general election date.

(c) If a state office candidate is a state office candidate seeking appointment for a midterm vacancy, the state office candidate:

- (i) shall file an interim report:

(A) no later than seven days before the day on which the political party of the party for which the state office candidate seeks nomination meets to declare a nominee for the governor to appoint in accordance with Section 20A-1-504; or

(B) if a state office candidate decides to seek the appointment with less than seven days before the party meets, or the political party schedules the meeting to declare a nominee less than seven days before the day of the meeting, no later than 5 p.m. on the last day of business before the day on which the party meets; and

(ii) is not required to file an interim report at the times described in Subsection (1)(b).

(d) Each state office holder who has a campaign account that has not been dissolved under Section 20A-11-205 shall, in an even year, file an interim report at the following times, regardless of whether an election for the state office holder's office is held that year:

- (i) seven days before the political convention for the political party of the state office holder;
- (ii) seven days before the regular primary election date;
- (iii) ~~August 31~~ September 30; and
- (iv) seven days before the regular general election date.

(2) Each interim report shall include the following information:

- (a) the net balance of the last summary report, if any;

(b) a single figure equal to the total amount of receipts reported on all prior interim reports, if any, during the calendar year in which the interim report is due;

(c) a single figure equal to the total amount of expenditures reported on all prior interim reports, if any, filed during the calendar year in which the interim report is due;

(d) a detailed listing of each contribution and public service assistance received since the last summary report that has not been reported in detail on a prior interim report;

(e) for each nonmonetary contribution:

(i) the fair market value of the contribution with that information provided by the contributor; and

(ii) a specific description of the contribution;

(f) a detailed listing of each expenditure made since the last summary report that has not been reported in detail on a prior interim report;

(g) for each nonmonetary expenditure, the fair market value of the expenditure;

(h) a net balance for the year consisting of the net balance from the last summary report, if any, plus all receipts since the last summary report minus all expenditures since the last summary report;

(i) a summary page in the form required by the lieutenant governor that identifies:

(i) beginning balance;

(ii) total contributions during the period since the last statement;

(iii) total contributions to date;

(iv) total expenditures during the period since the last statement; and

(v) total expenditures to date; and

(j) the name of a political action committee for which the state office candidate or state office holder is designated as an officer who has primary decision-making authority under Section 20A-11-601.

(3) (a) For all individual contributions or public service assistance of \$50 or less, a single aggregate figure may be reported without separate detailed listings.

(b) Two or more contributions from the same source that have an aggregate total of more than \$50 may not be reported in the aggregate, but shall be reported separately.

(4) (a) In preparing each interim report, all receipts and expenditures shall be reported as of five days before the required filing date of the report.

(b) Any negotiable instrument or check received by a state office candidate or state office holder more than five days before the required filing date of a report required by this section shall be included in the interim report.

Section 2. Section 20A-11-206 is amended to read:

20A-11-206. State office candidate -- Failure to file reports -- Penalties.

(1) (a) A state office candidate who fails to file a financial statement by the deadline is subject to a fine imposed in accordance with Section 20A-11-1005.

(b) If a state office candidate fails to file an interim report [~~due before the regular primary election, on August 31, or before the regular general election~~] described in Subsections 20A-11-204(1)(b)(ii) through (iv), the lieutenant governor shall, after making a reasonable attempt to discover if the report was timely filed, inform the county clerk and other appropriate election officials that the state office candidate is disqualified.

(c) (i) The vacancy on the ballot resulting from the disqualification may be filled as provided in Section 20A-1-501.

(ii) If a state office candidate is disqualified under Subsection (1)(a), the election official shall:

(A) remove the candidate's name from the ballot; or

(B) if removing the candidate's name from the ballot is not practicable, inform the voters by any practicable method that the candidate has been disqualified and that votes cast for the candidate will not be counted.

(iii) An election official may fulfill the requirement described in Subsection (1)(c)(ii)(B) in relation to an absentee voter, including a military or overseas absentee voter, by including with the absentee ballot a written notice directing the voter to a public website that will inform the voter whether a candidate on the ballot is disqualified.

(d) Notwithstanding Subsections (1)(b) and (1)(c), a state office candidate is not disqualified if:

(i) the candidate timely files the reports required by this section no later than the due date in accordance with Section 20A-11-103;

(ii) the reports are completed, detailing accurately and completely the information required by this part except for inadvertent omissions or insignificant errors or inaccuracies; and

(iii) the omissions, errors, or inaccuracies described in Subsection (1)(d)(ii) are corrected in:

(A) an amended report; or

(B) the next scheduled report.

(2) (a) Within 30 days after a deadline for the filing of a summary report, the lieutenant governor shall review each filed summary report to ensure that:

(i) each state office candidate that is required to file a summary report has filed one; and

(ii) each summary report contains the information required by this part.

(b) If it appears that any state office candidate has failed to file the summary report required by

law, if it appears that a filed summary report does not conform to the law, or if the lieutenant governor has received a written complaint alleging a violation of the law or the falsity of any summary report, the lieutenant governor shall, within five days of discovery of a violation or receipt of a written complaint, notify the state office candidate of the violation or written complaint and direct the state office candidate to file a summary report correcting the problem.

(c) (i) It is unlawful for any state office candidate to fail to file or amend a summary report within seven days after receiving notice from the lieutenant governor under this section.

(ii) Each state office candidate who violates Subsection (2)(c)(i) is guilty of a class B misdemeanor.

(iii) The lieutenant governor shall report all violations of Subsection (2)(c)(i) to the attorney general.

(iv) In addition to the criminal penalty described in Subsection (2)(c)(ii), the lieutenant governor shall impose a civil fine of \$100 against a state office candidate who violates Subsection (2)(c)(i).

Section 3. Section 20A-11-303 is amended to read:

20A-11-303. Legislative office candidate and legislative officeholder -- Financial reporting requirements -- Interim reports.

(1) (a) As used in this Subsection (1), "campaign account" means a separate campaign account required under Subsection 20A-11-301(1)(a)(i).

(b) Except as provided in Subsection (1)(d), each legislative office candidate shall file an interim report at the following times in any year in which the candidate has filed a declaration of candidacy for a public office:

(i) seven days before the candidate's political convention;

(ii) seven days before the regular primary election date;

(iii) ~~August 31~~ September 30; and

(iv) seven days before the regular general election date.

(c) Each legislative office holder who has a campaign account that has not been dissolved under Section 20A-11-304 shall, in an even year, file an interim report at the following times, regardless of whether an election for the legislative office holder's office is held that year:

(i) seven days before the political convention for the political party of the legislative office holder;

(ii) seven days before the regular primary election date for that year;

(iii) ~~August 31~~ September 30; and

(iv) seven days before the regular general election date.

(d) If a legislative office candidate is a legislative office candidate seeking appointment for a midterm vacancy, the legislative office candidate:

(i) shall file an interim report:

(A) no later than seven days before the day on which the political party of the party for which the legislative office candidate seeks nomination meets to declare a nominee for the governor to appoint in accordance with Section 20A-1-503; or

(B) if a legislative office candidate decides to seek the appointment with less than seven days before the party meets, or the political party schedules the meeting to declare a nominee less than seven days before the day of the meeting, no later than 5 p.m. on the last day of business before the day on which the party meets; and

(ii) is not required to file an interim report at the times described in Subsection (1)(b).

(2) Each interim report shall include the following information:

(a) the net balance of the last summary report, if any;

(b) a single figure equal to the total amount of receipts reported on all prior interim reports, if any, during the calendar year in which the interim report is due;

(c) a single figure equal to the total amount of expenditures reported on all prior interim reports, if any, filed during the calendar year in which the interim report is due;

(d) a detailed listing of each contribution and public service assistance received since the last summary report that has not been reported in detail on a prior interim report;

(e) for each nonmonetary contribution:

(i) the fair market value of the contribution with that information provided by the contributor; and

(ii) a specific description of the contribution;

(f) a detailed listing of each expenditure made since the last summary report that has not been reported in detail on a prior interim report;

(g) for each nonmonetary expenditure, the fair market value of the expenditure;

(h) a net balance for the year consisting of the net balance from the last summary report, if any, plus all receipts since the last summary report minus all expenditures since the last summary report;

(i) a summary page in the form required by the lieutenant governor that identifies:

(i) beginning balance;

(ii) total contributions during the period since the last statement;

(iii) total contributions to date;

(iv) total expenditures during the period since the last statement; and

(v) total expenditures to date; and

(j) the name of a political action committee for which the legislative office candidate or legislative office holder is designated as an officer who has primary decision-making authority under Section 20A-11-601.

(3) (a) For all individual contributions or public service assistance of \$50 or less, a single aggregate figure may be reported without separate detailed listings.

(b) Two or more contributions from the same source that have an aggregate total of more than \$50 may not be reported in the aggregate, but shall be reported separately.

(4) (a) In preparing each interim report, all receipts and expenditures shall be reported as of five days before the required filing date of the report.

(b) Any negotiable instrument or check received by a legislative office candidate or legislative office holder more than five days before the required filing date of a report required by this section shall be included in the interim report.

Section 4. Section 20A-11-305 is amended to read:

20A-11-305. Legislative office candidate -- Failure to file report -- Penalties.

(1) (a) A legislative office candidate who fails to file a financial statement by the deadline is subject to a fine imposed in accordance with Section 20A-11-1005.

(b) If a legislative office candidate fails to file an interim report [~~due before the regular primary election, on August 31, or before the regular general election~~] described in Subsections 20A-11-303(1)(b)(ii) through (iv), the lieutenant governor shall, after making a reasonable attempt to discover if the report was timely filed, inform the county clerk and other appropriate election officials that the legislative office candidate is disqualified.

(c) (i) The vacancy on the ballot resulting from the disqualification may be filled as provided in Section 20A-1-501.

(ii) If a legislative office candidate is disqualified under Subsection (1)(a), the election officer shall:

(A) remove the candidate's name from the ballot; or

(B) if removing the candidate's name from the ballot is not practicable, inform the voters by any practicable method that the candidate has been disqualified and that votes cast for the candidate will not be counted.

(d) Notwithstanding Subsections (1)(b) and (1)(c), a legislative office candidate is not disqualified if:

(i) the candidate timely files the reports required by this section no later than the due date in accordance with Section 20A-11-103;

(ii) the reports are completed, detailing accurately and completely the information required

by this part except for inadvertent omissions or insignificant errors or inaccuracies; and

(iii) the omissions, errors, or inaccuracies described in Subsection (1)(d)(ii) are corrected in:

(A) an amended report; or

(B) the next scheduled report.

(2) (a) Within 30 days after a deadline for the filing of a summary report, the lieutenant governor shall review each filed summary report to ensure that:

(i) each legislative office candidate that is required to file a summary report has filed one; and

(ii) each summary report contains the information required by this part.

(b) If it appears that any legislative office candidate has failed to file the summary report required by law, if it appears that a filed summary report does not conform to the law, or if the lieutenant governor has received a written complaint alleging a violation of the law or the falsity of any summary report, the lieutenant governor shall, within five days of discovery of a violation or receipt of a written complaint, notify the legislative office candidate of the violation or written complaint and direct the legislative office candidate to file a summary report correcting the problem.

(c) (i) It is unlawful for any legislative office candidate to fail to file or amend a summary report within seven days after receiving notice from the lieutenant governor under this section.

(ii) Each legislative office candidate who violates Subsection (2)(c)(i) is guilty of a class B misdemeanor.

(iii) The lieutenant governor shall report all violations of Subsection (2)(c)(i) to the attorney general.

(iv) In addition to the criminal penalty described in Subsection (2)(c)(ii), the lieutenant governor shall impose a civil fine of \$100 against a legislative office candidate who violates Subsection (2)(c)(i).

Section 5. Section 20A-11-507 is amended to read:

20A-11-507. Political party financial reporting requirements -- Interim reports.

(1) The party committee of each registered political party shall file an interim report at the following times in any year in which there is a regular general election:

(a) seven days before the registered political party's political convention;

(b) seven days before the regular primary election date;

(c) ~~August 31~~ September 30; and

(d) seven days before the general election date.

(2) Each interim report shall include the following information:

(a) the net balance of the last financial statement, if any;

(b) a single figure equal to the total amount of receipts reported on all prior interim reports, if any, during the calendar year in which the interim report is due;

(c) a single figure equal to the total amount of expenditures reported on all prior interim reports, if any, filed during the calendar year in which the interim report is due;

(d) a detailed listing of each contribution and public service assistance received since the last summary report that has not been reported in detail on a prior interim report;

(e) for each nonmonetary contribution, the fair market value of the contribution;

(f) a detailed listing of each expenditure made since the last summary report that has not been reported in detail on a prior interim report;

(g) for each nonmonetary expenditure, the fair market value of the expenditure;

(h) a net balance for the year consisting of the net balance from the last summary report, if any, plus all receipts since the last summary report minus all expenditures since the last summary report; and

(i) a summary page in the form required by the lieutenant governor that identifies:

(i) beginning balance;

(ii) total contributions during the period since the last statement;

(iii) total contributions to date;

(iv) total expenditures during the period since the last statement; and

(v) total expenditures to date.

(3) (a) For all individual contributions or public service assistance of \$50 or less, a single aggregate figure may be reported without separate detailed listings.

(b) Two or more contributions from the same source that have an aggregate total of more than \$50 may not be reported in the aggregate, but shall be reported separately.

(4) In preparing each interim report, all receipts and expenditures shall be reported as of five days before the required filing date of the report.

Section 6. Section 20A-11-508 is amended to read:

20A-11-508. Political party reporting requirements -- Criminal penalties -- Fines.

(1) (a) Each registered political party that fails to file a financial statement by the deadline is subject to a fine imposed in accordance with Section 20A-11-1005.

(b) Each registered political party that fails to file ~~[the interim reports due before the regular primary election, on August 31, or before the regular general election]~~ an interim report described in Subsections 20A-11-507(1)(b) through (d) is guilty of a class B misdemeanor.

(c) The lieutenant governor shall report all violations of Subsection (1)(b) to the attorney general.

(2) Within 30 days after a deadline for the filing of a summary report required by this part, the lieutenant governor shall review each filed report to ensure that:

(a) each political party that is required to file a report has filed one; and

(b) each report contains the information required by this part.

(3) If it appears that any political party has failed to file a report required by law, if it appears that a filed report does not conform to the law, or if the lieutenant governor has received a written complaint alleging a violation of the law or the falsity of any report, the lieutenant governor shall, within five days of discovery of a violation or receipt of a written complaint, notify the political party of the violation or written complaint and direct the political party to file a summary report correcting the problem.

(4) (a) It is unlawful for any political party to fail to file or amend a summary report within seven days after receiving notice from the lieutenant governor under this section.

(b) Each political party who violates Subsection (4)(a) is guilty of a class B misdemeanor.

(c) The lieutenant governor shall report all violations of Subsection (4)(a) to the attorney general.

(d) In addition to the criminal penalty described in Subsection (4)(b), the lieutenant governor shall impose a civil fine of \$1,000 against a political party that violates Subsection (4)(a).

Section 7. Section 20A-11-511 is amended to read:

20A-11-511. County political party financial reporting requirements -- Interim reports.

(1) (a) A county political party officer of a county political party that has received contributions totaling at least \$750, or disbursed expenditures totaling at least \$50, during a calendar year shall file an interim report at the following times in any year in which there is a regular general election:

(i) seven days before the county political party's convention;

(ii) seven days before the regular primary election date;

(iii) ~~August 31~~ September 30; and

(iv) seven days before the general election date.

(b) A county political party officer need not file an interim report if it received no contributions or made no expenditures during the reporting period.

(2) Each interim report shall include the following information:

(a) the net balance of the last financial statement, if any;

(b) a single figure equal to the total amount of receipts reported on all prior interim reports, if any, during the calendar year in which the interim report is due;

(c) a single figure equal to the total amount of expenditures reported on all prior interim reports, if any, filed during the calendar year in which the interim report is due;

(d) a detailed listing of each contribution and public service assistance received since the last summary report that has not been reported in detail on a prior interim report;

(e) for each nonmonetary contribution, the fair market value of the contribution;

(f) a detailed listing of each expenditure made since the last summary report that has not been reported in detail on a prior interim report;

(g) for each nonmonetary expenditure, the fair market value of the expenditure;

(h) a net balance for the year consisting of the net balance from the last summary report, if any, plus all receipts since the last summary report minus all expenditures since the last summary report; and

(i) a summary page in the form required by the lieutenant governor that identifies:

(i) beginning balance;

(ii) total contributions during the period since the last statement;

(iii) total contributions to date;

(iv) total expenditures during the period since the last statement; and

(v) total expenditures to date.

(3) (a) For all individual contributions or public service assistance of \$50 or less, a single aggregate figure may be reported without separate detailed listings.

(b) Two or more contributions from the same source that have an aggregate total of more than \$50 may not be reported in the aggregate, but shall be reported separately.

(4) In preparing each interim report, all receipts and expenditures shall be reported as of five days before the required filing date of the report.

Section 8. Section 20A-11-512 is amended to read:

20A-11-512. County political party -- Criminal penalties -- Fines.

(1) (a) A county political party that fails to file an interim report that is due seven days before the county political party's convention is subject to a fine imposed in accordance with Section 20A-11-1005.

(b) A county political party that fails to file ~~the interim report due before the regular primary election, on August 31, or before the regular general election~~ an interim report described in Subsections 20A-11-511(1)(a)(ii) through (iv) is subject to a fine of \$1,000, which the chief election officer shall deposit in the General Fund.

(2) Within 30 days after a deadline for the filing of the January 10 statement required by Section 20A-11-510, the lieutenant governor shall review each filed statement to ensure that:

(a) a county political party officer who is required to file a statement has filed one; and

(b) each statement contains the information required by Section 20A-11-510.

(3) If it appears that any county political party officer has failed to file a financial statement, if it appears that a filed financial statement does not conform to the law, or if the lieutenant governor has received a written complaint alleging a violation of the law or the falsity of any financial statement, the lieutenant governor shall, within five days of discovery of a violation or receipt of a written complaint, notify the county political party officer of the violation or written complaint and direct the county political party officer to file a financial statement correcting the problem.

(4) A county political party that fails to file or amend a financial statement within seven days after receiving notice from the lieutenant governor under this section is subject to a fine of \$1,000, which the chief election officer shall deposit in the General Fund.

Section 9. Section 20A-11-602 is amended to read:

20A-11-602. Political action committees -- Financial reporting.

(1) (a) Each registered political action committee that has received contributions totaling at least \$750, or disbursed expenditures totaling at least \$50, during a calendar year shall file a verified financial statement with the lieutenant governor's office:

(i) on January 10, reporting contributions and expenditures as of December 31 of the previous year;

(ii) seven days before the state political convention of each major political party;

(iii) seven days before the regular primary election date;

(iv) on ~~August 31~~ September 30; and

(v) seven days before:

(A) the municipal general election; and

(B) the regular general election date.

(b) The registered political action committee shall report:

(i) a detailed listing of all contributions received and expenditures made since the last statement; and

(ii) for ~~[financial statements filed under]~~ a financial statement described in Subsections (1)(a)(ii) through (iv), all contributions and expenditures as of five days before the required filing date of the financial statement.

(c) The registered political action committee need not file a statement under this section if it received no contributions and made no expenditures during the reporting period.

(2) (a) The verified financial statement shall include:

(i) the name and address of any individual that makes a contribution to the reporting political action committee, and the amount of the contribution;

(ii) the identification of any publicly identified class of individuals that makes a contribution to the reporting political action committee, and the amount of the contribution;

(iii) the name and address of any political action committee, group, or entity that makes a contribution to the reporting political action committee, and the amount of the contribution;

(iv) for each nonmonetary contribution, the fair market value of the contribution;

(v) the name and address of each reporting entity that received an expenditure from the reporting political action committee, and the amount of each expenditure;

(vi) for each nonmonetary expenditure, the fair market value of the expenditure;

(vii) the total amount of contributions received and expenditures disbursed by the reporting political action committee;

(viii) a statement by the political action committee's treasurer or chief financial officer certifying that, to the best of the person's knowledge, the financial report is accurate; and

(ix) a summary page in the form required by the lieutenant governor that identifies:

(A) beginning balance;

(B) total contributions during the period since the last statement;

(C) total contributions to date;

(D) total expenditures during the period since the last statement; and

(E) total expenditures to date.

(b) (i) Contributions received by a political action committee that have a value of \$50 or less need not be reported individually, but shall be listed on the report as an aggregate total.

(ii) Two or more contributions from the same source that have an aggregate total of more than \$50 may not be reported in the aggregate, but shall be reported separately.

(3) A group or entity may not divide or separate into units, sections, or smaller groups for the purpose of avoiding the financial reporting requirements of this chapter, and substance shall prevail over form in determining the scope or size of a political action committee.

(4) (a) As used in this Subsection (4), "received" means:

(i) for a cash contribution, that the cash is given to a political action committee;

(ii) for a contribution that is a negotiable instrument or check, that the negotiable instrument or check is negotiated; and

(iii) for any other type of contribution, that any portion of the contribution's benefit inures to the political action committee.

(b) A political action committee shall report each contribution to the lieutenant governor within 30 days after the contribution is received.

Section 10. Section 20A-11-603 is amended to read:

20A-11-603. Criminal penalties -- Fines.

(1) (a) Each political action committee that fails to file a financial statement by the deadline is subject to a fine imposed in accordance with Section 20A-11-1005.

(b) Each political action committee that fails to file ~~[the] a financial statement [due before the regular primary election, on August 31, before the municipal general election, or before the regular general election]~~ described in Subsections 20A-11-602(1)(a)(iii) through (v) is guilty of a class B misdemeanor.

(c) The lieutenant governor shall report all violations of Subsection (1)(b) to the attorney general.

(2) Within 30 days after a deadline for the filing of the January 10 statement required by this part, the lieutenant governor shall review each filed statement to ensure that:

(a) each political action committee that is required to file a statement has filed one; and

(b) each statement contains the information required by this part.

(3) If it appears that any political action committee has failed to file the January 10 statement, if it appears that a filed statement does not conform to the law, or if the lieutenant governor has received a written complaint alleging a violation of the law or the falsity of any statement, the lieutenant governor shall, within five days of discovery of a violation or receipt of a written complaint, notify the political action committee of the violation or written complaint and direct the political action committee to file a statement correcting the problem.

(4) (a) It is unlawful for any political action committee to fail to file or amend a statement within seven days after receiving notice from the lieutenant governor under this section.

(b) Each political action committee that violates Subsection (4)(a) is guilty of a class B misdemeanor.

(c) The lieutenant governor shall report all violations of Subsection (4)(a) to the attorney general.

(d) In addition to the criminal penalty described in Subsection (4)(b), the lieutenant governor shall impose a civil fine of \$1,000 against a political action committee that violates Subsection (4)(a).

Section 11. Section 20A-11-701 is amended to read:

20A-11-701. Campaign financial reporting by corporations -- Filing requirements -- Statement contents -- Donor reporting and notification required.

(1) (a) Each corporation that has made expenditures for political purposes that total at least \$750 during a calendar year shall file a verified financial statement with the lieutenant governor's office:

(i) on January 10, reporting expenditures as of December 31 of the previous year;

(ii) seven days before the state political convention for each major political party;

(iii) seven days before the regular primary election date;

(iv) on ~~August 31~~ September 30; and

(v) seven days before the regular general election date.

(b) The corporation shall report:

(i) a detailed listing of all expenditures made since the last financial statement;

(ii) for ~~[financial statements filed under]~~ a financial statement described in Subsections (1)(a)(ii) through (v), all expenditures as of five days before the required filing date of the financial statement; and

(iii) whether the corporation, including an officer of the corporation, director of the corporation, or person with at least 10% ownership in the corporation:

(A) has bid since the last financial statement on a contract, as defined in Section 63G-6a-103, in excess of \$100,000;

(B) is currently bidding on a contract, as defined in Section 63G-6a-103, in excess of \$100,000; or

(C) is a party to a contract, as defined in Section 63G-6a-103, in excess of \$100,000.

(c) The corporation need not file a financial statement under this section if the corporation made no expenditures during the reporting period.

(2) The financial statement shall include:

(a) the name and address of each reporting entity that received an expenditure from the corporation, and the amount of each expenditure;

(b) the total amount of expenditures disbursed by the corporation:

(i) since the last financial statement; and

(ii) during the calendar year;

(c) (i) a statement that the corporation did not receive any money from any donor during the calendar year or the previous calendar year that the corporation has not reported in a previous financial statement; or

(ii) a report, described in Subsection (3), of the money received from donors during the calendar year or the previous calendar year that the corporation has not reported in a previous financial statement; and

(d) a statement by the corporation's treasurer or chief financial officer certifying the accuracy of the financial statement.

(3) (a) The report required by Subsection (2)(c)(ii) shall include:

(i) the name and address of each donor;

(ii) the amount of the money received by the corporation from each donor; and

(iii) the date on which the corporation received the money.

(b) A corporation shall report money received from donors in the following order:

(i) first, beginning with the least recent date on which the corporation received money that the corporation has not reported in a previous financial statement, the money received from a donor that:

(A) requests that the corporation use the money to make an expenditure;

(B) gives the money to the corporation in response to a solicitation indicating the corporation's intent to make an expenditure; or

(C) knows that the corporation may use the money to make an expenditure; and

(ii) second, divide the difference between the total amount of expenditures made since the last financial statement and the total amount of money reported under Subsection (3)(b)(i) on a proration basis between all donors that:

(A) are not described in Subsection (3)(b)(i);

(B) gave at least \$50 during the calendar year or previous calendar year; and

(C) have not been reported in a previous financial statement.

(c) If the amount reported under Subsection (3)(b) is less than the total amount of expenditures made since the last financial statement, the financial statement shall contain a statement that the corporation has reported all donors that gave money, and all money received by donors, during

the calendar year or previous calendar year that the corporation has not reported in a previous financial statement.

(d) The corporation shall indicate on the financial statement that the amount attributed to each donor under Subsection (3)(b)(ii) is only an estimate.

(e) (i) For all individual donations of \$50 or less, the corporation may report a single aggregate figure without separate detailed listings.

(ii) The corporation:

(A) may not report in the aggregate two or more donations from the same source that have an aggregate total of more than \$50; and

(B) shall separately report donations described in Subsection (3)(e)(ii)(A).

(4) If a corporation makes expenditures that total at least \$750 during a calendar year, the corporation shall notify a person giving money to the corporation that:

(a) the corporation may use the money to make an expenditure; and

(b) the person's name and address may be disclosed on the corporation's financial statement.

Section 12. Section 20A-11-702 is amended to read:

20A-11-702. Campaign financial reporting of political issues expenditures by corporations -- Financial reporting -- Donor reporting and notification required.

(1) (a) Each corporation that has made political issues expenditures on current or proposed ballot issues that total at least \$750 during a calendar year shall file a verified financial statement with the lieutenant governor's office:

(i) on January 10, reporting expenditures as of December 31 of the previous year;

(ii) seven days before the state political convention of each major political party;

(iii) seven days before the regular primary election date;

(iv) on ~~August 31~~ September 30; and

(v) seven days before the regular general election date.

(b) The corporation shall report:

(i) a detailed listing of all expenditures made since the last financial statement; and

(ii) for ~~financial statements under~~ a financial statement described in Subsections (1)(a)(ii) through (v), expenditures as of five days before the required filing date of the financial statement.

(c) The corporation need not file a statement under this section if it made no expenditures during the reporting period.

(2) That statement shall include:

(a) the name and address of each individual, entity, or group of individuals or entities that received a political issues expenditure of more than \$50 from the corporation, and the amount of each political issues expenditure;

(b) the total amount of political issues expenditures disbursed by the corporation:

(i) since the last financial statement; and

(ii) during the calendar year;

(c) (i) a statement that the corporation did not receive any money from any donor during the calendar year or the previous calendar year that the corporation has not reported in a previous financial statement; or

(ii) a report, described in Subsection (3), of the money received from donors during the calendar year or the previous calendar year that the corporation has not reported in a previous financial statement; and

(d) a statement by the corporation's treasurer or chief financial officer certifying the accuracy of the verified financial statement.

(3) (a) The report required by Subsection (2)(c)(ii) shall include:

(i) the name and address of each donor;

(ii) the amount of the money received by the corporation from each donor; and

(iii) the date on which the corporation received the money.

(b) A corporation shall report money received from donors in the following order:

(i) first, beginning with the least recent date on which the corporation received money that has not been reported in a previous financial statement, the money received from a donor that:

(A) requests that the corporation use the money to make a political issues expenditure;

(B) gives the money to the corporation in response to a solicitation indicating the corporation's intent to make a political issues expenditure; or

(C) knows that the corporation may use the money to make a political issues expenditure; and

(ii) second, divide the difference between the total amount of political issues expenditures made since the last financial statement and the total amount of money reported under Subsection (3)(b)(i) on a proration basis between all donors that:

(A) are not described in Subsection (3)(b)(i);

(B) gave at least \$50 during the calendar year or previous calendar year; and

(C) have not been reported in a previous financial statement.

(c) If the amount reported under Subsection (3)(b) is less than the total amount of political issues expenditures made since the last financial statement, the financial statement shall contain a

statement that the corporation has reported all donors that gave money, and all money received by donors, during the calendar year or previous calendar year that the corporation has not reported in a previous financial statement.

(d) The corporation shall indicate on the financial statement that the amount attributed to each donor under Subsection (3)(b)(ii) is only an estimate.

(e) (i) For all individual donations of \$50 or less, the corporation may report a single aggregate figure without separate detailed listings.

(ii) The corporation:

(A) may not report in the aggregate two or more donations from the same source that have an aggregate total of more than \$50; and

(B) shall separately report donations described in Subsection (3)(e)(ii)(A).

(4) If a corporation makes political issues expenditures that total at least \$750 during a calendar year, the corporation shall notify a person giving money to the corporation that:

(a) the corporation may use the money to make a political issues expenditure; and

(b) the person's name and address may be disclosed on the corporation's financial statement.

Section 13. Section 20A-11-802 is amended to read:

20A-11-802. Political issues committees -- Financial reporting.

(1) (a) Each registered political issues committee that has received political issues contributions totaling at least \$750, or disbursed political issues expenditures totaling at least \$50, during a calendar year, shall file a verified financial statement with the lieutenant governor's office:

(i) on January 10, reporting contributions and expenditures as of December 31 of the previous year;

(ii) seven days before the state political convention of each major political party;

(iii) seven days before the regular primary election date;

(iv) seven days before the date of an incorporation election, if the political issues committee has received donations or made disbursements to affect an incorporation;

(v) at least three days before the first public hearing held as required by Section 20A-7-204.1;

(vi) if the political issues committee has received or expended funds in relation to an initiative or referendum, at the time the initiative or referendum sponsors submit:

(A) the verified and certified initiative packets as required by Section 20A-7-206; or

(B) the signed and verified referendum packets as required by Section 20A-7-306;

(vii) on ~~August 31~~ September 30; and

(viii) seven days before:

(A) the municipal general election; and

(B) the regular general election.

(b) The political issues committee shall report:

(i) a detailed listing of all contributions received and expenditures made since the last statement; and

(ii) all contributions and expenditures as of five days before the required filing date of the financial statement, except for a financial statement filed on January 10.

(c) The political issues committee need not file a statement under this section if it received no contributions and made no expenditures during the reporting period.

(2) (a) That statement shall include:

(i) the name and address of any individual that makes a political issues contribution to the reporting political issues committee, and the amount of the political issues contribution;

(ii) the identification of any publicly identified class of individuals that makes a political issues contribution to the reporting political issues committee, and the amount of the political issues contribution;

(iii) the name and address of any political issues committee, group, or entity that makes a political issues contribution to the reporting political issues committee, and the amount of the political issues contribution;

(iv) the name and address of each reporting entity that makes a political issues contribution to the reporting political issues committee, and the amount of the political issues contribution;

(v) for each nonmonetary contribution, the fair market value of the contribution;

(vi) except as provided in Subsection (2)(c), the name and address of each individual, entity, or group of individuals or entities that received a political issues expenditure of more than \$50 from the reporting political issues committee, and the amount of each political issues expenditure;

(vii) for each nonmonetary expenditure, the fair market value of the expenditure;

(viii) the total amount of political issues contributions received and political issues expenditures disbursed by the reporting political issues committee;

(ix) a statement by the political issues committee's treasurer or chief financial officer certifying that, to the best of the person's knowledge, the financial statement is accurate; and

(x) a summary page in the form required by the lieutenant governor that identifies:

(A) beginning balance;

(B) total contributions during the period since the last statement;

- (C) total contributions to date;
- (D) total expenditures during the period since the last statement; and
- (E) total expenditures to date.

(b) (i) Political issues contributions received by a political issues committee that have a value of \$50 or less need not be reported individually, but shall be listed on the report as an aggregate total.

(ii) Two or more political issues contributions from the same source that have an aggregate total of more than \$50 may not be reported in the aggregate, but shall be reported separately.

(c) When reporting political issue expenditures made to circulators of initiative petitions, the political issues committee:

- (i) need only report the amount paid to each initiative petition circulator; and
- (ii) need not report the name or address of the circulator.

(3) (a) As used in this Subsection (3), "received" means:

- (i) for a cash contribution, that the cash is given to a political issues committee;
- (ii) for a contribution that is a negotiable instrument or check, that the negotiable instrument or check is negotiated; and
- (iii) for any other type of contribution, that any portion of the contribution's benefit inures to the political issues committee.

(b) A political issues committee shall report each contribution to the lieutenant governor within 30 days after the contribution is received.

Section 14. Section 20A-11-803 is amended to read:

20A-11-803. Criminal penalties.

(1) (a) Each political issues committee that fails to file [the] a financial statement [~~due August 31, before the municipal general election, or before the regular general election~~] described in Subsection 20A-11-802(1)(a)(vii) or (viii) is guilty of a class B misdemeanor.

(b) The lieutenant governor shall report all violations of Subsection (1)(a) to the attorney general.

(2) Within 30 days after a deadline for the filing of the January 10 statement, the lieutenant governor shall review each filed statement to ensure that:

- (a) each political issues committee that is required to file a statement has filed one; and
- (b) each statement contains the information required by this part.

(3) If it appears that any political issues committee has failed to file the January 10 statement, if it appears that a filed statement does not conform to the law, or if the lieutenant governor has received a written complaint alleging a

violation of the law or the falsity of any statement, the lieutenant governor shall, within five days of discovery of a violation or receipt of a written complaint, notify the political issues committee of the violation or written complaint and direct the political issues committee to file a statement correcting the problem.

(4) (a) It is unlawful for any political issues committee to fail to file or amend a statement within seven days after receiving notice from the lieutenant governor under this section.

(b) Each political issues committee who violates Subsection (4)(a) is guilty of a class B misdemeanor.

(c) The lieutenant governor shall report all violations of Subsection (4)(a) to the attorney general.

(d) In addition to the criminal penalty described in Subsection (4)(b), the lieutenant governor shall impose a civil fine of \$1,000 against a political issues committee that violates Subsection (4)(a).

Section 15. Section 20A-11-1303 is amended to read:

20A-11-1303. School board office candidate and school board officeholder -- Financial reporting requirements -- Interim reports.

(1) (a) As used in this Subsection (1), "campaign account" means a separate campaign account required under Subsection 20A-11-1301(1)(a)(i).

(b) Each school board office candidate shall file an interim report at the following times in any year in which the candidate has filed a declaration of candidacy for a public office:

- (i) May 15;
- (ii) seven days before the regular primary election date;
- (iii) ~~August 31~~ September 30; and
- (iv) seven days before the regular general election date.

(c) Each school board office holder who has a campaign account that has not been dissolved under Section 20A-11-1304 shall, in an even year, file an interim report at the following times, regardless of whether an election for the school board office holder's office is held that year:

- (i) May 15;
- (ii) seven days before the regular primary election date for that year;
- (iii) ~~August 31~~ September 30; and
- (iv) seven days before the regular general election date.

(2) Each interim report shall include the following information:

- (a) the net balance of the last summary report, if any;
- (b) a single figure equal to the total amount of receipts reported on all prior interim reports, if any,

during the calendar year in which the interim report is due;

(c) a single figure equal to the total amount of expenditures reported on all prior interim reports, if any, filed during the calendar year in which the interim report is due;

(d) a detailed listing of each contribution and public service assistance received since the last summary report that has not been reported in detail on a prior interim report;

(e) for each nonmonetary contribution:

(i) the fair market value of the contribution with that information provided by the contributor; and

(ii) a specific description of the contribution;

(f) a detailed listing of each expenditure made since the last summary report that has not been reported in detail on a prior interim report;

(g) for each nonmonetary expenditure, the fair market value of the expenditure;

(h) a net balance for the year consisting of the net balance from the last summary report, if any, plus all receipts since the last summary report minus all expenditures since the last summary report;

(i) a summary page in the form required by the lieutenant governor that identifies:

(i) beginning balance;

(ii) total contributions during the period since the last statement;

(iii) total contributions to date;

(iv) total expenditures during the period since the last statement; and

(v) total expenditures to date; and

(j) the name of a political action committee for which the school board office candidate or school board office holder is designated as an officer who has primary decision-making authority under Section 20A-11-601.

(3) (a) For all individual contributions or public service assistance of \$50 or less, a single aggregate figure may be reported without separate detailed listings.

(b) Two or more contributions from the same source that have an aggregate total of more than \$50 may not be reported in the aggregate, but shall be reported separately.

(4) (a) In preparing each interim report, all receipts and expenditures shall be reported as of five days before the required filing date of the report.

(b) Any negotiable instrument or check received by a school board office candidate or school board office holder more than five days before the required filing date of a report required by this section shall be included in the interim report.

Section 16. Section 20A-11-1305 is amended to read:

20A-11-1305. School board office candidate -- Failure to file statement -- Penalties.

(1) (a) A school board office candidate who fails to file a financial statement by the deadline is subject to a fine imposed in accordance with Section 20A-11-1005.

(b) If a school board office candidate fails to file an interim report [~~due before the regular primary election, on August 31, or before the regular general election~~] described in Subsections 20A-11-1303(1)(b)(ii) through (iv), the chief election officer shall, after making a reasonable attempt to discover if the report was timely filed, inform the county clerk and other appropriate election officials who:

(i) (A) shall, if practicable, remove the name of the candidate from the ballots before the ballots are delivered to voters; or

(B) shall, if removing the candidate's name from the ballot is not practicable, inform the voters by any practicable method that the candidate has been disqualified and that votes cast for the candidate will not be counted; and

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

(c) Any school board office candidate who fails to file timely a financial statement required by Subsection 20A-11-1303(1)(b)(ii), (iii), or (iv) is disqualified.

(d) Notwithstanding Subsections (1)(b) and (1)(c), a school board office candidate is not disqualified and the chief election officer may not impose a fine if:

(i) the candidate timely files the reports required by this section in accordance with Section 20A-11-103;

(ii) those reports are completed, detailing accurately and completely the information required by this part except for inadvertent omissions or insignificant errors or inaccuracies; and

(iii) those omissions, errors, or inaccuracies described in Subsection (1)(d)(ii) are corrected in:

(A) an amended report; or

(B) the next scheduled report.

(2) (a) Within 30 days after a deadline for the filing of a summary report by a school board office candidate, the lieutenant governor shall review each filed summary report to ensure that:

(i) each school board candidate that is required to file a summary report has filed one; and

(ii) each summary report contains the information required by this part.

(b) If it appears that a school board candidate has failed to file the summary report required by law, if it appears that a filed summary report does not conform to the law, or if the lieutenant governor has received a written complaint alleging a violation of

the law or the falsity of any summary report, the lieutenant governor shall, within five days of discovery of a violation or receipt of a written complaint, notify the school board candidate of the violation or written complaint and direct the school board candidate to file a summary report correcting the problem.

(c) (i) It is unlawful for a school board candidate to fail to file or amend a summary report within seven days after receiving notice from the lieutenant governor under this section.

(ii) Each school board candidate who violates Subsection (2)(c)(i) is guilty of a class B misdemeanor.

(iii) The lieutenant governor shall report all violations of Subsection (2)(c)(i) to the attorney general.

(iv) In addition to the criminal penalty described in Subsection (2)(c)(ii), the lieutenant governor shall impose a civil fine of \$100 against a school board candidate who violates Subsection (2)(c)(i).

Section 17. Section 20A-11-1502 is amended to read:

20A-11-1502. Campaign financial reporting of contributions -- Filing requirements -- Statement contents.

(1) (a) Each labor organization that has made expenditures for political purposes or political issues expenditures on current or proposed ballot issues that total at least \$750 during a calendar year shall file a verified financial statement with the lieutenant governor's office:

(i) on January 10, reporting expenditures as of December 31 of the previous year;

(ii) seven days before the regular primary election date;

(iii) on ~~August 31~~ September 30; and

(iv) seven days before the regular general election date.

(b) The labor organization shall report:

(i) a detailed listing of all expenditures made since the last statement; and

(ii) for ~~[financial statements filed under]~~ a financial statement described in Subsections (1)(a)(ii) through (iv), all expenditures as of five days before the required filing date of the financial statement.

(c) The labor organization need not file a financial statement under this section if the labor organization:

(i) made no expenditures during the reporting period; or

(ii) reports its expenditures during the reporting period under another part of this chapter.

(2) The financial statement shall include:

(a) the name and address of each reporting entity that received an expenditure or political issues

expenditure of more than \$50 from the labor organization, and the amount of each expenditure or political issues expenditure;

(b) the total amount of expenditures disbursed by the labor organization; and

(c) a statement by the labor organization's treasurer or chief financial officer certifying the accuracy of the financial statement.

CHAPTER 205**H. B. 127**

Passed March 6, 2015
 Approved March 26, 2015
 Effective May 12, 2015

LOCAL LAND USE AMENDMENTS

Chief Sponsor: Jeremy A. Peterson
 Senate Sponsor: Curtis S. Bramble

LONG TITLE**General Description:**

This bill amends land use provisions in the municipal, county, and State Construction Code.

Highlighted Provisions:

This bill:

- ▶ defines “rental dwelling”;
- ▶ prohibits, with certain exceptions, a municipality or county from requiring physical changes to a legal nonconforming rental dwelling use;
- ▶ prohibits a municipality or county from requiring physical changes to install an egress or emergency escape window in certain circumstances; and
- ▶ amends bedroom window egress provisions in the State Construction Code.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

10-9a-511, as last amended by Laws of Utah 2012, Chapter 289
 15A-3-202, as last amended by Laws of Utah 2013, Chapter 297

ENACTS:

10-9a-511.5, Utah Code Annotated 1953
 17-27a-510.5, Utah Code Annotated 1953

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

Section 1. Section 10-9a-511 is amended to read:**10-9a-511. Nonconforming uses and nonconforming structures.**

(1) (a) Except as provided in this section, a nonconforming use or noncomplying structure may be continued by the present or a future property owner.

(b) A nonconforming use may be extended through the same building, provided no structural alteration of the building is proposed or made for the purpose of the extension.

(c) For purposes of this Subsection (1), the addition of a solar energy device to a building is not a structural alteration.

(2) The legislative body may provide for:

(a) the establishment, restoration, reconstruction, extension, alteration, expansion, or substitution of nonconforming uses upon the terms and conditions set forth in the land use ordinance;

(b) the termination of all nonconforming uses, except billboards, by providing a formula establishing a reasonable time period during which the owner can recover or amortize the amount of his investment in the nonconforming use, if any; and

(c) the termination of a nonconforming use due to its abandonment.

(3) (a) A municipality may not prohibit the reconstruction or restoration of a noncomplying structure or terminate the nonconforming use of a structure that is involuntarily destroyed in whole or in part due to fire or other calamity unless the structure or use has been abandoned.

(b) A municipality may prohibit the reconstruction or restoration of a noncomplying structure or terminate the nonconforming use of a structure if:

(i) the structure is allowed to deteriorate to a condition that the structure is rendered uninhabitable and is not repaired or restored within six months after written notice to the property owner that the structure is uninhabitable and that the noncomplying structure or nonconforming use will be lost if the structure is not repaired or restored within six months; or

(ii) the property owner has voluntarily demolished a majority of the noncomplying structure or the building that houses the nonconforming use.

(c) (i) Notwithstanding a prohibition in its zoning ordinance, a municipality may permit a billboard owner to relocate the billboard within the municipality's boundaries to a location that is mutually acceptable to the municipality and the billboard owner.

(ii) If the municipality and billboard owner cannot agree to a mutually acceptable location within 90 days after the owner submits a written request to relocate the billboard, the provisions of Subsection 10-9a-513(2)(a)(iv) apply.

(4) (a) Unless the municipality establishes, by ordinance, a uniform presumption of legal existence for nonconforming uses, the property owner shall have the burden of establishing the legal existence of a noncomplying structure or nonconforming use.

(b) Any party claiming that a nonconforming use has been abandoned shall have the burden of establishing the abandonment.

(c) Abandonment may be presumed to have occurred if:

(i) a majority of the primary structure associated with the nonconforming use has been voluntarily demolished without prior written agreement with the municipality regarding an extension of the nonconforming use;

(ii) the use has been discontinued for a minimum of one year; or

(iii) the primary structure associated with the nonconforming use remains vacant for a period of one year.

(d) The property owner may rebut the presumption of abandonment under Subsection (4)(c), and shall have the burden of establishing that any claimed abandonment under Subsection (4)(b) has not in fact occurred.

(5) A municipality may terminate the nonconforming status of a school district or charter school use or structure when the property associated with the school district or charter school use or structure ceases to be used for school district or charter school purposes for a period established by ordinance.

~~[(6) A municipal ordinance adopted under Section 10-1-203.5 may not:]~~

~~[(a) require physical changes in a structure with a legal nonconforming rental housing use unless the change is for:]~~

~~[(i) the reasonable installation of:]~~

~~[(A) a smoke detector that is plugged in or battery operated;]~~

~~[(B) a ground fault circuit interrupter protected outlet on existing wiring;]~~

~~[(C) street addressing;]~~

~~[(D) except as provided in Subsection (7), an egress bedroom window if the existing bedroom window is smaller than that required by current state building code;]~~

~~[(E) an electrical system or a plumbing system, if the existing system is not functioning or is unsafe as determined by an independent electrical or plumbing professional who is licensed in accordance with Title 58, Occupations and Professions;]~~

~~[(F) hand or guard rails; or]~~

~~[(G) occupancy separation doors as required by the International Residential Code; or]~~

~~[(ii) the abatement of a structure; or]~~

~~[(b) be enforced to terminate a legal nonconforming rental housing use.]~~

~~[(7) A municipality may not require a change described in Subsection (6)(a)(i)(D) if the change:]~~

~~[(a) would compromise the structural integrity of a building; or]~~

~~[(b) could not be completed in accordance with current building codes, including set-back and window well requirements.]~~

~~[(8) A legal nonconforming rental housing use may not be terminated under Section 10-1-203.5.]~~

Section 2. Section 10-9a-511.5 is enacted to read:

10-9a-511.5. Changes to dwellings -- Egress windows.

(1) For purposes of this section, "rental dwelling" means the same as that term is defined in Section 10-8-85.5.

(2) A municipal ordinance adopted under Section 10-1-203.5 may not:

(a) require physical changes in a structure with a legal nonconforming rental dwelling use unless the change is for:

(i) the reasonable installation of:

(A) a smoke detector that is plugged in or battery operated;

(B) a ground fault circuit interrupter protected outlet on existing wiring;

(C) street addressing;

(D) except as provided in Subsection (3), an egress bedroom window if the existing bedroom window is smaller than that required by current State Construction Code;

(E) an electrical system or a plumbing system, if the existing system is not functioning or is unsafe as determined by an independent electrical or plumbing professional who is licensed in accordance with Title 58, Occupations and Professions;

(F) hand or guard rails; or

(G) occupancy separation doors as required by the International Residential Code; or

(ii) the abatement of a structure; or

(b) be enforced to terminate a legal nonconforming rental dwelling use.

(3) A municipality may not require physical changes to install an egress or emergency escape window in an existing bedroom that complied with the State Construction Code in effect at the time the bedroom was finished if:

(a) the dwelling is an owner-occupied dwelling or a rental dwelling that is:

(i) a detached one-, two-, three-, or four-family dwelling; or

(ii) a town home that is not more than three stories above grade with a separate means of egress; and

(b) (i) the window in the existing bedroom is smaller than that required by current State Construction Code; and

(ii) the change would compromise the structural integrity of the structure or could not be completed in accordance with current State Construction Code, including set-back and window well requirements.

(4) Nothing in this section prohibits a municipality from:

(a) regulating the style of window that is required or allowed in a bedroom;

(b) requiring that a window in an existing bedroom be fully openable if the openable area is

less than required by current State Construction Code; or

(c) requiring that an existing window not be reduced in size if the openable area is smaller than required by current State Construction Code.

Section 3. Section 15A-3-202 is amended to read:

15A-3-202. Amendments to Chapters 1 through 5 of IRC.

(1) In IRC, Section R102, a new Section R102.7.2 is added as follows: “R102.7.2 Physical change for bedroom window egress [~~in legal nonconforming rental housing use~~]. A structure [~~classified as a legal nonconforming rental housing use,~~] whose egress [~~bedroom~~] window in an existing bedroom is smaller than required by this code, and that complied with the construction code in effect at the time that the bedroom was finished, is not required to undergo a physical change to conform to this code if the change would compromise the structural integrity of the [~~building~~] structure or could not be completed in accordance with other applicable requirements of this code, including setback and window well requirements.”

(2) In IRC, Section 109:

(a) A new IRC, Section 109.1.5, is added as follows: “R109.1.5 Weather-resistant exterior wall envelope inspections. An inspection shall be made of the weather-resistant exterior wall envelope as required by Section R703.1 and flashings as required by Section R703.8 to prevent water from entering the weather-resistive barrier.”

(b) The remaining sections are renumbered as follows: R109.1.6 Other inspections; R109.1.6.1 Fire- and smoke-resistance-rated construction inspection; R109.1.6.2 Reinforced masonry, insulating concrete form (ICF) and conventionally formed concrete wall inspection; and R109.1.7 Final inspection.

(3) IRC, Section R114.1, is deleted and replaced with the following: “R114.1 Notice to owner. Upon notice from the building official that work on any building or structure is being prosecuted contrary to the provisions of this code or other pertinent laws or ordinances or in an unsafe and dangerous manner, such work shall be immediately stopped. The stop work order shall be in writing and shall be given to the owner of the property involved, or to the owner’s agent or to the person doing the work; and shall state the conditions under which work will be permitted to resume.”

(4) In IRC, Section R202, the following definition is added: “CERTIFIED BACKFLOW PREVENTER ASSEMBLY TESTER: A person who has shown competence to test Backflow prevention assemblies to the satisfaction of the authority having jurisdiction under Utah Code, Subsection 19-4-104(4).”

(5) In IRC, Section R202, the definition for “CONDITIONED SPACE” is modified by deleting the words at the end of the sentence “being heated or cooled by any equipment or appliance” and

replacing them with the following: “enclosed within the building thermal envelope that is directly heated or cooled, or indirectly heated or cooled by any of the following means:1. Openings directly into an adjacent conditioned space.2. An un-insulated floor, ceiling or wall adjacent to a conditioned space.3. Un-insulated duct, piping or other heat or cooling source within the space.”

(6) In IRC, Section R202, the definition of “Cross Connection” is deleted and replaced with the following: “CROSS CONNECTION. Any physical connection or potential connection or arrangement between two otherwise separate piping systems, one of which contains potable water and the other either water of unknown or questionable safety or steam, gas, or chemical, whereby there exists the possibility for flow from one system to the other, with the direction of flow depending on the pressure differential between the two systems (see “Backflow, Water Distribution”).”

(7) In IRC, Section 202, in the definition for gray water a comma is inserted after the word “washers”; the word “and” is deleted; and the following is added to the end: “and clear water wastes which have a pH of 6.0 to 9.0; are non-flammable; non-combustible; without objectionable odors; non-highly pigmented; and will not interfere with the operation of the sewer treatment facility.”

(8) In IRC, Section R202, the definition of “Potable Water” is deleted and replaced with the following: “POTABLE WATER. Water free from impurities present in amounts sufficient to cause disease or harmful physiological effects and conforming to the Utah Code, Title 19, Chapters 4, Safe Drinking Water Act, and 5, Water Quality Act, and the regulations of the public health authority having jurisdiction.”

(9) IRC, Figure R301.2(5), is deleted and replaced with Table R301.2(5a) and Table R301.2(5b) as follows:

“TABLE NO. R301.2(5a)
STATE OF UTAH - REGIONAL
SNOW LOAD FACTORS

COUNTY	P _o	S	A _o
Beaver	43	63	6.2
Box Elder	43	63	5.2
Cache	50	63	4.5
Carbon	43	63	5.2
Daggett	43	63	6.5
Davis	43	63	4.5
Duchesne	43	63	6.5
Emery	43	63	6.0
Garfield	43	63	6.0
Grand	36	63	6.5
Iron	43	63	5.8
Juab	43	63	5.2
Kane	36	63	5.7
Millard	43	63	5.3
Morgan	57	63	4.5
Piute	43	63	6.2
Rich	57	63	4.1
Salt Lake	43	63	4.5
San Juan	43	63	6.5
Sanpete	43	63	5.2
Sevier	43	63	6.0
Summit	86	63	5.0
Tooele	43	63	4.5

Uintah	43	63	7.0
Utah	43	63	4.5
Wasatch	86	63	5.0
Washington	29	63	6.0
Wayne	36	63	6.5
Weber	43	63	4.5

“TABLE NO. R301.2(5b)
 REQUIRED SNOW LOADS FOR SELECTED UTAH CITIES AND TOWNS^{1,2}

The following jurisdictions require design snow load values that differ from the Equation in the Utah Snow Load Study.

County	City	Elevation	Ground Snow Load (psf)	Roof Snow Load (psf) ⁶
Carbon	Price ³	5550	43	30
	All other county locations ⁵	--	--	—
Davis	Fruit Heights ³	4500 - 4850	57	40
Emery	Green River ³	4070	36	25
Garfield	Panguitch ³	6600	43	30
Rich	Woodruff ³	6315	57	40
	Laketown ⁴	6000	57	40
	Garden City ⁵	—	—	--
	Randolph ⁴	6300	57	40
San Juan	Monticello ³	6820	50	35
Summit	Coalville ³	5600	86	60
	Kamas ⁴	6500	114	80
Tooele	Tooele ³	5100	43	30
Utah	Orem ³	4650	43	30
	Pleasant Grove ⁴	5000	43	30
	Provo ⁵	--	--	—
Wasatch	Heber ⁵	—	—	—
Washington	Leeds ³	3460	29	20
	Santa Clara ³	2850	21	15
	St. George ³	2750	21	15
	All other county locations ⁵	--	--	—
Wayne	Loa ³	7080	43	30

¹The IBC requires a minimum live load - See 301.6.

²This table is informational only in that actual site elevations may vary. Table is only valid if site elevation is within 100 feet of the listed elevation. Otherwise, contact the local Building Official.

³Values adopted from Table VII of the Utah Snow Load Study.

⁴Values based on site-specific study. Contact local Building Official for additional information.

⁵Contact local Building Official.

⁶Based on $C_e = 1.0$, $C_t = 1.0$ and $I_s = 1.0$

(10) IRC, Section R301.6, is deleted and replaced with the following: “R301.6 Utah Snow Loads. The snow loads specified in Table R301.2(5b) shall be used for the jurisdictions identified in that table. Otherwise, the ground snow load, P_g , to be used in the determination of design snow loads for buildings and other structures shall be determined by using the following formula: $P_g = (P_o2 + S2(A-A_o)2)0.5$ for A greater than A_o , and $P_g = P_o$ for A less than or equal to A_o .”

WHERE:

P_g = Ground snow load at a given elevation (psf);

P_o = Base ground snow load (psf) from Table No. R301.2(5a);

S = Change in ground snow load with elevation (psf/100 ft.). From Table No. R301.2(5a);

A = Elevation above sea level at the site (ft./1,000);

A_o = Base ground snow elevation from Table R301.2(5a) (ft./1,000).

The building official may round the roof snow load to the nearest 5 psf. The ground snow load, P_g , may be adjusted by the building official when a licensed engineer or architect submits data substantiating the adjustments.

Where the minimum roof live load in accordance with Table R301.6 is greater than the design roof snow load, such roof live load shall be used for design, however, it shall not be reduced to a load lower than the design roof snow load. Drifting need not be considered for roof snow loads less than 20 psf.”

(11) In IRC, Section R302.2, the words “Exception: A” are deleted and replaced with the following:”

Exceptions:

1. A common 2-hour fire-resistance-rated wall is permitted for townhouses if such walls do not contain plumbing or mechanical equipment, ducts or vents in the cavity of the common wall. Electrical installation shall be installed in accordance with Chapters 34 through 43. Penetrations of electrical outlet boxes shall be in accordance with Section R302.4.

2. In buildings equipped with an automatic residential fire sprinkler system, a”.

(12) In IRC, Section R302.2.4, a new exception 6 is added as follows: “6. Townhouses separated by a common 2-hour fire-resistance-rated wall as provided in Section R302.2.”

(13) In IRC, Section R302.5.1, the words “self-closing device” are deleted and replaced with “self-latching hardware”.

(14) In IRC, Section R303.4, the number “5” is changed to “3” in the first sentence.

(15) IRC, Sections R311.7.4 through R311.7.4.3, are deleted and replaced with the following: “R311.7.4 Stair treads and risers. R311.7.4.1 Riser height. The maximum riser height shall be 8 inches

(203 mm). The riser shall be measured vertically between leading edges of the adjacent treads. The greatest riser height within any flight of stairs shall not exceed the smallest by more than 3/8 inch (9.5 mm).

R311.7.4.2 Tread depth. The minimum tread depth shall be 9 inches (228 mm). The tread depth shall be measured horizontally between the vertical planes of the foremost projection of adjacent treads and at a right angle to the tread’s leading edge. The greatest tread depth within any flight of stairs shall not exceed the smallest by more than 3/8 inch (9.5 mm). Winder treads shall have a minimum tread depth of 10 inches (254 mm) measured as above at a point 12 inches (305 mm) from the side where the treads are narrower. Winder treads shall have a minimum tread depth of 6 inches (152 mm) at any point. Within any flight of stairs, the greatest winder tread depth at the 12-inch (305 mm) walk line shall not exceed the smallest by more than 3/8 inch (9.5 mm).

R311.7.4.3 Profile. The radius of curvature at the leading edge of the tread shall be no greater than 9/16 inch (14.3 mm). A nosing not less than 3/4 inch (19 mm) but not more than 1 1/4 inches (32 mm) shall be provided on stairways with solid risers. The greatest nosing projection shall not exceed the smallest nosing projection by more than 3/8 inch (9.5 mm) between two stories, including the nosing at the level of floors and landings. Beveling of nosing shall not exceed 1/2 inch (12.7 mm). Risers shall be vertical or sloped from the underside of the leading edge of the tread above at an angle not more than 30 degrees (0.51 rad) from the vertical. Open risers are permitted, provided that the opening between treads does not permit the passage of a 4-inch diameter (102 mm) sphere.

Exceptions.

1. A nosing is not required where the tread depth is a minimum of 10 inches (254 mm).

2. The opening between adjacent treads is not limited on stairs with a total rise of 30 inches (762 mm) or less.”

(16) In IRC, Section R312.1.2, the words “adjacent fixed seating” are deleted.

(17) IRC, Section R312.2, is deleted.

(18) IRC, Sections R313.1 through R313.2.1, are deleted and replaced with the following: “R313.1 Design and installation. When installed, automatic residential fire sprinkler systems for townhouses or one- and two-family dwellings shall be designed and installed in accordance with Section P2904.”

(19) A new IRC, Section R315.5, is added as follows: “R315.5 Power source. Carbon monoxide alarms shall receive their primary power from the building wiring when such wiring is served from a commercial source, and when primary power is interrupted, shall receive power from a battery. Wiring shall be permanent and without a disconnecting switch other than those required for over-current protection.

Exceptions:

1. Carbon monoxide alarms shall be permitted to be battery operated when installed in buildings without commercial power.

2. Hard wiring of carbon monoxide alarms in existing areas shall not be required where the alterations or repairs do not result in the removal of interior wall or ceiling finishes exposing the structure, unless there is an attic, crawl space or basement available which could provide access for hard wiring, without the removal of interior finishes.”

(20) A new IRC, Section R315.6, is added as follows: “R315.6 Interconnection. Where more than one carbon monoxide alarm is required to be installed within an individual dwelling unit in accordance with Section R315.1, the alarm devices shall be interconnected in such a manner that the actuation of one alarm will activate all of the alarms in the individual unit. Physical interconnection of smoke alarms shall not be required where listed wireless alarms are installed and all alarms sound upon activation of one alarm.

Exception: Interconnection of carbon monoxide alarms in existing areas shall not be required where alterations or repairs do not result in removal of interior wall or ceiling finishes exposing the structure, unless there is an attic, crawl space or basement available which could provide access for interconnection without the removal of interior finishes.”

(21) In IRC, Section R403.1.6, a new Exception 4 is added as follows: “4. When anchor bolt spacing does not exceed 32 inches (813 mm) apart, anchor bolts may be placed with a minimum of two bolts per plate section located not less than 4 inches (102 mm) from each end of each plate section at interior bearing walls, interior braced wall lines, and at all exterior walls.”

(22) In IRC, Section R403.1.6.1, a new exception is added at the end of Item 2 and Item 3 as follows: “Exception: When anchor bolt spacing does not exceed 32 inches (816 mm) apart, anchor bolts may be placed with a minimum of two bolts per plate section located not less than 4 inches (102 mm) from each end of each plate section at interior bearing walls, interior braced wall lines, and at all exterior walls.”

(23) In IRC, Section R404.1, a new exception is added as follows: “Exception: As an alternative to complying with Sections R404.1 through R404.1.5.3, concrete and masonry foundation walls may be designed in accordance with IBC Sections 1807.1.5 and 1807.1.6 as amended in Section 1807.1.6.4 and Table 1807.1.6.4 under these rules.”

(24) IRC, Section R501.3, is deleted.

Section 4. Section 17-27a-510.5 is enacted to read:

17-27a-510.5. Changes to dwellings -- Egress windows.

(1) For purposes of this section, “rental dwelling” means the same as that term is defined in Section 10-8-85.5.

(2) A county ordinance adopted under Section 10-1-203.5 may not:

(a) require physical changes in a structure with a legal nonconforming rental dwelling use unless the change is for:

(i) the reasonable installation of:

(A) a smoke detector that is plugged in or battery operated;

(B) a ground fault circuit interrupter protected outlet on existing wiring;

(C) street addressing;

(D) except as provided in Subsection (3), an egress bedroom window if the existing bedroom window is smaller than that required by current State Construction Code;

(E) an electrical system or a plumbing system, if the existing system is not functioning or is unsafe as determined by an independent electrical or plumbing professional who is licensed in accordance with Title 58, Occupations and Professions;

(F) hand or guard rails; or

(G) occupancy separation doors as required by the International Residential Code; or

(ii) the abatement of a structure; or

(b) be enforced to terminate a legal nonconforming rental dwelling use.

(3) A county may not require physical changes to install an egress or emergency escape window in an existing bedroom that complied with the State Construction Code in effect at the time the bedroom was finished if:

(a) the dwelling is an owner-occupied dwelling or a rental dwelling that is:

(i) a detached one-, two-, three-, or four-family dwelling; or

(ii) a town home that is not more than three stories above grade with a separate means of egress; and

(b) (i) the window in the existing bedroom is smaller than that required by current State Construction Code; and

(ii) the change would compromise the structural integrity of the structure or could not be completed in accordance with current State Construction Code, including set-back and window well requirements.

(4) Nothing in this section prohibits a county from:

(a) regulating the style of window that is required or allowed in a bedroom;

(b) requiring that a window in an existing bedroom be fully openable if the openable area is less than required by current State Construction Code; or

(c) requiring that an existing window not be reduced in size if the openable area is smaller than required by current State Construction Code.

CHAPTER 206**H. B. 135**

Passed February 20, 2015

Approved March 26, 2015

Effective July 1, 2015

PHARMACY LICENSURE EXEMPTIONS

Chief Sponsor: John R. Westwood

Senate Sponsor: Evan J. Vickers

LONG TITLE**General Description:**

This bill amends the Pharmacy Practice Act.

Highlighted Provisions:

This bill:

- ▶ makes technical amendments to the exemptions from the Pharmacy Practice Act to coordinate the language from three different bills that passed in the 2014 General Session, which:
 - deletes language from the exemptions from licensing for providers who are required to obtain a license as a dispensing medical practitioner; and
 - removes obsolete cross references of code sections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

58-17b-309, as last amended by Laws of Utah 2014, Chapters 72, 191, 385 and last amended by Coordination Clause, Laws of Utah 2014, Chapter 385

58-17b-803, as enacted by Laws of Utah 2014, Chapter 72

58-67-502, as last amended by Laws of Utah 2014, Chapter 72

58-68-502, as last amended by Laws of Utah 2014, Chapter 72

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

Section 1. Section 58-17b-309 is amended to read:**58-17b-309. Exemptions from licensure.**

~~[(1) For purposes of this section:]~~

~~[(a) "Cosmetic drug":]~~

~~[(i) means a prescription drug that is:]~~

~~[(A) for the purpose of promoting attractiveness or altering the appearance of an individual; and]~~

~~[(B) listed as a cosmetic drug subject to the exemption under this section by the division by administrative rule or has been expressly approved for online dispensing, whether or not it is dispensed online or through a physician's office; and]~~

~~[(ii) does not include a prescription drug that is:]~~

~~[(A) a controlled substance;]~~

~~[(B) compounded by the physician; or]~~

~~[(C) prescribed or used for the patient for the purpose of diagnosing, curing, or preventing a disease.]~~

~~[(b) "Injectable weight loss drug":]~~

~~[(i) means an injectable prescription drug:]~~

~~[(A) prescribed to promote weight loss; and]~~

~~[(B) listed as an injectable prescription drug subject to exemption under this section by the division by administrative rule; and]~~

~~[(ii) does not include a prescription drug that is a controlled substance.]~~

~~[(e) "Prescribing practitioner" means an individual licensed under:]~~

~~[(i) Chapter 31b, Nurse Practice Act, as an advanced practice registered nurse with prescriptive practice;]~~

~~[(ii) Chapter 67, Utah Medical Practice Act;]~~

~~[(iii) Chapter 68, Utah Osteopathic Medical Practice Act; or]~~

~~[(iv) Chapter 70a, Physician Assistant Act.]~~

~~[(2) In addition to the exemptions from licensure in [Sections] Section 58-1-307 [and 58-17b-309.5], the following individuals may engage in the acts or practices described in this section without being licensed under this chapter:~~

~~[(a) if the individual is described in Subsections (2)(b), (d), or (e), the individual notifies the division in writing of the individual's intent to dispense a drug under this subsection;]~~

~~[(b) (1) a person selling or providing contact lenses in accordance with Section 58-16a-801; and]~~

~~[(c) an individual engaging in the practice of pharmacy technician under the direct personal supervision of a pharmacist while making satisfactory progress in an approved program as defined in division rule;]~~

~~[(d) a prescribing practitioner who prescribes and dispenses a cosmetic drug or an injectable weight loss drug to the prescribing practitioner's patient in accordance with Subsection (5);]~~

~~[(e) an optometrist, as defined in Section 58-16a-102, acting within the optometrist's scope of practice as defined in Section 58-16a-601, who prescribes and dispenses a cosmetic drug to the optometrist's patient in accordance with Subsection (5); and]~~

~~[(f) (2) an animal shelter that:~~

~~[(i) (a) under the indirect supervision of a veterinarian, stores, handles, or administers a drug used for euthanising an animal; and]~~

~~[(ii) (b) under the indirect supervision of a veterinarian who is under contract with the animal shelter, stores, handles, or administers a rabies vaccine.]~~

~~[(3) In addition to the exemptions from licensure in Section 58-1-307, a person selling or providing contact lenses in accordance with Section 58-16a-801 is exempt from the licensing provisions of this chapter.]~~

~~[(4) In accordance with Subsection 58-1-303(1)(a), an individual exempt under Subsection (2)(c) must take all examinations as required by division rule following completion of an approved curriculum of education, within the required time frame. This exemption expires immediately upon notification of a failing score of an examination, and the individual may not continue working as a pharmacy technician even under direct supervision.]~~

~~[(5) A prescribing practitioner or optometrist is exempt from licensing under the provisions of this part if the prescribing practitioner or optometrist:]~~

~~[(a) (i) writes a prescription for a drug the prescribing practitioner or optometrist has the authority to dispense under Subsection (5)(b); and]~~

~~[(ii) informs the patient;]~~

~~[(A) that the prescription may be filled at a pharmacy or dispensed in the prescribing practitioner's or optometrist's office;]~~

~~[(B) of the directions for appropriate use of the drug;]~~

~~[(C) of potential side effects to the use of the drug; and]~~

~~[(D) how to contact the prescribing practitioner or optometrist if the patient has questions or concerns regarding the drug;]~~

~~[(b) dispenses a cosmetic drug or injectable weight loss drug only to the prescribing practitioner's patients or for an optometrist, dispenses a cosmetic drug only to the optometrist's patients;]~~

~~[(c) follows labeling, record keeping, patient counseling, storage, purchasing and distribution, operating, treatment, and quality of care requirements established by administrative rule adopted by the division in consultation with the boards listed in Subsection (6)(a); and]~~

~~[(d) follows USP-NF 797 standards for sterile compounding if the drug dispensed to patients is reconstituted or compounded.]~~

~~[(6) (a) The division, in consultation with the board under this chapter and the relevant professional board, including the Physician Licensing Board, the Osteopathic Physician Licensing Board, the Physician Assistant Licensing Board, the Board of Nursing, the Optometrist Licensing Board, or the Online Prescribing, Dispensing, and Facilitation Board, shall adopt administrative rules pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act to designate:]~~

~~[(i) the prescription drugs that may be dispensed as a cosmetic drug or weight loss drug under this section; and]~~

~~[(ii) the requirements under Subsection (5)(c).]~~

~~[(b) When making a determination under Subsection (1)(a), the division and boards listed in Subsection (6)(a) may consider any federal Food and Drug Administration indications or approval associated with a drug when adopting a rule to designate a prescription drug that may be dispensed under this section.]~~

~~[(c) The division may inspect the office of a prescribing practitioner or optometrist who is dispensing under the provisions of this section, in order to determine whether the prescribing practitioner or optometrist is in compliance with the provisions of this section. If a prescribing practitioner or optometrist chooses to dispense under the provisions of this section, the prescribing practitioner or optometrist consents to the jurisdiction of the division to inspect the prescribing practitioner's or optometrist's office and determine if the provisions of this section are being met by the prescribing practitioner or optometrist.]~~

~~[(d) If a prescribing practitioner or optometrist violates a provision of this section, the prescribing practitioner or optometrist may be subject to discipline under:]~~

~~[(i) this chapter; and]~~

~~[(ii) (A) Chapter 16a, Utah Optometry Practice Act;]~~

~~[(B) Chapter 31b, Nurse Practice Act;]~~

~~[(C) Chapter 67, Utah Medical Practice Act;]~~

~~[(D) Chapter 68, Utah Osteopathic Medical Practice Act;]~~

~~[(E) Chapter 70a, Physician Assistant Act; or]~~

~~[(F) Chapter 83, Online Prescribing, Dispensing, and Facilitation Act.]~~

~~[(7) Except as provided in Subsection (2)(c), this section does not restrict or limit the scope of practice of an optometrist or optometric physician licensed under Chapter 16a, Utah Optometry Practice Act.]~~

Section 2. Section 58-17b-803 is amended to read:

58-17b-803. Qualifications for licensure as a dispensing medical practitioner -- Scope of practice.

(1) An applicant for a license as a dispensing medical practitioner shall:

(a) be licensed in good standing under at least one of the chapters listed in Subsection 58-17b-102(23)(a); and

(b) submit an application for a license as a dispensing medical practitioner in a form prescribed by the division and pay a fee established by the division.

(2) The division shall accept the licensing in good standing under Subsection (1) in lieu of requiring an applicant for a license under this part to comply with Sections 58-17b-303 and 58-17b-307.

(3) A dispensing medical practitioner may dispense, in accordance with this part:

(a) a cosmetic drug and an injectable weight loss drug if:

(i) the drug was prescribed by the dispensing medical practitioner to the dispensing medical practitioner's patient; and

(ii) the dispensing medical practitioner complies with administrative rules adopted by the division under [Subsection] Section 58-17-802(1);

(b) a cancer drug treatment regimen if the dispensing medical practitioner complies with Section 58-17b-805; and

(c) a pre-packaged drug to an employee or a dependent of an employee at an employer sponsored clinic if the dispensing medical practitioner:

(i) treats an employee, or the dependent of an employee, of one of an exclusive group of employers at an employer sponsored clinic;

(ii) prescribes a prepackaged drug to the employee or the employee's dependent;

(iii) dispenses the prepackaged drug at the employer sponsored clinic; and

(iv) complies with administrative rules adopted by the division in consultation with the Board of Pharmacy that establish labeling, record keeping, patient counseling, purchasing and distribution, operating, treatment, quality of care, and storage requirements.

(4) A dispensing medical practitioner:

(a) shall inform the patient:

(i) that the drug dispensed by the practitioner may be obtained from a pharmacy unaffiliated with the practitioner;

(ii) of the directions for appropriate use of the dispensed drug;

(iii) of potential side effects to the use of the dispensed drug; and

(iv) how to contact the dispensing medical practitioner if the patient has questions or concerns regarding the drug;

(b) shall report to the controlled substance database in the same manner as required in Section 58-37f-203; and

(c) may delegate the dispensing of the drug if the individual to whom the dispensing was delegated is:

(i) employed by the dispensing medical practitioner or the outpatient clinic setting in which the dispensing medical practitioner works; and

(ii) acting under the direction of a dispensing medical practitioner who is immediately available on site for any necessary consultation.

(5) If the chapter that governs the license of a dispensing medical practitioner, as listed in Subsection 58-17b-102(23), requires physician supervision in its scope of practice requirements, the dispensing medical practitioner shall only

dispense a drug under the supervision of an individual licensed under Chapter 67, Utah Medical Practice Act, or Chapter 68, Utah Osteopathic Medical Practice Act.

Section 3. Section 58-67-502 is amended to read:

58-67-502. Unprofessional conduct.

"Unprofessional conduct" includes, in addition to the definition in Section 58-1-501:

(1) using or employing the services of any individual to assist a licensee in any manner not in accordance with the generally recognized practices, standards, or ethics of the profession, state law, or division rule;

(2) making a material misrepresentation regarding the qualifications for licensure under Section 58-67-302.7; or

(3) violating the dispensing requirements of [~~Section 58-17b-309 or~~ Chapter 17b, Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, if applicable.

Section 4. Section 58-68-502 is amended to read:

58-68-502. Unprofessional conduct.

"Unprofessional conduct" includes, in addition to the definition in Section 58-1-501:

(1) using or employing the services of any individual to assist a licensee in any manner not in accordance with the generally recognized practices, standards, or ethics of the profession, state law, or division rule; or

(2) violating the dispensing requirements of [~~Section 58-17b-309 or~~ Chapter 17b, Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, if applicable.

Section 5. Effective date.

This bill takes effect on July 1, 2015.

CHAPTER 207**H. B. 147**

Passed February 23, 2015

Approved March 26, 2015

Effective January 1, 2016

**DRIVER LICENSE
TESTING AMENDMENTS**Chief Sponsor: Steve Eliason
Senate Sponsor: Deidre M. Henderson**LONG TITLE****General Description:**

This bill modifies the Uniform Driver License Act by amending provisions relating to driver license testing.

Highlighted Provisions:

This bill:

- ▶ provides that if an applicant has been issued an equivalent learner permit by another state or branch of the United States Armed Forces, the applicant is subject to the driver education, testing, age, and fee requirements;
- ▶ provides that an applicant for an original or provisional class D license shall pass a knowledge test approved by the division;
- ▶ provides that a percentage of the test questions included in the knowledge test shall cover the topic of major causes of traffic related deaths as identified in statistics published by the Highway Safety Office; and
- ▶ makes technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

53-3-210.5, as last amended by Laws of Utah 2012, Chapter 176

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

Section 1. Section 53-3-210.5 is amended to read:**53-3-210.5. Learner permit.**

(1) Beginning on August 1, 2006, the division, upon receiving an application for a learner permit, may issue a learner permit effective for one year to an applicant who is at least 15 years of age.

(2) (a) The learner permit entitles an applicant that is 18 years of age or older to operate a class D motor vehicle only if:

(i) a person 21 years of age or older who is a licensed driver is occupying a seat beside the applicant; and

(ii) the applicant has the learner permit in the applicant's immediate possession while operating the motor vehicle.

(b) The learner permit entitles an applicant that is younger than 18 years of age to operate a class D motor vehicle only if:

(i) (A) an approved driving instructor is occupying a seat beside the applicant;

(B) the applicant's parent or legal guardian, who must be a licensed driver, is occupying a seat beside the applicant; or

(C) a responsible adult who has signed for the applicant under Section 53-3-211 and who must be a licensed driver, is occupying a seat beside the applicant; and

(ii) the applicant has the learner permit in the applicant's immediate possession while operating the motor vehicle.

(3) The division shall issue a learner permit to an applicant who:

(a) is at least 15 years of age;

(b) has passed the knowledge test required by the division;

(c) has passed the physical and mental fitness tests; and

(d) has submitted a nonrefundable fee for a learner permit under Section 53-3-105.

(4) (a) The division shall supply the learner permit form.

(b) The form under Subsection (4)(a) shall include:

(i) the applicant's full name, date of birth, sex, Utah residence address, height, weight, and eye color;

(ii) the date of issuance and expiration of the permit; and

(iii) the conditions and restrictions contained in this section for operating a class D motor vehicle.

(5) An application and fee for a learner permit entitle the applicant to:

(a) not more than three attempts to pass the knowledge test for a class D license within one year; and

(b) a learner permit after the knowledge test is passed.

(6) (a) If an applicant has been issued a learner permit under this section or an equivalent by another state or branch of the United States Armed Forces, the applicant may be issued an original or provisional class D license from the division upon:

(i) completing a driver education course in a:

(A) commercial driver training school licensed under Part 5, Commercial Driver Training Schools Act; or

(B) driver education program approved by the State Board of Education or the division;

(ii) passing a knowledge test approved by the division that complies with the requirement of Subsection (6)(d);

~~[(iii)]~~ (iii) passing the skills test approved by the division;

~~[(iii)]~~ (iv) reaching 16 years of age; and

~~[(iv)]~~ (v) paying the nonrefundable fee for an original or provisional class D license application under Section 53-3-105.

(b) In addition to the requirements under Subsection (6)(a), an applicant who is 17 years of age or younger is required to hold a learner permit for six months before applying for a provisional class D license.

(c) An applicant is exempt from the requirement under Subsection (6)(a)(i) if the applicant:

(i) is 19 years of age or older;

(ii) holds a learner permit for three months before applying for an original class D license; and

(iii) certifies that the applicant, under the authority of a permit issued under this chapter, has completed at least 40 hours of driving a motor vehicle, of which at least 10 hours were completed during night hours after sunset.

(d) Fifty percent of the test questions included in the knowledge test required under Subsection (6)(a)(ii) shall cover the topic of major causes of traffic related deaths as identified in statistics published by the Highway Safety Office.

Section 2. Effective date.

This bill takes effect on January 1, 2016.

CHAPTER 208**H. B. 159**

Passed February 19, 2015

Approved March 26, 2015

Effective May 12, 2015

**OFF-HIGHWAY HUSBANDRY
VEHICLE AMENDMENTS**Chief Sponsor: Scott D. Sandall
Senate Sponsor: Margaret Dayton**LONG TITLE****General Description:**

This bill modifies the Off-Highway Vehicles code by amending provisions relating to off-highway husbandry vehicles.

Highlighted Provisions:

This bill:

- ▶ provides that an off-highway implement of husbandry sticker is valid for an all-terrain type I vehicle, motorcycle, all-terrain type II vehicle, or snowmobile that is being operated adjacent to a roadway when the all-terrain type I vehicle, motorcycle, all-terrain type II vehicle, or snowmobile is being used to travel on land permitted or leased for agricultural purposes by the owner of the vehicle.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

41-22-5.5, as last amended by Laws of Utah 2010, Chapter 308

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

Section 1. Section 41-22-5.5 is amended to read:**41-22-5.5. Off-highway husbandry vehicles.**

(1) (a) (i) The owner of an all-terrain type I vehicle, motorcycle, all-terrain type II vehicle, or snowmobile used for agricultural purposes may apply to the Motor Vehicle Division for an off-highway implement of husbandry sticker.

(ii) Each application under Subsection (1)(a)(i) shall be accompanied by:

- (A) evidence of ownership;
- (B) a title or a manufacturer's certificate of origin; and
- (C) a signed statement certifying that the off-highway vehicle is used for agricultural purposes.

(iii) The owner shall receive an off-highway implement of husbandry sticker upon production of:

(A) the documents required under this Subsection (1); and

(B) payment of an off-highway implement of husbandry sticker fee established by the board not to exceed \$10.

(b) If the vehicle is also used for recreational purposes on public lands, trails, streets, or highways, it shall also be registered under Section 41-22-3.

(c) The off-highway implement of husbandry sticker shall be displayed in a manner prescribed by the board and shall identify the all-terrain type I vehicle, motorcycle, all-terrain type II vehicle, or snowmobile as an off-highway implement of husbandry.

(2) The off-highway implement of husbandry sticker is valid only for the life of the ownership of the all-terrain type I vehicle, motorcycle, all-terrain type II vehicle, or snowmobile and is not transferable.

(3) The off-highway implement of husbandry sticker is valid for an all-terrain type I vehicle, motorcycle, all-terrain type II vehicle, or snowmobile ~~which~~ that is being operated adjacent to a roadway:

(a) when the all-terrain type I vehicle, motorcycle, all-terrain type II vehicle, or snowmobile is only being used to travel from one parcel of land owned [œ], operated, permitted, or leased for agricultural purposes by the owner of the vehicle to another parcel of land owned [œ], operated, permitted, or leased for agricultural purposes by the owner; and

(b) when this operation is necessary for the furtherance of agricultural purposes.

(4) If the operation of an off-highway implement of husbandry adjacent to a roadway is impractical, it may be operated on the roadway if the operator exercises due care towards conventional motor vehicle traffic.

(5) It is unlawful to operate an off-highway implement of husbandry along, across, or within the boundaries of an interstate freeway.

CHAPTER 209**H. B. 199**

Passed March 12, 2015

Approved March 26, 2015

Effective May 12, 2015

PILOT PROGRAM FOR ASSISTANCE FOR CHILDREN WITH DISABILITIES AND COMPLEX MEDICAL CONDITIONS

Chief Sponsor: Edward H. Redd
 Senate Sponsor: Curtis S. Bramble
 Cosponsors: Rebecca Chavez-Houck
 Brad M. Daw
 Jack R. Draxler
 Steve Eliason
 Francis D. Gibson
 Brian M. Greene
 Sandra Hollins
 Michael S. Kennedy
 David E. Lifferth
 Lee B. Perry
 Paul Ray
 Angela Romero
 Robert M. Spendlove
 Earl D. Tanner
 Norman K Thurston
 Raymond P. Ward
 John R. Westwood

LONG TITLE**General Description:**

This bill directs the Department of Health to apply for a Medicaid waiver for children with disabilities and complex medical conditions.

Highlighted Provisions:

This bill:

- ▶ directs the Department of Health to apply for a Medicaid waiver for children with disabilities and complex medical conditions.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

26-18-410, Utah Code Annotated 1953

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

Section 1. Section 26-18-410 is enacted to read:**26-18-410. Medicaid waiver for children with disabilities and complex medical needs.**

(1) As used in this section:

(a) "Complex medical condition" means a physical condition of an individual that:

(i) results in severe functional limitations for the individual; and

(ii) is likely to:

(A) last at least 12 months; or

(B) result in death.

(b) "Program" means the program for children with complex medical conditions created in Subsection (3).

(c) "Qualified child" means a child who:

(i) is less than 19 years old;

(ii) is diagnosed with a complex medical condition;

(iii) has a condition that meets the definition of disability in 42 U.S.C. Sec. 12102; and

(iv) meets the additional eligibility criteria determined by the department under Subsection (4).

(2) The department shall apply, no later than June 30, 2015, for a Medicaid home and community-based waiver with the Centers for Medicare and Medicaid Services within the United States Department of Health and Human Services to implement, within the state Medicaid program, the program described in Subsection (3).

(3) If the waiver described in Subsection (2) is approved, the department shall offer a program that:

(a) as funding permits, provides treatment for qualified children; and

(b) accepts applications for the program during periods of open enrollment.

(4) The department shall:

(a) seek to prioritize, in the waiver described in Subsection (2), entrance into the program based on the:

(i) complexity of a qualified child's medical condition; and

(ii) financial needs of a qualified child and the qualified child's family;

(b) convene a public process to determine:

(i) the benefits and services to offer a qualified child under the program; and

(ii) additional eligibility criteria for a qualified child; and

(c) evaluate, on an ongoing basis, the cost and effectiveness of the program.

(5) The department shall annually report, beginning in 2016, to the Legislature's Health and Human Services Interim Committee before November 30 while the waiver is in effect regarding:

(a) the number of qualified children served under the program;

(b) the cost of the program; and

(c) the effectiveness of the program.

CHAPTER 210**H. B. 215**

Passed March 6, 2015
 Approved March 26, 2015
 Effective May 12, 2015

SEX OFFENDER REGISTRY AMENDMENTS

Chief Sponsor: Jack R. Draxler
 Senate Sponsor: Lyle W. Hillyard

LONG TITLE**General Description:**

This bill modifies the Sex and Kidnap Offender Registry regarding reporting requirements.

Highlighted Provisions:

This bill:

- ▶ provides detail regarding reporting for a sex or kidnap offense committed outside of Utah;
- ▶ requires that the offender provide the phone number for any places where the offender is employed or volunteering; and
- ▶ includes citation cross references.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 53-3-216, as last amended by Laws of Utah 2012, Chapter 145
- 53-3-807, as last amended by Laws of Utah 2014, Chapter 252
- 62A-7-104, as last amended by Laws of Utah 2012, Chapter 145
- 76-9-702, as last amended by Laws of Utah 2013, Chapter 278
- 76-9-702.1, as last amended by Laws of Utah 2013, Chapter 278
- 77-41-102, as enacted by Laws of Utah 2012, Chapter 145 and last amended by Coordination Clause, Laws of Utah 2012, Chapter 247
- 77-41-103, as last amended by Laws of Utah 2013, Chapter 278
- 77-41-105, as last amended by Laws of Utah 2014, Chapter 105
- 77-41-106, as enacted by Laws of Utah 2012, Chapter 145
- 77-41-107, as enacted by Laws of Utah 2012, Chapter 145
- 77-41-109, as enacted by Laws of Utah 2012, Chapter 145 and last amended by Coordination Clause, Laws of Utah 2012, Chapter 247
- 78B-8-302, as last amended by Laws of Utah 2014, Chapter 378

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

Section 1. Section 53-3-216 is amended to read:**53-3-216. Change of address -- Duty of licensee to notify division within 10 days****-- Change of name -- Proof necessary -- Method of giving notice by division.**

(1) If a person, after applying for or receiving a license, moves from the address named in the application or in the license certificate issued to him, the person shall within 10 days of moving, notify the division in a manner specified by the division of his new address and the number of any license certificate held by him.

(2) If a person requests to change the surname on the applicant's license, the division shall issue a substitute license with the new name upon receiving an application and fee for a duplicate license and any of the following proofs of the applicant's full legal name:

- (a) an original or certified copy of the applicant's marriage certificate;
- (b) a certified copy of a court order under Title 42, Chapter 1, Change of Name, showing the name change;
- (c) an original or certified copy of a birth certificate issued by a government agency;
- (d) a certified copy of a divorce decree or annulment granted the applicant that specifies the name change requested; or
- (e) a certified copy of a divorce decree that does not specify the name change requested together with:

- (i) an original or certified copy of the applicant's birth certificate;
- (ii) the applicant's marriage license;
- (iii) a driver license record showing use of a maiden name; or
- (iv) other documentation the division finds acceptable.

(3) (a) Except as provided in Subsection (3)(c), if a person has applied for and received a license certificate and is currently required to register as a sex offender in accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry:

- (i) the person's original license or renewal to an original license expires on the next birth date of the licensee beginning on July 1, 2006;
- (ii) the person shall surrender the person's license to the division on or before the licensee's next birth date beginning on July 1, 2006; and
- (iii) the person may apply for a license certificate with an expiration date identified in Subsection 53-3-205(7)(h) by:

(A) furnishing proper documentation to the division as provided in Section 53-3-205; and

(B) paying the fee for a license required under Section 53-3-105.

(b) Except as provided in Subsection (3)(c), if a person has applied for and received a license certificate and is subsequently convicted of any offense listed in Subsection 77-41-102(4)(17), the person shall surrender the license certificate to

the division on the person's next birth date following the conviction and may apply for a license certificate with an expiration date identified in Subsection 53-3-205(7)(h) by:

(i) furnishing proper documentation to the division as provided in Section 53-3-205; and

(ii) paying the fee for a license required under Section 53-3-105.

(c) A person who is unable to comply with the provisions of Subsection (3)(a) or (3)(b) because the person is in the custody of the Department of Corrections or the Division of Juvenile Justice Services, confined in a correctional facility not operated by or under contract with the Department of Corrections, or committed to a state mental facility, shall comply with the provisions of Subsection (3)(a) or (b) within 10 days of being released from confinement.

(4) (a) If the division is authorized or required to give any notice under this chapter or other law regulating the operation of vehicles, the notice shall, unless otherwise prescribed, be given by:

(i) personal delivery to the person to be notified; or

(ii) deposit in the United States mail with postage prepaid, addressed to the person at his address as shown by the records of the division.

(b) The giving of notice by mail is complete upon the expiration of four days after the deposit of the notice.

(c) Proof of the giving of notice in either manner may be made by the certificate of any officer or employee of the division or affidavit of any person older than 18 years of age, naming the person to whom the notice was given and specifying the time, place, and manner of giving the notice.

(5) The division may use state mailing or United States Postal Service information to:

(a) verify an address on an application or on records of the division; and

(b) correct mailing addresses in the division's records.

(6) (a) A violation of the provisions of Subsection (1) is an infraction.

(b) A person who knowingly fails to surrender a license certificate under Subsection (3) is guilty of a class A misdemeanor.

Section 2. Section 53-3-807 is amended to read:

53-3-807. Expiration -- Address and name change -- Extension.

(1) (a) A regular identification card issued on or after July 1, 2006, expires on the birth date of the applicant in the fifth year following the issuance of the regular identification card.

(b) A limited-term identification card expires on:

(i) the expiration date of the period of time of the individual's authorized stay in the United States or on the birth date of the applicant in the fifth year following the issuance of the limited-term identification card, whichever is sooner; or

(ii) on the date of issuance in the first year following the year that the limited-term identification card was issued if there is no definite end to the individual's period of authorized stay.

(2) If a person has applied for and received an identification card and subsequently moves from the address shown on the application or on the card, the person shall within 10 days notify the division in a manner specified by the division of the person's new address.

(3) If a person has applied for and received an identification card and subsequently changes the person's name under Title 42, Chapter 1, Change of Name, the person:

(a) shall surrender the card to the division; and

(b) may apply for a new card in the person's new name by:

(i) furnishing proper documentation to the division as provided in Section 53-3-804; and

(ii) paying the fee required under Section 53-3-105.

(4) (a) Except as provided in Subsection (4)(c), if a person has applied for and received an identification card and is currently required to register as a sex offender in accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry:

(i) the person's identification card expires annually on the next birth date of the cardholder, on and after July 1, 2006;

(ii) the person shall surrender the person's identification card to the division on or before the cardholder's next birth date beginning on July 1, 2006; and

(iii) the person may apply for an identification card with an expiration date identified in Subsection (8) by:

(A) furnishing proper documentation to the division as provided in Section 53-3-804; and

(B) paying the fee for an identification card required under Section 53-3-105.

(b) Except as provided in Subsection (4)(c), if a person has applied for and received an identification card and is subsequently convicted of any offense listed in Subsection 77-41-102[(16)](17), the person shall surrender the card to the division on the person's next birth date following the conviction and may apply for a new card with an expiration date identified in Subsection (8) by:

(i) furnishing proper documentation to the division as provided in Section 53-3-804; and

(ii) paying the fee required under Section 53-3-105.

(c) A person who is unable to comply with the provisions of Subsection (4)(a) or (4)(b) because the person is in the custody of the Department of Corrections or Division of Juvenile Justice Services, confined in a correctional facility not operated by or under contract with the Department of Corrections, or committed to a state mental facility, shall comply with the provisions of Subsection (4)(a) or (b) within 10 days of being released from confinement.

(5) A person older than 21 years of age with a disability, as defined under the Americans with Disabilities Act of 1990, Pub. L. 101-336, may extend the expiration date on an identification card for five years if the person with a disability or an agent of the person with a disability:

(a) requests that the division send the application form to obtain the extension or requests an application form in person at the division's offices;

(b) completes the application;

(c) certifies that the extension is for a person 21 years of age or older with a disability; and

(d) returns the application to the division together with the identification card fee required under Section 53-3-105.

(6) The division may extend a valid regular identification card for five years:

(a) (i) at any time within six months before the identification card expires; and

(ii) if the identification card was issued after January 1, 2010.

(b) The application for an extension of a regular identification card shall be accompanied by a fee under Section 53-3-105.

(c) The division shall allow extensions:

(i) by mail, electronic means, or other means as determined by the division at the appropriate extension fee rate under Section 53-3-105; and

(ii) only if the applicant qualifies under this section.

(7) (a) (i) Except as prohibited under Subsection (7)(b), a regular identification card may only be extended once under Subsections (5) and (6).

(ii) After an extension an application for an identification card must be applied for in person at the division's offices.

(b) An identification card issued to a person required to register as a sex offender in accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry, may not be extended.

(8) An identification card issued prior to July 1, 2006 to a person 65 years of age or older expires on December 1, 2017.

(9) Notwithstanding the provisions of this section, an identification card expires on the birth date of the applicant in the first year following the year that the identification card was issued if the

applicant is required to register as a sex offender in accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry.

(10) A person who knowingly fails to surrender an identification card under Subsection (4) is guilty of a class A misdemeanor.

Section 3. Section 62A-7-104 is amended to read:

62A-7-104. Division responsibilities.

(1) The division is responsible for all youth offenders committed to it by juvenile courts for secure confinement or supervision and treatment in the community.

(2) The division shall:

(a) establish and administer a continuum of community, secure, and nonsecure programs for all youth offenders committed to the division;

(b) establish and maintain all detention and secure facilities and set minimum standards for those facilities;

(c) establish and operate prevention and early intervention youth services programs for nonadjudicated youth placed with the division; and

(d) establish observation and assessment programs necessary to serve youth offenders committed by the juvenile court for short-term observation under Subsection 78A-6-117(2)(e), and whenever possible, conduct the programs in settings separate and distinct from secure facilities for youth offenders.

(3) The division shall place youth offenders committed to it in the most appropriate program for supervision and treatment.

(4) In any order committing a youth offender to the division, the juvenile court shall specify whether the youth offender is being committed for secure confinement or placement in a community-based program. The division shall place the youth offender in the most appropriate program within the category specified by the court.

(5) The division shall employ staff necessary to:

(a) supervise and control youth offenders in secure facilities or in the community;

(b) supervise and coordinate treatment of youth offenders committed to the division for placement in community-based programs; and

(c) control and supervise nonadjudicated youth placed with the division for temporary services in receiving centers, youth services, and other programs established by the division.

(6) Youth in the custody or temporary custody of the division are controlled or detained in a manner consistent with public safety and rules promulgated by the division. In the event of an unauthorized leave from a secure facility, detention center, community-based program, receiving center, home, or any other designated placement, division employees have the authority and duty to locate

and apprehend the youth, or to initiate action with local law enforcement agencies for assistance.

(7) The division shall establish and operate compensatory-service work programs for youth offenders committed to the division by the juvenile court. The compensatory-service work program shall:

(a) provide labor to help in the operation, repair, and maintenance of public facilities, parks, highways, and other programs designated by the division;

(b) provide educational and prevocational programs in cooperation with the State Board of Education for youth offenders placed in the program; and

(c) provide counseling to youth offenders.

(8) The division shall establish minimum standards for the operation of all private residential and nonresidential rehabilitation facilities which provide services to juveniles who have committed a delinquent act, in this state or in any other state.

(9) In accordance with policies established by the board, the division shall provide regular training for staff of secure facilities, detention staff, case management staff, and staff of the community-based programs.

(10) (a) The division is authorized to employ special function officers, as defined in Section 53-13-105, to locate and apprehend minors who have absconded from division custody, transport minors taken into custody pursuant to division policy, investigate cases, and carry out other duties as assigned by the division.

(b) Special function officers may be employed through contract with the Department of Public Safety, any P.O.S.T. certified law enforcement agency, or directly hired by the division.

(11) The division shall designate employees to obtain the saliva DNA specimens required under Section 53-10-403. The division shall ensure that the designated employees receive appropriate training and that the specimens are obtained in accordance with accepted protocol.

(12) The division shall register with the Department of Corrections any person who:

(a) has been adjudicated delinquent based on an offense listed in Subsection 77-41-102[(16)](17)(a);

(b) has been committed to the division for secure confinement; and

(c) remains in the division's custody 30 days prior to the person's 21st birthday.

Section 4. Section 76-9-702 is amended to read:

76-9-702. Lewdness.

(1) A person is guilty of lewdness if the person under circumstances not amounting to rape, object rape, forcible sodomy, forcible sexual abuse, aggravated sexual assault, or an attempt to commit

any of these offenses, performs any of the following acts in a public place or under circumstances which the person should know will likely cause affront or alarm to, on, or in the presence of another who is 14 years of age or older:

(a) an act of sexual intercourse or sodomy;

(b) exposes his or her genitals, the female breast below the top of the areola, the buttocks, the anus, or the pubic area;

(c) masturbates; or

(d) any other act of lewdness.

(2) (a) A person convicted the first or second time of a violation of Subsection (1) is guilty of a class B misdemeanor, except under Subsection (2)(b).

(b) A person convicted of a violation of Subsection (1) is guilty of a third degree felony if at the time of the violation:

(i) the person is a sex offender as defined in Section 77-27-21.7;

(ii) the person has been previously convicted two or more times of violating Subsection (1); or

(iii) the person has previously been convicted of a violation of Subsection (1) and has also previously been convicted of a violation of Section 76-9-702.5.

(c) (i) For purposes of this Subsection (2) and Subsection 77-41-102[(16)](17), a plea of guilty or nolo contendere to a charge under this section that is held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction.

(ii) This Subsection (2)(c) also applies if the charge under this Subsection (2) has been subsequently reduced or dismissed in accordance with the plea in abeyance agreement.

(3) A woman's breast feeding, including breast feeding in any location where the woman otherwise may rightfully be, does not under any circumstance constitute a lewd act, irrespective of whether or not the breast is covered during or incidental to feeding.

Section 5. Section 76-9-702.1 is amended to read:

76-9-702.1. Sexual battery.

(1) A person is guilty of sexual battery if the person, under circumstances not amounting to an offense under Subsection (2), intentionally touches, whether or not through clothing, the anus, buttocks, or any part of the genitals of another person, or the breast of a female person, and the actor's conduct is under circumstances the actor knows or should know will likely cause affront or alarm to the person touched.

(2) Offenses referred to in Subsection (1) are:

(a) rape, Section 76-5-402;

(b) rape of a child, Section 76-5-402.1;

(c) object rape, Section 76-5-402.2;

(d) object rape of a child, Section 76-5-402.3;

(e) forcible sodomy, Subsection 76-5-403(2);

- (f) sodomy on a child, Section 76-5-403.1;
- (g) forcible sexual abuse, Section 76-5-404;
- (h) sexual abuse of a child, Subsection 76-5-404.1(2);
- (i) aggravated sexual abuse of a child, Subsection 76-5-404.1(4);
- (j) aggravated sexual assault, Section 76-5-405; and
- (k) an attempt to commit any offense under this Subsection (2).

(3) Sexual battery is a class A misdemeanor.

(4) For purposes of Subsection 77-41-102~~(16)~~(17) only, a plea of guilty or nolo contendere to a charge under this section that is held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction. This Subsection (4) also applies if the charge under this section has been subsequently reduced or dismissed in accordance with the plea in abeyance agreement.

Section 6. Section 77-41-102 is amended to read:

77-41-102. Definitions.

As used in this chapter:

- (1) "Bureau" means the bureau of Criminal Identification of the Department of Public Safety established in section 53-10-201.
- (2) "Business day" means a day on which state offices are open for regular business.
- (3) "Certificate of eligibility" means a document issued by the Bureau of Criminal Identification showing that the offender has met the requirements of Section 77-41-112.
- (4) "Department" means the Department of Corrections.
- (5) "Division" means the Division of Juvenile Justice Services.
- (6) "Employed" or "carries on a vocation" includes employment that is full time or part time, whether financially compensated, volunteered, or for the purpose of government or educational benefit.
- (7) "Indian Country" means:
 - (a) all land within the limits of any Indian reservation under the jurisdiction of the United States government, regardless of the issuance of any patent, and includes rights-of-way running through the reservation;
 - (b) all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory, and whether or not within the limits of a state; and
 - (c) all Indian allotments, including the Indian allotments to which the Indian titles have not been extinguished, including rights-of-way running through the allotments.

(8) "Jurisdiction" means any state, Indian Country, United States Territory, or any property under the jurisdiction of the United States military, Canada, the United Kingdom, Australia, or New Zealand.

(9) "Kidnap offender" means any person other than a natural parent of the victim who:

- (a) has been convicted in this state of a violation of:
 - (i) Subsection 76-5-301(1)(c) or (d), kidnapping;
 - (ii) Section 76-5-301.1, child kidnapping;
 - (iii) Section 76-5-302, aggravated kidnapping;
 - (iv) Section 76-5-310, aggravated human trafficking, on or after May 10, 2011; or
 - (v) attempting, soliciting, or conspiring to commit any felony offense listed in Subsections (9)(a)(i) through (iv);
 - (b) has been convicted of any crime, or an attempt, solicitation, or conspiracy to commit a crime in another jurisdiction, including any state, federal, or military court that is substantially equivalent to the offenses listed in Subsection (9)(a) and who is:
 - (i) a Utah resident; or
 - (ii) not a Utah resident, but who, in any 12 month period, is in this state for a total of 10 or more days, regardless of whether or not the offender intends to permanently reside in this state;
 - (c) (i) is required to register as ~~an~~ a kidnap offender in any other jurisdiction~~[-or]~~ of original conviction, who is required to register as ~~an~~ a kidnap offender by any state, federal, or military court, or who would be required to register as a kidnap offender if residing in the jurisdiction of the conviction regardless of the date of the conviction or any previous registration requirements; and
 - (ii) in any 12 month period, is in this state for a total of 10 or more days, regardless of whether or not the offender intends to permanently reside in this state;
 - (d) is a nonresident regularly employed or working in this state, or who is a student in this state, and was convicted of one or more offenses listed in Subsection (9), or any substantially equivalent offense in another jurisdiction, or as a result of the conviction, is required to register in the person's state of residence;
 - (e) is found not guilty by reason of insanity in this state or in any other jurisdiction of one or more offenses listed in Subsection (9); or
 - (f) is adjudicated delinquent based on one or more offenses listed in Subsection (9)(a) and who has been committed to the division for secure confinement for that offense and remains in the division's custody 30 days prior to the person's 21st birthday.
- (10) "Natural parent" means a minor's biological or adoptive parent, and includes the minor's noncustodial parent.

(11) "Offender" means a kidnap offender as defined in Subsection (9) or a sex offender as defined in Subsection [(16)] (17).

(12) "Online identifier" or "Internet identifier":

(a) means any electronic mail, chat, instant messenger, social networking, or similar name used for Internet communication; and

(b) does not include date of birth, Social Security number, PIN number, or Internet passwords.

(13) "Primary residence" means the location where the offender regularly resides, even if the offender intends to move to another location or return to another location at any future date.

(14) "Register" means to comply with the requirements of this chapter and administrative rules of the department made under this chapter.

(15) "Registration website" means the Sex and Kidnap Offender Notification and Registration website described in Section 77-41-110 and the information on the website.

[(45)] (16) "Secondary residence" means any real property that the offender owns or has a financial interest in, or any location where, in any 12 month period, the offender stays overnight a total of 10 or more nights when not staying at the offender's primary residence.

[(46)] (17) "Sex offender" means any person:

(a) convicted in this state of:

(i) a felony or class A misdemeanor violation of Section 76-4-401, enticing a minor;

(ii) Section 76-5b-202, sexual exploitation of a vulnerable adult, on or after May 10, 2011;

(iii) a felony violation of Section 76-5-401, unlawful sexual activity with a minor;

(iv) Section 76-5-401.1, sexual abuse of a minor;

(v) Section 76-5-401.2, unlawful sexual conduct with a 16 or 17 year old;

(vi) Section 76-5-402, rape;

(vii) Section 76-5-402.1, rape of a child;

(viii) Section 76-5-402.2, object rape;

(ix) Section 76-5-402.3, object rape of a child;

(x) a felony violation of Section 76-5-403, forcible sodomy;

(xi) Section 76-5-403.1, sodomy on a child;

(xii) Section 76-5-404, forcible sexual abuse;

(xiii) Section 76-5-404.1, sexual abuse of a child or aggravated sexual abuse of a child;

(xiv) Section 76-5-405, aggravated sexual assault;

(xv) Section 76-5-412, custodial sexual relations, when the person in custody is younger than 18 years of age, if the offense is committed on or after May 10, 2011;

(xvi) Section 76-5b-201, sexual exploitation of a minor;

(xvii) Section 76-7-102, incest;

(xviii) Section 76-9-702, lewdness, if the person has been convicted of the offense four or more times;

(xix) Section 76-9-702.1, sexual battery, if the person has been convicted of the offense four or more times;

(xx) any combination of convictions of Section 76-9-702, lewdness, and of Section 76-9-702.1, sexual battery, that total four or more convictions;

(xxi) Section 76-9-702.5, lewdness involving a child;

(xxii) a felony or class A misdemeanor violation of Section 76-9-702.7, voyeurism;

(xxiii) Section 76-10-1306, aggravated exploitation of prostitution; or

(xxiv) attempting, soliciting, or conspiring to commit any felony offense listed in Subsection [(16)] (17)(a);

(b) who has been convicted of any crime, or an attempt, solicitation, or conspiracy to commit a crime in another jurisdiction, including any state, federal, or military court that is substantially equivalent to the offenses listed in Subsection [(16)] (17)(a) and who is:

(i) a Utah resident; or

(ii) not a Utah resident, but who, in any 12 month period, is in this state for a total of 10 or more days, regardless of whether the offender intends to permanently reside in this state;

(c) (i) who is required to register as an a sex offender in any other jurisdiction~~[-or]~~ of original conviction, who is required to register as an a sex offender by any state, federal, or military court, or who would be required to register as a sex offender if residing in the jurisdiction of the original conviction regardless of the date of the conviction or any previous registration requirements; and

(ii) who, in any 12 month period, is in the state for a total of 10 or more days, regardless of whether or not the offender intends to permanently reside in this state;

(d) who is a nonresident regularly employed or working in this state or who is a student in this state and was convicted of one or more offenses listed in Subsection [(16)] (17)(a), or any substantially equivalent offense in any jurisdiction, or as a result of the conviction, is required to register in the person's jurisdiction of residence;

(e) who is found not guilty by reason of insanity in this state, or in any other jurisdiction of one or more offenses listed in Subsection [(16)] (17)(a); or

(f) who is adjudicated delinquent based on one or more offenses listed in Subsection [(16)] (17)(a) and who has been committed to the division for secure confinement for that offense and remains in the division's custody 30 days prior to the person's 21st birthday.

[47] (18) "Traffic offense" does not include a violation of Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving.

[48] (19) "Vehicle" means any motor vehicle, aircraft, or watercraft subject to registration in any jurisdiction.

Section 7. Section 77-41-103 is amended to read:

77-41-103. Department duties.

(1) The department, to assist in investigating kidnapping and sex-related crimes, and in apprehending offenders, shall:

(a) develop and operate a system to collect, analyze, maintain, and disseminate information on offenders and sex and kidnap offenses;

(b) make information listed in Subsection 77-41-110(4) available to the public; and

(c) share information provided by an offender under this chapter that may not be made available to the public under Subsection 77-41-110(4), but only:

(i) for the purposes under this chapter; or

(ii) in accordance with Section 63G-2-206.

(2) Any law enforcement agency shall, in the manner prescribed by the department, inform the department of:

(a) the receipt of a report or complaint of an offense listed in Subsection 77-41-102(9) or [(16)] (17), within three business days; and

(b) the arrest of a person suspected of any of the offenses listed in Subsection 77-41-102(9) or [(16)] (17), within five business days.

(3) Upon convicting a person of any of the offenses listed in Subsection 77-41-102(9) or [(16)] (17), the convicting court shall within three business days forward a signed copy of the judgment and sentence to the [department] Sex and Kidnap Offender Registry office within the Department of Corrections.

(4) The department shall:

(a) provide the following additional information when available:

(i) the crimes the offender has been convicted of or adjudicated delinquent for;

(ii) a description of the offender's primary and secondary targets; and

(iii) any other relevant identifying information as determined by the department;

(b) maintain the Sex Offender and Kidnap Offender Notification and Registration website; and

(c) ensure that the registration information collected regarding an offender's enrollment or employment at an educational institution is:

(i) (A) promptly made available to any law enforcement agency that has jurisdiction where the institution is located if the educational institution is an institution of higher education; or

(B) promptly made available to the district superintendent of the school district where the offender is enrolled if the educational institution is an institution of primary education; and

(ii) entered into the appropriate state records or data system.

Section 8. Section 77-41-105 is amended to read:

77-41-105. Registration of offenders -- Offender responsibilities.

(1) An offender convicted by any other jurisdiction is required to register under Subsection (3) and Subsection 77-41-102(9) or [(16)] (17). The offender shall register with the department within 10 days of entering the state, regardless of the offender's length of stay.

(2) (a) An offender required to register under Subsection 77-41-102(9) or [(16)] (17) who is under supervision by the department shall register in person with Division of Adult Probation and Parole.

(b) An offender required to register under Subsection 77-41-102(9) or [(16)] (17) who is no longer under supervision by the department shall register in person with the police department or sheriff's office that has jurisdiction over the area where the offender resides.

(3) (a) Except as provided in Subsections (3)(b), (c), and (4), and Section 77-41-106, an offender shall, for the duration of the sentence and for 10 years after termination of sentence or custody of the division, register every year during the month of the offender's date of birth, during the month that is the sixth month after the offender's birth month, and also within three business days of every change of the offender's primary residence, any secondary residences, place of employment, vehicle information, or educational information required to be submitted under Subsection (8).

(b) Except as provided in Subsections (4) and (5), and Section 77-41-106, an offender who is convicted in another jurisdiction of an offense listed in Subsection 77-41-102(9)(a) or [(16)] (17)(a), a substantially similar offense, or any other offense that requires registration in the jurisdiction of conviction, shall:

(i) register for the time period, and in the frequency, required by the jurisdiction where the offender was convicted if that jurisdiction's registration period or registration frequency requirement for the offense that the offender was convicted of is greater than the 10 years from completion of the sentence registration period that is required under Subsection (3)(a), or is more frequent than every six months; or

(ii) register in accordance with the requirements of Subsection (3)(a), if the jurisdiction's registration period or frequency requirement for the offense that the offender was convicted of is less than the

registration period required under Subsection (3)(a), or is less frequent than every six months.

(c) (i) An offender convicted as an adult of any of the offenses listed in Section 77-41-106 shall, for the offender's lifetime, register every year during the month of the offender's birth, during the month that is the sixth month after the offender's birth month, and also within three business days of every change of the offender's primary residence, any secondary residences, place of employment, vehicle information, or educational information required to be submitted under Subsection (8).

(ii) This registration requirement is not subject to exemptions and may not be terminated or altered during the offender's lifetime.

(d) For the purpose of establishing venue for a violation of this Subsection (3), the violation is considered to be committed:

(i) at the most recent registered primary residence of the offender or at the location of the offender, if the actual location of the offender at the time of the violation is not known; or

(ii) at the location of the offender at the time the offender is apprehended.

(4) Notwithstanding Subsection (3) and Section 77-41-106, an offender who is confined in a secure facility or in a state mental hospital is not required to register during the period of confinement.

(5) In the case of an offender adjudicated in another jurisdiction as a juvenile and required to register under this chapter, the offender shall register in the time period and in the frequency consistent with the requirements of this Subsection (5). However, if the jurisdiction of the offender's adjudication does not publish the offender's information on a public website, the department shall maintain, but not publish the offender's information on the Sex Offender and Kidnap Offender Registration website.

(6) An offender who is required to register under Subsection (3) shall surrender the offender's license, certificate, or identification card as required under Subsection 53-3-216(3) or 53-3-807(4) and may apply for a license certificate or identification card as provided under Section 53-3-205 or 53-3-804.

(7) A sex offender who violates Section 77-27-21.8 regarding being in the presence of a child while required to register under this chapter shall register for an additional five years subsequent to the registration period otherwise required under this chapter.

(8) An offender shall provide the department or the registering entity with the following information:

(a) all names and aliases by which the offender is or has been known;

(b) the addresses of the offender's primary and secondary residences;

(c) a physical description, including the offender's date of birth, height, weight, eye and hair color;

(d) the make, model, color, year, plate number, and vehicle identification number of any vehicle or vehicles the offender owns or regularly drives;

(e) a current photograph of the offender;

(f) a set of fingerprints, if one has not already been provided;

(g) a DNA specimen, taken in accordance with Section 53-10-404, if one has not already been provided;

(h) telephone numbers and any other designations used by the offender for routing or self-identification in telephonic communications from fixed locations or cellular telephones;

(i) Internet identifiers and the addresses the offender uses for routing or self-identification in Internet communications or postings;

(j) the name and Internet address of all websites on which the offender is registered using an online identifier, including all online identifiers used to access those websites;

(k) a copy of the offender's passport, if a passport has been issued to the offender;

(l) if the offender is an alien, all documents establishing the offender's immigration status;

(m) all professional licenses that authorize the offender to engage in an occupation or carry out a trade or business, including any identifiers, such as numbers;

(n) each educational institution in Utah at which the offender is employed, carries on a vocation, or is a student, and any change of enrollment or employment status of the offender at any educational institution;

(o) the name, the telephone number, and the address of any place where the offender is employed or will be employed;

(p) the name, the telephone number, and the address of any place where the offender works as a volunteer or will work as a volunteer; and

(q) the offender's Social Security number.

(9) Notwithstanding Section 42-1-1, an offender:

(a) may not change the offender's name:

(i) while under the jurisdiction of the department; and

(ii) until the registration requirements of this statute have expired; and

(b) may not change the offender's name at any time, if registration is for life under Subsection 77-41-105(3)(c).

(10) Notwithstanding Subsections (8)(i) and (j) and 77-41-103(1)(c), an offender is not required to provide the department with:

(a) the offender's online identifier and password used exclusively for the offender's employment on

equipment provided by an employer and used to access the employer's private network; or

(b) online identifiers for the offender's financial accounts, including any bank, retirement, or investment accounts.

Section 9. Section 77-41-106 is amended to read:

77-41-106. Registerable offenses.

Offenses referred to in Subsection 77-41-105(3)(c)(i) are:

(1) any offense listed in Subsection 77-41-102(9) or ~~[(16)]~~ (17) if, at the time of the conviction, the offender has previously been convicted of an offense listed in Subsection 77-41-102(9) or ~~[(16)]~~ (17) or has previously been required to register as a sex offender for an offense committed as a juvenile;

(2) a conviction for any of the following offenses, including attempting, soliciting, or conspiring to commit any felony of:

(a) Section 76-5-301.1, child kidnapping, except if the offender is a natural parent of the victim;

(b) Section 76-5-402, rape;

(c) Section 76-5-402.1, rape of a child;

(d) Section 76-5-402.2, object rape;

(e) Section 76-5-402.3, object rape of a child;

(f) Section 76-5-403.1, sodomy on a child;

(g) Subsection 76-5-404.1(4), aggravated sexual abuse of a child; or

(h) Section 76-5-405, aggravated sexual assault;

(3) Section 76-4-401, a felony violation of enticing a minor over the Internet;

(4) Section 76-5-302, aggravated kidnapping, except if the offender is a natural parent of the victim;

(5) Section 76-5-403, forcible sodomy;

(6) Section 76-5-404.1, sexual abuse of a child;

(7) Section 76-5b-201, sexual exploitation of a minor; or

(8) Section 76-10-1306, aggravated exploitation of prostitution, on or after May 10, 2011.

Section 10. Section 77-41-107 is amended to read:

77-41-107. Penalties.

(1) An offender who knowingly fails to register under this chapter or provides false or incomplete information is guilty of:

(a) a third degree felony and shall be sentenced to serve a term of incarceration for not less than 90 days and also at least one year of probation if:

(i) the offender is required to register for a felony conviction or adjudicated delinquent for what would be a felony if the juvenile were an adult of an

offense listed in Subsection 77-41-102(9)(a) or ~~[(16)]~~ (17)(a); or

(ii) the offender is required to register for the offender's lifetime under Subsection 77-41-105(3)(c); or

(b) a class A misdemeanor and shall be sentenced to serve a term of incarceration for not fewer than 90 days and also at least one year of probation if the offender is required to register for a misdemeanor conviction or is adjudicated delinquent for what would be a misdemeanor if the juvenile were an adult of an offense listed in Subsection 77-41-102(9)(a) or ~~[(16)]~~ (17)(a).

(2) Neither the court nor the Board of Pardons and Parole may release a person who violates this chapter from serving the term required under Subsection (1). This Subsection (2) supersedes any other provision of the law contrary to this chapter.

(3) The offender shall register for an additional year for every year in which the offender does not comply with the registration requirements of this chapter.

Section 11. Section 77-41-109 is amended to read:

77-41-109. Miscellaneous provisions.

(1) (a) If an offender is to be temporarily sent on any assignment outside a secure facility in which the offender is confined on any assignment, including, without limitation, firefighting or disaster control, the official who has custody of the offender shall, within a reasonable time prior to removal from the secure facility, notify the local law enforcement agencies where the assignment is to be filled.

(b) This Subsection (1) does not apply to any person temporarily released under guard from the institution in which the person is confined.

(2) Notwithstanding Title 77, Chapter 40, Utah Expungement Act, a person convicted of any offense listed in Subsection 77-41-102(9) or ~~[(16)]~~ (17) is not relieved from the responsibility to register as required under this section, unless the offender is removed from the registry under Section 77-41-112.

Section 12. Section 78B-8-302 is amended to read:

78B-8-302. Process servers.

(1) Complaints, summonses, and subpoenas may be served by a person who is:

(a) 18 years of age or older at the time of service; and

(b) not a party to the action or a party's attorney.

(2) Except as provided in Subsection (5), the following may serve all process issued by the courts of this state:

(a) a peace officer employed by a political subdivision of the state acting within the scope and jurisdiction of the peace officer's employment;

(b) a sheriff or appointed deputy sheriff employed by a county of the state;

(c) a constable, or the constable's deputy, serving in compliance with applicable law;

(d) an investigator employed by the state and authorized by law to serve civil process; and

(e) a private investigator licensed in accordance with Title 53, Chapter 9, Private Investigator Regulation Act.

(3) A private investigator licensed in accordance with Title 53, Chapter 9, Private Investigator Regulation Act, may not make an arrest pursuant to a bench warrant.

(4) While serving process, a private investigator shall:

(a) have on the investigator's person a visible form of credentials and identification identifying:

(i) the investigator's name;

(ii) that the investigator is a licensed private investigator; and

(iii) the name and address of the agency employing the investigator or, if the investigator is self-employed, the address of the investigator's place of business;

(b) verbally communicate to the person being served that the investigator is acting as a process server; and

(c) print on the first page of each document served:

(i) the investigator's name and identification number as a private investigator; and

(ii) the address and phone number for the investigator's place of business.

(5) Any service under this section when the use of force is authorized on the face of the document, or when a breach of the peace is imminent or likely under the totality of the circumstances, may only be served by:

(a) a law enforcement officer, as defined in Section 53-13-103; or

(b) a constable, as defined in Subsection 53-13-105(1)(b)(ii).

(6) The following may not serve process issued by a court:

(a) a person convicted of a felony violation of an offense listed in Subsection 77-41-102~~(16)~~(17); or

(b) a person who is a respondent in a proceeding described in Title 78B, Chapter 7, Protective Orders, in which a court has granted the petitioner a protective order.

(7) A person serving process shall:

(a) legibly document the date and time of service on the front page of the document being served;

(b) legibly print the process server's name, address, and telephone number on the return of service;

(c) sign the return of service in substantial compliance with Section 78B-5-705;

(d) if the process server is a peace officer, sheriff, or deputy sheriff, legibly print the badge number of the process server on the return of service; and

(e) if the process server is a private investigator, legibly print the private investigator's identification number on the return of service.

CHAPTER 211**H. B. 216**

Passed March 12, 2015

Approved March 26, 2015

Effective July 1, 2015

**WORKPLACE ABUSIVE CONDUCT
AMENDMENTS TO PROMOTE
A HEALTHY WORKPLACE**

Chief Sponsor: Keven J. Stratton

Senate Sponsor: Todd Weiler

LONG TITLE**General Description:**

This bill modifies the Utah State Personnel Management Act to address workplace abusive conduct.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires rulemaking;
- ▶ requires training;
- ▶ outlines the scope of section; and
- ▶ requires reporting.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**ENACTS:**

67-19-44, Utah Code Annotated 1953

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

Section 1. Section 67-19-44 is enacted to read:**67-19-44. Abusive conduct.**

(1) As used in this section:

(a) (i) “Abusive conduct” means verbal, nonverbal, or physical conduct of an employee to another employee that, based on its severity, nature, and frequency of occurrence, a reasonable person would determine:

(A) is intended to cause intimidation, humiliation, or unwarranted distress;

(B) results in substantial physical or psychological harm as a result of intimidation, humiliation, or unwarranted distress; or

(C) exploits an employee’s known physical or psychological disability.

(ii) A single act does not constitute abusive conduct, unless it is an especially severe and egregious act that meets the standard under Subsection (1)(a)(i)(A), (B), or (C).

(b) “Employee” means an employee of a state executive branch agency.

(c) “Physical harm” means the impairment of a person’s physical health or bodily integrity, as established by competent evidence.

(d) “Psychological harm” means the impairment of a person’s mental health, as established by competent evidence.

(2) By July 1, 2015, the department shall make a rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, consistent with the definitions in Subsection (1).

(3) (a) On and after July 1, 2015, the department shall provide training to educate employees and supervisors about how to prevent abusive workplace conduct.

(b) The training shall include information on:

(i) what constitutes abusive conduct and the ramifications of abusive conduct;

(ii) resources available to employees who are subject to abusive conduct; and

(iii) the grievance process.

(4) (a) On and after July 1, 2015, each state agency shall provide professional development training approved by the department to promote:

(i) ethical conduct; and

(ii) organizational leadership practices based in principles of integrity.

(b) A state agency may request assistance from the department in developing training under this Subsection (4).

(5) Employees shall participate in the training described in Subsections (3) and (4) in alternating years.

(6) The department may use money appropriated to the department or access support from outside resources to:

(a) develop policies against workplace abusive conduct; and

(b) enhance professional development training on topics such as:

(i) building trust;

(ii) effective motivation;

(iii) communication;

(iv) conflict resolution;

(v) accountability;

(vi) coaching;

(vii) leadership; or

(viii) ethics.

(7) This section does not:

(a) exempt or relieve a person from a liability, duty, or penalty provided by another federal or state law;

(b) create a private right of action;

(c) expand or diminish rights or remedies available to a person before July 1, 2015; or

(d) expand or diminish grounds for discipline that existed before July 1, 2015.

(8) The department shall report to the Economic Development and Workforce Services Interim Committee by no later than the November 2015 interim meeting regarding:

(a) the implementation of this section;

(b) recommendations, if any, to appropriately address and reduce workplace abusive conduct or to change definitions or training required by this section; and

(c) if the department finds a change in a definition or training is needed, the department's efforts to work with stakeholders to make recommendations for change.

Section 2. Effective date.

This bill takes effect on July 1, 2015.

CHAPTER 212**H. B. 298**

Passed March 12, 2015
 Approved March 26, 2015
 Effective May 12, 2015

EXEMPTIONS ACT AMENDMENTS

Chief Sponsor: Ken Ivory
 Senate Sponsor: Curtis S. Bramble

LONG TITLE**General Description:**

This bill amends provisions relating to exempted items in bankruptcy proceedings for the purposes of collecting an unsecured debt.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ describes firearms and ammunition that are exempted from bankruptcy proceedings for the purposes of collecting an unsecured debt; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

76-10-501, as last amended by Laws of Utah 2014, Chapter 428
 78B-5-505, as last amended by Laws of Utah 2013, Chapter 192
 78B-5-506, as last amended by Laws of Utah 2013, Chapter 192

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

Section 1. Section 76-10-501 is amended to read:**76-10-501. Definitions.**

As used in this part:

- (1) (a) "Antique firearm" means:
- (i) any firearm, including any firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system, manufactured in or before 1898; or
 - (ii) a firearm that is a replica of any firearm described in this Subsection (1)(a), if the replica:
 - (A) is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition; or
 - (B) uses rimfire or centerfire fixed ammunition which is:
 - (I) no longer manufactured in the United States; and
 - (II) is not readily available in ordinary channels of commercial trade; or
 - (iii) (A) that is a muzzle loading rifle, shotgun, or pistol; and

(B) is designed to use black powder, or a black powder substitute, and cannot use fixed ammunition.

(b) "Antique firearm" does not include:

- (i) a weapon that incorporates a firearm frame or receiver;
- (ii) a firearm that is converted into a muzzle loading weapon; or
- (iii) a muzzle loading weapon that can be readily converted to fire fixed ammunition by replacing the:

(A) barrel;

(B) bolt;

(C) breechblock; or

(D) any combination of Subsection (1)(b)(iii)(A), (B), or (C).

(2) "Bureau" means the Bureau of Criminal Identification created in Section 53-10-201 within the Department of Public Safety.

(3) (a) "Concealed dangerous weapon" means a dangerous weapon that is:

(i) covered, hidden, or secreted in a manner that the public would not be aware of its presence; and

(ii) readily accessible for immediate use.

(b) A dangerous weapon is not a concealed dangerous weapon if it is a firearm which is unloaded and is securely encased.

(4) "Criminal history background check" means a criminal background check conducted by a licensed firearms dealer on every purchaser of a handgun, except a Federal Firearms Licensee, through the bureau or the local law enforcement agency where the firearms dealer conducts business.

(5) "Curio or relic firearm" means a firearm that:

(a) is of special interest to a collector because of a quality that is not associated with firearms intended for:

(i) sporting use;

(ii) use as an offensive weapon; or

(iii) use as a defensive weapon;

(b) (i) was manufactured at least 50 years before the current date; and

(ii) is not a replica of a firearm described in Subsection (5)(b)(i);

(c) is certified by the curator of a municipal, state, or federal museum that exhibits firearms to be a curio or relic of museum interest;

(d) derives a substantial part of its monetary value:

(i) from the fact that the firearm is:

(A) novel;

(B) rare; or

(C) bizarre; or

(ii) because of the firearm's association with an historical:

- (A) figure;
- (B) period; or
- (C) event; and

(e) has been designated as a curio or relic firearm by the director of the United States Treasury Department Bureau of Alcohol, Tobacco, and Firearms under 27 C.F.R. Sec. 478.11.

(6) (a) "Dangerous weapon" means:

- (i) a firearm; or
- (ii) an object that in the manner of its use or intended use is capable of causing death or serious bodily injury.

(b) The following factors are used in determining whether any object, other than a firearm, is a dangerous weapon:

- (i) the location and circumstances in which the object was used or possessed;
- (ii) the primary purpose for which the object was made;
- (iii) the character of the wound, if any, produced by the object's unlawful use;
- (iv) the manner in which the object was unlawfully used;
- (v) whether the manner in which the object is used or possessed constitutes a potential imminent threat to public safety; and
- (vi) the lawful purposes for which the object may be used.

(c) "Dangerous weapon" does not include an explosive, chemical, or incendiary device as defined by Section 76-10-306.

(7) "Dealer" means a person who is:

- (a) licensed under 18 U.S.C. Sec. 923; and
- (b) engaged in the business of selling, leasing, or otherwise transferring a handgun, whether the person is a retail or wholesale dealer, pawnbroker, or otherwise.

(8) "Enter" means intrusion of the entire body.

(9) "Federal Firearms Licensee" means a person who:

(a) holds a valid Federal Firearms License issued under 18 U.S.C. Sec. 923; and

(b) is engaged in the activities authorized by the specific category of license held.

(10) (a) "Firearm" means a pistol, revolver, shotgun, short barreled shotgun, rifle or short barreled rifle, or a device that could be used as a dangerous weapon from which is expelled a projectile by action of an explosive.

(b) As used in Sections 76-10-526 and 76-10-527, "firearm" does not include an antique firearm.

(11) "Firearms transaction record form" means a form created by the bureau to be completed by a person purchasing, selling, or transferring a handgun from a dealer in the state.

(12) "Fully automatic weapon" means a firearm which fires, is designed to fire, or can be readily restored to fire, automatically more than one shot without manual reloading by a single function of the trigger.

(13) (a) "Handgun" means a pistol, revolver, or other firearm of any description, loaded or unloaded, from which a shot, bullet, or other missile can be discharged, the length of which, not including any revolving, detachable, or magazine breech, does not exceed 12 inches.

(b) As used in Sections 76-10-520, 76-10-521, and 76-10-522, "handgun" and "pistol or revolver" do not include an antique firearm.

(14) "House of worship" means a church, temple, synagogue, mosque, or other building set apart primarily for the purpose of worship in which religious services are held and the main body of which is kept for that use and not put to any other use inconsistent with its primary purpose.

(15) "Prohibited area" means a place where it is unlawful to discharge a firearm.

(16) "Readily accessible for immediate use" means that a firearm or other dangerous weapon is carried on the person or within such close proximity and in such a manner that it can be retrieved and used as readily as if carried on the person.

(17) "Residence" means an improvement to real property used or occupied as a primary or secondary residence.

(18) "Securely encased" means not readily accessible for immediate use, such as held in a gun rack, or in a closed case or container, whether or not locked, or in a trunk or other storage area of a motor vehicle, not including a glove box or console box.

(19) "Short barreled shotgun" or "short barreled rifle" means a shotgun having a barrel or barrels of fewer than 18 inches in length, or in the case of a rifle, having a barrel or barrels of fewer than 16 inches in length, or a dangerous weapon made from a rifle or shotgun by alteration, modification, or otherwise, if the weapon as modified has an overall length of fewer than 26 inches.

(20) "Shotgun" means a smooth bore firearm designed to fire cartridges containing pellets or a single slug.

(21) "Shoulder arm" means a firearm that is designed to be fired while braced against the shoulder.

(22) "Slug" means a single projectile discharged from a shotgun shell.

~~(20)~~ (23) "State entity" means a department, commission, board, council, agency, institution,

officer, corporation, fund, division, office, committee, authority, laboratory, library, unit, bureau, panel, or other administrative unit of the state.

[~~(21)~~ (24) "Violent felony" ~~has the same meaning as~~] means the same as that term is defined in Section 76-3-203.5.

Section 2. Section 78B-5-505 is amended to read:

78B-5-505. Property exempt from execution.

(1) (a) An individual is entitled to exemption of the following property:

(i) a burial plot for the individual and the individual's family;

(ii) health aids reasonably necessary to enable the individual or a dependent to work or sustain health;

(iii) benefits the individual or the individual's dependent have received or are entitled to receive from any source because of:

(A) disability;

(B) illness; or

(C) unemployment;

(iv) benefits paid or payable for medical, surgical, or hospital care to the extent they are used by an individual or the individual's dependent to pay for that care;

(v) veterans benefits;

(vi) money or property received, and rights to receive money or property for child support;

(vii) money or property received, and rights to receive money or property for alimony or separate maintenance, to the extent reasonably necessary for the support of the individual and the individual's dependents;

(viii) (A) one:

(I) clothes washer and dryer;

(II) refrigerator;

(III) freezer;

(IV) stove;

(V) microwave oven; and

(VI) sewing machine;

(B) all carpets in use;

(C) provisions sufficient for 12 months actually provided for individual or family use;

(D) all wearing apparel of every individual and dependent, not including jewelry or furs; and

(E) all beds and bedding for every individual or dependent;

(ix) except for works of art held by the debtor as part of a trade or business, works of art:

(A) depicting the debtor or the debtor and his resident family; or

(B) produced by the debtor or the debtor and his resident family;

(x) proceeds of insurance, a judgment, or a settlement, or other rights accruing as a result of bodily injury of the individual or of the wrongful death or bodily injury of another individual of whom the individual was or is a dependent to the extent that those proceeds are compensatory;

(xi) the proceeds or benefits of any life insurance contracts or policies paid or payable to the debtor or any trust of which the debtor is a beneficiary upon the death of the spouse or children of the debtor, provided that the contract or policy has been owned by the debtor for a continuous unexpired period of one year;

(xii) the proceeds or benefits of any life insurance contracts or policies paid or payable to the spouse or children of the debtor or any trust of which the spouse or children are beneficiaries upon the death of the debtor, provided that the contract or policy has been in existence for a continuous unexpired period of one year;

(xiii) proceeds and avails of any unexpired life insurance contracts owned by the debtor or any revocable grantor trust created by the debtor, excluding any payments made on the contract during the one year immediately preceding a creditor's levy or execution;

(xiv) except as provided in Subsection (1)(b), any money or other assets held for or payable to the individual as a participant or beneficiary from or an interest of the individual as a participant or beneficiary in a retirement plan or arrangement that is described in Section 401(a), 401(h), 401(k), 403(a), 403(b), 408, 408A, 409, 414(d), 414(e), or 457, Internal Revenue Code;

(xv) the interest of or any money or other assets payable to an alternate payee under a qualified domestic relations order as those terms are defined in Section 414(p), Internal Revenue Code; ~~and~~

(xvi) unpaid earnings of the household of the filing individual due as of the date of the filing of a bankruptcy petition in the amount of 1/24 of the Utah State annual median family income for the household size of the filing individual as determined by the Utah State annual Median Family Income reported by the United States Census Bureau and as adjusted based upon the Consumer Price Index for All Urban Consumers for an individual whose unpaid earnings are paid more often than once a month or, if unpaid earnings are not paid more often than once a month, then in the amount of 1/12 of the Utah State annual median family income for the household size of the individual as determined by the Utah State Annual Median Family Income reported by the United States Census Bureau and as adjusted based upon the Consumer Price Index for All Urban Consumers[-]; and

(xvii) except for curio or relic firearms, as defined in Section 76-10-501, any three of the following:

(A) one handgun and ammunition for the handgun not exceeding 1,000 rounds;

(B) one shotgun and ammunition for the shotgun not exceeding 1,000 rounds; and

(C) one shoulder arm and ammunition for the shoulder arm not exceeding 1,000 rounds.

(b) The exemption granted by Subsection (1)(a)(xiv) does not apply to:

(i) an alternate payee under a qualified domestic relations order, as those terms are defined in Section 414(p), Internal Revenue Code; or

(ii) amounts contributed or benefits accrued by or on behalf of a debtor within one year before the debtor files for bankruptcy. This may not include amounts directly rolled over from other funds which are exempt from attachment under this section.

(2) The exemptions in Subsections (1)(a)(xi), (xii), and (xiii) do not apply to proceeds and avails of any matured or unmatured life insurance contract assigned or pledged as collateral for repayment of a loan or other legal obligation.

(3) Exemptions under this section do not limit items that may be claimed as exempt under Section 78B-5-506.

Section 3. Section 78B-5-506 is amended to read:

78B-5-506. Value of exempt property -- Exemption of implements, professional books, tools, and motor vehicles.

(1) An individual is entitled to exemption of the following property up to an aggregate value of items in each subsection of \$1,000:

(a) sofas, chairs, and related furnishings reasonably necessary for one household;

(b) dining and kitchen tables and chairs reasonably necessary for one household;

(c) animals, books, and musical instruments, if reasonably held for the personal use of the individual or the individual's dependents; and

(d) heirlooms or other items of particular sentimental value to the individual[; and].

~~[(e) firearms and ammunition not included in other exemption categories in the amount of \$250 per individual, and not more than \$500 per household.]~~

(2) An individual is entitled to an exemption, not exceeding \$5,000 in aggregate value, of implements, professional books, or tools of the individual's trade, including motor vehicles to which no other exemption has been applied, and that are actually used by the individual in the individual's principal business, trade, or profession.

(3) (a) As used in this Subsection (3), "motor vehicle" does not include any motor vehicle

designed for or used primarily for recreational purposes, such as:

(i) an off-highway vehicle as defined in Section 41-22-2, except a motorcycle the individual regularly uses for daily transportation; or

(ii) a recreational vehicle as defined in Section 13-14-102, except a van the individual regularly uses for daily transportation.

(b) An individual is entitled to an exemption, not exceeding \$3,000 in value, of one motor vehicle.

(4) This section does not affect property exempt under Section 78B-5-505.

CHAPTER 213**H. B. 304**

Passed March 10, 2015
 Approved March 26, 2015
 Effective May 12, 2015

**HOMEOWNER ASSOCIATION
 UTILITIES AMENDMENTS**

Chief Sponsor: Dixon M. Pitcher
 Senate Sponsor: Brian E. Shiozawa

LONG TITLE**General Description:**

This bill modifies provisions relating to utility service to homeowner associations.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ addresses the circumstances under which an electrical corporation or a gas corporation may discontinue service to a unit or a lot;
- ▶ provides a procedure by which an association may:
 - pay a unit owner's or a lot owner's delinquent utility bill to maintain service; or
 - enter a unit or a lot to winterize the unit or lot;
- ▶ addresses the method by which an association may recover actual and reasonable money used to pay a unit owner's or a lot owner's utility bill or to winterize a unit or a lot; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

57-8-3, as last amended by Laws of Utah 2013, Chapters 95 and 152

57-8a-102, as last amended by Laws of Utah 2013, Chapters 95 and 152

ENACTS:

57-8-56, Utah Code Annotated 1953

57-8a-225, Utah Code Annotated 1953

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

Section 1. Section 57-8-3 is amended to read:

57-8-3. Definitions.

As used in this chapter:

(1) "Assessment" means any charge imposed by the association, including:

(a) common expenses on or against a unit owner pursuant to the provisions of the declaration, bylaws, or this chapter; and

(b) an amount that an association of unit owners assesses to a unit owner under Subsection 57-8-43(9)(g).

(2) "Association of unit owners" means all of the unit owners:

(a) acting as a group in accordance with the declaration and bylaws; or

(b) organized as a legal entity in accordance with the declaration.

(3) "Building" means a building, containing units, and comprising a part of the property.

(4) "Commercial condominium project" means a condominium project that has no residential units within the project.

(5) "Common areas and facilities" unless otherwise provided in the declaration or lawful amendments to the declaration means:

(a) the land included within the condominium project, whether leasehold or in fee simple;

(b) the foundations, columns, girders, beams, supports, main walls, roofs, halls, corridors, lobbies, stairs, stairways, fire escapes, entrances, and exits of the building;

(c) the basements, yards, gardens, parking areas, and storage spaces;

(d) the premises for lodging of janitors or persons in charge of the property;

(e) installations of central services such as power, light, gas, hot and cold water, heating, refrigeration, air conditioning, and incinerating;

(f) the elevators, tanks, pumps, motors, fans, compressors, ducts, and in general all apparatus and installations existing for common use;

(g) such community and commercial facilities as may be provided for in the declaration; and

(h) all other parts of the property necessary or convenient to its existence, maintenance, and safety, or normally in common use.

(6) "Common expenses" means:

(a) all sums lawfully assessed against the unit owners;

(b) expenses of administration, maintenance, repair, or replacement of the common areas and facilities;

(c) expenses agreed upon as common expenses by the association of unit owners; and

(d) expenses declared common expenses by this chapter, or by the declaration or the bylaws.

(7) "Common profits," unless otherwise provided in the declaration or lawful amendments to the declaration, means the balance of all income, rents, profits, and revenues from the common areas and facilities remaining after the deduction of the common expenses.

(8) "Condominium" means the ownership of a single unit in a multiunit project together with an undivided interest in common in the common areas and facilities of the property.

(9) “Condominium plat” means a plat or plats of survey of land and units prepared in accordance with Section 57-8-13.

(10) “Condominium project” means a real estate condominium project; a plan or project whereby two or more units, whether contained in existing or proposed apartments, commercial or industrial buildings or structures, or otherwise, are separately offered or proposed to be offered for sale. Condominium project also means the property when the context so requires.

(11) “Condominium unit” means a unit together with the undivided interest in the common areas and facilities appertaining to that unit. Any reference in this chapter to a condominium unit includes both a physical unit together with its appurtenant undivided interest in the common areas and facilities and a time period unit together with its appurtenant undivided interest, unless the reference is specifically limited to a time period unit.

(12) “Contractible condominium” means a condominium project from which one or more portions of the land within the project may be withdrawn in accordance with provisions of the declaration and of this chapter. If the withdrawal can occur only by the expiration or termination of one or more leases, then the condominium project is not a contractible condominium within the meaning of this chapter.

(13) “Convertible land” means a building site which is a portion of the common areas and facilities, described by metes and bounds, within which additional units or limited common areas and facilities may be created in accordance with this chapter.

(14) “Convertible space” means a portion of the structure within the condominium project, which portion may be converted into one or more units or common areas and facilities, including limited common areas and facilities in accordance with this chapter.

(15) “Declarant” means all persons who execute the declaration or on whose behalf the declaration is executed. From the time of the recordation of any amendment to the declaration expanding an expandable condominium, all persons who execute that amendment or on whose behalf that amendment is executed shall also come within this definition. Any successors of the persons referred to in this subsection who come to stand in the same relation to the condominium project as their predecessors also come within this definition.

(16) “Declaration” means the instrument by which the property is submitted to the provisions of this act, as it from time to time may be lawfully amended.

(17) “Electrical corporation” means the same as that term is defined in Section 54-2-1.

(18) “Expandable condominium” means a condominium project to which additional land or an

interest in it may be added in accordance with the declaration and this chapter.

(19) “Gas corporation” means the same as that term is defined in Section 54-2-1.

(20) “Governing documents”:

(a) means a written instrument by which an association of unit owners may:

(i) exercise powers; or

(ii) manage, maintain, or otherwise affect the property under the jurisdiction of the association of unit owners; and

(b) includes:

(i) articles of incorporation;

(ii) bylaws;

(iii) a plat;

(iv) a declaration of covenants, conditions, and restrictions; and

(v) rules of the association of unit owners.

(21) “Independent third party” means a person that:

(a) is not related to the unit owner;

(b) shares no pecuniary interests with the unit owner; and

(c) purchases the unit in good faith and without the intent to defraud a current or future lienholder.

(22) “Leasehold condominium” means a condominium project in all or any portion of which each unit owner owns an estate for years in his unit, or in the land upon which that unit is situated, or both, with all those leasehold interests to expire naturally at the same time. A condominium project including leased land, or an interest in the land, upon which no units are situated or to be situated is not a leasehold condominium within the meaning of this chapter.

(23) “Limited common areas and facilities” means those common areas and facilities designated in the declaration as reserved for use of a certain unit or units to the exclusion of the other units.

(24) “Majority” or “majority of the unit owners,” unless otherwise provided in the declaration or lawful amendments to the declaration, means the owners of more than 50% in the aggregate in interest of the undivided ownership of the common areas and facilities.

(25) “Management committee” means the committee as provided in the declaration charged with and having the responsibility and authority to make and to enforce all of the reasonable rules covering the operation and maintenance of the property.

(26) “Mixed-use condominium project” means a condominium project that has both residential and commercial units in the condominium project.

(25) (27) “Par value” means a number of dollars or points assigned to each unit by the declaration. Substantially identical units shall be assigned the same par value, but units located at substantially different heights above the ground, or having substantially different views, or having substantially different amenities or other characteristics that might result in differences in market value, may be considered substantially identical within the meaning of this subsection. If par value is stated in terms of dollars, that statement may not be considered to reflect or control the sales price or fair market value of any unit, and no opinion, appraisal, or fair market transaction at a different figure may affect the par value of any unit, or any undivided interest in the common areas and facilities, voting rights in the unit owners’ association, liability for common expenses, or right to common profits, assigned on the basis thereof.

(26) (28) “Person” means an individual, corporation, partnership, association, trustee, or other legal entity.

(27) (29) “Property” means the land, whether leasehold or in fee simple, the building, if any, all improvements and structures thereon, all easements, rights, and appurtenances belonging thereto, and all articles of personal property intended for use in connection therewith.

(28) (30) “Record,” “recording,” “recorded,” and “recorder” have the meaning stated in Title 57, Chapter 3, Recording of Documents.

(29) (31) “Size” means the number of cubic feet, or the number of square feet of ground or floor space, within each unit as computed by reference to the record of survey map and rounded off to a whole number. Certain spaces within the units including attic, basement, or garage space may be omitted from the calculation or be partially discounted by the use of a ratio, if the same basis of calculation is employed for all units in the condominium project and if that basis is described in the declaration.

(30) (32) “Time period unit” means an annually recurring part or parts of a year specified in the declaration as a period for which a unit is separately owned and includes a timeshare estate as defined in Subsection 57-19-2(19).

(31) (33) “Unit” means either a separate physical part of the property intended for any type of independent use, including one or more rooms or spaces located in one or more floors or part or parts of floors in a building or a time period unit, as the context may require. A convertible space shall be treated as a unit in accordance with Subsection 57-8-13.4(3). A proposed condominium unit under an expandable condominium project, not constructed, is a unit two years after the date the recording requirements of Section 57-8-13.6 are met.

(32) (34) “Unit number” means the number, letter, or combination of numbers and letters designating the unit in the declaration and in the record of survey map.

(33) (35) “Unit owner” means the person or persons owning a unit in fee simple and an undivided interest in the fee simple estate of the common areas and facilities in the percentage specified and established in the declaration or, in the case of a leasehold condominium project, the person or persons whose leasehold interest or interests in the condominium unit extend for the entire balance of the unexpired term or terms.

Section 2. Section 57-8-56 is enacted to read:

57-8-56. Association of unit owners’ right to pay delinquent utilities.

(1) Upon request in accordance with Subsection (2), at least 10 days before the day on which an electrical corporation or a gas corporation discontinues service to a unit, the electrical corporation or gas corporation shall give the association of unit owners:

(a) written notice that the electrical corporation or gas corporation will discontinue service to the unit; and

(b) an opportunity to pay any delinquent charges and maintain service to the unit.

(2) An association of unit owners may request the notice and opportunity to pay described in Subsection (1) by sending a written request to the electrical corporation or gas corporation that includes:

(a) the address of each unit in the association of unit owners;

(b) the association of unit owners’ name, mailing address, phone number, and email address; and

(c) the address where the electrical corporation or gas corporation may send notices.

(3) If, after an electrical corporation or a gas corporation sends a written notice described in Subsection (1) to an association of unit owners and the association of unit owners does not pay the delinquent charges within 10 days after the day on which the electrical corporation or gas corporation sends the notice, the electrical corporation or gas corporation may discontinue service to the unit.

(4) An association of unit owners may collect any payment to an electrical corporation or a gas corporation under this section as an assessment in accordance with Section 57-8-44.

(5) (a) If, after an association of unit owners receives a written notice described in Subsection (1), the association of unit owners decides not to pay the delinquent charges, the association of unit owners may, if permitted by the association of unit owners’ governing documents, and after reasonable notice to the unit owner:

(i) enter the unit; and

(ii) winterize the unit.

(b) A person who enters a unit in accordance with Subsection (5)(a) is not liable for trespass.

(c) An association of unit owners may charge a unit owner an assessment for the actual and

reasonable costs of winterizing a unit in accordance with this Subsection (5).

Section 3. Section 57-8a-102 is amended to read:

57-8a-102. Definitions.

As used in this chapter:

(1) (a) "Assessment" means a charge imposed or levied:

- (i) by the association;
- (ii) on or against a lot or a lot owner; and
- (iii) pursuant to a governing document recorded with the county recorder.

(b) "Assessment" includes:

- (i) a common expense; and
- (ii) an amount assessed against a lot owner under Subsection 57-8a-405(7).

(2) (a) Except as provided in Subsection (2)(b), "association" means a corporation or other legal entity, any member of which:

(i) is an owner of a residential lot located within the jurisdiction of the association, as described in the governing documents; and

(ii) by virtue of membership or ownership of a residential lot is obligated to pay:

- (A) real property taxes;
- (B) insurance premiums;
- (C) maintenance costs; or
- (D) for improvement of real property not owned by the member.

(b) "Association" or "homeowner association" does not include an association created under Title 57, Chapter 8, Condominium Ownership Act.

(3) "Board of directors" or "board" means the entity, regardless of name, with primary authority to manage the affairs of the association.

(4) "Common areas" means property that the association:

- (a) owns;
- (b) maintains;
- (c) repairs; or
- (d) administers.

(5) "Common expense" means costs incurred by the association to exercise any of the powers provided for in the association's governing documents.

(6) "Declarant":

(a) means the person who executes a declaration and submits it for recording in the office of the recorder of the county in which the property described in the declaration is located; and

(b) includes the person's successor and assign.

(7) "Electrical corporation" means the same as that term is defined in Section 54-2-1.

(8) "Gas corporation" means the same as that term is defined in Section 54-2-1.

~~[(7)]~~ (9) (a) "Governing documents" means a written instrument by which the association may:

(i) exercise powers; or

(ii) manage, maintain, or otherwise affect the property under the jurisdiction of the association.

(b) "Governing documents" includes:

- (i) articles of incorporation;
- (ii) bylaws;
- (iii) a plat;
- (iv) a declaration of covenants, conditions, and restrictions; and
- (v) rules of the association.

~~[(8)]~~ (10) "Independent third party" means a person that:

(a) is not related to the owner of the residential lot;

(b) shares no pecuniary interests with the owner of the residential lot; and

(c) purchases the residential lot in good faith and without the intent to defraud a current or future lienholder.

~~[(9)]~~ (11) "Judicial foreclosure" means a foreclosure of a lot:

(a) for the nonpayment of an assessment; and

(b) (i) in the manner provided by law for the foreclosure of a mortgage on real property; and

(ii) as provided in Part 3, Collection of Assessments.

~~[(10)]~~ (12) "Lease" or "leasing" means regular, exclusive occupancy of a lot:

(a) by a person or persons other than the owner; and

(b) for which the owner receives a consideration or benefit, including a fee, service, gratuity, or emolument.

~~[(11)]~~ (13) "Limited common areas" means common areas described in the declaration and allocated for the exclusive use of one or more lot owners.

~~[(12)]~~ (14) "Lot" means:

(a) a lot, parcel, plot, or other division of land:

(i) designated for separate ownership or occupancy; and

(ii) (A) shown on a recorded subdivision plat; or

(B) the boundaries of which are described in a recorded governing document; or

(b) (i) a unit in a condominium association if the condominium association is a part of a development; or

(ii) a unit in a real estate cooperative if the real estate cooperative is part of a development.

[(13)] (15) “Mixed-use project” means a project under this chapter that has both residential and commercial lots in the project.

[(14)] (16) “Nonjudicial foreclosure” means the sale of a lot:

(a) for the nonpayment of an assessment; and

(b) (i) in the same manner as the sale of trust property under Sections 57-1-19 through 57-1-34; and

(ii) as provided in Part 3, Collection of Assessments.

[(15)] (17) “Residential lot” means a lot, the use of which is limited by law, covenant, or otherwise to primarily residential or recreational purposes.

Section 4. Section 57-8a-225 is enacted to read:

57-8a-225. Association’s right to pay delinquent utilities.

(1) Upon request in accordance with Subsection (2), at least 10 days before the day on which an electrical corporation or a gas corporation discontinues service to a lot, the electrical corporation or gas corporation shall give the association:

(a) written notice that the electrical corporation or gas corporation will discontinue service to the lot; and

(b) an opportunity to pay any delinquent charges and maintain service to the lot.

(2) An association may request the notice and opportunity to pay described in Subsection (1) by sending a written request to the electrical corporation or gas corporation that includes:

(a) the address of each lot in the association;

(b) the association’s name, mailing address, phone number, and email address; and

(c) the address where the electrical corporation or gas corporation may send notices.

(3) If, after an electrical corporation or a gas corporation sends a written notice described in Subsection (1) to an association and the association does not pay the delinquent charges within 10 days after the day on which the electrical corporation or gas corporation sends the notice, the electrical corporation or gas corporation may discontinue service to the lot.

(4) An association may collect any payment to an electrical corporation or a gas corporation under this section as an assessment in accordance with Section 57-8a-301.

(5) (a) If, after an association receives a written notice described in Subsection (1), the association decides not to pay the delinquent charges, the association may, if permitted by the association’s

governing documents, and after reasonable notice to the lot owner:

(i) enter the lot; and

(ii) winterize the lot.

(b) A person who enters a lot in accordance with Subsection (5)(a) is not liable for trespass.

(c) An association may charge a lot owner an assessment for the actual and reasonable costs of winterizing a lot in accordance with this Subsection (5).

CHAPTER 214**H. B. 333**

Passed March 11, 2015
 Approved March 26, 2015
 Effective May 12, 2015

**BUDGET RESERVE
 ACCOUNT AMENDMENTS**

Chief Sponsor: Dean Sanpei
 Senate Sponsor: Lyle W. Hillyard

LONG TITLE**General Description:**

This bill modifies provisions of the Budgetary Procedures Act relating to budget-related restricted accounts.

Highlighted Provisions:

This bill:

- ▶ addresses the transfer limit for the General Fund Budget Reserve Account and the Education Fund Budget Reserve Account.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63J-1-312, as last amended by Laws of Utah 2012, Chapter 141

63J-1-313, as last amended by Laws of Utah 2012, Chapter 141

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

Section 1. Section 63J-1-312 is amended to read:

63J-1-312. Establishing a General Fund Budget Reserve Account -- Providing for deposits and expenditures from the account -- Providing for interest generated by the account.

(1) As used in this section:

(a) "Education Fund budget deficit" means a situation where appropriations made by the Legislature from the Education Fund for a fiscal year exceed the estimated revenues adopted by the Executive Appropriations Committee of the Legislature for the Education Fund in that fiscal year.

(b) "General Fund appropriations" means the sum of the spending authority for a fiscal year that is:

(i) granted by the Legislature in all appropriation acts and bills; and

(ii) identified as coming from the General Fund.

(c) "General Fund budget deficit" means a situation where General Fund appropriations made by the Legislature for a fiscal year exceed the estimated revenues adopted by the Executive Appropriations Committee of the Legislature for the General Fund in that fiscal year.

(d) "General Fund revenue surplus" means a situation where actual General Fund revenues collected in a completed fiscal year exceed the estimated revenues for the General Fund for that fiscal year that were adopted by the Executive Appropriations Committee of the Legislature.

(e) "Operating deficit" means that, at the end of the fiscal year, the unassigned fund balance in the General Fund is less than zero.

(2) There is created within the General Fund a restricted account to be known as the General Fund Budget Reserve Account, which is designated to receive the legislative appropriations and the surplus revenue required to be deposited into the account by this section.

(3) (a) (i) Except as provided in Subsection (3)(a)(ii), at the end of any fiscal year in which the Division of Finance, in consultation with the Legislative Fiscal Analyst and in conjunction with the completion of the annual audit by the state auditor, determines that there is a General Fund revenue surplus, the Division of Finance shall transfer 25% of the General Fund revenue surplus to the General Fund Budget Reserve Account.

(ii) If the transfer of 25% of the General Fund revenue surplus to the General Fund Budget Reserve Account would cause the balance in the account to exceed ~~[8%]~~ 9% of General Fund appropriations for the fiscal year in which the revenue surplus occurred, the Division of Finance shall transfer only those funds necessary to ensure that the balance in the account equals ~~[8%]~~ 9% of General Fund appropriations for the fiscal year in which the General Fund revenue surplus occurred.

(iii) The Division of Finance shall calculate the amount to be transferred under this Subsection (3)(a):

(A) after making the transfer of General Fund revenue surplus to the Medicaid Growth Reduction and Budget Stabilization Account, as provided in Section 63J-1-315;

(B) before transferring from the General Fund revenue surplus any other year-end contingency appropriations, year-end set-asides, or other year-end transfers required by law; and

(C) excluding any direct legislative appropriation made to the General Fund Budget Reserve Account for the fiscal year.

(b) (i) Except as provided in Subsection (3)(b)(ii), in addition to Subsection (3)(a)(i), if a General Fund revenue surplus exists and if, within the last 10 years, the Legislature has appropriated any money from the General Fund Budget Reserve Account that has not been replaced by appropriation or as provided in this Subsection (3)(b), the Division of Finance shall transfer up to 25% more of the General Fund revenue surplus to the General Fund Budget Reserve Account to replace the amounts appropriated, until direct legislative appropriations, if any, and transfers from the General Fund revenue surplus under this Subsection (3)(b) have replaced the appropriations from the account.

(ii) If the transfer under Subsection (3)(b)(i) would cause the balance in the account to exceed [8%] 9% of General Fund appropriations for the fiscal year in which the revenue surplus occurred, the Division of Finance shall transfer only those funds necessary to ensure that the balance in the account equals [8%] 9% of General Fund appropriations for the fiscal year in which the revenue surplus occurred.

(iii) The Division of Finance shall calculate the amount to be transferred under this Subsection (3)(b):

(A) after making the transfer of General Fund revenue surplus to the Medicaid Growth Reduction and Budget Stabilization Account, as provided in Section 63J-1-315;

(B) before transferring from the General Fund revenue surplus any other year-end contingency appropriations, year-end set-asides, or other year-end transfers required by law; and

(C) excluding any direct legislative appropriation made to the General Fund Budget Reserve Account for the fiscal year.

(c) For appropriations made by the Legislature to the General Fund Budget Reserve Account, the Division of Finance shall treat those appropriations, unless otherwise specified in the appropriation, as replacement funds for appropriations made from the account if funds were appropriated from the General Fund Budget Reserve Account within the past 10 years and have not yet been replaced.

(4) The Legislature may appropriate money from the General Fund Budget Reserve Account only to:

(a) resolve a General Fund budget deficit, for the fiscal year in which the General Fund budget deficit occurs;

(b) pay some or all of state settlement agreements approved under Title 63G, Chapter 10, State Settlement Agreements Act;

(c) pay retroactive tax refunds; or

(d) resolve an Education Fund budget deficit.

(5) Interest generated from investments of money in the General Fund Budget Reserve Account shall be deposited into the General Fund.

Section 2. Section 63J-1-313 is amended to read:

63J-1-313. Establishing an Education Budget Reserve Account -- Providing for deposits and expenditures from the account -- Providing for interest generated by the account.

(1) As used in this section:

(a) "Education Fund appropriations" means the sum of the spending authority for a fiscal year that is:

(i) granted by the Legislature in all appropriation acts and bills; and

(ii) identified as coming from the Education Fund.

(b) "Education Fund budget deficit" means a situation where appropriations made by the Legislature from the Education Fund for a fiscal year exceed the estimated revenues adopted by the Executive Appropriations Committee of the Legislature for the Education Fund in that fiscal year.

(c) "Education Fund revenue surplus" means a situation where actual Education Fund revenues collected in a completed fiscal year exceed the estimated revenues for the Education Fund in that fiscal year that were adopted by the Executive Appropriations Committee of the Legislature.

(d) "Operating deficit" means that, at the end of the fiscal year, the unassigned fund balance in the Education Fund is less than zero.

(2) There is created within the Education Fund a restricted account to be known as the Education Fund Budget Reserve Account, which is designated to receive the legislative appropriations and the surplus revenue required to be deposited into the account by this section.

(3) (a) (i) Except as provided in Subsection (3)(a)(ii), at the end of any fiscal year in which the Division of Finance, in consultation with the Legislative Fiscal Analyst and in conjunction with the completion of the annual audit by the state auditor, determines that there is an Education Fund revenue surplus, the Division of Finance shall transfer 25% of the Education Fund revenue surplus to the Education Fund Budget Reserve Account.

(ii) If the transfer of 25% of the Education Fund revenue surplus to the Education Fund Budget Reserve Account under Subsection (3)(a)(i) would cause the balance in the account to exceed [9%] 11% of Education Fund appropriations for the fiscal year in which the Education Fund revenue surplus occurred, the Division of Finance shall transfer only those funds necessary to ensure that the balance in the account equals [9%] 11% of the Education Fund appropriations for the fiscal year in which the Education Fund revenue surplus occurred.

(iii) The Division of Finance shall calculate the amount to be transferred under this Subsection (3)(a):

(A) before transferring from the Education Fund revenue surplus any other year-end contingency appropriations, year-end set-asides, or other year-end transfers required by law; and

(B) excluding any direct legislative appropriation made to the Education Fund Budget Reserve Account for the fiscal year.

(b) (i) Except as provided in Subsection (3)(b)(ii), in addition to Subsection (3)(a)(i), if an Education Fund revenue surplus exists and if, within the last 10 years, the Legislature has appropriated any money from the Education Fund Budget Reserve Account that has not been replaced by appropriation or as provided in this Subsection

(3)(b), the Division of Finance shall transfer up to 25% more of the Education Fund revenue surplus to the Education Fund Budget Reserve Account to replace the amounts appropriated, until direct legislative appropriations, if any, and transfers from the Education Fund revenue surplus under this Subsection (3)(b) have replaced the appropriations from the account.

(ii) If the transfer under Subsection (3)(b)(i) would cause the balance in the account to exceed ~~[9%]~~ 11% of Education Fund appropriations for the fiscal year in which the Education Fund revenue surplus occurred, the Division of Finance shall transfer only those funds necessary to ensure that the balance in the account equals ~~[9%]~~ 11% of Education Fund appropriations for the fiscal year in which the revenue surplus occurred.

(iii) The Division of Finance shall calculate the amount to be transferred under this Subsection (3)(b):

(A) before transferring from the Education Fund revenue surplus any other year-end contingency appropriations, year-end set-asides, or other year-end transfers required by law; and

(B) excluding any direct legislative appropriation made to the Education Fund Budget Reserve Account for the fiscal year.

(c) For appropriations made by the Legislature to the Education Fund Budget Reserve Account, the Division of Finance shall treat those appropriations, unless specified otherwise in the appropriation, as replacement funds for appropriations made from the account if funds were appropriated from the account within the past 10 years and have not yet been replaced.

(4) Notwithstanding Subsection (3), if, at the end of a fiscal year, the Division of Finance determines that an operating deficit exists, the Division of Finance may reduce the transfer to the Education Fund Budget Reserve Account by the amount necessary to eliminate the operating deficit.

(5) The Legislature may appropriate money from the Education Fund Budget Reserve Account only to resolve an Education Fund budget deficit.

(6) Interest generated from investments of money in the Education Fund Budget Reserve Account shall be deposited into the Education Fund.

CHAPTER 215**H. B. 346**

Passed March 10, 2015
 Approved March 26, 2015
 Effective May 12, 2015

**SCHOOL BUILDING COSTS
 REPORTING AMENDMENTS**

Chief Sponsor: John Knotwell
 Senate Sponsor: Margaret Dayton
 Cosponsor: Timothy D. Hawkes

LONG TITLE**General Description:**

This bill amends requirements for reporting school building costs on the Utah Public Finance Website.

Highlighted Provisions:

This bill:

- ▶ clarifies that provisions related to requirements for reporting school building costs on the Utah Public Finance Website apply to:
 - the lease or purchase of an existing building to be used as a school; and
 - the addition of a school facility to a school; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63A-3-402, as last amended by Laws of Utah 2014, Chapters 64 and 185

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

Section 1. Section 63A-3-402 is amended to read:**63A-3-402. Utah Public Finance Website --
 Establishment and administration --
 Records disclosure -- Exceptions.**

(1) There is created the Utah Public Finance Website to be administered by the Division of Finance with the technical assistance of the Department of Technology Services.

(2) The Utah Public Finance Website shall:

(a) permit Utah taxpayers to:

(i) view, understand, and track the use of taxpayer dollars by making public financial information available on the Internet for participating state entities, independent entities, and participating local entities, using the Utah Public Finance Website; and

(ii) link to websites administered by participating local entities or independent entities that do not use the Utah Public Finance Website for the purpose of providing participating local entities' or independent entities' public financial information as required by this part and by rule under Section 63A-3-404;

(b) allow a person who has Internet access to use the website without paying a fee;

(c) allow the public to search public financial information on the Utah Public Finance Website using criteria established by the board;

(d) provide access to financial reports, financial audits, budgets, or other financial documents that are used to allocate, appropriate, spend, and account for government funds, as may be established by rule under Section 63A-3-404;

(e) have a unique and simplified website address;

(f) be directly accessible via a link from the main page of the official state website;

(g) include other links, features, or functionality that will assist the public in obtaining and reviewing public financial information, as may be established by rule under Section 63A-3-404; and

(h) include a link to school report cards published on the State Board of Education's website pursuant to Section 53A-1-1112.

(3) The division shall:

(a) establish and maintain the website, including the provision of equipment, resources, and personnel as necessary;

(b) maintain an archive of all information posted to the website;

(c) coordinate and process the receipt and posting of public financial information from participating state entities;

(d) coordinate and regulate the posting of public financial information by participating local entities and independent entities; and

(e) provide staff support for the advisory committee.

(4) (a) A participating state entity and each independent entity shall permit the public to view the entity's public financial information via the website, beginning with information that is generated not later than the fiscal year that begins July 1, 2008, except that public financial information for an:

(i) institution of higher education shall be provided beginning with information generated for the fiscal year beginning July 1, 2009; and

(ii) independent entity shall be provided beginning with information generated for the entity's fiscal year beginning in 2014.

(b) No later than May 15, 2009, the website shall:

(i) be operational; and

(ii) permit public access to participating state entities' public financial information, except as provided in Subsections (4)(c) and (d).

(c) An institution of higher education that is a participating state entity shall submit the entity's public financial information at a time allowing for inclusion on the website no later than May 15, 2010.

(d) No later than the first full quarter after July 1, 2014, an independent entity shall submit the

entity's public financial information for inclusion on the Utah Public Finance Website or via a link to its own website on the Utah Public Finance Website.

(5) (a) The Utah Educational Savings Plan, created in Section 53B-8a-103, shall provide the following financial information to the division for posting on the Utah Public Finance Website:

(i) administrative fund expense transactions from its general ledger accounting system; and

(ii) employee compensation information.

(b) The plan is not required to submit other financial information to the division, including:

(i) revenue transactions;

(ii) account owner transactions; and

(iii) fiduciary or commercial information, as defined in Section 53B-12-102.

(6) (a) The following independent entities shall each provide administrative expense transactions from its general ledger accounting system and employee compensation information to the division for posting on the Utah Public Finance Website or via a link to a website administered by the independent entity:

(i) the Utah Capital Investment Corporation, created in Section 63M-1-1207;

(ii) the Utah Housing Corporation, created in Section 35A-8-704; and

(iii) the School and Institutional Trust Lands Administration, created in Section 53C-1-201.

(b) For purposes of this part, an independent entity described in Subsection (6)(a) is not required to submit to the division, or provide a link to, other financial information, including:

(i) revenue transactions of a fund or account created in its enabling statute;

(ii) fiduciary or commercial information related to any subject if the disclosure of the information:

(A) would conflict with fiduciary obligations; or

(B) is prohibited by insider trading provisions;

(iii) information of a commercial nature, including information related to:

(A) account owners, borrowers, and dependents;

(B) demographic data;

(C) contracts and related payments;

(D) negotiations;

(E) proposals or bids;

(F) investments;

(G) the investment and management of funds;

(H) fees and charges;

(I) plan and program design;

(J) investment options and underlying investments offered to account owners;

(K) marketing and outreach efforts;

(L) lending criteria;

(M) the structure and terms of bonding; and

(N) financial plans or strategies; and

(iv) information protected from public disclosure by federal law.

(7) (a) As used in this Subsection (7):

(i) "Local education agency" means a school district or a charter school.

(ii) "New school building project" means:

(A) the construction of a school or school facility that did not previously exist in a local education agency[-]; or

(B) the lease or purchase of an existing building, by a local education agency, to be used as a school or school facility.

(iii) "School facility" means a facility, including a pool, theater, stadium, or maintenance building, that is built, leased, acquired, or remodeled by a local education agency regardless of whether the facility is open to the public.

[(iii)] (iv) "Significant school remodel" means a construction project undertaken by a local education agency with a project cost equal to or greater than \$2,000,000, including:

(A) the upgrading, changing, alteration, refurbishment, modification, or complete substitution of an existing school or school facility in a local education agency [with a project cost equal to or in excess of \$2,000,000.]; or

(B) the addition of a school facility.

(b) For each new school building project or significant school remodel, the local education agency shall:

(i) prepare an annual school plant capital outlay report; and

(ii) submit the report:

(A) to the division for publication on the Utah Public Finance Website; and

(B) in a format, including any raw data or electronic formatting, prescribed by applicable division policy.

(c) The local education agency shall include in the capital outlay report described in Subsection (7)(b)(i) the following information as applicable to each new school building project or significant school remodel:

(i) the name and location of the new school building project or significant school remodel;

(ii) construction and design costs, including:

(A) the purchase price or lease terms of any real property acquired or leased for the project or remodel;

- (B) facility construction;
 - (C) facility and landscape design;
 - (D) applicable impact fees; and
 - (E) furnishings and equipment;
- (iii) the gross square footage of the project or remodel;
- (iv) the year construction was completed; and
- (v) the final student capacity of the new school building project or, for a significant school remodel, the increase or decrease in student capacity created by the remodel.
- (d) (i) For a cost, fee, or other expense required to be reported under Subsection (7)(c), the local education agency shall report the actual cost, fee, or other expense.
- (ii) The division may require that a local education agency provide further itemized data on information listed in Subsection (7)(c).
- (e) (i) No later than May 15, 2015, a local education agency shall provide the division a school plant capital outlay report for each new school building project and significant school remodel completed on or after July 1, 2004, and before May 13, 2014.
- (ii) For a new school building project or significant school remodel completed after May 13, 2014, the local education agency shall provide the school plant capital outlay report described in this Subsection (7) to the division annually by a date designated by the division.
- (8) A person who negligently discloses a record that is classified as private, protected, or controlled by Title 63G, Chapter 2, Government Records Access and Management Act, is not criminally or civilly liable for an improper disclosure of the record if the record is disclosed solely as a result of the preparation or publication of the Utah Public Finance Website.

CHAPTER 216**H. B. 365**

Passed March 12, 2015
 Approved March 26, 2015
 Effective May 12, 2015

LOCAL ELECTIONS AMENDMENTS

Chief Sponsor: Merrill F. Nelson
 Senate Sponsor: Ralph Okerlund

LONG TITLE**General Description:**

This bill prohibits a county from electing the county's elected officers through a nonpartisan election.

Highlighted Provisions:

This bill:

- ▶ prohibits a county that provided for the election of the county's elected officers through a partisan election in or after the 2000 general election from changing to a process that provides for the election of the county's elected officers through a nonpartisan election.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

17-52-402, as last amended by Laws of Utah 2001, Chapter 241

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

Section 1. Section 17-52-402 is amended to read:

17-52-402. Plan may propose changing forms of county government -- Plan may propose change of structural form -- Partisan elections.

(1) (a) Each optional plan shall propose changing the form of county government to:

- (i) the county commission form under Section 17-52-501;
- (ii) the expanded county commission form under Section 17-52-502;
- (iii) the county executive and council form under Section 17-52-504; or
- (iv) the council-manager form under Section 17-52-505.

(b) An optional plan adopted after May 1, 2000 may not:

- (i) propose changing the form of government to a form not included in Subsection (1)(a);
- (ii) provide for the nonpartisan election of elected officers;
- (iii) impose a limit on the number of terms or years that an elected officer may serve; or

(iv) provide for elected officers to be subject to a recall election.

(2) In addition to proposing the adoption of any one of the optional forms of county government under Subsection (1)(a), an optional plan may also propose the adoption of any one of the structural forms of county government provided under Chapter 35b, Part 3, Structural Forms of County Government.

(3) A county that provided for the election of the county's elected officers through a partisan election in or after the 2000 general election may not change to a process that provides for the election of the county's elected officers through a nonpartisan election.

CHAPTER 217**H. B. 400**

Passed March 12, 2015
Approved March 26, 2015
Effective May 12, 2015

CHARGES FOR MEDICAL RECORDS

Chief Sponsor: Francis D. Gibson
Senate Sponsor: Todd Weiler

LONG TITLE**General Description:**

This bill makes changes to amounts to be charged for copies of medical records.

Highlighted Provisions:

This bill:

- ▶ increases amounts a person may be charged for copies of medical records; and
- ▶ provides that the amount shall be adjusted annually based on a formula tied to the Consumer Price Index.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63I-2-278, as last amended by Laws of Utah 2012, Chapter 128
78B-5-618, as last amended by Laws of Utah 2011, Chapters 33 and 65

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

Section 1. Section 63I-2-278 is amended to read:**63I-2-278. Repeal dates, Title 78A and Title 78B.**

[~~(4)~~] Title 78B, Chapter 3, Part 9, Expedited Jury Trial Act, is repealed January 1, 2017.

[~~(2)~~] ~~Subsections 78B-5-618(4) and (5) are repealed January 1, 2016.]~~

Section 2. Section 78B-5-618 is amended to read:**78B-5-618. Patient access to medical records -- Third party access to medical records.**

(1) Pursuant to [~~45 C.F.R., Parts 160 and 164,~~] Standards for Privacy of Individually Identifiable Health Information, 45 C.F.R., Parts 160 and 164, a patient or a patient's personal representative may inspect or receive a copy of the patient's records from a health care provider as defined in Section 78B-3-403, when that health care provider is governed by the provisions of 45 C.F.R., Parts 160 and 164.

(2) When a health care provider as defined in Section 78B-3-403 is not governed by [~~45 C.F.R., Parts 160 and 164,~~] Standards for Privacy of Individually Identifiable Health Information, 45

C.F.R., Parts 160 and 164, a patient or a patient's personal representative may inspect or receive a copy of the patient's records unless access to the records is restricted by law or judicial order.

(3) A health care provider who provides a copy of a patient's records to the patient or the patient's personal representative:

(a) shall provide the copy within the deadlines required by the Health Insurance Portability and Accountability Act of 1996, Administrative Simplification rule, 45 C.F.R. Sec. 164.524(b); and

(b) may charge a reasonable cost-based fee provided that the fee includes only the cost of:

(i) copying, including the cost of supplies for and labor of copying; and

(ii) postage, when the patient or patient representative has requested the copy be mailed.

(4) Except for records provided by a health care provider under Section 26-1-37, a health care provider who provides a copy of a patient's records to a third party authorized to receive records:

(a) shall provide the copy within 30 days after receipt of notice; and

(b) may charge a reasonable fee [~~to cover the health care provider's cost~~], but may not exceed the following rates:

(i) [~~\$20~~] \$21.16 for locating a patient's records, per request;

(ii) [~~copying~~] reproduction charges may not exceed [~~50~~] 53 cents per page for the first 40 pages and [~~30~~] 32 cents per page for each additional page;

(iii) the cost of postage when the third party has requested the copy be mailed; and

(iv) any sales tax owed under Title 59, Chapter 12, Sales and Use Tax Act.

(5) Except for records provided under Section 26-1-37, a [~~person authorized to provide~~] contracted third party service which provides medical records, other than a health care provider under Subsections (3) and (4), who provides a copy of a patient's records to a [~~third~~] party authorized to receive records:

(a) shall provide the copy within 30 days after the request; and

(b) may charge a reasonable fee [~~to cover the health care provider's cost~~], but may not exceed the following rates:

(i) [~~\$20~~] \$21.16 per request for locating a patient's records[, per request];

(ii) [~~copying~~] reproduction charges may not exceed [~~50~~] 53 cents per page for the first 40 pages and [~~30~~] 32 cents per page for each additional page;

(iii) the cost of postage when the third party has requested the copy be mailed; and

(iv) any sales tax owed under Title 59, Chapter 12, Sales and Use Tax Act.

(6) A health care provider or its contracted third party service shall deliver the medical records in the digital or electronic medium customarily used by the health care provider or its contracted third party service or in a portable document format:

(a) if the patient, patient's personal representative, or a third party authorized to receive the records requests the records be delivered in a digital or electronic medium; and

(b) the original medical record is readily producible in a digital or electronic medium.

(7) (a) The per page fee in Subsections (3), (4), and (5) applies to medical records reproduced on paper.

(b) For record requests made on or before June 30, 2018, the per page fee for producing a copy of records on a digital or electronic medium shall be 60% of the per page fee otherwise provided in this section, regardless of whether the original medical records are stored in electronic format.

(c) For record requests made on or after July 1, 2018, the per page fee for producing a copy of records on a digital or electronic medium shall be 50% of the per page fee otherwise provided in this section, regardless of whether the original medical records are stored in electronic format.

(8) Beginning January 1, 2016, the fee for providing patient's records shall be adjusted annually as specified in this section based on the most recent changes to the Consumer Price Index, as published by the Bureau of Labor Statistics of the United States Department of Labor, that measures the average changes in prices of goods and services purchased by urban wage earners, clerical workers' families, and single workers living alone.

CHAPTER 218**H. B. 409**

Passed March 12, 2015
Approved March 26, 2015
Effective May 12, 2015

**AMENDMENTS TO THE
PROCUREMENT CODE**

Chief Sponsor: V. Lowry Snow
Senate Sponsor: Ralph Okerlund

LONG TITLE**General Description:**

This bill modifies the Utah Procurement Code.

Highlighted Provisions:

This bill:

- ▶ modifies provisions relating to the procurement of the services of an architect or engineer;
- ▶ authorizes the head of a procurement unit with independent procurement authority to address a procurement or contract that is out of compliance;
- ▶ modifies a provision relating to exemptions from the procurement code;
- ▶ modifies a provision relating to thresholds for small purchases;
- ▶ modifies a provision relating to a multiple stage bidding process;
- ▶ enacts a provision relating to changes in contract price;
- ▶ modifies procurement appeal provisions relating to local government procurement units; and
- ▶ modifies provisions relating to the forfeiture of a security deposit or bond.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

17B-1-108, as last amended by Laws of Utah 2012, Chapter 347
63G-6a-103, as last amended by Laws of Utah 2014, Chapter 196
63G-6a-104, as last amended by Laws of Utah 2014, Chapters 63 and 196
63G-6a-105, as last amended by Laws of Utah 2013, Chapter 445
63G-6a-106, as last amended by Laws of Utah 2014, Chapter 196
63G-6a-107, as last amended by Laws of Utah 2014, Chapters 180, 196, and 313
63G-6a-204, as last amended by Laws of Utah 2014, Chapter 196
63G-6a-303, as last amended by Laws of Utah 2014, Chapter 196
63G-6a-402, as last amended by Laws of Utah 2014, Chapters 179 and 196
63G-6a-408, as last amended by Laws of Utah 2014, Chapter 196
63G-6a-609, as last amended by Laws of Utah 2014, Chapter 196
63G-6a-707, as last amended by Laws of Utah 2014, Chapter 196

63G-6a-1203, as last amended by Laws of Utah 2013, Chapter 445
63G-6a-1501, as enacted by Laws of Utah 2012, Chapter 347
63G-6a-1502, as last amended by Laws of Utah 2014, Chapter 196
63G-6a-1503, as last amended by Laws of Utah 2014, Chapter 196
63G-6a-1504, as renumbered and amended by Laws of Utah 2012, Chapter 347
63G-6a-1505, as last amended by Laws of Utah 2014, Chapter 196
63G-6a-1506, as last amended by Laws of Utah 2013, Chapter 445
63G-6a-1603, as last amended by Laws of Utah 2014, Chapter 196
63G-6a-1702, as last amended by Laws of Utah 2014, Chapter 196
63G-6a-1703, as last amended by Laws of Utah 2014, Chapter 196
63G-6a-1802, as last amended by Laws of Utah 2014, Chapter 196
63G-6a-1903, as last amended by Laws of Utah 2014, Chapter 196
63G-6a-1904, as last amended by Laws of Utah 2014, Chapter 196

ENACTS:

63G-6a-1206.5, Utah Code Annotated 1953
63G-6a-1502.5, Utah Code Annotated 1953
63G-6a-1503.5, Utah Code Annotated 1953

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

Section 1. Section 17B-1-108 is amended to read:**17B-1-108. Provisions applicable to the procurement of design professional services.**

(1) As used in this section[;], "design professional services" means the same as that term is defined in Section 63G-6a-103.

~~[(a) "Architect-engineer services" means those professional services within the scope of the practice of architecture as defined in Section 58-3a-102.]~~

~~[(b) "Engineer services" means those professional services within the scope of the practice of professional engineering as defined in Section 58-22-102.]~~

~~[(2) When a local district elects to obtain architect services or engineering services by using a competitive procurement process and has provided public notice of its competitive procurement process:]~~

~~[(a) a higher education entity, or any part of one, may not submit a proposal in response to the local district's competitive procurement process; and]~~

~~[(b) the local district may not award a contract to perform the architect services or engineering services solicited in the competitive procurement process to a higher education entity or any part of one.]~~

~~[(3) Notwithstanding Subsection 63G-6a-105(3), each local district board that engages the services of~~

a professional architect, engineer, or surveyor and considers more than one such professional for the engagement;]

~~[(a) shall consider, as a minimum, in the selection process;]~~

~~[(i) the qualifications, experience, and background of each firm submitting a proposal;]~~

~~[(ii) the specific individuals assigned to the project and the time commitments of each to the project; and]~~

~~[(iii) the project schedule and the approach to the project that the firm will take; and]~~

~~[(b) may engage the services of a professional architect, engineer, or surveyor based on the criteria under Subsection (3)(a) rather than solely on lowest cost.]~~

(2) The procurement of design professional services is governed by Title 63G, Chapter 6a, Part 15, Design Professional Services.

Section 2. Section 63G-6a-103 is amended to read:

63G-6a-103. Definitions.

As used in this chapter:

~~[(1) "Architect-engineer services" means:]~~

~~[(a) professional services within the scope of the practice of architecture as defined in Section 58-3a-102;]~~

~~[(b) professional engineering as defined in Section 58-22-102; or]~~

~~[(c) master planning and programming services.]~~

~~[(2)] (1) "Bidder" means a person who responds to an invitation for bids.~~

~~[(3)] (2) "Change directive" means a written order signed by the procurement officer that directs the contractor to suspend work or make changes, as authorized by contract, without the consent of the contractor.~~

~~[(4)] (3) "Change order" means a written alteration in specifications, delivery point, rate of delivery, period of performance, price, quantity, or other provisions of a contract, upon mutual agreement of the parties to the contract.~~

~~[(5)] (4) "Chief procurement officer" means the chief procurement officer appointed under Subsection 63G-6a-302(1).~~

~~[(6)] (5) "Conducting procurement unit" means a procurement unit that conducts all aspects of a procurement:~~

~~(a) except:~~

~~(i) reviewing a solicitation to verify that it is in proper form; and~~

~~(ii) causing the publication of a notice of a solicitation; and~~

~~(b) including:~~

(i) preparing any solicitation document;

(ii) appointing an evaluation committee;

(iii) conducting the evaluation process, except as provided in Subsection 63G-6a-707(5)(b) relating to scores calculated for costs of proposals;

(iv) selecting and recommending the person to be awarded a contract;

(v) negotiating the terms and conditions of a contract, subject to the issuing procurement unit's approval; and

(vi) administering a contract.

~~[(7)] (6) (a) "Construction" means the process of building, renovating, altering, improving, or repairing a public building or public work.~~

(b) "Construction" does not include the routine operation, routine repair, or routine maintenance of an existing structure, building, or real property.

~~[(8)] (7) (a) "Construction manager/general contractor" means a contractor who enters into a contract for the management of a construction project when the contract allows the contractor to subcontract for additional labor and materials that are not included in the contractor's cost proposal submitted at the time of the procurement of the contractor's services.~~

(b) "Construction manager/general contractor" does not include a contractor whose only subcontract work not included in the contractor's cost proposal submitted as part of the procurement of the contractor's services is to meet subcontracted portions of change orders approved within the scope of the project.

~~[(9)] (8) "Contract" means an agreement for the procurement or disposal of a procurement item.~~

~~[(10)] (9) "Contractor" means a person who is awarded a contract with a procurement unit.~~

~~[(11)] (10) "Cooperative procurement" means procurement conducted by, or on behalf of:~~

~~(a) more than one procurement unit; or~~

~~(b) a procurement unit and a cooperative purchasing organization.~~

~~[(12)] (11) "Cost-plus-a-percentage-of-cost contract" means a contract where the contractor is paid a percentage over and above the contractor's actual expenses or costs.~~

~~[(13)] (12) "Cost-reimbursement contract" means a contract under which a contractor is reimbursed for costs which are allowed and allocated in accordance with the contract terms and the provisions of this chapter, and a fee, if any.~~

~~[(14)] (13) "Days" means calendar days, unless expressly provided otherwise.~~

~~[(15)] (14) "Definite quantity contract" means a fixed price contract that provides for the supply of a specified amount of goods over a specified period, with deliveries scheduled according to a specified schedule.~~

~~(14)~~ (15) “Design-build” means the procurement of ~~[architect-engineer]~~ design professional services and construction by the use of a single contract with the design-build provider.

(16) “Design professional” means:

(a) an individual licensed as an architect under Title 58, Chapter 3a, Architects Licensing Act; or

(b) an individual licensed as a professional engineer or professional land surveyor under Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act.

(17) “Design professional services” means:

(a) professional services within the scope of the practice of architecture as defined in Section 58-3a-102;

(b) professional engineering as defined in Section 58-22-102; or

(c) master planning and programming services.

(17) (18) “Director” means the director of the division.

(18) (19) “Established catalogue price” means the price included in a catalogue, price list, schedule, or other form that:

(a) is regularly maintained by a manufacturer or contractor;

(b) is either published or otherwise available for inspection by customers; and

(c) states prices at which sales are currently or were last made to a significant number of any category of buyers or buyers constituting the general buying public for the supplies or services involved.

(19) (20) “Fixed price contract” means a contract that provides a price, for each procurement item obtained under the contract, that is not subject to adjustment except to the extent that:

(a) the contract provides, under circumstances specified in the contract, for an adjustment in price that is not based on cost to the contractor; or

(b) an adjustment is required by law.

(20) (21) “Fixed price contract with price adjustment” means a fixed price contract that provides for an upward or downward revision of price, precisely described in the contract, that:

(a) is based on the consumer price index or another commercially acceptable index, source, or formula; and

(b) is not based on a percentage of the cost to the contractor.

~~(21)~~ (22) (a) “Grant” means furnishing, by a public entity or by any other public or private source, financial or other assistance to a person to support a program authorized by law.

(b) “Grant” does not include:

(i) an award whose primary purpose is to procure an end product or procurement item; or

(ii) a contract that is awarded as a result of a procurement or a procurement process.

~~(22)~~ (23) “Head of a procurement unit” means:

(a) as it relates to a legislative procurement unit, any person designated by rule made by the applicable rulemaking authority;

(b) as it relates to an executive branch procurement unit:

(i) the director of a division; or

(ii) any other person designated by the board, by rule;

(c) as it relates to a judicial procurement unit:

(i) the Judicial Council; or

(ii) any other person designated by the Judicial Council, by rule;

(d) as it relates to a local government procurement unit:

(i) the legislative body of the local government procurement unit; or

(ii) any other person designated by the local government procurement unit;

(e) as it relates to a local district, the board of trustees of the local district or a designee of the board of trustees;

(f) as it relates to a special service district, the governing body of the special service district or a designee of the governing body;

(g) as it relates to a local building authority, the board of directors of the local building authority or a designee of the board of directors;

(h) as it relates to a conservation district, the board of supervisors of the conservation district or a designee of the board of supervisors;

(i) as it relates to a public corporation, the board of directors of the public corporation or a designee of the board of directors;

(j) as it relates to a school district or any school or entity within a school district, the board of the school district, or the board’s designee;

(k) as it relates to a charter school, the individual or body with executive authority over the charter school, or the individual’s or body’s designee;

(l) as it relates to an institution of higher education of the state, the president of the institution of higher education, or the president’s designee; or

(m) as it relates to a public transit district, the board of trustees or a designee of the board of trustees.

~~(23)~~ (24) “Indefinite quantity contract” means a fixed price contract that:

(a) is for an indefinite amount of procurement items to be supplied as ordered by a procurement unit; and

(b) (i) does not require a minimum purchase amount; or

(ii) provides a maximum purchase limit.

[~~(24)~~] (25) “Independent procurement authority” means authority granted to a procurement unit under Subsection 63G-6a-106(4)(a).

[~~(25)~~] (26) “Invitation for bids” includes all documents, including documents that are attached or incorporated by reference, used for soliciting bids to provide a procurement item to a procurement unit.

[~~(26)~~] (27) “Issuing procurement unit” means a procurement unit that:

(a) reviews a solicitation to verify that it is in proper form;

(b) causes the notice of a solicitation to be published; and

(c) negotiates the terms and conditions of a contract.

[~~(27)~~] (28) “Labor hour contract” is a contract where:

(a) the supplies and materials are not provided by, or through, the contractor; and

(b) the contractor is paid a fixed rate that includes the cost of labor, overhead, and profit for a specified number of labor hours or days.

[~~(28)~~] (29) “Multiple award contracts” means the award of a contract for an indefinite quantity of a procurement item to more than one bidder or offeror.

[~~(29)~~] (30) “Multiyear contract” means a contract that extends beyond a one-year period, including a contract that permits renewal of the contract, without competition, beyond the first year of the contract.

[~~(30)~~] (31) “Municipality” means a city or a town.

[~~(31)~~] (32) “Offeror” means a person who responds to a request for proposals.

[~~(32)~~] (33) “Preferred bidder” means a bidder that is entitled to receive a reciprocal preference under the requirements of this chapter.

[~~(33)~~] (34) (a) “Procure” or “procurement” means buying, purchasing, renting, leasing, with an option to purchase, or otherwise acquiring a procurement item.

(b) “Procure” or “procurement” includes all functions that pertain to the obtaining of a procurement item, including:

(i) the description of requirements;

(ii) the selection process;

(iii) solicitation of sources;

(iv) the preparation for soliciting a procurement item; and

(v) the award of a contract.

[~~(34)~~] (35) “Procurement item” means a supply, a service, construction, or technology.

[~~(35)~~] (36) “Procurement officer” means:

(a) as it relates to a procurement unit with independent procurement authority:

(i) the head of the procurement unit;

(ii) a designee of the head of the procurement unit; or

(iii) a person designated by rule made by the applicable rulemaking authority; or

(b) as it relates to the division or a procurement unit without independent procurement authority, the chief procurement officer.

[~~(36)~~] (37) “Professional service” means a service that requires a high degree of specialized knowledge and discretion in the performance of the service, including:

(a) legal services;

(b) consultation services;

(c) architectural services;

(d) engineering;

(e) design;

(f) underwriting;

(g) bond counsel;

(h) financial advice;

(i) construction management;

(j) medical services;

(k) psychiatric services; or

(l) counseling services.

[~~(37)~~] (38) “Protest officer” means:

(a) as it relates to the division or a procurement unit with independent procurement authority:

(i) the head of the procurement unit;

(ii) a designee of the head of the procurement unit; or

(iii) a person designated by rule made by the applicable rulemaking authority; or

(b) as it relates to a procurement unit without independent procurement authority, the chief procurement officer or the chief procurement officer’s designee.

[~~(38)~~] (39) “Request for information” means a nonbinding process where a procurement unit requests information relating to a procurement item.

[~~(39)~~] (40) “Request for proposals” includes all documents, including documents that are attached or incorporated by reference, used for soliciting proposals to provide a procurement item to a procurement unit.

[40] (41) “Request for statement of qualifications” means all documents used to solicit information about the qualifications of the person interested in responding to a potential procurement, including documents attached or incorporated by reference.

[41] (42) “Requirements contract” means a contract:

(a) where a contractor agrees to provide a procurement unit’s entire requirements for certain procurement items at prices specified in the contract during the contract period; and

(b) that:

(i) does not require a minimum purchase amount; or

(ii) provides a maximum purchase limit.

[42] (43) “Responsible” means being capable, in all respects, of:

(a) meeting all the requirements of a solicitation; and

(b) fully performing all the requirements of the contract resulting from the solicitation, including being financially solvent with sufficient financial resources to perform the contract.

[43] (44) “Responsive” means conforming in all material respects to the invitation for bids or request for proposals.

[44] (45) “Sealed” means manually or electronically sealed and submitted bids or proposals.

[45] (46) (a) “Services” means the furnishing of labor, time, or effort by a contractor, not involving the delivery of a specific end product other than a report that is incidental to the required performance.

(b) “Services” does not include an employment agreement or a collective bargaining agreement.

[46] (47) “Sole source contract” means a contract resulting from a sole source procurement.

[47] (48) “Sole source procurement” means a procurement without competition pursuant to a determination under Subsection 63G-6a-802(2)(a) that there is only one source for the procurement item.

[48] (49) “Solicitation” means an invitation for bids, request for proposals, notice of a sole source procurement, request for statement of qualifications, request for information, or any document used to obtain bids, proposals, pricing, qualifications, or information for the purpose of entering into a procurement contract.

[49] (50) “Specification” means any description of the physical or functional characteristics, or nature of a procurement item included in an invitation for bids or a request for proposals, or otherwise specified or agreed to by a procurement unit, including a description of:

(a) a requirement for inspecting or testing a procurement item; or

(b) preparing a procurement item for delivery.

[50] (51) “Standard procurement process” means one of the following methods of obtaining a procurement item:

(a) bidding, as described in Part 6, Bidding;

(b) request for proposals, as described in Part 7, Request for Proposals; or

(c) small purchases, in accordance with the requirements established under Section 63G-6a-408.

[51] (52) “State cooperative contract” means a contract awarded by the division for and in behalf of all public entities.

[52] (53) “Statement of qualifications” means a written statement submitted to a procurement unit in response to a request for statement of qualifications.

[53] (54) (a) “Subcontractor” means a person under contract with a contractor or another subcontractor to provide services or labor for design or construction.

(b) “Subcontractor” includes a trade contractor or specialty contractor.

(c) “Subcontractor” does not include a supplier who provides only materials, equipment, or supplies to a contractor or subcontractor.

[54] (55) “Supplies” means all property, including equipment, materials, and printing.

[55] (56) “Tie bid” means that the lowest responsive and responsible bids are identical in price.

[56] (57) “Time and materials contract” means a contract where the contractor is paid:

(a) the actual cost of direct labor at specified hourly rates;

(b) the actual cost of materials and equipment usage; and

(c) an additional amount, expressly described in the contract, to cover overhead and profit, that is not based on a percentage of the cost to the contractor.

Section 3. Section 63G-6a-104 is amended to read:

63G-6a-104. Definitions relating to governmental bodies.

As used in this chapter:

(1) “Applicable rulemaking authority” means:

(a) as it relates to a legislative procurement unit, the Legislative Management Committee, which shall adopt a policy establishing requirements applicable to a legislative procurement unit;

(b) as it relates to a judicial procurement unit, the Judicial Council;

(c) as it relates to an executive branch procurement unit, except to the extent provided in Subsections (1)(d) through (g), the board;

(d) as it relates to the State Building Board, created in Section 63A-5-101, the State Building Board, but only to the extent that the rules relate to procurement authority expressly granted to the State Building Board by statute;

(e) as it relates to the Division of Facilities Construction and Management, created in Section 63A-5-201, the director of the Division of Facilities Construction and Management, but only to the extent that the rules relate to procurement authority expressly granted to the Division of Facilities Construction and Management by statute;

(f) as it relates to the Office of the Attorney General, the attorney general, but only to the extent that the rules relate to procurement authority expressly granted to the attorney general by statute;

(g) as it relates to the Department of Transportation, created in Section 72-1-201, the executive director of the Department of Transportation, but only to the extent that the rules relate to procurement authority expressly granted to the Department of Transportation by statute;

(h) as it relates to a local government procurement unit, the legislative body of the local government procurement unit, not as a delegation of authority from the Legislature, but under the local government procurement unit's own legislative authority;

(i) as it relates to a school district or a public school, the Utah State Procurement Policy Board, except to the extent that a school district makes its own nonadministrative rules, with respect to a particular subject, that do not conflict with the provisions of this chapter;

(j) as it relates to a state institution of higher education, the State Board of Regents;

(k) as it relates to a public transit district, the chief executive of the public transit district;

(l) as it relates to a local district or a special service district:

(i) before January 1, 2015, the board of trustees of the local district or the governing body of the special service district; or

(ii) on or after January 1, 2015, the board, except to the extent that the board of trustees of the local district or the governing body of the special service district makes its own rules:

(A) with respect to a subject addressed by board rules; or

(B) that are in addition to board rules; or

(m) as it relates to a procurement unit, other than a procurement unit described in Subsections (1)(a) through (l), the board.

(2) "Board" means the Utah State Procurement Policy Board, created in Section 63G-6a-202.

(3) "Building board" means the State Building Board created in Section 63A-5-101.

(4) "Conservation district" is as defined in Section 17D-3-102.

(5) "Cooperative purchasing organization" means an organization, association, or alliance of purchasers established to combine purchasing power in order to obtain the best value for the purchasers by engaging in procurements in accordance with Section 63G-6a-2105.

(6) "Division" means the Division of Purchasing and General Services.

(7) "Educational procurement unit" means:

(a) a school district;

(b) a public school, including a local school board or a charter school;

(c) Utah Schools for the Deaf and Blind;

(d) the Utah Education and Telehealth Network; or

(e) an institution of higher education of the state.

(8) "Executive branch procurement unit" means each department, division, office, bureau, agency, or other organization within the state executive branch, including the division and the attorney general's office.

(9) "Judicial procurement unit" means:

(a) the Utah Supreme Court;

(b) the Utah Court of Appeals;

(c) the Judicial Council;

(d) a state judicial district; or

(e) each office, committee, subcommittee, or other organization within the state judicial branch.

(10) "Legislative procurement unit" means:

(a) the Legislature;

(b) the Senate;

(c) the House of Representatives;

(d) a staff office of an entity described in Subsection (10)(a), (b), or (c); or

(e) each office, committee, subcommittee, or other organization within the state legislative branch.

(11) "Local building authority" is as defined in Section 17D-2-102.

(12) "Local district" is as defined in Section 17B-1-102.

(13) "Local government procurement unit" means:

(a) a county or municipality, and each office or agency of the county or municipality, unless the county or municipality adopts its own procurement code by ordinance;

(b) a county or municipality, and each office or agency of the county or municipality, that has adopted this entire chapter by ordinance; or

(c) a county or municipality, and each office or agency of the county or municipality, that has adopted a portion of this chapter by ordinance, to the extent that the term is used in the adopted portion of this chapter.

(14) “Nonadopting local government procurement unit” means:

(a) a county or municipality that has not adopted Part 16, Controversies and Protests, Part 17, Procurement Appeals Board, Part 18, Appeals to Court and Court Proceedings, and Part 19, General Provisions Related to Protest or Appeal; and

(b) each office or agency of a county or municipality described in Subsection (14)(a).

[44] (15) (a) “Procurement unit” means:

- (i) a legislative procurement unit;
- (ii) an executive branch procurement unit;
- (iii) a judicial procurement unit;
- (iv) an educational procurement unit;
- (v) a local government procurement unit;
- (vi) a local district;
- (vii) a special service district;
- (viii) a local building authority;
- (ix) a conservation district;
- (x) a public corporation; or
- (xi) a public transit district.

(b) “Procurement unit” does not include a political subdivision created under Title 11, Chapter 13, Interlocal Cooperation Act.

[45] (16) “Public corporation” is as defined in Section 63E-1-102.

[46] (17) “Public entity” means any state government entity or a political subdivision of the state, including:

- (a) a procurement unit;
- (b) a municipality or county, regardless of whether the municipality or county has adopted this chapter or any part of this chapter; and

(c) any other government entity located in Utah that expends public funds.

[47] (18) “Public transit district” means a public transit district organized under Title 17B, Chapter 2a, Part 8, Public Transit District Act.

[48] (19) “Special service district” is as defined in Section 17D-1-102.

Section 4. Section 63G-6a-105 is amended to read:

63G-6a-105. Application of chapter.

(1) The provisions of this chapter that are enacted on May 1, 2013, apply only to a procurement advertised, or begun on or after May 1, 2013, unless the parties agree to have the provisions apply with respect to a procurement that was advertised or begun before May 1, 2013, but is not completed before May 1, 2013.

(2) (a) Except as provided in Section 63G-6a-107, this chapter shall apply to every expenditure of public funds irrespective of the source of the funds, including federal assistance, by any procurement unit, under any contract.

(b) The provisions of this chapter do not apply to a public entity that is not a procurement unit.

(3) ~~[Except as provided in Subsection 17B-1-108(3) relating to local districts, the]~~ The following procurement units shall adopt ordinances or resolutions relating to the procurement of ~~[architect-engineer]~~ design professional services not inconsistent with the provisions of Part 15, ~~[Architect-Engineer]~~ Design Professional Services:

- (a) an educational procurement unit;
- (b) a conservation district;
- (c) a local building authority;
- (d) a local district;
- (e) a public corporation; or
- (f) a special service district.

(4) Any section of this chapter, or its implementing regulations, may be adopted by:

- (a) a county;
- (b) a municipality; or
- (c) the Utah Housing Corporation.

(5) Rules adopted under this chapter shall be consistent with the provisions of this chapter.

(6) An applicable rulemaking authority or a procurement unit may not adopt rules, policies, or regulations that are inconsistent with this chapter.

(7) Unless otherwise provided by statute, this chapter does not apply to procurement of real property.

Section 5. Section 63G-6a-106 is amended to read:

63G-6a-106. Procurement units with specific statutory procurement authority -- Independent procurement authority.

(1) A procurement unit with procurement authority under the following provisions has independent procurement authority to the extent of the applicable provisions and for the procurement items specified in the applicable provisions:

- (a) Title 53B, State System of Higher Education;
- (b) Title 63A, Chapter 5, State Building Board - Division of Facilities Construction and Management;
- (c) Title 67, Chapter 5, Attorney General;

- (d) Title 72, Transportation Code; and
- (e) Title 78A, Chapter 5, District Court.

(2) Except as otherwise provided in Sections 63G-6a-105 and 63G-6a-107, a procurement unit shall conduct a procurement in accordance with this chapter.

(3) (a) The Department of Transportation may make rules governing the procurement of highway construction or improvement.

(b) The applicable rulemaking authority for a public transit district may make rules governing the procurement of a transit construction project or a transit improvement project.

(c) This Subsection (3) supersedes Subsections (1) and (2).

(4) (a) A procurement unit listed in Subsection (4)(b) may, without the supervision, interference, oversight, control, or involvement of the division or the chief procurement officer, but in accordance with the requirements of this chapter:

- (i) engage in a standard procurement process;
- (ii) procure an item under an exception, as provided in this chapter, to the requirement to use a standard procurement process; or
- (iii) otherwise engage in an act authorized or required by this chapter.

(b) The procurement units to which Subsection (4)(a) applies are:

- (i) a legislative procurement unit;
- (ii) a judicial procurement unit;
- (iii) an educational procurement unit;
- (iv) a local government procurement unit;
- (v) a conservation district;
- (vi) a local building authority;
- (vii) a local district;
- (viii) a public corporation;
- (ix) a special service district;
- (x) a public transit district; and

(xi) a procurement unit referred to in Subsection (1), to the extent authorized in Subsection (1).

(c) A procurement unit with independent procurement authority shall comply with the requirements of this chapter.

(d) Notwithstanding Subsection (4)(a), a procurement unit with independent procurement authority may agree in writing with the division to extend the authority of the division or the chief procurement officer to the procurement unit, as provided in the agreement.

(e) At any stage of the procurement process, a head of a procurement unit with independent procurement authority who determines that a procurement over which the procurement unit has

authority is out of compliance with this chapter or applicable rules may:

(i) correct or amend the procurement to bring it into compliance; or

(ii) cancel the procurement, if the head of the procurement unit determines that it is:

(A) not feasible to bring the procurement into compliance; or

(B) in the best interest of the procurement unit to cancel the procurement.

(f) If, at any time during the term of a contract awarded by a procurement unit with independent procurement authority, the head of the procurement unit determines that the contract is out of compliance with this chapter or applicable rules, the head of the procurement unit may correct or amend the contract to bring it into compliance or cancel the contract:

(i) if the head of the procurement unit determines that correcting, amending, or canceling the contract is in the best interest of the procurement unit; and

(ii) after consulting with legal counsel.

(5) (a) The attorney general may, in accordance with the provisions of this chapter, but without involvement by the division or the chief procurement officer:

(i) retain outside counsel; or

(ii) procure litigation support services, including retaining an expert witness.

(b) A procurement unit with independent procurement authority that is not represented by the attorney general's office may, in accordance with the provisions of this chapter, but without involvement by the division or the chief procurement officer:

(i) retain outside counsel; or

(ii) procure litigation support services, including retaining an expert witness.

(6) The state auditor's office may, in accordance with the provisions of this chapter, but without involvement by the division or the chief procurement officer, procure audit services.

(7) The state treasurer may, in accordance with the provisions of this chapter, but without involvement by the division or the chief procurement officer, procure:

(a) deposit [~~and investment~~] services; and

(b) services related to issuing bonds.

Section 6. Section 63G-6a-107 is amended to read:

63G-6a-107. Exemptions from chapter -- Compliance with other provisions.

(1) Except for Part 24, Unlawful Conduct and Penalties, the provisions of this chapter do not apply to:

(a) funds administered under the Percent-for-Art Program of the Utah Percent-for-Art Act;

(b) ~~[grants] a grant awarded by the state [or contracts between the state and any of the following];~~

~~[(i) an educational procurement unit;]~~

~~[(ii) a conservation district;]~~

~~[(iii) a local building authority;]~~

~~[(iv) a local district;]~~

~~[(v) a public corporation;]~~

~~[(vi) a special service district;]~~

~~[(vii) a public transit district; or]~~

~~[(viii) two or more of the entities described in Subsections (1)(b)(i) through (vii), acting under legislation that authorizes intergovernmental cooperation;]~~

(c) a contract between procurement units;

(e) (d) medical supplies or medical equipment, including service agreements for medical equipment, obtained through a purchasing consortium by the Utah State Hospital, the Utah State Developmental Center, the University of Utah Hospital, or any other hospital owned by the state or a political subdivision of the state, if:

(i) the consortium uses a competitive procurement process; and

(ii) the chief administrative officer of the hospital makes a written finding that the prices for purchasing medical supplies and medical equipment through the consortium are competitive with market prices;

(d) (e) the purchase of firefighting supplies or equipment by the Division of Forestry, Fire, and State Lands, created in Section 65A-1-4, through the federal General Services Administration or the National Fire Cache system;

(e) (f) goods purchased for resale to the public; ~~[or]~~

(f) (g) the Division of Parks and Recreation, during a fiscal emergency, as defined by Subsection 79-4-1102(1), if the division is acting under the authority described in Sections 79-4-1101 through 79-4-1103[.]; or

(h) activities related to the management of investments by a public entity granted investment authority by law.

(2) This chapter does not prevent a procurement unit from complying with the terms and conditions of any grant, gift, or bequest that is otherwise consistent with law.

~~[(3) This chapter does not apply to any action taken by a majority of both houses of the Legislature.]~~

(4) (3) Notwithstanding any conflicting provision of this chapter, when a procurement involves the expenditure of federal or state assistance, federal contract funds, local matching funds, or federal financial participation funds, the

procurement unit shall comply with mandatory applicable federal or state law and regulations not reflected in this chapter.

~~[(5) (4) This chapter does not supersede the requirements for retention or withholding of construction proceeds and release of construction proceeds as provided in Section 13-8-5.~~

Section 7. Section 63G-6a-204 is amended to read:

63G-6a-204. Applicability of rules and regulations of Utah State Procurement Policy Board and State Building Board -- Report to interim committee.

(1) Except as provided in Subsection (2), rules made by the board under this chapter shall govern all procurement units for which the board is the applicable rulemaking authority.

(2) The building board rules governing procurement of construction, ~~[architect-engineer] design professional services, and leases apply to the procurement of construction, [architect-engineer] design professional services, and leases of real property by the Division of Facilities Construction and Management.~~

(3) An applicable rulemaking authority may make its own rules, consistent with this chapter, governing procurement by a person over which the applicable rulemaking authority has rulemaking authority.

(4) The board shall make a report on or before July 1 of each year to a legislative interim committee, designated by the Legislative Management Committee created under Section 36-12-6, on the establishment, implementation, and enforcement of the rules made under Section 63G-6a-203.

(5) Notwithstanding Subsection 63G-3-301(13)(b), an applicable rulemaking authority is required to initiate rulemaking proceedings, for rules required to be made under this chapter, on or before:

(a) May 13, 2014, if the applicable rulemaking authority is the board; or

(b) January 1, 2015, for each other applicable rulemaking authority.

Section 8. Section 63G-6a-303 is amended to read:

63G-6a-303. Duties and authority of chief procurement officer.

(1) Except as otherwise specifically provided in this chapter, the chief procurement officer serves as the central procurement officer of the state and shall:

(a) adopt office policies governing the internal functions of the division;

(b) procure or supervise each procurement over which the chief procurement officer has authority;

(c) establish and maintain programs for the inspection, testing, and acceptance of each

procurement item over which the chief procurement officer has authority;

(d) prepare statistical data concerning each procurement and procurement usage of a state procurement unit;

(e) ensure that:

(i) before approving a procurement not covered by an existing statewide contract for information technology or telecommunications supplies or services, the chief information officer and the agency have stated in writing to the division that the needs analysis required in Section 63F-1-205 was completed, unless the procurement is approved in accordance with Title 63M, Chapter 1, Part 26, Government Procurement Private Proposal Program; and

(ii) the oversight authority required by Subsection ~~(5)(a)~~ (1)(e)(i) is not delegated outside the division;

(f) provide training to procurement units and to persons who do business with procurement units;

(g) if the chief procurement officer determines that a procurement over which the chief procurement officer has authority is out of compliance with this chapter or board rules:

(i) correct or amend the procurement to bring it into compliance; or

(ii) cancel the procurement, if:

(A) it is not feasible to bring the procurement into compliance; or

(B) the chief procurement officer determines that it is in the best interest of the state to cancel the procurement; and

(h) if the chief procurement officer determines that a contract over which the chief procurement officer has authority is out of compliance with this chapter or board rules, correct or amend the contract to bring it into compliance or cancel the contract:

(i) if the chief procurement officer determines that correcting, amending, or canceling the contract is in the best interest of the state; and

(ii) after consultation with the attorney general's office.

(2) The chief procurement officer may:

(a) correct, amend, or cancel a procurement as provided in Subsection (1)(g) at any stage of the procurement process; and

(b) correct, amend, or cancel a contract as provided in Subsection (1)(h) at any time during the term of the contract.

Section 9. Section 63G-6a-402 is amended to read:

63G-6a-402. Procurement unit required to comply with Utah Procurement Code and

applicable rules -- Rulemaking authority -- Reporting.

(1) Except as otherwise provided in Section 63G-6a-107, Section 63G-6a-403, Part 8, Exceptions to Procurement Requirements, or elsewhere in this chapter, a procurement unit may not obtain a procurement item, unless:

(a) if the procurement unit is the division or a procurement unit with independent procurement authority, the procurement unit:

(i) uses a standard procurement process or an exception to a standard procurement process, described in Part 8, Exceptions to Procurement Requirements; and

(ii) complies with:

(A) the requirements of this chapter; and

(B) the rules made pursuant to this chapter by the applicable rulemaking authority;

(b) if the procurement unit is a county, a municipality, or the Utah Housing Corporation, the procurement unit complies with:

(i) the requirements of this chapter that are adopted by the procurement unit; and

(ii) all other procurement requirements that the procurement unit is required to comply with; or

(c) if the procurement unit is not a procurement unit described in Subsection (1)(a) or (b), the procurement unit:

(i) obtains the procurement item under the direction and approval of the division, unless otherwise provided by a rule made by the board;

(ii) uses a standard procurement process; and

(iii) complies with:

(A) the requirements of this chapter; and

(B) the rules made pursuant to this chapter by the applicable rulemaking authority.

(2) Subject to Subsection (3), the applicable rulemaking authority shall make rules relating to the management and control of procurements and procurement procedures by a procurement unit.

(3) (a) Rules made under Subsection (2) shall ensure compliance with the federal contract prohibition provisions of the Sudan Accountability and Divestment Act of 2007 (Pub. L. No. 110-174) that prohibit contracting with a person doing business in Sudan.

(b) The State Building Board rules governing procurement of construction, ~~[architect-engineer]~~ design professional services, and leases apply to the procurement of construction, ~~[architect-engineer]~~ design professional services, and leases of real property by the Division of Facilities Construction and Management.

(4) An applicable rulemaking authority that is subject to Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall make the

rules described in this chapter in accordance with the provisions of Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(5) The State Building Board shall make a report on or before July 1 of each year to a legislative interim committee, designated by the Legislative Management Committee created under Section 36-12-6, on the establishment, implementation, and enforcement of the rules made by the State Building Board under this chapter.

(6) The rules of the applicable rulemaking authority for the executive branch procurement unit shall require, for each contract and request for proposals, the inclusion of a clause that requires the issuing procurement unit, for the duration of the contract, to make available contact information of the winning contractor to the Department of Workforce Services in accordance with Section 35A-2-203. This requirement does not preclude a contractor from advertising job openings in other forums throughout the state.

Section 10. Section 63G-6a-408 is amended to read:

63G-6a-408. Small purchases.

(1) As used in this section:

(a) "Annual cumulative threshold" means the maximum total annual amount, established by the applicable rulemaking authority under Subsection (2)(a)(i), that a procurement unit may expend to obtain procurement items from the same source under this section.

(b) "Individual procurement threshold" means the maximum amount, established by the applicable rulemaking authority under Subsection (2)(a)(ii), for which a procurement unit may purchase a procurement item under this section.

(c) "Single procurement aggregate threshold" means the maximum total amount, established by the applicable rulemaking authority under Subsection (2)(a)(iii), that a procurement unit may expend to obtain multiple procurement items from one source at one time under this section.

(2) (a) The applicable rulemaking authority may make rules governing small purchases of any procurement item, including[:] construction, job order contracting, design professional services, other professional services, information technology, and goods.

(b) Rules under Subsection (2)(a) may include provisions:

~~(a)~~ (i) establishing expenditure thresholds, including:

~~(i)~~ (A) an annual cumulative threshold;

~~(ii)~~ (B) an individual procurement threshold; and

~~(iii)~~ (C) a single procurement aggregate threshold;

~~(b)~~ (ii) establishing procurement requirements relating to the thresholds described in Subsection (2)~~(a)~~(b)(i); and

~~(c)~~ (iii) providing for the use of electronic, telephone, or written quotes.

(3) Expenditures made under this section by a procurement unit may not exceed a threshold established by the applicable rulemaking authority, unless the chief procurement officer or the head of a procurement unit with independent procurement authority gives written authorization to exceed the threshold that includes the reasons for exceeding the threshold.

(4) Except as provided in Subsection (5), an executive branch procurement unit may not obtain a procurement item through a small purchase standard procurement process if the procurement item may be obtained through a state cooperative contract or a contract awarded by the chief procurement officer under Subsection 63G-6a-2105(1).

(5) Subsection (4) does not apply if:

(a) the procurement item is obtained for an unanticipated, urgent or unanticipated, emergency condition, including:

(i) an item needed to avoid stopping a public construction project;

(ii) an immediate repair to a facility or equipment; or

(iii) another emergency condition; or

(b) the chief procurement officer or the head of a procurement unit that is an executive branch procurement unit with independent procurement authority:

(i) determines in writing that it is in the best interest of the procurement unit to obtain an individual procurement item outside of the state contract, comparing:

(A) the contract terms and conditions applicable to the procurement item under the state contract with the contract terms and conditions applicable to the procurement item if the procurement item is obtained outside of the state contract;

(B) the maintenance and service applicable to the procurement item under the state contract with the maintenance and service applicable to the procurement item if the procurement item is obtained outside of the state contract;

(C) the warranties applicable to the procurement item under the state contract with the warranties applicable to the procurement item if the procurement item is obtained outside of the state contract;

(D) the quality of the procurement item under the state contract with the quality of the procurement item if the procurement item is obtained outside of the state contract; and

(E) the cost of the procurement item under the state contract with the cost of the procurement item

if the procurement item is obtained outside of the state contract;

(ii) for a procurement item that, if defective in its manufacture, installation, or performance, may result in serious physical injury, death, or substantial property damage, determines in writing that the terms and conditions, relating to liability for injury, death, or property damage, available from the source other than the contractor who holds the state contract, are similar to, or better than, the terms and conditions available under the state contract; and

(iii) grants an exception, in writing, to the requirement described in Subsection (4).

(6) Except as otherwise expressly provided in this section, a procurement unit:

(a) may not use the small purchase standard procurement process described in this section for ongoing, continuous, and regularly scheduled procurements that exceed the annual cumulative threshold; and

(b) shall make its ongoing, continuous, and regularly scheduled procurements that exceed the annual cumulative threshold through a contract awarded through another standard procurement process described in this chapter or an applicable exception to another standard procurement process, described in Part 8, Exceptions to Procurement Requirements.

(7) This section does not prohibit regularly scheduled payments for a procurement item obtained under another provision of this chapter.

(8) (a) It is unlawful for a person to intentionally or knowingly divide a procurement into one or more smaller procurements with the intent to make a procurement:

(i) qualify as a small purchase, if, before dividing the procurement, it would not have qualified as a small purchase; or

(ii) meet a threshold established by rule made by the applicable rulemaking authority, if, before dividing the procurement, it would not have met the threshold.

(b) A person who engages in the conduct made unlawful under Subsection (8)(a) is guilty of:

(i) a second degree felony, if the value of the procurement before being divided is \$1,000,000 or more;

(ii) a third degree felony, if the value of the procurement before being divided is \$250,000 or more but less than \$1,000,000;

(iii) a class A misdemeanor, if the value of the procurement before being divided is \$100,000 or more but less than \$250,000; or

(iv) a class B misdemeanor, if the value of the procurement before being divided is less than \$100,000.

(9) A division of a procurement that is prohibited under Subsection (8) includes doing any of the following with the intent or knowledge described in Subsection (8):

(a) making two or more separate purchases;

(b) dividing an invoice or purchase order into two or more invoices or purchase orders; or

(c) making smaller purchases over a period of time.

(10) A person who violates Subsection (8) is subject to the criminal penalties described in Section 63G-6a-2405.

(11) The Division of Finance within the Department of Administrative Services may conduct an audit of an executive branch procurement unit to verify compliance with the requirements of this section.

(12) An executive branch procurement unit may not make a small purchase after January 1, 2014, unless the chief procurement officer certifies that the person responsible for procurements in the procurement unit has satisfactorily completed training on this section and the rules made under this section.

Section 11. Section 63G-6a-609 is amended to read:

63G-6a-609. Multiple stage bidding process.

~~[(1) A procurement unit that conducts a procurement using a bidding standard procurement process may use multiple stages to:]~~

~~[(a) narrow the number of bidders who will progress to a subsequent stage;]~~

~~[(b) prequalify bidders for subsequent stages, in accordance with Section 63G-6a-403;]~~

~~[(c) enter into a contract for a single procurement; or]~~

~~[(d) award multiple contracts for a series of upcoming procurements.]~~

~~[(2)]~~ (1) The invitation for bids for a multiple stage bidding process shall:

(a) describe the requirements for, and purpose of, each stage of the process;

(b) indicate whether the procurement unit intends to award:

(i) a single contract; or

(ii) multiple contracts for a series of upcoming procurements; and

(c) state that:

(i) the first stage is for prequalification only;

(ii) a bidder may not submit any pricing information in the first stage of the process; and

(iii) bids in the second stage will only be accepted from a person who prequalifies in the first stage.

~~[(3)]~~ (2) During the first stage, the conducting procurement unit:

(a) shall prequalify bidders to participate in subsequent stages, in accordance with Section 63G-6a-403;

(b) shall prohibit the submission of pricing information until the final stage; and

(c) may, before beginning the second stage, request additional information to clarify the qualifications of the bidders who submit timely responses.

[46] (3) Contracts may only be awarded for a procurement item described in stage one of the invitation for bids.

[45] (4) The conducting procurement unit may use as many stages as it determines to be appropriate.

[46] (5) Except as otherwise expressly provided in this section, a procurement unit conducting a multiple stage bidding process under this section shall ensure compliance with this part.

[47] (6) The applicable rulemaking authority may make rules governing the use of a multiple stage process described in this section.

Section 12. Section 63G-6a-707 is amended to read:

63G-6a-707. Evaluation of proposals -- Evaluation committee.

(1) To determine which proposal provides the best value to the procurement unit, the evaluation committee shall evaluate each responsive and responsible proposal that has not been disqualified from consideration under the provisions of this chapter, using the criteria described in the request for proposals, which may include:

- (a) experience;
- (b) performance ratings;
- (c) inspection;
- (d) testing;
- (e) quality;
- (f) workmanship;
- (g) time, manner, or schedule of delivery;
- (h) references;
- (i) financial solvency;
- (j) suitability for a particular purpose;
- (k) management plans;
- (l) cost; or

(m) other subjective or objective criteria specified in the request for proposals.

(2) Criteria not described in the request for proposals may not be used to evaluate a proposal.

(3) The conducting procurement unit shall:

(a) appoint an evaluation committee consisting of at least three individuals; and

(b) ensure that the evaluation committee and each member of the evaluation committee:

(i) does not have a conflict of interest with any of the offerors;

(ii) can fairly evaluate each proposal;

(iii) does not contact or communicate with an offeror concerning the procurement outside the official evaluation committee process; and

(iv) conducts the evaluation in a manner that ensures a fair and competitive process and avoids the appearance of impropriety.

(4) The evaluation committee may, with the approval of the head of the conducting procurement unit, enter into discussions or conduct interviews with, or attend presentations by, the offerors.

(5) (a) Except as provided in Subsections (5)(b) and (8), each member of the evaluation committee is prohibited from knowing, or having access to, any information relating to the cost, or the scoring of the cost, of a proposal until after the evaluation committee submits its final recommended scores on all other criteria to the issuing procurement unit.

(b) The issuing procurement unit shall:

(i) if applicable, assign an individual who is not a member of the evaluation committee to calculate scores for cost based on the applicable scoring formula, weighting, and other scoring procedures contained in the request for proposals;

(ii) review the evaluation committee's scores and correct any errors, scoring inconsistencies, and reported noncompliance with this chapter;

(iii) add the scores calculated for cost, if applicable, to the evaluation committee's final recommended scores on criteria other than cost to derive the total combined score for each responsive and responsible proposal; and

(iv) provide to the evaluation committee the total combined score calculated for each responsive and responsible proposal, including any applicable cost formula, weighting, and scoring procedures used to calculate the total combined scores.

(c) The evaluation committee may not:

(i) change its final recommended scores described in Subsection (5)(a) after the evaluation committee has submitted those scores to the issuing procurement unit; or

(ii) change cost scores calculated by the issuing procurement unit.

(6) (a) As used in this Subsection (6), "management fee" includes only the following fees of the construction manager/general contractor:

(i) preconstruction phase services;

(ii) monthly supervision fees for the construction phase; and

(iii) overhead and profit for the construction phase.

(b) When selecting a construction manager/general contractor for a construction project, the evaluation committee:

(i) may score a construction manager/general contractor based upon criteria contained in the solicitation, including qualifications, performance ratings, references, management plan, certifications, and other project specific criteria described in the solicitation;

(ii) may, as described in the solicitation, weight and score the management fee as a fixed rate or as a fixed percentage of the estimated contract value;

(iii) may, at any time after the opening of the responses to the request for proposals, have access to, and consider, the management fee proposed by the offerors; and

(iv) except as provided in Subsection ~~[(7)]~~ (8), may not know or have access to any other information relating to the cost of construction submitted by the offerors, until after the evaluation committee submits its final recommended scores on all other criteria to the issuing procurement unit.

(7) (a) The deliberations of an evaluation committee may be held in private.

(b) If the evaluation committee is a public body, as defined in Section 52-4-103, the evaluation committee shall comply with Section 52-4-205 in closing a meeting for its deliberations.

(8) An issuing procurement unit is not required to comply with Subsection (5) if the head of the issuing procurement unit or a person designated by rule made by the applicable rulemaking authority:

(a) signs a written statement:

(i) indicating that, due to the nature of the proposal or other circumstances, it is in the best interest of the procurement unit to waive compliance with Subsection (5); and

(ii) describing the nature of the proposal and the other circumstances relied upon to waive compliance with Subsection (5); and

(b) makes the written statement available to the public, upon request.

Section 13. Section 63G-6a-1203 is amended to read:

63G-6a-1203. Certain indemnification provisions forbidden -- Exceptions.

~~[(1) As used in this section, "design professional" means:]~~

~~[(a) an architect, licensed under Title 58, Chapter 3a, Architects Licensing Act;]~~

~~[(b) a landscape architect, licensed under Title 58, Chapter 53, Landscape Architects Licensing Act; or]~~

~~[(c) a professional engineer or professional land surveyor, licensed under Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act.]~~

~~[(2)-(a)]~~(1) A contract, including an amendment to an existing contract, entered into under this chapter may not require that a design professional

indemnify another from liability claims that arise out of the design professional's services, unless the liability claim arises from the design professional's negligent act, wrongful act, error or omission, or other liability imposed by law.

~~[(b)]~~ (2) Subsection ~~[(2)-(a)]~~ (1) may not be waived by contract.

~~[(e)]~~ (3) Notwithstanding Subsections ~~[(2)-(a)]~~ (1) and ~~[(b)]~~ (2), a design professional may be required to indemnify a person for whom the design professional has direct or indirect control or responsibility.

Section 14. Section 63G-6a-1206.5 is enacted to read:

63G-6a-1206.5. Change in contract price.

A contractor may increase the contract price only in accordance with the terms of the contract.

Section 15. Section 63G-6a-1501 is amended to read:

Part 15. Design Professional Services

63G-6a-1501. Title.

This part is known as "~~Architect-Engineer~~ Design Professional Services."

Section 16. Section 63G-6a-1502 is amended to read:

63G-6a-1502. Requirements regarding procurement of design professional services.

~~[(1) It is the policy of this state to]~~

(1) A procurement unit seeking to procure design professional services shall:

(a) publicly announce all requirements for ~~architect-engineer~~ those services through a request for statement of qualifications ~~and to~~, as provided in this part; and

(b) negotiate contracts for ~~architect-engineer~~ design professional services;

(i) on the basis of demonstrated competence and qualification for the type of services required~~;~~]; and

(ii) at fair and reasonable prices.

(2) ~~Architect-engineer services shall be procured~~ A procurement unit shall procure design professional services as provided in this part, except as otherwise provided in Sections 63G-6a-403, 63G-6a-404, 63G-6a-408, 63G-6a-802, and 63G-6a-803.

(3) This part does not affect the authority of, and does not apply to procedures undertaken by, a procurement unit to obtain the services of architects or engineers in the capacity of employees of the procurement unit.

Section 17. Section 63G-6a-1502.5 is enacted to read:

63G-6a-1502.5. Request for statement of qualifications.

(1) A procurement unit may establish criteria in a request for statement of qualifications by which the

qualifications of a design professional, as set forth in a statement of qualifications, will be evaluated, including:

(a) the design professional's work history and experience;

(b) performance ratings earned by the design professional or references for similar work;

(c) any quality assurance or quality control plan;

(d) the quality of the design professional's past work product;

(e) the time, manner of delivery, and schedule of delivery of the design professional services;

(f) the design professional's financial solvency;

(g) any management plan, including key personnel and subconsultants for the project; and

(h) other project specific criteria that the procurement unit establishes.

(2) A request for statement of qualifications may not include a request for a price or a cost component for the design professional services.

Section 18. Section 63G-6a-1503 is amended to read:

63G-6a-1503. Evaluation committee for design professional services.

(1) In the procurement of [~~architect-engineer~~] design professional services, the procurement officer or the head of an issuing procurement unit shall encourage [firms] design professionals engaged in the lawful practice of their profession to submit a statement of qualifications.

(2) (a) The director of the Division of Facilities Construction and Management shall appoint an evaluation committee for [~~architect-engineer~~] design professional services [~~contracts~~] procurements under its authority.

[~~(3) An evaluation committee for architect-engineer services contracts not under the authority of the Division of Facilities Construction and Management shall be established in accordance with rules made by the applicable rulemaking authority.~~]

(b) A conducting procurement unit, other than the Division of Facilities Construction and Management, shall appoint an evaluation committee for design professional services procurements under the authority of that procurement unit.

(3) (a) An evaluation committee appointed under Subsection (2) shall consist of at least three members.

(b) A procurement unit appointing an evaluation committee under this section shall ensure that each member of the evaluation committee:

(i) does not have a conflict of interest with any of the design professionals under consideration;

(ii) can fairly evaluate each statement of qualifications;

(iii) does not contact or communicate with any of the design professionals under consideration concerning the request for statement of qualifications outside the official evaluation committee process, beginning the date that the request for statement of qualifications is issued until the selection of the design professional has been made; and

(iv) conducts the evaluation in a manner that ensures a fair and competitive process and avoids the appearance of impropriety.

(4) An evaluation committee appointed under this section shall:

(a) evaluate current statements of qualifications and performance data on file with the procurement unit, together with those that may be submitted by other [firms] design professionals in response to the announcement of a proposed contract;

(b) consider no [less] fewer than three [firms] design professionals; and

(c) based upon criteria established and published by the [issuing] conducting procurement unit, select no [less] fewer than three of the [firms] design professionals considered to be the most highly qualified to provide the services required.

Section 19. Section 63G-6a-1503.5 is enacted to read:

63G-6a-1503.5. Evaluation of statements of qualifications.

(1) An evaluation committee appointed under Section 63G-6a-1503 shall evaluate and score each responsive and responsible statement of qualifications that has not been disqualified from consideration under this chapter, using the criteria described in the request for statement of qualifications.

(2) Criteria not described in the request for statement of qualifications may not be used to evaluate a statement of qualifications.

(3) An evaluation committee may enter into discussions or conduct interviews with, or attend presentations by, the design professionals whose statements of qualifications are under consideration.

(4) An evaluation committee shall rank the top three highest scoring design professionals, in order of their scores, for the purpose of entering into fee negotiations as provided in Section 63G-6a-1505.

(5) If fewer than three design professionals submit statements of qualifications or are determined to be responsive and responsible, the chief procurement officer or head of a procurement unit with independent procurement authority shall issue a written determination explaining why it is in the best interest of the procurement unit to continue the fee negotiation and the contracting process with less than three design professionals.

(6) (a) The deliberations of an evaluation committee may be held in private.

(b) If the evaluation committee is a public body, as defined in Section 52-4-103, the evaluation committee shall comply with Section 52-4-205 in closing a meeting for its deliberations.

Section 20. Section 63G-6a-1504 is amended to read:

63G-6a-1504. Selection as part of design-build or lease.

Notwithstanding any other provision of this chapter, ~~architect-engineer~~ design professional services may be procured under Title 63A, Chapter 5, State Building Board - Division of Facilities Construction and Management, as part of the services obtained in a design-build contract or as part of the services obtained in a lease contract for real property, if the qualifications of those providing the ~~architect-engineer~~ design professional services are part of the consideration in the selection process.

Section 21. Section 63G-6a-1505 is amended to read:

63G-6a-1505. Determination of compensation for design professional services.

(1) The procurement officer shall award a contract to [a] the qualified [firm] design professional whose statement of qualifications was awarded the highest score under Subsection 63G-6a-1503(4) by the evaluation committee, at compensation that the procurement officer determines, in writing, to be fair and reasonable to the procurement unit.

(2) In making the determination described in Subsection (1), the procurement officer shall take into account ~~[the services];~~

~~[(a) estimated value;]~~

~~[(b) scope;]~~

~~[(c) complexity; and]~~

~~[(d) professional nature.]~~

(a) the estimated value, scope, and professional nature of the services; and

(b) the complexity of the project or services.

(3) If the procurement officer is unable to agree to a satisfactory contract with the ~~[firm first selected]~~ highest scoring design professional, at a price the procurement officer determines to be fair and reasonable to the procurement unit, the procurement officer shall:

(a) formally terminate discussions with that ~~[firm]~~ design professional; and

(b) undertake discussions with [a] the second highest scoring, qualified [firm] design professional.

(4) If the procurement officer is unable to agree to a satisfactory contract with the second ~~[firm selected]~~ highest scoring design professional, at a price the procurement officer determines to be fair

and reasonable to the procurement unit, the procurement officer shall:

(a) formally terminate discussions with that ~~[firm]~~ design professional; and

(b) undertake discussions with [a] the third highest scoring, qualified [firm] design professional.

(5) If the procurement officer is unable to award a contract at a fair and reasonable price to any of the ~~[selected firms]~~ highest scoring design professionals, the procurement officer shall:

(a) select additional ~~[firms]~~ design professionals; and

(b) continue discussions in accordance with this part until an agreement is reached.

Section 22. Section 63G-6a-1506 is amended to read:

63G-6a-1506. Restrictions on procurement of design professional services.

(1) Except as provided in Subsection (2), ~~[when] if the division or a procurement unit with independent procurement authority, in accordance with Section 63G-6a-1502, [elects to obtain architect or engineering services by using a competitive procurement process and has provided public notice of its competitive procurement process]~~ issues a request for statement of qualifications to procure design professional services and provides public notice of the request for statement of qualifications:

(a) a ~~[higher education entity, or any part of one,]~~ public entity inside or outside the state may not submit a proposal in response to the procurement unit's ~~[competitive procurement process]~~ request for statement of qualifications; and

(b) the procurement unit may not award a contract ~~[to perform the architect or engineering services solicited in the competitive procurement process to a higher education entity or any part of one]~~ to a public entity inside or outside the state to perform the design professional services solicited in the request for statement of qualifications.

(2) Subsection (1) does not apply when the procurement unit is procuring ~~architect or engineer~~ design professional services for contracts related to research activities and technology transfer.

Section 23. Section 63G-6a-1603 is amended to read:

63G-6a-1603. Protest officer responsibilities and authority -- Proceedings on protest -- Effect of decision.

(1) After a protest is filed, the protest officer shall determine whether the protest is timely filed and complies fully with the requirements of Section 63G-6a-1602.

(2) If the protest officer determines that the protest is not timely filed or that the protest does not fully comply with Section 63G-6a-1602, the protest officer shall dismiss the protest.

(3) If the protest officer determines that the protest is timely filed and complies fully with Section 63G-6a-1602, the protest officer shall:

(a) dismiss the protest if the protest officer determines that the protest alleges facts that, if true, do not provide an adequate basis for the protest;

(b) uphold the protest without holding a hearing if the protest officer determines that the undisputed facts of the protest indicate that the protest should be upheld; or

(c) hold a hearing on the protest if there is a genuine issue of material fact that needs to be resolved in order to determine whether the protest should be upheld.

(4) (a) If a hearing is held on a protest, the protest officer may:

(i) subpoena witnesses and compel their attendance at the protest hearing;

(ii) subpoena documents for production at the protest hearing;

(iii) obtain additional factual information; and

(iv) obtain testimony from experts, the person filing the protest, representatives of the procurement unit, or others to assist the protest officer to make a decision on the protest.

(b) The Rules of Evidence do not apply to a protest hearing.

(c) The applicable rulemaking authority shall make rules relating to intervention in a protest, including designating:

(i) who may intervene; and

(ii) the time and manner of intervention.

(d) A protest officer shall:

(i) record each hearing held on a protest under this section;

(ii) regardless of whether a hearing on a protest is held under this section, preserve all records and other evidence relied upon in reaching the protest officer's written decision until the decision, and any appeal of the decision, becomes final; and

(iii) submit to the procurement policy board chair a copy of the protest officer's written decision and all records and other evidence relied upon in reaching the decision, within seven days after receiving:

(A) notice that an appeal of the protest officer's decision has been filed under Section 63G-6a-1702; or

(B) a request from the chair of the procurement policy board.

(e) A protest officer's holding a hearing, considering a protest, or issuing a written decision under this section does not affect a person's right to later question or challenge the protest officer's jurisdiction to hold the hearing, consider the protest, or issue the decision.

(5) (a) The deliberations of a protest officer may be held in private.

(b) If the protest officer is a public body, as defined in Section 52-4-103, the protest officer shall comply with Section 52-4-205 in closing a meeting for its deliberations.

(6) (a) A protest officer, or the protest officer's designee, shall promptly issue a written decision regarding any protest, unless the protest is settled by mutual agreement.

(b) The decision shall:

(i) state the reasons for the action taken;

(ii) inform the protestor of the right to judicial or administrative review as provided in this chapter; and

(iii) indicate the amount of the security deposit or bond required under Section 63G-6a-1703.

(c) A person who issues a decision under Subsection (6)(a) shall mail, email, or otherwise immediately furnish a copy of the decision to the protestor.

(7) A decision described in this section is effective until stayed or reversed on appeal, except to the extent provided in Section 63G-6a-1903.

(8) (a) A decision described in Subsection (6)(a) that is issued in relation to a procurement unit other than a legislative procurement unit, a judicial procurement unit, a nonadopting local government procurement unit, or a public transit district is final and conclusive unless the protestor files an appeal under Section 63G-6a-1702.

(b) A decision described in Subsection (6)(a) that is issued in relation to a legislative procurement unit, a judicial procurement unit, a nonadopting local government procurement unit, or a public transit district is final and conclusive unless the protestor files an appeal under Section 63G-6a-1802.

(9) If the protest officer does not issue the written decision regarding a protest or a contract controversy within 30 calendar days after the day on which a written request for a final decision is filed with the protest officer, or within a longer period as may be agreed upon by the parties, the protester, prospective contractor, or contractor may proceed as if an adverse decision had been received.

(10) A determination under this section by the protest officer regarding an issue of fact may not be overturned on appeal unless the decision is arbitrary and capricious or clearly erroneous.

Section 24. Section 63G-6a-1702 is amended to read:

63G-6a-1702. Appeal to Utah State Procurement Policy Board -- Appointment of procurement appeals panel -- Proceedings.

(1) This part applies to all procurement units other than:

(a) a legislative procurement unit;

- (b) a judicial procurement unit;
 - (c) a nonadopting local government procurement unit; or
 - (d) a public transit district.
- (2) (a) Subject to Section 63G-6a-1703, a party to a protest involving a procurement unit other than a procurement unit listed in Subsection (1)(a), (b), (c), or (d) may appeal the protest decision to the board by filing a written notice of appeal with the chair of the board within seven days after:
- (i) the day on which the written decision described in Section 63G-6a-1603 is:
 - (A) personally served on the party or the party's representative; or
 - (B) emailed or mailed to the address or email address of record provided by the party under Subsection 63G-6a-1602~~(3)~~(2); or
 - (ii) the day on which the 30-day period described in Subsection 63G-6a-1603(7) ends, if a written decision is not issued before the end of the 30-day period.
 - (b) A person appealing a debarment or suspension of a procurement unit other than a procurement unit listed in Subsection (1)(a), (b), (c), or (d) shall file a written notice of appeal with the chair of the board no later than seven days after the debarment or suspension.
 - (c) A notice of appeal under Subsection (2)(a) or (b) shall:
 - (i) include the address of record and email address of record of the party filing the notice of appeal; and
 - (ii) be accompanied by a copy of any written protest decision or debarment or suspension order.
 - (3) A person may not base an appeal of a protest under this section on a ground not specified in the person's protest under Section 63G-6a-1602.
 - (4) A person may not appeal from a protest described in Section 63G-6a-1602, unless:
 - (a) a decision on the protest has been issued; or
 - (b) a decision is not issued and the 30-day period described in Subsection 63G-6a-1603(7), or a longer period agreed to by the parties, has passed.
 - (5) The chair of the board or a designee of the chair who is not employed by the procurement unit responsible for the solicitation, contract award, or other action complained of:
 - (a) shall, within seven days after the day on which the chair receives a timely written notice of appeal under Subsection (2), and if all the requirements of Subsection (2) and Section 63G-6a-1703 have been met, appoint:
 - (i) a procurement appeals panel to hear and decide the appeal, consisting of at least three individuals, each of whom is:
 - (A) a member of the board; or

- (B) a designee of a member appointed under Subsection ~~[(4)]~~ (5)(a)(i)(A), if the designee is approved by the chair; and
- (ii) one of the members of the procurement appeals panel to be the chair of the panel;
- (b) may:
 - (i) appoint the same procurement appeals panel to hear more than one appeal; or
 - (ii) appoint a separate procurement appeals panel for each appeal;
 - (c) may not appoint a person to a procurement appeals panel if the person is employed by the procurement unit responsible for the solicitation, contract award, or other action complained of; and
 - (d) shall, at the time the procurement appeals panel is appointed, provide appeals panel members with a copy of the protest officer's written decision and all other records and other evidence that the protest officer relied on in reaching the decision.
- (6) A procurement appeals panel described in Subsection (5) shall:
 - (a) consist of an odd number of members;
 - (b) conduct an informal proceeding on the appeal within 60 days after the day on which the procurement appeals panel is appointed:
 - (i) unless all parties stipulate to a later date; and
 - (ii) subject to Subsection (8);
 - (c) at least seven days before the proceeding, mail, email, or hand-deliver a written notice of the proceeding to the parties to the appeal; and
 - (d) within seven days after the day on which the proceeding ends:
 - (i) issue a written decision on the appeal; and
 - (ii) mail, email, or hand-deliver the written decision on the appeal to the parties to the appeal and to the protest officer.
- (7) (a) The deliberations of a procurement appeals panel may be held in private.
 - (b) If the procurement appeals panel is a public body, as defined in Section 52-4-103, the procurement appeals panel shall comply with Section 52-4-205 in closing a meeting for its deliberations.
- (8) A procurement appeals panel may continue a procurement appeals proceeding beyond the 60-day period described in Subsection (6)(b) if the procurement appeals panel determines that the continuance is in the interests of justice.
- (9) A procurement appeals panel:
 - (a) shall, subject to Subsection (9)(c), consider the appeal based solely on:
 - (i) the protest decision;
 - (ii) the record considered by the person who issued the protest decision; and
 - (iii) if a protest hearing was held, the record of the protest hearing;

(b) may not take additional evidence;

(c) notwithstanding Subsection (9)(b), may, during an informal hearing, ask questions and receive responses regarding the appeal, the protest decision, or the record in order to assist the panel to understand the appeal, the protest decision, and the record; and

(d) shall uphold the decision of the protest officer, unless the decision is arbitrary and capricious or clearly erroneous.

(10) If a procurement appeals panel determines that the decision of the protest officer is arbitrary and capricious or clearly erroneous, the procurement appeals panel:

(a) shall remand the matter to the protest officer, to cure the problem or render a new decision;

(b) may recommend action that the protest officer should take; and

(c) may not order that:

(i) a contract be awarded to a certain person;

(ii) a contract or solicitation be cancelled; or

(iii) any other action be taken other than the action described in Subsection (10)(a).

(11) The board shall make rules relating to the conduct of an appeals proceeding, including rules that provide for:

(a) expedited proceedings; and

(b) electronic participation in the proceedings by panel members and participants.

(12) The Rules of Evidence do not apply to an appeals proceeding.

Section 25. Section 63G-6a-1703 is amended to read:

63G-6a-1703. Requirement to pay a security deposit or post a bond -- Exceptions -- Amount -- Forfeiture of security deposit or bond.

(1) Except as provided by rule made under Subsection (2)(a), a person who files a notice of appeal under Section 63G-6a-1702 shall, before the expiration of the time provided under Subsection 63G-6a-1702(2) for filing a notice of appeal, pay a security deposit or post a bond with the office of the protest officer.

(2) The amount of a security deposit or bond required under Subsection (1) is:

(a) for an appeal relating to an invitation for bids or request for proposals and except as provided in Subsection (2)(b)(ii):

(i) \$20,000, if the total contract value is under \$500,000;

(ii) \$25,000, if the total contract value is \$500,000 or more but less than \$1,000,000;

(iii) \$50,000, if the total contract value is \$1,000,000 or more but less than \$2,000,000;

(iv) \$95,000, if the total contract value is \$2,000,000 or more but less than \$4,000,000;

(v) \$180,000, if the total contract value is \$4,000,000 or more but less than \$8,000,000;

(vi) \$320,000, if the total contract value is \$8,000,000 or more but less than \$16,000,000;

(vii) \$600,000, if the total contract value is \$16,000,000 or more but less than \$32,000,000;

(viii) \$1,100,000, if the total contract value is \$32,000,000 or more but less than \$64,000,000;

(ix) \$1,900,000, if the total contract value is \$64,000,000 or more but less than \$128,000,000;

(x) \$3,500,000, if the total contract value is \$128,000,000 or more but less than \$256,000,000;

(xi) \$6,400,000, if the total contract value is \$256,000,000 or more but less than \$512,000,000; and

(xii) \$10,200,000, if the total contract value is \$512,000,000 or more;

(b) \$20,000, for an appeal:

(i) relating to any type of procurement process other than an invitation for bids or request for proposals;

(ii) relating to an invitation for bids or request for proposals, if the estimated total contract value cannot be determined; or

(iii) of a debarment or suspension.

(3) (a) For an appeal relating to an invitation for bids, the estimated total contract value shall be based on:

(i) the lowest responsible and responsive bid amount for the entire term of the contract, excluding any renewal period, if the bid opening has occurred;

(ii) the total budget for the procurement item for the entire term of the contract, excluding any renewal period, if bids are based on unit or rate pricing; or

(iii) if the contract is being rebid, the historical usage and amount spent on the contract over the life of the contract.

(b) For an appeal relating to a request for proposals, the estimated total contract value shall be based on:

(i) the lowest cost proposed in a response to a request for proposals, considering the entire term of the contract, excluding any renewal period, if the opening of proposals has occurred;

(ii) the total budget for the procurement item over the entire term of the contract, excluding any renewal period, if opened cost proposals are based on unit or rate pricing; or

(iii) if the contract is being reissued, the historical usage and amount spent on the contract over the life of the contract that is being reissued.

(4) The protest officer shall:

(a) retain the security deposit or bond until the protest and any appeal of the protest decision is final;

(b) as it relates to a security deposit:

(i) deposit the security deposit into an interest-bearing account; and

(ii) after any appeal of the protest decision becomes final, return the security deposit and the interest it accrues to the person who paid the security deposit, unless the security deposit is forfeited to the [General Fund] general fund of the procurement unit under Subsection (5); and

(c) as it relates to a bond:

(i) retain the bond until the protest and any appeal of the protest decision becomes final; and

(ii) after the protest and any appeal of the protest decision becomes final, return the bond to the person who posted the bond, unless the bond is forfeited to the [General Fund] general fund of the procurement unit under Subsection (5).

(5) A security deposit that is paid, or a bond that is posted, under this section shall forfeit to the [General Fund] general fund of the procurement unit if:

(a) the person who paid the security deposit or posted the bond fails to ultimately prevail on appeal; and

(b) the procurement appeals panel finds that the protest or appeal is frivolous or that its primary purpose is to harass or cause a delay.

Section 26. Section 63G-6a-1802 is amended to read:

63G-6a-1802. Appeal to Utah Court of Appeals.

(1) (a) As provided in this part:

(i) a person may appeal a dismissal of an appeal by the board chair under Subsection 63G-6a-1706(1);

(ii) a person who receives an adverse decision by a procurement appeals panel may appeal that decision;

(iii) subject to Subsection (2), a procurement unit, other than a legislative procurement unit, a judicial procurement unit, a nonadopting local government procurement unit, or a public transit district, may appeal an adverse decision by a procurement appeals panel;

(iv) a person who receives an adverse decision in a protest relating to a legislative procurement unit, a judicial procurement unit, a nonadopting local government procurement unit, or a public transit district may appeal that decision; and

(v) a person who is debarred or suspended under Section 63G-6a-904 by a legislative procurement unit, a judicial procurement unit, a nonadopting local government procurement unit, or a public

transit district may appeal the debarment or suspension.

(b) A person seeking to appeal a dismissal, decision, or debarment or suspension under Subsection (1)(a) shall file a notice of appeal with the Utah Court of Appeals within seven days after the dismissal, decision, or debarment or suspension.

(2) A procurement unit may not appeal the decision of a procurement appeals panel, unless the appeal is:

(a) recommended by the protest officer involved; and

(b) except for a procurement unit that is not represented by the attorney general's office, approved by the attorney general.

(3) A person appealing a dismissal, decision, protest, debarment, or suspension under this section may not base the appeal on a ground not specified in the proceeding from which the appeal is taken.

(4) The Utah Court of Appeals:

(a) shall consider the appeal as an appellate court;

(b) may not hear the matter as a trial de novo; and

(c) may not overturn a finding, dismissal, decision, or debarment or suspension, unless the finding, dismissal, decision, or debarment or suspension is arbitrary and capricious or clearly erroneous.

(5) The Utah Court of Appeals is encouraged to:

(a) give an appeal made under this section priority; and

(b) consider the appeal and render a decision in an expeditious manner.

Section 27. Section 63G-6a-1903 is amended to read:

63G-6a-1903. Effect of timely protest or appeal.

A procurement unit, other than a legislative procurement unit, a judicial procurement unit, a nonadopting local government procurement unit, or a public transit district, may not proceed further with a solicitation or with the award of a contract:

(1) during the pendency of a timely:

(a) protest under Subsection 63G-6a-1602(1);

(b) appeal of a protest under Section 63G-6a-1702; or

(c) appeal of a procurement appeals panel decision under Section 63G-6a-1802; and

(2) until:

(a) all administrative and judicial remedies are exhausted;

(b) for a protest under Section 63G-6a-1602 or an appeal under Section 63G-6a-1702:

(i) the chief procurement officer, after consultation with the attorney general's office and the head of the using agency, makes a written determination that award of the contract without delay is in the best interest of the procurement unit or the state;

(ii) the head of a procurement unit with independent procurement authority, after consultation with the procurement unit's attorney, makes a written determination that award of the contract without delay is in the best interest of the procurement unit or the state; or

(iii) for a procurement unit that is not represented by the attorney general's office, the procurement unit, after consulting with the attorney for the procurement unit, makes a written determination that award of the contract without delay is in the best interest of the procurement unit or the state; or

(c) for an appeal under Section 63G-6a-1802, or an appeal to a higher court than district court:

(i) the chief procurement officer, after consultation with the attorney general's office and the head of the using agency, makes a written determination that award of the contract without delay is in the best interest of the procurement unit or the state;

(ii) the head of a procurement unit with independent procurement authority, after consultation with the procurement unit's attorney, makes a written determination that award of the contract without delay is in the best interest of the procurement unit or the state; or

(iii) for a procurement unit that is not represented by the attorney general's office, the procurement unit, after consulting with the attorney for the procurement unit, makes a written determination that award of the contract without delay is necessary to protect the best interest of the procurement unit or the state.

Section 28. Section 63G-6a-1904 is amended to read:

63G-6a-1904. Costs to or against protestor.

(1) ~~[When]~~ If a protest is sustained administratively or upon administrative or judicial review and the protesting bidder or offeror should have been awarded the contract under the solicitation but is not, the protestor ~~[shall be]~~ is entitled to the following relief as a claim against the procurement unit:

(a) the reasonable costs incurred in connection with the solicitation, including bid preparation and appeal costs; and

(b) any equitable relief determined to be appropriate by the reviewing administrative or judicial body.

(2) ~~[When a protest is not sustained by a]~~ If the final determination of a procurement appeals panel or other appellate body does not sustain the protest, the protestor shall reimburse the conducting or

issuing procurement unit for all expenses that the conducting or issuing procurement unit incurred in defending the appeal, including personnel costs, attorney fees, other legal costs, [expenses incurred by the attorney general's office,] the per diem and expenses paid by the conducting or issuing procurement unit to witnesses or appeals panel members, and any additional expenses incurred by the staff of the conducting or issuing procurement unit who have provided materials and administrative services to the procurement appeals panel for that case.

(3) The provisions of Title 63G, Chapter 7, Part 4, Notice of Claim Against a Governmental Entity or a Government Employee, and Section 63G-7-601 do not apply to actions brought under this chapter by an aggrieved party for equitable relief or reasonable costs incurred in preparing or appealing an unsuccessful bid or offer.

CHAPTER 219**H. B. 444**

Passed March 12, 2015
Approved March 26, 2015
Effective May 12, 2015

**CHARTER SCHOOL
FUNDING TASK FORCE**

Chief Sponsor: Francis D. Gibson
Senate Sponsor: Ann Millner

LONG TITLE**General Description:**

This bill creates the Charter School Funding Task Force.

Highlighted Provisions:

This bill:

- ▶ creates the Charter School Funding Task Force;
- ▶ provides for membership of the task force and compensation for members; and
- ▶ specifies duties and responsibilities of the task force.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2016:

- ▶ to the Legislature - Senate, as a one-time appropriation:
 - from the General Fund, One-time, \$16,000;
- ▶ to the Legislature - House of Representatives, as a one-time appropriation:
 - from the General Fund, One-time, \$16,000; and
- ▶ to the Legislature - Office of Legislative Research and General Counsel, as a one-time appropriation:
 - from the General Fund, One-time, \$40,000.

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

63I-2-236, as last amended by Laws of Utah 2014, Chapters 150 and 189

ENACTS:

36-29-101, Utah Code Annotated 1953
36-29-102, Utah Code Annotated 1953

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

Section 1. Section 36-29-101 is enacted to read:

**CHAPTER 29. LEGISLATIVE TASK
FORCES****36-29-101. Title.**

This chapter is known as "Legislative Task Forces."

Section 2. Section 36-29-102 is enacted to read:

36-29-102. Charter School Funding Task Force -- Creation -- Membership -- Quorum -- Compensation -- Staff -- Duties -- Interim Report.

(1) There is created the Charter School Funding Task Force consisting of the following 14 members:

(a) four members of the Senate appointed by the president of the Senate, no more than three of whom may be from the same political party;

(b) four members of the House of Representatives appointed by the speaker of the House of Representatives, no more than three of whom may be from the same political party;

(c) three members of the State Board of Education:

(i) one member who is appointed by the president of the Senate;

(ii) one member who is appointed by the speaker of the House of Representatives; and

(iii) one member who is appointed by the chair of the State Board of Education;

(d) one member of the State Charter School Board appointed by the chair of the State Charter School Board;

(e) one charter school business administrator, appointed by the president of the Senate; and

(f) one school district business administrator, appointed by the speaker of the House of Representatives.

(2) (a) The president of the Senate shall designate a member of the Senate appointed under Subsection (1)(a) as a cochair of the task force.

(b) The speaker of the House of Representatives shall designate a member of the House of Representatives appointed under Subsection (1)(b) as a cochair of the task force.

(3) (a) A majority of the members of the task force constitutes a quorum.

(b) The action of a majority of a quorum constitutes the action of the task force.

(4) (a) Salaries and expenses of the members of the task force who are legislators shall be paid in accordance with Section 36-2-2 and Legislative Joint Rules, Title 5, Chapter 3, Legislator Compensation.

(b) A member of the task force who is not a legislator may not receive compensation for the member's work associated with the task force, but may receive per diem and reimbursement for travel expenses incurred as a member of the task force at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(5) The Office of Legislative Research and General Counsel and the Office of the Legislative Fiscal Analyst shall provide staff support to the task force.

(6) The task force shall review and make recommendations on the following issues:

(a) charter school funding provisions under Section 53A-1a-513, including:

(i) the method for determining charter school enrollment for funding purposes;

(ii) the amount of school district revenues a school district is required to allocate for each resident student of the school district who is enrolled in a charter school; and

(iii) the weighting structure for distributing funds to charter schools according to grade level;

(b) the content of a property tax notice related to the amount of property taxes imposed on a taxpayer that represents revenue distributed to charter schools under Section 53A-1a-513;

(c) limits on charter school enrollment capacity under Section 53A-1a-502.5; and

(d) funding for administrative costs.

(7) A final report, including any proposed legislation, shall be presented to the Education Interim Committee before November 30, 2015.

Section 3. Section 63I-2-236 is amended to read:

63I-2-236. Repeal dates -- Title 36.

(1) Section 36-12-15.1 is repealed July 1, 2015.

(2) Sections 36-28-101 through 36-28-104 are repealed July 1, 2019.

(3) Section 36-29-102 is repealed July 1, 2016.

Section 4. Appropriation.

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, for the fiscal year beginning July 1, 2015, and ending June 30, 2016, the following sums of money are appropriated from resources not otherwise appropriated, or reduced from amounts previously appropriated, out of the funds or accounts indicated. These sums of money are in addition to any amounts previously appropriated for fiscal year 2016.

To Legislature - Senate

From General Fund, One-time \$16,000

Schedule of Programs:

Administration \$16,000

To Legislature - House of Representatives

From General Fund, One-time \$16,000

Schedule of Programs:

Administration \$16,000

To Legislature - Office of Legislative Research and General Counsel

From General Fund, One-time \$40,000

Schedule of Programs:

Administration \$40,000

Section 5. Effective date.

(1) Except as provided in Subsection (2), this bill takes effect on May 12, 2015.

(2) Uncodified Section 4, Appropriation, takes effect on July 1, 2015.

CHAPTER 220**S. B. 12**

Passed March 11, 2015
 Approved March 26, 2015
 Effective May 12, 2015

CHILD CARE AMENDMENTS

Chief Sponsor: Allen M. Christensen
 House Sponsor: Paul Ray

LONG TITLE**General Description:**

This bill amends provisions of the Utah Health Code related to child care.

Highlighted Provisions:

This bill:

- ▶ requires a child care provider that is exempt from licensure and certification requirements to:
 - submit information to the Department of Health for the purpose of conducting criminal history checks;
 - prohibit an individual with a misdemeanor or felony from providing care to a child receiving care from the provider, unless exempted by the Department of Health; and
 - post, in a conspicuous location, a notice that is prepared by the Department of Health that states the facility is exempt from licensure and certification and provides the department's contact information for submitting a complaint;
- ▶ allows the Department of Health to investigate a child care provider that is exempt from licensure and certification requirements under certain circumstances; and
- ▶ makes technical and conforming amendments.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 26-39-102, as last amended by Laws of Utah 2014, Chapter 322
 26-39-403, as renumbered and amended by Laws of Utah 2008, Chapter 111
 26-39-404, as last amended by Laws of Utah 2013, Chapter 276
 26-39-501, as last amended by Laws of Utah 2008, Chapter 382 and renumbered and amended by Laws of Utah 2008, Chapter 111

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

Section 1. Section 26-39-102 is amended to read:**26-39-102. Definitions.**

As used in this chapter:

(1) "Advisory committee" means the Residential Child Care Licensing Advisory Committee, created in Section 26-1-7.

[4] (2) (a) "Center based child care" means, except as provided in Subsection [4] (2)(b), a child care program licensed under this chapter.

(b) "Center based child care" does not include:

- (i) a residential child care provider certified under Section 26-39-402; or
- (ii) a facility or program exempt under Section 26-39-403.

[2] (3) "Child care" means continuous care and supervision of five or more qualifying children, that is:

- (a) in lieu of care ordinarily provided by a parent in the parent's home;
- (b) for less than 24 hours a day; and
- (c) for direct or indirect compensation.

[3] (4) "Child care program" means a child care facility or program operated by a person who holds a license or certificate issued in accordance with this chapter.

(5) "Exempt provider" means a person who provides care described in Subsection 26-39-403(2).

[5] (6) "Licensing committee" means the Child Care Center Licensing Committee created in Section 26-1-7.

[6] (7) "Public school" means:

- (a) a school, including a charter school, that:
 - (i) is directly funded at public expense; and
 - (ii) provides education to qualifying children for any grade from first grade through twelfth grade; or
- (b) a school, including a charter school, that provides:
 - (i) preschool or kindergarten to qualifying children, regardless of whether the preschool or kindergarten is funded at public expense; and
 - (ii) education to qualifying children for any grade from first grade through twelfth grade, if each grade, from first grade to twelfth grade, that is provided at the school, is directly funded at public expense.

[7] (8) "Qualifying child" means ~~a person~~ an individual who is:

- (a) (i) under the age of 13; or
- (ii) under the age of 18, if the person has a disability; and
- (b) a child of:
 - (i) a person other than the person providing care to the child;

(ii) a licensed or certified residential child care provider, if the child is under the age of four; or

(iii) an employee or owner of a licensed child care center, if the child is under the age of four.

[8] (9) "Residential child care" means child care provided in the home of a provider.

Section 2. Section 26-39-403 is amended to read:

26-39-403. Exclusions from chapter -- Criminal background checks by an excluded person.

(1) The provisions and requirements of this chapter do not apply to:

(a) a facility or program owned or operated by an agency of the United States government;

(b) group counseling provided by a mental health therapist, as defined in Section 58-60-102, who is licensed to practice in this state;

(c) a health care facility licensed pursuant to Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act;

(d) care provided to qualifying children by or in the homes of parents, legal guardians, grandparents, brothers, sisters, uncles, or aunts;

(e) care provided to qualifying children, in the home of the provider, for less than four hours a day or on a sporadic basis, unless that child care directly affects or is related to a business licensed in this state; or

(f) care provided at a residential support program that is licensed by the Department of Human Services.

(2) The licensing and certification requirements of this chapter do not apply to:

(f) (a) care provided to qualifying children as part of a course of study at or a program administered by an educational institution that is regulated by the boards of education of this state, a private education institution that provides education in lieu of that provided by the public education system, or by a parochial education institution;

(g) (b) care provided to qualifying children by a public or private institution of higher education, if the care is provided in connection with a course of study or program, relating to the education or study of children, that is provided to students of the institution of higher education;

(h) (c) care provided to qualifying children at a public school by an organization other than the public school, if:

(i) the care is provided under contract with the public school or on school property; or

(ii) the public school accepts responsibility and oversight for the care provided by the organization;

(i) (d) care provided to qualifying children as part of a summer camp that operates on federal land pursuant to a federal permit; or

(j) (e) care provided by an organization that:

(i) qualifies for tax exempt status under Section 501(c)(3) of the Internal Revenue Code;

(ii) is provided pursuant to a written agreement with:

(A) a municipality, as defined in Section 10-1-104, that provides oversight for the program; or

(B) a county that provides oversight for the program; and

(iii) is provided to children who are over the age of four and under the age of 13~~[-or-]~~.

~~[(k) care provided at a residential support program that is licensed by the Department of Human Services.]~~

~~[(2) A person who is excluded, under Subsection (1), from the provisions and requirements of this chapter, shall conduct a criminal background check on all of the person's employees who have access to a qualifying child to whom care is provided by the person.]~~

(3) An exempt provider shall submit to the department:

(a) the information required under Subsections 26-39-404(1) and (2); and

(b) of the children receiving care from the exempt provider:

(i) the number of children who are less than two years old;

(ii) the number of children who are at least two years old and less than five years old; and

(iii) the number of children who are five years old or older.

(4) An exempt provider shall post, in a conspicuous location near the entrance of the exempt provider's facility, a notice prepared by the department that:

(a) states that the facility is exempt from licensure and certification; and

(b) provides the department's contact information for submitting a complaint.

(5) The department may not release the information it collects under Subsection (3) except in an aggregate count of children receiving care from exempt providers, without identifying a specific provider.

Section 3. Section 26-39-404 is amended to read:

26-39-404. Disqualified individuals -- Criminal history checks -- Payment of costs.

(1) (a) Each exempt provider and each person requesting a residential certificate or to be licensed or to renew a license under this chapter shall submit to the department the name and other identifying information, which shall include fingerprints, of existing, new, and proposed:

(i) owners;

(ii) directors;

(iii) members of the governing body;

(iv) employees;

- (v) providers of care;
- (vi) volunteers, except parents of children enrolled in the programs; and
- (vii) all adults residing in a residence where child care is provided.

(b) A person seeking renewal of a residential certificate or license under this section is not required to submit fingerprints of an individual referred to in Subsections (1)(a)(i) through (vi), if:

(i) the individual has resided in Utah for the last five years and applied for a certificate or license before July 1, 2013;

(ii) the individual has:

(A) previously submitted fingerprints under this section for a national criminal history record check; and

(B) resided in Utah continuously since that time; or

(iii) as of May 3, 1999, the individual had one of the relationships under Subsection (1)(a) with a child care provider having a residential certificate or licensed under this section and the individual has resided in Utah continuously since that time.

(c) (i) The Utah Division of Criminal Investigation and Technical Services within the Department of Public Safety shall process the information required under Subsection (1)(a) to determine whether the individual has been convicted of any crime.

(ii) The Utah Division of Criminal Investigation and Technical Services shall submit fingerprints required under Subsection (1)(a) to the FBI for a national criminal history record check.

(iii) ~~The applicant for the license or residential certificate] A person required to submit information to the department under Subsection (1) shall pay the cost of conducting [a] the record check [under this] described in this Subsection (1)(c).~~

(2) (a) Each person requesting a residential certificate or to be licensed or to renew a license under this chapter shall submit to the department the name and other identifying information of any person age 12 through 17 who resides in the residence where the child care is provided. The identifying information required for a person age 12 through 17 does not include fingerprints.

(b) The department shall access the juvenile court records to determine whether a person described in Subsection (1) or (2)(a) has been adjudicated in juvenile court of committing an act which if committed by an adult would be a felony or misdemeanor if:

(i) the person described in Subsection (1) is under the age of 28; or

(ii) the person described in Subsection (1) is:

(A) over the age of 28; and

(B) has been convicted, has pleaded no contest, or is currently subject to a plea in abeyance or diversion agreement for a felony or misdemeanor.

(3) Except as provided in Subsection (4), a licensee under this chapter or an exempt provider may not permit a person who has been convicted, has pleaded no contest, or is currently subject to a plea in abeyance or diversion agreement for any felony or misdemeanor, or if the provisions of Subsection (2)(b) apply, who has been adjudicated in juvenile court of committing an act which if committed by an adult would be a felony or a misdemeanor, to:

(a) provide child care;

(b) provide volunteer services for ~~a licensed child care program or a child care program operating under a residential child care certificate] a child care program or an exempt provider;~~

(c) reside at the premises where child care is provided; or

(d) function as an owner, director, or member of the governing body of a ~~licensed child care program or a child care program operating under a residential child care certificate] child care program or an exempt provider.~~

(4) (a) The department may, by rule, exempt the following from the restrictions of Subsection (3):

(i) specific misdemeanors; and

(ii) specific acts adjudicated in juvenile court, which if committed by an adult would be misdemeanors.

(b) In accordance with criteria established by rule, the executive director may consider and exempt individual cases involving misdemeanors, not otherwise exempt under Subsection (4)(a) from the restrictions of Subsection (3).

Section 4. Section 26-39-501 is amended to read:

26-39-501. Investigations -- Records.

(1) The department may conduct investigations necessary to enforce the provisions of this chapter.

(2) For purposes of this section:

(a) "Anonymous complainant" means a complainant for whom the department does not have the minimum personal identifying information necessary, including the complainant's full name, to attempt to communicate with the complainant after a complaint has been made.

(b) "Confidential complainant" means a complainant for whom the department has the minimum personal identifying information necessary, including the complainant's full name, to attempt to communicate with the complainant after a complaint has been made, but who elects under Subsection (3)(c) not to be identified to the subject of the complaint.

(c) "Subject of the complaint" means the licensee or certificate holder about whom the complainant is informing the department.

(3) (a) If the department receives a complaint about a child care program or [residential child care] an exempt provider, the department shall:

(i) solicit information from the complainant to determine whether the complaint suggests actions or conditions that could pose a serious risk to the safety or well-being of a qualifying child;

(ii) as necessary:

(A) encourage the complainant to disclose the minimum personal identifying information necessary, including the complainant's full name, for the department to attempt to subsequently communicate with the complainant;

(B) inform the complainant that the department may not investigate an anonymous complaint;

(C) inform the complainant that the identity of a confidential complainant may be withheld from the subject of a complaint only as provided in Subsection (3)(c)(ii); and

(D) inform the complainant that the department may be limited in its use of information provided by a confidential complainant, as provided in Subsection (3)(c)(ii)(B); and

(iii) inform the complainant that a person is guilty of a class B misdemeanor under Section 76-8-506 if the person gives false information to the department with the purpose of inducing a change in that person's or another person's licensing or certification status.

(b) If the complainant elects to be an anonymous complainant, or if the complaint concerns events which occurred more than six weeks before the complainant contacted the department:

(i) shall refer the information in the complaint to the Division of Child and Family Services within the Department of Human Services, law enforcement, or any other appropriate agency, if the complaint suggests actions or conditions which could pose a serious risk to the safety or well-being of a child;

(ii) may not investigate or substantiate the complaint; and

(iii) may, during a regularly scheduled annual survey, inform the exempt provider, licensee, or certificate holder [~~who~~] that is the subject of the complaint of allegations or concerns raised by:

(A) the anonymous complainant; or

(B) the complainant who reported events more than six weeks after the events occurred.

(c) (i) If the complainant elects to be a confidential complainant, the department shall determine whether the complainant wishes to remain confidential:

(A) only until the investigation of the complaint has been completed; or

(B) indefinitely.

(ii) (A) If the complainant elects to remain confidential only until the investigation of the complaint has been completed, the department shall disclose the name of the complainant to the subject of the complaint at the completion of the investigation, but no sooner.

(B) If the complainant elects to remain confidential indefinitely, the department:

(I) notwithstanding Subsection 63G-2-201(5)(b), may not disclose the name of the complainant, including to the subject of the complaint; and

(II) may not use information provided by the complainant to substantiate an alleged violation of state law or department rule unless the department independently corroborates the information.

(4) (a) Prior to conducting an investigation of a child care program or [residential child care] an exempt provider in response to a complaint, a department investigator shall review the complaint with the investigator's supervisor.

(b) The investigator may proceed with the investigation only if:

(i) the supervisor determines the complaint is credible;

(ii) the complaint is not from an anonymous complainant; and

(iii) prior to the investigation, the investigator informs the subject of the complaint of:

(A) except as provided in Subsection (3)(c), the name of the complainant; and

(B) except as provided in Subsection (4)(c), the substance of the complaint.

(c) An investigator is not required to inform the subject of a complaint of the substance of the complaint prior to an investigation if doing so would jeopardize the investigation. However, the investigator shall inform the subject of the complaint of the substance of the complaint as soon as doing so will no longer jeopardize the investigation.

(5) If the department is unable to substantiate a complaint, any record related to the complaint or the investigation of the complaint:

(a) shall be classified under Title 63G, Chapter 2, Government Records Access and Management Act, as:

(i) a private or controlled record if appropriate under Section 63G-2-302 or 63G-2-304; or

(ii) a protected record under Section 63G-2-305; and

(b) if disclosed in accordance with Subsection 63G-2-201(5)(b), may not identify an individual child care program, exempt provider, licensee, certificate holder, or complainant.

(6) Any record of the department related to a complaint by an anonymous complainant is a protected record under Title 63G, Chapter 2, Government Records Access and Management Act,

and, notwithstanding Subsection 63G-2-201(5)(b), may not be disclosed in a manner that identifies an individual child care program, exempt provider, licensee, certificate holder, or complainant.

CHAPTER 221**S. B. 17**

Passed February 12, 2015

Approved March 26, 2015

Effective May 12, 2015

EMPLOYMENT SUPPORT ACT REVISIONS

Chief Sponsor: Brian E. Shiozawa
House Sponsor: Rebecca P. Edwards

LONG TITLE**General Description:**

This bill modifies the Utah Workforce Services Code by revising and updating Chapter 3, Employment Support Act.

Highlighted Provisions:

This bill:

- ▶ revises the Employment Support Act by:
 - updating language;
 - restructuring sections and parts;
 - amending definitions; and
 - adding cross-references;
- ▶ amends assessment and counselor assignment provisions of the Family Employment Program; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

35A-3-101, as last amended by Laws of Utah 1998, Chapter 1
35A-3-102, as last amended by Laws of Utah 2007, Chapter 235
35A-3-103, as last amended by Laws of Utah 2012, Chapter 212
35A-3-103.5, as last amended by Laws of Utah 2012, Chapter 305
35A-3-104, as renumbered and amended by Laws of Utah 1997, Chapter 174
35A-3-105, as last amended by Laws of Utah 2008, Chapter 382
35A-3-106, as last amended by Laws of Utah 2011, Chapter 297
35A-3-108, as last amended by Laws of Utah 2011, Chapter 297
35A-3-109, as renumbered and amended by Laws of Utah 1997, Chapter 174
35A-3-110, as renumbered and amended by Laws of Utah 1997, Chapter 174
35A-3-111, as last amended by Laws of Utah 2008, Chapter 382
35A-3-112, as renumbered and amended by Laws of Utah 1997, Chapter 174
35A-3-113, as renumbered and amended by Laws of Utah 1997, Chapter 174
35A-3-115, as last amended by Laws of Utah 2011, Chapter 188
35A-3-201, as last amended by Laws of Utah 2003, Chapter 13

35A-3-202, as last amended by Laws of Utah 2005, Chapter 81
35A-3-203, as last amended by Laws of Utah 2014, Chapter 371
35A-3-204, as renumbered and amended by Laws of Utah 1997, Chapter 375
35A-3-205, as last amended by Laws of Utah 2012, Chapter 212
35A-3-206, as last amended by Laws of Utah 2014, Chapter 371
35A-3-207, as last amended by Laws of Utah 2013, Chapters 167 and 413
35A-3-301, as enacted by Laws of Utah 1997, Chapter 174
35A-3-302, as last amended by Laws of Utah 2013, Chapter 112
35A-3-303, as enacted by Laws of Utah 1997, Chapter 174
35A-3-304, as last amended by Laws of Utah 2012, Chapter 354
35A-3-304.5, as enacted by Laws of Utah 2012, Chapter 354
35A-3-306, as last amended by Laws of Utah 2007, Chapter 51
35A-3-307, as last amended by Laws of Utah 2010, Chapter 296
35A-3-308, as last amended by Laws of Utah 2008, Chapter 3
35A-3-309, as last amended by Laws of Utah 2012, Chapter 212
35A-3-310, as last amended by Laws of Utah 2008, Chapter 382
35A-3-310.5, as last amended by Laws of Utah 2011, Chapter 297
35A-3-311, as last amended by Laws of Utah 2012, Chapter 41
35A-3-312, as last amended by Laws of Utah 2009, Chapter 39
35A-3-313, as last amended by Laws of Utah 2014, Chapter 371
35A-3-401, as last amended by Laws of Utah 2004, Chapter 29
35A-3-402, as renumbered and amended by Laws of Utah 1997, Chapter 174
35A-3-502, as renumbered and amended by Laws of Utah 1997, Chapter 174
35A-3-503, as last amended by Laws of Utah 2011, Chapter 297
35A-3-504, as last amended by Laws of Utah 1998, Chapter 1
35A-3-505, as renumbered and amended by Laws of Utah 1997, Chapter 174
35A-3-506, as renumbered and amended by Laws of Utah 1997, Chapter 174
35A-3-507, as renumbered and amended by Laws of Utah 1997, Chapter 174
35A-3-508, as last amended by Laws of Utah 1999, Chapter 21
35A-3-510, as renumbered and amended by Laws of Utah 1997, Chapter 174
35A-3-601, as renumbered and amended by Laws of Utah 2003, Chapter 90
35A-3-603, as last amended by Laws of Utah 2012, Chapter 41
35A-3-604, as last amended by Laws of Utah 2008, Chapter 382

35A-3-605, as renumbered and amended by Laws of Utah 2003, Chapter 90
 35A-3-606, as renumbered and amended by Laws of Utah 2003, Chapter 90
 35A-3-607, as renumbered and amended by Laws of Utah 2003, Chapter 90
 35A-3-608, as last amended by Laws of Utah 2012, Chapter 41
 35A-3-609, as renumbered and amended by Laws of Utah 2003, Chapter 90
 35A-3-610, as renumbered and amended by Laws of Utah 2003, Chapter 90
 76-8-1201, as last amended by Laws of Utah 2003, Chapter 90
 76-8-1205, as last amended by Laws of Utah 2012, Chapter 41

RENUMBERS AND AMENDS:

35A-3-701, (Renumbered from 35A-3-116, as last amended by Laws of Utah 2014, Chapter 371)
 35A-3-702, (Renumbered from 35A-3-117, as enacted by Laws of Utah 2014, Chapter 250)

REPEALS:

35A-3-602, as last amended by Laws of Utah 2008, Chapter 382

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

Section 1. Section 35A-3-101 is amended to read:

35A-3-101. Title.

[4] This chapter ~~[shall be]~~ is known as the "Employment Support Act."

~~[(2) A person eligible for employment assistance under Chapter 3 or 5 shall receive any assistance under the applicable chapter, including stabilization, assessment, training, or placement, through the department in accordance with Chapter 2, Part 2, Service Delivery.]~~

Section 2. Section 35A-3-102 is amended to read:

35A-3-102. Definitions.

~~[Unless otherwise specified, as]~~ As used in this chapter:

(1) "Adjudicative proceeding" has the same meaning as defined in Section 63G-4-103.

(2) "Administrative order" means an order issued by the department that addresses an overpayment of public assistance.

[4] (3) "Applicant" means a person who requests assistance under this chapter.

(4) "Assignment of support" means the transfer to the state of a recipient's right to receive support from another person that accrues during the period the recipient receives public assistance, including a right to receive support on behalf of any family member for whom the recipient is applying for or receiving assistance.

~~[(2)]~~ (5) "Average monthly number of families" means the average number of families who received

cash assistance on a monthly basis during the previous federal fiscal year.

~~[(3)]~~ (6) "Cash assistance" means ~~[a]~~ the monthly dollar amount ~~[of cash a client]~~ a recipient is eligible to receive under the Family Employment Program under Section 35A-3-302.

~~[(4)]~~ (7) "Child care services" means care of a child by a responsible person who is not the child's parent or legal guardian, for a portion of the day that is less than 24 hours in a qualified setting, as defined by ~~[rule, by a responsible person who is not the child's parent or legal guardian]~~ rules made by the department in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(8) (a) "Civic organization" means an organization that provides services to its community.

(b) "Civic organization" includes a community service club or organization, a charitable health care or service organization, a fraternal organization, a labor union, a minority or ethnic organization, a commercial or industrial organization, a commerce or business club, a private nonprofit organization, a private nonprofit corporation that provides funding to a community service organization, an organization that advocates or provides for the needs of persons with low incomes, a religious organization, and an organization that fosters strong neighborhoods and communities.

(9) "Court order" means a judgment or order of a court of this state, another state, or the federal government that addresses an overpayment of public assistance.

[4] (10) "Date of enrollment" means the date on which the applicant was approved as eligible for cash assistance.

[6] (11) "Director" means the director of the division assigned by the department to administer a program.

[7] (12) "Diversion" or "diversion payment" means a ~~[single payment of cash assistance]~~ one-time cash assistance payment under Section 35A-3-303 to a ~~[client]~~ recipient who is eligible for cash assistance, but does not require extended cash assistance under Part 3, Family Employment Program.

~~[(8)]~~ "Division" means ~~the Employment Development Division.]~~

[9] (13) "Education or training" means:

(a) basic remedial education;

(b) adult education;

(c) high school education;

(d) education to obtain the equivalent of a high school diploma;

(e) education to learn English as a second language;

(f) applied technology training;

(g) employment skills training; or

(h) on-the-job training.

[40] (14) “Full-time education or training” means training on a full-time basis as defined by the educational institution attended by the parent [client] recipient.

[41] (15) “General assistance” means financial assistance provided to a person ~~who is not otherwise eligible for cash assistance under Part 3, Family Employment Program, because that person does not live in a family with a related dependent child~~ under Part 4, General Assistance.

(16) “Notice of agency action” means the notice required to commence an adjudicative proceeding as described in Section 63G-4-201.

(17) “Obligor” means an individual:

(a) who is liable to the state under Section 35A-3-603 and applicable federal statutes and regulations; or

(b) against whom an administrative or judicial order determining overpayment has been obtained.

(18) (a) “Overpayment” means money, public assistance, or another item of value provided under a state or federally funded benefit program to a person that is not entitled to receive it or is not entitled to receive it at the level provided.

(b) “Overpayment” includes money paid to a provider under this title in connection with public assistance or another publicly funded assistance program to the extent that the provider receives payment:

(i) for goods or services not provided; or

(ii) in excess of the amount to which the provider is entitled.

[42] (19) “Parent [client] recipient” means a person who enters into an employment plan with the [division] department to qualify for cash assistance under Part 3, Family Employment Program.

(20) “Performance goals” means a target level of performance that will be compared to actual performance.

(21) “Performance indicators” means actual performance information regarding a program or activity.

(22) “Performance monitoring system” means a process to regularly collect and analyze performance information, including performance indicators and performance goals.

[43] (23) “Plan” or “state plan” means the state plan submitted to the Secretary of the United States Department of Health and Human Services to receive funding from the United States through the Temporary Assistance for Needy Families Block Grant in accordance with 42 U.S.C. Sec. 602.

(24) “Recipient” means a person who is qualified to receive, is receiving, or has received assistance under this chapter.

[44] (25) “Single minor parent” means a person under 18 years of age who is not married and has a minor child in the person’s care and custody.

(26) “Transitional cash assistance” means assistance provided to a recipient to stabilize employment and reduce the future use of cash assistance provided under Part 3, Family Employment Program.

Section 3. Section 35A-3-103 is amended to read:

35A-3-103. Department responsibilities.

The [division] department shall:

(1) administer public assistance programs assigned by the Legislature and the governor;

(2) determine eligibility ~~in accordance with the requirements of this chapter~~ for public assistance programs ~~assigned to it by the Legislature or the governor~~ in accordance with the requirements of this chapter;

(3) cooperate with the federal government in the administration of public assistance programs;

(4) administer ~~the Utah~~ state employment ~~service~~ services in accordance with Section 35A-3-115;

(5) provide for the compilation of necessary or desirable information, statistics, and reports;

(6) perform other duties and functions required by law;

(7) monitor the application of eligibility policy;

(8) develop personnel training programs for ~~more~~ effective and efficient operation of ~~all~~ the programs ~~under the administration of~~ administered by the [division] department;

(9) provide refugee resettlement services in accordance with Section 35A-3-116;

(10) provide child care assistance for children in accordance with Part 2, Office of Child Care; and

(11) provide services ~~and support~~ that enable ~~clients~~ an applicant or recipient to qualify for affordable housing in cooperation with:

(a) the Utah Housing Corporation;

(b) the Housing and Community Development Division; and

(c) local housing authorities.

Section 4. Section 35A-3-103.5 is amended to read:

35A-3-103.5. Employment and the provision of services for the disabled.

(1) As used in this section, “recipient” means an individual who:

(a) has a disability;

(b) suffers from a mental illness; or

(c) is undergoing treatment for a substance abuse problem.

(2) ~~[When] Subject to funds made available for this purpose and subject to federal and state law, when providing services to a recipient in the programs provided under this chapter, the department shall, within funds appropriated by the Legislature and in accordance with the requirements of federal and state law and memorandums of understanding between the department and other state entities that provide services to a recipient,~~ give priority to providing services that assist an eligible recipient in obtaining and retaining meaningful and gainful employment that enables the recipient to earn sufficient income to:

- (a) purchase goods and services;
- (b) establish self-sufficiency; and
- (c) exercise economic control of the recipient's life.

(3) The department shall develop a written plan to implement the policy described in Subsection (2) that includes:

(a) assessing the strengths and needs of a recipient;

(b) customizing strength-based approaches to obtaining employment;

(c) expecting, encouraging, providing, and rewarding employment:

(i) integrated employment in the workplace at competitive wages and benefits; and

(ii) self-employment;

(d) developing partnerships with potential employers;

(e) maximizing appropriate employment training opportunities;

(f) coordinating services with other government agencies and community resources;

(g) to the extent possible, eliminating practices and policies that interfere with the policy described in Subsection (2); and

(h) arranging sub-minimum wage work or volunteer work for an eligible recipient when employment at market rates cannot be obtained.

(4) The department shall, on an annual basis:

(a) set goals to implement the policy described in Subsection (2) and the plan described in Subsection (3);

(b) determine whether the goals for the previous year have been met; and

(c) modify the plan described in Subsection (3) as needed.

Section 5. Section 35A-3-104 is amended to read:

35A-3-104. Contracts for administration and provision of public assistance.

The ~~[division, in consultation with the]~~ department~~[,]~~ may contract with other public or private agencies to assist in the administration and provision of public assistance.

Section 6. Section 35A-3-105 is amended to read:

35A-3-105. Determination of eligibility and responsibility -- Information from State Tax Commission.

(1) The ~~[division]~~ department may have access to relevant information contained in the income tax returns of ~~[a client, applicant, or]~~ an applicant, a recipient, or a person who has a duty to support ~~[a client]~~ an applicant or recipient, in determining:

- (a) eligibility for public assistance;
- (b) payment responsibilities for institutional care; or
- (c) any other administrative purpose consistent with this chapter.

(2) The information requested by the ~~[division]~~ department shall be:

(a) provided by the State Tax Commission on forms furnished by the ~~[division]~~ department; and

(b) treated by the department as a private record under Title 63G, Chapter 2, Government Records Access and Management Act~~[, by the division]~~.

Section 7. Section 35A-3-106 is amended to read:

35A-3-106. Residency requirements.

~~[To be]~~ (1) An applicant is only eligible for public assistance under this chapter~~[, an]~~ if the applicant ~~[shall be]~~ is living in Utah voluntarily with the intention of making ~~[this]~~ the state the applicant's place of residence~~[, and not]~~.

(2) An applicant is not eligible for public assistance under this chapter if the applicant is living in Utah for a temporary purpose.

Section 8. Section 35A-3-108 is amended to read:

35A-3-108. Assignment of support.

(1) (a) ~~[The division shall obtain]~~ An applicant shall provide an assignment of support ~~[from each applicant or client]~~ to the department regardless of whether the payment is court ordered.

(b) Upon the receipt of public assistance, any right of the recipient to receive support from another person passes to the state, including a right to support on behalf of any family member for whom the recipient is applying for or receiving assistance, even if the ~~[client]~~ recipient has not executed and delivered an assignment of support to the ~~[division]~~ department as required by Subsection (1)(a).

~~[(c) The right to support described in Subsection (1)(b) includes a right to support in the applicant's~~

or client's own behalf or in behalf of any family member for whom the applicant or client is applying for or receiving assistance.]

(2) An assignment of support, or a [passing of rights under Subsection (1)(b)] right to receive support passed to the state, includes payments ordered, decreed, or adjudged by [any] a court within this state, [any other] another state, or a territory of the United States and is not in lieu of, and does not supersede or alter, any other court order, decree, or judgment.

(3) When an assignment of support is executed or the right to support passes to the [department] state under [Subsection (1)(b), the applicant or client] this section, the recipient is eligible to regular monthly assistance and the support paid to the [division] state is a refund.

(4) All [sums] money refunded under this section shall be deposited into the General Fund, except any amount which is required to be credited to the federal government[, shall be deposited into the General Fund].

(5) On and after the date a [family] recipient stops receiving cash assistance, an assignment of support under [Subsection (1)] this section does not apply to [any] support that accrued before the [family] recipient received [such] the cash assistance [if the department has not collected the support by the date the family stops receiving cash assistance, if the assignment is executed on or after October 1, 1998.] if:

(a) the state has not collected the support by the date the recipient stops receiving cash assistance; and

(b) the assignment was executed on or after October 1, 1998.

(6) The [department] state shall distribute arrearages to [families] a recipient in accordance with the requirements of the Social Security Act, 42 U.S.C. Sec. 657.

(7) [The total amount of] When an assignment of support includes child support, the total amount of child support assigned to the [department] state and collected under this section may not exceed the total amount of cash assistance received by the recipient.

Section 9. Section 35A-3-109 is amended to read:

35A-3-109. Assistance provided to guardian or other caretaker -- Periodic review.

(1) [When it appears necessary or advisable,] At the discretion of the department, the department may pay the public assistance [may be paid] to the legal guardian of [an applicant or client] a recipient.

(2) The [division] department may only provide cash assistance on behalf of an eligible recipient under Part 3, Family Employment Program, [on behalf of an eligible client,] to another individual interested in or concerned with the welfare of the [client only when] recipient if:

(a) by reason of the [client's] recipient's physical or mental condition, the [client] recipient is unable to manage funds;

(b) [when] the provision of cash assistance directly to the [client] recipient would be contrary to the [client's] recipient's welfare; or

(c) [when] the [division] department is [so directed by] acting according to federal requirements.

(3) The [division] department shall:

(a) undertake or contract with other state agencies to make special efforts to protect the welfare of [clients] a recipient and improve [their] the recipient's capacity for self-care[. Periodic]; and

(b) periodically review [of a client's] a recipient's condition [is required. When conditions change,] to determine whether, in the best interest of the recipient:

(i) cash assistance that is provided to an individual other than the [client shall] recipient should be discontinued [or, when advisable,]; or

(ii) a legal guardian [shall] should be appointed[, whichever action best serves the interests and welfare of the client].

Section 10. Section 35A-3-110 is amended to read:

35A-3-110. Third party obligation -- Interest.

[Whenever the division] (1) If the department expends public assistance on behalf of [a client] a recipient for services or supplies, for which another person is obligated to reimburse the [division, that other] department, the department shall notify the person of the obligation to make the reimbursement.

(2) Upon receiving notification under Subsection (1), the notified person shall make [such] the reimbursement within 60 days [of notification by the division. If reimbursement is not made within that period, and no extension of time is granted by the division, interest shall accrue on the].

(3) After the time period established under Subsection (2), the department shall charge interest on any unpaid balance at the rate of 8% per annum unless an extension is granted by the department.

Section 11. Section 35A-3-111 is amended to read:

35A-3-111. Collection of overpayments.

(1) The department [is responsible for the recovery of] shall recover overpayments [required] as described in Section 35A-3-603.

(2) [Excess property liens required in the various programs] An excess property lien that is required by a department program, but is not transferred to the federal government [shall remain], remains a condition of eligibility in public assistance programs.

(3) A [client can] recipient may appeal an initial department determination that there has been an

overpayment under rules made by the department in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 12. Section 35A-3-112 is amended to read:

35A-3-112. Assistance not assignable -- Exemption from execution, garnishment, bankruptcy, or insolvency proceedings.

(1) Public assistance provided under this chapter is not assignable, at law or in equity, ~~and none~~.

(2) None of the money paid or payable under this chapter is subject to:

(a) execution, levy, attachment, garnishment, or other legal process; or

(b) the operation of any bankruptcy or insolvency law.

Section 13. Section 35A-3-113 is amended to read:

35A-3-113. Prohibition of charges or fees for representing applicants or recipients.

[A] Except for criminal proceedings, a person may not ~~make any~~ charge or receive any a fee for representing an applicant ~~or client in any~~ or recipient in a proceeding under this chapter, ~~except criminal proceedings,~~ or with respect to any an application, ~~whether the fee or charge is to be paid by the applicant, client, or any other person, if that fee is in excess of an amount~~ in an amount greater than the amount determined by the court or body before whom an applicant or ~~client~~ recipient has been represented regardless of who pays the charge or fee.

Section 14. Section 35A-3-115 is amended to read:

35A-3-115. Public employment offices -- Agreements with other authorities -- Federal system accepted -- Appropriation.

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

(b) The ~~division~~ department shall consult with the directors of economic service areas when determining the location of public employment offices.

(c) The ~~division~~ department may locate a public employment office in connection with ~~or as an integrated part of~~ an employment center established under Section 35A-2-203.

(2) (a) The provisions of the Wagner-Peyser Act, 29 U.S.C. 49-49c, 49g, 49h, 49k, and 557, are accepted by ~~this~~ the state.

(b) The department is designated and constitutes the agency of ~~this~~ the state for the purposes of the ~~act~~ Wagner-Peyser Act, 29 U.S.C. Sec. 49, as amended.

(3) (a) For the purpose of establishing and maintaining ~~free~~ public employment offices, and promoting the use of ~~their facilities~~ the offices, the ~~division~~ department may enter into agreements with ~~the railroad retirement board, or any other~~ any agency or department of the United States, ~~or of this or any other state, charged with the administration of any law whose purposes are reasonably related to the purposes of this chapter~~ this state, or another state.

(b) As a part of an agreement entered into under Subsection (3)(a), the ~~division~~ department may accept money, services, or ~~quarters~~ facilities as a contribution to the maintenance of the state system of public employment offices or as reimbursement for services performed.

Section 15. Section 35A-3-201 is amended to read:

Part 2. Office of Child Care

35A-3-201. Definitions.

As used in this part:

(1) "Child care" means the child care services ~~referred to~~ defined in ~~Subsection~~ Section 35A-3-102~~(4) provided~~ for:

(a) children ~~through~~ age 12 or younger; and

(b) children with disabilities ~~through~~ age 18 or younger.

(2) "Child care provider association" means an association:

(a) that has functioned as a child care provider association in the state for at least three years; and

(b) is affiliated with a national child care provider association.

(3) "Committee" means the Child Care Advisory Committee created in Section 35A-3-205.

(4) "Director" means the director of the Office of Child Care.

(5) "Office" means the Office of Child Care created in Section 35A-3-202.

Section 16. Section 35A-3-202 is amended to read:

35A-3-202. Creation.

(1) There is created within the Department of Workforce Services an Office of Child Care.

(2) The office shall be administered by a director who shall be appointed by the executive director and who may be removed from that position at the will of the executive director.

Section 17. Section 35A-3-203 is amended to read:

35A-3-203. Functions and duties of office -- Annual report.

The office shall:

(1) assess critical child care needs throughout the state on an ongoing basis and focus its activities on helping to meet the most critical needs;

(2) provide child care subsidy services for income-eligible children through age 12 and for income-eligible children with disabilities through age 18;

(3) provide information:

(a) to employers for the development of options for child care in the work place; and

(b) for educating the public in obtaining quality child care;

(4) coordinate services for quality child care training and child care resource and referral core services;

(5) apply for, accept, or expend gifts or donations from public or private sources;

(6) provide administrative support services to the committee;

(7) work collaboratively with the following for the delivery of quality child care and early childhood programs, and school age programs throughout the state:

(a) the State Board of Education; and

(b) the Department of Health;

(8) research child care programs and public policy ~~[that will]~~ to improve the quality and accessibility ~~[and that will further the purposes of the office and]~~ of child care, early childhood programs, and school age programs in the state;

(9) provide planning and technical assistance for the development and implementation of programs in communities that lack child care, early childhood programs, and school age programs;

(10) provide organizational support for the establishment of nonprofit organizations approved by the Child Care Advisory Committee, created in Section 35A-3-205; and

(11) coordinate with the department to include in the annual written report described in Section 35A-1-109 information regarding the status of child care in Utah.

Section 18. Section 35A-3-204 is amended to read:

35A-3-204. Duties of director.

The director shall:

(1) enforce rules made by the department regulating the use of services provided by the office;

(2) supervise office staff and prepare an annual work plan; and

(3) apply for, accept, and expend ~~[gifts or]~~ donations from public or private sources to assist the office in fulfilling its statutory obligations.

Section 19. Section 35A-3-205 is amended to read:

35A-3-205. Creation of committee.

(1) There is created a Child Care Advisory Committee.

(2) The committee shall counsel and advise the office in fulfilling its statutory obligations ~~[to include],~~ including:

(a) ~~[a review of and recommendations]~~ reviewing and providing recommendations on the office's annual budget;

(b) providing recommendations on how the office might best respond to child care needs throughout the state; and

(c) providing recommendations on the use of ~~[new]~~ money in the Child Care Fund and other money that comes into the office~~[-, including those for the Child Care Fund].~~

(3) The committee is composed of the following members, with special attention given to insure diversity and representation from both urban and rural groups:

(a) one expert in early childhood development;

(b) one child care provider who operates a center;

(c) one child care provider who operates a family child care business;

(d) one parent who is representative of households receiving a child care subsidy from the office;

(e) one representative from the public at-large;

(f) one representative of the State Office of Education;

(g) one representative of the Department of Health;

(h) one representative of the Department of Human Services;

(i) two representatives from the corporate community, one who is a recent "Family Friendly" award winner and who received the award because of efforts ~~[in the]~~ related to child care ~~[arena]~~;

(j) two representatives from the small business community;

(k) one representative from child care advocacy groups;

(l) one representative of children with disabilities;

(m) one representative from the state Head Start Association appointed by the association;

(n) one representative from each child care provider association; and

(o) one representative of a child care resource and referral center appointed by the organization representing child care resource and referral agencies.

(4) (a) The executive director shall appoint the members designated in Subsections (3)(a) through (e) and (j) through (n).

(b) The head of the respective departments shall appoint the members referred to in Subsections (3)(f) through (i).

(c) Each child care provider association shall appoint its respective member referred to in Subsection (3)(o).

(5) (a) Except as required by Subsection (5)(b), as terms of current committee members expire, the appointing authority shall appoint each new member or reappointed member to a four-year term.

(b) Notwithstanding the requirements of Subsection (5)(a), the appointing authority shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of committee members are staggered so that approximately half of the committee is appointed every two years.

(6) When a vacancy occurs in the membership for any reason, including missing three consecutive meetings where the member has not been excused by the chair prior to or during the meeting, the replacement shall be appointed for the unexpired term.

(7) A majority of the members constitutes a quorum for the transaction of business.

(8) (a) The executive director shall select a chair from the committee membership.

(b) A chair may serve no more than two one-year terms as chair.

(9) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses ~~[in accordance with]~~ as allowed in:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance ~~[pursuant]~~ according to Sections 63A-3-106 and 63A-3-107.

Section 20. Section 35A-3-206 is amended to read:

35A-3-206. Child Care Fund -- Use of money -- Committee and director duties -- Restrictions.

(1) There is created an expendable special revenue fund known as the "Child Care Fund."

(2) The director of the office shall administer the fund under the direction of the committee.

(3) (a) The office may form nonprofit corporations or foundations controlled by the director of the office and the committee to aid and assist the office in attaining its charitable, research, and educational objectives.

(b) The nonprofit corporations or foundations may receive and administer legislative appropriations, government grants, contracts, and private gifts to carry out their public purposes.

(c) Money collected by ~~[the]~~ a nonprofit corporation or foundation described in this Subsection (3) may be deposited in the Child Care Fund.

(d) A nonprofit foundation controlled by the director of the office and the committee shall submit to the Division of Finance, within 60 days after the close of the foundation's fiscal year, a financial report summarizing the foundation's financial position and results of operations of the most recent fiscal year.

(4) (a) ~~[There shall]~~ Money may be deposited into the fund ~~[money]~~ from ~~[numerous]~~ a variety of sources, including ~~[,]~~ grants, private foundations, and individual donors.

(b) The fund shall be used to accept money designated for child care initiatives ~~[improving]~~ that will improve the quality, affordability, or accessibility of child care.

(5) The money in the fund that is not restricted to a specific use under federal law or by donors may not be expended without approval of the committee.

(6) The state treasurer shall invest the money in the fund under Title 51, Chapter 7, State Money Management Act, except that all interest or other earnings derived from money in the fund ~~[money]~~ shall be deposited in the fund.

(7) The money in the fund may not be used for administrative expenses of the office ~~[normally]~~ provided for by legislative appropriation.

(8) The committee shall:

(a) advise the director of the office on child care needs in the state and on relevant operational aspects of any grant, loan, or revenue collection program established under this part;

(b) recommend specific child care projects to the director of the office;

(c) recommend policy and procedures for administering the fund;

(d) make recommendations on grants, loans, or contracts from the fund for any of the child care activities authorized under this part;

(e) establish the criteria by which loans and grants will be made;

(f) determine the order in which approved child care projects will be funded;

(g) make recommendations regarding the distribution of money from the fund in accordance with the procedures, conditions, and restrictions placed ~~[upon]~~ on the money by the donors; and

(h) have joint responsibility with the office to solicit public and private funding for the fund.

(9) Fund money shall be used for ~~[any of]~~ the following activities:

(a) training of child care providers;

(b) scholarships and grants for child care providers' professional development;

- (c) child care public awareness and consumer education services;
- (d) child care provider recruitment;
- (e) Office of Child Care sponsored activities;
- (f) matching money for obtaining grants; or
- (g) other activities that will assist in the improvement of child care quality, affordability, or accessibility.

(10) The director of the office, with the consent of the committee and the executive director, may grant, lend, or contract ~~fund~~ money from the fund for child care purposes to:

- (a) local governments;
- (b) nonprofit community, charitable, or neighborhood-based organizations;
- (c) regional or statewide nonprofit organizations; or
- (d) child care providers.

(11) Preference may be given, but awards may not be limited to ~~applicants for fund money~~, entities that apply for money from the fund and that demonstrate ~~any of~~ the following:

- (a) programmatic or financial need;
- (b) diversity of ~~clients~~ beneficiaries or geographic location; ~~and~~ or
- (c) coordination with or enhancement of existing services.

(12) The executive director or the executive director's designee shall monitor on an annual basis the activities of the ~~recipients of~~ entities that receive grants, loans, or contracts issued from the fund ~~on an annual basis~~ to ensure compliance with the terms and conditions imposed on the ~~recipient~~ entities by the fund.

(13) ~~The entities receiving grants, loans, or contracts~~ Each entity receiving a grant, loan, or contract shall provide the director of the office with an annual accounting of how the money ~~they~~ the entity received from the fund has been spent.

(14) (a) The director of the office shall make an annual report to the committee regarding the status of the fund and the programs and services funded by the fund.

(b) The report shall be included in the annual written report described in Section 35A-1-109.

Section 21. Section 35A-3-207 is amended to read:

35A-3-207. Community-based prevention programs.

(1) As used in this section:

- (a) "political subdivision" means a town, city, county, or school district;
- (b) "qualified sponsor" means a:

- (i) political subdivision;
- (ii) community nonprofit, religious, or charitable organization;
- (iii) regional or statewide nonprofit organization; or
- (iv) private for profit or nonprofit child care organization with experience and expertise in operating community-based prevention programs described in Subsection (2) and that are licensed under Title 62A, Chapter 2, Licensure of Programs and Facilities.

(2) Within appropriations from the Legislature, the department may provide grants to qualified sponsors for community-based prevention programs that:

- (a) support parents in their primary care giving role to children;
- (b) provide positive alternatives to idleness for school-aged children when school is not in session; and
- (c) support other community-based prevention programs.

(3) In awarding ~~grants~~ a grant under this section, the department shall:

- (a) request proposals for funding from potential qualified sponsors; and
- ~~(b) comply with the requirements of Subsection (4).~~

~~[(4) In awarding these grants, the department shall]~~

(b) ensure that each dollar of funds from political subdivisions or private funds is matched for each dollar received from the department. ~~[The]~~

(4) In meeting the matching requirements under Subsection (3), the department may consider the value of in-kind contributions ~~such as~~, including materials, supplies, paid labor, volunteer labor, and the incremental increase in building maintenance and operation expenses incurred attributable to the prevention program ~~may be considered in meeting this match requirement~~.

(5) In awarding a grant under this section, the department shall consider:

- (a) the cash portion of the proposed match in relation to the financial resources of the qualified sponsor; and
- (b) the extent to which the qualified sponsor has:

- (i) consulted and collaborated with parents of children who are likely to participate, local parent-teacher organizations, and other parent organizations;

- (ii) identified at-risk factors that will be ~~ameliorated~~ addressed through the proposed prevention program;

- (iii) identified protective factors and developmental assets that will be supported and

strengthened through the proposed prevention program; and

(iv) encouraged the financial support of parents and the organizations [specified] described in Subsection (5)(b)(i).

(6) [At] The department shall award at least [50 percent] 50% of the grants [awarded] under this section [shall be awarded] to organizations described in Subsection (1)(b)(iv).

(7) [No federal funds shall be used] The department may not allow the use of federal funds as matching funds under this act.

Section 22. Section 35A-3-301 is amended to read:

Part 3. Family Employment Program

35A-3-301. Purpose -- Legislative findings.

(1) The Legislature finds that:

(a) [it is in the public interest to fundamentally alter the state's cash assistance program for needy families with children; (b)] employment improves the quality of life for parents, children, and individuals by increasing family income, developing job skills, and improving self-esteem; and

[(e)] (b) the purpose of the cash assistance provided under this part is to assist a parent [elient] recipient to obtain employment that is sufficient to sustain a family, to ensure the dignity of those receiving assistance, and to strengthen families.

(2) The Legislature recognizes that even with assistance, some [elients] recipients may be unable to attain complete self-sufficiency.

Section 23. Section 35A-3-302 is amended to read:

35A-3-302. Eligibility requirements.

(1) [The program of] There is created the "Family Employment Program" to provide cash assistance [provided] under this part [is known as the Family Employment Program].

(2) (a) The [division] department shall submit a state plan to the Secretary of the United States Department of Health and Human Services to obtain [federal] funding under the federal Temporary Assistance for Needy Families Block Grant.

(b) The [division] department shall make the state plan consistent with this part and federal law.

(c) If a discrepancy [arises] exists between a provision of the state plan and this part, this part supersedes the provision in the state plan.

(3) The services [and supports] provided under this part are for both one-parent and two-parent families.

(4) To be eligible for cash assistance under this part, a family shall:

(a) have at least one minor dependent child; or

(b) have a parent who is in the third trimester of a pregnancy.

(5) [The] In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules for eligibility and the amount of cash assistance a family is eligible to receive under this part based on:

(a) family size;

(b) family income;

(c) income disregards;

(d) other relevant factors; and

(e) if the applicant has met the eligibility requirements under Subsections (5)(a) through (d), the assessment and other requirements described in Sections 35A-3-304 and 35A-3-304.5.

(6) [The division shall disregard] To determine eligibility, the department may not consider money on deposit in an Individual Development Account established under Section 35A-3-312 [in determining eligibility].

(7) The department shall provide for an appeal of a determination of eligibility in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(8) (a) The department shall make a report to either the Legislature's Executive Appropriations Committee or the Social Services Appropriations Subcommittee on any proposed rule change made under Subsection (5) that would modify the:

(i) eligibility requirements for cash assistance; or

(ii) [the] amount of cash assistance a family [would be] is eligible to receive.

(b) The department shall submit the report under Subsection (8)(a) prior to implementing the proposed rule change [and the].

(c) The report under Subsection (8)(a) shall include:

(i) a description of the department's current practice or policy that it is proposing to change;

(ii) an explanation of why the department is proposing the change;

(iii) the effect of an increase or decrease in cash benefits on families; and

(iv) the fiscal impact of the proposed change.

[(e)] (d) The department may use the Notice of Proposed Rule Amendment form filed with the Division of Administrative Rules as its report if the notice contains the information required under Subsection (8)[(b)](c).

(9) [The] In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules to ensure that:

(a) a recipient of assistance from the Family Employment Program:

(i) has adequate access to the assistance;

(ii) has the ability to use and withdraw assistance with minimal fees or surcharges, including the opportunity to obtain assistance with no fees or surcharges;

(iii) is provided information regarding fees and surcharges that may apply to assistance accessed through an electronic fund transaction; and

(iv) is provided information explaining the restrictions on accessing assistance described in Subsection (10); and

(b) information regarding fees and surcharges that may apply when accessing assistance from the Family Employment Program through an electronic fund transaction is available to the public.

(10) An individual receiving assistance under this section may not access the assistance through an electronic benefit transfer, including through an automated teller machine or point-of-sale device, in an establishment in the state that:

(a) exclusively or primarily sells intoxicating liquor;

(b) allows gambling or gaming; or

(c) provides adult-oriented entertainment where performers disrobe or perform unclothed.

(11) An establishment ~~[in the state]~~ described under Subsection (10)(a), (b), or (c) may not allow an individual to access the assistance ~~[described in]~~ under this section on the establishment's premises through an electronic benefit transfer, including through an automated teller machine or point-of-sale device, ~~if the establishment:~~ (a) exclusively or primarily sells intoxicating liquor; (b) allows gambling or gaming; or (c) provides adult-oriented entertainment where performers disrobe or perform unclothed.

(12) In accordance with federal requirements~~;~~ and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules to prevent individuals from accessing assistance in a manner prohibited by Subsections (10) and (11), which rules may include enforcement provisions that impose sanctions that temporarily or permanently disqualify an individual from receiving assistance.

~~[(13) When exercising rulemaking authority under this part, the department shall comply with the requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act.]~~

Section 24. Section 35A-3-303 is amended to read:

35A-3-303. Diversion.

(1) (a) When an applicant applies for cash assistance under this part, the ~~[division]~~ department shall assess whether the applicant should be ~~[diverted from receiving extended cash assistance.]~~ helped by:

(i) diversion to avoid extended cash assistance; or

(ii) normal cash assistance under this part.

(b) In completing the assessment~~[-, the division shall]~~ under this section, the department may consider the following:

(i) the applicant's employment history;

(ii) the likelihood of the applicant obtaining immediate full-time employment;

(iii) the applicant's general prospect for obtaining full-time employment;

(iv) the applicant's need for cash assistance to pay for housing or substantial and unforeseen expenses or work-related expenses;

(v) housing stability; and

(vi) the adequacy of the applicant's child care arrangements, if applicable.

~~[(b) A finding by the division with regard to eligibility for diversion shall primarily consider whether, but for the diversion assistance received under this section, the applicant would receive extended cash assistance.]~~

(2) If the ~~[division]~~ department determines that the applicant ~~[is eligible for]~~ should be helped by diversion ~~[assistance]~~ and the applicant agrees with this determination, the ~~[division]~~ department shall provide a single payment of cash assistance up to three times the maximum monthly amount of cash assistance that the applicant would be otherwise qualified to receive based on household size.

(3) ~~[When]~~ If the department determines that diversion is not appropriate, an applicant may receive cash assistance as ~~[otherwise]~~ provided in this part.

Section 25. Section 35A-3-304 is amended to read:

35A-3-304. Assessment -- Participation requirements and limitations -- Employment plan -- Mentors.

(1) (a) Within ~~[20]~~ 30 business days of the date of enrollment, the department shall provide that a parent ~~[client shall]~~ recipient:

(i) ~~[be]~~ is assigned an employment counselor; and

(ii) ~~[complete]~~ completes an assessment provided by the ~~[division]~~ department regarding the parent ~~[client's]~~ recipient's:

~~[(A) family circumstances;]~~

~~[(B) education;]~~

~~[(C) work history;]~~

~~[(D) skills;]~~

~~[(E) ability to become self-sufficient; and]~~

(A) prior work experience;

(B) ability to become employable;

(C) skills; and

~~(F)~~ (D) likelihood of a substance use disorder involving the misuse of a controlled substance.

(b) The assessment provided under Subsection (1)(a)(ii) shall include:

(i) a survey to be completed by the parent [client] recipient with the assistance of the [division] department; and

(ii) a written questionnaire to be completed by the parent [client] recipient designed to accurately determine the likelihood of the parent [client] recipient having a substance use disorder involving the misuse of a controlled substance.

(c) In addition to the other requirements of this part, if the results of the written questionnaire taken by a parent [client] recipient indicate a reasonable likelihood that the parent [client] recipient has a substance use disorder involving the misuse of a controlled substance, the parent [client] recipient may only receive cash assistance provided under this part in accordance with the additional requirements of Section 35A-3-304.5.

(2) (a) Within 15 business days of a parent [client] recipient completing an assessment, the [division] department and the parent [client] recipient shall enter into an employment plan.

(b) The employment plan shall have a target date for entry into employment.

(c) The [division] department shall provide a copy of the employment plan to the parent [client] recipient.

(d) ~~[As to]~~ For the parent [client, the] recipient, the employment plan may include:

(i) job searching requirements;

(ii) if the parent [client] recipient does not have a high school diploma, participation in an educational program to obtain a high school diploma, or its equivalent;

(iii) education or training necessary to obtain employment;

(iv) a combination of work and education or training; and

(v) assisting the Office of Recovery Services in good faith to:

(A) establish the paternity of a minor child; and

(B) establish or enforce a child support order.

(e) If the parent [client] recipient tests positive for the unlawful use of a controlled substance after taking a drug test under Section 35A-3-304.5, the employment plan shall include an agreement by the parent [client] recipient to:

(i) participate in treatment for a substance use disorder; and

(ii) meet the other requirements of Section 35A-3-304.5.

(f) ~~[As to the division, the]~~ The department's responsibilities under the employment plan may include:

(i) providing cash and other types of public and employment assistance, including child care;

(ii) assisting the parent [client] recipient to obtain education or training necessary for employment;

(iii) assisting the parent [client] recipient to set up and follow a household budget; and

(iv) assisting the parent [client] recipient to obtain employment.

(g) The [division] department may amend the employment plan to reflect new information or changed circumstances.

(h) If immediate employment is an activity [contained] in the employment plan, the parent [client] recipient shall:

(i) promptly commence a search for employment for a specified number of hours each week ~~[for employment]~~; and

(ii) regularly submit a report to the [division] department on:

(A) how time was spent in search for a job;

(B) the number of job applications completed;

(C) the interviews attended;

(D) the offers of employment extended; and

(E) other related information required by the [division] department.

(i) (i) If full-time education or training to secure employment is an activity [contained] in an employment plan, the parent [client] recipient shall promptly undertake a full-time education or training program.

(ii) The employment plan may describe courses, education or training goals, and classroom hours.

(j) (i) ~~[As a condition of receiving]~~ The department may only provide cash assistance under this part, ~~[a parent client shall agree]~~ if the parent recipient agrees in writing to make a good faith effort to comply with the parent recipient's employment plan.

~~[(ii) If a parent client consistently fails to show good faith in complying with the employment plan, the division may seek under Subsection (2)(i)(iii) to terminate all or part of the cash assistance services provided under this part.]~~

~~[(iii) The division shall establish a process to reconcile disputes between a client and the division as to whether:]~~

(ii) The department shall establish a process to reconcile disputes between a parent recipient and the department as to whether:

(A) the parent [client] recipient has made a good faith effort to comply with the employment plan; or

(B) the [division] department has complied with the employment plan.

(iii) If a parent recipient consistently fails to show good faith in complying with the employment plan, the department may seek to terminate all or part of the cash assistance services provided under this part.

(3) (a) Except as provided in Subsection (3)(b), a parent [client's] recipient's supported participation in education or training beyond that required to obtain a high school diploma or its equivalent is limited to the lesser of:

(i) 24 months; or

(ii) the completion of the education and training requirements of the employment plan.

(b) A parent [client] recipient may participate in education or training for up to six months beyond the 24-month limit of Subsection (3)(a)(i) if:

(i) the parent [client] recipient is employed for 80 or more hours [a] per month; [and]

(ii) the extension is for good cause shown; and

(iii) the extension is approved by the director or the director's designee.

(c) A parent [client] recipient who receives an extension under Subsection (3)(b) [remains] is subject to Subsection (4).

(4) (a) A parent [client] recipient with a high school diploma or equivalent who has received 24 months of education or training shall participate in full-time work activities as defined by rules made by the department in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) The 24 months [need not] described in Subsection (4)(a) do not have to be continuous [and the department may define "full-time work activities" by rule].

(5) [As a condition for receiving] The department may only provide cash assistance on behalf of a minor child under this part[,], if the minor child [shall be] is:

(a) enrolled in and attending school in compliance with Sections 53A-11-101.5 and 53A-11-101.7; or

(b) exempt from school attendance under Section 53A-11-102.

(6) This section does not apply to a person who has received diversion assistance under Section 35A-3-303.

(7) (a) The [division shall] department may recruit and train volunteers to serve as mentors for parent [clients] recipients.

(b) A mentor may advocate on behalf of a parent [client] recipient and help a parent [client] recipient:

(i) develop life skills;

(ii) implement an employment plan; or

(iii) obtain services and [supports] support from:

(A) the volunteer mentor;

(B) the [division] department; or

(C) civic organizations.

Section 26. Section 35A-3-304.5 is amended to read:

35A-3-304.5. Drug testing requirements.

(1) If the results of a questionnaire described in Subsection 35A-3-304(1) indicate a reasonable likelihood that [a parent client] an applicant may have a substance use disorder involving the misuse of a controlled substance, the [division] department shall require the [parent client] applicant to take a drug test at the [division's] department's expense in order to continue to receive cash assistance under this part.

(2) If [a parent client] an applicant refuses to take a drug test required under Subsection (1), the department shall terminate cash assistance under this part and the [parent client] applicant may not reapply for cash assistance under this part for:

(a) 90 days after a first refusal to take a drug test [within one year]; or

(b) one year after a second refusal to take a drug test within one year.

(3) A drug test given under this section shall be administered with due regard to the privacy and dignity of the person being tested.

(4) Before taking a drug test under this section, [a parent client] an applicant may advise the person administering the test regarding any prescription or over-the-counter medication the [parent client] applicant is taking.

(5) The result of a drug test given under this section is a private record in accordance with Section 63G-2-302 and disclosure to a third party is prohibited except as provided under Title 63G, Chapter 2, Government Records Access and Management Act.

(6) If [a parent client] an applicant tests negative for the unlawful use of a controlled substance after taking a drug test under Subsection (1), the [parent client remains] applicant is eligible for cash assistance, subject to the other eligibility requirements of this part.

(7) If [a parent client] an applicant tests positive for the unlawful use of a controlled substance after taking a drug test under Subsection (1), the [parent client] applicant:

(a) shall be given a list of approved substance use disorder treatment providers that are available in the area in which the individual resides; and

(b) may continue to receive benefits if the [parent client] applicant enters into and follows the requirements of [an] the applicant's employment plan, including:

(i) receiving treatment, at the [division's] department's expense, from an approved substance use disorder treatment provider for at least 60 days;

(ii) testing negative for the unlawful use of a controlled substance;

(A) in each subsequent drug test required by ~~[division]~~ department rule during treatment; and

(B) in an additional drug test given at the conclusion of treatment; and

(iii) meeting the other requirements of receiving cash assistance under this part.

(8) ~~[If a parent client]~~ (a) The department shall terminate cash assistance under this part, if an applicant:

(i) declines to enter into an employment plan required by Subsection (7)[, or if the parent client]; or

(ii) enters into, but fails to meet, a requirement of an employment plan under Subsection (7), including if the [parent client] applicant refuses to take a drug test required by the employment plan or tests positive for the unlawful use of a controlled substance in a drug test required by the employment plan[, the department shall terminate cash assistance under this part and the parent client].

(b) An applicant whose cash assistance has been terminated under Subsection (8)(a) may not reapply for cash assistance under this part for:

[(a)] (i) except as provided in Subsection (8)(b)(ii), 90 days after the day on which the department determines, under this Subsection (8), that the [parent client] applicant is no longer eligible for cash assistance; or

[(b)] (ii) one year after the day on which the department determines, under this Subsection (8), that the [parent client] applicant is no longer eligible for cash assistance, if the department has previously determined on at least one other occasion in the past year that the [parent client] applicant is no longer eligible for cash assistance under this Subsection (8).

Section 27. Section 35A-3-306 is amended to read:

35A-3-306. Limits on eligibility -- Transitional cash assistance.

(1) ~~[For purposes of]~~ As used in this section, "battered or subjected to extreme cruelty" has the same meaning as defined in [is defined in Section 103(a)(1) of P.L. 104-193 or 42 U.S.C. Sec. 608(a)(7)(C)(iii),] The Personal Responsibility and Work Opportunity Reconciliation Act of 1996, 42 U.S.C. Sec. 608(a)(7)(C)(iii).

(2) Except as provided in Subsection (4), the ~~[division]~~ department may not provide cash assistance to a family who has received cash assistance for 36 months or more.

(3) (a) The ~~[division]~~ department shall count toward the ~~[36-month]~~ time limit described in Subsection (2) any time after January 1, 1997, during which:

(i) the parent [client] recipient received cash assistance in this or another state; and

(ii) the parent [client] recipient is disqualified from receiving cash assistance and the parent [client's] recipient's income and assets are counted in determining eligibility for the family in this or another state.

(b) ~~[(i) The division]~~ The department may not count toward the [36-month] time limit described in Subsection (2) or the [24-month] time period described in Subsection (4) any time during which:

~~[(A)] (i) a person 18 years of age or older received cash assistance as a minor child and not as a parent; or~~

~~[(B)] (ii) a parent [client] recipient received transitional [support] cash assistance under Subsection (5).~~

~~[(ii) Transitional support cash assistance:]~~

~~[(A) may be paid if the department determines the assistance is necessary to stabilize employment and prevent recidivism;]~~

~~[(B) is only available to a parent client who was previously receiving cash assistance under the Family Employment Program but who becomes ineligible due to earned or unearned income; and]~~

~~[(C) may be granted for a maximum of three months provided the parent client is employed an average of 30 hours per week during the transitional period.]~~

(4) (a) ~~[For up to 24 months, the division]~~ The department may provide cash assistance to a family for up to 24 months beyond the [36-month] time limit described in Subsection (2) if during the previous two months[,], the parent [client] recipient was employed for [no less than] at least 20 hours per week.

(b) ~~[For up to 20% of the average monthly number of families who receive cash assistance under this part, the division]~~ Notwithstanding the time limit described in Subsection (2), the department may provide cash assistance to a family beyond the [36-month] time limit in Subsection (2):

(i) by reason of a hardship; ~~[or]~~

(ii) if the family includes an individual who has been battered or subjected to extreme cruelty[.]; or

(iii) if a parent volunteers to fully participate in a department-approved employment and training activity as prescribed by rules made by the department in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(c) ~~[For up to 20% of the average monthly number of families who receive cash assistance under this part, the division]~~ Notwithstanding the time limit established in Subsection (4)(a), the department may provide cash assistance to a family beyond the additional [24-month] time period in Subsection (4)(a):

(i) by reason of a hardship; or

(ii) if the family includes an individual who has been battered or subjected to extreme cruelty.

(d) The department may only provide the additional cash assistance described in Subsections (4)(b) and (c) for up to 20% of the average monthly number of families who receive cash assistance under this part.

~~(4)~~ (e) Except as provided in Subsections (4)(b) and (c), the ~~[division]~~ department may not provide cash assistance to a family who has received 60 months of cash assistance after October 1, 1996.

(5) (a) The department may provide transitional cash assistance to a parent recipient:

(i) if the department determines the transitional cash assistance is necessary to stabilize employment and prevent recidivism of a recipient;

(ii) who was previously receiving cash assistance under the Family Employment Program but who becomes ineligible due to earned or unearned income; and

(iii) for a maximum of three months if the parent recipient is employed an average of 30 hours per week during the transitional period.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules for the provision of transitional cash assistance under this section.

Section 28. Section 35A-3-307 is amended to read:

35A-3-307. Cash assistance to a single minor parent.

(1) The ~~[division]~~ department may provide cash assistance to a single minor parent in accordance with this section.

(2) A single minor parent who receives cash assistance under this part shall:

(a) except as provided under Subsection (3), reside in a place of residence maintained by a parent, legal guardian, or other adult relative of the single minor parent, ~~except as provided in Subsection (3);~~

(b) participate in education for parenting and life skills;

(c) participate in infant and child wellness programs ~~[operated by the Department of Health]~~ approved by the department; and

(d) for ~~[not less than]~~ at least 20 hours per week:

(i) ~~[attend high school or an alternative to high school,]~~ if the single minor parent does not have a high school diploma, attend high school or an alternative to high school;

(ii) participate in education or training; or

(iii) participate in a combination of employment and education or training.

(3) (a) If the ~~[division]~~ department determines that the requirements of Subsection (2)(a) are not appropriate for a single minor parent, the ~~[division]~~ department may assist the single minor parent to

obtain suitable living arrangements, including an adult-supervised living arrangement.

(b) ~~[As a condition of receiving]~~ The department may only provide cash assistance~~;~~ to a single minor parent who is exempt from the requirements of Subsection (2)(a) ~~[shall reside]~~ if the single minor parent resides in a living arrangement that is approved by the ~~[division]~~ department.

(c) The approval by the ~~[division]~~ department of a living arrangement under Subsection (3)(b):

(i) is a means of safeguarding the use of state and federal funds; and

(ii) is not a certification or guarantee of the safety, quality, or condition of the living arrangements of the single minor parent.

(4) (a) If a single minor parent resides with a parent, the ~~[division]~~ department shall include the income of the parent of the single minor parent in determining the single minor parent's eligibility for services ~~[and supports]~~ under this part.

(b) If a single minor parent receives services ~~[and supports]~~ under this chapter but does not reside with a parent, the ~~[division]~~ department shall seek an order under Title 78B, Chapter 12, Utah Child Support Act, requiring the parent of the single minor parent to financially support the single minor parent.

(5) The requirements of this section shall be included in a single minor parent's employment plan under Section 35A-3-304.

Section 29. Section 35A-3-308 is amended to read:

35A-3-308. Adoption services -- Printed information -- Supports provided.

(1) The ~~[division]~~ department may provide assistance under this section to ~~[a client]~~ an applicant who is pregnant and is not receiving cash assistance ~~[no sooner than]~~ at the beginning of the third trimester of pregnancy.

(2) For a pregnant ~~[clients]~~ applicant, the ~~[division]~~ department shall:

(a) refer the ~~[client]~~ applicant for appropriate prenatal medical care, including maternal health services provided under Title 26, Chapter 10, Family Health Services;

(b) inform the ~~[client]~~ applicant of free counseling about adoption from licensed child placement agencies and licensed attorneys; and

(c) offer the ~~[client]~~ applicant the adoption information packet described in Subsection (3).

(3) The department shall publish an adoption information packet that:

(a) is easy to understand;

(b) contains geographically indexed materials on the public and private organizations that provide adoption assistance;

(c) lists the names, addresses, and telephone numbers of licensed child placement agencies and licensed attorneys who place children for adoption;

(d) explains that private adoption is legal and that the law permits adoptive parents to reimburse the costs of prenatal care, childbirth, neonatal care, and other expenses related to pregnancy; and

(e) describes the services ~~and supports~~ available to the ~~client~~ applicant under this section.

(4) (a) A ~~client~~ recipient remains eligible for assistance under this section, even though the ~~client~~ recipient relinquishes a child for adoption, ~~provided that~~ if the adoption is in accordance with Sections 78B-6-120 through 78B-6-122.

(b) The assistance provided under this section may include:

(i) reimbursement for expenses associated with care and confinement during pregnancy as provided ~~for~~ in Subsection (5); and

(ii) for a maximum of 12 months from the date of relinquishment, coordination of services to assist the ~~client~~ recipient in:

(A) receiving appropriate educational and occupational assessment and planning;

(B) enrolling in appropriate education or training programs, including high school completion and adult education programs;

(C) enrolling in programs that provide assistance with job readiness, employment counseling, finding employment, and work skills;

(D) finding suitable housing;

(E) receiving medical assistance, under Title 26, Chapter 18, Medical Assistance Act, if the ~~client~~ recipient is otherwise eligible; and

(F) receiving counseling and other mental health services.

(5) (a) Except as provided in Subsection (5)(b), a ~~client~~ recipient under this section is eligible to receive an amount equal to the maximum monthly amount of cash assistance paid under this part to one person for up to 12 consecutive months from the date of relinquishment.

(b) If a ~~client~~ recipient is otherwise eligible to receive cash assistance under this part, the ~~client~~ recipient is eligible to receive an amount equal to the increase in cash assistance the ~~client~~ recipient would have received but for the relinquishment for up to 12 consecutive months from the date of relinquishment.

(6) (a) To ~~be~~ remain eligible for assistance under this section, a ~~client~~ recipient shall:

(i) with the cooperation of the ~~division~~ department, develop and implement an employment plan ~~containing~~ that includes goals for achieving self-sufficiency and ~~describing~~ that describes the action the ~~client~~ recipient will take concerning education and training ~~that will result in~~ to achieve full-time employment;

(ii) if the ~~client~~ recipient does not have a high school diploma, enroll in high school or an

alternative to high school and demonstrate progress toward graduation; and

(iii) make a good faith effort to meet the goals of the employment plan as ~~provided~~ described in Section 35A-3-304.

(b) Cash assistance provided to a ~~client~~ recipient before the ~~client~~ recipient relinquishes a child for adoption is part of the state plan.

(c) Assistance provided under Subsection (5):

(i) shall be provided for with state funds; and

(ii) may not be ~~told~~ counted when determining subsequent eligibility for cash assistance under this chapter.

(d) The time limit provisions of Section 35A-3-306 apply to cash assistance provided under the state plan.

(e) The ~~division~~ department shall monitor a ~~client's~~ recipient's compliance with this section.

(f) Except for Subsection (6)(b), Subsections (2) through (6) are excluded from the state plan.

Section 30. Section 35A-3-309 is amended to read:

35A-3-309. Information regarding home ownership.

(1) The ~~division~~ department shall provide information and service coordination to assist ~~a client to obtain~~ an applicant in obtaining affordable housing.

(2) The information and services may include:

(a) information from the Utah Housing Corporation and the Housing and Community Development Division regarding special housing programs, including programs for first-time home buyers and ~~persons~~ individuals with low and moderate incomes and the eligibility requirements for those programs;

(b) referrals to programs operated by volunteers from the real estate industry that assist ~~clients~~ applicants in obtaining affordable housing, including information on home ownership, down payments, closing costs, and credit requirements; and

(c) referrals to housing programs operated by municipalities, counties, local housing authorities, and nonprofit housing organizations that assist individuals ~~to obtain~~ in obtaining affordable housing, including first-time home ownership.

Section 31. Section 35A-3-310 is amended to read:

35A-3-310. Child care services -- Rules.

(1) ~~A parent client~~ An applicant may receive assistance for child care under this part for a minor child in the care and custody of the parent ~~client~~ recipient, unless the other parent in a two-parent family:

(a) is capable of caring for the family's child;

(b) is not employed; and

(c) has not entered into an employment plan with the ~~[division]~~ department.

(2) The ~~[division]~~ department shall encourage a parent ~~[client]~~ recipient to obtain child care at no cost from a parent, sibling, relative, or other suitable provider.

(3) ~~[Within appropriations from the Legislature and in]~~ In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make rules governing eligibility for child care services for a minor child in the care and custody of a parent who does not receive cash assistance under this part.

Section 32. Section 35A-3-310.5 is amended to read:

35A-3-310.5. Child care providers -- Criminal background checks -- Payment of costs -- Prohibitions -- Department rules.

(1) This section applies to a child care provider who:

(a) (i) is selected by ~~[an applicant for, or]~~ a recipient of~~;~~ a child care assistance payment; or

(ii) is a recipient of a child care assistance payment;

(b) is not required to undergo a criminal background check with the Department of Health, Bureau of Child Care Licensing;

(c) is not a license exempt child care center or program; and

(d) is an eligible child care provider ~~[under]~~ in accordance with department rules made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) (a) ~~[Each]~~ A child care provider identified under Subsection (1) shall submit to the department the name and other identifying information, ~~[which shall include]~~ including a set of fingerprints, of:

(i) existing, new, and proposed ~~[providers of]~~ individuals who provide or may provide child care; and

(ii) individuals who are at least 18 years of age and reside in the premises where the child care is provided.

(b) The department may waive the fingerprint requirement under Subsection (2)(a) for an individual who has:

(i) resided in Utah for five years prior to the required submission; or

(ii) (A) previously submitted a set of fingerprints under this section for a national criminal history record check; and

(B) resided in Utah continuously since submitting the fingerprints.

(c) The ~~[Utah Division of]~~ Criminal Investigation and Technical Services ~~Division~~ created within the

Department of Public Safety under Section 53-10-103 shall:

(i) process and conduct background checks on all individuals as requested by the department~~;~~, ~~including submitting the~~; and

(ii) submit required fingerprints to the U.S. Federal Bureau of Investigation for a national criminal history background check of the individual.

(d) If the department waives the fingerprint requirement under Subsection (2)(b), the ~~[Utah Division of]~~ Criminal Investigation and Technical Services Division may allow the department or its representative access to the ~~[division's]~~ Criminal Investigation and Technical Services Division's ~~[data base]~~ database to determine whether the individual has been convicted of a crime.

(e) The child care provider shall pay the cost of the history background check provided under Subsection (2)(c).

(3) (a) ~~[Each]~~ A child care provider identified under Subsection (1) shall submit to the department the name and other identifying information of an individual, age 12 through 17, who resides in the premises where the child care is provided.

~~[(b) The identifying information referred to in Subsection (3)(a) does not include fingerprints.]~~

~~[(e)]~~ (b) The department or its representative shall access juvenile court records to determine whether an individual described in Subsection (2) or (3)(a) has been adjudicated in juvenile court of committing an act which, if committed by an adult, would be a felony or misdemeanor if:

(i) the individual described in Subsection (2) is under the age of 28; or

(ii) the individual described in Subsection (2):

(A) is ~~[over the]~~ age ~~[of]~~ 28 or older; and

(B) has been convicted of, has pleaded no contest to, or is currently subject to a plea in abeyance or diversion agreement for a felony or misdemeanor.

(4) Except as provided in Subsection (5), a child care provider under this section may not permit an individual ~~[who has been convicted of, has pleaded no contest to, or is currently subject to a plea in abeyance or diversion agreement for a felony or misdemeanor, or if Subsection (3)(b) applies, an individual who has been adjudicated in juvenile court of committing an act which if committed by an adult would be a felony or misdemeanor]~~ described under Subsection (3)(b) to:

(a) provide subsidized child care; or

(b) reside at the premises where subsidized child care is provided.

(5) (a) The department may make ~~[a rule]~~ rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to exempt the following from the restrictions of Subsection (4):

(i) a specific misdemeanor;

(ii) a specific act adjudicated in juvenile court, which if committed by an adult would be a misdemeanor; and

(iii) background checks of individuals other than the provider who are residing at the premises where subsidized child care is provided if that child care is provided in the child's home.

(b) In accordance with criteria established by ~~[rule]~~ department rules made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the executive director or the director's designee may consider and exempt individual cases, not otherwise exempt under Subsection (5)(a), from the restrictions of Subsection (4).

(6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall ~~[establish by rule]~~ make rules to determine:

(a) whether a child care subsidy payment should be made prior to the completion of a background check, particularly in the case of a delay in making or completing the background check; and

(b) if, and how often, a child care provider shall resubmit the information required under Subsections (2) and (3).

Section 33. Section 35A-3-311 is amended to read:

35A-3-311. Cash assistance to noncitizen legal residents and drug dependent persons.

(1) ~~[The division]~~ If barred from using federal funds under federal law, the department may provide cash assistance to a legal resident who is not a citizen of the United States using funds appropriated from the ~~[general fund if barred under federal law from using federal funds]~~ General Fund.

(2) (a) The State exercises the opt out provision in Section 115 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193.

(b) Consistent with Subsection (2)(a), the ~~[division]~~ department may provide cash assistance and SNAP benefits to a person who has been convicted of a felony involving a controlled substance, as defined in Section 58-37-2.

(c) As a condition for receiving cash assistance under this part, a drug dependant person, as defined in Section 58-37-2, shall:

(i) receive available treatment for the dependency; and

(ii) make progress toward overcoming the dependency.

(d) The department may only refer ~~[a client]~~ a recipient who is a drug dependent person to a treatment provider ~~[that]~~ for treating drug dependency if the provider has achieved an objective level of success, as defined by department ~~[rule, in treating drug dependency]~~ rules made in

accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 34. Section 35A-3-312 is amended to read:

35A-3-312. Individual development accounts.

(1) As used in this section:

(a) "Individual development account" means a trust account funded through periodic contributions by a ~~[client]~~ recipient and matched by or through a not-for-profit organization organized under Section 501(c)(3), Internal Revenue Code.

(b) "Qualified acquisition costs" means the costs of acquiring, constructing, or reconstructing a residence, including settlement and closing costs.

(c) "Qualified businesses capitalization expenses" means expenditures for capital, plant, equipment, working capital, and inventory.

(2) An individual development account may be established by or on behalf of a ~~[client]~~ recipient to enable ~~[a client]~~ the recipient to accumulate funds for the following purposes:

(a) postsecondary educational expenses ~~[after leaving cash assistance]~~, including tuition, fees, books, supplies, and transportation costs, if:

(i) the recipient has terminated cash assistance under this chapter; and

(ii) the expenses are paid from the individual development account directly to an educational institution that the ~~[parent-client]~~ recipient is attending as part of an employment plan;

(b) qualified acquisition costs associated with a first-time home purchase if paid from the individual development account directly to a person to whom the amount is due;

(c) amounts paid from an individual development account directly to a business capitalization account that is established in a federally insured financial institution and used solely for qualified business capitalization expenses; or

(d) the purchase of assistive technologies, vehicle modifications, or home improvements ~~[that will]~~ to allow a ~~[client]~~ recipient with a disability to participate in work-related activities.

(3) A ~~[client]~~ recipient may only deposit earned income and funds received from a not-for-profit organization into an individual development account.

Section 35. Section 35A-3-313 is amended to read:

35A-3-313. Performance goals.

~~[(1) As used in this section:]~~

~~[(a) "Performance goals" means a target level of performance or an expected level of performance against which actual performance is compared.]~~

~~[(b) "Performance indicators" means actual performance information regarding a program or activity.]~~

~~[(c) “Performance monitoring system” means a process to regularly collect and analyze performance information including performance indicators and performance goals.]~~

~~[(2)-(a)] (1)~~ The department shall establish a performance monitoring system for cash assistance provided under this part.

~~[(b)] (2)~~ The department shall establish the performance indicators and performance goals that will be used in the performance monitoring system for cash assistance under this part.

~~[(e)-(4)] (3) (a)~~ The department shall include in the annual written report described in Section 35A-1-109, a description of the difference between actual performance and performance goals for the second, third, and fourth quarters of the prior fiscal year and the first quarter of the current fiscal year.

~~[(ii)-(A)] (b) (i)~~ The legislative fiscal analyst or the analyst’s designee shall convey the information described in Subsection ~~[(2)(e)(i)] (3)(a)~~ to the appropriation subcommittee that has oversight responsibilities for the Department of Workforce Services during the general session of the Legislature that follows the submission of the report.

~~[(B)] (ii)~~ The subcommittee may consider the information in its deliberations regarding the budget for services ~~[and supports]~~ under this chapter.

Section 36. Section 35A-3-401 is amended to read:

Part 4. General Assistance

35A-3-401. General Assistance.

(1) (a) The department may provide General Assistance ~~[may be provided]~~ to individuals who are:

(i) not receiving cash assistance under Part 3, Family Employment Program, or Supplemental Security Income~~;~~; and ~~[who are]~~

(ii) unemployable according to standards established by the department.

(b) (i) General Assistance ~~[may be provided by]~~ described in Subsection (1)(a) may include payment in cash or in kind.

(ii) The ~~[office]~~ department may provide General Assistance up to an amount ~~[less]~~ that is no more than the existing payment level for an otherwise similarly situated ~~[client of]~~ recipient receiving cash assistance under Part 3, Family Employment Program.

(c) The ~~[office]~~ department shall establish asset limitations for a General Assistance ~~[clients]~~ applicant.

(d) (i) General Assistance may be granted to meet special nonrecurrent needs of an applicant for the federal Supplemental Security Income ~~[program]~~ for the Aged, Blind, and Disabled program provided under 20 C.F.R. Sec. 416, if the applicant agrees to reimburse the ~~[division]~~ department for assistance

advanced while awaiting the determination of eligibility by the Social Security Administration.

(ii) General Assistance payments may not be made to a ~~[current client of]~~ recipient currently receiving:

(A) cash assistance; or

(B) Supplemental Security Income for the Aged, Blind, and Disabled.

(e) (i) General Assistance may be used for the reasonable cost of burial for a ~~[client,]~~ recipient if heirs or relatives are not financially able to assume this expense.

(ii) Notwithstanding Subsection (1)(e)(i), if the body of a person is unclaimed~~;~~ Section 53B-17-301 applies.

(iii) The department shall fix the cost of a reasonable burial and conditions under which burial expenditures may be made.

(2) The ~~[division]~~ department may cooperate with any governmental unit or agency, or any private nonprofit agency, in establishing work projects to provide employment for employable persons.

Section 37. Section 35A-3-402 is amended to read:

35A-3-402. Calculation of General Assistance grants.

~~[Grants]~~ The department shall provide grants for General Assistance ~~[made pursuant to]~~ under Section 35A-3-401~~;~~ ~~[to the extent that those payments are made]~~ on an ongoing basis for ~~[persons]~~ individuals who are unemployable~~;~~ ~~[shall be]~~:

(1) within amounts appropriated by the Legislature; and

(2) calculated in a manner ~~[analogous to that]~~ substantially similar to cash assistance as provided in Section 35A-3-302.

Section 38. Section 35A-3-502 is amended to read:

35A-3-502. Definitions of social capital.

(1) As used in this part~~;~~, “social capital” means the value provided to the state by a civic organization, including values, cooperation, strength to families and neighborhoods, and ensuring livable communities and nurturing environments.

~~[(1) “Civic organization” includes community service clubs and organizations, charitable health care and service organizations, fraternal organizations, labor unions, minority and ethnic organizations, commercial and industrial organizations, commerce and business clubs, private nonprofit organizations, private nonprofit corporations that provide funding to community service organizations, organizations that advocate or provide for the needs of persons with low incomes, religious organizations, and organizations that foster strong neighborhoods and communities.]~~

~~(2) “Diversion payment” means a lump sum cash payment provided to a client in lieu of regular monthly cash assistance.]~~

~~(3) “Performance monitoring system” means a process to regularly collect and analyze performance information, including performance indicators and performance goals.]~~

~~(a) “Performance goals” means a target level of performance or an expected level of performance against which actual performance is measured.]~~

~~(b) “Performance indicators” means actual performance information regarding a program or activity.]~~

(2) Social capital links society together by:

(a) creating opportunities for service and giving;

(b) facilitating trust and cooperation; and

(c) enhancing investments in physical and human capital.

Section 39. Section 35A-3-503 is amended to read:

35A-3-503. Purpose -- Limitations.

~~(1) The Legislature finds that public policy should promote and encourage a strong civic sector. Civic organizations have an important role that cannot be adequately addressed through either private or public sector action. Important public values such as the condition of our neighborhoods, the character of our children, and the renewal of our cities directly depend on the strength of families, neighborhoods, and grassroots community organizations, as well as the vitality of private and religious institutions that care for those in need. Civic organizations transmit values between generations, encourage cooperation between citizens, and ensure that our communities are livable and nurturing environments. The value provided to the state by civic organizations is called social capital.]~~

~~(2) The purpose of this part is to promote the availability of social capital.]~~

(1) Using social capital, [clients of and applicants] an applicant for services under this chapter may receive a wide array of services [and supports] that cannot be provided by state government alone. [Social capital links all parts of our society together by creating opportunities for service and giving. It facilitates trust and cooperation and enhances investments in physical and human capital.]

~~(3) In enacting this part, the~~ (2) The Legislature recognizes:

(a) the constitutional limits of state government to sustain civic institutions that provide social capital[. While state government has always depended on these institutions, it];

(b) that the state does not create [them] nor can it replace [them. This part recognizes] civic institutions; and

(c) that state government [shall] should respect, recognize, and, wherever possible, constitutionally encourage strong civic institutions that sustain a sense of community [and humanize our lives].

Section 40. Section 35A-3-504 is amended to read:

35A-3-504. Relationship of civic and state services.

(1) (a) Services and supports provided by a civic organization under this part are in addition to, and not in lieu of, any service ~~[or support]~~ provided by the ~~[division to a client]~~ department to a recipient.

(b) Receipt of services from a civic organization may not diminish a ~~[person's]~~ recipient's eligibility for services ~~[or supports]~~ from the ~~[division]~~ department.

(2) ~~[A person]~~ An applicant or recipient is under no obligation to receive services from a civic organization.

(3) A civic organization is under no obligation to provide services to a person, except as provided in a contract between the organization and the ~~[division pursuant to]~~ department under Section 35A-3-507.

Section 41. Section 35A-3-505 is amended to read:

35A-3-505. Application -- Referral to civic organizations.

(1) The ~~[division]~~ department:

(a) shall~~[, in compliance with Section 35A-3-504,]~~ assess whether an applicant ~~[would be]~~ is receptive to and would benefit ~~[by services from]~~ from a service provided by a civic organization~~[. If so, the division]; and~~

(b) may inform the applicant of the availability of ~~[those services and supports]~~ services provided by civic organizations.

(2) (a) If an applicant chooses to receive ~~[those]~~ services ~~[and supports]~~ from a civic organization, the ~~[division]~~ department shall facilitate the applicant's referral to one or more appropriate civic organizations.

(b) If an applicant chooses not to receive the services ~~[and supports]~~ of a civic organization or requests services ~~[and supports]~~ available under this chapter in addition to the services ~~[and supports]~~ of a civic organization, the ~~[division]~~ department shall process the application as provided under this chapter.

Section 42. Section 35A-3-506 is amended to read:

35A-3-506. Diversion payment -- Referral to civic organizations.

~~[When a client]~~ If a recipient receives a diversion payment under Section 35A-3-303, the ~~[division]~~ department:

(1) shall assess whether the ~~[client would benefit from]~~ recipient is receptive to and would benefit from services ~~[and supports]~~ from a civic organization~~[. If so, the division]; and~~

(2) may inform the [elient] recipient of the services [and supports] that civic organizations provide.

Section 43. Section 35A-3-507 is amended to read:

35A-3-507. Request for proposals from civic organizations -- Contract requirements.

(1) (a) [~~Before October 1, 1997, the director shall~~] The director or the director's designee may issue a request for proposals [~~Interested~~] to civic organizations [~~may submit proposals~~] for the purpose of contracting with the [division] department for the provision of social capital.

(b) [~~In cooperation with the coalition described in Section 35A-3-510,~~] In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall establish by rule:

- (i) specifications for proposals;
- (ii) deadlines for submissions;
- (iii) contents of proposals;
- (iv) the criteria upon which proposals will be accepted; and
- (v) the amount of available funding.

(2) Within appropriations from the Legislature, the director may enter into [~~one or more contracts with civic organizations~~] a contract with a civic organization, which shall [~~at least~~] include:

(a) the funding, if any, to be provided to the civic organization by the [division] department;

(b) the geographical boundary within which the civic organization is to provide services [~~and supports~~] to individuals referred by the [division] department;

(c) a description of the services [~~and supports~~] to be provided by the civic organization to [~~clients~~] an applicant or recipient;

(d) the performance monitoring system to be used by the civic organization to evaluate the [~~effects~~] effectiveness of the services [~~and supports~~] that it provides; and

(e) other provisions [~~as~~] that the [division] department and civic organization consider appropriate.

(3) (a) A contract between the [division] department and a civic organization under this section is for a defined period of time and a fixed funding amount.

(b) If a contract provides public funds, the civic organization [~~will be~~] is required to comply with all applicable state and federal law with respect to those funds, [~~which may include~~] including any audit, recordkeeping, and financial accounting requirements.

(4) The services [~~and supports~~] provided by civic organizations under this section do not include eligibility determinations, cash assistance, [~~food~~

coupons] SNAP benefits, or quality assurance related to these functions.

Section 44. Section 35A-3-508 is amended to read:

35A-3-508. Inventory of civic organizations.

(1) [~~To enable the division to refer a client or applicant to an appropriate civic organization under this part, the division~~] The department, in cooperation with the coalition described in Section 35A-3-510, shall complete a statewide inventory of interested civic organizations [~~For those organizations that wish to participate, the~~], which inventory shall include for each participating civic organization:

- (a) a description of the services [~~and supports~~] provided;
- (b) the geographical locations served;
- (c) methods of accessing services; and
- (d) eligibility requirements for services.

(2) The inventory shall be [~~stored~~] maintained, updated annually, and made available in a usable form as a resource directory for [~~all~~] employment counselors in the department.

Section 45. Section 35A-3-510 is amended to read:

35A-3-510. Coalition of civic and other organizations.

(1) The director shall convene a coalition of civic organizations, representatives of the [division] department, representatives of state and local agencies, advocacy organizations, public officials, community leaders, members of the Legislature, and other persons and organizations as [~~he determines~~] determined by the executive director.

(2) The coalition shall offer advice to the director on issues relevant to this part.

Section 46. Section 35A-3-601 is amended to read:

Part 6. Administrative Determination of Overpayments Act

35A-3-601. Title.

This part [~~shall be~~] is known as the "Administrative Determination of Overpayments Act."

Section 47. Section 35A-3-603 is amended to read:

35A-3-603. Civil liability for overpayment.

[~~(1) As used in this section, "intentionally, knowingly, and recklessly" mean the same as those terms are defined in Section 76-2-103.~~]

[~~(2) Each~~] (1) A provider, [elient] recipient, or other person who receives an overpayment shall, regardless of fault, return the overpayment or repay its value to the department immediately:

- (a) upon receiving written notice of the overpayment from the department; or

(b) upon discovering the overpayment, if that occurs ~~prior to~~ before receiving notice.

~~[(3)]~~ (2) (a) Except as provided under Subsection (3)(b), interest on the unreturned balance of the overpayment shall accrue at the rate of 1% a month.

(b) If the overpayment was not the fault of the person receiving it, that person is not liable for interest on the unreturned balance.

(c) In accordance with federal law and rules made by the department in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, an overpayment may be recovered through deductions from cash assistance, General Assistance, SNAP benefits, other cash-related assistance provided to a ~~client~~ recipient under this chapter, or ~~any~~ other means provided by federal law.

~~[(4) Each]~~ (3) A person who knowingly assists a ~~client~~ recipient, provider, or other person in obtaining an overpayment is jointly and severally liable for the overpayment.

~~[(5)]~~ (4) (a) In proving civil liability for overpayment under this section, or Section 35A-3-605, when fault is alleged, the department shall prove by clear and convincing evidence that the overpayment was obtained intentionally, knowingly, recklessly as “intentionally, knowingly, and recklessly” are defined in Section 76-2-103, by false statement, misrepresentation, impersonation, or other fraudulent means, ~~[such as by]~~ including committing any of the acts or omissions described in Sections 76-8-1203 ~~[through]~~, 76-8-1204, or 76-8-1205.

(b) If fault is established under Subsection ~~[(5)]~~ (4)(a), Section 35A-3-605, or Title 76, Chapter 8, Part 12, Public Assistance Fraud, ~~[any]~~ a person who obtained or helped another obtain an overpayment ~~[shall be]~~ is subject to:

(i) a civil penalty of 10% of the amount of the overpayment; and

(ii) disqualification from receiving cash assistance from the Family Employment Program created in Section 35A-3-302 and the General Assistance program under Section 35A-3-401, if the overpayment was obtained from either of those programs, for ~~[12 months for the first offense, 24 months for the second offense, and permanently for the third offense, or as otherwise provided by federal law; or]~~ the period described in Subsection (4)(c); or

(iii) disqualification from ~~[the]~~ SNAP, if ~~[that is the program from which]~~ the overpayment was received from SNAP, for the period described in Subsection (4)(c).

(c) Unless otherwise provided by federal law, the period of a disqualification under Subsection (4)(b)(ii) and (iii) is for:

(i) 12 months for [the] a first offense[;];

(ii) 24 months for [the] a second offense[;]; and

~~(iii) permanently for [the] a third offense[, or as otherwise provided by federal law].~~

~~[(6) If]~~ (5) (a) Except as provided under Subsection (5)(b), if an action is filed, the department may recover, in addition to the principal sum plus interest, reasonable ~~[attorneys']~~ attorney fees and costs ~~[unless]~~.

(b) If the repayment obligation arose from an administrative error by the department, the department may not recover attorney fees and costs.

~~[(7)]~~ (6) If a court finds that funds or benefits were secured, in whole or part, by fraud by the person from whom repayment is sought, the court shall assess an additional sum as considered appropriate as punitive damages up to the amount of repayment being sought.

~~[(8) Criminal actions]~~ (7) A criminal action for public assistance fraud ~~[are]~~ is governed by Title 76, Chapter 8, Part 12, Public Assistance Fraud.

~~[(9)]~~ (8) Jurisdiction over benefits is continuous.

~~[(10)]~~ (9) This chapter does not preclude the Department of Health from carrying out its responsibilities under Title 26, Chapter 19, Medical Benefits Recovery Act, and Chapter 20, Utah False Claims Act.

Section 48. Section 35A-3-604 is amended to read:

35A-3-604. Obligor presumed to have notice of department's rights -- Authority to administer oaths, issue subpoenas, and compel witnesses and production of documents -- Recovery of attorney fees, costs, and interest -- Rulemaking authority -- Administrative procedures.

(1) An obligor is presumed to have received notice of the rights of the department under this part upon engaging in this state in any of the acts described in Subsections 35A-3-603~~[(4)]~~(3) and ~~[(5)]~~ (4) or Section 76-8-1203, 76-8-1204, or 76-8-1205.

(2) For the purposes of this part, the department may administer oaths and certify official acts, issue subpoenas, and compel witnesses and the production of business records, documents, and evidence.

(3) (a) Except when an overpayment results from administrative error, the department may recover from the obligor:

(i) reasonable attorneys' fees;

(ii) costs incurred in pursuing administrative remedies under this part; and

(iii) interest at the rate of 1% a month accruing from the date an administrative or judicial order is issued determining the amount due under this part.

(b) The department may recover interest, ~~[attorneys']~~ attorney fees, and costs, if notice of agency action issued in [conformity] compliance with Title 63G, Chapter 4, Administrative Procedures Act.

(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make, amend, and enforce rules to carry out the provisions of this part.

(5) Service of all notices and orders under this part shall comply with:

(a) Title 63G, Chapter 4, Administrative Procedures Act~~;~~~~the~~;

(b) Utah Rules of Civil Procedure~~;~~;

(c) rules made by the department under this part in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that meet standards required by due process.

Section 49. Section 35A-3-605 is amended to read:

35A-3-605. Issuance or modification of administrative order -- Voluntary acknowledgment of overpayment -- Court orders supersede administrative orders -- Notification requirement.

~~[(1) As used in Subsection (2)(a)(i), “intentional program violation” means obtaining an “overpayment” as defined in Section 35A-3-602.]~~

~~[(2)]~~ (1) (a) Through an adjudicative proceeding, the department may issue or modify an administrative order that:

(i) determines whether an overpayment was made, the amount of the overpayment, and whether benefits were obtained by an intentional program violation;

(ii) reduces the overpayment ~~[to]~~ determined by an administrative judgment; or

(iii) renews an administrative judgment.

(b) The department shall commence an adjudicative proceeding to renew a judgment by serving notice of agency action on the obligor before the judgment is barred by the applicable statute of limitations.

~~[(3)]~~ (2) The department may accept voluntary acknowledgment of an overpayment obligation and enter into stipulated agreements to issue orders and judgments.

~~[(4)]~~ (3) (a) A provision of an administrative order is enforceable against an obligor, unless it is in direct conflict with or is superseded by a provision of a court order.

(b) To the extent of any conflict, the court order governs.

~~[(5)]~~ (4) After being properly served with a notice of agency action under this part, an obligor shall notify the department of any subsequent change of address or employment.

Section 50. Section 35A-3-606 is amended to read:

35A-3-606. Docketing abstract of final administrative order -- Real property and

personal property liens -- Effect of order -- Execution.

(1) (a) An abstract of a final administrative order may be docketed in the district court of any county in the state.

(b) The time of receipt of the abstract shall be noted by the clerk on the abstract and entered in the docket.

(2) (a) From the time the abstract is docketed in the judgment docket of a district court, any administrative judgment included in the order abstracted constitutes a lien upon the real property of the obligor situated in that county.

(b) Unless satisfied, the lien is for a period of eight years from the date the order is entered ~~[unless previously satisfied]~~.

(3) The final administrative order fixing the liability of the obligor shall have the same effect as any other money judgment entered in a district court.

(4) ~~[Attachment]~~ (a) Except as provided under Subsection (4)(b), an attachment, garnishment, or execution on a judgment included in or accruing under an administrative order filed and docketed under this section shall be in the same manner and with the same effect as an attachment, garnishment, or execution on a judgment of a district court~~;~~~~except that a~~.

(b) A writ of garnishment on earnings shall continue to operate and require the garnishee to withhold the nonexempt portion of the earnings at each succeeding earnings disbursement interval until released in writing by the department or by court order.

(5) The lien and enforcement remedies provided by this section are in addition to any other lien or remedy provided by law.

Section 51. Section 35A-3-607 is amended to read:

35A-3-607. Property subject to execution or lien -- Restriction on transfer or conveyance -- Release of excess amount above liability to obligor.

(1) ~~[After]~~ (a) Unless released under Subsection (1)(b), after receiving notice that an abstract has been docketed and a lien established under this part, a person in possession of ~~[any]~~ property ~~[which]~~ that may be subject to execution or lien may not pay over, release, sell, transfer, encumber, or convey that property to ~~[any]~~ a person other than the department~~;~~~~unless~~.

(b) The restrictions under Subsection (1)(a) do not apply if the person in possession first receives a release or waiver from the department, or a court order releasing the lien or stating that the liability does not exist or has been satisfied.

(2) If a person has in his possession earnings, deposits, accounts, or balances owed to the obligor in excess of \$100 over the amount of the liability claimed by the department, ~~[that]~~ the person may,

without liability under this part, release the excess to the obligor.

Section 52. Section 35A-3-608 is amended to read:

35A-3-608. Schedule of payments to be paid upon liability -- Establishment -- Cancellation.

(1) ~~At any time, the~~ The department may at any time:

(a) consistent with the income, earning capacity, and resources of the obligor, set or reset the level and schedule of payments to be paid upon the liability; and

(b) ~~at any time,~~ cancel the schedule of payments and demand immediate payment in full.

(2) The department may recover an overpayment through deductions from cash assistance or SNAP benefits under Section 35A-3-603.

Section 53. Section 35A-3-609 is amended to read:

35A-3-609. Statute of limitation -- Enforcement of lien or order.

~~No~~ The department may not take action for the enforcement of an order or lien issued under this part ~~may be maintained~~ unless ~~it~~ the action is commenced within eight years ~~after~~ of the date of the order.

Section 54. Section 35A-3-610 is amended to read:

35A-3-610. Legal representation at hearings.

(1) A party may be represented by legal counsel at ~~any~~ a hearing held under this part.

(2) At the request of the department ~~it is the duty of~~, the attorney general or the county attorney ~~to~~ shall represent the department in ~~any~~ a proceeding commenced under this part.

Section 55. Section 35A-3-701, which is renumbered from Section 35A-3-116 is renumbered and amended to read:

Part 7. Refugee Services

[35A-3-116]. 35A-3-701. Refugee services fund -- Use of money -- Committee and director duties -- Restrictions.

(1) There is created an expendable special revenue fund, known as the "Refugee Services Fund."

(2) The director shall administer the fund with input from the department and any advisory committee involved with the provision of refugee services within the department.

(3) (a) Money shall be deposited into the fund from legislative appropriations, federal grants, private foundations, and individual donors.

(b) The director shall encourage a refugee who receives services funded under Subsection (8) to be

a donor to the fund when the refugee's financial situation improves sufficiently to make a donation.

(4) Except for money restricted to a specific use under federal law or by a donor, the director may not spend money from the fund without the input described in Subsection (2).

(5) The state treasurer shall invest the money in the fund under Title 51, Chapter 7, State Money Management Act, and all interest or other earnings derived from the fund money shall be deposited in the fund.

(6) Money in the fund may not be used by the director for administrative expenses.

(7) If the department establishes a refugee services advisory committee referenced in Subsection (2), the committee may:

(a) advise the director on refugee services needs in the state and on relevant operational aspects of any grant or revenue collection program established under this part;

(b) recommend specific refugee projects to the director;

(c) recommend policies and procedures for administering the fund;

(d) make recommendations on grants made from the fund for refugee services activities authorized under this section;

(e) advise the director on the criteria by which grants from the fund shall be made;

(f) recommend the order approved projects should be funded;

(g) make recommendations regarding the distribution of money from the fund in accordance with federal or donor restrictions; and

(h) have joint responsibility to solicit public and private funding for the fund.

(8) The director may use fund money to:

(a) train an existing refugee organization to develop its capacity to operate professionally and effectively and to become an independent, viable organization; or

(b) provide grants to refugee organizations and other entities identified in Subsection (9) to assist them:

(i) with case management;

(ii) in meeting emergency housing needs for refugees;

(iii) in providing English language services;

(iv) in providing interpretive services;

(v) in finding and maintaining employment for refugees;

(vi) in collaborating with the state's public education system to improve the involvement of refugee parents in assimilating their children into public schools;

(vii) in meeting the health and mental health needs of refugees;

(viii) in providing or arranging for child care services; or

(ix) in administering refugee services.

(9) The director, with the input described in Subsection (2), may grant fund money for refugee services outlined in Subsection (8) through a request for proposal process to:

(a) local governments;

(b) nonprofit community, charitable, or neighborhood-based organizations or private for-profit organizations involved with providing or arranging for the provision of refugee services; or

(c) regional or statewide nonprofit organizations.

(10) (a) The director shall enter into a written agreement with each successful entity that successfully applies for a grant [applicant].

(b) The agreement shall include specific terms for each grant consistent with the provisions of this section, including the structure, amount, and nature of the grant.

(11) The director shall monitor the activities of the recipients of grants issued from the fund on an annual basis to ensure compliance with the terms and conditions imposed on the recipient by the fund.

(12) The director shall require an entity that receives a grant under this section to provide periodic accounting of how the money was used.

(13) As part of the annual written report described in Section 35A-1-109, the director shall report the status of the fund, including programs and services funded by the fund.

Section 56. Section 35A-3-702, which is renumbered from Section 35A-3-117 is renumbered and amended to read:

[35A-3-117]. 35A-3-702. Continuation of refugee services.

(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make rules to provide for the administration and coordination of services to refugees beyond the time period refugee assistance is provided or funded by the federal government, including the provision of:

(a) services to address emergency needs;

(b) English language training; and

(c) services for victims of domestic violence.

(2) The director shall administer and coordinate services under this section:

(a) with input from the department and any office or advisory committee involved with the provision of refugee services within the department; and

(b) in accordance with any state and federal requirements related to the provision of services to refugees.

Section 57. Section 76-8-1201 is amended to read:

76-8-1201. Definitions.

As used in this part:

(1) "Client" means a person who receives or has received public assistance.

(2) "Overpayment" ~~[means the same as that term is]~~ has the same meaning as defined in Section ~~[35A-3-602]~~ 35A-3-102.

(3) "Provider" ~~[means the same as that term is]~~ has the same meaning as defined in Section 62A-11-103.

(4) "Public assistance" ~~[means the same as that term is]~~ has the same meaning as defined in Section 35A-1-102.

Section 58. Section 76-8-1205 is amended to read:

76-8-1205. Public assistance fraud defined.

Each of the following persons, who intentionally, knowingly, or recklessly commits any of the following acts, is guilty of public assistance fraud:

(1) ~~[any]~~ a person who uses, transfers, acquires, traffics in, falsifies, or possesses ~~[any]~~ SNAP benefits as defined in Section 35A-1-102, a SNAP identification card, a certificate of eligibility for medical services, a Medicaid identification card, a fund transfer instrument, a payment instrument, or a public assistance warrant in a manner not allowed by law;

(2) ~~[any]~~ a person who fraudulently misappropriates ~~[any]~~ funds exchanged for SNAP benefits as defined in Section 35A-1-102, or ~~[any]~~ an identification card, certificate of eligibility for medical services, Medicaid identification card, or other public assistance with which ~~[he]~~ the person has been entrusted or that has come into ~~[his]~~ the person's possession in connection with [his] the person's duties in administering [any] a state or federally funded public assistance program;

(3) ~~[any]~~ a person who receives an unauthorized payment as a result of acts described in this section;

(4) ~~[any]~~ a provider who receives payment or ~~[any]~~ a client who receives benefits after failing to comply with any applicable requirement in Sections 76-8-1203 and 76-8-1204;

(5) ~~[any]~~ a provider who files a claim for payment under ~~[any]~~ a state or federally funded public assistance program for goods or services not provided to or for a client of that program;

(6) ~~[any]~~ a provider who files or falsifies a claim, report, or document required by state or federal law, rule, or provider agreement for goods or services not authorized under the state or federally funded public assistance program for which the goods or services were provided;

(7) ~~[any]~~ a provider who fails to credit the state for payments received from other sources;

(8) ~~[any]~~ a provider who bills a client or a client's family for goods or services not provided, or bills in an amount greater than allowed by law or rule;

(9) ~~any~~ a client who, while receiving public assistance, acquires income or resources in excess of the amount ~~he~~ the client previously reported to the state agency administering the public assistance, and fails to notify the state agency to which the client previously reported within 10 days after acquiring the excess income or resources;

(10) ~~any~~ a person who fails to act as required under Section 76-8-1203 or 76-8-1204 with intent to obtain or help another obtain an "overpayment" as defined in Section ~~35A-3-602~~ 35A-3-102; and

(11) ~~any~~ a person who obtains an overpayment by violation of Section 76-8-1203 or 76-8-1204.

Section 59. Repealer.

This bill repeals:

Section 35A-3-602, Definitions.

CHAPTER 222**S. B. 38**

Passed February 23, 2015

Approved March 26, 2015

Effective May 12, 2015

BEHAVIORAL TESTING AND TRACKING RESTRICTIONS

Chief Sponsor: Aaron Osmond
House Sponsor: Francis D. Gibson

LONG TITLE**General Description:**

This bill amends certain provisions in code with references to behavioral testing and tracking.

Highlighted Provisions:

This bill:

- ▶ eliminates references to behavioral testing or tracking in public schools; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53A-1-410, as last amended by Laws of Utah 2014, Chapter 372

53A-1-602, as last amended by Laws of Utah 2013, Chapter 161

53A-1-605, as last amended by Laws of Utah 2010, Chapter 11

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

Section 1. Section 53A-1-410 is amended to read:**53A-1-410. Utah Futures.**

- (1) As used in this section:
- (a) "Education provider" means:
- (i) a Utah institution of higher education as defined in Section 53B-2-101; or
 - (ii) a Utah provider of postsecondary education.
- (b) "Student user" means:
- (i) a Utah student in kindergarten through grade 12;
 - (ii) a Utah post secondary education student;
 - (iii) a parent or guardian of a Utah public education student; or
 - (iv) a Utah potential post secondary education student.
- (c) "Utah Futures" means a career planning program developed and administered by the Department of Workforce Services, the State Board of Regents, and the State Board of Education.
- (d) "Utah Futures Steering Committee" means a committee of members designated by the governor to administer and manage Utah Futures in

collaboration with the Department of Workforce Services, the State Board of Regents, and the State Board of Education.

(2) The Utah Futures Steering Committee shall ensure, as funding allows and is feasible, that Utah Futures will:

- (a) allow a student user to:
- (i) access the student user's full academic record;
 - (ii) electronically allow the student user to give access to the student user's academic record and related information to an education provider as allowed by law;
 - (iii) access information about different career opportunities and understand the related educational requirements to enter that career;
 - (iv) access information about education providers;
 - (v) access up to date information about entrance requirements to education providers;
 - (vi) apply for entrance to multiple schools without having to fully replicate the application process;
 - (vii) apply for loans, scholarships, or grants from multiple education providers in one location without having to fully replicate the application process for multiple education providers; and
 - (viii) research open jobs from different companies within the user's career interest and apply for those jobs without having to leave the website to do so;
- (b) allow all users to:
- (i) access information about different career opportunities and understand the related educational requirements to enter that career;
 - (ii) access information about education providers;
 - (iii) access up-to-date information about entrance requirements to education providers;
 - (iv) apply for entrance to multiple schools without having to fully replicate the application process;
 - (v) apply for loans, scholarships, or grants from multiple education providers in one location without having to fully replicate the application process for multiple education providers; and
 - (vi) research open jobs from different companies within the user's career interest and apply for those jobs without having to leave the website to do so;
- (c) allow an education provider to:
- (i) research and find student users who are interested in various educational outcomes;
 - (ii) promote the education provider's programs and schools to student users; and
 - (iii) connect with student users within the Utah Futures website;
- (d) allow a Utah business to:
- (i) research and find student users who are pursuing educational outcomes that are consistent

with jobs the Utah business is trying to fill now or in the future; and

(ii) market jobs and communicate with student users through the Utah Futures website as allowed by law;

(e) allow the Department of Workforce Services to analyze and report on student user interests^[,] and education paths^[,] ~~and behaviors~~ within the education system ~~[so as to predictively determine appropriate career and educational outcomes and results]~~; and

(f) allow all users of the Utah Futures' system to communicate and interact through social networking tools within the Utah Futures website as allowed by law.

(3) On or before October 1, 2014, the State Board of Education, after consulting with the Board of Business and Economic Development created in Section 63M-1-301, may select a technology provider, through a request for proposals process, to provide technology and support for Utah Futures.

(4) In evaluating proposals under Subsection (3) in consultation with the Board of Business and Economic Development, the State Board of Education shall ensure that the technology provided by a proposer:

(a) allows Utah Futures to license the selected service oriented architecture technologies;

(b) allows Utah Futures to protect all user data within the system by leveraging role architecture;

(c) allows Utah Futures to update the user interface, APIs, and web services software layers as needed;

(d) provides the ability for a student user to have a secure profile and login to access and to store personal information related to the services listed in Subsection (2) via the Internet;

(e) protects all user data within Utah Futures;

(f) allows the State Board of Education to license the technology of the selected technology provider; and

(g) provides technology able to support application programming interfaces to integrate technology of other third party providers, which may include cloud-based technology.

(5) (a) On or before August 1, 2014, the evaluation panel described in Subsection (5)(b), using the criteria described in Subsection (5)(c), shall evaluate Utah Futures and determine whether any or all components of Utah Futures, as described in this section, should be outsourced to a private provider or built in-house by the participating state agencies.

(b) The evaluation panel described in Subsection (5)(a) shall consist of the following members, appointed by the governor after consulting with the State Board of Education:

(i) five members who represent business, including:

(A) one member who has extensive knowledge and experience in information technology; and

(B) one member who has extensive knowledge and experience in human resources;

(ii) one member who is a user of the information provided by Utah Futures;

(iii) one member who is a parent of a student who uses Utah Futures;

(iv) one member who:

(A) is an educator as defined in Section 53A-6-103; and

(B) teaches students who use Utah Futures; and

(v) one member who is a high school counselor licensed under Title 53A, Chapter 6, Educator Licensing and Professional Practices Act.

(c) The evaluation panel described in Subsections (5)(a) and (b) shall consider at least the following criteria to make the determination described in Subsection (5)(a):

(i) the complete functional capabilities of a private technology provider versus an in-house version;

(ii) the cost of purchasing privately developed technology versus continuing to develop or build an in-house version;

(iii) the data and security capabilities of a private technology provider versus an in-house version;

(iv) the time frames to implementation; and

(v) the best practices and examples of other states who have implemented a tool similar to Utah Futures.

(d) On or before September 30, 2014, the evaluation panel shall report the determination to:

(i) the State Board of Education;

(ii) the Executive Appropriations Committee; and

(iii) the Education Interim Committee.

Section 2. Section 53A-1-602 is amended to read:

53A-1-602. Definitions.

As used in this part:

(1) "Basic skills course" means a subject which requires mastery of specific functions, as defined under rules made by the State Board of Education, to include reading, language arts, mathematics, science in grades 4 through 12, and effectiveness of written expression.

(2) "IEP" means a written statement for a student with a disability that is developed, reviewed, and revised in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.

(3) "Utah's common core" means the core set of English language arts and mathematics standards developed and adopted by the State Board of Education which define the knowledge and skills students should have in kindergarten through grade 12 to enable them to be prepared for college or workforce training.

(4) "Utah Performance Assessment System for Students" or "U-PASS" means:

(a) as determined by the State Board of Education, criterion-referenced achievement testing or online computer adaptive testing of students in grades 3 through 12 in basic skills courses;

(b) an online writing assessment in grades 5 and 8;

(c) college readiness assessments as detailed in Section 53A-1-611; and

~~[(d) the use of student behavior indicators in assessing student performance; and]~~

~~[(e)]~~ (d) testing of students in grade 3 to measure reading grade level.

Section 3. Section 53A-1-605 is amended to read:

53A-1-605. Analysis of results -- Staff professional development.

(1) The State Board of Education, through the state superintendent of public instruction, shall develop a plan to analyze the results of the U-PASS scores for all grade levels and courses required under Section 53A-1-603 ~~[and the student behavior indicators referred to in Section 53A-1-602].~~

(2) The plan shall include components designed to:

(a) assist school districts and individual schools to use the results of the analysis in planning, evaluating, and enhancing programs; and

(b) identify schools not achieving state-established acceptable levels of student performance in order to assist those schools in raising their student performance levels.

(3) The plan shall include provisions for statistical reporting of criterion-referenced or online computer adaptive test results at state, school district, school, and grade or course levels, and shall include actual levels of performance on tests.

(4) Each local school board and charter school governing board shall provide for:

(a) evaluation of the U-PASS test results and use of the evaluations in setting goals and establishing programs; and

(b) a professional development program that provides teachers, principals, and other professional staff with the training required to successfully establish and maintain U-PASS.

CHAPTER 223**S. B. 41**

Passed February 25, 2015

Approved March 26, 2015

Effective July 1, 2015

**UTAH SCIENCE CENTER
AUTHORITY AMENDMENTS**Chief Sponsor: Todd Weiler
House Sponsor: Kraig Powell**LONG TITLE****General Description:**

This bill modifies the Independent State Entities title and related provisions by repealing the Utah Science Center Authority.

Highlighted Provisions:

This bill:

- ▶ repeals the Utah Science Center Authority, an independent state agency; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

- 63E-1-102, as last amended by Laws of Utah 2014, Chapters 320, 426, and 426
- 63I-4a-102, as last amended by Laws of Utah 2014, Chapter 320
- 63J-7-102, as last amended by Laws of Utah 2014, Chapter 320

REPEALS:

- 63H-3-101, as renumbered and amended by Laws of Utah 2011, Chapter 370
- 63H-3-102, as renumbered and amended by Laws of Utah 2011, Chapter 370
- 63H-3-103, as last amended by Laws of Utah 2012, Chapter 212
- 63H-3-104, as renumbered and amended by Laws of Utah 2011, Chapter 370
- 63H-3-105, as renumbered and amended by Laws of Utah 2011, Chapter 370
- 63H-3-106, as renumbered and amended by Laws of Utah 2011, Chapter 370
- 63H-3-107, as renumbered and amended by Laws of Utah 2011, Chapter 370
- 63H-3-108, as renumbered and amended by Laws of Utah 2011, Chapter 370
- 63H-3-109, as last amended by Laws of Utah 2012, Chapter 347
- 63H-3-110, as renumbered and amended by Laws of Utah 2011, Chapter 370

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

Section 1. Section 63E-1-102 is amended to read:**63E-1-102. Definitions -- List of independent entities.**

As used in this title:

(1) "Authorizing statute" means the statute creating an entity as an independent entity.

(2) "Committee" means the Retirement and Independent Entities Committee created by Section 63E-1-201.

(3) "Independent corporation" means a corporation incorporated in accordance with Chapter 2, Independent Corporations Act.

(4) (a) "Independent entity" means an entity having a public purpose relating to the state or its citizens that is individually created by the state or is given by the state the right to exist and conduct its affairs as an:

- (i) independent state agency; or
- (ii) independent corporation.

(b) "Independent entity" includes the:

(i) Utah Dairy Commission created by Section 4-22-2;

(ii) Heber Valley Historic Railroad Authority created by Section 63H-4-102;

(iii) Utah State Railroad Museum Authority created by Section 63H-5-102;

~~[(iv) Utah Science Center Authority created by Section 63H-3-103;]~~

~~[(v)]~~ (iv) Utah Housing Corporation created by Section 35A-8-704;

~~[(vi)]~~ (v) Utah State Fair Corporation created by Section 63H-6-103;

~~[(vii)]~~ (vi) Workers' Compensation Fund created by Section 31A-33-102;

~~[(viii)]~~ (vii) Utah State Retirement Office created by Section 49-11-201;

~~[(ix)]~~ (viii) School and Institutional Trust Lands Administration created by Section 53C-1-201;

~~[(x)]~~ (ix) School and Institutional Trust Fund Office created by Section 53D-1-201;

~~[(xi)]~~ (x) Utah Communications Authority created ~~by~~ Section 63H-7-201;

~~[(xii)]~~ (xi) Utah Energy Infrastructure Authority created ~~by~~ Section 63H-2-201;

~~[(xiii)]~~ (xii) Utah Capital Investment Corporation created ~~by~~ Section 63M-1-1207; and

~~[(xiv)]~~ (xiii) Military Installation Development Authority created by Section 63H-1-201.

(c) Notwithstanding this Subsection (4), "independent entity" does not include:

(i) the Public Service Commission of Utah created by Section 54-1-1;

(ii) an institution within the state system of higher education;

(iii) a city, county, or town;

(iv) a local school district;

(v) a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts; or

(vi) a special service district under Title 17D, Chapter 1, Special Service District Act.

(5) "Independent state agency" means an entity that is created by the state, but is independent of the governor's direct supervisory control.

(6) "Money held in trust" means money maintained for the benefit of:

(a) one or more private individuals, including public employees;

(b) one or more public or private entities; or

(c) the owners of a quasi-public corporation.

(7) "Public corporation" means an artificial person, public in ownership, individually created by the state as a body politic and corporate for the administration of a public purpose relating to the state or its citizens.

(8) "Quasi-public corporation" means an artificial person, private in ownership, individually created as a corporation by the state, which has accepted from the state the grant of a franchise or contract involving the performance of a public purpose relating to the state or its citizens.

Section 2. Section 63I-4a-102 is amended to read:

63I-4a-102. Definitions.

(1) (a) "Activity" means to provide a good or service.

(b) "Activity" includes to:

(i) manufacture a good or service;

(ii) process a good or service;

(iii) sell a good or service;

(iv) offer for sale a good or service;

(v) rent a good or service;

(vi) lease a good or service;

(vii) deliver a good or service;

(viii) distribute a good or service; or

(ix) advertise a good or service.

(2) (a) Except as provided in Subsection (2)(b), "agency" means:

(i) the state; or

(ii) an entity of the state including a department, office, division, authority, commission, or board.

(b) "Agency" does not include:

(i) the Legislature;

(ii) an entity or agency of the Legislature;

(iii) the state auditor;

(iv) the state treasurer;

(v) the Office of the Attorney General;

(vi) the Utah Dairy Commission created in [Title 4, Chapter 22, Dairy Promotion Act] Section 4-22-2;

[~~(vii) the Utah Science Center Authority created in Title 63H, Chapter 3, Utah Science Center Authority;~~]

[~~(viii) (vii) the Heber Valley Historic Railroad Authority created in [Title 63H, Chapter 4, Heber Valley Historic Railroad Authority] Section 63H-4-102;~~]

[~~(ix) (viii) the Utah State Railroad Museum Authority created in [Title 63H, Chapter 5, Utah State Railroad Museum Authority] Section 63H-5-102;~~]

[~~(x) (ix) the Utah Housing Corporation created in [Title 35A, Chapter 8, Part 7, Utah Housing Corporation Act] Section 35A-8-704;~~]

[~~(xi) (x) the Utah State Fair Corporation created in [Title 63H, Chapter 6, Utah State Fair Corporation Act] Section 63H-6-103;~~]

[~~(xii) (xi) the Workers' Compensation Fund created in [Title 31A, Chapter 33, Workers' Compensation Fund] Section 31A-33-102;~~]

[~~(xiii) (xii) the Utah State Retirement Office created in [Title 49, Chapter 11, Utah State Retirement Systems Administration] Section 49-11-201;~~]

[~~(xiv) (xiii) a charter school chartered by the State Charter School Board or a board of trustees of a higher education institution under Title 53A, Chapter 1a, Part 5, The Utah Charter Schools Act;~~]

[~~(xv) (xiv) the Utah Schools for the Deaf and the Blind created in Title 53A, Chapter 25b, Utah Schools for the Deaf and the Blind;~~]

[~~(xvi) (xv) an institution of higher education as defined in Section 53B-3-102;~~]

[~~(xvii) (xvi) the School and Institutional Trust Lands Administration created in [Title 53C, Chapter 1, Part 2, School and Institutional Trust Lands Administration] Section 53C-1-201;~~]

[~~(xviii) (xvii) the Utah Communications Authority created in [Title 63H, Chapter 7, Utah Communications Authority Act] Section 63H-7-201; or~~]

[~~(xix) (xviii) the Utah Capital Investment Corporation created in [Title 63M, Chapter 1, Part 12, Utah Venture Capital Enhancement Act] Section 63M-1-1207.~~]

(3) "Agency head" means the chief administrative officer of an agency.

(4) "Board" means the Free Market Protection and Privatization Board created in Section 63I-4a-202.

(5) "Commercial activity" means to engage in an activity that can be obtained in whole or in part from a private enterprise.

(6) "Local entity" means:

(a) a political subdivision of the state, including a:

- (i) county;
- (ii) city;
- (iii) town;
- (iv) local school district;
- (v) local district; or
- (vi) special service district;

(b) an agency of an entity described in this Subsection (6), including a department, office, division, authority, commission, or board; or

(c) an entity created by an interlocal cooperative agreement under Title 11, Chapter 13, Interlocal Cooperation Act, between two or more entities described in this Subsection (6).

(7) "Private enterprise" means a person that engages in an activity for profit.

(8) "Privatize" means that an activity engaged in by an agency is transferred so that a private enterprise engages in the activity, including a transfer by:

- (a) contract;
 - (b) transfer of property; or
 - (c) another arrangement.
- (9) "Special district" means:

(a) a local district, as defined in Section 17B-1-102;

(b) a special service district, as defined in Section 17D-1-102; or

(c) a conservation district, as defined in Section 17D-3-102.

Section 3. Section 63J-7-102 is amended to read:

63J-7-102. Scope and applicability of chapter.

(1) Except as provided in Subsection (2), and except as otherwise provided by a statute superseding provisions of this chapter by explicit reference to this chapter, the provisions of this chapter apply to each agency and govern each grant received on or after May 5, 2008.

(2) This chapter does not govern:

(a) a grant deposited into a General Fund restricted account;

(b) a grant deposited into a Trust and Agency Fund as defined in Section 51-5-4;

(c) a grant deposited into an Enterprise Fund as defined in Section 51-5-4;

(d) a grant made to the state without a restriction or other designated purpose that is deposited into the General Fund as free revenue;

(e) a grant made to the state that is restricted only to "education" and that is deposited into the

Education Fund or Uniform School Fund as free revenue;

(f) in-kind donations;

(g) a tax, fees, penalty, fine, surcharge, money judgment, or other money due the state when required by state law or application of state law;

(h) a contribution made under Title 59, Chapter 10, Part 13, Individual Income Tax Contribution Act;

(i) a grant received by an agency from another agency or political subdivision;

(j) a grant to the Utah Dairy Commission created in ~~[Title 4, Chapter 22, Dairy Promotion Act] Section 4-22-2;~~

~~[(k)] a grant to the Utah Science Center Authority created in Title 63H, Chapter 3, Utah Science Center Authority;~~

~~[(4)] (k) a grant to the Heber Valley Historic Railroad Authority created in [Title 63H, Chapter 4, Heber Valley Historic Railroad Authority] Section 63H-4-102;~~

~~[(m)] (l) a grant to the Utah State Railroad Museum Authority created in [Title 63H, Chapter 5, Utah State Railroad Museum Authority] Section 63H-5-102;~~

~~[(n)] (m) a grant to the Utah Housing Corporation created in [Title 35A, Chapter 8, Part 7, Utah Housing Corporation Act] Section 35A-8-704;~~

~~[(o)] (n) a grant to the Utah State Fair Corporation created in [Title 63H, Chapter 6, Utah State Fair Corporation Act] Section 63H-6-103;~~

~~[(p)] (o) a grant to the Workers' Compensation Fund created in [Title 31A, Chapter 33, Workers' Compensation Fund] Section 31A-33-102;~~

~~[(q)] (p) a grant to the Utah State Retirement Office created in [Title 49, Chapter 11, Utah State Retirement Systems Administration] Section 49-11-201;~~

~~[(r)] (q) a grant to the School and Institutional Trust Lands Administration created in [Title 53C, Chapter 1, Part 2, School and Institutional Trust Lands Administration] Section 53C-1-201;~~

~~[(s)] (r) a grant to the Utah Communications Authority created in [Title 63H, Chapter 7, Utah Communications Authority Act] Section 63H-7-201;~~

~~[(t)] (s) a grant to the Medical Education Program created in Section 53B-24-202;~~

~~[(u)] (t) a grant to the Utah Capital Investment Corporation created in [Title 63M, Chapter 1, Part 12, Utah Venture Capital Enhancement Act] Section 63M-1-1207;~~

~~[(v)] (u) a grant to the Utah Charter School Finance Authority created in Section 53A-20b-103;~~

~~[(w)] (v) a grant to the State Building Ownership Authority created in Section 63B-1-304;~~

~~[(w)]~~ (w) a grant to the Utah Comprehensive Health Insurance Pool created in Section 31A-29-104; or

~~[(x)]~~ (x) a grant to the Military Installation Development Authority created in Section 63H-1-201.

(3) An agency need not seek legislative review or approval of grants under Part 2, Grant Approval Requirements, if:

(a) the governor has declared a state of emergency; and

(b) the grant is donated to the agency to assist victims of the state of emergency under Subsection 53-2a-204(1).

Section 4. Repealer.

This bill repeals:

Section 63H-3-101, Short title.

Section 63H-3-102, Legislative findings -- State purpose.

Section 63H-3-103, Creation -- Members -- Chair -- Powers -- Quorum -- Per diem and expenses.

Section 63H-3-104, Executive director -- Powers and duties.

Section 63H-3-105, Member or employee -- Disclosure of interest.

Section 63H-3-106, Officer or employee -- No forfeiture of office or employment.

Section 63H-3-107, Authority -- Powers.

Section 63H-3-108, Actions on validity or enforceability of bonds -- Time for bringing action.

Section 63H-3-109, Relation to certain acts.

Section 63H-3-110, Sales tax exemption.

Section 5. Effective date.

This bill takes effect on July 1, 2015.

CHAPTER 224**S. B. 62**

Passed March 6, 2015

Approved March 26, 2015

Effective May 12, 2015

CERTIFIED TAX RATES AMENDMENTS

Chief Sponsor: Wayne A. Harper
House Sponsor: John Knotwell

LONG TITLE**General Description:**

This bill addresses property tax certified tax rates.

Highlighted Provisions:

This bill:

- ▶ provides for adjustments of the certified tax rates of school districts;
- ▶ addresses notice and public hearing requirements with respect to the certified tax rate adjustments;
- ▶ repeals obsolete language;
- ▶ establishes a repeal date for the certified tax rate adjustment provisions; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

59-2-924.2, as and further amended by Revisor Instructions, Laws of Utah 2014, Chapter 270 and last amended by Laws of Utah 2014, Chapter 270

63I-1-259, as last amended by Laws of Utah 2014, Chapter 54

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

Section 1. Section 59-2-924.2 is amended to read:**59-2-924.2. Adjustments to the calculation of a taxing entity's certified tax rate.**

(1) For purposes of this section, "certified tax rate" means a certified tax rate calculated in accordance with Section 59-2-924.

(2) Beginning January 1, 1997, if a taxing entity receives increased revenues from uniform fees on tangible personal property under Section 59-2-404, 59-2-405, 59-2-405.1, 59-2-405.2, or 59-2-405.3 as a result of any county imposing a sales and use tax under Chapter 12, Part 11, County Option Sales and Use Tax, the taxing entity shall decrease its certified tax rate to offset the increased revenues.

(3) (a) Beginning July 1, 1997, if a county has imposed a sales and use tax under Chapter 12, Part 11, County Option Sales and Use Tax, the county's certified tax rate shall be:

(i) decreased on a one-time basis by the amount of the estimated sales and use tax revenue to be

distributed to the county under Subsection 59-12-1102(3); and

(ii) increased by the amount necessary to offset the county's reduction in revenue from uniform fees on tangible personal property under Section 59-2-404, 59-2-405, 59-2-405.1, 59-2-405.2, or 59-2-405.3 as a result of the decrease in the certified tax rate under Subsection (3)(a)(i).

(b) The commission shall determine estimates of sales and use tax distributions for purposes of Subsection (3)(a).

(4) Beginning January 1, 1998, if a municipality has imposed an additional resort communities sales and use tax under Section 59-12-402, the municipality's certified tax rate shall be decreased on a one-time basis by the amount necessary to offset the first 12 months of estimated revenue from the additional resort communities sales and use tax imposed under Section 59-12-402.

(5) (a) This Subsection (5) applies to each county that:

(i) establishes a countywide special service district under Title 17D, Chapter 1, Special Service District Act, to provide jail service, as provided in Subsection 17D-1-201(10); and

(ii) levies a property tax on behalf of the special service district under Section 17D-1-105.

(b) (i) The certified tax rate of each county to which this Subsection (5) applies shall be decreased by the amount necessary to reduce county revenues by the same amount of revenues that will be generated by the property tax imposed on behalf of the special service district.

(ii) Each decrease under Subsection (5)(b)(i) shall occur contemporaneously with the levy on behalf of the special service district under Section 17D-1-105.

(6) (a) As used in this Subsection (6):

(i) "Annexing county" means a county whose unincorporated area is included within a public safety district by annexation.

(ii) "Annexing municipality" means a municipality whose area is included within a public safety district by annexation.

(iii) "Equalized public safety protection tax rate" means the tax rate that results from:

(A) calculating, for each participating county and each participating municipality, the property tax revenue necessary:

(I) in the case of a fire district, to cover all of the costs associated with providing fire protection, paramedic, and emergency services:

(Aa) for a participating county, in the unincorporated area of the county; and

(Ab) for a participating municipality, in the municipality; or

(II) in the case of a police district, to cover all the costs:

(Aa) associated with providing law enforcement service:

(Ii) for a participating county, in the unincorporated area of the county; and

(IIii) for a participating municipality, in the municipality; and

(Bb) that the police district board designates as the costs to be funded by a property tax; and

(B) adding all the amounts calculated under Subsection (6)(a)(iii)(A) for all participating counties and all participating municipalities and then dividing that sum by the aggregate taxable value of the property, as adjusted in accordance with Section 59-2-913:

(I) for participating counties, in the unincorporated area of all participating counties; and

(II) for participating municipalities, in all the participating municipalities.

(iv) "Fire district" means a service area under Title 17B, Chapter 2a, Part 9, Service Area Act:

(A) created to provide fire protection, paramedic, and emergency services; and

(B) in the creation of which an election was not required under Subsection 17B-1-214(3)(c).

(v) "Participating county" means a county whose unincorporated area is included within a public safety district at the time of the creation of the public safety district.

(vi) "Participating municipality" means a municipality whose area is included within a public safety district at the time of the creation of the public safety district.

(vii) "Police district" means a service area under Title 17B, Chapter 2a, Part 9, Service Area Act, within a county of the first class:

(A) created to provide law enforcement service; and

(B) in the creation of which an election was not required under Subsection 17B-1-214(3)(c).

(viii) "Public safety district" means a fire district or a police district.

(ix) "Public safety service" means:

(A) in the case of a public safety district that is a fire district, fire protection, paramedic, and emergency services; and

(B) in the case of a public safety district that is a police district, law enforcement service.

(b) In the first year following creation of a public safety district, the certified tax rate of each participating county and each participating municipality shall be decreased by the amount of the equalized public safety tax rate.

(c) In the first budget year following annexation to a public safety district, the certified tax rate of

each annexing county and each annexing municipality shall be decreased by an amount equal to the amount of revenue budgeted by the annexing county or annexing municipality:

(i) for public safety service; and

(ii) in:

(A) for a taxing entity operating under a January 1 through December 31 fiscal year, the prior calendar year; or

(B) for a taxing entity operating under a July 1 through June 30 fiscal year, the prior fiscal year.

(d) Each tax levied under this section by a public safety district shall be considered to be levied by:

(i) each participating county and each annexing county for purposes of the county's tax limitation under Section 59-2-908; and

(ii) each participating municipality and each annexing municipality for purposes of the municipality's tax limitation under Section 10-5-112, for a town, or Section 10-6-133, for a city.

(e) The calculation of a public safety district's certified tax rate for the year of annexation shall be adjusted to include an amount of revenue equal to one half of the amount of revenue budgeted by the annexing entity for public safety service in the annexing entity's prior fiscal year if:

(i) the public safety district operates on a January 1 through December 31 fiscal year;

(ii) the public safety district approves an annexation of an entity operating on a July 1 through June 30 fiscal year; and

(iii) the annexation described in Subsection (6)(e)(ii) takes effect on July 1.

~~[(7) For the calendar year beginning on January 1, 2007, the calculation of a taxing entity's certified tax rate, calculated in accordance with Section 59-2-924, shall be adjusted by the amount necessary to offset any change in the certified tax rate that may result from excluding the following from the certified tax rate under Subsection 59-2-924(3) enacted by the Legislature during the 2007 General Session:]~~

~~[(a) personal property tax revenue:]~~

~~[(i) received by a taxing entity:]~~

~~[(ii) assessed by a county assessor in accordance with Part 3, County Assessment; and]~~

~~[(iii) for personal property that is semiconductor manufacturing equipment; or]~~

~~[(b) the taxable value of personal property:]~~

~~[(i) contained on the tax rolls of a taxing entity;]~~

~~[(ii) assessed by a county assessor in accordance with Part 3, County Assessment; and]~~

~~[(iii) that is semiconductor manufacturing equipment.]~~

~~[(8)] (7) (a)~~ The base taxable value ~~[for the base year]~~ under Subsection 17C-1-102(6) shall be reduced for any year to the extent necessary to provide a community development and renewal agency established under Title 17C, Limited Purpose Local Government Entities - Community Development and Renewal Agencies Act, with approximately the same amount of money the agency would have received without a reduction in the county's certified tax rate, calculated in accordance with Section 59-2-924, if:

(i) in that year there is a decrease in the certified tax rate under Subsection (2) or (3)(a);

(ii) the amount of the decrease is more than 20% of the county's certified tax rate of the previous year; and

(iii) the decrease results in a reduction of the amount to be paid to the agency under Section 17C-1-403 or 17C-1-404.

(b) The base taxable value under Subsection 17C-1-102(6) shall be increased in any year to the extent necessary to provide a community development and renewal agency with approximately the same amount of money as the agency would have received without an increase in the certified tax rate that year if:

(i) in that year the base taxable value under Subsection 17C-1-102(6) is reduced due to a decrease in the certified tax rate under Subsection (2) or (3)(a); and

(ii) the certified tax rate of a city, school district, local district, or special service district increases independent of the adjustment to the taxable value of the base year.

(c) Notwithstanding a decrease in the certified tax rate under Subsection (2) or (3)(a), the amount of money allocated and, when collected, paid each year to a community development and renewal agency established under Title 17C, Limited Purpose Local Government Entities - Community Development and Renewal Agencies Act, for the payment of bonds or other contract indebtedness, but not for administrative costs, may not be less than that amount would have been without a decrease in the certified tax rate under Subsection (2) or (3)(a).

~~[(9)] (8) (a)~~ For the calendar year beginning on January 1, 2014, the calculation of a county assessing and collecting levy shall be adjusted by the amount necessary to offset:

(i) any change in the certified tax rate that may result from amendments to Part 16, Multicounty Assessing and Collecting Levy, in Laws of Utah 2014, Chapter 270, Section 3; and

(ii) the difference in the amount of revenue a taxing entity receives from or contributes to the Property Tax Valuation Agency Fund, created in Section 59-2-1602, that may result from amendments to Part 16, Multicounty Assessing and Collecting Levy, in Laws of Utah 2014, Chapter 270, Section 3.

(b) A taxing entity is not required to comply with the notice and public hearing requirements in Section 59-2-919 for an adjustment to the county assessing and collecting levy described in Subsection ~~[(9)] (8)(a)~~.

(9) (a) For the calendar year beginning on January 1, 2017, the commission shall increase or decrease a school district's certified tax rate to offset a change in revenues from the calendar year beginning on January 1, 2016, to the calendar year beginning on January 1, 2017, as follows:

(i) the commission shall increase a school district's certified tax rate by the amount necessary to offset a decrease in revenues that may result from the repeal of Section 59-2-924.3 on December 31, 2016; and

(ii) the commission shall decrease a school district's certified tax rate by the amount necessary to offset an increase in revenues that may result from the repeal of Section 59-2-924.3 on December 31, 2016.

(b) (i) A school district is not required to comply with the notice and public hearing requirements of Section 59-2-919 for an offset to the certified tax rate described in Subsection (9)(a).

(ii) If a school district's certified tax rate is increased in accordance with Subsection (9)(a)(i), the school district shall:

(A) on or before June 15, 2017, publish the statement provided in Subsection (9)(c) one or more times in a newspaper or combination of newspapers of general circulation in the taxing entity, in a portion of the newspaper where legal notices and classified advertisements do not appear;

(B) on or before June 30, 2017, read the statement provided in Subsection (9)(c) at a public meeting of the school district; and

(C) if the school district maintains a database containing electronic mail addresses of one or more persons who reside within the school district boundaries, send the statement provided in Subsection (9)(c) to those electronic mail addresses.

(c) For purposes of Subsection (9)(b)(ii), the statement is: "For calendar year 2017, the State Tax Commission is required to increase a property tax rate of this school district to offset a loss in revenue due to the repeal of a statute to equalize certain school district property taxes. This offset may result in an increase in your property taxes."

Section 2. Section 63I-1-259 is amended to read:

63I-1-259. Repeal dates, Title 59.

(1) Subsection 59-2-924(3)(g) is repealed on December 31, 2016.

(2) Subsection 59-2-924.2(9) is repealed on December 31, 2017.

~~[(2)] (3)~~ Section 59-2-924.3 is repealed on December 31, 2016.

~~[(3)] (4)~~ Section 59-9-102.5 is repealed December 31, 2020.

CHAPTER 225**S. B. 65**

Passed February 20, 2015

Approved March 26, 2015

Effective May 12, 2015

**IN-STATE TUITION FOR FAMILIES OF
FALLEN PUBLIC SAFETY OFFICERS
AMENDMENTS**

Chief Sponsor: Curtis S. Bramble

House Sponsor: Mike K. McKell

LONG TITLE**General Description:**

This bill modifies provisions relating to state institution of higher education tuition waivers for a surviving family member of a police officer or firefighter killed in the line of duty.

Highlighted Provisions:

This bill:

- ▶ modifies provisions relating to state institution of higher education tuition waivers for a surviving family member of a police officer or firefighter killed in the line of duty; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53B-8c-102, as last amended by Laws of Utah 1998, Chapter 282

53B-8c-103, as last amended by Laws of Utah 1998, Chapter 282

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

Section 1. Section 53B-8c-102 is amended to read:**53B-8c-102. Definitions.**

As used in this chapter:

- (1) "Child" means an individual who:
 - (a) is a natural or adopted child of a deceased peace officer or deceased firefighter; and
 - (b) was under the age of 25 at the time of the peace officer's or firefighter's death.
- (2) "Department" means the Department of Public Safety.

(3) (a) "Fees" means general course fees, in addition to tuition, that are:

- (i) imposed by a state institution of higher education; and
- (ii) required to be paid by a student to engage in a course of study at the state institution of higher education.

(b) "Fees" does not include a special course fee.

[(3)] (4) "Killed" means that the peace officer's or firefighter's death is the direct and proximate result of a traumatic injury incurred in the line of duty.

[(4)] (5) "Line of duty" means an action that a peace officer or firefighter is obligated or authorized to perform by rule, regulation, condition of employment or service, or law, including a social, ceremonial, or athletic function that the peace officer or firefighter is assigned to or compensated for by the public agency being served.

[(5)] (6) "Occupational disease" means a disease that routinely constitutes a special hazard in, or is commonly regarded as concomitant of, the peace officer's or firefighter's occupation.

[(6)] (7) "State institution of higher education" means those institutions designated in Section 53B-1-102.

[(7)] (8) "Traumatic injury" means a wound or the condition of the body caused by external force, including an injury inflicted by bullet, explosive, sharp instrument, blunt object, or other physical blow, fire, smoke, chemical, electricity, climatic condition, infectious disease, radiation, or bacteria, but excluding an occupational disease.

[(8)] (9) "Tuition" means tuition and fees at the rate charged for residents of the state.

[(9)] (10) (a) "Utah firefighter" or "firefighter" means a member, including volunteer members and members paid on call, of a fire department or other organization that provides fire suppression and other fire-related services, of a political subdivision who is responsible for or is in a capacity that includes responsibility for the extinguishment of fires.

(b) "Utah firefighter" or "firefighter" does not include a person whose job description, duties, or responsibilities do not include direct involvement in fire suppression.

[(10)] (11) "Utah peace officer" or "peace officer" means an employee of a law enforcement agency that is part of or administered by the state or any of its political subdivisions, and whose duties consist primarily of the prevention and detection of crime and the enforcement of criminal statutes or ordinances of this state or any of its political subdivisions.

Section 2. Section 53B-8c-103 is amended to read:**53B-8c-103. Tuition waivers for surviving spouses and children of police officers and firefighters killed in the line of duty -- Qualifications -- Limitations.**

(1) Beginning in the 1997-98 academic year, and subject to the limitations in Subsections (2), (3), and (4) of this section, a state institution of higher education shall waive tuition for each child and surviving spouse of a Utah peace officer or Utah firefighter who has been killed or is killed in the line of duty if the individual meets the following requirements:

- (a) applies, qualifies, and is admitted as a full-time, part-time, or summer school student in a program of study leading to a degree or certificate;

(b) is a resident student of the state as determined under Section 53B-8-102;

(c) applies to the department for a waiver of tuition under this chapter and provides evidence satisfactory to the department that:

(i) the applicant is the surviving spouse or child of a peace officer or firefighter who was killed in the line of duty;

(ii) the course or courses for which the applicant is seeking a tuition waiver meet the requirements of Subsection (2); and

(iii) the applicant meets the other requirements of this section;

(d) for a child of a peace officer or firefighter killed in the line of duty, applies under Subsection (1)(c) for the first time before the age of 25;

~~[(e) is certified by the financial aid officer at the higher education institution as needing the tuition waiver in order to meet recognized educational expenses, with the understanding that if the applicant's family income, excluding any income from death benefits attributable to the peace officer's or firefighter's death, is below 400% of the poverty level under federal poverty guidelines, income from any death benefits accruing to the applicant as a result of the death may not be counted as family income in determining financial need under this Subsection (1)(e);]~~

~~[(f)] (e) maintains satisfactory academic progress, as defined by the institution of higher education, for each term or semester in which the individual is enrolled, which may be measured by the definition used for federal student assistance programs under Title IV of the Higher Education Act of 1965; and~~

~~[(g)] (f) has not achieved a bachelor's degree and has received tuition reimbursement under this chapter for less than 124 semester credits or 180 quarter credits at an institution of higher education.~~

(2) A child or surviving spouse of a peace officer or firefighter who was killed in the line of duty is eligible for a tuition waiver under this section of not more than nine semesters or the equivalent number of quarters.

(3) Tuition shall be waived only to the extent that the tuition is not covered or paid by any scholarship, trust fund, statutory benefit, or any other source of tuition coverage available for a waiver under this chapter.

(4) An institution of higher education shall waive tuition under this chapter only for courses that are applicable toward the degree or certificate requirements of the program in which the child or surviving spouse is enrolled.

CHAPTER 226**S. B. 67**

Passed February 25, 2015

Approved March 26, 2015

Effective May 12, 2015

**UTAH HOUSING CORPORATION
ACT AMENDMENTS**Chief Sponsor: Todd Weiler
House Sponsor: Mike K. McKell**LONG TITLE****General Description:**

This bill modifies the Utah Housing Corporation Act and moves the act to Title 63H, Independent State Entities.

Highlighted Provisions:

This bill:

- ▶ renumbers and amends the Utah Housing Corporation Act from the Workforce Services Code to the Independent State Entities title;
- ▶ repeals surety bond requirements for a trustee and the president of the Utah Housing Corporation;
- ▶ repeals provisions requiring that each trustee of the corporation maintain a surety bond;
- ▶ amends certain corporation powers and duties;
- ▶ allows the corporation to delegate by resolution certain approval to its officers regarding notes or bonds;
- ▶ amends security interest provisions;
- ▶ allows the corporation to sell mortgage loans;
- ▶ repeals provisions allowing the corporation to create capital reserve funds; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

61-2c-105, as last amended by Laws of Utah 2012, Chapter 212
 63A-3-402, as last amended by Laws of Utah 2014, Chapters 64 and 185
 63E-1-102, as last amended by Laws of Utah 2014, Chapters 320, 426, and 426
 63E-1-203, as last amended by Laws of Utah 2012, Chapter 212
 63I-1-235, as last amended by Laws of Utah 2014, Chapter 127
 63I-1-263, as last amended by Laws of Utah 2014, Chapters 113, 189, 195, 211, 419, 429, and 435
 63I-4a-102, as last amended by Laws of Utah 2014, Chapter 320
 63J-7-102, as last amended by Laws of Utah 2014, Chapter 320

RENUMBERS AND AMENDS:

63H-8-101, (Renumbered from 35A-8-701, as renumbered and amended by Laws of Utah 2012, Chapter 212)

63H-8-102, (Renumbered from 35A-8-702, as renumbered and amended by Laws of Utah 2012, Chapter 212)
 63H-8-103, (Renumbered from 35A-8-703, as renumbered and amended by Laws of Utah 2012, Chapter 212)
 63H-8-201, (Renumbered from 35A-8-704, as renumbered and amended by Laws of Utah 2012, Chapter 212)
 63H-8-202, (Renumbered from 35A-8-705, as renumbered and amended by Laws of Utah 2012, Chapter 212)
 63H-8-203, (Renumbered from 35A-8-706, as renumbered and amended by Laws of Utah 2012, Chapter 212)
 63H-8-204, (Renumbered from 35A-8-707, as last amended by Laws of Utah 2012, Chapter 347 and renumbered and amended by Laws of Utah 2012, Chapter 212)
 63H-8-205, (Renumbered from 35A-8-708, as renumbered and amended by Laws of Utah 2012, Chapter 212)
 63H-8-206, (Renumbered from 35A-8-709, as renumbered and amended by Laws of Utah 2012, Chapter 212)
 63H-8-301, (Renumbered from 35A-8-711, as renumbered and amended by Laws of Utah 2012, Chapter 212)
 63H-8-302, (Renumbered from 35A-8-712, as renumbered and amended by Laws of Utah 2012, Chapter 212)
 63H-8-303, (Renumbered from 35A-8-713, as renumbered and amended by Laws of Utah 2012, Chapter 212)
 63H-8-304, (Renumbered from 35A-8-714, as renumbered and amended by Laws of Utah 2012, Chapter 212)
 63H-8-401, (Renumbered from 35A-8-716, as renumbered and amended by Laws of Utah 2012, Chapter 212)
 63H-8-402, (Renumbered from 35A-8-717, as renumbered and amended by Laws of Utah 2012, Chapter 212)
 63H-8-403, (Renumbered from 35A-8-718, as renumbered and amended by Laws of Utah 2012, Chapter 212)
 63H-8-404, (Renumbered from 35A-8-719, as renumbered and amended by Laws of Utah 2012, Chapter 212)
 63H-8-405, (Renumbered from 35A-8-720, as renumbered and amended by Laws of Utah 2012, Chapter 212)
 63H-8-406, (Renumbered from 35A-8-721, as last amended by Laws of Utah 2014, Chapter 371)
 63H-8-407, (Renumbered from 35A-8-722, as renumbered and amended by Laws of Utah 2012, Chapter 212)
 63H-8-408, (Renumbered from 35A-8-723, as renumbered and amended by Laws of Utah 2012, Chapter 212)
 63H-8-409, (Renumbered from 35A-8-724, as renumbered and amended by Laws of Utah 2012, Chapter 212)
 63H-8-410, (Renumbered from 35A-8-725, as renumbered and amended by Laws of Utah 2012, Chapter 212)

63H-8-411, (Renumbered from 35A-8-726, as renumbered and amended by Laws of Utah 2012, Chapter 212)

REPEALS:

35A-8-710, as renumbered and amended by Laws of Utah 2012, Chapter 212

35A-8-715, as renumbered and amended by Laws of Utah 2012, Chapter 212

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

Section 1. Section 61-2c-105 is amended to read:

61-2c-105. Scope of chapter -- Exemptions.

(1) (a) Except as to an individual who will engage in an activity as a mortgage loan originator, this chapter applies to a closed-end residential mortgage loan secured by a first lien or equivalent security interest on a dwelling.

(b) This chapter does not apply to a transaction covered by Title 70C, Utah Consumer Credit Code.

(2) The following are exempt from this chapter:

(a) the federal government;

(b) a state;

(c) a political subdivision of a state;

(d) an agency of or entity created by a governmental entity described in Subsections (2)(a) through (c) including:

(i) the Utah Housing Corporation created in ~~[Title 35A, Chapter 8, Part 7, Utah Housing Corporation Act]~~ Section 63H-8-201;

(ii) the Federal National Mortgage Corporation;

(iii) the Federal Home Loan Mortgage Corporation;

(iv) the Federal Deposit Insurance Corporation;

(v) the Resolution Trust Corporation;

(vi) the Government National Mortgage Association;

(vii) the Federal Housing Administration;

(viii) the National Credit Union Administration;

(ix) the Farmers Home Administration; and

(x) the United States Department of Veterans Affairs;

(e) a depository institution;

(f) an entity that controls, is controlled by, or is under common control with a depository institution;

(g) an employee or agent of an entity described in Subsections (2)(a) through (f):

(i) when that person acts on behalf of the entity described in Subsections (2)(a) through (f); and

(ii) including an employee of:

(A) a depository institution;

(B) a subsidiary of a depository institution that is:

(I) owned and controlled by the depository institution; and

(II) regulated by a federal banking agency, as defined in 12 U.S.C. Sec. 5102; or

(C) an institution regulated by the Farm Credit Administration;

(h) except as provided in Subsection (3), a person who:

(i) makes a loan:

(A) secured by an interest in real property;

(B) with the person's own money; and

(C) for the person's own investment; and

(ii) that does not engage in the business of making loans secured by an interest in real property;

(i) except as provided in Subsection (3), a person who receives a mortgage, deed of trust, or consensual security interest on real property if the individual or entity:

(i) is the seller of real property; and

(ii) receives the mortgage, deed of trust, or consensual security interest on real property as security for a separate money obligation;

(j) a person who receives a mortgage, deed of trust, or consensual security interest on real property if:

(i) the person receives the mortgage, deed of trust, or consensual security interest as security for an obligation payable on an installment or deferred payment basis;

(ii) the obligation described in Subsection (2)(j)(i) arises from a person providing materials or services used in the improvement of the real property that is the subject of the mortgage, deed of trust, or consensual security interest; and

(iii) the mortgage, deed of trust, or consensual security interest is created without the consent of the owner of the real property that is the subject of the mortgage, deed of trust, or consensual security interest;

(k) a nonprofit corporation that:

(i) is exempt from paying federal income taxes;

(ii) is certified by the United States Small Business Administration as a small business investment company;

(iii) is organized to promote economic development in this state; and

(iv) has as its primary activity providing financing for business expansion;

(l) except as provided in Subsection (3), a court appointed fiduciary; or

(m) an attorney admitted to practice law in this state:

(i) if the attorney is not principally engaged in the business of negotiating residential mortgage loans

when considering the attorney's ordinary practice as a whole for all the attorney's clients; and

(ii) when the attorney engages in loan modification assistance in the course of the attorney's practice as an attorney.

(3) An individual who will engage in an activity as a mortgage loan originator is exempt from this chapter only if the individual is an employee or agent exempt under Subsection (2)(g).

(4) (a) Notwithstanding Subsection (2)(m), an attorney exempt from this chapter may not engage in conduct described in Section 61-2c-301 when transacting business of residential mortgage loans.

(b) If an attorney exempt from this chapter violates Subsection (4)(a), the attorney:

(i) is not subject to enforcement by the division under Part 4, Enforcement; and

(ii) may be subject to disciplinary action generally applicable to an attorney admitted to practice law in this state.

(c) If the division receives a complaint alleging an attorney exempt from this chapter is in violation of Subsection (4)(a) or that an attorney subject to this chapter has violated this chapter, the division shall forward the complaint to the Utah State Bar for disciplinary action.

(5) (a) An individual who is exempt under Subsection (2) or (3) may voluntarily obtain a license under this chapter by complying with Part 2, Licensure.

(b) An individual who voluntarily obtains a license ~~pursuant to~~ under this Subsection (5) shall comply with all the provisions of this chapter.

Section 2. Section 63A-3-402 is amended to read:

63A-3-402. Utah Public Finance Website -- Establishment and administration -- Records disclosure -- Exceptions.

(1) There is created the Utah Public Finance Website to be administered by the Division of Finance with the technical assistance of the Department of Technology Services.

(2) The Utah Public Finance Website shall:

(a) permit Utah taxpayers to:

(i) view, understand, and track the use of taxpayer dollars by making public financial information available on the Internet for participating state entities, independent entities, and participating local entities, using the Utah Public Finance Website; and

(ii) link to websites administered by participating local entities or independent entities that do not use the Utah Public Finance Website for the purpose of providing participating local entities' or independent entities' public financial information as required by this part and by rule under Section 63A-3-404;

(b) allow a person who has Internet access to use the website without paying a fee;

(c) allow the public to search public financial information on the Utah Public Finance Website using criteria established by the board;

(d) provide access to financial reports, financial audits, budgets, or other financial documents that are used to allocate, appropriate, spend, and account for government funds, as may be established by rule under Section 63A-3-404;

(e) have a unique and simplified website address;

(f) be directly accessible via a link from the main page of the official state website;

(g) include other links, features, or functionality that will assist the public in obtaining and reviewing public financial information, as may be established by rule under Section 63A-3-404; and

(h) include a link to school report cards published on the State Board of Education's website ~~pursuant to~~ under Section 53A-1-1112.

(3) The division shall:

(a) establish and maintain the website, including the provision of equipment, resources, and personnel as necessary;

(b) maintain an archive of all information posted to the website;

(c) coordinate and process the receipt and posting of public financial information from participating state entities;

(d) coordinate and regulate the posting of public financial information by participating local entities and independent entities; and

(e) provide staff support for the advisory committee.

(4) (a) A participating state entity and each independent entity shall permit the public to view the entity's public financial information via the website, beginning with information that is generated not later than the fiscal year that begins July 1, 2008, except that public financial information for an:

(i) institution of higher education shall be provided beginning with information generated for the fiscal year beginning July 1, 2009; and

(ii) independent entity shall be provided beginning with information generated for the entity's fiscal year beginning in 2014.

(b) No later than May 15, 2009, the website shall:

(i) be operational; and

(ii) permit public access to participating state entities' public financial information, except as provided in Subsections (4)(c) and (d).

(c) An institution of higher education that is a participating state entity shall submit the entity's public financial information at a time allowing for inclusion on the website no later than May 15, 2010.

(d) No later than the first full quarter after July 1, 2014, an independent entity shall submit the

entity's public financial information for inclusion on the Utah Public Finance Website or via a link to its own website on the Utah Public Finance Website.

(5) (a) The Utah Educational Savings Plan, created in Section 53B-8a-103, shall provide the following financial information to the division for posting on the Utah Public Finance Website:

(i) administrative fund expense transactions from its general ledger accounting system; and

(ii) employee compensation information.

(b) The plan is not required to submit other financial information to the division, including:

(i) revenue transactions;

(ii) account owner transactions; and

(iii) fiduciary or commercial information, as defined in Section 53B-12-102.

(6) (a) The following independent entities shall each provide administrative expense transactions from its general ledger accounting system and employee compensation information to the division for posting on the Utah Public Finance Website or via a link to a website administered by the independent entity:

(i) the Utah Capital Investment Corporation, created in Section 63M-1-1207;

(ii) the Utah Housing Corporation, created in Section ~~35A-8-704~~ 63H-8-201; and

(iii) the School and Institutional Trust Lands Administration, created in Section 53C-1-201.

(b) For purposes of this part, an independent entity described in Subsection (6)(a) is not required to submit to the division, or provide a link to, other financial information, including:

(i) revenue transactions of a fund or account created in its enabling statute;

(ii) fiduciary or commercial information related to any subject if the disclosure of the information:

(A) would conflict with fiduciary obligations; or

(B) is prohibited by insider trading provisions;

(iii) information of a commercial nature, including information related to:

(A) account owners, borrowers, and dependents;

(B) demographic data;

(C) contracts and related payments;

(D) negotiations;

(E) proposals or bids;

(F) investments;

(G) the investment and management of funds;

(H) fees and charges;

(I) plan and program design;

(J) investment options and underlying investments offered to account owners;

(K) marketing and outreach efforts;

(L) lending criteria;

(M) the structure and terms of bonding; and

(N) financial plans or strategies; and

(iv) information protected from public disclosure by federal law.

(7) (a) As used in this Subsection (7):

(i) "Local education agency" means a school district or a charter school.

(ii) "New school building project" means the construction of a school that did not previously exist in a local education agency.

(iii) "Significant school remodel" means the upgrading, changing, alteration, refurbishment, modification, or complete substitution of an existing school in a local education agency with a project cost equal to or in excess of \$2,000,000.

(b) For each new school building project or significant school remodel, the local education agency shall:

(i) prepare an annual school plant capital outlay report; and

(ii) submit the report:

(A) to the division for publication on the Utah Public Finance Website; and

(B) in a format, including any raw data or electronic formatting, prescribed by applicable division policy.

(c) The local education agency shall include in the capital outlay report described in Subsection (7)(b)(i) the following information as applicable to each new school building project or significant school remodel:

(i) the name and location of the project or remodel;

(ii) construction and design costs, including:

(A) the purchase price or lease terms of any real property acquired or leased for the project or remodel;

(B) facility construction;

(C) facility and landscape design;

(D) applicable impact fees; and

(E) furnishings and equipment;

(iii) the gross square footage of the project or remodel;

(iv) the year construction was completed; and

(v) the final student capacity of the new school building project or, for a significant school remodel, the increase or decrease in student capacity created by the remodel.

(d) (i) For a cost, fee, or other expense required to be reported under Subsection (7)(c), the local

education agency shall report the actual cost, fee, or other expense.

(ii) The division may require that a local education agency provide further itemized data on information listed in Subsection (7)(c).

(e) (i) No later than May 15, 2015, a local education agency shall provide the division a school plant capital outlay report for each new school building project and significant school remodel completed on or after July 1, 2004, and before May 13, 2014.

(ii) For a new school building project or significant school remodel completed after May 13, 2014, the local education agency shall provide the school plant capital outlay report described in this Subsection (7) to the division annually by a date designated by the division.

(8) A person who negligently discloses a record that is classified as private, protected, or controlled by Title 63G, Chapter 2, Government Records Access and Management Act, is not criminally or civilly liable for an improper disclosure of the record if the record is disclosed solely as a result of the preparation or publication of the Utah Public Finance Website.

Section 3. Section 63E-1-102 is amended to read:

63E-1-102. Definitions -- List of independent entities.

As used in this title:

(1) "Authorizing statute" means the statute creating an entity as an independent entity.

(2) "Committee" means the Retirement and Independent Entities Committee created by Section 63E-1-201.

(3) "Independent corporation" means a corporation incorporated in accordance with Chapter 2, Independent Corporations Act.

(4) (a) "Independent entity" means an entity having a public purpose relating to the state or its citizens that is individually created by the state or is given by the state the right to exist and conduct its affairs as an:

(i) independent state agency; or

(ii) independent corporation.

(b) "Independent entity" includes the:

(i) Utah Dairy Commission created by Section 4-22-2;

(ii) Heber Valley Historic Railroad Authority created by Section 63H-4-102;

(iii) Utah State Railroad Museum Authority created by Section 63H-5-102;

(iv) Utah Science Center Authority created by Section 63H-3-103;

(v) Utah Housing Corporation created by Section ~~35A-8-704~~ 63H-8-201;

(vi) Utah State Fair Corporation created by Section 63H-6-103;

(vii) Workers' Compensation Fund created by Section 31A-33-102;

(viii) Utah State Retirement Office created by Section 49-11-201;

(ix) School and Institutional Trust Lands Administration created by Section 53C-1-201;

(x) School and Institutional Trust Fund Office created by Section 53D-1-201;

(xi) Utah Communications Authority created in Section 63H-7-201;

(xii) Utah Energy Infrastructure Authority created by Section 63H-2-201;

(xiii) Utah Capital Investment Corporation created by Section 63M-1-1207; and

(xiv) Military Installation Development Authority created by Section 63H-1-201.

(c) Notwithstanding this Subsection (4), "independent entity" does not include:

(i) the Public Service Commission of Utah created by Section 54-1-1;

(ii) an institution within the state system of higher education;

(iii) a city, county, or town;

(iv) a local school district;

(v) a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts; or

(vi) a special service district under Title 17D, Chapter 1, Special Service District Act.

(5) "Independent state agency" means an entity that is created by the state, but is independent of the governor's direct supervisory control.

(6) "Money held in trust" means money maintained for the benefit of:

(a) one or more private individuals, including public employees;

(b) one or more public or private entities; or

(c) the owners of a quasi-public corporation.

(7) "Public corporation" means an artificial person, public in ownership, individually created by the state as a body politic and corporate for the administration of a public purpose relating to the state or its citizens.

(8) "Quasi-public corporation" means an artificial person, private in ownership, individually created as a corporation by the state which has accepted from the state the grant of a franchise or contract involving the performance of a public purpose relating to the state or its citizens.

Section 4. Section 63E-1-203 is amended to read:

63E-1-203. Exemptions from committee activities.

Notwithstanding the other provisions of this Part 2 and Subsection 63E-1-102(4), the following independent entities are exempt from the study by the committee under Section 63E-1-202:

(1) the Workers' Compensation Fund created in Title 31A, Chapter 33, Workers' Compensation Fund; and

(2) the Utah Housing Corporation created in [~~Title 35A, Chapter 8, Part 7, Utah Housing Corporation Act~~] Section 63H-8-201.

Section 5. Section 63H-8-101, which is renumbered from Section 35A-8-701 is renumbered and amended to read:

CHAPTER 8. UTAH HOUSING CORPORATION ACT

Part 1. General Provisions

[35A-8-701]. 63H-8-101. Title.

This [~~part~~] chapter is known as the "Utah Housing Corporation Act."

Section 6. Section 63H-8-102, which is renumbered from Section 35A-8-702 is renumbered and amended to read:

[35A-8-702]. 63H-8-102. Policy -- Finding and declaration.

(1) The Legislature declares that the policy of the state is to assure the health, safety, and welfare of its citizens, that an adequate supply of decent, safe, and sanitary housing is essential to the well-being of the citizens of the state, and that an adequate supply of mortgage funds for housing at reasonable interest rates is in the public interest.

(2) The Legislature finds and declares that:

(a) there continues to exist throughout the state a seriously inadequate supply of safe and sanitary dwelling accommodations within the financial means of persons and families of low or moderate income who wish to purchase or rent residential housing;

(b) from time to time the high rates of interest charged by mortgage lenders seriously restrict the transfer of existing housing and new housing starts;

(c) the reduction in residential construction starts associated with the high rates causes a condition of substantial unemployment and underemployment in the construction industry which impedes the economy of the state and affects the welfare and prosperity of all the people of the state;

(d) these conditions associated with the recurrent shortages of residential mortgage funds contribute to slums and blight in the cities and rural areas of the state and ultimately to the deterioration of the quality of living conditions within the state;

(e) in accordance with the purpose of this [~~part~~] chapter to assist in providing housing for low and moderate income persons who otherwise could not achieve decent, safe, and sanitary housing, the [~~agency~~] corporation shall make every effort to make housing available in rural, inner city, and other areas experiencing difficulty in securing construction and mortgage loans, and to make decent, safe, and sanitary housing available to low income persons and families;

(f) in order to assure an adequate [~~fund~~] supply of private capital [~~into~~] for this housing, the cooperation between private enterprise and state government is essential and is in the public interest;

(g) low and moderate income persons in Utah have a wide range of housing needs, which necessitates the development of many different kinds of programs to address those needs, including programs providing mortgage loans, nontraditional loans, grants, and other forms of financial assistance, and combinations of these forms;

(h) there are private organizations and governmental entities throughout Utah that are endeavoring to improve the availability of housing for low and moderate income persons and families, but many of these organizations and entities lack expertise and financial resources to act efficiently and expeditiously in these efforts;

(i) innovative programs that bring together resources from the public, nonprofit, and private sector are necessary in order to increase the supply of housing for low and moderate [~~individuals~~] income persons and families, but these programs usually need advice and financial assistance to become established;

(j) all of the foregoing are public purposes and uses for which money may be borrowed, expended, advanced, loaned, or granted, and that these activities serve a public purpose in improving or otherwise benefiting the people of this state, and that the necessity of enacting the provisions in this [~~part~~] chapter is in the public interest and is so declared as a matter of express legislative determination; and

(k) the compelling need within the state for the creation of an adequate supply of mortgage funds at reasonable interest rates and for other kinds of financial assistance to help provide affordable housing for low and moderate income individuals can be best met by the establishment of an independent body corporate and politic, constituting a public corporation, vested with the powers and duties specified in this [~~part~~] chapter.

(3) The Legislature declares that the corporation is intended to operate:

(a) with the power to issue tax exempt bonds to finance the purchase of mortgage loans to qualified buyers;

(b) as a financially independent body; and

(c) so that its debts shall be payable solely from payments received by the corporation from

mortgage borrowers and other revenues generated internally by the corporation.

Section 7. Section 63H-8-103, which is renumbered from Section 35A-8-703 is renumbered and amended to read:

[35A-8-703]. 63H-8-103. Definitions.

As used in this ~~[part the following words and terms have the following meanings, unless a different meaning clearly appears from the context] chapter:~~

(1) "Bonds," "notes," and "other obligations" mean ~~[any] bonds, notes, debentures, interim certificates, or other evidences of financial indebtedness of the corporation authorized to be issued under the provisions of this [part] chapter.~~

(2) "Construction loan" means a short-term advance of money for the purpose of constructing residential housing for low and moderate income persons.

(3) "Corporation" means the Utah Housing Corporation created by Section ~~[35A-8-704]~~ 63H-8-201, which, prior to July 1, 2001, was named the Utah Housing Finance Agency.

(4) "Employee of the corporation" means an individual who is employed by the corporation but who is not a trustee of the corporation.

(5) "Financial assistance" includes:

(a) a loan, whether interest or noninterest bearing, secured or unsecured;

(b) a loan that converts to a grant upon the occurrence of specified conditions;

(c) a development loan;

(d) a grant;

(e) an award;

(f) a subsidy;

(g) a guarantee;

(h) a warranty;

(i) a lease;

(j) a payment on behalf of a borrower of an amount usually paid by a borrower, including a down payment;

(k) any other form of financial assistance that helps provide affordable housing for low and moderate income persons; or

(l) any combination of Subsections (5)(a) through (k).

(6) "Housing development" means a residential housing project, which includes residential housing for low and moderate income persons.

(7) "Housing sponsor" includes a person who constructs, develops, rehabilitates, purchases, or owns a housing development that is or will be subject to legally enforceable restrictive covenants that require the housing development to provide, at

least in part, residential housing to low and moderate income persons, including a local public body, a nonprofit, limited profit, or for profit corporation, a limited partnership, a limited liability company, a joint venture, a subsidiary of the corporation, or any subsidiary of the subsidiary, a cooperative, a mutual housing organization, or ~~[any] other type of entity or arrangement that helps provide affordable housing for low and moderate income persons.~~

(8) "Interest rate contract" means ~~an interest rate exchange [contracts] contract, an interest rate floor [contracts] contract, an interest rate ceiling [contracts] contract, [and other] or another similar [contracts] contract~~ authorized in a resolution or policy adopted or approved by the trustees.

(9) "Local public body" means the state, a municipality, county, district, or other subdivision or instrumentality of the state, including a redevelopment agency and a housing authority created under Title 35A, Chapter 8, Part 4, Housing Authorities.

(10) "Low and moderate income persons" means ~~[persons] individuals, irrespective of race, religion, creed, national origin, or sex, as determined by the corporation to require such assistance as is made available by this [part] chapter on account of insufficient personal or family income taking into consideration factors, including:~~

(a) the amount of income that persons and families have available for housing needs;

(b) the size of family;

(c) whether a person is a single head of household;

(d) the cost and condition of available residential housing; and

(e) the ability of persons and families to compete successfully in the normal private housing market and to pay the amounts at which private enterprise is providing decent, safe, and sanitary housing.

(11) "Mortgage" means a mortgage, deed of trust, or other instrument securing a mortgage loan and constituting a lien on real property (the property being held in fee simple or on a leasehold under a lease having a remaining term, at the time the mortgage is acquired, of not less than the term for repayment of the mortgage loan secured by the mortgage) improved or to be improved by residential housing, creating a lien ~~[which] that~~ may be first priority or subordinate.

(12) "Mortgage lender" means a bank, trust company, savings and loan association, credit union, mortgage banker, or other financial institution authorized to transact business in the state, a local public body, or ~~[any] other entity, profit or nonprofit, that makes mortgage loans.~~

(13) "Mortgage loan" means a loan secured by a mortgage, which loan may bear interest at either a fixed or variable rate or which may be noninterest bearing, the proceeds of which are used for the purpose of financing the construction, development, rehabilitation, ~~[or] purchase, or refinancing~~ of residential housing for low and

moderate income persons~~], including low and moderate income persons who:~~

- ~~[(a) are first-time homebuyers;]~~
- ~~[(b) are single heads of household;]~~
- ~~[(c) are elderly;]~~
- ~~[(d) are homeless; or]~~
- ~~[(e) have a disability.]~~

(14) "Rehabilitation" includes the reconstruction, rehabilitation, improvement, and repair of residential housing.

(15) "Residential housing" means a specific work or improvement within the state undertaken primarily to provide dwelling accommodations, including land, buildings, and improvements to land and buildings, whether in one to four family units or multifamily units, and other incidental or appurtenant nonhousing facilities, or as otherwise specified by the ~~[agency]~~ corporation.

(16) "State" means the state of Utah.

(17) "State housing credit ceiling" means the amount specified in Subsection 42(h)(3)(C) of the Internal Revenue Code for each calendar year.

Section 8. Section 63H-8-201, which is renumbered from Section 35A-8-704 is renumbered and amended to read:

Part 2. Organization

[35A-8-704]. 63H-8-201. Creation -- Trustees -- Terms -- Vacancies -- Chair -- Powers -- Quorum -- Per diem and expenses.

(1) (a) There is created an independent body politic and corporate, constituting a public corporation, known as the "Utah Housing Corporation."

(b) The corporation may also be known and do business as the:

- (i) Utah Housing Finance Association; and
- (ii) Utah Housing Finance Agency in connection with ~~[any]~~ a contract entered into when that was the corporation's legal name.

(c) ~~[Any]~~ No other entity may ~~[not]~~ use the names described in Subsections (1)(a) and (b) without the express approval of the corporation.

(2) The corporation is governed by a board of trustees composed of the following nine trustees:

- ~~[(a) three ex officio trustees who are:]~~
- ~~[(i)]~~ (a) the executive director of the Department of Workforce Services or the executive director's designee;
- ~~[(ii)]~~ (b) the commissioner of the Department of Financial Institutions or the commissioner's designee; ~~[and]~~
- ~~[(iii)]~~ (c) the state treasurer or the treasurer's designee; and

~~[(b)]~~ (d) six public trustees, who are private citizens of the state, as follows:

- (i) two people who represent the mortgage lending industry;
- (ii) two people who represent the home building and real estate industry; and

(iii) two people who represent the public at large.

(3) The governor shall:

(a) appoint the six public trustees of the corporation with the consent of the Senate; and

(b) ensure that:

(i) the six public trustees are from different counties and are residents of ~~[Utah]~~ the state; and

(ii) not more than three of the public trustees ~~[belong to]~~ are members of the same political party.

(4) (a) Except as required by Subsection (4)(b), the governor shall appoint the six public trustees to terms of office of four years each.

(b) Notwithstanding the requirements of Subsection (4)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of corporation trustees are staggered so that approximately half of the board is appointed every two years.

(5) (a) ~~[Any of the six]~~ A public ~~[trustees]~~ trustee of the corporation may be removed from office for cause either by the governor or by an affirmative vote of six trustees of the corporation.

(b) When a vacancy occurs in the board of trustees for any reason, the replacement shall be appointed for the unexpired term.

(c) A public trustee shall hold office for the term of appointment and until the trustee's successor has been appointed and qualified.

(d) A public trustee is eligible for reappointment but may not serve more than two full consecutive terms.

(6) (a) The governor shall select the chair of the corporation.

(b) The trustees shall elect from among their number a vice chair and other officers they may determine.

(7) (a) Five trustees of the corporation constitute a quorum for transaction of business.

(b) An affirmative vote of at least five trustees is necessary for any action to be taken by the corporation.

(c) A vacancy in the board of trustees ~~[may]~~ does not impair the right of a quorum to exercise all rights and perform all duties of the corporation.

(8) A trustee may not receive compensation or benefits for the trustee's service, but may receive per diem and travel expenses in accordance with:

- (a) Section 63A-3-106;
- (b) Section 63A-3-107; and

(c) rules made by the Division of Finance ~~[pursuant]~~ according to Sections 63A-3-106 and 63A-3-107.

Section 9. Section 63H-8-202, which is renumbered from Section 35A-8-705 is renumbered and amended to read:

[35A-8-705]. 63H-8-202. Corporation as continuation of agency.

The corporation is a continuation of the Utah Housing Finance Agency and shall:

(1) possess all rights, title, privileges, powers, immunities, property, and claims of the ~~[agency]~~ former Utah Housing Finance Agency; and

(2) fulfill and perform all obligations of the ~~[agency]~~ former Utah Housing Finance Agency, including ~~[all agency]~~ obligations relating to outstanding bonds and notes.

Section 10. Section 63H-8-203, which is renumbered from Section 35A-8-706 is renumbered and amended to read:

[35A-8-706]. 63H-8-203. President and chief executive officer -- Secretary-treasurer -- Powers and duties -- Power to employ experts -- Power to employ independent legal counsel.

(1) (a) (i) The trustees shall appoint a president who is the chief executive officer of the corporation~~], but who].~~

(ii) The president:

(A) may not be a trustee of the corporation~~], and who];~~

(B) serves at the pleasure of the trustees; and

(C) shall receive compensation as set by the trustees.

(b) The president, who shall also be the secretary-treasurer, shall:

(i) establish bank accounts and other monetary investments in the name of the corporation; and

(ii) administer, manage, and direct the affairs and activities of the corporation in accordance with the policies, control, and direction of the trustees.

(c) The president shall approve all accounts for salaries, allowable expenses of the corporation, or of any corporation employee or consultant, and expenses incidental to the operation of the corporation.

(d) The president shall perform any other duties as may be directed by the trustees in carrying out ~~[the purposes of this part]~~ this chapter.

(2) (a) The president shall:

(i) attend the meetings of the corporation;

(ii) keep a record of the proceedings of the corporation; and

(iii) maintain and be custodian of:

(A) books, documents, and papers filed with the corporation;

(B) the minute book or journal of the corporation; and

(C) the corporation's official seal.

(b) The president may cause copies to be made of minutes and other records and documents of the corporation and may give certificates under seal of the corporation to the effect that those copies are true copies, and a person dealing with the corporation may rely upon those certificates.

(3) (a) The corporation may employ or engage technical experts, independent professionals and consultants, and ~~[any]~~ other officers, agents, or employees, permanent or temporary, as it considers necessary to carry out the efficient operation of the corporation, and shall determine their qualifications, duties, and compensation.

(b) The trustees may delegate to one or more of the corporation's agents, representatives, or employees ~~[any]~~ administrative duties ~~[as they]~~ that the trustees consider proper.

(4) The corporation may employ and retain independent legal counsel.

Section 11. Section 63H-8-204, which is renumbered from Section 35A-8-707 is renumbered and amended to read:

[35A-8-707]. 63H-8-204. Relation to certain acts.

(1) The corporation is exempt from:

(a) Title 51, Chapter 5, Funds Consolidation Act;

(b) Title 51, Chapter 7, State Money Management Act;

(c) Title 63A, Utah Administrative Services Code;

(d) Title 63G, Chapter 6a, Utah Procurement Code;

(e) Title 63J, Chapter 1, Budgetary Procedures Act;

(f) Title 63J, Chapter 2, Revenue Procedures and Control Act; and

(g) Title 67, Chapter 19, Utah State Personnel Management Act.

(2) The corporation shall comply with:

(a) Title 52, Chapter 4, Open and Public Meetings Act; and

(b) Title 63G, Chapter 2, Government Records Access and Management Act.

Section 12. Section 63H-8-205, which is renumbered from Section 35A-8-708 is renumbered and amended to read:

[35A-8-708]. 63H-8-205. Disclosure of interest.

(1) A trustee, officer, or employee of the corporation who has, will have, or later acquires an interest, direct or indirect, in a transaction with the

corporation shall immediately disclose the nature and extent of that interest in writing to the corporation as soon as the trustee, officer, or employee has knowledge of the actual or prospective interest.

(2) (a) This disclosure shall be entered upon the minutes of the corporation.

(b) Upon the disclosure, that trustee, officer, or employee may participate in any action by the corporation authorizing the transaction.

Section 13. Section 63H-8-206, which is renumbered from Section 35A-8-709 is renumbered and amended to read:

[35A-8-709]. 63H-8-206. Officer or employee -- No forfeiture of office or employment.

Notwithstanding the provisions of any other law, no officer or employee of this state forfeits a state office or state employment by accepting an appointment or by serving as a trustee of the corporation.

Section 14. Section 63H-8-301, which is renumbered from Section 35A-8-711 is renumbered and amended to read:

Part 3. Corporation Duties and Powers

[35A-8-711]. 63H-8-301. Corporation -- Powers.

The corporation has and may exercise all powers necessary or appropriate to carry out the purposes of this [part] chapter, including:

(1) to have perpetual succession as a body politic and corporate, constituting a public corporation, and to adopt, amend, and repeal rules, policies, and procedures for the regulation of its affairs and the conduct of its business;

(2) to sue and be sued in its own name;

(3) to have an official seal and power to alter that seal at will;

(4) to maintain an office [at a place] within [this] the state at a place the corporation designates;

(5) to adopt, amend, and repeal bylaws and rules that are consistent with this [part] chapter to carry into effect the powers and purposes of the corporation and the conduct of its business;

(6) to make and execute contracts and other instruments necessary or convenient for the performance of its duties and the exercise of its powers and functions under this [part] chapter, including contracts or agreements for the servicing and originating of mortgage loans;

(7) to employ advisers, consultants, and agents, including financial experts, independent legal counsel, and other advisers, consultants, and agents as necessary in the corporation's judgment and to fix their compensation;

(8) to procure insurance in amounts and from insurers as determined by the corporation against any loss;

(a) in connection with its property and other assets, including mortgage loans [~~in amounts and from insurers it considers desirable~~]; and

(b) resulting from the failure of an officer, employee, or agent of the corporation in a position of public or private trust;

(9) to borrow money and to issue bonds and notes or other evidences of indebtedness as provided in this [part] chapter;

(10) to receive and accept aid or contributions from any source of money, property, labor, or other things of value to be held, used, loaned, granted, and applied to carry out the purposes of this [part] chapter subject to the conditions, if any, upon which the grants and contributions are made, including gifts or grants from a department, agency, or instrumentality of the United States or of this state for any purpose consistent with this [part] chapter;

(11) to enter into agreements with a local public body, a housing sponsor, a department, agency, or instrumentality of the United States, another state, or this state, or with mortgagors and mortgage lenders for the purpose of administering contracts that provide housing assistance payments, servicing mortgage loans, or planning and regulating and providing for the financing and refinancing, construction, rehabilitation, leasing, management, maintenance, operation, sale, or other disposition of [any] residential housing undertaken with the assistance of the corporation under this [part] chapter;

(12) to exercise all of its remedies following the default under a mortgage loan, including:

(a) proceeding with a foreclosure action or private sale to obtain title to the real and personal property held as collateral and taking assignments of leases and rentals;

(b) to own, lease, clear, reconstruct, rehabilitate, repair, maintain, manage, and operate this property in preparation for its disposition; and

(c) to assign, encumber, sell, or otherwise dispose of this property;

(13) to invest money not required for immediate disbursement, including money held in reserve, in a manner consistent with applicable provisions of Title 51, Chapter 7, State Money Management Act;

(14) to provide technical and financial assistance to housing sponsors and advisory committees in the development or operation of housing for low and moderate income persons;

(15) to gather and distribute data and information concerning the housing needs of low and moderate income families within the various communities of this state;

(16) to the extent permitted under a contract with the holders of bonds, notes, and other obligations of the corporation, to consent to a modification with respect to rate of interest, time and payment of an installment of principal or interest security, or other term of [any] a contract, mortgage, mortgage loan, mortgage loan commitment, contract, or

agreement of any kind to which the corporation is a party;

(17) to the extent permitted under a contract with the holders of bonds, notes, and other obligations of the corporation, to enter into contracts with a mortgagor or housing sponsor containing provisions enabling the mortgagor to reduce the rental or carrying charges to persons unable to pay the regular schedule of charges where, by reason of other income or payment by a department, agency, or instrumentality of the United States or of [this] the state, the reduction can be made without jeopardizing the economic stability of residential housing being financed;

(18) to acquire property within [this] the state for the purpose of holding it for subsequent disposition to a housing sponsor or other entity that can use it for residential housing for low and moderate income persons, except that if no person can be found to use it in this manner, the corporation may dispose of the property to any person;

(19) to purchase, own and operate residential housing for the benefit, in whole or in part, of low and moderate income persons, ~~[so long as]~~ if the corporation makes reasonable efforts to sell that residential housing to a housing sponsor;

(20) to incorporate or form one or more subsidiaries of the corporation for the purpose of carrying out any of the powers of the corporation and accomplishing any of the purposes of the corporation, to invest in and provide financial assistance to these subsidiaries, to borrow from these subsidiaries, to guarantee the obligations of these subsidiaries, and to enter into agreements with these subsidiaries to carry out any of the corporation's powers under this ~~[part]~~ chapter;

(21) to enter into partnership and limited liability company agreements, to purchase and sell interests in housing sponsors, to serve as general partner of a partnership, and to serve as a manager of a limited liability company to carry out any of the corporation's powers under this ~~[part]~~ chapter;

(22) to require that persons receiving a mortgage loan or financial assistance from the corporation subject the property involved to restrictive covenants that shall be considered to be running with the land, regardless of whether or not the corporation enjoys privity of estate or whether or not the covenant touches and concerns the burdened property;

(23) to enter into management agreements with a person or entity for the performance by the person or entity for the corporation of any of its functions or powers, with terms and conditions as may be mutually agreeable;

(24) to sell, at public or private sale, with or without public bidding, a mortgage loan or other obligation held by the corporation;

(25) to sell or convey real property owned by the corporation to low or moderate income persons and housing sponsors, without consideration if the sale or conveyance will inure primarily to the benefit of

low or moderate income persons living in a housing development;

(26) upon making a determination that the financial status of a housing development will jeopardize an economic interest of the corporation in the housing development, to assume managerial and financial control of the property or the owner and to supervise and prescribe the activities of the property or the owner in a manner and under terms and conditions as the corporation may stipulate in a contract;

(27) to supervise housing sponsors of housing developments;

(28) to service mortgage loans secured by property in Utah or another state;

(29) to give consideration to ~~[these]~~ activities ~~[which]~~ that promote the availability of accessible housing; and

(30) to do an act necessary or convenient to the exercise of the corporation's powers ~~[granted in or reasonably implied from this part]~~ under this chapter.

Section 15. Section 63H-8-302, which is renumbered from Section 35A-8-712 is renumbered and amended to read:

[35A-8-712]. 63H-8-302. Corporation -- Additional powers.

(1) To accomplish the declared purposes of this ~~[part]~~ chapter, the corporation has the following powers:

(a) to purchase mortgage loans originated by mortgage lenders or local public bodies made for the purpose of financing the construction, development, rehabilitation, refinancing, or purchase of residential housing for low and moderate income persons;

(b) to make mortgage loans and to provide financial assistance to housing sponsors for the purpose of financing the construction, development, rehabilitation, refinancing, or purchase of residential housing for low and moderate income persons;

(c) to make mortgage loans and provide financial assistance to housing sponsors for the purpose of financing the operations of a housing development that are necessary or desirable to enable the housing development to remain available as residential housing for low and moderate income persons, whether or not the housing development has been financed by the corporation;

(d) to provide financial assistance to any housing authority created under Title 35A, Chapter 8, Part 4, Housing Authorities, which housing authorities may enter into commitments for and accept loans for a housing project as defined in Section 35A-8-401; and

(e) to make mortgage loans and to provide financial assistance to low and moderate income persons for the construction, rehabilitation, refinancing, or purchase of residential housing.

(2) The corporation may issue bonds to purchase loans under Subsection (1)(a) only after a determination by the corporation that the loans are not otherwise available upon reasonably equivalent terms and conditions from private lenders.

(3) Loans for owner-occupied housing made under Subsection (1)(a) may not include a penalty for prepayment.

(4) The corporation shall make rules or adopt policies and procedures to govern the activities authorized under this section, including:

(a) procedures for the submission of requests or the invitation of proposals for the purchase and sale of mortgage loans and the making of mortgage loans;

(b) rates, fees, charges, and other terms and conditions of originating or servicing mortgage loans in order to protect against a realization of an excessive financial return or benefit by the originator or servicer;

(c) the type and amount of collateral, payment bonds, performance bonds, or other security to be provided for construction loans made by the corporation;

(d) the nature and amounts of fees to be charged by the corporation to provide for expenses and reserves of the corporation;

(e) procedures allowing the corporation to prohibit persons who fail to comply with the rules of the corporation with respect to the operations of a program of the corporation from participating, either directly or indirectly, in the programs of the corporation;

(f) the terms and conditions under which the corporation may purchase and make mortgage loans under each program of the corporation;

(g) the terms and conditions under which the corporation may provide financial assistance under each program of the corporation;

(h) the terms and conditions under which the corporation may guarantee mortgage loans under each program of the corporation; and

(i) any other matters related to the duties or exercise of powers under this section.

(5) (a) (i) The trustees of the corporation shall elect the directors, trustees, and members, if any, of each subsidiary.

(ii) Service by a trustee of the corporation in any of these capacities does not constitute a conflict of interest for any purpose.

(iii) The corporation may delegate any of its powers and duties under this [part] chapter to any subsidiary.

(iv) Subsidiaries shall constitute legal entities separate and distinct from each other, the corporation, and the state.

(b) A note, bond, and other obligation of a subsidiary shall contain on its face a statement to the effect that:

(i) the subsidiary is obligated to pay the note, bond, or other obligation solely from the revenues or other funds of the subsidiary;

(ii) neither the corporation, nor the state, nor any of its political subdivisions is obligated to pay the note, bond, or other obligation; and

(iii) neither the faith and credit nor the taxing power of the state or its political subdivisions is pledged to the payment of principal, ~~or~~ the redemption price of, or the interest on, the note, bond, or other obligation.

(c) Upon dissolution of a subsidiary of the corporation, any assets shall revert to the corporation or to a successor to the corporation or, failing this succession, to the state.

(6) (a) The corporation may:

(i) enter into interest rate contracts that its trustees determine are necessary, convenient, or appropriate for the control or management of debt or for the cost of servicing debt; and

(ii) use corporation funds to satisfy its payment obligations under those contracts.

(b) An interest rate contract may contain payment, security, default, termination, remedy, and other terms and conditions that the trustees consider appropriate.

(c) An interest rate contract and funds used in connection with an interest rate contract may not be considered a deposit or investment.

Section 16. Section 63H-8-303, which is renumbered from Section 35A-8-713 is renumbered and amended to read:

[35A-8-713]. 63H-8-303. Power to issue mortgage credit certificates -- Impact of federal legislation on tax exempt status of corporation bonds.

(1) In order to accomplish the purposes of this [part] chapter the corporation may issue mortgage credit certificates under 26 U.S.C. Sec. [143] 25, as amended, ~~[and the regulations issued under the code]~~ and has the sole responsibility for issuing or approving the issuance of mortgage credit certificates allowable to the state.

(2) A power granted to the corporation by this [part] chapter may not be diminished by the enactment of federal legislation that would cause the interest on bonds, notes, or other obligations of the corporation to be subject to taxation under federal law.

(3) An exemption from state taxation granted in this [part] chapter is not affected by federal legislation described under Subsection (2).

Section 17. Section 63H-8-304, which is renumbered from Section 35A-8-714 is renumbered and amended to read:

[35A-8-714]. 63H-8-304. Power to borrow money and make loans -- Issuance of notes and bonds -- Mortgage backed securities.

(1) The corporation has the power to borrow money and to issue its notes, bonds, and other obligations in [such] principal amounts as the corporation determines is necessary to provide sufficient money for:

(a) the purchase of mortgage loans from mortgage lenders;

(b) the making of construction loans;

(c) the making of loans to housing authorities;

(d) the payment of interest on bonds, notes, and other obligations of the corporation;

(e) the establishment of reserves to secure the bonds, notes, and other obligations;

(f) the making of mortgage loans;

(g) the making of loans to mortgage lenders or other lending institutions with respect to multifamily residential rental housing under terms and conditions requiring the proceeds of these loans to be used by these mortgage lenders or other lending institutions for the making of loans for new multifamily residential rental housing or the acquisition or rehabilitation of existing multifamily residential rental housing;

(h) the making of loans for the rehabilitation of residential housing; and

(i) all other expenditures of the corporation [~~incident to and~~] necessary or convenient to carry out its purposes and powers.

(2) (a) The corporation may issue notes to renew notes and bonds to pay notes, including interest, and whenever it considers refunding expedient, to refund any bonds by the issuance of new bonds, whether the bonds to be refunded have or have not matured, and to issue bonds partly to refund bonds then outstanding and partly for any of its corporate purposes.

(b) The refunding bonds may be:

(i) sold and the proceeds applied to the purchase, redemption, or payment of the bonds to be refunded; or

(ii) exchanged for the bonds to be refunded.

(3) (a) Except as otherwise expressly provided by the corporation, every issue of the corporation's notes or bonds are general obligations of the corporation payable solely by money of the corporation, subject only to any agreements with the holders of particular notes or bonds pledging any particular money.

(b) These bonds or notes may be additionally secured by a pledge of:

(i) a grant or contribution from the federal government or a corporation, association, institution, or person; or

(ii) money, income, or revenues of the corporation from any source.

(4) (a) The notes and bonds shall be authorized by resolution or resolutions of the corporation, shall bear the date or dates, and shall mature at the time or times as the resolution or resolutions may provide, except that no note, including any renewals thereof, shall mature more than five years from the date of its original issue, and no bond shall mature more than 50 years from the date of its issue, as provided by the resolution.

(b) The notes and bonds shall bear interest at the rate or rates, including variations in the rates, be in denominations, be in a form, either coupon or registered, carry the registration privileges, be executed in the manner, be payable in a medium of payment, at the place or places, and be subject to the terms of redemption, including redemption prior to maturity, as provided by the resolution.

(c) The notes and bonds of the corporation may be sold by the corporation at public or private sale, and at the price or prices determined by the corporation.

(d) (i) The notes and bonds may bear interest at a variable interest rate as provided by the resolution.

(ii) The resolution may establish a method, formula, or index by which the interest rate on the notes and bonds is determined.

(iii) The resolution may delegate to one or more officers of the corporation the authority to:

(A) approve the final interest rates or prices, principal amount, maturities, redemption features, or other terms of the notes or bonds; and

(B) approve and execute all documents relating to the issuance of the notes or bonds.

(e) In connection with the notes and bonds, the corporation may authorize and enter into agreements or other arrangements with financial, banking, and other institutions for letters of credit, standby letters of credit, surety bonds, reimbursement agreements, remarketing agreements, indexing agreements, tender agent agreements, and other agreements with respect to:

(i) securing the notes and bonds;

(ii) enhancing the marketability and credit worthiness of the notes and bonds;

(iii) determining a variable interest rate on the notes and bonds; and

(iv) paying from any legally available source, which may include the proceeds of the notes and bonds, fees, charges, and other amounts coming due with respect to these agreements.

(5) A resolution authorizing [any] notes or bonds or their issue may contain provisions, which are a part of the contract or contracts with their holders, as to:

(a) pledging all or ~~any~~ part of the revenues to secure the payment of the notes or bonds or of any issue of the notes or bonds, subject to the agreements with noteholders or bondholders as may then exist;

(b) pledging all or ~~any~~ part of the assets of the corporation, including mortgages and obligations securing the assets, to secure the payment of the notes or bonds or of any issue of notes or bonds, subject to the agreements with noteholders or bondholders as may then exist;

(c) the use and disposition of the gross income from mortgages owned by the corporation and payment of principal of mortgages owned by the corporation;

(d) the setting aside of reserves or sinking funds and their regulation and disposition;

(e) limitations on the purpose to which the proceeds of sale of notes or bonds may be applied and pledging the proceeds to secure the payment of the notes or bonds or of their issue;

(f) limitations on the issuance of additional notes or bonds, including:

(i) the terms upon which additional notes or bonds may be issued and secured; and

(ii) the refunding of outstanding or other notes or bonds;

(g) the procedure, if any, by which the terms of a contract with noteholders or bondholders may be amended or abrogated, the amount of notes or bonds to which the holders must consent, and the manner in which the consent may be given;

(h) limitations on the amount of money to be expended by the corporation for operating expenses of the corporation;

(i) vesting in a trustee or trustees the property, rights, powers, and duties in trust as determined by the corporation, which may include any or all of the rights, powers, and duties of the trustee appointed by the noteholders or bondholders under this ~~aet~~ chapter and limiting or abrogating the right of noteholders or bondholders to appoint a trustee under this ~~aet~~ chapter or limiting the rights, powers, and duties of the trustee;

(j) (i) defining the acts or omissions to act that constitute a default in the obligations and duties of the corporation to the holders of the notes or bonds and providing for the rights and remedies of the holders of the notes or bonds in the event of default, including as a matter of right the appointment of a receiver;

(ii) but the rights and remedies may not be inconsistent with the general laws of the state and other provisions of this ~~part~~ chapter; or

(k) any other matters, of like or different character, which in any way affect the security or protection of the holders of the notes or bonds.

(6) (a) A pledge made by the corporation is valid, enforceable, and binding from the time when the

pledge is made and has a lien priority based on the time of grant or, if more than one lien is granted at a given time, as set forth in the resolution or instrument under which the pledge is made.

(b) (i) The revenues, money, or property pledged and then received by the corporation are immediately subject to the lien of the pledge and constitute a perfected lien without any physical delivery or further act.

(ii) The lien of the pledge is valid and binding against all parties having claims of any kind in tort, contract, or otherwise against the corporation, irrespective of whether the parties have notice of the lien.

(c) Neither the resolution nor any other instrument by which a pledge is created need be recorded.

(d) Notwithstanding the provisions of Title 70A, Chapter 9a, Uniform Commercial Code - Secured Transactions, the corporation shall comply with the provisions of Title 11, Chapter 14, Part 5, Governmental Security Interests for the creation, perfection, priority, and enforcement of a security interest created by the corporation.

(7) The corporation, subject to the agreements with noteholders or bondholders as may then exist, has power to use available money to purchase notes or bonds of the corporation, which shall immediately be cancelled unless held for resale, at a price not exceeding:

(a) if the notes or bonds are redeemable at the time of the purchase, the applicable redemption price plus accrued interest to the next interest payment on the notes or bonds; or

(b) if the notes or bonds are not redeemable at the time of the purchase, the redemption price applicable on the first date after the purchase that the notes or bonds are subject to redemption plus accrued interest to that date.

(8) (a) The notes and bonds shall be secured by a trust indenture by and between the corporation and a corporate trustee, which may be a bank having the power of a trust company or a trust company within or without the state.

(b) The trust indenture may contain provisions for protecting and enforcing the rights and remedies of the noteholders or bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the corporation in relation to the exercise of its corporate powers and the custody, safeguarding, and application of all money.

(c) The corporation may provide by the trust indenture for the payment of the proceeds of the notes or bonds and the revenues to the trustee under the trust indenture or other depository, and for the method of their disbursement, with any safeguards and restrictions as it may determine.

(d) All expenses incurred in carrying out the trust indenture may be treated as a part of the operating expenses of the corporation.

(e) If the notes or bonds are secured by a trust indenture, the noteholders or bondholders may not have authority to appoint a separate trustee to represent them.

(9) Whether or not the notes and bonds are of the form and character as to be negotiable instruments under the terms of the Uniform Commercial Code, the notes and bonds are negotiable instruments within the meaning of and for all the purposes of the Uniform Commercial Code, subject only to the provisions of the notes and bonds relating to registration.

(10) In the event that any of the trustees or officers of the corporation cease to be trustees or officers of the corporation prior to the delivery of any notes or bonds or coupons signed by ~~them, their~~ the trustees or officers, signatures or facsimiles of ~~their~~ trustees or officers signatures are valid and sufficient for all purposes, the same as if the trustees or officers had remained in office until the delivery.

(11) A trustee or officer of the corporation ~~or a person~~ executing the notes or bonds issued under this chapter is not subject to personal liability or accountability by reason of the issuance of the notes or bonds.

(12) The corporation may provide for the replacement of lost, destroyed, or mutilated bonds or notes.

(13) The corporation may sell mortgage loans it has purchased or made for cash or it may exchange mortgage loans for mortgage-backed securities and sell the mortgage-backed securities for cash.

Section 18. Section 63H-8-401, which is renumbered from Section 35A-8-716 is renumbered and amended to read:

Part 4. Corporation Assets and Obligations

[35A-8-716]. 63H-8-401. Corporation money -- Depositing and paying out -- Power to contract with holders of notes and bonds -- Money held in trust.

(1) (a) All money of the corporation, except as otherwise authorized or provided in this ~~part~~ chapter, shall be deposited as soon as practicable in a separate account or accounts in banks or trust companies organized under ~~the laws of the state or national banking association~~ state or federal laws.

(b) The money in these accounts shall be paid out on checks or drafts signed by the president or other officers or employees of the corporation or transferred electronically as authorized by the corporation.

(c) All deposits of money shall, if required by the corporation, be secured in a manner as the corporation determines to be prudent, and banks and trust companies are authorized to give security for the deposits.

(2) (a) Notwithstanding the provisions of this section, the corporation may contract with the holders of ~~any of~~ its notes or bonds as to the

custody, collection, securing, investment, and payment of any money of the corporation and of any money held in trust or otherwise for the payment of notes or bonds, and to carry out that contract.

(b) Money held in trust or otherwise for the payment of notes or bonds or in any way to secure notes or bonds and deposits of money may be secured in the same manner as money of the corporation, and banks and trust companies may give security for the deposits.

Section 19. Section 63H-8-402, which is renumbered from Section 35A-8-717 is renumbered and amended to read:

[35A-8-717]. 63H-8-402. State pledge to holders of notes or bonds.

(1) The state pledges and agrees with the holders of ~~any~~ notes or bonds issued under this ~~aet~~ chapter that the state will not limit or alter the rights hereby vested in the corporation to fulfill the terms of ~~any~~ agreements made with the holders of the notes or bonds or in any way impair the rights and remedies of the holders until the notes and bonds, together with their interest, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of the holders, are fully met and discharged.

(2) The corporation may include this pledge and agreement of the state in any agreement with the holders of the notes or bonds.

Section 20. Section 63H-8-403, which is renumbered from Section 35A-8-718 is renumbered and amended to read:

[35A-8-718]. 63H-8-403. Notes, bonds, other obligations -- Not a debt liability -- Expenses payable from funds provided -- Corporation without authority to incur liability on behalf of state -- Relationship to Governmental Immunity Act of Utah.

(1) (a) (i) Notes, bonds, and other obligations issued under this ~~part~~ chapter are not a debt or liability of ~~this~~ the state or of a county, city, town, school district, or other political subdivision of the state.

(ii) The notes, bonds, or other obligations do not constitute the loaning of credit of the state or of a county, city, town, school district, or other political subdivision of the state.

(iii) The notes, bonds, or other obligations are not payable from money other than that of the corporation.

(b) All notes, bonds, or other obligations shall contain on their face a statement to the effect that:

(i) the corporation shall pay the note, bond, or obligation solely from the revenues or other money of the corporation;

(ii) neither ~~this~~ the state nor any of its political subdivisions are obligated to pay the note, bond, or obligation; and

(iii) neither the faith and credit nor the taxing power of ~~this~~ the state or any of its political

subdivisions are pledged to the payment of principal, [ø] redemption price of, or the interest on, the notes, bonds, or other obligations.

(2) All expenses incurred in carrying out this [part] chapter are payable solely from funds provided under this [part] chapter, and nothing in this [part] chapter authorizes the corporation to incur indebtedness or liability on behalf of or payable by [this] the state or any of its political subdivisions.

(3) (a) Title 63G, Chapter 7, Governmental Immunity Act of Utah, applies to the corporation.

(b) Notwithstanding Subsection (3)(a), a claim may not be brought against the state, [any] a public official or employee of the state, another public entity, or [any] a public official or employee of another public entity, based on or arising from:

(i) a failure to fulfill a contractual obligation of the corporation;

(ii) an act or failure to act by the corporation or its trustees, officers, employees, agents, or representatives; or

(iii) failure of the corporation to comply with the requirements of any law or regulation.

(c) The provisions of Subsection (3)(b) do not apply to a claim of a current or former officer or employee of the corporation for retirement or insurance benefits.

Section 21. Section 63H-8-404, which is renumbered from Section 35A-8-719 is renumbered and amended to read:

[35A-8-719]. 63H-8-404. Corporation property, notes, and bonds -- Tax exemption except corporate franchise tax.

(1) Property acquired or held by the corporation under this [part] chapter is declared to be public property used for essential public and governmental purposes.

(2) The property, its income, and notes and bonds issued under this [part] chapter, the interest payable on the notes and bonds, and income derived from the notes and bonds are exempt from taxation of every kind by the state, a county, a municipality, and any other political subdivision of the state, except for the corporate franchise tax.

Section 22. Section 63H-8-405, which is renumbered from Section 35A-8-720 is renumbered and amended to read:

[35A-8-720]. 63H-8-405. Corporation notes, bonds, obligations -- Legal investments.

(1) The notes, bonds, and other obligations issued under the authority of this [part] chapter are securities in which all public officers and public bodies of the state and its political subdivisions, all banks, bankers, savings banks, trust companies, credit unions, savings and loan associations, building and loan associations, investment companies, and other persons carrying on a

banking business, all insurance companies and insurance associations, and others carrying on an insurance business, and all administrators, executors, guardians, trustees, and other fiduciaries, pension, profit-sharing and retirement funds, and all other persons who may now or may later be authorized to invest in notes, bonds, or other obligations of the state, may properly and legally invest any funds, including capital belonging to them or within their control.

(2) These notes, bonds, and other obligations are securities that may properly and legally be deposited with and received by any state, county, or municipal officer, or agency of the state for any purpose for which the deposit of notes, bonds, or other obligations of the state is now or may later be authorized by law.

Section 23. Section 63H-8-406, which is renumbered from Section 35A-8-721 is renumbered and amended to read:

[35A-8-721]. 63H-8-406. Annual report to governor and Legislature -- Contents -- Audits.

(1) (a) The corporation shall, following the close of each fiscal year, submit, by October 1, an annual written report of its activities for the preceding year to the governor and the Retirement and Independent Entities Interim Committee.

(b) Each report shall set forth a complete operating and financial statement of the corporation during the fiscal year it covers.

(c) At least once each year, an independent certified public accountant shall audit the books and accounts of the corporation.

(d) A complete copy of each annual audit report shall be:

(i) included in the report to the governor and the Legislature under Subsection (2); [and]

(ii) available for public inspection at the corporation's office[-]; and

(iii) made available to the public on the corporation's website.

(2) The corporation shall, each fiscal year, submit a budget of its operations to the Legislature and the governor.

(3) (a) The corporation shall form an audit committee consisting of no less than three trustees.

(b) The audit committee has exclusive authority to:

(i) select and engage the independent certified public accountant to audit the corporation; and

(ii) supervise the audit.

(4) The corporation shall provide additional information upon request by the governor, the Legislature, a legislative committee, the legislative auditor general, or the state auditor.

Section 24. Section 63H-8-407, which is renumbered from Section 35A-8-722 is renumbered and amended to read:

[35A-8-722]. 63H-8-407. Act not restriction on powers of corporation -- Construed as alternative -- Bonds, notes, obligations issued need not comply with other laws.

(1) (a) This [part] chapter and its contents are not a restriction or limitation upon other powers that the corporation has under other laws of [this] the state.

(b) This [part] chapter is cumulative to the powers referenced in Subsection (1)(a).

(2) This [part] chapter provides a complete, additional, and alternative method for doing the things authorized in this [part] chapter and is supplemental and additional to powers conferred by other laws.

(3) The issuance of bonds, notes, and other obligations under this [part] chapter need not comply with the requirements of any other state law applicable to the issuance of bonds, notes, and other obligations.

(4) Proceedings, notice, or approval are not required for the issuance of [any] bonds, notes, and other obligations or [any] an instrument as security for them, except as provided in this [part] chapter.

Section 25. Section 63H-8-408, which is renumbered from Section 35A-8-723 is renumbered and amended to read:

[35A-8-723]. 63H-8-408. Allocation to corporation of mortgage bonds qualified under Internal Revenue Code.

(1) The entire amount of qualified mortgage bonds allowable to Utah under 26 U.S.C. Sec. 143, and the regulations issued under the code, is allocated to the Utah Housing Corporation which, for purposes of 26 U.S.C. Sec. 143 and the regulations under that section, has sole responsibility for issuing or approving the issuance of qualified mortgage bonds allowable to Utah.

(2) The corporation is not required to issue or approve the issuance of qualified mortgage bonds equal in amount to the amount allowed Utah.

(3) Housing authorities in counties, cities, and towns in Utah may apply under 26 U.S.C. Sec. 143 to the corporation for funding of housing programs within their respective jurisdictions.

Section 26. Section 63H-8-409, which is renumbered from Section 35A-8-724 is renumbered and amended to read:

[35A-8-724]. 63H-8-409. Allocation of qualified mortgage bonds to counties, cities, and towns.

(1) (a) The corporation may allocate all or part of the amount to one or more counties, cities, and towns within the state or to any authority or agency of any entity that is authorized to issue qualified mortgage bonds.

(b) An allocation may not be made under this section unless:

(i) the entity applies to the corporation for an allocation; and

(ii) the corporation finds that the proposed allocation would be in the best interest of the state.

(c) The corporation shall take the following factors into consideration before making its finding:

(i) the number of "low and moderate income persons," within the meaning of the Utah Housing Corporation Act, within a given area;

(ii) the likelihood that the proposed issuing entity would use the allocation to issue qualified mortgage bonds in a timely manner;

(iii) the cost to the proposed issuing entity to issue the bonds relative to the cost to the corporation to issue the bonds;

(iv) any special costs or benefits which would result from the issuance of the bonds by the proposed issuing entity;

(v) the capability of the proposed issuing entity to administer an issuance of qualified mortgage bonds;

(vi) the needs of the proposed issuing entity relative to the needs of other counties, cities, and towns;

(vii) the effects of the proposed allocation on counties, cities, and towns which are not served by the proposed issuing entity; and

(viii) any other factors the corporation considers relevant to a determination of what is in the best interest of [Utah] the state with regard to single family housing.

(2) (a) The corporation shall specify the time within which an issuing entity shall use the allocation.

(b) Any part of the allocation which is not used within the time prescribed automatically terminates.

(c) The corporation may extend the time initially prescribed for use of the allocation.

Section 27. Section 63H-8-410, which is renumbered from Section 35A-8-725 is renumbered and amended to read:

[35A-8-725]. 63H-8-410. Low-income housing tax credits.

(1) The corporation is designated the "Housing Credit Agency" for the state within the meaning of 26 U.S.C. Sec. 42(h) and for the purposes of carrying out 26 U.S.C. Sec. 42 and [any] regulations promulgated under that section.

(2) The entire state housing credit ceiling for each calendar year is allocated to the corporation.

(3) The allocation of the state housing credit ceiling shall be made under the state's qualified allocation plan within the meaning of 26 U.S.C. Sec. 42(m), as amended, and as provided in Subsection (4).

(4) The corporation may amend the state's qualified allocation plan as necessary to comply with revisions to the low-income housing tax credit program under 26 U.S.C. Sec. 42, or as may be necessary to further the goals and purposes of the low-income housing tax credit program for the state.

(5) The corporation, or a subsidiary of the corporation, may have a direct or indirect ownership interest in, and may materially participate in the operation and management of, a housing development or program that has received an allocation of the state housing credit ceiling.

Section 28. Section 63H-8-411, which is renumbered from Section 35A-8-726 is renumbered and amended to read:

[35A-8-726]. 63H-8-411. Asset disposition upon dissolution of corporation.

Upon dissolution of the corporation:

(1) all liabilities and obligations of the corporation, including obligations to bondholders, shall be paid, satisfied, discharged, or adequately provided for; and

(2) all remaining money, property, rights, claims, and interests of the corporation shall revert or be conveyed to the state.

Section 29. Section 63I-1-235 is amended to read:

63I-1-235. Repeal dates, Title 35A.

(1) Title 35A, Utah Workforce Services Code, is repealed July 1, 2015.

~~[(2) Title 35A, Chapter 8, Part 7, Utah Housing Corporation Act, is repealed July 1, 2016.]~~

~~[(3) (2) Title 35A, Chapter 8, Part 18, Transitional Housing and Community Development Advisory Council, is repealed July 1, 2014.~~

~~[(4) (3) Title 35A, Chapter 11, Women in the Economy Commission Act, is repealed July 1, 2016.~~

Section 30. Section 63I-1-263 is amended to read:

63I-1-263. Repeal dates, Titles 63A to 63M.

(1) Section 63A-4-204, authorizing the Risk Management Fund to provide coverage to any public school district which chooses to participate, is repealed July 1, 2016.

(2) Subsection 63A-5-104(4)(h) is repealed on July 1, 2024.

(3) Section 63A-5-603, State Facility Energy Efficiency Fund, is repealed July 1, 2016.

(4) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July 1, 2018.

(5) Title 63C, Chapter 14, Federal Funds Commission, is repealed July 1, 2018.

(6) Title 63C, Chapter 15, Prison Relocation Commission, is repealed July 1, 2017.

(7) Subsection 63G-6a-1402(7) authorizing certain transportation agencies to award a contract for a design-build transportation project in certain circumstances, is repealed July 1, 2015.

(8) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1, 2020.

(9) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1, 2016.

~~[(9)] (10) The Resource Development Coordinating Committee, created in Section 63J-4-501, is repealed July 1, 2015.~~

~~[(10)] (11) Title 63M, Chapter 1, Part 4, Enterprise Zone Act, is repealed July 1, 2018.~~

~~[(11)] (12) (a) Title 63M, Chapter 1, Part 11, Recycling Market Development Zone Act, is repealed January 1, 2021.~~

(b) Subject to Subsection ~~[(11)] (12)~~(c), Sections 59-7-610 and 59-10-1007 regarding tax credits for certain persons in recycling market development zones, are repealed for taxable years beginning on or after January 1, 2021.

(c) A person may not claim a tax credit under Section 59-7-610 or 59-10-1007:

(i) for the purchase price of machinery or equipment described in Section 59-7-610 or 59-10-1007, if the machinery or equipment is purchased on or after January 1, 2021; or

(ii) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), if the expenditure is made on or after January 1, 2021.

(d) Notwithstanding Subsections ~~[(11)] (12)~~(b) and (c), a person may carry forward a tax credit in accordance with Section 59-7-610 or 59-10-1007 if:

(i) the person is entitled to a tax credit under Section 59-7-610 or 59-10-1007; and

(ii) (A) for the purchase price of machinery or equipment described in Section 59-7-610 or 59-10-1007, the machinery or equipment is purchased on or before December 31, 2020; or

(B) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), the expenditure is made on or before December 31, 2020.

~~[(12)] (13) Section 63M-1-3412 is repealed on July 1, 2021.~~

~~[(13)] (14) (a) Section 63M-1-2507, Health Care Compact is repealed on July 1, 2014.~~

(b) (i) The Legislature shall, before reauthorizing the Health Care Compact:

(A) direct the Health System Reform Task Force to evaluate the issues listed in Subsection ~~[(13)] (14)~~(b)(ii), and by January 1, 2013, develop and recommend criteria for the Legislature to use to negotiate the terms of the Health Care Compact; and

(B) prior to July 1, 2014, seek amendments to the Health Care Compact among the member states

that the Legislature determines are appropriate after considering the recommendations of the Health System Reform Task Force.

(ii) The Health System Reform Task Force shall evaluate and develop criteria for the Legislature regarding:

(A) the impact of the Supreme Court ruling on the Affordable Care Act;

(B) whether Utah is likely to be required to implement any part of the Affordable Care Act prior to negotiating the compact with the federal government, such as Medicaid expansion in 2014;

(C) whether the compact's current funding formula, based on adjusted 2010 state expenditures, is the best formula for Utah and other state compact members to use for establishing the block grants from the federal government;

(D) whether the compact's calculation of current year inflation adjustment factor, without consideration of the regional medical inflation rate in the current year, is adequate to protect the state from increased costs associated with administering a state based Medicaid and a state based Medicare program;

(E) whether the state has the flexibility it needs under the compact to implement and fund state based initiatives, or whether the compact requires uniformity across member states that does not benefit Utah;

(F) whether the state has the option under the compact to refuse to take over the federal Medicare program;

(G) whether a state based Medicare program would provide better benefits to the elderly and disabled citizens of the state than a federally run Medicare program;

(H) whether the state has the infrastructure necessary to implement and administer a better state based Medicare program;

(I) whether the compact appropriately delegates policy decisions between the legislative and executive branches of government regarding the development and implementation of the compact with other states and the federal government; and

(J) the impact on public health activities, including communicable disease surveillance and epidemiology.

[44] (15) (a) Title 63M, Chapter 1, Part 35, Utah Small Business Jobs Act, is repealed January 1, 2021.

(b) Section 59-9-107 regarding tax credits against premium taxes is repealed for calendar years beginning on or after January 1, 2021.

(c) Notwithstanding Subsection [44] (15)(b), an entity may carry forward a tax credit in accordance with Section 59-9-107 if:

(i) the person is entitled to a tax credit under Section 59-9-107 on or before December 31, 2020; and

(ii) the qualified equity investment that is the basis of the tax credit is certified under Section 63M-1-3503 on or before December 31, 2023.

[45] (16) The Crime Victim Reparations and Assistance Board, created in Section 63M-7-504, is repealed July 1, 2017.

[46] (17) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2017.

Section 31. Section 63I-4a-102 is amended to read:

63I-4a-102. Definitions.

(1) (a) "Activity" means to provide a good or service.

(b) "Activity" includes to:

(i) manufacture a good or service;

(ii) process a good or service;

(iii) sell a good or service;

(iv) offer for sale a good or service;

(v) rent a good or service;

(vi) lease a good or service;

(vii) deliver a good or service;

(viii) distribute a good or service; or

(ix) advertise a good or service.

(2) (a) Except as provided in Subsection (2)(b), "agency" means:

(i) the state; or

(ii) an entity of the state including a department, office, division, authority, commission, or board.

(b) "Agency" does not include:

(i) the Legislature;

(ii) an entity or agency of the Legislature;

(iii) the state auditor;

(iv) the state treasurer;

(v) the Office of the Attorney General;

(vi) the Utah Dairy Commission created in [Title 4, Chapter 22, Dairy Promotion Act] Section 4-22-2;

(vii) the Utah Science Center Authority created in [Title 63H, Chapter 3, Utah Science Center Authority] Section 63H-3-103;

(viii) the Heber Valley Railroad Authority created in [Title 63H, Chapter 4, Heber Valley Historic Railroad Authority] Section 63H-4-102;

(ix) the Utah State Railroad Museum Authority created in [Title 63H, Chapter 5, Utah State Railroad Museum Authority] Section 63H-5-102;

(x) the Utah Housing Corporation created in [Title 35A, Chapter 8, Part 7, Utah Housing Corporation Act] Section 63H-8-201;

(xi) the Utah State Fair Corporation created in [~~Title 63H, Chapter 6, Utah State Fair Corporation Act~~] Section 63H-6-103;

(xii) the Workers' Compensation Fund created in [~~Title 31A, Chapter 33, Workers' Compensation Fund~~] Section 31A-33-102;

(xiii) the Utah State Retirement Office created in [~~Title 49, Chapter 11, Utah State Retirement Systems Administration~~] Section 49-11-201;

(xiv) a charter school chartered by the State Charter School Board or a board of trustees of a higher education institution under Title 53A, Chapter 1a, Part 5, The Utah Charter Schools Act;

(xv) the Utah Schools for the Deaf and the Blind created in Title 53A, Chapter 25b, Utah Schools for the Deaf and the Blind;

(xvi) an institution of higher education as defined in Section 53B-3-102;

(xvii) the School and Institutional Trust Lands Administration created in [~~Title 53C, Chapter 1, Part 2, School and Institutional Trust Lands Administration~~] Section 53C-1-201;

(xviii) the Utah Communications Authority created in [~~Title 63H, Chapter 7, Utah Communications Authority Act~~] Section 63H-7-201; or

(xix) the Utah Capital Investment Corporation created in [~~Title 63M, Chapter 1, Part 12, Utah Venture Capital Enhancement Act~~] Section 63M-1-1207.

(3) "Agency head" means the chief administrative officer of an agency.

(4) "Board" means the Free Market Protection and Privatization Board created in Section 63I-4a-202.

(5) "Commercial activity" means to engage in an activity that can be obtained in whole or in part from a private enterprise.

(6) "Local entity" means:

(a) a political subdivision of the state, including a:

(i) county;

(ii) city;

(iii) town;

(iv) local school district;

(v) local district; or

(vi) special service district;

(b) an agency of an entity described in this Subsection (6), including a department, office, division, authority, commission, or board; or

(c) an entity created by an interlocal cooperative agreement under Title 11, Chapter 13, Interlocal Cooperation Act, between two or more entities described in this Subsection (6).

(7) "Private enterprise" means a person that engages in an activity for profit.

(8) "Privatize" means that an activity engaged in by an agency is transferred so that a private enterprise engages in the activity, including a transfer by:

(a) contract;

(b) transfer of property; or

(c) another arrangement.

(9) "Special district" means:

(a) a local district, as defined in Section 17B-1-102;

(b) a special service district, as defined in Section 17D-1-102; or

(c) a conservation district, as defined in Section 17D-3-102.

Section 32. Section 63J-7-102 is amended to read:

63J-7-102. Scope and applicability of chapter.

(1) Except as provided in Subsection (2), and except as otherwise provided by a statute superseding provisions of this chapter by explicit reference to this chapter, the provisions of this chapter apply to each agency and govern each grant received on or after May 5, 2008.

(2) This chapter does not govern:

(a) a grant deposited into a General Fund restricted account;

(b) a grant deposited into a Trust and Agency Fund as defined in Section 51-5-4;

(c) a grant deposited into an Enterprise Fund as defined in Section 51-5-4;

(d) a grant made to the state without a restriction or other designated purpose that is deposited into the General Fund as free revenue;

(e) a grant made to the state that is restricted only to "education" and that is deposited into the Education Fund or Uniform School Fund as free revenue;

(f) in-kind donations;

(g) a tax, fees, penalty, fine, surcharge, money judgment, or other money due the state when required by state law or application of state law;

(h) a contribution made under Title 59, Chapter 10, Part 13, Individual Income Tax Contribution Act;

(i) a grant received by an agency from another agency or political subdivision;

(j) a grant to the Utah Dairy Commission created in [~~Title 4, Chapter 22, Dairy Promotion Act~~] Section 4-22-2;

(k) a grant to the Utah Science Center Authority created in [~~Title 63H, Chapter 3, Utah Science Center Authority~~] Section 63H-3-103;

(l) a grant to the Heber Valley Railroad Authority created in [~~Title 63H, Chapter 4, Heber Valley Historic Railroad Authority~~] Section 63H-4-102;

(m) a grant to the Utah State Railroad Museum Authority created in [~~Title 63H, Chapter 5, Utah State Railroad Museum Authority~~] Section 63H-5-102;

(n) a grant to the Utah Housing Corporation created in [~~Title 35A, Chapter 8, Part 7, Utah Housing Corporation Act~~] Section 63H-8-201;

(o) a grant to the Utah State Fair Corporation created in [~~Title 63H, Chapter 6, Utah State Fair Corporation Act~~] Section 63H-6-103;

(p) a grant to the Workers' Compensation Fund created in [~~Title 31A, Chapter 33, Workers' Compensation Fund~~] Section 31A-33-102;

(q) a grant to the Utah State Retirement Office created in [~~Title 49, Chapter 11, Utah State Retirement Systems Administration~~] Section 49-11-201;

(r) a grant to the School and Institutional Trust Lands Administration created in [~~Title 53C, Chapter 1, Part 2, School and Institutional Trust Lands Administration~~] Section 53C-1-201;

(s) a grant to the Utah Communications Authority created in [~~Title 63H, Chapter 7, Utah Communications Authority Act~~] Section 63H-7-201;

(t) a grant to the Medical Education Program created in Section 53B-24-202;

(u) a grant to the Utah Capital Investment Corporation created in [~~Title 63M, Chapter 1, Part 12, Utah Venture Capital Enhancement Act~~] Section 63M-1-1207;

(v) a grant to the Utah Charter School Finance Authority created in Section 53A-20b-103;

(w) a grant to the State Building Ownership Authority created in Section 63B-1-304;

(x) a grant to the Utah Comprehensive Health Insurance Pool created in Section 31A-29-104; or

(y) a grant to the Military Installation Development Authority created in Section 63H-1-201.

(3) An agency need not seek legislative review or approval of grants under Part 2, Grant Approval Requirements, if:

(a) the governor has declared a state of emergency; and

(b) the grant is donated to the agency to assist victims of the state of emergency under Subsection 53-2a-204(1).

Section 33. Repealer.

This bill repeals:

Section 35A-8-710, Surety bond required.

Section 35A-8-715, Capital reserve funds -- Capital reserve fund requirement -- Establishment of other funds.

CHAPTER 227**S. B. 74**

Passed February 11, 2015

Approved March 26, 2015

Effective May 12, 2015

UNINCORPORATED BUSINESS ENTITIES RELATED AMENDMENTS

Chief Sponsor: Lyle W. Hillyard

House Sponsor: R. Curt Webb

LONG TITLE**General Description:**

This bill modifies provisions related to unincorporated business entities.

Highlighted Provisions:

This bill:

- ▶ addresses permitted names related to a limited liability company;
- ▶ requires filings to be typewritten or computer generated;
- ▶ modifies language related to entities converting to a different type of entity;
- ▶ addresses location of notice of series that is filed with the division; and
- ▶ makes technical and conforming amendments.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 48-1d-1041, as enacted by Laws of Utah 2013, Chapter 412
- 48-1d-1042, as enacted by Laws of Utah 2013, Chapter 412
- 48-1d-1043, as enacted by Laws of Utah 2013, Chapter 412
- 48-1d-1044, as enacted by Laws of Utah 2013, Chapter 412
- 48-1d-1046, as enacted by Laws of Utah 2013, Chapter 412
- 48-2e-205, as enacted by Laws of Utah 2013, Chapter 412
- 48-2e-1141, as enacted by Laws of Utah 2013, Chapter 412
- 48-2e-1142, as enacted by Laws of Utah 2013, Chapter 412
- 48-2e-1143, as enacted by Laws of Utah 2013, Chapter 412
- 48-2e-1144, as enacted by Laws of Utah 2013, Chapter 412
- 48-2e-1146, as enacted by Laws of Utah 2013, Chapter 412
- 48-3a-108, as enacted by Laws of Utah 2013, Chapter 412
- 48-3a-205, as enacted by Laws of Utah 2013, Chapter 412
- 48-3a-1041, as enacted by Laws of Utah 2013, Chapter 412
- 48-3a-1042, as enacted by Laws of Utah 2013, Chapter 412
- 48-3a-1043, as enacted by Laws of Utah 2013, Chapter 412

48-3a-1044, as enacted by Laws of Utah 2013, Chapter 412

48-3a-1046, as enacted by Laws of Utah 2013, Chapter 412

48-3a-1202, as enacted by Laws of Utah 2013, Chapter 412

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

Section 1. Section 48-1d-1041 is amended to read:**48-1d-1041. Conversion authorized.**

(1) As used in Sections 48-1d-1041 through 48-1d-1046, the term "subject entity" includes a corporation, a business trust or association, a real estate investment trust, a common-law trust, or any other unincorporated business, including a limited liability company, a general partnership, a registered limited liability partnership, or a foreign limited partnership.

(2) A subject entity may convert to a domestic partnership by complying with Sections 48-1d-1041 through 48-1d-1046.

~~(4)~~ (3) By complying with Sections 48-1d-1041 through 48-1d-1046, a domestic partnership may become:

(a) a domestic entity that is a different type of entity; or

(b) a foreign entity that is a different type of entity, if the conversion is authorized by the law of the foreign jurisdiction.

~~(2)~~ (4) By complying with the provisions of Sections 48-1d-1041 through 48-1d-1046 applicable to foreign entities, a foreign entity that is not a foreign partnership may become a domestic partnership if the conversion is authorized by the law of the foreign entity's jurisdiction of formation.

~~(3)~~ (5) If a protected agreement contains a provision that applies to a merger of a domestic partnership but does not refer to a conversion, the provision applies to a conversion of the entity as if the conversion were a merger until the provision is amended after January 1, 2014.

Section 2. Section 48-1d-1042 is amended to read:**48-1d-1042. Plan of conversion.**

(1) A subject entity may convert to a domestic partnership or a domestic partnership may convert to a different type of entity under Sections 48-1d-1041 through 48-1d-1046 by approving a plan of conversion. The plan must be in a record and contain:

(a) the name of the converting subject entity or partnership;

(b) the name, jurisdiction of formation, and type of entity of the converted entity;

(c) the manner of converting the interests in the converting subject entity or partnership into interests, securities, obligations, money, other property, rights to acquire interests or securities, or any combination of the foregoing;

(d) the proposed public organic record of the converted entity if it will be a filing entity;

(e) the full text of the private organic rules of the converted entity that are proposed to be in a record;

(f) the other terms and conditions of the conversion; and

(g) any other provision required by the law of this state or the partnership agreement of the converting partnership.

(2) In addition to the requirements of Subsection (1), a plan of conversion may contain any other provision not prohibited by law.

Section 3. Section 48-1d-1043 is amended to read:

48-1d-1043. Approval of conversion.

(1) A plan of conversion is not effective unless it has been approved:

(a) by a domestic converting partnership by all the partners of the partnership entitled to vote on or consent to any matter; and

(b) in a record, by each partner of a domestic converting partnership that will have interest holder liability for debts, obligations, and other liabilities that arise after the conversion becomes effective:

(i) the partnership agreement provides in a record for the approval of a conversion or a merger in which some or all of its partners become subject to interest holder liability by the vote or consent of fewer than all the interest holders; and

(ii) the partner voted for or consented in a record to that provision of the partnership agreement or became a partner after the adoption of that provision.

(2) A conversion involving a domestic converting entity that is not a partnership, including a subject entity, is not effective unless it is approved by the domestic converting entity in accordance with its organic law.

(3) A conversion of a foreign converting entity is not effective unless it is approved by the foreign entity in accordance with the law of the foreign entity's jurisdiction of formation.

Section 4. Section 48-1d-1044 is amended to read:

48-1d-1044. Amendment or abandonment of plan of conversion.

(1) A plan of conversion of a subject entity or domestic converting partnership may be amended:

(a) in the same manner as the plan was approved, if the plan does not provide for the manner in which it may be amended; or

(b) by the partners of the entity in the manner provided in the plan, but a partner that was entitled to vote on or consent to approval of the conversion is entitled to vote on or consent to any amendment of the plan that will change:

(i) the amount or kind of interests, securities, obligations, money, other property, rights to acquire interests or securities, or any combination of the foregoing, to be received by any of the partners of the converting entity under the plan;

(ii) the public organic record or private organic rules of the converted entity that will be in effect immediately after the conversion becomes effective, except for changes that do not require approval of the interest holders of the converted entity under its organic law or organic rules; or

(iii) any other terms or conditions of the plan, if the change would adversely affect the partner in any material respect.

(2) After a plan of conversion has been approved [~~by a domestic converting partnership~~] and before a statement of conversion becomes effective, the plan may be abandoned as provided in the plan. Unless prohibited by the plan, a domestic converting partnership may abandon the plan in the same manner as the plan was approved.

(3) If a plan of conversion is abandoned after a statement of conversion has been delivered to the division for filing and before the statement of conversion becomes effective, a statement of abandonment, signed by the converting entity, must be delivered to the division for filing before the time the statement of conversion becomes effective. The statement of abandonment takes effect on filing, and the conversion is abandoned and does not become effective. The statement of abandonment must contain:

(a) the name of the converting subject entity or partnership;

(b) the date on which the statement of conversion was delivered to the division for filing; and

(c) a statement that the conversion has been abandoned in accordance with this section.

Section 5. Section 48-1d-1046 is amended to read:

48-1d-1046. Effect of conversion.

(1) When a conversion in which the converted entity is a subject entity or domestic partnership becomes effective:

(a) the converted entity is:

(i) organized under and subject to this chapter; and

(ii) the same entity without interruption as the converting entity;

(b) all property of the converting entity continues to be vested in the converted entity without transfer, reversion, or impairment;

(c) all debts, obligations, and other liabilities of the converting entity continue as debts, obligations, and other liabilities of the converted entity;

(d) except as otherwise provided by law or the plan of conversion, all the rights, privileges, immunities, powers, and purposes of the converting entity remain in the converted entity;

(e) the name of the converted entity may be substituted for the name of the converting entity in any pending action or proceeding;

(f) if the converted entity is a limited liability partnership, its statement of qualification is effective simultaneously;

(g) the provisions of the partnership agreement of the converted entity that are to be in a record, if any, approved as part of the plan of conversion are effective; and

(h) the interests in the converting entity are converted, and the interest holders of the converting entity are entitled only to the rights provided to them under the plan of conversion and to any appraisal rights they have under Section 48-1d-1008 and the converting entity's organic law.

(2) Except as otherwise provided in the partnership agreement of a domestic converting partnership, the conversion does not give rise to any rights that a partner or third party would otherwise have upon a dissolution, liquidation, or winding up of the converting entity.

(3) When a conversion becomes effective, a person that did not have interest holder liability with respect to the converting entity and becomes subject to interest holder liability with respect to a domestic entity as a result of the conversion has interest holder liability only to the extent provided by the organic law of the entity and only for those debts, obligations, and other liabilities that arise after the conversion becomes effective.

(4) When a conversion becomes effective, the interest holder liability of a person that ceases to hold an interest in a domestic partnership with respect to which the person had interest holder liability is as follows:

(a) The conversion does not discharge any interest holder liability to the extent the interest holder liability arose before the conversion became effective.

(b) The person does not have interest holder liability for any debt, obligation, or other liability that arises after the conversion becomes effective.

(c) The person has whatever rights of contribution from any other person as are provided by law other than this chapter, this chapter, or the partnership agreement of the converting entity with respect to any interest holder liability preserved under Subsection (4)(a) as if the conversion had not occurred.

(5) When a conversion becomes effective, a foreign entity that is the converted entity may be served with process in this state for the collection and enforcement of any of its debts, obligations, and other liabilities as provided in Section 16-17-301.

(6) If the converting entity is a registered foreign entity, its registration to do business in this state is canceled when the conversion becomes effective.

(7) A conversion does not require the entity to wind up its affairs and does not constitute or cause the dissolution of the entity.

Section 6. Section 48-2e-205 is amended to read:

48-2e-205. Filing requirements.

(1) To be filed by the division pursuant to this chapter, a record must be received by the division, comply with this chapter, and satisfy the following:

(a) The filing of the record must be required or permitted by this chapter.

(b) The record must be physically delivered in written form unless and to the extent the division permits electronic delivery of records.

(c) The record must be typewritten or computer generated.

~~[(e)]~~ (d) The words in the record must be in English, and numbers must be in Arabic or Roman numerals, but the name of an entity need not be in English if written in English letters or Arabic or Roman numerals.

~~[(d)]~~ (e) The record must be signed by a person authorized under this chapter to sign the record.

~~[(e)]~~ (f) The record must state the name and capacity, if any, of each individual who signed it, either on behalf of the individual or the person authorized or required to sign the record, but need not contain a seal, attestation, acknowledgment, or verification.

(2) If law other than this chapter prohibits the disclosure by the division of information contained in a record delivered to the division for filing, the division shall accept the record if the record otherwise complies with this chapter but the division may redact the information.

(3) When a record is delivered to the division for filing, any fee required under this chapter and any fee, tax, interest, or penalty required to be paid under this chapter, or law other than this chapter, must be paid in a manner permitted by the division or by that law.

(4) The division may require that a record delivered in written form be accompanied by an identical or conformed copy.

Section 7. Section 48-2e-1141 is amended to read:

48-2e-1141. Conversion authorized.

(1) As used in Sections 48-2e-1141 through 48-2e-1146, the term "subject entity" includes a corporation, a business trust or association, a real estate investment trust, a common-law trust, or any other unincorporated business, including a limited liability company, a general partnership, a registered limited liability partnership, or a foreign limited partnership.

(2) A subject entity may convert to a domestic limited partnership by complying with Sections 48-2e-1141 through 48-2e-1146.

[4] (3) By complying with Sections 48-2e-1141 through 48-2e-1146 a domestic limited partnership may become:

(a) a domestic entity that is a different type of entity; or

(b) a foreign entity that is a different type of entity, if the conversion is authorized by the law of the foreign jurisdiction.

[4] (4) By complying with the provisions of Sections 48-2e-1141 through 48-2e-1146 applicable to foreign entities, a foreign entity that is not a foreign limited partnership may become a domestic limited partnership if the conversion is authorized by the law of the foreign entity's jurisdiction of formation.

[4] (5) If a protected agreement contains a provision that applies to a merger of a domestic limited partnership but does not refer to a conversion, the provision applies to a conversion of the entity as if the conversion were a merger until the provision is amended after January 1, 2014.

Section 8. Section 48-2e-1142 is amended to read:

48-2e-1142. Plan of conversion.

(1) A subject entity may convert to a domestic limited partnership or a domestic limited partnership may convert to a different type of entity under Sections 48-2e-1141 through 48-2e-1146 by approving a plan of conversion. The plan must be in a record and contain:

(a) the name of the converting subject entity or limited partnership;

(b) the name, jurisdiction of formation, and type of entity of the converted entity;

(c) the manner of converting the interests in the converting subject entity or limited partnership into interests, securities, obligations, money, other property, rights to acquire interests or securities, or any combination of the foregoing;

(d) the proposed public organic record of the converted entity if it will be a filing entity;

(e) the full text of the private organic rules of the converted entity that are proposed to be in a record;

(f) the other terms and conditions of the conversion; and

(g) any other provision required by the law of this state or the partnership agreement of the converting limited partnership.

(2) In addition to the requirements of Subsection (1), a plan of conversion may contain any other provision not prohibited by law.

Section 9. Section 48-2e-1143 is amended to read:

48-2e-1143. Approval of conversion.

(1) A plan of conversion is not effective unless it has been approved:

(a) by a domestic converting limited partnership by all of the partners of the limited partnership entitled to vote on or consent to any matter; and

(b) in a record, by each partner of a domestic converting limited partnership that will have interest holder liability for debts, obligations, and other liabilities that arise after the conversion becomes effective:

(i) the partnership agreement of the limited partnership provides in a record for the approval of a conversion or a merger in which some or all of its partners become subject to interest holder liability by the vote or consent of fewer than all the interest holders; and

(ii) the partner voted for or consented in a record to that provision of the partnership agreement or became a partner after the adoption of that provision.

(2) A conversion involving a domestic converting entity that is not a limited partnership, including a subject entity, is not effective unless it is approved by the domestic converting entity in accordance with its organic law.

(3) A conversion of a foreign converting entity is not effective unless it is approved by the foreign entity in accordance with the law of the foreign entity's jurisdiction of formation.

Section 10. Section 48-2e-1144 is amended to read:

48-2e-1144. Amendment or abandonment of plan of conversion.

(1) A plan of conversion of a subject entity or domestic converting limited partnership may be amended:

(a) in the same manner as the plan was approved, if the plan does not provide for the manner in which it may be amended; or

(b) by the partners of the limited partnership in the manner provided in the plan, but a partner that was entitled to vote on or consent to approval of the conversion is entitled to vote on or consent to any amendment of the plan that will change:

(i) the amount or kind of interests, securities, obligations, money, other property, rights to acquire interests or securities, or any combination of the foregoing, to be received by any of the partners of the converting entity under the plan;

(ii) the public organic record or private organic rules of the converted entity that will be in effect immediately after the conversion becomes effective, except for changes that do not require approval of the interest holders of the converted entity under its organic law or organic rules; or

(iii) any other terms or conditions of the plan, if the change would adversely affect the partner in any material respect.

(2) After a plan of conversion has been approved [~~by a domestic converting limited partnership~~] and before a statement of conversion becomes effective, the plan may be abandoned as provided in the plan.

Unless prohibited by the plan, a domestic converting limited partnership may abandon the plan in the same manner as the plan was approved.

(3) If a plan of conversion is abandoned after a statement of conversion has been delivered to the division for filing and before the statement becomes effective, a statement of abandonment, signed by the converting entity, must be delivered to the division for filing before the time the statement of conversion becomes effective. The statement of abandonment takes effect on filing, and the conversion is abandoned and does not become effective. The statement of abandonment must contain:

(a) the name of the converting subject entity or limited partnership;

(b) the date on which the statement of conversion was delivered to the division for filing; and

(c) a statement that the conversion has been abandoned in accordance with this section.

Section 11. Section 48-2e-1146 is amended to read:

48-2e-1146. Effect of conversion.

(1) When a conversion in which the converted entity is a subject entity or domestic limited partnership becomes effective:

(a) the converted entity is:

(i) organized under and subject to this chapter; and

(ii) the same entity without interruption as the converting entity;

(b) all property of the converting entity continues to be vested in the converted entity without transfer, reversion, or impairment;

(c) all debts, obligations, and other liabilities of the converting entity continue as debts, obligations, and other liabilities of the converted entity;

(d) except as otherwise provided by law or the plan of conversion, all the rights, privileges, immunities, powers, and purposes of the converting entity remain in the converted entity;

(e) the name of the converted entity may be substituted for the name of the converting entity in any pending action or proceeding;

(f) the provisions of the partnership agreement of the converted entity that are to be in a record, if any, approved as part of the plan of conversion are effective; and

(g) the interests in the converting entity are converted, and the interest holders of the converting entity are entitled only to the rights provided to them under the plan of conversion and to any appraisal rights they have under Section 48-2e-1108 and the converting entity's organic law.

(2) Except as otherwise provided in the partnership agreement of a domestic converting

limited partnership, the conversion does not give rise to any rights that a partner or third party would have upon a dissolution, liquidation, or winding up of the converting entity.

(3) When a conversion becomes effective, a person that did not have interest holder liability with respect to the converting entity and becomes subject to interest holder liability with respect to a domestic entity as a result of the conversion has interest holder liability only to the extent provided by the organic law of the entity and only for those debts, obligations, and other liabilities that arise after the conversion becomes effective.

(4) When a conversion becomes effective, the interest holder liability of a person that ceases to hold an interest in a domestic limited partnership with respect to which the person had interest holder liability is as follows:

(a) The conversion does not discharge any interest holder liability to the extent the interest holder liability arose before the conversion became effective.

(b) The person does not have interest holder liability for any debt, obligation, or other liability that arises after the conversion becomes effective.

(c) The person has whatever rights of contribution from any other person as are provided by law other than this chapter, this chapter, or the partnership agreement of the converting entity with respect to any interest holder liability preserved under Subsection (4)(a) as if the conversion had not occurred.

(5) When a conversion becomes effective, a foreign entity that is the converted entity may be served with process in this state for the collection and enforcement of any of its debts, obligations, and other liabilities as provided in Section 16-17-301.

(6) If the converting entity is a registered foreign entity, its registration to do business in this state is canceled when the conversion becomes effective.

(7) A conversion does not require the entity to wind up its affairs and does not constitute or cause the dissolution of the entity.

Section 12. Section 48-3a-108 is amended to read:

48-3a-108. Permitted names.

(1) Except as provided in Section 48-3a-1104 or 48-3a-1302, the name of a limited liability company must contain the words "limited liability company" or "limited company" or the abbreviation "L.L.C.," "LLC," "L.C.," or "LC." "Limited" may be abbreviated as "Ltd.," and "company" may be abbreviated as "Co."

~~[(2) Except as otherwise provided in Subsection (4), the name of a limited liability company, and the name under which a foreign limited liability company may register to do business in this state, must be distinguishable on the records of the division from:]~~

~~[(a) the name of an existing person whose formation required the filing of a record by the division;]~~

~~[(b) the name of a limited liability partnership;]~~

~~[(c) the name of a person registered to do business in this state by the filing of a record by the division;]~~

~~[(d) each name reserved under Section 48-3a-109 or other law of this state providing for the reservation of a name by the filing of a record by the division;]~~

~~[(e) each name registered under Section 48-3a-110 or other law of this state providing for the registration of a name by the filing of a record by the division; and]~~

~~[(f) an assumed name registered under Title 42, Chapter 2, Conducting Business Under Assumed Name.]~~

~~[(3) If a person consents in a record to the use of its name and submits an undertaking in a form satisfactory to the division to change its name to a name that is distinguishable on the records of the division from any name in any category of names in Subsection (2), the name of the consenting person may be used by the person to which the consent was given.]~~

~~[(4) Except as otherwise provided in Subsection (5), in determining whether a name is the same as or not distinguishable on the records of the division from the name of another entity, words, phrases, or abbreviations indicating the type of entity, such as "corporation", "corp.", "incorporated", "Inc.", "professional corporation", "PC", "P.C.", "professional association", "PA", "P.A.", "limited", "Ltd.", "limited partnership", "LP", "L.P.", "limited liability partnership", "LLP", "L.L.P.", "registered limited liability partnership", "RLLP", "R.L.L.P.", "limited liability limited partnership", "LLL", "L.L.L.P.", "registered limited liability limited partnership", "RLLL", "R.L.L.L.P.", "limited liability company", "LLC", "L.L.C.", "professional limited liability company", "PLLC", or "P.L.L.C.", may not be taken into account.]~~

~~[(5) A person may consent in a record to the use of a name that is not distinguishable on the records of the division from its name except for the addition of a word, phrase, or abbreviation indicating the type of person as provided in Subsection (4). In such a case, the person need not change its name pursuant to Subsection (2).]~~

~~(2) Except as authorized by Subsection (3), the name of a company must be distinguishable as defined in Subsection (4) upon the records of the division from:~~

~~(a) the actual name, reserved name, or fictitious or assumed name of any entity registered with the division; or~~

~~(b) any tradename, trademark, or service mark registered with the division.~~

~~(3) (a) A company may apply to the division for approval to file its certificate of organization under or to reserve a name that is not distinguishable upon the division's records from one or more of the names described in Subsection (2).~~

(b) The division shall approve the name for which the company applies under Subsection (3)(a) if:

(i) the other person whose name is not distinguishable from the name under which the applicant desires to file:

(A) consents to the filing in writing; and

(B) submits an undertaking in a form satisfactory to the division to change its name to a name that is distinguishable from the name of the applicant; or

(ii) the applicant delivers to the division a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name in this state.

(4) A name is distinguishable from other names, trademarks, and service marks registered with the division if it contains one or more different words, letters, or numerals from other names upon the division's records.

(5) The following differences are not distinguishing:

(a) the term:

(i) "corp.";

(ii) "corporation";

(iii) "Inc.";

(iv) "incorporated";

(v) "professional corporation";

(vi) "P.C." or "PC";

(vii) "professional association";

(viii) "P.A." or "PA";

(ix) "professional limited liability company";

(x) "P.L.L.C." or "PLLC";

(xi) "company";

(xii) "limited partnership";

(xiii) "limited";

(xiv) "L.P." or "LP";

(xv) "Ltd.";

(xvi) "limited liability company";

(xvii) "limited company";

(xviii) "L.C." or "LC";

(xix) "L.L.C." or "LLC";

(xx) "registered limited liability partnership";

(xxi) "R.L.L.P." or "RLLP";

(xxii) "limited liability partnership";

(xxiii) "L.L.P." or "LLP";

(xxiv) "limited liability limited partnership";

(xxv) "L.L.L.P." or "LLL";

(xxvi) "registered limited liability limited partnership"; or

(xxvii) “R.L.L.L.P.” or “RLLLP”;

(b) an abbreviation of a word listed in Subsection (5)(a);

(c) the presence or absence of the words or symbols of the words “the,” “and,” “a,” or “plus”;

(d) differences in punctuation and special characters;

(e) differences in capitalization; or

(f) for a company that is formed in this state on or after May 4, 1998, or registered as a foreign company in this state on or after May 4, 1998, differences in singular and plural forms of words.

(6) The division may not approve for filing a name that implies that a limited liability company is an agency of this state or any of its political subdivisions, if it is not actually such a legally established agency or subdivision.

(7) The authorization to file a certificate under or to reserve or register a limited liability company name as granted by the division does not:

(a) abrogate or limit the law governing unfair competition or unfair trade practices;

(b) derogate from the common law, the principles of equity, or the statutes of this state or of the United States with respect to the right to acquire and protect names and trademarks; or

(c) create an exclusive right in geographic or generic terms contained within a name.

(8) The name of a limited liability company or foreign limited liability company may not contain:

(a) the ~~[words]~~ term:

(i) “association”;

(ii) “corporation”;

(iii) “incorporated”;

(iv) “partnership”; ~~[or]~~

(v) “limited partnership”; or

(vi) “L.P.”;

(b) any word or abbreviation that is of like import to the words listed in Subsection (8)(a);

(c) without the written consent of the United States Olympic Committee, the words:

(i) “Olympic”;

(ii) “Olympiad”; or

(iii) “Citius Altius Fortius”; and

(d) without the written consent of the Division of Consumer Protection issued in accordance with Section 13-34-114 the words:

(i) “university”;

(ii) “college”; or

(iii) “institute” or “institution”.

(9) (a) A person, other than a company formed under this chapter or a foreign company authorized to transact business in this state, may not use in its name in this state the term:

(i) “limited liability company”;

(ii) “limited company”;

(iii) “L.L.C.”;

(iv) “L.C.”;

(v) “LLC”; or

(vi) “LC”.

(b) Notwithstanding Subsection (2)(a):

(i) a foreign corporation whose actual name includes the term “limited” or “Ltd.” may use its actual name in this state if it also uses:

(A) “corporation” or “corp.”; or

(B) “incorporated” or “Inc.”; and

(ii) a limited liability partnership may use in its name the term:

(A) “limited liability partnership”;

(B) “L.L.P.”; or

(C) “LLP”.

Section 13. Section 48-3a-205 is amended to read:

48-3a-205. Filing requirements.

(1) To be filed by the division pursuant to this chapter, a record must be received by the division, comply with this chapter, and satisfy the following:

(a) The filing of the record must be required or permitted by this chapter.

(b) The record must be physically delivered in written form unless and to the extent the division permits electronic delivery of records.

(c) The record must be typewritten or computer generated.

~~[(e)]~~ (d) The words in the record must be in English, and numbers must be in Arabic or Roman numerals, but the name of an entity need not be in English if written in English letters or Arabic or Roman numerals.

~~[(d)]~~ (e) The record must be signed by a person authorized or required under this chapter to sign the record.

~~[(e)]~~ (f) The record must state the name and capacity, if any, of each individual who signed it, either on behalf of the individual or the person authorized or required to sign the record, but need not contain a seal, attestation, acknowledgment, or verification.

(2) If law other than this chapter prohibits the disclosure by the division of information contained in a record delivered to the division for filing, the division shall accept the record if the record otherwise complies with this chapter, but the division may redact the information.

(3) When a record is delivered to the division for filing, any fee required under this chapter and any fee, tax, interest, or penalty required to be paid under this chapter or law other than this chapter must be paid in a manner permitted by the division or by that law.

(4) The division may require that a record delivered in written form be accompanied by an identical or conformed copy.

Section 14. Section 48-3a-1041 is amended to read:

48-3a-1041. Conversion authorized.

(1) As used in Sections 48-3a-1041 through 48-3a-1046, the term "subject entity" includes a corporation, a business trust or association, a real estate investment trust, a common-law trust, or any other unincorporated business, including a general partnership, a registered limited liability partnership, a limited partnership, a nonprofit corporation, or a foreign company.

(2) A subject entity may convert to a domestic company by complying with Sections 48-3a-1041 through 48-3a-1046.

~~(4)~~ (3) By complying with Sections 48-3a-1041 through 48-3a-1046, a domestic limited liability company may become:

(a) a domestic entity that is a different type of entity; or

(b) a foreign entity that is a different type of entity, if the conversion is authorized by the law of the foreign jurisdiction.

~~(4)~~ (4) By complying with the provisions of Sections 48-3a-1041 through 48-3a-1046 applicable to foreign entities, a foreign entity that is not a foreign limited liability company may become a domestic limited liability company if the conversion is authorized by the law of the foreign entity's jurisdiction of formation.

~~(3)~~ (5) If a protected agreement contains a provision that applies to a merger of a domestic limited liability company but does not refer to a conversion, the provision applies to a conversion of the entity as if the conversion were a merger until the provision is amended after January 1, 2014.

Section 15. Section 48-3a-1042 is amended to read:

48-3a-1042. Plan of conversion.

(1) A subject entity may convert to a domestic limited liability company or a domestic limited liability company may convert to a different type of entity under Sections 48-3a-1041 through 48-3a-1046 by approving a plan of conversion. The plan must be in a record and contain:

(a) the name of the converting subject entity or limited liability company;

(b) the name, jurisdiction of formation, and type of entity of the converted entity;

(c) the manner of converting the interests in the converting subject entity or limited liability company into interests, securities, obligations, money, other property, rights to acquire interests or securities, or any combination of the foregoing;

(d) the proposed public organic record of the converted entity if it will be a filing entity;

(e) the full text of the private organic rules of the converted entity that are proposed to be in a record;

(f) the other terms and conditions of the conversion; and

(g) any other provision required by the law of this state or the operating agreement of the converting limited liability company.

(2) In addition to the requirements of Subsection (1), a plan of conversion may contain any other provision not prohibited by law.

Section 16. Section 48-3a-1043 is amended to read:

48-3a-1043. Approval of conversion.

(1) A plan of conversion is not effective unless it has been approved:

(a) by a domestic converting limited liability company by all the members of the limited liability company entitled to vote on or consent to any matter; and

(b) in a record, by each member of a domestic converting limited liability company that will have interest holder liability for debts, obligations, and other liabilities that arise after the conversion becomes effective:

(i) the operating agreement of the limited liability company provides in a record for the approval of a conversion or a merger in which some or all of its interest holders become subject to interest holder liability by the vote or consent of fewer than all the interest holders; and

(ii) the member voted for or consented in a record to that provision of the operating agreement or became a member after the adoption of that provision.

(2) A conversion involving a domestic converting entity that is not a limited liability company, including a subject entity, is not effective unless it is approved by the domestic converting entity in accordance with its organic law.

(3) A conversion of a foreign converting entity is not effective unless it is approved by the foreign entity in accordance with the law of the foreign entity's jurisdiction of formation.

Section 17. Section 48-3a-1044 is amended to read:

48-3a-1044. Amendment or abandonment of plan of conversion.

(1) A plan of conversion of a subject entity or domestic converting limited liability company may be amended:

(a) in the same manner as the plan was approved, if the plan does not provide for the manner in which it may be amended; or

(b) by the managers or members of the entity in the manner provided in the plan, but a member that was entitled to vote on or consent to approval of the conversion is entitled to vote on or consent to any amendment of the plan that will change:

(i) the amount or kind of interests, securities, obligations, money, other property, rights to acquire interests or securities, or any combination of the foregoing, to be received by any of the interest holders of the converting entity under the plan;

(ii) the public organic record or private organic rules of the converted entity that will be in effect immediately after the conversion becomes effective, except for changes that do not require approval of the interest holders of the converted entity under its organic law or organic rules; or

(iii) any other terms or conditions of the plan, if the change would adversely affect the interest holder in any material respect.

(2) After a plan of conversion has been approved [~~by a domestic converting limited liability company~~] and before a statement of conversion becomes effective, the plan may be abandoned as provided in the plan. Unless prohibited by the plan, a subject entity or domestic converting limited liability company may abandon the plan in the same manner as the plan was approved.

(3) If a plan of conversion is abandoned after a statement of conversion has been delivered to the division for filing and before the statement of conversion becomes effective, a statement of abandonment, signed by the converting entity, must be delivered to the division for filing before the time the statement of conversion becomes effective. The statement of abandonment takes effect on filing, and the conversion is abandoned and does not become effective. The statement of abandonment must contain:

(a) the name of the converting subject entity or limited liability company;

(b) the date on which the statement of conversion was delivered to the division for filing; and

(c) a statement that the conversion has been abandoned in accordance with this section.

Section 18. Section 48-3a-1046 is amended to read:

48-3a-1046. Effect of conversion.

(1) When a conversion in which the converted entity is a subject entity or domestic limited liability company becomes effective:

(a) the converted entity is:

(i) organized under and subject to this chapter; and

(ii) the same entity without interruption as the converting entity;

(b) all property of the converting entity continues to be vested in the converted entity without transfer, reversion, or impairment;

(c) all debts, obligations, and other liabilities of the converting entity continue as debts, obligations, and other liabilities of the converted entity;

(d) except as otherwise provided by law or the plan of conversion, all the rights, privileges, immunities, powers, and purposes of the converting entity remain in the converted entity;

(e) the name of the converted entity may be substituted for the name of the converting entity in any pending action or proceeding;

(f) the provisions of the operating agreement of the converted entity that are to be in a record, if any, approved as part of the plan of conversion are effective; and

(g) the interests in the converting entity are converted, and the interest holders of the converting entity are entitled only to the rights provided to them under the plan of conversion and to any appraisal rights they have under Section 48-3a-1008 and the converting entity's organic law.

(2) Except as otherwise provided in the operating agreement of a domestic converting limited liability company, the conversion does not give rise to any rights that a member, manager, or third party would have upon a dissolution, liquidation, or winding up of the converting entity.

(3) When a conversion becomes effective, a person that did not have interest holder liability with respect to the converting entity and becomes subject to interest holder liability with respect to a domestic entity as a result of the conversion has interest holder liability only to the extent provided by the organic law of the entity and only for those debts, obligations, and other liabilities that arise after the conversion becomes effective.

(4) When a conversion becomes effective, the interest holder liability of a person that ceases to hold an interest in a domestic limited liability company with respect to which the person had interest holder liability is as follows:

(a) the conversion does not discharge any interest holder liability to the extent the interest holder liability arose before the conversion became effective;

(b) the person does not have interest holder liability for any debt, obligation, or other liability that arises after the conversion becomes effective; and

(c) the person has whatever rights of contribution from any other person as are provided by law other than this chapter, this chapter, or the operating agreement of the converting entity with respect to any interest holder liability preserved under Subsection (4)(a) as if the conversion had not occurred.

(5) When a conversion becomes effective, a foreign entity that is the converted entity may be

served with process in this state for the collection and enforcement of any of its debts, obligations, and liabilities as provided in Section 16-17-301.

(6) If the converting entity is a registered foreign entity, the registration to do business in this state of the converting entity is canceled when the conversion becomes effective.

(7) A conversion does not require the entity to wind up its affairs and does not constitute or cause the dissolution of the entity.

Section 19. Section 48-3a-1202 is amended to read:

48-3a-1202. Notice of limitation on liability of a series.

(1) (a) Notice in a limited liability company's certificate of organization of the limitation on liabilities of a series as referenced in Subsection 48-3a-1201(2)(e) is sufficient for all purposes of this part whether or not the limited liability company has established a series at the time the notice is included in the certificate of organization.

(b) For a certificate of organization or an amendment to a certificate of organization made to include notice of series that is filed on or after May 12, 2015, notice in a company's certificate of organization is sufficient for purposes of Subsection (1) only if the notice of series appears immediately following the provision stating the name of the company.

(2) The notice of a limitation on liability of a series as referenced in Subsection 48-3a-1201(2)(e) is not required to reference a specific series.

(3) The filing by the division of the certificate of organization containing a notice of the limitation on liabilities of a series constitutes notice of the limitation on liabilities of the series.

CHAPTER 228**S. B. 93**

Passed March 2, 2015
 Approved March 26, 2015
 Effective May 12, 2015

**UNIFORM COMMERCIAL
 CODE FILING AMENDMENTS**

Chief Sponsor: Lyle W. Hillyard
 House Sponsor: R. Curt Webb

LONG TITLE**General Description:**

This bill modifies the Uniform Commercial Code and criminal provisions to address certain filings.

Highlighted Provisions:

This bill:

- ▶ addresses the effectiveness of a filed record;
- ▶ provides for the termination of a wrongfully filed financing statement and possible reinstatement;
- ▶ modifies the provision of what constitutes a filing and the effectiveness of a filing;
- ▶ creates a crime for certain filings filed with intent to harass or defraud; and
- ▶ makes technical and conforming amendments.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 70A-9a-510, as enacted by Laws of Utah 2000, Chapter 252
- 70A-9a-516, as last amended by Laws of Utah 2013, Chapter 225
- 70A-9a-520, as last amended by Laws of Utah 2013, Chapter 225
- 70A-9a-521, as last amended by Laws of Utah 2013, Chapter 225

ENACTS:

- 70A-9a-513.5, Utah Code Annotated 1953
- 76-6-503.7, Utah Code Annotated 1953

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

Section 1. Section 70A-9a-510 is amended to read:**70A-9a-510. Effectiveness of filed record.**

(1) A filed record is effective only to the extent that it was filed by a person that may file it under Section 70A-9a-509 or by the filing office under Section 70A-9a-513.5.

(2) A record authorized by one secured party of record does not affect the financing statement with respect to another secured party of record.

(3) A continuation statement that is not filed within the six-month period prescribed by Subsection 70A-9a-515(4) is ineffective.

Section 2. Section 70A-9a-513.5 is enacted to read:**70A-9a-513.5. Termination of wrongfully filed financing statement -- Reinstatement.**

(1) As used in this section:

(a) "Established filer" means a person that:

(i) regularly causes records to be communicated to the filing office for filing and has provided the filing office with current contact information and information sufficient to establish its identity; or

(ii) satisfies either of the following conditions:

(A) the filing office has issued the person credentials for access to online filing services; or

(B) the person has established an account for payment of filing fees, regardless of whether the account is used in a particular transaction.

(b) "Filing office" means the same as that term is defined in Section 70A-9a-102, except that it does not include a county recorder office.

(2) A person identified as debtor in a filed financing statement may deliver to the filing office the debtor's notarized affidavit, signed under penalty of perjury, that identifies the financing statement by file number, indicates the affiant's mailing address, and states that the affiant believes that the filed record identifying the affiant as debtor was not authorized and was caused to be communicated to the filing office with the intent to harass or defraud the affiant. The filing office shall adopt a form of affidavit for use under this section. The filing office may reject an affidavit described in this Subsection (2) if:

(a) the affidavit is incomplete; or

(b) the filing office reasonably believes that the affidavit was communicated to the filing office with the intent to harass or defraud, or for any other unlawful purpose.

(3) Subject to Subsection (10), if an affidavit is delivered to the filing office under Subsection (2), the filing office shall promptly file a termination statement with respect to the financing statement identified in the affidavit. The termination statement must identify by its file number the initial financing statement to which it relates and must indicate that it was filed pursuant to this section. A termination statement filed under this Subsection (3) is not effective until 14 days after it is filed.

(4) The filing office may not charge a fee for the filing of an affidavit under Subsection (2) or a termination statement under Subsection (3). The filing office may not return any fee paid for filing the financing statement identified in the affidavit, whether or not the financing statement is reinstated under Subsection (7).

(5) On the same day that a filing office files a termination statement under Subsection (3), it shall send to the secured party of record for the financing statement to which the termination

statement relates a notice stating that the termination statement has been filed and will become effective 14 days after filing. The notice shall be sent by mail to the address provided for the secured party of record in the financing statement or by electronic mail to the electronic mail address provided by the secured party of record, if any.

(6) (a) A secured party that believes in good faith that the filed record identified in an affidavit delivered to the filing office under Subsection (2) was authorized and was not caused to be communicated to the filing office with the intent to harass or defraud the affiant may:

(i) before the termination statement takes effect under Subsection (3), request the filing office to review the filed record concerning whether the filed record was filed with the intent to harass or defraud; or

(ii) regardless of whether the affiant seeks a review under Subsection (6)(a)(i), file an action against the filing office seeking reinstatement of the financing statement to which the filed record relates.

(b) Within 10 days after being served with process in an action under this Subsection (6), the filing office shall file a notice indicating that the action has been commenced. The notice shall indicate the file number of the initial financing statement to which it relates.

(c) If the affiant is not named as a defendant in the action described in Subsection (6)(a)(ii), the secured party shall send a copy of the complaint to the affiant at the address indicated in the affidavit. The exclusive venue for the action shall be in the Third District Court. A party may petition the court to consider the matter on an expedited basis.

(d) An action under this Subsection (6) must be filed before the expiration of six months after the date on which the termination statement filed under Subsection (3) becomes effective.

(7) If, in an action under Subsection (6), the court determines that the financing statement should be reinstated, the filing office shall promptly file a record that identifies by its file number the initial financing statement to which the record relates and indicates that the financing statement has been reinstated.

(8) Upon the filing of a record reinstating a financing statement under Subsection (7), the effectiveness of the financing statement is reinstated and the financing statement shall be considered never to have been terminated under this section. A continuation statement filed as provided in Subsection 70A-9a-515(4) after the effective date of a termination statement filed under Subsection (3) or (10) becomes effective if the financing statement is reinstated.

(9) If, in an action under Subsection (6), the court determines that the filed record identified in an affidavit delivered to the filing office under Subsection (2) was unauthorized and was caused to be communicated to the filing office with the intent

to harass or defraud the affiant, the filing office and the affiant may recover from the secured party that filed the action the costs and expenses, including reasonable attorney fees, that the filing office and the affiant incurred in the action. This recovery is in addition to any recovery to which the affiant is entitled under Section 70A-9a-625.

(10) If an affidavit delivered to a filing office under Subsection (2) relates to a filed record communicated to the filing office by an established filer, the filing office shall promptly send to the secured party of record a notice stating that the affidavit has been delivered to the filing office and that the filing office is conducting an administrative review to determine whether the record was unauthorized and was caused to be communicated with the intent to harass or defraud the affiant. The notice shall be sent by mail to the address provided for the secured party in the financing statement or sent by electronic mail to the electronic mail address provided by the secured party of record, if any, and a copy shall be sent in the same manner to the affiant. The administrative review shall be conducted on an expedited basis and the filing office may require the affiant and the secured party of record to provide any additional information that the filing office considers appropriate. If the filing office concludes that the record was not authorized and was caused to be communicated with the intent to harass or defraud the affiant, the filing office shall promptly file a termination statement under Subsection (3) that will be effective immediately and send to the secured party of record the notice required by Subsection (5). The secured party may thereafter file an action for reinstatement under Subsection (6), and Subsections (7) through (9) are applicable.

Section 3. Section 70A-9a-516 is amended to read:

70A-9a-516. What constitutes filing -- Effectiveness of filing.

(1) Except as otherwise provided in Subsection (2) or [(4)] (5), communication of a record to a filing office and tender of the filing fee or acceptance of the record by the filing office constitutes filing.

(2) Filing does not occur with respect to a record that a filing office refuses to accept because:

(a) the record is not communicated by a method or medium of communication authorized by the filing office;

(b) an amount equal to or greater than the applicable filing fee is not tendered;

(c) the filing office is unable to index the record because:

(i) in the case of an initial financing statement, the record does not provide a name for the debtor;

(ii) in the case of an amendment or information statement, the record:

(A) does not identify the initial financing statement as required by Section 70A-9a-512 or 70A-9a-518, as applicable; or

(B) identifies an initial financing statement whose effectiveness has lapsed under Section 70A-9a-515;

(iii) in the case of an initial financing statement that provides the name of a debtor identified as an individual or an amendment that provides a name of a debtor identified as an individual which was not previously provided in the financing statement to which the record relates, the record does not identify the debtor's surname; or

(iv) in the case of a record filed or recorded in the filing office described in Subsection 70A-9a-501(1)(a), the record does not provide a sufficient description of the real property to which it relates;

(d) in the case of an initial financing statement or an amendment that adds a secured party of record, the record does not provide a name and mailing address for the secured party of record;

(e) in the case of an initial financing statement or an amendment that provides a name of a debtor which was not previously provided in the financing statement to which the amendment relates, the record does not:

(i) provide a mailing address for the debtor; or

(ii) indicate whether the name provided as the name of the debtor is the name of an individual or an organization;

(f) in the case of an assignment reflected in an initial financing statement under Subsection 70A-9a-514(1) or an amendment filed under Subsection 70A-9a-514(2), the record does not provide a name and mailing address for the assignee; [or]

(g) in the case of a continuation statement, the record is not filed within the six-month period prescribed by Subsection 70A-9a-515(4)[-]; or

(h) in the case of an initial financing statement or an amendment that provides a name of a debtor that was not previously provided in the financing statement to which the amendment relates, the record was not communicated to the filing office, as defined in Section 70A-9a-513.5, by an established filer, as defined in Section 70A-9a-513.5, and the filing office reasonably believes that the record was caused to be communicated to the filing office with the intent to harass or defraud the person identified as debtor or for another unlawful purpose.

(3) Except as provided in Section 70A-9a-513.5, the filing office has no duty to form a belief as to whether a record was caused to be communicated with the intent to harass or defraud the person identified as debtor or for another unlawful purpose and has no duty to investigate or ascertain facts relevant to whether the intent or purpose was present.

~~[(3)]~~ (4) For purposes of Subsection (2):

(a) a record does not provide information if the filing office is unable to read or decipher the information; and

(b) a record that does not indicate that it is an amendment or identify an initial financing statement to which it relates, as required by Section 70A-9a-512, 70A-9a-514, or 70A-9a-518, is an initial financing statement.

~~[(4)]~~ (5) A filing office may refuse to accept a record for filing, and if it does so, filing does not occur with respect to the record, because:

(a) the debtor is an individual and the debtor's name contains unusually placed and apparently unnecessary punctuation, symbols, or other nonalphabetic characters;

(b) the record, in the collateral description or elsewhere, including an attachment, discloses personally identifying information such as a Social Security number, driver license number, identification card number, bank account number, credit or debit card account number, date of birth, or place of birth; or

(c) the debtor is an individual and the record indicates that the debtor is a transmitting utility.

~~[(5)]~~ (6) A record that is communicated to the filing office with tender of the filing fee, but which the filing office refuses to accept for a reason other than one set forth in Subsection (2) or ~~[(4)]~~ (5), is effective as a filed record except as against a purchaser of the collateral which gives value in reasonable reliance upon the absence of the record from the files.

(7) A record that the filing office, as defined in Section 70A-9a-513.5, initially refuses to accept under Subsection (2)(h) but that it later accepts after it receives additional information is effective as if the filing office had not initially refused to accept the record except as against a purchaser of the collateral that gives value in reasonable reliance upon the absence of the record from the files.

Section 4. Section 70A-9a-520 is amended to read:

70A-9a-520. Acceptance and refusal to accept record.

(1) A filing office shall refuse to accept a record for filing for a reason set forth in Subsection 70A-9a-516(2) or ~~[(4)]~~ (5) and may refuse to accept a record for filing only for a reason set forth in Subsection 70A-9a-516(2).

(2) If a filing office refuses to accept a record for filing, it shall communicate to the person that presented the record the fact of and reason for the refusal and the date and time the record would have been filed had the filing office accepted it. The communication must be made at the time and in the manner prescribed by filing-office rule but, in the case of a filing office described in Subsection 70A-9a-501(1)(b), in no event more than two business days after the filing office receives the record.

(3) A filed financing statement satisfying Subsections 70A-9a-502(1) and (2) is effective, even if the filing office is required to refuse to accept it for filing under Subsection (1). However, Section

70A-9a-338 applies to a filed financing statement providing information described in Subsection 70A-9a-516(2)(e) which is incorrect at the time the financing statement is filed.

(4) If a record communicated to a filing office provides information that relates to more than one debtor, this part applies as to each debtor separately.

(5) This section does not apply to a filing office described in Subsection 70A-9a-501(1)(a).

Section 5. Section 70A-9a-521 is amended to read:

70A-9a-521. Uniform form of written financing statement and amendment.

(1) A filing office that accepts written records may not refuse to accept a written initial financing statement in the form and format set forth in the final official text of the 2010 revisions to Article 9 of the Uniform Commercial Code promulgated by The American Law Institute and the National Conference of Commissioners on Uniform State Laws, except for a reason set forth in Subsection 70A-9a-516(2) or [(4)] (5).

(2) A filing office that accepts written records may not refuse to accept a written record in the form and format set forth in the final official text of the 2010 revisions to Article 9 of the Uniform Commercial Code promulgated by The American Law Institute and the National Conference of Commissioners on Uniform State Laws, except for a reason set forth in Subsection 70A-9a-516(2) or [(4)] (5).

Section 6. Section 76-6-503.7 is enacted to read:

76-6-503.7. Records filed with intent to harass or defraud.

(1) No person shall cause a record to be communicated to the filing office, as defined in Section 70A-9a-513.5, for filing if:

(a) the person is not authorized to file the record under Section 70A-9a-509, 70A-9a-708, or 70A-9a-807;

(b) the record is not related to an existing or anticipated transaction that is or will be governed by Title 70A, Chapter 9a, Uniform Commercial Code - Secured Transactions; and

(c) the record is filed knowingly or intentionally to:

(i) harass the person identified as the debtor in the record; or

(ii) defraud the person identified as the debtor in the record.

(2) (a) A person who violates Subsections (1)(a), (b), and (c)(i) is guilty of a class B misdemeanor for a first offense and a class A misdemeanor for a second or subsequent offense.

(b) A person who violates Subsections (1)(a), (b), and (c)(ii) is guilty of a third degree felony.

CHAPTER 229**S. B. 111**

Passed February 25, 2015

Approved March 26, 2015

Effective May 12, 2015

**OCCUPATIONAL SAFETY
AND HEALTH REGULATION**

Chief Sponsor: Scott K. Jenkins

House Sponsor: James A. Dunnigan

LONG TITLE**General Description:**

This bill modifies the Utah Occupational Safety and Health Act relating to the duties of employers and employees.

Highlighted Provisions:

This bill:

- ▶ clarifies the duties of employers and employees;
- ▶ grants rulemaking authority to the Labor Commission; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

34A-6-201, as renumbered and amended by Laws of Utah 1997, Chapter 375

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

Section 1. Section 34A-6-201 is amended to read:**34A-6-201. Duties of employers and employees.**

(1) Each employer shall ~~[furnish each of the employer's employees employment and a place of employment free from recognized hazards that are causing or are likely to cause death or physical harm to the employer's employees and comply with the standards promulgated under this chapter.]~~

(a) furnish to each of its employees employment and a place of employment that are free from recognized hazards that are causing or are likely to cause death or serious physical harm to its employees; and

(b) comply with occupational safety and health standards promulgated under this chapter.

(2) Each employee shall comply with [the] occupational safety and health standards[, orders, and rules made under this chapter] and the rules and orders issued pursuant to this chapter that are applicable to the employee's own actions and conduct.

(3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules that are necessary to implement this section for a workplace with multiple employers.

CHAPTER 230**S. B. 133**

Passed March 11, 2015
 Approved March 26, 2015
 Effective May 12, 2015

PODIATRIC PHYSICIAN AMENDMENTS

Chief Sponsor: David P. Hinkins
 House Sponsor: Justin L. Fawson

LONG TITLE**General Description:**

This bill amends provisions related to podiatric physicians.

Highlighted Provisions:

This bill:

- ▶ modifies qualifications for licensure as a podiatric physician; and
- ▶ modifies the scope of practice of a podiatric physician.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 58-5a-102, as last amended by Laws of Utah 1996, Chapter 232
- 58-5a-302, as last amended by Laws of Utah 2009, Chapter 183
- 58-5a-306, as last amended by Laws of Utah 1996, Chapter 232
- 58-5a-501, as enacted by Laws of Utah 1993, Chapter 211

ENACTS:

58-5a-103, Utah Code Annotated 1953

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

Section 1. Section 58-5a-102 is amended to read:**58-5a-102. Definitions.**

In addition to the definitions under Section 58-1-102, as used in this chapter:

(1) "Board" means the Podiatric Physician Board created in Section 58-5a-201.

(2) "Indirect supervision" means the same as that term is defined by the division by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(3) "Medical assistant" means an unlicensed individual working under the indirect supervision of a licensed podiatric physician and engaging in specific tasks assigned by the licensed podiatric physician in accordance with the standards and ethics of the podiatry profession.

(2) (4) "Practice of podiatry" means the diagnosis and treatment of conditions affecting the human foot and ankle and their manifestations of systemic conditions by all appropriate and lawful

means, subject to [the following provisions:] Section 58-5a-103.

[~~(a) surgical procedures may be performed upon all bones of the foot and ankle, with the exception of the following procedures:~~]

[~~(i) ankle fusion;~~]

[~~(ii) massive ankle reconstruction; and~~]

[~~(iii) reduction of trimalleolar fractures of the ankle;~~]

[~~(b) surgical treatment of any condition of the ankle and governing and related structures of the foot and ankle above the ankle shall be:~~]

[~~(i) performed in an ambulatory surgical facility, general acute hospital, or a specialty hospital, as defined in Section 26-21-2; and~~]

[~~(ii) subject to review by a quality care review body which includes qualified licensed physicians and surgeons.~~]

[~~(3) (a) (5) "Unlawful conduct" [as defined in Section 58-1-501 includes the following conduct by a person not licensed under this chapter] includes:~~

[~~(a) the conduct that constitutes unlawful conduct under Section 58-1-501; and~~

[~~(b) for an individual who is not licensed under this chapter:~~

[~~(i) using the title or name podiatric physician, podiatrist, podiatric surgeon, foot doctor, foot specialist, or D.P.M.; or~~

[~~(ii) implying or representing [he] that the individual is qualified to practice podiatry.~~

[~~(b) "Unlawful conduct" as defined in Section 58-1-501 includes the following conduct by a person licensed under this chapter:~~

[~~(i) administering general anesthesia; or~~]

[~~(ii) amputating the foot.~~]

[~~(4) (6) "Unprofessional conduct" [as defined in Section 58-1-501 and as may be further defined by rule,] includes, for an individual licensed under this chapter:~~

[~~(a) the conduct that constitutes unprofessional conduct under Section 58-1-501;~~

[~~(a) (b) communicating to a third party, without the consent of the patient, information [acquired] the individual acquires in treating the patient [that is necessary to enable the podiatric physician to treat the patient], except as necessary for professional consultation regarding treatment of [a] the patient;~~

[~~(b) (c) allowing [one's] the individual's name or license [as a podiatric physician] to be used by [another person] an individual who is not licensed to practice podiatry [in this state] under this chapter;~~

[~~(e) (d) except as described in Section 58-5a-306, employing, directly or indirectly, any unlicensed [person] individual to practice podiatry;~~

~~(d)~~ ~~use of~~ (e) using alcohol or drugs, to the extent ~~[a licensee's ability to safely engage in the practice of podiatry is impaired]~~ the individual's use of alcohol or drugs impairs the individual's ability to practice podiatry;

~~(e)~~ (f) unlawfully prescribing, selling, or giving away any prescription drug, including controlled substances, as defined in Section 58-37-2;

~~(f)~~ (g) gross incompetency in the practice of podiatry;

~~(g)~~ (h) willfully and intentionally making a false statement or entry in hospital records, medical records, or reports;

~~(h)~~ (i) willfully making a false statement in reports or claim forms to governmental agencies or insurance companies with the intent to secure payment not rightfully due; ~~(i)~~

~~(i)~~ (j) willfully using false or fraudulent advertising~~[-]~~; and

(k) conduct the division defines as unprofessional conduct by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 2. Section 58-5a-103 is enacted to read:

58-5a-103. Scope of practice.

(1) Subject to Subsections (4) and (5), an individual licensed as a podiatric physician under this chapter may perform a surgical procedure on a bone of the foot or ankle, except that the individual may not perform:

- (a) ankle fusion;
- (b) massive ankle reconstruction; or
- (c) reduction of a trimalleolar ankle fracture.

(2) Notwithstanding Subsections (1)(a), (b), and (c), and subject to Subsections (4) and (5), an individual licensed as a podiatric physician under this chapter that meets the additional training requirements described in Subsection (3) may perform a surgical procedure that is related to the treatment of a foot or ankle condition, including the treatment of a foot or ankle condition that involves the soft tissues, including tendons, ligaments, and nerves, of the foot or ankle, except that the individual may only:

(a) treat a fracture of the tibia if at least one portion of the fracture line enters the ankle joint;

(b) treat a foot or ankle condition using hardware, including screws, plates, staples, pins, and wires, if at least one portion of the hardware system is attached to a bony structure at or below the ankle mortise; and

(c) place hardware for the treatment of soft tissues in the foot or ankle no more proximal than the distal 10 centimeters of the tibia.

(3) An individual licensed as a podiatric physician under this chapter may not perform the procedures described in Subsection (2) unless the individual:

(a) (i) graduated on or after June 1, 2006, from a three-year residency program in podiatric medicine and surgery that was accredited, at the time of graduation, by the Council on Podiatric Medical Education; and

(ii) is board certified in reconstructive rearfoot and ankle surgery by the American Board of Foot and Ankle Surgery;

(b) (i) graduated on or after June 1, 2006, from a three-year residency program in podiatric medicine and surgery that was accredited, at the time of graduation, by the Council on Podiatric Medical Education;

(ii) is board qualified in reconstructive rearfoot ankle surgery by the American Board of Foot and Ankle Surgery; and

(iii) provides the division documentation that the podiatric physician has completed training or experience, which the division determines is acceptable, in standard or advanced midfoot, rearfoot, and ankle procedures; or

(c) (i) graduated before June 1, 2006, from a residency program in podiatric medicine and surgery that was at least two years in length and that was accredited, at the time of graduation, by the Council on Podiatric Medical Education;

(ii) (A) is board certified in reconstructive rearfoot ankle surgery by the American Board of Foot and Ankle Surgery;

(B) if the residency described in Subsection (3)(c)(i) is a PSR-24 24-month podiatric surgical residency, provides proof that the individual completed the residency, to a hospital that is accredited by the Joint Commission, and meets the hospital's credentialing criteria for foot and ankle surgery; or

(C) in addition to the residency described in Subsection (3)(c)(i), has completed a fellowship in foot and ankle surgery that was accredited by the Council on Podiatric Medical Education at the time of completion; and

(iii) provides the division documentation that the podiatric physician has completed training and experience, which the division determines is acceptable, in standard or advanced midfoot, rearfoot, and ankle procedures.

(4) An individual licensed as a podiatric physician under this chapter may not perform an amputation proximal to Chopart's joint.

(5) An individual licensed as a podiatric physician under this chapter may not perform a surgical treatment on an ankle, on a governing structure of the foot or ankle above the ankle, or on a structure related to the foot or ankle above the ankle, unless the individual performs the surgical treatment:

(a) in an ambulatory surgical facility, a general acute hospital, or a specialty hospital, as defined in Section 26-21-2; and

(b) subject to review by a quality care review body that includes qualified, licensed physicians and surgeons.

Section 3. Section 58-5a-302 is amended to read:

58-5a-302. Qualifications to practice podiatry.

An applicant for licensure to practice podiatry shall:

- (1) submit an application in a form as prescribed by the division;
- (2) pay a fee as determined by the department under Section 63J-1-504;
- (3) be of good moral character;
- (4) be a graduate of a college of podiatric medicine accredited by the Council of Podiatric Education;
- (5) if licensed on or after July 1, 2015, have completed ~~[one year]~~ two years of postgraduate training in a residency program recognized by the board; and
- (6) pass examinations required by rule.

Section 4. Section 58-5a-306 is amended to read:

58-5a-306. Exemptions from licensure.

The following persons may practice podiatry, subject to stated circumstances and limitations, without being licensed under this chapter:

- (1) a podiatric physician serving in the armed forces of the United States, the United States Public Health Service, the United States Department of Veterans Affairs, or other federal agencies while engaged in activities regulated under this chapter as a part of his employment with that federal agency if the individual holds a valid license to practice podiatry issued by any other state or jurisdiction recognized by the division;
- (2) a student engaged in activities that constitute the practice of podiatry while in training in a recognized school approved by the division to the extent the activities are under the supervision of qualified faculty or staff and the activities are a defined part of the training program;
- (3) a person engaged in an internship, residency, preceptorship, postceptorship, fellowship, apprenticeship, or on-the-job training program approved by the division while under the supervision of qualified persons;
- (4) a person residing in another state and licensed to practice podiatry there, who is called in for a consultation by a person licensed in this state and services provided are limited to that consultation or who is invited by a recognized school, association, society, or other body approved by the division to conduct a lecture, clinic, or demonstration of the practice of podiatry so long as that individual does not establish a place of business or regularly engage in the practice of podiatry in the state;
- (5) a person licensed under the laws of this state to practice or engage in any other occupation or profession while engaged in the lawful, professional, and competent practice of that occupation or profession; ~~[and]~~

(6) persons who fit or sell corrective shoes, arch supports, or similar devices, to the extent their acts and practices involve only the fitting and selling of these items~~[-];~~ or

(7) a medical assistant working under the indirect supervision of a licensed podiatric physician, if the medical assistant:

- (a) engages only in tasks appropriately delegated by the licensed podiatric physician in accordance with the standards and ethics of the practice of podiatry, and consistent with this chapter;
- (b) does not perform surgical procedures;
- (c) does not prescribe prescription medications;
- (d) does not administer anesthesia, except for a local anesthetic; and
- (e) does not engage in other practices or procedures defined by the division by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and in collaboration with the board.

Section 5. Section 58-5a-501 is amended to read:

58-5a-501. Unlawful conduct -- Penalties.

Any person who engages in unlawful conduct as defined in this chapter is guilty of a third degree felony, except that a violation of Subsection 58-5a-102~~[(3)(a)]~~(5) is a class A misdemeanor.

CHAPTER 231**S. B. 163**

Passed March 11, 2015
 Approved March 26, 2015
 Effective May 12, 2015

WILDLIFE MODIFICATIONS

Chief Sponsor: Margaret Dayton
 House Sponsor: Mike K. McKell

LONG TITLE**General Description:**

This bill amends provisions related to the release of wildlife.

Highlighted Provisions:

This bill:

- ▶ establishes criminal penalties for the release, under certain circumstances, of wildlife listed as threatened or endangered under the Endangered Species Act; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

23-13-14, as last amended by Laws of Utah 1986, Chapter 76

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

Section 1. Section 23-13-14 is amended to read:**23-13-14. Release of wildlife unlawful -- Penalty.**

[It is unlawful for any person to release any]

(1) A person may not release a live terrestrial or aquatic wildlife into the wild except as provided in this title~~[-Any]~~ and rules and regulations established by the Wildlife Board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) Except as provided in Subsection (3), a person who violates ~~[the provisions of this section]~~ Subsection (1) is guilty of a class A misdemeanor.

(3) A person who knowingly and without lawful authority imports, transports, or releases a live species of wildlife that the person knows is listed as threatened or endangered, or is a candidate to be listed under the Endangered Species Act, 16 U.S.C. Sec. 1531 et seq., with the intent to establish the presence of that species in an area of the state not currently known to be occupied by a reproducing population of that species is guilty of a third degree felony.

CHAPTER 232**S. B. 168**

Passed February 26, 2015

Approved March 26, 2015

Effective May 12, 2015

CIVIC CENTER AMENDMENTS

Chief Sponsor: Curtis S. Bramble

House Sponsor: Daniel McCay

LONG TITLE**General Description:**

This bill provides for charter school buildings and grounds to be used as civic centers.

Highlighted Provisions:

This bill:

- ▶ provides for charter school buildings and grounds to be used as civic centers.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53A-1a-511, as last amended by Laws of Utah 2012, Chapter 347

53A-3-413, as last amended by Laws of Utah 2014, Chapter 73

53A-3-414, as last amended by Laws of Utah 2008, Chapter 199

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

Section 1. Section 53A-1a-511 is amended to read:**53A-1a-511. Waivers from state board rules -- Application of statutes and rules to charter schools.**

(1) A charter school shall operate in accordance with its charter and is subject to Title 53A, State System of Public Education, and other state laws applicable to public schools, except as otherwise provided in this part.

(2) (a) A charter school or any other public school or school district may apply to the State Board of Education for a waiver of any state board rule that inhibits or hinders the school or the school district from accomplishing its mission or educational goals set out in its strategic plan or charter.

(b) The state board may grant the waiver, unless:

(i) the waiver would cause the school district or the school to be in violation of state or federal law; or

(ii) the waiver would threaten the health, safety, or welfare of students in the district or at the school.

(c) If the State Board of Education denies the waiver, the reason for the denial shall be provided in writing to the waiver applicant.

(3) (a) Except as provided in Subsection (3)(b), State Board of Education rules governing the following do not apply to a charter school:

(i) school libraries;

(ii) required school administrative and supervisory services; and

(iii) required expenditures for instructional supplies.

(b) A charter school shall comply with rules implementing statutes that prescribe how state appropriations may be spent.

(4) The following provisions of Title 53A, State System of Public Education, and rules adopted under those provisions, do not apply to a charter school:

(a) Sections 53A-1a-108 and 53A-1a-108.5, requiring the establishment of a school community council and school improvement plan;

~~(b) Sections 53A-3-413 and 53A-3-414, pertaining to the use of school buildings as civic centers;~~

~~(e)~~ (b) Section 53A-3-420, requiring the use of activity disclosure statements;

~~(d)~~ (c) Section 53A-12-207, requiring notification of intent to dispose of textbooks;

~~(e)~~ (d) Section 53A-13-107, requiring annual presentations on adoption;

~~(f)~~ (e) Chapter 19, Part 1, Fiscal Procedures, pertaining to fiscal procedures of school districts and local school boards; and

~~(g)~~ (f) Section 53A-14-107, requiring an independent evaluation of instructional materials.

(5) For the purposes of Title 63G, Chapter 6a, Utah Procurement Code, a charter school shall be considered a local public procurement unit.

(6) Each charter school shall be subject to:

(a) Title 52, Chapter 4, Open and Public Meetings Act; and

(b) Title 63G, Chapter 2, Government Records Access and Management Act.

(7) (a) The State Charter School Board shall, in concert with the charter schools, study existing state law and administrative rules for the purpose of determining from which laws and rules charter schools should be exempt.

(b) (i) The State Charter School Board shall present recommendations for exemption to the State Board of Education for consideration.

(ii) The State Board of Education shall consider the recommendations of the State Charter School Board and respond within 60 days.

Section 2. Section 53A-3-413 is amended to read:**53A-3-413. Use of public school buildings and grounds as civic centers.**

(1) As used in this section, "civic center" means a public school building or ground, including a charter school building or ground, that is established and maintained as a limited public

forum [~~to district residents~~] for supervised recreational activities and meetings.

(2) Except as provided in Subsection (3), all public school buildings and grounds shall be civic centers.

(3) The use of school property [~~for~~] as a civic center [purpose]:

(a) may not interfere with a school function or purpose; and

(b) is considered a permit for governmental immunity purposes for a governmental entity under Subsection 63G-7-301(5)(c).

(4) The organizer of an event may not use a civic center unless the organizer resides within the geographic boundaries of the school district in which the civic center is located.

Section 3. Section 53A-3-414 is amended to read:

53A-3-414. Local school boards' and charter school governing boards' responsibility for school buildings and grounds when used as civic centers.

(1) As used in this section, "civic center" [~~has the same meaning as provided~~] means the same as that term is defined in Section 53A-3-413.

(2) A local school board or charter school governing board:

(a) shall manage, direct, and control civic centers under this chapter;

(b) shall adopt policies for the use of civic centers;

(c) may charge a reasonable fee for the use of [~~school facilities as~~] a civic center so that the school district or charter school incurs no expense for that use;

(d) may appoint a special functions officer under Section 53-13-105 to have charge of the grounds and protect school property when used for civic center purposes;

(e) shall allow the use of a civic center, for other than school purposes, unless it determines that the use interferes with a school function or purpose; and

(f) shall ensure that school administrators are trained about and properly implement the provisions of this section and Section 53A-3-413.

CHAPTER 233**S. B. 190**

Passed March 12, 2015
 Approved March 26, 2015
 Effective July 1, 2015

MOBILE HOME PARK HELPLINE

Chief Sponsor: Daniel W. Thatcher
 House Sponsor: R. Curt Webb

LONG TITLE**General Description:**

This bill modifies the Mobile Home Park Residency Act and enacts the Mobile Home Park Helpline.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ establishes a helpline to assist a resident, a mobile home owner, or a park owner with disputes related to the Mobile Home Park Residency Act;
- ▶ provides that the University of Utah S.J. Quinney College of Law shall create a law clinic to administer the helpline;
- ▶ requires a mobile home park owner to post a notice that includes:
 - a summary of the rights and responsibilities described in the Mobile Home Park Residency Act; and
 - information on how to use the helpline; and
- ▶ provides that the provisions of this bill relating to the Mobile Home Park Helpline sunset on July 1, 2017.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2016:

- ▶ to the University of Utah, as a one-time appropriation:
 - from the General Fund, \$35,000.

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

57-16-4, as last amended by Laws of Utah 2009, Chapter 94
 63I-1-257, as last amended by Laws of Utah 2014, Chapter 177

ENACTS:

57-16a-101, Utah Code Annotated 1953
 57-16a-102, Utah Code Annotated 1953
 57-16a-201, Utah Code Annotated 1953
 57-16a-202, Utah Code Annotated 1953
 57-16a-203, Utah Code Annotated 1953

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

Section 1. Section 57-16-4 is amended to read:

57-16-4. Termination of lease or rental agreement -- Required contents of lease -- Increases in rents or fees -- Sale of homes -- Notice regarding planned reduction or restriction of amenities.

(1) A mobile home park or its agents may not terminate a lease or rental agreement upon any ground other than as specified in this chapter.

(2) Each agreement for the lease of mobile home space shall be written and signed by the parties.

(3) Each lease shall contain at least the following information:

(a) the name and address of the mobile home park owner and any persons authorized to act for the owner, upon whom notice and service of process may be served;

(b) the type of the leasehold, whether it be term or periodic, and, in leases entered into on or after May 6, 2002, a conspicuous disclosure describing the protection a resident has under Subsection (1) against unilateral termination of the lease by the mobile home park except for the causes described in Section 57-16-5;

(c) (i) a full disclosure of all rent, service charges, and other fees presently being charged on a periodic basis; and

(ii) a full disclosure of utility infrastructure owned by the mobile home park owner or its agent that is maintained through service charges and fees charged by the mobile home park owner or its agent;

(d) the date or dates on which the payment of rent, fees, and service charges are due; and

(e) all rules that pertain to the mobile home park that, if broken, may constitute grounds for eviction, including, in leases entered into on or after May 6, 2002, a conspicuous disclosure regarding:

(i) the causes for which the mobile home park may terminate the lease as described in Section 57-16-5; and

(ii) the resident's rights to:

(A) terminate the lease at any time without cause, upon giving the notice specified in the resident's lease; and

(B) advertise and sell the resident's mobile home.

(4) (a) Increases in rent or fees for periodic tenancies are unenforceable until 60 days after notice of the increase is mailed to the resident.

(b) If service charges are not included in the rent, the mobile home park may:

(i) increase service charges during the leasehold period after giving notice to the resident; and

(ii) pass through increases or decreases in electricity rates to the resident.

(c) Annual income to the park for service charges may not exceed the actual cost to the mobile home park of providing the services on an annual basis.

(d) In determining the costs of the services, the mobile home park may include maintenance costs related to those utilities that are part of the service charges.

(e) The mobile home park may not alter the date on which rent, fees, and service charges are due

unless the mobile home park provides a 60-day written notice to the resident before the date is altered.

(5) (a) Except as provided in Subsection (3)(b), a rule or condition of a lease that purports to prevent or unreasonably limit the sale of a mobile home belonging to a resident is void and unenforceable.

(b) The mobile home park:

(i) may reserve the right to approve the prospective purchaser of a mobile home who intends to become a resident;

(ii) may not unreasonably withhold that approval;

(iii) may require proof of ownership as a condition of approval; or

(iv) may unconditionally refuse to approve any purchaser of a mobile home who does not register before purchasing the mobile home.

(6) If all of the conditions of Section 41-1a-116 are met, a mobile home park may request the names and addresses of the lienholder or owner of any mobile home located in the park from the Motor Vehicle Division.

(7) (a) A mobile home park may not restrict a resident's right to advertise for sale or to sell a mobile home.

(b) A mobile home park may limit the size of a "for sale" sign affixed to the mobile home to not more than 144 square inches.

(8) A mobile home park may not compel a resident who wishes to sell a mobile home to sell it, either directly or indirectly, through an agent designated by the mobile home park.

(9) A mobile home park may require that a mobile home be removed from the park upon sale if:

(a) the mobile home park wishes to upgrade the quality of the mobile home park; and

(b) the mobile home either does not meet minimum size specifications or is in a rundown condition or is in disrepair.

(10) Within 30 days after a mobile home park proposes reducing or restricting amenities, the mobile home park shall:

(a) schedule at least one meeting for the purpose of discussing the proposed restriction or reduction of amenities with residents; and

(b) provide at least 10 days advance written notice of the date, time, location, and purposes of the meeting to each resident.

(11) If a mobile home park uses a single-service meter, the mobile home park owner shall include a full disclosure on a resident's utility bill of the resident's utility charges.

(12) The mobile home park shall ~~have a copy of this chapter~~ ensure that the following are posted at all times in a conspicuous place in a common area of the mobile home park[-]:

(a) a copy of this chapter; and

(b) a notice that:

(i) summarizes the rights and responsibilities described in this chapter;

(ii) includes information on how to use the helpline described in Title 57, Chapter 16a, Mobile Home Park Helpline; and

(iii) is in a form approved by the Office of the Attorney General.

Section 2. Section 57-16a-101 is enacted to read:

CHAPTER 16a. MOBILE HOME PARK HELPLINE

Part 1. General Provisions

57-16a-101. Title.

(1) This chapter is known as the "Mobile Home Park Helpline."

(2) This part is known as "General Provisions."

Section 3. Section 57-16a-102 is enacted to read:

57-16a-102. Definitions.

As used in this chapter:

(1) "Act" means Title 57, Chapter 16, Mobile Home Park Residency Act.

(2) "Assisting attorney" means a member of the Utah State Bar who the helpline administrator designates to assist in administering the helpline, in accordance with the provisions of this chapter.

(3) "Caller" means a resident, a mobile home owner, or a park owner who calls the helpline.

(4) "Helpline" means a direct public telephone number that a resident, a mobile home owner, or a park owner may call with inquiries related to the act.

(5) "Mobile home" means a transportable structure in one or more sections with the plumbing, heating, and electrical systems contained within the unit that when erected on a site may be used with or without a permanent foundation as a dwelling unit.

(6) "Mobile home lot" means an area within a mobile home park designed to accommodate one mobile home.

(7) "Mobile home owner" means a person who:

(a) owns a mobile home; and

(b) leases or rents from a park owner the mobile home lot on which the mobile home is located.

(8) "Mobile home park" means any tract of land on which two or more lots are leased, or offered for lease or rent, to accommodate mobile homes for residential purposes.

(9) "Park owner" means a person who owns a mobile home park, including the person's agent.

(10) "Resident" means a person who leases or rents a mobile home from the mobile home owner.

(11) "Supervised student" means a law student at the S.J. Quinney College of Law who, under the supervision of a member of the Utah State Bar, participates in the law clinic established under this chapter.

Section 4. Section 57-16a-201 is enacted to read:

Part 2. Helpline Administration and Process 57-16a-201. Title.

This part is known as "Helpline Administration and Process."

Section 5. Section 57-16a-202 is enacted to read:

57-16a-202. Helpline administration.

(1) A helpline is created to assist a resident, a mobile home owner, or a park owner with disputes related to the act.

(2) The University of Utah S.J. Quinney College of Law shall administer the helpline in accordance with the provisions of this chapter.

(3) In administering the helpline, the S.J. Quinney College of Law shall:

- (a) establish a phone number for the hotline; and
- (b) create a law clinic that consists of:

(i) a helpline administrator who is employed by the S.J. Quinney College of Law and is an active member of the Utah State Bar;

- (ii) one or more supervised students; and
- (iii) if necessary, one or more assisting attorneys.

(4) The helpline administrator, a supervised student, or an assisting attorney shall:

(a) receive and respond to calls made through the helpline;

(b) inform a helpline caller of the rights, responsibilities, and remedies described in the act;

(c) receive complaints from a helpline caller that allege a violation of the act;

(d) create a record of each call that includes:

(i) whether the caller is a resident, a mobile home owner, or a park owner;

(ii) the subject of the call, including whether the call alleges a violation of the act;

(iii) if the call alleges a violation of the act, information regarding whether the respondent was contacted;

(iv) the services provided to the caller, if any; and

(v) the outcome of the dispute, if known; and

(e) maintain a record described in Subsection (4)(d) for at least one year after the day on which the record is created.

(5) The helpline administrator shall, beginning in 2016, on or before November 30 of each year, submit

to the Political Subdivisions Interim Committee a report that, for the 12 months before the day on which the helpline administrator submits the report, states:

(i) the number of calls that the helpline administrator, a supervised student, or an assisting attorney received through the helpline;

(ii) a brief summary of each call, including:

(A) whether a resident, a mobile home owner, or a park owner made the call;

(B) the subject of the call;

(C) the nature of any service provided to the caller; and

(D) the outcome of the matter, if known; and

(iii) any recommendations regarding changes to the helpline or the act.

Section 6. Section 57-16a-203 is enacted to read:

57-16a-203. Helpline process.

(1) A helpline caller may call the helpline regarding the rights, responsibilities, and remedies described in the act.

(2) If a helpline caller alleges a violation of the act, the helpline administrator, a supervised student, or an assisting attorney shall inform the caller of the rights, responsibilities, and remedies described in the act.

(3) Any record or recommendation that relates to the helpline administration is not admissible as evidence in a judicial proceeding.

Section 7. Section 63I-1-257 is amended to read:

63I-1-257. Repeal dates, Title 57.

(1) Subsections 57-1-25(1)(c), (3)(b), and (4) are repealed December 31, 2016.

(2) Subsection 57-16-4(12), on July 1, 2017, is modified to read as follows:

"(12) The mobile home park shall have a copy of this chapter posted at all times in a conspicuous place in a common area of the mobile home park."

(3) Title 57, Chapter 16a, Mobile Home Park Helpline, is repealed July 1, 2017.

Section 8. Appropriation.

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, for the fiscal year beginning July 1, 2015, and ending June 30, 2016, the following sums of money are appropriated from resources not otherwise appropriated, or reduced from amounts previously appropriated, out of the funds or accounts indicated. These sums of money are in addition to any amounts previously appropriated for fiscal year 2016.

To University of Utah - Education and General From General Fund, One-time \$35,000

Schedule of Programs:

Administration of the Mobile Home Park Helpline	\$35,000
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The Legislature intends that the University of Utah S.J. Quinney College of Law use funds appropriated under this section to administer the Mobile Home Park Helpline established in Title 57, Chapter 16a, Mobile Home Park Helpline. Under Section 63J-1-603, the Legislature further intends that appropriations provided under this section not lapse at the end of fiscal year 2016. The use of any nonlapsing funds is limited to administration of the Mobile Home Park Helpline described in Title 57, Chapter 16a, Mobile Home Park Helpline.

Section 9. Effective date.

This bill takes effect on July 1, 2015.

CHAPTER 234**S. B. 200**

Passed March 10, 2015
 Approved March 26, 2015
 Effective May 12, 2015

**ENVIRONMENTAL QUALITY
 BOARDS AMENDMENTS**

Chief Sponsor: Margaret Dayton
 House Sponsor: Keith Grover

LONG TITLE**General Description:**

This bill changes the membership of the Water Quality Board.

Highlighted Provisions:

This bill:

- ▶ amends the membership of the Water Quality Board; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

19-5-103, as last amended by Laws of Utah 2012, Chapter 360

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

Section 1. Section 19-5-103 is amended to read:

19-5-103. Water Quality Board -- Members of board -- Appointment -- Terms -- Organization -- Meetings -- Per diem and expenses.

(1) The board consists of the following nine members:

(a) the following non-voting member, except that the member may vote to break a tie vote between the voting members:

(i) the executive director; or

(ii) an employee of the department designated by the executive director; and

(b) the following eight voting members, who shall be appointed by the governor with the consent of the Senate:

(i) one representative who:

~~[(A) is not connected with industry;]~~

~~[(B)] (A) is an expert and has relevant training and experience in water quality matters; [and]~~

~~[(C)] (B) is a Utah-licensed physician, a Utah-licensed professional engineer, or a scientist with relevant training and experience; and~~

~~(C) represents local and special service districts in the state;~~

(ii) two government representatives who do not represent the federal government;

(iii) one representative from the mineral industry;

(iv) one representative from the manufacturing industry;

(v) one representative who represents agricultural and livestock interests;

(vi) one representative from the public who represents:

(A) an environmental nongovernmental organization; or

(B) a nongovernmental organization that represents community interests and does not represent industry interests; and

(vii) one representative from the public who is trained and experienced in public health.

(2) A member of the board shall:

(a) be knowledgeable about water quality matters, as evidenced by a professional degree, a professional accreditation, or documented experience;

(b) be a resident of Utah;

(c) attend board meetings in accordance with the attendance rules made by the department under Subsection 19-1-201(1)(d)(i)(A); and

(d) comply with all applicable statutes, rules, and policies, including the conflict of interest rules made by the department under Subsection 19-1-201(1)(d)(i)(B).

(3) No more than five of the appointed members may be from the same political party.

(4) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term with the consent of the Senate.

(5) (a) A member shall be appointed for a term of four years and is eligible for reappointment.

(b) Notwithstanding the requirements of Subsection (5)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that half of the appointed board is appointed every two years.

(c) (i) Notwithstanding Subsection (5)(a), the term of a board member who is appointed before March 1, 2013, shall expire on February 28, 2013.

(ii) On March 1, 2013, the governor shall appoint or reappoint board members in accordance with this section.

(6) A member shall hold office until the expiration of the member's term and until the member's successor is appointed, not to exceed 90 days after the formal expiration of the term.

(7) The board shall:

(a) organize and annually select one of its members as chair and one of its members as vice chair;

(b) hold at least four regular meetings each calendar year; and

(c) keep minutes of its proceedings which are open to the public for inspection.

(8) The chair may call a special meeting upon the request of three or more members of the board.

(9) Each member of the board and the director shall be notified of the time and place of each meeting.

(10) Five members of the board constitute a quorum for the transaction of business, and the action of a majority of members present is the action of the board.

(11) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

CHAPTER 235**S. B. 202**

Passed March 11, 2015
 Approved March 26, 2015
 Effective May 12, 2015

**CONSERVATION
 COMMISSION EMPLOYEES**

Chief Sponsor: Ralph Okerlund
 House Sponsor: Melvin R. Brown

LONG TITLE**General Description:**

This bill amends provisions relating to certain Conservation Commission employees.

Highlighted Provisions:

This bill:

- ▶ provides that the Department of Human Resource Management establish certain benefits and employee classifications for certain individuals hired by the Conservation Commission.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

4-18-105, as last amended by Laws of Utah 2014, Chapter 383

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

Section 1. Section 4-18-105 is amended to read:

**4-18-105. Conservation Commission --
 Functions and duties.**

- (1) The commission shall:
 - (a) facilitate the development and implementation of the strategies and programs necessary to:
 - (i) protect, conserve, utilize, and develop the soil, air, and water resources of the state; and
 - (ii) promote the protection, integrity, and restoration of land for agricultural and other beneficial purposes;
 - (b) disseminate information regarding districts' activities and programs;
 - (c) supervise the formation, reorganization, or dissolution of districts according to the requirements of Title 17D, Chapter 3, Conservation District Act;
 - (d) prescribe uniform accounting and recordkeeping procedures for districts and require each district to submit annually an audit of its funds to the commission;
 - (e) approve and make loans for agricultural purposes, through the advisory board described in

Section 4-18-106, from the Agriculture Resource Development Fund, for:

- (i) rangeland improvement and management projects;
- (ii) watershed protection and flood prevention projects;
- (iii) agricultural cropland soil and water conservation projects;
- (iv) programs designed to promote energy efficient farming practices;
- (v) development and implementation of coordinated resource management plans, as defined in Section 4-18-103, with conservation districts, as defined in Section 17D-3-102; and
- (vi) programs or improvements for agriculture product storage or protections of a crop or animal resource;
- (f) administer federal or state funds, including loan funds under this chapter, in accordance with applicable federal or state guidelines and make loans or grants from those funds to land occupiers for:
 - (i) the conservation of soil or water resources;
 - (ii) maintenance of rangeland improvement projects; and
 - (iii) the control or eradication of noxious weeds and invasive plant species:
 - (A) in cooperation and coordination with local weed boards; and
 - (B) in accordance with Section 4-2-8.7;
 - (g) seek to coordinate soil and water protection, conservation, and development activities and programs of state agencies, local governmental units, other states, special interest groups, and federal agencies;
 - (h) plan watershed and flood control projects in cooperation with appropriate local, state, and federal authorities, and coordinate flood control projects in the state;
 - (i) assist other state agencies with conservation standards for agriculture when requested; and
 - (j) when assigned by the governor, when required by contract with the Department of Environmental Quality, or when required by contract with the United States Environmental Protection Agency:
 - (i) develop programs for the prevention, control, or abatement of new or existing pollution to the soil, water, or air of the state;
 - (ii) advise, consult, and cooperate with affected parties to further the purpose of this chapter;
 - (iii) conduct studies, investigations, research, and demonstrations relating to agricultural pollution issues;
 - (iv) give reasonable consideration in the exercise of its powers and duties to the economic impact on sustainable agriculture;

(v) meet the requirements of federal law related to water and air pollution in the exercise of its powers and duties; and

(vi) establish administrative penalties relating to agricultural discharges as defined in Section 4-18-103 that are proportional to the seriousness of the resulting environmental harm.

(2) The commission may:

(a) employ, with the approval of the department, an administrator and necessary technical experts and employees;

(b) execute contracts or other instruments necessary to exercise its powers;

(c) take necessary action to promote and enforce the purpose and findings of Section 4-18-102;

(d) sue and be sued; and

(e) adopt rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, necessary to carry out the powers and duties described in Subsection (1) and Subsections (2)(b) and (c).

(3) If, under Subsection (2)(a), the commission employs an individual who was formerly an employee of a conservation district or the Utah Association of Conservation Districts, the Department of Human Resource Management shall:

(a) recognize the employee's employment service credit from the conservation district or association in determining leave accrual in the employee's new position within the state; and

(b) set the initial wage rate for the employee at the level that the employee was receiving as an employee of the conservation district or association.

(4) An employee described in Subsection (3) is exempt from the career service provisions of Title 67, Chapter 19, Utah State Personnel Management Act, and shall be designated under schedule codes and parameters established by the Department of Human Resource Management under Subsection 67-19-15(1)(p) until the commission, under parameters established by the Department of Human Resource Management, designates the employee under a different schedule recognized under Section 67-19-15.

(5) (a) For purposes of the report required by Subsection (5)(b), the commissioner shall study the organizational structure of the employees described in Subsection (3).

(b) The commissioner shall report to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee by no later than that subcommittee's November 2015 interim meeting regarding the study required by Subsection (5)(a).

CHAPTER 236**S. B. 203**

Passed March 5, 2015
 Approved March 26, 2015
 Effective May 12, 2015

**IMMIGRATION
 CONSULTANTS AMENDMENTS**

Chief Sponsor: Luz Escamilla
 House Sponsor: Jeremy A. Peterson

LONG TITLE**General Description:**

This bill modifies the Immigration Consultants Registration Act.

Highlighted Provisions:

This bill:

- ▶ amends the definition provision;
- ▶ clarifies the act's application to individuals as immigration consultants;
- ▶ clarifies exemptions from the act;
- ▶ modifies bonding requirements;
- ▶ addresses when a written contract may be cancelled by a client;
- ▶ modifies exemptions from contract requirements;
- ▶ modifies disclosure requirements, including what notices are to be displayed and what disclosures are to be provided in writing;
- ▶ repeals language for providing information to law enforcement with consent of client;
- ▶ provides for investigatory powers in the division; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 13-49-102, as last amended by Laws of Utah 2013, Chapter 124
 13-49-201, as enacted by Laws of Utah 2012, Chapter 375
 13-49-202, as last amended by Laws of Utah 2013, Chapter 124
 13-49-204, as last amended by Laws of Utah 2013, Chapters 124 and 278
 13-49-301, as enacted by Laws of Utah 2012, Chapter 375
 13-49-303, as enacted by Laws of Utah 2012, Chapter 375
 13-49-304, as enacted by Laws of Utah 2012, Chapter 375
 13-49-305, as enacted by Laws of Utah 2012, Chapter 375
 13-49-402, as last amended by Laws of Utah 2013, Chapter 124

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

Section 1. Section 13-49-102 is amended to read:**13-49-102. Definitions.**

As used in this chapter:

(1) "Client" means a person who receives services from or enters into an agreement to receive services from an immigration consultant.

(2) "Compensation" means anything of economic value that is paid, loaned, granted, given, donated, or transferred to a person for or in consideration of:

- (a) services;
- (b) personal or real property; or
- (c) another thing of value.

(3) "Department" means the Department of Commerce.

(4) "Division" means the Division of Consumer Protection in the department.

(5) "Immigration consultant" means ~~[a person]~~ an individual who provides nonlegal assistance or advice on an immigration matter including:

- (a) completing a document provided by a federal or state agency, but not advising a person as to the person's answers on the document;
- (b) translating a person's answer to a question posed in a document provided by a federal or state agency;
- (c) securing for a person supporting documents, such as a birth certificate, that may be necessary to complete a document provided by a federal or state agency;

(d) submitting a completed document on a person's behalf and at the person's request to the United States Citizenship and Immigration Services; or

(e) for valuable consideration, referring a person to a person who could undertake legal representation activities in an immigration matter.

(6) "Immigration matter" means a proceeding, filing, or action affecting the immigration or citizenship status of a person that arises under:

- (a) immigration and naturalization law;
- (b) executive order or presidential proclamation; or
- (c) action of the United States Citizenship and Immigration Services, the United States Department of State, or the United States Department of Labor.

Section 2. Section 13-49-201 is amended to read:**13-49-201. Requirement to be registered as an immigration consultant -- Exemptions.**

(1) (a) Except as provided in Subsection (1)(b), ~~[a person]~~ an individual may not engage in an activity

of an immigration consultant for compensation unless the [person] individual is registered under this chapter.

(b) ~~[Subsection (1)(a)]~~ Except for Subsections 13-49-303(3) and (4), this chapter does not apply to [a person] an individual authorized:

(i) to practice law in this state; or

(ii) by federal law to represent persons before the Board of Immigration Appeals or the United States Citizenship and Immigration Services.

(2) An immigration consultant may only offer nonlegal assistance or advice in an immigration matter.

Section 3. Section 13-49-202 is amended to read:

13-49-202. Application for registration.

(1) To register as an immigration consultant [a person] an individual shall:

(a) submit an annual application in a form prescribed by the division;

(b) pay an annual registration fee determined by the department in accordance with Section 63J-1-504, which includes the costs of the criminal background check required under Subsection (1)(e);

(c) have good moral character in that the [applicant] individual has not been convicted of:

(i) a felony; or

(ii) within the last 10 years, a misdemeanor involving theft, fraud, or dishonesty;

(d) submit fingerprint cards in a form acceptable to the division at the time the application is filed; and

(e) consent to a fingerprint background check of the individual by the Utah Bureau of Criminal Identification regarding the application.

(2) The division shall register [a person] an individual who qualifies under this chapter as an immigration consultant.

Section 4. Section 13-49-204 is amended to read:

13-49-204. Bonds -- Exemption -- Statements dependent on posting bond.

(1) ~~[Except as provided in Subsection (6), an]~~ An immigration consultant shall post a cash bond or surety bond:

(a) in the amount of \$50,000; and

(b) payable to the division for the benefit of any person damaged by a fraud, misstatement, misrepresentation, unlawful act, omission, or failure to provide services of an immigration consultant, or an agent, representative, or employee of an immigration consultant.

(2) A bond required under this section shall be:

(a) in a form approved by the [attorney general] division; and

(b) conditioned upon the faithful compliance of an immigration consultant with this chapter and division rules.

(3) An immigration consultant shall keep the bond required under this section in force for one year after the immigration consultant's registration expires or the immigration consultant notifies the division in writing that the immigration consultant has ceased all activities regulated under this chapter.

(4) (a) If a surety bond posted by an immigration consultant under this section is canceled due to the [person's] immigration consultant's negligence, the division may assess a \$300 reinstatement fee.

(b) No part of a bond posted by an immigration consultant under this section may be withdrawn:

(i) during the one-year period the registration under this chapter is in effect; or

(ii) while a revocation proceeding is pending against the [person] immigration consultant.

(5) (a) A bond posted under this section by an immigration consultant may be forfeited if the [person's] immigration consultant's registration under this chapter is revoked.

(b) Notwithstanding Subsection (5)(a), the division may make a claim against a bond posted by an immigration consultant for money owed the division under this chapter without the division first revoking the immigration consultant's registration.

~~[(6) The requirements of this section do not apply to an employee of a nonprofit, tax-exempt corporation who assists clients to complete an application document in an immigration matter, free of charge or for a fee, including reasonable costs, consistent with that authorized by the Board of Immigration Appeals under 8 C.F.R. Sec. 292.2.]~~

~~[(7) A person]~~ (6) An individual may not disseminate by any means a statement indicating that the [person] individual is an immigration consultant, engages in the business of an immigration consultant, or proposes to engage in the business of an immigration consultant, unless the [person] individual has posted a bond under this section that is maintained throughout the period covered by the statement~~[, such as a listing in a telephone book].~~

~~[(8) (7)]~~ (7) An immigration consultant may not make or authorize the making of an oral or written reference to the immigration consultant's compliance with the bonding requirements of this section except as provided in this chapter.

Section 5. Section 13-49-301 is amended to read:

13-49-301. Requirements for written contract -- Prohibited statements.

(1) (a) Before an immigration consultant may provide services to a client, the immigration consultant shall provide the client with a written contract. The contents of the written contract shall comply with this section and rules made by the

division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) A client may ~~reseed~~ cancel a written contract ~~[within 72 hours of]~~ on or before midnight of the third business day after execution of the written contract, excluding weekends and state and federal holidays.

(2) A written contract under this section shall be stated in both English and in the client's native language.

(3) A written contract under this section shall:

(a) state the purpose for which the immigration consultant has been hired;

(b) state the one or more services to be performed;

(c) state the price for a service to be performed;

(d) include a statement printed in 10-point boldface type that the immigration consultant is not an attorney and may not perform the legal services that an attorney performs;

(e) with regard to a document to be prepared by the immigration consultant:

(i) list the document to be prepared;

(ii) explain the purpose of the document;

(iii) explain the process to be followed in preparing of the document;

(iv) explain the action to be taken by the immigration consultant;

(v) state the agency or office where each document will be filed; and

(vi) state the approximate processing times according to current published agency guidelines;

(f) include a provision stating that the person may report complaints relating to an immigration consultant to the:

(i) division, including a toll-free telephone number and Internet web site; and

(ii) Office of Immigrant Assistance of the United States Department of Justice, including a toll-free telephone number and Internet ~~[web site]~~ website;

(g) include a provision stating that complaints concerning the unauthorized practice of law may be reported to the Utah State Bar, including a toll-free telephone number and Internet ~~[web site]~~ website; and

(h) in accordance with Subsection (1)(b), include a provision stating [that a client] in bold on the first page of the written contract in both English and in the client's native language in accordance with Subsection (2): "You may ~~reseed the~~ cancel this contract [within 72 hours of signing the contract.] on or before midnight of the third business day after execution of the written contract."

(4) A written contract may not contain a provision relating to the following:

(a) a guarantee or promise, unless the immigration consultant has some basis in fact for making the guarantee or promise; or

(b) a statement that the immigration consultant can or will obtain a special favor from or has special influence with the United States Citizenship and Immigration Services, or any other governmental agency, employee, or official, that may have a bearing on a client's immigration matter.

(5) An immigration consultant may not make a statement described in Subsection (4) orally to a client.

(6) A written contract is void if not written in accordance with this section.

~~[(7) This section does not apply to an employee of a nonprofit, tax-exempt corporation who assists clients to complete application documents in an immigration matter free of charge or for a fee, including reasonable costs, as authorized by the Board of Immigration Appeals under 8 C.F.R. Sec. 292.2.]~~

Section 6. Section 13-49-303 is amended to read:

13-49-303. Notice to be displayed -- Disclosure to be provided in writing.

(1) An immigration consultant shall conspicuously display in the immigration consultant's office a notice that shall be at least 12 by 20 inches with boldface type or print with each character at least one inch in height and width in English and in the native language of the immigration consultant's clientele, that contains the following information:

(a) the full name, address, and evidence of compliance with any applicable bonding requirement including the bond number~~[, if any];~~

(b) a statement that the immigration consultant is not an attorney; and

~~[(c) the services that the immigration consultant provides and the current and total fee for each service; and]~~

~~[(d)]~~ (c) the name of each immigration consultant employed at each location.

(2) (a) Before providing any services, an immigration consultant shall provide a client with a written disclosure in the native language of the client that includes the following:

~~[(a)]~~ (i) the immigration consultant's name, address, and telephone number;

~~[(b)]~~ (ii) the immigration consultant's agent for service of process;

~~[(c) the legal name of the employee who consults with the client, if different from the immigration consultant; and]~~

~~[(d)]~~ (iii) evidence of compliance with any applicable bonding requirement, including the bond number~~[, if any];~~ and

(iv) a list of the services that the immigration consultant provides and the current and total fee for each service.

(b) An immigration consultant shall obtain the signature of the client verifying that the client received the written disclosures described in Subsection (2)(a) before a service is provided.

(3) (a) Except as provided in Subsections (3)(b) and (3)(c), an immigration consultant who prints, displays, publishes, distributes, or broadcasts, or who causes to be printed, displayed, published, distributed, or broadcasted, any advertisement for services as an immigration consultant, shall include in that advertisement a clear and conspicuous statement that the immigration consultant is not an attorney.

(b) Subsection (3)(a) does not apply to an immigration consultant who is not licensed as an attorney in any state or territory of the United States, but is authorized by federal law to represent persons before the Board of Immigration Appeals or the United States Citizenship and Immigration Services. A person described in this Subsection (3)(b) shall include in an advertisement for services as an immigration consultant a clear and conspicuous statement that the immigration consultant is not an attorney, but is authorized by federal law to represent persons before the Board of Immigration Appeals or the United States Citizenship and Immigration Services.

(c) Subsection (3)(a) does not apply to a person who is not an active member of the Utah State Bar, but is an attorney licensed in another state or territory of the United States and is admitted to practice before the Board of Immigration Appeals or the United States Citizenship and Immigration Services. A person described in this Subsection (3)(c) shall include in any advertisement for immigration services a clear and conspicuous statement that the person is not an attorney licensed to practice law in this state, but is an attorney licensed in another state or territory of the United States, and is authorized by federal law to represent persons before the Board of Immigration Appeals or the United States Citizenship and Immigration Services.

(4) If an advertisement subject to this section is in a language other than English, the statement required by Subsection (3) shall be in the same language as the advertisement.

Section 7. Section 13-49-304 is amended to read:

13-49-304. Translations -- Prohibited acts.

(1) For purposes of this section, "literal translation" of a word or phrase from one language means the translation of a word or phrase without regard to the true meaning of the word or phrase in the language that is being translated.

(2) An immigration consultant may not, with the intent to mislead, literally translate, from English into another language, words or titles, including, "notary public," "notary," "licensed," "attorney," "lawyer," or any other terms that imply that the [person] immigration consultant is an attorney, in any document, including an advertisement, stationery, letterhead, business card, or other

comparable written material describing the immigration consultant.

Section 8. Section 13-49-305 is amended to read:

13-49-305. Documents -- Treatment of original documents.

(1) An immigration consultant shall deliver to a client a copy of a document completed on behalf of the client. An immigration consultant shall include on a document delivered to a client the name and address of the immigration consultant.

(2) [(a)] An immigration consultant shall retain a copy of a document of a client for not less than three years from the date of the last service to the client.

~~[(b) Upon presentation of a written consent signed by a client, an immigration consultant shall provide a copy of the client file to law enforcement without a warrant or a subpoena.]~~

(3) (a) An immigration consultant shall return to a client all original documents that the client has provided to the immigration consultant in support of the client's application including an original birth certificate, rental agreement, utility bill, employment document, a registration document issued by the Division of Motor Vehicles, or a passport.

(b) An original document that does not need to be submitted to immigration authorities as an original document shall be returned by the immigration consultant immediately after making a copy.

Section 9. Section 13-49-402 is amended to read:

13-49-402. Violations -- Actions by division.

~~[(1) The division shall investigate and take action under this part for violations of this chapter.]~~

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

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

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

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

(2) A person who violates this chapter is subject to:

(a) a cease and desist order; and

(b) an administrative fine of not less than \$1,000 or more than \$5,000 for each separate violation.

(3) An administrative fine shall be deposited in the Consumer Protection Education and Training Fund created in Section 13-2-8.

(4) (a) A person who intentionally violates this chapter:

- (i) is guilty of a class A misdemeanor; and
- (ii) may be fined up to \$10,000.

(b) A person intentionally violates this part if the violation occurs after the division, attorney general, or a district or county attorney notifies the person by certified mail that the person is in violation of this chapter.

CHAPTER 237

S. B. 206

Passed March 5, 2015

Approved March 26, 2015

Effective May 12, 2015

UTAH REVISED BUSINESS
CORPORATION ACT AMENDMENTS

Chief Sponsor: Curtis S. Bramble

House Sponsor: Daniel McCay

LONG TITLE

General Description:

This bill modifies the Utah Revised Business Corporation Act to address the purposes and powers of a corporation.

Highlighted Provisions:

This bill:

- ▶ amends the purposes for which a corporation may be formed under the act;
- ▶ amends the general powers of a corporation under the act; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

16-10a-301, as enacted by Laws of Utah 1992, Chapter 277

16-10a-302, as enacted by Laws of Utah 1992, Chapter 277

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

Section 1. Section 16-10a-301 is amended to read:**16-10a-301. Purposes.**

(1) ~~Every~~ A corporation incorporated under this chapter and including in ~~its~~ the corporation's articles of incorporation a statement ~~meeting~~ that meets the requirements of Subsection ~~16-10a-202(3)~~ may engage in any lawful business or activity except for express limitations set forth in the articles of incorporation.

(2) A corporation engaging in a business or an activity that is subject to regulation under another statute of this state may incorporate under this chapter only if permitted by, and subject to all limitations of, the other statute.

Section 2. Section 16-10a-302 is amended to read:**16-10a-302. General powers.**

Unless its articles of incorporation provide otherwise, and except as restricted by the Utah Constitution, every corporation has perpetual duration and succession in its corporate name and has the same powers as an individual to do all things necessary or convenient to carry out its permitted ~~business~~ and lawful purposes,

activities, and affairs, including without limitation the power:

(1) to sue and be sued, complain and defend in ~~its~~ the corporation's corporate name;

(2) to have a corporate seal, which may be altered at will, and to use ~~it~~ the corporate seal, or a facsimile of ~~it~~ the corporate seal, by impressing or affixing ~~it~~ the corporate seal or in any other manner reproducing ~~it~~ the corporate seal;

(3) to make and amend bylaws, not inconsistent with ~~its~~ the corporation's articles of incorporation or with the laws of this state, for managing the business and regulating the affairs of the corporation;

(4) to purchase, receive, lease, or otherwise acquire, and own, hold, improve, use, and otherwise deal with, real or personal property, or any legal or equitable interest in property, wherever located;

(5) to sell, convey, mortgage, pledge, lease, exchange, and otherwise dispose of all or any part of ~~its~~ the corporation's property and assets;

(6) to purchase, receive, subscribe for, or otherwise acquire, own, hold, vote, use, sell, mortgage, lend, pledge, or otherwise dispose of, and deal in and with shares or other interests in, or obligations of, any other entity;

(7) to make contracts and guarantees, incur liabilities, borrow money, issue ~~its~~ the corporation's notes, bonds, and other obligations that may or may not be convertible into or include the option to purchase other securities of the corporation, and secure any of ~~its~~ the corporation's obligations by mortgage or pledge of any of ~~its~~ the corporation's property, assets, franchises, or income;

(8) to lend money, invest and reinvest ~~its~~ the corporation's funds, and receive and hold real and personal property as security for repayment;

(9) to be a promoter, partner, member, associate, or manager of any partnership, joint venture, trust, or other entity;

(10) to conduct ~~its~~ the corporation's business and activities, locate offices, and exercise the powers granted by this chapter within or without this state;

(11) to elect directors and appoint officers, employees, and agents of the corporation, define their duties, fix their compensation, and lend them money and credit;

(12) to pay pensions and establish pension plans, pension trusts, profit sharing plans, share bonus plans, share option plans, and benefit or incentive plans for any or all of ~~its~~ the corporation's current or former directors, officers, employees, and agents;

(13) to operate, and to make donations, for the public welfare or for charitable, religious, scientific, or educational purposes;

(14) to transact any lawful business that will aid governmental policy;

(15) to make payments or donations, or do any other act, not inconsistent with law, that furthers the business and affairs of the corporation; and

(16) to establish rules governing the conduct of the business and affairs of the corporation in the event of an emergency.

CHAPTER 238**S. B. 212**

Passed March 11, 2015

Approved March 26, 2015

Effective May 12, 2015

**SURPLUS LINES
INSURANCE MODIFICATIONS**Chief Sponsor: Jerry W. Stevenson
House Sponsor: James A. Dunnigan**LONG TITLE****General Description:**

This bill modifies the Insurance Code to address surplus lines of insurance.

Highlighted Provisions:

This bill:

- ▶ repeals certain audit requirements for surplus lines insurers;
- ▶ repeals provisions related to earned premiums; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

31A-15-103, as last amended by Laws of Utah 2014, Chapter 224

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

Section 1. Section 31A-15-103 is amended to read:**31A-15-103. Surplus lines insurance -- Unauthorized insurers.**

(1) Notwithstanding Section 31A-15-102, a foreign insurer that has not obtained a certificate of authority to do business in this state under Section 31A-14-202 may negotiate for and make an insurance contract with a person in this state and on a risk located in this state, subject to the limitations and requirements of this section.

(2) (a) For a contract made under this section, the insurer may, in this state:

- (i) inspect the risks to be insured;
- (ii) collect premiums;
- (iii) adjust losses; and
- (iv) do another act reasonably incidental to the contract.

(b) An act described in Subsection (2)(a) may be done through:

- (i) an employee; or
- (ii) an independent contractor.

(3) (a) Subsections (1) and (2) do not permit a person to solicit business in this state on behalf of an insurer that has no certificate of authority.

(b) Insurance placed with a nonadmitted insurer shall be placed with a surplus lines producer licensed under Chapter 23a, Insurance Marketing - Licensing Producers, Consultants, and Reinsurance Intermediaries.

(c) The commissioner may by rule prescribe how a surplus lines producer may:

(i) pay or permit the payment, commission, or other remuneration on insurance placed by the surplus lines producer under authority of the surplus lines producer's license to one holding a license to act as an insurance producer; and

(ii) advertise the availability of the surplus lines producer's services in procuring, on behalf of a person seeking insurance, a contract with a nonadmitted insurer.

(4) For a contract made under this section, a nonadmitted insurer is subject to Sections 31A-23a-402, 31A-23a-402.5, and 31A-23a-403 and the rules adopted under those sections.

(5) A nonadmitted insurer may not issue workers' compensation insurance coverage to an employer located in this state, except for stop loss coverage issued to an employer securing workers' compensation under Subsection 34A-2-201(3).

(6) (a) The commissioner may by rule prohibit making a contract under Subsection (1) for a specified class of insurance if authorized insurers provide an established market for the class in this state that is adequate and reasonably competitive.

(b) The commissioner may by rule place a restriction or a limitation on and create special procedures for making a contract under Subsection (1) for a specified class of insurance if:

- (i) there have been abuses of placements in the class; or
- (ii) the policyholders in the class, because of limited financial resources, business experience, or knowledge, cannot protect their own interests adequately.

(c) The commissioner may prohibit an individual insurer from making a contract under Subsection (1) and all insurance producers from dealing with the insurer if:

- (i) the insurer willfully violates:
 - (A) this section;
 - (B) Section 31A-4-102, 31A-23a-402, 31A-23a-402.5, or 31A-26-303; or
 - (C) a rule adopted under a section listed in Subsection (6)(c)(i)(A) or (B);
- (ii) the insurer fails to pay the fees and taxes specified under Section 31A-3-301; or
- (iii) the commissioner has reason to believe that the insurer is:

- (A) in an unsound condition;
- (B) operated in a fraudulent, dishonest, or incompetent manner; or

- (C) in violation of the law of its domicile.
- (d) (i) The commissioner may issue one or more lists of unauthorized foreign insurers whose:
- (A) solidity the commissioner doubts; or
- (B) practices the commissioner considers objectionable.
- (ii) The commissioner shall issue one or more lists of unauthorized foreign insurers the commissioner considers to be reliable and solid.
- (iii) In addition to the lists described in Subsections (6)(d)(i) and (ii), the commissioner may issue other relevant evaluations of unauthorized insurers.
- (iv) An action may not lie against the commissioner or an employee of the department for a written or oral communication made in, or in connection with the issuance of, a list or evaluation described in this Subsection (6)(d).
- (e) A foreign unauthorized insurer shall be listed on the commissioner's "reliable" list only if the unauthorized insurer:
- (i) delivers a request to the commissioner to be on the list;
- (ii) establishes satisfactory evidence of good reputation and financial integrity;
- (iii) (A) delivers to the commissioner a copy of the unauthorized insurer's current annual statement certified by the insurer; and
- (B) continues each subsequent year to file its annual statements with the commissioner within 60 days of the day on which it is filed with the insurance regulatory authority where the insurer is domiciled;
- (iv) (A) (I) is in substantial compliance with the solvency standards in Chapter 17, Part 6, Risk-Based Capital, or maintains capital and surplus of at least \$15,000,000, whichever is greater; and
- (II) maintains in the United States an irrevocable trust fund in either a national bank or a member of the Federal Reserve System, or maintains a deposit meeting the statutory deposit requirements for insurers in the state where it is made, which trust fund or deposit:
- (Aa) shall be in an amount not less than \$2,500,000 for the protection of all of the insurer's policyholders in the United States;
- (Bb) may consist of cash, securities, or investments of substantially the same character and quality as those which are "qualified assets" under Section 31A-17-201; and
- (Cc) may include as part of the trust arrangement a letter of credit that qualifies as acceptable security under Section 31A-17-404.1; or
- (B) in the case of any "Lloyd's" or other similar incorporated or unincorporated group of alien individual insurers, maintains a trust fund that:
- (I) shall be in an amount not less than \$50,000,000 as security to its full amount for all policyholders and creditors in the United States of each member of the group;
- (II) may consist of cash, securities, or investments of substantially the same character and quality as those which are "qualified assets" under Section 31A-17-201; and
- (III) may include as part of this trust arrangement a letter of credit that qualifies as acceptable security under Section 31A-17-404.1; and
- (v) for an alien insurer not domiciled in the United States or a territory of the United States, is listed on the Quarterly Listing of Alien Insurers maintained by the National Association of Insurance Commissioners International Insurers Department.
- (7) (a) Subject to Subsection (7)(b), a surplus lines producer may not, either knowingly or without reasonable investigation of the financial condition and general reputation of the insurer, place insurance under this section with:
- (i) a financially unsound insurer;
- (ii) an insurer engaging in unfair practices; or
- (iii) an otherwise substandard insurer.
- (b) A surplus line producer may place insurance under this section with an insurer described in Subsection (7)(a) if the surplus line producer:
- (i) gives the applicant notice in writing of the known deficiencies of the insurer or the limitations on the surplus line producer's investigation; and
- (ii) explains the need to place the business with that insurer.
- (c) A copy of the notice described in Subsection (7)(b) shall be kept in the office of the surplus line producer for at least five years.
- (d) To be financially sound, an insurer shall satisfy standards that are comparable to those applied under the laws of this state to an authorized insurer.
- (e) An insurer on the "doubtful or objectionable" list under Subsection (6)(d) or an insurer not on the commissioner's "reliable" list under Subsection (6)(e) is presumed substandard.
- (8) (a) A policy issued under this section shall:
- (i) include a description of the subject of the insurance; and
- (ii) indicate:
- (A) the coverage, conditions, and term of the insurance;
- (B) the premium charged the policyholder;
- (C) the premium taxes to be collected from the policyholder; and

(D) the name and address of the policyholder and insurer.

(b) If the direct risk is assumed by more than one insurer, the policy shall state:

(i) the names and addresses of all insurers; and

(ii) the portion of the entire direct risk each assumes.

(c) A policy issued under this section shall have attached or affixed to the policy the following statement: "The insurer issuing this policy does not hold a certificate of authority to do business in this state and thus is not fully subject to regulation by the Utah insurance commissioner. This policy receives no protection from any of the guaranty associations created under Title 31A, Chapter 28."

(9) Upon placing a new or renewal coverage under this section, a surplus lines producer shall promptly deliver to the policyholder or the policyholder's agent evidence of the insurance consisting either of:

(a) the policy as issued by the insurer; or

(b) if the policy is not available upon placing the coverage, a certificate, cover note, or other confirmation of insurance complying with Subsection (8).

(10) If the commissioner finds it necessary to protect the interests of insureds and the public in this state, the commissioner may by rule subject a policy issued under this section to as much of the regulation provided by this title as is required for a comparable policy written by an authorized foreign insurer.

(11) (a) A surplus lines transaction in this state shall be examined to determine whether it complies with:

(i) the surplus lines tax levied under Chapter 3, Department Funding, Fees, and Taxes;

(ii) the solicitation limitations of Subsection (3);

(iii) the requirement of Subsection (3) that placement be through a surplus lines producer;

(iv) placement limitations imposed under Subsections (6)(a), (b), and (c); and

(v) the policy form requirements of Subsections (8) and (10).

(b) The examination described in Subsection (11)(a) shall take place as soon as practicable after the transaction. The surplus lines producer shall submit to the examiner information necessary to conduct the examination within a period specified by rule.

(c) (i) The examination described in Subsection (11)(a) may be conducted by the commissioner or by an advisory organization created under Section 31A-15-111 and authorized by the commissioner to conduct these examinations. The commissioner is not required to authorize an additional advisory organization to conduct an examination under this Subsection (11)(c).

(ii) The commissioner's authorization of one or more advisory organizations to act as examiners under this Subsection (11)(c) shall be:

(A) by rule; and

(B) evidenced by a contract, on a form provided by the commissioner, between the authorized advisory organization and the department.

(d) (i) (A) A person conducting the examination described in Subsection (11)(a) shall collect a stamping fee of an amount not to exceed 1% of the policy premium payable in connection with the transaction.

(B) A stamping fee collected by the commissioner shall be deposited in the General Fund.

(C) The commissioner shall establish a stamping fee by rule.

(ii) A stamping fee collected by an advisory organization is the property of the advisory organization to be used in paying the expenses of the advisory organization.

(iii) Liability for paying a stamping fee is as required under Subsection 31A-3-303(1) for taxes imposed under Section 31A-3-301.

(iv) The commissioner shall adopt a rule dealing with the payment of stamping fees. If a stamping fee is not paid when due, the commissioner or advisory organization may impose a penalty of 25% of the stamping fee due, plus 1-1/2% per month from the time of default until full payment of the stamping fee.

(v) A stamping fee relative to a policy covering a risk located partially in this state shall be allocated in the same manner as under Subsection 31A-3-303(4).

(e) The commissioner, representatives of the department, advisory organizations, representatives and members of advisory organizations, authorized insurers, and surplus lines insurers are not liable for damages on account of statements, comments, or recommendations made in good faith in connection with their duties under this Subsection (11)(e) or under Section 31A-15-111.

(f) An examination conducted under this Subsection (11) and a document or materials related to the examination are confidential.

(12) (a) For a surplus lines insurance transaction in the state entered into on or after May 13, 2014, if an audit is required by the surplus lines insurance ~~[transaction]~~ policy, a surplus lines insurer:

(i) shall exercise due diligence to initiate an audit of an insured, to determine whether additional premium is owed by the insured, by no later than six months after the expiration of the term for which premium is paid; and

(ii) may not audit an insured more than three years after the surplus lines insurance ~~[transaction]~~ policy expires.

(b) A surplus lines insurer that does not comply with this Subsection (12) may not charge or collect

additional premium in excess of the premium agreed to under the surplus lines insurance [transaction] policy.

~~[(13) (a) For purpose of this Subsection (13), "initial premium" is the premium paid by an insured under an auditable surplus lines insurance contract on the basis of estimated exposure covered by the surplus lines insurance contract.]~~

~~[(b) For an auditable surplus lines insurance transaction in this state entered into on or after May 13, 2014, the following apply:]~~

~~[(i) A surplus lines insurer may not consider as earned premium an amount in excess of 50% of the initial premium paid by an insured until the earlier of:]~~

~~[(A) when an audit is completed; or]~~

~~[(B) the term of the surplus lines insurance contract has expired and the time to conduct an audit has lapsed.]~~

~~[(ii) If a surplus lines insurance contract provides for an audit, the audit shall be conducted as provided under Subsection (12), and after the audit is completed:]~~

~~[(A) if the actual exposure covered by the auditable portion of the surplus lines insurance contract exceeds the estimate upon which the initial premium is based, the surplus lines insurer is entitled to additional premium; and]~~

~~[(B) if the actual exposure covered by the auditable portion of the surplus lines insurance contract is less than the estimate upon which the initial premium is based, the insured is entitled to a refund of that portion of the initial premium that represents the reduction of exposure.]~~

~~[(c) An insured may request an audit under an auditable surplus lines insurance contract described in this Subsection (13), if the insured believes that the actual exposure is less than the estimated exposure used to determine the initial premium, by no later than six months after the expiration of the term for which initial premium is paid. If the surplus lines insurer does not complete an audit as provided in Subsection (12) after a request from the insured, the surplus lines insurer shall accept the insured's statement of actual exposure and refund that portion of the initial premium that represents the reduction of exposure stated by the insured.]~~

~~[(d) The commissioner may impose penalties for a violation of this Subsection (13) in accordance with Section 31A-2-308.]~~

~~[(14) Subsections (12) and (13) apply to the extent permitted by federal law.]~~

CHAPTER 239**S. B. 213**

Passed March 6, 2015
Approved March 26, 2015
Effective May 12, 2015

BUDGETING AMENDMENTS

Chief Sponsor: Deidre M. Henderson
House Sponsor: Jon E. Stanard

LONG TITLE**General Description:**

This bill modifies provisions relating to the state's liabilities and expenses.

Highlighted Provisions:

This bill:

- ▶ addresses how a claim processed under the authority of Title 53A, Chapter 24, State Office of Rehabilitation Act, is treated for budgetary purposes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63J-1-601, as last amended by Laws of Utah 2013, Chapter 400

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

Section 1. Section 63J-1-601 is amended to read:

63J-1-601. End of fiscal year -- Unexpended balances -- Funds not to be closed out -- Pending claims -- Transfer of amounts from item of appropriation -- Nonlapsing accounts and funds -- Institutions of higher education to report unexpended balances.

(1) As used in this section, "transaction control number" means the unique numerical identifier established by the Department of Health to track each medical claim~~[, which]~~ and indicates the date ~~[upon]~~ on which the claim is entered.

(2) On or before August 31 of each fiscal year, the director of the Division of Finance shall close out to the proper fund or account all remaining unexpended and unencumbered balances of appropriations made by the Legislature, except:

(a) those funds classified under Title 51, Chapter 5, Funds Consolidation Act, as:

- (i) enterprise funds;
- (ii) internal service funds;
- (iii) trust and agency funds;
- (iv) capital projects funds;
- (v) discrete component unit funds;
- (vi) debt service funds; and
- (vii) permanent funds;

(b) those revenue collections, appropriations from a fund or account, or appropriations to a program that are designated as nonlapsing under Sections 63J-1-602.1 through 63J-1-602.5;

(c) expendable special revenue funds, unless specifically directed to close out the fund in the fund's enabling legislation;

(d) acquisition and development funds appropriated to the Division of Parks and Recreation;

(e) funds encumbered to pay purchase orders issued prior to May 1 for capital equipment if delivery is expected before June 30; and

(f) unexpended and unencumbered balances of appropriations that meet the requirements of Section 63J-1-603.

(3) (a) Liabilities and related expenses for goods and services received on or before June 30 shall be recognized as expenses due and payable from appropriations made prior to June 30.

(b) The liability and related expense shall be recognized within time periods established by the Division of Finance but shall be recognized not later than August 31.

(c) Liabilities and expenses not so recognized may be paid from regular departmental appropriations for the subsequent fiscal year, if these claims do not exceed unexpended and unencumbered balances of appropriations for the years in which the obligation was incurred.

(d) No amounts may be transferred from an item of appropriation of any department, institution, or agency into the Capital Projects Fund or any other fund without the prior express approval of the Legislature.

(4) (a) For purposes of this chapter, ~~[claims]~~ a claim processed under the authority of Title 26, Chapter 18, Medical Assistance Act:

(i) ~~[may not be considered]~~ is not a liability or an expense to the state for budgetary purposes, ~~unless [they are received by]~~ the Division of Health Care Financing receives the claim within the time periods established by the Division of Finance under Subsection (3)(b); and

(ii) ~~[are]~~ is not subject to ~~[the requirements of]~~ Subsection (3)(c).

(b) The transaction control number ~~[recorded]~~ that the Division of Health Care Financing records on each claim invoice ~~[by the division is considered]~~ is the date of receipt.

(5) (a) For purposes of this chapter, a claim processed in accordance with Title 53A, Chapter 24, State Office of Rehabilitation Act:

(i) is not a liability or an expense to the state for budgetary purposes, unless the Utah State Office of Rehabilitation receives the claim within the time periods established by the Division of Finance under Subsection (3)(b); and

(ii) is not subject to Subsection (3)(c).

(b) (i) The Utah State Office of Rehabilitation shall mark each claim invoice with the date on which the Utah State Office of Rehabilitation receives the claim invoice.

(ii) The date described in Subsection (5)(b)(i) is the date of receipt for purposes of this section.

~~(5)~~ (6) Any balance from an appropriation to a state institution of higher education that remains unexpended at the end of the fiscal year shall be reported to the Division of Finance by the September 1 following the close of the fiscal year.

CHAPTER 240**S. B. 218**

Passed March 12, 2015
 Approved March 26, 2015
 Effective May 12, 2015

**NONPROFIT CORPORATION
ACT AMENDMENTS**

Chief Sponsor: Lyle W. Hillyard
 House Sponsor: V. Lowry Snow

LONG TITLE**General Description:**

This bill amends the Utah Revised Nonprofit Corporation Act.

Highlighted Provisions:

This bill:

- ▶ modifies definition provisions;
- ▶ provides for use of electronic transmissions;
- ▶ addresses private foundations;
- ▶ addresses incorporation;
- ▶ provides for mutual benefit corporations to purchase memberships;
- ▶ modifies provision addressing no property rights;
- ▶ addresses action without meeting;
- ▶ modifies provision related to voting entitlement;
- ▶ modifies provisions related to board of directors;
- ▶ addresses authorized actions of a committee of the board;
- ▶ modifies provisions related to conflicting interest transactions;
- ▶ modifies provisions related to court-ordered indemnification of a director;
- ▶ addresses provisions related to articles of incorporation;
- ▶ provides for voting members to vote on amendment to convert to a corporation;
- ▶ modifies effect of dissolution provision; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 16-6a-102, as last amended by Laws of Utah 2009, Chapter 386
 16-6a-103, as last amended by Laws of Utah 2009, Chapter 388
 16-6a-116, as last amended by Laws of Utah 2002, Chapter 197
 16-6a-203, as enacted by Laws of Utah 2000, Chapter 300
 16-6a-610, as enacted by Laws of Utah 2000, Chapter 300
 16-6a-611, as last amended by Laws of Utah 2007, Chapter 315
 16-6a-705, as enacted by Laws of Utah 2000, Chapter 300
 16-6a-707, as last amended by Laws of Utah 2002, Chapter 197
 16-6a-711, as last amended by Laws of Utah 2007, Chapter 315

- 16-6a-712, as enacted by Laws of Utah 2000, Chapter 300
 16-6a-801, as enacted by Laws of Utah 2000, Chapter 300
 16-6a-807, as enacted by Laws of Utah 2000, Chapter 300
 16-6a-808, as last amended by Laws of Utah 2014, Chapter 160
 16-6a-813, as enacted by Laws of Utah 2000, Chapter 300
 16-6a-814, as last amended by Laws of Utah 2009, Chapter 388
 16-6a-815, as last amended by Laws of Utah 2006, Chapter 228
 16-6a-817, as last amended by Laws of Utah 2001, Chapter 127
 16-6a-825, as last amended by Laws of Utah 2007, Chapter 315
 16-6a-905, as last amended by Laws of Utah 2006, Chapter 228
 16-6a-1002, as last amended by Laws of Utah 2008, Chapter 364
 16-6a-1003, as enacted by Laws of Utah 2000, Chapter 300
 16-6a-1006, as enacted by Laws of Utah 2000, Chapter 300
 16-6a-1008, as last amended by Laws of Utah 2009, Chapter 386
 16-6a-1302, as last amended by Laws of Utah 2009, Chapter 386
 16-6a-1405, as last amended by Laws of Utah 2007, Chapter 315
 42-2-6.6, as last amended by Laws of Utah 2010, Chapter 218

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

Section 1. Section 16-6a-102 is amended to read:**16-6a-102. Definitions.**

As used in this chapter:

- (1) (a) "Address" means a location where mail can be delivered by the United States Postal Service.
 - (b) "Address" includes:
 - (i) a post office box number;
 - (ii) a rural free delivery route number; and
 - (iii) a street name and number.
 - (2) "Affiliate" means a person that directly or indirectly through one or more intermediaries controls, or is controlled by, or is under common control with, the person specified.
 - (3) "Articles of incorporation" include:
 - (a) amended articles of incorporation;
 - (b) restated articles of incorporation;
 - (c) articles of merger; and
 - (d) a document of a similar import to the documents described in Subsections (3)(a) through (c).
 - (4) "Assumed corporate name" means a name assumed for use in this state:

- (a) by a:
- (i) foreign corporation pursuant to Section 16-10a-1506; or
- (ii) a foreign nonprofit corporation pursuant to Section 16-6a-1506; and
- (b) because the corporate name of the foreign corporation described in Subsection (4)(a) is not available for use in this state.
- (5) (a) Except as provided in Subsection (5)(b), “board of directors” means the body authorized to manage the affairs of a domestic or foreign nonprofit corporation.
- (b) Notwithstanding Subsection (5)(a), a person may not be considered a member of the board of directors because of a power delegated to that person pursuant to Subsection 16-6a-801(2).
- (6) (a) “Bylaws” means the one or more codes of rules, other than the articles of incorporation, adopted pursuant to this chapter for the regulation or management of the affairs of a domestic or foreign nonprofit corporation irrespective of the one or more names by which the codes of rules are designated.
- (b) “Bylaws” includes:
- (i) amended bylaws; and
- (ii) restated bylaws.
- (7) (a) “Cash” or “money” means:
- (i) legal tender;
- (ii) a negotiable instrument; or
- (iii) other cash equivalent readily convertible into legal tender.
- (b) “Cash” and “money” are used interchangeably in this chapter.
- (8) (a) “Class” means a group of memberships that has the same right with respect to voting, dissolution, redemption, transfer, or other characteristics.
- (b) For purposes of Subsection (8)(a), a right is considered the same if it is determined by a formula applied uniformly to a group of memberships.
- (9) (a) “Conspicuous” means so written that a reasonable person against whom the writing is to operate should have noticed the writing.
- (b) “Conspicuous” includes printing or typing in:
- (i) italics;
- (ii) boldface;
- (iii) contrasting color;
- (iv) capitals; or
- (v) underlining.
- (10) “Control” or a “controlling interest” means the direct or indirect possession of the power to direct or cause the direction of the management and policies of an entity by:

- (a) the ownership of voting shares;
- (b) contract; or
- (c) a means other than those specified in Subsection (10)(a) or (b).
- (11) Subject to Section 16-6a-207, “cooperative nonprofit corporation” or “cooperative” means a nonprofit corporation organized or existing under this chapter.
- (12) “Corporate name” means:
- (a) the name of a domestic corporation as stated in the domestic corporation’s articles of incorporation;
- (b) the name of a domestic nonprofit corporation as stated in the domestic nonprofit corporation’s articles of incorporation;
- (c) the name of a foreign corporation as stated in the foreign corporation’s:
- (i) articles of incorporation; or
- (ii) document of similar import to articles of incorporation; or
- (d) the name of a foreign nonprofit corporation as stated in the foreign nonprofit corporation’s:
- (i) articles of incorporation; or
- (ii) document of similar import to articles of incorporation.
- (13) “Corporation” or “domestic corporation” means a corporation for profit that:
- (a) is not a foreign corporation; and
- (b) is incorporated under or subject to Chapter 10a, Utah Revised Business Corporation Act.
- (14) “Delegate” means a person elected or appointed to vote in a representative assembly:
- (a) for the election of a director; or
- (b) on matters other than the election of a director.
- (15) “Deliver” includes delivery by mail or another means of transmission authorized by Section 16-6a-103, except that delivery to the division means actual receipt by the division.
- (16) “Director” means a member of the board of directors.
- (17) (a) “Distribution” means the payment of a dividend or any part of the income or profit of a nonprofit corporation to the nonprofit corporation’s:
- (i) members;
- (ii) directors; or
- (iii) officers.
- (b) “Distribution” does not include a fair-value payment for:
- (i) a good sold; or
- (ii) a service received.
- (18) “Division” means the Division of Corporations and Commercial Code.

(19) "Effective date," when referring to a document filed by the division, means the time and date determined in accordance with Section 16-6a-108.

(20) "Effective date of notice" means the date notice is effective as provided in Section 16-6a-103.

(21) "Electronic transmission" or "electronically transmitted" means a process of communication not directly involving the physical transfer of paper that is suitable for the receipt, retention, retrieval, and reproduction of information by the recipient, whether by email, texting, facsimile, or otherwise.

~~[(21)]~~ (22) (a) "Employee" includes an officer of a nonprofit corporation.

(b) (i) Except as provided in Subsection ~~[(21)]~~ (22)(b)(ii), "employee" does not include a director of a nonprofit corporation.

(ii) Notwithstanding Subsection ~~[(21)]~~ (22)(b)(i), a director may accept one or more duties that make that director an employee of a nonprofit corporation.

~~[(22)]~~ (23) "Executive director" means the executive director of the Department of Commerce.

~~[(23)]~~ (24) "Entity" includes:

- (a) a domestic or foreign corporation;
- (b) a domestic or foreign nonprofit corporation;
- (c) a limited liability company;
- (d) a profit or nonprofit unincorporated association;
- (e) a business trust;
- (f) an estate;
- (g) a partnership;
- (h) a trust;
- (i) two or more persons having a joint or common economic interest;
- (j) a state;
- (k) the United States; or
- (l) a foreign government.

~~[(24)]~~ (25) "Foreign corporation" means a corporation for profit incorporated under a law other than the laws of this state.

~~[(25)]~~ (26) "Foreign nonprofit corporation" means an entity:

- (a) incorporated under a law other than the laws of this state; and
- (b) that would be a nonprofit corporation if formed under the laws of this state.

~~[(26)]~~ (27) "Governmental entity" means:

- (a) (i) the executive branch of the state;
- (ii) the judicial branch of the state;
- (iii) the legislative branch of the state;

(iv) an independent entity, as defined in Section 63E-1-102;

(v) a political subdivision of the state;

(vi) a state institution of higher education, as defined in Section 53B-3-102;

(vii) an entity within the state system of public education; or

(viii) the National Guard; or

(b) any of the following that is established or controlled by a governmental entity listed in Subsection ~~[(26)]~~ (27)(a) to carry out the public's business:

(i) an office;

(ii) a division;

(iii) an agency;

(iv) a board;

(v) a bureau;

(vi) a committee;

(vii) a department;

(viii) an advisory board;

(ix) an administrative unit; or

(x) a commission.

~~[(27)]~~ (28) "Governmental subdivision" means:

(a) a county;

(b) a city;

(c) a town; or

(d) another type of governmental subdivision authorized by the laws of this state.

~~[(28)]~~ (29) "Individual" means:

(a) a natural person;

(b) the estate of an incompetent individual; or

(c) the estate of a deceased individual.

~~[(29)]~~ (30) "Internal Revenue Code" means the federal "Internal Revenue Code of 1986," as amended from time to time, or to corresponding provisions of subsequent internal revenue laws of the United States of America.

~~[(30)]~~ (31) (a) "Mail," "mailed," or "mailing" means deposit, deposited, or depositing in the United States mail, properly addressed, first-class postage prepaid.

(b) "Mail," "mailed," or "mailing" includes registered or certified mail for which the proper fee is paid.

~~[(31)]~~ (32) (a) "Member" means one or more persons identified or otherwise appointed as a member of a domestic or foreign nonprofit corporation as provided:

(i) in the articles of incorporation;

(ii) in the bylaws;

(iii) by a resolution of the board of directors; or
 (iv) by a resolution of the members of the nonprofit corporation.

(b) “Member” includes “voting member.”

~~[(32)]~~ (33) “Membership” refers to the rights and obligations of a member or members.

~~[(33)]~~ (34) “Mutual benefit corporation” means a nonprofit corporation:

(a) that issues shares of stock to its members evidencing a right to receive distribution of water or otherwise representing property rights; or

(b) all of whose assets are contributed or acquired by or for the members of the nonprofit corporation or their predecessors in interest to serve the mutual purposes of the members.

~~[(34)]~~ (35) “Nonprofit corporation” or “domestic nonprofit corporation” means an entity that:

(a) is not a foreign nonprofit corporation; and

(b) is incorporated under or subject to this chapter.

~~[(35)]~~ (36) “Notice” ~~[is as provided]~~ means the same as that term is defined in Section 16-6a-103.

~~[(36)]~~ (37) “Party related to a director” means:

(a) the spouse of the director;

(b) a child of the director;

(c) a grandchild of the director;

(d) a sibling of the director;

(e) a parent of the director;

(f) the spouse of an individual described in Subsections ~~[(36)]~~ (37)(b) through (e);

(g) an individual having the same home as the director;

(h) a trust or estate of which the director or another individual specified in this Subsection ~~[(36)]~~ (37) is a substantial beneficiary; or

(i) any of the following of which the director is a fiduciary:

(i) a trust;

(ii) an estate;

(iii) an incompetent;

(iv) a conservatee; or

(v) a minor.

~~[(37)]~~ (38) “Person” means an:

(a) individual; or

(b) entity.

~~[(38)]~~ (39) “Principal office” means:

(a) the office, in or out of this state, designated by a domestic or foreign nonprofit corporation as its principal office in the most recent document on file

with the division providing that information, including:

(i) an annual report;

(ii) an application for a certificate of authority; or

(iii) a notice of change of principal office; or

(b) if no principal office can be determined, a domestic or foreign nonprofit corporation’s registered office.

~~[(39)]~~ (40) “Proceeding” includes:

(a) a civil suit;

(b) arbitration;

(c) mediation;

(d) a criminal action;

(e) an administrative action; or

(f) an investigatory action.

~~[(40)]~~ (41) “Receive,” when used in reference to receipt of a writing or other document by a domestic or foreign nonprofit corporation, means the writing or other document is actually received:

(a) by the domestic or foreign nonprofit corporation at:

(i) its registered office in this state; or

(ii) its principal office;

(b) by the secretary of the domestic or foreign nonprofit corporation, wherever the secretary is found; or

(c) by another person authorized by the bylaws or the board of directors to receive the writing or other document, wherever that person is found.

~~[(41)]~~ (42) (a) “Record date” means the date established under Part 6, Members, or Part 7, Member Meetings and Voting, on which a nonprofit corporation determines the identity of the nonprofit corporation’s members.

(b) The determination described in Subsection ~~[(41)]~~ (42)(a) shall be made as of the close of business on the record date unless another time for doing so is specified when the record date is fixed.

~~[(42)]~~ (43) “Registered agent” means the registered agent of:

(a) a domestic nonprofit corporation; or

(b) a foreign nonprofit corporation.

~~[(43)]~~ (44) “Registered office” means the office within this state designated by a domestic or foreign nonprofit corporation as its registered office in the most recent document on file with the division providing that information, including:

(a) articles of incorporation;

(b) an application for a certificate of authority; or

(c) a notice of change of registered office.

~~[(44)]~~ (45) “Secretary” means the corporate officer to whom the bylaws or the board of directors

delegates responsibility under Subsection 16-6a-818(3) for:

- (a) the preparation and maintenance of:
 - (i) minutes of the meetings of:
 - (A) the board of directors; or
 - (B) the members; and

(ii) the other records and information required to be kept by the nonprofit corporation pursuant to Section 16-6a-1601; and

(b) authenticating records of the nonprofit corporation.

[46] (46) "Share" means a unit of interest in a nonprofit corporation.

[45] (47) "Shareholder" means a person in whose name a share is registered in the records of a nonprofit corporation.

[47] (48) "State," when referring to a part of the United States, includes:

- (a) a state;
- (b) a commonwealth;
- (c) the District of Columbia;

(d) an agency or governmental and political subdivision of a state, commonwealth, or District of Columbia;

(e) territory or insular possession of the United States; or

(f) an agency or governmental and political subdivision of a territory or insular possession of the United States.

[48] (49) "Street address" means:

- (a) (i) street name and number;
- (ii) city or town; and
- (iii) United States post office zip code designation; or

(b) if, by reason of rural location or otherwise, a street name, number, city, or town does not exist, an appropriate description other than that described in Subsection [(48)] (49)(a) fixing as nearly as possible the actual physical location, but only if the information includes:

- (i) the rural free delivery route;
- (ii) the county; and

(iii) the United States post office zip code designation.

[49] (50) "Tribe" means a tribe, band, nation, pueblo, or other organized group or community of Indians, including an Alaska Native village, that is legally recognized as eligible for and is consistent with a special program, service, or entitlement provided by the United States to Indians because of their status as Indians.

[(50)] (51) "Tribal nonprofit corporation" means a nonprofit corporation:

- (a) incorporated under the law of a tribe; and
- (b) that is at least 51% owned or controlled by the tribe.

[(51)] (52) "United States" includes a district, authority, office, bureau, commission, department, and another agency of the United States of America.

[(52)] (53) "Vote" includes authorization by:

- (a) written ballot; and
- (b) written consent.

[(53)] (54) (a) "Voting group" means all the members of one or more classes of members or directors that, under this chapter, the articles of incorporation, or the bylaws, are entitled to vote and be counted together collectively on a matter.

(b) All members or directors entitled by this chapter, the articles of incorporation, or the bylaws to vote generally on a matter are for that purpose a single voting group.

[(54)] (55) (a) "Voting member" means a person entitled to vote for all matters required or permitted under this chapter to be submitted to a vote of the members, except as otherwise provided in the articles of incorporation or bylaws.

(b) A person is not a voting member solely because of:

- (i) a right the person has as a delegate;
- (ii) a right the person has to designate a director; or
- (iii) a right the person has as a director.

(c) Except as the bylaws may otherwise provide, "voting member" includes a "shareholder" if the nonprofit corporation has shareholders.

Section 2. Section 16-6a-103 is amended to read:

16-6a-103. Notice.

(1) Notice given under this chapter shall be in writing unless oral notice is reasonable under the circumstances.

(2) (a) Notice may be communicated:

- (i) in person;
- (ii) by telephone;
- (iii) by [~~any form of electronic communication~~] electronic transmission; or
- (iv) by mail or private carrier.

(b) If the forms of personal notice described in Subsection (2)(a) are impracticable, notice may be communicated by:

(i) (A) a newspaper of general circulation in the county or similar governmental subdivision in which the corporation's principal or registered office is located; and

(B) as required in Section 45-1-101; or

(ii) radio, television, or other form of public broadcast communication in the county or similar governmental subdivision in which the corporation's principal or registered office is located.

(3) Written notice to a domestic or foreign nonprofit corporation authorized to conduct affairs in this state may be addressed to:

(a) its registered agent at its registered office; or

(b) the corporation's secretary at its principal office.

(4) (a) Written notice by a domestic or foreign nonprofit corporation to its members, is effective as to each member when mailed, if:

(i) in a comprehensible form; and

(ii) addressed to the member's address shown in the domestic or foreign nonprofit corporation's current record of members.

(b) If three successive notices given to a member pursuant to Subsection (5) have been returned as undeliverable, further notices to that member are not necessary until another address of the member is made known to the nonprofit corporation.

(5) Except as provided in Subsection (4), written notice, if in a comprehensible form, is effective at the earliest of the following:

(a) when received;

(b) five days after it is mailed; or

(c) on the date shown on the return receipt if:

(i) sent by registered or certified mail;

(ii) sent return receipt requested; and

(iii) the receipt is signed by or on behalf of the addressee.

(6) Oral notice is effective when communicated if communicated in a comprehensible manner.

(7) Notice by publication is effective on the date of first publication.

(8) A written notice or report delivered as part of a newsletter, magazine, or other publication regularly sent to members shall constitute a written notice or report if:

(a) addressed or delivered to the member's address shown in the nonprofit corporation's current list of members; or

(b) if two or more members are residents of the same household and have the same address in the nonprofit corporation's current list of members, addressed or delivered to one of the members at the address appearing on the current list of members.

(9) (a) If this chapter prescribes notice requirements for particular circumstances, the notice requirements for the particular circumstances govern.

(b) If articles of incorporation or bylaws prescribe notice requirements not inconsistent with this

section or other provisions of this chapter, the notice requirements of the articles of incorporation or bylaws govern.

Section 3. Section 16-6a-116 is amended to read:

16-6a-116. Private foundations.

Except [as otherwise specified in the articles of incorporation or as provided] when otherwise determined by a court of competent jurisdiction, a nonprofit corporation that is a private foundation as defined in Section 509(a), Internal Revenue Code:

(1) shall make distributions for each taxable year at the time and in the manner as not to subject the nonprofit corporation to tax under Section 4942, Internal Revenue Code;

(2) may not engage in any act of self-dealing as defined in Section 4941(d), Internal Revenue Code;

(3) may not retain any excess business holdings as defined in Section 4943(c), Internal Revenue Code;

(4) may not make any investments that would subject the nonprofit corporation to taxation under Section 4944, Internal Revenue Code; and

(5) may not make any taxable expenditures as defined in Section 4945(d), Internal Revenue Code.

Section 4. Section 16-6a-203 is amended to read:

16-6a-203. Incorporation.

(1) A nonprofit corporation is incorporated, and its corporate existence begins:

(a) when the articles of incorporation are filed by the division; or

(b) if a delayed effective date is specified pursuant to Subsection 16-6a-108(2), on the delayed effective date, unless a certificate of withdrawal is filed prior to the delayed effective date.

(2) [The] Notwithstanding Subsection 16-6a-110(4), the filing of the articles of incorporation by the division is conclusive proof that all conditions precedent to incorporation have been satisfied, except in a proceeding by the state to:

(a) cancel or revoke the incorporation; or

(b) involuntarily dissolve the nonprofit corporation.

Section 5. Section 16-6a-610 is amended to read:

16-6a-610. Purchase of memberships.

(1) Unless otherwise provided by the bylaws, a nonprofit corporation may not purchase the membership of a member:

(a) who resigns; or

(b) whose membership is terminated.

(2) (a) If so authorized, a nonprofit corporation may purchase the membership of a member who resigns or whose membership is terminated for the amount and pursuant to the conditions set forth in or authorized by:

- (i) its bylaws; or
 - (ii) agreement with the affected member.
- (b) A payment permitted under Subsection (2)(a) may not violate:
- (i) Section 16-6a-1301; or
 - (ii) any other provision of this chapter.
- (3) A mutual benefit corporation may purchase a member's membership if, after the purchase is completed:

(a) the mutual benefit corporation would be able to pay its debts as they become due in the usual course of its activities; and

(b) the mutual benefit corporation's total assets would at least equal the sum of its total liabilities.

Section 6. Section 16-6a-611 is amended to read:

16-6a-611. No property right.

A member does not have any vested property right including any right relating to management, control, purpose, or duration of the nonprofit corporation, except as provided by:

- (1) the bylaws of a mutual benefit corporation; or
- (2) other applicable law.

Section 7. Section 16-6a-705 is amended to read:

16-6a-705. Waiver of notice.

(1) (a) A member may waive any notice required by this chapter or by the bylaws, whether before or after the date or time stated in the notice as the date or time when any action will occur or has occurred.

- (b) A waiver described in Subsection (1) shall be:
- (i) in writing;
 - (ii) signed by the member entitled to the notice; and
 - (iii) delivered to the nonprofit corporation for:
 - (A) inclusion in the minutes; or
 - (B) filing with the corporate records.
- (c) A waiver satisfies the requirements of Subsection (1)(b) if communicated by electronic transmission.

[e)] (d) The delivery and filing required under Subsection (1)(b) may not be conditions of the effectiveness of the waiver.

- (2) A member's attendance at a meeting:
- (a) waives objection to lack of notice or defective notice of the meeting, unless the member at the beginning of the meeting objects to holding the meeting or transacting business at the meeting because of lack of notice or defective notice; and
 - (b) waives objection to consideration of a particular matter at the meeting that is not within

the purpose or purposes described in the meeting notice, unless the member objects to considering the matter when it is presented.

Section 8. Section 16-6a-707 is amended to read:

16-6a-707. Action without meeting.

(1) Unless otherwise provided in the articles of incorporation and Subsection (5), and subject to the limitations of Subsection 16-6a-1704(3), any action that may be taken at any annual or special meeting of members may be taken without a meeting and without prior notice, if one or more consents in writing, setting forth the action taken, are signed by the members having not less than the minimum voting power that would be necessary to authorize or take the action at a meeting at which all members entitled to vote on the action were present and voted.

(2) (a) Unless the written consents of all members entitled to vote have been obtained, notice of any member approval without a meeting shall be given at least 10 days before the consummation of the transaction, action, or event authorized by the member action to:

- (i) those members entitled to vote who have not consented in writing; and
- (ii) those members:
 - (A) not entitled to vote; and
 - (B) to whom this chapter requires that notice of the proposed action be given.

(b) The notice required pursuant to Subsection (2)(a) shall contain or be accompanied by the same material that under this chapter would have been required to be sent in a notice of meeting at which the proposed action would have been submitted to the members for action.

(3) Any member giving a written consent, or the member's proxyholder or a personal representative of the member or their respective proxyholder, may revoke the consent by a signed writing:

- (a) describing the action;
- (b) stating that the member's prior consent is revoked; and
- (c) that is received by the nonprofit corporation prior to the effectiveness of the action.

(4) (a) A member action taken pursuant to this section is not effective unless all written consents on which the nonprofit corporation relies for the taking of an action pursuant to Subsection (1) are:

- (i) received by the nonprofit corporation within a 60-day period; and
 - (ii) not revoked pursuant to Subsection (3).
- (b) Action taken by the members pursuant to this section is effective:
- (i) as of the date the last written consent necessary to effect the action is received by the nonprofit corporation; or

(ii) if all of the written consents necessary to effect the action specify a later date as the effective date of the action, the later date specified in the consents.

(c) If the nonprofit corporation has received written consents in accordance with Subsection (1) signed by all members entitled to vote with respect to the action, the effective date of the member action may be any date that is specified in all the written consents as the effective date of the member action.

~~[(d) Unless otherwise provided by the bylaws, a written consent under this Subsection (4) may be received by the nonprofit corporation by electronically transmitted facsimile or other form of communication providing the nonprofit corporation with a complete copy of the written consent, including a copy of the signature to the written consent.]~~

(d) (i) Unless otherwise provided by the bylaws, a member may deliver a written consent under this section by an electronic transmission that provides the nonprofit corporation with a complete copy of the written consent.

(ii) An electronic transmission consenting to an action under this section is considered to be written, signed, and dated for purposes of this section if the electronic transmission is delivered with information from which the corporation can determine:

(A) that the electronic transmission is transmitted by the member; and

(B) the date on which the electronic transmission is transmitted.

(iii) The date on which an electronic transmission is transmitted is considered the date on which a consent is signed.

(5) Notwithstanding Subsection (1), directors may not be elected by written consent except by unanimous written consent of all members entitled to vote for the election of directors.

(6) If not otherwise determined under Section 16-6a-703 or 16-6a-706, the record date for determining the members entitled to take action without a meeting or entitled to be given notice under Subsection (2) of action taken without a meeting is the date the first member delivers to the nonprofit corporation a writing upon which the action is taken pursuant to Subsection (1).

(7) Action taken under this section has the same effect as action taken at a meeting of members and may be so described in any document.

Section 9. Section 16-6a-711 is amended to read:

16-6a-711. Voting entitlement generally.

(1) Unless otherwise provided by the bylaws:

(a) only voting members may vote with respect to any matter required or permitted under this chapter to be submitted to a vote of the members;

(b) all references in this chapter to votes of or voting by the members permit voting only by the voting members; and

(c) voting members may vote with respect to all matters required or permitted under this chapter to be submitted to a vote of the members.

(2) Unless otherwise provided by the ~~[articles of incorporation]~~ bylaws, each member entitled to vote may cast:

(a) one vote on each matter submitted to a vote of members for nonprofit corporations other than those in Subsection (2)(b); and

(b) one vote for each share held by the member on each matter submitted for a vote of members if the nonprofit corporation issues shares to its members.

(3) Unless otherwise provided by the bylaws, if a membership stands of record in the names of two or more persons, the membership's acts with respect to voting have the following effect:

(a) If only one votes, the act binds all of the persons whose membership is jointly held.

(b) If more than one votes, the vote is divided on a pro-rata basis.

Section 10. Section 16-6a-712 is amended to read:

16-6a-712. Proxies.

(1) Unless otherwise provided by the bylaws, a member entitled to vote may vote or otherwise act in person or by proxy.

(2) Without limiting the manner in which a member may appoint a proxy to vote or otherwise act for the member, Subsections (2)(a) and (b) constitute valid means of appointing a proxy.

(a) A member may appoint a proxy by signing an appointment form, either personally or by the member's attorney-in-fact.

(b) (i) Subject to Subsection (2)(b)(ii) a member may appoint a proxy by transmitting or authorizing the transmission of a telegram, teletype, facsimile, or other electronic transmission providing a written statement of the appointment to:

(A) the proxy;

(B) a proxy solicitor;

(C) a proxy support service organization;

(D) another person duly authorized by the proxy to receive appointments as agent for the proxy; or

(E) the nonprofit corporation.

(ii) An appointment transmitted under Subsection (2)(b)(i) shall set forth or be transmitted with written evidence from which it can be determined that the member transmitted or authorized the transmission of the appointment.

(3) (a) An appointment of a proxy is effective against the nonprofit corporation when received by the nonprofit corporation, including receipt by the nonprofit corporation of an appointment transmitted pursuant to Subsection (2)(b).

(b) An appointment is valid for 11 months unless a different period is expressly provided in the appointment form.

(4) Any complete copy, including an ~~[electronically transmitted facsimile]~~ electronic transmission, of an appointment of a proxy may be substituted for or used in lieu of the original appointment for any purpose for which the original appointment could be used.

(5) An appointment of a proxy is revocable by the member.

(6) An appointment of a proxy is revoked by the person appointing the proxy:

(a) attending any meeting and voting in person; or

(b) signing and delivering to the secretary or other officer or agent authorized to tabulate proxy votes:

(i) a writing stating that the appointment of the proxy is revoked; or

(ii) a subsequent appointment form.

(7) The death or incapacity of the member appointing a proxy does not affect the right of the nonprofit corporation to accept the proxy's authority unless notice of the death or incapacity is received by the secretary or other officer or agent authorized to tabulate votes before the proxy exercises the proxy's authority under the appointment.

(8) Subject to Section 16-6a-713 and to any express limitation on the proxy's authority appearing on the appointment form, a nonprofit corporation is entitled to accept the proxy's vote or other action as that of the member making the appointment.

Section 11. Section 16-6a-801 is amended to read:

16-6a-801. Requirement for board of directors.

(1) A nonprofit corporation shall have a board of directors.

(2) (a) Except as may otherwise be provided in this chapter ~~[or]~~, including Subsection (2)(b), all corporate powers shall be exercised by or under the authority of, and the business and affairs of the nonprofit corporation managed under the direction of, the board of directors.

(b) (i) The articles of incorporation may authorize one or more persons to exercise some or all of the powers that would otherwise be exercised by the board of directors.

(ii) To the extent the articles of incorporation authorize a person other than the board of directors to have the authority and perform a duty of the board of directors, the directors shall be relieved to that extent from such authority and duty.

(3) The board of directors may be divided into classes, each with such respective rights and duties

as the articles of incorporation or bylaws may provide.

(4) The board of directors and the directors may be known by any other name designated in the bylaws.

Section 12. Section 16-6a-807 is amended to read:

16-6a-807. Resignation of directors.

(1) A director may resign at any time by giving written notice of resignation to the ~~[nonprofit corporation]~~ board's chair, the nonprofit corporation's secretary, or as otherwise provided in the bylaws.

(2) A resignation of a director is effective when the notice is received by the nonprofit corporation unless the notice specifies a later effective date.

(3) A director who resigns may deliver to the division for filing a statement that the director resigns pursuant to Section 16-6a-1608.

(4) The failure to attend or meet obligations shall be effective as a resignation at the time of the board of director's vote to confirm the failure if:

(a) at the beginning of a director's term on the board, the bylaws provide that a director may be considered to have resigned for failing to:

(i) attend a specified number of board meetings; or

(ii) meet other specified obligations of directors; and

(b) the failure to attend or meet obligations is confirmed by an affirmative vote of the board of directors.

Section 13. Section 16-6a-808 is amended to read:

16-6a-808. Removal of directors.

(1) Directors elected by voting members or directors may be removed as provided in Subsections (1)(a) through ~~(g)~~ (f).

(a) The voting members may remove one or more directors elected by them with or without cause unless the bylaws provide that directors may be removed only for cause.

(b) If a director is elected by a voting group, only that voting group may participate in the vote to remove that director.

(c) Unless otherwise provided in the bylaws, a director may be removed:

(i) when the director is elected by the voting members, only if a majority of the voting members votes to remove the director; or

(ii) when the director is elected by a voting group, only if a majority of the voting group votes to remove the director.

(d) A director elected by voting members may be removed by the voting members only:

(i) at a meeting called for the purpose of removing that director; and

(ii) if the meeting notice states that the purpose, or one of the purposes, of the meeting is removal of the director.

(e) An entire board of directors may be removed under Subsections (1)(a) through (d).

(f) (i) Except as provided in Subsection (1)(f)(ii), a director elected by the board of directors may be removed with or without cause by the vote of a majority of the directors then in office or such greater number as is set forth in the bylaws.

(ii) A director elected by the board of directors to fill the vacancy of a director elected by the voting members may be removed without cause by the voting members but not the board of directors.

~~[(g) Notwithstanding Subsections (1)(a) through (f), if provided in the bylaws, any director no longer qualified to serve, under standards set forth in the bylaws, may be removed by a vote of a majority of the directors then in office or such greater number as set forth in the bylaws.]~~

~~[(h) (g) A director who is removed pursuant to this section may deliver to the division for filing a statement to that effect pursuant to Section 16-6a-1608.~~

(2) Unless otherwise provided in the bylaws:

(a) an appointed director may be removed without cause by the person appointing the director;

(b) the person described in Subsection (2)(a) shall remove the director by giving written notice of the removal to:

(i) the director; and

(ii) the nonprofit corporation; and

(c) unless the written notice described in Subsection (2)(b) specifies a future effective date, a removal is effective when the notice is received by both:

(i) the director to be removed; and

(ii) the nonprofit corporation.

(3) A designated director, as provided in Subsection 16-6a-804(5), may be removed by an amendment to the bylaws deleting or changing the designation.

(4) Removal of a director under this section is not affected by Subsection 16-6a-805(5).

Section 14. Section 16-6a-813 is amended to read:

16-6a-813. Action without meeting.

(1) (a) Unless otherwise provided in the bylaws, any action required or permitted by this chapter to be taken at a board of directors' meeting may be taken without a meeting if ~~[each and every member]~~ all members of the board consent to the action in writing ~~[either:]~~.

~~[(a) votes for the action; or]~~

~~[(b) (i) (A) votes against the action; or]~~

~~[(B) abstains from voting; and]~~

~~[(ii) waives the right to demand that action not be taken without a meeting;]~~

~~[(2) Action is taken under this section only if the affirmative vote for the action equals or exceeds the minimum number of votes that would be necessary to take the action at a meeting at which all of the directors then in office were present and voted.]~~

~~[(3) (a) An action taken pursuant to this section may not be effective unless the nonprofit corporation receives writings:]~~

~~[(i) describing the action taken;]~~

~~[(ii) otherwise satisfying the requirements of Subsection (1);]~~

~~[(iii) signed by all directors; and]~~

~~[(iv) not revoked pursuant to Subsection (4).]~~

~~[(b) Unless otherwise provided by the bylaws, a writing described in Subsection (3)(a) may be received by the nonprofit corporation by electronically transmitted facsimile or other form of wire or wireless communication providing the nonprofit corporation with a complete copy of the document, including a copy of the signature on the document.]~~

~~[(c) A director's right to demand that action not be taken without a meeting shall be considered to have been waived if the nonprofit corporation receives a writing satisfying the requirements of Subsection (1) that has been signed by the director and not revoked pursuant to Subsection (4).]~~

~~[(d) Action taken pursuant to this section shall be effective when the last writing necessary to effect the action is received by the nonprofit corporation, unless the writings describing the action taken set forth a different effective date.]~~

~~[(4) If the writing is received by the nonprofit corporation before the last writing necessary to effect the action is received by the nonprofit corporation, any director who has signed a writing pursuant to this section may revoke the writing by a writing signed and dated by the director:]~~

~~[(a) describing the action; and]~~

~~[(b) stating that the director's prior vote with respect to the writing is revoked.]~~

~~[(5) Action taken pursuant to this section:]~~

~~[(a) has the same effect as action taken at a meeting of directors; and]~~

~~[(b) may be described as an action taken at a meeting of directors in any document.]~~

(b) Action is taken under Subsection (1)(a) at the time the last director signs a writing describing the action taken, unless, before that time, any director revokes a consent by a writing signed by the director and received by the secretary or any other person authorized by the bylaws or the board of directors to receive the revocation.

(c) Action under Subsection (1)(a) is effective at the time it is taken under Subsection (1)(a) unless

the board of directors establishes a different effective date.

(2) (a) If provided in the bylaws, any action required or permitted by this chapter to be taken at a board of directors' meeting may be taken without a meeting if notice is transmitted in writing to each member of the board and each member of the board by the time stated in the notice:

(i) (A) signs a writing for such action; or

(B) signs a writing against such action, abstains in writing from voting, or fails to respond or vote; and

(ii) fails to demand in writing that action not be taken without a meeting.

(b) The notice required by Subsection (1) shall state:

(i) the action to be taken;

(ii) the time by which a director must respond to the notice;

(iii) that failure to respond by the time stated in the notice will have the same effect as:

(A) abstaining in writing by the time stated in the notice; and

(B) failing to demand in writing by the time stated in the notice that action not be taken without a meeting; and

(iv) any other matters the nonprofit corporation determines to include.

(c) Action is taken under this Subsection (2) only if at the end of the time stated in the notice transmitted pursuant to Subsection (2)(a):

(i) the affirmative votes in writing for the action received by the nonprofit corporation and not revoked pursuant to Subsection (2)(e) equal or exceed the minimum number of votes that would be necessary to take such action at a meeting at which all of the directors then in office were present and voted; and

(ii) the nonprofit corporation has not received a written demand by a director that the action not be taken without a meeting other than a demand that has been revoked pursuant to Subsection (2)(e).

(d) A director's right to demand that action not be taken without a meeting shall be considered to have been waived unless the nonprofit corporation receives such demand from the director in writing by the time stated in the notice transmitted pursuant to Subsection (2)(a) and the demand has not been revoked pursuant to Subsection (2)(e).

(e) A director who in writing has voted, abstained, or demanded action not be taken without a meeting pursuant to this Subsection (2) may revoke the vote, abstention, or demand in writing received by the nonprofit corporation by the time stated in the notice transmitted pursuant to Subsection (2)(a).

(f) Unless the notice transmitted pursuant to Subsection (2)(a) states a different effective date,

action taken pursuant to this Subsection (2) is effective at the end of the time stated in the notice transmitted pursuant to Subsection (2)(a).

(3) (a) Unless otherwise provided by the bylaws, a communication under this section may be delivered by an electronic transmission.

(b) An electronic transmission communicating a vote, abstention, demand, or revocation under Subsection (2) is considered to be written, signed, and dated for purposes of this section if the electronic transmission is delivered with information from which the nonprofit corporation can determine:

(i) that the electronic transmission is transmitted by the director; and

(ii) the date on which the electronic transmission is transmitted.

(c) The date on which an electronic transmission is transmitted is considered the date on which the vote, abstention, demand, or revocation is signed.

(d) For purposes of this section, communications to the nonprofit corporation are not effective until received.

(4) Action taken pursuant to this section:

(a) has the same effect as action taken at a meeting of directors; and

(b) may be described as an action taken at a meeting of directors in any document.

Section 15. Section 16-6a-814 is amended to read:

16-6a-814. Notice of meeting.

(1) (a) A nonprofit corporation shall give to each director entitled to vote at an annual meeting notice of the annual meeting consistent with the nonprofit corporation's bylaws in a fair and reasonable manner.

(b) Any notice that conforms to the requirements of Subsection (1)(c) is fair and reasonable, but other means of giving notice may also be fair and reasonable when all the circumstances are considered.

(c) Notice under Subsection (1)(a) is fair and reasonable if the nonprofit corporation notifies each director of the place, date, and time of the annual meeting:

(i) no fewer than 10 days before the meeting, unless otherwise provided by the bylaws;

(ii) if notice is mailed by other than first-class or registered mail, no fewer than 30 days, nor more than 60 days before the meeting date; and

(iii) if notice is given:

(A) by newspaper as provided in Subsection 16-6a-103(2)(b)(i)(A), by publication three separate times with:

(I) the first of the publications no more than 60 days before the meeting date; and

(II) the last of the publications no fewer than 10 days before the meeting date; and

(B) (I) as provided in Subsection 16-6a-103(2)(b)(i)(B); and

(II) for 60 days before the meeting date.

(2) Unless otherwise provided in this chapter or in the bylaws, regular meetings of the board of directors may be held without notice of the date, time, place, or purpose of the meeting.

(3) (a) Unless the bylaws provide for a longer or shorter period, special meetings of the board of directors shall be preceded by at least two days notice of the date, time, and place of the meeting.

(b) The notice required by Subsection (3)(a) need not describe the purpose of the special meeting unless otherwise required by this chapter or the bylaws.

Section 16. Section 16-6a-815 is amended to read:

16-6a-815. Waiver of notice.

(1) (a) A director may waive any notice of a meeting before or after the time and date of the meeting stated in the notice.

(b) Except as provided by Subsection (2), the waiver shall be:

(i) [be] in writing;

(ii) signed by the director entitled to the notice; and

(iii) [be] delivered to the nonprofit corporation for filing with the corporate records.

(c) A waiver satisfies the requirements of Subsection (1)(b) if communicated by electronic transmission.

~~[(e)]~~ (d) The delivery and filing required by Subsection (1)(b) may not be conditions of the effectiveness of the waiver.

(2) A director's attendance at or participation in a meeting waives any required notice to that director of the meeting unless:

(a) (i) at the beginning of the meeting or promptly upon the director's later arrival, the director objects to holding the meeting or transacting business at the meeting because of lack of notice or defective notice; and

(ii) after objecting, the director does not vote for or assent to action taken at the meeting; or

(b) if special notice was required of a particular purpose pursuant to Subsection 16-6a-814(3):

(i) the director objects to transacting business with respect to the purpose for which the special notice was required; and

(ii) after objecting, the director does not vote for or assent to action taken at the meeting with respect to the purpose.

Section 17. Section 16-6a-817 is amended to read:

16-6a-817. Committees of the board.

(1) Unless otherwise provided in the bylaws ~~and subject to the provisions of Section 16-6a-906~~, the board of directors may:

(a) create one or more committees of the board; and

(b) appoint two or more directors to serve on the committees created under Subsection (1)(a).

(2) Unless otherwise provided in the bylaws, the creation of a committee of the board and appointment of directors to it shall be approved by the greater of:

(a) a majority of all the directors in office when the action is taken; or

(b) the number of directors required by the bylaws to take action under Section 16-6a-816.

(3) Unless otherwise provided in the bylaws, a committee of the board and the members of the committee are subject to Sections 16-6a-812 through 16-6a-816, which govern:

(a) meetings;

(b) action without meeting;

(c) notice;

(d) waiver of notice; and

(e) quorum and voting requirements.

~~[(4) To the extent specified in the bylaws or by the board of directors, and subject to Subsection (6)(b), each committee of the board shall have the authority of the board of directors under Section 16-6a-801.]~~

(4) To the extent stated in the bylaws or by the board of directors, each committee of the board shall have the authority of the board of directors as described in Section 16-6a-801, except that a committee of the board may not:

(a) authorize distributions;

(b) approve or propose to members any action required by this chapter to be approved by members;

(c) elect, appoint, or remove a director;

(d) amend articles of incorporation;

(e) adopt, amend, or repeal bylaws;

(f) approve a plan of conversion or a plan of merger not requiring member approval; or

(g) approve a sale, lease, exchange, or other disposition of all, or substantially all, of its property, with or without goodwill, otherwise than in the usual and regular course of business.

(5) The creation of, delegation of authority to, or action by a committee does not alone constitute compliance by a director with the standards of conduct described in Section 16-6a-822.

(6) (a) Subject to Subsection (6)(b), nothing in this part shall prohibit or restrict a nonprofit corporation from establishing in its bylaws or by action of the board of directors or otherwise one or

more committees, advisory boards, auxiliaries, or other bodies of any kind:

(i) having the members and rules of procedure as the bylaws or board of directors may provide;

(ii) established to provide the advice, service, and assistance to the nonprofit corporation as may be specified in the bylaws or by the board of directors; and

(iii) established to carry out the duties and responsibilities for the nonprofit corporation, as may be specified in the bylaws or by the board of directors.

(b) Notwithstanding Subsection (6)(a), if any committee or other body established under Subsection (6)(a) has one or more members who are entitled to vote on committee matters and who are not then also directors, the committee or other body may not exercise any power or authority reserved to the board of directors, in this chapter or in the bylaws.

Section 18. Section 16-6a-825 is amended to read:

16-6a-825. Conflicting interest transaction.

(1) As used in this section, "conflicting interest transaction" means a contract, transaction, or other financial relationship between a nonprofit corporation and:

(a) a director of the nonprofit corporation;

(b) a party related to a director; or

(c) an entity in which a director of the nonprofit corporation:

(i) is a director or officer; or

(ii) has a financial interest.

(2) Except as otherwise provided in this section, upon the finding of a conflicting interest transaction, in an action properly brought before it, a court may:

(a) rule that the conflicting interest transaction is void or voidable;

(b) enjoin or set aside the conflict of interest transaction; or

(c) determine that the conflicting interest transaction gives rise to an award of damages or other sanctions.

(3) (a) A loan may not be made directly or indirectly by a nonprofit corporation to:

(i) a director or officer of the nonprofit corporation; ~~or~~

(ii) a natural person related to a director or officer~~[-];~~ or

(iii) an entity in which a director, officer, or natural person related to a director or officer has any ownership, management right, or financial interest.

(b) A director or officer who assents to or participates in the making of a loan in violation of Subsection (3)(a) shall be liable to the nonprofit corporation for the amount of the loan until the repayment of the loan.

(4) (a) If the conditions of Subsection (4)(b) are met, a conflicting interest transaction may not be void or voidable or be enjoined, set aside, or give rise to an award of damages or other sanctions in a proceeding by a member or by or in the right of the nonprofit corporation, solely because:

(i) the conflicting interest transaction involves:

(A) a director of the nonprofit corporation;

(B) a party related to a director; or

(C) an entity in which a director of the nonprofit corporation is a director or officer or has a financial interest;

(ii) the director is present at or participates in the meeting of the nonprofit corporation's board of directors or of the committee of the board of directors that authorizes, approves, or ratifies the conflicting interest transaction; or

(iii) the director's vote is counted for the purpose described in Subsection (4)(a)(ii).

(b) Subsection (4)(a) applies if:

(i) (A) the material facts as to the director's relationship or interest and as to the conflicting interest transaction are disclosed or are known to the board of directors or the committee; and

(B) the board of directors or committee in good faith authorizes, approves, or ratifies the conflicting interest transaction by the affirmative vote of a majority of the disinterested directors, even though the disinterested directors are less than a quorum;

(ii) (A) the material facts as to the director's relationship or interest and as to the conflicting interest transaction are disclosed or are known to the members entitled to vote on the conflicting interest transaction; and

(B) the conflicting interest transaction is specifically authorized, approved, or ratified in good faith by a vote of the members entitled to vote thereon;

(iii) the conflicting interest transaction is consistent with a provision in the articles of incorporation or bylaws which:

(A) commits the nonprofit corporation to support one or more other nonprofit corporations, charitable trusts, or charitable entities; or

(B) authorizes one or more directors to exercise discretion in making gifts or contributions to one or more other nonprofit corporations, charitable trusts, or charitable entities; or

(iv) the conflicting interest transaction is fair as to the nonprofit corporation.

(5) Common or interested directors may be counted in determining the presence of a quorum at

a meeting of the board of directors or of a committee that authorizes, approves, or ratifies the conflicting interest transaction.

(6) For purposes of this section, “a natural person related to a director or officer” means any natural person whose familial, financial, professional, or employment relationship with the director or officer would, under the circumstances, reasonably be expected to exert an influence on the director’s or officer’s judgment when voting on a transaction.

Section 19. Section 16-6a-905 is amended to read:

16-6a-905. Court-ordered indemnification of directors.

(1) Unless a nonprofit corporation’s [bylaws] articles of incorporation provide otherwise, a director of the nonprofit corporation who is or was a party to a proceeding may apply for indemnification to:

- (a) the court conducting the proceeding; or
- (b) another court of competent jurisdiction.

(2) On receipt of an application described in Subsection (1), the court, after giving any notice the court considers necessary, may order indemnification in the following manner:

(a) if the court determines that the director is entitled to mandatory indemnification under Section 16-6a-903, the court shall:

- (i) order indemnification; and

(ii) order the nonprofit corporation to pay the director’s reasonable expenses incurred to obtain court-ordered indemnification; and

(b) if the court determines that the director is fairly and reasonably entitled to indemnification in view of all the relevant circumstances, whether or not the director met the applicable standard of conduct set forth in Section 16-6a-902 or was adjudged liable as described in Subsection 16-6a-902(4), the court may order indemnification as the court determines to be proper, except that the indemnification with respect to any proceeding in which liability has been adjudged in the circumstances described in Subsection 16-6a-902(4) is limited to reasonable expenses incurred.

Section 20. Section 16-6a-1002 is amended to read:

16-6a-1002. Amendment of articles of incorporation by board of directors or incorporators.

(1) Unless otherwise provided in the articles of incorporation, the board of directors may adopt, without member approval, one or more amendments to the articles of incorporation to:

(a) delete the names and addresses of the initial directors;

(b) change the information required by Subsection 16-17-203(1), but an amendment is not required to change the information;

(c) change the corporate name by:

(i) substituting the word “corporation,” “incorporated,” “company,” “limited,” or an abbreviation of any such word for a similar word or abbreviation in the name; or

(ii) adding, deleting, or changing a geographical attribution; or

(d) make any other change expressly permitted by this chapter to be made without member action.

(2) The board of directors may adopt, without member action, one or more amendments to the articles of incorporation to change the corporate name, if necessary, in connection with the reinstatement of a nonprofit corporation pursuant to Section 16-6a-1412.

(3) (a) Subject to any approval required pursuant to Section 16-6a-1013, if a nonprofit corporation has no members, no members entitled to vote on amendments, or no members yet admitted to membership, one or more amendments to the nonprofit corporation’s articles of incorporation may be adopted by:

(i) its incorporators until directors have been chosen; or

(ii) its directors after the directors have been chosen.

(b) A nonprofit corporation described in Subsection (3)(a) shall provide notice of any meeting at which an amendment is to be voted upon.

(c) The notice required by Subsection (3)(b) shall:

(i) be in accordance with Section 16-6a-814;

(ii) state that the purpose, or one of the purposes, of the meeting is to consider a proposed amendment to the articles of incorporation; and

(iii) (A) contain or be accompanied by a copy or summary of the amendment; or

(B) state the general nature of the amendment.

(d) An amendment described in Subsection (3)(a) shall be approved:

(i) by a majority of the incorporators, until directors have been chosen; or

(ii) after directors are chosen by a majority of the directors in office at the time the amendment is adopted or such greater number as is set forth in the bylaws.

Section 21. Section 16-6a-1003 is amended to read:

16-6a-1003. Amendment of articles of incorporation by board of directors and members.

(1) The board of directors or the members representing at least 10% of all of the votes entitled

to be cast on the amendment may propose an amendment to the articles of incorporation for submission to the members unless a different vote or voting class is required by:

- (a) this chapter;
- (b) the articles of incorporation;
- (c) the bylaws; or
- (d) the members or the board of directors acting pursuant to Subsection (5).

(2) For an amendment to the articles of incorporation to be adopted pursuant to Subsection (1):

(a) the board of directors shall recommend the amendment to the members unless:

- (i) the amendment is proposed by members; or
- (ii) the board of directors:

(A) determines that because of conflict of interest or other special circumstances it should make no recommendation; and

(B) communicates the basis for its determination to the members with the amendment; and

(b) the members entitled to vote on the amendment shall approve the amendment as provided in Subsection (5).

(3) The proposing board of directors or the proposing members may condition the effectiveness of the amendment on any basis.

(4) (a) The nonprofit corporation shall give notice, in accordance with Section 16-6a-704, to each member entitled to vote on the amendment of the members' meeting at which the amendment will be voted upon.

(b) The notice required by Subsection (4)(a) shall:

(i) state that the purpose, or one of the purposes, of the meeting is to consider the amendment; and

(ii) (A) contain or be accompanied by a copy or a summary of the amendment; or

(B) shall state the general nature of the amendment.

(5) The amendment shall be approved by the votes required by Sections 16-6a-714 and 16-6a-715 by every voting group entitled to vote on the amendment unless a greater vote is required by:

- (a) this chapter;
- (b) the articles of incorporation;
- (c) bylaws adopted by the members; or
- (d) the proposing board of directors or the proposing members acting pursuant to Subsection (3).

(6) If the board of directors or the members seek to have the amendment approved by the members by written consent or by written ballot, the material soliciting the approval shall contain or be

accompanied by a copy or summary of the amendment.

Section 22. Section 16-6a-1006 is amended to read:

16-6a-1006. Restated articles of incorporation.

(1) (a) The board of directors may restate the articles of incorporation at any time with or without member action.

(b) The incorporators of a nonprofit corporation may restate the articles of incorporation at any time if the nonprofit corporation:

- (i) has no members; and
- (ii) no directors have been chosen.

(2) (a) The restatement may include one or more amendments to the articles of incorporation.

(b) Notwithstanding Subsection (1), if the restatement includes an amendment requiring member approval, it shall be adopted as provided in Section 16-6a-1003.

(3) (a) If the board of directors submits a restatement for member action, the nonprofit corporation shall give notice, in accordance with Section 16-6a-704, to each member entitled to vote on the restatement of the members' meeting at which the restatement will be voted upon.

(b) The notice required by Subsection (3)(a) shall:

(i) state that the purpose, or one of the purposes, of the meeting is to consider the restatement; and

(ii) contain or be accompanied by a copy of the restatement that identifies any amendment or other change it would make in the articles of incorporation.

(4) A nonprofit corporation restating its articles of incorporation shall deliver to the division for filing articles of restatement setting forth:

- (a) the name of the nonprofit corporation;
- (b) the text of the restated articles of incorporation;

(c) if the restatement contains an amendment to the articles of incorporation that was adopted by the members, the information required by Subsection 16-6a-1005(5); ~~and~~

(d) if the restatement was adopted by the board of directors or incorporators without member action, a statement to that effect and that member action was not required~~[-]; and~~

(e) the restatement does not need to contain the name or address of the incorporator or incorporators that were included in the articles of incorporation when originally filed.

(5) Upon filing by the division or at any later effective date determined pursuant to Section 16-6a-108, restated articles of incorporation supersede the original articles of incorporation and all prior amendments to the original articles of incorporation.

Section 23. Section 16-6a-1008 is amended to read:

16-6a-1008. Conversion to a business corporation.

(1) (a) A domestic nonprofit corporation may convert to a corporation subject to [~~Title 16,~~] Chapter 10a, Utah Revised Business Corporation Act, by filing an amendment of its articles of incorporation with the division pursuant to this section.

(b) The day on which a nonprofit domestic corporation files an amendment under this section, the domestic nonprofit corporation becomes a corporation subject to [~~Title 16,~~] Chapter 10a, Utah Revised Business Corporation Act, except that, notwithstanding Section 16-10a-203, the existence of the nonprofit corporation is considered to commence on the day on which the converting corporation:

- (i) commenced its existence under this chapter; or
- (ii) otherwise was created, formed, incorporated, or came into being.

(2) The amendment of the articles of incorporation to convert to a corporation shall:

- (a) revise the statement of purpose;
- (b) delete:
 - (i) the authorization for members; and
 - (ii) any other provisions relating to memberships;
- (c) authorize shares:
 - (i) stating the number of shares; and
 - (ii) including the information required by Section 16-10a-601 with respect to each class of shares the corporation is to be authorized to issue;
- (d) make such other changes as may be necessary or desired; and
- (e) if the corporation has any members, provide for:
 - (i) the cancellation of the memberships; or
 - (ii) the conversion of the memberships to shares of the corporation.

(3) If the nonprofit corporation has any voting members, an amendment to convert to a corporation shall be approved by all of the voting members regardless of limitations or restrictions on the voting rights of the members.

(4) If an amendment to the articles of incorporation filed pursuant to this section is included in a merger agreement, this section applies, except that any provisions for cancellation or conversion of memberships:

- (a) shall be in the merger agreement; and
- (b) may not be in the amendment of the articles of incorporation.

(5) A conversion under this section may not result in a violation, directly or indirectly, of:

- (a) Section 16-6a-1301; or
 - (b) any other provision of this chapter.
- (6) The conversion of a nonprofit corporation into a corporation does not affect:
- (a) an obligation or liability of the converting nonprofit corporation incurred before its conversion to a corporation; or
 - (b) the personal liability of any person incurred before the conversion.
- (7) (a) (i) When a conversion is effective under this section, for purposes of the laws of this state, the things listed in Subsection (7)(a)(ii):
- (A) vest in the corporation to which the nonprofit corporation converts;
 - (B) are the property of the corporation; and
 - (C) are not considered transferred by the converting nonprofit corporation to the corporation by operation of this Subsection (7)(a).
- (ii) This Subsection (7)(a) applies to the following of the converting nonprofit corporation:
- (A) its rights, privileges, and powers;
 - (B) its interests in property, whether real, personal, or mixed;
 - (C) debts due to the converting nonprofit corporation;
 - (D) the debts, liabilities, and duties of the converting nonprofit corporation;
 - (E) the rights and obligations under contract of the converting nonprofit corporation; and
 - (F) other things and causes of action belonging to the converting nonprofit corporation.
- (b) The title to any real property vested by deed or otherwise in a nonprofit corporation converting to a corporation does not revert and is not in any way impaired by reason of this chapter or of the conversion.
- (c) A right of a creditor or a lien on property of a converting nonprofit corporation that is described in Subsection (6)(a) or (b) is preserved unimpaired.
- (d) A debt, liability, or duty of a converting nonprofit corporation:
- (i) remains attached to the corporation to which the nonprofit corporation converts; and
 - (ii) may be enforced against the corporation to the same extent as if the debts, liabilities, and duties had been incurred or contracted by the corporation in its capacity as a corporation.
- (e) A converted nonprofit corporation upon conversion to a corporation pursuant to this section is considered the same entity as the corporation.
- (f) In connection with a conversion of a nonprofit corporation to a corporation under this section, the interests or rights in the nonprofit corporation which is to be converted may be exchanged or converted into one or more of the following:

(i) cash, property, interests, or rights in the corporation to which it is converted; or

(ii) cash, property or interests in, or rights in another entity.

(g) Unless otherwise agreed:

(i) a converting nonprofit corporation is not required solely as a result of the conversion to:

(A) wind up its affairs;

(B) pay its liabilities; or

(C) distribute its assets; and

(ii) a conversion is not considered to constitute a dissolution of the nonprofit corporation, but constitutes a continuation of the existence of the nonprofit corporation in the form of a corporation.

Section 24. Section 16-6a-1302 is amended to read:

16-6a-1302. Authorized distributions.

(1) A nonprofit corporation may:

(a) make distributions or distribute the nonprofit corporation's assets to a member:

(i) that is a domestic or foreign nonprofit corporation;

(ii) of a mutual benefit corporation, not inconsistent with its bylaws; or

(iii) that is a governmental entity;

(b) pay compensation in a reasonable amount to its members, directors, or officers for services rendered;

(c) if a cooperative nonprofit corporation, make distributions consistent with its purposes; and

(d) confer benefits upon its members in conformity with its purposes.

(2) A nonprofit corporation may make distributions upon dissolution as follows:

(a) to a member that is a domestic or foreign nonprofit corporation;

(b) to its members if it is a mutual benefit corporation;

(c) to another nonprofit corporation, including a nonprofit corporation organized to receive the assets of and function in place of the dissolved nonprofit corporation; and

(d) otherwise in conformity ~~[to this chapter]~~ with Part 14, Dissolution.

~~[(3) A mutual benefit corporation may purchase a member's membership in conformity with Section 16-6a-610 if, after the purchase is completed.]~~

~~[(a) the mutual benefit corporation would be able to pay its debts as they become due in the usual course of its activities; and]~~

~~[(b) the mutual benefit corporation's total assets would at least equal the sum of its total liabilities.]~~

~~[(4) (3) Authorized distributions by a dissolved nonprofit corporation may be made by authorized officers or directors, including those elected, hired, or otherwise selected after dissolution if the election, hiring, or other selection after dissolution is not inconsistent with the articles of incorporation and bylaws existing at the time of dissolution.]~~

Section 25. Section 16-6a-1405 is amended to read:

16-6a-1405. Effect of dissolution.

(1) A dissolved nonprofit corporation continues its corporate existence but may not carry on any activities except as is appropriate to wind up and liquidate its affairs, including:

(a) collecting its assets;

(b) returning, transferring, or conveying assets held by the nonprofit corporation upon a condition requiring return, transfer, or conveyance, which condition occurs by reason of the dissolution, in accordance with the condition;

(c) transferring, subject to any contractual or legal requirements, its assets as provided in or authorized by its articles of incorporation or bylaws;

(d) discharging or making provision for discharging its liabilities; and

(e) doing every other act necessary to wind up and liquidate its assets and affairs.

~~[(2) Notwithstanding any other provision of this chapter, the distribution of assets of a nonprofit corporation upon its dissolution shall be consistent with all applicable requirements and limitations set forth in the Internal Revenue Code.]~~

~~[(3) (2) Dissolution of a nonprofit corporation does not:~~

~~(a) transfer title to the nonprofit corporation's property including title to water rights, water conveyance facilities, or other assets of a nonprofit corporation organized to divert or distribute water to its members;~~

~~(b) subject its directors or officers to standards of conduct different from those prescribed in this chapter;~~

~~(c) change quorum or voting requirements for its board of directors or members;~~

~~(d) change provisions for selection, resignation, or removal of its directors or officers, or both;~~

~~(e) change provisions for amending its bylaws or its articles of incorporation;~~

~~(f) prevent commencement of a proceeding by or against the nonprofit corporation in its corporate name; or~~

~~(g) abate or suspend a proceeding pending by or against the nonprofit corporation on the effective date of dissolution.~~

~~[(4) (3) Nothing in this section may be applied in a manner inconsistent with a court's power of judicial dissolution exercised in accordance with Section 16-6a-1414 or 16-6a-1415.]~~

Section 26. Section 42-2-6.6 is amended to read:

42-2-6.6. Assumed name.

(1) The assumed name:

(a) may not contain any word or phrase that indicates or implies that the business is organized for any purpose other than one or more of the purposes contained in its application;

(b) shall be distinguishable from any registered name or trademark of record in the offices of the Division of Corporations and Commercial Code, as defined in Subsection 16-10a-401(5), except as authorized by the Division of Corporations and Commercial Code pursuant to Subsection (2);

(c) without the written consent of the United States Olympic Committee, may not contain the words:

- (i) "Olympic";
- (ii) "Olympiad"; or
- (iii) "Citius Altius Fortius";

(d) without the written consent of the Division of Consumer Protection issued in accordance with Section 13-34-114, may not contain the words:

- (i) "university";
- (ii) "college"; or
- (iii) "institute" or "institution"; and

(e) an assumed name authorized for use in this state on or after May 1, 2000, may not contain the words:

- (i) "incorporated";
- (ii) "inc.;" or
- (iii) a variation of "incorporated" or "inc."

(2) Notwithstanding Subsection (1)(e), an assumed name may contain a word listed in Subsection (1)(e) if the Division of Corporations and Commercial Code authorizes the use of the name by a corporation as defined in:

- (a) Subsection 16-6a-102[~~(25)~~](26);
- (b) Subsection 16-6a-102[~~(34)~~](35);
- (c) Subsection 16-10a-102(11); or
- (d) Subsection 16-10a-102(20).

(3) The Division of Corporations and Commercial Code shall authorize the use of the name applied for if:

(a) the name is distinguishable from one or more of the names and trademarks that are on the division's records; or

(b) the applicant delivers to the division a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this state.

(4) The assumed name, for purposes of recordation, shall be either translated into English

or transliterated into letters of the English alphabet if it is not in English.

(5) The Division of Corporations and Commercial Code may not approve an application for an assumed name to any person violating this section.

(6) The director of the Division of Corporations and Commercial Code shall have the power and authority reasonably necessary to interpret and efficiently administer this section and to perform the duties imposed on the division by this section.

(7) A name that implies by any word in the name that it is an agency of the state or of any of its political subdivisions, if it is not actually such a legally established agency, may not be approved for filing by the Division of Corporations and Commercial Code.

(8) Section 16-10a-403 applies to this chapter.

(9) (a) The requirements of Subsection (1)(d) do not apply to a person who filed a certificate of assumed and of true name with the Division of Corporations and Commercial Code on or before May 4, 1998, until December 31, 1998.

(b) On or after January 1, 1999, any person who carries on, conducts, or transacts business in this state under an assumed name shall comply with the requirements of Subsection (1)(d).

CHAPTER 241**S. B. 236**

Passed March 12, 2015
 Approved March 26, 2015
 Effective January 1, 2016

**JUSTICE COURT JUDGES
 RETIREMENT AMENDMENTS**

Chief Sponsor: Todd Weiler
 House Sponsor: Mike K. McKell

LONG TITLE**General Description:**

This bill modifies the Utah State Retirement and Insurance Benefit Act by amending provisions for certain officers who are elected or appointed.

Highlighted Provisions:

This bill:

- ▶ establishes the full-time or part-time service status of a justice court judge for retirement purposes, based on employer certification and combined workload for multiple employers;
- ▶ clarifies the retirement allowance computation for justice court judges; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

49-12-406, as renumbered and amended by Laws of Utah 2002, Chapter 250
 49-13-406, as renumbered and amended by Laws of Utah 2002, Chapter 250

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

Section 1. Section 49-12-406 is amended to read:

**49-12-406. Exceptions for part-time elective or appointive service --
 Computation of allowance -- Justice court judges.**

(1) Notwithstanding [~~any other provision of this title,~~] the provisions of Sections 49-11-401 and 49-12-102, and unless otherwise provided in this section, a member's elective or appointive service rendered on a basis not considered full-time by the office[~~, unless otherwise provided by this chapter,~~] shall have a separate allowance computed on the basis of compensation actually received by the member during the period of elective or appointive service.

(2) (a) A justice court judge who has service with only one participating employer shall be considered part-time or full-time by the office as certified by the participating employer.

(b) If a justice court judge has a combination of part-time service and full-time position service with one participating employer, the office shall compute separate allowances on the basis of

compensation actually received by the judge during the part-time and full-time periods of service.

(3) (a) A justice court judge who has service with more than one participating employer shall be considered full-time by the office for a period of service in which the judge is certified as full-time by:

(i) a participating employer; or

(ii) the Administrative Office of the Courts beginning on or after January 1, 2009, based on the judge's aggregate caseload of the multiple employers as determined by the judge's caseloads of the individual courts of each employer in accordance with Subsection 78A-7-206(1)(b)(ii).

(b) If a justice court judge has full-time service under Subsection (3)(a), the office shall compute an allowance on the basis of total compensation actually received from all participating employers by the judge during the total period of full-time service.

(c) If a justice court judge has part-time service performed that is not within a period considered full-time service under Subsection (3)(a), the office shall compute a separate allowance on the basis of compensation actually received by the member during the period of part-time service.

(4) All of the service rendered by a justice court judge in any one fiscal or calendar year may not count for more than one year of service credit.

Section 2. Section 49-13-406 is amended to read:

**49-13-406. Exceptions for part-time elective or appointive service --
 Computation of allowance -- Justice court judges.**

(1) Notwithstanding [~~any other provisions of this title,~~] the provisions of Sections 49-11-401 and 49-13-102, and unless otherwise provided in this section, a member's elective or appointive service rendered on a basis not considered full-time by the office[~~, unless otherwise provided by this chapter,~~] shall have a separate allowance computed on the basis of compensation actually received by the member during the period of elective or appointive service.

(2) (a) A justice court judge who has service with only one participating employer shall be considered part-time or full-time by the office as certified by the participating employer.

(b) If a justice court judge has a combination of part-time service and full-time position service with one participating employer, the office shall compute separate allowances on the basis of compensation actually received by the judge during the part-time and full-time periods of service.

(3) (a) A justice court judge who has service with more than one participating employer shall be considered full-time by the office for a period of service in which the judge is certified as full-time by:

(i) a participating employer; or

(ii) the Administrative Office of the Courts beginning on or after January 1, 2009, based on the judge's aggregate caseload of the multiple employers as determined by the judge's caseloads of the individual courts of each employer in accordance with Subsection 78A-7-206(1)(b)(ii).

(b) If a justice court judge has full-time service under Subsection (3)(a), the office shall compute an allowance on the basis of total compensation actually received from all participating employers by the judge during the total period of full-time service.

(c) If a justice court judge has part-time service performed that is not within a period considered full-time service under Subsection (3)(a), the office shall compute a separate allowance on the basis of compensation actually received by the member during the period of part-time service.

(4) All of the service rendered by a justice court judge in any one fiscal or calendar year may not count for more than one year of service credit.

Section 3. Effective date.

This bill takes effect on January 1, 2016.

CHAPTER 242

H. B. 8

Passed March 10, 2015
 Approved March 27, 2015
 Effective July 1, 2015

**STATE AGENCY AND HIGHER EDUCATION
 COMPENSATION APPROPRIATIONS**

Chief Sponsor: Dean Sanpei
 Senate Sponsor: Lyle W. Hillyard

LONG TITLE

General Description:

This bill supplements or reduces appropriations previously provided for the use and operation of state government for the fiscal year beginning July 1, 2015 and ending June 30, 2016.

Highlighted Provisions:

This bill:

- ▶ provides funding for a 2.25% general salary increase for state employees;
- ▶ provides funding equivalent to a 0.75% cost of living allowance for targeted market comparability adjustments to certain state agency employees;
- ▶ provides funding equivalent to a 0.75% cost of living allowance for discretionary salary adjustments to certain employees of constitutional officers, the legislative branch, and the judicial branch;
- ▶ provides funding equivalent to a 2% cost of living allowance for higher education employees;
- ▶ provides funding for a 4.9% increase in health insurance benefits rates for state and higher education employees;
- ▶ provides funding for reductions in unemployment rates for state employees;
- ▶ provides funding for retirement rate changes for certain state employees;
- ▶ provides appropriations for an up-to \$26 per pay period match for qualifying state employees enrolled in a defined contribution plan; and
- ▶ provides appropriations for rate impacts associated with compensation of internal service fund employees.

Money Appropriated in this Bill:

Section 1 of this bill appropriates \$82,529,500 in operating and capital budgets for fiscal year 2016, including:

- ▶ \$25,453,800 from the General Fund;
- ▶ \$23,214,600 from the Education Fund;
- ▶ \$33,861,100 from various sources as detailed in this bill.

Section 1 of this bill appropriates \$202,300 in expendable funds and accounts for fiscal year 2016.

Section 1 of this bill appropriates \$229,200 in business-like activities for fiscal year 2016.

Section 2 of this bill appropriates \$2,354,300 in operating and capital budgets for fiscal year 2016, including:

- ▶ \$939,400 from the General Fund;
- ▶ \$84,700 from the Education Fund;
- ▶ \$1,330,200 from various sources as detailed in this bill.

Section 2 of this bill appropriates \$6,500 in expendable funds and accounts for fiscal year 2016.

Section 2 of this bill appropriates \$2,450,000 in business-like activities for fiscal year 2016.

Section 2 of this bill appropriates \$1,100 in fiduciary funds for fiscal year 2016.

Other Special Clauses:

This bill takes effect on July 1, 2015.

Utah Code Sections Affected:

ENACTS UNCODIFIED MATERIAL

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

Section 1. FY 2016 Appropriations. Under provisions of Section 67-19-43, Utah Code Annotated, the employer defined contribution match for the fiscal year beginning July 1, 2015 and ending June 30, 2016 shall be \$26 per pay period. The following sums of money are appropriated for the fiscal year beginning July 1, 2015 and ending June 30, 2016. These are additions to amounts previously appropriated for fiscal year 2016.

Subsection 1(a). Operating and Capital Budgets. Under the terms and conditions of Utah Code Title 63J, the Legislature appropriates the following sums of money from the funds or fund accounts indicated for the use and support of the government of the State of Utah.

**EXECUTIVE OFFICES AND
 CRIMINAL JUSTICE**

GOVERNOR'S OFFICE

Item 1

To Governor's Office
 From General Fund 113,300
 From General Fund, One-time 19,900
 Schedule of Programs:
 Administration 90,100
 Governor's Residence 8,300
 Washington Funding 3,500
 Lt. Governor's Office 31,300

Item 2

To Governor's Office - Character Education
 From General Fund 1,900
 Schedule of Programs:
 Character Education 1,900

Item 3

To Governor's Office - Governor's Office
 of Management and Budget
 From General Fund 97,400
 From General Fund, One-time 24,100
 Schedule of Programs:
 Administration 29,300
 Planning and Budget Analysis 48,300
 Operational Excellence 40,600
 State and Local Planning 3,300

Item 4

To Governor's Office - Commission on Criminal and
 Juvenile Justice
 From General Fund 55,700
 From General Fund, One-time 11,000

From Federal Funds	24,800
From General Fund Restricted -	
Criminal Forfeiture Restricted Account ...	500
From General Fund Restricted -	
Law Enforcement Operations	1,900
From Crime Victim Reparations Fund	55,100
Schedule of Programs:	
CCJJ Commission	52,700
Utah Office for Victims of Crime	71,300
Extraditions	1,100
Substance Abuse Advisory Council	4,500
Sentencing Commission	4,500
State Asset Forfeiture Grant Program	500
Judicial Performance Evaluation	
Commission	14,400

OFFICE OF THE STATE AUDITOR

Item 5

To Office of the State Auditor - State Auditor	
From General Fund	74,200
From General Fund, One-time	16,900
From Dedicated Credits Revenue	77,500
Schedule of Programs:	
State Auditor	168,600

STATE TREASURER

Item 6

To State Treasurer	
From General Fund	24,400
From General Fund, One-time	5,200
From Dedicated Credits Revenue	13,900
From Unclaimed Property Trust	35,700
Schedule of Programs:	
Treasury and Investment	40,300
Unclaimed Property	35,700
Money Management Council	3,200

ATTORNEY GENERAL

Item 7

To Attorney General	
From General Fund	1,619,000
From General Fund, One-time	146,000
From Federal Funds	44,500
From Dedicated Credits Revenue	1,143,300
From General Fund Restricted -	
Constitutional Defense	13,000
From Attorney General Litigation Fund ..	12,600
From Revenue Transfers - Federal	25,300
Schedule of Programs:	
Administration	1,361,300
Child Protection	270,400
Criminal Prosecution	567,200
Civil	804,800

Item 8

To Attorney General - Children's Justice Centers	
From Federal Funds	8,800
Schedule of Programs:	
Children's Justice Centers	8,800

Item 9

To Attorney General - Prosecution Council	
From General Fund Restricted -	
Public Safety Support	13,600
From Revenue Transfers - Commission	
on Criminal and Juvenile Justice	4,300

From Revenue Transfers - Federal	
Government Pass-through	4,600
Schedule of Programs:	
Prosecution Council	22,500

UTAH DEPARTMENT OF CORRECTIONS

Item 10

To Utah Department of Corrections -	
Programs and Operations	
From General Fund	5,488,400
From General Fund, One-time	998,700
Schedule of Programs:	
Department Executive Director	181,000
Department Administrative Services ..	450,300
Department Training	89,800
Adult Probation and Parole	
Administration	28,900
Adult Probation and Parole	
Programs	1,779,700
Institutional Operations	
Administration	13,000
Institutional Operations Draper	
Facility	2,245,400
Institutional Operations Central	
Utah/Gunnison	1,094,300
Institutional Operations Inmate	
Placement	87,200
Institutional Operations Support	
Services	187,900
Programming Administration	13,900
Programming Treatment	157,200
Programming Skill Enhancement	158,500

Item 11

To Utah Department of Corrections -	
Department Medical Services	
From General Fund	669,600
From General Fund, One-time	153,500
Schedule of Programs:	
Medical Services	823,100

BOARD OF PARDONS AND PAROLE

Item 12

To Board of Pardons and Parole	
From General Fund	91,000
From General Fund, One-time	21,300
Schedule of Programs:	
Board of Pardons and Parole	112,300

DEPARTMENT OF HUMAN SERVICES - DIVISION OF JUVENILE JUSTICE SERVICES

Item 13

To Department of Human Services - Division	
of Juvenile Justice Services - Programs	
and Operations	
From General Fund	1,449,100
From General Fund, One-time	373,100
From Federal Funds	83,200
From Dedicated Credits Revenue	25,400
From Revenue Transfers	10,200
Schedule of Programs:	
Administration	154,500
Early Intervention Services	422,400
Community Programs	235,100
Correctional Facilities	530,100
Rural Programs	587,600

Youth Parole Authority 11,300

JUDICIAL COUNCIL/STATE COURT ADMINISTRATOR

Item 14

To Judicial Council/State Court Administrator - Administration
 From General Fund 3,002,100
 From General Fund, One-time 556,300
 From Federal Funds 7,800
 From Dedicated Credits Revenue 13,300
 From General Fund Restricted - Dispute Resolution Account 17,900
 From General Fund Restricted - Children's Legal Defense 10,300
 From General Fund Restricted - Court Security Account 3,700
 From General Fund Restricted - DNA Specimen Account 2,800
 From General Fund Restricted - Justice Court Tech., Security & Training 27,700
 From General Fund Restricted - Nonjudicial Adjustment Account 25,900
 From General Fund Restricted - Substance Abuse Prevention 7,000
 From General Fund Restricted - Tobacco Settlement Account 4,800
 From Revenue Transfers 12,400
 Schedule of Programs:
 Supreme Court 109,500
 Law Library 26,700
 Court of Appeals 144,700
 District Courts 1,715,200
 Juvenile Courts 1,371,400
 Justice Courts 34,700
 Courts Security 3,700
 Administrative Office 102,100
 Judicial Education 14,100
 Data Processing 156,700
 Grants Program 13,200

Item 15

To Judicial Council/State Court Administrator - Contracts and Leases
 From General Fund 5,500
 From General Fund, One-time 700
 Schedule of Programs:
 Contracts and Leases 6,200

Item 16

To Judicial Council/State Court Administrator - Jury and Witness Fees
 From General Fund 9,100
 From General Fund, One-time 10,200
 Schedule of Programs:
 Jury, Witness, and Interpreter 19,300

Item 17

To Judicial Council/State Court Administrator - Guardian ad Litem
 From General Fund 181,900
 From General Fund, One-time 26,300
 From General Fund Restricted - Children's Legal Defense 16,600
 From General Fund Restricted - Guardian Ad Litem Services 12,000
 Schedule of Programs:
 Guardian ad Litem 236,800

DEPARTMENT OF PUBLIC SAFETY

Item 18

To Department of Public Safety - Programs & Operations
 From General Fund 2,285,700
 From General Fund, One-time 732,900
 From Federal Funds 7,600
 From Dedicated Credits Revenue 332,300
 From General Fund Restricted - DNA Specimen Account 21,300
 From General Fund Restricted - Fire Academy Support 78,800
 From General Fund Restricted - Utah Highway Patrol Aero Bureau 2,400
 From Department of Public Safety Restricted Account 89,300
 From General Fund Restricted - Concealed Weapons Account 63,700
 Schedule of Programs:
 Department Commissioner's Office 109,500
 Aero Bureau 11,100
 Department Intelligence Center 40,300
 Department Grants 7,600
 Department Fleet Management 1,700
 CITS Administration 24,300
 CITS Bureau of Criminal Identification 219,300
 CITS Communications 272,100
 CITS State Crime Labs 135,300
 CITS State Bureau of Investigation 153,400
 Highway Patrol - Administration 37,900
 Highway Patrol - Field Operations 1,823,300
 Highway Patrol - Commercial Vehicle 214,800
 Highway Patrol - Safety Inspections 52,500
 Highway Patrol - Protective Services 201,800
 Highway Patrol - Special Services 170,000
 Highway Patrol - Special Enforcement 22,600
 Highway Patrol - Technology Services 33,200
 Fire Marshall - Fire Operations 67,000
 Fire Marshall - Fire Fighter Training 16,300

Item 19

To Department of Public Safety - Emergency Management
 From General Fund 28,400
 From General Fund, One-time 5,800
 From Federal Funds 114,900
 Schedule of Programs:
 Emergency Management 149,100

Item 20

To Department of Public Safety - Peace Officers' Standards and Training
 From General Fund 85,200
 From General Fund, One-time 32,500
 Schedule of Programs:
 Basic Training 45,000
 Regional/Inservice Training 24,200
 POST Administration 48,500

Item 21

To Department of Public Safety - Driver License
 From Federal Funds 6,600
 From Public Safety Motorcycle Education Fund 2,700

From Department of Public Safety
 Restricted Account 726,600
 Schedule of Programs:
 Driver License Administration 86,200
 Driver Services 458,900
 Driver Records 181,500
 Motorcycle Safety 2,700
 DL Federal Grants 6,600

Item 22

To Department of Public Safety - Highway Safety
 From General Fund 500
 From General Fund, One-time 100
 From Federal Funds 61,900
 Schedule of Programs:
 Highway Safety 62,500

**INFRASTRUCTURE AND
 GENERAL GOVERNMENT**

TRANSPORTATION

Item 23

To Transportation - Support Services
 From Transportation Fund 478,100
 From Transportation Fund, One-time ... 103,100
 Schedule of Programs:
 Administrative Services 128,100
 Risk Management 24,000
 Procurement 32,100
 Comptroller 150,300
 Data Processing 12,200
 Internal Auditor 23,800
 Community Relations 9,600
 Ports of Entry 201,100

Item 24

To Transportation - Engineering Services
 From Transportation Fund 678,200
 From Transportation Fund, One-time ... 177,900
 Schedule of Programs:
 Program Development 203,100
 Preconstruction 45,800
 Environmental 26,000
 Structures 112,400
 Materials Lab 143,800
 Engineering Services 76,600
 Right-of-Way 69,100
 Research 39,300
 Construction Management 59,500
 Civil Rights 11,700
 Engineer Development Pool 59,600
 Highway Project Management Team 9,200

Item 25

To Transportation - Operations/
 Maintenance Management
 From Transportation Fund 1,963,800
 From Transportation Fund, One-time ... 580,500
 From Dedicated Credits Revenue 3,800
 Schedule of Programs:
 Region 1 326,200
 Region 2 480,400
 Region 3 312,700
 Region 4 654,900
 Field Crews 366,600
 Traffic Safety/Tramway 111,000
 Traffic Operations Center 210,000
 Maintenance Planning 86,300

Item 26

To Transportation - Region Management
 From Transportation Fund 796,700
 From Transportation Fund, One-time ... 177,800
 Schedule of Programs:
 Region 1 208,500
 Region 2 319,500
 Region 3 183,400
 Region 4 243,100
 Richfield 2,400
 Price 8,700
 Cedar City 8,900

Item 27

To Transportation - Equipment Management
 From Dedicated Credits Revenue 270,300
 Schedule of Programs:
 Shops 270,300

Item 28

To Transportation - Aeronautics
 From Aeronautics Restricted Account 38,700
 Schedule of Programs:
 Administration 19,400
 Airplane Operations 19,300

**DEPARTMENT OF
 ADMINISTRATIVE SERVICES**

Item 29

To Department of Administrative
 Services - Executive Director
 From General Fund 23,100
 From General Fund, One-time 3,400
 Schedule of Programs:
 Executive Director 26,500

Item 30

To Department of Administrative Services -
 Inspector General of Medicaid Services
 From General Fund 38,000
 From General Fund, One-time 10,700
 From Revenue Transfers 40,600
 Schedule of Programs:
 Inspector General of Medicaid
 Services 89,300

Item 31

To Department of Administrative
 Services - Administrative Rules
 From General Fund 11,900
 From General Fund, One-time 5,400
 Schedule of Programs:
 DAR Administration 17,300

Item 32

To Department of Administrative Services -
 DFCM Administration
 From General Fund 41,900
 From General Fund, One-time 12,400
 From Dedicated Credits Revenue 32,000
 From Capital Projects Fund 50,600
 Schedule of Programs:
 DFCM Administration 123,200
 Energy Program 13,700

Item 33

To Department of Administrative
 Services - Building Board Program
 From Capital Projects Fund 13,400
 Schedule of Programs:

Building Board Program 13,400

Item 34

To Department of Administrative Services -
State Archives
From General Fund 64,000
From General Fund, One-time 15,900
Schedule of Programs:
Archives Administration 24,600
Records Analysis 11,300
Preservation Services 8,400
Patron Services 28,300
Records Services 7,300

Item 35

To Department of Administrative
Services - Finance Administration
From General Fund 233,100
From General Fund, One-time 44,200
From Dedicated Credits Revenue 34,700
Schedule of Programs:
Finance Director's Office 27,900
Payroll 30,800
Payables/Disbursing 67,600
Financial Reporting 116,200
Financial Information Systems 69,500

Item 36

To Department of Administrative
Services - Finance - Mandated
From General Fund, One-time (4,500,000)
Schedule of Programs:
State Employee Benefits (4,500,000)

Item 37

To Department of Administrative
Services - Judicial Conduct Commission
From General Fund 5,200
From General Fund, One-time 700
Schedule of Programs:
Judicial Conduct Commission 5,900

Item 38

To Department of Administrative
Services - Purchasing
From General Fund 15,500
From General Fund, One-time 5,500
Schedule of Programs:
Purchasing and General Services 21,000

**DEPARTMENT OF
TECHNOLOGY SERVICES**

Item 39

To Department of Technology Services -
Chief Information Officer
From General Fund 8,100
From General Fund, One-time 5,400
Schedule of Programs:
Chief Information Officer 13,500

Item 40

To Department of Technology Services -
Integrated Technology Division
From General Fund 23,900
From General Fund, One-time 6,200
From Dedicated Credits Revenue 12,900
Schedule of Programs:
Automated Geographic Reference
Center 43,000

**BUSINESS, ECONOMIC
DEVELOPMENT, AND LABOR**

DEPARTMENT OF HERITAGE AND ARTS

Item 41

To Department of Heritage and
Arts - Administration
From General Fund 62,400
From General Fund, One-time 13,000
From Federal Funds 5,700
Schedule of Programs:
Executive Director's Office 17,200
Information Technology 2,400
Administrative Services 44,800
Utah Multicultural Affairs Office 4,700
Commission on Service and
Volunteerism 12,000

Item 42

To Department of Heritage and Arts - State History
From General Fund 52,200
From General Fund, One-time 18,100
From Federal Funds 5,300
Schedule of Programs:
Administration 5,500
Library and Collections 13,900
Public History, Communication and
Information 13,600
Historic Preservation and Antiquities 42,600

Item 43

To Department of Heritage and Arts - Division of
Arts and Museums
From General Fund 34,500
From General Fund, One-time 8,100
Schedule of Programs:
Administration 10,600
Community Arts Outreach 32,000

Item 44

To Department of Heritage and Arts - State Library
From General Fund 61,700
From General Fund, One-time 19,100
From Federal Funds 2,200
From Dedicated Credits Revenue 37,100
Schedule of Programs:
Administration 9,700
Blind and Disabled 46,900
Library Development 46,200
Library Resources 17,300

Item 45

To Department of Heritage and Arts -
Indian Affairs
From General Fund 3,800
From General Fund, One-time 700
Schedule of Programs:
Indian Affairs 4,500

**GOVERNOR'S OFFICE OF
ECONOMIC DEVELOPMENT**

Item 46

To Governor's Office of Economic Development -
Administration
From General Fund 57,400
From General Fund, One-time 8,700
Schedule of Programs:
Administration 66,100

Item 47

To Governor's Office of Economic
Development - STEM Action Center
From General Fund 6,700
From General Fund, One-time 700
Schedule of Programs:
STEM Action Center 7,400

Item 48

To Governor's Office of Economic
Development - Office of Tourism
From General Fund 50,400
From General Fund, One-time 12,300
Schedule of Programs:
Administration 20,100
Operations and Fulfillment 27,800
Film Commission 14,800

Item 49

To Governor's Office of Economic
Development - Business Development
From General Fund 73,700
From General Fund, One-time 15,600
Schedule of Programs:
Outreach and International Trade 39,500
Corporate Recruitment and Business
Services 49,800

Item 50

To Governor's Office of Economic Development -
Pete Suazo Utah Athletics Commission
From General Fund 2,900
From General Fund, One-time 700
Schedule of Programs:
Pete Suazo Utah Athletics
Commission 3,600

UTAH STATE TAX COMMISSION

Item 51

To Utah State Tax Commission -
Tax Administration
From General Fund 682,200
From General Fund, One-time 147,200
From Education Fund 456,800
From Education Fund, One-time 106,100
From Dedicated Credits Revenue 272,800
From General Fund Restricted - Tax
Commission Administrative Charge ... 296,000
Schedule of Programs:
Administration Division 293,600
Auditing Division 399,900
Tax Processing Division 174,600
Tax Payer Services 325,900
Property Tax Division 146,300
Motor Vehicles 470,100
Motor Vehicle Enforcement Division ... 150,700

**UTAH SCIENCE TECHNOLOGY AND
RESEARCH GOVERNING AUTHORITY**

Item 52

To Utah Science Technology and Research
Governing Authority - Technology Outreach and
Innovation
From General Fund 33,300
From General Fund, One-time 10,300
Schedule of Programs:
South 6,500
Central 7,500

North 7,500
East 8,400
Salt Lake SBIR-STTR Resource
Center 9,100
Salt Lake BioInnovations
Gateway (BiG) 4,600

Item 53

To Utah Science Technology and Research
Governing Authority - USTAR Administration
From General Fund 17,100
From General Fund, One-time 5,400
Schedule of Programs:
Administration 22,500

**DEPARTMENT OF ALCOHOLIC
BEVERAGE CONTROL**

Item 54

To Department of Alcoholic Beverage
Control - DABC Operations
From Liquor Control Fund 471,400
From Liquor Control Fund, One-time ... 108,600
Schedule of Programs:
Executive Director 63,300
Administration 34,500
Warehouse and Distribution 45,400
Stores and Agencies 436,800

LABOR COMMISSION

Item 55

To Labor Commission
From General Fund 149,100
From General Fund, One-time 21,700
From Federal Funds 109,600
From Dedicated Credits Revenue 1,700
From General Fund Restricted -
Industrial Accident Restricted
Account 150,500
From General Fund Restricted -
Workplace Safety Account 16,900
From Employers' Reinsurance Fund 2,400
Schedule of Programs:
Administration 45,400
Industrial Accidents 74,900
Adjudication 83,900
Boiler, Elevator and Coal Mine
Safety Division 41,800
Workplace Safety 900
Anti-Discrimination and Labor 72,300
Utah OSHA 132,700

DEPARTMENT OF COMMERCE

Item 56

To Department of Commerce - Commerce
General Regulation
From Federal Funds 8,200
From General Fund Restricted -
Commerce Service Account 737,200
From General Fund Restricted - Commerce
Service Account, One-time 109,400
From General Fund Restricted - Commerce
Service Account - Public Utilities
Regulatory Fee 137,900
From General Fund Restricted -
Pawnbroker Operations 1,800
Schedule of Programs:
Administration 225,800

Occupational and Professional	
Licensing	289,200
Securities	87,800
Consumer Protection	81,600
Corporations and Commercial Code	76,900
Real Estate	87,100
Public Utilities	118,300
Office of Consumer Services	27,800

Item 57

To Department of Commerce - Building	
Inspector Training	
From Dedicated Credits Revenue	2,600
Schedule of Programs:	
Building Inspector Training	2,600

FINANCIAL INSTITUTIONS**Item 58**

To Financial Institutions - Financial	
Institutions Administration	
From General Fund Restricted -	
Financial Institutions	159,900
From General Fund Restricted -	
Financial Institutions, One-Time	34,500
Schedule of Programs:	
Administration	194,400

INSURANCE DEPARTMENT**Item 59**

To Insurance Department - Insurance	
Department Administration	
From Federal Funds	3,000
From General Fund Restricted -	
Insurance Department Account	195,800
From General Fund Restricted -	
Insurance Department Account,	
One-time	50,600
From General Fund Restricted - Insurance	
Fraud Investigation Account	84,100
From General Fund Restricted -	
Captive Insurance	29,100
Schedule of Programs:	
Administration	249,400
Insurance Fraud Program	84,100
Captive Insurers	29,100

Item 60

To Insurance Department - Bail Bond Program	
From General Fund Restricted - Bail Bond	
Surety Administration	800
Schedule of Programs:	
Bail Bond Program	800

Item 61

To Insurance Department - Title	
Insurance Program	
From General Fund Restricted - Title	
Licensee Enforcement Account	2,800
Schedule of Programs:	
Title Insurance Program	2,800

PUBLIC SERVICE COMMISSION**Item 62**

To Public Service Commission	
------------------------------	--

From General Fund Restricted - Commerce	
Service Account - Public Utilities	
Regulatory Fee	75,300
Schedule of Programs:	
Administration	75,300

Item 63

To Public Service Commission - Speech	
and Hearing Impaired	
From Dedicated Credits Revenue	4,500
Schedule of Programs:	
Speech and Hearing Impaired	4,500

SOCIAL SERVICES**DEPARTMENT OF HEALTH****Item 64**

To Department of Health - Executive	
Director's Operations	
From General Fund	140,600
From General Fund, One-time	19,500
From Federal Funds	143,700
From Dedicated Credits Revenue	56,900
From Revenue Transfers	4,800
Schedule of Programs:	
Executive Director	40,200
Center for Health Data and	
Informatics	132,900
Program Operations	171,000
Office of Internal Audit	21,400

Item 65

To Department of Health - Family Health	
and Preparedness	
From General Fund	139,500
From General Fund, One-time	32,600
From Federal Funds	483,000
From Dedicated Credits Revenue	119,900
From Revenue Transfers	243,100
Schedule of Programs:	
Director's Office	43,500
Maternal and Child Health	108,100
Child Development	143,400
Children with Special Health	
Care Needs	351,500
Public Health and Preparedness	70,200
Emergency Medical Services	77,900
Health Facility Licensing and	
Certification	198,500
Primary Care	25,000

Item 66

To Department of Health - Disease Control	
and Prevention	
From General Fund	309,900
From General Fund, One-time	52,100
From Federal Funds	391,600
From Dedicated Credits Revenue	91,800
From General Fund Restricted - Cigarette	
Tax Restricted Account	11,700
From General Fund Restricted - State	
Lab Drug Testing Account	20,700
From General Fund Restricted -	
Tobacco Settlement Account	12,700
From Revenue Transfers	20,900
Schedule of Programs:	
General Administration	33,500
Laboratory Operations and Testing	198,700
Health Promotion	245,600

Epidemiology	250,700
Office of the Medical Examiner	170,800
Certification Programs	12,100

Item 67

To Department of Health - Medicaid and Health Financing	
From General Fund	112,300
From General Fund, One-time	29,900
From Federal Funds	445,500
From Dedicated Credits Revenue	114,000
From General Fund Restricted - Nursing Care Facilities Account	22,300
From Revenue Transfers	49,700
Schedule of Programs:	
Director's Office	65,500
Financial Services	116,900
Medicaid Operations	119,200
Managed Health Care	129,600
Authorization and Community Based Services	127,100
Coverage and Reimbursement	119,200
Eligibility Policy	96,200

Item 68

To Department of Health - Children's Health Insurance Program	
From General Fund	1,700
From General Fund, One-time	500
From Federal Funds	20,200
From Dedicated Credits Revenue	500
From General Fund Restricted - Tobacco Settlement Account	4,300
Schedule of Programs:	
Children's Health Insurance Program	27,200

Item 69

To Department of Health - Medicaid Mandatory Services	
From General Fund	54,100
From General Fund, One-time	18,900
From Federal Funds	109,700
From Dedicated Credits Revenue	27,300
From Revenue Transfers	27,700
Schedule of Programs:	
Medicaid Management Information System Replacement	69,200
Other Mandatory Services	168,500

Item 70

To Department of Health - Medicaid Optional Services	
From General Fund	6,600
From General Fund, One-time	1,200
From Federal Funds	18,000
Schedule of Programs:	
Pharmacy	20,600
Home and Community Based Waiver Services	5,200

DEPARTMENT OF WORKFORCE SERVICES

Item 71

To Department of Workforce Services - Administration	
From General Fund	82,400
From General Fund, One-time	17,700
From Federal Funds	195,500
From Dedicated Credits Revenue	6,900

From General Fund Restricted - Mineral Lease	5,500
From Revenue Transfers	42,000
Schedule of Programs:	
Executive Director's Office	37,200
Communications	22,800
Administrative Support	274,300
Internal Audit	15,700

Item 72

To Department of Workforce Services - Operations and Policy	
From General Fund	651,400
From General Fund, One-time	183,800
From Federal Funds	1,790,700
From Dedicated Credits Revenue	51,100
From General Fund Restricted - Special Administrative Expense Account	30,900
From Unemployment Compensation Fund	122,900
From Revenue Transfers	470,700
Schedule of Programs:	
Workforce Development	1,536,800
Workforce Research and Analysis	69,900
Eligibility Services	1,694,800

Item 73

To Department of Workforce Services - General Assistance	
From General Fund	19,400
From General Fund, One-time	5,000
Schedule of Programs:	
General Assistance	24,400

Item 74

To Department of Workforce Services - Unemployment Insurance	
From General Fund	18,300
From General Fund, One-time	4,400
From Federal Funds	658,000
From Dedicated Credits Revenue	12,100
From General Fund Restricted - Special Administrative Expense Account	17,800
From Revenue Transfers	10,400
Schedule of Programs:	
Unemployment Insurance Administration	608,500
Adjudication	112,500

Item 75

To Department of Workforce Services - Housing and Community Development	
From General Fund	20,100
From General Fund, One-time	6,900
From Federal Funds	72,900
From Dedicated Credits Revenue	700
From Permanent Community Impact Loan Fund	32,400
From Revenue Transfers	700
Schedule of Programs:	
Community Development Administration	15,600
Community Development	33,400
Housing Development	30,900
Homeless Committee	19,700
HEAT	13,000
Weatherization Assistance	13,000
Community Services	7,900
Emergency Food Network	200

DEPARTMENT OF HUMAN SERVICES**Item 76**

To Department of Human Services -
 Executive Director Operations
 From General Fund 231,300
 From General Fund, One-time 39,700
 From Federal Funds 70,400
 From Revenue Transfers 74,800
 Schedule of Programs:
 Executive Director's Office 54,200
 Legal Affairs 55,100
 Information Technology 9,200
 Fiscal Operations 156,300
 Office of Services Review 46,300
 Office of Licensing 80,300
 Utah Developmental Disabilities
 Council 12,100
 Utah Marriage Commission 2,700

Item 77

To Department of Human Services - Division
 of Substance Abuse and Mental Health
 From General Fund 1,354,100
 From General Fund, One-time 253,700
 From Federal Funds 75,500
 From Dedicated Credits Revenue 77,100
 From Revenue Transfers 449,700
 Schedule of Programs:
 Administration - DSAMH 110,100
 Community Mental Health Services 15,500
 State Hospital 2,073,100
 State Substance Abuse Services 11,400

Item 78

To Department of Human Services - Division
 of Services for People with Disabilities
 From General Fund 533,100
 From General Fund, One-time 74,000
 From Dedicated Credits Revenue 71,900
 From Revenue Transfers 1,125,200
 Schedule of Programs:
 Administration - DSPD 172,300
 Service Delivery 197,400
 Utah State Developmental Center ... 1,434,500

Item 79

To Department of Human Services - Office
 of Recovery Services
 From General Fund 351,200
 From General Fund, One-time 80,200
 From Federal Funds 520,000
 From Dedicated Credits Revenue 308,600
 From Revenue Transfers 61,500
 Schedule of Programs:
 Administration - ORS 33,900
 Financial Services 115,200
 Electronic Technology 73,700
 Child Support Services 735,000
 Children in Care Collections 17,800
 Attorney General Contract 250,500
 Medical Collections 95,400

Item 80

To Department of Human Services - Division
 of Child and Family Services
 From General Fund 1,577,600
 From General Fund, One-time 386,800
 From Federal Funds 683,400

From General Fund Restricted - Victims
 of Domestic Violence Services Account ... 9,000
 Schedule of Programs:
 Administration - DCFS 166,200
 Service Delivery 2,273,000
 Facility-based Services 3,400
 Minor Grants 43,700
 Selected Programs 79,000
 Domestic Violence 49,800
 Child Welfare Management Information
 System 41,700

Item 81

To Department of Human Services - Division
 of Aging and Adult Services
 From General Fund 86,100
 From General Fund, One-time 18,600
 From Federal Funds 24,600
 From Revenue Transfers 4,500
 Schedule of Programs:
 Administration - DAAS 39,200
 Adult Protective Services 84,900
 Aging Waiver Services 7,500
 Aging Alternatives 2,200

STATE BOARD OF EDUCATION**Item 82**

To State Board of Education - State Office
 of Rehabilitation
 From Education Fund 338,900
 From Education Fund, One-time 92,600
 From Federal Funds 822,400
 From Dedicated Credits Revenue 12,700
 Schedule of Programs:
 Executive Director 93,200
 Blind and Visually Impaired 119,000
 Rehabilitation Services 743,000
 Disability Determination 218,400
 Deaf and Hard of Hearing 93,000

HIGHER EDUCATION**UNIVERSITY OF UTAH****Item 83**

To University of Utah - Education and General
 From Education Fund 6,261,100
 From Dedicated Credits Revenue 2,087,000
 Schedule of Programs:
 Education and General 8,348,100

Item 84

To University of Utah -
 Educationally Disadvantaged
 From Education Fund 8,400
 Schedule of Programs:
 Educationally Disadvantaged 8,400

Item 85

To University of Utah - School of Medicine
 From Education Fund 626,300
 From Dedicated Credits Revenue 208,800
 Schedule of Programs:
 School of Medicine 835,100

Item 86

To University of Utah - University Hospital
 From General Fund 12,000
 From Education Fund 126,000
 Schedule of Programs:

University Hospital 132,600
 Miners' Hospital 5,400

Item 87

To University of Utah - Regional Dental
 Education Program
 From Education Fund 26,400
 From Dedicated Credits Revenue 8,800
 Schedule of Programs:
 Regional Dental Education Program 35,200

Item 88

To University of Utah - Public Service
 From Education Fund 35,600
 Schedule of Programs:
 Seismograph Stations 13,200
 Natural History Museum of Utah 19,900
 State Arboretum 2,500

Item 89

To University of Utah - Statewide
 TV Administration
 From Education Fund 48,100
 Schedule of Programs:
 Public Broadcasting 48,100

Item 90

To University of Utah - Poison Control Center
 From General Fund 50,600
 Schedule of Programs:
 Poison Control Center 50,600

Item 91

To University of Utah - Center on Aging
 From General Fund 2,200
 Schedule of Programs:
 Center on Aging 2,200

Item 92

To University of Utah - Rocky Mountain Center for
 Occupational and Environmental Health
 From General Fund Restricted - Workplace
 Safety Account 3,300
 Schedule of Programs:
 Center for Occupational and
 Environmental Health 3,300

UTAH STATE UNIVERSITY

Item 93

To Utah State University - Education and General
 From Education Fund 2,855,100
 From Dedicated Credits Revenue 951,700
 Schedule of Programs:
 Education and General 3,806,800

Item 94

To Utah State University - USU -
 Eastern Education and General
 From Education Fund 176,200
 From Dedicated Credits Revenue 58,800
 Schedule of Programs:
 USU - Eastern Education and
 General 235,000

Item 95

To Utah State University - USU - Eastern
 Career and Technical Education
 From Education Fund 20,900
 From Dedicated Credits Revenue 6,900

Schedule of Programs:
 USU - Eastern Career and Technical
 Education 27,800

Item 96

To Utah State University - Uintah Basin
 Regional Campus
 From Education Fund 82,700
 From Dedicated Credits Revenue 27,600
 Schedule of Programs:
 Uintah Basin Regional Campus 110,300

Item 97

To Utah State University -
 Southeastern Continuing Education Center
 From Education Fund 18,800
 From Dedicated Credits Revenue 6,200
 Schedule of Programs:
 Southeastern Continuing Education
 Center 25,000

Item 98

To Utah State University - Brigham City
 Regional Campus
 From Education Fund 166,600
 From Dedicated Credits Revenue 55,500
 Schedule of Programs:
 Brigham City Regional Campus 222,100

Item 99

To Utah State University - Tooele
 Regional Campus
 From Education Fund 122,000
 From Dedicated Credits Revenue 40,700
 Schedule of Programs:
 Tooele Regional Campus 162,700

Item 100

To Utah State University - Water
 Research Laboratory
 From Education Fund 84,100
 Schedule of Programs:
 Water Research Laboratory 84,100

Item 101

To Utah State University - Agriculture
 Experiment Station
 From Education Fund 241,700
 Schedule of Programs:
 Agriculture Experiment Station 241,700

Item 102

To Utah State University - Cooperative
 Extension
 From Education Fund 293,800
 Schedule of Programs:
 Cooperative Extension 293,800

Item 103

To Utah State University - Prehistoric
 Museum
 From Education Fund 9,200
 Schedule of Programs:
 Prehistoric Museum 9,200

Item 104

To Utah State University - Blanding Campus
 From Education Fund 57,700
 From Dedicated Credits Revenue 19,300
 Schedule of Programs:
 Blanding Campus 77,000

WEBER STATE UNIVERSITY**Item 105**

To Weber State University - Education and General
 From Education Fund 1,866,500
 From Dedicated Credits Revenue 622,200
 Schedule of Programs:
 Education and General 2,488,700

Item 106

To Weber State University -
 Educationally Disadvantaged
 From Education Fund 7,500
 Schedule of Programs:
 Educationally Disadvantaged 7,500

SOUTHERN UTAH UNIVERSITY**Item 107**

To Southern Utah University - Education and General
 From Education Fund 951,700
 From Dedicated Credits Revenue 317,200
 Schedule of Programs:
 Education and General 1,268,900

Item 108

To Southern Utah University -
 Educationally Disadvantaged
 From Education Fund 1,100
 Schedule of Programs:
 Educationally Disadvantaged 1,100

Item 109

To Southern Utah University - Rural Development
 From Education Fund 1,800
 Schedule of Programs:
 Rural Development 1,800

UTAH VALLEY UNIVERSITY**Item 110**

To Utah Valley University - Education and General
 From Education Fund 2,561,800
 From Dedicated Credits Revenue 854,000
 Schedule of Programs:
 Education and General 3,415,800

Item 111

To Utah Valley University -
 Educationally Disadvantaged
 From Education Fund 3,500
 Schedule of Programs:
 Educationally Disadvantaged 3,500

SNOW COLLEGE**Item 112**

To Snow College - Education and General
 From Education Fund 399,500
 From Dedicated Credits Revenue 133,200
 Schedule of Programs:
 Education and General 532,700

Item 113

To Snow College - Career and Technical Education
 From Education Fund 31,300
 Schedule of Programs:
 Career and Technical Education 31,300

DIXIE STATE UNIVERSITY**Item 114**

To Dixie State University - Education and General
 From Education Fund 742,300
 From Dedicated Credits Revenue 247,400
 Schedule of Programs:
 Education and General 989,700

Item 115

To Dixie State University -
 Zion Park Amphitheater
 From Education Fund 900
 Schedule of Programs:
 Zion Park Amphitheater 900

SALT LAKE COMMUNITY COLLEGE**Item 116**

To Salt Lake Community College - Education and General
 From Education Fund 1,746,000
 From Dedicated Credits Revenue 582,100
 Schedule of Programs:
 Education and General 2,328,100

Item 117

To Salt Lake Community College - School of Applied Technology
 From Education Fund 103,500
 From Dedicated Credits Revenue 34,400
 Schedule of Programs:
 School of Applied Technology 137,900

STATE BOARD OF REGENTS**Item 118**

To State Board of Regents - Administration
 From General Fund 55,700
 Schedule of Programs:
 Administration 55,700

Item 119

To State Board of Regents - Student Assistance
 From Education Fund 6,700
 Schedule of Programs:
 Regents' Scholarship 6,400
 Western Interstate Commission
 for Higher Education 300

Item 120

To State Board of Regents - Student Support
 From Education Fund 16,000
 Schedule of Programs:
 Concurrent Enrollment 8,400
 Articulation Support 5,900
 Campus Compact 1,700

Item 121

To State Board of Regents - Economic Development
 From Education Fund 5,200
 Schedule of Programs:
 Economic Development Initiatives 5,200

Item 122

To State Board of Regents - Education Excellence
 From Education Fund 6,400
 Schedule of Programs:
 Education Excellence 6,400

Item 123

To State Board of Regents - Medical Education Council

From General Fund 14,100
 Schedule of Programs:
 Medical Education Council 14,100

**UTAH COLLEGE OF
 APPLIED TECHNOLOGY**

Item 124

To Utah College of Applied
 Technology - Administration
 From Education Fund 27,400
 Schedule of Programs:
 Administration 27,400

Item 125

To Utah College of Applied
 Technology - Bridgerland Applied
 Technology College
 From Education Fund 252,100
 Schedule of Programs:
 Bridgerland Applied Technology
 College 252,100

Item 126

To Utah College of Applied Technology -
 Davis Applied Technology College
 From Education Fund 269,600
 Schedule of Programs:
 Davis Applied Technology College 269,600

Item 127

To Utah College of Applied Technology -
 Dixie Applied Technology College
 From Education Fund 70,600
 Schedule of Programs:
 Dixie Applied Technology College 70,600

Item 128

To Utah College of Applied Technology -
 Mountainland Applied Technology College
 From Education Fund 177,000
 Schedule of Programs:
 Mountainland Applied Technology
 College 177,000

Item 129

To Utah College of Applied Technology -
 Ogden/Weber Applied Technology College
 From Education Fund 237,600
 Schedule of Programs:
 Ogden/Weber Applied Technology
 College 237,600

Item 130

To Utah College of Applied Technology - Southwest
 Applied Technology College
 From Education Fund 53,900
 Schedule of Programs:
 Southwest Applied Technology
 College 53,900

Item 131

To Utah College of Applied Technology -
 Tooele Applied Technology College
 From Education Fund 61,500
 Schedule of Programs:
 Tooele Applied Technology College 61,500

Item 132

To Utah College of Applied Technology - Uintah
 Basin Applied Technology College

From Education Fund 142,700
 Schedule of Programs:
 Uintah Basin Applied Technology
 College 142,700

**NATURAL RESOURCES, AGRICULTURE,
 AND ENVIRONMENTAL QUALITY**

DEPARTMENT OF NATURAL RESOURCES

Item 133

To Department of Natural
 Resources - Administration
 From General Fund 55,500
 From General Fund, One-time 27,400
 Schedule of Programs:
 Executive Director 23,900
 Administrative Services 44,100
 Public Affairs 6,600
 Law Enforcement 8,300

Item 134

To Department of Natural Resources -
 Species Protection
 From General Fund Restricted - Species
 Protection 11,000
 Schedule of Programs:
 Species Protection 11,000

Item 135

To Department of Natural Resources - Watershed
 From General Fund 200
 From General Fund, One-time 1,500
 From Dedicated Credits Revenue 600
 From General Fund Restricted - Sovereign
 Land Management 2,200
 Schedule of Programs:
 Watershed 4,500

Item 136

To Department of Natural Resources -
 Forestry, Fire and State Lands
 From General Fund 18,300
 From General Fund, One-time 4,800
 From Federal Funds 59,900
 From Dedicated Credits Revenue 76,900
 From General Fund Restricted -
 Sovereign Land Management 131,900
 Schedule of Programs:
 Division Administration 32,200
 Fire Management 20,700
 Fire Suppression Emergencies 1,900
 Lands Management 24,700
 Forest Management 13,900
 Program Delivery 129,600
 Lone Peak Center 63,700
 Project Management 5,100

Item 137

To Department of Natural Resources -
 Oil, Gas and Mining
 From General Fund 37,100
 From General Fund, One-time 9,900
 From Federal Funds 109,000
 From Dedicated Credits Revenue 7,600
 From General Fund Restricted - Oil
 & Gas Conservation Account 102,700
 Schedule of Programs:
 Administration 65,400
 Oil and Gas Program 82,800

Minerals Reclamation	30,000
Coal Program	54,800
Abandoned Mine	33,300
Item 138	
To Department of Natural Resources - Wildlife Resources	
From General Fund	154,900
From General Fund, One-time	36,500
From Federal Funds	332,800
From Dedicated Credits Revenue	800
From General Fund Restricted - Wildlife Habitat	13,200
From General Fund Restricted - Wildlife Resources	859,600
Schedule of Programs:	
Director's Office	51,300
Administrative Services	176,300
Conservation Outreach	119,800
Law Enforcement	411,400
Habitat Section	144,100
Wildlife Section	177,300
Aquatic Section	317,600
Item 139	
To Department of Natural Resources - Cooperative Agreements	
From Federal Funds	13,700
From Dedicated Credits Revenue	1,100
From Revenue Transfers	23,900
Schedule of Programs:	
Cooperative Agreements	38,700
Item 140	
To Department of Natural Resources - Parks and Recreation	
From General Fund	70,600
From General Fund, One-time	13,800
From General Fund Restricted - Boating	140,600
From General Fund Restricted - Off-highway Vehicle	152,800
From General Fund Restricted - State Park Fees	350,700
Schedule of Programs:	
Executive Management	25,200
Park Operation Management	588,700
Planning and Design	12,700
Support Services	53,500
Recreation Services	48,400
Item 141	
To Department of Natural Resources - Utah Geological Survey	
From General Fund	59,300
From General Fund, One-time	22,300
From Federal Funds	28,600
From Dedicated Credits Revenue	22,200
From General Fund Restricted - Mineral Lease	107,900
From General Fund Restricted - Land Exchange Distribution Account	1,500
Schedule of Programs:	
Administration	23,800
Technical Services	17,000
Geologic Hazards	40,000
Geologic Mapping	31,000
Energy and Minerals	51,500
Ground Water and Paleontology	53,100

Information and Outreach	25,400
Item 142	
To Department of Natural Resources - Water Resources	
From General Fund	66,700
From General Fund, One-time	18,000
From Water Resources Conservation and Development Fund	105,600
Schedule of Programs:	
Administration	26,700
Interstate Streams	3,700
Planning	86,000
Construction	73,900

Item 143	
To Department of Natural Resources - Water Rights	
From General Fund	207,300
From General Fund, One-time	48,300
From Federal Funds	800
From Dedicated Credits Revenue	53,500
Schedule of Programs:	
Administration	48,800
Applications and Records	43,600
Dam Safety	28,200
Field Services	49,400
Technical Services	22,500
Regional Offices	117,400

**DEPARTMENT OF
ENVIRONMENTAL QUALITY**

Item 144	
To Department of Environmental Quality - Executive Director's Office	
From General Fund	69,800
From General Fund, One-time	13,500
From Federal Funds	10,100
From General Fund Restricted - Environmental Quality	20,300
Schedule of Programs:	
Executive Director's Office	113,700

Item 145	
To Department of Environmental Quality - Air Quality	
From General Fund	93,000
From General Fund, One-time	19,100
From Federal Funds	151,900
From Dedicated Credits Revenue	142,300
From Clean Fuel Conversion Fund	1,700
Schedule of Programs:	
Air Quality	408,000

Item 146	
To Department of Environmental Quality - Environmental Response and Remediation	
From General Fund	17,300
From General Fund, One-time	3,700
From Federal Funds	132,300
From Dedicated Credits Revenue	17,800
From General Fund Restricted - Voluntary Cleanup	16,800
From Petroleum Storage Tank Trust Fund	46,100
Schedule of Programs:	
Environmental Response and Remediation	234,000

Item 147

To Department of Environmental Quality - Radiation Control

From General Fund	20,000
From General Fund, One-time	3,900
From Federal Funds	1,600
From Dedicated Credits Revenue	7,000
From General Fund Restricted - Environmental Quality	74,200
Schedule of Programs:	
Radiation Control	106,700

Item 148

To Department of Environmental Quality - Water Quality

From General Fund	74,800
From General Fund, One-time	16,100
From Federal Funds	95,500
From Dedicated Credits Revenue	25,800
From Water Development Security Fund - Utah Wastewater Loan Program	33,700
From Water Development Security Fund - Water Quality Origination Fee	2,800
From Revenue Transfers	6,300
Schedule of Programs:	
Water Quality	255,000

Item 149

To Department of Environmental Quality - Drinking Water

From General Fund	21,500
From General Fund, One-time	4,600
From Federal Funds	107,100
From Dedicated Credits Revenue	3,300
From Water Development Security Fund - Drinking Water Loan Program	4,500
From Water Development Security Fund - Drinking Water Origination Fee	3,300
From Revenue Transfers	1,400
Schedule of Programs:	
Drinking Water	145,700

Item 150

To Department of Environmental Quality - Solid and Hazardous Waste

From Federal Funds	40,300
From Dedicated Credits Revenue	38,600
From General Fund Restricted - Environmental Quality	82,700
From General Fund Restricted - Used Oil Collection Administration	14,100
From Waste Tire Recycling Fund	4,500
Schedule of Programs:	
Solid and Hazardous Waste	180,200

PUBLIC LANDS POLICY COORDINATING OFFICE

Item 151

To Public Lands Policy Coordinating Office

From General Fund	8,900
From General Fund, One-time	4,000
From General Fund Restricted - Constitutional Defense	58,400
Schedule of Programs:	
Public Lands Office	71,300

Item 152

To Public Lands Policy Coordinating Office - Public Lands Litigation

From General Fund Restricted - Constitutional Defense	14,700
Schedule of Programs:	
Public Lands Litigation	14,700

GOVERNOR'S OFFICE

Item 153

To Governor's Office - Office of Energy Development

From General Fund	31,800
From General Fund, One-time	5,400
From Federal Funds	14,400
From General Fund Restricted - Stripper Well-Petroleum Violation Escrow	8,700
Schedule of Programs:	
Office of Energy Development	60,300

DEPARTMENT OF AGRICULTURE AND FOOD

Item 154

To Department of Agriculture and Food - Administration

From General Fund	74,300
From General Fund, One-time	15,700
From Federal Funds	16,900
From Dedicated Credits Revenue	9,900
Schedule of Programs:	
General Administration	91,500
Chemistry Laboratory	25,300

Item 155

To Department of Agriculture and Food - Animal Health

From General Fund	90,200
From General Fund, One-time	14,400
From Federal Funds	51,800
From Dedicated Credits Revenue	3,900
From General Fund Restricted - Livestock Brand	29,700
Schedule of Programs:	
Animal Health	47,600
Brand Inspection	45,000
Meat Inspection	97,400

Item 156

To Department of Agriculture and Food - Plant Industry

From General Fund	14,800
From General Fund, One-time	3,500
From Federal Funds	26,300
From Dedicated Credits Revenue	64,500
From Agriculture Resource Development Fund	5,600
Schedule of Programs:	
Environmental Quality	3,600
Grain Inspection	7,900
Insect Infestation	7,500
Plant Industry	75,100
Grazing Improvement Program	20,600

Item 157

To Department of Agriculture and Food - Regulatory Services

From General Fund	46,000
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From General Fund, One-time	12,200
From Federal Funds	16,500
From Dedicated Credits Revenue	51,700
Schedule of Programs:	
Regulatory Services	126,400

Item 158

To Department of Agriculture and Food - Marketing and Development	
From General Fund	10,400
From General Fund, One-time	2,000
Schedule of Programs:	
Marketing and Development	12,400

Item 159

To Department of Agriculture and Food - Predatory Animal Control	
From General Fund	16,700
From General Fund, One-time	5,400
From General Fund Restricted - Agriculture and Wildlife Damage Prevention	15,800
Schedule of Programs:	
Predatory Animal Control	37,900

Item 160

To Department of Agriculture and Food - Resource Conservation	
From General Fund	2,800
From General Fund, One-time	600
From Utah Rural Rehabilitation Loan State Fund	6,100
Schedule of Programs:	
Resource Conservation Administration ..	9,400
Resource Conservation	100

Item 161

To Department of Agriculture and Food - Invasive Species Mitigation	
From General Fund Restricted - Invasive Species Mitigation Account	3,400
Schedule of Programs:	
Invasive Species Mitigation	3,400

Item 162

To Department of Agriculture and Food - Rangeland Improvement	
From General Fund Restricted - Rangeland Improvement Account	2,900
Schedule of Programs:	
Rangeland Improvement	2,900

SCHOOL AND INSTITUTIONAL TRUST LANDS ADMINISTRATION

Item 163

To School and Institutional Trust Lands Administration	
From Land Grant Management Fund	187,000
From Land Grant Management Fund, One-time	35,100
Schedule of Programs:	
Board	1,500
Director	12,100
External Relations	7,900
Administration	9,200
Accounting	11,900
Auditing	9,800
Oil and Gas	19,500
Mining	14,800

Surface	44,700
Development - Operating	27,400
Legal/Contracts	24,700
Information Technology Group	28,300
Grazing and Forestry	10,300

PUBLIC EDUCATION**STATE BOARD OF EDUCATION****Item 164**

To State Board of Education - State Office of Education	
From General Fund	1,900
From General Fund, One-time	300
From Education Fund	445,200
From Education Fund, One-time	75,100
From Federal Funds	312,500
From Dedicated Credits Revenue	16,500
From General Fund Restricted - Mineral Lease	34,200
From General Fund Restricted - Substance Abuse Prevention	3,400
From Interest and Dividends Account	17,600
From Revenue Transfers	1,400
Schedule of Programs:	
Assessment and Accountability	106,500
Educational Equity	13,100
Board and Administration	195,000
Business Services	57,600
Career and Technical Education	141,400
District Computer Services	116,500
Federal Elementary and Secondary Education Act	59,300
Law and Legislation	8,000
Public Relations	3,600
School Trust	17,600
Special Education	83,000
Teaching and Learning	106,500

Item 165

To State Board of Education - Utah State Office of Education - Initiative Programs	
From General Fund	2,900
From General Fund, One-time	700
From Education Fund	4,800
From Education Fund, One-time	700
Schedule of Programs:	
Electronic High School	4,200
General Financial Literacy	1,300
Carson Smith Scholarships	3,600

Item 166

To State Board of Education - State Charter School Board	
From Education Fund	25,900
From Education Fund, One-time	4,700
Schedule of Programs:	
State Charter School Board	30,600

Item 167

To State Board of Education - Educator Licensing Professional Practices	
From Dedicated Credits Revenue	38,400
Schedule of Programs:	
Educator Licensing	38,400

Item 168

To State Board of Education - State Office of Education - Child Nutrition	
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From Education Fund	400
From Education Fund, One-time	100
From Federal Funds	66,000
Schedule of Programs:	
Child Nutrition	66,500

Item 169

To State Board of Education - Utah Schools for the Deaf and the Blind	
From Education Fund	416,100
From Education Fund, One-time	87,700
From Federal Funds	2,600
From Dedicated Credits Revenue	15,700
Schedule of Programs:	
Instructional Services	263,900
Support Services	258,200

**RETIREMENT AND
INDEPENDENT ENTITIES**

CAREER SERVICE REVIEW OFFICE

Item 170

To Career Service Review Office	
From General Fund	5,500
From General Fund, One-time	1,400
Schedule of Programs:	
Career Service Review Office	6,900

**DEPARTMENT OF HUMAN
RESOURCE MANAGEMENT**

Item 171

To Department of Human Resource Management - Human Resource Management	
From General Fund	35,300
From General Fund, One-time	7,500
Schedule of Programs:	
Administration	19,000
Policy	23,800

**UTAH EDUCATION AND
TELEHEALTH NETWORK**

Item 172

To Utah Education and Telehealth Network - Utah Education Network	
From Education Fund	154,700
From Federal Funds	31,500
From Dedicated Credits Revenue	2,700
Schedule of Programs:	
Administration	33,400
Public Information	2,400
KUEN Broadcast	5,600
Technical Services	111,500
Course Management Systems	1,800
Instructional Support	34,200

EXECUTIVE APPROPRIATIONS

UTAH NATIONAL GUARD

Item 173

To Utah National Guard	
From General Fund	54,000
From General Fund, One-time	15,600
From Federal Funds	433,600
Schedule of Programs:	
Administration	22,800

Operations and Maintenance	480,400
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**DEPARTMENT OF VETERANS'
AND MILITARY AFFAIRS**

Item 174

To Department of Veterans' and Military Affairs - Veterans' and Military Affairs	
From General Fund	30,600
From General Fund, One-time	7,700
From Federal Funds	6,200
Schedule of Programs:	
Administration	13,200
Cemetery	8,400
State Approving Agency	4,300
Outreach Services	15,000
Military Affairs	3,600

CAPITOL PRESERVATION BOARD

Item 175

To Capitol Preservation Board	
From General Fund	15,100
From General Fund, One-time	4,100
Schedule of Programs:	
Capitol Preservation Board	19,200

LEGISLATURE

Item 176

To Legislature - Senate	
From General Fund	36,900
From General Fund, One-time	3,500
Schedule of Programs:	
Administration	40,400

Item 177

To Legislature - House of Representatives	
From General Fund	55,200
From General Fund, One-time	2,700
Schedule of Programs:	
Administration	57,900

Item 178

To Legislature - Office of the Legislative Auditor General	
From General Fund	104,000
From General Fund, One-time	16,200
Schedule of Programs:	
Administration	120,200

Item 179

To Legislature - Office of the Legislative Fiscal Analyst	
From General Fund	63,000
From General Fund, One-time	32,400
Schedule of Programs:	
Administration and Research	95,400

Item 180

To Legislature - Legislative Printing	
From General Fund	9,800
From General Fund, One-time	2,400
From Dedicated Credits Revenue	1,500
Schedule of Programs:	
Administration	13,700

Item 181

To Legislature - Office of Legislative Research and General Counsel	
From General Fund	235,000

From General Fund, One-time 31,100
 Schedule of Programs:
 Administration 266,100

Subsection 1(b). Expendable Funds and Accounts. The Legislature has reviewed the following expendable funds. Where applicable, the Legislature authorizes the State Division of Finance to transfer amounts among funds and accounts as indicated. Outlays and expenditures from the recipient funds or accounts may be made without further legislative action according to a fund or account's applicable authorizing statute.

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

DEPARTMENT OF PUBLIC SAFETY

Item 182
 To Department of Public Safety - Alcoholic Beverage Control Act Enforcement Fund
 From Dedicated Credits Revenue 154,900
 Schedule of Programs:
 Alcoholic Beverage Control Act Enforcement Fund 154,900

INFRASTRUCTURE AND GENERAL GOVERNMENT

DEPARTMENT OF ADMINISTRATIVE SERVICES

Item 183
 To Department of Administrative Services - State Debt Collection Fund
 From State Debt Collection Fund 27,900
 Schedule of Programs:
 State Debt Collection Fund 27,900

EXECUTIVE APPROPRIATIONS

DEPARTMENT OF VETERANS' AND MILITARY AFFAIRS

Item 184
 To Department of Veterans' and Military Affairs - Utah Veterans' Nursing Home Fund
 From Federal Funds 19,500
 Schedule of Programs:
 Veterans' Nursing Home Fund 19,500

Subsection 1(c). Business-like Activities. The Legislature has reviewed the following proprietary funds. Under the terms and conditions of Utah Code 63J-1-410, for any included Internal Service Fund the Legislature approves budgets, full-time permanent positions, and capital acquisition amounts as indicated, and appropriates to the funds as indicated estimated revenue from rates, fees, and other charges. Where applicable, the Legislature authorizes the State Division of

Finance to transfer amounts among funds and accounts as indicated.

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

UTAH DEPARTMENT OF CORRECTIONS

Item 185
 To Utah Department of Corrections - Utah Correctional Industries
 From Dedicated Credits Revenue 217,700
 Schedule of Programs:
 Utah Correctional Industries 217,700

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY

DEPARTMENT OF AGRICULTURE AND FOOD

Item 186
 To Department of Agriculture and Food - Agriculture Loan Programs
 From Agriculture Resource Development Fund 7,600
 From Agriculture Rural Development Loan Fund 100
 From Utah Rural Rehabilitation Loan State Fund 3,800
 Schedule of Programs:
 Agriculture Loan Program 11,500

Section 2. FY 2016 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2015 and ending June 30, 2016 for compensation increases for Internal Service Funds. These are additions to amounts previously appropriated for fiscal year 2016.

Subsection 2(a). Operating and Capital Budgets. Under the terms and conditions of Utah Code Title 63J, the Legislature appropriates the following sums of money from the funds or fund accounts indicated for the use and support of the government of the State of Utah.

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

GOVERNOR'S OFFICE

Item 187
 To Governor's Office
 From General Fund 16,200
 From Federal Funds 1,000
 From Dedicated Credits Revenue 7,700
 Schedule of Programs:
 Administration 7,200
 Governor's Residence 200
 Lt. Governor's Office 17,500

Item 188
 To Governor's Office - Governor's Office of Management and Budget
 From General Fund 7,800
 Schedule of Programs:

Administration	3,800
Planning and Budget Analysis	1,200
Operational Excellence	600
State and Local Planning	2,200

Item 189

To Governor's Office - Commission on Criminal and Juvenile Justice	
From General Fund	2,100
From Federal Funds	900
From General Fund Restricted -	
Law Enforcement Operations	100
From Crime Victim Reparations Fund	1,800
Schedule of Programs:	
CCJJ Commission	2,200
Utah Office for Victims of Crime	2,300
Sentencing Commission	100
Judicial Performance Evaluation Commission	300

OFFICE OF THE STATE AUDITOR

Item 190

To Office of the State Auditor - State Auditor	
From General Fund	1,000
From Dedicated Credits Revenue	900
Schedule of Programs:	
State Auditor	1,900

STATE TREASURER

Item 191

To State Treasurer	
From General Fund	300
From Dedicated Credits Revenue	200
From Unclaimed Property Trust	1,300
Schedule of Programs:	
Treasury and Investment	500
Unclaimed Property	1,300

ATTORNEY GENERAL

Item 192

To Attorney General	
From General Fund	5,300
From Federal Funds	300
From Dedicated Credits Revenue	2,200
From Attorney General Litigation Fund	100
Schedule of Programs:	
Administration	2,700
Child Protection	1,400
Children's Justice	100
Criminal Prosecution	2,600
Civil	1,100

Item 193

To Attorney General - Prosecution Council	
From General Fund Restricted -	
Public Safety Support	200
From Revenue Transfers - Commission	
on Criminal and Juvenile Justice	100
From Revenue Transfers - Federal	
Government Pass-through	100
Schedule of Programs:	
Prosecution Council	400

UTAH DEPARTMENT OF CORRECTIONS

Item 194

To Utah Department of Corrections - Programs and Operations	
From General Fund	171,300
From Dedicated Credits Revenue	1,400
From Revenue Transfers	100
Schedule of Programs:	
Department Executive Director	2,000
Department Administrative Services	97,900
Department Training	500
Adult Probation and Parole	
Administration	200
Adult Probation and Parole Programs	20,400
Institutional Operations	
Administration	200
Institutional Operations Draper Facility	
Institutional Operations Central Utah/Gunnison	29,700
Institutional Operations Inmate Placement	1,000
Institutional Operations Support	
Services	2,100
Programming Administration	200
Programming Treatment	2,700
Programming Skill Enhancement	2,400

Item 195

To Utah Department of Corrections - Department Medical Services	
From General Fund	13,500
Schedule of Programs:	
Medical Services	13,500

BOARD OF PARDONS AND PAROLE

Item 196

To Board of Pardons and Parole	
From General Fund	2,700
Schedule of Programs:	
Board of Pardons and Parole	2,700

DEPARTMENT OF HUMAN SERVICES - DIVISION OF JUVENILE JUSTICE SERVICES

Item 197

To Department of Human Services - Division of Juvenile Justice Services - Programs and Operations	
From General Fund	47,900
From Federal Funds	1,400
From Dedicated Credits Revenue	2,100
Schedule of Programs:	
Administration	2,800
Early Intervention Services	10,800
Community Programs	6,200
Correctional Facilities	16,000
Rural Programs	15,400
Youth Parole Authority	200

JUDICIAL COUNCIL/STATE COURT ADMINISTRATOR

Item 198

To Judicial Council/State Court Administrator - Administration	
From General Fund	1,100

Schedule of Programs:	
District Courts	600
Juvenile Courts	500

Item 199

To Judicial Council/State Court Administrator - Guardian ad Litem	
From General Fund	100
Schedule of Programs:	
Guardian ad Litem	100

DEPARTMENT OF PUBLIC SAFETY**Item 200**

To Department of Public Safety - Programs & Operations	
From General Fund	61,600
From Federal Funds	3,300
From Dedicated Credits Revenue	33,100
From General Fund Restricted - DNA Specimen Account	500
From General Fund Restricted - Fire Academy Support	1,500
From Department of Public Safety Restricted Account	1,000
Schedule of Programs:	
Department Commissioner's Office	9,100
Aero Bureau	100
Department Intelligence Center	2,400
Department Grants	3,200
CITS Administration	500
CITS Bureau of Criminal Identification	45,100
CITS Communications	5,100
CITS State Crime Labs	3,400
CITS State Bureau of Investigation	1,400
Highway Patrol - Administration	600
Highway Patrol - Field Operations	19,600
Highway Patrol - Commercial Vehicle	2,100
Highway Patrol - Safety Inspections	600
Highway Patrol - Federal/State Projects ..	600
Highway Patrol - Protective Services	2,000
Highway Patrol - Special Services	1,600
Highway Patrol - Special Enforcement	100
Highway Patrol - Technology Services	1,500
Information Management - Operations	500
Fire Marshall - Fire Operations	1,300
Fire Marshall - Fire Fighter Training	200

Item 201

To Department of Public Safety - Emergency Management	
From General Fund	1,600
From Federal Funds	5,300
Schedule of Programs:	
Emergency Management	6,900

Item 202

To Department of Public Safety - Peace Officers' Standards and Training	
From General Fund	5,100
Schedule of Programs:	
Basic Training	500
Regional/Inservice Training	1,300
POST Administration	3,300

Item 203

To Department of Public Safety - Driver License	
From Federal Funds	100

From Department of Public Safety	
Restricted Account	52,200
Schedule of Programs:	
Driver License Administration	800
Driver Services	26,600
Driver Records	24,800
DL Federal Grants	100

Item 204

To Department of Public Safety - Highway Safety	
From General Fund	100
From Federal Funds	7,100
Schedule of Programs:	
Highway Safety	7,200

**INFRASTRUCTURE AND
GENERAL GOVERNMENT****TRANSPORTATION****Item 205**

To Transportation - Support Services	
From Transportation Fund	172,700
Schedule of Programs:	
Human Resources Management	21,500
Data Processing	151,200

**DEPARTMENT OF
ADMINISTRATIVE SERVICES****Item 206**

To Department of Administrative Services - Executive Director	
From General Fund	3,300
Schedule of Programs:	
Executive Director	3,300

Item 207

To Department of Administrative Services - Inspector General of Medicaid Services	
From General Fund	700
From Revenue Transfers - Medicaid	1,000
Schedule of Programs:	
Inspector General of Medicaid Services ..	1,700

Item 208

To Department of Administrative Services - Administrative Rules	
From General Fund	1,000
Schedule of Programs:	
DAR Administration	1,000

Item 209

To Department of Administrative Services - DFCM Administration	
From General Fund	3,200
From Dedicated Credits Revenue	1,200
From Capital Projects Fund	3,300
Schedule of Programs:	
DFCM Administration	7,600
Energy Program	100

Item 210

To Department of Administrative Services - State Archives	
From General Fund	3,100
Schedule of Programs:	
Archives Administration	2,400
Records Analysis	100
Preservation Services	200
Patron Services	300

Records Services 100

Item 211
 To Department of Administrative Services - Finance Administration
 From General Fund 56,000
 From Dedicated Credits Revenue 200
 Schedule of Programs:
 Finance Director's Office 300
 Payroll 17,000
 Payables/Disbursing 1,000
 Technical Services 14,800
 Financial Reporting 1,000
 Financial Information Systems 22,100

Item 212
 To Department of Administrative Services - Judicial Conduct Commission
 From General Fund 200
 Schedule of Programs:
 Judicial Conduct Commission 200

Item 213
 To Department of Administrative Services - Purchasing
 From General Fund 1,400
 Schedule of Programs:
 Purchasing and General Services 1,400

DEPARTMENT OF TECHNOLOGY SERVICES

Item 214
 To Department of Technology Services - Chief Information Officer
 From General Fund 300
 Schedule of Programs:
 Chief Information Officer 300

Item 215
 To Department of Technology Services - Integrated Technology Division
 From General Fund 2,800
 From Dedicated Credits Revenue 1,000
 Schedule of Programs:
 Automated Geographic Reference Center 3,800

CAPITAL BUDGET

Item 216
 To Capital Budget - Capital Improvements
 From General Fund 100
 From Education Fund 100
 Schedule of Programs:
 Capital Improvements 200

BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR

DEPARTMENT OF HERITAGE AND ARTS

Item 217
 To Department of Heritage and Arts - Administration
 From General Fund 13,200
 From Federal Funds 100
 Schedule of Programs:
 Executive Director's Office 100
 Information Technology 12,400

Administrative Services 400
 Utah Multicultural Affairs Office 100
 Commission on Service and Volunteerism 300

Item 218
 To Department of Heritage and Arts - State History
 From General Fund 1,100
 From Federal Funds 100
 Schedule of Programs:
 Administration 300
 Library and Collections 200
 Public History, Communication and Information 100
 Historic Preservation and Antiquities 600

Item 219
 To Department of Heritage and Arts - Division of Arts and Museums
 From General Fund 600
 Schedule of Programs:
 Administration 200
 Community Arts Outreach 400

Item 220
 To Department of Heritage and Arts - State Library
 From General Fund 1,600
 From Dedicated Credits Revenue 900
 Schedule of Programs:
 Administration 200
 Blind and Disabled 1,300
 Library Development 700
 Library Resources 300

Item 221
 To Department of Heritage and Arts - Indian Affairs
 From General Fund 100
 Schedule of Programs:
 Indian Affairs 100

GOVERNOR'S OFFICE OF ECONOMIC DEVELOPMENT

Item 222
 To Governor's Office of Economic Development - Administration
 From General Fund 3,900
 Schedule of Programs:
 Administration 3,900

Item 223
 To Governor's Office of Economic Development - STEM Action Center
 From General Fund 200
 Schedule of Programs:
 STEM Action Center 200

Item 224
 To Governor's Office of Economic Development - Office of Tourism
 From General Fund 1,400
 Schedule of Programs:
 Administration 600
 Operations and Fulfillment 500
 Film Commission 300

Item 225
 To Governor's Office of Economic Development - Business Development
 From General Fund 1,600

Schedule of Programs:

Outreach and International Trade	900
Corporate Recruitment and Business Services	700

Item 226

To Governor's Office of Economic Development - Pete Suazo Utah Athletics Commission

From General Fund	100
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Schedule of Programs:

Pete Suazo Utah Athletics Commission ...	100
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UTAH STATE TAX COMMISSION

Item 227

To Utah State Tax Commission - Tax Administration

From General Fund	76,800
From Education Fund	60,600
From Dedicated Credits Revenue	3,400
From General Fund Restricted - Tax Commission Administrative Charge	29,800

Schedule of Programs:

Administration Division	3,100
Auditing Division	4,600
Technology Management	142,700
Tax Processing Division	3,400
Seasonal Employees	200
Tax Payer Services	5,200
Property Tax Division	2,000
Motor Vehicles	8,100
Motor Vehicle Enforcement Division	1,300

UTAH SCIENCE TECHNOLOGY AND RESEARCH GOVERNING AUTHORITY

Item 228

To Utah Science Technology and Research Governing Authority - Technology Outreach and Innovation

From General Fund	500
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Schedule of Programs:

Salt Lake SBIR-STTR Resource Center ...	100
Salt Lake BioInnovations Gateway (BiG) ..	100
Projects	300

Item 229

To Utah Science Technology and Research Governing Authority - USTAR Administration

From General Fund	500
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Schedule of Programs:

Administration	500
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DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

Item 230

To Department of Alcoholic Beverage Control - DABC Operations

From Liquor Control Fund	38,700
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Schedule of Programs:

Executive Director	900
Administration	400
Operations	16,200
Warehouse and Distribution	1,900
Stores and Agencies	19,300

LABOR COMMISSION

Item 231

To Labor Commission

From General Fund	19,200
From Federal Funds	2,500
From General Fund Restricted - Industrial Accident Restricted Account ..	3,700
From General Fund Restricted - Workplace Safety Account	400

Schedule of Programs:

Administration	15,900
Industrial Accidents	2,700
Adjudication	1,000
Boiler, Elevator and Coal Mine Safety Division	1,000
Anti-Discrimination and Labor	2,400
Utah OSHA	2,800

DEPARTMENT OF COMMERCE

Item 232

To Department of Commerce - Commerce General Regulation

From Federal Funds	100
From General Fund Restricted - Commerce Service Account	36,100
From General Fund Restricted - Commerce Service Account - Public Utilities Regulatory Fee	1,300

Schedule of Programs:

Administration	25,300
Occupational and Professional Licensing	7,200
Securities	800
Consumer Protection	800
Corporations and Commercial Code	1,200
Real Estate	800
Public Utilities	1,200
Office of Consumer Services	200

FINANCIAL INSTITUTIONS

Item 233

To Financial Institutions - Financial Institutions Administration

From General Fund Restricted - Financial Institutions	4,600
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Schedule of Programs:

Administration	4,600
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INSURANCE DEPARTMENT

Item 234

To Insurance Department - Insurance Department Administration

From Federal Funds	200
From General Fund Restricted - Insurance Department Account	19,800
From General Fund Restricted - Insurance Fraud Investigation Account	1,600
From General Fund Restricted - Technology Development	2,300
From General Fund Restricted - Captive Insurance	3,300

Schedule of Programs:

Administration	20,000
Insurance Fraud Program	1,600
Captive Insurers	3,300

Electronic Commerce Fee	2,300
Item 235	
To Insurance Department - Title Insurance Program	
From General Fund Restricted - Title License Enforcement Account	100
Schedule of Programs:	
Title Insurance Program	100

PUBLIC SERVICE COMMISSION

Item 236	
To Public Service Commission	
From General Fund Restricted - Commerce Service Account - Public Utilities	
Regulatory Fee	1,600
Schedule of Programs:	
Administration	1,600

SOCIAL SERVICES

DEPARTMENT OF HEALTH

Item 237	
To Department of Health - Executive Director's Operations	
From General Fund	35,100
From Federal Funds	32,500
From Dedicated Credits Revenue	8,400
Schedule of Programs:	
Executive Director	1,300
Center for Health Data and Informatics	18,300
Program Operations	56,200
Office of Internal Audit	200

Item 238	
To Department of Health - Family Health and Preparedness	
From General Fund	3,400
From Federal Funds	15,500
From Dedicated Credits Revenue	4,300
From General Fund Restricted - Autism Treatment Account	500
From Revenue Transfers - Human Services	700
From Revenue Transfers - Medicaid	1,600
From Revenue Transfers - Public Safety	100
From Revenue Transfers - Workforce Services	1,600
Schedule of Programs:	
Director's Office	300
Maternal and Child Health	9,400
Child Development	3,600
Children with Special Health Care Needs	6,700
Public Health and Preparedness	1,200
Emergency Medical Services	3,600
Health Facility Licensing and Certification	2,500
Primary Care	400

Item 239	
To Department of Health - Disease Control and Prevention	
From General Fund	15,700
From Federal Funds	12,800

From Dedicated Credits Revenue	2,100
From General Fund Restricted - State Lab Drug Testing Account	200
From General Fund Restricted - Tobacco Settlement Account	1,000
From Revenue Transfers - Medicaid	300
From Revenue Transfers - Workforce Services	900
Schedule of Programs:	
General Administration	9,500
Laboratory Operations and Testing	1,200
Health Promotion	4,300
Epidemiology	14,300
Public Health Laboratory	700
Office of the Medical Examiner	1,500
Chemical and Environmental Services	600
Forensic Toxicology	400
Certification Programs	500

Item 240

To Department of Health - Medicaid and Health Financing	
From General Fund	25,400
From Federal Funds	63,300
From Dedicated Credits Revenue	23,300
From General Fund Restricted - Nursing Care Facilities Account	300
From Transfers - Medicaid - Department of Human Services	9,300
From Revenue Transfers - Within Agency	600
Schedule of Programs:	
Director's Office	400
Financial Services	112,500
Medicaid Operations	3,200
Managed Health Care	2,000
Authorization and Community Based Services	1,700
Coverage and Reimbursement	1,100
Eligibility Policy	1,300

Item 241

To Department of Health - Children's Health Insurance Program	
From Federal Funds	200
Schedule of Programs:	
Children's Health Insurance Program	200

Item 242

To Department of Health - Medicaid Mandatory Services	
From General Fund	4,100
From Federal Funds	9,300
From Dedicated Credits Revenue	600
From Revenue Transfers - Within Agency ..	900
Schedule of Programs:	
Medicaid Management Information System Replacement	12,100
Other Mandatory Services	2,800

Item 243

To Department of Health - Medicaid Optional Services	
From Federal Funds	100
From Dedicated Credits Revenue	100
Schedule of Programs:	
Pharmacy	100
Other Optional Services	100

**DEPARTMENT OF
WORKFORCE SERVICES**

Item 244

To Department of Workforce	
Services – Administration	
From General Fund	800
From Federal Funds	1,800
From Permanent Community Impact	
Loan Fund	100
From Revenue Transfers – Medicaid	500
Schedule of Programs:	
Executive Director's Office	500
Communications	300
Administrative Support	2,200
Internal Audit	200

Item 245

To Department of Workforce Services –	
Operations and Policy	
From General Fund	70,400
From Federal Funds	199,200
From Dedicated Credits Revenue	12,700
From Unemployment Compensation	
Fund	21,800
From Revenue Transfers – Medicaid	131,100
Schedule of Programs:	
Facilities and Pass-Through	100
Workforce Development	26,100
Workforce Research and Analysis	900
Eligibility Services	32,500
Information Technology	375,600

Item 246

To Department of Workforce Services –	
General Assistance	
From General Fund	400
Schedule of Programs:	
General Assistance	400

Item 247

To Department of Workforce	
Services – Unemployment Insurance	
From General Fund	200
From Federal Funds	9,500
From Dedicated Credits Revenue	200
From Revenue Transfers – Medicaid	100
Schedule of Programs:	
Unemployment Insurance	
Administration	8,600
Adjudication	1,400

Item 248

To Department of Workforce Services –	
Housing and Community Development	
From General Fund	200
From Federal Funds	3,500
From Dedicated Credits Revenue	200
From General Fund Restricted – Pamela	
Atkinson Homeless Account	100
From Permanent Community	
Impact Loan Fund	900
Schedule of Programs:	
Community Development	
Administration	900
Community Development	400
Housing Development	600
Homeless Committee	600
HEAT	1,200
Weatherization Assistance	1,000

Community Services 200

DEPARTMENT OF HUMAN SERVICES

Item 249

To Department of Human Services –	
Executive Director Operations	
From General Fund	16,300
From Federal Funds	11,000
From Revenue Transfers – Indirect Costs ...	200
From Revenue Transfers – Medicaid	(100)
From Revenue Transfers – Other Agencies ..	200
From Revenue Transfers – Within Agency ..	400
Schedule of Programs:	
Executive Director's Office	600
Legal Affairs	800
Information Technology	16,300
Fiscal Operations	3,800
Office of Services Review	1,400
Office of Licensing	4,900
Utah Developmental Disabilities	
Council	200

Item 250

To Department of Human Services – Division	
of Substance Abuse and Mental Health	
From General Fund	37,600
From Federal Funds	2,200
From Dedicated Credits Revenue	2,200
From Revenue Transfers – Medicaid	11,600
Schedule of Programs:	
Administration – DSAMH	2,000
Community Mental Health Services	2,500
State Hospital	48,700
State Substance Abuse Services	400

Item 251

To Department of Human Services – Division	
of Services for People with Disabilities	
From General Fund	20,700
From Dedicated Credits Revenue	1,400
From Revenue Transfers – Medicaid	30,400
Schedule of Programs:	
Administration – DSPD	17,000
Service Delivery	4,500
Utah State Developmental Center	31,000

Item 252

To Department of Human Services – Office	
of Recovery Services	
From General Fund	25,600
From Federal Funds	40,500
From Dedicated Credits Revenue	5,700
From Revenue Transfers – Medicaid	3,800
Schedule of Programs:	
Administration – ORS	300
Financial Services	1,700
Electronic Technology	57,200
Child Support Services	14,700
Children in Care Collections	200
Attorney General Contract	200
Medical Collections	1,300

Item 253

To Department of Human Services – Division	
of Child and Family Services	
From General Fund	57,300
From Federal Funds	45,500
From General Fund Restricted – Victims	
of Domestic Violence Services Account ...	300

From Revenue Transfers – Medicaid (200)
 Schedule of Programs:
 Administration – DCFS 3,100
 Service Delivery 41,800
 Facility-based Services 500
 Minor Grants 700
 Domestic Violence 1,400
 Child Welfare Management
 Information System 55,400

Item 254

To Department of Human Services – Division
 of Aging and Adult Services
 From General Fund 3,100
 From Federal Funds 700
 Schedule of Programs:
 Administration – DAAS 1,100
 Adult Protective Services 2,500
 Aging Waiver Services 200

STATE BOARD OF EDUCATION

Item 255

To State Board of Education – State Office
 of Rehabilitation
 From Education Fund 6,500
 From Federal Funds 15,100
 From Dedicated Credits Revenue 200
 Schedule of Programs:
 Executive Director 1,600
 Blind and Visually Impaired 2,200
 Rehabilitation Services 13,300
 Disability Determination 3,100
 Deaf and Hard of Hearing 1,600

**NATURAL RESOURCES, AGRICULTURE,
 AND ENVIRONMENTAL QUALITY**

DEPARTMENT OF NATURAL RESOURCES

Item 256

To Department of Natural Resources –
 Administration
 From General Fund 3,100
 Schedule of Programs:
 Executive Director 900
 Administrative Services 2,000
 Public Affairs 200

Item 257

To Department of Natural Resources –
 Species Protection
 From General Fund Restricted –
 Species Protection 200
 Schedule of Programs:
 Species Protection 200

Item 258

To Department of Natural Resources –
 Forestry, Fire and State Lands
 From General Fund 1,100
 From Dedicated Credits Revenue 3,800
 From General Fund Restricted –
 Sovereign Land Management 4,700
 Schedule of Programs:
 Division Administration 900
 Fire Management 400
 Fire Suppression Emergencies 500
 Lands Management 400

Forest Management 300
 Program Delivery 3,200
 Lone Peak Center 3,800
 Project Management 100

Item 259

To Department of Natural Resources –
 Oil, Gas and Mining
 From General Fund 2,500
 From Federal Funds 2,500
 From Dedicated Credits Revenue 300
 From General Fund Restricted –
 Oil & Gas Conservation Account 11,700
 Schedule of Programs:
 Administration 5,400
 Oil and Gas Program 7,400
 Minerals Reclamation 1,100
 Coal Program 2,800
 Abandoned Mine 300

Item 260

To Department of Natural Resources –
 Wildlife Resources
 From General Fund 3,900
 From General Fund Restricted –
 Wildlife Habitat 100
 From General Fund Restricted –
 Wildlife Resources 35,200
 Schedule of Programs:
 Director’s Office 800
 Administrative Services 14,700
 Conservation Outreach 2,400
 Law Enforcement 4,000
 Habitat Section 4,200
 Wildlife Section 4,500
 Aquatic Section 8,600

Item 261

To Department of Natural Resources –
 Parks and Recreation
 From General Fund 1,900
 From General Fund Restricted –
 Boating 3,200
 From General Fund Restricted –
 Off-highway Vehicle 3,400
 From General Fund Restricted –
 State Park Fees 8,100
 Schedule of Programs:
 Executive Management 100
 Park Operation Management 13,700
 Planning and Design 200
 Support Services 1,800
 Recreation Services 800

Item 262

To Department of Natural Resources –
 Utah Geological Survey
 From General Fund 5,400
 From Federal Funds 400
 From Dedicated Credits Revenue 400
 From General Fund Restricted –
 Mineral Lease 800
 From General Fund Restricted –
 Land Exchange Distribution Account 100
 Schedule of Programs:
 Administration 500
 Technical Services 4,500
 Geologic Hazards 400
 Geologic Mapping 300
 Energy and Minerals 600

Ground Water and Paleontology	500
Information and Outreach	300
Item 263	
To Department of Natural Resources -	
Water Resources	
From General Fund	1,300
From Water Resources Conservation	
and Development Fund	1,700
Schedule of Programs:	
Administration	300
Planning	1,400
Construction	1,300

Item 264

To Department of Natural Resources -	
Water Rights	
From General Fund	11,400
From Dedicated Credits Revenue	1,100
Schedule of Programs:	
Administration	400
Applications and Records	1,100
Dam Safety	600
Field Services	900
Technical Services	7,400
Regional Offices	2,100

**DEPARTMENT OF
ENVIRONMENTAL QUALITY**

Item 265

To Department of Environmental	
Quality - Executive Director's Office	
From General Fund	13,500
From Federal Funds	1,300
From General Fund Restricted -	
Environmental Quality	3,300
Schedule of Programs:	
Executive Director's Office	18,100

Item 266

To Department of Environmental Quality -	
Air Quality	
From General Fund	2,700
From Federal Funds	3,000
From Dedicated Credits Revenue	3,500
Schedule of Programs:	
Air Quality	9,200

Item 267

To Department of Environmental Quality -	
Environmental Response and Remediation	
From General Fund	400
From Federal Funds	1,900
From Dedicated Credits Revenue	300
From General Fund Restricted -	
Voluntary Cleanup	300
From Petroleum Storage Tank Trust	
Fund	900
Schedule of Programs:	
Environmental Response and	
Remediation	3,800

Item 268

To Department of Environmental	
Quality - Radiation Control	
From General Fund	1,200
From Dedicated Credits Revenue	300
From General Fund Restricted -	
Environmental Quality	3,700

Schedule of Programs:	
Radiation Control	5,200

Item 269

To Department of Environmental Quality -	
Water Quality	
From General Fund	1,700
From Federal Funds	1,800
From Dedicated Credits Revenue	500
From Water Development Security Fund -	
Utah Wastewater Loan Program	600
From Revenue Transfers	100
Schedule of Programs:	
Water Quality	4,700

Item 270

To Department of Environmental	
Quality - Drinking Water	
From General Fund	1,100
From Federal Funds	4,400
From Dedicated Credits Revenue	100
From Water Development Security	
Fund - Drinking Water Loan Program	100
From Water Development Security	
Fund - Drinking Water Origination Fee ..	100
Schedule of Programs:	
Drinking Water	5,800

Item 271

To Department of Environmental Quality -	
Solid and Hazardous Waste	
From Federal Funds	900
From Dedicated Credits Revenue	1,100
From General Fund Restricted -	
Environmental Quality	2,200
From General Fund Restricted -	
Used Oil Collection Administration	400
From Waste Tire Recycling Fund	200
Schedule of Programs:	
Solid and Hazardous Waste	4,800

**PUBLIC LANDS POLICY
COORDINATING OFFICE**

Item 272

To Public Lands Policy Coordinating Office	
From General Fund	1,300
From General Fund Restricted -	
Constitutional Defense	1,200
Schedule of Programs:	
Public Lands Office	2,500

Item 273

To Public Lands Policy Coordinating Office -	
Public Lands Litigation	
From General Fund Restricted -	
Constitutional Defense	400
Schedule of Programs:	
Public Lands Litigation	400

GOVERNOR'S OFFICE

Item 274

To Governor's Office - Office of	
Energy Development	
From General Fund	700
From Federal Funds	200
Schedule of Programs:	
Office of Energy Development	900

**DEPARTMENT OF
AGRICULTURE AND FOOD**

Item 275

To Department of Agriculture and Food - Administration

From General Fund	9,700
From Federal Funds	1,900
From Dedicated Credits Revenue	200
From General Fund Restricted - Cat and Dog Community Spay and Neuter Program Restricted Account	300
Schedule of Programs:	
General Administration	11,700
Chemistry Laboratory	400

Item 276

To Department of Agriculture and Food - Animal Health

From General Fund	300
From Federal Funds	100
From General Fund Restricted - Livestock Brand	100
Schedule of Programs:	
Animal Health	400
Brand Inspection	100

Item 277

To Department of Agriculture and Food - Plant Industry

From Federal Funds	100
From Dedicated Credits Revenue	500
Schedule of Programs:	
Plant Industry	600

Item 278

To Department of Agriculture and Food - Regulatory Services

From General Fund	2,400
From Federal Funds	700
From Dedicated Credits Revenue	2,100
Schedule of Programs:	
Regulatory Services	5,200

Item 279

To Department of Agriculture and Food - Marketing and Development

From General Fund	300
Schedule of Programs:	
Marketing and Development	300

Item 280

To Department of Agriculture and Food - Predatory Animal Control

From General Fund	300
From General Fund Restricted - Agriculture and Wildlife Damage Prevention	300
Schedule of Programs:	
Predatory Animal Control	600

Item 281

To Department of Agriculture and Food - Resource Conservation

From General Fund	100
Schedule of Programs:	
Resource Conservation Administration ...	100

**SCHOOL AND INSTITUTIONAL
TRUST LANDS ADMINISTRATION**

Item 282

To School and Institutional Trust Lands Administration

From Land Grant Management Fund	3,600
Schedule of Programs:	
Director	100
External Relations	100
Administration	400
Accounting	200
Auditing	100
Oil and Gas	300
Mining	200
Surface	800
Development - Operating	400
Legal/Contracts	300
Information Technology Group	600
Grazing and Forestry	100

PUBLIC EDUCATION

STATE BOARD OF EDUCATION

Item 283

To State Board of Education - State Office of Education

From Education Fund	6,200
From Federal Funds	2,200
From Dedicated Credits Revenue	100
From Interest and Dividends Account	100
From Revenue Transfers	100
Schedule of Programs:	
Assessment and Accountability	900
Educational Equity	100
Board and Administration	1,700
Business Services	600
Career and Technical Education	1,200
District Computer Services	1,300
Educational Technology	100
Federal Elementary and Secondary Education Act	500
Law and Legislation	100
School Trust	100
Special Education	800
Teaching and Learning	1,300

Item 284

To State Board of Education - Utah State Office of Education - Initiative Programs

From Education Fund	100
Schedule of Programs:	
Contracts and Grants	100

Item 285

To State Board of Education - State Charter School Board

From Education Fund	100
Schedule of Programs:	
State Charter School Board	100

Item 286

To State Board of Education - Educator Licensing Professional Practices

From Professional Practices Restricted Subfund	500
Schedule of Programs:	
Educator Licensing	500

Item 287

To State Board of Education - State Office of Education - Child Nutrition

From Federal Funds	700
Schedule of Programs:	
Child Nutrition	700

Item 288

To State Board of Education - Utah Schools for the Deaf and the Blind	
From Education Fund	11,100
From Dedicated Credits Revenue	300
Schedule of Programs:	
Instructional Services	6,400
Support Services	5,000

**RETIREMENT AND
INDEPENDENT ENTITIES**

CAREER SERVICE REVIEW OFFICE

Item 289

To Career Service Review Office	
From General Fund	300
Schedule of Programs:	
Career Service Review Office	300

**DEPARTMENT OF HUMAN
RESOURCE MANAGEMENT**

Item 290

To Department of Human Resource Management - Human Resource Management	
From General Fund	17,800
Schedule of Programs:	
Administration	100
Policy	100
Information Technology	17,600

EXECUTIVE APPROPRIATIONS

UTAH NATIONAL GUARD

Item 291

To Utah National Guard	
From General Fund	1,800
From Federal Funds	6,100
Schedule of Programs:	
Administration	200
Operations and Maintenance	7,700

**DEPARTMENT OF VETERANS'
AND MILITARY AFFAIRS**

Item 292

To Department of Veterans' and Military Affairs - Veterans' and Military Affairs	
From General Fund	2,200
From Federal Funds	400
Schedule of Programs:	
Administration	2,100
Cemetery	200
State Approving Agency	100
Outreach Services	200

CAPITOL PRESERVATION BOARD

Item 293

To Capitol Preservation Board	
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From General Fund	300
Schedule of Programs:	
Capitol Preservation Board	300

LEGISLATURE

Item 294

To Legislature - Senate	
From General Fund	300
Schedule of Programs:	
Administration	300

Item 295

To Legislature - House of Representatives	
From General Fund	2,200
Schedule of Programs:	
Administration	2,200

Item 296

To Legislature - Office of the Legislative Auditor General	
From General Fund	200
Schedule of Programs:	
Administration	200

Item 297

To Legislature - Office of the Legislative Fiscal Analyst	
From General Fund	300
Schedule of Programs:	
Administration and Research	300

Item 298

To Legislature - Legislative Printing	
From General Fund	100
Schedule of Programs:	
Administration	100

Item 299

To Legislature - Office of Legislative Research and General Counsel	
From General Fund	700
Schedule of Programs:	
Administration	700

Subsection 2(b). Expendable Funds and

Accounts. The Legislature has reviewed the following expendable funds. Where applicable, the Legislature authorizes the State Division of Finance to transfer amounts among funds and accounts as indicated. Outlays and expenditures from the recipient funds or accounts may be made without further legislative action according to a fund or account's applicable authorizing statute.

**EXECUTIVE OFFICES AND
CRIMINAL JUSTICE**

DEPARTMENT OF PUBLIC SAFETY

Item 300

To Department of Public Safety - Alcoholic Beverage Control Act Enforcement Fund	
From Restricted Revenue	1,200
Schedule of Programs:	
Alcoholic Beverage Control Act Enforcement Fund	1,200

**INFRASTRUCTURE AND
GENERAL GOVERNMENT**

**DEPARTMENT OF
ADMINISTRATIVE SERVICES**

Item 301

To Department of Administrative Services -
State Debt Collection Fund
From State Debt Collection Fund 4,700
Schedule of Programs:
State Debt Collection Fund 4,700

EXECUTIVE APPROPRIATIONS

CAPITOL PRESERVATION BOARD

Item 302

To Capitol Preservation Board - State
Capitol Restricted Special Revenue Fund
From Dedicated Credits Revenue 600
Schedule of Programs:
State Capitol Fund 600

Subsection 2(c). Business-like Activities.

The Legislature has reviewed the following proprietary funds. Under the terms and conditions of Utah Code 63J-1-410, for any included Internal Service Fund the Legislature approves budgets, full-time permanent positions, and capital acquisition amounts as indicated, and appropriates to the funds as indicated estimated revenue from rates, fees, and other charges. Where applicable, the Legislature authorizes the State Division of Finance to transfer amounts among funds and accounts as indicated.

**EXECUTIVE OFFICES AND
CRIMINAL JUSTICE**

UTAH DEPARTMENT OF CORRECTIONS

Item 303

To Utah Department of Corrections -
Utah Correctional Industries
From Dedicated Credits Revenue 5,700
Schedule of Programs:
Utah Correctional Industries 5,700

**INFRASTRUCTURE AND
GENERAL GOVERNMENT**

**DEPARTMENT OF TECHNOLOGY
SERVICES INTERNAL SERVICE FUNDS**

Item 304

To Department of Technology Services -
Enterprise Technology Division
From Dedicated Credits Revenue 1,820,100
Schedule of Programs:
ISF - Enterprise Technology
Division 1,820,100

**NATURAL RESOURCES, AGRICULTURE,
AND ENVIRONMENTAL QUALITY**

**DEPARTMENT OF
AGRICULTURE AND FOOD**

Item 305

To Department of Agriculture and
Food - Agriculture Loan Programs
From Agriculture Resource Development
Fund 100
From Utah Rural Rehabilitation Loan
State Fund 100
Schedule of Programs:
Agriculture Loan Program 200

**RETIREMENT AND
INDEPENDENT ENTITIES**

**DEPARTMENT OF HUMAN
RESOURCE MANAGEMENT**

Item 306

To Department of Human Resource Management -
Human Resources Internal Service Fund
From Dedicated Credits Revenue 624,000
Schedule of Programs:
ISF - Field Services 570,500
ISF - Payroll Field Services 53,500

Subsection 2(d). Fiduciary Funds. The Legislature has reviewed proposed revenues, expenditures, fund balances and changes in fund balances for the following fiduciary funds.

**INFRASTRUCTURE AND
GENERAL GOVERNMENT**

**DEPARTMENT OF
ADMINISTRATIVE SERVICES**

Item 307

To Department of Administrative Services -
Utah Navajo Royalties Holding Fund
From Revenue Transfers - Other Funds ... 1,100
Schedule of Programs:
Utah Navajo Royalties Holding Fund 1,100

Section 3. Effective Date.

This bill takes effect on July 1, 2015.

CHAPTER 243**H. B. 12**

Passed February 13, 2015

Approved March 27, 2015

Effective May 12, 2015

**UTAH RETIREMENT
SYSTEM AMENDMENTS**

Chief Sponsor: Kraig Powell

Senate Sponsor: Todd Weiler

LONG TITLE**General Description:**

This bill modifies the Utah State Retirement and Insurance Benefit Act by amending certain retirement provisions.

Highlighted Provisions:

This bill:

- ▶ clarifies that a member may receive service credit for military service covered under the provisions of the federal Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA) instead of only member or participating employer purchases of service credit;
- ▶ allows a purchase of public service credit for employment with a participating employer in a qualifying position for which the individual filed a written request for exclusion from membership in a system;
- ▶ allows the Utah State Retirement Office to recover any overpayment to a retiree who receives a retirement allowance in violation of postretirement employment restrictions;
- ▶ provides that, upon request, an insurance premium may be deducted from a retirement allowance for certain retirees;
- ▶ requires a participating employer who reemploys a retiree to contribute the amortization rate to the system that would have covered the retiree regardless of whether the position is retirement eligible;
- ▶ amends the deadline from 60 days to 30 days for a participating employer to submit to the office required contributions and submit service credit reports for employees after the end of each pay period;
- ▶ amends penalty provisions for delinquent contributions from 12% per annum to equal to the greater of \$250 or 50% of the total contributions for the employees for the period of the reporting error;
- ▶ provides that a court for a domestic relations order may not require the Utah State Retirement Office to provide any type of benefit that is not otherwise provided by statute;
- ▶ repeals the requirement for a participating employer to forward to the office certain documentation relating to terminated employees and requires the employers to maintain the records and make them available to the office upon request;
- ▶ clarifies that the definition of "benefits normally provided" includes employer contributions to a health savings account, health reimbursement account, health reimbursement arrangement, or medical expense reimbursement plan; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 49-11-402, as renumbered and amended by Laws of Utah 2002, Chapter 250
- 49-11-403, as last amended by Laws of Utah 2014, Chapter 15
- 49-11-505, as last amended by Laws of Utah 2014, Chapters 15, 175, and 311
- 49-11-601, as last amended by Laws of Utah 2014, Chapter 201
- 49-11-603, as last amended by Laws of Utah 2014, Chapter 15
- 49-11-612, as last amended by Laws of Utah 2013, Chapter 316
- 49-11-616, as last amended by Laws of Utah 2013, Chapters 109, 316 and last amended by Coordination Clause, Laws of Utah 2013, Chapter 109
- 49-12-102, as last amended by Laws of Utah 2013, Chapters 109 and 127

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

Section 1. Section 49-11-402 is amended to read:**49-11-402. Purchase of military service credit.**

(1) [A] Except as provided under Subsection (7), a member who is absent from employment with a participating employer by reason of an official call to full-time United States military service may receive service credit for that military service as follows:

(a) the member, the participating employer, or the member and participating employer jointly shall make the required payments, as determined by the office, to the system in which the member participated at the time of the official call, according to the law governing that particular system;

(b) prior to a member's retirement date, the required payments shall be made:

(i) during the period of full-time United States military service;

(ii) after the military service, but within a period not to exceed three times the period of military service up to a maximum of five years; or

(iii) as otherwise allowed by federal law;

(c) required payments shall be based on the member's compensation at the time of the official military call;

(d) if a required payment is not made within the time allowed under Subsection (1)(b), the member or participating employer may purchase the service credit as allowed in Subsection (2); and

(e) the member shall return to employment with the participating employer upon receiving an honorable discharge from military service and

there may not be intervening employment outside of the employment with the participating employer.

(2) (a) A member, a participating employer, or a member and a participating employer jointly, may purchase service credit for full-time United States military service, resulting from an official call to duty, if the member has four or more years of service credit and the military service does not otherwise qualify for service credit under this title.

(b) Payment to the office for a military service credit purchase shall be made to the system under which the member is currently covered in an amount determined by the office based on a formula recommended by the actuary and adopted by the board.

(c) The purchase shall be made through payroll deductions or through a lump sum deposit based upon the present value of future payments.

(d) If total payment is not completed prior to retirement, service credit shall be prorated in accordance with the amount paid.

(3) For purposes of Subsection (2), full-time United States military service does not include any regularly scheduled or annual military service that is required by a reserve unit, National Guard unit, or any other United States military unit.

(4) (a) If any of the factors used to determine the cost of a service credit purchase change at or before the member's retirement date, the cost of the purchase shall be recalculated.

(b) If the recalculated cost exceeds the amount paid for the purchase, the member may:

(i) pay the increased cost, plus interest, to receive the full amount of service credit; or

(ii) not pay the increased cost and have the purchased service credit prorated.

(5) If the recalculated cost under Subsection (4) is less than the amount paid for the purchase, the office shall refund the excess payment to the member or participating employer who paid for the purchase.

(6) (a) The board may adopt rules under which a member may make the necessary payments to the office for purchases under this title as permitted by federal law.

(b) The office may reject any payments if the office determines the tax status of the system, plans, or programs would be jeopardized by allowing the payment.

(7) Notwithstanding the provisions under Subsection (1), a member may receive service credit for military service covered under the provisions of the federal Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA), 38 U.S.C. Sec. 4301 et seq., under the terms and conditions provided under that law.

Section 2. Section 49-11-403 is amended to read:

49-11-403. Purchase of public service credit not otherwise qualifying for benefit.

(1) A member, a participating employer, or a member and a participating employer jointly may purchase service credit equal to the period of the member's employment in the following:

(a) United States federal employment;

(b) employment in a private school based in the United States, if the member received an employer paid retirement benefit for the employment;

(c) public employment in another state or territory of the United States which qualifies the member for membership in the public plan or system covering the employment, but only if the member does not qualify for any retirement benefits based on the employment;

(d) forfeited service credit in this state if the member does not qualify for an allowance based on the service credit;

(e) full-time public service while on an approved leave of absence;

(f) the period of time for which disability benefits were paid if:

(i) the member was receiving:

(A) long-term disability benefits;

(B) short-term disability benefits; or

(C) worker's compensation disability benefits; and

(ii) the member's employer had not entered into a benefit protection contract under Section 49-11-404 during the period the member had a disability due to sickness or accident;

(g) employment covered by a retirement plan offered by a public or private system, organization, or company designated by the State Board of Regents, if the member forfeits any retirement benefit from that retirement plan for the period of employment to be purchased under this Subsection (1)(g); ~~or~~

(h) employment in a charter school located within the state if the member forfeits any retirement benefit under any other retirement system or plan for the period of employment to be purchased under this Subsection (1)(h)~~[-]; or~~

(i) employment with a participating employer that is exempt from coverage under this title under a written request for exemption with the office, if the member forfeits any retirement benefit under any other retirement system or plan for the period of employment to be purchased under this Subsection (1)(i).

(2) A member shall:

(a) have at least four years of service credit before a purchase can be made under this section; and

(b) forfeit service credit and any defined contribution balance based on employer

contributions under any other retirement system or plan based on the period of employment for which service credit is being purchased.

(3) (a) To purchase credit under this section, the member, a participating employer, or a member and a participating employer jointly shall make payment to the system under which the member is currently covered.

(b) The amount of the payment shall be determined by the office based on a formula that is:

- (i) recommended by the actuary; and
- (ii) adopted by the board.

(4) The purchase may be made through payroll deductions or through a lump sum deposit based upon the present value of future payments.

(5) Total payment must be completed prior to the member's effective date of retirement or service credit will be prorated in accordance with the amount paid.

(6) (a) For a purchase made before July 1, 2010, if any of the factors used to determine the cost of a service credit purchase change at or before the member's retirement date, the cost of the purchase shall be recalculated at the time of retirement.

(b) For a purchase made before July 1, 2010, if the recalculated cost exceeds the amount paid for the purchase, the member, a participating employer, or a member and a participating employer jointly may:

- (i) pay the increased cost, plus interest, to receive the full amount of service credit; or
- (ii) not pay the increased cost and have the purchased service credit prorated.

(c) For a purchase made on or after July 1, 2010:

(i) the purchase shall be made in accordance with rules:

(A) adopted by the board based on recommendations by the board's actuary; and

(B) in effect at the time the purchase is completed; and

(ii) the cost of the service credit purchase shall not be recalculated at the time of retirement.

(7) If the recalculated cost under Subsection (6)(a) is less than the amount paid for the purchase, the office shall refund the excess payment to the member or participating employer who paid for the purchase.

(8) (a) The board may adopt rules under which a member may make the necessary payments to the office for purchases under this title as permitted by federal law.

(b) The office may reject any payments if the office determines the tax status of the system, plans, or programs would be jeopardized by allowing the payment.

(9) An employee who elects to participate exclusively in the defined contribution plan under Chapter 22, Part 4, Tier II Defined Contribution Plan, or Chapter 23, Part 4, Tier II Defined Contribution Plan, may not purchase service credit for that period of employment.

Section 3. Section 49-11-505 is amended to read:

49-11-505. Reemployment of a retiree -- Restrictions.

(1) (a) For purposes of this section, "retiree":

(i) means a person who:

(A) retired from a participating employer; and

(B) begins reemployment on or after July 1, 2010, with a participating employer;

(ii) does not include a person:

(A) who was reemployed by a participating employer before July 1, 2010; and

(B) whose participating employer that reemployed the person under Subsection (1)(a)(ii)(A) was dissolved, consolidated, merged, or structurally changed in accordance with Section 49-11-621 after July 1, 2010; and

(iii) does not include a person who is reemployed as an active senior judge or an active senior justice court judge as described by Utah State Court Rules, appointed to hear cases by the Utah Supreme Court in accordance with Article VIII, Section 4, Utah Constitution.

(b) (i) This section does not apply to employment as an elected official if the elected official's position is not full time as certified by the participating employer.

(ii) The provisions of this section apply to an elected official whose elected position is full time as certified by the participating employer.

(c) (i) This section does not apply to employment as a part-time appointed board member who does not receive any remuneration, stipend, or other benefit for the part-time appointed board member's service.

(ii) For purposes of this Subsection (1)(c), remuneration, stipend, or other benefit does not include receipt of per diem and travel expenses up to the amounts established by the Division of Finance in:

(A) Section 63A-3-106;

(B) Section 63A-3-107; and

(C) rules made by the Division of Finance according to Sections 63A-3-106 and 63A-3-107.

(2) A retiree may not for the same period of reemployment:

(a) (i) earn additional service credit; or

(ii) receive any retirement related contribution from a participating employer; and

(b) receive a retirement allowance.

(3) (a) Except as provided under Subsection (3)(b) or (10), the office shall cancel the retirement allowance of a retiree if the reemployment with a participating employer begins within one year of the retiree's retirement date.

(b) The office may not cancel the retirement allowance of a retiree who is reemployed with a participating employer within one year of the retiree's retirement date if:

(i) the retiree is not reemployed by a participating employer for a period of at least 60 days from the retiree's retirement date;

(ii) upon reemployment after the break in service under Subsection (3)(b)(i), the retiree does not receive any employer provided benefits, including:

(A) medical benefits;

(B) dental benefits;

(C) other insurance benefits except for workers' compensation as provided under Title 34A, Chapter 2, Workers' Compensation Act, and withholdings required by federal or state law for Social Security, Medicare, and unemployment insurance; or

(D) paid time off, including sick, annual, or other type of leave; and

(iii) (A) the retiree does not earn in any calendar year of reemployment an amount in excess of the lesser of \$15,000 or one-half of the retiree's final average salary upon which the retiree's retirement allowance is based; or

(B) the retiree is reemployed as a judge as defined under Section 78A-11-102.

(c) Beginning January 1, 2013, the board shall adjust the amounts under Subsection (3)(b)(iii)(A) by the annual change in the Consumer Price Index during the previous calendar year as measured by a United States Bureau of Labor Statistics Consumer Price Index average as determined by the board.

(d) The office shall cancel the retirement allowance of a retiree for the remainder of the calendar year if the reemployment with a participating employer exceeds the limitation under Subsection (3)(b)(iii)(A).

(e) If a retiree is reemployed under the provisions of Subsection (3)(b), the termination date of the reemployment, as confirmed in writing by the participating employer, is considered the retiree's separation date for the purpose of calculating the separation requirement under Subsection (3)(a).

(f) If a retiree received a retirement allowance in error, due to reemployment in violation of this section:

(i) the office shall cancel the retiree's retirement allowance; and

(ii) if the retiree applies for a future benefit, the office shall recover any overpayment in accordance with the provisions of Section 49-11-607.

(4) If a reemployed retiree has completed the one-year separation from employment with a participating employer required under Subsection (3)(a), the retiree may elect to:

(a) earn additional service credit in accordance with this title and cancel the retiree's retirement allowance; or

(b) continue to receive the retiree's retirement allowance and forfeit any retirement related contribution from the participating employer who reemployed the retiree.

(5) (a) As used in this Subsection (5), "amortization rate" means the amortization rate, as defined in Section 49-11-102, to be applied to the system that would have covered the retiree if the retiree's reemployed position were deemed to be an eligible, full-time position within that system.

~~[(5)] (b) A participating employer who reemploys a retiree shall contribute to the office the amortization rate[, as defined in Section 49-11-102, to be applied to the system that would have covered the retiree,] if the reemployed retiree:~~

~~[(a)] (i) has completed the one-year separation from employment with a participating employer required under Subsection (3)(a); and~~

~~[(b)] (ii) makes an election under Subsection (4)(b) to continue to receive a retirement allowance while reemployed.~~

(6) (a) A participating employer shall immediately notify the office:

(i) if the participating employer reemploys a retiree;

(ii) whether the reemployment is subject to Subsection (3)(b) or (4) of this section; and

(iii) of any election by the retiree under Subsection (4).

(b) A participating employer shall certify to the office whether the position of an elected official is or is not full time.

(c) A participating employer is liable to the office for a payment or failure to make a payment in violation of this section.

(d) If a participating employer fails to notify the office in accordance with this section, the participating employer is immediately subject to a compliance audit by the office.

(7) (a) The office shall immediately cancel the retirement allowance of a retiree in accordance with Subsection (7)(b) if the office receives notice or learns of:

(i) the reemployment of a retiree in violation of Subsection (3); or

(ii) the election of a reemployed retiree under Subsection (4)(a).

(b) If the retiree is eligible for retirement coverage in the reemployed position, the office shall cancel the allowance of a retiree subject to Subsection (7)(a), and reinstate the retiree to active member

status on the first day of the month following the date of:

(i) reemployment if the retiree is subject to Subsection (3); or

(ii) an election by an employee under Subsection (4)(a).

(c) If the retiree is not otherwise eligible for retirement coverage in the reemployed position:

(i) the office shall cancel the allowance of a retiree subject to Subsection (7)(a)(i); and

(ii) the participating employer shall pay the amortization rate to the office on behalf of the retiree.

(8) (a) A retiree subject to Subsection (7)(b) who retires within two years from the date of reemployment:

(i) is not entitled to a recalculated retirement benefit; and

(ii) will resume the allowance that was being paid at the time of cancellation.

(b) Subject to Subsection (2), a retiree who is reinstated to active membership under Subsection (7) and who retires two or more years after the date of reinstatement to active membership shall:

(i) resume receiving the allowance that was being paid at the time of cancellation; and

(ii) receive an additional allowance based on the formula in effect at the date of the subsequent retirement for all service credit accrued between the first and subsequent retirement dates.

(9) (a) A retiree subject to this section shall report to the office the status of the reemployment under Subsection (3) or (4).

(b) If the retiree fails to inform the office of an election under Subsection (4), the office shall withhold one month's benefit for each month the retiree fails to inform the office under Subsection (9)(a).

(10) A retiree shall be considered as having completed the one-year separation from employment with a participating employer required under Subsection (3)(a), if the retiree:

(a) before retiring:

(i) was employed with a participating employer as a public safety service employee as defined in Section 49-14-102, 49-15-102, or 49-23-102;

(ii) and during the employment under Subsection (10)(a)(i), suffered a physical injury resulting from external force or violence while performing the duties of the employment, and for which injury the retiree would have been approved for total disability in accordance with the provisions under Title 49, Chapter 21, Public Employees' Long-Term Disability Act, if years of service are not considered;

(iii) had less than 30 years of service credit but had sufficient service credit to retire, with an unreduced allowance making the public safety

service employee ineligible for long-term disability payments under Title 49, Chapter 21, Public Employees' Long-Term Disability Act, or a substantially similar long-term disability program; and

(iv) does not receive any long-term disability benefits from any participating employer; and

(b) is reemployed by a different participating employer.

(11) The board may make rules to implement this section.

Section 4. Section 49-11-601 is amended to read:

49-11-601. Payment of employer contributions -- Penalties for failure to comply -- Adjustments to be made.

(1) The employer contributions, fees, premium taxes, contribution adjustments, and other required payments shall be paid to the office by the participating employer as determined by the executive director.

(2) A participating employer that fails to withhold the amount of any member contributions, as soon as administratively possible, shall also pay the member contributions to the office out of its own funds.

(3) Except as limited by Subsections (6) and (7), if a participating employer does not make the contributions required by this title within ~~60~~ 30 days of the end of the pay period, the participating employer is liable to the office as provided in Section 49-11-604 for:

(a) delinquent contributions;

(b) interest on the delinquent contributions as calculated under Section 49-11-503; and

(c) a ~~12% per annum penalty on delinquent contributions.~~ penalty equal to the greater of:

(i) \$250; or

(ii) 50% of the total contributions for the employees for the period of the reporting error.

(4) The executive director may waive all or any part of the interest, penalties, expenses, and fees if the executive director finds there were extenuating circumstances surrounding the participating employer's failure to comply with this section.

(5) Contributions made in error will be refunded to the participating employer or member that made the contributions.

(6) (a) An employer described in Subsection 49-12-202(2)(c) or (d), or Subsection 49-13-202(2)(c), (d), or (e) that paid retirement benefits to an employee or retiree that were not required by this title may offer the retirement benefits paid to the employee as a substantial substitute to service credit and retirement benefits that may have been earned by the employee under this title.

(b) An employee who received retirement benefits under Subsection (6)(a) may sign an affidavit that:

(i) acknowledges the substantial substitute received by the employee under Subsection (6)(a); and

(ii) irrevocably relinquishes service credit and retirement benefits that may have accrued to the employee under this title effective from the employee's date of employment with the employer described in Subsection (6)(a) to the date of the employer's election under Section 49-12-202 or 49-13-202.

(c) Nothing in this section shall be construed to diminish an employer's right to recover past retirement benefits other than Social Security, paid to an employee or retiree, in error or under mistaken belief that the employer was not a participating employer.

(7) If the employer files with the office an irrevocable written relinquishment of service credit signed by the member or retiree:

(a) the office shall proportionally reduce any delinquent contributions, penalties, fees, or interest assessed against a participating employer in connection with a member or retiree described in Subsection (6)(a); and

(b) the system has no liability to the employee for benefits relinquished under Subsection (6)(b).

Section 5. Section 49-11-603 is amended to read:

49-11-603. Participating employer to report and certify -- Time limit -- Penalties for failure to comply.

(1) As soon as administratively possible, but in no event later than [60] 30 days after the end of each pay period, a participating employer shall report and certify to the office:

(a) the eligibility for service credit accrual of:

(i) each current employee;

(ii) each new employee as the new employee begins employment; and

(iii) any changes to eligibility for service credit accrual of each employee;

(b) the compensation of each current employee eligible for service credit; and

(c) other factors relating to the proper administration of this title as required by the executive director.

(2) Each participating employer shall submit the reports required under Subsection (1) in a format approved by the office.

(3) A participating employer shall be liable to the office for:

(a) any liabilities and expenses, including administrative expenses and the cost of increased benefits to employees, resulting from the participating employer's failure to correctly report and certify records under this section;

(b) a penalty equal to the greater of:

(i) \$250; or

(ii) 50% of the total contributions for the employees for the period of the reporting error[; ~~whichever is greater~~]; and

(c) attorney fees.

(4) The executive director may waive all or any part of the interest, penalties, expenses, and fees if the executive director finds there were extenuating circumstances surrounding the participating employer's failure to comply with this section.

(5) The executive director may estimate the length of service, compensation, or age of any employee, if that information is not contained in the records.

Section 6. Section 49-11-612 is amended to read:

49-11-612. Domestic relations order benefits -- Nonassignability of benefits or payments -- Exemption from legal process.

(1) As used in this section, "domestic relations order benefits" means:

(a) an allowance;

(b) a defined contribution account established under:

(i) Part 8, Defined Contribution Plans;

(ii) Chapter 22, New Public Employees' Tier II Contributory Retirement Act; or

(iii) Chapter 23, New Public Safety and Firefighter Tier II Contributory Retirement Act;

(c) a continuing monthly death benefit established under:

(i) Chapter 14, Part 5, Death Benefit;

(ii) Chapter 15, Part 5, Death Benefit;

(iii) Chapter 16, Part 5, Death Benefit;

(iv) Chapter 17, Part 5, Death Benefit;

(v) Chapter 18, Part 5, Death Benefit; or

(vi) Chapter 19, Part 5, Death Benefit;

(d) a lump sum death benefit provided under:

(i) Chapter 12, Part 5, Death Benefit;

(ii) Chapter 13, Part 5, Death Benefit;

(iii) Chapter 22, Part 5, Death Benefit; or

(iv) Chapter 23, Part 5, Death Benefit; or

(e) a refund of member contributions upon termination.

(2) Except as provided in Subsections (3), (4), and (5), the right of any member, retiree, participant, covered individual, or beneficiary to any retirement benefit, retirement payment, or any other retirement right accrued or accruing under this title and the assets of the funds created by this title are not subject to alienation or assignment by the member, retiree, participant, or their beneficiaries and are not subject to attachment, execution,

garnishment, or any other legal or equitable process.

(3) (a) The office may, upon the request of the retiree, deduct from the retiree's allowance, insurance premiums or other dues payable on behalf of the retiree, but only to those entities that have received the deductions prior to February 1, 2002.

(b) The office may, upon the request of a retiree of a public safety or firefighter system, deduct insurance premiums from the retiree's allowance.

(4) (a) The office shall provide for the division of domestic relations order benefits with former spouses and family members under an order of a court of competent jurisdiction with respect to domestic relations matters on file with the office.

(b) The court order shall specify the manner in which the domestic relations order benefits shall be partitioned, whether as a fixed amount or as a percentage of the benefit.

(c) Domestic relations order benefits split under a domestic relations order are subject to the following:

(i) the amount to be paid or the period for which payments shall be made under the original domestic relations order may not be altered if the alteration affects the actuarial calculation of the allowance;

(ii) payments to an alternate payee shall begin at the time the member or beneficiary begins receiving payments; and

(iii) the alternate payee shall receive payments in the same form as allowances received by the member or beneficiary.

(d) To be valid, a court order under this section must be received by the office within 12 months of the death of the member.

(e) A court order under this section may not require and may not be interpreted in any way to require the office to provide any type of benefit or any option not otherwise provided under this title.

(5) In accordance with federal law, the board may deduct the required amount from any benefit, payment, or other right accrued or accruing to any member or beneficiary of a system, plan, or program under this title to offset any amount that member or beneficiary owes to a system, plan, or program administered by the board.

(6) The board shall make rules to implement this section.

Section 7. Section 49-11-616 is amended to read:

49-11-616. Benefits information.

(1) The office shall provide written general information to each participating employer concerning benefits available under this title.

(2) (a) A participating employer shall provide the information under Subsection (1) to each eligible employee:

(i) immediately upon termination of service, leave of absence, commencement of long-term disability benefits, or retirement; and

(ii) in person or, if the employee is unavailable to receive the information in person, by mailing the information to the employee's last known address.

(b) (i) Each participating employer shall maintain the records necessary to demonstrate that the employer has provided the information outlined in Subsection (1) as required in Subsection (2)(a).

(ii) The records shall be made available to the office upon request.

(3) (a) The office shall provide each participating employer with a form to be signed by each employee to verify that the employee has been given in person the information required by this section.

~~(b) [A copy of the signed form shall be immediately forwarded to the office by the participating employer or the employee.]~~ (e) If an employer provides information under Subsection (1) by mail as provided in Subsection (2)(a)(ii), the employer shall:

(i) indicate on the form that the information was mailed to the employee and the address to which the information was mailed; ~~and~~

(ii) [immediately forward the form to the office.] maintain the records necessary to demonstrate that the employer complied with the requirements under this Subsection (3); and

(iii) make the records available to the office upon request.

Section 8. Section 49-12-102 is amended to read:

49-12-102. Definitions.

As used in this chapter:

(1) "Benefits normally provided":

(a) means a benefit offered by an employer, including:

(i) a leave benefit of any kind;

(ii) insurance coverage of any kind if the employer pays some or all of the premium for the coverage; ~~and~~

(iii) employer contributions to a health savings account, health reimbursement account, health reimbursement arrangement, or medical expense reimbursement plan; and

~~(iii)~~ (iv) a retirement benefit of any kind if the employer pays some or all of the cost of the benefit; and

(b) does not include:

(i) a payment for Social Security;

(ii) workers' compensation insurance;

(iii) unemployment insurance;

- (iv) a payment for Medicare;
 - (v) a payment or insurance required by federal or state law that is similar to a payment or insurance listed in Subsection (1)(b)(i), (ii), (iii), or (iv);
 - (vi) any other benefit that state or federal law requires an employer to provide an employee who would not otherwise be eligible to receive the benefit; or
 - (vii) any benefit that an employer provides an employee in order to avoid a penalty or tax under the Patient Protection and Affordable Care Act, Pub. L. No. 111-148 and the Health Care Education Reconciliation Act of 2010, Pub. L. No. 111-152, and related federal regulations, including a penalty imposed by Internal Revenue Code, Section 4980H.
- (2) (a) "Compensation" means, except as provided in Subsection (2)(c), the total amount of payments made by a participating employer to a member of this system for services rendered to the participating employer, including:
- (i) bonuses;
 - (ii) cost-of-living adjustments;
 - (iii) other payments currently includable in gross income and that are subject to Social Security deductions, including any payments in excess of the maximum amount subject to deduction under Social Security law;
 - (iv) amounts that the member authorizes to be deducted or reduced for salary deferral or other benefits authorized by federal law; and
 - (v) member contributions.
- (b) "Compensation" for purposes of this chapter may not exceed the amount allowed under Internal Revenue Code, Section 401(a)(17).
- (c) "Compensation" does not include:
- (i) the monetary value of remuneration paid in kind, including a residence or use of equipment;
 - (ii) the cost of any employment benefits paid for by the participating employer;
 - (iii) compensation paid to a temporary employee, an exempt employee, or an employee otherwise ineligible for service credit;
 - (iv) any payments upon termination, including accumulated vacation, sick leave payments, severance payments, compensatory time payments, or any other special payments; or
 - (v) any allowances or payments to a member for costs or expenses paid by the participating employer, including automobile costs, uniform costs, travel costs, tuition costs, housing costs, insurance costs, equipment costs, and dependent care costs.
- (d) The executive director may determine if a payment not listed under this Subsection (2) falls within the definition of compensation.

(3) "Final average salary" means the amount computed by averaging the highest five years of

annual compensation preceding retirement subject to Subsections (3)(a), (b), (c), and (d).

(a) Except as provided in Subsection (3)(b), the percentage increase in annual compensation in any one of the years used may not exceed the previous year's compensation by more than 10% plus a cost-of-living adjustment equal to the decrease in the purchasing power of the dollar during the previous year, as measured by a United States Bureau of Labor Statistics Consumer Price Index average as determined by the board.

(b) In cases where the participating employer provides acceptable documentation to the office, the limitation in Subsection (3)(a) may be exceeded if:

- (i) the member has transferred from another agency; or
- (ii) the member has been promoted to a new position.

(c) If the member retires more than six months from the date of termination of employment, the member is considered to have been in service at the member's last rate of pay from the date of the termination of employment to the effective date of retirement for purposes of computing the member's final average salary only.

(d) If the member has less than five years of service credit in this system, final average salary means the average annual compensation paid to the member during the full period of service credit.

(4) "Participating employer" means an employer which meets the participation requirements of Sections 49-12-201 and 49-12-202.

(5) (a) "Regular full-time employee" means an employee whose term of employment for a participating employer contemplates continued employment during a fiscal or calendar year and whose employment normally requires an average of 20 hours or more per week, except as modified by the board, and who receives benefits normally provided by the participating employer.

(b) "Regular full-time employee" includes:

(i) a teacher whose term of employment for a participating employer contemplates continued employment during a school year and who teaches half-time or more;

(ii) a classified school employee:

(A) who is hired before July 1, 2013; and

(B) whose employment normally requires an average of 20 hours per week or more for a participating employer, regardless of benefits provided;

(iii) an officer, elective or appointive, who earns \$500 or more per month, indexed as of January 1, 1990, as provided in Section 49-12-407;

(iv) a faculty member or employee of an institution of higher education who is considered full-time by that institution of higher education; and

(v) an individual who otherwise meets the definition of this Subsection (5) who performs

services for a participating employer through a professional employer organization or similar arrangement.

(c) “Regular full-time employee” does not include a classified school employee:

(i) (A) who is hired on or after July 1, 2013; and

(B) who does not receive benefits normally provided by the participating employer even if the employment normally requires an average of 20 hours per week or more for a participating employer; or

(ii) (A) who is hired before July 1, 2013;

(B) who did not qualify as a regular full-time employee before July 1, 2013;

(C) who does not receive benefits normally provided by the participating employer; and

(D) whose employment hours are increased on or after July 1, 2013, to require an average of 20 hours per week or more for a participating employer.

(6) “System” means the Public Employees’ Contributory Retirement System created under this chapter.

(7) “Years of service credit” means:

(a) a period consisting of 12 full months as determined by the board;

(b) a period determined by the board, whether consecutive or not, during which a regular full-time employee performed services for a participating employer, including any time the regular full-time employee was absent on a paid leave of absence granted by a participating employer or was absent in the service of the United States government on military duty as provided by this chapter; or

(c) the regular school year consisting of not less than eight months of full-time service for a regular full-time employee of an educational institution.

CHAPTER 244**H. B. 24**

Passed March 11, 2015
 Approved March 27, 2015
 Effective May 12, 2015
 (Exception clause in Section 56)

INSURANCE MODIFICATIONS

Chief Sponsor: James A. Dunnigan
 Senate Sponsor: Curtis S. Bramble

LONG TITLE**General Description:**

This bill modifies the Insurance Code and provisions citing the Insurance Code.

Highlighted Provisions:

This bill:

- ▶ amends definition provisions;
- ▶ amends the cap on the Captive Insurance Restricted Account;
- ▶ amends service contract provisions to address vehicle protection products;
- ▶ revises provisions related to insurance holding companies, including:
 - addressing subsidiaries;
 - addressing acquisition of control of, divestiture of control of, or merger with domestic insurer;
 - providing for acquisitions involving insurers not otherwise covered;
 - modifying provisions related to registration of insurers;
 - addressing standards and management of an insurer within a holding company system;
 - addressing examination of registered insurers;
 - providing for supervisory colleges;
 - addressing confidentiality of information;
 - imposing sanctions;
 - providing for receivership;
 - providing for recovery;
 - allowing revocation, suspension, or renewal of insurers license;
 - granting rulemaking authority and authority to issue orders;
 - addressing judicial review and mandamus;
 - addressing conflicts with other laws; and
 - providing for severability;
- ▶ addresses provisions related to fidelity bonds;
- ▶ addresses transportation network companies or drivers;
- ▶ addresses trustee groups;
- ▶ modifies exemption from conversion privileges for insured former spouse;
- ▶ modifies definition of "Medicare Supplement Policy";
- ▶ modifies definitions related to licensing;

- ▶ addresses license lapse and voluntary surrender;
- ▶ amends unfair marketing practices to include the use of certain names;
- ▶ addresses inducements;
- ▶ addresses continuing education requirements for navigators;
- ▶ requires third party administrator to maintain with the commissioner certain information related to place of business and contact information;
- ▶ addresses receiver's compliance with financial reporting requirements;
- ▶ restricts subrogation rights against an insolvent insurer's insured;
- ▶ modifies definition provisions related to captive insurance companies;
- ▶ addresses commissioner's ability to adopt rules related to waiver or modification of certain public notice or hearings related to captive insurance companies;
- ▶ includes certificate of organization as a document used to apply for a certificate of authority;
- ▶ addresses requirements for a captive insurance company to conduct insurance business in this state;
- ▶ provides for a limited liability company being a captive insurance company;
- ▶ modifies capital requirements for captive insurance companies;
- ▶ repeals language related to capital stock of a captive insurance company;
- ▶ addresses when a captive insurance company can provide reinsurance;
- ▶ addresses conversion or merger of a captive insurance company;
- ▶ provides for a sponsored cell captive insurance company;
- ▶ addresses fees to be paid by a protected cell captive insurance company;
- ▶ modifies requirements for sponsored captive insurance companies;
- ▶ clarifies participants in sponsored captive insurance companies;
- ▶ addresses reporting requirements for sponsored cell captive insurance companies;
- ▶ modifies the timing of examinations;
- ▶ repeals free surplus provisions related to captive insurance companies;
- ▶ repeals provisions related to a captive reinsurance company;
- ▶ addresses stop-loss insurance coverage standards;
- ▶ extends the Defined Contribution Risk Adjuster Act; and
- ▶ makes technical and conforming amendments.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides a coordination clause.

Utah Code Sections Affected:**AMENDS:**

31A-1-301, as last amended by Laws of Utah 2014, Chapters 290 and 300

31A-3-304 (Effective 07/01/15), as last amended by Laws of Utah 2014, Chapters 290 and 300

31A-6a-101, as enacted by Laws of Utah 1992, Chapter 203

31A-6a-103, as last amended by Laws of Utah 2008, Chapter 345

31A-6a-104, as last amended by Laws of Utah 2011, Chapter 297

31A-6a-105, as last amended by Laws of Utah 2010, Chapter 274

31A-16-103, as last amended by Laws of Utah 2014, Chapters 290 and 300

31A-16-105, as last amended by Laws of Utah 2007, Chapter 306

31A-16-106, as last amended by Laws of Utah 2010, Chapter 324

31A-16-109, as last amended by Laws of Utah 1987, Chapter 91

31A-21-313, as last amended by Laws of Utah 2011, Chapter 297

31A-21-314, as last amended by Laws of Utah 1987, Chapter 95

31A-22-504, as enacted by Laws of Utah 1985, Chapter 242

31A-22-612, as last amended by Laws of Utah 2013, Chapter 319

31A-22-620, as last amended by Laws of Utah 2009, Chapter 349

31A-23a-102, as last amended by Laws of Utah 2014, Chapters 290 and 300

31A-23a-113, as last amended by Laws of Utah 2014, Chapters 290 and 300

31A-23a-402, as last amended by Laws of Utah 2013, Chapter 319

31A-23a-402.5, as last amended by Laws of Utah 2014, Chapters 290 and 300

31A-23b-206, as last amended by Laws of Utah 2014, Chapters 290, 300, 425 and last amended by Coordination Clause, Laws of Utah 2014, Chapters 300, and 425

31A-27a-116, as last amended by Laws of Utah 2008, Chapter 382

31A-28-213, as last amended by Laws of Utah 2007, Chapter 309

31A-37-102, as last amended by Laws of Utah 2008, Chapter 302

31A-37-106, as last amended by Laws of Utah 2011, Chapter 297

31A-37-202, as last amended by Laws of Utah 2011, Chapters 284 and 297

31A-37-204, as last amended by Laws of Utah 2004, Chapter 312

31A-37-301, as last amended by Laws of Utah 2011, Chapter 297

31A-37-302, as last amended by Laws of Utah 2011, Chapter 297

31A-37-303, as enacted by Laws of Utah 2003, Chapter 251

31A-37-306, as last amended by Laws of Utah 2011, Chapter 297

31A-37-401, as enacted by Laws of Utah 2003, Chapter 251

31A-37-402, as last amended by Laws of Utah 2011, Chapter 297

31A-37-403, as last amended by Laws of Utah 2004, Chapter 312

31A-37-404, as enacted by Laws of Utah 2004,

Chapter 312

31A-37-501, as last amended by Laws of Utah 2014, Chapters 290 and 300

31A-37-502, as last amended by Laws of Utah 2009, Chapter 349

31A-37-505, as enacted by Laws of Utah 2003, Chapter 251

31A-43-301, as last amended by Laws of Utah 2014, Chapters 290 and 300

63I-2-231, as last amended by Laws of Utah 2013, Chapter 341

ENACTS:

31A-6a-111, Utah Code Annotated 1953

31A-16-102.5, Utah Code Annotated 1953

31A-16-104.5, Utah Code Annotated 1953

31A-16-108.5, Utah Code Annotated 1953

31A-16-112, Utah Code Annotated 1953

31A-16-113, Utah Code Annotated 1953

31A-16-114, Utah Code Annotated 1953

31A-16-115, Utah Code Annotated 1953

31A-16-116, Utah Code Annotated 1953

31A-16-117, Utah Code Annotated 1953

31A-16-118, Utah Code Annotated 1953

31A-16-119, Utah Code Annotated 1953

31A-22-322, Utah Code Annotated 1953

31A-25-302.5, Utah Code Annotated 1953

RENUMBERS AND AMENDS:

31A-16-107.5, (Renumbered from 31A-16-108, as enacted by Laws of Utah 1985, Chapter 242)

REPEALS:

31A-37-205, as last amended by Laws of Utah 2004, Chapter 312

31A-37-601, as last amended by Laws of Utah 2011, Chapter 297

31A-37-602, as last amended by Laws of Utah 2008, Chapters 302 and 382

31A-37-603, as last amended by Laws of Utah 2008, Chapter 302

31A-37-604, as enacted by Laws of Utah 2004, Chapter 312

Utah Code Sections Affected by Coordination Clause:

13-51-108, Utah Code Annotated 1953

31A-22-322, Utah Code Annotated 1953

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

Section 1. Section 31A-1-301 is amended to read:**31A-1-301. Definitions.**

As used in this title, unless otherwise specified:

(1) (a) "Accident and health insurance" means insurance to provide protection against economic losses resulting from:

(i) a medical condition including:

- (A) a medical care expense; or
- (B) the risk of disability;

(ii) accident; or

(iii) sickness.

(b) "Accident and health insurance":

(i) includes a contract with disability contingencies including:

- (A) an income replacement contract;
- (B) a health care contract;
- (C) an expense reimbursement contract;
- (D) a credit accident and health contract;
- (E) a continuing care contract; and
- (F) a long-term care contract; and

(ii) may provide:

- (A) hospital coverage;
- (B) surgical coverage;
- (C) medical coverage;
- (D) loss of income coverage;
- (E) prescription drug coverage;
- (F) dental coverage; or
- (G) vision coverage.

(c) "Accident and health insurance" does not include workers' compensation insurance.

(2) "Actuary" is as defined by the commissioner by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(3) "Administrator" is defined in Subsection [164] (166).

(4) "Adult" means an individual who has attained the age of at least 18 years.

(5) "Affiliate" means a person who controls, is controlled by, or is under common control with, another person. A corporation is an affiliate of another corporation, regardless of ownership, if substantially the same group of individuals manage the corporations.

(6) "Agency" means:

(a) a person other than an individual, including a sole proprietorship by which an individual does business under an assumed name; and

(b) an insurance organization licensed or required to be licensed under Section 31A-23a-301, 31A-25-207, or 31A-26-209.

(7) "Alien insurer" means an insurer domiciled outside the United States.

(8) "Amendment" means an endorsement to an insurance policy or certificate.

(9) "Annuity" means an agreement to make periodical payments for a period certain or over the lifetime of one or more individuals if the making or continuance of all or some of the series of the payments, or the amount of the payment, is dependent upon the continuance of human life.

(10) "Application" means a document:

(a) (i) completed by an applicant to provide information about the risk to be insured; and

(ii) that contains information that is used by the insurer to evaluate risk and decide whether to:

(A) insure the risk under:

- (I) the coverage as originally offered; or
- (II) a modification of the coverage as originally offered; or
- (B) decline to insure the risk; or

(b) used by the insurer to gather information from the applicant before issuance of an annuity contract.

(11) "Articles" or "articles of incorporation" means:

- (a) the original articles;
- (b) a special law;
- (c) a charter;
- (d) an amendment;
- (e) restated articles;
- (f) articles of merger or consolidation;
- (g) a trust instrument;

(h) another constitutive document for a trust or other entity that is not a corporation; and

(i) an amendment to an item listed in Subsections (11)(a) through (h).

(12) "Bail bond insurance" means a guarantee that a person will attend court when required, up to and including surrender of the person in execution of a sentence imposed under Subsection 77-20-7(1), as a condition to the release of that person from confinement.

(13) "Binder" is defined in Section 31A-21-102.

(14) "Blanket insurance policy" means a group policy covering a defined class of persons:

(a) without individual underwriting or application; and

(b) that is determined by definition without designating each person covered.

(15) "Board," "board of trustees," or "board of directors" means the group of persons with responsibility over, or management of, a corporation, however designated.

(16) "Bona fide office" means a physical office in this state:

(a) that is open to the public;

(b) that is staffed during regular business hours on regular business days; and

(c) at which the public may appear in person to obtain services.

(17) "Business entity" means:

- (a) a corporation;
- (b) an association;
- (c) a partnership;

(d) a limited liability company;

(e) a limited liability partnership; or

(f) another legal entity.

(18) “Business of insurance” is defined in Subsection ~~[(88)]~~ (89).

(19) “Business plan” means the information required to be supplied to the commissioner under Subsections 31A-5-204(2)(i) and (j), including the information required when these subsections apply by reference under:

(a) Section 31A-7-201;

(b) Section 31A-8-205; or

(c) Subsection 31A-9-205(2).

(20) (a) “Bylaws” means the rules adopted for the regulation or management of a corporation’s affairs, however designated.

(b) “Bylaws” includes comparable rules for a trust or other entity that is not a corporation.

(21) “Captive insurance company” means:

(a) an insurer:

(i) owned by another organization; and

(ii) whose exclusive purpose is to insure risks of the parent organization and an affiliated company; or

(b) in the case of a group or association, an insurer:

(i) owned by the insureds; and

(ii) whose exclusive purpose is to insure risks of:

(A) a member organization;

(B) a group member; or

(C) an affiliate of:

(I) a member organization; or

(II) a group member.

(22) “Casualty insurance” means liability insurance.

(23) “Certificate” means evidence of insurance given to:

(a) an insured under a group insurance policy; or

(b) a third party.

(24) “Certificate of authority” is included within the term “license.”

(25) “Claim,” unless the context otherwise requires, means a request or demand on an insurer for payment of a benefit according to the terms of an insurance policy.

(26) “Claims-made coverage” means an insurance contract or provision limiting coverage under a policy insuring against legal liability to claims that are first made against the insured while the policy is in force.

(27) (a) “Commissioner” or “commissioner of insurance” means Utah’s insurance commissioner.

(b) When appropriate, the terms listed in Subsection (27)(a) apply to the equivalent supervisory official of another jurisdiction.

(28) (a) “Continuing care insurance” means insurance that:

(i) provides board and lodging;

(ii) provides one or more of the following:

(A) a personal service;

(B) a nursing service;

(C) a medical service; or

(D) any other health-related service; and

(iii) provides the coverage described in this Subsection (28)(a) under an agreement effective:

(A) for the life of the insured; or

(B) for a period in excess of one year.

(b) Insurance is continuing care insurance regardless of whether or not the board and lodging are provided at the same location as a service described in Subsection (28)(a)(ii).

(29) (a) “Control,” “controlling,” “controlled,” or “under common control” means the direct or indirect possession of the power to direct or cause the direction of the management and policies of a person. This control may be:

(i) by contract;

(ii) by common management;

(iii) through the ownership of voting securities; or

(iv) by a means other than those described in Subsections (29)(a)(i) through (iii).

(b) There is no presumption that an individual holding an official position with another person controls that person solely by reason of the position.

(c) A person having a contract or arrangement giving control is considered to have control despite the illegality or invalidity of the contract or arrangement.

(d) There is a rebuttable presumption of control in a person who directly or indirectly owns, controls, holds with the power to vote, or holds proxies to vote 10% or more of the voting securities of another person.

(30) “Controlled insurer” means a licensed insurer that is either directly or indirectly controlled by a producer.

(31) “Controlling person” means a person that directly or indirectly has the power to direct or cause to be directed, the management, control, or activities of a reinsurance intermediary.

(32) “Controlling producer” means a producer who directly or indirectly controls an insurer.

(33) (a) “Corporation” means an insurance corporation, except when referring to:

<p>(i) a corporation doing business:</p> <p>(A) as:</p> <p>(I) an insurance producer;</p> <p>(II) a surplus lines producer;</p> <p>(III) a limited line producer;</p> <p>(IV) a consultant;</p> <p>(V) a managing general agent;</p> <p>(VI) a reinsurance intermediary;</p> <p>(VII) a third party administrator; or</p> <p>(VIII) an adjuster; and</p> <p>(B) under:</p> <p>(I) Chapter 23a, Insurance Marketing - Licensing Producers, Consultants, and Reinsurance Intermediaries;</p> <p>(II) Chapter 25, Third Party Administrators; or</p> <p>(III) Chapter 26, Insurance Adjusters; or</p> <p>(ii) a noninsurer that is part of a holding company system under Chapter 16, Insurance Holding Companies.</p> <p>(b) "Stock corporation" means a stock insurance corporation.</p> <p>(c) "Mutual" or "mutual corporation" means a mutual insurance corporation.</p> <p>(34) (a) "Creditable coverage" has the same meaning as provided in federal regulations adopted pursuant to the Health Insurance Portability and Accountability Act.</p> <p>(b) "Creditable coverage" includes coverage that is offered through a public health plan such as:</p> <p>(i) the Primary Care Network Program under a Medicaid primary care network demonstration waiver obtained subject to Section 26-18-3;</p> <p>(ii) the Children's Health Insurance Program under Section 26-40-106; or</p> <p>(iii) the Ryan White Program Comprehensive AIDS Resources Emergency Act, Pub. L. 101-381, and Ryan White HIV/AIDS Treatment Modernization Act of 2006, Pub. L. 109-415.</p> <p>(35) "Credit accident and health insurance" means insurance on a debtor to provide indemnity for payments coming due on a specific loan or other credit transaction while the debtor has a disability.</p> <p>(36) (a) "Credit insurance" means insurance offered in connection with an extension of credit that is limited to partially or wholly extinguishing that credit obligation.</p> <p>(b) "Credit insurance" includes:</p> <p>(i) credit accident and health insurance;</p> <p>(ii) credit life insurance;</p> <p>(iii) credit property insurance;</p> <p>(iv) credit unemployment insurance;</p>	<p>(v) guaranteed automobile protection insurance;</p> <p>(vi) involuntary unemployment insurance;</p> <p>(vii) mortgage accident and health insurance;</p> <p>(viii) mortgage guaranty insurance; and</p> <p>(ix) mortgage life insurance.</p> <p>(37) "Credit life insurance" means insurance on the life of a debtor in connection with an extension of credit that pays a person if the debtor dies.</p> <p>[40] (38) "Creditor" means a person, including an insured, having a claim, whether:</p> <p>(a) matured;</p> <p>(b) unmatured;</p> <p>(c) liquidated;</p> <p>(d) unliquidated;</p> <p>(e) secured;</p> <p>(f) unsecured;</p> <p>(g) absolute;</p> <p>(h) fixed; or</p> <p>(i) contingent.</p> <p>(39) "Credit unemployment insurance" means insurance:</p> <p>(a) offered in connection with an extension of credit; and</p> <p>(b) that provides indemnity if the debtor is unemployed for payments coming due on a:</p> <p>(i) specific loan; or</p> <p>(ii) credit transaction.</p> <p>[38] (40) "Credit property insurance" means insurance:</p> <p>(a) offered in connection with an extension of credit; and</p> <p>(b) that protects the property until the debt is paid.</p> <p>(41) (a) "Crop insurance" means insurance providing protection against damage to crops from unfavorable weather conditions, fire or lightning, flood, hail, insect infestation, disease, or other yield-reducing conditions or perils that is:</p> <p>(i) provided by the private insurance market; or</p> <p>(ii) subsidized by the Federal Crop Insurance Corporation.</p> <p>(b) "Crop insurance" includes multiperil crop insurance.</p> <p>(42) (a) "Customer service representative" means a person that provides an insurance service and insurance product information:</p> <p>(i) for the customer service representative's:</p> <p>(A) producer;</p> <p>(B) surplus lines producer; or</p>
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- (C) consultant employer; and
- (ii) to the customer service representative's employer's:
- (A) customer;
- (B) client; or
- (C) organization.
- (b) A customer service representative may only operate within the scope of authority of the customer service representative's producer, surplus lines producer, or consultant employer.
- (43) "Deadline" means a final date or time:
- (a) imposed by:
- (i) statute;
- (ii) rule; or
- (iii) order; and
- (b) by which a required filing or payment must be received by the department.
- (44) "Deemer clause" means a provision under this title under which upon the occurrence of a condition precedent, the commissioner is considered to have taken a specific action. If the statute so provides, a condition precedent may be the commissioner's failure to take a specific action.
- (45) "Degree of relationship" means the number of steps between two persons determined by counting the generations separating one person from a common ancestor and then counting the generations to the other person.
- (46) "Department" means the Insurance Department.
- (47) "Director" means a member of the board of directors of a corporation.
- (48) "Disability" means a physiological or psychological condition that partially or totally limits an individual's ability to:
- (a) perform the duties of:
- (i) that individual's occupation; or
- (ii) an occupation for which the individual is reasonably suited by education, training, or experience; or
- (b) perform two or more of the following basic activities of daily living:
- (i) eating;
- (ii) toileting;
- (iii) transferring;
- (iv) bathing; or
- (v) dressing.
- (49) "Disability income insurance" is defined in Subsection ~~[(79)]~~ (80).
- (50) "Domestic insurer" means an insurer organized under the laws of this state.
- (51) "Domiciliary state" means the state in which an insurer:
- (a) is incorporated;
- (b) is organized; or
- (c) in the case of an alien insurer, enters into the United States.
- (52) (a) "Eligible employee" means:
- (i) an employee who:
- (A) works on a full-time basis; and
- (B) has a normal work week of 30 or more hours; or
- (ii) a person described in Subsection (52)(b).
- (b) "Eligible employee" includes, if the individual is included under a health benefit plan of a small employer:
- (i) a sole proprietor;
- (ii) a partner in a partnership; or
- (iii) an independent contractor.
- (c) "Eligible employee" does not include, unless eligible under Subsection (52)(b):
- (i) an individual who works on a temporary or substitute basis for a small employer;
- (ii) an employer's spouse; or
- (iii) a dependent of an employer.
- (53) "Employee" means an individual employed by an employer.
- (54) "Employee benefits" means one or more benefits or services provided to:
- (a) an employee; or
- (b) a dependent of an employee.
- (55) (a) "Employee welfare fund" means a fund:
- (i) established or maintained, whether directly or through a trustee, by:
- (A) one or more employers;
- (B) one or more labor organizations; or
- (C) a combination of employers and labor organizations; and
- (ii) that provides employee benefits paid or contracted to be paid, other than income from investments of the fund:
- (A) by or on behalf of an employer doing business in this state; or
- (B) for the benefit of a person employed in this state.
- (b) "Employee welfare fund" includes a plan funded or subsidized by a user fee or tax revenues.
- (56) "Endorsement" means a written agreement attached to a policy or certificate to modify the policy or certificate coverage.
- (57) "Enrollment date," with respect to a health benefit plan, means:

- (a) the first day of coverage; or
- (b) if there is a waiting period, the first day of the waiting period.

(58) “Enterprise risk” means an activity, circumstance, event, or series of events involving one or more affiliates of an insurer that, if not remedied promptly, is likely to have a material adverse effect upon the financial condition or liquidity of the insurer or its insurance holding company system as a whole, including anything that would cause:

(a) the insurer’s risk-based capital to fall into an action or control level as set forth in Sections 31A-17-601 through 31A-17-613; or

(b) the insurer to be in hazardous financial condition set forth in Section 31A-27a-101.

[(58)] (59) (a) “Escrow” means:

(i) a transaction that effects the sale, transfer, encumbering, or leasing of real property, when a person not a party to the transaction, and neither having nor acquiring an interest in the title, performs, in accordance with the written instructions or terms of the written agreement between the parties to the transaction, any of the following actions:

(A) the explanation, holding, or creation of a document; or

(B) the receipt, deposit, and disbursement of money;

(ii) a settlement or closing involving:

(A) a mobile home;

(B) a grazing right;

(C) a water right; or

(D) other personal property authorized by the commissioner.

(b) “Escrow” does not include:

(i) the following notarial acts performed by a notary within the state:

(A) an acknowledgment;

(B) a copy certification;

(C) jurat; and

(D) an oath or affirmation;

(ii) the receipt or delivery of a document; or

(iii) the receipt of money for delivery to the escrow agent.

[(59)] (60) “Escrow agent” means an agency title insurance producer meeting the requirements of Sections 31A-4-107, 31A-14-211, and 31A-23a-204, who is acting through an individual title insurance producer licensed with an escrow subline of authority.

[(60)] (61) (a) “Excludes” is not exhaustive and does not mean that another thing is not also excluded.

(b) The items listed in a list using the term “excludes” are representative examples for use in interpretation of this title.

[(61)] (62) “Exclusion” means for the purposes of accident and health insurance that an insurer does not provide insurance coverage, for whatever reason, for one of the following:

(a) a specific physical condition;

(b) a specific medical procedure;

(c) a specific disease or disorder; or

(d) a specific prescription drug or class of prescription drugs.

[(62)] (63) “Expense reimbursement insurance” means insurance:

(a) written to provide a payment for an expense relating to hospital confinement resulting from illness or injury; and

(b) written:

(i) as a daily limit for a specific number of days in a hospital; and

(ii) to have a one or two day waiting period following a hospitalization.

[(63)] (64) “Fidelity insurance” means insurance guaranteeing the fidelity of a person holding a position of public or private trust.

[(64)] (65) (a) “Filed” means that a filing is:

(i) submitted to the department as required by and in accordance with applicable statute, rule, or filing order;

(ii) received by the department within the time period provided in applicable statute, rule, or filing order; and

(iii) accompanied by the appropriate fee in accordance with:

(A) Section 31A-3-103; or

(B) rule.

(b) “Filed” does not include a filing that is rejected by the department because it is not submitted in accordance with Subsection [(64)] (65)(a).

[(65)] (66) “Filing,” when used as a noun, means an item required to be filed with the department including:

(a) a policy;

(b) a rate;

(c) a form;

(d) a document;

(e) a plan;

(f) a manual;

(g) an application;

(h) a report;

(i) a certificate;

- (j) an endorsement;
- (k) an actuarial certification;
- (l) a licensee annual statement;
- (m) a licensee renewal application;
- (n) an advertisement; ~~or~~
- (o) a binder; or
- ~~[(o)]~~ (p) an outline of coverage.

~~[(66)]~~ (67) “First party insurance” means an insurance policy or contract in which the insurer agrees to pay a claim submitted to it by the insured for the insured’s losses.

~~[(67)]~~ (68) “Foreign insurer” means an insurer domiciled outside of this state, including an alien insurer.

~~[(68)]~~ (69) (a) “Form” means one of the following prepared for general use:

- (i) a policy;
- (ii) a certificate;
- (iii) an application;
- (iv) an outline of coverage; or
- (v) an endorsement.

(b) “Form” does not include a document specially prepared for use in an individual case.

~~[(69)]~~ (70) “Franchise insurance” means an individual insurance policy provided through a mass marketing arrangement involving a defined class of persons related in some way other than through the purchase of insurance.

~~[(70)]~~ (71) “General lines of authority” include:

(a) the general lines of insurance in Subsection ~~[(71)]~~ (72);

(b) title insurance under one of the following sublines of authority:

(i) search, including authority to act as a title marketing representative;

(ii) escrow, including authority to act as a title marketing representative; and

(iii) title marketing representative only;

(c) surplus lines;

(d) workers’ compensation; and

(e) another line of insurance that the commissioner considers necessary to recognize in the public interest.

~~[(71)]~~ (72) “General lines of insurance” include:

(a) accident and health;

(b) casualty;

(c) life;

(d) personal lines;

(e) property; and

(f) variable contracts, including variable life and annuity.

~~[(72)]~~ (73) “Group health plan” means an employee welfare benefit plan to the extent that the plan provides medical care:

(a) (i) to an employee; or

(ii) to a dependent of an employee; and

(b) (i) directly;

(ii) through insurance reimbursement; or

(iii) through another method.

~~[(73)]~~ (74) (a) “Group insurance policy” means a policy covering a group of persons that is issued:

(i) to a policyholder on behalf of the group; and

(ii) for the benefit of a member of the group who is selected under a procedure defined in:

(A) the policy; or

(B) an agreement that is collateral to the policy.

(b) A group insurance policy may include a member of the policyholder’s family or a dependent.

~~[(74)]~~ (75) “Guaranteed automobile protection insurance” means insurance offered in connection with an extension of credit that pays the difference in amount between the insurance settlement and the balance of the loan if the insured automobile is a total loss.

~~[(75)]~~ (76) (a) Except as provided in Subsection ~~[(75)]~~ (76)(b), “health benefit plan” means a policy or certificate that:

(i) provides health care insurance;

(ii) provides major medical expense insurance; or

(iii) is offered as a substitute for hospital or medical expense insurance, such as:

(A) a hospital confinement indemnity; or

(B) a limited benefit plan.

(b) “Health benefit plan” does not include a policy or certificate that:

(i) provides benefits solely for:

(A) accident;

(B) dental;

(C) income replacement;

(D) long-term care;

(E) a Medicare supplement;

(F) a specified disease;

(G) vision; or

(H) a short-term limited duration; or

(ii) is offered and marketed as supplemental health insurance.

~~[(76)]~~ (77) “Health care” means any of the following intended for use in the diagnosis, treatment, mitigation, or prevention of a human ailment or impairment:

(a) a professional service;

(b) a personal service;

(c) a facility;

(d) equipment;

(e) a device;

(f) supplies; or

(g) medicine.

[~~77~~] (78) (a) “Health care insurance” or “health insurance” means insurance providing:

(i) a health care benefit; or

(ii) payment of an incurred health care expense.

(b) “Health care insurance” or “health insurance” does not include accident and health insurance providing a benefit for:

(i) replacement of income;

(ii) short-term accident;

(iii) fixed indemnity;

(iv) credit accident and health;

(v) supplements to liability;

(vi) workers’ compensation;

(vii) automobile medical payment;

(viii) no-fault automobile;

(ix) equivalent self-insurance; or

(x) a type of accident and health insurance coverage that is a part of or attached to another type of policy.

[~~78~~] (79) “Health Insurance Portability and Accountability Act” means the Health Insurance Portability and Accountability Act of 1996, Pub. L. 104-191, 110 Stat. 1936, as amended.

[~~79~~] (80) “Income replacement insurance” or “disability income insurance” means insurance written to provide payments to replace income lost from accident or sickness.

[~~80~~] (81) “Indemnity” means the payment of an amount to offset all or part of an insured loss.

[~~81~~] (82) “Independent adjuster” means an insurance adjuster required to be licensed under Section 31A-26-201 who engages in insurance adjusting as a representative of an insurer.

[~~82~~] (83) “Independently procured insurance” means insurance procured under Section 31A-15-104.

[~~83~~] (84) “Individual” means a natural person.

[~~84~~] (85) “Inland marine insurance” includes insurance covering:

(a) property in transit on or over land;

(b) property in transit over water by means other than boat or ship;

(c) bailee liability;

(d) fixed transportation property such as bridges, electric transmission systems, radio and television transmission towers and tunnels; and

(e) personal and commercial property floaters.

[~~85~~] (86) “Insolvency” means that:

(a) an insurer is unable to pay its debts or meet its obligations as the debts and obligations mature;

(b) an insurer’s total adjusted capital is less than the insurer’s mandatory control level RBC under Subsection 31A-17-601(8)(c); or

(c) an insurer is determined to be hazardous under this title.

[~~86~~] (87) (a) “Insurance” means:

(i) an arrangement, contract, or plan for the transfer of a risk or risks from one or more persons to one or more other persons; or

(ii) an arrangement, contract, or plan for the distribution of a risk or risks among a group of persons that includes the person seeking to distribute that person’s risk.

(b) “Insurance” includes:

(i) a risk distributing arrangement providing for compensation or replacement for damages or loss through the provision of a service or a benefit in kind;

(ii) a contract of guaranty or suretyship entered into by the guarantor or surety as a business and not as merely incidental to a business transaction; and

(iii) a plan in which the risk does not rest upon the person who makes an arrangement, but with a class of persons who have agreed to share the risk.

[~~87~~] (88) “Insurance adjuster” means a person who directs or conducts the investigation, negotiation, or settlement of a claim under an insurance policy other than life insurance or an annuity, on behalf of an insurer, policyholder, or a claimant under an insurance policy.

[~~88~~] (89) “Insurance business” or “business of insurance” includes:

(a) providing health care insurance by an organization that is or is required to be licensed under this title;

(b) providing a benefit to an employee in the event of a contingency not within the control of the employee, in which the employee is entitled to the benefit as a right, which benefit may be provided either:

(i) by a single employer or by multiple employer groups; or

(ii) through one or more trusts, associations, or other entities;

(c) providing an annuity:

(i) including an annuity issued in return for a gift; and

(ii) except an annuity provided by a person specified in Subsections 31A-22-1305(2) and (3);

(d) providing the characteristic services of a motor club as outlined in Subsection ~~[(416)]~~ (117);

(e) providing another person with insurance;

(f) making as insurer, guarantor, or surety, or proposing to make as insurer, guarantor, or surety, a contract or policy of title insurance;

(g) transacting or proposing to transact any phase of title insurance, including:

(i) solicitation;

(ii) negotiation preliminary to execution;

(iii) execution of a contract of title insurance;

(iv) insuring; and

(v) transacting matters subsequent to the execution of the contract and arising out of the contract, including reinsurance;

(h) transacting or proposing a life settlement; and

(i) doing, or proposing to do, any business in substance equivalent to Subsections ~~[(88)]~~ (89)(a) through (h) in a manner designed to evade this title.

~~[(89)]~~ (90) "Insurance consultant" or "consultant" means a person who:

(a) advises another person about insurance needs and coverages;

(b) is compensated by the person advised on a basis not directly related to the insurance placed; and

(c) except as provided in Section 31A-23a-501, is not compensated directly or indirectly by an insurer or producer for advice given.

~~[(90)]~~ (91) "Insurance holding company system" means a group of two or more affiliated persons, at least one of whom is an insurer.

~~[(91)]~~ (92) (a) "Insurance producer" or "producer" means a person licensed or required to be licensed under the laws of this state to sell, solicit, or negotiate insurance.

(b) (i) "Producer for the insurer" means a producer who is compensated directly or indirectly by an insurer for selling, soliciting, or negotiating an insurance product of that insurer.

(ii) "Producer for the insurer" may be referred to as an "agent."

(c) (i) "Producer for the insured" means a producer who:

(A) is compensated directly and only by an insurance customer or an insured; and

(B) receives no compensation directly or indirectly from an insurer for selling, soliciting, or negotiating an insurance product of that insurer to an insurance customer or insured.

(ii) "Producer for the insured" may be referred to as a "broker."

~~[(92)]~~ (93) (a) "Insured" means a person to whom or for whose benefit an insurer makes a promise in an insurance policy and includes:

(i) a policyholder;

(ii) a subscriber;

(iii) a member; and

(iv) a beneficiary.

(b) The definition in Subsection ~~[(92)]~~ (93)(a):

(i) applies only to this title; and

(ii) does not define the meaning of this word as used in an insurance policy or certificate.

~~[(93)]~~ (94) (a) "Insurer" means a person doing an insurance business as a principal including:

(i) a fraternal benefit society;

(ii) an issuer of a gift annuity other than an annuity specified in Subsections 31A-22-1305(2) and (3);

(iii) a motor club;

(iv) an employee welfare plan; and

(v) a person purporting or intending to do an insurance business as a principal on that person's own account.

(b) "Insurer" does not include a governmental entity to the extent the governmental entity is engaged in an activity described in Section 31A-12-107.

~~[(94)]~~ (95) "Interinsurance exchange" is defined in Subsection ~~[(147)]~~ (148).

~~[(95)]~~ (96) "Involuntary unemployment insurance" means insurance:

(a) offered in connection with an extension of credit; and

(b) that provides indemnity if the debtor is involuntarily unemployed for payments coming due on a:

(i) specific loan; or

(ii) credit transaction.

~~[(96)]~~ (97) "Large employer," in connection with a health benefit plan, means an employer who, with respect to a calendar year and to a plan year:

(a) employed an average of at least 51 eligible employees on each business day during the preceding calendar year; and

(b) employs at least two employees on the first day of the plan year.

~~[(97)]~~ (98) "Late enrollee," with respect to an employer health benefit plan, means an individual whose enrollment is a late enrollment.

~~[(98)]~~ (99) "Late enrollment," with respect to an employer health benefit plan, means enrollment of an individual other than:

(a) on the earliest date on which coverage can become effective for the individual under the terms of the plan; or

(b) through special enrollment.

~~[(99)]~~ (100) (a) Except for a retainer contract or legal assistance described in Section 31A-1-103, “legal expense insurance” means insurance written to indemnify or pay for a specified legal expense.

(b) “Legal expense insurance” includes an arrangement that creates a reasonable expectation of an enforceable right.

(c) “Legal expense insurance” does not include the provision of, or reimbursement for, legal services incidental to other insurance coverage.

~~[(400)]~~ (101) (a) “Liability insurance” means insurance against liability:

(i) for death, injury, or disability of a human being, or for damage to property, exclusive of the coverages under:

(A) Subsection ~~[(410)]~~ (111) for medical malpractice insurance;

(B) Subsection ~~[(438)]~~ (139) for professional liability insurance; and

(C) Subsection ~~[(473)]~~ (175) for workers’ compensation insurance;

(ii) for a medical, hospital, surgical, and funeral benefit to a person other than the insured who is injured, irrespective of legal liability of the insured, when issued with or supplemental to insurance against legal liability for the death, injury, or disability of a human being, exclusive of the coverages under:

(A) Subsection ~~[(410)]~~ (111) for medical malpractice insurance;

(B) Subsection ~~[(438)]~~ (139) for professional liability insurance; and

(C) Subsection ~~[(473)]~~ (175) for workers’ compensation insurance;

(iii) for loss or damage to property resulting from an accident to or explosion of a boiler, pipe, pressure container, machinery, or apparatus;

(iv) for loss or damage to property caused by:

(A) the breakage or leakage of a sprinkler, water pipe, or water container; or

(B) water entering through a leak or opening in a building; or

(v) for other loss or damage properly the subject of insurance not within another kind of insurance as defined in this chapter, if the insurance is not contrary to law or public policy.

(b) “Liability insurance” includes:

(i) vehicle liability insurance;

(ii) residential dwelling liability insurance; and

(iii) making inspection of, and issuing a certificate of inspection upon, an elevator, boiler, machinery, or apparatus of any kind when done in connection with insurance on the elevator, boiler, machinery, or apparatus.

~~[(401)]~~ (102) (a) “License” means authorization issued by the commissioner to engage in an activity that is part of or related to the insurance business.

(b) “License” includes a certificate of authority issued to an insurer.

~~[(402)]~~ (103) (a) “Life insurance” means:

(i) insurance on a human life; and

(ii) insurance pertaining to or connected with human life.

(b) The business of life insurance includes:

(i) granting a death benefit;

(ii) granting an annuity benefit;

(iii) granting an endowment benefit;

(iv) granting an additional benefit in the event of death by accident;

(v) granting an additional benefit to safeguard the policy against lapse; and

(vi) providing an optional method of settlement of proceeds.

~~[(403)]~~ (104) “Limited license” means a license that:

(a) is issued for a specific product of insurance; and

(b) limits an individual or agency to transact only for that product or insurance.

~~[(404)]~~ (105) “Limited line credit insurance” includes the following forms of insurance:

(a) credit life;

(b) credit accident and health;

(c) credit property;

(d) credit unemployment;

(e) involuntary unemployment;

(f) mortgage life;

(g) mortgage guaranty;

(h) mortgage accident and health;

(i) guaranteed automobile protection; and

(j) another form of insurance offered in connection with an extension of credit that:

(i) is limited to partially or wholly extinguishing the credit obligation; and

(ii) the commissioner determines by rule should be designated as a form of limited line credit insurance.

~~[(405)]~~ (106) “Limited line credit insurance producer” means a person who sells, solicits, or negotiates one or more forms of limited line credit insurance coverage to an individual through a master, corporate, group, or individual policy.

~~[(406)]~~ (107) “Limited line insurance” includes:

(a) bail bond;

- (b) limited line credit insurance;
- (c) legal expense insurance;
- (d) motor club insurance;
- (e) car rental related insurance;
- (f) travel insurance;
- (g) crop insurance;
- (h) self-service storage insurance;
- (i) guaranteed asset protection waiver;
- (j) portable electronics insurance; and
- (k) another form of limited insurance that the commissioner determines by rule should be designated a form of limited line insurance.

~~[(107)]~~ (108) "Limited lines authority" includes the lines of insurance listed in Subsection ~~[(106)]~~ (107).

~~[(108)]~~ (109) "Limited lines producer" means a person who sells, solicits, or negotiates limited lines insurance.

~~[(109)]~~ (110) (a) "Long-term care insurance" means an insurance policy or rider advertised, marketed, offered, or designated to provide coverage:

- (i) in a setting other than an acute care unit of a hospital;
- (ii) for not less than 12 consecutive months for a covered person on the basis of:
 - (A) expenses incurred;
 - (B) indemnity;
 - (C) prepayment; or
 - (D) another method;
- (iii) for one or more necessary or medically necessary services that are:
 - (A) diagnostic;
 - (B) preventative;
 - (C) therapeutic;
 - (D) rehabilitative;
 - (E) maintenance; or
 - (F) personal care; and
- (iv) that may be issued by:
 - (A) an insurer;
 - (B) a fraternal benefit society;
 - (C) (I) a nonprofit health hospital; and
 - (II) a medical service corporation;
 - (D) a prepaid health plan;
 - (E) a health maintenance organization; or
 - (F) an entity similar to the entities described in Subsections ~~[(109)]~~ (110)(a)(iv)(A) through (E) to

the extent that the entity is otherwise authorized to issue life or health care insurance.

(b) "Long-term care insurance" includes:

(i) any of the following that provide directly or supplement long-term care insurance:

- (A) a group or individual annuity or rider; or
- (B) a life insurance policy or rider;

(ii) a policy or rider that provides for payment of benefits on the basis of:

- (A) cognitive impairment; or
- (B) functional capacity; or

(iii) a qualified long-term care insurance contract.

(c) "Long-term care insurance" does not include:

(i) a policy that is offered primarily to provide basic Medicare supplement coverage;

(ii) basic hospital expense coverage;

(iii) basic medical/surgical expense coverage;

(iv) hospital confinement indemnity coverage;

(v) major medical expense coverage;

(vi) income replacement or related asset-protection coverage;

(vii) accident only coverage;

(viii) coverage for a specified:

- (A) disease; or
- (B) accident;

(ix) limited benefit health coverage; or

(x) a life insurance policy that accelerates the death benefit to provide the option of a lump sum payment:

(A) if the following are not conditioned on the receipt of long-term care:

(I) benefits; or

(II) eligibility; and

(B) the coverage is for one or more the following qualifying events:

(I) terminal illness;

(II) medical conditions requiring extraordinary medical intervention; or

(III) permanent institutional confinement.

~~[(110)]~~ (111) "Medical malpractice insurance" means insurance against legal liability incident to the practice and provision of a medical service other than the practice and provision of a dental service.

~~[(111)]~~ (112) "Member" means a person having membership rights in an insurance corporation.

~~[(112)]~~ (113) "Minimum capital" or "minimum required capital" means the capital that must be constantly maintained by a stock insurance corporation as required by statute.

~~[(113)]~~ (114) “Mortgage accident and health insurance” means insurance offered in connection with an extension of credit that provides indemnity for payments coming due on a mortgage while the debtor has a disability.

~~[(114)]~~ (115) “Mortgage guaranty insurance” means surety insurance under which a mortgagee or other creditor is indemnified against losses caused by the default of a debtor.

~~[(115)]~~ (116) “Mortgage life insurance” means insurance on the life of a debtor in connection with an extension of credit that pays if the debtor dies.

~~[(116)]~~ (117) “Motor club” means a person:

(a) licensed under:

(i) Chapter 5, Domestic Stock and Mutual Insurance Corporations;

(ii) Chapter 11, Motor Clubs; or

(iii) Chapter 14, Foreign Insurers; and

(b) that promises for an advance consideration to provide for a stated period of time one or more:

(i) legal services under Subsection 31A-11-102(1)(b);

(ii) bail services under Subsection 31A-11-102(1)(c); or

(iii) (A) trip reimbursement;

(B) towing services;

(C) emergency road services;

(D) stolen automobile services;

(E) a combination of the services listed in Subsections ~~[(116)]~~ (117)(b)(iii)(A) through (D); or

(F) other services given in Subsections 31A-11-102(1)(b) through (f).

~~[(117)]~~ (118) “Mutual” means a mutual insurance corporation.

~~[(118)]~~ (119) “Network plan” means health care insurance:

(a) that is issued by an insurer; and

(b) under which the financing and delivery of medical care is provided, in whole or in part, through a defined set of providers under contract with the insurer, including the financing and delivery of an item paid for as medical care.

~~[(119)]~~ (120) “Nonparticipating” means a plan of insurance under which the insured is not entitled to receive a dividend representing a share of the surplus of the insurer.

~~[(120)]~~ (121) “Ocean marine insurance” means insurance against loss of or damage to:

(a) ships or hulls of ships;

(b) goods, freight, cargoes, merchandise, effects, disbursements, profits, money, securities, choses in action, evidences of debt, valuable papers,

bottomry, respondentia interests, or other cargoes in or awaiting transit over the oceans or inland waterways;

(c) earnings such as freight, passage money, commissions, or profits derived from transporting goods or people upon or across the oceans or inland waterways; or

(d) a vessel owner or operator as a result of liability to employees, passengers, bailors, owners of other vessels, owners of fixed objects, customs or other authorities, or other persons in connection with maritime activity.

~~[(121)]~~ (122) “Order” means an order of the commissioner.

~~[(122)]~~ (123) “Outline of coverage” means a summary that explains an accident and health insurance policy.

~~[(123)]~~ (124) “Participating” means a plan of insurance under which the insured is entitled to receive a dividend representing a share of the surplus of the insurer.

~~[(124)]~~ (125) “Participation,” as used in a health benefit plan, means a requirement relating to the minimum percentage of eligible employees that must be enrolled in relation to the total number of eligible employees of an employer reduced by each eligible employee who voluntarily declines coverage under the plan because the employee:

(a) has other group health care insurance coverage; or

(b) receives:

(i) Medicare, under the Health Insurance for the Aged Act, Title XVIII of the Social Security Amendments of 1965; or

(ii) another government health benefit.

~~[(125)]~~ (126) “Person” includes:

(a) an individual;

(b) a partnership;

(c) a corporation;

(d) an incorporated or unincorporated association;

(e) a joint stock company;

(f) a trust;

(g) a limited liability company;

(h) a reciprocal;

(i) a syndicate; or

(j) another similar entity or combination of entities acting in concert.

~~[(126)]~~ (127) “Personal lines insurance” means property and casualty insurance coverage sold for primarily noncommercial purposes to:

(a) an individual; or

(b) a family.

~~[(127)]~~ (128) "Plan sponsor" is as defined in 29 U.S.C. Sec. 1002(16)(B).

~~[(128)]~~ (129) "Plan year" means:

(a) the year that is designated as the plan year in:

(i) the plan document of a group health plan; or

(ii) a summary plan description of a group health plan;

(b) if the plan document or summary plan description does not designate a plan year or there is no plan document or summary plan description:

(i) the year used to determine deductibles or limits;

(ii) the policy year, if the plan does not impose deductibles or limits on a yearly basis; or

(iii) the employer's taxable year if:

(A) the plan does not impose deductibles or limits on a yearly basis; and

(B) (I) the plan is not insured; or

(II) the insurance policy is not renewed on an annual basis; or

(c) in a case not described in Subsection ~~[(128)]~~ (129)(a) or (b), the calendar year.

~~[(129)]~~ (130) (a) "Policy" means a document, including an attached endorsement or application that:

(i) purports to be an enforceable contract; and

(ii) memorializes in writing some or all of the terms of an insurance contract.

(b) "Policy" includes a service contract issued by:

(i) a motor club under Chapter 11, Motor Clubs;

(ii) a service contract provided under Chapter 6a, Service Contracts; and

(iii) a corporation licensed under:

(A) Chapter 7, Nonprofit Health Service Insurance Corporations; or

(B) Chapter 8, Health Maintenance Organizations and Limited Health Plans.

(c) "Policy" does not include:

(i) a certificate under a group insurance contract; or

(ii) a document that does not purport to have legal effect.

~~[(130)]~~ (131) "Policyholder" means a person who controls a policy, binder, or oral contract by ownership, premium payment, or otherwise.

~~[(131)]~~ (132) "Policy illustration" means a presentation or depiction that includes nonguaranteed elements of a policy of life insurance over a period of years.

~~[(132)]~~ (133) "Policy summary" means a synopsis describing the elements of a life insurance policy.

~~[(133)]~~ (134) "PPACA" means the Patient Protection and Affordable Care Act, Pub. L. No. 111-148 and the Health Care Education Reconciliation Act of 2010, Pub. L. No. 111-152, and related federal regulations and guidance.

~~[(134)]~~ (135) "Preexisting condition," with respect to a health benefit plan:

(a) means a condition that was present before the effective date of coverage, whether or not medical advice, diagnosis, care, or treatment was recommended or received before that day; and

(b) does not include a condition indicated by genetic information unless an actual diagnosis of the condition by a physician has been made.

~~[(135)]~~ (136) (a) "Premium" means the monetary consideration for an insurance policy.

(b) "Premium" includes, however designated:

(i) an assessment;

(ii) a membership fee;

(iii) a required contribution; or

(iv) monetary consideration.

(c) (i) "Premium" does not include consideration paid to a third party administrator for the third party administrator's services.

(ii) "Premium" includes an amount paid by a third party administrator to an insurer for insurance on the risks administered by the third party administrator.

~~[(136)]~~ (137) "Principal officers" for a corporation means the officers designated under Subsection 31A-5-203(3).

~~[(137)]~~ (138) "Proceeding" includes an action or special statutory proceeding.

~~[(138)]~~ (139) "Professional liability insurance" means insurance against legal liability incident to the practice of a profession and provision of a professional service.

~~[(139)]~~ (140) (a) Except as provided in Subsection ~~[(139)]~~ (140)(b), "property insurance" means insurance against loss or damage to real or personal property of every kind and any interest in that property:

(i) from all hazards or causes; and

(ii) against loss consequential upon the loss or damage including vehicle comprehensive and vehicle physical damage coverages.

(b) "Property insurance" does not include:

(i) inland marine insurance; and

(ii) ocean marine insurance.

~~[(140)]~~ (141) "Qualified long-term care insurance contract" or "federally tax qualified long-term care insurance contract" means:

(a) an individual or group insurance contract that meets the requirements of Section 7702B(b), Internal Revenue Code; or

(b) the portion of a life insurance contract that provides long-term care insurance:

(i) (A) by rider; or

(B) as a part of the contract; and

(ii) that satisfies the requirements of Sections 7702B(b) and (e), Internal Revenue Code.

~~[(141)]~~ (142) “Qualified United States financial institution” means an institution that:

(a) is:

(i) organized under the laws of the United States or any state; or

(ii) in the case of a United States office of a foreign banking organization, licensed under the laws of the United States or any state;

(b) is regulated, supervised, and examined by a United States federal or state authority having regulatory authority over a bank or trust company; and

(c) meets the standards of financial condition and standing that are considered necessary and appropriate to regulate the quality of a financial institution whose letters of credit will be acceptable to the commissioner as determined by:

(i) the commissioner by rule; or

(ii) the Securities Valuation Office of the National Association of Insurance Commissioners.

~~[(142)]~~ (143) (a) “Rate” means:

(i) the cost of a given unit of insurance; or

(ii) for property or casualty insurance, that cost of insurance per exposure unit either expressed as:

(A) a single number; or

(B) a pure premium rate, adjusted before the application of individual risk variations based on loss or expense considerations to account for the treatment of:

(I) expenses;

(II) profit; and

(III) individual insurer variation in loss experience.

(b) “Rate” does not include a minimum premium.

~~[(143)]~~ (144) (a) Except as provided in Subsection ~~[(143)]~~ (144)(b), “rate service organization” means a person who assists an insurer in rate making or filing by:

(i) collecting, compiling, and furnishing loss or expense statistics;

(ii) recommending, making, or filing rates or supplementary rate information; or

(iii) advising about rate questions, except as an attorney giving legal advice.

(b) “Rate service organization” does not mean:

(i) an employee of an insurer;

(ii) a single insurer or group of insurers under common control;

(iii) a joint underwriting group; or

(iv) an individual serving as an actuarial or legal consultant.

~~[(144)]~~ (145) “Rating manual” means any of the following used to determine initial and renewal policy premiums:

(a) a manual of rates;

(b) a classification;

(c) a rate-related underwriting rule; and

(d) a rating formula that describes steps, policies, and procedures for determining initial and renewal policy premiums.

~~[(145)]~~ (146) (a) “Rebate” means a licensee paying, allowing, giving, or offering to pay, allow, or give, directly or indirectly:

(i) a refund of premium or portion of premium;

(ii) a refund of commission or portion of commission;

(iii) a refund of all or a portion of a consultant fee; or

(iv) providing services or other benefits not specified in an insurance or annuity contract.

(b) “Rebate” does not include:

(i) a refund due to termination or changes in coverage;

(ii) a refund due to overcharges made in error by the licensee; or

(iii) savings or wellness benefits as provided in the contract by the licensee.

~~[(146)]~~ (147) “Received by the department” means:

(a) the date delivered to and stamped received by the department, if delivered in person;

(b) the post mark date, if delivered by mail;

(c) the delivery service’s post mark or pickup date, if delivered by a delivery service;

(d) the received date recorded on an item delivered, if delivered by:

(i) facsimile;

(ii) email; or

(iii) another electronic method; or

(e) a date specified in:

(i) a statute;

(ii) a rule; or

(iii) an order.

~~[(147)]~~ (148) “Reciprocal” or “interinsurance exchange” means an unincorporated association of persons:

(a) operating through an attorney-in-fact common to all of the persons; and

(b) exchanging insurance contracts with one another that provide insurance coverage on each other.

~~[(148)]~~ (149) “Reinsurance” means an insurance transaction where an insurer, for consideration, transfers any portion of the risk it has assumed to another insurer. In referring to reinsurance transactions, this title sometimes refers to:

(a) the insurer transferring the risk as the “ceding insurer”; and

(b) the insurer assuming the risk as the:

(i) “assuming insurer”; or

(ii) “assuming reinsurer.”

~~[(149)]~~ (150) “Reinsurer” means a person licensed in this state as an insurer with the authority to assume reinsurance.

~~[(150)]~~ (151) “Residential dwelling liability insurance” means insurance against liability resulting from or incident to the ownership, maintenance, or use of a residential dwelling that is a detached single family residence or multifamily residence up to four units.

~~[(151)]~~ (152) (a) “Retrocession” means reinsurance with another insurer of a liability assumed under a reinsurance contract.

(b) A reinsurer “retrocedes” when the reinsurer reinsures with another insurer part of a liability assumed under a reinsurance contract.

~~[(152)]~~ (153) “Rider” means an endorsement to:

(a) an insurance policy; or

(b) an insurance certificate.

~~[(153)]~~ (154) (a) “Security” means a:

(i) note;

(ii) stock;

(iii) bond;

(iv) debenture;

(v) evidence of indebtedness;

(vi) certificate of interest or participation in a profit-sharing agreement;

(vii) collateral-trust certificate;

(viii) preorganization certificate or subscription;

(ix) transferable share;

(x) investment contract;

(xi) voting trust certificate;

(xii) certificate of deposit for a security;

(xiii) certificate of interest of participation in an oil, gas, or mining title or lease or in payments out of production under such a title or lease;

(xiv) commodity contract or commodity option;

(xv) certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase any of the items listed in Subsections ~~[(153)]~~ (154)(a)(i) through (xiv); or

(xvi) another interest or instrument commonly known as a security.

(b) “Security” does not include:

(i) any of the following under which an insurance company promises to pay money in a specific lump sum or periodically for life or some other specified period:

(A) insurance;

(B) an endowment policy; or

(C) an annuity contract; or

(ii) a burial certificate or burial contract.

(155) “Securityholder” means a specified person who owns a security of a person, including:

(a) common stock;

(b) preferred stock;

(c) debt obligations; and

(d) any other security convertible into or evidencing the right of any of the items listed in this Subsection (155).

~~[(154)]~~ (156) “Secondary medical condition” means a complication related to an exclusion from coverage in accident and health insurance.

~~[(155)]~~ (157) (a) “Self-insurance” means an arrangement under which a person provides for spreading its own risks by a systematic plan.

(b) Except as provided in this Subsection ~~[(155)]~~ (157), “self-insurance” does not include an arrangement under which a number of persons spread their risks among themselves.

(c) “Self-insurance” includes:

(i) an arrangement by which a governmental entity undertakes to indemnify an employee for liability arising out of the employee’s employment; and

(ii) an arrangement by which a person with a managed program of self-insurance and risk management undertakes to indemnify its affiliates, subsidiaries, directors, officers, or employees for liability or risk that is related to the relationship or employment.

(d) “Self-insurance” does not include an arrangement with an independent contractor.

~~[(156)]~~ (158) “Sell” means to exchange a contract of insurance:

(a) by any means;

- (b) for money or its equivalent; and
- (c) on behalf of an insurance company.

[(157)] (159) “Short-term care insurance” means an insurance policy or rider advertised, marketed, offered, or designed to provide coverage that is similar to long-term care insurance, but that provides coverage for less than 12 consecutive months for each covered person.

[(158)] (160) “Significant break in coverage” means a period of 63 consecutive days during each of which an individual does not have creditable coverage.

[(159)] (161) “Small employer” means, in connection with a health benefit plan and with respect to a calendar year and to a plan year, an employer who:

(a) employed at least one employee but not more than an average of 50 eligible employees on business days during the preceding calendar year; and

(b) employs at least one employee on the first day of the plan year.

[(160)] (162) “Special enrollment period,” in connection with a health benefit plan, has the same meaning as provided in federal regulations adopted pursuant to the Health Insurance Portability and Accountability Act.

[(161)] (163) (a) “Subsidiary” of a person means an affiliate controlled by that person either directly or indirectly through one or more affiliates or intermediaries.

(b) “Wholly owned subsidiary” of a person is a subsidiary of which all of the voting shares are owned by that person either alone or with its affiliates, except for the minimum number of shares the law of the subsidiary’s domicile requires to be owned by directors or others.

[(162)] (164) Subject to Subsection [(86)] (87)(b), “surety insurance” includes:

(a) a guarantee against loss or damage resulting from the failure of a principal to pay or perform the principal’s obligations to a creditor or other obligee;

(b) bail bond insurance; and

(c) fidelity insurance.

[(163)] (165) (a) “Surplus” means the excess of assets over the sum of paid-in capital and liabilities.

(b) (i) “Permanent surplus” means the surplus of an insurer or organization that is designated by the insurer or organization as permanent.

(ii) Sections 31A-5-211, 31A-7-201, 31A-8-209, 31A-9-209, and 31A-14-205 require that insurers or organizations doing business in this state maintain specified minimum levels of permanent surplus.

(iii) Except for assessable mutuals, the minimum permanent surplus requirement is the same as the

minimum required capital requirement that applies to stock insurers.

(c) “Excess surplus” means:

(i) for a life insurer, accident and health insurer, health organization, or property and casualty insurer as defined in Section 31A-17-601, the lesser of:

(A) that amount of an insurer’s or health organization’s total adjusted capital that exceeds the product of:

(I) 2.5; and

(II) the sum of the insurer’s or health organization’s minimum capital or permanent surplus required under Section 31A-5-211, 31A-9-209, or 31A-14-205; or

(B) that amount of an insurer’s or health organization’s total adjusted capital that exceeds the product of:

(I) 3.0; and

(II) the authorized control level RBC as defined in Subsection 31A-17-601(8)(a); and

(ii) for a monoline mortgage guaranty insurer, financial guaranty insurer, or title insurer that amount of an insurer’s paid-in-capital and surplus that exceeds the product of:

(A) 1.5; and

(B) the insurer’s total adjusted capital required by Subsection 31A-17-609(1).

[(164)] (166) “Third party administrator” or “administrator” means a person who collects charges or premiums from, or who, for consideration, adjusts or settles claims of residents of the state in connection with insurance coverage, annuities, or service insurance coverage, except:

(a) a union on behalf of its members;

(b) a person administering a:

(i) pension plan subject to the federal Employee Retirement Income Security Act of 1974;

(ii) governmental plan as defined in Section 414(d), Internal Revenue Code; or

(iii) nonelecting church plan as described in Section 410(d), Internal Revenue Code;

(c) an employer on behalf of the employer’s employees or the employees of one or more of the subsidiary or affiliated corporations of the employer;

(d) an insurer licensed under the following, but only for a line of insurance for which the insurer holds a license in this state:

(i) Chapter 5, Domestic Stock and Mutual Insurance Corporations;

(ii) Chapter 7, Nonprofit Health Service Insurance Corporations;

(iii) Chapter 8, Health Maintenance Organizations and Limited Health Plans;

(iv) Chapter 9, Insurance Fraternal; or

(v) Chapter 14, Foreign Insurers;

(e) a person:

(i) licensed or exempt from licensing under:

(A) Chapter 23a, Insurance Marketing - Licensing Producers, Consultants, and Reinsurance Intermediaries; or

(B) Chapter 26, Insurance Adjusters; and

(ii) whose activities are limited to those authorized under the license the person holds or for which the person is exempt; or

(f) an institution, bank, or financial institution:

(i) that is:

(A) an institution whose deposits and accounts are to any extent insured by a federal deposit insurance agency, including the Federal Deposit Insurance Corporation or National Credit Union Administration; or

(B) a bank or other financial institution that is subject to supervision or examination by a federal or state banking authority; and

(ii) that does not adjust claims without a third party administrator license.

~~[(165)]~~ (167) "Title insurance" means the insuring, guaranteeing, or indemnifying of an owner of real or personal property or the holder of liens or encumbrances on that property, or others interested in the property against loss or damage suffered by reason of liens or encumbrances upon, defects in, or the unmarketability of the title to the property, or invalidity or unenforceability of any liens or encumbrances on the property.

~~[(166)]~~ (168) "Total adjusted capital" means the sum of an insurer's or health organization's statutory capital and surplus as determined in accordance with:

(a) the statutory accounting applicable to the annual financial statements required to be filed under Section 31A-4-113; and

(b) another item provided by the RBC instructions, as RBC instructions is defined in Section 31A-17-601.

~~[(167)]~~ (169) (a) "Trustee" means "director" when referring to the board of directors of a corporation.

(b) "Trustee," when used in reference to an employee welfare fund, means an individual, firm, association, organization, joint stock company, or corporation, whether acting individually or jointly and whether designated by that name or any other, that is charged with or has the overall management of an employee welfare fund.

~~[(168)]~~ (170) (a) "Unauthorized insurer," "unadmitted insurer," or "nonadmitted insurer" means an insurer:

(i) not holding a valid certificate of authority to do an insurance business in this state; or

(ii) transacting business not authorized by a valid certificate.

(b) "Admitted insurer" or "authorized insurer" means an insurer:

(i) holding a valid certificate of authority to do an insurance business in this state; and

(ii) transacting business as authorized by a valid certificate.

~~[(169)]~~ (171) "Underwrite" means the authority to accept or reject risk on behalf of the insurer.

~~[(170)]~~ (172) "Vehicle liability insurance" means insurance against liability resulting from or incident to ownership, maintenance, or use of a land vehicle or aircraft, exclusive of a vehicle comprehensive or vehicle physical damage coverage under Subsection ~~[(139)]~~ (140).

~~[(171)]~~ (173) "Voting security" means a security with voting rights, and includes a security convertible into a security with a voting right associated with the security.

~~[(172)]~~ (174) "Waiting period" for a health benefit plan means the period that must pass before coverage for an individual, who is otherwise eligible to enroll under the terms of the health benefit plan, can become effective.

~~[(173)]~~ (175) "Workers' compensation insurance" means:

(a) insurance for indemnification of an employer against liability for compensation based on:

(i) a compensable accidental injury; and

(ii) occupational disease disability;

(b) employer's liability insurance incidental to workers' compensation insurance and written in connection with workers' compensation insurance; and

(c) insurance assuring to a person entitled to workers' compensation benefits the compensation provided by law.

Section 2. Section 31A-3-304 (Effective 07/01/15) is amended to read:

31A-3-304 (Effective 07/01/15). Annual fees -- Other taxes or fees prohibited -- Captive Insurance Restricted Account.

(1) (a) A captive insurance company shall pay an annual fee imposed under this section to obtain or renew a certificate of authority.

(b) The commissioner shall:

(i) determine the annual fee pursuant to Section 31A-3-103; and

(ii) consider whether the annual fee is competitive with fees imposed by other states on captive insurance companies.

(2) A captive insurance company that fails to pay the fee required by this section is subject to the relevant sanctions of this title.

(3) (a) Except as provided in Subsection (3)(d) and notwithstanding Title 59, Chapter 9, Taxation of

Admitted Insurers, the following constitute the sole taxes, fees, or charges under the laws of this state that may be levied or assessed on a captive insurance company:

- (i) a fee under this section;
 - (ii) a fee under Chapter 37, Captive Insurance Companies Act; and
 - (iii) a fee under Chapter 37a, Special Purpose Financial Captive Insurance Company Act.
- (b) The state or a county, city, or town within the state may not levy or collect an occupation tax or other tax, fee, or charge not described in Subsections (3)(a)(i) through (iii) against a captive insurance company.
- (c) The state may not levy, assess, or collect a withdrawal fee under Section 31A-4-115 against a captive insurance company.
- (d) A captive insurance company is subject to real and personal property taxes.
- (4) A captive insurance company shall pay the fee imposed by this section to the commissioner by June 1 of each year.
- (5) (a) Money received pursuant to a fee described in Subsection (3)(a) shall be deposited into the Captive Insurance Restricted Account.
- (b) There is created in the General Fund a restricted account known as the "Captive Insurance Restricted Account."
- (c) The Captive Insurance Restricted Account shall consist of the fees described in Subsection (3)(a).
- (d) The commissioner shall administer the Captive Insurance Restricted Account. Subject to appropriations by the Legislature, the commissioner shall use the money deposited into the Captive Insurance Restricted Account to:
- (i) administer and enforce:
 - (A) Chapter 37, Captive Insurance Companies Act; and
 - (B) Chapter 37a, Special Purpose Financial Captive Insurance Company Act; and
 - (ii) promote the captive insurance industry in Utah.
 - (e) An appropriation from the Captive Insurance Restricted Account is nonlapsing, except that at the end of each fiscal year, money received by the commissioner in excess of [\$1,250,000] the following shall be treated as free revenue in the General Fund~~[-]~~:
 - (i) for fiscal year 2015-2016, in excess of \$1,250,000;
 - (ii) for fiscal year 2016-2017, in excess of \$1,250,000; and
 - (iii) for fiscal year 2017-2018 and subsequent fiscal years, in excess of \$1,850,000.

Section 3. Section 31A-6a-101 is amended to read:

31A-6a-101. Definitions.

(1) "Mechanical breakdown insurance" means a policy, contract, or agreement issued by an insurance company that has complied with either ~~[Title 31A,]~~ Chapter 5, Domestic Stock and Mutual Insurance Corporations, or ~~[Title 31A,]~~ Chapter 14, Foreign Insurers, that undertakes to perform or provide repair or replacement service on goods or property, or indemnification for repair or replacement service, for the operational or structural failure of the goods or property due to a defect in materials, workmanship, or normal wear and tear.

(2) "Nonmanufacturers' parts" means replacement parts not made for or by the original manufacturer of the goods commonly referred to as "after market parts."

(3) (a) "Road hazard" means a hazard that is encountered while driving a motor vehicle.

(b) "Road hazard" includes potholes, rocks, wood debris, metal parts, glass, plastic, curbs, or composite scraps.

~~[(3)]~~ (4) (a) "Service contract" means a contract or agreement to perform or reimburse for the repair or maintenance of goods or property, for their operational or structural failure due to a defect in materials, workmanship, or normal wear and tear, with or without additional provision for incidental payment of indemnity under limited circumstances.

(b) "Service contract" does not include mechanical breakdown insurance ~~[as defined in Subsection (4)].~~

(c) "Service contract" includes any contract or agreement to perform or reimburse the service contract holder for any one or more of the following services:

(i) the repair or replacement of tires, wheels, or both on a motor vehicle damaged as a result of coming into contact with a road hazard;

(ii) the removal of dents, dings, or creases on a motor vehicle that can be repaired using the process of paintless dent removal without affecting the existing paint finish and without replacing vehicle body panels, sanding, bonding, or painting;

(iii) the repair of chips or cracks in or the replacement of a motor vehicle windshield as a result of damage caused by a road hazard, that is primary to the coverage offered by the motor vehicle owner's motor vehicle insurance policy; or

(iv) the replacement of a motor vehicle key or key-fob if the key or key-fob becomes inoperable, lost, or stolen, except that the replacement of lost or stolen property is limited to only the replacement of a lost or stolen motor vehicle key or key-fob.

~~[(4)]~~ (5) "Service contract holder" or "contract holder" means a person who purchases a service contract.

[45] (6) “Service contract provider” means a person who issues, makes, provides, administers, sells or offers to sell a service contract, or who is contractually obligated to provide service under a service contract.

[46] (7) “Service contract reimbursement policy” or “reimbursement insurance policy” means a policy of insurance providing coverage for all obligations and liabilities incurred by the service contract provider under the terms of the service contract issued by the provider.

(8) (a) “Vehicle protection product” means a device or system that is:

(i) installed on or applied to a motor vehicle; and

(ii) designed to prevent the theft of the vehicle.

(b) “Vehicle protection product” includes:

(i) a vehicle protection product warranty;

(ii) an alarm system;

(iii) a body part marking product;

(iv) a steering lock;

(v) a window etch product;

(vi) a pedal and ignition lock;

(vii) a fuel and ignition kill switch; and

(viii) an electronic, radio, or satellite tracking device.

(9) “Vehicle protection product warranty” means a written agreement by a warrantor that provides if the vehicle protection product fails to prevent the theft of the motor vehicle, that the warrantor will reimburse the warranty holder under the warranty in a fixed amount specified in the warranty, not to exceed \$5,000.

(10) “Warrantor” means a person who is contractually obligated to the warranty holder under the terms of a vehicle protection product warranty.

(11) “Warranty holder” means the person who purchases a vehicle protection product, any authorized transferee or assignee of the purchaser, or any other person legally assuming the purchaser’s rights under the vehicle protection product warranty.

Section 4. Section 31A-6a-103 is amended to read:

31A-6a-103. Requirements for doing business.

(1) A service contract or vehicle protection product warranty may not be issued, sold, or offered for sale in this state unless the service contract or vehicle protection product warranty is insured under a ~~[service—contract]~~ reimbursement insurance policy issued by:

(a) an insurer authorized to do business in this state; or

(b) a recognized surplus lines carrier.

(2) (a) A service contract or vehicle protection product warranty may not be issued, sold, or offered for sale unless the service contract provider or warrantor completes the registration process described in this Subsection (2).

(b) To register, a service contract provider or warrantor shall submit to the department the following:

(i) an application for registration;

(ii) a fee established in accordance with Section 31A-3-103;

(iii) a copy of any service contract or vehicle protection product warranty that the service contract provider or warrantor offers in this state; and

(iv) a copy of the service contract provider’s or warrantor’s reimbursement insurance policy.

(c) A service provider or warrantor shall submit the information described in Subsection (2)(b) no less than 30 days before the day on which the service provider or warrantor issues, sells, offers for sale, or uses a service contract, vehicle protection product warranty, or reimbursement insurance policy in this state.

(d) A service provider or warrantor shall file any modification of the terms of a service contract, vehicle protection product warranty, or reimbursement insurance policy 30 days before the day on which it is used in this state.

(e) A person complying with this chapter is not required to comply with:

(i) Subsections 31A-21-201(1) and 31A-23a-402(3); or

(ii) Chapter 19a, Utah Rate Regulation Act.

(3) (a) Premiums collected on a service contract are not subject to premium taxes.

(b) Premiums collected by an issuer of a reimbursement insurance policy are subject to premium taxes.

(4) A person marketing, selling, or offering to sell a service contract or vehicle protection product warranty for a service contract provider or warrantor that complies with this chapter is exempt from the licensing requirements of this title.

(5) A service contract provider or warrantor complying with this chapter is not required to comply with:

(a) Chapter 5, Domestic Stock and Mutual Insurance Corporations;

(b) Chapter 7, Nonprofit Health Service Insurance Corporations;

(c) Chapter 8, Health Maintenance Organizations and Limited Health Plans;

(d) Chapter 9, Insurance Fraternal; and

(e) Chapter 10, Annuities;

(f) Chapter 11, Motor Clubs;

- (g) Chapter 12, State Risk Management Fund;
- (h) Chapter 13, Employee Welfare Funds and Plans;
- (i) Chapter 14, Foreign Insurers;
- (j) Chapter 19a, Utah Rate Regulation Act;
- (k) Chapter 25, Third Party Administrators; and
- (l) Chapter 28, Guaranty Associations.

Section 5. Section 31A-6a-104 is amended to read:

31A-6a-104. Required disclosures.

(1) A service contract reimbursement insurance policy insuring a service contract that is issued, sold, or offered for sale in this state shall conspicuously state that, upon failure of the service contract provider to perform under the contract, the issuer of the policy shall:

(a) pay on behalf of the service contract provider any sums the service contract provider is legally obligated to pay according to the service contract provider's contractual obligations under the service contract issued or sold by the service contract provider; or

(b) provide the service which the service contract provider is legally obligated to perform, according to the service contract provider's contractual obligations under the service contract issued or sold by the service contract provider.

(2) (a) A service contract may not be issued, sold, or offered for sale in this state unless the service contract contains the following statements in substantially the following form:

(i) "Obligations of the provider under this service contract are guaranteed under a service contract reimbursement insurance policy. Should the provider fail to pay or provide service on any claim within 60 days after proof of loss has been filed, the contract holder is entitled to make a claim directly against the Insurance Company."; and

(ii) "This service contract or warranty is subject to limited regulation by the Utah Insurance Department. To file a complaint, contact the Utah Insurance Department."

(b) A service contract or reimbursement insurance policy may not be issued, sold, or offered for sale in this state unless the contract contains a statement in substantially the following form, "Coverage afforded under this contract is not guaranteed by the Property and Casualty Guaranty Association."

(3) A service contract shall:

(a) conspicuously state the name, address, and a toll free claims service telephone number of the reimbursement insurer;

(b) identify the service contract provider, the seller, and the service contract holder;

(c) conspicuously state the total purchase price and the terms under which the service contract is to be paid;

(d) conspicuously state the existence of any deductible amount;

(e) specify the merchandise, service to be provided, and any limitation, exception, or exclusion;

(f) state a term, restriction, or condition governing the transferability of the service contract; and

(g) state a term, restriction, or condition that governs cancellation of the service contract as provided in Sections 31A-21-303 through 31A-21-305 by either the contract holder or service contract provider.

(4) If prior approval of repair work is required, a service contract shall conspicuously state the procedure for obtaining prior approval and for making a claim, including:

(a) a toll free telephone number for claim service; and

(b) a procedure for obtaining reimbursement for emergency repairs performed outside of normal business hours.

(5) A preexisting condition clause in a service contract shall specifically state which preexisting condition is excluded from coverage.

(6) (a) Except as provided in Subsection (6)(c), a service contract shall state the conditions upon which the use of a nonmanufacturers' part is allowed.

(b) A condition described in Subsection (6)(a) shall comply with applicable state and federal laws.

(c) This Subsection (6) does not apply to a home warranty contract.

(7) This section applies to a vehicle protection product warranty, except for the requirements of Subsection (3)(g). The department may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement the application of this section to a vehicle protection product warranty.

(8) A vehicle protection product warranty shall contain a conspicuous statement in substantially the following form: "Purchase of this product is optional and is not required in order to finance, lease, or purchase a motor vehicle."

Section 6. Section 31A-6a-105 is amended to read:

31A-6a-105. Prohibited acts.

(1) Except as provided in Subsection 31A-6a-104(2), a service contract provider may not use in its name, a contract, or literature:

(a) any of the following words:

(i) "insurance";

(ii) "casualty";

- (iii) “surety”;
- (iv) “mutual”; or
- (v) another word descriptive of the insurance, casualty, or surety business; or
- (b) a name deceptively similar to the name or description of:
- (i) an insurance or surety corporation; or
- (ii) another service contract provider.
- (2) A service contract provider or the service contract provider’s representative may not:
- (a) make, permit, or cause to be made a false or misleading statement in connection with the sale, offer to sell, or advertisement of a service contract; or
- (b) deliberately omit a material statement that would be considered misleading if omitted, in connection with the sale, offer to sell, or advertisement of a service contract.
- (3) A bank, savings and loan association, insurance company, or other lending institution may not require the purchase of a service contract as a condition of a loan.
- (4) Except for a bank, savings and loan association, industrial bank, or credit union, a service contract provider may not sell, or be the obligated party for:
- (a) a guaranteed asset protection waiver, unless registered with the commissioner under Chapter 6b, Guaranteed Asset Protection Waiver Act;
- (b) a debt cancellation agreement, unless licensed by the commissioner; or
- (c) a debt suspension agreement, unless licensed by the commissioner.

(5) A warrantor or its representative may not require the purchase of a vehicle protection product as a condition of the financing, lease, or purchase of a motor vehicle.

Section 7. Section 31A-6a-111 is enacted to read:

31A-6a-111. Vehicle protection product warranty requirements.

The fixed amount of reimbursement under a vehicle protection product warranty shall be uniform for all warranty holders of the same vehicle protection product warranty.

Section 8. Section 31A-16-102.5 is enacted to read:

31A-16-102.5. Subsidiaries of insurers.

(1) (a) A domestic insurer may organize or acquire one or more subsidiaries either:

- (i) by itself; or
- (ii) in cooperation with one or more persons.
- (b) A subsidiary of a domestic insurer may conduct any kind of business or businesses and its

authority to do so may not be limited by reason of the fact that it is a subsidiary of a domestic insurer.

(2) (a) In addition to investments in common stock, preferred stock, debt obligations, and other securities permitted under all other sections of this chapter, a domestic insurer may also invest in the following securities of one or more subsidiaries:

- (i) common stock;
- (ii) preferred stock;
- (iii) debt obligations; or
- (iv) other securities.

(b) Amounts under Subsection (2)(a) that do not exceed the lesser of 10% of the insurer’s assets or 50% of the insurer’s surplus as regards policyholders are permitted, if after the investments, the insurer’s surplus as regards policyholders will be reasonable in relation to the insurer’s outstanding liabilities and adequate to meet its financial needs.

(c) In calculating the amount of the investments described in Subsection (2)(b), investments in domestic or foreign insurance subsidiaries and health organizations shall be excluded, and there shall be included:

- (i) total net money or other consideration expended and obligations assumed in the acquisition or formation of a subsidiary, including all organizational expenses and contributions to capital and surplus of the subsidiary whether or not represented by the purchase of capital stock or issuance of other securities; and
- (ii) the amounts expended in acquiring additional common stock, preferred stock, debt obligations, and other securities, and all contributions to the capital or surplus of a subsidiary subsequent to its acquisition or formation.

(d) (i) A domestic insurer may invest any amount in securities described in Subsection (2)(a) of one or more subsidiaries engaged or organized to engage exclusively in the ownership and management of assets authorized as investments for the insurer if each subsidiary agrees to limit its investments in any asset so that the investments will not cause the amount of the total investment of the insurer to exceed any of the investment limitations specified in Subsection (2)(b) applicable to the insurer.

(ii) For purposes of this Subsection (2)(d), “the total investment of the insurer” shall include:

(A) a direct investment by the insurer in an asset; and

(B) the insurer’s proportionate share of an investment in an asset by a subsidiary of the insurer, which shall be calculated by multiplying the amount of the subsidiary’s investment by the percentage of the ownership of the subsidiary.

(e) With the approval of the commissioner, a domestic insurer may invest any greater amount in securities described in Subsection (2)(a) provided that after the investment the insurer’s surplus as regards policyholders will be reasonable in relation

to the insurer's outstanding liabilities and adequate to its financial needs.

(3) Investments in securities described in Subsection (2)(a) may not be subject to any of the otherwise applicable restrictions or prohibitions contained in this chapter applicable to the investments of insurers.

(4) Whether any investment made pursuant to Subsection (2) meets the applicable requirements of Subsection (2) shall be determined before the investment is made, by calculating the applicable investment limitations as though the investment had already been made, taking into account:

(a) the then outstanding principal balance on all previous investments in debt obligations; and

(b) the value of all previous investments in equity securities as of the day they were made net of any return of capital invested not including dividends.

(5) (a) Subject to Subsection (5)(b), if an insurer ceases to control a subsidiary, it shall dispose of any investment in the subsidiary made pursuant to this section:

(i) within three years from the time of the cessation of control; or

(ii) within such further time as the commissioner may prescribe.

(b) Subsection (5)(a) does not apply if at any time after the investment is made, the investment meets the requirements for investment under any other section of this chapter, and the insurer has so notified the commissioner.

Section 9. Section 31A-16-103 is amended to read:

31A-16-103. Acquisition of control of, divestiture of control of, or merger with domestic insurer.

(1) (a) A person may not take the actions described in ~~[Subsections]~~ Subsection (1)(b) or (c) unless, at the time any offer, request, or invitation is made or any such agreement is entered into, or prior to the acquisition of securities if no offer or agreement is involved:

(i) the person files with the commissioner a statement containing the information required by this section;

(ii) the person provides a copy of the statement described in Subsection (1)(a)(i) to the insurer; and

(iii) the commissioner approves the offer, request, invitation, agreement, or acquisition.

(b) Unless the person complies with Subsection (1)(a), a person other than the issuer may not make a tender offer for, a request or invitation for tenders of, or enter into any agreement to exchange securities, or seek to acquire or acquire in the open market or otherwise, any voting security of a domestic insurer if after the acquisition, the person would directly, indirectly, by conversion, or by exercise of any right to acquire be in control of the insurer.

(c) Unless the person complies with Subsection (1)(a), a person may not enter into an agreement to merge with or otherwise to acquire control of:

(i) a domestic insurer; or

(ii) any person controlling a domestic insurer.

(d) For purposes of this section, a controlling person of a domestic insurer seeking to divest its controlling interest in the domestic insurer, in any manner, shall file with the commissioner, with a copy to the insurer, confidential notice of its proposed divestiture at least 30 days before the cessation of control. The commissioner shall determine those instances in which the one or more persons seeking to divest or to acquire a controlling interest in an insurer, will be required to file for and obtain approval of the transaction. The information shall remain confidential until the conclusion of the transaction unless the commissioner, in the commissioner's discretion, determines that confidential treatment will interfere with enforcement of this section. If the statement referred to in Subsection (1)(a) is otherwise filed, this Subsection (1)(d) does not apply.

(e) With respect to a transaction subject to this section, the acquiring person shall also file a pre-acquisition notification with the commissioner, which shall contain the information set forth in Section 31A-16-104.5. A failure to file the notification may be subject to penalties specified in Section 31A-16-104.5.

~~(d)~~ (f) (i) For purposes of this section, a domestic insurer includes any person controlling a domestic insurer unless the person as determined by the commissioner is either directly or through its affiliates primarily engaged in business other than the business of insurance.

(ii) The controlling person described in Subsection (1)~~(d)~~(f)(i) shall file with the commissioner a preacquisition notification containing the information required in Subsection (2) 30 calendar days before the proposed effective date of the acquisition.

(iii) For the purposes of this section, "person" does not include any securities broker that in the usual and customary brokers function holds less than 20% of:

(A) the voting securities of an insurance company; or

(B) any person that controls an insurance company.

(iv) This section applies to all domestic insurers and other entities licensed under ~~[Chapters 5, 7, 8, 9, and 11.]~~

(A) Chapter 5, Domestic Stock and Mutual Insurance Corporations;

(B) Chapter 7, Nonprofit Health Service Insurance Corporations;

(C) Chapter 8, Health Maintenance Organizations and Limited Health Plans;

(D) Chapter 9, Insurance Fraternal; and

(E) Chapter 11, Motor Clubs.

~~(e)~~ (g) (i) An agreement for acquisition of control or merger as contemplated by this Subsection (1) is not valid or enforceable unless the agreement:

(A) is in writing; and

(B) includes a provision that the agreement is subject to the approval of the commissioner upon the filing of any applicable statement required under this chapter.

(ii) A written agreement for acquisition or control that includes the provision described in Subsection (1)~~(e)~~(g)(i) satisfies the requirements of this Subsection (1).

(2) The statement to be filed with the commissioner under Subsection (1) shall be made under oath or affirmation and shall contain the following information:

(a) the name and address of the “acquiring party,” which means each person by whom or on whose behalf the merger or other acquisition of control referred to in Subsection (1) is to be effected; and

(i) if the person is an individual:

(A) the person’s principal occupation;

(B) a listing of all offices and positions held by the person during the past five years; and

(C) any conviction of crimes other than minor traffic violations during the past 10 years; and

(ii) if the person is not an individual:

(A) a report of the nature of its business operations during:

(I) the past five years; or

(II) for any lesser period as the person and any of its predecessors has been in existence;

(B) an informative description of the business intended to be done by the person and the person’s subsidiaries;

(C) a list of all individuals who are or who have been selected to become directors or executive officers of the person, or individuals who perform, or who will perform functions appropriate to such positions; and

(D) for each individual described in Subsection (2)(a)(ii)(C), the information required by Subsection (2)(a)(i) for each individual;

(b) (i) the source, nature, and amount of the consideration used or to be used in effecting the merger or acquisition of control;

(ii) a description of any transaction in which funds were or are to be obtained for the purpose of effecting the merger or acquisition of control, including any pledge of:

(A) the insurer’s stock; or

(B) the stock of any of the insurer’s subsidiaries or controlling affiliates; and

(iii) the identity of persons furnishing the consideration;

(c) (i) fully audited financial information, or other financial information considered acceptable by the commissioner, of the earnings and financial condition of each acquiring party for:

(A) the preceding five fiscal years of each acquiring party; or

(B) any lesser period the acquiring party and any of its predecessors shall have been in existence; and

(ii) unaudited information:

(A) similar to the information described in Subsection (2)(c)(i); and

(B) prepared within the 90 days prior to the filing of the statement;

(d) any plans or proposals which each acquiring party may have to:

(i) liquidate the insurer;

(ii) sell its assets;

(iii) merge or consolidate the insurer with any person; or

(iv) make any other material change in the insurer’s:

(A) business;

(B) corporate structure; or

(C) management;

(e) (i) the number of shares of any security referred to in Subsection (1) that each acquiring party proposes to acquire;

(ii) the terms of the offer, request, invitation, agreement, or acquisition referred to in Subsection (1); and

(iii) a statement as to the method by which the fairness of the proposal was arrived at;

(f) the amount of each class of any security referred to in Subsection (1) that:

(i) is beneficially owned; or

(ii) concerning which there is a right to acquire beneficial ownership by each acquiring party;

(g) a full description of any contract, arrangement, or understanding with respect to any security referred to in Subsection (1) in which any acquiring party is involved, including:

(i) the transfer of any of the securities;

(ii) joint ventures;

(iii) loan or option arrangements;

(iv) puts or calls;

(v) guarantees of loans;

(vi) guarantees against loss or guarantees of profits;

(vii) division of losses or profits; or

- (viii) the giving or withholding of proxies;
- (h) a description of the purchase by any acquiring party of any security referred to in Subsection (1) during the 12 calendar months preceding the filing of the statement including:
- (i) the dates of purchase;
 - (ii) the names of the purchasers; and
 - (iii) the consideration paid or agreed to be paid for the purchase;
 - (i) a description of:
 - (i) any recommendations to purchase by any acquiring party any security referred to in Subsection (1) made during the 12 calendar months preceding the filing of the statement; or
 - (ii) any recommendations made by anyone based upon interviews or at the suggestion of the acquiring party;
 - (j) (i) copies of all tender offers for, requests for, or invitations to tenders of, exchange offers for, and agreements to acquire or exchange any securities referred to in Subsection (1); and
 - (ii) if distributed, copies of additional soliciting material relating to the transactions described in Subsection (2)(j)(i);
 - (k) (i) the term of any agreement, contract, or understanding made with, or proposed to be made with, any broker-dealer as to solicitation of securities referred to in Subsection (1) for tender; and
 - (ii) the amount of any fees, commissions, or other compensation to be paid to broker-dealers with regard to any agreement, contract, or understanding described in Subsection (2)(k)(i); [and]
 - (l) an agreement by the person required to file the statement referred to in Subsection (1) that it will provide the annual report, specified in Section 31A-16-105, for so long as control exists;
 - (m) an acknowledgment by the person required to file the statement referred to in Subsection (1) that the person and all subsidiaries within its control in the insurance holding company system will provide information to the commissioner upon request as necessary to evaluate enterprise risk to the insurer; and
 - (n) any additional information the commissioner requires by rule, which the commissioner determines to be:
 - (i) necessary or appropriate for the protection of policyholders of the insurer; or
 - (ii) in the public interest.
- (3) The department may request:
- (a) (i) criminal background information maintained pursuant to Title 53, Chapter 10, Part 2, Bureau of Criminal Identification, from the Bureau of Criminal Identification; and

- (ii) complete Federal Bureau of Investigation criminal background checks through the national criminal history system.
 - (b) Information obtained by the department from the review of criminal history records received under Subsection (3)(a) shall be used by the department for the purpose of:
 - (i) verifying the information in Subsection (2)(a)(i);
 - (ii) determining the integrity of persons who would control the operation of an insurer; and
 - (iii) preventing persons who violate 18 U.S.C. Sec. 1033 from engaging in the business of insurance in the state.
 - (c) If the department requests the criminal background information, the department shall:
 - (i) pay to the Department of Public Safety the costs incurred by the Department of Public Safety in providing the department criminal background information under Subsection (3)(a)(i);
 - (ii) pay to the Federal Bureau of Investigation the costs incurred by the Federal Bureau of Investigation in providing the department criminal background information under Subsection (3)(a)(ii); and
 - (iii) charge the person required to file the statement referred to in Subsection (1) a fee equal to the aggregate of Subsections (3)(c)(i) and (ii).
 - (4) (a) If the source of the consideration under Subsection (2)(b)(i) is a loan made in the lender's ordinary course of business, the identity of the lender shall remain confidential, if the person filing the statement so requests.
 - (b) (i) Under Subsection (2)(e), the commissioner may require a statement of the adjusted book value assigned by the acquiring party to each security in arriving at the terms of the offer.
 - (ii) For purposes of this Subsection (4)(b), "adjusted book value" means each security's proportional interest in the capital and surplus of the insurer with adjustments that reflect:
 - (A) market conditions;
 - (B) business in force; and
 - (C) other intangible assets or liabilities of the insurer.
 - (c) The description required by Subsection (2)(g) shall identify the persons with whom the contracts, arrangements, or understandings have been entered into.
 - (5) (a) If the person required to file the statement referred to in Subsection (1) is a partnership, limited partnership, syndicate, or other group, the commissioner may require that all the information called for by ~~Subsections~~ Subsection (2), (3), or (4) shall be given with respect to each:
 - (i) partner of the partnership or limited partnership;
 - (ii) member of the syndicate or group; and

(iii) person who controls the partner or member.

(b) If any partner, member, or person referred to in Subsection (5)(a) is a corporation, or if the person required to file the statement referred to in Subsection (1) is a corporation, the commissioner may require that the information called for by Subsection (2) shall be given with respect to:

(i) the corporation;

(ii) each officer and director of the corporation; and

(iii) each person who is directly or indirectly the beneficial owner of more than 10% of the outstanding voting securities of the corporation.

(6) If any material change occurs in the facts set forth in the statement filed with the commissioner and sent to the insurer pursuant to Subsection (2), an amendment setting forth the change, together with copies of all documents and other material relevant to the change, shall be filed with the commissioner and sent to the insurer within two business days after the filing person learns of such change.

(7) If any offer, request, invitation, agreement, or acquisition referred to in Subsection (1) is proposed to be made by means of a registration statement under the Securities Act of 1933, or under circumstances requiring the disclosure of similar information under the Securities Exchange Act of 1934, or under a state law requiring similar registration or disclosure, a person required to file the statement referred to in Subsection (1) may use copies of any registration or disclosure documents in furnishing the information called for by the statement.

(8) (a) The commissioner shall approve any merger or other acquisition of control referred to in Subsection (1) unless, after a public hearing on the merger or acquisition, the commissioner finds that:

(i) after the change of control, the domestic insurer referred to in Subsection (1) would not be able to satisfy the requirements for the issuance of a license to write the line or lines of insurance for which it is presently licensed;

(ii) the effect of the merger or other acquisition of control would:

(A) substantially lessen competition in insurance in this state; or

(B) tend to create a monopoly in insurance;

(iii) the financial condition of any acquiring party might:

(A) jeopardize the financial stability of the insurer; or

(B) prejudice the interest of:

(I) its policyholders; or

(II) any remaining securityholders who are unaffiliated with the acquiring party;

(iv) the terms of the offer, request, invitation, agreement, or acquisition referred to in Subsection (1) are unfair and unreasonable to the securityholders of the insurer;

(v) the plans or proposals which the acquiring party has to liquidate the insurer, sell its assets, or consolidate or merge it with any person, or to make any other material change in its business or corporate structure or management, are:

(A) unfair and unreasonable to policyholders of the insurer; and

(B) not in the public interest; or

(vi) the competence, experience, and integrity of those persons who would control the operation of the insurer are such that it would not be in the interest of the policyholders of the insurer and the public to permit the merger or other acquisition of control.

(b) For purposes of Subsection (8)(a)(iv), the offering price for each security may not be considered unfair if the adjusted book values under Subsection (2)(e):

(i) are disclosed to the securityholders; and

(ii) determined by the commissioner to be reasonable.

(9) (a) The public hearing referred to in Subsection (8) shall be held within 30 days after the statement required by Subsection (1) is filed.

(b) (i) At least 20 days notice of the hearing shall be given by the commissioner to the person filing the statement.

(ii) Affected parties may waive the notice required by this Subsection (9)(b).

(iii) Not less than seven days notice of the public hearing shall be given by the person filing the statement to:

(A) the insurer; and

(B) any person designated by the commissioner.

(c) The commissioner shall make a determination within 30 days after the conclusion of the hearing.

(d) At the hearing, the person filing the statement, the insurer, any person to whom notice of hearing was sent, and any other person whose interest may be affected by the hearing may:

(i) present evidence;

(ii) examine and cross-examine witnesses; and

(iii) offer oral and written arguments.

(e) (i) A person or insurer described in Subsection (9)(d) may conduct discovery proceedings in the same manner as is presently allowed in the district courts of this state.

(ii) All discovery proceedings shall be concluded not later than three days before the commencement of the public hearing.

(10) If the proposed acquisition of control will require the approval of more than one

commissioner, the public hearing referred to in Subsection (9)(a) may be held on a consolidated basis upon request of the person filing the statement referred to in Subsection (1). The person shall file the statement referred to in Subsection (1) with the National Association of Insurance Commissioners within five days of making the request for a public hearing. A commissioner may opt out of a consolidated hearing and shall provide notice to the applicant of the opt-out within 10 days of the receipt of the statement referred to in Subsection (1). A hearing conducted on a consolidated basis shall be public and shall be held within the United States before the commissioners of the states in which the insurers are domiciled. The commissioners shall hear and receive evidence. A commissioner may attend a hearing under this Subsection (10) in person or by telecommunication.

(11) In connection with a change of control of a domestic insurer, any determination by the commissioner that the person acquiring control of the insurer shall be required to maintain or restore the capital of the insurer to the level required by the laws and regulations of this state shall be made not later than 60 days after the date of notification of the change in control submitted pursuant to Subsection (1).

~~[(10)]~~ (12) (a) The commissioner may retain technical experts to assist in reviewing all, or a portion of, information filed in connection with a proposed merger or other acquisition of control referred to in Subsection (1).

(b) In determining whether any of the conditions in Subsection (8) exist, the commissioner may consider the findings of technical experts employed to review applicable filings.

(c) (i) A technical expert employed under Subsection ~~[(10)]~~ (12)(a) shall present to the commissioner a statement of all expenses incurred by the technical expert in conjunction with the technical expert's review of a proposed merger or other acquisition of control.

(ii) At the commissioner's direction the acquiring person shall compensate the technical expert at customary rates for time and expenses:

- (A) necessarily incurred; and
 - (B) approved by the commissioner.
- (iii) The acquiring person shall:

(A) certify the consolidated account of all charges and expenses incurred for the review by technical experts;

(B) retain a copy of the consolidated account described in Subsection ~~[(10)]~~ (12)(c)(iii)(A); and

(C) file with the department as a public record a copy of the consolidated account described in Subsection ~~[(10)]~~ (12)(c)(iii)(A).

~~[(11)]~~ (13) (a) (i) If a domestic insurer proposes to merge into another insurer, any securityholder electing to exercise a right of dissent may file with the insurer a written request for payment of the

adjusted book value given in the statement required by Subsection (1) and approved under Subsection (8), in return for the surrender of the security holder's securities.

(ii) The request described in Subsection ~~[(11)]~~ (13)(a)(i) shall be filed not later than 10 days after the day of the securityholders' meeting where the corporate action is approved.

(b) The dissenting securityholder is entitled to and the insurer is required to pay to the dissenting securityholder the specified value within 60 days of receipt of the dissenting security holder's security.

(c) Persons electing under this Subsection ~~[(11)]~~ (13) to receive cash for their securities waive the dissenting shareholder and appraisal rights otherwise applicable under Title 16, Chapter 10a, Part 13, Dissenters' Rights.

(d) (i) This Subsection ~~[(11)]~~ (13) provides an elective procedure for dissenting securityholders to resolve their objections to the plan of merger.

(ii) This section does not restrict the rights of dissenting securityholders under Title 16, Chapter 10a, Utah Revised Business Corporation Act, unless this election is made under this Subsection ~~[(11)]~~ (13).

~~[(12)]~~ (14) (a) All statements, amendments, or other material filed under Subsection (1), and all notices of public hearings held under Subsection (8), shall be mailed by the insurer to its securityholders within five business days after the insurer has received the statements, amendments, other material, or notices.

(b) (i) Mailing expenses shall be paid by the person making the filing.

(ii) As security for the payment of mailing expenses, that person shall file with the commissioner an acceptable bond or other deposit in an amount determined by the commissioner.

~~[(13)]~~ (15) This section does not apply to any offer, request, invitation, agreement, or acquisition that the commissioner by order exempts from the requirements of this section as:

- (a) not having been made or entered into for the purpose of, and not having the effect of, changing or influencing the control of a domestic insurer; or
- (b) otherwise not comprehended within the purposes of this section.

~~[(14)]~~ (16) The following are violations of this section:

(a) the failure to file any statement, amendment, or other material required to be filed pursuant to Subsections (1), (2), and (5); or

(b) the effectuation, or any attempt to effectuate, an acquisition of control of, divestiture of, or merger with a domestic insurer unless the commissioner has given the commissioner's approval to the acquisition or merger.

~~[(15)]~~ (17) (a) The courts of this state are vested with jurisdiction over:

(i) a person who:

(A) files a statement with the commissioner under this section; and

(B) is not resident, domiciled, or authorized to do business in this state; and

(ii) overall actions involving persons described in Subsection ~~[(15)]~~ (17)(a)(i) arising out of a violation of this section.

(b) A person described in Subsection ~~[(15)]~~ (17)(a) is considered to have performed acts equivalent to and constituting an appointment of the commissioner by that person, to be that person's lawful agent upon whom may be served all lawful process in any action, suit, or proceeding arising out of a violation of this section.

(c) A copy of a lawful process described in Subsection ~~[(15)]~~ (17)(b) shall be:

(i) served on the commissioner; and

(ii) transmitted by registered or certified mail by the commissioner to the person at that person's last-known address.

Section 10. Section 31A-16-104.5 is enacted to read:

31A-16-104.5. Acquisitions involving insurers not otherwise covered.

(1) The following definitions apply for the purposes of this section only:

(a) "Acquisition" means an agreement, arrangement, or activity the consummation of which results in a person acquiring directly or indirectly the control of another person and includes the acquisition of voting securities, the acquisition of assets, bulk reinsurance, and mergers.

(b) "Insurer" includes any company or group of companies under common management, ownership, or control.

(c) "Involved insurer" includes an insurer that either acquires or is acquired, is affiliated with an acquirer or acquired, or is the result of a merger.

(d) (i) "Market" means the relevant product and geographical markets. In determining the relevant product and geographical markets, the commissioner shall give due consideration to, among other things, the definitions or guidelines, if any, promulgated by the National Association of Insurance Commissioners and to information, if any, submitted by parties to the acquisition. In the absence of sufficient information to the contrary, the relevant product market is assumed to be the direct written insurance premium for a line of business, such line being that used in the annual statement required to be filed by insurers doing business in this state, and the relevant geographical market is assumed to be this state.

(ii) Notwithstanding Subsection (1)(d)(i), for purposes of Subsection (2)(b), "market" means direct written insurance premium in this state for a line of business as contained in the annual

statement required to be filed by insurers licensed to do business in this state.

(2) (a) This section applies to any acquisition in which there is a change in control of an insurer authorized to do business in Utah.

(b) This section does not apply to the following:

(i) securities purchased solely for investment purposes so long as the securities are not used by voting or otherwise to cause or attempt to cause the substantial lessening of competition in any insurance market in this state;

(ii) if a purchase of securities results in a presumption of control under Subsection 31A-1-301(29)(d), it is not solely for investment purposes unless the commissioner of the insurer's state of domicile accepts a disclaimer of control or affirmatively finds that control does not exist and the disclaimer action or affirmative finding is communicated by the domiciliary commissioner to the commissioner of this state;

(iii) the acquisition of a person by another person when both persons are neither directly nor through affiliates primarily engaged in the business of insurance, if pre-acquisition notification is filed with the commissioner in accordance with Subsection (3)(a) 30 days before the proposed effective date of the acquisition;

(iv) the acquisition of an already affiliated person;

(v) an acquisition if, as an immediate result of the acquisition:

(A) in no market would the combined market share of the involved insurers exceed 5% of the total market;

(B) there would be no increase in any market share; or

(C) in no market would the combined market share of the involved insurers exceeds 12% of the total market, and the market share increase by more than 2% of the total market;

(vi) an acquisition for which a pre-acquisition notification would be required pursuant to this section due solely to the resulting effect on the ocean marine insurance line of business; or

(vii) an acquisition of an insurer whose domiciliary commissioner affirmatively finds that the insurer is in failing condition, and:

(A) there is a lack of feasible alternative to improving such condition;

(B) the public benefits of improving the insurer's condition through the acquisition exceed the public benefits that would arise from not lessening competition; and

(C) the findings are communicated by the domiciliary commissioner to the commissioner of this state.

(3) An acquisition covered by Subsection (2) may be subject to an order pursuant to Subsection (5) unless the acquiring person files a pre-acquisition notification and the waiting period has expired.

The acquired person may file a pre-acquisition notification. The commissioner shall give confidential treatment to information submitted under this Subsection (3) in the same manner as provided in Section 31A-16-109.

(a) The pre-acquisition notification shall be in the form and contain such information as prescribed by the National Association of Insurance Commissioners relating to those markets that, under Subsection (2)(b)(v), cause the acquisition not to be exempted from this section. The commissioner may require additional material and information as considered necessary to determine whether the proposed acquisition, if consummated, would violate the competitive standard of Subsection (4). The required information may include an opinion of an economist as to the competitive impact of the acquisition in this state accompanied by a summary of the education and experience of the economist indicating the economist's ability to render an informed opinion.

(b) The waiting period required shall begin on the date of receipt of the commissioner of a pre-acquisition notification and shall end on the earlier of the 30th day after the date of receipt, or termination of the waiting period by the commissioner. Before the end of the waiting period, the commissioner on a one-time basis may require the submission of additional needed information relevant to the proposed acquisition, in which event the waiting period shall end on the earlier of the 30th day after receipt of the additional information by the commissioner or termination of the waiting period by the commissioner.

(4) (a) The commissioner may enter an order under Subsection (5)(a) with respect to an acquisition if there is substantial evidence that the effect of the acquisition may be substantially to lessen competition in any line of insurance in this state, tend to create a monopoly, or if the insurer fails to file adequate information in compliance with this section.

(b) In determining whether a proposed acquisition would violate the competitive standard of Subsection (4)(a), the commissioner shall consider the following:

(i) Any acquisition covered under this Subsection (4) involving two or more insurers competing in the same market is prima facie evidence of violation of the competitive standards if:

(A) the market is highly concentrated and the involved insurers possess the following shares of the market:

Insurer A	Insurer B
4%	4% or more
u10%	2% or more
15%	1% or more; or

(B) the market is not highly concentrated and the involved insurers possess the following shares of the market:

Insurer A	Insurer B
5%	5% or more
10%	4% or more
15%	3% or more
19%	1% or more.

(ii) For purposes of this section, a highly concentrated market is one in which the share of the four largest insurers is 75% or more of the market. Percentages not shown in the tables are interpolated proportionately to the percentages that are shown. If more than two insurers are involved, exceeding the total of the two columns in the table is prima facie evidence of violation of the competitive standard in Subsection (4)(a).

(iii) For purposes of this section, the insurer with the largest share of the market shall be considered to be Insurer A.

(c) There is a significant trend toward increased concentration when the aggregate market share of any grouping of the largest insurers in the market, from the two largest to the eight largest, has increased by 7% or more of the market over a period of time extending from any base year 5 to 10 years before the acquisition up to the time of the acquisition. Any acquisition or merger covered under Subsection (1) involving two or more insurers competing in the same market is prima facie evidence of violation of the competitive standard in Subsection (4)(a) if:

(i) there is a significant trend toward increased concentration in the market;

(ii) one of the insurers involved is one of the insurers in a grouping of large insurers showing the requisite increase in the market share; and

(iii) another involved insurer's market is 2% or more.

(d) The burden of showing prima facie evidence of violation of the competitive standard rests upon the commissioner.

(e) Even though an acquisition is not prima facie violative of the competitive standard under Subsections (4)(b) and (4)(c), the commissioner may establish the requisite anticompetitive effect based upon other substantial evidence.

(f) Even though an acquisition is prima facie violative of the competitive standard under Subsections (4)(b) and (4)(c), a party may establish the absence of the requisite anticompetitive effect based upon other substantial evidence. Relevant factors in making a determination under this Subsection (4)(f) include the following:

(i) market shares;

(ii) volatility of ranking of market leaders;

(iii) number of competitors;

(iv) concentration or trend of concentration in the industry; and

(v) ease of entry and exit into the market.

(g) An order may not be entered under Subsection (5) if:

(i) the acquisition will yield substantial economies of scale or economies in resource use that cannot be feasibly achieved in any other way, and the public benefits that would arise from the economies exceed the public benefits that would arise from not lessening competition; or

(ii) the acquisition will substantially increase the availability of insurance, and the public benefits of the increase exceed the public benefits that would arise from not lessening competition.

(5) (a) Subject to Title 63G, Chapter 4, Administrative Procedures Act, if an acquisition violates the standards of this section, the commissioner may enter an order:

(i) requiring an involved insurer to cease and desist from doing business in this state with respect to the line or lines of insurance involved in the violation; or

(ii) denying the application of an acquired or acquiring insurer for a license to do business in this state.

(b) The commissioner shall accompany an order issued under this Subsection (5) with a written decision of the commissioner setting forth findings of fact and conclusions of law.

(c) An order pursuant to this section may not apply if the acquisition is not consummated.

(d) A person who violates a cease and desist order of the commissioner under Subsection (5)(a)(i) and while the order is in effect may after notice and hearing and upon order of the commissioner be subject at the discretion of the commissioner to one or more of the following:

(i) notwithstanding Section 31A-2-308, a monetary penalty of not more than \$10,000 for every day of violation; or

(ii) suspension or revocation of the person's license.

(e) An insurer or other person who fails to make any filing required by this section, and who fails to demonstrate a good faith effort to comply with a filing requirement, is subject to a fine of not more than \$50,000 notwithstanding Section 31A-2-308.

Section 11. Section 31A-16-105 is amended to read:

31A-16-105. Registration of insurers.

(1) (a) ~~[Every]~~ An insurer ~~[which]~~ that is authorized to do business in this state and ~~[which]~~ that is a member of an insurance holding company system shall register with the commissioner, except a foreign insurer subject to registration requirements and standards adopted by statute or regulation in the jurisdiction of its domicile, if the requirements and standards are substantially similar to those contained in this section, Subsections 31A-16-106(1)(a) and (2) and either

Subsection 31A-16-106(1)(b) or a statutory provision similar to the following: "Each registered insurer shall keep current the information required to be disclosed in its registration statement by reporting all material changes or additions within 15 days after the end of the month in which it learns of each change or addition."

(b) ~~[Any]~~ An insurer ~~[which]~~ that is subject to registration under this section shall register within 15 days after it becomes subject to registration, and annually thereafter by May 1 of each year for the previous calendar year, unless the commissioner for good cause extends the time for registration and then at the end of the extended time period. The commissioner may require any insurer authorized to do business in the state, which is a member of a holding company system, and which is not subject to registration under this section, to furnish a copy of the registration statement, the summary specified in Subsection (3), or any other information filed by the insurer with the insurance regulatory authority of domiciliary jurisdiction.

(2) ~~[Every]~~ An insurer subject to registration shall file the registration statement with the commissioner on a form and in a format prescribed by the National Association of Insurance Commissioners, which shall contain the following current information:

(a) the capital structure, general financial condition, and ownership and management of the insurer and any person controlling the insurer;

(b) the identity and relationship of every member of the insurance holding company system;

(c) any of the following agreements in force, and transactions currently outstanding or which have occurred during the last calendar year between the insurer and its affiliates:

(i) loans, other investments, or purchases, sales or exchanges of securities of the affiliates by the insurer or of securities of the insurer by its affiliates;

(ii) purchases, sales, or exchanges of assets;

(iii) transactions not in the ordinary course of business;

(iv) guarantees or undertakings for the benefit of an affiliate which result in an actual contingent exposure of the insurer's assets to liability, other than insurance contracts entered into in the ordinary course of the insurer's business;

(v) all management agreements, service contracts, and all cost-sharing arrangements;

(vi) reinsurance agreements;

(vii) dividends and other distributions to shareholders; and

(viii) consolidated tax allocation agreements;

(d) any pledge of the insurer's stock, including stock of any subsidiary or controlling affiliate, for a loan made to any member of the insurance holding company system; ~~[and]~~

(e) if requested by the commissioner, financial statements of or within an insurance holding company system, including all affiliates:

(i) which may include annual audited financial statements filed with the United States Securities and Exchange Commission pursuant to the Securities Act of 1933, as amended, or the Securities Exchange Act of 1934, as amended; and

(ii) which request is satisfied by providing the commissioner with the most recently filed parent corporation financial statements that have been filed with the United States Securities and Exchange Commission;

(f) any other matters concerning transactions between registered insurers and any affiliates as may be included in any subsequent registration forms adopted or approved by the commissioner[.];

(g) statements that the insurer's board of directors oversees corporate governance and internal controls and that the insurer's officers or senior management have approved, implemented, and continue to maintain and monitor corporate governance and internal control procedures; and

(h) any other information required by rule made by the commissioner in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(3) All registration statements shall contain a summary outlining all items in the current registration statement representing changes from the prior registration statement.

(4) No information need be disclosed on the registration statement filed pursuant to Subsection (2) if the information is not material for the purposes of this section. Unless the commissioner by rule or order provides otherwise, sales, purchases, exchanges, loans or extensions of credit, investments, or guarantees involving one-half of 1%, or less, of an insurer's admitted assets as of the next preceding December 31 may not be considered material for purposes of this section.

(5) Subject to Section 31A-16-106, each registered insurer shall report to the commissioner a dividend or other distribution to shareholders within 15 business days following the declaration of the dividend or distribution.

(6) Any person within an insurance holding company system subject to registration shall provide complete and accurate information to an insurer if the information is reasonably necessary to enable the insurer to comply with the provisions of this chapter.

(7) The commissioner shall terminate the registration of any insurer which demonstrates that it no longer is a member of an insurance holding company system.

(8) The commissioner may require or allow two or more affiliated insurers subject to registration under this section to file a consolidated registration statement.

(9) The commissioner may allow an insurer which is authorized to do business in this state, and which is part of an insurance holding company system, to register on behalf of any affiliated insurer which is required to register under Subsection (1) and to file all information and material required to be filed under this section.

~~(9) The provisions of this~~ (10) This section ~~do~~ does not apply to any insurer, information, or transaction if, and to the extent that, the commissioner by rule or order exempts the insurer from ~~the provisions of~~ this section.

(11) Any person may file with the commissioner a disclaimer of affiliation with any authorized insurer, or a disclaimer of affiliation may be filed by any insurer or any member of an insurance holding company system. The disclaimer shall fully disclose all material relationships and bases for affiliation between the person and the insurer as well as the basis for disclaiming the affiliation. ~~[After a disclaimer has been filed, the insurer shall be relieved of any duty to register or report under this section which may arise out of the insurer's relationship with the person unless and until the commissioner disallows the disclaimer. The commissioner shall disallow a disclaimer only after furnishing all parties in interest with notice and opportunity to be heard, and after making specific findings of fact to support the disallowance.]~~ A disclaimer of affiliation is considered to have been granted unless the commissioner, within 30 days following receipt of a complete disclaimer, notifies the filing party the disclaimer is disallowed. If disallowed, the disclaiming party may request an administrative hearing, which shall be granted. The disclaiming party shall be relieved of its duty to register under this section if approval of the disclaimer is granted by the commissioner, or if the disclaimer is considered to have been approved.

(12) The ultimate controlling person of an insurer subject to registration shall also file an annual enterprise risk report. The annual enterprise risk report shall, to the best of the ultimate controlling person's knowledge and belief, identify the material risks within the insurance holding company that could pose enterprise risk to the insurer. The annual enterprise risk report shall be filed with the lead state commissioner of the insurance holding company system as determined by the procedures within the Financial Analysis Handbook adopted by the National Association of Insurance Commissioners.

(13) The failure to file a registration statement or any summary of the registration statement or enterprise risk filing required by this section within the time specified for the filing is a violation of this section.

Section 12. Section 31A-16-106 is amended to read:

31A-16-106. Standards and management of an insurer within a holding company system.

(1) (a) Transactions within [a] an insurance holding company system to which an insurer subject to registration is a party are subject to the following standards:

(i) the terms shall be fair and reasonable;

(ii) agreements for cost sharing services and management shall include the provisions required by rule made by the commissioner in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

~~(iii)~~ (iii) charges or fees for services performed shall be reasonable;

~~(iii)~~ (iv) expenses incurred and payment received shall be allocated to the insurer in conformity with customary insurance accounting practices consistently applied;

~~(iv)~~ (v) the books, accounts, and records of each party to all transactions shall be so maintained as to clearly and accurately disclose the nature and details of the transactions, including the accounting information necessary to support the reasonableness of the charges or fees to the respective parties; and

~~(v)~~ (vi) the insurer's surplus held for policyholders, following any dividends or distributions to shareholder affiliates, shall be reasonable in relation to the insurer's outstanding liabilities and shall be adequate to its financial needs.

(b) The following transactions involving a domestic insurer and any person in its insurance holding company system, including amendments or modifications of affiliate agreements previously filed pursuant to this section, which are subject to any materiality standards contained in Subsections (1)(a)(i) through (vi), may not be entered into unless the insurer has notified the commissioner in writing of its intention to enter into the transaction at least 30 days [prior to] before entering into the transaction, or within any shorter period the commissioner may permit, if the commissioner has not disapproved the transaction within the period[:]. The notice for an amendment or modification shall include the reasons for the change and financial impact on the domestic insurer. Informal notice shall be reported, within 30 days after a termination of a previously filed agreement, to the commissioner for determination of the type of filing required, if any:

(i) sales, purchases, exchanges, loans or extensions of credit, guarantees, or investments if the transactions are equal to, or exceed as of the next preceding December 31:

(A) for nonlife insurers, the lesser of 3% of the insurer's admitted assets or 25% of surplus held for policyholders;

(B) for life insurers, 3% of the insurer's admitted assets;

(ii) loans or extensions of credit made to any person who is not an affiliate, if the insurer makes

the loans or extensions of credit with the agreement or understanding that the proceeds of the transactions, in whole or in substantial part, are to be used to make loans or extensions of credit to, to purchase assets of, or to make investments in, any affiliate of the insurer making the loans or extensions of credit if the transactions are equal to, or exceed as of the next preceding December 31:

(A) for nonlife insurers, the lesser of 3% of the insurer's admitted assets or 25% of surplus held for policyholders;

(B) for life insurers, 3% of the insurer's admitted assets;

~~(iii) reinsurance agreements or modifications to reinsurance agreements [in which the reinsurance premium or a change in the insurer's liabilities equals or exceeds 5% of the insurer's surplus held for policyholders, as of the next preceding December 31, including those agreements which may require as consideration the transfer of assets from an insurer to a nonaffiliate, if an agreement or understanding exists between the insurer and the nonaffiliate that any portion of the assets will be transferred to one or more affiliates of the insurer;], including an agreement in which the reinsurance premium, a change in the insurer's liabilities, or the projected reinsurance premium or a change in the insurer's liabilities in any of the current and succeeding three years, equals or exceeds 5% of the insurer's surplus held for policyholders, as of the next preceding December 31, including those agreements that may require as consideration the transfer of assets from an insurer to a non-affiliate, if an agreement or understanding exists between the insurer and the non-affiliate that any portion of the assets will be transferred to one or more affiliates of the reinsurer;~~

(iv) all management agreements, service contracts, tax allocation agreements, and all cost-sharing arrangements;

(v) guarantees when made by a domestic insurer, except that:

(A) a guarantee that is quantifiable as to amount is not subject to the notice requirements of this Subsection (1) unless it exceeds the lesser of .5% of the insurer's admitted assets or 10% of surplus held for policyholders, as of the next preceding December 31; and

(B) a guarantee that is not quantifiable as to amount is subject to the notice requirements of this Subsection (1);

(vi) direct or indirect acquisitions or investments in a person that controls the insurer or in an affiliate of the insurer in an amount that, together with its present holdings in the investments, exceeds 2.5% of the insurer's surplus to policyholders, except that a direct or indirect acquisition or investment in a subsidiary acquired pursuant to Section 31A-16-102.5, or in a non-subsidiary insurance affiliate that is subject to this chapter, is exempt from this Subsection (1)(b)(vi);

~~[(v)]~~ (vii) any material transactions, specified by rule, which the commissioner determines may adversely affect the interests of the insurer's policyholders; and

~~[(vi) this subsection]~~ (viii) this Subsection (1) may not be interpreted to authorize or permit any transactions which would be otherwise contrary to law in the case of an insurer not a member of the same holding company system.

(c) A domestic insurer may not enter into transactions which are part of a plan or series of like transactions with persons within the holding company system if the purpose of the separate transactions is to avoid the statutory threshold amount and thus to avoid the review by the commissioner that would occur otherwise. If the commissioner determines that the separate transactions were entered into over any 12 month period for such a purpose, ~~[he]~~ the commissioner may exercise ~~[his]~~ the commissioner's authority under Section 31A-16-110.

(d) The commissioner, in reviewing transactions pursuant to Subsection (1)(b), shall consider whether the transactions comply with the standards set forth in Subsection (1)(a) and whether they may adversely affect the interests of policyholders.

(e) The commissioner shall be notified within 30 days of any investment of the domestic insurer in any one corporation, if the total investment in the corporation by the insurance holding company system exceeds 10% of the corporation's voting securities.

(2) (a) A domestic insurer may not pay any extraordinary dividend or make any other extraordinary distribution to its shareholders until:

(i) 30 days after the commissioner has received notice of the declaration of the dividend and has not within the 30-day period disapproved the payment; or

(ii) the commissioner has approved the payment within the 30-day period.

(b) For purposes of this ~~[subsection]~~ Subsection (2), an extraordinary dividend or distribution includes any dividend or distribution of cash or other property, fair market value of which, together with that of other dividends or distributions made within the preceding 12 months, exceeds the lesser of:

(i) 10% of the insurer's surplus held for policyholders as of the next preceding December 31; ~~[or]~~

(ii) the net gain from operations of the insurer, if the insurer is a life insurer, or the net income, if the insurer is not a life insurer, not including realized capital gains, for the 12-month period ending the next preceding December 31; or

(iii) an extraordinary dividend does not include pro rata distributions of any class of the insurer's own securities.

(c) In determining whether a dividend or distribution is extraordinary, an insurer other than a life insurer may carry forward net income from the previous two calendar years that has not already been paid out as dividends. This carry-forward shall be computed by taking the net income from the second and third preceding calendar years, not including realized capital gains, less dividends paid in the second and immediate preceding calendar years.

(d) Notwithstanding any other provision of law, an insurer may declare an extraordinary dividend or distribution, which is conditioned upon the commissioner's approval of the dividend or distribution, and the declaration shall confer no rights upon shareholders until:

(i) the commissioner has approved the payment of the dividend or distribution; or

(ii) the commissioner has not disapproved the payment within the 30-day period referred to in Subsection (2)(a).

(3) (a) Notwithstanding the control of a domestic insurer by any person, the officers and directors of the insurer may not be relieved of any obligation or liability to which they would otherwise be subject by law, and the insurer shall be managed so as to assure its separate operating identity consistent with this chapter.

(b) Nothing in this section precludes a domestic insurer from having or sharing a common management or cooperative or joint use of personnel, property, or services with one or more other persons under arrangements meeting the standards of Subsection (1)(a).

(c) (i) Not less than one-third of the directors of a domestic insurer, and not less than one-third of the members of each committee of the board of directors of a domestic insurer, shall be persons who are not officers or employees of the insurer or of any entity controlling, controlled by, or under common control with the insurer and who are not beneficial owners of a controlling interest in the voting stock of the insurer or entity.

(ii) At least one person described in Subsection (3)(c)(i) shall be included in a quorum for the transaction of business at a meeting of the board of directors or a committee of the board of directors.

(d) Subsection (3)(c) does not apply to a domestic insurer if the person controlling the insurer, such as an insurer, a mutual insurance holding company, or a publicly held corporation, has a board of directors and committees of the board of directors that meet the requirements of Subsection (3)(c) with respect to the controlling entity.

(e) An insurer may make application to the commissioner for a waiver from the requirements of this Subsection (3) if the insurer's annual direct written and assumed premium, excluding premiums reinsured with the Federal Crop Insurance Corporation and Federal Flood Program, is less than \$300,000,000. An insurer may also make application to the commissioner for a waiver from the requirements of this Subsection (3) based

upon unique circumstances. The commissioner may consider various factors, including:

- (i) the type of business entity;
 - (ii) the volume of business written;
 - (iii) the availability of qualified board members;
- or
- (iv) the ownership or organizational structure of the entity.

(4) (a) For purposes of this chapter, in determining whether an insurer's surplus as regards policyholders is reasonable in relation to the insurer's outstanding liabilities and adequate to meet its financial needs, the following factors, among others, shall be considered:

(i) the size of the insurer as measured by its assets, capital and surplus, reserves, premium writings, insurance in force, and other appropriate criteria;

(ii) the extent to which the insurer's business is diversified among several lines of insurance;

(iii) the number and size of risks insured in each line of business;

(iv) the extent of the geographical dispersion of the insurer's insured risks;

(v) the nature and extent of the insurer's reinsurance program;

(vi) the quality, diversification, and liquidity of the insurer's investment portfolio;

(vii) the recent past and projected future trend in the size of the insurer's investment portfolio;

(viii) the surplus as regards policyholders maintained by other comparable insurers;

(ix) the adequacy of the insurer's reserves; and

(x) the quality and liquidity of investments in affiliates.

(b) The commissioner may treat an investment described in Subsection (4)(a)(x) as a disallowed asset for purposes of determining the adequacy of surplus as regards policyholders whenever in the judgment of the commissioner the investment so warrants.

Section 13. Section 31A-16-107.5, which is renumbered from Section 31A-16-108 is renumbered and amended to read:

[31A-16-108]. 31A-16-107.5. Examination of registered insurers.

(1) Subject to the limitation contained in this section and the powers which the commissioner has under Chapter 2, Administration of the Insurance Laws, relating to the examination of insurers, the commissioner has the power to ~~order any~~ examine an insurer registered under Section 31A-16-105 ~~to produce the records, books, or other informational papers in the possession of the insurer or its affiliates which the commissioner considers necessary~~ and its affiliates to ascertain the

financial condition ~~[or legality of conduct]~~ of the insurer ~~[. If an insurer fails to comply with this order, the commissioner may examine the affiliates to obtain the information.],~~ including the enterprise risk to the insurer by the ultimate controlling party, or by the insurance holding company system on a consolidated basis.

~~[(2) The commissioner shall exercise his power under Subsection (1) only if the examination of the insurer under Chapter 2 is inadequate, or the interests of the policyholders of the insurer may be adversely affected if the commissioner fails to exercise his power.]~~

(2) (a) The commissioner may order an insurer registered under Section 31A-16-105 to produce the records, books, or other information papers in the possession of the insurer or its affiliates as are reasonably necessary to determine compliance with this chapter.

(b) To determine compliance with this chapter, the commissioner may order an insurer registered under Section 31A-16-105 to produce information not in the possession of the insurer if the insurer can obtain access to the information pursuant to contractual relationships, statutory obligations, or other methods.

(c) If an insurer cannot obtain the information requested by the commissioner, the insurer shall provide the commissioner a detailed explanation of the reason that the insurer cannot obtain the information and the identity of the holder of the information.

(d) Whenever it appears to the commissioner that the detailed explanation is without merit, the commissioner may require, after notice and hearing, the insurer to pay a penalty of \$5,000 for each day's delay, or may suspend or revoke the insurer's license.

(3) The commissioner may retain, at the registered insurer's expense, attorneys, actuaries, accountants, and other experts not otherwise a part of the commissioner's staff, if they are necessary to assist in the conduct of the examination under Subsection (1). Any persons so retained are under the direction and control of the commissioner and shall act in a purely advisory capacity.

(4) ~~[Each]~~ A registered insurer who produces records, books, and papers under Subsection (1) for examination is liable for and shall pay the expense of the examination under Section 31A-2-205.

(5) If an insurer fails to comply with an order issued under this section, the commissioner may:

(a) examine the affiliates to obtain the information; or

(b) issue subpoenas, administer oaths, and examine under oath any person for purposes of determining compliance with this section.

(6) Upon the failure or refusal of any person to obey a subpoena under Subsection (5), the commissioner may petition the Third District Court of Salt Lake County to enter an order compelling the witness to appear and testify or produce

documentary evidence. A person shall be obliged to attend as a witness at the place specified in the subpoena, when subpoenaed, anywhere within the state. A person subpoenaed is entitled to the same fees and mileage, if claimed, as a witness in the Third District Court of Salt Lake County, which fees, mileage, and actual expense, if any, necessarily incurred in securing the attendance of witnesses, and their testimony, shall be itemized and charged against, and be paid by, the company being examined.

Section 14. Section 31A-16-108.5 is enacted to read:

31A-16-108.5. Supervisory colleges.

(1) (a) For an insurer registered under Section 31A-16-105 and in accordance with Subsection (3), the commissioner may participate in a supervisory college for a domestic insurer that is part of an insurance holding company system with international operations to determine compliance by the insurer with this chapter. The powers of the commissioner with respect to supervisory colleges include the following:

(i) initiating the establishment of a supervisory college;

(ii) clarifying the membership and participation of other supervisors in the supervisory college;

(iii) clarifying the functions of the supervisory college and the role of other regulators, including the establishment of a group-wide supervisor;

(iv) coordinating the ongoing activities of the supervisory college, including:

(A) planning meetings;

(B) supervisory activities; and

(C) processes for information sharing; and

(v) establishing a crisis management plan.

(2) (a) A registered insurer subject to this section is liable for and shall pay the reasonable expenses of the commissioner's participation in a supervisory college in accordance with Subsection (3), including reasonable travel expenses.

(b) For purposes of this section, a supervisory college may be convened as either a temporary or permanent forum for communication and cooperation between the regulators charged with supervision of the insurer or its affiliates and the commissioner may establish a regular assessment to the insurer for the payment of these expenses.

(3) (a) The commissioner may participate in a supervisory college with other regulators charged with supervision of the insurer or its affiliates, including:

(i) other state regulatory agencies;

(ii) federal regulatory agencies; or

(iii) international regulatory agencies.

(b) The commissioner may enter into agreements in accordance with Section 31A-16-109 providing the basis for cooperation between the commissioner and other regulatory agencies, and the activities of the supervisory college, in order to assess:

(i) the business strategy;

(ii) financial position;

(iii) legal and regulatory position;

(iv) risk exposure; and

(v) management and governance processes.

(c) Nothing in this section shall delegate to the supervisory college the authority of the commissioner to regulate or supervise the insurer or its affiliates within its jurisdiction.

Section 15. Section 31A-16-109 is amended to read:

31A-16-109. Confidentiality of information obtained by commissioner.

[All information] (1) Information, documents, and copies of these [which] that are obtained by or disclosed to the commissioner or any other person in the course of an examination or investigation made under Section [31A-16-108] 31A-16-107.5, and all information reported under Section 31A-16-105, is confidential. It is not subject to subpoena and may not be made public by the commissioner or any other person, except it may be provided to the insurance departments of other states, without the prior written consent of the insurer to which it pertains. The confidentiality of this section does not apply if the commissioner, after giving the insurer and its affiliates who would be affected by the disclosure, proper notice and an opportunity to be heard, and determines that the interests of policyholders, shareholders, or the public will be served by the publication of the information. In this situation, the commissioner may publish all or any part of the information in any manner [he] the commissioner considers appropriate.

(2) The commissioner and any person who received documents, materials, or other information while acting under the authority of the commissioner or with whom the documents, materials, or other information are shared pursuant to this chapter shall keep confidential any confidential documents, materials, or information subject to Subsection (1).

(3) (a) To assist in the performance of the commissioner's duties, the commissioner:

(i) may share documents, materials, or other information, including the confidential documents, materials, or information subject to Subsection (1), with the following if the recipient agrees in writing to maintain the confidentiality status of the document, material, or other information, and has verified in writing the legal authority to maintain confidentiality:

(A) other state, federal, and international regulatory agencies;

(B) the National Association of Insurance Commissioners and its affiliates and subsidiaries; and

(C) state, federal, and international law enforcement authorities, including members of a supervisory college described in Section 31A-16-108.5;

(ii) notwithstanding Subsection (1), may only share confidential documents, material, or information reported pursuant to Section 31A-16-105 with commissioners of states having statutes or regulations substantially similar to Subsection (1) and who have agreed in writing not to disclose the documents, material, or information;

(iii) may receive documents, materials, or information, including otherwise confidential documents, materials, or information from the National Association of Insurance Commissioners and its affiliates and subsidiaries and from regulatory and law enforcement officials of other foreign or domestic jurisdictions, and shall maintain as confidential any document, material, or information received with notice or the understanding that it is confidential under the laws of the jurisdiction that is the source of the document, material, or information; and

(iv) shall enter into written agreements with the National Association of Insurance Commissioners governing sharing and use of information provided pursuant to this chapter consistent with this Subsection (3) that shall:

(A) specify procedures and protocols regarding the confidentiality and security of information shared with the National Association of Insurance Commissioners and its affiliates and subsidiaries pursuant to this chapter, including procedures and protocols for sharing by the National Association of Insurance Commissioners with other state, federal, or international regulators;

(B) specify that ownership of information shared with the National Association of Insurance Commissioners and its affiliates and subsidiaries pursuant to this chapter remains with the commissioner and the National Association of Insurance Commissioner's use of the information is subject to the direction of the commissioner;

(C) require prompt notice to be given to an insurer whose confidential information in the possession of the National Association of Insurance Commissioners pursuant to this chapter is subject to a request or subpoena to the National Association of Insurance Commissioners for disclosure or production; and

(D) require the National Association of Insurance Commissioners and its affiliates and subsidiaries to consent to intervention by an insurer in any judicial or administrative action in which the National Association of Insurance Commissioners and its affiliates and subsidiaries may be required to disclose confidential information about the insurer shared with the National Association of Insurance Commissioners and its affiliates and subsidiaries pursuant to this chapter.

(4) The sharing of information by the commissioner pursuant to this chapter does not constitute a delegation of regulatory authority or

rulemaking, and the commissioner is solely responsible for the administration, execution, and enforcement of this chapter.

(5) A waiver of any applicable claim of confidentiality in the documents, materials, or information does not occur as a result of disclosure to the commissioner under this section or as a result of sharing as authorized in Subsection (3).

(6) Documents, materials, or other information in the possession or control of the National Association of Insurance Commissioners pursuant to this chapter are:

(a) confidential, not public records, and not open to public inspection; and

(b) not subject to Title 63G, Chapter 2, Government Records Access and Management Act.

Section 16. Section 31A-16-112 is enacted to read:

31A-16-112. Sanctions.

(1) (a) Notwithstanding Section 31A-2-308, the following sanctions apply:

(i) An insurer failing, without just cause, to file a registration statement required by this chapter is required, after notice and hearing, to pay a penalty of \$10,000 for each day's delay, to be recovered by the commissioner and the penalty so recovered shall be paid into the General Fund.

(ii) The maximum penalty under this section is \$250,000.

(b) The commissioner may reduce the penalty if the insurer demonstrates to the commissioner that the imposition of the penalty would constitute a financial hardship to the insurer.

(2) A director or officer of an insurance holding company system who knowingly violates, participates in, or assents to, or who knowingly shall permit any of the officers or agents of the insurer to engage in transactions or make investments that have not been properly reported or submitted pursuant to Subsection 31A-16-105(1), 31A-16-106(1)(b), or 31A-16-106(2), or that violates this chapter, shall pay, in the director's or officer's individual capacity, a civil forfeiture of not more than \$10,000 per violation, notwithstanding Section 31A-2-308, after notice and hearing before the commissioner. In determining the amount of the civil forfeiture, the commissioner shall take into account the appropriateness of the forfeiture with respect to the gravity of the violation, the history of previous violations, and such other matters as justice may require.

(3) Whenever it appears to the commissioner that any insurer subject to this chapter or a director, officer, employee, or agent of the insurer has engaged in any transaction or entered into a contract that is subject to Section 31A-16-106 and that would not have been approved had the approval been requested, the commissioner may order the insurer to cease and desist immediately any further activity under that transaction or

contract. After notice and hearing, the commissioner may also order the insurer to void any contract and restore the status quo if the action is in the best interest of the policyholders, creditors, or the public.

(4) Whenever it appears to the commissioner that an insurer or any director, officer, employee, or agent of the insurer has committed a willful violation of this chapter, the commissioner may refer the case to the appropriate prosecutor. Venue for the criminal action shall be in the Third District Court of Salt Lake County, against the insurer or the responsible director, officer, employee, or agent of the insurer. An insurer that willfully violates this chapter may be fined not more than \$250,000 notwithstanding Section 31A-2-308. An individual who willfully violates this chapter may be fined in the individual's individual capacity not more than \$100,000 notwithstanding Section 31A-2-308 and is guilty of a third-degree felony.

(5) An officer, director, or employee of an insurance holding company system who willfully and knowingly subscribes to or makes or causes to be made any false statements, false reports, or false filings with the intent to deceive the commissioner in the performances of the commissioner's duties under this chapter, is guilty of a third-degree felony. Any fines imposed shall be paid by the officer, director, or employee in the officer's, director's, or employee's individual capacity.

(6) Whenever it appears to the commissioner that a person has committed a violation of Section 31A-16-103 and that prevents the full understanding of the enterprise risk to the insurer by affiliates or by the insurance holding company system, the violation may serve as an independent basis for disapproving dividends or distributions and for placing the insurer under an order of supervision in accordance with Section 31A-27-503.

Section 17. Section 31A-16-113 is enacted to read:

31A-16-113. Receivership.

Whenever it appears to the commissioner that a person has committed a violation of this chapter that so impairs the financial condition of a domestic insurer as to threaten insolvency or make the further transaction of business by it hazardous to its policyholders, creditors, shareholders, or the public, then the commissioner may proceed as provided in Section 31A-16-114 to take possession of the property of the domestic insurer and to conduct its business.

Section 18. Section 31A-16-114 is enacted to read:

31A-16-114. Recovery.

(1) If an order for liquidation or rehabilitation of a domestic insurer is entered, the receiver appointed under the order shall have a right to recover on behalf of the insurer:

(a) from any parent corporation, holding company, or person or affiliate who otherwise controlled the insurer, the amount of distributions other than distributions of shares of the same class of stock paid by the insurer on its capital stock; or

(b) any payment in the form of a bonus, termination settlement, or extraordinary lump sum salary adjustment made by the insurer or its subsidiary to a director, officer, or employee, when the distribution or payment pursuant to Subsection (1)(a) or this Subsection (1)(b) is made at any time during the one year preceding the petition for liquidation, conservation, or rehabilitation, as the case may be, subject to the limitations of Subsections (2), (3), and (4).

(2) A distribution may not be recovered if the parent or affiliate shows that when paid the distribution was lawful and reasonable and that the insurer did not know and could not reasonably have known that the distribution might adversely affect the ability of the insurer to fulfill its contractual obligations.

(3) A person who was a parent corporation or holding company or a person who otherwise controlled the insurer or affiliate at the time the distributions were paid shall be liable up to the amount of distributions or payments under Subsection (1) that the person received. A person who otherwise controlled the insurer at the time the distributions were declared is liable up to the amount of distributions that would have been received if they had been paid immediately. If two or more persons are liable with respect to the same distributions, they shall be jointly and severally liable.

(4) The maximum amount recoverable under this section shall be the amount needed in excess of all other available assets of the impaired or insolvent insurer to pay the contractual obligations of the impaired or insolvent insurer and to reimburse any guaranty funds.

(5) To the extent that any person liable under Subsection (3) is insolvent or otherwise fails to pay claims due from the person, its parent corporation, holding company, or person who otherwise controlled it at the time the distribution was paid, are jointly and severally liable for any resulting deficiency in the amount recovered from the parent corporation or holding company or person who otherwise controlled it.

Section 19. Section 31A-16-115 is enacted to read:

31A-16-115. Revocation, suspension, or nonrenewal of insurer's license.

Whenever it appears to the commissioner that a person has committed a violation of this chapter that makes the continued operation of an insurer contrary to the interests of policyholders or the public, the commissioner may, after giving notice and an opportunity to be heard, suspend, revoke, or refuse to renew the insurer's license or authority to do business in this state for such period as the commissioner finds is required for the protection of

policyholders or the public. Any such determination shall be accompanied by specific findings of fact and conclusions of law.

Section 20. Section 31A-16-116 is enacted to read:

31A-16-116. Rules and orders.

The commissioner in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, may make rules necessary to carry out this chapter. The commissioner may issue orders as is necessary to carry out this chapter.

Section 21. Section 31A-16-117 is enacted to read:

31A-16-117. Judicial review -- Mandamus.

(1) A person aggrieved by an act, determination, rule, or order or any other action of the commissioner pursuant to this chapter may seek judicial review in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(2) The filing of an appeal pursuant to this section shall stay the application of any rule, order, or other action of the commissioner to the appealing party unless the court, after giving party notice and an opportunity to be heard, determines that a stay would be detrimental to the interest of policyholders, shareholders, creditors, or the public.

(3) A person aggrieved by a failure of the commissioner to act or make a determination required by this chapter may petition the Third District Court of Salt Lake County for writ in the nature of a mandamus or a peremptory mandamus directing the commissioner to act or make a determination.

Section 22. Section 31A-16-118 is enacted to read:

31A-16-118. Conflict with other laws.

If any law or part of a law of this state is inconsistent with this chapter, this chapter governs.

Section 23. Section 31A-16-119 is enacted to read:

31A-16-119. Severability.

If any chapter, section, or subsection of this chapter or the application of any chapter, section, or subsection to any person or circumstance is held invalid, the remainder of the provisions of this chapter shall be given effect without the invalid provision or application. The provisions of this chapter are severable.

Section 24. Section 31A-21-313 is amended to read:

31A-21-313. Limitation of actions.

(1) (a) An action on a written policy or contract of first party insurance shall be commenced within three years after the inception of the loss.

(b) The inception of the loss on a fidelity bond is the date the insurer first denies all or part of a claim made under the fidelity bond.

(2) Except as provided in Subsection (1) or elsewhere in this title, the law applicable to limitation of actions in Title 78B, Chapter 2, Statutes of Limitations, applies to actions on insurance policies.

(3) An insurance policy may not:

(a) limit the time for beginning an action on the policy to a time less than that authorized by statute;

(b) prescribe in what court an action may be brought on the policy; or

(c) provide that no action may be brought, subject to permissible arbitration provisions in contracts.

(4) Unless by verified complaint it is alleged that prejudice to the complainant will arise from a delay in bringing suit against an insurer, which prejudice is other than the delay itself, no action may be brought against an insurer on an insurance policy to compel payment under the policy until the earlier of:

(a) 60 days after proof of loss has been furnished as required under the policy;

(b) waiver by the insurer of proof of loss; or

(c) the insurer's denial of full payment.

(5) The period of limitation is tolled during the period in which the parties conduct an appraisal or arbitration procedure prescribed by the insurance policy, by law, or as agreed to by the parties.

Section 25. Section 31A-21-314 is amended to read:

31A-21-314. Prohibited provisions.

~~[(1)]~~ (1) An insurance policy subject to this chapter may not contain any provision:

~~[(1)]~~ (a) requiring it to be construed according to the laws of another jurisdiction except as necessary to meet the requirements of compulsory insurance laws of other jurisdictions;

~~[(2)]~~ (b) depriving Utah courts of jurisdiction over an action against the insurer, except as provided in permissible arbitration provisions; or

~~[(3)]~~ (c) limiting the right of action against the insurer to less than three years from the date the cause of action accrues.

(2) For purposes of Subsection (1)(c), the cause of action accrues on a fidelity bond on the date the insurer first denies all or part of a claim made under the fidelity bond.

Section 26. Section 31A-22-322 is enacted to read:

31A-22-322. (Codified as 13-51-108) Transportation network company or driver.

(1) As used in this section:

(a) "Prearranged ride" means a period of time that:

(i) begins when the transportation network driver has accepted a passenger's request for a ride through the transportation network company's software application; and

(ii) ends when the passenger exits the transportation network driver's vehicle.

(b) "Software application" means an Internet-connected software platform, including a mobile application, that a transportation network company uses to:

(i) connect a transportation network driver to a passenger; and

(ii) process passenger requests.

(c) "Transportation network company" means an entity that:

(i) uses a software application to connect a passenger to a transportation network driver providing transportation network services;

(ii) is not:

(A) a taxicab, as defined in Section 53-3-102; or

(B) a motor carrier, as defined in Section 72-9-102; and

(iii) does not own, control, operate, or manage the vehicle used to provide the transportation network services.

(d) "Transportation network driver" means an individual who:

(i) pays a fee to a transportation network company, and, in exchange, receives a connection to a potential passenger from the transportation network company; and

(ii) operates a motor vehicle that:

(A) the individual owns, leases, or is authorized to use; and

(B) the individual uses to provide transportation network services.

(e) "Transportation network services" means, for a transportation network driver providing services through a transportation network company:

(i) providing a prearranged ride; or

(ii) being engaged in a waiting period.

(f) "Waiting period" means a period of time when:

(i) a transportation network driver is logged into a transportation network company's software application; and

(ii) the transportation network driver is not engaged in a prearranged ride.

(2) A transportation network company or a transportation network driver shall maintain insurance that covers, on a primary basis, a transportation network driver's use of a vehicle during a prearranged ride and that includes:

(a) an acknowledgment that the transportation network driver is using the vehicle in connection with a transportation network company during a prearranged ride or that the transportation network driver is otherwise using the vehicle for a commercial purpose;

(b) liability coverage for a minimum amount of \$1,000,000 per occurrence;

(c) personal injury protection to the extent required under Sections 31A-22-306 through 31A-22-309;

(d) uninsured motorist coverage where required by Section 31A-22-305; and

(e) underinsured motorist coverage where required by Section 31A-22-305.3.

(3) A transportation network company or a transportation network driver shall maintain insurance that covers, on a primary basis, a transportation network driver's use of a vehicle during a waiting period and that includes:

(a) an acknowledgment that the transportation network driver is using the vehicle in connection with a transportation network company during a waiting period or that the transportation network driver is otherwise using the vehicle for a commercial purpose;

(b) liability coverage in a minimum amount, per occurrence, of:

(i) \$50,000 to any one individual;

(ii) \$100,000 to all individuals; and

(iii) \$30,000 for property damage;

(c) personal injury protection to the extent required under Sections 31A-22-306 through 31A-22-309;

(d) uninsured motorist coverage where required by Section 31A-22-305; and

(e) underinsured motorist coverage where required by Section 31A-22-305.3.

(4) A transportation network company or a transportation network driver shall maintain comprehensive and collision insurance that covers, on a primary or contingent basis, a transportation network driver's use of a vehicle while providing transportation network services, and that includes:

(a) an acknowledgment that the transportation network driver is using the vehicle in connection with a transportation network company during a prearranged ride or waiting period, or that the transportation network driver is otherwise using the vehicle for a commercial purpose; and

(b) coverage limits that are at least equal to such coverage limits, if any, for the personal automobile insurance maintained by the vehicle's owner and reported to the transportation network company.

(5) A transportation network company and a transportation network driver may satisfy the requirements of Subsections (2), (3), and (4) by:

(a) the transportation network driver purchasing coverage that complies with Subsections (2), (3), and (4);

(b) the transportation network company purchasing, on the transportation network driver's behalf, coverage that complies with Subsections (2), (3), and (4); or

(c) a combination of Subsections (5)(a) and (b).

(6) An insurer may offer to a transportation network driver a personal automobile liability insurance policy, or an amendment or endorsement to a personal automobile liability policy, that:

(a) covers a private passenger motor vehicle while used to provide transportation network services; and

(b) satisfies the coverage requirements described in Subsection (2), (3), or (4).

(7) Nothing in this section requires a personal automobile insurance policy to provide coverage while a driver is providing transportation network services.

(8) If a transportation network company does not purchase a policy that complies with Subsections (2), (3), and (4) on behalf of a transportation network driver, the transportation network company shall verify that the driver has purchased a policy that complies with Subsections (2), (3), and (4).

(9) An insurance policy that a transportation network company or a transportation network driver maintains under Subsection (2) or (3):

(a) satisfies the security requirements of Section 41-12a-301; and

(b) may, along with insurance maintained under Subsection (4), be placed with:

(i) an insurer that is certified under Section 31A-4-103; or

(ii) a surplus lines insurer licensed under Section 31A-23a-104.

(10) An insurer that provides coverage for a transportation network driver explicitly for the transportation network driver's transportation network services under Subsection (2) or (3) shall have the duty to defend a liability claim arising from an occurrence while the transportation network driver is providing transportation network services.

(11) (a) If insurance a transportation network driver maintains under Subsection (2), (3), or (4) lapses or ceases to exist, a transportation network company shall provide coverage complying with Subsection (2), (3), or (4) beginning with the first dollar of a claim.

(b) Subsection (11)(a) does not apply to comprehensive or collision insurance otherwise required under Subsection (4) if, at the time of a claim for damage to a vehicle being used to provide

transportation network services, there is no outstanding lien on the vehicle.

(12) (a) An insurance policy that a transportation network company or transportation network driver maintains under Subsection (2) or (3) may not provide that coverage is dependent on a transportation network driver's personal automobile insurance policy first denying a claim.

(b) Subsection (12)(a) does not apply to coverage a transportation network company provides under Subsection (10) in the event a transportation network driver's coverage under Subsection (2) or (3) lapses or ceases to exist.

(13) A personal automobile insurer:

(a) notwithstanding Section 31A-22-302, may offer a personal automobile liability policy that excludes coverage for a loss that arises from the use of the insured vehicle to provide transportation network services; and

(b) does not have the duty to defend or indemnify a loss if an exclusion described in Subsection (13)(a) excludes coverage according to the policy's terms.

(14) If a transportation network company's insurer insures a vehicle with a lien against the vehicle, and the transportation network company's insurer covers a claim regarding the vehicle under comprehensive or collision coverage, the transportation network company shall direct the transportation network company's insurer to issue the payment for the claim:

(a) directly to the person that is repairing the vehicle; or

(b) jointly to the owner of the vehicle and the primary lienholder.

Section 27. Section 31A-22-504 is amended to read:

31A-22-504. Trustee groups.

(1) Group life insurance policies may be issued to:

(a) policyholders who are the trustees of a fund established by two or more employers, by one or more labor unions, or similar employee organizations, or by one or more employers and one or more labor unions or similar employee organizations, to insure employees of the employers or members of the unions or the organizations for the benefit of persons other than the employers, the unions, or the organizations[-]; or

(b) notwithstanding Subsection 31A-22-501(2), a Taft Hartley trust created in accordance with Section 302(c)(5) of the Federal Labor Management Relations Act.

(2) These policies are subject to the following requirements:

[4] (a) The persons eligible for insurance are all of the employees of the employers or all of the members of the unions or organizations, or all of any classes of employees or members. The policy may include retired employees, elected and appointed officials of a public agency if the employees of the

agency are insured, and individual proprietors or partners who are employers. The policy may include the trustees or their employees, or both, if their duties are principally connected with the trusteeship.

[~~2~~] (b) The premiums for the policy are paid by the policyholders from funds contributed by the employers, unions, or similar employee organizations, or from funds contributed by the insured persons, or any combination of these. Except as provided under Section 31A-22-512, a policy on which no part of the premium is contributed by the insured persons specifically for their insurance is required to insure all eligible persons.

Section 28. Section 31A-22-612 is amended to read:

31A-22-612. Conversion privileges for insured former spouse.

(1) An accident and health insurance policy, which in addition to covering the insured also provides coverage to the spouse of the insured, may not contain a provision for termination of coverage of a spouse covered under the policy, except by entry of a valid decree of divorce or annulment between the parties.

(2) Every policy which contains this type of provision shall provide that upon the entry of the divorce decree the spouse is entitled to have issued an individual policy of accident and health insurance without evidence of insurability, upon application to the company and payment of the appropriate premium. The policy shall provide the coverage being issued which is most nearly similar to the terminated coverage. Probationary or waiting periods in the policy are considered satisfied to the extent the coverage was in force under the prior policy.

(3) When the insurer receives actual notice that the coverage of a spouse is to be terminated because of a divorce or annulment, the insurer shall promptly provide the spouse written notification of the right to obtain individual coverage as provided in Subsection (2), the premium amounts required, and the manner, place, and time in which premiums may be paid. The premium is determined in accordance with the insurer's table of premium rates applicable to the age and class of risk of the persons to be covered and to the type and amount of coverage provided. If the spouse applies and tenders the first monthly premium to the insurer within 30 days after receiving the notice provided by this Subsection (3), the spouse shall receive individual coverage that commences immediately upon termination of coverage under the insured's policy.

(4) This section does not apply to accident and health insurance policies offered on a group blanket basis or a health benefit plan.

Section 29. Section 31A-22-620 is amended to read:

31A-22-620. Medicare Supplement Insurance Minimum Standards Act.

(1) As used in this section:

(a) "Applicant" means:

(i) in the case of an individual Medicare supplement policy, the person who seeks to contract for insurance benefits; and

(ii) in the case of a group Medicare supplement policy, the proposed certificate holder.

(b) "Certificate" means any certificate delivered or issued for delivery in this state under a group Medicare supplement policy.

(c) "Certificate form" means the form on which the certificate is delivered or issued for delivery by the issuer.

(d) "Issuer" includes insurance companies, fraternal benefit societies, health care service plans, health maintenance organizations, and any other entity delivering, or issuing for delivery in this state, Medicare supplement policies or certificates.

(e) "Medicare" means the "Health Insurance for the Aged Act," Title XVIII of the Social Security Amendments of 1965, as then constituted or later amended.

(f) "Medicare Supplement Policy":

(i) means a group or individual policy of ~~[disability]~~ health insurance, other than a policy issued pursuant to a contract under Section 1876 of the federal Social Security Act, 42 U.S.C. ~~[Section]~~ Sec. 1395 et seq., or an issued policy under a demonstration project specified in 42 U.S.C. ~~[Section]~~ Sec. 1395ss(g)(1), that is advertised, marketed, or designed primarily as a supplement to reimbursements under Medicare for the hospital, medical, or surgical expenses of persons eligible for Medicare; and

(ii) does not include Medicare Advantage plans established under Medicare Part C, outpatient prescription drug plans established under Medicare Part D, or any health care prepayment plan that provides benefits pursuant to an agreement under Section 1833(a)(1)(A) of the Social Security Act.

(g) "Policy form" means the form on which the policy is delivered or issued for delivery by the issuer.

(2) (a) Except as otherwise specifically provided, this section applies to:

(i) all Medicare supplement policies delivered or issued for delivery in this state on or after the effective date of this section;

(ii) all certificates issued under group Medicare supplement policies, that have been delivered or issued for delivery in this state on or after the effective date of this section; and

(iii) policies or certificates that were in force prior to the effective date of this section, with respect to

requirements for benefits, claims payment, and policy reporting practice under Subsection (3)(d), and loss ratios under Subsection (4).

(b) This section does not apply to a policy of one or more employers or labor organizations, or of the trustees of a fund established by one or more employers or labor organizations, or a combination of employers and labor unions, for employees or former employees or a combination of employees and former employees, or for members or former members of the labor organizations, or a combination of members and former members of labor organizations.

(c) This section does not prohibit, nor does it apply to insurance policies or health care benefit plans, including group conversion policies, provided to Medicare eligible persons that are not marketed or held out to be Medicare supplement policies or benefit plans.

(3) (a) A Medicare supplement policy or certificate in force in the state may not contain benefits that duplicate benefits provided by Medicare.

(b) Notwithstanding any other provision of law of this state, a Medicare supplement policy or certificate may not exclude or limit benefits for loss incurred more than six months from the effective date of coverage because it involved a preexisting condition. The policy or certificate may not define a preexisting condition more restrictively than: "A condition for which medical advice was given or treatment was recommended by or received from a physician within six months before the effective date of coverage."

(c) The commissioner shall adopt rules to establish specific standards for policy provisions of Medicare supplement policies and certificates. The standards adopted shall be in addition to and in accordance with applicable laws of this state. A requirement of this title relating to minimum required policy benefits, other than the minimum standards contained in this section, may not apply to Medicare supplement policies and certificates. The standards may include:

- (i) terms of renewability;
- (ii) initial and subsequent conditions of eligibility;
- (iii) nonduplication of coverage;
- (iv) probationary periods;
- (v) benefit limitations, exceptions, and reductions;
- (vi) elimination periods;
- (vii) requirements for replacement;
- (viii) recurrent conditions; and
- (ix) definitions of terms.

(d) The commissioner shall adopt rules establishing minimum standards for benefits, claims payment, marketing practices,

compensation arrangements, and reporting practices for Medicare supplement policies and certificates.

(e) The commissioner may adopt rules to conform Medicare supplement policies and certificates to the requirements of federal law and regulations, including:

- (i) requiring refunds or credits if the policies do not meet loss ratio requirements;
- (ii) establishing a uniform methodology for calculating and reporting loss ratios;
- (iii) assuring public access to policies, premiums, and loss ratio information of issuers of Medicare supplement insurance;
- (iv) establishing a process for approving or disapproving policy forms and certificate forms and proposed premium increases;
- (v) establishing a policy for holding public hearings prior to approval of premium increases;
- (vi) establishing standards for Medicare select policies and certificates; and
- (vii) nondiscrimination for genetic testing or genetic information.

(f) The commissioner may adopt rules that prohibit policy provisions not otherwise specifically authorized by statute that, in the opinion of the commissioner, are unjust, unfair, or unfairly discriminatory to any person insured or proposed to be insured under a Medicare supplement policy or certificate.

(4) Medicare supplement policies shall return to policyholders benefits that are reasonable in relation to the premium charged. The commissioner shall make rules to establish minimum standards for loss ratios of Medicare supplement policies on the basis of incurred claims experience, or incurred health care expenses where coverage is provided by a health maintenance organization on a service basis rather than on a reimbursement basis, and earned premiums in accordance with accepted actuarial principles and practices.

(5) (a) To provide for full and fair disclosure in the sale of Medicare supplement policies, a Medicare supplement policy or certificate may not be delivered in this state unless an outline of coverage is delivered to the applicant at the time application is made.

(b) The commissioner shall prescribe the format and content of the outline of coverage required by Subsection (5)(a).

(c) For purposes of this section, "format" means style arrangements and overall appearance, including such items as the size, color, and prominence of type and arrangement of text and captions. The outline of coverage shall include:

- (i) a description of the principal benefits and coverage provided in the policy;
- (ii) a statement of the renewal provisions, including any reservation by the issuer of a right to

change premiums; and disclosure of the existence of any automatic renewal premium increases based on the policyholder's age; and

(iii) a statement that the outline of coverage is a summary of the policy issued or applied for and that the policy should be consulted to determine governing contractual provisions.

(d) The commissioner may make rules for captions or notice if the commissioner finds that the rules are:

(i) in the public interest; and

(ii) designed to inform prospective insureds that particular insurance coverages are not Medicare supplement coverages, for all accident and health insurance policies sold to persons eligible for Medicare, other than:

(A) a medicare supplement policy; or

(B) a disability income policy.

(e) The commissioner may prescribe by rule a standard form and the contents of an informational brochure for persons eligible for Medicare, that is intended to improve the buyer's ability to select the most appropriate coverage and improve the buyer's understanding of Medicare. Except in the case of direct response insurance policies, the commissioner may require by rule that the informational brochure be provided concurrently with delivery of the outline of coverage to any prospective insureds eligible for Medicare. With respect to direct response insurance policies, the commissioner may require by rule that the prescribed brochure be provided upon request to any prospective insureds eligible for Medicare, but in no event later than the time of policy delivery.

(f) The commissioner may adopt reasonable rules to govern the full and fair disclosure of the information in connection with the replacement of accident and health policies, subscriber contracts, or certificates by persons eligible for Medicare.

(6) Notwithstanding Subsection (1), Medicare supplement policies and certificates shall have a notice prominently printed on the first page of the policy or certificate, or attached to the front page, stating in substance that the applicant has the right to return the policy or certificate within 30 days of its delivery and to have the premium refunded if, after examination of the policy or certificate, the applicant is not satisfied for any reason. Any refund made pursuant to this section shall be paid directly to the applicant by the issuer in a timely manner.

(7) Every issuer of Medicare supplement insurance policies or certificates in this state shall provide a copy of any Medicare supplement advertisement intended for use in this state, whether through written or broadcast medium, to the commissioner for review.

(8) The commissioner may adopt rules to conform Medicare and Medicare supplement policies and certificates to the marketing requirements of federal law and regulation.

Section 30. Section 31A-23a-102 is amended to read:

31A-23a-102. Definitions.

As used in this chapter:

(1) "Bail bond producer" is as defined in Section 31A-35-102.

(2) "Designated home state" means the state or territory of the United States or the District of Columbia:

(a) in which an insurance producer, limited lines producer, consultant, managing general agent, or reinsurance intermediary licensee does not maintain the licensee's principal:

(i) place of residence; or

(ii) place of business;

(b) if the resident state, territory, or District of Columbia of the licensee does not license for the line of authority sought, the licensee has qualified for the license as if the person were a resident in the state, territory, or District of Columbia described in Subsection (2)(a), including an applicable:

(i) examination requirement;

(ii) fingerprint background check requirement; and

(iii) continuing education requirement; and

(c) if the licensee has designated the state, territory, or District of Columbia as the designated home state.

~~(2)~~ (3) "Home state" means:

(a) a state or territory of the United States or the District of Columbia in which an insurance producer, limited lines producer, consultant, managing general agent, or reinsurance intermediary licensee:

~~(a)~~ (i) maintains the ~~[insurance producer's]~~ licensee's principal:

~~(4)~~ (A) place of residence; or

~~(4)~~ (B) place of business; and

~~(b)~~ (ii) is licensed to act as ~~[an insurance producer]~~ a resident licensee; or

(b) if the resident state, territory, or the District of Columbia described in Subsection (3)(a) does not license for the line of authority sought, a state, territory, or the District of Columbia:

(i) in which the licensee is licensed;

(ii) in which the licensee is in good standing; and

(iii) that the licensee has designated as the licensee's designated home state.

~~(3)~~ (4) "Insurer" is as defined in Section 31A-1-301, except that the following persons or similar persons are not insurers for purposes of Part 7, Producer Controlled Insurers:

(a) a risk retention group as defined in:

(i) the Superfund Amendments and Reauthorization Act of 1986, Pub. L. No. 99-499;

(ii) the Risk Retention Act, 15 U.S.C. Sec. 3901 et seq.; and

(iii) Chapter 15, Part 2, Risk Retention Groups Act;

(b) a residual market pool;

(c) a joint underwriting authority or association; and

(d) a captive insurer.

[44] (5) "License" is defined in Section 31A-1-301.

[45] (6) (a) "Managing general agent" means a person that:

(i) manages all or part of the insurance business of an insurer, including the management of a separate division, department, or underwriting office;

(ii) acts as an agent for the insurer whether it is known as a managing general agent, manager, or other similar term;

(iii) produces and underwrites an amount of gross direct written premium equal to, or more than, 5% of the policyholder surplus as reported in the last annual statement of the insurer in any one quarter or year:

(A) with or without the authority;

(B) separately or together with an affiliate; and

(C) directly or indirectly; and

(iv) (A) adjusts or pays claims in excess of an amount determined by the commissioner; or

(B) negotiates reinsurance on behalf of the insurer.

(b) Notwithstanding Subsection [45] (6)(a), the following persons may not be considered as managing general agent for the purposes of this chapter:

(i) an employee of the insurer;

(ii) a United States manager of the United States branch of an alien insurer;

(iii) an underwriting manager that, pursuant to contract:

(A) manages all the insurance operations of the insurer;

(B) is under common control with the insurer;

(C) is subject to Chapter 16, Insurance Holding Companies; and

(D) is not compensated based on the volume of premiums written; and

(iv) the attorney-in-fact authorized by and acting for the subscribers of a reciprocal insurer or inter-insurance exchange under powers of attorney.

[46] (7) "Negotiate" means the act of conferring directly with or offering advice directly to a purchaser or prospective purchaser of a particular contract of insurance concerning a substantive benefit, term, or condition of the contract if the person engaged in that act:

(a) sells insurance; or

(b) obtains insurance from insurers for purchasers.

[47] (8) "Reinsurance intermediary" means:

(a) a reinsurance intermediary-broker; or

(b) a reinsurance intermediary-manager.

[48] (9) "Reinsurance intermediary-broker" means a person other than an officer or employee of the ceding insurer, firm, association, or corporation who solicits, negotiates, or places reinsurance cessions or retrocessions on behalf of a ceding insurer without the authority or power to bind reinsurance on behalf of the insurer.

[49] (10) (a) "Reinsurance intermediary-manager" means a person who:

(i) has authority to bind or who manages all or part of the assumed reinsurance business of a reinsurer, including the management of a separate division, department, or underwriting office; and

(ii) acts as an agent for the reinsurer whether the person is known as a reinsurance intermediary-manager, manager, or other similar term.

(b) Notwithstanding Subsection [49] (10)(a), the following persons may not be considered reinsurance intermediary-managers for the purpose of this chapter with respect to the reinsurer:

(i) an employee of the reinsurer;

(ii) a United States manager of the United States branch of an alien reinsurer;

(iii) an underwriting manager that, pursuant to contract:

(A) manages all the reinsurance operations of the reinsurer;

(B) is under common control with the reinsurer;

(C) is subject to Chapter 16, Insurance Holding Companies; and

(D) is not compensated based on the volume of premiums written; and

(iv) the manager of a group, association, pool, or organization of insurers that:

(A) engage in joint underwriting or joint reinsurance; and

(B) are subject to examination by the insurance commissioner of the state in which the manager's principal business office is located.

[40] (11) "Resident" is as defined by rule made by the commissioner in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

~~[(41)]~~ (12) “Search” means a license subline of authority in conjunction with the title insurance line of authority that allows a person to issue title insurance commitments or policies on behalf of a title insurer.

~~[(42)]~~ (13) “Sell” means to exchange a contract of insurance:

- (a) by any means;
- (b) for money or its equivalent; and
- (c) on behalf of an insurance company.

~~[(43)]~~ (14) “Solicit” means:

- (a) attempting to sell insurance;
- (b) asking or urging a person to apply for:
 - (i) a particular kind of insurance; and
 - (ii) insurance from a particular insurance company;
- (c) advertising insurance, including advertising for the purpose of obtaining leads for the sale of insurance; or

(d) holding oneself out as being in the insurance business.

~~[(44)]~~ (15) “Terminate” means:

- (a) the cancellation of the relationship between:
 - (i) an individual licensee or agency licensee and a particular insurer; or
 - (ii) an individual licensee and a particular agency licensee; or
- (b) the termination of:
 - (i) an individual licensee’s or agency licensee’s authority to transact insurance on behalf of a particular insurance company; or
 - (ii) an individual licensee’s authority to transact insurance on behalf of a particular agency licensee.

~~[(45)]~~ (16) “Title marketing representative” means a person who:

- (a) represents a title insurer in soliciting, requesting, or negotiating the placing of:
 - (i) title insurance; or
 - (ii) escrow services; and
- (b) does not have a search or escrow license as provided in Section 31A-23a-106.

~~[(46)]~~ (17) “Uniform application” means the version of the National Association of Insurance Commissioners’ uniform application for resident and nonresident producer licensing at the time the application is filed.

~~[(47)]~~ (18) “Uniform business entity application” means the version of the National Association of Insurance Commissioners’ uniform business entity application for resident and nonresident business entities at the time the application is filed.

Section 31. Section 31A-23a-113 is amended to read:

31A-23a-113. License lapse and voluntary surrender.

(1) (a) A license issued under this chapter, including a line of authority, shall lapse if the licensee fails to:

- (i) pay when due a fee under Section 31A-3-103;
- (ii) complete continuing education requirements under Section 31A-23a-202 before submitting the license renewal application;
- (iii) submit a completed renewal application as required by Section 31A-23a-104;
- (iv) submit additional documentation required to complete the licensing process as related to a specific license type or line of authority; or
- (v) maintain an active license in a licensee’s home state if the licensee is a nonresident licensee.

(b) (i) A licensee whose license lapses may request reinstatement of the license and line of authority no more than one year after the day on which the license lapses.

(ii) A licensee whose license lapses due to the following may request an action described in Subsection (1)(b)(~~(ii)~~)(iii):

- (A) military service;
- (B) voluntary service for a period of time designated by the person for whom the licensee provides voluntary service; or
- (C) some other extenuating circumstances, such as long-term medical disability.

~~[(ii)]~~ (iii) A licensee described in Subsection (1)(b)(~~(i)~~)(ii) may request:

(A) reinstatement of the license and line of authority no later than one year after the day on which the license lapses; and

(B) waiver of any of the following imposed for failure to comply with renewal procedures:

- (I) an examination requirement;
- (II) reinstatement fees set under Section 31A-3-103;
- (III) continuing education requirements; or
- (IV) other sanction imposed for failure to comply with renewal procedures.

(2) If a license or line of authority issued under this chapter is voluntarily surrendered, the license or line of authority may be reinstated:

- (a) during the license period in which the license or line of authority is voluntarily surrendered; and
- (b) no later than one year after the day on which the license or line of authority is voluntarily surrendered.

Section 32. Section 31A-23a-402 is amended to read:

31A-23a-402. Unfair marketing practices -- Communication -- Unfair discrimination

-- Coercion or intimidation -- Restriction on choice.

(1) (a) (i) Any of the following may not make or cause to be made any communication that contains false or misleading information, relating to an insurance product or contract, any insurer, or any licensee under this title, including information that is false or misleading because it is incomplete:

(A) a person who is or should be licensed under this title;

(B) an employee or producer of a person described in Subsection (1)(a)(i)(A);

(C) a person whose primary interest is as a competitor of a person licensed under this title; and

(D) a person on behalf of any of the persons listed in this Subsection (1)(a)(i).

(ii) As used in this Subsection (1), "false or misleading information" includes:

(A) assuring the nonobligatory payment of future dividends or refunds of unused premiums in any specific or approximate amounts, but reporting fully and accurately past experience is not false or misleading information; and

(B) with intent to deceive a person examining it:

(I) filing a report;

(II) making a false entry in a record; or

(III) wilfully refraining from making a proper entry in a record.

(iii) A licensee under this title may not:

(A) use any business name, slogan, emblem, or related device that is misleading or likely to cause the insurer or other licensee to be mistaken for another insurer or other licensee already in business; or

(B) use any name, advertisement or other insurance promotional material that would cause a reasonable person to mistakenly believe that a state or federal government agency, including the Health Insurance Exchange, also called the "Utah Health Exchange[,]" or "Avenue H," created in Section 63M-1-2504, the Comprehensive Health Insurance Pool created in Chapter 29, Comprehensive Health Insurance Pool Act, and the Children's Health Insurance Program created in Title 26, Chapter 40, Utah Children's Health Insurance Act:

(I) is responsible for the insurance sales activities of the person;

(II) stands behind the credit of the person;

(III) guarantees any returns on insurance products of or sold by the person; or

(IV) is a source of payment of any insurance obligation of or sold by the person.

(iv) A person who is not an insurer may not assume or use any name that deceptively implies or suggests that person is an insurer.

(v) A person other than persons licensed as health maintenance organizations under Chapter 8 may not use the term "Health Maintenance Organization" or "HMO" in referring to itself.

(b) A licensee's violation creates a rebuttable presumption that the violation was also committed by the insurer if:

(i) the licensee under this title distributes cards or documents, exhibits a sign, or publishes an advertisement that violates Subsection (1)(a), with reference to a particular insurer:

(A) that the licensee represents; or

(B) for whom the licensee processes claims; and

(ii) the cards, documents, signs, or advertisements are supplied or approved by that insurer.

(2) (a) A title insurer, individual title insurance producer, or agency title insurance producer or any officer or employee of the title insurer, individual title insurance producer, or agency title insurance producer may not pay, allow, give, or offer to pay, allow, or give, directly or indirectly, as an inducement to obtaining any title insurance business:

(i) any rebate, reduction, or abatement of any rate or charge made incident to the issuance of the title insurance;

(ii) any special favor or advantage not generally available to others;

(iii) any money or other consideration, except if approved under Section 31A-2-405; or

(iv) material inducement.

(b) "Charge made incident to the issuance of the title insurance" includes escrow charges, and any other services that are prescribed in rule by the Title and Escrow Commission after consultation with the commissioner and subject to Section 31A-2-404.

(c) An insured or any other person connected, directly or indirectly, with the transaction may not knowingly receive or accept, directly or indirectly, any benefit referred to in Subsection (2)(a), including:

(i) a person licensed under Title 61, Chapter 2c, Utah Residential Mortgage Practices and Licensing Act;

(ii) a person licensed under Title 61, Chapter 2f, Real Estate Licensing and Practices Act;

(iii) a builder;

(iv) an attorney; or

(v) an officer, employee, or agent of a person listed in this Subsection (2)(c)(iii).

(3) (a) An insurer may not unfairly discriminate among policyholders by charging different premiums or by offering different terms of coverage, except on the basis of classifications related to the nature and the degree of the risk covered or the expenses involved.

(b) Rates are not unfairly discriminatory if they are averaged broadly among persons insured under a group, blanket, or franchise policy, and the terms of those policies are not unfairly discriminatory merely because they are more favorable than in similar individual policies.

(4) (a) This Subsection (4) applies to:

(i) a person who is or should be licensed under this title;

(ii) an employee of that licensee or person who should be licensed;

(iii) a person whose primary interest is as a competitor of a person licensed under this title; and

(iv) one acting on behalf of any person described in Subsections (4)(a)(i) through (iii).

(b) A person described in Subsection (4)(a) may not commit or enter into any agreement to participate in any act of boycott, coercion, or intimidation that:

(i) tends to produce:

(A) an unreasonable restraint of the business of insurance; or

(B) a monopoly in that business; or

(ii) results in an applicant purchasing or replacing an insurance contract.

(5) (a) (i) Subject to Subsection (5)(a)(ii), a person may not restrict in the choice of an insurer or licensee under this chapter, another person who is required to pay for insurance as a condition for the conclusion of a contract or other transaction or for the exercise of any right under a contract.

(ii) A person requiring coverage may reserve the right to disapprove the insurer or the coverage selected on reasonable grounds.

(b) The form of corporate organization of an insurer authorized to do business in this state is not a reasonable ground for disapproval, and the commissioner may by rule specify additional grounds that are not reasonable. This Subsection (5) does not bar an insurer from declining an application for insurance.

(6) A person may not make any charge other than insurance premiums and premium financing charges for the protection of property or of a security interest in property, as a condition for obtaining, renewing, or continuing the financing of a purchase of the property or the lending of money on the security of an interest in the property.

(7) (a) A licensee under this title may not refuse or fail to return promptly all indicia of agency to the principal on demand.

(b) A licensee whose license is suspended, limited, or revoked under Section 31A-2-308, 31A-23a-111, or 31A-23a-112 may not refuse or fail to return the license to the commissioner on demand.

(8) (a) A person may not engage in an unfair method of competition or any other unfair or deceptive act or practice in the business of insurance, as defined by the commissioner by rule, after a finding that the method of competition, the act, or the practice:

(i) is misleading;

(ii) is deceptive;

(iii) is unfairly discriminatory;

(iv) provides an unfair inducement; or

(v) unreasonably restrains competition.

(b) Notwithstanding Subsection (8)(a), for purpose of the title insurance industry, the Title and Escrow Commission shall make rules, subject to Section 31A-2-404, that define an unfair method of competition or unfair or deceptive act or practice after a finding that the method of competition, the act, or the practice:

(i) is misleading;

(ii) is deceptive;

(iii) is unfairly discriminatory;

(iv) provides an unfair inducement; or

(v) unreasonably restrains competition.

Section 33. Section 31A-23a-402.5 is amended to read:

31A-23a-402.5. Inducements.

(1) (a) Except as provided in Subsection (2), a producer, consultant, or other licensee under this title, or an officer or employee of a licensee, may not induce a person to enter into, continue, or terminate an insurance contract by offering a benefit that is not:

(i) specified in the insurance contract; or

(ii) directly related to the insurance contract.

(b) An insurer may not make or knowingly allow an agreement of insurance that is not clearly expressed in the insurance contract to be issued or renewed.

(c) A licensee under this title may not absorb the tax under Section 31A-3-301.

(2) This section does not apply to a title insurer, an individual title insurance producer, or agency title insurance producer, or an officer or employee of a title insurer, an individual title insurance producer, or an agency title insurance producer.

(3) Items not prohibited by Subsection (1) include an insurer:

(a) reducing premiums because of expense savings;

(b) providing to a policyholder or insured one or more incentives, as defined by the commissioner by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to participate in a program or activity designed to reduce claims or claim expenses, including:

(i) a premium discount offered to a small or large employer group based on a wellness program if:

(A) the premium discount for the employer group does not exceed 20% of the group premium; and

(B) the premium discount based on the wellness program is offered uniformly by the insurer to all employer groups in the large or small group market;

(ii) a premium discount offered to employees of a small or large employer group in an amount that does not exceed federal limits on wellness program incentives; or

(iii) a combination of premium discounts offered to the employer group and the employees of an employer group, based on a wellness program, if:

(A) the premium discounts for the employer group comply with Subsection (3)(b)(i); and

(B) the premium discounts for the employees of an employer group comply with Subsection (3)(b)(ii); or

(c) receiving premiums under an installment payment plan.

(4) Items not prohibited by Subsection (1) include a producer, consultant, or other licensee, or an officer or employee of a licensee, either directly or through a third party:

(a) engaging in a usual kind of social courtesy if receipt of the social courtesy is not conditioned on a quote or the purchase of a particular insurance product;

(b) extending credit on a premium to the insured:

(i) without interest, for no more than 90 days from the effective date of the insurance contract;

(ii) for interest that is not less than the legal rate under Section 15-1-1, on the unpaid balance after the time period described in Subsection (4)(b)(i); and

(iii) except that an installment or payroll deduction payment of premiums on an insurance contract issued under an insurer's mass marketing program is not considered an extension of credit for purposes of this Subsection (4)(b);

(c) preparing or conducting a survey that:

(i) is directly related to an accident and health insurance policy purchased from the licensee; or

(ii) is used by the licensee to assess the benefit needs and preferences of insureds, employers, or employees directly related to an insurance product sold by the licensee;

(d) providing limited human resource services that are directly related to an insurance product sold by the licensee, including:

(i) answering questions directly related to:

(A) an employee benefit offering or administration, if the insurance product purchased

from the licensee is accident and health insurance or health insurance; and

(B) employment practices liability, if the insurance product offered by or purchased from the licensee is property or casualty insurance; and

(ii) providing limited human resource compliance training and education directly pertaining to an insurance product purchased from the licensee;

(e) providing the following types of information or guidance:

(i) providing guidance directly related to compliance with federal and state laws for an insurance product purchased from the licensee;

(ii) providing a workshop or seminar addressing an insurance issue that is directly related to an insurance product purchased from the licensee; or

(iii) providing information regarding:

(A) employee benefit issues;

(B) directly related insurance regulatory and legislative updates; or

(C) similar education about an insurance product sold by the licensee and how the insurance product interacts with tax law;

(f) preparing or providing a form that is directly related to an insurance product purchased from, or offered by, the licensee;

(g) preparing or providing documents directly related to a premium only cafeteria plan within the meaning of Section 125, Internal Revenue Code, or a flexible spending account, but not providing ongoing administration of a flexible spending account;

(h) providing enrollment and billing assistance, including:

(i) providing benefit statements or new hire insurance benefits packages; and

(ii) providing technology services such as an electronic enrollment platform or application system;

(i) communicating coverages in writing and in consultation with the insured and employees;

(j) providing employee communication materials and notifications directly related to an insurance product purchased from a licensee;

(k) providing claims management and resolution to the extent permitted under the licensee's license;

(l) providing underwriting or actuarial analysis or services;

(m) negotiating with an insurer regarding the placement and pricing of an insurance product;

(n) recommending placement and coverage options;

(o) providing a health fair or providing assistance or advice on establishing or operating a wellness program, but not providing any payment for or direct operation of the wellness program;

(p) providing COBRA and Utah mini-COBRA administration, consultations, and other services directly related to an insurance product purchased from the licensee;

(q) assisting with a summary plan description, including providing a summary plan description wraparound;

(r) providing information necessary for the preparation of documents directly related to the Employee Retirement Income Security Act of 1974, 29 U.S.C. Sec. 1001, et seq., as amended;

(s) providing information or services directly related to the Health Insurance Portability and Accountability Act of 1996, Pub. L. 104-191, 110 Stat. 1936, as amended, such as services directly related to health care access, portability, and renewability when offered in connection with accident and health insurance sold by a licensee;

(t) sending proof of coverage to a third party with a legitimate interest in coverage;

(u) providing information in a form approved by the commissioner and directly related to determining whether an insurance product sold by the licensee meets the requirements of a third party contract that requires or references insurance coverage;

(v) facilitating risk management services directly related to property and casualty insurance products sold or offered for sale by the licensee, including:

(i) risk management;

(ii) claims and loss control services;

(iii) risk assessment consulting, including analysis of:

(A) employer's job descriptions; or

(B) employer's safety procedures or manuals; and

(iv) providing information and training on best practices;

(w) otherwise providing services that are legitimately part of servicing an insurance product purchased from a licensee; and

(x) providing other directly related services approved by the department.

(5) An inducement prohibited under Subsection (1) includes a producer, consultant, or other licensee, or an officer or employee of a licensee:

(a) (i) providing a rebate;

(ii) paying the salary of an employee of a person who purchases an insurance product from the licensee; or

(iii) if the licensee is an insurer, or a third party administrator who contracts with an insurer, paying the salary for an onsite staff member to perform an act prohibited under Subsection (5)(b)(xii); or

(b) engaging in one or more of the following unless a fee is paid in accordance with Subsection (8):

(i) performing background checks of prospective employees;

(ii) providing legal services by a person licensed to practice law;

(iii) performing drug testing that is directly related to an insurance product purchased from the licensee;

(iv) preparing employer or employee handbooks, except that a licensee may:

(A) provide information for a medical benefit section of an employee handbook;

(B) provide information for the section of an employee handbook directly related to an employment practices liability insurance product purchased from the licensee; or

(C) prepare or print an employee benefit enrollment guide;

(v) providing job descriptions, postings, and applications for a person;

(vi) providing payroll services;

(vii) providing performance reviews or performance review training;

(viii) providing union advice;

(ix) providing accounting services;

(x) providing data analysis information technology programs, except as provided in Subsection (4)(h)(ii);

(xi) providing administration of health reimbursement accounts or health savings accounts; or

(xii) if the licensee is an insurer, or a third party administrator who contracts with an insurer, the insurer issuing an insurance policy that lists in the insurance policy one or more of the following prohibited benefits:

(A) performing background checks of prospective employees;

(B) providing legal services by a person licensed to practice law;

(C) performing drug testing that is directly related to an insurance product purchased from the insurer;

(D) preparing employer or employee handbooks;

(E) providing job descriptions postings, and applications;

(F) providing payroll services;

(G) providing performance reviews or performance review training;

(H) providing union advice;

(I) providing accounting services;

(J) providing discrimination testing; or

(K) providing data analysis information technology programs.

(6) A producer, consultant, or other licensee or an officer or employee of a licensee shall itemize and bill separately from any other insurance product or service offered or provided under Subsection (5)(b).

(7) (a) A de minimis gift or meal not to exceed a fair market value of [~~\$25~~] \$100 for each individual receiving the gift or meal is presumed to be a social courtesy not conditioned on a quote or purchase of a particular insurance product for purposes of Subsection (4)(a).

(b) Notwithstanding Subsection (4)(a), a de minimis gift or meal not to exceed \$10 may be conditioned on receipt of a quote of a particular insurance product.

(8) If as provided under Subsection (5)(b) a producer, consultant, or other licensee is paid a fee to provide an item listed in Subsection (5)(b), the licensee shall comply with Subsection 31A-23a-501(2) in charging the fee, except that the fee paid for the item shall equal or exceed the fair market value of the item.

(9) For purposes of this section, “fair market value” [~~is determined on the basis of what an individual insured or policyholder would pay on the open market for that item~~] means what a knowledgeable, willing, and unpressured buyer would pay for a product or service to a knowledgeable, willing, and unpressured seller in the open market without any connection to other goods, services, including insurance services, or contracts, including insurance contracts, sold by the producer, consultant, or other licensee, or an officer or employee of the licensee.

Section 34. Section 31A-23b-206 is amended to read:

31A-23b-206. Continuing education requirements.

(1) The commissioner shall, by rule, prescribe continuing education requirements for a navigator.

(2) (a) The commissioner may not require a degree from an institution of higher education as part of continuing education.

(b) The commissioner may state a continuing education requirement in terms of hours of instruction received in:

- (i) accident and health insurance;
- (ii) qualification for and enrollment in public programs;
- (iii) qualification for and enrollment in premium subsidies;
- (iv) cultural competency;
- (v) conflict of interest standards; and
- (vi) other exchange functions.

(3) (a) For a navigator line of authority, continuing education requirements shall require:

(i) that a licensee complete 12 credit hours of continuing education for every one-year licensing period;

(ii) that at least two of the 12 credit hours described in Subsection (3)(a)(i) be ethics courses;

(iii) that at least one of the 12 credit hours described in Subsection (3)(a)(i) be training on defined contribution arrangements and the use of the small employer health insurance exchange; and

(iv) that a licensee complete the annual navigator training and certification program developed by the Centers for Medicare and Medicaid Services.

(b) For a certified application counselor, the continuing education requirements shall require:

(i) that a licensee complete six credit hours of continuing education for every one-year licensing period;

(ii) that at least two of the six credit hours described in Subsection (3)(b)(i) be on ethics courses;

(iii) that at least one of the six credit hours described in Subsection (3)(b)(i) be training on defined contribution arrangements and the use of the small employer health insurance exchange; and

(iv) that a licensee complete the annual certified application counselor training and certification program developed by the Centers for Medicare and Medicaid Services.

(c) An hour of continuing education in accordance with Subsections (3)(a)(i) and (b)(i) may be obtained through:

- (i) classroom attendance;
- (ii) home study;
- (iii) watching a video recording; or
- (iv) another method approved by rule.

(d) A licensee may obtain continuing education hours at any time during the one-year license period.

(e) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commissioner shall, by rule, authorize one or more continuing education providers, including a state or national professional producer or consultant associations, to:

- (i) offer a qualified program on a geographically accessible basis; and
- (ii) collect a reasonable fee for funding and administration of a continuing education program, subject to the review and approval of the commissioner.

(4) The commissioner shall approve a continuing education provider or a continuing education course that satisfies the requirements of this section.

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commissioner shall by rule establish the procedures for continuing education provider registration and course approval.

(6) This section applies only to a navigator who is a natural person.

(7) A navigator shall keep documentation of completing the continuing education requirements of this section for ~~[two years]~~ one year after the end of the ~~[two-year]~~ one-year licensing period to which the continuing education applies.

Section 35. Section 31A-25-302.5 is enacted to read:

31A-25-302.5. Place of business and residence address.

(1) A third-party administrator licensed under this chapter shall register and maintain with the commissioner:

(a) the address and one or more telephone numbers of the licensee's principal place of business;

(b) a valid business email address at which the commissioner may contact the licensee; and

(c) if the licensee is an individual, the licensee's residence address and telephone number.

(2) A licensee shall notify the commissioner within 30 days of a change of any of the following required to be registered with the commissioner under this section:

(a) an address;

(b) a telephone number; or

(c) a business email address.

Section 36. Section 31A-27a-116 is amended to read:

31A-27a-116. Financial reporting.

(1) (a) The receiver shall comply with all requirements for receivership financial reporting in this section and as may be specified by the commissioner by rule or ordered by the court within:

(i) 180 days after the day on which the receivership court enters an order of receivership; and

(ii) 45 days following each calendar quarter after the period specified in Subsection (1)(a)(i).

(b) The rule described in this Subsection (1) shall:

(i) comply with this section;

(ii) be made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(iii) require the receiver to file any financial report with the receivership court in addition to any other person specified in the rule.

(c) A financial report shall include, at a minimum, a statement of:

(i) the assets and liabilities of the insurer;

(ii) the changes in those assets and liabilities; and

(iii) all funds received or disbursed by the receiver during that reporting period.

(d) The receiver may qualify a financial report or provide notes to the financial statement for further explanation.

(e) The receivership court may order the receiver to provide any additional information as the receivership court considers appropriate.

(2) Each affected guaranty association shall file one or more reports with the liquidator:

(a) (i) within 180 days after the day on which the receivership court enters an order of liquidation; and

(ii) (A) within 45 days following each calendar quarter after the period described in Subsection (2)(a)(i); or

(B) at an interval:

(I) agreed to between the liquidator and the affected guaranty association; or

(II) required by the receivership court; and

(b) in no event less than annually.

(3) For good cause shown, the receivership court may grant:

(a) relief for an extension or modification of time to comply with Subsection (1) or (2); or

(b) such other relief as may be appropriate.

Section 37. Section 31A-28-213 is amended to read:

31A-28-213. Miscellaneous provisions.

(1) (a) Any person who has a claim against an insurer, whether or not the insurer is a member insurer, under any provision in an insurance policy, other than a policy of an insolvent insurer that is also a covered claim, is required to first exhaust that person's right under that person's policy.

(b) Any amount payable on a covered claim under this part under an insurance policy is reduced by the amount of any recovery under the insurance policy described in Subsection (1)(a).

(c) (i) Except as provided in Subsection (1)(c)(ii) a person having a claim that may be recovered under more than one insurance guaranty association or its equivalent shall first seek recovery from the association of the place of residence of the insured.

(ii) If the person's claim is:

(A) a first-party claim for damage to property with a permanent location, the person shall seek recovery first from the association of the location of the property; and

(B) a workers' compensation claim, the person shall seek recovery first from the association of the residence of the claimant.

(iii) Any recovery under this part shall be reduced by the amount of recovery from any other insurance guaranty association or its equivalent.

(2) An insurer may not exercise any right of subrogation against an insolvent insurer's insured

if exercise of the right would require the insured, or a guaranty fund under this chapter, to pay an amount the insolvent insurer is obligated to pay under an insurance policy issued to the insured, except that an insurer may exercise a right of subrogation for the amount the subrogation claim exceeds the guaranty association obligation limitations.

[~~(2)~~] (3) This part may not be construed to reduce the liability for unpaid assessments of the insureds of an impaired or insolvent insurer operating under a plan with assessment liability.

[~~(3)~~] (4) (a) Records shall be kept of all negotiations and meetings in which the association or its representatives are involved to discuss the activities of the association in carrying out the association's powers and duties under Section 31A-28-207. Records of these negotiations or meetings shall be made public only upon:

(i) [upon] the termination of a liquidation, rehabilitation, or conservation proceeding involving the insolvent insurer;

(ii) the termination of the insolvency of the insurer; or

(iii) the order of a court of competent jurisdiction.

(b) This Subsection [~~(3)~~] (4) does not limit the duty of the association to render a report of its activities under Section 31A-28-214.

[~~(4)~~] (5) For the purpose of carrying out its obligations under this part, the association is considered to be a creditor of the insolvent insurer, except to the extent of any amounts the association is entitled as subrogee under Section 31A-28-207.

[~~(5)~~] (6) (a) Before the termination of any liquidation, rehabilitation, or conservation proceeding, the court may take into consideration the contributions of the respective parties, including:

(i) the association;

(ii) the shareholders;

(iii) the policyowners of the insolvent insurer; and

(iv) any other party with a bona fide interest, in making an equitable distribution of the ownership rights of the insolvent insurer.

(b) In making the determination described in Subsection [~~(5)~~] (6)(a), the court shall consider the welfare of the policyholders of the continuing or successor insurer.

(c) A distribution to stockholders, if any, of an insolvent insurer may not be made until the total amount of valid claims of the association with interest on those claims for funds expended in carrying out its powers and duties under Section 31A-28-207 regarding this insurer have been fully recovered by the association.

[~~(6)~~] (7) A rehabilitator, liquidator, or conservator appointed under any section of this part may recover on behalf of the insurer for excessive

distributions paid to affiliates, pursuant to Section 31A-27a-502.

Section 38. Section 31A-37-102 is amended to read:

31A-37-102. Definitions.

As used in this chapter:

(1) "Affiliated company" means a business entity that because of common ownership, control, operation, or management is in the same corporate or limited liability company system as:

(a) a parent;

(b) an industrial insured; or

(c) a member organization.

(2) "Alien captive insurance company" means an insurer:

(a) formed to write insurance business for a parent or affiliate of the insurer; and

(b) licensed pursuant to the laws of an alien jurisdiction that imposes statutory or regulatory standards:

(i) on a business entity transacting the business of insurance in the alien jurisdiction; and

(ii) in a form acceptable to the commissioner.

(3) "Association" means a legal association of two or more persons that has been in continuous existence for at least one year if:

(a) the association or its member organizations:

(i) own, control, or hold with power to vote all of the outstanding voting securities of an association captive insurance company incorporated as a stock insurer; or

(ii) have complete voting control over an association captive insurance company incorporated as a mutual insurer;

(b) the association's member organizations collectively constitute all of the subscribers of an association captive insurance company formed as a reciprocal insurer; or

(c) the association or its member organizations have complete voting control over an association captive insurance company formed as a limited liability company.

(4) "Association captive insurance company" means a business entity that insures risks of:

(a) a member organization of the association;

(b) an affiliate of a member organization of the association; and

(c) the association.

(5) "Branch business" means an insurance business transacted by a branch captive insurance company in this state.

(6) "Branch captive insurance company" means an alien captive insurance company that has a certificate of authority from the commissioner to

transact the business of insurance in this state through a business unit with a principal place of business in this state.

(7) “Branch operation” means a business operation of a branch captive insurance company in this state.

(8) “Captive insurance company” means any of the following formed or holding a certificate of authority under this chapter:

- (a) a branch captive insurance company;
- (b) a pure captive insurance company;
- (c) an association captive insurance company;
- (d) a sponsored captive insurance company;
- (e) an industrial insured captive insurance company;

~~[(f) a captive reinsurance company;]~~

~~[(g)]~~ (f) a special purpose captive insurance company; or

~~[(h)]~~ (g) a special purpose financial captive insurance company.

~~[(9) “Captive reinsurance company” means a reinsurer that is:]~~

~~[(a) formed or has a certificate of authority pursuant to this chapter;]~~

~~[(b) wholly owned by a qualifying reinsurer parent company; and]~~

~~[(c) a stock corporation.]~~

~~[(11)]~~ (9) “Commissioner” means ~~the~~ Utah’s Insurance Commissioner or the commissioner’s designee.

(10) “Common ownership and control” means that two or more captive insurance companies are owned or controlled by the same person or group of persons as follows:

(a) in the case of a captive insurance company that is a stock corporation, the direct or indirect ownership of 80% or more of the outstanding voting stock of the stock corporation;

(b) in the case of a captive insurance company that is a mutual corporation, the direct or indirect ownership of 80% or more of the surplus and the voting power of the mutual corporation;

(c) in the case of a captive insurance company that is a limited liability company, the direct or indirect ownership by the same member or members of 80% or more of the membership interests in the limited liability company; or

(d) in the case of a sponsored captive insurance company, a protected cell is a separate captive insurance company owned and controlled by the protected cell’s participant, only if:

(i) the participant is the only participant with respect to the protected cell; and

(ii) the participant is the sponsor or is affiliated with the sponsor of the sponsored captive insurance company through common ownership and control.

~~[(12)]~~ (11) “Consolidated debt to total capital ratio” means the ratio of Subsection ~~[(12)]~~ (11)(a) to (b).

(a) This Subsection ~~[(12)]~~ (11)(a) is an amount equal to the sum of all debts and hybrid capital instruments including:

- (i) all borrowings from depository institutions;
- (ii) all senior debt;
- (iii) all subordinated debts;
- (iv) all trust preferred shares; and

(v) all other hybrid capital instruments that are not included in the determination of consolidated GAAP net worth issued and outstanding.

(b) This Subsection ~~[(12)]~~ (11)(b) is an amount equal to the sum of:

(i) total capital consisting of all debts and hybrid capital instruments as described in Subsection ~~[(12)]~~ (11)(a); and

(ii) shareholders’ equity determined in accordance with generally accepted accounting principles for reporting to the United States Securities and Exchange Commission.

~~[(13)]~~ (12) “Consolidated GAAP net worth” means the consolidated shareholders’ or members’ equity determined in accordance with generally accepted accounting principles for reporting to the United States Securities and Exchange Commission.

~~[(14)]~~ (13) “Controlled unaffiliated business” means a business entity:

(a) (i) in the case of a pure captive insurance company, that is not in the corporate or limited liability company system of a parent or the parent’s affiliate; or

(ii) in the case of an industrial insured captive insurance company, that is not in the corporate or limited liability company system of an industrial insured or an affiliated company of the industrial insured;

(b) (i) in the case of a pure captive insurance company, that has a contractual relationship with a parent or affiliate; or

(ii) in the case of an industrial insured captive insurance company, that has a contractual relationship with an industrial insured or an affiliated company of the industrial insured; and

(c) whose risks are managed by one of the following in accordance with Subsection 31A-37-106(1)~~[(4)]~~(j):

(i) a pure captive insurance company; or

(ii) an industrial insured captive insurance company.

~~[(15)]~~ (14) “Department” means the Insurance Department.

<p>[146] (15) "Industrial insured" means an insured:</p> <p>(a) that produces insurance:</p> <p>(i) by the services of a full-time employee acting as a risk manager or insurance manager; or</p> <p>(ii) using the services of a regularly and continuously qualified insurance consultant;</p> <p>(b) whose aggregate annual premiums for insurance on all risks total at least \$25,000; and</p> <p>(c) that has at least 25 full-time employees.</p> <p>[147] (16) "Industrial insured captive insurance company" means a business entity that:</p> <p>(a) insures risks of the industrial insureds that comprise the industrial insured group; and</p> <p>(b) may insure the risks of:</p> <p>(i) an affiliated company of an industrial insured; or</p> <p>(ii) a controlled unaffiliated business of:</p> <p>(A) an industrial insured; or</p> <p>(B) an affiliated company of an industrial insured.</p> <p>[148] (17) "Industrial insured group" means:</p> <p>(a) a group of industrial insureds that collectively:</p> <p>(i) own, control, or hold with power to vote all of the outstanding voting securities of an industrial insured captive insurance company incorporated or organized as a limited liability company as a stock insurer; or</p> <p>(ii) have complete voting control over an industrial insured captive insurance company incorporated or organized as a limited liability company as a mutual insurer;</p> <p>(b) a group that is:</p> <p>(i) created under the Product Liability Risk Retention Act of 1981, 15 U.S.C. [Section] Sec. 3901 et seq., as amended, as a corporation or other limited liability association; and</p> <p>(ii) taxable under this title as a:</p> <p>(A) stock corporation; or</p> <p>(B) mutual insurer; or</p> <p>(c) a group that has complete voting control over an industrial captive insurance company formed as a limited liability company.</p> <p>[149] (18) "Member organization" means a person that belongs to an association.</p> <p>[20] (19) "Parent" means a person that directly or indirectly owns, controls, or holds with power to vote more than 50% of:</p> <p>(a) the outstanding voting securities of a pure captive insurance company; or</p>	<p>(b) the pure captive insurance company, if the pure captive insurance company is formed as a limited liability company.</p> <p>[21] (20) "Participant" means an entity that is insured by a sponsored captive insurance company:</p> <p>(a) if the losses of the participant are limited through a participant contract to the assets of a protected cell; and</p> <p>(b)(i) the entity is permitted to be a participant under Section 31A-37-403; or</p> <p>(ii) the entity is an affiliate of an entity permitted to be a participant under Section 31A-37-403.</p> <p>[22] (21) "Participant contract" means a contract by which a sponsored captive insurance company:</p> <p>(a) insures the risks of a participant; and</p> <p>(b) limits the losses of the participant to the assets of a protected cell.</p> <p>[23] (22) "Protected cell" means a separate account established and maintained by a sponsored captive insurance company for one participant.</p> <p>[24] (23) "Pure captive insurance company" means a business entity that insures risks of a parent or affiliate of the business entity.</p> <p>[25] "Qualifying reinsurer parent company" means a reinsurer:</p> <p>[a] authorized to write reinsurance by this state; and</p> <p>[b] that has:</p> <p>[i] a consolidated GAAP net worth of not less than \$500,000,000; and</p> <p>[ii] a consolidated debt to total capital ratio not greater than .50.]</p> <p>[26] (24) "Special purpose financial captive insurance company" is as defined in Section 31A-37a-102.</p> <p>[27] (25) "Sponsor" means an entity that:</p> <p>(a) meets the requirements of Section 31A-37-402; and</p> <p>(b) is approved by the commissioner to:</p> <p>(i) provide all or part of the capital and surplus required by applicable law in an amount of not less than \$350,000, which amount the commissioner may increase by order if the commissioner considers it necessary; and</p> <p>(ii) organize and operate a sponsored captive insurance company.</p> <p>[28] (26) "Sponsored captive insurance company" means a captive insurance company:</p> <p>(a) in which the minimum capital and surplus required by applicable law is provided by one or more sponsors;</p> <p>(b) that is formed or holding a certificate of authority under this chapter;</p>
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(c) that insures the risks of a separate participant through the contract; and

(d) that segregates each participant's liability through one or more protected cells.

[~~(29)~~] (27) "Treasury rates" means the United States Treasury strip asked yield as published in the Wall Street Journal as of a balance sheet date.

Section 39. Section 31A-37-106 is amended to read:

31A-37-106. Authority to make rules -- Authority to issue orders.

(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commissioner may adopt rules to:

(a) determine circumstances under which a branch captive insurance company is not required to be a pure captive insurance company;

(b) require a statement, document, or information that a captive insurance company shall provide to the commissioner to obtain a certificate of authority;

(c) determine a factor a captive insurance company shall provide evidence of under Subsection 31A-37-202(4)(c);

(d) prescribe one or more capital requirements for a captive insurance company in addition to those required under Section 31A-37-204 based on the type, volume, and nature of insurance business transacted by the captive insurance company;

~~[(e) establish:]~~

~~[(i) the amount of capital or surplus required to be retained under Subsection 31A-37-205(4) at the payment of a dividend or other distribution by a captive insurance company; or]~~

~~[(ii) a formula to determine the amount described in Subsection 31A-37-205(4);]~~

[~~(f)~~] (e) waive or modify a requirement for public notice and hearing for the following by a captive insurance company:

- (i) merger;
- (ii) consolidation;
- (iii) conversion;
- (iv) mutualization; ~~[or]~~
- (v) redomestication; or
- (vi) acquisition;

[~~(g)~~] (f) approve the use of one or more reliable methods of valuation and rating for:

- (i) an association captive insurance company;
- (ii) a sponsored captive insurance company; or
- (iii) an industrial insured group;

[~~(h)~~] (g) prohibit or limit an investment that threatens the solvency or liquidity of:

- (i) a pure captive insurance company; or

(ii) an industrial insured captive insurance company;

[~~(i)~~] (h) determine the financial reports a sponsored captive insurance company shall annually file with the commissioner;

[~~(j)~~] (i) prescribe the required forms and reports under Section 31A-37-501; and

[~~(k)~~] (j) establish one or more standards to ensure that:

(i) one of the following is able to exercise control of the risk management function of a controlled unaffiliated business to be insured by a pure captive insurance company:

- (A) a parent; or
- (B) an affiliated company of a parent; or

(ii) one of the following is able to exercise control of the risk management function of a controlled unaffiliated business to be insured by an industrial insured captive insurance company:

- (A) an industrial insured; or
- (B) an affiliated company of the industrial insured.

(2) Notwithstanding Subsection (1)[~~(k)~~](j), until the commissioner adopts the rules authorized under Subsection (1)[~~(k)~~](j), the commissioner may by temporary order grant authority to insure risks to:

- (a) a pure captive insurance company; or
- (b) an industrial insured captive insurance company.

(3) The commissioner may issue prohibitory, mandatory, and other orders relating to a captive insurance company as necessary to enable the commissioner to secure compliance with this chapter.

Section 40. Section 31A-37-202 is amended to read:

31A-37-202. Permissive areas of insurance.

(1) (a) Except as provided in Subsection (1)(b), when permitted by its articles of incorporation, certificate of organization, or charter, a captive insurance company may apply to the commissioner for a certificate of authority to do all insurance authorized by this title except workers' compensation insurance.

(b) Notwithstanding Subsection (1)(a):

(i) a pure captive insurance company may not insure a risk other than a risk of:

- (A) its parent or affiliate;
- (B) a controlled unaffiliated business; or
- (C) a combination of Subsections (1)(b)(i)(A) and (B);

(ii) an association captive insurance company may not insure a risk other than a risk of:

- (A) an affiliate;

(B) a member organization of its association; and

(C) an affiliate of a member organization of its association;

(iii) an industrial insured captive insurance company may not insure a risk other than a risk of:

(A) an industrial insured that is part of the industrial insured group;

(B) an affiliate of an industrial insured that is part of the industrial insured group; and

(C) a controlled unaffiliated business of:

(I) an industrial insured that is part of the industrial insured group; or

(II) an affiliate of an industrial insured that is part of the industrial insured group;

(iv) a special purpose captive insurance company may only insure a risk of its parent;

(v) a captive insurance company may not provide:

(A) personal motor vehicle insurance coverage;

(B) homeowner's insurance coverage; or

(C) a component of a coverage described in this Subsection (1)(b)(v); and

(vi) a captive insurance company may not accept or cede reinsurance except as provided in Section 31A-37-303.

(c) Notwithstanding Subsection (1)(b)(iv), for a risk approved by the commissioner a special purpose captive insurance company may provide:

(i) insurance;

(ii) reinsurance; or

(iii) both insurance and reinsurance.

(2) To conduct insurance business in this state a captive insurance company shall:

(a) obtain from the commissioner a certificate of authority authorizing it to conduct insurance business in this state;

(b) hold at least once each year in this state:

(i) a board of directors meeting; [~~or~~]

(ii) in the case of a reciprocal insurer, a subscriber's advisory committee meeting; or

(iii) in the case of a limited liability company, a meeting of the managers;

(c) maintain in this state:

(i) the principal place of business of the captive insurance company; or

(ii) in the case of a branch captive insurance company, the principal place of business for the branch operations of the branch captive insurance company; and

(d) except as provided in Subsection (3), appoint a resident registered agent to accept service of

process and to otherwise act on behalf of the captive insurance company in this state.

(3) Notwithstanding Subsection (2)(d), in the case of a captive insurance company formed as a corporation or a reciprocal insurer, if the registered agent cannot with reasonable diligence be found at the registered office of the captive insurance company, the commissioner is the agent of the captive insurance company upon whom process, notice, or demand may be served.

(4) (a) Before receiving a certificate of authority, a captive insurance company:

(i) formed as a corporation shall file with the commissioner:

(A) a certified copy of:

(I) articles of incorporation or the charter of the corporation; and

(II) bylaws of the corporation;

(B) a statement under oath of the president and secretary of the corporation showing the financial condition of the corporation; and

(C) any other statement or document required by the commissioner under Section 31A-37-106;

(ii) formed as a reciprocal shall:

(A) file with the commissioner:

(I) a certified copy of the power of attorney of the attorney-in-fact of the reciprocal;

(II) a certified copy of the subscribers' agreement of the reciprocal;

(III) a statement under oath of the attorney-in-fact of the reciprocal showing the financial condition of the reciprocal; and

(IV) any other statement or document required by the commissioner under Section 31A-37-106; and

(B) submit to the commissioner for approval a description of the:

(I) coverages;

(II) deductibles;

(III) coverage limits;

(IV) rates; and

(V) any other information the commissioner requires under Section 31A-37-106[-]; and

(iii) formed as a limited liability company shall file with the commissioner:

(A) a certified copy of the certificate of organization and the operating agreement of the organization;

(B) a statement under oath of the president and secretary of the organization showing the financial condition of the organization;

(C) evidence that the limited liability company is manager-managed; and

(D) any other statement or document required by the commissioner under Section 31A-37-106.

(b) (i) If there is a subsequent material change in an item in the description required under Subsection (4)(a)(ii)(B) for a reciprocal captive insurance company, the reciprocal captive insurance company shall submit to the commissioner for approval an appropriate revision to the description required under Subsection (4)(a)(ii)(B).

(ii) A reciprocal captive insurance company that is required to submit a revision under Subsection (4)(b)(i) may not offer any additional types of insurance until the commissioner approves a revision of the description.

(iii) A reciprocal captive insurance company shall inform the commissioner of a material change in a rate within 30 days of the adoption of the change.

(c) In addition to the information required by Subsection (4)(a), an applicant captive insurance company shall file with the commissioner evidence of:

(i) the amount and liquidity of the assets of the applicant captive insurance company relative to the risks to be assumed by the applicant captive insurance company;

(ii) the adequacy of the expertise, experience, and character of the person who will manage the applicant captive insurance company;

(iii) the overall soundness of the plan of operation of the applicant captive insurance company;

(iv) the adequacy of the loss prevention programs for the following of the applicant captive insurance company:

(A) a parent;

(B) a member organization; or

(C) an industrial insured; and

(v) any other factor the commissioner:

(A) adopts by rule under Section 31A-37-106; and

(B) considers relevant in ascertaining whether the applicant captive insurance company will be able to meet the policy obligations of the applicant captive insurance company.

(d) In addition to the information required by Subsections (4)(a), (b), and (c), an applicant sponsored captive insurance company shall file with the commissioner:

(i) a business plan at the level of detail required by the commissioner under Section 31A-37-106 demonstrating:

(A) the manner in which the applicant sponsored captive insurance company will account for the losses and expenses of each protected cell; and

(B) the manner in which the applicant sponsored captive insurance company will report to the

commissioner the financial history, including losses and expenses, of each protected cell;

(ii) a statement acknowledging that the applicant sponsored captive insurance company will make all financial records of the applicant sponsored captive insurance company, including records pertaining to a protected cell, available for inspection or examination by the commissioner;

(iii) a contract or sample contract between the applicant sponsored captive insurance company and a participant; and

(iv) evidence that expenses will be allocated to each protected cell in an equitable manner.

(5) (a) Information submitted pursuant to Subsection (4) is classified as a protected record under Title 63G, Chapter 2, Government Records Access and Management Act.

(b) Notwithstanding Title 63G, Chapter 2, Government Records Access and Management Act, the commissioner may disclose information submitted pursuant to Subsection (4) to a public official having jurisdiction over the regulation of insurance in another state if:

(i) the public official receiving the information agrees in writing to maintain the confidentiality of the information; and

(ii) the laws of the state in which the public official serves require the information to be confidential.

(c) This Subsection (5) does not apply to information provided by an industrial insured captive insurance company insuring the risks of an industrial insured group.

(6) (a) A captive insurance company shall pay to the department the following nonrefundable fees established by the department under Sections 31A-3-103, 31A-3-304, and 63J-1-504:

(i) a fee for examining, investigating, and processing, by a department employee, of an application for a certificate of authority made by a captive insurance company;

(ii) a fee for obtaining a certificate of authority for the year the captive insurance company is issued a certificate of authority by the department; and

(iii) a certificate of authority renewal fee.

(b) The commissioner may:

(i) assign a department employee or retain legal, financial, and examination services from outside the department to perform the services described in:

(A) Subsection (6)(a); and

(B) Section 31A-37-502; and

(ii) charge the reasonable cost of services described in Subsection (6)(b)(i) to the applicant captive insurance company.

(7) If the commissioner is satisfied that the documents and statements filed by the applicant captive insurance company comply with this

chapter, the commissioner may grant a certificate of authority authorizing the company to do insurance business in this state.

(8) A certificate of authority granted under this section expires annually and shall be renewed by July 1 of each year.

Section 41. Section 31A-37-204 is amended to read:

31A-37-204. Paid-in capital -- Other capital.

(1) (a) The commissioner may not issue a certificate of authority to a company described in Subsection (1)(c) unless the company possesses and thereafter maintains unimpaired paid-in capital and unimpaired paid-in surplus of:

(i) in the case of a pure captive insurance company, not less than [~~\$100,000~~] \$250,000;

(ii) in the case of an association captive insurance company incorporated as a stock insurer, not less than [~~\$400,000~~] \$750,000;

(iii) in the case of an industrial insured captive insurance company incorporated as a stock insurer, not less than [~~\$200,000~~] \$700,000;

(iv) in the case of a sponsored captive insurance company, not less than [~~\$500,000~~] \$1,000,000, of which a minimum of \$350,000 is provided by the sponsor; or

(v) in the case of a special purpose captive insurance company, an amount determined by the commissioner after giving due consideration to the company's business plan, feasibility study, and pro-formas, including the nature of the risks to be insured.

(b) The paid-in capital and surplus required under this Subsection (1) may be in the form of:

(i) (A) cash; or

(B) cash equivalent; or

(ii) an irrevocable letter of credit:

(A) issued by:

(I) a bank chartered by this state; or

(II) a member bank of the Federal Reserve System; and

(B) approved by the commissioner.

(c) This Subsection (1) applies to:

(i) a pure captive insurance company;

(ii) a sponsored captive insurance company;

(iii) a special purpose captive insurance company;

(iv) an association captive insurance company incorporated as a stock insurer; or

(v) an industrial insured captive insurance company incorporated as a stock insurer.

(2) (a) The commissioner may, under Section 31A-37-106, prescribe additional capital based on the type, volume, and nature of insurance business transacted.

(b) The capital prescribed by the commissioner under this Subsection (2) may be in the form of:

(i) cash; or

(ii) an irrevocable letter of credit issued by:

(A) a bank chartered by this state; or

(B) a member bank of the Federal Reserve System.

(3) (a) Except as provided in Subsection (3)(c), a branch captive insurance company, as security for the payment of liabilities attributable to branch operations, shall, through its branch operations, establish and maintain a trust fund:

(i) funded by an irrevocable letter of credit or other acceptable asset; and

(ii) in the United States for the benefit of:

(A) United States policyholders; and

(B) United States ceding insurers under:

(I) insurance policies issued; or

(II) reinsurance contracts issued or assumed.

(b) The amount of the security required under this Subsection (3) shall be no less than:

(i) the capital and surplus required by this chapter; and

(ii) the reserves on the insurance policies or reinsurance contracts, including:

(A) reserves for losses;

(B) allocated loss adjustment expenses;

(C) incurred but not reported losses; and

(D) unearned premiums with regard to business written through branch operations.

(c) Notwithstanding the other provisions of this Subsection (3), the commissioner may permit a branch captive insurance company that is required to post security for loss reserves on branch business by its reinsurer to reduce the funds in the trust account required by this section by the same amount as the security posted if the security remains posted with the reinsurer.

(4) (a) A captive insurance company may not pay the following without the prior approval of the commissioner:

(i) a dividend out of capital or surplus in excess of the limits under Section 16-10a-640; or

(ii) a distribution with respect to capital or surplus in excess of the limits under Section 16-10a-640.

(b) The commissioner shall condition approval of an ongoing plan for the payment of dividends or other distributions on the retention, at the time of each payment, of capital or surplus in excess of:

(i) amounts specified by the commissioner under Section 31A-37-106; or

(ii) determined in accordance with formulas approved by the commissioner under Section 31A-37-106.

(5) Notwithstanding Subsection (1), a captive insurance company organized as a reciprocal insurer under this chapter may not be issued a certificate of authority unless the captive insurance company possesses and maintains unimpaired paid-in surplus of \$1,000,000.

(6) (a) The commissioner may prescribe additional unimpaired paid-in surplus based upon the type, volume, and nature of the insurance business transacted.

(b) The unimpaired paid-in surplus required under this Subsection (6) may be in the form of an irrevocable letter of credit issued by:

(i) a bank chartered by this state; or

(ii) a member bank of the Federal Reserve System.

Section 42. Section 31A-37-301 is amended to read:

31A-37-301. Incorporation -- Organization.

(1) A pure captive insurance company or a sponsored captive insurance company shall be incorporated as a stock insurer with the capital of the pure captive insurance company or sponsored captive insurance company:

(a) divided into shares; and

(b) held by the stockholders of the pure captive insurance company or sponsored captive insurance company.

(2) A pure captive insurance company or a sponsored captive insurance company formed as a limited liability company shall be organized as a members' interest insurer with the capital of the pure captive insurance company or sponsored captive insurance company:

(a) divided into interests; and

(b) held by the members of the pure captive insurance company or sponsored captive insurance company.

[(2)] (3) An association captive insurance company or an industrial insured captive insurance company may be:

(a) incorporated as a stock insurer with the capital of the association captive insurance company or industrial insured captive insurance company:

(i) divided into shares; and

(ii) held by the stockholders of the association captive insurance company or industrial insured captive insurance company;

(b) incorporated as a mutual insurer without capital stock, with a governing body elected by the member organizations of the association captive insurance company or industrial insured captive insurance company; or

(c) organized as a reciprocal.

[(3)] (4) A captive insurance company formed as a corporation may not have fewer than three incorporators of whom [not fewer than two shall be residents] one shall be a resident of this state.

(5) A captive insurance company formed as a limited liability company may not have fewer than three organizers of whom one shall be a resident of this state.

[(4)] (6) (a) Before a captive insurance company formed as a corporation files the corporation's articles of incorporation with the Division of Corporations and Commercial Code, the incorporators shall obtain from the commissioner a certificate finding that the establishment and maintenance of the proposed corporation will promote the general good of the state.

(b) In considering a request for a certificate under Subsection [(4)] (6)(a), the commissioner shall consider:

(i) the character, reputation, financial standing, and purposes of the incorporators;

(ii) the character, reputation, financial responsibility, insurance experience, and business qualifications of the officers and directors;

(iii) any information in:

(A) the application for a certificate of authority; or

(B) the department's files; and

(iv) other aspects that the commissioner considers advisable.

(7) (a) Before a captive insurance company formed as a limited liability company files the limited liability company's articles of organization with the Division of Corporations and Commercial Code, the limited liability company shall obtain from the commissioner a certificate finding that the establishment and maintenance of the proposed limited liability company will promote the general good of the state.

(b) In considering a request for a certificate under Subsection (7)(a), the commissioner shall consider:

(i) the character, reputation, financial standing, and purposes of the organizers;

(ii) the character, reputation, financial responsibility, insurance experience, and business qualifications of the managers;

(iii) any information in:

(A) the application for a certificate of authority; or

(B) the department's files; and

(iv) other aspects that the commissioner considers advisable.

~~[(5)]~~ (8) (a) A captive insurance company formed as a corporation shall file with the Division of Corporations and Commercial Code:

(i) the captive insurance company's articles of incorporation;

(ii) the certificate issued pursuant to Subsection ~~[(4)]~~ (6); and

(iii) the fees required by the Division of Corporations and Commercial Code.

(b) The Division of Corporations and Commercial Code shall file both the articles of incorporation and the certificate described in Subsection ~~[(4)]~~ (6) for a captive insurance company that complies with this section.

(9) (a) A captive insurance company formed as a limited liability company shall file with the Division of Corporations and Commercial Code:

(i) the captive insurance company's certificate of organization;

(ii) the certificate issued pursuant to Subsection (7); and

(iii) the fees required by the Division of Corporations and Commercial Code.

(b) The Division of Corporations and Commercial Code shall file both the certificate of organization and the certificate described in Subsection (7) for a captive insurance company that complies with this section.

~~[(6)]~~ (10) (a) The organizers of a captive insurance company formed as a reciprocal insurer shall obtain from the commissioner a certificate finding that the establishment and maintenance of the proposed association will promote the general good of the state.

(b) In considering a request for a certificate under Subsection ~~[(6)]~~ (10)(a), the commissioner shall consider:

(i) the character, reputation, financial standing, and purposes of the incorporators;

(ii) the character, reputation, financial responsibility, insurance experience, and business qualifications of the officers and directors;

(iii) any information in:

(A) the application for a certificate of authority; or

(B) the department's files; and

(iv) other aspects that the commissioner considers advisable.

~~[(7)]~~ (11) (a) An alien captive insurance company that has received a certificate of authority to act as a branch captive insurance company shall obtain from the commissioner a certificate finding that:

(i) the home state of the alien captive insurance company imposes statutory or regulatory standards in a form acceptable to the commissioner on companies transacting the business of insurance in that state; and

(ii) after considering the character, reputation, financial responsibility, insurance experience, and business qualifications of the officers and directors of the alien captive insurance company, and other relevant information, the establishment and maintenance of the branch operations will promote the general good of the state.

(b) After the commissioner issues a certificate under Subsection ~~[(7)]~~ (11)(a) to an alien captive insurance company, the alien captive insurance company may register to do business in this state.

~~[(8) The capital stock of a captive insurance company incorporated as a stock insurer may not be issued at less than par value.]~~

~~[(9)]~~ (12) At least one of the members of the board of directors of a captive insurance company formed as a corporation shall be a resident of this state.

(13) At least one of the managers of a limited liability company shall be a resident of this state.

~~[(10)]~~ (14) At least one of the members of the subscribers' advisory committee of a captive insurance company formed as a reciprocal insurer shall be a resident of this state.

~~[(11)]~~ (15) (a) A captive insurance company formed as a corporation under this chapter has the privileges and is subject to the provisions of the general corporation law as well as the applicable provisions contained in this chapter.

(b) If a conflict exists between a provision of the general corporation law and a provision of this chapter, this chapter shall control.

(c) Except as provided in Subsection ~~[(11)]~~ (15)(d), the provisions of this title pertaining to a merger, consolidation, conversion, mutualization, and redomestication apply in determining the procedures to be followed by a captive insurance company in carrying out any of the transactions described in those provisions.

(d) Notwithstanding Subsection ~~[(11)]~~ (15)(c), the commissioner may waive or modify the requirements for public notice and hearing in accordance with rules adopted under Section 31A-37-106.

(e) If a notice of public hearing is required, but no one requests a hearing, the commissioner may cancel the public hearing.

(16) (a) A captive insurance company formed as a limited liability company under this chapter has the privileges and is subject to Title 48, Chapter 2c, Utah Revised Limited Liability Company Act, or Title 48, Chapter 3a, Utah Revised Uniform Limited Liability Company Act, as appropriate pursuant to Section 48-3a-1405, as well as the applicable provisions in this chapter.

(b) If a conflict exists between a provision of the limited liability company law and a provision of this chapter, this chapter controls.

(c) The provisions of this title pertaining to a merger, consolidation, conversion, mutualization, and redomestication apply in determining the

procedures to be followed by a captive insurance company in carrying out any of the transactions described in those provisions.

(d) Notwithstanding Subsection (16)(c), the commissioner may waive or modify the requirements for public notice and hearing in accordance with rules adopted under Section 31A-37-106.

(e) If a notice of public hearing is required, but no one requests a hearing, the commissioner may cancel the public hearing.

[(12)] (17) (a) A captive insurance company formed as a reciprocal insurer under this chapter has the powers set forth in Section 31A-4-114 in addition to the applicable provisions of this chapter.

(b) If a conflict exists between the provisions of Section 31A-4-114 and the provisions of this chapter with respect to a captive insurance company, this chapter shall control.

(c) To the extent a reciprocal insurer is made subject to other provisions of this title pursuant to Section 31A-14-208, the provisions are not applicable to a reciprocal insurer formed under this chapter unless the provisions are expressly made applicable to a captive insurance company under this chapter.

(d) In addition to the provisions of this Subsection [(12)] (17), a captive insurance company organized as a reciprocal insurer that is an industrial insured group has the privileges of Section 31A-4-114 in addition to applicable provisions of this title.

[(13)] (18) (a) The articles of incorporation or bylaws of a captive insurance company formed as a corporation may not authorize a quorum of a board of directors to consist of fewer than one-third of the fixed or prescribed number of directors as provided in Section 16-10a-824.

(b) The certificate of organization of a captive insurance company formed as a limited liability company may not authorize a quorum of a board of managers to consist of fewer than one-third of the fixed or prescribed number of directors required in Section 16-10a-824.

Section 43. Section 31A-37-302 is amended to read:

31A-37-302. Investment requirements.

(1) (a) Except as provided in Subsection (1)(b), an association captive insurance company, a sponsored captive insurance company, and an industrial insured group shall comply with the investment requirements contained in this title.

(b) Notwithstanding Subsection (1)(a) and any other provision of this title, the commissioner may approve the use of alternative reliable methods of valuation and rating under Section 31A-37-106 for:

- (i) an association captive insurance company;
- (ii) a sponsored captive insurance company; or
- (iii) an industrial insured group.

(2) (a) Except as provided in Subsection (2)(b), a pure captive insurance company or industrial insured captive insurance company is not subject to any restrictions on allowable investments contained in this title.

(b) Notwithstanding Subsection (2)(a), the commissioner may, under Section 31A-37-106, prohibit or limit an investment that threatens the solvency or liquidity of:

- (i) a pure captive insurance company; or
- (ii) an industrial insured captive insurance company.

(3) (a) (i) Except as provided in Subsection (3)(a)(ii), a captive insurance company may not make loans to:

(A) the parent company of the captive insurance company; or

(B) an affiliate of the captive insurance company.

(ii) Notwithstanding Subsection (3)(a)(i), a pure captive insurance company may make loans to:

(A) the parent company of the pure captive insurance company; or

(B) an affiliate of the pure captive insurance company.

(b) A loan under Subsection (3)(a):

(i) may be made only on the prior written approval of the commissioner; and

(ii) shall be evidenced by a note in a form approved by the commissioner.

(c) A pure captive insurance company may not make a loan from ~~[(i)]~~ the paid-in capital required under Subsection 31A-37-204(1) ~~[(e)]~~.

~~[(ii) the free surplus required under Subsection 31A-37-205(1)].~~

Section 44. Section 31A-37-303 is amended to read:

31A-37-303. Reinsurance.

(1) A captive insurance company may provide reinsurance, as authorized in this title, on risks ceded ~~[by any other insurer]~~ for the benefit of a parent, affiliate, or controlled unaffiliated business.

(2) (a) A captive insurance company may take credit for reserves on risks or portions of risks ceded to reinsurers if the captive insurance company complies with Section 31A-17-404.

(b) Unless the reinsurer is in compliance with Section 31A-17-404, a captive insurance company may not take credit for:

- (i) reserves on risks ceded to a reinsurer; or
- (ii) portions of risks ceded to a reinsurer.

Section 45. Section 31A-37-306 is amended to read:

31A-37-306. Conversion or merger.

(1) An association captive insurance company or industrial insured group formed as a stock or mutual corporation may be:

(a) converted to a reciprocal insurer in accordance with a plan and this section; or

(b) merged with and into a reciprocal insurer in accordance with a plan and this section.

(2) An association captive insurance company or industrial group formed as a limited liability company may be:

(a) converted to a reciprocal insurer in accordance with a plan and this section; or

(b) merged with and into a reciprocal insurer in accordance with a plan and this section.

~~[(2)]~~ (3) A plan for a conversion or merger under this section:

(a) shall be fair and equitable to:

(i) the shareholders, in the case of a stock insurer; ~~[or]~~

(ii) the policyholders, in the case of a mutual insurer; and

(iii) the members, in the case of a limited liability company insurer; and

(b) shall provide for the purchase of:

(i) the shares of any nonconsenting shareholder of a stock insurer in substantially the same manner and subject to the same rights and conditions as are provided a dissenting shareholder; or

(ii) the policyholder interest of any nonconsenting policyholder of a mutual insurer in substantially the same manner and subject to the same rights and conditions as are provided a dissenting policyholder.

~~[(3)]~~ (4) In the case of a conversion authorized under Subsection (1) or (2):

(a) the conversion shall be accomplished under a reasonable plan and procedure that are approved by the commissioner;

(b) the commissioner may not approve the plan of conversion under this section unless the plan:

(i) satisfies Subsections ~~[(2)]~~ (3) and ~~[(6)]~~ (7);

(ii) provides for the conversion of existing stockholder ~~[or]~~, policyholder, or member interests into subscriber interests in the resulting reciprocal insurer, proportionate to stockholder ~~[or]~~, policyholder, or member interests in the stock or mutual insurer or limited liability company; and

(iii) is approved:

(A) in the case of a stock insurer, by a majority of the shares entitled to vote represented in person or by proxy at a duly called regular or special meeting at which a quorum is present; ~~[or]~~

(B) in the case of a mutual insurer, by a majority of the voting interests of policyholders represented in person or by proxy at a duly called regular or special meeting at which a quorum is present; or

(C) in the case of a limited liability company insurer, by a majority of the voting managers represented in person or by proxy at a duly called regular or special meeting at which a quorum is present;

(c) the commissioner shall approve a plan of conversion if the commissioner finds that the conversion will promote the general good of the state in conformity with the standards under ~~[Subsection]~~ Section 31A-37-301~~[(4)]~~;

(d) if the commissioner approves a plan of conversion, the commissioner shall amend the converting insurer's certificate of authority to reflect conversion to a reciprocal insurer and issue the amended certificate of authority to the company's attorney-in-fact;

(e) upon issuance of an amended certificate of authority of a reciprocal insurer by the commissioner, the conversion is effective; and

(f) upon the effectiveness of the conversion:

(i) the corporate existence of the converting insurer shall cease; and

(ii) the resulting reciprocal insurer shall notify the Division of Corporations and Commercial Code of the conversion.

~~[(4)]~~ (5) A merger authorized under Subsection (1) or (2) shall be accomplished substantially in accordance with the procedures set forth in this title except that, solely for purposes of the merger:

(a) the plan or merger shall satisfy Subsection ~~[(2)]~~ (3);

(b) the subscribers' advisory committee of a reciprocal insurer shall be equivalent to the board of directors of a stock or mutual insurance company;

(c) the subscribers of a reciprocal insurer shall be the equivalent of the policyholders of a mutual insurance company;

(d) if a subscribers' advisory committee does not have a president or secretary, the officers of the committee having substantially equivalent duties are the president and secretary of the committee;

(e) the commissioner shall approve the articles of merger if the commissioner finds that the merger will promote the general good of the state in conformity with the standards under ~~[Subsection]~~ Section 31A-37-301~~[(4)]~~;

(f) notwithstanding ~~[Sections]~~ Section 31A-37-204 ~~[and 31A-37-205]~~, the commissioner may permit the formation, without capital and surplus, of a captive insurance company organized as a reciprocal insurer, into which an existing captive insurance company may be merged to facilitate a transaction under this section, if there is no more than one authorized insurance company surviving the merger; and

(g) an alien insurer may be a party to a merger authorized under Subsection (1) or (2) if:

(i) the requirements for the merger between a domestic and a foreign insurer under Chapter 16,

Insurance Holding Companies, are applied to the merger; and

(ii) the alien insurer is treated as a foreign insurer under Chapter 16, Insurance Holding Companies.

~~[(5)]~~ (6) If the commissioner approves the articles of merger under this section:

(a) the commissioner shall endorse the commissioner's approval on the articles; and

(b) the surviving insurer shall present the name to the Division of Corporations and Commercial Code.

~~[(6)]~~ (7) (a) Except as provided in Subsection ~~[(6)]~~ (7)(b), a conversion authorized under Subsection (1) shall provide for a hearing, of which notice has been given to the insurer, its directors, officers and stockholders, in the case of a stock insurer, or policyholders, in the case of a mutual insurer, all of whom have the right to appear at the hearing.

(b) Notwithstanding Subsection ~~[(6)]~~ (7)(a), the commissioner may waive or modify the requirements for the hearing.

(c) If a notice of hearing is required, but no hearing is requested, after notice has been given under Subsection ~~[(6)]~~ (7)(a), the commissioner may cancel the hearing.

Section 46. Section 31A-37-401 is amended to read:

31A-37-401. Sponsored captive insurance companies -- Formation.

(1) One or more sponsors may form a sponsored captive insurance company under this chapter.

(2) A sponsored captive insurance company formed under this chapter may establish and maintain a protected cell to insure risks of a participant if:

(a) the shareholders of a sponsored captive insurance company are limited to:

(i) the participants of the sponsored captive insurance company; and

(ii) the sponsors of the sponsored captive insurance company;

(b) each protected cell is accounted for separately on the books and records of the sponsored cell captive insurance company to reflect:

(i) the financial condition of ~~[the]~~ each individual protected cell;

(ii) the results of operations of ~~[the]~~ each individual protected cell;

(iii) the net income or loss of ~~[the]~~ each individual protected cell;

(iv) the dividends or other distributions to participants of ~~[the]~~ each individual protected cell; and

(v) other factors that may be:

(A) provided in the participant contract; or

(B) required by the commissioner;

(c) the assets of a protected cell are not chargeable with liabilities arising out of any other insurance business the sponsored captive insurance company may conduct;

(d) a sale, exchange, or other transfer of assets is not made by the sponsored captive insurance company between or among any of the protected cells of the sponsored captive insurance company without the consent of the protected cells;

(e) a sale, exchange, transfer of assets, dividend, or distribution is not made from a protected cell to a sponsor or participant without the commissioner's approval, which may not be given if the sale, exchange, transfer, dividend, or distribution would result in insolvency or impairment with respect to a protected cell;

(f) a sponsored captive insurance company annually files with the commissioner financial reports the commissioner requires under Section 31A-37-106, including accounting statements detailing the financial experience of each protected cell;

(g) a sponsored captive insurance company notifies the commissioner in writing within 10 business days of a protected cell that is insolvent or otherwise unable to meet the claim or expense obligations of the protected cell;

(h) a participant contract does not take effect without the commissioner's prior written approval; ~~and~~

(i) the addition of each new protected cell and withdrawal of a participant of any existing protected cell does not take effect without the commissioner's prior written approval~~[-]~~; and

(j) (i) a protected cell captive insurance company shall pay to the department the following nonrefundable fees established by the department under Sections 31A-3-103, 31A-3-304, and 63J-1-504:

(A) a fee for examining, investigating, and processing by a department employee of an application for a certificate of authority made by a protected cell captive insurance company;

(B) a fee for obtaining a certificate of authority for the year the protected cell captive insurance company is issued a certificate of authority by the department; and

(C) a certificate of authority renewal fee; and

(ii) a protected cell may be created by the sponsor or the sponsor may create a pooling insurance arrangement to provide for pooling of risks to allow for risk distribution upon written approval from every protected cell under the sponsor and written approval of the commissioner.

Section 47. Section 31A-37-402 is amended to read:

31A-37-402. Sponsored captive insurance companies -- Certificate of authority mandatory.

(1) A sponsor of a sponsored captive insurance company shall be:

(a) an insurer authorized or approved under the laws of a state;

(b) a reinsurer authorized or approved under the laws of a state;

(c) a captive insurance company holding a certificate of authority under this chapter;

(d) an insurance holding company that:

(i) controls an insurer licensed pursuant to the laws of a state; and

(ii) is subject to registration pursuant to the holding company system of laws of the state of domicile of the insurer described in Subsection (1)(d)(i); ~~or~~

(e) an approved captive management firm in Utah or its affiliates; or

~~[(e)]~~ (f) another person approved by the commissioner after finding that the approval of the person as a sponsor is not inconsistent with the purposes of this chapter.

(2) (a) The business written by a sponsored captive insurance company with respect to a protected cell shall be fronted by the sponsor insurance company through a controlled unaffiliated contract or an insurer that is:

(i) authorized or approved:

(A) under the laws of a state; or

(B) under any jurisdiction if the insurance company is a wholly owned subsidiary of an insurance company licensed pursuant to the laws of a state;

(ii) reinsured by a reinsurer authorized or approved by this state; or

(iii) subject to Subsection (2)(b), secured by a trust fund:

(A) in the United States;

(B) for the benefit of policyholders and claimants; ~~and~~

(C) funded by an irrevocable letter of credit or other asset acceptable to the commissioner~~[-];~~ and

(D) held by the sponsor as provided in Subsection 31A-17-404(1).

(b) (i) The amount of security provided by the trust fund described in Subsection (2)(a)(iii) may not be less than the reserves associated with the liabilities of the trust fund, including:

(A) reserves for losses;

(B) allocated loss adjustment expenses;

(C) incurred but unreported losses; and

(D) unearned premiums for business written through the participant's protected cell.

(ii) The commissioner may require the sponsored captive insurance company to increase the funding of a trust established pursuant to this Subsection (2).

(iii) If the form of security in the trust described in Subsection (2)(a)(iii) is a letter of credit, the letter of credit shall be established, issued, or confirmed by a bank that is:

(A) chartered in this state;

(B) a member of the federal reserve system; or

(C) chartered by another state if that state-chartered bank is acceptable to the commissioner.

(iv) A trust and trust instrument maintained pursuant to this Subsection (2) shall be in a form and upon terms approved by the commissioner.

(3) A risk retention group may not be either a sponsor or a participant of a sponsored captive insurance company.

Section 48. Section 31A-37-403 is amended to read:

31A-37-403. Participants in sponsored captive insurance companies.

(1) Any of the following may be a participant in a sponsored captive insurance company holding a certificate of authority under this chapter:

(a) an association;

(b) a corporation that is for profit or nonprofit;

(c) a limited liability company;

(d) a partnership;

(e) a trust; or

(f) any other business entity.

(2) A sponsor may be a participant in a sponsored captive insurance company.

(3) A participant need not be:

(a) a shareholder of the sponsored captive insurance company; or

(b) an affiliate of the sponsored captive insurance company.

(4) A participant shall insure only the participant's own risks through a sponsored captive insurance company unless otherwise approved by the commissioner.

Section 49. Section 31A-37-404 is amended to read:

31A-37-404. Discounting of loss and loss adjustment expense reserves.

(1) ~~[The following]~~ A sponsored captive insurance company may discount its loss and loss adjustment expense reserves at treasury rates applied to the applicable payments projected through the use of the expected payment pattern associated with the reserves~~[-]~~.

~~[(a) a sponsored captive insurance company; and]~~

~~(b) a captive reinsurance company.]~~

(2) (a) ~~[The following]~~ A sponsored captive insurance company shall annually file with the department an actuarial opinion provided by an independent actuary on loss and loss adjustment expense reserves~~].~~

~~(i) a sponsored captive insurance company; and]~~

~~(ii) a captive reinsurance company.]~~

(b) The independent actuary described in Subsection (2)(a) may not be an employee of:

(i) the company filing the actuarial opinion; or

(ii) an affiliate of the company filing the actuarial opinion.

(3) The commissioner may disallow the discounting of reserves by ~~[the following]~~ a sponsored captive insurance company if the sponsored captive insurance company violates this title~~].~~

~~[(a) a sponsored captive insurance company; or]~~

~~[(b) a captive reinsurance company.]~~

Section 50. Section 31A-37-501 is amended to read:

31A-37-501. Reports to commissioner.

(1) A captive insurance company is not required to make a report except those provided in this chapter.

(2) (a) Before March 1 of each year, a captive insurance company shall submit to the commissioner a report of the financial condition of the captive insurance company, verified by oath of two of the executive officers of the captive insurance company.

(b) Except as provided in ~~[Sections]~~ Section 31A-37-204 ~~[and 31A-37-205]~~, a captive insurance company shall report:

(i) using generally accepted accounting principles, except to the extent that the commissioner requires, approves, or accepts the use of a statutory accounting principle;

(ii) using a useful or necessary modification or adaptation to an accounting principle that is required, approved, or accepted by the commissioner for the type of insurance and kind of insurer to be reported upon; and

(iii) supplemental or additional information required by the commissioner.

(c) Except as otherwise provided:

(i) a licensed captive insurance company shall file the report required by Section 31A-4-113; and

(ii) an industrial insured group shall comply with Section 31A-4-113.5.

(3) (a) A pure captive insurance company may make written application to file the required report on a fiscal year end that is consistent with the fiscal

year of the parent company of the pure captive insurance company.

(b) If the commissioner grants an alternative reporting date for a pure captive insurance company requested under Subsection (3)(a), the annual report is due 60 days after the fiscal year end.

(4) (a) Sixty days after the fiscal year end, a branch captive insurance company shall file with the commissioner a copy of the reports and statements required to be filed under the laws of the jurisdiction in which the alien captive insurance company is formed, verified by oath by two of the alien captive insurance company's executive officers.

(b) If the commissioner is satisfied that the annual report filed by the alien captive insurance company in the jurisdiction in which the alien captive insurance company is formed provides adequate information concerning the financial condition of the alien captive insurance company, the commissioner may waive the requirement for completion of the annual statement required for a captive insurance company under this section with respect to business written in the alien jurisdiction.

(c) A waiver by the commissioner under Subsection (4)(b):

(i) shall be in writing; and

(ii) is subject to public inspection.

(5) Before March 1 of each year, a sponsored cell captive insurance company shall submit to the commissioner a consolidated report of the financial condition of each individual protected cell, including a financial statement for each protected cell.

Section 51. Section 31A-37-502 is amended to read:

31A-37-502. Examination.

(1) (a) As provided in this section, the commissioner, or a person appointed by the commissioner, shall examine each captive insurance company in each ~~[three-year]~~ five-year period.

(b) The ~~[three-year]~~ five-year period described in Subsection (1)(a) shall be determined on the basis of ~~[three]~~ five full annual accounting periods of operation.

(c) The examination is to be made as of:

(i) December 31 of the full three-year period; or

(ii) the last day of the month of an annual accounting period authorized for a captive insurance company under this section.

(d) In addition to an examination required under this Subsection (1), the commissioner, or a person appointed by the commissioner may examine a captive insurance company whenever the commissioner determines it to be prudent.

(2) During an examination under this section the commissioner, or a person appointed by the

commissioner, shall thoroughly inspect and examine the affairs of the captive insurance company to ascertain:

(a) the financial condition of the captive insurance company;

(b) the ability of the captive insurance company to fulfill the obligations of the captive insurance company; and

(c) whether the captive insurance company has complied with this chapter.

~~[(3) The commissioner upon application may enlarge the three-year period described in Subsection (1) to five years, if a captive insurance company is subject to a comprehensive annual audit during that period.]~~

~~[(a) of a scope satisfactory to the commissioner; and]~~

~~[(b) performed by independent auditors approved by the commissioner.]~~

~~[(4)] (3) The commissioner may accept a comprehensive annual independent audit in lieu of an examination:~~

~~(a) of a scope satisfactory to the commissioner; and~~

~~(b) performed by an independent auditor approved by the commissioner.~~

~~[(5)] (4) A captive insurance company that is inspected and examined under this section shall pay, as provided in Subsection 31A-37-202(6)(b), the expenses and charges of an inspection and examination.~~

Section 52. Section 31A-37-505 is amended to read:

31A-37-505. Suspension or revocation -- Grounds.

(1) The commissioner may suspend or revoke the certificate of authority of a captive insurance company to conduct an insurance business in this state for:

(a) insolvency or impairment of capital or surplus;

(b) failure to meet the requirements of Section 31A-37-204 ~~[or 31A-37-205];~~

(c) refusal or failure to submit:

(i) an annual report required by Section 31A-37-501; or

(ii) any other report or statement required by law or by lawful order of the commissioner;

(d) failure to comply with the charter, bylaws, or other organizational document of the captive insurance company;

(e) failure to submit to:

(i) an examination under Section 31A-37-502; or

(ii) any legal obligation relative to an examination under Section 31A-37-502;

(f) refusal or failure to pay the cost of examination under Section 31A-37-502;

(g) use of methods that, although not otherwise specifically prohibited by law, render:

(i) the operation of the captive insurance company detrimental to the public or the policyholders of the captive insurance company; or

(ii) the condition of the captive insurance company unsound with respect to the public or to the policyholders of the captive insurance company; or

(h) failure otherwise to comply with laws of this state.

(2) Notwithstanding any other provision of this title, if the commissioner finds, upon examination, hearing, or other evidence, that a captive insurance company has committed any of the acts specified in Subsection (1), the commissioner may suspend or revoke the certificate of authority of the captive insurance company if the commissioner considers it in the best interest of the public and the policyholders of the captive insurance company to revoke the certificate of authority.

Section 53. Section 31A-43-301 is amended to read:

31A-43-301. Stop-loss insurance coverage standards.

(1) A small employer stop-loss insurance contract shall:

(a) be issued to the small employer to provide insurance to the group health benefit plan, not the employees of the small employer;

~~[(b) use a standard application form developed by the commissioner by administrative rule;]~~

~~[(e)] (b) have a contract term with guaranteed rates for at least 12 months, without adjustment, unless there is a change in the benefits provided under the small employer's health plan during the contract period;~~

~~[(d)] (c) include both a specific attachment point and an aggregate attachment point in a contract;~~

~~[(e)] (d) align stop-loss plan benefit limitations and exclusions with a small employer's health plan benefit limitations and exclusions, including any annual or lifetime limits in the employer's health plan;~~

~~[(f)] (e) have an annual specific attachment point that is at least \$10,000;~~

~~[(g)] (f) have an annual aggregate attachment point that may not be less than 85% of expected claims;~~

~~[(h)] (g) pay stop-loss claims:~~

(i) incurred during the contract period; and

(ii) paid within 12 months after the expiration date of the contract; and

~~(4)~~ (h) include provisions to cover incurred and unpaid stop-loss claims ~~[if a]~~ when the small ~~[employer]~~ employer's stop-loss plan terminates.

(2) A small employer stop-loss contract shall not:

(a) include lasering; and

(b) pay claims directly to an individual employee, member, or participant.

Section 54. Section 63I-2-231 is amended to read:

63I-2-231. Repeal dates, Title 31A.

(1) Section 31A-22-315.5 is repealed July 1, 2016.

(2) Title 31A, Chapter 42, Defined Contribution Risk Adjuster Act, is repealed July 1, ~~[2015]~~ 2016.

Section 55. Repealer.

This bill repeals:

Section 31A-37-205, Free surplus.

Section 31A-37-601, Incorporation of a captive reinsurance company.

Section 31A-37-602, Requirements of a captive reinsurance company.

Section 31A-37-603, Minimum capitalization or reserves for a captive reinsurance company.

Section 31A-37-604, Management of assets of a captive reinsurance company.

Section 56. Effective date.

This bill takes effect on May 12, 2015, except that:

(1) the amendments in this bill to Section 31A-3-304 (Effective 07/01/15) take effect on July 1, 2015; and

(2) the actions affecting the following sections in this bill take effect on October 1, 2015:

(a) Section 31A-16-102.5;

(b) Section 31A-16-103;

(c) Section 31A-16-104.5;

(d) Section 31A-16-105;

(e) Section 31A-16-106;

(f) Section 31A-16-107.5;

(g) Section 31A-16-108.5;

(h) Section 31A-16-109;

(i) Section 31A-16-112;

(j) Section 31A-16-113;

(k) Section 31A-16-114;

(l) Section 31A-16-115;

(m) Section 31A-16-116;

(n) Section 31A-16-117;

(o) Section 31A-16-118; and

(p) Section 31A-16-119.

Section 57. Coordinating H.B. 24 with S.B. 294 -- Substantive amendments.

If this H.B. 24 and S.B. 294, Transportation Network Company Amendments, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication do the following:

(1) delete Section 13-51-108 enacted in S.B. 294;

(2) delete Subsection (1) of Section 31A-22-322 enacted in this bill and renumber remaining subsections accordingly and change internal cross references;

(3) delete Subsection (14) enacted in Section 31A-22-322; and

(4) renumber Section 31A-22-322 enacted in this bill to be Section 13-51-108.

CHAPTER 245**H. B. 25**

Passed March 6, 2015

Approved March 27, 2015

Effective May 12, 2015

WATER LAW - APPLICATION REVISIONS

Chief Sponsor: V. Lowry Snow
Senate Sponsor: Margaret Dayton

LONG TITLE**General Description:**

This bill modifies the procedure for a change application.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ authorizes a person who is proposing a change application to request a meeting with the state engineer, or the state engineer's designee, to discuss potential issues with the change;
- ▶ authorizes the state engineer, upon receiving a change application, to determine whether a proposed change would result in quantity impairment of another water right;
- ▶ describes the burden of proof on a person who applies for a change application; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

73-2-27, as enacted by Laws of Utah 2005, Chapter 215

73-3-3, as last amended by Laws of Utah 2012, Chapter 229

73-3-8, as last amended by Laws of Utah 2007, Chapter 136

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

Section 1. Section 73-2-27 is amended to read:**73-2-27. Criminal penalties.**

(1) This section applies to offenses committed under:

- (a) Section 73-1-14;
- (b) Section 73-1-15;
- (c) Section 73-2-20;
- (d) ~~[Subsection 73-3-3(9)]~~ Section 73-3-3;
- (e) Section 73-3-26;
- (f) Section 73-3-29;
- (g) Section 73-5-9;
- (h) Section 76-10-201;
- (i) Section 76-10-202; and
- (j) Section 76-10-203.

(2) Under circumstances not amounting to an offense with a greater penalty under Subsection 76-6-106(2)(b)(ii) or Section 76-6-404, violation of a provision listed in Subsection (1) is punishable:

(a) as a felony of the third degree if:

(i) the value of the water diverted or property damaged or taken is \$2,500 or greater; and

(ii) the person violating the provision has previously been convicted of violating the same provision;

(b) as a class A misdemeanor if:

(i) the value of the water diverted or property damaged or taken is \$2,500 or greater; or

(ii) the person violating the provision has previously been convicted of violating the same provision; or

(c) as a class B misdemeanor if Subsection (2)(a) or (b) does not apply.

Section 2. Section 73-3-3 is amended to read:**73-3-3. Permanent or temporary changes to a water right.**

(1) For purposes of this section:

(a) "Permanent change" means a change, for an indefinite period of time ~~[with an intent to relinquish the original point of diversion, place of use, or purpose of use.]~~, to the:

(i) point of diversion;

(ii) place of use;

(iii) period of use;

(iv) nature of use; or

(v) storage of water.

(b) (i) "Quantity impairment" means any reduction in the amount of water a person is able to receive in order to satisfy an existing right to the use of water that would result from an action proposed in a change application, including:

(A) diminishing the quantity of water in the source of supply for the existing right;

(B) a change in the timing of availability of water from the source of supply for the existing right; or

(C) enlarging the quantity of water depleted by the nature of the proposed use when compared with the nature of the currently approved use.

(ii) "Quantity impairment" does not mean a decrease in the static level of water in an underground basin or aquifer that would result from an action proposed to be taken in a change application, if the volume of water necessary to satisfy an existing right otherwise remains reasonably available.

~~(b)~~ (c) "Temporary change" means a change for a fixed period of time, not exceeding one year~~[.]~~, to the:

(i) point of diversion;

- (ii) place of use;
- (iii) period of use;
- (iv) nature of use; or
- (v) storage of water.

(2) (a) A person who proposes to file a permanent or temporary change application may request consultation with the state engineer, or the state engineer's designee, before filing the application in order to review the requirements of the change application process, discuss potential issues related to the change, and provide the applicant with information.

(b) Statements made and information presented in the consultation are not binding on the applicant or the state engineer.

(c) The consultation described in Subsection (2)(a) may occur in the state engineer's regional office for the region where the proposed change would occur.

[2] (3) (a) [Subject to Subsection (2)(c), a] A person entitled to the use of water may make a permanent or temporary [changes in the:] change to an existing right to use water, including a right involved in a general determination of rights or other suit, if:

[(i) point of diversion;]

[(ii) place of use; or]

[(iii) purpose of use for which the water was originally appropriated.]

(i) the person makes the change in accordance with this section;

[(b) Except] (ii) except as provided by Section 73-3-30, [a] the change [may not be made if it impairs a vested water] does not impair an existing right without just compensation[-] or adequate mitigation; and

(iii) the state engineer approves the change application, consistent with the requirements of Section 73-3-8.

[(e)] (b) A change application on a federal reclamation project water right shall be signed by:

(i) the local water users organization that is contractually responsible for:

(A) the operation and maintenance of the project; or

(B) the repayment of project costs; and

(ii) the record owner of the water right.

[(3) A person entitled to use water shall change a point of diversion, place of use, or purpose of water use, including water involved in a general adjudication or other suit, in the manner provided in this section.]

[(4) (a) A person entitled to use water may not make a change unless the state engineer approves the change application.]

[(b)—A] (4) (a) Before making a permanent or temporary change, a person entitled to the use of water shall submit a change application upon forms furnished by the state engineer [and shall set forth:].

(b) The application described in Subsection (4)(a) shall set forth:

(i) the applicant's name;

(ii) the water right description, including the water right number;

(iii) the water quantity;

(iv) the stream or water source;

(v) if applicable, the point on the stream or water source where the water is diverted;

(vi) if applicable, the point to which it is proposed to change the diversion of the water;

(vii) the place, [purpose,] nature, period, and extent of the [present] currently approved use;

(viii) the place, [purpose,] nature, period, and extent of the proposed use; and

(ix) any other information that the state engineer requires.

[(5) (a) The state engineer shall follow the same procedures, and the rights and duties of the applicants with respect to applications for permanent changes of point of diversion, place of use, or purpose of use shall be the same, as provided in this title for applications to appropriate water.]

[(b) The state engineer may waive notice for a permanent change application involving only a change in point of diversion of 660 feet or less.]

[(6) (a) The state engineer shall investigate all temporary change applications.]

[(b) If the state engineer finds that the temporary change will not impair a vested water right, the state engineer shall issue an order authorizing the change.]

[(c) If the state engineer finds that the change sought might impair a vested water right, before authorizing the change, the state engineer shall give notice of the application to any person whose right may be affected by the change.]

[(d) Before making an investigation or giving notice, the state engineer may require the applicant to deposit a sum of money sufficient to pay the expenses of the investigation and publication of notice.]

[(7) (a) Except as provided by Section 73-3-30, the state engineer may not reject a permanent or temporary change application for the sole reason that the change would impair a vested water right.]

[(b) If otherwise proper, the state engineer may approve a permanent or temporary change application for part of the water involved or upon the condition that the applicant acquire the conflicting water right.]

[(8) (a) A person holding an approved application for the appropriation of water may change the point of diversion, place of use, or purpose of use.]

(5) In a proceeding before the state engineer, the applicant has the burden of producing evidence sufficient to support a reasonable belief that the change can be made in compliance with this section and Section 73-3-8, including evidence:

(a) that the change will not cause a specific existing right to experience quantity impairment; or

(b) if applicable, rebutting the presumption of quantity impairment described in Subsection 73-3-8(6)(c).

~~[(b)]~~ (6) A change of an approved application to appropriate water does not:

~~[(i)]~~ (a) affect the priority of the original application to appropriate water; or

~~[(ii)]~~ (b) extend the time period within which the construction of work is to begin or be completed.

~~[(9)]~~ (7) Any person who ~~[changes or who attempts to change a point of diversion, place of use, or purpose of use, either permanently or temporarily, without first applying to the state engineer in the manner provided in this section]~~ makes a permanent or temporary change without first filing and obtaining approval of a change application providing for such change:

(a) obtains no right;

(b) is guilty of ~~[a crime]~~ an offense punishable under Section 73-2-27 if the change ~~[or attempted change]~~ is made knowingly or intentionally; and

(c) is guilty of a separately punishable offense for each day of the unlawful change.

~~[(10)]~~ (8) (a) This section does not apply to the replacement of an existing well by a new well drilled within a radius of 150 feet from the point of diversion of the existing well.

(b) Any replacement well must be drilled in accordance with the requirements of Section 73-3-28.

Section 3. Section 73-3-8 is amended to read:

73-3-8. Approval or rejection of application -- Requirements for approval -- Application for specified period of time -- Filing of royalty contract for removal of salt or minerals.

(1) (a) It shall be the duty of the state engineer to approve an application if there is reason to believe that:

(i) for an application to appropriate, there is unappropriated water in the proposed source;

(ii) the proposed use will not impair existing rights or interfere with the more beneficial use of the water;

(iii) the proposed plan:

(A) is physically and economically feasible, unless the application is filed by the United States Bureau of Reclamation⁵; and

(B) would not prove detrimental to the public welfare;

(iv) the applicant has the financial ability to complete the proposed works; ~~[and]~~

(v) the application was filed in good faith and not for purposes of speculation or monopoly⁶; and

(vi) if applicable, the application complies with a groundwater management plan adopted under Section 73-5-15.

(b) ~~[(i)]~~ If the state engineer, because of information in the state engineer's possession obtained either by the state engineer's own investigation or otherwise, has reason to believe that an application ~~[to appropriate water]~~ will interfere with ~~[its]~~ the water's more beneficial use for irrigation, municipal and industrial, domestic or culinary, stock watering, power or mining development, or manufacturing, or will unreasonably affect public recreation or the natural stream environment, or will prove detrimental to the public welfare, ~~[it is the state engineer's duty to]~~ the state engineer shall withhold approval or rejection of the application until the state engineer has investigated the matter.

~~[(ii)]~~ (c) If an application does not meet the requirements of this section, it shall be rejected.

(2) (a) An application to appropriate water for industrial, power, mining development, manufacturing purposes, agriculture, or municipal purposes may be approved for a specific and certain period from the time the water is placed to beneficial use under the application, but in no event may an application be granted for a period of time less than that ordinarily needed to satisfy the essential and primary purpose of the application or until the water is no longer available as determined by the state engineer.

(b) At the expiration of the period fixed by the state engineer the water shall revert to the public and is subject to appropriation as provided by this title.

(c) No later than 60 calendar days before the expiration date of the fixed time period, the state engineer shall send notice by mail or by any form of electronic communication through which receipt is verifiable, to the applicant of record.

(d) Except as provided by Subsection (2)(e), the state engineer may extend any limited water right upon a showing that:

(i) the essential purpose of the original application has not been satisfied;

(ii) the need for an extension is not the result of any default or neglect by the applicant; and

(iii) the water is still available.

(e) No extension shall exceed the time necessary to satisfy the primary purpose of the original application.

(f) A request for extension of the fixed time period must be filed in writing in the office of the state engineer on or before the expiration date of the application.

(3) (a) Before the approval of any application for the appropriation of water from navigable lakes or streams of the state that contemplates the recovery of salts and other minerals therefrom by precipitation or otherwise, the applicant shall file with the state engineer a copy of a contract for the payment of royalties to the state.

(b) The approval of an application shall be revoked in the event of the failure of the applicant to comply with terms of the royalty contract.

(4) (a) The state engineer shall investigate all temporary change applications.

(b) The state engineer shall:

(i) approve the temporary change if the state engineer finds there is reason to believe that it will not impair an existing right; and

(ii) deny the temporary change if the state engineer finds there is reason to believe it would impair an existing right.

(5) (a) The state engineer shall follow the same procedures, and the rights and duties of applicants with respect to permanent change applications shall be the same as provided in this title for applications to appropriate water.

(b) The state engineer may waive notice for a permanent change application if it only involves a change in point of diversion of 660 feet or less.

(c) The state engineer may condition approval of a change application to prevent an enlargement of the quantity of water depleted by the nature of the proposed use when compared with the nature of the currently approved use of water proposed to be changed.

(d) A condition described in Subsection (5)(c) may not include a reduction in the currently approved diversion rate of water under the water right identified in the change application solely to account for the difference in depletion under the nature of the proposed use when compared with the nature of the currently approved use.

(6) (a) Except as provided in Subsection (6)(b), the state engineer shall reject a permanent change application if the person proposing to make the change is unable to meet the burden described in Subsection 73-3-3(5).

(b) If otherwise proper, the state engineer may approve a permanent or temporary change application upon one or more of the following conditions:

(i) for part of the water involved;

(ii) that the applicant acquire a conflicting right; or

(iii) that the applicant provide and implement a plan approved by the state engineer to mitigate impairment of an existing right.

(c) (i) There is a rebuttable presumption of quantity impairment, as defined in Subsection 73-3-3(1), to the extent that, for a period of at least

seven consecutive years, a portion of the right identified in a change application has not been:

(A) diverted from the approved point of diversion; and

(B) beneficially used at the approved place of use.

(ii) The rebuttable presumption described in Subsection (6)(c)(i) does not apply if the beneficial use requirement is excused by:

(A) Subsection 73-1-4(2)(e);

(B) an approved nonuse application under Subsection 73-1-4(2)(b);

(C) Subsection 73-3-30(7); or

(D) the passage of time under Subsection 73-1-4(2)(c)(i).

(d) The state engineer may not consider quantity impairment based on the conditions described in Subsection (6)(c) unless the issue is raised in a:

(i) timely protest that identifies which of the protestant's existing rights the protestant reasonably believes will experience quantity impairment; or

(ii) written notice provided by the state engineer to the applicant within 90 days after the change application is filed.

(e) The written notice described in Subsection (6)(d)(ii) shall:

(i) specifically identify an existing right the state engineer reasonably believes may experience quantity impairment; and

(ii) be mailed to the owner of an identified right, as shown by the state engineer's records, if the owner has not protested the change application.

(f) The state engineer is not required to include all rights the state engineer believes may be impaired by the proposed change in the written notice described in Subsection (6)(d)(ii).

(g) The owner of a right who receives the written notice described in Subsection (6)(e)(ii) may not become a party to the administrative proceeding if the owner has not filed a timely protest.

(h) If a change applicant, all protestants, and all persons identified by the state engineer under Subsection (6)(d)(ii) come to a written agreement regarding how the issue of quantity impairment shall be mitigated, the state engineer may incorporate the terms of the agreement into a change application approval.

CHAPTER 246**H. B. 28**

Passed February 6, 2015
 Approved March 27, 2015
 Effective May 12, 2015

**MEDICAID MANAGEMENT OF
EMERGENCY DEPARTMENT UTILIZATION**

Chief Sponsor: Michael S. Kennedy
 Senate Sponsor: Brian E. Shiozawa

LONG TITLE**General Description:**

This bill amends the Medical Assistance Act related to Medicaid Accountable Care Organizations and Medicaid recipient emergency department utilization.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ prohibits a Medicaid Accountable Care Organization from imposing differential payments for professional services rendered in an emergency department;
- ▶ requires the Department of Health, before July 1, 2015, to convene a group of stakeholders to discuss ways to create and support increased access to primary and urgent care services for Medicaid recipients; and
- ▶ makes technical amendments.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

26-18-408, as enacted by Laws of Utah 2013, Chapter 103

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

Section 1. Section 26-18-408 is amended to read:**26-18-408. Incentives to appropriately use emergency department services.**

(1) (a) This section applies to the Medicaid program and to the Utah Children's Health Insurance Program created in Chapter 40, Utah Children's Health Insurance Act.

(b) For purposes of this section:

(i) "Accountable care organization" means a Medicaid or Children's Health Insurance Program administrator that contracts with the Medicaid program or the Children's Health Insurance Program to deliver health care through an accountable care plan.

(ii) "Accountable care plan" means a risk based delivery service model authorized by Section 26-18-405 and administered by an accountable care organization.

(iii) "Nonemergent care":

(A) means use of the emergency ~~room~~ department to receive health care that is nonemergent as defined by the department by administrative rule adopted in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act and the Emergency Medical Treatment and Active Labor Act; and

(B) does not mean the medical services provided to a recipient required by the Emergency Medical Treatment and Active Labor Act, including services to conduct a medical screening examination to determine if the recipient has an emergent or nonemergent condition.

(iv) "Professional compensation" means payment made for services rendered to a Medicaid recipient by an individual licensed to provide health care services.

(v) "Super-utilizer" means a Medicaid recipient who has been identified by the recipient's accountable care organization as a person who uses the emergency department excessively, as defined by the accountable care organization.

(2) (a) An accountable care organization may, in accordance with ~~[Subsection (2)(b)]~~ Subsections (2)(b) and (c):

(i) audit emergency ~~room~~ department services provided to a recipient enrolled in the accountable care plan to determine if nonemergent care was provided to the recipient; and

(ii) establish differential payment for emergent and nonemergent care provided in an emergency ~~room~~ department.

(b) (i) The ~~audits and~~ differential payments under ~~[Subsections (2)(a) and (b)]~~ Subsections (2)(a)(i) and (b)] do not apply to professional compensation for services rendered in an emergency department.

(ii) Except in cases of suspected fraud, waste, and abuse, an accountable care organization's audit of payment under ~~[Subsections (2)(a) and (b)]~~ Subsection (2)(a)(i) is limited to the 18-month period of time after the date on which the medical services were provided to the recipient. If fraud, waste, or abuse is alleged, the accountable care organization's audit of payment under ~~[Subsections (2)(a) and (b)]~~ Subsection (2)(a)(i) is limited to three years after the date on which the medical services were provided to the recipient.

(c) The audits and differential payments under Subsections (2)(a) and (b) apply to services provided to a recipient on or after July 1, 2015.

(3) An accountable care organization shall:

(a) use the savings under Subsection (2) to maintain and improve access to primary care and urgent care services for all of the recipients enrolled in the accountable care plan; ~~and~~

(b) provide viable alternatives for increasing primary care provider reimbursement rates to incentivize after hours primary care access for recipients; and

~~[(b)]~~ (c) report to the department on how the accountable care organization complied with this Subsection (3)(a).

(4) ~~[(a)]~~ The department shall~~[-]~~:

(a) through administrative rule adopted by the department, develop quality measurements that evaluate an accountable care organization's delivery of:

(i) appropriate emergency ~~[room]~~ department services to recipients enrolled in the accountable care plan;

(ii) expanded primary care and urgent care for recipients enrolled in the accountable care plan, with consideration of the accountable care organization's:

~~[(A) emergency room diversion plans;]~~

(A) delivery of primary care, urgent care, and after hours care through means other than the emergency department;

(B) recipient access to primary care providers and community health centers including evening and weekend access; and

(C) other innovations for expanding access to primary care; and

(iii) quality of care for the accountable care plan members~~[-]~~;

~~[(b) The department shall.]~~

~~[(4)]~~ (b) compare the quality measures developed under Subsection (4)(a) for each accountable care organization~~[-]~~ and ~~[(iii)]~~ share the data and quality measures developed under Subsection (4)(a) with the Health Data Committee created in Chapter 33a, Utah Health Data Authority Act~~[-]~~;

~~[(c) The Health Data Committee may publish data in accordance with Chapter 33a, Utah Health Data Authority Act which compares the quality measures for the accountable care plans.]~~

~~[(5)]~~ (c) ~~[(The department shall)]~~ apply for a Medicaid waiver and a Children's Health Insurance Program waiver with the Centers for Medicare and Medicaid Services within the United States Department of Health and Human Services, to:

~~[(a)]~~ (i) allow the program to charge recipients who are enrolled in an accountable care plan a higher copayment for emergency ~~[room]~~ department services; and

~~[(b)]~~ (ii) develop, by administrative rule, an algorithm to determine assignment of new, unassigned recipients to specific accountable care plans based on the plan's performance in relation to the quality measures developed pursuant to Subsection (4)(a)~~[-]~~; and

(d) before July 1, 2015, convene representatives from the accountable care organizations, pre-paid mental health plans, an organization representing hospitals, an organization representing physicians, and a county mental health and substance abuse

authority to discuss alternatives to emergency department care, including:

(i) creating increased access to primary care services;

(ii) alternative care settings for super-utilizers and individuals with behavioral health or substance abuse issues;

(iii) primary care medical and health homes that can be created and supported through enhanced federal match rates, a state plan amendment for integrated care models, or other Medicaid waivers;

(iv) case management programs that can:

(A) schedule prompt visits with primary care providers within 72 to 96 hours of an emergency department visit;

(B) help super-utilizers with behavioral health or substance abuse issues to obtain care in appropriate care settings; and

(C) assist with transportation to primary care visits if transportation is a barrier to appropriate care for the recipient; and

(v) sharing of medical records between health care providers and emergency departments for Medicaid recipients.

(5) The Health Data Committee may publish data in accordance with Chapter 33a, Utah Health Data Authority Act, which compares the quality measures for the accountable care plans.

(6) The department shall report to the Legislature's Health and Human Services Interim Committee on or before October 1, 2016, regarding implementation of this section.

CHAPTER 247**H. B. 32**

Passed February 23, 2015

Approved March 27, 2015

Effective May 12, 2015

**LOCAL GOVERNMENT DISCLOSURE AND
CAMPAIGN FINANCE AMENDMENTS**Chief Sponsor: Jack R. Draxler
Senate Sponsor: Margaret Dayton**LONG TITLE****General Description:**

This bill amends provisions related to municipal candidate campaign finance disclosures and personal use expenditures.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ authorizes a municipality to adopt more stringent campaign finance disclosure requirements and definitions;
- ▶ clarifies campaign finance filing deadlines;
- ▶ authorizes a municipality to adopt more stringent personal use expenditure requirements and definitions;
- ▶ prohibits a municipal candidate from making a personal use expenditure;
- ▶ provides that a municipality may adopt an ordinance to identify personal use expenditure violations and enforce prohibitions; and
- ▶ makes technical and conforming amendments.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

10-3-208, as last amended by Laws of Utah 2012, Chapters 190, 190, 230, and 230

ENACTS:

10-3-209, Utah Code Annotated 1953

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

Section 1. Section 10-3-208 is amended to read:**10-3-208. Campaign finance disclosure in municipal election.**

(1) [As used in] Unless a municipality adopts by ordinance more stringent definitions, the following are defined terms for purposes of this section:

(a) "Reporting date" means:

(i) 10 days before a municipal general election, for a campaign finance statement required to be filed no later than seven days before a municipal general election; and

(ii) the day of filing, for a campaign finance statement required to be filed no later than 30 days after a municipal primary or general election.]

(a) "Agent of a candidate" means:

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

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

(iii) the personal campaign committee of a candidate;

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

(v) a political consultant of a candidate.

(b) (i) "Candidate" means a person who:

(A) files a declaration of candidacy for municipal office; or

(B) receives contributions, makes expenditures, or gives consent for any other person to receive contributions or make expenditures to bring about the person's nomination or election to a municipal office.

(ii) "Candidate" does not mean a person who files for the office of judge.

(c) (i) "Contribution" means any of the following when done for political purposes:

(A) a gift, subscription, donation, loan, advance, or deposit of money or anything of value given to a candidate;

(B) an express, legally enforceable contract, promise, or agreement to make a gift, subscription, donation, unpaid or partially unpaid loan, advance, or deposit of money or anything of value to the candidate;

(C) any transfer of funds from another reporting entity to the candidate;

(D) compensation paid by any person or reporting entity other than the candidate for personal services provided without charge to the candidate;

(E) a loan made by a candidate deposited to the candidate's own campaign; and

(F) an in-kind contribution.

(ii) "Contribution" does not include:

(A) services provided by an individual volunteering a portion or all of the individual's time on behalf of the candidate if the services are provided without compensation by the candidate or any other person;

(B) money lent to the candidate by a financial institution in the ordinary course of business; or

(C) goods or services provided for the benefit of a candidate at less than fair market value that are not authorized by or coordinated with the candidate.

(d) "Coordinated with" means that goods or services provided for the benefit of a candidate are provided:

(i) with the candidate's prior knowledge, if the candidate does not object;

- (ii) by agreement with the candidate;
- (iii) in coordination with the candidate; or
- (iv) using official logos, slogans, and similar elements belonging to a candidate.

(e) (i) "Expenditure" means any of the following made by a candidate or an agent of the candidate on behalf of the candidate:

(A) any disbursement from contributions, receipts, or from an account described in Subsection (3)(a)(i);

(B) a purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of value made for political purposes;

(C) an express, legally enforceable contract, promise, or agreement to make any purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of value for a political purpose;

(D) compensation paid by a candidate for personal services rendered by a person without charge to a reporting entity;

(E) a transfer of funds between the candidate and a candidate's personal campaign committee as defined in Section 20A-11-101; or

(F) goods or services provided by a reporting entity to or for the benefit of the candidate for political purposes at less than fair market value.

(ii) "Expenditure" does not include:

(A) services provided without compensation by an individual volunteering a portion or all of the individual's time on behalf of a candidate; or

(B) money lent to a candidate by a financial institution in the ordinary course of business.

(f) "In-kind contribution" means anything of value other than money, that is accepted by or coordinated with a candidate.

(g) (i) "Political consultant" means a person who is paid by a candidate, or paid by another person on behalf of and with the knowledge of the candidate, to provide political advice to the candidate.

(ii) "Political consultant" includes a circumstance described in Subsection (1)(g)(i), where the person:

(A) has already been paid, with money or other consideration;

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

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

(h) "Political purposes" means an act done with the intent or in a way to influence or tend to influence, directly or indirectly, any person to refrain from voting or to vote for or against any

candidate or a person seeking a municipal office at any caucus, political convention, or election.

(i) "Reporting entity" means:

(i) a candidate;

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

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

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

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

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

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

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

[~~(4b)~~] (j) "Reporting limit" means for each calendar year:

(i) \$50; or

(ii) an amount lower than \$50 that is specified in an ordinance of the municipality.

(2) (a) A municipality may adopt an ordinance establishing campaign finance disclosure requirements for a candidate that are more stringent than the requirements provided in Subsections (3) and (4).

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

(c) If a municipality fails to adopt a campaign finance disclosure ordinance described in Subsection (2)(a), a candidate shall comply with financial reporting requirements contained in Subsections (3) and (4).

[~~(2)~~] (3) (a) [~~(i)~~] Each candidate [~~for municipal office~~]:

[~~(A)~~] (i) shall deposit a [~~campaign~~] contribution in a separate campaign account in a financial institution; and

[~~(B)~~] (ii) may not deposit or mingle any campaign contributions received into a personal or business account.

[~~(i)~~] (b) Each candidate [~~for municipal office~~] who is not eliminated at a municipal primary election shall file with the municipal clerk or recorder a campaign finance statement:

[~~(A)~~] (i) no later than seven days before the [~~date of~~] day on which the municipal general election is held; and

[~~(B)~~] (ii) no later than 30 days after the [~~date of~~] day on which the municipal general election is held.

[~~(iii)~~] (c) Each candidate for municipal office who is eliminated at a municipal primary election shall

file with the municipal clerk or recorder a campaign finance statement ~~[no later than]~~ 30 days after the ~~[date of]~~ day on which the municipal primary election is held.

~~[(b)]~~ (4) Each campaign finance statement under Subsection ~~[(2)(a)]~~ (3)(b) or (c) shall:

~~[(i)]~~ (a) except as provided in Subsection ~~[(2)(b)(ii)]~~ (4)(b):

~~[(A)]~~ (i) report all of the candidate's itemized and total:

~~[(4) campaign]~~ (A) contributions, including in-kind and other nonmonetary contributions, received ~~[before the close of the reporting date]~~ up to and including five days before the campaign finance statement is due, excluding a contribution previously reported; and

~~[(II) campaign]~~ (B) expenditures made ~~[through the close of the reporting date]~~ up to and including five days before the campaign finance statement is due, excluding an expenditure previously reported; and

~~[(B)]~~ (ii) identify:

~~[(I)]~~ (A) for each contribution that exceeds the reporting limit, the amount of the contribution and the name of the donor;

~~[(II)]~~ (B) the aggregate total of all contributions that individually do not exceed the reporting limit; and

~~[(III)]~~ (C) for each ~~[campaign]~~ expenditure, the amount of the expenditure and the name of the recipient of the expenditure; or

~~[(ii)]~~ (b) report the total amount of all ~~[campaign]~~ contributions and expenditures if the candidate receives \$500 or less in ~~[campaign]~~ contributions and spends \$500 or less on the candidate's campaign.

~~[(3) (a) As used in this Subsection (3), "account" means an account in a financial institution.]~~

~~[(i) that is not described in Subsection (2)(a)(i)(A); and]~~

~~[(ii) into which or from which a person who, as a candidate for an office, other than a municipal office for which the person files a declaration of candidacy or federal office, or as a holder of an office, other than a municipal office for which the person files a declaration of candidacy or federal office, deposits a contribution or makes an expenditure.]~~

~~[(b) A municipal office candidate shall include on any campaign finance statement filed in accordance with this section:]~~

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

~~[(A) since the last campaign finance statement was filed; or]~~

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

~~[(ii) an expenditure made from an account:]~~

~~[(A) since the last campaign finance statement was filed; or]~~

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

~~[(4)]~~ (5) (a) A municipality may, by ordinance:

(i) provide a reporting limit lower than \$50;

(ii) require greater disclosure of ~~[campaign]~~ contributions ~~[and]~~ or expenditures than is required in this section; and

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

(b) A candidate ~~[for municipal office]~~ is subject to the provisions of this section and not the provisions of an ordinance adopted by the municipality under Subsection ~~[(4)]~~ (5)(a) if:

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

(ii) the municipal clerk or recorder fails to notify the candidate of the provisions of the ordinance as required in Subsection ~~[(5)]~~ (6).

~~[(5)]~~ (6) Each municipal clerk or recorder shall, at the time the candidate for municipal office files a declaration of candidacy, and again 14 days before each municipal general election, notify the candidate in writing of:

(a) the provisions of statute or municipal ordinance governing the disclosure of ~~[campaign]~~ contributions and expenditures;

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

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

~~[(6)]~~ (7) Notwithstanding any provision of Title 63G, Chapter 2, Government Records Access and Management Act, the municipal clerk or recorder shall:

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

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

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

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

(ii) submitting a copy of the statement to the lieutenant governor for posting on the website

established by the lieutenant governor under Section 20A-11-103 no later than two business days after the statement is filed.

~~[(7)]~~ (8) (a) If a candidate fails to file a campaign finance statement before the municipal general election by the deadline specified in Subsection ~~[(2)(a)(ii)(A)]~~ (3)(b)(i), the municipal clerk or recorder shall inform the appropriate election official who:

(i) shall:

(A) if practicable, remove the candidate's name from the ballot by blacking out the candidate's name before the ballots are delivered to voters; or

(B) if removing the candidate's name from the ballot is not practicable, inform the voters by any practicable method that the candidate has been disqualified and that votes cast for the candidate will not be counted; and

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

(b) Notwithstanding Subsection ~~[(7)]~~ (8)(a), a candidate who files a campaign finance statement seven days before a municipal general election is not disqualified if:

(i) the statement details accurately and completely the information required under Subsection ~~[(2)(b)]~~ (4), except for inadvertent omissions or insignificant errors or inaccuracies; and

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

~~[(8)]~~ (9) A campaign finance statement required under this section is considered filed if it is received in the municipal clerk or recorder's office by 5 p.m. on the date that ~~is it~~ it is due.

~~[(9)]~~ (10) (a) A private party in interest may bring a civil action in district court to enforce the provisions of this section or an ordinance adopted under this section.

(b) In a civil action under Subsection ~~[(9)]~~ (10)(a), the court may award costs and attorney fees to the prevailing party.

Section 2. Section 10-3-209 is enacted to read:

10-3-209. Personal use expenditure -- Authorized and prohibited uses of campaign funds -- Enforcement -- Penalties.

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

(a) "Candidate" means a person who:

(i) files a declaration of candidacy for municipal office; or

(ii) receives contributions, makes expenditures, or gives consent for any other person to receive

contributions or make expenditures to bring about the person's nomination or election to a public office.

(b) "Officeholder" means a person who is elected to and currently holds a municipal office.

(c) (i) "Personal use expenditure" means an expenditure that:

(A) is not excluded from the definition of personal use expenditure by Subsection (2) and primarily furthers a personal interest of a candidate or officeholder or a candidate's or officeholder's family, which interest is not connected with the performance of an activity as a candidate or an activity or duty of an officeholder; or

(B) would cause the candidate or officeholder to recognize the expenditure as taxable income under federal law.

(ii) "Personal use expenditure" includes:

(A) a mortgage, rent, utility, or vehicle payment;

(B) a household food item or supply;

(C) clothing, except for clothing bearing the candidate's name or campaign slogan or logo and that is used in the candidate's campaign;

(D) an admission to a sporting, artistic, or recreational event or other form of entertainment;

(E) dues, fees, or gratuities at a country club, health club, or recreational facility;

(F) a salary payment made to a candidate, officeholder, or a person who has not provided a bona fide service to a candidate or officeholder;

(G) a vacation;

(H) a vehicle expense;

(I) a meal expense;

(J) a travel expense;

(K) a payment of an administrative, civil, or criminal penalty;

(L) a satisfaction of a personal debt;

(M) a personal service, including the service of an attorney, accountant, physician, or other professional person;

(N) a membership fee for a professional or service organization; and

(O) a payment in excess of the fair market value of the item or service purchased.

(2) As used in this section, "personal use expenditure" does not mean an expenditure made:

(a) for a political purpose;

(b) for candidacy for public office;

(c) to fulfill a duty or activity of an officeholder;

(d) for a donation to a registered political party;

(e) for a contribution to another candidate's campaign account, including sponsorship of or attendance at an event, the primary purpose of

which is to solicit a contribution for another candidate's campaign account;

(f) to return all or a portion of a contribution to a donor;

(g) for the following items, if made in connection with the candidacy for public office or an activity or duty of an officeholder:

(i) (A) a mileage allowance at the rate established by the Division of Finance under Section 63A-3-107; or

(B) for motor fuel or special fuel, as defined in Section 59-13-102;

(ii) a meal expense;

(iii) a travel expense, including an expense incurred for airfare or a rental vehicle;

(iv) a payment for a service provided by an attorney or accountant;

(v) a tuition payment or registration fee for participation in a meeting or conference;

(vi) a gift;

(vii) a payment for the following items in connection with an office space:

(A) rent;

(B) utilities;

(C) a supply; or

(D) furnishing;

(viii) a booth at a meeting or event; or

(ix) educational material;

(h) to purchase or mail informational material, a survey, or a greeting card;

(i) for a donation to a charitable organization, as defined by Section 13-22-2, including admission to or sponsorship of an event, the primary purpose of which is charitable solicitation, as defined in Section 13-22-2;

(j) to repay a loan a candidate makes from the candidate's personal account to the candidate's campaign account;

(k) to pay membership dues to a national organization whose primary purpose is to address general public policy;

(l) for admission to or sponsorship of an event, the primary purpose of which is to promote the social, educational, or economic well-being of the state or the candidate's or officeholder's community; or

(m) for one or more guests of an officeholder or candidate to attend an event, meeting, or conference described in this Subsection (2).

(3) (a) A municipality may adopt an ordinance prohibiting a personal use expenditure by a candidate with requirements that are more stringent than the requirements provided in Subsection (4).

(b) The municipality may adopt definitions that are more stringent than those provided in Subsection (1) or (2).

(c) If a municipality fails to adopt a personal use expenditure ordinance described in Subsection (3)(a), a candidate shall comply with the requirements contained in Subsection (4).

(4) A candidate or an officeholder may not use money deposited into a campaign account for:

(a) a personal use expenditure; or

(b) an expenditure prohibited by law.

(5) A municipality may enforce this section by adopting an ordinance:

(a) to provide for the evaluation of a campaign finance statement to identify a personal use expenditure; and

(b) to commence informal adjudicative proceedings if, after an evaluation described in Subsection (5)(a), there is probable cause to believe that a candidate or officeholder has made a personal use expenditure.

(6) If, in accordance with the proceedings described in Subsection (5)(b) established in municipal ordinance, a municipality determines that a candidate or officeholder has made a personal use expenditure, the municipality:

(a) may require the candidate or officeholder to:

(i) remit an administrative penalty of an amount equal to 50% of the personal use expenditure to the municipality; and

(ii) deposit the amount of the personal use expenditure into the campaign account from which the personal use expenditure was disbursed; and

(b) shall deposit the money received under Subsection (6)(a)(i) into the municipal general fund.

CHAPTER 248**H. B. 38**

Passed February 19, 2015

Approved March 27, 2015

Effective May 12, 2015

**SUPPLEMENTAL SAVINGS
PLAN AMENDMENTS**Chief Sponsor: Rich Cunningham
Senate Sponsor: Curtis S. Bramble**LONG TITLE****General Description:**

This bill modifies the Utah State Personnel Management Act by amending provisions related to state employee benefits.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ allows a state employee to make the matching deposit into a deemed IRA, 401(k) plan, or other similar savings plan in order to qualify for the employee matching deposit under the state employee matching supplemental benefit; and
- ▶ makes technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

67-19-43, as last amended by Laws of Utah 2014, Chapter 15

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

Section 1. Section 67-19-43 is amended to read:**67-19-43. State employee matching supplemental defined contribution benefit.**

(1) As used in this section, “qualifying employee” means an employee who is:

(a) “Qualifying account” means:

(i) a defined contribution plan qualified under Section 401(k) of the Internal Revenue Code, which is sponsored by the Utah State Retirement Board; or

(ii) a deemed Individual Retirement Account authorized under the Internal Revenue Code, which is sponsored by the Utah State Retirement Board; or

(iii) a similar savings plan or account authorized under the Internal Revenue Code, which is sponsored by the Utah State Retirement Board.

(b) “Qualifying employee” means an employee who is:

(~~(a)~~) (i) in a position that is:

(~~(i)~~) (A) receiving retirement benefits under Title 49, Utah State Retirement and Insurance Benefit Act; and

(~~(ii)~~) (B) accruing paid leave benefits that can be used in the current and future calendar years; and

(~~(b)~~) (ii) not an employee who is reemployed as defined in Section 49-11-102.

(2) Subject to the requirements of Subsection (3) and beginning on or after January 4, 2014, an employer shall make a biweekly matching contribution to every qualifying employee’s defined contribution plan qualified under Section 401(k) of the Internal Revenue Code, subject to federal requirements and limitations, which is sponsored by the Utah State Retirement Board.

(3) (a) In accordance with the requirements of this Subsection (3), each qualifying employee shall be eligible to receive the same dollar amount for the contribution under Subsection (2).

(b) A qualifying employee:

(i) shall receive the contribution amount determined under Subsection (3)(c) if the qualifying employee makes a voluntary personal contribution to ~~[the defined contribution plan account described in Subsection (2)]~~ one or more qualifying accounts in an amount equal to or greater than the employer’s contribution amount determined in Subsection (3)(c);

(ii) shall receive a partial contribution amount that is equal to the qualifying employee’s personal contribution amount if the employee makes a voluntary personal contribution to ~~[the defined contribution plan account described in Subsection (2)]~~ one or more qualifying accounts in an amount less than the employer’s contribution amount determined in Subsection (3)(c); or

(iii) may not receive a contribution under Subsection (2) if the qualifying employee does not make a voluntary personal contribution to ~~[the defined contribution plan account described in Subsection (2)]~~ a qualifying account.

(c) (i) Subject to the maximum limit under Subsection (3)(c)(iii), the Legislature shall annually determine the contribution amount that an employer shall provide to each qualifying employee under Subsection (2).

(ii) The department shall make recommendations annually to the Legislature on the contribution amount required under Subsection (2), in consultation with the Governor’s Office of Management and Budget and the Division of Finance.

(iii) The biweekly matching contribution amount required under Subsection (2) may not exceed \$26 for each qualifying employee.

(4) A qualifying employee is eligible to receive the biweekly contribution under this section for any pay period in which the employee is in a paid status or other status protected by federal or state law.

(5) The employer and employee contributions made and related earnings under this section vest

immediately upon deposit and can be withdrawn by the employee at any time, subject to Internal Revenue Code regulations on the withdrawals.

(6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the executive director shall make rules establishing procedures to implement the provisions of this section.

CHAPTER 249**H. B. 43**

Passed March 12, 2015
 Approved March 27, 2015
 Effective May 12, 2015

**WATER RIGHTS - CHANGE
 APPLICATION AMENDMENTS**

Chief Sponsor: Kay L. McIff
 Senate Sponsor: Jerry W. Stevenson

LONG TITLE**General Description:**

This bill modifies Title 73, Water and Irrigation, by amending the requirements for a change application.

Highlighted Provisions:

This bill:

- ▶ amends definitions;
- ▶ modifies the procedure for filing a change application;
- ▶ provides an option for court resolution of legal issues not within the purview of the state engineer;
- ▶ allows recovery of attorney fees under certain circumstances; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:**AMENDS:**

73-1-4, as last amended by Laws of Utah 2013, Chapters 221 and 380
 73-2-27, as enacted by Laws of Utah 2005, Chapter 215
 73-3-3, as last amended by Laws of Utah 2012, Chapter 229
 73-3-3.5, as last amended by Laws of Utah 2008, Chapter 3

Utah Code Sections Affected by Coordination Clause:

73-3-3, as last amended by Laws of Utah 2012, Chapter 229
 73-3-8, as last amended by Laws of Utah 2007, Chapter 136

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

Section 1. Section 73-1-4 is amended to read:

73-1-4. Reversion to the public by abandonment or forfeiture for nonuse within seven years -- Nonuse application.

- (1) As used in this section:
- (a) "Public entity" means:
- (i) the United States;
 - (ii) an agency of the United States;
 - (iii) the state;

- (iv) a state agency;
- (v) a political subdivision of the state; or
- (vi) an agency of a political subdivision of the state.

(b) "Public water supplier" means an entity that:

(i) supplies water, directly or indirectly, to the public for municipal, domestic, or industrial use; and

(ii) is:

(A) a public entity;

(B) a water corporation, as defined in Section 54-2-1, that is regulated by the Public Service Commission;

(C) a community water system:

(I) that:

(Aa) supplies water to at least 100 service connections used by year-round residents; or

(Bb) regularly serves at least 200 year-round residents; and

(II) whose voting members:

(Aa) own a share in the community water system;

(Bb) receive water from the community water system in proportion to the member's share in the community water system; and

(Cc) pay the rate set by the community water system based on the water the member receives; or

(D) a water users association:

(I) in which one or more public entities own at least 70% of the outstanding shares; and

(II) that is a local sponsor of a water project constructed by the United States Bureau of Reclamation.

(c) "Shareholder" [is-as] means the same as that term is defined in Section 73-3-3.5.

(d) "Water company" [is-as] means the same as that term is defined in Section 73-3-3.5.

(e) "Water supply entity" means an entity that supplies water as a utility service or for irrigation purposes and is also:

(i) a municipality, water conservancy district, metropolitan water district, irrigation district, or other public agency;

(ii) a water company regulated by the Public Service Commission; or

(iii) any other owner of a community water system.

(2) (a) Except as provided in Subsection (2)(b) or (e), when an appropriator or the appropriator's successor in interest abandons or ceases to use all or a portion of a water right for a period of seven years, the water right or the unused portion of that water right is subject to forfeiture in accordance with Subsection (2)(c).

(b) (i) An appropriator or the appropriator's successor in interest may file an application for nonuse with the state engineer.

(ii) If a person described in Subsection (2)(b)(i) files and receives approval on a nonuse application, nonuse of the water right subject to the application is not counted toward a seven-year period described in Subsection (2)(a) during the period of time beginning on the day on which the person files the application and ending on the day on which the application expires without being renewed.

(iii) If a person described in Subsection (2)(b)(i) files and receives approval on successive, overlapping nonuse applications, nonuse of the water right subject to the applications is not counted toward a seven-year period described in Subsection (2)(a) during the period of time beginning on the day on which the person files the first application and ending on the day on which the last application expires without being renewed.

(iv) Approval of a nonuse application does not protect a water right that is already subject to forfeiture under Subsection (2)(a) for full or partial nonuse of the water right.

(v) A nonuse application may be filed on all or a portion of the water right, including water rights held by a water company.

(vi) After giving written notice to the water company, a shareholder may file a nonuse application with the state engineer on the water represented by the stock.

(c) (i) Except as provided in Subsection (2)(c)(ii), a water right or a portion of the water right may not be forfeited unless a judicial action to declare the right forfeited is commenced within 15 years from the end of the latest period of nonuse of at least seven years.

(ii) (A) The state engineer, in a proposed determination of rights prepared in accordance with Section 73-4-11, may not assert that a water right was forfeited unless a period of nonuse of seven years ends or occurs during the 15 years immediately preceding the day on which the state engineer files the proposed determination of rights with the court.

(B) After the day on which a proposed determination of rights is filed with the court a person may not assert that a water right subject to that determination was forfeited during the 15-year period described in Subsection (2)(c)(ii)(A), unless the state engineer asserts forfeiture in the proposed determination, or a person makes, in accordance with Section 73-4-11, an objection to the proposed determination that asserts forfeiture.

(iii) A water right, found to be valid in a decree entered in an action for general determination of rights under Chapter 4, Determination of Water Rights, is subject to a claim of forfeiture based on a seven-year period of nonuse that begins after the day on which the state engineer filed the related

proposed determination of rights with the court, unless the decree provides otherwise.

(iv) If in a judicial action a court declares a water right forfeited, on the date on which the water right is forfeited:

(A) the right to use the water reverts to the public; and

(B) the water made available by the forfeiture:

(I) first, satisfies other water rights in the hydrologic system in order of priority date; and

(II) second, may be appropriated as provided in this title.

(d) ~~[This]~~ Except as provided in Subsection (2)(e), this section applies whether the unused or abandoned water or a portion of the water is:

(i) permitted to run to waste; or

(ii) used by others without right with the knowledge of the water right holder.

(e) This section does not apply to:

(i) the use of water according to a lease or other agreement with the appropriator or the appropriator's successor in interest;

(ii) a water right if its place of use is contracted under an approved state agreement or federal conservation following program;

(iii) those periods of time when a surface water or groundwater source fails to yield sufficient water to satisfy the water right;

(iv) a water right when water is unavailable because of the water right's priority date;

(v) a water right to store water in a surface reservoir or an aquifer, in accordance with Title 73, Chapter 3b, Groundwater Recharge and Recovery Act, if:

(A) the water is stored for present or future use; or

(B) storage is limited by a safety, regulatory, or engineering restraint that the appropriator or the appropriator's successor in interest cannot reasonably correct;

(vi) a water right if a water user has beneficially used substantially all of the water right within a seven-year period, provided that this exemption does not apply to the adjudication of a water right in a general determination of water rights under Chapter 4, Determination of Water Rights;

(vii) except as provided by Subsection (2)(g), a water right:

(A) (I) owned by a public water supplier;

(II) represented by a public water supplier's ownership interest in a water company; or

(III) to which a public water supplier owns the right of use; and

(B) conserved or held for the reasonable future water requirement of the public, which is determined according to Subsection (2)(f);

(viii) a supplemental water right during a period of time when another water right available to the appropriator or the appropriator's successor in interest provides sufficient water so as to not require use of the supplemental water right; or

(ix) a water right subject to an approved change application where the applicant is diligently pursuing certification.

(f) (i) The reasonable future water requirement of the public is the amount of water needed in the next 40 years by:

(A) the persons within the public water supplier's ~~projected~~ reasonably anticipated service area based on ~~projected~~ reasonably anticipated population growth; or

(B) other water use demand.

(ii) For purposes of Subsection (2)(f)(i), a community water system's ~~projected~~ reasonably anticipated service area:

(A) is the area served by the community water system's distribution facilities; and

(B) expands as the community water system expands the distribution facilities in accordance with Title 19, Chapter 4, Safe Drinking Water Act.

(g) For a water right acquired by a public water supplier on or after May 5, 2008, Subsection (2)(e)(vii) applies if:

(i) the public water supplier submits a change application under Section 73-3-3; and

(ii) the state engineer approves the change application.

(3) (a) The state engineer shall furnish a nonuse application form requiring the following information:

(i) the name and address of the applicant;

(ii) a description of the water right or a portion of the water right, including the point of diversion, place of use, and priority;

(iii) the quantity of water;

(iv) the period of use;

(v) the extension of time applied for;

(vi) a statement of the reason for the nonuse of the water; and

(vii) any other information that the state engineer requires.

(b) (i) Upon receipt of the application, the state engineer shall publish a notice of the application once a week for two successive weeks:

(A) in a newspaper of general circulation in the county in which the source of the water supply is located and where the water is to be used; and

(B) as required in Section 45-1-101.

(ii) The notice shall:

(A) state that an application has been made; and

(B) specify where the interested party may obtain additional information relating to the application.

(c) Any interested person may file a written protest with the state engineer against the granting of the application:

(i) within 20 days after the notice is published, if the adjudicative proceeding is informal; and

(ii) within 30 days after the notice is published, if the adjudicative proceeding is formal.

(d) In any proceedings to determine whether the nonuse application should be approved or rejected, the state engineer shall follow the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act.

(e) After further investigation, the state engineer may approve or reject the application.

(4) (a) The state engineer shall grant a nonuse application on all or a portion of a water right for a period of time not exceeding seven years if the applicant shows a reasonable cause for nonuse.

(b) A reasonable cause for nonuse includes:

(i) a demonstrable financial hardship or economic depression;

(ii) physical causes or changes that render use beyond the reasonable control of the water right owner so long as the water right owner acts with reasonable diligence to resume or restore the use;

~~(iii)~~ (iii) the initiation of water conservation or efficiency practices, or the operation of a groundwater recharge recovery program approved by the state engineer;

~~(iv)~~ (iv) operation of legal proceedings;

~~(v)~~ (v) the holding of a water right or stock in a mutual water company without use by any water supply entity to meet the reasonable future requirements of the public;

~~(vi)~~ (vi) situations where, in the opinion of the state engineer, the nonuse would assist in implementing an existing, approved water management plan; or

~~(vii)~~ (vii) the loss of capacity caused by deterioration of the water supply or delivery equipment if the applicant submits, with the application, a specific plan to resume full use of the water right by replacing, restoring, or improving the equipment.

(5) (a) Sixty days before the expiration of a nonuse application, the state engineer shall notify the applicant by mail or by any form of electronic communication through which receipt is verifiable, of the date when the nonuse application will expire.

(b) An applicant may file a subsequent nonuse application in accordance with this section.

Section 2. Section 73-2-27 is amended to read:

73-2-27. Criminal penalties.

(1) This section applies to offenses committed under:

- (a) Section 73-1-14;
- (b) Section 73-1-15;
- (c) Section 73-2-20;
- (d) ~~[Subsection]~~ Section 73-3-3(9);
- (e) Section 73-3-26;
- (f) Section 73-3-29;
- (g) Section 73-5-9;
- (h) Section 76-10-201;
- (i) Section 76-10-202; and
- (j) Section 76-10-203.

(2) Under circumstances not amounting to an offense with a greater penalty under Subsection 76-6-106(2)(b)(ii) or Section 76-6-404, violation of a provision listed in Subsection (1) is punishable:

- (a) as a felony of the third degree if:
 - (i) the value of the water diverted or property damaged or taken is \$2,500 or greater; and
 - (ii) the person violating the provision has previously been convicted of violating the same provision;
- (b) as a class A misdemeanor if:
 - (i) the value of the water diverted or property damaged or taken is \$2,500 or greater; or
 - (ii) the person violating the provision has previously been convicted of violating the same provision; or
- (c) as a class B misdemeanor if Subsection (2)(a) or (b) does not apply.

Section 3. Section 73-3-3 is amended to read:

73-3-3. Permanent or temporary changes in point of diversion, place of use, or purpose of use.

(1) For purposes of this section:

(a) "Permanent change" means a change for an indefinite period of time with an intent to relinquish the original point of diversion, place of use, or purpose of use.

(b) "Temporary change" means a change for a fixed period of time not exceeding one year.

(2) (a) Subject to Subsection (2)(c), a person entitled to the use of water may make permanent or temporary changes in the:

- (i) point of diversion;
- (ii) place of use; ~~or~~
- ~~[(iii) purpose of use for which the water was originally appropriated.]~~
- (iii) period of use;
- (iv) nature of use; or
- (v) storage.

(b) Except as provided by Section 73-3-30, a change may not be made if it impairs a vested water right without just compensation.

(c) A change application on a federal reclamation project water right shall be signed by:

(i) the local water users organization that is contractually responsible for:

(A) the operation and maintenance of the project; or

(B) the repayment of project costs; and

(ii) the record owner of the water right.

(3) A person entitled to use water shall change a point of diversion, place of use, or ~~[purpose]~~ nature of water use, including water involved in a general adjudication or other suit, in the manner provided in this section.

(4) (a) A person entitled to use water may not make a change unless the state engineer approves the change application.

(b) A shareholder in a water company who seeks to make a permanent or temporary change to a water right to which the water company is the record owner shall file a change application in accordance with Section 73-3-3.5.

~~[(4b)]~~ (5) A person entitled to use water shall submit a change application, upon forms furnished by the state engineer [and shall set forth], that includes:

[(i)] (a) the change applicant's name;

[(ii)] (b) the water right description, including the water right number;

[(iii)] (c) the water quantity;

[(iv)] (d) the stream or water source;

[(v)] (e) if applicable, the point on the stream or water source where the water is diverted;

[(vi)] (f) if applicable, the point to which it is proposed to change the diversion of the water;

[(vii)] (g) the place, [purpose] nature, period, and extent of the [present] approved use;

[(viii)] (h) the place, [purpose] nature, period, and extent of the proposed use; [and]

(i) if the change applicant is submitting a change application in accordance with Section 73-3-3.5, the information required by Section 73-3-3.5;

(j) any proposed change to the storage of water; and

[(ix)] (k) any other information that the state engineer requires.

~~[(5) (a) The state engineer shall follow the same procedures, and the rights and duties of the applicants with respect to applications for permanent changes of point of diversion, place of use, or purpose of use shall be the same, as provided in this title for applications to appropriate water.]~~

(6) (a) With respect to a change application for a permanent change:

(i) the state engineer shall follow the same procedures provided in this title for approving an application to appropriate water; and

(ii) the rights and duties of a change applicant are the same as the rights and duties of a person who applies to appropriate water under this title.

(b) The state engineer may waive notice for a permanent change application involving only a change in point of diversion of 660 feet or less.

~~[(6)]~~ (7) (a) The state engineer shall investigate all temporary change applications.

(b) If the state engineer finds that the temporary change will not impair a vested water right, the state engineer shall issue an order authorizing the change.

(c) If the state engineer finds that the change sought might impair a vested water right, before authorizing the change, the state engineer shall give notice of the application to any person whose right may be affected by the change.

(d) Before making an investigation or giving notice, the state engineer may require the applicant to deposit a sum of money sufficient to pay the expenses of the investigation and publication of notice.

~~[(7)]~~ (8) (a) Except as provided by Section 73-3-30, the state engineer may not reject a permanent or temporary change application for the sole reason that the change would impair a vested water right.

(b) If otherwise proper, the state engineer may approve a permanent or temporary change application for part of the water involved or upon the condition that the applicant acquire the conflicting water right or otherwise mitigate the impairment.

~~[(8) (a) A person holding an approved application for the appropriation of water may change the point of diversion, place of use, or purpose of use.]~~

~~[(b)]~~ (9) A change of an approved application to appropriate water does not:

~~[(i)]~~ (a) affect the priority of the original application to appropriate water; or

~~[(ii)]~~ (b) extend the time period within which the construction of work is to begin or be completed.

~~[(9)]~~ (10) Any person who changes ~~[or who attempts to change]~~ a point of diversion, place of use, or purpose of use, either permanently or temporarily, without first applying to the state engineer in the manner provided in this section: ~~[(a) obtains no right; (b)], is guilty of [a crime] an offense punishable under Section 73-2-27 if the change [or attempted change] is made knowingly or intentionally; [and]~~

~~[(c) is guilty of a separately punishable offense for each day of the unlawful change.]~~

(11) A person who makes a permanent or temporary change before obtaining an approved

change application under this section obtains no additional water right by the change and shall comply with the change application process.

~~[(10)]~~ (12) (a) This section does not apply to the replacement of an existing well by a new well drilled within a radius of 150 feet from the point of diversion of the existing well.

(b) Any replacement well must be drilled in accordance with the requirements of Section 73-3-28.

Section 4. Section 73-3-3.5 is amended to read:

73-3-3.5. Application for a change of point of diversion, place of use, or purpose of use of water in a water company made by a shareholder.

(1) As used in this section:

(a) "Shareholder" means the owner of a share of stock, or other evidence of stock ownership, that entitles the person to a proportionate share of water in a water company.

(b) "Water company" means, except as described in Subsection (1)(c), any company, operating for profit or not for profit, ~~[in which]~~ where a shareholder has the right to receive a proportionate share, based on that shareholder's ownership interest, of water delivered by the company.

(c) "Water company" does not include a public water supplier, as defined in Section 73-1-4.

~~[(2) A shareholder who seeks to change the point of diversion, place of use, or purpose of use of the shareholder's proportionate share of water in the water company shall submit a request for the change, in writing, to the water company. This request shall include the following information:]~~

~~[(a) the details of the requested change, which may include the point of diversion, period of use, place, or nature of use;]~~

~~[(b) the quantity of water sought to be changed;]~~

(2) (a) A shareholder who seeks to file a change application under Section 73-3-3 to make a change to some or all of the water rights represented by the shareholder's shares in a water company shall:

(i) prepare a proposed change application on forms furnished by the state engineer; and

(ii) provide the proposed change application to the water company by personal delivery with a signed receipt, certified mail, or electronic mail with confirmation of receipt.

(b) The water company and the shareholder shall cooperate in supplying information relevant to preparation or correction of the shareholder's change application.

(c) In addition to the information required under Section 73-3-3, the proposed change application shall include:

~~[(e)]~~ (i) the certificate number of the stock affected by the change;

~~(d)~~ (ii) a description of the land proposed to be retired from irrigation ~~[pursuant to]~~ in accordance with Section 73-3-3, if the proposed change in place or nature of use of the water involves a situation where the water was previously used for irrigation;

~~(e)~~ (iii) an agreement by the shareholder to continue to pay all applicable corporate assessments on the share affected by the change; and

~~(f)~~ (iv) any other information that the water company may reasonably need to evaluate the ~~[requested]~~ proposed change application.

~~(3) (a) A water company shall make a decision and provide written notice of that decision on a shareholder's request for a change application within 120 days from receipt of the request.]~~

~~(b) Based on the facts and circumstances of each proposed change, a water company may take the following action:]~~

~~(i) approve the change request;]~~

~~(ii) approve the change request with conditions; or]~~

~~(iii) deny the change request.]~~

~~(c) If the water company fails to respond to a shareholder's request for a change application, pursuant to Subsection (3)(a), the failure to respond shall be considered to be a denial of the request.]~~

~~(d) The water company may not withhold approval if any potential damage, liability, or impairment to the water company, or its shareholders, can be reasonably mitigated without cost to the water company.]~~

~~(e) A water company may consider the following factors in evaluating change applications:]~~

~~(3) (a) The water company shall respond to the proposed change application described in Subsection (2) within 120 days after the day on which the water company receives the proposed change application.~~

~~(b) The water company's response to the proposed change application shall be in writing and shall:~~

~~(i) consent to the proposed change;~~

~~(ii) consent to the proposed change, subject to certain conditions described by the water company; or~~

~~(iii) decline to consent to the proposed change, describing the reasons for declining to consent.~~

~~(c) If the water company fails to timely respond, as described in Subsection (3)(a), the failure to respond shall be considered the water company's consent to the proposed change application and the shareholder may file the change application with the state engineer.~~

~~(4) (a) In reviewing a shareholder's proposed change application, a water company may consider:~~

~~(i) [any] whether an increased cost to the water company or its shareholders results from the proposed change;~~

~~(ii) [interference] whether the proposed change will interfere with the water company's ability to manage and distribute water for the benefit of all shareholders;~~

~~(iii) whether the proposed change represents more water than the shareholder's [pro rata] proportionate share of the water company's right;~~

~~[(iv) impairment of either]~~

~~(iv) whether the proposed change would create preferential access to use of particular company water rights to the detriment of other shareholders;~~

~~(v) whether the proposed change will impair the quantity or quality of water delivered to other shareholders under the existing water rights of the water company, including rights to carrier water;~~

~~[(v)] (vi) whether the proposed change [would cause a violation of any] violates a statute, ordinance, regulation, or order of a court or [governmental] government agency;~~

~~[(vi)] (vii) if applicable, whether the shareholder has or can arrange for the beneficial use of water to be retired from irrigation within the water company's service area under the proposed change; [or] and~~

~~[(vii)] (viii) the cumulative effects that the approval of the change application may have on other shareholders or water company operations.~~

~~(4) The water company may require that all costs associated with the change application, including costs of submitting proof, be paid by the shareholder. (5) (a) The]~~

~~(b) The water company may not withhold consent if any potential damage, liability, or impairment to the water company, or its shareholders, can be reasonably mitigated without cost to the water company.~~

~~(c) The water company may require the shareholder to pay all reasonable and necessary costs associated with the change application, but may not impose unreasonable exactions.~~

~~(5) (a) If the water company declines to consent to the proposed change application, stating its reasons, the shareholder may file an action in district court, seeking court review of the reasonableness of the conditions imposed for giving consent or the reasons stated for declining consent and a final order allowing the shareholder to file the proposed change application with the state engineer.~~

~~(b) If the water company consents to the proposed change application subject to conditions to which the shareholder does not agree, the shareholder may file the change application with the state engineer as provided in Subsection (6), without waiving the shareholder's right to contest conditions set by the water company under Subsection (3)(b)(ii).~~

(c) During or after the completion of the proceeding before the state engineer commenced under Subsection (6), the shareholder may file an action in district court seeking court review of the reasonableness of the conditions imposed by the water company for giving consent.

(d) In an action brought under Subsection (5)(a), (b), or (c), the court:

(i) shall refer the parties to mediation under Title 78B, Chapter 6, Part 2, Alternative Dispute Resolution Act, unless one or both parties decline mediation; and

(ii) may award costs and reasonable attorney fees to the prevailing party if mediation does not occur because the other party declined to participate in mediation.

(6) If the water company consents to the proposed change, the water company fails to respond as required by Subsection (3)(a), the court has entered an order described in Subsection (5)(a), or the water company consents to the proposed change subject to conditions to which the shareholder does not agree, as described in Subsection (5)(b), the shareholder may commence an administrative proceeding by filing the change application with the state engineer in accordance with Section 73-3-3 and this section.

(7) The shareholder shall include as part of the change application filed with the state engineer under Subsection (5)(b) or (6):

(a) the water company's response to the shareholder's proposed change application;

(b) if applicable, an affidavit signed by the shareholder documenting the water company's failure to respond in the time period described in Subsection (3)(a); or

(c) if applicable, the court order described in Subsection (5)(a).

(8) (a) The state engineer shall evaluate a shareholder's change application in the same manner used to evaluate a change application submitted under Section 73-3-3, using the criteria described in Section 73-3-8.

(b) Nothing in this section limits the authority of the state engineer in evaluating and processing a change application, including the authority to require or allow a shareholder or water company to submit additional relevant information, if the state engineer finds an absence of prejudice and allows adequate time and opportunity for the other party to respond.

(9) If the state engineer approves a shareholder's change application, the state engineer may, for shares included in the approval, require that the shareholder requesting the change [must] be current on all water company assessments and [agree to] continue to pay all reasonably applicable future assessments[, except that the shareholder may choose to prepay any portion of the water company assessments attributable to an existing debt of the water company.], with credit given to the

shareholder for any cost savings to the company resulting from the change.

~~(b) Other than prepaid assessments, the water company may require that the shareholder continue to pay all applicable assessments.]~~

~~(6) If the water company approves the requested change, with or without conditions, the change application may be filed with the state engineer, and must:]~~

~~(a) be signed on behalf of the water company; or]~~

~~(b) be accompanied by written authorization from the water company assenting to the change.]~~

~~(7) (a) The state engineer may evaluate a change application authorized by a water company under this section in the same manner and using the same criteria that he or she uses to evaluate any other change application.]~~

~~(b) Nothing in this section shall limit the authority of the state engineer in evaluating and processing any change application.]~~

~~(8) If an application authorized by a water company under this section is approved by the state engineer, the shareholder may file requests for extensions of time to submit proof of beneficial use under the change application without further permission of the water company.]~~

~~(9) (a) Change applications approved under this section are subject to all conditions imposed by the water company and the state engineer.]~~

~~(b) If a shareholder fails to comply with all of the conditions imposed by the water company, the water company may, after written notice to the shareholder and after allowing reasonable time to remedy the failure, withdraw its approval of the application, and petition the state engineer for an order canceling the change application.]~~

~~(c) The water company may not revoke its approval of the change application or seek an order canceling the application if the conditions are substantially satisfied.]~~

~~(10) By mutual agreement only, and when the shares will rely upon a different diversion and delivery system, the water company and the shareholder may negotiate a buyout from the water company that may include a pro rata share of the water company's existing indebtedness assignable to the shares.]~~

~~(11) After an application has been approved by the state engineer, the shareholder may file requests for extensions of time to submit proof of beneficial use under the change application without further involvement of the water company.]~~

~~(12) If, after a proposed change has been approved and gone into effect, a shareholder fails to substantially comply with a condition described in Subsection (9), or any condition reasonably imposed by the company and agreed to by the shareholder, and neglects to remedy the failure after written notice from the water company that allows the shareholder a reasonable opportunity to remedy~~

the failure, no less than 90 days after the day on which the water company gives notice, the water company may petition the state engineer to order a reversal of the change application approval.

[40] (13) (a) The shareholder requesting the change shall have a cause of action, including an award of actual damages incurred, against the water company if the water company:

(i) unreasonably withholds approval of a requested change;

(ii) imposes unreasonable conditions in its approval; or

(iii) withdraws approval of a change application in a manner other than as provided in Subsection [9] (12).

~~[(b) The action referred to in Subsection (10)(a) shall be referred to mediation by the court under Title 78B, Chapter 6, Part 2, Alternative Dispute Resolution Act, unless both parties decline mediation.]~~

(b) The court may award costs and reasonable attorney fees:

(i) to the shareholder if the court finds that the water company acted in bad faith when it declined to consent to the proposed change or conditioned its consent on excessive exactions or unreasonable conditions; or

(ii) to the water company if it finds that the shareholder acted in bad faith in refusing to accept conditions reasonably necessary to protect other shareholders if the shareholder's change application is approved.

~~[(c) If mediation is declined, the prevailing party to the action shall be entitled to costs and reasonable attorney fees.]~~

Section 5. Coordinating H.B. 43 with H.B. 25 -- Technical amendments.

If this H.B. 43 and H.B. 25, Water Law - Application Revisions, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication:

(1) modify Section 73-3-3 to read:

"73-3-3. Permanent or temporary changes to a water right.

(1) For purposes of this section:

(a) "Permanent change" means a change, for an indefinite period of time ~~[with an intent to relinquish the original point of diversion, place of use, or purpose of use.]~~, to the:

(i) point of diversion;

(ii) place of use;

(iii) period of use;

(iv) nature of use; or

(v) storage of water.

(b) (i) "Quantity impairment" means any reduction in the amount of water a person is able to receive in order to satisfy an existing right to the use of water that would result from an action proposed in a change application, including:

(A) diminishing the quantity of water in the source of supply for the existing right;

(B) a change in the timing of availability of water from the source of supply for the existing right; or

(C) enlarging the quantity of water depleted by the nature of the proposed use when compared with the nature of the currently approved use.

(ii) "Quantity impairment" does not mean a decrease in the static level of water in an underground basin or aquifer that would result from an action proposed to be taken in a change application, if the volume of water necessary to satisfy an existing right otherwise remains reasonably available.

~~[(b) (c) "Temporary change" means a change for a fixed period of time, not exceeding one year[.], to the:~~

(i) point of diversion;

(ii) place of use;

(iii) period of use;

(iv) nature of use; or

(v) storage of water.

(2) (a) A person who proposes to file a permanent or temporary change application may request consultation with the state engineer, or the state engineer's designee, before filing the application in order to review the requirements of the change application process, discuss potential issues related to the change, and provide the applicant with information.

(b) Statements made and information presented in the consultation are not binding on the applicant or the state engineer.

(c) The consultation described in Subsection (2)(a) may occur in the state engineer's regional office for the region where the proposed change would occur.

~~[(2) (3) (a) [Subject to Subsection (2)(e), a] A person entitled to the use of water may make a permanent or temporary [changes in the:] change to an existing right to use water, including a right involved in a general determination of rights or other suit, if:~~

~~[(i) point of diversion;]~~

~~[(ii) place of use; or]~~

~~[(iii) purpose of use for which the water was originally appropriated.]~~

(i) the person makes the change in accordance with this section;

~~[(b) Except] (ii) except as provided by Section 73-3-30, [a] the change [may not be made if it impairs a vested water] does not impair an existing~~

right without just compensation[.] or adequate mitigation; and

(iii) the state engineer approves the change application, consistent with the requirements of Section 73-3-8.

(e) (b) A change application on a federal reclamation project water right shall be signed by:

(i) the local water users organization that is contractually responsible for:

(A) the operation and maintenance of the project; or

(B) the repayment of project costs; and

(ii) the record owner of the water right.

~~(3) A person entitled to use water shall change a point of diversion, place of use, or purpose of water use, including water involved in a general adjudication or other suit, in the manner provided in this section.~~

~~(4) (a) A person entitled to use water may not make a change unless the state engineer approves the change application.~~

~~(b) A] (4) (a) Before making a permanent or temporary change, a person entitled to the use of water shall submit a change application upon forms furnished by the state engineer [and shall set forth].~~

(b) The application described in Subsection (4)(a) shall include:

(i) the applicant's name;

(ii) the water right description, including the water right number;

(iii) the water quantity;

(iv) the stream or water source;

(v) if applicable, the point on the stream or water source where the water is diverted;

(vi) if applicable, the point to which it is proposed to change the diversion of the water;

(vii) the place, [purpose,] nature, period, and extent of the [present] currently approved use;

(viii) the place, [purpose,] nature, period, and extent of the proposed use; [and]

(ix) if the change applicant is submitting a change application in accordance with Section 73-3-3.5, the information required by Section 73-3-3.5;

(x) any proposed change to the storage of water; and

~~(ix)] (xi) any other information that the state engineer requires.~~

(c) A shareholder in a water company who seeks to make a permanent or temporary change to a water right to which the water company is the record owner shall file a change application in accordance with Section 73-3-3.5.

~~(5) (a) The state engineer shall follow the same procedures, and the rights and duties of the applicants with respect to applications for permanent changes of point of diversion, place of use, or purpose of use shall be the same, as provided in this title for applications to appropriate water.]~~

~~(b) The state engineer may waive notice for a permanent change application involving only a change in point of diversion of 660 feet or less.]~~

~~(6) (a) The state engineer shall investigate all temporary change applications.]~~

~~(b) If the state engineer finds that the temporary change will not impair a vested water right, the state engineer shall issue an order authorizing the change.]~~

~~(c) If the state engineer finds that the change sought might impair a vested water right, before authorizing the change, the state engineer shall give notice of the application to any person whose right may be affected by the change.]~~

~~(d) Before making an investigation or giving notice, the state engineer may require the applicant to deposit a sum of money sufficient to pay the expenses of the investigation and publication of notice.]~~

~~(7) (a) Except as provided by Section 73-3-30, the state engineer may not reject a permanent or temporary change application for the sole reason that the change would impair a vested water right.]~~

~~(b) If otherwise proper, the state engineer may approve a permanent or temporary change application for part of the water involved or upon the condition that the applicant acquire the conflicting water right.]~~

~~(8) (a) A person holding an approved application for the appropriation of water may change the point of diversion, place of use, or purpose of use.]~~

(5) In a proceeding before the state engineer, the applicant has the burden of producing evidence sufficient to support a reasonable belief that the change can be made in compliance with this section and Section 73-3-8, including evidence:

(a) that the change will not cause a specific existing right to experience quantity impairment; or

(b) if applicable, rebutting the presumption of quantity impairment described in Subsection 73-3-8(6)(c).

~~(b)] (6) A change of an approved application to appropriate water does not:~~

~~(4)] (a) affect the priority of the original application to appropriate water; or~~

~~(4)] (b) extend the time period within which the construction of work is to begin or be completed.~~

~~(9) (7) Any person who [changes or who attempts to change a point of diversion, place of use, or purpose of use, either permanently or temporarily, without first applying to the state engineer in the manner provided in this section]~~

makes a permanent or temporary change without first filing and obtaining approval of a change application providing for such change:

(a) obtains no right by the change;

(b) is guilty of ~~[a crime]~~ an offense punishable under Section 73-2-27 if the change ~~[or attempted change]~~ is made knowingly or intentionally; and

~~[(c) is guilty of a separately punishable offense for each day of the unlawful change.]~~

(c) shall comply with the change application process.

~~[(40)]~~ (8) (a) This section does not apply to the replacement of an existing well by a new well drilled within a radius of 150 feet from the point of diversion of the existing well.

(b) Any replacement well must be drilled in accordance with the requirements of Section 73-3-28.; and

(2) modify Section 73-3-8 to read:

“73-3-8 Approval or rejection of application -- Requirements for approval -- Application for specified period of time -- Filing of royalty contract for removal of salt or minerals.

(1) (a) It shall be the duty of the state engineer to approve an application if there is reason to believe that:

(i) for an application to appropriate, there is unappropriated water in the proposed source;

(ii) the proposed use will not impair existing rights or interfere with the more beneficial use of the water;

(iii) the proposed plan;

(A) is physically and economically feasible, unless the application is filed by the United States Bureau of Reclamation[;]; and

(B) would not prove detrimental to the public welfare;

(iv) the applicant has the financial ability to complete the proposed works; ~~[and]~~

(v) the application was filed in good faith and not for purposes of speculation or monopoly[-]; and

(vi) if applicable, the application complies with a groundwater management plan adopted under Section 73-5-15.

(b) ~~[(4)]~~ If the state engineer, because of information in the state engineer's possession obtained either by the state engineer's own investigation or otherwise, has reason to believe that an application ~~[to appropriate water]~~ will interfere with ~~[its]~~ the water's more beneficial use for irrigation, municipal and industrial, domestic or culinary, stock watering, power or mining development, or manufacturing, or will unreasonably affect public recreation or the natural stream environment, or will prove detrimental to the public welfare, [it is the state engineer's duty to] the state engineer shall withhold approval or

rejection of the application until the state engineer has investigated the matter.

~~[(4)]~~ (c) If an application does not meet the requirements of this section, it shall be rejected.

(2) (a) An application to appropriate water for industrial, power, mining development, manufacturing purposes, agriculture, or municipal purposes may be approved for a specific and certain period from the time the water is placed to beneficial use under the application, but in no event may an application be granted for a period of time less than that ordinarily needed to satisfy the essential and primary purpose of the application or until the water is no longer available as determined by the state engineer.

(b) At the expiration of the period fixed by the state engineer the water shall revert to the public and is subject to appropriation as provided by this title.

(c) No later than 60 calendar days before the expiration date of the fixed time period, the state engineer shall send notice by mail or by any form of electronic communication through which receipt is verifiable, to the applicant of record.

(d) Except as provided by Subsection (2)(e), the state engineer may extend any limited water right upon a showing that:

(i) the essential purpose of the original application has not been satisfied;

(ii) the need for an extension is not the result of any default or neglect by the applicant; and

(iii) the water is still available.

(e) No extension shall exceed the time necessary to satisfy the primary purpose of the original application.

(f) A request for extension of the fixed time period must be filed in writing in the office of the state engineer on or before the expiration date of the application.

(3) (a) Before the approval of any application for the appropriation of water from navigable lakes or streams of the state that contemplates the recovery of salts and other minerals therefrom by precipitation or otherwise, the applicant shall file with the state engineer a copy of a contract for the payment of royalties to the state.

(b) The approval of an application shall be revoked in the event of the failure of the applicant to comply with terms of the royalty contract.

(4) (a) The state engineer shall investigate all temporary change applications.

(b) The state engineer shall:

(i) approve the temporary change if the state engineer finds there is reason to believe that it will not impair an existing right; and

(ii) deny the temporary change if the state engineer finds there is reason to believe it would impair an existing right.

(5) (a) With respect to a change application for a permanent change:

(i) the state engineer shall follow the same procedures provided in this title for approving an application to appropriate water; and

(ii) the rights and duties of a change applicant are the same as the rights and duties of a person who applies to appropriate water under this title.

(b) The state engineer may waive notice for a permanent change application if the application only involves a change in point of diversion of 660 feet or less.

(c) The state engineer may condition approval of a change application to prevent an enlargement of the quantity of water depleted by the nature of the proposed use when compared with the nature of the currently approved use of water proposed to be changed.

(d) A condition described in Subsection (5)(c) may not include a reduction in the currently approved diversion rate of water under the water right identified in the change application solely to account for the difference in depletion under the nature of the proposed use when compared with the nature of the currently approved use.

(6) (a) Except as provided in Subsection (6)(b), the state engineer shall reject a permanent change application if the person proposing to make the change is unable to meet the burden described in Subsection 73-3-3(5).

(b) If otherwise proper, the state engineer may approve a permanent or temporary change application upon one or more of the following conditions:

(i) for part of the water involved;

(ii) that the applicant acquire a conflicting right;
or

(iii) that the applicant provide and implement a plan approved by the state engineer to mitigate impairment of an existing right.

(c) (i) There is a rebuttable presumption of quantity impairment, as defined in Subsection 73-3-3(1), to the extent that, for a period of at least seven consecutive years, a portion of the right identified in a change application has not been:

(A) diverted from the approved point of diversion;
and

(B) beneficially used at the approved place of use.

(ii) The rebuttable presumption described in Subsection (6)(c)(i) does not apply if the beneficial use requirement is excused by:

(A) Subsection 73-1-4(2)(e);

(B) an approved nonuse application under Subsection 73-1-4(2)(b);

(C) Subsection 73-3-30(7); or

(D) the passage of time under Subsection 73-1-4(2)(c)(i).

(d) The state engineer may not consider quantity impairment based on the conditions described in Subsection (6)(c) unless the issue is raised in a:

(i) timely protest that identifies which of the protestant's existing rights the protestant reasonably believes will experience quantity impairment; or

(ii) written notice provided by the state engineer to the applicant within 90 days after the change application is filed.

(e) The written notice described in Subsection (6)(d)(ii) shall:

(i) specifically identify an existing right the state engineer reasonably believes may experience quantity impairment; and

(ii) be mailed to the owner of an identified right, as shown by the state engineer's records, if the owner has not protested the change application.

(f) The state engineer is not required to include all rights the state engineer believes may be impaired by the proposed change in the written notice described in Subsection (6)(d)(ii).

(g) The owner of a right who receives the written notice described in Subsection (6)(d)(ii) may not become a party to the administrative proceeding if the owner has not filed a timely protest.

(h) If a change applicant, all protestants, and all persons identified by the state engineer under Subsection (6)(d)(ii) come to a written agreement regarding how the issue of quantity impairment shall be mitigated, the state engineer may incorporate the terms of the agreement into a change application approval."

CHAPTER 250**H. B. 53**

Passed February 20, 2015

Approved March 27, 2015

Effective May 12, 2015

LOCAL GOVERNMENT RESIDENTIAL REIMBURSEMENT AUTHORITY

Chief Sponsor: Johnny Anderson

Senate Sponsor: Karen Mayne

LONG TITLE**General Description:**

This bill authorizes a municipality or county to reimburse an eligible property owner for certain costs if the owner transfers an eligible property's title to a single-family fee simple ownership.

Highlighted Provisions:

This bill:

- ▶ enacts Title 11, Chapter 53, Residential Property Reimbursement;
- ▶ defines terms;
- ▶ authorizes a municipality or county to establish a reimbursement fund;
- ▶ authorizes a municipality or county to reimburse an eligible property owner for certain costs if the owner transfers an eligible property's title to a single-family fee simple ownership;
- ▶ requires a municipality or county to adopt certain qualifications and limitations on a reimbursement; and
- ▶ provides a repeal date.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

11-53-101, Utah Code Annotated 1953
 11-53-102, Utah Code Annotated 1953
 11-53-201, Utah Code Annotated 1953
 11-53-202, Utah Code Annotated 1953
 11-53-203, Utah Code Annotated 1953
 63I-2-211, Utah Code Annotated 1953

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

Section 6. Section 11-53-101 is enacted to read:**CHAPTER 53. RESIDENTIAL PROPERTY REIMBURSEMENT****Part 1. General Provisions****11-53-101. Title.**

This chapter is known as "Residential Property Reimbursement."

Section 7. Section 11-53-102 is enacted to read:**11-53-102. Definitions.**

As used in this chapter:

(1) "Eligible property" means a residential property with a recorded title as a two-party, multifamily condominium.

(2) "Eligible property owner" means an owner:

(a) of an eligible property; and

(b) that intends to subdivide the property and transfer title to a single-family fee simple ownership.

(3) "Reimbursement fund" means a fund established in accordance with Section 11-53-201.

Section 8. Section 11-53-201 is enacted to read:**Part 2. Funding Authorization and Reimbursement Provisions****11-53-201. Establishment of reimbursement fund authorized.**

(1) (a) In a county of the first class, a municipality or the county may provide funds to reimburse an eligible property owner for all or a portion of the costs the eligible property owner incurs if the owner transfers an eligible property title to a single-family fee simple ownership.

(b) The costs described in Subsection (1)(a) that a municipality or county may reimburse in accordance with this chapter are limited to costs incurred by the eligible property owner for the following:

(i) survey services;

(ii) platting fees; or

(iii) subdivision application fees.

(2) The municipality or county shall establish a reimbursement fund to account for the funds described in Subsection (1).

Section 9. Section 11-53-202 is enacted to read:**11-53-202. Reimbursement to eligible property owner.**

(1) An eligible property owner may apply for reimbursement from the municipality or county in which the eligible property is located for all or a portion of the owner's costs, as described in Section 11-53-201, to transfer the eligible property title to a single-family fee simple ownership.

(2) The municipality or county may not reimburse the eligible property owner unless each owner of a property located within the condominium complex whose title would be affected if the eligible property's title is transferred agrees to and participates in the transfer.

(3) The county or municipality may limit reimbursement to eligible properties in a specific development or properties that are identified in a list of residential properties.

Section 10. Section 11-53-203 is enacted to read:**11-53-203. Qualifications for reimbursement.**

(1) Subject to Subsections (2) and (3), a municipality or county shall establish by ordinance, or, in accordance with Title 11, Chapter 13, Interlocal Cooperation Act, in the provisions of an interlocal cooperation agreement, specific standards, limitations, and qualifications for reimbursement to an eligible property owner.

(2) A standard or qualification may not authorize a property owner other than an eligible property owner to qualify for a reimbursement.

(3) In addition to other standards, the municipality or county shall adopt by ordinance provisions, or, if applicable, parties to an interlocal agreement shall adopt agreement provisions, governing the following:

(a) the amount of the financial contribution from each party to an interlocal agreement, if applicable;

(b) the management of the reimbursement fund;

(c) the qualification of an eligible property owner in addition to qualifications described in this chapter;

(d) the procedures and standards regarding the disbursement of funds;

(e) the costs listed in Section 11-53-201 that will be reimbursed;

(f) a maximum amount of reimbursement for each of those costs; and

(g) the method of repayment by the property owner of the reimbursement under circumstances as set forth in ordinance or agreement provisions.

Section 11. Section 63I-2-211 is enacted to read:

63I-2-211. Repeal dates -- Title 11.

Title 11, Chapter 53, Residential Property Reimbursement, is repealed on January 1, 2020.

CHAPTER 251**H. B. 58**

Passed March 10, 2015

Approved March 27, 2015

Effective May 12, 2015

CHANGE APPLICATION MODIFICATIONS

Chief Sponsor: Keith Grover
Senate Sponsor: Margaret Dayton

LONG TITLE**General Description:**

This bill requires that a person who applies for a permanent or temporary change to a water right meet certain qualifications.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires that a person who applies for a permanent or temporary change to a water right meet certain qualifications, including being:
 - a holder of an approved but unperfected application to appropriate water;
 - the record owner of a perfected water right;
 - a person who has written authorization from a person described above to file a change application on that person's behalf; or
 - a shareholder in a water company who files in accordance with Section 73-3-3.5; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

73-3-3, as last amended by Laws of Utah 2012, Chapter 229

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

Section 1. Section 73-3-3 is amended to read:**73-3-3. Permanent or temporary changes in point of diversion, place of use, or purpose of use.**

(1) For purposes of this section:

(a) "Permanent change" means a change, for an indefinite period of time, with an intent to relinquish the original point of diversion, place of use, or purpose of use.

(b) "Person entitled to the use of water" means:

(i) the holder of an approved but unperfected application to appropriate water;

(ii) the record owner of a perfected water right;

(iii) a person who has written authorization from a person described in Subsection (1)(b)(i) or (ii) to file a change application on that person's behalf; or

(iv) a shareholder in a water company who is authorized to file a change application in accordance with Section 73-3-3.5.

~~(b)~~ (c) "Temporary change" means a change for a fixed period of time, not exceeding one year.

(2) (a) Subject to Subsection (2)(c), a person entitled to the use of water may make permanent or temporary changes in the:

(i) point of diversion;

(ii) place of use; or

(iii) purpose of use for which the water was originally appropriated.

(b) Except as provided by Section 73-3-30, a change may not be made if it impairs a vested water right without just compensation.

(c) A change application on a federal reclamation project water right shall be signed by:

(i) the local water users organization that is contractually responsible for:

(A) the operation and maintenance of the project; or

(B) the repayment of project costs; and

(ii) the record owner of the water right.

(3) A person entitled to the use of water shall change a point of diversion, place of use, or purpose of water use, including water involved in a general adjudication or other suit, in the manner provided in this section.

(4) (a) A person entitled to the use of water may not make a change unless the state engineer approves the change application.

(b) A person entitled to the use of water shall submit a change application upon forms furnished by the state engineer and shall set forth:

(i) the applicant's name;

(ii) the water right description;

(iii) the water quantity;

(iv) the stream or water source;

(v) if applicable, the point on the stream or water source where the water is diverted;

(vi) if applicable, the point to which it is proposed to change the diversion of the water;

(vii) the place, purpose, and extent of the present use;

(viii) the place, purpose, and extent of the proposed use; and

(ix) any other information that the state engineer requires.

(5) (a) The state engineer shall follow the same procedures, and the rights and duties of the applicants with respect to applications for permanent changes of point of diversion, place of use, or purpose of use shall be the same, as provided in this title for applications to appropriate water.

(b) The state engineer may waive notice for a permanent change application involving only a change in point of diversion of 660 feet or less.

(6) (a) The state engineer shall investigate all temporary change applications.

(b) If the state engineer finds that the temporary change will not impair a vested water right, the state engineer shall issue an order authorizing the change.

(c) If the state engineer finds that the change sought might impair a vested water right, before authorizing the change, the state engineer shall give notice of the application to any person whose right may be affected by the change.

(d) Before making an investigation or giving notice, the state engineer may require the applicant to deposit a sum of money sufficient to pay the expenses of the investigation and publication of notice.

(7) (a) Except as provided by Section 73-3-30, the state engineer may not reject a permanent or temporary change application for the sole reason that the change would impair a vested water right.

(b) If otherwise proper, the state engineer may approve a permanent or temporary change application for part of the water involved or upon the condition that the applicant acquire the conflicting water right.

(8) (a) A person holding an approved application for the appropriation of water may change the point of diversion, place of use, or purpose of use.

(b) A change of an approved application does not:

- (i) affect the priority of the original application; or
- (ii) extend the time period within which the construction of work is to begin or be completed.

(9) Any person who changes or who attempts to change a point of diversion, place of use, or purpose of use, either permanently or temporarily, without first applying to the state engineer in the manner provided in this section:

- (a) obtains no right;
- (b) is guilty of a crime punishable under Section 73-2-27 if the change or attempted change is made knowingly or intentionally; and
- (c) is guilty of a separately punishable offense for each day of the unlawful change.

(10) (a) This section does not apply to the replacement of an existing well by a new well drilled within a radius of 150 feet from the point of diversion of the existing well.

(b) Any replacement well must be drilled in accordance with the requirements of Section 73-3-28.

CHAPTER 252**H. B. 112**

Passed March 6, 2015

Approved March 27, 2015

Effective May 12, 2015

**HEARING INSTRUMENT
SPECIALIST AMENDMENTS**Chief Sponsor: Gage Froerer
Senate Sponsor: Aaron Osmond**LONG TITLE****General Description:**

This bill modifies the requirements for practicing as an audiologist or as a hearing instrument specialist.

Highlighted Provisions:

This bill:

- ▶ requires a licensed audiologist or a licensed hearing instrument specialist to inform each patient about hearing instruments that work with assistive listening systems when offering to sell the patient a hearing instrument; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

58-41-17, as enacted by Laws of Utah 1998, Chapter 249

58-46a-502, as enacted by Laws of Utah 1994, Chapter 28

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

Section 1. Section 58-41-17 is amended to read:**58-41-17. Requirements for selling hearing aids.**

(1) As used in this section:

(a) "Hearing aid" means ~~any~~ a wearable instrument or device designed or offered for the purpose of aiding or compensating for impaired human hearing ~~and any~~, including its parts, attachments, or accessories ~~thereto~~.

(b) "Hearing aid" does not include ~~any type of~~ a device ~~which~~ that is surgically implanted in the cochlea or under the skin near the ear.

(2) A person licensed under this chapter who offers to sell a hearing aid to a consumer shall inform the consumer about hearing aids that work with assistive listening systems that are compliant with the ADA Standards for Accessible Design adopted by the United States Department of Justice in accordance with the Americans with Disabilities Act, 42 U.S.C. Sec. 12101 et seq.

~~[(2) Any] (3) A person licensed under this chapter who sells a hearing aid to a consumer shall provide a written receipt or written contract to the consumer. The written receipt or contract shall provide the consumer with a 30-day right to cancel~~

~~the purchase if the consumer finds that the hearing aid does not function adequately for the consumer and to obtain a refund if the consumer returns the hearing aid to the seller in the same condition, ordinary wear and tear excluded, as when purchased] that provides the consumer with a 30-day right to cancel the purchase and to obtain a refund if the consumer returns the hearing aid to the seller in the same condition as when purchased, excluding ordinary wear and tear.~~

(4) The written receipt or contract shall notify the consumer of the 30-day right to cancel in at least ~~[10-point type]~~ 12-point font.

(5) The 30-day right to cancel shall commence from ~~[either]~~ the date the hearing aid is originally delivered to the consumer or the date the written receipt or contract is delivered to the consumer, whichever is later.

(6) The 30-day period shall be tolled for any period during which the hearing aid seller, dealer, or fitter has possession or control of the hearing aid after its original delivery.

~~[(3)] (7) Upon exercise of the 30-day right to cancel a hearing aid purchase, the seller of the hearing aid is entitled to a cancellation fee equal to the actual cost that will be incurred by the seller in order to return the hearing aid to the manufacturer, provided that the written receipt or contract states the exact amount that will be retained by the seller as a cancellation fee.~~

Section 2. Section 58-46a-502 is amended to read:**58-46a-502. Additional requirements for practicing as a hearing instrument specialist.**

A person engaging in the practice of a hearing instrument specialist shall:

(1) have a regular place or places of business from which the person conducts business as a hearing instrument specialist and the place or places of business shall be represented to a patient and others with whom business is conducted by the street address at which the place of business is located;

(2) include in all advertising or other representation the street address at which the business is located and the telephone number of the business at that street address;

(3) provide as part of each transaction between a licensee and a patient related to testing for hearing loss and selling of a hearing instrument written documentation provided to the patient that includes:

(a) identification of all services and products provided to the patient by the hearing instrument specialist and the charges for each service or product;

(b) a statement whether any hearing instrument provided to a patient is "new," "used," or "reconditioned" and the terms and conditions of any warranty or guarantee that applies to each instrument; and

(c) the identity and license number of each hearing instrument specialist or hearing instrument intern who provided services or products to the patient;

~~[(4) provide services or products to a patient only after the patient has been professionally informed with respect to the services, products, and expected results, and informed consent with respect to the provision of such services or products by a licensee and the expected results is obtained from the patient in writing in a form approved by the division in collaboration with the board;]~~

(4) before providing services or products to a patient:

(a) advise the patient regarding services and products offered to the patient, including the expected results of the services and products;

(b) inform each patient who is being offered a hearing instrument about hearing instruments that work with assistive listening systems that are compliant with the ADA Standards for Accessible Design adopted by the United States Department of Justice in accordance with the Americans with Disabilities Act, 42 U.S.C. Sec. 12101 et seq.; and

(c) obtain written informed consent from the patient regarding offered services, products, and the expected results of the services and products in a form approved by the division in collaboration with the board;

(5) refer all individuals under the age of 18 who seek testing of hearing to a physician or surgeon, osteopathic physician, or audiologist, licensed under the provisions of Title 58, Occupations and Professions, and shall dispense a hearing aid to that individual only on prescription of a physician or surgeon, osteopathic physician, or audiologist;

(6) obtain the patient's informed consent and agreement to purchase the hearing instrument based on that informed consent either by the hearing instrument specialist or the hearing instrument intern, before designating an appropriate hearing instrument; and

(7) if a hearing instrument does not substantially enhance the patient's hearing consistent with the representations of the hearing instrument specialist at the time informed consent was given prior to the sale and fitting of the hearing instrument, provide:

(a) necessary intervention to produce satisfactory hearing recovery results consistent with representations made; or

(b) for the refund of fees paid by the patient for the hearing instrument to the hearing instrument specialist within a reasonable time after finding that the hearing instrument does not substantially enhance the patient's hearing.

CHAPTER 253**H. B. 128**

Passed February 20, 2015

Approved March 27, 2015

Effective May 12, 2015

MAINTENANCE OF STUDENT RECORDS

Chief Sponsor: Gage Froerer

Senate Sponsor: Ann Millner

LONG TITLE**General Description:**

This bill amends provisions related to public school parental notifications.

Highlighted Provisions:

This bill:

- ▶ amends provisions related to a record a school maintains to verify that a parent was notified of certain incidents or threats;
- ▶ requires a school to provide a student a copy of a record a school maintains at the request of the student under certain circumstances;
- ▶ requires a school to expunge a record a school maintains at the request of a student under certain circumstances; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53A-11a-203, as enacted by Laws of Utah 2013, Chapter 335

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

Section 1. Section 53A-11a-203 is amended to read:**53A-11a-203. Parental notification of certain incidents and threats required.**

(1) For purposes of this section, "parent" includes a student's guardian.

(2) A school shall:

(a) notify a parent if the parent's student threatens to commit suicide; or

(b) notify the parents of each student involved in an incident of bullying, cyber-bullying, harassment, hazing, or retaliation, of the incident involving each parent's student.

(3) (a) If a school notifies a parent of an incident or threat required to be reported under Subsection (2), the school shall produce and maintain a record that verifies that the parent was notified of the incident or threat.

~~(b) A school may not:~~

~~(i) disclose a record described in Subsection (3)(a), including any information obtained to prepare the record, to a person other than a person authorized to receive the record described in Subsection (3)(e); or~~

~~(ii) use a record described in Subsection (3)(a), including any information obtained to prepare the record, for the school's own purposes, including the following purposes:]~~

~~[(A) for a report or study;]~~

~~[(B) for a statistical analysis; or]~~

~~[(C) to conduct research.]~~

~~(e) A school may disclose a record described in Subsection (3)(a), including any information obtained to prepare the record:]~~

~~(i) to the parent or the parent's student; or]~~

~~(ii) to a person if required to disclose the record or information to a person pursuant to the terms of a court order as described in Subsection 63G-2-202(7).]~~

(b) A school shall maintain a record described in Subsection (3)(a) in accordance with the requirements of:

(i) Section 53A-13-301;

(ii) Section 53A-13-302;

(iii) 20 U.S.C. 1232g, Federal Family Educational Rights and Privacy Act; and

(iv) C.F.R. Part 99.

(4) A local school board or charter school governing board shall adopt a policy regarding the process for:

(a) notifying a parent as required in Subsection (2); and

(b) producing and retaining a record that verifies that a parent was notified of an incident or threat as required in Subsection (3).

(5) At the request of a parent, a school may provide information and make recommendations related to an incident or threat described in Subsection (2).

(6) A school shall:

(a) provide a student a copy of a record maintained in accordance with this section that relates to the student if the student requests a copy of the record; and

(b) expunge a record maintained in accordance with this section that relates to a student if the student:

(i) has graduated from high school; and

(ii) requests the record be expunged.

CHAPTER 254**H. B. 133**

Passed February 20, 2015

Approved March 27, 2015

Effective May 12, 2015

**FIREFIGHTER
RETIREMENT AMENDMENTS**Chief Sponsor: Don L. Ipson
Senate Sponsor: Curtis S. Bramble**LONG TITLE****General Description:**

This bill modifies the Utah State Retirement and Insurance Benefit Act by amending retirement eligibility provisions for firefighters.

Highlighted Provisions:

This bill:

- ▶ provides that a person employed as the state fire marshal or a deputy state fire marshal is eligible to earn service credit in the Firefighters' Retirement System or the New Public Safety and Firefighter Tier II Contributory Retirement System; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 49-16-102, as last amended by Laws of Utah 2013, Chapter 40
 49-16-201, as last amended by Laws of Utah 2014, Chapter 15
 49-23-102, as last amended by Laws of Utah 2013, Chapter 40

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

Section 1. Section 49-16-102 is amended to read:**49-16-102. Definitions.**

As used in this chapter:

(1) (a) "Compensation" means the total amount of payments that are includable as gross income which are received by a firefighter service employee as base income for the regularly scheduled work period. The participating employer shall establish the regularly scheduled work period. Base income shall be determined prior to the deduction of member contributions or any amounts the firefighter service employee authorizes to be deducted for salary deferral or other benefits authorized by federal law.

(b) "Compensation" includes performance-based bonuses and cost-of-living adjustments.

(c) "Compensation" does not include:

- (i) overtime;
- (ii) sick pay incentives;

(iii) retirement pay incentives;

(iv) remuneration paid in kind such as a residence, use of equipment, uniforms, travel, or similar payments;

(v) a lump-sum payment or special payments covering accumulated leave; and

(vi) all contributions made by a participating employer under this system or under any other employee benefit system or plan maintained by a participating employer for the benefit of a member or participant.

(d) "Compensation" for purposes of this chapter may not exceed the amount allowed under Section 401(a)(17), Internal Revenue Code [~~Section 401(a)(17)~~].

(2) (a) "Disability" means a physical or mental condition that, in the judgment of the office, is total and presumably permanent, and prevents a member from performing firefighter service.

(b) The determination of disability is based upon medical and other evidence satisfactory to the office.

(3) "Final average salary" means the amount computed by averaging the highest three years of annual compensation preceding retirement subject to Subsections (3)(a) and (b).

(a) Except as provided in Subsection (3)(b), the percentage increase in annual compensation in any one of the years used may not exceed the previous year's compensation by more than 10% plus a cost-of-living adjustment equal to the decrease in the purchasing power of the dollar during the previous year, as measured by a United States Bureau of Labor Statistics Consumer Price Index average as determined by the board.

(b) In cases where the participating employer provides acceptable documentation to the office the limitation in Subsection (3)(a) may be exceeded if:

(i) the member has transferred from another agency; or

(ii) the member has been promoted to a new position.

(4) (a) "Firefighter service" means employment normally requiring an average of 2,080 hours of regularly scheduled employment per year rendered by a member who is:

(i) a firefighter service employee trained in firefighter techniques and assigned to a position of hazardous duty with a regularly constituted fire department[, ~~but~~]; or

(ii) the state fire marshal appointed under Section 53-7-103 or a deputy state fire marshal.

(b) "Firefighter service" does not include secretarial staff or other similar employees.

(5) "Firefighter service employee" means an employee of a participating employer who provides firefighter service under this chapter. An employee of a regularly constituted fire department who does not perform firefighter service is not a firefighter service employee.

(6) (a) "Line-of-duty death or disability" means a death or any physical or mental disability resulting from:

(i) external force, violence, or disease directly resulting from firefighter service; or

(ii) strenuous activity, including a heart attack or stroke, that occurs during strenuous training or another strenuous activity required as an act of duty as a firefighter service employee.

(b) "Line-of-duty death or disability" does not include a death or any physical or mental disability that:

(i) occurs during an activity that is required as an act of duty as a firefighter service employee if the activity is not a strenuous activity, including an activity that is clerical, administrative, or of a nonmanual nature;

(ii) occurs during the commission of a crime committed by the employee;

(iii) the employee's intoxication or use of alcohol or drugs, whether prescribed or nonprescribed, contributes to the employee's death; or

(iv) occurs in a manner other than as described in Subsection (6)(a).

(c) "Line-of-duty death or disability" includes the death of a paid firefighter resulting from heart disease, lung disease, or a respiratory tract condition if the paid firefighter has five years of firefighter service credit.

(7) "Participating employer" means an employer which meets the participation requirements of Section 49-16-201.

(8) "Regularly constituted fire department" means a fire department that employs a fire chief who performs firefighter service for at least 2,080 hours of regularly scheduled paid employment per year.

(9) (a) "Strenuous activity" means engagement involving a difficult, stressful, or vigorous fire suppression, rescue, hazardous material response, emergency medical service, physical law enforcement, prison security, disaster relief, or other emergency response activity.

(b) "Strenuous activity" includes participating in a participating employer sanctioned and funded training exercise that involves difficult, stressful, or vigorous physical activity.

(10) "System" means the Firefighters' Retirement System created under this chapter.

(11) (a) "Volunteer firefighter" means any individual that is not regularly employed as a firefighter service employee, but who:

(i) has been trained in firefighter techniques and skills;

(ii) continues to receive regular firefighter training; and

(iii) is on the rolls of a legally organized volunteer fire department which provides ongoing training and serves a political subdivision of the state.

(b) An individual that volunteers assistance but does not meet the requirements of Subsection (11)(a) is not a volunteer firefighter for purposes of this chapter.

(12) "Years of service credit" means the number of periods, each to consist of 12 full months as determined by the board, whether consecutive or not, during which a firefighter service employee was employed by a participating employer or received full-time pay while on sick leave, including any time the firefighter service employee was absent in the service of the United States on military duty.

Section 2. Section 49-16-201 is amended to read:

49-16-201. System membership -- Eligibility.

(1) A firefighter service employee who performs firefighter service for an employer participating in this system is eligible for service credit in this system upon the earliest of:

(a) July 1, 1971, if the firefighter service employee was employed by the participating employer on July 1, 1971, and the participating employer was participating in this system on that date;

(b) the date the participating employer begins participating in this system if the firefighter service employee was employed by the participating employer on that date; or

(c) the date the firefighter service employee is hired to perform firefighter services for a participating employer, if the firefighter:

(i) initially enters employment before July 1, 2011; or

(ii) has service credit accrued before July 1, 2011, in a Tier I system or plan administered by the board.

(2) (a) (i) A participating employer that has public safety service and firefighter service employees that require cross-training and duty shall enroll the dual purpose employees in the system in which the greatest amount of time is actually worked.

(ii) The employees shall either be full-time public safety service or full-time firefighter service employees of the participating employer.

(b) (i) Before transferring a dual purpose employee from one system to another, the participating employer shall receive written permission from the office.

(ii) The office may request documentation to verify the appropriateness of the transfer.

(3) (a) A person hired by a regularly constituted fire department on or after July 1, 1971, who does not perform firefighter service is not eligible for service credit in this system.

(b) The nonfirefighter service employee shall become a member of the system for which the

nonfirefighter service employee qualifies for service credit.

(c) The service credit exclusion under this Subsection (3) may not be interpreted to prohibit the assignment of a firefighter with a disability or partial disability to a nonfirefighter service position.

(d) If Subsection (3)(c) applies, the firefighter service employee remains eligible for service credit in this system.

(4) An allowance or other benefit may not be granted under this system that is based upon the same service for benefits received under some other system.

(5) Service as a volunteer firefighter is not eligible for service credit in this system.

(6) An employer [~~that maintains a regularly constituted fire department~~] is eligible to participate in this system if the employer:

(a) maintains a regularly constituted fire department; or

(b) is the Department of Public Safety created in Section 53-1-103 that employs the state fire marshal appointed under Section 53-7-103.

(7) Beginning July 1, 2011, a person who is initially entering employment with a participating employer and who does not have service credit accrued before July 1, 2011, in a Tier I system or plan administered by the board may not participate in this system.

Section 3. Section 49-23-102 is amended to read:

49-23-102. Definitions.

As used in this chapter:

(1) (a) "Compensation" means the total amount of payments that are includable in gross income received by a public safety service employee or a firefighter service employee as base income for the regularly scheduled work period. The participating employer shall establish the regularly scheduled work period. Base income shall be determined prior to the deduction of any amounts the public safety service employee or firefighter service employee authorizes to be deducted for salary deferral or other benefits authorized by federal law.

(b) "Compensation" includes performance-based bonuses and cost-of-living adjustments.

(c) "Compensation" does not include:

(i) overtime;

(ii) sick pay incentives;

(iii) retirement pay incentives;

(iv) the monetary value of remuneration paid in kind, as in a residence, use of equipment or uniform, travel, or similar payments;

(v) a lump-sum payment or special payment covering accumulated leave; and

(vi) all contributions made by a participating employer under this system or under any other employee benefit system or plan maintained by a participating employer for the benefit of a member or participant.

(d) "Compensation" for purposes of this chapter may not exceed the amount allowed under Section 401(a)(17), Internal Revenue Code [~~Section 401(a)(17)~~].

(2) "Corresponding Tier I system" means the system or plan that would have covered the member if the member had initially entered employment before July 1, 2011.

(3) "Final average salary" means the amount computed by averaging the highest five years of annual compensation preceding retirement subject to Subsections (3)(a), (b), (c), and (d).

(a) Except as provided in Subsection (3)(b), the percentage increase in annual compensation in any one of the years used may not exceed the previous year's compensation by more than 10% plus a cost-of-living adjustment equal to the decrease in the purchasing power of the dollar during the previous year, as measured by a United States Bureau of Labor Statistics Consumer Price Index average as determined by the board.

(b) In cases where the participating employer provides acceptable documentation to the office, the limitation in Subsection (3)(a) may be exceeded if:

(i) the member has transferred from another agency; or

(ii) the member has been promoted to a new position.

(c) If the member retires more than six months from the date of termination of employment, the member is considered to have been in service at the member's last rate of pay from the date of the termination of employment to the effective date of retirement for purposes of computing the member's final average salary only.

(d) If the member has less than five years of service credit in this system, final average salary means the average annual compensation paid to the member during the full period of service credit.

(4) (a) "Firefighter service" means employment normally requiring an average of 2,080 hours of regularly scheduled employment per year rendered by a member who is:

(i) a firefighter service employee trained in firefighter techniques and assigned to a position of hazardous duty with a regularly constituted fire department[, ~~but~~]; or

(ii) the state fire marshal appointed under Section 53-7-103 or a deputy state fire marshal.

(b) "Firefighter service" does not include secretarial staff or other similar employees.

(5) "Firefighter service employee" means an employee of a participating employer who provides firefighter service under this chapter. An employee of a regularly constituted fire department who does

not perform firefighter service is not a firefighter service employee.

(6) (a) “Line-of-duty death” means a death resulting from:

(i) external force, violence, or disease occasioned by an act of duty as a public safety service or firefighter service employee; or

(ii) strenuous activity, including a heart attack or stroke, that occurs during strenuous training or another strenuous activity required as an act of duty as a public safety service or firefighter service employee.

(b) “Line-of-duty death” does not include a death that:

(i) occurs during an activity that is required as an act of duty as a public safety service or firefighter service employee if the activity is not a strenuous activity, including an activity that is clerical, administrative, or of a nonmanual nature;

(ii) occurs during the commission of a crime committed by the employee;

(iii) the employee’s intoxication or use of alcohol or drugs, whether prescribed or nonprescribed, contributes to the employee’s death; or

(iv) occurs in a manner other than as described in Subsection (6)(a).

(7) “Participating employer” means an employer which meets the participation requirements of:

- (a) Sections 49-14-201 and 49-14-202;
- (b) Sections 49-15-201 and 49-15-202;
- (c) Sections 49-16-201 and 49-16-202; or
- (d) Sections 49-23-201 and 49-23-202.

(8) (a) “Public safety service” means employment normally requiring an average of 2,080 hours of regularly scheduled employment per year rendered by a member who is a:

(i) law enforcement officer in accordance with Section 53-13-103;

(ii) correctional officer in accordance with Section 53-13-104;

(iii) special function officer approved in accordance with Sections 49-15-201 and 53-13-105; and

(iv) full-time member of the Board of Pardons and Parole created under Section 77-27-2.

(b) Except as provided under Subsection (8)(a)(iv), “public safety service” also requires that in the course of employment the employee’s life or personal safety is at risk.

(9) “Public safety service employee” means an employee of a participating employer who performs public safety service under this chapter.

(10) (a) “Strenuous activity” means engagement involving a difficult, stressful, or vigorous fire suppression, rescue, hazardous material response,

emergency medical service, physical law enforcement, prison security, disaster relief, or other emergency response activity.

(b) “Strenuous activity” includes participating in a participating employer sanctioned and funded training exercise that involves difficult, stressful, or vigorous physical activity.

(11) “System” means the New Public Safety and Firefighter Tier II Contributory Retirement System created under this chapter.

(12) (a) “Volunteer firefighter” means any individual that is not regularly employed as a firefighter service employee, but who:

(i) has been trained in firefighter techniques and skills;

(ii) continues to receive regular firefighter training; and

(iii) is on the rolls of a legally organized volunteer fire department which provides ongoing training and serves a political subdivision of the state.

(b) An individual that volunteers assistance but does not meet the requirements of Subsection (12)(a) is not a volunteer firefighter for purposes of this chapter.

(13) “Years of service credit” means:

(a) a period, consisting of 12 full months as determined by the board; or

(b) a period determined by the board, whether consecutive or not, during which a regular full-time employee performed services for a participating employer, including any time the regular full-time employee was absent on a paid leave of absence granted by a participating employer or was absent in the service of the United States government on military duty as provided by this chapter.

CHAPTER 255**H. B. 145**

Passed February 24, 2015

Approved March 27, 2015

Effective May 12, 2015

**VULNERABLE ADULT
WORKER AMENDMENTS**Chief Sponsor: Dean Sanpei
Senate Sponsor: Curtis S. Bramble**LONG TITLE****General Description:**

This bill amends provisions relating to the Department of Human Services' background check procedures.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ permits the Department of Human Services to conduct criminal background screening of employees and volunteers;
- ▶ amends provisions relating to when the Office of Licensing (the office) shall conduct a background check;
- ▶ requires each applicant 18 years of age or older to submit fingerprints to the office for a national criminal history search;
- ▶ clarifies which databases the office must search to conduct a background check;
- ▶ provides that the office may submit an applicant's personal identifying information to the Bureau of Criminal Identification (the Bureau) within the Department of Public Safety for retention, monitoring, and notification of new criminal activity associated with an applicant;
- ▶ requires the office to conduct a comprehensive review of an applicant's background check if the applicant has a record of an adjudication in juvenile court for an act that, if committed by an adult, would be a felony or misdemeanor;
- ▶ provides that the office may conditionally approve an applicant, other than a prospective foster or adoptive parent, without the applicant being directly supervised, pending the results of a national criminal history search; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 53-10-108, as last amended by Laws of Utah 2014, Chapters 79 and 377
- 62A-1-118, as last amended by Laws of Utah 2008, Chapter 382
- 62A-2-101, as last amended by Laws of Utah 2014, Chapter 240
- 62A-2-121, as last amended by Laws of Utah 2009, Chapter 75
- 62A-2-122, as last amended by Laws of Utah 2011, Chapter 366
- 62A-3-104.3, as enacted by Laws of Utah 2005, Chapter 107

62A-4a-209, as last amended by Laws of Utah 2013, Chapter 416

62A-5-103.5, as last amended by Laws of Utah 2013, Chapter 448

78A-6-209, as last amended by Laws of Utah 2012, Chapter 328

78A-6-323, as last amended by Laws of Utah 2012, Chapter 328

REPEALS AND REENACTS:

62A-2-120, as last amended by Laws of Utah 2012, Chapters 293 and 302

REPEALS:

62A-2-120.5, as last amended by Laws of Utah 2013, Chapter 468

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

Section 1. Section 53-10-108 is amended to read:

53-10-108. Restrictions on access, use, and contents of division records -- Limited use of records for employment purposes -- Challenging accuracy of records -- Usage fees -- Missing children records -- Penalty for misuse of records.

(1) Dissemination of information from a criminal history record or warrant of arrest information from division files is limited to:

(a) criminal justice agencies for purposes of administration of criminal justice and for employment screening by criminal justice agencies;

(b) noncriminal justice agencies or individuals for any purpose authorized by statute, executive order, court rule, court order, or local ordinance;

(c) agencies or individuals for the purpose of obtaining required clearances connected with foreign travel or obtaining citizenship;

(d) (i) agencies or individuals pursuant to a specific agreement with a criminal justice agency to provide services required for the administration of criminal justice; and

(ii) the agreement shall specifically authorize access to data, limit the use of the data to purposes for which given, and ensure the security and confidentiality of the data;

(e) agencies or individuals for the purpose of a preplacement adoptive study, in accordance with the requirements of Sections 78B-6-128 and 78B-6-130;

(f) (i) agencies and individuals as the commissioner authorizes for the express purpose of research, evaluative, or statistical activities pursuant to an agreement with a criminal justice agency; and

(ii) private security agencies through guidelines established by the commissioner for employment background checks for their own employees and prospective employees;

(g) a qualifying entity for employment background checks for their own employees and persons who have applied for employment with the qualifying entity; and

(h) other agencies and individuals as the commissioner authorizes and finds necessary for protection of life and property and for offender identification, apprehension, and prosecution pursuant to an agreement.

(2) An agreement under Subsection (1)(f) or (1)(h) shall specifically authorize access to data, limit the use of data to research, evaluative, or statistical purposes, preserve the anonymity of individuals to whom the information relates, and ensure the confidentiality and security of the data.

(3) (a) Before requesting information under Subsection (1)(g), a qualifying entity must obtain a signed waiver from the person whose information is requested.

(b) The waiver must notify the signee:

(i) that a criminal history background check will be conducted;

(ii) who will see the information; and

(iii) how the information will be used.

(c) Information received by a qualifying entity under Subsection (1)(g) may only be:

(i) available to persons involved in the hiring or background investigation of the employee; and

(ii) used for the purpose of assisting in making an employment or promotion decision.

(d) A person who disseminates or uses information obtained from the division under Subsection (1)(g) for purposes other than those specified under Subsection (3)(c), in addition to any penalties provided under this section, is subject to civil liability.

(e) A qualifying entity that obtains information under Subsection (1)(g) shall provide the employee or employment applicant an opportunity to:

(i) review the information received as provided under Subsection (8); and

(ii) respond to any information received.

(f) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules to implement this Subsection (3).

(g) (i) The applicant fingerprint card fee under Subsection (1)(g) is \$20.

(ii) The name check fee under Subsection (1)(g) is \$15.

(iii) These fees remain in effect until changed by the division through the process under Section 63J-1-504.

(iv) Funds generated under Subsections (3)(g)(i), (3)(g)(ii), and (8)(b) shall be deposited in the General Fund as a dedicated credit by the department to cover the costs incurred in providing the information.

(h) The division or its employees are not liable for defamation, invasion of privacy, negligence, or any

other claim in connection with the contents of information disseminated under Subsection (1)(g).

(4) (a) Any criminal history record information obtained from division files may be used only for the purposes for which it was provided and may not be further disseminated, except under Subsection (4)(b), (c), or (d).

(b) A criminal history provided to an agency pursuant to Subsection (1)(e) may be provided by the agency to the person who is the subject of the history, another licensed child-placing agency, or the attorney for the adoptive parents for the purpose of facilitating an adoption.

(c) A criminal history of a defendant provided to a criminal justice agency under Subsection (1)(a) may also be provided by the prosecutor to a defendant's defense counsel, upon request during the discovery process, for the purpose of establishing a defense in a criminal case.

(d) A public transit district, as described in Title 17B, Chapter 2a, Part 8, Public Transit District Act, that is under contract with a state agency to provide services may, for the purposes of complying with Subsection 62A-5-103.5~~(7)~~(5), provide a criminal history record to the state agency or the agency's designee.

(5) The division may not disseminate criminal history record information to qualifying entities under Subsection (1)(g) regarding employment background checks if the information is related to charges:

(a) that have been declined for prosecution;

(b) that have been dismissed; or

(c) regarding which a person has been acquitted.

(6) (a) This section does not preclude the use of the division's central computing facilities for the storage and retrieval of criminal history record information.

(b) This information shall be stored so it cannot be modified, destroyed, or accessed by unauthorized agencies or individuals.

(7) Direct access through remote computer terminals to criminal history record information in the division's files is limited to those agencies authorized by the commissioner under procedures designed to prevent unauthorized access to this information.

(8) (a) The commissioner shall establish procedures to allow an individual right of access to review and receive a copy of the individual's criminal history report.

(b) A processing fee for the right of access service, including obtaining a copy of the individual's criminal history report under Subsection (8)(a) is \$15. This fee remains in effect until changed by the commissioner through the process under Section 63J-1-504.

(c) (i) The commissioner shall establish procedures for an individual to challenge the completeness and accuracy of criminal history

record information contained in the division's computerized criminal history files regarding that individual.

(ii) These procedures shall include provisions for amending any information found to be inaccurate or incomplete.

(9) The private security agencies as provided in Subsection (1)(f)(ii):

(a) shall be charged for access; and

(b) shall be registered with the division according to rules made by the division under Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(10) Before providing information requested under this section, the division shall give priority to criminal justice agencies needs.

(11) (a) It is a class B misdemeanor for a person to knowingly or intentionally access, use, disclose, or disseminate a record created, maintained, or to which access is granted by the division or any information contained in a record created, maintained, or to which access is granted by the division for a purpose prohibited or not permitted by statute, rule, regulation, or policy of a governmental entity.

(b) A person who discovers or becomes aware of any unauthorized use of records created or maintained, or to which access is granted by the division shall inform the commissioner and the director of the Utah Bureau of Criminal Identification of the unauthorized use.

Section 2. Section 62A-1-118 is amended to read:

62A-1-118. Access to abuse and neglect information to screen employees and volunteers.

(1) The department may conduct a background check, pursuant to Subsections 62A-2-120(1) through (4), of department employees and volunteers who have direct access, as defined in Section 62A-2-101, to a child or a vulnerable adult.

(2) In addition to conducting a background check described in Subsection (1), and subject to the requirements of this section, the department may search the Division of Child and Family Services' Management Information System described in Section 62A-4a-1003.

~~[(4)] (3) With respect to department employees and volunteers, the department may only access information in the systems and databases described in Subsection 62A-2-120(3) and in the Division of Child and Family [Service's] Services' Management Information System [created by Section 62A-4a-1003 and the Division of Aging and Adult Services database created by Section 62A-3-311.1] for the purpose of determining at the time of hire and each year thereafter whether a department employee or volunteer has a criminal history, an adjudication of abuse or neglect, or, since January 1, 1994, a substantiated or supported finding of abuse [or], neglect, or exploitation after notice and an~~

opportunity for a hearing consistent with Title 63G, Chapter 4, Administrative Procedures Act, but only if a criminal history or identification as a possible perpetrator of abuse or neglect is directly relevant to the employment or volunteer activities of that person.

~~[(2)] (4) A department employee or volunteer to whom Subsection (1) applies shall submit to the department the employee or volunteer's name [and], other personal identifying information [upon request], and consent for the background check on a form specified by the department.~~

~~[(3) The department shall process the information to determine whether the employee or volunteer has a substantiated finding of child abuse or neglect.]~~

~~[(4)] (5) The department shall [adopt] make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, defining permissible and impermissible work-related activities for a department employee or volunteer with a criminal history or with one or more substantiated or supported findings of abuse [or], neglect, or exploitation.~~

Section 3. Section 62A-2-101 is amended to read:

62A-2-101. Definitions.

As used in this chapter:

(1) "Adult day care" means nonresidential care and supervision:

(a) for three or more adults for at least four but less than 24 hours a day; and

(b) that meets the needs of functionally impaired adults through a comprehensive program that provides a variety of health, social, recreational, and related support services in a protective setting.

(2) "Applicant" means:

(a) a person who applies for an initial license or a license renewal under this chapter;

(b) an individual who:

(i) is associated with the licensee; and

(ii) has direct access to a child or a vulnerable adult;

(c) an individual who is 12 years of age or older, other than the child or vulnerable adult who is receiving the service, who resides in a residence with the child or vulnerable adult who is receiving services from the person described in Subsection (2)(a) or (b), if the child or vulnerable adult is not receiving services in the child's or vulnerable adult's own residence; or

(d) an individual who provides respite care to a foster parent or an adoptive parent on more than one occasion.

(3) (a) "Associated with the licensee" means that an individual is:

(i) affiliated with a licensee as an owner, director, member of the governing body, employee, agent, provider of care, or volunteer; or

(ii) applying to become affiliated with a licensee in a capacity described in Subsection (3)(a)(i).

(b) "Associated with the licensee" does not include:

(i) service on the following bodies, unless that service includes direct access to a child or a vulnerable adult:

(A) a local mental health authority described in Section 17-43-301;

(B) a local substance abuse authority described in Section 17-43-201; or

(C) a board of an organization operating under a contract to provide mental health or substance abuse programs, or services for the local mental health authority or substance abuse authority; or

(ii) a guest or visitor whose access to a child or a vulnerable adult is directly supervised by the licensee at all times.

[(2)] (4) (a) "Boarding school" means a private school that:

(i) uses a regionally accredited education program;

(ii) provides a residence to the school's students:

(A) for the purpose of enabling the school's students to attend classes at the school; and

(B) as an ancillary service to educating the students at the school;

(iii) has the primary purpose of providing the school's students with an education, as defined in Subsection [(2)] (4)(b)(i); and

(iv) (A) does not provide the treatment or services described in Subsection [(26)] (28)(a); or

(B) provides the treatment or services described in Subsection [(26)] (28)(a) on a limited basis, as described in Subsection [(2)] (4)(b)(ii).

(b) (i) For purposes of Subsection [(2)] (4)(a)(iii), "education" means a course of study for one or more of grades kindergarten through 12th grade.

(ii) For purposes of Subsection [(2)] (4)(a)(iv)(B), a private school provides the treatment or services described in Subsection [(26)] (28)(a) on a limited basis if:

(A) the treatment or services described in Subsection [(26)] (28)(a) are provided only as an incidental service to a student; and

(B) the school does not:

(I) specifically solicit a student for the purpose of providing the treatment or services described in Subsection [(26)] (28)(a); or

(II) have a primary purpose of providing the treatment or services described in Subsection [(26)] (28)(a).

(c) "Boarding school" does not include a therapeutic school.

[(3)] (5) "Child" means a person under 18 years of age.

[(4)] (6) "Child placing" means receiving, accepting, or providing custody or care for any child, temporarily or permanently, for the purpose of:

(a) finding a person to adopt the child;

(b) placing the child in a home for adoption; or

(c) foster home placement.

[(5)] (7) "Client" means an individual who receives or has received services from a licensee.

[(6)] (8) "Day treatment" means specialized treatment that is provided to:

(a) a client less than 24 hours a day; and

(b) four or more persons who:

(i) are unrelated to the owner or provider; and

(ii) have emotional, psychological, developmental, physical, or behavioral dysfunctions, impairments, or chemical dependencies.

[(7)] (9) "Department" means the Department of Human Services.

[(8)] (10) "Direct access" means that an individual has, or likely will have[;]:

(a) contact with or access to a child or vulnerable adult that provides the individual with an opportunity for personal communication or touch[;]; or

(b) an opportunity to view medical, financial, or other confidential personal identifying information of the child, the child's parents or legal guardians, or the vulnerable adult.

(11) "Directly supervised" means that an individual is being supervised under the uninterrupted visual and auditory surveillance of another individual.

[(9)] (12) "Director" means the director of the Office of Licensing.

[(10)] (13) "Domestic violence" [is-as] means the same as that term is defined in Section 77-36-1.

[(11)] (14) "Domestic violence treatment program" means a nonresidential program designed to provide psychological treatment and educational services to perpetrators and victims of domestic violence.

[(12)] (15) "Elder adult" means a person 65 years of age or older.

[(13)] (16) "Executive director" means the executive director of the department.

[(14)] (17) "Foster home" means a temporary residential living environment for the care of:

(a) fewer than four foster children in the home of a licensed or certified foster parent; or

(b) four or more children in the home of a licensed or certified foster parent if the children are siblings.

~~[(15)] (18)~~ (a) “Human services program” means a:

- (i) foster home;
- (ii) therapeutic school;
- (iii) youth program;
- (iv) resource family home;
- (v) recovery residence; or
- (vi) facility or program that provides:
 - (A) secure treatment;
 - (B) inpatient treatment;
 - (C) residential treatment;
 - (D) residential support;
 - (E) adult day care;
 - (F) day treatment;
 - (G) outpatient treatment;
 - (H) domestic violence treatment;
 - (I) child placing services;
 - (J) social detoxification; or
 - (K) any other human services that are required by contract with the department to be licensed with the department.

(b) “Human services program” does not include a boarding school.

~~[(16)] (19)~~ “Licensee” means ~~[a person]~~ an individual or a human services program licensed by the office.

~~[(17)] (20)~~ “Local government” means a:

- (a) city; or
- (b) county.

~~[(18)] (21)~~ “Minor” has the same meaning as “child.”

~~[(19)] (22)~~ “Office” means the Office of Licensing within the Department of Human Services.

~~[(20)] (23)~~ “Outpatient treatment” means individual, family, or group therapy or counseling designed to improve and enhance social or psychological functioning for those whose physical and emotional status allows them to continue functioning in their usual living environment.

~~[(21) (a) “Person associated with the licensee” means a person:]~~

~~[(i) affiliated with a licensee as an owner, director, member of the governing body, employee, agent, provider of care, or volunteer; or]~~

~~[(ii) applying to become affiliated with a licensee in any capacity listed under Subsection (21)(a)(i).]~~

~~[(b) Notwithstanding Subsection (21)(a), “person associated with the licensee” does not include an individual serving on the following bodies unless~~

~~that individual has direct access to children or vulnerable adults:]~~

~~[(i) a local mental health authority under Section 17-43-301;]~~

~~[(ii) a local substance abuse authority under Section 17-43-201; or]~~

~~[(iii) a board of an organization operating under a contract to provide:]~~

~~[(A) mental health or substance abuse programs; or]~~

~~[(B) services for the local mental health authority or substance abuse authority.]~~

~~[(c) “Person associated with the licensee” does not include a guest or visitor whose access to children or vulnerable adults is directly supervised by the licensee at all times.]~~

~~[(22)] (24)~~ “Recovery residence” means a home or facility, other than a residential treatment or residential support program, that meets at least two of the following requirements:

(a) provides a supervised living environment for individuals recovering from a substance abuse disorder;

(b) requires more than half of the individuals in the residence to be recovering from a substance abuse disorder;

(c) provides or arranges for residents to receive services related to their recovery from a substance abuse disorder, either on or off site;

(d) holds the home or facility out as being a recovery residence; or

(e) (i) receives public funding; or

(ii) runs the home or facility as a commercial venture for financial gain.

~~[(23)] (25)~~ “Regular business hours” means:

(a) the hours during which services of any kind are provided to a client; or

(b) the hours during which a client is present at the facility of a licensee.

~~[(24)] (26)~~ (a) “Residential support” means arranging for or providing the necessities of life as a protective service to individuals or families who have a disability or who are experiencing a dislocation or emergency that prevents them from providing these services for themselves or their families.

(b) “Residential support” includes providing a supervised living environment for persons with dysfunctions or impairments that are:

(i) emotional;

(ii) psychological;

(iii) developmental; or

(iv) behavioral.

(c) Treatment is not a necessary component of residential support.

(d) “Residential support” does not include:

- (i) a recovery residence; or
- (ii) residential services that are performed:

(A) exclusively under contract with the Division of Services for People with Disabilities; or

(B) in a facility that serves fewer than four individuals.

[(25)] (27) (a) “Residential treatment” means a 24-hour group living environment for four or more individuals unrelated to the owner or provider that offers room or board and specialized treatment, behavior modification, rehabilitation, discipline, emotional growth, or habilitation services for persons with emotional, psychological, developmental, or behavioral dysfunctions, impairments, or chemical dependencies.

(b) “Residential treatment” does not include a:

- (i) boarding school;
- (ii) foster home; or
- (iii) recovery residence.

[(26)] (28) “Residential treatment program” means a human services program that provides:

- (a) residential treatment; or
- (b) secure treatment.

[(27)] (29) (a) “Secure treatment” means 24-hour specialized residential treatment or care for persons whose current functioning is such that they cannot live independently or in a less restrictive environment.

(b) “Secure treatment” differs from residential treatment to the extent that it requires intensive supervision, locked doors, and other security measures that are imposed on residents with neither their consent nor control.

[(28)] (30) “Social detoxification” means short-term residential services for persons who are experiencing or have recently experienced drug or alcohol intoxication, that are provided outside of a health care facility licensed under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act, and that include:

- (a) room and board for persons who are unrelated to the owner or manager of the facility;
- (b) specialized rehabilitation to acquire sobriety; and
- (c) aftercare services.

[(29)] (31) “Substance abuse treatment program” means a program:

- (a) designed to provide:
 - (i) specialized drug or alcohol treatment;
 - (ii) rehabilitation; or
 - (iii) habilitation services; and

(b) that provides the treatment or services described in Subsection [(29)] (31)(a) to persons with:

- (i) a diagnosed substance abuse disorder; or
- (ii) chemical dependency disorder.

[(30)] (32) “Therapeutic school” means a residential group living facility:

(a) for four or more individuals that are not related to:

- (i) the owner of the facility; or
- (ii) the primary service provider of the facility;

(b) that serves students who have a history of failing to function:

- (i) at home;
- (ii) in a public school; or
- (iii) in a nonresidential private school; and

(c) that offers:

- (i) room and board; and
- (ii) an academic education integrated with:

(A) specialized structure and supervision; or

(B) services or treatment related to:

- (I) a disability;
- (II) emotional development;
- (III) behavioral development;
- (IV) familial development; or
- (V) social development.

[(31)] (33) “Unrelated persons” means persons other than parents, legal guardians, grandparents, brothers, sisters, uncles, or aunts.

[(32)] (34) “Vulnerable adult” means an elder adult or an adult who has a temporary or permanent mental or physical impairment that substantially affects the person’s ability to:

- (a) provide personal protection;
- (b) provide necessities such as food, shelter, clothing, or mental or other health care;
- (c) obtain services necessary for health, safety, or welfare;
- (d) carry out the activities of daily living;
- (e) manage the adult’s own resources; or
- (f) comprehend the nature and consequences of remaining in a situation of abuse, neglect, or exploitation.

[(33)] (35) (a) “Youth program” means a nonresidential program designed to provide behavioral, substance abuse, or mental health services to minors that:

- (i) serves adjudicated or nonadjudicated youth;
- (ii) charges a fee for its services;

(iii) may or may not provide host homes or other arrangements for overnight accommodation of the youth;

(iv) may or may not provide all or part of its services in the outdoors;

(v) may or may not limit or censor access to parents or guardians; and

(vi) prohibits or restricts a minor's ability to leave the program at any time of the minor's own free will.

(b) "Youth program" does not include recreational programs such as Boy Scouts, Girl Scouts, 4-H, and other such organizations.

Section 4. Section 62A-2-120 is repealed and reenacted to read:

62A-2-120. Background check -- Direct access to children or vulnerable adults.

(1) As used in this section:

(a) "Bureau" means the Bureau of Criminal Identification within the Department of Public Safety, created in Section 53-10-201.

(b) "Personal identifying information" means:

(i) current name, former names, nicknames, and aliases;

(ii) date of birth;

(iii) physical address and email address;

(iv) telephone number;

(v) driver license number or other government-issued identification number;

(vi) Social Security number;

(vii) fingerprints, except for applicants under the age of 18, in a form specified by the office; and

(viii) other information specified by the office by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) (a) Except as provided in Subsection (13), an applicant shall submit the following to the office:

(i) personal identifying information;

(ii) a fee established by the office under Section 63J-1-504; and

(iii) a form, specified by the office, for consent for:

(A) an initial background check upon submission of the information described under Subsection (2)(a);

(B) a background check at the applicant's annual renewal;

(C) a background check when the office determines that reasonable cause exists; and

(D) retention of personal identifying information, including fingerprints, for monitoring and notification as described in Subsections (3)(d) and (4).

(b) In addition to the requirements described in Subsection (2)(a), if an applicant spent time outside of the United States and its territories during the five years immediately preceding the day on which the information described in Subsection (2)(a) is submitted to the office, the office may require the applicant to submit documentation establishing whether the applicant was convicted of a crime during the time that the applicant spent outside of the United States or its territories.

(3) The office:

(a) shall perform the following duties as part of a background check of an applicant:

(i) check state and regional criminal background databases for the applicant's criminal history by:

(A) submitting personal identifying information to the Bureau for a search; or

(B) using the applicant's personal identifying information to search state and regional criminal background databases as authorized under Section 53-10-108;

(ii) submit the applicant's personal identifying information and fingerprints to the Bureau for a criminal history search of applicable national criminal background databases;

(iii) search the Department of Human Services, Division of Child and Family Services' Licensing Information System described in Section 62A-4a-1006;

(iv) search the Department of Human Services, Division of Aging and Adult Services' vulnerable adult abuse, neglect, or exploitation database described in Section 62A-3-311.1;

(v) search the juvenile court records for substantiated findings of severe child abuse or neglect described in Section 78A-6-323; and

(vi) search the juvenile court arrest, adjudication, and disposition records, as provided under Section 78A-6-209;

(b) shall conduct a background check of an applicant for an initial background check upon submission of the information described under Subsection (2)(a);

(c) may conduct all or portions of a background check of an applicant, as provided by rule, made by the office in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(i) for an annual renewal; or

(ii) when the office determines that reasonable cause exists;

(d) may submit an applicant's personal identifying information, including fingerprints, to the Bureau for checking, retaining, and monitoring of state and national criminal background databases and for notifying the office of new criminal activity associated with the applicant;

(e) shall track the status of an approved applicant under this section to ensure that an approved applicant who applies for more than one license or

for direct access to a child or a vulnerable adult in more than one human services program is not required to duplicate the submission of the applicant's fingerprints;

(f) shall track the status of each license and each individual with direct access to a child or a vulnerable adult and notify the Bureau when the license has expired or the individual's direct access to a child or a vulnerable adult has ceased;

(g) shall adopt measures to strictly limit access to personal identifying information solely to the office employees responsible for processing the applications for background checks and to protect the security of the personal identifying information the office reviews under this Subsection (3); and

(h) shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement the provisions of this Subsection (3) relating to background checks.

(4) (a) With the personal identifying information the office submits to the Bureau under Subsection (3), the Bureau shall check against state and regional criminal background databases for the applicant's criminal history.

(b) With the personal identifying information and fingerprints the office submits to the Bureau under Subsection (3), the Bureau shall check against national criminal background databases for the applicant's criminal history.

(c) Upon direction from the office, and with the personal identifying information and fingerprints the office submits to the Bureau under Subsection (3)(d), the Bureau shall:

(i) maintain a separate file of the fingerprints for search by future submissions to the local and regional criminal records databases, including latent prints; and

(ii) monitor state and regional criminal background databases and identify criminal activity associated with the applicant.

(d) The Bureau is authorized to submit the fingerprints to the Federal Bureau of Investigation Next Generation Identification System, to be retained in the Federal Bureau of Investigation Next Generation Identification System for the purpose of:

(i) being searched by future submissions to the national criminal records databases, including the Federal Bureau of Investigation Next Generation Identification System and latent prints; and

(ii) monitoring national criminal background databases and identifying criminal activity associated with the applicant.

(e) The Bureau shall notify and release to the office all information of criminal activity associated with the applicant.

(f) Upon notice from the office that a license has expired or an individual's direct access to a child or a vulnerable adult has ceased, the Bureau shall:

(i) discard and destroy any retained fingerprints; and

(ii) notify the Federal Bureau of Investigation when the license has expired or an individual's direct access to a child or a vulnerable adult has ceased, so that the Federal Bureau of Investigation will discard and destroy the retained fingerprints from the Federal Bureau of Investigation Next Generation Identification System.

(5) (a) After conducting the background check described in Subsections (3) and (4), the office shall deny an application to an applicant who, within 10 years before the day on which the applicant submits information to the office under Subsection (2) for a background check, has been convicted of any of the following, regardless of whether the offense is a felony, a misdemeanor, or an infraction:

(i) an offense identified as domestic violence, lewdness, voyeurism, battery, cruelty to animals, or bestiality;

(ii) a violation of any pornography law, including sexual exploitation of a minor;

(iii) prostitution;

(iv) an offense included in:

(A) Title 76, Chapter 5, Offenses Against the Person;

(B) Section 76-5b-201, Sexual Exploitation of a Minor; or

(C) Title 76, Chapter 7, Offenses Against the Family;

(v) aggravated arson, as described in Section 76-6-103;

(vi) aggravated burglary, as described in Section 76-6-203;

(vii) aggravated robbery, as described in Section 76-6-302;

(viii) identity fraud crime, as described in Section 76-6-1102; or

(ix) a conviction for a felony or misdemeanor offense committed outside of the state that, if committed in the state, would constitute a violation of an offense described in Subsections (5)(a)(i) through (viii).

(b) If the office denies an application to an applicant based on a conviction described in Subsection (5)(a), the applicant is not entitled to a comprehensive review described in Subsection (6).

(6) (a) The office shall conduct a comprehensive review of an applicant's background check if the applicant has:

(i) a conviction for any felony offense, not described in Subsection (5)(a), regardless of the date of the conviction;

(ii) a conviction for a misdemeanor offense, not described in Subsection (5)(a), and designated by the office, by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, if

the conviction is within five years before the day on which the applicant submits information to the office under Subsection (2) for a background check;

(iii) a conviction for any offense described in Subsection (5)(a) that occurred more than 10 years before the day on which the applicant submitted information under Subsection (2)(a);

(iv) pleaded no contest to or is currently subject to a plea in abeyance or diversion agreement for any offense described in Subsection (5)(a);

(v) a listing in the Department of Human Services, Division of Child and Family Services' Licensing Information System described in Section 62A-4a-1006;

(vi) a listing in the Department of Human Services, Division of Aging and Adult Services' vulnerable adult abuse, neglect, or exploitation database described in Section 62A-3-311.1;

(vii) a record in the juvenile court of a substantiated finding of severe child abuse or neglect described in Section 78A-6-323; or

(viii) a record of an adjudication in juvenile court for an act that, if committed by an adult, would be a felony or misdemeanor, if the applicant is:

(A) under 28 years of age; or

(B) 28 years of age or older and has been convicted of, has pleaded no contest to, or is currently subject to a plea in abeyance or diversion agreement for a felony or a misdemeanor offense described in Subsection (5)(a).

(b) The comprehensive review described in Subsection (6)(a) shall include an examination of:

(i) the date of the offense or incident;

(ii) the nature and seriousness of the offense or incident;

(iii) the circumstances under which the offense or incident occurred;

(iv) the age of the perpetrator when the offense or incident occurred;

(v) whether the offense or incident was an isolated or repeated incident;

(vi) whether the offense or incident directly relates to abuse of a child or vulnerable adult, including:

(A) actual or threatened, nonaccidental physical or mental harm;

(B) sexual abuse;

(C) sexual exploitation; or

(D) negligent treatment;

(vii) any evidence provided by the applicant of rehabilitation, counseling, psychiatric treatment received, or additional academic or vocational schooling completed; and

(viii) any other pertinent information.

(c) At the conclusion of the comprehensive review described in Subsection (6)(a), the office shall deny an application to an applicant if the office finds that approval would likely create a risk of harm to a child or a vulnerable adult.

(d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules, consistent with this chapter, to establish procedures for the comprehensive review described in this Subsection (6).

(7) Subject to Subsection (10), the office shall approve an application to an applicant who is not denied under Subsection (5), (6), or (13).

(8) (a) The office may conditionally approve an application of an applicant, for a maximum of 60 days after the day on which the office sends written notice to the applicant under Subsection (11), without requiring that the applicant be directly supervised, if the office:

(i) is awaiting the results of the criminal history search of national criminal background databases; and

(ii) would otherwise approve an application of the applicant under Subsection (7).

(b) Upon receiving the results of the criminal history search of national criminal background databases, the office shall approve or deny the application of the applicant in accordance with Subsections (5) through (7).

(9) A licensee may not permit an individual to have direct access to a child or a vulnerable adult unless, subject to Subsection (10), the individual is:

(a) associated with the licensee and:

(i) the individual's application is approved by the office under this section;

(ii) the individual's application is conditionally approved by the office under Subsection (8); or

(iii) (A) the individual has submitted the background check information described in Subsection (2) to the office;

(B) the office has not determined whether to approve the applicant's application; and

(C) the individual is directly supervised by an individual who is licensed by the office under this section and is associated with the licensee;

(b) (i) not associated with the licensee; and

(ii) directly supervised by an individual who is licensed by the office under this section and is associated with the licensee;

(c) the parent or guardian of the child or the guardian of the vulnerable adult; or

(d) an individual approved by the parent or guardian of the child or the guardian of the vulnerable adult to have direct access to the child or the vulnerable adult.

(10) An individual may not have direct access to a child or a vulnerable adult if the individual is prohibited by court order from having that access.

(11) (a) Within 30 days after the day on which the office receives the background check information for an applicant, the office shall give written notice to the applicant of:

(i) the office's decision regarding its background check and findings; and

(ii) a list of any convictions found in the search.

(b) With the notice described in Subsection (11)(a), the office shall also give the applicant the details of any comprehensive review conducted under Subsection (6).

(c) If the notice under Subsection (11)(a) states that the applicant's application is denied, the notice shall further advise the applicant that the applicant may, under Subsection 62A-2-111(2), request a hearing in the department's Office of Administrative Hearings, to challenge the office's decision.

(d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office shall make rules, consistent with this chapter:

(i) defining procedures for the challenge of its background check decision described in Subsection (11)(c); and

(ii) expediting the process for renewal of a license under the requirements of this section and other applicable sections.

(12) This section does not apply to an applicant for an initial license, or license renewal, to operate a substance abuse program that provides services to adults only.

(13) (a) Except as provided in Subsection (13)(b), in addition to the other requirements of this section, if the background check of an applicant is being conducted for the purpose of licensing a prospective foster home or approving a prospective adoptive placement of a child in state custody, the office shall:

(i) check the child abuse and neglect registry in each state where each applicant resided in the five years immediately preceding the day on which the applicant applied to be a foster parent or adoptive parent, to determine whether the prospective foster parent or prospective adoptive parent is listed in the registry as having a substantiated or supported finding of child abuse or neglect; and

(ii) check the child abuse and neglect registry in each state where each adult living in the home of the applicant described in Subsection (13)(a)(i) resided in the five years immediately preceding the day on which the applicant applied to be a foster parent or adoptive parent, to determine whether the adult is listed in the registry as having a substantiated or supported finding of child abuse or neglect.

(b) The requirements described in Subsection (13)(a) do not apply to the extent that:

(i) federal law or rule permits otherwise; or

(ii) the requirements would prohibit the Division of Child and Family Services or a court from placing a child with:

(A) a noncustodial parent under Section 62A-4a-209, 78A-6-307, or 78A-6-307.5; or

(B) a relative, other than a noncustodial parent, under Section 62A-4a-209, 78A-6-307, or 78A-6-307.5, pending completion of the background check described in Subsection (5).

(c) Notwithstanding Subsections (5) through (9), the office shall deny a license or a license renewal to a prospective foster parent or a prospective adoptive parent if the applicant has been convicted of:

(i) a felony involving conduct that constitutes any of the following:

(A) child abuse, as described in Section 76-5-109;

(B) commission of domestic violence in the presence of a child, as described in Section 76-5-109.1;

(C) abuse or neglect of a child with a disability, as described in Section 76-5-110;

(D) endangerment of a child or vulnerable adult, as described in Section 76-5-112.5;

(E) aggravated murder, as described in Section 76-5-202;

(F) murder, as described in Section 76-5-203;

(G) manslaughter, as described in Section 76-5-205;

(H) child abuse homicide, as described in Section 76-5-208;

(I) homicide by assault, as described in Section 76-5-209;

(J) kidnapping, as described in Section 76-5-301;

(K) child kidnapping, as described in Section 76-5-301.1;

(L) aggravated kidnapping, as described in Section 76-5-302;

(M) an offense described in Title 76, Chapter 5, Part 4, Sexual Offenses;

(N) sexual exploitation of a minor, as described in Section 76-5b-201;

(O) aggravated arson, as described in Section 76-6-103;

(P) aggravated burglary, as described in Section 76-6-203;

(Q) aggravated robbery, as described in Section 76-6-302; or

(R) domestic violence, as described in Section 77-36-1; or

(ii) an offense committed outside the state that, if committed in the state, would constitute a violation of an offense described in Subsection (13)(c)(i).

(d) Notwithstanding Subsections (5) through (9), the office shall deny a license or license renewal to a prospective foster parent or a prospective adoptive parent if, within the five years immediately

preceding the day on which the individual's application or license would otherwise be approved, the applicant was convicted of a felony involving conduct that constitutes a violation of any of the following:

(i) aggravated assault, as described in Section 76-5-103;

(ii) aggravated assault by a prisoner, as described in Section 76-5-103.5;

(iii) mayhem, as described in Section 76-5-105;

(iv) an offense described in Title 58, Chapter 37, Utah Controlled Substances Act;

(v) an offense described in Title 58, Chapter 37a, Utah Drug Paraphernalia Act;

(vi) an offense described in Title 58, Chapter 37b, Imitation Controlled Substances Act;

(vii) an offense described in Title 58, Chapter 37c, Utah Controlled Substance Precursor Act; or

(viii) an offense described in Title 58, Chapter 37d, Clandestine Drug Lab Act.

(e) In addition to the circumstances described in Subsection (6)(a), the office shall conduct the comprehensive review of an applicant's background check pursuant to this section if the registry check described in Subsection (13)(a) indicates that the individual is listed in a child abuse and neglect registry of another state as having a substantiated or supported finding of a severe type of child abuse or neglect as defined in Section 62A-4a-1002.

Section 5. Section 62A-2-121 is amended to read:

62A-2-121. Access to abuse and neglect information.

(1) For purposes of this section:

(a) "Direct service worker" [is-as] means the same as that term is defined in Section 62A-5-101.

(b) "Personal care attendant" [is-as] means the same as that term is defined in Section 62A-3-101.

(2) With respect to a licensee, a certified local inspector applicant, a direct service worker, or a personal care attendant, the department may access only the Licensing Information System of the Division of Child and Family Services created by Section 62A-4a-1006 and juvenile court records under Subsection 78A-6-323(6), for the purpose of:

(a) (i) determining whether a person associated with a licensee, with direct access to children:

(A) is listed in the Licensing Information System; or

(B) has a substantiated finding by a juvenile court of a severe type of child abuse or neglect under Subsections 78A-6-323(1) and (2); and

(ii) informing a licensee that a person associated with the licensee:

(A) is listed in the Licensing Information System; or

(B) has a substantiated finding by a juvenile court of a severe type of child abuse or neglect under Subsections 78A-6-323(1) and (2);

(b) (i) determining whether a certified local inspector applicant:

(A) is listed in the Licensing Information System; or

(B) has a substantiated finding by a juvenile court of a severe type of child abuse or neglect under Subsections 78A-6-323(1) and (2); and

(ii) informing a local government that a certified local inspector applicant:

(A) is listed in the Licensing Information System; or

(B) has a substantiated finding by a juvenile court of a severe type of child abuse or neglect under Subsections 78A-6-323(1) and (2);

(c) (i) determining whether a direct service worker:

(A) is listed in the Licensing Information System; or

(B) has a substantiated finding by a juvenile court of a severe type of child abuse or neglect under Subsections 78A-6-323(1) and (2); and

(ii) informing a direct service worker or the direct service worker's employer that the direct service worker:

(A) is listed in the Licensing Information System; or

(B) has a substantiated finding by a juvenile court of a severe type of child abuse or neglect under Subsections 78A-6-323(1) and (2); or

(d) (i) determining whether a personal care attendant:

(A) is listed in the Licensing Information System; or

(B) has a substantiated finding by a juvenile court of a severe type of child abuse or neglect under Subsections 78A-6-323(1) and (2); and

(ii) informing a person described in Subsections 62A-3-101~~(8)~~(9)(a)(i) through (iv) that a personal care attendant:

(A) is listed in the Licensing Information System; or

(B) has a substantiated finding by a juvenile court of a severe type of child abuse or neglect under Subsections 78A-6-323(1) and (2).

(3) Notwithstanding Subsection (2), the department may access the Division of Child and Family [Service's] Services' Management Information System under Section 62A-4a-1003:

(a) for the purpose of licensing and monitoring foster parents; [and]

(b) for the purposes described in Subsection 62A-4a-1003(1)(d); and

(c) for the purpose described in Section 62A-1-118.

(4) ~~[After receiving identifying information for a person under Subsection 62A-2-120(1), the] The department shall ~~[process the information]~~ receive and process personal identifying information under Subsection 62A-2-120(1) for the purposes described in Subsection (2).~~

(5) The department shall adopt rules under Title 63G, Chapter 3, Utah Administrative Rulemaking Act, consistent with this chapter, defining the circumstances under which a person may have direct access or provide services to children when:

(a) the person is listed in the Licensing Information System of the Division of Child and Family Services created by Section 62A-4a-1006; or

(b) juvenile court records show that a court made a substantiated finding under Section 78A-6-323, that the person committed a severe type of child abuse or neglect.

Section 6. Section 62A-2-122 is amended to read:

62A-2-122. Access to vulnerable adult abuse and neglect information.

(1) For purposes of this section:

(a) "Direct service worker" ~~[is as]~~ means the same as that term is defined in Section 62A-5-101.

(b) "Personal care attendant" ~~[is as]~~ means the same as that term is defined in Section 62A-3-101.

(2) With respect to a licensee, a certified local inspector applicant, a direct service worker, or a personal care attendant, the department may access the database created by Section 62A-3-311.1 for the purpose of:

(a) (i) determining whether a person associated with a licensee, with direct access to vulnerable adults, has a supported or substantiated finding of:

- (A) abuse;
- (B) neglect; or
- (C) exploitation; and

(ii) informing a licensee that a person associated with the licensee has a supported or substantiated finding of:

- (A) abuse;
- (B) neglect; or
- (C) exploitation;

(b) (i) determining whether a certified local inspector applicant has a supported or substantiated finding of:

- (A) abuse;
- (B) neglect; or
- (C) exploitation; and

(ii) informing a local government that a certified local inspector applicant has a supported or substantiated finding of:

- (A) abuse;
- (B) neglect; or
- (C) exploitation;

(c) (i) determining whether a direct service worker has a supported or substantiated finding of:

- (A) abuse;
- (B) neglect; or
- (C) exploitation; and

(ii) informing a direct service worker or the direct service worker's employer that the direct service worker has a supported or substantiated finding of:

- (A) abuse;
- (B) neglect; or
- (C) exploitation; or

(d) (i) determining whether a personal care attendant has a supported or substantiated finding of:

- (A) abuse;
- (B) neglect; or
- (C) exploitation; and

(ii) informing a person described in Subsections 62A-3-101(9)(a)(i) through (iv) that a personal care attendant has a supported or substantiated finding of:

- (A) abuse;
- (B) neglect; or
- (C) exploitation.

(3) ~~[After receiving identifying information for a person under Subsection 62A-2-120(1), the] The department shall ~~[process the information]~~ receive and process personal identifying information under Subsection 62A-2-120(1) for the purposes described in Subsection (2).~~

(4) The department shall adopt rules under Title 63G, Chapter 3, Utah Administrative Rulemaking Act, consistent with this chapter and Title 62A, Chapter 3, Part 3, Abuse, Neglect, or Exploitation of a Vulnerable Adult, defining the circumstances under which a person may have direct access or provide services to vulnerable adults when the person is listed in the statewide database of the Division of Aging and Adult Services created by Section 62A-3-311.1 as having a supported or substantiated finding of abuse, neglect, or exploitation.

Section 7. Section 62A-3-104.3 is amended to read:

62A-3-104.3. Disbursal of public funds -- Background check of a personal care attendant.

(1) For purposes of this section, “office” ~~[is as]~~ means the same as that term is defined in Section 62A-2-101.

(2) ~~[Subject to Subsection (4),]~~ Public funds may not be disbursed to a personal care attendant as payment for personal services rendered to an aged person or high risk adult~~[,]~~ unless the office approves the personal care attendant ~~[is approved by the office]~~ to have direct access and provide services to children or vulnerable adults pursuant to Section 62A-2-120.

(3) For purposes of Subsection (2), the office shall conduct a background check of a personal care attendant:

(a) who desires to receive public funds as payment for the personal services described in Subsection (2); and

(b) using the same procedures established for a background check of an applicant for ~~[an initial]~~ a license under Section 62A-2-120.

~~[(4) The background check and the approval determination described in this section shall be conducted for a personal care attendant on an annual basis.]~~

Section 8. Section 62A-4a-209 is amended to read:

62A-4a-209. Emergency placement.

(1) As used in this section:

(a) “Nonrelative” means an individual, other than a noncustodial parent or a relative.

(b) “Relative” ~~[is as]~~ means the same as that term is defined in Subsection 78A-6-307(1)(b).

(2) The division may use an emergency placement under Subsection 62A-4a-202.1(4)(b)(ii) when:

(a) the case worker has made the determination that:

(i) the child’s home is unsafe;

(ii) removal is necessary under the provisions of Section 62A-4a-202.1; and

(iii) the child’s custodial parent or guardian will agree to not remove the child from the home of the person that serves as the placement and not have any contact with the child until after the shelter hearing required by Section 78A-6-306;

(b) a person, with preference being given in accordance with Subsection (4), can be identified who has the ability and is willing to provide care for the child who would otherwise be placed in shelter care, including:

(i) taking the child to medical, mental health, dental, and educational appointments at the request of the division; and

(ii) making the child available to division services and the guardian ad litem; and

(c) the person described in Subsection (2)(b) agrees to care for the child on an emergency basis under the following conditions:

(i) the person meets the criteria for an emergency placement under Subsection (3);

(ii) the person agrees to not allow the custodial parent or guardian to have any contact with the child until after the shelter hearing unless authorized by the division in writing;

(iii) the person agrees to contact law enforcement and the division if the custodial parent or guardian attempts to make unauthorized contact with the child;

(iv) the person agrees to allow the division and the child’s guardian ad litem to have access to the child;

(v) the person has been informed and understands that the division may continue to search for other possible placements for long-term care, if needed;

(vi) the person is willing to assist the custodial parent or guardian in reunification efforts at the request of the division, and to follow all court orders; and

(vii) the child is comfortable with the person.

(3) Except as otherwise provided in Subsection (5), before the division places a child in an emergency placement, the division:

(a) may request the name of a reference and may contact the reference to determine the answer to the following questions:

(i) would the person identified as a reference place a child in the home of the emergency placement; and

(ii) are there any other relatives or friends to consider as a possible emergency or long-term placement for the child;

(b) shall have the custodial parent or guardian sign an emergency placement agreement form during the investigation;

(c) (i) if the emergency placement will be with a relative of the child, shall comply with the background check provisions described in Subsection (7); or

(ii) if the emergency placement will be with a person other than a noncustodial parent or a relative, shall comply with the criminal background check provisions described in Section 78A-6-308 for adults living in the household where the child will be placed;

(d) shall complete a limited home inspection of the home where the emergency placement is made; and

(e) shall have the emergency placement approved by a family service specialist.

(4) (a) The following order of preference shall be applied when determining the person with whom a child will be placed in an emergency placement described in this section, provided that the person is willing, and has the ability, to care for the child:

(i) a noncustodial parent of the child in accordance with Section 78A-6-307;

(ii) a relative of the child;

(iii) subject to Subsection (4)(b), a friend designated by the custodial parent or guardian of the child, if the friend is a licensed foster parent; and

(iv) a shelter facility, former foster placement, or other foster placement designated by the division.

(b) Unless the division agrees otherwise, the custodial parent or guardian described in Subsection (4)(a)(iii) may designate up to two friends as a potential emergency placement.

(5) (a) The division may, pending the outcome of the investigation described in Subsections (5)(b) and (c), place a child in emergency placement with the child's noncustodial parent if, based on a limited investigation, prior to making the emergency placement, the division:

(i) determines that the noncustodial parent has regular, unsupervised visitation with the child that is not prohibited by law or court order;

(ii) determines that there is not reason to believe that the child's health or safety will be endangered during the emergency placement; and

(iii) has the custodial parent or guardian sign an emergency placement agreement.

(b) Either before or after making an emergency placement with the noncustodial parent of the child, the division may conduct the investigation described in Subsection (3)(a) in relation to the noncustodial parent.

(c) Before, or within one day, excluding weekends and holidays, after a child is placed in an emergency placement with the noncustodial parent of the child, the division shall conduct a limited:

(i) background check of the noncustodial parent, pursuant to Subsection (7); and

(ii) inspection of the home where the emergency placement is made.

(6) After an emergency placement, the division caseworker must:

(a) respond to the emergency placement's calls within one hour if the custodial parents or guardians attempt to make unauthorized contact with the child or attempt to remove the child;

(b) complete all removal paperwork, including the notice provided to the custodial parents and guardians under Section 78A-6-306;

(c) contact the attorney general to schedule a shelter hearing;

(d) complete the placement procedures required in Section 78A-6-307; and

(e) continue to search for other relatives as a possible long-term placement, if needed.

(7) (a) The background check described in Subsection (3)(c)(i) shall include:

(i) completion of a nonfingerprint-based, Utah Bureau of Criminal Identification background check; and

(ii) a completed search of the Management Information System described in Section 62A-4a-1003.

(b) The division shall determine whether a person passes the background check described in this Subsection (7) pursuant to the provisions of [Subsections] Subsection 62A-2-120[(2), (3), and (8)](13).

(c) Notwithstanding Subsection (7)(b), the division may not place a child with an individual who is prohibited by court order from having access to that child.

Section 9. Section 62A-5-103.5 is amended to read:

62A-5-103.5. Disbursal of public funds -- Background check of a direct service worker.

(1) For purposes of this section[; (a) "directly supervised" means that the person being supervised is under the uninterrupted visual and auditory surveillance of the person doing the supervising; and (b)], "office" [is as] means the same as that term is defined in Section 62A-2-101.

(2) [Subject to Subsection (4),] Public funds may not be disbursed to pay a direct service worker for personal services rendered to a person[;] unless[;] the office approves the direct service worker to have direct access and provide services to a child or a vulnerable adult pursuant to Section 62A-2-120.

[a) subject to Subsections (5) and (7), the direct service worker is approved by the office to have direct access and provide services to children or vulnerable adults pursuant to Section 62A-2-120;]

[b) except as provided in Subsection (5);]

[i) during the time that the direct service worker renders the services described in this Subsection (2), the direct service worker who renders the services is directly supervised by a direct service worker who is approved by the office to have direct access and provide services to children or vulnerable adults pursuant to Section 62A-2-120;]

[ii) the direct service worker who renders the services described in this Subsection (2) has submitted the information required for a background check pursuant to Section 62A-2-120; and]

[iii) the office has not determined whether to approve the direct service worker described in

~~Subsection (2)(b)(ii) to have direct access and provide services to children or vulnerable adults; or]~~

~~[(c) except as provided in Subsection (5), the direct service worker;]~~

~~[(i) (A) is a direct ancestor or descendent of the person to whom the services are rendered, but is not the person's parent;]~~

~~[(B) is the aunt, uncle, or sibling of the person to whom the services are rendered; or]~~

~~[(C) (I) has submitted the information required for a background check pursuant to Section 62A-2-120; and]~~

~~[(II) the office has not determined whether to approve the direct service worker to have direct access and provide services to children or vulnerable adults; and]~~

~~[(ii) is not listed in;]~~

~~[(A) the Licensing Information System of the Division of Child and Family Services created by Section 62A-4a-1006;]~~

~~[(B) the statewide database of the Division of Aging and Adult Services created by Section 62A-3-311.1 as having a substantiated finding of abuse, neglect, or exploitation; or]~~

~~[(C) juvenile court records as having a substantiated finding under Section 78A-6-323 that the direct service worker committed a severe type of child abuse or neglect;]~~

(3) For purposes of Subsection (2), the office shall conduct a background check of a direct service worker:

(a) ~~[(except as provided in Subsection (2)(b) or (c),]~~ before public funds are disbursed to pay the direct service worker for the personal services described in Subsection (2); and

(b) using the same procedures established for a background check of an applicant for ~~[(an initial)]~~ a license under Section 62A-2-120.

~~[(4) The background check and the approval determination described in this section shall be conducted for a direct service worker on an annual basis;]~~

~~[(5) Notwithstanding Subsections (1) through (4), and except as provided in Subsection (6), a]~~

(4) A child who is in the legal custody of the department or any of the department's divisions may not be placed with a direct service worker unless, before the child is placed with the direct service worker, the direct service worker passes a background check, pursuant to the requirements of ~~[(Section 62A-2-120, that includes:)]~~ Subsection 62A-2-120(13).

~~[(a) submitting the direct service worker's fingerprints for an FBI national criminal history records check, through the Criminal Investigations and Technical Services Division;]~~

~~[(b) checking the child abuse and neglect registry in each state where the direct service worker resided in the five years immediately preceding the day on which the direct service worker applied to be a direct service worker; and]~~

~~[(c) checking the child abuse and neglect registry in each state where each adult living in the home where the child will be placed resided in the five years immediately preceding the day on which the direct service worker applied to be a direct service worker;]~~

~~[(6) The requirements under Subsection (5) do not apply to the extent that federal law or rule permits otherwise;]~~

~~[(7)]~~ (5) If a public transit district, as described in Title 17B, Chapter 2a, Part 8, Public Transit District Act, contracts with the division to provide services:

(a) the provisions of ~~[(Subsections (2) through (5))] this section~~ are not applicable to a direct service worker employed by the public transit district; and

(b) the division may not reimburse the public transit district for services provided unless a direct service worker hired or transferred internally after July 1, 2013, by the public transit district to drive a paratransit route:

(i) is approved by the office to have direct access to children and vulnerable adults in accordance with Section 62A-2-120; and

(ii) is subject to a background check established in a statute or rule governing a public transit district or other public transit district policy.

Section 10. Section 78A-6-209 is amended to read:

78A-6-209. Court records -- Inspection.

(1) The court and the probation department shall keep records as required by the board and the presiding judge.

(2) Court records shall be open to inspection by:

(a) the parents or guardian of a child, a minor who is at least 18 years of age, other parties in the case, the attorneys, and agencies to which custody of a minor has been transferred;

(b) for information relating to adult offenders alleged to have committed a sexual offense, a felony or class A misdemeanor drug offense, or an offense against the person under Title 76, Chapter 5, Offenses Against the Person, the State Office of Education for the purpose of evaluating whether an individual should be permitted to obtain or retain a license as an educator or serve as an employee or volunteer in a school, with the understanding that the office must provide the individual with an opportunity to respond to any information gathered from its inspection of the records before it makes a decision concerning licensure or employment;

(c) the Criminal Investigations and Technical Services Division, established in Section 53-10-103, for the purpose of a criminal history background check for the purchase of a firearm and

establishing good character for issuance of a concealed firearm permit as provided in Section 53-5-704;

(d) the Division of Child and Family Services for the purpose of Child Protective Services Investigations in accordance with Sections 62A-4a-403 and 62A-4a-409 and administrative hearings in accordance with Section 62A-4a-1009;

(e) the Office of Licensing for the purpose of conducting a background check of an applicant for an initial license or a license renewal in accordance with Section 62A-2-120;

~~(e)~~ (f) for information related to a juvenile offender who has committed a sexual offense, a felony, or an offense that if committed by an adult would be a misdemeanor, the Department of Health for the purpose of evaluating under the provisions of Subsection 26-39-404(3) whether a licensee should be permitted to obtain or retain a license to provide child care, with the understanding that the department must provide the individual who committed the offense with an opportunity to respond to any information gathered from its inspection of records before it makes a decision concerning licensure; and

~~(f)~~ (g) for information related to a juvenile offender who has committed a sexual offense, a felony, or an offense that if committed by an adult would be a misdemeanor, the Department of Health to determine whether an individual meets the background screening requirements of Title 26, Chapter 21, Part 2, Clearance for Direct Patient Access, with the understanding that the department must provide the individual who committed the offense an opportunity to respond to any information gathered from its inspection of records before it makes a decision under that part.

(3) With the consent of the judge, court records may be inspected by the child, by persons having a legitimate interest in the proceedings, and by persons conducting pertinent research studies.

(4) If a petition is filed charging a minor 14 years of age or older with an offense that would be a felony if committed by an adult, the court shall make available to any person upon request the petition, any adjudication or disposition orders, and the delinquency history summary of the minor charged unless the records are closed by the court upon findings on the record for good cause.

(5) Probation officers' records and reports of social and clinical studies are not open to inspection, except by consent of the court, given under rules adopted by the board.

(6) (a) Any juvenile delinquency adjudication or disposition orders and the delinquency history summary of any person charged as an adult with a felony offense shall be made available to any person upon request.

(b) This provision does not apply to records that have been destroyed or expunged in accordance with court rules.

(c) The court may charge a reasonable fee to cover the costs associated with retrieving a requested record that has been archived.

Section 11. Section 78A-6-323 is amended to read:

78A-6-323. Additional finding at adjudication hearing -- Petition -- Court records.

(1) Upon the filing with the court of a petition under Section 78A-6-304 by the Division of Child and Family Services or any interested person informing the court, among other things, that the division has made a supported finding that a person committed a severe type of child abuse or neglect as defined in Section 62A-4a-1002, the court shall:

(a) make a finding of substantiated, unsubstantiated, or without merit;

(b) include the finding described in Subsection (1)(a) in a written order; and

(c) deliver a certified copy of the order described in Subsection (1)(b) to the division.

(2) The judicial finding under Subsection (1) shall be made:

(a) as part of the adjudication hearing;

(b) at the conclusion of the adjudication hearing; or

(c) as part of a court order entered pursuant to a written stipulation of the parties.

(3) (a) Any person described in Subsection 62A-4a-1010(1) may at any time file with the court a petition for removal of the person's name from the Licensing Information System.

(b) At the conclusion of the hearing on the petition, the court shall:

(i) make a finding of substantiated, unsubstantiated, or without merit;

(ii) include the finding described in Subsection (1)(a) in a written order; and

(iii) deliver a certified copy of the order described in Subsection (1)(b) to the division.

(4) A proceeding for adjudication of a supported finding under this section of a type of abuse or neglect that does not constitute a severe type of child abuse or neglect may be joined in the juvenile court with an adjudication of a severe type of child abuse or neglect.

(5) If a person whose name appears on the Licensing Information system prior to May 6, 2002 files a petition during the time that an alleged perpetrator's application for clearance to work with children or vulnerable adults is pending, the court shall hear the matter and enter a final decision no later than 60 days after the filing of the petition.

(6) For the purposes of licensing under Sections 26-39-402 ~~and~~, 62A-1-118, and 62A-2-120, and for the purposes described in Section 62A-2-121 and Title 26, Chapter 21, Part 2, Clearance for Direct Patient Access:

(a) the court shall make available records of its findings under Subsections (1) and (2):

(i) for those purposes; and

(ii) only to those with statutory authority to access also the Licensing Information System created under Section 62A-4a-1006; and

(b) any appellate court shall make available court records of appeals from juvenile court decisions under Subsections (1), (2), (3), and (4):

(i) for those purposes; and

(ii) only to those with statutory authority to access also the Licensing Information System.

Section 12. Repealer.

This bill repeals:

Section 62A-2-120.5, Pilot program for expedited background check of a qualified human services applicant.

CHAPTER 256**H. B. 151**

Passed March 9, 2015

Approved March 27, 2015

Effective May 12, 2015

**AFFILIATED EMERGENCY SERVICE
WORKER POSTRETIREMENT
EMPLOYMENT AMENDMENTS**

Chief Sponsor: Douglas V. Sagers

Senate Sponsor: David P. Hinkins

LONG TITLE**General Description:**

This bill modifies the Utah State Retirement and Insurance Benefit Act by amending provisions for postretirement reemployment.

Highlighted Provisions:

This bill:

- ▶ provides that reemployment as an affiliated emergency service worker is not subject to postretirement reemployment provisions under certain circumstances;
- ▶ provides that a member is not required to cease employment as an affiliated emergency service worker of a participating employer to be eligible to retire; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 49-11-505, as last amended by Laws of Utah 2014, Chapters 15, 175, and 311
- 49-12-401, as last amended by Laws of Utah 2014, Chapter 15
- 49-13-401, as last amended by Laws of Utah 2014, Chapter 15
- 49-14-401, as last amended by Laws of Utah 2014, Chapter 15
- 49-15-401, as last amended by Laws of Utah 2014, Chapter 15
- 49-16-401, as last amended by Laws of Utah 2014, Chapter 15
- 49-22-304, as last amended by Laws of Utah 2014, Chapter 15
- 49-23-303, as last amended by Laws of Utah 2014, Chapter 15

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

Section 1. Section 49-11-505 is amended to read:**49-11-505. Reemployment of a retiree -- Restrictions.**

- (1) (a) For purposes of this section, "retiree":
- (i) means a person who:
- (A) retired from a participating employer; and
- (B) begins reemployment on or after July 1, 2010, with a participating employer;

(ii) does not include a person:

(A) who was reemployed by a participating employer before July 1, 2010; and

(B) whose participating employer that reemployed the person under Subsection (1)(a)(ii)(A) was dissolved, consolidated, merged, or structurally changed in accordance with Section 49-11-621 after July 1, 2010; and

(iii) does not include a person who is reemployed as an active senior judge or an active senior justice court judge as described by Utah State Court Rules, appointed to hear cases by the Utah Supreme Court in accordance with Article VIII, Section 4, Utah Constitution.

(b) (i) This section does not apply to employment as an elected official if the elected official's position is not full time as certified by the participating employer.

(ii) The provisions of this section apply to an elected official whose elected position is full time as certified by the participating employer.

(c) (i) This section does not apply to employment as a part-time appointed board member who does not receive any remuneration, stipend, or other benefit for the part-time appointed board member's service.

(ii) For purposes of this Subsection (1)(c), remuneration, stipend, or other benefit does not include receipt of per diem and travel expenses up to the amounts established by the Division of Finance in:

(A) Section 63A-3-106;

(B) Section 63A-3-107; and

(C) rules made by the Division of Finance according to Sections 63A-3-106 and 63A-3-107.

(d) (i) For purposes of this Subsection (1)(d), "affiliated emergency services worker" means a person who is employed by a participating employer and who performs emergency services for another participating employer that is a different agency in which the person:

(A) has been trained in techniques and skills required for the service the person provides to the participating employer;

(B) continues to receive regular training required for the service;

(C) is on the rolls as a trained affiliated emergency services worker of the participating employer; and

(D) provides ongoing service for a participating employer, which service may include service as a volunteer firefighter, reserve law enforcement officer, search and rescue personnel, emergency medical technician, ambulance personnel, park ranger, or public utilities worker.

(ii) A person who performs work or service but does not meet the requirements of Subsection (1)(d)(i) is not an affiliated emergency services worker for purposes of this Subsection (1)(d).

(iii) The office may not cancel the retirement allowance of a retiree who is employed as an affiliated emergency services worker within one year of the retiree's retirement date if the affiliated emergency services worker does not receive any compensation, except for:

(A) a nominal fee, stipend, discount, tax credit, voucher, or other fixed sum of money or cash equivalent payment not tied to productivity and paid periodically for services;

(B) a length-of-service award;

(C) insurance policy premiums paid by the participating employer in the event of death of an affiliated emergency services worker or a line-of-duty accidental death or disability; or

(D) reimbursement of expenses incurred in the performance of duties.

(iv) For purposes of Subsections (1)(d)(iii)(A) and (B), the total amount of any discounts, tax credits, vouchers, and payments to a volunteer may not exceed \$500 per month.

(v) Beginning January 1, 2016, the board shall adjust the amount under Subsection (1)(d)(iv) by the annual change in the Consumer Price Index during the previous calendar year as measured by a United States Bureau of Labor Statistics Consumer Price Index average as determined by the board.

(vi) The office shall cancel the retirement allowance of a retiree for the remainder of the calendar year if employment as an affiliated emergency services worker with a participating employer exceeds the limitation under Subsection (1)(d)(iv).

(vii) If a retiree is employed as an affiliated emergency services worker under the provisions of Subsection (1)(d), the termination date of the employment as an affiliated emergency services worker, as confirmed in writing by the participating employer, is considered the retiree's retirement date for the purpose of calculating the separation requirement under Subsection (3)(a).

(2) A retiree may not for the same period of reemployment:

(a) (i) earn additional service credit; or

(ii) receive any retirement related contribution from a participating employer; and

(b) receive a retirement allowance.

(3) (a) Except as provided under Subsection (3)(b) or (10), the office shall cancel the retirement allowance of a retiree if the reemployment with a participating employer begins within one year of the retiree's retirement date.

(b) The office may not cancel the retirement allowance of a retiree who is reemployed with a participating employer within one year of the retiree's retirement date if:

(i) the retiree is not reemployed by a participating employer for a period of at least 60 days from the retiree's retirement date;

(ii) upon reemployment after the break in service under Subsection (3)(b)(i), the retiree does not receive any employer provided benefits, including:

(A) medical benefits;

(B) dental benefits;

(C) other insurance benefits except for workers' compensation as provided under Title 34A, Chapter 2, Workers' Compensation Act, and withholdings required by federal or state law for Social Security, Medicare, and unemployment insurance; or

(D) paid time off, including sick, annual, or other type of leave; and

(iii) (A) the retiree does not earn in any calendar year of reemployment an amount in excess of the lesser of \$15,000 or one-half of the retiree's final average salary upon which the retiree's retirement allowance is based; or

(B) the retiree is reemployed as a judge as defined under Section 78A-11-102.

(c) Beginning January 1, 2013, the board shall adjust the amounts under Subsection (3)(b)(iii)(A) by the annual change in the Consumer Price Index during the previous calendar year as measured by a United States Bureau of Labor Statistics Consumer Price Index average as determined by the board.

(d) The office shall cancel the retirement allowance of a retiree for the remainder of the calendar year if the reemployment with a participating employer exceeds the limitation under Subsection (3)(b)(iii)(A).

(e) If a retiree is reemployed under the provisions of Subsection (3)(b), the termination date of the reemployment, as confirmed in writing by the participating employer, is considered the retiree's retirement date for the purpose of calculating the separation requirement under Subsection (3)(a).

(4) If a reemployed retiree has completed the one-year separation from employment with a participating employer required under Subsection (3)(a), the retiree may elect to:

(a) earn additional service credit in accordance with this title and cancel the retiree's retirement allowance; or

(b) continue to receive the retiree's retirement allowance and forfeit any retirement related contribution from the participating employer who reemployed the retiree.

(5) A participating employer who reemploys a retiree shall contribute to the office the amortization rate, as defined in Section 49-11-102, to be applied to the system that would have covered the retiree, if the reemployed retiree:

(a) has completed the one-year separation from employment with a participating employer required under Subsection (3)(a); and

(b) makes an election under Subsection (4)(b) to continue to receive a retirement allowance while reemployed.

(6) (a) A participating employer shall immediately notify the office:

(i) if the participating employer reemploys a retiree;

(ii) whether the reemployment is subject to Subsection (3)(b) or (4) of this section; and

(iii) of any election by the retiree under Subsection (4).

(b) A participating employer shall certify to the office whether the position of an elected official is or is not full time.

(c) A participating employer is liable to the office for a payment or failure to make a payment in violation of this section.

(d) If a participating employer fails to notify the office in accordance with this section, the participating employer is immediately subject to a compliance audit by the office.

(7) (a) The office shall immediately cancel the retirement allowance of a retiree in accordance with Subsection (7)(b) if the office receives notice or learns of:

(i) the reemployment of a retiree in violation of Subsection (3); or

(ii) the election of a reemployed retiree under Subsection (4)(a).

(b) If the retiree is eligible for retirement coverage in the reemployed position, the office shall cancel the allowance of a retiree subject to Subsection (7)(a), and reinstate the retiree to active member status on the first day of the month following the date of:

(i) reemployment if the retiree is subject to Subsection (3); or

(ii) an election by an employee under Subsection (4)(a).

(c) If the retiree is not otherwise eligible for retirement coverage in the reemployed position:

(i) the office shall cancel the allowance of a retiree subject to Subsection (7)(a)(i); and

(ii) the participating employer shall pay the amortization rate to the office on behalf of the retiree.

(8) (a) A retiree subject to Subsection (7)(b) who retires within two years from the date of reemployment:

(i) is not entitled to a recalculated retirement benefit; and

(ii) will resume the allowance that was being paid at the time of cancellation.

(b) Subject to Subsection (2), a retiree who is reinstated to active membership under Subsection

(7) and who retires two or more years after the date of reinstatement to active membership shall:

(i) resume receiving the allowance that was being paid at the time of cancellation; and

(ii) receive an additional allowance based on the formula in effect at the date of the subsequent retirement for all service credit accrued between the first and subsequent retirement dates.

(9) (a) A retiree subject to this section shall report to the office the status of the reemployment under Subsection (3) or (4).

(b) If the retiree fails to inform the office of an election under Subsection (4), the office shall withhold one month's benefit for each month the retiree fails to inform the office under Subsection (9)(a).

(10) A retiree shall be considered as having completed the one-year separation from employment with a participating employer required under Subsection (3)(a), if the retiree:

(a) before retiring:

(i) was employed with a participating employer as a public safety service employee as defined in Section 49-14-102, 49-15-102, or 49-23-102;

(ii) and during the employment under Subsection (10)(a)(i), suffered a physical injury resulting from external force or violence while performing the duties of the employment, and for which injury the retiree would have been approved for total disability in accordance with the provisions under Title 49, Chapter 21, Public Employees' Long-Term Disability Act, if years of service are not considered;

(iii) had less than 30 years of service credit but had sufficient service credit to retire, with an unreduced allowance making the public safety service employee ineligible for long-term disability payments under Title 49, Chapter 21, Public Employees' Long-Term Disability Act, or a substantially similar long-term disability program; and

(iv) does not receive any long-term disability benefits from any participating employer; and

(b) is reemployed by a different participating employer.

(11) The board may make rules to implement this section.

Section 2. Section 49-12-401 is amended to read:

49-12-401. Eligibility for an allowance -- Date of retirement -- Qualifications.

(1) A member is qualified to receive an allowance from this system when:

(a) except as provided under Subsection (3), the member ceases actual work for every participating employer that employs the member before the member's retirement date and provides evidence of the termination;

(b) the member has submitted to the office a retirement application form that states the member's proposed retirement date; and

(c) one of the following conditions is met as of the member's retirement date:

(i) the member has accrued at least four years of service credit and has attained an age of 65 years;

(ii) the member has accrued at least 10 years of service credit and has attained an age of 62 years;

(iii) the member has accrued at least 20 years of service credit and has attained an age of 60 years; or

(iv) the member has accrued at least 30 years of service credit.

(2) (a) The member's retirement date:

(i) shall be the 1st or the 16th day of the month, as selected by the member;

(ii) shall be on or after the date of termination; and

(iii) may not be more than 90 days before or after the date the application is received by the office.

(b) Except as provided under Subsection (3), a member may not be employed by a participating employer in the system established by this chapter on the retirement date selected under Subsection (2)(a)(i).

(3) (a) A member who is employed by a participating employer and who is also an elected official is not required to cease service as an elected official to be qualified to receive an allowance under Subsection (1), unless the member is retiring from service as an elected official.

(b) A member who is employed by a participating employer and who is also a part-time appointed board member is not required to cease service as a part-time appointed board member to be qualified to receive an allowance under Subsection (1).

(c) A member who is employed by a participating employer, who is also an affiliated emergency services worker as defined in Subsection 49-11-505(1)(d) for a different agency, is not required to cease service as an affiliated emergency services worker to be qualified to receive an allowance under Subsection (1).

Section 3. Section 49-13-401 is amended to read:

49-13-401. Eligibility for an allowance -- Date of retirement -- Qualifications.

(1) A member is qualified to receive an allowance from this system when:

(a) except as provided under Subsection (3), the member ceases actual work for every participating employer that employs the member before the member's retirement date and provides evidence of the termination;

(b) the member has submitted to the office a retirement application form that states the member's proposed retirement date; and

(c) one of the following conditions is met as of the member's retirement date:

(i) the member has accrued at least four years of service credit and has attained an age of 65 years;

(ii) the member has accrued at least 10 years of service credit and has attained an age of 62 years;

(iii) the member has accrued at least 20 years of service credit and has attained an age of 60 years;

(iv) the member has accrued at least 30 years of service credit; or

(v) the member has accrued at least 25 years of service credit, in which case the member shall be subject to the reduction under Subsection 49-13-402(2)(b).

(2) (a) The member's retirement date:

(i) shall be the 1st or the 16th day of the month, as selected by the member;

(ii) shall be on or after the date of termination; and

(iii) may not be more than 90 days before or after the date the application is received by the office.

(b) Except as provided under Subsection (3), a member may not be employed by a participating employer in the system established by this chapter on the retirement date selected under Subsection (2)(a)(i).

(3) (a) A member who is employed by a participating employer and who is also an elected official is not required to cease service as an elected official to be qualified to receive an allowance under Subsection (1), unless the member is retiring from service as an elected official.

(b) A member who is employed by a participating employer and who is also a part-time appointed board member is not required to cease service as a part-time appointed board member to be qualified to receive an allowance under Subsection (1).

(c) A member who is employed by a participating employer, who is also an affiliated emergency services worker as defined in Subsection 49-11-505(1)(d) for a different agency, is not required to cease service as an affiliated emergency services worker to be qualified to receive an allowance under Subsection (1).

Section 4. Section 49-14-401 is amended to read:

49-14-401. Eligibility for service retirement -- Date of retirement -- Qualifications.

(1) A member is qualified to receive an allowance from this system when:

(a) except as provided under Subsection (3), the member ceases actual work for every participating employer that employs the member before the member's retirement date and provides evidence of the termination;

(b) the member has submitted to the office a retirement application form that states the member's proposed retirement date; and

(c) one of the following conditions is met as of the member's retirement date:

(i) the member has accrued at least 20 years of service credit;

(ii) the member has accrued at least 10 years of service credit and has attained an age of 60 years; or

(iii) the member has accrued at least four years of service credit and has attained an age of 65 years.

(2) (a) The member's retirement date:

(i) shall be the 1st or the 16th day of the month, as selected by the member;

(ii) shall be on or after the date of termination; and

(iii) may not be more than 90 days before or after the date the application is received by the office.

(b) Except as provided under Subsection (3), a member may not be employed by a participating employer in the system established by this chapter on the retirement date selected under Subsection (2)(a)(i).

(3) (a) A member who is employed by a participating employer and who is also an elected official is not required to cease service as an elected official to be qualified to receive an allowance under Subsection (1), unless the member is retiring from service as an elected official.

(b) A member who is employed by a participating employer and who is also a part-time appointed board member is not required to cease service as a part-time appointed board member to be qualified to receive an allowance under Subsection (1).

(c) A member who is employed by a participating employer, who is also an affiliated emergency services worker as defined in Subsection 49-11-505(1)(d) for a different agency, is not required to cease service as an affiliated emergency services worker to be qualified to receive an allowance under Subsection (1).

Section 5. Section 49-15-401 is amended to read:

49-15-401. Eligibility for service retirement -- Date of retirement -- Qualifications.

(1) A member is qualified to receive an allowance from this system when:

(a) except as provided under Subsection (3), the member ceases actual work for every participating employer that employs the member before the member's retirement date and provides evidence of the termination;

(b) the member has submitted to the office a retirement application form that states the member's proposed retirement date; and

(c) one of the following conditions is met as of the member's retirement date:

(i) the member has accrued at least 20 years of service credit;

(ii) the member has accrued at least 10 years of service credit and has attained an age of 60 years; or

(iii) the member has accrued at least four years of service and has attained an age of 65 years.

(2) (a) The member's retirement date:

(i) shall be the 1st or the 16th day of the month, as selected by the member;

(ii) shall be on or after the date of termination; and

(iii) may not be more than 90 days before or after the date the application is received by the office.

(b) Except as provided under Subsection (3), a member may not be employed by a participating employer in the system established by this chapter on the retirement date selected under Subsection (2)(a)(i).

(3) (a) A member who is employed by a participating employer and who is also an elected official is not required to cease service as an elected official to be qualified to receive an allowance under Subsection (1), unless the member is retiring from service as an elected official.

(b) A member who is employed by a participating employer and who is also a part-time appointed board member is not required to cease service as a part-time appointed board member to be qualified to receive an allowance under Subsection (1).

(c) A member who is employed by a participating employer, who is also an affiliated emergency services worker as defined in Subsection 49-11-505(1)(d) for a different agency, is not required to cease service as an affiliated emergency services worker to be qualified to receive an allowance under Subsection (1).

Section 6. Section 49-16-401 is amended to read:

49-16-401. Eligibility for service retirement -- Date of retirement -- Qualifications.

(1) A member is qualified to receive an allowance from this system when:

(a) except as provided under Subsection (3), the member ceases actual work for every participating employer that employs the member before the member's retirement date and provides evidence of the termination;

(b) the member has submitted to the office a retirement application form that states the member's proposed retirement date; and

(c) one of the following conditions is met as of the member's retirement date:

(i) the member has accrued at least 20 years of service credit;

(ii) the member has accrued at least 10 years of service credit and has attained an age of 60 years; or

(iii) the member has accrued at least four years of service credit and has attained an age of 65 years.

(2) (a) The member's retirement date:

(i) shall be the 1st or the 16th day of the month, as selected by the firefighter service employee;

(ii) shall be on or after the date of termination; and

(iii) may not be more than 90 days before or after the date the application is received by the office.

(b) Except as provided under Subsection (3), a member may not be employed by a participating employer in the system established by this chapter on the retirement date selected under Subsection (2)(a)(i).

(3) (a) A member who is employed by a participating employer and who is also an elected official is not required to cease service as an elected official to be qualified to receive an allowance under Subsection (1), unless the member is retiring from service as an elected official.

(b) A member who is employed by a participating employer and who is also a part-time appointed board member is not required to cease service as a part-time appointed board member to be qualified to receive an allowance under Subsection (1).

(c) A member who is employed by a participating employer, who is also an affiliated emergency services worker as defined in Subsection 49-11-505(1)(d) for a different agency, is not required to cease service as an affiliated emergency services worker to be qualified to receive an allowance under Subsection (1).

Section 7. Section 49-22-304 is amended to read:

49-22-304. Defined benefit eligibility for an allowance -- Date of retirement -- Qualifications.

(1) A member is qualified to receive an allowance from this system when:

(a) except as provided under Subsection (3), the member ceases actual work for every participating employer that employs the member before the member's retirement date and provides evidence of the termination;

(b) the member has submitted to the office a retirement application form that states the member's proposed retirement date; and

(c) one of the following conditions is met as of the member's retirement date:

(i) the member has accrued at least four years of service credit and has attained an age of 65 years;

(ii) the member has accrued at least 10 years of service credit and has attained an age of 62 years;

(iii) the member has accrued at least 20 years of service credit and has attained an age of 60 years; or

(iv) the member has accrued at least 35 years of service credit.

(2) (a) The member's retirement date:

(i) shall be the 1st or the 16th day of the month, as selected by the member;

(ii) shall be on or after the date of termination; and

(iii) may not be more than 90 days before or after the date the application is received by the office.

(b) Except as provided under Subsection (3), a member may not be employed by a participating employer in the system established by this chapter on the retirement date selected under Subsection (2)(a)(i).

(3) (a) A member who is employed by a participating employer and who is also an elected official is not required to cease service as an elected official to be qualified to receive an allowance under Subsection (1), unless the member is retiring from service as an elected official.

(b) A member who is employed by a participating employer and who is also a part-time appointed board member is not required to cease service as a part-time appointed board member to be qualified to receive an allowance under Subsection (1).

(c) A member who is employed by a participating employer, who is also an affiliated emergency services worker as defined in Subsection 49-11-505(1)(d) for a different agency, is not required to cease service as an affiliated emergency services worker to be qualified to receive an allowance under Subsection (1).

Section 8. Section 49-23-303 is amended to read:

49-23-303. Defined benefit eligibility for an allowance -- Date of retirement -- Qualifications.

(1) A member is qualified to receive an allowance from this system when:

(a) except as provided under Subsection (3), the member ceases actual work for every participating employer that employs the member before the member's retirement date and provides evidence of the termination;

(b) the member has submitted to the office a retirement application form that states the member's proposed retirement date; and

(c) one of the following conditions is met as of the member's retirement date:

(i) the member has accrued at least four years of service credit and has attained an age of 65 years;

(ii) the member has accrued at least 10 years of service credit and has attained an age of 62 years;

(iii) the member has accrued at least 20 years of service credit and has attained an age of 60 years; or

(iv) the member has accrued at least 25 years of service credit.

(2) (a) The member's retirement date:

(i) shall be the 1st or the 16th day of the month, as selected by the member;

(ii) shall be on or after the date of termination; and

(iii) may not be more than 90 days before or after the date the application is received by the office.

(b) Except as provided under Subsection (3), a member may not be employed by a participating employer in the system established by this chapter on the retirement date selected under Subsection (2)(a)(i).

(3) (a) A member who is employed by a participating employer and who is also an elected official is not required to cease service as an elected official to be qualified to receive an allowance under Subsection (1), unless the member is retiring from service as an elected official.

(b) A member who is employed by a participating employer and who is also a part-time appointed board member is not required to cease service as a part-time appointed board member to be qualified to receive an allowance under Subsection (1).

(c) A member who is employed by a participating employer, who is also an affiliated emergency services worker as defined in Subsection 49-11-505(1)(d) for a different agency, is not required to cease service as an affiliated emergency services worker to be qualified to receive an allowance under Subsection (1).

CHAPTER 257**H. B. 152**

Passed February 20, 2015

Approved March 27, 2015

Effective January 1, 2016

**INFERTILITY INSURANCE
COVERAGE AMENDMENTS**

Chief Sponsor: LaVar Christensen

Senate Sponsor: Brian E. Shiozawa

LONG TITLE**General Description:**

This bill amends the Insurance Code related to accident and health insurance.

Highlighted Provisions:

This bill:

- ▶ amends the price and value comparison disclosure requirements for an insurer to require an insurer to disclose to an enrollee information about infertility coverage.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

31A-22-613.5, as last amended by Laws of Utah 2012, Chapter 279

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

Section 1. Section 31A-22-613.5 is amended to read:**31A-22-613.5. Price and value comparisons of health insurance.**

(1) (a) This section applies to all health benefit plans.

(b) Subsection (2) applies to:

- (i) all health benefit plans; and
- (ii) coverage offered to state employees under Subsection 49-20-202(1)(a).

(2) (a) The commissioner shall promote informed consumer behavior and responsible health benefit plans by requiring an insurer issuing a health benefit plan to:

(i) provide to all enrollees, prior to enrollment in the health benefit plan written disclosure of:

(A) restrictions or limitations on prescription drugs and biologics including:

- (I) the use of a formulary;
 - (II) co-payments and deductibles for prescription drugs; and
 - (III) requirements for generic substitution;
- (B) coverage limits under the plan; ~~and~~

(C) any limitation or exclusion of coverage including:

(I) a limitation or exclusion for a secondary medical condition related to a limitation or exclusion from coverage; and

(II) easily understood examples of a limitation or exclusion of coverage for a secondary medical condition; and

(D) whether the insurer permits an exchange of the adoption indemnity benefit in Section 31A-22-610.1 for infertility treatments, in accordance with Subsection 31A-22-610.1(1)(c)(ii) and the terms associated with the exchange of benefits; and

(ii) provide the commissioner with:

(A) the information described in Subsections 31A-22-635(5) through (7) in the standardized electronic format required by Subsection 63M-1-2506(1); and

(B) information regarding insurer transparency in accordance with Subsection (4).

(b) An insurer shall provide the disclosure required by Subsection (2)(a)(i) in writing to the commissioner:

(i) upon commencement of operations in the state; and

(ii) anytime the insurer amends any of the following described in Subsection (2)(a)(i):

(A) treatment policies;

(B) practice standards;

(C) restrictions;

(D) coverage limits of the insurer's health benefit plan or health insurance policy; or

(E) limitations or exclusions of coverage including a limitation or exclusion for a secondary medical condition related to a limitation or exclusion of the insurer's health insurance plan.

(c) An insurer shall provide the enrollee with notice of an increase in costs for prescription drug coverage due to a change in benefit design under Subsection (2)(a)(i)(A):

(i) either:

(A) in writing; or

(B) on the insurer's website; and

(ii) at least 30 days prior to the date of the implementation of the increase in cost, or as soon as reasonably possible.

(d) If under Subsection (2)(a)(i)(A) a formulary is used, the insurer shall make available to prospective enrollees and maintain evidence of the fact of the disclosure of:

(i) the drugs included;

(ii) the patented drugs not included;

(iii) any conditions that exist as a precedent to coverage; and

(iv) any exclusion from coverage for secondary medical conditions that may result from the use of an excluded drug.

(e) (i) The commissioner shall develop examples of limitations or exclusions of a secondary medical condition that an insurer may use under Subsection (2)(a)(i)(C).

(ii) Examples of a limitation or exclusion of coverage provided under Subsection (2)(a)(i)(C) or otherwise are for illustrative purposes only, and the failure of a particular fact situation to fall within the description of an example does not, by itself, support a finding of coverage.

(3) The commissioner:

(a) shall forward the information submitted by an insurer under Subsection (2)(a)(ii) to the Health Insurance Exchange created under Section 63M-1-2504; and

(b) may request information from an insurer to verify the information submitted by the insurer under this section.

(4) The commissioner shall:

(a) convene a group of insurers, a member representing the Public Employees' Benefit and Insurance Program, consumers, and an organization that provides multipayer and multiprovider quality assurance and data collection, to develop information for consumers to compare health insurers and health benefit plans on the Health Insurance Exchange, which shall include consideration of:

(i) the number and cost of an insurer's denied health claims;

(ii) the cost of denied claims that is transferred to providers;

(iii) the average out-of-pocket expenses incurred by participants in each health benefit plan that is offered by an insurer in the Health Insurance Exchange;

(iv) the relative efficiency and quality of claims administration and other administrative processes for each insurer offering plans in the Health Insurance Exchange; and

(v) consumer assessment of each insurer or health benefit plan;

(b) adopt an administrative rule that establishes:

(i) definition of terms;

(ii) the methodology for determining and comparing the insurer transparency information;

(iii) the data, and format of the data, that an insurer shall submit to the commissioner in order to facilitate the consumer comparison on the Health Insurance Exchange in accordance with Section 63M-1-2506; and

(iv) the dates on which the insurer shall submit the data to the commissioner in order for the commissioner to transmit the data to the Health

Insurance Exchange in accordance with Section 63M-1-2506; and

(c) implement the rules adopted under Subsection (4)(b) in a manner that protects the business confidentiality of the insurer.

Section 2. Effective date.

This bill takes effect on January 1, 2016.

CHAPTER 258**H. B. 155**

Passed February 19, 2015

Approved March 27, 2015

Effective May 12, 2015

REVISOR'S - TECHNICAL CORRECTIONS

Chief Sponsor: James A. Dunnigan

Senate Sponsor: Todd Weiler

LONG TITLE**General Description:**

This bill modifies parts of the Utah Code to make technical corrections, including eliminating references to repealed provisions, making minor wording changes, updating cross-references, and correcting numbering.

Highlighted Provisions:

This bill:

- ▶ modifies parts of the Utah Code to make technical corrections, including eliminating references to repealed provisions, making minor wording changes, updating cross-references, correcting numbering, and fixing errors that were created from the previous year's session.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

7-2-6, as last amended by Laws of Utah 2009, Chapter 388
 7-17-9, as last amended by Laws of Utah 2010, Chapter 378
 10-3-717, as last amended by Laws of Utah 2010, Chapter 378
 11-14-103, as last amended by Laws of Utah 2013, Chapter 159
 11-27-9, as enacted by Laws of Utah 1984, Chapter 6
 13-35-103, as last amended by Laws of Utah 2010, Chapter 286
 15-7-4, as enacted by Laws of Utah 1983, Chapter 62
 15A-2-103, as last amended by Laws of Utah 2013, Chapters 279 and 297
 16-6a-1701, as last amended by Laws of Utah 2014, Chapter 189
 17-53-301, as last amended by Laws of Utah 2014, Chapter 189
 17B-2a-404, as last amended by Laws of Utah 2014, Chapters 357, 362, and 377
 17B-2a-405, as last amended by Laws of Utah 2008, Chapter 360
 17B-2a-1007, as last amended by Laws of Utah 2008, Chapter 360
 20A-1-103, as enacted by Laws of Utah 2014, Chapter 17
 20A-7-613, as enacted by Laws of Utah 2014, Chapter 395
 23-25-2, as enacted by Laws of Utah 1992, Chapter 260
 26-18-3.6, as last amended by Laws of Utah 2012, Chapter 41

31A-8a-103, as last amended by Laws of Utah 2013, Chapter 135
 31A-17-503, as last amended by Laws of Utah 2011, Chapter 297
 31A-17-512, as last amended by Laws of Utah 2011, Chapter 297
 31A-22-408, as last amended by Laws of Utah 2011, Chapter 297
 31A-22-626, as last amended by Laws of Utah 2013, Chapter 167
 31A-22-640, as last amended by Laws of Utah 2014, Chapter 219
 32B-3-201, as enacted by Laws of Utah 2010, Chapter 276
 32B-8-102, as enacted by Laws of Utah 2010, Chapter 276
 34-48-202, as enacted by Laws of Utah 2013, Chapter 94
 34A-2-111, as last amended by Laws of Utah 2013, Chapter 72
 34A-2-410, as last amended by Laws of Utah 2008, Chapter 349
 36-11-401, as last amended by Laws of Utah 2014, Chapter 335
 38-1a-102, as last amended by Laws of Utah 2014, Chapter 293
 38-8-1, as last amended by Laws of Utah 2013, Chapter 163
 41-6a-1011, as last amended by Laws of Utah 2014, Chapter 225
 41-6a-1620, as renumbered and amended by Laws of Utah 2005, Chapter 2
 41-6a-1642, as last amended by Laws of Utah 2013, Chapter 113
 47-3-102, as renumbered and amended by Laws of Utah 2013, Chapter 155
 48-1-32, Utah Code Annotated 1953
 48-1-35, Utah Code Annotated 1953
 48-1-38, Utah Code Annotated 1953
 49-11-801, as last amended by Laws of Utah 2010, Chapter 266
 49-20-411, as last amended by Laws of Utah 2014, Chapter 302
 51-8-301, as enacted by Laws of Utah 2007, Chapter 59
 53-2a-105, as renumbered and amended by Laws of Utah 2013, Chapter 295
 53-2a-202, as renumbered and amended by Laws of Utah 2013, Chapter 295
 53-2a-204, as last amended by Laws of Utah 2013, Chapter 304 and renumbered and amended by Laws of Utah 2013, Chapter 295
 53-2a-1104, as renumbered and amended by Laws of Utah 2013, Chapter 295
 53-5a-104, as enacted by Laws of Utah 2014, Chapter 431
 53-5c-201, as enacted by Laws of Utah 2013, Chapter 188
 53A-1-603, as last amended by Laws of Utah 2013, Chapter 161
 53A-1-1104, as last amended by Laws of Utah 2014, Chapter 403
 53A-1a-508, as repealed and reenacted by Laws of Utah 2014, Chapter 363
 53A-1a-601, as last amended by Laws of Utah 2013, Chapter 413

53A-12-102, as last amended by Laws of Utah 2013, Chapter 377	63G-2-703, as renumbered and amended by Laws of Utah 2008, Chapter 382
53A-15-603, as enacted by Laws of Utah 2010, Chapter 207	63G-6a-303, as last amended by Laws of Utah 2014, Chapter 196
53A-17a-165, as last amended by Laws of Utah 2014, Chapter 193	63G-6a-904, as last amended by Laws of Utah 2014, Chapter 196
53B-24-102, as renumbered and amended by Laws of Utah 2013, Chapter 28	63G-6a-1702, as last amended by Laws of Utah 2014, Chapter 196
53B-24-202, as renumbered and amended by Laws of Utah 2013, Chapter 28	63G-10-403, as last amended by Laws of Utah 2012, Chapters 91, 347 and last amended by Coordination Clause, Laws of Utah 2012, Chapter 347
53B-24-303, as renumbered and amended by Laws of Utah 2013, Chapter 28	63G-12-102, as enacted by Laws of Utah 2011, Chapter 18
53B-24-402, as last amended by Laws of Utah 2013, Chapter 167 and renumbered and amended by Laws of Utah 2013, Chapter 28	63H-1-701, as last amended by Laws of Utah 2010, Chapter 90
53D-1-301, as enacted by Laws of Utah 2014, Chapter 426	63H-7-103, as renumbered and amended by Laws of Utah 2014, Chapter 320
53D-1-402, as enacted by Laws of Utah 2014, Chapter 426	63I-1-213, as last amended by Laws of Utah 2013, Chapters 278 and 421
57-8a-209, as last amended by Laws of Utah 2014, Chapter 397	63I-1-226, as last amended by Laws of Utah 2014, Chapters 25 and 118
57-17-3, as last amended by Laws of Utah 2014, Chapter 397	63I-1-235, as last amended by Laws of Utah 2014, Chapter 127
57-17-5, as repealed and reenacted by Laws of Utah 2014, Chapter 397	63I-2-219, as enacted by Laws of Utah 2014, Chapter 227
58-11a-302, as last amended by Laws of Utah 2013, Chapter 13	63I-2-253, as last amended by Laws of Utah 2014, Chapters 102, 189, 372, and 393
58-17b-308, as last amended by Laws of Utah 2007, Chapter 279	63I-2-258, as last amended by Laws of Utah 2013, Chapter 423
58-31d-103, as last amended by Laws of Utah 2007, Chapter 57	63I-2-262, as enacted by Laws of Utah 2012, Chapter 281
58-37-2, as last amended by Laws of Utah 2012, Chapter 297	63I-2-263, as last amended by Laws of Utah 2014, Chapters 172, 423, and 427
58-37-4, as last amended by Laws of Utah 2013, Chapters 83 and 88	63I-5-302, as repealed and reenacted by Laws of Utah 2014, Chapter 433
58-37a-6, as last amended by Laws of Utah 2002, Chapter 185	63M-1-3208, as enacted by Laws of Utah 2014, Chapter 318
58-37c-3, as last amended by Laws of Utah 2013, Chapters 262, 278, and 413	65A-7-5, as last amended by Laws of Utah 2011, Chapter 256
58-37c-15, as last amended by Laws of Utah 2002, Chapter 185	67-5-3, as last amended by Laws of Utah 1982, Chapter 76
58-37d-7, as last amended by Laws of Utah 2002, Chapter 185	67-19a-202, as last amended by Laws of Utah 2013, Chapter 427
58-55-302, as last amended by Laws of Utah 2014, Chapter 402	67-19a-402.5, as enacted by Laws of Utah 2013, Chapter 427
58-60-103, as last amended by Laws of Utah 2012, Chapter 179	70A-2-601, as enacted by Laws of Utah 1965, Chapter 154
58-67-302.7, as enacted by Laws of Utah 2011, Chapter 206	70A-2-610, as enacted by Laws of Utah 1965, Chapter 154
59-2-1017, as enacted by Laws of Utah 2013, Chapter 180	70A-2-615, as enacted by Laws of Utah 1965, Chapter 154
59-2-1326, as repealed and reenacted by Laws of Utah 1988, Chapter 3	70A-4a-207, as last amended by Laws of Utah 1993, Chapter 237
59-12-353, as last amended by Laws of Utah 2004, Chapters 156 and 255	72-4-302, as last amended by Laws of Utah 2014, Chapter 387
61-2c-502, as last amended by Laws of Utah 2010, Chapter 379	73-2-22, as last amended by Laws of Utah 2013, Chapter 221
62A-2-121, as last amended by Laws of Utah 2009, Chapter 75	73-22-3, as enacted by Laws of Utah 1981, Chapter 188
62A-4a-102, as last amended by Laws of Utah 2012, Chapter 293	75-3-603, as enacted by Laws of Utah 1983, Chapter 226
63A-3-502, as last amended by Laws of Utah 2013, Chapter 74	76-5-109, as last amended by Laws of Utah 2011, Chapter 366
63G-2-202, as last amended by Laws of Utah 2014, Chapter 373	76-6-111, as last amended by Laws of Utah 2010, Chapter 193

76-6-501, as last amended by Laws of Utah 2011, Chapter 324
 76-6-506.7, as enacted by Laws of Utah 2003, Chapter 306
 76-6-1102, as last amended by Laws of Utah 2013, Chapters 77, 119, and 278
 76-6-1303, as enacted by Laws of Utah 2012, Chapter 32
 76-7-305, as last amended by Laws of Utah 2014, Chapter 187
 76-10-808, as enacted by Laws of Utah 1977, Chapter 92
 76-10-1108, as last amended by Laws of Utah 2007, Chapter 180
 77-10a-12, as last amended by Laws of Utah 2010, Chapter 96
 77-15a-104, as enacted by Laws of Utah 2003, Chapter 11
 77-27-21.8, as last amended by Laws of Utah 2012, Chapter 145
 77-32-301, as last amended by Laws of Utah 2012, Chapter 180
 78A-6-606, as last amended by Laws of Utah 2014, Chapter 314
 78A-6-1113, as last amended by Laws of Utah 2011, Chapter 208
 78A-7-118, as last amended by Laws of Utah 2012, Chapters 205 and 380
 78B-4-202, as renumbered and amended by Laws of Utah 2008, Chapter 3
 78B-4-514, as last amended by Laws of Utah 2010, Chapter 218
 78B-15-612, as last amended by Laws of Utah 2014, Chapter 267

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

Section 1. Section 7-2-6 is amended to read:

7-2-6. Possession by commissioner -- Notice -- Presentation, allowance, and disallowance of claims -- Objections to claims.

(1) (a) Possession of an institution by the commissioner commences when notice of taking possession is:

(i) posted in each office of the institution located in this state; or

(ii) delivered to a controlling person or officer of the institution.

(b) All notices, records, and other information regarding possession of an institution by the commissioner may be kept confidential, and all court records and proceedings relating to the commissioner's possession may be sealed from public access if:

(i) the commissioner finds it is in the best interests of the institution and its depositors not to notify the public of the possession by the commissioner;

(ii) the deposit and withdrawal of funds and payment to creditors of the institution is not suspended, restricted, or interrupted; and

(iii) the court approves.

(2) (a) (i) Within 15 days after taking possession of an institution or other person under the jurisdiction of the department, the commissioner shall publish a notice to all persons who may have claims against the institution or other person to file proof of their claims with the commissioner before a date specified in the notice.

(ii) The filing date shall be at least 90 days after the date of the first publication of the notice.

(iii) The notice shall be published:

(A) (I) in a newspaper of general circulation in each city or county in which the institution or other person, or any subsidiary or service corporation of the institution, maintains an office; and

(II) published again approximately 30 days and 60 days after the date of the first publication; and

(B) as required in Section 45-1-101 for 60 days.

(b) (i) Within 60 days of taking possession of a depository institution, the commissioner shall send a similar notice to all persons whose identity is reflected in the books or records of the institution as depositors or other creditors, secured or unsecured, parties to litigation involving the institution pending at the date the commissioner takes possession of the institution, and all other potential claimants against the institution whose identity is reasonably ascertainable by the commissioner from examination of the books and records of the institution. No notice is required in connection with accounts or other liabilities of the institution that will be paid in full or be fully assumed by another depository institution or trust company. The notice shall specify a filing date for claims against the institution not less than 60 days after the date of mailing. Claimants whose claims against the institution have been assumed by another depository institution or trust company pursuant to a merger or purchase and assumption agreement with the commissioner, or a federal deposit insurance agency appointed as receiver or liquidator of the institution, shall be notified of the assumption of their claims and the name and address of the assuming party within 60 days after the claim is assumed. Unless a purchase and assumption or merger agreement requires otherwise, the assuming party shall give all required notices. Notice shall be mailed to the address appearing in the books and records of the institution.

(ii) Inadvertent or unintentional failure to mail a notice to any person entitled to written notice under this paragraph does not impose any liability on the commissioner or any receiver or liquidator appointed by him beyond the amount the claimant would be entitled to receive if the claim had been timely filed and allowed. The commissioner or any receiver or liquidator appointed by him are not liable for failure to mail notice unless the claimant establishes that it had no knowledge of the commissioner taking possession of the institution until after all opportunity had passed for obtaining payment through filing a claim with the commissioner, receiver, or liquidator.

(c) Upon good cause shown, the court having supervisory jurisdiction may extend the time in

which the commissioner may serve any notice required by this chapter.

(d) The commissioner has the sole power to adjudicate any claim against the institution, its property or other assets, tangible or intangible, and to settle or compromise claims within the priorities set forth in Section 7-2-15. Any action of the commissioner is subject to judicial review as provided in Subsection (9).

(e) A receiver or liquidator of the institution appointed by the commissioner has all the duties, powers, authority, and responsibilities of the commissioner under this section. All claims against the institution shall be filed with the receiver or liquidator within the applicable time specified in this section and the receiver or liquidator shall adjudicate the claims as provided in Subsection (2)(d).

(f) The procedure established in this section is the sole remedy of claimants against an institution or its assets in the possession of the commissioner.

(3) With respect to a claim which appears in the books and records of an institution or other person in the possession of the commissioner as a secured claim, which, for purposes of this section is a claim that constitutes an enforceable, perfected lien, evidenced in writing, on the assets or other property of the institution:

(a) The commissioner shall allow or disallow each secured claim filed on or before the filing date within 30 days after receipt of the claim and shall notify each secured claimant by certified mail or in person of the basis for, and any conditions imposed on, the allowance or disallowance.

(b) For all allowed secured claims, the commissioner shall be bound by the terms, covenants, and conditions relating to the assets or other property subject to the claim, as set forth in the note, bond, or other security agreement which evidences the secured claim, unless the commissioner has given notice to the claimant of his intent to abandon the assets or other property subject to the secured claim at the time the commissioner gave the notice described in Subsection (3)(a).

(c) No petition for lifting the stay provided by Section 7-2-7 may be filed with respect to a secured claim before the claim has been filed and allowed or disallowed by the commissioner in accordance with Subsection (3)(a).

(4) With respect to all other claims other than secured claims:

(a) Each claim filed on or before the filing date shall be allowed or disallowed within 180 days after the final publication of notice.

(b) If notice of disallowance is not served upon the claimant by the commissioner within 210 days after the date of final publication of notice, the claim is considered disallowed.

(c) The rights of claimants and the amount of a claim shall be determined as of the date the

commissioner took possession of the institution under this chapter. Claims based on contractual obligations of the institution in existence on the date of possession may be allowed unless the obligation of the institution is dependent on events occurring after the date of possession, or the amount or worth of the claim cannot be determined before any distribution of assets of the institution is made to claimants having the same priority under Section 7-2-15.

(d) (i) An unliquidated claim against the institution, including claims based on alleged torts for which the institution would have been liable on the date the commissioner took possession of the institution and any claims for a right to an equitable remedy for breach of performance by the institution, may be filed in an estimated amount. The commissioner may disallow or allow the claim in an amount determined by the commissioner, settle the claim in an amount approved by the court, or, in his discretion, refer the claim to the court designated by Section 7-2-2 for determination in accordance with procedures designated by the court. If the institution held on the date of possession by the commissioner a policy of insurance that would apply to the liability asserted by the claimant, the commissioner, or any receiver appointed by him may assign to the claimant all rights of the institution under the insurance policy in full satisfaction of the claim.

(ii) If the commissioner finds there are or may be issues of fact or law as to the validity of a claim, liquidated or unliquidated, or its proper allowance or disallowance under the provisions of this chapter, he may appoint a hearing examiner to conduct a hearing and to prepare and submit recommended findings of fact and conclusions of law for final consideration by the commissioner. The hearing shall be conducted as provided in rules or regulations issued by the commissioner. The decision of the commissioner shall be based on the record before the hearing examiner and information the commissioner considers relevant and shall be subject to judicial review as provided in Subsection (9).

(e) A claim may be disallowed if it is based on actions or documents intended to deceive the commissioner or any receiver or liquidator appointed by him.

(f) The commissioner may defer payment of any claim filed on behalf of a person who was at any time in control of the institution within the meaning of Section 7-1-103, pending the final determination of all claims of the institution against that person.

(g) The commissioner or any receiver appointed by him may disallow a claim that seeks a dollar amount if it is determined by the court having jurisdiction under Section 7-2-2 that the commissioner or receiver or conservator will not have any assets with which to pay the claim under the priorities established by Section 7-2-15.

(h) The commissioner may adopt rules to establish such alternative dispute resolution processes as may be appropriate for the resolution

of claims filed against an institution under this chapter.

(i) In establishing alternative dispute resolution processes, the commissioner shall strive for procedures that are expeditious, fair, independent, and low cost. The commissioner shall seek to develop incentives for claimants to participate in the alternative dispute resolution process.

(j) The commissioner may establish both binding and nonbinding processes, which may be conducted by any government or private party, but all parties, including the claimant and the commissioner or any receiver appointed by him, must agree to the use of the process in a particular case.

(5) (a) Claims filed after the filing date are disallowed, unless:

~~(a)~~ (i) the claimant who did not file his claim timely demonstrates that he did not have notice or actual knowledge of the proceedings in time to file a timely proof of claim; and

~~(b)~~ (ii) proof of the claim was filed prior to the last distribution of assets. For the purpose of this subsection only, late filed claims may be allowed if proof was filed before the final distribution of assets of the institution to claimants of the same priority and are payable only out of the remaining assets of the institution.

~~(c)~~ (b) A late filed claim may be disallowed under any other provision of this section.

(6) Debts owing to the United States or to any state or its subdivisions as a penalty or forfeiture are not allowed, except for the amount of the pecuniary loss sustained by the act, transaction, or proceeding out of which the penalty or forfeiture arose.

(7) Except as otherwise provided in Subsection 7-2-15(1)(a), interest accruing on any claim after the commissioner has taken possession of an institution or other person under this chapter may be disallowed.

(8) (a) A claim against an institution or its assets based on a contract or agreement may be disallowed unless the agreement:

~~(a)~~ (i) is in writing;

~~(b)~~ (ii) is otherwise a valid and enforceable contract; and

~~(c)~~ (iii) has continuously, from the time of its execution, been an official record of the institution.

(b) The requirements of this Subsection (8) do not apply to claims for goods sold or services rendered to an institution in the ordinary course of business by trade creditors who do not customarily use written agreements or other documents.

(9) (a) Objection to any claim allowed or disallowed may be made by any depositor or other claimant by filing a written objection with the commissioner within 30 days after service of the notice of allowance or disallowance. The commissioner shall present the objection to the

court for hearing and determination upon written notice to the claimant and to the filing party. The notice shall set forth the time and place of hearing. After the 30-day period, no objection may be filed. This Subsection (9) does not apply to secured claims allowed under Subsection (3).

(b) The hearing shall be based on the record before the commissioner and any additional evidence the court allowed to provide the parties due process of law.

(c) The court may not reverse or otherwise modify the determination of the commissioner with respect to the claim unless it finds the determination of the commissioner to be arbitrary, capricious, or otherwise contrary to law. The burden of proof is on the party objecting to the determination of the commissioner.

(d) An appeal from any final judgment of the court with respect to a claim may be taken as provided by law by the claimant, the commissioner, or any person having standing to object to the allowance or disallowance of the claim.

(10) If a claim against the institution has been asserted in any judicial, administrative, or other proceeding pending at the time the commissioner took possession of the institution under this chapter or under Chapter 19, Acquisition of Failing Depository Institutions or Holding Companies, the claimant shall file copies of all documents of record in the pending proceeding with the commissioner within the time for filing claims as provided in Subsection (2). Such a claim shall be allowed or disallowed within 90 days of the receipt of the complete record of the proceedings. No application to lift the stay of a pending proceeding shall be filed until the claim has been allowed or disallowed. The commissioner may petition the court designated by Section 7-2-2 to lift the stay to determine whether the claim should be allowed or disallowed.

(11) All claims allowed by the commissioner and not disallowed or otherwise modified by the court under Subsection (9), if not paid within 30 days after allowance, shall be evidenced by a certificate payable only out of the assets of the institution in the possession of the commissioner, subject to the priorities set forth in Section 7-2-15. This provision does not apply to a secured claim allowed by the commissioner under Subsection (3)(a).

Section 2. Section 7-17-9 is amended to read:

7-17-9. Actions on accounts established prior to 1979 -- Limitations on recovery.

(1) With respect to any reserve account established prior to July 1, 1979 and for which no legal action is pending as of January 1, 1979, no recovery shall be had in any action brought to require payment of interest on, or other compensation for, the use prior to July 1, 1979, of the funds in such account unless:

(a) An agreement in writing expressly so providing was executed by the borrower and the lender; or

(b) The borrower, or his successors or assigns, establishes by clear and convincing evidence an

agreement between the parties that the lender would pay interest on or to otherwise compensate the borrower for the use of the funds in such account. Use in the loan documents of such words as "trust" or "pledge" alone does not establish the intent of the parties; and

(c) There is no federal law or regulation prohibiting the payment of interest on or otherwise compensating the borrower for the use of the funds in such an account.

(2) No action seeking payment of interest on or other compensation for the use of the funds in any reserve account for any period prior to July 1, 1979, shall be brought after June 30, 1981. Any recovery in any such action shall be limited to the four-year period immediately preceding the commencement of the action. No recovery shall be had in respect of any reserve account established prior to July 1, 1979 greater than if the provisions of Section 7-17-3 of this act were applicable to such accounts.

(3) With respect to any reserve account established prior to July 1, 1979, an agreement in writing between the lender and the borrower, or his successors or assigns, that:

(a) the provisions of Section 7-17-3 of this act shall apply to all payments made subsequent to July 1, 1979[;]; or

(b) the borrower may exercise, for the period subsequent to July 1, 1979, either of the options provided in Section 7-17-4 of this act, shall bar any recovery by the borrower, his successors or assigns, for interest on or other compensation for the use of the funds in such account for any period prior to July 1, 1979.

Section 3. Section 10-3-717 is amended to read:

10-3-717. Purpose of resolutions.

Unless otherwise required by law, the governing body may:

(1) exercise all administrative powers by resolution including:

[~~(1)~~] (a) establishing water and sewer rates;

[~~(2)~~] (b) establishing charges for garbage collection and fees charged for municipal services;

[~~(3)~~] (c) establishing personnel policies and guidelines; and

[~~(4)~~] (d) regulating the use and operation of municipal property[~~- Punishment, fines or forfeitures may not be imposed by resolution.~~]; and

(2) not impose a punishment, fine, or forfeiture by resolution.

Section 4. Section 11-14-103 is amended to read:

11-14-103. Bond issues authorized -- Purposes -- Use of bond proceeds.

(1) Any local political subdivision may, in the manner and subject to the limitations and restrictions contained in this chapter, issue its

negotiable bonds for the purpose of paying all or part of the cost of:

(a) acquiring, improving, or extending any one or more improvements, facilities, or property that the local political subdivision is authorized by law to acquire, improve, or extend;

(b) acquiring, or acquiring an interest in, any one or more or any combination of the following types of improvements, facilities, or property to be owned by the local political subdivision, either alone or jointly with one or more other local political subdivisions, or for the improvement or extension of any of those wholly or jointly owned improvements, facilities, or properties:

(i) public buildings of every nature, including without limitation, offices, courthouses, jails, fire, police and sheriff's stations, detention homes, and any other buildings to accommodate or house lawful activities of a local political subdivision;

(ii) waterworks, irrigation systems, water systems, dams, reservoirs, water treatment plants, and any other improvements, facilities, or property used in connection with the acquisition, storage, transportation, and supplying of water for domestic, industrial, irrigation, recreational, and other purposes and preventing pollution of water;

(iii) sewer systems, sewage treatment plants, incinerators, and other improvements, facilities, or property used in connection with the collection, treatment, and disposal of sewage, garbage, or other refuse;

(iv) drainage and flood control systems, storm sewers, and any other improvements, facilities, or property used in connection with the collection, transportation, or disposal of water;

(v) recreational facilities of every kind, including without limitation, athletic and play facilities, playgrounds, athletic fields, gymnasiums, public baths, swimming pools, camps, parks, picnic grounds, fairgrounds, golf courses, zoos, boating facilities, tennis courts, auditoriums, stadiums, arenas, and theaters;

(vi) convention centers, sports arenas, auditoriums, theaters, and other facilities for the holding of public assemblies, conventions, and other meetings;

(vii) roads, bridges, viaducts, tunnels, sidewalks, curbs, gutters, and parking buildings, lots, and facilities;

(viii) airports, landing fields, landing strips, and air navigation facilities;

(ix) educational facilities, including without limitation, schools, gymnasiums, auditoriums, theaters, museums, art galleries, libraries, stadiums, arenas, and fairgrounds;

(x) hospitals, convalescent homes, and homes for the aged or indigent; and

(xi) electric light works, electric generating systems, and any other improvements, facilities, or property used in connection with the generation

and acquisition of electricity for these local political subdivisions and transmission facilities and substations if they do not duplicate transmission facilities and substations of other entities operating in the state prepared to provide the proposed service unless these transmission facilities and substations proposed to be constructed will be more economical to these local political subdivisions; or

(c) new construction, renovation, or improvement to a state highway within the boundaries of the local political subdivision or an environmental study for a state highway within the boundaries of the local political subdivision.

(2) Except as provided in Subsection (1)(c), any improvement, facility, or property under Subsection (1) need not lie within the limits of the local political subdivision.

(3) A cost under Subsection (1) may include:

(a) the cost of equipment and furnishings for such improvements, facilities, or property;

(b) all costs incident to the authorization and issuance of bonds, including engineering, legal, and fiscal advisers' fees;

(c) costs incident to the issuance of bond anticipation notes, including interest to accrue on bond anticipation notes;

(d) interest estimated to accrue on the bonds during the period to be covered by the construction of the improvement, facility, or property and for 12 months after that period; and

(e) other amounts which the governing body finds necessary to establish bond reserve funds and to provide working capital related to the improvement, facility, or property.

(4) The proceeds from bonds issued on or after May 14, 2013 may not be used:

(a) for operation and maintenance expenses for more [~~for~~] than one year after the date any of the proceeds are first used for those expenses; or

(b) for capitalization of interest more than five years after the bonds are issued.

Section 5. Section 11-27-9 is amended to read:

11-27-9. Prerequisites to issuance of state general obligation refunding bonds.

No general obligation refunding bonds of the state may be issued under this chapter, unless:

~~[(a)]~~ (1) the tax provided in Section 11-27-3.5 is sufficient to pay annual interest and to pay the principal of the refunding bonds within 20 years from the final passage of the law authorizing the bonds to be refunded thereby~~;~~; or

~~[(b)]~~ (2) the legislature has approved the issuance of general obligation refunding bonds and provided for levying a tax annually, sufficient to pay the annual interest and to pay the principal of the general obligation refunding bonds within 20 years from the final passage of the law approving the

refunding bonds as provided in Article XIII, Sec. 2(11), Utah Constitution.

Section 6. Section 13-35-103 is amended to read:

13-35-103. Utah Powersport Vehicle Franchise Advisory Board -- Creation -- Appointment of members -- Alternate members -- Chair -- Quorum -- Conflict of interest.

(1) There is created within the department the Utah Powersport Vehicle Franchise Advisory Board that consists of:

(a) the executive director or the executive director's designee; and

(b) six members appointed by the executive director, with the concurrence of the governor, as follows:

(i) three new powersport vehicle franchisees, [~~one from~~] each [~~of the three~~] from a different congressional [~~districts~~] district in the state; and

(ii) (A) three members representing powersport vehicle franchisors registered by the department pursuant to Section 13-35-105;

(B) three members of the general public, none of whom shall be related to any franchisee; or

(C) three members consisting of any combination of these representatives under this Subsection (1)(b)(ii).

(2) (a) The executive director shall also appoint, with the concurrence of the governor, three alternate members, with at least one alternate from each of the designations set forth in Subsections (1)(b)(i) and (1)(b)(ii), except that the new powersport vehicle franchisee alternate or alternates for the designation under Subsection (1)(b)(i) may be from any congressional district.

(b) An alternate shall take the place of a regular advisory board member from the same designation at a meeting of the advisory board where that regular advisory board member is absent or otherwise disqualified from participating in the advisory board meeting.

(3) (a) (i) Members of the advisory board appointed under Subsections (1)(b) and (2) shall be appointed for a term of four years.

(ii) No specific term shall apply to the executive director or the executive director's designee.

(b) The executive director may adjust the term of members who were appointed to the advisory board prior to July 1, 2002, by extending the unexpired term of a member for up to two additional years in order to insure that approximately half of the members are appointed every two years.

(c) In the event of a vacancy on the advisory board of a member appointed under Subsection (1)(b) or (2), the executive director with the concurrence of the governor, shall appoint an individual to complete the unexpired term of the member whose office is vacant.

(d) A member may not be appointed to more than two consecutive terms.

(4) (a) The executive director or the executive director's designee shall be the chair of the advisory board.

(b) The department shall keep a record of all hearings, proceedings, transactions, communications, and recommendations of the advisory board.

(5) (a) Four or more members of the advisory board constitute a quorum for the transaction of business.

(b) The action of a majority of a quorum present is considered the action of the advisory board.

(6) (a) A member of the advisory board may not participate as a board member in a proceeding or hearing:

(i) involving the member's business or employer; or

(ii) when a member, a member's business, family, or employer has a pecuniary interest in the outcome or other conflict of interest concerning an issue before the advisory board.

(b) If a member of the advisory board is disqualified under Subsection (6)(a), the executive director shall select the appropriate alternate member to act on the issue before the advisory board as provided in Subsection (2).

(7) Except for the executive director or the executive director's designee, an individual may not be appointed or serve on the advisory board while holding any other elective or appointive state or federal office.

(8) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(9) The department shall provide necessary staff support to the advisory board.

Section 7. Section 15-7-4 is amended to read:

15-7-4. Registration system established by issuer.

(1) (a) Each issuer is authorized to establish and maintain a system of registration with respect to each obligation it issues.

(b) The system described in this Subsection (1) may either be:

~~(i)~~ (i) a system pursuant to which only certificated registered public obligations are issued ~~or (b)~~;

(ii) a system pursuant to which only uncertificated registered public obligations are issued~~;~~ or

~~(iii)~~ (iii) a system pursuant to which both certificated and uncertificated registered public obligations are issued.

(c) The issuer may amend, discontinue, and reinstitute ~~any~~ a system established under this section, from time to time, subject to covenants.

(2) The system shall be established, amended, discontinued, or reinstated, for the issuer by, and shall be maintained for the issuer as provided by, the official or official body.

(3) The system shall be described in the registered public obligation or in the official actions which provide for original issuance of the registered public obligation, and in subsequent official actions providing for amendments and other matters from time to time. The description may be by reference to a program of the issuer which is established by the official or official body.

(4) The system shall define the method or methods by which transfer of the registered public obligation is effective with respect to the issuer, and by which payment of principal and any interest shall be made. The system may permit the issuance of registered public obligations in any denomination to represent several registered public obligations of smaller denominations. The system may also provide for the form of any certificated registered public obligation or of any writing relating to an uncertificated registered public obligation, for identifying numbers or other designations, for a sufficient supply of certificates for subsequent transfers, for record and payment dates, for varying denominations, for communications to holders or owners of obligations, and for accounting, cancelled certificate destruction, registration and release of security interests and other incidental matters. Unless the issuer otherwise provides, the record date for interest payable on the first or fifteenth days of a month shall be the fifteenth day or the last business day of the preceding month, respectively, and for interest payable on other than the first or fifteenth days of a month, shall be the fifteenth calendar day before the interest payment date.

(5) Under a system pursuant to which both certificated and uncertificated registered public obligations are issued, both types of registered public obligations may be regularly issued, or one type may be regularly issued and the other type issued only under described circumstances or to particular described categories of owners and provision may be made for registration and release of security interests in registered public obligations.

(6) The system may include covenants of the issuer as to amendments, discontinuances, and reinstatements of the system and the effect of such on the exemption of interest from the income tax provided for by the Code.

(7) Whenever an issuer issues an uncertificated registered public obligation, the system of

registration may provide that, as long as the uncertified registered obligation remains outstanding and unpaid, a true copy of the official actions of the issuer relating to the uncertificated registered public obligation will be maintained by the issuer or by the person, if any, maintaining the system on behalf of the issuer. A copy of such official actions verified by an authorized officer is admissible before any court of record, administrative body, or arbitration panel without further authentication.

(8) Nothing in this act precludes conversion from one form of registered public obligation provided by this act to a form of obligation not provided by this act if interest on the converted obligation continues to be exempt from income taxation under the Code.

(9) Rights provided by other laws with respect to obligations in forms not provided by this act shall, to the extent not inconsistent with this act, apply with respect to registered public obligations issued in forms authorized by this act.

Section 8. Section 15A-2-103 is amended to read:

15A-2-103. Specific editions adopted of construction code of a nationally recognized code authority.

(1) Subject to the other provisions of this part, the following construction codes are incorporated by reference, and together with the amendments specified in Chapter 3, Part 3, Statewide Amendments to International Plumbing Code, and Chapter 4, Local Amendments Incorporated as Part of State Construction Code, are the construction standards to be applied to building construction, alteration, remodeling, and repair, and in the regulation of building construction, alteration, remodeling, and repair in the state:

(a) the 2012 edition of the International Building Code, including Appendix J, issued by the International Code Council;

(b) the 2012 edition of the International Residential Code, issued by the International Code Council;

(c) the 2012 edition of the International Plumbing Code, issued by the International Code Council;

(d) the 2012 edition of the International Mechanical Code, issued by the International Code Council;

(e) the 2012 edition of the International Fuel Gas Code, issued by the International Code Council;

(f) the 2011 edition of the National Electrical Code, issued by the National Fire Protection Association;

(g) the 2012 edition of the International Energy Conservation Code, issued by the International Code Council;

(h) subject to Subsection 15A-2-104(2), the HUD Code;

(i) subject to Subsection 15A-2-104(1), Appendix E of the 2012 edition of the International Residential Code, issued by the International Code Council; and

(j) subject to Subsection 15A-2-104(1), the 2005 edition of the NFPA 225 Model Manufactured Home Installation Standard, issued by the National Fire Protection Association.

(2) Consistent with Title 65A, Chapter 8, Management of Forest Lands and Fire Control, the Legislature adopts the 2006 edition of the Utah Wildland Urban Interface Code, issued by the International Code Council, with the alternatives or amendments approved by the Utah Division of Forestry, as a construction code that may be adopted by a local compliance agency by local ordinance or other similar action as a local amendment to the codes listed in this section.

Section 9. Section 16-6a-1701 is amended to read:

16-6a-1701. Application to existing domestic nonprofit corporations -- Reports of domestic and foreign nonprofit corporation.

(1) Except as otherwise provided in Section 16-6a-1704, this chapter applies to domestic nonprofit corporations as follows:

(a) domestic nonprofit corporations in existence on April 30, 2001, that were incorporated under any general statute of this state providing for incorporation of nonprofit corporations, including all nonprofit corporations organized under any former provisions of ~~this chapter~~ Title 16, Chapter 6;

(b) mutual irrigation, canal, ditch, reservoir, and water companies and water users' associations organized and existing under the laws of this state on April 30, 2001;

(c) corporations organized under the provisions of Title 16, Chapter 7, Corporations Sole, for purposes of applying all provisions relating to merger or consolidation; and

(d) to actions taken by the directors, officers, and members of the entities described in Subsections (1)(a), (b), and (c) after April 30, 2001.

(2) Domestic nonprofit corporations to which this chapter applies, that are organized and existing under the laws of this state on April 30, 2001:

(a) shall continue in existence with all the rights and privileges applicable to nonprofit corporations organized under this chapter; and

(b) from April 30, 2001 shall have all the rights and privileges and shall be subject to all the remedies, restrictions, liabilities, and duties prescribed in this chapter except as otherwise specifically provided in this chapter.

(3) Every existing domestic nonprofit corporation and foreign nonprofit corporation qualified to conduct affairs in this state on April 30, 2001 shall file an annual report with the division setting forth the information prescribed by Section 16-6a-1607.

The annual report shall be filed at such time as would have been required had this chapter not taken effect and shall be filed annually thereafter as required in Section 16-6a-1607.

Section 10. Section 17-53-301 is amended to read:

17-53-301. General powers, duties, and functions of county executive.

(1) The elected county executive is the chief executive officer of the county.

(2) ~~[Except] Each county executive shall exercise all executive powers, have all executive duties, and perform all executive functions of the county, including those enumerated in this part, except as expressly provided otherwise in statute and except as contrary to the powers, duties, and functions of other county officers expressly provided for in:~~

(a) Chapter 16, County Officers;

(b) Chapter 17, County Assessor;

(c) Chapter 18a, Powers and Duties of County and District Attorney; ~~[Chapter 19, County Auditor;]~~

(d) Chapter 19a, County Auditor;

(e) Chapter 20, County Clerk;

(f) Chapter 21, Recorder;

(g) Chapter 22, Sheriff;

(h) Chapter 23, County Surveyor; and

(i) Chapter 24, County Treasurer~~[, each county executive shall exercise all executive powers, have all executive duties, and perform all executive functions of the county, including those enumerated in this part].~~

(3) A county executive may take any action required by law and necessary to the full discharge of the executive's duties, even though the action is not expressly authorized in statute.

Section 11. Section 17B-2a-404 is amended to read:

17B-2a-404. Improvement district board of trustees.

(1) As used in this section:

(a) "County district" means an improvement district that does not include within its boundaries any territory of a municipality.

(b) "County member" means a member of a board of trustees of a county district.

(c) "Electric district" means an improvement district that was created for the purpose of providing electric service.

(d) "Included municipality" means a municipality whose boundaries are entirely contained within but do not coincide with the boundaries of an improvement district.

(e) "Municipal district" means an improvement district whose boundaries coincide with the boundaries of a single municipality.

(f) "Regular district" means an improvement district that is not a county district, electric district, or municipal district.

(g) "Remaining area" means the area of a regular district that:

(i) is outside the boundaries of an included municipality; and

(ii) includes the area of an included municipality whose legislative body elects, under Subsection [(4)] (5)(a)(ii), not to appoint a member to the board of trustees of the regular district.

(h) "Remaining area member" means a member of a board of trustees of a regular district who is appointed, or, if applicable, elected to represent the remaining area of the district.

(2) The legislative body of the municipality included within a municipal district may:

(a) elect, at the time of the creation of the district, to be the board of trustees of the district; and

(b) adopt at any time a resolution providing for:

(i) the election of board of trustees members, as provided in Section 17B-1-306; or

(ii) the appointment of board of trustees members, as provided in Section 17B-1-304.

(3) (a) The legislative body of a county whose unincorporated area is partly or completely within a county district may:

(i) elect, at the time of the creation of the district, to be the board of trustees of the district, even though a member of the legislative body of the county may not meet the requirements of Subsection 17B-1-302(1)(a);

(ii) adopt at any time a resolution providing for:

(A) the election of board of trustees members, as provided in Section 17B-1-306; or

(B) except as provided in Subsection (4), the appointment of board of trustees members, as provided in Section 17B-1-304; and

(iii) if the conditions of Subsection (3)(b) are met, appoint a member of the legislative body of the county to the board of trustees, except that the legislative body of the county may not appoint more than three members of the legislative body of the county to the board of trustees.

(b) A legislative body of a county whose unincorporated area is partly or completely within a county district may take an action under Subsection (3)(a)(iii) if:

(i) more than 35% of the residences within a county district that receive service from the district are seasonally occupied homes, as defined in Subsection 17B-1-302(1)(b)(i)(B);

(ii) the board of trustees are appointed by the legislative body of the county; and

(iii) there are at least two appointed board members who meet the requirements of Subsection 17B-1-302(1), except that a member of the legislative body of the county need not satisfy the requirements of Subsection 17B-1-302(1).

(4) Subject to Subsection (6)(d), the legislative body of a county may not adopt a resolution providing for the appointment of board of trustees members as provided in Subsection (3)(a)(ii)(B) at any time after the county district is governed by an elected board of trustees unless:

(a) the elected board has ceased to function;

(b) the terms of all of the elected board members have expired without the board having called an election; or

(c) the elected board of trustees unanimously adopts a resolution approving the change from an elected to an appointed board.

(5) (a) (i) Except as provided in Subsection (5)(a)(ii), the legislative body of each included municipality shall each appoint one member to the board of trustees of a regular district.

(ii) The legislative body of an included municipality may elect not to appoint a member to the board under Subsection (5)(a)(i).

(b) Except as provided in Subsection (6), the legislative body of each county whose boundaries include a remaining area shall appoint all other members to the board of trustees of a regular district.

(6) Notwithstanding Subsection (3), each remaining area member of a regular district and each county member of a county district shall be elected, as provided in Section 17B-1-306, if:

(a) the petition or resolution initiating the creation of the district provides for remaining area or county members to be elected;

(b) the district holds an election to approve the district's issuance of bonds;

(c) for a regular district, an included municipality elects, under Subsection (5)(a)(ii), not to appoint a member to the board of trustees; or

(d) (i) at least 90 days before the municipal general election or regular general election, as applicable, a petition is filed with the district's board of trustees requesting remaining area members or county members, as the case may be, to be elected; and

(ii) the petition is signed by registered voters within the remaining area or county district, as the case may be, equal in number to at least 10% of the number of registered voters within the remaining area or county district, respectively, who voted in the last gubernatorial election.

(7) Subject to Section 17B-1-302, the number of members of a board of trustees of a regular district shall be:

(a) the number of included municipalities within the district, if:

(i) the number is an odd number; and

(ii) the district does not include a remaining area;

(b) the number of included municipalities plus one, if the number of included municipalities within the district is even; and

(c) the number of included municipalities plus two, if:

(i) the number of included municipalities is odd; and

(ii) the district includes a remaining area.

(8) (a) Except as provided in Subsection (8)(b), each remaining area member of the board of trustees of a regular district shall reside within the remaining area.

(b) Notwithstanding Subsection (8)(a) and subject to Subsection (8)(c), each remaining area member shall be chosen from the district at large if:

(i) the population of the remaining area is less than 5% of the total district population; or

(ii) (A) the population of the remaining area is less than 50% of the total district population; and

(B) the majority of the members of the board of trustees are remaining area members.

(c) Application of Subsection (8)(b) may not prematurely shorten the term of any remaining area member serving the remaining area member's elected or appointed term on May 11, 2010.

(9) If the election of remaining area or county members of the board of trustees is required because of a bond election, as provided in Subsection ~~[(9)]~~ (6)(b):

(a) a person may file a declaration of candidacy if:

(i) the person resides within:

(A) the remaining area, for a regular district; or

(B) the county district, for a county district; and

(ii) otherwise qualifies as a candidate;

(b) the board of trustees shall, if required, provide a ballot separate from the bond election ballot, containing the names of candidates and blanks in which a voter may write additional names; and

(c) the election shall otherwise be governed by Title 20A, Election Code.

(10) (a) (i) This Subsection (10) applies to the board of trustees members of an electric district.

(ii) Subsections (2) through (9) do not apply to an electric district.

(b) The legislative body of the county in which an electric district is located may appoint the initial board of trustees of the electric district as provided in Section 17B-1-304.

(c) After the initial board of trustees is appointed as provided in Subsection (10)(b), each member of

the board of trustees of an electric district shall be elected by persons using electricity from and within the district.

(d) Each member of the board of trustees of an electric district shall be a user of electricity from the district and, if applicable, the division of the district from which elected.

(e) The board of trustees of an electric district may be elected from geographic divisions within the district.

(f) A municipality within an electric district is not entitled to automatic representation on the board of trustees.

Section 12. Section 17B-2a-405 is amended to read:

17B-2a-405. Board of trustees of certain sewer improvement districts.

(1) As used in this section:

(a) "Jurisdictional boundaries" means:

(i) for a qualified county, the boundaries that include:

(A) the area of the unincorporated part of the county that is included within a sewer improvement district; and

(B) the area of each nonappointing municipality that is included within the sewer improvement district; and

(ii) for a qualified municipality, the boundaries that include the area of the municipality that is included within a sewer improvement district.

(b) "Nonappointing municipality" means a municipality that:

(i) is partly included within a sewer improvement district; and

(ii) is not a qualified municipality.

(c) "Qualified county" means a county:

(i) some or all of whose unincorporated area is included within a sewer improvement district; or

(ii) which includes within its boundaries a nonappointing municipality.

(d) "Qualified county member" means a member of a board of trustees of a sewer improvement district appointed under Subsection (3)(a)(ii).

(e) "Qualified municipality" means a municipality that is partly or entirely included within a sewer improvement district that includes:

(i) all of the municipality that is capable of receiving sewage treatment service from the sewer improvement district; and

(ii) more than half of:

(A) the municipality's land area; or

(B) the assessed value of all private real property within the municipality.

(f) "Qualified municipality member" means a member of a board of trustees of a sewer improvement district appointed under Subsection (3)(a)(i).

(g) "Sewer improvement district" means an improvement district that:

(i) provides sewage collection, treatment, and disposal service; and

(ii) made an election before 1954 under Laws of Utah 1953, Chapter 29, to enable it to continue to appoint its board of trustees members as provided in this section.

(2) (a) Notwithstanding Section 17B-2a-404, the board of trustees members of a sewer improvement district shall be appointed as provided in this section.

(b) The board of trustees of a sewer improvement district may revoke the election under Subsection (1)(d)(~~iii~~) and become subject to the provisions of Section 17B-2a-404 only by the unanimous vote of all members of the sewer improvement district's board of trustees at a time when there is no vacancy on the board.

(3) (a) The board of trustees of each sewer improvement district shall consist of:

(i) at least one person but not more than three persons appointed by the mayor of each qualified municipality, with the consent of the legislative body of that municipality; and

(ii) at least one person but not more than three persons appointed by:

(A) the county executive, with the consent of the county legislative body, for a qualified county operating under a county executive-council form of county government; or

(B) the county legislative body, for each other qualified county.

(b) Each qualified county member appointed under Subsection (3)(a)(ii) shall represent the area within the jurisdictional boundaries of the qualified county.

(4) Notwithstanding Subsection 17B-1-302(2), the number of board of trustees members of a sewer improvement district shall be the number that results from application of Subsection (3)(a).

(5) Except as provided in this section, an appointment to the board of trustees of a sewer improvement district is governed by Section 17B-1-304.

(6) A quorum of a board of trustees of a sewer improvement district consists of members representing more than 50% of the total number of qualified county and qualified municipality votes under Subsection (7).

(7) (a) Subject to Subsection (7)(b), each qualified county and each qualified municipality is entitled to one vote on the board of trustees of a sewer improvement district for each \$10,000,000, or fractional part larger than 1/2 of that amount, of

assessed valuation of private real property taxable for district purposes within the respective jurisdictional boundaries, as shown by the assessment records of the county and evidenced by a certificate of the county auditor.

(b) Notwithstanding Subsection (7)(a), each qualified county and each qualified municipality shall have at least one vote.

(8) If a qualified county or qualified municipality appoints more than one board member, all the votes to which the qualified county or qualified municipality is entitled under Subsection (7) for an item of board business shall collectively be cast by a majority of the qualified county members or qualified municipal members, respectively, present at a meeting of the board of trustees.

Section 13. Section 17B-2a-1007 is amended to read:

17B-2a-1007. Contract assessments.

(1) As used in this section:

(a) "Assessed land" means:

(i) for a contract assessment under a water contract with a private water user, the land owned by the private water user that receives the beneficial use of water under the water contract; or

(ii) for a contract assessment under a water contract with a public water user, the land within the boundaries of the public water user that is within the boundaries of the water conservancy district and that receives the beneficial use of water under the water contract.

(b) "Contract assessment" means an assessment levied as provided in this section by a water conservancy district on assessed land.

(c) "Governing body" means:

(i) for a county, city, or town, the legislative body of the county, city, or town;

(ii) for a local district, the board of trustees of the local district;

(iii) for a special service district:

(A) the legislative body of the county, city, or town that established the special service district, if no administrative control board has been appointed under Section 17D-1-301; or

(B) the administrative control board of the special service district, if an administrative control board has been appointed under Section 17D-1-301; and

(iv) for any other political subdivision of the state, the person or body with authority to govern the affairs of the political subdivision.

(d) "Petitioner" means a private petitioner or a public petitioner.

(e) "Private petitioner" means an owner of land within a water conservancy district who submits a petition to a water conservancy district under Subsection (3) to enter into a water contract with the district.

(f) "Private water user" means an owner of land within a water conservancy district who enters into a water contract with the district.

(g) "Public petitioner" means a political subdivision of the state:

(i) whose territory is partly or entirely within the boundaries of a water conservancy district; and

(ii) that submits a petition to a water conservancy district under Subsection (3) to enter into a water contract with the district.

(h) "Public water user" means a political subdivision of the state:

(i) whose territory is partly or entirely within the boundaries of a water conservancy district; and

(ii) that enters into a water contract with the district.

(i) "Water contract" means a contract between a water conservancy district and a private water user or a public water user under which the water user purchases, leases, or otherwise acquires the beneficial use of water from the water conservancy district for the benefit of:

(i) land owned by the private water user; or

(ii) land within the public water user's boundaries that is also within the boundaries of the water conservancy district.

(j) "Water user" means a private water user or a public water user.

(2) A water conservancy district may levy a contract assessment as provided in this section.

(3) (a) The governing body of a public petitioner may authorize its chief executive officer to submit a written petition on behalf of the public petitioner to a water conservancy district requesting to enter into a water contract.

(b) A private petitioner may submit a written petition to a water conservancy district requesting to enter into a water contract.

(c) Each petition under this Subsection (3) shall include:

(i) the petitioner's name;

(ii) the quantity of water the petitioner desires to purchase or otherwise acquire;

(iii) a description of the land upon which the water will be used;

(iv) the price to be paid for the water;

(v) the amount of any service, turnout, connection, distribution system, or other charge to be paid;

(vi) whether payment will be made in cash or annual installments;

(vii) a provision requiring the contract assessment to become a lien on the land for which the water is petitioned and is to be allotted; and

(viii) an agreement that the petitioner is bound by the provisions of this part and the rules and

regulations of the water conservancy district board of trustees.

(4) (a) If the board of a water conservancy district desires to consider a petition submitted by a petitioner under Subsection (3), the board shall:

(i) publish notice of the petition and of the hearing required under Subsection (4)(a)(ii) at least once a week in two successive weeks in a newspaper of general circulation within the county in which the political subdivision or private petitioner's land, as the case may be, is located; and

(ii) hold a public hearing on the petition.

(b) Each notice under Subsection (4)(a)(i) shall:

(i) state that a petition has been filed and that the district is considering levying a contract assessment; and

(ii) give the date, time, and place of the hearing required under Subsection (4)(a)(ii).

(c) (i) At each hearing required under Subsection (4)(a)(ii), the board of trustees of the water conservancy district shall:

(A) allow any interested person to appear and explain why the petition should not be granted; and

(B) consider each written objection to the granting of the petition that the board receives before or at the hearing.

(ii) The board of trustees may adjourn and reconvene the hearing as the board considers appropriate.

(d) (i) Any interested person may file with the board of the water conservancy district, at or before the hearing under Subsection (4)(a)(ii), a written objection to the district's granting a petition.

(ii) Each person who fails to submit a written objection within the time provided under Subsection (4)(d)(i) is considered to have consented to the district's granting the petition and levying a contract assessment.

(5) After holding a public hearing as required under Subsection (4)(a)(ii), the board of trustees of a water conservancy district may:

(a) deny the petition; or

(b) grant the petition, if the board considers granting the petition to be in the best interests of the district.

(6) The board of a water conservancy district that grants a petition under this section may:

(a) make an allotment of water for the benefit of assessed land;

(b) authorize any necessary construction to provide for the use of water upon the terms and conditions stated in the water contract;

(c) divide the district into units and fix a different rate for water purchased or otherwise acquired and for other charges within each unit, if the rates and charges are equitable, although not equal and

uniform, for similar classes of services throughout the district; and

(d) levy a contract assessment on assessed land.

(7) (a) The board of trustees of each water conservancy district that levies a contract assessment under this section shall:

(i) cause a certified copy of the resolution, ordinance, or order levying the assessment to be recorded in the office of the recorder of each county in which assessed land is located; and

(ii) on or before July 1 of each year after levying the contract assessment, certify to the auditor of each county in which assessed land is located the amount of the contract assessment.

(b) Upon the recording of the resolution or ordinance under Subsection (7)(a)(i), the contract assessment associated with allotting water to the assessed land under the water contract becomes a perpetual lien on the assessed land.

(c) Each county in which assessed land is located shall collect the contract assessment in the same manner as taxes levied by the county.

(8) (a) The board of trustees of each water conservancy district that levies a contract assessment under this section shall:

(i) hold a public hearing, before August 8 of each year in which a contract assessment is levied, to hear and consider objections filed under Subsection (8)(b); and

(ii) twice publish a notice, at least a week apart:

(A) (I) in a newspaper of general circulation in each county with assessed land included within the district boundaries; or

(II) if there is no newspaper of general circulation within the county, in a newspaper of general circulation in an adjoining county;

(B) that contains:

(I) a general description of the assessed land;

(II) the amount of the contract assessment; and

(III) the time and place of the public hearing under Subsection (8)(a)(i).

(b) An owner of assessed land within the water conservancy district who believes that the contract assessment on the owner's land is excessive, erroneous, or illegal may, before the hearing under Subsection (8)(a)(i), file with the board of trustees a verified, written objection to the assessment, stating the grounds for the objection.

(c) (i) At each hearing under Subsection (8)(a)(i), the board of trustees shall hear and consider the evidence and arguments supporting each objection.

(ii) After hearing and considering the evidence and arguments supporting an objection, the board of trustees:

(A) shall enter a written order, stating its decision; and

(B) may modify the assessment.

(d) (i) An owner of assessed land may file a petition in district court seeking review of a board of trustees' order under Subsection (8)(c)~~(i)~~(ii)(A).

(ii) Each petition under Subsection (8)(d)(i) shall:

(A) be filed within 30 days after the board enters its written order;

(B) state specifically the part of the board's order for which review is sought; and

(C) be accompanied by a bond with good and sufficient security in an amount not exceeding \$200, as determined by the court clerk.

(iii) If more than one owner of assessed land seeks review, the court may, upon a showing that the reviews may be consolidated without injury to anyone's interests, consolidate the reviews and hear them together.

(iv) The court shall act as quickly as possible after a petition is filed.

(v) A court may not disturb a board of trustees' order unless the court finds that the contract assessment on the petitioner's assessed land is manifestly disproportionate to assessments imposed upon other land in the district.

(e) If no petition under Subsection (8)(d) is timely filed, the contract assessment is conclusively considered to have been made in proportion to the benefits conferred on the land in the district.

(9) Each resolution, ordinance, or order under which a water conservancy district levied a Class B, Class C, or Class D assessment before April 30, 2007 under the law in effect at the time of the levy is validated, ratified, and confirmed, and a water conservancy district may continue to levy the assessment according to the terms of the resolution, ordinance, or order.

(10) A contract assessment is not a levy of an ad valorem property tax and is not subject to the limits stated in Section 17B-2a-1006.

Section 14. Section 20A-1-103 is amended to read:

20A-1-103. Severability clause.

If any provision of [~~2014 General Session S.B. 54] Laws of Utah 2014, Chapter 17, or the application of any provision of [~~2014 General Session S.B. 54] Laws of Utah 2014, Chapter 17, to any person or circumstance is held invalid by a final decision of a court of competent jurisdiction, the remainder of [~~2014 General Session S.B. 54] Laws of Utah 2014, Chapter 17, shall be given effect without the invalid provision or application. The provisions of [~~2014 General Session S.B. 54] Laws of Utah 2014, Chapter 17, are severable.~~~~~~~~

Section 15. Section 20A-7-613 is amended to read:

20A-7-613. Property tax referendum petition.

(1) As used in this section:

(a) "Certified tax rate" is as defined in Subsection 59-2-924(3)(a).

(b) "Fiscal year taxing entity" means a taxing entity that operates under a fiscal year that begins on July 1 and ends on June 30.

(2) Except as provided in this section, the requirements of this part apply to a referendum petition challenging a fiscal year taxing entity's legislative body's vote to impose a tax rate that exceeds the certified tax rate.

(3) Notwithstanding Subsection 20A-7-604(5), the local clerk shall number each of the referendum packets and return them to the sponsors within two working days.

(4) Notwithstanding Subsection 20A-7-606(1), the sponsors shall deliver each signed and verified referendum packet to the county clerk of the county in which the packet was circulated no later than 40 days after the day on which the local clerk complies with Subsection (3).

(5) Notwithstanding Subsections 20A-7-606(2) and (3), the county clerk shall take the actions required in Subsections 20A-7-606(2) and (3) within 10 working days after the day on which the county clerk receives the signed and verified referendum packet as described in Subsection (4).

(6) The local clerk shall take the actions required by Section 20A-7-607 within two working days after the day on which the local clerk receives the referendum packets from the county clerk.

(7) Notwithstanding Subsection 20A-7-608(2), the local attorney shall prepare the ballot title within two working days after the day on which the referendum petition is declared sufficient for submission to a vote of the people.

(8) Notwithstanding Subsection 20A-7-609(2)~~(c)~~, a referendum that qualifies for the ballot under this section shall appear on the ballot for the earlier of the next regular general election or the next municipal general election unless a special election is called.

(9) Notwithstanding the requirements related to absentee ballots under this title:

(a) the election officer shall prepare absentee ballots for those voters who have requested an absentee ballot as soon as possible after the ballot title is prepared as described in Subsection (7); and

(b) the election officer shall mail absentee ballots on a referendum under this section the later of:

(i) the time provided in Section 20A-3-305 or 20A-16-403; or

(ii) the time that absentee ballots are prepared for mailing under this section.

(10) Section 20A-7-402 does not apply to a referendum described in this section.

(11) (a) If a majority of voters does not vote against imposing the tax at a rate calculated to generate the increased revenue budgeted, adopted,

and approved by the fiscal year taxing entity's legislative body:

(i) the certified tax rate for the fiscal year during which the referendum petition is filed is its most recent certified tax rate; and

(ii) the proposed increased revenues for purposes of establishing the certified tax rate for the fiscal year after the fiscal year described in Subsection (11)(a)(i) are the proposed increased revenues budgeted, adopted, and approved by the fiscal year taxing entity's legislative body before the filing of the referendum petition.

(b) If a majority of voters votes against imposing a tax at the rate established by the vote of the fiscal year taxing entity's legislative body, the certified tax rate for the fiscal year taxing entity is its most recent certified tax rate.

(c) If the tax rate is set in accordance with Subsection (11)(a)(ii), a fiscal year taxing entity is not required to comply with the notice and public hearing requirements of Section 59-2-919 if the fiscal year taxing entity complies with those notice and public hearing requirements before the referendum petition is filed.

(12) The ballot title shall, at a minimum, include in substantially this form the following: "Shall the [name of the taxing entity] be authorized to levy a tax rate in the amount sufficient to generate an increased property tax revenue of [amount] for fiscal year [year] as budgeted, adopted, and approved by the [name of the taxing entity]".

(13) A fiscal year taxing entity shall pay the county the costs incurred by the county that are directly related to meeting the requirements of this section and that the county would not have incurred but for compliance with this section.

(14) (a) An election officer shall include on a ballot a referendum that has not yet qualified for placement on the ballot, if:

(i) sponsors file an application for a referendum described in this section;

(ii) the ballot will be used for the election for which the sponsors are attempting to qualify the referendum; and

(iii) the deadline for qualifying the referendum for placement on the ballot occurs after the day on which the ballot will be printed.

(b) If an election officer includes on a ballot a referendum described in Subsection (14)(a), the ballot title shall comply with Subsection (12).

(c) If an election officer includes on a ballot a referendum described in Subsection (14)(a) that does not qualify for placement on the ballot, the election officer shall inform the voters by any practicable method that the referendum has not qualified for the ballot and that votes cast in relation to the referendum will not be counted.

Section 16. Section 23-25-2 is amended to read:

23-25-2. Adoption and text of compact.

(1) The participating states find that:

(a) Wildlife resources are managed in trust by the respective states for the benefit of all residents and visitors.

(b) The protection of the wildlife resources of a state is materially affected by the degree of compliance with state statutes, laws, regulations, ordinances, and administrative rules relating to the management of the resources.

(c) The preservation, protection, management, and restoration of wildlife contributes immeasurably to the aesthetic, recreational, and economic aspects of the natural resources.

(d) Wildlife resources are valuable without regard to political boundaries; therefore, every person should be required to comply with wildlife preservation, protection, management, and restoration laws, ordinances, and administrative rules and regulations of the participating states as a condition precedent to the continuance or issuance of any license to hunt, fish, trap, or possess wildlife.

(e) Violation of wildlife laws interferes with the management of wildlife resources and may endanger the safety of persons and property.

(f) The mobility of many wildlife law violators necessitates the maintenance of channels of communication among the various states.

(g) Usually, a person who is cited for a wildlife violation in a state other than his home state:

(i) is required to post collateral or bond to secure appearance for a trial at a later date; or

(ii) is taken directly into custody until collateral or bond is posted; or

(iii) is taken directly to court for an immediate appearance.

(h) The purpose of the enforcement practices set forth in Subsection (1)(g) [of this article] is to ensure compliance with the terms of a wildlife citation by the cited person who, if permitted to continue on his way after receiving the citation, could return to his home state and disregard his duty under the terms of the citation.

(i) In most instances, a person receiving a wildlife citation in his home state is permitted to accept the citation from the officer at the scene of the violation and immediately continue on his way after agreeing or being instructed to comply with the terms of the citation.

(j) The practices described in Subsection (1)(g) [of this article] cause unnecessary inconvenience and, at times, a hardship for the person who is unable at the time to post collateral, furnish a bond, stand trial, or pay a fine, and is compelled to remain in custody until some alternative arrangement is made.

(k) The enforcement practices described in Subsection (1)(g) [of this article] consume an undue amount of enforcement time.

(2) It is the policy of the participating states to:

(a) promote compliance with the statutes, laws, ordinances, regulations, and administrative rules relating to the management of wildlife resources in their respective states;

(b) recognize the suspension of wildlife license privileges of a person whose license privileges have been suspended by a participating state and treat the suspension as if it had occurred in their state;

(c) allow a violator, except as provided in Subsection 23-25-4(2), to accept a wildlife citation and, without delay, proceed on his way, whether or not the violator is a resident of the state in which the citation was issued, provided that the violator's home state is a party to this compact;

(d) report to the appropriate participating state, as provided in the compact manual, a conviction recorded against a person whose home state was not the issuing state;

(e) allow the home state to recognize and treat convictions recorded against its residents, which convictions occurred in a participating state, as though they had occurred in the home state;

(f) extend cooperation to its fullest extent among the participating states for enforcing compliance with the terms of a wildlife citation issued in one participating state to a resident of another state;

(g) maximize effective use of law enforcement personnel and information; and

(h) assist court systems in the efficient disposition of wildlife violations.

Section 17. Section 26-18-3.6 is amended to read:

26-18-3.6. Income and resources from institutionalized spouses.

(1) As used in this section:

(a) "Community spouse" means the spouse of an institutionalized spouse.

(b) (i) "Community spouse monthly income allowance" means an amount by which the minimum monthly maintenance needs allowance for the spouse exceeds the amount of monthly income otherwise available to the community spouse, determined without regard to the allowance, except as provided in Subsection (1)(b)(ii).

(ii) If a court has entered an order against an institutionalized spouse for monthly income for the support of the community spouse, the community spouse monthly income allowance for the spouse may not be less than the amount of the monthly income so ordered.

(c) "Community spouse resource allowance" is an amount by which the greatest of the following exceeds the amount of the resources otherwise available to the community spouse:

(i) \$15,804;

(ii) the lesser of the spousal share computed under Subsection (4) or \$76,740;

(iii) the amount established in a hearing held under Subsection (11); or

(iv) the amount transferred by court order under Subsection ~~[(11)]~~ (12)(c).

(d) "Excess shelter allowance" for a community spouse means the amount by which the sum of the spouse's expense for rent or mortgage payment, taxes, and insurance, and in the case of condominium or cooperative, required maintenance charge, for the community spouse's principal residence and the spouse's actual expenses for electricity, natural gas, and water utilities or, at the discretion of the department, the federal standard utility allowance under SNAP as defined in Section 35A-1-102, exceeds 30% of the amount described in Subsection (9).

(e) "Family member" means a minor dependent child, dependent parents, or dependent sibling of the institutionalized spouse or community spouse who are residing with the community spouse.

(f) (i) "Institutionalized spouse" means a person who is residing in a nursing facility and is married to a spouse who is not in a nursing facility.

(ii) An "institutionalized spouse" does not include a person who is not likely to reside in a nursing facility for at least 30 consecutive days.

(g) "Nursing care facility" is defined in Section 26-21-2.

(2) The division shall comply with this section when determining eligibility for medical assistance for an institutionalized spouse.

(3) For services furnished during a calendar year beginning on or after January 1, 1999, the dollar amounts specified in Subsections (1)(c)(i), (1)(c)(ii), and (10)(b) shall be increased by the division by the amount as determined annually by the federal ~~[Health Care Financing Administration]~~ Centers for Medicare and Medicaid Services.

(4) The division shall compute, as of the beginning of the first continuous period of institutionalization of the institutionalized spouse:

(a) the total value of the resources to the extent either the institutionalized spouse or the community spouse has an ownership interest; and

(b) a spousal share, which is 1/2 of the resources described in Subsection (4)(a).

(5) At the request of an institutionalized spouse or a community spouse, at the beginning of the first continuous period of institutionalization of the institutionalized spouse and upon the receipt of relevant documentation of resources, the division shall promptly assess and document the total value described in Subsection (4)(a) and shall provide a copy of that assessment and documentation to each spouse and shall retain a copy of the assessment. When the division provides a copy of the assessment, it shall include a notice stating that the spouse may request a hearing under Subsection (11).

(6) When determining eligibility for medical assistance under this chapter:

(a) Except as provided in Subsection (6)(b), all the resources held by either the institutionalized spouse, community spouse, or both, are considered to be available to the institutionalized spouse.

(b) Resources are considered to be available to the institutionalized spouse only to the extent that the amount of those resources exceeds the amounts specified in Subsections (1)(c)(i) through (iv) at the time of application for medical assistance under this chapter.

(7) The division may not find an institutionalized spouse to be ineligible for medical assistance by reason of resources determined under Subsection (5) to be available for the cost of care when:

(a) the institutionalized spouse has assigned to the state any rights to support from the community spouse;

(b) (i) except as provided in Subsection (7)(b)(ii), the institutionalized spouse lacks the ability to execute an assignment due to physical or mental impairment;

(ii) Subsection (7)(b)(i) does not prevent the division from seeking a court order seeking an assignment of support; or

(c) the division determines that denial of medical assistance would cause an undue burden.

(8) During the continuous period in which an institutionalized spouse is in an institution and after the month in which an institutionalized spouse is eligible for medical assistance, the resources of the community spouse may not be considered to be available to the institutionalized spouse.

(9) When an institutionalized spouse is determined to be eligible for medical assistance, in determining the amount of the spouse's income that is to be applied monthly for the cost of care in the nursing care facility, the division shall deduct from the spouse's monthly income the following amounts in the following order:

(a) a personal needs allowance, the amount of which is determined by the division;

(b) a community spouse monthly income allowance, but only to the extent that the income of the institutionalized spouse is made available to, or for the benefit of, the community spouse;

(c) a family allowance for each family member, equal to at least 1/3 of the amount that the amount described in Subsection (10)(a)(i) exceeds the amount of monthly income of that family member; and

(d) amounts for incurred expenses for the medical or remedial care for the institutionalized spouse.

(10) (a) Except as provided in Subsection (10)(b), the division shall establish a minimum monthly maintenance needs allowance for each community spouse which is not less than the sum of:

(i) 150% of the current poverty guideline for a two-person family unit that applies to this state as established by the United States Department of Health and Human Services; and

(ii) an excess shelter allowance.

(b) The amount provided in Subsection (10)(a) may not exceed \$1,976, unless a court order establishes a higher amount.

(11) (a) An institutionalized spouse or a community spouse may request a hearing with respect to the determinations described in Subsections (11)(e)(i) through (v) if an application for medical assistance has been made on behalf of the institutionalized spouse.

(b) A hearing under this subsection regarding the community spouse resource allowance shall be held by the division within 90 days from the date of the request for the hearing.

(c) If either spouse establishes that the community spouse needs income, above the level otherwise provided by the minimum monthly maintenance needs allowance, due to exceptional circumstances resulting in significant financial duress, there shall be substituted, for the minimum monthly maintenance needs allowance provided under Subsection (10), an amount adequate to provide additional income as is necessary.

(d) If either spouse establishes that the community spouse resource allowance, in relation to the amount of income generated by the allowance is inadequate to raise the community spouse's income to the minimum monthly maintenance needs allowance, there shall be substituted, for the community spouse resource allowance, an amount adequate to provide a minimum monthly maintenance needs allowance.

(e) A hearing may be held under this subsection if either the institutionalized spouse or community spouse is dissatisfied with a determination of:

(i) the community spouse monthly income allowance;

(ii) the amount of monthly income otherwise available to the community spouse;

(iii) the computation of the spousal share of resources under Subsection (4);

(iv) the attribution of resources under Subsection (6); or

(v) the determination of the community spouse resource allocation.

(12) (a) An institutionalized spouse may transfer an amount equal to the community spouse resource allowance, but only to the extent the resources of the institutionalized spouse are transferred to or for the sole benefit of the community spouse.

(b) The transfer under Subsection (12)(a) shall be made as soon as practicable after the date of the initial determination of eligibility, taking into account the time necessary to obtain a court order under Subsection (12)(c).

(c) Chapter 19, Medical Benefits Recovery Act, does not apply if a court has entered an order

against an institutionalized spouse for the support of the community spouse.

Section 18. Section 31A-8a-103 is amended to read:

31A-8a-103. Scope and purposes.

(1) A person shall comply with the provisions of this chapter if the person operates a health discount program in this state.

(2) Notwithstanding any provision in this title, a person who only operates or markets a health discount program is exempt from:

- (a) Section 31A-4-113;
- (b) Section 31A-4-113.5;
- (c) Chapter 6a, Service Contracts;
- (d) Chapter 7, Nonprofit Health Service Insurance Corporations;
- (e) Section 31A-8-209;
- (f) Section 31A-8-211;
- (g) Section 31A-8-214;
- (h) [~~Chapters 9 through~~] Chapter 9, Insurance Fraternal, Chapter 10, Annuities, Chapter 11, Motor Clubs, and Chapter 12, State Risk Management Fund;
- (i) [~~Chapters 17~~] Chapter 17, Determination of Financial Condition, and Chapter 18, Investments;
- (j) Chapter 19a, Utah Rate Regulation Act;
- (k) Sections 31A-23a-103 and 31A-23a-104;
- (l) [~~Chapters 25~~] Chapter 25, Third Party Administrators, and Chapter 26, Insurance Adjusters;
- (m) [~~Chapters 28~~] Chapter 28, Guaranty Associations, and Chapter 29, Comprehensive Health Insurance Pool Act; and
- (n) [~~Chapters 35 through~~] Chapter 35, Bail Bond Act, Chapter 36, Life Settlements Act, Chapter 37, Captive Insurance Companies Act, and Chapter 38, Federal Health Care Tax Credit Program Act.

(3) A person licensed under this title as an accident and health insurer or health maintenance organization:

(a) is not required to obtain a license as required by Section 31A-8a-201 to operate a health discount program; and

(b) is required to comply with all other provisions of this chapter.

(4) The purposes of this chapter include:

- (a) full disclosure in the sale of health discount programs;
- (b) reasonable regulation of the marketing and disclosure practices of health discount program operators; and

(c) licensing standards for health discount programs.

(5) Nothing in this chapter prohibits a health discount program operator from marketing a health discount program operator's own services without a health discount program marketer license.

Section 19. Section 31A-17-503 is amended to read:

31A-17-503. Actuarial opinion of reserves.

(1) This section becomes operative on December 31, 1993.

(2) General: Every life insurance company doing business in this state shall annually submit the opinion of a qualified actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified by the commissioner by rule are computed appropriately, are based on assumptions which satisfy contractual provisions, are consistent with prior reported amounts, and comply with applicable laws of this state. The commissioner by rule shall define the specifics of this opinion and add any other items considered to be necessary to its scope.

(3) Actuarial analysis of reserves and assets supporting reserves:

(a) Every life insurance company, except as exempted by or pursuant to rule, shall also annually include in the opinion required by Subsection (2), an opinion of the same qualified actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified by the commissioner by rule, when considered in light of the assets held by the company with respect to the reserves and related actuarial items, including the investment earnings on the assets and the considerations anticipated to be received and retained under the policies and contracts, make adequate provision for the company's obligations under the policies and contracts, including the benefits under the expenses associated with the policies and contracts.

(b) The commissioner may provide by rule for a transition period for establishing any higher reserves which the qualified actuary may consider necessary in order to render the opinion required by this section.

(4) Requirement for opinion under Subsection (3): Each opinion required by Subsection (3) shall be governed by the following provisions:

(a) A memorandum, in form and substance acceptable to the commissioner as specified by rule, shall be prepared to support each actuarial opinion.

(b) If the insurance company fails to provide a supporting memorandum at the request of the commissioner within a period specified by rule or the commissioner determines that the supporting memorandum provided by the insurance company fails to meet the standards prescribed by the rule or is otherwise unacceptable to the commissioner, the commissioner may engage a qualified actuary at the expense of the company to review the opinion and

the basis for the opinion and prepare such supporting memorandum as is required by the commissioner.

(5) Requirement for all opinions: Every opinion shall be governed by the following provisions:

(a) The opinion shall be submitted with the annual statement reflecting the valuation of the reserve liabilities for each year ending on or after December 31, 1993.

(b) The opinion shall apply to all business in force including individual and group health insurance plans, in form and substance acceptable to the commissioner as specified by rule.

(c) The opinion shall be based on standards adopted from time to time by the Actuarial Standards Board and on such additional standards as the commissioner may by rule prescribe.

(d) In the case of an opinion required to be submitted by a foreign or alien company, the commissioner may accept the opinion filed by that company with the insurance supervisory official of another state if the commissioner determines that the opinion reasonably meets the requirements applicable to a company domiciled in this state.

(e) For the purposes of this section, "qualified actuary" means a member in good standing of the American Academy of Actuaries who meets the requirements set forth by department rule.

(f) Except in cases of fraud or willful misconduct, the qualified actuary is not liable for damages to any person, other than the insurance company and the commissioner, for any act, error, omission, decision, or conduct with respect to the actuary's opinion.

(g) Disciplinary action by the commissioner against the company or the qualified actuary shall be defined in rules by the commissioner.

(h) (i) Any memorandum in support of the opinion, and any other material provided by the company to the commissioner in connection therewith, are considered protected records under Section 63G-2-305 and may not be made public and are not subject to subpoena under Subsection 63G-2-202(7), other than for the purpose of defending an action seeking damages from any person by reason of any action required by this section or rules promulgated under this section.

(ii) However, the memorandum or other material may otherwise be released by the commissioner:

(~~(i)~~) (A) with the written consent of the company; or

(~~(ii)~~) (B) to the American Academy of Actuaries upon request stating that the memorandum or other material is required for the purpose of professional disciplinary proceedings and setting forth procedures satisfactory to the commissioner for preserving the confidentiality of the memorandum or other material.

(iii) Once any portion of the confidential memorandum is cited in its marketing or is cited

before any governmental agency other than the department or is released to the news media, all portions of the memorandum are no longer confidential.

Section 20. Section 31A-17-512 is amended to read:

31A-17-512. Reserve calculation -- Indeterminate premium plans.

(~~(1)~~) In the case of any plan of life insurance which provides for future premium determination, the amounts of which are to be determined by the insurance company based on then estimates of future experience, or in the case of any plan of life insurance or annuity which is of such a nature that the minimum reserves cannot be determined by the methods described in Sections 31A-17-507, 31A-17-508, and 31A-17-511, the reserves which are held under any such plan shall:

(~~(a)~~) (1) be appropriate in relation to the benefits and the pattern of premiums for that plan; and

(~~(b)~~) (2) be computed by a method which is consistent with the principles of this part, as determined by rules promulgated by the commissioner.

Section 21. Section 31A-22-408 is amended to read:

31A-22-408. Standard Nonforfeiture Law for Life Insurance.

(1) This section is known as the "Standard Nonforfeiture Law for Life Insurance." It does not apply to group life insurance.

(2) In the case of policies issued on or after July 1, 1961, no policy of life insurance, except as stated in Subsection (8), may be delivered or issued for delivery in this state unless it contains in substance the following provisions, or corresponding provisions which in the opinion of the commissioner are at least as favorable to the defaulting or surrendering policyholder as are the minimum requirements hereinafter specified, and are essentially in compliance with Subsection (8):

(a) That, in the event of default in any premium payment, after premiums have been paid for at least one full year the company will grant, upon proper request not later than 60 days after the due date of the premium in default, a paid-up nonforfeiture benefit on a plan stipulated in the policy, effective as of such due date, of such amount as is specified in this section. In lieu of that stipulated paid-up nonforfeiture benefit, the company may substitute, upon proper request not later than 60 days after the due date of the premium in default, an actuarially equivalent alternative paid-up nonforfeiture benefit which provides a greater amount or longer period of death benefits or, if applicable, a greater amount or earlier payment of endowment benefits.

(b) That, upon surrender of the policy within 60 days after the due date of any premium payment in default after premiums have been paid for at least three full years in the case of ordinary insurance or five full years in the case of industrial insurance,

the company will pay, in lieu of any paid-up nonforfeiture benefit, a cash surrender value of such amount as is specified in this section.

(c) That a specified paid-up nonforfeiture benefit shall become effective as specified in the policy unless the person entitled to make such election elects another available option not later than 60 days after the due date of the premium in default.

(d) That, if the policy shall have been paid by the completion of all premium payments or if it is continued under any paid-up nonforfeiture benefit which became effective on or after the third policy anniversary in the case of ordinary insurance or the fifth policy anniversary in the case of industrial insurance, the company will pay upon surrender of the policy within 30 days after any policy anniversary, a cash surrender value in the amount specified in this section.

(e) In the case of policies which cause, on a basis guaranteed in the policy, unscheduled changes in benefits or premiums, or which provide an option for changes in benefits or premiums other than a change to a new policy, a statement of the mortality table, interest rate, and method used in calculating cash surrender values and the paid-up nonforfeiture benefits available under the policy. In the case of all other policies, a statement of the mortality table and interest rate used in calculating the cash surrender values and the paid-up nonforfeiture benefit, if any, available under the policy on each policy anniversary either during the first 20 policy years or during the term of the policy, whichever is shorter, such values and benefits to be calculated upon the assumption that there are no dividends or paid-up additions credited to the policy and that there is no indebtedness to the company on the policy.

(f) A statement that the cash surrender values and the paid-up nonforfeiture benefits available under the policy are not less than the minimum values and benefits required by or pursuant to the insurance law of the state in which the policy is delivered; an explanation of the manner in which the cash surrender values and the paid-up nonforfeiture benefits are altered by the existence of any paid-up additions credited to the policy or any indebtedness to the company on the policy; if a detailed statement of the method of computation of the values and benefits shown in the policy is not stated therein, a statement that such method of computation has been filed with the insurance supervisory official of the state in which the policy is delivered; and a statement of the method to be used in calculating the cash surrender value and paid-up nonforfeiture benefit available under the policy on any policy anniversary beyond the last anniversary for which such values and benefits are consecutively shown in the policy.

(g) Any of the foregoing provisions or portions thereof not applicable by reason of the plan of insurance may, to the extent inapplicable, be omitted from the policy.

(h) The company shall reserve the right to defer the payment of any cash surrender value for a

period of six months after demand therefor with surrender of the policy with the consent of the commissioner; provided, however, that the policy shall remain in full force and effect until the insurer has made the payment.

(3) (a) Any cash surrender value available under the policy in the event of default in a premium payment due on any policy anniversary, whether or not required by Subsection (2), shall be an amount not less than the excess, if any, of the present value, on such anniversary, of the future guaranteed benefits which would have been provided for by the policy, including any existing paid-up additions, if there had been no default, over the sum of:

(~~(a)~~) (i) the then present value of the adjusted premiums as defined in Subsections (5) and (6), corresponding to premiums which would have fallen due on and after such anniversary~~];~~ and

(~~(b)~~) (ii) the amount of any indebtedness to the company on the policy.

(b) Provided, however, that for any policy issued on or after the operative date of Subsection (6)(d) as defined therein, which provides supplemental life insurance or annuity benefits at the option of the insured and for an identifiable additional premium by rider or supplemental policy provision, the cash surrender value referred to in ~~[the first paragraph of this subsection]~~ Subsection (3)(a) shall be an amount not less than the sum of the cash surrender value as defined in ~~[such paragraph]~~ Subsection (3)(a) for an otherwise similar policy issued at the same age without such rider or supplemental policy provision and the cash surrender value as defined in ~~[such paragraph]~~ Subsection (3)(a) for a policy which provides only the benefits otherwise provided by such rider or supplemental policy provision.

(c) Provided, further, that for any family policy issued on or after the operative date of Subsection (6)(d) as defined therein, which defines a primary insured and provides term insurance on the life of the spouse of the primary insured expiring before the spouse's age 71, the cash surrender value referred to in ~~[the first paragraph of this subsection]~~ Subsection (3)(a) shall be an amount not less than the sum of the cash surrender value as defined in ~~[such paragraph]~~ Subsection (3)(a) for an otherwise similar policy issued at the same age without such term insurance on the life of the spouse and the cash surrender value as defined in ~~[such paragraph]~~ Subsection (3)(a) for a policy which provides only the benefits otherwise provided by such term insurance on the life of the spouse.

(d) Any cash surrender value available within 30 days after any policy anniversary under any policy paid-up by completion of all premium payments or any policy continued under any paid-up nonforfeiture benefit, whether or not required by Subsection (2) shall be an amount not less than the present value, on such anniversary, of the future guaranteed benefits provided for by the policy, including any existing paid-up additions, decreased by any indebtedness to the company on the policy.

(4) Any paid-up nonforfeiture benefit available under the policy in the event of default in a premium payment due on any policy anniversary shall be such that its present value as of such anniversary shall be at least equal to the cash surrender value then provided for by the policy or, if none is provided for, that cash surrender value which would have been required by this section in the absence of the condition that premiums shall have been paid for at least a specified period.

(5) (a) (i) This Subsection (5)(~~a~~) does not apply to policies issued on or after the operative date of Subsection (6)(d) as defined therein.

(ii) Except as provided in Subsection (5)(c), the adjusted premiums for any policy shall be calculated on an annual basis and shall be such uniform percentage of the respective premiums specified in the policy for each policy year, excluding any extra premiums charged because of impairments or special hazards, that the present value, at the date of issue of the policy, of all such adjusted premiums shall be equal to the sum of:

(~~iv~~) (A) the then present value of the future guaranteed benefits provided for by the policy;

(~~iii~~) (B) 2% of the amount of insurance, if the insurance be uniform in amount, or of the equivalent uniform amount if the amount of insurance varies with duration of the policy;

(~~iii~~) (C) 40% of the adjusted premium for the first policy year; and

(~~iv~~) (D) 25% of either the adjusted premium for the first policy year or the adjusted premium for a whole life policy of the same uniform or equivalent uniform amount with uniform premiums for the whole of life issued at the same age for the same amount of insurance, whichever is less.

(iii) Provided, however, that in applying the percentages specified in Subsections (5)(a)(~~iii~~)(ii)(C) and (~~iv~~) (D), no adjusted premium shall be considered to exceed 4% of the amount of insurance or uniform amount equivalent thereto. The date of issue of a policy for the purpose of this ~~section~~ Subsection (5) shall be the date as of which the rated age of the insured is determined.

(b) In the case of a policy providing an amount of insurance varying with duration of the policy, the equivalent uniform amount thereof for the purpose of this ~~section~~ Subsection (5) shall be considered to be the uniform amount of insurance provided by an otherwise similar policy, containing the same endowment benefit or benefits, if any, issued at the same age and for the same term, the amount of which does not vary with duration and the benefits under which have the same present value at the date of issue as the benefits under the policy; provided, however, that in the case of a policy providing a varying amount of insurance issued on the life of a child under age 10, the equivalent uniform amount may be computed as though the amount of insurance provided by the policy prior to the attainment of age 10 were the amount provided by such policy at age 10.

(c) (i) The adjusted premiums for any policy providing term insurance benefits by rider or supplemental policy provision shall be equal to the sum of:

(~~iv~~) (A) the adjusted premiums for an otherwise similar policy issued at the same age without such term insurance benefits, increased~~[r]~~; and

(B) during the period for which premiums for such term insurance benefits are payable, ~~[by (ii)]~~ the adjusted premiums for such term insurance~~[, the]~~.

(ii) The foregoing items [~~(i) and (ii) of this~~] (A) and (B) of Subsection (5)(c)(i) being calculated separately and as specified in Subsections (5)(a) and (b) except that, for the purposes of [~~(ii), (iii), and (iv)]~~ (B), (C), and (D) of Subsection (5)(a)(ii), the amount of insurance or equivalent uniform amount of insurance used in calculation of the adjusted premiums referred to in [~~(ii)]~~ (B) of [~~this~~] Subsection (5)(c)(i) shall be equal to the excess of the corresponding amount determined for the entire policy over the amount used in the calculation of the adjusted premiums in [~~(i)]~~ (A) of this Subsection (5)(c)(i).

(d) Except as otherwise provided in Subsection (6), all adjusted premiums and present values referred to in this section shall for all policies of ordinary insurance be calculated on the basis of the Commissioner's 1941 Standard Ordinary Mortality Table, provided that for any category of ordinary insurance issued on female risks, adjusted premiums and present values may be calculated according to an age not more than three years younger than the actual age of the insured and such calculations for all policies of industrial insurance shall be made on the basis of the 1941 Standard Industrial Mortality Table. All calculations shall be made on the basis of the rate of interest, not exceeding 3-1/2% per annum, specified in the policy for calculating cash surrender values and paid-up nonforfeiture benefits. Provided, however, that in calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than 130% of the rates of mortality according to such applicable table. Provided, further, that for insurance issued on a substandard basis, the calculation of any such adjusted premiums and present values may be based on such other table of mortality as may be specified by the company and approved by the commissioner.

(6) (a) This Subsection (6)(a) does not apply to ordinary policies issued on or after the operative date of Subsection (6)(d) as defined therein. In the case of ordinary policies issued on or after the operative date of Subsection (6)(a) as defined in Subsection (6)(b), all adjusted premiums and present values referred to in this section shall be calculated on the basis of the Commissioner's 1958 Standard Ordinary Mortality Table and the rate of interest as specified in the policy for calculating cash surrender values and paid-up nonforfeiture benefits, provided that such rate of interest may not exceed 3-1/2% per annum for policies issued before

June 1, 1973, 4% per annum for policies issued on or after May 31, 1973, and before April 2, 1980, and the rate of interest may not exceed 5-1/2% per annum for policies issued after April 2, 1980, except that for any single premium whole life or endowment insurance policy a rate of interest not exceeding 6-1/2% per annum may be used, and provided that for any category of ordinary insurance issued on female risks, adjusted premiums and present values may be calculated according to an age not more than six years younger than the actual age of the insured. Provided, however, that in calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than those shown in the Commissioner's 1958 Extended Term Insurance Table. Provided, further, that for insurance issued on a substandard basis, the calculation of any such adjusted premiums and present values may be based on such other table of mortality as may be specified by the company and approved by the commissioner.

(b) Any company may file with the commissioner a written notice of its election to comply with the provisions of Subsection (6)(a) after a specified date before January 1, 1966. After filing such notice, then upon such specified date, which is the operative date of Subsection (6)(a) for such company, this Subsection (6)(a) shall become operative with respect to the ordinary policies thereafter issued by such company. If a company makes no such election, the operative date of Subsection (6)(a) for such company is January 1, 1966.

(c) (i) This Subsection (6)(c) does not apply to industrial policies issued after the operative date of Subsection (6)(d) as defined therein. In the case of industrial policies issued on or after the operative date of this Subsection (6)(c) as defined herein, all adjusted premiums and present values referred to in this section shall be calculated on the basis of the Commissioner's 1961 Standard Industrial Mortality Table and the rate of interest specified in the policy for calculating cash surrender values and paid-up nonforfeiture benefits, provided that such rate of interest may not exceed 3-1/2% per annum for policies issued before June 1, 1973, 4% per annum for policies issued after May 31, 1973, and before April 2, 1980, and 5-1/2% per annum for policies issued after April 2, 1980, except that for any single premium whole life or endowment insurance policy issued after April 2, 1980, a rate of interest not exceeding 6-1/2% per annum may be used. Provided, however, that in calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than those shown in the Commissioner's 1961 Industrial Extended Term Insurance Table. Provided, further, that for insurance issued on a substandard basis, the calculation of any such adjusted premiums and present values may be based on such other table of mortality as may be specified by the company and approved by the commissioner.

(ii) Any company may file with the commissioner a written notice of its election to comply with the provisions of this Subsection (6)(c) after a specified date before January 1, 1968. After filing such notice, then upon that specified date, which is the operative date of this Subsection (6)(c) for such company, this Subsection (6)(c) shall become operative with respect to the industrial policies thereafter issued by such company. If a company makes no such election, the operative date of this Subsection (6)(c) for such company shall be January 1, 1968.

(d) (i) This Subsection (6)(d) applies to all policies issued on or after the operative date of this Subsection (6)(d) as defined herein. Except as provided in Subsection (6)(d)(vii), the adjusted premiums for any policy shall be calculated on an annual basis and shall be such uniform percentage of the respective premiums specified in the policy for each policy year, excluding amounts payable as extra premiums to cover impairments or special hazards and also excluding any uniform annual contract charge or policy fee specified in the policy in a statement of the method to be used in calculating the cash surrender values and paid-up nonforfeiture benefits, that the present value, at the date of issue of policy, of all adjusted premiums shall be equal to the sum of:

(A) the then present value of the future guaranteed benefits provided for by the policy;

(B) 1% of either the amount of insurance, if the insurance be uniform in amount, or the average amount of insurance at the beginning of each of the first 10 policy years; and

(C) 125% of the nonforfeiture net level premium as hereinafter defined. Provided, however, that in applying the percentage specified in (C), no nonforfeiture net level premium shall be considered to exceed 4% of either the amount of insurance, if the insurance be uniform in amount, or the average amount of insurance at the beginning of each of the first 10 policy years. The date of issue of a policy for the purpose of this Subsection (6)(d) shall be the date as of which the rated age of the insured is determined.

(ii) The nonforfeiture net level premium shall be equal to the present value, at the date of issue of the policy, of the guaranteed benefits provided for by the policy divided by the present value, at the date of issue of the policy, of an annuity of one per annum payable on the date of issue of the policy and on each anniversary of such policy on which a premium falls due.

(iii) In the case of policies which cause on a basis guaranteed in the policy unscheduled changes in benefits or premiums, or which provide an option for changes in benefits or premiums other than change to a new policy, the adjusted premiums and present values shall initially be calculated on the assumption that future benefits and premiums do not change from those stipulated at the date of issue of the policy. At the time of any such change in the benefits or premiums the future adjusted premiums, nonforfeiture net level premiums, and present values shall be recalculated on the

assumption that future benefits and premiums do not change from those stipulated by the policy immediately after the change.

(iv) Except as otherwise provided in Subsection (6)(d)(vii), the recalculated future adjusted premiums for any such policy shall be such uniform percentage of the respective future premiums specified in the policy for each policy year, excluding amounts specified in the policy for each policy year, excluding amounts payable as extra premiums to cover impairments and special hazards, and also excluding any uniform annual contract charge or policy fee specified in the policy in a statement of the method to be used in calculating the cash surrender values and paid-up nonforfeiture benefits, that the present value, at the time of change to the newly defined benefits or premiums, of all such future adjusted premiums shall be equal to the excess of:

(A) the sum of:

(I) the then present value of the then future guaranteed benefits provided for by the policy; and

(II) the additional expense allowance, if any[;]; over

(B) the then cash surrender value, if any, or present value of any paid-up nonforfeiture benefit under the policy.

(v) The additional expense allowance, at the time of the change to the newly defined benefits or premiums, shall be the sum of:

(A) 1% of the excess, if positive, of the average amount of insurance at the beginning of each of the first 10 policy years subsequent to the change over the average amount of insurance prior to the change at the beginning of each of the first 10 policy years subsequent to the time of the most recent previous change, or, if there has been no previous change, the date of issue of the policy; and

(B) 125% of the increase, if positive, in the nonforfeiture net level premium.

(vi) The recalculated nonforfeiture net level premium shall be equal to ~~the result obtained by dividing (A) by (B) where:~~

(A) ~~[equals]~~ the sum of:

(I) the nonforfeiture net level premium applicable prior to the change times the present value of an annuity of one per annum payable on each anniversary of the policy on or subsequent to the date of the change on which a premium would have fallen due had the change not occurred; and

(II) the present value of the increase in future guaranteed benefits provided for by the policy; ~~and~~ divided by

(B) ~~[equals]~~ the present value of an annuity of one per annum payable on each anniversary of the policy on or subsequent to the date of change on which a premium falls due.

(vii) Notwithstanding any other provision of this Subsection (6)(d) to the contrary, in the case of a policy issued on a substandard basis which provides

reduced graded amounts of insurance so that, in each policy year, such policy has the same tabular mortality cost as an otherwise similar policy issued on the standard basis which provides higher uniform amounts of insurance, adjusted premiums and present values for such substandard policy may be calculated as if it were issued to provide such higher uniform amounts of insurance on the standard basis.

(viii) All adjusted premiums and present values referred to in this section shall:

(A) for all policies of ordinary insurance be calculated on the basis of:

~~(A)~~ (I) the Commissioner's 1980 Standard Ordinary Mortality Table; or

~~(B)~~ (II) at the election of the company for any one or more specified plans of life insurance, the Commissioner's 1980 Standard Ordinary Mortality Table with Ten-Year Select Mortality Factors; ~~shall~~

(B) for all policies of industrial insurance be calculated on the basis of the Commissioner's 1961 Standard Industrial Mortality Table; and ~~shall~~

(C) for all policies issued in a particular calendar year be calculated on the basis of a rate of interest not exceeding the nonforfeiture interest rate as defined in ~~[this]~~ Subsection (6)(d)(x), for policies issued in that calendar year. ~~[Provided, however, that:]~~

(ix) Notwithstanding Subsection (6)(d)(viii):

~~(4)~~ (A) At the option of the company, calculations for all policies issued in a particular calendar year may be made on the basis of a rate of interest not exceeding the nonforfeiture interest rate, as defined in ~~[this]~~ Subsection (6)(d)(x), for policies issued in the immediately preceding calendar year.

~~(4)~~ (B) Under any paid-up nonforfeiture benefit, including any paid-up dividend additions, any cash surrender value available, whether or not required by Subsection (2), shall be calculated on the basis of the mortality table and rate of interest used in determining the amount of such paid-up nonforfeiture benefit and paid-up dividend additions, if any.

~~(4)~~ (C) A company may calculate the amount of any guaranteed paid-up nonforfeiture benefit, including paid-up additions under the policy, on the basis of an interest rate no lower than that specified in the policy for calculating cash surrender values.

~~(4)~~ (D) In calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than those shown in the Commissioner's 1980 Extended Term Insurance Table for policies of ordinary insurance and not more than the Commissioner's 1961 Industrial Extended Term Insurance Table for policies of industrial insurance.

~~(4)~~ (E) For insurance issued on a substandard basis, the calculation of any such adjusted

premiums and present values may be based on appropriate modifications of the aforementioned tables.

~~[(VI)]~~ (F) Any ordinary mortality tables, adopted after 1980 by the National Association of Insurance Commissioners, that are approved by rules adopted by the commissioner for use in determining the minimum nonforfeiture standard, may be substituted for the Commissioner's 1980 Standard Ordinary Mortality Table with or without Ten-Year Select Mortality Factors or for the Commissioner's 1980 Extended Term Insurance Table.

~~[(VII)]~~ (G) Any industrial mortality tables, adopted after 1980 by the National Association of Insurance Commissioners, that are approved by rules adopted by the commissioner for use in determining the minimum nonforfeiture standard may be substituted for the Commissioner's 1961 Industrial Extended Term Insurance Table.

~~[(ix)]~~ (x) The nonforfeiture interest rate per annum for any policy issued in a particular calendar year shall be equal to 125% of the calendar year statutory valuation interest rate for such policy as defined in the Standard Valuation Law, rounded to the nearest one-fourth of 1%.

~~[(x)]~~ (xi) Notwithstanding any other provision in this title to the contrary, any refiling of nonforfeiture values or their methods of computation for any previously approved policy form which involves only a change in the interest rate or mortality table used to compute nonforfeiture values does not require refiling of any other provisions of that policy form.

~~[(xi)]~~ (xii) After the effective date of this Subsection (6)(d), any company may, at any time before January 1, 1989, file with the commissioner a written notice of its election to comply with the provisions of this subsection with regard to any number of plans of insurance after a specified date before January 1, 1989, which specified date shall be the operative date of this Subsection (6)(d) for the plan or plans, but if a company elects to make the provisions of this subsection operative before January 1, 1989, for fewer than all plans, the company shall comply with rules adopted by the commissioner. There is no limit to the number of times this election may be made. If the company makes no such election, the operative date of this subsection for such company shall be January 1, 1989.

(7) In the case of any plan of life insurance which provides for future premium determination, the amounts of which are to be determined by the insurance company based on the estimates of future experience, or in the case of any plan of life insurance which is of such nature that minimum values cannot be determined by the methods described in Subsection (2), (3), (4), (5), (6)(a), (6)(b), (6)(c), or (6)(d) herein, then:

(a) the insurer shall demonstrate to the satisfaction of the commissioner that the benefits provided under the plan are substantially as

favorable to policyholders and insureds as the minimum benefits otherwise required by Subsection (2), (3), (4), (5), (6)(a), (6)(b), (6)(c), or (6)(d);

(b) the plan of life insurance shall satisfy the commissioner that the benefits and the pattern of premiums of that plan are not such as to mislead prospective policyholders or insureds; and

(c) the cash surrender values and paid-up nonforfeiture benefits provided by the plan may not be less than the minimum values and benefits required for the plan computed by a method consistent with the principles of this Standard Nonforfeiture Law for Life Insurance, as determined by rules adopted by the commissioner.

(8) (a) (i) Any cash surrender value and any paid-up nonforfeiture benefit, available under the policy in the event of default in a premium payment due at any time other than on the policy anniversary, shall be calculated with allowance for the lapse of time and the payment of fractional premiums beyond the last preceding policy anniversary.

(ii) All values referred to in Subsections (3), (4), (5), and (6) ~~[of this section]~~ may be calculated upon the assumption that any death benefit is payable at the end of the policy year of death.

(iii) The net value of any paid-up additions, other than paid-up term additions, may not be less than the amounts used to provide such additions.

(b) Notwithstanding the provisions of Subsection (3), additional benefits specified in Subsection (8)(c) and premiums for all such additional benefits shall be disregarded in ascertaining cash surrender values and nonforfeiture benefits required by this section, and no such additional benefits shall be required to be included in any paid-up nonforfeiture benefits.

(c) Additional benefits referred to in Subsection (8)(b) include benefits payable:

~~[(a)]~~ (i) in the event of death or dismemberment by accident or accidental means_[,];

~~[(b)]~~ (ii) in the event of total and permanent disability_[,];

~~[(c)]~~ (iii) as reversionary annuity or deferred reversionary annuity benefits_[,];

~~[(d)]~~ (iv) as term insurance benefits provided by a rider or supplemental policy provision to which, if issued as a separate policy, this section would not apply_[,];

~~[(e)]~~ (v) as term insurance on the life of a child or on the lives of children provided in a policy on the life of a parent of the child, if such term insurance expires before the child's age is 26, if uniform in amount after the child's age is one, and has not become paid-up by reason of the death of a parent of the child_[,]; and

~~[(f)]~~ (vi) as other policy benefits additional to life insurance endowment benefits_[,] ~~and premiums for all such additional benefits, shall be disregarded in~~

~~ascertaining cash surrender values and nonforfeiture benefits required by this section, and no such additional benefits shall be required to be included in any paid-up nonforfeiture benefits).~~

(9) (a) This Subsection (9), in addition to all other applicable subsections of this section, applies to all policies issued on or after January 1, 1985. Any cash surrender value available under the policy in the event of default in a premium payment due on any policy anniversary shall be in an amount which does not differ by more than 2/10 of 1% of either the amount of insurance, if the insurance be uniform in amount, or the average amount of insurance at the beginning of each of the first 10 policy years, from the sum of:

~~(a)~~ (i) the greater of zero and the basic cash value hereinafter specified~~];~~ and

~~(b)~~ (ii) the present value of any existing paid-up additions less the amount of any indebtedness to the company under the policy.

(b) The basic cash value shall be equal to the present value, on such anniversary of the future guaranteed benefits which would have been provided for by the policy, excluding any existing paid-up additions and before deduction of any indebtedness to the company, if there had been no default, less the then present value of the nonforfeiture factors, as hereinafter defined, corresponding to premiums which would have fallen due on and after such anniversary. Provided, however, that the effects on the basic cash value of supplemental life insurance or annuity benefits or of family coverage, as described in Subsection (3) or (5), whichever is applicable, shall be the same as are the effects specified in Subsection (3) or (5), whichever is applicable, on the cash surrender values defined in that subsection.

(c) The nonforfeiture factor for each policy year shall be an amount equal to a percentage of the adjusted premium for the policy year, as defined in Subsection (5) or (6)(d), whichever is applicable. Except as is required by the next succeeding sentence of this paragraph, such percentage:

~~(a)~~ (i) shall be the same percentage for each policy year between the second policy anniversary and the later of:

~~(A)~~ (A) the fifth policy anniversary; and

~~(B)~~ (B) the first policy anniversary at which there is available under the policy a cash surrender value in an amount, before including any paid-up additions and before deducting any indebtedness, of at least 2/10 of 1% of either the amount of insurance, if the insurance be uniform in amount, or the average amount of insurance at the beginning of each of the first 10 policy years; and

~~(ii)~~ (ii) shall be such that no percentage after the later of the two policy anniversaries specified in Subsection (9)(a) may apply to fewer than five consecutive policy years.

(d) Provided, that no basic cash value may be less than the value which would be obtained if the

adjusted premiums for the policy, as defined in Subsection (5) or Subsection (6)(d), whichever is applicable, were substituted for the nonforfeiture factors in the calculation of the basic value.

(e) All adjusted premiums and present values referred to in this Subsection (9) shall for a particular policy be calculated on the same mortality and interest bases as are used in demonstrating the policy's compliance with the other subsections of this nonforfeiture law. The cash surrender values referred to in this Subsection (9) shall include any endowment benefits provided for by the policy.

(f) Any cash surrender value available other than in the event of default in a premium payment due on a policy anniversary, and the amount of any paid-up nonforfeiture benefit available under the policy in the event of default in a premium payment shall be determined in manners consistent with the manners specified for determining the analogous minimum amounts in Subsections (2), (3), (4), (5), (6), and (8). The amounts of any cash surrender values and of any paid-up nonforfeiture benefits granted in connection with additional benefits such as those listed as Subsections (8)(a) through (f) shall conform with the principles of this Subsection (9).

(10) (a) This section does not apply to any of the following:

~~(i)~~ (i) reinsurance;

~~(ii)~~ (ii) group insurance;

~~(iii)~~ (iii) pure endowment;

~~(iv)~~ (iv) an annuity or reversionary annuity contract;

~~(v)~~ (v) a term policy of uniform amount, which provides no guaranteed nonforfeiture or endowment benefits, or renewal thereof, of 20 years or less expiring before age 71, for which uniform premiums are payable during the entire term of the policy;

~~(vi)~~ (vi) a term policy of decreasing amount, which provides no guaranteed nonforfeiture or endowment benefits, on which each adjusted premium, calculated as specified in Subsections (5) and (6), is less than the adjusted premium so calculated, on a term policy of uniform amount, or renewal thereof, which provides no guaranteed nonforfeiture or endowment benefits, issued at the same age and for the same initial amount of insurance, and for a term of 20 years or less expiring before age 71, for which uniform premiums are payable during the entire term of the policy;

~~(vii)~~ (vii) a policy, which provides no guaranteed nonforfeiture or endowment benefits, for which no cash surrender value, if any, or present value of any paid-up nonforfeiture benefit, at the beginning of any policy year, calculated as specified in Subsections (3), (4), (5), and (6) exceeds 2-1/2% of the amount of insurance at the beginning of the same policy year; or

~~(viii)~~ (viii) a policy which shall be delivered outside this state through an agent or other representative of the company issuing the policy.

(b) For purposes of determining the applicability of this section, the age of expiry for a joint term insurance policy shall be the age of expiry of the oldest life.

(11) The commissioner may adopt rules interpreting, describing, and clarifying the application of this nonforfeiture law to any form of life insurance for which the interpretation, description, or clarification is considered necessary by the commissioner, including unusual and new forms of life insurance.

Section 22. Section 31A-22-626 is amended to read:

31A-22-626. Coverage of diabetes.

(1) As used in this section, "diabetes" includes individuals with:

- (a) complete insulin deficiency or type 1 diabetes;
- (b) insulin resistant with partial insulin deficiency or type 2 diabetes; and
- (c) elevated blood glucose levels induced by pregnancy or gestational diabetes.

(2) The commissioner shall establish, by rule, minimum standards of coverage for diabetes for accident and health insurance policies that provide a health insurance benefit before July 1, 2000.

(3) In making rules under Subsection (2), the commissioner shall require rules:

(a) with durational limits, amount limits, deductibles, and coinsurance for the treatment of diabetes equitable or identical to coverage provided for the treatment of other illnesses or diseases; and

(b) that provide coverage for:

(i) diabetes self-management training and patient management, including medical nutrition therapy as defined by rule, provided by an accredited or certified program and referred by an attending physician within the plan and consistent with the health plan provisions for self-management education:

(A) recognized by the federal [~~Health Care Financing Administration~~ Centers for Medicare and Medicaid Services]; or

(B) certified by the Department of Health; and

(ii) the following equipment, supplies, and appliances to treat diabetes when medically necessary:

(A) blood glucose monitors, including those for the legally blind;

(B) test strips for blood glucose monitors;

(C) visual reading urine and ketone strips;

(D) lancets and lancet devices;

(E) insulin;

(F) injection aides, including those adaptable to meet the needs of the legally blind, and infusion delivery systems;

(G) syringes;

(H) prescriptive oral agents for controlling blood glucose levels; and

(I) glucagon kits.

Section 23. Section 31A-22-640 is amended to read:

31A-22-640. Insurer and pharmacy benefit management services -- Registration -- Maximum allowable cost -- Audit restrictions.

(1) For purposes of this section:

(a) "Maximum allowable cost" means:

(i) a maximum reimbursement amount for a group of pharmaceutically and therapeutically equivalent drugs; or

(ii) any similar reimbursement amount that is used by a pharmacy benefit manager to reimburse pharmacies for multiple source drugs.

(b) "Obsolete" means a product that may be listed in national drug pricing compendia but is no longer available to be dispensed based on the expiration date of the last lot manufactured.

(c) "Pharmacy benefit manager" means a person or entity that provides pharmacy benefit management services as defined in Section 49-20-502 on behalf of an insurer as defined in Subsection 31A-22-636(1).

(2) An insurer and an insurer's pharmacy benefit manager is subject to the pharmacy audit provisions of Section 58-17b-622.

(3) A pharmacy benefit manager shall not use maximum allowable cost as a basis for reimbursement to a pharmacy unless:

(a) the drug is listed as "A" or "B" rated in the most recent version of the United States Food and Drug Administration's approved drug products with therapeutic equivalent evaluations, also known as the "Orange Book," or has an "NR" or "NA" rating or similar rating by a nationally recognized reference; and

(b) the drug is:

(i) generally available for purchase in this state from a national or regional wholesaler; and

(ii) not obsolete.

(4) The maximum allowable cost may be determined using comparable and current data on drug prices obtained from multiple nationally recognized, comprehensive data sources, including wholesalers, drug file vendors, and pharmaceutical manufacturers for drugs that are available for purchase by pharmacies in the state.

(5) For every drug for which the pharmacy benefit manager uses maximum allowable cost to

reimburse a contracted pharmacy, the pharmacy benefit manager shall:

(a) include in the contract with the pharmacy information identifying the national drug pricing compendia and other data sources used to obtain the drug price data;

(b) review and make necessary adjustments to the maximum allowable cost, using the most recent data sources identified in Subsection (5)(a)(~~4~~), at least once per week;

(c) provide a process for the contracted pharmacy to appeal the maximum allowable cost in accordance with Subsection (6); and

(d) include in each contract with a contracted pharmacy a process to obtain an update to the pharmacy product pricing files used to reimburse the pharmacy in a format that is readily available and accessible.

(6) (a) The right to appeal in Subsection (5)(~~4~~)(c) shall be:

(i) limited to 21 days following the initial claim adjudication; and

(ii) investigated and resolved by the pharmacy benefit manager within 14 business days.

(b) If an appeal is denied, the pharmacy benefit manager shall provide the contracted pharmacy with the reason for the denial and the identification of the national drug code of the drug that may be purchased by the pharmacy at a price at or below the price determined by the pharmacy benefit manager.

(7) The contract with each pharmacy shall contain a dispute resolution mechanism in the event either party breaches the terms or conditions of the contract.

(8) (a) To conduct business in the state, a pharmacy benefit manager shall register with the Division of Corporations and Commercial Code within the Department of Commerce and annually renew the registration. To register under this section, the pharmacy benefit manager shall submit an application which shall contain only the following information:

(i) the name of the pharmacy benefit manager;

(ii) the name and contact information for the registered agent for the pharmacy benefit manager; and

(iii) if applicable, the federal employer identification number for the pharmacy benefit manager.

(b) The Department of Commerce may establish a fee in accordance with Title 63J, Chapter 1, Budgetary Procedures Act, for the initial registration and the annual renewal of the registration, which may not exceed \$100 per year.

(c) The following entities do not have to register as a pharmacy benefit manager under Subsection (8)(a) when the entity is providing formulary

services to its own patients, employees, members, or beneficiaries:

(i) a health care facility licensed under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act;

(ii) a pharmacy licensed under Title 58, Chapter 17b, Pharmacy Practice Act;

(iii) a health care professional licensed under Title 58, Occupations and Professions;

(iv) a health insurer; and

(v) a labor union.

(9) This section does not apply to a pharmacy benefit manager when the pharmacy benefit manager is providing pharmacy benefit management services on behalf of the state Medicaid program.

Section 24. Section 32B-3-201 is amended to read:

32B-3-201. Nature of adjudicative proceedings under title.

(1) An adjudicative proceeding under this title, including a disciplinary proceeding, is a civil action, notwithstanding whether at issue in the adjudicative proceeding is a violation of statute that can be prosecuted criminally.

(2) Unless specifically adopted in this title, a procedure or ~~principal~~ principle that is applicable to a criminal proceeding does not apply to an adjudicative proceeding permitted under this title including:

(a) Title 76, Chapter 1, General Provisions;

(b) Title 76, Chapter 2, Principles of Criminal Responsibility;

(c) Title 76, Chapter 3, Punishments; and

(d) Title 76, Chapter 4, Inchoate Offenses.

(3) (a) The burden of proof in an adjudicative proceeding under this title is by a preponderance of the evidence.

(b) If the subject of an adjudicative proceeding under this title asserts an affirmative defense, the subject has the burden of proof to establish the affirmative defense by the preponderance of the evidence.

(4) In an adjudicative proceeding under this title, to find a violation of this title the commission:

(a) is required to determine whether the conduct that constitutes the violation occurred; and

(b) is not required to make a finding of knowledge or intent unless knowledge or intent is expressly made an element of the violation by statute.

Section 25. Section 32B-8-102 is amended to read:

32B-8-102. Definitions.

As used in this chapter:

(1) "Boundary of a resort building" means the physical boundary of the land reasonably related to a resort building and any structure or improvement to that land as determined by the commission.

(2) "Dwelling" means a portion of a resort building:

(a) owned by one or more individuals;

(b) that is used or designated for use as a residence by one or more persons; and

(c) that may be rented, loaned, leased, or hired out for a period of no longer than 30 consecutive days by a person who uses it for a residence.

(3) "Engaged in the management of the resort" may be defined by the commission by rule.

(4) "Invitee" means an individual who in accordance with Subsection 32B-8-304(12) is authorized to use a resort spa by a host who is:

(a) a resident; or

(b) a public customer.

(5) "Provisions applicable to a sublicense" means:

(a) for a full-service restaurant sublicense, Chapter 6, Part 2, Full-service Restaurant License;

(b) for a limited-service restaurant sublicense, Chapter 6, Part 3, Limited-service Restaurant License;

(c) for a club sublicense, Chapter 6, Part 4, Club License;

(d) for an on-premise banquet sublicense, Chapter 6, Part 6, On-premise Banquet License;

(e) for an on-premise beer retailer sublicense, Chapter 6, Part 7, On-premise Beer Retailer License; and

(f) for a resort spa sublicense, Part 3, Resort Spa Sublicense.

(6) "Public customer" means an individual who holds a customer card in accordance with Subsection 32B-8-304(~~13~~)(12).

(7) "Resident" means an individual who:

(a) owns a dwelling located within a resort building; or

(b) rents lodging accommodations for 30 consecutive days or less from:

(i) an owner of a dwelling described in Subsection (7)(a); or

(ii) the resort licensee.

(8) "Resort" means a location:

(a) on which is located one resort building; and

(b) that is affiliated with a ski area that physically touches the boundary of the resort building.

(9) "Resort building" means a building:

(a) that is primarily operated to provide dwellings or lodging accommodations;

(b) that has at least 150 units that consist of a dwelling or lodging accommodations;

(c) that consists of at least 400,000 square feet:

(i) including only the building itself; and

(ii) not including areas such as above ground surface parking; and

(d) of which at least 50% of the units described in Subsection (9)(b) consist of dwellings owned by a person other than the resort licensee.

(10) "Resort spa" means a spa, as defined by rule by the commission, that is within the boundary of a resort building.

(11) "Sublicense" means:

(a) a full-service restaurant sublicense;

(b) a limited-service restaurant sublicense;

(c) a club sublicense;

(d) an on-premise banquet sublicense;

(e) an on-premise beer retailer sublicense; and

(f) a resort spa sublicense.

(12) "Sublicense premises" means a building, enclosure, or room used pursuant to a sublicense in connection with the storage, sale, furnishing, or consumption of an alcoholic product, unless otherwise defined in this title or in the rules made by the commission.

Section 26. Section 34-48-202 is amended to read:

34-48-202. Permitted actions by an employer.

(1) This chapter does not prohibit an employer from doing any of the following:

(a) requesting or requiring an employee to disclose a username or password required only to gain access to the following:

(i) an electronic communications device supplied by or paid for in whole or in part by the employer; or

(ii) an account or service provided by the employer, obtained by virtue of the employee's employment relationship with the employer, and used for the employer's business purposes;

(b) disciplining or discharging an employee for transferring the employer's proprietary or confidential information or financial data to an employee's personal Internet account without the employer's authorization;

(c) conducting an investigation or requiring an employee to cooperate in an investigation in any of the following:

(i) if there is specific information about activity on the employee's personal Internet account, for the purpose of ensuring compliance with applicable laws, regulatory requirements, or prohibitions against work-related employee misconduct; or

(ii) if the employer has specific information about an unauthorized transfer of the employer's

proprietary information, confidential information, or financial data to an employee's personal Internet account;

(d) restricting or prohibiting an employee's access to certain websites while using an electronic communications device supplied by, or paid for in whole or in part by, the employer or while using an employer's network or resources, in accordance with state and federal law; or

(e) monitoring, reviewing, accessing, or blocking electronic data stored on an electronic communications device supplied by, or paid for in whole or in part by, the employer, or stored on an employer's network, in accordance with state and federal law.

(2) Conducting an investigation or requiring an employee to cooperate in an investigation as specified in Subsection (1)(c) includes requiring the employee to share the content that has been reported in order to make a factual determination.

(3) This chapter does not prohibit or restrict an employer from complying with a duty to screen employees or applicants before hiring or to monitor or retain employee communications that is established under federal law, by a self-regulatory organization under the Securities and Exchange Act of 1934, 15 U.S.C. Sec. 78c(a)(26), or in the course of a law enforcement employment application or law enforcement officer conduct investigation performed by a law enforcement agency.

(4) This chapter does not prohibit or restrict an employer from viewing, accessing, or using information about an employee or applicant that can be obtained without the information described in Subsection ~~[34A-48-201]~~ 34-48-201(1) or that is available in the public domain.

Section 27. Section 34A-2-111 is amended to read:

34A-2-111. Managed health care programs -- Other safety programs.

(1) As used in this section:

(a) (i) "Health care provider" means a person who furnishes treatment or care to persons who have suffered bodily injury.

(ii) "Health care provider" includes:

- (A) a hospital;
- (B) a clinic;
- (C) an emergency care center;
- (D) a physician;
- (E) a nurse;
- (F) a nurse practitioner;
- (G) a physician's assistant;
- (H) a paramedic; or
- (I) an emergency medical technician.

(b) "Physician" means any health care provider licensed under:

(i) Title 58, Chapter 5a, Podiatric Physician Licensing Act;

(ii) Title 58, Chapter 24b, Physical Therapy Practice Act;

(iii) Title 58, Chapter 67, Utah Medical Practice Act;

(iv) Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;

(v) Title 58, Chapter 69, Dentist and Dental Hygienist Practice Act;

(vi) Title 58, Chapter 70a, Physician Assistant Act;

(vii) Title 58, Chapter 71, Naturopathic Physician Practice Act;

(viii) Title 58, Chapter 72, Acupuncture Licensing Act;

(ix) Title 58, Chapter 73, Chiropractic Physician Practice Act; and

(x) Title 58, Chapter 31b, Nurse Practice Act, as an advanced practice registered nurse.

(c) "Preferred health care facility" means a facility:

(i) that is a health care facility as defined in Section 26-21-2; and

(ii) designated under a managed health care program.

(d) "Preferred provider physician" means a physician designated under a managed health care program.

(e) "Self-insured employer" is as defined in Section 34A-2-201.5.

(2) (a) A self-insured employer and insurance carrier may adopt a managed health care program to provide employees the benefits of this chapter or Chapter 3, Utah Occupational Disease Act, beginning January 1, 1993. The plan shall comply with this Subsection (2).

(b) (i) A preferred provider program may be developed if the preferred provider program allows a selection by the employee of more than one physician in the health care specialty required for treating the specific problem of an industrial patient.

(ii) (A) Subject to the requirements of this section, if a preferred provider program is developed by an insurance carrier or self-insured employer, an employee is required to use:

- (I) preferred provider physicians; and
- (II) preferred health care facilities.

(B) If a preferred provider program is not developed, an employee may have free choice of health care providers.

(iii) The failure to do the following may, if the employee has been notified of the preferred

provider program, result in the employee being obligated for any charges in excess of the preferred provider allowances:

- (A) use a preferred health care facility; or
 - (B) initially receive treatment from a preferred provider physician.
- (iv) Notwithstanding the requirements of Subsections (2)(b)(i) through (iii), a self-insured employer or other employer may:
- (A) (I) (Aa) have its own health care facility on or near its worksite or premises; and
 - (Bb) continue to contract with other health care providers; or
 - (II) operate a health care facility; and
 - (B) require employees to first seek treatment at the provided health care or contracted facility.
 - (v) An employee subject to a preferred provider program or employed by an employer having its own health care facility may procure the services of any qualified health care provider:
 - (A) for emergency treatment, if a physician employed in the preferred provider program or at the health care facility is not available for any reason;
 - (B) for conditions the employee in good faith believes are nonindustrial; or
 - (C) when an employee living in a rural area would be unduly burdened by traveling to:
 - (I) a preferred provider physician; or
 - (II) a preferred health care facility.
 - (c) (i) (A) An employer, insurance carrier, or self-insured employer may enter into contracts with the following for the purposes listed in Subsection (2)(c)(i)(B):
 - (I) health care providers;
 - (II) medical review organizations; or
 - (III) vendors of medical goods, services, and supplies including medicines.
 - (B) A contract described in Subsection [(1)] (2)(c)(i)(A) may be made for the following purposes:
 - (I) insurance carriers or self-insured employers may form groups in contracting for managed health care services with health care providers;
 - (II) peer review;
 - (III) methods of utilization review;
 - (IV) use of case management;
 - (V) bill audit;
 - (VI) discounted purchasing; and
 - (VII) the establishment of a reasonable health care treatment protocol program including the implementation of medical treatment and quality care guidelines that are:

(Aa) scientifically based;

(Bb) peer reviewed; and

(Cc) consistent with standards for health care treatment protocol programs that the commission shall establish by rules made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, including the authority of the commission to approve a health care treatment protocol program before it is used or disapprove a health care treatment protocol program that does not comply with this Subsection (2)(c)(i)(B)(VII).

(ii) An insurance carrier may make any or all of the factors in Subsection (2)(c)(i) a condition of insuring an entity in its insurance contract.

(3) (a) In addition to a managed health care program, an insurance carrier may require an employer to establish a work place safety program if the employer:

(i) has an experience modification factor of 1.00 or higher, as determined by the National Council on Compensation Insurance; or

(ii) is determined by the insurance carrier to have a three-year loss ratio of 100% or higher.

(b) A workplace safety program may include:

(i) a written workplace accident and injury reduction program that:

(A) promotes safe and healthful working conditions; and

(B) is based on clearly stated goals and objectives for meeting those goals; and

(ii) a documented review of the workplace accident and injury reduction program each calendar year delineating how procedures set forth in the program are met.

(c) A written workplace accident and injury reduction program permitted under Subsection (3)(b)(i) should describe:

(i) how managers, supervisors, and employees are responsible for implementing the program;

(ii) how continued participation of management will be established, measured, and maintained;

(iii) the methods used to identify, analyze, and control new or existing hazards, conditions, and operations;

(iv) how the program will be communicated to all employees so that the employees are informed of work-related hazards and controls;

(v) how workplace accidents will be investigated and corrective action implemented; and

(vi) how safe work practices and rules will be enforced.

(d) For the purposes of a workplace accident and injury reduction program of an eligible employer described in Subsection 34A-2-103(7)(f), the workplace accident and injury reduction program shall:

(i) include the provisions described in Subsections (3)(b) and (c), except that the employer

shall conduct a documented review of the workplace accident and injury reduction program at least semiannually delineating how procedures set forth in the workplace accident and injury reduction program are met; and

(ii) require a written agreement between the employer and all contractors and subcontractors on a project that states that:

(A) the employer has the right to control the manner or method by which the work is executed;

(B) if a contractor, subcontractor, or any employee of a contractor or subcontractor violates the workplace accident and injury reduction program, the employer maintains the right to:

(I) terminate the contract with the contractor or subcontractor;

(II) remove the contractor or subcontractor from the work site; or

(III) require that the contractor or subcontractor not permit an employee that violates the workplace accident and injury reduction program to work on the project for which the employer is procuring work; and

(C) the contractor or subcontractor shall provide safe and appropriate equipment subject to the right of the employer to:

(I) inspect on a regular basis the equipment of a contractor or subcontractor; and

(II) require that the contractor or subcontractor repair, replace, or remove equipment the employer determines not to be safe or appropriate.

(4) The premiums charged to any employer who fails or refuses to establish a workplace safety program pursuant to Subsection (3)(b)(i) or (ii) may be increased by 5% over any existing current rates and premium modifications charged that employer.

Section 28. Section 34A-2-410 is amended to read:

34A-2-410. Temporary disability -- Amount of payments -- State average weekly wage defined.

(1) (a) Subject to Subsections (1)(b) and (5), in case of temporary disability, so long as the disability is total, the employee shall receive 66-2/3% of that employee's average weekly wages at the time of the injury but:

(i) not more than a maximum of 100% of the state average weekly wage at the time of the injury per week; and

(ii) (A) subject to Subsections (1)(a)(ii)(B) and (C), not less than a minimum of \$45 per week plus:

(I) \$5 for a dependent spouse; and

(II) \$5 for each dependent child under the age of 18 years, up to a maximum of four dependent children;

(B) not to exceed the average weekly wage of the employee at the time of the injury; and

(C) not to exceed 100% of the state average weekly wage at the time of the injury per week.

(b) In no case shall the compensation benefits exceed 312 weeks at the rate of 100% of the state average weekly wage at the time of the injury over a period of 12 years from the date of the injury.

(2) If a light duty medical release is obtained before the employee reaches a fixed state of recovery and no light duty employment is available to the employee from the employer, temporary disability benefits shall continue to be paid.

(3) The "state average weekly wage" as referred to in this chapter and Chapter 3, Utah Occupational Disease Act, shall be determined by the commission as follows:

(a) On or before June 1 of each year, the total wages reported on contribution reports to the Unemployment Insurance Division for the preceding calendar year shall be divided by the average monthly number of insured workers determined by dividing the total insured workers reported for the preceding year by 12.

(b) The average annual wage obtained under Subsection (3)(a) shall be divided by 52.

(c) The average weekly wage determined under Subsection (3)(b) is rounded to the nearest dollar.

(4) The state average weekly wage determined under Subsection (3) shall be used as the basis for computing the maximum compensation rate for:

(a) injuries or disabilities arising from occupational disease that occurred during the 12-month period commencing July 1 following the June 1 determination; and

(b) any death resulting from the injuries or disabilities arising from occupational disease.

(5) The commission may reduce or terminate temporary disability compensation in accordance with Section [34-2-410.5] 34A-2-410.5.

Section 29. Section 36-11-401 is amended to read:

36-11-401. Penalties.

(1) Any person who intentionally violates Section 36-11-103, 36-11-201, 36-11-301, 36-11-302, 36-11-303, 36-11-304, 36-11-305, [36-11-308,] or 36-11-403, is subject to the following penalties:

(a) an administrative penalty of up to \$1,000 for each violation; and

(b) for each subsequent violation of that same section within 24 months, either:

(i) an administrative penalty of up to \$5,000; or

(ii) suspension of the violator's lobbying license for up to one year, if the person is a lobbyist.

(2) Any person who intentionally fails to file a financial report required by this chapter, omits material information from a license application form or financial report, or files false information on a license application form or financial report, is subject to the following penalties:

(a) an administrative penalty of up to \$1,000 for each violation; or

(b) suspension of the violator's lobbying license for up to one year, if the person is a lobbyist.

(3) Any person who intentionally fails to file a financial report required by this chapter on the date that it is due shall, in addition to the penalties, if any, imposed under Subsection (1) or (2), pay a penalty of up to \$50 per day for each day that the report is late.

(4) (a) When a lobbyist is convicted of violating Section 76-8-103, 76-8-107, 76-8-108, or 76-8-303, the lieutenant governor shall suspend the lobbyist's license for up to five years from the date of the conviction.

(b) When a lobbyist is convicted of violating Section 76-8-104 or 76-8-304, the lieutenant governor shall suspend a lobbyist's license for up to one year from the date of conviction.

(5) (a) Any person who intentionally violates Section 36-11-301, 36-11-302, or 36-11-303 is guilty of a class B misdemeanor.

(b) The lieutenant governor shall suspend the lobbyist license of any person convicted under any of these sections for up to one year.

(c) The suspension shall be in addition to any administrative penalties imposed by the lieutenant governor under this section.

(d) Any person with evidence of a possible violation of this chapter may submit that evidence to the lieutenant governor for investigation and resolution.

(6) A lobbyist who does not complete the training required by Section 36-11-307 is subject to the following penalties:

(a) an administrative penalty of up to \$1,000 for each failure to complete the training required by Section 36-11-307; and

(b) for two or more failures to complete the training required by Section 36-11-307 within 24 months, suspension of the lobbyist's lobbying license.

(7) Nothing in this chapter creates a third-party cause of action or appeal rights.

Section 30. Section 38-1a-102 is amended to read:

38-1a-102. Definitions.

As used in this chapter:

(1) "Alternate means" means a method of filing a legible and complete notice or other document with the registry other than electronically, as established by the division by rule.

(2) "Anticipated improvement" means the improvement:

(a) for which preconstruction service is performed; and

(b) that is anticipated to follow the performing of preconstruction service.

(3) "Applicable county recorder" means the office of the recorder of each county in which any part of the property on which a claimant claims or intends to claim a preconstruction or construction lien is located.

(4) "Bona fide loan" means a loan to an owner or owner-builder by a lender in which the owner or owner-builder has no financial or beneficial interest greater than 5% of the voting shares or other ownership interest.

(5) "Claimant" means a person entitled to claim a preconstruction or construction lien.

(6) "Compensation" means the payment of money for a service rendered or an expense incurred, whether based on:

(a) time and expense, lump sum, stipulated sum, percentage of cost, cost plus fixed or percentage fee, or commission; or

(b) a combination of the bases listed in Subsection (6)(a).

(7) "Construction lender" means a person who makes a construction loan.

(8) "Construction lien" means a lien under this chapter for construction work.

(9) "Construction loan" does not include a consumer loan secured by the equity in the consumer's home.

(10) "Construction project" means an improvement that is constructed pursuant to an original contract.

(11) "Construction work":

(a) means labor, service, material, or equipment provided for the purpose and during the process of constructing, altering, or repairing an improvement; and

(b) includes scheduling, estimating, staking, supervising, managing, materials testing, inspection, observation, and quality control or assurance involved in constructing, altering, or repairing an improvement.

(12) "Contestable notice" means a notice of preconstruction service under Section 38-1a-401, a preliminary notice under Section 38-1a-501, or a notice of completion under Section 38-1a-506.

(13) "Contesting person" means an owner, original contractor, subcontractor, or other interested person.

(14) "Designated agent" means the third party the division contracts with as provided in Section 38-1a-202 to create and maintain the registry.

(15) "Division" means the Division of Occupational and Professional Licensing created in Section 58-1-103.

(16) "Entry number" means the reference number that:

(a) the designated agent assigns to each notice or other document filed with the registry; and

(b) is unique for each notice or other document.

(17) "Final completion" means:

(a) the date of issuance of a permanent certificate of occupancy by the local government entity having jurisdiction over the construction project, if a permanent certificate of occupancy is required;

(b) the date of the final inspection of the construction work by the local government entity having jurisdiction over the construction project, if an inspection is required under a state-adopted building code applicable to the construction work, but no certificate of occupancy is required;

(c) unless the owner is holding payment to ensure completion of construction work, the date on which there remains no substantial work to be completed to finish the construction work under the original contract, if a certificate of occupancy is not required and a final inspection is not required under an applicable state-adopted building code; or

(d) the last date on which substantial work was performed under the original contract, if, because the original contract is terminated before completion of the construction work defined by the original contract, the local government entity having jurisdiction over the construction project does not issue a certificate of occupancy or perform a final inspection.

(18) "First preliminary notice filing" means a preliminary notice that:

(a) is the earliest preliminary notice filed on the construction project for which the preliminary notice is filed;

(b) is filed on a construction project that, at the time the preliminary notice is filed, has not reached final completion; and

(c) is not cancelled under Section 38-1a-307.

(19) "Government project-identifying information" has the same meaning as defined in Section 38-1b-102.

(20) "Improvement" means:

(a) a building, infrastructure, utility, or other human-made structure or object constructed on or for and affixed to real property; or

(b) a repair, modification, or alteration of a building, infrastructure, utility, or object referred to in Subsection ~~[(49)]~~ (20)(a).

(21) "Interested person" means a person that may be affected by a construction project.

(22) "Notice of commencement" means a notice required under Section 38-1b-201 for a government project, as defined in Section 38-1b-102.

(23) "Original contract":

(a) means a contract between an owner and an original contractor for preconstruction service or construction work; and

(b) does not include a contract between an owner-builder and another person.

(24) "Original contractor" means a person, including an owner-builder, that contracts with an owner to provide preconstruction service or construction work.

(25) "Owner" means the person that owns the project property.

(26) "Owner-builder" means an owner, including an owner who is also an original contractor, who:

(a) contracts with one or more other persons for preconstruction service or construction work for an improvement on the owner's real property; and

(b) obtains a building permit for the improvement.

(27) "Preconstruction lien" means a lien under this chapter for a preconstruction service.

(28) "Preconstruction service":

(a) means to plan or design, or to assist in the planning or design of, an improvement or a proposed improvement:

(i) before construction of the improvement commences; and

(ii) for compensation separate from any compensation paid or to be paid for construction work for the improvement; and

(b) includes consulting, conducting a site investigation or assessment, programming, preconstruction cost or quantity estimating, preconstruction scheduling, performing a preconstruction construction feasibility review, procuring construction services, and preparing a study, report, rendering, model, boundary or topographic survey, plat, map, design, plan, drawing, specification, or contract document.

(29) "Private project" means a construction project that is not a government project.

(30) "Project property" means the real property on or for which preconstruction service or construction work is or will be provided.

(31) "Registry" means the State Construction Registry under Part 2, State Construction Registry.

(32) "Required notice" means:

(a) a notice of preconstruction service under Section 38-1a-401;

(b) a preliminary notice under Section 38-1a-501 or Section 38-1b-202;

(c) a notice of commencement;

(d) a notice of construction loan under Section 38-1a-601;

(e) a notice under Section 38-1a-602 concerning a construction loan default;

(f) a notice of intent to obtain final completion under Section 38-1a-506; or

(g) a notice of completion under Section 38-1a-507.

(33) "Subcontractor" means a person that contracts to provide preconstruction service or construction work to:

- (a) a person other than the owner; or
- (b) the owner, if the owner is an owner-builder.

(34) "Substantial work" does not include repair work or warranty work.

(35) "Supervisory subcontractor" means a person that:

(a) is a subcontractor under contract to provide preconstruction service or construction work; and

(b) contracts with one or more other subcontractors for the other subcontractor or subcontractors to provide preconstruction service or construction work that the person is under contract to provide.

Section 31. Section 38-8-1 is amended to read:

38-8-1. Definitions.

As used in this chapter:

(1) "Certified mail" means:

(a) a method of mailing that is offered by the United States Postal Service and provides evidence of mailing; or

(b) a method of mailing that is accompanied by a certificate of mailing executed by the individual who caused the notice to be mailed.

(2) "Default" means the failure to perform in a timely manner any obligation or duty described in this chapter or the rental agreement.

(3) "Email" means an electronic message or an executable program or computer file that contains an image of a message that is transmitted between two or more computers or electronic terminals, including electronic messages that are transmitted within or between computer networks.

(4) "Last known address" means the postal address provided by an occupant in a rental agreement or, if the occupant provides a subsequent written notice of a change of address, the postal address provided in the written notice of a change of address.

(5) "Last known email address" means the email address provided by an occupant in a rental agreement or, if the occupant provides a subsequent written notice of a change of address, the email address provided in the written notice of a change of address.

(6) "Occupant" means a person, or the person's lessee, successor, or assignee, entitled to the use of a storage space at a self-service storage facility

under a rental agreement, to the exclusion of others.

(7) "Owner" means:

(a) the owner, operator, lessor, or sublessor of a self-service storage facility;

(b) an agent of a person described in Subsection ~~[(11)]~~ (7)(a); or

(c) any other person authorized by a person described in Subsection ~~[(11)]~~ (7)(a) to manage the facility or to receive rent from an occupant under a rental agreement.

(8) "Personal property" means movable property not affixed to land and includes goods, merchandise, and household items.

(9) "Rental agreement" means any written agreement or lease that establishes or modifies the terms, conditions, rules, or any other provisions relating to the use and occupancy of a unit or space at a self-service storage facility.

(10) (a) "Self-service storage facility" means real property designed and used for the purpose of renting or leasing individual storage space to occupants who have access to the facility for the purpose of storing personal property.

(b) "Self-service storage facility" does not include:

(i) a warehouse described in Section 70A-7a-102;

(ii) real property used for residential purposes; or

(iii) a facility that issues a warehouse receipt, bill of lading, or other document of title for the personal property stored at the facility.

(11) "Vehicle" means personal property required to be registered with the Motor Vehicle Division pursuant to Title 41, Chapter 1a, Part 2, Registration, Title 41, Chapter 22, Off-Highway Vehicles, or Title 73, Chapter 18, State Boating Act.

Section 32. Section 41-6a-1011 is amended to read:

41-6a-1011. Pedestrian vehicles.

(1) As used in this section:

(a) (i) "Pedestrian vehicle" means a self-propelled conveyance designed, manufactured, and intended for the exclusive use of a person with a physical disability.

(ii) A "pedestrian vehicle" may not:

(A) exceed 48 inches in width;

(B) have an engine or motor with more than 300 cubic centimeters displacement or with more than 12 brake horsepower; and

(C) be capable of developing a speed in excess of 30 miles per hour.

(b) "Physical disability" means any bodily impairment which precludes a person from walking or otherwise moving about as a pedestrian.

(2) A pedestrian vehicle operated by a person with a physical disability is exempt from vehicle

registration, inspection, and operator license requirements.

(3) (a) A person with a physical disability may operate a pedestrian vehicle with a motor of not more than .5 brake horsepower capable of developing a speed of not more than eight miles per hour:

- (i) on the sidewalk; and
- (ii) in all places where pedestrians are allowed.

(b) A permit, license, registration, authority, application, or restriction may not be required or imposed on a person with a physical disability who operates a pedestrian vehicle under this Subsection (3).

(c) The provisions of this Subsection (3) supercede the provision of Subsection (2)(4b).

Section 33. Section 41-6a-1620 is amended to read:

41-6a-1620. Departmental approval of lighting devices or safety equipment.

(1) (a) The department shall approve or disapprove any lighting device or other safety equipment, component or assembly of a type for which approval is specifically required under this part.

(b) The department shall consider the part for approval within a reasonable time after approval has been requested.

(2) (a) The department shall establish a procedure for the submission, review, approval, disapproval, issuance of an approval certificate, and the expiration or renewal of approval for any part under Subsection (1).

(b) (i) The procedure may provide for submission of the part to the American Association of Motor Vehicle Administrators as the agent of the department.

(ii) Approval issued by the association under Subsection (1) (2)(b)(i) shall have the same force and effect as if it has been issued by the department.

(c) The department shall maintain and publish lists of all parts, devices, components, or assemblies which have been approved by the department.

(d) A part approved under this section is valid unless revoked under Section 41-6a-1621 or unless the department requires it to be renewed under rules made under Section 41-6a-1601.

Section 34. Section 41-6a-1642 is amended to read:

41-6a-1642. Emissions inspection -- County program.

(1) The legislative body of each county required under federal law to utilize a motor vehicle emissions inspection and maintenance program or in which an emissions inspection and maintenance program is necessary to attain or maintain any national ambient air quality standard shall require:

(a) a certificate of emissions inspection, a waiver, or other evidence the motor vehicle is exempt from emissions inspection and maintenance program requirements be presented:

(i) as a condition of registration or renewal of registration; and

(ii) at other times as the county legislative body may require to enforce inspection requirements for individual motor vehicles, except that the county legislative body may not routinely require a certificate of emission inspection, or waiver of the certificate, more often than required under Subsection (6); and

(b) compliance with this section for a motor vehicle registered or principally operated in the county and owned by or being used by a department, division, instrumentality, agency, or employee of:

(i) the federal government;

(ii) the state and any of its agencies; or

(iii) a political subdivision of the state, including school districts.

(2) (a) The legislative body of a county identified in Subsection (1), in consultation with the Air Quality Board created under Section 19-1-106, shall make regulations or ordinances regarding:

(i) emissions standards;

(ii) test procedures;

(iii) inspections stations;

(iv) repair requirements and dollar limits for correction of deficiencies; and

(v) certificates of emissions inspections.

(b) The regulations or ordinances shall:

(i) be made to attain or maintain ambient air quality standards in the county, consistent with the state implementation plan and federal requirements;

(ii) may allow for a phase-in of the program by geographical area; and

(iii) be compliant with the analyzer design and certification requirements contained in the state implementation plan prepared under Title 19, Chapter 2, Air Conservation Act.

(c) The county legislative body and the Air Quality Board shall give preference to an inspection and maintenance program that is:

(i) decentralized, to the extent the decentralized program will attain and maintain ambient air quality standards and meet federal requirements;

(ii) the most cost effective means to achieve and maintain the maximum benefit with regard to ambient air quality standards and to meet federal air quality requirements as related to vehicle emissions; and

(iii) providing a reasonable phase-out period for replacement of air pollution emission testing equipment made obsolete by the program.

(d) The provisions of Subsection (2)(c)(iii) apply only to the extent the phase-out:

(i) may be accomplished in accordance with applicable federal requirements; and

(ii) does not otherwise interfere with the attainment and maintenance of ambient air quality standards.

(3) The following vehicles are exempt from the provisions of this section:

(a) an implement of husbandry;

(b) a motor vehicle that:

(i) meets the definition of a farm truck under Section 41-1a-102; and

(ii) has a gross vehicle weight rating of 12,001 pounds or more;

(c) a vintage vehicle as defined in Section 41-21-1;

(d) a custom vehicle as defined in Section 41-6a-1507; and

(e) to the extent allowed under the current federally approved state implementation plan, in accordance with the federal Clean Air Act, 42 U.S.C. Sec. 7401, et seq., a motor vehicle that is less than two years old on January 1 based on the age of the vehicle as determined by the model year identified by the manufacturer.

(4) (a) The legislative body of a county identified in Subsection (1) shall exempt a pickup truck, as defined in Section 41-1a-102, with a gross vehicle weight of 12,000 pounds or less from the emission inspection requirements of this section, if the registered owner of the pickup truck provides a signed statement to the legislative body stating the truck is used:

(i) by the owner or operator of a farm located on property that qualifies as land in agricultural use under Sections 59-2-502 and 59-2-503; and

(ii) exclusively for the following purposes in operating the farm:

(A) for the transportation of farm products, including livestock and its products, poultry and its products, floricultural and horticultural products; and

(B) in the transportation of farm supplies, including tile, fence, and every other thing or commodity used in agricultural, floricultural, horticultural, livestock, and poultry production and maintenance.

(b) The county shall provide to the registered owner who signs and submits a signed statement under this section a certificate of exemption from emission inspection requirements for purposes of registering the exempt vehicle.

(5) (a) Subject to Subsection (5)(c), the legislative body of each county required under federal law to utilize a motor vehicle emissions inspection and

maintenance program or in which an emissions inspection and maintenance program is necessary to attain or maintain any national ambient air quality standard may require each college or university located in a county subject to this section to require its students and employees who park a motor vehicle not registered in a county subject to this section to provide proof of compliance with an emissions inspection accepted by the county legislative body if the motor vehicle is parked on the college or university campus or property.

(b) College or university parking areas that are metered or for which payment is required per use are not subject to the requirements of this Subsection (5).

(c) The legislative body of a county shall make the reasons for implementing the provisions of this Subsection (5) part of the record at the time that the county legislative body takes its official action to implement the provisions of this Subsection (5).

(6) (a) An emissions inspection station shall issue a certificate of emissions inspection for each motor vehicle that meets the inspection and maintenance program requirements established in rules made under Subsection (2).

(b) The frequency of the emissions inspection shall be determined based on the age of the vehicle as determined by model year and shall be required annually subject to the provisions of Subsection (6)(c).

(c) (i) To the extent allowed under the current federally approved state implementation plan, in accordance with the federal Clean Air Act, 42 U.S.C. Sec. 7401 et seq., the legislative body of a county identified in Subsection (1) shall only require the emissions inspection every two years for each vehicle.

(ii) The provisions of Subsection (6)(c)(i) apply only to a vehicle that is less than six years old on January 1.

(iii) For a county required to implement a new vehicle emissions inspection and maintenance program on or after December 1, 2012, under Subsection (1), but for which no current federally approved state implementation plan exists, a vehicle shall be tested at a frequency determined by the county legislative body, in consultation with the Air Quality Board created under Section 19-1-106, that is necessary to comply with federal law or attain or maintain any national ambient air quality standard.

(iv) If a county legislative body establishes or changes the frequency of a vehicle emissions inspection and maintenance program under Subsection ~~[(4)]~~ (6)(c)(iii), the establishment or change shall take effect on January 1 if the Tax Commission receives notice meeting the requirements of Subsection ~~[(4)]~~ (6)(c)(v) from the county prior to October 1.

(v) The notice described in Subsection ~~[(4)]~~ (6)(c)(iv) shall:

(A) state that the county will establish or change the frequency of the vehicle emissions inspection and maintenance program under this section;

(B) include a copy of the ordinance establishing or changing the frequency; and

(C) if the county establishes or changes the frequency under this section, state how frequently the emissions testing will be required.

(d) If an emissions inspection is only required every two years for a vehicle under Subsection (6)(c), the inspection shall be required for the vehicle in:

(i) odd-numbered years for vehicles with odd-numbered model years; or

(ii) in even-numbered years for vehicles with even-numbered model years.

(7) The emissions inspection shall be required within the same time limit applicable to a safety inspection under Section 41-1a-205.

(8) (a) A county identified in Subsection (1) shall collect information about and monitor the program.

(b) A county identified in Subsection (1) shall supply this information to an appropriate legislative committee, as designated by the Legislative Management Committee, at times determined by the designated committee to identify program needs, including funding needs.

(9) If approved by the county legislative body, a county that had an established emissions inspection fee as of January 1, 2002, may increase the established fee that an emissions inspection station may charge by \$2.50 for each year that is exempted from emissions inspections under Subsection (6)(c) up to a \$7.50 increase.

(10) (a) A county identified in Subsection (1) may impose a local emissions compliance fee on each motor vehicle registration within the county in accordance with the procedures and requirements of Section 41-1a-1223.

(b) A county that imposes a local emissions compliance fee shall use revenues generated from the fee for the establishment and enforcement of an emissions inspection and maintenance program in accordance with the requirements of this section.

Section 35. Section 47-3-102 is amended to read:

47-3-102. Definitions.

As used in this chapter:

(1) "Air gun" means a .177 or .20 caliber, or equivalent 4.5mm or 5.0mm, pellet rifle or pellet pistol whose projectile is pneumatically propelled by compressed air or compressed gas such as carbon dioxide.

(2) "Certified official" means a Range Safety Officer, Firearms Instructor, or Shooting Coach certified by the National Rifle Association or equivalent national shooting organization.

(3) "Group" means any organized club, organization, corporation or association which at the time of use of the shooting range has a certified official in charge while shooting is taking place and while the range is open.

(4) "Military range" means a shooting range located on a state military installation.

(5) "Nonmilitary range" means a shooting range that is not a military range.

(6) "Political subdivision" has the same meaning as defined in Section [~~17B-2-101~~] 17B-1-102 and includes a school district.

(7) "Public funds" means funds provided by the federal government, the state, or a political subdivision of the state.

(8) "Shooting range" or "range" means an area designed and continuously operated under nationally recognized standards and operating practices for the use of rifles, shotguns, pistols, silhouettes, skeet, trap, black powder, archery, or any other similar shooting activities.

Section 36. Section 48-1-32 is amended to read:

48-1-32. Power of partner to bind partnership to third persons after dissolution.

(1) After dissolution a partner can bind the partnership, except as provided in [~~paragraph~~] Subsection (3):

(a) by any act appropriate for winding up partnership affairs or completing transactions unfinished at dissolution[-;] or

(b) by any transaction which would bind the partnership, if dissolution had not taken place, provided the other party to the transaction:

(i) had extended credit to the partnership prior to dissolution and had no knowledge or notice of the dissolution; or

(ii) though he had not so extended credit, had nevertheless known of the partnership prior to dissolution, and, having no knowledge or notice of dissolution, the fact of dissolution had not been advertised in a newspaper of general circulation in the place[~~(s)~~, or in each place, if more than one], at which the partnership business was regularly carried on.

(2) The liability of a partner under [~~paragraph~~] Subsection (1)(b) shall be satisfied out of partnership assets alone when such partner had been prior to dissolution:

(a) unknown as a partner to the person with whom the contract is made; and

(b) so far unknown and inactive in partnership affairs that the business reputation of the partnership could not be said to have been in any degree due to his connection with it.

(3) The partnership is in no case bound by any act of a partner after dissolution:

(a) where the partnership is dissolved because it is unlawful to carry on the business, unless the act is appropriate for winding up partnership affairs; [~~or~~]

- (b) where the partner has become bankrupt; or
- (c) where the partner has no authority to wind up partnership affairs; except by a transaction with one who:
- (i) had extended credit to the partnership prior to dissolution and had no knowledge or notice of his want of authority; or

(ii) had not extended credit to the partnership prior to dissolution, and, having no knowledge or notice of his want of authority, the fact of his want of authority has not been advertised in the manner provided for advertising the fact of dissolution in ~~[paragraph]~~ Subsection (1)(b)(ii).

(4) Nothing in this section shall affect the liability under Section 48-1-13 of any person who after dissolution represents himself or consents to another's representing him as a partner in a partnership engaged in carrying on business.

Section 37. Section 48-1-35 is amended to read:

48-1-35. Rights of partners to application of partnership property.

(1) When dissolution is caused in any way, except in contravention of the partnership agreement, each partner, as against his copartners and all persons claiming through them in respect of their interests in the partnership, unless otherwise agreed, may have the partnership property applied to discharge its liabilities, and the surplus applied to pay in cash the net amount owing to the respective partners. But if dissolution is caused by expulsion of a partner, bona fide under the partnership agreement, and if the expelled partner is discharged from all partnership liabilities either by payment or agreement under ~~[Section]~~ Subsection 48-1-33(2), [he] the expelled partner shall receive in cash only the net amount due [him] to the expelled partner from the partnership.

(2) When dissolution is caused in contravention of the partnership agreement the rights of the partners shall be as follows:

(a) Each partner who has not caused dissolution wrongfully shall have:

(i) all the rights specified in ~~[paragraph]~~ Subsection (1) ~~[of this section]~~; and

(ii) the right as against each partner who has caused the dissolution wrongfully to damages for breach of the agreement.

(b) The partners who have not caused the dissolution wrongfully, if they all desire to continue the business in the same name, either by themselves or jointly with others, may do so during the agreed term for the partnership, and for that purpose may possess the partnership property; provided, they pay to any partner who has caused the dissolution wrongfully the value of his interest in the partnership at the dissolution, less any damages recoverable under ~~[clause]~~ Subsection (2)(a)(ii) ~~[of this section]~~ or secure the payment by bond approved by the court, and in like manner

indemnify him against all present or future partnership liabilities.

(c) A partner who has caused the dissolution wrongfully shall have:

(i) If the business is not continued under the provisions of ~~[paragraph]~~ Subsection (2)(b), all the rights of a partner under ~~[paragraph]~~ Subsection (1), subject to ~~[clause]~~ Subsection (2)(a)(ii) ~~[of this section]~~.

(ii) If the business is continued under ~~[paragraph]~~ Subsection (2)(b) ~~[of this section]~~, the right as against his copartners, and all claiming through them, in respect of their interests in the partnership, to have the value of his interest in the partnership, less any damages caused to his copartners by the dissolution, ascertained and paid to him in cash, or the payment secured by bond approved by the court, and to be released from all existing liabilities of the partnership; but in ascertaining the value of the partner's interest the value of the good will of the business shall not be considered.

Section 38. Section 48-1-38 is amended to read:

48-1-38. Liability of persons continuing the business in certain cases.

(1) When any new partner is admitted into an existing partnership, or when any partner retires and assigns (or the representatives of a deceased partner assign) his rights in partnership property to two or more of the partners, or to one or more of the partners and one or more third persons, if the business is continued without liquidation of the partnership affairs, creditors of the first, or dissolved, partnership are also creditors of the partnership so continuing the business.

(2) When all but one partner retire and assign (or the representatives of a deceased partner assign) their rights in partnership property to the remaining partner, who continues the business without liquidation of partnership affairs either alone or with others, creditors of the dissolved partnership are also creditors of the person or partnership so continuing the business.

(3) When any partner retires or dies and the business of the dissolved partnership is continued, as set forth in ~~[paragraphs]~~ Subsections (1) and (2) ~~[of this section]~~, with the consent of the retired partner or the representatives of the deceased partner, but without any assignment of his right in partnership property, rights of creditors of the dissolved partnership and of creditors of the person or partnership continuing the business shall be as if such assignment had been made.

(4) When all the partners or their representatives assign their rights in partnership property to one or more third persons who promise to pay the debts and who continue the business of the dissolved partnership, creditors of the dissolved partnership are also creditors of the person or partnership continuing the business.

(5) When any partner wrongfully causes a dissolution and the remaining partners continue

the business under the provisions of [Section] Subsection 48-1-35(2)(b), either alone or with others and without liquidation of the partnership affairs, creditors of the dissolved partnership are also creditors of the person or partnership continuing the business.

(6) When a partner is expelled and the remaining partners continue the business, either alone or with others, without liquidation of the partnership affairs, creditors of the dissolved partnership are also creditors of the person or partnership continuing the business.

(7) The liability of a third person becoming a partner in the partnership continuing the business under this section, to the creditors of the dissolved partnership shall be satisfied out of partnership property only.

(8) When the business of a partnership after dissolution is continued under any conditions set forth in this section, the creditors of the dissolved partnership, as against the separate creditors of the retiring or deceased partner or the representatives of the deceased partner, have a prior right to any claim of the retired partner or the representatives of the deceased partner against the person or partnership continuing the business on account of the retired or deceased partner's interest in the dissolved partnership, or on account of any consideration promised for such interest, or for his right in partnership property.

(9) Nothing in this section shall be held to modify any right of creditors to set aside any assignment on the ground of fraud.

(10) The use by the person or partnership continuing the business of the partnership name, or the name of a deceased partner as part thereof, shall not of itself make the individual property of the deceased partner liable for any debts contracted by such person or partnership.

Section 39. Section 49-11-801 is amended to read:

49-11-801. Defined contribution plans authorized -- Subject to federal and state laws -- Rules to implement this provision -- Costs of administration -- Limitations on eligibility -- Protection of tax status.

(1) (a) The board shall establish and administer defined contribution plans established under the Internal Revenue Code.

(b) Voluntary deferrals and nonelective contributions shall be permitted according to the provisions of these plans as established by the board.

(c) Except as provided in Subsections [49-22-302] 49-22-303(2)(a), 49-22-401(3)(a), 49-23-302(2)(a), and 49-23-401(3)(a), the defined contribution account balance is vested in the participant.

(2) (a) Voluntary deferrals and nonelective contributions shall be posted to the participant's account.

(b) Except as provided in Subsections 49-22-303(3), 49-22-401(4), 49-23-302(3), and 49-23-401(4), participants may direct the investment of their account in the investment options established by the board and in accordance with federal and state law.

(3) (a) The board may make rules and create plan documents to implement and administer this section.

(b) The board may adopt rules under which a participant may put money into a defined contribution plan as permitted by federal law.

(c) The office may reject any payments if the office determines the tax status of the systems, plans, or programs would be jeopardized by allowing the payment.

(d) Costs of administration shall be paid as established by the board.

(4) Voluntary deferrals and nonelective contributions may be invested separately or in conjunction with the Utah State Retirement Investment Fund.

(5) The board or office may take actions necessary to protect the tax qualified status of the systems, plans, and programs under its control, including the movement of individuals from defined contribution plans to defined benefit systems or the creation of excess benefit plans authorized by federal law.

(6) The office may, at its sole discretion, correct errors made in the administration of its defined contribution plans.

Section 40. Section 49-20-411 is amended to read:

49-20-411. Autism Spectrum Disorder Treatment Program.

(1) As used in this section:

(a) "Applied behavior analysis" means the design, implementation, and evaluation of environmental modifications using behavioral stimuli and consequences to produce socially significant improvement in human behavior, including the use of direct observation, measurement, and functional analysis of the relationship between environment and behavior that are:

(i) necessary to develop, maintain, or restore, to the maximum extent practicable, the functioning of an individual; and

(ii) provided or supervised by a board certified behavior analyst or a licensed psychologist with equivalent university training and supervised experience.

(b) "Autism spectrum disorder" is as defined by the most recent edition of the Diagnostic and Statistical Manual on Mental Disorders or a recent edition of a professionally accepted diagnostic manual.

(c) "Health plan" does not include the health plan offered by the Public Employees' Benefit and Insurance Program that is the state's designated

essential health benefit package for purposes of the PPACA, as defined in Section [31A-1-401] 31A-1-301.

(d) "Parent" means a parent of a qualified child.

(e) "Program" means the autism spectrum disorder treatment program created in Subsection (2).

(f) "Qualified child" means a child who is:

(i) at least two years of age but less than seven years of age;

(ii) diagnosed with an autism spectrum disorder by a qualified professional; and

(iii) the eligible dependent of a state employee who is enrolled in a health plan that is offered under this chapter.

(g) "Treatment" means any treatment generally accepted by the medical community or the American Academy of Pediatrics as an effective treatment for an individual with an autism spectrum disorder, including applied behavior analysis.

(2) The Public Employees' Benefit and Insurance Program shall offer a program for the treatment of autism spectrum disorders in accordance with Subsection (3).

(3) The program shall offer qualified children:

(a) diagnosis of autism spectrum disorder by a physician or qualified mental health professional, and the development of a treatment plan;

(b) applied behavior analysis provided by a certified behavior analyst or someone with equivalent training; and

(c) an annual cost-shared maximum benefit of \$30,000 toward the cost of treatment that the program covers, where, for each qualified child, for the cost of the treatment:

(i) the parent pays the first \$250;

(ii) after the first \$250, the program pays 80% and the parent pays 20%;

(iii) the program pays no more than \$150 per day; and

(iv) the program pays no more than \$24,000 total.

(4) The purpose of the program is to study the efficacy of providing autism treatment and is not a mandate for coverage of autism treatment within the health plans offered by the Public Employees' Benefit and Insurance Program.

(5) The program shall be funded on an ongoing basis through the risk pool established in Subsection 49-20-202(1)(a).

Section 41. Section 51-8-301 is amended to read:

51-8-301. Appropriation for expenditure or accumulation of endowment fund.

(1) (a) Subject to the intent of a donor expressed in a gift instrument and to Subsection [(4)] (3), an institution may appropriate for expenditure or accumulate so much of an endowment fund as the institution determines to be prudent for the uses, benefits, purposes, and duration for which the endowment fund is established.

(b) Unless stated otherwise in a gift instrument, the assets in an endowment fund are donor-restricted assets until appropriated for expenditure by the institution.

(c) In making a determination to appropriate or accumulate, the institution shall act in good faith, with the care that an ordinarily prudent person in a like position would exercise under similar circumstances, and shall consider, if relevant, the following factors:

(i) the duration and preservation of the endowment fund;

(ii) the purposes of the institution and the endowment fund;

(iii) general economic conditions;

(iv) the possible effect of inflation or deflation;

(v) the expected total return from income and the appreciation of investments;

(vi) other resources of the institution; and

(vii) the investment policy of the institution.

(2) To limit the authority to appropriate for expenditure or accumulate under Subsection (1), a gift instrument must specifically state the limitation.

(3) Terms in a gift instrument designating a gift as an endowment, or a direction or authorization in the gift instrument to use only "income," "interest," "dividends," or "rents, issues, or profits," or "to preserve the principal intact," or similar words:

(a) create an endowment fund of permanent duration unless other language in the gift instrument limits the duration or purpose of the fund; and

(b) do not otherwise limit the authority to appropriate for expenditure or accumulate under Subsection (1).

Section 42. Section 53-2a-105 is amended to read:

53-2a-105. Emergency Management Administration Council created -- Function -- Composition -- Expenses.

(1) There is created the Emergency Management Administration Council to provide advice and coordination for state and local government agencies on government emergency prevention, mitigation, preparedness, response, and recovery actions and activities.

(2) The council shall meet at the call of the chair, but at least semiannually.

(3) The council shall be made up of the:

(a) lieutenant governor, or the lieutenant governor's designee;

(b) attorney general, or the attorney general's designee;

(c) heads of the following state agencies, or their designees:

(i) Department of Public Safety;

(ii) Division of Emergency Management;

(iii) Department of Transportation;

(iv) Department of Health;

(v) Department of Environmental Quality;

(vi) Department of [~~Community and Economic Development~~] Workforce Services; and

(vii) Department of Natural Resources;

(d) adjutant general of the National Guard or the adjutant general's designee;

(e) commissioner of agriculture and food or the commissioner's designee;

(f) two representatives with expertise in emergency management appointed by the Utah League of Cities and Towns;

(g) two representatives with expertise in emergency management appointed by the Utah Association of Counties;

(h) up to four additional members with expertise in emergency management, critical infrastructure, or key resources as these terms are defined under 6 U.S. Code Section 101 appointed from the private sector, by the chair of the council; and

(i) two representatives appointed by the Utah Emergency Management Association.

(4) The commissioner and the lieutenant governor serve as cochairs of the council.

(5) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(6) The council shall coordinate with existing emergency management related entities including:

(a) the Emergency Management Regional Committees established by the Department of Public Safety;

(b) the Statewide Mutual Aid Committee established under Section 53-2a-303; and

(c) the Hazardous Chemical Emergency Response Commission designated under Section 53-2a-703.

(7) The council may establish other committees and task forces as determined necessary by the council to carry out the duties of the council.

Section 43. Section 53-2a-202 is amended to read:

53-2a-202. Legislative findings -- Purpose.

(1) The Legislature finds that existing and increasing threats of the occurrence of destructive disasters resulting from attack, internal disturbance, natural phenomenon or technological hazard could greatly affect the health, safety, and welfare of the people of this state, and it is therefore necessary to grant to the governor of this state and its political subdivisions special emergency disaster authority.

(2) It is the purpose of this act to assist the governor of this state and its political subdivisions to effectively provide emergency disaster response and recovery assistance in order to protect the lives and property of the people. [~~This part is known as the "Disaster Response and Recovery Act."~~]

Section 44. Section 53-2a-204 is amended to read:

53-2a-204. Authority of governor -- Federal assistance -- Fraud or willful misstatement in application for financial assistance -- Penalty.

(1) In addition to any other authorities conferred upon the governor, if the governor issues an executive order declaring a state of emergency, the governor may:

(a) utilize all available resources of state government as reasonably necessary to cope with a state of emergency;

(b) employ measures and give direction to state and local officers and agencies that are reasonable and necessary for the purpose of securing compliance with the provisions of this part and with orders, rules, and regulations made pursuant to this [aet] part;

(c) recommend and advise the evacuation of all or part of the population from any stricken or threatened area within the state if necessary for the preservation of life;

(d) recommend routes, modes of transportation, and destination in connection with evacuation;

(e) in connection with evacuation, suspend or limit the sale, dispensing, or transportation of alcoholic beverages, explosives, and combustibles, not to include the lawful bearing of arms;

(f) control ingress and egress to and from a disaster area, the movement of persons within the area, and recommend the occupancy or evacuation of premises in a disaster area;

(g) clear or remove from publicly or privately owned land or water debris or wreckage that is an immediate threat to public health, public safety, or private property, including allowing an employee of a state department or agency designated by the governor to enter upon private land or waters and

perform any tasks necessary for the removal or clearance operation if the political subdivision, corporation, organization, or individual that is affected by the removal of the debris or wreckage:

(i) presents an unconditional authorization for removal of the debris or wreckage from private property; and

(ii) agrees to indemnify the state against any claim arising from the removal of the debris or wreckage;

(h) enter into agreement with any agency of the United States:

(i) for temporary housing units to be occupied by victims of a state of emergency or persons who assist victims of a state of emergency; and

(ii) to make the housing units described in Subsection (1)(h)(i) available to a political subdivision of this state;

(i) assist any political subdivision of this state to acquire sites and utilities necessary for temporary housing units described in Subsection (1)(h)(i) by passing through any funds made available to the governor by an agency of the United States for this purpose;

(j) subject to Sections 53-2a-209 and 53-2a-214, temporarily suspend or modify by executive order, during the state of emergency, any public health, safety, zoning, transportation, or other requirement of a statute or administrative rule within this state if such action is essential to provide temporary housing described in Subsection (1)(h)(i);

(k) upon determination that a political subdivision of the state will suffer a substantial loss of tax and other revenues because of a state of emergency and the political subdivision so affected has demonstrated a need for financial assistance to perform its governmental functions, in accordance with Utah Constitution, Article XIV, Sections 3 and 4, and Section 10-8-6:

(i) apply to the federal government for a loan on behalf of the political subdivision if the amount of the loan that the governor applies for does not exceed 25% of the annual operating budget of the political subdivision for the fiscal year in which the state of emergency occurs; and

(ii) receive and disburse the amount of the loan to the political subdivision;

(l) accept funds from the federal government and make grants to any political subdivision for the purpose of removing debris or wreckage from publicly owned land or water;

(m) upon determination that financial assistance is essential to meet expenses related to a state of emergency of individuals or families adversely affected by the state of emergency that cannot be sufficiently met from other means of assistance, apply for, accept, and expend a grant by the federal government to fund the financial assistance,

subject to the terms and conditions imposed upon the grant;

(n) recommend to the Legislature other actions the governor considers to be necessary to address a state of emergency; or

(o) authorize the use of all water sources as necessary for fire suppression.

(2) A person who fraudulently or willfully makes a misstatement of fact in connection with an application for financial assistance under this section shall, upon conviction of each offense, be subject to a fine of not more than \$5,000 or imprisonment for not more than one year, or both.

Section 45. Section 53-2a-1104 is amended to read:

53-2a-1104. General duties of the Search and Rescue Advisory Board.

The duties of the Search and Rescue Advisory Board shall include:

(1) conducting a board meeting at least once per quarter;

(2) receiving applications for reimbursement of eligible expenses from county search and rescue operations by the end of the first quarter of each calendar year;

(3) determining the reimbursement to be provided from the Search and Rescue Financial Assistance Program to each applicant;

(4) standardizing the format and maintaining key search and rescue statistical data from each county within the state; and

(5) disbursing funds accrued in the Search and Rescue Financial Assistance Program, created under Section ~~[53-2-107]~~ 53-2a-1102, to eligible applicants.

Section 46. Section 53-5a-104 is amended to read:

53-5a-104. Firearm transfer certification.

(1) As used in this section:

(a) "Certification" means the participation and assent of the chief law enforcement officer necessary under federal law for the approval of the application to transfer or make a firearm.

(b) "Chief law enforcement officer" means any official the Bureau of Alcohol, Tobacco, Firearms and Explosives, or any successor agency, identifies by regulation or otherwise as eligible to provide any required certification for the making or transfer of a firearm.

(c) "Firearm" has the same meaning as provided in the National Firearms Act, ~~[6]~~ 26 U.S.C. Sec. 5845(a).

(2) A chief law enforcement officer may not make a certification under this section that the chief law enforcement officer knows to be untrue. The chief law enforcement officer may not refuse to provide certification based on a generalized objection to private persons or entities making, possessing, or

receiving firearms or any certain type of firearm, the possession of which is not prohibited by law.

(3) Upon receiving a federal firearm transfer form a chief law enforcement officer or the chief law enforcement officer's designee shall provide certification if the applicant:

(a) is not prohibited by law from receiving or possessing the firearm; or

(b) is not the subject of a proceeding that could result in the applicant being prohibited by law from receiving or possessing the firearm.

(4) The chief law enforcement officer, the chief law enforcement officer's designee, or official signing the federal transfer form shall:

(a) return the federal transfer form to the applicant within 15 calendar days; or

(b) if the applicant is denied, provide to the applicant the reasons for denial in writing within 15 calendar days.

(5) Chief law enforcement officers and their employees who act in good faith when acting within the scope of their duties are immune from liability arising from any act or omission in making a certification as required by this section. Any action taken against a chief law enforcement officer or an employee shall be in accordance with Title 63G, Chapter 7, Governmental Immunity Act of Utah.

Section 47. Section 53-5c-201 is amended to read:

53-5c-201. Voluntary commitment of a firearm by owner cohabitant -- Law enforcement to hold firearm.

(1) (a) An owner cohabitant may voluntarily commit a firearm to a law enforcement agency for safekeeping if the owner cohabitant believes that another cohabitant is an immediate threat to:

- (i) himself or herself;
- (ii) the owner cohabitant; or
- (iii) any other person.

(b) A law enforcement agency may not hold a firearm under this section if the law enforcement agency obtains the firearm in a manner other than the owner cohabitant voluntarily presenting, of his or her own free will, the firearm to the law enforcement agency at the agency's office.

(2) Unless a firearm is an illegal firearm subject to Section 53-5c-202, a law enforcement agency that receives a firearm in accordance with this chapter shall:

- (a) record:
 - (i) the owner cohabitant's name, address, and phone number;
 - (ii) the firearm serial number; and
 - (iii) the date that the firearm was voluntarily committed;

(b) require the owner cohabitant to sign a document attesting that the owner cohabitant has an ownership interest in the firearm;

(c) hold the firearm in safe custody for 60 days after the day on which it is voluntarily committed; and

(d) upon proof of identification, return the firearm to:

(i) the owner cohabitant after the expiration of the 60-day period or, if the owner cohabitant requests return of the firearm before the expiration of the 60-day period, at the time of the request; or

(ii) to an owner other than the owner cohabitant in accordance with Section 53-5c-202.

(3) The law enforcement agency shall hold the firearm for an additional 60 days:

(a) if the initial 60-day period expires; and

(b) the owner cohabitant requests that the law enforcement agency hold the firearm for an additional 60 days.

(4) A law enforcement agency may not request or require that the owner cohabitant provide the name or other information of the cohabitant who poses an immediate threat or any other cohabitant.

(5) Notwithstanding an ordinance or policy to the contrary adopted in accordance with Section 63G-2-701, a law enforcement agency shall destroy a record created under Subsection (2), Subsection 53-5c-202(4)(b)(iii), or any other record created in the application of this chapter no later than five days after:

(a) returning a firearm in accordance with Subsection (2)(d); or

(b) appropriating, selling, or destroying the firearm in accordance with Section 53-5c-202.

(6) Unless otherwise provided, the provisions of Title 77, Chapter ~~[24, Disposal of Property Received by Peace Officer]~~ 24a, Lost or Mislaid Personal Property, do not apply to a firearm received by a law enforcement agency in accordance with this chapter.

(7) A law enforcement agency shall adopt a policy for the safekeeping of a firearm held in accordance with this chapter.

Section 48. Section 53A-1-603 is amended to read:

53A-1-603. Duties of State Board of Education.

(1) The State Board of Education shall:

(a) require each school district and charter school to implement the Utah Performance Assessment System for Students, hereafter referred to as U-PASS;

(b) require the state superintendent of public instruction to submit and recommend criterion-referenced achievement tests or online computer adaptive tests, college readiness assessments, an online writing assessment for

grades 5 and 8, and a test for students in grade 3 to measure reading grade level to the board for approval and adoption and distribution to each school district and charter school by the state superintendent;

(c) develop an assessment method to uniformly measure statewide performance, school district performance, and school performance of students in grades 3 through 12 in mastering basic skills courses; and

(d) provide for the state to participate in the National Assessment of Educational Progress state-by-state comparison testing program.

(2) Except as provided in Subsection (3) and Subsection 53A-1-611(3), under U-PASS, the State Board of Education shall annually require each school district and charter school, as applicable, to administer:

(a) as determined by the State Board of Education, statewide criterion-referenced tests or online computer adaptive tests in grades 3 through 12 and courses in basic skill areas of the core curriculum;

(b) an online writing assessment to all students in grades 5 and 8;

(c) college readiness assessments as detailed in Section 53A-1-611; and

(d) a test to all students in grade 3 to measure reading grade level.

(3) Beginning with the 2014-15 school year, the State Board of Education shall annually require each school district and charter school, as applicable, to administer a computer adaptive assessment system that is:

(a) adopted by the State Board of Education; and

(b) aligned to Utah's common core.

(4) The board shall adopt rules for the conduct and administration of U-PASS to include the following:

(a) the computation of student performance based on information that is disaggregated with respect to race, ethnicity, gender, limited English proficiency, and those students who qualify for free or reduced price school lunch;

(b) security features to maintain the integrity of the system, which could include statewide uniform testing dates, multiple test forms, and test administration protocols;

(c) the exemption of student test scores, by exemption category, such as limited English proficiency, mobility, and students with disabilities, with the percent or number of student test scores exempted being publically reported at a district level;

(d) compiling of criterion-referenced, online computer adaptive, and online writing test scores and test score averages at the classroom level to allow for:

(i) an annual review of those scores by parents of students and professional and other appropriate staff at the classroom level at the earliest point in time;

(ii) the assessment of year-to-year student progress in specific classes, courses, and subjects; and

(iii) a teacher to review, prior to the beginning of a new school year, test scores from the previous school year of students who have been assigned to the teacher's class for the new school year;

(e) allowing a school district or charter school to have its tests administered and scored electronically to accelerate the review of test scores and their usefulness to parents and educators under Subsection (4)(d), without violating the integrity of U-PASS; and

(f) providing that scores on the tests and assessments required under Subsection (2)(a) and Subsection (3) shall be considered in determining a student's academic grade for the appropriate course and whether a student shall advance to the next grade level.

(5) (a) A school district or charter school, as applicable, is encouraged to administer an online writing assessment to students in grade 11.

(b) The State Board of Education may award a grant to a school district or charter school to pay for an online writing assessment and instruction program that may be used to assess the writing of students in grade 11.

(6) The State Board of Education shall make rules:

(a) establishing procedures for applying for and awarding money for computer adaptive tests;

(b) specifying how money for computer adaptive tests shall be allocated among school districts and charter schools that qualify to receive the money; and

(c) requiring reporting of the expenditure of money awarded for computer adaptive testing and evidence that the money was used to implement computer adaptive testing.

(7) The State Board of Education shall assure that computer adaptive tests are administered in compliance with the requirements of Chapter 13, Part 3, Utah Family Educational Rights and Privacy Act.

(8) (a) The State Board of Education shall establish a committee consisting of 15 parents of Utah public education students to review all computer adaptive test questions.

(b) The committee established in Subsection (8)(a) shall include the following parent members:

(i) five members appointed by the chair of the State Board of Education;

(ii) five members appointed by the speaker of the House of Representatives; and

(iii) five members appointed by the president of the Senate.

(c) The State Board of Education shall provide staff support to the parent committee.

(d) The term of office of each member appointed in Subsection (8)(b) is four years.

(e) The chair of the State Board of Education, the speaker of the House of Representatives, and the president of the Senate shall adjust the length of terms to stagger the terms of committee members so that approximately 1/2 of the committee members are appointed every two years.

(f) No member may receive compensation or benefits for the member's service on the committee.

(9) (a) School districts and charter schools shall require each licensed employee to complete two hours of professional development on youth suicide prevention within their license cycle in accordance with Section 53A-6-104.

(b) The State Board of Education shall develop or adopt sample materials to be used by a school district or charter school for professional development training on youth suicide prevention.

(c) The training required by this Subsection (9) shall be incorporated into professional development training required by rule in accordance with Section 53A-6-104.

Section 49. Section 53A-1-1104 is amended to read:

53A-1-1104. Schools included in grading system.

(1) Except as provided in Subsections (2) through (5), a school that has students who take statewide assessments shall receive a school grade.

(2) A school may not receive a school grade, if the number of a school's students tested is less than the minimum sample size necessary, based on accepted professional practice for statistical reliability or the prevention of the unlawful release of personally identifiable student data under 20 U.S.C. Sec. 1232h.

(3) (a) An alternative school is exempt from school grading.

(b) The board shall annually:

(i) evaluate an alternative school in accordance with an accountability plan approved by the board; and

(ii) report the results on a school report card.

(c) The State Board of Education, a local school board, and a charter school governing board shall provide to a parent or guardian a school report card for an alternative school and electronically publish the school report card in the same manner and at the same time as other school report cards are provided and published pursuant to Section ~~53A-11-1112~~ 53A-1-1112.

(4) The State Board of Education shall exempt a school from school grading in the school's first year of operations if the school's local school board or

charter school governing board requests the exemption.

(5) The State Board of Education shall exempt a high school from school grading or exempt a combination school from the school grading requirement described in Subsection 53A-1-1104.5(2) in the high school's or combination school's second year of operations if the school's local school board or charter school governing board requests the exemption.

Section 50. Section 53A-1a-508 is amended to read:

53A-1a-508. Charter agreement -- Content -- Modification.

(1) A charter agreement:

(a) is a contract between the charter school applicant and the charter school authorizer;

(b) shall describe the rights and responsibilities of each party; and

(c) shall allow for the operation of the applicant's proposed charter school.

(2) A charter agreement shall include:

(a) the name of:

(i) the charter school; and

(ii) the charter school applicant;

(b) the mission statement and purpose of the charter school;

(c) the charter school's opening date;

(d) the grade levels and number of students the charter school will serve;

(e) a description of the structure of the charter school's governing board, including:

(i) the number of board members;

(ii) how members of the board are appointed; and

(iii) board members' terms of office;

(f) assurances that:

(i) the governing board shall comply with:

(A) the charter school's bylaws;

(B) the charter school's articles of incorporation; and

(C) applicable federal law, state law, and State Board of Education rules;

(ii) the governing board will meet all reporting requirements described in Section ~~53A-1b-115~~ 53A-1a-507; and

(iii) except as provided in Title 53A, Chapter 20b, Part 2, Charter School Credit Enhancement Program, neither the authorizer nor the state, including an agency of the state, is liable for the debts or financial obligations of the charter school or a person who operates the charter school;

(g) which administrative rules the State Board of Education will waive for the charter school;

(h) minimum financial standards for operating the charter school;

(i) minimum standards for student achievement; and

(j) signatures of the charter school authorizer and the charter school's governing board members.

(3) A charter agreement may not be modified except by mutual agreement between the charter school authorizer and the governing board of the charter school.

Section 51. Section 53A-1a-601 is amended to read:

53A-1a-601. Job enhancements for mathematics, science, technology, and special education training.

(1) As used in this part, "special education teacher" includes occupational therapist.

(2) The Public Education Job Enhancement Program is established to attract, train, and retain highly qualified:

(a) secondary teachers with expertise in mathematics, physics, chemistry, physical science, learning technology, or information technology;

(b) special education teachers; and

(c) teachers in grades four through six with mathematics endorsements.

(3) The program shall provide for the following:

(a) application by a school district superintendent or the principal of a school on behalf of a qualified teacher;

(b) an award of up to \$20,000 or a scholarship to cover the tuition costs for a master's degree, an endorsement, or graduate education in the areas identified in Subsection (2) to be given to selected public school teachers on a competitive basis:

(i) whose applications are approved [~~under~~ Subsection 53A-1a-602(4)]; and

(ii) who teach in the state's public education system for four years in the areas identified in Subsection (2);

(c) (i) as to the cash awards under Subsection (3)(b), payment of the award in two installments, with an initial payment of up to \$10,000 at the beginning of the term and up to \$10,000 at the conclusion of the term;

(ii) repayment of a portion of the initial payment by the teacher if the teacher fails to complete two years of the four-year teaching term in the areas identified in Subsection (2) as provided by rule of the State Board of Education in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, unless waived for good cause by the State Board of Education; and

(iii) nonpayment of the second installment if the teacher fails to complete the four-year teaching term; and

(d) (i) as to the scholarships awarded under Subsection (3)(b), provision for the providing institution to certify adequate performance in obtaining the master's degree, endorsement, or graduate education in order for the teacher to maintain the scholarship; and

(ii) repayment by the teacher of a prorated portion of the scholarship, if the teacher fails to complete the authorized classes or program or to teach in the state system of public education in the areas identified in Subsection (2) for four years after obtaining the master's degree, the endorsement, or graduate education.

(4) An individual teaching in the public schools under a letter of authorization may participate in the cash award program if:

(a) the individual has taught under the letter of authorization for at least one year in the areas referred to in Subsection (2); and

(b) the application made under Subsection (3)(a) is based in large part upon the individual receiving a superior evaluation as a classroom teacher.

(5) (a) The program may provide for the expenditure of up to \$1,000,000 of available money, if at least an equal amount of matching money becomes available, to provide professional development training to superintendents, administrators, and principals in the effective use of technology in public schools.

(b) An award granted under this Subsection (5) shall be made in accordance with criteria developed and adopted by the State Board of Education and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(c) An amount up to \$120,000 of the \$1,000,000 authorized in Subsection (5)(a) may be expended, regardless of the matching money being available.

Section 52. Section 53A-12-102 is amended to read:

53A-12-102. State policy on student fees, deposits, or other charges.

(1) For purposes of this part:

(a) "Board" means the State Board of Education.

(b) "Secondary school" means a school that provides instruction to students in grades 7, 8, 9, 10, 11, or 12.

(c) "Secondary school student":

(i) means a student enrolled in a secondary school; and

(ii) includes a student in grade 6 if the student attends a secondary school.

(2) (a) A secondary school may impose fees [~~to~~] on secondary school students.

(b) The board shall adopt rules regarding the imposition of fees in secondary schools in accordance with the requirements of this part.

(3) A fee, deposit, or other charge may not be made, or any expenditure required of a student or

the student's parent or guardian, as a condition for student participation in an activity, class, or program provided, sponsored, or supported by or through a public school or school district, unless authorized by the local school board or charter school governing board under rules adopted by the board.

(4) (a) A fee, deposit, charge, or expenditure may not be required for elementary school activities which are part of the regular school day or for supplies used during the regular school day.

(b) An elementary school or elementary school teacher may compile and provide to a student's parent or guardian a suggested list of supplies for use during the regular school day so that a parent or guardian may furnish on a voluntary basis those supplies for student use.

(c) A list provided to a student's parent or guardian pursuant to Subsection (4)(b) shall include and be preceded by the following language:

"NOTICE: THE ITEMS ON THIS LIST WILL BE USED DURING THE REGULAR SCHOOL DAY. THEY MAY BE BROUGHT FROM HOME ON A VOLUNTARY BASIS, OTHERWISE, THEY WILL BE FURNISHED BY THE SCHOOL."

Section 53. Section 53A-15-603 is amended to read:

53A-15-603. Gang prevention and intervention policies.

(1) (a) The State Board of Education shall adopt rules that require a local school board or governing board of a charter school to enact gang prevention and intervention policies for all schools within the board's jurisdiction.

(b) The rules described in Subsection (1)(a) shall provide that the gang prevention and intervention policies of a local school board or charter school governing board may include provisions that reflect the individual school district's or charter school's unique needs or circumstances.

(2) The rules described in Subsection (1) may include the following provisions:

(a) school faculty and personnel shall report suspected gang activities relating to the school and its students to a school administrator and law enforcement;

(b) a student who participates in gang activities may be excluded from participation in extracurricular activities, including interscholastic athletics, as determined by the school administration after consultation with law enforcement;

(c) gang-related graffiti or damage to school property shall result in parent or guardian notification and appropriate administrative and law enforcement actions, which may include obtaining restitution from those responsible for the damage;

(d) if a serious gang-related incident, as determined by the school administrator in

consultation with local law enforcement, occurs on school property, at school related activities, or on a site that is normally considered to be under school control, notification shall be provided to parents and guardians of students in the school:

(i) informing them, in general terms, about the incident, but removing all personally identifiable information about students from the notice;

(ii) emphasizing the school's concern for safety; and

(iii) outlining the action taken at the school regarding the incident;

(e) school faculty and personnel shall be trained by experienced evidence based trainers that may include community gang specialists and law enforcement as part of comprehensive strategies to recognize early warning signs for youth in trouble and help students resist serious involvement in undesirable activity, including joining gangs or mimicking gang behavior;

(f) prohibitions on the following behavior:

(i) advocating or promoting a gang or any gang-related activities;

(ii) marking school property, books, or school work with gang names, slogans, or signs;

(iii) conducting gang initiations;

(iv) threatening another person with bodily injury or inflicting bodily injury on another in connection with a gang or gang-related activity;

(v) aiding or abetting an activity described under Subsections ~~(1)~~ (2)(f)(i) through (iv) by a person's presence or support;

(vi) displaying or wearing common gang apparel, common dress, or identifying signs or symbols on one's clothing, person, or personal property that is disruptive to the school environment; and

(vii) communicating in any method, including verbal, non-verbal, and electronic means, designed to convey gang membership or affiliation.

(3) The rules described in Subsection (1) may require a local school board or governing board of a charter school to publicize the policies enacted by the local school board or governing board of a charter school in accordance with the rules described in Subsection (1) to all students, parents, guardians, and faculty through school websites, handbooks, letters to parents and guardians, or other reasonable means of communication.

(4) The State Board of Education may consult with appropriate committees, including committees that provide opportunities for the input of parents, law enforcement, and community agencies, as it develops, enacts, and administers the rules described in Subsection (1).

Section 54. Section 53A-17a-165 is amended to read:

53A-17a-165. Enhancement for Accelerated Students Program.

(1) As used in this section, "eligible low-income student" means a student who:

- (a) takes an Advanced Placement test;
- (b) has applied for an Advanced Placement test fee reduction; and
- (c) qualifies for a free lunch or a lunch provided at reduced cost.

(2) The State Board of Education shall distribute money appropriated for the Enhancement for Accelerated Students Program to school districts and charter schools according to a formula adopted by the State Board of Education, after consultation with school districts and charter schools.

(3) A distribution formula adopted under Subsection (2) may include an allocation of money for:

- (a) Advanced Placement courses;
- (b) Advanced Placement test fees of eligible low-income students;
- (c) gifted and talented programs, including professional development for teachers of high ability students; and
- (d) International Baccalaureate programs.

(4) The greater of 1.5% or \$100,000 of the appropriation for the Enhancement for Accelerated Students Program may be allowed for International Baccalaureate programs.

(5) A school district or charter school shall use money distributed under this section to enhance the academic growth of students whose academic achievement is accelerated.

(6) (a) The State Board of Education shall develop performance criteria to measure the effectiveness of the Enhancement for Accelerated Students Program and make an annual report to the Public Education Appropriations Subcommittee on the effectiveness of the program.

(b) In the report required by Subsection (6)(a), the State Board of Education shall include data showing the use and impact of money allocated for Advanced Placement test fees of eligible low-income students.

Section 55. Section 53B-24-102 is amended to read:

53B-24-102. Definitions.

As used in this chapter:

(1) "Accredited clinical education program" means a clinical education program for a health care profession that is accredited by the Accreditation Council on Graduate Medical Education.

(2) "Accredited clinical training program" means a clinical training program that is accredited by an entity recognized within medical education circles as an accrediting body for medical education, advanced practice nursing education, physician assistance education, doctor of pharmacy education, or registered nursing education.

(3) "Centers for Medicare and Medicaid Services" means the Centers for Medicare and Medicaid Services within the United States Department of Health and Human Services.

~~(3)~~ (4) "Council" means the Medical Education Council created under Section 53B-24-302.

~~(4) "Health Care Financing Administration" means the Health Care Financing Administration within the United States Department of Health and Human Services.]~~

(5) "Health care professionals in training" means medical students and residents, advance practice nursing students, physician assistant students, doctor of pharmacy students, and registered nursing students.

(6) "Program" means the Medical Education Program created under Section 53B-24-202.

Section 56. Section 53B-24-202 is amended to read:

53B-24-202. Medical Education Program.

(1) There is created a Medical Education Program to be administered by the Medical Education Council in cooperation with the Division of Finance.

(2) The program shall be funded from money received for graduate medical education from:

(a) the federal [~~Health Care Financing Administration~~] Centers for Medicare and Medicaid Services or other federal agency;

(b) state appropriations; and

(c) donation or private contributions.

(3) All funding for this program shall be nonlapsing.

(4) Program money may only be expended if:

(a) approved by the council; and

(b) used for graduate medical education in accordance with Subsection 53B-24-303(7).

Section 57. Section 53B-24-303 is amended to read:

53B-24-303. Duties of council.

The council shall:

(1) submit an application in accordance with federal law for a demonstration project to the [~~Health Care Financing Administration~~] Centers for Medicare and Medicaid Services before December 31, 1997, for the purpose of receiving and disbursing federal funds for direct and indirect graduate medical education expenses;

(2) seek private and public contributions for the program;

(3) study and recommend options for financing graduate medical education to the State Board of Regents and the Legislature;

(4) advise the State Board of Regents and the Legislature on the status and needs of health care professionals in training;

(5) determine the method for reimbursing institutions that sponsor health care professionals in training;

(6) determine the number and type of positions for health care professionals in training for which program money may be used; and

(7) distribute program money for graduate medical education in a manner that:

(a) prepares postgraduate medical residents, as defined by the accreditation council on graduate medical education, for inpatient, outpatient, hospital, community, and geographically diverse settings;

(b) encourages the coordination of interdisciplinary clinical training among health care professionals in training;

(c) promotes stable funding for the clinical training of health care professionals in training; and

(d) only funds accredited clinical training programs.

Section 58. Section 53B-24-402 is amended to read:

53B-24-402. Rural residency training program.

(1) For purposes of this section:

(a) "Physician" means:

(i) a person licensed to practice medicine under Title 58, Chapter 67, Utah Medical Practice Act or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; and

(ii) a person licensed to practice dentistry under Title 58, Chapter 69, Dentist and Dental Hygienist Practice Act.

(b) "Rural residency training program" means an accredited clinical training program as defined in Section 53B-24-102 which places a physician into a rural county for a part or all of the physician's clinical training.

(2) (a) Subject to appropriations from the Legislature, the council shall establish a pilot program to place physicians into rural residency training programs.

(b) The pilot program shall begin July 1, 2005 and sunset July 1, 2015, in accordance with Section [~~63I-1-263~~] 63I-1-253.

Section 59. Section 53D-1-301 is amended to read:

53D-1-301. Board of trustees -- Creation -- Membership.

(1) There is created a School and Institutional Trust Fund Board of Trustees.

(2) The board consists of:

(a) the state treasurer; and

(b) four additional members who are appointed by the state treasurer on a nonpartisan basis from a list of at least two qualified candidates per position, nominated by the nominating committee, as provided in Section 53D-1-503.

(3) The state treasurer shall appoint members under Subsection (2)(b) who possess:

(a) outstanding professional qualifications pertinent to the prudent investment of trust fund money; and

(b) expertise in institutional investment management.

(4) (a) The term of a board member under Subsection (2)(b) is six years.

(b) Notwithstanding Subsection (4)(a), the nominating committee shall stagger terms of initial board members so that the term of not more than one member expires in any year.

(c) A board member may not serve consecutive terms, except that:

(i) a board member whose term is less than six years because of the staggering of terms under Subsection (4)(b) may serve a full consecutive term after the completion of the initial term; and

(ii) a member appointed to fill a vacancy may serve a full consecutive term after filling a previous unexpired term.

(d) A board member shall serve until a successor is appointed, confirmed, and qualified.

(5) Before assuming duties as a board member, a member shall take an oath of office that includes the following:

"I solemnly swear to carry out my duties as a member of the School and Institutional Trust Fund Board of Trustees and to act with undivided loyalty to the beneficiaries of the trust fund that the board oversees, to the best of my abilities and consistent with the law."

(6) The state treasurer may remove a board member for cause, subject to the affirmative vote of at least two other board members, besides the state treasurer.

(7) The state treasurer shall fill a vacancy in the same manner as the initial appointment under Subsection (2)(b)[~~4~~].

(8) A board member may not receive any compensation or benefits for the member's service, but the member may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Section 60. Section 53D-1-402 is amended to read:

53D-1-402. Director duties and responsibilities.

(1) The director has broad authority to manage the office to fulfill its purposes, consistent with the enabling act, the Utah Constitution, state law, and board policies.

(2) The director shall:

(a) before assuming the duties of director, take an oath that includes the following:

“I solemnly swear to carry out my duties as director of the School and Institutional Trust Fund Office with undivided loyalty to the beneficiaries of the trust fund managed by the office, to the best of my abilities and consistent with the law.”;

(b) carry out the policies of the board;

(c) act with undivided loyalty to those entitled to the benefit of income from the trust fund, consistent with the director’s fiduciary duties and responsibilities;

(d) follow the prudent investor rule, prudently seeking to obtain the optimum return from the investment of trust fund money and assets, balancing short-term and long-term interests under the principle of intergenerational equity;

(e) exercise full discretionary authority to manage, maintain, transfer, or sell assets of the trust fund in the manner that the director determines to be most favorable to beneficiaries;

(f) maintain the integrity of the trust fund and prevent, through prudent management, the misapplication of trust fund money;

(g) adopt rules, as provided in Subsection 53D-1-103[~~(3)~~](4), that are necessary for the proper exercise of the director’s duties under this chapter and policies established by the board;

(h) faithfully manage the office under policies established by the board;

(i) annually submit to the board:

(i) an office budget; and

(ii) a financial plan for operations of the office;

(j) after board approval of the office budget, submit the budget to the governor and the Legislature;

(k) direct and control budget expenditures;

(l) establish job descriptions and, within budgetary constraints, employ staff necessary to accomplish the purposes of the office;

(m) in accordance with generally accepted principles of fund accounting, establish a system to identify and account for the trust fund assets;

(n) notify the director of the school children’s trust section of major items that the director knows may be useful to the director of the school children’s trust section in protecting the rights of beneficiaries;

(o) maintain appropriate records of trust fund activities to enable auditors to conduct periodic audits;

(p) respond in writing within a reasonable time to a request by the director of the school children’s trust section for information on policies and practices affecting the management of the trust fund; and

(q) respond to a question that the board submits under Subsection 53D-1-303(4)[~~(e)~~](b) within a reasonable time after receiving the question.

(3) The office may:

(a) sue or be sued; and

(b) contract with other public agencies for personnel management services.

Section 61. Section 57-8a-209 is amended to read:

57-8a-209. Rental restrictions.

(1) As used in this section, “rentals” or “rental lot” means:

(a) a lot owned by an individual not described in Subsection (1)(b) that is occupied by someone while no lot owner occupies the lot as the lot owner’s primary residence; and

(b) a lot owned by an entity or trust, regardless of who occupies the lot.

(2) (a) Subject to Subsections (2)(b), (6), and (7), an association may:

(i) create restrictions on the number and term of rentals in an association; or

(ii) prohibit rentals in the association.

(b) An association that creates a rental restriction or prohibition in accordance with Subsection [~~(1)(a)(i)~~] (2)(a) shall create the rental restriction or prohibition in a recorded declaration of covenants, conditions, and restrictions, or by amending the recorded declaration of covenants, conditions, and restrictions.

(3) If an association prohibits or imposes restrictions on the number and term of rentals, the restrictions shall include:

(a) a provision that requires the association to exempt from the rental restrictions the following lot owner and the lot owner’s lot:

(i) a lot owner in the military for the period of the lot owner’s deployment;

(ii) a lot occupied by a lot owner’s parent, child, or sibling;

(iii) a lot owner whose employer has relocated the lot owner for no less than two years; or

(iv) a lot owned by a trust or other entity created for estate planning purposes if the trust or other estate planning entity was created for:

(A) the estate of a current resident of the lot; or

(B) the parent, child, or sibling of the current resident of the lot;

(b) a provision that allows a lot owner who has a rental in the association before the time the rental restriction described in Subsection (2)(a) is recorded with the county recorder of the county in which the association is located to continue renting until:

(i) the lot owner occupies the lot; or

(ii) an officer, owner, member, trustee, beneficiary, director, or person holding a similar position of ownership or control of an entity or trust that holds an ownership interest in the lot, occupies the lot; and

(c) a requirement that the association create, by rule or resolution, procedures to:

(i) determine and track the number of rentals and lots in the association subject to the provisions described in Subsections (3)(a) and (b); and

(ii) ensure consistent administration and enforcement of the rental restrictions.

(4) For purposes of Subsection (3)(b), a transfer occurs when one or more of the following occur:

(a) the conveyance, sale, or other transfer of a lot by deed;

(b) the granting of a life estate in the lot; or

(c) if the lot is owned by a limited liability company, corporation, partnership, or other business entity, the sale or transfer of more than 75% of the business entity's share, stock, membership interests, or partnership interests in a 12-month period.

(5) This section does not limit or affect residency age requirements for an association that complies with the requirements of the Housing for Older Persons Act, 42 U.S.C. Sec. 3607.

(6) The declaration of covenants, conditions, and restrictions or amendments to the declaration of covenants, conditions, and restrictions recorded before the transfer of the first lot from the initial declarant may prohibit or restrict rentals without providing for the exceptions, provisions, and procedures required under Subsection (3)(a).

(7) Subsections (2) through (6) do not apply to:

(a) an association that contains a time period unit as defined in Section 57-8-3;

(b) any other form of timeshare interest as defined in Section 57-19-2; or

(c) an association in which the initial declaration of covenants, conditions, and restrictions is recorded before May 12, 2009.

(8) Notwithstanding this section, an association may, upon unanimous approval by all lot owners, restrict or prohibit rentals without an exception described in Subsection (3).

(9) Except as provided in Subsection (10), an association may not require a lot owner who owns a rental lot to:

(a) obtain the association's approval of a prospective renter; or

(b) give the association:

(i) a copy of a rental application;

(ii) a copy of a renter's or prospective renter's credit information or credit report;

(iii) a copy of a renter's or prospective renter's background check; or

(iv) documentation to verify the renter's age.

(10) (a) A lot owner who owns a rental lot shall give an association the documents described in Subsection (9)(b) if the lot owner is required to provide the documents by court order or as part of discovery under the Utah Rules of Civil Procedure.

(b) If an association's declaration of covenants, conditions, and restrictions lawfully prohibits or restricts occupancy of the lots by a certain class of individuals, the association may require a lot owner who owns a rental lot to give the association the information described in Subsection (9)(b), if:

(i) the information helps the association determine whether the renter's occupancy of the lot complies with the association's declaration of covenants, conditions, and restrictions; and

(ii) the association uses the information to determine whether the renter's occupancy of the lot complies with the association's declaration of covenants, conditions, and restrictions.

Section 62. Section 57-17-3 is amended to read:

57-17-3. Deductions from deposit -- Written itemization -- Time for return.

(1) Upon termination of a tenancy, the owner or the owner's agent may apply property or money held as a deposit toward the payment of rent, damages to the premises beyond reasonable wear and tear, other costs and fees provided for in the contract, or cleaning of the unit.

(2) No later than 30 days after the day on which a renter vacates and returns possession of a rental property to the owner or the owner's agent, the owner or the owner's agent shall deliver to the renter at the renter's last known address:

(a) the balance of any deposit;

(b) the balance of any prepaid rent; and

(c) if the owner or the owner's agent made any deductions from the deposit or prepaid rent, a written notice that itemizes and explains the reason for each deduction.

(3) If an owner or the owner's agent fails to comply with the requirements described in Subsection (2), the renter may serve the owner or the owner's agent, in accordance with Subsection (4), a notice that:

(a) states:

(i) the names of the parties to the rental agreement;

- (ii) the day on which the renter vacated the rental property;
- (iii) that the owner or the owner's agent has failed to comply with the requirements described in Subsection (2); and

(iv) the address where the owner or the owner's agent may send the items described in Subsection (2); and

(b) is substantially in the following form:

TENANT'S NOTICE TO PROVIDE DEPOSIT DISPOSITION

TO: (insert owner or owner's agent's name)

RE: (insert address of rental property)

NOTICE IS HEREBY GIVEN THAT WITHIN FIVE (5) CALENDAR DAYS pursuant to Utah Code Sections 57-17-3 et seq., the owner or the owner's agent must provide the tenant, at the address below, a refund of the balance of any security deposit, the balance of any prepaid rent, and a notice of any deductions from the security deposit or prepaid rent as allowed by law.

NOTICE IS FURTHER GIVEN that failure to comply with this notice will require the owner to refund the entire security deposit, the full amount of any prepaid rent, and a penalty of \$100. If the entire security deposit, the full amount of any prepaid rent, and the penalty of \$100 is not tendered to the tenant, and the tenant is required to initiate litigation to enforce the provisions of the statute, the owner may be liable for the tenant's court costs and attorney fees. Tenant's Name(s): _____
 Mailing Address _____
 City _____ State _____ Zip _____

This is a legal document. Please read and comply with the document's terms.

Dated this _____ day of _____, 20____.
 Return of Service

On this _____ day of _____, 20____, I swear and attest that I served this notice in compliance with Utah Code Section 57-17-3 by:

____ Delivering a copy to the owner or the owner's agent personally at the address provided in the lease agreement;

____ Leaving a copy with a person of suitable age and discretion at the address provided in the lease agreement because the owner or the owner's agent was absent from the address provided in the lease agreement;

____ Affixing a copy in a conspicuous place at the address provided in the lease agreement because a person of suitable age or discretion could not be found at the address provided in the lease agreement; or

____ Sending a copy through registered or certified mail to the owner or the owner's agent at the address provided in the lease agreement.

The owner's address to which the service was effected is:

Address _____
 City _____ State _____ Zip _____
 _____ (server's signature)

Self-Authentication Declaration

Pursuant to Utah Code Section [46-5-101] 78B-5-705, I declare under criminal penalty of the State of Utah that the foregoing is true and correct. Executed this _____ day of _____, 20____.

_____ (server's signature)

(4) A notice described in Subsection (3) shall be served:

(a) (i) by delivering a copy to the owner or the owner's agent personally at the address provided in the lease agreement;

(ii) if the owner or the owner's agent is absent from the address provided in the lease agreement, by leaving a copy with a person of suitable age and discretion at the address provided in the lease agreement; or

(iii) if a person of suitable age or discretion cannot be found at the address provided in the lease agreement, by affixing a copy in a conspicuous place at the address provided in the lease agreement; or

(b) by sending a copy through registered or certified mail to the owner or the owner's agent at the address provided in the lease agreement.

(5) Within five business days after the day on which the notice described in Subsection (3) is served, the owner or the owner's agent shall comply with the requirements described in Subsection (2).

Section 63. Section 57-17-5 is amended to read:

57-17-5. Failure to return deposit or prepaid rent or to give required notice -- Recovery of deposit, penalty, costs, and attorney fees.

(1) If an owner or the owner's agent fails to comply with the requirements described in Subsection [57-17-4] 57-17-3(5), the renter may:

(a) recover from the owner:

(i) if the owner or the owner's agent failed to timely return the balance of the renter's deposit, the full deposit;

(ii) if the owner or the owner's agent failed to timely return the balance of the renter's prepaid rent, the full amount of the prepaid rent; and

(iii) a civil penalty of \$100; and

(b) file an action in district court to enforce compliance with the provisions of this section.

(2) In an action under Subsection (1)(b), the court shall award costs and attorney fees to the prevailing party if the court determines that the opposing party acted in bad faith.

(3) A renter is not entitled to relief under this section if the renter fails to serve a notice in accordance with Subsection 57-17-3(3).

(4) This section does not preclude an owner or a renter from recovering other damages to which the owner or the renter is entitled.

Section 64. Section 58-11a-302 is amended to read:

58-11a-302. Qualifications for licensure.

(1) Each applicant for licensure as a barber shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) be of good moral character;

(d) provide satisfactory documentation of:

(i) graduation from a licensed or recognized barber school, or a licensed or recognized cosmetology/barber school, whose curriculum consists of a minimum of 1,000 hours of instruction, or the equivalent number of credit hours, over a period of not less than 25 weeks;

(ii) (A) graduation from a recognized barber school located in a state other than Utah whose curriculum consists of less than 1,000 hours of instruction or the equivalent number of credit hours; and

(B) practice as a licensed barber in a state other than Utah for not less than the number of hours required to equal 1,000 total hours when added to the hours of instruction described in Subsection (1)(d)(ii)(A); or

(iii) completion of an approved barber apprenticeship; and

(e) meet the examination requirement established by rule.

(2) Each applicant for licensure as a barber instructor shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) provide satisfactory documentation that the applicant is currently licensed as a barber;

(d) be of good moral character;

(e) provide satisfactory documentation of completion of:

(i) an instructor training program conducted by a licensed or recognized school as defined by rule consisting of a minimum of 500 hours or the equivalent number of credit hours; or

(ii) a minimum of 2,000 hours of experience as a barber; and

(f) meet the examination requirement established by rule.

(3) Each applicant for licensure as a barber school shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504; and

(c) provide satisfactory documentation:

(i) of appropriate registration with the Division of Corporations and Commercial Code;

(ii) of business licensure from the city, town, or county in which the school is located;

(iii) that the applicant's physical facilities comply with the requirements established by rule; and

(iv) that the applicant meets:

(A) the standards for barber schools, including staff and accreditation requirements, established by rule; and

(B) the requirements for recognition as an institution of postsecondary study as described in Subsection (19).

(4) Each applicant for licensure as a cosmetologist/barber shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) be of good moral character;

(d) provide satisfactory documentation of:

(i) (A) graduation from a licensed or recognized cosmetology/barber school whose curriculum consists of a minimum of 1,600 hours of instruction, or the equivalent number of credit hours, with full flexibility within those hours, if the applicant was not a currently enrolled student of a cosmetology/barber school on January 1, 2013; or

(B) graduation from a licensed or recognized cosmetology/barber school whose curriculum consists of a minimum of 2,000 hours of instruction, or the equivalent number of credit hours, with full flexibility within those hours, if the applicant's hours of instruction commenced before January 1, 2013, and the applicant was a currently enrolled student of a cosmetology/barber school on January 1, 2013;

(ii) (A) graduation from a recognized cosmetology/barber school located in a state other than Utah whose curriculum consists of less than 1,600 hours of instruction, or the equivalent number of credit hours, with full flexibility within those hours; and

(B) practice as a licensed cosmetologist/barber in a state other than Utah for not less than the number of hours required to equal 1,600 total hours when added to the hours of instruction described in Subsection (4)(d)(ii)(A); or

(iii) completion of an approved cosmetology/barber apprenticeship; and

(e) meet the examination requirement established by rule.

(5) Each applicant for licensure as a cosmetologist/barber instructor shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) provide satisfactory documentation that the applicant is currently licensed as a cosmetologist/barber;

(d) be of good moral character;

(e) provide satisfactory documentation of completion of:

(i) an instructor training program conducted by a licensed or recognized school as defined by rule consisting of a minimum of 1,000 hours or the equivalent number of credit hours; or

(ii) a minimum of 3,000 hours of experience as a cosmetologist/barber; and

(f) meet the examination requirement established by rule.

(6) Each applicant for licensure as a cosmetologist/barber school shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504; and

(c) provide satisfactory documentation:

(i) of appropriate registration with the Division of Corporations and Commercial Code;

(ii) of business licensure from the city, town, or county in which the school is located;

(iii) that the applicant's physical facilities comply with the requirements established by rule; and

(iv) that the applicant meets:

(A) the standards for cosmetology schools, including staff and accreditation requirements, established by rule; and

(B) the requirements for recognition as an institution of postsecondary study as described in Subsection (19).

(7) Each applicant for licensure as an electrologist shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) be of good moral character;

(d) provide satisfactory documentation of having graduated from a licensed or recognized electrology school after completing a curriculum of 600 hours of instruction or the equivalent number of credit hours; and

(e) meet the examination requirement established by rule.

(8) Each applicant for licensure as an electrologist instructor shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) provide satisfactory documentation that the applicant is currently licensed as an electrologist;

(d) be of good moral character;

(e) provide satisfactory documentation of completion of:

(i) an instructor training program conducted by a licensed or recognized school as defined by rule consisting of a minimum of 175 hours or the equivalent number of credit hours; or

(ii) a minimum of 1,000 hours of experience as an electrologist; and

(f) meet the examination requirement established by rule.

(9) Each applicant for licensure as an electrologist school shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504; and

(c) provide satisfactory documentation:

(i) of appropriate registration with the Division of Corporations and Commercial Code;

(ii) of business licensure from the city, town, or county in which the school is located;

(iii) that the applicant's facilities comply with the requirements established by rule; and

(iv) that the applicant meets:

(A) the standards for electrologist schools, including staff, curriculum, and accreditation requirements, established by rule; and

(B) the requirements for recognition as an institution of postsecondary study as described in Subsection (19).

(10) Each applicant for licensure as an esthetician shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) be of good moral character;

(d) provide satisfactory documentation of one of the following:

(i) graduation from a licensed or recognized esthetic school or a licensed or recognized cosmetology/barber school whose curriculum consists of not less than 15 weeks of esthetic instruction with a minimum of 600 hours or the equivalent number of credit hours;

(ii) completion of an approved esthetician apprenticeship; or

(iii) (A) graduation from a recognized cosmetology/barber school located in a state other than Utah whose curriculum consists of less than 1,600 hours of instruction, or the equivalent number of credit hours, with full flexibility within those hours; and

(B) practice as a licensed cosmetologist/barber for not less than the number of hours required to equal 1,600 total hours when added to the hours of instruction described in Subsection (10)(d)(iii)(A); and

(e) meet the examination requirement established by division rule.

(11) Each applicant for licensure as a master esthetician shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) be of good moral character;

(d) provide satisfactory documentation of:

(i) completion of at least 1,200 hours of training, or the equivalent number of credit hours, at a licensed or recognized esthetics school, except that up to 600 hours toward the 1,200 hours may have been completed:

(A) at a licensed or recognized cosmetology/barbering school, if the applicant graduated from the school and its curriculum consisted of at least 1,600 hours of instruction, or the equivalent number of credit hours, with full flexibility within those hours; or

(B) at a licensed or recognized cosmetology/barber school located in a state other than Utah, if the applicant graduated from the school and its curriculum contained full flexibility within its hours of instruction; or

(ii) completion of an approved master esthetician apprenticeship;

(e) if the applicant will practice lymphatic massage, provide satisfactory documentation to show completion of 200 hours of training, or the equivalent number of credit hours, in lymphatic massage as defined by division rule; and

(f) meet the examination requirement established by division rule.

(12) Each applicant for licensure as an esthetician instructor shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) provide satisfactory documentation that the applicant is currently licensed as a master esthetician;

(d) be of good moral character;

(e) provide satisfactory documentation of completion of:

(i) an instructor training program conducted by a licensed or recognized school as defined by rule, consisting of a minimum of 300 hours or the equivalent number of credit hours; or

(ii) a minimum of 1,000 hours of experience in esthetics; and

(f) meet the examination requirement established by rule.

(13) Each applicant for licensure as an esthetics school shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504; and

(c) provide satisfactory documentation:

(i) of appropriate registration with the Division of Corporations and Commercial Code;

(ii) of business licensure from the city, town, or county in which the school is located;

(iii) that the applicant's physical facilities comply with the requirements established by rule; and

(iv) that the applicant meets:

(A) the standards for esthetics schools, including staff, curriculum, and accreditation requirements, established by division rule made in collaboration with the board; and

(B) the requirements for recognition as an institution of postsecondary study as described in Subsection (19).

(14) Each applicant for licensure as a nail technician shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) be of good moral character;

(d) provide satisfactory documentation of:

(i) graduation from a licensed or recognized nail technology school, or a licensed or recognized cosmetology/barber school, whose curriculum consists of not less than 300 hours of instruction, or the equivalent number of credit hours;

(ii) (A) graduation from a recognized nail technology school located in a state other than Utah whose curriculum consists of less than 300 hours of instruction or the equivalent number of credit hours; and

(B) practice as a licensed nail technician in a state other than Utah for not less than the number of hours required to equal 300 total hours when added to the hours of instruction described in Subsection (14)(d)(ii)(A); or

(iii) completion of an approved nail technician apprenticeship; and

(e) meet the examination requirement established by division rule.

(15) Each applicant for licensure as a nail technician instructor shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) provide satisfactory documentation that the applicant is currently licensed as a nail technician;

(d) be of good moral character;

(e) provide satisfactory documentation of completion of:

(i) an instructor training program conducted by a licensed or recognized school as defined by rule consisting of a minimum of 150 hours or the equivalent number of credit hours; or

(ii) a minimum of 600 hours of experience in nail technology; and

(f) meet the examination requirement established by rule.

(16) Each applicant for licensure as a nail technology school shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504; and

(c) provide satisfactory documentation:

(i) of appropriate registration with the Division of Corporations and Commercial Code;

(ii) of business licensure from the city, town, or county in which the school is located;

(iii) that the applicant's facilities comply with the requirements established by rule; and

(iv) that the applicant meets:

(A) the standards for nail technology schools, including staff, curriculum, and accreditation requirements, established by rule; and

(B) the requirements for recognition as an institution of postsecondary study as described in Subsection (19).

(17) Each applicant for licensure under this chapter whose education in the field for which a license is sought was completed at a foreign school may satisfy the educational requirement for licensure by demonstrating, to the satisfaction of the division, the educational equivalency of the foreign school education with a licensed school under this chapter.

(18) (a) A licensed or recognized school under this section may accept credit hours towards graduation for any profession listed in this section.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and consistent with this section, the division may make rules governing the acceptance of credit hours under Subsection (18)(a).

(19) A school licensed or applying for licensure under this chapter shall maintain recognition as an institution of postsecondary study by meeting the following conditions:

(a) the school shall admit as a regular student only an individual who has earned a recognized high school diploma or the equivalent of a recognized high school diploma, or who is beyond the age of compulsory high school attendance as prescribed by Title 53A, Chapter 11; and

(b) the school shall be licensed by name, or in the case of an applicant, shall apply for licensure by name, under this chapter to offer one or more training programs beyond the secondary level.

Section 65. Section 58-17b-308 is amended to read:

58-17b-308. Term of license -- Expiration -- Renewal.

(1) Except as provided in Subsection (2), each license issued under this chapter shall be issued in accordance with a two-year renewal cycle established by rule. A renewal period may be extended or shortened by as much as one year to maintain established renewal cycles or to change an established renewal cycle. Each license automatically expires on the expiration date shown on the license unless renewed by the licensee in accordance with Section 58-1-308.

(2) The duration of a pharmacy intern license may be no longer than:

(a) one year for a license issued under Subsection 58-17b-304(7)(b) [~~or (e)~~]; or

(b) five years for a license issued under Subsection 58-17b-304(7)(a).

(3) A pharmacy intern license issued under this chapter may not be renewed, but may be extended by the division in collaboration with the board.

Section 66. Section 58-31d-103 is amended to read:

58-31d-103. Rulemaking authority -- Enabling provisions.

(1) The division may adopt rules necessary to implement Section 58-31d-102.

(2) As used in Article VIII (1) of the Advanced Practice Registered Nurse Compact, “head of the licensing board” means the executive administrator of the Utah Board of Nursing.

(3) For purposes of the Advanced Practice Registered Nurse Compact, “APRN” as defined in Article II (1) of the compact includes an individual who is:

(a) licensed to practice under Subsection 58-31b-301(2) as an advanced practice registered nurse; or

(b) licensed to practice under Section 58-44a-301 as a certified nurse midwife.

(4) An APRN practicing in this state under a multistate licensure privilege may only be granted prescriptive authority if that individual can document completion of graduate level course work in the following areas:

- (a) advanced health assessment;
- (b) pharmacotherapeutics; and
- (c) diagnosis and treatment.

(5) (a) An APRN practicing in this state under a multistate privilege who seeks to obtain prescriptive authority must:

(i) meet all the requirements of Subsection (4) and this Subsection (5); and

(ii) be placed on a registry with the division.

(b) To be placed on a registry under Subsection (5)(a)(ii), an APRN must:

- (i) submit a form prescribed by the division;
- (ii) pay a fee; and
- (iii) if prescribing a controlled substance:

(A) obtain a controlled substance license as required under Section 58-37-6; and

(B) if prescribing a Schedule II or III controlled substance, have a consultation and referral plan with a physician licensed in Utah as required under Subsection 58-31b-102(13)(c)(iii) or 58-44a-102(8)(b)(iii)(C)(9)(c)(iii)(C).

Section 67. Section 58-37-2 is amended to read:

58-37-2. Definitions.

(1) As used in this chapter:

(a) “Administer” means the direct application of a controlled substance, whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by:

(i) a practitioner or, in the practitioner’s presence, by the practitioner’s authorized agent; or

(ii) the patient or research subject at the direction and in the presence of the practitioner.

(b) “Agent” means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or practitioner but does not include a

motor carrier, public warehouseman, or employee of any of them.

(c) “Consumption” means ingesting or having any measurable amount of a controlled substance in a person’s body, but this Subsection (1)(c) does not include the metabolite of a controlled substance.

(d) “Continuing criminal enterprise” means any individual, sole proprietorship, partnership, corporation, business trust, association, or other legal entity, and any union or groups of individuals associated in fact although not a legal entity, and includes illicit as well as licit entities created or maintained for the purpose of engaging in conduct which constitutes the commission of episodes of activity made unlawful by Title 58, Chapter 37, Utah Controlled Substances Act, Chapter 37a, Utah Drug Paraphernalia Act, Chapter 37b, Imitation Controlled Substances Act, Chapter 37c, Utah Controlled Substance Precursor Act, or Chapter 37d, Clandestine Drug Lab Act, which episodes are not isolated, but have the same or similar purposes, results, participants, victims, methods of commission, or otherwise are interrelated by distinguishing characteristics. Taken together, the episodes shall demonstrate continuing unlawful conduct and be related either to each other or to the enterprise.

(e) “Control” means to add, remove, or change the placement of a drug, substance, or immediate precursor under Section 58-37-3.

(f) (i) “Controlled substance” means a drug or substance:

(A) included in Schedules I, II, III, IV, or V of Section 58-37-4;

(B) included in Schedules I, II, III, IV, or V of the federal Controlled Substances Act, Title II, P.L. 91-513;

(C) that is a controlled substance analog; or

(D) listed in Section 58-37-4.2.

(ii) “Controlled substance” does not include:

(A) distilled spirits, wine, or malt beverages, as those terms are defined in Title 32B, Alcoholic Beverage Control Act;

(B) any drug intended for lawful use in the diagnosis, cure, mitigation, treatment, or prevention of disease in human or other animals, which contains ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine if the drug is lawfully purchased, sold, transferred, or furnished as an over-the-counter medication without prescription; or

(C) dietary supplements, vitamins, minerals, herbs, or other similar substances including concentrates or extracts, which:

(I) are not otherwise regulated by law; and

(II) may contain naturally occurring amounts of chemical or substances listed in this chapter, or in rules adopted pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(g) (i) “Controlled substance analog” means:

(A) a substance the chemical structure of which is substantially similar to the chemical structure of a controlled substance listed in Schedules I and II of Section 58-37-4, a substance listed in Section 58-37-4.2, or in Schedules I and II of the federal Controlled Substances Act, Title II, P.L. 91-513;

(B) a substance which has a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant, or hallucinogenic effect on the central nervous system of controlled substances listed in Schedules I and II of Section 58-37-4, substances listed in Section 58-37-4.2, or substances listed in Schedules I and II of the federal Controlled Substances Act, Title II, P.L. 91-513; or

(C) A substance which, with respect to a particular individual, is represented or intended to have a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant, or hallucinogenic effect on the central nervous system of controlled substances listed in Schedules I and II of Section 58-37-4, substances listed in Section 58-37-4.2, or substances listed in Schedules I and II of the federal Controlled Substances Act, Title II, P.L. 91-513.

(ii) "Controlled substance analog" does not include:

(A) a controlled substance currently scheduled in Schedules I through V of Section 58-37-4;

(B) a substance for which there is an approved new drug application;

(C) a substance with respect to which an exemption is in effect for investigational use by a particular person under Section 505 of the Food, Drug, and Cosmetic Act, 21 U.S.C. 355, to the extent the conduct with respect to the substance is permitted by the exemption;

(D) any substance to the extent not intended for human consumption before an exemption takes effect with respect to the substance;

(E) any drug intended for lawful use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals, which contains ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine if the drug is lawfully purchased, sold, transferred, or furnished as an over-the-counter medication without prescription; or

(F) dietary supplements, vitamins, minerals, herbs, or other similar substances including concentrates or extracts, which are not otherwise regulated by law, which may contain naturally occurring amounts of chemical or substances listed in this chapter, or in rules adopted pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(h) (i) "Conviction" means a determination of guilt by verdict, whether jury or bench, or plea, whether guilty or no contest, for any offense

proscribed by [Title 58, Chapters 37, 37a, 37b, 37c, or 37d.];

(A) Chapter 37, Utah Controlled Substances Act;

(B) Chapter 37a, Utah Drug Paraphernalia Act;

(C) Chapter 37b, Imitation Controlled Substances Act;

(D) Chapter 37c, Utah Controlled Substance Precursor Act; or

(E) Chapter 37d, Clandestine Drug Lab Act; or

(ii) for any offense under the laws of the United States and any other state which, if committed in this state, would be an offense under [Title 58, Chapters 37, 37a, 37b, 37c, or 37d.];

(A) Chapter 37, Utah Controlled Substances Act;

(B) Chapter 37a, Utah Drug Paraphernalia Act;

(C) Chapter 37b, Imitation Controlled Substances Act;

(D) Chapter 37c, Utah Controlled Substance Precursor Act; or

(E) Chapter 37d, Clandestine Drug Lab Act.

(i) "Counterfeit substance" means:

(i) any controlled substance or container or labeling of any controlled substance that:

(A) without authorization bears the trademark, trade name, or other identifying mark, imprint, number, device, or any likeness of them, of a manufacturer, distributor, or dispenser other than the person or persons who in fact manufactured, distributed, or dispensed the substance which falsely purports to be a controlled substance distributed by any other manufacturer, distributor, or dispenser; and

(B) a reasonable person would believe to be a controlled substance distributed by an authorized manufacturer, distributor, or dispenser based on the appearance of the substance as described under Subsection (1)(i)(i)(A) or the appearance of the container of that controlled substance; or

(ii) any substance other than under Subsection (1)(i)(i) that:

(A) is falsely represented to be any legally or illegally manufactured controlled substance; and

(B) a reasonable person would believe to be a legal or illegal controlled substance.

(j) "Deliver" or "delivery" means the actual, constructive, or attempted transfer of a controlled substance or a listed chemical, whether or not an agency relationship exists.

(k) "Department" means the Department of Commerce.

(l) "Depressant or stimulant substance" means:

(i) a drug which contains any quantity of barbituric acid or any of the salts of barbituric acid;

(ii) a drug which contains any quantity of:

- (A) amphetamine or any of its optical isomers;
- (B) any salt of amphetamine or any salt of an optical isomer of amphetamine; or
- (C) any substance which the Secretary of Health and Human Services or the Attorney General of the United States after investigation has found and by regulation designated habit-forming because of its stimulant effect on the central nervous system;
- (iii) lysergic acid diethylamide; or
- (iv) any drug which contains any quantity of a substance which the Secretary of Health and Human Services or the Attorney General of the United States after investigation has found to have, and by regulation designated as having, a potential for abuse because of its depressant or stimulant effect on the central nervous system or its hallucinogenic effect.
- (m) "Dispense" means the delivery of a controlled substance by a pharmacist to an ultimate user pursuant to the lawful order or prescription of a practitioner, and includes distributing to, leaving with, giving away, or disposing of that substance as well as the packaging, labeling, or compounding necessary to prepare the substance for delivery.
- (n) "Dispenser" means a pharmacist who dispenses a controlled substance.
- (o) "Distribute" means to deliver other than by administering or dispensing a controlled substance or a listed chemical.
- (p) "Distributor" means a person who distributes controlled substances.
- (q) "Division" means the Division of Occupational and Professional Licensing created in Section 58-1-103.
- (r) (i) "Drug" means:
- (A) a substance recognized in the official United States Pharmacopoeia, Official Homeopathic Pharmacopoeia of the United States, or Official National Formulary, or any supplement to any of them, intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans or animals;
- (B) a substance that is required by any applicable federal or state law or rule to be dispensed by prescription only or is restricted to administration by practitioners only;
- (C) a substance other than food intended to affect the structure or any function of the body of humans or other animals; and
- (D) substances intended for use as a component of any substance specified in Subsections (1)(r)(i)(A), (B), and (C).
- (ii) "Drug" does not include dietary supplements.
- (s) "Drug dependent person" means any individual who unlawfully and habitually uses any controlled substance to endanger the public morals, health, safety, or welfare, or who is so dependent upon the use of controlled substances as to have lost

the power of self-control with reference to the individual's dependency.

(t) "Food" means:

(i) any nutrient or substance of plant, mineral, or animal origin other than a drug as specified in this chapter, and normally ingested by human beings; and

(ii) foods for special dietary uses as exist by reason of a physical, physiological, pathological, or other condition including but not limited to the conditions of disease, convalescence, pregnancy, lactation, allergy, hypersensitivity to food, underweight, and overweight; uses for supplying a particular dietary need which exist by reason of age including but not limited to the ages of infancy and childbirth, and also uses for supplementing and for fortifying the ordinary or unusual diet with any vitamin, mineral, or other dietary property for use of a food. Any particular use of a food is a special dietary use regardless of the nutritional purposes.

(u) "Immediate precursor" means a substance which the Attorney General of the United States has found to be, and by regulation designated as being, the principal compound used or produced primarily for use in the manufacture of a controlled substance, or which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance, the control of which is necessary to prevent, curtail, or limit the manufacture of the controlled substance.

(v) "Indian" means a member of an Indian tribe.

(w) "Indian religion" means any religion:

(i) the origin and interpretation of which is from within a traditional Indian culture or community; and

(ii) which is practiced by Indians.

(x) "Indian tribe" means any tribe, band, nation, pueblo, or other organized group or community of Indians, including any Alaska Native village, which is legally recognized as eligible for and is consistent with the special programs, services, and entitlements provided by the United States to Indians because of their status as Indians.

(y) "Manufacture" means the production, preparation, propagation, compounding, or processing of a controlled substance, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis.

(z) "Manufacturer" includes any person who packages, repackages, or labels any container of any controlled substance, except pharmacists who dispense or compound prescription orders for delivery to the ultimate consumer.

(aa) "Marijuana" means all species of the genus cannabis and all parts of the genus, whether growing or not; the seeds of it; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. The

term does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin extracted from them, fiber, oil or cake, or the sterilized seed of the plant which is incapable of germination. Any synthetic equivalents of the substances contained in the plant *cannabis sativa* or any other species of the genus *cannabis* which are chemically indistinguishable and pharmacologically active are also included.

(bb) "Money" means officially issued coin and currency of the United States or any foreign country.

(cc) "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(i) opium, coca leaves, and opiates;

(ii) a compound, manufacture, salt, derivative, or preparation of opium, coca leaves, or opiates;

(iii) opium poppy and poppy straw; or

(iv) a substance, and any compound, manufacture, salt, derivative, or preparation of the substance, which is chemically identical with any of the substances referred to in Subsection (1)(cc)(i), (ii), or (iii), except narcotic drug does not include decocainized coca leaves or extracts of coca leaves which do not contain cocaine or ecgonine.

(dd) "Negotiable instrument" means documents, containing an unconditional promise to pay a sum of money, which are legally transferable to another party by endorsement or delivery.

(ee) "Opiate" means any drug or other substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability.

(ff) "Opium poppy" means the plant of the species *papaver somniferum* L., except the seeds of the plant.

(gg) "Person" means any corporation, association, partnership, trust, other institution or entity or one or more individuals.

(hh) "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

(ii) "Possession" or "use" means the joint or individual ownership, control, occupancy, holding, retaining, belonging, maintaining, or the application, inhalation, swallowing, injection, or consumption, as distinguished from distribution, of controlled substances and includes individual, joint, or group possession or use of controlled substances. For a person to be a possessor or user of a controlled substance, it is not required that the person be shown to have individually possessed,

used, or controlled the substance, but it is sufficient if it is shown that the person jointly participated with one or more persons in the use, possession, or control of any substances with knowledge that the activity was occurring, or the controlled substance is found in a place or under circumstances indicating that the person had the ability and the intent to exercise dominion and control over it.

(jj) "Practitioner" means a physician, dentist, naturopathic physician, veterinarian, pharmacist, scientific investigator, pharmacy, hospital, or other person licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to, administer, or use in teaching or chemical analysis a controlled substance in the course of professional practice or research in this state.

(kk) "Prescribe" means to issue a prescription:

(i) orally or in writing; or

(ii) by telephone, facsimile transmission, computer, or other electronic means of communication as defined by division rule.

(ll) "Prescription" means an order issued:

(i) by a licensed practitioner, in the course of that practitioner's professional practice or by collaborative pharmacy practice agreement; and

(ii) for a controlled substance or other prescription drug or device for use by a patient or an animal.

(mm) "Production" means the manufacture, planting, cultivation, growing, or harvesting of a controlled substance.

(nn) "Securities" means any stocks, bonds, notes, or other evidences of debt or of property.

(oo) "State" means the state of Utah.

(pp) "Ultimate user" means any person who lawfully possesses a controlled substance for the person's own use, for the use of a member of the person's household, or for administration to an animal owned by the person or a member of the person's household.

(2) If a term used in this chapter is not defined, the definition and terms of Title 76, Utah Criminal Code, shall apply.

Section 68. Section 58-37-4 is amended to read:

58-37-4. Schedules of controlled substances -- Schedules I through V -- Findings required -- Specific substances included in schedules.

(1) There are established five schedules of controlled substances known as Schedules I, II, III, IV, and V which consist of substances listed in this section.

(2) Schedules I, II, III, IV, and V consist of the following drugs or other substances by the official name, common or usual name, chemical name, or brand name designated:

(a) Schedule I:

(i) Unless specifically excepted or unless listed in another schedule, any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, when the existence of the isomers, esters, ethers, and salts is possible within the specific chemical designation:

(A) Acetyl- α -methylfentanyl(N-[1-(1-methyl-2-phenethyl)-4-piperidinyl]-N-phenylacetamide);

(B) Acetylmethadol;

(C) Allylprodine;

(D) Alphacetylmethadol, except levo-alphacetylmethadol also known as levo- α -acetylmethadol, levomethadyl acetate, or LAAM;

(E) Alphameprodine;

(F) Alphamethadol;

(G) Alpha-methylfentanyl (N-[1-(α -methyl- β -phenyl)ethyl-4-piperidyl]propionanilide;1-(1-methyl-2-phenylethyl)-4-(N-propanilido) piperidine);

(H) Alpha-methylthiofentanyl (N-[1-methyl-2-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide);

(I) Benzylpiperazine;

(J) Benzethidine;

(K) Betacetylmethadol;

(L) Beta-hydroxyfentanyl(N-[1-(2-hydroxy-2-phenethyl)-4-piperidinyl]-N-phenylpropanamide);

(M) Beta-hydroxy-3-methylfentanyl, other name:N-[1-(2-hydroxy-2-phenethyl)-3-methyl-4-piperidinyl]-N-phenylpropanamide;

(N) Betameprodine;

(O) Betamethadol;

(P) Betaprodine;

(Q) Clonitazene;

(R) Dextromoramide;

(S) Diampromide;

(T) Diethylthiambutene;

(U) Difenoixin;

(V) Dimenoxadol;

(W) Dimepheptanol;

(X) Dimethylthiambutene;

(Y) Dioxaphetyl butyrate;

(Z) Dipipanone;

(AA) Ethylmethylthiambutene;

(BB) Etonitazene;

(CC) Etoxeridine;

(DD) Furethidine;

(EE) Hydroxypethidine;

(FF) Ketobemidone;

(GG) Levomoramide;

(HH) Levophenacymorphan;

(II) Morpheridine;

(JJ) MPPP (1-methyl-4-phenyl-4-propionoxypiperidine);

(KK) Noracymethadol;

(LL) Norlevorphanol;

(MM) Normethadone;

(NN) Norpipanone;

(OO) Para-fluorofentanyl (N-(4-fluorophenyl)-N-[1-(2-phenethyl)-4-piperidinyl] propanamide;

(PP) PEPAP (1-(2-phenethyl)-4-phenyl-4-acetoxypiperidine);

(QQ) Phenadoxone;

(RR) Phenampromide;

(SS) Phenomorphan;

(TT) Phenoperidine;

(UU) Piritramide;

(VV) Proheptazine;

(WW) Properidine;

(XX) Propiram;

(YY) Racemoramide;

(ZZ) Thiofentanyl (N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidinyl]- propanamide;

(AAA) Tilidine;

(BBB) Trimeperidine;

(CCC) 3-methylfentanyl, including the optical and geometric isomers (N-[3-methyl-1-(2-phenylethyl)-4-piperidyl]- N-phenylpropanamide); and

(DDD)3-methylthiofentanyl (N-[3-methyl-1-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide).

(ii) Unless specifically excepted or unless listed in another schedule, any of the following opium derivatives, their salts, isomers, and salts of isomers when the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation:

(A) Acetorphine;

(B) Acetyldihydrocodeine;

(C) Benzylmorphine;

(D) Codeine methylbromide;

(E) Codeine-N-Oxide;

(F) Cyprenorphine;

- (G) Desomorphine;
- (H) Dihydromorphine;
- (I) Drotebanol;
- (J) Etorphine (except hydrochloride salt);
- (K) Heroin;
- (L) Hydromorphanol;
- (M) Methyl-desorphine;
- (N) Methylhydromorphine;
- (O) Morphine methylbromide;
- (P) Morphine methylsulfonate;
- (Q) Morphine-N-Oxide;
- (R) Myrophine;
- (S) Nicocodeine;
- (T) Nicomorphine;
- (U) Normorphine;
- (V) Pholcodine; and
- (W) Thebacon.
- (iii) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following hallucinogenic substances, or which contains any of their salts, isomers, and salts of isomers when the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation; as used in this Subsection (2)(a)(iii) only, "isomer" includes the optical, position, and geometric isomers:
- (A) Alpha-ethyltryptamine, some trade or other names: etryptamine; Monase; α -ethyl-1H-indole-3-ethanamine; 3-(2-aminobutyl)indole; α -ET; and AET;
- (B) 4-bromo-2,5-dimethoxy-amphetamine, some trade or other names: 4-bromo-2,5-dimethoxy- α -methylphenethylamine; 4-bromo-2,5-DMA;
- (C) 4-bromo-2,5-dimethoxyphenethylamine, some trade or other names: 2-(4-bromo-2,5-dimethoxyphenyl)-1-aminoethane; alpha-desmethyl DOB; 2C-B, Nexus;
- (D) 2,5-dimethoxyamphetamine, some trade or other names: 2,5-dimethoxy- α -methylphenethylamine; 2,5-DMA;
- (E) 2,5-dimethoxy-4-ethylamphetamine, some trade or other names: DOET;
- (F) 4-methoxyamphetamine, some trade or other names: 4-methoxy- α -methylphenethylamine; paramethoxyamphetamine, PMA;
- (G) 5-methoxy-3,4-methylenedioxyamphetamine;
- (H) 4-methyl-2,5-dimethoxy-amphetamine, some trade and other names:

- 4-methyl-2,5-dimethoxy- α -methylphenethylamine; "DOM"; and "STP";
- (I) 3,4-methylenedioxy amphetamine;
- (J) 3,4-methylenedioxymethamphetamine (MDMA);
- (K) 3,4-methylenedioxy-N-ethylamphetamine, also known as N-ethyl-alpha-methyl-3,4(methylenedioxy) phenethylamine, N-ethyl MDA, MDE, MDEA;
- (L) N-hydroxy-3,4-methylenedioxyamphetamine, also known as N-hydroxy-alpha-methyl-3,4(methylenedioxy)phenethylamine, and N-hydroxy MDA;
- (M) 3,4,5-trimethoxy amphetamine;
- (N) Bufotenine, some trade and other names: 3-(2-Dimethylaminoethyl)-5-hydroxyindole; 3-(2-dimethylaminoethyl)-5-indolol; N, N-dimethylserotonin; 5-hydroxy-N, N-dimethyltryptamine; mappine;
- (O) Diethyltryptamine, some trade and other names: N,N-Diethyltryptamine; DET;
- (P) Dimethyltryptamine, some trade or other names: DMT;
- (Q) Ibogaine, some trade and other names: 7-Ethyl-6,6,7,8,9,10,12,13-octahydro-2-methoxy-6,9-methano-5H-pyrido [1', 2':1,2] azepino [5,4-b] indole; Tabernanthe iboga;
- (R) Lysergic acid diethylamide;
- (S) Marijuana;
- (T) Mescaline;
- (U) Parahexyl, some trade or other names: 3-Hexyl-1-hydroxy-7,8,9,10-tetrahydro-6,6,9-trimethyl-6H-dibenzo[b,d]pyran; Synhexyl;
- (V) Peyote, meaning all parts of the plant presently classified botanically as *Lophophora williamsii* Lemaire, whether growing or not, the seeds thereof, any extract from any part of such plant, and every compound, manufacture, salts, derivative, mixture, or preparation of such plant, its seeds or extracts (Interprets 21 USC 812(c), Schedule I(c) (12));
- (W) N-ethyl-3-piperidyl benzilate;
- (X) N-methyl-3-piperidyl benzilate;
- (Y) Psilocybin;
- (Z) Psilocyn;
- (AA) Tetrahydrocannabinols, naturally contained in a plant of the genus *Cannabis* (cannabis plant), as well as synthetic equivalents of the substances contained in the cannabis plant, or in the resinous extractives of *Cannabis*, sp. and/or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity to those substances contained in the plant, such as the following: 1 cis or trans tetrahydrocannabinol, and their optical isomers 6 cis or trans tetrahydrocannabinol, and their optical isomers 3,4 cis or trans

tetrahydrocannabinol, and its optical isomers, and since nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions covered;

(BB) Ethylamine analog of phencyclidine, some trade or other names: N-ethyl-1-phenylcyclohexylamine, (1-phenylcyclohexyl)ethylamine, N-(1-phenylcyclohexyl)ethylamine, cyclohexamine, PCE;

(CC) Pyrrolidine analog of phencyclidine, some trade or other names: 1-(1-phenylcyclohexyl)-pyrrolidine, PCPy, PHP;

(DD) Thiophene analog of phencyclidine, some trade or other names: 1-[1-(2-thienyl)-cyclohexyl]-piperidine, 2-thienylanalog of phencyclidine, TPCP, TCP; and

(EE) 1-[1-(2-thienyl)cyclohexyl]pyrrolidine, some other names: TCPy.

(iv) Unless specifically excepted or unless listed in another schedule, any material compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers when the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation:

(A) Mecloqualone; and

(B) Methaqualone.

(v) Any material, compound, mixture, or preparation containing any quantity of the following substances having a stimulant effect on the central nervous system, including their salts, isomers, and salts of isomers:

(A) Aminorex, some other names: aminoxaphen; 2-amino-5-phenyl-2-oxazoline; or 4,5-dihydro-5-phenyl-2-oxazolamine;

(B) Cathinone, some trade or other names: 2-amino-1-phenyl-1-propanone, alpha-aminopropiophenone, 2-aminopropiophenone, and norephedrone;

(C) Fenethylamine;

(D) Methcathinone, some other names: 2-(methylamino)-propiophenone; alpha-(methylamino)propiophenone; 2-(methylamino)-1-phenylpropan-1-one; alpha-N-methylaminopropiophenone; monomethylpropion; ephedrone; N-methylcathinone; methylcathinone; AL-464; AL-422; AL-463 and UR1432, its salts, optical isomers, and salts of optical isomers;

(E) (ñ)cis-4-methylaminorex ((ñ)cis-4,5-dihydro-4-methyl-5-phenyl-2-oxazolamine);

(F) N-ethylamphetamine; and

(G) N,N-dimethylamphetamine, also known as N,N-alpha-trimethyl-benzeneethanamine; N,N-alpha-trimethylphenethylamine.

(vi) Any material, compound, mixture, or preparation which contains any quantity of the following substances, including their optical isomers, salts, and salts of isomers, subject to temporary emergency scheduling:

(A) N-[1-benzyl-4-piperidyl]-N-phenylpropanamide (benzylfentanyl); and

(B) N-[1-(2-thienyl)methyl-4-piperidyl]-N-phenylpropanamide (thienylfentanyl).

(vii) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of gamma hydroxy butyrate (gamma hydrobutyric acid), including its salts, isomers, and salts of isomers.

(b) Schedule II:

(i) Unless specifically excepted or unless listed in another schedule, any of the following substances whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(A) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate, excluding apomorphine, dextrorphan, nalbuphine, nalmefene, naloxone, and naltrexone, and their respective salts, but including:

(I) Raw opium;

(II) Opium extracts;

(III) Opium fluid;

(IV) Powdered opium;

(V) Granulated opium;

(VI) Tincture of opium;

(VII) Codeine;

(VIII) Ethylmorphine;

(IX) Etorphine hydrochloride;

(X) Hydrocodone;

(XI) Hydromorphone;

(XII) Metopon;

(XIII) Morphine;

(XIV) Oxycodone;

(XV) Oxymorphone; and

(XVI) Thebaine;

(B) Any salt, compound, derivative, or preparation which is chemically equivalent or identical with any of the substances referred to in Subsection (2)(b)(i)(A), except that these substances may not include the isoquinoline alkaloids of opium;

- (C) Opium poppy and poppy straw;
- (D) Coca leaves and any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, derivative, or preparation which is chemically equivalent or identical with any of these substances, and includes cocaine and ecgonine, their salts, isomers, derivatives, and salts of isomers and derivatives, whether derived from the coca plant or synthetically produced, except the substances may not include decocainized coca leaves or extraction of coca leaves, which extractions do not contain cocaine or ecgonine; and
- (E) Concentrate of poppy straw, which means the crude extract of poppy straw in either liquid, solid, or powder form which contains the phenanthrene alkaloids of the opium poppy.
- (ii) Unless specifically excepted or unless listed in another schedule, any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, when the existence of the isomers, esters, ethers, and salts is possible within the specific chemical designation, except dextrorphan and levopropoxyphene:
- (A) Alfentanil;
- (B) Alphaprodine;
- (C) Anileridine;
- (D) Bezitramide;
- (E) Bulk dextropropoxyphene (nondosage forms);
- (F) Carfentanil;
- (G) Dihydrocodeine;
- (H) Diphenoxylate;
- (I) Fentanyl;
- (J) Isomethadone;
- (K) Levo-alpha-acetylmethadol, some other names: levo-alpha-acetylmethadol, levomethadyl acetate, or LAAM;
- (L) Levomethorphan;
- (M) Levorphanol;
- (N) Metazocine;
- (O) Methadone;
- (P) Methadone-Intermediate, 4-cyano-2-dimethylamino-4, 4-diphenyl butane;
- (Q) Moramide-Intermediate, 2-methyl-3-morpholino-1, 1-diphenylpropane-carboxylic acid;
- (R) Pethidine (meperidine);
- (S) Pethidine-Intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine;
- (T) Pethidine-Intermediate-B, ethyl-4-phenylpiperidine-4-carboxylate;
- (U) Pethidine-Intermediate-C, 1-methyl-4-phenylpiperidine-4-carboxylic acid;
- (V) Phenazocine;
- (W) Piminodine;
- (X) Racemethorphan;
- (Y) Racemorphan;
- (Z) Remifentanyl; and
- (AA) Sufentanil.
- (iii) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system:
- (A) Amphetamine, its salts, optical isomers, and salts of its optical isomers;
- (B) Methamphetamine, its salts, isomers, and salts of its isomers;
- (C) Phenmetrazine and its salts; and
- (D) Methylphenidate.
- (iv) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers when the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation:
- (A) Amobarbital;
- (B) Glutethimide;
- (C) Pentobarbital;
- (D) Phencyclidine;
- (E) Phencyclidine immediate precursors: 1-phenylcyclohexylamine and 1-piperidinocyclohexanecarbonitrile (PCC); and
- (F) Secobarbital.
- (v) (A) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of Phenylacetone.
- (B) Some of these substances may be known by trade or other names: phenyl-2-propanone; P2P; benzyl methyl ketone; and methyl benzyl ketone.
- (vi) Nabilone, another name for nabilone: (ñ)-trans-3-(1,1-dimethylheptyl)-6,6a,7,8,10,10a-hexahydro-1-hydroxy-6,6-dimethyl-9H-dibenzo[b,d]pyran-9-one.
- (c) Schedule III:
- (i) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers whether optical, position, or geometric, and salts of the isomers when the existence of the salts, isomers, and salts of

isomers is possible within the specific chemical designation:

(A) Those compounds, mixtures, or preparations in dosage unit form containing any stimulant substances listed in Schedule II, which compounds, mixtures, or preparations were listed on August 25, 1971, as excepted compounds under Section 1308.32 of Title 21 of the Code of Federal Regulations, and any other drug of the quantitative composition shown in that list for those drugs or which is the same except that it contains a lesser quantity of controlled substances;

- (B) Benzphetamine;
- (C) Chlorphentermine;
- (D) Clortermine; and
- (E) Phendimetrazine.

(ii) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system:

(A) Any compound, mixture, or preparation containing amobarbital, secobarbital, pentobarbital, or any salt of any of them, and one or more other active medicinal ingredients which are not listed in any schedule;

(B) Any suppository dosage form containing amobarbital, secobarbital, or pentobarbital, or any salt of any of these drugs which is approved by the Food and Drug Administration for marketing only as a suppository;

(C) Any substance which contains any quantity of a derivative of barbituric acid or any salt of any of them;

- (D) Chlorhexadol;
- (E) Buprenorphine;

(F) Any drug product containing gamma hydroxybutyric acid, including its salts, isomers, and salts of isomers, for which an application is approved under the federal Food, Drug, and Cosmetic Act, Section 505;

(G) Ketamine, its salts, isomers, and salts of isomers, some other names for ketamine: \bar{n} -2-(2-chlorophenyl)-2-(methylamino)-cyclohexanone;

- (H) Lysergic acid;
- (I) Lysergic acid amide;
- (J) Methyprylon;
- (K) Sulfondiethylmethane;
- (L) Sulfonethylmethane;
- (M) Sulfonmethane; and

(N) Tiletamine and zolazepam or any of their salts, some trade or other names for a tiletamine-zolazepam combination product: Telazol, some trade or other names for tiletamine:

2-(ethylamino)-2-(2-thienyl)-cyclohexanone, some trade or other names for zolazepam: 4-(2-fluorophenyl)-6,8-dihydro-1,3,8-trimethylp yrazolo-[3,4-e] [1,4]-diazepin-7(1H)-one, flupyrzapon.

(iii) Dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a U.S. Food and Drug Administration approved drug product, some other names for dronabinol: (6aR-trans)-6a,7,8,10a-tetrahydro-6,6,9-trimethyl-3-pentyl-6H-dibenzo[b,d]pyran-1-ol, or (-)-delta-9-(trans)-tetrahydrocannabinol.

(iv) Nalorphine.

(v) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid:

(A) Not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium;

(B) Not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active non-narcotic ingredients in recognized therapeutic amounts;

(C) Not more than 300 milligrams of dihydrocodeinone per 100 milliliters or not more than 15 milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium;

(D) Not more than 300 milligrams of dihydrocodeinone per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, non-narcotic ingredients in recognized therapeutic amounts;

(E) Not more than 1.8 grams of dihydrocodeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active non-narcotic ingredients in recognized therapeutic amounts;

(F) Not more than 300 milligrams of ethylmorphine per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, non-narcotic ingredients in recognized therapeutic amounts;

(G) Not more than 500 milligrams of opium per 100 milliliters or per 100 grams, or not more than 25 milligrams per dosage unit, with one or more active, non-narcotic ingredients in recognized therapeutic amounts; and

(H) Not more than 50 milligrams of morphine per 100 milliliters or per 100 grams with one or more active, non-narcotic ingredients in recognized therapeutic amounts.

(vi) Unless specifically excepted or unless listed in another schedule, anabolic steroids including any of the following or any isomer, ester, salt, or derivative of the following that promotes muscle growth:

- (A) Boldenone;
- (B) Chlorotestosterone (4-chlorotestosterone);
- (C) Clostebol;
- (D) Dehydrochlormethyltestosterone;
- (E) Dihydrotestosterone (4-dihydrotestosterone);
- (F) Drostanolone;
- (G) Ethylestrenol;
- (H) Fluoxymesterone;
- (I) Formebolone (formebolone);
- (J) Mesterolone;
- (K) Methandienone;
- (L) Methandranone;
- (M) Methandriol;
- (N) Methandrostenolone;
- (O) Methenolone;
- (P) Methyltestosterone;
- (Q) Mibolerone;
- (R) Nandrolone;
- (S) Norethandrolone;
- (T) Oxandrolone;
- (U) Oxymesterone;
- (V) Oxymetholone;
- (W) Stanolone;
- (X) Stanozolol;
- (Y) Testolactone;
- (Z) Testosterone; and
- (AA) Trenbolone.

(vii) Anabolic steroids expressly intended for administration through implants to cattle or other nonhuman species, and approved by the Secretary of Health and Human Services for use, may not be classified as a controlled substance.

(d) Schedule IV:

(i) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing not more than 1 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit, or any salts of any of them.

(ii) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances, including its salts, isomers, and salts of isomers when the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (A) Alprazolam;

- (B) Barbital;
- (C) Bromazepam;
- (D) Butorphanol;
- (E) Camazepam;
- (F) Carisoprodol;
- (G) Chloral betaine;
- (H) Chloral hydrate;
- (I) Chlordiazepoxide;
- (J) Clobazam;
- (K) Clonazepam;
- (L) Clorazepate;
- (M) Clotiazepam;
- (N) Cloxazolam;
- (O) Delorazepam;
- (P) Diazepam;
- (Q) Dichloralphenazone;
- (R) Estazolam;
- (S) Ethchlorvynol;
- (T) Ethinamate;
- (U) Ethyl loflazepate;
- (V) Fludiazepam;
- (W) Flunitrazepam;
- (X) Flurazepam;
- (Y) Halazepam;
- (Z) Haloxazolam;
- (AA) Ketazolam;
- (BB) Loprazolam;
- (CC) Lorazepam;
- (DD) Lormetazepam;
- (EE) Mebutamate;
- (FF) Medazepam;
- (GG) Meprobamate;
- (HH) Methohexital;
- (II) Methylphenobarbital (mephobarbital);
- (JJ) Midazolam;
- (KK) Nimetazepam;
- (LL) Nitrazepam;
- (MM) Nordiazepam;
- (NN) Oxazepam;
- (OO) Oxazolam;
- (PP) Paraldehyde;
- (QQ) Pentazocine;
- (RR) Petrichloral;

- (SS) Phenobarbital;
- (TT) Pinazepam;
- (UU) Prazepam;
- (VV) Quazepam;
- (WW) Temazepam;
- (XX) Tetrazepam;
- (YY) Triazolam;
- (ZZ) Zaleplon; and
- (AAA) Zolpidem.

(iii) Any material, compound, mixture, or preparation of fenfluramine which contains any quantity of the following substances, including its salts, isomers whether optical, position, or geometric, and salts of the isomers when the existence of the salts, isomers, and salts of isomers is possible.

(iv) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers whether optical, position, or geometric isomers, and salts of the isomers when the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (A) Cathine ((+)-norpseudoephedrine);
- (B) Diethylpropion;
- (C) Fencamfamine;
- (D) Fenproporex;
- (E) Mazindol;
- (F) Mefenorex;
- (G) Modafinil;
- (H) Pemoline, including organometallic complexes and chelates thereof;
- (I) Phentermine;
- (J) Pipradrol;
- (K) Sibutramine; and
- (L) SPA((-)-1-dimethylamino-1, 2-diphenylethane).

(v) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of dextropropoxyphene (alpha-(+)-4-dimethylamino-1, 2-diphenyl-3-methyl-2-propionoxybutane), including its salts.

(e) Schedule V: Any compound, mixture, or preparation containing any of the following limited quantities of narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, which includes one or more non-narcotic active medicinal ingredients in sufficient proportion to

confer upon the compound, mixture, or preparation valuable medicinal qualities other than those possessed by the narcotic drug alone:

- (i) not more than 200 milligrams of codeine per 100 milliliters or per 100 grams;
- (ii) not more than 100 milligrams of dihydrocodeine per 100 milliliters or per 100 grams;
- (iii) not more than 100 milligrams of ethylmorphine per 100 milliliters or per 100 grams;
- (iv) not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit;
- (v) not more than 100 milligrams of opium per 100 milliliters or per 100 grams;
- (vi) not more than 0.5 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit;
- (vii) unless specifically exempted or excluded or unless listed in another schedule, any material, compound, mixture, or preparation which contains Pyrovalerone having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers; and
- (viii) all forms of Tramadol.

Section 69. Section 58-37a-6 is amended to read:

58-37a-6. Seizure -- Forfeiture -- Property rights.

Drug paraphernalia is subject to seizure and forfeiture in accordance with the procedures and substantive protections of Title 24, [~~Chapter 1, Utah Uniform Forfeiture Procedures~~] Forfeiture and Disposition of Property Act.

Section 70. Section 58-37c-3 is amended to read:

58-37c-3. Definitions.

In addition to the definitions in Section 58-1-102, as used in this chapter:

- (1) "Controlled substance precursor" includes a chemical reagent and means any of the following:
 - (a) Phenyl-2-propanone;
 - (b) Methylamine;
 - (c) Ethylamine;
 - (d) D-lysergic acid;
 - (e) Ergotamine and its salts;
 - (f) Diethyl malonate;
 - (g) Malonic acid;
 - (h) Ethyl malonate;
 - (i) Barbituric acid;
 - (j) Piperidine and its salts;
 - (k) N-acetylanthranilic acid and its salts;
 - (l) Pyrrolidine;

- (m) Phenylacetic acid and its salts;
- (n) Anthranilic acid and its salts;
- (o) Morpholine;
- (p) Ephedrine;
- (q) Pseudoephedrine;
- (r) Norpseudoephedrine;
- (s) Phenylpropanolamine;
- (t) Benzyl cyanide;
- (u) Ergonovine and its salts;
- (v) 3,4-Methylenedioxyphenyl-2-propanone;
- (w) propionic anhydride;
- (x) Insosafrole;
- (y) Safrole;
- (z) Piperonal;
- (aa) N-Methylephedrine;
- (bb) N-ethylephedrine;
- (cc) N-methylpseudoephedrine;
- (dd) N-ethylpseudoephedrine;
- (ee) Hydriotic acid;
- (ff) gamma butyrolactone (GBL), including butyrolactone, 1,2 butanolide, 2-oxanolone, tetrahydro-2-furanone, dihydro-2(3H)-furanone, and tetramethylene glycol, but not including gamma aminobutric acid (GABA);
- (gg) 1,4 butanediol;
- (hh) any salt, isomer, or salt of an isomer of the chemicals listed in Subsections [(2)] (1)(a) through (gg);
- (ii) Crystal iodine;
- (jj) Iodine at concentrations greater than 1.5% by weight in a solution or matrix;
- (kk) Red phosphorous, except as provided in Section 58-37c-19.7;
- (ll) anhydrous ammonia, except as provided in Section 58-37c-19.9;
- (mm) any controlled substance precursor listed under the provisions of the Federal Controlled Substances Act which is designated by the director under the emergency listing provisions set forth in Section 58-37c-14; and
- (nn) any chemical which is designated by the director under the emergency listing provisions set forth in Section 58-37c-14.
- (2) "Deliver," "delivery," "transfer," or "furnish" means the actual, constructive, or attempted transfer of a controlled substance precursor.
- (3) "Matrix" means something, as a substance, in which something else originates, develops, or is contained.

(4) "Person" means any individual, group of individuals, proprietorship, partnership, joint venture, corporation, or organization of any type or kind.

(5) "Practitioner" means a physician, dentist, podiatric physician, veterinarian, pharmacist, scientific investigator, pharmacy, hospital, pharmaceutical manufacturer, or other person licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to, administer, or use in teaching or chemical analysis a controlled substance in the course of professional practice or research in this state.

(6) (a) "Regulated distributor" means a person within the state who provides, sells, furnishes, transfers, or otherwise supplies a listed controlled substance precursor chemical in a regulated transaction.

(b) "Regulated distributor" does not include any person excluded from regulation under this chapter.

(7) (a) "Regulated purchaser" means any person within the state who receives a listed controlled substance precursor chemical in a regulated transaction.

(b) "Regulated purchaser" does not include any person excluded from regulation under this chapter.

(8) "Regulated transaction" means any actual, constructive or attempted:

(a) transfer, distribution, delivery, or furnishing by a person within the state to another person within or outside of the state of a threshold amount of a listed precursor chemical; or

(b) purchase or acquisition by any means by a person within the state from another person within or outside the state of a threshold amount of a listed precursor chemical.

(9) "Retail distributor" means a grocery store, general merchandise store, drug store, or other entity or person whose activities as a distributor are limited almost exclusively to sales for personal use:

(a) in both number of sales and volume of sales; and

(b) either directly to walk-in customers or in face-to-face transactions by direct sales.

(10) "Threshold amount of a listed precursor chemical" means any amount of a controlled substance precursor or a specified amount of a controlled substance precursor in a matrix; however, the division may exempt from the provisions of this chapter a specific controlled substance precursor in a specific amount and in certain types of transactions which provisions for exemption shall be defined by the division by rule adopted pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(11) "Unlawful conduct" as defined in Section 58-1-501 includes knowingly and intentionally:

(a) engaging in a regulated transaction without first being appropriately licensed or exempted from licensure under this chapter;

(b) acting as a regulated distributor and selling, transferring, or in any other way conveying a controlled substance precursor to a person within the state who is not appropriately licensed or exempted from licensure as a regulated purchaser, or selling, transferring, or otherwise conveying a controlled substance precursor to a person outside of the state and failing to report the transaction as required;

(c) acting as a regulated purchaser and purchasing or in any other way obtaining a controlled substance precursor from a person within the state who is not a licensed regulated distributor, or purchasing or otherwise obtaining a controlled substance precursor from a person outside of the state and failing to report the transaction as required;

(d) engaging in a regulated transaction and failing to submit reports and keep required records of inventories required under the provisions of this chapter or rules adopted pursuant to this chapter;

(e) making any false statement in any application for license, in any record to be kept, or on any report submitted as required under this chapter;

(f) with the intent of causing the evasion of the recordkeeping or reporting requirements of this chapter and rules related to this chapter, receiving or distributing any listed controlled substance precursor chemical in any manner designed so that the making of records or filing of reports required under this chapter is not required;

(g) failing to take immediate steps to comply with licensure, reporting, or recordkeeping requirements of this chapter because of lack of knowledge of those requirements, upon becoming informed of the requirements;

(h) presenting false or fraudulent identification where or when receiving or purchasing a listed controlled substance precursor chemical;

(i) creating a chemical mixture for the purpose of evading any licensure, reporting or recordkeeping requirement of this chapter or rules related to this chapter, or receiving a chemical mixture created for that purpose;

(j) if the person is at least 18 years of age, employing, hiring, using, persuading, inducing, enticing, or coercing another person under 18 years of age to violate any provision of this chapter, or assisting in avoiding detection or apprehension for any violation of this chapter by any federal, state, or local law enforcement official; and

(k) obtaining or attempting to obtain or to possess any controlled substance precursor or any combination of controlled substance precursors knowing or having a reasonable cause to believe that the controlled substance precursor is intended to be used in the unlawful manufacture of any controlled substance.

(12) "Unprofessional conduct" as defined in Section 58-1-102 and as may be further defined by rule includes the following:

(a) violation of any provision of this chapter, the Controlled Substance Act of this state or any other state, or the Federal Controlled Substance Act; and

(b) refusing to allow agents or representatives of the division or authorized law enforcement personnel to inspect inventories or controlled substance precursors or records or reports relating to purchases and sales or distribution of controlled substance precursors as such records and reports are required under this chapter.

Section 71. Section 58-37c-15 is amended to read:

58-37c-15. Civil forfeiture.

The following shall be subject to forfeiture in accordance with the procedures and substantive protections of Title 24, [~~Chapter 1, Utah Uniform Forfeiture Procedures~~] Forfeiture and Disposition of Property Act:

(1) all listed controlled substance precursor chemicals regulated under the provisions of this chapter which have been distributed, possessed, or are intended to be distributed or otherwise transferred in violation of any felony provision of this chapter; and

(2) all property used by any person to facilitate, aid, or otherwise cause the unlawful distribution, transfer, possession, or intent to distribute, transfer, or possess a listed controlled substance precursor chemical in violation of any felony provision of this chapter.

Section 72. Section 58-37d-7 is amended to read:

58-37d-7. Seizure and forfeiture.

Chemicals, equipment, supplies, vehicles, aircraft, vessels, and personal and real property used in furtherance of a clandestine laboratory operation are subject to seizure and forfeiture under the procedures and substantive protections of Title 24, [~~Chapter 1, Utah Uniform Forfeiture Procedures~~] Forfeiture and Disposition of Property Act.

Section 73. Section 58-55-302 is amended to read:

58-55-302. Qualifications for licensure.

(1) Each applicant for a license under this chapter shall:

(a) submit an application prescribed by the division;

(b) pay a fee as determined by the department under Section 63J-1-504;

(c) (i) meet the examination requirements established by rule by the commission with the concurrence of the director, except for the classifications of apprentice plumber and apprentice electrician for whom no examination is required; or

(ii) if required in Section 58-55-304, the individual qualifier must pass the required examination if the applicant is a business entity;

(d) if an apprentice, identify the proposed supervisor of the apprenticeship;

(e) if an applicant for a contractor's license:

(i) produce satisfactory evidence of financial responsibility, except for a construction trades instructor for whom evidence of financial responsibility is not required;

(ii) produce satisfactory evidence of:

(A) two years full-time paid employment experience in the construction industry, which experience, unless more specifically described in this section, may be related to any contracting classification; and

(B) knowledge of the principles of the conduct of business as a contractor, reasonably necessary for the protection of the public health, safety, and welfare;

(iii) except as otherwise provided by rule by the commission with the concurrence of the director, complete a 20-hour course established by rule by the commission with the concurrence of the director, which course may include:

(A) construction business practices;

(B) bookkeeping fundamentals;

(C) mechanics lien fundamentals; and

(D) other aspects of business and construction principles considered important by the commission with the concurrence of the director;

(iv) (A) be a licensed master electrician if an applicant for an electrical contractor's license or a licensed master residential electrician if an applicant for a residential electrical contractor's license;

(B) be a licensed master plumber if an applicant for a plumbing contractor's license or a licensed master residential plumber if an applicant for a residential plumbing contractor's license; or

(C) be a licensed elevator mechanic and produce satisfactory evidence of three years experience as an elevator mechanic if an applicant for an elevator contractor's license; and

(v) when the applicant is an unincorporated entity, provide a list of the one or more individuals who hold an ownership interest in the applicant as of the day on which the application is filed that includes for each individual:

(A) the individual's name, address, birth date, and Social Security number; and

(B) whether the individual will engage in a construction trade; and

(f) if an applicant for a construction trades instructor license, satisfy any additional requirements established by rule.

(2) After approval of an applicant for a contractor's license by the applicable board and the division, the applicant shall file the following with the division before the division issues the license:

(a) proof of workers' compensation insurance which covers employees of the applicant in accordance with applicable Utah law;

(b) proof of public liability insurance in coverage amounts and form established by rule except for a construction trades instructor for whom public liability insurance is not required; and

(c) proof of registration as required by applicable law with the:

(i) Utah Department of Commerce;

(ii) Division of Corporations and Commercial Code;

(iii) Unemployment Insurance Division in the Department of Workforce Services, for purposes of Title 35A, Chapter 4, Employment Security Act;

(iv) State Tax Commission; and

(v) Internal Revenue Service.

(3) In addition to the general requirements for each applicant in Subsection (1), applicants shall comply with the following requirements to be licensed in the following classifications:

(a) (i) A master plumber shall produce satisfactory evidence that the applicant:

(A) has been a licensed journeyman plumber for at least two years and had two years of supervisory experience as a licensed journeyman plumber in accordance with division rule;

(B) has received at least an associate of applied science degree or similar degree following the completion of a course of study approved by the division and had one year of supervisory experience as a licensed journeyman plumber in accordance with division rule; or

(C) meets the qualifications determined by the division in collaboration with the board to be equivalent to Subsection (3)(a)(i)(A) or (B).

(ii) An individual holding a valid Utah license as a journeyman plumber, based on at least four years of practical experience as a licensed apprentice under the supervision of a licensed journeyman plumber and four years as a licensed journeyman plumber, in effect immediately prior to May 5, 2008, is on and after May 5, 2008, considered to hold a current master plumber license under this chapter, and satisfies the requirements of this Subsection (3)(a) for the purpose of renewal or reinstatement of that license under Section 58-55-303.

(iii) An individual holding a valid plumbing contractor's license or residential plumbing contractor's license, in effect immediately prior to May 5, 2008, is on or after May 5, 2008:

(A) considered to hold a current master plumber license under this chapter if licensed as a plumbing contractor and a journeyman plumber, and satisfies the requirements of this Subsection (3)(a) for

purposes of renewal or reinstatement of that license under Section 58-55-303; and

(B) considered to hold a current residential master plumber license under this chapter if licensed as a residential plumbing contractor and a residential journeyman plumber, and satisfies the requirements of this Subsection (3)(a) for purposes of renewal or reinstatement of that license under Section 58-55-303.

(b) A master residential plumber applicant shall produce satisfactory evidence that the applicant:

(i) has been a licensed residential journeyman plumber for at least two years and had two years of supervisory experience as a licensed residential journeyman plumber in accordance with division rule; or

(ii) meets the qualifications determined by the division in collaboration with the board to be equivalent to Subsection (3)(b)(i).

(c) A journeyman plumber applicant shall produce satisfactory evidence of:

(i) successful completion of the equivalent of at least four years of full-time training and instruction as a licensed apprentice plumber under supervision of a licensed master plumber or journeyman plumber and in accordance with a planned program of training approved by the division;

(ii) at least eight years of full-time experience approved by the division in collaboration with the Plumbers Licensing Board; or

(iii) satisfactory evidence of meeting the qualifications determined by the board to be equivalent to Subsection (3)(c)(i) or (c)(ii).

(d) A residential journeyman plumber shall produce satisfactory evidence of:

(i) completion of the equivalent of at least three years of full-time training and instruction as a licensed apprentice plumber under the supervision of a licensed residential master plumber, licensed residential journeyman plumber, or licensed journeyman plumber in accordance with a planned program of training approved by the division;

(ii) completion of at least six years of full-time experience in a maintenance or repair trade involving substantial plumbing work; or

(iii) meeting the qualifications determined by the board to be equivalent to Subsection (3)(d)(i) or (d)(ii).

(e) The conduct of licensed apprentice plumbers and their licensed supervisors shall be in accordance with the following:

(i) while engaging in the trade of plumbing, a licensed apprentice plumber shall be under the immediate supervision of a licensed master plumber, licensed residential master plumber, licensed journeyman plumber, or a licensed residential journeyman plumber; and

(ii) a licensed apprentice plumber in the fourth through tenth year of training may work without supervision for a period not to exceed eight hours in any 24-hour period, but if the apprentice does not become a licensed journeyman plumber or licensed residential journeyman plumber by the end of the tenth year of apprenticeship, this nonsupervision provision no longer applies.

(f) A master electrician applicant shall produce satisfactory evidence that the applicant:

(i) is a graduate electrical engineer of an accredited college or university approved by the division and has one year of practical electrical experience as a licensed apprentice electrician;

(ii) is a graduate of an electrical trade school, having received an associate of applied sciences degree following successful completion of a course of study approved by the division, and has two years of practical experience as a licensed journeyman electrician;

(iii) has four years of practical experience as a journeyman electrician; or

(iv) meets the qualifications determined by the board to be equivalent to Subsection (3)(f)(i), (ii), or (iii).

(g) A master residential electrician applicant shall produce satisfactory evidence that the applicant:

(i) has at least two years of practical experience as a residential journeyman electrician; or

(ii) meets the qualifications determined by the board to be equivalent to this practical experience.

(h) A journeyman electrician applicant shall produce satisfactory evidence that the applicant:

(i) has successfully completed at least four years of full-time training and instruction as a licensed apprentice electrician under the supervision of a master electrician or journeyman electrician and in accordance with a planned training program approved by the division;

(ii) has at least eight years of full-time experience approved by the division in collaboration with the Electricians Licensing Board; or

(iii) meets the qualifications determined by the board to be equivalent to Subsection (3)(h)(i) or (ii).

(i) A residential journeyman electrician applicant shall produce satisfactory evidence that the applicant:

(i) has successfully completed two years of training in an electrical training program approved by the division;

(ii) has four years of practical experience in wiring, installing, and repairing electrical apparatus and equipment for light, heat, and power under the supervision of a licensed master, journeyman, residential master, or residential journeyman electrician; or

(iii) meets the qualifications determined by the division and applicable board to be equivalent to Subsection (3)(i)(i) or (ii).

(j) The conduct of licensed apprentice electricians and their licensed supervisors shall be in accordance with the following:

(i) A licensed apprentice electrician shall be under the immediate supervision of a licensed master, journeyman, residential master, or residential journeyman electrician. An apprentice in the fourth year of training may work without supervision for a period not to exceed eight hours in any 24-hour period.

(ii) A licensed master, journeyman, residential master, or residential journeyman electrician may have under immediate supervision on a residential project up to three licensed apprentice electricians.

(iii) A licensed master or journeyman electrician may have under immediate supervision on nonresidential projects only one licensed apprentice electrician.

(k) An alarm company applicant shall:

(i) have a qualifying agent who is an officer, director, partner, proprietor, or manager of the applicant who:

(A) demonstrates 6,000 hours of experience in the alarm company business;

(B) demonstrates 2,000 hours of experience as a manager or administrator in the alarm company business or in a construction business; and

(C) passes an examination component established by rule by the commission with the concurrence of the director;

(ii) if a corporation, provide:

(A) the names, addresses, dates of birth, Social Security numbers, and fingerprint cards of all corporate officers, directors, and those responsible management personnel employed within the state or having direct responsibility for managing operations of the applicant within the state; and

(B) the names, addresses, dates of birth, Social Security numbers, and fingerprint cards of all shareholders owning 5% or more of the outstanding shares of the corporation, except this shall not be required if the stock is publicly listed and traded;

(iii) if a limited liability company, provide:

(A) the names, addresses, dates of birth, Social Security numbers, and fingerprint cards of all company officers, and those responsible management personnel employed within the state or having direct responsibility for managing operations of the applicant within the state; and

(B) the names, addresses, dates of birth, Social Security numbers, and fingerprint cards of all individuals owning 5% or more of the equity of the company;

(iv) if a partnership, provide the names, addresses, dates of birth, Social Security numbers, and fingerprint cards of all general partners, and those responsible management personnel employed within the state or having direct

responsibility for managing operations of the applicant within the state;

(v) if a proprietorship, provide the names, addresses, dates of birth, Social Security numbers, and fingerprint cards of the proprietor, and those responsible management personnel employed within the state or having direct responsibility for managing operations of the applicant within the state;

(vi) if a trust, provide the names, addresses, dates of birth, Social Security numbers, and fingerprint cards of the trustee, and those responsible management personnel employed within the state or having direct responsibility for managing operations of the applicant within the state;

(vii) be of good moral character in that officers, directors, shareholders described in Subsection (3)(k)(ii)(B), partners, proprietors, trustees, and responsible management personnel have not been convicted of a felony, a misdemeanor involving moral turpitude, or any other crime that when considered with the duties and responsibilities of an alarm company is considered by the board to indicate that the best interests of the public are served by granting the applicant a license;

(viii) document that none of the applicant's officers, directors, shareholders described in Subsection (3)(k)(ii)(B), partners, proprietors, trustees, and responsible management personnel have been declared by any court of competent jurisdiction incompetent by reason of mental defect or disease and not been restored;

(ix) document that none of the applicant's officers, directors, shareholders described in Subsection (3)(k)(ii)(B), partners, proprietors, and responsible management personnel are currently suffering from habitual drunkenness or from drug addiction or dependence;

(x) file and maintain with the division evidence of:

(A) comprehensive general liability insurance in form and in amounts to be established by rule by the commission with the concurrence of the director;

(B) workers' compensation insurance that covers employees of the applicant in accordance with applicable Utah law; and

(C) registration as is required by applicable law with the:

(I) Division of Corporations and Commercial Code;

(II) Unemployment Insurance Division in the Department of Workforce Services, for purposes of Title 35A, Chapter 4, Employment Security Act;

(III) State Tax Commission; and

(IV) Internal Revenue Service; and

(xi) meet with the division and board.

(l) Each applicant for licensure as an alarm company agent shall:

(i) submit an application in a form prescribed by the division accompanied by fingerprint cards;

(ii) pay a fee determined by the department under Section 63J-1-504;

(iii) be of good moral character in that the applicant has not been convicted of a felony, a misdemeanor involving moral turpitude, or any other crime that when considered with the duties and responsibilities of an alarm company agent is considered by the board to indicate that the best interests of the public are served by granting the applicant a license;

(iv) not have been declared by any court of competent jurisdiction incompetent by reason of mental defect or disease and not been restored;

(v) not be currently suffering from habitual drunkenness or from drug addiction or dependence; and

(vi) meet with the division and board if requested by the division or the board.

(m) (i) Each applicant for licensure as an elevator mechanic shall:

(A) provide documentation of experience and education credits of not less than three years work experience in the elevator industry, in construction, maintenance, or service and repair; and

(B) satisfactorily complete a written examination administered by the division established by rule under Section 58-1-203; or

(C) provide certificates of completion of an apprenticeship program for elevator mechanics, having standards substantially equal to those of this chapter and registered with the United States Department of Labor Bureau Apprenticeship and Training or a state apprenticeship council.

(ii) (A) If an elevator contractor licensed under this chapter cannot find a licensed elevator mechanic to perform the work of erecting, constructing, installing, altering, servicing, repairing, or maintaining an elevator, the contractor may:

(I) notify the division of the unavailability of licensed personnel; and

(II) request the division issue a temporary elevator mechanic license to an individual certified by the contractor as having an acceptable combination of documented experience and education to perform the work described in this Subsection (3)(m)(ii)(A).

(B) (I) The division may issue a temporary elevator mechanic license to an individual certified under Subsection (3)(m)(ii)(A)(II) upon application by the individual, accompanied by the appropriate fee as determined by the department under Section 63J-1-504.

(II) The division shall specify the time period for which the license is valid and may renew the license for an additional time period upon its determination that a shortage of licensed elevator mechanics continues to exist.

(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules establishing when Federal Bureau of Investigation records shall be checked for applicants as an alarm company or alarm company agent.

(5) To determine if an applicant meets the qualifications of Subsections (3)(k)(vii) and (3)(l)(iii), the division shall provide an appropriate number of copies of fingerprint cards to the Department of Public Safety with the division's request to:

(a) conduct a search of records of the Department of Public Safety for criminal history information relating to each applicant for licensure as an alarm company or alarm company agent and each applicant's officers, directors, shareholders described in Subsection (3)(k)(ii)(B), partners, proprietors, and responsible management personnel; and

(b) forward to the Federal Bureau of Investigation a fingerprint card of each applicant requiring a check of records of the Federal Bureau of Investigation for criminal history information under this section.

(6) The Department of Public Safety shall send to the division:

(a) a written record of criminal history, or certification of no criminal history record, as contained in the records of the Department of Public Safety in a timely manner after receipt of a fingerprint card from the division and a request for review of Department of Public Safety records; and

(b) the results of the Federal Bureau of Investigation review concerning an applicant in a timely manner after receipt of information from the Federal Bureau of Investigation.

(7) (a) The division shall charge each applicant for licensure as an alarm company or alarm company agent a fee, in accordance with Section 63J-1-504, equal to the cost of performing the records reviews under this section.

(b) The division shall pay the Department of Public Safety the costs of all records reviews, and the Department of Public Safety shall pay the Federal Bureau of Investigation the costs of records reviews under this section.

(8) Information obtained by the division from the reviews of criminal history records of the Department of Public Safety and the Federal Bureau of Investigation shall be used or disseminated by the division only for the purpose of determining if an applicant for licensure as an alarm company or alarm company agent is qualified for licensure.

(9) (a) An application for licensure under this chapter shall be denied if:

(i) the applicant has had a previous license, which was issued under this chapter, suspended or revoked within one year prior to the date of the applicant's application;

(ii) (A) the applicant is a partnership, corporation, or limited liability company; and

(B) any corporate officer, director, shareholder holding 25% or more of the stock in the applicant, partner, member, agent acting as a qualifier, or any person occupying a similar status, performing similar functions, or directly or indirectly controlling the applicant has served in any similar capacity with any person or entity which has had a previous license, which was issued under this chapter, suspended or revoked within one year prior to the date of the applicant's application;

(iii) (A) the applicant is an individual or sole proprietorship; and

(B) any owner or agent acting as a qualifier has served in any capacity listed in Subsection (9)(a)(ii)(B) in any entity which has had a previous license, which was issued under this chapter, suspended or revoked within one year prior to the date of the applicant's application; or

(iv) (A) the applicant includes an individual who was an owner, director, or officer of an unincorporated entity at the time the entity's license under this chapter was revoked; and

(B) the application for licensure is filed within 60 months after the revocation of the unincorporated entity's license.

(b) An application for licensure under this chapter shall be reviewed by the appropriate licensing board prior to approval if:

(i) the applicant has had a previous license, which was issued under this chapter, suspended or revoked more than one year prior to the date of the applicant's application;

(ii) (A) the applicant is a partnership, corporation, or limited liability company; and

(B) any corporate officer, director, shareholder holding 25% or more of the stock in the applicant, partner, member, agent acting as a qualifier, or any person occupying a similar status, performing similar functions, or directly or indirectly controlling the applicant has served in any similar capacity with any person or entity which has had a previous license, which was issued under this chapter, suspended or revoked more than one year prior to the date of the applicant's application; or

(iii) (A) the applicant is an individual or sole proprietorship; and

(B) any owner or agent acting as a qualifier has served in any capacity listed in Subsection (9)(b)(ii)(B) in any entity which has had a previous license, which was issued under this chapter, suspended or revoked more than one year prior to the date of the applicant's application.

(10) (a) (i) A licensee that is an unincorporated entity shall file an ownership status report with the division every 30 days after the day on which the license is issued if the licensee has more than five owners who are individuals who:

(A) own an interest in the contractor that is an unincorporated entity;

(B) own, directly or indirectly, less than an 8% interest, as defined by rule made by the division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, in the unincorporated entity; and

(C) engage, or will engage, in a construction trade in the state as owners of the contractor described in Subsection (10)(a)(i)(A).

(ii) If the licensee has five or fewer owners described in Subsection (10)(a)(i), the licensee shall provide the ownership status report with an application for renewal of licensure.

(b) An ownership status report required under this Subsection (10) shall:

(i) specify each addition or deletion of an owner:

(A) for the first ownership status report, after the day on which the unincorporated entity is licensed under this chapter; and

(B) for a subsequent ownership status report, after the day on which the previous ownership status report is filed;

(ii) be in a format prescribed by the division that includes for each owner, regardless of the owner's percentage ownership in the unincorporated entity, the information described in Subsection(1)(e)(~~(iv)~~)(v);

(iii) list the name of:

(A) each officer or manager of the unincorporated entity; and

(B) each other individual involved in the operation, supervision, or management of the unincorporated entity; and

(iv) be accompanied by a fee set by the division in accordance with Section 63J-1-504 if the ownership status report indicates there is a change described in Subsection (10)(b)(i).

(c) The division may, at any time, audit an ownership status report under this Subsection (10):

(i) to determine if financial responsibility has been demonstrated or maintained as required under Section 58-55-306; and

(ii) to determine compliance with Subsection 58-55-501(24), (25), or (27) or Subsection 58-55-502(8) or (9).

(11) (a) An unincorporated entity that provides labor to an entity licensed under this chapter by providing an individual who owns an interest in the unincorporated entity to engage in a construction trade in Utah shall file with the division:

(i) before the individual who owns an interest in the unincorporated entity engages in a construction trade in Utah, a current list of the one or more individuals who hold an ownership interest in the unincorporated entity that includes for each individual:

(A) the individual's name, address, birth date, and Social Security number; and

(B) whether the individual will engage in a construction trade; and

(ii) every 30 days after the day on which the unincorporated entity provides the list described in Subsection (11)(a)(i), an ownership status report containing the information that would be required under Subsection (10) if the unincorporated entity were a licensed contractor.

(b) When filing an ownership list described in Subsection (11)(a)(i) or an ownership status report described in Subsection (11)(a)(ii) [~~or (iii)~~], an unincorporated entity shall pay a fee set by the division in accordance with Section 63J-1-504.

(12) This chapter may not be interpreted to create or support an express or implied independent contractor relationship between an unincorporated entity described in Subsection (10) or (11) and the owners of the unincorporated entity for any purpose, including income tax withholding.

(13) A Social Security number provided under Subsection (1)(e)[~~(iv)~~](v) is a private record under Subsection 63G-2-302(1)(i).

Section 74. Section 58-60-103 is amended to read:

58-60-103. Licensure required.

(1) An individual shall be licensed under this chapter; Chapter 67, Utah Medical Practice Act; Chapter 68, Utah Osteopathic Medical Practice Act; Chapter 31b, Nurse Practice Act; Chapter 61, Psychologist Licensing Act; or exempted from licensure under this chapter in order to:

(a) engage in, or represent that the individual will engage in, the practice of mental health therapy, clinical social work, certified social work, marriage and family therapy, or clinical mental health counseling; or

(b) practice as, or represent that the individual is, a mental health therapist, clinical social worker, certified social worker, marriage and family therapist, clinical mental health counselor, psychiatrist, psychologist, registered psychiatric mental health nurse specialist, certified psychology resident, associate marriage and family therapist, or associate clinical mental health counselor.

(2) An individual shall be licensed under this chapter or exempted from licensure under this chapter in order to:

(a) engage in, or represent that the individual is engaged in, practice as a social service worker; or

(b) represent that the individual is, or use the title of, a social service worker.

(3) An individual shall be licensed under this chapter or exempted from licensure under this chapter in order to:

(a) engage in, or represent that the individual is engaged in, practice as a substance use disorder counselor; or

(b) represent that the individual is, or use the title of, a substance use disorder counselor.

(4) Notwithstanding the provisions of Subsection 58-1-307(1)(c), an individual shall be certified under this chapter, or otherwise exempted from licensure under this chapter, in order to engage in an internship or residency program of supervised clinical training necessary to meet the requirements for licensure as:

(a) a marriage and family therapist under Part 3, Marriage and Family Therapist Licensing Act; or

(b) a clinical mental health counselor under Part 4, ~~Professional~~ Clinical Mental Health Counselor Licensing Act.

Section 75. Section 58-67-302.7 is amended to read:

58-67-302.7. Licensure of physician-educators.

(1) As used in this section:

(a) "Foreign country" means a country other than the United States, its territories, or Canada.

(b) "Foreign medical school" means a medical school that is outside the United States, its territories, and Canada.

(2) Notwithstanding any provision of law to the contrary, an individual may receive a type I foreign teaching license if the individual:

(a) submits an application in a form prescribed by the division, which may include:

(i) submission by the applicant of information maintained in a practitioner data bank, as designated by division rule, with respect to the applicant;

(ii) a record of professional liability claims made against the applicant and settlements paid by or on behalf of the applicant; and

(iii) the applicant's curriculum vitae;

(b) is a graduate of a foreign medical school that is accepted for certification by the Educational Commission for Foreign Medical Graduates;

(c) is licensed in good standing in a foreign country, the United States, its territories, or Canada;

(d) does not have an investigation or action pending against the physician's healthcare license, does not have a healthcare license that was suspended or revoked, and has not surrendered a healthcare license in lieu of disciplinary action, unless:

(i) the license was subsequently reinstated in good standing; or

(ii) the division in collaboration with the board determines to its satisfaction, after full disclosure

by the applicant and full consideration by the division in collaboration with the board, that:

(A) the conduct has been corrected, monitored, and resolved; or

(B) a mitigating circumstance exists that prevents resolution, and the division in collaboration with the board is satisfied that but for the mitigating circumstance, the license would be reinstated;

(e) submits documentation of legal status to work in the United States;

(f) meets at least three of the following qualifications:

(i) (A) published original results of clinical research, within 10 years before the day on which the application is submitted, in a medical journal listed in the Index Medicus or an equivalent scholarly publication; and

(B) submits the publication to the Board in English or in a foreign language with a verifiable, certified English translation;

(ii) held an appointment at a medical school approved by the LCME or at any medical school listed in the World Health Organization directory at the level of associate or full professor, or its equivalent, for at least five years;

(iii) (A) developed a treatment modality, surgical technique, or other verified original contribution to the field of medicine within 10 years before the day on which the application is submitted; and

(B) has the treatment modality, surgical technique, or other verified original contribution attested to by the dean of an LCME accredited school of medicine in Utah;

(iv) actively practiced medicine cumulatively for 10 years; or

(v) is board certified in good standing of a board of the American Board of Medical Specialties or equivalent specialty board;

(g) is of good moral character;

(h) is able to read, write, speak, understand, and be understood in the English language and demonstrates proficiency to the satisfaction of the division in collaboration with the board, if requested;

(i) is invited by an LCME accredited medical school in Utah to serve as a full-time member of the medical school's academic faculty, as evidenced by written certification from:

(i) the dean of the medical school, stating that the applicant has been appointed to a full-time faculty position, that because the applicant has unique expertise in a specific field of medicine the medical school considers the applicant to be a valuable member of the faculty, and that the applicant is qualified by knowledge, skill, and ability to practice medicine in the state; and

(ii) the head of the department to which the applicant is to be appointed, stating that the applicant will be under the direction of the head of the department and will be permitted to practice medicine only as a necessary part of the applicant's duties, providing detailed evidence of the applicant's qualifications and competence, including the nature and location of the applicant's proposed responsibilities, reasons for any limitations of the applicant's practice responsibilities, and the degree of supervision, if any, under which the applicant will function;

(j) pays a licensing fee set by the division under Section 63J-1-504; and

(k) has practiced medicine for at least 10 years as an attending physician.

(3) Notwithstanding any provision of law to the contrary, an individual may receive a type II foreign teaching license if the individual:

(a) satisfies the requirements of Subsections (2)(a) through (e) and (g) through (j);

(b) has delivered clinical care to patients cumulatively for five years after graduation from medical school; and

(c) (i) will be completing a clinical fellowship while employed at the medical school described in Subsection (2)(i); or

(ii) has already completed a medical residency accredited by the Royal College of Physicians and Surgeons of Canada, the United Kingdom, Australia, or New Zealand, or a comparable accreditation organization as determined by the division in collaboration with the board.

(4) After an initial term of one year, a type I license may be renewed for periods of two years if the licensee continues to satisfy the requirements described in Subsection (2) and completes the division's continuing education renewal requirements established under Section 58-67-303.

(5) A type II license may be renewed on an annual basis, up to four times, if the licensee continues to satisfy the requirements described in Subsection (3) and completes the division's continuing education renewal requirements established under Section 58-67-303.

(6) A license issued under this section:

(a) authorizes the licensee to practice medicine:

(i) within the scope of the licensee's employment at the medical school described in Subsection (2)(i) and the licensee's academic position; and

(ii) at a hospital or clinic affiliated with the medical school described in Subsection (2)(i) for the purpose of teaching, clinical care, or pursuing research;

(b) shall list the limitations described in Subsection (6)(a); and

(c) shall expire on the earlier of:

(i) one year after the day on which the type I or type II license is initially issued, unless the license is renewed;

(ii) for a type I license, two years after the day on which the license is renewed;

(iii) for a type II license, one year after the day on which the license is renewed; or

(iv) the day on which employment at the medical school described in Subsection (2)(i) ends.

(7) A person who holds a type I license for five consecutive years may apply for licensure as a physician and surgeon in this state and shall be licensed if the individual satisfies the requirements described in Subsection (8). If the person fails to obtain licensure as a physician and surgeon in this state, the person may apply for a renewal of the type I license under Subsection (2).

(8) An individual who holds a type I or type II license for five consecutive years is eligible for licensure as a physician and surgeon in this state if the individual:

(a) worked an average of at least 40 hours per month at the level of an attending physician during the time the individual held the type I or type II license;

(b) holds the rank of associate professor or higher at the medical school described in Subsection (2)(i);

(c) obtains certification from the Educational Commission for Foreign Medical Graduates or any successor organization approved by the division in collaboration with the board;

(d) spent a cumulative 20 hours per year while holding a type I or type II license:

(i) teaching or lecturing to medical students or house staff;

(ii) participating in educational department meetings or conferences that are not certified to meet the continuing medical education license renewal requirement; or

(iii) attending continuing medical education classes in addition to the requirements for continuing education described in Subsections (4) and (5);

(e) obtains a passing score on the final step of the licensing examination sequence required by division rule made in collaboration with the board; and

(f) satisfies the requirements described in Subsections 58-67-302(1)(a) through (c) [~~and (h) through (k)~~], (h), and (i).

(9) If a person who holds a type II license fails to obtain licensure as a physician and surgeon in this state after applying under the procedures described in Subsection (8), the person may not:

(a) reapply for or renew a type II license; or

(b) apply for a type I license.

(10) The division or the board may require an applicant for licensure under this section to meet with the board and representatives of the division for the purpose of evaluating the applicant's qualifications for licensure.

(11) The division in collaboration with the board may withdraw a license under this section at any time for material misrepresentation or unlawful or unprofessional conduct.

Section 76. Section 59-2-1017 is amended to read:

59-2-1017. Property tax appeal assistance.

(1) As used in this section:

(a) "Licensed appraiser" means an appraiser licensed in accordance with Title 61, Chapter 2g, Real Estate Appraiser Licensing and Certification Act.

(b) "Opinion of value" means an estimate of fair market value that:

(i) is made by a licensed appraiser; and

(ii) complies with the Uniform Standards of Professional Appraisal Practice promulgated by the Appraisal Standards Board as described in 12 U.S.C. Sec. 3339.

(c) "Present evidence" means to present information:

(i) to a county board of equalization or the commission; and

(ii) related to a property tax appeal made in accordance with this part.

(d) "Price estimate" means an estimate:

(i) of the price that property would sell for; and

(ii) that is not an opinion of value.

(e) "Provide property tax information" means to provide information related to a property tax appeal made in accordance with this part to another person.

(2) Subject to the other provisions of this section, a person may:

(a) present evidence in a property tax appeal on behalf of another person after obtaining permission from that other person; or

(b) provide property tax information to another person.

(3) For purposes of Subsection (2):

(a) only a person who is a licensed appraiser may present or provide an opinion of value; and

(b) only a person who is not a licensed appraiser may present or provide a price estimate.

(4) (a) A licensed appraiser who presents evidence or provides property tax information in accordance with Subsection (2) is subject to Sections 61-2g-304, 61-2g-403, 61-2g-406, and [~~62-2g-407~~] 61-2g-407.

(b) A person who is not a licensed appraiser, who presents evidence or provides property tax information in accordance with Subsection (2):

(i) is subject to Section 61-2g-407; and

(ii) if the person charges a contingent fee, is subject to Section 61-2g-406.

(5) A county board of equalization or the commission may evaluate the reliability or accuracy of evidence presented or property tax information provided in accordance with Subsection (2).

Section 77. Section 59-2-1326 is amended to read:

59-2-1326. Illegal tax -- Injunction to restrain collection.

(1) No injunction may be granted by any court to restrain the collection of any tax or any part of the tax, nor to restrain the sale of any property for the nonpayment of the tax, unless the tax, or some part of the tax sought to be enjoined:

[4] (a) is not authorized by law^[,]; or

[2] (b) is on property which is exempt from taxation.

(2) If the payment of a part of a tax is sought to be enjoined, the other part shall be paid or tendered before any action may be commenced.

Section 78. Section 59-12-353 is amended to read:

59-12-353. Additional municipal transient room tax to repay bonded or other indebtedness.

(1) Subject to the limitations of Subsection (2), the governing body of a municipality may, in addition to the tax authorized under Section 59-12-352, impose a tax of not to exceed .5% on charges for the accommodations and services described in Subsection 59-12-103(1)(i) if the governing body of the municipality:

(a) before January 1, 1996, levied and collected a license fee or tax under Section 10-1-203; and

(b) before January 1, 1997, took official action to obligate the municipality in reliance on the license fees or taxes under Subsection (1)(a)[4] to the payment of debt service on bonds or other indebtedness, including lease payments under a lease purchase agreement.

(2) The governing body of a municipality may impose the tax under this section until the sooner of:

(a) the day on which the following have been paid in full:

(i) the debt service on bonds or other indebtedness, including lease payments under a lease purchase agreement described in Subsection (1)(b); and

(ii) refunding obligations that the municipality incurred as a result of the debt service on bonds or other indebtedness, including lease payments

under a lease purchase agreement described in Subsection (1)(b); or

(b) 25 years from the day on which the municipality levied the tax under this section.

Section 79. Section 61-2c-502 is amended to read:

61-2c-502. Additional license fee.

(1) An individual who applies for or renews a license shall pay, in addition to any other fee required under this chapter, a reasonable annual fee:

(a) determined by the division with the concurrence of the commission; and

(b) not to exceed \$18.

(2) (a) An entity that applies for or renews an entity license shall pay, in addition to any other fee required under this chapter, a reasonable annual fee:

(i) determined by the division with the concurrence of the commission; and

(ii) not to exceed \$25.

(b) This Subsection (2) applies:

(i) notwithstanding that an entity is operating under an assumed name registered with the division as required by Subsection 61-2c-201[9](5); and

(ii) to each branch office of an entity that is licensed under this chapter.

(3) Notwithstanding Section 13-1-2, the following shall be paid into the fund to be used as provided in this part:

(a) a fee provided in this section;

(b) a fee for certifying:

(i) a school as a certified education provider;

(ii) a prelicensing or continuing education course; or

(iii) a prelicensing or continuing education provider as an instructor; and

(c) a civil penalty imposed under this chapter.

(4) If the balance in the fund that is available to satisfy a judgment against a licensee decreases to less than \$100,000, the division may make an additional assessment to a licensee to maintain the balance available at \$100,000 to satisfy judgments.

Section 80. Section 62A-2-121 is amended to read:

62A-2-121. Access to abuse and neglect information.

(1) For purposes of this section:

(a) "Direct service worker" is as defined in Section 62A-5-101.

(b) "Personal care attendant" is as defined in Section 62A-3-101.

(2) With respect to a licensee, a certified local inspector applicant, a direct service worker, or a personal care attendant, the department may access only the Licensing Information System of the Division of Child and Family Services created by Section 62A-4a-1006 and juvenile court records under Subsection 78A-6-323(6), for the purpose of:

(a) (i) determining whether a person associated with a licensee, with direct access to children:

(A) is listed in the Licensing Information System; or

(B) has a substantiated finding by a juvenile court of a severe type of child abuse or neglect under Subsections 78A-6-323(1) and (2); and

(ii) informing a licensee that a person associated with the licensee:

(A) is listed in the Licensing Information System; or

(B) has a substantiated finding by a juvenile court of a severe type of child abuse or neglect under Subsections 78A-6-323(1) and (2);

(b) (i) determining whether a certified local inspector applicant:

(A) is listed in the Licensing Information System; or

(B) has a substantiated finding by a juvenile court of a severe type of child abuse or neglect under Subsections 78A-6-323(1) and (2); and

(ii) informing a local government that a certified local inspector applicant:

(A) is listed in the Licensing Information System; or

(B) has a substantiated finding by a juvenile court of a severe type of child abuse or neglect under Subsections 78A-6-323(1) and (2);

(c) (i) determining whether a direct service worker:

(A) is listed in the Licensing Information System; or

(B) has a substantiated finding by a juvenile court of a severe type of child abuse or neglect under Subsections 78A-6-323(1) and (2); and

(ii) informing a direct service worker or the direct service worker's employer that the direct service worker:

(A) is listed in the Licensing Information System; or

(B) has a substantiated finding by a juvenile court of a severe type of child abuse or neglect under Subsections 78A-6-323(1) and (2); or

(d) (i) determining whether a personal care attendant:

(A) is listed in the Licensing Information System; or

(B) has a substantiated finding by a juvenile court of a severe type of child abuse or neglect under Subsections 78A-6-323(1) and (2); and

(ii) informing a person described in Subsections 62A-3-101[(8)](9)(a)(i) through (iv) that a personal care attendant:

(A) is listed in the Licensing Information System; or

(B) has a substantiated finding by a juvenile court of a severe type of child abuse or neglect under Subsections 78A-6-323(1) and (2).

(3) Notwithstanding Subsection (2), the department may access the Division of Child and Family Service's Management Information System under Section 62A-4a-1003:

(a) for the purpose of licensing and monitoring foster parents; and

(b) for the purposes described in Subsection 62A-4a-1003(1)(d).

(4) After receiving identifying information for a person under Subsection 62A-2-120(1), the department shall process the information for the purposes described in Subsection (2).

(5) The department shall adopt rules under Title 63G, Chapter 3, Utah Administrative Rulemaking Act, consistent with this chapter, defining the circumstances under which a person may have direct access or provide services to children when:

(a) the person is listed in the Licensing Information System of the Division of Child and Family Services created by Section 62A-4a-1006; or

(b) juvenile court records show that a court made a substantiated finding under Section 78A-6-323, that the person committed a severe type of child abuse or neglect.

Section 81. Section 62A-4a-102 is amended to read:

62A-4a-102. Policy responsibilities of division.

(1) The Division of Child and Family Services, created in Section 62A-4a-103, is responsible for establishing policies for the division, by rule, under Title 63G, Chapter 3, Utah Administrative Rulemaking Act, in accordance with the requirements of this chapter and Title 78A, Chapter 6, Juvenile Court Act [~~of 1996~~], regarding abuse, neglect, and dependency proceedings, and domestic violence services. The division is responsible to see that the legislative purposes for the division are carried out.

(2) The division shall:

(a) approve fee schedules for programs within the division;

(b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establish, by rule, policies to ensure that private citizens, consumers, foster parents, private contract providers, allied state and local agencies, and others are provided

with an opportunity to comment and provide input regarding any new policy or proposed revision of an existing policy; and

(c) provide a mechanism for:

(i) systematic and regular review of existing policies, including an annual review of all division policies to ensure that policies comply with the Utah Code; and

(ii) consideration of policy changes proposed by the persons and agencies described in Subsection (2)(b).

(3) (a) The division shall establish rules for the determination of eligibility for services offered by the division in accordance with this chapter.

(b) The division may, by rule, establish eligibility standards for consumers.

(4) The division shall adopt and maintain rules regarding placement for adoption or foster care that are consistent with, and no more restrictive than, applicable statutory provisions.

Section 82. Section 63A-3-502 is amended to read:

63A-3-502. Office of State Debt Collection created -- Duties.

(1) The state and each state agency shall comply with the requirements of this chapter and any rules established by the Office of State Debt Collection.

(2) There is created the Office of State Debt Collection in the Division of Finance.

(3) The office shall:

(a) have overall responsibility for collecting and managing state receivables;

(b) assist the Division of Finance to develop consistent policies governing the collection and management of state receivables;

(c) oversee and monitor state receivables to ensure that state agencies are:

(i) implementing all appropriate collection methods;

(ii) following established receivables guidelines; and

(iii) accounting for and reporting receivables in the appropriate manner;

(d) assist the Division of Finance to develop policies, procedures, and guidelines for accounting, reporting, and collecting money owed to the state;

(e) provide information, training, and technical assistance to each state agency on various collection-related topics;

(f) write an inclusive receivables management and collection manual for use by each state agency;

(g) prepare quarterly and annual reports of the state's receivables;

(h) create or coordinate a state accounts receivable database;

(i) develop reasonable criteria to gauge state agencies' efforts in maintaining an effective accounts receivable program;

(j) identify any state agency that is not making satisfactory progress toward implementing collection techniques and improving accounts receivable collections;

(k) coordinate information, systems, and procedures between each state agency to maximize the collection of past-due accounts receivable;

(l) establish an automated cash receipt process between each state agency;

(m) assist the Division of Finance to establish procedures for writing off accounts receivable for accounting and collection purposes;

(n) establish standard time limits after which an agency will delegate responsibility to collect state receivables to the office or its designee;

(o) be a real party in interest for an account receivable referred to the office by any state agency or for any restitution to victims referred to the office by a court; and

(p) allocate money collected for judgments registered under Section 77-18-6 in accordance with Sections 51-9-402, 63A-3-506, and 78A-5-110.

(4) The office may:

(a) recommend to the Legislature new laws to enhance collection of past-due accounts by state agencies;

(b) collect accounts receivables for higher education entities, if the higher education entity agrees;

(c) prepare a request for proposal for consulting services to:

(i) analyze the state's receivable management and collection efforts; and

(ii) identify improvements needed to further enhance the state's effectiveness in collecting its receivables;

(d) contract with private or state agencies to collect past-due accounts;

(e) perform other appropriate and cost-effective coordinating work directly related to collection of state receivables;

(f) obtain access to records and databases of any state agency that are necessary to the duties of the office by following the procedures and requirements of Section 63G-2-206, including the financial disclosure form described in Section [78-38a-204] 77-38a-204;

(g) collect interest and fees related to the collection of receivables under this chapter, and establish, by following the procedures and requirements of Section 63J-1-504:

(i) a fee to cover the administrative costs of collection, on accounts administered by the office;

(ii) a late penalty fee that may not be more than 10% of the account receivable on accounts administered by the office;

(iii) an interest charge that is:

(A) the postjudgment interest rate established by Section 15-1-4 in judgments established by the courts; or

(B) not more than 2% above the prime rate as of July 1 of each fiscal year for accounts receivable for which no court judgment has been entered; and

(iv) fees to collect accounts receivable for higher education;

(h) collect reasonable attorney fees and reasonable costs of collection that are related to the collection of receivables under this chapter;

(i) make rules that allow accounts receivable to be collected over a reasonable period of time and under certain conditions with credit cards;

(j) file a satisfaction of judgment in the court by following the procedures and requirements of the Utah Rules of Civil Procedure;

(k) ensure that judgments for which the office is the judgment creditor are renewed, as necessary;

(l) notwithstanding Section 63G-2-206, share records obtained under Subsection (4)(f) with private sector vendors under contract with the state to assist state agencies in collecting debts owed to the state agencies without changing the classification of any private, controlled, or protected record into a public record; and

(m) enter into written agreements with other governmental agencies to obtain information for the purpose of collecting state accounts receivable and restitution for victims.

(5) The office shall ensure that:

(a) a record obtained by the office or a private sector vendor as referred to in Subsection (4)(l):

(i) is used only for the limited purpose of collecting accounts receivable; and

(ii) is subject to federal, state, and local agency records restrictions; and

(b) any person employed by, or formerly employed by, the office or a private sector vendor as referred to in Subsection (4)(l) is subject to:

(i) the same duty of confidentiality with respect to the record imposed by law on officers and employees of the state agency from which the record was obtained; and

(ii) any civil or criminal penalties imposed by law for violations of lawful access to a private, controlled, or protected record.

(6) (a) The office shall collect accounts receivable ordered by a court as a result of prosecution for a

criminal offense that have been transferred to the office under Subsection 76-3-201.1(5)(h) or (8).

(b) The office may not assess the interest charge established by the office under Subsection (4) on an account receivable subject to the postjudgment interest rate established by Section 15-1-4.

(7) The office shall require a state agency to:

(a) transfer collection responsibilities to the office or its designee according to time limits established by the office;

(b) make annual progress towards implementing collection techniques and improved accounts receivable collections;

(c) use the state's accounts receivable system or develop systems that are adequate to properly account for and report their receivables;

(d) develop and implement internal policies and procedures that comply with the collections policies and guidelines established by the office;

(e) provide internal accounts receivable training to staff involved in the management and collection of receivables as a supplement to statewide training;

(f) bill for and make initial collection efforts of its receivables up to the time the accounts must be transferred; and

(g) submit quarterly receivable reports to the office that identify the age, collection status, and funding source of each receivable.

(8) The office shall use the information provided by the agencies and any additional information from the office's records to compile a one-page summary report of each agency.

(9) The summary shall include:

(a) the type of revenue that is owed to the agency;

(b) any attempted collection activity; and

(c) any costs incurred in the collection process.

(10) The office shall annually provide copies of each agency's summary to the governor and to the Legislature.

Section 83. Section 63G-2-202 is amended to read:

63G-2-202. Access to private, controlled, and protected documents.

(1) Upon request, and except as provided in Subsection (11)(a), a governmental entity shall disclose a private record to:

(a) the subject of the record;

(b) the parent or legal guardian of an unemancipated minor who is the subject of the record;

(c) the legal guardian of a legally incapacitated individual who is the subject of the record;

(d) any other individual who:

(i) has a power of attorney from the subject of the record;

(ii) submits a notarized release from the subject of the record or the individual's legal representative dated no more than 90 days before the date the request is made; or

(iii) if the record is a medical record described in Subsection 63G-2-302(1)(b), is a health care provider, as defined in Section 26-33a-102, if releasing the record or information in the record is consistent with normal professional practice and medical ethics; or

(e) any person to whom the record must be provided pursuant to:

(i) court order as provided in Subsection (7); or

(ii) a legislative subpoena as provided in Title 36, Chapter 14, Legislative Subpoena Powers.

(2) (a) Upon request, a governmental entity shall disclose a controlled record to:

(i) a physician, psychologist, certified social worker, insurance provider or producer, or a government public health agency upon submission of:

(A) a release from the subject of the record that is dated no more than 90 days prior to the date the request is made; and

(B) a signed acknowledgment of the terms of disclosure of controlled information as provided by Subsection (2)(b); and

(ii) any person to whom the record must be disclosed pursuant to:

(A) a court order as provided in Subsection (7); or

(B) a legislative subpoena as provided in Title 36, Chapter 14, Legislative Subpoena Powers.

(b) A person who receives a record from a governmental entity in accordance with Subsection (2)(a)(i) may not disclose controlled information from that record to any person, including the subject of the record.

(3) If there is more than one subject of a private or controlled record, the portion of the record that pertains to another subject shall be segregated from the portion that the requester is entitled to inspect.

(4) Upon request, and except as provided in Subsection (10) or (11)(b), a governmental entity shall disclose a protected record to:

(a) the person who submitted the record;

(b) any other individual who:

(i) has a power of attorney from all persons, governmental entities, or political subdivisions whose interests were sought to be protected by the protected classification; or

(ii) submits a notarized release from all persons, governmental entities, or political subdivisions whose interests were sought to be protected by the protected classification or from their legal

representatives dated no more than 90 days prior to the date the request is made;

(c) any person to whom the record must be provided pursuant to:

(i) a court order as provided in Subsection (7); or

(ii) a legislative subpoena as provided in Title 36, Chapter 14, Legislative Subpoena Powers; or

(d) the owner of a mobile home park, subject to the conditions of Subsection 41-1a-116(5).

(5) A governmental entity may disclose a private, controlled, or protected record to another governmental entity, political subdivision, another state, the United States, or a foreign government only as provided by Section 63G-2-206.

(6) Before releasing a private, controlled, or protected record, the governmental entity shall obtain evidence of the requester's identity.

(7) A governmental entity shall disclose a record pursuant to the terms of a court order signed by a judge from a court of competent jurisdiction, provided that:

(a) the record deals with a matter in controversy over which the court has jurisdiction;

(b) the court has considered the merits of the request for access to the record;

(c) the court has considered and, where appropriate, limited the requester's use and further disclosure of the record in order to protect:

(i) privacy interests in the case of private or controlled records;

(ii) business confidentiality interests in the case of records protected under Subsection 63G-2-305(1), (2), (40)(a)(ii), or (40)(a)(vi); and

(iii) privacy interests or the public interest in the case of other protected records;

(d) to the extent the record is properly classified private, controlled, or protected, the interests favoring access, considering limitations thereon, are greater than or equal to the interests favoring restriction of access; and

(e) where access is restricted by a rule, statute, or regulation referred to in Subsection 63G-2-201(3)(b), the court has authority independent of this chapter to order disclosure.

(8) (a) Except as provided in Subsection (8)(d), a governmental entity may disclose or authorize disclosure of private or controlled records for research purposes if the governmental entity:

(i) determines that the research purpose cannot reasonably be accomplished without use or disclosure of the information to the researcher in individually identifiable form;

(ii) determines that:

(A) the proposed research is bona fide; and

(B) the value of the research is greater than or equal to the infringement upon personal privacy;

(iii) (A) requires the researcher to assure the integrity, confidentiality, and security of the records; and

(B) requires the removal or destruction of the individual identifiers associated with the records as soon as the purpose of the research project has been accomplished;

(iv) prohibits the researcher from:

(A) disclosing the record in individually identifiable form, except as provided in Subsection (8)(b); or

(B) using the record for purposes other than the research approved by the governmental entity; and

(v) secures from the researcher a written statement of the researcher's understanding of and agreement to the conditions of this Subsection (8) and the researcher's understanding that violation of the terms of this Subsection (8) may subject the researcher to criminal prosecution under Section 63G-2-801.

(b) A researcher may disclose a record in individually identifiable form if the record is disclosed for the purpose of auditing or evaluating the research program and no subsequent use or disclosure of the record in individually identifiable form will be made by the auditor or evaluator except as provided by this section.

(c) A governmental entity may require indemnification as a condition of permitting research under this Subsection (8).

(d) A governmental entity may not disclose or authorize disclosure of a private record for research purposes as described in this Subsection (8) if the private record is a record described in Subsection 63G-2-302(1)(u).

(9) (a) Under Subsections 63G-2-201(5)(b) and 63G-2-401(6), a governmental entity may disclose to persons other than those specified in this section records that are:

(i) private under Section 63G-2-302; or

(ii) protected under Section 63G-2-305 subject to Section 63G-2-309 if a claim for business confidentiality has been made under Section 63G-2-309.

(b) Under Subsection 63G-2-403(11)(b), the records committee may require the disclosure to persons other than those specified in this section of records that are:

(i) private under Section 63G-2-302;

(ii) controlled under Section 63G-2-304; or

(iii) protected under Section 63G-2-305 subject to Section 63G-2-309 if a claim for business confidentiality has been made under Section 63G-2-309.

(c) Under Subsection 63G-2-404(8), the court may require the disclosure of records that are private under Section 63G-2-302, controlled under Section 63G-2-304, or protected under Section

63G-2-305 to persons other than those specified in this section.

(10) A record contained in the Management Information System, created in Section 62A-4a-1003, that is found to be unsubstantiated, unsupported, or without merit may not be disclosed to any person except the person who is alleged in the report to be a perpetrator of abuse, neglect, or dependency.

(11) (a) A private record described in Subsection 63G-2-302(2)(~~g~~)(f) may only be disclosed as provided in Subsection (1)(e).

(b) A protected record described in Subsection 63G-2-305(43) may only be disclosed as provided in Subsection (4)(c) or Section 62A-3-312.

(12) (a) A private, protected, or controlled record described in Section 62A-16-301 shall be disclosed as required under:

(i) Subsections 62A-16-301(1)(b), (2), and (4)(c); and

(ii) Subsections 62A-16-302(1) and (6).

(b) A record disclosed under Subsection (12)(a) shall retain its character as private, protected, or controlled.

Section 84. Section 63G-2-703 is amended to read:

63G-2-703. Applicability to the Legislature.

(1) The Legislature and its staff offices shall designate and classify records in accordance with Sections 63G-2-301 through 63G-2-305 as public, private, controlled, or protected.

(2) (a) The Legislature and its staff offices are not subject to Section 63G-2-203 or to Part 4, Appeals, Part 5, State Records Committee, or Part 6, Collection of Information and Accuracy of Records.

(b) The Legislature is subject to only the following sections in [~~Part 9, Archives and Records Service~~] Title 63A, Chapter 12, Public Records Management Act: Sections 63A-12-102[~~7~~] and 63A-12-106[~~7~~ and 63G-2-310].

(3) The Legislature, through the Legislative Management Committee:

(a) shall establish policies to handle requests for classification, designation, fees, access, denials, segregation, appeals, management, retention, and amendment of records; and

(b) may establish an appellate board to hear appeals from denials of access.

(4) Policies shall include reasonable times for responding to access requests consistent with the provisions of Part 2, Access to Records, fees, and reasonable time limits for appeals.

(5) Upon request, the state archivist shall:

(a) assist with and advise concerning the establishment of a records management program in the Legislature; and

(b) as required by the Legislature, provide program services similar to those available to the

executive branch of government, as provided in this chapter and Title 63A, Chapter 12, [~~Part 1, Archives and Records Service~~] Public Records Management Act.

Section 85. Section 63G-6a-303 is amended to read:

63G-6a-303. Duties and authority of chief procurement officer.

(1) Except as otherwise specifically provided in this chapter, the chief procurement officer serves as the central procurement officer of the state and shall:

(a) adopt office policies governing the internal functions of the division;

(b) procure or supervise each procurement over which the chief procurement officer has authority;

(c) establish and maintain programs for the inspection, testing, and acceptance of each procurement item over which the chief procurement officer has authority;

(d) prepare statistical data concerning each procurement and procurement usage of a state procurement unit;

(e) ensure that:

(i) before approving a procurement not covered by an existing statewide contract for information technology or telecommunications supplies or services, the chief information officer and the agency have stated in writing to the division that the needs analysis required in Section 63F-1-205 was completed, unless the procurement is approved in accordance with Title 63M, Chapter 1, Part 26, Government Procurement Private Proposal Program; and

(ii) the oversight authority required by Subsection [~~(5)(a)] (1)(e)(i) is not delegated outside the division;~~

(f) provide training to procurement units and to persons who do business with procurement units;

(g) if the chief procurement officer determines that a procurement over which the chief procurement officer has authority is out of compliance with this chapter or board rules:

(i) correct or amend the procurement to bring it into compliance; or

(ii) cancel the procurement, if:

(A) it is not feasible to bring the procurement into compliance; or

(B) the chief procurement officer determines that it is in the best interest of the state to cancel the procurement; and

(h) if the chief procurement officer determines that a contract over which the chief procurement officer has authority is out of compliance with this chapter or board rules, correct or amend the contract to bring it into compliance or cancel the contract:

(i) if the chief procurement officer determines that correcting, amending, or canceling the contract is in the best interest of the state; and

(ii) after consultation with the attorney general's office.

(2) The chief procurement officer may:

(a) correct, amend, or cancel a procurement as provided in Subsection (1)(g) at any stage of the procurement process; and

(b) correct, amend, or cancel a contract as provided in Subsection (1)(h) at any time during the term of the contract.

Section 86. Section 63G-6a-904 is amended to read:

63G-6a-904. Debarment or suspension from consideration for award of contracts -- Process -- Causes for debarment -- Appeal.

(1) (a) Subject to Subsection (1)(b), the chief procurement officer or the head of a procurement unit with independent procurement authority may:

(i) debar a person for cause from consideration for award of contracts for a period not to exceed three years; or

(ii) suspend a person from consideration for award of contracts if there is probable cause to believe that the person has engaged in any activity that might lead to debarment.

(b) Before debarring or suspending a person under Subsection (1)(a), the chief procurement officer or head of a procurement unit with independent procurement authority shall:

(i) consult with:

(A) the procurement unit involved in the matter for which debarment or suspension is sought; and

(B) the attorney general, if the procurement unit is in the state executive branch, or the procurement unit's attorney, if the procurement unit is not in the state executive branch;

(ii) give the person at least 10 days' prior written notice of:

(A) the reasons for which debarment or suspension is being considered; and

(B) the hearing under Subsection (1)(b)(iii); and

(iii) hold a hearing in accordance with Subsection (1)(c).

(c) (i) At a hearing under Subsection (1)(b)(iii), the chief procurement officer or head of a procurement unit with independent procurement authority may:

(A) subpoena witnesses and compel their attendance at the hearing;

(B) subpoena documents for production at the hearing;

(C) obtain additional factual information; and

(D) obtain testimony from experts, the person who is the subject of the proposed debarment or

suspension, representatives of the procurement unit, or others to assist the chief procurement officer or head of a procurement unit with independent procurement authority to make a decision on the proposed debarment or suspension.

(ii) The Rules of Evidence do not apply to a hearing under Subsection (1)(b)(iii).

(iii) The chief procurement officer or head of a procurement unit with independent procurement authority shall:

(A) record a hearing under Subsection (1)(b)(iii);

(B) preserve all records and other evidence relied upon in reaching a decision until the decision becomes final;

(C) for an appeal of a debarment or suspension by a procurement unit other than a legislative procurement unit, a judicial procurement unit, a local government procurement unit, or a public transit district, submit to the procurement policy board chair a copy of the written decision and all records and other evidence relied upon in reaching the decision, within seven days after receiving a notice that an appeal of a debarment or suspension has been filed under Section 63G-6a-1702 or after receiving a request from the procurement policy board chair; and

(D) for an appeal of a debarment or suspension by a legislative procurement unit, a judicial procurement unit, a local government procurement unit, or a public transit district, submit to the Utah Court of Appeals a copy of the written decision and all records and other evidence relied upon in reaching the decision, within seven days after receiving a notice that an appeal of a debarment or suspension has been filed under Section 63G-6a-1802.

(iv) The holding of a hearing under Subsection (1)(b)(iii) or the issuing of a decision under Subsection (1)(b)(c)(v) does not affect a person's right to later question or challenge the jurisdiction of the chief procurement officer or head of a procurement unit with independent procurement authority to hold a hearing or issue a decision.

(v) The chief procurement officer or head of a procurement unit with independent procurement authority shall:

(A) promptly issue a written decision regarding a proposed debarment or suspension, unless the matter is settled by mutual agreement; and

(B) mail, email, or otherwise immediately furnish a copy of the decision to the person who is the subject of the decision.

(vi) A written decision under Subsection (1)(b)(c)(v) shall:

(A) state the reasons for the debarment or suspension, if debarment or suspension is ordered;

(B) inform the person who is debarred or suspended of the right to judicial or administrative review as provided in this chapter; and

(C) indicate the amount of the security deposit or bond required under Section 63G-6a-1703 and how that amount was calculated.

(vii) (A) A decision of debarment or suspension issued by a procurement unit other than a legislative procurement unit, a judicial procurement unit, a local government procurement unit, or a public transit district is final and conclusive unless the person who is debarred or suspended files an appeal of the decision under Section 63G-6a-1702.

(B) A decision of debarment or suspension issued by a legislative procurement unit, a judicial procurement unit, a local government procurement unit, or a public transit district is final and conclusive unless the person who is debarred or suspended files an appeal of the decision under Section 63G-6a-1802.

(2) A suspension under this section may not be for a period exceeding three months, unless an indictment has been issued for an offense which would be a cause for debarment under Subsection (3), in which case the suspension shall, at the request of the attorney general, if the procurement unit is in the state executive branch, or the procurement unit's attorney, if the procurement unit is not in the state executive branch, remain in effect until after the trial of the suspended person.

(3) The causes for debarment include the following:

(a) conviction of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract or in the performance of a public or private contract or subcontract;

(b) conviction under state or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty which currently, seriously, and directly affects responsibility as a contractor for the procurement unit;

(c) conviction under state or federal antitrust statutes;

(d) failure without good cause to perform in accordance with the terms of the contract;

(e) a violation of this chapter; or

(f) any other cause that the chief procurement officer or the head of a procurement unit with independent procurement authority determines to be so serious and compelling as to affect responsibility as a contractor for the procurement unit, including debarment by another governmental entity.

(4) A person who is debarred or suspended under this section may appeal the debarment or suspension:

(a) as provided in Section 63G-6a-1702, if the debarment or suspension is by a procurement unit other than a legislative procurement unit, a judicial procurement unit, a local government procurement unit, or a public transit district; or

(b) as provided in Section 63G-6a-1802, if the debarment or suspension is by a legislative procurement unit, a judicial procurement unit, a local government procurement unit, or a public transit district.

(5) A procurement unit may consider a cause for debarment under Subsection (3) as the basis for determining that a person responding to a solicitation is not responsible:

(a) independent of any effort or proceeding under this section to debar or suspend the person; and

(b) even if the procurement unit does not choose to seek debarment or suspension.

Section 87. Section 63G-6a-1702 is amended to read:

63G-6a-1702. Appeal to Utah State Procurement Policy Board -- Appointment of procurement appeals panel -- Proceedings.

(1) This part applies to all procurement units other than:

- (a) a legislative procurement unit;
- (b) a judicial procurement unit;
- (c) a local government procurement unit; or
- (d) a public transit district.

(2) (a) Subject to Section 63G-6a-1703, a party to a protest involving a procurement unit other than a procurement unit listed in Subsection (1)(a), (b), (c), or (d) may appeal the protest decision to the board by filing a written notice of appeal with the chair of the board within seven days after:

(i) the day on which the written decision described in Section 63G-6a-1603 is:

(A) personally served on the party or the party's representative; or

(B) emailed or mailed to the address or email address of record provided by the party under Subsection 63G-6a-1602~~(3)~~(2); or

(ii) the day on which the 30-day period described in Subsection 63G-6a-1603~~(7)~~(9) ends, if a written decision is not issued before the end of the 30-day period.

(b) A person appealing a debarment or suspension of a procurement unit other than a procurement unit listed in Subsection (1)(a), (b), (c), or (d) shall file a written notice of appeal with the chair of the board no later than seven days after the debarment or suspension.

(c) A notice of appeal under Subsection (2)(a) or (b) shall:

(i) include the address of record and email address of record of the party filing the notice of appeal; and

(ii) be accompanied by a copy of any written protest decision or debarment or suspension order.

(3) A person may not base an appeal of a protest under this section on a ground not specified in the person's protest under Section 63G-6a-1602.

(4) A person may not appeal from a protest described in Section 63G-6a-1602, unless:

(a) a decision on the protest has been issued; or

(b) a decision is not issued and the 30-day period described in Subsection 63G-6a-1603~~(7)~~(9), or a longer period agreed to by the parties, has passed.

(5) The chair of the board or a designee of the chair who is not employed by the procurement unit responsible for the solicitation, contract award, or other action complained of:

(a) shall, within seven days after the day on which the chair receives a timely written notice of appeal under Subsection (2), and if all the requirements of Subsection (2) and Section 63G-6a-1703 have been met, appoint:

(i) a procurement appeals panel to hear and decide the appeal, consisting of at least three individuals, each of whom is:

(A) a member of the board; or

(B) a designee of a member appointed under Subsection ~~(4)~~ (5)(a)(i)(A), if the designee is approved by the chair; and

(ii) one of the members of the procurement appeals panel to be the chair of the panel;

(b) may:

(i) appoint the same procurement appeals panel to hear more than one appeal; or

(ii) appoint a separate procurement appeals panel for each appeal;

(c) may not appoint a person to a procurement appeals panel if the person is employed by the procurement unit responsible for the solicitation, contract award, or other action complained of; and

(d) shall, at the time the procurement appeals panel is appointed, provide appeals panel members with a copy of the protest officer's written decision and all other records and other evidence that the protest officer relied on in reaching the decision.

(6) A procurement appeals panel described in Subsection (5) shall:

(a) consist of an odd number of members;

(b) conduct an informal proceeding on the appeal within 60 days after the day on which the procurement appeals panel is appointed:

(i) unless all parties stipulate to a later date; and

(ii) subject to Subsection (8);

(c) at least seven days before the proceeding, mail, email, or hand-deliver a written notice of the proceeding to the parties to the appeal; and

(d) within seven days after the day on which the proceeding ends:

(i) issue a written decision on the appeal; and

(ii) mail, email, or hand-deliver the written decision on the appeal to the parties to the appeal and to the protest officer.

(7) (a) The deliberations of a procurement appeals panel may be held in private.

(b) If the procurement appeals panel is a public body, as defined in Section 52-4-103, the procurement appeals panel shall comply with Section 52-4-205 in closing a meeting for its deliberations.

(8) A procurement appeals panel may continue a procurement appeals proceeding beyond the 60-day period described in Subsection (6)(b) if the procurement appeals panel determines that the continuance is in the interests of justice.

(9) A procurement appeals panel:

(a) shall, subject to Subsection (9)(c), consider the appeal based solely on:

(i) the protest decision;

(ii) the record considered by the person who issued the protest decision; and

(iii) if a protest hearing was held, the record of the protest hearing;

(b) may not take additional evidence;

(c) notwithstanding Subsection (9)(b), may, during an informal hearing, ask questions and receive responses regarding the appeal, the protest decision, or the record in order to assist the panel to understand the appeal, the protest decision, and the record; and

(d) shall uphold the decision of the protest officer, unless the decision is arbitrary and capricious or clearly erroneous.

(10) If a procurement appeals panel determines that the decision of the protest officer is arbitrary and capricious or clearly erroneous, the procurement appeals panel:

(a) shall remand the matter to the protest officer, to cure the problem or render a new decision;

(b) may recommend action that the protest officer should take; and

(c) may not order that:

(i) a contract be awarded to a certain person;

(ii) a contract or solicitation be cancelled; or

(iii) any other action be taken other than the action described in Subsection (10)(a).

(11) The board shall make rules relating to the conduct of an appeals proceeding, including rules that provide for:

(a) expedited proceedings; and

(b) electronic participation in the proceedings by panel members and participants.

(12) The Rules of Evidence do not apply to an appeals proceeding.

Section 88. Section 63G-10-403 is amended to read:

63G-10-403. Department of Transportation bid or request for proposals protest settlement agreement approval and review.

(1) As used in this section:

(a) "Department" means the Department of Transportation created in Section 72-1-201.

(b) "Settlement agreement" includes stipulations, consent decrees, settlement agreements, or other legally binding documents or representations resolving a dispute between the department and another party when the department is required to pay money or required to take legally binding action.

(2) The department shall obtain the approval of the Transportation Commission or the governor or review by the Legislative Management Committee of a settlement agreement that involves a bid or request for proposal protest in accordance with this section.

(3) A settlement agreement that is being settled by the department as part of a bid or request for proposal protest, in accordance with Subsection 63G-6a-1602[(5)](4), that might cost government entities more than \$100,000 to implement shall be presented to the Transportation Commission for approval or rejection.

(4) A settlement agreement that is being settled by the department as part of a bid or request for proposal protest, in accordance with Subsection 63G-6a-1602[(5)](4), that might cost government entities more than \$500,000 to implement shall be presented:

(a) to the Transportation Commission for approval or rejection; and

(b) to the governor for approval or rejection.

(5) (a) A settlement agreement that is being settled by the department as part of a bid or request for proposal protest, in accordance with Subsection 63G-6a-1602[(5)](4), that might cost government entities more than \$1,000,000 to implement shall be presented:

(i) to the Transportation Commission for approval or rejection;

(ii) to the governor for approval or rejection; and

(iii) if the settlement agreement is approved by the Transportation Commission and the governor, to the Legislative Management Committee.

(b) The Legislative Management Committee may recommend approval or rejection of the settlement agreement.

(6) (a) The department may not enter into a settlement agreement that resolves a bid or request for proposal protest, in accordance with Subsection 63G-6a-1602[(5)](4), that might cost government entities more than \$100,000 to implement until the Transportation Commission has approved the agreement.

(b) The department may not enter into a settlement agreement that resolves a bid or request for proposal protest, in accordance with Subsection 63G-6a-1602[(45)](4), that might cost government entities more than \$500,000 to implement until the Transportation Commission and the governor have approved the agreement.

(c) The department may not enter into a settlement agreement that resolves a bid or request for proposal protest, in accordance with Subsection 63G-6a-1602[(45)](4), that might cost government entities more than \$1,000,000 to implement until:

(i) the Transportation Commission has approved the agreement;

(ii) the governor has approved the agreement; and

(iii) the Legislative Management Committee has reviewed the agreement.

Section 89. Section 63G-12-102 is amended to read:

63G-12-102. Definitions.

As used in this chapter:

(1) "Basic health insurance plan" means a health plan that is actuarially equivalent to a federally qualified high deductible health plan.

(2) "Department" means the Department of Public Safety created in Section 53-1-103.

(3) "Employee" means an individual employed by an employer under a contract for hire.

(4) "Employer" means a person who has one or more employees employed in the same business, or in or about the same establishment, under any contract of hire, express or implied, oral or written.

(5) "E-verify program" means the electronic verification of the work authorization program of the Illegal Immigration Reform and Immigration Responsibility Act of 1996, 8 U.S.C. Sec. 1324a, known as the e-verify program[;].

(6) "Family member" means for an undocumented individual:

(a) a member of the undocumented individual's immediate family;

(b) the undocumented individual's grandparent;

(c) the undocumented individual's sibling;

(d) the undocumented individual's grandchild;

(e) the undocumented individual's nephew;

(f) the undocumented individual's niece;

(g) a spouse of an individual described in this Subsection (6); or

(h) an individual who is similar to one listed in this Subsection (6).

(7) "Federal SAVE program" means the Systematic Alien Verification for Entitlements Program operated by the United States

Department of Homeland Security or an equivalent program designated by the Department of Homeland Security.

(8) "Guest worker" means an undocumented individual who holds a guest worker permit.

(9) "Guest worker permit" means a permit issued in accordance with Section 63G-12-207 to an undocumented individual who meets the eligibility criteria of Section 63G-12-205.

(10) "Immediate family" means for an undocumented individual:

(a) the undocumented individual's spouse; or

(b) a child of the undocumented individual if the child is:

(i) under 21 years of age; and

(ii) unmarried.

(11) "Immediate family permit" means a permit issued in accordance with Section 63G-12-207 to an undocumented individual who meets the eligibility criteria of Section 63G-12-206.

(12) "Permit" means a permit issued under Part 2, Guest Worker Program, and includes:

(a) a guest worker permit; and

(b) an immediate family permit.

(13) "Permit holder" means an undocumented individual who holds a permit.

(14) "Private employer" means an employer who is not the federal government or a public employer.

[47] (15) "Program" means the Guest Worker Program described in Section 63G-12-201.

[45] (16) "Program start date" means the day on which the department is required to implement the program under Subsection 63G-12-202(3).

[46] (17) "Public employer" means an employer that is:

(a) the state of Utah or any administrative subunit of the state;

(b) a state institution of higher education, as defined in Section 53B-3-102;

(c) a political subdivision of the state including a county, city, town, school district, local district, or special service district; or

(d) an administrative subunit of a political subdivision.

(18) "Relevant contact information" means the following for an undocumented individual:

(a) the undocumented individual's name;

(b) the undocumented individual's residential address;

(c) the undocumented individual's residential telephone number;

(d) the undocumented individual's personal email address;

(e) the name of the person with whom the undocumented individual has a contract for hire;

(f) the name of the contact person for the person listed in Subsection (18)(e);

(g) the address of the person listed in Subsection (18)(e);

(h) the telephone number for the person listed in Subsection (18)(e);

(i) the names of the undocumented individual's immediate family members;

(j) the names of the family members who reside with the undocumented individual; and

(k) any other information required by the department by rule made in accordance with Chapter 3, Utah Administrative Rulemaking Act.

(19) "Restricted account" means the Immigration Act Restricted Account created in Section 63G-12-103.

(20) "Serious felony" means a felony under:

(a) Title 76, Chapter 5, Offenses Against the Person;

(b) Title 76, Chapter [5a] 5b, Sexual Exploitation [of Children] Act;

(c) Title 76, Chapter 6, Offenses Against Property;

(d) Title 76, Chapter 7, Offenses Against the Family;

(e) Title 76, Chapter 8, Offenses Against the Administration of Government;

(f) Title 76, Chapter 9, Offenses Against Public Order and Decency; and

(g) Title 76, Chapter 10, Offenses Against Public Health, Safety, Welfare, and Morals.

(21) (a) "Status verification system" means an electronic system operated by the federal government, through which an authorized official of a state agency or a political subdivision of the state may inquire by exercise of authority delegated pursuant to 8 U.S.C. Sec. 1373, to verify the citizenship or immigration status of an individual within the jurisdiction of the agency or political subdivision for a purpose authorized under this section.

(b) "Status verification system" includes:

(i) the e-verify program;

(ii) an equivalent federal program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work eligibility status of a newly hired employee pursuant to the Immigration Reform and Control Act of 1986;

(iii) the Social Security Number Verification Service or similar online verification process implemented by the United States Social Security Administration; or

(iv) an independent third-party system with an equal or higher degree of reliability as the programs, systems, or processes described in Subsection (21)(b)(i), (ii), or (iii).

(22) "Unauthorized alien" is as defined in 8 U.S.C. Sec. 1324a(h)(3).

(23) "Undocumented individual" means an individual who:

(a) lives or works in the state; and

(b) is not in compliance with the Immigration and Nationality Act, 8 U.S.C. Sec. 1101 et seq. with regard to presence in the United States.

(24) "U-verify program" means the verification procedure developed by the department in accordance with Section 63G-12-210.

Section 90. Section 63H-1-701 is amended to read:

63H-1-701. Annual authority budget -- Fiscal year -- Public hearing required -- Auditor forms -- Requirement to file form.

(1) The authority shall prepare and its board adopt an annual budget of revenues and expenditures for the authority for each fiscal year.

(2) Each annual authority budget shall be adopted before June 22.

(3) The authority's fiscal year shall be the period from July 1 to the following June 30.

(4) (a) Before adopting an annual budget, the authority board shall hold a public hearing on the annual budget.

(b) The authority shall provide notice of the public hearing on the annual budget by:

(i) publishing notice:

(A) at least once in a newspaper of general circulation within the authority boundaries, one week before the public hearing; and

(B) on the Utah Public Notice Website created in Section 63F-1-701, for at least one week immediately before the public hearing; or

(ii) if there is no newspaper of general circulation within the authority boundaries as described in Subsection (4)(a)(b)(i)(A), posting a notice of the public hearing in at least three public places within the authority boundaries.

(c) The authority shall make the annual budget available for public inspection at least three days before the date of the public hearing.

(5) The state auditor shall prescribe the budget forms and the categories to be contained in each authority budget, including:

(a) revenues and expenditures for the budget year;

(b) legal fees; and

(c) administrative costs, including rent, supplies, and other materials, and salaries of authority personnel.

(6) (a) Within 30 days after adopting an annual budget, the authority board shall file a copy of the annual budget with the auditor of the county in which the authority is located, the State Tax Commission, the state auditor, the State Board of Education, and each taxing entity that levies a tax on property from which the authority collects tax increment.

(b) The requirement of Subsection (6)(a) to file a copy of the annual budget with the state as a taxing entity is met if the authority files a copy with the State Tax Commission and the state auditor.

Section 91. Section 63H-7-103 is amended to read:

63H-7-103. Definitions.

As used in this chapter:

(1) "Authority" means the Utah Communications Authority, an independent state agency created in Section ~~[67H-7-201]~~ 63H-7-201.

(2) "Board" means the Utah Communications Authority Board created in Section ~~[67H-7-203]~~ 63H-7-203.

(3) "Bonds" means bonds, notes, certificates, debentures, contracts, lease purchase agreements, or other evidences of indebtedness or borrowing issued or incurred by the authority pursuant to this chapter.

(4) "Communications network" means:

(a) a regional or statewide public safety governmental communications network and related facilities, including real property, improvements, and equipment necessary for the acquisition, construction, and operation of the services and facilities; and

(b) 911 emergency services, including radio communications, microwave connectivity, FirstNet coordination, and computer aided dispatch system.

(5) "FirstNet" means the First Responder Network Authority created by Congress in the Middle Class Tax Relief and Job Creation Act of 2012.

(6) "Lease" means any lease, lease purchase, sublease, operating, management, or similar agreement.

(7) "Local entity" means a county, city, town, local district, special service district, or interlocal entity created under Title 11, Chapter 13, Interlocal Cooperation Act.

(8) "Member" means a public agency which:

(a) adopts a membership resolution to be included within the authority; and

(b) submits an originally executed copy of an authorizing resolution to the authority's office.

(9) "Member representative" means a person or that person's designee appointed by the governing body of each member.

(10) "Public agency" means any political subdivision of the state, including cities, towns, counties, school districts, local districts, and special service districts, dispatched by a public safety answering point.

(11) "Public safety answering point" means an organization, entity, or combination of entities which have joined together to form a central answering point for the receipt, management, and dissemination to the proper responding agency, of emergency and nonemergency communications, including 911 communications, police, fire, emergency medical, transportation, parks, wildlife, corrections, and any other governmental communications.

(12) "State" means the state of Utah.

(13) "State representative" means the six appointees of the governor or their designees and the Utah State Treasurer or his designee.

Section 92. Section 63I-1-213 is amended to read:

63I-1-213. Repeal dates, Title 13.

~~[(1) Subsections 13-38a-102(3) and 13-38a-102(4) are repealed June 30, 2014.]~~

~~[(2) Sections 13-38a-301 and 13-38a-302 are repealed June 30, 2014.]~~

Section 93. Section 63I-1-226 is amended to read:

63I-1-226. Repeal dates, Title 26.

(1) Title 26, Chapter 9f, Utah Digital Health Service Commission Act, is repealed July 1, 2015.

(2) Section 26-10-11 is repealed July 1, 2015.

~~[(3) Section 26-18-12, Expansion of 340B drug pricing programs, is repealed July 1, 2013.]~~

~~[(4)] (3) Section 26-21-23, Licensing of non-Medicaid nursing care facility beds, is repealed July 1, 2018.~~

~~[(5) Section 26-21-211 is repealed July 1, 2013.]~~

~~[(6)] (4) Title 26, Chapter 33a, Utah Health Data Authority Act, is repealed July 1, 2024.~~

~~[(7)] (5) Title 26, Chapter 36a, Hospital Provider Assessment Act, is repealed July 1, 2016.~~

~~[(8)] (6) Section 26-38-2.5 is repealed July 1, 2017.~~

~~[(9)] (7) Section 26-38-2.6 is repealed July 1, 2017.~~

~~[(10)] (8) Title 26, Chapter 56, Hemp Extract Registration Act, is repealed July 1, 2016.~~

Section 94. Section 63I-1-235 is amended to read:

63I-1-235. Repeal dates, Title 35A.

(1) Title 35A, Utah Workforce Services Code, is repealed July 1, 2015.

(2) Title 35A, Chapter 8, Part 7, Utah Housing Corporation Act, is repealed July 1, 2016.

~~[(3) Title 35A, Chapter 8, Part 18, Transitional Housing and Community Development Advisory Council, is repealed July 1, 2014.]~~

~~[(4) (3) Title 35A, Chapter 11, Women in the Economy Commission Act, is repealed July 1, 2016.]~~

Section 95. Section 63I-2-219 is amended to read:

63I-2-219. Repeal dates -- Title 19.

~~[(1) Section 19-6-405.3 is repealed July 1, 2014.]~~

~~[(2) Section 19-6-405.4 is repealed July 1, 2014.]~~

Section 96. Section 63I-2-253 is amended to read:

63I-2-253. Repeal dates -- Titles 53, 53A, and 53B.

~~[(1) Section 53A-1-402.7 is repealed July 1, 2014.]~~

~~[(2) (1) Section 53A-1-403.5 is repealed July 1, 2017.]~~

~~[(3) (2) Subsection 53A-1-410(5) is repealed July 1, 2015.]~~

~~[(4) (3) Section 53A-1-411 is repealed July 1, 2016.]~~

~~[(5) (4) Section 53A-1a-513.5 is repealed July 1, 2017.]~~

~~[(6) (5) Title 53A, Chapter 1a, Part 10, UPSTART, is repealed July 1, 2019.]~~

~~[(7) (6) Title 53A, Chapter 8a, Part 8, Peer Assistance and Review Pilot Program, is repealed July 1, 2017.]~~

~~[(8) (7) Section 53A-17a-169 is repealed July 1, 2017.]~~

Section 97. Section 63I-2-258 is amended to read:

63I-2-258. Repeal dates -- Title 58.

~~[(1) Subsection 58-72-201(1)(b) is repealed July 1, 2014.]~~

~~[(2) Subsection 58-17b-605.5(8) is repealed on May 15, 2015.]~~

Section 98. Section 63I-2-262 is amended to read:

63I-2-262. Repeal dates, Title 62A.

~~[Section 62A-4a-122 is repealed January 1, 2014.]~~

Section 99. Section 63I-2-263 is amended to read:

63I-2-263. Repeal dates, Title 63A to Title 63M.

~~[(1) Section 63A-1-115 is repealed on July 1, 2014.]~~

~~[(2) (1) Section 63C-9-501.1 is repealed on July 1, 2015.]~~

~~[(3) Subsection 63J-1-218(3) is repealed on December 1, 2013.]~~

~~[(4) Subsection 63J-1-218(4) is repealed on December 1, 2013.]~~

~~[(5) Section 63M-1-207 is repealed on December 1, 2014.]~~

~~[(6) (2) Subsection 63M-1-903(1)(d) is repealed on July 1, 2015.]~~

~~[(7) Subsection 63M-1-1406(9) is repealed on January 1, 2015.]~~

Section 100. Section 63I-5-302 is amended to read:

63I-5-302. Agency head -- Powers and duties.

If an agency has an internal audit program, and the agency's appointing authority has not established an audit committee, the agency head shall assume the audit committee powers and duties described in Subsection ~~[63I-5-303]~~ 63I-5-301(3).

Section 101. Section 63M-1-3208 is amended to read:

63M-1-3208. STEM education endorsements and incentive program.

(1) The State Board of Education shall collaborate with the STEM Action Center to:

- (a) develop STEM education endorsements; and
- (b) create and implement financial incentives for:

- (i) an educator to earn an elementary or secondary STEM education endorsement described in Subsection (1)(a); and

- (ii) a school district or a charter school to have STEM endorsed educators on staff.

(2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Board of Education shall make rules to establish how a STEM education endorsement ~~[incentive]~~ described in Subsection (1)(a) will be valued on a salary scale for educators.

Section 102. Section 65A-7-5 is amended to read:

65A-7-5. Surface leases -- Procedures for issuing leases -- Leases for the construction of a highway facility.

(1) The division may issue surface leases of state lands for any period up to 99 years.

(2) This section does not apply to leases for oil and gas, grazing, or mining purposes.

(3) The division shall disclose any known geologic hazard affecting leased property.

(4) (a) (i) Surface leases may be entered into by negotiation, public auction, or other public competitive bidding process as determined by rules of the division.

(ii) Requests for proposals (RFP) on state lands may be offered by the division after public notice.

(b) (i) A notice of an invitation for bids or a public auction shall, prior to the auction or acceptance of a bid, be published at least once a week for three consecutive weeks in one or more newspapers of general circulation in the county in which the lease is offered.

(ii) The notice shall be sent, by certified mail, at least 30 days prior to the auction or acceptance of a bid, to each person who owns property adjoining the state lands offered for lease.

(c) (i) Surface leases entered into through negotiation shall be published in the manner set forth in Subsection (4)(b) 30 days prior to final approval.

(ii) The notice shall include, at a minimum, a general description of the lands proposed for lease and the type of lease.

(5) (a) The division may not issue a lease for the construction of a highway facility over sovereign lakebed lands unless the applicant for the lease submits an approval for the construction of a highway facility over sovereign lakebed lands from the Transportation Commission in accordance with Section 72-6-303 with the application for the lease.

(b) The division shall consider the information and analysis provided by the Transportation Commission under Section 72-6-303 when making its determination as to whether to issue a lease for the construction of a highway facility over sovereign lakebed lands.

(c) A lease for the construction of a highway facility over sovereign lakebed lands:

(i) may include an option to renew the lease upon expiration; and

(ii) shall include a provision that requires that at the termination of the lease:

(A) the ownership of the highway facility shall revert to the state;

(B) the highway facility shall be in a state of proper maintenance as outlined in the agreement under Subsection 72-6-303~~(4)~~(5)(e) and determined by the Department of Transportation; and

(C) the highway facility shall be returned to the Department of Transportation in satisfactory condition at no further cost to the Department of Transportation, in a condition of good repair.

(d) The requirements under this Subsection (5) apply to all pending and future applications for a lease for the construction of a highway facility over sovereign lakebed lands.

Section 103. Section 67-5-3 is amended to read:

67-5-3. "Agency" defined -- Performance of legal services for agencies -- Billing.

(1) As used in this act, "agency" means a department, division, agency, commission, board,

council, committee, authority, institution, or other entity within the state government of Utah.

~~(2) (a) The attorney general may assign [his legal assistants] a legal assistant to perform legal services for any agency of state government. [He]~~

~~(b) The attorney general shall bill that agency for the legal services performed, if:~~

~~[(4)] (i) the agency [sø] billed receives federal funds to pay for the legal services rendered[;]; or [if (2)]~~

~~(ii) the agency collects funds from any other source in the form of fees, costs, interest, fines, penalties, forfeitures, or other proceeds reserved or designated for the payment of legal fees sufficient to pay for all or a portion of the legal services rendered[; however, the].~~

~~(c) An agency may deduct any unreimbursed costs and expenses incurred by the agency in connection with the legal services rendered. [As used in this act "agency" means any department, division, agency, commission, board, council, committee, authority, institution, or other entity within the state government of Utah.]~~

Section 104. Section 67-19a-202 is amended to read:

67-19a-202. Powers -- Scope of authority.

(1) (a) The office shall serve as the final administrative body to review a grievance from a career service employee and an agency of a decision regarding:

(i) a dismissal;

(ii) a demotion;

(iii) a suspension;

(iv) a reduction in force;

(v) a dispute concerning abandonment of position;

(vi) a wage grievance if an employee is not placed within the salary range of the employee's current position;

(vii) a violation of a rule adopted under Chapter 19, Utah State Personnel Management Act; or

(viii) except as provided by Subsection (1)~~(b)~~(c)(iii), equitable administration of the following benefits:

(A) long-term disability insurance;

(B) medical insurance;

(C) dental insurance;

(D) post-retirement health insurance;

(E) post-retirement life insurance;

(F) life insurance;

(G) defined contribution retirement;

(H) defined benefit retirement; and

(I) a leave benefit.

(b) The office shall serve as the final administrative body to review a grievance by a reporting employee alleging retaliatory action.

(c) The office may not review or take action on:

(i) a personnel matter not listed in Subsection (1)(a) or (b);

(ii) a grievance listed in Subsection (1)(a) or (b) that alleges discrimination or retaliation related to a claim of discrimination that is a violation of a state or federal law for which review and action by the office is preempted by state or federal law; or

(iii) a grievance related to a claim for which an administrative review process is provided by statute and administered by:

(A) the Utah State Retirement Systems under Title 49, Utah State Retirement and Insurance Benefit Act;

(B) the Public Employees' Benefit and Insurance Program under Title 49, Chapter 20, Public Employees' Benefit and Insurance Program Act; or

(C) the Public Employees' Long-Term Disability Program under Title 49, Chapter 21, Public Employees' Long-Term Disability Act.

(2) The time limits established in this chapter supersede the procedural time limits established in Title 63G, Chapter 4, Administrative Procedures Act.

Section 105. Section 67-19a-402.5 is amended to read:

67-19a-402.5. Procedural steps to be followed by reporting employee alleging retaliatory action.

(1) A reporting employee who desires to assert an administrative grievance of retaliatory action:

(a) shall submit the grievance in writing within 20 days after the day on which the retaliatory action occurs;

(b) is not required to comply with Section 63G-7-402 to file the grievance; and

(c) is subject to the provisions of Section ~~[67-24-4]~~ 67-21-4.

(2) (a) When a reporting employee files a grievance with the administrator under Subsection (1), the administrator shall initially determine:

(i) whether the reporting employee is entitled, under this chapter and Chapter 21, Utah Protection of Public Employees Act, to bring the grievance and use the grievance procedure;

(ii) whether the office has authority to review the grievance;

(iii) whether, if the alleged grievance were found to be true, the reporting employee would be entitled to relief under Subsection 67-21-3.5(2); and

(iv) whether the reporting employee has been directly harmed.

(b) To make the determinations described in Subsection (2)(a), the administrator may:

(i) hold an initial hearing, where the parties may present oral arguments, written arguments, or both; or

(ii) conduct an administrative review of the grievance.

(3) (a) If the administrator holds an initial hearing, the administrator shall issue a written decision within 15 days after the day on which the hearing is adjourned.

(b) If the administrator chooses to conduct an administrative review of the grievance, the administrator shall issue the written decision within 15 days after the day on which the administrator receives the grievance.

(4) (a) If the administrator determines the office has authority to review the grievance, the administrator shall provide for an evidentiary hearing in accordance with Section 67-19a-404.

(b) The administrator may dismiss the grievance, without holding a hearing or taking evidence, if the administrator:

(i) finds that, even if the alleged grievance were found to be true, the reporting employee would not be entitled to relief under Subsection 67-21-3.5(2); and

(ii) provides the administrator's findings, in writing, to the reporting employee.

(c) The office shall comply with Chapter 21, Utah Protection of Public Employees Act, in taking action under this section.

(5) A decision reached by the office in reviewing a retaliatory action grievance from a reporting employee may be appealed directly to the Utah Court of Appeals.

(6) (a) Except as provided in Subsection (6)(b), an appellate court may award costs and attorney fees, accrued at the appellate court level, to a prevailing employee.

(b) A court may not order the office to pay costs or attorney fees under this section.

Section 106. Section 70A-2-601 is amended to read:

70A-2-601. Buyer's rights on improper delivery.

Subject to the provisions of this chapter on breach in installment contracts (Section 70A-2-612) and unless otherwise agreed under the sections on contractual limitations of remedy (Sections 70A-2-718 and 70A-2-719), if the goods or the tender of delivery fail in any respect to conform to the contract, the buyer may:

~~(a)~~ (1) reject the whole; ~~(e)~~

~~(b)~~ (2) accept the whole; or

~~(e)~~ (3) accept any commercial unit or units and reject the rest.

Section 107. Section 70A-2-610 is amended to read:

70A-2-610. Anticipatory repudiation.

When either party repudiates the contract with respect to a performance not yet due the loss of which will substantially impair the value of the contract to the other, the aggrieved party may:

[(a)] (1) for a commercially reasonable time await performance by the repudiating party; [ø] and

[(b)] (2) resort to any remedy for breach (Section 70A-2-703 or Section 70A-2-711), even though he has notified the repudiating party that he would await the latter's performance and has urged retraction; and

[(e)] (3) in either case suspend his own performance or proceed in accordance with the provisions of this chapter on the seller's right to identify goods to the contract notwithstanding breach or to salvage unfinished goods (Section 70A-2-704).

Section 108. Section 70A-2-615 is amended to read:

70A-2-615. Excuse by failure of presupposed conditions.

Except so far as a seller may have assumed a greater obligation and subject to the preceding section on substituted performance:

[(a)] (1) Delay in delivery or nondelivery in whole or in part by a seller who complies with [paragraphs (b) and (c)] Subsections (2) and (3) is not a breach of his duty under a contract for sale if performance as agreed has been made impracticable by the occurrence of a contingency the nonoccurrence of which was a basic assumption on which the contract was made or by compliance in good faith with any applicable foreign or domestic governmental regulation or order whether or not it later proves to be invalid.

[(b)] (2) Where the causes mentioned in [paragraph (a)] Subsection (1) affect only a part of the seller's capacity to perform, he must allocate production and deliveries among his customers but may at his option include regular customers not then under contract as well as his own requirements for further manufacture. He may so allocate in any manner which is fair and reasonable.

[(e)] (3) The seller must notify the buyer seasonably that there will be delay or nondelivery and, when allocation is required under [paragraph (b)] Subsection (2), of the estimated quota thus made available for the buyer.

Section 109. Section 70A-4a-207 is amended to read:

70A-4a-207. Misdescription of beneficiary.

(1) Subject to Subsection (2), if, in a payment order received by the beneficiary's bank, the name, bank account number, or other identification of the beneficiary refers to a nonexistent or unidentifiable person or account, no person has rights as a

beneficiary of the order and acceptance of the order cannot occur.

(2) If a payment order received by the beneficiary's bank identifies the beneficiary both by name and by an identifying or bank account number and the name and number identify different persons then the following rules apply[-]:

[(3)] (a) Except as otherwise provided in Subsection [(5)] (3), the beneficiary's bank may treat the person identified by number as the beneficiary of the order if the bank does not know that the name and number refer to different persons, it may rely on the number as the proper identification of the beneficiary of the order. The beneficiary's bank need not determine whether the name and number refer to the same person.

[(4)] (b) If the beneficiary's bank pays the person identified by name or knows that the name and number identify different persons, no person has rights as beneficiary except the person paid by the beneficiary's bank if that person was entitled to receive payment from the originator of the funds transfer. If no person has rights as beneficiary, acceptance of the order cannot occur.

[(5)] (3) If the conditions listed in Subsections [(5)] (3)(a), (b), and (c) are present, the rules listed in Subsections [(6)] (4) and [(7)] (5) apply:

(a) a payment order described in Subsection (2) is accepted;

(b) the originator's payment order described the beneficiary inconsistently by name and number; and

(c) the beneficiary's bank pays the person identified by number as permitted by Subsection (2)(a).

[(6)] (4) If the originator is a bank, the originator is obliged to pay its order.

[(7)] (5) If the originator is not a bank and proves that the person identified by number was not entitled to receive payment from the originator, the originator is not obliged to pay its order unless the originator's bank proves that the originator, before acceptance of the originator's order, had notice that payment of a payment order issued by the originator might be made by the beneficiary's bank on the basis of an identifying or bank account number even if it identifies a person different from the named beneficiary. Proof of notice may be made by any admissible evidence. The originator's bank satisfies the burden of proof if it proves that the originator, before the payment order was accepted, signed a writing stating the information to which the notice relates.

[(8)] (6) In a case governed by Subsection (2)(a), if the beneficiary's bank rightfully pays the person identified by number and that person was not entitled to receive payment from the originator, the amount paid may be recovered from that person to the extent allowed by the law governing mistake and rescission as follows:

(a) If the originator is obliged to pay its payment order as stated in Subsection [(5)] (3), the originator has the right to recover.

(b) If the originator is not a bank and is not obliged to pay its payment order, the originator's bank has the right to recover.

Section 110. Section 72-4-302 is amended to read:

72-4-302. Utah State Scenic Byway Committee -- Creation -- Membership -- Meetings -- Expenses.

(1) There is created the Utah State Scenic Byway Committee.

(2) (a) The committee shall consist of the following 15 members:

(i) a representative from each of the following entities appointed by the governor:

(A) the Governor's Office of Economic Development;

(B) the Utah Department of Transportation;

(C) the Department of Heritage and Arts;

(D) the Division of [State] Parks and Recreation;

(E) the Federal Highway Administration;

(F) the National Park Service;

(G) the National Forest Service; and

(H) the Bureau of Land Management;

(ii) one local government tourism representative appointed by the governor;

(iii) a representative from the private business sector appointed by the governor;

(iv) three local elected officials from a county, city, or town within the state appointed by the governor;

(v) a member from the House of Representatives appointed by the speaker of the House of Representatives; and

(vi) a member from the Senate appointed by the president of the Senate.

(b) Except as provided in Subsection (2)(c), the members appointed in this Subsection (2) shall be appointed for a four-year term of office.

(c) The governor shall, at the time of appointment or reappointment for appointments made under Subsection (2)(a)(i), (ii), (iii), or (iv) adjust the length of terms to ensure that the terms of committee members are staggered so that approximately half of the committee is appointed every two years.

(d) (i) The appointments made under Subsections (2)(a)(v) and (vi) by the speaker of the House and the president of the Senate may not be from the same political party.

(ii) The speaker of the House and the president of the Senate shall alternate the appointments made under Subsections (2)(a)(v) and (vi) as follows:

(A) if the speaker appoints a member under Subsection (2)(a)(v), the next appointment made by the speaker following the expiration of the existing

member's four-year term of office shall be from a different political party; and

(B) if the president appoints a member under Subsection (2)(a)(vi), the next appointment made by the president following the expiration of the existing member's four-year term of office shall be from a different political party.

(3) (a) The representative from the Governor's Office of Economic Development shall chair the committee.

(b) The members appointed under Subsections (2)(a)(i)(E) through (H) serve as nonvoting, ex officio members of the committee.

(4) The Governor's Office of Economic Development and the department shall provide staff support to the committee.

(5) (a) The chair may call a meeting of the committee only with the concurrence of the department.

(b) A majority of the voting members of the committee constitute a quorum.

(c) Action by a majority vote of a quorum of the committee constitutes action by the committee.

(6) (a) A member who is not a legislator may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses as allowed in:

(i) Section 63A-3-106;

(ii) Section 63A-3-107; and

(iii) rules made by the Division of Finance according to Sections 63A-3-106 and 63A-3-107.

(b) Compensation and expenses of a member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

Section 111. Section 73-2-22 is amended to read:

73-2-22. Emergency flood powers -- Action to enforce orders -- Access rights to private and public property -- Injunctive relief against state engineer's decisions -- Judicial review provisions not applicable.

Whenever the state engineer, with approval of the chair of the Emergency Management Administration Council created in Section [~~63K-3-201~~] 53-2a-105, makes a written finding that any reservoir or stream has reached or will reach during the current water year a level far enough above average and in excess of capacity that public safety is or is likely to be endangered or that substantial property damage is occurring or is likely to occur, he shall have emergency powers until the danger to the public and property is abated. Emergency powers shall consist of the authority to control stream flow and reservoir storage or release. The state engineer must protect existing water rights to the maximum extent possible when exercising emergency powers. Any action taken by the state engineer under this section shall be by written order.

If any person refuses or neglects to comply with any order of the state engineer issued pursuant to his emergency powers, the state engineer may bring action in the name of the state in the district court to enforce them. In carrying out his emergency powers, the state engineer shall have rights of access to private and public property.

Any person affected by a decision of the state engineer made under his emergency powers shall have the right to seek injunctive relief, including temporary restraining orders and temporary injunctions in any district court of the county where that person resides. No order of the state engineer shall be enjoined or set aside unless shown by clear and convincing evidence that an emergency does not in fact exist or that the order of the state engineer is arbitrary or capricious. The provisions of Sections 73-3-14 and 73-3-15 shall not be applicable to any order of the state engineer issued pursuant to this section.

Section 112. Section 73-22-3 is amended to read:

73-22-3. Definitions.

As used in this chapter:

(1) "Correlative rights" mean the rights of each geothermal owner in a geothermal area to produce without waste his just and equitable share of the geothermal resource underlying the geothermal area.

(2) "Division" means the Division of Water Rights, Department of Natural Resources.

(3) "Geothermal area" means the general land area which is underlain or reasonably appears to be underlain by geothermal resources.

(4) "Geothermal fluid" means water and steam at temperatures greater than 120 degrees centigrade naturally present in a geothermal system.

(5) (a) "Geothermal resource" means:

(a) (i) the natural heat of the earth at temperatures greater than 120 degrees centigrade; and

(a) (ii) the energy, in whatever form, including pressure, present in, resulting from, created by, or which may be extracted from that natural heat, directly or through a material medium.

(b) "Geothermal resource" does not include geothermal fluids.

(6) "Geothermal system" means any strata, pool, reservoir, or other geologic formation containing geothermal resources.

(7) "Material medium" means geothermal fluids, or water and other substances artificially introduced into a geothermal system to serve as a heat transfer medium.

(8) "Operator" means any person drilling, maintaining, operating, producing, or in control of any well.

(9) "Owner" means a person who has the right to drill into, produce, and make use of the geothermal resource.

(10) "Person" means any individual, business entity (corporate or otherwise), or political subdivision of this or any other state.

(11) "Waste" means any inefficient, excessive, or improper production, use, or dissipation of geothermal resources. Wasteful practices include, but are not limited to: (a) transporting or storage methods that cause or tend to cause unnecessary surface loss of geothermal resources; or (b) locating, spacing, constructing, equipping, operating, producing, or venting of any well in a manner that results or tends to result in unnecessary surface loss or in reducing the ultimate economic recovery of geothermal resources.

(12) "Well" means any well drilled, converted, or reactivated for the discovery, testing, production, or subsurface injection of geothermal resources.

Section 113. Section 75-3-603 is amended to read:

75-3-603. Bond not required -- Exceptions.

(1) No bond is required of a personal representative appointed in formal or informal proceedings, except:

(a) upon the appointment of a special administrator without notice having been given;

(b) when an executor or other personal representative is appointed to administer an estate under a will containing an express requirement of bond;

(c) when bond is requested prior to appointment, by an interested party; or

(d) when bond is required under Section 75-3-605. No bond is required of any personal representative who is exempted from bond under Title 7, Financial Institutions Act. ~~Bond~~

(2) A bond required pursuant to this section may be dispensed with upon a determination by the court that it is not necessary.

Section 114. Section 76-5-109 is amended to read:

76-5-109. Child abuse -- Child abandonment.

(1) As used in this section:

(a) "Child" means a human being who is under 18 years of age.

(b) (i) "Child abandonment" means that a parent or legal guardian of a child:

(A) intentionally ceases to maintain physical custody of the child;

(B) intentionally fails to make reasonable arrangements for the safety, care, and physical custody of the child; and

(C) (I) intentionally fails to provide the child with food, shelter, or clothing;

(II) manifests an intent to permanently not resume physical custody of the child; or

(III) for a period of at least 30 days:

(Aa) intentionally fails to resume physical custody of the child; and

(Bb) fails to manifest a genuine intent to resume physical custody of the child.

(ii) "Child abandonment" does not include:

(A) safe relinquishment of a child pursuant to the provisions of Section 62A-4a-802; or

(B) giving legal consent to a court order for termination of parental rights:

(I) in a legal adoption proceeding; or

(II) in a case where a petition for the termination of parental rights, or the termination of a guardianship, has been filed.

(c) "Child abuse" means any offense described in Subsection (2), (3), or (4) or in Section 76-5-109.1.

(d) "Enterprise" is as defined in Section 76-10-1602.

(e) "Physical injury" means an injury to or condition of a child which impairs the physical condition of the child, including:

(i) a bruise or other contusion of the skin;

(ii) a minor laceration or abrasion;

(iii) failure to thrive or malnutrition; or

(iv) any other condition which imperils the child's health or welfare and which is not a serious physical injury as defined in Subsection (1)(f).

(f) (i) "Serious physical injury" means any physical injury or set of injuries that:

(A) seriously impairs the child's health;

(B) involves physical torture;

(C) causes serious emotional harm to the child; or

(D) involves a substantial risk of death to the child.

(ii) "Serious physical injury" includes:

(A) fracture of any bone or bones;

(B) intracranial bleeding, swelling or contusion of the brain, whether caused by blows, shaking, or causing the child's head to impact with an object or surface;

(C) any burn, including burns inflicted by hot water, or those caused by placing a hot object upon the skin or body of the child;

(D) any injury caused by use of a dangerous weapon as defined in Section 76-1-601;

(E) any combination of two or more physical injuries inflicted by the same person, either at the same time or on different occasions;

(F) any damage to internal organs of the body;

(G) any conduct toward a child that results in severe emotional harm, severe developmental delay or intellectual disability, or severe impairment of the child's ability to function;

(H) any injury that creates a permanent disfigurement or protracted loss or impairment of the function of a bodily member, limb, or organ;

(I) any conduct that causes a child to cease breathing, even if resuscitation is successful following the conduct; or

(J) any conduct that results in starvation or failure to thrive or malnutrition that jeopardizes the child's life.

(2) Any person who inflicts upon a child serious physical injury or, having the care or custody of such child, causes or permits another to inflict serious physical injury upon a child is guilty of an offense as follows:

(a) if done intentionally or knowingly, the offense is a felony of the second degree;

(b) if done recklessly, the offense is a felony of the third degree; or

(c) if done with criminal negligence, the offense is a class A misdemeanor.

(3) Any person who inflicts upon a child physical injury or, having the care or custody of such child, causes or permits another to inflict physical injury upon a child is guilty of an offense as follows:

(a) if done intentionally or knowingly, the offense is a class A misdemeanor;

(b) if done recklessly, the offense is a class B misdemeanor; or

(c) if done with criminal negligence, the offense is a class C misdemeanor.

(4) A person who commits child abandonment, or encourages or causes another to commit child abandonment, or an enterprise that encourages, commands, or causes another to commit child abandonment, is:

(a) except as provided in Subsection (4)(b), guilty of a felony of the third degree; or

(b) guilty of a felony of the second degree, if, as a result of the child abandonment:

(i) the child suffers a serious physical injury; or

(ii) the person or enterprise receives, directly or indirectly, any benefit.

(5) (a) In addition to the penalty described in Subsection (4)(b), the court may order the person or enterprise described in Subsection (4)(b)(ii) to pay the costs of investigating and prosecuting the offense and the costs of securing any forfeiture provided for under Subsection (5)(b).

(b) Any tangible or pecuniary benefit received under Subsection (4)(b)(ii) is subject to criminal or civil forfeiture pursuant to Title 24, [Chapter 1,

Utah Uniform Forfeiture Procedures] Forfeiture and Disposition of Property Act.

(6) A parent or legal guardian who provides a child with treatment by spiritual means alone through prayer, in lieu of medical treatment, in accordance with the tenets and practices of an established church or religious denomination of which the parent or legal guardian is a member or adherent shall not, for that reason alone, be considered to have committed an offense under this section.

(7) A parent or guardian of a child does not violate this section by selecting a treatment option for the medical condition of the child, if the treatment option is one that a reasonable parent or guardian would believe to be in the best interest of the child.

(8) A person is not guilty of an offense under this section for conduct that constitutes:

(a) reasonable discipline or management of a child, including withholding privileges;

(b) conduct described in Section 76-2-401; or

(c) the use of reasonable and necessary physical restraint or force on a child:

(i) in self-defense;

(ii) in defense of others;

(iii) to protect the child; or

(iv) to remove a weapon in the possession of a child for any of the reasons described in Subsections (8)(c)(i) through (iii).

Section 115. Section 76-6-111 is amended to read:

76-6-111. Wanton destruction of livestock -- Penalties -- Seizure and disposition of property.

(1) As used in this section:

(a) "Law enforcement officer" is as defined in Section 53-13-103.

(b) "Livestock" means a domestic animal or fur bearer raised or kept for profit, including:

(i) cattle;

(ii) sheep;

(iii) goats;

(iv) swine;

(v) horses;

(vi) mules;

(vii) poultry; and

(viii) domesticated elk as defined in Section 4-39-102.

(2) Unless authorized by Section 4-25-4, 4-25-5, 4-25-14, 4-39-401, or 18-1-3, a person is guilty of wanton destruction of livestock if that person:

(a) injures, physically alters, releases, or causes the death of livestock; and

(b) does so:

(i) intentionally or knowingly; and

(ii) without the permission of the owner of the livestock.

(3) Wanton destruction of livestock is punishable as a:

(a) class B misdemeanor if the aggregate value of the livestock is \$500 or less;

(b) class A misdemeanor if the aggregate value of the livestock is more than \$500, but does not exceed \$1,500;

(c) third degree felony if the aggregate value of the livestock is more than \$1,500, but does not exceed \$5,000; and

(d) second degree felony if the aggregate value of the livestock is more than \$5,000.

(4) A material, device, or vehicle used in violation of Subsection (2) is subject to forfeiture under the procedures and substantive protections established in Title 24, [~~Chapter 1, Utah Uniform Forfeiture Procedures]~~ Forfeiture and Disposition of Property Act.

(5) A peace officer may seize a material, device, or vehicle used in violation of Subsection (2):

(a) upon notice and service of process issued by a court having jurisdiction over the property; or

(b) without notice and service of process if:

(i) the seizure is incident to an arrest under:

(A) a search warrant; or

(B) an inspection under an administrative inspection warrant;

(ii) the material, device, or vehicle has been the subject of a prior judgment in favor of the state in a criminal injunction or forfeiture proceeding under this section; or

(iii) the peace officer has probable cause to believe that the property has been used in violation of Subsection (2).

(6) (a) A material, device, or vehicle seized under this section is not repleviable but is in custody of the law enforcement agency making the seizure, subject only to the orders and decrees of a court or official having jurisdiction.

(b) A peace officer who seizes a material, device, or vehicle under this section may:

(i) place the property under seal;

(ii) remove the property to a place designated by the warrant under which it was seized; or

(iii) take custody of the property and remove it to an appropriate location for disposition in accordance with law.

Section 116. Section 76-6-501 is amended to read:

76-6-501. Forgery and producing false identification -- Elements of offense -- Definitions.

(1) As used in this part:

(a) "Authentication feature" means any hologram, watermark, certification, symbol, code, image, sequence of numbers or letters, or other feature that either individually or in combination with another feature is used by the issuing authority on an identification document, document-making implement, or means of identification to determine if the document is counterfeit, altered, or otherwise falsified.

(b) "Document-making implement" means any implement, impression, template, computer file, computer disc, electronic device, computer hardware or software, or scanning, printing, or laminating equipment that is specifically configured or primarily used for making an identification document, a false identification document, or another document-making implement.

(c) "False authentication feature" means an authentication feature that:

(i) is genuine in origin but that, without the authorization of the issuing authority, has been tampered with or altered for purposes of deceit;

(ii) is genuine, but has been distributed, or is intended for distribution, without the authorization of the issuing authority and not in connection with a lawfully made identification document, document-making implement, or means of identification to which the authentication feature is intended to be affixed or embedded by the issuing authority; or

(iii) appears to be genuine, but is not.

(d) "False identification document" means a document of a type intended or commonly accepted for the purposes of identification of individuals, and that:

(i) is not issued by or under the authority of a governmental entity or was issued under the authority of a governmental entity but was subsequently altered for purposes of deceit; and

(ii) appears to be issued by or under the authority of a governmental entity.

(e) "Governmental entity" means the United States government, a state, a political subdivision of a state, a foreign government, a political subdivision of a foreign government, an international governmental organization, or a quasi-governmental organization.

(f) "Identification document" means a document made or issued by or under the authority of a governmental entity, which, when completed with information concerning a particular individual, is of a type intended or commonly accepted for the purpose of identification of individuals.

(g) "Issuing authority" means:

(i) any governmental entity that is authorized to issue identification documents, means of identification, or authentication features; or

(ii) a business organization or financial institution or its agent that issues a financial transaction card as defined in Section 76-6-506.

(h) "Means of identification" means any name or number that may be used, alone or in conjunction with any other information, to identify a specific individual, including:

(i) name, Social Security number, date of birth, government issued driver license or identification number, alien registration number, government passport number, or employer or taxpayer identification number;

(ii) unique biometric data, such as fingerprint, voice print, retina or iris image, or other unique physical representation; or

(iii) unique electronic identification number, address, or routing code.

(i) "Personal identification card" means an identification document issued by a governmental entity solely for the purpose of identification of an individual.

(j) "Produce" includes altering, authenticating, or assembling.

(k) "State" includes any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any other commonwealth, possession, or territory of the United States.

(l) "Traffic" means to:

(i) transport, transfer, or otherwise dispose of an item to another, as consideration for anything of value; or

(ii) make or obtain control of with intent to transport, transfer, or otherwise dispose of an item to another.

(m) "Writing" includes printing, electronic storage or transmission, or any other method of recording valuable information including forms such as:

(i) checks, tokens, stamps, seals, credit cards, badges, trademarks, money, and any other symbols of value, right, privilege, or identification;

(ii) a security, revenue stamp, or any other instrument or writing issued by a government or any agency; or

(iii) a check, an issue of stocks, bonds, or any other instrument or writing representing an interest in or claim against property, or a pecuniary interest in or claim against any person or enterprise.

(2) A person is guilty of forgery if, with purpose to defraud anyone, or with knowledge that the person is facilitating a fraud to be perpetrated by anyone, the person:

(a) alters any writing of another without his authority or utters the altered writing; or

(b) makes, completes, executes, authenticates, issues, transfers, publishes, or utters any writing so that the writing or the making, completion, execution, authentication, issuance, transference, publication, or utterance:

(i) purports to be the act of another, whether the person is existent or nonexistent;

(ii) purports to be an act on behalf of another party with the authority of that other party; or

(iii) purports to have been executed at a time or place or in a numbered sequence other than was in fact the case, or to be a copy of an original when an original did not exist.

(3) It is not a defense to a charge of forgery under Subsection (2)(b)(ii) if an actor signs his own name to the writing if the actor does not have authority to make, complete, execute, authenticate, issue, transfer, publish, or utter the writing on behalf of the party for whom the actor purports to act.

(4) A person is guilty of producing or transferring any false identification document who:

(a) knowingly and without lawful authority produces, attempts, or conspires to produce an identification document, authentication feature, or a false identification document that is or appears to be issued by or under the authority of an issuing authority;

(b) transfers an identification document, authentication feature, or a false identification document knowing that the document or feature was stolen or produced without lawful authority;

(c) produces, transfers, or possesses a document-making implement or authentication feature with the intent that the document-making implement or the authentication feature be used in the production of a false identification document or another document-making implement or authentication feature; or

(d) traffics in false or actual authentication features for use in false identification documents, document-making implements, or means of identification.

(5) A person who violates:

(a) Subsection (2) is guilty of a third degree felony; and

(b) Subsection (4) is guilty of a second degree felony.

(6) This part may not be construed to impose criminal or civil liability on any law enforcement officer acting within the scope of a criminal investigation.

(7) The forfeiture of property under this part, including any seizure and disposition of the property and any related judicial or administrative proceeding, shall be conducted in accordance with Title 24, [Chapter 1, Utah Uniform Forfeiture Procedures] Forfeiture and Disposition of Property Act.

(8) The court shall order, in addition to the penalty prescribed for any person convicted of a violation of this section, the forfeiture and destruction or other disposition of all illicit authentication features, identification documents, false transaction cards, document-making implements, or means of identification.

Section 117. Section 76-6-506.7 is amended to read:

76-6-506.7. Obtaining encoded information on a financial transaction card with the intent to defraud the issuer, holder, or merchant.

(1) As used in this section:

(a) "Financial transaction card" or "card" means any credit card, credit plate, bank services card, banking card, check guarantee card, debit card, telephone credit card, or any other card, issued by an issuer for the use of the card holder in:

(i) obtaining money, goods, services, or anything else of value on credit; or

(ii) certifying or guaranteeing to a merchant the availability to the card holder of the funds on deposit that are equal to or greater than the amount necessary to honor a draft or check as the instrument for obtaining, purchasing, or receiving goods, services, money, or any other thing of value from the merchant.

(b) (i) "Merchant" means an owner or operator of any retail mercantile establishment or any agent, employee, lessee, consignee, officer, director, franchisee, or independent contractor of the owner or operator.

(ii) "Merchant" also means a person:

(A) who receives from a card holder, or a third person the merchant believes to be the card holder, a financial transaction card or information from a financial transaction card, or what the merchant believes to be a financial transaction card or information from a card; and

(B) who accepts the financial transaction card or information from a card under Subsection (1)(a)(ii)(A) as the instrument for obtaining, purchasing, or receiving goods, services, money, or any other thing of value from the merchant.

(c) "Reencoder" means an electronic device that places encoded information from the magnetic strip or stripe of a financial transaction card onto the magnetic strip or stripe of a different financial transaction card.

(d) "Scanning device" means a scanner, reader, or any other electronic device used to access, read, scan, obtain, memorize, or store, temporarily or permanently, information encoded on the magnetic strip or stripe of a financial transaction card.

(2) (a) A person is guilty of a third degree felony who uses:

(i) a scanning device to access, read, obtain, memorize, or store, temporarily or permanently, information encoded on the magnetic strip or stripe

of a financial transaction card without the permission of the card holder and with intent to defraud the card holder, the issuer, or a merchant; or

(ii) a reencoder to place information encoded on the magnetic strip or stripe of a financial transaction card onto the magnetic strip or stripe of a different card without the permission of the authorized user of the card from which the information is being reencoded and with the intent to defraud the card holder, the issuer, or a merchant.

(b) Any person who has been convicted previously of an offense under Subsection (2)(a) is guilty of a second degree felony upon a second conviction and any subsequent conviction for the offense.

Section 118. Section 76-6-1102 is amended to read:

76-6-1102. Identity fraud crime.

(1) As used in this part, "personal identifying information" may include:

- (a) name;
- (b) birth date;
- (c) address;
- (d) telephone number;
- (e) drivers license number;
- (f) Social Security number;
- (g) place of employment;
- (h) employee identification numbers or other personal identification numbers;
- (i) mother's maiden name;
- (j) electronic identification numbers;
- (k) electronic signatures under Title 46, Chapter 4, Uniform Electronic Transactions Act;

(1) any other numbers or information that can be used to access a person's financial resources or medical information, except for numbers or information that can be prosecuted as financial transaction card offenses under Sections 76-6-506 through 76-6-506.6; or

(m) a photograph or any other realistic likeness.

(2) (a) A person is guilty of identity fraud when that person knowingly or intentionally uses, or attempts to use, the personal identifying information of another person, whether that person is alive or deceased, with fraudulent intent, including to obtain, or attempt to obtain, credit, goods, services, employment, any other thing of value, or medical information.

(b) It is not a defense to a violation of Subsection (2)(a) that the person did not know that the personal information belonged to another person.

(3) Identity fraud is:

(a) except as provided in Subsection (3)(b)(ii), a third degree felony if the value of the credit, goods, services, employment, or any other thing of value is less than \$5,000; or

(b) a second degree felony if:

(i) the value of the credit, goods, services, employment, or any other thing of value is or exceeds \$5,000; or

(ii) the use described in Subsection (2)(a)(ii) of personal identifying information results, directly or indirectly, in bodily injury to another person.

(4) Multiple violations may be aggregated into a single offense, and the degree of the offense is determined by the total value of all credit, goods, services, or any other thing of value used, or attempted to be used, through the multiple violations.

(5) When a defendant is convicted of a violation of this section, the court shall order the defendant to make restitution to any victim of the offense or state on the record the reason the court does not find ordering restitution to be appropriate.

(6) Restitution under Subsection (5) may include:

(a) payment for any costs incurred, including attorney fees, lost wages, and replacement of checks; and

(b) the value of the victim's time incurred due to the offense:

(i) in clearing the victim's credit history or credit rating;

(ii) in any civil or administrative proceedings necessary to satisfy or resolve any debt, lien, or other obligation of the victim or imputed to the victim and arising from the offense; and

(iii) in attempting to remedy any other intended or actual harm to the victim incurred as a result of the offense.

Section 119. Section 76-6-1303 is amended to read:

76-6-1303. Possession, sale, or use of automated sales suppression device unlawful -- Penalties.

(1) It is a third degree felony to willfully or knowingly sell, purchase, install, transfer, use, or possess in this state any automated sales suppression device or phantomware with the intent to defraud, except that any second or subsequent violation of this Subsection (1) is a second degree felony.

(2) Notwithstanding Section 76-3-301, any person convicted of violating Subsection (1) may be fined not more than twice the amount of the applicable taxes that would otherwise be due, but for the use of the automated sales suppression device or phantomware.

(3) Any person convicted of a violation of Subsection (1):

(a) is liable for all applicable taxes, penalties under Section 59-1-401, and interest under

Section 59-1-402 that would otherwise be due, but for the use of the automated sales suppression device or phantomware to evade the payment of taxes; and

(b) shall disgorge all profits associated with the sale or use of an automated sales suppression device or phantomware.

(4) An automated sales suppression device and any device containing an automated sales suppression device is contraband and subject to forfeiture under Title 24, [~~Chapter 1, Utah Uniform Forfeiture Procedures~~] Forfeiture and Disposition of Property Act.

Section 120. Section 76-7-305 is amended to read:

76-7-305. Informed consent requirements for abortion -- 72-hour wait mandatory -- Exceptions.

(1) A person may not perform an abortion, unless, before performing the abortion, the physician who will perform the abortion obtains a voluntary and informed written consent from the woman on whom the abortion is performed, that is consistent with:

(a) Section 8.08 of the American Medical Association's Code of Medical Ethics, Current Opinions; and

(b) the provisions of this section.

(2) Except as provided in Subsection (9), consent to an abortion is voluntary and informed only if:

(a) at least 72 hours before the abortion, the physician who is to perform the abortion, the referring physician, a physician, a registered nurse, nurse practitioner, advanced practice registered nurse, certified nurse midwife, genetic counselor, or physician's assistant, in a face-to-face consultation in any location in the state, orally informs the woman:

(i) consistent with Subsection (3)(a), of:

(A) the nature of the proposed abortion procedure;

(B) specifically how the procedure described in Subsection (2)(a)(i)(A) will affect the fetus; and

(C) the risks and alternatives to an abortion procedure or treatment;

(ii) of the probable gestational age and a description of the development of the unborn child at the time the abortion would be performed;

(iii) of the medical risks associated with carrying her child to term; and

(iv) [~~except as provided in Subsection (3)(b),~~] if the abortion is to be performed on an unborn child who is at least 20 weeks gestational age:

(A) that, upon the woman's request, an anesthetic or analgesic will be administered to the unborn child, through the woman, to eliminate or alleviate organic pain to the unborn child that may be caused

by the particular method of abortion to be employed; and

(B) of any medical risks to the woman that are associated with administering the anesthetic or analgesic described in Subsection (2)(a)(iv)(A);

(b) at least 72 hours prior to the abortion the physician who is to perform the abortion, the referring physician, or, as specifically delegated by either of those physicians, a physician, a registered nurse, licensed practical nurse, certified nurse-midwife, advanced practice registered nurse, clinical laboratory technologist, psychologist, marriage and family therapist, clinical social worker, genetic counselor, or certified social worker orally, in a face-to-face consultation in any location in the state, informs the pregnant woman that:

(i) the Department of Health, in accordance with Section 76-7-305.5, publishes printed material and an informational video that:

(A) provides medically accurate information regarding all abortion procedures that may be used;

(B) describes the gestational stages of an unborn child; and

(C) includes information regarding public and private services and agencies available to assist her through pregnancy, at childbirth, and while the child is dependent, including private and agency adoption alternatives;

(ii) the printed material and a viewing of or a copy of the informational video shall be made available to her, free of charge, on the Department of Health's website;

(iii) medical assistance benefits may be available for prenatal care, childbirth, and neonatal care, and that more detailed information on the availability of that assistance is contained in the printed materials and the informational video published by the Department of Health;

(iv) except as provided in Subsection (3)(b):

(A) the father of the unborn child is legally required to assist in the support of her child, even if he has offered to pay for the abortion; and

(B) the Office of Recovery Services within the Department of Human Services will assist her in collecting child support; and

(v) she has the right to view an ultrasound of the unborn child, at no expense to her, upon her request;

(c) the information required to be provided to the pregnant woman under Subsection (2)(a) is also provided by the physician who is to perform the abortion, in a face-to-face consultation, prior to performance of the abortion, unless the attending or referring physician is the individual who provides the information required under Subsection (2)(a);

(d) a copy of the printed materials published by the Department of Health has been provided to the pregnant woman;

(e) the informational video, published by the Department of Health, has been provided to the pregnant woman in accordance with Subsection (4); and

(f) the pregnant woman has certified in writing, prior to the abortion, that the information required to be provided under Subsections (2)(a) through (e) was provided, in accordance with the requirements of those subsections.

(3) (a) The alternatives required to be provided under Subsection (2)(a)(i) include:

(i) a description of adoption services, including private and agency adoption methods; and

(ii) a statement that it is legal for adoptive parents to financially assist in pregnancy and birth expenses.

(b) The information described in Subsection (2)(b)(iv) may be omitted from the information required to be provided to a pregnant woman under this section if the woman is pregnant as the result of rape.

(c) Nothing in this section shall be construed to prohibit a person described in Subsection (2)(a) from, when providing the information described in Subsection (2)(a)(iv), informing a woman of the person's own opinion regarding:

(i) the capacity of an unborn child to experience pain;

(ii) the advisability of administering an anesthetic or analgesic to an unborn child; or

(iii) any other matter related to fetal pain.

(4) When the informational video described in Section 76-7-305.5 is provided to a pregnant woman, the person providing the information shall:

(a) request that the woman view the video at that time or at another specifically designated time and location; or

(b) if the woman chooses not to view the video at a time described in Subsection (4)(a), inform the woman that she can access the video on the Department of Health's website.

(5) When a serious medical emergency compels the performance of an abortion, the physician shall inform the woman prior to the abortion, if possible, of the medical indications supporting the physician's judgment that an abortion is necessary.

(6) If an ultrasound is performed on a woman before an abortion is performed, the person who performs the ultrasound, or another qualified person, shall:

(a) inform the woman that the ultrasound images will be simultaneously displayed in a manner to permit her to:

(i) view the images, if she chooses to view the images; or

(ii) not view the images, if she chooses not to view the images;

(b) simultaneously display the ultrasound images in order to permit the woman to:

(i) view the images, if she chooses to view the images; or

(ii) not view the images, if she chooses not to view the images;

(c) inform the woman that, if she desires, the person performing the ultrasound, or another qualified person shall provide a detailed description of the ultrasound images, including:

(i) the dimensions of the unborn child;

(ii) the presence of cardiac activity in the unborn child, if present and viewable; and

(iii) the presence of external body parts or internal organs, if present and viewable; and

(d) provide the detailed description described in Subsection (6)(c), if the woman requests it.

(7) The information described in Subsections (2), (3), (4), and (6) is not required to be provided to a pregnant woman under this section if the abortion is performed for a reason described in:

(a) Subsection 76-7-302(3)(b)(i), if the treating physician and one other physician concur, in writing, that the abortion is necessary to avert:

(i) the death of the woman on whom the abortion is performed; or

(ii) a serious risk of substantial and irreversible impairment of a major bodily function of the woman on whom the abortion is performed; or

(b) Subsection 76-7-302(3)(b)(ii).

(8) In addition to the criminal penalties described in this part, a physician who violates the provisions of this section:

(a) is guilty of unprofessional conduct as defined in Section 58-67-102 or 58-68-102; and

(b) shall be subject to:

(i) suspension or revocation of the physician's license for the practice of medicine and surgery in accordance with Section 58-67-401 or 58-68-401; and

(ii) administrative penalties in accordance with Section 58-67-402 or 58-68-402.

(9) A physician is not guilty of violating this section for failure to furnish any of the information described in Subsection (2), or for failing to comply with Subsection (6), if:

(a) the physician can demonstrate by a preponderance of the evidence that the physician reasonably believed that furnishing the information would have resulted in a severely adverse effect on the physical or mental health of the pregnant woman;

(b) in the physician's professional judgment, the abortion was necessary to avert:

(i) the death of the woman on whom the abortion is performed; or

(ii) a serious risk of substantial and irreversible impairment of a major bodily function of the woman on whom the abortion is performed;

(c) the pregnancy was the result of rape or rape of a child, as defined in Sections 76-5-402 and 76-5-402.1;

(d) the pregnancy was the result of incest, as defined in Subsection 76-5-406(10) and Section 76-7-102; or

(e) at the time of the abortion, the pregnant woman was 14 years of age or younger.

(10) A physician who complies with the provisions of this section and Section 76-7-304.5 may not be held civilly liable to the physician's patient for failure to obtain informed consent under Section 78B-3-406.

(11) (a) The Department of Health shall provide an ultrasound, in accordance with the provisions of Subsection (2)(b), at no expense to the pregnant woman.

(b) A local health department shall refer a person who requests an ultrasound described in Subsection (11)(a) to the Department of Health.

(12) A physician is not guilty of violating this section if:

(a) the physician provides the information described in Subsection (2) less than 72 hours before performing the abortion; and

(b) in the physician's professional judgment, the abortion was necessary in a case where:

(i) a ruptured membrane, documented by the attending or referring physician, will cause a serious infection; or

(ii) a serious infection, documented by the attending or referring physician, will cause a ruptured membrane.

Section 121. Section 76-10-808 is amended to read:

76-10-808. Relief granted for public nuisance.

If the existence of a public nuisance as defined by Subsection 76-10-803(1)(b) is admitted or established, either in a civil or criminal proceeding, a judgment shall be entered which shall:

~~(a)~~ (1) permanently enjoin each defendant and any other person from further maintaining the nuisance at the place complained of and each defendant from maintaining such nuisance elsewhere;

~~(b)~~ (2) direct the person enjoined to surrender to the sheriff of the county in which the action was brought any material in his possession which is subject to the injunction, and the sheriff shall seize and destroy this material; and

~~(e)~~ (3) without proof of special injury direct that an accounting be had and all money and other consideration paid as admission to view any motion picture film determined to constitute a public nuisance, or paid for any publication determined to constitute a public nuisance, in either case without deduction for expenses, be forfeited and paid into the general fund of the county where the nuisance was maintained.

Section 122. Section 76-10-1108 is amended to read:

76-10-1108. Seizure and disposition of gambling debts or proceeds.

Any gambling bets or gambling proceeds which are reasonably identifiable as having been used or obtained in violation of this part may be seized and are subject to forfeiture proceedings in accordance with Title 24, [~~Chapter 1, Utah Uniform Forfeiture Procedures~~] Forfeiture and Disposition of Property Act.

Section 123. Section 77-10a-12 is amended to read:

77-10a-12. Representation of state -- Appointment and compensation of special prosecutor.

(1) The state may be represented before any grand jury summoned in the state by:

(a) the attorney general or any assistant attorney general;

(b) a county attorney or any deputy county attorney;

(c) a district attorney or any deputy district attorney;

(d) a municipal attorney or any deputy municipal attorney; ~~and~~ or

(e) special prosecutors appointed under this chapter and their assistants.

(2) The supervising judge shall determine if a special prosecutor is necessary. A special prosecutor may be appointed only upon good cause shown and after the supervising judge makes a written finding that a conflict of interest exists in the Office of the Attorney General, the office of the county attorney, district attorney, or municipal attorney who would otherwise represent the state before the grand jury.

(3) In selecting a special prosecutor, the supervising judge shall give preference to the attorney general and assistant attorneys general, county attorneys, district attorneys, or municipal attorneys and their deputies.

(4) (a) The compensation of a special prosecutor appointed under this chapter who is an employee of the Office of the Attorney General, the office of a county attorney, district attorney, or municipal attorney is only the current compensation received in that office.

(b) The compensation for an appointed special prosecutor who is not an employee of a prosecutorial office under Subsection (4)(a) shall be comparable to

the compensation of a deputy or assistant attorney general having similar experience to that of the special prosecutor.

(5) The attorney general, county attorney, district attorney, or municipal attorney may elect to have a special prosecutor appointed by the supervising judge at the expense of the governmental entity supporting the electing prosecutor. Upon receipt of written notice from the prosecutor of that election, the supervising judge shall appoint a special prosecutor in accordance with this section. The electing prosecutor's supporting governmental entity shall reimburse the state for expenses incurred in appointment and compensation of the special prosecutor.

Section 124. Section 77-15a-104 is amended to read:

77-15a-104. Hearing -- Notice -- Stay of proceeding -- Examinations of defendant -- Scope of examination -- Report -- Procedures.

(1) (a) If a defendant proposes to offer evidence concerning or argue that he qualifies for an exemption from the death penalty under Subsection 77-15a-101(1) or (2), the defendant shall file and serve the prosecuting attorney with written notice of his intention as soon as practicable, but not fewer than 60 days before trial.

(b) If the defendant wishes to claim the exemption provided in Subsection 77-15a-101(2), the defendant shall file and serve the prosecuting attorney with written notice of his intention as soon as practicable, but not fewer than 60 days before trial.

(2) When notice is given under Subsection (1), the court raises the issue, or a motion is filed regarding Section 77-15a-101, the court may stay all proceedings in order to address the issue.

(3) (a) The court shall order the Department of Human Services to appoint at least two mental health experts to examine the defendant and report to the court. The experts:

(i) may not be involved in the current treatment of the defendant; and

(ii) shall have expertise in mental retardation assessment.

(b) Upon appointment of the experts, the defendant or other party as directed by the court shall provide information and materials to the examiners relevant to a determination of the defendant's mental retardation, including copies of the charging document, arrest or incident reports pertaining to the charged offense, known criminal history information, and known prior mental health evaluations and treatments.

(c) The court may make the necessary orders to provide the information listed in Subsection (3)(b) to the examiners.

(d) The court may provide in its order appointing the examiners that custodians of mental health

records pertaining to the defendant shall provide those records to the examiners without the need for consent of the defendant or further order of the court.

(e) Prior to examining the defendant, examiners shall specifically advise the defendant of the limits of confidentiality as provided under Section 77-15a-106.

(4) During any examinations under Subsection (3), unless the court directs otherwise, the defendant shall be retained in the same custody or status he was in at the time the examination was ordered.

(5) The experts shall in the conduct of their examinations and in their reports to the court consider and address:

(a) whether the defendant is mentally retarded as defined in Section 77-15a-102;

(b) the degree of any mental retardation the expert finds to exist;

(c) whether the defendant has the mental deficiencies specified in Subsection 77-15a-101(2); and

(d) the degree of any mental deficiencies the expert finds to exist.

(6) (a) The experts examining the defendant shall provide written reports to the court, the prosecution, and the defense within 60 days of the receipt of the court's order, unless the expert submits to the court a written request for additional time in accordance with Subsection (6)(c).

(b) The reports shall provide to the court and to prosecution and defense counsel the examiners' written opinions concerning the mental retardation of the defendant.

(c) If an examiner requests of the court additional time, the examiner shall provide the report to the court and counsel within 90 days from the receipt of the court's order unless, for good cause shown, the court authorizes an additional period of time to complete the examination and provide the report.

(7) Any written report submitted by an expert shall:

(a) identify the specific matters referred for evaluation;

(b) describe the procedures, techniques, and tests used in the examination and the purpose or purposes for each;

(c) state the expert's clinical observations, findings, and opinions; and

(d) identify the sources of information used by the expert and present the basis for the expert's clinical findings and opinions.

(8) Within 30 days after receipt of the report from the Department of Human Services, but not later than five days before hearing, or at any other time the court directs, the prosecuting attorney shall file and serve upon the defendant a notice of witnesses the prosecuting attorney proposes to call in rebuttal.

(9) (a) Except pursuant to Section 77-15a-105, this chapter does not prevent any party from producing any other testimony as to the mental condition of the defendant.

(b) Expert witnesses who are not appointed by the court are not entitled to compensation under Subsection (10).

(10) (a) Expenses of examinations of the defendant ordered by the court under this section shall be paid by the Department of Human Services.

(b) Travel expenses associated with any court-ordered examination that are incurred by the defendant shall be charged by the Department of Human Services to the county where prosecution is commenced.

(11) (a) When the report is received, the court shall set a date for a hearing to determine if the exemption under Section 77-15a-101 applies. The hearing shall be held and the judge shall make the determination within a reasonable time prior to jury selection.

(b) Prosecution and defense counsel may subpoena to testify at the hearing any person or organization appointed by the Department of Human Services to conduct the examination and any independent examiner.

(c) The court may call any examiner to testify at the hearing who is not called by the parties. If the court calls an examiner, counsel for the parties may cross-examine that examiner.

(12) (a) A defendant is presumed to be not mentally retarded unless the court, by a preponderance of the evidence, finds the defendant to be mentally retarded. The burden of proof is upon the proponent of mental retardation at the hearing.

(b) A finding of mental retardation does not operate as an adjudication of mental retardation for any purpose other than exempting the person from a sentence of death in the case before the court.

(13) (a) The defendant is presumed not to possess the mental deficiencies listed in Subsection 77-15a-101(2) unless the court, by a preponderance of the evidence, finds that the defendant has significant subaverage general intellectual functioning that exists concurrently with significant deficiencies in adaptive functioning and that this functioning was manifested prior to age 22. The burden of proof is upon the proponent of that proposition.

(b) If the court finds by a preponderance of the evidence that the defendant has significant subaverage general intellectual functioning that exists concurrently with significant deficiencies in adaptive functioning and that this functioning was manifested prior to age 22, then the burden is upon the state to establish that any confession by the defendant which the state intends to introduce into evidence is supported by substantial evidence independent of the confession.

(14) (a) If the court finds the defendant mentally retarded, it shall issue an order:

(i) containing findings of fact and conclusions of law, and addressing each of the factors in Subsections (5)(a) and (b); and

(ii) stating that the death penalty is not a sentencing option in the case before the court.

(b) If the court finds by a preponderance of the evidence that the defendant possesses the mental deficiencies listed in Subsection 77-15a-101(2) and that the state fails to establish that any confession is supported by substantial evidence independent of the confession, the state may proceed with its case and:

(i) introduce the confession into evidence, and the death penalty will not be a sentencing option in the case; or

(ii) not introduce into evidence any confession or the fruits of a confession that the court has found is not supported by substantial evidence independent of the confession, and the death penalty will be a sentencing option in the case.

(c) (i) A finding by the court regarding whether the defendant qualifies for an exemption under Section 77-15a-101 is a final determination of that issue for purposes of this chapter.

(ii) The following questions may not be submitted to the jury by instruction, special verdict, argument, or other means:

(A) whether the defendant is mentally retarded for purposes of this chapter; and

(B) whether the defendant possesses the mental deficiencies specified in Subsection 77-15a-101(2).

(iii) This chapter does not prevent the defendant from submitting evidence of retardation or other mental deficiency to establish a mental condition as a mitigating circumstance under Section 76-3-207.

(15) A ruling by the court that the defendant is exempt from the death penalty may be appealed by the state pursuant to ~~[Subsection]~~ Section 77-18a-1(2)(h).

(16) Failure to comply with this section does not result in the dismissal of criminal charges.

Section 125. Section 77-27-21.8 is amended to read:

77-27-21.8. Sex offender in presence of a child -- Definitions -- Penalties.

(1) As used in this section:

(a) "Accompany" means:

(i) to be in the presence of an individual; and

(ii) to move or travel with that individual from one location to another, whether outdoors, indoors, or in or on any type of vehicle.

(b) "Child" means an individual younger than 14 years of age.

(2) A sex offender subject to registration in accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry, for an offense committed or attempted to be committed against a child

younger than 14 years of age is guilty of a class A misdemeanor if the sex offender requests, invites, or solicits a child to accompany the sex offender, under circumstances that do not constitute an attempt to violate Section 76-5-301.1, child kidnapping, unless:

(a) (i) the sex offender, prior to accompanying the child:

(A) verbally advises the child's parent or legal guardian that the sex offender is on the state sex offender registry and is required by state law to obtain written permission in order for the sex offender to accompany the child; and

(B) requests that the child's parent or legal guardian provide written authorization for the sex offender to accompany the child, including the specific dates and locations;

(ii) the child's parent or legal guardian has provided to the sex offender written authorization, including the specific dates and locations, for the sex offender to accompany the child; and

(iii) the sex offender has possession of the written authorization and is accompanying the child only at the dates and locations specified in the authorization;

(b) the child's parent or guardian has verbally authorized the sex offender to accompany the child either in the child's residence or on property appurtenant to the child's residence, but in no other locations; or

(c) the child is the natural child of the sex offender, and the offender is not prohibited by any court order, or probation or parole provision, from contact with the child.

(3) (a) A sex offender convicted of a violation of Subsection (2) is subject to registration in accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry, for an additional five years subsequent to the required registration under Section ~~[77-27-21.5]~~ 77-41-105.

(b) The period of additional registration imposed under Subsection (3)(a) is also in addition to any period of registration imposed under Subsection 77-41-107(3) for failure to comply with registration requirements.

(4) It is not a defense to a prosecution under this section that the defendant mistakenly believed the individual to be 14 years of age or older at the time of the offense or was unaware of the individual's true age.

(5) This section does not apply if a sex offender is acting to rescue a child who is in an emergency and life-threatening situation.

Section 126. Section 77-32-301 is amended to read:

77-32-301. Minimum standards for defense of an indigent.

(1) Each county, city, and town shall provide for the legal defense of an indigent in criminal cases in the courts and various administrative bodies of the state in accordance with legal defense standards as defined in Subsection ~~[77-32-208]~~ 77-32-201(8).

(2) (a) A county or municipality which contracts with a defense services provider shall provide that all legal defense elements be included as a single package of legal defense services made available to indigents, except as provided in Sections 77-32-302 and 77-32-303.

(b) When needed to avoid a conflict of interest between:

(i) trial counsel and counsel on appeal, a defense services provider contract shall also provide for separate trial and appellate counsel; and

(ii) counsel for co-defendants, a defense services provider contract shall also provide for separate trial counsel.

(c) If a county or municipality contracts to provide all legal defense elements as a single package, a defendant may not receive funding for defense resources unless represented by publicly funded counsel or as provided in Subsection 77-32-303(2).

Section 127. Section 78A-6-606 is amended to read:

78A-6-606. Suspension of license for certain offenses.

(1) This section applies to a minor who is at least 13 years of age when found by the court to be within its jurisdiction by the commission of an offense under:

(a) Section 32B-4-409;

(b) Section 32B-4-410;

(c) Section 32B-4-411;

(d) Section 58-37-8;

(e) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;

(f) Title 58, Chapter 37b, Imitation Controlled Substances Act; or

(g) Subsection 76-9-701(1).

(2) If the court hearing the case determines that the minor committed an offense under Section 58-37-8 or Title 58, Chapter 37a, Utah Drug Paraphernalia Act, or 37b, Imitation Controlled Substances Act, the court shall prepare and send to the Driver License Division of the Department of Public Safety an order to suspend that minor's driving privileges.

(3) (a) The court hearing the case shall suspend the minor's driving privileges if:

(i) the minor violated Section 32B-4-409, Section 32B-4-410, or Subsection 76-9-701(1); and

(ii) the violation described in Subsection (3)(a)(i) was committed on or after July 1, 2009.

(b) Notwithstanding the requirement in Subsection (3)(a), the court may reduce the

suspension period required under Section 53-3-219 if:

(i) the violation is the minor's first violation of Section 32B-4-409, Section 32B-4-410, or Subsection 76-9-701(1); and

(ii) the minor completes an educational series as defined in Section 41-6a-501.

(c) Notwithstanding the requirement in Subsection (3)(a) and in accordance with the requirements of Section 53-3-219, the court may reduce the suspension period required under Section 53-3-219 if:

(i) the violation is the minor's second or subsequent violation of Section 32B-4-409, Section 32B-4-410, or Subsection 76-9-701(1); and

(ii) (A) the person is 18 years of age or older and provides a sworn statement to the court that the person has not unlawfully consumed alcohol for at least a one-year consecutive period during the suspension period imposed under Subsection (3)(a); or

(B) the person is under 18 years of age and has the person's parent or legal guardian provide an affidavit or sworn statement to the court certifying that to the parent or legal guardian's knowledge the person has not unlawfully consumed alcohol for at least a one-year consecutive period during the suspension period imposed under Subsection (3)(a).

(d) If a minor commits a proof of age violation, as defined in Section 32B-4-411:

(i) the court shall forward a record of adjudication to the Department of Public Safety for a first or subsequent violation; and

(ii) the minor's driving privileges will be suspended:

(A) for a period of at least one year under Section 53-3-220 for a first conviction for a violation of Section 32B-4-411; or

(B) for a period of two years for a second or subsequent conviction for a violation of Section 32B-4-411.

(4) A minor's license shall be suspended under Section 53-3-219 when a court issues an order suspending the minor's driving privileges for a violation of:

(a) Section 32B-4-409;

(b) Section 32B-4-410;

(c) Section 58-37-8;

(d) Title 58, Chapter 37a, Utah Drug Paraphernalia Act, or 37b, Imitation Controlled Substances Act; or

(e) Subsection 76-9-701(1).

(5) When the Department of Public Safety receives the arrest or conviction record of a person for a driving offense committed while the person's license is suspended under this section, the

Department of Public Safety shall extend the suspension for a like period of time.

Section 128. Section 78A-6-1113 is amended to read:

78A-6-1113. Property damage caused by a minor -- Liability of parent or legal guardian -- Criminal conviction or adjudication for criminal mischief or criminal trespass not a prerequisite for civil action under chapter -- When parent or guardian not liable.

(1) The parent or legal guardian having legal custody of the minor is liable for damages sustained to property not to exceed \$2,000 when:

(a) the minor intentionally damages, defaces, destroys, or takes the property of another;

(b) the minor recklessly or willfully shoots or propels a missile, or other object at or against a motor vehicle, bus, airplane, boat, locomotive, train, railway car, or caboose, whether moving or standing; or

(c) the minor intentionally and unlawfully tampers with the property of another and thereby recklessly endangers human life or recklessly causes or threatens a substantial interruption or impairment of any public utility service.

(2) The parent or legal guardian having legal custody of the minor is liable for damages sustained to property not to exceed \$5,000 when the minor commits an offense under Section (1):

(a) for the benefit of, at the direction of, or in association with any criminal street gang as defined in Section 76-9-802; or

(b) to gain recognition, acceptance, membership, or increased status with a criminal street gang.

(3) The court may make an order for the restitution authorized in this section to be paid by the minor's parent or guardian as part of the minor's disposition order.

(4) As used in this section, property damage described under Subsection (1)(a) or (c), or Subsection (2), includes graffiti, as defined in Section 76-6-107.

(5) A court may waive part or all of the liability for damages under this section by the parent or legal guardian if the offender is adjudicated in the juvenile court under Section 78A-6-117 only upon stating on the record that the court finds:

(a) good cause; or

(b) the parent or legal guardian:

(i) made a reasonable effort to restrain the wrongful conduct; and

(ii) reported the conduct to the property owner involved or the law enforcement agency having primary jurisdiction after the parent or guardian knew of the minor's unlawful act.

(6) A report is not required under Subsection [(4)] (5)(b) from a parent or legal guardian if the minor

was arrested or apprehended by a peace officer or by anyone acting on behalf of the property owner involved.

(7) A conviction for criminal mischief under Section 76-6-106, criminal trespass under Section 76-6-206, or an adjudication under Section 78A-6-117 is not a condition precedent to a civil action authorized under Subsection (1) or (2).

(8) A parent or guardian is not liable under Subsection (1) or (2) if the parent or guardian made a reasonable effort to supervise and direct their minor child, or, in the event the parent or guardian knew in advance of the possible taking, injury, or destruction by their minor child, made a reasonable effort to restrain the child.

Section 129. Section 78A-7-118 is amended to read:

78A-7-118. Appeals from justice court -- Trial or hearing de novo in district court.

(1) In a criminal case, a defendant is entitled to a trial de novo in the district court only if the defendant files a notice of appeal within 30 days of:

(a) sentencing, except as provided in Subsection [(3)] (4)(b); or

(b) a plea of guilty or no contest in the justice court that is held in abeyance.

(2) Upon filing a proper notice of appeal, any term of a sentence imposed by the justice court shall be stayed as provided for in Section 77-20-10 and the Rules of Criminal Procedure.

(3) If an appeal under Subsection (1) is of a plea entered pursuant to negotiation with the prosecutor, and the defendant did not reserve the right to appeal as part of the plea negotiation, the negotiation is voided by the appeal.

(4) A defendant convicted and sentenced in justice court is entitled to a hearing de novo in the district court on the following matters, if the defendant files a notice of appeal within 30 days of:

(a) an order revoking probation;

(b) an order entering a judgment of guilt pursuant to the person's failure to fulfil the terms of a plea in abeyance agreement;

(c) a sentence entered pursuant to Subsection (4)(b); or

(d) an order denying a motion to withdraw a plea.

(5) The prosecutor is entitled to a hearing de novo in the district court on:

(a) a final judgment of dismissal;

(b) an order arresting judgment;

(c) an order terminating the prosecution because of a finding of double jeopardy or denial of a speedy trial;

(d) a judgment holding invalid any part of a statute or ordinance;

(e) a pretrial order excluding evidence, when the prosecutor certifies that exclusion of that evidence prevents continued prosecution of an infraction or class C misdemeanor;

(f) a pretrial order excluding evidence, when the prosecutor certifies that exclusion of that evidence impairs continued prosecution of a class B misdemeanor; or

(g) an order granting a motion to withdraw a plea of guilty or no contest.

(6) A notice of appeal for a hearing de novo in the district court on a pretrial order excluding evidence under Subsection (5)(e) or (f) shall be filed within 30 days of the order excluding the evidence.

(7) Upon entering a decision in a hearing de novo, the district court shall remand the case to the justice court unless:

(a) the decision results in immediate dismissal of the case;

(b) with agreement of the parties, the district court consents to retain jurisdiction; or

(c) the defendant enters a plea of guilty or no contest in the district court.

(8) The district court shall retain jurisdiction over the case on trial de novo.

(9) The decision of the district court is final and may not be appealed unless the district court rules on the constitutionality of a statute or ordinance.

Section 130. Section 78B-4-202 is amended to read:

78B-4-202. Equine and livestock activity liability limitations.

(1) It shall be presumed that participants in equine or livestock activities are aware of and understand that there are inherent risks associated with these activities.

(2) An equine activity sponsor, equine professional, livestock activity sponsor, or livestock professional is not liable for an injury to or the death of a participant due to the inherent risks associated with these activities, unless the sponsor or professional:

(a) (i) provided the equipment or tack;

(ii) the equipment or tack caused the injury; and

(iii) the equipment failure was due to the sponsor's or professional's negligence;

(b) failed to make reasonable efforts to determine whether the equine or livestock could behave in a manner consistent with the activity with the participant;

(c) owns, leases, rents, or is in legal possession and control of land or facilities upon which the participant sustained injuries because of a dangerous condition which was known to or should have been known to the sponsor or professional and for which warning signs have not been conspicuously posted;

(d) (i) commits an act or omission that constitutes negligence, gross negligence, or willful or wanton disregard for the safety of the participant; and

(ii) that act or omission causes the injury; or

(e) intentionally injures or causes the injury to the participant.

(3) This chapter does not prevent or limit the liability of an equine activity sponsor, an equine professional, a livestock activity sponsor, or a livestock professional who is:

(a) a veterinarian licensed under Title 58, Chapter 28, Veterinary Practice Act, in an action to recover for damages incurred in the course of providing professional treatment of an equine;

(b) liable under Title 4, Chapter 25, [~~Estrays~~] Estraying and Trespassing Animals; or

(c) liable under Title 78B, Chapter 6, Part 7, Utah Product Liability Act.

Section 131. Section 78B-4-514 is amended to read:

78B-4-514. Definitions -- Immunity for architects and engineers during emergencies.

(1) As used in this section:

(a) "Architect" means a person licensed in accordance with Title 58, Chapter 3a, Architects Licensing Act.

(b) "Declared state of emergency" means a state of emergency declared by the governor of this state or by the chief executive officer of a political subdivision, in accordance with Title [~~63K~~] 53, Chapter [~~4, Disaster Response and Recovery~~] 2a, Emergency Management Act.

(c) "Professional engineer" means a person licensed in accordance with Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act.

(d) "Public official" means an appointed or elected federal, state, or local official, including building inspectors and police and fire chiefs, acting within the scope and jurisdiction of the official's authority during a declared emergency.

(2) An architect or professional engineer, acting in good faith and within the scope of his or her respective license, is not liable for:

(a) any acts, errors, or omissions; or

(b) personal injury, wrongful death, property damage, or any other loss arising from architectural or engineering services provided by the architect or engineer:

(i) as a non-paid volunteer at the request of a public official; and

(ii) during, or for 90 days following, a declared state of emergency.

(3) Nothing in Subsection (2) shall be construed to provide immunity to an architect or engineer for

architectural or engineering services that are not within the scope of licensure.

Section 132. Section 78B-15-612 is amended to read:

78B-15-612. Minor as party -- Representation.

(1) A minor is a permissible party, but is not a necessary party to a proceeding under this part.

(2) The tribunal may appoint an attorney guardian ad litem under Sections 78A-2-703 and 78A-6-902, or a private attorney guardian ad litem under Section 78A-2-705, to represent a minor or incapacitated child if the child is a party.

CHAPTER 259**H. B. 168**

Passed February 26, 2015

Approved March 27, 2015

Effective July 1, 2015

**UNCLAIMED LIFE INSURANCE
AND ANNUITY BENEFITS**

Chief Sponsor: James A. Dunnigan

Senate Sponsor: Curtis S. Bramble

LONG TITLE**General Description:**

This bill modifies the Insurance Code to address life insurance and annuity benefits.

Highlighted Provisions:

This bill:

- ▶ enacts the Unclaimed Life Insurance and Annuity Benefits Act, including:
 - defining terms; and
 - imposing requirements on insurers related to life insurance, annuities, and retained asset accounts.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**ENACTS:**

31A-22-1901, Utah Code Annotated 1953

31A-22-1902, Utah Code Annotated 1953

31A-22-1903, Utah Code Annotated 1953

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

Section 1. Section 31A-22-1901 is enacted to read:**Part 19. Unclaimed Life Insurance and Annuity Benefits Act****31A-22-1901. Title.**

This part is known as the "Unclaimed Life Insurance and Annuity Benefits Act."

Section 2. Section 31A-22-1902 is enacted to read:**31A-22-1902. Definitions.**

As used in this part:

(1) "Administrator" means the same as that term is defined in Section 67-4a-102.

(2) "Asymmetric conduct" means an insurer's use of the death master file or other similar database before July 1, 2015, in connection with searching for information regarding whether annuitants under the insurer's annuities might be deceased, but not in connection with whether the insureds under the insurer's policies might be deceased.

(3) (a) "Contract" means an annuity contract.

(b) "Contract" does not include an annuity used to fund an employment-based retirement plan or program when:

(i) the insurer does not perform the record keeping services; or

(ii) the insurer is not committed by terms of the annuity contract to pay death benefits to the beneficiaries of specific plan participants.

(4) "Death master file" means the United States Social Security Administration's Death Master File or another database or service that is at least as comprehensive as the United States Social Security Administration's Death Master File for determining that a person has reportedly died.

(5) "Death master file match" means a search of a death master file that results in a match of the Social Security number, or the name and date of birth of an insured, annuity owner, or retained asset account holder.

(6) "Knowledge of death" means:

(a) receipt of an original or valid copy of a certified death certificate; or

(b) a death master file match validated by the insurer in accordance with Subsection 31A-22-1903(1)(a).

(7) (a) "Policy" means a policy or certificate of life insurance that provides a death benefit.

(b) "Policy" does not include:

(i) a policy or certificate of life insurance that provides a death benefit under an employee benefit plan;

(A) subject to the Employee Retirement Income Security Act of 1974, 29 U.S.C. Sec. 1002, as periodically amended; or

(B) under any federal employee benefit program;

(ii) a policy or certificate of life insurance that is used to fund a preneed funeral contract or prearrangement;

(iii) a policy or certificate of credit life or accidental death insurance; or

(iv) a policy issued to a group master policyholder for which the insurer does not provide record keeping services.

(8) "Record keeping services" means those circumstances under which the insurer agrees with a group policy or contract customer to be responsible for obtaining, maintaining, and administering, in its own or its agents' systems, information about each individual insured under an insured's group insurance contract, or a line of coverage under the group insurance contract, at least the following information:

(a) Social Security number, or name and date of birth;

(b) beneficiary designation information;

(c) coverage eligibility;

(d) benefit amount; and

(e) premium payment status.

(9) "Retained asset account" means any mechanism whereby the settlement of proceeds

payable under a policy or contract is accomplished by the insurer or an entity acting on behalf of the insurer by depositing the proceeds into an account with check or draft writing privileges, where those proceeds are retained by the insurer or its agent, pursuant to a supplementary contract not involving annuity benefits other than death benefits.

Section 3. Section 31A-22-1903 is enacted to read:

31A-22-1903. Insurer conduct.

(1) An insurer shall perform a comparison of its insureds' in-force policies, contracts, and retained asset accounts against a death master file, on at least a semi-annual basis, by using the full death master file once and thereafter using the death master file update files for future comparisons to identify potential matches of its insureds. For those potential matches identified as a result of a death master file match:

(a) The insurer shall within 90 days of a death master file match:

(i) complete a good faith effort, that the insurer documents, to confirm the death of the insured or retained asset account holder against other available records and information; and

(ii) determine whether benefits are due in accordance with the applicable policy or contract, and if benefits are due in accordance with the applicable policy or contract:

(A) use good faith efforts, that the insurer documents, to locate the beneficiary or beneficiaries; and

(B) provide the appropriate claims forms or instructions to the beneficiary or beneficiaries to make a claim including the need to provide an official death certificate, if applicable under the policy or contract.

(b) With respect to group life insurance, an insurer shall confirm the possible death of an insured when the insurer maintains at least the following information of those covered under a policy or certificate:

(i) Social Security number, or name and date of birth;

(ii) beneficiary designation information;

(iii) coverage eligibility;

(iv) benefit amount; and

(v) premium payment status.

(c) An insurer shall implement procedures to account for:

(i) initials used in lieu of a first or middle name, use of a middle name, compound first and middle names, and interchanged first and middle names;

(ii) compound last names, hyphens, and blank spaces or apostrophes in last names; and

(iii) transposition of the "month" and "date" portions of the date of birth.

(d) To the extent permitted by law, the insurer may disclose minimum necessary personal information about the insured or beneficiary to a person who the insurer reasonably believes may be able to assist the insurer locate the beneficiary or a person otherwise entitled to payment of the claims proceeds.

(2) (a) An insurer that has not engaged in asymmetric conduct before July 1, 2015, is not required to comply with the requirements of this section with respect to a policy, annuity, or retained asset account issued or delivered before July 1, 2015.

(b) Notwithstanding Subsection (2)(a), an insurer, regardless of whether it has engaged in asymmetric conduct, shall comply with the requirements of this section for a policy, annuity, or retained asset account issued on or after July 1, 2015.

(3) An insurer or the insurer's service provider may not charge a beneficiary or other authorized representative for fees or costs associated with a death master file search or verification of a death master file match conducted pursuant to this section.

(4) The benefits from a policy, contract, or retained asset account, plus any applicable accrued contractual interest shall first be payable to the designated beneficiaries or owners and in the event said beneficiaries or owners can not be found, shall be transferred to the state as unclaimed property pursuant to Section 67-4a-205. Interest payable under Section 31A-22-428 may not be payable as unclaimed property under Section 67-4a-205.

(5) An insurer shall notify the administrator upon the expiration of the statutory holding period under Section 67-4a-205 that:

(a) a policy, contract beneficiary, or retained asset account holder has not submitted a claim with the insurer; and

(b) the insurer has complied with Subsection (1) and has been unable, after good faith efforts documented by the insurer, to contact the retained asset account holder, beneficiary, or beneficiaries.

(6) Upon such notice, an insurer shall immediately submit the unclaimed policy or contract benefits or unclaimed retained asset accounts, plus any applicable accrued interest, to the administrator.

Section 4. Effective date.

This bill takes effect on July 1, 2015.

CHAPTER 260**H. B. 206**

Passed March 9, 2015

Approved March 27, 2015

Effective May 12, 2015

LOCAL DISTRICT SERVICE AMENDMENTS

Chief Sponsor: Lee B. Perry
Senate Sponsor: Peter C. Knudson

LONG TITLE**General Description:**

This bill enacts provisions related to the provision of services by a local district.

Highlighted Provisions:

This bill:

- ▶ prohibits a local district from suspending service in certain circumstances.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

17B-1-901, as last amended by Laws of Utah 2014,
Chapter 377

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

Section 1. Section 17B-1-901 is amended to read:**17B-1-901. Providing and billing for multiple commodities, services, or facilities -- Suspending service to a delinquent customer.**

(1) If a local district provides more than one commodity, service, or facility, the district may bill for the fees and charges for all commodities, services, and facilities in a single bill.

(2) Regardless of the number of commodities, services, or facilities furnished by a local district, the local district may suspend furnishing any commodity, service, or facility to a customer if the customer fails to pay all fees and charges when due.

(3) (a) Notwithstanding Subsection (2) and except as provided in Subsection (3)(b), a local district may not suspend furnishing any commodity, service, or facility to a customer if discontinuance of the service is requested by a private third party, including an individual, a private business, or a nonprofit organization, that is not the customer.

(b) (i) An owner of land or the owner's agent may request that service be temporarily discontinued for maintenance-related activities.

(ii) An owner of land or the owner's agent may not request temporary discontinuance of service under Subsection (3)(b)(i) if the request is for the purpose of debt collection, eviction, or any other unlawful purpose.

CHAPTER 261**H. B. 211**

Passed March 6, 2015

Approved March 27, 2015

Effective May 12, 2015

(Retrospective operation to January 1, 2015)

**ARMED FORCES PROPERTY TAX
EXEMPTION AMENDMENTS**Chief Sponsor: Curtis Oda
Senate Sponsor: Margaret Dayton**LONG TITLE****General Description:**

This bill amends provisions related to the armed forces property tax exemption.

Highlighted Provisions:

This bill:

- ▶ amends provisions related to qualification for an armed forces property tax exemption; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides for retrospective operation.

Utah Code Sections Affected:**AMENDS:**

59-2-1101, as last amended by Laws of Utah 2013, Chapter 248

59-2-1104, as last amended by Laws of Utah 2014, Chapter 85

59-2-1105, as last amended by Laws of Utah 2013, Chapter 19

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

Section 1. Section 59-2-1101 is amended to read:**59-2-1101. Definitions -- Exemption of certain property -- Proportional payments for certain property -- County legislative body authority to adopt rules or ordinances.**

(1) As used in this section:

(a) "Educational purposes" includes:

(i) the physical or mental teaching, training, or conditioning of competitive athletes by a national governing body of sport recognized by the United States Olympic Committee that qualifies as being tax exempt under Section 501(c)(3) [of the], Internal Revenue Code; and

(ii) an activity in support of or incidental to the teaching, training, or conditioning described in Subsection (1)(a)(i).

(b) "Exclusive use exemption" means a property tax exemption under Subsection (3)(a)(iv), for property owned by a nonprofit entity used exclusively for religious, charitable, or educational purposes.

(c) "Government exemption" means a property tax exemption provided under Subsection (3)(a)(i), (ii), or (iii).

(d) "Nonprofit entity" includes an entity if the:

(i) entity is treated as a disregarded entity for federal income tax purposes;

(ii) entity is wholly owned by, and controlled under the direction of, a nonprofit entity; and

(iii) net earnings and profits of the entity irrevocably inure to the benefit of a nonprofit entity.

(e) "Tax relief" means an exemption, deferral, or abatement that is authorized by this part.

(2) (a) Except as provided in Subsection (2)(b) or (c), tax relief may be allowed only if the claimant is the owner of the property as of January 1 of the year the exemption is claimed.

(b) Notwithstanding Subsection (2)(a), a claimant shall collect and pay a proportional tax based upon the length of time that the property was not owned by the claimant if:

(i) the claimant is a federal, state, or political subdivision entity described in Subsection (3)(a)(i), (ii), or (iii); or

(ii) pursuant to Subsection (3)(a)(iv):

(A) the claimant is a nonprofit entity; and

(B) the property is used exclusively for religious, charitable, or educational purposes.

~~[(c) Notwithstanding Subsection (2)(a), a claimant may be allowed a veteran's exemption in accordance with Sections 59-2-1104 and 59-2-1105 regardless of whether the claimant is the owner of the property as of January 1 of the year the exemption is claimed if the claimant is:]~~

~~[(i) the unmarried surviving spouse of:]~~

~~[(A) a deceased veteran with a disability as defined in Section 59-2-1104; or]~~

~~[(B) a veteran who was killed in action or died in the line of duty as defined in Section 59-2-1104; or]~~

~~[(ii) a minor orphan of:]~~

~~[(A) a deceased veteran with a disability as defined in Section 59-2-1104; or]~~

~~[(B) a veteran who was killed in action or died in the line of duty as defined in Section 59-2-1104.]~~

(c) Subsection (2)(a) does not apply to an exemption under Section 59-2-1104.

(3) (a) The following property is exempt from taxation:

(i) property exempt under the laws of the United States;

(ii) property of:

(A) the state;

(B) school districts; and

(C) public libraries;

(iii) except as provided in Title 11, Chapter 13, Interlocal Cooperation Act, property of:

- (A) counties;
- (B) cities;
- (C) towns;
- (D) local districts;
- (E) special service districts; and
- (F) all other political subdivisions of the state;

(iv) property owned by a nonprofit entity used exclusively for religious, charitable, or educational purposes;

(v) places of burial not held or used for private or corporate benefit;

(vi) farm machinery and equipment [~~and machinery~~];

(vii) intangible property; and

(viii) the ownership interest of an out-of-state public agency, as defined in Section 11-13-103:

(A) if that ownership interest is in property providing additional project capacity, as defined in Section 11-13-103; and

(B) on which a fee in lieu of ad valorem property tax is payable under Section 11-13-302.

(b) For purposes of a property tax exemption for property of school districts under Subsection (3)(a)(ii)(B), a charter school under Title 53A, Chapter 1a, Part 5, The Utah Charter Schools Act, is considered to be a school district.

(4) Subject to Subsection (5), if property that is allowed an exclusive use exemption or a government exemption ceases to qualify for the exemption because of a change in the ownership of the property:

(a) the new owner of the property shall pay a proportional tax based upon the period of time:

(i) beginning on the day that the new owner acquired the property; and

(ii) ending on the last day of the calendar year during which the new owner acquired the property; and

(b) the new owner of the property and the person from whom the new owner acquires the property shall notify the county assessor, in writing, of the change in ownership of the property within 30 days from the day that the new owner acquires the property.

(5) Notwithstanding Subsection (4)(a), the proportional tax described in Subsection (4)(a):

(a) is subject to any exclusive use exemption or government exemption that the property is entitled to under the new ownership of the property; and

(b) applies only to property that is acquired after December 31, 2005.

(6) A county legislative body may adopt rules or ordinances to:

(a) effectuate the exemptions, deferrals, abatements, or other relief from taxation provided in this part; and

(b) designate one or more persons to perform the functions given the county under this part.

Section 2. Section 59-2-1104 is amended to read:

59-2-1104. Definitions -- Armed forces exemption -- Amount of armed forces exemption.

(1) As used in this section and Section 59-2-1105:

(a) "Active component of the United States Armed Forces" is as defined in Section 59-10-1027.

(b) "Adjusted taxable value limit" means:

(i) for the [~~year 2005, \$200,000~~] calendar year that begins on January 1, 2015, \$252,126; and

(ii) for each calendar year after [2005] the calendar year described in Subsection (1)(b)(i), the amount of the adjusted taxable value limit for the previous year, plus an amount calculated by multiplying the amount of the adjusted taxable value limit for the previous year by the actual percent change in the consumer price index during the previous calendar year.

(c) "Claimant" means:

(i) a veteran with a disability who files an application under Section 59-2-1105 for [~~a veteran's~~] an exemption under this section;

(ii) the unmarried surviving spouse:

(A) of a:

(I) deceased veteran with a disability; or

(II) veteran who was killed in action or died in the line of duty; and

(B) who files an application under Section 59-2-1105 for [~~a veteran's~~] an exemption under this section;

(iii) a minor orphan:

(A) of a:

(I) deceased veteran with a disability; or

(II) veteran who was killed in action or died in the line of duty; and

(B) who files an application under Section 59-2-1105 for [~~a veteran's~~] an exemption under this section; or

(iv) a member of an active component of the United States Armed Forces or a reserve component of the United States Armed Forces who performed qualifying active duty military service.

(d) "Consumer price index" is as described in Section 1(f)(4), Internal Revenue Code, and defined in Section 1(f)(5), Internal Revenue Code.

(e) “Deceased veteran with a disability” means a deceased person who was a veteran with a disability at the time the person died.

(f) “Military entity” means:

- (i) the federal Department of Veterans Affairs;
- (ii) an active component of the United States Armed Forces; or
- (iii) a reserve component of the United States Armed Forces.

(g) “Property taxes due” means the taxes due on a claimant’s property:

- (i) with respect to which a county grants an exemption under this section; and
- (ii) for the calendar year for which the county grants an exemption under this section.

(h) “Property taxes paid” is an amount equal to the sum of:

- (i) the amount of the property taxes the claimant paid for the calendar year for which the claimant is applying for an exemption under this section; and
- (ii) the exemption the county grants for the calendar year described in Subsection (1)(h)(i).

~~[(g)]~~ (i) “Qualifying active duty military service” means:

(i) at least 200 days in a calendar year, regardless of whether consecutive, of active duty military service outside the state in an active component of the United States Armed Forces or a reserve component of the United States Armed Forces; or

(ii) the completion of at least 200 consecutive days of active duty military service outside the state:

(A) in an active component of the United States Armed Forces or a reserve component of the United States Armed Forces; and

(B) that began in the prior year, if those days of active duty military service outside the state in the prior year were not counted as qualifying active duty military service for purposes of this section or Section 59-2-1105 in the prior year.

~~[(h)]~~ (j) “Reserve component of the United States Armed Forces” is as defined in Section 59-10-1027.

~~[(i)]~~ (k) “Residence” is as defined in Section 59-2-1202, except that a rented dwelling is not considered to be a residence.

~~[(j)]~~ (l) “Veteran who was killed in action or died in the line of duty” means a person who was killed in action or died in the line of duty in an active component of the United States Armed Forces or a reserve component of the United States Armed Forces, regardless of whether that person had a disability at the time that person was killed in action or died in the line of duty.

~~[(k)]~~ (m) “Veteran with a disability” means a person with a disability who, during military

training or a military conflict, acquired a disability in the line of duty in an active component of the United States Armed Forces or a reserve component of the United States Armed Forces, as determined by a military entity.

~~[(4)]~~ “Veteran’s exemption” means a property tax exemption provided for in Subsection (2).

(2) (a) [The] Subject to Subsection (2)(c), the amount of taxable value of the property described in Subsection (2)(b) is exempt from taxation as calculated under Subsections ~~[(2)(e)]~~ (3) through ~~[(e)]~~ (6) if the property described in Subsection (2)(b) is owned by:

- (i) a veteran with a disability;
- (ii) the unmarried surviving spouse or a minor orphan of a:
 - (A) deceased veteran with a disability; or
 - (B) veteran who was killed in action or died in the line of duty; or
 - (iii) a member of an active component of the United States Armed Forces or a reserve component of the United States Armed Forces who performed qualifying active duty military service.

(b) Subsection (2)(a) applies to the following property:

- (i) the claimant’s primary residence;
- (ii) for a claimant described in Subsection (2)(a)(i) or (ii), tangible personal property that:
 - (A) is held exclusively for personal use; and
 - (B) is not used in a trade or business; or
 - (iii) for a claimant described in Subsection (2)(a)(i) or (ii), a combination of Subsections (2)(b)(i) and (ii).

(c) For purposes of this section, property is considered to be the primary residence of a person described in Subsection (2)(a)(i) or (iii) who does not reside in the residence if the person:

(i) does not reside in the residence because the person is admitted as an inpatient at a health care facility as defined in Section 26-55-102; and

(ii) otherwise meets the requirements of this section and Section 59-2-1105 to receive an exemption under this section.

~~[(e)]~~ (3) Except as provided in Subsection ~~[(2)(d)]~~ (4) or ~~[(e)]~~ (5), the amount of taxable value of property described in Subsection (2)(b) that is exempt under Subsection (2)(a) is:

~~[(i)]~~ (a) as described in Subsection ~~[(2)(f)]~~ (6), if the property is owned by:

- ~~[(A)]~~ (i) a veteran with a disability;
- ~~[(B)]~~ (ii) the unmarried surviving spouse of a deceased veteran with a disability; or
- ~~[(C)]~~ (iii) a minor orphan of a deceased veteran with a disability; or

~~[(ii)]~~ (b) equal to the total taxable value of the claimant's property described in Subsection (2)(b) if the property is owned by:

~~[(A)]~~ (i) the unmarried surviving spouse of a veteran who was killed in action or died in the line of duty;

~~[(B)]~~ (ii) a minor orphan of a veteran who was killed in action or died in the line of duty; or

~~[(C)]~~ (iii) a member of an active component of the United States Armed Forces or a reserve component of the United States Armed Forces who performed qualifying active duty military service.

~~[(d) (i) Notwithstanding Subsection (2)(c)(i) and subject to Subsection (2)(d)(ii), a veteran's exemption except for a claimant described in Subsection (2)(a)(iii)]~~

(4) (a) Subject to Subsections (4)(b) and (c), an exemption may not be allowed under this ~~[Subsection (2)]~~ section if the percentage of disability listed on the ~~[certificate]~~ statement described in Subsection 59-2-1105(3)(a) is less than 10%.

(b) Subsection (4)(a) does not apply to a claimant described in Subsection (2)(a)(iii).

~~[(ii)]~~ (c) A veteran with a disability is considered to have a 100% disability, regardless of the percentage of disability listed on a ~~[certificate]~~ statement described in Subsection 59-2-1105(3)(a), if the United States Department of Veterans Affairs certifies the veteran in the classification of individual unemployment.

~~[(e) Notwithstanding Subsection (2)(c)(i), a]~~

(5) A claimant who is the unmarried surviving spouse or minor orphan of a deceased veteran with a disability may claim an exemption for the total value of the property described in Subsection (2)(b) if:

~~[(i)]~~ (a) the deceased veteran with a disability served in the military service of the United States or the state prior to January 1, 1921; and

~~[(ii)]~~ (b) the percentage of disability listed on the ~~[certificate]~~ statement described in Subsection 59-2-1105(3)(a) for the deceased veteran with a disability is 10% or more.

~~[(f)]~~ (6) (a) Except as provided in Subsection ~~[(2)(g)]~~ (6)(b), the amount of the taxable value of the property described in Subsection (2)(b) that is exempt under Subsection ~~[(2)(e)(i)]~~ (3)(a) is equal to the percentage of disability listed on the ~~[certificate]~~ statement described in Subsection 59-2-1105(3)(a) multiplied by the adjusted taxable value limit.

~~[(g) Notwithstanding Subsection (2)(f), the]~~

(b) The amount of the taxable value of the property described in Subsection (2)(b) that is exempt under Subsection ~~[(2)(e)(i)]~~ (3)(a) may not be greater than the taxable value of the property described in Subsection (2)(b).

~~[(h)]~~ (7) For purposes of this section and Section 59-2-1105, a person who received an honorable or general discharge from military service of an active component of the United States Armed Forces or a reserve component of the United States Armed Forces:

~~[(i)]~~ (a) is presumed to be a citizen of the United States; and

~~[(ii)]~~ (b) may not be required to provide additional proof of citizenship to establish that the person is a citizen of the United States.

~~[(3)]~~ (8) The Department of Veterans' and Military Affairs created in Section 71-8-2 shall, through an informal hearing held in accordance with Title 63G, Chapter 4, Administrative Procedures Act, resolve each dispute arising under this section concerning a veteran's status as a veteran with a disability.

Section 3. Section 59-2-1105 is amended to read:

59-2-1105. Application for United States armed forces exemption -- Rulemaking authority -- Statement -- County authority to make refunds.

(1) (a) Except as provided in ~~[Subsection 59-2-1101(2)(e)]~~ Subsections (1)(b) through (d), an exemption under Section 59-2-1104 may be allowed only if the interest of the claimant is on record on January 1 of the year the exemption is claimed.

(b) A claimant may claim an exemption under Section 59-2-1104 regardless of whether the interest of the claimant is on record on January 1 of the year the exemption is claimed if the claimant is:

(i) the unmarried surviving spouse of:

(A) a deceased veteran with a disability as defined in Section 59-2-1104; or

(B) a veteran who was killed in action or died in the line of duty as defined in Section 59-2-1104; or

(ii) a minor orphan of:

(A) a deceased veteran with a disability as defined in Section 59-2-1104; or

(B) a veteran who was killed in action or died in the line of duty as defined in Section 59-2-1104.

~~[(h)]~~ (c) If the claimant has an interest in real property under a contract, the exemption under Section 59-2-1104 may be allowed if it is proved to the satisfaction of the county that the claimant is:

(i) the purchaser under the contract; and

(ii) obligated to pay the taxes on the property beginning January 1 of the year the exemption is claimed.

~~[(e)]~~ (d) If the claimant is the grantor of a trust holding title to real or tangible personal property on which an exemption under Section 59-2-1104 is claimed, the claimant may claim the portion of the exemption under Section 59-2-1104 and be treated as the owner of that portion of the property held in

trust for which the claimant proves to the satisfaction of the county that:

(i) title to the portion of the trust will revert in the claimant upon the exercise of a power:

(A) by:

(I) the claimant as grantor of the trust;

(II) a nonadverse party; or

(III) both the claimant and a nonadverse party; and

(B) regardless of whether the power is a power:

(I) to revoke;

(II) to terminate;

(III) to alter;

(IV) to amend; or

(V) to appoint;

(ii) the claimant is obligated to pay the taxes on that portion of the trust property beginning January 1 of the year the claimant claims the exemption; and

(iii) the claimant meets the requirements under this part for the exemption.

(2) (a) (i) A claimant applying for an exemption under Section 59-2-1104 shall file an application:

(A) with the county in which that claimant resides; and

(B) except as provided in Subsection (2)(b) or (e), on or before September 1 of the year in which that claimant is applying for the exemption in accordance with this section.

(ii) A county shall provide a claimant who files an application for an exemption in accordance with this section with a receipt:

(A) stating that the county received the claimant's application; and

(B) no later than 30 days after the day on which the claimant filed the application in accordance with this section.

(b) Notwithstanding Subsection (2)(a)(i)(B) or (2)(e):

(i) subject to Subsection (2)(b)(iv), for a claimant who applies for an exemption under Section 59-2-1104 on or after January 1, 2004, a county shall extend the deadline for filing the application required by Subsection (2)(a) to September 1 of the year after the year the claimant would otherwise be required to file the application under Subsection (2)(a)(i)(B) if:

(A) on or after January 1, 2004, a military entity issues a written decision that the:

(I) veteran has a disability; or

(II) deceased veteran with a disability with respect to whom the claimant applies for a

veteran's] an exemption under this section had a disability at the time the deceased veteran with a disability died; and

(B) the date the written decision described in Subsection (2)(b)(i)(A) takes effect is in any year prior to the current calendar year;

(ii) subject to Subsections (2)(b)(iv) and (2)(d), for a claimant who applies for an exemption under Section 59-2-1104 on or after January 1, 2004, a county shall allow the claimant to amend the application required by Subsection (2)(a) on or before September 1 of the year after the year the claimant filed the application under Subsection (2)(a)(i)(B) if:

(A) on or after January 1, 2004, a military entity issues a written decision that the percentage of disability has changed for the:

(I) veteran with a disability; or

(II) deceased veteran with a disability with respect to whom the claimant applies for the exemption; and

(B) the date the written decision described in Subsection (2)(b)(ii)(A) takes effect is in any year prior to the current calendar year;

(iii) subject to Subsections (2)(b)(iv) and (2)(d), for a claimant who applies for an exemption under Section 59-2-1104 on or after January 1, 2004, a county shall extend the deadline for filing the application required by Subsection (2)(a) to September 1 of the year after the year the claimant would otherwise be required to file the application under Subsection (2)(a)(i)(B) if the county legislative body determines that:

(A) the claimant or a member of the claimant's immediate family had an illness or injury that prevented the claimant from filing the application on or before the deadline for filing the application established in Subsection (2)(a)(i)(B);

(B) a member of the claimant's immediate family died during the calendar year the claimant was required to file the application under Subsection (2)(a)(i)(B);

(C) the claimant was not physically present in the state for a time period of at least six consecutive months during the calendar year the claimant was required to file the application under Subsection (2)(a)(i)(B); or

(D) the failure of the claimant to file the application on or before the deadline for filing the application established in Subsection (2)(a)(i)(B):

(I) would be against equity or good conscience; and

(II) was beyond the reasonable control of the claimant; and

(iv) a county may extend the deadline for filing an application or amending an application under this Subsection (2) until December 31 if the county finds that good cause exists to extend the deadline.

(c) The following shall accompany the initial application for an exemption under Section 59-2-1104:

(i) a copy of the veteran's certificate of discharge from military service; or

(ii) other satisfactory evidence of eligible military service, including orders for qualifying active duty military service, if applicable.

(d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule:

(i) establish procedures and requirements for amending an application under Subsection (2)(b)(ii);

(ii) for purposes of Subsection (2)(b)(iii), define the terms:

(A) "immediate family"; or

(B) "physically present"; or

(iii) for purposes of Subsection (2)(b)(iii), prescribe the circumstances under which the failure of a claimant to file an application on or before the deadline for filing the application established in Subsection (2)(a)(i)(B):

(A) would be against equity or good conscience; and

(B) is beyond the reasonable control of a claimant.

(e) Except as provided in Subsection (2)(g), if a claimant has on file with the county the application described in Subsection (2)(a), the county may not require the claimant to file another application described in Subsection (2)(a) unless:

(i) the claimant applies all or a portion of an exemption under Section 59-2-1104 to any tangible personal property;

(ii) the percentage of disability has changed for the:

(A) veteran with a disability; or

(B) deceased veteran with a disability with respect to whom a claimant applies for [a veteran's] an exemption under this section;

(iii) the veteran with a disability dies;

(iv) the claimant's ownership interest in the claimant's primary residence changes;

(v) the claimant's occupancy of the primary residence for which the claimant claims an exemption under Section 59-2-1104 changes; or

(vi) the claimant who files an application for an exemption under Section 59-2-1104 with respect to a deceased veteran with a disability or veteran who was killed in action or died in the line of duty is a person other than the claimant who filed the application described in Subsection (2)(a) for the exemption:

(A) for the calendar year immediately preceding the current calendar year; and

(B) with respect to that deceased veteran with a disability or veteran who was killed in action or died in the line of duty.

(f) The county may verify that the real property that is residential property for which the claimant claims an exemption under Section 59-2-1104 is the claimant's primary residence.

(g) A member of an active component of the United States Armed Forces or reserve component of the United States Armed Forces who performed qualifying active duty military service shall:

(i) file the application described in Subsection (2)(a) in the year after the year during which the member completes the qualifying active duty military service; and

(ii) if the member meets the requirements of Section 59-2-1104 and this section to receive an exemption under Section 59-2-1104, claim one exemption only in the year the member files the application described in Subsection (2)(g)(i).

(3) (a) (i) Subject to Subsection (3)(a)(ii), a claimant except for a claimant described in Subsection (2)(g) who files an application for an exemption under Section 59-2-1104 shall have on file with the county a statement:

(A) issued by a military entity; and

(B) listing the percentage of disability for the veteran with a disability or deceased veteran with a disability with respect to whom a claimant applies for the exemption.

(ii) If a claimant except for a claimant described in Subsection (2)(g) has on file with the county the statement described in Subsection (3)(a)(i), the county may not require the claimant to file another statement described in Subsection (3)(a)(i) unless:

(A) the claimant who files an application under this section for an exemption under Section 59-2-1104 with respect to a deceased veteran with a disability or veteran who was killed in action or died in the line of duty is a person other than the claimant who filed the statement described in Subsection (3)(a)(i) for the exemption:

(I) for the calendar year immediately preceding the current calendar year; and

(II) with respect to that deceased veteran with a disability or veteran who was killed in action or died in the line of duty; or

(B) the percentage of disability has changed for a:

(I) veteran with a disability; or

(II) deceased veteran with a disability with respect to whom the claimant applies for an exemption under Section 59-2-1104.

(b) For a claimant filing an application in accordance with Subsection (2)(b)(i), the claimant shall include with the application required by Subsection (2) a statement issued by a military entity listing the date the written decision described in Subsection (2)(b)(i)(A) takes effect.

(c) For a claimant amending an application in accordance with Subsection (2)(b)(ii), the claimant shall provide to the county a statement issued by a military entity listing the date the written decision described in Subsection (2)(b)(ii)(A) takes effect.

~~[(4) (a) For purposes of this Subsection (4):]~~

~~[(i) "Property taxes due" means the taxes due on a claimant's property:]~~

~~[(A) for which an exemption under Section 59-2-1104 is granted by a county; and]~~

~~[(B) for the calendar year for which the exemption is granted.]~~

~~[(ii) "Property taxes paid" is an amount equal to the sum of:]~~

~~[(A) the amount of the property taxes the claimant paid for the calendar year for which the claimant is applying for an exemption under Section 59-2-1104; and]~~

~~[(B) the exemption the county granted for the calendar year described in Subsection (4)(a)(ii)(A).]~~

~~[(b)] (4) A county [granting] that grants an exemption under Section 59-2-1104 to a claimant shall refund to that claimant an amount equal to the amount by which the claimant's property taxes paid exceed the claimant's property taxes due, if that amount is \$1 or more.~~

Section 4. Retrospective operation.

This bill has retrospective operation to January 1, 2015.

CHAPTER 262**H. B. 227**

Passed February 26, 2015

Approved March 27, 2015

Effective May 12, 2015

REAL ESTATE AMENDMENTS

Chief Sponsor: Gage Froerer

Senate Sponsor: Todd Weiler

LONG TITLE**General Description:**

This bill amends provisions relating to real estate.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ modifies the licensure requirements and prohibited conduct for a person engaged in the business of residential mortgage loans;
- ▶ amends the qualifications for a lending manager license;
- ▶ addresses the lapse or cancellation of a management company's surety bond;
- ▶ modifies the recordkeeping requirements for an appraisal management company;
- ▶ clarifies and amends provisions relating to licensure requirements and unlawful conduct under the Real Estate Licensing and Practices Act; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 61-2c-102, as last amended by Laws of Utah 2014, Chapter 350
- 61-2c-105, as last amended by Laws of Utah 2012, Chapter 212
- 61-2c-202, as last amended by Laws of Utah 2013, Chapter 292
- 61-2c-204.1, as last amended by Laws of Utah 2012, Chapter 166
- 61-2c-206, as last amended by Laws of Utah 2013, Chapter 292
- 61-2c-301, as last amended by Laws of Utah 2012, Chapter 166
- 61-2e-204, as last amended by Laws of Utah 2013, Chapter 292
- 61-2e-303, as enacted by Laws of Utah 2009, Chapter 269
- 61-2f-202, as last amended by Laws of Utah 2013, Chapter 292
- 61-2f-303, as renumbered and amended by Laws of Utah 2010, Chapter 379
- 61-2f-401, as last amended by Laws of Utah 2013, Chapter 412

*Be it enacted by the Legislature of the state of Utah:***Section 1. Section 61-2c-102 is amended to read:****61-2c-102. Definitions.**

(1) As used in this chapter:

(a) "Affiliation" means that a mortgage loan originator is associated with a principal lending manager in accordance with Section 61-2c-209.

(b) "Applicant" means a person applying for a license under this chapter.

(c) "Approved examination provider" means a person approved by the nationwide database or by the division as an approved test provider.

(d) "Associate lending manager" means an individual who:

(i) qualifies under this chapter as a principal lending manager; and

(ii) works by or on behalf of another principal lending manager in transacting the business of residential mortgage loans.

(e) "Branch lending manager" means an individual who is:

(i) licensed as a lending manager; and

(ii) designated in the nationwide database by the individual's sponsoring entity as being responsible to work from a branch office and to supervise the business of residential mortgage loans that is conducted at the branch office.

(f) "Branch office" means a licensed entity's office:

(i) for the transaction of the business of residential mortgage loans regulated under this chapter;

(ii) other than the main office of the licensed entity; and

(iii) that operates under:

(A) the same business name as the licensed entity; or

(B) another trade name that is registered with the division under the entity license.

(g) "Business day" means a day other than:

(i) a Saturday;

(ii) a Sunday; or

(iii) a federal or state holiday.

(h) (i) "Business of residential mortgage loans" means for compensation or in the expectation of compensation to:

(A) engage in an act that makes an individual a mortgage loan originator;

(B) make or originate a residential mortgage loan;

(C) directly or indirectly solicit a residential mortgage loan for another;

(D) unless excluded under Subsection (1)(h)(ii), render services related to the origination of a residential mortgage loan including:

(I) preparing a loan package;

(II) communicating with the borrower or lender;

(III) advising on a loan term;

(IV) acting as a loan processor or loan underwriter without being employed by a licensed entity; or

(V) except as provided in Subsection (1)(h)(ii)(B) or (C), acting as a loan underwriter; or

(E) engage in loan modification assistance.

(ii) "Business of residential mortgage loans" does not include:

(A) if working as an employee under the direction of and subject to the supervision and instruction of a person licensed under this chapter, the performance of a clerical or support duty, including:

(I) the receipt, collection, or distribution of information common for the processing or underwriting of a loan in the mortgage industry other than taking an application;

(II) communicating with a consumer to obtain information necessary for the processing or underwriting of a residential mortgage loan;

(III) word processing;

(IV) sending correspondence;

(V) assembling files; or

(VI) acting as a loan processor or loan underwriter;

(B) acting as a loan underwriter under the direction and control of an employer licensed under this chapter;

(C) acting as a loan underwriter, as an employee of a depository institution, exclusively in the capacity of the depository institution's employee;

(D) ownership of an entity that engages in the business of residential mortgage loans if the owner does not personally perform the acts listed in Subsection (1)(h)(i);

(E) except if an individual will engage in an activity as a mortgage loan originator, acting in one or more of the following capacities:

(I) a loan wholesaler;

(II) an account executive for a loan wholesaler;

(III) a loan underwriter;

(IV) a loan closer; or

(V) funding a loan; or

(F) if employed by a person who owns or services an existing residential mortgage loan, the direct negotiation with the borrower for the purpose of loan modification.

(i) "Certified education provider" means a person who is certified under Section 61-2c-204.1 to provide one or more of the following:

- (i) Utah-specific preclicensing education; or
- (ii) Utah-specific continuing education.

(j) "Closed-end" means a loan:

- (i) with a fixed amount borrowed; and
- (ii) that does not permit additional borrowing secured by the same collateral.

(k) "Commission" means the Residential Mortgage Regulatory Commission created in Section 61-2c-104.

(l) "Community development financial institution" means the same as that term is defined in 12 U.S.C. Sec. 4702.

[4] (m) "Compensation" means anything of economic value that is paid, loaned, granted, given, donated, or transferred to an individual or entity for or in consideration of:

- (i) services;
- (ii) personal or real property; or
- (iii) another thing of value.

[~~4~~] (n) "Concurrence" means that entities given a concurring role must jointly agree for the action to be taken.

[~~4~~] (o) "Continuing education" means education taken by an individual licensed under this chapter in order to meet the education requirements imposed by Sections 61-2c-204.1 and 61-2c-205 to renew a license under this chapter.

[~~4~~] (p) "Control," as used in Subsection 61-2c-105(2)(f), means the power to directly or indirectly:

- (i) direct or exercise a controlling interest over:
 - (A) the management or policies of an entity; or
 - (B) the election of a majority of the directors, officers, managers, or managing partners of an entity;
- (ii) vote 20% or more of a class of voting securities of an entity by an individual; or
- (iii) vote more than 5% of a class of voting securities of an entity by another entity.

[~~4~~] (q) (i) "Control person" means an individual identified by an entity registered with the nationwide database as being an individual directing the management or policies of the entity.

- (ii) "Control person" may include one of the following who is identified as provided in Subsection (1)[~~4~~](q)(i):
 - (A) a manager;
 - (B) a managing partner;
 - (C) a director;
 - (D) an executive officer; or
 - (E) an individual who performs a function similar to an individual listed in this Subsection (1)[~~4~~](q)(ii).

[~~4~~] (r) "Depository institution" [is as] means the same as that term is defined in Section 7-1-103.

[~~4~~] (s) "Director" means the director of the division.

~~[(s)]~~ (t) “Division” means the Division of Real Estate.

~~[(t)]~~ (u) “Dwelling” means a residential structure attached to real property that contains one to four units including any of the following if used as a residence:

- (i) a condominium unit;
- (ii) a cooperative unit;
- (iii) a manufactured home; or
- (iv) a house.

~~[(u)]~~ (v) “Employee”:

(i) means an individual:

(A) whose manner and means of work performance are subject to the right of control of, or are controlled by, another person; and

(B) whose compensation for federal income tax purposes is reported, or is required to be reported, on a W-2 form issued by the controlling person; and

(ii) does not include an independent contractor who performs duties other than at the direction of, and subject to the supervision and instruction of, another person.

~~[(v)]~~ (w) “Entity” means:

- (i) a corporation;
- (ii) a limited liability company;
- (iii) a partnership;
- (iv) a company;
- (v) an association;
- (vi) a joint venture;
- (vii) a business trust;
- (viii) a trust; or
- (ix) another organization.

~~[(w)]~~ (x) “Executive director” means the executive director of the Department of Commerce.

~~[(x)]~~ (y) “Federal licensing requirements” means Secure and Fair Enforcement for Mortgage Licensing, 12 U.S.C. Sec. 5101 et seq.

~~[(y)]~~ (z) “Foreclosure rescue” means, for compensation or with the expectation of receiving valuable consideration, to:

(i) engage, or offer to engage, in an act that:

(A) the person represents will assist a borrower in preventing a foreclosure; and

(B) relates to a transaction involving the transfer of title to residential real property; or

(ii) as an employee or agent of another person:

(A) solicit, or offer that the other person will engage in an act described in Subsection 1)~~[(z)]~~(z)(i); or

(B) negotiate terms in relationship to an act described in Subsection 1)~~[(z)]~~(z)(i).

~~[(z)]~~ (aa) “Inactive status” means a dormant status into which an unexpired license is placed when the holder of the license is not currently engaging in the business of residential mortgage loans.

~~[(aa)]~~ (bb) “Lending manager” means an individual licensed as a lending manager under Section 61-2c-206 to transact the business of residential mortgage loans.

~~[(bb)]~~ (cc) “Licensee” means a person licensed with the division under this chapter.

~~[(cc)]~~ (dd) “Licensing examination” means the examination required by Section 61-2c-204.1 or 61-2c-206 for an individual to obtain a license under this chapter.

~~[(dd)]~~ (ee) “Loan modification assistance” means, for compensation or with the expectation of receiving valuable consideration, to:

(i) act, or offer to act, on behalf of a person to:

(A) obtain a loan term of a residential mortgage loan that is different from an existing loan term including:

- (I) an increase or decrease in an interest rate;
- (II) a change to the type of interest rate;
- (III) an increase or decrease in the principal amount of the residential mortgage loan;
- (IV) a change in the number of required period payments;
- (V) an addition of collateral;
- (VI) a change to, or addition of, a prepayment penalty;
- (VII) an addition of a cosigner; or
- (VIII) a change in persons obligated under the existing residential mortgage loan; or

(B) substitute a new residential mortgage loan for an existing residential mortgage loan; or

(ii) as an employee or agent of another person:

(A) solicit, or offer that the other person will engage in an act described in Subsection 1)~~[(dd)]~~(ee)(i); or

(B) negotiate terms in relationship to an act described in Subsection 1)~~[(dd)]~~(ee)(i).

~~[(ee)]~~ (ff) (i) Except as provided in Subsection 1)~~[(ee)]~~(ff)(ii), “mortgage loan originator” means an individual who for compensation or in expectation of compensation:

(A) (I) takes a residential mortgage loan application; or

(II) offers or negotiates terms of a residential mortgage loan for the purpose of:

- (Aa) a purchase;
- (Bb) a refinance;

(Cc) a loan modification assistance; or
 (Dd) a foreclosure rescue; and
 (B) is licensed as a mortgage loan originator in accordance with this chapter.

(ii) "Mortgage loan originator" does not include a person who:

(A) is described in Subsection (1)(~~ee~~)(ff)(i), but who performs exclusively administrative or clerical tasks as described in Subsection (1)(h)(ii)(A);

(B) (I) is licensed under Chapter 2f, Real Estate Licensing and Practices Act;

(II) performs only real estate brokerage activities; and

(III) receives no compensation from:

(Aa) a lender;

(Bb) a lending manager; or

(Cc) an agent of a lender or lending manager; or

(C) is solely involved in extension of credit relating to a timeshare plan, as defined in 11 U.S.C. Sec. 101(53D).

~~(fff)~~ (gg) "Nationwide database" means the Nationwide Mortgage Licensing System and Registry, authorized under federal licensing requirements.

~~(ggg)~~ (hh) "Nontraditional mortgage product" means a mortgage product other than a 30-year fixed rate mortgage.

~~(hhh)~~ (ii) "Person" means an individual or entity.

~~(iii)~~ (jj) "Prelicensing education" means education taken by an individual seeking to be licensed under this chapter in order to meet the education requirements imposed by Section 61-2c-204.1 or 61-2c-206 for an individual to obtain a license under this chapter.

~~(jjj)~~ (kk) "Principal lending manager" means an individual:

(i) licensed as a lending manager under Section 61-2c-206; and

(ii) identified in the nationwide database by the individual's sponsoring entity as the entity's principal lending manager.

(II) "Prospective borrower" means a person applying for a mortgage from a person who is required to be licensed under this chapter.

~~(kkk)~~ (mm) "Record" means information that is:

(i) prepared, owned, received, or retained by a person; and

(ii) (A) inscribed on a tangible medium; or

(B) (I) stored in an electronic or other medium; and

(II) in a perceivable and reproducible form.

~~(lll)~~ (nn) "Referral fee":

(i) means any fee, kickback, or thing of value tendered for a referral of business or a service incident to or part of a residential mortgage loan transaction; and

(ii) does not [~~mean a payment made~~] include:

~~[(A) by a licensed entity to an individual employed by the entity;]~~

~~[(B) under a contractual incentive program; and]~~

~~[(C) according to rules made by the division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.]~~

(A) a payment made by a licensed entity to an individual employed by the entity under a contractual incentive program according to rules made by the division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(B) a payment made for reasonable promotional and educational activities that is not conditioned on the referral of business and is not used to pay expenses that a person in a position to refer settlement services or business related to the settlement services would otherwise incur.

~~[(mmm)]~~ (oo) "Residential mortgage loan" means an extension of credit, if:

(i) the loan or extension of credit is secured by a:

(A) mortgage;

(B) deed of trust; or

(C) consensual security interest;

(ii) the mortgage, deed of trust, or consensual security interest described in Subsection (1)~~[(mmm)]~~(oo)(i):

(A) is on a dwelling located in the state; and

(B) is created with the consent of the owner of the residential real property; and

(iii) solely for the purposes of defining "mortgage loan originator," the extension of credit is primarily for personal, family, or household use.

(pp) "Settlement" means the time at which each of the following is complete:

(i) the borrower and, if applicable, the seller sign and deliver to each other or to the escrow or closing office each document required by:

(A) the real estate purchase contract;

(B) the lender;

(C) the title insurance company;

(D) the escrow or closing office;

(E) the written escrow instructions; or

(F) applicable law;

(ii) the borrower delivers to the seller, if applicable, or to the escrow or closing office any money, except for the proceeds of any new loan, that the borrower is required to pay; and

(iii) if applicable, the seller delivers to the buyer or to the escrow or closing office any money that the seller is required to pay.

(qq) “Settlement services” means a service provided in connection with a real estate settlement, including a title search, a title examination, the provision of a title certificate, services related to title insurance, services rendered by an attorney, preparing documents, a property survey, rendering a credit report or appraisal, a pest or fungus inspection, services rendered by a real estate agent or broker, the origination of a federally related mortgage loan, and the processing of a federally related mortgage.

~~[(nn)]~~ (rr) “Sponsorship” means an association in accordance with Section 61-2c-209 between an individual licensed under this chapter and an entity licensed under this chapter.

~~[(oo)]~~ (ss) “State” means:

(i) a state, territory, or possession of the United States;

(ii) the District of Columbia; or

(iii) the Commonwealth of Puerto Rico.

~~[(pp)]~~ (tt) “Unique identifier” ~~[is as]~~ means the same as that term is defined in 12 U.S.C. Sec. 5102.

~~[(qq)]~~ (uu) “Utah-specific” means an educational or examination requirement under this chapter that relates specifically to Utah.

(2) (a) If a term not defined in this section is defined by rule, the term shall have the meaning established by the division by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) If a term not defined in this section is not defined by rule, the term shall have the meaning commonly accepted in the business community.

Section 2. Section 61-2c-105 is amended to read:

61-2c-105. Scope of chapter -- Exemptions.

(1) (a) Except as to an individual who will engage in an activity as a mortgage loan originator, this chapter applies to a closed-end residential mortgage loan secured by a first lien or equivalent security interest on a dwelling.

(b) This chapter does not apply to a transaction covered by Title 70C, Utah Consumer Credit Code.

(2) The following are exempt from this chapter:

(a) the federal government;

(b) a state;

(c) a political subdivision of a state;

(d) an agency of or entity created by a governmental entity described in Subsections (2)(a) through (c) including:

(i) the Utah Housing Corporation created in Title 35A, Chapter 8, Part 7, Utah Housing Corporation Act;

(ii) the Federal National Mortgage Corporation;

(iii) the Federal Home Loan Mortgage Corporation;

(iv) the Federal Deposit Insurance Corporation;

(v) the Resolution Trust Corporation;

(vi) the Government National Mortgage Association;

(vii) the Federal Housing Administration;

(viii) the National Credit Union Administration;

(ix) the Farmers Home Administration; and

(x) the United States Department of Veterans Affairs;

(e) a depository institution;

(f) an entity that controls, is controlled by, or is under common control with a depository institution;

(g) an employee or agent of an entity described in Subsections (2)(a) through (f):

(i) when that person acts on behalf of the entity described in Subsections (2)(a) through (f); and

(ii) including an employee of:

(A) a depository institution;

(B) a subsidiary of a depository institution that is:

(I) owned and controlled by the depository institution; and

(II) regulated by a federal banking agency, as defined in 12 U.S.C. Sec. 5102; or

(C) an institution regulated by the Farm Credit Administration;

(h) except as provided in Subsection (3), a person who:

(i) makes a loan:

(A) secured by an interest in real property;

(B) with the person’s own money; and

(C) for the person’s own investment; and

(ii) that does not engage in the business of making loans secured by an interest in real property;

(i) except as provided in Subsection (3), a person who receives a mortgage, deed of trust, or consensual security interest on real property if the individual or entity:

(i) is the seller of real property; and

(ii) receives the mortgage, deed of trust, or consensual security interest on real property as security for a separate money obligation;

(j) a person who receives a mortgage, deed of trust, or consensual security interest on real property if:

(i) the person receives the mortgage, deed of trust, or consensual security interest as security for an obligation payable on an installment or deferred payment basis;

(ii) the obligation described in Subsection (2)(j)(i) arises from a person providing materials or services used in the improvement of the real property that is the subject of the mortgage, deed of trust, or consensual security interest; and

(iii) the mortgage, deed of trust, or consensual security interest is created without the consent of the owner of the real property that is the subject of the mortgage, deed of trust, or consensual security interest;

(k) a nonprofit corporation that:

(i) (A) is exempt from paying federal income taxes;

~~(ii)~~ (B) is certified by the United States Small Business Administration as a small business investment company;

~~(iii)~~ (C) is organized to promote economic development in this state; and

~~(iv)~~ (D) has as its primary activity providing financing for business expansion; or

(ii) is a community development financial institution;

(l) except as provided in Subsection (3), a court appointed fiduciary; or

(m) an attorney admitted to practice law in this state:

(i) if the attorney is not principally engaged in the business of negotiating residential mortgage loans when considering the attorney's ordinary practice as a whole for all the attorney's clients; and

(ii) when the attorney engages in loan modification assistance in the course of the attorney's practice as an attorney.

(3) An individual who will engage in an activity as a mortgage loan originator is exempt from this chapter only if the individual is an employee or agent exempt under Subsection (2)(g).

(4) (a) Notwithstanding Subsection (2)(m), an attorney exempt from this chapter may not engage in conduct described in Section 61-2c-301 when transacting business of residential mortgage loans.

(b) If an attorney exempt from this chapter violates Subsection (4)(a), the attorney:

(i) is not subject to enforcement by the division under Part 4, Enforcement; and

(ii) may be subject to disciplinary action generally applicable to an attorney admitted to practice law in this state.

(c) If the division receives a complaint alleging an attorney exempt from this chapter is in violation of Subsection (4)(a) or that an attorney subject to this chapter has violated this chapter, the division shall forward the complaint to the Utah State Bar for disciplinary action.

(5) (a) An individual who is exempt under Subsection (2) or (3) may voluntarily obtain a

license under this chapter by complying with Part 2, Licensure.

(b) An individual who voluntarily obtains a license pursuant to this Subsection (5) shall comply with all the provisions of this chapter.

Section 3. Section 61-2c-202 is amended to read:

61-2c-202. Licensure procedures.

(1) To apply for licensure under this chapter an applicant shall in a manner provided by the division by rule:

(a) if the applicant is an entity, submit:

(i) through the nationwide database, a licensure statement that:

~~(i)~~ (A) lists any name under which the entity will transact business in this state;

~~(ii)~~ (B) lists the address of the principal business location of the entity;

~~(iii) identifies the principal lending manager of the entity;~~

~~(iv) contains the signature of the principal lending manager;~~

~~(v) identifies the one or more control persons for the entity;~~

~~(vi) identifies the jurisdictions in which the entity is registered, licensed, or otherwise regulated in the business of residential mortgage loans;~~

~~(vii) discloses any adverse administrative action taken by an administrative agency against:~~

~~(A) the entity; or~~

~~(B) any control person for the entity;~~

~~(viii) discloses any history of criminal proceedings involving any control person for the entity; and~~

(C) identifies each control person for the entity;

(D) identifies each jurisdiction in which the entity is registered, licensed, or otherwise regulated in the business of residential mortgage loans;

(E) discloses any adverse administrative action taken by an administrative agency against the entity or a control person for the entity; and

(F) discloses any history of criminal proceedings that involves a control person of the entity; and

(ii) a notarized letter to the division that:

(A) is on the entity's letterhead;

(B) is signed by the entity's owner, director, or president;

(C) authorizes the principal lending manager to do business under the entity's name and under each of the entity's licensed trade names, if any; and

~~(ix)~~ (D) includes any information required by the division by rule;

(b) if the applicant is an individual:

(i) submit a licensure statement that identifies the entity with which the applicant is sponsored;

(ii) authorize periodic criminal background checks through the nationwide database, at times provided by rule that the division makes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, accessing:

(A) the Utah Bureau of Criminal Identification, if the nationwide database is able to obtain information from the Utah Bureau of Criminal Identification; and

(B) the Federal Bureau of Investigation;

(iii) submit evidence using a method approved by the division by rule of having successfully completed approved prelicensing education in accordance with Section 61-2c-204.1;

(iv) submit evidence using a method approved by the division by rule of having successfully passed any required licensing examination in accordance with Section 61-2c-204.1;

(v) submit evidence using a method approved by the division by rule of having successfully registered in the nationwide database, including paying a fee required by the nationwide database; and

(vi) authorize the division to obtain independent credit reports:

(A) through a consumer reporting agency described in Section 603(p) of the Fair Credit Reporting Act, 15 U.S.C. Sec. 1681a; and

(B) at times provided by rule that the division makes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(c) pay to the division:

(i) an application fee established by the division in accordance with Section 63J-1-504; and

(ii) the reasonable expenses incurred by the division in processing the application for licensure.

(2) (a) Upon receiving an application, the division, with the concurrence of the commission, shall determine whether the applicant:

(i) meets the qualifications for licensure; and

(ii) complies with this section.

(b) If the division, with the concurrence of the commission, determines that an applicant meets the qualifications for licensure and complies with this section, the division shall issue the applicant a license.

(c) If the division, with the concurrence of the commission, determines that the division requires more information to make a determination under Subsection (2)(a), the division may:

(i) hold the application pending further information about an applicant's criminal

background or history related to adverse administrative action in any jurisdiction; or

(ii) issue a conditional license:

(A) pending the completion of a criminal background check; and

(B) subject to probation, suspension, or revocation if the criminal background check reveals that the applicant did not truthfully or accurately disclose on the licensing application a criminal history or other history related to adverse administrative action.

(3) (a) The commission may delegate to the division the authority to:

(i) review a class or category of application for an initial or renewed license;

(ii) determine whether an applicant meets the qualifications for licensure;

(iii) conduct a necessary hearing on an application; and

(iv) approve or deny a license application without concurrence by the commission.

(b) If the commission delegates to the division the authority to approve or deny an application without concurrence by the commission and the division denies an application for licensure, the applicant who is denied licensure may petition the commission for a de novo review of the application.

(c) An applicant who is denied licensure under Subsection (3)(b) may seek agency review by the executive director only after the commission reviews the division's denial of the applicant's application.

(d) Subject to Subsection (3)(c) and in accordance with Title 63G, Chapter 4, Administrative Procedures Act, an applicant who is denied licensure under this chapter may submit a request for agency review to the executive director within 30 days following the day on which the commission order denying the licensure is issued.

Section 4. Section 61-2c-204.1 is amended to read:

61-2c-204.1. Education providers -- Education requirements -- Examination requirements.

(1) As used in this section:

(a) "Approved continuing education course" means a course of continuing education that is approved by the nationwide database or by the division.

(b) "Approved prelicensing education course" means a course of prelicensing education that is approved by the nationwide database or by the division.

(2) (a) A person may not provide Utah-specific prelicensing education or Utah-specific continuing education if that person is not certified by the division under this chapter.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules establishing:

(i) certification criteria and procedures to become a certified education provider; and

(ii) standards of conduct for a certified education provider.

(c) In accordance with the rules described in Subsection (2)(b), the division shall certify a person to provide the education described in Subsection (2)(a).

(d) (i) Upon request, the division shall make available to the public a list of the names and addresses of certified education providers either directly or through a third party.

(ii) A person who requests a list under this Subsection (2)(d) shall pay the costs incurred by the division to make the list available.

(e) In certifying a person as a certified education provider, the division by rule may:

(i) distinguish between an individual instructor and an entity that provides education; or

(ii) approve:

(A) Utah-specific preclicensing education; or

(B) Utah-specific continuing education courses.

(3) (a) The division may not:

(i) license an individual under this chapter as a mortgage loan originator who has not completed the preclicensing education required by this section:

(A) before taking the one or more licensing examinations required by Subsection (4);

(B) in the number of hours, not to exceed 90 hours, required by rule made by the division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(C) that includes the preclicensing education required by federal licensing regulations;

(ii) subject to Subsection (6), renew a license of an individual who has not completed the continuing education required by this section and Section 61-2c-205:

(A) in the number of hours required by rule made by the division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(B) that includes the continuing education required by federal licensing regulations; or

(iii) license an individual under this chapter as a lending manager who has not completed the preclicensing education required by Section 61-2c-206 before taking the licensing examination required by Section 61-2c-206.

(b) Subject to Subsection (3)(a) and with the concurrence of the division, the commission shall determine:

(i) except as provided in Subsection 61-2c-206(1)(b), the appropriate number of hours of preclicensing education required to obtain a license;

(ii) the subject matters of the preclicensing education required under this section and Section 61-2c-206, including online education or distance learning options;

(iii) the appropriate number of hours of continuing education required to renew a license; and

(iv) the subject matter of courses the division may accept for continuing education purposes.

(c) The commission may appoint a committee to make recommendations to the commission concerning approval of preclicensing education and continuing education courses, except that the commission shall appoint at least one member to the committee to represent each association that represents a significant number of individuals licensed under this chapter.

(d) The division may by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, provide for the calculation of continuing education credits, except that the rules shall be consistent with 12 U.S.C. Sec. 5105.

(4) (a) The division may not license an individual under this chapter unless that individual first passes the one or more licensing examinations that:

(i) are adopted by the division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(ii) meet the minimum federal licensing requirements; and

(iii) are administered by an approved examination provider.

(b) The commission, with the concurrence of the division, shall determine the requirements for:

(i) a licensing examination that at least:

(A) meets the minimum federal licensing requirements; and

(B) tests knowledge of the:

(I) fundamentals of the English language;

(II) arithmetic;

(III) provisions of this chapter;

(IV) rules adopted under this chapter;

(V) basic residential mortgage principles and practices; and

(VI) any other aspect of Utah law the commission determines is appropriate; and

(ii) a licensing examination required under Section 61-2c-206 that:

(A) meets the requirements of Subsection (4)(b)(i); and

(B) tests knowledge of the:

(I) advanced residential mortgage principles and practices; and

(II) other aspects of Utah law the commission, with the concurrence of the division, determines appropriate.

(c) An individual who will engage in an activity as a mortgage loan originator, is not considered to have passed a licensing examination if that individual has not met the minimum competence requirements of 12 U.S.C. Sec. 5104(d)(3).

(5) When reasonably practicable, the commission and the division shall make the Utah-specific education requirements described in this section available electronically through one or more distance education methods approved by the commission and division.

(6) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission, with the concurrence of the division, shall make rules establishing procedures under which a licensee may be exempted from a Utah-specific continuing education requirement:

- (i) for a period not to exceed four years; and
- (ii) upon a finding of reasonable cause.

(b) An individual who engages in an activity as a mortgage loan originator may not under this Subsection (6) be exempted from the minimum continuing education required under federal licensing regulations for an individual who engages in an activity as a mortgage loan originator.

Section 5. Section 61-2c-206 is amended to read:

61-2c-206. Lending manager licenses.

(1) To qualify for licensure as a lending manager under this chapter, an individual shall:

- (a) meet the standards in Section 61-2c-203;
- (b) successfully complete the following education:
 - (i) mortgage loan originator prelicensing education as required by federal licensing regulations; and
 - (ii) 40 hours of Utah-specific prelicensing education for a lending manager that is approved by the division under Section 61-2c-204.1;
- (c) successfully complete the following examinations:
 - (i) the mortgage loan originator licensing examination, including the national and state components, as approved by the nationwide database; and
 - (ii) the lending manager licensing examination approved by the commission under Section 61-2c-204.1;

(d) submit proof, on a form approved by the division, of three years of full-time active experience as a mortgage loan originator licensed in any state in the five years preceding the day on which the application is submitted, or equivalent

experience as approved by the commission pursuant to rule that the division makes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(e) submit an application in a manner established by the division by rule;

(f) establish sponsorship with an entity licensed under this chapter;

(g) submit to the criminal background check required by Subsection 61-2c-202(1)(b); and

(h) pay a fee determined by the division under Section 63J-1-504.

(2) A lending manager may not:

(a) engage in the business of residential mortgage loans on behalf of more than one entity at the same time;

(b) be sponsored by more than one entity at the same time; or

(c) act simultaneously as the principal lending manager and branch lending manager for the individual's sponsoring entity, ~~[if the entity operates from more than one office.]~~ unless:

(i) the sponsoring entity does not originate Utah residential mortgage loans from the sponsoring entity's location; and

(ii) the sponsoring entity originates Utah residential mortgage loans from no more than one branch location.

(3) An individual who is a lending manager may:

(a) transact the business of residential mortgage loans as a mortgage loan originator; and

(b) be designated within the nationwide database to act for the individual's sponsoring entity as the principal lending manager, an associate lending manager, or a branch lending manager.

Section 6. Section 61-2c-301 is amended to read:

61-2c-301. Prohibited conduct -- Violations of the chapter.

(1) A person transacting the business of residential mortgage loans in this state may not:

(a) give or receive a referral fee, other compensation, or anything of value in exchange for a referral of residential mortgage loan business;

(b) charge a fee in connection with a residential mortgage loan transaction:

(i) that is excessive; or

(ii) without providing to the loan applicant a written statement signed by the loan applicant:

(A) stating whether or not the fee or deposit is refundable; and

(B) describing the conditions, if any, under which all or a portion of the fee or deposit will be refunded to the loan applicant;

(c) give or receive compensation or anything of value in exchange for a referral of settlement or loan

closing services related to a residential mortgage loan transaction;

(d) do any of the following ~~[to induce a lender to extend credit]~~ as part of a residential mortgage loan transaction, regardless of whether the residential mortgage loan closes:

- (i) make a false statement or representation;
- (ii) cause false documents to be generated; or
- (iii) knowingly permit false information to be submitted by any party;

(e) give or receive compensation or anything of value, or withhold or threaten to withhold payment of an appraiser fee, to influence the independent judgment of an appraiser in reaching a value conclusion in a residential mortgage loan transaction, except that it is not a violation of this section for a licensee to withhold payment because of a bona fide dispute regarding a failure of the appraiser to comply with the licensing law or the Uniform Standards of Professional Appraisal Practice;

(f) violate or not comply with:

- (i) this chapter;
 - (ii) an order of the commission or division; or
 - (iii) a rule made by the division;
- (g) fail to respond within the required time period to:

- (i) a notice or complaint of the division; or
 - (ii) a request for information from the division;
- (h) make false representations to the division, including in a licensure statement;

(i) for a residential mortgage loan transaction beginning on or after January 1, 2004, engage in the business of residential mortgage loans with respect to the transaction if the person also acts in any of the following capacities with respect to the same residential mortgage loan transaction:

- (i) appraiser;
- (ii) escrow agent;
- (iii) real estate agent;
- (iv) general contractor; or
- (v) title insurance producer;

~~[(j) order a title insurance report or hold a title insurance policy unless the person provides to the title insurer a copy of a valid, current license under this chapter;]~~

~~[(k)]~~ (j) engage in unprofessional conduct as defined by rule;

(4) (k) engage in an act or omission in transacting the business of residential mortgage loans that constitutes dishonesty, fraud, or misrepresentation;

~~[(m)]~~ (l) engage in false or misleading advertising;

~~[(n)]~~ (m) (i) fail to account for money received in connection with a residential mortgage loan;

(ii) use money for a different purpose from the purpose for which the money is received; or

(iii) except as provided in Subsection (4), retain money paid for services if the services are not performed;

~~[(o) fail, within 90 calendar days of a request from a borrower who has paid for an appraisal, to give a copy of an appraisal ordered and used for a transaction to the borrower;]~~

(n) fail to provide a prospective borrower a copy of each appraisal and any other written valuation developed in connection with an application for credit that is to be secured by a first lien on a dwelling in accordance with Subsection (5);

~~[(p)]~~ (o) engage in an act that is performed to:

- (i) evade this chapter; or
- (ii) assist another person to evade this chapter;

~~[(q)]~~ (p) recommend or encourage default, delinquency, or continuation of an existing default or delinquency, by a mortgage applicant on an existing indebtedness before the closing of a residential mortgage loan that will refinance all or part of the indebtedness;

~~[(r)]~~ (q) in the case of the lending manager of an entity or a branch office of an entity, fail to exercise reasonable supervision over the activities of:

- (i) unlicensed staff; ~~[and]~~ or
- (ii) a mortgage loan originator who is affiliated with the lending manager;

~~[(s)]~~ (r) pay or offer to pay an individual who does not hold a license under this chapter for work that requires the individual to hold a license under this chapter;

(4) (s) in the case of a dual licensed title licensee as defined in Section 31A-2-402:

- (i) provide a title insurance product or service without the approval required by Section 31A-2-405; or
- (ii) knowingly provide false or misleading information in the statement required by Subsection 31A-2-405(2);

~~[(u)]~~ (t) represent to the public that the person can or will perform any act of a mortgage loan originator if that person is not licensed under this chapter because the person is exempt under Subsection 61-2c-102(1)(h)(ii)(A), including through:

- (i) advertising;
- (ii) a business card;
- (iii) stationery;
- (iv) a brochure;
- (v) a sign;
- (vi) a rate list; or
- (vii) other promotional item; or

~~(v)~~ (u) engage in an act of loan modification assistance without being licensed under this chapter;

(ii) engage in an act of foreclosure rescue that requires licensure as a real estate agent or real estate broker under Chapter 2, Division of Real Estate, without being licensed under that chapter;

(iii) engage in an act of loan modification assistance without entering into a written agreement specifying which one or more acts of loan modification assistance will be completed;

(iv) request or require a person to pay a fee before obtaining:

(A) a written offer for a loan modification from the person's lender or servicer; and

(B) the person's written acceptance of the offer from the lender or servicer;

(v) induce a person seeking a loan modification to hire the licensee to engage in an act of loan modification assistance by:

(A) suggesting to the person that the licensee has a special relationship with the person's lender or loan servicer; or

(B) falsely representing or advertising that the licensee is acting on behalf of:

(I) a government agency;

(II) the person's lender or loan servicer; or

(III) a nonprofit or charitable institution;

(vi) recommend or participate in a loan modification that requires a person to:

(A) transfer title to real property to the licensee or to a third-party with whom the licensee has a business relationship or financial interest;

(B) make a mortgage payment to a person other than the person's loan servicer; or

(C) refrain from contacting the person's:

(I) lender;

(II) loan servicer;

(III) attorney;

(IV) credit counselor; or

(V) housing counselor; or

(vii) for an agreement for loan modification assistance entered into on or after May 11, 2010, engage in an act of loan modification assistance without offering in writing to the person entering into the agreement for loan modification assistance a right to cancel the agreement within three business days after the day on which the person enters the agreement.

(2) Whether or not the crime is related to the business of residential mortgage loans, it is a violation of this chapter for a licensee or a person who is a certified education provider to do any of the

following with respect to a criminal offense that involves moral turpitude:

(a) be convicted;

(b) plead guilty or nolo contendere;

(c) enter a plea in abeyance; or

(d) be subjected to a criminal disposition similar to the ones described in Subsections (2)(a) through (c).

(3) A lending manager does not violate Subsection (1)~~(a)~~(q) if:

(a) in contravention of the lending manager's written policies and instructions, an affiliated licensee of the lending manager violates:

(i) this chapter; or

(ii) rules made by the division under this chapter;

(b) the lending manager established and followed reasonable procedures to ensure that affiliated licensees receive adequate supervision;

(c) upon learning of a violation by an affiliated licensee, the lending manager attempted to prevent or mitigate the damage;

(d) the lending manager did not participate in or ratify the violation by an affiliated licensee; and

(e) the lending manager did not attempt to avoid learning of the violation.

(4) Notwithstanding Subsection (1)~~(a)~~(m)(iii), a licensee may, upon compliance with Section 70D-2-305, charge a reasonable cancellation fee for work done originating a mortgage if the mortgage is not closed.

(5) (a) Except as provided in Subsection (5)(b), a person transacting the business of residential mortgage loans in this state shall provide a prospective borrower a copy of each appraisal and any other written valuation developed in connection with an application for credit that is to be secured by a first lien on a dwelling on or before the earlier of:

(i) as soon as reasonably possible after the appraisal or other valuation is complete; or

(ii) three business days before the day of the settlement.

(b) Subject to Subsection (5)(c), unless otherwise prohibited by law, a prospective borrower may waive the timing requirement described in Subsection (5)(a) and agree to receive each appraisal and any other written valuation:

(i) less than three business days before the day of the settlement; or

(ii) at the settlement.

(c) (i) Except as provided in Subsection (5)(c)(ii), a prospective borrower shall submit a waiver described in Subsection (5)(b) at least three business days before the day of the settlement.

(ii) Subsection (5)(b) does not apply if the waiver only pertains to a copy of an appraisal or other

written valuation that contains only clerical changes from a previous version of the appraisal or other written valuation and the prospective borrower received a copy of the original appraisal or other written valuation at least three business days before the day of the settlement.

(d) If a prospective borrower submits a waiver described in Subsection (5)(b) and the transaction never completes, the person transacting the business of residential mortgage loans shall provide a copy of each appraisal or any other written valuation to the applicant no later than 30 days after the day on which the person knows the transaction will not complete.

Section 7. Section 61-2e-204 is amended to read:

61-2e-204. Renewal of a registration.

(1) (a) A registration under this chapter expires two years from the day on which the registration is filed approved.

(b) Notwithstanding Subsection (1)(a), the time period of a registration may be extended or shortened by as much as one year to maintain or change a renewal cycle established by rule by the division.

(2) To renew a registration under this chapter, before the day on which the registration expires, an appraisal management company shall:

(a) file with the division a renewal registration application on a form prescribed by the division;

(b) pay to the division a fee determined in accordance with Section 63J-1-504; and

(c) file with the division a certificate evidencing that the appraisal management company has secured and will maintain a surety bond with one or more corporate sureties authorized to do business in the state in the amount of at least \$25,000, as the division provides by rule.

(3) (a) An appraisal management company's registration is immediately and automatically suspended if:

(i) the appraisal management company's surety bond lapses or is cancelled during the time period described in Subsection (1); and

(ii) the appraisal management company fails to obtain or reinstate a surety bond within 30 days after the day on which the surety bond lapses or is cancelled.

(b) To reinstate a registration suspended under Subsection (3)(a), the appraisal company shall provide evidence to the division that the appraisal company is in compliance with the surety bond requirement described in this section.

[3] (4) A renewal registration application shall include substantially similar information to the information required under Section 61-2e-202, except that for an individual described in

Subsection 61-2e-202(2)(e) or (g), the entity is required to report whether the individual has had:

(a) (i) a conviction of a criminal offense;

(ii) the entry of a plea in abeyance to a criminal offense; or

(iii) the potential resolution of a criminal case by:

(A) a diversion agreement; or

(B) another agreement under which a criminal charge is held in suspense for a period of time;

(b) a filing of personal bankruptcy or bankruptcy of a business that transacts the appraisal management services;

(c) the suspension, revocation, surrender, cancellation, or denial of a professional license or certification, whether the license or registration is issued by this state or another jurisdiction; or

(d) the entry of a cease and desist order or a temporary or permanent injunction:

(i) against the individual by a court or government agency; and

(ii) on the basis of:

(A) conduct or a practice involving the business of appraisal management services; or

(B) conduct involving fraud, misrepresentation, or deceit.

[4] (5) A registration expires if it is not renewed on or before its expiration date, except that for a period of one year after the expiration date, the registration may be reinstated upon compliance with this section, including payment of a renewal fee and a late fee determined by the division and the board.

[5] (6) Notwithstanding Subsection [4] (5), the division may extend the term of a license that would expire under Subsection [4] (5) except for the extension if:

(a) (i) the person complies with the requirements of this section to renew the registration; and

(ii) the renewal application remains pending at the time of the extension; or

(b) at the time of the extension, there is pending under this chapter a disciplinary action.

Section 8. Section 61-2e-303 is amended to read:

61-2e-303. Recordkeeping.

(1) An appraisal management company required to be registered under this chapter shall:

(a) maintain a detailed record of the following for the same time period an appraiser is required to maintain an appraisal record for the same real estate appraisal activity:

[a] (i) a real estate appraisal activity request that the appraisal management company receives; and

~~(b)~~ (ii) the appraiser that performs the real estate appraisal activity described in Subsection (1) for the appraisal management company~~[-]; and~~

(b) retain for at least five years any file reviewed by the appraisal management company in accordance with Section 61-2e-302 and any documents that relate to the review, including:

(i) the appraisal;

(ii) any documentation of the review; and

(iii) any correspondence that relates to the review.

(2) As part of the registration process under Part 2, Registration, an appraisal management company shall biennially provide an explanation of its recordkeeping described in Subsection (1) in the form prescribed by the division.

Section 9. Section 61-2f-202 is amended to read:

61-2f-202. Exempt persons and transactions.

(1) (a) Except as provided in Subsection (1)(b), a license under this chapter is not required for:

(i) an individual who as owner or lessor performs an act described in Subsection 61-2f-102(18) with reference to real estate owned or leased by that individual;

(ii) a regular salaried employee of the owner or lessor of real estate who, with reference to nonresidential real estate owned or leased by the employer, performs an act described in Subsection 61-2f-102(18)(a) or (b);

(iii) a regular salaried employee of the owner of real estate who performs property management services with reference to real estate owned by the employer, except that the employee may only manage real estate for one employer;

(iv) an individual who performs property management services for the apartments at which that individual resides in exchange for free or reduced rent on that individual's apartment;

(v) a regular salaried employee of a condominium homeowners' association who manages real estate subject to the declaration of condominium that established the condominium homeowners' association, except that the employee may only manage real estate for one condominium homeowners' association; and

(vi) a regular salaried employee of a licensed property management company or real estate brokerage who performs support services, as prescribed by rule, for the property management company or real estate brokerage.

(b) Subsection (1)(a) does not exempt from licensing:

(i) an employee engaged in the sale of real estate regulated under:

(A) Title 57, Chapter 11, Utah Uniform Land Sales Practices Act; or

(B) Title 57, Chapter 19, Timeshare and Camp Resort Act;

(ii) an employee engaged in the sale of cooperative interests regulated under Title 57, Chapter 23, Real Estate Cooperative Marketing Act; or

(iii) an individual whose interest as an owner or lessor is obtained by that individual or transferred to that individual for the purpose of evading the application of this chapter, and not for another legitimate business reason.

(2) A license under this chapter is not required for:

(a) an isolated transaction or service by an individual holding a duly executed power of attorney from a property owner;

(b) services rendered by an attorney admitted to practice law in this state in performing the attorney's duties as an attorney;

(c) a receiver, trustee in bankruptcy, administrator, executor, or an individual acting under order of a court;

(d) a trustee or employee of a trustee under a deed of trust or a will;

(e) a public utility, officer of a public utility, or regular salaried employee of a public utility, unless performance of an act described in Subsection 61-2f-102(18) is in connection with the sale, purchase, lease, or other disposition of real estate or investment in real estate unrelated to the principal business activity of that public utility;

(f) a regular salaried employee or authorized agent working under the oversight of the Department of Transportation when performing an act on behalf of the Department of Transportation in connection with one or more of the following:

(i) the acquisition of real estate pursuant to Section 72-5-103;

(ii) the disposal of real estate pursuant to Section 72-5-111;

(iii) services that constitute property management; or

(iv) the leasing of real estate; and

(g) a regular salaried employee of a county, city, or town when performing an act on behalf of the county, city, or town:

(i) in accordance with:

(A) if a regular salaried employee of a city or town:

(I) Title 10, Utah Municipal Code; or

(II) Title 11, Cities, Counties, and Local Taxing Units; and

(B) if a regular salaried employee of a county:

(I) Title 11, Cities, Counties, and Local Taxing Units; and

(II) Title 17, Counties; and

(ii) in connection with one or more of the following:

(A) the acquisition of real estate, including by eminent domain;

(B) the disposal of real estate;

(C) services that constitute property management; or

(D) the leasing of real estate.

(3) A license under this chapter is not required for an individual registered to act as a broker-dealer, agent, or investment adviser under the Utah and federal securities laws in the sale or the offer for sale of real estate if:

(a) (i) the real estate is a necessary element of a "security" as that term is defined by the Securities Act of 1933 and the Securities Exchange Act of 1934; and

(ii) the security is registered for sale in accordance with:

(A) the Securities Act of 1933; or

(B) Title 61, Chapter 1, Utah Uniform Securities Act; or

(b) (i) it is a transaction in a security for which a Form D, described in 17 C.F.R. Sec. 239.500, has been filed with the Securities and Exchange Commission pursuant to Regulation D, Rule 506, 17 C.F.R. Sec. 230.506; and

(ii) the selling agent and the purchaser are not residents of this state.

(4) As used in this section, "owner" does not include:

(a) a person who holds an option to purchase real property;

(b) a mortgagee;

(c) a beneficiary under a deed of trust;

(d) a trustee under a deed of trust; or

(e) a person who owns or holds a claim that encumbers any real property or an improvement to the real property.

Section 10. Section 61-2f-303 is amended to read:

61-2f-303. Sale agents or associate broker -- Affiliated with principal broker as independent contractors or employees -- Presumption.

(1) (a) A sales agent or associate broker may be affiliated with a principal broker either as an independent contractor or as an employee.

(b) The relationship between sales agent or associate broker and principal broker is presumed to be an independent contractor relationship unless there is clear and convincing evidence that the

relationship was intended by the parties to be an employer employee relationship.

(2) The presumption of an independent contractor relationship extends to all of the duties and services that the sales agent or associate broker performs, including the preparation and receipt of payment for a broker price opinion.

Section 11. Section 61-2f-401 is amended to read:

61-2f-401. Grounds for disciplinary action.

The following acts are unlawful for a person licensed or required to be licensed under this chapter:

(1) (a) making a substantial misrepresentation;

(b) making an intentional misrepresentation;

(c) pursuing a continued and flagrant course of misrepresentation;

(d) making a false representation or promise through an agent, sales agent, advertising, or otherwise; or

(e) making a false representation or promise of a character likely to influence, persuade, or induce;

(2) acting for more than one party in a transaction without the informed consent of the parties;

(3) (a) acting as an associate broker or sales agent while not affiliated with a principal broker;

(b) representing or attempting to represent a principal broker other than the principal broker with whom the person is affiliated; or

(c) representing as sales agent or having a contractual relationship similar to that of sales agent with a person other than a principal broker;

(4) (a) failing, within a reasonable time, to account for or to remit money that belongs to another and comes into the person's possession;

(b) commingling money described in Subsection (4)(a) with the person's own money; or

(c) diverting money described in Subsection (4)(a) from the purpose for which the money is received;

(5) paying or offering to pay valuable consideration, as defined by the commission, to a person not licensed under this chapter, except that valuable consideration may be shared:

(a) with a principal broker of another jurisdiction; or

(b) as provided under:

(i) Title 16, Chapter 10a, Utah Revised Business Corporation Act;

(ii) Title 16, Chapter 11, Professional Corporation Act; or

(iii) Title 48, Chapter 2c, Utah Revised Limited Liability Company Act, or Title 48, Chapter 3a, Utah Revised Uniform Limited Liability Company Act, as appropriate pursuant to Section 48-3a-1405;

(6) for a principal broker, paying or offering to pay a sales agent or associate broker who is not affiliated with the principal broker at the time the sales agent or associate broker earned the compensation;

(7) being incompetent to act as a principal broker, associate broker, or sales agent in such manner as to safeguard the interests of the public;

(8) failing to voluntarily furnish a copy of a document to the parties before and after the execution of a document;

(9) failing to keep and make available for inspection by the division a record of each transaction, including:

(a) the names of buyers and sellers or lessees and lessors;

(b) the identification of real estate;

(c) the sale or rental price;

(d) money received in trust;

(e) agreements or instructions from buyers and sellers or lessees and lessors; and

(f) any other information required by rule;

(10) failing to disclose, in writing, in the purchase, sale, or rental of real estate, whether the purchase, sale, or rental is made for that person or for an undisclosed principal;

(11) being convicted of a criminal offense involving moral turpitude within five years of the most recent application:

(a) regardless of whether the criminal offense is related to real estate; and

(b) including:

(i) a conviction based upon a plea of *nolo contendere*; or

(ii) a plea held in abeyance to a criminal offense involving moral turpitude;

(12) advertising the availability of real estate or the services of a licensee in a false, misleading, or deceptive manner;

(13) in the case of a principal broker or a licensee who is a branch manager, failing to exercise reasonable supervision over the activities of the principal broker's or branch manager's licensed or unlicensed staff;

(14) violating or disregarding:

(a) this chapter;

(b) an order of the commission; or

(c) the rules adopted by the commission and the division;

(15) breaching a fiduciary duty owed by a licensee to the licensee's principal in a real estate transaction;

(16) any other conduct which constitutes dishonest dealing;

(17) unprofessional conduct as defined by statute or rule;

(18) having one of the following suspended, revoked, surrendered, or cancelled on the basis of misconduct in a professional capacity that relates to character, honesty, integrity, or truthfulness:

(a) a real estate license, registration, or certificate issued by another jurisdiction; or

(b) another license, registration, or certificate to engage in an occupation or profession issued by this state or another jurisdiction;

(19) failing to respond to a request by the division in an investigation authorized under this chapter, including:

(a) failing to respond to a subpoena;

(b) withholding evidence; or

(c) failing to produce documents or records;

(20) in the case of a dual licensed title licensee as defined in Section 31A-2-402:

(a) providing a title insurance product or service without the approval required by Section 31A-2-405; or

(b) knowingly providing false or misleading information in the statement required by Subsection 31A-2-405(2);

(21) violating an independent contractor agreement between a principal broker and a sales agent or associate broker as evidenced by a final judgment of a court; or

(22) (a) engaging in an act of loan modification assistance that requires licensure as a mortgage officer under Chapter 2c, Utah Residential Mortgage Practices and Licensing Act, without being licensed under that chapter;

(b) engaging in an act of foreclosure rescue without entering into a written agreement specifying what one or more acts of foreclosure rescue will be completed;

(c) inducing a person who is at risk of foreclosure to hire the licensee to engage in an act of foreclosure rescue by:

(i) suggesting to the person that the licensee has a special relationship with the person's lender or loan servicer; or

(ii) falsely representing or advertising that the licensee is acting on behalf of:

(A) a government agency;

(B) the person's lender or loan servicer; or

(C) a nonprofit or charitable institution; or

(d) recommending or participating in a foreclosure rescue that requires a person to:

(i) transfer title to real estate to the licensee or to a third-party with whom the licensee has a business relationship or financial interest;

(ii) make a mortgage payment to a person other than the person's loan servicer; or

(iii) refrain from contacting the person's:

(A) lender;

(B) loan servicer;

(C) attorney;

(D) credit counselor; or

(E) housing counselor[-];

(23) as a principal broker, placing a lien on real property, unless authorized by law; or

(24) as a sales agent or associate broker, placing a lien on real property for an unpaid commission or other compensation related to real estate brokerage services.

CHAPTER 263**H. B. 232**

Passed March 6, 2015

Approved March 27, 2015

Effective May 12, 2015

**VETERAN EMPLOYMENT
PROTECTION ACT**Chief Sponsor: Mike K. McKell
Senate Sponsor: Curtis S. Bramble**LONG TITLE****General Description:**

This bill allows private, non-public employers to create a voluntary, written veterans employment preference program.

Highlighted Provisions:

This bill:

- ▶ authorizes private sector, non-public employers to create a voluntary veteran employment preference program;
- ▶ provides requirements;
- ▶ clarifies program relationship with antidiscrimination laws; and
- ▶ specifies verification of eligibility.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

34-49-101, Utah Code Annotated 1953
34-49-102, Utah Code Annotated 1953
34-49-103, Utah Code Annotated 1953
34-49-104, Utah Code Annotated 1953
34-49-105, Utah Code Annotated 1953

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

Section 1. Section 34-49-101 is enacted to read:**CHAPTER 49. VETERANS PREFERENCE
IN PRIVATE EMPLOYMENT ACT****34-49-101. (Codified as 34-50-101) Title.**

This chapter is known as the "Veterans Preference in Private Employment Act."

Section 2. Section 34-49-102 is enacted to read:**34-49-102. (Codified as 34-50-102)****Definitions.**

As used in this chapter:

(1) "DD 214" means the United States Department of Defense Certificate of Release or Discharge from Active Duty.

(2) "Department" means the same as that term is defined in Section 71-11-2.

(3) "Preference eligible" means the same as that term is defined in Section 71-10-1.

(4) "Private employer" means the same as that term is defined in Section 63G-12-102.

(5) "Veteran" means the same as that term is defined in Section 71-10-1.

Section 3. Section 34-49-103 is enacted to read:**34-49-103. (Codified as 34-50-103)****Voluntary veterans preference employment policy -- Private employment -- Antidiscrimination requirements.**

(1) A private sector employer may create a veterans employment preference policy.

(2) The veterans employment preference policy shall be:

(a) in writing; and

(b) applied uniformly to employment decisions regarding hiring, promotion, or retention including during a reduction in force.

(3) A private employer may require a veteran to submit a DD 214 form to be eligible for the preference.

(4) A private employer's veterans employment preference policy shall be publicly posted by the employer at the place of employment or on the Internet if the employer has a website or uses the Internet to advertise employment opportunities.

Section 4. Section 34-49-104 is enacted to read:**34-49-104. (Codified as 34-50-104)****Antidiscrimination act.**

The granting of a veterans preference by a private employer in accordance with this chapter is not a violation of:

(1) Title 34A, Chapter 5, Utah Antidiscrimination Act; or

(2) any other state or local equal employment opportunity law.

Section 5. Section 34-49-105 is enacted to read:**34-49-105. (Codified as 34-50-105)****Verification of eligibility.**

The department and the Department of Workforces Services may assist, as permitted under state and federal laws governing privacy, a private employer in verifying if an applicant is a veteran.

CHAPTER 264**H. B. 234**

Passed March 4, 2015
 Approved March 27, 2015
 Effective May 12, 2015

**LOBBYIST DISCLOSURE AND
REGULATION ACT MODIFICATIONS**

Chief Sponsor: Mike K. McKell
 Senate Sponsor: Curtis S. Bramble

LONG TITLE**General Description:**

This bill amends provisions of the Lobbyist Disclosure and Regulation Act relating to expenditures.

Highlighted Provisions:

This bill:

- ▶ exempts certain publications from the definition of an expenditure; and
- ▶ describes the manner in which a public official may dispose of certain publications that constitute an expenditure.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

36-11-102, as last amended by Laws of Utah 2014, Chapter 335

ENACTS:

36-11-304.5, Utah Code Annotated 1953

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

Section 1. Section 36-11-102 is amended to read:**36-11-102. Definitions.**

As used in this chapter:

(1) "Aggregate daily expenditures" means:

(a) for a single lobbyist, principal, or government officer, the total of all expenditures made within a calendar day by the lobbyist, principal, or government officer for the benefit of an individual public official;

(b) for an expenditure made by a member of a lobbyist group, the total of all expenditures made within a calendar day by every member of the lobbyist group for the benefit of an individual public official; or

(c) for a multiclient lobbyist, the total of all expenditures made by the multiclient lobbyist within a calendar day for the benefit of an individual public official, regardless of whether the expenditures were attributed to different clients.

(2) "Approved meeting or activity" means a meeting or activity:

(a) (i) to which a legislator is invited; and

(ii) attendance at which is approved by:

(A) the speaker of the House of Representatives, if the public official is a member of the House of Representatives; or

(B) the president of the Senate, if the public official is a member of the Senate; or

(b) (i) to which a public official who holds a position in the executive branch of state government is invited; and

(ii) attendance at which is approved by the governor or the lieutenant governor.

(3) "Capitol hill complex" ~~is as~~ means the same as that term is defined in Section 63C-9-102.

(4) (a) "Compensation" means anything of economic value, however designated, that is paid, loaned, granted, given, donated, or transferred to an individual for the provision of services or ownership before any withholding required by federal or state law.

(b) "Compensation" includes:

(i) a salary or commission;

(ii) a bonus;

(iii) a benefit;

(iv) a contribution to a retirement program or account;

(v) a payment includable in gross income, as defined in Section 62, Internal Revenue Code, and subject to Social Security deductions, including a payment in excess of the maximum amount subject to deduction under Social Security law;

(vi) an amount that the individual authorizes to be deducted or reduced for salary deferral or other benefits authorized by federal law; or

(vii) income based on an individual's ownership interest.

(5) "Compensation payor" means a person who pays compensation to a public official in the ordinary course of business:

(a) because of the public official's ownership interest in the compensation payor; or

(b) for services rendered by the public official on behalf of the compensation payor.

(6) "Executive action" means:

(a) a nomination or appointment by the governor;

(b) the proposal, drafting, amendment, enactment, or defeat by a state agency of a rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(c) agency ratemaking proceedings; or

(d) an adjudicative proceeding of a state agency.

(7) (a) "Expenditure" means any of the items listed in this Subsection (7)(a) when given to or for the benefit of a public official unless consideration of equal or greater value is received:

- (i) a purchase, payment, or distribution;
 - (ii) a loan, gift, or advance;
 - (iii) a deposit, subscription, or forbearance;
 - (iv) services or goods;
 - (v) money;
 - (vi) real property;
 - (vii) a ticket or admission to a sporting, recreational, or artistic event; or
 - (viii) a contract, promise, or agreement, whether or not legally enforceable, to provide any item listed in Subsections (7)(a)(i) through (vii).
- (b) "Expenditure" does not mean:
- (i) a commercially reasonable loan made in the ordinary course of business;
 - (ii) a campaign contribution reported in accordance with Title 20A, Chapter 11, Campaign and Financial Reporting Requirements;
 - (iii) printed informational material that is related to the performance of the recipient's official duties;
 - (iv) a devise or inheritance;
 - (v) any item listed in Subsection (7)(a) if:
 - (A) given by a relative;
 - (B) given by a compensation payor for a purpose solely unrelated to the public official's position as a public official; or
 - (C) (I) the item has a value of less than \$10; and
 - (II) the aggregate daily expenditures do not exceed \$10;
 - (vi) food or beverage that is provided at an event to which the following are invited:
 - (A) all members of the Legislature;
 - (B) all members of a standing or interim committee;
 - (C) all members of an official legislative task force;
 - (D) all members of a party caucus; or
 - (E) all members of a group described in Subsections (7)(b)(vi)(A) through (D) who are attending a meeting of a national organization whose primary purpose is addressing general legislative policy;
 - (vii) food or beverage that is provided at an event to a public official who is:
 - (A) giving a speech at the event;
 - (B) participating in a panel discussion at the event; or
 - (C) presenting or receiving an award at the event;

- (viii) a plaque, commendation, or award presented in public and having a cash value not exceeding \$50;
 - (ix) a publication having a cash value not exceeding \$30;
 - ~~(ix)~~ (x) admission to or attendance at an event, the primary purpose of which is:
 - (A) to solicit contributions reportable under:
 - (I) Title 20A, Chapter 11, Campaign and Financial Reporting Requirements; or
 - (II) 2 U.S.C. Sec. 434; or
 - (B) charitable solicitation, as defined in Section 13-22-2;
 - ~~(x)~~ (xi) travel to, lodging at, food or beverage served at, and admission to an approved meeting or activity;
 - ~~(xi)~~ (xii) sponsorship of an official event or official entertainment of an approved meeting or activity;
 - ~~(xii)~~ (xiii) notwithstanding Subsection (7)(a)(vii), admission to or attendance at an event:
 - (A) that is sponsored by a governmental entity; or
 - (B) that is widely attended and related to a governmental duty of a public official; or
 - ~~(xiii)~~ (xiv) travel to a widely attended event related to a governmental duty of a public official if that travel results in a financial savings to the state.
- (8) (a) "Government officer" means:
- (i) an individual elected to a position in state or local government, when acting within the government officer's official capacity; or
 - (ii) an individual appointed to or employed in a full-time position by state or local government, when acting within the scope of the individual's employment.
- (b) "Government officer" does not mean a member of the legislative branch of state government.
- (9) "Immediate family" means:
- (a) a spouse;
 - (b) a child residing in the household; or
 - (c) an individual claimed as a dependent for tax purposes.
- (10) "Legislative action" means:
- (a) a bill, resolution, amendment, nomination, veto override, or other matter pending or proposed in either house of the Legislature or its committees or requested by a legislator; and
 - (b) the action of the governor in approving or vetoing legislation.
- (11) "Lobbying" means communicating with a public official for the purpose of influencing the passage, defeat, amendment, or postponement of legislative or executive action.

(12) (a) "Lobbyist" means:

(i) an individual who is employed by a principal; or

(ii) an individual who contracts for economic consideration, other than reimbursement for reasonable travel expenses, with a principal to lobby a public official.

(b) "Lobbyist" does not include:

(i) a government officer;

(ii) a member or employee of the legislative branch of state government;

(iii) a person while appearing at, or providing written comments to, a hearing conducted in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, or Title 63G, Chapter 4, Administrative Procedures Act;

(iv) a person participating on or appearing before an advisory or study task force, commission, board, or committee, constituted by the Legislature or any agency or department of state government, except legislative standing, appropriation, or interim committees;

(v) a representative of a political party;

(vi) an individual representing a bona fide church solely for the purpose of protecting the right to practice the religious doctrines of the church, unless the individual or church makes an expenditure that confers a benefit on a public official;

(vii) a newspaper, television station or network, radio station or network, periodical of general circulation, or book publisher for the purpose of publishing news items, editorials, other comments, or paid advertisements that directly or indirectly urge legislative or executive action; or

(viii) an individual who appears on the individual's own behalf before a committee of the Legislature or an agency of the executive branch of state government solely for the purpose of testifying in support of or in opposition to legislative or executive action.

(13) "Lobbyist group" means two or more lobbyists, principals, government officers, or any combination of lobbyists, principals, and officers who each contribute a portion of an expenditure made to benefit a public official or member of the public official's immediate family.

(14) "Multiclient lobbyist" means a single lobbyist, principal, or government officer who represents two or more clients and divides the aggregate daily expenditure made to benefit a public official or member of the public official's immediate family between two or more of those clients.

(15) "Principal" means a person that employs an individual to perform lobbying, either as an employee or as an independent contractor.

(16) "Public official" means:

(a) (i) a member of the Legislature;

(ii) an individual elected to a position in the executive branch of state government; or

(iii) an individual appointed to or employed in a position in the executive or legislative branch of state government if that individual:

(A) occupies a policymaking position or makes purchasing or contracting decisions;

(B) drafts legislation or makes rules;

(C) determines rates or fees; or

(D) makes adjudicative decisions; or

(b) an immediate family member of a person described in Subsection (16)(a).

(17) "Public official type" means a notation to identify whether a public official is:

(a) (i) a member of the Legislature;

(ii) an individual elected to a position in the executive branch of state government;

(iii) an individual appointed to or employed in a position in the legislative branch of state government who meets the definition of public official under Subsection (16)(a)(iii); or

(iv) an individual appointed to or employed in a position in the executive branch of state government who meets the definition of public official under Subsection (16)(a)(iii); or

(b) an immediate family member of a person described in Subsection (16)(a).

(18) "Quarterly reporting period" means the three-month period covered by each financial report required under Subsection 36-11-201(2)(a).

(19) "Related person" means a person, agent, or employee who knowingly and intentionally assists a lobbyist, principal, or government officer in lobbying.

(20) "Relative" means a spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, first cousin, or spouse of any of these individuals.

Section 2. Section 36-11-304.5 is enacted to read:

36-11-304.5. Disposal of publications.

If a lobbyist, principal, or government officer makes an expenditure, in the form of a publication, to a public official, the public official may return the publication to the lobbyist, principal, or government officer, donate the publication to a charity or a government entity, or destroy the publication.

CHAPTER 265**H. B. 251**

Passed March 12, 2015
 Approved March 27, 2015
 Effective May 12, 2015

AMENDMENTS TO THE INTERLOCAL ACT

Chief Sponsor: Johnny Anderson
 Senate Sponsor: Wayne A. Harper

LONG TITLE**General Description:**

This bill amends provisions related to interlocal entities and joint or cooperative undertakings.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ authorizes a Utah public agency to exercise, with certain limitations, a power, privilege, or authority with any other Utah public agency;
- ▶ provides that certain provisions govern an interlocal entity;
- ▶ authorizes an interlocal entity to create a local disaster recovery fund;
- ▶ provides requirements for agreements for a joint or cooperative undertaking;
- ▶ clarifies applicable law to a bond issued by an interlocal entity;
- ▶ provides that an interlocal entity may pledge certain revenues for a bond;
- ▶ amends provisions authorizing an employee performing services under agreements;
- ▶ requires that an interlocal entity establish a personnel system;
- ▶ requires a governing board to adopt rules or policies for public procurement;
- ▶ exempts a taxed interlocal entity from certain provisions;
- ▶ enacts language related to the governance of an interlocal entity or joint or cooperative undertaking, including:
 - compensation of a member of the governing authority; and
 - quorum and meeting requirements;
- ▶ enacts language related to fiscal procedures for interlocal entities, including uniform accounting requirements, budgetary procedures, appropriations, emergency expenditures, interfund loans, operating and capital budgets, audit requirements, and fees; and
- ▶ makes clarifying and conforming amendments.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 11-13-103, as last amended by Laws of Utah 2012, Chapters 212 and 345
- 11-13-201, as renumbered and amended by Laws of Utah 2002, Chapter 286
- 11-13-202.5, as enacted by Laws of Utah 2003, Chapter 38
- 11-13-203, as last amended by Laws of Utah 2009, Chapter 350

- 11-13-204 (Effective 05/12/15), as last amended by Laws of Utah 2014, Chapter 115
- 11-13-206, as renumbered and amended by Laws of Utah 2002, Chapter 286
- 11-13-207, as renumbered and amended by Laws of Utah 2002, Chapter 286
- 11-13-208, as renumbered and amended by Laws of Utah 2002, Chapter 286
- 11-13-211, as renumbered and amended by Laws of Utah 2002, Chapter 286
- 11-13-217, as renumbered and amended by Laws of Utah 2002, Chapter 286
- 11-13-218, as last amended by Laws of Utah 2013, Chapter 246
- 11-13-219, as last amended by Laws of Utah 2009, Chapter 388
- 11-13-222, as last amended by Laws of Utah 2008, Chapter 382
- 11-13-224, as enacted by Laws of Utah 2013, Chapter 311
- 11-13-315 (Effective 05/12/15), as last amended by Laws of Utah 2014, Chapters 115, 189, 196, and 264
- 52-4-103, as last amended by Laws of Utah 2014, Chapter 434
- 53-2a-605, as renumbered and amended by Laws of Utah 2013, Chapter 295
- 63G-2-103, as last amended by Laws of Utah 2014, Chapter 90

ENACTS:

- 11-13-218.1, Utah Code Annotated 1953
- 11-13-225, Utah Code Annotated 1953
- 11-13-226, Utah Code Annotated 1953
- 11-13-401, Utah Code Annotated 1953
- 11-13-402, Utah Code Annotated 1953
- 11-13-403, Utah Code Annotated 1953
- 11-13-404, Utah Code Annotated 1953
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- 11-13-530, Utah Code Annotated 1953

11-13-531, Utah Code Annotated 1953
11-13-532, Utah Code Annotated 1953

REPEALS:

11-13-223 (Superseded 05/12/15), as last amended
by Laws of Utah 2007, Chapter 249
11-13-223 (Effective 05/12/15), as last amended by
Laws of Utah 2014, Chapter 115

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

Section 1. Section 11-13-103 is amended to read:

11-13-103. Definitions.

As used in this chapter:

(1) (a) "Additional project capacity" means electric generating capacity provided by a generating unit that first produces electricity on or after May 6, 2002, and that is constructed or installed at or adjacent to the site of a project that first produced electricity before May 6, 2002, regardless of whether:

(i) the owners of the new generating unit are the same as or different from the owner of the project; and

(ii) the purchasers of electricity from the new generating unit are the same as or different from the purchasers of electricity from the project.

(b) "Additional project capacity" does not mean or include replacement project capacity.

(2) "Board" means the Permanent Community Impact Fund Board created by Section 35A-8-304, and its successors.

(3) "Candidate" means one or more of:

(a) the state;

(b) a county, municipality, school district, local district, special service district, or other political subdivision of the state; and

(c) a prosecution district.

(4) "Commercial project entity" means a project entity, defined in Subsection ~~[(42)]~~ (17), that:

(a) has no taxing authority; and

(b) is not supported in whole or in part by and does not expend or disburse tax revenues.

(5) "Direct impacts" means an increase in the need for public facilities or services that is attributable to the project or facilities providing additional project capacity, except impacts resulting from the construction or operation of a facility that is:

(a) owned by an owner other than the owner of the project or of the facilities providing additional project capacity; and

(b) used to furnish fuel, construction, or operation materials for use in the project.

(6) "Electric interlocal entity" means an interlocal entity described in Subsection 11-13-203(3).

(7) "Energy services interlocal entity" means an interlocal entity that is described in Subsection 11-13-203(4).

(8) (a) "Estimated electric requirements," when used with respect to a qualified energy services interlocal entity, includes any of the following that meets the requirements of Subsection (8)(b):

(i) generation capacity;

(ii) generation output; or

(iii) an electric energy production facility.

(b) An item listed in Subsection (8)(a) is included in "estimated electric requirements" if it is needed by the qualified energy services interlocal entity to perform the qualified energy services interlocal entity's contractual or legal obligations to any of its members.

(9) "Governing authority" means a governing board or joint administrator.

(10) (a) "Governing board" means the body established in reliance on the authority provided under Subsection 11-13-206(1)(b) to govern an interlocal entity.

(b) "Governing board" does not include a board as defined in Subsection (2).

~~[(9)]~~ (11) "Interlocal entity" means:

(a) a Utah interlocal entity, an electric interlocal entity, or an energy services interlocal entity; or

(b) a separate legal or administrative entity created under Section 11-13-205.

(12) "Joint administrator" means an administrator or joint board described in Section 11-13-207 to administer a joint or cooperative undertaking.

(13) "Joint or cooperative undertaking" means an undertaking described in Section 11-13-207 that is not conducted by an interlocal entity.

(14) "Member" means a public agency that, with another public agency, creates an interlocal entity under Section 11-13-203.

~~[(40)]~~ (15) "Out-of-state public agency" means a public agency as defined in Subsection ~~[(43)]~~ (18)(c), (d), or (e).

~~[(41)]~~ (16) (a) "Project":

(i) means an electric generation and transmission facility owned by a Utah interlocal entity or an electric interlocal entity; and

(ii) includes fuel or fuel transportation facilities and water facilities owned by that Utah interlocal entity or electric interlocal entity and required for the generation and transmission facility.

(b) "Project" includes a project entity's ownership interest in:

(i) facilities that provide additional project capacity;

(ii) facilities that provide replacement project capacity; and

(iii) additional generating, transmission, fuel, fuel transportation, water, or other facilities added to a project.

[42] (17) "Project entity" means a Utah interlocal entity or an electric interlocal entity that owns a project.

[43] (18) "Public agency" means:

(a) a city, town, county, school district, local district, special service district, an interlocal entity, or other political subdivision of the state;

(b) the state or any department, division, or agency of the state;

(c) any agency of the United States;

(d) any political subdivision or agency of another state or the District of Columbia including any interlocal cooperation or joint powers agency formed under the authority of the law of the other state or the District of Columbia; ~~and~~ or

(e) any Indian tribe, band, nation, or other organized group or community which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

[44] (19) "Qualified energy services interlocal entity" means an energy services interlocal entity that at the time that the energy services interlocal entity acquires its interest in facilities providing additional project capacity has at least five members that are Utah public agencies.

[45] (20) "Replacement project capacity" means electric generating capacity or transmission capacity that:

(a) replaces all or a portion of the existing electric generating or transmission capacity of a project; and

(b) is provided by a facility that is constructed, reconstructed, converted, repowered, or installed in a location adjacent to or in proximity to or interconnected with the site of a project, regardless of whether the capacity replacing existing capacity is less than or exceeds the generating or transmission capacity of the project prior to installation of the capacity replacing existing capacity.

[46] (21) "Utah interlocal entity":

(a) means an interlocal entity described in Subsection 11-13-203(2); and

(b) includes a separate legal or administrative entity created under Laws of Utah 1977, Chapter 47, Section 3, as amended.

[47] (22) "Utah public agency" means a public agency under Subsection [43] (18)(a) or (b).

Section 2. Section 11-13-201 is amended to read:

11-13-201. Joint exercise of power, privilege, or authority by public agencies

-- Relationship to the Municipal Cable Television and Public Telecommunications Services Act.

(1) (a) Any power, privilege, or authority exercised or capable of exercise by a Utah public agency may be exercised and enjoyed jointly with any other Utah public agency having the same power, privilege, or authority, in a manner consistent with the provisions of this chapter, and jointly with any out-of-state public agency to the extent that the laws governing the out-of-state public agency permit such joint exercise or enjoyment.

(b) Any agency of the state government when acting jointly with any public agency may exercise and enjoy all of the powers, privileges, and authority conferred by this chapter upon a public agency.

(2) This chapter may not enlarge or expand the authority of a public agency not authorized to offer and provide cable television services and public telecommunications services under Title 10, Chapter 18, Municipal Cable Television and Public Telecommunications Services Act, to offer or provide cable television services and public telecommunications services.

Section 3. Section 11-13-202.5 is amended to read:

11-13-202.5. Approval of certain agreements -- Review by attorney.

(1) Each agreement under Section 11-13-202 and each agreement under Section 11-13-212 shall be approved by:

(a) except as provided in Subsections (1)(b) and (c), the commission, board, council, or other body or officer vested with the executive power of the public agency;

(b) the legislative body of the public agency if the agreement:

(i) requires the public agency to adjust its budget for a current or future fiscal year;

(ii) includes an out-of-state public agency as a party;

(iii) provides for the public agency to acquire or construct:

(A) a facility; or

(B) an improvement to real property;

(iv) provides for the public agency to acquire or transfer title to real property;

(v) provides for the public agency to issue bonds;

(vi) creates an interlocal entity; or

(vii) provides for the public agency to share taxes or other revenues; or

(c) if the public agency is a public agency under Subsection 11-13-103[43](18)(b), the director or other head of the applicable state department, division, or agency.

(2) If an agreement is required under Subsection (1) to be approved by the public agency's legislative body, the resolution or ordinance approving the agreement shall:

(a) specify the effective date of the agreement; and

(b) if the agreement creates an interlocal entity:

(i) declare that it is the legislative body's intent to create an interlocal entity;

(ii) describe the public purposes for which the interlocal entity is created; and

(iii) describe the powers, duties, and functions of the interlocal entity.

(3) The officer or body required under Subsection (1) to approve an agreement shall, before the agreement may take effect, submit the agreement to the attorney authorized to represent the public agency for review as to proper form and compliance with applicable law.

Section 4. Section 11-13-203 is amended to read:

11-13-203. Interlocal entities -- Agreement to approve the creation of an interlocal entity -- Utah interlocal entity may become electric interlocal entity or energy services interlocal entity.

(1) An interlocal entity is:

(a) separate from the public agencies that create it;

(b) a body politic and corporate; and

(c) a political subdivision of the state.

(2) (a) Any two or more Utah public agencies may enter into an agreement to approve the creation of a Utah interlocal entity to accomplish the purpose of their joint or cooperative action, including undertaking and financing a facility or improvement to provide the service contemplated by that agreement.

(b) The creation, operation, governance, and fiscal procedures of an interlocal entity and its governing authority are governed by this chapter and are not subject to the statutes applicable to its members or other entities.

(3) (a) A Utah public agency and one or more public agencies may enter into an agreement to approve the creation of an electric interlocal entity to accomplish the purpose of their joint or cooperative action if that purpose is to participate in the undertaking or financing of:

(i) facilities to provide additional project capacity;

(ii) common facilities under Title 54, Chapter 9, Electric Power Facilities Act; or

(iii) electric generation or transmission facilities.

(b) By agreement with one or more public agencies that are not parties to the agreement

creating it, a Utah interlocal entity may be reorganized as an electric interlocal entity if:

(i) the public agencies that are parties to the agreement creating the Utah interlocal entity authorize, in the same manner required to amend the agreement creating the Utah interlocal entity, the Utah interlocal entity to be reorganized as an electric interlocal entity; and

(ii) the purpose of the joint or cooperative action to be accomplished by the electric interlocal entity meets the requirements of Subsection (3)(a).

(4) (a) Two or more Utah public agencies may enter into an agreement with one another or with one or more public agencies to approve the creation of an energy services interlocal entity to accomplish the purposes of their joint and cooperative action with respect to facilities, services, and improvements necessary or desirable with respect to the acquisition, generation, transmission, management, and distribution of electric energy for the use and benefit of the public agencies that enter into the agreement.

(b) (i) A Utah interlocal entity that was created to facilitate the transmission or supply of electric power may, by resolution adopted by its governing [body] board, elect to become an energy services interlocal entity.

(ii) Notwithstanding Subsection (4)(b)(i), a Utah interlocal entity that is also a project entity may not elect to become an energy services interlocal entity.

(iii) An election under Subsection (4)(b)(i) does not alter, limit, or affect the validity or enforceability of a previously executed contract, agreement, bond, or other obligation of the Utah interlocal entity making the election.

Section 5. Section 11-13-204 (Effective 05/12/15) is amended to read:

11-13-204 (Effective 05/12/15). Powers and duties of interlocal entities -- Additional powers of energy services interlocal entities -- Length of term of agreement and interlocal entity -- Notice to lieutenant governor -- Recording requirements -- Public Service Commission.

(1) (a) An interlocal entity:

(i) shall adopt bylaws, policies, and procedures for the regulation of its affairs and the conduct of its business;

(ii) may:

(A) amend or repeal a bylaw, policy, or procedure;

(B) sue and be sued;

(C) have an official seal and alter that seal at will;

(D) make and execute contracts and other instruments necessary or convenient for the performance of its duties and the exercise of its powers and functions;

(E) acquire real or personal property, or an undivided, fractional, or other interest in real or

personal property, necessary or convenient for the purposes contemplated in the agreement creating the interlocal entity and sell, lease, or otherwise dispose of that property;

(F) directly or by contract with another:

(I) own and acquire facilities and improvements or an undivided, fractional, or other interest in facilities and improvements;

(II) construct, operate, maintain, and repair facilities and improvements; and

(III) provide the services contemplated in the agreement creating the interlocal entity and establish, impose, and collect rates, fees, and charges for the services provided by the interlocal entity;

(G) borrow money, incur indebtedness, and issue revenue bonds, notes, or other obligations and secure their payment by an assignment, pledge, or other conveyance of all or any part of the revenues and receipts from the facilities, improvements, or services that the interlocal entity provides;

(H) offer, issue, and sell warrants, options, or other rights related to the bonds, notes, or other obligations issued by the interlocal entity; ~~and~~

(I) sell or contract for the sale of the services, output, product, or other benefits provided by the interlocal entity to:

(I) public agencies inside or outside the state; and

(II) with respect to any excess services, output, product, or benefits, any person on terms that the interlocal entity considers to be in the best interest of the public agencies that are parties to the agreement creating the interlocal entity; and

(J) create a local disaster recovery fund in the same manner and to the same extent as authorized for a local government in accordance with Section 53-2a-605; and

(iii) may not levy, assess, or collect ad valorem property taxes.

(b) An assignment, pledge, or other conveyance under Subsection (1)(a)(ii)(G) may, to the extent provided by the documents under which the assignment, pledge, or other conveyance is made, rank prior in right to any other obligation except taxes or payments in lieu of taxes payable to the state or its political subdivisions.

~~[(e) (i) (A) Except as provided in Subsection (1)(e)(i)(B), an interlocal entity is subject to each state law that governs each public agency that is a member of the entity to the extent that the law governs an activity or action of the public agency in which the interlocal entity is also engaged.]~~

~~[(B) Subsection (1)(e)(i)(A) does not apply if an interlocal entity is expressly exempt from the law.]~~

~~[(C) A law described in Subsection (1)(e)(i)(A) does not include a local ordinance or other local law.]~~

~~[(ii) If a state law that governs a public agency that is a member of the interlocal entity conflicts~~

~~with a state law that governs another member entity, the interlocal entity shall choose and comply with one of the conflicting state laws.]~~

~~[(iii) (A) If a public agency that is a member of the interlocal entity is an institution of higher education, the interlocal entity shall adopt the policies of the Board of Regents.]~~

~~[(B) If a policy of the Board of Regents adopted by an interlocal entity in accordance with Subsection (1)(e)(iii)(A) conflicts with a state law that governs a public agency that is a member entity, the state law governs.]~~

(2) An energy services interlocal entity:

(a) except with respect to any ownership interest it has in facilities providing additional project capacity, is not subject to:

(i) Part 3, Project Entity Provisions; or

(ii) Title 59, Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act; and

(b) may:

(i) own, acquire, and, by itself or by contract with another, construct, operate, and maintain a facility or improvement for the generation, transmission, and transportation of electric energy or related fuel supplies;

(ii) enter into a contract to obtain a supply of electric power and energy and ancillary services, transmission, and transportation services, and supplies of natural gas and fuels necessary for the operation of generation facilities;

(iii) enter into a contract with public agencies, investor-owned or cooperative utilities, and others, whether located in or out of the state, for the sale of wholesale services provided by the energy services interlocal entity; and

(iv) adopt and implement risk management policies and strategies and enter into transactions and agreements to manage the risks associated with the purchase and sale of energy, including forward purchase and sale contracts, hedging, tolling and swap agreements, and other instruments.

(3) Notwithstanding Section 11-13-216, an agreement creating an interlocal entity or an amendment to that agreement may provide that the agreement may continue and the interlocal entity may remain in existence until the latest to occur of:

(a) 50 years after the date of the agreement or amendment;

(b) five years after the interlocal entity has fully paid or otherwise discharged all of its indebtedness;

(c) five years after the interlocal entity has abandoned, decommissioned, or conveyed or transferred all of its interest in its facilities and improvements; or

(d) five years after the facilities and improvements of the interlocal entity are no longer useful in providing the service, output, product, or

other benefit of the facilities and improvements, as determined under the agreement governing the sale of the service, output, product, or other benefit.

(4) (a) ~~[The governing body of each party to the agreement to approve the creation of an interlocal entity, including an electric interlocal entity and an energy services interlocal entity,] Upon execution of an agreement to approve the creation of an interlocal entity, including an electric interlocal entity and an energy services interlocal entity, the governing body of a member of the interlocal entity under Section 11-13-203 shall:~~

(i) within 30 days after the date of the agreement, jointly file with the lieutenant governor:

(A) a copy of a notice of an impending boundary action, as defined in Section 67-1a-6.5, that meets the requirements of Subsection 67-1a-6.5(3); and

(B) if less than all of the territory of any Utah public agency that is a party to the agreement is included within the interlocal entity, a copy of an approved final local entity plat, as defined in Section 67-1a-6.5; and

(ii) upon the lieutenant governor's issuance of a certificate of creation under Section 67-1a-6.5:

(A) if the interlocal entity is located within the boundary of a single county, submit to the recorder of that county:

(I) the original:

(Aa) notice of an impending boundary action;

(Bb) certificate of creation; and

(Cc) approved final local entity plat, if an approved final local entity plat was required to be filed with the lieutenant governor under Subsection (4)(a)(i)(B); and

(II) a certified copy of the agreement approving the creation of the interlocal entity; or

(B) if the interlocal entity is located within the boundaries of more than a single county:

(I) submit to the recorder of one of those counties:

(Aa) the original of the documents listed in Subsections (4)(a)(ii)(A)(I)(Aa), (Bb), and (Cc); and

(Bb) a certified copy of the agreement approving the creation of the interlocal entity; and

(II) submit to the recorder of each other county:

(Aa) a certified copy of the documents listed in Subsections (4)(a)(ii)(A)(I)(Aa), (Bb), and (Cc); and

(Bb) a certified copy of the agreement approving the creation of the interlocal entity.

(b) Upon the lieutenant governor's issuance of a certificate of creation under Section 67-1a-6.5, the interlocal entity is created.

(c) Until the documents listed in Subsection (4)(a)(ii) are recorded in the office of the recorder of each county in which the property is located, a newly created interlocal entity may not charge or

collect a fee for service provided to property within the interlocal entity.

(5) Nothing in this section may be construed as expanding the rights of any municipality or interlocal entity to sell or provide retail service.

(6) Except as provided in Subsection (7):

(a) nothing in this section may be construed to expand or limit the rights of a municipality to sell or provide retail electric service; and

(b) an energy services interlocal entity may not provide retail electric service to customers located outside the municipal boundaries of its members.

(7) (a) An energy services interlocal entity created before July 1, 2003, that is comprised solely of Utah municipalities and that, for a minimum of 50 years before July 1, 2010, provided retail electric service to customers outside the municipal boundaries of its members, may provide retail electric service outside the municipal boundaries of its members if:

(i) the energy services interlocal entity:

(A) enters into a written agreement with each public utility holding a certificate of public convenience and necessity issued by the Public Service Commission to provide service within an agreed upon geographic area for the energy services interlocal entity to be responsible to provide electric service in the agreed upon geographic area outside the municipal boundaries of the members of the energy services interlocal entity; and

(B) obtains a franchise agreement, with the legislative body of the county or other governmental entity for the geographic area in which the energy services interlocal entity provides service outside the municipal boundaries of its members; and

(ii) each public utility described in Subsection (7)(a)(i)(A) applies for and obtains from the Public Service Commission approval of the agreement specified in Subsection (7)(a)(i)(A).

(b) (i) The Public Service Commission shall, after a public hearing held in accordance with Title 52, Chapter 4, Open and Public Meetings Act, approve an agreement described in Subsection (7)(a)(ii) if it determines that the agreement is in the public interest in that it incorporates the customer protections described in Subsection (7)(c) and the franchise agreement described in Subsection (7)(a)(i)(B) provides a reasonable mechanism using a neutral arbiter or ombudsman for resolving potential future complaints by customers of the energy services interlocal entity.

(ii) In approving an agreement, the Public Service Commission shall also amend the certificate of public convenience and necessity of any public utility described in Subsection (7)(a)(i) to delete from the geographic area specified in the certificate or certificates of the public utility the geographic area that the energy services interlocal entity has agreed to serve.

(c) In providing retail electric service to customers outside of the municipal boundaries of its

members, but not within the municipal boundaries of another municipality that grants a franchise agreement in accordance with Subsection (7)(a)(i)(B), an energy services interlocal entity shall comply with the following:

(i) the rates and conditions of service for customers outside the municipal boundaries of the members shall be at least as favorable as the rates and conditions of service for similarly situated customers within the municipal boundaries of the members;

(ii) the energy services interlocal entity shall operate as a single entity providing service both inside and outside of the municipal boundaries of its members;

(iii) a general rebate, refund, or other payment made to customers located within the municipal boundaries of the members shall also be provided to similarly situated customers located outside the municipal boundaries of the members;

(iv) a schedule of rates and conditions of service, or any change to the rates and conditions of service, shall be approved by the governing ~~[body]~~ board of the energy services interlocal entity;

(v) before implementation of any rate increase, the governing ~~[body]~~ board of the energy services interlocal entity shall first hold a public meeting to take public comment on the proposed increase, after providing at least 20 days and not more than 60 days' advance written notice to its customers on the ordinary billing and on the Utah Public Notice Website, created by Section 63F-1-701; and

(vi) the energy services interlocal entity shall file with the Public Service Commission its current schedule of rates and conditions of service.

(d) The Public Service Commission shall make the schedule of rates and conditions of service of the energy services interlocal entity available for public inspection.

(e) Nothing in this section:

(i) gives the Public Service Commission jurisdiction over the provision of retail electric service by an energy services interlocal entity within the municipal boundaries of its members; or

(ii) makes an energy services interlocal entity a public utility under Title 54, Public Utilities.

(f) Nothing in this section expands or diminishes the jurisdiction of the Public Service Commission over a municipality or an association of municipalities organized under Title 11, Chapter 13, Interlocal Cooperation Act, except as specifically authorized by this section's language.

(g) (i) An energy services interlocal entity described in Subsection (7)(a) retains its authority to provide electric service to the extent authorized by Sections 11-13-202 and 11-13-203 and Subsections 11-13-204 (1) through (5).

(ii) Notwithstanding Subsection (7)(g)(i), if the Public Service Commission approves the agreement described in Subsection (7)(a)(i), the

energy services interlocal entity may not provide retail electric service to customers located outside the municipal boundaries of its members, except for customers located within the geographic area described in the agreement.

Section 6. Section 11-13-206 is amended to read:

11-13-206. Requirements for agreements for joint or cooperative action.

(1) Each agreement under Section 11-13-202, 11-13-203, or 11-13-205 shall specify:

(a) its duration;

(b) if the agreement creates an interlocal entity:

(i) the precise organization, composition, and nature of the interlocal entity;

(ii) the powers delegated to the interlocal entity;

(iii) the manner in which the interlocal entity is to be governed; and

(iv) subject to Subsection (2), the manner in which the members of its governing ~~[body]~~ board are to be appointed or selected;

(c) its purpose or purposes;

(d) the manner of financing the joint or cooperative ~~[undertaking]~~ action and of establishing and maintaining a budget for it;

(e) the permissible method or methods to be employed in accomplishing the partial or complete termination of the agreement and for disposing of property upon such partial or complete termination; ~~[and]~~

(f) the process, conditions, and terms for withdrawal of a participating public agency from the interlocal entity or the joint or cooperative undertaking;

(g) (i) whether voting is based upon one vote per member or weighted; and

(ii) if weighted voting is allowed, the basis upon which the vote weight will be determined; and

~~[(f)]~~ (h) any other necessary and proper matters.

(2) Each agreement under Section 11-13-203 or 11-13-205 that creates an interlocal entity shall require that Utah public agencies that are parties to the agreement have the right to appoint or select members of the interlocal entity's governing ~~[body]~~ board with a majority of the voting power.

Section 7. Section 11-13-207 is amended to read:

11-13-207. Additional requirements for agreement not establishing interlocal entity.

(1) If an agreement under Section 11-13-202 does not establish an interlocal entity to conduct the joint or cooperative undertaking, the agreement shall, in addition to the items specified in Section 11-13-206, provide for:

~~[(4)]~~ (a) the joint or cooperative undertaking to be administered by:

~~[(a)]~~ (i) an administrator; or

~~[(b)]~~ (ii) a joint board with representation from the public agencies that are parties to the agreement; ~~[and]~~

~~[(2)]~~ (b) the manner of acquiring, holding, and disposing of real and personal property used in the joint or cooperative undertaking~~[-]~~;

(c) the functions to be performed by the joint or cooperative undertaking; and

(d) the powers of the joint administrator.

(2) The creation, operation, governance, and fiscal procedures of a joint or cooperative undertaking are governed by this chapter.

Section 8. Section 11-13-208 is amended to read:

11-13-208. Agreement does not relieve public agency of legal obligation or responsibility -- Exception.

(1) Except as provided in Subsection (2), an agreement made under this chapter does not relieve a public agency of an obligation or responsibility imposed upon it by law.

(2) If an obligation or responsibility of a public agency is actually and timely performed by a joint ~~[board]~~ or cooperative undertaking or by an interlocal entity created by an agreement made under this chapter, that performance may be offered in satisfaction of the obligation or responsibility.

Section 9. Section 11-13-211 is amended to read:

11-13-211. Public agencies authorized to provide resources to joint or cooperative undertaking or interlocal entity.

A public agency entering into an agreement under this chapter under which ~~[an administrative joint board]~~ a joint or cooperative undertaking is established or an interlocal entity is created ~~[to operate the joint or cooperative undertaking]~~ may:

(1) appropriate funds to the ~~[administrative joint board]~~ joint or cooperative undertaking or interlocal entity;

(2) sell, lease, give, or otherwise supply tangible and intangible property to the ~~[administrative joint board]~~ joint or cooperative undertaking or interlocal entity; and

(3) provide personnel or services for the ~~[administrative joint board]~~ joint or cooperative undertaking or interlocal entity as may be within its legal power to furnish.

Section 10. Section 11-13-217 is amended to read:

11-13-217. Control and operation of joint facility or improvement provided by agreement.

Any facility or improvement jointly owned or jointly operated by any two or more public agencies or acquired or constructed pursuant to an agreement under this chapter may be operated by any one or more of the interested public agencies designated for the purpose or may be operated by a joint ~~[board or commission]~~ or cooperative undertaking or an interlocal entity created for the purpose or through an agreement by an interlocal entity and a public agency receiving service or other benefits from such entity or may be controlled and operated in some other manner, all as may be provided by appropriate agreement. Payment for the cost of such operation shall be made as provided in any such agreement.

Section 11. Section 11-13-218 is amended to read:

11-13-218. Authority of public agencies or interlocal entities to issue bonds -- Applicable provisions.

(1) A public agency may, in the same manner as it may issue bonds for its individual acquisition of a facility or improvement or for constructing, improving, or extending a facility or improvement, issue bonds to:

(a) acquire an interest in a jointly owned facility or improvement, a combination of a jointly owned facility or improvement, or any other facility or improvement; or

(b) pay all or part of the cost of constructing, improving, or extending a jointly owned facility or improvement, a combination of a jointly owned facility or improvement, or any other facility or improvement.

(2) (a) An interlocal entity may issue bonds or notes under a resolution, trust indenture, or other security instrument for the purpose of:

(i) financing its facilities or improvements; or

(ii) providing for or financing an energy efficiency upgrade or a renewable energy system in accordance with Title 11, Chapter 42, Assessment Area Act.

(b) The bonds or notes may be sold at public or private sale, mature at such times and bear interest at such rates, and have such other terms and security as the entity determines.

(c) ~~[Such bonds]~~ The bonds or notes described in this Subsection (2) are not a debt of any public agency that is a party to the agreement.

(3) The governing ~~[body, as defined in Section 11-13-219, of an interlocal entity]~~ board may, by resolution, delegate to one or more officers of the interlocal entity or to a committee of designated members of the governing ~~[body]~~ board the authority to:

(a) in accordance with and within the parameters set forth in the resolution, approve the final interest rate, price, principal amount, maturity, redemption features, or other terms of a bond or note; and

(b) approve and execute all documents relating to the issuance of the bond or note.

(4) Bonds and notes issued under this chapter are declared to be negotiable instruments and their form and substance need not comply with the Uniform Commercial Code.

(5) (a) An interlocal entity shall issue bonds in accordance with, as applicable:

(i) Chapter 14, Local Government Bonding Act;

(ii) Chapter 27, Utah Refunding Bond Act;

(iii) this chapter; or

(iv) any other provision of state law that authorizes issuance of bonds by a public body.

(b) An interlocal entity is a public body as defined in Section 11-30-2.

Section 12. Section 11-13-218.1 is enacted to read:

11-13-218.1. Pledge of revenues to pay for bonds.

(1) In addition to any assignment, pledge, or conveyance made in accordance with Subsection 11-13-204(1)(a)(i)(G), bonds issued by an interlocal entity may be payable from and secured by the pledge of all or any specified part of:

(a) the revenues to be derived by the interlocal entity from providing the entity's services and from the operation of the entity's facilities and other properties;

(b) sales and use taxes, property taxes, and other taxes;

(c) federal, state, or local grants; or

(d) other funds legally available to the interlocal entity.

(2) An assignment, pledge, or conveyance made by an interlocal entity to secure bonds shall be created and perfected in accordance with, and have the effect provided in, Section 11-14-501.

Section 13. Section 11-13-219 is amended to read:

11-13-219. Publication of resolutions or agreements -- Contesting legality of resolution or agreement.

(1) As used in this section:

(a) "Enactment" means:

(i) a resolution adopted or proceedings taken by a governing body under the authority of this chapter, and includes a resolution, indenture, or other instrument providing for the issuance of bonds; and

(ii) an agreement or other instrument that is authorized, executed, or approved by a governing body under the authority of this chapter.

(b) "Governing body" means:

(i) the legislative body of a public agency; ~~and~~ or

(ii) the governing ~~body~~ authority of an interlocal entity created under this chapter.

~~[(d)]~~ (c) "Notice of agreement" means the notice authorized by Subsection (3)(c).

~~[(e)]~~ (d) "Notice of bonds" means the notice authorized by Subsection (3)(d).

(e) "Official newspaper" means the newspaper selected by a governing body under Subsection (4)(b) to publish its enactments.

(2) Any enactment taken or made under the authority of this chapter is not subject to referendum.

(3) (a) A governing body need not publish any enactment taken or made under the authority of this chapter.

(b) A governing body may provide for the publication of any enactment taken or made by it under the authority of this chapter according to the publication requirements established by this section.

(c) (i) If the enactment is an agreement, document, or other instrument, or a resolution or other proceeding authorizing or approving an agreement, document, or other instrument, the governing body may, instead of publishing the full text of the agreement, resolution, or other proceeding, publish a notice of agreement containing:

(A) the names of the parties to the agreement;

(B) the general subject matter of the agreement;

(C) the term of the agreement;

(D) a description of the payment obligations, if any, of the parties to the agreement; and

(E) a statement that the resolution and agreement will be available for review at the governing body's principal place of business during regular business hours for 30 days after the publication of the notice of agreement.

(ii) The governing body shall make a copy of the resolution or other proceeding and a copy of the contract available at its principal place of business during regular business hours for 30 days after the publication of the notice of agreement.

(d) If the enactment is a resolution or other proceeding authorizing the issuance of bonds, the governing body may, instead of publishing the full text of the resolution or other proceeding and the documents pertaining to the issuance of bonds, publish a notice of bonds that contains the information described in Subsection 11-14-316(2).

(4) (a) If the governing body chooses to publish an enactment, notice of bonds, or notice of agreement, the governing body shall comply with the requirements of this Subsection (4).

(b) If there is more than one newspaper of general circulation, or more than one newspaper, published within the boundaries of the governing body, the governing body may designate one of those newspapers as the official newspaper for all publications made under this section.

(c) (i) (A) The governing body shall publish the enactment, notice of bonds, or notice of agreement in:

(I) the official newspaper;

(II) the newspaper published in the municipality in which the principal office of the governmental entity is located; or

(III) if no newspaper is published in that municipality, in a newspaper having general circulation in the municipality; and

(B) as required in Section 45-1-101.

(ii) The governing body may publish the enactment, notice of bonds, or notice of agreement:

(A) (I) in a newspaper of general circulation; or

(II) in a newspaper that is published within the boundaries of any public agency that is a party to the enactment or agreement; and

(B) as required in Section 45-1-101.

(5) (a) Any person in interest may contest the legality of an enactment or any action performed or instrument issued under the authority of the enactment for 30 days after the publication of the enactment, notice of bonds, or notice of agreement.

(b) After the 30 days have passed, no one may contest the regularity, formality, or legality of the enactment or any action performed or instrument issued under the authority of the enactment for any cause whatsoever.

Section 14. Section 11-13-222 is amended to read:

11-13-222. Employees performing services under agreements.

(1) ~~[Each officer and]~~ An employee performing services for two or more public agencies under an agreement under this chapter shall be considered to be:

(a) ~~[an officer or]~~ an employee of the public agency employing the ~~[officer or]~~ employee's services even though the ~~[officer or]~~ employee performs those functions outside of the territorial limits of any one of the contracting public agencies; and

(b) an ~~[officer or]~~ employee of the public agencies under the provisions of Title 63G, Chapter 7, Governmental Immunity Act of Utah.

(2) Unless otherwise provided in an agreement that creates an interlocal entity, each employee of a public agency that is a party to the agreement shall:

(a) remain an employee of that public agency, even though assigned to perform services for another public agency under the agreement; and

(b) continue to be governed by the rules, rights, entitlements, and status that apply to an employee of that public agency.

(3) All of the privileges, immunities from liability, exemptions from laws, ordinances, and rules, pensions and relief, disability, workers compensation, and other benefits that apply to an officer, agent, or employee of a public agency while performing functions within the territorial limits of

the public agency apply to the same degree and extent when the officer, agent, or employee performs functions or duties under the agreement outside the territorial limits of that public agency.

Section 15. Section 11-13-224 is amended to read:

11-13-224. Utah interlocal entity for alternative fuel vehicles and facilities.

(1) As used in this section, "commission" means the Public Service Commission of Utah, established in Section 54-1-1.

(2) The governing ~~[body]~~ board of a Utah interlocal entity created to facilitate the conversion to alternative fuel vehicles or to facilitate the construction, operation, and maintenance of facilities for alternative fuel vehicles, or both, shall consist of:

(a) an individual from the executive branch of state government, appointed by the governor;

(b) a member of the Senate, appointed by the president of the Senate;

(c) a member of the House of Representatives, appointed by the speaker of the House of Representatives;

(d) an individual from the Utah Association of Counties, appointed by the president of the Senate;

(e) an individual from the Utah League of Cities and Towns, appointed by the speaker of the House of Representatives;

(f) an individual employed by a school district in the state, appointed by the governor;

(g) an individual appointed by the public transit district under Title 17B, Chapter 2a, Part 8, Public Transit District Act, with the largest budget of all public transit districts in the state;

(h) an individual employed by a gas corporation in the state, appointed by the governor; and

(i) a representative of the Utah Petroleum Marketers and Retailers Association, appointed by the governor.

(3) A Utah interlocal entity described in Subsection (2):

(a) may contribute toward the funding required for the construction, operation, and maintenance of facilities for alternative fuel vehicles that are used by or benefit the interlocal entity; and

(b) shall participate with the commission in proceedings the commission conducts under Section 54-1-13.

Section 16. Section 11-13-225 is enacted to read:

11-13-225. Establishment of interlocal entity personnel system.

(1) An interlocal entity shall establish a system of personnel administration for the interlocal entity as provided in this section.

(2) The interlocal entity shall administer the system described in Subsection (1) in a manner that will effectively provide for:

(a) recruiting, selecting, and advancing employees on the basis of the employee's relative ability, knowledge, and skills, including open consideration of qualified applicants for initial appointment;

(b) equitable and adequate compensation;

(c) employee training as needed to assure high-quality performance;

(d) (i) retaining an employee on the basis of the adequacy of the employee's performance; and

(ii) separation of an employee whose inadequate performance cannot be corrected;

(e) fair treatment of an applicant or employee in all aspects of personnel administration without regard to race, color, religion, sex, national origin, political affiliation, age, or disability, and with proper regard for the applicant's or employee's privacy and constitutional rights; and

(f) a formal procedure for processing the appeals and grievances of an employee without discrimination, coercion, restraint, or reprisal.

Section 17. Section 11-13-226 is enacted to read:

11-13-226. Competitive procurement.

The governing board of each interlocal entity shall adopt rules or policies for the competitive public procurement of goods and services required for the operation of the interlocal entity.

Section 18. Section 11-13-315 (Effective 05/12/15) is amended to read:

11-13-315 (Effective 05/12/15). Taxed interlocal entity.

(1) As used in this section:

(a) "Asset" means funds, money, an account, real or personal property, or personnel.

(b) "Public asset" means:

(i) an asset used by a public entity;

(ii) tax revenue;

(iii) state funds; or

(iv) public funds.

(c) (i) "Taxed interlocal entity" means a project entity that:

(A) is not exempt from a tax or fee in lieu of taxes imposed in accordance with Part 3, Project Entity Provisions;

(B) does not receive a payment of funds from a federal agency or office, state agency or office, political subdivision, or other public agency or office other than a payment that does not materially exceed the greater of the fair market value and the cost of a service provided or property conveyed by the project entity; and

(C) does not receive, expend, or have the authority to compel payment from tax revenue.

(ii) "Taxed interlocal entity" includes an interlocal entity that:

(A) was created before 1981 for the purpose of providing power supply at wholesale to its members;

(B) does not receive a payment of funds from a federal agency or office, state agency or office, political subdivision, or other public agency or office other than a payment that does not materially exceed the greater of the fair market value and the cost of a service provided or property conveyed by the interlocal entity; and

(C) does not receive, expend, or have the authority to compel payment from tax revenue.

(d) (i) "Use" means to use, own, manage, hold, keep safe, maintain, invest, deposit, administer, receive, expend, appropriate, disburse, or have custody.

(ii) "Use" includes, when constituting a noun, the corresponding nominal form of each term in Subsection (1)(d)(i), individually.

(2) Notwithstanding any other provision of law, the use of an asset by a taxed interlocal entity does not constitute the use of a public asset.

(3) Notwithstanding any other provision of law, a taxed interlocal entity's use of an asset that was a public asset prior to the taxed interlocal entity's use of the asset does not constitute a taxed interlocal entity's use of a public asset.

(4) Notwithstanding any other provision of law, an official of a project entity is not a public treasurer.

(5) Notwithstanding any other provision of law, a taxed interlocal entity's governing body, as described in Section 11-13-206, shall determine and direct the use of an asset by the taxed interlocal entity.

(6) A taxed interlocal entity is not subject to the provisions of Title 63G, Chapter 6a, Utah Procurement Code.

(7) (a) A taxed interlocal entity is not a participating local entity as defined in Section 63A-3-401.

(b) For each fiscal year of a taxed interlocal entity, the taxed interlocal entity shall provide:

(i) the taxed interlocal entity's financial statements for and as of the end of the fiscal year and the prior fiscal year, including the taxed interlocal entity's balance sheet as of the end of the fiscal year and the prior fiscal year, and the related statements of revenues and expenses and of cash flows for the fiscal year; and

(ii) the accompanying auditor's report and management's discussion and analysis with respect to the taxed interlocal entity's financial statements for and as of the end of the fiscal year.

(c) The taxed interlocal entity shall provide the information described in Subsections (7)(b)(i) and(ii):

(i) in a manner described in Subsection 63A-3-405(3); and

(ii) within a reasonable time after the taxed interlocal entity's independent auditor delivers to the taxed interlocal entity's governing body the auditor's report with respect to the financial statements for and as of the end of the fiscal year.

(d) Notwithstanding Subsections (7)(b) and (c) or a taxed interlocal entity's compliance with one or more of the requirements of Title 63A, Chapter 3, Division of Finance:

(i) the taxed interlocal entity is not subject to Title 63A, Chapter 3, Division of Finance; and

(ii) the information described in Subsection (7)(b)(i) or (ii) does not constitute public financial information as defined in Section 63A-3-401.

(8) (a) A taxed interlocal entity's governing body is not a governing board as defined in Section 51-2a-102.

(b) A taxed interlocal entity is not subject to the provisions of Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act.

(9) (a) [A] Notwithstanding any other provision of law, a taxed interlocal entity is not subject to the following provisions [~~of Subsection~~]:

(i) Part 4, Governance;

(ii) Part 5, Fiscal Procedures for Interlocal Entities;

(iii) Subsections 11-13-204(1)(a)(i) or [~~e~~]- (ii)(J);

(iv) Subsection 11-13-206(1)(f);

(v) Subsection 11-13-218(5)(a);

(vi) Section 11-13-225;

(vii) Section 11-13-226; or

(viii) Section 53-2a-605.

(b) In addition to the powers provided in Subsection 11-13-204(1)(a)(ii), a taxed interlocal entity may, for the regulation of the entity's affairs and conduct of its business, adopt, amend, or repeal bylaws, policies, or procedures.

(c) Nothing in Part 4, Governance, or Part 5, Fiscal Procedures for Interlocal Entities, may be construed to limit the power or authority of a taxed interlocal entity.

Section 19. Section 11-13-401 is enacted to read:

Part 4. Governance

11-13-401. Application.

(1) Except as provided in Subsection (2), and notwithstanding any other provision of law, this part applies to a governing authority created under this chapter.

(2) This part does not apply to:

(a) a taxed interlocal entity, as defined in Section 11-13-315; or

(b) a project entity.

Section 20. Section 11-13-402 is enacted to read:

11-13-402. Governance -- Powers of governing authority.

(1) If an interlocal agreement does not establish an interlocal entity to conduct the joint or cooperative undertaking, the joint or cooperative undertaking shall be administered by a joint administrator established in accordance with the interlocal agreement and Section 11-13-207.

(2) If an interlocal entity has been established to conduct the joint or cooperative action, the interlocal entity shall be governed by a governing board as established in the interlocal agreement.

(3) A governing board:

(a) shall manage and direct the business and affairs of the interlocal entity; and

(b) has and may exercise a power or perform a function as provided in the interlocal agreement and this chapter that is necessary to accomplish the interlocal entity's purpose unless otherwise specified by this chapter or the interlocal agreement, including the following:

(i) delegate to an interlocal entity employee or officer the authority to exercise a power or to perform a function of the interlocal entity;

(ii) control or direct litigation to which the interlocal entity is a party or in which it is otherwise involved;

(iii) adopt bylaws for the orderly functioning of the governing board;

(iv) adopt and enforce rules and regulations for the orderly operation of the interlocal entity or for carrying out the interlocal entity's purposes; and

(v) establish and impose fees for services provided by the interlocal entity.

(4) Each member of a governing board has and owes a fiduciary duty to the interlocal entity at large.

(5) (a) Unless otherwise provided in the interlocal agreement, a governing board:

(i) shall elect from its board members a chair; and

(ii) subject to Subsection (5)(b), may elect other officers as the board considers appropriate.

(b) (i) One person may not hold the office of chair and treasurer, treasurer and clerk, or clerk and chair.

(ii) Unless otherwise provided in the interlocal agreement:

(A) an officer serves at the pleasure of the governing board; and

(B) the governing board may designate a set term for each office.

Section 21. Section 11-13-403 is enacted to read:

11-13-403. Annual compensation -- Per diem compensation -- Participation in group insurance plan -- Reimbursement of expenses.

(1) (a) A member of a governing authority may receive compensation for service on the governing authority, as determined by the governing authority.

(b) The governing authority determining the amount of compensation under this Subsection (1) shall:

(i) establish the compensation amount as part of the interlocal entity's or joint or cooperative undertaking's annual budget adoption;

(ii) specifically identify the annual compensation of each governing authority member in the tentative budget; and

(iii) approve the annual compensation at the public meeting at which the budget is adopted.

(c) (i) If authorized by the interlocal agreement and as determined by the governing authority, a member of the governing authority may participate in a group insurance plan provided to employees of the interlocal entity on the same basis as employees of the interlocal entity.

(ii) The amount that the interlocal entity pays to provide a governing authority member with coverage under a group insurance plan shall be included as part of the member's compensation for purposes of Subsection (1)(b).

(d) The amount that an interlocal entity pays for employer contributions for Medicare and Social Security, if a member of the governing authority is treated as an employee for federal tax purposes, does not constitute compensation under Subsection (1)(a) or (b).

(e) A governing authority member who is appointed by a public agency may not receive compensation for governing authority service unless the public agency annually approves the governing authority member's receipt of the compensation after an analysis of the duties and responsibilities of service on the governing authority.

(2) In addition to the compensation provided under Subsection (1), the governing authority may elect to allow a member to receive per diem and travel expenses for up to 12 meetings or activities per year in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; or

(c) a rule adopted by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Section 22. Section 11-13-404 is enacted to read:

11-13-404. Quorum of the governing authority -- Meetings of the governing authority.

(1) (a) (i) Except as provided in Subsection (1)(b) or in the interlocal agreement creating the interlocal entity or joint or cooperative undertaking, a majority of the governing authority constitutes a quorum for the transaction of governing authority business, and action by a majority of a quorum constitutes action of the governing authority.

(ii) An otherwise valid action of the governing authority is not made invalid because of the method chosen by the governing authority to take or memorialize the action.

(b) Except as limited or required by the interlocal agreement creating the interlocal entity or joint or cooperative undertaking, a governing authority may adopt bylaws or other rules that require more than a majority to constitute a quorum or that require action by more than a majority of a quorum to constitute action by the governing authority.

(2) The governing authority shall hold such regular and special meetings as the governing authority determines at a location that the governing authority determines.

(3) (a) Each meeting of the governing authority shall comply with Title 52, Chapter 4, Open and Public Meetings Act, regardless of whether an interlocal entity or joint or cooperative undertaking is supported in whole or part by tax revenue.

(b) Subject to Title 52, Chapter 4, Open and Public Meetings Act, a governing authority shall:

(i) adopt rules of order and procedure to govern a public meeting of the governing authority;

(ii) conduct a public meeting in accordance with the rules of order and procedure described in Subsection (3)(b)(i); and

(iii) make the rules of order and procedure described in Subsection (3)(b)(i) available to the public:

(A) at each meeting of the governing authority; and

(B) on the interlocal entity or joint or cooperative undertaking's public website, if available.

Section 23. Section 11-13-501 is enacted to read:

Part 5. Fiscal Procedures for Interlocal Entities

11-13-501. Definitions.

As used in this part:

(1) "Appropriation" means an allocation of money by the governing board in a budget for a specific purpose.

(2) "Budget" means a plan of financial operations for a fiscal year that embodies estimates of proposed expenditures for given purposes and the proposed

means of financing them, and may refer to the budget of a particular fund for which a budget is required by law or may refer collectively to the budgets for all required funds.

(3) “Budget officer” means the person appointed by an interlocal entity governing board to prepare the budget for the interlocal entity.

(4) “Budget year” means the fiscal year for which a budget is prepared.

(5) “Calendar year entity” means an interlocal entity whose fiscal year begins January 1 and ends December 31 of each calendar year as described in Section 11-13-503.

(6) “Current year” means the fiscal year in which a budget is prepared and adopted, and which is the fiscal year immediately preceding the budget year.

(7) “Deficit” means the occurrence when expenditures exceed revenues.

(8) “Enterprise fund” has the meaning provided in generally accepted accounting principles.

(9) “Estimated revenue” means the amount of revenue estimated to be received from all sources during the budget year in each fund for which a budget is being prepared.

(10) “Fiscal year” means the annual period for accounting for fiscal operations in an interlocal entity.

(11) “Fiscal year entity” means an interlocal entity whose fiscal year begins July 1 of each year and ends on June 30 of the following year as described in Section 11-13-503.

(12) “Fund” has the meaning provided in generally accepted accounting principles.

(13) “Fund balance” has the meaning provided in generally accepted accounting principles.

(14) “General fund” has the meaning provided in generally accepted accounting principles.

(15) “Generally accepted accounting principles” means the accounting principles and standards promulgated from time to time by authoritative bodies in the United States.

(16) “Governmental fund” has the meaning provided in generally accepted accounting principles.

(17) “Interfund loan” means a transfer of assets from one fund to another, subject to future repayment.

(18) “Interlocal entity general fund” means the general fund of an interlocal entity.

(19) “Internal service funds” has the meaning provided in generally accepted accounting principles.

(20) “Last completed fiscal year” means the fiscal year immediately preceding the current fiscal year.

(21) “Proprietary fund” means enterprise funds and the internal service funds of an interlocal entity.

(22) “Public funds” means any money or payment collected or received by an interlocal entity, including money or payment for services or goods provided by the interlocal entity.

(23) “Retained earnings” has the meaning provided in generally accepted accounting principles.

(24) “Special fund” means an interlocal entity fund other than the interlocal entity general fund.

Section 24. Section 11-13-502 is enacted to read:

11-13-502. Application -- Conflicts with federal law -- Other applicable law.

(1) This part does not apply to a taxed interlocal entity as defined in Section 11-13-315.

(2) Except as provided in Subsection (1), and notwithstanding any other provision of law, this part governs an interlocal entity's fiscal procedures but only to the extent that the provision does not conflict with or cause an interlocal entity to be noncompliant with federal law.

(3) An interlocal entity is subject to Title 51, Chapter 7, State Money Management Act.

Section 25. Section 11-13-503 is enacted to read:

11-13-503. Fiscal year.

The fiscal year of an interlocal entity shall be, as determined by the governing board:

(1) the calendar year; or

(2) the period from July 1 to the following June 30.

Section 26. Section 11-13-504 is enacted to read:

11-13-504. Uniform accounting system.

An interlocal entity shall:

(1) establish and maintain the interlocal entity's accounting records, and financial statements prepared from those records, as required by generally accepted accounting principles; and

(2) adopt and implement internal accounting controls in light of the needs and resources of the interlocal entity.

Section 27. Section 11-13-505 is enacted to read:

11-13-505. Funds and account groups maintained.

An interlocal entity shall establish and maintain, according to its own accounting needs, some or all of the funds and account groups in its system of accounts, as required by generally accepted accounting principles.

Section 28. Section 11-13-506 is enacted to read:

11-13-506. Budget required for certain funds -- Capital projects fund.

(1) The budget officer shall prepare for each budget year a budget, subject to Section 11-13-507, for each of the following funds, to the extent applicable:

- (a) the general fund;
- (b) each special revenue fund, as that term is used in generally accepted accounting principles;
- (c) each debt service fund, as that term is used in generally accepted accounting principles;
- (d) each capital projects fund, as that term is used in generally accepted accounting principles;
- (e) each proprietary fund in accordance with Section 11-13-524; and
- (f) if the interlocal entity has a local fund, as defined in Section 53-2a-602, the local fund.

(2) (a) A major capital improvement financed by general obligation bonds, capital grants, or interfund transfers shall use a capital projects fund budget unless the improvement financed is to be used for proprietary type activities.

(b) The interlocal entity shall prepare a separate budget for the term of a capital improvement described in Subsection (2)(a) as well as the annual budget required under Subsection (1).

Section 29. Section 11-13-507 is enacted to read:

11-13-507. Total of revenues to equal expenditures.

(1) The budget under Section 11-13-506 shall provide a financial plan for the budget year.

(2) Each budget shall specify in tabular form:

- (a) estimates of all anticipated revenues; and
- (b) all appropriations for expenditures.

(3) The total of the anticipated revenues shall equal the total of appropriated expenditures.

Section 30. Section 11-13-508 is enacted to read:

11-13-508. Tentative budget to be prepared -- Review by governing body.

(1) On or before the first regularly scheduled meeting of the governing board in November for a calendar year entity and May for a fiscal year entity, the budget officer of an interlocal entity shall prepare for the ensuing year and file with the governing board a tentative budget for each fund for which a budget is required.

(2) (a) Each tentative budget under Subsection (1) shall provide in tabular form:

- (i) actual revenues and expenditures for the last completed fiscal year;
- (ii) estimated total revenues and expenditures for the current fiscal year; and
- (iii) the budget officer's estimates of revenues and expenditures for the budget year.

(b) The budget officer shall estimate:

- (i) the amount of revenue available to serve the needs of each fund;
- (ii) the portion to be derived from all sources other than general property taxes; and
- (iii) the portion that shall be derived from general property taxes.

(3) The tentative budget, when filed by the budget officer with the governing board, shall contain the estimates of expenditures together with specific work programs and any other supporting data required by this part or requested by the governing board.

(4) (a) Subject to Subsection (4)(b), the governing board:

(i) shall review, consider, and adopt the tentative budget in any regular meeting or special meeting called for that purpose; and

(ii) may amend or revise the tentative budget in any manner that the board considers advisable prior to the public hearing under Section 11-13-509.

(b) The governing board may not reduce below the legal minimum requirement an appropriation required for debt retirement and interest or reduction of any existing deficits under Section 11-13-513, or otherwise required by law.

(5) If a new interlocal entity is created, the governing board shall:

(a) prepare a budget covering the period from the date of incorporation to the end of the fiscal year;

(b) substantially comply with all other provisions of this part with respect to notices and hearings; and

(c) pass the budget as soon after incorporation as feasible.

Section 31. Section 11-13-509 is enacted to read:

11-13-509. Hearing to consider adoption -- Notice.

(1) At the meeting at which the tentative budget is adopted, the governing board shall:

(a) establish the time and place of a public hearing to consider its adoption; and

(b) except as provided in Subsection (2) or (5), order that notice of the hearing:

(i) be published, at least seven days before the day of the hearing, in at least one issue of a newspaper of general circulation in a county in which the interlocal entity provides service to the public or in which its members are located, if such a newspaper is generally circulated in the county or counties; and

(ii) be published at least seven days before the day of the hearing on the Utah Public Notice Website created in Section 63F-1-701.

(2) If the budget hearing is held in conjunction with a tax increase hearing, the notice required in Subsection (1)(b):

(a) may be combined with the notice required under Section 59-2-919; and

(b) shall be published in accordance with the advertisement provisions of Section 59-2-919.

(3) Proof that notice was given in accordance with Subsection (1)(b), (2), or (5) is prima facie evidence that notice was properly given.

(4) If a notice required under Subsection (1)(b), (2), or (5) is not challenged within 30 days after the day on which the hearing is held, the notice is adequate and proper.

(5) A governing board of an interlocal entity with an annual operating budget of less than \$250,000 may satisfy the notice requirements in Subsection (1)(b) by:

(a) mailing a written notice, postage prepaid, to each voter in an interlocal entity; and

(b) posting the notice in three public places within the interlocal entity's service area.

Section 32. Section 11-13-510 is enacted to read:

11-13-510. Public hearing on tentatively adopted budget.

At the time and place advertised, or at any time or any place to which the public hearing may be adjourned, the governing board shall:

(1) hold a public hearing on the budgets tentatively adopted; and

(2) give interested persons in attendance an opportunity to be heard on the estimates of revenues and expenditures or any item in the tentative budget of any fund.

Section 33. Section 11-13-511 is enacted to read:

11-13-511. Continuing authority of governing body.

After the conclusion of the public hearing held in accordance with Section 11-13-510, the governing board:

(1) may:

(a) continue to review the tentative budget;

(b) insert any new item; or

(c) increase or decrease items of expenditure in the tentative budget; and

(2) shall adopt a final budget.

Section 34. Section 11-13-512 is enacted to read:

11-13-512. Accumulated fund balances -- Limitations -- Excess balances -- Unanticipated excess of revenues -- Reserves for capital projects.

(1) (a) An interlocal entity may accumulate retained earnings or fund balances, as appropriate, in any fund.

(b) For the interlocal entity general fund only, an accumulated fund balance at the end of a budget year may be used only:

(i) to provide working capital to finance expenditures from the beginning of the budget year until general property taxes or other applicable revenues are collected, subject to Subsection (1)(c);

(ii) to provide a resource to meet emergency expenditures under Section 11-13-521; or

(iii) to cover a pending year-end excess of expenditures over revenues from an unavoidable shortfall in revenues, subject to Subsection (1)(d).

(c) Subsection (1)(b)(i) may not be construed to authorize an interlocal entity to appropriate a fund balance for budgeting purposes, except as provided in Subsection (4).

(d) Subsection (1)(b)(iii) may not be construed to authorize an interlocal entity to appropriate a fund balance to avoid an operating deficit during a budget year except:

(i) as provided under Subsection (4); or

(ii) for emergency purposes under Section 11-13-521.

(2) The accumulation of a fund balance in the interlocal entity general fund may not exceed the greater of:

(a) 100% of the current year's property tax collected by the interlocal entity; or

(b) (i) 25% of the total interlocal entity general fund revenues for an interlocal entity with an annual interlocal entity general fund budget greater than \$100,000; or

(ii) 50% of the total interlocal entity general fund revenues for an interlocal entity with an annual interlocal entity general fund budget equal to or less than \$100,000.

(3) If the interlocal entity general fund balance at the close of a fiscal year exceeds the amount permitted under Subsection (2), the interlocal entity shall appropriate the excess in the manner provided in Section 11-13-513.

(4) Any interlocal entity general fund balance in excess of 5% of the total revenues of the interlocal entity general fund may be utilized for budget purposes.

(5) (a) Within a capital projects fund the governing board may, in a budget year, appropriate from estimated revenue or a fund balance to a reserve account for capital projects for the purpose of financing future specific capital projects, including new construction, capital repairs, replacement, and maintenance, under a formal long-range capital plan adopted by the governing board.

(b) An interlocal entity may allow a reserve amount under Subsection (5)(a) to accumulate from year to year until the accumulated total is sufficient to permit economical expenditure for the specified purposes.

(c) An interlocal entity may disburse from a reserve account under Subsection (5)(a) only by a budget appropriation adopted in the manner provided by this part.

(d) Expenditures from a reserve account described in Subsection (5)(a) shall conform to all requirements of this part relating to execution and control of budgets.

Section 35. Section 11-13-513 is enacted to read:

11-13-513. Appropriations not to exceed estimated expendable revenue -- Determination of revenue -- Appropriations for existing deficits.

(1) The governing board of an interlocal entity may not make an appropriation in the final budget of a fund in excess of the estimated expendable revenue for the budget year of the fund.

(2) An interlocal entity determining the estimated expendable revenue of the interlocal entity general fund for the budget year shall include as an appropriation from the fund balance that portion of the fund balance at the close of the last completed fiscal year, not previously included in the budget of the current year, that exceeds the amount permitted in Section 11-13-512.

(3) (a) An interlocal entity shall include in a fund budget an appropriation for an existing deficit created in accordance with Section 11-13-521 as of the close of the current year and not previously included in the current year budget, to the extent of at least 5% of the total revenue in the current year.

(b) If the total amount of the deficit created in accordance with Section 11-13-521 is less than 5% of the total revenue in the current year, the interlocal entity shall include in the fund budget an appropriation for the entire amount of the deficit.

(c) An interlocal entity shall include in a fund budget appropriation for the entire amount of a deficit in the current year resulting from expenditures other than the expenditures allowed in Section 11-13-521 to the extent that the deficit had not been included in the current year budget.

Section 36. Section 11-13-514 is enacted to read:

11-13-514. Adoption of final budget -- Certification and filing.

(1) Except as provided in Sections 59-2-919 through 59-2-923, the governing board of an interlocal entity shall by resolution adopt prior to the beginning of the fiscal year a budget for the ensuing fiscal year for each fund for which a budget is required under this part.

(2) The interlocal entity's budget officer shall file within 30 days after adoption the final budget with the members and the state auditor.

Section 37. Section 11-13-515 is enacted to read:

11-13-515. Budgets in effect for budget year.

(1) Upon final adoption, each budget shall be in effect for the budget year, subject to amendment as provided in this part.

(2) An interlocal entity shall file a copy of the adopted budgets in the interlocal entity's office and make it available to the public during regular business hours.

Section 38. Section 11-13-516 is enacted to read:

11-13-516. Purchasing procedures.

An interlocal entity shall make an expenditure or incur an obligation according to the purchasing procedures established by an interlocal entity by resolution and only by order or approval of a person duly authorized.

Section 39. Section 11-13-517 is enacted to read:

11-13-517. Expenditures or encumbrances in excess of appropriations prohibited.

An interlocal entity may not make or incur an expenditure or encumbrance in excess of total appropriations in the budget as adopted or as subsequently amended, except as provided in Section 11-13-521.

Section 40. Section 11-13-518 is enacted to read:

11-13-518. Transfer of appropriation balance between accounts in same fund.

(1) The governing board of an interlocal entity shall establish policies for, subject to Subsection (2), the transfer of any unencumbered or unexpended appropriation balance or portion of the balance from one account in a fund to another account within the same fund.

(2) The governing board may not reduce below the minimums required an appropriation for debt retirement and interest, reduction of deficit, or other appropriation required by law or covenant.

Section 41. Section 11-13-519 is enacted to read:

11-13-519. Review of individual governmental fund budgets -- Hearing.

(1) The governing board of an interlocal entity may, at any time during the budget year, review an individual budget of the governmental fund for the purpose of determining if the total of an individual budget should be increased.

(2) If the governing board decides that the budget total of one or more governmental funds described in Subsection (1) should be increased, it shall hold a public hearing on the increase in accordance with the procedures established in Sections 11-13-509 and 11-13-510.

Section 42. Section 11-13-520 is enacted to read:

11-13-520. Amendment and increase of individual fund budgets.

(1) After holding the public hearing required under Section 11-13-519, the governing board may,

by resolution, amend the budgets of the funds proposed to be increased, so as to make all or part of the increases, both estimated revenues and appropriations, which were the proper subject of consideration at the hearing.

(2) The governing board may not adopt an amendment to the current year budgets of any of the funds established in Section 11-13-506 after the last day of the fiscal year.

Section 43. Section 11-13-521 is enacted to read:

11-13-521. Emergency expenditures.

The governing board of an interlocal entity may, by resolution, amend a budget and authorize an expenditure of money that results in a deficit in the interlocal entity general fund balance if:

(1) the board determines that:

(a) an emergency exists; and

(b) the expenditure is reasonably necessary to meet the emergency; and

(2) the expenditure is used to meet the emergency.

Section 44. Section 11-13-522 is enacted to read:

11-13-522. Lapse of appropriations -- Exceptions.

All unexpended or unencumbered appropriations, except capital projects fund appropriations, lapse at the end of the budget year to the respective fund balance.

Section 45. Section 11-13-523 is enacted to read:

11-13-523. Loans by one fund to another.

(1) Subject to this section, restrictions imposed by bond covenants, restrictions in Section 53-2a-605, or other controlling regulations, the governing board of an interlocal entity may authorize an interfund loan from one fund to another.

(2) An interfund loan under Subsection (1) shall be in writing and specify the terms and conditions of the loan, including the:

(a) effective date of the loan;

(b) name of the fund loaning the money;

(c) name of the fund receiving the money;

(d) amount of the loan;

(e) subject to Subsection (3), term of and repayment schedule for the loan;

(f) subject to Subsection (4), interest rate of the loan;

(g) method of calculating interest applicable to the loan;

(h) procedures for:

(i) applying interest to the loan; and

(ii) paying interest on the loan; and

(i) other terms and conditions the governing board determines applicable.

(3) The term and repayment schedule specified under Subsection (2)(e) may not exceed 10 years.

(4) (a) In determining the interest rate of the loan specified under Subsection (2)(f), the governing board shall apply an interest rate that reflects the rate of potential gain had the funds been deposited or invested in a comparable investment.

(b) Notwithstanding Subsection (4)(a), the interest rate of the loan specified under Subsection (2)(f):

(i) if the term of the loan under Subsection (2)(e) is one year or less, may not be less than the rate offered by the Public Treasurers' Investment Fund that was created for public funds transferred to the state treasurer in accordance with Section 51-7-5; or

(ii) if the term of the loan under Subsection (2)(e) is more than one year, may not be less than the greater of the rate offered by:

(A) the Public Treasurers' Investment Fund that was created for public funds transferred to the state treasurer in accordance with Section 51-7-5; or

(B) a United States Treasury note of a comparable term.

(5) (a) For an interfund loan under Subsection (1), the governing board shall:

(i) hold a public hearing;

(ii) prepare a written notice of the date, time, place, and purpose of the hearing, and the proposed terms and conditions of the interfund loan under Subsection (2);

(iii) provide notice of the public hearing in the same manner as required under Section 11-13-509 as if the hearing were a budget hearing; and

(iv) authorize the interfund loan by resolution in a public meeting.

(b) The notice and hearing requirements in Subsection (5)(a) are satisfied if the interfund loan is included in an original budget or in a subsequent budget amendment previously approved by the governing board for the current fiscal year.

(6) Subsections (2) through (5) do not apply to an interfund loan if the interfund loan is:

(a) a loan from the interlocal entity general fund to any other fund of the interlocal entity; or

(b) a short-term advance from the interlocal entity's cash and investment pool to an individual fund that is repaid by the end of the fiscal year.

Section 46. Section 11-13-524 is enacted to read:

11-13-524. Operating and capital budgets for proprietary funds.

(1) (a) As used in this section, "operating and capital budget" means a plan of financial operation

for a proprietary or other required special fund, including estimates of operating and capital revenues and expenses for the budget year.

(b) Except as otherwise expressly provided in this section, the other provisions of this part governing budgets and fiscal procedures and controls do not apply to the operating and capital budgets provided for in this section.

(2) Subject to Subsection (3), the governing board shall adopt for the ensuing budget year an operating and capital budget for each proprietary fund and shall adopt the type of budget for other special funds, if applicable, under generally accepted accounting principles.

(3) Operating and capital budgets shall be adopted and administered in the following manner:

(a) On or before the first regularly scheduled meeting of the governing board, in November for a calendar year entity or May for a fiscal year entity, the budget officer shall prepare for the ensuing fiscal year, and file with the governing board, a tentative operating and capital budget for each proprietary fund and for other required special funds, together with any supporting data required by the board.

(b) The governing board:

(i) shall adopt the tentative operating and capital budget in a regular meeting or special meeting called for that purpose; and

(ii) may amend or revise the tentative operating and capital budget in any manner that the board considers advisable prior to a public hearing.

(c) The governing board shall comply with the notice and hearing requirements of Subsection (3) and Sections 11-13-509 through 11-13-511 in approving a final operating and capital budget.

(d) If the tentative operating and capital budget approved by the governing board for a proprietary fund includes appropriations that are not reasonable allocations of costs between funds or that provide funds to a member without consideration, the governing board shall, at least seven days before the day of the hearing, mail to each interlocal entity customer, a written notice stating:

(i) the date, time, and place of the operating and capital budget hearing; and

(ii) the purpose of the operating and capital budget hearing, including:

(A) the enterprise fund from which money is being transferred;

(B) the amount being transferred; and

(C) the fund or member to which the money is being transferred.

(e) (i) The governing board shall adopt an operating and capital budget for each proprietary fund for the ensuing fiscal year before the beginning of each fiscal year.

(ii) A copy of the operating and capital budget as finally adopted for each proprietary fund shall be:

(A) filed in the interlocal entity's office and with each member; and

(B) available to the public during regular business hours.

(iii) The interlocal entity shall also file a copy of the operating and capital budget with the state auditor within 30 days after adoption.

(f) (i) Upon final adoption, the operating and capital budget is in effect for the budget year, subject to later amendment.

(ii) During the budget year, the governing board may, in any regular meeting or special meeting called for that purpose, review an operating and capital budget for the purpose of determining if the total of the budget should be increased.

(iii) If the governing board decides that the operating and capital budget total of one or more proprietary funds should be increased, the board shall follow the procedures established in Section 11-13-525.

(4) An interlocal entity shall maintain a proprietary fund or other required special fund in compliance with Sections 11-13-501 through 11-13-505, 11-13-516, 11-13-518, and 11-13-526 through 11-13-532.

Section 47. Section 11-13-525 is enacted to read:

11-13-525. Increase in appropriations for operating and capital budget fund -- Notice.

(1) The total budget appropriation of a fund described in Section 11-13-524 may be increased by resolution of the governing board at a regular meeting, or special meeting called for that purpose, if written notice of the time, place, and purpose of the meeting has been mailed or delivered to all members of the governing board at least five days before the day of the meeting.

(2) The notice may be waived in writing or verbally during attendance at the meeting by a member of the governing board.

Section 48. Section 11-13-526 is enacted to read:

11-13-526. Deposit of interlocal entity funds -- Commingling with personal funds prohibited -- Suspension from office.

(1) The treasurer of an interlocal entity shall promptly deposit all interlocal entity funds in the appropriate bank accounts of the interlocal entity.

(2) It is unlawful for a person to commingle interlocal entity funds with the person's own money.

(3) If an interlocal entity has reason to believe that an officer or employee has misused public funds, the interlocal entity shall place the employee or officer on administrative leave with or without pay, pending completion of any investigation.

Section 49. Section 11-13-527 is enacted to read:

11-13-527. Quarterly financial reports required.

The interlocal entity clerk or other delegated person shall prepare and present to the governing board a detailed quarterly financial report showing the financial position and operations of the interlocal entity for that quarter and the year-to-date status.

Section 50. Section 11-13-528 is enacted to read:

11-13-528. Annual financial reports -- Audit reports.

(1) Within 180 days after the close of each fiscal year, the interlocal entity shall prepare an annual financial report in conformity with generally accepted accounting principles as prescribed in the Uniform Accounting Manual of the Utah State Auditor.

(2) The requirement under Subsection (1) may be satisfied by presentation of the audit report furnished by the auditor.

(3) The interlocal entity shall:

(a) file copies of the annual financial report or the audit report furnished by the auditor with the state auditor; and

(b) maintain the report as a public document in the interlocal entity office.

Section 51. Section 11-13-529 is enacted to read:

11-13-529. Audits required.

(1) An interlocal entity shall facilitate an audit of the interlocal entity in accordance with Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act.

(2) The governing board shall appoint an auditor for the purpose of complying with the requirements of this section and with Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act.

Section 52. Section 11-13-530 is enacted to read:

11-13-530. Interlocal entity may expand uniform procedures -- Limitation.

(1) Subject to Subsection (2), an interlocal entity may expand a uniform accounting, budgeting, or reporting procedure required by generally accepted accounting principles, to better serve the needs of the interlocal entity.

(2) An interlocal entity may not deviate from or alter the basic prescribed classification systems for the identity of funds and accounts required by generally accepted accounting principles.

Section 53. Section 11-13-531 is enacted to read:

11-13-531. Imposing or increasing a fee for service provided by interlocal entity.

(1) The governing board shall fix the rate for a service or commodity provided by the interlocal entity.

(2) (a) Before imposing a new fee or increasing an existing fee for a service provided by an interlocal entity, an interlocal entity governing board shall first hold a public hearing at which interested persons may speak for or against the proposal to impose a fee or to increase an existing fee.

(b) Each public hearing under Subsection (2)(a) shall be held on a weekday in the evening beginning no earlier than 6 p.m.

(c) A public hearing required under this Subsection (2) may be combined with a public hearing on a tentative budget required under Section 11-13-510.

(d) Except to the extent that this section imposes more stringent notice requirements, the governing board shall comply with Title 52, Chapter 4, Open and Public Meetings Act, in holding the public hearing under Subsection (2)(a).

(3) (a) An interlocal entity board shall give notice of a hearing under Subsection (2)(a):

(i) as provided in Subsection (3)(b)(i) or (c); and

(ii) for at least 20 days before the day of the hearing on the Utah Public Notice Website, created by Section 63F-1-701.

(b) (i) Except as provided by Subsection (3)(c)(i), the notice required under Subsection (2)(a) shall be published:

(A) in a newspaper or combination of newspapers of general circulation in the interlocal entity, if there is a newspaper or combination of newspapers of general circulation in the interlocal entity; or

(B) if there is no newspaper or combination of newspapers of general circulation in the interlocal entity, the interlocal entity board shall post at least one notice per 1,000 population within the interlocal entity, at places within the interlocal entity that are most likely to provide actual notice to residents within the interlocal entity.

(ii) The notice described in Subsection (3)(b)(i)(A):

(A) shall be no less than 1/4 page in size and the type used shall be no smaller than 18 point, and surrounded by a 1/4-inch border;

(B) may not be placed in that portion of the newspaper where legal notices and classified advertisements appear;

(C) whenever possible, shall appear in a newspaper that is published at least one day per week;

(D) shall be in a newspaper or combination of newspapers of general interest and readership in the interlocal entity, and not of limited subject matter; and

(E) shall be run once each week for the two weeks preceding the hearing.

(iii) The notice described in Subsections (3)(a)(ii) and (3)(b)(i) shall state that the interlocal entity

board intends to impose or increase a fee for a service provided by the interlocal entity and will hold a public hearing on a certain day, time, and place fixed in the notice, which shall be not less than seven days after the day the first notice is published, for the purpose of hearing comments regarding the proposed imposition or increase of a fee and to explain the reasons for the proposed imposition or increase.

(c) (i) In lieu of providing notice under Subsection (3)(b)(i), the interlocal entity governing board may give the notice required under Subsection (2)(a) by mailing the notice to a person within the interlocal entity's service area who:

(A) will be charged the fee for an interlocal entity's service, if the fee is being imposed for the first time; or

(B) is being charged a fee, if the fee is proposed to be increased.

(ii) Each notice under Subsection (3)(c)(i) shall comply with Subsection (3)(b)(iii).

(iii) A notice under Subsection (3)(c)(i) may accompany an interlocal entity bill for an existing fee.

(d) If the hearing required under this section is combined with the public hearing required under Section 11-13-510, the notice requirements under this Subsection (3) are satisfied if a notice that meets the requirements of Subsection (3)(b)(iii) is combined with the notice required under Section 11-13-509.

(e) Proof that notice was given as provided in Subsection (3)(b) or (c) is prima facie evidence that notice was properly given.

(f) If no challenge is made to the notice given of a public hearing required by Subsection (2) within 30 days after the date of the hearing, the notice is considered adequate and proper.

(4) After holding a public hearing under Subsection (2)(a), a governing board may:

(a) impose the new fee or increase the existing fee as proposed;

(b) adjust the amount of the proposed new fee or the increase of the existing fee and then impose the new fee or increase the existing fee as adjusted; or

(c) decline to impose the new fee or increase the existing fee.

(5) This section applies to each new fee imposed and each increase of an existing fee that occurs on or after May 12, 2015.

(6) An interlocal entity that accepts an electronic payment may charge an electronic payment fee.

Section 54. Section 11-13-532 is enacted to read:

11-13-532. Residential fee credit.

(1) An interlocal entity may create a fee structure under this chapter that permits:

(a) a home owner or residential tenant to file for a fee credit for a fee charged by the interlocal entity, if the credit is based on:

(i) the home owner's annual income; or

(ii) the residential tenant's annual income; or

(b) an owner of federally subsidized housing to file for a credit for a fee charged by the interlocal entity.

(2) If an interlocal entity permits a person to file for a fee credit under Subsection (1)(a), the interlocal entity shall make the credit available to:

(a) a home owner; and

(b) a residential tenant.

Section 55. Section 52-4-103 is amended to read:

52-4-103. Definitions.

As used in this chapter:

(1) "Anchor location" means the physical location from which:

(a) an electronic meeting originates; or

(b) the participants are connected.

(2) "Capitol hill complex" means the grounds and buildings within the area bounded by 300 North Street, Columbus Street, 500 North Street, and East Capitol Boulevard in Salt Lake City.

(3) "Convening" means the calling together of a public body by a person authorized to do so for the express purpose of discussing or acting upon a subject over which that public body has jurisdiction or advisory power.

(4) "Electronic meeting" means a public meeting convened or conducted by means of a conference using electronic communications.

(5) "Electronic message" means a communication transmitted electronically, including:

(a) electronic mail;

(b) instant messaging;

(c) electronic chat;

(d) text messaging as defined in Section 76-4-401; or

(e) any other method that conveys a message or facilitates communication electronically.

(6) (a) "Meeting" means the convening of a public body or a specified body, with a quorum present, including a workshop or an executive session, whether in person or by means of electronic communications, for the purpose of discussing, receiving comments from the public about, or acting upon a matter over which the public body or specific body has jurisdiction or advisory power.

(b) "Meeting" does not mean:

(i) a chance gathering or social gathering; or

(ii) a convening of the State Tax Commission to consider a confidential tax matter in accordance with Section 59-1-405.

(c) "Meeting" does not mean the convening of a public body that has both legislative and executive responsibilities if:

(i) no public funds are appropriated for expenditure during the time the public body is convened; and

(ii) the public body is convened solely for the discussion or implementation of administrative or operational matters:

(A) for which no formal action by the public body is required; or

(B) that would not come before the public body for discussion or action.

(7) "Monitor" means to hear or observe, live, by audio or video equipment, all of the public statements of each member of the public body who is participating in a meeting.

(8) "Participate" means the ability to communicate with all of the members of a public body, either verbally or electronically, so that each member of the public body can hear or observe the communication.

(9) (a) "Public body" means any administrative, advisory, executive, or legislative body of the state or its political subdivisions that:

(i) is created by the Utah Constitution, statute, rule, ordinance, or resolution;

(ii) consists of two or more persons;

(iii) expends, disburses, or is supported in whole or in part by tax revenue; and

(iv) is vested with the authority to make decisions regarding the public's business.

(b) "Public body" includes, as defined in Section 11-13-103, an interlocal entity or joint or cooperative undertaking.

~~(4b)~~ (c) "Public body" does not include a:

(i) political party, political group, or political caucus;

(ii) conference committee, rules committee, or sifting committee of the Legislature; or

(iii) school community council established under Section 53A-1a-108.

(10) "Public statement" means a statement made in the ordinary course of business of the public body with the intent that all other members of the public body receive it.

(11) (a) "Quorum" means a simple majority of the membership of a public body, unless otherwise defined by applicable law.

(b) "Quorum" does not include a meeting of two elected officials by themselves when no action, either formal or informal, is taken on a subject over which these elected officials have advisory power.

(12) "Recording" means an audio, or an audio and video, record of the proceedings of a meeting that

can be used to review the proceedings of the meeting.

(13) "Specified body" means an administrative, advisory, executive, or legislative body that:

(a) is not a public body;

(b) consists of three or more members; and

(c) includes at least one member who is:

(i) a legislator; and

(ii) officially appointed to the body by the President of the Senate, Speaker of the House of Representatives, or governor.

(14) "Transmit" means to send, convey, or communicate an electronic message by electronic means.

Section 56. Section 53-2a-605 is amended to read:

53-2a-605. Local government disaster funds.

(1) (a) Subject to this section and notwithstanding anything to the contrary contained in Title 10, Utah Municipal Code, or Title 17, Counties, Title 17B, Limited Purpose Local Government Entities - Local Districts, or Title 17D, Chapter 1, Special Service District Act, the governing body of a local government may create and maintain by ordinance a special fund known as a local government disaster fund.

(b) The local fund shall consist of:

(i) subject to the limitations of this section, money transferred to it in accordance with Subsection (2);

(ii) any other public or private money received by the local government that is:

(A) given to the local government for purposes consistent with this section; and

(B) deposited into the local fund at the request of:

(I) the governing body of the local government; or

(II) the person giving the money; and

(iii) interest or income realized from the local fund.

(c) Interest or income realized from the local fund shall be deposited into the local fund.

(d) Money in a local fund may be:

(i) deposited or invested as provided in Section 51-7-11; or

(ii) transferred by the local government treasurer to the state treasurer under Section 51-7-5 for the state treasurer's management and control under Title 51, Chapter 7, State Money Management Act.

(e) (i) The money in a local fund may accumulate from year to year until the local government governing body determines to spend any money in the local fund for one or more of the purposes specified in Subsection (3).

(ii) Money in a local fund at the end of a fiscal year:

(A) shall remain in the local fund for future use; and

(B) may not be transferred to any other fund or used for any other purpose.

(2) The amounts transferred to a local fund may not exceed 10% of the total estimated revenues of the local government for the current fiscal period that are not restricted or otherwise obligated.

(3) Money in the fund may only be used to fund the services and activities of the local government creating the local fund in response to:

(a) a declared disaster within the boundaries of the local government;

(b) the aftermath of the disaster that gave rise to a declared disaster within the boundaries of the local government; and

(c) subject to Subsection (5), emergency preparedness.

(4) (a) A local fund is subject to this part and:

(i) in the case of a town, Title 10, Chapter 5, Uniform Fiscal Procedures Act for Utah Towns, except that:

(A) in addition to the funds listed in Section 10-5-106, the mayor shall prepare a budget for the local fund;

(B) Section 10-5-119 addressing termination of special funds does not apply to a local fund; and

(C) the council of the town may not authorize an interfund loan under Section 10-5-120 from the local fund;

(ii) in the case of a city, Title 10, Chapter 6, Uniform Fiscal Procedures Act for Utah Cities, except that:

(A) in addition to the funds listed in Section 10-6-109, the mayor shall prepare a budget for the local fund;

(B) Section 10-6-131 addressing termination of special funds does not apply to a local fund; and

(C) the governing body of the city may not authorize an interfund loan under Section 10-6-132 from the local fund; and

(iii) in the case of a county, Title 17, Chapter 36, Uniform Fiscal Procedures Act for Counties, except that:

(A) Section 17-36-29 addressing termination of special funds does not apply to a local fund; and

(B) the governing body of the county may not authorize an interfund loan under Section 17-36-30 from the local fund; ~~and~~

(iv) in the case of a local district or special service district, Title 17B, Chapter 1, Part 6, Fiscal Procedures for Local Districts, except that:

(A) Section 17B-1-625, addressing termination of a special fund, does not apply to a local fund; and

(B) the governing body of the local district or special service district may not authorize an interfund loan under Section 17B-1-626 from the local fund[-]; and

(v) in the case of an interlocal entity, Title 11, Chapter 13, Part 5, Fiscal Procedures for Interlocal Entities, except for the following provisions:

(A) Section 11-13-522 addressing termination of a special fund does not apply to a local fund; and

(B) the governing board of the interlocal entity may not authorize an interfund loan under Section 11-13-523 from the local fund.

(b) Notwithstanding Subsection (4)(a), transfers of money to a local fund or the accumulation of money in a local fund do not affect any limits on fund balances, net assets, or the accumulation of retained earnings in any of the following of a local government:

(i) a general fund;

(ii) an enterprise fund;

(iii) an internal service fund; or

(iv) any other fund.

(5) (a) A local government may not expend during a fiscal year more than 10% of the money budgeted to be deposited into a local fund during that fiscal year for emergency preparedness.

(b) The amount described in Subsection (5)(a) shall be determined before the adoption of the tentative budget.

Section 57. Section 63G-2-103 is amended to read:

63G-2-103. Definitions.

As used in this chapter:

(1) "Audit" means:

(a) a systematic examination of financial, management, program, and related records for the purpose of determining the fair presentation of financial statements, adequacy of internal controls, or compliance with laws and regulations; or

(b) a systematic examination of program procedures and operations for the purpose of determining their effectiveness, economy, efficiency, and compliance with statutes and regulations.

(2) "Chronological logs" mean the regular and customary summary records of law enforcement agencies and other public safety agencies that show:

(a) the time and general nature of police, fire, and paramedic calls made to the agency; and

(b) any arrests or jail bookings made by the agency.

(3) "Classification," "classify," and their derivative forms mean determining whether a record series, record, or information within a record is public, private, controlled, protected, or exempt from disclosure under Subsection 63G-2-201(3)(b).

(4) (a) “Computer program” means:

(i) a series of instructions or statements that permit the functioning of a computer system in a manner designed to provide storage, retrieval, and manipulation of data from the computer system; and

(ii) any associated documentation and source material that explain how to operate the computer program.

(b) “Computer program” does not mean:

(i) the original data, including numbers, text, voice, graphics, and images;

(ii) analysis, compilation, and other manipulated forms of the original data produced by use of the program; or

(iii) the mathematical or statistical formulas, excluding the underlying mathematical algorithms contained in the program, that would be used if the manipulated forms of the original data were to be produced manually.

(5) (a) “Contractor” means:

(i) any person who contracts with a governmental entity to provide goods or services directly to a governmental entity; or

(ii) any private, nonprofit organization that receives funds from a governmental entity.

(b) “Contractor” does not mean a private provider.

(6) “Controlled record” means a record containing data on individuals that is controlled as provided by Section 63G-2-304.

(7) “Designation,” “designate,” and their derivative forms mean indicating, based on a governmental entity’s familiarity with a record series or based on a governmental entity’s review of a reasonable sample of a record series, the primary classification that a majority of records in a record series would be given if classified and the classification that other records typically present in the record series would be given if classified.

(8) “Elected official” means each person elected to a state office, county office, municipal office, school board or school district office, local district office, or special service district office, but does not include judges.

(9) “Explosive” means a chemical compound, device, or mixture:

(a) commonly used or intended for the purpose of producing an explosion; and

(b) that contains oxidizing or combustive units or other ingredients in proportions, quantities, or packing so that:

(i) an ignition by fire, friction, concussion, percussion, or detonator of any part of the compound or mixture may cause a sudden generation of highly heated gases; and

(ii) the resultant gaseous pressures are capable of:

(A) producing destructive effects on contiguous objects; or

(B) causing death or serious bodily injury.

(10) “Government audit agency” means any governmental entity that conducts an audit.

(11) (a) “Governmental entity” means:

(i) executive department agencies of the state, the offices of the governor, lieutenant governor, state auditor, attorney general, and state treasurer, the Board of Pardons and Parole, the Board of Examiners, the National Guard, the Career Service Review Office, the State Board of Education, the State Board of Regents, and the State Archives;

(ii) the Office of the Legislative Auditor General, Office of the Legislative Fiscal Analyst, Office of Legislative Research and General Counsel, the Legislature, and legislative committees, except any political party, group, caucus, or rules or sifting committee of the Legislature;

(iii) courts, the Judicial Council, the Office of the Court Administrator, and similar administrative units in the judicial branch;

(iv) any state-funded institution of higher education or public education; or

(v) any political subdivision of the state, but, if a political subdivision has adopted an ordinance or a policy relating to information practices pursuant to Section 63G-2-701, this chapter shall apply to the political subdivision to the extent specified in Section 63G-2-701 or as specified in any other section of this chapter that specifically refers to political subdivisions.

(b) “Governmental entity” also means:

(i) every office, agency, board, bureau, committee, department, advisory board, or commission of an entity listed in Subsection (11)(a) that is funded or established by the government to carry out the public’s business[-]; and

(ii) as defined in Section 11-13-103, an interlocal entity or joint or cooperative undertaking.

(c) “Governmental entity” does not include the Utah Educational Savings Plan created in Section 53B-8a-103.

(12) “Gross compensation” means every form of remuneration payable for a given period to an individual for services provided including salaries, commissions, vacation pay, severance pay, bonuses, and any board, rent, housing, lodging, payments in kind, and any similar benefit received from the individual’s employer.

(13) “Individual” means a human being.

(14) (a) “Initial contact report” means an initial written or recorded report, however titled, prepared by peace officers engaged in public patrol or response duties describing official actions initially taken in response to either a public

complaint about or the discovery of an apparent violation of law, which report may describe:

(i) the date, time, location, and nature of the complaint, the incident, or offense;

(ii) names of victims;

(iii) the nature or general scope of the agency's initial actions taken in response to the incident;

(iv) the general nature of any injuries or estimate of damages sustained in the incident;

(v) the name, address, and other identifying information about any person arrested or charged in connection with the incident; or

(vi) the identity of the public safety personnel, except undercover personnel, or prosecuting attorney involved in responding to the initial incident.

(b) Initial contact reports do not include follow-up or investigative reports prepared after the initial contact report. However, if the information specified in Subsection (14)(a) appears in follow-up or investigative reports, it may only be treated confidentially if it is private, controlled, protected, or exempt from disclosure under Subsection 63G-2-201(3)(b).

(15) "Legislative body" means the Legislature.

(16) "Notice of compliance" means a statement confirming that a governmental entity has complied with a records committee order.

(17) "Person" means:

(a) an individual;

(b) a nonprofit or profit corporation;

(c) a partnership;

(d) a sole proprietorship;

(e) other type of business organization; or

(f) any combination acting in concert with one another.

(18) "Private provider" means any person who contracts with a governmental entity to provide services directly to the public.

(19) "Private record" means a record containing data on individuals that is private as provided by Section 63G-2-302.

(20) "Protected record" means a record that is classified protected as provided by Section 63G-2-305.

(21) "Public record" means a record that is not private, controlled, or protected and that is not exempt from disclosure as provided in Subsection 63G-2-201(3)(b).

(22) (a) "Record" means a book, letter, document, paper, map, plan, photograph, film, card, tape, recording, electronic data, or other documentary material regardless of physical form or characteristics:

(i) that is prepared, owned, received, or retained by a governmental entity or political subdivision; and

(ii) where all of the information in the original is reproducible by photocopy or other mechanical or electronic means.

(b) "Record" does not mean:

(i) a personal note or personal communication prepared or received by an employee or officer of a governmental entity:

(A) in a capacity other than the employee's or officer's governmental capacity; or

(B) that is unrelated to the conduct of the public's business;

(ii) a temporary draft or similar material prepared for the originator's personal use or prepared by the originator for the personal use of an individual for whom the originator is working;

(iii) material that is legally owned by an individual in the individual's private capacity;

(iv) material to which access is limited by the laws of copyright or patent unless the copyright or patent is owned by a governmental entity or political subdivision;

(v) proprietary software;

(vi) junk mail or a commercial publication received by a governmental entity or an official or employee of a governmental entity;

(vii) a book that is cataloged, indexed, or inventoried and contained in the collections of a library open to the public;

(viii) material that is cataloged, indexed, or inventoried and contained in the collections of a library open to the public, regardless of physical form or characteristics of the material;

(ix) a daily calendar or other personal note prepared by the originator for the originator's personal use or for the personal use of an individual for whom the originator is working;

(x) a computer program that is developed or purchased by or for any governmental entity for its own use;

(xi) a note or internal memorandum prepared as part of the deliberative process by:

(A) a member of the judiciary;

(B) an administrative law judge;

(C) a member of the Board of Pardons and Parole; or

(D) a member of any other body charged by law with performing a quasi-judicial function;

(xii) a telephone number or similar code used to access a mobile communication device that is used by an employee or officer of a governmental entity, provided that the employee or officer of the governmental entity has designated at least one

business telephone number that is a public record as provided in Section 63G-2-301;

(xiii) information provided by the Public Employees' Benefit and Insurance Program, created in Section 49-20-103, to a county to enable the county to calculate the amount to be paid to a health care provider under Subsection 17-50-319(2)(e)(ii);

(xiv) information that an owner of unimproved property provides to a local entity as provided in Section 11-42-205; or

(xv) a video or audio recording of an interview, or a transcript of the video or audio recording, that is conducted at a Children's Justice Center established under Section 67-5b-102.

(23) "Record series" means a group of records that may be treated as a unit for purposes of designation, description, management, or disposition.

(24) "Records committee" means the State Records Committee created in Section 63G-2-501.

(25) "Records officer" means the individual appointed by the chief administrative officer of each governmental entity, or the political subdivision to work with state archives in the care, maintenance, scheduling, designation, classification, disposal, and preservation of records.

(26) "Schedule," "scheduling," and their derivative forms mean the process of specifying the length of time each record series should be retained by a governmental entity for administrative, legal, fiscal, or historical purposes and when each record series should be transferred to the state archives or destroyed.

(27) "Sponsored research" means research, training, and other sponsored activities as defined by the federal Executive Office of the President, Office of Management and Budget:

(a) conducted:

(i) by an institution within the state system of higher education defined in Section 53B-1-102; and

(ii) through an office responsible for sponsored projects or programs; and

(b) funded or otherwise supported by an external:

(i) person that is not created or controlled by the institution within the state system of higher education; or

(ii) federal, state, or local governmental entity.

(28) "State archives" means the Division of Archives and Records Service created in Section 63A-12-101.

(29) "State archivist" means the director of the state archives.

(30) "Summary data" means statistical records and compilations that contain data derived from private, controlled, or protected information but

that do not disclose private, controlled, or protected information.

Section 58. Repealer.

This bill repeals:

**Section 11-13-223 (Superseded 05/12/15),
Open and public meetings.**

**Section 11-13-223 (Effective 05/12/15), Open
and public meetings.**

CHAPTER 266**H. B. 279**

Passed March 12, 2015

Approved March 27, 2015

Effective May 12, 2015

**PRESCRIPTION
NOTIFICATION AMENDMENTS**

Chief Sponsor: Francis D. Gibson

Senate Sponsor: J. Stuart Adams

LONG TITLE**General Description:**

This bill amends provisions related to biosimilar products in the Pharmacy Practice Act.

Highlighted Provisions:

This bill:

- ▶ deletes the definition of biosimilar;
- ▶ defines interchangeable biological product;
- ▶ requires a pharmacist to notify the prescriber when a biological product is dispensed if an interchangeable biological product is available;
- ▶ establishes the methods of notifying a prescriber; and
- ▶ amends repealer language.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

58-17b-605.5, as enacted by Laws of Utah 2013, Chapter 423

63I-2-258, as last amended by Laws of Utah 2013, Chapter 423

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

Section 1. Section 58-17b-605.5 is amended to read:**58-17b-605.5. Interchangeable biological products.**

(1) For the purposes of this section:

(a) “Biological product” ~~is as~~ means the same as that term is defined in 42 U.S.C. Sec. 262[~~;~~].

~~[(b) “biosimilar” is as defined in 42 U.S.C. Sec. 262; and]~~

~~[(c) “interchangeable” is as defined in 42 U.S.C. Sec. 262.]~~

(b) “Interchangeable biological product” means a biological product that the federal Food and Drug Administration:

(i) has:

(A) licensed; and

(B) determined meets the standards for interchangeability pursuant to 42 U.S.C. Sec. 262(k)(4); or

(ii) has determined is therapeutically equivalent as set forth in the latest edition of or supplement to

the federal Food and Drug Administration’s Approved Drug Products with Therapeutic Equivalence Evaluations.

(2) A pharmacist or pharmacy intern dispensing a prescription order for a specific biological product by brand or proprietary name may substitute [a ~~biosimilar~~] an interchangeable biological product for the prescribed biological product only if:

(a) the purchaser specifically requests or consents to the substitute of an interchangeable [~~biosimilar~~] biological product;

~~[(b) the biosimilar product has been determined by the United States Food and Drug Administration to be interchangeable with the prescribed biological product;]~~

~~[(e) (b) the interchangeable [biosimilar] biological product is permitted to move in interstate commerce;~~

~~[(d) (c) the pharmacist or pharmacy intern counsels the patient on the use and the expected response to the prescribed biological product, whether a substitute or not, and the substitution is not otherwise prohibited by this chapter;~~

~~[(e) (d) the prescribing practitioner has not prohibited the substitution of an interchangeable [biosimilar] biological product for the prescribed biological product, as provided in Subsection (6); and]~~

~~[(f) (e) the substitution is not otherwise prohibited by law.]~~

(3) ~~[(a)]~~ Each out-of-state mail service pharmacy dispensing an interchangeable [~~biosimilar~~] biological product as a substitute for another biological product into this state shall:

(a) notify the patient of the substitution either by telephone or in writing~~[-]; and~~

(b) ~~[Each out-of-state mail service pharmacy shall]~~ comply with the requirements of this chapter with respect to an interchangeable [~~biosimilar~~] biological product substituted for another biological product, including labeling and record keeping.

(4) Pharmacists or pharmacy interns may not substitute without the prescriber’s authorization biological product prescriptions unless the product has been determined by the United States Food and Drug Administration to be interchangeable with the prescribed biological product.

(5) A pharmacist or pharmacy intern who dispenses a prescription with an interchangeable [~~biosimilar~~] biological product under this section assumes no greater liability than would be incurred had the pharmacist or pharmacy intern dispensed the prescription with the biological product prescribed.

(6) (a) If, in the opinion of the prescribing practitioner, it is in the best interest of the patient that an interchangeable [~~biosimilar~~] biological product not be substituted for a prescribed biological product, the practitioner may prohibit a substitution either by writing “dispense as written”

or by signing in the appropriate space where two lines have been preprinted on a prescription order and captioned "dispense as written" or "substitution permitted."

(b) (i) If the prescription is communicated orally by the prescribing practitioner to the pharmacist or pharmacy intern, the practitioner shall direct the prohibition or substitution.

(ii) The pharmacist or pharmacy intern shall make a written note of the practitioner's direction by writing the name of the practitioner and the words "orally by" and the initials of the pharmacist or pharmacy intern written after it.

(7) A pharmacist or pharmacy intern who substitutes an interchangeable ~~[biosimilar]~~ biological product for a prescribed biological product shall communicate the substitution to the purchaser. The interchangeable ~~[biosimilar]~~ biological product container shall be labeled with the name of the interchangeable ~~[biosimilar]~~ biological product dispensed, and the pharmacist, pharmacy intern, or pharmacy technician shall indicate on the file copy of the prescription both the name of the prescribed biological product and the name of the interchangeable ~~[biosimilar]~~ biological product dispensed in its place.

~~[(8) (a) A pharmacist or pharmacy intern who substitutes an interchangeable biosimilar product for a prescribed biological product shall:]~~

~~[(i) notify the prescriber in writing, by fax, telephone, or electronic transmission of the substitution, as soon as practicable, but not later than three business days after dispensing the interchangeable biosimilar product in place of the prescribed biological product; and]~~

~~[(ii) include the name and manufacturer of the interchangeable biosimilar product substituted.]~~

~~[(b) This subsection is repealed on May 15, 2015.]~~

(8) Within five business days following the dispensing of a biological product, the dispensing pharmacist or the pharmacist's designee shall make an entry of the specific product provided to the patient, including the name of the product and the manufacturer. The communication shall be conveyed by making an entry into an interoperable electronic medical records system, through an electronic prescribing technology, a pharmacy benefit management system, or a pharmacy record that is electronically accessible by the prescriber. Entry into an electronic records system as described in this Subsection (8) is presumed to provide notice to the prescriber. Otherwise, the pharmacist shall communicate the biological product dispensed to the prescriber using facsimile, telephone, electronic transmission, or other prevailing means, provided that communication shall not be required where:

(a) there is no FDA-approved interchangeable biological product for the product prescribed;

(b) a refill prescription is not changed from the product dispensed on the prior filling of the prescription; or

(c) the product is paid for using cash or cash equivalent.

Section 2. Section 63I-2-258 is amended to read:

63I-2-258. Repeal dates -- Title 58.

~~[(1) Subsection 58-72-201(1)(b) is repealed July 1, 2014.]~~

~~[(2) Subsection 58-17b-605.5(8) is repealed on May 15, 2015.]~~

CHAPTER 267**H. B. 289**

Passed March 11, 2015
 Approved March 27, 2015
 Effective May 12, 2015

HIGHWAY SPECIAL EVENT PERMITTING

Chief Sponsor: Gage Froerer
 Senate Sponsor: Scott K. Jenkins

LONG TITLE**General Description:**

This bill enacts language authorizing the Department of Transportation to make rules related to the issuance of special use permits on state highways.

Highlighted Provisions:

This bill:

- ▶ defines “special use permit”; and
- ▶ authorizes the Department of Transportation to make rules related to the issuance of special use permits on state highways.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

72-1-212, Utah Code Annotated 1953

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

Section 1. Section 72-1-212 is enacted to read:**72-1-212. Special use permitting -- Rulemaking.**

(1) For purposes of this section, “special use permit” means a permit issued for a special use or a special event that takes place on a highway.

(2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and in consultation with representatives of the Utah League of Cities and Towns and the Utah Association of Counties, the department shall make rules that are not inconsistent with this chapter or the constitution and laws of this state or of the United States governing the issuance of a special use permit to maintain public safety and serve the needs of the traveling public.

(3) The rules described in Subsection (2) may:

(a) establish the highways for which the highest number of special use permits are issued;

(b) develop, in consultation with municipalities, a limit on the number of special use permits that may be issued in any calendar year on a particular highway;

(c) require a person to submit an application designated by the department before the department issues a special use permit;

(d) limit the number of special use permits issued on any one day for any specified location based on a

first-come, first-served basis for completed applications;

(e) establish criteria for evaluating completed applications, such as historic use, potential economic benefit, or other relevant factors;

(f) specify conditions that are required to be met before a special use permit may be issued;

(g) establish a penalty for failure to fulfill conditions required by the special use permit, including suspension of the special use permit or suspension of a future special use permit;

(h) require an applicant to obtain insurance for certain special uses or special events; or

(i) provide other requirements to maintain public safety and serve the needs of the traveling public.

(4) The limit on the number of special use permits described in Subsection (3)(b) may not include a special use permit issued for a municipality-sponsored special use or special event on a highway within the jurisdiction of the municipality.

(5) The rules shall consider:

(a) traveler safety and mobility;

(b) the safety of special use or special event participants;

(c) emergency access;

(d) the mobility of residents close to the event or use;

(e) access and economic impact to businesses affected by changes to the normal operation of highway traffic; and

(f) past performance of an applicant’s adherence to special use permit requirements.

(5) The department shall adopt a fee schedule in accordance with Section 63J-1-504 that reflects the cost of services provided by the department associated with special use permits and with special uses or special events that take place on a highway.

CHAPTER 268**H. B. 290**

Passed March 9, 2015
 Approved March 27, 2015
 Effective May 12, 2015

**NEW CAR DEALERSHIP
 FRANCHISE AMENDMENTS**

Chief Sponsor: Mike K. McKell
 Senate Sponsor: Curtis S. Bramble
 Cosponsors: Kim Coleman
 Rich Cunningham
 John Knotwell

LONG TITLE**General Description:**

This bill modifies provisions relating to new automobile franchises.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ addresses the procedure by which a franchisor may establish or relocate a dealership in the same line-make as an existing dealership in the relevant market area;
- ▶ modifies the membership of the Utah Motor Vehicle Franchise Advisory Board;
- ▶ provides that an affected municipality may participate in a hearing before the Utah Motor Vehicle Franchise Advisory Board;
- ▶ clarifies who may appeal a final decision of the executive director of the Department of Commerce;
- ▶ requires the Utah Motor Vehicle Franchise Advisory Board to submit an annual report to the Business and Labor Interim Committee; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 13-14-102, as last amended by Laws of Utah 2010, Chapter 33
 13-14-103, as last amended by Laws of Utah 2010, Chapter 286
 13-14-104, as last amended by Laws of Utah 2008, Chapters 362 and 382
 13-14-302, as last amended by Laws of Utah 2011, Chapter 203
 13-14-302.5, as enacted by Laws of Utah 2010, Chapter 41
 13-14-304, as last amended by Laws of Utah 2008, Chapter 362
 13-14-306, as last amended by Laws of Utah 2008, Chapter 362

ENACTS:

13-14-310, Utah Code Annotated 1953

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

Section 1. Section 13-14-102 is amended to read:

13-14-102. Definitions.

As used in this chapter:

(1) "Advisory board" or "board" means the Utah Motor Vehicle Franchise Advisory Board created in Section 13-14-103.

(2) "Affected municipality" means an incorporated city or town:

(a) that is located in the notice area; and

(b) (i) within which a franchisor is proposing a new or relocated dealership that is within the relevant market area of an existing dealership of the same line-make owned by another franchisee; or

(ii) within which an existing dealership is located and a franchisor is proposing a new or relocated dealership within the relevant market area of that existing dealership of the same line-make.

~~(2)~~ (3) "Affiliate" has the meaning set forth in Section 16-10a-102.

~~(3)~~ (4) "Aftermarket product" means any product or service not included in the franchisor's suggested retail price of the new motor vehicle, as that price appears on the label required by 15 U.S.C. Sec. 1232(f).

(4) (5) "Dealership" means a site or location in this state:

(a) at which a franchisee conducts the business of a new motor vehicle dealer; and

(b) that is identified as a new motor vehicle dealer's principal place of business for licensing purposes under Section 41-3-204.

~~(5)~~ (6) "Department" means the Department of Commerce.

~~(6)~~ (7) "Executive director" means the executive director of the Department of Commerce.

~~(7)~~ (8) (a) "Franchise" or "franchise agreement" means a written agreement, or in the absence of a written agreement, then a course of dealing or a practice for a definite or indefinite period, in which:

(i) a person grants to another person a license to use a trade name, trademark, service mark, or related characteristic; and

(ii) a community of interest exists in the marketing of new motor vehicles, new motor vehicle parts, and services related to the sale or lease of new motor vehicles at wholesale or retail.

(b) "Franchise" or "franchise agreement" includes a sales and service agreement.

~~(8)~~ (9) "Franchisee" means a person with whom a franchisor has agreed or permitted, in writing or in practice, to purchase, sell, or offer for sale new motor vehicles manufactured, produced, represented, or distributed by the franchisor.

~~[(9)]~~ (10) “Franchisor” means a person who has, in writing or in practice, agreed with or permits a franchisee to purchase, sell, or offer for sale new motor vehicles manufactured, produced, assembled, represented, or distributed by the franchisor, and includes:

(a) the manufacturer, producer, assembler, or distributor of the new motor vehicles;

(b) an intermediate distributor; and

(c) an agent, officer, or field or area representative of the franchisor.

~~[(10)]~~ (11) “Lead” means the referral by a franchisor to a franchisee of a potential customer whose contact information was obtained from a franchisor’s program, process, or system designed to generate referrals for the purchase or lease of a new motor vehicle, or for service work related to the franchisor’s vehicles.

~~[(11)]~~ (12) “Line-make” means:

(a) for other than a recreational vehicle, the motor vehicles that are offered for sale, lease, or distribution under a common name, trademark, service mark, or brand name of the franchisor; or

(b) for a recreational vehicle, a specific series of recreational vehicle product that:

(i) is identified by a common series trade name or trademark;

(ii) is targeted to a particular market segment, as determined by decor, features, equipment, size, weight, and price range;

(iii) has a length and floor plan that distinguish the recreational vehicle from other recreational vehicles with substantially the same decor, features, equipment, size, weight, and price;

(iv) belongs to a single, distinct classification of recreational vehicle product type having a substantial degree of commonality in the construction of the chassis, frame, and body; and

(v) a franchise agreement authorizes a dealer to sell.

~~[(12)]~~ (13) “Mile” means 5,280 feet.

~~[(13)]~~ (14) “Motor home” means a self-propelled vehicle, primarily designed as a temporary dwelling for travel, recreational, or vacation use.

~~[(14)]~~ (15) (a) “Motor vehicle” means:

(i) a travel trailer;

(ii) except as provided in Subsection ~~[(14)]~~ (15)(b), a motor vehicle as defined in Section 41-3-102;

(iii) a semitrailer as defined in Section 41-1a-102;

(iv) a trailer as defined in Section 41-1a-102; and

(v) a recreational vehicle.

(b) “Motor vehicle” does not include:

(i) a motorcycle as defined in Section 41-1a-102;

(ii) an off-highway vehicle as defined in Section 41-3-102; and

(iii) a small trailer as defined in Section 41-3-102.

~~[(15)]~~ (16) “New motor vehicle” means a motor vehicle as defined in Subsection ~~[(14)]~~ (15) that has never been titled or registered and has been driven less than 7,500 miles, unless the motor vehicle is a trailer, travel trailer, or semitrailer, in which case the mileage limit does not apply.

~~[(16)]~~ (17) “New motor vehicle dealer” is a person who is licensed under Subsection 41-3-202(1)(a) to sell new motor vehicles.

~~[(17)]~~ (18) “Notice” or “notify” includes both traditional written communications and all reliable forms of electronic communication unless expressly prohibited by statute or rule.

(19) “Notice area” means the geographic area that is:

(a) within a radius of at least six miles and no more than 10 miles from the site of an existing dealership; and

(b) located within a county with a population of at least 225,000.

(20) “Primary market area” means:

(a) for an existing dealership, the geographic area established by the franchisor that the existing dealership is intended to serve; or

(b) for a new or relocated dealership, the geographic area proposed by the franchisor that the new or relocated dealership is intended to serve.

~~[(18)]~~ (21) (a) “Recreational vehicle” means a vehicular unit other than a mobile home, primarily designed as a temporary dwelling for travel, recreational, or vacation use, that is either self-propelled or pulled by another vehicle.

(b) “Recreational vehicle” includes:

(i) a travel trailer;

(ii) a camping trailer;

(iii) a motor home;

(iv) a fifth wheel trailer; and

(v) a van.

~~[(19)]~~ (22) (a) “Relevant market area,” except with respect to recreational vehicles, means:

~~[(i) the county in which a dealership is to be established or relocated; and]~~

~~[(ii) the area within a 15-mile radius from the site of the new or relocated dealership.]~~

(i) as applied to an existing dealership that is located in a county with a population of less than 225,000;

(A) the county in which the existing dealership is located; and

(B) the area within a 15-mile radius of the existing dealership; or

(ii) as applied to an existing dealership that is located in a county with a population of 225,000 or more, the area within a 10-mile radius of the existing dealership.

(b) "Relevant market area," with respect to recreational vehicles, means:

(i) the county in which the dealership is to be established or relocated; and

(ii) the area within a 35-mile radius from the site of the ~~new or relocated~~ existing dealership.

~~[(20)]~~ (23) "Sale, transfer, or assignment" means any disposition of a franchise or an interest in a franchise, with or without consideration, including a bequest, inheritance, gift, exchange, lease, or license.

~~[(21)]~~ (24) "Serve" or "served," unless expressly indicated otherwise by statute or rule, includes any reliable form of communication.

~~[(22)]~~ (25) "Site-control agreement" means an agreement, however denominated and regardless of ~~its~~ the agreement's form or of the parties to ~~it~~ the agreement, that has the effect of:

(a) controlling in any way the use and development of the premises upon which a franchisee's business operations are located;

(b) requiring a franchisee to establish or maintain an exclusive dealership facility on the premises upon which the franchisee's business operations are located; or

(c) restricting the ability of the franchisee or, if the franchisee leases the dealership premises, the franchisee's lessor to transfer, sell, lease, develop, redevelop, or change the use of some or all of the dealership premises, whether by sublease, lease, collateral pledge of lease, right of first refusal to purchase or lease, option to purchase or lease, or any similar arrangement.

~~[(23)]~~ (26) "Travel trailer," "camping trailer," or "fifth wheel trailer" means a portable vehicle without motive power, designed as a temporary dwelling for travel, recreational, or vacation use that does not require a special highway movement permit when drawn by a self-propelled motor vehicle.

~~[(24)]~~ (27) "Written," "write," "in writing," or other variations of those terms shall include all reliable forms of electronic communication.

Section 2. Section 13-14-103 is amended to read:

13-14-103. Utah Motor Vehicle Franchise Advisory Board -- Creation -- Appointment of members -- Alternate members -- Chair -- Quorum -- Conflict of interest.

(1) There is created within the department the Utah Motor Vehicle Franchise Advisory Board that consists of:

(a) the executive director or the executive director's designee; and

(b) ~~[seven]~~ 11 members appointed by the executive director, with the concurrence of the governor as follows:

(i) one recreational motor vehicle franchisee;

(ii) three new motor vehicle franchisees from different congressional districts in the state; ~~and~~

(iii) ~~[(A)]~~ three members representing motor vehicle franchisors registered by the department pursuant to Section 13-14-105;

~~[(B)]~~ (iv) three members of the general public, none of whom shall be related to any franchisee; ~~or~~ and

~~[(C)]~~ ~~three members consisting of any combination of these representatives under this Subsection (1)(b)(iii).~~

(v) one representative of the Utah League of Cities and Towns.

(2) (a) The executive director shall appoint, with the concurrence of the governor, ~~[three]~~ five alternate members, with one alternate from each of the designations ~~[set forth]~~ described in Subsections (1)(b)(i), ~~(1)(b)(ii), and (1)(b)(iii)]~~ through (v), except that the new motor vehicle franchisee alternate ~~or alternates~~ for the designation under Subsection (1)(b)(ii) may be from any congressional district.

(b) An alternate shall take the place of a regular advisory board member from the same designation at a meeting of the advisory board where that regular advisory board member is absent or otherwise disqualified from participating in the advisory board meeting.

(3) (a) (i) Members of the advisory board appointed under Subsections (1)(b) and (2) are appointed for a term of four years.

(ii) No specific term applies to the executive director or the executive director's designee.

(b) The executive director may adjust the term of members who were appointed to the advisory board prior to July 1, 2001, by extending the unexpired term of a member for up to two additional years in order to insure that approximately half of the members are appointed every two years.

(c) In the event of a vacancy on the advisory board of a member appointed under Subsection (1)(b) or (2), the executive director with the concurrence of the governor, shall appoint an individual to complete the unexpired term of the member whose office is vacant.

(d) A member may not be appointed to more than two consecutive terms.

(4) (a) The executive director or the executive director's designee is the chair of the advisory board.

(b) The department shall keep a record of all hearings, proceedings, transactions, communications, and recommendations of the advisory board.

(5) (a) Four or more members of the advisory board constitute a quorum for the transaction of business.

(b) The action of a majority of a quorum present is considered the action of the advisory board.

(6) (a) A member of the advisory board may not participate as a board member in a proceeding or hearing:

(i) involving the member's licensed business or employer; or

(ii) when a member, a member's business or family, or employer has a pecuniary interest in the outcome or other conflict of interest concerning an issue before the advisory board.

(b) If a member of the advisory board is disqualified under Subsection (6)(a), the executive director shall select the appropriate alternate member to act on the issue before the advisory board as provided in Subsection (2).

(7) Except for the executive director or the executive director's designee, an individual may not be appointed or serve on the advisory board while holding any other elective or appointive state or federal office.

(8) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(9) The department shall provide necessary staff support to the advisory board.

Section 3. Section 13-14-104 is amended to read:

13-14-104. Powers and duties of the advisory board and the executive director.

(1) (a) Except as provided in Subsection 13-14-106(3), the advisory board shall make recommendations to the executive director on the administration and enforcement of this chapter, including adjudicative and rulemaking proceedings.

(b) The executive director shall:

(i) consider the advisory board's recommendations; and

(ii) issue any rules or final ~~decision~~ decisions by the department.

(2) The executive director, in consultation with the advisory board, shall make rules for the administration of this chapter in accordance with

Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(3) (a) An adjudicative proceeding under this chapter shall be conducted in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(b) In an adjudicative proceeding under this chapter, any order issued by the executive director:

(i) shall comply with Section 63G-4-208, whether the proceeding is a formal or an informal adjudicative proceeding under Title 63G, Chapter 4, Administrative Procedures Act; and

(ii) if the order modifies or rejects a finding of fact in a recommendation from the advisory board, shall be made on the basis of information learned from the executive director's:

(A) personal attendance at the hearing; or

(B) review of the record developed at the hearing.

(4) The executive director's decision under this section shall be made available to the public.

Section 4. Section 13-14-302 is amended to read:

13-14-302. Issuance of additional franchises -- Relocation of existing franchisees.

(1) Except as provided in Subsection (6), a franchisor shall provide the notice and documentation required under Subsection (2) if the franchisor seeks to:

(a) enter into a franchise agreement establishing a motor vehicle dealership within a relevant market area where the same line-make is represented by another franchisee; or

(b) relocate an existing motor vehicle franchisee.

(2) In determining whether a new or relocated dealership is within a relevant market area where the same line-make is represented by an existing dealership, the relevant market area is measured from the closest property boundary line of the existing dealership to the closest property boundary line of the new or relocated dealership.

~~[(2)]~~ (3) (a) If a franchisor seeks to take an action listed in Subsection (1), ~~[prior to]~~ before taking the action, the franchisor shall, in writing, notify the advisory board, the clerk of each affected municipality, and each franchisee in that line-make in the relevant market area.

(b) The notice required by Subsection ~~[(2)]~~ (3)(a) shall:

(i) specify the intended action described under Subsection (1);

(ii) specify the good cause on which it intends to rely for the action; and

(iii) be delivered by registered or certified mail or by any form of reliable delivery through which receipt is verifiable.

~~[(3)]~~ (4) (a) Except as provided in Subsection ~~[(3)]~~ (4)(c), the franchisor shall provide to the advisory

board, each affected municipality, and each franchisee in that line-make in the relevant market area the following documents relating to the notice described under Subsection ~~[(2)]~~ (3):

(i) (A) any aggregate economic data and all existing reports, analyses, or opinions based on the aggregate economic data that were relied on by the franchisor in reaching the decision to proceed with the action described in the notice; and

(B) the aggregate economic data under Subsection ~~[(3)]~~ (4)(a)(i)(A) includes:

(I) motor vehicle registration data;

(II) market penetration data; and

(III) demographic data;

(ii) written documentation that the franchisor has in ~~its~~ the franchisor's possession that it intends to rely on in establishing good cause under Section 13-14-306 relating to the notice;

(iii) a statement that describes in reasonable detail how the establishment of a new franchisee or the relocation of an existing franchisee will affect the amount of business transacted by other franchisees of the same line-make in the relevant market area, as compared to business available to the franchisees; and

(iv) a statement that describes in reasonable detail how the establishment of a new franchisee or the relocation of an existing franchisee will be beneficial or injurious to the public welfare or public interest.

(b) The franchisor shall provide the documents described under Subsection ~~[(3)]~~ (4)(a) with the notice required under Subsection ~~[(2)]~~ (3).

(c) The franchisor is not required to disclose any documents under Subsection ~~[(3)]~~ (4)(a) if:

(i) the documents would be privileged under the Utah Rules of Evidence;

(ii) the documents contain confidential proprietary information;

(iii) the documents are subject to federal or state privacy laws;

(iv) the documents are correspondence between the franchisor and existing franchisees in that line-make in the relevant market area; or

(v) the franchisor reasonably believes that disclosure of the documents would violate:

(A) the privacy of another franchisee; or

(B) Section 13-14-201.

~~[(4)]~~ (5) (a) Within ~~[(45)]~~ 30 days of receiving notice required by Subsection ~~[(2)]~~ (3), any franchisee that is required to receive notice under Subsection ~~[(2)]~~ (3) may protest to the advisory board the establishment or relocation of the dealership.

(b) ~~[When]~~ No later than 10 days after the day on which a protest is filed, the department shall inform the franchisor that:

(i) a timely protest has been filed;

(ii) a hearing is required;

(iii) the franchisor may not establish or relocate the proposed dealership until the advisory board has held a hearing; and

(iv) the franchisor may not establish or relocate a proposed dealership if the executive director determines that there is not good cause for permitting the establishment or relocation of the dealership.

~~[(5)]~~ (6) If multiple protests are filed under Subsection ~~[(4)]~~ (5), hearings may be consolidated to expedite the disposition of the issue.

~~[(6)]~~ (7) Subsections (1) through ~~[(5)]~~ (6) do not apply to a relocation of an existing or successor dealer to a location that is:

(a) within the same county and less than two ~~[aeronautical]~~ miles from the existing location of the existing or successor franchisee's dealership; or

(b) further away from a dealership of a franchisee of the same line-make.

~~[(7)]~~ (8) For purposes of this section:

(a) relocation of an existing franchisee's dealership in excess of two ~~[aeronautical]~~ miles from ~~its~~ the dealership's existing location is considered the establishment of an additional franchise in the line-make of the relocating franchise;

(b) the reopening in a relevant market area of a dealership that has not been in operation for one year or more is considered the establishment of an additional motor vehicle dealership; and

(c) (i) except as provided in Subsection ~~[(7)]~~ (8)(c)(ii), the establishment of a temporary additional place of business by a recreational vehicle franchisee is considered the establishment of an additional motor vehicle dealership; and

(ii) the establishment of a temporary additional place of business by a recreational vehicle franchisee is not considered the establishment of an additional motor vehicle dealership if the recreational vehicle franchisee is participating in a trade show where three or more recreational vehicle dealers are participating.

Section 5. Section 13-14-302.5 is amended to read:

13-14-302.5. Application of new franchise process with respect to certain terminated franchises.

(1) As used in this section:

(a) "Covered franchisee":

(i) means a person who was a franchisee under a pre-bankruptcy franchise; and

(ii) is a "covered dealership," as that term is defined in the federal franchise arbitration law.

(b) "Covered franchisor":

(i) means a person who was a franchisor under a pre-bankruptcy franchise; and

(ii) is a “covered manufacturer,” as that term is defined in the federal franchise arbitration law.

(c) “Federal franchise arbitration law” means Section 747 of the Consolidated Appropriations Act of 2010, Pub. L. No. 111-117.

(d) “New franchisor”:

(i) means a person who is a franchisor of the same line-make as the franchisor under a pre-bankruptcy franchise that has become a terminated franchise; and

(ii) is a “covered manufacturer,” as that term is defined in the federal franchise arbitration law.

(e) “Pre-bankruptcy franchise” means a franchise in effect as of October 3, 2008.

(f) “Reinstated franchise” means:

(i) a terminated franchise that a reinstatement order determines should be reinstated, renewed, continued, assigned, or assumed; or

(ii) a franchise that a reinstatement order otherwise determines should be reestablished in or added to the dealer network of a new franchisor in the geographic area where the covered franchisee was located before October 3, 2008.

(g) “Reinstated franchisee” means a covered franchisee:

(i) whose franchise became a terminated franchise with less than 90 days’ notice prior to termination; and

(ii) that becomes entitled to a reinstated franchise under a reinstatement order.

(h) “Reinstatement order” means an arbitrator’s written determination:

(i) in an arbitration proceeding held under the federal franchise arbitration law; and

(ii) (A) that a terminated franchise should be reinstated, renewed, continued, assigned, or assumed; or

(B) that a covered franchisee should otherwise be reestablished as a franchisee in or added to the dealer network of a new franchisor in the geographic area where the covered franchisee was located before October 3, 2008.

(i) “Terminated franchise” means a covered franchisee’s pre-bankruptcy franchise that was terminated or not continued or renewed as a result of a bankruptcy proceeding involving a covered franchisor as the bankruptcy debtor.

(2) The process under Sections 13-14-302, 13-14-304, and 13-14-306 for the issuance of a franchise, including Subsections 13-14-302[(4)](5) and [(5)] (6) and Section 13-14-304 relating to a protest by another franchisee in the line-make in the relevant market area against the establishment or relocation of a franchise, does not apply to a reinstated franchise or reinstated franchisee.

Section 6. Section 13-14-304 is amended to read:

13-14-304. Hearing regarding termination, relocation, or establishment of franchises.

(1) (a) Within 10 days [of receiving] after the day on which the advisory board receives an application from a franchisee under Subsection 13-14-301(3) challenging [its] a franchisor’s right to terminate or not continue a franchise, or an application under Section 13-14-302 challenging the establishment or relocation of a franchise, the executive director shall:

(i) enter an order designating the time and place for the hearing; and

(ii) send a copy of the order by certified or registered mail, with return receipt requested, or by any form of reliable delivery through which receipt is verifiable to:

(A) the applicant;

(B) the franchisor; and

(C) if the application involves the establishment of a new franchise or the relocation of an existing dealership, [to all franchisees] each affected municipality and to each franchisee in the relevant market area engaged in the business of offering to sell or lease the same line-make.

(b) A copy of an order mailed under Subsection (1)(a) shall be addressed to the franchisee at the place where the franchisee’s business is conducted.

(2) [Any] An affected municipality and any other person who can establish an interest in the application may intervene as a party to the hearing, whether or not that person receives notice.

(3) Any person, including an affected municipality, may appear and testify on the question of the public interest in the termination or noncontinuation of a franchise or in the establishment of an additional franchise.

(4) (a) (i) Any hearing ordered under Subsection (1) shall be conducted no later than [120] 90 days after the day on which the application for hearing is filed.

(ii) A final decision on the challenge shall be made by the executive director no later than [30] 20 days after the day on which the hearing ends.

(b) Failure to comply with the time requirements of Subsection (4)(a) is considered a determination that the franchisor acted with good cause or, in the case of a protest of a proposed establishment or relocation of a dealer, that good cause exists for permitting the proposed additional or relocated new motor vehicle dealer, unless:

(i) the delay is caused by acts of the franchisor or the additional or relocating franchisee; or

(ii) the delay is waived by the parties.

(5) The franchisor has the burden of proof to establish by a preponderance of the evidence that under the provisions of this chapter it should be granted permission to:

- (a) terminate or not continue the franchise;
- (b) enter into a franchise agreement establishing an additional franchise; or
- (c) relocate the dealership of an existing franchisee.

(6) Any party to the hearing may appeal the executive director's final decision in accordance with Title 63G, Chapter 4, Administrative Procedures Act, including the franchisor, an existing franchisee of the same line-make whose relevant market area includes the site of the proposed dealership, or an affected municipality.

Section 7. Section 13-14-306 is amended to read:

13-14-306. Evidence to be considered in determining cause to relocate or establish a new franchised dealership.

In determining whether a franchisor has established good cause for relocating an existing franchisee or establishing a new franchised dealership for the same line-make in a given relevant market area, the advisory board and the executive director shall consider:

(1) the amount of business transacted by other franchisees of the same line-make in that relevant market area, as compared to business available to the franchisees;

(2) the investment necessarily made and obligations incurred by other franchisees of the same line-make in that relevant market area in the performance of their part of their franchisee agreements;

(3) the permanency of the existing and proposed investment;

(4) whether it is injurious or beneficial to the public welfare or public interest for an additional franchise to be established[;], including:

- (a) the impact on any affected municipality;
- (b) population growth trends in any affected municipality;
- (c) the number of dealerships in the primary market area of the new or relocated dealership compared to the number of dealerships in each primary market area adjacent to the new or relocated dealership's primary market area; and
- (d) how the new or relocated dealership would impact the distance and time that an individual in the new or relocated dealership's primary market area would have to travel to access a dealership in the same line-make as the new or relocated dealership.

(5) whether the franchisees of the same line-make in that relevant market area are providing adequate service to consumers for the motor vehicles of the line-make, which shall include the adequacy of:

- (a) the motor vehicle sale and service facilities;

- (b) equipment;
- (c) supply of vehicle parts; and
- (d) qualified service personnel; and
- (6) whether the relocation or establishment would cause any material negative economic effect on a dealer of the same line-make in the relevant market area.

Section 8. Section 13-14-310 is enacted to read:

13-14-310. Reporting requirement.

By November 30 of each year, the advisory board shall submit an annual report to the Business and Labor Interim Committee that, for the 12 months before the day on which the report is submitted, describes:

(1) the number of applications for a new or relocated dealership that the advisory board received; and

(2) for each application described in Subsection (1):

(a) the number of protests that the advisory board received;

(b) whether the advisory board conducted a hearing;

(c) if the advisory board conducted a hearing, the disposition of the hearing; and

(d) the basis for any disposition described in Subsection (2)(c).

CHAPTER 269**H. B. 296**

Passed March 12, 2015
Approved March 27, 2015
Effective March 27, 2015

GOVERNMENT USE OF UNMANNED AERIAL VEHICLES - AMENDMENTS

Chief Sponsor: Scott D. Sandall
Senate Sponsor: Alvin B. Jackson

LONG TITLE**General Description:**

This bill amends the provisions of Title 63G, Chapter 18, Government Use of Unmanned Aerial Vehicles Act.

Highlighted Provisions:

This bill:

- ▶ allows a law enforcement agency to use an unmanned aircraft system to collect certain types of data;
- ▶ institutes testing requirements for a law enforcement agency's use of an unmanned aircraft system;
- ▶ amends the reporting requirements for a law enforcement agency that operates an unmanned aircraft system; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

- 63G-18-101, as enacted by Laws of Utah 2014, Chapter 399
63G-18-102, as enacted by Laws of Utah 2014, Chapter 399
63G-18-103, as enacted by Laws of Utah 2014, Chapter 399
63G-18-104, as enacted by Laws of Utah 2014, Chapter 399
63G-18-105, as enacted by Laws of Utah 2014, Chapter 399

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

Section 1. Section 63G-18-101 is amended to read:**CHAPTER 18. GOVERNMENT USE OF UNMANNED AIRCRAFT SYSTEMS ACT****63G-18-101. Title.**

This chapter is known as the "Government Use of Unmanned [~~Aerial Vehicles~~] Aircraft Systems Act."

Section 2. Section 63G-18-102 is amended to read:**63G-18-102. Definitions.**

As used in this chapter:

(1) "Law enforcement agency" means an entity of the state or an entity of a political subdivision of the

state, including an entity of a state institution of higher education, that exists primarily to prevent, detect, or prosecute crime and enforce criminal statutes or ordinances.

(2) "Nongovernment actor" means a person that is not:

- (a) an agency, department, division, or other entity within state government;
- (b) a person employed by or otherwise acting in an official capacity on behalf of the state;
- (c) a political subdivision of the state; or
- (d) a person employed by or otherwise acting in an official capacity on behalf of a political subdivision of the state.

(3) "Target" means a person upon whom, or a structure or area upon which, a person:

- (a) has intentionally collected or attempted to collect information through the operation of an unmanned [~~aerial vehicle~~] aircraft system; or
- (b) plans to collect or attempt to collect information through the operation of an unmanned [~~aerial vehicle~~] aircraft system.

(4) "Testing site" means an area that:

- (a) has boundaries that are clearly identified using GPS coordinates;
- (b) a law enforcement agency identifies in writing to the Department of Public Safety, including the boundaries identified under Subsection (4)(a);
- (c) is not more than three square miles; and
- (d) contains no occupied structures.

[~~(4)~~] (5) (a) "Unmanned [~~aerial vehicle~~] aircraft system" means an aircraft that:

- (i) is capable of sustaining flight; and
 - (ii) operates with no possible direct human intervention from on or within the aircraft.
- (b) "Unmanned [~~aerial vehicle~~] aircraft system" does not include an unmanned aircraft that is flown:

- (i) within visual line of sight of the individual operating the aircraft; and
- (ii) strictly for hobby or recreational purposes.

Section 3. Section 63G-18-103 is amended to read:**63G-18-103. Unmanned aircraft system use requirements -- Exceptions -- Testing.**

(1) A law enforcement agency may not obtain, receive, or use data acquired through an unmanned [~~aerial vehicle~~] aircraft system unless the data is obtained:

- (a) pursuant to a search warrant;
- (b) in accordance with judicially recognized exceptions to warrant requirements; [~~or~~]
- (c) subject to Subsection (2), from a person who is a nongovernment actor[.];

(d) at a testing site; or

(e) to locate a lost or missing person in an area in which a person has no reasonable expectation of privacy.

(2) A nongovernment actor may only disclose data acquired through an unmanned [aerial vehicle] aircraft system to a law enforcement agency if:

(a) the data appears to pertain to the commission of a crime; or

(b) the nongovernment actor believes, in good faith, that:

(i) the data pertains to an imminent or ongoing emergency involving danger of death or serious bodily injury to an individual; and

(ii) disclosing the data would assist in remedying the emergency.

(3) A law enforcement agency that obtains, receives, or uses data acquired under Subsection (1)(d) or (e) shall destroy the data as soon as reasonably possible after the law enforcement agency obtains, receives, or uses the data.

(4) A law enforcement agency that operates an unmanned aircraft system under Subsection (1)(d) may not operate the unmanned aircraft system outside of the testing site.

Section 4. Section 63G-18-104 is amended to read:

63G-18-104. Data retention.

(1) Except as provided in this section, a law enforcement agency:

(a) may not use, copy, or disclose data collected by an unmanned [aerial vehicle] aircraft system on a person, structure, or area that is not a target; and

(b) shall ensure that data described in Subsection (1)(a) is destroyed as soon as reasonably possible after the law enforcement agency collects or receives the data.

(2) A law enforcement agency is not required to comply with Subsection (1) if:

(a) deleting the data would also require the deletion of data that:

(i) relates to the target of the operation; and

(ii) is requisite for the success of the operation;

(b) the law enforcement agency receives the data:

(i) through a court order that:

(A) requires a person to release the data to the law enforcement agency; or

(B) prohibits the destruction of the data; or

(ii) from a person who is a nongovernment actor;

(c) (i) the data was collected inadvertently; and

(ii) the data appears to pertain to the commission of a crime;

(d) (i) the law enforcement agency reasonably determines that the data pertains to an emergency situation; and

(ii) using or disclosing the data would assist in remedying the emergency; or

(e) the data was collected through the operation of an unmanned [aerial vehicle] aircraft system over public lands outside of municipal boundaries.

Section 5. Section 63G-18-105 is amended to read:

63G-18-105. Reporting.

(1) ~~[(a)]~~ Except as provided by [Subsection (1)(b)] Subsections (2) and (3), before March 31 of each year, a law enforcement agency that operated an unmanned [aerial vehicle] aircraft system in the previous calendar year shall submit to the Utah Department of Public Safety, and make public on the law enforcement agency's website, a written report containing:

~~[(i)]~~ (a) the number of times the law enforcement agency operated an unmanned [aerial vehicle] aircraft system in the previous calendar year;

~~[(ii)]~~ (b) the number of criminal investigations aided by the use of an unmanned [aerial vehicle] aircraft system operated by the law enforcement agency in the previous calendar year;

~~[(iii)]~~ (c) a description of how the unmanned [aerial vehicle] aircraft system was helpful to each investigation described in Subsection (1)~~[(a)]~~(ii)(b);

~~[(iv)]~~ (d) the frequency with which data was collected, and the type of data collected, by an unmanned [aerial vehicle] aircraft system operated by the law enforcement agency on any person, structure, or area other than a target in the previous calendar year;

~~[(v)]~~ (e) the number of times a law enforcement agency received, from a person who is not a law enforcement agency, data collected by an unmanned [aerial vehicle] aircraft system; and

~~[(vi)]~~ (f) the total cost of the unmanned [aerial vehicle] aircraft system program operated by the law enforcement agency in the previous calendar year~~[-]~~, including the source of any funds used to operate the program.

~~[(b) (i)]~~ (2) (a) A law enforcement agency that submits a report described in Subsection (1)~~[(a)]~~ may exclude from the report information pertaining to an ongoing investigation.

~~[(ii)]~~ (b) A law enforcement agency that excludes information under Subsection ~~[(1)(b)]~~(i) (2)(a) from the report shall report the excluded information to the Utah Department of Public Safety on the annual report in the year following the year in which the ~~[information was excluded]~~ investigation to which the information pertains is concluded.

(3) A law enforcement agency is not required to submit, under Subsection (1), to the Department of Public Safety information pertaining to the use of an unmanned aircraft system operated at a testing site.

~~[(2)]~~ (4) Before May 31 of each year, the Utah Department of Public Safety shall, for all reports received under Subsection (1) during the previous calendar year:

(a) transmit to the Government Operations Interim Committee and post on the department's website a report containing:

(i) a summary of the information reported to the department;

(ii) the total number of issued warrants authorizing the operation of an unmanned ~~[aerial vehicle]~~ aircraft system; and

(iii) the number of denied warrants for the operation of an unmanned ~~[aerial vehicle]~~ aircraft system; and

(b) post on the department's website each report the department received.

Section 6. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

CHAPTER 270**H. B. 302**

Passed March 6, 2015

Approved March 27, 2015

Effective May 12, 2015

TRAFFIC SAFETY LIGHTS ON VEHICLES

Chief Sponsor: Lee B. Perry
Senate Sponsor: Todd Weiler

LONG TITLE**General Description:**

This bill modifies the Traffic Code by amending provisions relating to lighting requirements on vehicles.

Highlighted Provisions:

This bill:

- ▶ defines continuously flashing light system;
- ▶ provides that a motor vehicle, trailer, semitrailer, and pole trailer may be equipped with a continuously flashing light system;
- ▶ provides an exception for a continuously flashing light system to the prohibition on a person using flashing lights on a vehicle; and
- ▶ makes technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

41-6a-1604, as renumbered and amended by Laws of Utah 2005, Chapter 2

41-6a-1616, as last amended by Laws of Utah 2006, Chapter 100

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

Section 1. Section 41-6a-1604 is amended to read:**41-6a-1604. Motor vehicle head lamps, tail lamps, stop lamps, and other lamps -- Requirements.**

(1) A motor vehicle shall be equipped with at least two head lamps with at least one on each side of the front of the motor vehicle.

(2) (a) A motor vehicle, trailer, semitrailer, pole trailer, and any other vehicle which is being drawn at the end of a combination of vehicles, shall be equipped with at least two tail lamps and two or more red reflectors mounted on the rear.

(b) (i) Except as provided under Subsections (2)(b)(ii), (2)(c), and Section 41-6a-1612, all stop lamps or other lamps and reflectors mounted on the rear of a vehicle shall display or reflect a red color.

(ii) A turn signal or hazard warning light may be red or yellow.

(c) Either a tail lamp or a separate lamp shall be so constructed and placed as to illuminate with a white light the rear registration plate.

(3) (a) A motor vehicle, trailer, semitrailer, and pole trailer shall be equipped with two or more stop lamps and flashing turn signals.

(b) A supplemental stop lamp may be mounted on the rear of a vehicle, if the supplemental stop lamp:

- (i) emits a red light;
- (ii) is mounted:

(A) and constructed so that no light emitted from the device, either direct or reflected, is visible to the driver;

(B) not lower than 15 inches above the roadway; and

(C) on the vertical center line of the vehicle; and

(iii) is the size, design, and candle power that conforms to federal standards regulating stop lamps.

(4) (a) Each head lamp, tail lamp, supplemental stop lamp, flashing turn lamp, other lamp, or reflector required under this part shall comply with the requirements and limitations established under Section 41-6a-1601.

(b) The department, by rules made under Section 41-6a-1601, may require trucks, buses, motor homes, motor vehicles with truck-campers, trailers, semitrailers, and pole trailers to have additional lamps and reflectors.

(5) The department, by rules made under Section 41-6a-1601, may allow:

(a) one tail lamp on any vehicle equipped with only one when it was made;

(b) one stop lamp on any vehicle equipped with only one when it was made; and

(c) passenger cars and trucks with a width less than 80 inches and manufactured or assembled prior to January 1, 1953, need not be equipped with electric turn signal lamps.

(6) (a) As used in this section, "continuously flashing light system" means a light system for a supplemental stop lamp described in Subsection (3)(b) in which:

(i) the stop lamp or reflector pulses rapidly for no more than five seconds when the brake is applied and then converts to a continuous light as a normal stop lamp or reflector until the time that the brake is released; and

(ii) the rapid pulsing described in Subsection (6)(a)(i) may not be repeated upon a subsequent application of the brakes for a lock-out time period of at least five seconds after the release of the brakes under Subsection (6)(a)(i).

(b) A motor vehicle, trailer, semitrailer, and pole trailer may be equipped with a continuously flashing light system.

Section 2. Section 41-6a-1616 is amended to read:**41-6a-1616. High intensity beams -- Red or blue lights -- Flashing lights.**

(1) (a) Except as provided under Subsection (1)(b), under the conditions specified under Subsection 41-6a-1603(1)(a), a lighted lamp or illuminating device on a vehicle, which projects a beam of light of an intensity greater than 300 candlepower shall be directed so that no part of the high intensity portion of the beam will strike the level of the roadway on which the vehicle stands at a distance of more than 75 feet from the vehicle.

(b) The provisions of Subsection (1)(a) do not apply to head lamps, spot lamps, auxiliary lamps, flashing turn signals, hazard warning lamps, and school bus warning lamps.

(c) A motor vehicle on a highway may not have more than a total of four lamps lighted on the front of the vehicle including head lamps, auxiliary lamps, spot lamps, or any other lamp if the lamp projects a beam of an intensity greater than 300 candlepower.

(2) (a) Except for an authorized emergency vehicle and a school bus, a person may not operate or move any vehicle or equipment on a highway with a lamp or device capable of displaying a red light that is visible from directly in front of the center of the vehicle.

(b) Except for a law enforcement vehicle, a person may not operate or move any vehicle or equipment on a highway with a lamp or device capable of displaying a blue light that is visible from directly in front of the center of the vehicle.

(3) A person may not use flashing lights on a vehicle except for:

(a) taillights of bicycles under Section 41-6a-1114;

(b) authorized emergency vehicles under rules made by the department under Section 41-6a-1601;

(c) turn signals under Section 41-6a-1604;

(d) hazard warning lights under Sections 41-6a-1608 and 41-6a-1611;

(e) school bus flashing lights under Section 41-6a-1302; ~~and~~

(f) vehicles engaged in highway construction or maintenance under Section 41-6a-1617; and

(g) a continuously flashing light system under Section 41-6a-1604.

(4) A person may not use a rotating light on any vehicle other than an authorized emergency vehicle.

CHAPTER 271**H. B. 319**

Passed March 12, 2015

Approved March 27, 2015

Effective May 12, 2015

**JAIL CONTRACTING TREATMENT
RATE AMENDMENTS**Chief Sponsor: Michael E. Noel
Senate Sponsor: Daniel W. Thatcher**LONG TITLE****General Description:**

This bill modifies the State Institutions Code by increasing the compensation rate to counties for housing state inmates in county facilities that provide rehabilitative treatment.

Highlighted Provisions:

This bill:

- ▶ increases to 84% of the calculated final state daily incarceration rate the rate at which the state reimburses counties for housing state inmates and providing treatment programs.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

64-13e-103, as last amended by Laws of Utah 2012, Chapter 358

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

Section 1. Section 64-13e-103 is amended to read:**64-13e-103. Contracts for housing state inmates.**

(1) Subject to Subsection (6), the department may contract with a county to house state inmates in a county or other correctional facility.

(2) The department shall give preference for placement of state inmates, over private entities, to county correctional facility bed spaces for which the department has contracted under Subsection (1).

(3) (a) The compensation rate for housing state inmates pursuant to a contract described in Subsection (1) shall be:

(i) [79%] 84% of the final state daily incarceration rate for beds in a county that, pursuant to the contract, are dedicated to a treatment program to state inmates, if the treatment program is approved by the department under Subsection (3)(c); and

(ii) 73% of the final state daily incarceration rate for beds in a county other than the beds described in Subsection (3)(a)(i).

(b) The department shall:

(i) make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that establish standards that a treatment program

is required to meet before the treatment program is considered for approval for the purpose of a county receiving payment based on the rate described in Subsection (3)(a)(i); and

(ii) determine on an annual basis, based on appropriations made by the Legislature for the contracts described in this section, whether to approve a treatment program that meets the standards established under Subsection (3)(b)(i), for the purpose of a county receiving payment based on the rate described in Subsection (3)(a)(i).

(c) The department may not approve a treatment program for the purpose of a county receiving payment based on the rate described in Subsection (3)(a)(i), unless:

(i) the program meets the standards established under Subsection (3)(b)(i);

(ii) the department determines that the Legislature has appropriated sufficient funds to:

(A) pay the county that provides the treatment program at the rate described in Subsection (3)(a)(i); and

(B) pay each county that does not provide a treatment program an amount per state inmate that is not less than the amount per state inmate received for the preceding fiscal year by a county that did not provide a treatment program; and

(iii) the department determines that the treatment program is needed by the department at the location where the treatment program will be provided.

(4) Compensation to a county for state inmates incarcerated under this section shall be made by the department.

(5) Counties that contract with the department under Subsection (1) shall, on or before June 30 of each year, submit a report to the department that includes:

(a) the number of state inmates the county housed under this section; and

(b) the total number of state inmate days of incarceration that were provided by the county.

(6) Except as provided under Subsection (7), the department may not enter into a contract described under Subsection (1), unless the Legislature has previously passed a joint resolution that includes the following information regarding the proposed contract:

(a) the approximate number of beds to be contracted;

(b) the final state daily incarceration rate;

(c) the approximate amount of the county's long-term debt; and

(d) the repayment time of the debt for the facility where the inmates are to be housed.

(7) The department may enter into a contract with a county government to house inmates without complying with the approval process described in

Subsection (6) only if the county facility was under construction, or already in existence, on March 16, 2001.

(8) Any resolution passed by the Legislature under Subsection (6) does not bind or obligate the Legislature or the department regarding the proposed contract.

CHAPTER 272**H. B. 334**

Passed March 11, 2015
 Approved March 27, 2015
 Effective May 12, 2015

CHILD AND FAMILY AMENDMENTS

Chief Sponsor: LaVar Christensen
 Senate Sponsor: Wayne A. Harper

LONG TITLE**General Description:**

This bill amends provisions of the Restoration of Parental Rights Act.

Highlighted Provisions:

This bill:

- ▶ permits a child of any age to petition to restore parental rights.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

78A-6-1403, as enacted by Laws of Utah 2013, Chapter 340
 78A-6-1404, as enacted by Laws of Utah 2013, Chapter 340

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

Section 1. Section 78A-6-1403 is amended to read:**78A-6-1403. Petition to restore parental rights -- Duties of the division.**

(1) A child, who is 12 years of age or older, or an authorized representative acting on behalf of a child of any age, may file a petition to restore parental rights if:

~~[(a) the child is 12 years of age or older or as provided in Subsection (2)(b);]~~

~~[(b)] (a)~~ 24 months have passed since the court ordered termination of the parent-child legal relationship; and

~~[(e)] (b)~~ the child:

(i) has not been adopted and is not in an adoptive placement, or is unlikely to be adopted before the child is 18 years of age; or

(ii) was previously adopted following a termination of a parent-child legal relationship, but the adoption failed and the child was returned to the custody of the division.

~~[(2) (a) A child younger than 12 years of age may not petition for restoration of parental rights except as provided in Subsection (2)(b).]~~

~~[(b) A child 12 years of age or older, or the child's authorized representative, may petition for restoration of parental rights, and if the child has a sibling who is younger than 12 years of age, the child may include the sibling in the petition.]~~

~~[(c) The court may grant a petition for restoration of parental rights for a child younger than 12 years of age as described in Subsection 78A-6-1404(2).]~~

~~[(3)] (2)~~ The petition described in Subsection (1) shall be:

(a) filed in the juvenile court that previously terminated the parent-child relationship; and

(b) served on the division.

~~[(4)] (3)~~ The division shall notify and inform a child who is 12 years of age or older and who qualifies for restoration of parental rights under ~~[Subsections (1)(a) through (c)]~~ Subsection (1) that the child is eligible to petition for restoration under this part.

~~[(5)] (4)~~ Upon the receipt of a petition to restore parental rights, filed by a child or an authorized representative acting on behalf of a child, the division shall:

(a) make a diligent effort to locate the former parent whose rights may be restored under this part; and

(b) if the former parent is found, as described in Subsection ~~[(5)] (4)~~(a), notify the former parent of:

(i) the legal effects of restoration; and

(ii) the time and date of the hearing on the petition.

~~[(6)] (5)~~ The court shall set a hearing on the petition at least 30 days, but no more than 60 days, after the day on which the petition is filed with the court.

~~[(7)] (6)~~ Before the hearing described in Subsection ~~[(6)] (5)~~, the division may submit a confidential report to the court that includes the following information:

(a) material changes in circumstances since the termination of parental rights;

(b) a summary of the reasons why parental rights were terminated;

(c) the date on which parental rights were terminated;

(d) the willingness of the former parent to resume contact with the child and have parental rights restored;

(e) the ability of the former parent to be involved in the life of the child and accept physical custody of, and responsibility for, the child; and

(f) any other information the division reasonably considers appropriate and determinative.

(7) (a) A former parent who remedies the circumstances that resulted in the termination of the former parent's parental rights and who is capable of exercising proper and effective parental care, shall notify the division that if the circumstances described in Subsection (1) are established, the former parent desires and requests to have the former parent's parental rights restored.

(b) The former parent's request to the division shall be fully and fairly considered by the division for appropriate submittal to the court.

Section 2. Section 78A-6-1404 is amended to read:

78A-6-1404. Hearing on the petition to restore parental rights.

~~[(1) At the hearing on the petition described in Section 78A-6-1403, if the former parent consents and if the court finds by clear and convincing evidence that it is in the best interest of the child, the court may:]~~

~~[(a) allow contact between the former parent and child, and describe the conditions under which contact may take place;]~~

~~[(b) order that the child be placed with the former parent in a temporary custody and guardianship relationship, to be reevaluated six months from the day on which the child is placed; or]~~

~~[(c) restore the parental rights of the parent.]~~

~~[(2) (1) The court may restore the parent-child legal relationship [for a child who is younger than 12 years of age] if:~~

~~[(a) the petitioner;]~~

~~[(i) is a sibling of the child;]~~

~~[(ii) (a) the child meets the requirements of Subsection 78A-6-1403(1); [and]~~

~~[(iii) includes the child who is younger than 12 years of age in the petition described in Section 78A-6-1403;]~~

~~[(b) the child who is younger than 12 years of age meets the requirements of Subsections 78A-6-1403(1)(b) and (c);]~~

~~[(e) (b) considering the age and maturity of the child, the child consents to the restoration;~~

~~[(d) (c) the former parent consents to the restoration; and]~~

~~[(e) (d) the court finds by clear and convincing evidence that restoration is in the best interest of the child [who is younger than 12 years of age].]~~

~~[(3) (2) In determining whether reunification is appropriate and in the best interest of the child, the court shall consider:~~

~~(a) whether the former parent has been sufficiently rehabilitated from the behavior that resulted in the termination of the parent-child relationship;~~

~~(b) extended family support for the former parent; and~~

~~(c) other material changes of circumstances, if any, that may have occurred that warrant the granting of the motion.~~

~~(3) At the hearing on a petition described in Section 78A-6-1403, if the former parent consents and if the court finds by clear and convincing~~

evidence that it is in the best interest of the child, the court may:

(a) allow contact between the former parent and the child, and describe the conditions under which contact may take place;

(b) order that the child be placed with the former parent, in a temporary custody and guardianship relationship, to be reevaluated after the child has been placed with the former parent for six months; or

(c) restore the parental rights of the parent.

(4) If the court orders the child to be placed in the physical custody of the former parent under Subsection [(1)] (3), the court shall specify in the order:

(a) whether that custody is subject to:

(i) continued evaluation by the court; or

(ii) the supervision of the division; and

(b) the terms and conditions of reunification.

CHAPTER 273**H. B. 337**

Passed March 12, 2015
 Approved March 27, 2015
 Effective May 12, 2015

**CAREER AND TECHNICAL
 EDUCATION COMPREHENSIVE STUDY**

Chief Sponsor: Rich Cunningham
 Senate Sponsor: Stephen H. Urquhart

LONG TITLE**General Description:**

This bill creates the Career and Technical Education (CTE) Board and provides for the CTE Board to conduct a comprehensive study.

Highlighted Provisions:

This bill:

- ▶ creates the CTE Board within the Department of Workforce Services;
- ▶ describes the membership of the CTE Board;
- ▶ requires the CTE Board to conduct a comprehensive study; and
- ▶ requires the CTE Board to make recommendations.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

631-1-235, as last amended by Laws of Utah 2014, Chapter 127

ENACTS:

35A-5-401, Utah Code Annotated 1953
 35A-5-402, Utah Code Annotated 1953
 35A-5-403, Utah Code Annotated 1953

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

Section 1. Section 35A-5-401 is enacted to read:

Part 4. Career and Technical Education Board

35A-5-401. Definitions.

As used in this part:

- (1) "CTE" means career and technical education.
- (2) "CTE Board" means the Career and Technical Education Board created in Section 35A-5-402.

Section 2. Section 35A-5-402 is enacted to read:

35A-5-402. Career and Technical Education Board creation -- Membership.

(1) There is created the Career and Technical Education Board, within the department, composed of the following members:

- (a) the state superintendent of public instruction or the state superintendent of public instruction's designee;

(b) the commissioner of higher education or the commissioner of higher education's designee;

(c) the president of the Utah College of Applied Technology or the president of the Utah College of Applied Technology's designee;

(d) the executive director of the department or the executive director of the department's designee;

(e) the executive director of the Governor's Office of Economic Development or the executive director of the Governor's Office of Economic Development's designee;

(f) one member of the governor's staff, appointed by the governor;

(g) five private sector members, representing business or industry that employs individuals who hold certificates issued by a CTE program, appointed by the governor;

(h) a member of the Senate, appointed by the president of the Senate; and

(i) a member of the House of Representatives, appointed by the speaker of the House of Representatives.

(2) The CTE Board shall select a chair and vice chair from among the members of the CTE Board.

(3) The CTE Board shall meet at least quarterly.

(4) Attendance of a simple majority of the members of the CTE Board constitutes a quorum for the transaction of official CTE Board business.

(5) Formal action by the CTE Board requires the majority vote of a quorum.

(6) A member of the CTE Board:

(a) may not receive compensation or benefits for the member's service; and

(b) may receive per diem and travel expenses in accordance with:

- (i) Section 63A-3-106;
- (ii) Section 63A-3-107; and
- (iii) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Section 3. Section 35A-5-403 is enacted to read:

35A-5-403. Career and Technical Education Board -- Duties.

(1) The CTE Board shall conduct a comprehensive study of CTE in Utah that includes:

(a) an inventory of all CTE programs in Utah, including, for each CTE program:

- (i) a description of the program;
- (ii) the number of students the program has the capacity to serve each year;
- (iii) the number of students the program has served since October 1, 2010, by school year;
- (iv) the number of certificates the program has issued since October 1, 2010, by school year;

(v) a materials and equipment inventory for the program;

(vi) the amount of funding dedicated to the program;

(vii) the program's geographic location;

(viii) employment information for students who have completed the program since October 1, 2010, if practical and feasible; and

(ix) the extent to which overlap or duplication exists between the program and other CTE or private programs;

(b) a description of CTE funding in the state, including:

(i) the total amount of state CTE funding provided to:

(A) the public education system;

(B) the higher education system; and

(C) the Utah College of Applied Technology; and

(ii) for each CTE program:

(A) total CTE funding received; and

(B) the cost per student served;

(c) an assessment of Utah business and industry needs for employees with skills taught in CTE classes, including:

(i) the number of current and anticipated jobs in Utah, by geographic region, and the CTE skills required for the jobs;

(ii) the starting and average salary, by geographic region and type of CTE skills, for an individual who has skills taught in a CTE program; and

(iii) the extent to which current CTE programs can meet the employment needs of Utah business and industry; and

(d) any other information the CTE Board considers relevant to the study.

(2) In conducting the comprehensive study described in Subsection (1), the CTE Board shall coordinate with the Office of the Legislative Auditor General and, to the extent possible, use data collected by the Office of the Legislative Auditor General to complete the study.

(3) (a) The State Board of Education, State Board of Regents, and Utah College of Applied Technology shall:

(i) provide data that the department requests for the study; and

(ii) coordinate with the department to conduct the study.

(b) Notwithstanding the requirements in Subsection (3)(a), the board shall have discretion to gather and report information as part of the comprehensive study of CTE that is readily accessible through current financial and data systems.

(4) The CTE Board may:

(a) contract with a third party, in accordance with Title 63G, Chapter 6a, Utah Procurement Code, to conduct the comprehensive study described in Subsection (1); and

(b) as funding allows, hire staff.

(5) Based on the comprehensive study described in Subsection (1), the CTE Board shall make recommendations to the Legislature related to:

(a) CTE funding;

(b) CTE governance and administration;

(c) benchmarks or criteria for a CTE program to demonstrate that the CTE program fills:

(i) an educational need for a student;

(ii) a school's need to offer a particular CTE program; or

(iii) an employment need for a Utah business or industry; and

(d) any other CTE related recommendations.

(6) (a) On or before November 1, 2015, the CTE Board shall report on the progress of the comprehensive study described in Subsection (1).

(b) On or before November 1, 2016, the CTE Board shall report on the final results of the comprehensive study described in Subsection (1); and

(c) On or before November 1, 2017, the CTE Board shall report on the recommendations described in Subsection (5).

(d) The CTE Board shall make the reports described in this Subsection (6) to:

(i) the Education Interim Committee;

(ii) the Executive Appropriations Committee;

(iii) the governor;

(iv) the State Board of Education;

(v) the State Board of Regents; and

(vi) the Utah College of Applied Technology Board of Trustees.

Section 4. Section 631-1-235 is amended to read:

631-1-235. Repeal dates, Title 35A.

(1) Title 35A, Utah Workforce Services Code, is repealed July 1, 2015.

(2) Title 35A, Chapter 5, Part 4, Career and Technical Education Board, is repealed July 1, 2018.

[2] (3) Title 35A, Chapter 8, Part 7, Utah Housing Corporation Act, is repealed July 1, 2016.

[3] (4) Title 35A, Chapter 8, Part 18, Transitional Housing and Community Development Advisory Council, is repealed July 1, 2014.

[4] (5) Title 35A, Chapter 11, Women in the Economy Commission Act, is repealed July 1, 2016.

CHAPTER 274**H. B. 356**

Passed March 11, 2015
 Approved March 27, 2015
 Effective May 12, 2015

PARENT AND CHILD AMENDMENTS

Chief Sponsor: LaVar Christensen
 Senate Sponsor: Wayne A. Harper

LONG TITLE**General Description:**

This bill amends provisions that relate to child welfare.

Highlighted Provisions:

This bill:

- ▶ amends the definition of "harm" in the Juvenile Court Act;
- ▶ amends provisions related to the medical treatment of a child; and
- ▶ amends provisions related to the custody of a child with the Division of Child and Family Services.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 62A-4a-201, as last amended by Laws of Utah 2012, Chapter 281
 78A-6-105, as last amended by Laws of Utah 2014, Chapter 35
 78A-6-117, as last amended by Laws of Utah 2011, Chapter 366
 78A-6-302, as last amended by Laws of Utah 2014, Chapter 35
 78A-6-306, as last amended by Laws of Utah 2014, Chapter 35
 78A-6-312, as last amended by Laws of Utah 2014, Chapter 35

ENACTS:

- 78A-6-301.5, Utah Code Annotated 1953

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

Section 1. Section 62A-4a-201 is amended to read:**62A-4a-201. Rights of parents -- Children's rights -- Interest and responsibility of state.**

(1) (a) Under both the United States Constitution and the constitution of this state, a parent possesses a fundamental liberty interest in the care, custody, and management of the parent's children. A fundamentally fair process must be provided to parents if the state moves to challenge or interfere with parental rights. A governmental entity must support any actions or allegations made in opposition to the rights and desires of a parent regarding the parent's children by sufficient evidence to satisfy a parent's constitutional entitlement to heightened protection against government interference with the parent's

fundamental rights and liberty interests and, concomitantly, the right of the child to be reared by the child's natural parent.

(b) The fundamental liberty interest of a parent concerning the care, custody, and management of the parent's children is recognized, protected, and does not cease to exist simply because a parent may fail to be a model parent or because the parent's child is placed in the temporary custody of the state. At all times, a parent retains a vital interest in preventing the irretrievable destruction of family life. Prior to an adjudication of unfitness, government action in relation to parents and their children may not exceed the least restrictive means or alternatives available to accomplish a compelling state interest. Until the state proves parental unfitness, and the child suffers, or is substantially likely to suffer, serious detriment as a result, the child and the child's parents share a vital interest in preventing erroneous termination of their natural relationship and the state cannot presume that a child and the child's parents are adversaries.

(c) It is in the best interest and welfare of a child to be raised under the care and supervision of the child's natural parents. A child's need for a normal family life in a permanent home, and for positive, nurturing family relationships is usually best met by the child's natural parents. Additionally, the integrity of the family unit and the right of parents to conceive and raise their children are constitutionally protected. The right of a fit, competent parent to raise the parent's child without undue government interference is a fundamental liberty interest that has long been protected by the laws and Constitution and is a fundamental public policy of this state.

(d) The state recognizes that:

(i) a parent has the right, obligation, responsibility, and authority to raise, manage, train, educate, provide and care for, and reasonably discipline the parent's children; and

(ii) the state's role is secondary and supportive to the primary role of a parent.

(e) It is the public policy of this state that parents retain the fundamental right and duty to exercise primary control over the care, supervision, upbringing, and education of their children.

(f) Subsections (2) through (7) shall be interpreted and applied consistent with this Subsection (1).

(2) It is also the public policy of this state that children have the right to protection from abuse and neglect, and that the state retains a compelling interest in investigating, prosecuting, and punishing abuse and neglect, as defined in this chapter, and in Title 78A, Chapter 6, Juvenile Court Act of 1996. Therefore, the state, as *parens patriae*, has an interest in and responsibility to protect children whose parents abuse them or do not adequately provide for their welfare. There may be circumstances where a parent's conduct or condition is a substantial departure from the norm and the parent is unable or unwilling to render safe and proper parental care and protection. Under

those circumstances, the state may take action for the welfare and protection of the parent's children.

(3) When the division intervenes on behalf of an abused, neglected, or dependent child, it shall take into account the child's need for protection from immediate harm and the extent to which the child's extended family may provide needed protection. Throughout its involvement, the division shall utilize the least intrusive and least restrictive means available to protect a child, in an effort to ensure that children are brought up in stable, permanent families, rather than in temporary foster placements under the supervision of the state.

(4) When circumstances within the family pose a threat to the child's immediate safety or welfare, the division may seek custody of the child for a planned, temporary period and place the child in a safe environment, subject to the requirements of this section and in accordance with the requirements of Title 78A, Chapter 6, Part 3, Abuse, Neglect, and Dependency Proceedings, and:

(a) when safe and appropriate, return the child to the child's parent; or

(b) as a last resort, pursue another permanency plan.

(5) In determining and making "reasonable efforts" with regard to a child, pursuant to the provisions of Section 62A-4a-203, both the division's and the court's paramount concern shall be the child's health, safety, and welfare. The desires of a parent for the parent's child, and the constitutionally protected rights of a parent, as described in this section, shall be given full and serious consideration by the division and the court.

(6) In cases where actual sexual abuse, sexual exploitation, abandonment, severe abuse, or severe neglect are established, the state has no duty to make "reasonable efforts" or to, in any other way, attempt to maintain a child in the child's home, provide reunification services, or to attempt to rehabilitate the offending parent or parents. This Subsection (6) does not exempt the division from providing court-ordered services.

(7) (a) ~~[The]~~ In accordance with Subsection (1), the division shall strive to achieve appropriate permanency for children who are abused, neglected, or dependent. The division shall provide in-home services, where appropriate and safe, in an effort to help a parent to correct the behavior that resulted in abuse, neglect, or dependency of the parent's child. ~~[If] The division may pursue a foster placement only if in-home services fail or are otherwise insufficient or inappropriate, [the] kinship placement is not safe or appropriate, or in-home services and kinship placement fail and cannot be corrected.~~ The division shall also seek qualified extended family support or a kinship placement to maintain a sense of security and stability for the child. ~~[If in-home services and kinship placement are not safe or appropriate, or in-home services and kinship placement fail and~~

~~cannot be corrected, the division may pursue a foster placement.]~~

(b) If the use or continuation of "reasonable efforts," as described in Subsections (5) and (6), is determined to be inconsistent with the permanency plan for a child, then measures shall be taken, in a timely manner, to place the child in accordance with the permanency plan, and to complete whatever steps are necessary to finalize the permanent placement of the child.

(c) Subject to the parental rights recognized and protected under this section, if, because of a parent's conduct or condition, the parent is determined to be unfit or incompetent based on the grounds for termination of parental rights described in Title 78A, Chapter 6, Part 5, Termination of Parental Rights Act, the continuing welfare and best interest of the child is of paramount importance, and shall be protected in determining whether that parent's rights should be terminated.

(8) The state's right to direct or intervene in the provision of medical or mental health care for a child is subject to ~~[Subsection]~~ Subsections 78A-6-105(27)(d) and 78A-6-117(2)(n) and Section 78A-6-301.5.

Section 2. Section 78A-6-105 is amended to read:

78A-6-105. Definitions.

As used in this chapter:

(1) (a) "Abuse" means:

(i) nonaccidental harm of a child;

(ii) threatened harm of a child;

(iii) sexual exploitation; or

(iv) sexual abuse.

(v) that a child's natural parent:

(A) intentionally, knowingly, or recklessly causes the death of another parent of the child;

(B) is identified by a law enforcement agency as the primary suspect in an investigation for intentionally, knowingly, or recklessly causing the death of another parent of the child; or

(C) is being prosecuted for or has been convicted of intentionally, knowingly, or recklessly causing the death of another parent of the child.

(b) "Abuse" does not include:

(i) reasonable discipline or management of a child, including withholding privileges;

(ii) conduct described in Section 76-2-401; or

(iii) the use of reasonable and necessary physical restraint or force on a child:

(A) in self-defense;

(B) in defense of others;

(C) to protect the child; or

(D) to remove a weapon in the possession of a child for any of the reasons described in Subsections (1)(b)(iii)(A) through (C).

(2) "Abused child" means a child who has been subjected to abuse.

(3) "Adjudication" means a finding by the court, incorporated in a decree, that the facts alleged in the petition have been proved. A finding of not competent to proceed pursuant to Section 78A-6-1302 is not an adjudication.

(4) "Adult" means a person 18 years of age or over, except that a person 18 years or over under the continuing jurisdiction of the juvenile court pursuant to Section 78A-6-120 shall be referred to as a minor.

(5) "Board" means the Board of Juvenile Court Judges.

(6) "Child" means a person under 18 years of age.

(7) "Child placement agency" means:

(a) a private agency licensed to receive a child for placement or adoption under this code; or

(b) a private agency that receives a child for placement or adoption in another state, which agency is licensed or approved where such license or approval is required by law.

(8) "Clandestine laboratory operation" ~~is as~~ means the same as that term is defined in Section 58-37d-3.

(9) "Commit" means, unless specified otherwise:

(a) with respect to a child, to transfer legal custody; and

(b) with respect to a minor who is at least 18 years of age, to transfer custody.

(10) "Court" means the juvenile court.

(11) "Dependent child" includes a child who is homeless or without proper care through no fault of the child's parent, guardian, or custodian.

(12) "Deprivation of custody" means transfer of legal custody by the court from a parent or the parents or a previous legal custodian to another person, agency, or institution.

(13) "Detention" means home detention and secure detention as defined in Section 62A-7-101 for the temporary care of a minor who requires secure custody in a physically restricting facility:

(a) pending court disposition or transfer to another jurisdiction; or

(b) while under the continuing jurisdiction of the court.

(14) "Division" means the Division of Child and Family Services.

(15) "Formal referral" means a written report from a peace officer or other person informing the court that a minor is or appears to be within the court's jurisdiction and that a petition may be filed.

(16) "Group rehabilitation therapy" means psychological and social counseling of one or more persons in the group, depending upon the recommendation of the therapist.

(17) "Guardianship of the person" includes the authority to consent to:

(a) marriage;

(b) enlistment in the armed forces;

(c) major medical, surgical, or psychiatric treatment; or

(d) legal custody, if legal custody is not vested in another person, agency, or institution.

(18) "Habitual truant" ~~is as~~ means the same as that term is defined in Section 53A-11-101.

(19) "Harm" means:

(a) physical~~[-emotional,]~~ or developmental injury or damage;

(b) emotional damage that results in a serious impairment in the child's growth, development, behavior, or psychological functioning;

~~(b)~~ (c) sexual abuse; or

~~(e)~~ (d) sexual exploitation.

(20) (a) "Incest" means engaging in sexual intercourse with a person whom the perpetrator knows to be the perpetrator's ancestor, descendant, brother, sister, uncle, aunt, nephew, niece, or first cousin.

(b) The relationships described in Subsection (20)(a) include:

(i) blood relationships of the whole or half blood, without regard to legitimacy;

(ii) relationships of parent and child by adoption; and

(iii) relationships of stepparent and stepchild while the marriage creating the relationship of a stepparent and stepchild exists.

(21) "Intellectual disability" means:

(a) significantly subaverage intellectual functioning, an IQ of approximately 70 or below on an individually administered IQ test, for infants, a clinical judgment of significantly subaverage intellectual functioning;

(b) concurrent deficits or impairments in present adaptive functioning, the person's effectiveness in meeting the standards expected for his or her age by the person's cultural group, in at least two of the following areas: communication, self-care, home living, social/interpersonal skills, use of community resources, self-direction, functional academic skills, work, leisure, health, and safety; and

(c) the onset is before the person reaches the age of 18 years.

(22) "Legal custody" means a relationship embodying the following rights and duties:

(a) the right to physical custody of the minor;

(b) the right and duty to protect, train, and discipline the minor;

(c) the duty to provide the minor with food, clothing, shelter, education, and ordinary medical care;

(d) the right to determine where and with whom the minor shall live; and

(e) the right, in an emergency, to authorize surgery or other extraordinary care.

(23) "Mental disorder" means a serious emotional and mental disturbance that severely limits a minor's development and welfare over a significant period of time.

(24) "Minor" means:

(a) a child; or

(b) a person who is:

(i) at least 18 years of age and younger than 21 years of age; and

(ii) under the jurisdiction of the juvenile court.

(25) "Molestation" means that a person, with the intent to arouse or gratify the sexual desire of any person:

(a) touches the anus or any part of the genitals of a child;

(b) takes indecent liberties with a child; or

(c) causes a child to take indecent liberties with the perpetrator or another.

(26) "Natural parent" means a minor's biological or adoptive parent, and includes the minor's noncustodial parent.

(27) (a) "Neglect" means action or inaction causing:

(i) abandonment of a child, except as provided in Title 62A, Chapter 4a, Part 8, Safe Relinquishment of a Newborn Child;

(ii) lack of proper parental care of a child by reason of the fault or habits of the parent, guardian, or custodian;

(iii) failure or refusal of a parent, guardian, or custodian to provide proper or necessary subsistence, education, or medical care, or any other care necessary for the child's health, safety, morals, or well-being; or

(iv) a child to be at risk of being neglected or abused because another child in the same home is neglected or abused.

(b) The aspect of neglect relating to education, described in Subsection (27)(a)(iii), means that, after receiving a notice of compulsory education violation under Section 53A-11-101.5, or notice that a parent or guardian has failed to cooperate with school authorities in a reasonable manner as required under Subsection 53A-11-101.7(5)(a), the parent or guardian fails to make a good faith effort

to ensure that the child receives an appropriate education.

(c) A parent or guardian legitimately practicing religious beliefs and who, for that reason, does not provide specified medical treatment for a child, is not guilty of neglect.

(d) (i) Notwithstanding Subsection (27)(a), a health care decision made for a child by the child's parent or guardian does not constitute neglect unless the state or other party to the proceeding shows, by clear and convincing evidence, that the health care decision is not reasonable and informed.

(ii) Nothing in Subsection (27)(d)(i) may prohibit a parent or guardian from exercising the right to obtain a second health care opinion and from pursuing care and treatment pursuant to the second health care opinion, as described in Section 78A-6-301.5.

(28) "Neglected child" means a child who has been subjected to neglect.

(29) "Nonjudicial adjustment" means closure of the case by the assigned probation officer without judicial determination upon the consent in writing of:

(a) the assigned probation officer; and

(b) (i) the minor; or

(ii) the minor and the minor's parent, legal guardian, or custodian.

(30) "Not competent to proceed" means that a minor, due to a mental disorder, intellectual disability, or related condition as defined, lacks the ability to:

(a) understand the nature of the proceedings against them or of the potential disposition for the offense charged; or

(b) consult with counsel and participate in the proceedings against them with a reasonable degree of rational understanding.

(31) "Physical abuse" means abuse that results in physical injury or damage to a child.

(32) "Probation" means a legal status created by court order following an adjudication on the ground of a violation of law or under Section 78A-6-103, whereby the minor is permitted to remain in the minor's home under prescribed conditions and under supervision by the probation department or other agency designated by the court, subject to return to the court for violation of any of the conditions prescribed.

(33) "Protective supervision" means a legal status created by court order following an adjudication on the ground of abuse, neglect, or dependency, whereby the minor is permitted to remain in the minor's home, and supervision and assistance to correct the abuse, neglect, or dependency is provided by the probation department or other agency designated by the court.

(34) "Related condition" means a condition closely related to intellectual disability in

accordance with 42 C.F.R. Part 435.1010 and further defined in Rule R539-1-3, Utah Administrative Code.

(35) (a) "Residual parental rights and duties" means those rights and duties remaining with the parent after legal custody or guardianship, or both, have been vested in another person or agency, including:

- (i) the responsibility for support;
- (ii) the right to consent to adoption;
- (iii) the right to determine the child's religious affiliation; and
- (iv) the right to reasonable parent-time unless restricted by the court.

(b) If no guardian has been appointed, "residual parental rights and duties" also include the right to consent to:

- (i) marriage;
- (ii) enlistment; and
- (iii) major medical, surgical, or psychiatric treatment.

(36) "Secure facility" means any facility operated by or under contract with the Division of Juvenile Justice Services, that provides 24-hour supervision and confinement for youth offenders committed to the division for custody and rehabilitation.

(37) "Severe abuse" means abuse that causes or threatens to cause serious harm to a child.

(38) "Severe neglect" means neglect that causes or threatens to cause serious harm to a child.

(39) "Sexual abuse" means:

(a) an act or attempted act of sexual intercourse, sodomy, incest, or molestation directed towards a child; or

(b) engaging in any conduct with a child that would constitute an offense under any of the following, regardless of whether the person who engages in the conduct is actually charged with, or convicted of, the offense:

- (i) Title 76, Chapter 5, Part 4, Sexual Offenses;
- (ii) child bigamy, Section 76-7-101.5;
- (iii) incest, Section 76-7-102;
- (iv) lewdness, Section 76-9-702;
- (v) sexual battery, Section 76-9-702.1;
- (vi) lewdness involving a child, Section 76-9-702.5; or
- (vii) voyeurism, Section 76-9-702.7.

(40) "Sexual exploitation" means knowingly:

(a) employing, using, persuading, inducing, enticing, or coercing any child to:

(i) pose in the nude for the purpose of sexual arousal of any person; or

(ii) engage in any sexual or simulated sexual conduct for the purpose of photographing, filming, recording, or displaying in any way the sexual or simulated sexual conduct;

(b) displaying, distributing, possessing for the purpose of distribution, or selling material depicting a child:

(i) in the nude, for the purpose of sexual arousal of any person; or

(ii) engaging in sexual or simulated sexual conduct; or

(c) engaging in any conduct that would constitute an offense under Section 76-5b-201, sexual exploitation of a minor, regardless of whether the person who engages in the conduct is actually charged with, or convicted of, the offense.

(41) "Shelter" means the temporary care of a child in a physically unrestricted facility pending court disposition or transfer to another jurisdiction.

(42) "State supervision" means a disposition that provides a more intensive level of intervention than standard probation but is less intensive or restrictive than a community placement with the Division of Juvenile Justice Services.

(43) "Substance abuse" means the misuse or excessive use of alcohol or other drugs or substances.

(44) "Substantiated" [is-as] means the same as that term is defined in Section 62A-4a-101.

(45) "Supported" [is-as] means the same as that term is defined in Section 62A-4a-101.

(46) "Termination of parental rights" means the permanent elimination of all parental rights and duties, including residual parental rights and duties, by court order.

(47) "Therapist" means:

(a) a person employed by a state division or agency for the purpose of conducting psychological treatment and counseling of a minor in its custody; or

(b) any other person licensed or approved by the state for the purpose of conducting psychological treatment and counseling.

(48) "Unsubstantiated" [is-as] means the same as that term is defined in Section 62A-4a-101.

(49) "Without merit" [is-as] means the same as that term is defined in Section 62A-4a-101.

Section 3. Section 78A-6-117 is amended to read:

78A-6-117. Adjudication of jurisdiction of juvenile court -- Disposition of cases -- Enumeration of possible court orders -- Considerations of court -- Obtaining DNA sample.

(1) (a) When a minor is found to come within the provisions of Section 78A-6-103, the court shall so adjudicate. The court shall make a finding of the facts upon which it bases its jurisdiction over the

minor. However, in cases within the provisions of Subsection 78A-6-103(1), findings of fact are not necessary.

(b) If the court adjudicates a minor for a crime of violence or an offense in violation of Title 76, Chapter 10, Part 5, Weapons, it shall order that notice of the adjudication be provided to the school superintendent of the district in which the minor resides or attends school. Notice shall be made to the district superintendent within three days of the adjudication and shall include:

(i) the specific offenses for which the minor was adjudicated; and

(ii) if available, if the victim:

(A) resides in the same school district as the minor; or

(B) attends the same school as the minor.

(2) Upon adjudication the court may make the following dispositions by court order:

(a) (i) The court may place the minor on probation or under protective supervision in the minor's own home and upon conditions determined by the court, including compensatory service as provided in Subsection (2)(m)(iii).

(ii) The court may place the minor in state supervision with the probation department of the court, under the legal custody of:

(A) the minor's parent or guardian;

(B) the Division of Juvenile Justice Services; or

(C) the Division of Child and Family Services.

(iii) If the court orders probation or state supervision, the court shall direct that notice of its order be provided to designated persons in the local law enforcement agency and the school or transferee school, if applicable, that the minor attends. The designated persons may receive the information for purposes of the minor's supervision and student safety.

(iv) Any employee of the local law enforcement agency and the school that the minor attends who discloses the court's order of probation is not:

(A) civilly liable except when the disclosure constitutes fraud or willful misconduct as provided in Section 63G-7-202; and

(B) civilly or criminally liable except when the disclosure constitutes a knowing violation of Section 63G-2-801.

(b) The court may place the minor in the legal custody of a relative or other suitable person, with or without probation or protective supervision, but the juvenile court may not assume the function of developing foster home services.

(c) (i) The court may:

(A) vest legal custody of the minor in the Division of Child and Family Services, Division of Juvenile Justice Services, or the Division of Substance Abuse and Mental Health; and

(B) order the Department of Human Services to provide dispositional recommendations and services.

(ii) For minors who may qualify for services from two or more divisions within the Department of Human Services, the court may vest legal custody with the department.

(iii) (A) A minor who is committed to the custody of the Division of Child and Family Services on grounds other than abuse or neglect is subject to the provisions of Title 78A, Chapter 6, Part 4, Minors in Custody on Grounds Other than Abuse or Neglect, and Title 62A, Chapter 4a, Part 2a, Minors in Custody on Grounds other than Abuse or Neglect.

(B) Before the court entering an order to place a minor in the custody of the Division of Child and Family Services on grounds other than abuse or neglect, the court shall provide the division with notice of the hearing no later than five days before the time specified for the hearing so the division may attend the hearing.

(C) Before committing a child to the custody of the Division of Child and Family Services, the court shall make a finding as to what reasonable efforts have been attempted to prevent the child's removal from the child's home.

(d) (i) The court may commit a minor to the Division of Juvenile Justice Services for secure confinement.

(ii) A minor under the jurisdiction of the court solely on the ground of abuse, neglect, or dependency under Subsection 78A-6-103(1)(c) may not be committed to the Division of Juvenile Justice Services.

(e) The court may commit a minor, subject to the court retaining continuing jurisdiction over the minor, to the temporary custody of the Division of Juvenile Justice Services for observation and evaluation for a period not to exceed 45 days, which period may be extended up to 15 days at the request of the director of the Division of Juvenile Justice Services.

(f) (i) The court may commit a minor to a place of detention or an alternative to detention for a period not to exceed 30 days subject to the court retaining continuing jurisdiction over the minor. This commitment may be stayed or suspended upon conditions ordered by the court.

(ii) This Subsection (2)(f) applies only to a minor adjudicated for:

(A) an act which if committed by an adult would be a criminal offense; or

(B) contempt of court under Section 78A-6-1101.

(g) The court may vest legal custody of an abused, neglected, or dependent minor in the Division of Child and Family Services or any other appropriate person in accordance with the requirements and procedures of Title 78A, Chapter 6, Part 3, Abuse, Neglect, and Dependency Proceedings.

(h) The court may place a minor on a ranch or forestry camp, or similar facility for care and also

for work, if possible, if the person, agency, or association operating the facility has been approved or has otherwise complied with all applicable state and local laws. A minor placed in a forestry camp or similar facility may be required to work on fire prevention, forestation and reforestation, recreational works, forest roads, and on other works on or off the grounds of the facility and may be paid wages, subject to the approval of and under conditions set by the court.

(i) (i) The court may order a minor to repair, replace, or otherwise make restitution for damage or loss caused by the minor's wrongful act, including costs of treatment as stated in Section 78A-6-321 and impose fines in limited amounts.

(ii) The court may also require a minor to reimburse an individual, entity, or governmental agency who offered and paid a reward to a person or persons for providing information resulting in a court adjudication that the minor is within the jurisdiction of the juvenile court due to the commission of a criminal offense.

(iii) If a minor is returned to this state under the Interstate Compact on Juveniles, the court may order the minor to make restitution for costs expended by any governmental entity for the return.

(j) The court may issue orders necessary for the collection of restitution and fines ordered by the court, including garnishments, wage withholdings, and executions.

(k) (i) The court may through its probation department encourage the development of employment or work programs to enable minors to fulfill their obligations under Subsection (2)(i) and for other purposes considered desirable by the court.

(ii) Consistent with the order of the court, the probation officer may permit a minor found to be within the jurisdiction of the court to participate in a program of work restitution or compensatory service in lieu of paying part or all of the fine imposed by the court.

(l) (i) In violations of traffic laws within the court's jurisdiction, the court may, in addition to any other disposition authorized by this section:

(A) restrain the minor from driving for periods of time the court considers necessary; and

(B) take possession of the minor's driver license.

(ii) The court may enter any other disposition under Subsection (2)(l)(i). However, the suspension of driving privileges for an offense under Section 78A-6-606 is governed only by Section 78A-6-606.

(m) (i) When a minor is found within the jurisdiction of the juvenile court under Section 78A-6-103 because of violating Section 58-37-8, Title 58, Chapter 37a, Utah Drug Paraphernalia Act, or Title 58, Chapter 37b, Imitation Controlled Substances Act, the court shall, in addition to any fines or fees otherwise imposed, order that the minor perform a minimum of 20 hours, but no more

than 100 hours, of compensatory service. Satisfactory completion of an approved substance abuse prevention or treatment program may be credited by the court as compensatory service hours.

(ii) When a minor is found within the jurisdiction of the juvenile court under Section 78A-6-103 because of a violation of Section 32B-4-409 or Subsection 76-9-701(1), the court may, upon the first adjudication, and shall, upon a second or subsequent adjudication, order that the minor perform a minimum of 20 hours, but no more than 100 hours of compensatory service, in addition to any fines or fees otherwise imposed. Satisfactory completion of an approved substance abuse prevention or treatment program may be credited by the court as compensatory service hours.

(iii) When a minor is found within the jurisdiction of the juvenile court under Section 78A-6-103 because of a violation of Section 76-6-106 or 76-6-206 using graffiti, the court may order the minor to clean up graffiti created by the minor or any other person at a time and place within the jurisdiction of the court. Compensatory service required under this section may be performed in the presence and under the direct supervision of the minor's parent or legal guardian. The parent or legal guardian shall report completion of the order to the court. The minor or the minor's parent or legal guardian, if applicable, shall be responsible for removal costs as determined under Section 76-6-107, unless waived by the court for good cause. The court may also require the minor to perform other alternative forms of restitution or repair to the damaged property pursuant to Subsection 77-18-1(8).

(A) For a first adjudication, the court may require the minor to clean up graffiti for not less than eight hours.

(B) For a second adjudication, the court may require the minor to clean up graffiti for not less than 16 hours.

(C) For a third adjudication, the court may require the minor to clean up graffiti for not less than 24 hours.

(n) (i) Subject to Subsection (2)(n)(iii), the court may order that a minor:

(A) be examined or treated by a physician, surgeon, psychiatrist, or psychologist; or

(B) receive other special care.

(ii) For purposes of receiving the examination, treatment, or care described in Subsection (2)(n)(i), the court may place the minor in a hospital or other suitable facility.

(iii) In determining whether to order the examination, treatment, or care described in Subsection (2)(n)(i), the court shall consider:

(A) the desires of the minor;

(B) if the minor is under the age of 18, the desires of the parents or guardian of the minor; and

(C) whether the potential benefits of the examination, treatment, or care outweigh the

potential risks and side-effects, including behavioral disturbances, suicidal ideation, brain function impairment, or emotional or physical harm resulting from the compulsory nature of the examination, treatment, or care.

(iv) The Division of Child and Family Services shall take reasonable measures to notify a parent or guardian of any non-emergency health treatment or care scheduled for a child, shall include the parent or guardian as fully as possible in making health care decisions for the child, and shall defer to the parent's or guardian's reasonable and informed decisions regarding the child's health care to the extent that the child's health and well being are not unreasonably compromised by the parent's or guardian's decision.

(v) The Division of Child and Family Services shall notify the parent or guardian of a child within five business days after a child in the custody of the Division of Child and Family Services receives emergency health care or treatment.

(vi) The Division of Child and Family Services shall use the least restrictive means to accomplish a compelling interest in the care and treatment of a child described in this Subsection (2)(n).

(o) (i) The court may appoint a guardian for the minor if it appears necessary in the interest of the minor, and may appoint as guardian a public or private institution or agency in which legal custody of the minor is vested.

(ii) In placing a minor under the guardianship or legal custody of an individual or of a private agency or institution, the court shall give primary consideration to the welfare of the minor. When practicable, the court may take into consideration the religious preferences of the minor and of a child's parents.

(p) (i) In support of a decree under Section 78A-6-103, the court may order reasonable conditions to be complied with by a minor's parents or guardian, a minor, a minor's custodian, or any other person who has been made a party to the proceedings. Conditions may include:

- (A) parent-time by the parents or one parent;
- (B) restrictions on the minor's associates;
- (C) restrictions on the minor's occupation and other activities; and
- (D) requirements to be observed by the parents or custodian.

(ii) A minor whose parents or guardians successfully complete a family or other counseling program may be credited by the court for detention, confinement, or probation time.

(q) The court may order the child to be committed to the physical custody of a local mental health authority, in accordance with the procedures and requirements of Title 62A, Chapter 15, Part 7, Commitment of Persons Under Age 18 to Division of Substance Abuse and Mental Health.

(r) (i) The court may make an order committing a minor within the court's jurisdiction to the Utah State Developmental Center if the minor has an intellectual disability in accordance with the provisions of Title 62A, Chapter 5, Part 3, Admission to an Intermediate Care Facility for People with an Intellectual Disability.

(ii) The court shall follow the procedure applicable in the district courts with respect to judicial commitments to the Utah State Developmental Center when ordering a commitment under Subsection (2)(r)(i).

(s) The court may terminate all parental rights upon a finding of compliance with the provisions of Title 78A, Chapter 6, Part 5, Termination of Parental Rights Act.

(t) The court may make any other reasonable orders for the best interest of the minor or as required for the protection of the public, except that a child may not be committed to jail or prison.

(u) The court may combine the dispositions listed in this section if they are compatible.

(v) Before depriving any parent of custody, the court shall give due consideration to the rights of parents concerning their child. The court may transfer custody of a minor to another person, agency, or institution in accordance with the requirements and procedures of Title 78A, Chapter 6, Part 3, Abuse, Neglect, and Dependency Proceedings.

(w) Except as provided in Subsection (2)(y)(i), an order under this section for probation or placement of a minor with an individual or an agency shall include a date certain for a review of the case by the court. A new date shall be set upon each review.

(x) In reviewing foster home placements, special attention shall be given to making adoptable children available for adoption without delay.

(y) (i) The juvenile court may enter an order of permanent custody and guardianship with an individual or relative of a child where the court has previously acquired jurisdiction as a result of an adjudication of abuse, neglect, or dependency. The juvenile court may enter an order for child support on behalf of the child against the natural or adoptive parents of the child.

(ii) Orders under Subsection (2)(y)(i):

(A) shall remain in effect until the child reaches majority;

(B) are not subject to review under Section 78A-6-118; and

(C) may be modified by petition or motion as provided in Section 78A-6-1103.

(iii) Orders permanently terminating the rights of a parent, guardian, or custodian and permanent orders of custody and guardianship do not expire with a termination of jurisdiction of the juvenile court.

(3) In addition to the dispositions described in Subsection (2), when a minor comes within the

court's jurisdiction, the minor may be given a choice by the court to serve in the National Guard in lieu of other sanctions, provided:

(a) the minor meets the current entrance qualifications for service in the National Guard as determined by a recruiter, whose determination is final;

(b) the minor is not under the jurisdiction of the court for any act that:

(i) would be a felony if committed by an adult;

(ii) is a violation of Title 58, Chapter 37, Utah Controlled Substances Act; or

(iii) was committed with a weapon; and

(c) the court retains jurisdiction over the minor under conditions set by the court and agreed upon by the recruiter or the unit commander to which the minor is eventually assigned.

(4) (a) A DNA specimen shall be obtained from a minor who is under the jurisdiction of the court as described in Subsection 53-10-403(3). The specimen shall be obtained by designated employees of the court or, if the minor is in the legal custody of the Division of Juvenile Justice Services, then by designated employees of the division under Subsection 53-10-404(5)(b).

(b) The responsible agency shall ensure that employees designated to collect the saliva DNA specimens receive appropriate training and that the specimens are obtained in accordance with accepted protocol.

(c) Reimbursements paid under Subsection 53-10-404(2)(a) shall be placed in the DNA Specimen Restricted Account created in Section 53-10-407.

(d) Payment of the reimbursement is second in priority to payments the minor is ordered to make for restitution under this section and treatment under Section 78A-6-321.

Section 4. Section 78A-6-301.5 is enacted to read:

78A-6-301.5. Second medical opinion.

(1) In cases of alleged medical neglect where the division seeks protective custody, temporary custody, or custody of the child based on the report or testimony of a physician, a parent or guardian shall have a reasonable amount of time, as determined by the court, to obtain a second medical opinion from another physician of the parent's or guardian's choosing who has expertise in the applicable field.

(2) Unless there is an imminent risk of death or a deteriorating condition of the child's health, the child shall remain in the custody of the parent or guardian while the parent or guardian obtains a second medical opinion.

(3) If the second medical opinion results in a different diagnosis or treatment recommendation from that of the opinion of the physician the division

used, the court shall give deference to the second medical opinion as long as that opinion is reasonable and informed and is consistent with treatment that is regularly prescribed by medical experts in the applicable field.

(4) Subsections (1) through (3) do not apply to emergency treatment or care when the child faces an immediate threat of death or serious and irreparable harm and when there is insufficient time to safely allow the parent or guardian to provide alternative necessary care and treatment of the parent's or guardian's choosing.

Section 5. Section 78A-6-302 is amended to read:

78A-6-302. Court-ordered protective custody of a child following petition filing -- Grounds.

(1) After a petition has been filed under Section 78A-6-304, if the child who is the subject of the petition is not in the protective custody of the division, a court may order that the child be removed from the child's home or otherwise taken into protective custody if the court finds, by a preponderance of the evidence, that any one or more of the following circumstances exist:

(a) (i) there is an imminent danger to the physical health or safety of the child; and

(ii) the child's physical health or safety may not be protected without removing the child from the custody of the child's parent or guardian;

(b) (i) a parent or guardian engages in or threatens the child with unreasonable conduct that causes the child to suffer ~~[emotional damage]~~ harm; and

(ii) there are ~~[no reasonable]~~ no less restrictive means available by which the child's emotional health may be protected without removing the child from the custody of the child's parent or guardian;

(c) the child or another child residing in the same household has been, or is considered to be at substantial risk of being, physically abused, sexually abused, or sexually exploited, by a parent or guardian, a member of the parent's or guardian's household, or other person known to the parent or guardian;

(d) the parent or guardian is unwilling to have physical custody of the child;

(e) the child is abandoned or left without any provision for the child's support;

(f) a parent or guardian who has been incarcerated or institutionalized has not arranged or cannot arrange for safe and appropriate care for the child;

(g) (i) a relative or other adult custodian with whom the child is left by the parent or guardian is unwilling or unable to provide care or support for the child;

(ii) the whereabouts of the parent or guardian are unknown; and

(iii) reasonable efforts to locate the parent or guardian are unsuccessful;

(h) subject to the provisions of Subsections 78A-6-105(27)(d) and 78A-6-117(2)(n) and Section 78A-6-301.5, the child is in immediate need of medical care;

(i) (i) a parent's or guardian's actions, omissions, or habitual action create an environment that poses a [threat] serious risk to the child's health or safety for which immediate remedial or preventive action is necessary; or

(ii) a parent's or guardian's action in leaving a child unattended would reasonably pose a threat to the child's health or safety;

(j) the child or another child residing in the same household has been neglected;

(k) the child's natural parent:

(i) intentionally, knowingly, or recklessly causes the death of another parent of the child;

(ii) is identified by a law enforcement agency as the primary suspect in an investigation for intentionally, knowingly, or recklessly causing the death of another parent of the child; or

(iii) is being prosecuted for or has been convicted of intentionally, knowingly, or recklessly causing the death of another parent of the child;

(l) an infant has been abandoned, as defined in Section 78A-6-316;

(m) (i) the parent or guardian, or an adult residing in the same household as the parent or guardian, is charged or arrested pursuant to Title 58, Chapter 37d, Clandestine Drug Lab Act; and

(ii) any clandestine laboratory operation was located in the residence or on the property where the child resided; or

(n) the child's welfare is otherwise endangered.

(2) (a) For purposes of Subsection (1)(a), if a child has previously been adjudicated as abused, neglected, or dependent, and a subsequent incident of abuse, neglect, or dependency occurs involving the same substantiated abuser or under similar circumstance as the previous abuse, that fact constitutes prima facie evidence that the child cannot safely remain in the custody of the child's parent.

(b) For purposes of Subsection (1)(c):

(i) another child residing in the same household may not be removed from the home unless that child is considered to be at substantial risk of being physically abused, sexually abused, or sexually exploited as described in Subsection (1)(c) or Subsection (2)(b)(ii); and

(ii) if a parent or guardian has received actual notice that physical abuse, sexual abuse, or sexual exploitation by a person known to the parent has occurred, and there is evidence that the parent or guardian failed to protect the child, after having received the notice, by allowing the child to be in the

physical presence of the alleged abuser, that fact constitutes prima facie evidence that the child is at substantial risk of being physically abused, sexually abused, or sexually exploited.

(3) In the absence of one of the factors described in Subsection (1), a court may not remove a child from the parent's or guardian's custody on the basis of:

(a) educational neglect, truancy, or failure to comply with a court order to attend school;

(b) mental illness or poverty of the parent or guardian; or

(c) disability of the parent or guardian, as defined in Section 57-21-2.

(4) A child removed from the custody of the child's parent or guardian under this section may not be placed or kept in a secure detention facility pending further court proceedings unless the child is detainable based on guidelines promulgated by the Division of Juvenile Justice Services.

(5) This section does not preclude removal of a child from the child's home without a warrant or court order under Section 62A-4a-202.1.

(6) (a) Except as provided in Subsection (6)(b), a court or the Division of Child and Family Services may not remove a child from the custody of the child's parent or guardian on the sole or primary basis that the parent or guardian refuses to consent to:

(i) the administration of a psychotropic medication to a child;

(ii) a psychiatric, psychological, or behavioral treatment for a child; or

(iii) a psychiatric or behavioral health evaluation of a child.

(b) Notwithstanding Subsection (6)(a), a court or the Division of Child and Family Services may remove a child under conditions that would otherwise be prohibited under Subsection (6)(a) if failure to take an action described under Subsection (6)(a) would present a serious, imminent risk to the child's physical safety or the physical safety of others.

Section 6. Section 78A-6-306 is amended to read:

78A-6-306. Shelter hearing.

(1) A shelter hearing shall be held within 72 hours excluding weekends and holidays after any one or all of the following occur:

(a) removal of the child from the child's home by the division;

(b) placement of the child in the protective custody of the division;

(c) emergency placement under Subsection 62A-4a-202.1(4);

(d) as an alternative to removal of the child, a parent enters a domestic violence shelter at the request of the division; or

(e) a “Motion for Expedited Placement in Temporary Custody” is filed under Subsection 78A-6-106(4).

(2) ~~Upon the occurrence of any~~ If one of the circumstances described in Subsections (1)(a) through (e) occurs, the division shall issue a notice that contains all of the following:

(a) the name and address of the person to whom the notice is directed;

(b) the date, time, and place of the shelter hearing;

(c) the name of the child on whose behalf a petition is being brought;

(d) a concise statement regarding:

(i) the reasons for removal or other action of the division under Subsection (1); and

(ii) the allegations and code sections under which the proceeding has been instituted;

(e) a statement that the parent or guardian to whom notice is given, and the child, are entitled to have an attorney present at the shelter hearing, and that if the parent or guardian is indigent and cannot afford an attorney, and desires to be represented by an attorney, one will be provided in accordance with the provisions of Section 78A-6-1111; and

(f) a statement that the parent or guardian is liable for the cost of support of the child in the protective custody, temporary custody, and custody of the division, and the cost for legal counsel appointed for the parent or guardian under Subsection (2)(e), according to the financial ability of the parent or guardian.

(3) The notice described in Subsection (2) shall be personally served as soon as possible, but no later than one business day after removal of the child from the child’s home, or the filing of a “Motion for Expedited Placement in Temporary Custody” under Subsection 78A-6-106(4), on:

(a) the appropriate guardian ad litem; and

(b) both parents and any guardian of the child, unless the parents or guardians cannot be located.

(4) The following persons shall be present at the shelter hearing:

(a) the child, unless it would be detrimental for the child;

(b) the child’s parents or guardian, unless the parents or guardian cannot be located, or fail to appear in response to the notice;

(c) counsel for the parents, if one is requested;

(d) the child’s guardian ad litem;

(e) the caseworker from the division who is assigned to the case; and

(f) the attorney from the attorney general’s office who is representing the division.

(5) (a) At the shelter hearing, the court shall:

(i) provide an opportunity to provide relevant testimony to:

(A) the child’s parent or guardian, if present; and

(B) any other person having relevant knowledge; and

(ii) subject to Section 78A-6-305, provide an opportunity for the child to testify.

(b) The court:

(i) may consider all relevant evidence, in accordance with the Utah Rules of Juvenile Procedure;

(ii) shall hear relevant evidence presented by the child, the child’s parent or guardian, the requesting party, or their counsel; and

(iii) may in its discretion limit testimony and evidence to only that which goes to the issues of removal and the child’s need for continued protection.

(6) If the child is in the protective custody of the division, the division shall report to the court:

(a) the reason why the child was removed from the parent’s or guardian’s custody;

(b) any services provided to the child and the child’s family in an effort to prevent removal;

(c) the need, if any, for continued shelter;

(d) the available services that could facilitate the return of the child to the custody of the child’s parent or guardian; and

(e) subject to Subsections 78A-6-307(18)(c) through (e), whether any relatives of the child or friends of the child’s parents may be able and willing to accept temporary placement of the child.

(7) The court shall consider all relevant evidence provided by persons or entities authorized to present relevant evidence pursuant to this section.

(8) (a) If necessary to protect the child, preserve the rights of a party, or for other good cause shown, the court may grant no more than one continuance, not to exceed five judicial days.

(b) A court shall honor, as nearly as practicable, the request by a parent or guardian for a continuance under Subsection (8)(a).

(c) Notwithstanding Subsection (8)(a), if the division fails to provide the notice described in Subsection (2) within the time described in Subsection (3), the court may grant the request of a parent or guardian for a continuance, not to exceed five judicial days.

(9) (a) If the child is in the protective custody of the division, the court shall order that the child be ~~released from the protective custody of the division~~ returned to the custody of the parent or guardian unless it finds, by a preponderance of the evidence, consistent with the protections and requirements provided in Subsection 62A-4a-201(1), that any one of the following ~~exist~~ exists:

(i) subject to Subsection (9)(b)(i), there is a ~~substantial~~ serious danger to the physical health or safety of the child and the child's physical health or safety may not be protected without removing the child from the custody of the child's parent;

(ii) (A) the child is suffering ~~emotional damage~~ and emotional damage that results in a serious impairment in the child's growth, development, behavior, or psychological functioning;

(B) the parent or guardian is unwilling or unable to make reasonable changes that would sufficiently prevent future damage; and

~~(B)~~ (C) there are no reasonable means available by which the child's emotional health may be protected without removing the child from the custody of the child's parent or guardian;

(iii) there is a substantial risk that the child will suffer abuse or neglect if the child is not removed from the custody of the child's ~~parents~~ parent or guardian;

(iv) subject to Subsection (9)(b)(ii), the child or a minor residing in the same household has been, or is considered to be at substantial risk of being, physically abused, sexually abused, or sexually exploited by a:

(A) parent or guardian;

(B) member of the parent's household or the guardian's household; or

(C) person known to the parent or guardian;

(v) the parent or guardian is unwilling to have physical custody of the child;

(vi) the child is without any provision for the child's support;

(vii) a parent who is incarcerated or institutionalized has not or cannot arrange for safe and appropriate care for the child;

(viii) (A) a relative or other adult custodian with whom the child is left by the parent or guardian is unwilling or unable to provide care or support for the child;

(B) the whereabouts of the parent or guardian are unknown; and

(C) reasonable efforts to locate the parent or guardian are unsuccessful;

(ix) subject to Subsections 78A-6-105(27)(d) and 78A-6-117(2)(n) and Section 78A-6-301.5, the child is in ~~urgent~~ immediate need of medical care;

(x) (A) the physical environment or the fact that the child is left unattended beyond a reasonable period of time poses a threat to the child's health or safety; and

(B) the parent or guardian is unwilling or unable to make reasonable changes that would remove the threat;

(xi) (A) the child or a minor residing in the same household has been neglected; and

(B) the parent or guardian is unwilling or unable to make reasonable changes that would prevent the neglect;

(xii) the parent, guardian, or an adult residing in the same household as the parent or guardian, is charged or arrested pursuant to Title 58, Chapter 37d, Clandestine Drug Lab Act, and any clandestine laboratory operation was located in the residence or on the property where the child resided;

(xiii) (A) the child's welfare is substantially endangered; ~~or~~ and

(B) the parent or guardian is unwilling or unable to make reasonable changes that would remove the danger; or

(xiv) the child's natural parent:

(A) intentionally, knowingly, or recklessly causes the death of another parent of the child;

(B) is identified by a law enforcement agency as the primary suspect in an investigation for intentionally, knowingly, or recklessly causing the death of another parent of the child; or

(C) is being prosecuted for or has been convicted of intentionally, knowingly, or recklessly causing the death of another parent of the child.

(b) (i) Prima facie evidence of the finding described in Subsection (9)(a)(i) is established if:

(A) a court previously adjudicated that the child suffered abuse, neglect, or dependency involving the parent; and

(B) a subsequent incident of abuse, neglect, or dependency involving the parent occurs.

(ii) For purposes of Subsection (9)(a)(iv), if the court finds that the parent knowingly allowed the child to be in the physical care of a person after the parent received actual notice that the person physically abused, sexually abused, or sexually exploited the child, that fact constitutes prima facie evidence that there is a substantial risk that the child will be physically abused, sexually abused, or sexually exploited.

(10) (a) (i) The court shall also make a determination on the record as to whether reasonable efforts were made to prevent or eliminate the need for removal of the child from the child's home and whether there are available services that would prevent the need for continued removal.

(ii) If the court finds that the child can be safely returned to the custody of the child's parent or guardian through the provision of those services, the court shall place the child with the child's parent or guardian and order that those services be provided by the division.

(b) In making the determination described in Subsection (10)(a), and in ordering and providing services, the child's health, safety, and welfare shall be the paramount concern, in accordance with federal law.

(11) Where the division's first contact with the family occurred during an emergency situation in

which the child could not safely remain at home, the court shall make a finding that any lack of replacement preventive efforts was appropriate.

(12) In cases where actual sexual abuse, sexual exploitation, abandonment, severe abuse, or severe neglect are involved, neither the division nor the court has any duty to make “reasonable efforts” or to, in any other way, attempt to maintain a child in the child’s home, return a child to the child’s home, provide reunification services, or attempt to rehabilitate the offending parent or parents.

(13) The court may not order continued removal of a child solely on the basis of educational neglect as described in Subsection 78A-6-105~~(25)~~(27)(b), truancy, or failure to comply with a court order to attend school.

(14) (a) Whenever a court orders continued removal of a child under this section, the court shall state the facts on which that decision is based.

(b) If no continued removal is ordered and the child is returned home, the court shall state the facts on which that decision is based.

(15) If the court finds that continued removal and temporary custody are necessary for the protection of a child ~~[because harm may result to the child if the child were returned home]~~ pursuant to Subsection (9)(a), the court shall order continued removal regardless of:

- (a) any error in the initial removal of the child;
- (b) the failure of a party to comply with notice provisions; or
- (c) any other procedural requirement of this chapter or Title 62A, Chapter 4a, Child and Family Services.

Section 7. Section 78A-6-312 is amended to read:

78A-6-312. Dispositional hearing -- Reunification services -- Exceptions.

- (1) The court may:
- (a) make any of the dispositions described in Section 78A-6-117;
 - (b) place the minor in the custody or guardianship of any:
 - (i) individual; or
 - (ii) public or private entity or agency; or
 - (c) order:
 - (i) protective supervision;
 - (ii) family preservation;
 - (iii) subject to Subsections (12)(b) ~~[and]~~, 78A-6-105(27)(d), and 78A-6-117(2)(n)~~(iii)~~ and Section 78A-6-301.5, medical or mental health treatment; or
 - (iv) other services.

(2) Whenever the court orders continued removal at the dispositional hearing, and that the minor

remain in the custody of the division, the court shall first:

(a) establish a primary permanency goal for the minor; and

(b) determine whether, in view of the primary permanency goal, reunification services are appropriate for the minor and the minor’s family, pursuant to Subsections (20) through (22).

(3) Subject to Subsections (6) and (7), if the court determines that reunification services are appropriate for the minor and the minor’s family, the court shall provide for reasonable parent-time with the parent or parents from whose custody the minor was removed, unless parent-time is not in the best interest of the minor.

(4) In cases where obvious sexual abuse, sexual exploitation, abandonment, severe abuse, or severe neglect are involved, neither the division nor the court has any duty to make “reasonable efforts” or to, in any other way, attempt to provide reunification services, or to attempt to rehabilitate the offending parent or parents.

(5) In all cases, the minor’s health, safety, and welfare shall be the court’s paramount concern in determining whether reasonable efforts to reunify should be made.

(6) For purposes of Subsection (3), parent-time is in the best interests of a minor unless the court makes a finding that it is necessary to deny parent-time in order to:

- (a) protect the physical safety of the minor;
- (b) protect the life of the minor; or
- (c) prevent the minor from being traumatized by contact with the parent due to the minor’s fear of the parent in light of the nature of the alleged abuse or neglect.

(7) Notwithstanding Subsection (3), a court may not deny parent-time based solely on a parent’s failure to:

- (a) prove that the parent has not used legal or illegal substances; or
- (b) comply with an aspect of the child and family plan that is ordered by the court.

(8) (a) In addition to the primary permanency goal, the court shall establish a concurrent permanency goal that shall include:

- (i) a representative list of the conditions under which the primary permanency goal will be abandoned in favor of the concurrent permanency goal; and
- (ii) an explanation of the effect of abandoning or modifying the primary permanency goal.

(b) In determining the primary permanency goal and concurrent permanency goal, the court shall consider:

- (i) the preference for kinship placement over nonkinship placement;
- (ii) the potential for a guardianship placement if the parent-child relationship is legally terminated

and no appropriate adoption placement is available; and

(iii) the use of an individualized permanency goal, only as a last resort.

(9) A permanency hearing shall be conducted in accordance with Subsection 78A-6-314(1)(b) within 30 days after the day on which the dispositional hearing ends if something other than reunification is initially established as a minor's primary permanency goal.

(10) (a) The court may amend a minor's primary permanency goal before the establishment of a final permanency plan under Section 78A-6-314.

(b) The court is not limited to the terms of the concurrent permanency goal in the event that the primary permanency goal is abandoned.

(c) If, at any time, the court determines that reunification is no longer a minor's primary permanency goal, the court shall conduct a permanency hearing in accordance with Section 78A-6-314 on or before the earlier of:

(i) 30 days after the day on which the court makes the determination described in this Subsection (10)(c); or

(ii) the day on which the provision of reunification services, described in Section 78A-6-314, ends.

(11) (a) If the court determines that reunification services are appropriate, it shall order that the division make reasonable efforts to provide services to the minor and the minor's parent for the purpose of facilitating reunification of the family, for a specified period of time.

(b) In providing the services described in Subsection (11)(a), the minor's health, safety, and welfare shall be the division's paramount concern, and the court shall so order.

(12) (a) The court shall:

(i) determine whether the services offered or provided by the division under the child and family plan constitute "reasonable efforts" on the part of the division;

(ii) determine and define the responsibilities of the parent under the child and family plan in accordance with Subsection 62A-4a-205(6)(e); and

(iii) identify verbally on the record, or in a written document provided to the parties, the responsibilities described in Subsection (12)(a)(ii), for the purpose of assisting in any future determination regarding the provision of reasonable efforts, in accordance with state and federal law.

(b) If the parent is in a substance abuse treatment program, other than a certified drug court program:

(i) the court may order the parent to submit to supplementary drug or alcohol testing in addition to the testing recommended by the parent's substance abuse program based on a finding of reasonable

suspicion that the parent is abusing drugs or alcohol; and

(ii) the court may order the parent to provide the results of drug or alcohol testing recommended by the substance abuse program to the court or division.

(13) (a) The time period for reunification services may not exceed 12 months from the date that the minor was initially removed from the minor's home, unless the time period is extended under Subsection 78A-6-314(8).

(b) Nothing in this section may be construed to entitle any parent to an entire 12 months of reunification services.

(14) (a) If reunification services are ordered, the court may terminate those services at any time.

(b) If, at any time, continuation of reasonable efforts to reunify a minor is determined to be inconsistent with the final permanency plan for the minor established pursuant to Section 78A-6-314, then measures shall be taken, in a timely manner, to:

(i) place the minor in accordance with the permanency plan; and

(ii) complete whatever steps are necessary to finalize the permanent placement of the minor.

(15) Any physical custody of the minor by the parent or a relative during the period described in Subsections (11) through (14) does not interrupt the running of the period.

(16) (a) If reunification services are ordered, a permanency hearing shall be conducted by the court in accordance with Section 78A-6-314 at the expiration of the time period for reunification services.

(b) The permanency hearing shall be held no later than 12 months after the original removal of the minor.

(c) If reunification services are not ordered, a permanency hearing shall be conducted within 30 days, in accordance with Section 78A-6-314.

(17) With regard to a minor in the custody of the division whose parent or parents are ordered to receive reunification services but who have abandoned that minor for a period of six months from the date that reunification services were ordered:

(a) the court shall terminate reunification services; and

(b) the division shall petition the court for termination of parental rights.

(18) When a court conducts a permanency hearing for a minor under Section 78A-6-314, the court shall attempt to keep the minor's sibling group together if keeping the sibling group together is:

(a) practicable; and

(b) in accordance with the best interest of the minor.

(19) (a) Because of the state's interest in and responsibility to protect and provide permanency for minors who are abused, neglected, or dependent, the Legislature finds that a parent's interest in receiving reunification services is limited.

(b) The court may determine that:

(i) efforts to reunify a minor with the minor's family are not reasonable or appropriate, based on the individual circumstances; and

(ii) reunification services should not be provided.

(c) In determining "reasonable efforts" to be made with respect to a minor, and in making "reasonable efforts," the minor's health, safety, and welfare shall be the paramount concern.

(20) There is a presumption that reunification services should not be provided to a parent if the court finds, by clear and convincing evidence, that any of the following circumstances exist:

(a) the whereabouts of the parents are unknown, based upon a verified affidavit indicating that a reasonably diligent search has failed to locate the parent;

(b) subject to Subsection (21)(a), the parent is suffering from a mental illness of such magnitude that it renders the parent incapable of utilizing reunification services;

(c) the minor was previously adjudicated as an abused child due to physical abuse, sexual abuse, or sexual exploitation, and following the adjudication the minor:

(i) was removed from the custody of the minor's parent;

(ii) was subsequently returned to the custody of the parent; and

(iii) is being removed due to additional physical abuse, sexual abuse, or sexual exploitation;

(d) the parent:

(i) caused the death of another minor through abuse or neglect;

(ii) committed, aided, abetted, attempted, conspired, or solicited to commit:

(A) murder or manslaughter of a child; or

(B) child abuse homicide;

(iii) committed sexual abuse against the child;

(iv) is a registered sex offender or required to register as a sex offender; or

(v) (A) intentionally, knowingly, or recklessly causes the death of another parent of the child;

(B) is identified by a law enforcement agency as the primary suspect in an investigation for intentionally, knowingly, or recklessly causing the death of another parent of the child; or

(C) is being prosecuted for or has been convicted of intentionally, knowingly, or recklessly causing the death of another parent of the child;

(e) the minor suffered severe abuse by the parent or by any person known by the parent, if the parent knew or reasonably should have known that the person was abusing the minor;

(f) the minor is adjudicated an abused child as a result of severe abuse by the parent, and the court finds that it would not benefit the minor to pursue reunification services with the offending parent;

(g) the parent's rights are terminated with regard to any other minor;

(h) the minor was removed from the minor's home on at least two previous occasions and reunification services were offered or provided to the family at those times;

(i) the parent has abandoned the minor for a period of six months or longer;

(j) the parent permitted the child to reside, on a permanent or temporary basis, at a location where the parent knew or should have known that a clandestine laboratory operation was located;

(k) except as provided in Subsection (21)(b), with respect to a parent who is the child's birth mother, the child has fetal alcohol syndrome, fetal alcohol spectrum disorder, or was exposed to an illegal or prescription drug that was abused by the child's mother while the child was in utero, if the child was taken into division custody for that reason, unless the mother agrees to enroll in, is currently enrolled in, or has recently and successfully completed a substance abuse treatment program approved by the department; or

(l) any other circumstance that the court determines should preclude reunification efforts or services.

(21) (a) The finding under Subsection (20)(b) shall be based on competent evidence from at least two medical or mental health professionals, who are not associates, establishing that, even with the provision of services, the parent is not likely to be capable of adequately caring for the minor within 12 months after the day on which the court finding is made.

(b) A judge may disregard the provisions of Subsection (20)(k) if the court finds, under the circumstances of the case, that the substance abuse treatment described in Subsection (20)(k) is not warranted.

(22) In determining whether reunification services are appropriate, the court shall take into consideration:

(a) failure of the parent to respond to previous services or comply with a previous child and family plan;

(b) the fact that the minor was abused while the parent was under the influence of drugs or alcohol;

(c) any history of violent behavior directed at the child or an immediate family member;

(d) whether a parent continues to live with an individual who abused the minor;

(e) any patterns of the parent's behavior that have exposed the minor to repeated abuse;

(f) testimony by a competent professional that the parent's behavior is unlikely to be successful; and

(g) whether the parent has expressed an interest in reunification with the minor.

(23) (a) If reunification services are not ordered pursuant to Subsections (19) through (21), and the whereabouts of a parent become known within six months after the day on which the out-of-home placement of the minor is made, the court may order the division to provide reunification services.

(b) The time limits described in Subsections (2) through (18) are not tolled by the parent's absence.

(24) (a) If a parent is incarcerated or institutionalized, the court shall order reasonable services unless it determines that those services would be detrimental to the minor.

(b) In making the determination described in Subsection (24)(a), the court shall consider:

(i) the age of the minor;

(ii) the degree of parent-child bonding;

(iii) the length of the sentence;

(iv) the nature of the treatment;

(v) the nature of the crime or illness;

(vi) the degree of detriment to the minor if services are not offered;

(vii) for a minor 10 years of age or older, the minor's attitude toward the implementation of family reunification services; and

(viii) any other appropriate factors.

(c) Reunification services for an incarcerated parent are subject to the time limitations imposed in Subsections (2) through (18).

(d) Reunification services for an institutionalized parent are subject to the time limitations imposed in Subsections (2) through (18), unless the court determines that continued reunification services would be in the minor's best interest.

(25) If, pursuant to Subsections (20)(b) through (l), the court does not order reunification services, a permanency hearing shall be conducted within 30 days, in accordance with Section 78A-6-314.

CHAPTER 275**H. B. 362**

Passed March 12, 2015
Approved March 27, 2015
Effective July 1, 2015

**TRANSPORTATION
INFRASTRUCTURE FUNDING**

Chief Sponsor: Johnny Anderson
Senate Sponsor: Alvin B. Jackson

LONG TITLE**General Description:**

This bill modifies provisions relating to transportation funding.

Highlighted Provisions:

This bill:

- ▶ provides and amends definitions;
- ▶ authorizes a county to impose a local option sales and use tax for highways and public transit;
- ▶ addresses the use of revenue collected from the local option sales and use tax for highways and public transit;
- ▶ requires a political subdivision that receives certain sales and use tax revenue to submit certain information in audits, reviews, compilations, or fiscal reports;
- ▶ repeals the cents per gallon tax rate that is imposed on motor fuels and special fuels after a specified date;
- ▶ imposes a percentage tax per gallon on motor fuel and special fuel based on the statewide average rack price of a gallon of regular unleaded motor fuel after a specified date;
- ▶ establishes procedures for the State Tax Commission to determine the statewide average rack price of a gallon of regular unleaded motor fuel;
- ▶ specifies the date that the adjusted fuel tax rate shall take effect each year;
- ▶ increases the tax rate of the special fuel tax imposed on compressed natural gas and liquified natural gas;
- ▶ imposes a special fuel tax on hydrogen used to operate or propel a motor vehicle on a public highway;
- ▶ repeals the requirement to post a tax rate decal on each motor fuel or undyed special fuel pump or dispensing device;
- ▶ repeals the cap on the amount of motor fuel tax revenue that is deposited in the Off-highway Vehicle Account;
- ▶ requires the Department of Transportation to study the implementation of a road usage charge;
- ▶ amends the apportionment formula for revenues deposited in the class B and class C roads account; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides a coordination clause.

Utah Code Sections Affected:**AMENDS:**

- 51-2a-202, as enacted by Laws of Utah 2004, Chapter 206
59-12-2203, as enacted by Laws of Utah 2010, Chapter 263
59-12-2206, as enacted by Laws of Utah 2010, Chapter 263
59-13-102, as last amended by Laws of Utah 2012, Chapter 369
59-13-201, as last amended by Laws of Utah 2010, Chapter 308
59-13-301, as last amended by Laws of Utah 2011, Chapter 259
63I-1-259, as last amended by Laws of Utah 2014, Chapter 54
72-2-108, as last amended by Laws of Utah 2008, Chapter 109

ENACTS:

- 59-12-2219, Utah Code Annotated 1953
63I-1-251, Utah Code Annotated 1953
72-1-212, Utah Code Annotated 1953

REPEALS:

- 59-13-104, as enacted by Laws of Utah 1998, Chapter 253

Utah Code Sections Affected by Coordination Clause:

- 59-13-301, as last amended by Laws of Utah 2011, Chapter 259

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

Section 1. Section 51-2a-202 is amended to read:

51-2a-202. Reporting requirements.

(1) The governing board of each entity required to have an audit, review, compilation, or fiscal report shall ensure that the audit, review, compilation, or fiscal report is:

(a) made at least annually; and

(b) filed with the state auditor within six months of the close of the fiscal year of the entity.

(2) If the political subdivision, interlocal organization, or other local entity receives federal funding, the audit, review, or compilation shall be performed in accordance with both federal and state auditing requirements.

(3) If a political subdivision receives revenue from a sales and use tax imposed under Section 59-12-2219, the political subdivision shall identify the amount of revenue the political subdivision budgets for transportation and verify compliance with Subsection 59-12-2219(10) in the audit, review, compilation, or fiscal report.

Section 2. Section 59-12-2203 is amended to read:

59-12-2203. Authority to impose a sales and use tax under this part.

(1) As provided in this Subsection (1), one of the following sales and use taxes may be imposed within the boundaries of a local taxing jurisdiction:

(a) a county, city, or town may impose the sales and use tax authorized by Section 59-12-2213 in accordance with Section 59-12-2213; or

(b) a city or town may impose the sales and use tax authorized by Section 59-12-2215 in accordance with Section 59-12-2215.

(2) As provided in this Subsection (2), one of the following sales and use taxes may be imposed within the boundaries of a local taxing jurisdiction:

(a) a county, city, or town may impose the sales and use tax authorized by Section 59-12-2214 in accordance with Section 59-12-2214; or

(b) a county may impose the sales and use tax authorized by Section 59-12-2216 in accordance with Section 59-12-2216.

(3) As provided in this Subsection (3), one of the following sales and use taxes may be imposed within the boundaries of a local taxing jurisdiction:

(a) a county may impose the sales and use tax authorized by Section 59-12-2217 in accordance with Section 59-12-2217; or

(b) a county, city, or town may impose the sales and use tax authorized by Section 59-12-2218 in accordance with Section 59-12-2218.

(4) A county may impose the sales and use tax authorized by Section 59-12-2219 in accordance with Section 59-12-2219.

Section 3. Section 59-12-2206 is amended to read:

59-12-2206. Administration, collection, and enforcement of a sales and use tax under this part -- Transmission of revenues monthly by electronic funds transfer -- Transfer of revenues to a public transit district or eligible political subdivision.

(1) Except as provided in Subsection (2), the commission shall administer, collect, and enforce a sales and use tax imposed under this part.

(2) The commission shall administer, collect, and enforce a sales and use tax imposed under this part in accordance with:

(a) the same procedures used to administer, collect, and enforce a tax under:

- (i) Part 1, Tax Collection; or
- (ii) Part 2, Local Sales and Use Tax Act; and
- (b) Chapter 1, General Taxation Policies.

(3) A sales and use tax under this part is not subject to Subsections 59-12-205(2) through (6).

(4) Subject to Section 59-12-2207 and except as provided in Subsection (5) or another provision of this part, the state treasurer shall transmit revenues collected within a county, city, or town from a sales and use tax under this part to the county, city, or town legislative body monthly by electronic funds transfer.

(5) Subject to Section 59-12-2207, the state treasurer shall transfer revenues collected within a county, city, or town from a sales and use tax under this part directly to a public transit district organized under Title 17B, Chapter 2a, Part 8, Public Transit District Act, or an eligible political subdivision as defined in Section 59-12-2219, if the county, city, or town legislative body:

(a) provides written notice to the state treasurer requesting the transfer; and

(b) designates the public transit district or eligible political subdivision to which the county, city, or town legislative body requests the state treasurer to transfer the revenues.

Section 4. Section 59-12-2219 is enacted to read:

59-12-2219. County option sales and use tax for highways and public transit -- Base -- Rate -- Distribution and expenditure of revenue -- Revenue may not supplant existing budgeted transportation revenue.

(1) As used in this section:

(a) "Class B road" means the same as that term is defined in Section 72-3-103.

(b) "Class C road" means the same as that term is defined in Section 72-3-104.

(c) "Eligible political subdivision" means a political subdivision that:

(i) on May 12, 2015, provides public transit services;

(ii) is not a public transit district; and

(iii) is not annexed into a public transit district.

(d) "Public transit district" means a public transit district organized under Title 17B, Chapter 2a, Part 8, Public Transit District Act.

(2) Subject to the other provisions of this part, a county legislative body may impose a sales and use tax of .25% on the transactions described in Subsection 59-12-103(1) within the county, including the cities and towns within the county.

(3) The commission shall distribute sales and use tax revenue collected under this section as provided in Subsections (4) through (7).

(4) If the entire boundary of a county that imposes a sales and use tax under this section is annexed into a single public transit district, the commission shall distribute the sales and use tax revenue collected within the county as follows:

(a) .10% shall be transferred to the public transit district in accordance with Section 59-12-2206;

(b) .10% shall be distributed as provided in Subsection (6); and

(c) .05% shall be distributed to the county legislative body.

(5) If the entire boundary of a county that imposes a sales and use tax under this section is not annexed into a single public transit district, or if there is not

a public transit district within the county, the commission shall distribute the sales and use tax revenue collected within the county as follows:

(a) for a city or town within the county that is annexed into a single public transit district, the commission shall distribute the sales and use tax revenue collected within that city or town as follows:

(i) .10% shall be transferred to the public transit district in accordance with Section 59-12-2206;

(ii) .10% shall be distributed as provided in Subsection (6); and

(iii) .05% shall be distributed to the county legislative body;

(b) for an eligible political subdivision within the county, the commission shall distribute the sales and use tax revenue collected within that eligible political subdivision as follows:

(i) .10% shall be transferred to the eligible political subdivision in accordance with Section 59-12-2206;

(ii) .10% shall be distributed as provided in Subsection (6); and

(iii) .05% shall be distributed to the county legislative body; and

(c) the commission shall distribute the sales and use tax revenue, except for the sales and use tax revenue described in Subsections (5)(a) and (b), as follows:

(i) .10% shall be distributed as provided in Subsection (6); and

(ii) .15% shall be distributed to the county legislative body.

(6) (a) Subject to Subsection (6)(b), the commission shall make the distributions required by Subsections (4)(b), (5)(a)(ii), (5)(b)(ii), and (5)(c)(i) as follows:

(i) 50% of the total revenue collected under Subsections (4)(b), (5)(a)(ii), (5)(b)(ii), and (5)(c)(i) within the counties that impose a tax under this section shall be distributed to the unincorporated areas, cities, and towns within those counties on the basis of the percentage that the population of each unincorporated area, city, or town bears to the total population of all of the counties that impose a tax under this section; and

(ii) 50% of the total revenue collected under Subsections (4)(b), (5)(a)(ii), (5)(b)(ii), and (5)(c)(i) within the counties that impose a tax under this section shall be distributed to the unincorporated areas, cities, and towns within those counties on the basis of the location of the transaction as determined under Sections 59-12-211 through 59-12-215.

(b) (i) Population for purposes of this Subsection (6) shall be determined on the basis of the most recent official census or census estimate of the United States Census Bureau.

(ii) If a needed population estimate is not available from the United States Census Bureau, population figures shall be derived from an estimate from the Utah Population Estimates Committee created by executive order of the governor.

(7) (a) If a public transit district is organized after the date a county legislative body first imposes a tax under this section, a change in a distribution required by this section may not take effect until the first distribution the commission makes under this section after a 90-day period that begins on the date the commission receives written notice from the public transit district of the organization of the public transit district.

(b) If an eligible political subdivision intends to provide public transit service within a county after the date a county legislative body first imposes a tax under this section, a change in a distribution required by this section may not take effect until the first distribution the commission makes under this section after a 90-day period that begins on the date the commission receives written notice from the eligible political subdivision stating that the eligible political subdivision intends to provide public transit service within the county.

(8) A county, city, or town may expend revenue collected from a tax under this section, except for revenue the commission distributes in accordance with Subsection (4)(a), (5)(a)(i), or (5)(b)(i), for:

(a) a class B road;

(b) a class C road;

(c) traffic and pedestrian safety, including for a class B road or class C road, for:

(i) a sidewalk;

(ii) curb and gutter;

(iii) a safety feature;

(iv) a traffic sign;

(v) a traffic signal;

(vi) street lighting; or

(vii) a combination of Subsections (8)(c)(i) through (vi);

(d) the construction, maintenance, or operation of an active transportation facility that is for nonmotorized vehicles and multimodal transportation and connects an origin with a destination;

(e) public transit system services; or

(f) a combination of Subsections (8)(a) through (e).

(9) A public transit district or an eligible political subdivision may expend revenue the commission distributes in accordance with Subsection (4)(a), (5)(a)(i), or (5)(b)(i), for capital expenses and service delivery expenses of the public transit district or eligible political subdivision.

(10) (a) Revenue collected from a sales and use tax under this section may not be used to supplant

existing general fund appropriations that a county, city, or town has budgeted for transportation as of the date the tax becomes effective for a county, city, or town.

(b) The limitation under Subsection (10)(a) does not apply to a designated transportation capital or reserve account a county, city, or town may have established prior to the date the tax becomes effective.

Section 5. Section 59-13-102 is amended to read:

59-13-102. Definitions.

As used in this chapter:

(1) "Aviation fuel" means fuel that is sold at airports and used exclusively for the operation of aircraft.

(2) "Clean fuel" means:

(a) the following special fuels:

(i) propane;

(ii) compressed natural gas;

(iii) liquified natural gas; ~~or~~

(iv) electricity; or

(v) hydrogen; or

(b) any motor or special fuel that meets the clean fuel vehicle standards in the federal Clean Air Act Amendments of 1990, Title II.

(3) "Commission" means the State Tax Commission.

(4) "Consumer Price Index" means the Consumer Price Index for All Urban Consumers as published by the Bureau of Labor Statistics of the United States Department of Labor.

~~(4)~~ (5) (a) "Diesel fuel" means any liquid that is commonly or commercially known, offered for sale, or used as a fuel in diesel engines.

(b) "Diesel fuel" includes any combustible liquid, by whatever name the liquid may be known or sold, when the liquid is used in an internal combustion engine for the generation of power to operate a motor vehicle licensed to operate on the highway, except fuel that is subject to the tax imposed in Part 2, Motor Fuel, and Part 4, Aviation Fuel, of this chapter.

(6) "Diesel gallon equivalent" means 6.06 pounds of liquified natural gas.

~~(5)~~ (7) "Distributor" means any person in this state who:

(a) imports or causes to be imported motor fuel for use, distribution, or sale, whether at retail or wholesale;

(b) produces, refines, manufactures, or compounds motor fuel in this state for use, distribution, or sale in this state;

(c) is engaged in the business of purchasing motor fuel for resale in wholesale quantities to retail dealers of motor fuel and who accounts for his own motor fuel tax liability; or

(d) for purposes of Part 4, Aviation Fuel, only, makes retail sales of aviation fuel to:

(i) federally certificated air carriers; and

(ii) other persons.

~~(6)~~ (8) "Dyed diesel fuel" means diesel fuel that is dyed in accordance with 26 U.S.C. Sec. 4082 or United States Environmental Protection Agency or Internal Revenue Service regulations and that is considered destined for nontaxable off-highway use.

~~(7)~~ (9) "Exchange agreement" means an agreement between licensed suppliers where one is a position holder in a terminal who agrees to deliver taxable special fuel to the other supplier or the other supplier's customer at the loading rack of the terminal where the delivering supplier holds an inventory position.

~~(8)~~ (10) "Federally certificated air carrier" means a person who holds a certificate issued by the Federal Aviation Administration authorizing the person to conduct an all-cargo operation or scheduled operation, as defined in 14 C.F.R. Sec. 110.2.

~~(9)~~ (11) "Fuels" means any gas, liquid, solid, mixture, or other energy source which is generally used in an engine or motor for the generation of power, including aviation fuel, clean fuel, diesel fuel, motor fuel, and special fuel.

(12) "Gasoline gallon equivalent" means:

(a) 5.660 pounds of compressed natural gas; or

(b) 2.198 pounds of hydrogen.

~~(10)~~ (13) "Highway" means every way or place, of whatever nature, generally open to the use of the public for the purpose of vehicular travel notwithstanding that the way or place may be temporarily closed for the purpose of construction, maintenance, or repair.

~~(11)~~ (14) "Motor fuel" means fuel that is commonly or commercially known or sold as gasoline or gasohol and is used for any purpose, but does not include aviation fuel.

~~(12)~~ (15) "Motor fuels received" means:

(a) motor fuels that have been loaded at the refinery or other place into tank cars, placed in any tank at the refinery from which any withdrawals are made directly into tank trucks, tank wagons, or other types of transportation equipment, containers, or facilities other than tank cars, or placed in any tank at the refinery from which any sales, uses, or deliveries not involving transportation are made directly; or

(b) motor fuels that have been imported by any person into the state from any other state or territory by tank car, tank truck, pipeline, or any other conveyance at the time when, and the place

where, the interstate transportation of the motor fuel is completed within the state by the person who at the time of the delivery is the owner of the motor fuel.

(16) "Oil pricing service" means an organization that:

(a) publishes wholesale petroleum prices within the United States;

(b) publishes at least 25,000 rack prices on a daily basis; and

(c) receives daily gasoline and diesel prices from at least 100,000 retail outlets in the United States and Canada.

[(43)] (17) (a) "Qualified motor vehicle" means a special fuel-powered motor vehicle used, designed, or maintained for transportation of persons or property which:

(i) has a gross vehicle weight or registered gross vehicle weight exceeding 26,000 pounds;

(ii) has three or more axles regardless of weight; or

(iii) is used in a combination of vehicles when the weight of the combination of vehicles exceeds 26,000 pounds gross vehicle weight.

(b) "Qualified motor vehicle" does not include a recreational vehicle not used in connection with any business activity.

[(44)] (18) "Rack," as used in Part 3, Special Fuel, means a deck, platform, or open bay which consists of a series of metered pipes and hoses for the delivery or removal of diesel fuel from a refinery or terminal into a motor vehicle, rail car, or vessel.

[(45)] (19) "Removal," as used in Part 3, Special Fuel, means the physical transfer of diesel fuel from a production, manufacturing, terminal, or refinery facility and includes use of diesel fuel. Removal does not include:

(a) loss by evaporation or destruction; or

(b) transfers between refineries, racks, or terminals.

[(46)] (20) (a) "Special fuel" means any fuel regardless of name or character that:

(i) is usable as fuel to operate or propel a motor vehicle upon the public highways of the state; and

(ii) is not taxed under the category of aviation or motor fuel.

(b) Special fuel includes:

(i) fuels that are not conveniently measurable on a gallonage basis; and

(ii) diesel fuel.

[(47)] (21) "Supplier," as used in Part 3, Special Fuel, means a person who:

(a) imports or acquires immediately upon importation into this state diesel fuel from within or

without a state, territory, or possession of the United States or the District of Columbia;

(b) produces, manufactures, refines, or blends diesel fuel in this state;

(c) otherwise acquires for distribution or sale in this state, diesel fuel with respect to which there has been no previous taxable sale or use; or

(d) is in a two party exchange where the receiving party is deemed to be the supplier.

[(48)] (22) "Terminal," as used in Part 3, Special Fuel, means a facility for the storage of diesel fuel which is supplied by a motor vehicle, pipeline, or vessel and from which diesel fuel is removed for distribution at a rack.

[(49)] (23) "Two party exchange" means a transaction in which special fuel is transferred between licensed suppliers pursuant to an exchange agreement.

[(20)] (24) "Undyed diesel fuel" means diesel fuel that is not subject to the dyeing requirements in accordance with 26 U.S.C. Sec. 4082 or United States Environmental Protection Agency or Internal Revenue Service regulations.

[(21)] (25) "Use," as used in Part 3, Special Fuel, means the consumption of special fuel for the operation or propulsion of a motor vehicle upon the public highways of the state and includes the reception of special fuel into the fuel supply tank of a motor vehicle.

[(22)] (26) "User," as used in Part 3, Special Fuel, means any person who uses special fuel within this state in an engine or motor for the generation of power to operate or propel a motor vehicle upon the public highways of the state.

[(23)] (27) "Ute tribal member" means an enrolled member of the Ute tribe.

[(24)] (28) "Ute tribe" means the Ute Indian Tribe of the Uintah and Ouray Reservation.

[(25)] (29) "Ute trust land" means the lands:

(a) of the Uintah and Ouray Reservation that are held in trust by the United States for the benefit of:

(i) the Ute tribe;

(ii) an individual; or

(iii) a group of individuals; or

(b) specified as trust land by agreement between the governor and the Ute tribe meeting the requirements of Subsections 59-13-201.5(3) and 59-13-301.5(3).

Section 6. Section 59-13-201 is amended to read:

59-13-201. Rate -- Tax basis -- Exemptions -- Revenue deposited in the Transportation Fund -- Restricted account for boating uses -- Refunds -- Reduction of tax in limited circumstances.

(1) (a) Subject to the provisions of this section and through December 31, 2015, a tax is imposed at the

rate of 24-1/2 cents per gallon upon all motor fuel that is sold, used, or received for sale or used in this state.

(b) (i) Subject to the provisions of this section and beginning on January 1, 2016, a tax is imposed at the rate of 12% of the statewide average rack price of a gallon of motor fuel per gallon upon all motor fuel that is sold, used, or received for sale or used in this state.

(ii) (A) Until December 31, 2018, and subject to the requirements under Subsection (1)(b)(iii), the statewide average rack price of a gallon of motor fuel under Subsection (1)(b)(i) shall be determined by calculating the previous fiscal year statewide average rack price of a gallon of regular unleaded motor fuel, excluding federal and state excise taxes, for the 12 months ending on the previous June 30 as published by an oil pricing service.

(B) Beginning on January 1, 2019, and subject to the requirements under Subsection (1)(b)(iii), the statewide average rack price of a gallon of motor fuel under Subsection (1)(b)(i) shall be determined by calculating the previous three fiscal years statewide average rack price of a gallon of regular unleaded motor fuel, excluding federal and state excise taxes, for the 36 months ending on the previous June 30 as published by an oil pricing service.

(iii) (A) Subject to the requirement in Subsection (1)(b)(iii)(B), the statewide average rack price of a gallon of motor fuel determined under Subsection (1)(b)(ii) may not be less than \$2.45 per gallon.

(B) Beginning on a calendar year following the year that the actual statewide average rack price of a gallon of motor fuel reaches \$2.45 before applying the minimum under Subsection (1)(b)(iii)(A), the commission shall, on January 1, annually adjust the minimum statewide average rack price of a gallon of motor fuel described in Subsection (1)(b)(iii)(A) by taking the minimum statewide average rack price of a gallon of motor fuel for the previous calendar year and adding an amount equal to the greater of:

(I) an amount calculated by multiplying the minimum average rack price of a gallon of motor fuel for the previous calendar year by the actual percent change during the previous fiscal year in the Consumer Price Index; and

(II) 0.

(C) The statewide average rack price of a gallon of motor fuel determined by the commission under Subsection (1)(b)(ii) may not exceed \$3.33 per gallon.

(iv) The commission shall annually:

(A) determine the statewide average rack price of a gallon of motor fuel in accordance with Subsection (1)(b)(ii);

(B) adjust the fuel tax rate imposed under Subsection (1)(b)(i), rounded to the nearest one-tenth of a cent, based on the determination under Subsection (1)(b)(ii);

(C) publish the adjusted fuel tax as a cents per gallon rate; and

(D) post or otherwise make public the adjusted fuel tax rate as determined in Subsection (1)(b)(iv)(B) no later than 60 days prior to the annual effective date under Subsection (1)(b)(v).

(v) The tax rate imposed under this Subsection (1)(b) and adjusted as required under Subsection (1)(b)(iv) shall take effect on January 1 of each year.

[4b] (c) In lieu of the tax imposed under Subsection (1)(a) or (b) and subject to the provisions of this section, a tax is imposed at the rate of 3/19 of the rate imposed under Subsection (1)(a) or (b), rounded up to the nearest penny, upon all motor fuels that meet the definition of clean fuel in Section 59-13-102 and are sold, used, or received for sale or use in this state.

(2) Any increase or decrease in tax rate applies to motor fuel that is imported to the state or sold at refineries in the state on or after the effective date of the rate change.

(3) (a) No motor fuel tax is imposed upon:

(i) motor fuel that is brought into and sold in this state in original packages as purely interstate commerce sales;

(ii) motor fuel that is exported from this state if proof of actual exportation on forms prescribed by the commission is made within 180 days after exportation;

(iii) motor fuel or components of motor fuel that is sold and used in this state and distilled from coal, oil shale, rock asphalt, bituminous sand, or solid hydrocarbons located in this state; or

(iv) motor fuel that is sold to the United States government, this state, or the political subdivisions of this state.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules governing the procedures for administering the tax exemption provided under Subsection (3)(a)(iv).

(4) The commission may either collect no tax on motor fuel exported from the state or, upon application, refund the tax paid.

(5) (a) All revenue received by the commission under this part shall be deposited daily with the state treasurer and credited to the Transportation Fund.

(b) An appropriation from the Transportation Fund shall be made to the commission to cover expenses incurred in the administration and enforcement of this part and the collection of the motor fuel tax.

(6) (a) The commission shall determine what amount of motor fuel tax revenue is received from the sale or use of motor fuel used in motorboats registered under the provisions of the State Boating Act, and this amount shall be deposited in a restricted revenue account in the General Fund of the state.

(b) The funds from this account shall be used for the construction, improvement, operation, and maintenance of state-owned boating facilities and for the payment of the costs and expenses of the Division of Parks and Recreation in administering and enforcing the State Boating Act.

(7) (a) The United States government or any of its instrumentalities, this state, or a political subdivision of this state that has purchased motor fuel from a licensed distributor or from a retail dealer of motor fuel and has paid the tax on the motor fuel as provided in this section is entitled to a refund of the tax and may file with the commission for a quarterly refund.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules governing the application and refund provided for in Subsection (7)(a).

(8) (a) The commission shall refund annually into the Off-Highway Vehicle Account in the General Fund an amount equal to ~~the lesser of the following: (i) .5% of the motor fuel tax revenues collected under this section; or~~

~~(ii) \$1,050,000.~~

(b) This amount shall be used as provided in Section 41-22-19.

(9) (a) Beginning on April 1, 2001, a tax imposed under this section on motor fuel that is sold, used, or received for sale or use in this state is reduced to the extent provided in Subsection (9)(b) if:

(i) a tax imposed on the basis of the sale, use, or receipt for sale or use of the motor fuel is paid to the Navajo Nation;

(ii) the tax described in Subsection (9)(a)(i) is imposed without regard to whether or not the person required to pay the tax is an enrolled member of the Navajo Nation; and

(iii) the commission and the Navajo Nation execute and maintain an agreement as provided in this Subsection (9) for the administration of the reduction of tax.

(b) (i) If but for Subsection (9)(a) the motor fuel is subject to a tax imposed by this section:

(A) the state shall be paid the difference described in Subsection (9)(b)(ii) if that difference is greater than \$0; and

(B) a person may not require the state to provide a refund, a credit, or similar tax relief if the difference described in Subsection (9)(b)(ii) is less than or equal to \$0.

(ii) The difference described in Subsection (9)(b)(i) is equal to the difference between:

(A) the amount of tax imposed on the motor fuel by this section; less

(B) the tax imposed and collected by the Navajo Nation on the motor fuel.

(c) For purposes of Subsections (9)(a) and (b), the tax paid to the Navajo Nation under a tax imposed

by the Navajo Nation on the basis of the sale, use, or receipt for sale or use of motor fuel does not include any interest or penalties a taxpayer may be required to pay to the Navajo Nation.

(d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules governing the procedures for administering the reduction of tax provided under this Subsection (9).

(e) The agreement required under Subsection (9)(a):

(i) may not:

(A) authorize the state to impose a tax in addition to a tax imposed under this chapter;

(B) provide a reduction of taxes greater than or different from the reduction described in this Subsection (9); or

(C) affect the power of the state to establish rates of taxation;

(ii) shall:

(A) be in writing;

(B) be signed by:

(I) the chair of the commission or the chair's designee; and

(II) a person designated by the Navajo Nation that may bind the Navajo Nation;

(C) be conditioned on obtaining any approval required by federal law;

(D) state the effective date of the agreement; and

(E) state any accommodation the Navajo Nation makes related to the construction and maintenance of state highways and other infrastructure within the Utah portion of the Navajo Nation; and

(iii) may:

(A) notwithstanding Section 59-1-403, authorize the commission to disclose to the Navajo Nation information that is:

(I) contained in a document filed with the commission; and

(II) related to the tax imposed under this section;

(B) provide for maintaining records by the commission or the Navajo Nation; or

(C) provide for inspections or audits of distributors, carriers, or retailers located or doing business within the Utah portion of the Navajo Nation.

(f) (i) If, on or after April 1, 2001, the Navajo Nation changes the tax rate of a tax imposed on motor fuel, any change in the reduction of taxes under this Subsection (9) as a result of the change in the tax rate is not effective until the first day of the calendar quarter after a 60-day period beginning on the date the commission receives notice:

(A) from the Navajo Nation; and

(B) meeting the requirements of Subsection (9)(f)(ii).

(ii) The notice described in Subsection (9)(f)(i) shall state:

(A) that the Navajo Nation has changed or will change the tax rate of a tax imposed on motor fuel;

(B) the effective date of the rate change of the tax described in Subsection (9)(f)(ii)(A); and

(C) the new rate of the tax described in Subsection (9)(f)(ii)(A).

(g) If the agreement required by Subsection (9)(a) terminates, a reduction of tax is not permitted under this Subsection (9) beginning on the first day of the calendar quarter after a 30-day period beginning on the day the agreement terminates.

(h) If there is a conflict between this Subsection (9) and the agreement required by Subsection (9)(a), this Subsection (9) governs.

Section 7. Section 59-13-301 is amended to read:

59-13-301. Tax basis -- Rate -- Exemptions -- Revenue deposited with treasurer and credited to Transportation Fund -- Reduction of tax in limited circumstances.

(1) (a) Except as provided in Subsections (2), (3), (11), and (12) and Section 59-13-304, a tax is imposed at the same [rate] rates imposed under [Subsection] Subsections 59-13-201(1)(a) and (b) on the:

(i) removal of undyed diesel fuel from any refinery;

(ii) removal of undyed diesel fuel from any terminal;

(iii) entry into the state of any undyed diesel fuel for consumption, use, sale, or warehousing;

(iv) sale of undyed diesel fuel to any person who is not registered as a supplier under this part unless the tax has been collected under this section;

(v) any untaxed special fuel blended with undyed diesel fuel; or

(vi) use of untaxed special fuel other than propane or electricity.

(b) The tax imposed under this section shall only be imposed once upon any special fuel.

(2) (a) No special fuel tax is imposed or collected upon dyed diesel fuel which:

(i) is sold or used for any purpose other than to operate or propel a motor vehicle upon the public highways of the state, but this exemption applies only in those cases where the purchasers or the users of special fuel establish to the satisfaction of the commission that the special fuel was used for purposes other than to operate a motor vehicle upon the public highways of the state; or

(ii) is sold to this state or any of its political subdivisions.

(b) No special fuel tax is imposed on undyed diesel fuel or clean fuel that is:

(i) sold to the United States government or any of its instrumentalities or to this state or any of its political subdivisions;

(ii) exported from this state if proof of actual exportation on forms prescribed by the commission is made within 180 days after exportation;

(iii) used in a vehicle off-highway;

(iv) used to operate a power take-off unit of a vehicle;

(v) used for off-highway agricultural uses;

(vi) used in a separately fueled engine on a vehicle that does not propel the vehicle upon the highways of the state; or

(vii) used in machinery and equipment not registered and not required to be registered for highway use.

(3) No tax is imposed or collected on special fuel if it is:

(a) (i) purchased for business use in machinery and equipment not registered and not required to be registered for highway use; and

(ii) used pursuant to the conditions of a state implementation plan approved under Title 19, Chapter 2, Air Conservation Act; or

(b) propane or electricity.

(4) Upon request of a buyer meeting the requirements under Subsection (3), the Division of Air Quality shall issue an exemption certificate that may be shown to a seller.

(5) The special fuel tax shall be paid by the supplier.

(6) (a) The special fuel tax shall be paid by every user who is required by Sections 59-13-303 and 59-13-305 to obtain a special fuel user permit and file special fuel tax reports.

(b) The user shall receive a refundable credit for special fuel taxes paid on purchases which are delivered into vehicles and for which special fuel tax liability is reported.

(7) (a) Except as provided under Subsections (7)(b) and (c), all revenue received by the commission from taxes and license fees under this part shall be deposited daily with the state treasurer and credited to the Transportation Fund.

(b) An appropriation from the Transportation Fund shall be made to the commission to cover expenses incurred in the administration and enforcement of this part and the collection of the special fuel tax.

(c) Five dollars of each special fuel user trip permit fee paid under Section 59-13-303 may be used by the commission as a dedicated credit to cover the costs of electronic credentialing as provided in Section 41-1a-303.

(8) The commission may either collect no tax on special fuel exported from the state or, upon application, refund the tax paid.

(9) (a) The United States government or any of its instrumentalities, this state, or a political subdivision of this state that has purchased special fuel from a supplier or from a retail dealer of special fuel and has paid the tax on the special fuel as provided in this section is entitled to a refund of the tax and may file with the commission for a quarterly refund in a manner prescribed by the commission.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules governing the application and refund provided for in Subsection (9)(a).

(10) (a) The purchaser shall pay the tax on diesel fuel or clean fuel purchased for uses under Subsections (2)(b)(i), (iii), (iv), (v), (vi), and (vii) and apply for a refund for the tax paid as provided in Subsection (9) and this Subsection (10).

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules governing the application and refund for off-highway and nonhighway uses provided under Subsections (2)(b)(iii), (iv), (vi), and (vii).

(c) A refund of tax paid under this part on diesel fuel used for nonhighway agricultural uses shall be made in accordance with the tax return procedures under Section 59-13-202.

(11) (a) Beginning on April 1, 2001, a tax imposed under this section on special fuel is reduced to the extent provided in Subsection (11)(b) if:

(i) the Navajo Nation imposes a tax on the special fuel;

(ii) the tax described in Subsection (11)(a)(i) is imposed without regard to whether the person required to pay the tax is an enrolled member of the Navajo Nation; and

(iii) the commission and the Navajo Nation execute and maintain an agreement as provided in this Subsection (11) for the administration of the reduction of tax.

(b) (i) If but for Subsection (11)(a) the special fuel is subject to a tax imposed by this section:

(A) the state shall be paid the difference described in Subsection (11)(b)(ii) if that difference is greater than \$0; and

(B) a person may not require the state to provide a refund, a credit, or similar tax relief if the difference described in Subsection (11)(b)(ii) is less than or equal to \$0.

(ii) The difference described in Subsection (11)(b)(i) is equal to the difference between:

(A) the amount of tax imposed on the special fuel by this section; less

(B) the tax imposed and collected by the Navajo Nation on the special fuel.

(c) For purposes of Subsections (11)(a) and (b), the tax paid to the Navajo Nation on the special fuel does not include any interest or penalties a taxpayer may be required to pay to the Navajo Nation.

(d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules governing the procedures for administering the reduction of tax provided under this Subsection (11).

(e) The agreement required under Subsection (11)(a):

(i) may not:

(A) authorize the state to impose a tax in addition to a tax imposed under this chapter;

(B) provide a reduction of taxes greater than or different from the reduction described in this Subsection (11); or

(C) affect the power of the state to establish rates of taxation;

(ii) shall:

(A) be in writing;

(B) be signed by:

(I) the chair of the commission or the chair's designee; and

(II) a person designated by the Navajo Nation that may bind the Navajo Nation;

(C) be conditioned on obtaining any approval required by federal law;

(D) state the effective date of the agreement; and

(E) state any accommodation the Navajo Nation makes related to the construction and maintenance of state highways and other infrastructure within the Utah portion of the Navajo Nation; and

(iii) may:

(A) notwithstanding Section 59-1-403, authorize the commission to disclose to the Navajo Nation information that is:

(I) contained in a document filed with the commission; and

(II) related to the tax imposed under this section;

(B) provide for maintaining records by the commission or the Navajo Nation; or

(C) provide for inspections or audits of suppliers, distributors, carriers, or retailers located or doing business within the Utah portion of the Navajo Nation.

(f) (i) If, on or after April 1, 2001, the Navajo Nation changes the tax rate of a tax imposed on special fuel, any change in the amount of the reduction of taxes under this Subsection (11) as a result of the change in the tax rate is not effective until the first day of the calendar quarter after a 60-day period beginning on the date the commission receives notice:

(A) from the Navajo Nation; and

(B) meeting the requirements of Subsection (11)(f)(ii).

(ii) The notice described in Subsection (11)(f)(i) shall state:

(A) that the Navajo Nation has changed or will change the tax rate of a tax imposed on special fuel;

(B) the effective date of the rate change of the tax described in Subsection (11)(f)(ii)(A); and

(C) the new rate of the tax described in Subsection (11)(f)(ii)(A).

(g) If the agreement required by Subsection (11)(a) terminates, a reduction of tax is not permitted under this Subsection (11) beginning on the first day of the calendar quarter after a 30-day period beginning on the day the agreement terminates.

(h) If there is a conflict between this Subsection (11) and the agreement required by Subsection (11)(a), this Subsection (11) governs.

(12) (a) ~~[Beginning on January 1, 2009, a]~~ A tax imposed under this section on compressed natural gas is imposed at a ~~[reduced]~~ rate of ~~[8-1/2 cents per gasoline gallon equivalent to be increased or decreased proportionately with any increase or decrease in the rate in Subsection 59-13-201(1)(a).]~~:

(i) until June 30, 2016, 10-1/2 cents per gasoline gallon equivalent;

(ii) beginning on July 1, 2016, and until June 30, 2017, 12-1/2 cents per gasoline gallon equivalent;

(iii) beginning on July 1, 2017, and until June 30, 2018, 14-1/2 cents per gasoline gallon equivalent; and

(iv) beginning on or after July 1, 2018, 16-1/2 cents per gasoline gallon equivalent.

(b) ~~[Beginning on July 1, 2011, a]~~ A tax imposed under this section on liquified natural gas is imposed at a ~~[reduced]~~ rate of ~~[8-1/2 cents per gasoline gallon equivalent to be increased or decreased proportionately with any increase or decrease in the rate in Subsection 59-13-201(1)(a).]~~:

(i) until June 30, 2016, 10-1/2 cents per diesel gallon equivalent;

(ii) beginning on July 1, 2016, and until June 30, 2017, 12-1/2 cents per diesel gallon equivalent;

(iii) beginning on July 1, 2017, and until June 30, 2018, 14-1/2 cents per diesel gallon equivalent; and

(iv) beginning on or after July 1, 2018, 16-1/2 cents per diesel gallon equivalent.

(c) A tax imposed under this section on hydrogen used to operate or propel a motor vehicle upon the public highways of the state is imposed at a rate of:

(i) until June 30, 2016, 10-1/2 cents per gasoline gallon equivalent;

(ii) beginning on July 1, 2016, and until June 30, 2017, 12-1/2 cents per gasoline gallon equivalent;

(iii) beginning on July 1, 2017, and until June 30, 2018, 14-1/2 cents per gasoline gallon equivalent; and

(iv) beginning on or after July 1, 2018, 16-1/2 cents per gasoline gallon equivalent.

Section 8. Section 63I-1-251 is enacted to read:

63I-1-251. Repeal dates, Title 51.

Subsection 51-2a-202(3) is repealed on June 30, 2020.

Section 9. Section 63I-1-259 is amended to read:

63I-1-259. Repeal dates, Title 59.

(1) Subsection 59-2-924(3)(g) is repealed on December 31, 2016.

(2) Section 59-2-924.3 is repealed on December 31, 2016.

(3) Section 59-9-102.5 is repealed December 31, 2020.

(4) Subsection 59-12-2219(10) is repealed on June 30, 2020.

Section 10. Section 72-1-212 is enacted to read:

72-1-212. (Codified as 72-1-213) Road usage charge study -- Recommendations.

The department shall:

(1) continue to study a road usage charge mileage-based revenue system, including a potential demonstration program, as an alternative to the motor and special tax; and

(2) make recommendations to the Legislature and other policymaking bodies on the potential use and future implementation of a road usage charge within the state.

Section 11. Section 72-2-108 is amended to read:

72-2-108. Apportionment of funds available for use on class B and class C roads -- Bonds.

(1) For purposes of this section:

(a) "Graveled road" means a road:

(i) that is:

(A) graded; and

(B) drained by transverse drainage systems to prevent serious impairment of the road by surface water;

(ii) that has an improved surface; and

(iii) that has a wearing surface made of:

- (A) gravel;
 - (B) broken stone;
 - (C) slag;
 - (D) iron ore;
 - (E) shale; or
 - (F) other material that is:
 - (I) similar to a material described in Subsection (1)(a)(iii)(A) through (E); and
 - (II) coarser than sand.
- (b) "Paved road" includes a graveled road with a chip seal surface.
- (c) "Road mile" means a one-mile length of road, regardless of:
- (i) the width of the road; or
 - (ii) the number of lanes into which the road is divided.
- (d) "Weighted mileage" means the sum of the following:
- (i) paved road miles multiplied by five; and
 - ~~[(ii) graveled road miles multiplied by two; and]~~
 - ~~[(iii)]~~ (ii) all other road type road miles multiplied by ~~one]~~ two.
- (2) Subject to the provisions of Subsections (3) through (5), funds in the class B and class C roads account shall be apportioned among counties and municipalities in the following manner:
- (a) 50% in the ratio that the class B roads weighted mileage within each county and class C roads weighted mileage within each municipality bear to the total class B and class C roads weighted mileage within the state; and
 - (b) 50% in the ratio that the population of a county or municipality bears to the total population of the state as of the last official federal census or the United States Bureau of Census estimate, whichever is most recent, except that if population estimates are not available from the United States Bureau of Census, population figures shall be derived from the estimate from the Utah Population Estimates Committee.
- (3) For purposes of Subsection (2)(b), "the population of a county" means:
- (a) the population of a county outside the corporate limits of municipalities in that county, if the population of the county outside the corporate limits of municipalities in that county is not less than 14% of the total population of that county, including municipalities; and
 - (b) if the population of a county outside the corporate limits of municipalities in the county is less than 14% of the total population:
 - (i) the aggregate percentage of the population apportioned to municipalities in that county shall

be reduced by an amount equal to the difference between:

- (A) 14%; and
- (B) the actual percentage of population outside the corporate limits of municipalities in that county; and
- (ii) the population apportioned to the county shall be 14% of the total population of that county, including incorporated municipalities.

(4) (a) If an apportionment under Subsection (2) for fiscal year 2014 to a county or municipality with a population of less than 14,000 is less than 120% of the amount apportioned to the county or municipality from the class B and class C roads account for fiscal year 1996-97, the department shall:

(i) reapportion the funds under Subsection (2) to ensure that the county or municipality receives an amount equal to ~~[120% of]~~ the amount apportioned to the county or municipality from the class B and class C roads account for fiscal year 1996-97 multiplied by the percentage increase in the class B and class C roads account from fiscal year 1996-97 to the most recently completed fiscal year; and

(ii) decrease proportionately as provided in Subsection (4)(b) the apportionments to counties and municipalities for which the reapportionment under Subsection (4)(a)(i) does not apply.

(b) The aggregate amount of the funds that the department shall decrease proportionately from the apportionments under Subsection (4)(a)(ii) is an amount equal to the aggregate amount reapportioned to counties and municipalities under Subsection (4)(a)(i).

(5) (a) In addition to the apportionment adjustments made under Subsection (4), a county or municipality that qualifies for reapportioned money under Subsection (4)(a)(i) shall receive the percentage change in the class B and class C roads account compounded annually beginning in fiscal year 2006-07.

(b) The adjustment under Subsection (5)(a) shall be made in the same way as provided in Subsection (4)(a)(ii) and (b).

(6) The governing body of any municipality or county may issue bonds redeemable up to a period of 10 years under Title 11, Chapter 14, Local Government Bonding Act, to pay the costs of constructing, repairing, and maintaining class B or class C roads and may pledge class B or class C road funds received pursuant to this section to pay principal, interest, premiums, and reserves for the bonds.

Section 12. Repealer.

This bill repeals:

Section 59-13-104, Tax rate decals -- Posted on pump.

Section 13. Effective date.

This bill takes effect on July 1, 2015.

**Section 14. Coordinating H.B. 362 with
H.B. 406 -- Substantive amendments.**

If this H.B. 362 and H.B. 406, Natural Gas Vehicle Amendments, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, replace all references to “gasoline gallon equivalent” in Subsection 59-13-301(12)(b) with “diesel gallon equivalent.”.

CHAPTER 276**H. B. 363**

Passed March 12, 2015
 Approved March 27, 2015
 Effective May 12, 2015

**SCHOOL LAND TRUST
PROGRAM AMENDMENTS**

Chief Sponsor: Rich Cunningham
 Senate Sponsor: Stephen H. Urquhart

LONG TITLE**General Description:**

This bill amends provisions related to the School LAND Trust Program and school community councils.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ amends provisions related to the elements that a school community council is required to evaluate in developing a school improvement plan;
- ▶ provides that a charter trust land council that is not a charter school governing board is subject to certain open and public meeting requirements;
- ▶ provides that the School LAND Trust Program may be funded at a higher percentage in proportion to the amount of funds provided for the Minimum School Program; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

52-4-103, as last amended by Laws of Utah 2014, Chapter 434
 53A-1a-108, as last amended by Laws of Utah 2014, Chapters 332 and 346
 53A-1a-108.1, as last amended by Laws of Utah 2014, Chapter 332
 53A-1a-108.5, as enacted by Laws of Utah 2002, Chapter 324
 53A-16-101.5, as last amended by Laws of Utah 2014, Chapter 332
 53A-16-101.6, as last amended by Laws of Utah 2014, Chapters 332 and 426
 53A-17a-131.17, as last amended by Laws of Utah 2010, Chapter 3
 53D-1-403, as enacted by Laws of Utah 2014, Chapter 426

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

Section 1. Section 52-4-103 is amended to read:**52-4-103. Definitions.**

As used in this chapter:

(1) "Anchor location" means the physical location from which:

- (a) an electronic meeting originates; or

(b) the participants are connected.

(2) "Capitol hill complex" means the grounds and buildings within the area bounded by 300 North Street, Columbus Street, 500 North Street, and East Capitol Boulevard in Salt Lake City.

(3) "Convening" means the calling together of a public body by a person authorized to do so for the express purpose of discussing or acting upon a subject over which that public body has jurisdiction or advisory power.

(4) "Electronic meeting" means a public meeting convened or conducted by means of a conference using electronic communications.

(5) "Electronic message" means a communication transmitted electronically, including:

(a) electronic mail;

(b) instant messaging;

(c) electronic chat;

(d) text messaging as defined in Section 76-4-401; or

(e) any other method that conveys a message or facilitates communication electronically.

(6) (a) "Meeting" means the convening of a public body or a specified body, with a quorum present, including a workshop or an executive session, whether in person or by means of electronic communications, for the purpose of discussing, receiving comments from the public about, or acting upon a matter over which the public body or specific body has jurisdiction or advisory power.

(b) "Meeting" does not mean:

(i) a chance gathering or social gathering; or

(ii) a convening of the State Tax Commission to consider a confidential tax matter in accordance with Section 59-1-405.

(c) "Meeting" does not mean the convening of a public body that has both legislative and executive responsibilities if:

(i) no public funds are appropriated for expenditure during the time the public body is convened; and

(ii) the public body is convened solely for the discussion or implementation of administrative or operational matters:

(A) for which no formal action by the public body is required; or

(B) that would not come before the public body for discussion or action.

(7) "Monitor" means to hear or observe, live, by audio or video equipment, all of the public statements of each member of the public body who is participating in a meeting.

(8) "Participate" means the ability to communicate with all of the members of a public body, either verbally or electronically, so that each

member of the public body can hear or observe the communication.

(9) (a) "Public body" means any administrative, advisory, executive, or legislative body of the state or its political subdivisions that:

(i) is created by the Utah Constitution, statute, rule, ordinance, or resolution;

(ii) consists of two or more persons;

(iii) expends, disburses, or is supported in whole or in part by tax revenue; and

(iv) is vested with the authority to make decisions regarding the public's business.

(b) "Public body" does not include a:

(i) political party, political group, or political caucus;

(ii) conference committee, rules committee, or sifting committee of the Legislature; or

(iii) school community council ~~[established under Section 53A-1a-108]~~ or charter trust land council as defined in Section 53A-1a-108.1.

(10) "Public statement" means a statement made in the ordinary course of business of the public body with the intent that all other members of the public body receive it.

(11) (a) "Quorum" means a simple majority of the membership of a public body, unless otherwise defined by applicable law.

(b) "Quorum" does not include a meeting of two elected officials by themselves when no action, either formal or informal, is taken on a subject over which these elected officials have advisory power.

(12) "Recording" means an audio, or an audio and video, record of the proceedings of a meeting that can be used to review the proceedings of the meeting.

(13) "Specified body" means an administrative, advisory, executive, or legislative body that:

(a) is not a public body;

(b) consists of three or more members; and

(c) includes at least one member who is:

(i) a legislator; and

(ii) officially appointed to the body by the President of the Senate, Speaker of the House of Representatives, or governor.

(14) "Transmit" means to send, convey, or communicate an electronic message by electronic means.

Section 2. Section 53A-1a-108 is amended to read:

53A-1a-108. School community councils -- Duties -- Composition -- Election procedures and selection of members.

(1) As used in this section:

(a) "District school" means a public school under the control of a local school board elected under Title 20A, Chapter 14, Nomination and Election of State and Local School Boards.

~~(a)~~ (b) "Educator" ~~[has the meaning]~~ means the same as that term is defined in Section 53A-6-103.

~~(b)~~ (c) (i) "Parent or guardian member" means a member of a school community council who is a parent or guardian of a student who:

(A) is attending the school; or

(B) will be enrolled at the school during the parent's or guardian's term of office.

(ii) "Parent or guardian member" may not include an educator who is employed at the school.

(d) "School community council" means a council established at a district school in accordance with this section.

~~(e)~~ (e) "School employee member" means a member of a school community council who is a person employed at the school by the school or school district, including the principal.

~~(d)~~ (f) "School LAND Trust Program money" means money allocated to a school pursuant to Section 53A-16-101.5.

(2) ~~[Each public]~~ A district school, in consultation with ~~[its]~~ the district school's local school board, shall establish a school community council at the school building level for the purpose of:

(a) involving parents or guardians of students in decision making at the school level;

(b) improving the education of students;

(c) prudently expending School LAND Trust Program money for the improvement of students' education through collaboration among parents and guardians, school employees, and the local school board; and

(d) increasing public awareness of:

(i) school trust lands and related land policies;

(ii) management of the State School Fund established in Utah Constitution Article X, Section V; and

(iii) educational excellence.

(3) (a) Except as provided in Subsection (3)(b), a school community council shall:

(i) create a school improvement plan in accordance with Section 53A-1a-108.5;

(ii) create the School LAND Trust Program in accordance with Section 53A-16-101.5;

(iii) assist in the creation and implementation of a professional development plan; and

(iv) advise and make recommendations to school and school district administrators and the local school board regarding the school and its programs, school district programs, a child access routing plan in accordance with Section 53A-3-402, and other issues relating to the community environment for students.

(b) In addition to the duties specified in Subsection (3)(a), a school community council for an elementary school shall create a reading achievement plan in accordance with Section 53A-1-606.5.

(c) A school or school district administrator may not prohibit or discourage a school community council from discussing issues, or offering advice or recommendations, regarding the school and its programs, school district programs, the curriculum, or the community environment for students.

(4) (a) Each school community council shall consist of school employee members and parent or guardian members in accordance with this section.

(b) Except as provided in Subsection (4)(c) or (d):

(i) each school community council for a high school shall have six parent or guardian members and four school employee members, including the principal; and

(ii) each school community council for a school other than a high school shall have four parent or guardian members and two school employee members, including the principal.

(c) A school community council may determine the size of the school community council by a majority vote of a quorum of the school community council provided that:

(i) the membership includes two or more parent or guardian members than the number of school employee members; and

(ii) there are at least two school employee members on the school community council.

(d) (i) The number of parent or guardian members of a school community council who are not educators employed by the school district shall exceed the number of parent or guardian members who are educators employed by the school district.

(ii) If, after an election, the number of parent or guardian members who are not educators employed by the school district does not exceed the number of parent or guardian members who are educators employed by the school district, the parent or guardian members of the school community council shall appoint one or more parent or guardian members to the school community council so that the number of parent or guardian members who are not educators employed by the school district exceeds the number of parent or guardian members who are educators employed by the school district.

(5) (a) Except as provided in Subsection (5)(f), a school employee member, other than the principal, shall be elected by secret ballot by a majority vote of the school employees and serve a two-year term. The principal shall serve as an ex officio member with full voting privileges.

(b) (i) Except as provided in Subsection (5)(f), a parent or guardian member shall be elected by secret ballot at an election held at the school by a

majority vote of those voting at the election and serve a two-year term.

(ii) Only parents or guardians of students attending the school may vote at the election under Subsection (5)(b)(i).

(iii) Any parent or guardian of a student who meets the qualifications of this section may file or declare the parent's or guardian's candidacy for election to a school community council.

(iv) (A) Subject to Subsections (5)(b)(iv)(B) and (5)(b)(iv)(C), a timeline for the election of parent or guardian members of a school community council shall be established by a local school board for the schools within the school district.

(B) An election for the parent or guardian members of a school community council shall be held near the beginning of the school year or held in the spring and completed before the last week of school.

(C) Each school shall establish a time period for the election of parent or guardian members of a school community council under Subsection (5)(b)(iv)(B) that is consistent for at least a four-year period.

(c) (i) The principal of the school, or the principal's designee, shall provide notice of the available community council positions to school employees, parents, and guardians at least 10 days before the date that voting commences for the elections held under Subsections (5)(a) and (5)(b).

(ii) The notice shall include:

(A) the dates and times of the elections;

(B) a list of council positions that are up for election; and

(C) instructions for becoming a candidate for a community council position.

(iii) The principal of the school, or the principal's designee, shall oversee the elections held under Subsections (5)(a) and (5)(b).

(iv) Ballots cast in an election held under Subsection (5)(b) shall be deposited in a secure ballot box.

(d) Results of the elections held under Subsections (5)(a) and (5)(b) shall be made available to the public upon request.

(e) (i) If a parent or guardian position on a school community council remains unfilled after an election is held, the other parent or guardian members of the council shall appoint a parent or guardian who meets the qualifications of this section to fill the position.

(ii) If a school employee position on a school community council remains unfilled after an election is held, the other school employee members of the council shall appoint a school employee to fill the position.

(iii) A member appointed to a school community council under Subsection (5)(e)(i) or (ii) shall serve a two-year term.

(f) (i) If the number of candidates who file for a parent or guardian position or school employee position on a school community council is less than or equal to the number of open positions, an election is not required.

(ii) If an election is not held pursuant to Subsection (5)(f)(i) and a parent or guardian position remains unfilled, the other parent or guardian members of the council shall appoint a parent or guardian who meets the qualifications of this section to fill the position.

(iii) If an election is not held pursuant to Subsection (5)(f)(i) and a school employee position remains unfilled, the other school employee members of the council shall appoint a school employee who meets the qualifications of this section to fill the position.

(g) The principal shall enter the names of the council members on the School LAND Trust website on or before October 20 of each year, pursuant to Section 53A-1a-108.1.

(h) Terms shall be staggered so that approximately half of the council members stand for election each year.

(i) A school community council member may serve successive terms provided the member continues to meet the definition of a parent or guardian member or school employee member as specified in Subsection (1).

(j) Each school community council shall elect:

(i) a chair from its parent or guardian members; and

(ii) a vice chair from either its parent or guardian members or school employee members, excluding the principal.

(6) (a) A school community council may create subcommittees or task forces to:

(i) advise or make recommendations to the council; or

(ii) develop all or part of a plan listed in Subsection (3).

(b) Any plan or part of a plan developed by a subcommittee or task force shall be subject to the approval of the school community council.

(c) A school community council may appoint individuals who are not council members to serve on a subcommittee or task force, including parents or guardians, school employees, or other community members.

(7) (a) A majority of the members of a school community council is a quorum for the transaction of business.

(b) The action of a majority of the members of a quorum is the action of the school community council.

(8) A local school board shall provide training for a school community council each year, including training:

(a) for the chair and vice chair about their responsibilities;

(b) on resources available on the School LAND Trust website; and

(c) on the following statutes governing school community councils:

(i) Section 53A-1a-108;

(ii) Section 53A-1a-108.1;

(iii) Section 53A-1a-108.5; and

(iv) Section 53A-16-101.5.

Section 3. Section 53A-1a-108.1 is amended to read:

53A-1a-108.1. School community councils -- Open and public meeting requirements.

(1) As used in this section:

(a) (i) “Charter trust land council” means a council established by a charter school governing board under Section 53A-16-101.5.

(ii) “Charter trust land council” does not include a charter school governing board acting as a charter trust land council.

(b) “School community council” means a council established at a school within a school district under Section 53A-1a-108.

(c) “Council” means a school community council or a charter trust land council.

~~(1)~~ (2) A school community council ~~[established under Section 53A-1a-108]~~ or a charter trust land council:

(a) shall conduct deliberations and take action openly as provided in this section; and

(b) is exempt from Title 52, Chapter 4, Open and Public Meetings Act.

~~(2)~~ (3) (a) As required by Section 53A-1a-108, a local school board shall provide training for the members of a school community council on this section.

(b) A charter school governing board shall provide training for the members of a charter trust land council on this section.

~~(3)~~ (4) (a) A meeting of a ~~[school community]~~ council is open to the public.

(b) A ~~[school community]~~ council may not close any portion of a meeting.

~~(4)~~ (5) A ~~[school community]~~ council shall, at least one week prior to a meeting, post the following information on the school’s website:

(a) a notice of the meeting, time, and place;

(b) an agenda for the meeting; and

(c) the minutes of the previous meeting.

[45] (6) (a) On or before October 20, a principal shall post the following information on the school website and in the school office:

(i) the proposed [school community] council meeting schedule for the year;

(ii) a telephone number or email address, or both, where each [school community] council member can be reached directly; and

(iii) a summary of the annual report required under Section 53A-16-101.5 on how the school's School LAND Trust Program money was used to enhance or improve academic excellence at the school and implement a component of the school's improvement plan.

(b) (i) A [school community] council shall identify and use methods of providing the information listed in Subsection [45] (6)(a) to a parent or guardian who does not have Internet access.

(ii) Money allocated to a school under the School LAND Trust Program created in Section 53A-16-101.5 may not be used to provide information as required by Subsection (5)(b)(i).

[46] (7) (a) The notice requirement of Subsection [44] (5) may be disregarded if:

(i) because of unforeseen circumstances it is necessary for a [school community] council to hold an emergency meeting to consider matters of an emergency or urgent nature; and

(ii) the [school community] council gives the best notice practicable of:

(A) the time and place of the emergency meeting; and

(B) the topics to be considered at the emergency meeting.

(b) An emergency meeting of a [school community] council may not be held unless:

(i) an attempt has been made to notify all the members of the [school community] council; and

(ii) a majority of the members of the [school community] council approve the meeting.

[47] (8) (a) An agenda required under Subsection [44] (5)(b) shall provide reasonable specificity to notify the public as to the topics to be considered at the meeting.

(b) Each topic described in Subsection [47] (8)(a) shall be listed under an agenda item on the meeting agenda.

(c) A [school community] council may not take final action on a topic in a meeting unless the topic is:

(i) listed under an agenda item as required by Subsection [47] (8)(b); and

(ii) included with the advance public notice required by Subsection [44] (5).

[48] (9) (a) Written minutes shall be kept of a [school community] council meeting.

(b) Written minutes of a [school community] council meeting shall include:

(i) the date, time, and place of the meeting;

(ii) the names of members present and absent;

(iii) a brief statement of the matters proposed, discussed, or decided;

(iv) a record, by individual member, of each vote taken;

(v) the name of each person who:

(A) is not a member of the [school community] council; and

(B) after being recognized by the chair, provided testimony or comments to the [school community] council;

(vi) the substance, in brief, of the testimony or comments provided by the public under Subsection [48] (9)(b)(v); and

(vii) any other information that is a record of the proceedings of the meeting that any member requests be entered in the minutes.

(c) The written minutes of a [school community] council meeting:

(i) are a public record under Title 63G, Chapter 2, Government Records Access and Management Act; and

(ii) shall be retained for three years.

[49] (10) (a) As used in this Subsection [49] (10), "rules of order and procedure" means a set of rules that govern and prescribe in a public meeting:

(i) parliamentary order and procedure;

(ii) ethical behavior; and

(iii) civil discourse.

(b) A [school community] council shall:

(i) adopt rules of order and procedure to govern a public meeting of the [school community] council;

(ii) conduct a public meeting in accordance with the rules of order and procedure described in Subsection [49] (10)(b)(i); and

(iii) make the rules of order and procedure described in Subsection [49] (10)(b)(i) available to the public:

(A) at each public meeting of the [school community] council; and

(B) on the school's website.

Section 4. Section 53A-1a-108.5 is amended to read:

53A-1a-108.5. School improvement plan.

(1) (a) [Each] A school community council established under Section 53A-1a-108 shall annually evaluate [the school's U-PASS test results], with the school's principal, the school's statewide achievement test results, reading achievement plan, class size reduction needs,

technology needs, and professional development plan, and use the evaluations in developing a school improvement plan to improve teaching and learning conditions.

(b) In evaluating ~~[U-PASS]~~ statewide achievement test results and developing a school improvement plan, a school community council may not have access to data that reveal the identity of students.

(2) ~~[Each]~~ A school community council shall develop a school improvement plan ~~[shall]~~ that:

(a) ~~[identify]~~ identifies the school's most critical academic needs;

(b) ~~[recommend]~~ recommends a course of action to meet the identified needs;

(c) ~~[list]~~ lists any programs, practices, materials, or equipment that the school will need to implement its action plan to have a direct impact on the instruction of students and result in measurable increased student performance; and

(d) ~~[describe]~~ describes how the school intends to enhance or improve academic achievement, including how financial resources available to the school, such as School LAND Trust Program money received under Section 53A-16-101.5 and state and federal grants, will be used to enhance or improve academic achievement.

(3) ~~[The]~~ Although a school improvement plan ~~[shall focus]~~ focuses on the school's most critical academic needs ~~[but]~~, the school improvement plan may include other actions to enhance or improve academic achievement and the community environment for students.

(4) The school principal shall make available to the school community council the school budget and other data needed to develop the school improvement plan.

(5) The school improvement plan shall be subject to the approval of the local school board of the school district in which the school is located.

(6) A school community council may develop a multiyear school improvement plan, but the multiyear school improvement plan must be presented to and approved annually by the local school board.

(7) Each school shall:

(a) implement the school improvement plan as developed by the school community council and approved by the local school board;

(b) provide ongoing support for the council's school improvement plan; and

(c) meet local school board reporting requirements regarding performance and accountability.

Section 5. Section 53A-16-101.5 is amended to read:

53A-16-101.5. School LAND Trust Program -- Purpose -- Distribution of funds -- School plans for use of funds.

(1) As used in this section:

(a) "Charter agreement" means an agreement made in accordance with Section 53A-1a-508 that authorizes the operation of a charter school.

(b) "Charter school authorizer" means the same as that term is defined in Section 53A-1a-501.3.

(c) "Charter trust land council" means a council established by a charter school governing board under this section.

(d) "Council" means a school community council or a charter trust land council.

(e) "District school" means a public school under the control of a local school board elected under Title 20A, Chapter 14, Nomination and Election of State and Local School Boards.

(f) "School community council" means a council established at a district school in accordance with Section 53A-1a-108.

~~[(1)]~~ (2) There is established the School LAND (Learning And Nurturing Development) Trust Program to:

(a) provide financial resources to public schools to enhance or improve student academic achievement and implement a component of ~~[the]~~ a district school's school improvement plan or a charter school's charter agreement; and

(b) involve parents and guardians of a school's students in decision making regarding the expenditure of School LAND Trust Program money allocated to the school.

~~[(2)]~~ (3) (a) The program shall be funded each fiscal year:

(i) from the Interest and Dividends Account created in Section 53A-16-101; and

(ii) in the amount of the sum of the following:

(A) the interest and dividends from the investment of money in the permanent State School Fund deposited to the Interest and Dividends Account in the immediately preceding year; and

(B) interest accrued on money in the Interest and Dividends Account in the immediately preceding fiscal year.

(b) ~~[On and after July 1, 2003, the]~~ The program shall be funded as provided in Subsection ~~[(2)]~~ (3)(a) up to an amount equal to ~~[2%]~~ 3% of the funds provided for the Minimum School Program, pursuant to Title 53A, Chapter 17a, Minimum School Program Act, each fiscal year.

(c) (i) The Legislature shall annually allocate, through an appropriation to the State Board of Education, a portion of the Interest and Dividends Account created in Section 53A-16-101 to be used for:

(A) the administration of the School LAND Trust Program; and

(B) the performance of duties described in Section 53A-16-101.6.

(ii) Any unused balance remaining from an amount appropriated under Subsection [(2)] (3)(c)(i) shall be deposited in the Interest and Dividends Account for distribution to schools in the School LAND Trust Program.

[(3)] (4) (a) The State Board of Education shall allocate the money referred to in Subsection [(2)] (3) annually [for the fiscal year beginning July 1, 2013, and for each fiscal year thereafter] as follows:

(i) the Utah Schools for the Deaf and the Blind [and the charter schools combined] shall receive funding equal to the product of:

(A) enrollment on October 1 in the prior year at the Utah Schools for the Deaf and the Blind[, or in the charter schools combined,] divided by enrollment on October 1 in the prior year in public schools statewide; and

(B) the total amount available for distribution under Subsection [(2)] (3);

[(ii) the amount allocated to the charter schools combined under Subsection (3)(a)(i) shall be distributed among charter schools in accordance with a formula specified in rules adopted by the State Board of Education in consultation with the State Charter School Board; and]

(ii) charter schools shall receive funding equal to the product of:

(A) charter school enrollment on October 1 in the prior year, divided by enrollment on October 1 in the prior year in public schools statewide; and

(B) the total amount available for distribution under Subsection (3); and

(iii) of the funds available for distribution under Subsection [(2)] (3) after the allocation of funds for the Utah Schools for the Deaf and the Blind and charter schools:

(A) school districts shall receive 10% of the funds on an equal basis; and

(B) the remaining 90% of the funds shall be distributed to school districts on a per student basis.

(b) (i) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Board of Education shall make rules specifying a formula to distribute the amount allocated under Subsection (4)(a)(ii) to charter schools.

(ii) In making rules under Subsection (4)(b)(i), the State Board of Education shall:

(A) consult with the State Charter School Board; and

(B) ensure that the rules include a provision that allows a charter school in the charter school's first year of operations to receive funding based on

projected enrollment, to be adjusted in future years based on actual enrollment.

[(b)] (c) A school district shall distribute its allocation under Subsection [(3)] (4)(a)(iii) to each school within the school district on an equal per student basis.

[(e)] (d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Board of Education may make rules regarding the time and manner in which the student count shall be made for allocation of the money under Subsection [(3)] (4)(a)(iii).

[(4)] (5) To receive its allocation under Subsection [(3)] (4):

(a) a district school shall have established a school community council in accordance with Section 53A-1a-108; [and]

(b) a charter school shall have established a charter trust land council in accordance with Subsection (9); and

[(b)] (c) the school's principal shall provide a signed, written assurance [in accordance with rules of the State Board of Education that the membership of the school community council is consistent with the membership requirements specified in Section 53A-1a-108] that the school is in compliance with Subsection (5)(a) or (b).

[(5)] (6) (a) [The school community] A council [or its subcommittee] shall create a program to use its allocation under Subsection [(3)] (4) to implement a component of the school's improvement plan or charter agreement, including:

(i) the school's identified most critical academic needs;

(ii) a recommended course of action to meet the identified academic needs;

(iii) a specific listing of any programs, practices, materials, or equipment which the school will need to implement a component of its school improvement plan to have a direct impact on the instruction of students and result in measurable increased student performance; and

(iv) how the school intends to spend its allocation of funds under this section to enhance or improve academic excellence at the school.

(b) (i) A [school community] council shall create and vote to adopt a plan for the use of School LAND Trust Program money in a meeting of the [school community] council at which a quorum is present.

(ii) If a majority of the quorum votes to adopt a plan for the use of School LAND Trust Program money, the plan is adopted.

(c) A [school community] council shall:

(i) post a plan for the use of School LAND Trust Program money that is adopted in accordance with Subsection [(5)] (6)(b) on the School LAND Trust Program website; and

(ii) include with the plan a report noting the number of [school community] council members

who voted for or against the approval of the plan and the number of council members who were absent for the vote.

(d) (i) ~~[A school's]~~ The local school board of a district school shall approve or disapprove a plan for the use of School LAND Trust Program money.

(ii) If a local school board disapproves a plan for the use of School LAND Trust Program money~~];~~:

(A) the local school board shall provide a written explanation of why the plan was disapproved and request the school community council who submitted the plan to revise the plan[-]; and

~~[(iii) The]~~ (B) the school community council shall submit a revised plan [to the local school board for approval] in response to a local school board's request under Subsection (6)(d)(ii)(A).

(iii) Once a plan has been approved by a local school board, a school community council may amend the plan, subject to a majority vote of the school community council and local school board approval.

(e) A charter trust land council's plan for the use of School LAND Trust Program money is subject to approval by the:

(i) charter school governing board; and

(ii) charter school's charter school authorizer.

~~[(6)]~~ (7) (a) [Each] A district school or charter school shall:

(i) implement the program as approved;

(ii) provide ongoing support for the council's program; and

(iii) meet State Board of Education reporting requirements regarding financial and performance accountability of the program.

(b) (i) ~~[Each] A district school[, through its school community council,]~~ or charter school shall prepare and post an annual report of the program on the School LAND Trust Program website each fall.

(ii) The report shall detail the use of program funds received by the school under this section and an assessment of the results obtained from the use of the funds.

(iii) A summary of the report shall be provided to parents or guardians of students attending the school.

~~[(7)]~~ (8) On or before October 1 of each year, a school district shall record the amount of the program funds distributed to each school under Subsection [(3)(b)] (4)(c) on the School LAND Trust Program website to assist schools in developing the annual report described in Subsection [(6)] (7)(b).

~~[(8)]~~ (9) (a) The governing board of a charter school shall establish a council, which shall prepare a plan for the use of School LAND Trust Program money that includes the elements listed in Subsection [(5)] (6).

(b) (i) The membership of the council shall include parents or guardians of students enrolled at the school and may include other members.

(ii) The number of council members who are parents or guardians of students enrolled at the school shall exceed all other members combined by at least two.

(c) A charter school governing board may serve as the council that prepares a plan for the use of School LAND Trust Program money if the membership of the charter school governing board meets the requirements of Subsection ~~[(8)]~~ (9)(b)(ii).

(d) (i) Except as provided in Subsection ~~[(8)]~~ (9)(d)(ii), council members who are parents or guardians of students enrolled at the school shall be elected in accordance with procedures established by the charter school governing board.

(ii) Subsection ~~[(8)]~~ (9)(d)(i) does not apply to a charter school governing board that serves as the council that prepares a plan for the use of School LAND Trust Program money.

(e) A parent or guardian of a student enrolled at the school shall serve as chair or cochair of a council that prepares a plan for the use of School LAND Trust Program money.

~~[(f) A plan for the use of School LAND Trust Program money shall be subject to approval by the charter school governing board and the entity that authorized the establishment of the charter school.]~~

~~[(9)]~~ (10) The president or chair of a local school board or charter school governing board shall ensure that the members of the local school board or charter school governing board are provided with annual training on the requirements of this section.

Section 6. Section 53A-16-101.6 is amended to read:

53A-16-101.6. Creation of School Children's Trust Section -- Duties.

(1) As used in this section:

(a) "School and institutional trust lands" is as defined in Section 53C-1-103.

(b) "Section" means the School Children's Trust Section created in this section.

(c) "Trust" means:

(i) the School LAND Trust Program created in Section 53A-16-101.5; and

(ii) the lands and funds associated with the trusts described in Subsection 53C-1-103(7).

(2) There is established a School Children's Trust Section within the State Office of Education.

(3) (a) The section shall have a director.

(b) The director shall have professional qualifications and expertise in the areas generating revenue to the trust, including:

(i) economics;

(ii) energy development;

(iii) finance;

(iv) investments;

(v) public education;

(vi) real estate;

(vii) renewable resources;

(viii) risk management; and

(ix) trust law.

(c) The director shall be appointed as provided in this Subsection (3).

(d) The School and Institutional Trust Lands Board of Trustees nominating committee shall submit to the State Board of Education the name of one person to serve as director.

(e) The State Board of Education may:

(i) appoint the person described in Subsection (3)(d) to serve as director; or

(ii) deny the appointment of the person described in Subsection (3)(d) to serve as director.

(f) If the State Board of Education denies an appointment under this Subsection (3):

(i) the State Board of Education shall provide in writing one or more reasons for the denial to the School and Institutional Trust Lands Board of Trustees nominating committee; and

(ii) the School and Institutional Trust Lands Board of Trustees nominating committee and the State Board of Education shall follow the procedures and requirements of this Subsection (3) until the State Board of Education appoints a director.

(g) The State Board of Education may remove the director only by majority vote of a quorum in an open and public meeting after proper notice and the inclusion of the removal item on the agenda.

(4) The State Board of Education shall make rules regarding:

(a) regular reporting from the School Children's Trust Section director to the State Board of Education, to allow the State Board of Education to fulfill its duties in representing the trust beneficiaries; and

(b) the day-to-day reporting of the School Children's Trust Section director.

(5) (a) The director shall annually submit a proposed section budget to the State Board of Education.

(b) After approving a section budget, the State Board of Education shall propose the approved budget to the Legislature.

(6) The director is entitled to attend any presentation, discussion, meeting, or other gathering concerning the trust, subject to:

(a) provisions of law prohibiting the director's attendance to preserve confidentiality; or

(b) other provisions of law that the director's attendance would violate.

(7) The section shall have a staff.

(8) The section shall protect current and future beneficiary rights and interests in the trust consistent with the state's perpetual obligations under:

(a) the Utah Enabling Act;

(b) the Utah Constitution;

(c) state statute; and

(d) standard trust principles described in Section 53C-1-102.

(9) The section shall promote:

(a) productive use of school and institutional trust lands; and

(b) the efficient and prudent investment of funds managed by the School and Institutional Trust Fund Office, created in Section 53D-1-201.

(10) The section shall provide representation, advocacy, and input:

(a) on behalf of current and future beneficiaries of the trust, school community councils, schools, and school districts;

(b) on federal, state, and local land decisions and policies that affect the trust; and

(c) to:

(i) the School and Institutional Trust Lands Administration;

(ii) the School and Institutional Trust Lands Board of Trustees;

(iii) the Legislature;

(iv) the School and Institutional Trust Fund Office, created in Section 53D-1-201;

(v) the School and Institutional Trust Fund Board of Trustees, created in Section 53D-1-301;

(vi) the attorney general;

(vii) the public; and

(viii) other entities as determined by the section.

(11) The section shall provide independent oversight on the prudent and profitable management of the trust and report annually to the State Board of Education and the Legislature.

(12) The section shall provide information requested by a person or entity described in Subsections (10)(c)(i) through (vii).

(13) (a) The section shall provide training to the entities described in Subsection (13)(b) on:

(i) the School LAND Trust Program established in Section 53A-16-101.5; and

(ii) (A) a school community ~~councils~~ council established pursuant to Section 53A-1a-108; or

(B) ~~[councils established by charter school governing boards pursuant to]~~ a charter trust land council established under Section 53A-16-101.5.

- (b) The section shall provide the training to:
- (i) a local school [~~boards and~~] board or a charter school governing [~~boards~~] board;
 - (ii) a school [~~districts and~~] district or a charter [~~schools~~] school; and
 - (iii) a school community [~~councils~~] council.

Section 7. Section 53A-17a-131.17 is amended to read:

53A-17a-131.17. State contribution for School LAND Trust Program.

(1) If the amount of money prescribed for funding the School LAND Trust Program in Section 53A-16-101.5 is less than or greater than the money appropriated for the School LAND Trust Program, the appropriation shall be equal to the amount of money prescribed for funding the School LAND Trust Program in Section 53A-16-101.5, up to a maximum of an amount equal to [~~2%~~] 3% of the funds provided for the Minimum School Program.

(2) The State Board of Education shall distribute the money appropriated in Subsection (1) in accordance with Section 53A-16-101.5 and rules established by the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 8. Section 53D-1-403 is amended to read:

53D-1-403. Reports.

(1) At least annually, the director shall report in person to the Legislative Management Committee, the governor, and the State Board of Education, concerning the office's investments, performance, estimated distributions, and other activities.

(2) The director shall report to the board concerning the work of the director and the investment activities and other activities of the office:

(a) in a public meeting at least nine times per year; and

(b) as otherwise requested by the board.

(3) (a) Before November 1 of each year, the director shall:

(i) submit a written report to [~~each~~] school community [~~council~~] councils, created under Section 53A-1a-108, and charter trust land councils, established under Section 53A-16-101.5 concerning the office's investments, performance, estimated distributions, and other activities; and

(ii) post the written report described in Subsection (3)(a)(i) on the office's website.

(b) A report under Subsection (3)(a) shall be prepared in simple language designed to be understood by the general public.

(4) The director shall provide to the board:

(a) monthly written reports on the activities of the office;

- (b) quarterly financial reports; and
- (c) any other report requested by the board.
- (5) The director shall:

(a) invite the director of the school children's trust section to attend any meeting at which the director gives a report under this section; and

(b) provide the director of the school children's trust section:

(i) a copy of any written report prepared under this section; and

(ii) any other report requested by the director of the school children's trust section.

CHAPTER 277**H. B. 373**

Passed March 10, 2015
 Approved March 27, 2015
 Effective May 12, 2015

CONNECTED VEHICLE TESTING

Chief Sponsor: John Knotwell
 Senate Sponsor: Aaron Osmond

LONG TITLE**General Description:**

This bill modifies the Motor Vehicles Act by authorizing the Department of Transportation to conduct a connected vehicle technology testing program.

Highlighted Provisions:

This bill:

- ▶ authorizes the Department of Transportation to conduct a connected vehicle technology testing program outside of an urbanized boundary as defined by the United States Census Bureau;
- ▶ requires the Department of Transportation to report the results of the testing program to the Transportation Interim Committee by no later than October 30 in any year that a testing program is conducted; and
- ▶ makes technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

41-6a-711, as last amended by Laws of Utah 2007, Chapter 52

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

Section 1. Section 41-6a-711 is amended to read:**41-6a-711. Following another vehicle -- Safe distance -- Exceptions.**

(1) The operator of a vehicle:

(a) may not follow another vehicle more closely than is reasonable and prudent, having regard for the:

- (i) speed of the vehicles;
- (ii) traffic upon the highway; and
- (iii) condition of the highway; and

(b) shall follow at a distance so that at least two seconds elapse before reaching the location of the vehicle directly in front of the operator's vehicle.

(2) Subsection (1)(b) does not apply to:

(a) funeral processions or to congested traffic conditions resulting in prevailing vehicle speeds of less than 35 miles per hour[.]; or

(b) a connected vehicle technology testing program that uses networked wireless

communication among vehicles, infrastructure, or communication devices that is:

(i) approved by the Department of Transportation in consultation with the Department of Public Safety; and

(ii) conducted outside of an urbanized boundary as defined by the United States Census Bureau.

(3) The Department of Transportation shall report the results of the testing program conducted under Subsection (2)(b) to the Transportation Interim Committee by no later than October 30 of any year that a testing program is conducted.

CHAPTER 278**H. B. 414**

Passed March 11, 2015
 Approved March 27, 2015
 Effective May 12, 2015

UTAH BROADBAND OUTREACH CENTER

Chief Sponsor: Stephen G. Handy
 Senate Sponsor: Ralph Okerlund

LONG TITLE**General Description:**

This bill creates the Utah Broadband Outreach Center within the Governor's Office of Economic Development (GOED).

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ creates the Utah Broadband Outreach Center (center) within GOED;
- ▶ authorizes the executive director of GOED to appoint a director of the center;
- ▶ describes the duties of the center, which include:
 - coordinating broadband development policy and promotion among broadband providers, state and federal agencies, and local government entities;
 - making recommendations to the governor and Legislature regarding policies and initiatives that promote the development of broadband-related infrastructure in the state; and
 - coordinating with broadband providers and other relevant stakeholders to promote the voluntary expansion of broadband infrastructure in both rural and urban communities;
- ▶ describes reporting requirements of the center; and
- ▶ provides a sunset date.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2015:

- ▶ to the Governor's Office of Economic Development Utah Broadband Outreach Center as a one time appropriation:
 - from the General Fund, One-time, \$75,000.

This bill appropriates in fiscal year 2016:

- ▶ to the Governor's Office of Economic Development - Utah Broadband Outreach Center as an ongoing appropriation:
 - from the General Fund, \$350,000.

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

63I-1-263, as last amended by Laws of Utah 2014, Chapters 113, 189, 195, 211, 419, 429, and 435

ENACTS:

63N-12-301, Utah Code Annotated 1953
 63N-12-302, Utah Code Annotated 1953
 63N-12-303, Utah Code Annotated 1953
 63N-12-304, Utah Code Annotated 1953

63N-12-305, Utah Code Annotated 1953

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

Section 1. Section 63I-1-263 is amended to read:**63I-1-263. Repeal dates, Titles 63A to 63N.**

(1) Section 63A-4-204, authorizing the Risk Management Fund to provide coverage to any public school district which chooses to participate, is repealed July 1, 2016.

(2) Subsection 63A-5-104(4)(h) is repealed on July 1, 2024.

(3) Section 63A-5-603, State Facility Energy Efficiency Fund, is repealed July 1, 2016.

(4) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July 1, 2018.

(5) Title 63C, Chapter 14, Federal Funds Commission, is repealed July 1, 2018.

(6) Title 63C, Chapter 15, Prison Relocation Commission, is repealed July 1, 2017.

(7) Subsection 63G-6a-1402(7) authorizing certain transportation agencies to award a contract for a design-build transportation project in certain circumstances, is repealed July 1, 2015.

(8) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1, 2020.

(9) The Resource Development Coordinating Committee, created in Section 63J-4-501, is repealed July 1, 2015.

(10) Title 63M, Chapter 1, Part 4, Enterprise Zone Act, is repealed July 1, 2018.

(11) (a) Title 63M, Chapter 1, Part 11, Recycling Market Development Zone Act, is repealed January 1, 2021.

(b) Subject to Subsection (11)(c), Sections 59-7-610 and 59-10-1007 regarding tax credits for certain persons in recycling market development zones, are repealed for taxable years beginning on or after January 1, 2021.

(c) A person may not claim a tax credit under Section 59-7-610 or 59-10-1007:

(i) for the purchase price of machinery or equipment described in Section 59-7-610 or 59-10-1007, if the machinery or equipment is purchased on or after January 1, 2021; or

(ii) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), if the expenditure is made on or after January 1, 2021.

(d) Notwithstanding Subsections (11)(b) and (c), a person may carry forward a tax credit in accordance with Section 59-7-610 or 59-10-1007 if:

(i) the person is entitled to a tax credit under Section 59-7-610 or 59-10-1007; and

(ii) (A) for the purchase price of machinery or equipment described in Section 59-7-610 or

59-10-1007, the machinery or equipment is purchased on or before December 31, 2020; or

(B) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), the expenditure is made on or before December 31, 2020.

(12) Section 63M-1-3412 is repealed on July 1, 2021.

(13) (a) Section 63M-1-2507, Health Care Compact is repealed on July 1, 2014.

(b) (i) The Legislature shall, before reauthorizing the Health Care Compact:

(A) direct the Health System Reform Task Force to evaluate the issues listed in Subsection (13)(b)(ii), and by January 1, 2013, develop and recommend criteria for the Legislature to use to negotiate the terms of the Health Care Compact; and

(B) prior to July 1, 2014, seek amendments to the Health Care Compact among the member states that the Legislature determines are appropriate after considering the recommendations of the Health System Reform Task Force.

(ii) The Health System Reform Task Force shall evaluate and develop criteria for the Legislature regarding:

(A) the impact of the Supreme Court ruling on the Affordable Care Act;

(B) whether Utah is likely to be required to implement any part of the Affordable Care Act prior to negotiating the compact with the federal government, such as Medicaid expansion in 2014;

(C) whether the compact's current funding formula, based on adjusted 2010 state expenditures, is the best formula for Utah and other state compact members to use for establishing the block grants from the federal government;

(D) whether the compact's calculation of current year inflation adjustment factor, without consideration of the regional medical inflation rate in the current year, is adequate to protect the state from increased costs associated with administering a state based Medicaid and a state based Medicare program;

(E) whether the state has the flexibility it needs under the compact to implement and fund state based initiatives, or whether the compact requires uniformity across member states that does not benefit Utah;

(F) whether the state has the option under the compact to refuse to take over the federal Medicare program;

(G) whether a state based Medicare program would provide better benefits to the elderly and disabled citizens of the state than a federally run Medicare program;

(H) whether the state has the infrastructure necessary to implement and administer a better state based Medicare program;

(I) whether the compact appropriately delegates policy decisions between the legislative and executive branches of government regarding the development and implementation of the compact with other states and the federal government; and

(J) the impact on public health activities, including communicable disease surveillance and epidemiology.

(14) (a) Title 63M, Chapter 1, Part 35, Utah Small Business Jobs Act, is repealed January 1, 2021.

(b) Section 59-9-107 regarding tax credits against premium taxes is repealed for calendar years beginning on or after January 1, 2021.

(c) Notwithstanding Subsection (14)(b), an entity may carry forward a tax credit in accordance with Section 59-9-107 if:

(i) the person is entitled to a tax credit under Section 59-9-107 on or before December 31, 2020; and

(ii) the qualified equity investment that is the basis of the tax credit is certified under Section 63M-1-3503 on or before December 31, 2023.

(15) The Crime Victim Reparations and Assistance Board, created in Section 63M-7-504, is repealed July 1, 2017.

(16) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2017.

(17) Title 63N, Chapter 12, Part 3, Utah Broadband Outreach Center, is repealed July 1, 2018.

Section 2. Section 63N-12-301 is enacted to read:

Part 3. Utah Broadband Outreach Center 63N-12-301. Title.

This part is known as the "Utah Broadband Outreach Center."

Section 3. Section 63N-12-302 is enacted to read:

63N-12-302. Definitions.

As used in this part:

(1) (a) "Broadband" means high-speed Internet access that is always on.

(b) "Broadband" includes both mobile and fixed technologies.

(2) "Center" means the Utah Broadband Outreach Center created in Section 63N-12-303.

Section 4. Section 63N-12-303 is enacted to read:

63N-12-303. Creation of center.

(1) There is created within GOED the Utah Broadband Outreach Center.

(2) The executive director shall appoint a director of the center.

(3) The director of the center may appoint staff with the approval of the executive director.

Section 5. Section 63N-12-304 is enacted to read:

63N-12-304. Center responsibilities.

(1) The center shall:

(a) coordinate broadband development policy and promotion among:

(i) voluntarily participating broadband providers in the state;

(ii) state and federal agencies; and

(iii) local government entities in the state;

(b) make recommendations to the governor and Legislature regarding policies and initiatives that promote the development of broadband-related infrastructure and help implement those policies and initiatives;

(c) promote policies and initiatives that encourage private-sector deployment of infrastructure and public-private partnerships to increase broadband services to urban and rural communities;

(d) facilitate coordination between broadband providers and public and private entities;

(e) coordinate with broadband providers and other relevant stakeholders to promote the voluntary expansion of broadband infrastructure in both rural and urban communities;

(f) promote the adoption and utilization of up-to-date broadband technologies and infrastructure; and

(g) collect and analyze data on broadband availability and usage in the state, including Internet speed, capacity, unique visitors, and broadband infrastructure available throughout the state.

(2) The center may:

(a) work with broadband providers, state and local governments, and other public and private stakeholders to facilitate and encourage the expansion of broadband infrastructure throughout the state;

(b) work with state and local government entities to promote best practices that increase coordination between public and private partners and encourage broader deployment of broadband infrastructure;

(c) work with various stakeholders, including the Office of Rural Development created in Section 63N-4-102, the Governor's Rural Partnership Board created in Section 63C-10-102, chambers of commerce, developers, and state and local governments to market existing broadband infrastructure, particularly in rural communities;

(d) create a voluntary broadband advisory committee that may include broadband providers and other public and private stakeholders to solicit

input on policy guidance, best practices, and broadband adoption strategies;

(e) partner with the Automated Geographic Reference Center created in Section 63F-1-506 to:

(i) collect and maintain a database and interactive map that displays residential and commercial broadband data;

(ii) display data regarding broadband availability on the center's website and make the data available for other state and national websites;

(iii) conduct research on broadband availability and adoption; and

(iv) conduct research to verify broadband availability data; and

(f) in accordance with the requirements of Title 63J, Chapter 5, Federal Funds Procedures Act:

(i) apply for federal grants;

(ii) participate in federal programs; and

(iii) in accordance with federal requirements, administer federally funded broadband-related programs.

Section 6. Section 63N-12-305 is enacted to read:

63N-12-305. Reporting.

(1) The center shall prepare an annual report describing the center's operations and recommendations for inclusion in GOED's annual written report described in Section 63N-1-301.

(2) The center shall maintain a public website that:

(a) provides updated information regarding broadband coverage and availability in the state; and

(b) provides information as determined by the center that aids in marketing and expanding broadband and broadband infrastructure in the state.

Section 7. Appropriation.

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, for the fiscal year beginning July 1, 2014, and ending June 30, 2015, the following sums of money are appropriated from resources not otherwise appropriated, or reduced from amounts previously appropriated, out of the funds or accounts indicated. These sums of money are in addition to any amounts previously appropriated for fiscal year 2015.

To Governor's Office of Economic Development
Utah Broadband Outreach Center

From General Fund, One-time \$75,000

Schedule of Programs:

Utah Broadband Outreach Center \$75,000

Section 8. Appropriation.

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, for the fiscal

year beginning July 1, 2015, and ending June 30, 2016, the following sums of money are appropriated from resources not otherwise appropriated, or reduced from amounts previously appropriated, out of the funds or accounts indicated. These sums of money are in addition to any amounts previously appropriated for fiscal year 2016.

To Governor's Office of Economic Development
Utah Broadband Outreach Center

From General Fund \$350,000

Schedule of Programs:

Utah Broadband Outreach Center \$350,000

Section 9. Effective date.

Uncodified Section 8, Appropriation, takes effect on July 1, 2015.

CHAPTER 279**S. B. 4**

Passed March 10, 2015
Approved March 27, 2015
Effective March 27, 2015

**CURRENT SCHOOL YEAR
SUPPLEMENTAL PUBLIC EDUCATION
BUDGET ADJUSTMENTS**

Chief Sponsor: Lyle W. Hillyard
House Sponsor: Dean Sanpei

LONG TITLE**General Description:**

This bill modifies education funding for school districts, charter schools, and certain state agencies for the fiscal year beginning July 1, 2014, and ending June 30, 2015, and modifies related budgetary provisions.

Highlighted Provisions:

This bill:

- ▶ appropriates funding to school districts and charter schools for educator salary adjustments and the teacher salary supplement;
- ▶ implements transfers to administration for central services at the State Office of Education; and
- ▶ balances appropriations among revenue sources and funds.

Monies Appropriated in this Bill:

This bill appropriates for fiscal year 2015:

- ▶ (\$18,000,000) from the Uniform School Fund;
- ▶ \$23,080,000 from the Education Fund; and
- ▶ \$2,011,200 from various sources as detailed in this bill.

Other Special Clauses:

This bill provides a special effective date.

Uncodified Material Affected:

ENACTS UNCODIFIED MATERIAL

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

**Section 1. Operating and capital budgets --
FY 2015 appropriations for state education
agencies, school districts, and charter
schools.**

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, for the fiscal year beginning July 1, 2014, and ending June 30, 2015, the following sums of money are appropriated from resources not otherwise appropriated, or reduced from amounts previously appropriated, out of the funds or accounts indicated. These sums of money are in addition to any amounts previously appropriated for fiscal year 2015.

State Board of Education - Minimum School Program

Item 1 To State Board of Education - Minimum School Program - Basic School Program

From Uniform School
Fund, One-time (18,000,000)

From Education Fund, One-time 18,000,000

Item 2 To State Board of Education - Minimum School Program - Related to Basic School Program

From Education Fund, One-time 5,080,000

Schedule of Programs:

Educator Salary Adjustments 3,430,000

USFR Teacher Salary Supplement
Restricted Account 1,650,000

State Board of Education

Item 3 To State Board of Education - State Office of Education

From Revenue Transfers -
Indirect Costs 2,384,500

Schedule of Programs:

Assessment and Accountability (277,300)

Educational Equity (39,100)

Board and Administration 4,546,300

Business Services (201,700)

Career and Technical Education (408,800)

District Computer Services (422,100)

Federal Elementary and Secondary
Education Act (175,100)

Law and Legislation (30,000)

Public Relations (13,700)

School Trust (53,000)

Special Education (193,300)

Teaching and Learning (347,700)

Item 4 To State Board of Education - State Office of Education - Initiative Programs

From Revenue Transfers - Indirect Costs(32,700)

Schedule of Programs:

Electronic High School (15,000)

General Financial Literacy (5,900)

Carson Smith Scholarships (11,800)

Item 5 To State Board of Education - State Charter School Board

From Revenue Transfers -
Indirect Costs (51,700)

Schedule of Programs:

State Charter School Board (51,700)

Item 6 To State Board of Education - Educator Licensing Professional Practices

From Revenue Transfers -
Indirect Costs (112,400)

Schedule of Programs:

Educator Licensing (112,400)

Item 7 To State Board of Education - State Office of Education - Child Nutrition

From Revenue Transfers -
 Indirect Costs (176,500)

Schedule of Programs:

Child Nutrition (176,500)

Section 2. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

CHAPTER 280
S. B. 8

Passed March 10, 2015
Approved March 27, 2015
Effective July 1, 2015

STATE AGENCY FEES AND INTERNAL SERVICE FUND RATE AUTHORIZATION AND APPROPRIATIONS

Chief Sponsor: Jerry W. Stevenson
House Sponsor: Brad L. Dee

LONG TITLE

General Description:

This bill supplements or reduces appropriations previously provided for the use and operation of state government for the fiscal year beginning July 1, 2015 and ending June 30, 2016.

Highlighted Provisions:

This bill:

- ▶ provides budget increases and decreases for the use and support of certain state agencies and institutions of higher education;
- ▶ authorizes certain state agency fees;
- ▶ authorizes internal service fund rates;
- ▶ adjusts internal service fund full-time equivalent employment;
- ▶ adjusts funding for the impact of Internal Service Fund rate changes; and,
- ▶ provides budget increases and decreases for other purposes as described.

Money Appropriated in this Bill:

This bill appropriates \$1,418,700 in operating and capital budgets for fiscal year 2016, including:

- ▶ (\$788,300) from the General Fund;
- ▶ \$250,000 from the Education Fund;
- ▶ \$1,957,000 from various sources as detailed in this bill.

This bill appropriates \$12,900 in expendable funds and accounts for fiscal year 2016.

This bill appropriates \$67,100 in business-like activities for fiscal year 2016.

This bill appropriates \$1,000 in fiduciary funds for fiscal year 2016.

Other Special Clauses:

This bill takes effect on July 1, 2015.

Utah Code Sections Affected:

ENACTS UNCODIFIED MATERIAL

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

Section 1. FY 2016 Appropriations. The following sums of money are appropriated for Internal Service Fund rate adjustments for the fiscal year beginning July 1, 2015 and ending June 30, 2016. These are additions to amounts previously appropriated for fiscal year 2016.

Subsection 1(a). Operating and Capital Budgets. Under the terms and conditions of Utah Code Title 63J, the Legislature appropriates the following sums of money from the funds or fund accounts indicated for the use

and support of the government of the State of Utah.

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

GOVERNOR'S OFFICE

Item 1

To Governor's Office	
From General Fund	15,700
From Federal Funds	(2,000)
From Dedicated Credits Revenue	(15,300)
Schedule of Programs:	
Administration	31,000
Governor's Residence	1,700
Washington Funding	300
Lt. Governor's Office	(34,600)

Item 2

To Governor's Office - Character Education	
From General Fund	400
Schedule of Programs:	
Character Education	400

Item 3

To Governor's Office - Governor's Office of Management and Budget	
From General Fund	(87,600)
Schedule of Programs:	
Administration	(101,100)
Planning and Budget Analysis	6,300
Operational Excellence	4,000
State and Local Planning	3,200

Item 4

To Governor's Office - Commission on Criminal and Juvenile Justice	
From General Fund	19,300
From Federal Funds	4,200
From General Fund Restricted - Criminal Forfeiture Restricted Account	100
From General Fund Restricted - Law Enforcement Operations	800
From Crime Victim Reparations Fund	3,200
Schedule of Programs:	
CCJJ Commission	20,400
Utah Office for Victims of Crime	4,100
Extraditions	200
Substance Abuse Advisory Council	700
Sentencing Commission	600
State Asset Forfeiture Grant Program	100
Judicial Performance Evaluation Commission	1,500

OFFICE OF THE STATE AUDITOR

Item 5

To Office of the State Auditor - State Auditor	
From General Fund	1,500
From Dedicated Credits Revenue	1,400
Schedule of Programs:	
State Auditor	2,900

STATE TREASURER

Item 6

To State Treasurer	
From General Fund	300
From Dedicated Credits Revenue	(200)

From Unclaimed Property Trust	3,400
Schedule of Programs:	
Treasury and Investment	(400)
Unclaimed Property	3,400
Money Management Council	500

ATTORNEY GENERAL

Item 7

To Attorney General	
From General Fund	1,300
From Federal Funds	600
From Dedicated Credits Revenue	3,500
From General Fund Restricted -	
Constitutional Defense	100
From Attorney General Litigation Fund	100
Schedule of Programs:	
Administration	(7,300)
Child Protection	3,300
Children's Justice	400
Criminal Prosecution	5,500
Civil	3,700

Item 8

To Attorney General - Prosecution Council	
From Federal Funds	200
From General Fund Restricted -	
Public Safety Support	400
Schedule of Programs:	
Prosecution Council	600

UTAH DEPARTMENT OF CORRECTIONS

Item 9

To Utah Department of Corrections -	
Programs and Operations	
From General Fund	(20,800)
From Federal Funds	400
From Dedicated Credits Revenue	24,700
Schedule of Programs:	
Department Executive Director	33,300
Department Administrative	
Services	(1,436,200)
Department Training	9,300
Adult Probation and Parole	
Administration	3,300
Adult Probation and Parole	
Programs	362,100
Institutional Operations	
Administration	2,800
Institutional Operations Draper	
Facility	540,200
Institutional Operations Central	
Utah/Gunnison	339,600
Institutional Operations Inmate	
Placement	17,300
Institutional Operations Support	
Services	41,500
Programming Administration	3,100
Programming Treatment	48,100
Programming Skill Enhancement	39,900

Item 10

To Utah Department of Corrections -	
Department Medical Services	
From General Fund	115,400
Schedule of Programs:	
Medical Services	115,400

BOARD OF PARDONS AND PAROLE

Item 11

To Board of Pardons and Parole	
From General Fund	(4,700)
Schedule of Programs:	
Board of Pardons and Parole	(4,700)

**DEPARTMENT OF HUMAN SERVICES -
DIVISION OF JUVENILE JUSTICE
SERVICES**

Item 12

To Department of Human Services -	
Division of Juvenile Justice Services -	
Programs and Operations	
From General Fund	80,000
From Federal Funds	2,200
From Dedicated Credits Revenue	3,400
From Revenue Transfers - Commission	
on Criminal and Juvenile Justice	100
Schedule of Programs:	
Administration	4,700
Early Intervention Services	17,200
Community Programs	9,900
Correctional Facilities	27,700
Rural Programs	25,900
Youth Parole Authority	300

**JUDICIAL COUNCIL/STATE
COURT ADMINISTRATOR**

Item 13

To Judicial Council/State Court	
Administrator - Administration	
From General Fund	22,800
From General Fund Restricted - Justice	
Court Tech., Security & Training	400
Schedule of Programs:	
District Courts	3,400
Juvenile Courts	2,900
Administrative Office	16,900

Item 14

To Judicial Council/State Court	
Administrator - Contracts and Leases	
From General Fund	97,400
Schedule of Programs:	
Contracts and Leases	97,400

Item 15

To Judicial Council/State Court	
Administrator - Jury and Witness Fees	
From General Fund	(1,900)
Schedule of Programs:	
Jury, Witness, and Interpreter	(1,900)

Item 16

To Judicial Council/State Court	
Administrator - Guardian ad Litem	
From General Fund	600
Schedule of Programs:	
Guardian ad Litem	600

DEPARTMENT OF PUBLIC SAFETY

Item 17

To Department of Public Safety -	
Programs & Operations	
From General Fund	(573,800)
From Federal Funds	12,100

From Dedicated Credits Revenue	97,700
From General Fund Restricted - DNA Specimen Account	4,100
From General Fund Restricted - Fire Academy Support	16,800
From General Fund Restricted - Utah Highway Patrol Aero Bureau	300
From Department of Public Safety Restricted Account	15,100
From Revenue Transfers	400
Schedule of Programs:	
Department Commissioner's Office	(992,000)
Aero Bureau	1,600
Department Intelligence Center	(3,100)
Department Grants	10,300
Department Fleet Management	1,000
CITS Administration	1,000
CITS Bureau of Criminal Identification	73,400
CITS Communications	59,200
CITS State Crime Labs	26,200
CITS State Bureau of Investigation	19,300
Highway Patrol - Administration	5,800
Highway Patrol - Field Operations	271,200
Highway Patrol - Commercial Vehicle	25,500
Highway Patrol - Safety Inspections	9,300
Highway Patrol - Federal/State Projects	10,300
Highway Patrol - Protective Services	30,200
Highway Patrol - Special Services	22,300
Highway Patrol - Special Enforcement	2,800
Highway Patrol - Technology Services	(15,200)
Information Management - Operations	(4,100)
Fire Marshall - Fire Operations	14,100
Fire Marshall - Fire Fighter Training	3,600

Item 18

To Department of Public Safety - Emergency Management	
From General Fund	9,000
From Federal Funds	30,600
Schedule of Programs:	
Emergency Management	39,600

Item 19

To Department of Public Safety - Peace Officers' Standards and Training	
From General Fund	900
Schedule of Programs:	
Basic Training	500
Regional/Inservice Training	(4,100)
POST Administration	4,500

Item 20

To Department of Public Safety - Driver License	
From Federal Funds	2,200
From Public Safety Motorcycle Education Fund	600
From Department of Public Safety Restricted Account	254,700
Schedule of Programs:	
Driver License Administration	14,700
Driver Services	167,200
Driver Records	72,800
Motorcycle Safety	600

DL Federal Grants	2,200
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Item 21

To Department of Public Safety - Highway Safety	
From General Fund	200
From Federal Funds	17,900
Schedule of Programs:	
Highway Safety	18,100

**INFRASTRUCTURE AND
GENERAL GOVERNMENT****TRANSPORTATION****Item 22**

To Transportation - Support Services	
From Transportation Fund	(60,300)
Schedule of Programs:	
Administrative Services	400
Human Resources Management	41,500
Comptroller	1,000
Data Processing	(106,200)
Ports of Entry	3,000

Item 23

To Transportation - Engineering Services	
From Transportation Fund	2,200
Schedule of Programs:	
Program Development	1,100
Preconstruction Administration	300
Materials Lab	400
Right-of-Way	400

Item 24

To Transportation - Operations/ Maintenance Management	
From Transportation Fund	12,400
Schedule of Programs:	
Region 1	1,700
Region 2	1,500
Region 3	1,600
Region 4	2,500
Field Crews	1,000
Traffic Safety/Tramway	400
Traffic Operations Center	3,400
Maintenance Planning	300

Item 25

To Transportation - Region Management	
From Transportation Fund	6,000
Schedule of Programs:	
Region 1	1,300
Region 2	1,400
Region 3	1,100
Region 4	1,800
Price	200
Cedar City	200

Item 26

To Transportation - Equipment Management	
From Transportation Fund	16,800
From Dedicated Credits Revenue	100,800
Schedule of Programs:	
Equipment Purchases	16,800
Shops	100,800

Item 27

To Transportation - Aeronautics	
From Aeronautics Restricted Account	600
Schedule of Programs:	
Administration	500

Civil Air Patrol 100

DEPARTMENT OF ADMINISTRATIVE SERVICES

Item 28

To Department of Administrative Services - Executive Director
 From General Fund (44,400)
 Schedule of Programs:
 Executive Director (44,400)

Item 29

To Department of Administrative Services - Inspector General of Medicaid Services
 From General Fund 1,000
 From Revenue Transfers - Medicaid 1,500
 Schedule of Programs:
 Inspector General of Medicaid Services .. 2,500

Item 30

To Department of Administrative Services - Administrative Rules
 From General Fund 1,100
 Schedule of Programs:
 DAR Administration 1,100

Item 31

To Department of Administrative Services - DFCM Administration
 From General Fund 36,900
 From Dedicated Credits Revenue 1,300
 From Capital Projects Fund 3,500
 Schedule of Programs:
 DFCM Administration 8,700
 Governor's Residence 32,900
 Energy Program 100

Item 32

To Department of Administrative Services - State Archives
 From General Fund 2,800
 Schedule of Programs:
 Archives Administration 2,000
 Records Analysis 100
 Preservation Services 200
 Patron Services 300
 Records Services 200

Item 33

To Department of Administrative Services - Finance Administration
 From General Fund 12,300
 From Dedicated Credits Revenue 500
 Schedule of Programs:
 Finance Director's Office 400
 Payroll 7,400
 Payables/Disbursing 1,900
 Technical Services (13,500)
 Financial Reporting 1,300
 Financial Information Systems 15,300

Item 34

To Department of Administrative Services - Judicial Conduct Commission
 From General Fund 200
 Schedule of Programs:
 Judicial Conduct Commission 200

Item 35

To Department of Administrative Services - Purchasing
 From General Fund 2,200
 Schedule of Programs:
 Purchasing and General Services 2,200

DEPARTMENT OF TECHNOLOGY SERVICES

Item 36

To Department of Technology Services - Chief Information Officer
 From General Fund 2,800
 Schedule of Programs:
 Chief Information Officer 2,800

Item 37

To Department of Technology Services - Integrated Technology Division
 From General Fund 11,100
 From Dedicated Credits Revenue 4,100
 Schedule of Programs:
 Automated Geographic Reference Center 15,200

BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR

DEPARTMENT OF HERITAGE AND ARTS

Item 38

To Department of Heritage and Arts - Administration
 From General Fund (59,300)
 From Federal Funds 1,600
 Schedule of Programs:
 Executive Director's Office 2,000
 Information Technology 5,100
 Administrative Services (70,100)
 Utah Multicultural Affairs Office 1,900
 Commission on Service and Volunteerism 3,400

Item 39

To Department of Heritage and Arts - Historical Society
 From Dedicated Credits Revenue 300
 Schedule of Programs:
 State Historical Society 300

Item 40

To Department of Heritage and Arts - State History
 From General Fund 13,700
 From Federal Funds 3,800
 From Dedicated Credits Revenue 200
 Schedule of Programs:
 Administration 2,200
 Library and Collections 4,400
 Public History, Communication and Information 2,500
 Historic Preservation and Antiquities 8,600

Item 41

To Department of Heritage and Arts - Division of Arts and Museums
 From General Fund 11,000
 Schedule of Programs:
 Administration 2,700
 Community Arts Outreach 8,300

Item 42
 To Department of Heritage and Arts - State Library
 From General Fund 21,200
 From Federal Funds 700
 From Dedicated Credits Revenue 12,300
 Schedule of Programs:
 Administration 1,500
 Blind and Disabled 13,800
 Library Development 13,000
 Library Resources 5,900

Item 43
 To Department of Heritage and Arts -
 Indian Affairs
 From General Fund 1,700
 Schedule of Programs:
 Indian Affairs 1,700

**GOVERNOR'S OFFICE OF
 ECONOMIC DEVELOPMENT**

Item 44
 To Governor's Office of Economic
 Development - Administration
 From General Fund 32,200
 Schedule of Programs:
 Administration 32,200

Item 45
 To Governor's Office of Economic
 Development - STEM Action Center
 From General Fund 900
 Schedule of Programs:
 STEM Action Center 900

Item 46
 To Governor's Office of Economic
 Development - Office of Tourism
 From General Fund 12,400
 Schedule of Programs:
 Administration 3,700
 Operations and Fulfillment 5,700
 Film Commission 3,000

Item 47
 To Governor's Office of Economic
 Development - Business Development
 From General Fund 19,900
 From Federal Funds 800
 From Dedicated Credits Revenue 500
 Schedule of Programs:
 Outreach and International Trade 11,800
 Corporate Recruitment and
 Business Services 9,400

Item 48
 To Governor's Office of Economic Development -
 Pete Suazo Utah Athletics Commission
 From General Fund 600
 Schedule of Programs:
 Pete Suazo Utah Athletics Commission ... 600

UTAH STATE TAX COMMISSION

Item 49
 To Utah State Tax Commission -
 Tax Administration
 From General Fund 37,700
 From Education Fund (34,500)

From Dedicated Credits Revenue 67,000
 From General Fund Restricted - Tax
 Commission Administrative Charge .. (80,100)
 Schedule of Programs:
 Administration Division (405,600)
 Auditing Division 83,400
 Technology Management (77,300)
 Tax Processing Division 61,900
 Seasonal Employees 3,300
 Tax Payer Services 98,900
 Property Tax Division 35,300
 Motor Vehicles 166,400
 Motor Vehicle Enforcement Division ... 23,800

**UTAH SCIENCE TECHNOLOGY AND
 RESEARCH GOVERNING AUTHORITY**

Item 50
 To Utah Science Technology and Research
 Governing Authority - Technology Outreach and
 Innovation
 From General Fund 100
 Schedule of Programs:
 East 100

Item 51
 To Utah Science Technology and Research
 Governing Authority - USTAR Administration
 From General Fund 800
 Schedule of Programs:
 Administration 800

**DEPARTMENT OF ALCOHOLIC
 BEVERAGE CONTROL**

Item 52
 To Department of Alcoholic Beverage
 Control - DABC Operations
 From Liquor Control Fund 15,300
 Schedule of Programs:
 Executive Director (236,700)
 Administration 3,200
 Operations (7,500)
 Warehouse and Distribution 22,600
 Stores and Agencies 233,700

LABOR COMMISSION

Item 53
 To Labor Commission
 From General Fund (22,700)
 From Federal Funds 8,500
 From Dedicated Credits Revenue 200
 From General Fund Restricted -
 Industrial Accident Restricted
 Account 23,700
 From General Fund Restricted -
 Workplace Safety Account 700
 Schedule of Programs:
 Administration (45,200)
 Industrial Accidents 15,500
 Adjudication 8,300
 Boiler, Elevator and Coal Mine
 Safety Division 10,600
 Workplace Safety 300
 Anti-Discrimination and Labor 18,300
 Utah OSHA 2,600

DEPARTMENT OF COMMERCE

Item 54

To Department of Commerce - Commerce
 General Regulation
 From Federal Funds (100)
 From General Fund Restricted -
 Commerce Service Account 4,600
 From General Fund Restricted -
 Commerce Service Account -
 Public Utilities Regulatory Fee (3,100)
 Schedule of Programs:
 Administration (12,700)
 Occupational and Professional
 Licensing 8,000
 Securities 2,000
 Consumer Protection 2,900
 Corporations and Commercial Code (2,000)
 Real Estate 6,400
 Public Utilities (1,000)
 Office of Consumer Services (2,200)

Item 55

To Department of Commerce - Building
 Inspector Training
 From Dedicated Credits Revenue 600
 Schedule of Programs:
 Building Inspector Training 600

FINANCIAL INSTITUTIONS

Item 56

To Financial Institutions - Financial
 Institutions Administration
 From General Fund Restricted -
 Financial Institutions (3,800)
 Schedule of Programs:
 Administration (3,800)

INSURANCE DEPARTMENT

Item 57

To Insurance Department - Insurance
 Department Administration
 From Federal Funds (400)
 From General Fund Restricted -
 Insurance Department Account (25,500)
 From General Fund Restricted - Insurance
 Fraud Investigation Account 4,800
 From General Fund Restricted -
 Technology Development 1,400
 From General Fund Restricted - Captive
 Insurance 6,900
 Schedule of Programs:
 Administration (25,900)
 Insurance Fraud Program 4,800
 Captive Insurers 6,900
 Electronic Commerce Fee 1,400

Item 58

To Insurance Department - Title
 Insurance Program
 From General Fund Restricted - Title
 Licensee Enforcement Account 700
 Schedule of Programs:
 Title Insurance Program 700

PUBLIC SERVICE COMMISSION

Item 59

To Public Service Commission
 From Federal Funds (1,400)
 From General Fund Restricted -
 Commerce Service Account -
 Public Utilities Regulatory Fee (21,500)
 Schedule of Programs:
 Administration (22,900)

SOCIAL SERVICES

DEPARTMENT OF HEALTH

Item 60

To Department of Health - Executive
 Director's Operations
 From General Fund (42,800)
 From Federal Funds (46,300)
 From Dedicated Credits Revenue 10,500
 Schedule of Programs:
 Executive Director 21,100
 Center for Health Data and
 Informatics 22,700
 Program Operations (122,600)
 Office of Internal Audit 200

Item 61

To Department of Health - Family Health
 and Preparedness
 From General Fund 3,300
 From Federal Funds 100
 From Dedicated Credits Revenue 3,800
 From General Fund Restricted -
 Autism Treatment Account 600
 From General Fund Restricted -
 Children's Hearing Aid Pilot
 Program Account 100
 From Revenue Transfers -
 Human Services 800
 From Revenue Transfers - Medicaid 2,000
 From Revenue Transfers - Public Safety 100
 From Revenue Transfers -
 Workforce Services 1,700
 Schedule of Programs:
 Director's Office 500
 Maternal and Child Health (500)
 Child Development 3,800
 Children with Special Health
 Care Needs 8,200
 Public Health and Preparedness (4,900)
 Emergency Medical Services 2,700
 Health Facility Licensing and
 Certification 2,200
 Primary Care 500

Item 62

To Department of Health - Disease
 Control and Prevention
 From General Fund 15,300
 From Federal Funds 6,100
 From Dedicated Credits Revenue 1,700
 From General Fund Restricted - State
 Lab Drug Testing Account 400
 From General Fund Restricted -
 Tobacco Settlement Account 900
 From Revenue Transfers - Medicaid 300
 From Revenue Transfers - Within Agency .. 100
 From Revenue Transfers -
 Workforce Services 300

Schedule of Programs:

General Administration	10,600
Laboratory Operations and Testing	4,000
Health Promotion	4,100
Epidemiology	4,700
Office of the Medical Examiner	1,700

Item 63To Department of Health - Medicaid
and Health Financing

From General Fund	28,400
From Federal Funds	73,600
From Dedicated Credits Revenue	26,100
From General Fund Restricted - Nursing Care Facilities Account	200
From Transfers - Medicaid - Department of Human Services	10,300
From Revenue Transfers - Within Agency	1,100
Schedule of Programs:	
Financial Services	124,100
Medicaid Operations	9,600
Managed Health Care	1,600
Authorization and Community Based Services	2,400
Coverage and Reimbursement	800
Eligibility Policy	1,200

Item 64To Department of Health - Children's
Health Insurance Program

From General Fund	200
From Federal Funds	1,800
From Dedicated Credits Revenue	100
From General Fund Restricted - Tobacco Settlement Account	400
Schedule of Programs:	
Children's Health Insurance Program	2,500

Item 65To Department of Health - Medicaid
Mandatory Services

From General Fund	4,600
From Federal Funds	11,100
From Dedicated Credits Revenue	600
From Revenue Transfers - Within Agency	1,000
Schedule of Programs:	
Medicaid Management Information System Replacement	14,400
Other Mandatory Services	2,900

Item 66To Department of Health - Medicaid
Optional Services

From Federal Funds	(200)
From Dedicated Credits Revenue	100
Schedule of Programs:	
Pharmacy	100
Other Optional Services	(200)

**DEPARTMENT OF
WORKFORCE SERVICES****Item 67**To Department of Workforce
Services - Administration

From General Fund	5,000
From Federal Funds	7,900
From Dedicated Credits Revenue	100

From Permanent Community Impact

Loan Fund	(100)
From Revenue Transfers - Medicaid	2,900
Schedule of Programs:	
Executive Director's Office	200
Communications	100
Human Resources	19,000
Administrative Support	(3,600)
Internal Audit	100

Item 68To Department of Workforce Services -
Operations and Policy

From General Fund	(7,800)
From Federal Funds	(79,500)
From Dedicated Credits Revenue	(1,700)
From Unemployment Compensation Fund	(18,200)
From Revenue Transfers - Medicaid	(70,700)
Schedule of Programs:	
Facilities and Pass-Through	400
Workforce Development	28,500
Workforce Research and Analysis	400
Eligibility Services	107,400
Information Technology	(314,600)

Item 69To Department of Workforce Services -
General Assistance

From General Fund	200
Schedule of Programs:	
General Assistance	200

Item 70To Department of Workforce
Services - Unemployment Insurance

From General Fund	600
From Federal Funds	19,500
From Dedicated Credits Revenue	400
From Revenue Transfers - Medicaid	300
Schedule of Programs:	
Unemployment Insurance Administration	18,100
Adjudication	2,700

Item 71To Department of Workforce Services -
Housing and Community Development

From General Fund	300
From Federal Funds	1,400
From Dedicated Credits Revenue	300
From General Fund Restricted - Pamela Atkinson Homeless Account	100
From Permanent Community Impact Loan Fund	(1,200)
Schedule of Programs:	
Community Development Administration	(1,300)
Community Development	700
Housing Development	600
Homeless Committee	400
HEAT	(1,000)
Weatherization Assistance	1,200
Community Services	300

DEPARTMENT OF HUMAN SERVICES**Item 72**To Department of Human Services -
Executive Director Operations

From General Fund	(44,400)
From Federal Funds	(6,600)
From Revenue Transfers - Indirect Costs ...	200
From Revenue Transfers - Medicaid	(27,400)
From Revenue Transfers - Within Agency	1,000
Schedule of Programs:	
Executive Director's Office	700
Legal Affairs	(95,000)
Information Technology	5,500
Fiscal Operations	5,400
Human Resources	(100)
Office of Services Review	1,900
Office of Licensing	4,000
Utah Developmental Disabilities Council	400

Item 73

To Department of Human Services - Division of Substance Abuse and Mental Health	
From General Fund	20,100
From Federal Funds	1,700
From Dedicated Credits Revenue	800
From Revenue Transfers - Medicaid	5,300
Schedule of Programs:	
Administration - DSAMH	2,800
Community Mental Health Services	400
State Hospital	24,300
State Substance Abuse Services	400

Item 74

To Department of Human Services - Division of Services for People with Disabilities	
From General Fund	23,700
From Dedicated Credits Revenue	1,700
From Revenue Transfers - Medicaid	37,500
Schedule of Programs:	
Administration - DSPD	16,100
Service Delivery	7,900
Utah State Developmental Center	38,900

Item 75

To Department of Human Services - Office of Recovery Services	
From General Fund	16,100
From Federal Funds	23,000
From Dedicated Credits Revenue	4,000
From Revenue Transfers - Medicaid	1,900
Schedule of Programs:	
Administration - ORS	400
Financial Services	3,700
Electronic Technology	15,500
Child Support Services	22,900
Children in Care Collections	200
Attorney General Contract	600
Medical Collections	1,700

Item 76

To Department of Human Services - Division of Child and Family Services	
From General Fund	75,000
From Federal Funds	37,800
From General Fund Restricted - Victims of Domestic Violence Services Account	300
Schedule of Programs:	
Administration - DCFS	3,500
Service Delivery	68,700
Facility-based Services	700

Minor Grants	500
Domestic Violence	2,000
Child Welfare Management Information System	37,700

Item 77

To Department of Human Services - Division of Aging and Adult Services	
From General Fund	5,300
From Federal Funds	800
From Revenue Transfers - Medicaid	200
Schedule of Programs:	
Administration - DAAS	1,400
Adult Protective Services	4,600
Aging Waiver Services	300

STATE BOARD OF EDUCATION

Item 78

To State Board of Education - State Office of Rehabilitation	
From General Fund	1,000
From Education Fund	105,700
From Federal Funds	230,900
From Dedicated Credits Revenue	6,500
Schedule of Programs:	
Executive Director	38,900
Blind and Visually Impaired	36,500
Rehabilitation Services	192,500
Disability Determination	52,800
Deaf and Hard of Hearing	23,400

HIGHER EDUCATION

UNIVERSITY OF UTAH

Item 79

To University of Utah - Education and General	
From Education Fund	(27,000)
From Dedicated Credits Revenue	(9,000)
Schedule of Programs:	
Education and General	(36,000)

UTAH STATE UNIVERSITY

Item 80

To Utah State University - Education and General	
From Education Fund	(39,700)
From Dedicated Credits Revenue	(13,300)
Schedule of Programs:	
Education and General	(53,000)

Item 81

To Utah State University - USU - Eastern Education and General	
From Education Fund	300
From Dedicated Credits Revenue	100
Schedule of Programs:	
USU - Eastern Education and General ...	400

WEBER STATE UNIVERSITY

Item 82

To Weber State University - Education and General	
From Education Fund	9,800
From Dedicated Credits Revenue	3,400
Schedule of Programs:	
Education and General	13,200

SOUTHERN UTAH UNIVERSITY

Item 83

To Southern Utah University - Education and General	
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From Education Fund	1,900
From Dedicated Credits Revenue	600
Schedule of Programs:	
Education and General	2,500

UTAH VALLEY UNIVERSITY

Item 84

To Utah Valley University - Education and General	
From Education Fund	51,400
From Dedicated Credits Revenue	17,100
Schedule of Programs:	
Education and General	68,500

SNOW COLLEGE

Item 85

To Snow College - Education and General	
From Education Fund	13,000
From Dedicated Credits Revenue	4,300
Schedule of Programs:	
Education and General	17,300

DIXIE STATE UNIVERSITY

Item 86

To Dixie State University - Education and General	
From Education Fund	25,000
From Dedicated Credits Revenue	8,400
Schedule of Programs:	
Education and General	33,400

SALT LAKE COMMUNITY COLLEGE

Item 87

To Salt Lake Community College - Education and General	
From Education Fund	(8,500)
From Dedicated Credits Revenue	(2,900)
Schedule of Programs:	
Education and General	(11,400)

STATE BOARD OF REGENTS

Item 88

To State Board of Regents - Administration	
From General Fund	2,700
Schedule of Programs:	
Administration	2,700

UTAH COLLEGE OF APPLIED TECHNOLOGY

Item 89

To Utah College of Applied Technology - Bridgerland Applied Technology College	
From Education Fund	3,800
Schedule of Programs:	
Bridgerland Applied Technology College	3,800

Item 90

To Utah College of Applied Technology - Davis Applied Technology College	
From Education Fund	600
Schedule of Programs:	
Davis Applied Technology College	600

Item 91

To Utah College of Applied Technology - Dixie Applied Technology College	
From Education Fund	4,700
Schedule of Programs:	
Dixie Applied Technology College	4,700

Item 92

To Utah College of Applied Technology - Mountainland Applied Technology College	
From Education Fund	2,900
Schedule of Programs:	
Mountainland Applied Technology College	2,900

Item 93

To Utah College of Applied Technology - Ogden/Weber Applied Technology College	
From Education Fund	3,800
Schedule of Programs:	
Ogden/Weber Applied Technology College	3,800

Item 94

To Utah College of Applied Technology - Southwest Applied Technology College	
From Education Fund	3,300
Schedule of Programs:	
Southwest Applied Technology College	3,300

Item 95

To Utah College of Applied Technology - Tooele Applied Technology College	
From Education Fund	1,100
Schedule of Programs:	
Tooele Applied Technology College	1,100

Item 96

To Utah College of Applied Technology - Uintah Basin Applied Technology College	
From Education Fund	8,600
Schedule of Programs:	
Uintah Basin Applied Technology College	8,600

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY

DEPARTMENT OF NATURAL RESOURCES

Item 97

To Department of Natural Resources - Administration	
From General Fund	(754,900)
Schedule of Programs:	
Executive Director	4,900
Administrative Services	(761,900)
Public Affairs	1,400
Law Enforcement	700

Item 98

To Department of Natural Resources - Species Protection	
From General Fund Restricted - Species Protection	2,100
Schedule of Programs:	
Species Protection	2,100

Item 99

To Department of Natural Resources - Watershed	
From General Fund	200

From Dedicated Credits Revenue	100
From General Fund Restricted - Sovereign Land Management	300
Schedule of Programs: Watershed	600

Item 100

To Department of Natural Resources - Forestry, Fire and State Lands	
From General Fund	47,000
From Dedicated Credits Revenue	51,700
From General Fund Restricted - Sovereign Land Management	106,500
Schedule of Programs:	
Division Administration	88,900
Fire Management	4,200
Fire Suppression Emergencies	9,300
Lands Management	4,900
Forest Management	3,100
Program Delivery	40,900
Lone Peak Center	51,700
Project Management	2,200

Item 101

To Department of Natural Resources - Oil, Gas and Mining	
From General Fund	6,400
From Dedicated Credits Revenue	1,600
From General Fund Restricted - Oil & Gas Conservation Account	34,000
Schedule of Programs:	
Administration	(4,800)
Oil and Gas Program	37,800
Minerals Reclamation	6,700
Coal Program	2,200
Abandoned Mine	100

Item 102

To Department of Natural Resources - Wildlife Resources	
From General Fund	39,900
From Dedicated Credits Revenue	100
From General Fund Restricted - Wildlife Habitat	1,500
From General Fund Restricted - Wildlife Resources	324,700
Schedule of Programs:	
Director's Office	9,800
Administrative Services	51,800
Conservation Outreach	24,800
Law Enforcement	54,200
Habitat Section	56,100
Wildlife Section	60,000
Aquatic Section	109,500

Item 103

To Department of Natural Resources - Parks and Recreation	
From General Fund	24,500
From General Fund Restricted - Boating	40,800
From General Fund Restricted - Off-highway Vehicle	43,100
From General Fund Restricted - State Park Fees	103,700
Schedule of Programs:	
Executive Management	3,100
Park Operation Management	187,900
Planning and Design	2,000

Support Services	2,100
Recreation Services	17,000

Item 104

To Department of Natural Resources - Utah Geological Survey	
From General Fund	21,900
From Federal Funds	7,100
From Dedicated Credits Revenue	7,200
From General Fund Restricted - Mineral Lease	17,400
From General Fund Restricted - Land Exchange Distribution Account	1,500
Schedule of Programs:	
Administration	4,700
Technical Services	7,700
Geologic Hazards	8,500
Geologic Mapping	6,000
Energy and Minerals	11,800
Ground Water and Paleontology	10,700
Information and Outreach	5,700

Item 105

To Department of Natural Resources - Water Resources	
From General Fund	12,600
From Water Resources Conservation and Development Fund	15,200
Schedule of Programs:	
Administration	3,100
Interstate Streams	700
Planning	11,900
Construction	12,100

Item 106

To Department of Natural Resources - Water Rights	
From General Fund	48,200
From Federal Funds	100
From Dedicated Credits Revenue	11,200
Schedule of Programs:	
Administration	4,100
Applications and Records	10,700
Dam Safety	5,100
Field Services	9,400
Technical Services	8,500
Regional Offices	21,700

DEPARTMENT OF ENVIRONMENTAL QUALITY

Item 107

To Department of Environmental Quality - Executive Director's Office	
From General Fund	(205,500)
From Federal Funds	(20,100)
From General Fund Restricted - Environmental Quality	(50,300)
Schedule of Programs: Executive Director's Office	(275,900)

Item 108

To Department of Environmental Quality - Air Quality	
From General Fund	22,200
From Federal Funds	23,900
From Dedicated Credits Revenue	28,100
From Clean Fuel Conversion Fund	300
Schedule of Programs: Air Quality	74,500

Item 109

To Department of Environmental Quality - Environmental Response and Remediation	
From General Fund	3,000
From Federal Funds	15,100
From Dedicated Credits Revenue	2,500
From General Fund Restricted - Voluntary Cleanup	2,400
From Petroleum Storage Tank Trust Fund	6,500
Schedule of Programs: Environmental Response and Remediation	29,500

Item 110

To Department of Environmental Quality - Radiation Control	
From General Fund	10,000
From Federal Funds	600
From Dedicated Credits Revenue	3,000
From General Fund Restricted - Environmental Quality	31,600
Schedule of Programs: Radiation Control	45,200

Item 111

To Department of Environmental Quality - Water Quality	
From General Fund	9,800
From Federal Funds	10,300
From Dedicated Credits Revenue	2,900
From Water Development Security Fund - Utah Wastewater Loan Program	3,800
From Water Development Security Fund - Water Quality Origination Fee	300
From Revenue Transfers	700
Schedule of Programs: Water Quality	27,800

Item 112

To Department of Environmental Quality - Drinking Water	
From General Fund	6,700
From Federal Funds	27,600
From Dedicated Credits Revenue	800
From Water Development Security Fund - Drinking Water Loan Program ...	1,100
From Water Development Security Fund - Drinking Water Origination Fee ..	800
From Revenue Transfers	300
Schedule of Programs: Drinking Water	37,300

Item 113

To Department of Environmental Quality - Solid and Hazardous Waste	
From Federal Funds	9,700
From Dedicated Credits Revenue	11,800
From General Fund Restricted - Environmental Quality	25,100
From General Fund Restricted - Used Oil Collection Administration	4,300
From Waste Tire Recycling Fund	1,300
Schedule of Programs: Solid and Hazardous Waste	52,200

**PUBLIC LANDS POLICY
COORDINATING OFFICE****Item 114**

To Public Lands Policy Coordinating Office	
From General Fund	1,800
From General Fund Restricted - Constitutional Defense	1,400
Schedule of Programs: Public Lands Office	3,200

Item 115

To Public Lands Policy Coordinating Office - Public Lands Litigation	
From General Fund Restricted - Constitutional Defense	2,900
Schedule of Programs: Public Lands Litigation	2,900

GOVERNOR'S OFFICE**Item 116**

To Governor's Office - Office of Energy Development	
From General Fund	5,500
From Federal Funds	2,000
Schedule of Programs: Office of Energy Development	7,500

**DEPARTMENT OF
AGRICULTURE AND FOOD****Item 117**

To Department of Agriculture and Food - Administration	
From General Fund	(87,000)
From Federal Funds	(18,700)
From Dedicated Credits Revenue	(2,300)
From General Fund Restricted - Cat and Dog Community Spay and Neuter Program Restricted Account ...	(3,500)
Schedule of Programs: General Administration	(117,400)
Chemistry Laboratory	5,900

Item 118

To Department of Agriculture and Food - Animal Health	
From General Fund	17,600
From Federal Funds	12,900
From Dedicated Credits Revenue	200
From General Fund Restricted - Livestock Brand	10,300
Schedule of Programs: Animal Health	6,100
Brand Inspection	15,200
Meat Inspection	19,700

Item 119

To Department of Agriculture and Food - Plant Industry	
From General Fund	4,700
From Federal Funds	9,400
From Dedicated Credits Revenue	15,600
From Agriculture Resource Development Fund	1,300
From Revenue Transfers	300
Schedule of Programs: Environmental Quality	1,500
Grain Inspection	2,600

Insect Infestation	5,300
Plant Industry	16,900
Grazing Improvement Program	5,000

Item 120

To Department of Agriculture and Food - Regulatory Services	
From General Fund	18,000
From Federal Funds	5,200
From Dedicated Credits Revenue	16,100
Schedule of Programs:	
Regulatory Services	39,300

Item 121

To Department of Agriculture and Food - Marketing and Development	
From General Fund	3,200
Schedule of Programs:	
Marketing and Development	3,200

Item 122

To Department of Agriculture and Food - Predatory Animal Control	
From General Fund	7,100
From General Fund Restricted - Agriculture and Wildlife Damage Prevention	5,600
Schedule of Programs:	
Predatory Animal Control	12,700

Item 123

To Department of Agriculture and Food - Resource Conservation	
From General Fund	1,200
From Utah Rural Rehabilitation Loan State Fund	300
Schedule of Programs:	
Resource Conservation Administration ..	1,500

Item 124

To Department of Agriculture and Food - Invasive Species Mitigation	
From General Fund Restricted - Invasive Species Mitigation Account	600
Schedule of Programs:	
Invasive Species Mitigation	600

Item 125

To Department of Agriculture and Food - Rangeland Improvement	
From General Fund Restricted - Rangeland Improvement Account	900
Schedule of Programs:	
Rangeland Improvement	900

Item 126

To Department of Agriculture and Food - Utah State Fair Corporation	
From Dedicated Credits Revenue	9,200
Schedule of Programs:	
State Fair Corporation	9,200

SCHOOL AND INSTITUTIONAL TRUST LANDS ADMINISTRATION

Item 127

To School and Institutional Trust Lands Administration	
From Land Grant Management Fund	8,300
Schedule of Programs:	
Board	300
Director	1,400

External Relations	1,000
Administration	(38,800)
Accounting	3,100
Auditing	2,200
Oil and Gas	4,800
Mining	3,200
Surface	12,500
Development - Operating	6,400
Legal/Contracts	2,400
Information Technology Group	7,100
Grazing and Forestry	2,700

PUBLIC EDUCATION

STATE BOARD OF EDUCATION

Item 128

To State Board of Education - State Office of Education	
From General Fund	600
From Education Fund	110,600
From Federal Funds	40,500
From Dedicated Credits Revenue	1,000
From General Fund Restricted -	
Mineral Lease	2,600
From General Fund Restricted - Substance Abuse Prevention	
From Interest and Dividends Account	2,700
From Revenue Transfers	2,200
Schedule of Programs:	
Assessment and Accountability	16,100
Educational Equity	2,000
Board and Administration	31,300
Business Services	10,700
Career and Technical Education	25,000
District Computer Services	22,700
Educational Technology	1,200
Federal Elementary and Secondary Education Act	
Law and Legislation	1,400
Public Relations	1,000
School Trust	2,700
Special Education	13,700
Teaching and Learning	20,900
Student Achievement	300

Item 129

To State Board of Education - Utah State Office of Education - Initiative Programs	
From General Fund	700
From Education Fund	1,200
Schedule of Programs:	
Contracts and Grants	1,900

Item 130

To State Board of Education - State Charter School Board	
From Education Fund	2,600
Schedule of Programs:	
State Charter School Board	2,600

Item 131

To State Board of Education - Educator Licensing Professional Practices	
From Professional Practices Restricted Subfund	8,000
Schedule of Programs:	
Educator Licensing	8,000

Item 132

To State Board of Education - State Office of Education - Child Nutrition	
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From Education Fund 700
 From Federal Funds 12,500
 Schedule of Programs:
 Child Nutrition 13,200

Item 133

To State Board of Education - Utah Schools
 for the Deaf and the Blind
 From Education Fund 8,700
 From Federal Funds 600
 From Dedicated Credits Revenue 1,300
 Schedule of Programs:
 Instructional Services 121,300
 Support Services (110,700)

**RETIREMENT AND
 INDEPENDENT ENTITIES**

CAREER SERVICE REVIEW OFFICE

Item 134

To Career Service Review Office
 From General Fund 300
 Schedule of Programs:
 Career Service Review Office 300

**DEPARTMENT OF HUMAN
 RESOURCE MANAGEMENT**

Item 135

To Department of Human Resource Management -
 Human Resource Management
 From General Fund (4,700)
 Schedule of Programs:
 Administration (3,000)
 Policy 100
 Information Technology (1,800)

EXECUTIVE APPROPRIATIONS

UTAH NATIONAL GUARD

Item 136

To Utah National Guard
 From General Fund 57,700
 From Federal Funds 1,600
 Schedule of Programs:
 Administration 2,000
 Operations and Maintenance 57,300

**DEPARTMENT OF VETERANS'
 AND MILITARY AFFAIRS**

Item 137

To Department of Veterans' and Military
 Affairs - Veterans' and Military Affairs
 From General Fund (8,600)
 From Federal Funds (200)
 Schedule of Programs:
 Administration (12,400)
 Cemetery (1,300)
 State Approving Agency 1,000
 Outreach Services 3,300
 Military Affairs 600

CAPITOL PRESERVATION BOARD

Item 138

To Capitol Preservation Board
 From General Fund 6,900
 Schedule of Programs:
 Capitol Preservation Board 6,900

LEGISLATURE

Item 139

To Legislature - Senate
 From General Fund 2,800
 Schedule of Programs:
 Administration 2,800

Item 140

To Legislature - House of Representatives
 From General Fund 4,800
 Schedule of Programs:
 Administration 4,800

Item 141

To Legislature - Office of the Legislative
 Auditor General
 From General Fund 1,200
 Schedule of Programs:
 Administration 1,200

Item 142

To Legislature - Office of the Legislative
 Fiscal Analyst
 From General Fund 3,500
 Schedule of Programs:
 Administration and Research 3,500

Item 143

To Legislature - Legislative Printing
 From General Fund 600
 Schedule of Programs:
 Administration 600

Item 144

To Legislature - Office of Legislative Research
 and General Counsel
 From General Fund 2,800
 Schedule of Programs:
 Administration 2,800

Subsection 1(b). Expendable Funds and

Accounts. The Legislature has reviewed the following expendable funds. Where applicable, the Legislature authorizes the State Division of Finance to transfer amounts among funds and accounts as indicated. Outlays and expenditures from the recipient funds or accounts may be made without further legislative action according to a fund or account's applicable authorizing statute.

**INFRASTRUCTURE AND
 GENERAL GOVERNMENT**

**DEPARTMENT OF
 ADMINISTRATIVE SERVICES**

Item 145

To Department of Administrative Services -
 State Debt Collection Fund
 From State Debt Collection Fund 5,300
 Schedule of Programs:

State Debt Collection Fund 5,300

EXECUTIVE APPROPRIATIONS

DEPARTMENT OF VETERANS' AND MILITARY AFFAIRS

Item 146

To Department of Veterans' and Military Affairs - Utah Veterans' Nursing Home Fund
 From Federal Funds 11,700
 Schedule of Programs:
 Veterans' Nursing Home Fund 11,700

CAPITOL PRESERVATION BOARD

Item 147

To Capitol Preservation Board - State Capitol Restricted Special Revenue Fund
 From Dedicated Credits Revenue (4,100)
 Schedule of Programs:
 State Capitol Fund (4,100)

Subsection 1(c). Business-like Activities.

The Legislature has reviewed the following proprietary funds. Under the terms and conditions of Utah Code 63J-1-410, for any included Internal Service Fund the Legislature approves budgets, full-time permanent positions, and capital acquisition amounts as indicated, and appropriates to the funds as indicated estimated revenue from rates, fees, and other charges. Where applicable, the Legislature authorizes the State Division of Finance to transfer amounts among funds and accounts as indicated.

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

UTAH DEPARTMENT OF CORRECTIONS

Item 148

To Utah Department of Corrections - Utah Correctional Industries
 From Dedicated Credits Revenue 56,900
 Schedule of Programs:
 Utah Correctional Industries 56,900

INFRASTRUCTURE AND GENERAL GOVERNMENT

DEPARTMENT OF ADMINISTRATIVE SERVICES INTERNAL SERVICE FUNDS

Item 149

To Department of Administrative Services - Division of Finance
 From Dedicated Credits - Intragovernmental Revenue 600
 Schedule of Programs:
 ISF - Consolidated Budget and Accounting 600

Item 150

To Department of Administrative Services - Division of Purchasing and General Services
 From Dedicated Credits - Intragovernmental Revenue 2,500
 Schedule of Programs:
 ISF - Central Mailing 700
 ISF - Cooperative Contracting 400
 ISF - State Surplus Property 1,400

Item 151

To Department of Administrative Services - Division of Fleet Operations
 From Dedicated Credits - Intragovernmental Revenue 400
 Schedule of Programs:
 ISF - Motor Pool 200
 ISF - Fuel Network 200

Item 152

To Department of Administrative Services - Risk Management
 From Premiums 700
 From Risk Management - Workers Compensation Fund 300
 Schedule of Programs:
 ISF - Risk Management Administration .. 700
 ISF - Workers' Compensation 300

Item 153

To Department of Administrative Services - Division of Facilities Construction and Management - Facilities Management
 From Dedicated Credits - Intragovernmental Revenue 1,800
 Schedule of Programs:
 ISF - Facilities Management 1,800

SOCIAL SERVICES

DEPARTMENT OF WORKFORCE SERVICES

Item 154

To Department of Workforce Services - State Small Business Credit Initiative Program Fund
 From Federal Funds 200
 Schedule of Programs:
 State Small Business Credit Initiative Program Fund 200

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY

DEPARTMENT OF AGRICULTURE AND FOOD

Item 155

To Department of Agriculture and Food - Agriculture Loan Programs
 From Agriculture Resource Development Fund 2,300
 From Utah Rural Rehabilitation Loan State Fund 1,400
 Schedule of Programs:
 Agriculture Loan Program 3,700

Subsection 1(d). Fiduciary Funds. The Legislature has reviewed proposed revenues,

expenditures, fund balances and changes in fund balances for the following fiduciary funds.

INFRASTRUCTURE AND GENERAL GOVERNMENT

DEPARTMENT OF ADMINISTRATIVE SERVICES

Item 156

To Department of Administrative Services - Utah Navajo Royalties Holding Fund
 From Revenue Transfers - Other Funds 900
 Schedule of Programs:
 Utah Navajo Royalties Holding Fund 900

BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR

LABOR COMMISSION

Item 157

To Labor Commission - Uninsured Employers Fund
 From Dedicated Credits Revenue 100
 Schedule of Programs:
 Uninsured Employers Fund 100

Section 2. Under the terms and conditions of Utah Code Title 63J Chapter 1 and other fee statutes as applicable, the following fees and rates are approved for the use and support of the government of the State of Utah for the Fiscal Year beginning July 1, 2015 and ending June 30, 2016.

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

GOVERNOR’S OFFICE

Lt. Governor’s Office
 Lobbyist Badge Replacement 10.00
 Government Records Access and Management Act Copy of Lobbyist List 10.00
 Copy of Election Results 35.00
 Copy of Complete Voter Information Database 1,050.00
 Custom Voter Registration Report (per hour) 90.00
 Photocopies (per page)25
 International Postage 10.00
 Certifications
 Notary
 Notary Commission Filing 45.00
 Duplicate Notary Commission 15.00
 Domestic Notary Certification 15.00
 Notary Testing 30.00
 Apostille
 Apostille 15.00
 Non Apostille 15.00
 Authentication
 Expedited Processing
 Within two hours if presented before 3:00 p.m. 50.00
 End of next business day 25.00

GOVERNOR’S OFFICE OF MANAGEMENT AND BUDGET

Operational Excellence
 Conference Registration (per unit / day) 75.00

COMMISSION ON CRIMINAL AND JUVENILE JUSTICE

CCJJ Commission
 Judicial Nominating Committee
 Background Check Fee 10.00
 Utah Office for Victims of Crime
 Utah Crime Victims Conference 150.00
 Sundry Collections Variable
 Utah Victim Assistance Academy 500.00
 Extraditions
 Extraditions Services-
 Restitution Court Ordered

OFFICE OF THE STATE AUDITOR

STATE AUDITOR

CPA training for local government audits . . 75.00
 Auditing Services Actual Cost
 This fee is to reimburse the State Auditor for the actual costs of audit services provided.

ATTORNEY GENERAL

Administration
 Government Records Access and Management Act
 Document certification 2.00
 CD Duplication (per CD) 5.00
 Plus actual staff costs
 DVD Duplication (per DVD) 10.00
 Plus actual staff costs
 Photocopies
 Non-color (per page)25
 Color (per page)40
 11 x 17 (per page) 1.00
 Odd size Actual cost
 Document faxing (per page) 1.00
 Long distance faxing for over 10 pages 1.00
 Record preparation Actual cost
 Record preparation 2.00
 Plus actual postage costs
 Other media Actual cost
 Other services Actual cost

UTAH DEPARTMENT OF CORRECTIONS

PROGRAMS AND OPERATIONS

Department Executive Director
 Government Records Access and Management Act (GRAMA) Fees (GRAMA fees apply to the entire Department of Corrections)
 Odd size photocopies (per page) Actual cost
 Document Certification 2.00
 Local document faxing (per page)50
 Long distance document faxing (per page) 2.00
 Staff time to search, compile, and otherwise prepare record Actual cost

Mail and ship preparation, plus actual postage costs Actual cost
 CD Duplication (per CD) 5.00
 DVD Duplication (per DVD) 10.00
 Other media
 Other services
 8.5 x 11 photocopy (per page)25
 Parole/Probation Supervision
 OSDC Supervision Collection 30.00

Fee entitled "OSDC Supervision Collection" applies for the entire Department of Corrections.
 Resident Support 6.00

Fee entitled "Resident Support" applies for the entire Department of Corrections.
 Department Wide
 Restitution for Prisoner Damages .. Actual cost

Fee entitled "Restitution for Prisoner Damages" applies for the entire Department of Corrections.
 False Information Fines .. Range: \$1 - \$84,200

Fee entitled "False Information Fines" applies for the entire Department of Corrections.
 Sale of Services Actual cost

Fee entitled "Sale of Services" applies for the entire Department of Corrections.
 Inmate Leases & Concessions 11.00

Fee entitled "Inmate Leases & Concessions" applies for the entire Department of Corrections.
 Patient Social Security Benefits Collections Variable

Fee entitled "Patient Social Security Benefits Collections" applies for the entire Department of Corrections.
 Sale of Goods and Materials Actual cost

Fee entitled "Sale of Goods & Materials" applies for the entire Department of Corrections.
 Buildings Rental Contractual

Fee entitled "Building Rental" applies for the entire Department of Corrections.
 Victim Rep Inmate Withheld Range: \$1 - \$50,000

Fee entitled "Victim Rep Inmate Withheld" applies for the entire Department of Corrections.
 Sundry Revenue Collection Miscellaneous collections

Fee entitled "Sundry Revenue Collection" applies for the entire Department of Corrections.
 Offender Tuition
 Offender Tuition Payments Actual cost

Fee entitled "Offender Tuition Payments" applies for the entire Department of Corrections.

DEPARTMENT MEDICAL SERVICES

Medical Services
 Prisoner Various Protheses Co-pay 1/2 cost
 Inmate Support Collections Actual cost

UTAH CORRECTIONAL INDUSTRIES

Sale of Goods and Materials Cost plus profit
 Sale of Services Cost plus profit

BOARD OF PARDONS AND PAROLE

Records Copies (per page)25
 Audiotape of Hearing 10.00
 Government Records Access and Management Act Response Actual cost
 Copies over 100 pages
 CD 10.00

DEPARTMENT OF HUMAN SERVICES - DIVISION OF JUVENILE JUSTICE SERVICES

PROGRAMS AND OPERATIONS

Administration
 Government Records Access and Management Act Paper (per side of sheet)25
 Audio tape (per tape) 5.00
 Video tape (per tape) 15.00
 Mailing Actual cost
 Compiling and reporting in another format (per hour) 25.00
 Programmer/analyst assistance required (per hour) 50.00

JUDICIAL COUNCIL/STATE COURT ADMINISTRATOR

ADMINISTRATION

Administrative Office
 Microfiche (per card) 1.00
 Email
 Up to 10 pages 5.00
 After 10 pages (per page)50
 Audio tape 10.00
 Video tape 15.00
 CD 10.00
 Reporter Text (per half day) 25.00
 Personnel time after 15 min (per 15 minutes) Cost of Employee Time
 Electronic copy of Court Proceeding (per half day) 10.00
 Court Records Online Subscription
 Over 200 records (per search)10
 200 records (per month) 30.00
 Online Services Setup 25.00
 Fax
 Up to 10 pages 5.00
 After 10 pages (per page)50
 Mailings Actual cost
 Preprinted Forms Cost based on number and size

State Court Administrator
Copies (per page)25

DEPARTMENT OF PUBLIC SAFETY

PROGRAMS & OPERATIONS

Department Commissioner's Office
Courier Delivery Actual cost
Fax (per page) 1.00
Mailing Actual cost
Audio/Video/Photos (per CD) 25.00
Developed photo negatives (per photo) 1.00
Printed Digital Photos (per paper) 2.00
1, 2, or 4 photos per sheet (8x11) based on request
Department Sponsored Conferences
Registration (per registration) 275.00
Late Registration (per registration) 300.00
Vendor Fee (per Vendor) 700.00
Copies
Color (per page) 1.00
Over 50 pages (per page)50
1-10 pages 5.00
11-50 pages 25.00
Miscellaneous Computer Processing
(per hour) Cost of Employee Time
CITS Bureau of Criminal Identification
Concealed Firearm Permit Instructor
Registration 25.00
Board of Pardons Expungement
Processing 50.00
TAC Conference Registration 100.00
Fingerprint Services 15.00
Print Other State Agency Cards 5.00
State Agency ID set up 50.00
Child ID Kits 1.00
Extra Copies Rap Sheet 15.00
Extra Fingerprint Cards 5.00
Automated Fingerprint Identification
System Database Retention 5.00
Concealed weapons permit renewal
Utah Interactive Convenience Fee75
Photos 15.00
Sex Offender Kidnap Registry
Application for removal from registry ... 168.00
Eligibility Certificate for removal
from registry 25.00
Expungements
Special certificates of eligibility. 56.00
Application 50.00
Certificate of Eligibility 56.00
CITS State Crime Labs
Additional DNA Casework per
sample - full analysis 894.00
DNA Casework per sample -
Quantitation only 459.00
Drugs - controlled substances per
item of evidence 355.00
Fingerprints per item of evidence 345.00
Serology/Biology per item of evidence 335.00
Highway Patrol - Administration
Online Traffic Reports Utah
Interactive Convenience Fee 2.50
UHP Conference Registration Fee 250.00
Photogrammatry 100.00
Cessna (per hour) 155.00

Plus meals and lodging. Does not exceed fee amount.
Helicopter (per hour) 1,350.00
Plus meals and lodging. Does not exceed fee amount.
Court order requesting blood samples be sent to outside agency 40.00
Highway Patrol - Safety Inspections
Safety Inspection Program
Inspection Station
Permit application fee 100.00
Permit renewal fee 7.00
Station physical address change 100.00
Replacement of lost permit 2.25
Safety Inspection Manual 5.50
Stickers (book of 25) 4.50
Sticker reports (book of 25) 3.00
Inspection certificates for passenger/light truck (book of 50) 3.00
Inspection certificates for ATV (book of 25) 3.00
Inspector
Certificate application fee 7.00
Valid for 5 years
Certificate renewal fee 4.50
Replacement of lost certificate 1.00
Highway Patrol - Federal/State Projects
Transportation and Security Details (per hour) 100.00
Plus mileage. Does not exceed fee amount.
Fire Marshall - Fire Operations
Inspection For Fire Clearance
Re-Inspection Fee
(per Re-Inspection) 250.00
Liquid Petroleum Gas
License
Class I 450.00
Class II 450.00
Class III 105.00
Class IV 150.00
Branch Office 338.00
Duplicate 30.00
Examination 30.00
Re-examination 30.00
Five Year Examination 30.00
Certificate 40.00
Dispenser Operator B 20.00
Plan Reviews
More than 5000 gallons 150.00
5000 water gallons or less 75.00
Special inspections (per hour) 50.00
Re-inspection 250.00
3rd inspection or more
Private Container Inspection
More than one container 150.00
One container 75.00
Portable Fire Extinguisher and Automatic Fire Suppression Systems
License 300.00
Combination 150.00
Branch Office License 150.00
Certificate of Registration 40.00
Duplicate Certificate of Registration 40.00
License Transfer 50.00
Application for exemption 150.00
Examination 30.00
Re-examination 30.00

Five year examination 30.00
 Automatic Fire Sprinkler Inspection
 and Testing
 Certificate of Registration 30.00
 Examination 20.00
 Re-examination 20.00
 Three year extension 20.00
 Fire Alarm Inspection and Testing
 Certificate of Registration 40.00
 Examination 30.00
 Re-examination 30.00
 Three year extension 30.00

EMERGENCY MANAGEMENT

PIO Conference Registration Fees 225.00
 PIO Conference Late Registration Fee 250.00
 PIO Half Conference Registration Fee 100.00
 PIO Conference Guest Fee 200.00

**PEACE OFFICERS'
 STANDARDS AND TRAINING**

Basic Training
 Cadet Application
 Satellite Academy Technology Fee 25.00
 Online Application Processing Fee 35.00
 Rental
 Pursuit Interventions Technique
 Training Vehicles 100.00
 Firing Range 300.00
 Shoot House 150.00
 Camp William Firing Range 200.00
 Dorm Room 10.00
 K-9 Training (out of state agencies) 2,175.00
 Duplicate POST Certification 5.00
 Duplicate Certificate, Wallet Card 5.00
 Duplicate Radar or Intox Card 2.00
 Peace Officers' Standards and Training (POST)
 Reactivation/Waiver 75.00
 Supervisor Class 50.00
 West Point Class 150.00
 Law Enforcement Officials and
 Judges Firearms Course 1,000.00

DRIVER LICENSE

Driver License Administration
 Commercial Driver School
 License
 Original 100.00
 Annual Renewal 100.00
 Duplicate 10.00
 Instructor 30.00
 Annual Instructor Renewal 20.00
 Duplicate Instructor 6.00
 Branch Office Original 30.00
 Branch Office Annual Renewal 30.00
 Branch Office Reinstatement 75.00
 Instructor/Operation Reinstatement 75.00
 School Reinstatement 75.00
 Commercial Driver License Intra-state
 Medical Waiver 25.00
 Certified Record
 first 15 pages 10.75
 Includes Motor Vehicle Record
 16 to 30 pages 15.75

Includes Motor Vehicle Record
 31 to 45 pages 20.75
 Includes Motor Vehicle Record
 46 or more pages 25.75
 Includes Motor Vehicle Record
 Copy of Full Driver History 7.00
 Copies of any other record 5.00
 Includes tape recording, letter, medical
 copy, arrests
 Verification
 Driver Address Record Verification 3.00
 Validate Service75
 Pedestrian Vehicle Permit 13.00
 Citation Monitoring Verification06
 Ignition Interlock System
 License
 Provider
 Original 100.00
 Annual Renewal 100.00
 Duplicate 10.00
 Provider Branch Office Inspection 30.00
 Provider Branch Office Annual
 Inspection 30.00
 Installer
 Original 30.00
 Annual Renewal 30.00
 Duplicate 6.00
 Provider
 Reinstatement 75.00
 Installer 75.00
 Driver Services
 Commercial Driver License third party testing
 License
 Original Tester 100.00
 Annual Tester Renewal 100.00
 Duplicate Tester 10.00
 Original Examiner 30.00
 Annual Examiner Renewal 20.00
 Duplicate Examiner 6.00
 Examiner Reinstatement 75.00
 Tester Reinstatement 75.00
 Driver Records
 Online services 3.00
 Utah Interactive Convenience Fee

**INFRASTRUCTURE AND
 GENERAL GOVERNMENT**

TRANSPORTATION

SUPPORT SERVICES

Administrative Services
 Express Lane - Administrative Fee 2.85
 Tow Truck Driver Certification 200.00
 Access Management Application
 Type 1 75.00
 Type 2 475.00
 Type 3 1,000.00
 Type 4 2,300.00
 Access Violation Fine (per day) 100.00
 Encroachment Permits
 Landscaping 30.00
 Manhole Access 30.00
 Special Events 30.00
 Inspection (per hour) 60.00
 Overtime Inspection (per hour) 80.00

Utility Permits	
Low Impact	30.00
Medium Impact	135.00
High Impact	300.00
Excess Impact	500.00
Express Lanes	
Variable priced toll	Between \$0.25 - \$1.00

**OPERATIONS/MAINTENANCE
MANAGEMENT**

Region 4	
Lake Powell Ferry Rates	
Foot passengers	10.00
Motorcycles	15.00
Vehicles under 20'	25.00
Vehicles over 20' (per additional foot)	1.50
Traffic Safety/Tramway	
Tramway Registration	
Two-car or Multicar Aerial Passenger Tramway	
101 Horse Power or over	1,560.00
100 Horse Power or under	940.00
Chair Lift	
Double	610.00
Triple	720.00
Quad	840.00
Detachable	1,560.00
Conveyor, Rope Tow	250.00
Funicular	250.00
Single or Double Reversible	
Rope Tow, J-bar, T-bar, or	
platter pull	250.00

AERONAUTICS

Administration	
Airport Licensing	10.00
Airplane Operations	
Aircraft Rental	
Cessna (per hour)	195.00
King Air C90B (per hour)	935.00
King Air B200 (per hour)	1,200.00

DOT NON-BUDGETARY

XYD DOT MISCELLANEOUS REVENUE	
Outdoor Advertising Permit - New	
Permit (R299 Form) (per year)	950.00
New sign permit	
Outdoor Advertising - Permit Renewal &	
Admin Svcs Fee	90.00
Fee to renew outdoor advertising permit.	
Outdoor Advertising - Permit Renewal	
Late Fee (per Sign)	300.00
Fee charged when permit is not renewed by	
the renewal date.	
Outdoor Advertising - Sign	
Alteration Permit (R407 Form)	950.00
Outdoor Advertising - Transfer	
of Ownership Permit	250.00
Outdoor Advertising - Retroactive	
Permit Fee Penalty (per Sign)	250.00
Outdoor Advertising - Impound and	
Storage Fees	25.00

**DEPARTMENT OF
ADMINISTRATIVE SERVICES**

EXECUTIVE DIRECTOR

Government Records Access and Management Act	
Electronic copies, material cost (per DVD) ..	.40
Photocopies, black & white (per Copy) .....	.10
Photocopies, color (per Copy) .....	.25
Photocopy labor cost (per Utah	
Statute 63G-2-203(2))	
(per page)	Actual Cost
Certified copy of a document	
(per certification)	4.00
Long distance fax within US	
(per fax number)	2.00
Long distance fax outside US	
(per fax number)	5.00
Electronic Documents	
(per USB (GB))	Actual Cost
Mail within US (per address)	2.00
Mail outside US (per address)	5.00
Research or services	Actual cost
Extended research or service	Actual cost
Electronic Copies, Material	
cost (per CD) .....	.30
Electronic Documents,	
Film Cartridge	Actual cost
Parental Defense	
Parental Defense Fund - Parental	
Defense Conference Fee (per Person) ...	100.00

DFCM ADMINISTRATION

Program Management	
Non-state Funded Project Fees	
Projects <\$100K (per Project)	3.5%
Projects >= \$100K and <\$500K	
(per Project) ..	\$3500 + 1.5% over \$100,000
Projects >= \$500K and <\$2.5M	
(per Project) .	\$9500 + 0.75% over \$500,000
Projects >= \$2.5M and <\$10M	
(per Project) \$24,500 + 0.5% over \$2,500,000	
Projects >= \$10M and <\$50M	
(per Project)\$62,000 + .15% over \$10,000,000	
Projects >= \$50M	
(per Project)	\$122,000 + 0.1% over \$50,000,000

STATE ARCHIVES

Archives Administration	
Data Base Download (plus Work	
Setup Fee) (per Record) .....	.10
Preservation Services	
General	
16mm master film	13.00
Work Setup Fee (WSF)	25.00
Microfiche production fee per	
image plus (WSF) (per image) .....	.045
Photocopy made by patron (per copy) .....	.05
Newspaper filming per page plus	
(WSF) (per image) .....	.30
Digital Copies of Electronic Rolls of	
Microfilm plus medium cost	10.00
35mm master film	35.00
16mm diazo duplicate copy	12.00
35mm diazo duplicate copy	14.00

16mm silver duplicate copy	30.00
35mm silver duplicate copy	24.00
Frames filmed (Standard)	.05
Frames filmed (Custom)	.08
Books filmed (per Page)	.15
Electronic image to microfilm (per Reel)	45.00
Microfilm to CD/DVD/USB (per reel)	40.00
Microfilm Lab Processing Setup Fee	5.00
Microfilm to digital PDF conversion	5.00
Patron Services	
Copy - Paper to PDF (copier use by patron)	.10
Copy - Paper to PDF (copier use by staff)	.25
General	
Certified Copy of a Document	4.00
Use Charges	
Display	
Non-Commercial (Education, Museum, Cultural Institution)	At Cost
Commercial (Local, National)	10.00
Film/Video (Moving Image or Sound Recording)	
Non-Commercial (Education, Museum, Cultural Institution)	At Cost
Commercial	
Commercial (Shown in entirety)	75.00
Commercial (5 to 10 minutes)	50.00
Commercial (Less than 5 minutes)	25.00
Broadcast Theatrical Presentations and Websites	
Non-Commercial (Education, Museum, Cultural Institution)	At Cost
Commercial	
Commercial (National/Internet)	100.00
Commercial (Local/Internet)	75.00
Advertisements	
Commercial (Catalogs)	75.00
Commercial (National Newspapers and Magazines)	100.00
Commercial (Local Newspapers and Magazines)	75.00
Publications, Books, Pamphlets, Journals, CD and Video	
Commercial (50,000+)	75.00
Commercial (10,000 to 49,999)	35.00
Commercial (less than 10,000)	10.00
Non-Commercial (Education, Museum, Cultural Institutions)	At Cost
Published Posters, Calendars, Post Cards, Brochures	
Non-Commercial (Education, Museum, Cultural Institutions)	At Cost
Commercial (5,000+)	75.00
Commercial (1,000 to 4,999)	50.00
Commercial (less than 1,000)	25.00
Other	
Other - Resale	10.00
Other - Novelties	10.00
Local News Media (at cost)	At Cost
Photo Reproductions	
Digital Imaging 300 dpi or higher	10.00
Mailing and Fax Charges	
Within USA	
Mailing & Fax in USA - 1 to 10 Pages	3.00
Mailing & Fax in USA - Microfilm 1 to 2 Reels	4.00
Mailing & Fax in USA - Each additional Microfilm Reel	1.00

Mailing & Fax in USA - Photo 8x10	4.00
Mailing & Fax in USA - Video	5.00
Mailing & Fax in USA - CD/DVD/USB	4.00
Mailing & Fax in USA - Add Postage for each 10 pages	1.00
International	
Mailing & Fax International - 1 to 10 pages	5.00
Mailing & Fax International - Each additional 10 pages	1.00
Mailing & Fax International - Microfilm 1 to 2 Reels	6.00
Mailing & Fax International - Each additional Microfilm Reel	2.00
Mailing & Fax International - CD/DVD/ USB	6.00
Fax	
Mailing & Fax - International Fax Fee (plus copy charge)	5.00
Plus copy charge	
Mailing & Fax in USA - Long Distance Fax (plus copy charge)	2.00
Plus copy charge	
Mailing & Fax in USA - Local Fax (plus copy charge)	1.00
Plus copy charge	
Copy Charges	
Audio	
Copy Charges - Audio Recordings	10.00
Price excludes cost of medium	
Documents	
Copy Charges - 11 x 14 and 11 x 17 by staff, limit 50	.50
Copy Charges - 11 x 14 and 11 x 17 by patron	.25
8.5x11	
Copy - 8.5 x 11 by staff, limit 50	.25
Copy - 8.5 x 11 by patron	.10
Microfilm/Microfiche	
Digital	
Copy - Digital by staff, limit 25	1.00
Copy - Digital by patron	.15
Paper	
Copy Microfilm - Paper by staff, limit 25	1.00
Copy Microfilm - Paper by patron	.25
Video	
Copy Video - Video Recording (excludes cost of medium)	20.00
Price excludes cost of medium	
Other	
Microfilm Security Storage (per reel)	At Cost
Archivist Handling fee (per hr.)	28.00
Special Request	At Cost
Supplies	
Supplies - Pencil	.25
Supplies - USB Flash Drive (per gigabyte)	5.00
Supplies - CD (per disk)	2.50
Supplies - DVD (per disk)	4.00
Film cartridge	3.50
Electronic File on-line (per File)	2.50

FINANCE ADMINISTRATION

Finance Director's Office
Transparency

Utah Public Finance Website	
large data download	1.00
Revenue kept by Utah Interactive up to \$10,000. \$1 per download	
Payroll	
Duplicate W-2	5.00
SAP E-learn Services	90,000.00
Payables/Disbursing	
Disbursements	
Tax Garnishment Request	10.00
Payroll Garnishment Request	25.00
Collection Service	15.00
IRS Collection Service	25.00
Financial Reporting	
Loan Servicing	125.00
ISF Accounting Services	Actual cost
Cash Mgt Improvement Act Interest	
Calculation	Actual cost
Bond Accounting Services	Actual cost
Single Audit Billing to State	
Auditor's Office	Actual Cost
Financial Information Systems	
Credit Card Payments	Variable
Contract rebates	
Automated Payables (per Invoice Page)	.25
UDOT	Actual cost

STATE DEBT COLLECTION FUND

Office of State Debt Collection	
Collection Penalty	6.0%
Labor Commission Wage Claim Attorney Fees	
Labor Commission Wage Claims	Variable
10% of partial payments; 1/3 of claim or \$500, whichever is greater for full payments	
Collection Interest	Prime + 2%
Post Judgment Interest	Variable
Administrative Collection	18%
18% of amount collected (21.95% effective rate)	
Non sufficient Check Collection	20.00
Non sufficient Check Service Charge	20.00
Garnishment Request	Actual cost
Legal Document Service	Actual Cost
Greater of \$20 or Actual	
Credit card processing fee charged to collection vendors	1.75%
Court Filing, Deposition/Transcript	
/Skip Tracing	Actual cost

DEPARTMENT OF ADMINISTRATIVE SERVICES INTERNAL SERVICE FUNDS

DIVISION OF FINANCE

ISF - Purchasing Card	
Purchasing Card	Variable
Contract rebates	
ISF - Consolidated Budget and Accounting Basic Accounting and Transactions (per hour)	34.00
Financial Management (per hour)	60.00

DIVISION OF PURCHASING AND GENERAL SERVICES

ISF - Central Mailing	
Business Reply/Postage Due	.09
Special Handling/Labor (per hour)	50.00
Auto Fold	.01
Label Generate	.022
Label Apply	.019
Auto Tab	.016
Meter/Seal	.017
Federal Meter/Seal	.014
Optical Character Reader	.017
Mail Distribution (per Mail Piece)	.065
Accountable Mail	.18
Task Distribution Rate	.012
Intelligent Inserting	.025
ISF - Cooperative Contracting	
Cooperative Contracts	
Administrative	Up to 1.0%
ISF - Print Services	
Contract Management (per impression)	.005
Self Service Copy Rates	.004
Cost computed by: (Depreciation + Maintenance + Supplies)/Impressions + copy multiplied impressions results	
ISF - State Surplus Property	
Surplus	
Surcharge for use of a Financial Transaction Card	Up to 3%
Surcharge applies only to the amount charged to a financial transaction card	
Miscellaneous Property Pick-up Process	
State Agencies	
Total Sales Proceeds	See formula
Less prorated rebate of retained earnings	
Handheld Devices (PDAs and wireless phones)	
Less than 1 year old	75% of actual cost
\$30 minimum	
1 year and older	50% of cost - \$30 minimum
Unique Property	
Processing	Negotiated % of sales price
Electronic/Hazardous Waste	
Recycling	Actual cost
Vehicles and Heavy Equipment	6.5% of Net Sale
Price plus \$100 per Vehicle	
Default Auction Bids	10% of sales price
Labor (per hour)	26.00
Half hour minimum	
Copy Rates (per copy)	.10
Semi Truck and Trailer Service (per mile)	1.08
Two-ton Flat Bed Service (per mile)	.61
Forklift Service (per hour)	23.00
4-6000 lbs	
On-site sale away from Utah State Agency	
Surplus Property yard	7% of net sale price
Storage	
Building (per cubic foot per month)	.43
Fenced lot (per square foot per month)	.23
Accounts receivable late fees	
Past 30 days	5% of balance
Past 60 days	10% of balance
ISF - Federal Surplus Property	
Surplus	

Federal Shipping and handling charges	See formula
Not to exceed 20% of federal acquisition cost plus freight/shipping charges	
Accounts receivable late fees	
Past 30 days	5% of balance
Past 60 days	10% of balance

DIVISION OF FLEET OPERATIONS

ISF - Motor Pool	
Telematics GPS tracking	Actual cost
Commercial Equipment	
Rental	Cost plus \$12 Fee
Administrative Fee for Do-Not Replace Vehicles (per Month)	51.29
Service Fee (per 12)	\$12 Service Fee
General MP Info Research	
Fee (per 12)	\$12 Per Hour
Lost or damaged fuel/maint card replacement fee (per 2)	\$2 Fee
Vehicle Complaint Processing	
Fee (per 20)	\$20 Fee
Operator negligence and vehicle abuse fees (per 0)	
Varies (abuse or driver neglect cases only)	
Lease Rate	
Sedans (per month, per vehicle)	
Model Year 2013 contract price less 18% salvage value divided by current adjusted life cycle + admin fee + fleet MIS fee + AFV fee (if light duty) + mileage fee.)	
Select trucks, vans, SUVs (per month, per vehicle)	
Model Year 2013 contract price less 21% salvage value divided by current adjusted life cycle + admin fee + fleet MIS fee + AFV fee (if light duty) + mileage fee.	
All other vehicles (per month, per vehicle)	
Model Year 2013 contract price less 17% salvage value divided by current adjusted lifecycle + admin fee + fleet MIS fee + AFV fee (if light duty) + mileage fee.	
Mileage	
Maintenance and repair costs for a particular class of vehicle, divided by total miles for that class	
Fuel Pass-through	Actual cost
Equipment rate for Public	
Safety vehicles	Actual cost
Fees for agency owned vehicles	
Seasonal Mgt Information	
System and Alternative Fuel	
Vehicle only (per month)	10.90
Management Information System and Alternative Fuel Vehicle only (per month)	10.90
Management Information System only (per month)	2.72
Additional Management	
Daily Pool Rates - Actual Cost From	
Vendor Contract - Actual Cost	Actual Cost
Administrative Fee for Overhead	48.57
Alternative Fuel	3.63
Light duty only	
Management Information System (per month)	2.72

Vehicle Feature and Miscellaneous	
Equipment Upgrade	Actual cost
Vehicle Class Differential	
Upgrade	Actual cost
Bad Odometer Research	50.00
Operator fault	
Vehicle Detail Cleaning Service	40.00
Premium Fuel Use (per gallon)	.20
Excessive Maintenance, Accessory	
Fee	Variable
Accounts receivable late fee	
Past 30-days	5% of balance
Past 60-days	10% of balance
Past 90-days	15% of balance
Accident deductible rate charged (per accident)	500.00
Operator negligence and vehicle abuse	Variable
Higher Ed Mgt. Info Sys. & Alternative Fuel Vehicle Mo. (per vehicle)	6.33
Statutory Maintenance Non-Compliance	
10 days late (per vehicle per month)	100.00
20 days late (per vehicle per month)	200.00
30+ days late (per vehicle per month)	300.00
Seasonal Use Vehicle Lease	155.02
Operator Incentives	
Operator Incentives Alternative Fuel Rebate (per gallon)	.20
ISF - Fuel Network	
Charge (per gallon)	.065
greater than or equal to 60,000 gal./yr	
Charge at low volume sites (per gallon)	.065
less than 60,000 gal./yr.	
Percentage of transaction value	
at all sites	3.0%
Accounts receivable late fee	
Past 30 days	5% of balance
Past 60 days	10% of balance
Past 90 days	15% of balance
CNG Maintenance and	
Depreciation (per gallon)	1.15
ISF - Travel Office	
Travel	
Travel Agency Service	
Regular	25.00
Online	15.00
State Agent	20.00
Group	
16-25 people	22.50
26-45 people	20.00
46+ people	17.50
School District Agent	15.00

RISK MANAGEMENT

ISF - Risk Management Administration	
Liability Premiums	
Administrative Services	383,941.00
Agriculture	40,790.00
Alcoholic Beverage Control	84,962.00
Attorney General's Office	105,761.00
Auditor	11,862.00
Board of Pardons	14,368.00
Capitol Preservation Board	10,765.00
Career Service Review Board	589.00
Commerce	78,958.00

Commission on Criminal and Juvenile Justice	5,309.00
Heritage and Arts	32,572.00
Corrections	851,417.00
Courts	274,277.00
Utah Office for Victims of Crime	3,728.00
Education	269,815.00
Deaf and Blind School	85,203.00
Environmental Quality	98,924.00
Fair Park	17,815.00
Financial Institutions	15,744.00
Governor	26,529.00
Governor's Office of Planning and Budget	23,440.00
Governor's Office of Economic Development	77,197.00
Health	313,332.00
Heber Valley Railroad	3,916.00
House of Representatives	9,492.00
Human Resource Management	30,050.00
Human Services	721,793.00
Labor Commission	32,382.00
Insurance	147,484.00
Legislative Fiscal Analyst	9,134.00
Legislative Auditor	7,375.00
Legislative Printing	1,570.00
Legislative Research & General Counsel	17,586.00
Medical Education Council	
National Guard	88,223.00
Natural Resources	430,159.00
Public Lands	10,928.00
Public Safety	404,127.00
Public Service Commission	10,536.00
School and Institutional Trust Lands	24,042.00
Senate	5,821.00
Tax Commission	162,781.00
Technology Services	203,178.00
Treasurer	6,431.00
Utah Communications Network	9,208.00
Utah Science and Technology and Research	7,357.00
Veteran's Affairs	4,470.00
Workforce Services	353,873.00
Transportation	2,363,000.00
Board of Regents	64,004.00
Dixie State University	113,582.00
Salt Lake Community College	218,052.00
Snow College	92,821.00
Southern Utah University	130,380.00
Bridgerland Applied Technology College	25,401.00
Davis Applied Technology College	29,211.00
Ogden Weber Applied Technology College	29,611.00
Uintah Basin Applied Technology College	22,554.00
Tooele Applied Technology College	6,377.00
Dixie Applied Technology College	10,234.00
Mountainland Applied Technology College	15,496.00
Southwest Applied Technology College	8,605.00
University of Utah	1,312,166.00
Utah State University	453,948.00
Utah Valley University	429,647.00

Weber State University	272,542.00
School Districts	4,767,115.00
Property Insurance Rates	
Net Estimated Premium	16,085,506.00
Gross Premium for Buildings	
Existing Insured Buildings	
Existing Insured Buildings	
Building value as determined by Risk Mgt. & owner as of Mar 2014 multiplied by the Marshall & Swift Valuation Service rates as of Mar 2014 associated w/ Building Construction Class, Occupancy Type, Building Quality, & Fire Protection Code	
Newly Insured Buildings	
Newly Insured Buildings	
Building value as determined by Risk Mgt. & owner as of insured date multiplied by the Marshall & Swift Valuation Service rates as of Mar 2014 associated w/ Building Construction Class, Occupancy Type, Building Quality, & Fire Protection Code	
Building Demographic Discounts	
Fire Suppression	
Sprinklers	15% discount
Smoke alarm/Fire detectors	5% discount
Flexible water/Gas connectors	1% discount
Surcharges	
Lack of compliance with Risk Mgt. recommendations	10% surcharge
Building built prior to 1950	10% surcharge
Agency Discount1	63.5% discount
Agency Discount2	See formula
Agency specific discount negotiated w/ Risk Mgt	
Gross Premium for Contents	
Existing Insured Buildings	
Existing Insured Buildings	
Content value as determined by owner as of Mar 2014 multiplied by the Marshall & Swift Valuation Service rates as of Mar 2014 associated w/ Building Construction Class, Occupancy Type, Building Quality, & Fire Protection Code	
Newly Insured Buildings	
Newly Insured Buildings	
Content value as determined by owner as of insured date multiplied by the Marshall & Swift Valuation Service rates as of Mar 2014 associated w/ Building Construction Class, Occupancy Type, Building Quality, & Fire Protection Code	
Gross Premium Discounts	
Completion of Risk Mgt. self-inspection survey	10% discount
Risk control meetings	5% discount
Automobile/Physical Damage Premiums	
Public Safety rate for value less than \$35,000 (per vehicle)	175.00
Higher Education rate for value less than \$35,000 (per vehicle)	125.00
Other state agency rate for value less than \$35,000 (per vehicle)	150.00
School bus rate (per vehicle)	200.00

School district rate for value	
less than \$35,000 (per vehicle)	50.00
Rate for value more than	
\$35,000 (per \$100 of value)	.80
Other vehicles or related equipment	
State and Higher Education	
(per vehicle)	75.00
School District (per vehicle)	50.00
Standard deductible (per incident)	750.00
Workers Compensation Rates	
UDOT	1.41% per \$100 wages
State Agencies	0.88% (except UDOT)
Aviation (per PILOT-YEAR)	\$2,200
Course of Construction Premiums	
Rate per \$100 of value	.053
Charged for half of a year	
Charter Schools	
Liability (\$2 million coverage)	
Charter School Pre-opening Liability	
Coverage (per School)	1,000.00
\$1,000 minimum (per student)	10.00
Property (\$1,000 deductible per occurrence)	
Cost per \$100 in value, \$100 minimum	.10
Comprehensive/Collision (\$500 deductible per occurrence)	
Cost per year per vehicle	150.00
Employee Dishonesty Bond (per year)	250.00

**DIVISION OF FACILITIES
CONSTRUCTION AND MANAGEMENT -
FACILITIES MANAGEMENT**

Alcoholic Beverage Control	
Stores	1,286,145.00
Wasatch Courts	14,605.00
Chase Home	17,428.00
ICAP Building	12,469.00
Vernal DNR	80,394.00
Clearfield Warehouse C6 -	
Archives	167,010.00
Clearfield Warehouse C7	74,080.00
Cedar City A P & P	23,404.00
N UT Fire Dispatch Center	30,438.66
UCAT Admin	32,880.00
Veteran's Memorial Cemetery	24,464.00
Alcoholic Beverage Control	
Administration	599,961.00
Juab County Court	43,265.00
Agriculture	356,706.00
Adult Probation and Parole	
Freemont Office Building	192,375.00
Archives	120,765.00
Brigham City Court	169,400.00
Brigham City Regional Center	412,059.00
Calvin Rampton Complex	1,602,863.00
Cannon Health	960,515.00
Capitol Hill Complex	3,809,700.00
Cedar City Courts	103,520.00
Cedar City Regional Center	72,008.00
Department of Administrative Services	
Surplus Property	59,747.00
Department of Public Safety	
DPS Crime Lab	23,840.00
Drivers License	154,064.00
Farmington Public Safety	68,425.00
Division of Motor Vehicles Fairpark	43,437.00
Dixie Drivers License	50,300.00

Driver License West Valley	98,880.00
Division of Services for the Blind and Visually Impaired Training	
Housing	49,736.00
Farmington 2nd District Courts	537,465.00
Glendinning Fine Arts Center	45,000.00
Governor's Residence	152,156.00
Heber M. Wells	858,321.00
Highland Regional Center	391,766.00
Human Services	
Clearfield East	129,322.00
Ogden Academy Square	248,906.00
Vernal	60,225.00
DHS 7th West	124,594.00
Layton Court	80,896.00
Logan 1st District Court	379,267.00
Medical Drive Complex	331,230.00
Moab Regional Center	112,533.00
Murray Highway Patrol	141,738.00
National Guard Armories	390,721.00
Natural Resources	745,072.00
Natural Resources Price	75,968.00
Natural Resources Richfield (Forestry)	1,000.00
Navajo Trust Fund Administration	132,640.00
Office of Rehabilitation Services	204,156.00
Ogden Court	467,740.00
Ogden Juvenile Court	166,045.00
Ogden Regional Center	593,848.00
Orem Circuit Court	90,792.00
Orem Public Safety	105,640.00
Orem Region Three Department of Transportation	141,192.00
Provo Court	299,400.00
Provo Juvenile Courts	173,940.00
Provo Regional Center	664,011.00
Public Safety Depot Ogden	21,608.00
Richfield Court	82,289.00
Richfield Dept. of Technology Services Center	49,050.00
Richfield Regional Center	50,385.00
Rio Grande Depot	397,565.00
Salt Lake Court	1,868,160.00
Salt Lake Government Building #1	972,934.00
Salt Lake Regional Center - 1950 West	215,571.00
St. George Courts	465,353.00
St. George DPS	59,517.00
St. George Tax Commission	64,224.00
State Library	183,714.00
State Library State Mail	156,261.00
State Library visually impaired	124,027.00
Taylorsville Center for the Deaf	108,000.00
Taylorsville Office Building	185,250.00
Tooele Courts	311,351.00
Unified Lab	789,863.00
Utah Arts Collection	26,900.00
Utah State Office of Education	410,669.00
Utah State Tax Commission	928,200.00
Vernal 8th District Court	248,649.00
Vernal Division of Services for People with Disabilities	31,330.00
Vernal Juvenile Courts	20,256.00
Vernal Regional Center	43,493.00
West Jordan Courts	487,796.00
West Valley 3rd District Court	118,350.00
Work Force Services 1385 South State	292,390.00

Administration	633,591.00
Brigham City	34,308.00
Call Center	200,317.00
Cedar City	78,461.00
Clearfield/Davis Co.	180,633.00
Logan	110,088.00
Metro Employment Center	221,449.00
Midvale	135,640.00
Ogden	153,748.00
Provo	127,680.00
Richfield	58,072.00
South County Employment Center	176,196.00
St. George	66,452.00
Vernal	56,152.00
Ogden Division of Motor Vehicles and Drivers License	71,964.00
Ogden Radio Shop	12,782.00

**DEPARTMENT OF
TECHNOLOGY SERVICES**

INTEGRATED TECHNOLOGY DIVISION

Automated Geographic Reference Center AGRC	
Regular Plots (per linear foot)	6.00
GIT Professional Labor (per hour)	73.00
Utah Reference Network GPS Service Rate (per year)	600.00

**DEPARTMENT OF TECHNOLOGY
SERVICES INTERNAL SERVICE FUNDS**

AGENCY SERVICES

ISF - Agency Services Division	
Contract Labor	Actual Cost
Software and Equipment	Actual Cost

ENTERPRISE TECHNOLOGY DIVISION

ISF - Enterprise Technology Division	
Network Services	
Network Services (per device/month)	45.74
Network Services (other State agencies) (per device/month)	49.30
Wiring Design and Consulting Labor (per Hour)	91.71
Miscellaneous Data	
Circuits	Direct cost + 10%
Security & MDM (per device/month)	17.16
MDM Other State Agencies (per device/month)	8.29
Security Assessment (per Tier)	Table
Server Count: 0-4 \$9,500 5-34 \$19,000 35-85 \$38,000 >85 \$76,000	
Desktop Services	
Desktop Services (per device/month)	65.08
VDI/Vapp (Formerly Shared Citrix Services) ..	
Special Billing Agreement	
Hosted Email/Email Encryption (per month)	6.10
Telecommunications	
Phone Tech Labor (per hour)	73.08

Voice Monthly Service (URATE) (per dial tone/month)	29.86
Other Voice Services	Direct cost + 8%
Voice Mail (per mailbox/month)	2.14
Call Management System	SBA
Special Billing Agreement	
Long Distance Service (per minute) .....	.043
International Long Distance . Direct cost + 10%	
1-800 Service per Minute (per minute) .....	.03
Print	
High Speed Laser Printing (per image) ...	.0297
Other Print Services	Direct cost + 10%
Hosting Cloud Services	
Hosting Services - Processing (per CPU Core/month)	80.10
Hosting Services - System Administration (per OS/month)	398.67
Hosting Services - Storage (per GB/month) .....	.2233
Low Cost Storage NAS (per GB/month) ....	.10
Hosting Services - Storage Encryption (per GB/month) .....	.3089
Data Center Rack Space (per month) ...	482.11
Web Application Hosting (per instance/month)	41.64
Mainframe Computing	
Mainframe Charges	SBA
Special Billing Agreement	
Mainframe Consulting Charge (per hour)	77.87
Mainframe Disk (per MB/month) .....	.0062
Mainframe Tape (per MB/month) .....	.0008
Database Services	
Database Consulting (per hour)	77.87
Database Oracle Core Model (Min. 2 Cores) (per core)	2,115.72
Database Oracle Shared Model (per GB/month)	64.34
Database MS Sequel Core Model (Min. 2 Cores) (per core)	1,141.59
Database MS Sequel Shared Model (per GB/month)	33.84
Application Services	
Application Support/Project Management (per hour)	77.87
Application Consulting Services	SBA
Special Billing Agreement	
Miscellaneous	
Equipment Maintenance Costs (EIS)	Direct cost + 10%
Software Resale (MLA)	Direct cost + 6%
DTS Consulting Charge (per hour)	77.87
Wireless Services	
Microwave Maintenance Labor (per hour)	Direct cost
Radio Repair Labor (per hour)	Direct cost
Install Bay Labor (per hour)	Direct cost
Contract Maintenance Console (per ch/position)	Direct cost
Parts	Direct cost
State Radio Connection (per radio/month)	Direct cost
Communication Sites	Direct cost
Special Billing Agreement	
Microwave Services	
Tier 1/DS 1 (per mile)	Direct Cost
Ethernet Circuit	Direct Cost

Special Billing Agreement	
Tail Circuits	Direct Cost
Voice Grade DSO Card (per card)	Direct Cost
DSO / Four Wire Analog (per mile)	Direct Cost
Data Grade DSO Card (per card)	Direct Cost
Circuit Installation (per install)	Direct Cost

**BUSINESS, ECONOMIC
DEVELOPMENT, AND LABOR**

DEPARTMENT OF HERITAGE AND ARTS

ADMINISTRATION

Information Technology	
Preservation Pro (per unit 1-20, depending on usage)	50.00
Community Grants App on SalesForce APP Exchange (per user)	240.00
Community Grants App on SalesForce APPEXchange NFP (per user)	144.00
Community Grants Installation One-Time Fee (per installation)	500.00
Administrative Services	
Government Records Access and Management Act Photocopies (per page)	.25
GRAMA fees apply for the entire Department of Heritage and Arts	
Department Merchandise	
General Merchandise - Level 1	5.00
Fee entitled "General Merchandise" applies for the entire Department of Heritage and Arts.	
General Merchandise - Level 2	10.00
Fee entitled "General Merchandise" applies for the entire Department of Heritage and Arts.	
General Merchandise - Level 3	15.00
Fee entitled "General Merchandise" applies for the entire Department of Heritage and Arts.	
General Merchandise - Level 4	20.00
Fee entitled "General Merchandise" applies for the entire Department of Heritage and Arts.	
General Merchandise - Level 5	50.00
Fee entitled "General Merchandise" applies for the entire Department of Heritage and Arts.	
Utah Multicultural Affairs Office	
Cultural Competency Training Fee	300.00
Exhibitor Fee	50.00
Commission on Service and Volunteerism	
Conference on Service - Regional	50.00
Volunteer Management Training	125.00

HISTORICAL SOCIETY

State Historical Society	
Utah Historical Society Annual Membership	
Student/Senior	25.00
Individual	30.00
Business/Sustaining	40.00
Patron	60.00

Sponsor	100.00
Lifetime	500.00
Utah Historical Quarterly (per issue)	7.00
Publication Royalties	1.00

STATE HISTORY

Library and Collections	
B/W Historic Photo	
4x5 B/W Historic Photo	7.00
5x7 B/W Historic Photo	10.00
8x10 B/W Historic Photo	15.00
11x14 B/W Historic Photo	25.00
16x20 B/W Historic Photo	35.00
20x24 B/W Historic Photo	55.00
Sepia Historic Photo	
4x5 Sepia Historic Photo	12.00
5x7 Sepia Historic Photo	16.00
8x10 Sepia Historic Photo	25.00
11x14 Sepia Historic Photo	40.00
16x20 Sepia Historic Photo	60.00
20x24 Sepia Historic Photo	70.00
Self Serve Photo	.50
Digital Image 300 dpl>	10.00
Expedited Photo Processing	2.00
Historic Collection Use	10.00
Research Center	
Self Copy 8.5x11	.10
Self Copy 11x17	.25
Staff Copy 8.5x11	.25
Staff Copy 11x17	.50
Microfilm Self-Copy (per page)	.25
Microfilm Staff Copy (per page)	1.00
Audio Recording (per item)	4.00
Video Recording (per item)	20.00
Diazo print	
16 mm diazo print (per roll)	10.00
35 mm diazo print (per roll)	12.00
Silver print	
16 mm silver print (per roll)	18.00
35 mm silver print (per roll)	20.00
Microfilm Digitization	40.00
Digital Format Conversion	5.00
Surplus Photo	1.00
Mailing Charges	1.00
Fax Request	1.00
Historic Preservation and Antiquities	
Literature Search/On-site self service - minimum charge up to 1/2 hour (per incident)	22.50
Literature Search - On site-self serve w/o appointment (per hour)	65.00
Literature Search - On site-self serve w/o appointment (per half hour-min fee)	40.00
Minimum charge	
Site forms and reports - Staff scanned (per Page)	1.00
Site forms and reports - Self Serve Scan (per page)	.05
Literature Search - Staff Performed (per hour)	90.00
Literature Search - Staff Performed - 1/2 hour minimum charge (per half hour min)	50.00
Literature Search - On-site self-serve (per hour)	45.00

GIS Search/On-site self service - minimum charge up to 15 min (per incident)	15.00
GIS Search/on-site self-serve (per hour) . . .	60.00
Literature Search/GIS -no show fee (per incident)	60.00
Literature Search copy charge (per page) . . . .	.20
Literature Search fax charge (per page)	1.00

DIVISION OF ARTS AND MUSEUMS

Community Arts Outreach	
Community Outreach	
Traveling Exhibit Fees	125.00
MWAC Change Leader Registration	75.00
Salt Grass Prints	100.00
Traveling Exhibit Fees Title I Schools . .	100.00
Visual Arts Workshops	50.00
Art-O-Mat	5.00
Mountain West Arts Conference Registration	
MWAC Early Registration (per applicant)	80.00
MWAC Regular Registration (per applicant)	95.00
MWAC Late Registration (per applicant)	100.00
MWAC Group Discount Early Registration (per applicant)	70.00
MWAC Group Discount Regular Registration (per applicant)	85.00
MWAC Group Discount Late Registration (per applicant)	90.00
MWAC Governor's Leadership in the Arts Luncheon	55.00
MWAC Governor's Leadership in the Arts Luncheon Late Registrant . .	60.00
MWAC Student Registration	65.00
MWAC Student Registration Late	75.00
Mountain West Arts Conference Sponsorship and Merchandise	
MWAC Sponsorship Level 1	350.00
MWAC Sponsorship Level 2	500.00
MWAC Sponsorship Level 3	650.00
MWAC Sponsorship Level 4	1,000.00
MWAC Sponsorship Level 5	2,500.00
MWAC Sponsorship Level 6	5,000.00
MWAC Sponsorship Level 7	10,000.00
Community/State Partnership Change Leader Registration	
Change Leader Registration Level 1	100.00
Change Leader Registration Level 2	200.00
Change Leader Registration Level 3	300.00
Change Leader Registration Level 4	400.00
Change Leader Certification Luncheon . .	30.00
Change Leader Certification Conference	40.00
Community/State Partnership Workshop Registration	25.00
Folk Art Dance Preservation Package - Retail	10.00

STATE LIBRARY

Blind and Disabled	
Lost Library Book Charge	1.00
Basic Braille Services to States	80.00
Full Library Service to Wyoming	1.00

Braille and Audio Service to LDS Church . . .	2.25
Library of Congress Contract (MSCW)	1.00
Library Development	
Bookmobile Services	1.00
Library Resources	
Cataloging Services	1.00
Catalog Express Utilization . . . . .	.50
Catalog Express Overage	1.00

INDIAN AFFAIRS

Native American Summit Participation	
Fee	25.00
Native American Summit Vendor/Display	
Table Fee	50.00

GOVERNOR'S OFFICE OF ECONOMIC DEVELOPMENT

ADMINISTRATION

Health Exchange Call Center	2.50
Avenue H Technology Provider	
Renewal 2	14.00

OFFICE OF TOURISM

Operations and Fulfillment	
Calendars - Individual Sales	10.00
T-shirts Individual	10.00
Posters	2.99
Posters - Framed	55.00
Commissions - UDOT	108,500.00
Calendars	
Envelopes . . . . .	.50
Bulk	8.00
Bulk State Agencies	6.00
Employees	5.00

These fees may apply to one or more programs within the Office of Tourism Line Item.

BUSINESS DEVELOPMENT

Corporate Recruitment and Business Services	
Market Tax Credit Fee	100,000.00
Annual fee to certify a proposed equity investment or long-term debt security as a qualified equity investment.	
Private Activity Bond Application	
Original	
Under \$3 million	1,500.00
\$3-\$5 million	2,000.00
Over \$5 million	3,000.00
Resubmission	
Under \$3 million	750.00
\$3-\$5 million	1,000.00
Over \$5 million	1,500.00
Private Activity Bond Extension	
Second 90 Day Extension	2,000.00
Third 90 Day Extension	4,000.00
Fourth 90 Day Extension	8,000.00
Private Activity Bond	
Confirmation (per million of allocated volume cap)	300.00

**PETE SUAZO UTAH
ATHLETICS COMMISSION**

Boxing Events	
<500 Seats	500.00
500 - 1,000 Seats	500.00
1,000 - 3,000 Seats	750.00
3,000 - 5,000 seats	1,500.00
5,000 - 10,000 Seats	1,500.00
10,000+ Seats	1,500.00
Conference Registration for Event	
Application	100.00
Unarmed Combat Event	
<500 Seats	500.00
500 - 1,000 Seats	500.00
1,000 - 3,000 Seats	750.00
3,000 - 5,000 seats	1,500.00
5,000 - 10,000 Seats	1,500.00
10,000+ Seats	1,500.00
Contest Promoters License	250.00
Non-Contest Promoters License	30.00
All other Unarmed Combat Licenses: Amateur License, Professional License, Second License, Timekeeper License	
Broadcast Revenue	3,000.00
3% of the first \$500,000 and 1% of the next \$1,000,000 of the total gross receipts from the sale, lease or other exploitation of internet, broadcasting, television, and motion picture rights for any contest or exhibition thereof without any deductions for commissions, brokerage fees, distribution fees, advertising, contestants' purses or charges, except in no case shall the fee be more than \$25,000, nor less than \$100.	
Additional Inspector	100.00
Non-Contest Promoters License	50.00
All other Unarmed Combat Licenses: Judge License, Referee License, Matchmaker License, Contestant Manager License	
Non-Contest Promoters License	10.00
All other Unarmed Combat Licenses: Drug Tests, Fight Fax, Contestant ID Badge	

UTAH STATE TAX COMMISSION

TAX ADMINISTRATION

Administration Division	
Administration	
Liquor Profit Distribution	6.00
All Divisions	
Certified Document	5.00
Faxed Document Processing (per page)	1.00
Record Research	6.50
Photocopies, over 10 copies (per page) ....	.10
Research, special requests (per hour) ...	20.00
Technology Management	
Administration	
All Divisions	
Custom Programming (per hour)	85.00
Tax Processing Division	
Administration	
All Divisions	
Convenience Fee	Not to exceed 3%

Convenience fee for tax payments and other authorized transactions	
Tax Payer Services	
Administration	
Lien Subordination	Not to exceed 300.00
Tax Clearance	50.00
Motor Vehicles	
Administration	
Sample License Plates	5.00
Aeronautics	
Aircraft Registration	3.00
Administration	
All Divisions	
Data Processing Set-Up	55.00
Parks and Recreation	
Parks & Recreation Decal Replacement ...	4.00
Motor Vehicle	
Motor Vehicle Information	3.00
Motor Vehicle Information Via Internet ...	1.00
Motor Vehicle Transaction (per standard unit)	1.49
Plate Mailing Charge	
Plate Mailing Charge (per Plate Set) ...	4.00
Motor Carrier	
Cab Card	3.00
Duplicate Registration	3.00
Temporary Permit	
Individual permit	6.00
Electronic Payment	
Authorized Motor Vehicle Registrations	Not to exceed 3.00
License Plates	
Reflectorized Plate	5.00
Special Group Plate Programs	
Inventory ordered before July 1, 2003	
Extra Plate Costs	5.50
Plus \$5 standard plate fee	
New Programs or inventory reorders after July 1, 2003	
Start-up or significant program changes (per program)	3,900.00
Extra Plate Costs (per decal set ordered)	3.50
Plus \$5 standard plate fee	
Extra Handling Cost (per decal set ordered)	2.40
Special Group Logo Decals	Variable
Special Group Slogan Decals	Variable
Motor and Special Fuel	
International Fuel Tax Administration	
Decal (per set)	4.00
Reinstatement	100.00
Motor Vehicle Enforcement Division	
MV Business Regulation	
Dismantler's Retitling Inspection	50.00
Salvage Vehicle Inspection	50.00
Electronic Payment	
Temporary Permit Books (per book)	Not to exceed 4.00
Dealer Permit Penalties (per penalty)	Not to exceed 1.00
Salvage Buyer's License (per license)	Not to exceed 3.00
Licenses	
Motor Vehicle Manufacturer License	102.00

Motor Vehicle Remanufacturer	
License	102.00
New Motor Vehicle Dealer	127.00
Transporter	51.00
Body Shop	112.00
Used Motor Vehicle Dealer	127.00
Dismantler	102.00
Salesperson	31.00
Salesperson's License Transfer or Reissue	5.00
Crusher	102.00
Used Motor Cycle, Off-highway Vehicle, and Small Trailer Dealer	51.00
New Motor Cycle Off-Highway Vehicle and Small Trailer Dealer	51.00
Representative	26.00
Distributor or Factory Branch and Distributor Branch's	61.00
Additional place of business	
Temporary	26.00
Permanent	127.00
License Plates	
Purchase	
Manufacturer	10.00
Dealer	12.00
Dismantler	10.00
Transporter	10.00
Renewal	
Manufacturer	8.50
Dealer	10.50
Dismantler	8.50
Transporter	8.50
Temporary Permit	Not to exceed 12.00
Sold to dealers in bulk, not to exceed approved fee amount	
Temporary Sports Event Registration Certificate	Not to exceed 12.00
In-transit Permit	2.50

LICENSE PLATES PRODUCTION

License Plates Production	
Decal Replacement	1.00
Reflectorized Plate	5.00

UTAH SCIENCE TECHNOLOGY AND RESEARCH GOVERNING AUTHORITY

TECHNOLOGY OUTREACH AND INNOVATION

Salt Lake SBIR-STTR Resource Center	
Administrative	
Search	75.00
Seminar: Outside speakers - all day event	225.00
Seminar: Outside speakers - all day event; early bird	150.00
Seminar: Outside speaker all day event; search client	100.00
4-8 hour seminar/workshop: non-client	50.00
4-8 hour seminar/workshop: client	25.00
2-4 hour seminar/workshop	25.00
1 hour seminar/workshop	

DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

DABC OPERATIONS

Executive Director	
Customized Reports Produced by	
Request (per hour)	50.00
Administration	
Photocopies	.15
Returned Check Fee	20.00
Application to Relocate Alcoholic Beverages	
Due to Change or Residence	20.00
Research (per hour)	30.00
Video/DVD	25.00
Price Lists	
Master Category	8.00
\$96 Yearly	
Alpha by Product	8.00
\$96 Yearly	
Numeric by Code	8.00
\$96 Yearly	
Military	8.00
\$96 Yearly	

LABOR COMMISSION

Administration	
Industrial Accidents Division	
Workers Compensation	
Coverage Waiver	50.00
Seminar Fee (alternate years) (per registrant)	Not to exceed 500.00
Premium Assessment	
Workplace Safety Fund (per premium)	0.25%
Employers Reinsurance Fund (per premium)	3.00%
Uninsured Employers Fund (per premium)	0.35%
Industrial Accidents Restricted Account (per premium)	0.50%
Certificate to Self-Insured	
New Self-Insured Certificate	1,200.00
Self Insured Certificate Renewal	650.00
Boiler, Elevator and Coal Mine Safety Division	
Boiler and Pressure Vessel Inspections	
Owner	
User Inspection Agency Certification	250.00
Certificate of Competency	
Original Exam	25.00
Renewal	20.00
Jacketed Kettles and Hot Water Supply	
Consultation	
Witness special inspection (per hour)	60.00
Boilers	
Existing	
<250,000 BTU	30.00
> 250,000 BTU but <4,000,000 BTU	60.00
> 4,000,001 BTU but <20,000,000 BTU	150.00
> 20,000,000 BTU	300.00
New	

> 250,000 BTU but <4,000,000 BTU	90.00
<250,000 BTU	45.00
> 4,000,001 BTU but <20,000,000 BTU	225.00
> 20,000,000 BTU	450.00
Pressure Vessel	
Existing	30.00
New	45.00
Pressure Vessel Inspection by Owner-user	
25 or less on single statement (per vessel)	5.00
26 through 100 on single statement (per statement)	100.00
101 through 500 on single statement (per statement)	200.00
over 500 on single statement (per statement)	400.00
Elevator Inspections Existing Elevators	
Hydraulic	85.00
Electric	85.00
Handicapped	85.00
Other Elevators	85.00
Elevator Inspections New Elevators	
Hydraulic	300.00
Electric	700.00
Handicapped	200.00
Other Elevators	200.00
Consultation and Review (per hour)	60.00
Escalators/Moving Walks	700.00
Remodeled Electric	500.00
Roped Hydraulic	500.00
Coal Mine Certification	
Mine Foreman	50.00
Temporary Mine Foreman	35.00
Fire Boss	50.00
Surface Foreman	50.00
Temporary Surface Foreman	35.00
Hoistman	50.00
Electrician	
Underground	50.00
Surface	50.00
Certification Retest	
Per section	20.00
Maximum fee charge	50.00
Hydrocarbon Mine Certifications	
Hoistman	50.00
Certification Retest	
Per section	20.00
Maximum fee charge	50.00
Gilsonite	
Mine Examiner	50.00
Shot Firer	50.00
Mine Foreman	
Certificate	50.00
Temporary	35.00
Photocopies, Search, Printing	
Black and White no special handling .....	.25
Research, redacting, unstapling, restapling (per hour)	15.00
More than 1 hour (per hour)	20.00
Color Printing (per page) .....	.50
Certified Copies (per certification)	2.00
Plus search fees if applicable	
Electronic documents CD or DVD	2.00
Fax, plus telephone costs .....	.50

DEPARTMENT OF COMMERCE

COMMERCE GENERAL REGULATION

Administration	
Commerce Department	
All Divisions	
Booklets	Variable
Priority Processing	75.00
List of Licensees/Business Entities	25.00
Photocopies (per copy) .....	.30
Verification of Licensure/Custodian of Record	20.00
Returned Check Charge	20.00
FBI Fingerprint File Search	20.00
BCI Fingerprint File Search	20.00
Fingerprint Processing for non- department	10.00
Government Records and Management Act Requested Information Booklet	10.00
Duplication Charge CD	12.00
Government Records and Management Act record	
Administration	
Motor Vehicle Franchise Act	
Application	83.00
Renewal	83.00
Powersport Vehicle Franchise Act	
Application	83.00
Renewal	83.00
Application in addition to MVFA	27.00
Renewal in addition to MVFA	27.00
Administration Late Renewal	20.00
Employer Legal Status Voluntary Certification (Bi-annual)	3.00
Property Rights Ombudsman	
Filing Request for Advisory Opinion	150.00
Land Use Seminar Continuing Education	25.00
Books	
Citizens Guide to Land Use	
Single copy	15.00
Six or more copies	9.00
Case of 22 books	132.00
Administration	
Home Owner Associations	
HOA Registration	37.00
Change in HOA Registration	10.00
Occupational and Professional Licensing	
Acupuncturist	
New Application Filing	110.00
Dentist Educator	
New Application	110.00
New Application Filing	
Renewal	63.00
Electrician	
Apprentice Electrician tracking per credit hour .....	.24
Massage	
Apprentice Renewal	20.00
Plumber	
Plumber CE Course approval	40.00
Plumber CE Course Attendee Tracking / per hour	1.00

Apprentice Plumber CE attendance tracking/ per hour . . . . .	.24	Chiropractic Physician	
Substance Use Disorder Counselor (Licensed)		New Application Filing	200.00
Licensed Advanced New Application	85.00	License Renewal	103.00
Licensed Advanced Renewal	78.00	Contractor	
Substance Use Disorder Counselor (Certified)		New Application Filing-Primary	
Certified Advanced Counselor	70.00	Classification	210.00
Certified Advanced Counselor Intern	70.00	License Renewals	113.00
Pharmacy		New Application Filing-Secondary	
Dispensing Medical Practitioner		Classification	110.00
New Application Filing	110.00	Change Qualifier	50.00
Dispensing Medical Practitioner		Corporation Conversion	35.00
License Renewal	63.00	Continuing Education Course	
Dispensing Medical Practitioner		Approval	40.00
Clinic Pharmacy New Application	200.00	Continuing Education (per credit	
Dispensing Medical Practitioner		hour tracking)	1.00
Clinic Pharmacy License Renewal	103.00	Controlled Substance	
Pharmacy Technician Trainee	50.00	New Application Filing	100.00
Music Therapy		License Renewal	78.00
Certified Music Therapist New		Controlled Substance Handler	
Application	70.00	Facility New Application Filing	90.00
Certified Music Therapist Application		Facility License Renewal	68.00
Renewal	47.00	Individual New Application Filing	90.00
Physical Therapy		Individual License Renewal	68.00
Dry Needle Registration	50.00	Controlled Substance Precursor	
Acupuncturist		Distributor New Application Filing	210.00
License Renewal	63.00	License Renewal	113.00
Alarm Company		Cosmetologist/Barber	
Company Application Filing	330.00	New Application Filing	60.00
Company License Renewal	203.00	License Renewal	52.00
Agent Application Filing	60.00	Instructor Certificate	60.00
Agent License Renewal	42.00	School New Application Filing	110.00
Agent Temporary Permit	20.00	School License Renewal	110.00
Architect		Barber New Application	60.00
New Application Filing	110.00	School License Renewal	52.00
License Renewals	63.00	Barber Instructor Certificate	60.00
Education and Enforcement Surcharge	10.00	Deception Detection	
Armored Car		Examiner New Application Filing	50.00
Registration	330.00	Examiner License Renewal	32.00
Renewal	203.00	Intern New Application Filing	35.00
Security Officer Registration	60.00	Intern License Renewal	32.00
Security Officer Renewal	42.00	Dentist	
Education Approval	300.00	New Application Filing	110.00
Education Renewal	103.00	License Renewals	63.00
Athletic Agents		Anesthesia Upgrade New Application	60.00
New Application Filing	510.00	Dental Hygienist	
License Renewal	510.00	New Application Filing	60.00
Athletic Trainer		License Renewal	37.00
New Application Filing	70.00	Anesthesia Upgrade New Application	35.00
License Renewal	47.00	Direct Entry Midwife	
Building Inspector		New Application Filing	100.00
New Application Filing	85.00	License Renewal	63.00
License Renewal	63.00	Electrician	
Certified Court Reporter		New Application Filing	110.00
New Application Filing	45.00	License Renewal	63.00
License Renewal	42.00	Continuing Education Course	
Certified Dietician		Approval	40.00
New Application Filing	60.00	Continuing Education (per credit	
License Renewals	37.00	hour tracking)	1.00
Certified Nurse Midwife		Electrologist	
New Application Filing	100.00	New Application Filing	50.00
License Renewal	63.00	License Renewals	32.00
Intern-New Application Filing	35.00	Instructor Certificate	60.00
Certified Public Accountant		School New Application Filing	110.00
Individual CPA Application Filing	85.00	School License Renewal	110.00
Individual License/Certificate Renewal	63.00	Elevator Mechanic	
CPA Firm Application for Registration	90.00	New Application Filing	110.00
CPA Firm Registration Renewal	52.00	License Renewal	63.00
		Continuing Education Course Approval	40.00

Continuing Education (per credit hour tracking)	1.00
Engineer, Professional	
New Application Filing	110.00
Engineer License Renewal	63.00
Structural Engineer New	
Application Filing	110.00
Structural Engineer License Renewal	63.00
Engineer	
Education and Enforcement Surcharge ..	10.00
Environmental Health Scientist	
New Application Filing	60.00
License Renewal	37.00
New Application Filing	60.00
In training	
Esthetician	
New Application Filing	60.00
License Renewals	52.00
Instructor Certificate	60.00
Master Esthetician New Application	
Filing	85.00
Master Esthetician License Renewal	68.00
School New Application Filing	110.00
School License Renewal	110.00
Factory Built Housing	
Dealer New Application Filing	30.00
Dealer License Renewal	30.00
On-site Plant Inspection (per hour)	\$50 per hour plus expenses
Factory Built Housing Education and Enforcement	75.00
Funeral Services	
Director New Application Filing	160.00
Director License Renewal	88.00
Intern New Application Filing	85.00
Establishment New Application	
Filing	250.00
Establishment License Renewal	250.00
Genetic Counselor	
New Application Filing	150.00
License Renewal	138.00
Geologist	
New Application Filing	150.00
License Renewal	123.00
Education and Enforcement Fund	15.00
Handyman Affirmation	
Handyman Exemption Registration/Renewal	35.00
Health Facility Administrator	
New Application Filing	120.00
License Renewals	83.00
Hearing Instrument Specialist	
New Application Filing	150.00
License Renewal	103.00
Intern New Application Filing	35.00
Hunting Guide	
New Application Filing	75.00
License Renewal	50.00
Landscape Architect	
New Application Filing	110.00
License Renewal	63.00
Examination Record	30.00
Education and Enforcement Fund	10.00
Land Surveyor	
New Application Filing	110.00
License Renewals	63.00
Education and Enforcement Surcharge ..	10.00
Marriage and Family Therapist	

Therapist New Application Filing	120.00
Therapist License Renewal	93.00
Associate New Application Filing	85.00
Externship New Application Filing	85.00
Massage	
Therapist New Application Filing	60.00
Therapist License Renewal	52.00
Apprentice New Application Filing	35.00
Medical Language Interpreter	
New Application Filing	50.00
Interpreter Renewal	25.00
Nail Technician	
New Application Filing	60.00
License Renewal	52.00
Instructor Certificate	60.00
School New Application Filing	110.00
School License Renewal	110.00
Naturopathic Physician	
New Application Filing	200.00
License Renewals	103.00
Nursing	
Licensed Practical Nurse New	
Application Filing	60.00
Licensed Practical Nurse License	
Renewal	58.00
Registered Nurse New Application	
Filing	60.00
Registered Nurse License Renewal	58.00
Advanced Practice RN New	
Application Filing	100.00
Advanced Practice RN License	
Renewal	68.00
Advanced Practice RN-Intern New	
Application Filing	35.00
Certified Nurse Anesthetist New	
Application Filing	100.00
Certified Nurse Anesthetist	
License Renewal	68.00
Educational Program Approval-Initial Visit	500.00
Educational Program Approval-Follow-up	250.00
Medication Aide Certified New	
Application Filing	50.00
Medication Aide Certified License	
Renewal	42.00
Occupational Therapist	
Occupational Therapist New	
Application Filing	70.00
Occupational Therapist License	
Renewal	47.00
Occupational Therapist Assistant	
New Application Filing	70.00
Occupational Therapist Assistants	
License Renewal	47.00
Online Contract Pharmacy	
New Application	200.00
Renewal	103.00
Online Internet Facilitator	
New Application	7,000.00
Renewal	7,000.00
Optometrist	
New Application Filing	140.00
License Renewal	93.00
Osteopathic Physician Online Prescriber	
New Application	200.00
License Renewal	183.00
Outfitter	

New License Filing	150.00	Radiology Practical Technologist	
Renewal License	50.00	New Application Filing	70.00
Osteopathic Physician and Surgeon		Radiology Practical Technologist	
New Application Filing	200.00	License Renewal	47.00
License Renewals	183.00	Recreation Therapy	
Pharmacy		Master Therapeutic Recreational	
Pharmacist New Application Filing	110.00	Specialist New Application Filing	70.00
Pharmacist License Renewal	63.00	Master Therapeutic Recreational	
Pharmacy Intern New Application		Specialist License Renewal	47.00
Filing	100.00	Therapeutic Recreational Specialist	
Pharmacy Technician New		New Application Filing	70.00
Application Filing	60.00	Therapeutic Recreational Specialist	
Pharmacy Technician License		License Renewal	47.00
Renewal	47.00	Therapeutic Recreational Technical	
Class A New Application Filing	200.00	New License Application	70.00
Class A License Renewal	103.00	Therapeutic Recreational Technician	
Class B New Application	200.00	License Renewal	47.00
Class B License Renewal	103.00	Residence Lien Recovery Fund	
Class C New Application	200.00	Initial Assessment	195.00
Class C License Renewal	103.00	Registration Processing	
Class D New Application	200.00	Fee-Voluntary Registrants	25.00
Class D License Renewal	103.00	Post-claim Laborer Assessment	20.00
Class E New Application	200.00	Beneficiary Claim	120.00
Class E License Renewal	103.00	Laborer Beneficiary Claim	15.00
Physical Therapy		Reinstatement of Lapsed Registration ..	50.00
New Application Filing	70.00	Late	20.00
License Renewal	47.00	Certificate of Compliance	30.00
Physical Therapy Assistant		Respiratory Care Practitioner	
New Application Filing	60.00	New Application Filing	60.00
License Renewal	47.00	License Renewal	52.00
Physician/Surgeon		Security Services	
New Application Filing	200.00	Contract Security Company Application	
License Renewal	183.00	Filing	330.00
Physician Assistant		Contract Security Company Renewal ..	203.00
New Application Filing	180.00	Replace/Change Qualifier	50.00
License Renewals	123.00	Education Program Approval	300.00
Physician Online Prescriber		Education Program Approval Renewal ..	103.00
New Application	200.00	Armed Security Officer New	
License Renewal	183.00	Application Filing	60.00
Plumber		Armed Security Officer New	
New Application Filing	110.00	License Renewal	42.00
License Renewals	63.00	Unarmed Security Officer New	
Podiatric Physician		Application Filing	60.00
New Application Filing	200.00	Unarmed Security Officer New	
License Renewal	103.00	License Renewal	42.00
Pre-Need Funeral Arrangement		Social Worker	
Sales Agent New Application Filing	85.00	Clinical Social Worker New Application	
Sales Agent License Renewal	73.00	Filing	120.00
Private Probation Provider		Clinical Social Worker License	
New Application Filing	85.00	Renewal	93.00
License Renewal	63.00	Certified Social Worker New	
Clinical Mental Health Counselor		Application Filing	120.00
New Application Filing	120.00	Certified Social Worker License	
License Renewals	93.00	Renewal	93.00
Professional Counselor Associate		Certified Social Worker Intern New	85.00
New Application Filing	85.00	Certified Social Worker Externship	85.00
Associate Clinical Mental Health		Social Service Worker New	
Extern New Application	85.00	Application Filing	85.00
Psychologist		Social Service Worker License	
New Application Filing	200.00	Renewal	78.00
License Renewal	128.00	Speech Language Pathologist/Audiologist	
Certified Psychology Resident		Speech Language Pathologist New	
New App Filing	85.00	Application Filing	70.00
Radiology		Speech Language Pathologist License	
Radiology Technologist New Application		Renewal	47.00
Filing	70.00	Audiologist New Application Filing	70.00
Radiology Technologist License		Audiologist License Renewal	47.00
Renewal	47.00	Speech Language Pathologist / Audiologist	

Speech Language Pathologist and Audiologist New Application Filing	70.00
Speech Language Pathologist and Audiologist License Renewal	47.00
Substance Use Disorder Counselor (Licensed) New Application Filing	85.00
License Renewal	78.00
Substance Use Disorder Counselor (Certified) Certified Substance Counselor	70.00
Certified Counselor Intern	70.00
Certified Substance Extern	70.00
Veterinarian New Application Filing	150.00
License Renewal	73.00
Intern New Application Filing	35.00
Vocational Rehab Counselor New Application Filing	70.00
License Renewal	47.00
Other Inactive/Reactivation/Emeritus License	50.00
Temporary License	50.00
Late Renewal	20.00
License/Registration Reinstatement	50.00
Duplicate License	10.00
Disciplinary File Search (per order document)	12.00
Change Qualifier	50.00
UBC Seminar	Variable
surcharge of 1% of Building Permits in accordance w/ UCA-15a-1-209-5-a	
UBC Building Permit surcharge	Variable
State Construction Registry Online	
Notice of Commencement	7.50
Appended Notice of Commencement online	7.50
Preliminary Notice	1.00
Notice of Completion	7.50
Required Notifications	Variable
Requested Notifications	10.00
Receipt Retrieval	
Within 2 years	1.00
Beyond 2 years	5.00
Public Search	1.00
Annual account set up	
Auto bill to credit card	60.00
Invoice	100.00
Notice of Construction Loan	8.00
Notice of Intent to Complete	8.00
Notice of Retention	1.25
Notice of Remaining to Complete	1.25
Offline	
Notice of Commencement	15.00
Appended Notice of Commencement - On-line	15.00
Preliminary Notice	6.00
Notice of Completion	15.00
Required Notifications	6.00
Requested Notifications	25.00
Receipt Retrieval	
Within 2 years	6.00
Beyond 2 years	12.50
Public Search	Variable
Annual account set up	
Auto bill to credit card	75.00
Invoice	125.00
Notice of Construction Loan	15.00

Notice of Intent to Complete	16.00
Notice of Retention	8.00
Notice of Remaining to Complete	6.00
Notice of Loan Default	Variable
Building Permit	Variable
Filed by city	
Withdrawal of Preliminary Notice	Variable
Construction Ownership	
Ownership Status Report	20.00
Ownership Listing/Change	20.00
Physician Educator	
Physician Educator I new application	200.00
Physician Educator I renewal	183.00
Physician Educator II new application	200.00
Physician Educator I renewal	183.00
Radiologist Assistant	
New Application Filing	70.00
License Renewal	47.00
Residence Lien Recovery Fund	
Special Assessment	105.00
Securities	
Securities Registration	
Qualification Registration	300.00
Coordinated Registration	300.00
Transactional Exemptions	
Transactional Exemptions	60.00
No-action and Interpretative Opinions	120.00
Licensing	
Agent	60.00
Broker/Dealer	200.00
Investment Advisor	
New and renewal	100.00
Investment Advisor Representative	
New and renewal	50.00
Certified Dealer	
New and Renewal	500.00
Certified Adviser	
New and Renewal	500.00
Covered Securities Notice Filings	
Investment Companies	600.00
All Other Covered Securities	100.00
Late Fee Rule 506 Notice Filing	500.00
Less than 15 days after sale	
Federal Covered Adviser	
New and Renewal	100.00
Securities Exemptions	
Securities Exemptions	60.00
Other	
Late Renewal	20.00
Fairness Hearing	1,500.00
Statute Booklet	Variable
Small Corp. Offering Registration (SCOR)	Variable
Rules and form booklet	Variable
Excluding SCOR	
Postage and Handling	Variable
Consumer Protection	
Charitable Solicitation Act	
Charity	75.00
Immigration Consultants	
Initial Registration Fee	200.00
License Renewal Fee	200.00
Pawnshop Registry	
Pawnbroker Late Fee	50.00

Charitable Solicitation Act		Articles of Incorporation	
Professional Fund Raiser	250.00	Domestic Nonprofit	30.00
Telephone Solicitation		Foreign Profit	70.00
Telemarketing Registration	500.00	Foreign Nonprofit	30.00
Health Spa		Reinstatement	
Health Spa	100.00	Profit	70.00
Credit Services Organization		Requalification/Reinstatement	
Credit Services Organization	250.00	Nonprofit	30.00
Debt Management Services		Changes of Corporate Status	
Organizations	250.00	Amend/Restate/Merge-Profits	37.00
Business Opportunity Disclosure Register		Amend/Restate/Merge-Nonprofit	17.00
Exempt	100.00	Amendment-Foreign	37.00
Approved	200.00	Pre-authorization of document	25.00
Child Protection Register		Statement of Correction	12.00
Child Protection Registry (per email)	.005	Conversion	37.00
Rate up to 20,000 and 40,000 units per calendar month, discounted thereafter.		Annual Report	
Child Protection Registry		Profit	15.00
Step Volume 20,000-40,000 units in a month (\$.00485)	Variable	Nonprofit	10.00
Previous fee is \$.005. 3% discount off previous step for each additional 20,000 units in calendar month. 3% discount for transactions 40-60K & each 20K step thereafter in a calendar month.		Limited Partnership	15.00
3% discount off previous step for each additional 20,000 units in calendar month	Variable	Limited Liability Company	15.00
Pawnshop Registry		On-line	15.00
Out of State Pawnshop Database		Change Form	15.00
Request	750.00	Certification	
Pawnshop/2nd hand store		Corporate Standing	12.00
Registration	300.00	Corporate Standing-Long Form	20.00
Law Enforcement Registration	2.00	Commercial Registered Agent	
Proprietary Schools		Registration	52.00
Initial Application	250.00	Changes	52.00
Renewal Application	1% of gross revenue	Terminations	52.00
Registration Review	1% of gross revenue	Corporation Search	
Miscellaneous Fees		In House	10.00
Late Renewal (per month)	25.00	Limited Partnership	
Miscellaneous		Certificate/Qualification	70.00
Microcassette Copying (per tape)	Variable	Reinstate	70.00
Proprietary Schools Registration Application 1% of gross revenue		Amend/Restate/Merge	37.00
\$500 min; \$2,500 max		Statement of Correction	12.00
Proprietary Schools		Conversion	37.00
Accredited Institution Certificate of Exemption		DBA	
Registration/Renewal	1% of gross revenue	Registration	22.00
Up to \$2,500 or \$1,500 min		Renewals	22.00
Non-Profit Exemption		Business/Real Estate Investment	
Certificate Registration/Renewal	1,500.00	Trust	22.00
Corporations and Commercial Code		Trademark/Electronic Trademark	
Articles of Incorporation		Initial Application and 1st Class Code	50.00
Domestic Profit	70.00	Each Additional Class Code	25.00
Partnerships		Renewals	50.00
General Partnerships	22.00	Assignments	25.00
5 year renewal		Unincorporated Cooperative Association	
Other		Articles of Incorporation/Qualification	22.00
Statement Authority	15.00	Annual Report	7.00
One time registration or as changes are needed		Limited Liability Company	
Partnerships		Articles of Organization/Qualification	70.00
Limited Liability Partnership	70.00	Reinstate	70.00
Previously under Limited Partnership, now LLP's		Amend/Merge	37.00
Other		Statement of Correction	12.00
Pharmacy Benefit Manager	100.00	Conversion	37.00
		Other	
		Late Renewal	10.00
		Out of State Motorist Summons	12.00
		Collection Agency Bond	32.00
		Unregistered Foreign Business	12.00
		Foreign Name Registration	22.00
		Statement of Certification	12.00
		Name Reservation	22.00
		Telecopier Transmittal	5.00
		Telecopier Transmittal (per page)	1.00
		Commercial Code Lien Filing	
		UCC I Filings (per page)	12.00

UCC Addendum (per page)	12.00
UCC III Assignment/Amendment	12.00
UCC III Continuation	12.00
UCC III Termination	Variable
CFS-1	12.00
CFS Addendum	12.00
CFS-3	12.00
CFS-2	12.00
CFS Registrant	25.00
Master List	25.00
Lien Search	
Search	12.00
Transactions Through Utah Interactive	
Registered Principal Search	3.00
Business Entity Search Principals	1.00
Certificate of Good Standing	12.00
Subscription	75.00
UCC Searches	12.00
List Compilation Customized	Variable
One Stop Business Registration	Variable
Real Estate	
Appraisers	
Licensed and Certified	
Application	350.00
Education	
Real Estate Education Broker	18.00
Sales Agent	
New Application (2 year)	100.00
Renewal	30.00
Mortgage Broker	
Mortgage Loan Originator	
New Application	100.00
Mortgage Loan Originator Renewal	30.00
Education	
Continuing Education Registration	10.00
Appraisers	
Licensed and Certified	
Renewal	350.00
Education	
Real Estate Education Agent	12.00
Appraisers	
National Register	80.00
Certifications	
Real Estate Prelicense School	
Certification	100.00
Appraisers	
Temporary Permit	100.00
Certifications	
Real Estate Prelicense Instructor	
Certification	75.00
Appraisers	
Appraiser Trainee Registration	100.00
Real Estate Education	
Real Estate Continuing Education	
Course Certification	75.00
Appraisers	
Appraiser expert witness	200.00
Real Estate Education	
Real Estate Continuing Education	
Instructor Certification	50.00
Appraisers	
Appraiser Trainee Renewal	100.00
Certifications	
Real Estate Branch Schools	100.00
Appraisers	
Appraiser Pre-License School	
Application	100.00
Certifications	

Appraiser Prelicense Course	
Certification	70.00
Appraisers	
Appraiser Pre-License Instructor	
Application	75.00
Certifications	
Appraiser CE Instructor Application/	
Renewal	75.00
Appraisers	
Appraiser CE Course Application/	
Renewal	75.00
Appraiser Temporary Permit Extension .	100.00
One time only	
Appraisal Management Company	
Appraisal Management Company	350.00
Appraisal Management Company	
Renewal	350.00
Appraisal Management Company Late ...	50.00
Broker	
New Application	100.00
2 year	
Renewal	30.00
Broker/Sales Agent	
Activation	15.00
New Company	200.00
Company Broker Change	50.00
Company Name Change	100.00
Verification (per copy)	20.00
General Division	
Duplicate License	10.00
Certifications/Computer Histories	20.00
Late Renewal	50.00
Reinstatement	100.00
Branch Office	200.00
No Action Letter	120.00
Trust Account Seminar	5.00
Continuing Education Instructor/	
Course Late	25.00
Mortgage Broker	
Mortgage Lending Manager	
Application	100.00
Renewal	30.00
Mortgage Lender Entities	
Application	200.00
Renewal	200.00
Mortgage DBA	200.00
Activation	15.00
Subdivided Land	
Exemption	
HUD	100.00
Water Corporation	50.00
Temporary Permit	100.00
Application	500.00
Charge over 30	3.00
Inspection Deposit	300.00
Consolidation	200.00
Charge	3.00
Renewal Report	203.00
Timeshare and Camp Resort	
Salesperson	100.00
New and renewal	
Registration	500.00
Per unit charge over 100	3.00
Inspection Deposit	300.00
Consolidation	200.00
Per unit charge	3.00
Temporary Permit	100.00
Renewal Reports	203.00

Supplementary Filing	
Supplementary Filing	200.00
Mortgage Education	
Individual	36.00
Entity	50.00
Mortgage Prelicense School	
Certification	100.00
Mortgage Prelicense	
Instructor Certification/Renewal	75.00
Mortgage Branch Schools	100.00
Mortgage Continuing Education	
Course Certification Application	
Renewal	75.00
Mortgage Continuing Education	
Instructor Certification	50.00
Mortgage Out of State Records	
Inspection	500.00

FINANCIAL INSTITUTIONS**FINANCIAL INSTITUTIONS
ADMINISTRATION**

Administration	
Photocopies .....	.25
Third Party Payment Provider	
Initial Filing Fee	100.00
Renewal Fee	100.00

INSURANCE DEPARTMENT**INSURANCE DEPARTMENT
ADMINISTRATION**

Administration	
Global license fees for Admitted Insurers	
Certificate of Authority	
Initial License Application	1,000.00
Independent Review - Initial	
Application	250.00
Initial individual license (per 35.00)	2,800.00
Initial agency license (per 40.00)	800.00
Renewal	300.00
Late Renewal	350.00
Reinstatement	1,000.00
Amendment	250.00
Orderly Plan of Withdrawal	50,000.00
Form A Filing	2,000.00
Redomestication Filing	2,000.00
Organizational Permit for Mutual	
Insurer	1,000.00
Insurer Examinations	72.00
Agency cost	
Global Service Fees for Admitted Insurers	
Zero premium volume	Insurance Rule
R590-102-5(4)(d)(i)	
More than \$0 to less than \$1M	
premium volume	700.00
\$1M to less than \$3M premium	
volume	1,100.00
\$3M to less than \$6 M premium	
volume	1,550.00
\$6M to less than \$11M premium	
volume	2,100.00
\$11M to less than \$15M premium	
volume	2,750.00

\$15M to less than \$20M premium	
volume	3,500.00
\$20M or more in premium volume	4,350.00
Global license fees for Surplus Lines	
Insurers, Accredited/Trusteed Reninsurer	
Surplus Lines Insurers, Accredited/Trusteed	
Reinsurers, Employee Welfare Fund	
Initial	1,000.00
Annual	500.00
Late Annual	550.00
Reinstatement	1,000.00
Global license fees for Other Organizations	
Other Organizations	
Initial License Application	250.00
Renewal	200.00
Late Renewal	250.00
Reinstatement	250.00
Annual Service	200.00
Life Settlement Provider	
Initial license application	1,000.00
Renewal	300.00
Late Renewal	350.00
Reinstatement	1,000.00
Annual service	600.00
Global Individual License	
Res/non-res full line producer license or renewal	
per two-year license period	
Initial, or renewal if renewed prior to	
renewal deadline	70.00
Reinstatement of Lapsed License	120.00
Res/non-res limited line producer license or	
renewal per two-year licensing period	
Initial or renewal if renewed prior to	
renewal deadline	45.00
Reinstatement of lapsed license	95.00
Res/non-res full line producer license or renewal	
per two-year license period	
Dual Title License Form Filing	25.00
Addition of producer classification	
or line of authority to individual	
producer license	25.00
Global Full Line and Limited Line Agency License	
Res/non-res initial or renewal license if renewed	
prior to renewal deadline	75.00
Reinstatement of lapsed license	125.00
Addition of agency class or line of	
authority to agency license	25.00
Resident Title initial or renewal	
license if renewed prior to renewal	
deadline	100.00
Resident Title Reinstatement of	
Lapsed License	150.00
Health Insurance Purchasing Alliance	
Res/non-res initial or renewal license if	
renewed prior to renewal deadline	500.00
Per annual license period	
Late Renewal	550.00
Reinstatement of lapsed license	550.00
Continuing Education	
CE provider initial or renewal license	
prior to renewal deadline	250.00
CE provider reinstatement of	
lapsed license	300.00
CE provider post approval or \$5	
per hour, whichever is more	25.00
Other	
Photocopy (per page) .....	.50
Copy Complete Annual Statement	40.00

Accepting Service of legal process	10.00
Returned check charge	20.00
Workers' Comp schedule	5.00
Address Correction	35.00
Production of Lists	
Printed (per page)	1.00
Information already in list format	
Electronic	
Base fee	50.00
1 CD and up to 30 minutes of staff time	
Additional fee billed by invoice	50.00
For each additional 30 minutes or	
fraction thereof	
Additional CD (per CD)	1.00
Restricted Special Revenue Fees	
Title Insurance Recovery, Education,	
and Research Fund	
Initial Title Agency License	1,000.00
Renewal Title Agency License	
Band A-\$0-\$1 million premium	
volume	125.00
Band B->\$1-\$10 million premium	
volume	250.00
Band C->\$10-\$20 million premium	
volume	375.00
Band D->\$20 million premium	
volume	500.00
Individual Title Licensee Initial or	
Renewal License	15.00
Professional Employers Organization	
Standard - Initial/Renewal	2,000.00
Standard - Late Renewal or	
Reinstatement	2,050.00
Certified by an Assurance Organization -	
Initial	2,000.00
Certified by an Assurance	
Organization - Renewal	1,000.00
Certified Late Renewal or	
Reinstatement	1,050.00
Small Operator	
Small Operator - Initial	2,000.00
Small Operator - Renewal	1,000.00
Small Operator - Late Renewal	
or Reinstatement	1,050.00
Relative Value Study	
Restricted Revenue	
Relative Value Study	
Relative Value Study Book	10.00
Code Books	57.00
Cost to agency	
Mailing fee for books	3.00
Insurance Fraud Program	
Restricted Revenue	
Fraud Investigation Division	
Zero to \$1M premium volume	200.00
>\$1M to less than \$2.5M premium	
volume	450.00
\$2.5M to less than \$5M premium	
volume	800.00
\$5M to less than \$10M premium	
volume	1,600.00
\$10M to less than \$50M premium	
volume	6,100.00
\$50M or more in premium	
volume	15,000.00
Fraud Division Investigative	
Recovery	Variable

Fraud division assessment late fee	50.00
Captive Insurers	
Captive Insurer	
Initial license application	200.00
Captive Cell Initial Application	
(per 200)	200.00
Captive Cell Initial License	
(per 1000)	1,000.00
Captive Cell License Renewal	
(per 1000)	1,000.00
Captive Cell Late Renewal (per 50)	50.00
Initial license application	
review	Captive - Actual cost
Initial license issuance	5,000.00
Renewal	5,000.00
Late Renewal	5,050.00
Reinstatement	5,050.00
Captive Insurer Examination	
Reimbursements	Variable
Electronic Commerce Fee	
Electronic Commerce Restricted	
E-commerce and internet technology services	
Insurer: admitted, surplus lines	75.00
Captive Insurer	250.00
Other organization and life settlement	
provider	50.00
CE Provider	20.00
Agency and Health Insurance	
Purchasing Alliance	10.00
Individual	5.00
Access to rate and form filing database	
Base	45.00
1 DVD and up to 30 minutes access	
and staff help	
Additional	45.00
Each additional 30 minutes or	
fraction thereof	
Additional DVD (per DVD)	2.00
Electronic Commerce Restricted	
Database access	3.00
Paper filing process	5.00
Paper Application Processing	25.00
GAP Waiver Program	
Restricted Revenue	
Guaranteed Asset Protection Waiver	
Registration/Annual	1,000.00
GAP Waiver Assessment	50.00
Criminal Background Checks	
Fingerprinting	
Bureau of Criminal Investigation	20.00
Federal Bureau of Investigation	16.50

HEALTH INSURANCE ACTUARY

Restricted Revenue	
Health Insurance Actuarial Review Assessment	
Assessment for Actuary	150,000.00

BAIL BOND PROGRAM

Restricted Revenue	
Bail Bond Agency	
Resident initial or renewal license if renewed	
prior to renewal deadline	250.00
Annual license period	
Reinstatement of lapsed license	300.00
Annual license period	

SOCIAL SERVICES

DEPARTMENT OF HEALTH

EXECUTIVE DIRECTOR'S OPERATIONS

Executive Director
 All the fees in this section apply for the entire Department of Health

Conference Registrations	100.00
Non-sufficient Check Collection Fee	20.00
Non-sufficient Check Service Charge	20.00
Testimony	
Expert Testimony Fee for those without a PhD/MD (per hour)	78.75
Includes preparation, consultation, and appearance on criminal and civil cases. Portal to portal, including travel and waiting time. Per hour charge, plus travel costs.	
Expert Testimony Fee for those with a PhD/MD (per hour)	250.00
Includes preparation, consultation, and appearance on criminal and civil cases. Portal to portal, including travel and waiting time. Per hour charge, plus travel costs.	
Government Records Access and Management Act (GRAMA)	
Staff time for file search and/or information compilation	
Department of Technology Services (per hour)	70.00
For Department of Technology Services or programmer / analyst staff time.	
Department of Health (per hour)	35.00
For Department of Health staff time; first 15 minutes free, additional time.	
Copy	
11 x 8.5 Black and White (per page)	.15
11x17 or color (per page)	.40
Information on disk (per kilobyte)	.02
Administrative Fee, 1-15 copies	25.00
Administrative Fee, each additional copy	1.00
Fax (per page)	.50
Other communication	
medium	Actual cost
Mailing or shipping cost	Actual cost
Center for Health Data and Informatics	
Multi-Year Healthcare Effectiveness Data and Information Set License	
Public, Educational, Non-profit Research Organizations	
File I for Latest Year (per data set)	1,050.00
File II for Previous Year (per data set)	750.00
File III for Any Earlier Years (per data set)	500.00
Private Sector Agencies	
File I for Latest Year (per data set)	1,575.00
File II for Previous Year (per data set)	1,250.00
File III for Any Earlier Years (per data set)	1,000.00

Health Maintenance Organization or Preferred Provider Organization Enrollee Satisfaction Survey Data Set License	
Public, Educational, Non-profit Research Organizations	
File I for Latest Year (per data set)	1,050.00
File II for Previous Year (per data set)	750.00
File III for Any Earlier Years (per data set)	500.00
Private Sector Agencies	
File I for Latest Year (per data set)	1,575.00
File II for Previous Year (per data set)	1,250.00
File III for Any Earlier Years (per data set)	1,000.00
Data Suppliers (Contributing Health Maintenance Organizations or Preferred Provider Organizations)	
File I for Latest Year (per data set)	420.00
File II for Previous Year (per data set)	300.00
File III for Any Earlier Years (per data set)	200.00
Data Suppliers (Non-contributing Health Maintenance Organizations or Preferred Provider Organizations)	
File I for Latest Year (per data set)	840.00
File II for Previous Year (per data set)	600.00
File III for Any Earlier Years (per data set)	400.00
Fee for Data Suppliers Purchases	
Hard Copy Reports Miscellaneous	10.00
Standard Report 1 for Inpatient, Emergency	50.00
Standard Report 1 for Ambulatory Surgery	50.00
Hospital Financial Report	50.00
Special Reports	15.00
Special Data Request (\$70 minimum) (per hour)	55.00
Special Data Extraction Request (per hour)	74.00
Other Fees	
Data suppliers' special data request (per hour)	35.00
Data Management Fees for Reprocessing	39.90
To cover costs of processing resubmissions of data with system errors (may be waived as incentive for timely resubmission)	
Birth Certificate	
Initial Copy	20.00
Additional Copies	8.00
Stillbirth	18.00
Affidavit	25.00
Book Copy of Birth Certificate	25.00
Adoption	60.00
Expedite	15.00
Death Certificate	
Initial Copy	18.00
Additional Copies	8.00
Burial Transit Permit	7.00
Disinterment Permit	25.00

Specialized Services

 Paternity Search (1 hour minimum)
 (per hour) 18.00

 Delayed Registration 60.00

 Marriage and Divorce Abstracts 18.00

 Legitimation 60.00

 Adoption Registry 25.00

 Adoption Expedite Fee 25.00

 Death Research (1 hour minimum)
 (per hour) 20.00

 Death Notification Subscription
 Fee (organization less than or
 equal to 100,000 lives) 500.00

 Death Notification Subscription
 Fee (organizations greater than
 100,000 lives) 1,000.00

 Death Notification Fee, per matched
 death 1.00

 Court Order Name Changes 25.00

 Court Order Paternity 60.00

 Online Access to Computerized Vital
 Records (per month) 12.00

 Utah Plant Extract Registry 200.00

 Ad-hoc Statistical Requests (per hour) ... 45.00

 Delay of File Fee (charged for every
 birth/death certificate registered 30
 days or more after the event) 50.00

Standard Limited Data Sets

 Multiple Use License

 Private Sector Agency or Institution

 File I - Latest Year 3,150.00

 File I - Prior Year 1,050.00

 File III - Latest Year 1,050.00

 File III - Prior Year 350.00

 Public, Educational, or Non-Profit
 Research Entity

 File I - Latest Year 1,575.00

 File I - Prior Year 525.00

 File III - Latest Year 525.00

 File III - Prior Year 175.00

 Smaller Data Suppliers
 (5,000-35,000 discharges)

 File I - Latest Year 1,575.00

 File I - Prior Year 525.00
 (less than 5,000 discharges)

 File I - Latest Year 630.00

 File I - Prior Year 210.00

 Secondary Release License
 (per year)

 File I - Per Copy Distributed to
 a Public Entity 1,100.00

 File I - Per Copy Distributed to
 a Private Entity 2,200.00

Customized Research Data Sets

 Secondary Release License
 (per year)

 Research Data Set - Inpatient ... 1,100.00

 Research Data Set - Ambulatory/
 Surgery 1,100.00

 Research Data Set - Emergency
 Department Encounters 1,100.00

 Multiple Use License
 (per hour)

 Add-On to Limited Data Set
 License 74.00

Federal Databases

 Secondary Release License
 (per year)

 Research Data Set - Inpatient ... 4,500.00

 Research Data Set - Ambulatory/
 Surgery 4,500.00

 Research Data Set - Emergency
 Department Encounters 4,500.00

All Payer Claims Database

 Multiple Use License

 Private Sector Agency or Institution

 Standardized Public Use

 Sample File 4,000.00

 Standardized Limited
 Data Set 12,000.00

 Standardized Research
 Data Set 30,000.00

 Single Use/Single-Project License

 Public, Educational, or Non-Profit Research
 Entity

 Standardized Public Use

 Sample File 2,000.00

 Standardized Limited Data Set ... 6,000.00

 Standardized Research
 Data Set 15,000.00

 Secondary Release License
 (per release)

 Public Use Sample File 2,800.00

 Limited Data Set 8,400.00

 Research Data Set 21,000.00

 Multiple Use License
 (per hour)

 Add-On to Limited Data
 Set License 74.00

 Institutional License (All-Payer
 Claims Database &
 Facilities Data) 150,000.00

FAMILY HEALTH AND PREPAREDNESS

Child Development

Background checks 15.00

Conditional Monitoring Inspections

 Center-based providers (per visit) 253.00

 Charge per extra visit begins with
 the second additional visit required
 due to non-compliance.

 Home-based providers (per visit) 245.00

 Charge per extra visit begins with
 the second additional visit required
 due to non-compliance.

Annual License

 Annual Licensed Child Care
 Facility Base 31.00

 Plus the appropriate fee as listed
 below to any new or renewal license

 Change in license or certificate during the
 license period more than twice a year ... 31.00

 Child Care Center Facilities (per child) ... 1.75

 Late Fee 15.50

 Within 1 - 30 days after expiration of
 license facility will be assessed 50% of
 scheduled fee

New Provider/Change in Ownership

 New Provider/Change in Ownership Applications
 for Child Care center facilities 200.00

 A \$200.00 fee will be assessed for services
 rendered to providers seeking initial
 licensure or change of ownership to cover the
 cost of processing the application, staff

consultation, review of facility policies, initial inspection, etc. This fee will be due at the time of application.	
Other	
Non-compliant facilities and additional inspections for non-compliant facilities	25.00
Child care program fees are not refundable	Variable
Nonrefundable	
Child Care Licensing Rules	Variable
Licensees receive 1 copy of each newly published edition of applicable facility rules. Additional copies of the rules will reflect the cost of printing & mailing.	
Children with Special Health Care Needs	
Evaluation of Speech	
92521 Fluency	170.00
92522 Sound Production	170.00
92523 Sound Production w/ Evaluation of Language Comprehension	170.00
92524 Behavioral and Qualitative Analysis of Voice and Resonance	170.00
97112 Neuromuscular reeducation	25.00
97116 Gait training	25.00
97542 Wheelchair Assessment fitting/training	25.00
97755 Assistive Technology Assessment	25.00
Office Visit, New Patient	
99201 Problem focused, straightforward	47.00
99202 Expanded problem, straightforward	81.00
99203 Detailed, low complexity	120.00
99204 Comprehensive, Moderate complexity	182.00
99205 Comprehensive, high complexity	229.00
Office Visit, Established Patient	
99211 Minimal Service or non-Medical Doctor	28.00
99212 Problem focused, straightforward	47.00
99213 Expanded problem, low complexity	74.00
99214 Detailed, moderate complexity	111.00
99215 Comprehensive, high complexity	151.00
Office Consultation, New or Established Patient	
99241 Problem focused, straightforward	60.00
99242 Expanded problem focused, straightforward	110.00
99243 Detailed exam, low complexity	151.00
99244 Comprehensive, moderate complexity	223.00
99245 Comprehensive, high complexity	275.00
95974 Cranial Neurostimulation evaluation	160.00
99354 Prolonged, face to face	114.00
First hour	
99355 Prolonged, face to face	112.00
Additional 30 minutes	
99358 Prolonged, non face to face	93.00
First hour	
99359 Prolonged, non face to face	51.00
	Additional 30 minutes
T1013 Sign Language oral interview	13.00
Nutrition	
97802 Medical Nutrition Assessment	22.00
97803 Nutrition Reassessment	22.00
Psychology	
96101 Testing	136.00
96102 Testing by technician	65.00
96103 Testing with computer	60.00
96110 Developmental Testing	136.00
96111 Extended Developmental Testing	136.00
90804 Psychotherapy, face to face, 20-30 minutes	68.00
90806 Psychotherapy, face to face, 50 minutes	130.00
90846 Family Medical Psychotherapy, 30 minutes	90.00
90847 Family Medical Psychotherapy, conjoint 30 minutes	130.00
90882 Environmental Intervention with Agencies, Employers, etc.	49.00
90882-52 Environmental Intervention Reduced Procedures	23.00
90885 Evaluation of hospital records	40.00
90889 Preparation of reports	40.00
Physical and Occupational Therapy	
97001 Physical Therapy Evaluation	90.00
97002 Physical Therapy Re-evaluation	52.00
97003 Occupational Therapy Evaluation	90.00
97004 Occupational Therapy Re-evaluation	52.00
97110 Therapeutic Physical Therapy	33.00
97530 Therapeutic Activity	40.00
97535 Self Care Management	30.00
97760 Orthotic Management	38.00
97762 Orthotic/prosthetic Use Management	38.00
G9012 Wheelchair Measurement / Fitting	312.00
Ophthalmology	
92002 Exam & evaluation, intermediate, new patient	81.00
92012 Exam & evaluation, intermediate, established patient	85.00
92015 Determination of refractive state	51.00
Audiology	
92550 Tympanometry and Acoustic Reflex Threshold Testing	71.00
92551 Audiometry, Pure Tone Screen	33.00
92552 Audiometry, Pure Tone Threshold	36.00
92553 Audiometry, Air and Bone	44.00
92555 Speech Audiometry threshold testing	28.00
92556 Speech Audiometry threshold/speech recognition testing	40.00
92557 Basic Comprehension, Audiometry	80.00
92567 Tympanometry	26.00
92568 Acoustic reflex testing, threshold	45.00

92570 Tympanometry and Acoustic Reflex Threshold	80.00	V5008 Hearing Check, Patient Under 3 Years Old	38.00
Acoustic Reflex Decay Testing		V5257 Hearing Aid, Digital	
92579 Visual reinforcement audiometry	57.00	Monaural	2,000.00
92579-52 Visual reinforcement audiometry, limited	47.00	V5261 Hearing Aid, Digital	
92582 Conditioning Play Audiometry	80.00	Binaural	1,100.00
92585 Auditory Evoked Potentials testing	125.00	V5264 Ear Mold Insert	75.00
92587 Evoked Otoacoustic emissions testing	58.00	V5266 Hearing Aid battery	1.00
92590 Hearing Aid Exam	53.00	BabyWatch / Early Intervention	
92591 Hearing Aid Exam, Binaural	108.00	Monthly charges based on a sliding fee schedule	From \$10 - \$200
92592-52 Hearing aid check, monaural	31.00	Newborn	
92593-52 Hearing aid check, binaural	44.00	Screening	Variable
92620 Evaluation of Central Auditory Function	87.00	State Lab Collects Fee this is Children with Special Health Care Needs Portion	
92621 Evaluation of Central Auditory Function	22.00	Hearing	Variable
Each additional 15 minutes		State Lab Collects Fee this is Children with Special Health Care Needs Portion	
		Health Clinics	
		90791 Psychiatric Diagnostic Evaluation	94.00
		90792 Psychiatric Diagnostic Evaluation With Medical Services	94.00

**FAMILY HEALTH AND PREPAREDNESS DIVISION
SLIDING FEE SCHEDULE and CHIP**

Patient's Financial Responsibility (PFR) % of Federal Poverty Guideline	0%	0%	20%	40%	60%	100%	CHIP
	100%	0% to 133%	133% to 150%	150% to 185%	185% to 225%	>225%	200%
FAMILY SIZE . MONTHLY FAMILY INCOME							
1	\$980.83	\$0.00 - \$1,304.51	\$1,304.52- \$1,471.25	\$1,471.26- \$1,814.54	\$1,814.55- \$2,206.88	\$2,206.89 and up	\$1,961.67
2	\$1,327.50	\$0.00 - \$1,765.58	\$1,765.59- \$1,991.25	\$1,991.26- \$2,455.88	\$2,455.89- \$2,986.88	\$2,986.89 and up	\$2,655.00
3	\$1,674.17	\$0.00 - \$2,226.64	\$2,226.65- \$2,511.25	\$2,511.26- \$3,097.21	\$3,097.22- \$3,766.88	\$3,766.89 and up	\$3,348.33
4	\$2,020.83	\$0.00 - \$2,687.71	\$2,687.72- \$3,031.25	\$3,031.26- \$3,738.54	\$3,738.55- \$4,546.88	\$4,546.89 and up	\$4,041.67
5	\$2,367.50	\$0.00 - \$3,148.78	\$3,148.79- \$3,551.25	\$3,551.26- \$4,379.88	\$4,379.89- \$5,326.88	\$5,326.89 and up	\$4,735.00
6	\$2,714.17	\$0.00 - \$3,609.84	\$3,609.85- \$4,071.25	\$4,071.26- \$5,021.21	\$5,021.22- \$6,106.88	\$6,106.89 and up	\$5,428.33
7	\$3,060.83	\$0.00 - \$4,070.91	\$4,070.92- \$4,591.25	\$4,591.26- \$5,662.54	\$5,662.55- \$6,886.88	\$6,886.89 and up	\$6,121.67
8	\$3,407.50	\$0.00 - \$4,531.98	\$4,531.99- \$5,111.25	\$5,111.26- \$6,303.88	\$6,303.89- \$7,666.88	\$7,666.89 and up	\$6,815.00
Each Additional Family Member	\$371.67	\$494.32	\$557.50	\$687.58	\$836.25	\$836.25	\$743.33

NOTE: This Division of Family Health and Preparedness schedule is based on the Federal Poverty Guidelines scheduled to be published in the Federal Register January 22, 2015.

<https://www.federalregister.gov/articles/2015/01/22/2015-01120/annual-update-of-the-hhs-poverty-guidelines#t-1>.

When new poverty guidelines are published, the fee scale will be changed as required by federal law, Title V of the Social Security Act, and in accordance with guidelines published by the Department of Health and Human Services, Office of the Secretary.

**FAMILY HEALTH AND PREPAREDNESS DIVISION
Baby Watch Early Intervention Program
2015-2016 Sliding Fee Schedule
Monthly Family Fee, Effective July 1, 2015**

FAMILY SIZE	Federal Poverty	100% Exempt	186% \$10.00	200% \$20.00	250% \$30.00	300% \$40.00
2	\$15,930	\$0.00 - \$29,629.79	\$29,629.80- \$31,859.99	\$31,860.00- \$39,824.99	\$39,825.00- \$47,789.99	\$47,790.00- \$63,719.99
3	\$20,090	\$0.00 - \$37,367.39	\$37,367.40- \$40,179.99	\$40,180.00- \$50,224.99	\$50,225.00- \$60,269.99	\$60,270.00- \$80,359.99
4	\$24,250	\$0.00 - \$45,104.99	\$45,105.00- \$48,499.99	\$48,500.00- \$60,624.99	\$60,625.00- \$72,749.99	\$72,750.00- \$96,999.99
5	\$28,410	\$0.00 - \$52,842.59	\$52,842.60- \$56,819.99	\$56,820.00- \$71,024.99	\$71,025.00- \$85,229.99	\$85,230.00- \$113,639.99
6	\$32,570	\$0.00 - \$60,580.19	\$60,580.20- \$65,139.99	\$65,140.00- \$81,424.99	\$81,425.00- \$97,709.99	\$97,710.00- \$130,279.99
7	\$36,730	\$0.00 - \$68,317.79	\$68,317.80- \$73,459.99	\$73,460.00- \$91,824.99	\$91,825.00- \$110,189.99	\$110,190.00- \$146,919.99
8	\$40,890	\$0.00 - \$76,055.39	\$76,055.40- \$81,779.99	\$81,780.00- \$102,224.99	\$102,225.00- \$122,669.99	\$122,670.00- \$163,559.99
9	\$45,050	\$0.00 - \$83,792.99	\$83,793.00- \$90,099.99	\$90,100.00- \$112,624.99	\$112,625.00- \$135,149.99	\$135,150.00- \$180,199.99
10	\$49,210	\$0.00 - \$91,530.59	\$91,530.60- \$98,419.99	\$98,420.00- \$123,024.99	\$123,025.00- \$147,629.99	\$147,630.00- \$196,839.99
11	\$53,370	\$0.00 - \$99,268.19	\$99,268.20- \$106,739.99	\$106,740.00- \$133,424.99	\$133,425.00- \$160,109.99	\$160,110.00- \$213,479.99
12	\$57,530	\$0.00 - \$107,005.79	\$107,005.80- \$115,059.99	\$115,060.00- \$143,824.99	\$143,825.00- \$172,589.99	\$172,590.00- \$230,119.99
13	\$61,690	\$0.00 - \$114,743.39	\$114,743.40- \$123,379.99	\$123,380.00- \$154,224.99	\$154,225.00- \$185,069.99	\$185,070.00- \$246,759.99
14	\$65,850	\$0.00 - \$122,480.99	\$122,481.00- \$131,699.99	\$131,700.00- \$164,624.99	\$164,625.00- \$197,549.99	\$197,550.00- \$263,399.99
15	\$70,010	\$0.00 - \$130,218.59	\$130,218.60- \$140,019.99	\$140,020.00- \$175,024.99	\$175,025.00- \$210,029.99	\$210,030.00- \$280,039.99
16	\$74,170	\$0.00 - \$137,956.19	\$137,956.20- \$148,339.99	\$148,340.00- \$185,424.99	\$185,425.00- \$222,509.99	\$222,510.00- \$296,679.99
17	\$78,330	\$0.00 - \$145,693.79	\$145,693.80- \$156,659.99	\$156,660.00- \$195,824.99	\$195,825.00- \$234,989.99	\$234,990.00- \$313,319.99
18	\$82,490	\$0.00 - \$153,431.39	\$153,431.40- \$164,979.99	\$164,980.00- \$206,224.99	\$206,225.00- \$247,469.99	\$247,470.00- \$329,959.99
Increment	\$4,160	100%	186%	200%	250%	300%

**Baby Watch Early Intervention Program
2015-2016 Sliding Fee Schedule, Continued
Monthly Family Fee, Effective July 1, 2015**

FAMILY SIZE	Federal Poverty	400% \$50.00	500% \$60.00	600% \$80.00	700% \$100.00	800% \$120.00
2	\$15,930	\$63,720.00- \$79,649.99	\$79,650.00- \$95,579.99	\$95,580.00- \$111,509.99	\$111,510.00 \$127,439.99	\$127,440.00 \$143,369.99
3	\$20,090	\$80,360.00- \$100,449.99	\$100,450.00- \$120,539.99	\$120,540.00- \$140,629.99	\$140,630.00 \$160,719.99	\$160,720.00 \$180,809.99
4	\$24,250	\$97,000.00- \$121,249.99	\$121,250.00- \$145,499.99	\$145,500.00- \$169,749.99	\$169,750.00 \$193,999.99	\$194,000.00 \$218,249.99
5	\$28,410	\$113,640.00- \$142,049.99	\$142,050.00- \$170,459.99	\$170,460.00- \$198,869.99	\$198,870.00 \$227,279.99	\$227,280.00 \$255,689.99
6	\$32,570	\$130,280.00- \$162,849.99	\$162,850.00- \$195,419.99	\$195,420.00- \$227,989.99	\$227,990.00 \$260,559.99	\$260,560.00 \$293,129.99
7	\$36,730	\$146,920.00- \$183,649.99	\$183,650.00- \$220,379.99	\$220,380.00- \$257,109.99	\$257,110.00 \$293,839.99	\$293,840.00 \$330,569.99
8	\$40,890	\$163,560.00- \$204,449.99	\$204,450.00- \$245,339.99	\$245,340.00- \$286,229.99	\$286,230.00 \$327,119.99	\$327,120.00 \$368,009.99
9	\$45,050	\$180,200.00- \$225,249.99	\$225,250.00- \$270,299.99	\$270,300.00- \$315,349.99	\$315,350.00 \$360,399.99	\$360,400.00 \$405,449.99
10	\$49,210	\$196,840.00- \$246,049.99	\$246,050.00- \$295,259.99	\$295,260.00- \$344,469.99	\$344,470.00 \$393,679.99	\$393,680.00 \$442,889.99
11	\$53,270	\$213,480.00- \$266,849.99	\$266,850.00- \$320,219.99	\$320,220.00- \$373,589.99	\$373,590.00 \$426,959.99	\$426,960.00 \$480,329.99
12	\$57,530	\$230,120.00- \$287,649.99	\$287,650.00- \$345,179.99	\$345,180.00- \$402,709.99	\$402,710.00 \$460,239.99	\$460,240.00 \$517,769.99
13	\$61,690	\$246,760.00- \$308,449.99	\$308,450.00- \$370,139.99	\$370,140.00- \$431,829.99	\$431,830.00 \$493,519.99	\$493,520.00 \$555,209.99
14	\$65,850	\$263,400.00- \$329,249.99	\$329,250.00- \$395,099.99	\$395,100.00- \$460,949.99	\$460,950.00 \$526,799.99	\$526,800.00 \$592,649.99
15	\$70,010	\$280,040.00- \$350,049.99	\$350,050.00- \$420,059.99	\$420,060.00- \$490,069.99	\$490,070.00 \$560,079.99	\$560,080.00 \$630,089.99
16	\$74,170	\$296,680.00- \$370,849.99	\$370,850.00- \$445,019.99	\$445,020.00- \$519,189.99	\$519,190.00 \$593,359.99	\$593,360.00 \$667,529.99
17	\$78,330	\$313,320.00- \$391,649.99	\$391,650.00- \$469,979.99	\$469,980.00- \$548,309.99	\$548,310.00 \$626,639.99	\$626,640.00 \$704,969.99
18	\$82,490	\$329,960.00- \$412,449.99	\$412,450.00- \$449,939.99	\$449,940.00- \$577,429.99	\$577,430.00 \$659,919.99	\$659,920.00 \$742,409.99
Increment	\$4,160	400%	500%	600%	700%	800%

**Baby Watch Early Intervention Program
2015-2016 Sliding Fee Schedule, Continued
Monthly Family Fee, Effective July 1, 2015**

FAMILY SIZE	Federal Poverty	900%	1000%	1100%	1200%
2	\$15,930	\$143,370.00	\$159,300.00	\$175,230.00	\$191,160.00
3	\$20,090	\$159,299.99	\$175,229.99	\$191,159.99	and above
4	\$24,250	\$180,810.00	\$200,900.00	\$220,990.00	\$241,080.00
5	\$28,410	\$200,899.99	\$220,989.99	\$241,079.99	and above
6	\$32,570	\$218,250.00	\$242,500.00	\$266,750.00	\$291,000.00
7	\$36,730	\$242,499.99	\$266,749.99	\$290,999.99	and above
8	\$40,890	\$255,690.00	\$284,100.00	\$312,510.00	\$340,920.00
9	\$45,050	\$284,099.99	\$312,509.99	\$340,919.99	and above
10	\$49,210	\$293,130.00	\$325,700.00	\$358,270.00	\$390,840.00
11	\$53,370	\$325,699.99	\$358,269.99	\$390,839.99	and above
12	\$57,530	\$330,570.00	\$367,300.00	\$404,030.00	\$440,760.00
13	\$61,690	\$367,299.99	\$404,029.99	\$440,759.99	and above
14	\$65,850	\$368,010.00	\$408,900.00	\$449,790.00	\$490,680.00
15	\$70,010	\$408,899.99	\$449,789.99	\$490,679.99	and above
16	\$74,170	\$405,450.00	\$450,500.00	\$495,550.00	\$540,600.00
17	\$78,330	\$450,499.99	\$495,549.99	\$540,599.99	and above
18	\$82,490	\$442,890.00	\$492,100.00	\$541,310.00	\$590,520.00
		\$492,099.99	\$541,309.99	\$590,519.99	and above
		\$480,330.00	\$533,700.00	\$587,070.00	\$640,440.00
		\$533,699.99	\$587,069.99	\$640,439.99	and above
		\$517,770.00	\$575,300.00	\$632,830.00	\$690,360.00
		\$575,299.99	\$632,829.99	\$690,359.99	and above
		\$555,210.00	\$616,900.00	\$678,590.00	\$740,280.00
		\$616,899.99	\$678,589.99	\$740,279.99	and above
		\$592,550.00	\$658,500.00	\$724,350.00	\$790,200.00
		\$658,499.99	\$724,349.99	\$790,199.99	and above
		\$630,090.00	\$700,100.00	\$770,110.00	\$840,120.00
		\$700,099.99	\$770,109.99	\$840,119.99	and above
		\$667,530.00	\$741,700.00	\$815,870.00	\$890,040.00
		\$741,699.99	\$815,869.99	\$890,039.99	and above
		\$704,970.00	\$783,300.00	\$861,630.00	\$939,960.00
		\$783,299.99	\$861,629.99	\$939,959.99	and above
		\$742,410.00	\$824,900.00	\$907,390.00	\$989,880.00
		\$824,899.99	\$907,389.99	\$989,879.99	and above
Increment	\$4,160	900%	1000%	1100%	1200%

Please contact the Baby Watch Early Intervention Program, 800-961-4226, for the correct fee amount if the family size is greater than eighteen.

NOTE: This sliding fee schedule is based on 186% of the Federal Poverty Guidelines scheduled to be published in the Federal Register January 22, 2015.

(<http://www.federalregister.gov/articles/2015/01/22/2015-01120/annual-update-of-the-hhs-poverty-guidelines#t-1>.) The fee scale will be changed in July each year in accordance with these guidelines, which are published annually by the Department of Health and Human Services, Office of the Secretary.

Emergency Medical Services	Emergency Medical Technician
Registration, Certification and Testing	Quick Response Unit Quality Assurance Review (per vehicle) 65.00
Blood Draw Permit 35.00	Quick Response Unit, Advanced (per vehicle) 65.00
Emergency Medical Technician	Air Ambulance
Practical Re-Test 40.00	Advanced Air Ambulance (per vehicle) 130.00
Lapsed Certification State written test fee	Specialized (per vehicle) 165.00
Paramedic 60.00	Out of State (per vehicle) 200.00
Emergency Medical Technician 40.00	Emergency Medical Dispatch Center (per center) 65.00
Advanced Emergency Medical Technician 50.00	Resource Hospital (per hospital) 150.00
Recertification Fee	Quality Assurance Application Reviews
Recertification Quality Assurance Review Fee for All Levels Except Emergency Medical Dispatcher 20.00	Original Ground Ambulance/Paramedic License Negotiated 650.00
Lapsed Certification 30.00	Original Ambulance/Paramedic License Contested Variable
Initial, Reciprocity, and Recertification Quality Assurance Review Fee for Emergency Medical Dispatcher Initial Certification, Reciprocity and Recertification 15.00	Original Designation 125.00
Initial and Reciprocity Certification Quality Assurance Review Fee for All Levels Except Emergency Medical Dispatcher 30.00	Renewal Ambulance/Paramedic/Air License 125.00
Written Test Fee	Renewal Designation 125.00
All written tests, Retests 20.00	Upgrade in Ambulance Service Level . . . 125.00
State only Certification written test fee 60.00	Original Air Ambulance License 650.00
Practical Test	Original Air Ambulance License with Commission on Accreditation of Medical Transport Services Certification 250.00
Emergency Medical Responder Certification Practical Test 40.00	Change in ownership/operator Non-contested 650.00
Certification Practical Retest (per station) 40.00	Contested Up to actual cost
Emergency Medical Technician Basic	Change in geographic service area Non-contested 650.00
Recertification/Reciprocity Practical Test 80.00	Contested Up to actual cost
Intermediate	Voluntary Trauma Center Designation - Level I, II, III, IV, and V
Advanced Practical Test 100.00	Trauma Center Verification/Quality Assurance Review 5,000.00
Advanced Practical Retest (per station) 50.00	Trauma Designation Consultation Quality Assurance Review (per 5000) 750.00
Paramedic Practical Initial and Reciprocity Test 200.00	Focused Quality Assurance Review . . . 3,000.00
Paramedic Practical Reciprocity Retest (per station) 70.00	Quality Assurance Course Review
Annual Quality Assurance Review	Emergency Medical Dispatch Course 35.00
Course For All Levels Except Emergency Medical Dispatch 125.00	Services Training & Testing Agency Designation 125.00
Ground Ambulance	Course Quality Assurance Review Late . . 25.00
Emergency Medical Technician Ground Ambulance Quality Assurance Review (per vehicle) 100.00	Less than 30 days
Advanced Emergency Medical Technician (per vehicle) 130.00	New Instructor Course Registration 150.00
Interfacility Transfer Ambulance	Course Registration Late 25.00
Emergency Medical Technician Interfacility Transfer Ambulance Quality Assurance Review (per vehicle) 100.00	Course Coordinator Seminar Registration 50.00
Interfacility Transfer Ambulance, Advanced (per vehicle) 130.00	Seminar Registration Late 25.00
Paramedic	New Course Coordinator Course Registration 50.00
Rescue (per vehicle) 165.00	Course Registration Late 25.00
Tactical Response (per vehicle) 165.00	Instructor Seminar Registration 150.00
Ambulance (per vehicle) 170.00	Registration Late 25.00
Interfacility Transfer Service (per vehicle) 170.00	Vendor 200.00
Fleet fee (per fleet) 3,200.00	New Training Officer Course Registration 50.00
Agency with 20 or more vehicles	Course Registration Late 25.00
Quick Response Unit	Training Officer Seminar Registration 50.00

Seminar Registration Late	25.00
Emergency Vehicle Operations Instructor Course	40.00
Medical Director's Course	50.00
Pediatric	
Advanced Life Support Course	170.00
Education for Prehospital Professionals Course	170.00
Management Seminar	50.00
Prehospital Trauma Life Support Course	175.00
Equipment Delivery	
Strike Team BLU-MED Mobile Field Response Tent Support	6,000.00
Rental of pediatric course equipment to for-profit agency	150.00
Pediatric Advanced Life Support Course Renewal	85.00
Pediatric Education for Prehospital Professionals Course	170.00
Pediatric Advanced Life Support Course	170.00
Emergency Patient Receiving Facility Re-Designation	150.00
Emergency Patient Receiving Facility Initial Designation	1,000.00
Salt Lake County	25.00
Davis, Utah, and Weber Counties	50.00
Late (per day)	10.00
<p>Training supplies, rental of equipment and accessories charge for course supplies and accessories to be based upon most recent acquisition cost plus 20% rounded up to the nearest \$0.10 (computed quarterly) Free On Board Salt Lake City, Utah.</p>	
Pediatric Education for Prehospital Professionals Course Renewal	85.00
Background Checks	
Name only	30.00
fingerprints and name	65.00
Data	
Pre-hospital Data	
Non-profits Users	800.00
Academic, non-profit, and other government users	
For-profit Users	1,600.00
Trauma Registry Data	
Non-profits Users	800.00
Academic, non-profit, and other government users	
For-profit Users	1,600.00
Health Facility Licensing and Certification Annual License	
Health Facilities base	260.00
<p>A base fee for health facilities plus the appropriate fee as indicated below applies to any new or renewal license.</p>	
Facility Initial or Change of Ownership (per 100)	100.00
Direct Access Clearance System	
Initial Clearance	15.00
Facility Renewal	200.00
Contractor Access	100.00
Annual License	
Abortion Clinics	1,800.00
Two Year Licensing Base	

Plus the appropriate fee as listed below to any new or renewal license	
Health Care Facility	520.00
Every other year	
Health Care Providers	
Change Fee	
Health Care Providers	130.00
Charged to health care providers making changes to their existing license.	
Hospitals	
Hospital Licensed Bed	39.00
Nursing Care Facilities, and Small Health Care Facilities Licensed Bed	31.20
Residential Treatment Facilities Licensed Bed	26.00
End Stage Renal Disease Centers Licensed Station	182.00
Freestanding Ambulatory Surgery Centers (per facility)	2,990.00
Birthing Centers (per licensed unit)	520.00
Hospice Agencies	1,495.00
Home Health Agencies	1,495.00
Personal Care Agencies	1,000.00
Mammography Screening Facilities	520.00
Assisted Living Facilities	
Type I (per licensed bed)	26.00
Type II (per licensed bed)	26.00
The fee for each satellite and branch office of current licensed facility	260.00
Late Fee	
Within 1 to 14 days after expiration of license	50% of scheduled fee
Within 15 to 30 days after expiration of license	75% of scheduled fee
New Provider/Change in Ownership	
New Provider/Change in Ownership Applications for health care facilities	747.50
Assessed for services rendered providers seeking initial licensure to or change of ownership to cover the cost of processing the application, staff consultation, review of facility policies, initial inspection, etc.	
Assisted Living and Small Health Care Type-N (nursing focus) Limited Capacity/Change of Ownership Applications:	325.00
Assessed for services rendered to providers seeking initial licensure or change of ownership to cover the cost of processing the application, staff consultation and initial inspection.	
Application Termination or Delay	
If a health care facility application is terminated or delayed during the application process, a fee based on services rendered will be retained as follows:	
Policy and Procedure Review	50% of total fee
On-site inspections	90% of total fee
Plan Review and Inspection	
Hospitals	
Number of Beds	
Up to 16	3,445.00
17 to 50	6,890.00
51 to 100	10,335.00
101 to 200	12,870.00
201 to 300	15,470.00

301 to 400	17,192.50
Over 400, base	17,192.50
Over 400, each additional bed	37.50

In the case of complex or unusual hospital plans, the Bureau will negotiate with the provider an appropriate plan review fee at the start of the review process based on the best estimate of the review time involved and the standard hourly review rate.

Nursing Care Facilities and Small Health Care Facilities

Number of Beds

Up to 5	1,118.00
6 to 16	1,716.00
17 to 50	3,900.00
51 to 100	6,890.00
101 to 200	8,580.00

Freestanding Ambulatory Surgical

Facilities (per operating room) 1,722.50

Other Freestanding Ambulatory

Facilities (per service unit) 442.00

Includes Birthing Centers, Abortion Clinics, and similar facilities.

End Stage Renal Disease Facilities

(per service unit) 175.50

Assisted Living Type I and Type II

Number of Beds

Up to 5	598.00
6 to 16	1,196.00
17 to 50	2,762.50
51 to 100	5,167.50
101 to 200	7,247.50

Each additional inspection required (beyond the two covered by the fees listed above) or each additional inspection requested by the facility shall cost \$559.00 plus mileage reimbursement at the approved state rate, for travel to and from the site by a Department representative.

Remodels of Licensed Facilities

Hospitals, Freestanding Surgery

Facilities (per square foot)29

All others excluding Home Health

Agencies (per square foot)25

Each additional required on-site

inspection 559.00

Other Plan-Review Fee Policies Variable

If an existing facility has obtained an exemption from the requirement to submit preliminary and working drawings, or other info regarding compliance with applicable construction rules, the Department may conduct a detailed on-site inspection in lieu of the plan review. The fee for this will be \$559.00 per inspection, plus mileage reimbursement at the approved state rate. A facility that uses plans and specifications previously reviewed and approved by the Department will be charged 60 percent of the scheduled plan review fee. Fifty-two cents per square foot will be charged for review of facility additions or remodels that house special equipment such as CAT (Computer Assisted Tomography) scanner or linear accelerator. If a project is terminated or delayed during the plan review process, a fee

based on services rendered will be retained as follows: Preliminary drawing review - 25% of the total fee. Working drawings and specifications review - 80% of the total fee. If the project is delayed beyond 12 months from the date of the State's last review the applicant must re-submit plans and pay a new plan review fee in order to renew the review action.

Health Care Facility Licensing

Rules Actual cost

Plus mailing

Certificate of Authority

Health Maintenance Organization

Review of Application 650.00

DISEASE CONTROL AND PREVENTION

General Administration

Laboratory General

Fee Discounts for Large Volume Customers

High volume customers may receive discounts on individual testing fees. Tests available for discount are listed on the laboratory's posted Fee Schedule at www.health.utah.gov/lab.

Discounts Reflected on Invoices

The discounts will be reflected on the invoices of customers that meet established volume criteria.

Discount Levels Clarified

The discount levels are: 5% for customers spending more than \$1,000 per month, 12% for customers spending more than \$7,500 per month, and 25% for customers spending more than \$15,000 per month.

Emergency Waiver

Under certain conditions of public health import (e.g., disease outbreak, terrorist event, or environmental catastrophe) fees may be reduced or waived.

Handling

Total cost of shipping and testing of referral samples to be rebilled to customer (per Referral lab's invoice)

Repeat Testing - normal fee will be charged if repeat testing is required due to poor quality sample

per sample, per each reanalysis

These fees apply for the entire Division of Disease Control and Prevention

Administrative retrieval and copy

1-15 copies 20.00

each additional copy 1.00

Laboratory Operations and Testing

Infectious Disease

Immunology

Hepatitis

C (Anti-Hepatitis C Virus)

Antibody 27.00

HIV (Human Immunodeficiency Virus)

1/2 and O, Antigen/Antibody

Combo 35.00

Supplemental Testing (HIV-1/HIV-2 differentiation) 36.00

Hantavirus

Hantavirus	150.00
Syphilis	
Immunoglobulin G (IgG) Antibody (including reflex Rapid Plasma Reagin titer)	12.00
Syphilis Total Antibody	25.00
TP-PA (Treponemal Pallidum - Partial Agglutination) Confirmation	25.00
Quantiferon	
Tuberculosis In Tube-Gold	50.00
Virology	
Herpesvirus (HSV-1, HSV-2, VZV) Detection & Differentiation by Polymerase Chain Reaction	60.00
Rabies - Not epidemiological indicated or pre-authorized	95.00
C. trachomatis and N. gonorrhoeae detection by Nucleic Acid Test	25.00
Influenza Isolation (CDC)	125.00
Neuraminidase inhibition (CDC)	125.00
Bacteriology	
Mycobacteriology	
Mycobacteria Identification by Accuprobe	91.00
Culture for Mycobacteria	70.00
Mycobacterium Tuberculosis Culture Susceptibilities (sendout)	170.00
Newborn Screening	
Newborn Screening, Laboratory Testing	75.83
The fee of 103.79 is split between the Newborn screening testing program (75.83) and the Newborn screening follow-up program (27.96).	
Newborn Screening, Follow-up Services	27.96
The fee of 103.79 is split between the Newborn screening testing program (75.83) and the Newborn screening follow-up program (27.96).	
Chemistry	
Drinking Water Tests	
Inorganics	
Alkalinity (Total) Standard Method 2320B	10.00
Bromide 300.1	27.50
Bromate 300.1	27.50
Chlorate 300.1	27.50
Chlorite 300.1	27.50
Chloride 300.0	19.00
Fluoride 300.0	19.00
Sulfate 300.0	16.50
Chromium (Hexavalent) 218.7	55.00
Cyanide 335.4	50.00
Nitrate 353.2	22.00
Nitrite 353.2	22.00
Nitrate + Nitrite 353.2	13.20
Perchlorate 314.0	55.00
pH (Test of acidity or alkalinity) 150.1	11.00
Sulfate 375.2	16.50
Turbidity 180.1	11.00
Ultraviolet Absorption Standard Method 5910B	33.00

Total Organic Carbon Standard	
Method 5910B	22.00
Dissolved Organic Carbon	22.00
Metals	
Standard Metals	
EPA 3010 Digestion	27.00
if required, add this fee to the metal package selected	
Mercury 245.1 - may include a digestion fee	27.50
Selenium by Selenium Hydride - Atomic Absorption - Standard Method 3114C - may include a digestion fee	42.00
Lead and Copper (Type Metals-8) 200.8	27.00
Aluminum 200.8	13.00
Antimony 200.8	13.00
Arsenic 200.8	13.00
Barium 200.8	13.00
Beryllium 200.8	13.00
Cadmium 200.8	13.00
Chromium 200.8	13.00
Copper 200.8	13.00
Lead 200.8	13.00
Manganese 200.8	13.00
Molybdenum 200.8	13.00
Nickel 200.8	13.00
Selenium 200.8	13.00
Silver 200.8	13.00
Thallium 200.8	13.00
Zinc 200.8	13.00
Boron 200.7	10.00
Calcium 200.7	10.00
Iron 200.7	10.00
Magnesium 200.7	10.00
Potassium 200.7	10.00
Sodium 200.7	10.00
Langelier Index	5.50

Calculation: pH (Test acidity or alkalinity),
calcium, TDS (Total Dissolved Solids),
alkalinity

Organic Contaminants

Trihalomethanes Method 524.2 ...	82.70
Haloacetic Acids Method 6251B ...	165.00
Volatile Organic Carbons 524.2 ...	209.00
Perchloroethylene 524.2	83.00
Maximum Total Potential Trihalomethanes Method 524.2	88.20

Pesticides

Phase II/V Semi Volatile Organic Analytes and Pesticide 4 methods	919.00
Environmental Protection Agency 525.2	367.50
Herbicide 515.1	210.00
Carbamate 531.1	185.00

Dissolved and Standard Metals Clarification

Fee for Drinking Water metals and
Dissolved-Metals are the same as the
Standard Metals Fees, listed below.

T-Metals Clarification

Fee for T-Metals will include the Standard
Metals fee plus the Preconcentration fee of
\$16.50

Water Bacteriology

Environmental Legionella		Environmental Protection	
Standard Methods 9260 J	70.00	Agency Method 1666	400.00
Liter of water		Unregulated Contaminated Monitoring	
Water Microbiology (Drinking Water and Surface Water)		Regulations 3; Environmental Protection	
Colilert E. Coli 9223B	20.00	Agency Chlorate by 300.1	50.00
Fecal 9222D	25.00	Unregulated Contaminated Monitoring	
Heterotrophic Plate Count by		Regulations 3; Environmental	
9215 B Pour Plate	13.00	Protection Agency Hexavalent Chromium	
Water Radiochemistry (Drinking Water and Surface Water)		by IC 218.7	55.00
Gross alpha and beta	66.00	Unregulated Contaminated	
Radium 226 (de-emanation) -		Monitoring Regulations 3;	
903.0	133.00	Environmental Protection Agency	
Radium 228 904.0	133.00	Metals by 200.8	90.00
Uranium by 200.8 - Inductive Coupling		Dioxane 522	190.00
Plasma-Mass Spectrometry (ICP/MS) -		Perfluorinated Compounds 537	290.00
a digestion fee may		Volatile Organic Compounds 524.3	150.00
be added	12.00	Health Promotion	
Inorganic Surface Water (Lakes, Rivers, etc.)		Baby Your Baby Program	
Tests		Health Keepsake books	
Alkalinity for Bi-Carbonate,		Non-adapted version	
Additional Fee	1.00	Based on quantity for \$4.00	
Alkalinity for Carbonate,		to \$5.00 (per copy)	5.00
Additional Fee	1.00	Adapted version	
Internal Review of Costs and Descriptions		Based on quantity for \$3.00	
Alkalinity for Carbonate Solids,		to \$6.50 (per copy)	6.50
Additional Fee	1.00	Epidemiology	
Alkalinity for Carbon dioxide,		Utah Statewide Immunization Information System	
Additional Fee	1.00	Non-Financial Contributing Partners	
Alkalinity for Hydroxide,		Match on Immunization Records in	
Additional Fee	1.00	Database (per record)	12.00
Ammonia 350.3	22.00	File Format Conversion (per hour)	30.00
Biochemical Oxygen Demand		Financial Contributing Partners	
(BOD) 5 day test 405.1	33.00	Match on Immunization Records in	
Chlorophyll A Standard Method		Database (per record)	Variable
10200H - Chlorophyll-A	22.00	Match on Immunization Records in	
Phosphorus, Total 365.1	20.00	Database (per hour)	Variable
Silica 370.1	16.50	If the Partner's financial contribution is	
Total Dissolved Solids (TDS)		more than or equal to the number of records to	
Standard Method 3540C	16.50	be matched multiplied by \$12.00, then the	
Total Suspended Solids		partner shall not have to pay the fee.	
(TSS) 160.2	16.50	Negative Human Immunodeficiency	
Specific Conductance 120.1	10.00	Virus antibody test	15.00
Sulfate 300.1	16.50	In person notification of an individual	
Sulfide 376.2	44.00	Fundamentals of Human Immunodeficiency Virus	
Surface Water Metals		Prevention Counseling Workshops	385.00
Metals Clarification		Positive/OraQuick/Partner Counseling	
Fee for T-Metals will include the Standard		and Referral Services Workshop	450.00
Metals fee plus the Preconcentration Fee of		Human Immunodeficiency Virus 101	40.00
\$16.50		Tuberculosis Skin Testing	15.00
High Total Dissolved Solids (TDS)		Placement and reading	
Clarification		Office of the Medical Examiner	
Samples with high Total Dissolved Solids		Autopsy	
(TDS), or samples with complex matrix, will		Non-Jurisdictional Case	2,500.00
be analyzed using Environmental Protection		Plus cost of body transportation	
Agency 6010/200.7		External Examination, Non-	
Solid and Hazardous Waste Organics Tests		Jurisdictional Case	500.00
Benzene, Toluene, Ethylbenzene,		Plus transportation	
Xylene, Naphthalene (BTEXN)	83.00	Use of Medical Examiner facilities and	
Environmental Protection Agency		assistants for autopsies	500.00
8270 Semi Volatiles	285.00	Use of Medical Examiner facilities and	
Environmental Protection		assistants for external exams	300.00
Agency 8260 (volatile organic		Reports	
compounds)	220.50	First copy	No charge
Total Petroleum Hydrocarbons		No charge to next of kin, treating	
8015	138.00	physicians, and investigative or prosecutorial	
Volatiles Purgeables		agencies.	

All other requestors and additional copies	35.00
Miscellaneous Office of Medical Examiner case file papers	
First copy	No charge
No charge to next of kin, treating physicians, and investigative or prosecutorial agencies.	
All other requestors and additional copies	35.00
Miscellaneous non-Office of Medical Examiner case file papers	
All requestors cost for non-Office of Medical Examiner copies (per file request)	50.00
Cremation Authorization	
Review and authorize cremation	45.00
\$5.00 per permit payable to Vital Records for processing.	
Court	
Preparation, consultation and appearance; Portal to portal expenses including travel costs and waiting time	
Medical Examiner criminal cases out of state (per hour)	500.00
Improve/provide adequate compensation to State of Utah for services provided by State employees.	
Non-Jurisdictional Medical Examiner criminal and all civil cases (per hour)	500.00
Improve/provide adequate compensation to State of Utah for services provided by State employees.	
Medical Examiner Consultation on non-Medical Examiner cases (per hour)	500.00
Improve/provide adequate compensation to State of Utah for services provided by State employees.	
Photographic, Slide, and Digital Services	
Glass Slides	20.00
Digital Image	
Digital X-ray Image from Digital Source - Flat fee per X-ray image	10.00
Digital image copied from Digital source, flat fee for up to 30 requested images (per image)	10.00
Digital image copied from Digital source, per image cost for request over 30 images	1.00
Copied from color slide negatives	5.00
Use of Tissue Harvest Room for Acquisition	
Skin Graft	132.83
Bone	265.65
Heart Valve	69.30
Eye	34.65
Saphenous vein	69.30
Body Storage	
Daily charge for use of Medical Examiner Storage Facilities	30.00
Beginning 24 hours after notification that body is ready for release.	
Biologic samples requests	
Handling and storage of requested samples by outside sources	25.00
Certification Programs	

Parameter Category Fees charge for each testing act	
Atomic Absorption/Atomic Emission	300.00
Radchem - Alpha spectrometry	200.00
Radchem - Beta	200.00
Calculation of Analytical Results	50.00
Organic Clean Up	100.00
Toxicity/Synthetic Extractions	
Characteristics Procedure	200.00
Radchem- Gamma	200.00
Simple Gas Chromatography	300.00
Complex Gas Chromatography	600.00
Semivolatile Gas Chromatography	500.00
Volatile Gas Chromatography	500.00
Radchem - Gas Proportional Counter ..	200.00
Gravimetric	100.00
High Pressure Liquid	
Chromatography	300.00
Inductively Coupled Plasma Metals	
Analysis	400.00
Inductively Coupled Plasma Mass	
Spectrometry	500.00
Ion Chromatography	200.00
Ion Selective Electrode base methods ...	100.00
Radchem - Liquid Scintillation	200.00
Metals Digestion	100.00
Simple Microbiological Testing	100.00
Complex Microbiological Testing	300.00
Organic Extraction	100.00
Physical Properties	100.00
Titrimetric	100.00
Spectrometry	200.00
While Effluent Toxicity	600.00
Environmental Laboratory Certification	
Certification Clarification	
Note: Laboratories applying for certification are subject to the annual certification fee, plus the fee listed, for each category in which they are to be certified.	
Annual certification fee (chemistry and/or microbiology)	
Utah laboratories	825.00
Out-of-state laboratories	5,000.00
Plus reimbursement of all travel expenses	
National Environmental Accreditation Program (NELAP) recognition	825.00
Certification change	100.00

MEDICAID AND HEALTH FINANCING

Contracts
 Provider Enrollment
 Medicaid application fee for prospective or re-enrolling providers

553.00

The federal Department of Health and Human Services (HHS), in accordance with the Social Security Act [section 1866(j)(2)(C)(i) as amended by the Affordable Care Act section 6401 and 42 CFR 424.514], requires certain providers in the Medicare, Medicaid, or CHIP programs to submit a fee with their enrollment or re-enrollment application. The fee has generally been established by HHS in December with a January 1st implementation date. As there is often little time between the HHS notification of the fee change and the required

implementation date, the Utah Department of Health requests that the legislature authorize the new required fee although the fee change does not allow for the usual public hearing process. This fee generally will have an increase that is less than 3%.

CHILDREN'S HEALTH INSURANCE PROGRAM

Quarterly Premium	
Plan B	30.00
138%-150% of Poverty Level	
Plan C	75.00
150%-200% of Poverty Level	
Late	15.00

MEDICAID MANDATORY SERVICES

Other Mandatory Services	
10040 Acne Surgery	48.00
J7302 Levonorgestrel-releasing iu contraceptive	800.00
D0170 Re-Evaluation - Limited, Problem Focused (Established Patient)	42.00
D0180 Comprehensive Periodontal Evaluation	44.00
D0190 Screening of Patient	13.00
D0191 Assessment of Patient	13.00
D0273 Bitewings - Three Films	27.00
D1208 Topical Application of Fluoride	19.00
D2390 Resin-Based Composite Crown, Anterior	224.00
D2392 Resin-Based Composite - Two Surfaces, Posterior	120.00
D2393 Resin-Based Composite - Three Surfaces, Posterior	145.00
D2394 Resin-Based Composite - Four or More Surfaces, Posterior	175.00
D5660 Add Clasp to Existing Partial Denture	120.00
D4921- Gingival Irrigation/ Per Quadrant	5.00
D4341 Periodontal Scaling and Root Planing Four or More Contiguous Teeth or Bounded Teeth Spaces, per Quadrant	157.00
D4342 Periodontal Scaling and Root Planing 1-3 teeth, Per Quadrant	92.00
D4910 Periodontal Maintenance	96.00
D0240 Intraoral Occlusal Radiographic Image	12.00
Health Clinics	
31505 Laryngoscopy	70.00
90791 Psychiatric diagnosis evaluation w/o medical service (per 15 minutes)	40.00
Viscous Lidocaine J8499	5.00
Progesterone J2675	4.00
International Normalized Ratio home testing review G0250	8.00
Gauze less than 16 sq in. A6402	1.00
Gauze 16-48 sq in. A6403	2.00
Wood filler/paste A6261	40.00
Malignant lesion removal 0.5 cm or less 11600	120.00
Typhoid 90691	75.00
Artificial Insemination 58321	250.00

Arterial Studies	
93922	120.00
93923	182.00
93924	221.00
IV Monitoring 1st half hour 96360	60.00
IV Monitoring each additional hour 96361	20.00
1000cc normal saline J7030	10.00
New patient well exam 99386	119.00
New patient well exam 99387	126.00
Incision and Drainage	
10060 Abscess Simple/Single	68.00
10061 Complicated or Multiple	125.00
10080 Pilonidal Cyst	73.00
Simple	
10120 Incision and Removal Foreign Object-Simple	73.00
10140 Incision and Drainage of Cyst, Hematoma or Seroma	130.00
10160 Puncture Aspiration of Abscess, Hematoma	52.00
Debridement	
11000 Infected Skin up to 10%	57.00
11040 Skin Partial Thickness	44.00
11041 Skin Full Thickness	52.00
11042 Skin and Subcutaneous Tissue	110.00
11044 Skin, Tissue, Muscle, Bone	218.00
11100 Biopsy for Skin Lesion Subcutaneous	62.00
11101 Biopsy for Skin Subcutaneous Each Separate/Additional Lesion	32.00
11200 Removal Skin Tags 1-15	78.00
11201 Removal Skin tag any area, Each Add 10 Lesion	14.00
11300 Shave Biopsy for Epidermal/ Dermal Lesion 1 Trunk-Neck	47.00
11305 Shave Excision and Electrocautery	67.00
11310 Surgery by Electrocautery	42.00
Excision	
Benign	
Trunk/Arm/Leg	
11400 Lesion 0.5cm or Less	90.00
11401 Lesion 0.6-1cm	110.00
11402 Lesion 1.1-2.0 cm	122.00
11403 2.1-3.0 cm	142.00
11404 3.1-4.0 cm	160.00
11420 Scalp/Neck/Genital 0.5 or less	90.00
11421 Lesion 0.6-1.0 cm	125.00
11422 Subcutaneous/Neck/ Genital/Feet 1.1-2.0 cm	140.00
11423 Cyst	150.00
11440 Benign Face/Ear/Eyelid 0.5cm/less	100.00
11441 Benign Lesion Face/Ear/Eye/Nose 0.6-1.0 cm	125.00
11602 Malignant Trunk/Arm/Leg 1.1-2.0 cm	112.00
11604 3.1-4.0 cm	166.00
Malignant	
11622 Lesion Scalp/Neck/Hand/ Feet/Genital 1.1-2.0 cm	166.00
11641 Face/Nose/Ear 0.6-1.0 cm	131.00
11642 Face/Nose Ears 1.1-2.0 cm	172.00
11720 Debridement for Nails 1-5	27.00

11721 Debridement for Nails 6 or More	55.00	57455 Cervix With Biopsy	156.00
Avulsion		57456 Cervix With Electrocautery conization	146.00
11730 Nail Plate Single	68.00	57511 Cryocautery Cervix for Initial or Repeat	83.00
11731 Nail Second	42.00	58300 Insertion of Intrauterine Device	104.00
11732 Nail Each Additional Nail	30.00	58301 Removal of Intrauterine Device	163.00
11740 Toenail	26.00	60001 Aspiration/Injection Thyroid Gland	81.00
11750 Excision for Nail/Matrix Permanent Removal	175.00	Removal Foreign Body, External 65025 Eye, Superficial	173.00
11765 Wedge Excision of Skin of Nail Fold Ingrown	60.00	65220 Eye, Corneal	215.00
Repair		69200 Auditory Canal without General Anesthesia	150.00
Simple		69210 Cerumen Removal/One or Both Ears	78.00
12001 Superficial Wound 2.5 cm or Less	192.00	80048 Basic Metabolic Profile	6.00
12002 Wound 2.6-7.5 cm	203.00	80053 Metabolic Panel Labs	6.00
12004 Wound 7.6-12.5 cm	133.00	Comprehensive	
12005 Wound 12.6-20.0 cm	166.00	80061 Lipid Panel Labs	6.00
12011 Face/Ear/Nose/Lip 2.5 cm or Less	234.00	80061 Quick Lipid Panel	6.00
12032 Layer Closure Scalp/ Extremities/Trunk 2.6-7.5 cm	151.00	80076 Hepatic Function Panel	6.00
12035 Layer Closure Scalp/ Extremities/Trunk 12.6-20 cm	227.00	80100 Drug Screen for Multiple Drug Classes	26.00
13120 Complex Scalp/Arms/Legs	146.00	80101 Drug Screen for Single Drug Class	26.00
16020 Burn Dress without Anesthesia Office/Hospital Small	35.00	80176 Xylocaine 0-55 cc	29.00
16025 Burn Dress without Anesthesia Medical Face/Extremities	68.00	Urine Analysis	
Destruction		81000 with Microscope	10.00
17000 Any Method Benign First Lesion	78.00	81002	10.00
17003 Add-on Benign/ Pre-malignant	47.00	81003 Automated and without Microscope	10.00
17004 Benign Lesion 15 or More	182.00	81025 Human Chorionic Gonadotropin	22.00
17110 Flat Wart for Up to 15	120.00	Urine	
17111 Flat Warts for 15 and More	50.00	82043 Microalbumin	16.00
Malignant		82055 Alcohol Screen	21.00
17260 Trunk/Arm/Leg 0.5 or Less	58.00	82270 Hemoccult	7.00
17280 Lesion Face 0.5 cm Less	76.00	Feces Screening	
17281 Lesion Face 0.6-1	109.00	82570 Creatinine	12.00
20520 Foreign Body Removal	120.00	82728 Ferritin	26.00
Simple		82948 Glucose for Blood, Regent Strip	6.00
20550 Injection for Trigger Point Tendon/Ligament/Ganglion	57.00	82962 Glucose for Monitoring Device	6.00
20552 Trigger Point Injection (TPI)	47.00	83036 Hemoglobin A1C (long-term blood sugar test)	23.00
Arthrocentesis		83540 Iron	31.00
20600 Small Joint/Ganglion Fingers/Toes	50.00	84443 Thyroid Stimulating Hormone Labs	10.00
20610 Major Joint/Bursa Shoulder/Knee	104.00	84460 Alanine Amino Test	15.00
20605 Intermediate Joint/ Bursa Ankle/Elbow	52.00	85013 Hematocrit	5.00
211 Community Service	52.00	85025 Complete Blood Count Labs	5.00
28190 Foreign Body Removal for Foot Subcutaneous	125.00	85610 Prothrombin Time	10.00
30901 Cauterize (Limited) for Control Nasal Hemorrhage/Anterior/Simple	60.00	85651 Erythrocyte Sedimentation Test	11.00
36415 Venipuncture	6.00	85652 Sedimentation Rate	11.00
44641 Excision for Malignant Lesion	131.00	86308 Mononucleosis test	15.00
46083 Incision for Thrombosed Hemorrhoid, External	104.00	86318 Helicobacter Pylori test	23.00
46600 Anoscope	23.00	86318 Quick Helicobacter Pylori test	23.00
52000 Cystoscopy	125.00	86403 Monospot	18.00
53670 Catheterization, Urinary, Simple	30.00	85680 Purified Protein Derivative/ Tuberculosis Test	9.00
Colposcopy		Culture	
57421 Biopsy of Vagina/Cervix	156.00	87060 Strep	17.00
		Bacterial	
		87070 Any Other Source	16.00
		87077 Incision and Drainage	16.00
		87081 Single Organism	14.00

87082 Presumptive, Pathogenic Organism Screen	16.00	94760 Pulse Oximetry - Oxygen Saturation	10.00
87086 Bacterial Urine	12.00	95115 Injections for Allergy Only 1	15.00
87088 Bacterial Urine Identification and Quantification	12.00	95117 Injections for Allergy 2 or More	16.00
87102 Fungal	16.00	95860 Electromyogram 1	81.00
87106 Yeast	8.00	95861 Electromyogram 2	139.00
87110 Chlamydia	16.00	95900 Nerve Conduction Velocity Motor	42.00
87220 Potassium Hydroxide for Wet Prep	10.00	95904 Nerve Conduction Velocity Sensory	35.00
87804 Influenza A Quick Test	23.00	97035 Ultrasound	16.00
87880 Strep Quick Test	26.00	97110 Therapy	24.00
87880 Quick Strep for Test for Medicaid/Medicare	26.00	97124 Massage	13.00
88147 Papanicolaou (PAP) Smear for Cervical or Vaginal	42.00	97260 Manipulate for Spinal 1 Area	16.00
88164 Cytopathology, Slides, Cervical or Vagina	26.00	99050 After Hours	24.00
90471 Immunization Administration for One Vaccine	25.00	99058 Emergency Visit	36.00
90472 Immunization Administration for Additional Vaccine	12.00	99070 Supplies for Above and Beyond Customary	19.00
90620 Supplemental Security Income Exam Initial Consult	133.00	99080 Form 20 Disability Exam	88.00
Immunization Hepatitis		99173 Visual Acuity Screening Test New Patient	10.00
90632 A for 19+ Years	78.00	99201 Brief	47.00
90634 A for Pediatric-Adolescent	42.00	99201N Brief Night	47.00
90636 A and B Adult	90.00	99202 Limited	81.00
90645 Haemophilus Influenza B	47.00	99202N Limited Night	81.00
90649 Gardasil Human Papillomavirus Vaccine	156.00	99203 Intermediate	120.00
90658 Influenza Virus Vaccine	21.00	99203N Intermediate Night	120.00
90669 Pneumococcal > 5 years old Only	104.00	99204 Extended	182.00
90701 Diphtheria Tetanus Pertussis	42.00	99204N Extended Night	182.00
90702 Diphtheria Tetanus	14.00	99205 Comprehensive	229.00
90703 Tetanus	26.00	99205N Comprehensive Night	229.00
90707 Measles Mumps Rubella	42.00	Established Patient	
90715 Adacel - Tetanus Diphtheria Vaccine	73.00	99211 Brief	28.00
90716 Varicella	8.00	99211N Brief Night	28.00
90732 Pneumovax Shot	36.00	99212 Limited	47.00
90734 Meningitis	5.00	99212N Limited Night	47.00
90744 Hepatitis B / Newborn-18 Years	73.00	99213 Intermediate	73.00
90746 Hepatitis B 19+ Years Adult	88.00	99213N Intermediate Night	73.00
90772 Injection Therapeutic, Diagnosis	18.00	99214 Extended	110.00
90805 Psychiatric Diagnosis Interview Follow-up Visit	68.00	99214N Extended Night	110.00
92552 Audiometry	19.00	99215 Comprehensive	151.00
93000 Electrocardiogram	36.00	99215N Comprehensive Night	151.00
93015 Cardiovascular Stress Test Treadmill	130.00	Consult With Another Physician	
93926 Duplex Scan Limited Study	130.00	99241 History, Exam, Straightforward	36.00
93965 Doppler of Extremity	132.00	99242 Expanded History and Exam Straightforward	57.00
94010 Spirometry	52.00	99243 Detailed History, Exam Low Complexity	79.00
94060 Spirometry with Bronchodilators	64.00	99244 Comprehensive History, Exam Moderate Complexity	99.00
94200 Peak Flow	21.00	99245 Office Consult for New or Established Patient	426.00
94640 Intermittent Pause Pressure Breathing Device - Nebulizer Breathing	42.00	99354 Prolonged Services for 1 Hour	73.00
		99361 Medical Conference by Physicians	52.00
		Check	
		99381 New Patient Under 1	99.00
		99382 New Patient Age 1-4	109.00
		99383 New Patient Age 5-11	109.00
		99384 Age 12-17	130.00
		99385 Age 18-20	88.00
		99391 Under 1	88.00
		99392 Age 1-4	99.00
		99393 Age 5-11	99.00
		99394 Age 12-17	109.00
		99395 Age 18-20	95.00

99396 Medical Evaluation for Adult 40-64	104.00	Lipid	17.00
99397 Medical Evaluation for 65 Years and Over	107.00	PSATE0000 Prostate Specific Antigen Test	42.00
99402 Preventive Medicine Counseling 30-44 Minutes	468.00	Residual Functional Capacity Questionnaire	52.00
99432 Newborn Normal Care - In Office	42.00	S0020 Marcaine up to 30 ml	18.00
A4460 Ace Wrap (per roll)	7.00	S9981 Medical Records Copying Fee-Administration	6.00
A4550 Surgical Tray	42.00	Supplemental Security Insurance Exam	113.00
A4565 Sling	21.00	Thin Prep	140.00
A4570 Splint	23.00	Thyroid Stimulating Hormone	19.00
Complete Blood Count	5.00	Y4600 Injection for Pediatric Immunization Only	11.00
Complete Metabolic Panel	6.00	Y9051 Records Sent to Case Worker	16.00
Cornell Well Child Check Visits Form 21	73.00	Disability Exam	
Federal Aviation Administration Exam	52.00	D0120 Periodic	26.00
G0008 Flu Shot Administration for Medicare	8.00	D0140 Limited	42.00
G0009 Injection Administration for Pneumonia without Physician for Medicare	4.00	D0150 Comprehensive	43.00
G0010 Hepatitis B Vaccine Administration	5.00	D0210 Intraoral-complete series including Bitewings	73.00
G0101 Papanicolaou (PAP) with Breast Exam Cervical/Vaginal Screen Medicare	42.00	D0220 Intraoral periapical First film	14.00
G0107 Hemocult	10.00	D0230 Intraoral periapical Additional film	11.00
G0179 Physician Re-certification for Home Health	83.00	D0270 Bitewing Cost of single film	14.00
G0180 Physician Certification for Home Health	83.00	D0272 Bitewing Cost of two film	23.50
J0170 Injection for Epinephrine	10.00	D0274 Bitewing Cost of four film	33.00
J0290 Injection for Ampicillin Sodium 500 mg	8.00	D0330 Panoramic Film	64.00
J0540 Bicillin 1.2 million units	38.00	D1110 Prophylaxis-adult	51.00
J0696 Rocephin 250 mg	47.00	D1120 Prophylaxis-child	35.00
J0702 Injection for Celestone 3 mg	12.00	D1203 Topical application of fluoride excluding prophy	20.00
J0704 Injection for Celestone 4 mg	12.00	D1351 Sealant (per tooth)	28.00
J0780 Compazine up to 10 mg	16.00	Space Maintainer	
J0810 Solu Medrol 150 mg	21.00	D1510 Fixed unilateral	170.00
J1000 Estradiol	12.00	D1515 Fixed bilateral	224.00
J1055 Depo-Provera	88.00	D1520 Removable unilateral	204.00
J1200 Benadryl up to 50 mg	10.00	D1525 Removable bilateral	288.00
J1390 Estrogen	31.00	D1550 Recement	38.00
J1470 Gamma Globulin 2 cc	21.00	Amalgam	
J1820 Insulin up to 100 units	10.00	D2140 One surface	65.00
J1885 Toradol 15 mg	21.00	D2150 Two surface	85.00
J2000 Xylocaine 0-55 cc	5.00	D2160 Three surface	101.00
J2550 Phenergan up to 50 mg	10.00	D2161 4 or more surface	122.00
J3130 Testosterone	31.00	Resin	
J3301 Kenalog-10 Per 10 mg	31.00	D2330 One surface, anterior	81.00
J3401 Vistaril 25 mg	12.00	D2331 Two surface, anterior	101.00
J3420 Injection B-12	10.00	D2332 Three surface, anterior	120.00
J7300 Intrauterine copper contraceptive contraception	600.00	D2335 4 or more surface-can be incisal angle, anterior	143.00
J7320 Hyalgan, Synvisc Knee Injection	281.00	D2391 One surface, posterior	90.00
J7620 Albuterol Per ml, Inhalation Solution Durable Medical Equipment	3.00	D2751 Crown-porcelain fused to majority base metal	553.00
J7625 Albuterol Sulfate 0.5%/ml Inhalation Solution Administration	4.00	D2920 Recement Crown	49.00
L3908 Wrist Splint	44.00	D2930 Refabricated stainless steel crown-primary	133.00
Liver Function Test	6.00	D2931 Refabricated stainless steel crown-permanent	151.00
		D2950 Core build-up	127.00
		D2951 Pin retention (per tooth)	29.00
		D2954 Prefabricated post and core	161.00
		D3220 Therapeutic pulpotomy	82.00

D3221 Open and Medicate	91.00
Root Canal Therapy	
D3310 Anterior	444.00
D3320 Bicuspid	543.00
D3330 1st molar	701.00
D3410 Apicoectomy/ periradicular surgery-bicuspid	398.00
D3430 Retrograde filling	121.00
D4355 Full mouth debridement	101.00
Denture	
D5110 Complete upper	734.00
D5120 Complete lower	734.00
D5130 Immediate upper	801.00
D5140 Immediate lower	801.00
D5211 Upper partial-resin base	621.00
D5212 Lower partial-resin base	720.00
D5213 Upper partial-cast metal frame with resin base	811.00
D5214 Lower partial-cast metal frame with resin base	811.00
D5410 Adjust complete upper	55.00
D5411 Adjust complete lower	55.00
D5421 Adjust partial upper	55.00
D5422 Adjust partial lower	55.00
D5510 Repair broken complete base ..	187.00
D5520 Replace missing/broken teeth complete	104.00
D5610 Repair resin base-partial	130.00
D5630 Repair or replace broken clasp ...	140.00
D5640 Replace broken teeth (per tooth) ..	74.00
D5650 Add tooth to existing partial ...	120.00
D5750 Reline complete upper	225.00
D5751 Reline complete lower	225.00
D5760 Reline upper partial	224.00
D5761 Reline lower partial	224.00
D7111 Coronal Remnants	62.00
D7140 Single tooth extraction	78.00
D7210 Surgical removal erupted tooth ..	139.00
D7270 Tooth re-implantation with stabilization	156.00
D7286 Biopsy of oral tissue	104.00
D7410 Excision of benign tumor	182.00
D7510 Incision and drainage of abscess	105.00
D7960 Frenulectomy	148.00
D9248 Nitrous sedation	120.00

**DEPARTMENT OF
WORKFORCE SERVICES**

ADMINISTRATION

Executive Director's Office	
Government Records Access and Management Act (GRAMA) Fees - these GRAMA fees apply for the entire Department of Workforce Services	
Photocopies (for all copies after the first 10)	10
Fax Pages Local, All Pages	2.00
Fax Pages Long Distance, All Pages	2.00
Research (per hour)	20.00

UNEMPLOYMENT INSURANCE

Unemployment Insurance Administration	
Debt Collection Information Disclosure Fee (per Report)	15.00

Fee for employment information research and report for creditors providing a court order for employment information of a specific debtor.

**HOUSING AND
COMMUNITY DEVELOPMENT**

Homeless Committee	
State Community Services Office	
Homeless Summit	35.00
Weatherization Assistance	
Weatherization Laboratory (per day)	250.00
Heating Ventilation and Air Conditioning (HVAC) Laboratory Fee (per day)	250.00
Insulation Laboratory (per day)	250.00
Weatherization Classroom (per day)	50.00
Demonstration House (per day)	250.00
Consumer/Small Contractor (per hour)	10.00
Materials (per person)	300.00
Trainers Basic	50.00
Trainers Advanced	100.00

**STATE SMALL BUSINESS CREDIT
INITIATIVE PROGRAM FUND**

Loan Origination Fee for Loan Participation Program (per 1.00)	Variable
1-4% of loan amount based on participation & risk level	
Loan Origination Fee for Loan Guarantee Program (per 1.00)	Variable
1-4% of loan amount based on participation & risk level	

DEPARTMENT OF HUMAN SERVICES

EXECUTIVE DIRECTOR OPERATIONS

Executive Director's Office	
Government Records Access and Management Act (GRAMA) Fees - these GRAMA fees apply for the entire Department of Human Services	
Paper (per side of sheet)	25
Audio tape (per tape)	5.00
Video tape (per tape)	15.00
Compiling and Reporting	
In another format (per hour)	25.00
If programmer/analyst assistance is required (per hour)	50.00
Mailing	Actual cost
Office of Licensing	
Licensing	
Initial license	900.00
Any new Human Service program	
Recovery Residences	1,295.00
Licensing fee for recovery residences for people coming out of rehabilitation. It was mandated that the fee be set up in 2014 HB 211.	
Adult Day Care	
0-50 consumers per program	300.00
More than 50 consumers per program .	600.00
Per licensed capacity	9.00
Child Placing	250.00
Day Treatment	450.00

Outpatient Treatment	300.00
Residential Support	300.00
Residential Treatment	
Basic	600.00
Per licensed capacity	9.00
Social Detoxification	600.00
Life Safety Pre-inspection	600.00
Outdoor Youth Program	
Basic	1,408.00
Federal Bureau of Investigation	
Fingerprint Check	
Hard copy	36.50
Live scan	36.50
Intermediate Secure Treatment	
Basic	750.00
Per licensed capacity	9.00
Therapeutic School Program	
Basic	600.00
Per licensed capacity	9.00

DIVISION OF SUBSTANCE ABUSE AND MENTAL HEALTH

Administration - DSAMH	
Administration	
Alcoholic Beverage Server	
On Premise Sales	3.50
Off Premise Sales	3.50
State Hospital	
Utah State Hospital	
Photo Shoots (per 2 hours)	20.00
Use of USH Facilities (groups up to 50 people) (per day)	75.00
Use of USH Facilities (groups over 50 people) (per day)	150.00
State Substance Abuse Services	
Substance Abuse Services	
Alcoholic Beverage Server	
On Premise Sales	3.50
Off Premise Sales	3.50

DIVISION OF SERVICES FOR PEOPLE WITH DISABILITIES

Non-waiver Services	
Non-Waiver Services	
Graduated	630.00
Critical Support Services for People with Disabilities who are non-Medicaid matched. The fee ranges between 1% to 3% of Gross Family Income.	

OFFICE OF RECOVERY SERVICES

Child Support Services	
Child Support	
Collections Processing	24.00
6 percent of payment being disbursed up to a maximum of \$24 per month.	
Credit Card Convenience	6.00
Fee is either \$2 or \$6 based upon self service	
Federal Tax Intercept	25.00
Retained	
Collection	25.00

DIVISION OF CHILD AND FAMILY SERVICES

Service Delivery	
Service Delivery	
Live Scan Testing	10.00

STATE BOARD OF EDUCATION

Deaf and Hard of Hearing	
Interpreter Certification - Written	
Exam (per Exam)	60.00
Interpreter Certification - Novice	
Exam (per Exam)	150.00
Interpreter Certification - Professional	
Exam (per Exam)	150.00
Interpreter Certification - Professional	
Re-test, per component (per Test)	30.00
Interpreter Certification - Temporary	
Permit (per Permit)	150.00
Interpreter Certification - Student	
Permit (per Permit)	30.00
Cued Language Transliterator - Written	
Exam (per Exam)	60.00
Cued Language Transliterator - Utah CLT State Level	
Assessment (per Assessment)	375.00
Interpreter - Annual Maintenance/Recognition (per Individual)	70.00
Interpreter - Annual Maintenance/Recognition - NAD-RID (per Individual)	50.00
Interpreter - Standard Late Fee (per Assessment)	80.00

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY

DEPARTMENT OF NATURAL RESOURCES

FORESTRY, FIRE AND STATE LANDS

Division Administration	
Administrative	
Application	
Mineral Lease	40.00
Special Lease Agreement	40.00
Mineral Unit/Communitization Agreement	40.00
Special Use Lease Agreement (SULA)	300.00
Grazing Permit	50.00
Materials Permit	200.00
Easement	150.00
Right of Entry	50.00
Sovereign Land General Permit	
Private	300.00
Public	
Exchange of Land	1,000.00
Assignment	
Mineral Lease	
Total Assignment	50.00
Interest Assignment	50.00
Operating Right Assignment	50.00
Overriding Royalty Assignment	50.00
Partial Assignment	50.00
Collateral Assignment	50.00
Special Use Lease Agreement (SULA)	50.00

Grazing Permit per AUM (Animal Unit Month)	2.00
Grazing Sublease per AUM (Animal Unit Month)	2.00
Materials Permits	50.00
Easement	50.00
Right of Entry (ROE)	50.00
Sovereign Land General Permit	50.00
Grazing Non-use (per lease)	10%
Special Use Lease Agreement (SULA) non-use	10%
ROE, Easement, Grazing amendment	50.00
SULA, general permit, mineral lease, materials permit amendment	125.00
Reinstatement	150.00
Surface leases & permits per reinstatement/per lease or permit	
Bioprospecting - Registration	50.00
Oral Auction Administration	Actual cost
Affidavit of Lost Document (per document)	25.00
Certified Document (per document)	10.00
Research on Leases or Title Records (per hour)	50.00
Reproduction of Records Self service (per copy) .....	.10
By staff (per copy) .....	.40
Change on Name of Division Records (per occurrence)	20.00
Fax copy (per page)	1.00
Send only	
Late Fee	6% or \$30
Returned check charge	30.00
Sovereign Lands Rights of Entry Mooring Bouys: 3 yr max term	50.00
Renewal - Mooring Bouys; 3 yr max term	50.00
Seismic Survey Fees Primacord (per mile)	200.00
Surface Vibrators (per mile)	200.00
Shothole >50 ft (per hole)	50.00
Shothole <50ft (per mile)	200.00
Pattern Shotholes (per pattern)	200.00
Commercial	200.00
Commercial Recreation Event (per person over 150 people)	2.00
Minimum ROE of \$200 plus per person royalty	
Data Processing Production Time (per hour)	55.00
Programming Time (per hour)	75.00
Geographic Information System Processing Time (per hour)	55.00
Personnel Time (per hour)	50.00
Sovereign Lands Easements Minimum Easement	225.00
Floating Dock, wheeled pier, seasonal use	225.00
12 yr max term	
Renewal-Floating dock, wheeled piers; 3 yr max	150.00
Dock/pier, single upland owner use	330.00
9 yr max term	
Boat ramp, metal or portable	225.00
9 yr max term	

Canal Existing <=33' side (per rod)	15.00
>33' but <=66' wide (per rod)	30.00
<66' bit <=100' wide (per rod)	45.00
>100' wide (per rod)	60.00
New <=33' side (per rod)	30.00
>33' but <=66' wide (per rod)	45.00
<66' bit <=100' wide (per rod)	60.00
>100' wide (per rod)	75.00
Roads Existing <=33' side (per rod)	5.50
>33' but <=66' wide (per rod)	11.00
<66' bit <=100' wide (per rod)	16.50
>100' wide (per rod)	22.00
New <=33' side (per rod)	8.50
>33' but <=66' wide (per rod)	17.00
<66' bit <=100' wide (per rod)	25.50
>100' wide (per rod)	34.00
Power lines, Telephone Cables, Retaining walls and jetties <=30' wide (per rod)	14.00
>30 but <=60' wide (per rod)	20.00
>60' but <=100' wide (per rod)	26.00
.100' but <=200' wide (per rod)	32.00
>200' but <=300' wide (per rod)	42.00
>300' wide (per rod)	52.00
Pipelines <=2" (per rod)	7.00
>2" but <=13" (per rod)	14.00
>13" but <=25" (per rod)	20.00
>25" but <=37" (per rod)	26.00
>37" (per rod) (per rod)	52.00
Special Use Lease Agreements (SULA) SULA Lease Rate	450.00
Minimum \$450 or market rate per R652-30-400	
Grazing Permits	3.00
Annual rate per AUM (Animal Unit Month)	
Special Use Lease Agreements	Market rate
General Permits Same as SULA	450.00
Minimum \$450 or market rate per R652-30-400	
Mineral Lease Rental Rate 1st ten years (per acre)	1.10
Rental Rate Renewals (per acre)	2.20

OIL, GAS AND MINING

Administration New Coal Mine Permit Application	5.00
Copy Bid Specifications	20.00
Telefax of material (per page) .....	.25
Staff Copy (per page) .....	.25
Self Copy (per page) .....	.10
Color Staff Copy (per page) .....	.50
Self Copy (per page) .....	.25
Prints from Microfilm Staff Copy (per paper-foot) .....	.55
Self Copy (per paper-foot) .....	.40
Print of Microfiche	

Staff Copy (per page) .....	.25
Self Copy (per page) .....	.10
CD	
Mailed	23.00
Picked up	20.00
Well Logs	
Staff Copy (per paper-foot) .....	.75
Self Copy (per paper-foot) .....	.50
Print of computer screen (per screen) .....	.50
Compiling or Photocopying Records	
Actual time spent compiling or copying	Current personnel rate
Actual time spent on data entry or records segregation ..	Current personnel rate
Third Party Services	
Copying maps or charts	Actual cost
Copying odd sized documents	Actual cost
Specific Reports	
Monthly Notice of Intent to Drill/Well Completion Report	
Picked Up .....	.50
Mailed	1.00
Annual Subscription	6.00
Mailed Notice of Board Hearings List (per year)	20.00
Current Administrative Rules - Oil and Gas, Coal, Non-Coal, Abandoned Mine Lease (first copy is free)	
Picked up	10.00
Mailed	13.00
Custom-tailored data reports	
Diskettes/Tapes	Current personnel rate
Custom Maps (per linear foot) (per variable)	
Minimum Charges	
Color Plot	25.00
Laser Print	5.00
Minerals Reclamation	
Mineral Program	
Exploration Permit	150.00
Annual Permit	
Small Mining Operations	150.00
Large Mining Operations	
10 to 50 acres	500.00
over 50 acres	1,000.00

WILDLIFE RESOURCES

Director's Office	
Fishing Licenses	
Resident	
Youth Fishing (12-13)	5.00
Resident Youth Fishing	
Ages 14-17 (365 Day)	16.00
Resident Fishing Ages 18-64 (365 day)	34.00
Resident Multi Year License (Up to 5 years) for Ages 18-64 \$33/year.	
Age 65 Or Older (365 day)	25.00
Disabled Veteran (365 day)	12.00
Resident Fishing 3 day any age	16.00
7-Day (Any Age)	20.00
Nonresident	
Youth Fishing (12-13)	5.00
Nonresident Youth Fishing	
Ages 14-17 (365 day)	25.00

Nonresident Fishing age 18 Or Older (365 day)	75.00
Nonresident Multi Year (Up to 5 Years) for Ages 18 or Older \$74/year.	
Nonresident Fishing 3 day any age	24.00
7-Day (Any Age)	40.00
Set Line Fishing License	20.00
Season Fishing Licenses not Combinations	Up to 20% discount
Game Licenses	
Introductory Hunting License	4.00
Upon successful completion of Hunter Education - add to registration fee	
Resident Introductory Combination license (hunter's ed completion)	6.00
Nonresident Introductory Combination license (hunter's ed completion)	6.00
Resident	
Hunting License (up to 13)	11.00
Resident Hunting License	
Ages 14-17	16.00
Resident Hunting License	
Ages 18-64	34.00
Resident Multi Year license (Up to 5 years) for Ages 18-64 \$33/year	
Resident Hunting License	
Ages 65 Or Older	25.00
Resident Youth Combination	
License Ages 14-17	20.00
Resident Combination license	
Ages 18-64	38.00
Resident Multi Year License (Up to 5 Years) for ages 18-64 \$37/year	
Resident Combination Ages 65 or Older	29.00
Dedicated Hunter Certificate of Registration (COR)	
1 yr. (12-17)	40.00
1 Yr. (18+)	65.00
3 Yr. (12-17)	120.00
3 Yr. (18+)	195.00
Lifetime License Dedicated Hunter Certificate of Registration (COR)	
1 Yr. (12-17)	12.50
1 Yr. (18+)	25.00
3 Yr. (12-17)	37.50
3 Yr. (18+)	75.00
Nonresident	
Nonresident Youth Hunting License	
Ages 17 and Under	25.00
Nonresident Hunting License	
Age 18 or Older (365 day)	65.00
Nonresident Multi Year Hunting License	64.00
(Up to 5 Years)	
Nonresident Youth Combination license Ages 17 and under	29.00
Nonresident Combination license	
Ages 18 Or Older	85.00
Nonresident Multi Year License (Up to 5 Years) for Ages 18 or Older \$84/year.	
Dedicated Hunter Certificate of Registration (COR)	
1 Yr. (14-17)	268.00
Includes season fishing license	
1 Yr. (18+)	349.00

Includes season fishing license		Control	30.00
3 Yr. (12-17)	814.00	Resident Two Cow Elk permit	80.00
Includes season fishing license		Depredation	50.00
3 Yr. (18+)	1,047.00	Depredation - Bull Elk - With Current	
Includes season fishing license		Year Unused Bull Permit	235.00
Small Game - 3 Day	32.00	Depredation - Bull Elk - Without	
Falconry Meet	15.00	Current Year Unused	
General Season Permits		Bull Permit	285.00
Resident		Co-Operative Wildlife Management	
Turkey	35.00	Unit (CWMU)/Landowner	
General Season Deer	40.00	Any Bull	285.00
Antlerless Deer	30.00	Antlerless	50.00
Two Doe Antlerless	45.00	Premium Limited Entry Bull	513.00
Depredation - Antlerless	30.00	Nonresident	
Resident Landowner Mitigation		Archery	393.00
Deer - Antlerless	30.00	Includes season fishing license	
Elk - Antlerless	50.00	General Bull	393.00
Pronghorn - Doe	30.00	Includes season fishing license	
Nonresident Landowner Mitigation		Limited Entry Bull	800.00
Deer - Antlerless	93.00	Includes season fishing license	
Elk - Antlerless	218.00	Antlerless	218.00
Pronghorn - Doe	93.00	Control	93.00
Nonresident		Nonresident Two Cow Elk permit	350.00
Turkey	100.00	Depredation - Antlerless	218.00
General Season Deer	268.00	Co-Operative Wildlife Management	
Includes season fishing license		Unit (CWMU)/Landowner	
Depredation - Antlerless	93.00	Any Bull	800.00
Antlerless Deer	93.00	Includes fishing license	
Two Doe Antlerless	171.00	Antlerless	218.00
Stamps		Premium Limited Entry Bull	1,505.00
Wyoming Flaming Gorge	10.00	Includes fishing license	
Arizona Lake Powell	8.00	Pronghorn	
Limited Entry Game Permits		Resident	
Deer		Limited Buck	55.00
Resident		Limited Doe	30.00
Limited Entry	80.00	Limited Two Doe	45.00
Premium Limited Entry	168.00	Co-Operative Wildlife Management	
Co-Operative Wildlife Management		Unit (CWMU)/Landowner	
Unit (CWMU)/Landowner		Buck	55.00
Buck	40.00	Doe	30.00
Limited Entry	80.00	Depredation Doe	30.00
Premium Limited Entry	168.00	Archery Buck	55.00
Antlerless	30.00	Nonresident	
Two Doe Antlerless	45.00	Limited Buck	293.00
Nonresident		Includes season fishing license	
Limited Entry	468.00	Limited Doe	93.00
Includes season fishing license		Limited Two Doe	171.00
Premium Limited Entry	568.00	Archery Buck	293.00
Includes season fishing license		Includes season fishing license	
Co-Operative Wildlife Management		Depredation Doe	93.00
Unit (CWMU)/Landowner		Co-Operative Wildlife Management	
Buck	268.00	Unit (CWMU)/Landowner	
Includes season fishing license		Buck	293.00
Limited Entry	468.00	Includes season fishing license	
Includes season fishing license		Doe	93.00
Premium Limited Entry	568.00	Moose	
Includes season fishing license		Resident	
Antlerless	93.00	Bull	413.00
Two Doe Antlerless	171.00	Antlerless	213.00
Elk		Co-Operative Wildlife Management	
Resident		Unit (CWMU)/Landowner	
Archery	50.00	Bull	413.00
General Bull	50.00	Antlerless	213.00
Limited Entry Bull	285.00	Nonresident	
Antlerless	50.00	Bull	1,518.00

Includes season fishing license		Buck Deer	168.00
Antlerless	713.00	Buck Pronghorn	55.00
Co-Operative Wildlife Management Unit (CWMU)/Landowner		Bear	83.00
Bull	1,518.00	Cougar	58.00
Includes season fishing license		Rocky Mountain Goat	413.00
Antlerless	713.00	Rocky Mountain Sheep	513.00
Bison		Turkey	35.00
Resident	413.00	Other	
Resident Antelope Island	1,110.00	Falconry Permits	
Nonresident	1,518.00	Resident	
Includes season fishing license		Capture	
Nonresident Antelope Island	2,615.00	Apprentice Class	30.00
Includes season fishing license		General Class	50.00
Nonresident Antelope Island	2,615.00	Master Class	50.00
Includes season fishing license		Nonresident	
Bighorn Sheep		Capture	
Resident		Apprentice Class	115.00
Desert	513.00	General Class	115.00
Rocky Mountain	513.00	Master Class	115.00
Resident Rocky Mtn/Desert		Handling	10.00
Bighorn Sheep Ewe permit	100.00	Includes licenses, Certificate	
Nonresident		of Registration, and exchanges	
Desert	1,518.00	Drawing Application	10.00
Includes season fishing license		Landowner Association Application	150.00
Rocky Mountain	1,518.00	Nonrefundable	
Includes season fishing license		Resident/Nonresident Dedicated Hunter	
Nonresident Rocky Mtn/Desert		Hourly Labor Buyout Rate	20.00
Bighorn Sheep Ewe permit	1,000.00	Bird Bands . . . . .	.25
Goats		Furbearer/Trap Registration	
Resident Rocky Mountain	413.00	Resident Furbearer	29.00
Nonresident Rocky Mountain	1,518.00	Any age	
Includes season fishing license		Nonresident Furbearer	154.00
Cougar/Bear		Any age	
Resident		Resident Bobcat Temporary	
Cougar	58.00	Possession	15.00
Bear	83.00	Nonresident Bobcat Temporary	
Premium Bear	166.00	Possession	45.00
Bear Archery	83.00	Resident Trap Registration	10.00
Cougar Pursuit	30.00	Nonresident Trap Registration	10.00
Bear Pursuit	30.00	Duplicate Licenses, Permits and Tags	
Nonresident		Hunter Education cards	10.00
Cougar	258.00	Furharvester Education cards	10.00
Bear	308.00	Duplicate Vouchers CWMU/	
Premium Bear	475.00	Conservation/Mitigation	25.00
Cougar Pursuit	135.00	Refund of Hunting Draw License	25.00
Bear Pursuit	135.00	Application Amendment	25.00
Wolf		Late Harvest Reporting	50.00
Resident	20.00	Wildlife Management Area Access	
Nonresident	80.00	(without a valid license)	10.00
Cougar/Bear		Exchange	10.00
Cougar or Bear Damage	30.00	Wood Products on Division Land	
Wild Turkey		Firewood (2 Cords)	10.00
Resident Limited Entry	35.00	Christmas Tree	5.00
Nonresident Limited Entry	100.00	Ornamentals	
Waterfowl		Conifers (per tree)	5.00
Swan		Maximum \$60.00 per permit	
Resident	15.00	Deciduous (per tree)	3.00
Nonresident	15.00	Maximum \$60.00 per permit	
Sandhill Crane		Posts . . . . .	.40
Resident	15.00	Maximum \$60.00 per permit	
Nonresident	15.00	Hunter Education	
Sportsman Permits		Hunter Education Training	6.00
Resident		Hunter Education Home Study	6.00
Bull Moose	413.00	Furharvester Education Training	6.00
Hunter's Choice Bison	413.00	Bowhunter Education Class	6.00
Desert Bighorn Ram	513.00	Long Distance Verification	2.00
Bull Elk	513.00		

Becoming an Outdoors Woman	150.00
Special Needs Rates Available	
Hunter Education Range	
Adult	5.00
Market price up to \$10.	
Youth	2.00
Ages 15 and under. Market price up to \$5.	
Group for organized groups and not for special passes	50% discount
Spotting Scope Rental	2.00
Trap, Skeet or Riverside Skeet (per round)	5.00
Market price up to \$10	
Five Stand - Multi-Station Birds	7.00
Market price up to \$10	
Ten Punch Pass	
Ten Punch Pass Shooting Ranges Youth (Rifle/Archery/Handgun)	Up to \$45
Market price up to \$45.00	
Ten Punch Pass Shooting Ranges (Shotgun) Up to \$95	
Market price up to \$95.00	
Ten Punch Pass Shooting Ranges Adult (Rifle/Archery/Handgun)	Up to \$95
Market price up to \$95.00	
Sportsmen Club Meetings	20.00
Reproduction of Records	
Self Service (per copy) . . . . .	.10
Staff Service (per copy) . . . . .	.25
Geographic Information System	
Personnel Time (per hour)	50.00
Processing (per hour)	55.00
Data Processing	
Programming Time (per hour)	75.00
Production (per hour)	55.00
License Agency	
Application	20.00
Other Services to be reimbursed at actual time and materials	
Postage	Current rate
Lost license paper by license agents (per page)	10.00
Return check charge	20.00
Hardware Ranch Sleigh Ride	
Adult	5.00
Age 4-8	3.00
Age 0-3	No charge
Education Groups (per person)	1.00
Easement and Leases Schedule	
Application for Leases	
Leases	250.00
Nonrefundable Easements	
Rights-of-way	750.00
Nonrefundable Rights-of-entry	50.00
Nonrefundable Easements Oil and Gas Pipelines	250.00
Amendment to lease, easement, right-of-way	400.00
Nonrefundable Amendment to right of entry	50.00
Certified document	5.00

Nonrefundable	
Research on leases or title records (per hour)	50.00
Rights-of-Way	
Leases and Easements - Resulting in Long-Term Uses of Habitat	Variable
Fees shall be determined on a case-by-case basis by the division, using the estimated fair market value of the property, or other legislatively established fees, whichever is greater, plus the cost of administering the lease, right-of-way, or easement. Fair market value shall be determined by customary market valuation practices.	
Special Use Permits for non-depleting land uses of < 1 year	Variable
A nonrefundable application of \$50 shall be assessed for any commercial use. Fees for approved special uses will be based on the fair market value of the use, determined by customary practices which may include: an assessment of comparable values for similar properties, comparable fees for similar land uses, or fee schedules. If more than one fee determination applies, the highest fee will be selected.	
Width of Easement	
0' - 30' Initial	12.00
0' - 30' Renewal	8.00
31' - 60' Initial	18.00
31' - 60' Renewal	12.00
61' - 100' Initial	24.00
61' - 100' Renewal	16.00
101' - 200' Initial	30.00
101' - 200' Renewal	20.00
201' - 300' Initial	40.00
201' - 300' Renewal	28.00
>300' Initial	50.00
>300' Renewal	34.00
Outside Diameter of Pipe	
<2.0" Initial	9.40
<2.0" Renewal	4.00
2.0" - 13" Initial	19.00
2.0" - 13" Renewal	8.00
13.1"-37" Initial	38.00
13.1" - 25" Renewal	12.00
25.1" - 37" Renewal	16.00
>37" Initial	75.00
>37" Renewal	32.00
Roads, Canals	
Permanent loss of habitat plus high maintenance disturbance	18.00
1' - 33' New Construction	
Permanent loss of habitat plus high maintenance disturbance	12.00
1' - 33' Existing	
Permanent loss of habitat plus high maintenance disturbance	24.00
33.1' - 66' New Construction	
Permanent loss of habitat plus high maintenance disturbance	18.00
33.1' - 66' Existing	
Assignments: Easements, Grazing	
Permits, Right-of-entry, Special Use	250.00
Certificates of Registration	

Initial - Personal Use	75.00	
Initial - Commercial	150.00	
TYPE I		
Certificate of Registration (COR)		
Fishing Contest		
Small, Under 50	20.00	
Medium, 50 to 100	100.00	
Large, over 200	250.00	
Amendment	10.00	
Certificate of Registration (COR)		
Handling	10.00	
Renewal	30.00	
Late fee for failure to renew Certificates of Registration when due: greater of \$10 or 20% of fee.		Variable
Required Inspections	100.00	
Failure to Submit Required Annual Activity Report When Due		10.00
Request for Species Reclassification ...	200.00	
Request for Variance	200.00	
Commercial Fishing and Dealing Commercially in Aquatic Wildlife		
Dealer in Live/Dead Bait	75.00	
Helper Cards - Live/Dead Bait	15.00	
Commercial Seiner	1,000.00	
Helper Cards - Commercial Seiner	100.00	
Commercial Brine Shrimper	15,000.00	
Helper Cards - Commercial Brine Shrimper	1,500.00	
Upland Game Cooperative Wildlife Management Units		
New Application	250.00	
Annual	150.00	
Big Game Cooperative Wildlife Management Unit		
New Application	250.00	
Annual	150.00	
Falconry		
Three year	45.00	
Five Year	75.00	
Commercial Hunting Areas		
New Application	150.00	
Renewal Application	150.00	

PARKS AND RECREATION

Park Operation Management

All fees for the Division of Parks and Recreation may not exceed, but may be less than, the amounts stated in the division's fee schedule.

Golf Course Fees RENTALS

Club Rental, per 9 holes	17.00
Motorized cart, per 9 holes	16.00
Pull carts, per 9 holes	3.50
Driving Range	9.00

Golf Course Fees GREENS FEES

20 Round Card Pass	260.00
Promotional Pass	1,100.00
9 holes	18.00
Reservation Fee	10.65
Camping Extra Vehicle Fees	15.00
Camping Fees	28.00
Group Site Day-Use Fees	250.00
Group Camping Fees	400.00

Boating Fees

Boat Mooring	
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In/Off Season with or without Utilities (per foot)	7.00	
Boat storage	200.00	
Dry Storage		
Boating Season, Overnight until 2:00 pm, Off-Season, Unsecured ...	75.00	
Application Fees	250.00	
Easement, Grazing permit, Construction/Maintenance, Special Use Permit, Waiting List, Events		
Assessment and Assignment Fees		
Repository Fees		
Curation (per storage unit)	700.00	
Annual Repository Agreement (per storage unit)	80.00	
Annual Agreement Fee	50.00	
Entrance Fees		
Bicycles & Pedestrians	20.00	
Bicycles & Pedestrians, Annual Pass	24.00	
Motor Vehicles		
Day Use Annual Pass	75.00	
Commercial Dealer Demo Pass ...	200.00	
Commercial Groups - per person ...	3.00	
Commuter Annual Pass	10.00	
Parking Fee	5.00	
Causeway	2.00	
Entrance Fees	15.00	
Fee collection, return checks, and duplicate document		30.00
Staff or researcher time per hour	50.00	
Equipment and building rental per hour	100.00	
OHV and Boating Program Fees		
OHV Program Fee		
Statewide OHV Registration Fee	22.00	
State issued permit to non-resident OHVs, in which there is no reciprocity	30.00	
OHV Education Fee		
Division's Off-highway Vehicle Program Safety Certificate	30.00	
State Issued and Replacement OHV Safety Certificate	2.00	
Boating Section Fees		
Statewide Boat Registration Fee	25.00	
Carrying Passengers for Hire Fee	200.00	
Boat Livery Registration Fee	100.00	
Boating Education Fee		
Division's Personal Watercraft Course	12.00	
State Issued and Replacement Boating Education Certificate	5.00	
new rule passed by board, will take effect in July		
Lodging Fees		
Cabins and Yurts	80.00	

UTAH GEOLOGICAL SURVEY

Administration	
Editorial	
Color Plots	
Set-Up	3.00
Regular Paper (per square foot)	3.00
Special Paper (per square foot)	4.50
Color Scanning (per scan)	9.00
Sample Library	

On-Site Examination	
Cutting Thin Section Blanks	10.00
Core Plugs > 1 inch diameter	25.00
Cuttings, Core, Coal, Oil/Water	
(per box)	5.00
Binocular/Petrographic Microscopes	
(per day)	25.00
Saturday/Sunday/Holiday	
Surcharge	320.00
Off-Site Examination	
Cuttings, Core, Coal, Oil/Water	
(per box)	6.00
Plus shipping	
Core Plugs < 1 inch (per plug)	10.00
Core Slabbing	
1.8" Diameter or Smaller (per foot)	8.00
1.8"-3.5" Diameter (per foot)	10.00
Larger Diameter	Negotiated
Core Photographing	
Box/Closeup 8x10 color/Thin	
Section (per Photo)	20.00
Coal Petrography (per hour)	50.00
General Building and Lab Use	
(per day)	200.00
Applied	
School Site Reviews	
Review Geologic Hazards Report for	
New School Sites	
School Site Review	500.00
Plus travel	
Preliminary Screening of a Proposed	
School Site	
One School	550.00
Plus travel	
Paleontology	
File Search Requests	
Minimum Charge	30.00
Up to 15 minutes	
Standard rate (per hour)	60.00
More than 15 minutes	
Miscellaneous	
Copies, Self-Serve (per copy) .....	.10
Copies, Staff (per copy) .....	.25
Research and Professional Services	
(per hour)	50.00
Media Charges	
Compact Disk (650 MB) (per CD)	3.00
Paper Printout (per page) .....	.10

WATER RESOURCES

Administration	
Color Plots	
Existing (per linear foot)	2.00
Custom Orders	Current staff rate
Plans and Specifications	
Small Set	10.00
Average Size Set	25.00
Large Set	35.00
Cloud Seeding License	Variable
Copies, Staff (per hour)	Current staff rate

WATER RIGHTS

Administration

Applications
Appropriation

Variable see below

For any application that proposes to appropriate or recharge by both direct flow and storage, there shall be charged the fee for quantity, by cubic feet per second (cfs), or volume, by acre-feet (af), whichever is greater, but not both:

Flow - cubic feet per second (cfs)	
More than 0, not to exceed 0.1	150.00
More than 0.1, not to exceed 0.5	200.00
More than 0.5, not to exceed 1.0	250.00
More than 1.0, not to exceed 2.0	300.00
More than 2.0, not to exceed 3.0	350.00
More than 3.0, not to exceed 4.0	400.00
More than 4.0, not to exceed 5.0	430.00
More than 5.0, not to exceed 6.0	460.00
More than 6.0, not to exceed 7.0	490.00
More than 7.0, not to exceed 8.0	520.00
More than 8.0, not to exceed 9.0	550.00
More than 9.0, not to exceed 10.0	580.00
More than 10.0, not to exceed 11.0	610.00
More than 11.0, not to exceed 12.0	640.00
More than 12.0, not to exceed 13.0	670.00
More than 13.0, not to exceed 14.0	700.00
More than 14.0, not to exceed 15.0	730.00
More than 15.0, not to exceed 16.0	760.00
More than 16.0, not to exceed 17.0	790.00
More than 17.0, not to exceed 18.0	820.00
More than 18.0, not to exceed 19.0	850.00
More than 19.0, not to exceed 20.0	880.00
More than 20.0, not to exceed 21.0	910.00
More than 21.0, not to exceed 22.0	940.00
More than 22.0, not to exceed 23.0	970.00
More than 23.0	1,000.00
Volume - acre-feet (af)	
More than 0, not to exceed 20	150.00
More than 20, not to exceed 100	200.00
More than 100, not to exceed 500	250.00
More than 500, not to exceed 1,000	300.00
More than 1,000, not to	
exceed 1,500	350.00
More than 1,500, not to	
exceed 2,000	400.00
More than 2,000, not to	
exceed 2,500	430.00
More than 2,500, not to	
exceed 3,000	460.00
More than 3,000, not to	
exceed 3,500	490.00
More than 3,500, not to	
exceed 4,000	520.00
More than 4,000, not to	
exceed 4,500	550.00
More than 4,500, not to	
exceed 5,000	550.00
More than 5,000, not to	
exceed 5,500	550.00
More than 5,500, not to	
exceed 6,000	550.00
More than 6,000, not to	
exceed 6,500	700.00
More than 6,500, not to	
exceed 7,000	700.00
More than 7,000, not to	
exceed 7,500	700.00

More than 7,500, not to exceed 8,000	700.00
More than 8,000, not to exceed 8,500	700.00
More than 8,500, not to exceed 9,000	700.00
More than 9,000, not to exceed 9,500	700.00
More than 9,500, not to exceed 10,000	700.00
More than 10,000, not to exceed 10,500	700.00
More than 10,500, not to exceed 11,000	700.00
More than 11,000, not to exceed 11,500	700.00
More than 11,500	700.00
Extension Requests for Submitting a Proof of Appropriation	
Less than 14 years after the date of approval of the application	50.00
14 years or more after the date of approval of the application	150.00
Fixed time periods	150.00
For each certification of copies	10.00
A reasonable charge for preparing copies of any and all documents	Variable
Application to segregate a water right	50.00
Groundwater Recovery Permit	2,500.00
Fee Changed from Recharge to Recovery	
Notification for the use of sewage effluent or to change the point of discharge	750.00
Diligence claim investigation	500.00
Report of Water Right Conveyance	
Submission	40.00
Protest Filings	15.00
Livestock Watering Certificate	150.00
Well Driller	
Permit	
Initial	350.00
Renewal (Annual) (per year)	100.00
Late renewal (Annual) (per year)	50.00
Drill Rig Operator Registration	
Initial	100.00
Renewal (Annual) (per year)	50.00
Late Renewal (Annual) (per year)	50.00
Pump Installer License	
Initial	200.00
Renewal (Annual) (per year)	75.00
Late renewal (Annual) (per year)	50.00
Pump Rig Operator Registration	
Initial	75.00
Renewal (Annual) (per year)	25.00
Late renewal (Annual) (per year)	25.00
Stream Alteration	
Commercial	2,000.00
Government	500.00
Non-Commercial	100.00

DEPARTMENT OF ENVIRONMENTAL QUALITY

EXECUTIVE DIRECTOR'S OFFICE

All Divisions
Request for copies over 10 pages (per page) . .25

Copies made by the requestor-over	
10 pages (per page) .....	.05
Compiling, tailoring, searching, etc., a record in another format. Actual cost after 1st 1/4 hour	
Charged at rate of lowest paid staff employee who has necessary skill/training to perform request	
Special computer data requests	
(per hour)	90.00
CDs (per disk)	10.00
DVDs (per disk)	8.00
Contract Services	

To be charged in order to efficiently utilize department resources, protect dept permitting processes, address extraordinary or unanticipated requests on permitting processes, or make use of specialized expertise. In providing these services, department may not provide service in a manner that impairs any other person's service from department.

AIR QUALITY

Emission Inventory Workshop	15.00
Attendance	
Air Emissions (per ton)	69.61
Major and Minor Source Compliance	
Inspection	Actual cost
Annual Aggregate Compliance	
20 or less (per tons per year)	180.00
21-79 (per tons per year)	360.00
80-99 (per tons per year)	900.00
100 or more (per tons per year)	1,260.00
Asbestos and Lead-Based Paint (LBP) Abatement	
Course Review (per hour)	90.00
Asbestos Company/LBP Firm	
Certification (per year)	250.00
LBP Renovation Firm Certification	
(per year)	100.00
Asbestos individual (employee) certification	125.00
Asbestos individual certification surcharge, non-Utah certified training provider	30.00
LBP abatement worker certification	
(per year)	100.00
LBP Inspector, Dust Sampling	
Technician Certification (per year)	125.00
LBP Risk Assessor, Supervisor, Project Designer Certification (per year)	200.00
LBP Renovator Certification	
(per year)	100.00
Lost certification card replacement	30.00
Annual asbestos notification	500.00
Asbestos/LBP abatement project notification base fee	150.00
Asbestos/LBP abatement project notification base fee for owner-occupied residential structures .	50.00
Abatement unit /100 units	7.00
(square feet/linear feet/cubic feet) (times 3)(up to 10,000 units) School building Asbestos Hazard Emergency Response Act (AHERA) abatement fees will be waived	
Abatement unit /100 units	3.50

(square feet/linear feet/cubic feet) (times 3)(10,000 units or more) School building Asbestos Hazard Emergency Response Act (AHERA) abatement fees will be waived	
Demolition Notification Base	75.00
Demolition unit per 5,000 square feet above initial 5,000 square feet	50.00
Alternative Work Practice Review <10 day training provider/private residence requests	100.00
non-National Emission Standards for Hazardous Air Pollutants (NESHAP) requests	
All other requests	250.00
Permit Category	
Filing Fees	
Name Changes	100.00
Small Sources Exemptions and Soil Remediation	250.00
New non-PSD sources, minor & major modifications to existing sources	500.00
Any unpermitted sources at an existing facility	1,500.00
New major prevention of significant deterioration (PSD) sources	5,000.00
Monitoring plan review and site visit	
Application Review Fees	
New major source or modifications to major source in nonattainment area	40,500.00
Up to 450 hours	
New major source or modifications to major source in attainment area	27,000.00
Up to 300 hours	
New minor source or modifications to minor source	1,800.00
Up to 20 hours	
Generic permit for minor source or modifications of minor sources ...	720.00
Up to 8 hours (sources for which engineering review/Bact standardized)	
Temporary Relocations	630.00
Minor sources (new or modified) with <3 tpy uncontrolled emissions .	450.00
Up to 5 hours	
Permitting cost for additional hours (per hour)	90.00
Technical review of and assistance given (per hour)	90.00
I.e. appeals, sales/use tax exemptions, soils exemptions, soils remediations, experimental approvals, impact analyses, etc.	
Air Quality Training	Actual Cost
Clean Fuel Vehicle Fund	
Loan/Grant Application Fee	
Vehicle loans	140.00
Infrastructure loans	350.00
Grants	280.00

ENVIRONMENTAL RESPONSE AND REMEDIATION

Comprehensive Environmental Response Compensation and Liability Information System (CERCLIS) Lists	15.00
Disk or paper, refer to internet	
Underground Storage Tank (UST) Program List	
UST Facility List	30.00
Paper only	
Leaking UST Facility List	18.00
Paper only	
Postage for one or both	3.00
Emergency Planning Community Right to Know Act Reports	15.00
Professional and Technical services or assistance (per hour)	90.00
Including but not limited to EPCRA Technical Assistance, PST Claim Preparation Assistance, Oversight for Tanks Failing to pay UST fee, UST Compliance follow-up Inspection, Apportionment of Liability requested by responsible parties, Prepare, administer or conduct administrative process, Environmental Covenants.	
Voluntary Environmental Cleanup Program Application Fee	2,500.00
Review/Oversight/Participation in Voluntary Agreements (per hour)	90.00
Annual Underground Storage Tank Tanks on Petroleum Storage Tank (PST) Fund	100.00
Tanks not on PST Fund	200.00
Tanks at Facilities significantly out of compliance with leak prevention or leak detection requirements	300.00
PST Fund Reapplication, Certification of Compliance Reapplication Fee, or both	300.00
Initial Approval of Alternate UST Financial Assurance Mechanisms	420.00
(Non-PST Participants)	
Approval of alternate UST financial assurance mechanisms after initial year	240.00
(with no Mechanism changes)	
Certification or Certification Renewal for UST Consultants	
UST installers, removers, groundwater & soil samplers, & non-government UST inspectors & testers	225.00
Consultant Recertification Class	150.00
Clandestine Drug Lab Decontamination Specialist Certification	
Certification and Recertification	225.00
Retest of Certification Exam	100.00
Enforceable Written Assurance Letters	
Written letter	500.00
Flat fee for up to 8 hours	
Additional charge if over original 8 hours (per hour)	90.00
Environmental Response and Remediation Program Training	Actual cost

UST Operators Certification	50.00
UST Red Tag Replacement	500.00
Applied only when a Red Tag is removed without authorization	

RADIATION CONTROL

Machine-Generated Radiation	
Annual Registration Fee	
Per control unit including first tube, plus annual fee for each additional tube connected to the control unit	
Hospital/Therapy, Medical, Chiropractic, Podiatry, Veterinary, Dental	35.00
Industrial Facility with	
High and/or Very High Radiation	
Areas Accessible to Individuals . . .	35.00
Cabinet X-Ray Units or Units	
Designated for Other Purposes . . .	35.00
Other	35.00
Division Conducted Inspection, Per Tube	
Hospital/Therapy, Medical,	
Chiropractic	105.00
Podiatry/Veterinary	75.00
Dental	
First tube on a single control unit	45.00
Additional tubes on a control unit (per Tube)	12.50
Industrial Facilities with	
High and/or Very High Radiation	
Areas Accessible to Individuals	105.00
Cabinet X-Ray Units or Units	
Designated for Other Purposes	75.00
Other	
Annual or Biennial Inspection (per Tube)	105.00
Five year Inspection, per tube	75.00
Independent Qualified Experts	
Conducted Inspections or Registrants	
Using Qualified Experts	
Inspection report (per Tube)	15.00
Radioactive Material	
Special Nuclear Material	
New License or Renewal License for:	
Possession and use in sealed sources contained in devices used in industrial measuring systems,	440.00
including X-ray fluorescence analyzers and neutron generators	
Possession and use of less than 15 grams in usealed form for research and development	730.00
Use as calibration and reference sources	180.00
All other licenses	1,150.00
Annual Fee	
Possession and use in sealed sources contained in devices used in industrial measuring systems, . .	740.00
including X-ray fluorescence analyzers and neutron generators	
Possession and use of less than 15 grams in usealed form for research and development	740.00
Use as calibration and reference sources	240.00
All other licenses	1,600.00

Source Material		
New License or License Renewal		
Licenses for concentrations of uranium from other areas for the production of uranium yellow cake	5,510.00	
Regulation of source and byproduct material at uranium mills or commercial waste facilities		
Uranium mills or commercial sites disposing of or reprocessing byproduct material (per month)	8,540.00	
Uranium mills the Director has determined that are on standby status	8,540.00	
Licenses for possession and use of source material for shielding . . .	230.00	
All other source material		
licenses	1,000.00	
Annual Fee		
Licenses for concentrations of uranium from other areas for the production of uranium yellow cake	4,810.00	
Licenses for possession and use of source material for shielding	365.00	
All other source material		
licenses	1,275.00	
Radioactive Material other than Source Material and Special Nuclear Material		
New License or License Renewal for possession and use of radioactive material for:		
Broad scope for processing or manufacturing for commercial distribution	2,320.00	
Others for processing or manufacturing for commercial distribution	1,670.00	
Processing or manufacturing and distribution of radiopharmaceuticals, generators, reagent kits, or sources or devices containing radioactive material		2,320.00
The distribution or redistribution of radiopharmaceuticals, generators, reagent kits, or sources or devices not involving processing of radioactive material		860.00
Industrial radiography		
operations	1,670.00	
Sealed sources for irradiation of materials in which the source is not removed for its shield (self-shielded units)		700.00
Less than 10,000 curies of radioactive material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes		1,670.00
10,000 curies or more of radioactive material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes		3,340.00
Broad scope for research and development that do not		

authorize commercial distribution 2,320.00
 Research and development that do not authorize commercial distribution 700.00
 All other radioactive material 440.00
 New License or License Renewal for:
 Licenses that authorize services for other licensees, except licenses that authorize leak testing or waste disposal services subject to the fees specified for the listed services 320.00
 Licenses that authorize services for leak testing only 150.00
 New License or License Renewal to distribute items containing radioactive material:
 To persons exempt from licensing requirements of R313-19, except specific licenses authorizing redistribution of items authorized for distribution to persons exempt from the licensing requirements of R313-19 700.00
 To persons generally licensed under R313-21, except specific licenses authorizing redistribution of items authorized for distribution to persons generally licensed under R313-21 700.00
 Annual license fee for possession and use of radioactive material for:
 Broad scope for processing or manufacturing for commercial distribution 2,960.00
 Others for processing or manufacturing for commercial distribution 2,040.00
 Processing or manufacturing and distribution of radiopharmaceuticals, generators, reagent kits, or sources or devices containing radioactive material 2,960.00
 The distribution or redistribution of radiopharmaceuticals, generators, reagent kits, or sources or devices not involving processing of radioactive material 1,000.00
 Industrial radioactivity operations 2,560.00
 Sealed sources for irradiation of materials in which the source is not removed from its shield (self-shielded units) 940.00
 Less than 10,000 curies of radioactive material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes 1,740.00
 10,000 curies or more of radioactive material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes 3,480.00
 Broad scope for research and development that do not authorize commercial distribution 2,960.00
 Research and development that do not authorize commercial distribution 940.00
 All other radioactive material 520.00
 Annual fee for

Licenses that authorize services for other licensees, except licenses that authorize leak testing or waste disposal services subject to the fees specified for the listed services 420.00
 Licenses that authorize services for leak testing only 160.00
 Annual fee to distribute items containing radioactive material:
 To persons exempt from licensing requirements of R313-19, except specific licenses authorizing redistribution of items authorized for distribution to persons exempt from the licensing requirements of R313-19 580.00
 To persons generally licensed under R313-21, except specific licenses authorizing redistribution of items authorized for distribution to persons generally licensed under R313-21 580.00
 Radioactive Waste Disposal (licenses specifically authorizing the receipt of waste radioactive material from other persons for the purpose of commercial disposal by land by the licensee)
 Annual 2,099,200.00
 New Application
 Siting application Actual costs up to \$250,000
 License application Actual costs up to \$1,000,000
 Renewal Actual costs up to \$1,000,000
 Pre-licensing, operations review, and consultation on commercial low-level radioactive waste facilities (per hour) 90.00
 Review of commercial low-level radioactive waste disposal and uranium recovery special projects. Applicable when the licensee and the Division agree that a review be conducted by a contractor in support of the efforts of Division staff Actual cost
 Generator Site Access Permits
 Non-Broker Generators transferring radioactive waste (per year) 2,500.00
 Brokers (waste collectors or processors) (per year) 7,500.00
 Review of licensing or permit actions, amendments, environmental monitoring reports, and miscellaneous reports for uranium recovery facilities (per hour) 90.00
 Licenses authorizing receipt of waste radioactive material from others for packaging/repackaging the material
 The licensee will dispose of the materials by transfer to another person authorized to receive or dispose of the material
 New License/Renewal 3,190.00
 Annual 2,760.00
 Licenses authorizing receipt of prepackaged waste radioactive material from others
 The licensee will dispose of the materials by transfer to another person authorized to receive or dispose of the material
 New License/Renewal 700.00
 Annual 1,100.00
 Licenses authorizing packing of radioactive waste for shipment to waste disposal site where licensee does not take possession of waste material

New License/Renewal	440.00
Annual	520.00
Well Logging, Well Surveys, and Tracer Studies Licenses	
for the possession and use of radioactive material for well logging, well surveys and tracer studies other than field flooding tracer studies	
New License/Renewal	1,670.00
Annual	2,100.00
Licenses for possession and use of radioactive material for field flooding tracer studies	
New License/Renewal	Actual cost
Annual	4,000.00
Nuclear Laundries	
Licenses for commercial collection and laundry of items contaminated with radioactive material	
New License/Renewal	1,670.00
Annual	2,380.00
Human Use of Radioactive Material	
License for human use of radioactive materials in sealed sources contained in gamma stereotactic radiosurgery or teletherapy devices	
New License/Renewal	1,090.00
Annual	1,280.00
Licenses of broad scope issued to medical institutions or two or more physicians authorizing research and development including human use of radioactive material, except for licenses for radioactive material in sealed sources contained in gamma stereotactic radiosurgery or teletherapy devices	
New License/Renewal	2,320.00
Annual	2,960.00
Other licenses issued for human use of radioactive material	
except for licenses for radioactive material in sealed sources contained in gamma stereotactic radiosurgery or teletherapy devices	
New License/Renewal	700.00
Annual	1,100.00
Civil Defense	
Licenses for possession and use of radioactive material for civil defense activities	
New License/Renewal	700.00
Annual	380.00
Power Source	
Licenses for the manufacture and distribution of encapsulated radioactive material wherein the decay energy of the material is used as a source for power	
New License/Renewal	5,510.00
Annual	2,520.00
Plan Reviews	
Review of plans for decommissioning, decontamination, reclamation, waste disposal pursuant to R313-15-1002, or site restoration activities	400.00
Plus added cost above 8 hours (per hour)	90.00
Investigation of a misadministration by a third party as defined in R313-30-5 or in R313-32-2, as applicable	Actual cost
General License	
Initial registration/renewal for first year	
Measuring, gauging, and control devices as described in R313-21-22(4)	20.00

other than hydrogen-3 (tritium) devices and polonium-210 devices containing no more than 10 millicuries used for producing light or an ionized atmosphere	
In Vitro testing	20.00
Depleted Uranium	20.00
Reciprocity - Licensees who conduct activities under the reciprocity provisions of R313-19-30	20.00
Annual fee after initial license/renewal	
Measuring, gauging, and control devices as described in R313-21-22(4)	20.00
other than hydrogen-3 (tritium) and polonium-210 devices containing no more than other than 10 millicuries used for producing light or an ionized atmosphere	
In Vitro testing	20.00
Depleted Uranium	20.00
Reciprocity - Licensees who conduct activities under the reciprocity provisions of R313-19-30 (per type of license category)	Full annual fee
Charge for Late Payment of Fees, for all fees, per 30 days late	25.00
Publication costs for making public notice of required actions	Actual cost
Expedited application review (per hour)	90.00
Applicable when, by mutual consent of the applicant and staff, an application request is taken out of date order and processed by staff.	
Management and oversight of impounded radioactive material	Actual cost
License amendment, for greater than three applications in a calendar year	200.00
Analytical costs for monitoring samples from radioactive materials facilities	Actual cost

WATER QUALITY

305(b) Water Quality Report	20.00
Report: Utah's Lakes and Reservoirs-Inventory and Classification of Utah's Priority Lakes and Reservoirs	50.00
Operator Certification	
Certification Examination	50.00
Renewal of Certificate	25.00
Renewal of Lapsed Certificate plus renewal (per month)	25.00
\$75 maximum	
Duplicate Certificate	25.00
New Certificate change in status	25.00
Certification by reciprocity with another state	50.00
Grandfather Certificate	20.00
Underground Wastewater Disposal Systems	
New Systems	25.00
Certificate Issuance	25.00
Utah Pollutant Discharge Elimination System (UPDES) Permits	
Cement Manufacturing	
Major	792.00
Minor	198.00
Coal Mining and Preparation	
General Permit	396.00
Individual Major	1,188.00
Individual Minor	792.00

Concentrated Animal Feeding Operations (CAFO) General Permit . . .	110.00	Major	792.00
Construction Dewatering/Hydrostatic Testing General Permit	150.00	Minor	396.00
Dairy Products		Water Treatment Plants (Except Political Subdivisions)	
Major	792.00	General Permit	110.00
Minor	396.00	Annual UPDES Publically Owned Treatment Works (POTW)	
Electric		Large >10 million gallons per day (mgd) flow design (per year)	8,000.00
Major	990.00	Medium >3 mgd but <10 mgd flow design (per year)	5,000.00
Minor	396.00	Small <3mgd but >1mgd (per year) . .	1000.00
Fish Hatcheries General Permit	110.00	Very Small <1 mgd (per year)	500.00
Food and Kindred Products		Biosolids Annual Fee (Domestic Sludge)	
Major	990.00	Small Systems (per year)	350.00
Minor	396.00	1-4,000 connections	
Hazardous Waste Clean-up Sites	2,376.00	Medium Systems (per year)	1,015.00
Geothermal		4,001 to 15,000 connections	
Major	792.00	Large Systems (per year)	1,475.00
Minor	396.00	greater than 15,000 connections	
Inorganic Chemicals		Non-contact Cooling Water	
Major	1,188.00	Flow rate <= 10,000 gallons per day (gpd) (per year)	110.00
Minor	594.00	10,000 gpd <Flow rate 100,000 gpd (per year)	220.00
Iron and Steel Manufacturing		\$500 up to \$1000	
Major	2,376.00	100,000 gpd <Flow rate <1.0 mgd (per year)	440.00
Minor	594.00	\$1000 up to \$2000	
Leaking Underground Storage Tank (LUST) Cleanup		Flow Rate > 1.0 mgd (per year)	660.00
General Permit	396.00	Fee amount is prorated based on flow rate	
LUST Cleanup Individual Permit	792.00	General Multi-Sector Industrial Storm	
Meat Products		Water Permit (per year)	150.00
Major	1,188.00	Industrial Stormwater No Exposure Certificate (per 5 years)	100.00
Minor	396.00	General Construction Storm Water Permit > 1 Acre (per year)	150.00
Metal Finishing and Products		Construction Stormwater Low Erosivity Waiver Fee (one time fee) (per project) . . .	50.00
Major	1,188.00	Municipal Storm Water	
Minor	594.00	0-5,000 Population (per year)	500.00
Mineral Mining and Processing		5,001 - 10,000 Population (per year)	800.00
Sand and Gravel	220.00	10,001 - 50,000 Population (per year)	1,200.00
Salt Extraction	220.00	50,001 - 125,000 Population (per year)	2,000.00
Other		> 125,000 Population (per year)	3,000.00
Other Majors	792.00	Annual Ground Water Permit Administration Fee	
Other Minors	396.00	Tailings/Evaporation/Process Ponds;	
Manufacturing		Heaps (per Each)	Actual cost
Major	1,584.00	0-1 Acre	385.00
Minor	594.00	1-15 Acres	770.00
Oil and Gas Extraction		15-50 Acres	1,540.00
flow rate <=0.5 million gallons per day (MGD)	396.00	50-300 Acres	2,310.00
flow rate > 0.5 MGD	594.00	Over 300 Acres	3,080.00
Ore Mining		Annual UPDES Pesticide Applicator Fee	
Major	1,188.00	Small Applicator	200.00
Minor	594.00	Medium Applicator	500.00
Major w/ concentration process	2,376.00	Large Applicator	1,650.00
Organic Chemicals Manufacturing		Underground Injection Control Permit Application Fee	
Major	1,980.00	Class I Hazardous Waste Disposal . . .	25,000.00
Minor	594.00	One time fee	
Petroleum Refining		Class I Non-Hazardous Waste Disposal	9,000.00
Major	1,584.00		
Minor	594.00		
Pharmaceutical Preparations			
Major	1,584.00		
Minor	594.00		
Rubber and Plastic Products			
Major	990.00		
Minor	594.00		
Space Propulsion			
Major	2,200.00		
Minor	594.00		
Steam and/or Power Electric Plants			

One time fee	
Class III Solution Mining	7,200.00
One time fee	
Class V Aquifer Storage and Recovery	5,400.00
One time fee	
All Other Permits	
Base (per facility)	770.00
Each additional regulated facility (per facility)	770.00
Multi-celled pond system or grouping of facilities with common compliance point is considered one facility	
UPDES, ground water, underground injection control, & construction permits not listed above & permit modifications (per hour)	90.00
Except political subdivisions	
Complex facilities where the anticipated permit issuance costs will exceed the above categorical fees by 25% (per hour)	90.00
Permittee to be notified upon receipt of application	
Water Quality Cleanup Activities	
Corrective Action,	
Site Investigation/Remediation Oversight Administration of Consent Orders and Agreements and emergency response to spills and water pollution incidents	90.00
Actual cost for sample analytical lab work	actual cost
Technical Review of and assistance given (per hour)	90.00
401 Certification reviews and issuance and compliance: permit appeals; and sales and use tax exemptions	
Water Quality Loan Origination	
Water Quality Loan Origination Fee	1.0% of Loan Amount

DRINKING WATER

Special Surveys	Actual cost
File Searches	Actual cost
Well Sealing Inspection (per hour)	90.00
Special Consulting/Technical Assistance (per hour)	90.00
Operator Certification Program Examination	100.00
Any level	
Renewal of certification	100.00
Every 3 years if applied for during designated period	
Reinstatement of lapsed certificate	200.00
Certificate of reciprocity with another state	100.00
Conversion	20.00
Specialist to Operator/Operator to Specialist	
Cross Connection Control Program Certification and Renewal	
Class I	175.00
Class II and III	225.00
Retest	145.00

Certificate of reciprocity with another state	225.00
Replacement Certificate	25.00
Penalty Surcharge - Construction Without Prior Approval (per Project)	1,000.00
Drinking Water Loan Origination	1.0% of Loan Amount

SOLID AND HAZARDOUS WASTE

Resource Conservation and Recovery Act (RCRA) Facility List	5.00
Solid and Hazardous Waste Program Administration (including Used Oil and Waste Tire Recycling Programs)	
Professional (per hour)	90.00

This fee includes but is not limited to: Review of Site Investigation and Site Remediation Plans, Review of Permit Applications, Permit Modifications and Permit Renewals; Review and Oversight of Administrative Consent Orders and Consent Agreements, Judicial Orders, and related compliance activities; Review and Oversight of Construction Activities; Review and Oversight of Corrective Action Activities; and Review and Oversight of Vehicle Manufacturer Mercury Switch Removal and Collection Plans

Hazardous Waste Permit Filing	
Hazardous Waste Operation Plan Renewal	1,000.00
Solid Waste Permit Filing (does not apply to Municipalities, Counties, or Special Service Districts seeking review from the Division)	
New Comm. Facility	
Class V and Class VI Landfills	1,000.00
New Non-Commercial Facility	750.00
New Incinerator	
Commercial	5,000.00
Industrial or Private	1,000.00
Plan Renewals and Plan Modifications	100.00
Variance Requests	500.00
Enforceable Written Assurance Letter	
Flat fee for up to 8 hours to complete letter	500.00
Additional per hour charge if over the original 8 hours	90.00
Waste Tire Recycling Registration	
Recycler (per year)	100.00
Transporter (per year)	100.00

Fees for registration applications received during the year will be prorated at \$8.30/month over the # of months remaining in the year.

Used Oil	
Do It Your Selter and Used Oil Collection Center Registration	No charge
Permit filing fee for Transporter, Transfer Facility, Processor/Re-refiner, and Off-Spec Burner	100.00
Plan Review Filing Fee	100.00
Permit Modification Filing Fee	100.00
Annual Registration for Transporter, Transfer Facility, Processor/	

Re-refiner, Off-Spec Burner, & Land Application (per year)	100.00
Marketer Registration (per year)	50.00
Permit Filing	50.00
Vehicle Manufacturer Mercury Switch Removal and Collection Plan Mercury Switch Removal and Collection Plan Filing	100.00
Non-Hazardous Solid Waste Polychlorinated Biphenyl (PCBs) (per ton)	4.75
Or fraction of a ton Hazardous Waste Flat Fee (per year)	2,414,500.00
Provides for implementation of waste management programs and oversight of the Hazardous Waste Industry in accordance with UCA 19-6-118.	

**DEPARTMENT OF
AGRICULTURE AND FOOD**

ADMINISTRATION

General Administration	
General Administration	
Produce Dealers	
Produce Dealers	25.00
Dealer's Agent	10.00
Broker/Agent	25.00
Produce Broker	25.00
Livestock Dealer (per dealer)	250.00
Livestock Dealer/Agent (per Agent)	75.00
Livestock Auctions	
Livestock Auction Market (per Market)	100.00
Auction Weigh Person (per Weigh Person)	25.00
Registered Farms Recording	10.00
Citations, Maximum per Violation	500.00
All Agriculture Divisions	
Organic Certification	
Annual registration of producers, handlers, processors or combination	200.00
Fee for inspection (per hour)	28.00
Inspectors' time >40 hours per week (overtime) plus regular fees (per hour)	42.00
Major holidays and Sundays plus regular fees (per min. per hour)	42.00
Gross Sales	
\$0 to \$5,000: Exempt	Variable
\$10.00 min based on previous calendar year, applies to all Gross Sales Fees	
\$5,001 to \$10,000	100.00
\$10,001 to \$15,000	180.00
\$15,001 to \$20,000	240.00
\$20,001 to \$25,000	300.00
\$25,001 to \$30,000	360.00
\$30,001 to \$35,000	420.00
\$35,001 to \$50,000	600.00
\$50,001 to \$75,000	900.00
\$75,001 to \$100,000	1,200.00
\$100,001 to \$150,000	1,800.00

\$150,001 to \$280,000	2,240.00
\$280,001 to \$375,000	3,000.00
\$375,001 to \$500,000	4,000.00
\$500,001 and up	5,000.00
Certified document	25.00
Copies of files	
Per hour	10.00
Per copy .....	.25
Duplicate	15.00
Internet Access	1.50
Late	25.00
Returned check	15.00
Mileage	Variable

State rate

Chemistry Laboratory	
Chemistry Laboratory	
Seed, Feed, and Meat	
Moisture	20.00
Fat	35.00
Fiber, Crude or ADF (Acid Detergent Fiber)	45.00
Proximate analysis (moisture, protein, fat, fiber, ash)	90.00
Proximate analysis (moisture, protein, fiber)	60.00
Protein	32.00
NPN (Non-Protein Nitrogen)	25.00
Ash	20.00
Water Activity	30.00
Salt	30.00
Fertilizer	
Nitrogen	32.00
Available Phosphorous	35.00
Potash	30.00
Inorganics	
Digested Testing	
Ag, Al, As, B, Ba, Ca, Cd, Cl, Co, Cr, Cu, Fe, K, Mg, Mn, Mo, Na, Ni, P, Pb, S, Se, V, Zn Prep and First Analyte	35.00
Additional Analytes	22.00
pH	20.00
Water Test I	250.00
Al, As, B, Ba, Ca, Cd, Cl, Co, Cr, Cu, Fe, K, Mg, Mn, Mo, Na, Ni, P, Pb, S, Se, Zn Water Test II	180.00
Br, Cl, F, NO3, PO4, CO3, HCO3, CLO4, pH Water Quality	180.00
Br, Cl, F, NO3, NO2, SO4, PO4, carbonate, bicarbonate, perchlorate	
Herbicides - Water	185.00
Insecticides/Fungicides - Water	205.00
Herbicides - Soil/Plants	305.00
Insecticides - Soil/Plants	265.00
Pesticide	
Water	
Single Test	205.00
Multiresidue Test	275.00
Non-water	
Single Test	305.00
Multiresidue Test	400.00
Formulation	305.00
Inorganics	
Undigested Testing	

Ag, Al, As, B, Ba, Ca, Cd, Cl, Co, Cr, Cu, Fe, K, Mg, Mn, Mo, Na, Ni, P, Pb, S, Se, V, Zn	
Prep and First Analyte	25.00
Additional Analytes	12.00
Vitamin A	60.00
Mercury Analysis	85.00
Certification	
Milk Laboratory Evaluation Program	
Basic Lab	50.00
Number of Certified Analyst	30.00
3 x \$10.00	
Number of Approved Test	30.00
3 x \$10.00	
Total Yearly Assessed	90.00
Standard Plate Count	10.00
Coliform Count	15.00
Antibiotics Test	5.00
Phosphatase Test	15.00
Wisconsin Mastitis Test (WMT)	
Screening Test	5.00
Direct Microscopic Somatic Cell	
Count (DMSCC): Confirmation	10.00
Direct Somatic Cell Count	
(DSCC): Instrumentation	5.00
Coliform Confirmation	5.00
Container Rinse Test	10.00
H2O Coliform Confirmation Test	5.00
H2O Coliform Total Count	18.00
Butterfat %	10.00
Babcock method	
Added H2O in Raw Milk	5.00
Reactivated Phosphatase	
Confirmation	15.00
Antibiotics Confirmation Test	10.00
Salmonella Screen	40.00
E-Coli Screen	30.00
Listeria Screen	30.00
All Other Services, per hour	40.00
The lab performs a variety of tests for other government agencies. The charges for these tests is determined according to the number of tests, and based on cost to the Laboratory and therefore may be different than the fee schedule. Because of changing needs, the Laboratory may receive requests for test that are impossible to anticipate and list fully in a standard fee schedule. Charges for these tests are authorized and are to be based on costs.	
Campylobacter Screen	40.00
Charges for other tests performed for other government agencies are authorized and are to be based on cost recovery.	
Utah Horse Commission	
Utah Horse Commission (fees are not to exceed the amounts identified)	
Owner/Trainer	100.00
Owner	75.00
Organization	75.00
Trainer	75.00
Assistant trainer	75.00
Jockey	75.00
Jockey Agent	75.00
Veterinarian	75.00
Racing Official	75.00
Racing Organization Manager	
or Official	75.00
Authorized Agent	75.00
Farrier	75.00

Assistant to the Racing Manager	
or Official	75.00
Video Operator	75.00
Photo Finish Operator	75.00
Valet	50.00
Jockey Room Attendant or Custodian	50.00
Colors Attendant	50.00
Paddock Attendant	50.00
Pony Rider	50.00
Groom	50.00
Security Guard	50.00
Stable Gate Man	50.00
Security Investigator	50.00
Concessionaire	50.00
Application Processing	25.00

ANIMAL HEALTH

Animal Health	
Inspection Service	39.00
Commercial Aquaculture Facility	150.00
Commercial Fishing Facility	30.00
Citation	
Per violation	200.00
Per head	2.00
If not paid within 15 days, two times the citation fee; if not paid within 30 days, four times the citation fee.	
Hatchery Operation (Poultry)	25.00
Poultry Dealer License (per dealer)	25.00
Health Certificate Book	8.00
Trichomoniasis Report Book	8.00
Auction Veterinary	
Cattle (per day)	200.00
Sheep (per day)	90.00
Service Fee for Veterinarians	
Per day	250.00
Dog food and brine shrimp, misc.	
Per mile	.55
Dog food and brine shrimp, misc.	
Trichomoniasis Ear Tags	2.00
Brand Inspection	
Brand Inspection	
Farm Custom Slaughter	100.00
Estray Animals	Variable
Beef Promotion (per head)	1.50
Cattle only	
Citation (per violation)	200.00
Citation (per head)	2.00
If not paid within 15 days, two times citation fee. If not paid within 30 days, four times citation fee.	
Brand Inspection	
Special Sales	100.00
Cattle (per head)	.75
Horse (per head)	1.00
Sheep (per head)	.05
Brand Book	25.00
Show and Seasonal Permits	
Horse	15.00
Cattle	15.00
Horse Permit	
Lifetime	25.00
Duplicate Lifetime	10.00
Lifetime Transfer	10.00
Brand Recording	75.00

Certified copy of Recording (new brand card)	5.00
Minimum Charge (per certificate)	10.00
Cattle, Sheep, Hogs, and Horses	
Brand Transfer	50.00
Brand Renewal	50.00
5 year cycle	
Elk Farming	
Elk Inspection New License	300.00
Brand Inspection (per elk)	5.00
Service Charge (per stop, per owner) ...	15.00
Horn Inspection (per set)	1.00
Elk License	
Renewal	300.00
Late	50.00
Meat Inspection	
Meat Inspection	
Inspection Service	39.00
Meat Packing	
Meat Packing Plant	150.00
Custom Exempt	150.00
T/A (Talmage-Aiken) Official	150.00
Packing/Processing Official	150.00

PLANT INDUSTRY

Grain Inspection	
Grain Inspection	
Regular hourly rate (per hour)	28.00
Overtime hourly rate (per hour)	42.00
Official Inspection Services (includes sampling, except where indicated)	
Railcar (per car)	25.50
Truck or trailer (per carrier)	13.50
Container Inspection	21.00
Submitted sample (per sample)	9.50
Re-inspection	
Based on new sample (per truck)	10.50
Basis file sample	8.50
Based on new sample rail	20.50
Protein test	
Original or file sample retest	6.50
Oil and starch	6.50
Basis new sample	6.00
Plus sample hourly	
Factor only determination (per factor) ...	4.00
Plus samplers hourly rate, if applicable	
Stowage examination services (per certificate)	
.....	13.00
A fee for applicant requested certification of specific factors (per request)	
.....	3.00
Malting barley analysis of non-malting class barley, HVAC or DHV percentage determination in durum or hard spring wheats, etc.	
Extra copies of certificates (per copy) ...	1.00
Insect damaged kernel, determination (weevil, bore)	
.....	3.00
Sampling only, same as original carrier fee, except hopper cars, 4 or more ...	
.....	14.00
Mailing sample handling charge	
.....	3.00
Plus actual cost	
Sealing rail cars or containers upon request over 5 seals per rail car	
.....	5.00

Request for services not covered by the above fees will be performed at the applicable hourly rate stated herein, plus mileage and travel time, if applicable. Actual travel time will be assessed outside of a 50 mile radius of Ogden.

Non-Official Services

Safflower Grading	13.00
Class II weighing (per carrier)	6.00
Dark Hard Vitreous kernels (DHV)	
percentage in Hard Red Wheat	4.00
Determination of hard kernel percentage	
in soft white wheat	4.00
Dry Hay Feed Analysis	14.00
Silages (corn or hay) Analysis	20.00
Feed grain Analysis	14.00
Black Light (Alfatoxin)	3.00
Aflatoxin Test	20.00
Strip quick test	
Grain grading instructions (per hour, per person)	
.....	20.00
Set of check Samples	
.....	25.00
Proteins-moisture, Set of 5	
Other Requests (per hour)	
.....	Variable
Agricultural Inspection	
Shipping Point	
Fruit	
Packages, 19 lb. or less (per package) ...	.02
20 to 29 lb. package (per package) .....	.025
Over 29 lb. package (per package) .....	.03
Bulk load (per hundredweight) .....	.045
Vegetables	
Potatoes (per hundredweight) .....	.06
Onions (per hundredweight) .....	.065
Cucurbita (per hundredweight) .....	.05
Cucurbita family includes: watermelon, muskmelon, squash (summer, fall, and winter), pumpkin, gourd and others.	
Other Vegetables	
Less than 60 lb. package (per package)	
.....	.035
Over 60 lb. package (per package) ...	.045
Phytosanitary Inspection (per inspection)	
.....	50.00
Phytosanitary Inspection with grade certification (per inspection)	
.....	15.00
Federal (per inspection)	16.00
One commodity (per certificate)	
.....	28.00
Except regular rate at continuous grading facilities	
Mixed loads (per commodity)	
.....	28.00
For inspection of raw products at processing plants (per hour)	
.....	28.00
For inspectors' time over 40 hrs per week (overtime), plus regular fees (per hour)	
.....	42.00
For major holidays and Sundays (per hour)	
.....	42.00
4 hour minimum plus regular fees (Holidays include: New Years Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day.)	
All inspections shall include mileage which will be charged according to the current mileage rate of the State of Utah	
.....	Variable
Export Compliance Agreements	
.....	50.00

Nursery	
Gross Sales ((\$10.00 min) based on previous calendar year, applies to all Gross Sales Fees)	
\$0 to \$5,000	40.00
\$5,001 to \$100,000	80.00
\$100,001 to \$250,000	120.00
\$250,001 to \$500,000	160.00
\$500,001 and up	200.00
Nursery Agency	50.00
Feed	
Commercial Feed	25.00
Processing	30.00
Custom Formula Permit	75.00
Pesticide	
Commercial Applicator Certification	
4 or less Commercial Pesticide	
Applicators	75.00
5-9 Commercial Pesticide	
Applicators	150.00
10 or more Commercial Pesticide	
Applicators	300.00
Triennial (3 year) Certification and License	45.00
Replacement of lost or stolen certificate/license	15.00
Failed examinations may be retaken two more times at no charge	Variable
Additional re-testing	15.00
Two more times	
Triennial (3 year) examination and educational materials	20.00
Product Registration	60.00
Processing Service	120.00
Dealer License	
Triennial	100.00
Fertilizer	
Blenders License	75.00
Assessment (per ton)	.35
Minimum Semiannual Assessment	10.00
Fertilizer Registration	25.00
Processing	30.00
Beekeepers	
Insect Identification	10.00
License	
0 to 20 hives	10.00
21 to 100 hives	25.00
101 to 500 hives	50.00
Inspection (per hour)	28.00
Salvage Wax Registration	10.00
Control Atmosphere	10.00
Seed Purity	
Flowers	12.00
Grains	8.00
Grasses	17.00
Legumes	8.00
Trees and Shrubs	12.00
Vegetables	8.00
Seed Germination	
Flowers	12.00
Grains	8.00
Grasses	12.00
Legumes	8.00
Trees and Shrubs	12.00
Vegetables	8.00
Seed Tetrazolium Test	
Flowers	22.00
Grains	14.00
Grasses	22.00

Legumes	17.00
Trees and Shrubs	22.00
Vegetables	14.00
Embryo Analysis (Loose Smut Test)	11.00
Cutting Test	8.00
Mill Check (per hour)	Variable
Examination of Extra Quantity for Other Crop or Weed Seed (per hour)	Variable
Examination for Noxious Weeds Only (per hour)	Variable
Identification	No charge
Inspection (per hour)	28.00
Additional Copies of Analysis Reports	1.00
Any other inspection service performed (per hour)	28.00

1 hour minimum. Mixtures will be charged based on the sum for each individual kind in excess of 5 percent. Samples which require excessive time, screenings, low grade, dirty, or unusually difficult sample will be charged at the hourly rate. Hourly charges may be made on seed treated with Highly Toxic Substances if special handling is necessary for the Analysts safety. Discount germination is a non-priority service intended for carry-over seed which is ideal for checking inventories from May through August. The discount service is available during the rest of the year, but delays in testing may result due to high test volume of priority samples. Ten or more samples receive a fifty percent discount off normal germination fees.

Emergency service for single component only (per sample)	42.00
Hay and Straw Weed Free Certification	
Bulk loads of hay up to 10 loads	30.00
Hourly rate	28.00
If time involved is 1 hour or less	28.00
Charge for each hay tag	.10
Citations, maximum per violation	500.00

REGULATORY SERVICES

Regulatory Services	
Bedding/Upholstered Furniture	
Manufacturers of Bedding and/or Upholstered Furniture	65.00
Wholesale Dealer	65.00
Supply Dealer	65.00
Manufacturers of Quilted Clothing	65.00
Upholsterer with employees	50.00
Upholsterer without employees	25.00
Processing /All Bedding Upholstery Licenses	40.00
Dairy	
Test milk for payment	40.00
Operate milk manufacturing plant	85.00
Make butter	40.00
Haul farm bulk milk	40.00
Make cheese	40.00
Operate a pasteurizer	40.00
Operate a milk processing plant	85.00
Dairy Products Distributor	85.00
Base Food Inspection	
Small	50.00
Less than 1,000 sq. ft. / 4 or fewer employees	
Medium	150.00

1,000-5,000 sq. ft., with limited food processing	
Large	250.00
Food processor over 1,000 sq. ft. / Grocery store 1,000-50,000 sq. ft. and two or fewer food processing areas / Warehouse 1,000-50,000 sq. ft.	
Super	400.00
Food processor over 20,000 sq. ft. / Grocery store over 50,000 sq. ft. and more than two food processing areas / Warehouse over 50,000 sq. ft.	
Special Inspection	
Food and Dairy Inspection	
Per hour	30.00
Overtime rate	40.00
Citations, maximum per violation	500.00
Weights and Measures	
Weighing and measuring devices/ individual servicemen	15.00
Metrology services (per hour)	35.00
Base Weights and Measures	
Small	50.00
1-3 scales, 1-12 fuel dispensers, 1 meter, 1 large scale, or 1-3 scanners	
Medium	150.00
4-15 scales, 13-24 fuel dispensers, 2-3 meters, 2-3 large scales, or 4-15 scanners	
Large	250.00
16-25 scales, 25-36 fuel dispensers, 4-6 meters, 4-5 large scales, or 16-25 scanners	
Super	400.00
26+ scales, 37+ fuel dispensers, 7+ meters, 6+ large scales, or 26+ scanners	
Special Scale Inspections	
Large Capacity Truck (per hour)	25.00
Large Capacity Truck (per mile)	2.00
Large Capacity Truck (per hour)	25.00
Equipment use	
Pickup Truck (per hour)	25.00
Pickup Truck (per mile)	1.00
Pickup Truck (per hour)	20.00
Equipment use	
Overnight Trip (per diem)	Variable
Plus cost of hotel	
Petroleum Refinery	
Gasoline	
Octane Rating	132.00
Benzene Level	88.00
Pensky-Martens Flash Point	22.00
Overtime charges (per hour)	33.00
Gravity	11.00
Distillation	28.00
Sulfur, X-ray	39.00
Reid Vapor Pressure (RVP)	28.00
Aromatics	55.00
Leads	22.00
Diesel	
Gravity	28.00
Distillation	28.00
Sulfur, X-ray	22.00
Cloud Point	22.00
Conductivity	28.00
Cetane	22.00

Citations, maximum per violation	500.00
Certificate of Free Sale	
Single Certificate	25.00
More than 3 pages	55.00
SCHOOL AND INSTITUTIONAL TRUST LANDS ADMINISTRATION	
SCHOOL AND INSTITUTIONAL TRUST LANDS ADMINISTRATION	
Administration	
Research on leases or title by staff (per hour)	75.00
Reproduction of Records	
Copies Made By Staff (per copy)	.40
Copies - Self-service (per copy)	.10
Name change on Administrative Records	
Name Change on Admin. Records - Surface Document	15.00
Name Change on Admin. Records - Lease (per lease)	15.00
Late fee	6% or \$30, whichever is greater
Fax send only including cover (per page)	1.00
Certified Copies (per document)	10.00
Affidavit of Lost Document (per document)	25.00
Surface	
Easements	
Amendment	400.00
Application	750.00
Assignment Fees	250.00
Collateral	250.00
Reinstatement	400.00
Exchange	
Application	1,000.00
Grazing Permit	
Amendment	50.00
Application	50.00
Assignment Fees	30.00
Collateral	50.00
Reinstatement	30.00
Non-Use	20.00
Sublease	
50% of the difference between base grazing fee per Animal Unit Month (AUM) assessed by agency and AUM fee received by the permittee through the sublease multiplied by the number of AUM sublease, or a \$1 per AUM minimum, whichever is greater.	
Modified	
Amendment	50.00
Application	250.00
Assignment Fees	250.00
Collateral	50.00
Reinstatement	30.00
Letter of Intent	
Application	100.00
Right of Entry	
Amendment	50.00
Application	50.00
Assignment	250.00
Extension of Time	100.00
Processing	50.00
Right of Entry Trailing Permit	
Application plus AUM (Animal Unit Month) fees	50.00
Sales/Certificates	

Application	250.00
Assignment	250.00
Partial Conveyance	250.00
Patent Reissue	50.00
Processing	500.00
Special Use Agreements	
Amendment	400.00
Application	250.00
Assignment Fees	250.00
Collateral	250.00
Processing	700.00
Reinstatement	400.00
Timber Agreement	
Application	100.00
6 months or less	
Assignment	250.00
6 months or less	
Application	500.00
longer than 6 months	
Assignment	250.00
longer than 6 months	
Extension of Time	250.00
longer than 6 months	
Mineral	
Application	
Materials Permit (Sand and Gravel) ..	250.00
Mineral Materials Permit	100.00
Mineral Lease	30.00
Rockhounding Permit	
Association	200.00
Individual/Family	10.00
Collateral	50.00
Materials Permit (Sand and	
Gravel)	200.00
Operating Rights	50.00
Overriding Royalty	50.00
Record Title	50.00
Segregation	100.00
Processing	
Materials Permit (Sand/Gravel)	700.00
Transfer Active Oil and Gas Lease to	
Current Form	50.00
Utah Interactive Transaction	2.75
Cash Equivalent	3.00
Bank Charge (per incident)	3 percent

PUBLIC EDUCATION

STATE BOARD OF EDUCATION

STATE OFFICE OF EDUCATION

Board and Administration	
Indirect Cost Pool	
Restricted Funds	
USOE percentage of personal	
service costs	10%
Unrestricted Funds	
USOE percentage of personal	
service costs	18%
USOR percentage of personal	
service costs	14%
Teaching and Learning	
Conference or Professional	
Development Registration	50.00

**EDUCATOR LICENSING
PROFESSIONAL PRACTICES**

Teacher Licensure	
Level I	
Level I	40.00
Utah University Recommended	
(3 Yrs)	40.00
Student License	20.00
Out of State Application	75.00
District/Charter License	50.00
One Year Extension	25.00
Career and Technology Education	40.00
Level Upgrade	40.00
Renewal	
Active Educators	25.00
Inactive Educators	45.00
Returning Educator Application	35.00
Returning Educator Renewal	
Recommendation	15.00
Endorsements	
Institutionally or District Approved ...	20.00
Individual Application	25.00
Duplicates/Replacements	10.00
State Approved Endorsement Program	
Application/Evaluation (State	
Approved Endorsement Programs) ...	35.00
Letter of Authorization Request	20.00
Alternative Licensure	
Application and Evaluation	75.00
Program Development and	
Tracking	300.00
License Recommendation	40.00
Finger Printing	
FBI & BCI	25.00
Utah Professional Practices	
Advisory Commission	15.00

**UTAH SCHOOLS FOR THE
DEAF AND THE BLIND**

Instructional Services	
Instruction	
Teachers Aide	11.58
Student Education Services Aide	26.15
Educator	58.86
After-School Program	30.00
Pre-School Monthly Tuition	75.00
Out-of-State Tuition	50,600.00
Support Services	
Instruction	
Educational Interpreter	36.31
Support Services	
Educator	58.86
Conference Attendance	
Educator - Conference Attendance	
Fee	100.00
Parent - Conference Attendance Fee ...	25.00
Adult Lunch Tickets	2.00
Copy & Fax Machine	
Fax Machine	1.00
Copy Machine	
Color	1.00
Black/White .....	.10
Athletic (per sport)	100.00
Room Rental	
Dormitory	19.00

Conference	94.00
Multipurpose	188.00

**RETIREMENT AND
INDEPENDENT ENTITIES**

**DEPARTMENT OF HUMAN
RESOURCE MANAGEMENT**

Statewide Management Liability Training Certified Public Manager Course Fee (per student)	750.00
Other Training Fee (per contact hour)	15.00

**HUMAN RESOURCES
INTERNAL SERVICE FUND**

ISF - Field Services	
HR Services (per FTE)	621.00
Payroll Services (per FTE)	54.00
Per UCA 67-19-13.5, the following agencies are not required to use DHRM payroll services: State Treasurer's Office, State Auditor's Office, Dept. of Technology Services, Dept. of Public Safety, Dept. of Natural Resources, Dept. of Transportation.	
ISF - Legal Services	
Attorney General Legal Fees (per FTE)	24.46

EXECUTIVE APPROPRIATIONS

UTAH NATIONAL GUARD

Operations and Maintenance	
Armory Rental	
Armory Rental (per hour)	25.00
Armory rental fee of \$25/hour is charged to pay for the additional operations and maintenance costs to the National Guard when an armory is rented to a group outside of the National Guard.	
Security Attendant (per hour)	15.00
Utah National Guard requires a security attendant to accompany any armory rental to ensure the security of facilities and equipment.	
Refundable Cleaning Deposit	100.00
This refundable fee is required to mitigate the liability of damage or additional cleaning requirement for National Guard armories during or after rental.	

**DEPARTMENT OF VETERANS'
AND MILITARY AFFAIRS**

Cemetery	
Veterans' Burial	745.00
Cement Burial Vault	700.00
Spouse/Dependent Burial	745.00
Saturday Burial Surcharge	700.00
Lawn Vase	60.00
Disinterment	
Single Depth Disinterment	600.00
Double Depth Disinterment	900.00
Cremaains Disinterment	150.00

Chapel Rental	150.00
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Fee for renting the on-site chapel for funerals, memorials or other events.

CAPITOL PRESERVATION BOARD

Capitol Hill Grounds	
A, B, C, D	
Commercial Production Grounds/per event (per day)	2,500.00
A, B, C, and D/per event (per day) ..	2,500.00
A, B, C, and D/per hour	750.00
A-South Lawn	
A-South Lawn/per event	2,000.00
A-South Lawn/per hour	400.00
B-SE Outside of Oval	
B-SE Outside of Oval/per event	1,000.00
B-SE Outside of Oval/per hour	200.00
C-SW Outside of Oval	
C-SW Outside of Oval/per event	1,000.00
C-SW Outside of Oval/per hour	200.00
D-West Lawn	
D-West Lawn/per event	500.00
D-West Lawn/per hour	150.00
South Steps	
South Steps/per event (per event)	500.00
South Steps/per hour (per hour)	125.00
Capitol Hill - The State Capitol Preservation Board may establish the maximum amount of time a person may use a facility.	
Parking Lot	
Parking Space (per stall per day)	7.00
For events only	
Rotunda	
Commercial Production Rotunda/per event (per day)	5,000.00
Rotunda Rental Fee Monday-Thursday (per event)	2,000.00
Rotunda Rental Fee Friday-Sunday (per event)	2,300.00
Rotunda two hour block Mon-Fri during Leg Session (7 a.m.-5:30 p.m.) ..	No charge
Hall of Governors	
Hall of Governors	1,300.00
Hall of Governors - Two hour block Monday - Friday during Leg Session (7:00 a.m.-5:30 p.m.)	No charge
Plaza	
Plaza/per event	1,300.00
Plaza/per hour	200.00
Room 105	
General Public, Commercial, & Private Groups	
Room #105/per hour	100.00
Room #105 Mon - Fri 7:00 a.m.-5:30 p.m. during Leg Session (no more than 8 hours/week)	No charge
Nonprofit, Gov't Nonofficial Business, K-12, & Higher Ed	
Room #105/per hour	50.00
Room #105 Mon - Fri 7:00 a.m.-5:30 p.m. during Leg Session (no more than 8 hours/week)	No charge
Room 170	
General Public, Commercial, & Private Groups	
Room #170/per hour	100.00

Room #170 Mon - Fri, 7:00 a.m.-5:30 p.m. during Leg Session (no more than 8 hours/week) No charge
 Nonprofit, Gov't Nonofficial Business, K-12, & Higher Ed
 Room #170/per hour 50.00
 Room #170 Mon - Fri, 7:00 a.m.-5:30 p.m. during Leg Session (no more than 8 hours/week) No charge
Room 210
 General Public, Commercial, & Private Groups
 Room #210/per hour 100.00
 Room #210 Mon - Fri, 7:00 a.m.-5:30 p.m. during Leg Session (no more than 8 hours/week) No charge
 Nonprofit, Gov't Nonofficial Business, K -12, & Higher Ed
 Room #210/per hour 50.00
 Room #210 Mon - Fri, 7:00 a.m.-5:30 p.m. during Leg Session (no more than 8 hours/week) No charge
State Room
 State Room/per event (per event) . . . 1,000.00
 State Room/per hour (per hour) 125.00
Multipurpose Room
 General Public, Commercial, & Private Groups
 Multipurpose Room #130/per hour . . 100.00
 Multipurpose Room #130 Mon - Fri, 7:00 a.m.-5:30 p.m. during Leg Session (no more than 8 hours/week) . . No charge
 Nonprofit, Gov't Nonofficial Business, K -12, & Higher Ed
 Multipurpose Room #130/per hour . . . 50.00
 Multipurpose Room #130 Mon - Fri, 7:00 a.m.-5:30 p.m. during Leg Session (no more than 8 hours/week) . . No charge
Board Room
 General Public, Commercial, & Private Groups
 Board Room/per hour 150.00
 Nonprofit, Gov't Nonofficial Business, K -12, & Higher Ed
 Board Room/per hour 75.00
Olmsted Room
 General Public, Commercial, & Private Groups
 Olmsted Room/per hour 100.00
 Olmsted Room Mon - Fri, 7:00 a.m.-5:30 p.m. during Leg Session (no more than 8 hours/week) No charge
 Nonprofit, Gov't Nonofficial Business, K -12, & Higher Ed
 Olmsted Room/per hour 50.00
 Olmsted Room Mon - Fri, 7:00 a.m.-5:30 p.m. during Leg Session (no more than 8 hours/week) No charge
Kletting Room
 General Public, Commercial, & Private Groups
 Kletting Room/per hour 100.00
 Kletting Room Mon - Fri, 7:00 a.m.-5:30 p.m. during Leg Session (no more than 8 hours/week) No charge
 Nonprofit, Gov't Nonofficial Business, K -12, & Higher Ed
 Kletting Room/per hour 50.00
 Kletting Room Mon - Fri, 7:00 a.m.-5:30 p.m. during Leg Session (no more than 8 hours/week) No charge
Seagull Room
 General Public, Commercial, & Private Groups

Seagull Room/per hour 100.00
 Seagull Room Mon - Fri, 7:00 a.m.-5:30 p.m. during Leg Session (no more than 8 hours/week) No charge
 Nonprofit, Gov't Nonofficial Business, K -12, & Higher Ed
 Seagull Room/per hour 50.00
 Seagull Room Mon - Fri, 7:00 a.m.-5:30 p.m. during Leg Session (no more than 8 hours/week) No charge
Beehive Room
 General Public, Commercial, & Private Groups
 Beehive Room/per hour 100.00
 Beehive Room Mon - Fri, 7:00 a.m.-5:30 p.m. during Leg Session (no more than 8 hours/week) No charge
 Nonprofit, Gov't Nonofficial Business, K -12, & Higher Ed
 Beehive Room/per hour 50.00
 Beehive Room Mon - Fri, 7:00 a.m.-5:30 p.m. during Leg Session (no more than 8 hours/week) No charge
Copper Room
 General Public, Commercial, & Private Groups
 Copper Room/per hour 100.00
 Copper Room Mon - Fri, 7:00 a.m.-5:30 p.m. during Leg Session (no more than 8 hours/week) No charge
 Nonprofit, Gov't Nonofficial Business, K -12, & Higher Ed
 Copper Room/per hour 50.00
 Copper Room Mon - Fri, 7:00 a.m.-5:30 p.m. during Leg Session (no more than 8 hours/week) No charge
Spruce Room
 General Public, Commercial, & Private Groups
 Spruce Room/per hour 100.00
 Spruce Room Mon - Fri, 7:00 a.m.-5:30 p.m. during Leg Session (no more than 8 hours/week) No charge
 Nonprofit, Gov't Nonofficial Business, K -12, & Higher Ed
 Spruce Room/per hour 50.00
 Spruce Room Mon - Fri, 7:00 a.m.-5:30 p.m. during Leg Session (no more than 8 hours/week) No charge
State Office Building - The State Capitol Preservation Board may establish the maximum amount of time a person may use a facility.
Auditorium
 General Public, Commercial, & Private Groups
 Auditorium/per hour 125.00
 Auditorium Mon - Fri, 7:00 a.m.-11 a.m. and 1:30 p.m.-5:30 p.m. during Leg Session (per hour) 125.00
 Auditorium Mon - Fri, 11:00 a.m.-1:30 p.m. during Leg Session with the use of preferred caterer No charge
 Nonprofit, Gov't Nonofficial Business, K -12, & Higher Ed
 Auditorium/per hour 75.00
 Auditorium Mon - Fri, 7:00 a.m.-11:00 a.m. and 1:30 p.m.-5:30 p.m. during Leg Session (per hour) 75.00
 Auditorium Mon - Fri, 11 a.m.-1:30 p.m. during Leg Session with the use of preferred caterer No charge
Room 1112

General Public, Commercial, & Private Groups	
Room #1112/per hour	100.00
Room #1112 Mon - Fri, 7:00 a.m.-5:30 p.m. during Leg Session (no more than 8 hours/week)	No charge
Nonprofit, Gov't Nonofficial Business, K -12, & Higher Ed	
Room #1112/per hour	50.00
Room #1112 Mon - Fri, 7:00 a.m.-5:30 p.m. during Leg Session (no more than 8 hours/week)	No charge
Room B110	
General Public, Commercial, & Private Groups	
Room #B110/per hour	100.00
Room #B110 Mon - Fri, 7:00 a.m.-5:30 p.m. during Leg Session (no more than 8 hours/week)	No charge
Nonprofit, Gov't Nonofficial Business, K -12, & Higher Ed	
Room #B110/per hour	50.00
Room #B110 Mon - Fri, 7:00 a.m.-5:30 p.m. during Leg Session (no more than 8 hours/week)	No charge
White Community Memorial Chapel	
Per day of event	500.00
Noon-midnight rehearsal	250.00
Miscellaneous Other	
Access/Press Badges	25.00
Additional Labor (per person, per 1/2 hr)	25.00
Additional Personnel (per person, per 1/2 hr)	25.00
Adjustment (per person, per 1/2 hr)	25.00
Administrative Fee	10.00
Baby Grand Piano	200.00
Chairs (per chair)	1.50
Change in set-up fee (per person, per 1/2 hr)	25.00
Easel	10.00
Extension Cords	5.00
Flags	No charge
Free Speech Public Space Useage	No charge
Garbage Can	No charge
Gold Formal Chair (per chair)	5.00
Insurance Coverage for Capitol Hill Facilities and Grounds	Coverage of \$1,000,000.00
Locker Rentals (per year)	40.00
PA System (Podium & Microphone) with one speaker	50.00
Additional speakers available at a cost of \$15.00 each.	
Podium	
With Microphone	35.00
Without Microphone	20.00
POLYCOM Phone Rental	10.00
Risers (per section)	25.00
Security (per officer, per hour)	50.00
Stanchion	10.00
Standing Microphone	15.00
Table (per table)	7.00
Table Pedestal Round 20" (per table)	10.00
Table Pedestal Round 42" (per table)	10.00
Upright Piano	50.00

Section 3. Effective Date.

This bill takes effect on July 1, 2015.

CHAPTER 281**S. B. 9**

Passed March 10, 2015
 Approved March 27, 2015
 Effective May 12, 2015

**REVENUE BOND AND CAPITAL
 FACILITIES AMENDMENTS**

Chief Sponsor: Wayne A. Harper
 House Sponsor: Gage Froerer

LONG TITLE**General Description:**

This bill authorizes certain state agencies and institutions to issue revenue bonds, and authorizes the construction or renovation of capital facilities using agency, institutional, or donated funds.

Highlighted Provisions:

This bill:

- ▶ modifies an authorization to use institutional or agency funds to plan, design, and construct a capital facilities project;
- ▶ authorizes the State Building Ownership Authority to issue revenue bonds as follows:
 - \$86,936,000 for expanding the Fourth District Provo Courthouse; and
 - \$4,447,900 for constructing a West Valley Liquor Store; and
- ▶ authorizes the Board of Regents to issue revenue bonds as follows:
 - up to \$45,000,000 for redeveloping Orson Spencer Hall at the University of Utah;
 - up to \$23,100,000 for replacing the Valley View Residence Hall at Utah State University;
 - up to \$23,000,000 for renovating Romney Stadium at Utah State University; and
 - up to \$20,000,000 for constructing a student housing project at Dixie State University.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63B-23-201, as enacted by Laws of Utah 2014, Chapter 113

ENACTS:

63B-24-101, Utah Code Annotated 1953
 63B-24-102, Utah Code Annotated 1953
 63B-24-201, Utah Code Annotated 1953

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

Section 1. Section 63B-23-201 is amended to read:

63B-23-201. Authorizations to design and construct capital facilities using institutional or agency funds.

(1) The Legislature intends that:

(a) the University of Utah may, subject to requirements in Title 63A, Chapter 5, State

Building Board – Division of Facilities Construction and Management, use up to \$10,000,000 in donations and institutional funds to plan, design, and construct an expansion and renovation of the Alumni House at the University of Utah with up to an additional 17,000 new square feet;

(b) the university may not use state funds for any portion of this project; and

(c) the university may not use state funds for operation and maintenance costs or capital improvements.

(2) The Legislature intends that:

(a) the Department of Public Safety may, subject to requirements in Title 63A, Chapter 5, State Building Board – Division of Facilities Construction and Management, use up to \$875,000 in nonlapsing balances and an additional \$400,000 appropriated from the Department of Public Safety Restricted Account to plan, design, and construct a Communications and Drivers License Building in Vernal with up to 3,500 square feet;

(b) the department may not use state funds for any portion of this project; and

(c) the department may use state funds for operation and maintenance costs or capital improvements.

Section 2. Section 63B-24-101 is enacted to read:

CHAPTER 24. BONDING AND FINANCING AUTHORIZATIONS

Part 1. 2015 Revenue Bond Authorizations

63B-24-101. Revenue bond authorizations -- State Building Ownership Authority.

(1) The Legislature intends that:

(a) the State Building Ownership Authority, under the authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or may enter into or arrange for a lease-purchase agreement in which participation interests may be created, to provide up to \$86,936,000 for the Fourth District Provo Courthouse Expansion, together with additional amounts necessary to pay costs of issuance, pay capitalized interest, and fund any existing debt service reserve requirements;

(b) the judicial branch use court fees and existing lease budgets as the primary revenue sources for repayment of any obligation created under authority of this Subsection (1); and

(c) the judicial branch may use state funds for operation and maintenance costs or capital improvements.

(2) The Legislature intends that:

(a) the State Building Ownership Authority, under the authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or may enter into or arrange for a lease-purchase agreement in which participation interests may be created, to provide

up to \$4,447,900 for a West Valley Liquor Store, together with additional amounts necessary to pay costs of issuance, pay capitalized interest, and fund any existing debt service reserve requirements;

(b) the Department of Alcoholic Beverage Control use increased sales revenues as the primary revenue source for repayment of any obligation created under authority of this Subsection (2); and

(c) the Department of Alcoholic Beverage Control may request operation and maintenance funding from sales revenues.

Section 3. Section 63B-24-102 is enacted to read:

63B-24-102. Revenue bond authorizations -- Board of Regents.

(1) The Legislature intends that:

(a) the Board of Regents, on behalf of the University of Utah, may issue, sell, and deliver revenue bonds or other evidences of indebtedness of the University of Utah to borrow money on the credit, revenues, and reserves of the university, other than appropriations of the Legislature, to finance the cost of constructing the Orson Spencer Hall Redevelopment;

(b) the University of Utah use student fees and donations as the primary revenue sources for repayment of any obligation created under authority of this Subsection (1);

(c) the maximum amount of revenue bonds or evidences of indebtedness authorized by this Subsection (1) is \$45,000,000, together with other amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements;

(d) the university shall plan, design, and construct the Orson Spencer Hall Redevelopment subject to the requirements of Title 63A, Chapter 5, State Building Board - Division of Facilities Construction and Management; and

(e) the university may use state funds for operation and maintenance costs or capital improvements.

(2) The Legislature intends that:

(a) the Board of Regents, on behalf of Utah State University, may issue, sell, and deliver revenue bonds or other evidences of indebtedness of Utah State University to borrow money on the credit, revenues, and reserves of the university, other than appropriations of the Legislature, to finance the cost of constructing the Valley View Residence Hall Replacement;

(b) Utah State University use revenues from housing operations as the primary revenue source for repayment of any obligation created under authority of this Subsection (2);

(c) the maximum amount of revenue bonds or evidences of indebtedness authorized by this Subsection (2) is \$23,100,000, together with other amounts necessary to pay costs of issuance, pay

capitalized interest, and fund any debt service reserve requirements;

(d) the university shall plan, design, and construct the Valley View Residence Hall Replacement subject to the requirements of Title 63A, Chapter 5, State Building Board - Division of Facilities Construction and Management; and

(e) the university may not request state funds for operation and maintenance costs or capital improvements.

(3) The Legislature intends that:

(a) the Board of Regents, on behalf of Utah State University, may issue, sell, and deliver revenue bonds or other evidences of indebtedness of Utah State University to borrow money on the credit, revenues, and reserves of the university, other than appropriations of the Legislature, to finance the cost of constructing the Romney Stadium Westside Renovation;

(b) Utah State University use gate receipts and donations as the primary revenue sources for repayment of any obligation created under authority of this Subsection (3);

(c) the maximum amount of revenue bonds or evidences of indebtedness authorized by this Subsection (3) is \$23,000,000, together with other amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements;

(d) the university shall plan, design, and construct the Romney Stadium Westside Renovation subject to the requirements of Title 63A, Chapter 5, State Building Board - Division of Facilities Construction and Management; and

(e) the university may not request state funds for operation and maintenance costs or capital improvements.

(4) The Legislature intends that:

(a) the Board of Regents, on behalf of Dixie State University, may issue, sell, and deliver revenue bonds or other evidences of indebtedness of Dixie State University to borrow money on the credit, revenues, and reserves of the university, other than appropriations of the Legislature, to finance the cost of constructing a Student Housing Project;

(b) Dixie State University use rental fees and other auxiliary income as the primary revenue sources for repayment of any obligation created under authority of this Subsection (4);

(c) the maximum amount of revenue bonds or evidences of indebtedness authorized by this Subsection (4) is \$20,000,000, together with other amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements;

(d) the university shall plan, design, and construct the Student Housing Project subject to the requirements of Title 63A, Chapter 5, State Building Board - Division of Facilities Construction and Management; and

(e) the university may not request state funds for operation and maintenance costs or capital improvements.

Section 4. Section 63B-24-201 is enacted to read:

Part 2. 2015 Capital Facility Design and Construction Authorizations

63B-24-201. Authorizations to design and construct capital facilities using institutional or agency funds.

(1) The Legislature intends that:

(a) the University of Utah may, subject to the requirements of Title 63A, Chapter 5, State Building Board - Division of Facilities Construction and Management, use up to \$8,200,000 in institutional funds to plan, design, and construct the William C. Browning Building Addition with up to 24,000 square feet;

(b) the university may not use state funds for any portion of this project; and

(c) the university may use state funds for operation and maintenance costs or capital improvements.

(2) The Legislature intends that:

(a) Utah State University may, subject to the requirements of Title 63A, Chapter 5, State Building Board - Division of Facilities Construction and Management, use up to \$10,000,000 in institutional funds to plan, design, and construct the Fine Arts Complex Addition/Renovation with up to 17,000 square feet;

(b) the university may not use state funds for any portion of this project; and

(c) the university may use state funds for operation and maintenance costs or capital improvements.

(3) The Legislature intends that:

(a) Salt Lake Community College may, subject to the requirements of Title 63A, Chapter 5, State Building Board - Division of Facilities Construction and Management, use up to \$3,900,000 in institutional funds to plan, design, and construct a Strength and Conditioning Center with up to 11,575 square feet;

(b) the college may not use state funds for any portion of this project; and

(c) the college may not request state funds for operation and maintenance costs or capital improvements.

(4) The Legislature intends that:

(a) the Governor's Office of Economic Development may, subject to the requirements of Title 63A, Chapter 5, State Building Board - Division of Facilities Construction and Management, use up to \$1,800,000 in nonlapsing balances and donations to plan, design, and construct a Southern Utah Welcome Center with up to 5,000 square feet;

(b) the office may request additional state funds for the project, unless the office receives donations and begins design or construction of the project; and

(c) the office may use state funds for operation and maintenance costs or capital improvements.

CHAPTER 282**S. B. 15**

Passed February 27, 2015

Approved March 27, 2015

Effective May 12, 2015

WATER LAW - FORFEITURE EXEMPTIONS

Chief Sponsor: Margaret Dayton

House Sponsor: Michael E. Noel

LONG TITLE**General Description:**

This bill modifies provisions relating to the abandonment or forfeiture of water.

Highlighted Provisions:

This bill:

- ▶ clarifies that abandonment and forfeiture of water provisions do not apply to a water right for nonuse during the period of time in which the water right is subject to an approved change application where the applicant is diligently pursuing certification; and
- ▶ makes technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

73-1-4, as last amended by Laws of Utah 2013, Chapters 221 and 380

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

Section 1. Section 73-1-4 is amended to read:**73-1-4. Reversion to the public by abandonment or forfeiture for nonuse within seven years -- Nonuse application.**

- (1) As used in this section:
- (a) "Public entity" means:
- (i) the United States;
 - (ii) an agency of the United States;
 - (iii) the state;
 - (iv) a state agency;
 - (v) a political subdivision of the state; or
 - (vi) an agency of a political subdivision of the state.
- (b) "Public water supplier" means an entity that:
- (i) supplies water, directly or indirectly, to the public for municipal, domestic, or industrial use; and
 - (ii) is:
 - (A) a public entity;
 - (B) a water corporation, as defined in Section 54-2-1, that is regulated by the Public Service Commission;

(C) a community water system:

(I) that:

(Aa) supplies water to at least 100 service connections used by year-round residents; or

(Bb) regularly serves at least 200 year-round residents; and

(II) whose voting members:

(Aa) own a share in the community water system;

(Bb) receive water from the community water system in proportion to the member's share in the community water system; and

(Cc) pay the rate set by the community water system based on the water the member receives; or

(D) a water users association:

(I) in which one or more public entities own at least 70% of the outstanding shares; and

(II) that is a local sponsor of a water project constructed by the United States Bureau of Reclamation.

(c) "Shareholder" is as defined in Section 73-3-3.5.

(d) "Water company" is as defined in Section 73-3-3.5.

(e) "Water supply entity" means an entity that supplies water as a utility service or for irrigation purposes and is also:

(i) a municipality, water conservancy district, metropolitan water district, irrigation district, or other public agency;

(ii) a water company regulated by the Public Service Commission; or

(iii) any other owner of a community water system.

(2) (a) Except as provided in Subsection (2)(b) or (e), when an appropriator or the appropriator's successor in interest abandons or ceases to use all or a portion of a water right for a period of seven years, the water right or the unused portion of that water right is subject to forfeiture in accordance with Subsection (2)(c).

(b) (i) An appropriator or the appropriator's successor in interest may file an application for nonuse with the state engineer.

(ii) If a person described in Subsection (2)(b)(i) files and receives approval on a nonuse application, nonuse of the water right subject to the application is not counted toward a seven-year period described in Subsection (2)(a) during the period of time beginning on the day on which the person files the application and ending on the day on which the application expires without being renewed.

(iii) If a person described in Subsection (2)(b)(i) files and receives approval on successive, overlapping nonuse applications, nonuse of the water right subject to the applications is not counted toward a seven-year period described in

Subsection (2)(a) during the period of time beginning on the day on which the person files the first application and ending on the day on which the last application expires without being renewed.

(iv) Approval of a nonuse application does not protect a water right that is already subject to forfeiture under Subsection (2)(a) for full or partial nonuse of the water right.

(v) A nonuse application may be filed on all or a portion of the water right, including water rights held by a water company.

(vi) After giving written notice to the water company, a shareholder may file a nonuse application with the state engineer on the water represented by the stock.

(c) (i) Except as provided in Subsection (2)(c)(ii), a water right or a portion of the water right may not be forfeited unless a judicial action to declare the right forfeited is commenced within 15 years from the end of the latest period of nonuse of at least seven years.

(ii) (A) The state engineer, in a proposed determination of rights prepared in accordance with Section 73-4-11, may not assert that a water right was forfeited unless a period of nonuse of seven years ends or occurs during the 15 years immediately preceding the day on which the state engineer files the proposed determination of rights with the court.

(B) After the day on which a proposed determination of rights is filed with the court a person may not assert that a water right subject to that determination was forfeited during the 15-year period described in Subsection (2)(c)(ii)(A), unless the state engineer asserts forfeiture in the proposed determination, or a person makes, in accordance with Section 73-4-11, an objection to the proposed determination that asserts forfeiture.

(iii) A water right, found to be valid in a decree entered in an action for general determination of rights under Chapter 4, Determination of Water Rights, is subject to a claim of forfeiture based on a seven-year period of nonuse that begins after the day on which the state engineer filed the related proposed determination of rights with the court, unless the decree provides otherwise.

(iv) If in a judicial action a court declares a water right forfeited, on the date on which the water right is forfeited:

(A) the right to use the water reverts to the public; and

(B) the water made available by the forfeiture:

(I) first, satisfies other water rights in the hydrologic system in order of priority date; and

(II) second, may be appropriated as provided in this title.

(d) This section applies whether the unused or abandoned water or a portion of the water is:

(i) permitted to run to waste; or

(ii) used by others without right with the knowledge of the water right holder.

(e) This section does not apply to:

(i) the use of water according to a lease or other agreement with the appropriator or the appropriator's successor in interest;

(ii) a water right if its place of use is contracted under an approved state agreement or federal conservation following program;

(iii) those periods of time when a surface water or groundwater source fails to yield sufficient water to satisfy the water right;

(iv) a water right when water is unavailable because of the water right's priority date;

(v) a water right to store water in a surface reservoir or an aquifer, in accordance with Title 73, Chapter 3b, Groundwater Recharge and Recovery Act, if:

(A) the water is stored for present or future use; or

(B) storage is limited by a safety, regulatory, or engineering restraint that the appropriator or the appropriator's successor in interest cannot reasonably correct;

(vi) a water right if a water user has beneficially used substantially all of the water right within a seven-year period, provided that this exemption does not apply to the adjudication of a water right in a general determination of water rights under Chapter 4, Determination of Water Rights;

(vii) except as provided by Subsection (2)(g), a water right:

(A) (I) owned by a public water supplier;

(II) represented by a public water supplier's ownership interest in a water company; or

(III) to which a public water supplier owns the right of use; and

(B) conserved or held for the reasonable future water requirement of the public, which is determined according to Subsection (2)(f);

(viii) a supplemental water right during a period of time when another water right available to the appropriator or the appropriator's successor in interest provides sufficient water so as to not require use of the supplemental water right; or

(ix) a period of nonuse of a water right during the time the water right is subject to an approved change application where the applicant is diligently pursuing certification.

(f) (i) The reasonable future water requirement of the public is the amount of water needed in the next 40 years by the persons within the public water supplier's projected service area based on projected population growth or other water use demand.

(ii) For purposes of Subsection (2)(f)(i), a community water system's projected service area:

(A) is the area served by the community water system's distribution facilities; and

(B) expands as the community water system expands the distribution facilities in accordance with Title 19, Chapter 4, Safe Drinking Water Act.

(g) For a water right acquired by a public water supplier on or after May 5, 2008, Subsection (2)(e)(vii) applies if:

(i) the public water supplier submits a change application under Section 73-3-3; and

(ii) the state engineer approves the change application.

(3) (a) The state engineer shall furnish a nonuse application form requiring the following information:

(i) the name and address of the applicant;

(ii) a description of the water right or a portion of the water right, including the point of diversion, place of use, and priority;

(iii) the quantity of water;

(iv) the period of use;

(v) the extension of time applied for;

(vi) a statement of the reason for the nonuse of the water; and

(vii) any other information that the state engineer requires.

(b) (i) Upon receipt of the application, the state engineer shall publish a notice of the application once a week for two successive weeks:

(A) in a newspaper of general circulation in the county in which the source of the water supply is located and where the water is to be used; and

(B) as required in Section 45-1-101.

(ii) The notice shall:

(A) state that an application has been made; and

(B) specify where the interested party may obtain additional information relating to the application.

(c) Any interested person may file a written protest with the state engineer against the granting of the application:

(i) within 20 days after the notice is published, if the adjudicative proceeding is informal; and

(ii) within 30 days after the notice is published, if the adjudicative proceeding is formal.

(d) In any proceedings to determine whether the nonuse application should be approved or rejected, the state engineer shall follow the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act.

(e) After further investigation, the state engineer may approve or reject the application.

(4) (a) The state engineer shall grant a nonuse application on all or a portion of a water right for a

period of time not exceeding seven years if the applicant shows a reasonable cause for nonuse.

(b) A reasonable cause for nonuse includes:

(i) a demonstrable financial hardship or economic depression;

(ii) the initiation of water conservation or efficiency practices, or the operation of a groundwater recharge recovery program approved by the state engineer;

(iii) operation of legal proceedings;

(iv) the holding of a water right or stock in a mutual water company without use by any water supply entity to meet the reasonable future requirements of the public;

(v) situations where, in the opinion of the state engineer, the nonuse would assist in implementing an existing, approved water management plan; or

(vi) the loss of capacity caused by deterioration of the water supply or delivery equipment if the applicant submits, with the application, a specific plan to resume full use of the water right by replacing, restoring, or improving the equipment.

(5) (a) Sixty days before the expiration of a nonuse application, the state engineer shall notify the applicant by mail or by any form of electronic communication through which receipt is verifiable, of the date when the nonuse application will expire.

(b) An applicant may file a subsequent nonuse application in accordance with this section.

CHAPTER 283**S. B. 18**

Passed February 4, 2015
 Approved March 27, 2015
 Effective May 12, 2015

**GOVERNOR'S OFFICE OF ECONOMIC
 DEVELOPMENT REVISIONS**

Chief Sponsor: Aaron Osmond
 House Sponsor: Rebecca P. Edwards

LONG TITLE**General Description:**

This bill modifies statutory provisions related to the Governor's Office of Economic Development (GOED).

Highlighted Provisions:

This bill:

- ▶ creates Title 63N, Governor's Office of Economic Development;
- ▶ recodifies statutory provisions related to GOED;
- ▶ modifies the organization of GOED, the Board of Business and Economic Development, and the Governor's Economic Development Coordinating Council; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 17-31-9, as enacted by Laws of Utah 2014, Chapter 429
- 26-18-14, as enacted by Laws of Utah 2008, Chapter 383
- 26-18-18, as enacted by Laws of Utah 2013, Chapter 477
- 31A-2-201.2, as last amended by Laws of Utah 2013, Chapter 319
- 31A-2-212, as last amended by Laws of Utah 2013, Chapter 341
- 31A-2-218, as enacted by Laws of Utah 2008, Chapter 383
- 31A-22-613.5, as last amended by Laws of Utah 2012, Chapter 279
- 31A-22-635, as last amended by Laws of Utah 2014, Chapters 290 and 300
- 31A-22-726, as enacted by Laws of Utah 2011, Chapter 278
- 31A-23a-402, as last amended by Laws of Utah 2013, Chapter 319
- 31A-30-102, as last amended by Laws of Utah 2014, Chapters 290 and 300
- 31A-30-116, as enacted by Laws of Utah 2012, Chapter 279
- 31A-30-117, as last amended by Laws of Utah 2014, Chapter 425
- 31A-30-202, as last amended by Laws of Utah 2010, Chapter 68
- 31A-30-204, as last amended by Laws of Utah 2010, Chapter 68
- 31A-30-208, as last amended by Laws of Utah 2013, Chapters 319 and 341

- 31A-30-302, as enacted by Laws of Utah 2014, Chapter 425
- 35A-1-104.5, as last amended by Laws of Utah 2012, Chapter 119
- 53A-1-410, as last amended by Laws of Utah 2014, Chapter 372
- 59-7-610, as last amended by Laws of Utah 2008, Chapter 382
- 59-7-614.2, as last amended by Laws of Utah 2012, Chapters 246 and 410
- 59-7-614.5, as last amended by Laws of Utah 2012, Chapter 246
- 59-7-614.6, as last amended by Laws of Utah 2012, Chapter 423
- 59-7-614.8, as enacted by Laws of Utah 2012, Chapter 410
- 59-7-616, as enacted by Laws of Utah 2014, Chapter 429
- 59-10-210, as last amended by Laws of Utah 2008, Chapters 382 and 389
- 59-10-1007, as last amended by Laws of Utah 2008, Chapter 382
- 59-10-1025, as last amended by Laws of Utah 2012, Chapter 423
- 59-10-1030, as enacted by Laws of Utah 2012, Chapter 410
- 59-10-1107, as last amended by Laws of Utah 2012, Chapters 246 and 410
- 59-10-1108, as last amended by Laws of Utah 2012, Chapter 246
- 59-10-1109, as last amended by Laws of Utah 2012, Chapter 423
- 59-10-1110, as enacted by Laws of Utah 2014, Chapter 429
- 59-12-103, as last amended by Laws of Utah 2014, Chapters 380 and 429
- 59-12-301, as last amended by Laws of Utah 2012, Chapter 369
- 63A-3-402, as last amended by Laws of Utah 2014, Chapters 64 and 185
- 63E-1-102, as last amended by Laws of Utah 2014, Chapters 320, 426, and 426
- 63F-1-205, as last amended by Laws of Utah 2014, Chapter 196
- 63G-2-305, as last amended by Laws of Utah 2014, Chapters 90 and 320
- 63G-6a-303, as last amended by Laws of Utah 2014, Chapter 196
- 63G-6a-304, as renumbered and amended by Laws of Utah 2012, Chapter 347
- 63G-6a-305, as last amended by Laws of Utah 2013, Chapter 445
- 63G-6a-711, as last amended by Laws of Utah 2013, Chapter 445
- 63I-1-263, as last amended by Laws of Utah 2014, Chapters 113, 189, 195, 211, 419, 429, and 435
- 63I-2-263, as last amended by Laws of Utah 2014, Chapters 172, 423, and 427
- 63I-4a-102, as last amended by Laws of Utah 2014, Chapter 320
- 63J-1-315, as enacted by Laws of Utah 2011, Chapter 211
- 63J-1-602.4, as last amended by Laws of Utah 2014, Chapters 37, 186, and 189
- 63J-4-603, as last amended by Laws of Utah 2013, Chapters 101 and 337

63J-7-102, as last amended by Laws of Utah 2014, Chapter 320
 63M-2-101, as renumbered and amended by Laws of Utah 2008, Chapter 382
 79-4-1103, as enacted by Laws of Utah 2014, Chapter 313

ENACTS:

63N-2-301, Utah Code Annotated 1953
 63N-5-110, Utah Code Annotated 1953
 63N-12-201, Utah Code Annotated 1953

RENUMBERS AND AMENDS:

63G-19-101, (Renumbered from 63M-1-1001, as renumbered and amended by Laws of Utah 2008, Chapter 382)
 63G-19-102, (Renumbered from 63M-1-1002, as renumbered and amended by Laws of Utah 2008, Chapter 382)
 63G-19-103, (Renumbered from 63M-1-1003, as renumbered and amended by Laws of Utah 2008, Chapter 382)
 63N-1-101, (Renumbered from 63M-1-101, as renumbered and amended by Laws of Utah 2008, Chapter 382)
 63N-1-102, (Renumbered from 63M-1-102, as renumbered and amended by Laws of Utah 2008, Chapter 382)
 63N-1-201, (Renumbered from 63M-1-201, as last amended by Laws of Utah 2014, Chapter 371)
 63N-1-202, (Renumbered from 63M-1-202, as renumbered and amended by Laws of Utah 2008, Chapter 382)
 63N-1-203, (Renumbered from 63M-1-203, as last amended by Laws of Utah 2008, Chapter 352 and renumbered and amended by Laws of Utah 2008, Chapter 382)
 63N-1-204, (Renumbered from 63M-1-205, as renumbered and amended by Laws of Utah 2008, Chapter 382)
 63N-1-301, (Renumbered from 63M-1-206, as enacted by Laws of Utah 2014, Chapter 371)
 63N-1-401, (Renumbered from 63M-1-302, as last amended by Laws of Utah 2010, Chapter 286)
 63N-1-402, (Renumbered from 63M-1-303, as last amended by Laws of Utah 2014, Chapter 173)
 63N-1-501, (Renumbered from 63M-1-1303, as enacted by Laws of Utah 2011, Chapter 236)
 63N-1-502, (Renumbered from 63M-1-1304, as last amended by Laws of Utah 2014, Chapter 371)
 63N-2-101, (Renumbered from 63M-1-2401, as enacted by Laws of Utah 2008, Chapter 372)
 63N-2-102, (Renumbered from 63M-1-2402, as enacted by Laws of Utah 2008, Chapter 372)
 63N-2-103, (Renumbered from 63M-1-2403, as last amended by Laws of Utah 2010, Chapters 104 and 164)
 63N-2-104, (Renumbered from 63M-1-2404, as last amended by Laws of Utah 2013, Chapter 392)

63N-2-105, (Renumbered from 63M-1-2405, as last amended by Laws of Utah 2013, Chapter 392)
 63N-2-106, (Renumbered from 63M-1-2406, as last amended by Laws of Utah 2014, Chapter 371)
 63N-2-107, (Renumbered from 63M-1-2407, as last amended by Laws of Utah 2013, Chapter 310)
 63N-2-108, (Renumbered from 63M-1-2409, as enacted by Laws of Utah 2010, Chapter 164)
 63N-2-201, (Renumbered from 63M-1-401, as renumbered and amended by Laws of Utah 2008, Chapter 382)
 63N-2-202, (Renumbered from 63M-1-402, as last amended by Laws of Utah 2011, Chapter 84)
 63N-2-203, (Renumbered from 63M-1-403, as last amended by Laws of Utah 2014, Chapter 371)
 63N-2-204, (Renumbered from 63M-1-404, as last amended by Laws of Utah 2013, Chapter 358)
 63N-2-205, (Renumbered from 63M-1-405, as renumbered and amended by Laws of Utah 2008, Chapter 382)
 63N-2-206, (Renumbered from 63M-1-406, as last amended by Laws of Utah 2011, Chapter 84)
 63N-2-207, (Renumbered from 63M-1-407, as renumbered and amended by Laws of Utah 2008, Chapter 382)
 63N-2-208, (Renumbered from 63M-1-408, as renumbered and amended by Laws of Utah 2008, Chapter 382)
 63N-2-209, (Renumbered from 63M-1-409, as renumbered and amended by Laws of Utah 2008, Chapter 382)
 63N-2-210, (Renumbered from 63M-1-410, as renumbered and amended by Laws of Utah 2008, Chapter 382)
 63N-2-211, (Renumbered from 63M-1-411, as renumbered and amended by Laws of Utah 2008, Chapter 382)
 63N-2-212, (Renumbered from 63M-1-412, as last amended by Laws of Utah 2011, Chapter 84)
 63N-2-213, (Renumbered from 63M-1-413, as last amended by Laws of Utah 2014, Chapter 259)
 63N-2-214, (Renumbered from 63M-1-414, as last amended by Laws of Utah 2011, Chapter 84)
 63N-2-215, (Renumbered from 63M-1-415, as last amended by Laws of Utah 2008, Chapter 114 and renumbered and amended by Laws of Utah 2008, Chapter 382)
 63N-2-302, (Renumbered from 63M-1-501, as renumbered and amended by Laws of Utah 2008, Chapter 382)
 63N-2-303, (Renumbered from 63M-1-502, as renumbered and amended by Laws of Utah 2008, Chapter 382)
 63N-2-304, (Renumbered from 63M-1-503, as renumbered and amended by Laws of Utah 2008, Chapter 382)

63N-2-305, (Renumbered from 63M-1-504, as renumbered and amended by Laws of Utah 2008, Chapter 382)	63N-2-510, (Renumbered from 63M-1-3410, as enacted by Laws of Utah 2014, Chapter 429)
63N-2-401, (Renumbered from 63M-1-1101, as renumbered and amended by Laws of Utah 2008, Chapter 382)	63N-2-511, (Renumbered from 63M-1-3411, as enacted by Laws of Utah 2014, Chapter 429)
63N-2-402, (Renumbered from 63M-1-1102, as renumbered and amended by Laws of Utah 2008, Chapter 382)	63N-2-512, (Renumbered from 63M-1-3412, as enacted by Laws of Utah 2014, Chapter 429)
63N-2-403, (Renumbered from 63M-1-1103, as last amended by Laws of Utah 2014, Chapter 371)	63N-2-513, (Renumbered from 63M-1-3413, as enacted by Laws of Utah 2014, Chapter 429)
63N-2-404, (Renumbered from 63M-1-1104, as last amended by Laws of Utah 2009, Chapter 183)	63N-2-601, (Renumbered from 63M-1-3501, as enacted by Laws of Utah 2014, Chapter 435)
63N-2-405, (Renumbered from 63M-1-1105, as renumbered and amended by Laws of Utah 2008, Chapter 382)	63N-2-602, (Renumbered from 63M-1-3502, as enacted by Laws of Utah 2014, Chapter 435)
63N-2-406, (Renumbered from 63M-1-1106, as renumbered and amended by Laws of Utah 2008, Chapter 382)	63N-2-603, (Renumbered from 63M-1-3503, as enacted by Laws of Utah 2014, Chapter 435)
63N-2-407, (Renumbered from 63M-1-1107, as renumbered and amended by Laws of Utah 2008, Chapter 382)	63N-2-604, (Renumbered from 63M-1-3504, as enacted by Laws of Utah 2014, Chapter 435)
63N-2-408, (Renumbered from 63M-1-1108, as renumbered and amended by Laws of Utah 2008, Chapter 382)	63N-2-605, (Renumbered from 63M-1-3505, as enacted by Laws of Utah 2014, Chapter 435)
63N-2-409, (Renumbered from 63M-1-1109, as renumbered and amended by Laws of Utah 2008, Chapter 382)	63N-2-606, (Renumbered from 63M-1-3506, as enacted by Laws of Utah 2014, Chapter 435)
63N-2-410, (Renumbered from 63M-1-1110, as renumbered and amended by Laws of Utah 2008, Chapter 382)	63N-2-607, (Renumbered from 63M-1-3507, as enacted by Laws of Utah 2014, Chapter 435)
63N-2-411, (Renumbered from 63M-1-1111, as renumbered and amended by Laws of Utah 2008, Chapter 382)	63N-2-608, (Renumbered from 63M-1-3508, as enacted by Laws of Utah 2014, Chapter 435)
63N-2-412, (Renumbered from 63M-1-1112, as last amended by Laws of Utah 2011, Chapter 392)	63N-2-609, (Renumbered from 63M-1-3509, as enacted by Laws of Utah 2014, Chapter 435)
63N-2-501, (Renumbered from 63M-1-3401, as enacted by Laws of Utah 2014, Chapter 429)	63N-2-610, (Renumbered from 63M-1-3510, as enacted by Laws of Utah 2014, Chapter 435)
63N-2-502, (Renumbered from 63M-1-3402, as enacted by Laws of Utah 2014, Chapter 429)	63N-2-611, (Renumbered from 63M-1-3511, as enacted by Laws of Utah 2014, Chapter 435)
63N-2-503, (Renumbered from 63M-1-3403, as enacted by Laws of Utah 2014, Chapter 429)	63N-2-612, (Renumbered from 63M-1-3512, as enacted by Laws of Utah 2014, Chapter 435)
63N-2-504, (Renumbered from 63M-1-3404, as enacted by Laws of Utah 2014, Chapter 429)	63N-2-701, (Renumbered from 63M-1-3101, as enacted by Laws of Utah 2012, Chapter 410)
63N-2-505, (Renumbered from 63M-1-3405, as enacted by Laws of Utah 2014, Chapter 429)	63N-2-702, (Renumbered from 63M-1-3102, as enacted by Laws of Utah 2012, Chapter 410)
63N-2-506, (Renumbered from 63M-1-3406, as enacted by Laws of Utah 2014, Chapter 429)	63N-2-703, (Renumbered from 63M-1-3103, as enacted by Laws of Utah 2012, Chapter 410)
63N-2-507, (Renumbered from 63M-1-3407, as enacted by Laws of Utah 2014, Chapter 429)	63N-2-704, (Renumbered from 63M-1-3104, as enacted by Laws of Utah 2012, Chapter 410)
63N-2-508, (Renumbered from 63M-1-3408, as enacted by Laws of Utah 2014, Chapter 429)	63N-2-705, (Renumbered from 63M-1-3105, as last amended by Laws of Utah 2014, Chapter 371)
63N-2-509, (Renumbered from 63M-1-3409, as enacted by Laws of Utah 2014, Chapter 429)	63N-2-801, (Renumbered from 63M-1-2901, as enacted by Laws of Utah 2011, Chapter 306)

63N-2-802, (Renumbered from 63M-1-2902, as last amended by Laws of Utah 2012, Chapter 423)	63N-3-202, (Renumbered from 63M-1-702, as last amended by Laws of Utah 2014, Chapter 418)
63N-2-803, (Renumbered from 63M-1-2903, as last amended by Laws of Utah 2012, Chapter 423)	63N-3-203, (Renumbered from 63M-1-703, as last amended by Laws of Utah 2014, Chapter 418)
63N-2-804, (Renumbered from 63M-1-2904, as enacted by Laws of Utah 2011, Chapter 306)	63N-3-204, (Renumbered from 63M-1-704, as last amended by Laws of Utah 2014, Chapters 371, 418 and last amended by Coordination Clause, Laws of Utah 2014, Chapter 418)
63N-2-805, (Renumbered from 63M-1-2905, as last amended by Laws of Utah 2012, Chapter 423)	63N-3-205, (Renumbered from 63M-1-705, as last amended by Laws of Utah 2011, Chapter 392)
63N-2-806, (Renumbered from 63M-1-2906, as enacted by Laws of Utah 2011, Chapter 306)	63N-3-301, (Renumbered from 63M-1-2701, as enacted by Laws of Utah 2008, Chapter 50)
63N-2-807, (Renumbered from 63M-1-2907, as enacted by Laws of Utah 2011, Chapter 306)	63N-3-302, (Renumbered from 63M-1-2702, as enacted by Laws of Utah 2008, Chapter 50)
63N-2-808, (Renumbered from 63M-1-2908, as last amended by Laws of Utah 2012, Chapter 423)	63N-3-303, (Renumbered from 63M-1-2703, as enacted by Laws of Utah 2008, Chapter 50)
63N-2-809, (Renumbered from 63M-1-2909, as last amended by Laws of Utah 2012, Chapter 423)	63N-3-304, (Renumbered from 63M-1-2704, as last amended by Laws of Utah 2014, Chapter 371)
63N-2-810, (Renumbered from 63M-1-2910, as last amended by Laws of Utah 2014, Chapter 371)	63N-3-305, (Renumbered from 63M-1-2705, as enacted by Laws of Utah 2008, Chapter 50)
63N-2-811, (Renumbered from 63M-1-2911, as last amended by Laws of Utah 2013, Chapter 310)	63N-3-306, (Renumbered from 63M-1-2706, as last amended by Laws of Utah 2011, Chapter 112)
63N-3-101, (Renumbered from 63M-1-901, as renumbered and amended by Laws of Utah 2008, Chapter 382)	63N-3-307, (Renumbered from 63M-1-2707, as last amended by Laws of Utah 2011, Chapter 112)
63N-3-102, (Renumbered from 63M-1-902, as last amended by Laws of Utah 2010, Chapters 245 and 278)	63N-3-401, (Renumbered from 63M-1-2201, as renumbered and amended by Laws of Utah 2008, Chapter 382)
63N-3-103, (Renumbered from 63M-1-903, as last amended by Laws of Utah 2014, Chapter 435)	63N-3-402, (Renumbered from 63M-1-2202, as renumbered and amended by Laws of Utah 2008, Chapter 382)
63N-3-104, (Renumbered from 63M-1-904, as last amended by Laws of Utah 2014, Chapter 371)	63N-3-403, (Renumbered from 63M-1-2203, as last amended by Laws of Utah 2013, Chapter 400)
63N-3-105, (Renumbered from 63M-1-906, as last amended by Laws of Utah 2012, Chapter 208)	63N-4-101, (Renumbered from 63M-1-1601, as renumbered and amended by Laws of Utah 2008, Chapter 382)
63N-3-106, (Renumbered from 63M-1-905, as last amended by Laws of Utah 2011, Chapters 211 and 303)	63N-4-102, (Renumbered from 63M-1-1602, as last amended by Laws of Utah 2008, Chapter 381 and renumbered and amended by Laws of Utah 2008, Chapter 382)
63N-3-107, (Renumbered from 63M-1-907, as renumbered and amended by Laws of Utah 2008, Chapter 382)	63N-4-103, (Renumbered from 63M-1-1603, as last amended by Laws of Utah 2014, Chapter 259)
63N-3-108, (Renumbered from 63M-1-908, as last amended by Laws of Utah 2010, Chapter 278)	63N-4-104, (Renumbered from 63M-1-1604, as last amended by Laws of Utah 2014, Chapter 259)
63N-3-109, (Renumbered from 63M-1-909, as last amended by Laws of Utah 2013, Chapter 173)	63N-4-105, (Renumbered from 63M-1-1605, as last amended by Laws of Utah 2014, Chapter 259)
63N-3-110, (Renumbered from 63M-1-909.5, as last amended by Laws of Utah 2013, Chapter 173)	63N-4-106, (Renumbered from 63M-1-1606, as last amended by Laws of Utah 2014, Chapter 371)
63N-3-111, (Renumbered from 63M-1-910, as last amended by Laws of Utah 2013, Chapter 310)	
63N-3-201, (Renumbered from 63M-1-701, as last amended by Laws of Utah 2011, Chapter 392)	

- 63N-4-201, (Renumbered from 63M-1-2001, as renumbered and amended by Laws of Utah 2008, Chapter 382)
- 63N-4-202, (Renumbered from 63M-1-2002, as last amended by Laws of Utah 2014, Chapter 203)
- 63N-4-203, (Renumbered from 63M-1-2004, as last amended by Laws of Utah 2014, Chapter 203)
- 63N-4-204, (Renumbered from 63M-1-2005, as renumbered and amended by Laws of Utah 2008, Chapter 382)
- 63N-4-205, (Renumbered from 63M-1-2006, as last amended by Laws of Utah 2014, Chapter 371)
- 63N-5-101, (Renumbered from 63M-1-3001, as renumbered and amended by Laws of Utah 2011, Chapter 370)
- 63N-5-102, (Renumbered from 63M-1-3002, as renumbered and amended by Laws of Utah 2011, Chapter 370)
- 63N-5-103, (Renumbered from 63M-1-3003, as renumbered and amended by Laws of Utah 2011, Chapter 370)
- 63N-5-104, (Renumbered from 63M-1-3004, as renumbered and amended by Laws of Utah 2011, Chapter 370)
- 63N-5-105, (Renumbered from 63M-1-3005, as renumbered and amended by Laws of Utah 2011, Chapter 370)
- 63N-5-106, (Renumbered from 63M-1-3006, as renumbered and amended by Laws of Utah 2011, Chapter 370)
- 63N-5-107, (Renumbered from 63M-1-3007, as renumbered and amended by Laws of Utah 2011, Chapter 370)
- 63N-5-108, (Renumbered from 63M-1-3008, as renumbered and amended by Laws of Utah 2011, Chapter 370)
- 63N-5-109, (Renumbered from 63M-1-3009, as renumbered and amended by Laws of Utah 2011, Chapter 370)
- 63N-6-101, (Renumbered from 63M-1-1201, as renumbered and amended by Laws of Utah 2008, Chapter 382)
- 63N-6-102, (Renumbered from 63M-1-1202, as renumbered and amended by Laws of Utah 2008, Chapter 382)
- 63N-6-103, (Renumbered from 63M-1-1203, as last amended by Laws of Utah 2014, Chapter 334)
- 63N-6-201, (Renumbered from 63M-1-1204, as renumbered and amended by Laws of Utah 2008, Chapter 382)
- 63N-6-202, (Renumbered from 63M-1-1205, as last amended by Laws of Utah 2014, Chapter 334)
- 63N-6-203, (Renumbered from 63M-1-1206, as last amended by Laws of Utah 2014, Chapters 334, 371 and last amended by Coordination Clause, Laws of Utah 2014, Chapter 334)
- 63N-6-301, (Renumbered from 63M-1-1207, as last amended by Laws of Utah 2011, Chapter 342)
- 63N-6-302, (Renumbered from 63M-1-1208, as renumbered and amended by Laws of Utah 2008, Chapter 382)
- 63N-6-303, (Renumbered from 63M-1-1209, as renumbered and amended by Laws of Utah 2008, Chapter 382)
- 63N-6-304, (Renumbered from 63M-1-1210, as renumbered and amended by Laws of Utah 2008, Chapter 382)
- 63N-6-305, (Renumbered from 63M-1-1211, as last amended by Laws of Utah 2010, Chapter 278)
- 63N-6-306, (Renumbered from 63M-1-1212, as renumbered and amended by Laws of Utah 2008, Chapter 382)
- 63N-6-401, (Renumbered from 63M-1-1213, as last amended by Laws of Utah 2008, Chapter 18 and renumbered and amended by Laws of Utah 2008, Chapter 382)
- 63N-6-402, (Renumbered from 63M-1-1214, as last amended by Laws of Utah 2014, Chapter 334)
- 63N-6-403, (Renumbered from 63M-1-1215, as renumbered and amended by Laws of Utah 2008, Chapter 382)
- 63N-6-404, (Renumbered from 63M-1-1216, as last amended by Laws of Utah 2008, Chapter 18 and renumbered and amended by Laws of Utah 2008, Chapter 382)
- 63N-6-405, (Renumbered from 63M-1-1217, as last amended by Laws of Utah 2014, Chapter 334)
- 63N-6-406, (Renumbered from 63M-1-1218, as last amended by Laws of Utah 2014, Chapter 334)
- 63N-6-407, (Renumbered from 63M-1-1219, as renumbered and amended by Laws of Utah 2008, Chapter 382)
- 63N-6-408, (Renumbered from 63M-1-1220, as renumbered and amended by Laws of Utah 2008, Chapter 382)
- 63N-6-409, (Renumbered from 63M-1-1221, as renumbered and amended by Laws of Utah 2008, Chapter 382)
- 63N-6-410, (Renumbered from 63M-1-1222, as renumbered and amended by Laws of Utah 2008, Chapter 382)
- 63N-6-411, (Renumbered from 63M-1-1223, as last amended by Laws of Utah 2013, Chapter 73)
- 63N-6-412, (Renumbered from 63M-1-1224, as last amended by Laws of Utah 2008, Chapter 18 and renumbered and amended by Laws of Utah 2008, Chapter 382)
- 63N-7-101, (Renumbered from 63M-1-1401, as renumbered and amended by Laws of Utah 2008, Chapter 382)
- 63N-7-102, (Renumbered from 63M-1-1402, as last amended by Laws of Utah 2010, Chapter 286)

63N-7-103, (Renumbered from 63M-1-1403, as last amended by Laws of Utah 2014, Chapter 429)	63N-10-301, (Renumbered from 63C-11-301, as last amended by Laws of Utah 2011, Chapter 342)
63N-7-201, (Renumbered from 63M-1-1404, as last amended by Laws of Utah 2014, Chapter 371)	63N-10-302, (Renumbered from 63C-11-302, as repealed and reenacted by Laws of Utah 2009, Chapter 369)
63N-7-202, (Renumbered from 63M-1-1405, as renumbered and amended by Laws of Utah 2008, Chapter 382)	63N-10-303, (Renumbered from 63C-11-303, as repealed and reenacted by Laws of Utah 2009, Chapter 369)
63N-7-301, (Renumbered from 63M-1-1406, as last amended by Laws of Utah 2014, Chapter 423)	63N-10-304, (Renumbered from 63C-11-304, as last amended by Laws of Utah 2011, Chapter 342)
63N-8-101, (Renumbered from 63M-1-1801, as last amended by Laws of Utah 2009, Chapter 135)	63N-10-305, (Renumbered from 63C-11-305, as repealed and reenacted by Laws of Utah 2009, Chapter 369)
63N-8-102, (Renumbered from 63M-1-1802, as last amended by Laws of Utah 2011, Chapter 338)	63N-10-306, (Renumbered from 63C-11-306, as repealed and reenacted by Laws of Utah 2009, Chapter 369)
63N-8-103, (Renumbered from 63M-1-1803, as last amended by Laws of Utah 2011, Chapter 338)	63N-10-307, (Renumbered from 63C-11-307, as repealed and reenacted by Laws of Utah 2009, Chapter 369)
63N-8-104, (Renumbered from 63M-1-1804, as last amended by Laws of Utah 2011, Chapter 338)	63N-10-308, (Renumbered from 63C-11-308, as repealed and reenacted by Laws of Utah 2009, Chapter 369)
63N-8-105, (Renumbered from 63M-1-1805, as last amended by Laws of Utah 2014, Chapter 371)	63N-10-309, (Renumbered from 63C-11-309, as repealed and reenacted by Laws of Utah 2009, Chapter 369)
63N-9-101, (Renumbered from 63M-1-3301, as enacted by Laws of Utah 2013, Chapter 25)	63N-10-310, (Renumbered from 63C-11-310, as repealed and reenacted by Laws of Utah 2009, Chapter 369)
63N-9-102, (Renumbered from 63M-1-3302, as enacted by Laws of Utah 2013, Chapter 25)	63N-10-311, (Renumbered from 63C-11-311, as repealed and reenacted by Laws of Utah 2009, Chapter 369)
63N-9-103, (Renumbered from 63M-1-3303, as enacted by Laws of Utah 2013, Chapter 25)	63N-10-312, (Renumbered from 63C-11-312, as repealed and reenacted by Laws of Utah 2009, Chapter 369)
63N-9-104, (Renumbered from 63M-1-3304, as enacted by Laws of Utah 2013, Chapter 25)	63N-10-313, (Renumbered from 63C-11-313, as repealed and reenacted by Laws of Utah 2009, Chapter 369)
63N-9-105, (Renumbered from 63M-1-3305, as enacted by Laws of Utah 2013, Chapter 25)	63N-10-314, (Renumbered from 63C-11-314, as repealed and reenacted by Laws of Utah 2009, Chapter 369)
63N-9-106, (Renumbered from 63M-1-3306, as repealed and reenacted by Laws of Utah 2014, Chapter 371)	63N-10-315, (Renumbered from 63C-11-315, as repealed and reenacted by Laws of Utah 2009, Chapter 369)
63N-10-101, (Renumbered from 63C-11-101, as repealed and reenacted by Laws of Utah 2009, Chapter 369)	63N-10-316, (Renumbered from 63C-11-316, as repealed and reenacted by Laws of Utah 2009, Chapter 369)
63N-10-102, (Renumbered from 63C-11-102, as repealed and reenacted by Laws of Utah 2009, Chapter 369)	63N-10-317, (Renumbered from 63C-11-317, as repealed and reenacted by Laws of Utah 2009, Chapter 369)
63N-10-201, (Renumbered from 63C-11-201, as last amended by Laws of Utah 2010, Chapter 286)	63N-10-318, (Renumbered from 63C-11-318, as repealed and reenacted by Laws of Utah 2009, Chapter 369)
63N-10-202, (Renumbered from 63C-11-202, as repealed and reenacted by Laws of Utah 2009, Chapter 369)	63N-11-101, (Renumbered from 63M-1-2501, as enacted by Laws of Utah 2008, Chapter 383)
63N-10-203, (Renumbered from 63C-11-203, as enacted by Laws of Utah 2009, Chapter 369)	63N-11-102, (Renumbered from 63M-1-2502, as enacted by Laws of Utah 2008, Chapter 383)
63N-10-204, (Renumbered from 63C-11-204, as enacted by Laws of Utah 2009, Chapter 369)	63N-11-103, (Renumbered from 63M-1-2503, as enacted by Laws of Utah 2008, Chapter 383)
63N-10-205, (Renumbered from 63C-11-205, as enacted by Laws of Utah 2009, Chapter 369)	63N-11-104, (Renumbered from 63M-1-2504, as last amended by Laws of Utah 2014, Chapters 371 and 425)

63N-11-105, (Renumbered from 63M-1-2505, as enacted by Laws of Utah 2008, Chapter 383)

63N-11-106, (Renumbered from 63M-1-2505.5, as last amended by Laws of Utah 2013, Chapter 341)

63N-11-107, (Renumbered from 63M-1-2506, as last amended by Laws of Utah 2011, Chapter 400)

63N-12-101, (Renumbered from 63M-1-601, as renumbered and amended by Laws of Utah 2008, Chapter 382)

63N-12-102, (Renumbered from 63M-1-602, as renumbered and amended by Laws of Utah 2008, Chapter 382)

63N-12-103, (Renumbered from 63M-1-603, as renumbered and amended by Laws of Utah 2008, Chapter 382)

63N-12-104, (Renumbered from 63M-1-604, as last amended by Laws of Utah 2012, Chapter 212)

63N-12-105, (Renumbered from 63M-1-605, as last amended by Laws of Utah 2014, Chapter 371)

63N-12-106, (Renumbered from 63M-1-606, as renumbered and amended by Laws of Utah 2008, Chapter 382)

63N-12-107, (Renumbered from 63M-1-607, as renumbered and amended by Laws of Utah 2008, Chapter 382)

63N-12-108, (Renumbered from 63M-1-608, as last amended by Laws of Utah 2013, Chapter 336)

63N-12-202, (Renumbered from 63M-1-3201, as last amended by Laws of Utah 2014, Chapter 318)

63N-12-203, (Renumbered from 63M-1-3202, as last amended by Laws of Utah 2014, Chapter 318)

63N-12-204, (Renumbered from 63M-1-3203, as last amended by Laws of Utah 2014, Chapters 189 and 318)

63N-12-205, (Renumbered from 63M-1-3204, as last amended by Laws of Utah 2014, Chapters 63 and 318)

63N-12-206, (Renumbered from 63M-1-3205, as last amended by Laws of Utah 2014, Chapter 318)

63N-12-207, (Renumbered from 63M-1-3206, as enacted by Laws of Utah 2013, Chapter 336)

63N-12-208, (Renumbered from 63M-1-3207, as last amended by Laws of Utah 2014, Chapters 318 and 371)

63N-12-209, (Renumbered from 63M-1-3208, as enacted by Laws of Utah 2014, Chapter 318)

63N-12-210, (Renumbered from 63M-1-3209, as enacted by Laws of Utah 2014, Chapter 318)

63N-12-211, (Renumbered from 63M-1-3210, as enacted by Laws of Utah 2014, Chapter 318)

63N-12-212, (Renumbered from 63M-1-3211, as enacted by Laws of Utah 2014, Chapter 318)

63N-13-101, (Renumbered from 63M-1-2101, as renumbered and amended by Laws of Utah 2008, Chapter 382)

63N-13-201, (Renumbered from 63M-1-2601, as enacted by Laws of Utah 2008, Chapter 352)

63N-13-202, (Renumbered from 63M-1-2602, as last amended by Laws of Utah 2012, Chapter 347)

63N-13-203, (Renumbered from 63M-1-2603, as last amended by Laws of Utah 2013, Chapters 310 and 310)

63N-13-204, (Renumbered from 63M-1-2604, as enacted by Laws of Utah 2008, Chapter 352)

63N-13-205, (Renumbered from 63M-1-2605, as last amended by Laws of Utah 2012, Chapter 347)

63N-13-206, (Renumbered from 63M-1-2606, as last amended by Laws of Utah 2013, Chapters 310 and 310)

63N-13-207, (Renumbered from 63M-1-2607, as last amended by Laws of Utah 2013, Chapters 310 and 310)

63N-13-208, (Renumbered from 63M-1-2608, as last amended by Laws of Utah 2012, Chapter 347)

63N-13-209, (Renumbered from 63M-1-2609, as last amended by Laws of Utah 2013, Chapter 310)

63N-13-210, (Renumbered from 63M-1-2610, as last amended by Laws of Utah 2012, Chapter 347)

63N-13-211, (Renumbered from 63M-1-2611, as last amended by Laws of Utah 2010, Chapter 286)

63N-13-212, (Renumbered from 63M-1-2612, as last amended by Laws of Utah 2013, Chapters 310 and 400)

REPEALS:

63M-1-204, as renumbered and amended by Laws of Utah 2008, Chapter 382

63M-1-207, as enacted by Laws of Utah 2014, Chapter 427

63M-1-301, as renumbered and amended by Laws of Utah 2008, Chapter 382

63M-1-304, as renumbered and amended by Laws of Utah 2008, Chapter 382

63M-1-801, as renumbered and amended by Laws of Utah 2008, Chapter 382

63M-1-802, as renumbered and amended by Laws of Utah 2008, Chapter 382

63M-1-1301, as enacted by Laws of Utah 2011, Chapter 236

63M-1-1302, as enacted by Laws of Utah 2011, Chapter 236

63M-1-1901, as last amended by Laws of Utah 2014, Chapter 371

63M-1-2408, as last amended by Laws of Utah 2010, Chapters 164, 323, and 391

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

Section 1. Section 17-31-9 is amended to read:

17-31-9. Payment to Stay Another Day and Bounce Back Fund and Hotel Impact Mitigation Fund.

A county in which a qualified hotel, as defined in Section ~~[63M-1-3402]~~ 63N-2-502, is located shall:

(1) make an annual payment to the Division of Finance:

(a) for deposit into the Stay Another Day and Bounce Back Fund, established in Section ~~[63M-1-3411]~~ 63N-2-511;

(b) for any year in which the Governor's Office of Economic Development issues a tax credit certificate, as defined in Section ~~[63M-1-3402]~~ 63N-2-502; and

(c) in the amount of 5% of the state portion, as defined in Section ~~[63M-1-3402]~~ 63N-2-502; and

(2) make payments to the Division of Finance:

(a) for deposit into the Hotel Impact Mitigation Fund, created in Section ~~[63M-1-3412]~~ 63N-2-512;

(b) for each year described in Subsection ~~[63M-1-3412]~~ 63N-2-512(5)(a)(ii) during which the balance of the Hotel Impact Mitigation Fund, defined in Section ~~[63M-1-3412]~~ 63N-2-512, is less than \$2,100,000 before any payment for that year under Subsection ~~[63M-1-3412]~~ 63N-2-512(5)(a); and

(c) in the amount of the difference between \$2,100,000 and the balance of the Hotel Impact Mitigation Fund, defined in Section ~~[63M-1-3412]~~ 63N-2-512, before any payment for that year under Subsection ~~[63M-1-3412]~~ 63N-2-512(5)(a).

Section 2. Section 26-18-14 is amended to read:

26-18-14. Strategic plan for health system reform -- Medicaid program.

The department, including the Division of Health Care Financing within the department, shall:

(1) work with the Governor's Office of Economic Development, the Insurance Department, the Department of Workforce Services, and the Legislature to develop health system reform in accordance with the strategic plan described in Title ~~[63M]~~ 63N, Chapter ~~[1]~~ 11, ~~[Part 25,]~~ Health System Reform Act;

(2) develop and submit amendments and waivers for the state's Medicaid plan as necessary to carry out the provisions of the Health System Reform Act;

(3) seek federal approval of an amendment to Utah's Premium Partnership for Health Insurance that would allow the state's Medicaid program to subsidize the purchase of health insurance by an individual who does not have access to employer sponsored health insurance;

(4) in coordination with the Department of Workforce Services:

(a) establish a Children's Health Insurance Program eligibility policy, consistent with federal requirements and Subsection 26-40-105(1)(d), that prohibits enrollment of a child in the program if the child's parent qualifies for assistance under Utah's Premium Partnership for Health Insurance; and

(b) involve community partners, insurance agents and producers, community based service organizations, and the education community to increase enrollment of eligible employees and individuals in Utah's Premium Partnership for Health Insurance and the Children's Health Insurance Program; and

(5) as funding permits, and in coordination with the department's adoption of standards for the electronic exchange of clinical health data, help the private sector form an alliance of employers, hospitals and other health care providers, patients, and health insurers to develop and use evidence-based health care quality measures for the purpose of improving health care decision making by health care providers, consumers, and third party payers.

Section 3. Section 26-18-18 is amended to read:

26-18-18. Optional Medicaid expansion.

(1) For purposes of this section PPACA is as defined in Section 31A-1-301.

(2) The department and the governor shall not expand the state's Medicaid program to the optional population under PPACA unless:

(a) the Health Reform Task Force has completed a thorough analysis of a statewide charity care system;

(b) the department and its contractors have:

(i) completed a thorough analysis of the impact to the state of expanding the state's Medicaid program to optional populations under PPACA; and

(ii) made the analysis conducted under Subsection (2)(b)(i) available to the public;

(c) the governor or the governor's designee has reported the intention to expand the state Medicaid program under PPACA to the Legislature in compliance with the legislative review process in Sections ~~[63M-1-2505.5]~~ 63N-11-106 and 26-18-3; and

(d) notwithstanding Subsection 63J-5-103(2), the governor submits the request for expansion of the Medicaid program for optional populations to the Legislature under the high impact federal funds request process required by Section 63J-5-204, Legislative review and approval of certain federal funds request.

Section 4. Section 31A-2-201.2 is amended to read:

31A-2-201.2. Evaluation of health insurance market.

- (1) Each year the commissioner shall:
- (a) conduct an evaluation of the state's health insurance market;
 - (b) report the findings of the evaluation to the Health and Human Services Interim Committee before October 1 of each year; and
 - (c) publish the findings of the evaluation on the department website.
- (2) The evaluation required by this section shall:
- (a) analyze the effectiveness of the insurance regulations and statutes in promoting a healthy, competitive health insurance market that meets the needs of the state, and includes an analysis of:
 - (i) the availability and marketing of individual and group products;
 - (ii) rate changes;
 - (iii) coverage and demographic changes;
 - (iv) benefit trends;
 - (v) market share changes; and
 - (vi) accessibility;
 - (b) assess complaint ratios and trends within the health insurance market, which assessment shall include complaint data from the Office of Consumer Health Assistance within the department;
 - (c) contain recommendations for action to improve the overall effectiveness of the health insurance market, administrative rules, and statutes; and
 - (d) include claims loss ratio data for each health insurance company doing business in the state.
- (3) When preparing the evaluation required by this section, the commissioner shall include a report of:
- (a) the types of health benefit plans sold in the Health Insurance Exchange created in Section ~~[63M-1-2504]~~ 63N-11-104;
 - (b) the number of insurers participating in the defined contribution arrangement health benefit plans in the Health Insurance Exchange; and
 - (c) the number of employers and covered lives in the defined contribution arrangement market in the Health Insurance Exchange.
- (4) When preparing the evaluation and report required by this section, the commissioner may seek the input of insurers, employers, insured persons, providers, and others with an interest in the health insurance market.
- (5) The commissioner may adopt administrative rules for the purpose of collecting the data required by this section, taking into account the business confidentiality of the insurers.
- (6) Records submitted to the commissioner under this section shall be maintained by the commissioner as protected records under Title 63G,

Chapter 2, Government Records Access and Management Act.

Section 5. Section 31A-2-212 is amended to read:

31A-2-212. Miscellaneous duties.

- (1) Upon issuance of an order limiting, suspending, or revoking a person's authority to do business in Utah, and when the commissioner begins a proceeding against an insurer under Chapter 27a, Insurer Receivership Act, the commissioner:
- (a) shall notify by mail the producers of the person or insurer of whom the commissioner has record; and
 - (b) may publish notice of the order or proceeding in any manner the commissioner considers necessary to protect the rights of the public.
- (2) When required for evidence in a legal proceeding, the commissioner shall furnish a certificate of authority of a licensee to transact the business of insurance in Utah on any particular date. The court or other officer shall receive the certificate of authority in lieu of the commissioner's testimony.
- (3) (a) On the request of an insurer authorized to do a surety business, the commissioner shall furnish a copy of the insurer's certificate of authority to a designated public officer in this state who requires that certificate of authority before accepting a bond.
- (b) The public officer described in Subsection (3)(a) shall file the certificate of authority furnished under Subsection (3)(a).
- (c) After a certified copy of a certificate of authority is furnished to a public officer, it is not necessary, while the certificate of authority remains effective, to attach a copy of it to any instrument of suretyship filed with that public officer.
- (d) Whenever the commissioner revokes the certificate of authority or begins a proceeding under Chapter 27a, Insurer Receivership Act, against an insurer authorized to do a surety business, the commissioner shall immediately give notice of that action to each public officer who is sent a certified copy under this Subsection (3).
- (4) (a) The commissioner shall immediately notify every judge and clerk of the courts of record in the state when:
- (i) an authorized insurer doing a surety business:
 - (A) files a petition for receivership; or
 - (B) is in receivership; or
 - (ii) the commissioner has reason to believe that the authorized insurer doing surety business:
 - (A) is in financial difficulty; or
 - (B) has unreasonably failed to carry out any of its contracts.

(b) Upon the receipt of the notice required by this Subsection (4), it is the duty of the judges and clerks to notify and require a person that files with the court a bond on which the authorized insurer doing surety business is surety to immediately file a new bond with a new surety.

(5) (a) The commissioner shall report to the Legislature in accordance with Section [63M-1-2505.5] 63N-11-106 prior to adopting a rule authorized by Subsection (5)(b).

(b) The commissioner shall require an insurer that issues, sells, renews, or offers health insurance coverage in this state to comply with the provisions of PPACA and administrative rules adopted by the commissioner related to regulation of health benefit plans, including:

- (i) lifetime and annual limits;
- (ii) prohibition of rescissions;
- (iii) coverage of preventive health services;
- (iv) coverage for a child or dependent;
- (v) pre-existing condition coverage for children;
- (vi) insurer transparency of consumer information including plan disclosures, uniform coverage documents, and standard definitions;
- (vii) premium rate reviews;
- (viii) essential health benefits;
- (ix) provider choice;
- (x) waiting periods;
- (xi) appeals processes;
- (xii) rating restrictions;
- (xiii) uniform applications and notice provisions; and
- (xiv) certification and regulation of qualified health plans.

(c) The commissioner shall preserve state control over:

- (i) the health insurance market in the state;
- (ii) qualified health plans offered in the state; and
- (iii) the conduct of navigators, producers, and in-person assisters operating in the state.

(d) If the state enters into an agreement with the United States Department of Health and Human Services in which the state operates health insurance plan management, the commissioner may:

(i) for fiscal year 2014, hire one temporary and two permanent full-time employees to be funded through the department's existing budget; and

(ii) for fiscal year 2015, hire two permanent full-time employees funded through the Insurance Department Restricted Account, subject to appropriations from the Legislature and approval by the governor.

Section 6. Section 31A-2-218 is amended to read:

31A-2-218. Strategic plan for health system reform.

The commissioner and the department shall:

(1) work with the Governor's Office of Economic Development, the Department of Health, the Department of Workforce Services, and the Legislature to develop health system reform in accordance with the strategic plan described in Title [63M] 63N, Chapter [1] 11, [Part 25,] Health System Reform Act;

(2) work with health insurers in accordance with Section 31A-22-635 to develop standards for health insurance applications and compatible electronic systems;

(3) facilitate a private sector method for the collection of health insurance premium payments made for a single policy by multiple payers, including the policyholder, one or more employers of one or more individuals covered by the policy, government programs, and others by educating employers and insurers about collection services available through private vendors, including financial institutions;

(4) encourage health insurers to develop products that:

(a) encourage health care providers to follow best practice protocols;

(b) incorporate other health care quality improvement mechanisms; and

(c) incorporate rewards and incentives for healthy lifestyles and behaviors as permitted by the Health Insurance Portability and Accountability Act;

(5) involve the Office of Consumer Health Assistance created in Section 31A-2-216, as necessary, to accomplish the requirements of this section; and

(6) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules, as necessary, to implement Subsections (2), (3), and (4).

Section 7. Section 31A-22-613.5 is amended to read:

31A-22-613.5. Price and value comparisons of health insurance.

(1) (a) This section applies to all health benefit plans.

(b) Subsection (2) applies to:

(i) all health benefit plans; and

(ii) coverage offered to state employees under Subsection 49-20-202(1)(a).

(2) (a) The commissioner shall promote informed consumer behavior and responsible health benefit plans by requiring an insurer issuing a health benefit plan to:

(i) provide to all enrollees, prior to enrollment in the health benefit plan written disclosure of:

(A) restrictions or limitations on prescription drugs and biologics including:

(I) the use of a formulary;

(II) co-payments and deductibles for prescription drugs; and

(III) requirements for generic substitution;

(B) coverage limits under the plan; and

(C) any limitation or exclusion of coverage including:

(I) a limitation or exclusion for a secondary medical condition related to a limitation or exclusion from coverage; and

(II) easily understood examples of a limitation or exclusion of coverage for a secondary medical condition; and

(ii) provide the commissioner with:

(A) the information described in Subsections 31A-22-635(5) through (7) in the standardized electronic format required by Subsection [63M-1-2506] 63N-11-107(1); and

(B) information regarding insurer transparency in accordance with Subsection (4).

(b) An insurer shall provide the disclosure required by Subsection (2)(a)(i) in writing to the commissioner:

(i) upon commencement of operations in the state; and

(ii) anytime the insurer amends any of the following described in Subsection (2)(a)(i):

(A) treatment policies;

(B) practice standards;

(C) restrictions;

(D) coverage limits of the insurer's health benefit plan or health insurance policy; or

(E) limitations or exclusions of coverage including a limitation or exclusion for a secondary medical condition related to a limitation or exclusion of the insurer's health insurance plan.

(c) An insurer shall provide the enrollee with notice of an increase in costs for prescription drug coverage due to a change in benefit design under Subsection (2)(a)(i)(A):

(i) either:

(A) in writing; or

(B) on the insurer's website; and

(ii) at least 30 days prior to the date of the implementation of the increase in cost, or as soon as reasonably possible.

(d) If under Subsection (2)(a)(i)(A) a formulary is used, the insurer shall make available to prospective enrollees and maintain evidence of the fact of the disclosure of:

(i) the drugs included;

(ii) the patented drugs not included;

(iii) any conditions that exist as a precedent to coverage; and

(iv) any exclusion from coverage for secondary medical conditions that may result from the use of an excluded drug.

(e) (i) The commissioner shall develop examples of limitations or exclusions of a secondary medical condition that an insurer may use under Subsection (2)(a)(i)(C).

(ii) Examples of a limitation or exclusion of coverage provided under Subsection (2)(a)(i)(C) or otherwise are for illustrative purposes only, and the failure of a particular fact situation to fall within the description of an example does not, by itself, support a finding of coverage.

(3) The commissioner:

(a) shall forward the information submitted by an insurer under Subsection (2)(a)(ii) to the Health Insurance Exchange created under Section [63M-1-2504] 63N-11-104; and

(b) may request information from an insurer to verify the information submitted by the insurer under this section.

(4) The commissioner shall:

(a) convene a group of insurers, a member representing the Public Employees' Benefit and Insurance Program, consumers, and an organization that provides multipayer and multiprovider quality assurance and data collection, to develop information for consumers to compare health insurers and health benefit plans on the Health Insurance Exchange, which shall include consideration of:

(i) the number and cost of an insurer's denied health claims;

(ii) the cost of denied claims that is transferred to providers;

(iii) the average out-of-pocket expenses incurred by participants in each health benefit plan that is offered by an insurer in the Health Insurance Exchange;

(iv) the relative efficiency and quality of claims administration and other administrative processes for each insurer offering plans in the Health Insurance Exchange; and

(v) consumer assessment of each insurer or health benefit plan;

(b) adopt an administrative rule that establishes:

(i) definition of terms;

(ii) the methodology for determining and comparing the insurer transparency information;

(iii) the data, and format of the data, that an insurer shall submit to the commissioner in order to facilitate the consumer comparison on the Health Insurance Exchange in accordance with Section [63M-1-2506] 63N-11-107; and

(iv) the dates on which the insurer shall submit the data to the commissioner in order for the commissioner to transmit the data to the Health Insurance Exchange in accordance with Section ~~[63M-1-2506]~~ 63N-11-107; and

(c) implement the rules adopted under Subsection (4)(b) in a manner that protects the business confidentiality of the insurer.

Section 8. Section 31A-22-635 is amended to read:

31A-22-635. Uniform application -- Uniform waiver of coverage -- Information on Health Insurance Exchange.

(1) For purposes of this section, "insurer":

(a) is defined in Subsection 31A-22-634(1); and

(b) includes the state employee's risk pool under Section 49-20-202.

(2) (a) Insurers offering a health benefit plan to an individual or small employer shall use a uniform application form.

(b) The uniform application form:

(i) may not include questions about an applicant's health history; and

(ii) shall be shortened and simplified in accordance with rules adopted by the commissioner.

(c) Insurers offering a health benefit plan to a small employer shall use a uniform waiver of coverage form, which may not include health status related questions, and is limited to:

(i) information that identifies the employee;

(ii) proof of the employee's insurance coverage; and

(iii) a statement that the employee declines coverage with a particular employer group.

(3) Notwithstanding the requirements of Subsection (2)(a), the uniform application and uniform waiver of coverage forms may, if the combination or modification is approved by the commissioner, be combined or modified to facilitate a more efficient and consumer friendly experience for:

(a) enrollees using the Health Insurance Exchange; or

(b) insurers using electronic applications.

(4) The uniform application form, and uniform waiver form, shall be adopted and approved by the commissioner in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(5) (a) An insurer who offers a health benefit plan on the Health Insurance Exchange created in Section ~~[63M-1-2504]~~ 63N-11-104, shall:

(i) accept and process an electronic submission of the uniform application or uniform waiver from the Health Insurance Exchange using the electronic

standards adopted pursuant to Section ~~[63M-1-2506]~~ 63N-11-107;

(ii) if requested, provide the applicant with a copy of the completed application either by mail or electronically;

(iii) post all health benefit plans offered by the insurer in the defined contribution arrangement market on the Health Insurance Exchange; and

(iv) post the information required by Subsection (6) on the Health Insurance Exchange for every health benefit plan the insurer offers on the Health Insurance Exchange.

(b) Except as provided in Subsection (5)(c), an insurer who posts health benefit plans on the Health Insurance Exchange may not directly or indirectly offer products on the Health Insurance Exchange that are not health benefit plans.

(c) Notwithstanding Subsection (5)(b):

(i) an insurer may offer a health savings account on the Health Insurance Exchange;

(ii) an insurer may offer dental plans on the Health Insurance Exchange; and

(iii) the department may make administrative rules to regulate the offer of dental plans on the Health Insurance Exchange.

(6) An insurer shall provide the commissioner and the Health Insurance Exchange with the following information for each health benefit plan submitted to the Health Insurance Exchange, in the electronic format required by Subsection ~~[63M-1-2506]~~ 63N-11-107(1):

(a) plan design, benefits, and options offered by the health benefit plan including state mandates the plan does not cover;

(b) information and Internet address to online provider networks;

(c) wellness programs and incentives;

(d) descriptions of prescription drug benefits, exclusions, or limitations;

(e) the percentage of claims paid by the insurer within 30 days of the date a claim is submitted to the insurer for the prior year; and

(f) the claims denial and insurer transparency information developed in accordance with Subsection 31A-22-613.5(4).

(7) The department shall post on the Health Insurance Exchange the department's solvency rating for each insurer who posts a health benefit plan on the Health Insurance Exchange. The solvency rating for each insurer shall be based on methodology established by the department by administrative rule and shall be updated each calendar year.

(8) (a) The commissioner may request information from an insurer under Section 31A-22-613.5 to verify the data submitted to the department and to the Health Insurance Exchange.

(b) The commissioner shall regulate the fees charged by insurers to an enrollee for a uniform application form or electronic submission of the application forms.

Section 9. Section 31A-22-726 is amended to read:

31A-22-726. Abortion coverage restriction in health benefit plan and on health insurance exchange.

(1) As used in this section, "permitted abortion coverage" means coverage for abortion:

(a) that is necessary to avert:

(i) the death of the woman on whom the abortion is performed; or

(ii) a serious risk of substantial and irreversible impairment of a major bodily function of the woman on whom the abortion is performed;

(b) of a fetus that has a defect that is documented by a physician or physicians to be uniformly diagnosable and uniformly lethal; or

(c) where the woman is pregnant as a result of:

(i) rape, as described in Section 76-5-402;

(ii) rape of a child, as described in Section 76-5-402.1; or

(iii) incest, as described in Subsection 76-5-406(10) or Section 76-7-102.

(2) A person may not offer coverage for an abortion in a health benefit plan, unless the coverage is a type of permitted abortion coverage.

(3) A person may not offer a health benefit plan that provides coverage for an abortion in a health insurance exchange created under Title ~~[63M]~~ 63N, Chapter ~~[1]~~ 11, ~~[Part 25,]~~ Health System Reform Act, unless the coverage is a type of permitted abortion coverage.

(4) A person may not offer a health benefit plan that provides coverage for an abortion in a health insurance exchange created under the federal Patient Protection and Affordable Care Act, 111 P.L. 148, unless the coverage is a type of permitted abortion coverage.

Section 10. Section 31A-23a-402 is amended to read:

31A-23a-402. Unfair marketing practices -- Communication -- Unfair discrimination -- Coercion or intimidation -- Restriction on choice.

(1) (a) (i) Any of the following may not make or cause to be made any communication that contains false or misleading information, relating to an insurance product or contract, any insurer, or any licensee under this title, including information that is false or misleading because it is incomplete:

(A) a person who is or should be licensed under this title;

(B) an employee or producer of a person described in Subsection (1)(a)(i)(A);

(C) a person whose primary interest is as a competitor of a person licensed under this title; and

(D) a person on behalf of any of the persons listed in this Subsection (1)(a)(i).

(ii) As used in this Subsection (1), "false or misleading information" includes:

(A) assuring the nonobligatory payment of future dividends or refunds of unused premiums in any specific or approximate amounts, but reporting fully and accurately past experience is not false or misleading information; and

(B) with intent to deceive a person examining it:

(I) filing a report;

(II) making a false entry in a record; or

(III) wilfully refraining from making a proper entry in a record.

(iii) A licensee under this title may not:

(A) use any business name, slogan, emblem, or related device that is misleading or likely to cause the insurer or other licensee to be mistaken for another insurer or other licensee already in business; or

(B) use any advertisement or other insurance promotional material that would cause a reasonable person to mistakenly believe that a state or federal government agency, including the Health Insurance Exchange, also called the "Utah Health Exchange," created in Section ~~[63M-1-2504]~~ 63N-11-104, the Comprehensive Health Insurance Pool created in Chapter 29, Comprehensive Health Insurance Pool Act, and the Children's Health Insurance Program created in Title 26, Chapter 40, Utah Children's Health Insurance Act:

(I) is responsible for the insurance sales activities of the person;

(II) stands behind the credit of the person;

(III) guarantees any returns on insurance products of or sold by the person; or

(IV) is a source of payment of any insurance obligation of or sold by the person.

(iv) A person who is not an insurer may not assume or use any name that deceptively implies or suggests that person is an insurer.

(v) A person other than persons licensed as health maintenance organizations under Chapter 8 may not use the term "Health Maintenance Organization" or "HMO" in referring to itself.

(b) A licensee's violation creates a rebuttable presumption that the violation was also committed by the insurer if:

(i) the licensee under this title distributes cards or documents, exhibits a sign, or publishes an advertisement that violates Subsection (1)(a), with reference to a particular insurer:

(A) that the licensee represents; or

(B) for whom the licensee processes claims; and

(ii) the cards, documents, signs, or advertisements are supplied or approved by that insurer.

(2) (a) A title insurer, individual title insurance producer, or agency title insurance producer or any officer or employee of the title insurer, individual title insurance producer, or agency title insurance producer may not pay, allow, give, or offer to pay, allow, or give, directly or indirectly, as an inducement to obtaining any title insurance business:

(i) any rebate, reduction, or abatement of any rate or charge made incident to the issuance of the title insurance;

(ii) any special favor or advantage not generally available to others;

(iii) any money or other consideration, except if approved under Section 31A-2-405; or

(iv) material inducement.

(b) "Charge made incident to the issuance of the title insurance" includes escrow charges, and any other services that are prescribed in rule by the Title and Escrow Commission after consultation with the commissioner and subject to Section 31A-2-404.

(c) An insured or any other person connected, directly or indirectly, with the transaction may not knowingly receive or accept, directly or indirectly, any benefit referred to in Subsection (2)(a), including:

(i) a person licensed under Title 61, Chapter 2c, Utah Residential Mortgage Practices and Licensing Act;

(ii) a person licensed under Title 61, Chapter 2f, Real Estate Licensing and Practices Act;

(iii) a builder;

(iv) an attorney; or

(v) an officer, employee, or agent of a person listed in this Subsection (2)(c)(iii).

(3) (a) An insurer may not unfairly discriminate among policyholders by charging different premiums or by offering different terms of coverage, except on the basis of classifications related to the nature and the degree of the risk covered or the expenses involved.

(b) Rates are not unfairly discriminatory if they are averaged broadly among persons insured under a group, blanket, or franchise policy, and the terms of those policies are not unfairly discriminatory merely because they are more favorable than in similar individual policies.

(4) (a) This Subsection (4) applies to:

(i) a person who is or should be licensed under this title;

(ii) an employee of that licensee or person who should be licensed;

(iii) a person whose primary interest is as a competitor of a person licensed under this title; and

(iv) one acting on behalf of any person described in Subsections (4)(a)(i) through (iii).

(b) A person described in Subsection (4)(a) may not commit or enter into any agreement to participate in any act of boycott, coercion, or intimidation that:

(i) tends to produce:

(A) an unreasonable restraint of the business of insurance; or

(B) a monopoly in that business; or

(ii) results in an applicant purchasing or replacing an insurance contract.

(5) (a) (i) Subject to Subsection (5)(a)(ii), a person may not restrict in the choice of an insurer or licensee under this chapter, another person who is required to pay for insurance as a condition for the conclusion of a contract or other transaction or for the exercise of any right under a contract.

(ii) A person requiring coverage may reserve the right to disapprove the insurer or the coverage selected on reasonable grounds.

(b) The form of corporate organization of an insurer authorized to do business in this state is not a reasonable ground for disapproval, and the commissioner may by rule specify additional grounds that are not reasonable. This Subsection (5) does not bar an insurer from declining an application for insurance.

(6) A person may not make any charge other than insurance premiums and premium financing charges for the protection of property or of a security interest in property, as a condition for obtaining, renewing, or continuing the financing of a purchase of the property or the lending of money on the security of an interest in the property.

(7) (a) A licensee under this title may not refuse or fail to return promptly all indicia of agency to the principal on demand.

(b) A licensee whose license is suspended, limited, or revoked under Section 31A-2-308, 31A-23a-111, or 31A-23a-112 may not refuse or fail to return the license to the commissioner on demand.

(8) (a) A person may not engage in an unfair method of competition or any other unfair or deceptive act or practice in the business of insurance, as defined by the commissioner by rule, after a finding that the method of competition, the act, or the practice:

(i) is misleading;

(ii) is deceptive;

(iii) is unfairly discriminatory;

(iv) provides an unfair inducement; or

(v) unreasonably restrains competition.

(b) Notwithstanding Subsection (8)(a), for purpose of the title insurance industry, the Title

and Escrow Commission shall make rules, subject to Section 31A-2-404, that define an unfair method of competition or unfair or deceptive act or practice after a finding that the method of competition, the act, or the practice:

- (i) is misleading;
- (ii) is deceptive;
- (iii) is unfairly discriminatory;
- (iv) provides an unfair inducement; or
- (v) unreasonably restrains competition.

Section 11. Section 31A-30-102 is amended to read:

31A-30-102. Purpose statement.

The purpose of this chapter is to:

- (1) prevent abusive rating practices;
- (2) require disclosure of rating practices to purchasers;
- (3) establish rules regarding:
 - (a) a universal individual and small group application; and
 - (b) renewability of coverage;
- (4) improve the overall fairness and efficiency of the individual and small group insurance market;
- (5) provide increased access for individuals and small employers to health insurance; and
- (6) provide an employer with the opportunity to establish a defined contribution arrangement for an employee to purchase a health benefit plan through the Health Insurance Exchange created by Section ~~[63M-1-2504]~~ 63N-11-104.

Section 12. Section 31A-30-116 is amended to read:

31A-30-116. Essential health benefits.

(1) For purposes of this section, the "Affordable Care Act" is as defined in Section 31A-2-212 and includes federal rules related to the offering of essential health benefits.

(2) The state chooses to designate its own essential health benefits rather than accept a federal determination of the essential health benefits required to be offered in the individual and small group market for plans renewed or offered on or after January 1, 2014.

(3) (a) Subject to Subsections (3)(b) and (c), to the extent required by the Affordable Care Act, and after considering public testimony, the Legislature's Health System Reform Task Force shall recommend to the commissioner, no later than September 1, 2012, a benchmark plan for the state's essential health benefits based on:

(i) the largest plan by enrollment in any of the three largest small employer group insurance products in the state's small employer group market;

(ii) any of the largest three state employee health benefit plans by enrollment;

(iii) the largest insured commercial non-Medicaid health maintenance organization operating in the state; or

(iv) other benchmarks required or permitted by the Affordable Care Act.

(b) Notwithstanding the provisions of Subsection ~~[63M-1-2505.5]~~ 63N-11-106(2), based on the recommendation of the task force under Subsection (3)(a), and within 30 days of the task force recommendation, the commissioner shall adopt an emergency administrative rule that designates the essential health benefits that shall be included in a plan offered or renewed on or after January 1, 2014, in the small employer group and individual markets.

(c) The essential health benefit plan:

(i) shall not include a state mandate if the inclusion of the state mandate would require the state to contribute to premium subsidies under the Affordable Care Act; and

(ii) may add benefits in addition to the benefits included in a benchmark plan described in Subsection (3)(b) if the additional benefits are mandated under the Affordable Care Act.

Section 13. Section 31A-30-117 is amended to read:

31A-30-117. Patient Protection and Affordable Care Act -- Market transition.

(1) (a) After complying with the reporting requirements of Section ~~[63M-1-2505.5]~~ 63N-11-106, the commissioner may adopt administrative rules that change the rating and underwriting requirements of this chapter as necessary to transition the insurance market to meet federal qualified health plan standards and rating practices under PPACA.

(b) Administrative rules adopted by the commissioner under this section may include:

(i) the regulation of health benefit plans as described in Subsections 31A-2-212(5)(a) and (b); and

(ii) disclosure of records and information required by PPACA and state law.

(c) (i) The commissioner shall establish by administrative rule one statewide open enrollment period that applies to the individual insurance market that is not on the PPACA certified individual exchange.

(ii) The statewide open enrollment period:

(A) may be shorter, but no longer than the open enrollment period established for the individual insurance market offered in the PPACA certified exchange; and

(B) may not be extended beyond the dates of the open enrollment period established for the individual insurance market offered in the PPACA certified exchange.

(2) A carrier that offers health benefit plans in the individual market that is not part of the individual PPACA certified exchange:

(a) shall open enrollment:

(i) during the statewide open enrollment period established in Subsection (1)(c); and

(ii) at other times, for qualifying events, as determined by administrative rule adopted by the commissioner; and

(b) may open enrollment at any time.

(3) To the extent permitted by the Centers for Medicare and Medicaid Services policy, or federal regulation, the commissioner shall allow a health insurer to choose to continue coverage and individuals and small employers to choose to re-enroll in coverage in nongrandfathered health coverage that is not in compliance with market reforms required by PPACA.

Section 14. Section 31A-30-202 is amended to read:

31A-30-202. Definitions.

For purposes of this part:

(1) "Defined benefit plan" means an employer group health benefit plan in which:

(a) the employer selects the health benefit plan or plans from a single insurer;

(b) employees are not provided a choice of health benefit plans on the Health Insurance Exchange; and

(c) the employer is subject to contribution requirements in Section 31A-30-112.

(2) "Defined contribution arrangement":

(a) means a defined contribution arrangement employer group health benefit plan that:

(i) complies with this part; and

(ii) is sold through the Health Insurance Exchange in accordance with Title [63M] 63N, Chapter [4] 11, [Part 25,] Health System Reform Act; and

(b) beginning January 1, 2011, includes an employer choice of either a defined contribution arrangement health benefit plan or a defined benefit plan offered through the Health Insurance Exchange.

(3) "Health reimbursement arrangement" means an employer provided health reimbursement arrangement in which reimbursements for medical care expenses are excluded from an employee's gross income under the Internal Revenue Code.

(4) "Producer" is as defined in Subsection 31A-23a-501(4)(a).

(5) "Section 125 Cafeteria plan" means a flexible spending arrangement that qualifies under Section 125, Internal Revenue Code, which permits an

employee to contribute pre-tax dollars to a health benefit plan.

(6) "Small employer" is defined in Section 31A-1-301.

Section 15. Section 31A-30-204 is amended to read:

31A-30-204. Employer election -- Defined benefit -- Defined contribution arrangements -- Responsibilities.

(1) (a) An employer participating in the defined contribution arrangement market on the Health Insurance Exchange shall make an initial election to offer its employees either a defined benefit plan or a defined contribution arrangement health benefit plan.

(b) If an employer elects to offer a defined benefit plan:

(i) the employer or the employer's producer shall enroll the employer in the Health Insurance Exchange;

(ii) the employees shall submit the uniform application required for the Health Insurance Exchange; and

(iii) the employer shall select the defined benefit plan in accordance with Section 31A-30-208.

(c) When an employer makes an election under Subsections (1)(a) and (b):

(i) the employer may not offer its employees a defined contribution arrangement health benefit plan; and

(ii) the employees may not select a defined contribution arrangement health benefit plan in the Health Insurance Exchange.

(d) If an employer elects to offer its employees a defined contribution arrangement health benefit plan, the employer shall comply with the provisions of Subsections (2) through (5).

(2) (a) (i) An employer that chooses to participate in a defined contribution arrangement health benefit plan may not offer to an employee a health benefit plan that is not a defined contribution arrangement health benefit plan in the Health Insurance Exchange.

(ii) Subsection (2)(a)(i) does not prohibit the offer of supplemental or limited benefit policies such as dental or vision coverage, or other types of federally qualified savings accounts for health care expenses.

(b) (i) To the extent permitted by Sections 31A-1-301, 31A-30-112, and 31A-30-206, and the risk adjustment plan adopted under Section 31A-42-204, the employer reserves the right to determine:

(A) the criteria for employee eligibility, enrollment, and participation in the employer's health benefit plan; and

(B) the amount of the employer's contribution to that plan.

(ii) The determinations made under Subsection (2)(b) may only be changed during periods of open enrollment.

(3) An employer that chooses to establish a defined contribution arrangement health benefit plan to provide a health benefit plan for its employees shall:

(a) establish a mechanism for its employees to use pre-tax dollars to purchase a health benefit plan from the defined contribution arrangement market on the Health Insurance Exchange created in Section ~~[63M-1-2504]~~ 63N-11-104, which may include:

- (i) a health reimbursement arrangement;
- (ii) a Section 125 Cafeteria plan; or

(iii) another plan or arrangement similar to Subsection (3)(a)(i) or (ii) which is excluded or deducted from gross income under the Internal Revenue Code;

(b) before the employee's health benefit plan selection period:

(i) inform each employee of the health benefit plan the employer has selected as the default health benefit plan for the employer group;

(ii) offer each employee a choice of any of the defined contribution arrangement health benefit plans available through the defined contribution arrangement market on the Health Insurance Exchange; and

(iii) notify the employee that the employee will be enrolled in the default health benefit plan selected by the employer and payroll deductions initiated for premium payments, unless the employee, before the employee's selection period ends:

(A) selects a different defined contribution arrangement health benefit plan available in the Health Insurance Exchange;

(B) provides proof of coverage from another health benefit plan; or

(C) specifically declines coverage in a health benefit plan.

(4) An employer shall enroll an employee in the default defined contribution arrangement health benefit plan selected by the employer if the employee does not make one of the choices described in Subsection (3)(b)(iii) before the end of the employee selection period, which may not be less than 14 calendar days.

(5) The employer's notice to the employee under Subsection (3)(b)(iii) shall inform the employee that the failure to act under Subsections (3)(b)(iii)(A) through (C) is considered an affirmative election under pre-tax payroll deductions for the employer to begin payroll deductions for health benefit plan premiums.

Section 16. Section 31A-30-208 is amended to read:

31A-30-208. Enrollment for defined contribution arrangements.

(1) An insurer offering a health benefit plan in the defined contribution arrangement market:

(a) shall allow an employer to enroll in a small employer defined contribution arrangement plan; and

(b) shall otherwise comply with the requirements of this part, Chapter 42, Defined Contribution Risk Adjuster Act, and Title ~~[63M]~~ 63N, Chapter ~~[1]~~ 11, ~~[Part 25,]~~ Health System Reform Act.

(2) (a) An insurer may enter or exit the defined contribution arrangement market on January 1 of each year.

(b) An insurer may offer new or modify existing products in the defined contribution arrangement market:

(i) on January 1 of each year;

(ii) when required by changes in other law; and

(iii) at other times as established by the risk adjuster board created in Section 31A-42-201.

(c) An insurer shall give the department, the Health Insurance Exchange, and the risk adjuster board 90 days' advance written notice of any event described in Subsection (2)(a) or (b).

Section 17. Section 31A-30-302 is amended to read:

31A-30-302. Creation of state risk adjustment program.

(1) The commissioner shall convene a group of stakeholders and actuaries to assist the commissioner with the evaluation or the risk adjustment options described in Subsection (2). If the commissioner determines that a state-based risk adjustment program is in the best interest of the state, the commissioner shall establish an individual and small employer market risk adjustment program in accordance with 42 U.S.C. 18063 and this section.

(2) The risk adjustment program adopted by the commissioner may include one of the following models:

(a) continue the United States Department of Health and Human Services administration of the federal model for risk adjustment for the individual and small employer market in the state;

(b) have the state administer the federal model for risk adjustment for the individual and small employer market in the state;

(c) establish and operate a state-based risk adjustment program for the individual and small employer market in the state; or

(d) another risk adjustment model developed by the commissioner under Subsection (1).

(3) Before adopting one of the models described in Subsection (2), the commissioner:

(a) may enter into contracts to carry out the services needed to evaluate and establish one of the risk adjustment options described in Subsection (2); and

(b) shall, prior to October 30, 2014, comply with the reporting requirements of Section ~~[63M-1-2505.5]~~ 63N-11-106 regarding the commissioner's evaluation of the risk adjustment options described in Subsection (2).

(4) The commissioner may:

(a) adopt administrative rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that require an insurer that is subject to the state-based risk adjustment program to submit data to the all payers claims database created under Section 26-33a-106.1; and

(b) establish fees in accordance with Title 63J, Chapter 1, Budgetary Procedures Act, to cover the ongoing administrative cost of running the state-based risk adjustment program.

Section 18. Section 35A-1-104.5 is amended to read:

35A-1-104.5. Other department duties -- Strategic plan for health system reform -- Reporting suspected misuse of a Social Security number.

(1) The department shall work with the Department of Health, the Insurance Department, the Governor's Office of Economic Development, and the Legislature to develop the health system reform in accordance with Title ~~[63M]~~ 63N, Chapter ~~[1] 11,~~ ~~[Part 25,]~~ Health System Reform Act.

(2) In the process of determining an individual's eligibility for a public benefit or service under this title or under federal law, if the department determines that a valid Social Security number is being used by an unauthorized individual, the department shall:

(a) inform the individual who the department determines to be the likely actual owner of the Social Security number or, if the likely actual owner is a minor, the minor's parent or guardian, of the suspected misuse; and

(b) subject to federal law, provide information of the suspected misuse to an appropriate law enforcement agency responsible for investigating identity fraud.

(3) If the department learns or determines that providing information under Subsection (2)(b) is prohibited by federal law, the department shall notify the Legislative Management Committee.

Section 19. Section 53A-1-410 is amended to read:

53A-1-410. Utah Futures.

(1) As used in this section:

(a) "Education provider" means:

(i) a Utah institution of higher education as defined in Section 53B-2-101; or

(ii) a Utah provider of postsecondary education.

(b) "Student user" means:

(i) a Utah student in kindergarten through grade 12;

(ii) a Utah post secondary education student;

(iii) a parent or guardian of a Utah public education student; or

(iv) a Utah potential post secondary education student.

(c) "Utah Futures" means a career planning program developed and administered by the Department of Workforce Services, the State Board of Regents, and the State Board of Education.

(d) "Utah Futures Steering Committee" means a committee of members designated by the governor to administer and manage Utah Futures in collaboration with the Department of Workforce Services, the State Board of Regents, and the State Board of Education.

(2) The Utah Futures Steering Committee shall ensure, as funding allows and is feasible, that Utah Futures will:

(a) allow a student user to:

(i) access the student user's full academic record;

(ii) electronically allow the student user to give access to the student user's academic record and related information to an education provider as allowed by law;

(iii) access information about different career opportunities and understand the related educational requirements to enter that career;

(iv) access information about education providers;

(v) access up to date information about entrance requirements to education providers;

(vi) apply for entrance to multiple schools without having to fully replicate the application process;

(vii) apply for loans, scholarships, or grants from multiple education providers in one location without having to fully replicate the application process for multiple education providers; and

(viii) research open jobs from different companies within the user's career interest and apply for those jobs without having to leave the website to do so;

(b) allow all users to:

(i) access information about different career opportunities and understand the related educational requirements to enter that career;

(ii) access information about education providers;

(iii) access up-to-date information about entrance requirements to education providers;

(iv) apply for entrance to multiple schools without having to fully replicate the application process;

(v) apply for loans, scholarships, or grants from multiple education providers in one location

without having to fully replicate the application process for multiple education providers; and

(vi) research open jobs from different companies within the user's career interest and apply for those jobs without having to leave the website to do so;

(c) allow an education provider to:

(i) research and find student users who are interested in various educational outcomes;

(ii) promote the education provider's programs and schools to student users; and

(iii) connect with student users within the Utah Futures website;

(d) allow a Utah business to:

(i) research and find student users who are pursuing educational outcomes that are consistent with jobs the Utah business is trying to fill now or in the future; and

(ii) market jobs and communicate with student users through the Utah Futures website as allowed by law;

(e) allow the Department of Workforce Services to analyze and report on student user interests, education paths, and behaviors within the education system so as to predictively determine appropriate career and educational outcomes and results; and

(f) allow all users of the Utah Futures' system to communicate and interact through social networking tools within the Utah Futures website as allowed by law.

(3) On or before October 1, 2014, the State Board of Education, after consulting with the Board of Business and Economic Development created in Section ~~[63M-1-301]~~ 63N-1-401, may select a technology provider, through a request for proposals process, to provide technology and support for Utah Futures.

(4) In evaluating proposals under Subsection (3) in consultation with the Board of Business and Economic Development, the State Board of Education shall ensure that the technology provided by a proposer:

(a) allows Utah Futures to license the selected service oriented architecture technologies;

(b) allows Utah Futures to protect all user data within the system by leveraging role architecture;

(c) allows Utah Futures to update the user interface, APIs, and web services software layers as needed;

(d) provides the ability for a student user to have a secure profile and login to access and to store personal information related to the services listed in Subsection (2) via the Internet;

(e) protects all user data within Utah Futures;

(f) allows the State Board of Education to license the technology of the selected technology provider; and

(g) provides technology able to support application programming interfaces to integrate technology of other third party providers, which may include cloud-based technology.

(5) (a) On or before August 1, 2014, the evaluation panel described in Subsection (5)(b), using the criteria described in Subsection (5)(c), shall evaluate Utah Futures and determine whether any or all components of Utah Futures, as described in this section, should be outsourced to a private provider or built in-house by the participating state agencies.

(b) The evaluation panel described in Subsection (5)(a) shall consist of the following members, appointed by the governor after consulting with the State Board of Education:

(i) five members who represent business, including:

(A) one member who has extensive knowledge and experience in information technology; and

(B) one member who has extensive knowledge and experience in human resources;

(ii) one member who is a user of the information provided by Utah Futures;

(iii) one member who is a parent of a student who uses Utah Futures;

(iv) one member who:

(A) is an educator as defined in Section 53A-6-103; and

(B) teaches students who use Utah Futures; and

(v) one member who is a high school counselor licensed under Title 53A, Chapter 6, Educator Licensing and Professional Practices Act.

(c) The evaluation panel described in Subsections (5)(a) and (b) shall consider at least the following criteria to make the determination described in Subsection (5)(a):

(i) the complete functional capabilities of a private technology provider versus an in-house version;

(ii) the cost of purchasing privately developed technology versus continuing to develop or build an in-house version;

(iii) the data and security capabilities of a private technology provider versus an in-house version;

(iv) the time frames to implementation; and

(v) the best practices and examples of other states who have implemented a tool similar to Utah Futures.

(d) On or before September 30, 2014, the evaluation panel shall report the determination to:

(i) the State Board of Education;

(ii) the Executive Appropriations Committee; and

(iii) the Education Interim Committee.

Section 20. Section 59-7-610 is amended to read:

59-7-610. Recycling market development zones tax credit.

(1) For taxable years beginning on or after January 1, 1996, a business operating in a recycling market development zone as defined in Section [~~63M-1-1102~~] 63N-2-402 may claim a tax credit as provided in this section.

(a) (i) There shall be allowed a nonrefundable tax credit of 5% of the purchase price paid for machinery and equipment used directly in:

- (A) commercial composting; or
- (B) manufacturing facilities or plant units that:

(I) manufacture, process, compound, or produce recycled items of tangible personal property for sale; or

(II) reduce or reuse postconsumer waste material.

(ii) The Governor's Office of Economic Development shall certify that the machinery and equipment described in Subsection (1)(a)(i) are integral to the composting or recycling process:

- (A) on a form provided by the commission; and
- (B) before a taxpayer is allowed a tax credit under this section.

(iii) The Governor's Office of Economic Development shall provide a taxpayer seeking to claim a tax credit under this section with a copy of the form described in Subsection (1)(a)(ii).

(iv) The taxpayer described in Subsection (1)(a)(iii) shall retain a copy of the form received under Subsection (1)(a)(iii).

(b) There shall be allowed a nonrefundable tax credit equal to 20% of net expenditures up to \$10,000 to third parties for rent, wages, supplies, tools, test inventory, and utilities made by the taxpayer for establishing and operating recycling or composting technology in Utah, with an annual maximum tax credit of \$2,000.

(2) The total nonrefundable tax credit allowed under this section may not exceed 40% of the Utah income tax liability of the taxpayer prior to any tax credits in the taxable year of purchase prior to claiming the tax credit authorized by this section.

(3) (a) Any tax credit not used for the taxable year in which the purchase price on composting or recycling machinery and equipment was paid may be carried over for credit against the business' income taxes in the three succeeding taxable years until the total tax credit amount is used.

(b) Tax credits not claimed by a business on the business' state income tax return within three years are forfeited.

(4) The commission shall make rules governing what information shall be filed with the commission to verify the entitlement to and amount of a tax credit.

(5) (a) Notwithstanding Subsection (1)(a), for taxable years beginning on or after January 1, 2001, a taxpayer may not claim or carry forward a tax credit described in Subsection (1)(a) in a taxable year during which the taxpayer claims or carries forward a tax credit under Section [~~63M-1-413~~] 63N-2-213.

(b) For a taxable year other than a taxable year during which the taxpayer may not claim or carry forward a tax credit in accordance with Subsection (5)(a), a taxpayer may claim or carry forward a tax credit described in Subsection (1)(a):

- (i) if the taxpayer may claim or carry forward the tax credit in accordance with Subsections (1) and (2); and
- (ii) subject to Subsections (3) and (4).

(6) Notwithstanding Subsection (1)(b), for taxable years beginning on or after January 1, 2001, a taxpayer may not claim a tax credit described in Subsection (1)(b) in a taxable year during which the taxpayer claims or carries forward a tax credit under Section [~~63M-1-413~~] 63N-2-213.

(7) A taxpayer may not claim or carry forward a tax credit available under this section for a taxable year during which the taxpayer has claimed the targeted business income tax credit available under Section [~~63M-1-504~~] 63N-2-305.

Section 21. Section 59-7-614.2 is amended to read:

59-7-614.2. Refundable economic development tax credit.

(1) As used in this section:

(a) "Business entity" means a taxpayer that meets the definition of "business entity" as defined in Section [~~63M-1-2403~~] 63N-2-103.

(b) "Community development and renewal agency" is as defined in Section 17C-1-102.

(c) "Local government entity" is as defined in Section [~~63M-1-2403~~] 63N-2-103.

(d) "Office" means the Governor's Office of Economic Development.

(2) Subject to the other provisions of this section, a business entity, local government entity, or community development and renewal agency may claim a refundable tax credit for economic development.

(3) The tax credit under this section is the amount listed as the tax credit amount on the tax credit certificate that the office issues to the business entity, local government entity, or community development and renewal agency for the taxable year.

(4) A community development and renewal agency may claim a tax credit under this section only if a local government entity assigns the tax credit to the community development and renewal agency in accordance with Section [~~63M-1-2404~~] 63N-2-104.

(5) (a) In accordance with any rules prescribed by the commission under Subsection (5)(b), the

commission shall make a refund to the following that claim a tax credit under this section:

- (i) a local government entity;
- (ii) a community development and renewal agency; or
- (iii) a business entity if the amount of the tax credit exceeds the business entity's tax liability for a taxable year.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules providing procedures for making a refund to a business entity, local government entity, or community development and renewal agency as required by Subsection (5)(a).

(6) (a) On or before October 1, 2013, and every five years after October 1, 2013, the Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and make recommendations to the Legislative Management Committee concerning whether the tax credit should be continued, modified, or repealed.

(b) For purposes of the study required by this Subsection (6), the office shall provide the following information to the Revenue and Taxation Interim Committee:

- (i) the amount of tax credit that the office grants to each business entity, local government entity, or community development and renewal agency for each calendar year;
- (ii) the criteria that the office uses in granting a tax credit;
- (iii) (A) for a business entity, the new state revenues generated by the business entity for the calendar year; or

(B) for a local government entity, regardless of whether the local government entity assigns the tax credit in accordance with Section [63M-1-2404] 63N-2-104, the new state revenues generated as a result of a new commercial project within the local government entity for each calendar year;

(iv) the information contained in the office's latest report to the Legislature under Section [63M-1-2406] 63N-2-106; and

(v) any other information that the Revenue and Taxation Interim Committee requests.

(c) The Revenue and Taxation Interim Committee shall ensure that its recommendations under Subsection (6)(a) include an evaluation of:

- (i) the cost of the tax credit to the state;
- (ii) the purpose and effectiveness of the tax credit; and
- (iii) the extent to which the state benefits from the tax credit.

Section 22. Section 59-7-614.5 is amended to read:

59-7-614.5. Refundable motion picture tax credit.

(1) As used in this section:

(a) "Motion picture company" means a taxpayer that meets the definition of a motion picture company under Section [63M-1-1802] 63N-8-102.

(b) "Office" means the Governor's Office of Economic Development.

(c) "State-approved production" has the same meaning as defined in Section [63M-1-1802] 63N-8-102.

(2) For taxable years beginning on or after January 1, 2009, a motion picture company may claim a refundable tax credit for a state-approved production.

(3) The tax credit under this section is the amount listed as the tax credit amount on the tax credit certificate that the office issues to a motion picture company under Section [63M-1-1803] 63N-8-103 for the taxable year.

(4) (a) In accordance with any rules prescribed by the commission under Subsection (4)(b), the commission shall make a refund to a motion picture company that claims a tax credit under this section if the amount of the tax credit exceeds the motion picture company's tax liability for a taxable year.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules providing procedures for making a refund to a motion picture company as required by Subsection (4)(a).

(5) (a) On or before October 1, 2014, and every five years after October 1, 2014, the Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and make recommendations to the Legislative Management Committee concerning whether the tax credit should be continued, modified, or repealed.

(b) For purposes of the study required by this Subsection (5), the office shall provide the following information to the Revenue and Taxation Interim Committee:

- (i) the amount of tax credit that the office grants to each motion picture company for each calendar year;
- (ii) the criteria that the office uses in granting the tax credit;

(iii) the dollars left in the state, as defined in Section [63M-1-1802] 63N-8-102, by each motion picture company for each calendar year;

(iv) the information contained in the office's latest report to the Legislature under Section [63M-1-1805] 63N-8-105; and

(v) any other information requested by the Revenue and Taxation Interim Committee.

(c) The Revenue and Taxation Interim Committee shall ensure that its recommendations under Subsection (5)(a) include an evaluation of:

- (i) the cost of the tax credit to the state;
- (ii) the effectiveness of the tax credit; and

(iii) the extent to which the state benefits from the tax credit.

Section 23. Section 59-7-614.6 is amended to read:

59-7-614.6. Refundable tax credit for certain business entities generating state tax revenue increases.

(1) As used in this section:

(a) "Eligible business entity" is as defined in Section [63M-1-2902] 63N-2-802.

(b) "Eligible new state tax revenues" is as defined in Section [63M-1-2902] 63N-2-802.

(c) "Office" means the Governor's Office of Economic Development.

(d) "Pass-through entity" is as defined in Section 59-10-1402.

(e) "Pass-through entity taxpayer" is as defined in Section 59-10-1402.

(f) "Qualifying agreement" means an agreement under [Subsection—63M-1-2908] Section 63N-2-808 that includes a provision for an eligible business entity to make new capital expenditures of at least \$1,000,000,000 in the state.

(2) Subject to the other provisions of this section, an eligible business entity may:

(a) claim a refundable tax credit as provided in Subsection (3); or

(b) if the eligible business entity is a pass-through entity, pass through to one or more pass-through entity taxpayers of the pass-through entity, in accordance with Chapter 10, Part 14, Pass-through Entities and Pass-through Entity Taxpayers Act, a refundable tax credit that the eligible business entity could otherwise claim under this section.

(3) (a) Except as provided in Subsection (3)(b), the amount of the tax credit an eligible business entity may claim or pass through is the amount listed on the tax credit certificate that the office issues to the eligible business entity for a taxable year in accordance with Section [63M-1-2908] 63N-2-808.

(b) Subject to Subsection (3)(c), a tax credit under this section may not exceed the amount of eligible new state tax revenues generated by an eligible business entity for the taxable year for which the eligible business entity claims a tax credit under this section.

(c) A tax credit under this section for an eligible business entity that enters into a qualifying agreement may not exceed:

(i) for the taxable year in which the eligible business entity first generates eligible new state tax revenues and the two following years, the amount of eligible new state tax revenues generated by the eligible business entity; and

(ii) for the seven taxable years following the last of the three taxable years described in Subsection (3)(c)(i), 75% of the amount of eligible new state tax revenues generated by the eligible business entity.

(4) An eligible business entity may only claim or pass through a tax credit under this section for a taxable year for which the eligible business entity holds a tax credit certificate issued in accordance with Section [63M-1-2908] 63N-2-808.

(5) An eligible business entity may not:

(a) carry forward or carry back a tax credit under this section; or

(b) claim or pass through a tax credit in an amount greater than the amount listed on a tax credit certificate issued in accordance with Section [63M-1-2908] 63N-2-808 for a taxable year.

Section 24. Section 59-7-614.8 is amended to read:

59-7-614.8. Nonrefundable alternative energy manufacturing tax credit.

(1) As used in this section:

(a) "Alternative energy entity" is as defined in Section [63M-1-3102] 63N-2-702.

(b) "Alternative energy manufacturing project" is as defined in Section [63M-1-3102] 63N-2-702.

(c) "Office" means the Governor's Office of Economic Development.

(2) Subject to the other provisions of this section, an alternative energy entity may claim a nonrefundable tax credit for alternative energy manufacturing as provided in this section.

(3) The tax credit under this section is the amount listed as the tax credit amount on a tax credit certificate that the office issues under Title [63M] 63N, Chapter [1] 2, Part [31] 7, Alternative Energy Manufacturing Tax Credit Act, to the alternative energy entity for the taxable year.

(4) An alternative energy entity may carry forward a tax credit under this section for a period that does not exceed the next seven taxable years if:

(a) the alternative energy entity is allowed to claim a tax credit under this section for a taxable year; and

(b) the amount of the tax credit exceeds the alternative energy entity's tax liability under this chapter for that taxable year.

(5) (a) On or before October 1, 2017, and every five years after October 1, 2017, the Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and make recommendations to the Legislative Management Committee concerning whether the tax credit should be continued, modified, or repealed.

(b) For purposes of the study required by this Subsection (5), the office shall provide the following information to the Revenue and Taxation Interim Committee:

(i) the amount of tax credit that the office grants to each alternative energy entity for each taxable year;

(ii) the new state revenues generated by each alternative energy manufacturing project;

(iii) the information contained in the office's latest report to the Legislature under Section ~~[63M-1-3105]~~ 63N-2-705; and

(iv) any other information that the Revenue and Taxation Interim Committee requests.

(c) The Revenue and Taxation Interim Committee shall ensure that its recommendations under Subsection (5)(a) include an evaluation of:

(i) the cost of the tax credit to the state;

(ii) the purpose and effectiveness of the tax credit; and

(iii) the extent to which the state benefits from the tax credit.

Section 25. Section 59-7-616 is amended to read:

59-7-616. Refundable tax credit for certain business entities.

(1) As used in this section:

(a) "Office" means the Governor's Office of Economic Development.

(b) "Pass-through entity" has the same meaning as defined in Section 59-10-1402.

(c) "Pass-through entity taxpayer" has the same meaning as defined in Section 59-10-1402.

(d) "Tax credit certificate" has the same meaning as defined in Section ~~[63M-1-3402]~~ 63N-2-502.

(e) "Tax credit recipient" has the same meaning as defined in Section ~~[63M-1-3402]~~ 63N-2-502.

(2) (a) Subject to the other provisions of this section, a tax credit recipient that is a corporation may claim a refundable tax credit as provided in Subsection (3).

(b) If the tax credit recipient is a pass-through entity, the pass-through entity shall pass through to one or more pass-through entity taxpayers of the pass-through entity, in accordance with Chapter 10, Part 14, Pass-Through Entities and Pass-Through Entity Taxpayers Act, a refundable tax credit that the tax credit recipient could otherwise claim under this section.

(3) The amount of a tax credit is the amount listed as the tax credit amount on the tax credit certificate that the office issues to the tax credit recipient for the taxable year.

(4) A tax credit recipient:

(a) may claim or pass through a tax credit in a taxable year other than the taxable year during which the tax credit recipient has been issued a tax credit certificate; and

(b) may not claim a tax credit under both this section and Section 59-10-1110.

(5) (a) In accordance with any rules prescribed by the commission under Subsection (5)(b), the commission shall:

(i) make a refund to a tax credit recipient that claims a tax credit under this section if the amount of the tax credit exceeds the tax credit recipient's tax liability under this chapter; and

(ii) transfer at least annually from the General Fund into the Education Fund an amount equal to the amount of tax credit claimed under this section.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules providing procedures for making:

(i) a refund to a tax credit recipient or pass-through entity taxpayer as required by Subsection (5)(a)(i); or

(ii) transfers from the General Fund into the Education Fund as required by Subsection (5)(a)(ii).

Section 26. Section 59-10-210 is amended to read:

59-10-210. Fiduciary adjustments.

(1) A share of the fiduciary adjustments described in Subsection (2) shall be added to or subtracted from unadjusted income:

(a) of:

(i) a resident or nonresident estate or trust; or

(ii) a resident or nonresident beneficiary of a resident or nonresident estate or trust; and

(b) as provided in this section.

(2) For purposes of Subsection (1), the fiduciary adjustments are the following amounts:

(a) the additions to and subtractions from unadjusted income of a resident or nonresident estate or trust required by Section 59-10-202; and

(b) a tax credit claimed by a resident or nonresident estate or trust as allowed by:

(i) Section 59-6-102;

(ii) Part 10, Nonrefundable Tax Credit Act;

(iii) Part 11, Refundable Tax Credit Act;

(iv) Section 59-13-202;

(v) Section ~~[63M-1-413]~~ 63N-2-213; or

(vi) Section ~~[63M-1-504]~~ 63N-2-305.

(3) (a) The respective shares of an estate or trust and its beneficiaries, including for the purpose of this allocation a nonresident beneficiary, in the state fiduciary adjustments, shall be allocated in proportion to their respective shares of federal distributable net income of the estate or trust.

(b) If the estate or trust described in Subsection (3)(a) has no federal distributable net income for the taxable year, the share of each beneficiary in the fiduciary adjustments shall be allocated in

proportion to that beneficiary's share of the estate or trust income for the taxable year that is, under state law or the governing instrument, required to be distributed currently plus any other amounts of that income distributed in that taxable year.

(c) After making the allocations required by Subsections (3)(a) and (b), any balance of the fiduciary adjustments shall be allocated to the estate or trust.

(4) (a) The commission shall allow a fiduciary to use a method for determining the allocation of the fiduciary adjustments described in Subsection (2) other than the method described in Subsection (3) if using the method described in Subsection (3) results in an inequity:

(i) in allocating the fiduciary adjustments described in Subsection (2); and

(ii) if the inequity is substantial:

(A) in amount; and

(B) in relation to the total amount of the fiduciary adjustments described in Subsection (2).

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules authorizing a fiduciary to use a method for determining the allocation of the fiduciary adjustments described in Subsection (2) other than the method described in Subsection (3) if using the method described in Subsection (3) results in an inequity:

(i) in allocating the fiduciary adjustments described in Subsection (2); and

(ii) if the inequity is substantial:

(A) in amount; and

(B) in relation to the total amount of the fiduciary adjustments described in Subsection (2).

Section 27. Section 59-10-1007 is amended to read:

59-10-1007. Recycling market development zones tax credit.

(1) For taxable years beginning on or after January 1, 1996, a claimant, estate, or trust in a recycling market development zone as defined in Section ~~[63M-1-1102]~~ 63N-2-402 may claim a nonrefundable tax credit as provided in this section.

(a) (i) There shall be allowed a tax credit of 5% of the purchase price paid for machinery and equipment used directly in:

(A) commercial composting; or

(B) manufacturing facilities or plant units that:

(I) manufacture, process, compound, or produce recycled items of tangible personal property for sale; or

(II) reduce or reuse postconsumer waste material.

(ii) The Governor's Office of Economic Development shall certify that the machinery and

equipment described in Subsection (1)(a)(i) are integral to the composting or recycling process:

(A) on a form provided by the commission; and

(B) before a claimant, estate, or trust is allowed a tax credit under this section.

(iii) The Governor's Office of Economic Development shall provide a claimant, estate, or trust seeking to claim a tax credit under this section with a copy of the form described in Subsection (1)(a)(ii).

(iv) The claimant, estate, or trust described in Subsection (1)(a)(iii) shall retain a copy of the form received under Subsection (1)(a)(iii).

(b) There shall be allowed a tax credit equal to 20% of net expenditures up to \$10,000 to third parties for rent, wages, supplies, tools, test inventory, and utilities made by the claimant, estate, or trust for establishing and operating recycling or composting technology in Utah, with an annual maximum tax credit of \$2,000.

(2) The total tax credit allowed under this section may not exceed 40% of the Utah income tax liability of the claimant, estate, or trust prior to any tax credits in the taxable year of purchase prior to claiming the tax credit authorized by this section.

(3) (a) Any tax credit not used for the taxable year in which the purchase price on composting or recycling machinery and equipment was paid may be carried forward against the claimant's, estate's, or trusts's tax liability under this chapter in the three succeeding taxable years until the total tax credit amount is used.

(b) Tax credits not claimed by a claimant, estate, or trust on the claimant's, estate's, or trust's tax return under this chapter within three years are forfeited.

(4) The commission shall make rules governing what information shall be filed with the commission to verify the entitlement to and amount of a tax credit.

(5) (a) Notwithstanding Subsection (1)(a), for taxable years beginning on or after January 1, 2001, a claimant, estate, or trust may not claim or carry forward a tax credit described in Subsection (1)(a) in a taxable year during which the claimant, estate, or trust claims or carries forward a tax credit under Section ~~[63M-1-413]~~ 63N-2-213.

(b) For a taxable year other than a taxable year during which the claimant, estate, or trust may not claim or carry forward a tax credit in accordance with Subsection (5)(a), a claimant, estate, or trust may claim or carry forward a tax credit described in Subsection (1)(a):

(i) if the claimant, estate, or trust may claim or carry forward the tax credit in accordance with Subsections (1) and (2); and

(ii) subject to Subsections (3) and (4).

(6) Notwithstanding Subsection (1)(b), for taxable years beginning on or after January 1, 2001, a claimant, estate, or trust may not claim a tax

credit described in Subsection (1)(b) in a taxable year during which the claimant, estate, or trust claims or carries forward a tax credit under Section ~~[63M-1-413]~~ 63N-2-213.

(7) A claimant, estate, or trust may not claim or carry forward a tax credit available under this section for a taxable year during which the claimant, estate, or trust has claimed the targeted business income tax credit available under Section ~~[63M-1-504]~~ 63N-2-305.

Section 28. Section 59-10-1025 is amended to read:

59-10-1025. Nonrefundable tax credit for investment in certain life science establishments.

(1) As used in this section:

(a) "Commercial domicile" means the principal place from which the trade or business of a Utah small business corporation is directed or managed.

(b) "Eligible claimant, estate, or trust" is as defined in Section ~~[63M-1-2902]~~ 63N-2-802.

(c) "Life science establishment" means an establishment described in one of the following NAICS codes of the 2007 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget:

(i) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;

(ii) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus Manufacturing; or

(iii) NAICS Code 334517, Irradiation Apparatus Manufacturing.

(d) "Office" means the Governor's Office of Economic Development.

(e) "Pass-through entity" is as defined in Section 59-10-1402.

(f) "Pass-through entity taxpayer" is as defined in Section 59-10-1402.

(g) "Qualifying ownership interest" means an ownership interest that is:

(i) (A) common stock;

(B) preferred stock; or

(C) an ownership interest in a pass-through entity;

(ii) originally issued to:

(A) an eligible claimant, estate, or trust; or

(B) a pass-through entity if the eligible claimant, estate, or trust that claims a tax credit under this section was a pass-through entity taxpayer of the pass-through entity on the day on which the qualifying ownership interest was issued and remains a pass-through entity taxpayer of the pass-through entity until the last day of the taxable year for which the eligible claimant, estate, or trust claims a tax credit under this section; and

(iii) issued:

(A) by a Utah small business corporation;

(B) on or after January 1, 2011; and

(C) for money or other property, except for stock or securities.

(h) (i) Except as provided in Subsection (1)(h)(ii), "Utah small business corporation" is as defined in Section 59-10-1022.

(ii) For purposes of this section, a corporation under Section 1244(c)(3)(A), Internal Revenue Code, is considered to include a pass-through entity.

(2) Subject to the other provisions of this section, for a taxable year beginning on or after January 1, 2011, an eligible claimant, estate, or trust that holds a tax credit certificate issued to the eligible claimant, estate, or trust in accordance with Section ~~[63M-1-2908]~~ 63N-2-808 for that taxable year may claim a nonrefundable tax credit in an amount up to 35% of the purchase price of a qualifying ownership interest in a Utah small business corporation by the claimant, estate, or trust if:

(a) the qualifying ownership interest is issued by a Utah small business corporation that is a life science establishment;

(b) the qualifying ownership interest in the Utah small business corporation is purchased for at least \$25,000;

(c) the eligible claimant, estate, or trust owned less than 30% of the qualifying ownership interest of the Utah small business corporation at the time of the purchase of the qualifying ownership interest; and

(d) on each day of the taxable year of the purchase of the qualifying ownership interest, the Utah small business corporation described in Subsection (2)(a) has at least 50% of its employees in the state.

(3) Subject to Subsection (4), the tax credit under Subsection (2):

(a) may only be claimed by the eligible claimant, estate, or trust:

(i) for a taxable year for which the eligible claimant, estate, or trust holds a tax credit certificate issued in accordance with Section ~~[63M-1-2908]~~ 63N-2-808; and

(ii) subject to obtaining a tax credit certificate for each taxable year as required by Subsection (3)(a)(i), for a period of three taxable years as follows:

(A) the tax credit in the taxable year of the purchase of the qualifying ownership interest may not exceed 10% of the purchase price of the qualifying ownership interest;

(B) the tax credit in the taxable year after the taxable year described in Subsection (3)(a)(ii)(A) may not exceed 10% of the purchase price of the qualifying ownership interest; and

(C) the tax credit in the taxable year two years after the taxable year described in Subsection

(3)(a)(ii)(A) may not exceed 15% of the purchase price of the qualifying ownership interest; and

(b) may not exceed the lesser of:

(i) the amount listed on the tax credit certificate issued in accordance with Section ~~[63M-1-2908]~~ 63N-2-808; or

(ii) \$350,000 in a taxable year.

(4) An eligible claimant, estate, or trust may not claim a tax credit under this section for a taxable year if the eligible claimant, estate, or trust:

(a) has sold any of the qualifying ownership interest during the taxable year; or

(b) does not hold a tax credit certificate for that taxable year that is issued to the eligible claimant, estate, or trust by the office in accordance with Section ~~[63M-1-2908]~~ 63N-2-808.

(5) If a Utah small business corporation in which an eligible claimant, estate, or trust purchases a qualifying ownership interest fails, dissolves, or otherwise goes out of business, the eligible claimant, estate, or trust may not claim both the tax credit provided in this section and a capital loss on the qualifying ownership interest.

(6) If an eligible claimant is a pass-through entity taxpayer that files a return under Chapter 7, Corporate Franchise and Income Taxes, the eligible claimant may claim the tax credit under this section on the return filed under Chapter 7, Corporate Franchise and Income Taxes.

(7) A claimant, estate, or trust may not carry forward or carry back a tax credit under this section.

Section 29. Section 59-10-1030 is amended to read:

59-10-1030. Nonrefundable alternative energy manufacturing tax credit.

(1) As used in this section:

(a) "Alternative energy entity" is as defined in Section ~~[63M-1-3102]~~ 63N-2-702.

(b) "Alternative energy manufacturing project" is as defined in Section ~~[63M-1-3102]~~ 63N-2-702.

(c) "Office" means the Governor's Office of Economic Development.

(2) Subject to the other provisions of this section, an alternative energy entity may claim a nonrefundable tax credit for alternative energy manufacturing as provided in this section.

(3) The tax credit under this section is the amount listed as the tax credit amount on a tax credit certificate that the office issues under Title ~~[63M]~~ 63N, Chapter ~~[1]~~ 2, Part ~~[31]~~ 7, Alternative Energy Manufacturing Tax Credit Act, to the alternative energy entity for the taxable year.

(4) An alternative energy entity may carry forward a tax credit under this section for a period that does not exceed the next seven taxable years if:

(a) the alternative energy entity is allowed to claim a tax credit under this section for a taxable year; and

(b) the amount of the tax credit exceeds the alternative energy entity's tax liability under this chapter for that taxable year.

(5) (a) On or before October 1, 2017, and every five years after October 1, 2017, the Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and make recommendations to the Legislative Management Committee concerning whether the tax credit should be continued, modified, or repealed.

(b) For purposes of the study required by this Subsection (5), the office shall provide the following information to the Revenue and Taxation Interim Committee:

(i) the amount of tax credit that the office grants to each alternative energy entity for each taxable year;

(ii) the new state revenues generated by each alternative energy manufacturing project;

(iii) the information contained in the office's latest report to the Legislature under Section ~~[63M-1-3105]~~ 63N-2-705; and

(iv) any other information that the Revenue and Taxation Interim Committee requests.

(c) The Revenue and Taxation Interim Committee shall ensure that its recommendations under Subsection (5)(a) include an evaluation of:

(i) the cost of the tax credit to the state;

(ii) the purpose and effectiveness of the tax credit; and

(iii) the extent to which the state benefits from the tax credit.

Section 30. Section 59-10-1107 is amended to read:

59-10-1107. Refundable economic development tax credit.

(1) As used in this section:

(a) "Business entity" means a claimant, estate, or trust that meets the definition of "business entity" as defined in Section ~~[63M-1-2403]~~ 63N-2-103.

(b) "Office" means the Governor's Office of Economic Development.

(2) Subject to the other provisions of this section, a business entity may claim a refundable tax credit for economic development.

(3) The tax credit under this section is the amount listed as the tax credit amount on the tax credit certificate that the office issues to the business entity for the taxable year.

(4) (a) In accordance with any rules prescribed by the commission under Subsection (4)(b), the commission shall make a refund to a business entity that claims a tax credit under this section if the amount of the tax credit exceeds the business entity's tax liability for a taxable year.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules providing procedures for making a refund to a business entity as required by Subsection (4)(a).

(5) (a) On or before October 1, 2013, and every five years after October 1, 2013, the Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and make recommendations to the Legislative Management Committee concerning whether the tax credit should be continued, modified, or repealed.

(b) For purposes of the study required by this Subsection (5), the office shall provide the following information to the Revenue and Taxation Interim Committee:

(i) the amount of tax credit the office grants to each taxpayer for each calendar year;

(ii) the criteria the office uses in granting a tax credit;

(iii) the new state revenues generated by each taxpayer for each calendar year;

(iv) the information contained in the office's latest report to the Legislature under Section [63M-1-2406] 63N-2-106; and

(v) any other information that the Revenue and Taxation Interim Committee requests.

(c) The Revenue and Taxation Interim Committee shall ensure that its recommendations under Subsection (5)(a) include an evaluation of:

(i) the cost of the tax credit to the state;

(ii) the purpose and effectiveness of the tax credit; and

(iii) the extent to which the state benefits from the tax credit.

Section 31. Section 59-10-1108 is amended to read:

59-10-1108. Refundable motion picture tax credit.

(1) As used in this section:

(a) "Motion picture company" means a claimant, estate, or trust that meets the definition of a motion picture company under Section [63M-1-1802] 63N-8-102.

(b) "Office" means the Governor's Office of Economic Development.

(c) "State-approved production" has the same meaning as defined in Section [63M-1-1802] 63N-8-102.

(2) For taxable years beginning on or after January 1, 2009, a motion picture company may claim a refundable tax credit for a state-approved production.

(3) The tax credit under this section is the amount listed as the tax credit amount on the tax credit

certificate that the office issues to a motion picture company under Section [63M-1-1803] 63N-8-103 for the taxable year.

(4) (a) In accordance with any rules prescribed by the commission under Subsection (4)(b), the commission shall make a refund to a motion picture company that claims a tax credit under this section if the amount of the tax credit exceeds the motion picture company's tax liability for the taxable year.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules providing procedures for making a refund to a motion picture company as required by Subsection (4)(a).

(5) (a) On or before October 1, 2014, and every five years after October 1, 2014, the Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and make recommendations to the Legislative Management Committee concerning whether the tax credit should be continued, modified, or repealed.

(b) For purposes of the study required by this Subsection (5), the office shall provide the following information to the Revenue and Taxation Interim Committee:

(i) the amount of tax credit the office grants to each taxpayer for each calendar year;

(ii) the criteria the office uses in granting a tax credit;

(iii) the dollars left in the state, as defined in Section [63M-1-1802] 63N-8-102, by each motion picture company for each calendar year;

(iv) the information contained in the office's latest report to the Legislature under Section [63M-1-1805] 63N-8-105; and

(v) any other information requested by the Revenue and Taxation Interim Committee.

(c) The Revenue and Taxation Interim Committee shall ensure that its recommendations under Subsection (5)(a) include an evaluation of:

(i) the cost of the tax credit to the state;

(ii) the effectiveness of the tax credit; and

(iii) the extent to which the state benefits from the tax credit.

Section 32. Section 59-10-1109 is amended to read:

59-10-1109. Refundable tax credit for certain business entities generating state tax revenue increases.

(1) As used in this section:

(a) "Eligible business entity" is as defined in Section [63M-1-2902] 63N-2-802.

(b) "Eligible new state tax revenues" is as defined in Section [63M-1-2902] 63N-2-802.

(c) "Office" means the Governor's Office of Economic Development.

(d) "Pass-through entity" is as defined in Section 59-10-1402.

(e) "Pass-through entity taxpayer" is as defined in Section 59-10-1402.

(f) "Qualifying agreement" is as defined in Section 59-7-614.6.

(2) Subject to the other provisions of this section, an eligible business entity may:

(a) claim a refundable tax credit as provided in Subsection (3); or

(b) if the eligible business entity is a pass-through entity, pass through to one or more pass-through entity taxpayers of the pass-through entity, in accordance with Chapter 10, Part 14, Pass-through Entities and Pass-through Entity Taxpayers Act, a refundable tax credit that the eligible business entity could otherwise claim under this section.

(3) (a) Except as provided in Subsection (3)(b), the amount of the tax credit is:

(i) for an eligible business entity, an amount up to the amount listed on the tax credit certificate that the office issues to the eligible business entity for the taxable year in accordance with Section ~~[63M-1-2908]~~ 63N-2-808; or

(ii) for a pass-through entity taxpayer, an amount up to the amount of a tax credit that an eligible business entity passes through to the pass-through entity taxpayer of the pass-through entity in accordance with Subsection (2)(b) or Subsection 59-7-614.6(2)(b).

(b) Subject to Subsection (3)(c), a tax credit under this section may not exceed the amount of eligible new state tax revenues generated by an eligible business entity for the taxable year for which the eligible business entity claims a tax credit under this section.

(c) A tax credit under this section for an eligible business entity that enters into a qualifying agreement may not exceed:

(i) for the taxable year in which the eligible business entity first generates eligible new state tax revenues and the two following years, the amount of eligible new state tax revenues generated by the eligible business entity; and

(ii) for the seven taxable years following the last of the three taxable years described in Subsection (3)(c)(i), 75% of the amount of eligible new state tax revenues generated by the eligible business entity.

(4) An eligible business entity or pass-through entity taxpayer to which an eligible business entity passes through a tax credit in accordance with Subsection (2)(b) or Subsection 59-7-614.6(2)(b) may only claim or pass through a tax credit under this section for a taxable year for which the eligible business entity holds a tax credit certificate issued in accordance with Section ~~[63M-1-2908]~~ 63N-2-808.

(5) An eligible business entity or a pass-through entity taxpayer may not:

(a) carry forward or carry back a tax credit under this section; or

(b) claim a tax credit under both this section and Section 59-7-614.6.

Section 33. Section 59-10-1110 is amended to read:

59-10-1110. Refundable tax credit for certain business entities.

(1) As used in this section:

(a) "Office" means the Governor's Office of Economic Development.

(b) "Pass-through entity" has the same meaning as defined in Section 59-10-1402.

(c) "Pass-through entity taxpayer" has the same meaning as defined in Section 59-10-1402.

(d) "Tax credit certificate" has the same meaning as defined in Section ~~[63M-1-3402]~~ 63N-2-502.

(e) "Tax credit recipient" has the same meaning as defined in Section ~~[63M-1-3402]~~ 63N-2-502.

(2) (a) Subject to the other provisions of this section, a tax credit recipient may claim a refundable tax credit as provided in Subsection (3).

(b) If the tax credit recipient is a pass-through entity, the pass-through entity shall pass through to one or more pass-through entity taxpayers of the pass-through entity, in accordance with Chapter 10, Part 14, Pass-Through Entities and Pass-Through Entity Taxpayers Act, a refundable tax credit that the tax credit recipient could otherwise claim under this section.

(3) The amount of a tax credit is the amount listed as the tax credit amount on the tax credit certificate that the office issues to the tax credit recipient for the taxable year.

(4) A tax credit recipient:

(a) may claim or pass through a tax credit in a taxable year other than the taxable year during which the tax credit recipient has been issued a tax credit certificate; and

(b) may not claim a tax credit under both this section and Section 59-7-616.

(5) (a) In accordance with any rules prescribed by the commission under Subsection (5)(b), the commission shall:

(i) make a refund to a tax credit recipient that claims a tax credit under this section if the amount of the tax credit exceeds the tax credit recipient's tax liability under this chapter; and

(ii) transfer at least annually from the General Fund into the Education Fund an amount equal to the amount of tax credit claimed under this section.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules providing procedures for making:

(i) a refund to a tax credit recipient or pass-through entity taxpayer as required by Subsection (5)(a)(i); or

(ii) transfers from the General Fund into the Education Fund as required by Subsection (5)(a)(ii).

Section 34. Section 59-12-103 is amended to read:

59-12-103. Sales and use tax base -- Rates -- Effective dates -- Use of sales and use tax revenues.

(1) A tax is imposed on the purchaser as provided in this part for amounts paid or charged for the following transactions:

(a) retail sales of tangible personal property made within the state;

(b) amounts paid for:

(i) telecommunications service, other than mobile telecommunications service, that originates and terminates within the boundaries of this state;

(ii) mobile telecommunications service that originates and terminates within the boundaries of one state only to the extent permitted by the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or

(iii) an ancillary service associated with a:

(A) telecommunications service described in Subsection (1)(b)(i); or

(B) mobile telecommunications service described in Subsection (1)(b)(ii);

(c) sales of the following for commercial use:

(i) gas;

(ii) electricity;

(iii) heat;

(iv) coal;

(v) fuel oil; or

(vi) other fuels;

(d) sales of the following for residential use:

(i) gas;

(ii) electricity;

(iii) heat;

(iv) coal;

(v) fuel oil; or

(vi) other fuels;

(e) sales of prepared food;

(f) except as provided in Section 59-12-104, amounts paid or charged as admission or user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature, exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries, fairs, races, contests, sporting events, dances, boxing

matches, wrestling matches, closed circuit television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails, tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises, horseback rides, sports activities, or any other amusement, entertainment, recreation, exhibition, cultural, or athletic activity;

(g) amounts paid or charged for services for repairs or renovations of tangible personal property, unless Section 59-12-104 provides for an exemption from sales and use tax for:

(i) the tangible personal property; and

(ii) parts used in the repairs or renovations of the tangible personal property described in Subsection (1)(g)(i), regardless of whether:

(A) any parts are actually used in the repairs or renovations of that tangible personal property; or

(B) the particular parts used in the repairs or renovations of that tangible personal property are exempt from a tax under this chapter;

(h) except as provided in Subsection 59-12-104(7), amounts paid or charged for assisted cleaning or washing of tangible personal property;

(i) amounts paid or charged for tourist home, hotel, motel, or trailer court accommodations and services that are regularly rented for less than 30 consecutive days;

(j) amounts paid or charged for laundry or dry cleaning services;

(k) amounts paid or charged for leases or rentals of tangible personal property if within this state the tangible personal property is:

(i) stored;

(ii) used; or

(iii) otherwise consumed;

(l) amounts paid or charged for tangible personal property if within this state the tangible personal property is:

(i) stored;

(ii) used; or

(iii) consumed; and

(m) amounts paid or charged for a sale:

(i) (A) of a product transferred electronically; or

(B) of a repair or renovation of a product transferred electronically; and

(ii) regardless of whether the sale provides:

(A) a right of permanent use of the product; or

(B) a right to use the product that is less than a permanent use, including a right:

(I) for a definite or specified length of time; and

(II) that terminates upon the occurrence of a condition.

(2) (a) Except as provided in Subsections (2)(b) through (e), a state tax and a local tax is imposed on a transaction described in Subsection (1) equal to the sum of:

(i) a state tax imposed on the transaction at a tax rate equal to the sum of:

(A) 4.70%; and

(B) (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional State Sales and Use Tax Act; and

(II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the transaction under this chapter other than this part.

(b) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax is imposed on a transaction described in Subsection (1)(d) equal to the sum of:

(i) a state tax imposed on the transaction at a tax rate of 2%; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the transaction under this chapter other than this part.

(c) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax is imposed on amounts paid or charged for food and food ingredients equal to the sum of:

(i) a state tax imposed on the amounts paid or charged for food and food ingredients at a tax rate of 1.75%; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the amounts paid or charged for food and food ingredients under this chapter other than this part.

(d) (i) For a bundled transaction that is attributable to food and food ingredients and tangible personal property other than food and food ingredients, a state tax and a local tax is imposed on the entire bundled transaction equal to the sum of:

(A) a state tax imposed on the entire bundled transaction equal to the sum of:

(I) the tax rate described in Subsection (2)(a)(i)(A); and

(II) (Aa) the tax rate the state imposes in accordance with Part 18, Additional State Sales and Use Tax Act, if the location of the transaction as

determined under Sections 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional State Sales and Use Tax Act; and

(Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

(B) a local tax imposed on the entire bundled transaction at the sum of the tax rates described in Subsection (2)(a)(ii).

(ii) If an optional computer software maintenance contract is a bundled transaction that consists of taxable and nontaxable products that are not separately itemized on an invoice or similar billing document, the purchase of the optional computer software maintenance contract is 40% taxable under this chapter and 60% nontaxable under this chapter.

(iii) Subject to Subsection (2)(d)(iv), for a bundled transaction other than a bundled transaction described in Subsection (2)(d)(i) or (ii):

(A) if the sales price of the bundled transaction is attributable to tangible personal property, a product, or a service that is subject to taxation under this chapter and tangible personal property, a product, or service that is not subject to taxation under this chapter, the entire bundled transaction is subject to taxation under this chapter unless:

(I) the seller is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is not subject to taxation under this chapter from the books and records the seller keeps in the seller's regular course of business; or

(II) state or federal law provides otherwise; or

(B) if the sales price of a bundled transaction is attributable to two or more items of tangible personal property, products, or services that are subject to taxation under this chapter at different rates, the entire bundled transaction is subject to taxation under this chapter at the higher tax rate unless:

(I) the seller is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is subject to taxation under this chapter at the lower tax rate from the books and records the seller keeps in the seller's regular course of business; or

(II) state or federal law provides otherwise.

(iv) For purposes of Subsection (2)(d)(iii), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(e) (i) Except as otherwise provided in this chapter and subject to Subsections (2)(e)(ii) and

(iii), if a transaction consists of the sale, lease, or rental of tangible personal property, a product, or a service that is subject to taxation under this chapter, and the sale, lease, or rental of tangible personal property, other property, a product, or a service that is not subject to taxation under this chapter, the entire transaction is subject to taxation under this chapter unless the seller, at the time of the transaction:

(A) separately states the portion of the transaction that is not subject to taxation under this chapter on an invoice, bill of sale, or similar document provided to the purchaser; or

(B) is able to identify by reasonable and verifiable standards, from the books and records the seller keeps in the seller's regular course of business, the portion of the transaction that is not subject to taxation under this chapter.

(ii) A purchaser and a seller may correct the taxability of a transaction if:

(A) after the transaction occurs, the purchaser and the seller discover that the portion of the transaction that is not subject to taxation under this chapter was not separately stated on an invoice, bill of sale, or similar document provided to the purchaser because of an error or ignorance of the law; and

(B) the seller is able to identify by reasonable and verifiable standards, from the books and records the seller keeps in the seller's regular course of business, the portion of the transaction that is not subject to taxation under this chapter.

(iii) For purposes of Subsections (2)(e)(i) and (ii), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(f) (i) If the sales price of a transaction is attributable to two or more items of tangible personal property, products, or services that are subject to taxation under this chapter at different rates, the entire purchase is subject to taxation under this chapter at the higher tax rate unless the seller, at the time of the transaction:

(A) separately states the items subject to taxation under this chapter at each of the different rates on an invoice, bill of sale, or similar document provided to the purchaser; or

(B) is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is subject to taxation under this chapter at the lower tax rate from the books and records the seller keeps in the seller's regular course of business.

(ii) For purposes of Subsection (2)(f)(i), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(g) Subject to Subsections (2)(h) and (i), a tax rate repeal or tax rate change for a tax rate imposed

under the following shall take effect on the first day of a calendar quarter:

- (i) Subsection (2)(a)(i)(A);
- (ii) Subsection (2)(b)(i);
- (iii) Subsection (2)(c)(i); or
- (iv) Subsection (2)(d)(i)(A)(I).

(h) (i) A tax rate increase takes effect on the first day of the first billing period that begins on or after the effective date of the tax rate increase if the billing period for the transaction begins before the effective date of a tax rate increase imposed under:

- (A) Subsection (2)(a)(i)(A);
- (B) Subsection (2)(b)(i);
- (C) Subsection (2)(c)(i); or
- (D) Subsection (2)(d)(i)(A)(I).

(ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing statement for the billing period is rendered on or after the effective date of the repeal of the tax or the tax rate decrease imposed under:

- (A) Subsection (2)(a)(i)(A);
- (B) Subsection (2)(b)(i);
- (C) Subsection (2)(c)(i); or
- (D) Subsection (2)(d)(i)(A)(I).

(i) (i) For a tax rate described in Subsection (2)(i)(ii), if a tax due on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal or change in a tax rate takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.

(ii) Subsection (2)(i)(i) applies to the tax rates described in the following:

- (A) Subsection (2)(a)(i)(A);
- (B) Subsection (2)(b)(i);
- (C) Subsection (2)(c)(i); or
- (D) Subsection (2)(d)(i)(A)(I).

(iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(3) (a) The following state taxes shall be deposited into the General Fund:

- (i) the tax imposed by Subsection (2)(a)(i)(A);
- (ii) the tax imposed by Subsection (2)(b)(i);
- (iii) the tax imposed by Subsection (2)(c)(i); or
- (iv) the tax imposed by Subsection (2)(d)(i)(A)(I).

(b) The following local taxes shall be distributed to a county, city, or town as provided in this chapter:

- (i) the tax imposed by Subsection (2)(a)(ii);

- (ii) the tax imposed by Subsection (2)(b)(ii);
- (iii) the tax imposed by Subsection (2)(c)(ii); and
- (iv) the tax imposed by Subsection (2)(d)(i)(B).

(4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1, 2003, the lesser of the following amounts shall be expended as provided in Subsections (4)(b) through (g):

(i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

(A) by a 1/16% tax rate on the transactions described in Subsection (1); and

(B) for the fiscal year; or

(ii) \$17,500,000.

(b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount described in Subsection (4)(a) shall be transferred each year as dedicated credits to the Department of Natural Resources to:

(A) implement the measures described in Subsections 79-2-303(3)(a) through (d) to protect sensitive plant and animal species; or

(B) award grants, up to the amount authorized by the Legislature in an appropriations act, to political subdivisions of the state to implement the measures described in Subsections 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.

(ii) Money transferred to the Department of Natural Resources under Subsection (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other person to list or attempt to have listed a species as threatened or endangered under the Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

(iii) At the end of each fiscal year:

(A) 50% of any unexpended dedicated credits shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24;

(B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and

(C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan Program Subaccount created in Section 73-10c-5.

(c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund created in Section 4-18-106.

(d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described in Subsection (4)(a) shall be transferred each year as dedicated credits to the Division of Water Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of water rights.

(ii) At the end of each fiscal year:

(A) 50% of any unexpended dedicated credits shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24;

(B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and

(C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan Program Subaccount created in Section 73-10c-5.

(e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described in Subsection (4)(a) shall be deposited in the Water Resources Conservation and Development Fund created in Section 73-10-24 for use by the Division of Water Resources.

(ii) In addition to the uses allowed of the Water Resources Conservation and Development Fund under Section 73-10-24, the Water Resources Conservation and Development Fund may also be used to:

(A) conduct hydrologic and geotechnical investigations by the Division of Water Resources in a cooperative effort with other state, federal, or local entities, for the purpose of quantifying surface and ground water resources and describing the hydrologic systems of an area in sufficient detail so as to enable local and state resource managers to plan for and accommodate growth in water use without jeopardizing the resource;

(B) fund state required dam safety improvements; and

(C) protect the state's interest in interstate water compact allocations, including the hiring of technical and legal staff.

(f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described in Subsection (4)(a) shall be deposited in the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

(g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described in Subsection (4)(a) shall be deposited in the Drinking Water Loan Program Subaccount created in Section 73-10c-5 for use by the Division of Drinking Water to:

(i) provide for the installation and repair of collection, treatment, storage, and distribution facilities for any public water system, as defined in Section 19-4-102;

(ii) develop underground sources of water, including springs and wells; and

(iii) develop surface water sources.

(5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1, 2006, the difference between the following amounts shall be expended as provided in this Subsection (5), if that difference is greater than \$1:

(i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the fiscal year

by a 1/16% tax rate on the transactions described in Subsection (1); and

(ii) \$17,500,000.

(b) (i) The first \$500,000 of the difference described in Subsection (5)(a) shall be:

(A) transferred each fiscal year to the Department of Natural Resources as dedicated credits; and

(B) expended by the Department of Natural Resources for watershed rehabilitation or restoration.

(ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(c) (i) After making the transfer required by Subsection (5)(b)(i), \$150,000 of the remaining difference described in Subsection (5)(a) shall be:

(A) transferred each fiscal year to the Division of Water Resources as dedicated credits; and

(B) expended by the Division of Water Resources for cloud-seeding projects authorized by Title 73, Chapter 15, Modification of Weather.

(ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(d) After making the transfers required by Subsections (5)(b) and (c), 94% of the remaining difference described in Subsection (5)(a) shall be deposited into the Water Resources Conservation and Development Fund created in Section 73-10-24 for use by the Division of Water Resources for:

(i) preconstruction costs:

(A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter 26, Bear River Development Act; and

(B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

(ii) the cost of employing a civil engineer to oversee any project authorized by Title 73, Chapter 26, Bear River Development Act;

(iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

(iv) other uses authorized under Sections 73-10-24, 73-10-25.1, 73-10-30, and Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

(e) After making the transfers required by Subsections (5)(b) and (c) and subject to Subsection

(5)(f), 6% of the remaining difference described in Subsection (5)(a) shall be transferred each year as dedicated credits to the Division of Water Rights to cover the costs incurred for employing additional technical staff for the administration of water rights.

(f) At the end of each fiscal year, any unexpended dedicated credits described in Subsection (5)(e) over \$150,000 lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(6) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1, 2003, and for taxes listed under Subsection (3)(a), the amount of revenue generated by a 1/16% tax rate on the transactions described in Subsection (1) for the fiscal year shall be deposited in the Transportation Fund created by Section 72-2-102.

(7) Notwithstanding Subsection (3)(a), beginning on July 1, 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005 created in Section 72-2-124 a portion of the taxes listed under Subsection (3)(a) equal to the revenues generated by a 1/64% tax rate on the taxable transactions under Subsection (1).

(8) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited in Subsection (7), and subject to Subsection (8)(b), for a fiscal year beginning on or after July 1, 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124:

(i) a portion of the taxes listed under Subsection (3)(a) in an amount equal to 8.3% of the revenues collected from the following taxes, which represents a portion of the approximately 17% of sales and use tax revenues generated annually by the sales and use tax on vehicles and vehicle-related products:

(A) the tax imposed by Subsection (2)(a)(i)(A);

(B) the tax imposed by Subsection (2)(b)(i);

(C) the tax imposed by Subsection (2)(c)(i); and

(D) the tax imposed by Subsection (2)(d)(i)(A)(I); plus

(ii) an amount equal to 30% of the growth in the amount of revenues collected in the current fiscal year from the sales and use taxes described in Subsections (8)(a)(i)(A) through (D) that exceeds the amount collected from the sales and use taxes described in Subsections (8)(a)(i)(A) through (D) in the 2010-11 fiscal year.

(b) (i) Subject to Subsections (8)(b)(ii) and (iii), in any fiscal year that the portion of the sales and use taxes deposited under Subsection (8)(a) represents an amount that is a total lower percentage of the sales and use taxes described in Subsections (8)(a)(i)(A) through (D) generated in the current fiscal year than the total percentage of sales and use taxes deposited in the previous fiscal year, the Division of Finance shall deposit an amount under Subsection (8)(a) equal to the product of:

(A) the total percentage of sales and use taxes deposited under Subsection (8)(a) in the previous fiscal year; and

(B) the total sales and use tax revenue generated by the taxes described in Subsections (8)(a)(i)(A) through (D) in the current fiscal year.

(ii) In any fiscal year in which the portion of the sales and use taxes deposited under Subsection (8)(a) would exceed 17% of the revenues collected from the sales and use taxes described in Subsections (8)(a)(i)(A) through (D) in the current fiscal year, the Division of Finance shall deposit 17% of the revenues collected from the sales and use taxes described in Subsections (8)(a)(i)(A) through (D) for the current fiscal year under Subsection (8)(a).

(iii) In all subsequent fiscal years after a year in which 17% of the revenues collected from the sales and use taxes described in Subsections (8)(a)(i)(A) through (D) was deposited under Subsection (8)(a), the Division of Finance shall annually deposit 17% of the revenues collected from the sales and use taxes described in Subsections (8)(a)(i)(A) through (D) in the current fiscal year under Subsection (8)(a).

(9) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited under Subsections (7) and (8), for a fiscal year beginning on or after July 1, 2012, the Division of Finance shall annually deposit \$90,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the Transportation Investment Fund of 2005 created by Section 72-2-124.

(10) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year 2009-10, \$533,750 shall be deposited into the Qualified Emergency Food Agencies Fund created by Section 35A-8-1009 and expended as provided in Section 35A-8-1009.

(11) (a) Notwithstanding Subsection (3)(a), except as provided in Subsection (11)(b), and in addition to any amounts deposited under Subsections (7), (8), and (9), beginning on July 1, 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 the amount of tax revenue generated by a .025% tax rate on the transactions described in Subsection (1).

(b) For purposes of Subsection (11)(a), the Division of Finance may not deposit into the Transportation Investment Fund of 2005 any tax revenue generated by amounts paid or charged for food and food ingredients, except for tax revenue generated by a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients described in Subsection (2)(d).

(12) (a) Notwithstanding Subsection (3)(a), and except as provided in Subsection (12)(b), beginning on January 1, 2009, the Division of Finance shall deposit into the Transportation Fund created by Section 72-2-102 the amount of tax revenue generated by a .025% tax rate on the transactions described in Subsection (1) to be expended to address chokepoints in construction management.

(b) For purposes of Subsection (12)(a), the Division of Finance may not deposit into the Transportation Fund any tax revenue generated by amounts paid or charged for food and food ingredients, except for tax revenue generated by a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients described in Subsection (2)(d).

(13) Notwithstanding Subsection (3)(a), beginning the second fiscal year after the fiscal year during which the Division of Finance receives notice under Subsection [63M-1-3410] 63N-2-510(3) that construction on a qualified hotel, as defined in Section [63M-1-3402] 63N-2-502, has begun, the Division of Finance shall, for two consecutive fiscal years, annually deposit \$1,900,000 of the revenue generated by the taxes listed under Subsection (3)(a) into the Hotel Impact Mitigation Fund, created in Section [63M-1-3412] 63N-2-512.

(14) Notwithstanding Subsections (4) through (13), an amount required to be expended or deposited in accordance with Subsections (4) through (13) may not include an amount the Division of Finance deposits in accordance with Section 59-12-103.2.

Section 35. Section 59-12-301 is amended to read:

59-12-301. Transient room tax -- Rate -- Expenditure of revenues -- Enactment or repeal of tax -- Tax rate change -- Effective date -- Notice requirements.

(1) (a) A county legislative body may impose a tax on charges for the accommodations and services described in Subsection 59-12-103(1)(i) at a rate of not to exceed 4.25% beginning on or after October 1, 2006.

(b) Subject to Subsection (2), the revenues raised from the tax imposed under Subsection (1)(a) shall be used for the purposes listed in Section 17-31-2.

(c) The tax imposed under Subsection (1)(a) shall be in addition to the tax imposed under Part 6, Tourism, Recreation, Cultural, Convention, and Airport Facilities Tax.

(2) If a county legislative body of a county of the first class imposes a tax under this section, beginning on July 1, 2007, and ending on June 30, 2027, each year the first 15% of the revenues collected from the tax authorized by Subsection (1)(a) within that county shall be:

(a) deposited into the Transient Room Tax Fund created by Section [63M-1-2203] 63N-3-403; and

(b) expended as provided in Section [63M-1-2203] 63N-3-403.

(3) Subject to Subsection (4), a county legislative body:

(a) may increase or decrease the tax authorized under this part; and

(b) shall regulate the tax authorized under this part by ordinance.

(4) (a) For purposes of this Subsection (4):

(i) "Annexation" means an annexation to a county under Title 17, Chapter 2, County Consolidations and Annexations.

(ii) "Annexing area" means an area that is annexed into a county.

(b) (i) Except as provided in Subsection (4)(c), if, on or after July 1, 2004, a county enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal, or change shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (4)(b)(ii) from the county.

(ii) The notice described in Subsection (4)(b)(i)(B) shall state:

(A) that the county will enact or repeal a tax or change the rate of a tax under this part;

(B) the statutory authority for the tax described in Subsection (4)(b)(ii)(A);

(C) the effective date of the tax described in Subsection (4)(b)(ii)(A); and

(D) if the county enacts the tax or changes the rate of the tax described in Subsection (4)(b)(ii)(A), the rate of the tax.

(c) (i) Notwithstanding Subsection (4)(b)(i), for a transaction described in Subsection (4)(c)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the first billing period:

(A) that begins after the effective date of the enactment of the tax or the tax rate increase; and

(B) if the billing period for the transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under this section.

(ii) Notwithstanding Subsection (4)(b)(i), for a transaction described in Subsection (4)(c)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last billing period:

(A) that began before the effective date of the repeal of the tax or the tax rate decrease; and

(B) if the billing period for the transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under this section.

(iii) Subsections (4)(c)(i) and (ii) apply to transactions subject to a tax under Subsection 59-12-103(1)(i).

(d) (i) Except as provided in Subsection (4)(e), if, for an annexation that occurs on or after July 1, 2004, the annexation will result in the enactment, repeal, or a change in the rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (4)(d)(ii) from the county that annexes the annexing area.

(ii) The notice described in Subsection (4)(d)(i)(B) shall state:

(A) that the annexation described in Subsection (4)(d)(i) will result in an enactment, repeal, or change in the rate of a tax under this part for the annexing area;

(B) the statutory authority for the tax described in Subsection (4)(d)(ii)(A);

(C) the effective date of the tax described in Subsection (4)(d)(ii)(A); and

(D) if the county enacts the tax or changes the rate of the tax described in Subsection (4)(d)(ii)(A), the rate of the tax.

(e) (i) Notwithstanding Subsection (4)(d)(i), for a transaction described in Subsection (4)(e)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the first billing period:

(A) that begins after the effective date of the enactment of the tax or the tax rate increase; and

(B) if the billing period for the transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under this section.

(ii) Notwithstanding Subsection (4)(d)(i), for a transaction described in Subsection (4)(e)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last billing period:

(A) that began before the effective date of the repeal of the tax or the tax rate decrease; and

(B) if the billing period for the transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under this section.

(iii) Subsections (4)(e)(i) and (ii) apply to transactions subject to a tax under Subsection 59-12-103(1)(i).

Section 36. Section 63A-3-402 is amended to read:

63A-3-402. Utah Public Finance Website -- Establishment and administration -- Records disclosure -- Exceptions.

(1) There is created the Utah Public Finance Website to be administered by the Division of Finance with the technical assistance of the Department of Technology Services.

(2) The Utah Public Finance Website shall:

(a) permit Utah taxpayers to:

(i) view, understand, and track the use of taxpayer dollars by making public financial information available on the Internet for participating state entities, independent entities, and participating local entities, using the Utah Public Finance Website; and

(ii) link to websites administered by participating local entities or independent entities that do not use

the Utah Public Finance Website for the purpose of providing participating local entities' or independent entities' public financial information as required by this part and by rule under Section 63A-3-404;

(b) allow a person who has Internet access to use the website without paying a fee;

(c) allow the public to search public financial information on the Utah Public Finance Website using criteria established by the board;

(d) provide access to financial reports, financial audits, budgets, or other financial documents that are used to allocate, appropriate, spend, and account for government funds, as may be established by rule under Section 63A-3-404;

(e) have a unique and simplified website address;

(f) be directly accessible via a link from the main page of the official state website;

(g) include other links, features, or functionality that will assist the public in obtaining and reviewing public financial information, as may be established by rule under Section 63A-3-404; and

(h) include a link to school report cards published on the State Board of Education's website pursuant to Section 53A-1-1112.

(3) The division shall:

(a) establish and maintain the website, including the provision of equipment, resources, and personnel as necessary;

(b) maintain an archive of all information posted to the website;

(c) coordinate and process the receipt and posting of public financial information from participating state entities;

(d) coordinate and regulate the posting of public financial information by participating local entities and independent entities; and

(e) provide staff support for the advisory committee.

(4) (a) A participating state entity and each independent entity shall permit the public to view the entity's public financial information via the website, beginning with information that is generated not later than the fiscal year that begins July 1, 2008, except that public financial information for an:

(i) institution of higher education shall be provided beginning with information generated for the fiscal year beginning July 1, 2009; and

(ii) independent entity shall be provided beginning with information generated for the entity's fiscal year beginning in 2014.

(b) No later than May 15, 2009, the website shall:

(i) be operational; and

(ii) permit public access to participating state entities' public financial information, except as provided in Subsections (4)(c) and (d).

(c) An institution of higher education that is a participating state entity shall submit the entity's public financial information at a time allowing for inclusion on the website no later than May 15, 2010.

(d) No later than the first full quarter after July 1, 2014, an independent entity shall submit the entity's public financial information for inclusion on the Utah Public Finance Website or via a link to its own website on the Utah Public Finance Website.

(5) (a) The Utah Educational Savings Plan, created in Section 53B-8a-103, shall provide the following financial information to the division for posting on the Utah Public Finance Website:

(i) administrative fund expense transactions from its general ledger accounting system; and

(ii) employee compensation information.

(b) The plan is not required to submit other financial information to the division, including:

(i) revenue transactions;

(ii) account owner transactions; and

(iii) fiduciary or commercial information, as defined in Section 53B-12-102.

(6) (a) The following independent entities shall each provide administrative expense transactions from its general ledger accounting system and employee compensation information to the division for posting on the Utah Public Finance Website or via a link to a website administered by the independent entity:

(i) the Utah Capital Investment Corporation, created in Section ~~63M-1-1207~~ 63N-6-301;

(ii) the Utah Housing Corporation, created in Section 35A-8-704; and

(iii) the School and Institutional Trust Lands Administration, created in Section 53C-1-201.

(b) For purposes of this part, an independent entity described in Subsection (6)(a) is not required to submit to the division, or provide a link to, other financial information, including:

(i) revenue transactions of a fund or account created in its enabling statute;

(ii) fiduciary or commercial information related to any subject if the disclosure of the information:

(A) would conflict with fiduciary obligations; or

(B) is prohibited by insider trading provisions;

(iii) information of a commercial nature, including information related to:

(A) account owners, borrowers, and dependents;

(B) demographic data;

(C) contracts and related payments;

(D) negotiations;

- (E) proposals or bids;
 - (F) investments;
 - (G) the investment and management of funds;
 - (H) fees and charges;
 - (I) plan and program design;
 - (J) investment options and underlying investments offered to account owners;
 - (K) marketing and outreach efforts;
 - (L) lending criteria;
 - (M) the structure and terms of bonding; and
 - (N) financial plans or strategies; and
- (iv) information protected from public disclosure by federal law.
- (7) (a) As used in this Subsection (7):
- (i) "Local education agency" means a school district or a charter school.
- (ii) "New school building project" means the construction of a school that did not previously exist in a local education agency.
- (iii) "Significant school remodel" means the upgrading, changing, alteration, refurbishment, modification, or complete substitution of an existing school in a local education agency with a project cost equal to or in excess of \$2,000,000.
- (b) For each new school building project or significant school remodel, the local education agency shall:
- (i) prepare an annual school plant capital outlay report; and
 - (ii) submit the report:
 - (A) to the division for publication on the Utah Public Finance Website; and
 - (B) in a format, including any raw data or electronic formatting, prescribed by applicable division policy.
 - (c) The local education agency shall include in the capital outlay report described in Subsection (7)(b)(i) the following information as applicable to each new school building project or significant school remodel:
 - (i) the name and location of the project or remodel;
 - (ii) construction and design costs, including:
 - (A) the purchase price or lease terms of any real property acquired or leased for the project or remodel;
 - (B) facility construction;
 - (C) facility and landscape design;
 - (D) applicable impact fees; and
 - (E) furnishings and equipment;

- (iii) the gross square footage of the project or remodel;
- (iv) the year construction was completed; and
- (v) the final student capacity of the new school building project or, for a significant school remodel, the increase or decrease in student capacity created by the remodel.

(d) (i) For a cost, fee, or other expense required to be reported under Subsection (7)(c), the local education agency shall report the actual cost, fee, or other expense.

(ii) The division may require that a local education agency provide further itemized data on information listed in Subsection (7)(c).

(e) (i) No later than May 15, 2015, a local education agency shall provide the division a school plant capital outlay report for each new school building project and significant school remodel completed on or after July 1, 2004, and before May 13, 2014.

(ii) For a new school building project or significant school remodel completed after May 13, 2014, the local education agency shall provide the school plant capital outlay report described in this Subsection (7) to the division annually by a date designated by the division.

(8) A person who negligently discloses a record that is classified as private, protected, or controlled by Title 63G, Chapter 2, Government Records Access and Management Act, is not criminally or civilly liable for an improper disclosure of the record if the record is disclosed solely as a result of the preparation or publication of the Utah Public Finance Website.

Section 37. Section 63E-1-102 is amended to read:

63E-1-102. Definitions -- List of independent entities.

As used in this title:

(1) "Authorizing statute" means the statute creating an entity as an independent entity.

(2) "Committee" means the Retirement and Independent Entities Committee created by Section 63E-1-201.

(3) "Independent corporation" means a corporation incorporated in accordance with Chapter 2, Independent Corporations Act.

(4) (a) "Independent entity" means an entity having a public purpose relating to the state or its citizens that is individually created by the state or is given by the state the right to exist and conduct its affairs as an:

- (i) independent state agency; or
- (ii) independent corporation.

(b) "Independent entity" includes the:

(i) Utah Dairy Commission created by Section 4-22-2;

(ii) Heber Valley Historic Railroad Authority created by Section 63H-4-102;

(iii) Utah State Railroad Museum Authority created by Section 63H-5-102;

(iv) Utah Science Center Authority created by Section 63H-3-103;

(v) Utah Housing Corporation created by Section 35A-8-704;

(vi) Utah State Fair Corporation created by Section 63H-6-103;

(vii) Workers' Compensation Fund created by Section 31A-33-102;

(viii) Utah State Retirement Office created by Section 49-11-201;

(ix) School and Institutional Trust Lands Administration created by Section 53C-1-201;

(x) School and Institutional Trust Fund Office created by Section 53D-1-201;

(xi) Utah Communications Authority created in Section 63H-7-201;

(xii) Utah Energy Infrastructure Authority created by Section 63H-2-201;

(xiii) Utah Capital Investment Corporation created by Section ~~63M-1-1207~~ 63N-6-301; and

(xiv) Military Installation Development Authority created by Section 63H-1-201.

(c) Notwithstanding this Subsection (4), "independent entity" does not include:

(i) the Public Service Commission of Utah created by Section 54-1-1;

(ii) an institution within the state system of higher education;

(iii) a city, county, or town;

(iv) a local school district;

(v) a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts; or

(vi) a special service district under Title 17D, Chapter 1, Special Service District Act.

(5) "Independent state agency" means an entity that is created by the state, but is independent of the governor's direct supervisory control.

(6) "Money held in trust" means money maintained for the benefit of:

(a) one or more private individuals, including public employees;

(b) one or more public or private entities; or

(c) the owners of a quasi-public corporation.

(7) "Public corporation" means an artificial person, public in ownership, individually created by the state as a body politic and corporate for the

administration of a public purpose relating to the state or its citizens.

(8) "Quasi-public corporation" means an artificial person, private in ownership, individually created as a corporation by the state which has accepted from the state the grant of a franchise or contract involving the performance of a public purpose relating to the state or its citizens.

Section 38. Section 63F-1-205 is amended to read:

63F-1-205. Approval of acquisitions of information technology.

(1) (a) Except as provided in Title ~~[63M]~~ 63N, Chapter ~~[4]~~ 13, Part ~~[26]~~ 2, Government Procurement Private Proposal Program, in accordance with Subsection (2), the chief information officer shall approve the acquisition by an executive branch agency of:

(i) information technology equipment;

(ii) telecommunications equipment;

(iii) software;

(iv) services related to the items listed in Subsections (1)(a)(i) through (iii); and

(v) data acquisition.

(b) The chief information officer may negotiate the purchase, lease, or rental of private or public information technology or telecommunication services or facilities in accordance with this section.

(c) Where practical, efficient, and economically beneficial, the chief information officer shall use existing private and public information technology or telecommunication resources.

(d) Notwithstanding another provision of this section, an acquisition authorized by this section shall comply with rules made by the applicable rulemaking authority under Title 63G, Chapter 6a, Utah Procurement Code.

(2) Before negotiating a purchase, lease, or rental under Subsection (1) for an amount that exceeds the value established by the chief information officer by rule in accordance with Section 63F-1-206, the chief information officer shall:

(a) conduct an analysis of the needs of executive branch agencies and subscribers of services and the ability of the proposed information technology or telecommunications services or supplies to meet those needs; and

(b) for purchases, leases, or rentals not covered by an existing statewide contract, provide in writing to the chief procurement officer in the Division of Purchasing and General Services that:

(i) the analysis required in Subsection (2)(a) was completed; and

(ii) based on the analysis, the proposed purchase, lease, rental, or master contract of services, products, or supplies is practical, efficient, and economically beneficial to the state and the executive branch agency or subscriber of services.

(3) In approving an acquisition described in Subsections (1) and (2), the chief information officer shall:

(a) establish by administrative rule, in accordance with Section 63F-1-206, standards under which an agency must obtain approval from the chief information officer before acquiring the items listed in Subsections (1) and (2);

(b) for those acquisitions requiring approval, determine whether the acquisition is in compliance with:

(i) the executive branch strategic plan;

(ii) the applicable agency information technology plan;

(iii) the budget for the executive branch agency or department as adopted by the Legislature; and

(iv) Title 63G, Chapter 6a, Utah Procurement Code; and

(c) in accordance with Section 63F-1-207, require coordination of acquisitions between two or more executive branch agencies if it is in the best interests of the state.

(4) (a) Each executive branch agency shall provide the chief information officer with complete access to all information technology records, documents, and reports:

(i) at the request of the chief information officer; and

(ii) related to the executive branch agency's acquisition of any item listed in Subsection (1).

(b) Beginning July 1, 2006 and in accordance with administrative rules established by the department under Section 63F-1-206, no new technology projects may be initiated by an executive branch agency or the department unless the technology project is described in a formal project plan and the business case analysis has been approved by the chief information officer and agency head. The project plan and business case analysis required by this Subsection (4) shall be in the form required by the chief information officer, and shall include:

(i) a statement of work to be done and existing work to be modified or displaced;

(ii) total cost of system development and conversion effort, including system analysis and programming costs, establishment of master files, testing, documentation, special equipment cost and all other costs, including overhead;

(iii) savings or added operating costs that will result after conversion;

(iv) other advantages or reasons that justify the work;

(v) source of funding of the work, including ongoing costs;

(vi) consistency with budget submissions and planning components of budgets; and

(vii) whether the work is within the scope of projects or initiatives envisioned when the current fiscal year budget was approved.

(5) (a) The chief information officer and the Division of Purchasing and General Services shall work cooperatively to establish procedures under which the chief information officer shall monitor and approve acquisitions as provided in this section.

(b) The procedures established under this section shall include at least the written certification required by Subsection 63G-6a-303(1)(e).

Section 39. Section 63G-2-305 is amended to read:

63G-2-305. Protected records.

The following records are protected if properly classified by a governmental entity:

(1) trade secrets as defined in Section 13-24-2 if the person submitting the trade secret has provided the governmental entity with the information specified in Section 63G-2-309;

(2) commercial information or nonindividual financial information obtained from a person if:

(a) disclosure of the information could reasonably be expected to result in unfair competitive injury to the person submitting the information or would impair the ability of the governmental entity to obtain necessary information in the future;

(b) the person submitting the information has a greater interest in prohibiting access than the public in obtaining access; and

(c) the person submitting the information has provided the governmental entity with the information specified in Section 63G-2-309;

(3) commercial or financial information acquired or prepared by a governmental entity to the extent that disclosure would lead to financial speculations in currencies, securities, or commodities that will interfere with a planned transaction by the governmental entity or cause substantial financial injury to the governmental entity or state economy;

(4) records, the disclosure of which could cause commercial injury to, or confer a competitive advantage upon a potential or actual competitor of, a commercial project entity as defined in Subsection 11-13-103(4);

(5) test questions and answers to be used in future license, certification, registration, employment, or academic examinations;

(6) records, the disclosure of which would impair governmental procurement proceedings or give an unfair advantage to any person proposing to enter into a contract or agreement with a governmental entity, except, subject to Subsections (1) and (2), that this Subsection (6) does not restrict the right of a person to have access to, after the contract or grant has been awarded and signed by all parties, a bid, proposal, application, or other information submitted to or by a governmental entity in response to:

- (a) an invitation for bids;
- (b) a request for proposals;
- (c) a request for quotes;
- (d) a grant; or
- (e) other similar document;
- (7) information submitted to or by a governmental entity in response to a request for information, except, subject to Subsections (1) and (2), that this Subsection (7) does not restrict the right of a person to have access to the information, after:
- (a) a contract directly relating to the subject of the request for information has been awarded and signed by all parties; or
- (b) (i) a final determination is made not to enter into a contract that relates to the subject of the request for information; and
- (ii) at least two years have passed after the day on which the request for information is issued;
- (8) records that would identify real property or the appraisal or estimated value of real or personal property, including intellectual property, under consideration for public acquisition before any rights to the property are acquired unless:
- (a) public interest in obtaining access to the information is greater than or equal to the governmental entity's need to acquire the property on the best terms possible;
- (b) the information has already been disclosed to persons not employed by or under a duty of confidentiality to the entity;
- (c) in the case of records that would identify property, potential sellers of the described property have already learned of the governmental entity's plans to acquire the property;
- (d) in the case of records that would identify the appraisal or estimated value of property, the potential sellers have already learned of the governmental entity's estimated value of the property; or
- (e) the property under consideration for public acquisition is a single family residence and the governmental entity seeking to acquire the property has initiated negotiations to acquire the property as required under Section 78B-6-505;
- (9) records prepared in contemplation of sale, exchange, lease, rental, or other compensated transaction of real or personal property including intellectual property, which, if disclosed prior to completion of the transaction, would reveal the appraisal or estimated value of the subject property, unless:
- (a) the public interest in access is greater than or equal to the interests in restricting access, including the governmental entity's interest in maximizing the financial benefit of the transaction; or
- (b) when prepared by or on behalf of a governmental entity, appraisals or estimates of the value of the subject property have already been disclosed to persons not employed by or under a duty of confidentiality to the entity;
- (10) records created or maintained for civil, criminal, or administrative enforcement purposes or audit purposes, or for discipline, licensing, certification, or registration purposes, if release of the records:
- (a) reasonably could be expected to interfere with investigations undertaken for enforcement, discipline, licensing, certification, or registration purposes;
- (b) reasonably could be expected to interfere with audits, disciplinary, or enforcement proceedings;
- (c) would create a danger of depriving a person of a right to a fair trial or impartial hearing;
- (d) reasonably could be expected to disclose the identity of a source who is not generally known outside of government and, in the case of a record compiled in the course of an investigation, disclose information furnished by a source not generally known outside of government if disclosure would compromise the source; or
- (e) reasonably could be expected to disclose investigative or audit techniques, procedures, policies, or orders not generally known outside of government if disclosure would interfere with enforcement or audit efforts;
- (11) records the disclosure of which would jeopardize the life or safety of an individual;
- (12) records the disclosure of which would jeopardize the security of governmental property, governmental programs, or governmental recordkeeping systems from damage, theft, or other appropriation or use contrary to law or public policy;
- (13) records that, if disclosed, would jeopardize the security or safety of a correctional facility, or records relating to incarceration, treatment, probation, or parole, that would interfere with the control and supervision of an offender's incarceration, treatment, probation, or parole;
- (14) records that, if disclosed, would reveal recommendations made to the Board of Pardons and Parole by an employee of or contractor for the Department of Corrections, the Board of Pardons and Parole, or the Department of Human Services that are based on the employee's or contractor's supervision, diagnosis, or treatment of any person within the board's jurisdiction;
- (15) records and audit workpapers that identify audit, collection, and operational procedures and methods used by the State Tax Commission, if disclosure would interfere with audits or collections;
- (16) records of a governmental audit agency relating to an ongoing or planned audit until the final audit is released;
- (17) records that are subject to the attorney client privilege;

(18) records prepared for or by an attorney, consultant, surety, indemnitor, insurer, employee, or agent of a governmental entity for, or in anticipation of, litigation or a judicial, quasi-judicial, or administrative proceeding;

(19) (a) (i) personal files of a state legislator, including personal correspondence to or from a member of the Legislature; and

(ii) notwithstanding Subsection (19)(a)(i), correspondence that gives notice of legislative action or policy may not be classified as protected under this section; and

(b) (i) an internal communication that is part of the deliberative process in connection with the preparation of legislation between:

(A) members of a legislative body;

(B) a member of a legislative body and a member of the legislative body's staff; or

(C) members of a legislative body's staff; and

(ii) notwithstanding Subsection (19)(b)(i), a communication that gives notice of legislative action or policy may not be classified as protected under this section;

(20) (a) records in the custody or control of the Office of Legislative Research and General Counsel, that, if disclosed, would reveal a particular legislator's contemplated legislation or contemplated course of action before the legislator has elected to support the legislation or course of action, or made the legislation or course of action public; and

(b) notwithstanding Subsection (20)(a), the form to request legislation submitted to the Office of Legislative Research and General Counsel is a public document unless a legislator asks that the records requesting the legislation be maintained as protected records until such time as the legislator elects to make the legislation or course of action public;

(21) research requests from legislators to the Office of Legislative Research and General Counsel or the Office of the Legislative Fiscal Analyst and research findings prepared in response to these requests;

(22) drafts, unless otherwise classified as public;

(23) records concerning a governmental entity's strategy about:

(a) collective bargaining; or

(b) imminent or pending litigation;

(24) records of investigations of loss occurrences and analyses of loss occurrences that may be covered by the Risk Management Fund, the Employers' Reinsurance Fund, the Uninsured Employers' Fund, or similar divisions in other governmental entities;

(25) records, other than personnel evaluations, that contain a personal recommendation concerning an individual if disclosure would

constitute a clearly unwarranted invasion of personal privacy, or disclosure is not in the public interest;

(26) records that reveal the location of historic, prehistoric, paleontological, or biological resources that if known would jeopardize the security of those resources or of valuable historic, scientific, educational, or cultural information;

(27) records of independent state agencies if the disclosure of the records would conflict with the fiduciary obligations of the agency;

(28) records of an institution within the state system of higher education defined in Section 53B-1-102 regarding tenure evaluations, appointments, applications for admissions, retention decisions, and promotions, which could be properly discussed in a meeting closed in accordance with Title 52, Chapter 4, Open and Public Meetings Act, provided that records of the final decisions about tenure, appointments, retention, promotions, or those students admitted, may not be classified as protected under this section;

(29) records of the governor's office, including budget recommendations, legislative proposals, and policy statements, that if disclosed would reveal the governor's contemplated policies or contemplated courses of action before the governor has implemented or rejected those policies or courses of action or made them public;

(30) records of the Office of the Legislative Fiscal Analyst relating to budget analysis, revenue estimates, and fiscal notes of proposed legislation before issuance of the final recommendations in these areas;

(31) records provided by the United States or by a government entity outside the state that are given to the governmental entity with a requirement that they be managed as protected records if the providing entity certifies that the record would not be subject to public disclosure if retained by it;

(32) transcripts, minutes, or reports of the closed portion of a meeting of a public body except as provided in Section 52-4-206;

(33) records that would reveal the contents of settlement negotiations but not including final settlements or empirical data to the extent that they are not otherwise exempt from disclosure;

(34) memoranda prepared by staff and used in the decision-making process by an administrative law judge, a member of the Board of Pardons and Parole, or a member of any other body charged by law with performing a quasi-judicial function;

(35) records that would reveal negotiations regarding assistance or incentives offered by or requested from a governmental entity for the purpose of encouraging a person to expand or locate a business in Utah, but only if disclosure would result in actual economic harm to the person or place the governmental entity at a competitive disadvantage, but this section may not be used to restrict access to a record evidencing a final contract;

(36) materials to which access must be limited for purposes of securing or maintaining the governmental entity's proprietary protection of intellectual property rights including patents, copyrights, and trade secrets;

(37) the name of a donor or a prospective donor to a governmental entity, including an institution within the state system of higher education defined in Section 53B-1-102, and other information concerning the donation that could reasonably be expected to reveal the identity of the donor, provided that:

(a) the donor requests anonymity in writing;

(b) any terms, conditions, restrictions, or privileges relating to the donation may not be classified protected by the governmental entity under this Subsection (37); and

(c) except for an institution within the state system of higher education defined in Section 53B-1-102, the governmental unit to which the donation is made is primarily engaged in educational, charitable, or artistic endeavors, and has no regulatory or legislative authority over the donor, a member of the donor's immediate family, or any entity owned or controlled by the donor or the donor's immediate family;

(38) accident reports, except as provided in Sections 41-6a-404, 41-12a-202, and 73-18-13;

(39) a notification of workers' compensation insurance coverage described in Section 34A-2-205;

(40) (a) the following records of an institution within the state system of higher education defined in Section 53B-1-102, which have been developed, discovered, disclosed to, or received by or on behalf of faculty, staff, employees, or students of the institution:

(i) unpublished lecture notes;

(ii) unpublished notes, data, and information:

(A) relating to research; and

(B) of:

(I) the institution within the state system of higher education defined in Section 53B-1-102; or

(II) a sponsor of sponsored research;

(iii) unpublished manuscripts;

(iv) creative works in process;

(v) scholarly correspondence; and

(vi) confidential information contained in research proposals;

(b) Subsection (40)(a) may not be construed to prohibit disclosure of public information required pursuant to Subsection 53B-16-302(2)(a) or (b); and

(c) Subsection (40)(a) may not be construed to affect the ownership of a record;

(41) (a) records in the custody or control of the Office of Legislative Auditor General that would reveal the name of a particular legislator who requests a legislative audit prior to the date that audit is completed and made public; and

(b) notwithstanding Subsection (41)(a), a request for a legislative audit submitted to the Office of the Legislative Auditor General is a public document unless the legislator asks that the records in the custody or control of the Office of Legislative Auditor General that would reveal the name of a particular legislator who requests a legislative audit be maintained as protected records until the audit is completed and made public;

(42) records that provide detail as to the location of an explosive, including a map or other document that indicates the location of:

(a) a production facility; or

(b) a magazine;

(43) information:

(a) contained in the statewide database of the Division of Aging and Adult Services created by Section 62A-3-311.1; or

(b) received or maintained in relation to the Identity Theft Reporting Information System (IRIS) established under Section 67-5-22;

(44) information contained in the Management Information System and Licensing Information System described in Title 62A, Chapter 4a, Child and Family Services;

(45) information regarding National Guard operations or activities in support of the National Guard's federal mission;

(46) records provided by any pawn or secondhand business to a law enforcement agency or to the central database in compliance with Title 13, Chapter 32a, Pawnshop and Secondhand Merchandise Transaction Information Act;

(47) information regarding food security, risk, and vulnerability assessments performed by the Department of Agriculture and Food;

(48) except to the extent that the record is exempt from this chapter pursuant to Section 63G-2-106, records related to an emergency plan or program, a copy of which is provided to or prepared or maintained by the Division of Emergency Management, and the disclosure of which would jeopardize:

(a) the safety of the general public; or

(b) the security of:

(i) governmental property;

(ii) governmental programs; or

(iii) the property of a private person who provides the Division of Emergency Management information;

(49) records of the Department of Agriculture and Food that provides for the identification, tracing, or

control of livestock diseases, including any program established under Title 4, Chapter 24, Utah Livestock Brand and Anti-theft Act or Title 4, Chapter 31, Control of Animal Disease;

(50) as provided in Section 26-39-501:

(a) information or records held by the Department of Health related to a complaint regarding a child care program or residential child care which the department is unable to substantiate; and

(b) information or records related to a complaint received by the Department of Health from an anonymous complainant regarding a child care program or residential child care;

(51) unless otherwise classified as public under Section 63G-2-301 and except as provided under Section 41-1a-116, an individual's home address, home telephone number, or personal mobile phone number, if:

(a) the individual is required to provide the information in order to comply with a law, ordinance, rule, or order of a government entity; and

(b) the subject of the record has a reasonable expectation that this information will be kept confidential due to:

(i) the nature of the law, ordinance, rule, or order; and

(ii) the individual complying with the law, ordinance, rule, or order;

(52) the name, home address, work addresses, and telephone numbers of an individual that is engaged in, or that provides goods or services for, medical or scientific research that is:

(a) conducted within the state system of higher education, as defined in Section 53B-1-102; and

(b) conducted using animals;

(53) an initial proposal under Title [63M] 63N, Chapter [4] 13, Part [26] 2, Government Procurement Private Proposal Program, to the extent not made public by rules made under that chapter;

(54) in accordance with Section 78A-12-203, any record of the Judicial Performance Evaluation Commission concerning an individual commissioner's vote on whether or not to recommend that the voters retain a judge;

(55) information collected and a report prepared by the Judicial Performance Evaluation Commission concerning a judge, unless Section 20A-7-702 or Title 78A, Chapter 12, Judicial Performance Evaluation Commission Act, requires disclosure of, or makes public, the information or report;

(56) records contained in the Management Information System created in Section 62A-4a-1003;

(57) records provided or received by the Public Lands Policy Coordinating Office in furtherance of any contract or other agreement made in accordance with Section 63J-4-603;

(58) information requested by and provided to the Utah State 911 Committee under Section 63H-7-303;

(59) in accordance with Section 73-10-33:

(a) a management plan for a water conveyance facility in the possession of the Division of Water Resources or the Board of Water Resources; or

(b) an outline of an emergency response plan in possession of the state or a county or municipality;

(60) the following records in the custody or control of the Office of Inspector General of Medicaid Services, created in Section 63A-13-201:

(a) records that would disclose information relating to allegations of personal misconduct, gross mismanagement, or illegal activity of a person if the information or allegation cannot be corroborated by the Office of Inspector General of Medicaid Services through other documents or evidence, and the records relating to the allegation are not relied upon by the Office of Inspector General of Medicaid Services in preparing a final investigation report or final audit report;

(b) records and audit workpapers to the extent they would disclose the identity of a person who, during the course of an investigation or audit, communicated the existence of any Medicaid fraud, waste, or abuse, or a violation or suspected violation of a law, rule, or regulation adopted under the laws of this state, a political subdivision of the state, or any recognized entity of the United States, if the information was disclosed on the condition that the identity of the person be protected;

(c) before the time that an investigation or audit is completed and the final investigation or final audit report is released, records or drafts circulated to a person who is not an employee or head of a governmental entity for the person's response or information;

(d) records that would disclose an outline or part of any investigation, audit survey plan, or audit program; or

(e) requests for an investigation or audit, if disclosure would risk circumvention of an investigation or audit;

(61) records that reveal methods used by the Office of Inspector General of Medicaid Services, the fraud unit, or the Department of Health, to discover Medicaid fraud, waste, or abuse;

(62) information provided to the Department of Health or the Division of Occupational and Professional Licensing under Subsection 58-68-304(3) or (4);

(63) a record described in Section 63G-12-210; and

(64) captured plate data that is obtained through an automatic license plate reader system used by a

governmental entity as authorized in Section 41-6a-2003.

Section 40. Section 63G-6a-303 is amended to read:

63G-6a-303. Duties and authority of chief procurement officer.

(1) Except as otherwise specifically provided in this chapter, the chief procurement officer serves as the central procurement officer of the state and shall:

(a) adopt office policies governing the internal functions of the division;

(b) procure or supervise each procurement over which the chief procurement officer has authority;

(c) establish and maintain programs for the inspection, testing, and acceptance of each procurement item over which the chief procurement officer has authority;

(d) prepare statistical data concerning each procurement and procurement usage of a state procurement unit;

(e) ensure that:

(i) before approving a procurement not covered by an existing statewide contract for information technology or telecommunications supplies or services, the chief information officer and the agency have stated in writing to the division that the needs analysis required in Section 63F-1-205 was completed, unless the procurement is approved in accordance with Title ~~[63M]~~ 63N, Chapter ~~[4]~~ 13, Part ~~[26]~~ 2, Government Procurement Private Proposal Program; and

(ii) the oversight authority required by Subsection (5)(a) is not delegated outside the division;

(f) provide training to procurement units and to persons who do business with procurement units;

(g) if the chief procurement officer determines that a procurement over which the chief procurement officer has authority is out of compliance with this chapter or board rules:

(i) correct or amend the procurement to bring it into compliance; or

(ii) cancel the procurement, if:

(A) it is not feasible to bring the procurement into compliance; or

(B) the chief procurement officer determines that it is in the best interest of the state to cancel the procurement; and

(h) if the chief procurement officer determines that a contract over which the chief procurement officer has authority is out of compliance with this chapter or board rules, correct or amend the contract to bring it into compliance or cancel the contract:

(i) if the chief procurement officer determines that correcting, amending, or canceling the contract is in the best interest of the state; and

(ii) after consultation with the attorney general's office.

(2) The chief procurement officer may:

(a) correct, amend, or cancel a procurement as provided in Subsection (1)(g) at any stage of the procurement process; and

(b) correct, amend, or cancel a contract as provided in Subsection (1)(h) at any time during the term of the contract.

Section 41. Section 63G-6a-304 is amended to read:

63G-6a-304. Delegation of authority.

(1) In accordance with rules made by the board, the chief procurement officer may delegate authority to designees or to any department, agency, or official.

(2) For a procurement under Title ~~[63M]~~ 63N, Chapter ~~[4]~~ 13, Part ~~[26]~~ 2, Government Procurement Private Proposal Program, any delegation by the chief procurement officer under this section shall be made to the Governor's Office of Economic Development.

Section 42. Section 63G-6a-305 is amended to read:

63G-6a-305. Duty of chief procurement officer in maintaining specifications.

(1) The chief procurement officer may prepare, issue, revise, maintain, and monitor the use of specifications for each procurement over which the chief procurement officer has authority.

(2) The chief procurement officer shall obtain expert advice and assistance from personnel of procurement units in the development of specifications and may delegate in writing to a procurement unit the authority to prepare and utilize its own specifications.

(3) For a procurement under Title ~~[63M]~~ 63N, Chapter ~~[4]~~ 13, Part ~~[26]~~ 2, Government Procurement Private Proposal Program, any delegation by the chief procurement officer under this section shall be made to the Governor's Office of Economic Development.

Section 43. Section 63G-6a-711 is amended to read:

63G-6a-711. Procurement for submitted proposal.

(1) As used in this section:

(a) "Committee" is as defined in Section ~~[63M-1-2602]~~ 63N-13-202.

(b) "Initial proposal" is a proposal submitted by a private entity under Section ~~[63M-1-2605]~~ 63N-13-205.

(2) After receipt by the chief procurement officer of a copy of an initial proposal from the committee in

accordance with Subsection [63M-1-2606] 63N-13-206(5), including any comment, suggestion, or modification to the initial proposal, the chief procurement officer shall initiate a standard procurement process in compliance with this chapter.

(3) The chief procurement officer or designee shall:

(a) review each detailed proposal received in accordance with Title [63M] 63N, Chapter [4] 13, Part [26] 2, Government Procurement Private Proposal Program; and

(b) submit all detailed proposals that meet the guidelines established under Subsection [63M-1-2608] 63N-13-208(1) to the committee for review under Section [63M-1-2609] 63N-13-209.

(4) For purposes of this chapter, the Governor's Office of Economic Development is considered a procurement unit with independent procurement authority for a procurement under Title [63M] 63N, Chapter [4] 13, Part [26] 2, Government Procurement Private Proposal Program.

Section 44. Section 63G-19-101, which is renumbered from Section 63M-1-1001 is renumbered and amended to read:

CHAPTER 19. BIOTECHNOLOGY PROVISIONS

Part 1. Biotechnology Provisions

[63M-1-1001]. 63G-19-101. Title -- Definitions.

(1) This chapter is known as "Biotechnology Provisions."

(2) As used in this part, "biotechnology" is:

[4] (a) the modification of living organisms by recombinant DNA techniques; and

[2] (b) a means to accomplish, through genetic engineering, the same kinds of modifications accomplished through traditional genetic techniques such as crossbreeding.

Section 45. Section 63G-19-102, which is renumbered from Section 63M-1-1002 is renumbered and amended to read:

[63M-1-1002]. 63G-19-102. Confidential information.

(1) A state agency having access under federal law to biotechnology trade secrets and related confidential information shall manage the trade secrets and related confidential records as protected records under Title 63G, Chapter 2, Government Records Access and Management Act.

(2) The records described in this section may be disclosed under the balancing provisions of Title 63G, Chapter 2, Government Records Access and Management Act, when a determination is made that disclosure is essential for the protection of the public's health or environment.

Section 46. Section 63G-19-103, which is renumbered from Section 63M-1-1003 is renumbered and amended to read:

[63M-1-1003]. 63G-19-103. Preemption of local regulation.

(1) A county, city, town, or other political subdivision may not regulate the technological processes relating to the development and use of biotechnologically created materials and organisms.

(2) This preemption does not affect the powers of a county, city, town, or other political subdivision, including the power to regulate land use, business, industry, construction, and public utilities, to protect the public health or environment, or to provide fire protection and other public safety services.

Section 47. Section 63I-1-263 is amended to read:

63I-1-263. Repeal dates, Titles 63A to 63N.

(1) Section 63A-4-204, authorizing the Risk Management Fund to provide coverage to any public school district which chooses to participate, is repealed July 1, 2016.

(2) Subsection 63A-5-104(4)(h) is repealed on July 1, 2024.

(3) Section 63A-5-603, State Facility Energy Efficiency Fund, is repealed July 1, 2016.

(4) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July 1, 2018.

(5) Title 63C, Chapter 14, Federal Funds Commission, is repealed July 1, 2018.

(6) Title 63C, Chapter 15, Prison Relocation Commission, is repealed July 1, 2017.

(7) Subsection 63G-6a-1402(7) authorizing certain transportation agencies to award a contract for a design-build transportation project in certain circumstances, is repealed July 1, 2015.

(8) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1, 2020.

(9) The Resource Development Coordinating Committee, created in Section 63J-4-501, is repealed July 1, 2015.

[45] (10) The Crime Victim Reparations and Assistance Board, created in Section 63M-7-504, is repealed July 1, 2017.

[46] (11) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2017.

[40] (12) Title [63M] 63N, Chapter [4] 2, Part [4] 2, Enterprise Zone Act, is repealed July 1, 2018.

[41] (13) (a) Title [63M] 63N, Chapter [4] 2, Part [41] 4, Recycling Market Development Zone Act, is repealed January 1, 2021.

(b) Subject to Subsection [(41)] (13)(c), Sections 59-7-610 and 59-10-1007 regarding tax credits for certain persons in recycling market development zones, are repealed for taxable years beginning on or after January 1, 2021.

(c) A person may not claim a tax credit under Section 59-7-610 or 59-10-1007:

(i) for the purchase price of machinery or equipment described in Section 59-7-610 or 59-10-1007, if the machinery or equipment is purchased on or after January 1, 2021; or

(ii) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), if the expenditure is made on or after January 1, 2021.

(d) Notwithstanding Subsections ~~[(11)] (13)(b)~~ and (c), a person may carry forward a tax credit in accordance with Section 59-7-610 or 59-10-1007 if:

(i) the person is entitled to a tax credit under Section 59-7-610 or 59-10-1007; and

(ii) (A) for the purchase price of machinery or equipment described in Section 59-7-610 or 59-10-1007, the machinery or equipment is purchased on or before December 31, 2020; or

(B) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), the expenditure is made on or before December 31, 2020.

~~[(12)] (14) Section [63M-1-3412] 63N-2-512 is repealed on July 1, 2021.~~

~~[(13) (a) Section 63M-1-2507, Health Care Compact is repealed on July 1, 2014.]~~

~~[(b) (i) The Legislature shall, before reauthorizing the Health Care Compact:]~~

~~[(A) direct the Health System Reform Task Force to evaluate the issues listed in Subsection (13)(b)(ii), and by January 1, 2013, develop and recommend criteria for the Legislature to use to negotiate the terms of the Health Care Compact; and]~~

~~[(B) prior to July 1, 2014, seek amendments to the Health Care Compact among the member states that the Legislature determines are appropriate after considering the recommendations of the Health System Reform Task Force.]~~

~~[(ii) The Health System Reform Task Force shall evaluate and develop criteria for the Legislature regarding:]~~

~~[(A) the impact of the Supreme Court ruling on the Affordable Care Act;]~~

~~[(B) whether Utah is likely to be required to implement any part of the Affordable Care Act prior to negotiating the compact with the federal government, such as Medicaid expansion in 2014;]~~

~~[(C) whether the compact's current funding formula, based on adjusted 2010 state expenditures, is the best formula for Utah and other state compact members to use for establishing the block grants from the federal government;]~~

~~[(D) whether the compact's calculation of current year inflation adjustment factor, without consideration of the regional medical inflation rate in the current year, is adequate to protect the state~~

~~from increased costs associated with administering a state-based Medicaid and a state-based Medicare program;]~~

~~[(E) whether the state has the flexibility it needs under the compact to implement and fund state based initiatives, or whether the compact requires uniformity across member states that does not benefit Utah;]~~

~~[(F) whether the state has the option under the compact to refuse to take over the federal Medicare program;]~~

~~[(G) whether a state based Medicare program would provide better benefits to the elderly and disabled citizens of the state than a federally run Medicare program;]~~

~~[(H) whether the state has the infrastructure necessary to implement and administer a better state based Medicare program;]~~

~~[(I) whether the compact appropriately delegates policy decisions between the legislative and executive branches of government regarding the development and implementation of the compact with other states and the federal government; and]~~

~~[(J) the impact on public health activities, including communicable disease surveillance and epidemiology.]~~

~~[(14) (15) (a) Title [63M] 63N, Chapter [1] 2, Part [35] 6, Utah Small Business Jobs Act, is repealed January 1, 2021.~~

~~(b) Section 59-9-107 regarding tax credits against premium taxes is repealed for calendar years beginning on or after January 1, 2021.~~

~~(c) Notwithstanding Subsection [(14)] (15)(b), an entity may carry forward a tax credit in accordance with Section 59-9-107 if:~~

~~(i) the person is entitled to a tax credit under Section 59-9-107 on or before December 31, 2020; and~~

~~(ii) the qualified equity investment that is the basis of the tax credit is certified under Section [63M-1-3503] 63N-2-603 on or before December 31, 2023.~~

Section 48. Section 63I-2-263 is amended to read:

63I-2-263. Repeal dates, Title 63A to Title 63N.

~~[(1) Section 63A-1-115 is repealed on July 1, 2014.]~~

~~[(2) (1) Section 63C-9-501.1 is repealed on July 1, 2015.]~~

~~[(3) Subsection 63J-1-218(3) is repealed on December 1, 2013.]~~

~~[(4) Subsection 63J-1-218(4) is repealed on December 1, 2013.]~~

~~[(5) Section 63M-1-207 is repealed on December 1, 2014.]~~

~~[(6) (2) Subsection [63M-1-903] 63N-3-103(1)(d) is repealed on July 1, 2015.]~~

[~~(7) Subsection 63M-1-1406(9) is repealed on January 1, 2015.~~]

Section 49. Section 63I-4a-102 is amended to read:

63I-4a-102. Definitions.

(1) (a) "Activity" means to provide a good or service.

(b) "Activity" includes to:

(i) manufacture a good or service;

(ii) process a good or service;

(iii) sell a good or service;

(iv) offer for sale a good or service;

(v) rent a good or service;

(vi) lease a good or service;

(vii) deliver a good or service;

(viii) distribute a good or service; or

(ix) advertise a good or service.

(2) (a) Except as provided in Subsection (2)(b), "agency" means:

(i) the state; or

(ii) an entity of the state including a department, office, division, authority, commission, or board.

(b) "Agency" does not include:

(i) the Legislature;

(ii) an entity or agency of the Legislature;

(iii) the state auditor;

(iv) the state treasurer;

(v) the Office of the Attorney General;

(vi) the Dairy Commission created in Title 4, Chapter 22, Dairy Promotion Act;

(vii) the Utah Science Center Authority created in Title 63H, Chapter 3, Utah Science Center Authority;

(viii) the Heber Valley Railroad Authority created in Title 63H, Chapter 4, Heber Valley Historic Railroad Authority;

(ix) the Utah State Railroad Museum Authority created in Title 63H, Chapter 5, Utah State Railroad Museum Authority;

(x) the Utah Housing Corporation created in Title 35A, Chapter 8, Part 7, Utah Housing Corporation Act;

(xi) the Utah State Fair Corporation created in Title 63H, Chapter 6, Utah State Fair Corporation Act;

(xii) the Workers' Compensation Fund created in Title 31A, Chapter 33, Workers' Compensation Fund;

(xiii) the Utah State Retirement Office created in Title 49, Chapter 11, Utah State Retirement Systems Administration;

(xiv) a charter school chartered by the State Charter School Board or a board of trustees of a higher education institution under Title 53A, Chapter 1a, Part 5, The Utah Charter Schools Act;

(xv) the Utah Schools for the Deaf and the Blind created in Title 53A, Chapter 25b, Utah Schools for the Deaf and the Blind;

(xvi) an institution of higher education as defined in Section 53B-3-102;

(xvii) the School and Institutional Trust Lands Administration created in Title 53C, Chapter 1, Part 2, School and Institutional Trust Lands Administration;

(xviii) the Utah Communications Authority created in Title 63H, Chapter 7, Utah Communications Authority Act; or

(xix) the Utah Capital Investment Corporation created in Title ~~63M~~ 63N, Chapter ~~4~~ 6, Part ~~12~~ 3, ~~[Utah Venture Capital Enhancement Act]~~ Utah Capital Investment Corporation.

(3) "Agency head" means the chief administrative officer of an agency.

(4) "Board" means the Free Market Protection and Privatization Board created in Section 63I-4a-202.

(5) "Commercial activity" means to engage in an activity that can be obtained in whole or in part from a private enterprise.

(6) "Local entity" means:

(a) a political subdivision of the state, including a:

(i) county;

(ii) city;

(iii) town;

(iv) local school district;

(v) local district; or

(vi) special service district;

(b) an agency of an entity described in this Subsection (6), including a department, office, division, authority, commission, or board; or

(c) an entity created by an interlocal cooperative agreement under Title 11, Chapter 13, Interlocal Cooperation Act, between two or more entities described in this Subsection (6).

(7) "Private enterprise" means a person that engages in an activity for profit.

(8) "Privatize" means that an activity engaged in by an agency is transferred so that a private enterprise engages in the activity, including a transfer by:

(a) contract;

(b) transfer of property; or

(c) another arrangement.

(9) "Special district" means:

(a) a local district, as defined in Section 17B-1-102;

(b) a special service district, as defined in Section 17D-1-102; or

(c) a conservation district, as defined in Section 17D-3-102.

Section 50. Section 63J-1-315 is amended to read:

63J-1-315. Medicaid Growth Reduction and Budget Stabilization Account -- Transfers of Medicaid growth savings -- Base budget adjustments.

(1) As used in this section:

(a) "Department" means the Department of Health created in Section 26-1-4.

(b) "Division" means the Division of Health Care Financing created within the department under Section 26-18-2.1.

(c) "General Fund revenue surplus" means a situation where actual General Fund revenues collected in a completed fiscal year exceed the estimated revenues for the General Fund for that fiscal year that were adopted by the Executive Appropriations Committee of the Legislature.

(d) "Medicaid growth savings" means the Medicaid growth target minus Medicaid program expenditures, if Medicaid program expenditures are less than the Medicaid growth target.

(e) "Medicaid growth target" means Medicaid program expenditures for the previous year multiplied by 1.08.

(f) "Medicaid program" is as defined in Section 26-18-2.

(g) "Medicaid program expenditures" means total state revenue expended for the Medicaid program from the General Fund, including restricted accounts within the General Fund, during a fiscal year.

(h) "Medicaid program expenditures for the previous year" means total state revenue expended for the Medicaid program from the General Fund, including restricted accounts within the General Fund, during the fiscal year immediately preceding a fiscal year for which Medicaid program expenditures are calculated.

(i) "Operating deficit" means that, at the end of the fiscal year, the unassigned fund balance in the General Fund is less than zero.

(j) "State revenue" means revenue other than federal revenue.

(k) "State revenue expended for the Medicaid program" includes money transferred or appropriated to the Medicaid Growth Reduction and Budget Stabilization Account only to the extent

the money is appropriated for the Medicaid program by the Legislature.

(2) There is created within the General Fund a restricted account to be known as the Medicaid Growth Reduction and Budget Stabilization Account.

(3) (a) (i) Except as provided in Subsection (6), if, at the end of a fiscal year, there is a General Fund revenue surplus, the Division of Finance shall transfer an amount equal to Medicaid growth savings from the General Fund to the Medicaid Growth Reduction and Budget Stabilization Account.

(ii) If the amount transferred is reduced to prevent an operating deficit, as provided in Subsection (6), the Legislature shall include, to the extent revenue is available, an amount equal to the reduction as an appropriation from the General Fund to the account in the base budget for the second fiscal year following the fiscal year for which the reduction was made.

(b) If, at the end of a fiscal year, there is not a General Fund revenue surplus, the Legislature shall include, to the extent revenue is available, an amount equal to Medicaid growth savings as an appropriation from the General Fund to the account in the base budget for the second fiscal year following the fiscal year for which the reduction was made.

(c) Subsections (3)(a) and (3)(b) apply only to the fiscal year in which the department implements the proposal developed under Section 26-18-405 to reduce the long-term growth in state expenditures for the Medicaid program, and to each fiscal year after that year.

(4) The Division of Finance shall calculate the amount to be transferred under Subsection (3):

(a) before transferring revenue from the General Fund revenue surplus to:

(i) the General Fund Budget Reserve Account under Section 63J-1-312; and

(ii) the State Disaster Recovery Restricted Account under Section 63J-1-314;

(b) before earmarking revenue from the General Fund revenue surplus to the Industrial Assistance Account under Section ~~63M-1-905~~ 63N-3-106; and

(c) before making any other year-end contingency appropriations, year-end set-asides, or other year-end transfers required by law.

(5) (a) If, at the close of any fiscal year, there appears to be insufficient money to pay additional debt service for any bonded debt authorized by the Legislature, the Division of Finance may hold back from any General Fund revenue surplus money sufficient to pay the additional debt service requirements resulting from issuance of bonded debt that was authorized by the Legislature.

(b) The Division of Finance may not spend the hold back amount for debt service under Subsection

(5)(a) unless and until it is appropriated by the Legislature.

(c) If, after calculating the amount for transfer under Subsection (3), the remaining General Fund revenue surplus is insufficient to cover the hold back for debt service required by Subsection (5)(a), the Division of Finance shall reduce the transfer to the Medicaid Growth Reduction and Budget Stabilization Account by the amount necessary to cover the debt service hold back.

(d) Notwithstanding Subsections (3) and (4), the Division of Finance shall hold back the General Fund balance for debt service authorized by this Subsection (5) before making any transfers to the Medicaid Growth Reduction and Budget Stabilization Account or any other designation or allocation of General Fund revenue surplus.

(6) Notwithstanding Subsections (3) and (4), if, at the end of a fiscal year, the Division of Finance determines that an operating deficit exists and that holding back earmarks to the Industrial Assistance Account under Section ~~[63M-1-905]~~ 63N-3-106, transfers to the State Disaster Recovery Restricted Account under Section 63J-1-314, transfers to the General Fund Budget Reserve Account under Section 63J-1-312, or earmarks and transfers to more than one of those accounts, in that order, does not eliminate the operating deficit, the Division of Finance may reduce the transfer to the Medicaid Growth Reduction and Budget Stabilization Account by the amount necessary to eliminate the operating deficit.

(7) The Legislature may appropriate money from the Medicaid Growth Reduction and Budget Stabilization Account only:

(a) if Medicaid program expenditures for the fiscal year for which the appropriation is made are estimated to be 108% or more of Medicaid program expenditures for the previous year; and

(b) for the Medicaid program.

(8) The Division of Finance shall deposit interest or other earnings derived from investment of Medicaid Growth Reduction and Budget Stabilization Account money into the General Fund.

Section 51. Section 63J-1-602.4 is amended to read:

63J-1-602.4. List of nonlapsing funds and accounts -- Title 61 through Title 63N.

(1) Funds paid to the Division of Real Estate for the cost of a criminal background check for a mortgage loan license, as provided in Section 61-2c-202.

(2) Funds paid to the Division of Real Estate for the cost of a criminal background check for principal broker, associate broker, and sales agent licenses, as provided in Section 61-2f-204.

(3) Certain funds donated to the Department of Human Services, as provided in Section 62A-1-111.

(4) Appropriations from the National Professional Men's Basketball Team Support of Women and Children Issues Restricted Account created in Section 62A-1-202.

(5) Certain funds donated to the Division of Child and Family Services, as provided in Section 62A-4a-110.

(6) Appropriations from the Choose Life Adoption Support Restricted Account created in Section 62A-4a-608.

(7) Appropriations to the Division of Services for People with Disabilities, as provided in Section 62A-5-102.

(8) A portion of the funds appropriated to the Utah Seismic Safety Commission, as provided in Section 63C-6-104.

~~[(40)]~~ (9) Funds appropriated or collected for publishing the Division of Administrative Rules' publications, as provided in Section 63G-3-402.

~~[(11)]~~ (10) The Immigration Act Restricted Account created in Section 63G-12-103.

~~[(12)]~~ (11) Money received by the military installation development authority, as provided in Section 63H-1-504.

~~[(13)]~~ (12) Appropriations to fund the Governor's Office of Economic Development's Enterprise Zone Act, as provided in Title ~~[63M]~~ 63N, Chapter ~~[1]~~ 2, Part ~~[4]~~ 2, Enterprise Zone Act.

~~[(14)]~~ (13) The Motion Picture Incentive Account created in Section ~~[63M-1-1803]~~ 63N-8-103.

~~[(9)]~~ (14) Certain money payable for commission expenses of the Pete Suazo Utah Athletic Commission, as provided under Section ~~[63C-11-301]~~ 63N-10-301.

Section 52. Section 63J-4-603 is amended to read:

63J-4-603. Powers and duties of coordinator and office.

(1) The coordinator and the office shall:

(a) make a report to the Constitutional Defense Council created under Section 63C-4a-202 concerning R.S. 2477 rights and other public lands issues under Title 63C, Chapter 4a, Constitutional and Federalism Defense Act;

(b) provide staff assistance to the Constitutional Defense Council created under Section 63C-4a-202 for meetings of the council;

(c) (i) prepare and submit a constitutional defense plan under Section 63C-4a-403; and

(ii) execute any action assigned in a constitutional defense plan;

(d) under the direction of the state planning coordinator, assist in fulfilling the state planning coordinator's duties outlined in Section 63J-4-401 as those duties relate to the development of public lands policies by:

(i) developing cooperative contracts and agreements between the state, political

subdivisions, and agencies of the federal government for involvement in the development of public lands policies;

(ii) producing research, documents, maps, studies, analysis, or other information that supports the state's participation in the development of public lands policy;

(iii) preparing comments to ensure that the positions of the state and political subdivisions are considered in the development of public lands policy;

(iv) partnering with state agencies and political subdivisions in an effort to:

(A) prepare coordinated public lands policies;

(B) develop consistency reviews and responses to public lands policies;

(C) develop management plans that relate to public lands policies; and

(D) develop and maintain a statewide land use plan that is based on cooperation and in conjunction with political subdivisions; and

(v) providing other information or services related to public lands policies as requested by the state planning coordinator;

(e) facilitate and coordinate the exchange of information, comments, and recommendations on public lands policies between and among:

(i) state agencies;

(ii) political subdivisions;

(iii) the Office of Rural Development created under Section ~~63M-1-1602~~ 63N-4-102;

(iv) the Resource Development Coordinating Committee created under Section 63J-4-501;

(v) School and Institutional Trust Lands Administration created under Section 53C-1-201;

(vi) the committee created under Section 63F-1-508 to award grants to counties to inventory and map R.S. 2477 rights-of-way, associated structures, and other features; and

(vii) the Constitutional Defense Council created under Section 63C-4a-202;

(f) perform the duties established in Title 9, Chapter 8, Part 3, Antiquities, and Title 9, Chapter 8, Part 4, Historic Sites;

(g) consistent with other statutory duties, encourage agencies to responsibly preserve archaeological resources;

(h) maintain information concerning grants made under Subsection (1)(j), if available;

(i) report annually, or more often if necessary or requested, concerning the office's activities and expenditures to:

(i) the Constitutional Defense Council; and

(ii) the Legislature's Natural Resources, Agriculture, and Environment Interim Committee jointly with the Constitutional Defense Council;

(j) make grants of up to 16% of the office's total annual appropriations from the Constitutional Defense Restricted Account to a county or statewide association of counties to be used by the county or association of counties for public lands matters if the coordinator, with the advice of the Constitutional Defense Council, determines that the action provides a state benefit;

(k) provide staff services to the Snake Valley Aquifer Advisory Council created in Section 63C-12-103;

(l) coordinate and direct the Snake Valley Aquifer Research Team created in Section 63C-12-107; and

(m) conduct the public lands transfer study and economic analysis required by Section 63J-4-606.

(2) The coordinator and office shall comply with Subsection 63C-4a-203(8) before submitting a comment to a federal agency, if the governor would be subject to Subsection 63C-4a-203(8) if the governor were submitting the material.

(3) The office may enter into a contract or other agreement with another state agency to provide information and services related to:

(a) the duties authorized by Title 72, Chapter 3, Highway Jurisdiction and Classification Act;

(b) legal actions concerning Title 72, Chapter 3, Highway Jurisdiction and Classification Act, or R.S. 2477 matters; or

(c) any other matter within the office's responsibility.

Section 53. Section 63J-7-102 is amended to read:

63J-7-102. Scope and applicability of chapter.

(1) Except as provided in Subsection (2), and except as otherwise provided by a statute superseding provisions of this chapter by explicit reference to this chapter, the provisions of this chapter apply to each agency and govern each grant received on or after May 5, 2008.

(2) This chapter does not govern:

(a) a grant deposited into a General Fund restricted account;

(b) a grant deposited into a Trust and Agency Fund as defined in Section 51-5-4;

(c) a grant deposited into an Enterprise Fund as defined in Section 51-5-4;

(d) a grant made to the state without a restriction or other designated purpose that is deposited into the General Fund as free revenue;

(e) a grant made to the state that is restricted only to "education" and that is deposited into the Education Fund or Uniform School Fund as free revenue;

- (f) in-kind donations;
- (g) a tax, fees, penalty, fine, surcharge, money judgment, or other money due the state when required by state law or application of state law;
- (h) a contribution made under Title 59, Chapter 10, Part 13, Individual Income Tax Contribution Act;
- (i) a grant received by an agency from another agency or political subdivision;
- (j) a grant to the Dairy Commission created in Title 4, Chapter 22, Dairy Promotion Act;
- (k) a grant to the Utah Science Center Authority created in Title 63H, Chapter 3, Utah Science Center Authority;
- (l) a grant to the Heber Valley Railroad Authority created in Title 63H, Chapter 4, Heber Valley Historic Railroad Authority;
- (m) a grant to the Utah State Railroad Museum Authority created in Title 63H, Chapter 5, Utah State Railroad Museum Authority;
- (n) a grant to the Utah Housing Corporation created in Title 35A, Chapter 8, Part 7, Utah Housing Corporation Act;
- (o) a grant to the Utah State Fair Corporation created in Title 63H, Chapter 6, Utah State Fair Corporation Act;
- (p) a grant to the Workers' Compensation Fund created in Title 31A, Chapter 33, Workers' Compensation Fund;
- (q) a grant to the Utah State Retirement Office created in Title 49, Chapter 11, Utah State Retirement Systems Administration;
- (r) a grant to the School and Institutional Trust Lands Administration created in Title 53C, Chapter 1, Part 2, School and Institutional Trust Lands Administration;
- (s) a grant to the Utah Communications Authority created in Title 63H, Chapter 7, Utah Communications Authority Act;
- (t) a grant to the Medical Education Program created in Section 53B-24-202;
- (u) a grant to the Utah Capital Investment Corporation created in Title ~~[63M]~~ 63N, Chapter ~~[4]~~ 6, Part ~~[12]~~ 3, Utah Venture Capital Enhancement Act Utah Capital Investment Corporation;
- (v) a grant to the Utah Charter School Finance Authority created in Section 53A-20b-103;
- (w) a grant to the State Building Ownership Authority created in Section 63B-1-304;
- (x) a grant to the Utah Comprehensive Health Insurance Pool created in Section 31A-29-104; or

(y) a grant to the Military Installation Development Authority created in Section 63H-1-201.

(3) An agency need not seek legislative review or approval of grants under Part 2, Grant Approval Requirements, if:

- (a) the governor has declared a state of emergency; and
- (b) the grant is donated to the agency to assist victims of the state of emergency under Subsection 53-2a-204(1).

Section 54. Section 63M-2-101 is amended to read:

TITLE 63M. GOVERNOR'S PROGRAMS

**CHAPTER 2. UTAH SCIENCE
TECHNOLOGY AND RESEARCH
GOVERNING AUTHORITY ACT**

63M-2-101. Title.

- (1) This title is known as "Governor's Programs."
- (2) This chapter is known as the "Utah Science Technology and Research Governing Authority Act."

Section 55. Section 63N-1-101, which is renumbered from Section 63M-1-101 is renumbered and amended to read:

**TITLE 63N. GOVERNOR'S OFFICE OF
ECONOMIC DEVELOPMENT**

**CHAPTER 1. GOED GENERAL
PROVISIONS**

Part 1. General Provisions

[63M-1-101]. 63N-1-101. Title.

- (1) This title is known as ~~as~~ ~~the "Governor's Programs."~~ the "Governor's Office of Economic Development."
- (2) This chapter is known as ~~the "Governor's Office of Economic Development."~~ "GOED General Provisions."

Section 56. Section 63N-1-102, which is renumbered from Section 63M-1-102 is renumbered and amended to read:

[63M-1-102]. 63N-1-102. Definitions.

As used in this ~~chapter~~ title:

- (1) "Board" means the Board of Business and Economic Development~~[-]~~ created in Section 63N-1-401.
- (2) "Council" means the Governor's Economic Development Coordinating Council created in Section 63N-1-501.

~~[(2) "Director"]~~ (3) "Executive director" means the executive director of the office.

~~[(3)] (4) "Office" or "GOED" means the Governor's Office of Economic Development.~~

Section 57. Section 63N-1-201, which is renumbered from Section 63M-1-201 is renumbered and amended to read:

Part 2. Creation of GOED

[63M-1-201]. 63N-1-201. Creation of office -- Responsibilities.

(1) There is created the Governor's Office of Economic Development.

(2) The office ~~[shall]~~ is:

(a) ~~[be]~~ responsible for economic development [within] and economic development planning in the state; and

~~[(b) perform economic development planning for the state;]~~

(b) the industrial promotion authority of the state.

(3) The office shall:

~~[(e) (a) administer and coordinate [all] state [or] and federal economic development grant programs [which are, or become available, for economic development];~~

(b) promote and encourage the economic, commercial, financial, industrial, agricultural, and civic welfare of the state;

(c) act to create, develop, attract, and retain business, industry, and commerce in the state;

(d) act to enhance the state's economy;

~~[(d)] (e) administer [any other] programs over which the office is given administrative supervision by the governor;~~

~~[(e) (f) submit an annual written report as described in Section [63M-1-206] 63N-1-301; and~~

~~[(f)] (g) perform [any] other duties as provided by the Legislature.~~

(4) In order to perform its duties under this title, the office may:

(a) enter into a contract or agreement with, or make a grant to, a public or private entity, including a municipality, if the contract or agreement is not in violation of state statute or other applicable law;

(b) except as provided in Subsection (4)(c), receive and expend funds from a public or private source for any lawful purpose that is in the state's best interest; and

~~[(3) The office may]~~ (c) solicit and accept [contributions] a contribution of money, services, [and] or facilities from [any other source,] a public or private donor, but may not use the [money] contribution for publicizing the exclusive interest of the donor.

~~[(4)] (5) Money received under Subsection [(3)] (4)(c) shall be deposited in the General Fund as dedicated credits of the office.~~

~~[(5) (a) The office is recognized as an issuing authority as defined in Subsection 63M-1-3002(7), entitled to issue bonds from the Small Issue Bond Account created in Subsection 63M-1-3006(1)(c) as a part of the state's private activity bond volume cap authorized by the Internal Revenue Code of 1986 and computed under Section 146 of the code.]~~

~~[(b) To promote and encourage the issuance of bonds from the Small Issue Bond Account for manufacturing projects, the office may:]~~

~~[(i) develop campaigns and materials that inform qualified small manufacturing businesses about the existence of the program and the application process;]~~

~~[(ii) assist small businesses in applying for and qualifying for these bonds; or]~~

~~[(iii) develop strategies to lower the cost to small businesses of applying for and qualifying for these bonds, including making arrangements with financial advisors, underwriters, bond counsel, and other professionals involved in the issuance process to provide their services at a reduced rate when the division can provide them with a high volume of applicants or issues.]~~

(6) (a) The office shall obtain the advice of the board before implementing a change to a policy, priority, or objective under which the office operates.

(b) Subsection (6)(a) does not apply to the routine administration by the office of money or services related to the assistance, retention, or recruitment of business, industry, or commerce in the state.

Section 58. Section 63N-1-202, which is renumbered from Section 63M-1-202 is renumbered and amended to read:

[63M-1-202]. 63N-1-202. Executive director of office -- Appointment -- Removal -- Compensation.

(1) The office shall be administered, ~~[directed, controlled,]~~ organized, and managed by [a] an executive director appointed by the governor.

(2) The executive director serves at the pleasure of the governor.

(3) The salary of the executive director shall be established by the governor within the salary range fixed by the Legislature in Title 67, Chapter 22, State Officer Compensation.

Section 59. Section 63N-1-203, which is renumbered from Section 63M-1-203 is renumbered and amended to read:

[63M-1-203]. 63N-1-203. Powers and duties of executive director.

(1) Unless otherwise expressly provided by statute, the executive director may organize the office in any appropriate manner, including the appointment of deputy directors of the office.

(2) The executive director may consolidate personnel and service functions for efficiency and economy in the office.

~~(4)~~ (3) The executive director, with the approval of the governor ~~[, may]~~:

(a) may, by following the procedures and requirements of Title 63J, Chapter 5, Federal Funds Procedures Act, seek federal grants, loans, or participation in federal programs;

(b) may enter into a lawful ~~[contracts or agreements with other states, any]~~ contract or agreement with another state, a chamber of commerce organization, ~~[any]~~ a service club, ~~[and a private entity pursuant to Section 63M-1-2610]~~ or a private entity; and

(c) shall annually prepare and submit to the governor a budget of the office's financial requirements.

~~(2) If any]~~ (4) With the governor's approval, if a federal program requires the expenditure of state funds as a condition ~~[to participation by]~~ for the state ~~[in any]~~ to participate in a fund, property, or service, ~~[with the governor's approval, the director shall expend whatever funds are necessary out of]~~ the executive director may expend necessary funds from money provided by the Legislature for the use of the office.

Section 60. Section 63N-1-204, which is renumbered from Section 63M-1-205 is renumbered and amended to read:

[63M-1-205]. 63N-1-204. Executive director and the Public Service Commission.

(1) The executive director or the executive director's designee shall:

(a) become generally informed of significant rate cases and policy proceedings before the Public Service Commission; and

(b) monitor and study the potential economic development impact of these proceedings ~~[before the Public Service Commission]~~.

(2) In the discretion of the executive director or the executive director's designee, the office may appear in ~~[any]~~ a proceeding before the Public Service Commission to testify, advise, or present argument regarding the economic development impact of ~~[any]~~ a matter that is the subject of the proceeding.

Section 61. Section 63N-1-301, which is renumbered from Section 63M-1-206 is renumbered and amended to read:

Part 3. GOED Annual Report

[63M-1-206]. 63N-1-301. Annual report -- Content -- Format.

(1) The office shall prepare and submit to the governor and the Legislature, by October 1 of each year, an annual written report of the operations, activities, programs, and services of the office, including the divisions, sections, boards, commissions, councils, and committees established

under this ~~[chapter]~~ title, for the preceding fiscal year.

(2) For each operation, activity, program, or service provided by the office, the annual report shall include:

(a) a description of the operation, activity, program, or service;

(b) data selected and used by the office to measure progress, performance, and scope of the operation, activity, program, or service, including summary data;

(c) budget data, including the amount and source of funding, expenses, and allocation of full-time employees for the operation, activity, program, or service;

(d) historical data from previous years for comparison with data reported under Subsections (2)(b) and (c);

(e) goals, challenges, and achievements related to the operation, activity, program, or service;

(f) relevant federal and state statutory references and requirements;

(g) contact information of officials knowledgeable and responsible for each operation, activity, program, or service; and

(h) other information determined by the office that:

(i) may be needed, useful, or of historical significance; or

(ii) promotes accountability and transparency for each operation, activity, program, or service with the public and elected officials.

(3) The annual report shall be designed to provide clear, accurate, and accessible information to the public, the governor, and the Legislature.

(4) The office shall:

(a) submit the annual report in accordance with Section 68-3-14; and

(b) make the annual report, and previous annual reports, accessible to the public by placing a link to the reports on the office's website.

Section 62. Section 63N-1-401, which is renumbered from Section 63M-1-302 is renumbered and amended to read:

Part 4. Board of Business and Economic Development

[63M-1-302]. 63N-1-401. Board of Business and Economic Development -- Membership -- Expenses.

(1) (a) ~~[The board shall consist]~~ There is created within the office the Board of Business and Economic Development, consisting of 15 members appointed by the governor to four-year terms of office with the consent of the Senate.

(b) Notwithstanding the requirements of Subsection (1)(a), the governor shall, at the time of appointment or reappointment, adjust the length of

terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

(c) The members may not serve more than two full consecutive terms except where the governor determines that an additional term is in the best interest of the state.

(2) In appointing members of the committee, the governor shall ensure that:

~~[(2) Not]~~ (a) no more than eight members of the board ~~[may be]~~ are from one political party~~[-]; and~~

~~[(3) The members shall be representative of all areas of the state.]~~

(b) members represent a variety of geographic areas and economic interests of the state.

~~[(4)]~~ (3) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

~~[(5)]~~ (4) Eight members of the board constitute a quorum for conducting board business and exercising board power.

~~[(6)]~~ (5) The governor shall select one ~~[of the board members as its]~~ board member as the board's chair.

~~[(7)]~~ (6) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance ~~[pursuant to]~~ under Sections 63A-3-106 and 63A-3-107.

Section 63. Section 63N-1-402, which is renumbered from Section 63M-1-303 is renumbered and amended to read:

[63M-1-303]. 63N-1-402. Board duties and powers.

(1) The board shall advise and assist the office to:

(a) promote and encourage the economic, commercial, financial, industrial, agricultural, and civic welfare of the state;

~~[(b) do all lawful acts for the development, attraction, and retention of businesses, industries, and commerce within the state;]~~

~~[(e)]~~ (b) promote and encourage the ~~[expansion and retention]~~ development, attraction, expansion, and retention of businesses, industries, and commerce ~~[located]~~ in the state;

~~[(d)]~~ (c) support the efforts of local government and regional nonprofit economic development organizations to encourage expansion or retention of businesses, industries, and commerce ~~[located]~~ in the state;

~~[(e) do other acts not specifically enumerated in this chapter, if the acts are for the betterment of the economy of the state;]~~

~~[(d)]~~ act to enhance the state's economy;

~~[(f)]~~ (e) work in conjunction with companies and individuals located or doing business ~~[within]~~ in the state to secure favorable rates, fares, tolls, charges, and classification for transportation of persons or property by:

(i) railroad;

(ii) motor carrier; or

(iii) other common carriers;

~~[(g)]~~ (f) recommend policies, priorities, and objectives to the office regarding the assistance, retention, or recruitment of business, industries, and commerce in the state;

~~[(h)]~~ (g) recommend how ~~[any money or program administered by the office or its divisions]~~ the office should administer programs for the assistance, retention, or recruitment of businesses, industries, and commerce in the state ~~[shall be administered, so that the money or program is equitably available];~~

(h) help ensure that economic-development programs are available to all areas of the state ~~[unless]~~ in accordance with federal ~~[or]~~ and state law ~~[requires or authorizes the geographic location of a recipient of the money or program to be considered in the distribution of the money or administration of the program];~~ and

(i) maintain ethical and conflict of interest standards consistent with those imposed on a public officer under Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act.

(2) The board may:

(a) in ~~[furtherance of the authority granted under]~~ accordance with Subsection (1)~~[(f)]~~(e), appear as a party litigant on behalf of ~~[individuals or companies]~~ an individual or a company located or doing business ~~[within]~~ in the state in ~~[proceedings]~~ a proceeding before a regulatory ~~[commissions]~~ commission of the state, ~~[other states]~~ another state, or the federal government ~~[having jurisdiction over such matters];~~ and

(b) in consultation with the executive director, make, amend, or repeal rules for the conduct of its business consistent with this part and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 64. Section 63N-1-501, which is renumbered from Section 63M-1-1303 is renumbered and amended to read:

Part 5. Governor's Economic Development Coordinating Council

[63M-1-1303]. 63N-1-501. Governor's Economic Development Coordinating Council -- Membership -- Expenses.

(1) There is created in the office the Governor's Economic Development Coordinating Council, ~~[hereafter referred to in this part as the "council",]~~ consisting of the following 11 members:

(a) the executive director, who shall serve as chair of the council;

- (b) the chair of the board or the chair's designee;
- (c) the chair of the Utah Science Technology and Research Governing Authority created in Section 63M-2-301 or the chair's designee;
- (d) the chair of the ~~Utah Rural Development Council~~ Governor's Rural Partnership Board created in Section 63C-10-102 or the chair's designee;

(e) the chair of the board of directors of the Utah Capital Investment Corporation created in Section 63N-6-301 or the chair's designee;

(f) the chair of the Economic Development Corporation of Utah or its successor organization or the chair's designee;

(g) the chair of the World Trade Center Utah or its successor organization or the chair's designee; and

(h) four members appointed by the governor, with the ~~advice and~~ consent of the Senate, who have expertise in ~~the area of~~ business ~~or~~, economic development, entrepreneurship, or the raising of venture or seed capital for research and business growth.

(2) (a) The four members appointed by the governor may serve for no more than two consecutive two-year terms.

(b) The governor shall appoint a replacement if a vacancy occurs from the membership ~~described~~ appointed under Subsection (1)(h).

(3) Six members of the council constitute a quorum for the purpose of conducting council business and the action of a majority of a quorum constitutes the action of the council.

(4) A member may not receive compensation or benefits for the member's service on the council, but may receive per diem and travel expenses in accordance with:

(a) Sections 63A-3-106 and 63A-3-107; and

(b) rules made by the Division of Finance ~~pursuant to~~ under Sections 63A-3-106 and 63A-3-107.

(5) The office shall provide office space and administrative staff support for the council.

(6) The council, as a governmental entity, has all the rights, privileges, and immunities of a governmental entity of the state and its meetings are subject to Title 52, Chapter 4, Open and Public Meetings Act.

Section 65. Section 63N-1-502, which is renumbered from Section 63M-1-1304 is renumbered and amended to read:

[63M-1-1304]. 63N-1-502. Council powers and duties.

(1) The council shall:

(a) ~~coordinate and advise~~ make recommendations to the governor, the office, and the board on policies and objectives related to

economic development and growth ~~within~~ in the state;

(b) coordinate with state and private entities, including private venture capital and seed capital firms, to avoid duplication of programs and to increase the availability of venture and seed capital for research and for the development and growth of new and existing businesses in the state;

(c) ~~focus on~~ give priority to technologies, industries, and geographical areas of the state in which the state can expand investment and entrepreneurship and stimulate job growth;

(d) ~~coordinate~~ develop ideas and strategies to increase national and international business activities for both the urban and rural areas of the state; and

(e) plan, coordinate, ~~advise,~~ or recommend ~~any other~~ action that would better the state's economy.

(2) The council shall annually report its activities to the office for inclusion in the office's annual written report described in Section ~~63M-1-206~~ 63N-1-301.

Section 66. Section 63N-2-101, which is renumbered from Section 63M-1-2401 is renumbered and amended to read:

CHAPTER 2. TAX CREDIT INCENTIVES FOR ECONOMIC DEVELOPMENT

Part 1. Economic Development Tax Increment Financing

[63M-1-2401]. 63N-2-101. Title.

(1) This ~~part~~ chapter is known as ~~the~~ "Tax Credit Incentives for Economic Development [Incentives Act]."

(2) This part is known as "Economic Development Tax Increment Financing."

Section 67. Section 63N-2-102, which is renumbered from Section 63M-1-2402 is renumbered and amended to read:

[63M-1-2402]. 63N-2-102. Purpose.

(1) The Legislature finds that:

(a) to foster and develop industry in Utah is a public purpose necessary to assure adequate employment for, and the welfare of, Utah's citizens and the growth of the state's economy;

(b) Utah loses prospective high paying jobs, new economic growth, and corresponding incremental new state and local revenues to competing states because of a wide variety of competing economic incentives offered by those states; and

(c) economic development initiatives and interests of state and local economic development officials should be aligned and united in the creation of higher paying jobs that will lift the wage levels of the communities in which those jobs will be created.

(2) This part is enacted to:

(a) foster and develop industry in the state, to provide additional employment opportunities for Utah's citizens, and to improve the state's economy;

~~(a)~~ (b) address the loss of prospective high paying jobs, the loss of new economic growth, and the corresponding loss of incremental new state and local revenues ~~[by providing]~~ to competing states caused by economic incentives offered by those states;

(c) provide tax credits to attract new commercial projects in economic development zones in the state; and

~~(b)~~ (d) provide a cooperative and unified working relationship between state and local economic development efforts.

Section 68. Section 63N-2-103, which is renumbered from Section 63M-1-2403 is renumbered and amended to read:

[63M-1-2403]. 63N-2-103. Definitions.

As used in this part:

(1) "Business entity" means a person that enters into an agreement with the office to initiate a new commercial project in Utah that will qualify the person to receive a tax credit under Section 59-7-614.2 or 59-10-1107.

(2) "Community development and renewal agency" ~~[is]~~ has the same meaning as defined in Section 17C-1-102.

(3) "Development zone" means an economic development zone created under Section ~~[63M-1-2404]~~ 63N-2-104.

(4) "High paying jobs" means:

(a) with respect to a business entity, the annual wages of employment positions in a business entity that compare favorably against the average wage of a community in which the employment positions will exist;

(b) with respect to a county, the annual wages of employment positions in a new commercial project within the county that compare favorably against the average wage of the county in which the employment positions will exist; or

(c) with respect to a city or town, the annual wages of employment positions in a new commercial project within the city or town that compare favorably against the average wages of the city or town in which the employment positions will exist.

(5) "Local government entity" means a county, city, or town that enters into an agreement with the office to have a new commercial project that:

(a) is initiated within the county's, city's, or town's boundaries; and

(b) qualifies the county, city, or town to receive a tax credit under Section 59-7-614.2.

(6) (a) "New commercial project" means an economic development opportunity that involves new or expanded industrial, manufacturing, distribution, or business services in Utah.

(b) "New commercial project" does not include retail business.

(7) (a) "New incremental jobs" means employment positions that are:

~~(a) not shifted from one jurisdiction in the state to another jurisdiction in the state; and]~~

~~(b)~~ (i) with respect to a business entity, created in addition to the baseline count of employment positions that existed within the business entity before the new commercial project;

(ii) with respect to a county, created as a result of a new commercial project with respect to which the county or a community development and renewal agency seeks to claim a tax credit under Section 59-7-614.2; or

(iii) with respect to a city or town, created as a result of a new commercial project with respect to which the city, town, or a community development and renewal agency seeks to claim a tax credit under Section 59-7-614.2.

(b) "New incremental jobs" does not include jobs that are shifted from one jurisdiction in the state to another jurisdiction in the state.

(8) "New state revenues" means:

(a) with respect to a business entity:

(i) incremental new state sales and use tax revenues that a business entity pays under Title 59, Chapter 12, Sales and Use Tax Act, as a result of a new commercial project in a development zone;

(ii) incremental new state tax revenues~~[, if any,]~~ that a business entity pays as a result of a new commercial project in a development zone under:

(A) Title 59, Chapter 7, Corporate Franchise and Income Taxes;

(B) Title 59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and Information;

(C) Title 59, Chapter 10, Part 2, Trusts and Estates;

(D) Title 59, Chapter 10, Part 4, Withholding of Tax; ~~[or]~~ and

(E) a combination of Subsections (8)(a)(ii)(A) through (D);

(iii) incremental new state tax revenues paid as individual income taxes under Title 59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and Information, by employees of a new or expanded industrial, manufacturing, distribution, or business service within a new commercial project as evidenced by payroll records that indicate the amount of employee income taxes withheld and transmitted to the State Tax Commission by the new or expanded industrial, manufacturing, distribution, or business service within the new commercial project; or

(iv) a combination of Subsections (8)(a)(i) through (iii); or

(b) with respect to a local government entity:

(i) incremental new state sales and use tax revenues that are collected under Title 59, Chapter

12, Sales and Use Tax Act, as a result of a new commercial project in a development zone;

(ii) incremental new state tax revenues~~[-, if any,]~~ that are collected as a result of a new commercial project in a development zone under:

(A) Title 59, Chapter 7, Corporate Franchise and Income Taxes;

(B) Title 59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and Information;

(C) Title 59, Chapter 10, Part 2, Trusts and Estates;

(D) Title 59, Chapter 10, Part 4, Withholding of Tax; ~~or~~ and

(E) a combination of Subsections (8)(b)(i)(A) through (D);

(iii) incremental new state tax revenues paid as individual income taxes under Title 59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and Information, by employees of a new or expanded industrial, manufacturing, distribution, or business service within a new commercial project as evidenced by payroll records that indicate the amount of employee income taxes withheld and transmitted to the State Tax Commission by the new or expanded industrial, manufacturing, distribution, or business service within the new commercial project; or

(iv) a combination of Subsections (8)(b)(i) through (iii).

~~[(9) "Office" means the Governor's Office of Economic Development.]~~

~~[(10)]~~ (9) "Significant capital investment" means an amount of at least \$10,000,000 to purchase a capital asset or a fixed asset:

(a) with the primary purpose of the investment to increase a business entity's rate at which it produces goods based on output per unit of labor;

(b) that represents an expansion of existing ~~[Utah]~~ operations in the state; and

(c) that maintains or increases the business entity's existing ~~[Utah]~~ work force in the state.

~~[(11)]~~ (10) "Tax credit" means an economic development tax credit created by Section 59-7-614.2 or 59-10-1107.

~~[(12)]~~ (11) "Tax credit amount" means the amount the office lists as a tax credit on a tax credit certificate for a taxable year.

~~[(13)]~~ (12) "Tax credit certificate" means a certificate issued by the office that:

(a) lists the name of the business entity, local government entity, or community development and renewal agency to which the office authorizes a tax credit;

(b) lists the business entity's, local government entity's, or community development and renewal agency's taxpayer identification number;

(c) lists the amount of tax credit that the office authorizes the business entity, local government entity, or community development and renewal agency for the taxable year; and

(d) may include other information as determined by the office.

Section 69. Section 63N-2-104, which is renumbered from Section 63M-1-2404 is renumbered and amended to read:

[63M-1-2404]. 63N-2-104. Creation of economic development zones -- Tax credits -- Assignment of tax credit.

(1) The office, with advice from the board, may create an economic development zone in the state ~~[that satisfies all of]~~ if the following requirements are satisfied:

(a) the area is zoned commercial, industrial, manufacturing, business park, research park, or other appropriate use in a community-approved master plan;

(b) the request to create a development zone has ~~[been forwarded to the office after]~~ first ~~[being]~~ been approved by an appropriate local government entity; and

(c) local incentives have been ~~[committed]~~ or will be committed to be provided within the area.

(2) (a) By following the procedures and requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office shall make rules establishing the ~~[conditions that]~~ requirements for a business entity or local government entity ~~[shall meet]~~ to qualify for a tax credit for a new commercial project in a development zone under this part.

(b) The office shall ensure that the ~~[conditions]~~ requirements described in Subsection (2)(a) include the following ~~[requirements]~~:

(i) the new commercial project ~~[must be]~~ is within the development zone;

(ii) the new commercial project includes direct investment within the geographic boundaries of the development zone;

(iii) the new commercial project brings new incremental jobs to Utah;

(iv) the new commercial project includes significant capital investment, the creation of high paying jobs, ~~or~~ significant purchases from Utah vendors and providers, or ~~[any]~~ a combination of these ~~[three]~~ economic factors;

(v) the new commercial project generates new state revenues; and

(vi) ~~[(A)]~~ a business entity ~~or~~, a local government entity ~~[qualifying for the tax credit]~~, or a community development and renewal agency to which a local government entity assigns a tax credit under this section, meets the requirements of Section ~~[63M-1-2405; or]~~ 63N-2-105.

~~[(B)]~~ a community development and renewal agency to which a local government entity assigns a

tax credit under this section meets the requirements of Section 63M-1-2405.]

(3) (a) [~~Subject to the other provisions of this Subsection (3), the office, with advice from~~] The office, after consultation with the board, may enter into [~~an~~] a written agreement with a business entity or local government entity authorizing a tax credit to the business entity or local government entity if the business entity or local government entity meets the [~~standards established under Subsection (2)] requirements described in this section.~~

(b) (i) With respect to [~~one~~] a new commercial project, the office may authorize a tax credit to a business entity or a local government entity, but not both.

(ii) In determining whether to authorize a tax credit with respect to [~~one~~] a new commercial project to a business entity or a local government entity, the office shall authorize the tax credit in a manner that the office determines will result in providing the most effective incentive for the new commercial project.

(c) (i) [~~The~~] Except as provided in Subsection (3)(c)(ii), the office may not authorize or commit to authorize a tax credit [~~if that tax credit~~] that exceeds:

(A) 50% of the new state revenues from the new commercial project in any given year; or

(B) 30% of the new state revenues from the new commercial project over the lesser of the life of a new commercial project or 20 years[, whichever is less].

(ii) [~~Notwithstanding Subsection (3)(c)(i), the~~] The office may authorize or commit to authorize a tax credit not exceeding 60% of new state revenues from the new commercial project in any given year, if the eligible business entity:

(A) creates a significant number of high paying jobs; and

(B) makes capital expenditures in the state of at least \$1,000,000,000.

(d) (i) A local government entity may by resolution assign a tax credit that the office authorizes to the local government entity to a community development and renewal agency.

(ii) The local government entity shall provide a copy of the resolution described in Subsection (3)(d)(i) to the office.

(iii) If a local government entity assigns a tax credit to a community development and renewal agency[~~:(A)], the written agreement described in [this section]~~ Subsection (3)(a) shall:

(~~4~~) (A) be among the office, the local government entity, and the community development and renewal agency; [~~and~~]

(~~4~~) (B) establish[~~:(Aa)] the obligations of the local government entity and the community development and renewal agency; and~~

(~~4~~) (C) establish the extent to which any of the local government entity's obligations are transferred to the community development and renewal agency[;].

(iv) If a local government entity assigns a tax credit to a community development and renewal agency:

(~~4~~) (A) the community development and renewal agency shall retain records as described in Subsection (4)(d); and

(~~4~~) (B) a tax credit certificate issued in accordance with Section [~~63M-1-2406~~] 63N-2-106 shall list the community development and renewal agency as the name of the applicant.

(4) [~~Subject to Subsection (3), the~~] The office shall ensure that the written agreement described in Subsection (3):

(a) [~~details~~] specifies the requirements that the business entity or local government entity shall meet to qualify for a tax credit under this part;

(b) specifies the maximum amount of tax credit that the business entity or local government entity may be authorized for a taxable year and over the life of the new commercial project;

(c) establishes the length of time the business entity or local government entity may claim a tax credit;

(d) requires the business entity or local government entity to retain records supporting a claim for a tax credit for at least four years after the business entity or local government entity claims a tax credit under this part; and

(e) requires the business entity or local government entity to submit to audits for verification of the tax credit claimed.

Section 70. Section 63N-2-105, which is renumbered from Section 63M-1-2405 is renumbered and amended to read:

[63M-1-2405]. 63N-2-105. Qualifications for tax credit -- Procedure.

(1) The office shall certify a business entity's or local government entity's eligibility for a tax credit as provided in this [~~section~~] part.

(2) A business entity or local government entity seeking to receive a tax credit as provided in this part shall provide the office with:

(a) an application for a tax credit certificate, including a certification, by an officer of the business entity, of any signature on the application;

(b) (i) for a business entity, documentation of the new state revenues from the business entity's new commercial project that were paid during the preceding calendar year; or

(ii) for a local government entity, documentation of the new state revenues from the new commercial project within the area of the local government entity that were paid during the preceding calendar year;

(c) known or expected detriments to the state or existing businesses in the state;

(d) if a local government entity seeks to assign the tax credit to a community development and renewal agency ~~[in accordance with]~~ as described in Section ~~[63M-1-2404]~~ 63N-2-104, a statement providing the name and taxpayer identification number of the community development and renewal agency to which the local government entity seeks to assign the tax credit;

(e) (i) with respect to a business entity, a document that expressly directs and authorizes the State Tax Commission to disclose to the office the business entity's returns and other information that would otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code~~, to the office~~;

(ii) with respect to a local government entity that seeks to claim the tax credit:

(A) a document that expressly directs and authorizes the State Tax Commission to disclose to the office the local government entity's returns and other information that would otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code~~, to the office~~; and

(B) if the new state revenues collected as a result of a new commercial project are attributable in whole or in part to a new or expanded industrial, manufacturing, distribution, or business service within a new commercial project within the area of the local government entity, a document signed by an authorized representative of the new or expanded industrial, manufacturing, distribution, or business service that:

(I) expressly directs and authorizes the State Tax Commission to disclose to the office the returns of ~~[that]~~ the new or expanded industrial, manufacturing, distribution, or business service and other information that would otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code~~, to the office~~; and

(II) lists the taxpayer identification number of ~~[that]~~ the new or expanded industrial, manufacturing, distribution, or business service; or

(iii) with respect to a local government entity that seeks to assign the tax credit to a community development and renewal agency:

(A) a document signed by the members of the governing body of the community development and renewal agency that expressly directs and authorizes the State Tax Commission to disclose to the office the returns of the community development and renewal agency and other information that would otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code~~, to the office~~; and

(B) if the new state revenues collected as a result of a new commercial project are attributable in whole or in part to a new or expanded industrial, manufacturing, distribution, or business service within a new commercial project within the community development and renewal agency, a

document signed by an authorized representative of the new or expanded industrial, manufacturing, distribution, or business service that:

(I) expressly directs and authorizes the State Tax Commission to disclose to the office the returns of ~~[that]~~ the new or expanded industrial, manufacturing, distribution, or business service and other information that would otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code~~, to the office~~; and

(II) lists the taxpayer identification number of ~~[that]~~ the new or expanded industrial, manufacturing, distribution, or business service; and

(f) for a business entity only, documentation that the business entity has satisfied the performance benchmarks outlined in the written agreement described in Subsection ~~[63M-1-2404(3)(a)]~~ 63N-2-104(3), including:

(i) significant capital investment;

(ii) the creation of high paying jobs;

(iii) significant purchases from Utah vendors and providers; or

(iv) ~~[any combination of Subsections (2)(f)(i), (ii), and (iii)]~~ a combination of these benchmarks.

(3) (a) The office shall submit the documents described in Subsection (2)(e) to the State Tax Commission.

(b) Upon receipt of a document described in Subsection (2)(e), the State Tax Commission shall provide the office with the returns and other information requested by the office that the State Tax Commission is directed or authorized to provide to the office in accordance with Subsection (2)(e).

(4) If, after review of the returns and other information provided by the State Tax Commission, or after review of the ongoing performance of the business entity or local government entity, the office determines that the returns and other information are inadequate to provide a reasonable justification for authorizing or continuing a tax credit, the office shall:

(a) (i) deny the tax credit; or

(ii) terminate the agreement described in Subsection ~~[63M-1-2404(3)(a)]~~ 63N-2-104(3) for failure to meet the performance standards established in the agreement; or

(b) inform the business entity or local government entity that the returns or other information were inadequate and ask the business entity or local government entity to submit new documentation.

(5) If after review of the returns and other information provided by the State Tax Commission, the office determines that the returns and other information provided by the business entity or local government entity provide reasonable justification for authorizing a tax credit, the office shall, based upon the returns and other information:

(a) determine the amount of the tax credit to be granted to the business entity, local government entity, or if the local government entity assigns the tax credit ~~[in accordance with]~~ as described in Section ~~[63M-1-2404]~~ 63N-2-104, to the community development and renewal agency to which the local government entity assigns the tax credit;

(b) issue a tax credit certificate to the business entity, local government entity, or if the local government entity assigns the tax credit ~~[in accordance with]~~ as described in Section ~~[63M-1-2404]~~ 63N-2-104, to the community development and renewal agency to which the local government entity assigns the tax credit; and

(c) provide a duplicate copy of the tax credit certificate to the State Tax Commission.

(6) A business entity, local government entity, or community development and renewal agency may not claim a tax credit unless the business entity, local government entity, or community development and renewal agency has a tax credit certificate issued by the office.

(7) (a) A business entity, local government entity, or community development and renewal agency may claim a tax credit in the amount listed on the tax credit certificate on its tax return.

(b) A business entity, local government entity, or community development and renewal agency that claims a tax credit under this section shall retain the tax credit certificate in accordance with Section 59-7-614.2 or 59-10-1107.

Section 71. Section 63N-2-106, which is renumbered from Section 63M-1-2406 is renumbered and amended to read:

~~[63M-1-2406]. 63N-2-106. Reports -- Posting monthly and annual reports -- Audit and study of tax credits.~~

(1) The office shall include the following information in the annual written report described in Section ~~[63M-1-206]~~ 63N-1-301:

(a) the office's success in attracting new commercial projects to development zones under this part and the corresponding increase in new incremental jobs;

(b) the estimated amount of tax credit commitments made by the office and the period of time over which tax credits will be paid;

(c) the economic impact on the state ~~[related to generating]~~ from new state revenues and ~~[providing]~~ the provision of tax credits under this part;

(d) the estimated costs and economic benefits of the tax credit commitments ~~[that]~~ made by the office ~~[made]~~;

(e) the actual costs and economic benefits of the tax credit commitments ~~[that]~~ made by the office ~~[made]~~; and

(f) tax credit commitments ~~[that]~~ made by the office ~~[made]~~, with the associated calculation.

(2) ~~[The]~~ Each month, the office shall ~~[monthly]~~ post on its website and on a state website:

(a) the new tax credit commitments ~~[that]~~ made by the office ~~[made]~~ during the previous month; and

(b) the estimated costs and economic benefits of those tax credit commitments.

(3) (a) On or before November 1, 2014, and every five years after November 1, 2014, the office shall:

(i) conduct an audit of the tax credits allowed under Section ~~[63M-1-2405]~~ 63N-2-105;

(ii) study the tax credits allowed under Section ~~[63M-1-2405]~~ 63N-2-105; and

(iii) make recommendations concerning whether the tax credits should be continued, modified, or repealed.

(b) ~~[An]~~ The audit ~~[under Subsection (3)(a)(i)]~~ shall include an evaluation of:

(i) the cost of the tax credits;

(ii) the purposes and effectiveness of the tax credits; and

(iii) the extent to which the state benefits from the tax credits.

Section 72. Section 63N-2-107, which is renumbered from Section 63M-1-2407 is renumbered and amended to read:

~~[63M-1-2407]. 63N-2-107. Reports of new state revenues, partial rebates, and tax credits.~~

(1) Before December 1 of each year, the office shall submit a report to the Governor's Office of Management and Budget, the Office of Legislative Fiscal Analyst, and the Division of Finance identifying:

(a) (i) the total estimated amount of new state revenues created from new commercial projects in ~~[the]~~ development zones; and

(ii) the estimated amount of new state revenues from new commercial projects in ~~[the]~~ development zones that will be generated from:

(A) sales tax;

(B) income tax; and

(C) corporate franchise and income tax; and

~~[(b) (i) the total estimated amount of partial rebates as defined in Section 63M-1-2408 that the office projects will be required to be paid in the next fiscal year; and]~~

~~[(ii) the estimated amount of partial rebates as defined in Section 63M-1-2408 that are attributable to:]~~

~~[(A) sales tax;]~~

~~[(B) income tax; and]~~

~~[(C) corporate franchise and income tax; and]~~

(e) (b) the total estimated amount of tax credits that the office projects that business entities, local government entities, or community development and renewal agencies will qualify to claim under this part.

(2) By the first business day of each month, the office shall submit a report to the Governor's Office of Management and Budget, the Office of Legislative Fiscal Analyst, and the Division of Finance identifying:

(a) each new agreement entered into by the office since the last report;

(b) the estimated amount of new state revenues that will be generated under each agreement; and

(c) the estimated maximum amount of tax credits that a business entity, local government entity, or community development and renewal agency could qualify for under each agreement.

Section 73. Section 63N-2-108, which is renumbered from Section 63M-1-2409 is renumbered and amended to read:

[63M-1-2409]. 63N-2-108. Expenditure of amounts received by a local government entity or community development and renewal agency as a tax credit -- Commingling of tax credit amounts with certain other amounts.

(1) Subject to Subsections (2) and (3), a local government entity or community development and renewal agency may expend amounts the local government entity or community development and renewal agency receives as a tax credit under Section 59-7-614.2:

(a) for infrastructure, including real property or personal property, if that infrastructure is related to the new commercial project with respect to which the local government entity or community development and renewal agency claims the tax credit under Section 59-7-614.2; or

(b) for another economic development purpose related to the new commercial project with respect to which the local government entity or community development and renewal agency claims the tax credit under Section 59-7-614.2.

(2) A local government entity may:

(a) commingle amounts the local government entity receives as a tax credit under Section 59-7-614.2 with amounts the local government entity receives under Title [63M] 63N, Chapter [1] 3, Part [9] 1, Industrial Assistance [Fund] Account; and

(b) expend the commingled amounts described in Subsection (2)(a) for a purpose described in Title [63M] 63N, Chapter [1] 3, Part [9] 1, Industrial Assistance [Fund] Account, if that purpose is related to the new commercial project with respect to which the local government entity claims the tax credit under Section 59-7-614.2.

(3) A community development and renewal agency may:

(a) commingle amounts the community development and renewal agency receives as a tax credit under Section 59-7-614.2 with amounts the community development and renewal agency receives under Title 17C, Chapter 1, Part 4, Tax Increment and Sales Tax; and

(b) expend the commingled amounts described in Subsection (3)(a) for a purpose described in Title 17C, Chapter 1, Part 4, Tax Increment and Sales Tax, if that purpose is related to the new commercial project with respect to which the community development and renewal agency claims the tax credit under Section 59-7-614.2.

Section 74. Section 63N-2-201, which is renumbered from Section 63M-1-401 is renumbered and amended to read:

Part 2. Enterprise Zone Act

[63M-1-401]. 63N-2-201. Title.

This part is known as the "Enterprise Zone Act."

Section 75. Section 63N-2-202, which is renumbered from Section 63M-1-402 is renumbered and amended to read:

[63M-1-402]. 63N-2-202. Definitions.

As used in this part:

(1) "Business entity" means an entity, sole proprietorship, or individual:

(a) including a claimant, estate, or trust; and

(b) under which or by whom business is conducted or transacted.

(2) "Claimant" means a resident or nonresident person that has:

(a) Utah taxable income as defined in Section 59-7-101; or

(b) state taxable income under Title 59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and Information.

(3) "County applicant" means the governing authority of a county that meets the requirements for designation as an enterprise zone under Section [63M-1-404] 63N-2-204.

(4) "Estate" means a nonresident estate or a resident estate that has state taxable income under Title 59, Chapter 10, Part 2, Trusts and Estates.

(5) "Municipal applicant" means the governing authority of a city or town that meets the requirements for designation as an enterprise zone under Section [63M-1-404] 63N-2-204.

(6) "New full-time employee position" means a position that has been newly created and then filled by an employee working at least 30 hours per week:

(a) for a period of not less than six consecutive months; and

(b) where the period ends in the tax year for which the credit is claimed.

(7) “Nonrefundable tax credit” or “tax credit” means a tax credit that a business entity may:

(a) claim:

(i) as provided by statute; and

(ii) in an amount that does not exceed the business entity’s tax liability for a taxable year under:

(A) Title 59, Chapter 7, Corporate Franchise and Income Taxes; or

(B) Title 59, Chapter 10, Individual Income Tax Act; and

(b) carry forward or carry back:

(i) if allowed by statute; and

(ii) to the extent that the amount of the tax credit exceeds the business entity’s tax liability for a taxable year under:

(A) Title 59, Chapter 7, Corporate Franchise and Income Taxes; or

(B) Title 59, Chapter 10, Individual Income Tax Act.

(8) “Tax incentives” or “tax benefits” means the nonrefundable tax credits described in Section ~~[63M-1-413]~~ 63N-2-213.

(9) “Trust” means a nonresident trust or a resident trust that has state taxable income under Title 59, Chapter 10, Part 2, Trusts and Estates.

Section 76. Section 63N-2-203, which is renumbered from Section 63M-1-403 is renumbered and amended to read:

[63M-1-403]. 63N-2-203. Powers of the office.

The office shall:

(1) monitor the implementation and operation of this part and conduct a continuing evaluation of the progress made in the enterprise zones;

(2) evaluate an application for designation as an enterprise zone from a county applicant or a municipal applicant and determine if the applicant qualifies for that designation;

(3) provide technical assistance to county applicants and municipal applicants in developing applications for designation as enterprise zones;

(4) assist county applicants and municipal applicants designated as enterprise zones in obtaining assistance from the federal government and agencies of the state;

(5) assist a qualified business entity in obtaining the benefits of an incentive or inducement program authorized by this part; and

(6) as part of the annual written report described in Section ~~[63M-1-206]~~ 63N-2-301, prepare an annual evaluation based, in part, on data provided by the State Tax Commission that evaluates the

effectiveness of the program and any suggestions for legislation.

Section 77. Section 63N-2-204, which is renumbered from Section 63M-1-404 is renumbered and amended to read:

[63M-1-404]. 63N-2-204. Criteria for designation of enterprise zones -- Application.

(1) A county applicant seeking designation as an enterprise zone shall file an application with the office that, in addition to complying with the other requirements of this part:

(a) verifies that the county has a population of not more than 50,000; and

(b) provides clear evidence of the need for development in the county.

(2) A municipal applicant seeking designation as an enterprise zone shall file an application with the office that, in addition to complying with other requirements of this part:

(a) verifies that the municipality has a population that does not exceed 15,000;

(b) verifies that the municipality is within a county that has a population of not more than 50,000; and

(c) provides clear evidence of the need for development in the municipality.

(3) An application filed under Subsection (1) or (2) shall be in a form and in accordance with procedures approved by the office, and shall include the following information:

(a) a plan developed by the county applicant or municipal applicant that identifies local contributions meeting the requirements of Section ~~[63M-1-405]~~ 63N-2-205;

(b) the county applicant or municipal applicant has a development plan that outlines:

(i) the types of investment and development within the zone that the county applicant or municipal applicant expects to take place if the incentives specified in this part are provided;

(ii) the specific investment or development reasonably expected to take place;

(iii) any commitments obtained from businesses;

(iv) the projected number of jobs that will be created and the anticipated wage level of those jobs;

(v) any proposed emphasis on the type of jobs created, including any affirmative action plans; and

(vi) a copy of the county applicant’s or municipal applicant’s economic development plan to demonstrate coordination between the zone and overall county or municipal goals;

(c) the county applicant’s or municipal applicant’s proposed means of assessing the effectiveness of the development plan or other programs within the zone once they have been implemented within the zone;

(d) any additional information required by the office; and

(e) any additional information the county applicant or municipal applicant considers relevant to its designation as an enterprise zone.

Section 78. Section 63N-2-205, which is renumbered from Section 63M-1-405 is renumbered and amended to read:

[63M-1-405]. 63N-2-205. Qualifying local contributions.

(1) An area may be designated as an enterprise zone only if the county applicant or municipal applicant agrees to make a qualifying local contribution.

(2) The qualifying local contribution may vary depending on available resources, and may include such elements as:

- (a) simplified procedures for obtaining permits;
- (b) dedication of available government grants;
- (c) dedication of training funds;
- (d) waiver of business license fees;
- (e) infrastructure improvements;
- (f) private contributions;
- (g) utility rate concessions;
- (h) small business incubator programs; or
- (i) management assistance programs.

Section 79. Section 63N-2-206, which is renumbered from Section 63M-1-406 is renumbered and amended to read:

[63M-1-406]. 63N-2-206. Eligibility review.

(1) The office shall:

(a) review and evaluate the applications submitted under Section [63M-1-404] 63N-2-204; and

(b) determine whether each county applicant or municipal applicant is eligible for designation as an enterprise zone.

(2) (a) The office shall designate enterprise zones.

(b) The office shall consider and evaluate an application using the following criteria:

(i) the pervasiveness of poverty, unemployment, and general distress in the proposed zone;

(ii) the extent of chronic abandonment, deterioration, or reduction in value of commercial, industrial, or residential structures in the proposed zone, and the extent of property tax arrearages in the proposed zone;

(iii) the potential for new investment and economic development in the proposed zone;

(iv) the county applicant's or municipal applicant's proposed use of other state and federal development funds or programs to increase the

probability of new investment and development occurring;

(v) the extent to which the projected development in the zone will provide employment to residents of the county and particularly individuals who are unemployed or who are economically disadvantaged;

(vi) the degree to which the county applicant's or municipal applicant's application promotes innovative solutions to economic development problems and demonstrates local initiative; and

(vii) other relevant factors that the office specifies in its recommendation.

Section 80. Section 63N-2-207, which is renumbered from Section 63M-1-407 is renumbered and amended to read:

[63M-1-407]. 63N-2-207. Quarterly consideration.

The office shall consider designating enterprise zones quarterly.

Section 81. Section 63N-2-208, which is renumbered from Section 63M-1-408 is renumbered and amended to read:

[63M-1-408]. 63N-2-208. Duration of designation.

Each enterprise zone has a duration of five years, at the end of which the county may reapply for the designation.

Section 82. Section 63N-2-209, which is renumbered from Section 63M-1-409 is renumbered and amended to read:

[63M-1-409]. 63N-2-209. Contingent designations.

(1) The office may accept applications for, and may at any time grant, a contingent designation of any county as an enterprise zone for purposes of seeking a designation of the county as a federally designated zone.

(2) This designation does not entitle a business operating in that county to the tax incentives under this part.

Section 83. Section 63N-2-210, which is renumbered from Section 63M-1-410 is renumbered and amended to read:

[63M-1-410]. 63N-2-210. Revocation of designations.

(1) The office may revoke the designation of an enterprise zone, if no businesses utilize the tax incentives during any calendar year.

(2) Prior to that action, the office shall conduct a public hearing to determine reasons for inactivity and explore possible alternative actions.

Section 84. Section 63N-2-211, which is renumbered from Section 63M-1-411 is renumbered and amended to read:

[63M-1-411]. 63N-2-211. Disqualifying transfers.

Except in counties of the first or second class, tax incentives provided by this part are not available to companies that close or permanently curtail operations in another part of the state in connection with a transfer of any part of its business operations to an enterprise zone, if the closure or permanent curtailment is reasonably expected to diminish employment in that part of the state.

Section 85. Section 63N-2-212, which is renumbered from Section 63M-1-412 is renumbered and amended to read:

[63M-1-412]. 63N-2-212. Business entities qualifying for tax incentives.

(1) Except as otherwise provided in Subsection (2), the tax incentives described in this part are available only to a business entity for which at least 51% of the employees employed at facilities of the business entity located in the enterprise zone are individuals who, at the time of employment, reside in:

(a) the county in which the enterprise zone is located; or

(b) an enterprise zone that is immediately adjacent and contiguous to the county in which the enterprise zone is located.

(2) Subsection (1) does not apply to a business entity that has no employees.

Section 86. Section 63N-2-213, which is renumbered from Section 63M-1-413 is renumbered and amended to read:

[63M-1-413]. 63N-2-213. State tax credits.

(1) Subject to the limitations of Subsections (2) through (4), the following nonrefundable tax credits against a tax under Title 59, Chapter 7, Corporate Franchise and Income Taxes, or Title 59, Chapter 10, Individual Income Tax Act, are applicable in an enterprise zone:

(a) a tax credit of \$750 may be claimed by a business entity for each new full-time employee position created within the enterprise zone;

(b) an additional \$500 tax credit may be claimed if the new full-time employee position created within the enterprise zone pays at least 125% of:

(i) the county average monthly nonagricultural payroll wage for the respective industry as determined by the Department of Workforce Services; or

(ii) if the county average monthly nonagricultural payroll wage is not available for the respective industry, the total average monthly nonagricultural payroll wage in the respective county where the enterprise zone is located;

(c) an additional tax credit of \$750 may be claimed if the new full-time employee position created within the enterprise zone is in a business entity that adds value to agricultural commodities through manufacturing or processing;

(d) an additional tax credit of \$200 may be claimed for two consecutive years for each new full-time employee position created within the enterprise zone that is filled by an employee who is insured under an employer-sponsored health insurance program if the employer pays at least 50% of the premium cost for the year for which the credit is claimed;

(e) a tax credit of 50% of the value of a cash contribution to a private nonprofit corporation, except that the credit claimed may not exceed \$100,000:

(i) that is exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code;

(ii) whose primary purpose is community and economic development; and

(iii) that has been accredited by the Governor's Rural Partnership Board;

(f) a tax credit of 25% of the first \$200,000 spent on rehabilitating a building in the enterprise zone that has been vacant for two years or more; and

(g) an annual investment tax credit of 10% of the first \$250,000 in investment, and 5% of the next \$1,000,000 qualifying investment in plant, equipment, or other depreciable property.

(2) (a) Subject to the limitations of Subsection (2)(b), a business entity claiming tax credits under Subsections (1)(a) through (d) may claim the tax credits for up to 30 full-time employee positions per taxable year.

(b) A business entity that received a tax credit for one or more new full-time employee positions under Subsections (1)(a) through (d) in a prior taxable year may claim a tax credit for a new full-time employee position in a subsequent taxable year under Subsections (1)(a) through (d) if:

(i) the business entity has created a new full-time position within the enterprise zone; and

(ii) the total number of full-time employee positions at the business entity at any point during the tax year for which the tax credit is being claimed is greater than the number of full-time employee positions that existed at the business entity at any point during the taxable year immediately preceding the taxable year for which the credit is being claimed.

(c) Construction jobs are not eligible for the tax credits under Subsections (1)(a) through (d).

(3) If the amount of a tax credit under this section exceeds a business entity's tax liability under this chapter for a taxable year, the business entity may carry forward the amount of the tax credit exceeding the liability for a period that does not exceed the next three taxable years.

(4) Tax credits under Subsections (1)(a) through (g) may not be claimed by a business entity primarily engaged in retail trade or by a public utilities business.

(5) A business entity that has no employees:

(a) may not claim tax credits under Subsections (1)(a) through (d); and

(b) may claim tax credits under Subsections (1)(e) through (g).

(6) A business entity may not claim or carry forward a tax credit available under this part for a taxable year during which the business entity has claimed the targeted business income tax credit available under Section 63M-1-504.

Section 87. Section 63N-2-214, which is renumbered from Section 63M-1-414 is renumbered and amended to read:

[63M-1-414]. 63N-2-214. Annual report.

Each county applicant or municipal applicant designated as an enterprise zone shall annually report to the office regarding the economic activity that has occurred in the zone following the designation.

Section 88. Section 63N-2-215, which is renumbered from Section 63M-1-415 is renumbered and amended to read:

[63M-1-415]. 63N-2-215. Indian tribes -- Application.

(1) For purposes of this section:

(a) “Indian reservation” [is] has the same meaning as defined in Section 9-9-210.

(b) “Indian tribe” [is] has the same meaning as defined in Subsection 9-9-402(6).

(c) “Tribal applicant” means the governing authority of a tribe that meets the requirements for designation as an enterprise zone under Subsection (2).

(2) Indian tribes may apply for designation of an area within an Indian reservation as an enterprise zone.

(3) The tribal applicant shall follow the application procedure for a municipal applicant in this part except for the population requirement in Subsections [63M-1-404] 63N-2-204(2)(a) and (b).

Section 89. Section 63N-2-301 is enacted to read:

Part 3. Targeted Business Income Tax Credit in an Enterprise Zone

63N-2-301. Title.

This part is known as “Targeted Business Income Tax Credit in an Enterprise Zone.”

Section 90. Section 63N-2-302, which is renumbered from Section 63M-1-501 is renumbered and amended to read:

[63M-1-501]. 63N-2-302. Definitions.

As used in this part:

(1) “Allocated cap amount” means the total amount of the targeted business income tax credit that a business applicant is allowed to claim for a taxable year that represents a pro rata share of the total amount of \$300,000 for each fiscal year

allowed under Subsection [63M-1-504] 63N-2-305(2).

(2) “Business applicant” means a business that:

(a) is a:

(i) claimant;

(ii) estate; or

(iii) trust; and

(b) meets the criteria established in Section [63M-1-503] 63N-2-304.

(3) (a) Except as provided in Subsection (3)(b), “claimant” means a resident or nonresident person.

(b) “Claimant” does not include an estate or trust.

(4) “Community investment project” means a project that includes one or more of the following criteria in addition to the normal operations of the business applicant:

(a) substantial new employment;

(b) new capital development; or

(c) a combination of both Subsections (4)(a) and (b).

(5) “Community investment project period” means the total number of years that the office determines a business applicant is eligible for a targeted business income tax credit for each community investment project.

(6) “Enterprise zone” means an area within a county or municipality that has been designated as an enterprise zone by the office under Part [4] 2, Enterprise Zone Act.

(7) “Estate” means a nonresident estate or a resident estate.

(8) “Local zone administrator” means a person:

(a) designated by the governing authority of the county or municipal applicant as the local zone administrator in an enterprise zone application; and

(b) approved by the office as the local zone administrator.

(9) “Refundable tax credit” or “tax credit” means a tax credit that a claimant, estate, or trust may claim:

(a) as provided by statute; and

(b) regardless of whether, for the taxable year for which the claimant, estate, or trust claims the tax credit, the claimant, estate, or trust has a tax liability under:

(i) Title 59, Chapter 7, Corporate Franchise and Income Taxes; or

(ii) Title 59, Chapter 10, Individual Income Tax Act.

(10) “Targeted business income tax credit” means a refundable tax credit available under Section [63M-1-504] 63N-2-305.

(11) “Targeted business income tax credit eligibility form” means a document provided

annually to the business applicant by the office that complies with the requirements of Subsection [63M-1-504] 63N-2-305(8).

(12) "Trust" means a nonresident trust or a resident trust.

Section 91. Section 63N-2-303, which is renumbered from Section 63M-1-502 is renumbered and amended to read:

[63M-1-502]. 63N-2-303. Rulemaking authority.

In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and for purposes of this [section] part, the office shall make rules:

- (1) to determine what constitutes:
 - (a) substantial new employment;
 - (b) new capital development; and
 - (c) a project; and

(2) to establish a formula for determining the allocated cap amount for each business applicant.

Section 92. Section 63N-2-304, which is renumbered from Section 63M-1-503 is renumbered and amended to read:

[63M-1-503]. 63N-2-304. Application for targeted business income tax credit.

(1) (a) For taxable years beginning on or after January 1, 2002, a business applicant may elect to claim a targeted business income tax credit available under Section [63M-1-504] 63N-2-305 if the business applicant:

- (i) is located in:
 - (A) an enterprise zone; and
 - (B) a county with:
 - (I) a population of less than 25,000; and

(II) an unemployment rate that for six months or more of each calendar year is at least one percentage point higher than the state average;

(ii) meets the requirements of Section [63M-1-412] 63N-2-212;

(iii) provides:

(A) a community investment project within the enterprise zone; and

(B) a portion of the community investment project during each taxable year for which the business applicant claims the targeted business tax incentive; and

(iv) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, is not engaged in the following, as defined by the State Tax Commission by rule:

- (A) construction;
- (B) retail trade; or
- (C) public utility activities.

(b) For a taxable year for which a business applicant claims a targeted business income tax credit available under this part, the business applicant may not claim or carry forward a tax credit available under Section 59-7-610, 59-10-1007, or [63M-1-413] 63N-2-213.

(2) (a) A business applicant seeking to claim a targeted business income tax credit under this part shall file an application as provided in Subsection (2)(b) with the local zone administrator by no later than June 1 of the year in which the business applicant is seeking to claim a targeted business income tax credit.

(b) The application described in Subsection (2)(a) shall include:

(i) any documentation required by the local zone administrator to demonstrate that the business applicant meets the requirements of Subsection (1);

(ii) a plan developed by the business applicant that outlines:

(A) if the community investment project includes substantial new employment, the projected number and anticipated wage level of the jobs that the business applicant plans to create as the basis for qualifying for a targeted business income tax credit;

(B) if the community investment project includes new capital development, a description of the capital development the business applicant plans to make as the basis for qualifying for a targeted business income tax credit; and

(C) a description of how the business applicant's plan coordinates with:

(I) the goals of the enterprise zone in which the business applicant is providing a community investment project; and

(II) the overall economic development goals of the county or municipality in which the business applicant is providing a community investment project; and

(iii) any additional information required by the local zone administrator.

(3) (a) The local zone administrator shall:

(i) evaluate an application filed under Subsection (2); and

(ii) determine whether the business applicant is eligible for a targeted business income tax credit.

(b) If the local zone administrator determines that the business applicant is eligible for a targeted business income tax credit, the local zone administrator shall:

(i) certify that the business applicant is eligible for the targeted business income tax credit;

(ii) structure the targeted business income tax credit for the business applicant in accordance with Section [63M-1-504] 63N-2-305; and

(iii) monitor a business applicant to ensure compliance with this section.

(4) A local zone administrator shall report to the office by no later than June 30 of each year:

(a) (i) any application approved by the local zone administrator during the last fiscal year; and

(ii) the information established in Subsections ~~[63M-1-504]~~ 63N-2-305(4)(a) through (d) for each new business applicant; and

(b) (i) the status of any existing business applicants that the local zone administrator monitors; and

(ii) any information required by the office to determine the status of an existing business applicant.

(5) (a) By July 15 of each year, the department shall notify the local zone administrator of the allocated cap amount that each business applicant that the local zone administrator monitors is eligible to claim.

(b) By September 15 of each year, the local zone administrator shall notify, in writing, each business applicant that the local zone administrator monitors of the allocated cap amount determined by the office under Subsection (5)(a) that the business applicant is eligible to claim for a taxable year.

Section 93. Section 63N-2-305, which is renumbered from Section 63M-1-504 is renumbered and amended to read:

~~[63M-1-504]. 63N-2-305. Targeted business income tax credit structure -- Duties of the local zone administrator -- Duties of the State Tax Commission.~~

(1) ~~[For taxable years beginning on or after January 1, 2002, a]~~ A business applicant that is certified under Subsection ~~[63M-1-503]~~ 63N-2-304(3) and issued a targeted business tax credit eligibility form by the office under Subsection (8) may claim a refundable tax credit:

(a) against the business applicant's tax liability under:

(i) Title 59, Chapter 7, Corporate Franchise and Income Taxes; or

(ii) Title 59, Chapter 10, Individual Income Tax Act; and

(b) subject to requirements and limitations provided by this part.

(2) The total amount of the targeted business income tax credits allowed under this part for all business applicants may not exceed \$300,000 in any fiscal year.

(3) (a) A targeted business income tax credit allowed under this part for each community investment project provided by a business applicant may not:

(i) be claimed by a business applicant for more than seven consecutive taxable years from the date the business applicant first qualifies for a targeted business income tax credit on the basis of a community investment project;

(ii) be carried forward or carried back;

(iii) exceed \$100,000 in total amount for the community investment project period during which the business applicant is eligible to claim a targeted business income tax credit; or

(iv) exceed in any year that the targeted business income tax credit is claimed the lesser of:

(A) 50% of the maximum amount allowed by the local zone administrator; or

(B) the allocated cap amount determined by the office under Subsection ~~[63M-1-503]~~ 63N-2-304(5).

(b) A business applicant may apply to the local zone administrator to claim a targeted business income tax credit allowed under this part for each community investment project provided by the business applicant as the basis for its eligibility for a targeted business income tax credit.

(4) Subject to other provisions of this section, the local zone administrator shall establish for each business applicant that qualifies for a targeted business income tax credit:

(a) criteria for maintaining eligibility for the targeted business income tax credit that are reasonably related to the community investment project that is the basis for the business applicant's targeted business income tax credit;

(b) the maximum amount of the targeted business income tax credit the business applicant is allowed for the community investment project period;

(c) the time period over which the total amount of the targeted business income tax credit may be claimed;

(d) the maximum amount of the targeted business income tax credit that the business applicant will be allowed to claim each year; and

(e) requirements for a business applicant to report to the local zone administrator specifying:

(i) the frequency of the business applicant's reports to the local zone administrator, which shall be made at least quarterly; and

(ii) the information needed by the local zone administrator to monitor the business applicant's compliance with this Subsection (4) or Section ~~[63M-1-503]~~ 63N-2-304 that shall be included in the report.

(5) In accordance with Subsection (4)(e), a business applicant allowed a targeted business income tax credit under this part shall report to the local zone administrator.

(6) The amount of a targeted business income tax credit that a business applicant is allowed to claim for a taxable year shall be reduced by 25% for each quarter in which the office or the local zone administrator determines that the business applicant has failed to comply with a requirement of Subsection (3) or Section ~~[63M-1-503]~~ 63N-2-304.

(7) The office or local zone administrator may audit a business applicant to ensure:

(a) eligibility for a targeted business income tax credit; or

(b) compliance with Subsection (3) or Section ~~[63M-1-503]~~ 63N-2-304.

(8) The office shall issue a targeted business income tax credit eligibility form in a form jointly developed by the State Tax Commission and the office no later than 30 days after the last day of the business applicant's taxable year showing:

(a) the maximum amount of the targeted business income tax credit that the business applicant is eligible for that taxable year;

(b) any reductions in the maximum amount of the targeted business income tax credit because of failure to comply with a requirement of Subsection (3) or Section ~~[63M-1-503]~~ 63N-2-304;

(c) the allocated cap amount that the business applicant may claim for that taxable year; and

(d) the actual amount of the targeted business income tax credit that the business applicant may claim for that taxable year.

(9) (a) A business applicant shall retain the targeted business income tax credit eligibility form provided by the office under this Subsection (9).

(b) The State Tax Commission may audit a business applicant to ensure:

(i) eligibility for a targeted business income tax credit; or

(ii) compliance with Subsection (3) or Section ~~[63M-1-503]~~ 63N-2-304.

Section 94. Section 63N-2-401, which is renumbered from Section 63M-1-1101 is renumbered and amended to read:

Part 4. Recycling Market Development Zone Act

~~[63M-1-1101].~~ **63N-2-401. Title.**

This part is known as the "Recycling Market Development Zone Act."

Section 95. Section 63N-2-402, which is renumbered from Section 63M-1-1102 is renumbered and amended to read:

~~[63M-1-1102].~~ **63N-2-402. Definitions.**

As used in this part:

(1) "Composting" means the controlled decay of landscape waste or sewage sludge and organic industrial waste, or a mixture of these, by the action of bacteria, fungi, molds, and other organisms.

(2) "Postconsumer waste material" means any product generated by a business or consumer that has served its intended end use, and that has been separated from solid waste for the purposes of collection, recycling, and disposition and that does not include secondary waste material.

(3) (a) "Recovered materials" means waste materials and by-products that have been recovered or diverted from solid waste.

(b) "Recovered materials" does not include those materials and by-products generated from, and commonly reused within, an original manufacturing process.

(4) (a) "Recycling" means the diversion of materials from the solid waste stream and the beneficial use of the materials and includes a series of activities by which materials that would become or otherwise remain waste are diverted from the waste stream for collection, separation, and processing, and are used as raw materials or feedstocks in lieu of or in addition to virgin materials in the manufacture of goods sold or distributed in commerce or the reuse of the materials as substitutes for goods made from virgin materials.

(b) "Recycling" does not include burning municipal solid waste for energy recovery.

(5) "Recycling market development zone" or "zone" means an area designated by the office as meeting the requirements of this part.

(6) (a) "Secondary waste material" means industrial by-products that go to disposal facilities and waste generated after completion of a manufacturing process.

(b) "Secondary waste material" does not include internally generated scrap commonly returned to industrial or manufacturing processes, such as home scrap and mill broke.

(7) "State tax incentives," "tax incentives," or "tax benefits" means the nonrefundable tax credits available under Sections 59-7-608 and 59-10-1007.

Section 96. Section 63N-2-403, which is renumbered from Section 63M-1-1103 is renumbered and amended to read:

~~[63M-1-1103].~~ **63N-2-403. Duties of the office.**

The office shall:

(1) facilitate recycling development zones through state support of county incentives which encourage development of manufacturing enterprises that use recycling materials currently collected;

(2) evaluate an application from a county or municipality executive authority to be designated as a recycling market development zone and determine if the county or municipality qualifies for that designation;

(3) provide technical assistance to municipalities and counties in developing applications for designation as a recycling market development zone;

(4) assist counties and municipalities designated as recycling market development zones in obtaining assistance from the federal government and agencies of the state;

(5) assist a qualified business in obtaining the benefits of an incentive or inducement program authorized by this part;

(6) monitor the implementation and operation of this part and conduct a continuing evaluation of the progress made in the recycling market development zone; and

(7) include in the annual written report described in Section ~~[63M-1-206]~~ 63N-2-301, an evaluation of the effectiveness of the program and recommendations for legislation.

Section 97. Section 63N-2-404, which is renumbered from Section 63M-1-1104 is renumbered and amended to read:

~~[63M-1-1104]. 63N-2-404. Criteria for recycling market development zone -- Application process and fees.~~

(1) An area may be designated as a recycling market development zone only if:

(a) the county or municipality agrees to make a qualifying local contribution under Section ~~[63M-1-1105]~~ 63N-2-405; and

(b) the county or municipality provides for postconsumer waste collection for recycling within the county or municipality.

(2) The executive authority of any municipality or county desiring to be designated as a recycling market development zone shall:

(a) obtain the written approval of the municipality or county's legislative body; and

(b) file an application with the office demonstrating the county or municipality meets the requirements of this part.

(3) The application shall be in a form prescribed by the office, and shall include:

(a) a plan developed by the county or municipality that identifies local contributions meeting the requirements of Section ~~[63M-1-1105]~~ 63N-2-405;

(b) a county or municipality development plan that outlines:

(i) the specific investment or development reasonably expected to take place;

(ii) any commitments obtained from businesses to participate, and in what capacities regarding recycling markets;

(iii) the county's or municipality's economic development plan and demonstration of coordination between the zone and the county or municipality in overall development goals;

(iv) zoning requirements demonstrating that sufficient portions of the proposed zone area are zoned as appropriate for the development of commercial, industrial, or manufacturing businesses;

(v) the county's or municipality's long-term waste management plan and evidence that the zone will be adequately served by the plan; and

(vi) the county or municipality postconsumer waste collection infrastructure;

(c) the county's or municipality's proposed means of assessing the effectiveness of the development plan or other programs implemented within the zone;

(d) state whether within the zone either of the following will be established:

(i) commercial manufacturing or industrial processes that will produce end products that consist of not less than 50% recovered materials, of which not less than 25% is postconsumer waste material; or

(ii) commercial composting;

(e) any additional information required by the office; and

(f) any additional information the county or municipality considers relevant to its designation as a recycling market development zone.

(4) A county or municipality applying for designation as a recycling market development zone shall pay to the office an application fee determined under Section 63J-1-504.

Section 98. Section 63N-2-405, which is renumbered from Section 63M-1-1105 is renumbered and amended to read:

~~[63M-1-1105]. 63N-2-405. Qualifying local contributions.~~

Qualifying local contributions to the recycling market development zone may vary depending on available resources, and may include:

(1) simplified procedures for obtaining permits;

(2) dedication of available government grants;

(3) waiver of business license or permit fees;

(4) infrastructure improvements;

(5) private contributions;

(6) utility rate concessions;

(7) suspension or relaxation of locally originated zoning laws or general plans; and

(8) other proposed local contributions as the office finds promote the purposes of this part.

Section 99. Section 63N-2-406, which is renumbered from Section 63M-1-1106 is renumbered and amended to read:

~~[63M-1-1106]. 63N-2-406. Eligibility review.~~

(1) The office shall:

(a) review and evaluate an application submitted under Section ~~[63M-1-1104]~~ 63N-2-404; and

(b) determine whether the municipality or county is eligible for designation as a recycling market development zone.

(2) In designating recycling market development zones, the office shall consider:

(a) whether the current waste management practices and conditions of the county or municipality are favorable to the development of postconsumer waste material markets;

(b) whether the creation of the zone is necessary to assist in attracting private sector recycling investments to the area; and

(c) the amount of available landfill capacity to serve the zone.

Section 100. Section 63N-2-407, which is renumbered from Section 63M-1-1107 is renumbered and amended to read:

[63M-1-1107]. 63N-2-407. Quarterly consideration.

The office shall take action quarterly on any application requesting designation as a recycling market development zone.

Section 101. Section 63N-2-408, which is renumbered from Section 63M-1-1108 is renumbered and amended to read:

[63M-1-1108]. 63N-2-408. Duration of designation.

A recycling market development zone designation ends five years from the date the office designates the area as a recycling market development zone, at the end of which the county or municipality may reapply for the designation.

Section 102. Section 63N-2-409, which is renumbered from Section 63M-1-1109 is renumbered and amended to read:

[63M-1-1109]. 63N-2-409. Revocation of designations.

(1) The office may revoke the designation of a recycling market development zone if no businesses utilize the tax incentives during any calendar year.

(2) Before revocation of the zone, the office shall conduct a public hearing within a reasonable distance of the zone to determine reasons for inactivity and explore possible alternative actions.

Section 103. Section 63N-2-410, which is renumbered from Section 63M-1-1110 is renumbered and amended to read:

[63M-1-1110]. 63N-2-410. Recycling market development zone credit.

For a taxpayer within a recycling market development zone, there are allowed the nonrefundable credits against tax as provided by Sections 59-7-610 and 59-10-1007.

Section 104. Section 63N-2-411, which is renumbered from Section 63M-1-1111 is renumbered and amended to read:

[63M-1-1111]. 63N-2-411. Annual report.

(1) A county or municipality designated as a recycling market development zone shall report by no later than July 31 of each year to the office

regarding the economic activity that has occurred in the zone following the designation.

(2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules providing for the form and content of the annual reports.

Section 105. Section 63N-2-412, which is renumbered from Section 63M-1-1112 is renumbered and amended to read:

[63M-1-1112]. 63N-2-412. Technology Commercialization and Innovation Program.

In accordance with [Part 6] Chapter 12, Part 1, State Advisory Council on Science and Technology, the office may award grants to the Technology Commercialization and Innovation Program, as defined by Section [63M-1-703] 63N-3-203, to fund development of new technology for recycling if the program funded is a cooperative effort between the Technology Commercialization and Innovation Program and one or more recycling market development zones created under this part.

Section 106. Section 63N-2-501, which is renumbered from Section 63M-1-3401 is renumbered and amended to read:

Part 5. New Convention Facility Development Incentives

[63M-1-3401]. 63N-2-501. Title.

This part is known as [the] “New Convention Facility Development [Incentive Act] Incentives.”

Section 107. Section 63N-2-502, which is renumbered from Section 63M-1-3402 is renumbered and amended to read:

[63M-1-3402]. 63N-2-502. Definitions.

As used in this part:

(1) “Agreement” means an agreement described in Section [63M-1-3403] 63N-2-503.

(2) “Commission” means the Utah State Tax Commission.

(3) “Community development and renewal agency” has the same meaning as defined in Section 17C-1-102.

(4) “Eligibility period” means:

(a) the period that:

(i) begins the date construction of a qualified hotel begins; and

(ii) ends:

(A) for purposes of the state portion, 20 years after the date of initial occupancy of that qualified hotel; or

(B) for purposes of the local portion, 25 years after the date of initial occupancy of that hotel; or

(b) as provided in an agreement between the office and a qualified hotel owner or host local government, a period that:

(i) begins no earlier than the date construction of a qualified hotel begins; and

(ii) is shorter than the period described in Subsection (4)(a).

(5) “Endorsement letter” means a letter:

(a) from the county in which a qualified hotel is located or is proposed to be located;

(b) signed by the county executive; and

(c) expressing the county’s endorsement of a developer of a qualified hotel as meeting all the county’s criteria for receiving the county’s endorsement.

(6) “Host agency” means the community development and renewal agency of the host local government.

(7) “Host local government” means:

(a) a county that enters into an agreement with the office for the construction of a qualified hotel within the unincorporated area of the county; or

(b) a city or town that enters into an agreement with the office for the construction of a qualified hotel within the boundary of the city or town.

(8) “Hotel property” means a qualified hotel and any property that is included in the same development as the qualified hotel, including convention, exhibit, and meeting space, retail shops, restaurants, parking, and other ancillary facilities and amenities.

(9) “Incremental property tax revenue” means the amount of property tax revenue generated from hotel property that equals the difference between:

(a) the amount of property tax revenue generated in any tax year by all taxing entities from hotel property, using the current assessed value of the hotel property; and

(b) the amount of property tax revenue that would be generated that tax year by all taxing entities from hotel property, using a base taxable value of the hotel property as established by the county in which the hotel property is located.

(10) “Local portion” means:

(a) the portion of new tax revenue that is not the state portion; and

(b) incremental property tax revenue.

(11) “New tax revenue” means:

(a) all new revenue generated from a tax under Title 59, Chapter 12, Sales and Use Tax Act, on transactions occurring during the eligibility period as a result of the construction of the hotel property, including purchases made by a qualified hotel owner and its subcontractors;

(b) all new revenue generated from a tax under Title 59, Chapter 12, Sales and Use Tax Act, on transactions occurring on hotel property during the eligibility period; and

(c) all new revenue generated from a tax under Title 59, Chapter 12, Sales and Use Tax Act, on transactions by a third-party seller occurring other

than on hotel property during the eligibility period, if:

(i) the transaction is subject to a tax under Title 59, Chapter 12, Sales and Use Tax Act; and

(ii) the third-party seller voluntarily consents to the disclosure of information to the office, as provided in Subsection [63M-1-3405] 63N-2-505(1)(b)(i)(E).

(12) “Public infrastructure” means:

(a) water, sewer, storm drainage, electrical, telecommunications, and other similar systems and lines;

(b) streets, roads, curbs, gutters, sidewalks, walkways, parking facilities, and public transportation facilities; and

(c) other buildings, facilities, infrastructure, and improvements that benefit the public.

(13) “Qualified hotel” means a full-service hotel development constructed in the state on or after July 1, 2014 that:

(a) requires a significant capital investment;

(b) includes at least 85 square feet of convention, exhibit, and meeting space per guest room; and

(c) is located within 1,000 feet of a convention center that contains at least 500,000 square feet of convention, exhibit, and meeting space.

(14) “Qualified hotel owner” means a person who owns a qualified hotel.

(15) “Review committee” means the independent review committee established under Section [63M-1-3404] 63N-2-205.

(16) “Significant capital investment” means an amount of at least \$200,000,000.

(17) “State portion” means the portion of new tax revenue that is attributable to a tax imposed under Subsection 59-12-103(2)(a)(i)(A).

(18) “Tax credit” means a tax credit under Section 59-7-616 or 59-10-1110.

(19) “Tax credit applicant” means a qualified hotel owner or host local government that:

(a) has entered into an agreement with the office; and

(b) pursuant to that agreement, submits an application for the issuance of a tax credit certificate.

(20) “Tax credit certificate” means a certificate issued by the office that includes:

(a) the name of the tax credit recipient;

(b) the tax credit recipient’s taxpayer identification number;

(c) the amount of the tax credit authorized under this part for a taxable year; and

(d) other information as determined by the office.

(21) “Tax credit recipient” means a tax credit applicant that has been issued a tax credit certificate.

(22) "Third-party seller" means a person who is a seller in a transaction:

(a) occurring other than on hotel property;

(b) that is:

(i) the sale, rental, or lease of a room or of convention or exhibit space or other facilities on hotel property; or

(ii) the sale of tangible personal property or a service that is part of a bundled transaction, as defined in Section 59-12-102, with a sale, rental, or lease described in Subsection (22)(b)(i); and

(c) that is subject to a tax under Title 59, Chapter 12, Sales and Use Tax Act.

Section 108. Section 63N-2-503, which is renumbered from Section 63M-1-3403 is renumbered and amended to read:

[63M-1-3403]. 63N-2-503. Agreement for development of new convention hotel -- Tax credit authorized -- Agreement requirements.

(1) The office, with the board's advice, may enter into an agreement with a qualified hotel owner or a host local government:

(a) for the development of a qualified hotel; and

(b) to authorize a tax credit:

(i) to the qualified hotel owner or host local government, but not both;

(ii) for a period not to exceed the eligibility period;

(iii) if:

(A) the county in which the qualified hotel is proposed to be located has issued an endorsement letter endorsing the qualified hotel owner; and

(B) all applicable requirements of this part and the agreement are met; and

(iv) that is reduced by \$1,900,000 per year during the first two years of the eligibility period, as described in Subsection (2)(c).

(2) An agreement shall:

(a) specify the requirements for a tax credit recipient to qualify for a tax credit;

(b) require compliance with the terms of the endorsement letter issued by the county in which the qualified hotel is proposed to be located;

(c) require the amount of a tax credit listed in a tax credit certificate issued during the first two years of the eligibility period to be reduced by \$1,900,000 per year;

(d) with respect to the state portion of any tax credit that the tax credit recipient may receive during the eligibility period:

(i) specify the maximum dollar amount that the tax credit recipient may receive, subject to a maximum of:

(A) for any taxable year, the amount of the state portion of new tax revenue in that taxable year; and

(B) \$75,000,000 in the aggregate for any tax credit recipient during an eligibility period, calculated as though the two \$1,900,000 reductions of the tax credit amount under Subsection (1)(b)(iv) had not occurred; and

(ii) specify the maximum percentage of the state portion of new tax revenue that may be used in calculating a tax credit that a tax credit recipient may receive during the eligibility period for each taxable year and in the aggregate;

(e) establish a shorter period of time than the period described in Subsection [63M-1-3402] 63N-2-502(5)(a) during which the tax credit recipient may claim a tax credit or that the host agency may be paid incremental property tax revenue, if the office and qualified hotel owner or host local government agree to a shorter period of time;

(f) require the tax credit recipient to retain books and records supporting a claim for a tax credit as required by Section 59-1-1406;

(g) allow the transfer of the agreement to a third party if the third party assumes all liabilities and responsibilities in the agreement;

(h) limit the expenditure of funds received under a tax credit as provided in Section [63M-1-3412] 63N-2-512; and

(i) require the tax credit recipient to submit to any audit the office considers appropriate for verification of any tax credit or claimed tax credit.

Section 109. Section 63N-2-504, which is renumbered from Section 63M-1-3404 is renumbered and amended to read:

[63M-1-3404]. 63N-2-504. Independent review committee.

(1) In accordance with rules adopted by the office under Section [63M-1-3408] 63N-2-508, the board shall establish a separate, independent review committee to:

(a) review each initial tax credit application submitted under this part for compliance with the requirements of this part and the agreement; and

(b) consult with the office, as provided in this part.

(2) The review committee shall consist of:

(a) one member appointed by the director to represent the office;

(b) two members appointed by the mayor or chief executive of the county in which the qualified hotel is located or proposed to be located;

(c) two members appointed by:

(i) the mayor of the municipality in which the qualified hotel is located or proposed to be located, if the qualified hotel is located or proposed to be located within the boundary of a municipality; or

(ii) the mayor or chief executive of the county in which the qualified hotel is located or proposed to be located, in addition to the two members appointed under Subsection (2)(b), if the qualified hotel is located or proposed to be located outside the boundary of a municipality;

(d) an individual representing the hotel industry, appointed by the Utah Hotel and Lodging Association;

(e) an individual representing the commercial development and construction industry, appointed by the president or chief executive officer of the local chamber of commerce;

(f) an individual representing the convention and meeting planners industry, appointed by the president or chief executive officer of the local convention and visitors bureau; and

(g) one member appointed by the board.

(3) (a) A member serves an indeterminate term and may be removed from the review committee by the appointing authority at any time.

(b) A vacancy may be filled in the same manner as an appointment under Subsection (2).

(4) A member of the review committee may not be paid for serving on the review committee and may not receive per diem or expense reimbursement.

(5) The office shall provide any necessary staff support to the review committee.

Section 110. Section 63N-2-505, which is renumbered from Section 63M-1-3405 is renumbered and amended to read:

[63M-1-3405]. 63N-2-505. Submission of written application for tax credit certificate -- Disclosure of tax returns and other information -- Determination of tax credit application.

(1) For each taxable year for which a tax credit applicant seeks the issuance of a tax credit certificate, the tax credit applicant shall submit to the office:

(a) a written application for a tax credit certificate;

(b) (i) for an application submitted by a qualified hotel owner:

(A) a certification by the individual signing the application that the individual is duly authorized to sign the application on behalf of the qualified hotel owner;

(B) documentation of the new tax revenue generated during the preceding year;

(C) a document in which the qualified hotel owner expressly directs and authorizes the commission to disclose to the office the qualified hotel owner's tax returns and other information that would otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code;

(D) a document in which the qualified hotel's direct vendors, lessees, or subcontractors, as applicable, expressly direct and authorize the commission to disclose to the office the tax returns and other information of those vendors, lessees, or subcontractors that would otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code;

(E) a document in which a third-party seller expressly and voluntarily directs and authorizes the commission to disclose to the office the third-party seller's tax returns and other information that would otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code; and

(F) documentation verifying that the qualified hotel owner is in compliance with the terms of the agreement;

(ii) for an application submitted by a host local government, documentation of the new tax revenue generated during the preceding year;

(c) if the host local government intends to assign the tax credit sought in the tax credit application to a community development and renewal agency:

(i) the taxpayer identification number of the community development and renewal agency; and

(ii) a document signed by the governing body members of the community development and renewal agency that expressly directs and authorizes the commission to disclose to the office the agency's tax returns and other information that would otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code; and

(d) a statement provided by an independent certified public accountant, at the tax credit applicant's expense, attesting to the accuracy of the documentation of new tax revenue.

(2) (a) The office shall submit to the commission the documents described in Subsections (1)(b)(i)(C), (D), and (E) and (1)(c)(ii) authorizing disclosure of the tax returns and other information.

(b) Upon receipt of the documents described in Subsection (2)(a), the commission shall provide to the office the tax returns and other information described in those documents.

(3) If the office determines that the tax returns and other information is inadequate to validate the issuance of a tax credit certificate, the office shall inform the tax credit applicant that the tax returns and other information were inadequate and request the tax credit applicant to submit additional documentation to validate the issuance of a tax credit certificate.

(4) If the office determines that the returns and other information, including any additional documentation provided under Subsection (3), provide reasonable justification for the issuance of a tax credit certificate, the office shall:

(a) determine the amount of the tax credit to be listed on the tax credit certificate;

(b) issue a tax credit certificate to the tax credit applicant for the amount of that tax credit; and

(c) provide a copy of the tax credit certificate to the commission.

Section 111. Section 63N-2-506, which is renumbered from Section 63M-1-3406 is renumbered and amended to read:

[63M-1-3406]. 63N-2-506. Effect of tax credit certificate -- Retaining tax credit certificate.

(1) A person may not claim a tax credit unless the office has issued the person a tax credit certificate.

(2) A tax credit recipient may claim a tax credit in the amount of the tax credit stated in a tax credit certificate.

(3) A tax credit recipient shall retain the tax credit certificate in accordance with the requirements of Section 59-1-1406 for retaining books and records.

(4) The amount of a tax credit indicated on a tax credit certificate issued during the eligibility period may not exceed the amount of eligible new tax revenue generated during the taxable year preceding the taxable year for which the tax credit certificate is issued.

Section 112. Section 63N-2-507, which is renumbered from Section 63M-1-3407 is renumbered and amended to read:

[63M-1-3407]. 63N-2-507. Assigning tax credit.

(1) A host local government that enters into an agreement with the office may, by resolution, assign a tax credit to a community development and renewal agency, in accordance with rules adopted by the office.

(2) A host local government that adopts a resolution assigning a tax credit under Subsection (1) shall provide a copy of the resolution to the office and the commission.

Section 113. Section 63N-2-508, which is renumbered from Section 63M-1-3408 is renumbered and amended to read:

[63M-1-3408]. 63N-2-508. Payment of incremental property tax revenue.

(1) (a) In accordance with rules adopted by the office, a host agency shall be paid incremental property tax revenue during the eligibility period.

(b) Incremental property tax revenue may be used only for:

(i) the purchase of or payment for, or reimbursement of a previous purchase of or payment for:

(A) tangible personal property used in the construction of convention, exhibit, or meeting space on hotel property;

(B) tangible personal property that, upon the construction of hotel property, becomes affixed to hotel property as real property; or

(C) any labor and overhead costs associated with the construction described in Subsections (1)(b)(i)(A) and (B);

(ii) public infrastructure; and

(iii) other purposes as approved by the host agency.

(2) A county that collects property tax on hotel property during the eligibility period shall pay and distribute to the host agency the incremental property tax revenue that the host agency is entitled to collect under Subsection (1), in the manner and at the time provided in Section 59-2-1365.

Section 114. Section 63N-2-509, which is renumbered from Section 63M-1-3409 is renumbered and amended to read:

[63M-1-3409]. 63N-2-509. Rulemaking authority -- Requirements for rules.

(1) The office shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to carry out its responsibilities under this part and to implement the provisions of this part.

(2) The rules the office makes under Subsection (1) shall:

(a) establish, consistent with this part, the conditions that a tax credit applicant is required to meet to qualify for a tax credit;

(b) require that a significant capital investment be made in the development of the hotel property;

(c) require a tax credit applicant to meet all applicable requirements in order to receive a tax credit certificate;

(d) require that a qualified hotel owner meet the county's requirements to receive an endorsement letter; and

(e) provide for the establishment of an independent review committee, in accordance with the requirements of Section [63M-1-3404] 63N-2-504.

Section 115. Section 63N-2-510, which is renumbered from Section 63M-1-3410 is renumbered and amended to read:

[63M-1-3410]. 63N-2-510. Report by office.

(1) [~~Before November 1 of each year, the~~ The office shall [submit a written report to the Economic Development and Workforce Services Interim Committee of the Legislature, the Governor's Office of Management and Budget, and the Office of the Legislative Fiscal Analyst describing] include the following information in the office's annual written report described in Section 63N-1-301:

(a) the state's success in attracting new conventions and corresponding new state revenue;

(b) the estimated amount of tax credit commitments and the associated calculation made

by the office and the period of time over which tax credits are expected to be paid;

(c) the economic impact on the state related to generating new state revenue and providing tax credits; and

(d) the estimated and actual costs and economic benefits of the tax credit commitments that the office made.

~~[(2) The office shall post the annual report under Subsection (1) on its website and on a state website.]~~

~~[(3)] (2)~~ Upon the commencement of the construction of a qualified hotel, the office shall send a written notice to the Division of Finance:

(a) referring to the two annual deposits required under Subsection 59-12-103(14); and

(b) notifying the Division of Finance that construction on the qualified hotel has begun.

Section 116. Section 63N-2-511, which is renumbered from Section 63M-1-3411 is renumbered and amended to read:

[63M-1-3411]. 63N-2-511. Stay Another Day and Bounce Back Fund.

(1) As used in this section:

(a) "Bounce back fund" means the Stay Another Day and Bounce Back Fund, created in Subsection (2).

(b) "Tourism board" means the Board of Tourism Development created in Section 63M-1-1401.

(2) There is created an expendable special revenue fund known as the Stay Another Day and Bounce Back Fund.

(3) The bounce back fund shall:

(a) be administered by the tourism board;

(b) earn interest; and

(c) be funded by:

(i) annual payments under Section 17-31-9 from the county in which a qualified hotel is located;

(ii) money transferred to the bounce back fund under Section ~~[63M-1-3412]~~ 63N-2-512; and

(iii) any money that the Legislature chooses to appropriate to the bounce back fund.

(4) Interest earned by the bounce back fund shall be deposited into the bounce back fund.

(5) The tourism board may use money in the bounce back fund to pay for a tourism program of advertising, marketing, and branding of the state, taking into consideration the long-term strategic plan, economic trends, and opportunities for tourism development on a statewide basis.

Section 117. Section 63N-2-512, which is renumbered from Section 63M-1-3412 is renumbered and amended to read:

[63M-1-3412]. 63N-2-512. Hotel Impact Mitigation Fund.

(1) As used in this section:

(a) "Affected hotel" means a hotel built in the state before July 1, 2014.

(b) "Direct losses" means affected hotels' losses of hotel guest business attributable to the qualified hotel room supply being added to the market in the state.

(c) "Mitigation fund" means the Hotel Impact Mitigation Fund, created in Subsection (2).

(2) There is created an expendable special revenue fund known as the Hotel Impact Mitigation Fund.

(3) The mitigation fund shall:

(a) be administered by the board;

(b) earn interest; and

(c) be funded by:

(i) payments required to be deposited into the mitigation fund by the Division of Finance under Subsection 59-12-103(14);

(ii) money required to be deposited into the mitigation fund under Subsection 17-31-9(2) by the county in which a qualified hotel is located; and

(iii) any money deposited into the mitigation fund under Subsection (6).

(4) Interest earned by the mitigation fund shall be deposited into the mitigation fund.

(5) (a) In accordance with office rules, the board shall annually pay up to \$2,100,000 of money in the mitigation fund:

(i) to affected hotels;

(ii) for four consecutive years, beginning 12 months after the date of initial occupancy of the qualified hotel occurs; and

(iii) to mitigate direct losses.

(b) (i) If the amount the board pays under Subsection (5)(a) in any year is less than \$2,100,000, the board shall pay to the Stay Another Day and Bounce Back Fund, created in Section ~~[63M-1-3411]~~ 63N-2-511, the difference between \$2,100,000 and the amount paid under Subsection (5)(a).

(ii) The board shall make any required payment under Subsection (5)(b)(i) within 90 days after the end of the year for which a determination is made of how much the board is required to pay to affected hotels under Subsection (5)(a).

(6) A host local government or qualified hotel owner may make payments to the Division of Finance for deposit into the mitigation fund.

(7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office shall, in

consultation with the Utah Hotel and Lodging Association and the county in which the qualified hotel is located, make rules establishing procedures and criteria governing payments under Subsection (5)(a) to affected hotels.

Section 118. Section 63N-2-513, which is renumbered from Section 63M-1-3413 is renumbered and amended to read:

[63M-1-3413]. 63N-2-513. Authorized expenditures of tax credit money.

(1) A tax credit recipient may spend money received as a direct result of the state portion of a tax credit only for the purchase of or payment for, or reimbursement of a previous purchase of or payment for:

(a) tangible personal property used in the construction of convention, exhibit, or meeting space on hotel property;

(b) tangible personal property that, upon the construction of hotel property, becomes affixed to hotel property as real property; or

(c) any labor and overhead costs associated with the construction described in Subsections (1)(a) and (b).

(2) A tax credit recipient may spend money received as a direct result of the local portion of a tax credit only for:

(a) a purpose described in Subsection (1);

(b) public infrastructure; and

(c) other purposes as approved by the host agency.

Section 119. Section 63N-2-601, which is renumbered from Section 63M-1-3501 is renumbered and amended to read:

Part 6. Utah Small Business Jobs Act

[63M-1-3501]. 63N-2-601. Title.

This part is known as the "Utah Small Business Jobs Act."

Section 120. Section 63N-2-602, which is renumbered from Section 63M-1-3502 is renumbered and amended to read:

[63M-1-3502]. 63N-2-602. Definitions.

As used in this part:

(1) "Affiliate" means an entity that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the entity specified.

(2) "Applicable percentage" means:

(a) 0% for the first two credit allowance dates;

(b) 12% for the next three credit allowance dates; and

(c) 11% for the next two credit allowance dates.

(3) "Community Development Financial Institutions Fund" means the fund created in 12 U.S.C. Sec. 4703.

(4) "Credit allowance date" means with respect to a qualified equity investment:

(a) the date on which the qualified equity investment is initially made; and

(b) each of the six anniversary dates of the date described in Subsection (4)(a).

(5) "Federal New Markets Tax Credit Program" means the program created under Section 45D, Internal Revenue Code.

(6) "Long-term debt security" means a debt instrument issued by a qualified community development entity:

(a) with an original maturity date of at least seven years from the date of its issuance; and

(b) with no repayment, amortization, or prepayment features before its original maturity date.

(7) "Purchase price" means the amount paid to the qualified community development entity that issues a qualified equity investment for the qualified equity investment that may not exceed the amount of qualified equity investment authority certified pursuant to Section [63M-1-3503] 63N-2-603.

(8) (a) "Qualified active low-income community business" is as defined in Section 45D, Internal Revenue Code, and 26 C.F.R. Sec. 1.45D-1, but is limited to those businesses meeting the United States Small Business Administration size eligibility standards established in 13 C.F.R. Sec. 121.101-201 at the time the qualified low-income community investment is made.

(b) Notwithstanding Subsection (8)(a), "qualified active low-income community business" does not include a business that derives or projects to derive 15% or more of its annual revenue from the rental or sale of real estate, unless the business is controlled by or under common control with another business if the second business:

(i) does not derive or project to derive 15% or more of its annual revenue from the rental or sale of real estate; and

(ii) is the primary tenant of the real estate leased from the initial business.

(c) A business is considered a qualified active low-income community business for the duration of the qualified community development entity's investment in, or loan to, the business if the qualified community development entity reasonably expects, at the time it makes the investment or loan, that the business will continue to satisfy the requirements for being a qualified active low-income community business, other than the United States Small Business Administration size standards, throughout the entire period of the investment or loan.

(9) (a) "Qualified community development entity" is as defined in Section 45D, Internal Revenue

Code, if the entity has entered into an allocation agreement with the Community Development Financial Institutions Fund of the United States Treasury Department with respect to credits authorized by Section 45D, Internal Revenue Code, that includes Utah within the service area set forth in the allocation agreement.

(b) An entity may not be considered to be controlled by another entity solely as a result of the entity having made a direct or indirect equity investment in the other entity that earns tax credits under Section 45D, Internal Revenue Code, or in a similar state program.

(c) "Qualified community development entity" includes a subsidiary community development entity of a qualified community development entity.

(10) (a) "Qualified equity investment" means an equity investment in, or long-term debt security issued by, a qualified community development entity that:

(i) is acquired on or after September 2, 2014, at its original issuance solely in exchange for cash;

(ii) has at least 85% of its cash purchase price used by the qualified community development entity to make qualified low-income community investments in qualified active low-income community businesses located in this state by the first anniversary of the initial credit allowance date; and

(iii) is designated by the qualified community development entity as a qualified equity investment and is certified by the office pursuant to Section ~~[63M-1-3503]~~ 63N-2-603.

(b) Notwithstanding Subsection (10)(a), "qualified equity investment" includes a qualified equity investment that does not meet the provisions of Subsection (10)(a) if the investment was a qualified equity investment in the hands of a prior holder.

(11) "Qualified low-income community investment" means a capital or equity investment in, or a loan to, a qualified active low-income community business, except, with respect to any one qualified active low-income community business, the maximum amount of qualified low-income community investments made in such business, on a collective basis with all of the business's affiliates, with the proceeds of qualified equity investments certified under Section ~~[63M-1-3503]~~ 63N-2-603 shall be \$4,000,000, exclusive of qualified low-income community investments made with repaid or redeemed qualified low-income community investments or interest or profits realized on the repaid or redeemed qualified low-income community investments.

(12) "Tax credit certificate" is a certificate issued by the office under Subsection ~~[63M-1-3503]~~ 63N-2-603(11) to an entity eligible for a tax credit under Section 59-9-107 that:

(a) lists the name of the entity eligible for a tax credit;

(b) lists the entity's taxpayer identification number;

(c) lists the amount of tax credit that the office determines the entity is eligible for the calendar year; and

(d) may include other information as determined by the office.

Section 121. Section 63N-2-603, which is renumbered from Section 63M-1-3503 is renumbered and amended to read:

~~[63M-1-3503]. 63N-2-603. Certification of qualified equity investments -- Issuance of tax credit related certificates.~~

(1) (a) A qualified community development entity that seeks to have an equity investment or long-term debt security certified as a qualified equity investment and as eligible for tax credits under Section 59-9-107 shall apply to the office.

(b) The office shall begin accepting applications on September 2, 2014.

(c) The qualified community development entity shall include the following in the qualified community development entity's application:

~~[(a)]~~ (i) evidence of the applicant's certification as a qualified community development entity, including evidence of the service area of the applicant that includes this state;

~~[(b)]~~ (ii) a copy of an allocation agreement executed by the applicant, or its controlling entity, and the Community Development Financial Institutions Fund;

~~[(c)]~~ (iii) a certificate executed by an executive officer of the applicant attesting that:

~~[(d)]~~ (A) the applicant or its controlling entity has received more than one allocation of qualified equity investment authority under the Federal New Markets Tax Credit Program; and

~~[(e)]~~ (B) the allocation agreement submitted with the application remains in effect and has not been revoked or cancelled by the Community Development Financial Institutions Fund;

~~[(f)]~~ (iv) a description of the proposed amount, structure, and purchaser of the qualified equity investment;

~~[(g)]~~ (v) examples of the types of qualified active low-income businesses in which the applicant, its controlling entity, or affiliates of its controlling entity have invested under the Federal New Markets Tax Credit Program, except that when submitting an application an applicant is not required to identify qualified active low-income community businesses in which the applicant will invest;

~~[(h)]~~ (vi) the amount of qualified equity investment authority the applicant agrees to designate as a federal qualified equity investment under Section 45D, Internal Revenue Code,

including a copy of the screen shot from the Community Development Financial Institutions Fund's Allocation Tracking System of the applicant's remaining federal qualified equity investment authority;

~~(g)~~ (vii) if applicable, the refundable performance deposit required by Subsection 63M-1-3506(1);

~~(h)~~ (viii) a copy of a certificate of qualified equity investment authority under another state's new markets tax credit program; and

~~(i)~~ (ix) evidence that the applicant, its controlling entity, and subsidiary qualified community development entities of the controlling entity have collectively made at least \$40,000,000 in qualified low-income community investments under the Federal New Markets Tax Credit Program and other state's new markets tax credit programs with a maximum qualified low-income community investment size of \$4,000,000 per business.

(2) (a) Within 30 days after receipt of a completed application containing the information set forth in Subsection (1), including, if applicable, the refundable performance deposit, the office shall grant or deny the application in full or in part.

(b) If the office denies any part of the application, the office shall inform the applicant of the grounds for the denial. If the applicant provides additional information required by the office or otherwise completes its application within 15 days of the notice of denial, the application shall be considered completed as of the original date of submission.

(c) If the applicant fails to provide the information or complete its application within the 15-day period:

(i) the application is denied;

(ii) the applicant shall resubmit an application in full with a new submission date; and

(iii) the office shall return any refundable performance deposit required by Subsection ~~[63M-1-3506]~~ 63N-2-606(1).

(3) (a) If the application is complete, the office shall certify the proposed equity investment or long-term debt security as a qualified equity investment, subject to the limitation contained in Subsection (6).

(b) The office shall provide written notice of the certification to the qualified community development entity.

(4) The office shall certify qualified equity investments in the order applications are received by the office. Applications received on the same day are considered to have been received simultaneously.

(5) For applications that are complete and received on the same day, the office shall certify, consistent with remaining qualified equity investment capacity, qualified equity investments of applicants as follows:

(a) First, the office shall certify applications by applicants that agree to designate qualified equity investments as federal qualified equity investments in accordance with Subsection (1)~~(f)~~(c)(vi) in proportionate percentages based upon the ratio of the amount of qualified equity investments requested in an application to be designated as federal qualified equity investments to the total amount of qualified equity investments to be designated as federal qualified equity investments requested in all applications received on the same day.

(b) After complying with Subsection (5)(a), the office shall certify the qualified equity investments of all other applicants, including the remaining qualified equity investment authority requested by applicants not designated as federal qualified equity investments in accordance with Subsection (1)~~(f)~~(c)(vi), in proportionate percentages based upon the ratio of the amount of qualified equity investments requested in the applications to the total amount of qualified equity investments requested in all applications received on the same day.

(6) (a) (i) The office shall certify \$50,000,000 in qualified equity investments pursuant to this section.

(ii) If a pending request cannot be fully certified due to this limit, the office shall certify the portion that may be certified unless the qualified community development entity elects to withdraw its request rather than receive partial certification.

(b) If a qualified community development entity withdraws its request pursuant to Subsection (6)(a), the office shall return any refundable performance deposit required by Subsection ~~[63M-1-3506]~~ 63N-2-606(1).

(c) A partial certification does not decrease the amount of the refundable performance deposit required under Subsection ~~[63M-1-3506]~~ 63N-2-606(1).

(7) An approved applicant may transfer all or a portion of its certified qualified equity investment authority to its controlling entity or a subsidiary qualified community development entity of the controlling entity, provided that the applicant and the transferee notify the office of the transfer with the notice set forth in Subsection (8) and include with the notice the information required in the application with respect to the transferee.

(8) (a) Within 45 days of the applicant receiving notice of certification, the qualified community development entity or any transferee under Subsection (7) shall:

(i) issue the qualified equity investment;

(ii) receive cash in the amount of the certified amount; and

(iii) if applicable, designate the required amount of qualified equity investment authority as federal qualified equity investments.

(b) The qualified community development entity or transferee under Subsection (7) shall provide the

office with evidence of the receipt of the cash investment and designation of the qualified equity investment as a federal qualified equity investment within 50 days of the applicant receiving notice of certification.

(c) The certification under this section lapses and the qualified community development entity may not issue the qualified equity investment without reapplying to the office for certification if, within 45 days following receipt of the certification notice, the qualified community development entity or any transferee under Subsection (7) does not:

- (i) receive the cash investment;
- (ii) issue the qualified equity investment; and

(iii) if applicable, designate the required amount of qualified equity investment authority as federal qualified equity investments.

(d) A lapsed certification under this Subsection (8) reverts back to the office and shall be reissued as follows:

(i) first, pro rata to applicants whose qualified equity investment allocations were reduced under Subsection (5)(a), if applicable;

(ii) second, pro rata to applicants whose qualified equity investment allocations were reduced under Subsection (5)(b); and

(iii) after complying with Subsections (8)(d)(i) and (ii), in accordance with the application process.

(e) (i) The office shall:

(A) calculate an annual fee to be paid by each applicant certified pursuant to Subsection (3)(a), regardless of the number of transferees under Subsection (7), by dividing \$100,000 by the number of applications certified pursuant to Subsection (3)(a); and

(B) notify each successful applicant of the amount of the annual fee.

(ii) (A) The initial annual fee shall be due and payable to the office with the evidence of receipt of cash investment set forth in Subsection (8)(b).

(B) After the initial annual fee, an annual fee shall be due and payable to the office with each report submitted pursuant to Section [63M-1-3510] 63N-2-610.

(iii) An annual fee may not be required once a qualified community development entity together with all transferees under Subsection (7) have decertified all qualified equity investments in accordance with Subsection [63M-1-3507] 63N-2-607(2).

(iv) To maintain an aggregate annual fee of \$100,000 for all qualified community development entities, the office shall recalculate the annual fee as needed upon:

(A) the lapse of any certification under Subsection (8)(c);

(B) the recapture of tax credits pursuant to Section [63M-1-3504] 63N-2-604; or

(C) the decertification of qualified equity investments pursuant to Subsection [63M-1-3507] 63N-2-607(2).

(v) An annual fee collected under this Subsection (8)(e) shall be deposited into the General Fund as a dedicated credit for use by the office to implement this part.

(9) (a) A qualified community development entity that issues a debt instrument described in Subsection [63M-1-3502] 63N-2-602(6) may not make cash interest payments on the debt instrument during the period beginning on the date of issuance and ending on the final credit allowance date in an amount that exceeds the cumulative operating income, as defined by regulations adopted under Section 45D, Internal Revenue Code, of the qualified community development entity for that period before giving effect to the interest expense of the long-term debt security.

(b) This Subsection (9) does not limit the holder of the debt instrument's ability to accelerate payments on the debt instrument in situations when the qualified community development entity has defaulted on covenants designed to ensure compliance with this part or Section 45D, Internal Revenue Code.

(10) (a) A qualified community development entity that issues qualified equity investments shall notify the office of the names of the entities that are eligible to use tax credits under this section and Section 59-9-107:

(i) pursuant to an allocation of tax credits;

(ii) pursuant to a change in allocation of tax credits; or

(iii) due to a transfer of a qualified equity investment.

(b) The office may by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, provide for the form and content of the notice required under this Subsection (10).

(11) (a) An entity may claim a tax credit under Section 59-9-107 against tax liability under Title 59, Chapter 9, Taxation of Admitted Insurers, if the entity:

(i) makes a qualified equity investment; and

(ii) obtains a tax credit certificate in accordance with Subsection (11)(b).

(b) For each calendar year, beginning with calendar year 2016, an entity is eligible for a tax credit under this section and Section 59-9-107, the office shall issue to the entity a tax credit certificate for use after January 1, 2017, and provide the State Tax Commission a copy of the tax credit certificate.

(c) On each credit allowance date of the qualified equity investment, the entity that made the qualified equity investment, or the subsequent holder of the qualified equity investment, may

claim a portion of the tax credit during the calendar year that includes the credit allowance date.

(d) The office shall calculate the tax credit amount and the tax credit amount shall be equal to the applicable percentage for the credit allowance date multiplied by the purchase price paid to the qualified community development entity for the qualified equity investment.

(e) A tax credit allowed to a partnership, limited liability company, or S-corporation shall be allocated to the partners, members, or shareholders of the partnership, limited liability company, or S-corporation for the partners', members', or shareholders' direct use in accordance with the provisions of any agreement among the partners, members, or shareholders.

(f) An entity may not sell a tax credit allowed under this section on the open market.

(12) (a) An entity that claims a tax credit under Section 59-9-107 and this section shall provide the office with a document that expressly directs and authorizes the State Tax Commission to disclose to the office the entity's tax returns and other information concerning the entity that are required by the office and that would otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code~~, to the office~~.

(b) The office shall submit the document described in Subsection (12)(a) to the State Tax Commission.

(c) Upon receipt of the document described in Subsection (12)(a), the State Tax Commission shall provide the office with the information requested by the office that the entity authorized the State Tax Commission to provide to the office in the document described in Subsection (12)(a).

Section 122. Section 63N-2-604, which is renumbered from Section 63M-1-3504 is renumbered and amended to read:

[63M-1-3504]. 63N-2-604. Recapture.

(1) The office may recapture a tax credit from an entity that claimed the tax credit allowed under Section 59-9-107 on a return, if any of the following occur:

(a) If any amount of a federal tax credit available with respect to a qualified equity investment that is eligible for a tax credit under this part is recaptured under Section 45D, Internal Revenue Code, the office may recapture the tax credit in an amount that is proportionate to the federal recapture with respect to the qualified equity investment.

(b) If the qualified community development entity redeems or makes principal repayment with respect to a qualified equity investment before the seventh anniversary of the issuance of the qualified equity investment, the office may recapture an amount proportionate to the amount of the redemption or repayment with respect to the qualified equity investment.

(c) (i) If the qualified community development entity fails to invest an amount equal to 85% of the purchase price of the qualified equity investment in qualified low-income community investments in Utah within 12 months of the issuance of the qualified equity investment and maintains at least 85% of the level of investment in qualified low-income community investments in Utah until the last credit allowance date for the qualified equity investment, the office may recapture the tax credit.

(ii) For purposes of this part, an investment is considered held by a qualified community development entity even if the investment has been sold or repaid if the qualified community development entity reinvests an amount equal to the capital returned to or recovered by the qualified community development entity from the original investment, exclusive of any profits realized, in another qualified low-income community investment within 12 months of the receipt of the capital.

(iii) Periodic amounts received as repayment of principal pursuant to regularly scheduled amortization payments on a loan that is a qualified low-income community investment shall be treated as continuously invested in a qualified low-income community investment if the amounts are reinvested in one or more qualified low-income community investments by the end of the following calendar year.

(iv) A qualified community development entity is not required to reinvest capital returned from a qualified low-income community investment after the sixth anniversary of the issuance of the qualified equity investment, and the qualified low-income community investment shall be considered held by the qualified community development entity through the seventh anniversary of the qualified equity investment's issuance.

(d) If a qualified community development entity makes a distribution or debt payment in violation of Subsection ~~[63M-1-3507]~~ 63N-2-607(1), the office may recapture the tax credit.

(e) If there is a violation of Section ~~[63M-1-3509]~~ 63N-2-609, the office may recapture the tax credit.

(2) A recaptured tax credit and the related qualified equity investment authority revert back to the office and shall be reissued:

(a) first, pro rata to applicants whose qualified equity investment allocations were reduced under Subsection ~~[63M-1-3503]~~ 63N-2-603(5)(a);

(b) second, pro rata to applicants whose qualified equity investment allocations were reduced under Subsection ~~[63M-1-3503]~~ 63N-2-603(5)(b); and

(c) after complying with Subsections (2)(a) and (b), in accordance with the application process.

Section 123. Section 63N-2-605, which is renumbered from Section 63M-1-3505 is renumbered and amended to read:

[63M-1-3505]. 63N-2-605. Notice of noncompliance.

(1) Enforcement of a recapture provision under Subsection ~~[63M-1-3504]~~ 63N-2-604(1) is subject to a six-month cure period.

(2) The office may not recapture a tax credit until the office notifies the qualified community development entity of noncompliance and affords the qualified community development entity six months from the date of the notice to cure the noncompliance.

Section 124. Section 63N-2-606, which is renumbered from Section 63M-1-3506 is renumbered and amended to read:

~~[63M-1-3506]. 63N-2-606. Refundable performance deposit -- Small Business Jobs Performance Guarantee Account.~~

(1) (a) A qualified community development entity that seeks to have an equity investment or long-term debt security certified as a qualified equity investment and as eligible for tax credits under Section 59-9-107 shall pay a deposit in the amount of .5% of the amount of the equity investment or long-term debt security requested in an application to be certified as a qualified equity investment to the office for deposit into the Small Business Jobs Performance Guarantee Account.

(b) (i) There is created in the General Fund a restricted account known as the "Small Business Jobs Performance Guarantee Account" that consists of deposits made under Subsection (1)(a).

(ii) The Small Business Jobs Performance Guarantee Account does not earn interest.

(iii) At the end of a fiscal year, any amount in the Small Business Jobs Performance Guarantee Account that a qualified community development entity forfeits under this section is to be transferred to the General Fund.

(iv) The office shall work with the Division of Finance to ensure that money in the Small Business Jobs Performance Guarantee Account is properly accounted for at the end of each fiscal year.

(c) A qualified community development entity shall forfeit the deposit required under Subsection (1)(a) in its entirety if:

(i) the qualified community development entity and its subsidiary qualified community development entities fail to issue the total amount of qualified equity investments certified by the office and receive cash in the total amount certified under Section ~~[63M-1-3503]~~ 63N-2-603; or

(ii) the qualified community development entity or any subsidiary qualified community development entity that issues a qualified equity investment certified under this part fails to make qualified low-income community investments in qualified active low-income community businesses in Utah equal to at least 85% of the purchase price of the qualified equity investment by the second credit allowance date of such qualified equity investment.

(d) The six-month cure period established under Section ~~[63M-1-3505]~~ 63N-2-605 is not applicable to the forfeiture of a deposit under Subsection (1)(c).

(2) (a) A deposit required under Subsection (1) shall be paid to the office and held in the Small Business Jobs Performance Guarantee Account until such time as compliance with this Subsection (2) is established.

(b) A qualified community development entity may request a refund of the deposit from the office no sooner than 30 days after the qualified community development entity and all transferees under Subsection ~~[63M-1-3503]~~ 63N-2-603(7) have invested 85% of the purchase price of the qualified equity investment authority certified by the office pursuant to Subsection ~~[63M-1-3503]~~ 63N-2-603(3).

(c) The office has 30 days to comply with the request for a refund or give notice of noncompliance.

Section 125. Section 63N-2-607, which is renumbered from Section 63M-1-3507 is renumbered and amended to read:

~~[63M-1-3507]. 63N-2-607. 150% investment requirement -- Ceasing of certification.~~

(1) (a) Once certified under Section ~~[63M-1-3503]~~ 63N-2-603, a qualified equity investment shall remain certified until all of the requirements of Subsection (2) have been met.

(b) Until such time as the qualified equity investments issued by a qualified community development entity are no longer certified, the qualified community development entity may not distribute to its equity holders or make cash payments on long-term debt securities that have been certified as qualified equity investments in an amount that exceeds the sum of:

(i) the cumulative operating income, as defined by regulations adopted under Section 45D, Internal Revenue Code, earned by the qualified community development entity since issuance of the qualified equity investment, before giving effect to any interest expense from long-term debt securities certified as qualified equity investments; and

(ii) 50% of the purchase price of the qualified equity investments issued by the qualified community development entity.

(2) Subject to the other provisions of this section, a qualified equity investment ceases to be certified when:

(a) it is beyond its seventh credit allowance date;

(b) the qualified community development entity issuing the qualified equity investment has been in compliance with Section ~~[63M-1-3504]~~ 63N-2-604 through its seventh credit allowance date, including any cures under Section ~~[63M-1-3505]~~ 63N-2-605;

(c) the qualified community development entity issuing such qualified equity investment has used the cash purchase of such qualified equity investment, together with capital returned, repaid, or redeemed or profits realized with qualified

low-income community investments, to invest in qualified active low-income community businesses such that the total qualified low-income community investments made, cumulatively including reinvestments, exceeds 150% of the qualified equity investment; and

(d) the qualified community development complies with Subsection (4).

(3) For purposes of making the calculation under Subsection (2)(c), qualified low-income community investments to any one qualified active low-income community business, on a collective basis with its affiliates, in excess of \$4,000,000 may not be included, unless such investments are made with capital returned or repaid from qualified low-income community investments made by the qualified community development entity in other qualified active low-income community businesses or interest earned on or profits realized from any qualified low-income community investments.

(4) (a) A qualified community development entity shall file a request for ceasing certification of a qualified equity investment in a form, provided by the office, that establishes that the qualified community development entity has met the requirements of Subsection (2) along with evidence supporting the request for ceasing certification.

(b) Subsection (2)(b) shall be considered to be met if no recapture action has been commenced by the office as of the seventh credit allowance date.

(5) (a) A request for ceasing certification may not be unreasonably denied and the office shall respond to the request within 30 days of the office receiving the request.

(b) Upon grant of a request for ceasing certification, the qualified community development entity is no longer subject to Section ~~[63M-1-3510]~~ 63N-2-610.

(c) If the request is denied for any reason, the office has the burden of proof in any administrative or legal proceeding that follows.

Section 126. Section 63N-2-608, which is renumbered from Section 63M-1-3508 is renumbered and amended to read:

~~[63M-1-3508]. 63N-2-608. Limitation on fees.~~

(1) A qualified community development entity or purchaser of a qualified equity investment may not pay to any qualified community development entity or affiliate of a qualified community development entity any fee in connection with any activity under this part before meeting the requirements of Subsection ~~[63M-1-3507]~~ 63N-2-607(2) with respect to all qualified equity investments issued by such qualified community development entity and its affiliates.

(2) Subsection (1) does not prohibit the allocation or distribution of income earned by a qualified community development entity or purchaser of a qualified equity investment to the qualified community development entity's or purchaser's

equity owners or the payment of reasonable interest on amounts lent to a qualified community development entity or purchaser of a qualified equity investment.

Section 127. Section 63N-2-609, which is renumbered from Section 63M-1-3509 is renumbered and amended to read:

~~[63M-1-3509]. 63N-2-609. New capital requirement.~~

(1) A qualified active low-income community business that receives a qualified low-income community investment from a qualified community development entity that issues qualified equity investments under this part, or any affiliates of a qualified active low-income community business, may not directly or indirectly:

(a) own or have the right to acquire an ownership interest in a qualified community development entity or member or affiliate of a qualified community development entity, including a holder of a qualified equity investment issued by the qualified community development entity; or

(b) loan to or invest in a qualified community development entity or member or affiliate of a qualified community development entity, including a holder of a qualified equity investment issued by a qualified community development entity when the proceeds of the loan or investment are directly or indirectly used to fund or refinance the purchase of a qualified equity investment under this part.

(2) For purposes of this section, a qualified community development entity may not be considered an affiliate of a qualified active low-income community business solely as a result of its qualified low-income community investment in the business.

Section 128. Section 63N-2-610, which is renumbered from Section 63M-1-3510 is renumbered and amended to read:

~~[63M-1-3510]. 63N-2-610. Reporting.~~

(1) (a) A qualified community development entity that issues qualified equity investments shall submit a report to the office within the first five business days after the first anniversary of the initial credit allowance date that provides documentation as to the investment of 85% of the purchase price in qualified low-income community investments in qualified active low-income community businesses located in Utah.

(b) The report shall include:

~~[(a)]~~ (i) a bank statement of the qualified community development entity evidencing each qualified low-income community investment; and

~~[(b)]~~ (ii) evidence that the business was a qualified active low-income community business at the time of the qualified low-income community investment.

(2) (a) After the initial report under Subsection (1), a qualified community development entity shall submit an annual report to the office within 60 days of the beginning of the calendar year during the compliance period. ~~[Aa]~~

(b) The annual report is not due before the first anniversary of the initial credit allowance date.

(c) The annual report shall include the following:

(a) (i) the number of employment positions created and retained as a result of qualified low-income community investments;

(a) (ii) the average annual salary of positions described in Subsection (2)(a)(c)(i); and

(a) (iii) certification from the qualified community development entity that the grounds for recapture under Section [63M-1-3504] 63N-2-604 have not occurred.

Section 129. Section 63N-2-611, which is renumbered from Section 63M-1-3511 is renumbered and amended to read:

[63M-1-3511]. 63N-2-611. Revenue impact assessment.

(1) Before making a qualified low-income community investment, a qualified community development entity shall submit to the office a revenue impact assessment prepared using a nationally recognized economic development model that demonstrates that the qualified low-income community investment will have a revenue positive impact on the state over 10 years against the 58% tax credit utilization over the same 10-year period.

(2) The office ~~must~~ shall notify the qualified community development entity within five business days if the qualified low-income community investment does not have a revenue positive impact on the state over 10 years against the 58% tax credit utilization over the same 10-year period using the revenue impact assessment submitted.

(3) If the office determines that the revenue impact assessment does not reflect a revenue positive qualified low-income community investment, the office may waive the requirement under this section if the office determines that the proposed qualified low-income community investment will further economic development.

Section 130. Section 63N-2-612, which is renumbered from Section 63M-1-3512 is renumbered and amended to read:

[63M-1-3512]. 63N-2-612. Scope of part.

This part applies only to a return or report originally due on or after September 2, 2014.

Section 131. Section 63N-2-701, which is renumbered from Section 63M-1-3101 is renumbered and amended to read:

Part 7. Alternative Energy Manufacturing Tax Credit Act

[63M-1-3101]. 63N-2-701. Title.

This part is known as the "Alternative Energy Manufacturing Tax Credit Act."

Section 132. Section 63N-2-702, which is renumbered from Section 63M-1-3102 is renumbered and amended to read:

[63M-1-3102]. 63N-2-702. Definitions.

As used in this ~~section~~ part:

(1) "Alternative energy" ~~is~~ has the same meaning as defined in Section 59-12-102.

(2) (a) "Alternative energy entity" means a person that:

(i) conducts business within the state; and

(ii) enters into an agreement with the office that qualifies the person to receive a tax credit.

(b) "Alternative energy entity" includes a pass-through entity taxpayer, as defined in Section 59-10-1402, of a person described in Subsection (2)(a).

(3) "Alternative energy manufacturing project" means a project produced by an alternative energy entity if that project involves:

(a) a new or expanding operation in the state of a new or expanding alternative energy entity; and

(b) the manufacturing of machinery or equipment used directly in the production of alternative energy.

(4) "New incremental job within the state" means, with respect to an alternative energy entity, an employment position that:

(a) did not exist within the state before:

(i) the alternative energy entity entered into an agreement with the office in accordance with Section [63M-1-3103] 63N-2-703; and

(ii) the alternative energy manufacturing project began;

(b) is not shifted from one location in the state to another location in the state; and

(c) is established to the satisfaction of the office, including by amounts paid or withheld by the alternative energy entity under Title 59, Chapter 10, Individual Income Tax Act.

(5) "New state revenues" means an increased amount of tax revenues generated as a result of an alternative energy manufacturing project by an alternative energy entity or a new incremental job within the state under the following:

(a) Title 59, Chapter 7, Corporate Franchise and Income Taxes;

(b) Title 59, Chapter 10, Individual Income Tax Act; and

(c) Title 59, Chapter 12, Sales and Use Tax Act.

~~[(6) "Office" means the Governor's Office of Economic Development.]~~

~~[(7) (6) "Tax credit" means a tax credit under Section 59-7-614.8 or 59-10-1030.]~~

~~[(8) (7) "Tax credit applicant" means an alternative energy entity that applies to the office to receive a tax credit certificate under this part.]~~

~~[(9)]~~ (8) "Tax credit certificate" means a certificate issued by the office that:

(a) lists the name of the tax credit certificate recipient;

(b) lists the tax credit certificate recipient's taxpayer identification number;

(c) lists the amount of the tax credit certificate recipient's tax credits authorized under this part for a taxable year; and

(d) includes other information as determined by the office.

~~[(10)]~~ (9) "Tax credit certificate recipient" means an alternative energy entity that receives a tax credit certificate for a tax credit in accordance with this part.

Section 133. Section 63N-2-703, which is renumbered from Section 63M-1-3103 is renumbered and amended to read:

[63M-1-3103]. 63N-2-703. Tax credits.

(1) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office, with advice from the board, shall make rules establishing standards an alternative energy entity shall meet to qualify for a tax credit.

(b) Before the office enters into an agreement described in Subsection (2) with an alternative energy entity, the office shall certify:

(i) that the alternative energy manufacturing project will generate new state revenues;

(ii) the economic life of the alternative energy manufacturing project produced by the alternative energy entity;

(iii) that local incentives have been committed or will be committed to be provided to the alternative energy manufacturing project;

(iv) that the alternative energy entity meets the requirements of Section ~~[63M-1-3104]~~ 63N-2-704; and

(v) that the alternative energy entity has received a Certificate of Good Standing from the Division of Corporations and Commercial Code.

(2) If an alternative energy entity meets the requirements of this part to receive a tax credit, the office may enter into an agreement with the alternative energy entity to authorize the tax credit in accordance with Subsection (3).

(3) (a) Subject to Subsections (3)(b) through (d), the office may authorize or commit a tax credit under this part that may not exceed 100% of new state revenues generated by the alternative energy manufacturing project.

(b) As determined by the office, the office may authorize or commit a tax credit under this section for a time period that does not exceed the lesser of:

(i) the economic life of the alternative energy manufacturing project; or

(ii) 20 years.

(c) The office shall consider economic modeling, including the costs and benefits of an alternative energy manufacturing project to the state and local governments, in determining:

(i) the amount of tax credit to authorize or commit in accordance with Subsection (3)(a); and

(ii) the time period for which the office will authorize or commit a tax credit in accordance with Subsection (3)(b).

(d) For a taxable year, a tax credit under this section may not exceed the new state revenues generated by an alternative energy manufacturing project during that taxable year.

(4) An alternative energy entity that seeks to receive a tax credit or has entered into an agreement described in Subsection (2) with the office shall:

(a) annually file a report with the office showing the new state revenues generated by the alternative energy manufacturing project during the taxable year for which the alternative energy entity seeks to receive a tax credit under Section 59-7-614.8 or 59-10-1030;

(b) submit to an audit for verification of a tax credit under Section 59-7-614.8 or 59-10-1030;

(c) provide the office with information required by the office to certify the economic life of the alternative energy manufacturing project produced by the alternative energy entity, which may include a power purchase agreement, a lease, or a permit; and

(d) retain records supporting a claim for a tax credit for at least four years after the alternative energy entity claims a tax credit under Section 59-7-614.8 or 59-10-1030.

(5) The office shall annually certify the new state revenues generated by an alternative energy manufacturing project for a taxable year for which an alternative energy entity seeks to receive a tax credit under Section 59-7-614.8 or 59-10-1030.

Section 134. Section 63N-2-704, which is renumbered from Section 63M-1-3104 is renumbered and amended to read:

[63M-1-3104]. 63N-2-704. Qualifications for tax credit -- Procedure.

(1) The office, with advice from the board, shall certify an alternative energy entity's eligibility for a tax credit as provided in this section.

(2) A tax credit applicant shall provide the office with:

(a) an application for a tax credit certificate;

(b) documentation that the tax credit applicant meets the standards and requirements described in Section ~~[63M-1-3103]~~ 63N-2-703 to the satisfaction of the office for the taxable year for which the tax credit applicant seeks to claim a tax credit; and

(c) documentation that expressly directs and authorizes the State Tax Commission to disclose to

the office the tax credit applicant's returns and other information concerning the tax credit applicant that would otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code.

(3) (a) The office shall submit the documentation described in Subsection (2)(c) to the State Tax Commission.

(b) Upon receipt of the documentation described in Subsection (2)(c), the State Tax Commission shall provide the office with the documentation described in Subsection (2)(c) requested by the office that the tax credit applicant directed and authorized the State Tax Commission to provide to the office.

(4) If, after the office reviews the documentation described in Subsections (2) and (3), the office determines that the documentation supporting the tax credit applicant's claim for a tax credit is not substantially accurate, the office shall:

(a) deny the tax credit; or

(b) inform the tax credit applicant that the documentation supporting the tax credit applicant's claim for a tax credit was inadequate and ask the tax credit applicant to submit new documentation.

(5) If, after the office reviews the documentation described in Subsections (2) and (3), the office determines that the documentation supporting the tax credit applicant's claim for a tax credit is substantially accurate, the office shall, on the basis of that documentation:

(a) enter into the agreement described in Section ~~[63M-1-3103]~~ 63N-2-703;

(b) issue a tax credit certificate to the tax credit applicant; and

(c) provide a duplicate copy of the tax credit certificate described in Subsection (5)(b) to the State Tax Commission.

(6) An alternative energy entity may not claim a tax credit under this part unless the alternative energy entity is a tax credit certificate recipient.

(7) A tax credit certificate recipient that claims a tax credit shall retain the tax credit certificate in accordance with Subsection ~~[63M-1-3103]~~ 63N-2-703(4).

Section 135. Section 63N-2-705, which is renumbered from Section 63M-1-3105 is renumbered and amended to read:

~~[63M-1-3105]. 63N-2-705. Reporting.~~

The office shall provide the following information in the annual written report described in Section ~~[63M-1-206]~~ 63N-2-301:

(1) the office's success in attracting alternative energy manufacturing projects to the state and the resulting increase in new state revenues under this part;

(2) the amount of tax credits the office has granted or will grant and the time period during which the tax credits have been or will be granted; and

(3) the economic impact on the state by comparing new state revenues to tax credits that have been or will be granted under this part.

Section 136. Section 63N-2-801, which is renumbered from Section 63M-1-2901 is renumbered and amended to read:

Part 8. Technology and Life Science Economic Development Act

~~[63M-1-2901]. 63N-2-801. Title.~~

This part is known as the "Technology and Life Science Economic Development Act."

Section 137. Section 63N-2-802, which is renumbered from Section 63M-1-2902 is renumbered and amended to read:

~~[63M-1-2902]. 63N-2-802. Definitions.~~

As used in this part:

~~[(1) "Board" means the Governor's Office of Economic Development Board of Directors.]~~

~~[(2) (1) "Claimant" [is] has the same meaning as defined in Section 59-10-1002.~~

~~[(3) (2) "Eligible business entity" means a person that:~~

(a) enters into an agreement with the office in accordance with this part to receive a tax credit certificate for a tax credit under Section 59-7-614.6 or 59-10-1109;

(b) is:

(i) a life science establishment; or

(ii) described in NAICS Code 334413, Semiconductor and Related Device Manufacturing, of the 2007 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(c) has at least 50% of its employees in the state for each day of a taxable year the eligible business entity claims a tax credit under Section 59-7-614.6 or 59-10-1109; and

(d) receives a tax credit certificate from the office in accordance with this part.

~~[(4) (3) "Eligible claimant, estate, or trust" means a claimant, estate, or trust that:~~

(a) enters into an agreement with the office in accordance with this part to receive a tax credit certificate for a tax credit under Section 59-10-1025; and

(b) receives a tax credit certificate from the office in accordance with this part.

~~[(5) (4) "Eligible new state tax revenues" means an increased amount of tax revenues generated as a result of an eligible product or project by an eligible business entity or a new incremental job within the state under the following:~~

(a) Title 59, Chapter 7, Corporate Franchise and Income Taxes;

(b) Title 59, Chapter 10, Individual Income Tax Act; and

(c) Title 59, Chapter 12, Sales and Use Tax Act.

[46] (5) "Eligible product or project" means any product or project produced by an eligible business entity that was not produced prior to the date of an agreement with the office under Section [63M-1-2908] 63N-2-808:

(a) by the eligible business entity; and

(b) within the state.

[47] (6) "Life science establishment" [is] has the same meaning as defined in Section 59-10-1025.

[48] (7) "New incremental job within the state" means, with respect to an eligible business entity, an employment position that:

(a) did not exist within the state before:

(i) the eligible business entity entered into an agreement with the office in accordance with this part; and

(ii) the eligible product was produced or the eligible project began;

(b) is not shifted from one location in the state to another location in the state; and

(c) is established to the satisfaction of the office, including by amounts paid or withheld by the eligible business entity under Title 59, Chapter 10, Individual Income Tax Act.

[9] "~~Office~~" means the ~~Governor's Office of Economic Development.~~

[40] (8) "Tax credit" means a tax credit under:

(a) Section 59-7-614.6;

(b) Section 59-10-1025; or

(c) Section 59-10-1109.

[41] (9) "Tax credit applicant" means a person that applies to the office to receive a tax credit certificate under this part.

[42] (10) "Tax credit certificate" means a certificate issued by the office that:

(a) lists the name of the tax credit certificate recipient;

(b) lists the tax credit certificate recipient's taxpayer identification number;

(c) lists the amount of the tax credit certificate recipient's tax credits authorized under this part for a taxable year; and

(d) includes other information as determined by the office.

[43] (11) "Tax credit certificate recipient" means:

(a) an eligible business entity that receives a tax credit certificate in accordance with this part for a tax credit under Section 59-7-614.6 or 59-10-1109; or

(b) an eligible claimant, estate, or trust that receives a tax credit certificate in accordance with this part for a tax credit under Section 59-10-1025.

Section 138. Section 63N-2-803, which is renumbered from Section 63M-1-2903 is renumbered and amended to read:

[63M-1-2903]. 63N-2-803. Tax credits issued by office.

(1) (a) The office may issue tax credit certificates under this part only to the extent that the Legislature, by statute, expressly authorizes the office to issue the tax credit certificates under this part for a fiscal year.

(b) The Legislature intends that a statutory authorization under Subsection (1)(a) specify:

(i) the total allocation to the tax credits under Sections 59-7-614.6 and 59-10-1109; and

(ii) the allocation to the tax credit under Section 59-10-1025.

(2) For fiscal year 2011-12 only, the office may issue a total of \$1,300,000 in tax credit certificates in accordance with this part.

(3) (a) If the total amount of tax credit certificates the office issues in a fiscal year is less than the amount of tax credit certificates the office may issue under this part in a fiscal year, the office may issue the remaining amount of tax credit certificates in a fiscal year after the fiscal year for which there is a remaining amount of tax credit certificates.

(b) Except as provided in Subsection (3)(c), if the total amount of tax credit certificates the office issues in a quarter of a fiscal year is less than the amount of tax credit certificates the office may issue under this part in that quarter, the office may issue the remaining amount of tax credit certificates in a quarter after the quarter for which there is a remaining amount of tax credit certificates.

(c) For fiscal year 2011-12 only, if the total amount of tax credit certificates the office issues in fiscal year 2011-12 is less than the amount of tax credit certificates the office may issue in tax credit certificates under Subsection (2), the office:

(i) may issue the remaining amount of tax credit certificates in a fiscal year after fiscal year 2011-12; and

(ii) is not required to allocate the tax credit certificates to any particular quarter.

Section 139. Section 63N-2-804, which is renumbered from Section 63M-1-2904 is renumbered and amended to read:

[63M-1-2904]. 63N-2-804. Person may not claim or pass through a tax credit without tax credit certificate.

A person may not claim or pass through a tax credit unless the person has received a tax credit

certificate from the office for the taxable year for which the person claims or passes through the tax credit.

Section 140. Section 63N-2-805, which is renumbered from Section 63M-1-2905 is renumbered and amended to read:

[63M-1-2905]. 63N-2-805. Application process.

(1) A tax credit applicant may apply to the office to receive a tax credit certificate by filing an application with the office:

(a) on or before the quarterly deadline established by the office by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(b) on a form and in the manner prescribed by the office.

(2) The application shall include:

(a) tax return information as required by the office that is necessary for the office to determine eligibility for and the amount of a tax credit; and

(b) other documentation as required by the office.

(3) As part of the application required by this section, a tax credit applicant shall sign a separate document that expressly directs and authorizes the State Tax Commission to disclose to the office the tax credit certificate recipient's tax returns and other information concerning the tax credit certificate that:

(a) would otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code; and

(b) are necessary for the office to determine eligibility for and the amount of a tax credit under this part.

(4) Upon receipt of the document described in Subsection (3), the State Tax Commission shall provide the office with the tax returns and other information requested by the office that the tax credit applicant directed or authorized the State Tax Commission to provide to the office, including information necessary to determine eligibility for the amount of a tax credit.

(5) If the office determines that the information a tax credit applicant provides is inadequate to provide a reasonable justification for authorizing a tax credit, the office shall:

(a) deny the tax credit; or

(b) inform the tax credit applicant that the information is inadequate and ask the tax credit applicant to submit new or additional documentation.

Section 141. Section 63N-2-806, which is renumbered from Section 63M-1-2906 is renumbered and amended to read:

[63M-1-2906]. 63N-2-806. Criteria for tax credits.

(1) A tax credit applicant shall establish as part of the application required by Section ~~[63M-1-2905]~~ 63N-2-805 that the tax credit applicant:

(a) meets all of the criteria to receive the tax credit for which the tax credit applicant applies, except for the requirement to obtain a tax credit certificate; and

(b) will provide a long-term economic benefit to the state.

(2) The office may not issue a tax credit certificate to a tax credit applicant that fails to meet the requirements of Subsection (1)(a).

Section 142. Section 63N-2-807, which is renumbered from Section 63M-1-2907 is renumbered and amended to read:

[63M-1-2907]. 63N-2-807. Rulemaking authority.

The office shall, by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establish:

(1) criteria to prioritize the issuance of tax credits amongst tax credit applicants in a manner consistent with this part; and

(2) procedures for documenting the office's application of the criteria described in Subsection (1).

Section 143. Section 63N-2-808, which is renumbered from Section 63M-1-2908 is renumbered and amended to read:

[63M-1-2908]. 63N-2-808. Agreement between tax credit applicant and office -- Tax credit certificate.

(1) (a) Except as provided in Subsection ~~[63M-1-2903]~~ 63N-2-803(3)(b), for each quarter of a fiscal year after fiscal year 2011-12, the office shall allocate:

(i) 25% of the total amounts made available for allocation in accordance with Section ~~[63M-1-2903]~~ 63N-2-803 for the tax credits under Sections 59-7-~~614.6~~ and 59-10-1109; and

(ii) 25% of the amounts made available for allocation in accordance with Section ~~[63M-1-2903]~~ 63N-2-803 for the tax credit under Section 59-10-~~1025~~.

(b) Subject to the other provisions of this part, the office, with advice from the board, shall determine quarterly:

(i) the tax credit applicant or applicants to which a tax credit certificate may be provided; and

(ii) the amount of tax credit a tax credit applicant may receive.

(2) The office, with advice from the board, may enter into an agreement to grant a tax credit certificate to a tax credit applicant selected in accordance with this part, if the tax credit applicant meets the conditions established in the agreement and under this part.

(3) The agreement described in Subsection (2) shall:

(a) detail the requirements that the tax credit applicant shall meet prior to receiving a tax credit certificate;

(b) require the tax credit certificate recipient to retain records supporting a claim for a tax credit for at least four years after the tax credit certificate recipient claims a tax credit under this part; and

(c) require the tax credit certificate recipient to submit to audits for verification of the tax credit claimed, including audits by the office and by the State Tax Commission.

Section 144. Section 63N-2-809, which is renumbered from Section 63M-1-2909 is renumbered and amended to read:

[63M-1-2909]. 63N-2-809. Issuance of tax credit certificates.

(1) For a tax credit applicant that seeks to claim a tax credit, the office may issue a tax credit certificate to the tax credit applicant:

(a) for the first taxable year for which the tax credit applicant qualifies for the tax credit and enters into an agreement with the office;

(b) for two taxable years immediately following the taxable year described in Subsection (1)(a); and

(c) for the seven taxable years immediately following the last of the two taxable years described in Subsection (1)(b) if:

(i) the agreement with the office described in Section ~~[63M-1-2908]~~ 63N-2-808 includes a provision that the tax credit applicant will make new capital expenditures of at least \$1,000,000,000 in the state; and

(ii) the tax credit applicant makes new capital expenditures of at least \$1,000,000,000 in the state in accordance with the agreement with the office described in Section ~~[63M-1-2908]~~ 63N-2-808.

(2) The office shall provide a duplicate copy of each tax credit certificate to the State Tax Commission.

Section 145. Section 63N-2-810, which is renumbered from Section 63M-1-2910 is renumbered and amended to read:

[63M-1-2910]. 63N-2-810. Reports on tax credit certificates -- Study by legislative committees.

(1) The office shall include the following information in the annual written report described in Section ~~[63M-1-2906]~~ 63N-1-301:

(a) the total amount listed on tax credit certificates the office issues under this part;

(b) the criteria that the office uses in prioritizing the issuance of tax credits amongst tax credit applicants under this part; and

(c) the economic impact on the state related to providing tax credits under this part.

(2) (a) On or before November 1, 2016, and every five years after November 1, 2016, the Revenue and Taxation Interim Committee shall:

(i) study the tax credits allowed under Sections 59-7-614.6, 59-10-1025, and 59-10-1109; and

(ii) make recommendations concerning whether the tax credits should be continued, modified, or repealed.

(b) The study under Subsection (2)(a) shall include an evaluation of:

(i) the cost of the tax credits under Sections 59-7-614.6, 59-10-1025, and 59-10-1109;

(ii) the purposes and effectiveness of the tax credits; and

(iii) the extent to which the state benefits from the tax credits.

Section 146. Section 63N-2-811, which is renumbered from Section 63M-1-2911 is renumbered and amended to read:

[63M-1-2911]. 63N-2-811. Reports of tax credits.

(1) Before December 1 of each year, the office shall submit a report to the Governor's Office of Management and Budget, the Office of Legislative Fiscal Analyst, and the Division of Finance identifying:

(a) the total amount listed on tax credit certificates the office issues under this part; and

(b) the criteria that the office uses in prioritizing the issuance of tax credits amongst tax credit applicants.

(2) By the first business day of each month, the office shall submit a report to the Governor's Office of Management and Budget, the Office of Legislative Fiscal Analyst, and the Division of Finance identifying:

(a) each new agreement entered into by the office since the last report;

(b) the total amount listed on tax credit certificates the office issues under this part; and

(c) the criteria that the office uses in prioritizing the issuance of tax credits amongst tax credit applicants.

Section 147. Section 63N-3-101, which is renumbered from Section 63M-1-901 is renumbered and amended to read:

CHAPTER 3. ECONOMIC DEVELOPMENT PROGRAMS

Part 1. Industrial Assistance Account

[63M-1-901]. 63N-3-101. Title -- Purpose.

(1) This chapter is known as "Economic Development Programs."

(2) This part is known as the "Industrial Assistance Account."

(3) The Legislature finds and declares that the fostering and development of industry in Utah is a

state public purpose necessary to assure the welfare of its citizens, the growth of its economy, and adequate employment for its citizens.

Section 148. Section 63N-3-102, which is renumbered from Section 63M-1-902 is renumbered and amended to read:

[63M-1-902]. 63N-3-102. Definitions.

As used in this part:

(1) "Administrator" means the executive director or the executive director's designee.

~~[(2) "Board" means the Board of Business and Economic Development.]~~

~~[(3)]~~ (2) "Company creating an economic impediment" means a company that discourages economic development within a reasonable radius of its location because of:

- (a) odors;
- (b) noise;
- (c) pollution;
- (d) health hazards; or

(e) other activities similar to those described in Subsections (3)(a) through (d).

~~[(5)]~~ (3) "Economically disadvantaged rural area" means a geographic area designated by the board under Section ~~[63M-1-910]~~ 63N-3-111.

(4) "Economic opportunities" means unique business situations or community circumstances which lend themselves to the furtherance of the economic interests of the state by providing a catalyst or stimulus to the growth or retention, or both, of commerce and industry in the state, including retention of companies whose relocation outside the state would have a significant detrimental economic impact on the state as a whole, regions of the state, or specific components of the state as determined by the board.

~~[(6)]~~ (5) "Replacement company" means a company locating its business or part of its business in a location vacated by a company creating an economic impediment.

~~[(7)]~~ (6) "Restricted Account" means the restricted account known as the Industrial Assistance Account created in Section ~~[63M-1-903]~~ 63N-3-103.

~~[(8)]~~ (7) "Targeted industry" means an industry or group of industries targeted by the board under Section ~~[63M-1-910]~~ 63N-3-111, for economic development in the state.

Section 149. Section 63N-3-103, which is renumbered from Section 63M-1-903 is renumbered and amended to read:

[63M-1-903]. 63N-3-103. Industrial Assistance Account created -- Uses -- Administrator duties -- Costs.

(1) There is created a restricted account within the General Fund known as the "Industrial Assistance Account" of which:

(a) up to 50% may be used in economically disadvantaged rural areas;

(b) up to 25% may be used to take timely advantage of economic opportunities as they arise;

(c) up to 4% may be used to promote business and economic development in rural areas of the state with the Business Expansion and Retention Initiative; and

(d) up to \$3,000,000 may be used for the purpose of incubating technology solutions related to economic and workforce development.

(2) The administrator shall administer:

(a) the restricted account created under Subsection (1), under the policy direction of the board; and

(b) the Business Expansion and Retention Initiative for the rural areas of the state.

(3) The administrator may hire appropriate support staff to perform the duties required under this section.

(4) The cost of administering the restricted account shall be paid from money in the restricted account.

(5) Interest accrued from investment of money in the restricted account shall remain in the restricted account.

Section 150. Section 63N-3-104, which is renumbered from Section 63M-1-904 is renumbered and amended to read:

[63M-1-904]. 63N-3-104. Rural Fast Track Program -- Creation -- Funding -- Qualifications for program participation -- Awards -- Reports.

(1) (a) There is created the Rural Fast Track Program.

(b) The program is a funded component of the economically disadvantaged rural areas designation in Subsection ~~[63M-1-903]~~ 63N-3-103(1)(a).

(2) The purpose of the program is to provide an efficient way for small companies in rural areas of the state to receive incentives for creating high paying jobs in those areas of the state.

(3) (a) Twenty percent of the unencumbered amount in the Industrial Assistance Account created in Subsection ~~[63M-1-903]~~ 63N-3-103(1) at the beginning of each fiscal year shall be used to fund the program.

(b) The 20% referred to in Subsection (3)(a) is not in addition to but is a part of the up to 50% designation for economically disadvantaged rural areas referred to in Subsection ~~[63M-1-903]~~ 63N-3-103(1)(a).

(c) If any of the 20% allocation referred to in Subsection (3)(a) has not been used in the program

by the end of the third quarter of each fiscal year, that money may be used for any other loan, grant, or assistance program offered through the Industrial Assistance Account during the fiscal year.

(4) (a) To qualify for participation in the program a company shall:

(i) complete and file with the office an application for participation in the program, signed by an officer of the company;

(ii) be located and conduct its business operations in a county in the state that has:

(A) a population of less than 30,000; and

(B) an average household income of less than \$60,000 as reflected in the most recently available data collected and reported by the United States Census Bureau;

(iii) have been in business in the state for at least two years; and

(iv) have at least two employees.

(b) (i) The office shall verify an applicant's qualifications under Subsection (4)(a).

(ii) The application must be approved by the administrator in order for a company to receive an incentive or other assistance under this section.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the administrator may make rules governing:

(i) the content of the application form referred to in Subsection (4)(a)(i);

(ii) who qualifies as an employee under Subsection (4)(a)(iv); and

(iii) the verification procedure referred to in Subsection (4)(b).

(5) (a) The administrator shall make incentive cash awards to small companies under this section based on the following criteria:

(i) \$1,000 for each new incremental job that pays over 110% of the county's average annual wage;

(ii) \$1,250 for each incremental job that pays over 115% of the county's average annual wage; and

(iii) \$1,500 for each incremental job that pays over 125% of the county's average annual wage.

(b) The administrator shall make a cash award under Subsection (5)(a) when a new incremental job has been in place for at least 12 months.

(c) The creation of a new incremental job by a company is based on the number of employees at the company during the previous 24 months.

(d) (i) A small company may also apply for grants, loans, or other financial assistance under the program to help develop its business in rural Utah and may receive up to \$50,000 under the program if approved by the administrator.

(ii) The board must approve a distribution that exceeds the \$50,000 cap under Subsection (5)(d)(i).

(6) The administrator shall make a quarterly report to the board of the awards made by the administrator under this section and submit a report to the office on the awards and their impact on economic development in the state's rural areas for inclusion in the office's annual written report described in Section ~~[63M-1-206]~~ 63N-1-301.

Section 151. Section 63N-3-105, which is renumbered from Section 63M-1-906 is renumbered and amended to read:

~~[63M-1-906]. 63N-3-105. Qualification for assistance.~~

(1) Except as provided in Section ~~[63M-1-908, 63M-1-909, or 63M-1-909.5]~~ 63N-3-108, 63N-3-109, or 63N-3-110, the administrator shall determine which industries, companies, and individuals qualify to receive money from the Industrial Assistance Account. Except as provided by Subsection (2), to qualify for financial assistance from the restricted account, an applicant shall:

(a) demonstrate to the satisfaction of the administrator that the applicant will expend funds in Utah with employees, vendors, subcontractors, or other businesses in an amount proportional with money provided from the restricted account at a minimum ratio of 2 to 1 per year or other more stringent requirements as established from time to time by the board for a minimum period of five years beginning with the date the loan or grant was approved;

(b) demonstrate to the satisfaction of the administrator the applicant's ability to sustain economic activity in the state sufficient to repay, by means of cash or appropriate credits, the loan provided by the restricted account; and

(c) satisfy other criteria the administrator considers appropriate.

(2) (a) The administrator may exempt an applicant from the requirements of Subsection (1)(a) or (b) if:

(i) the financial assistance is provided to an applicant for the purpose of locating all or any portion of its operations to an economically disadvantaged rural area;

(ii) the applicant is part of a targeted industry;

(iii) the applicant is a quasi-public corporation organized under Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act, or Title 63E, Chapter 2, Independent Corporations Act, and its operations, as demonstrated to the satisfaction of the administrator, will provide significant economic stimulus to the growth of commerce and industry in the state; or

(iv) the applicant is an entity offering an economic opportunity under Section ~~[63M-1-909]~~ 63N-3-109.

(b) The administrator may not exempt the applicant from the requirement under Subsection ~~[63M-1-905]~~ 63N-3-106(2)(b) that the loan be structured so that the repayment or return to the state equals at least the amount of the assistance together with an annual interest charge.

(3) The administrator shall:

(a) for applicants not described in Subsection (2)(a):

(i) make findings as to whether or not each applicant has satisfied each of the conditions set forth in Subsection (1); and

(ii) monitor the continued compliance by each applicant with each of the conditions set forth in Subsection (1) for five years;

(b) for applicants described in Subsection (2)(a), make findings as to whether the economic activities of each applicant has resulted in the creation of new jobs on a per capita basis in the economically disadvantaged rural area or targeted industry in which the applicant is located;

(c) monitor the compliance by each applicant with the provisions of any contract or agreement entered into between the applicant and the state as provided in Section [63M-1-907] 63N-3-107; and

(d) make funding decisions based upon appropriate findings and compliance.

Section 152. Section 63N-3-106, which is renumbered from Section 63M-1-905 is renumbered and amended to read:

[63M-1-905]. 63N-3-106. Loans, grants, and assistance -- Repayment -- Earned credits.

(1) (a) A company that qualifies under Section [63M-1-906] 63N-3-105 may receive loans, grants, or other financial assistance from the Industrial Assistance Account for expenses related to establishment, relocation, or development of industry in Utah.

(b) A company creating an economic impediment that qualifies under Section [63M-1-908] 63N-3-108 may in accordance with this part receive loans, grants, or other financial assistance from the restricted account for the expenses of the company creating an economic impediment related to:

(i) relocation to a rural area in Utah of the company creating an economic impediment; and

(ii) the siting of a replacement company.

(c) An entity offering an economic opportunity that qualifies under Section [63M-1-909] 63N-3-109 may:

(i) receive loans, grants, or other financial assistance from the restricted account for expenses related to the establishment, relocation, retention, or development of industry in the state; and

(ii) include infrastructure or other economic development precursor activities that act as a catalyst and stimulus for economic activity likely to lead to the maintenance or enlargement of the state's tax base.

(2) (a) Subject to Subsection (2)(b), the administrator has authority to determine the structure, amount, and nature of any loan, grant, or

other financial assistance from the restricted account.

(b) Loans made under Subsection (2)(a) shall be structured so the intended repayment or return to the state, including cash or credit, equals at least the amount of the assistance together with an annual interest charge as negotiated by the administrator.

(c) Payments resulting from grants awarded from the restricted account shall be made only after the administrator has determined that the company has satisfied the conditions upon which the payment or earned credit was based.

(3) (a) (i) Except as provided in Subsection (3)(b), the administrator may provide for a system of earned credits that may be used to support grant payments or in lieu of cash repayment of a restricted account loan obligation.

(ii) The value of the credits described in Subsection (3)(a)(i) shall be based on factors determined by the administrator, including:

(A) the number of Utah jobs created;

(B) the increased economic activity in Utah; or

(C) other events and activities that occur as a result of the restricted account assistance.

(b) (i) The administrator shall provide for a system of credits to be used to support grant payments or in lieu of cash repayment of a restricted account loan when loans are made to a company creating an economic impediment.

(ii) The value of the credits described in Subsection (3)(b)(i) shall be based on factors determined by the administrator, including:

(A) the number of Utah jobs created;

(B) the increased economic activity in Utah; or

(C) other events and activities that occur as a result of the restricted account assistance.

(4) (a) A cash loan repayment or other cash recovery from a company receiving assistance under this section, including interest, shall be deposited into the restricted account.

(b) The administrator and the Division of Finance shall determine the manner of recognizing and accounting for the earned credits used in lieu of loan repayments or to support grant payments as provided in Subsection (3).

(5) (a) (i) At the end of each fiscal year, the Division of Finance shall set aside the balance of the General Fund revenue surplus as defined in Section 63J-1-312 after the transfers of General Fund revenue surplus described in Subsection (5)(b) to the Industrial Assistance Account in an amount equal to any credit that has accrued under this part.

(ii) The set aside under Subsection (5)(a)(i) shall be capped at \$50,000,000, at which time no subsequent contributions may be made and any interest accrued above the \$50,000,000 cap shall be deposited into the General Fund.

(b) The set aside required by Subsection (5)(a) shall be made after the transfer of surplus General Fund revenue surplus is made:

(i) to the Medicaid Growth Reduction and Budget Stabilization Restricted Account, as provided in Section 63J-1-315;

(ii) to the General Fund Budget Reserve Account, as provided in Section 63J-1-312; and

(iii) to the State Disaster Recovery Restricted Account, as provided in Section 63J-1-314.

(c) These credit amounts may not be used for purposes of the restricted account as provided in this part until appropriated by the Legislature.

Section 153. Section 63N-3-107, which is renumbered from Section 63M-1-907 is renumbered and amended to read:

[63M-1-907]. 63N-3-107. Agreements.

The administrator shall enter into agreements with each successful applicant that have specific terms and conditions for each loan or assistance, including:

- (1) repayment schedules;
- (2) interest rates;
- (3) specific economic activity required to qualify for the loan or assistance or for repayment credits;
- (4) collateral or security, if any; and
- (5) other terms and conditions considered appropriate by the administrator.

Section 154. Section 63N-3-108, which is renumbered from Section 63M-1-908 is renumbered and amended to read:

[63M-1-908]. 63N-3-108. Financial assistance to companies that create economic impediments.

(1) (a) The administrator may provide money from the Industrial Assistance Account to a company creating an economic impediment if that company:

- (i) applies to the administrator;
- (ii) relocates to a rural area in Utah; and
- (iii) meets the qualifications of Subsection (1)(b).

(b) Except as provided by Subsection (2), to qualify for financial assistance from the restricted account, a company creating an economic impediment shall:

(i) demonstrate to the satisfaction of the administrator that the company creating an economic impediment, its replacement company, or in the aggregate the company creating the economic impediment and its replacement company:

(A) will expend funds in Utah with employees, vendors, subcontractors, or other businesses in an amount proportional with money provided from the restricted account at a minimum ratio of 2 to 1 per year or other more stringent requirements as

established from time to time by the board for a minimum period of five years beginning with the date the loan or grant was approved; and

(B) can sustain economic activity in the state sufficient to repay, by means of cash or appropriate credits, the loan provided by the restricted account; and

(ii) satisfy other criteria the administrator considers appropriate.

(2) (a) The administrator may exempt a company creating an economic impediment from the requirements of Subsection (1)(b)(i)(A) if:

(i) the financial assistance is provided to a company creating an economic impediment for the purpose of locating all or any portion of its operations to an economically disadvantaged rural area; or

(ii) its replacement company is part of a targeted industry.

(b) The administrator may not exempt a company creating an economic impediment from the requirement under Subsection [63M-1-905] 63N-3-106(2)(b) that the loan be structured so that the repayment or return to the state equals at least the amount of the assistance together with an annual interest charge.

(3) The administrator shall:

(a) make findings as to whether or not a company creating an economic impediment, its replacement company, or both, have satisfied each of the conditions set forth in Subsection (1);

(b) monitor the compliance by a company creating an economic impediment, its replacement company, or both, with:

(i) each of the conditions set forth in Subsection (1); and

(ii) any contract or agreement under Section [63M-1-907] 63N-3-107 entered into between:

(A) the company creating an economic impediment; and

(B) the state; and

(c) make funding decisions based upon appropriate findings and compliance.

Section 155. Section 63N-3-109, which is renumbered from Section 63M-1-909 is renumbered and amended to read:

[63M-1-909]. 63N-3-109. Financial assistance to entities offering economic opportunities.

(1) Subject to the duties and powers of the board under Section [63M-1-303] 63N-1-402, the administrator may provide money from the Industrial Assistance Account to an entity offering an economic opportunity if that entity:

(a) applies to the administrator; and

(b) meets the qualifications of Subsection (2).

(2) The applicant shall:

(a) demonstrate to the satisfaction of the administrator the nature of the economic opportunity and the related benefit to the economic well-being of the state by providing evidence documenting the logical and compelling linkage, either direct or indirect, between the expenditure of money necessitated by the economic opportunity and the likelihood that the state's tax base, regions of the state's tax base, or specific components of the state's tax base will not be reduced but will be maintained or enlarged;

(b) demonstrate how the funding request will act in concert with other state, federal, or local agencies to achieve the economic benefit;

(c) demonstrate how the funding request will act in concert with free market principles;

(d) in the case of an economic opportunity that includes the retention of jobs, demonstrate how the potential relocation of jobs outside the state is related to a merger, acquisition, consolidation, or similar business reason other than the applicant simply requesting state assistance to remain in the state;

(e) satisfy other criteria the administrator considers appropriate; and

(f) be either:

(i) an entity whose purpose is to exclusively or substantially promote, develop, or maintain the economic welfare and prosperity of the state as a whole, regions of the state, or specific components of the state, including:

(A) an entity that is a sports development organization under contract with the state for sports development and sporting event attraction and related activities that provide an economic impact or promotional value to the state; or

(B) an entity that implements technology innovation in public schools, including whole-school one-to-one mobile device technology deployment for the purpose of incubating technology solutions related to economic and workforce development.

(ii) a company or individual that does not otherwise qualify under Section ~~[63M-1-906]~~ 63N-3-105.

(3) Subject to the duties and powers of the board under Section ~~[63M-1-303]~~ 63N-1-402, the administrator shall:

(a) make findings as to whether an applicant has satisfied each of the conditions set forth in Subsection (2);

(b) establish benchmarks and timeframes in which progress toward the completion of the agreed upon activity is to occur;

(c) monitor compliance by an applicant with any contract or agreement entered into by the applicant and the state as provided by Section ~~[63M-1-907]~~ 63N-3-107; and

(d) make funding decisions based upon appropriate findings and compliance.

Section 156. Section 63N-3-110, which is renumbered from Section 63M-1-909.5 is renumbered and amended to read:

[63M-1-909.5]. 63N-3-110. Selection of educational technology provider to implement whole-school one-to-one mobile device technology deployment plan for schools.

The board shall select an educational technology provider to develop and implement a whole-school one-to-one mobile device technology deployment plan for schools in accordance with the requirements of this part and Section 53A-1-709.

Section 157. Section 63N-3-111, which is renumbered from Section 63M-1-910 is renumbered and amended to read:

[63M-1-910]. 63N-3-111. Annual policy considerations.

(1) The board shall determine annually which industries or groups of industries shall be targeted industries as defined in Section ~~[63M-1-902]~~ 63N-3-102.

(2) In designating an economically disadvantaged rural area, the board shall consider the average agricultural and nonagricultural wage, personal income, unemployment, and employment in the area.

(3) In evaluating the economic impact of applications for assistance, the board shall use an econometric cost-benefit model or models adopted by the Governor's Office of Management and Budget.

(4) The board may establish:

(a) minimum interest rates to be applied to loans granted that reflect a fair social rate of return to the state comparable to prevailing market-based rates such as the prime rate, U.S. Government T-bill rate, or bond coupon rate as paid by the state, adjusted by social indicators such as the rate of unemployment; and

(b) minimum applicant expense ratios, as long as they are at least equal to those required under Subsection ~~[63M-1-906]~~ 63N-3-105(1)(a) or ~~[63M-1-908]~~ 63N-3-108(1)(b)(i)(A).

Section 158. Section 63N-3-201, which is renumbered from Section 63M-1-701 is renumbered and amended to read:

Part 2. Technology Commercialization and Innovation Act

[63M-1-701]. 63N-3-201. Title.

This part is known as the "Technology Commercialization and Innovation Act."

Section 159. Section 63N-3-202, which is renumbered from Section 63M-1-702 is renumbered and amended to read:

[63M-1-702]. 63N-3-202. Purpose.

(1) (a) The Legislature recognizes that the growth of new industry and expansion of existing industry requires a strong technology base, new ideas, concepts, innovations, and prototypes.

(b) Growth in industry frequently results from technological innovation generated by strong research institutions of higher education and by small businesses.

(c) Technical research in Utah's institutions of higher education should be enhanced and expanded, particularly in those areas targeted by the state for economic development.

(d) Most states enhance their research base by direct funding, usually on a matching basis.

(e) The purpose of this part is to catalyze and enhance the growth of these technologies by:

(i) encouraging interdisciplinary research activities in targeted areas;

(ii) facilitating the transition of these technologies out of the higher education environment into industry where the technologies can be used to enhance job creation; and

(iii) supporting the commercialization of technologies developed by small business to enhance job creation.

(f) The Legislature recognizes that one source of funding is to match state funds with federal funds and industrial support to provide and develop new technologies.

(2) The Legislature recommends that the governor consider matching the allocation of economic development funds for the Technology Commercialization and Innovation Program with industry and federal grants.

(3) (a) The Legislature recommends that the funds be allocated on a competitive basis:

(i) to the various institutions of higher education in the state;

(ii) to companies working in partnership with institutions of higher education to commercialize their technologies; and

(iii) to small businesses that are developing promising technologies.

(b) The funds made available should be used to support:

(i) interdisciplinary research in the Technology Commercialization and Innovation Program in technologies that are considered to have potential for economic development in the state and to help transition these technologies out of institutions of higher education and into industry; and

(ii) small businesses in commercializing their promising technologies that have the potential to increase economic development in the state.

Section 160. Section 63N-3-203, which is renumbered from Section 63M-1-703 is renumbered and amended to read:

[63M-1-703]. 63N-3-203. Definitions.

As used in this part:

(1) "Business team consultant" means an experienced technology executive, entrepreneur, or business person who:

(a) is recruited by the office through a request for proposal process to work directly with a college or university in the Technology Commercialization and Innovation Program; and

(b) works with the institution to facilitate the transition of its technology into industry by assisting the institution in developing strategies, including spin out strategies when appropriate, and go-to-market plans, and identifying and working with potential customers and partners.

(2) "Direct license" means a written license agreement between a company and a Utah institution of higher education related to technology developed at the institution of higher education with the intent of commercializing the technology or facilitating its transition into industry.

(3) "Institution of higher education" means:

(a) a state institution of higher education as defined in Section 53B-3-102; or

(b) a private institution of higher education in the state accredited by a regional or national accrediting agency recognized by the United States Department of Education.

(4) "Licensee" means:

(a) a company that executes or is in the process of executing a direct license; or

(b) a sublicensee of the technology from a direct license.

(5) "Small business" means a business that:

(a) meets the size standards for the business's industry classification as identified by the United States Small Business Administration in 13 C.F.R. Sec. 121.201;

(b) is organized for profit;

(c) operates primarily within the United States;

(d) has a principal place of business in the state, including a manufacturing or service location; and

(e) is independently owned and operated.

(6) "Technology Commercialization and Innovation Program" means:

(a) a federal- and industry-supported cooperative research and development program based at an institution of higher education; or

(b) a federal- and state-supported program for funding technologically innovative small businesses.

Section 161. Section 63N-3-204, which is renumbered from Section 63M-1-704 is renumbered and amended to read:

[63M-1-704]. 63N-3-204. Administration -- Grants and loans.

(1) The ~~[Governor's Office of Economic Development]~~ office shall administer this part.

(2) (a) (i) The office may award Technology Commercialization and Innovation Program grants or issue loans under this part to an applicant that is:

- (A) an institution of higher education;
- (B) a licensee; or
- (C) a small business.

(ii) If loans are issued under Subsection (2)(a)(i), the Division of Finance may set up a fund or account as necessary for the proper accounting of the loans.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office shall make rules for a process to determine whether an institution of higher education that receives a grant under this part must return the grant proceeds or a portion of the grant proceeds if the technology that is developed with the grant proceeds is licensed to a licensee that:

(i) does not maintain a manufacturing or service location in the state from which the licensee or a sublicensee exploits the technology; or

(ii) initially maintains a manufacturing or service location in the state from which the licensee or a sublicensee exploits the technology, but within five years after issuance of the license the licensee or sublicensee transfers the manufacturing or service location for the technology to a location out of the state.

(c) A repayment by an institution of higher education of grant proceeds or a portion of the grant proceeds may only come from the proceeds of the license established between the licensee and the institution of higher education.

(d) (i) An applicant that is a licensee or small business that receives a grant under this part shall return the grant proceeds or a portion of the grant proceeds to the office if the applicant:

(A) does not maintain a manufacturing or service location in the state from which the applicant exploits the technology; or

(B) initially maintains a manufacturing or service location in the state from which the applicant exploits the technology, but within five years after issuance of the grant, the applicant transfers the manufacturing or service location for the technology to an out-of-state location.

(ii) A repayment by an applicant shall be prorated based on the number of full years the applicant operated in the state from the date of the awarded grant.

(iii) A repayment by a licensee that receives a grant may only come from the proceeds of the license to that licensee.

(3) (a) Funding allocations shall be made by the office with the advice of the board.

(b) Each proposal shall receive the best available outside review.

(4) (a) In considering each proposal, the office shall weigh technical merit, the level of matching funds from private and federal sources, and the potential for job creation and economic development.

(b) Proposals or consortia that combine and coordinate related research at two or more institutions of higher education shall be encouraged.

(5) The office shall review the activities and progress of grant recipients on a regular basis and, as part of the office's annual written report described in Section ~~[63M-1-206]~~ 63N-1-301, report on the accomplishments and direction of the Technology Commercialization and Innovation Program.

Section 162. Section 63N-3-205, which is renumbered from Section 63M-1-705 is renumbered and amended to read:

[63M-1-705]. 63N-3-205. Business team consultants.

(1) The office may enter into work agreements with business team consultants through a request for proposal process to participate in the Technology Commercialization and Innovation Program.

(2) Under a work agreement, a business team consultant shall assist a college or university in facilitating the transition of its technology into industry.

Section 163. Section 63N-3-301, which is renumbered from Section 63M-1-2701 is renumbered and amended to read:

Part 3. Utah Business Resource Centers Act [63M-1-2701]. 63N-3-301. Title.

This part is known as the "Utah Business Resource Centers Act."

Section 164. Section 63N-3-302, which is renumbered from Section 63M-1-2702 is renumbered and amended to read:

[63M-1-2702]. 63N-3-302. Purpose.

The Legislature recognizes that:

(1) the development of and assistance to business in Utah is a state public purpose necessary to assure the growth of the state's economy and provide adequate employment opportunities for its citizens;

(2) public colleges and universities in the state hereafter, referred to as "host institutions," have academic and physical resources that can enhance economic development within the state through a partnership with the Governor's Office of Economic Development;

(3) state funded economic development agencies, hereafter referred to as “agencies” could broaden and improve services to business clients through better regional and statewide coordination;

(4) coordination of business clients needs is best done in the regions where they are established;

(5) this coordination needs to be done under the direction of one designated state agency;

(6) an important tool in these coordination efforts will be the development of a data base to identify, track, and assign agencies to be accountable for clients;

(7) agency accountability can be improved through client tracking and monitoring at the regional level;

(8) the state has historically experienced a high business start-up rate and has experienced a commensurate failure rate partially due to lack of coordination and accountability by state agencies;

(9) the state’s economy will continue to improve as state agencies and resources become more responsive to private business by identifying them, focusing on their needs, and tracking their progress; and

(10) the governor and the Legislature will benefit from an annual report measuring tax revenue increases, new job creation, and other economic impact as a result of tracking and measuring state agencies’ performance in the various regions of the state.

Section 165. Section 63N-3-303, which is renumbered from Section 63M-1-2703 is renumbered and amended to read:

[63M-1-2703]. 63N-3-303. Definitions.

As used in this part, “business resource centers” means entities established by the Governor’s Office of Economic Development in partnership with state public institutions of higher education as certified resource centers to provide private businesses with one-stop technical assistance and access to statewide resources and programs, and to identify, coordinate, track, and measure the impact of business resource programs provided by state agencies in the various regions of the state.

Section 166. Section 63N-3-304, which is renumbered from Section 63M-1-2704 is renumbered and amended to read:

[63M-1-2704]. 63N-3-304. Establishment and administration of business resource centers -- Components.

(1) The ~~[Governor’s Office of Economic Development, hereafter referred to in this part as “the office,”]~~ office shall establish business resource centers in at least four different geographical regions of the state where host institutions are located and the host institutions agree to enter into a business resource center partnership with the office.

(2) The office, in partnership with a host institution, shall provide methodology and oversight for a business resource center.

(3) A host institution shall contribute 50% of a business resource center’s operating costs through cash or in-kind contributions, unless otherwise provided under Subsection ~~[63M-1-2707]~~ 63N-3-307(7).

(4) The office shall work with the Utah Business Assistance Advisory Board established under Section ~~[63M-1-2706]~~ 63N-3-306, hereafter referred to in this part as “the board,” to provide operational oversight and coordination of the business resource centers established under this part.

(5) (a) A business resource center shall work with state agencies in creating methods to coordinate functions and measure the impact of the efforts provided by the state agencies and the center.

(b) The host institution, state, local and federal governmental entities, quasi-governmental entities, and private entities may:

(i) participate in the activities offered by or through a business resource center; and

(ii) provide personnel or other appropriate links to the center.

(c) (i) Other entities that are not initially involved in the establishment of a business resource center and that are capable of providing supportive services to Utah businesses may apply to the center to become a provider of services at the center.

(ii) Entities identified in Subsections (5)(a) and (b) shall provide the board with a service plan, to include funding, which would be made available or supplied to cover the expenses of their services offered at a business resource center.

(iii) The board shall review each application made under Subsection (5)(c)(i) and make a recommendation for approval by the office as a precondition for providing the service being offered.

(6) A business resource center may:

(a) partner with the office, other host institutions, and other entities to develop and establish web-based access to virtual business resource center services over the Internet to assist in establishing and growing businesses in the state, particularly in those situations where traveling to a business resource center site is not practical;

(b) develop a data base and software for:

(i) tracking clients and their progress; and

(ii) tracking responses and services provided by state agencies and evaluating their effectiveness; and

(c) develop outreach programs and services targeted to business clients in rural areas of the state.

(7) The office shall include in the annual written report described in Section ~~[63M-1-206]~~ 63N-1-301, a report on measured performance of

economic development programs offered by or through established business resource centers.

Section 167. Section 63N-3-305, which is renumbered from Section 63M-1-2705 is renumbered and amended to read:

[63M-1-2705]. 63N-3-305. Duties and responsibilities.

(1) A business resource center shall:

(a) have a director;

(b) be the organization responsible for identifying, tracking, coordinating, and measuring output of assisted business clients in its region;

(c) develop programs to aid business clients in finding the resources they need;

(d) recruit state funded agencies to locate and establish their programs in the business center's region;

(e) initiate and encourage business education programs, including programs in collaboration with public, private, and governmental and educational institutions; and

(f) work with the host institution in providing academic resources, including faculty and student assistance.

(2) A business resource center shall collaborate with the host institution and state agencies to:

(a) provide research, development, or training programs for new or existing businesses, industries, or high technology business located in its region;

(b) assist in providing needs assessment relating to new or existing businesses, industries, or high technology business in conjunction with other public or private economic development programs or initiatives;

(c) assist in providing business incubator space or services, or both, if considered feasible and practical, to clients based on criteria established by the office in consultation with the board;

(d) work with local business leaders and government officials to help them formulate and implement sound, coordinated, and measurable economic development programs for their communities; and

(e) work with local government and other entities in its region in developing and certifying non-state funded satellite business resource centers.

Section 168. Section 63N-3-306, which is renumbered from Section 63M-1-2706 is renumbered and amended to read:

[63M-1-2706]. 63N-3-306. Utah Business Assistance Advisory Board -- Creation -- Membership -- Vacancies -- Chairs.

(1) There is created the Utah Business Assistance Advisory Board, composed of at least 13 members appointed by the executive director of the [Governor's Office of Economic Development] office.

(2) (a) The executive director shall appoint:

(i) one member from three host institutions of business resource centers on a rotating basis;

(ii) three members from urban areas in the state;

(iii) two members from rural areas in the state; and

(iv) one member from each host institution of a statewide business service provider.

(b) The executive director may appoint ex officio board members who are sponsors of or partners with statewide business server providers.

(3) Each board member shall have a background or expertise in any one or all of the following:

(a) state or local economic development;

(b) business networking, growth, or development;

(c) entrepreneurship;

(d) business management or administration; or

(e) the establishment of partnerships or collaborative efforts with state, local, and federal agencies and institutions, as well as private entities.

(4) (a) The executive director shall appoint board members for four-year terms.

(b) The board shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of these members are staggered so that approximately half of the members are appointed every two years.

(c) When a vacancy occurs in the membership for any reason, the replacement shall be appointed by the executive director for the unexpired term in the same manner as the vacated member was chosen.

(5) The board shall elect one of its members as a chair of the board for a two-year term.

(6) The board shall meet at the call of the chair, but at least quarterly.

(7) (a) A majority of the members of the board constitute a quorum.

(b) The action of a majority of a quorum constitutes the action of the board.

(8) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance [pursuant to] under Sections 63A-3-106 and 63A-3-107.

Section 169. Section 63N-3-307, which is renumbered from Section 63M-1-2707 is renumbered and amended to read:

[63M-1-2707]. 63N-3-307. Duties.

The board shall:

(1) assist the office in providing operational oversight, coordination, and performance review and provide advice and improve the effectiveness of state-funded business assistance programs throughout the state as designated by the executive director;

(2) make recommendations to the office on requirements for the requisite certification of each business resource center and staff at each center by the executive director;

(3) make recommendations to the office for certification of the business plans the board is required to review under Subsection [~~63M-1-2704~~] 63N-3-304(5)(c)(iii);

(4) at the direction of the executive director:

(a) assist the office in providing operational oversight to and coordination of the business resource centers established under this part; and

(b) work closely with the Governor's Office of Economic Development's Board of Business and Economic Development;

(5) identify issues and make recommendations to the office regarding programs, policies, and procedures that could be implemented by:

(a) business resource centers in fulfilling their duties and responsibilities under Section [~~63M-1-2705~~] 63N-3-305; and

(b) state-funded business service providers;

(6) make budget recommendations to the office regarding the operation and staffing of business resource centers established under this part;

(7) recommend matching fund exceptions under Subsection [~~63M-1-2704~~] 63N-3-304(3);

(8) recommend certification of all non-state funded satellite business resource centers; and

(9) establish metrics to report the performance of economic development output in each region serviced by a business resource center.

Section 170. Section 63N-3-401, which is renumbered from Section 63M-1-2201 is renumbered and amended to read:

Part 4. Transient Room Tax Fund Act

[~~63M-1-2201~~]. 63N-3-401. Title.

This part is known as the "Transient Room Tax Fund Act."

Section 171. Section 63N-3-402, which is renumbered from Section 63M-1-2202 is renumbered and amended to read:

[~~63M-1-2202~~]. 63N-3-402. Definitions.

As used in this part, "fund" means the Transient Room Tax Fund created by Section [~~63M-1-2203~~] 63N-3-403.

Section 172. Section 63N-3-403, which is renumbered from Section 63M-1-2203 is renumbered and amended to read:

[~~63M-1-2203~~]. 63N-3-403. Transient Room Tax Fund -- Source of revenues -- Interest -- Expenditure or pledge of revenues.

(1) There is created an expendable special revenue fund known as the Transient Room Tax Fund.

(2) (a) The fund shall be funded by the portion of the sales and use tax described in Subsection 59-12-301(2).

(b) (i) The fund shall earn interest.

(ii) Any interest earned on fund money shall be deposited into the fund.

(3) (a) Subject to Subsection (3)(b), the executive director shall expend or pledge the money deposited into the fund:

(i) to mitigate the impacts of traffic and parking relating to a convention facility within a county of the first class;

(ii) for a purpose listed in Section 17-31-2, except that any requirements in Section 17-31-2 for the expenditure of money do not apply; or

(iii) for a combination of Subsections (3)(a)(i) and (ii).

(b) The executive director may not expend more than \$20,000,000 in total to mitigate the impacts of traffic and parking relating to a convention facility within a county of the first class.

Section 173. Section 63N-4-101, which is renumbered from Section 63M-1-1601 is renumbered and amended to read:

CHAPTER 4. RURAL DEVELOPMENT ACT

Part 1. Office of Rural Development

[~~63M-1-1601~~]. 63N-4-101. Title -- Definitions.

(1) This [part] chapter is known as the "Rural Development Act."

(2) This part is known as the "Office of Rural Development."

[~~2~~] (3) As used in this part:

(a) "Office" or "GOED" means the Governor's Office of Economic Development.

(b) "Program" means the Rural Development Program.

Section 174. Section 63N-4-102, which is renumbered from Section 63M-1-1602 is renumbered and amended to read:

[~~63M-1-1602~~]. 63N-4-102. Rural Development Program -- Supervision by office.

(1) There is created within the Governor's Office of Economic Development the Office of Rural Development.

(2) The Office of Rural Development is under the administration and general supervision of the Governor's Office of Economic Development.

Section 175. Section 63N-4-103, which is renumbered from Section 63M-1-1603 is renumbered and amended to read:

[63M-1-1603]. 63N-4-103. Purpose of the Office of Rural Development.

The Office of Rural Development is established to:

(1) foster and support economic development programs and activities for the benefit of rural counties and communities;

(2) foster and support community, county, and resource management planning programs and activities for the benefit of rural counties and communities;

(3) foster and support leadership training programs and activities for the benefit of:

(a) rural leaders in both the public and private sectors;

(b) economic development and planning personnel; and

(c) rural government officials;

(4) foster and support efforts to coordinate and focus the technical and other resources of appropriate institutions of higher education, local governments, private sector interests, associations, nonprofit organizations, federal agencies, and others, in ways that address the economic development, planning, and leadership challenges and priorities of rural Utah as identified in the strategic plan required under Subsection 63C-10-103(1)(b);

(5) work to enhance the capacity of [~~the Governor's Office of Economic Development~~] GOED to address rural economic development, planning, and leadership training challenges and opportunities by establishing partnerships and positive working relationships with appropriate public and private sector entities, individuals, and institutions; and

(6) foster government-to-government collaboration and good working relations between state and rural government regarding economic development and planning issues.

Section 176. Section 63N-4-104, which is renumbered from Section 63M-1-1604 is renumbered and amended to read:

[63M-1-1604]. 63N-4-104. Duties.

(1) The Office of Rural Development shall:

(a) provide staff support to the Governor's Rural Partnership Board in accordance with Subsection 63C-10-102(6);

(b) facilitate within [~~the Governor's Office of Economic Development~~] GOED the implementation of the strategic plan prepared under Subsection 63C-10-103(1)(b);

(c) work to enhance the capacity of [~~the Governor's Office of Economic Development~~] GOED to address rural economic development, planning, and leadership training challenges and opportunities by establishing partnerships and positive working relationships with appropriate public and private sector entities, individuals, and institutions;

(d) work with the Governor's Rural Partnership Board to coordinate and focus available resources in ways that address the economic development, planning, and leadership training challenges and priorities in rural Utah; and

(e) in accordance with economic development and planning policies set by state government, coordinate relations between:

(i) the state;

(ii) rural governments;

(iii) other public and private groups engaged in rural economic planning and development; and

(iv) federal agencies.

(2) (a) The Office of Rural Development may:

(i) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules necessary to carry out its duties;

(ii) accept gifts, grants, devises, and property, in cash or in kind, for the benefit of rural Utah citizens; and

(iii) use those gifts, grants, devises, and property received under Subsection (2)(a)(ii) for the use and benefit of rural citizens within the state.

(b) All resources received under Subsection (2)(a)(ii) shall be deposited in the General Fund as dedicated credits to be used as directed in Subsection (2)(a)(iii).

Section 177. Section 63N-4-105, which is renumbered from Section 63M-1-1605 is renumbered and amended to read:

[63M-1-1605]. 63N-4-105. Program manager.

(1) The executive director of [~~the Governor's Office of Economic Development~~] GOED shall appoint a director for the Office of Rural Development with the approval of the governor.

(2) The director of the Office of Rural Development shall be a person knowledgeable in the field of rural economic development and planning and experienced in administration.

(3) Upon change of the executive director of [~~the Governor's Office of Economic Development~~] GOED, the director of the Office of Rural Development may not be dismissed without cause for at least 180 days.

(4) The director of the Office of Rural Development shall serve as staff to the Governor's Rural Partnership Board and to the executive committee of the Governor's Rural Partnership Board in accordance with Subsection 63C-10-102(6).

Section 178. Section 63N-4-106, which is renumbered from Section 63M-1-1606 is renumbered and amended to read:

[63M-1-1606]. 63N-4-106. Annual report.

~~[The office]~~ GOED shall include in the annual written report ~~described in Section [63M-1-206]~~ 63N-1-301, a report of the program's operations and recommendations.

Section 179. Section 63N-4-201, which is renumbered from Section 63M-1-2001 is renumbered and amended to read:

Part 2. Business Development for Disadvantaged Rural Communities Act

[63M-1-2001]. 63N-4-201. Title.

This part is known as the "Business Development for Disadvantaged Rural Communities Act."

Section 180. Section 63N-4-202, which is renumbered from Section 63M-1-2002 is renumbered and amended to read:

[63M-1-2002]. 63N-4-202. Definitions.

As used in this part:

~~[(1) "Board" means the Board of Business and Economic Development created by Section 63M-1-301.]~~

~~[(2)]~~ (1) "Business incubator expense" means an expense relating to funding a program that is:

(a) designed to provide business support services and resources to one or more business entities within a project area during the business entities' early stages of development; and

(b) determined to be a business incubator by the board.

~~[(3)]~~ (2) "Business rehabilitation expense" means an expense relating to the renovation or rehabilitation of an existing building within a project area as determined by the board.

~~[(4)]~~ (3) "Debt service" means the payment of debt service on a bond issued to pay a:

(a) business rehabilitation expense relating to a project; or

(b) public infrastructure expense relating to a project.

~~[(5)]~~ (4) "Eligible county" means a county of the third, fourth, fifth, or sixth class.

~~[(6)]~~ (5) "Eligible expense" means an expense:

(a) incurred by an eligible county;

(b) relating to a project; and

(c) that is:

(i) a business incubator expense;

(ii) debt service; or

(iii) a public infrastructure expense.

~~[(7)]~~ (6) "Project" means an economic development project:

(a) as determined by the board; and

(b) for which an eligible county applies to the board in accordance with this part for a loan or grant to assist the eligible county in paying an eligible expense.

~~[(8)]~~ (7) "Project area" means the geographic area within which a project is implemented by an eligible county.

~~[(9)]~~ (8) "Public infrastructure expense" means an expense relating to a publicly owned improvement located within a project area if:

(a) the expense is:

(i) incurred for:

(A) construction;

(B) demolition;

(C) design;

(D) engineering;

(E) an environmental impact study;

(F) environmental remediation; or

(G) rehabilitation; or

(ii) similar to an expense described in Subsection ~~[(9)]~~ (8)(a)(i) as determined by the board; and

(b) the publicly owned improvement is:

(i) not a building as determined by the board; and

(ii) necessary to support a project as determined by the board.

~~[(10)]~~ (9) "Publicly owned improvement" means an improvement to real property if:

(a) the real property is owned by:

(i) the United States;

(ii) the state; or

(iii) a political subdivision:

(A) as defined in Section 17B-1-102; and

(B) of the state; and

(b) the improvement relates to:

(i) a sewage system including a system for collection, transport, storage, treatment, dispersal, effluent use, or discharge;

(ii) a drainage or flood control system, including a system for collection, transport, diversion, storage, detention, retention, dispersal, use, or discharge;

(iii) a water system including a system for production, collection, storage, treatment, transport, delivery, connection, or dispersal;

(iv) a highway, street, or road system for vehicular use for travel, ingress, or egress;

(v) a rail transportation system;

(vi) a system for pedestrian use for travel, ingress, or egress;

(vii) a public utility system including a system for electricity, gas, or telecommunications; or

(viii) a system or device that is similar to a system or device described in Subsections ~~[(10)]~~ (9)(b)(i) through (vii) as determined by the board.

Section 181. Section 63N-4-203, which is renumbered from Section 63M-1-2004 is renumbered and amended to read:

[63M-1-2004]. 63N-4-203. Board authority to award a grant or loan to an eligible county -- Interest on a loan -- Eligible county proposal process -- Process for awarding a grant or loan.

(1) (a) Subject to the provisions of, and funds made available for, this section, beginning on July 1, 2005, through June 30, 2015, the board may make an award to an eligible county of one or more grants or loans to assist in paying an eligible expense relating to a project.

(b) The total amount of grants and loans that the board may award in accordance with this section relating to one project is \$75,000.

(c) If the board awards a loan to an eligible county in accordance with this section, the loan shall be subject to interest as provided by the procedures and methods referred to in Subsection (6).

(2) (a) Before the board may award an eligible county a grant or loan in accordance with this section, the eligible county shall submit a written proposal to the board in accordance with Subsection (2)(b).

(b) The proposal described in Subsection (2)(a) shall:

(i) describe the project area;

(ii) describe the characteristics of the project including a description of how the project will be implemented;

(iii) provide an economic development plan for the project including a description of any eligible expenses that will be incurred as part of implementing the project;

(iv) describe the characteristics of the community within which the project area is located;

(v) establish that the community within which the project area is located is a disadvantaged community on the basis of one or more of the following factors:

(A) median income per capita within the community;

(B) median property tax revenues generated within the community;

(C) median sales and use tax revenues generated within the community; or

(D) unemployment rates within the community;

(vi) demonstrate that there is a need for the project in the community within which the project area is located;

(vii) describe the short-term and long-term benefits of the project to the community within which the project area is located;

(viii) demonstrate that there is a need for assistance in paying eligible expenses relating to the project;

(ix) indicate the amount of any revenues that will be pledged to match any funds the board may award as a loan or grant under this section; and

(x) indicate whether there is support for the implementation of the project from:

(A) the community within which the project area is located; and

(B) any cities or towns within which the project area is located.

(3) At the request of the board, representatives from an eligible county shall appear before the board to:

(a) present a proposal submitted to the board in accordance with Subsection (2)(b); and

(b) respond to any questions or issues raised by the board relating to eligibility to receive a grant or loan under this section.

(4) The board shall:

(a) consider a proposal submitted to the board in accordance with Subsection (2);

(b) make written findings as to whether the proposal described in Subsection (4)(a) meets the requirements of Subsection (2)(b);

(c) make written findings as to whether to award the eligible county that submitted the proposal described in Subsection (4)(a) one or more grants or loans:

(i) on the basis of the factors established in Subsection (5);

(ii) in consultation with the director; and

(iii) in accordance with the procedures established for prioritizing which projects may be awarded a grant or loan by the board under this section;

(d) if the board determines to award an eligible county a grant or loan in accordance with this section, make written findings in consultation with the director specifying the:

(i) amount of the grant or loan;

(ii) time period for distributing the grant or loan;

(iii) terms and conditions that the eligible county shall meet to receive the grant or loan;

(iv) structure of the grant or loan; and

(v) eligible expenses for which the eligible county may expend the grant or loan;

(e) if the board determines to award an eligible county a loan in accordance with this section, make written findings stating:

(i) the method of calculating interest applicable to the loan; and

- (ii) procedures for:
- (A) applying interest to the loan; and
- (B) paying interest on the loan; and
- (f) provide the written findings required by Subsections (4)(b) through (e) to the eligible county.
- (5) For purposes of Subsection (4)(c), the board shall consider the following factors in determining whether to award an eligible county one or more grants or loans authorized by this part:
- (a) whether the project is likely to result in economic development in the community within which the project area is located;
- (b) whether the community within which the project area is located is a disadvantaged community on the basis of one or more of the following factors:
- (i) median income per capita within the community;
- (ii) median property tax revenues generated within the community;
- (iii) median sales and use tax revenues generated within the community; or
- (iv) unemployment rates within the community;
- (c) whether there is a need for the project in the community within which the project area is located;
- (d) whether the project is likely to produce short-term and long-term benefits to the community within which the project area is located;
- (e) whether the project would be successfully implemented without the board awarding a grant or a loan to the eligible county;
- (f) whether any revenues will be pledged to match any funds the board may award as a grant or loan under this section;
- (g) whether there is support for the implementation of the project from:
- (i) the community within which the project area is located; and
- (ii) any cities or towns within which the project area is located; and
- (h) any other factor as determined by the board.
- (6) The office shall establish procedures:
- (a) for prioritizing which projects may be awarded a grant or loan by the board under this section; and
- (b) for loans awarded in accordance with this section:
- (i) the methods of calculating interest applicable to the loans; and
- (ii) procedures for:
- (A) applying interest to the loans; and
- (B) paying interest on the loans.

Section 182. Section 63N-4-204, which is renumbered from Section 63M-1-2005 is renumbered and amended to read:

[63M-1-2005]. 63N-4-204. Agreement between the executive director and an eligible county -- Failure to meet or violation of a term or condition of an agreement.

(1) Before an eligible county that has been awarded a grant or loan in accordance with Section [63M-1-2004] 63N-4-203 may receive the grant or loan, the eligible county shall enter into a written agreement with the executive director.

(2) The written agreement described in Subsection (1):

(a) shall:

(i) specify the amount of the grant or loan;

(ii) specify the time period for distributing the grant or loan;

(iii) specify the terms and conditions that the eligible county shall meet to receive the grant or loan;

(iv) specify the structure of the grant or loan;

(v) specify the eligible expenses for which the eligible county may expend the grant or loan;

(vi) if the eligible county has been awarded a loan:

(A) specify the repayment schedule for the loan;

(B) specify the method of calculating interest applicable to the loan; and

(C) specify procedures for:

(I) applying interest to the loan; and

(II) paying interest on the loan; and

(vii) subject to Subsection (3), contain provisions governing the failure to meet or the violation of a term or condition of the agreement; and

(b) may contain any other provision as determined by the director.

(3) (a) Except as provided in Subsection (3)(b), and subject to Subsection (3)(c), if an eligible county fails to meet or violates any provision of the agreement described in Subsection (2), the board shall impose one or more of the following penalties:

(i) require the eligible county to repay all or a portion of the amount of any grant or loan the eligible county received in an amount determined by the board;

(ii) provide that an eligible county may not receive any amounts of a grant or loan that the eligible county has been awarded in accordance with Section [63M-1-2004] 63N-4-203 but has not received; or

(iii) provide that an eligible county may not be awarded a grant or loan under this part for a time period determined by the board.

(b) Notwithstanding Subsection (3)(a), the board may waive, reduce, or compromise a penalty

described in Subsection (3)(a) if an eligible county demonstrates that reasonable cause exists for the eligible county failing to meet or violating a provision of the agreement described in Subsection (2).

(c) If the board imposes a penalty in accordance with this Subsection (3) on an eligible county, the board shall provide written notice of the penalty to the eligible county within 10 calendar days after the day on which the board determines to impose the penalty.

Section 183. Section 63N-4-205, which is renumbered from Section 63M-1-2006 is renumbered and amended to read:

[63M-1-2006]. 63N-4-205. Report on amount of grants and loans, projects, and outstanding debt.

The board shall annually provide the following information to the office for inclusion in the office's annual written report described in Section [63M-1-2006] 63N-1-301:

(1) the total amount of grants and loans the board awarded to eligible counties under this part during the fiscal year that ended on the June 30 immediately preceding the November interim meeting;

(2) a description of the projects with respect to which the board awarded a grant or loan under this part;

(3) the total amount of outstanding debt service that is being repaid by a grant or loan awarded under this part;

(4) whether the grants and loans awarded under this part have resulted in economic development within project areas; and

(5) whether the board recommends:

(a) that the grants and loans authorized by this part should be continued; or

(b) any modifications to this part.

Section 184. Section 63N-5-101, which is renumbered from Section 63M-1-3001 is renumbered and amended to read:

CHAPTER 5. PRIVATE ACTIVITY BONDS

Part 1. Private Activity Bonds

[63M-1-3001]. 63N-5-101. Title -- Purpose.

(1) This chapter is known as "Private Activity Bonds."

(2) It is the intent of the Legislature to establish procedures to most effectively and equitably allocate this state's private activity bond volume cap authorized by the Internal Revenue Code of 1986 in order to maximize the social and economic benefits to this state.

Section 185. Section 63N-5-102, which is renumbered from Section 63M-1-3002 is renumbered and amended to read:

[63M-1-3002]. 63N-5-102. Definitions.

As used in this part:

(1) "Allocated volume cap" means a volume cap for which a certificate of allocation is in effect or for which bonds have been issued.

(2) "Allotment accounts" means the various accounts created in Section [63M-1-3006] 63N-5-106.

(3) "Board of review" means the Private Activity Bond Review Board created in Section [63M-1-3003] 63N-5-103.

(4) "Bond" means any obligation for which an allocation of volume cap is required by the code.

(5) "Code" means the Internal Revenue Code of 1986, as amended, and any related Internal Revenue Service regulations.

(6) "Form 8038" means the Department of the Treasury tax form 8038 (OMB No. 1545-0720) or any other federal tax form or other method of reporting required by the Department of the Treasury under Section 149(e) of the code.

(7) "Issuing authority" means:

(a) any county, city, or town in the state;

(b) any not-for-profit corporation or joint agency, or other entity acting on behalf of one or more counties, cities, towns, or any combination of these;

(c) the state; or

(d) any other entity authorized to issue bonds under state law.

(8) "State" means the state of Utah and any of its agencies, institutions, and divisions authorized to issue bonds or certificates under state law.

(9) "Volume cap" means the private activity bond volume cap for the state as computed under Section 146 of the code.

(10) "Year" means each calendar year.

Section 186. Section 63N-5-103, which is renumbered from Section 63M-1-3003 is renumbered and amended to read:

[63M-1-3003]. 63N-5-103. Private Activity Bond Review Board.

(1) There is created within the office the Private Activity Bond Review Board, composed of the following 11 members [as follows]:

~~[(a) five ex officio members who are:]~~

(a) (i) the executive director of the office or the executive director's designee;

~~[(ii) the director of the Division of Business and Economic Development or the director's designee;]~~

(ii) an employee of the office designated by the executive director;

(iii) the state treasurer or the treasurer's designee;

(iv) the chair of the Board of Regents or the chair's designee; and

(v) the chair of the Utah Housing Corporation or the chair's designee; and

(b) six local government members who are:

(i) three elected or appointed county officials, nominated by the Utah Association of Counties and appointed by the governor with the consent of the Senate; and

(ii) three elected or appointed municipal officials, nominated by the Utah League of Cities and Towns and appointed by the governor with the consent of the Senate.

(2) (a) Except as required by Subsection (2)(b), the terms of office for the local government members of the board of review shall be four-year terms.

(b) Notwithstanding the requirements of Subsection (2)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

(c) Members may be reappointed only once.

(3) (a) If a local government member ceases to be an elected or appointed official of the city or county the member is appointed to represent, that membership on the board of review terminates immediately and there shall be a vacancy in the membership.

(b) When a vacancy occurs in the membership for any reason, the replacement shall be appointed within 30 days in the manner of the regular appointment for the unexpired term, and until his successor is appointed and qualified.

(4) (a) The chair of the board of review is the executive director of the office or the executive director's designee.

(b) The chair is nonvoting except in the case of a tie vote.

(5) Six members of the board of review constitute a quorum.

(6) Formal action by the board of review requires a majority vote of a quorum.

(7) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance ~~pursuant to~~ under Sections 63A-3-106 and 63A-3-107.

(8) The chair of the board of review serves as the state official designated under state law to make

certifications required to be made under Section 146 of the code including the certification required by Section 149(e)(2)(F) of the code.

Section 187. Section 63N-5-104, which is renumbered from Section 63M-1-3004 is renumbered and amended to read:

[63M-1-3004]. 63N-5-104. Powers, functions, and duties of board of review.

The board of review shall:

(1) make, subject to the limitations of the code, allocations of volume cap to issuing authorities;

(2) determine the amount of volume cap to be allocated with respect to approved applications;

(3) maintain a record of all applications filed by issuing authorities under Section [63M-1-3005] 63N-5-105 and all certificates of allocation issued under Section [63M-1-3007] 63N-5-107;

(4) maintain a record of all bonds issued by issuing authorities during each year;

(5) determine the amount of volume cap to be treated as a carryforward under Section 146(f) of the code and allocate this carryforward to one or more qualified carryforward purposes;

(6) make available upon reasonable request a certified copy of all or any part of the records maintained by the board of review under this part or a summary of them, including information relating to the volume cap for each year and any amounts available for allocation under this part;

(7) promulgate rules for the allocation of volume cap under this part; and

(8) charge reasonable fees for the performance of duties prescribed by this part, including application, filing, and processing fees.

Section 188. Section 63N-5-105, which is renumbered from Section 63M-1-3005 is renumbered and amended to read:

[63M-1-3005]. 63N-5-105. Allocation of volume cap.

(1) (a) Subject to Subsection (1)(b), the volume cap for each year shall be distributed by the board of review to the various allotment accounts as set forth in Section [63M-1-3006] 63N-5-106.

(b) The board of review may distribute up to 50% of each increase in the volume cap ~~that occurs after March 11, 1999,~~ for use in development that occurs in quality growth areas, depending upon the board's analysis of the relative need for additional volume cap between development in quality growth areas and the allotment accounts under Section [63M-1-3006] 63N-5-106.

(2) To obtain an allocation of the volume cap, issuing authorities shall submit to the board of review an application containing information required by the procedures and processes of the board of review.

(3) (a) The board of review shall establish criteria for making allocations of volume cap that are

consistent with the purposes of the code and this part.

(b) In making an allocation of volume cap the board of review shall consider the following:

(i) the principal amount of the bonds proposed to be issued;

(ii) the nature and the location of the project or the type of program;

(iii) the likelihood that the bonds will be sold and the timeframe of bond issuance;

(iv) whether the project or program could obtain adequate financing without an allocation of volume cap;

(v) the degree to which an allocation of volume cap is required for the project or program to proceed or continue;

(vi) the social, health, economic, and educational effects of the project or program on the local community and state as a whole;

(vii) the anticipated economic development created or retained within the local community and the state as a whole;

(viii) the anticipated number of jobs, both temporary and permanent, created or retained within the local community and the state as a whole;

(ix) if the project is a residential rental project, the degree to which the residential rental project:

(A) targets lower income populations; and

(B) is accessible housing; and

(x) whether the project meets the principles of quality growth recommended by the Quality Growth Commission created under Section 11-38-201.

(4) The board of review shall evidence an allocation of volume cap by issuing a certificate in accordance with Section [63M-1-3007] 63N-5-107.

(5) (a) From January 1 to June 30, the board shall set aside at least 50% of the Small Issue Bond Account that may be allocated only to manufacturing projects.

(b) From July 1 to August 15, the board shall set aside at least 50% of the Pool Account that may be allocated only to manufacturing projects.

Section 189. Section 63N-5-106, which is renumbered from Section 63M-1-3006 is renumbered and amended to read:

[63M-1-3006]. 63N-5-106. Allotment accounts.

(1) There are created the following allotment accounts:

(a) the Single Family Housing Account, for which eligible issuing authorities are those authorized under the code and state statute to issue qualified mortgage bonds under Section 143 of the code;

(b) the Student Loan Account, for which eligible issuing authorities are those authorized under the code and state statute to issue qualified student loan bonds under Section 144(b) of the code;

(c) the Small Issue Bond Account, for which eligible issuing authorities are those authorized under the code and state statute to issue:

(i) qualified small issue bonds under Section 144(a) of the code;

(ii) qualified exempt facility bonds for qualified residential rental projects under Section 142(d) of the code; or

(iii) qualified redevelopment bonds under Section 144(c) of the code;

(d) the Exempt Facilities Account, for which eligible issuing authorities are those authorized under the code and state statute to issue any bonds requiring an allocation of volume cap other than for purposes described in Subsections (1)(a), (b), or (c);

(e) the Pool Account, for which eligible issuing authorities are those authorized under the code and state statute to issue any bonds requiring an allocation of volume cap; and

(f) the Carryforward Account, for which eligible issuing authorities are those with projects or programs qualifying under Section 146(f) of the code.

(2) (a) The volume cap shall be distributed to the various allotment accounts on January 1 of each year on the following basis:

(i) 42% to the Single Family Housing Account;

(ii) 33% to the Student Loan Account;

(iii) 1% to the Exempt Facilities Account; and

(iv) 24% to the Small Issue Bond Account.

(b) From July 1 to September 30 of each year, the board of review may transfer any unallocated volume cap from the Exempt Facilities Account or the Small Issue Bond Account to the Pool Account.

(c) The board of review, upon written notification by the issuing authorities eligible for volume cap allocation from the Single Family Housing Account or the Student Loan Account that all or a portion of volume cap distributed into that allotment account will not be used, may transfer the unused volume cap between the Single Family Housing Account and the Student Loan Account.

(d) From October 1 to the third Friday of December of each year, the board of review shall transfer all unallocated volume cap into the Pool Account.

(e) On the third Saturday of December, the board of review shall transfer uncollected volume cap or allocated volume cap for which bonds have not been issued prior to the third Saturday of December into the Carryforward Account.

(f) If the authority to issue bonds designated in any allotment account is rescinded by amendment to the code, the board of review may transfer any

unallocated volume cap from that allotment account to any other allotment account.

Section 190. Section 63N-5-107, which is renumbered from Section 63M-1-3007 is renumbered and amended to read:

[63M-1-3007]. 63N-5-107. Certificates of allocation.

(1) (a) After an allocation of volume cap for a project or program is approved by the board of review, the board shall issue a numbered certificate of allocation stating the amount of the allocation, the allotment account for which the allocation is being made, and the expiration date of the allocation.

(b) The certificates of allocation shall be mailed to the issuing authority within 10 working days of the date of approval.

(c) No bonds are entitled to any allocation of the volume cap unless the issuing authority received a certificate of allocation with respect to the bonds.

(d) (i) Certificates of allocation shall remain in effect for a period of 90 days from the date of approval.

(ii) If bonds for which a certificate has been approved are not issued within the 90-day period, the certificate of allocation is void and volume cap shall be returned to the applicable allotment account for reallocation by the board of review.

(2) (a) An issuing authority receiving an allocation of volume cap from the Carryforward Account shall receive a certificate of allocation similar to the certificates of allocation described in Subsection (1) from the board of review stating the amount of allocation from the Carryforward Account that has been allocated to the issuing authority and the expiration of the allocation.

(b) If in the judgment of the board of review an issuing authority or a person or entity responsible for a project or program receiving an allocation from the Carryforward Account does not proceed with diligence in providing for the issuance of the bonds with respect to the project or program, and because of the lack of diligence the volume cap cannot be used, the board of review may exclude from its consideration for a given period of time, determined by the board of review, an application of the issuing authority, person, or entity. The board of review may, at any time, review and modify its decisions relating to this exclusion.

Section 191. Section 63N-5-108, which is renumbered from Section 63M-1-3008 is renumbered and amended to read:

[63M-1-3008]. 63N-5-108. Issuing authorities -- Limitations -- Duties.

(1) (a) Any law to the contrary notwithstanding, an issuing authority issuing bonds without a certificate of allocation issued under Section [63M-1-3007] 63N-5-107, or an issuing authority issuing bonds after the expiration of a certificate of allocation, is not entitled to an allocation of the volume cap for those bonds.

(b) An issuing authority issuing bonds in excess of the amount set forth in the related certificate of allocation is not entitled to an allocation of the volume cap for the excess.

(2) Each issuing authority shall:

(a) advise the board of review, within 15 days after the issuance of bonds, of the principal amount of bonds issued under each certificate of allocation by delivering to the board of review a copy of the Form 8038 that was delivered or shall be delivered to the Internal Revenue Service in connection with the bonds, or, if no Form 8038 is required to be delivered to the Internal Revenue Service, a completed copy of a Form 8038 prepared for the board of review with respect to the bonds; and

(b) if all or a stated portion of the bonds for which a certificate of allocation was received will not be issued, advise the board of review in writing, within 15 days of the earlier of:

(i) the final decision not to issue all or a stated portion of the bonds; or

(ii) the expiration of the certificate of allocation.

(3) Failure by an issuing authority to notify the board of review under Subsection (2), including failure to timely deliver a Form 8038, may, in the sole discretion of the board of review, result in the issuing authority being denied further consideration of applications.

Section 192. Section 63N-5-109, which is renumbered from Section 63M-1-3009 is renumbered and amended to read:

[63M-1-3009]. 63N-5-109. Procedures -- Adjudicative proceedings.

The board of review shall comply with the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act, in its adjudicative proceedings.

Section 193. Section 63N-5-110 is enacted to read:

63N-5-110. Duties of office.

(1) The office is recognized as an issuing authority as defined in Section 63N-5-102, entitled to issue bonds from the Small Issue Bond Account created in Subsection 63N-5-106(1)(c) as a part of the state's private activity bond volume cap authorized by the Internal Revenue Code and computed under Section 146, Internal Revenue Code.

(2) To promote and encourage the issuance of bonds from the Small Issue Bond Account for manufacturing projects, the office may:

(a) develop campaigns and materials that inform qualified small manufacturing businesses about the existence of the program and the application process;

(b) assist small businesses in applying for and qualifying for these bonds; and

(c) develop strategies to lower the cost to small businesses of applying for and qualifying for these bonds, including making arrangements with

financial advisors, underwriters, bond counsel, and other professionals involved in the issuance process to provide their services at a reduced rate when the division can provide them with a high volume of applicants or issues.

Section 194. Section 63N-6-101, which is renumbered from Section 63M-1-1201 is renumbered and amended to read:

CHAPTER 6. UTAH VENTURE CAPITAL ENHANCEMENT ACT

Part 1. General Provisions

[63M-1-1201]. 63N-6-101. Title.

This [part] chapter is known as the "Utah Venture Capital Enhancement Act."

Section 195. Section 63N-6-102, which is renumbered from Section 63M-1-1202 is renumbered and amended to read:

[63M-1-1202]. 63N-6-102. Findings -- Purpose.

(1) The Legislature finds that:

(a) fundamental changes have occurred in national and international financial markets and in the state's financial markets;

(b) a critical shortage of seed and venture capital resources exists in the state, and that shortage is impairing the growth of commerce in the state;

(c) a need exists to increase the availability of venture equity capital for emerging, expanding, and restructuring enterprises in Utah, including enterprises in the life sciences, advanced manufacturing, and information technology;

(d) increased venture equity capital investments in emerging, expanding, and restructuring enterprises in Utah will:

- (i) create new jobs in the state; and
- (ii) help to diversify the state's economic base; and
- (e) a well-trained work force is critical for the maintenance and development of Utah's economy.

(2) This part is enacted to:

(a) mobilize private investment in a broad variety of venture capital partnerships in diversified industries and locales;

(b) retain the private-sector culture of focusing on rate of return in the investing process;

(c) secure the services of the best managers in the venture capital industry, regardless of location;

(d) facilitate the organization of the Utah fund of funds to seek private investments and to serve as a catalyst in those investments by offering state incentives for private persons to make investments in the Utah fund of funds;

(e) enhance the venture capital culture and infrastructure in the state so as to increase venture

capital investment within the state and to promote venture capital investing within the state;

(f) accomplish the purposes referred to in Subsections (2)(a) through (e) in a manner that would maximize the direct economic impact for the state; and

(g) authorize the issuance and use of contingent tax credits to accomplish the purposes referred to in Subsections (2)(a) through (e) while protecting the interests of the state by limiting the manner in which contingent tax credits are issued, registered, transferred, claimed as an offset to the payment of state income tax, and redeemed.

Section 196. Section 63N-6-103, which is renumbered from Section 63M-1-1203 is renumbered and amended to read:

[63M-1-1203]. 63N-6-103. Definitions.

As used in this part:

(1) "Board" means the Utah Capital Investment Board.

(2) "Certificate" means a contract between the board and a designated investor under which a contingent tax credit is available and issued to the designated investor.

(3) (a) Except as provided in Subsection (3)(b), "claimant" means a resident or nonresident person.

(b) "Claimant" does not include an estate or trust.

(4) "Commitment" means a written commitment by a designated purchaser to purchase from the board certificates presented to the board for redemption by a designated investor. Each commitment shall state the dollar amount of contingent tax credits that the designated purchaser has committed to purchase from the board.

(5) "Contingent tax credit" means a contingent tax credit issued under this part that is available against tax liabilities imposed by Title 59, Chapter 7, Corporate Franchise and Income Taxes, or Title 59, Chapter 10, Individual Income Tax Act, if there are insufficient funds in the redemption reserve and the board has not exercised other options for redemption under Subsection [63M-1-1220] 63N-6-408(3)(b).

(6) "Corporation" means the Utah Capital Investment Corporation created under Section [63M-1-1207] 63N-6-301.

(7) "Designated investor" means:

- (a) a person who makes a private investment; or
- (b) a transferee of a certificate or contingent tax credit.

(8) "Designated purchaser" means:

- (a) a person who enters into a written undertaking with the board to purchase a commitment; or
- (b) a transferee who assumes the obligations to make the purchase described in the commitment.

(9) "Estate" means a nonresident estate or a resident estate.

(10) "Person" means an individual, partnership, limited liability company, corporation, association, organization, business trust, estate, trust, or any other legal or commercial entity.

(11) "Private investment" means:

(a) an equity interest in the Utah fund of funds; or

(b) a loan to the Utah fund of funds initiated before July 1, 2014, including a loan refinanced on or after July 1, 2014, that was originated before July 1, 2014.

(12) "Redemption reserve" means the reserve established by the corporation to facilitate the cash redemption of certificates.

(13) "Taxpayer" means a taxpayer:

(a) of an investor; and

(b) if that taxpayer is a:

(i) claimant;

(ii) estate; or

(iii) trust.

(14) "Trust" means a nonresident trust or a resident trust.

(15) "Utah fund of funds" means a limited partnership or limited liability company established under Section ~~[63M-1-1213]~~ 63N-6-401 in which a designated investor purchases an equity interest.

Section 197. Section 63N-6-201, which is renumbered from Section 63M-1-1204 is renumbered and amended to read:

Part 2. Utah Capital Investment Board

~~[63M-1-1204]. 63N-6-201. Utah Capital Investment Board.~~

(1) There is created within the office the Utah Capital Investment Board to exercise the powers conferred by this part.

(2) The purpose of the board is to mobilize venture equity capital for investment in a manner that will result in a significant potential to create jobs and to diversify and stabilize the economy of the state.

(3) In the exercise of its powers and duties, the board is considered to be performing an essential public purpose.

Section 198. Section 63N-6-202, which is renumbered from Section 63M-1-1205 is renumbered and amended to read:

~~[63M-1-1205]. 63N-6-202. Board members -- Meetings -- Expenses.~~

(1) (a) The board shall consist of the following five members:

(i) the state treasurer;

(ii) the director or the director's designee; and

(iii) three members appointed by the governor and confirmed by the Senate.

(b) The three members appointed by the governor shall serve four-year staggered terms with the initial terms of the first three members to be four years for one member, three years for one member, and two years for one member.

(c) The governor shall appoint members of the board based on demonstrated expertise and competence in:

(i) the supervision of investment managers;

(ii) the fiduciary management of investment funds; or

(iii) the management and administration of tax credit allocation programs.

(2) When a vacancy occurs in the membership of the board for any reason, the vacancy shall be:

(a) filled in the same manner as the appointment of the original member; and

(b) for the unexpired term of the board member being replaced.

(3) Appointed members of the board may not serve more than two full consecutive terms except when the governor determines that an additional term is in the best interest of the state.

(4) (a) Four members of the board constitute a quorum for conducting business and exercising board power.

(b) If a quorum is present, the action of a majority of members present is the action of the board.

(5) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance ~~[according to]~~ under Sections 63A-3-106 and 63A-3-107.

(6) The board and its members are considered to be a governmental entity with all of the rights, privileges, and immunities of a governmental entity of the state, including all of the rights and benefits conferred under Title 63G, Chapter 7, Governmental Immunity Act of Utah.

(7) Meetings of the board, except to the extent necessary to protect the information identified in Subsection ~~[63M-1-1224]~~ 63N-6-412(3), are subject to Title 52, Chapter 4, Open and Public Meetings Act.

Section 199. Section 63N-6-203, which is renumbered from Section 63M-1-1206 is renumbered and amended to read:

~~[63M-1-1206]. 63N-6-203. Board duties and powers.~~

(1) The board shall:

(a) establish criteria and procedures for the allocation and issuance of contingent tax credits to

designated investors by means of certificates issued by the board, provided that a contingent tax credit may not be issued unless the Utah fund of funds:

(i) first agrees to treat the amount of the tax credit redeemed by the state as a loan from the state to the Utah fund of funds; and

(ii) agrees to repay the loan upon terms and conditions established by the board;

(b) establish criteria and procedures for assessing the likelihood of future certificate redemptions by designated investors, including:

(i) criteria and procedures for evaluating the value of investments made by the Utah fund of funds; and

(ii) the returns from the Utah fund of funds;

(c) establish criteria and procedures for registering and redeeming contingent tax credits by designated investors holding certificates issued by the board;

(d) establish a target rate of return or range of returns for the investment portfolio of the Utah fund of funds;

(e) establish criteria and procedures governing commitments obtained by the board from designated purchasers including:

(i) entering into commitments with designated purchasers; and

(ii) drawing on commitments to redeem certificates from designated investors;

(f) have power to:

(i) expend funds;

(ii) invest funds;

(iii) issue debt and borrow funds;

(iv) enter into contracts;

(v) insure against loss; and

(vi) perform any other act necessary to carry out its purpose; and

(g) make, amend, and repeal rules for the conduct of its affairs, consistent with this part and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) (a) All rules made by the board under Subsection (1)(g) are subject to review by the Legislative Management Committee:

(i) whenever made, modified, or repealed; and

(ii) in each even-numbered year.

(b) Subsection (2)(a) does not preclude the legislative Administrative Rules Review Committee from reviewing and taking appropriate action on any rule made, amended, or repealed by the board.

(3) (a) The criteria and procedures established by the board for the allocation and issuance of contingent tax credits shall:

(i) include the contingencies that must be met for a certificate and its related tax credits to be:

(A) issued by the board;

(B) transferred by a designated investor; and

(C) redeemed by a designated investor in order to receive a contingent tax credit; and

(ii) tie the contingencies for redemption of certificates to:

(A) the targeted rates of return and scheduled redemptions of equity interests purchased by designated investors in the Utah fund of funds; and

(B) the scheduled principal and interest payments payable to designated investors that have made loans initiated before July 1, 2014, including a loan refinanced on or after July 1, 2014, that was originated before July 1, 2014, to the Utah fund of funds.

(b) The board may not issue contingent tax credits under this part before July 1, 2004.

(4) (a) The board may charge a placement fee to the Utah fund of funds for the issuance of a certificate and related contingent tax credit to a designated investor.

(b) The fee shall:

(i) be charged only to pay for reasonable and necessary costs of the board; and

(ii) not exceed .5% of the private investment of the designated investor.

(5) The board's criteria and procedures for redeeming certificates:

(a) shall give priority to the redemption amount from the available funds in the redemption reserve; and

(b) to the extent there are insufficient funds in the redemption reserve to redeem certificates, shall grant the board the option to redeem certificates:

(i) by certifying a contingent tax credit to the designated investor; or

(ii) by making demand on designated purchasers consistent with the requirements of Section [63M-1-122] 63N-6-409.

(6) (a) The board shall, in consultation with the corporation, publish on or before September 1 an annual report of the activities conducted by the Utah fund of funds, and submit the report to the governor; the Business, Economic Development, and Labor Appropriations Subcommittee; the Business and Labor Interim Committee; and the Retirement and Independent Entities Committee.

(b) The annual report shall:

(i) be designed to provide clear, accurate, and accessible information to the public, the governor, and the Legislature;

(ii) include a copy of the audit of the Utah fund of funds described in Section ~~[63M-1-1217]~~ 63N-6-405;

(iii) include a detailed balance sheet, revenue and expenses statement, and cash flow statement;

(iv) include detailed information regarding new fund commitments made during the year, including the amount of money committed;

(v) include the net annual rate of return of the Utah fund of funds for the reported year, and the net rate of return from the inception of the Utah fund of funds, after accounting for all expenses, including administrative and financing costs;

(vi) include detailed information regarding:

(A) realized gains from investments and any realized losses; and

(B) unrealized gains and any unrealized losses based on the net present value of ongoing investments;

(vii) include detailed information regarding all yearly expenditures, including:

(A) administrative, operating, and financing costs;

(B) aggregate compensation information separated by full- and part-time employees, including benefit and travel expenses; and

(C) expenses related to the allocation manager;

(viii) include detailed information regarding all funding sources for administrative, operations, and financing expenses, including expenses charged by or to the Utah fund of funds, including management and placement fees;

(ix) review the progress of the investment fund allocation manager in implementing its investment plan and provide a general description of the investment plan;

(x) for each individual fund that the Utah fund of funds is invested in that represents at least 5% of the net assets of the Utah fund of funds, include the name of the fund, the total value of the fund, the fair market value of the Utah fund of funds' investment in the fund, and the percentage of the total value of the fund held by the Utah fund of funds;

(xi) include the number of companies in Utah where an investment was made from a fund that the Utah fund of funds is invested in, and provide an aggregate count of new full-time employees in the state added by all companies where investments were made by funds that the Utah fund of funds is invested in;

(xii) include an aggregate total value for all funds the Utah fund of funds is invested in, and an aggregate total amount of money invested in the state by the funds the Utah fund of funds is invested in;

(xiii) describe any redemption or transfer of a certificate issued under this part;

(xiv) include actual and estimated potential appropriations the Legislature will be required to provide as a result of redeemed certificates or tax credits during the following five years;

(xv) include an evaluation of the state's progress in accomplishing the purposes stated in Section ~~[63M-1-1202]~~ 63N-6-102; and

(xvi) be directly accessible to the public via a link from the main page of the Utah fund of fund's website.

(c) The annual report may not identify a specific designated investor who has redeemed or transferred a certificate.

Section 200. Section 63N-6-301, which is renumbered from Section 63M-1-1207 is renumbered and amended to read:

Part 3. Utah Capital Investment Corporation

~~[63M-1-1207].~~ **63N-6-301. Utah Capital Investment Corporation -- Powers and purposes.**

(1) (a) There is created an independent quasi-public nonprofit corporation known as the Utah Capital Investment Corporation.

(b) The corporation:

(i) may exercise all powers conferred on independent corporations under Section 63E-2-106;

(ii) is subject to the prohibited participation provisions of Section 63E-2-107; and

(iii) is subject to the other provisions of Title 63E, Chapter 2, Independent Corporations Act, except as otherwise provided in this part.

(c) The corporation shall file with the Division of Corporations and Commercial Code:

(i) articles of incorporation; and

(ii) any amendment to its articles of incorporation.

(d) In addition to the articles of incorporation, the corporation may adopt bylaws and operational policies that are consistent with this chapter.

(e) Except as otherwise provided in this part, this part does not exempt the corporation from the requirements under state law which apply to other corporations organized under Title 63E, Chapter 2, Independent Corporations Act.

(2) The purposes of the corporation are to:

(a) organize the Utah fund of funds;

(b) select a venture capital investment fund allocation manager to make venture capital fund investments by the Utah fund of funds;

(c) negotiate the terms of a contract with the venture capital investment fund allocation manager;

(d) execute the contract with the selected venture capital investment fund manager on behalf of the Utah fund of funds;

(e) receive funds paid by designated investors for the issuance of certificates by the board for private investment in the Utah fund of funds;

(f) receive investment returns from the Utah fund of funds; and

(g) establish the redemption reserve to be used by the corporation to redeem certificates.

(3) The corporation may not:

(a) exercise governmental functions;

(b) have members;

(c) pledge the credit or taxing power of the state or any political subdivision of the state; or

(d) make its debts payable out of any money except money of the corporation.

(4) The obligations of the corporation are not obligations of the state or any political subdivision of the state within the meaning of any constitutional or statutory debt limitations, but are obligations of the corporation payable solely and only from the corporation's funds.

(5) The corporation may:

(a) engage consultants and legal counsel;

(b) expend funds;

(c) invest funds;

(d) issue debt and borrow funds;

(e) enter into contracts;

(f) insure against loss;

(g) hire employees; and

(h) perform any other act necessary to carry out its purposes.

Section 201. Section 63N-6-302, which is renumbered from Section 63M-1-1208 is renumbered and amended to read:

[63M-1-1208]. 63N-6-302. Incorporator -- Appointment committee.

(1) To facilitate the organization of the corporation, the executive director or the executive director's designee shall serve as the incorporator as provided in Section 16-6a-201.

(2) To assist in the organization of the corporation, the Utah Board of Business and Economic Development shall appoint three individuals to serve on an appointment committee.

(3) The appointment committee shall:

(a) elect the initial board of directors of the corporation;

(b) exercise due care to assure that persons elected to the initial board of directors have the requisite financial experience necessary in order to carry out the duties of the corporation as established in this part, including in areas related to:

(i) venture capital investment;

(ii) investment management; and

(iii) supervision of investment managers and investment funds; and

(c) terminate its existence upon the election of the initial board of directors of the corporation.

(4) The office shall assist the incorporator and the appointment committee in any manner determined necessary and appropriate by the incorporator and appointment committee in order to administer this section.

Section 202. Section 63N-6-303, which is renumbered from Section 63M-1-1209 is renumbered and amended to read:

[63M-1-1209]. 63N-6-303. Board of directors.

(1) The initial board of directors of the corporation shall consist of five members.

(2) The persons elected to the initial board of directors by the appointment committee shall include persons who have an expertise, as considered appropriate by the appointment committee, in the areas of:

(a) the selection and supervision of investment managers;

(b) fiduciary management of investment funds; and

(c) other areas of expertise as considered appropriate by the appointment committee.

(3) After the election of the initial board of directors, vacancies in the board of directors of the corporation shall be filled by election by the remaining directors of the corporation.

(4) (a) Board members shall serve four-year terms, except that of the five initial members:

(i) two shall serve four-year terms;

(ii) two shall serve three-year terms; and

(iii) one shall serve a two-year term.

(b) Board members shall serve until their successors are elected and qualified and may serve successive terms.

(c) A majority of the board members may remove a board member for cause.

(d) (i) The board shall select a chair by majority vote.

(ii) The chair's term is for one year.

(5) Three members of the board are a quorum for the transaction of business.

(6) Members of the board of directors:

(a) are subject to any restrictions on conflicts of interest specified in the organizational documents of the corporation; and

(b) may have no interest in any:

(i) venture capital investment fund allocation manager selected by the corporation under this part; or

- (ii) investments made by the Utah fund of funds.
- (7) Directors of the corporation:
 - (a) shall be compensated for direct expenses and mileage; and
 - (b) may not receive a director's fee or salary for service as directors.

Section 203. Section 63N-6-304, which is renumbered from Section 63M-1-1210 is renumbered and amended to read:

[63M-1-1210]. 63N-6-304. Investment manager.

(1) After incorporation, the corporation shall conduct a national solicitation for investment plan proposals from qualified venture capital investment fund allocation managers for the raising and investing of capital by the Utah fund of funds in accordance with the requirements of this part.

(2) Any proposed investment plan shall address the applicant's:

- (a) level of:
 - (i) experience; and
 - (ii) quality of management;
- (b) investment philosophy and process;
- (c) probability of success in fund-raising;
- (d) prior investment fund results; and
- (e) plan for achieving the purposes of this part.

(3) The selected venture capital investment fund allocation manager shall have substantial, successful experience in the design, implementation, and management of seed and venture capital investment programs and in capital formation.

(4) The corporation shall only select a venture capital investment fund allocation manager:

- (a) with demonstrated expertise in the management and fund allocation of investments in venture capital funds; and
- (b) considered best qualified to:
 - (i) invest the capital of the Utah fund of funds; and
 - (ii) generate the amount of capital required by this part.

Section 204. Section 63N-6-305, which is renumbered from Section 63M-1-1211 is renumbered and amended to read:

[63M-1-1211]. 63N-6-305. Management fee -- Additional financial assistance.

(1) The corporation may charge a management fee on assets under management in the Utah fund of funds.

- (2) The fee shall:

(a) be in addition to any fee charged to the Utah fund of funds by the venture capital investment fund allocation manager selected by the corporation; and

(b) be charged only to pay for reasonable and necessary costs of the corporation.

(3) The corporation may apply for and, when qualified, receive financial assistance from the Industrial Assistance Account under [Title 63M,] Chapter [1] 3, Part [9] 1, Industrial Assistance Account, and under rules made by the Board of Business and Economic Development in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to help establish the program authorized under this part.

Section 205. Section 63N-6-306, which is renumbered from Section 63M-1-1212 is renumbered and amended to read:

[63M-1-1212]. 63N-6-306. Dissolution.

(1) Upon the dissolution of the Utah fund of funds, the corporation shall be liquidated and dissolved.

(2) Upon dissolution or privatization of the corporation, any assets owned by the corporation shall be distributed to one or more Utah nonprofit tax exempt organizations to be designated by the Legislature for the purposes listed in Section [63M-1-1202] 63N-6-102 as provided in Title 63E, Chapter 1, Independent Entities Act.

Section 206. Section 63N-6-401, which is renumbered from Section 63M-1-1213 is renumbered and amended to read:

Part 4. Utah Fund of Funds

[63M-1-1213]. 63N-6-401. Organization of Utah fund of funds.

(1) The corporation shall organize the Utah fund of funds.

(2) The Utah fund of funds shall make investments in private seed and venture capital partnerships or entities in a manner and for the following purposes:

- (a) to encourage the availability of a wide variety of venture capital in the state;
- (b) to strengthen the economy of the state;
- (c) to help business in the state gain access to sources of capital;
- (d) to help build a significant, permanent source of capital available to serve the needs of businesses in the state; and
- (e) to accomplish all these benefits in a way that minimizes the use of contingent tax credits.

(3) The Utah fund of funds shall be organized:

- (a) as a limited partnership or limited liability company under Utah law having the corporation as the general partner or manager;
- (b) to provide for equity interests for designated investors which provide for a designated scheduled rate of return and a scheduled redemption in

accordance with rules made by the board pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(c) to provide for loans by or the issuance of debt obligations to designated investors which provide for designated payments of principal, interest, or interest equivalent in accordance with rules made by the board pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(4) Public money may not be invested in the Utah fund of funds.

Section 207. Section 63N-6-402, which is renumbered from Section 63M-1-1214 is renumbered and amended to read:

[63M-1-1214]. 63N-6-402. Compensation from the Utah fund of funds to the corporation -- Redemption reserve.

(1) The corporation shall be compensated for its involvement in the Utah fund of funds through the payment of the management fee described in Section ~~[63M-1-1211]~~ 63N-6-305.

(2) Before any returns may be reinvested in the Utah fund of funds:

(a) any returns shall be paid to designated investors, including the repayment by the Utah fund of funds of any outstanding loans;

(b) any returns in excess of those payable to designated investors shall be deposited in the redemption reserve and held by the corporation as a first priority reserve for the redemption of certificates;

(c) any returns received by the corporation from investment of amounts held in the redemption reserve shall be added to the redemption reserve until it has reached a total of \$250,000,000; and

(d) if at the end of a calendar year the redemption reserve exceeds the \$250,000,000 limitation referred to in Subsection (2)(c), the corporation may reinvest the excess in the Utah fund of funds.

(3) Funds held by the corporation in the redemption reserve shall be invested in accordance with Title 51, Chapter 7, State Money Management Act.

Section 208. Section 63N-6-403, which is renumbered from Section 63M-1-1215 is renumbered and amended to read:

[63M-1-1215]. 63N-6-403. Investments by Utah fund of funds.

(1) The Utah fund of funds shall invest funds:

(a) principally in high-quality venture capital funds managed by investment managers who have:

(i) made a commitment to equity investments in businesses located within the state; and

(ii) have committed to maintain a physical presence within the state;

(b) in private venture capital funds and not in direct investments in individual businesses; and

(c) in venture capital funds with experienced managers or management teams with demonstrated expertise and a successful history in the investment of venture capital funds.

(2) (a) The Utah fund of funds shall give priority to investments in private seed and venture capital partnerships and entities that have demonstrated a commitment to the state as evidenced by:

(i) the investments they have made in Utah-based entities;

(ii) the correspondent relationships they have established with Utah-based venture capital funds; or

(iii) the commitment they have made to expand the reach of expertise within the state by adding additional investment areas of expertise.

(b) The manager of the Utah fund of funds may waive the priorities under Subsection (2)(a) only if necessary to achieve the targeted investment returns required to attract designated investors.

(3) The Utah fund of funds may invest funds in a newly created venture capital fund only if the managers or management team of the fund have the experience, expertise, and a successful history in the investment of venture capital funds as described in Subsection (1)(c).

(4) (a) An investment or investments by the Utah fund of funds in any venture capital fund may comprise no more than 20% of the total committed capital in the venture capital fund.

(b) (i) No more than 50% of the funds invested by the Utah fund of funds may be made with venture capital entities with offices in the state established prior to July 1, 2002.

(ii) The restriction under Subsection (4)(b)(i) shall remain in place until three additional venture capital entities open new offices in the state.

Section 209. Section 63N-6-404, which is renumbered from Section 63M-1-1216 is renumbered and amended to read:

[63M-1-1216]. 63N-6-404. Powers of Utah fund of funds.

(1) The Utah fund of funds may:

(a) engage consultants and legal counsel;

(b) expend funds;

(c) invest funds;

(d) issue debt and borrow funds;

(e) enter into contracts;

(f) insure against loss;

(g) hire employees;

(h) issue equity interests to designated investors that have purchased equity interest certificates from the board; and

(i) perform any other act necessary to carry out its purposes.

(2) (a) The Utah fund of funds shall engage a venture capital investment fund allocation manager.

(b) The compensation paid to the fund manager shall be in addition to the management fee paid to the corporation under Section ~~[63M-1-1211]~~ 63N-6-305.

(3) The Utah fund of funds may:

(a) open and manage bank and short-term investment accounts as considered necessary by the venture capital investment fund allocation manager; and

(b) expend money to secure investment ratings for investments by designated investors in the Utah fund of funds.

Section 210. Section 63N-6-405, which is renumbered from Section 63M-1-1217 is renumbered and amended to read:

~~[63M-1-1217]. 63N-6-405. Annual audits.~~

(1) Each calendar year, an audit of the activities of the Utah fund of funds shall be made as described in this section.

(2) (a) The audit shall be conducted by:

(i) the state auditor; or

(ii) an independent auditor engaged by the state auditor.

(b) An independent auditor used under Subsection (2)(a)(ii) must have no business, contractual, or other connection to:

(i) the corporation; or

(ii) the Utah fund of funds.

(3) The corporation shall pay the costs associated with the annual audit.

(4) The annual audit report shall:

(a) be delivered to:

(i) the corporation; and

(ii) the board;

(b) include a valuation of the assets owned by the Utah fund of funds as of the end of the reporting year;

(c) include an opinion regarding the accuracy of the information provided in the annual report described in Subsection ~~[63M-1-1206]~~ 63N-6-203(6); and

(d) be completed on or before September 1 for the previous calendar year so that it may be included in the annual report described in Section ~~[63M-1-1206]~~ 63N-6-203.

Section 211. Section 63N-6-406, which is renumbered from Section 63M-1-1218 is renumbered and amended to read:

~~[63M-1-1218]. 63N-6-406. Certificates and contingent tax credits.~~

(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board, in consultation with the State Tax Commission, shall

make rules governing the form, issuance, transfer, and redemption of certificates.

(2) The board's issuance of certificates and related contingent tax credits to designated investors is subject to the following:

(a) the aggregate outstanding certificates may not exceed a total of:

(i) \$150,000,000 of contingent tax credits used as collateral or a guarantee on loans for the debt-based financing of investments in the Utah fund of funds, including a loan refinanced using debt- or equity-based financing as described in Subsection (2)(e); and

(ii) \$75,000,000 used as a guarantee on equity investments in the Utah fund of funds;

(b) the board shall issue a certificate contemporaneously with an investment in the Utah fund of funds by a designated investor;

(c) the board shall issue contingent tax credits in a manner that not more than \$20,000,000 of contingent tax credits for each \$100,000,000 increment of contingent tax credits may be redeemable in a fiscal year;

(d) the credits are certifiable if there are insufficient funds in the redemption reserve to make a cash redemption and the board does not exercise its other options under Subsection ~~[63M-1-1220]~~ 63N-6-408(3)(b);

(e) the board may not issue additional certificates as collateral or a guarantee on a loan for the debt-based financing of investments in the Utah fund of funds that is initiated after July 1, 2014, except for a loan refinanced using debt- or equity-based financing on or after July 1, 2014, that was originated before July 1, 2014;

(f) after July 1, 2014, and on or before December 31, 2017, the board may issue certificates that represent a guarantee of no more than 100% of the principal of each equity investment in the Utah fund of funds; and

(g) the board may not issue certificates after December 31, 2017.

(3) In determining the maximum limits in Subsections (2)(a)(i) and (ii) and the \$20,000,000 limitation for each \$100,000,000 increment of contingent tax credits in Subsection (2)(c):

(a) the board shall use the cumulative amount of scheduled aggregate returns on certificates issued by the board to designated investors;

(b) certificates and related contingent tax credits that have expired may not be included; and

(c) certificates and related contingent tax credits that have been redeemed shall be included only to the extent of tax credits actually allowed.

(4) Contingent tax credits are subject to the following:

(a) a contingent tax credit may not be redeemed except by a designated investor in accordance with the terms of a certificate from the board;

(b) a contingent tax credit may not be redeemed prior to the time the Utah fund of funds receives full payment from the designated investor for the certificate;

(c) a contingent tax credit shall be claimed for a tax year that begins during the calendar year maturity date stated on the certificate;

(d) an investor who redeems a certificate and the related contingent tax credit shall allocate the amount of the contingent tax credit to the taxpayers of the investor based on the taxpayer's pro rata share of the investor's earnings; and

(e) a contingent tax credit shall be claimed as a refundable credit.

(5) In calculating the amount of a contingent tax credit:

(a) the board shall certify a contingent tax credit only if the actual return, or payment of principal and interest for a loan initiated before July 1, 2014, including a loan refinanced on or after July 1, 2014, that was originated before July 1, 2014, to the designated investor is less than that targeted at the issuance of the certificate;

(b) the amount of the contingent tax credit for a designated investor with an equity interest may not exceed the difference between the actual principal investment of the designated investor in the Utah fund of funds and the aggregate actual return received by the designated investor and any predecessor in interest of the initial equity investment and interest on the initial equity investment;

(c) the rates, whether fixed rates or variable rates, shall be determined by a formula stipulated in the certificate; and

(d) the amount of the contingent tax credit for a designated investor with an outstanding loan to the Utah fund of funds initiated before July 1, 2014, including a loan refinanced on or after July 1, 2014, that was originated before July 1, 2014, shall be equal to the amount of any principal, interest, or interest equivalent unpaid at the redemption of the loan or other obligation, as stipulated in the certificate.

(6) The board shall clearly indicate on the certificate:

(a) the targeted return on the invested capital, if the private investment is an equity interest;

(b) the payment schedule of principal, interest, or interest equivalent, if the private investment is a loan initiated before July 1, 2014, including a loan refinanced on or after July 1, 2014, that was originated before July 1, 2014;

(c) the amount of the initial private investment;

(d) the calculation formula for determining the scheduled aggregate return on the initial equity investment, if applicable; and

(e) the calculation formula for determining the amount of the contingent tax credit that may be claimed.

(7) Once money is invested by a designated investor, a certificate:

(a) is binding on the board; and

(b) may not be modified, terminated, or rescinded.

(8) Funds invested by a designated investor for a certificate shall be paid to the corporation for placement in the Utah fund of funds.

(9) The State Tax Commission may, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and in consultation with the board, make rules to help implement this section.

Section 212. Section 63N-6-407, which is renumbered from Section 63M-1-1219 is renumbered and amended to read:

[63M-1-1219]. 63N-6-407. Transfer and registration of certificates.

(1) A certificate and the related contingent tax credit may be transferred by the designated investor.

(2) The board, in conjunction with the State Tax Commission, shall develop:

(a) a system for registration of any certificate and related contingent tax credit issued or transferred under this part; and

(b) a system that permits verification that:

(i) any contingent tax credit claimed is valid; and

(ii) any transfers of the certificate and related contingent tax credit are made in accordance with the requirements of this part.

(3) A certificate or contingent tax credit issued or transferred under this part may not be considered a security under Title 61, Chapter 1, Utah Uniform Securities Act.

Section 213. Section 63N-6-408, which is renumbered from Section 63M-1-1220 is renumbered and amended to read:

[63M-1-1220]. 63N-6-408. Redemption of certificates.

(1) If a designated investor elects to redeem a certificate, the certificate shall be presented to the board for redemption no later than June 30 of the calendar year maturity date stated on the certificate.

(2) Upon presentment to the board, it shall determine and certify the amount of the contingent tax credit that may be claimed by the designated investor based on:

(a) the limitations in Section ~~[63M-1-1218]~~ 63N-6-406; and

(b) rules made by the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(3) (a) If there are sufficient funds in the redemption reserve, the board shall direct the corporation to make a cash redemption of the certificate.

(b) If there are insufficient funds in the redemption reserve, the board may elect to redeem the certificate:

(i) by certifying a contingent tax credit to the designated investor; or

(ii) by making demand on designated purchasers to purchase certificates in accordance with Section ~~[63M-1-1221]~~ 63N-6-409.

(4) The board shall certify to the State Tax Commission the contingent tax credit which can be claimed by the designated investor with respect to the redemption of the certificate.

(5) The board shall cancel all redeemed certificates.

Section 214. Section 63N-6-409, which is renumbered from Section 63M-1-1221 is renumbered and amended to read:

~~[63M-1-1221]. 63N-6-409. Use of commitments to redeem certificates.~~

(1) The board may elect to draw on a commitment to redeem a certificate from a designated investor.

(2) If the board makes an election under Subsection (1), it shall:

(a) inform the designated purchaser of the amount of the contingent tax credit that must be purchased from the board;

(b) specify the date on which the purchase must be consummated; and

(c) use the funds delivered to the board by the designated purchaser to redeem the certificate from the designated investor.

(3) The board has discretion in determining which commitment or commitments and what portion of those commitments to use to redeem certificates.

(4) The contingent tax credits acquired by a designated purchaser under this section are subject to Section ~~[63M-1-1218]~~ 63N-6-406.

Section 215. Section 63N-6-410, which is renumbered from Section 63M-1-1222 is renumbered and amended to read:

~~[63M-1-1222]. 63N-6-410. Powers and effectiveness.~~

(1) This ~~[part]~~ chapter may not be construed as a restriction or limitation upon any power which the board might otherwise have under any other law of this state and the provisions of this ~~[part]~~ chapter are cumulative to those powers.

(2) This ~~[part]~~ chapter shall be construed to provide a complete, additional, and alternative method for performing the duties authorized and shall be regarded as supplemental and additional powers to those conferred by any other laws.

(3) The provisions of any contract entered into by the board or the Utah fund of funds may not be compromised, diminished, invalidated, or affected by the:

(a) level, timing, or degree of success of the Utah fund of funds or the investment funds in which the Utah fund of funds invests; or

(b) extent to which the investment funds are:

(i) invested in Utah venture capital projects; or

(ii) successful in accomplishing any economic development objectives.

Section 216. Section 63N-6-411, which is renumbered from Section 63M-1-1223 is renumbered and amended to read:

~~[63M-1-1223]. 63N-6-411. Permissible investments.~~

Investments by designated investors in the Utah fund of funds are permissible investments under applicable laws of the state for:

(1) state-chartered banks;

(2) state-chartered credit unions;

(3) state-chartered industrial banks; and

(4) domestic insurance companies.

Section 217. Section 63N-6-412, which is renumbered from Section 63M-1-1224 is renumbered and amended to read:

~~[63M-1-1224]. 63N-6-412. Exemption from certain statutes.~~

(1) Except as otherwise provided in this part, the corporation is exempt from statutes governing state agencies, as provided in Section 63E-2-109.

(2) The corporation is exempt from:

(a) Title 52, Chapter 4, Open and Public Meetings Act; and

(b) Title 63G, Chapter 2, Government Records Access and Management Act.

(3) The board is exempt from the requirement to report fund performance of venture firms and private equity firms set forth in Title 63G, Chapter 2, Government Records Access and Management Act.

Section 218. Section 63N-7-101, which is renumbered from Section 63M-1-1401 is renumbered and amended to read:

CHAPTER 7. TOURISM DEVELOPMENT

Part 1. Board of Tourism Development

~~[63M-1-1401]. 63N-7-101. Board of Tourism Development.~~

(1) This chapter is known as "Tourism Development."

~~[4]~~ (2) There is created within the office the Board of Tourism Development.

~~[2]~~ (3) The board shall advise the office on the office's planning, policies, and strategies and on

trends and opportunities for tourism development that may exist in the various areas of the state.

[~~(3)~~] (4) The board shall perform other duties as required by Section [~~63M-1-1403~~] 63N-7-103.

Section 219. Section 63N-7-102, which is renumbered from Section 63M-1-1402 is renumbered and amended to read:

[~~63M-1-1402~~]. 63N-7-102. Members -- Meetings -- Expenses.

(1) (a) The board shall consist of 13 members appointed by the governor to four-year terms [of office] with the consent of the Senate.

(b) Notwithstanding the requirements of Subsection (1)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

(2) The members may not serve more than two full consecutive terms unless the governor determines that an additional term is in the best interest of the state.

(3) Not more than seven members of the board may be of the same political party.

(4) (a) The members shall be representative of:

(i) all areas of the state with six being appointed from separate geographical areas as provided in Subsection (4)(b); and

(ii) a diverse mix of business ownership or executive management of tourism related industries.

(b) The geographical representatives shall be appointed as follows:

(i) one member from Salt Lake, Tooele, or Morgan County;

(ii) one member from Davis, Weber, Box Elder, Cache, or Rich County;

(iii) one member from Utah, Summit, Juab, or Wasatch County;

(iv) one member from Carbon, Emery, Grand, Duchesne, Daggett, or Uintah County;

(v) one member from San Juan, Piute, Wayne, Garfield, or Kane County; and

(vi) one member from Washington, Iron, Beaver, Sanpete, Sevier, or Millard County.

(c) The tourism industry representatives of ownership or executive management shall be appointed as follows:

(i) one member from ownership or executive management of the lodging industry, as recommended by the lodging industry for the governor's consideration;

(ii) one member from ownership or executive management of the restaurant industry, as

recommended by the restaurant industry for the governor's consideration;

(iii) one member from ownership or executive management of the ski industry, as recommended by the ski industry for the governor's consideration; and

(iv) one member from ownership or executive management of the motor vehicle rental industry, as recommended by the motor vehicle rental industry for the governor's consideration.

(d) One member shall be appointed at large from ownership or executive management of business, finance, economic policy, or the academic media marketing community.

(e) One member shall be appointed from the Utah Tourism Industry Coalition as recommended by the coalition for the governor's consideration.

(f) One member shall be appointed to represent the state's counties as recommended by the Utah Association of Counties for the governor's consideration.

(g) (i) The governor may choose to disregard a recommendation made for a board member under Subsections (4)(c), (e), and (f).

(ii) The governor shall request additional recommendations if recommendations are disregarded under Subsection (4)(g)(i).

(5) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term from the same geographic area or industry representation as the member whose office was vacated.

(6) Seven members of the board constitute a quorum for conducting board business and exercising board powers.

(7) The governor shall select one of the board members as chair and one of the board members as vice chair, each for a four-year term as recommended by the board for the governor's consideration.

(8) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance [~~pursuant to~~] under Sections 63A-3-106 and 63A-3-107.

(9) The board shall meet monthly or as often as the board determines to be necessary at various locations throughout the state.

(10) Members who may have a potential conflict of interest in consideration of fund allocation decisions shall identify the potential conflict prior to voting on the issue.

(11) (a) The board shall determine attendance requirements for maintaining a designated board seat.

(b) If a board member fails to attend according to the requirements established pursuant to Subsection (11)(a), the board member shall be replaced upon written certification from the board chair or vice chair to the governor.

(c) A replacement appointed by the governor under Subsection (11)(b) shall serve for the remainder of the board member's unexpired term.

(12) The board's office shall be in Salt Lake City.

Section 220. Section 63N-7-103, which is renumbered from Section 63M-1-1403 is renumbered and amended to read:

[63M-1-1403]. 63N-7-103. Board duties.

(1) The board shall:

(a) have authority to approve a tourism program of out-of-state advertising, marketing, and branding, taking into account the long-term strategic plan, economic trends, and opportunities for tourism development on a statewide basis, as a condition of the distribution of funds to the office from the Tourism Marketing Performance Account under Section [63M-1-1406] 63N-7-301;

(b) have authority to approve a tourism program of advertising, marketing, and branding of the state, taking into account the long-term strategic plan, economic trends, and opportunities for tourism development on a statewide basis, as a condition of the distribution of money to the office from the Stay Another Day and Bounce Back Account, created in Section [63M-1-3411] 63N-2-511;

(c) review the office programs for coordination and integration of advertising and branding themes to be used whenever possible in all office programs, including recreational, scenic, historic, and tourist attractions of the state at large;

(d) encourage and assist in coordination of the activities of persons, firms, associations, corporations, civic groups, and governmental agencies engaged in publicizing, developing, and promoting the scenic attractions and tourist advantages of the state; and

(e) (i) advise the office in establishing a Cooperative Program from the money in the Tourism Marketing Performance Account under Section [63M-1-1406] 63N-7-301 for use by cities, counties, nonprofit destination marketing organizations, and similar public entities for the purpose of supplementing money committed by these entities for advertising and promotion to and for out-of-state residents to attract them to visit sites advertised by and attend events sponsored by these entities;

(ii) the Cooperative Program shall be allocated 20% of the revenues appropriated to the office from the Tourism Marketing Performance Account;

(iii) the office, with approval from the board, shall establish eligibility, advertising, and timing requirements and criteria and provide for an approval process for applications;

(iv) an application from an eligible applicant to receive money from the Cooperative Program must be submitted on or before the appropriate date established by the office; and

(v) Cooperative Program money not used in each fiscal year shall be returned to the Tourism Marketing Performance Account.

(2) The board may:

(a) solicit and accept contributions of money, services, and facilities from any other sources, public or private and shall use these funds for promoting the general interest of the state in tourism; and

(b) establish subcommittees for the purpose of assisting the board in an advisory role only.

(3) The board may not, except as otherwise provided in Subsection (1)(a), make policy related to the management or operation of the office.

Section 221. Section 63N-7-201, which is renumbered from Section 63M-1-1404 is renumbered and amended to read:

Part 2. Powers and Duties of Office

[63M-1-1404]. 63N-7-201. Powers and duties of office related to tourism development plan -- Annual report and survey.

(1) The office shall:

(a) be the tourism development authority of the state;

(b) develop a tourism advertising, marketing, and branding program for the state;

(c) receive approval from the Board of Tourism Development under Subsection [63M-1-1403] 63N-7-103(1)(a) before implementing the out-of-state advertising, marketing, and branding campaign;

(d) develop a plan to increase the economic contribution by tourists visiting the state;

(e) plan and conduct a program of information, advertising, and publicity relating to the recreational, scenic, historic, and tourist advantages and attractions of the state at large; and

(f) encourage and assist in the coordination of the activities of persons, firms, associations, corporations, travel regions, counties, and governmental agencies engaged in publicizing, developing, and promoting the scenic attractions and tourist advantages of the state.

(2) Any plan provided for under Subsection (1) shall address, but not be limited to, enhancing the state's image, promoting Utah as a year-round destination, encouraging expenditures by visitors to the state, and expanding the markets where the state is promoted.

(3) The office shall:

(a) conduct a regular and ongoing research program to identify statewide economic trends and conditions in the tourism sector of the economy; and

(b) include in the annual written report described in Section ~~[63M-1-206]~~ 63N-1-301, a report on the economic efficiency of the advertising and branding campaigns conducted under this part.

Section 222. Section 63N-7-202, which is renumbered from Section 63M-1-1405 is renumbered and amended to read:

[63M-1-1405]. 63N-7-202. Agreements with other governmental entities.

The office may enter into agreements with state or federal agencies to accept services, quarters, or facilities as a contribution in carrying out the duties and functions of the office.

Section 223. Section 63N-7-301, which is renumbered from Section 63M-1-1406 is renumbered and amended to read:

Part 3. Tourism Marketing Performance Account

[63M-1-1406]. 63N-7-301. Tourism Marketing Performance Account.

(1) There is created within the General Fund a restricted account known as the Tourism Marketing Performance Account.

(2) The account shall be administered by the office for the purposes listed in Subsection (5).

(3) (a) The account shall earn interest.

(b) All interest earned on account money shall be deposited into the account.

(4) The account shall be funded by appropriations made to the account by the Legislature in accordance with this section.

(5) The director shall use account money appropriated to the office to pay for the statewide advertising, marketing, and branding campaign for promotion of the state as conducted by the office.

(6) (a) For a fiscal year beginning on or after July 1, 2007, the office shall annually allocate 10% of the account money appropriated to the office to a sports organization for advertising, marketing, branding, and promoting Utah in attracting sporting events into the state.

(b) The sports organization shall:

(i) provide an annual written report to the office that gives a complete accounting of the use of money the sports organization receives under this Subsection (6); and

(ii) partner with the office to promote the state and to encourage economic growth in the state.

(c) For purposes of this Subsection (6), "sports organization" means an organization that is:

(i) exempt from federal income taxation in accordance with Section 501(c)(3), Internal Revenue Code; and

(ii) created to foster national and international sports competitions in the state, including competitions related to Olympic sports, and to promote and encourage sports tourism throughout

the state, including advertising, marketing, branding, and promoting Utah for the purpose of attracting sporting events into the state.

(7) Money deposited into the account shall consist of a legislative appropriation from the cumulative sales and use tax revenue increases identified in Subsection (8), plus any appropriation made by the Legislature.

(8) (a) In fiscal years 2006 through 2019, a portion of the state sales and use tax revenues determined under this Subsection (8) shall be certified as a set-aside for the account by the State Tax Commission and reported to the Office of Legislative Fiscal Analyst.

(b) The State Tax Commission shall determine the set-aside under this Subsection (8) in each fiscal year by applying the following formula: if the increase in the state sales and use tax revenues derived from the retail sales of tourist-oriented goods and services, in the fiscal year two years prior to the fiscal year in which the set-aside is to be made for the account, is at least 3% over the state sales and use tax revenues derived from the retail sales of tourist-oriented goods and services generated in the fiscal year three years prior to the fiscal year in which the set-aside is to be made, an amount equal to 1/2 of the state sales and use tax revenues generated above the 3% increase shall be calculated by the commission and set aside by the state treasurer for appropriation to the account.

(c) The total money appropriated to the account in any fiscal year under Subsections (8)(a) and (b) may not exceed the amount in the account under this section in the fiscal year immediately preceding the current fiscal year by more than \$3,000,000.

(d) As used in this Subsection (8), "sales of tourist-oriented goods and services" are those sales by businesses registered with the State Tax Commission under the following codes of the 1997 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget:

(i) NAICS Code 453 Miscellaneous Store Retailers;

(ii) NAICS Code 481 Passenger Air Transportation;

(iii) NAICS Code 487 Scenic and Sightseeing Transportation;

(iv) NAICS Code 711 Performing Arts, Spectator Sports and Related Industries;

(v) NAICS Code 712 Museums, Historical Sites and Similar Institutions;

(vi) NAICS Code 713 Amusement, Gambling and Recreation Industries;

(vii) NAICS Code 721 Accommodations;

(viii) NAICS Code 722 Food Services and Drinking Places;

(ix) NAICS Code 4483 Jewelry, Luggage, and Leather Goods Stores;

(x) NAICS Code 4853 Taxi and Limousine Service;

- (xi) NAICS Code 4855 Charter Bus;
 - (xii) NAICS Code 5615 Travel Arrangement and Reservation Services;
 - (xiii) NAICS Code 44611 Pharmacies and Drug Stores;
 - (xiv) NAICS Code 45111 Sporting Goods Stores;
 - (xv) NAICS Code 45112 Hobby Toy and Game Stores;
 - (xvi) NAICS Code 45121 Book Stores and News Dealers;
 - (xvii) NAICS Code 445120 Convenience Stores without Gas Pumps;
 - (xviii) NAICS Code 447110 Gasoline Stations with Convenience Stores;
 - (xix) NAICS Code 447190 Other Gasoline Stations;
 - (xx) NAICS Code 532111 Passenger Car Rental; and
 - (xxi) NAICS Code 532292 Recreational Goods Rental.
- (e) The Division of Finance shall for each fiscal year transfer the first \$6,000,000 of ongoing money in the account to the General Fund.

Section 224. Section 63N-8-101, which is renumbered from Section 63M-1-1801 is renumbered and amended to read:

**CHAPTER 8. MOTION PICTURE
INCENTIVES**

[63M-1-1801]. 63N-8-101. Title -- Purpose.

(1) This chapter is known as "Motion Picture Incentives."

[4] (2) The Legislature finds that:

- (a) the state's natural beauty, scenic wonders, and diverse topography provide a variety of magnificent settings from which the motion picture industry can choose to film part or all of major or independent motion pictures, made-for-television movies, and television series;
- (b) the state has an abundance of resources, including a skilled and able workforce, the required infrastructure, and a friendly and hospitable populace that have been instrumental in the filming of hundreds of successful motion pictures and several television series; and
- (c) further development of the motion picture industry in Utah is a state public purpose that will significantly impact growth in the state's economy and contribute to the fiscal well being of the state and its people.

[2] (3) The purpose of this [part] chapter is to:

- (a) encourage the use of Utah as a site for the production of motion pictures, television series, and made-for-television movies;

(b) provide financial incentives to the film industry so that Utah might compete successfully with other states and countries for filming locations; and

(c) help develop a strong motion picture industry presence in the state that will contribute substantially to improving the state's economy.

Section 225. Section 63N-8-102, which is renumbered from Section 63M-1-1802 is renumbered and amended to read:

[63M-1-1802]. 63N-8-102. Definitions.

As used in this [part] chapter:

[1] ~~"Board" means the Governor's Office of Economic Development Board.]~~

[2] (1) "Digital media company" means a company engaged in the production of a digital media project.

[3] (2) "Digital media project" means all or part of a production of interactive entertainment or animated production that is produced for distribution in commercial or educational markets, which shall include projects intended for Internet or wireless distribution.

[4] (3) "Dollars left in the state" means expenditures made in the state for a state-approved production, including:

(a) an expenditure that is subject to:

(i) a corporate franchise or income tax under Title 59, Chapter 7, Corporate Franchise and Income Taxes;

(ii) an individual income tax under Title 59, Chapter 10, Individual Income Tax Act; and

(iii) a sales and use tax under Title 59, Chapter 12, Sales and Use Tax Act, notwithstanding any sales and use tax exemption allowed by law; or

(iv) a combination of Subsections [4] (3)(a)(i), (ii), and (iii);

(b) payments made to a nonresident only to the extent of the income tax paid to the state on the payments, the amount of per diems paid in the state, and other direct reimbursements transacted in the state; and

(c) payments made to a payroll company or loan-out corporation that is registered to do business in the state, only to the extent of the amount of withholding under Section 59-10-402.

[5] (4) "Loan-out corporation" means a corporation owned by one or more artists that provides services of the artists to a third party production company.

[6] (5) "Motion picture company" means a company engaged in the production of:

(a) motion pictures;

(b) television series; or

(c) made-for-television movies.

[47] (6) "Motion picture incentive" means either a cash rebate from the Motion Picture Incentive Account or a refundable tax credit under Section 59-7-614.5 or 59-10-1108.

[48] (7) "New state revenues" means:

(a) incremental new state sales and use tax revenues generated as a result of a digital media project that a digital media company pays under Title 59, Chapter 12, Sales and Use Tax Act;

(b) incremental new state tax revenues that a digital media company pays as a result of a digital media project under:

(i) Title 59, Chapter 7, Corporate Franchise and Income Taxes;

(ii) Title 59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and Information;

(iii) Title 59, Chapter 10, Part 2, Trusts and Estates;

(iv) Title 59, Chapter 10, Part 4, Withholding of Tax; or

(v) a combination of Subsections [48] (7)(b)(i), (ii), (iii), and (iv);

(c) incremental new state revenues generated as individual income taxes under Title 59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and Information, paid by employees of the new digital media project as evidenced by payroll records from the digital media company; or

(d) a combination of Subsections [48] (7)(a), (b), and (c).

[49] "~~Office~~" means ~~the Governor's Office of Economic Development.~~

[410] (8) "Payroll company" means a business entity that handles the payroll and becomes the employer of record for the staff, cast, and crew of a motion picture production.

[411] (9) "Refundable tax credit" means a refundable motion picture tax credit authorized under Section [63M-1-1803] 63N-8-103 and claimed under Section 59-7-614.5 or 59-10-1108.

[412] (10) "Restricted account" means the Motion Picture Incentive Account created in Section [63M-1-1803] 63N-8-103.

[413] (11) "State-approved production" means a production under Subsections [43] (2) and [46] (5) that is:

(a) approved by the office and ratified by the board; and

(b) produced in the state by a motion picture company.

[414] (12) "Tax credit amount" means the amount the office lists as a tax credit on a tax credit certificate for a taxable year.

[415] (13) "Tax credit certificate" means a certificate issued by the office that:

(a) lists the name of the applicant;

(b) lists the applicant's taxpayer identification number;

(c) lists the amount of tax credit that the office awards the applicant for the taxable year; and

(d) may include other information as determined by the office.

Section 226. Section 63N-8-103, which is renumbered from Section 63M-1-1803 is renumbered and amended to read:

[63M-1-1803]. 63N-8-103. Motion Picture Incentive Account created -- Cash rebate incentives -- Refundable tax credit incentives.

(1) (a) There is created within the General Fund a restricted account known as the Motion Picture Incentive Account, which the office shall use to provide cash rebate incentives for state-approved productions by a motion picture company.

(b) All interest generated from investment of money in the restricted account shall be deposited in the restricted account.

(c) The restricted account shall consist of an annual appropriation by the Legislature.

(d) The office shall:

(i) with the advice of the board, administer the restricted account; and

(ii) make payments from the restricted account as required under this section.

(e) The cost of administering the restricted account shall be paid from money in the restricted account.

(2) (a) A motion picture company or digital media company seeking disbursement of an incentive allowed under an agreement with the office shall follow the procedures and requirements of this Subsection (2).

(b) The motion picture company or digital media company shall provide the office with a report identifying and documenting the dollars left in the state or new state revenues generated by the motion picture company or digital media company for its state-approved production, including any related tax returns by the motion picture company, payroll company, digital media company, or loan-out corporation under Subsection (2)(d).

(c) For a motion picture company, an independent certified public accountant shall:

(i) review the report submitted by the motion picture company; and

(ii) attest to the accuracy and validity of the report, including the amount of dollars left in the state.

(d) The motion picture company, digital media company, payroll company, or loan-out corporation shall provide the office with a document that expressly directs and authorizes the State Tax Commission to disclose the entity's tax returns and

other information concerning the entity that would otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code, to the office.

(e) The office shall submit the document described in Subsection (2)(d) to the State Tax Commission.

(f) Upon receipt of the document described in Subsection (2)(d), the State Tax Commission shall provide the office with the information requested by the office that the motion picture company, digital media company, payroll company, or loan-out corporation directed or authorized the State Tax Commission to provide to the office in the document described in Subsection (2)(d).

(g) Subject to Subsection (3), for a motion picture company the office shall:

(i) review the report from the motion picture company described in Subsection (2)(b) and verify that it was reviewed by an independent certified public accountant as described in Subsection (2)(c); and

(ii) based upon the certified public accountant's attestation under Subsection (2)(c), determine the amount of the incentive that the motion picture company is entitled to under its agreement with the office.

(h) Subject to Subsection (3), for a digital media company, the office shall:

(i) ensure the digital media project results in new state revenue; and

(ii) based upon review of new state revenue, determine the amount of the incentive that a digital media company is entitled to under its agreement with the office.

(i) Subject to Subsection (3), if the incentive is in the form of a cash rebate, the office shall pay the incentive from the restricted account to the motion picture company, notwithstanding Subsections 51-5-3(23)(b) and 63J-1-104(4)(c).

(j) If the incentive is in the form of a refundable tax credit under Section 59-7-614.5 or 59-10-1108, the office shall:

(i) issue a tax credit certificate to the motion picture company or digital media company; and

(ii) provide a duplicate copy of the tax credit certificate to the State Tax Commission.

(k) A motion picture company or digital media company may not claim a motion picture tax credit under Section 59-7-614.5 or 59-10-1108 unless the motion picture company or digital media company has received a tax credit certificate for the claim issued by the office under Subsection (2)(j)(i).

(l) A motion picture company or digital media company may claim a motion picture tax credit on its tax return for the amount listed on the tax credit certificate issued by the office.

(m) A motion picture company or digital media company that claims a tax credit under Subsection (2)(l) shall retain the tax credit certificate and all supporting documentation in accordance with Subsection ~~[63M-1-1804]~~ 63N-8-104(6).

(3) (a) Subject to Subsection (3)(b), the office may issue \$6,793,700 in tax credit certificates under this part in a fiscal year.

(b) If the office does not issue tax credit certificates in a fiscal year totaling the amount authorized under Subsection (3)(a), it may carry over that amount for issuance in subsequent fiscal years.

Section 227. Section 63N-8-104, which is renumbered from Section 63M-1-1804 is renumbered and amended to read:

~~[63M-1-1804]. 63N-8-104. Motion picture incentives -- Standards to qualify for an incentive -- Limitations -- Content of agreement between office and motion picture company or digital media company.~~

(1) In addition to the requirements for receiving a motion picture incentive as set forth in this part, the office, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall make rules establishing:

(a) the standards that a motion picture company or digital media company must meet to qualify for the motion picture incentive; and

(b) criteria for determining the amount of the incentive.

(2) The office shall ensure that those standards include the following:

(a) an incentive may only be issued for a state approved production by a motion picture company or digital media company;

(b) financing has been obtained and is in place for the production; and

(c) the economic impact of the production on the state represents new incremental economic activity in the state as opposed to existing economic activity.

(3) With respect to a digital media project, the office shall consider economic modeling, including the costs and benefits of the digital media project to state and local governments in determining the motion picture incentive amount.

(4) The office may also consider giving preference to a production that stimulates economic activity in rural areas of the state or that has Utah content, such as recognizing that the production was made in the state or uses Utah as Utah in the production.

(5) (a) The office, with advice from the board, may enter into an agreement with a motion picture company or digital media company that meets the standards established under this section and satisfies the other qualification requirements under this part.

(b) Subject to Subsection ~~[63M-1-1803]~~ 63N-8-103(3), the office may commit or authorize a motion picture incentive:

(i) to a motion picture company of up to 20% of the dollars left in the state by the motion picture company, and a motion picture company can receive an additional 5%, not to exceed 25% of the dollars left in the state by the motion picture company if the company fulfills certain requirements determined by the office including:

(A) employing a significant percentage of cast and crew from Utah;

(B) highlighting the state of Utah and the Utah Film Commission in the motion picture credits; or

(C) other promotion opportunities as agreed upon by the office and the motion picture company; and

(ii) to a digital media company, if the incentive does not exceed 100% of the new state revenue less the considerations under Subsection (3), but not to exceed 20% of the dollars left in the state by the digital media company.

(c) A cash rebate incentive from the Motion Picture Incentive Restricted Account may not exceed \$500,000 per state approved production for a motion picture project.

(d) The office may not give a cash rebate incentive from the Motion Picture Incentive Restricted Account for a digital media project.

(6) The office shall ensure that the agreement entered into with a motion picture company or digital media company under Subsection (5)(a):

(a) details the requirements that the motion picture company or digital media company must meet to qualify for an incentive under this part;

(b) specifies:

(i) the nature of the incentive; and

(ii) the maximum amount of the motion picture incentive that the motion picture company or digital media company may earn for a taxable year and over the life of the production;

(c) establishes the length of time over which the motion picture company or digital media company may claim the motion picture incentive;

(d) requires the motion picture company or digital media company to retain records supporting its claim for a motion picture incentive for at least four years after the motion picture company or digital media company claims the incentive under this part; and

(e) requires the motion picture company or digital media company to submit to audits for verification of the claimed motion picture incentive.

Section 228. Section 63N-8-105, which is renumbered from Section 63M-1-1805 is renumbered and amended to read:

[63M-1-1805]. 63N-8-105. Annual report.

The office shall include the following information in the annual written report described in Section [63M-1-206] 63N-1-301:

(1) the office's success in attracting within-the-state production of television series, made-for-television movies, and motion pictures, including feature films and independent films;

(2) the amount of incentive commitments made by the office under this part and the period of time over which the incentives will be paid; and

(3) the economic impact on the state related to:

(a) dollars left in the state; and

(b) providing motion picture incentives under this part.

Section 229. Section 63N-9-101, which is renumbered from Section 63M-1-3301 is renumbered and amended to read:

CHAPTER 9. UTAH OFFICE OF OUTDOOR RECREATION

[63M-1-3301]. 63N-9-101. Title.

This [part] chapter is known as the "Utah Office of Outdoor Recreation [Office Act]."

Section 230. Section 63N-9-102, which is renumbered from Section 63M-1-3302 is renumbered and amended to read:

[63M-1-3302]. 63N-9-102. Definitions.

As used in this [part] chapter:

(1) "Director" means the director of the outdoor recreation office.

(2) "Executive director" means the executive director of [the Governor's Office of Economic Development created in Section 63M-1-201] GOED.

(3) ["Office"] "Outdoor recreation office" means the Utah Office of Outdoor Recreation [Office] created in Section [63M-1-3304] 63N-9-104.

Section 231. Section 63N-9-103, which is renumbered from Section 63M-1-3303 is renumbered and amended to read:

[63M-1-3303]. 63N-9-103. Policy.

It is the declared policy of the state that outdoor recreation is vital to a diverse economy and a healthy community.

Section 232. Section 63N-9-104, which is renumbered from Section 63M-1-3304 is renumbered and amended to read:

[63M-1-3304]. 63N-9-104. Creation of office and appointment of director -- Purposes of office.

(1) There is created within the Governor's Office of Economic Development [an] the Utah Office of Outdoor Recreation [Office].

(2) (a) The executive director shall appoint a director of the outdoor recreation office.

(b) The director shall report to the executive director and may appoint staff.

(3) The purposes of the office are to:

(a) coordinate outdoor recreation policy, management, and promotion:

(i) among state and federal agencies and local government entities in the state; and

(ii) with the Public Lands Policy Coordinating Office created in Section 63J-4-602, if public land is involved;

(b) promote economic development by:

(i) coordinating with outdoor recreation stakeholders;

(ii) improving recreational opportunities; and

(iii) recruiting outdoor recreation business;

(c) recommend to the governor and Legislature policies and initiatives to enhance recreational amenities and experiences in the state and help implement those policies and initiatives;

(d) develop data regarding the impacts of outdoor recreation in the state; and

(e) promote the health and social benefits of outdoor recreation, especially to young people.

Section 233. Section 63N-9-105, which is renumbered from Section 63M-1-3305 is renumbered and amended to read:

[63M-1-3305]. 63N-9-105. Duties of director.

(1) The director shall:

(a) assure that the purposes outlined in Subsection [63M-1-3304] 63N-9-104(3) are fulfilled; and

(b) organize and provide administrative oversight to the outdoor recreation office staff.

(2) By following the procedures and requirements of Title 63J, Chapter 5, Federal Funds Procedures Act, the outdoor recreation office may:

(a) seek federal grants or loans;

(b) seek to participate in federal programs; and

(c) in accordance with applicable federal program guidelines, administer federally funded outdoor recreation programs.

(3) For purposes of administering this part, the outdoor recreation office may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 234. Section 63N-9-106, which is renumbered from Section 63M-1-3306 is renumbered and amended to read:

[63M-1-3306]. 63N-9-106. Annual report.

The executive director shall include in the annual written report described in Section [63M-1-206] 63N-1-301, a report from the director on the activities of the outdoor recreation office.

Section 235. Section 63N-10-101, which is renumbered from Section 63C-11-101 is renumbered and amended to read:

CHAPTER 10. PETE SUAZO UTAH ATHLETIC COMMISSION ACT

Part 1. General Provisions

[63C-11-101]. 63N-10-101. Title.

This chapter is known as the "Pete Suazo Utah Athletic Commission Act."

Section 236. Section 63N-10-102, which is renumbered from Section 63C-11-102 is renumbered and amended to read:

[63C-11-102]. 63N-10-102. Definitions.

As used in this chapter:

(1) "Bodily injury" [is] has the same meaning as defined in Section 76-1-601.

(2) "Boxing" means the sport of attack and defense using the fist, which is covered by an approved boxing glove.

(3) (a) "Club fighting" means any contest of unarmed combat, whether admission is charged or not, where:

(i) the rules of the contest are not approved by the commission;

(ii) a licensed physician or osteopath approved by the commission is not in attendance;

(iii) a correct HIV negative test regarding each contestant has not been provided to the commission;

(iv) the contest is not conducted in accordance with commission rules; or

(v) the contestants are not matched by the weight standards established in accordance with Section 63C-11-316.

(b) "Club fighting" does not include sparring if:

(i) it is conducted for training purposes;

(ii) no tickets are sold to spectators;

(iii) no concessions are available for spectators;

(iv) protective clothing, including protective headgear, a mouthguard, and a protective cup, is worn; and

(v) for boxing, 16 ounce boxing gloves are worn.

(4) "Commission" means the Pete Suazo Utah Athletic Commission created by this chapter.

(5) "Contest" means a live match, performance, or exhibition involving two or more persons engaged in unarmed combat.

(6) "Contestant" means an individual who participates in a contest.

(7) "Designated commission member" means a member of the commission designated to:

(a) attend and supervise a particular contest; and

(b) act on the behalf of the commission at a contest venue.

(8) “Director” means the director appointed by the commission.

(9) “Elimination unarmed combat contest” means a contest where:

(a) a number of contestants participate in a tournament;

(b) the duration is not more than 48 hours; and

(c) the loser of each contest is eliminated from further competition.

(10) “Exhibition” means an engagement in which the participants show or display their skills without necessarily striving to win.

(11) “Judge” means an individual qualified by training or experience to:

(a) rate the performance of contestants;

(b) score a contest; and

(c) determine with other judges whether there is a winner of the contest or whether the contestants performed equally, resulting in a draw.

(12) “Licensee” means an individual licensed by the commission to act as a:

(a) contestant;

(b) judge;

(c) manager;

(d) promoter;

(e) referee;

(f) second; or

(g) other official established by the commission by rule.

(13) “Manager” means an individual who represents a contestant for the purpose of:

(a) obtaining a contest for a contestant;

(b) negotiating terms and conditions of the contract under which the contestant will engage in a contest; or

(c) arranging for a second for the contestant at a contest.

(14) “Promoter” means a person who engages in producing or staging contests and promotions.

(15) “Promotion” means a single contest or a combination of contests that:

(a) occur during the same time and at the same location; and

(b) is produced or staged by a promoter.

(16) “Purse” means any money, prize, remuneration, or any other valuable consideration a contestant receives or may receive for participation in a contest.

(17) “Referee” means an individual qualified by training or experience to act as the official attending a contest at the point of contact between contestants for the purpose of:

(a) enforcing the rules relating to the contest;

(b) stopping the contest in the event the health, safety, and welfare of a contestant or any other person in attendance at the contest is in jeopardy; and

(c) acting as a judge if so designated by the commission.

(18) “Round” means one of a number of individual time periods that, taken together, constitute a contest during which contestants are engaged in a form of unarmed combat.

(19) “Second” means an individual who attends a contestant at the site of the contest before, during, and after the contest in accordance with contest rules.

(20) “Serious bodily injury” [is] has the same meaning as defined in Section 76-1-601.

(21) “Total gross receipts” means the amount of the face value of all tickets sold to a particular contest plus any sums received as consideration for holding the contest at a particular location.

(22) “Ultimate fighting” means a live contest, whether or not an admission fee is charged, in which:

(a) contest rules permit contestants to use a combination of boxing, kicking, wrestling, hitting, punching, or other combative contact techniques;

(b) contest rules incorporate a formalized system of combative techniques against which a contestant’s performance is judged to determine the prevailing contestant;

(c) contest rules divide nonchampionship contests into three equal and specified rounds of no more than five minutes per round with a rest period of one minute between each round;

(d) contest rules divide championship contests into five equal and specified rounds of no more than five minutes per round with a rest period of one minute between each round; and

(e) contest rules prohibit contestants from:

(i) using anything that is not part of the human body, except for boxing gloves, to intentionally inflict serious bodily injury upon an opponent through direct contact or the expulsion of a projectile;

(ii) striking a person who demonstrates an inability to protect himself from the advances of an opponent;

(iii) biting; or

(iv) direct, intentional, and forceful strikes to the eyes, groin area, Adam’s apple area of the neck, and the rear area of the head and neck.

(23) (a) “Unarmed combat” means boxing or any other form of competition in which a blow is usually

struck which may reasonably be expected to inflict bodily injury.

(b) "Unarmed combat" does not include a competition or exhibition between participants in which the participants engage in simulated combat for entertainment purposes.

(24) "Unlawful conduct" means organizing, promoting, or participating in a contest which involves contestants that are not licensed under this chapter.

(25) "Unprofessional conduct" means:

(a) entering into a contract for a contest in bad faith;

(b) participating in any sham or fake contest;

(c) participating in a contest pursuant to a collusive understanding or agreement in which the contestant competes in or terminates the contest in a manner that is not based upon honest competition or the honest exhibition of the skill of the contestant;

(d) engaging in an act or conduct that is detrimental to a contest, including any foul or unsportsmanlike conduct in connection with a contest;

(e) failing to comply with any limitation, restriction, or condition placed on a license;

(f) striking of a downed opponent by a contestant while the contestant remains on the contestant's feet, unless the designated commission member or director has exempted the contest and each contestant from the prohibition on striking a downed opponent before the start of the contest;

(g) after entering the ring or contest area, penetrating an area within four feet of an opponent by a contestant, manager, or second before the commencement of the contest; or

(h) as further defined by rules made by the commission under Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(26) "White-collar contest" means a contest conducted at a training facility where no alcohol is served in which:

(a) for boxing:

(i) neither contestant is or has been a licensed contestant in any state or an amateur registered with USA Boxing, Inc.;

(ii) no cash prize, or other prize valued at greater than \$35, is awarded;

(iii) protective clothing, including protective headgear, a mouthguard, a protective cup, and for a female contestant a chestguard, is worn;

(iv) 16 ounce boxing gloves are worn;

(v) the contest is no longer than three rounds of no longer than three minutes each;

(vi) no winner or loser is declared or recorded; and

(vii) the contestants do not compete in a cage; and

(b) for ultimate fighting:

(i) neither contestant is or has been a licensed contestant in any state or an amateur registered with USA Boxing, Inc.;

(ii) no cash prize, or other prize valued at greater than \$35, is awarded;

(iii) protective clothing, including a protective mouthguard and a protective cup, is worn;

(iv) downward elbow strikes are not allowed;

(v) a contestant is not allowed to stand and strike a downed opponent;

(vi) a closed-hand blow to the head is not allowed while either contestant is on the ground;

(vii) the contest is no longer than three rounds of no longer than three minutes each; and

(viii) no winner or loser is declared or recorded.

Section 237. Section 63N-10-201, which is renumbered from Section 63C-11-201 is renumbered and amended to read:

Part 2. Pete Suazo Utah Athletic Commission

[63C-11-201]. 63N-10-201. Commission -- Creation -- Appointments -- Terms -- Expenses -- Quorum.

(1) There is created within the [~~Governor's Office of Economic Development~~] office the Pete Suazo Utah Athletic Commission consisting of five members.

(2) (a) The governor shall appoint three commission members.

(b) The president of the Senate and the speaker of the House of Representatives shall each appoint one commission member.

(c) The commission members may not be licensees under this chapter.

(d) A member of the commission serving on June 30, 2009, shall continue as a member of the commission until the expiration of the member's term then existing, or until the expiration of any subsequent term to which the member is appointed.

(3) (a) Except as required by Subsection (3)(b), as terms of current members expire, the governor, president, or speaker, respectively, shall appoint each new member or reappointed member to a four-year term.

(b) The governor shall, at the time of appointment or reappointment, adjust the length of the governor's appointees' terms to ensure that the terms of members are staggered so that approximately half of the commission is appointed every two years.

(c) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(d) If a commission member fails or refuses to fulfill the responsibilities and duties of a commission member, including the attendance at commission meetings, the governor, president, or speaker, respectively, with the approval of the commission, may remove the commission member and replace the member in accordance with this section.

(4) (a) A majority of the commission members constitutes a quorum.

(b) A majority of a quorum is sufficient authority for the commission to act.

(5) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance ~~[pursuant to]~~ under Sections 63A-3-106 and 63A-3-107.

(6) The commission shall annually designate one of its members to serve as chair for a one-year period.

Section 238. Section 63N-10-202, which is renumbered from Section 63C-11-202 is renumbered and amended to read:

[63C-11-202]. 63N-10-202. Commission powers and duties.

(1) The commission shall:

(a) purchase and use a seal;

(b) adopt rules for the administration of this chapter in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(c) prepare all forms of contracts between sponsors, licensees, promoters, and contestants; and

(d) hold hearings relating to matters under its jurisdiction, including violations of this chapter or rules made under this chapter.

(2) The commission may subpoena witnesses, take evidence, and require the production of books, papers, documents, records, contracts, recordings, tapes, correspondence, or other information relevant to an investigation if the commission or its designee considers it necessary.

Section 239. Section 63N-10-203, which is renumbered from Section 63C-11-203 is renumbered and amended to read:

[63C-11-203]. 63N-10-203. Commission director.

(1) The commission shall employ a director, who may not be a member of the commission, to conduct the commission's business.

(2) The director serves at the pleasure of the commission.

Section 240. Section 63N-10-204, which is renumbered from Section 63C-11-204 is renumbered and amended to read:

[63C-11-204]. 63N-10-204. Inspectors.

(1) The commission may appoint one or more official representatives to be designated as inspectors, who shall serve at the pleasure of the commission.

(2) Each inspector must receive from the commission a card authorizing that inspector to act as an inspector for the commission.

(3) An inspector may not promote or sponsor any contest.

(4) Each inspector may receive a fee approved by the commission for the performance of duties under this chapter.

Section 241. Section 63N-10-205, which is renumbered from Section 63C-11-205 is renumbered and amended to read:

[63C-11-205]. 63N-10-205. Affiliation with other commissions.

The commission may affiliate with any other state, tribal, or national boxing commission or athletic authority.

Section 242. Section 63N-10-301, which is renumbered from Section 63C-11-301 is renumbered and amended to read:

Part 3. Licensing

[63C-11-301]. 63N-10-301. Licensing.

(1) A license is required for a person to act as or to represent that the person is:

(a) a promoter;

(b) a manager;

(c) a contestant;

(d) a second;

(e) a referee;

(f) a judge; or

(g) another official established by the commission by rule.

(2) The commission shall issue to a person who qualifies under this chapter a license in the classifications of:

(a) promoter;

(b) manager;

(c) contestant;

(d) second;

(e) referee;

(f) judge; or

(g) another official who meets the requirements established by rule under Subsection (1)(g).

(3) ~~[(a)]~~ All money collected ~~[pursuant to]~~ under this section and Sections ~~[63C-11-304,~~

~~63C-11-307, 63C-11-310, and 63C-11-313; 63N-10-304, 63N-10-307, 63N-10-310, and 63N-10-313 shall be retained as dedicated credits to pay for commission expenses.~~

~~[(b) All money available to the commission under Subsection (3)(a) to pay for commission expenses is nonlapsing for fiscal year 2009-10 only.]~~

(4) Each applicant for licensure as a promoter shall:

(a) submit an application in a form prescribed by the commission;

(b) pay the fee determined by the commission under Section 63J-1-504;

(c) provide to the commission evidence of financial responsibility, which shall include financial statements and other information that the commission may reasonably require to determine that the applicant or licensee is able to competently perform as and meet the obligations of a promoter in this state;

(d) make assurances that the applicant:

(i) is not engaging in illegal gambling with respect to sporting events or gambling with respect to the promotions the applicant is promoting;

(ii) has not been found in a criminal or civil proceeding to have engaged in or attempted to engage in any fraud or misrepresentation in connection with a contest or any other sporting event; and

(iii) has not been found in a criminal or civil proceeding to have violated or attempted to violate any law with respect to a contest in any jurisdiction or any law, rule, or order relating to the regulation of contests in this state or any other jurisdiction;

(e) acknowledge in writing to the commission receipt, understanding, and intent to comply with this chapter and the rules made under this chapter; and

(f) if requested by the commission or the director, meet with the commission or the director to examine the applicant's qualifications for licensure.

(5) Each applicant for licensure as a contestant shall:

(a) be not less than 18 years of age at the time the application is submitted to the commission;

(b) submit an application in a form prescribed by the commission;

(c) pay the fee established by the commission under Section 63J-1-504;

(d) provide a certificate of physical examination, dated not more than 60 days prior to the date of application for licensure, in a form provided by the commission, completed by a licensed physician and surgeon certifying that the applicant is free from any physical or mental condition that indicates the applicant should not engage in activity as a contestant;

(e) make assurances that the applicant:

(i) is not engaging in illegal gambling with respect to sporting events or gambling with respect to a contest in which the applicant will participate;

(ii) has not been found in a criminal or civil proceeding to have engaged in or attempted to have engaged in any fraud or misrepresentation in connection with a contest or any other sporting event; and

(iii) has not been found in a criminal or civil proceeding to have violated or attempted to violate any law with respect to contests in any jurisdiction or any law, rule, or order relating to the regulation of contests in this state or any other jurisdiction;

(f) acknowledge in writing to the commission receipt, understanding, and intent to comply with this chapter and the rules made under this chapter; and

(g) if requested by the commission or the director, meet with the commission or the director to examine the applicant's qualifications for licensure.

(6) Each applicant for licensure as a manager or second shall:

(a) submit an application in a form prescribed by the commission;

(b) pay a fee determined by the commission under Section 63J-1-504;

(c) make assurances that the applicant:

(i) is not engaging in illegal gambling with respect to sporting events or gambling with respect to a contest in which the applicant is participating;

(ii) has not been found in a criminal or civil proceeding to have engaged in or attempted to have engaged in any fraud or misrepresentation in connection with a contest or any other sporting event; and

(iii) has not been found in a criminal or civil proceeding to have violated or attempted to violate any law with respect to a contest in any jurisdiction or any law, rule, or order relating to the regulation of contests in this state or any other jurisdiction;

(d) acknowledge in writing to the commission receipt, understanding, and intent to comply with this chapter and the rules made under this chapter; and

(e) if requested by the commission or director, meet with the commission or the director to examine the applicant's qualifications for licensure.

(7) Each applicant for licensure as a referee or judge shall:

(a) submit an application in a form prescribed by the commission;

(b) pay a fee determined by the commission under Section 63J-1-504;

(c) make assurances that the applicant:

(i) is not engaging in illegal gambling with respect to sporting events or gambling with respect to a contest in which the applicant is participating;

(ii) has not been found in a criminal or civil proceeding to have engaged in or attempted to have engaged in any fraud or misrepresentation in connection with a contest or any other sporting event; and

(iii) has not been found in a criminal or civil proceeding to have violated or attempted to violate any law with respect to contests in any jurisdiction or any law, rule, or order relating to the regulation of contests in this state or any other jurisdiction;

(d) acknowledge in writing to the commission receipt, understanding, and intent to comply with this chapter and the rules made under this chapter;

(e) provide evidence satisfactory to the commission that the applicant is qualified by training and experience to competently act as a referee or judge in a contest; and

(f) if requested by the commission or the director, meet with the commission or the director to examine the applicant's qualifications for licensure.

(8) The commission may make rules concerning the requirements for a license under this chapter, that deny a license to an applicant for the violation of a crime that, in the commission's determination, would have a material effect on the integrity of a contest held under this chapter.

(9) (a) A licensee serves at the pleasure, and under the direction, of the commission while participating in any way at a contest.

(b) A licensee's license may be suspended, or a fine imposed, if the licensee does not follow the commission's direction at an event or contest.

Section 243. Section 63N-10-302, which is renumbered from Section 63C-11-302 is renumbered and amended to read:

[63C-11-302]. 63N-10-302. Term of license -- Expiration -- Renewal.

(1) The commission shall issue each license under this chapter in accordance with a renewal cycle established by rule.

(2) At the time of renewal, the licensee shall show satisfactory evidence of compliance with renewal requirements established by rule by the commission.

(3) Each license automatically expires on the expiration date shown on the license unless the licensee renews it in accordance with the rules established by the commission.

Section 244. Section 63N-10-303, which is renumbered from Section 63C-11-303 is renumbered and amended to read:

[63C-11-303]. 63N-10-303. Grounds for denial of license -- Disciplinary proceedings -- Reinstatement.

(1) The commission shall refuse to issue a license to an applicant and shall refuse to renew or shall revoke, suspend, restrict, place on probation, or otherwise act upon the license of a licensee who does

not meet the qualifications for licensure under this chapter.

(2) The commission may refuse to issue a license to an applicant and may refuse to renew or may revoke, suspend, restrict, place on probation, issue a public or private reprimand to, or otherwise act upon the license of any licensee if:

(a) the applicant or licensee has engaged in unlawful or unprofessional conduct, as defined by statute or rule under this chapter;

(b) the applicant or licensee has been determined to be mentally incompetent for any reason by a court of competent jurisdiction; or

(c) the applicant or licensee is unable to practice the occupation or profession with reasonable skill and safety because of illness, drunkenness, excessive use of drugs, narcotics, chemicals, or any other type of material, or as a result of any other mental or physical condition, when the licensee's condition demonstrates a threat or potential threat to the public health, safety, or welfare, as determined by a ringside physician or the commission.

(3) Any licensee whose license under this chapter has been suspended, revoked, or restricted may apply for reinstatement of the license at reasonable intervals and upon compliance with any conditions imposed upon the licensee by statute, rule, or terms of the license suspension, revocation, or restriction.

(4) The commission may issue cease and desist orders:

(a) to a licensee or applicant who may be disciplined under Subsection (1) or (2); and

(b) to any person who otherwise violates this chapter or any rules adopted under this chapter.

(5) (a) The commission may impose an administrative fine for acts of unprofessional or unlawful conduct under this chapter.

(b) An administrative fine under this Subsection (5) may not exceed \$2,500 for each separate act of unprofessional or unlawful conduct.

(c) The commission shall comply with Title 63G, Chapter 4, Administrative Procedures Act, in any action to impose an administrative fine under this chapter.

(d) The imposition of a fine under this Subsection (5) does not affect any other action the commission or department may take concerning a license issued under this chapter.

(6) (a) The commission may not take disciplinary action against any person for unlawful or unprofessional conduct under this chapter, unless the commission initiates an adjudicative proceeding regarding the conduct within four years after the conduct is reported to the commission, except under Subsection (6)(b).

(b) The commission may not take disciplinary action against any person for unlawful or unprofessional conduct more than 10 years after the occurrence of the conduct, unless the proceeding

is in response to a civil or criminal judgment or settlement and the proceeding is initiated within one year following the judgment or settlement.

(7) (a) Notwithstanding Title 63G, Chapter 4, Administrative Procedures Act, the following may immediately suspend the license of a licensee at such time and for such period that the following believes is necessary to protect the health, safety, and welfare of the licensee, another licensee, or the public:

- (i) the commission;
- (ii) a designated commission member; or
- (iii) if a designated commission member is not present, the director.

(b) The commission shall establish by rule appropriate procedures to invoke the suspension and to provide a suspended licensee a right to a hearing before the commission with respect to the suspension within a reasonable time after the suspension.

Section 245. Section 63N-10-304, which is renumbered from Section 63C-11-304 is renumbered and amended to read:

[63C-11-304]. 63N-10-304. Additional fees for license of promoter -- Dedicated credits -- Promotion of contests -- Annual exemption of showcase event.

(1) In addition to the payment of any other fees and money due under this chapter, every promoter shall pay a license fee determined by the commission and established in rule.

~~[(a)]~~ (2) License fees collected under this Subsection ~~[(1)(a)]~~ (2) from professional boxing contests or exhibitions shall be retained by the commission as a dedicated credit to be used by the commission to award grants to organizations that promote amateur boxing in the state and cover commission expenses.

~~[(b) Money available to the commission for awarding grants to organizations that promote amateur boxing in the state and covering commission expenses is nonlapsing for fiscal year 2009-10 only.]~~

~~[(2)]~~ (3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall adopt rules:

(a) governing the manner in which applications for grants under Subsection ~~[(1)]~~ (2) may be submitted to the commission; and

(b) establishing standards for awarding grants under Subsection ~~[(1)]~~ (2) to organizations which promote amateur boxing in the state.

~~[(3)]~~ (4) (a) For the purpose of creating a greater interest in contests in the state, the commission may exempt from the payment of license fees under this section one contest or exhibition in each calendar year, intended as a showcase event.

(b) The commission shall select the contest or exhibition to be exempted based on factors which include:

- (i) attraction of the optimum number of spectators;
- (ii) costs of promoting and producing the contest or exhibition;
- (iii) ticket pricing;
- (iv) committed promotions and advertising of the contest or exhibition;
- (v) rankings and quality of the contestants; and
- (vi) committed television and other media coverage of the contest or exhibition.

Section 246. Section 63N-10-305, which is renumbered from Section 63C-11-305 is renumbered and amended to read:

[63C-11-305]. 63N-10-305. Jurisdiction of commission.

(1) (a) The commission has the sole authority concerning direction, management, control, and jurisdiction over all contests or exhibitions of unarmed combat to be conducted, held, or given within this state.

(b) A contest or exhibition may not be conducted, held, or given within this state except in accordance with this chapter.

(2) Any contest involving a form of unarmed self-defense must be conducted pursuant to rules for that form which are approved by the commission before the contest is conducted, held, or given.

(3) (a) An area not less than six feet from the perimeter of the ring shall be reserved for the use of:

- (i) the designated commission member;
- (ii) other commission members in attendance;
- (iii) the director;
- (iv) commission employees;
- (v) officials;
- (vi) licensees participating or assisting in the contest; and
- (vii) others granted credentials by the commission.

(b) The promoter shall provide security at the direction of the commission or designated commission member to secure the area described in Subsection (3)(a).

(4) The area described in Subsection (3), the area in the dressing rooms, and other areas considered necessary by the designated commission member for the safety and welfare of a licensee and the public shall be reserved for the use of:

- (a) the designated commission member;
- (b) other commission members in attendance;
- (c) the director;
- (d) commission employees;

- (e) officials;
- (f) licensees participating or assisting in the contest; and
- (g) others granted credentials by the commission.

(5) The promoter shall provide security at the direction of the commission or designated commission member to secure the areas described in Subsections (3) and (4).

(6) (a) The designated commission member may direct the removal from the contest venue and premises, of any individual whose actions:

- (i) are disruptive to the safe conduct of the contest; or
- (ii) pose a danger to the safety and welfare of the licensees, the commission, or the public, as determined by the designated commission member.

(b) The promoter shall provide security at the direction of the commission or designated commission member to effectuate a removal under Subsection (6)(a).

Section 247. Section 63N-10-306, which is renumbered from Section 63C-11-306 is renumbered and amended to read:

[63C-11-306]. 63N-10-306. Club fighting prohibited.

- (1) Club fighting is prohibited.
- (2) Any person who publicizes, promotes, conducts, or engages in a club fighting match is:
 - (a) guilty of a class A misdemeanor as provided in Section 76-9-705; and
 - (b) subject to license revocation under this chapter.

Section 248. Section 63N-10-307, which is renumbered from Section 63C-11-307 is renumbered and amended to read:

[63C-11-307]. 63N-10-307. Approval to hold contest or promotion -- Bond required.

(1) An application to hold a contest or multiple contests as part of a single promotion shall be made by a licensed promoter to the commission on forms provided by the commission.

(2) The application shall be accompanied by a contest fee determined by the commission under Section 63J-1-505.

(3) (a) The commission may approve or deny approval to hold a contest or promotion permitted under this chapter.

(b) Provisional approval under Subsection (3)(a) shall be granted upon a determination by the commission that:

- (i) the promoter of the contest or promotion is properly licensed;
- (ii) a bond meeting the requirements of Subsection (6) has been posted by the promoter of the contest or promotion; and

(iii) the contest or promotion will be held in accordance with this chapter and rules made under this chapter.

(4) (a) Final approval to hold a contest or promotion may not be granted unless the commission receives, not less than seven days before the day of the contest with 10 or more rounds:

- (i) proof of a negative HIV test performed not more than 180 days before the day of the contest for each contestant;
- (ii) a copy of each contestant's federal identification card;
- (iii) a copy of a signed contract between each contestant and the promoter for the contest;
- (iv) a statement specifying the maximum number of rounds of the contest;
- (v) a statement specifying the site, date, and time of weigh-in; and
- (vi) the name of the physician selected from among a list of registered and commission-approved ringside physicians who shall act as ringside physician for the contest.

(b) Notwithstanding Subsection (4)(a), the commission may approve a contest or promotion if the requirements under Subsection (4)(a) are not met because of unforeseen circumstances beyond the promoter's control.

(5) Final approval for a contest under 10 rounds in duration may be granted as determined by the commission after receiving the materials identified in Subsection (4) at a time determined by the commission.

(6) An applicant shall post a surety bond or cashier's check with the commission in the greater of \$10,000 or the amount of the purse, providing for forfeiture and disbursement of the proceeds if the applicant fails to comply with:

- (a) the requirements of this chapter; or
- (b) rules made under this chapter relating to the promotion or conduct of the contest or promotion.

Section 249. Section 63N-10-308, which is renumbered from Section 63C-11-308 is renumbered and amended to read:

[63C-11-308]. 63N-10-308. Rules for the conduct of contests.

(1) The commission shall adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for the conduct of contests in the state.

(2) The rules shall include:

- (a) authority for:
 - (i) stopping contests; and
 - (ii) impounding purses with respect to contests when there is a question with respect to the contest, contestants, or any other licensee associated with the contest; and
- (b) reasonable and necessary provisions to ensure that all obligations of a promoter with respect to any

promotion or contest are paid in accordance with agreements made by the promoter.

(3) (a) The commission may, in its discretion, exempt a contest and each contestant from the definition of unprofessional conduct found in Subsection [63C-11-102] 63N-10-102(25)(f) after:

- (i) a promoter requests the exemption; and
- (ii) the commission considers relevant factors, including:
 - (A) the experience of the contestants;
 - (B) the win and loss records of each contestant;
 - (C) each contestant's level of training; and
 - (D) any other evidence relevant to the contestants' professionalism and the ability to safely conduct the contest.

(b) The commission's hearing of a request for an exemption under this Subsection (3) is an informal adjudicative proceeding under Section 63G-4-202.

(c) The commission's decision to grant or deny a request for an exemption under this Subsection (3) is not subject to agency review under Section 63G-4-301.

Section 250. Section 63N-10-309, which is renumbered from Section 63C-11-309 is renumbered and amended to read:

[63C-11-309]. 63N-10-309. Medical examinations and drug tests.

(1) The commission shall adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for medical examinations and drug testing of contestants, including provisions under which contestants shall:

(a) produce evidence based upon competent laboratory examination that they are HIV negative as a condition of participating as a contestant in any contest;

(b) be subject to random drug testing before or after participation in a contest, and sanctions, including barring participation in a contest or withholding a percentage of any purse, that shall be placed against a contestant testing positive for alcohol or any other drug that in the opinion of the commission is inconsistent with the safe and competent participation of that contestant in a contest;

(c) be subject to a medical examination by the ringside physician not more than 30 hours before the contest to identify any physical ailment or communicable disease that, in the opinion of the commission or designated commission member, are inconsistent with the safe and competent participation of that contestant in the contest; and

(d) be subject to medical testing for communicable diseases as considered necessary by the commission to protect the health, safety, and welfare of the licensees and the public.

(2) (a) Medical information concerning a contestant shall be provided by the contestant or medical professional or laboratory.

(b) A promoter or manager may not provide to or receive from the commission medical information concerning a contestant.

Section 251. Section 63N-10-310, which is renumbered from Section 63C-11-310 is renumbered and amended to read:

[63C-11-310]. 63N-10-310. Contests.

(1) Except as provided in Section 63C-11-317, a licensee may not participate in an unarmed combat contest within a predetermined time after another unarmed combat contest, as prescribed in rules made by the commission.

(2) During the period of time beginning 60 minutes before the beginning of a contest, the promoter shall demonstrate the promoter's compliance with the commission's security requirements to all commission members present at the contest.

(3) The commission shall establish fees in accordance with Section 63J-1-504 to be paid by a promoter for the conduct of each contest or event composed of multiple contests conducted under this chapter.

Section 252. Section 63N-10-311, which is renumbered from Section 63C-11-311 is renumbered and amended to read:

[63C-11-311]. 63N-10-311. Ringside physician.

(1) The commission shall maintain a list of ringside physicians who hold a Doctor of Medicine (MD) degree and are registered with the commission as approved to act as a ringside physician and meet the requirements of Subsection (2).

(2) (a) The commission shall appoint a registered ringside physician to perform the duties of a ringside physician at each contest held ~~pursuant to~~ under this chapter.

(b) The promoter of a contest shall pay a fee determined by the commission by rule to the commission for a ringside physician.

(3) An applicant for registration as a ringside physician shall:

(a) submit an application for registration;

(b) provide the commission with evidence of the applicant's licensure to practice medicine in the state; and

(c) satisfy minimum qualifications established by the department by rule.

(4) A ringside physician at attendance at a contest:

(a) may stop the contest at any point if the ringside physician determines that a contestant's physical condition renders the contestant unable to safely continue the contest; and

- (b) works under the direction of the commission.

Section 253. Section 63N-10-312, which is renumbered from Section 63C-11-312 is renumbered and amended to read:

[63C-11-312]. 63N-10-312. Contracts.

Before a contest is held, a copy of the signed contract or agreement between the promoter of the contest and each contestant shall be filed with the commission. Approval of the contract's terms and conditions shall be obtained from the commission as a condition precedent to the contest.

Section 254. Section 63N-10-313, which is renumbered from Section 63C-11-313 is renumbered and amended to read:

[63C-11-313]. 63N-10-313. Withholding of purse.

(1) The commission, the director, or any other agent authorized by the commission may order a promoter to withhold any part of a purse or other money belonging or payable to any contestant, manager, or second if, in the judgment of the commission, director, or other agent:

(a) the contestant is not competing honestly or to the best of the contestant's skill and ability or the contestant otherwise violates any rules adopted by the commission or any of the provisions of this chapter; or

(b) the manager or second violates any rules adopted by the commission or any of the provisions of this chapter.

(2) This section does not apply to any contestant in a wrestling exhibition who appears not to be competing honestly or to the best of the contestant's skill and ability.

(3) Upon the withholding of any part of a purse or other money pursuant to this section, the commission shall immediately schedule a hearing on the matter, provide adequate notice to all interested parties, and dispose of the matter as promptly as possible.

(4) If it is determined that a contestant, manager, or second is not entitled to any part of that person's share of the purse or other money, the promoter shall pay the money over to the commission.

Section 255. Section 63N-10-314, which is renumbered from Section 63C-11-314 is renumbered and amended to read:

[63C-11-314]. 63N-10-314. Penalty for unlawful conduct.

A person who engages in any act of unlawful conduct, as defined in Section [63C-11-102] 63N-10-102, is guilty of a class A misdemeanor.

Section 256. Section 63N-10-315, which is renumbered from Section 63C-11-315 is renumbered and amended to read:

[63C-11-315]. 63N-10-315. Exemptions.

This chapter does not apply to:

(1) any amateur contest or exhibition of unarmed combat conducted by or participated in exclusively by:

(a) a school accredited by the Utah Board of Education;

(b) a college or university accredited by the United States Department of Education; or

(c) any association or organization of a school, college, or university described in Subsections (1)(a) and (b), when each participant in the contests or exhibitions is a bona fide student in the school, college, or university;

(2) any contest or exhibition of unarmed combat conducted in accordance with the standards and regulations of USA Boxing, Inc.; or

(3) a white-collar contest.

Section 257. Section 63N-10-316, which is renumbered from Section 63C-11-316 is renumbered and amended to read:

[63C-11-316]. 63N-10-316. Contest weights and classes -- Matching contestants.

(1) The commission shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing boxing contest weights and classes consistent with those adopted by the Association of Boxing Commissions.

(2) The commission shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing contest weights and classes for unarmed combat that is not boxing.

(3) (a) As to any unarmed combat contest, a contestant may not fight another contestant who is outside of the contestant's weight classification.

(b) Notwithstanding Subsection (3)(a), the commission may permit a contestant to fight another contestant who is outside of the contestant's weight classification.

(4) Except as provided in Subsection (3)(b), as to any unarmed combat contest:

(a) a contestant who has contracted to participate in a given weight class may not be permitted to compete if the contestant is not within that weight class at the weigh-in; and

(b) a contestant may have two hours to attempt to gain or lose not more than three pounds in order to be reweighed.

(5) (a) As to any unarmed combat contest, the commission may not allow a contest in which the contestants are not fairly matched.

(b) Factors in determining if contestants are fairly matched include:

(i) the win-loss record of the contestants;

(ii) the weight differential between the contestants;

(iii) the caliber of opponents for each contestant;

- (iv) each contestant's number of fights; and
- (v) previous suspensions or disciplinary actions of the contestants.

Section 258. Section 63N-10-317, which is renumbered from Section 63C-11-317 is renumbered and amended to read:

[63C-11-317]. 63N-10-317. Elimination contests -- Conduct of contests -- Applicability of provisions -- Limitations on license -- Duration of contests -- Equipment -- Limitations on contests.

(1) An elimination unarmed combat contest shall be conducted under the supervision and authority of the commission.

(2) Except as otherwise provided in this section and except as otherwise provided by specific statute, the provisions of this chapter pertaining to boxing apply to an elimination unarmed combat contest.

(3) (a) All contests in an elimination unarmed combat contest shall be no more than three rounds in duration.

(b) A round of unarmed combat in an elimination unarmed combat contest shall:

- (i) be no more than one minute in duration; or
- (ii) be up to three minutes in duration if there is only a single round.

(c) A period of rest following a round shall be no more than one minute in duration.

(4) A contestant:

(a) shall wear gloves approved by the commission; and

(b) shall wear headgear approved by the commission, the designated commission member, or the director if a designated commission member is not present.

(5) A contestant may participate in more than one contest, but may not participate in more than a total of seven rounds in the entire tournament.

Section 259. Section 63N-10-318, which is renumbered from Section 63C-11-318 is renumbered and amended to read:

[63C-11-318]. 63N-10-318. Commission rulemaking.

The commission may make rules governing the conduct of a contest held under this chapter to protect the health and safety of licensees and members of the public.

Section 260. Section 63N-11-101, which is renumbered from Section 63M-1-2501 is renumbered and amended to read:

CHAPTER 11. HEALTH SYSTEM REFORM ACT

[63M-1-2501]. 63N-11-101. Title.

This [part] chapter is known as the "Health System Reform Act."

Section 261. Section 63N-11-102, which is renumbered from Section 63M-1-2502 is renumbered and amended to read:

[63M-1-2502]. 63N-11-102. Definitions.

As used in this [part, "office"] chapter, "consumer health office" means the Office of Consumer Health Services created in Section [63M-1-2504] 63N-11-104.

Section 262. Section 63N-11-103, which is renumbered from Section 63M-1-2503 is renumbered and amended to read:

[63M-1-2503]. 63N-11-103. Duties related to health system reform.

The Governor's Office of Economic Development shall coordinate the efforts of the Office of Consumer Health Services, the Department of Health, the Insurance Department, and the Department of Workforce Services to assist the Legislature with developing the state's strategic plan for health system reform described in Section [63M-1-2505] 63N-11-105.

Section 263. Section 63N-11-104, which is renumbered from Section 63M-1-2504 is renumbered and amended to read:

[63M-1-2504]. 63N-11-104. Creation of Office of Consumer Health Services -- Duties.

(1) There is created within the Governor's Office of Economic Development the Office of Consumer Health Services.

(2) The consumer health office shall:

(a) in cooperation with the Insurance Department, the Department of Health, and the Department of Workforce Services, and in accordance with the electronic standards developed under Sections 31A-22-635 and [63M-1-2506] 63N-11-107, create a Health Insurance Exchange that:

(i) provides information to consumers about private and public health programs for which the consumer may qualify;

(ii) provides a consumer comparison of and enrollment in a health benefit plan posted on the Health Insurance Exchange; and

(iii) includes information and a link to enrollment in premium assistance programs and other government assistance programs;

(b) contract with one or more private vendors for:

(i) administration of the enrollment process on the Health Insurance Exchange, including establishing a mechanism for consumers to compare health benefit plan features on the exchange and filter the plans based on consumer preferences;

(ii) the collection of health insurance premium payments made for a single policy by multiple payers, including the policyholder, one or more

employers of one or more individuals covered by the policy, government programs, and others; and

(iii) establishing a call center in accordance with Subsection (4);

(c) assist employers with a free or low cost method for establishing mechanisms for the purchase of health insurance by employees using pre-tax dollars;

(d) establish a list on the Health Insurance Exchange of insurance producers who, in accordance with Section 31A-30-209, are appointed producers for the Health Insurance Exchange;

(e) include in the annual written report described in Section [~~63M-1-206~~] 63N-1-301, a report on the operations of the Health Insurance Exchange required by this chapter; and

(f) in accordance with Subsection (3), provide a form to a small employer that certifies:

(i) that the small employer offered a qualified health plan to the small employer's employees; and

(ii) the period of time within the taxable year in which the small employer maintained the qualified health plan coverage.

(3) The form required by Subsection (2)(f) shall be provided to a small employer if:

(a) the small employer selected a qualified health plan on the small employer health exchange created by this section; or

(b) (i) the small employer selected a health plan in the small employer market that is not offered through the exchange created by this section; and

(ii) the issuer of the health plan selected by the small employer submits to the office, in a form and manner required by the office:

(A) an affidavit from a member of the American Academy of Actuaries stating that based on generally accepted actuarial principles and methodologies the issuer's health plan meets the benefit and actuarial requirements for a qualified health plan under PPACA as defined in Section 31A-1-301; and

(B) an affidavit from the issuer that includes the dates of coverage for the small employer during the taxable year.

(4) A call center established by the consumer health office:

(a) shall provide unbiased answers to questions concerning exchange operations, and plan information, to the extent the plan information is posted on the exchange by the insurer; and

(b) may not:

(i) sell, solicit, or negotiate a health benefit plan on the Health Insurance Exchange;

(ii) receive producer compensation through the Health Insurance Exchange; and

(iii) be designated as the default producer for an employer group that enters the Health Insurance Exchange without a producer.

(5) The consumer health office:

(a) may not:

(i) regulate health insurers, health insurance plans, health insurance producers, or health insurance premiums charged in the exchange;

(ii) adopt administrative rules, except as provided in Section [~~63M-1-2506~~] 63N-11-107; or

(iii) act as an appeals entity for resolving disputes between a health insurer and an insured;

(b) may establish and collect a fee for the cost of the exchange transaction in accordance with Section 63J-1-504 for:

(i) processing an application for a health benefit plan;

(ii) accepting, processing, and submitting multiple premium payment sources;

(iii) providing a mechanism for consumers to filter and compare health benefit plans in the exchange based on consumer preferences; and

(iv) funding the call center; and

(c) shall separately itemize the fee established under Subsection (5)(b) as part of the cost displayed for the employer selecting coverage on the exchange.

Section 264. Section 63N-11-105, which is renumbered from Section 63M-1-2505 is renumbered and amended to read:

[~~63M-1-2505~~]. 63N-11-105. Strategic plan for health system reform.

The state's strategic plan for health system reform shall include consideration of the following:

(1) legislation necessary to allow a health insurer in the state to offer one or more health benefit plans that:

(a) allow an individual to purchase a policy for individual or family coverage, with or without employer contributions, and keep the policy even if the individual changes employment;

(b) incorporate rating practices and issue practices that will sustain a viable insurance market and provide affordable health insurance products for the most purchasers;

(c) are based on minimum required coverages that result in a lower premium than most current health insurance products;

(d) include coverage for immunizations, screenings, and other preventive health services;

(e) encourage cost-effective use of health care systems;

(f) minimize risk-skimming insurance benefit designs;

(g) maximize the use of federal and state income tax policies to allow for payment of health insurance products with tax-exempt funds;

(h) may include other innovative provisions that may lower the costs of health insurance products;

(i) may incorporate innovative consumer-driven provisions, including:

(i) an exemption from selected state health insurance laws and regulations;

(ii) a range of benefit and cost sharing provisions tailored to the health status, financial capacity, and preferences of individual consumers; and

(iii) varying the amount of cost sharing for a service based on where the service falls along a continuum of care ranging from preventive care to purely elective care; and

(j) encourage employers to allow their employees greater control of the employee's health care benefits by providing tax-exempt defined contributions for the purchase of health insurance by either the employer or the employee;

(2) current rating and issue practices by health insurers and changes that may be necessary to achieve the goals of Subsection (1)(b);

(3) methods to decrease cost shifting from the uninsured and under-insured to the insured, health care providers and taxpayers, including:

(a) eligibility and benefit levels for entitlement programs;

(b) reimbursement rates for entitlement programs; and

(c) the Utah Premium Partnership for Health Insurance Program and the Children's Health Insurance Program's enrollment and benefit policies, and whether those policies provide appropriate and effective coverage for children;

(4) providing public employees an option that gives them greater control of their health care benefits through a system of defined contributions for insurance policies;

(5) giving public employees access to an option that provides individually selected and owned policies;

(6) encouraging the use of health care quality measures and the adoption of best practice protocols by health care providers for the benefit of consumers, health care providers, and third party payers;

(7) providing some protection from liability for health care providers who follow best practice protocols;

(8) promoting personal responsibility through:

(a) obtaining health insurance;

(b) achieving self reliance;

(c) making healthy choices; and

(d) encouraging healthy behaviors and lifestyles to the full extent allowed by the Health Insurance Portability and Accountability Act;

(9) studying the costs and benefits associated with:

(a) different forms of mandates for individual responsibility; and

(b) potential enforcement mechanisms for individual responsibility;

(10) (a) increasing the number of affordable health insurance policies available to a person responsible for obtaining health insurance under Subsection (8)(a) by creating a system of subsidies and Medicaid waivers that bring more people into the private insurance market; and

(b) funding subsidies to support bringing more people into the private insurance market, which may include:

(i) imposing assessments on:

(A) health care facilities;

(B) health care providers;

(C) health care services; and

(D) health insurance products; or

(ii) relying on other funding sources;

(11) investigating and applying for Medicaid waivers that will promote the use of private sector health insurance;

(12) identifying federal barriers to state health system reform and seeking collaborative solutions to those barriers;

(13) maximizing the use of pre-tax dollars for health insurance premium payments;

(14) requiring employers in the state to adopt mechanisms that allow an employee to use tax-exempt earnings, other than pre-tax contributions by the employer, to purchase a health insurance product;

(15) extending a preference under the state procurement code for bidders who offer goods or services to the state if the bidder provides health insurance benefits or a defined contribution for health insurance to the bidder's employees; and

(16) requiring insurers to accept premium payments from multiple sources, including state-funded subsidies.

Section 265. Section 63N-11-106, which is renumbered from Section 63M-1-2505.5 is renumbered and amended to read:

[63M-1-2505.5]. 63N-11-106. Reporting on federal health reform -- Prohibition of individual mandate.

(1) The Legislature finds that:

(a) the state has embarked on a rigorous process of implementing a strategic plan for health system reform [pursuant to] under Section [63M-1-2505] 63N-11-105;

(b) the health system reform efforts for the state were developed to address the unique circumstances within Utah and to provide solutions that work for Utah;

(c) Utah is a leader in the nation for health system reform which includes:

(i) developing and using health data to control costs and quality; and

(ii) creating a defined contribution insurance market to increase options for employers and employees; and

(d) the federal government proposals for health system reform:

(i) infringe on state powers;

(ii) impose a uniform solution to a problem that requires different responses in different states;

(iii) threaten the progress Utah has made towards health system reform; and

(iv) infringe on the rights of citizens of this state to provide for their own health care by:

(A) requiring a person to enroll in a third party payment system;

(B) imposing fines, penalties, and taxes on a person who chooses to pay directly for health care rather than use a third party payer;

(C) imposing fines, penalties, and taxes on an employer that does not meet federal standards for providing health care benefits for employees; and

(D) threatening private health care systems with competing government supported health care systems.

(2) (a) For purposes of this section:

(i) "Implementation" includes adopting or changing an administrative rule, applying for or spending federal grant money, issuing a request for proposal to carry out a requirement of PPACA, entering into a memorandum of understanding with the federal government regarding a provision of PPACA, or amending the state Medicaid plan.

(ii) "PPACA" [is] has the same meaning as defined in Section 31A-1-301.

(b) A department or agency of the state may not implement any part of PPACA unless, prior to implementation, the department or agency reports in writing, and, if practicable, in person if requested, to the Legislature's Business and Labor Interim Committee, the Health Reform Task Force, or the legislative Executive Appropriations Committee in accordance with Subsection (2)(d).

(c) The Legislature may pass legislation specifically authorizing or prohibiting the state's compliance with, or participation in provisions of PPACA.

(d) The report required under Subsection (2)(b) shall include:

(i) the specific federal statute or regulation that requires the state to implement a provision of PPACA;

(ii) whether PPACA has any state waiver or options;

(iii) exactly what PPACA requires the state to do, and how it would be implemented;

(iv) who in the state will be impacted by adopting the federal reform provision, or not adopting the federal reform provision;

(v) what is the cost to the state or citizens of the state to implement the federal reform provision;

(vi) the consequences to the state if the state does not comply with PPACA;

(vii) the impact, if any, of the PPACA requirements regarding:

(A) the state's protection of a health care provider's refusal to perform an abortion on religious or moral grounds as provided in Section 76-7-306; and

(B) abortion insurance coverage restrictions provided in Section 31A-22-726.

(3) (a) The state shall not require an individual in the state to obtain or maintain health insurance as defined in PPACA, regardless of whether the individual has or is eligible for health insurance coverage under any policy or program provided by or through the individual's employer or a plan sponsored by the state or federal government.

(b) The provisions of this title may not be used to facilitate the federal PPACA individual mandate or to hold an individual in this state liable for any penalty, assessment, fee, or fine as a result of the individual's failure to procure or obtain health insurance coverage.

(c) This section does not apply to an individual who voluntarily applies for coverage under a state administered program pursuant to Title XIX or Title XXI of the Social Security Act.

Section 266. Section 63N-11-107, which is renumbered from Section 63M-1-2506 is renumbered and amended to read:

[63M-1-2506]. 63N-11-107. Health benefit plan information on Health Insurance Exchange -- Insurer transparency.

(1) (a) The consumer health office shall adopt administrative rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that establish uniform electronic standards for insurers, employers, brokers, consumers, and vendors to use when transmitting or receiving information, uniform applications, waivers of coverage, or payments to, or from, the Health Insurance Exchange.

(b) The administrative rules adopted by the consumer health office shall:

(i) promote an efficient and consumer friendly process for shopping for and enrolling in a health benefit plan offered on the Health Insurance Exchange; and

(ii) if appropriate, as determined by the consumer health office, comply with standards adopted at the national level.

(2) The consumer health office shall assist the risk adjuster board created under Title 31A,

Chapter 42, Defined Contribution Risk Adjuster Act, and carriers participating in the defined contribution market on the Health Insurance Exchange with the determination of when an employer is eligible to participate in the Health Insurance Exchange under Title 31A, Chapter 30, Part 2, Defined Contribution Arrangements.

(3) (a) The consumer health office shall create an advisory board to advise the exchange concerning the operation of the exchange, the consumer experience on the exchange, and transparency issues.

(b) The advisory board shall have the following members:

(i) two health producers who are appointed producers with the Health Insurance Exchange;

(ii) two representatives from community-based, non-profit organizations;

(iii) one representative from an employer that participates in the defined contribution market on the Health Insurance Exchange;

(iv) up to four representatives from insurers who participate in the defined contribution market of the Health Insurance Exchange;

(v) one representative from the Insurance Department; and

(vi) one representative from the Department of Health.

(c) Members of the advisory board shall serve without compensation.

(4) The consumer health office shall post or facilitate the posting, on the Health Insurance Exchange, of the information required by this section and Section 31A-22-635 and links to websites that provide cost and quality information from the Department of Health Data Committee or neutral entities with a broad base of support from the provider and payer communities.

Section 267. Section 63N-12-101, which is renumbered from Section 63M-1-601 is renumbered and amended to read:

CHAPTER 12. SCIENCE AND EDUCATION PROGRAMS

Part 1. State Advisory Council on Science and Technology

[63M-1-601]. 63N-12-101. Title -- Purpose.

(1) This chapter is known as "Science and Education Programs."

(2) This part is known as the "State Advisory Council on Science and Technology."

(3) The purpose of this part is to establish an advisory council on science and technology to assist in the development of programs, communication, and use of science and technology in governmental organizations in the state.

Section 268. Section 63N-12-102, which is renumbered from Section 63M-1-602 is renumbered and amended to read:

[63M-1-602]. 63N-12-102. Definition of terms.

As used in this part:

(1) "Adviser" means the state science adviser appointed under this part.

(2) "Council" means the State Advisory Council on Science and Technology created under this part.

[3] "Director" means the governor's director for economic development.]

Section 269. Section 63N-12-103, which is renumbered from Section 63M-1-603 is renumbered and amended to read:

[63M-1-603]. 63N-12-103. Creation.

There is created the State Advisory Council on Science and Technology within the Governor's Office of Economic Development, which shall perform the functions and duties provided in this part.

Section 270. Section 63N-12-104, which is renumbered from Section 63M-1-604 is renumbered and amended to read:

[63M-1-604]. 63N-12-104. Members -- Appointment -- Terms -- Qualifications -- Vacancies -- Chair and vice chair -- Executive secretary -- Executive committee -- Quorum -- Expenses.

(1) The council comprises the following nonvoting members or their designees:

(a) the adviser;

(b) the executive director of the Department of Natural Resources;

(c) the executive director of the Department of Heritage and Arts;

(d) the executive director of the Department of Health;

(e) the executive director of the Department of Environmental Quality;

(f) the commissioner of agriculture and food;

(g) the commissioner of higher education;

(h) the state planning coordinator; and

(i) the executive director of the Department of Transportation.

(2) The governor may appoint other voting members, not to exceed 12.

(3) (a) Except as required by Subsection (3)(b), as terms of current council members expire, the governor shall appoint each new member or reappointed member to a four-year term.

(b) Notwithstanding the requirements of Subsection (3)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of council members

are staggered so that approximately half of the council is appointed every two years.

(4) The governor shall consider all institutions of higher education in the state in the appointment of council members.

(5) The voting members of the council shall be experienced or knowledgeable in the application of science and technology to business, industry, or public problems and have demonstrated their interest in and ability to contribute to the accomplishment of the purposes of this part.

(6) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(7) (a) Each year the council shall select from its membership a chair and a vice chair.

(b) The chair and vice chair shall hold office for one year or until a successor is appointed and qualified.

(8) The adviser serves as executive secretary of the council.

(9) An executive committee shall be established consisting of the chair, vice chair, and the adviser.

(10) (a) In order to conduct business matters of the council at regularly convened meetings, a quorum consisting of a simple majority of the total voting membership of the council is required.

(b) All matters of business affecting public policy require not less than a simple majority of affirmative votes of the total membership.

(11) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance ~~pursuant to~~ under Sections 63A-3-106 and 63A-3-107.

Section 271. Section 63N-12-105, which is renumbered from Section 63M-1-605 is renumbered and amended to read:

[63M-1-605]. 63N-12-105. Duties and powers.

(1) The council shall:

(a) encourage the use of science and technology in the administration of state and local government;

(b) develop programs whereby state agencies and the several public and private institutions of higher education and technical colleges within the state may assist business and industry in the utilization of science and technology;

(c) further communication between agencies of federal, state, and local government who wish to utilize science and technology;

(d) develop programs of cooperation on matters of science and technology between:

(i) state and local government agencies;

(ii) the several public and private institutions of higher education and technical colleges within the state; and

(iii) business and industry within the state; or

(iv) any combination of these;

(e) provide a means whereby government, business, industry, and higher education may be represented in the formulation and implementation of state policies and programs on matters of science and technology;

(f) review, catalog, and compile the research and development uses by the state universities of the revenue derived from mineral lease funds on state and federal lands;

(g) submit an annual report to the office regarding the expenditure and utilization of these mineral lease funds for inclusion in the office's annual written report described in Section ~~[63M-1-206]~~ 63N-1-301;

(h) make recommendations to the Legislature on the further uses of these mineral lease funds in order to stimulate research and development directed toward the more effective utilization of the state's natural resources; and

(i) prepare and submit, before November 1, an annual written report to the governor and the Legislature.

(2) The council may:

(a) in accordance with Title 63J, Chapter 5, Federal Funds Procedures Act, apply for, receive, and disburse funds, contributions, or grants from whatever source for the purposes set forth in this part;

(b) employ, compensate, and prescribe the duties and powers of those individuals, subject to the provisions of this part relating to the adviser, necessary to execute the duties and powers of the council; and

(c) enter into contracts for the purposes of this part.

Section 272. Section 63N-12-106, which is renumbered from Section 63M-1-606 is renumbered and amended to read:

[63M-1-606]. 63N-12-106. Adviser -- Duties and powers.

(1) The adviser shall be appointed by the governor.

(2) The adviser shall be experienced or knowledgeable in the application of science and technology to business, industry, or public problems and shall have demonstrated interest in or ability to contribute to the accomplishment of the purposes of this part.

(3) The adviser shall be compensated pursuant to the wage and salary classification plan for appointed officers of the state currently in effect.

(4) (a) The adviser shall have those duties and powers the council assigns.

(b) The adviser, with the advice of the council, may enter into contracts and agreements and may incur expenses necessary to fulfill the purposes of this part.

(5) The adviser shall be administratively responsible to the executive director of the office.

Section 273. Section 63N-12-107, which is renumbered from Section 63M-1-607 is renumbered and amended to read:

[63M-1-607]. 63N-12-107. Request for information.

All departments, divisions, boards, commissions, agencies, institutions, and all other instrumentalities of the state shall, upon request of the council, provide the council with any information that these instrumentalities have concerning research in science and technology.

Section 274. Section 63N-12-108, which is renumbered from Section 63M-1-608 is renumbered and amended to read:

[63M-1-608]. 63N-12-108. Science education program.

(1) (a) There is established an informal science and technology education program within the [~~Governor's Office of Economic Development~~] office.

(b) The state science advisor shall act as the [~~executive~~] director of the program.

(c) The State Advisory Council on Science and Technology shall advise the program, including:

(i) approving all money expended by the science and technology education program;

(ii) approving all operations of the program; and

(iii) making policies and procedures to govern the program.

(2) The program may:

(a) provide informal science and technology-based education to elementary and secondary students;

(b) expose public education students to college level science and technology disciplines; and

(c) provide other informal promotion of science and technology education in the state.

Section 275. Section 63N-12-201 is enacted to read:

Part 2. STEM Action Center

63N-12-201. Title.

This part is known as the "STEM Action Center."

Section 276. Section 63N-12-202, which is renumbered from Section 63M-1-3201 is renumbered and amended to read:

[63M-1-3201]. 63N-12-202. Definitions.

As used in this part:

(1) "Board" means the STEM Action Center Board created in Section [~~63M-1-3202~~] 63N-12-203.

(2) "Educator" has the same meaning as defined in Section 53A-6-103.

(3) "High quality professional development" means professional development that meets high quality standards developed by the State Board of Education.

(4) "Office" means the Governor's Office of Economic Development.

(5) "Provider" means a provider, selected by staff of the board and staff of the Utah State Board of Education, on behalf of the board:

(a) through a request for proposals process; or

(b) through a direct award or sole source procurement process for a pilot described in Section [~~63M-1-3205~~] 63N-12-206.

(6) "STEM" means science, technology, engineering, and mathematics.

(7) "STEM Action Center" means the center described in Section [~~63M-1-3204~~] 63N-12-205.

Section 277. Section 63N-12-203, which is renumbered from Section 63M-1-3202 is renumbered and amended to read:

[63M-1-3202]. 63N-12-203. STEM Action Center Board creation -- Membership.

(1) There is created the STEM Action Center Board within the office, composed of the following members:

(a) six private sector members who represent business, appointed by the governor;

(b) the state superintendent of public instruction or the state superintendent of public instruction's designee;

(c) the commissioner of higher education or the commissioner of higher education's designee;

(d) one member appointed by the governor;

(e) a member of the State Board of Education, chosen by the chair of the State Board of Education;

(f) the executive director of the [~~Governor's Office of Economic Development~~] office or the executive [~~director of the Governor's Office of Economic Development's~~] director's designee;

(g) the president of the Utah College of Applied Technology or the president of the Utah College of Applied Technology's designee; and

(h) one member who has a degree in engineering and experience working in a government military installation, appointed by the governor.

(2) (a) The private sector members appointed by the governor in Subsection (1)(a) shall represent a business or trade association whose primary focus is science, technology, or engineering.

(b) Except as required by Subsection (2)(c), members appointed by the governor shall be appointed to four-year terms.

(c) The length of terms of the members shall be staggered so that approximately half of the committee is appointed every two years.

(d) The members may not serve more than two full consecutive terms except where the governor determines that an additional term is in the best interest of the state.

(e) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(3) Attendance of a simple majority of the members constitutes a quorum for the transaction of official committee business.

(4) Formal action by the committee requires a majority vote of a quorum.

(5) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance [pursuant to] under Sections 63A-3-106 and 63A-3-107.

(6) The governor shall select the chair of the board to serve a one-year term.

(7) The executive director of the ~~[Governor's Office of Economic Development]~~ office or the executive ~~[director of the Governor's Office of Economic Development's]~~ director's designee shall serve as the vice chair of the board.

Section 278. Section 63N-12-204, which is renumbered from Section 63M-1-3203 is renumbered and amended to read:

[63M-1-3203]. 63N-12-204. STEM Action Center Board -- Duties.

(1) The board shall:

(a) establish a STEM Action Center to:

(i) coordinate STEM activities in the state among the following stakeholders:

(A) the State Board of Education;

(B) school districts and charter schools;

(C) the State Board of Regents;

(D) institutions of higher education;

(E) parents of home-schooled students; and

(F) other state agencies;

(ii) align public education STEM activities with higher education STEM activities; and

(iii) create and coordinate best practices among public education and higher education;

(b) with the consent of the Senate, appoint ~~[an executive]~~ a director to oversee the administration of the STEM Action Center;

(c) select a physical location for the STEM Action Center;

(d) strategically engage industry and business entities to cooperate with the board:

(i) to support high quality professional development and provide other assistance for educators and students; and

(ii) to provide private funding and support for the STEM Action Center;

(e) give direction to the STEM Action Center and the providers selected through a request for proposals process pursuant to this part; and

(f) work to meet the following expectations:

(i) that at least 50 educators are implementing best practice learning tools in classrooms per each product specialist or manager working with the STEM Action Center;

(ii) performance change in student achievement in each classroom working with a STEM Action Center product specialist or manager; and

(iii) that students from at least 50 high schools participate in the STEM competitions, fairs, and camps described in Subsection ~~[63M-1-3204]~~ 63N-12-205(2)(d).

(2) The board may:

(a) enter into contracts for the purposes of this part;

(b) apply for, receive, and disburse funds, contributions, or grants from any source for the purposes set forth in this part;

(c) employ, compensate, and prescribe the duties and powers of individuals necessary to execute the duties and powers of the board;

(d) prescribe the duties and powers of the STEM Action Center providers; and

(e) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to administer this part.

(3) The board may establish a foundation to assist in:

(a) the development and implementation of the programs authorized under this part to promote STEM education; and

(b) implementation of other STEM education objectives described in this part.

(4) A foundation established by the board under Subsection (3):

(a) may solicit and receive contributions from a private organization for STEM education objectives described in this part;

(b) shall comply with Title 51, Chapter 7, State Money Management Act;

(c) does not have power or authority to incur contractual obligations or liabilities that constitute a claim against public funds;

(d) may not exercise executive or administrative authority over the programs or other activities described in this part, except to the extent specifically authorized by the board;

(e) shall provide the board with information detailing transactions and balances of funds managed for the board; and

(f) may not:

(i) engage in lobbying activities;

(ii) attempt to influence legislation; or

(iii) participate in any campaign activity for or against:

(A) a political candidate; or

(B) an initiative, referendum, proposed constitutional amendment, bond, or any other ballot proposition submitted to the voters.

(5) Money donated to a foundation established under Subsection (3) may be accounted for in an expendable special revenue fund.

Section 279. Section 63N-12-205, which is renumbered from Section 63M-1-3204 is renumbered and amended to read:

[63M-1-3204]. 63N-12-205. STEM Action Center.

(1) As funding allows, the board shall:

(a) establish a STEM Action Center;

(b) ensure that the STEM Action Center:

(i) is accessible by the public; and

(ii) includes the components described in Subsection (2);

(c) work cooperatively with the State Board of Education to:

(i) further STEM education; and

(ii) ensure best practices are implemented as described in Sections [63M-1-3205] 63N-12-206 and [63M-1-3206] 63N-12-207; and

(d) engage private entities to provide financial support or employee time for STEM activities in schools in addition to what is currently provided by private entities.

(2) As funding allows, the [executive] director of the STEM Action Center shall:

(a) support high quality professional development for educators regarding STEM education;

(b) ensure that the STEM Action Center acts as a research and development center for STEM education through a request for proposals process described in Section [63M-1-3205] 63N-12-206;

(c) review and acquire STEM education related materials and products for:

(i) high quality professional development;

(ii) assessment, data collection, analysis, and reporting; and

(iii) public school instruction;

(d) facilitate participation in interscholastic STEM related competitions, fairs, camps, and STEM education activities;

(e) engage private industry in the development and maintenance of the STEM Action Center and STEM Action Center projects;

(f) use resources to bring the latest STEM education learning tools into public education classrooms;

(g) identify at least 10 best practice innovations used in Utah that have resulted in at least 80% of students performing at grade level in STEM areas;

(h) identify best practices being used outside the state and, as appropriate, develop and implement selected practices through a pilot program;

(i) identify:

(i) learning tools for kindergarten through grade 6 identified as best practices; and

(ii) learning tools for grades 7 through 12 identified as best practices;

(j) provide a Utah best practices database, including best practices from public education, higher education, the Utah Education and Telehealth Network, and other STEM related entities;

(k) keep track of the following items related to the best practices database described in Subsection (2)(j):

(i) how the best practices database is being used; and

(ii) how many individuals are using the database, including the demographics of the users, if available;

(l) as appropriate, join and participate in a national STEM network;

(m) identify performance changes linked to use of the best practices database described in Subsection (2)(j);

(n) work cooperatively with the State Board of Education to designate schools as STEM schools, where the schools have agreed to adopt a plan of STEM implementation in alignment with criteria set by the State Board of Education and the board;

(o) support best methods of high quality professional development for STEM education in kindergarten through grade 12, including methods of high quality professional development that reduce cost and increase effectiveness, to help educators learn how to most effectively implement best practice learning tools in classrooms;

(p) recognize a high school's achievement in the STEM competitions, fairs, and camps described in Subsection (2)(d);

(q) send student results from STEM competitions, fairs, and camps described in Subsection (2)(d) to media and ask the media to report on them;

(r) develop and distribute STEM information to parents of students being served by the STEM Action Center;

(s) support targeted high quality professional development for improved instruction in STEM education, including:

(i) improved instructional materials that are dynamic and engaging for students;

(ii) use of applied instruction; and

(iii) introduction of other research-based methods that support student achievement in STEM areas; and

(t) ensure that an online college readiness assessment tool be accessible by:

(i) public education students; and

(ii) higher education students.

(3) The board may prescribe other duties for the STEM Action Center in addition to the responsibilities described in this section.

(4) (a) The ~~executive~~ director shall track and compare the student performance of students participating in a STEM Action Center program to all other similarly situated students in the state, in the following STEM related activities, at the beginning and end of each year:

(i) public education high school graduation rates;

(ii) the number of students taking a remedial mathematics course at an institution of higher education described in Section 53B-2-101;

(iii) the number of students who graduate from a Utah public school and begin a postsecondary education program; and

(iv) the number of students, as compared to all similarly situated students, who are performing at grade level in STEM classes.

(b) The State Board of Education and the State Board of Regents shall provide information to the board to assist the board in complying with the requirements of Subsection (4)(a) if allowed under federal law.

Section 280. Section 63N-12-206, which is renumbered from Section 63M-1-3205 is renumbered and amended to read:

[63M-1-3205]. 63N-12-206. Acquisition of STEM education related instructional technology program -- Research and development of education related instructional technology through a pilot program.

(1) For purposes of this section:

(a) "Pilot" means a pilot of the program.

(b) "Program" means the STEM education related instructional technology program created in Subsection (2).

(2) (a) There is created the STEM education related instructional technology program to provide public schools the STEM education related instructional technology described in Subsection (3).

(b) On behalf of the board, the staff of the board and the staff of the State Board of Education shall collaborate and may select one or more providers, through a request for proposals process, to provide STEM education related instructional technology to school districts and charter schools.

(c) On behalf of the board, the staff of the board and the staff of the State Board of Education shall consider and may accept an offer from a provider in response to the request for proposals described in Subsection (2)(b) even if the provider did not participate in a pilot described in Subsection (5).

(3) The STEM education related instructional technology shall:

(a) support mathematics instruction for students in:

(i) kindergarten through grade 6; or

(ii) grades 7 and 8; or

(b) support mathematics instruction for secondary students to prepare the secondary students for college mathematics courses.

(4) In selecting a provider for STEM education related instructional technology to support mathematics instruction for the students described in Subsection (3)(a), the board shall consider the following criteria:

(a) the technology contains individualized instructional support for skills and understanding of the core standards in mathematics;

(b) the technology is self-adapting to respond to the needs and progress of the learner; and

(c) the technology provides opportunities for frequent, quick, and informal assessments and includes an embedded progress monitoring tool and mechanisms for regular feedback to students and teachers.

(5) Before issuing a request for proposals described in Subsection (2), on behalf of the board, the staff of the board and the staff of the State Board of Education shall collaborate and may:

(a) conduct a pilot of the program to test and select providers for the program;

(b) select at least two providers through a direct award or sole source procurement process for the purpose of conducting the pilot; and

(c) select schools to participate in the pilot.

(6) (a) A contract with a provider for STEM education related instructional technology may include professional development for full

deployment of the STEM education related instructional technology.

(b) No more than 10% of the money appropriated for the program may be used to provide professional development related to STEM education related instructional technology in addition to the professional development described in Subsection (6)(a).

Section 281. Section 63N-12-207, which is renumbered from Section 63M-1-3206 is renumbered and amended to read:

[63M-1-3206]. 63N-12-207. Distribution of STEM education instructional technology to schools.

(1) Subject to legislative appropriations, on behalf of the board, the staff of the board and the staff of the State Board of Education shall collaborate and shall:

(a) distribute STEM education related instructional technology described in Section [63M-1-3205] 63N-12-206 to school districts and charter schools; and

(b) provide related professional development to the school districts and charter schools that receive STEM education related instructional technology.

(2) A school district or charter school may apply to the board, through a competitive process, to receive STEM education related instructional technology from the board.

(3) A school district or charter school that receives STEM education related instructional technology as described in this section shall provide the school district's or charter school's own computer hardware.

Section 282. Section 63N-12-208, which is renumbered from Section 63M-1-3207 is renumbered and amended to read:

[63M-1-3207]. 63N-12-208. Report to Legislature and the State Board of Education.

(1) The board shall report the progress of the STEM Action Center, including the information described in Subsection (2), to the following groups once each year:

(a) the Education Interim Committee;

(b) the Public Education Appropriations Subcommittee;

(c) the State Board of Education; and

(d) the office for inclusion in the office's annual written report described in Section [63M-1-206] 63N-1-301.

(2) The report described in Subsection (1) shall include information that demonstrates the effectiveness of the program, including:

(a) the number of educators receiving high quality professional development;

(b) the number of students receiving services from the STEM Action Center;

(c) a list of the providers selected pursuant to this part;

(d) a report on the STEM Action Center's fulfillment of its duties described in Section [63M-1-3204] 63N-12-205; and

(e) student performance of students participating in a STEM Action Center program as collected in Subsection [63M-1-3204] 63N-12-205(4).

Section 283. Section 63N-12-209, which is renumbered from Section 63M-1-3208 is renumbered and amended to read:

[63M-1-3208]. 63N-12-209. STEM education endorsements and incentive program.

(1) The State Board of Education shall collaborate with the STEM Action Center to:

(a) develop STEM education endorsements; and

(b) create and implement financial incentives for:

(i) an educator to earn an elementary or secondary STEM education endorsement described in Subsection (1)(a); and

(ii) a school district or a charter school to have STEM endorsed educators on staff.

(2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Board of Education shall make rules to establish how a STEM education endorsement incentive described in Subsection (1)[(a)] will be valued on a salary scale for educators.

Section 284. Section 63N-12-210, which is renumbered from Section 63M-1-3209 is renumbered and amended to read:

[63M-1-3209]. 63N-12-210. Acquisition of STEM education high quality professional development.

(1) The STEM Action Center shall, through a request for proposals process, select technology providers for the purpose of providing a STEM education high quality professional development application.

(2) The high quality professional development application described in Subsection (1) shall:

(a) allow the State Board of Education, a school district, or a school to define the application's input and track results of the high quality professional development;

(b) allow educators to access automatic tools, resources, and strategies;

(c) allow educators to work in online learning communities, including giving and receiving feedback via uploaded video;

(d) track and report data on the usage of the components of the application's system and the relationship to improvement in classroom instruction;

(e) include video examples of highly effective STEM education teaching that:

(i) cover a cross section of grade levels and subjects;

(ii) under the direction of the State Board of Education, include videos of highly effective Utah STEM educators; and

(iii) contain tools to help educators implement what they have learned; and

(f) allow for additional STEM education video content to be added.

(3) In addition to the high quality professional development application described in Subsections (1) and (2), the STEM Action Center may create STEM education hybrid or blended high quality professional development that allows for face-to-face applied learning.

Section 285. Section 63N-12-211, which is renumbered from Section 63M-1-3210 is renumbered and amended to read:

[63M-1-3210]. 63N-12-211. STEM education middle school applied science initiative.

(1) The STEM Action Center shall develop an applied science initiative for students in grades 7 and 8 that includes:

(a) a STEM applied science curriculum with instructional materials;

(b) STEM hybrid or blended high quality professional development that allows for face-to-face applied learning; and

(c) hands-on tools for STEM applied science learning.

(2) The STEM Action Center may, through a request for proposals process, select a consultant to assist in developing the initiative described in Subsection (1).

Section 286. Section 63N-12-212, which is renumbered from Section 63M-1-3211 is renumbered and amended to read:

[63M-1-3211]. 63N-12-212. High school STEM education initiative.

(1) Subject to legislative appropriations, after consulting with State Board of Education staff, the STEM Action Center shall award grants to school districts and charter schools to fund STEM related certification for high school students.

(2) (a) A school district or charter school may apply for a grant from the STEM Action Center, through a competitive process, to fund the school district's or charter school's STEM related certification training program.

(b) A school district's or charter school's STEM related certification training program shall:

(i) prepare high school students to be job ready for available STEM related positions of employment; and

(ii) when a student completes the program, result in the student gaining a nationally industry-recognized employer STEM related certification.

(3) A school district or charter school may partner with one or more of the following to provide a STEM related certification program:

(a) a Utah College of Applied Technology college campus;

(b) Salt Lake Community College;

(c) Snow College; or

(d) a private sector employer.

Section 287. Section 63N-13-101, which is renumbered from Section 63M-1-2101 is renumbered and amended to read:

CHAPTER 13. PROCUREMENT PROGRAMS

Part 1. Procurement Assistance

[63M-1-2101]. 63N-13-101. Title -- Projects to assist companies to secure new business with federal, state, and local governments.

(1) This chapter is known as "Procurement Programs."

~~(4)~~ (2) The Legislature recognizes that:

(a) many Utah companies provide products and services which are routinely procured by a myriad of governmental entities at all levels of government, but that attempting to understand and comply with the numerous certification, registration, proposal, and contract requirements associated with government procurement often raises significant barriers for those companies with no government contracting experience;

(b) the costs associated with obtaining a government contract for products or services often prevent most small businesses from working in the governmental procurement market;

(c) currently a majority of federal procurement opportunities are contracted to businesses located outside of the state;

(d) the Governor's Office of Economic Development currently administers programs and initiatives that help create and grow companies in Utah and recruit companies to Utah through the use of state employees, public-private partnerships, and contractual services; and

(e) there exists a significant opportunity for Utah companies to secure new business with federal, state, and local governments.

~~(2)~~ (3) The office, through its executive director:

(a) shall manage and direct the administration of state and federal programs and initiatives whose purpose is to procure federal, state, and local governmental contracts;

(b) may require program accountability measures; and

(c) may receive and distribute legislative appropriations and public and private grants for projects and programs that:

(i) are focused on growing Utah companies and positively impacting statewide revenues by helping these companies secure new business with federal, state, and local governments;

(ii) provide guidance to Utah companies interested in obtaining new business with federal, state, and local governmental entities;

(iii) would facilitate marketing, business development, and expansion opportunities for Utah companies in cooperation with the Governor's Office of Economic Development's Procurement Technical Assistance Center Program and with public, nonprofit, or private sector partners such as local chambers of commerce, trade associations, or private contractors as determined by the office's director to successfully match Utah businesses with government procurement opportunities; and

(iv) may include the following components:

(A) recruitment, individualized consultation, and an introduction to government contracting;

(B) specialized contractor training for companies located in Utah;

(C) a Utah contractor matching program for government requirements;

(D) experienced proposal and bid support; and

(E) specialized support services.

~~[(3)]~~ (4) (a) The office, through its executive director, shall make any distribution referred to in Subsection ~~[(2)]~~ (3) on a semiannual basis.

(b) A recipient of money distributed under this section shall provide the office with a set of standard monthly reports, the content of which shall be determined by the office to include at least the following information:

(i) consultive meetings with Utah companies;

(ii) seminars or training meetings held;

(iii) government contracts awarded to Utah companies;

(iv) increased revenues generated by Utah companies from new government contracts;

(v) jobs created;

(vi) salary ranges of new jobs; and

(vii) the value of contracts generated.

Section 288. Section 63N-13-201, which is renumbered from Section 63M-1-2601 is renumbered and amended to read:

Part 2. Government Procurement Private Proposal Program

~~[63M-1-2601].~~ **63N-13-201. Title.**

This part is known as the "Government Procurement Private Proposal Program."

Section 289. Section 63N-13-202, which is renumbered from Section 63M-1-2602 is renumbered and amended to read:

~~[63M-1-2602].~~ **63N-13-202. Definitions.**

As used in this part:

(1) "Affected department" means, as applicable, the Board of Education or the Department of Technology Services.

(2) "Board" means the Board of Business and Economic Development created under Section ~~[63M-1-301]~~ 63N-1-401.

(3) "Board of Education" means the Utah State Board of Education.

(4) "Chief procurement officer" means the chief procurement officer appointed under Section 63G-6a-302.

(5) "Committee" means the proposal review committee created under Section ~~[63M-1-2604]~~ 63N-13-204.

(6) "Day" means a calendar day.

~~[(7)]~~ "Director" is as defined in Section ~~63M-1-102.~~

~~[(8)]~~ (7) "Executive Appropriations Committee" means the Legislature's Executive Appropriations Committee.

~~[(9)]~~ (8) "Information technology" ~~[is] has the same meaning as defined in Section 63F-1-102.~~

~~[(10)]~~ "Office" means the Governor's Office of Economic Development created under Section ~~63M-1-201.~~

~~[(11)]~~ (9) "Private entity" means a person submitting a proposal under this part for the purpose of entering into a project.

~~[(12)]~~ (10) "Project" means the subject of a proposal or an agreement for the procurement or disposal of:

(a) information technology or telecommunications products or services; or

(b) supplies or services for or on behalf of the Department of Technology Services or the Board of Education.

~~[(13)]~~ (11) "Proposal" means an unsolicited offer by a private entity to undertake a project, including an initial proposal under Section ~~[63M-1-2605]~~ 63N-13-205 and a detailed proposal under Section ~~[63M-1-2608]~~ 63N-13-208.

~~[(14)]~~ (12) "Services" ~~[is] has the same meaning as defined in Section 63G-6a-103.~~

~~[(15)]~~ (13) "Supplies" ~~[is] has the same meaning as defined in Section 63G-6a-103.~~

~~[(16)]~~ (14) "Telecommunications" ~~[is] has the same meaning as defined in Section 63F-1-102.~~

Section 290. Section 63N-13-203, which is renumbered from Section 63M-1-2603 is renumbered and amended to read:

[63M-1-2603]. 63N-13-203. Government Procurement Private Proposal Program -- Proposals -- Rulemaking.

(1) There is created within the office the Government Procurement Private Proposal Program.

(2) In accordance with this part, the board may:

(a) accept a proposal for a project;

(b) solicit comments, suggestions, and modifications to a project in accordance with Section 63G-6a-711; and

(c) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing requirements, including time limits for any action required by the affected department, a directly affected state entity or school district, or the Governor's Office of Management and Budget, for the procurement of a project to the extent not governed by Title 63G, Chapter 6a, Utah Procurement Code.

Section 291. Section 63N-13-204, which is renumbered from Section 63M-1-2604 is renumbered and amended to read:

[63M-1-2604]. 63N-13-204. Committee for reviewing proposals -- Appointment -- Accepting or rejecting a proposal.

(1) The executive director shall appoint a committee composed of members of the board to review and evaluate a proposal submitted in accordance with this part.

(2) The executive director shall determine the number of board members that constitute a committee.

(3) The committee shall, at all times, consist of less than a quorum of the members of the board, as established under Section [63M-1-301] 63N-1-401.

(4) A committee member shall serve on the committee until:

(a) replaced by the executive director; or

(b) the committee member ceases to be a member of the board.

(5) The executive director may fill a vacancy among voting members on the committee.

(6) The committee shall include the following nonvoting members in addition to the members appointed under Subsection (1):

(a) a member of the Senate, appointed by the president of the Senate; and

(b) a member of the House of Representatives, appointed by the speaker of the House of Representatives, who may not be from the same political party as the member of the Senate appointed under Subsection (6)(a).

(7) (a) A vacancy among legislative members appointed under Subsection (6) shall be filled by the president of the Senate or the speaker of the House of Representatives, respectively.

(b) At the time of appointment or reappointment, the president of the Senate and the speaker of the House of Representatives shall consult to ensure that the legislative members appointed under Subsection (6) are not members of the same political party.

(8) A committee member is subject to Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act, and any additional requirement established by the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(9) The committee shall inform a private entity of the committee's decision to approve or reject a proposal in writing.

(10) If the committee, in its sole discretion, accepts a proposal, the proposal shall be evaluated under this part.

(11) If the committee, in its sole discretion, rejects a proposal, the committee shall notify the private entity of the reason for the rejection and shall return any remaining portion of the fee required under Section [63M-1-2612] 63N-13-212.

Section 292. Section 63N-13-205, which is renumbered from Section 63M-1-2605 is renumbered and amended to read:

[63M-1-2605]. 63N-13-205. Initial proposal -- Requirements.

(1) In accordance with this part, a private entity may at any time submit to the committee an initial proposal for a project.

(2) An initial proposal shall include:

(a) a conceptual description of the project;

(b) a description of the economic benefit of the project to the state and the affected department;

(c) information concerning the products, services, and supplies currently being provided by the state, that are similar to the project;

(d) an estimate of the following costs associated with the project:

(i) design;

(ii) implementation;

(iii) operation and maintenance; and

(iv) any other related project cost; and

(e) the name and address of a person who may be contacted for further information concerning the initial proposal.

(3) A private entity submitting an initial proposal under this section shall pay the fee required by Section [63M-1-2612] 63N-13-212 when the initial proposal is submitted.

(4) An initial proposal submitted under this section is a protected record under Title 63G,

Chapter 2, Government Records Access and Management Act, until the chief procurement officer initiates a procurement process in accordance with Section 63G-6a-711.

(5) The board shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, detailing the portions of an initial proposal that remain protected after the chief procurement officer initiates a procurement process.

Section 293. Section 63N-13-206, which is renumbered from Section 63M-1-2606 is renumbered and amended to read:

[63M-1-2606]. 63N-13-206. Review of initial proposal -- Affected department review.

(1) The committee shall review and evaluate an initial proposal submitted in accordance with:

(a) this part; and

(b) any rule established by the board under Section [63M-1-2603] 63N-13-203.

(2) If the committee, in its sole discretion, determines to proceed with the project, the committee shall submit a copy of the initial proposal to:

(a) the affected department; and

(b) the Governor's Office of Management and Budget.

(3) (a) An affected department, directly affected state entity, and school district receiving a copy of the initial proposal under Subsection (2) or (4) shall review the initial proposal and provide the committee with any comment, suggestion, or modification to the project.

(b) After receiving an initial proposal, the Governor's Office of Management and Budget shall prepare an economic feasibility report containing:

(i) information concerning the economic feasibility and effectiveness of the project based upon competent evidence;

(ii) a dollar amount representing the total estimated fiscal impact of the project to the affected department and the state; and

(iii) any other matter the committee requests or is required by the board by rule.

(4) In reviewing an initial proposal, the affected department shall share the initial proposal with any other state entity or school district that will be directly affected if the proposal is ultimately adopted, if the confidentiality of the initial proposal is maintained.

(5) If the committee determines to proceed with the project, the committee shall submit a copy of the initial proposal, including any comment, suggestion, or modification to the initial proposal, to:

(a) the chief procurement officer in accordance with Section 63G-6a-711; and

(b) the Executive Appropriations Committee, for informational purposes.

(6) Before taking any action under Subsection (5), the committee shall consider:

(a) any comment, suggestion, or modification to the initial proposal submitted in accordance with Subsection (3);

(b) the extent to which the project is practical, efficient, and economically beneficial to the state and the affected department;

(c) the economic feasibility report prepared by the Governor's Office of Management and Budget; and

(d) any other reasonable factor identified by the committee or required by the board by rule.

Section 294. Section 63N-13-207, which is renumbered from Section 63M-1-2607 is renumbered and amended to read:

[63M-1-2607]. 63N-13-207. Acceptance of initial proposal -- Obtaining detailed proposals.

(1) If an initial proposal is accepted under Section [63M-1-2606] 63N-13-206, the chief procurement officer shall:

(a) take action under Section 63G-6a-711 to initiate a procurement process to obtain one or more detailed proposals using information from portions of the initial proposal that are not protected records under Title 63G, Chapter 2, Government Records Access and Management Act;

(b) consult with the committee during the procurement process; and

(c) submit all detailed proposals that meet the guidelines established under Subsection [63M-1-2608] 63N-13-208(1), including the detailed proposal submitted by the private entity that submitted the initial proposal for the project, to:

(i) the committee; and

(ii) the Governor's Office of Management and Budget.

(2) The office is considered the purchasing agency for a procurement process initiated under this part.

Section 295. Section 63N-13-208, which is renumbered from Section 63M-1-2608 is renumbered and amended to read:

[63M-1-2608]. 63N-13-208. Detailed proposal -- Requirements -- Cooperation of affected department.

(1) A detailed proposal submitted in response to a procurement process initiated under Section [63M-1-2607] 63N-13-207 shall include:

(a) a conceptual description of the project, including the scope of the work;

(b) a description of the economic benefit of the project to the state and the affected department;

(c) an estimate of the design, implementation, operation, maintenance, or other costs associated with the project;

(d) information concerning the information technology or telecommunication product and service or other supply or service currently provided by the state that is similar to the project being proposed, if applicable;

(e) a statement setting forth the private entity's general plan for financing the project, including any appropriation by the Legislature or other public money and, if applicable, the sources of the private entity's funds and identification of any dedicated revenue source or proposed debt or equity investment on behalf of the private entity;

(f) the name and address of the person who may be contacted for further information concerning the detailed proposal;

(g) a statement describing the private entity's experience with other similar projects and a description of why the private entity is best qualified for the project; and

(h) any other information:

(i) reasonably requested by the affected department or the committee, or required by the board by rule; or

(ii) that the private entity considers necessary or appropriate to complete or describe the detailed proposal.

(2) To assist each private entity in preparing a detailed proposal:

(a) the affected department shall provide each private entity with access to all information, records, documents, and reports related to the proposal and the project that are designated public records under Title 63G, Chapter 2, Government Records Access and Management Act; and

(b) the affected department and the committee shall cooperate with each private entity to assist the private entity in the development of a detailed proposal that is:

(i) practical;

(ii) efficient; and

(iii) economically beneficial to the state and the affected department.

(3) The committee or any private entity may choose to terminate the development of the detailed proposal at any time before the submission of the detailed proposal to the chief procurement officer under Section 63G-6a-711.

Section 296. Section 63N-13-209, which is renumbered from Section 63M-1-2609 is renumbered and amended to read:

[63M-1-2609]. 63N-13-209. Receipt of detailed proposals -- Economic feasibility report -- Acceptance of a detailed proposal.

(1) If the committee, in its sole discretion, determines that a detailed proposal does not substantially meet the guidelines established under Subsection [63M-1-2608] 63N-13-208(1),

the committee may elect not to review the detailed proposal.

(2) (a) After receiving a detailed proposal, the Governor's Office of Management and Budget shall update the economic feasibility report prepared under Section [63M-1-2606] 63N-13-206.

(b) A detailed proposal that is to be reviewed by the committee shall be submitted to the affected department, a directly affected state entity, and a directly affected school district for comment or suggestion.

(3) In determining which, if any, of the detailed proposals to accept, in addition to the proposal evaluation criteria, the committee shall consider the following factors:

(a) any comment, suggestion, or modification offered in accordance with Subsection [63M-1-2606] 63N-13-206(3) or Subsection (2)(b);

(b) the economic feasibility report updated in accordance with Subsection (2)(a);

(c) the source of funding and any resulting constraint necessitated by the funding source;

(d) any alternative funding proposal;

(e) the extent to which the project is practical, efficient, and economically beneficial to the state and the affected department; and

(f) any other reasonable factor identified by the committee or required by the board by rule.

(4) (a) If the committee accepts a detailed proposal, the accepted detailed proposal shall be submitted to the board for approval.

(b) If the affected department or a directly affected state entity or school district disputes the detailed proposal approved by the board, the Governor's Office of Management and Budget shall consider the detailed proposal and any comment, suggestion, or modification and determine whether to proceed with a project agreement.

(c) If there is no funding for a project that is the subject of a detailed proposal and the committee determines to proceed with the project, the office shall submit a report to the Governor's Office of Management and Budget and the Executive Appropriations Committee detailing the position of the board, the affected department, a directly affected state entity or school district.

(5) A detailed proposal received from a private entity other than the private entity that submitted the initial proposal may not be accepted in place of the detailed proposal offered by the private entity that submitted the initial proposal solely because of a lower cost if the lower cost is within the amount of the fee paid by the private entity that submitted the initial proposal for review of the initial proposal.

Section 297. Section 63N-13-210, which is renumbered from Section 63M-1-2610 is renumbered and amended to read:

[63M-1-2610]. 63N-13-210. Project agreement.

(1) If the board accepts the detailed proposal, the executive director shall:

(a) prepare a project agreement in consultation with the affected department and any other state entity directly impacted by the detailed proposal; and

(b) enter into the project agreement with the private entity.

(2) A project agreement shall be signed by the executive director, the affected department, a directly affected state entity or school district, and the private entity.

(3) A project agreement shall include provisions concerning:

(a) the scope of the project;

(b) the pricing method of the project;

(c) the executive director's or the state's ability to terminate for convenience or for default, and any termination compensation to be paid to the private entity, if applicable;

(d) the ability to monitor performance under the project agreement;

(e) the appropriate limits of liability;

(f) the appropriate transition of services, if applicable;

(g) the exceptions from applicable rules and procedures for the implementation and administration of the project by the affected department, if any;

(h) the clauses and remedies applicable to state contracts under Title 63G, Chapter 6a, Part 12, Contracts and Change Orders; and

(i) any other matter reasonably requested by the committee or required by the board by rule.

(4) A copy of the signed project agreement shall be submitted to:

(a) the affected department; and

(b) the Executive Appropriations Committee.

(5) A project agreement is considered a contract under Title 63G, Chapter 6a, Utah Procurement Code.

(6) The affected department shall implement and administer the project agreement in accordance with rules made under Title 63G, Chapter 3, Utah Administrative Rulemaking Act, except as modified by the project agreement under Subsection (3)(g).

Section 298. Section 63N-13-211, which is renumbered from Section 63M-1-2611 is renumbered and amended to read:

[63M-1-2611]. 63N-13-211. Advisory committee.

(1) The executive director may appoint an advisory committee comprised of:

(a) representatives of:

(i) the affected department for the proposal;

(ii) a directly affected state entity or school district;

(iii) the Department of Human Resource Management; and

(iv) the Division of Risk Management;

(b) members of the public; and

(c) other members.

(2) A member of an advisory committee may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance ~~pursuant to~~ under Sections 63A-3-106 and 63A-3-107.

(3) An advisory committee appointed in accordance with Subsection (1) may not participate in the final decision-making of the committee or the board.

(4) The staff, any outside consultant, and any advisory subcommittee shall:

(a) provide the committee and the board with professional services, including architectural, engineering, legal, and financial services, to develop rules and guidelines to implement the program described in this part; and

(b) assist the committee and the board in:

(i) reviewing and commenting on initial proposals;

(ii) reviewing and commenting on detailed proposals; and

(iii) preparing and negotiating the terms of any project agreement.

Section 299. Section 63N-13-212, which is renumbered from Section 63M-1-2612 is renumbered and amended to read:

[63M-1-2612]. 63N-13-212. Private Proposal Expendable Special Revenue Fund -- Fees.

(1) There is created an expendable special revenue fund within the office called the Private Proposal Expendable Special Revenue Fund.

(2) Money collected from the payment of a fee required by this part shall be deposited in the Private Proposal Expendable Special Revenue Fund.

(3) The board or the committee may use the money in the Private Proposal Expendable Special Revenue Fund to offset:

(a) the expense of hiring staff and engaging any outside consultant to review a proposal under this part; and

(b) any expense incurred by the Governor's Office of Management and Budget or the affected

department in the fulfillment of its duties under this part.

(4) The board shall establish a fee in accordance with Section 63J-1-504 for:

- (a) reviewing an initial proposal;
- (b) reviewing any detailed proposal; and
- (c) preparing any project agreement.

(5) The board may waive the fee established under Subsection (4) if the board determines that it is:

- (a) reasonable; and
- (b) in the best interest of the state.

Section 300. Section 79-4-1103 is amended to read:

79-4-1103. Governor's duties -- Priority of federal property.

(1) During a fiscal emergency, the governor shall:

(a) if financially practicable, work with the federal government to open and maintain the operation of one or more national parks, national monuments, national forests, and national recreation areas in the state, in the order established under this section; and

(b) report to the speaker of the House and the president of the Senate on the need, if any, for additional appropriations to assist the division in opening and operating one or more national parks, national monuments, national forests, and national recreation areas in the state.

(2) The director of the Outdoor Recreation Office, created in Section ~~[63M-1-3304]~~ 63N-9-104, in consultation with the executive director of the Governor's Office of Economic Development, shall determine, by rule, the priority of national parks, national monuments, national forests, and national recreation areas in the state.

(3) In determining the priority described in Subsection (2), the director of the Outdoor Recreation Office shall consider the:

(a) economic impact of the national park, national monument, national forest, or national recreation area in the state; and

(b) recreational value offered by the national park, national monument, national forest, or national recreation area.

(4) The director of the Outdoor Recreation Office shall:

(a) report the priority determined under Subsection (2) to the Natural Resources, Agriculture, and Environment Interim Committee by November 30, 2014; and

(b) annually review the priority set under Subsection (2) to determine whether the priority list should be amended.

Section 301. Repealer.

This bill repeals:

Section 63M-1-204, Organization of office -- Jurisdiction of director.

Section 63M-1-207, Daylight saving time study.

Section 63M-1-301, Board of Business and Economic Development.

Section 63M-1-304, Governor's Office of Economic Development -- Powers and duties of office -- Consulting with board on funds or services provided by office.

Section 63M-1-801, Creation of shared foreign sales corporations.

Section 63M-1-802, Management fees.

Section 63M-1-1301, Title.

Section 63M-1-1302, Purpose.

Section 63M-1-1901, Military installation projects for economic development -- Funding -- Criteria -- Dispersal -- Report.

Section 63M-1-2408, Transition clause -- Renegotiation of agreements -- Payment of partial rebates.

CHAPTER 284**S. B. 24**

Passed February 11, 2015

Approved March 27, 2015

Effective May 12, 2015

DEPARTMENT OF FINANCIAL INSTITUTIONS AMENDMENTSChief Sponsor: Curtis S. Bramble
House Sponsor: James A. Dunnigan**LONG TITLE****General Description:**

This bill modifies provisions related to persons subject to the jurisdiction of the Department of Financial Institutions.

Highlighted Provisions:

This bill:

- ▶ provides for fees payable to the commissioner by money transmitters;
- ▶ defines “nationwide database” and requires certain persons under the jurisdiction of the Department of Financial Institutions to register with the nationwide database;
- ▶ grants rulemaking authority related to the transition of persons registering with the nationwide database;
- ▶ enacts the Money Transmitter Act, including:
 - defining terms;
 - granting rulemaking authority;
 - requiring licensure;
 - providing exemptions;
 - establishing license qualifications;
 - creating the licensure process;
 - requiring a surety bond;
 - providing for the renewal of a license;
 - requiring reporting of certain events;
 - addressing authorized agent contracts and conduct;
 - authorizing examinations;
 - addressing confidentiality of information;
 - authorizing termination or suspension of authorized agent activity;
 - addressing licensee liability;
 - imposing criminal and civil penalties; and
 - permitting consent and emergency orders; and
- ▶ makes technical and conforming amendments.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

7-1-401, as last amended by Laws of Utah 2014, Chapter 345

7-22-101, as last amended by Laws of Utah 2013, Chapter 73

7-22-103, as last amended by Laws of Utah 1996, Chapter 182

7-24-102, as last amended by Laws of Utah 2005, Chapter 2

7-24-201, as last amended by Laws of Utah 2008, Chapter 382

70D-2-102, as last amended by Laws of Utah 2013, Chapter 399

70D-2-201, as last amended by Laws of Utah 2014, Chapter 97

70D-2-203, as last amended by Laws of Utah 2014, Chapter 97

ENACTS:

7-25-101, Utah Code Annotated 1953

7-25-102, Utah Code Annotated 1953

7-25-103, Utah Code Annotated 1953

7-25-201, Utah Code Annotated 1953

7-25-202, Utah Code Annotated 1953

7-25-203, Utah Code Annotated 1953

7-25-204, Utah Code Annotated 1953

7-25-205, Utah Code Annotated 1953

7-25-206, Utah Code Annotated 1953

7-25-301, Utah Code Annotated 1953

7-25-302, Utah Code Annotated 1953

7-25-303, Utah Code Annotated 1953

7-25-304, Utah Code Annotated 1953

7-25-305, Utah Code Annotated 1953

7-25-401, Utah Code Annotated 1953

7-25-402, Utah Code Annotated 1953

7-25-403, Utah Code Annotated 1953

7-25-404, Utah Code Annotated 1953

7-25-405, Utah Code Annotated 1953

7-25-406, Utah Code Annotated 1953

7-25-407, Utah Code Annotated 1953

REPEALS:

70D-2-202, as renumbered and amended by Laws of Utah 2009, Chapter 72

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

Section 1. Section 7-1-401 is amended to read:**7-1-401. Fees payable to commissioner.**

(1) Except for an out-of-state depository institution with a branch in Utah, a depository institution under the jurisdiction of the department shall pay an annual fee:

(a) computed by averaging the total assets of the depository institution shown on each quarterly report of condition for the depository institution for the calendar year immediately proceeding the date on which the annual fee is due under Section 7-1-402; and

(b) at the following rates:

(i) on the first \$5,000,000 of these assets, the greater of:

(A) 65 cents per \$1,000; or

(B) \$500;

(ii) on the next \$10,000,000 of these assets, 35 cents per \$1,000;

(iii) on the next \$35,000,000 of these assets, 15 cents per \$1,000;

(iv) on the next \$50,000,000 of these assets, 12 cents per \$1,000;

(v) on the next \$200,000,000 of these assets, 10 cents per \$1,000;

(vi) on the next \$300,000,000 of these assets, 6 cents per \$1,000; and

(vii) on all amounts over \$600,000,000 of these assets, 2 cents per \$1,000.

(2) A financial institution with a trust department shall pay a fee determined in accordance with Subsection (7) for each examination of the trust department by a state examiner.

(3) Notwithstanding Subsection (1), a credit union in its first year of operation shall pay a basic fee of \$25 instead of the fee required under Subsection (1).

(4) A trust company that is not a depository institution or a subsidiary of a depository institution holding company shall pay:

(a) an annual fee of \$500; and

(b) an additional fee determined in accordance with Subsection (7) for each examination by a state examiner.

(5) Any person or institution under the jurisdiction of the department that does not pay a fee under Subsections (1) through (4) shall pay:

(a) an annual fee of \$200; and

(b) an additional fee determined in accordance with Subsection (7) for each examination by a state examiner.

(6) A person filing an application or request under Section 7-1-503, 7-1-702, 7-1-703, 7-1-704, 7-1-713, 7-5-3, or 7-18a-202 shall pay:

(a) (i) a filing fee of \$500 if on the day on which the application or request is filed the person:

(A) is a person with authority to transact business as:

(I) a depository institution;

(II) a trust company; or

(III) any other person described in Section 7-1-501 as being subject to the jurisdiction of the department; and

(B) has total assets in an amount less than \$5,000,000; or

(ii) a filing fee of \$2,500 for any person not described in Subsection (6)(a)(i); and

(b) all reasonable expenses incurred in processing the application.

(7) (a) Per diem assessments for an examination shall be calculated at the rate of \$55 per hour:

(i) for each examiner; and

(ii) per hour worked.

(b) For an examination of a branch or office of a financial institution located outside of this state, in addition to the per diem assessment under this

Subsection (7), the institution shall pay all reasonable travel, lodging, and other expenses incurred by each examiner while conducting the examination.

(8) In addition to a fee under Subsection (5), a person registering under Section 7-23-201 or 7-24-201 shall pay an original registration fee of \$300.

(9) In addition to a fee under Subsection (5), a person applying for licensure under Chapter 25, Money Transmitter Act, shall pay an original license fee of \$300.

Section 2. Section 7-22-101 is amended to read:

7-22-101. Definitions -- Exemptions.

(1) As used in this chapter:

(a) "Escrow" means an agreement, express or implied, that provides for one or more parties to deliver or entrust money, a certificate of deposit, a security, a negotiable instrument, a deed, or other property or asset to another person to be held, paid, or delivered in accordance with terms and conditions prescribed in the agreement.

(b) "Escrow agent" means a person that provides or offers to provide escrow services to the public.

(c) "Nationwide database" means the Nationwide Mortgage Licensing System and Registry, authorized under 12 U.S.C. Sec. 5101 for federal licensing of mortgage loan originators.

(2) This chapter does not apply to:

(a) a trust company authorized to engage in the trust business in Utah in accordance with Chapter 5, Trust Business;

(b) a person other than an escrow agent regulated under this chapter that is exempted from the definition of trust business in Subsection 7-5-1(1);

(c) a depository institution chartered by a state or the federal government that is engaged in business as a depository institution in Utah;

(d) the State Board of Regents, the Utah Higher Education Assistance Authority, or the State Treasurer; and

(e) a person licensed under Title 31A, Insurance Code.

Section 3. Section 7-22-103 is amended to read:

7-22-103. Registration -- Fees -- Qualifications -- Rulemaking.

(1) (a) [~~Each~~] An escrow agent shall register with the department annually on or before [~~July 15~~] December 31 of each year and pay a registration fee of \$100.

(b) Registration of an escrow agent in accordance with this section includes all directors, officers, employees, and representatives of the escrow agent while acting in the course of [~~its~~] the escrow agent's business.

(2) ~~[Each]~~ To register under this chapter an escrow agent shall provide the department:

(a) evidence satisfactory to the commissioner that the person is registered with the nationwide database;

(b) a financial statement; and

(c) any other information requested by the department ~~[when submitting each annual application for registration].~~

(3) The commissioner may by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, provide for the transition of persons registering with the nationwide database.

Section 4. Section 7-24-102 is amended to read:

7-24-102. Definitions.

As used in this chapter:

(1) "Nationwide database" means the Nationwide Mortgage Licensing System and Registry, authorized under 12 U.S.C. Sec. 5101 for federal licensing of mortgage loan originators.

~~[4]~~ (2) "Rollover" means the extension or renewal of the term of a title loan.

~~[2]~~ (3) (a) "Title lender" means a person that extends a title loan.

(b) "Title lender" includes a person that:

- (i) arranges a title loan on behalf of a title lender;
- (ii) acts as an agent for a title lender; or
- (iii) assists a title lender in the extension of a title loan.

~~[3]~~ (4) (a) "Title loan" means a loan secured by the title to a:

- (i) motor vehicle, as defined in Section 41-6a-102;
- (ii) mobile home, as defined in Section 41-6a-102; or
- (iii) motorboat, as defined in Section 73-18-2.

(b) "Title loan" includes a title loan extended at the same premise on which any of the following are sold:

- (i) a motor vehicle, as defined in Section 41-6a-102;
- (ii) a mobile home, as defined in Section 41-6a-102; or
- (iii) a motorboat, as defined in Section 73-18-2.

(c) "Title loan" does not include:

- (i) a purchase money loan;
- (ii) a loan made in connection with the sale of a:
 - (A) motor vehicle, as defined in Section 41-6a-102;

(B) mobile home, as defined in Section 41-6a-102; or

(C) motorboat, as defined in Section 73-18-2; or

(iii) a loan extended by an institution listed in Section 7-24-305.

Section 5. Section 7-24-201 is amended to read:

7-24-201. Registration -- Rulemaking.

(1) (a) It is unlawful for a person to extend a title loan in Utah or with a Utah resident unless the person:

(i) registers with the department in accordance with this chapter; and

(ii) maintains a valid registration.

(b) It is unlawful for a person to operate a mobile facility in this state to extend a title loan.

(2) (a) A registration and a renewal of a registration expires on ~~[April 30]~~ December 31 of each year unless on or before that date the person renews the registration.

(b) To register under this section, a person shall:

(i) pay an original registration fee established under Subsection 7-1-401(8); and

(ii) submit a registration statement containing the information described in Subsection (2)(d).

(c) To renew a registration under this section, a person shall:

(i) pay the annual fee established under Subsection 7-1-401(5); and

(ii) submit a renewal statement containing the information described in Subsection (2)(d).

(d) A registration or renewal statement shall state:

(i) the name of the person;

(ii) the name in which the business will be transacted if different from that required in Subsection (2)(d)(i);

(iii) the address of the person's principal business office, which may be outside this state;

(iv) the addresses of all offices in this state at which the person extends title loans;

(v) if the person extends title loans in this state but does not maintain an office in this state, a brief description of the manner in which the business is conducted;

(vi) the name and address in this state of a designated agent upon whom service of process may be made;

(vii) disclosure of any injunction, judgment, administrative order, or conviction of any crime involving moral turpitude with respect to that person or any officer, director, manager, operator, or principal of that person; ~~[and]~~

(viii) evidence satisfactory to the department that the person is registered with the nationwide database; and

~~(viii)~~ (ix) any other information required by the rules of the department.

(e) (i) The commissioner may impose an administrative fine determined under Subsection (2)(e)(ii) on a person if:

(A) the person is required to be registered under this chapter;

(B) the person fails to register or renew a registration in accordance with this chapter;

(C) the department notifies the person that the person is in violation of this chapter for failure to be registered; and

(D) the person fails to register within 30 days after the day on which the person receives the notice described in Subsection (2)(e)(i)(C).

(ii) Subject to Subsection (2)(e)(iii), the administrative fine imposed under this Subsection (2)(e) is:

(A) \$500 if the person:

(I) has no office in this state at which the person extends a title loan; or

(II) has one office in this state at which the person extends a title loan; or

(B) if the person has two or more offices in this state at which the person extends a title loan, \$500 for each office at which the person extends a title loan.

(iii) The commissioner may reduce or waive a fine imposed under this Subsection (2)(e) if the person shows good cause.

(3) If the information in a registration or renewal statement required under Subsection (2) becomes inaccurate after filing, a person is not required to notify the department until:

(a) that person is required to renew the registration; or

(b) the department specifically requests earlier notification.

(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make rules consistent with this section:

(a) providing for the form, content, and filing of a registration and renewal statement[-]; and

(b) providing for the transition of persons registering with the nationwide database.

Section 6. Section 7-25-101 is enacted to read:

CHAPTER 25. MONEY TRANSMITTER ACT

Part 1. General Provisions

7-25-101. Title.

This chapter is known as the "Money Transmitter Act."

Section 7. Section 7-25-102 is enacted to read:

7-25-102. Definitions.

As used in this chapter:

(1) "Applicant" means a person filing an application for a license under this chapter.

(2) "Authorized agent" means a person designated by the licensee under this chapter to sell or issue payment instruments or engage in the business of transmitting money on behalf of a licensee.

(3) "Executive officer" means the licensee's president, chair of the executive committee, executive vice president, treasurer, chief financial officer, or any other person who performs similar functions.

(4) "Key shareholder" means a person, or group of persons acting in concert, who is the owner of 20% or more of a class of an applicant's stock.

(5) "Licensee" means a person licensed under this chapter.

(6) "Material litigation" means litigation that, according to generally accepted accounting principles, is considered significant to a person's financial health and would be required to be referenced in an annual audited financial statement, report to shareholders, or similar document.

(7) "Money transmission" means the sale or issuance of a payment instrument or engaging in the business of receiving money for transmission or transmitting money within the United States or to locations abroad by any and all means, including payment instrument, wire, facsimile, or electronic transfer.

(8) "Nationwide database" means the Nationwide Mortgage Licensing System and Registry, authorized under 12 U.S.C. Sec. 5101 for federal licensing of mortgage loan originators.

(9) "Outstanding payment instrument" means a payment instrument issued by the licensee that has been sold in the United States directly by the licensee or a payment instrument issued by the licensee that has been sold and reported to the licensee as having been sold by an authorized agent of the licensee in the United States, and that has not yet been paid by or for the licensee.

(10) (a) "Payment instrument" means a check, draft, money order, travelers check, or other instrument or written order for the transmission or payment of money, sold or issued to one or more persons, whether or not the instrument is negotiable.

(b) "Payment instrument" does not include a credit card voucher, letter of credit, or instrument that is redeemable by the issuer in goods or services.

(11) "Remit" means either to make direct payment of the money to the licensee or its

representatives authorized to receive the money, or to deposit the money in a depository institution in an account in the name of the licensee.

Section 8. Section 7-25-103 is enacted to read:

7-25-103. Rules.

The commissioner may make a rule authorized by this chapter in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, including to:

- (1) restrict or prohibit practices that are misleading, unfair, or abusive;
- (2) promote or assure fair and full disclosure of the terms and conditions of agreements and communications between a customer and a money transmitter; and
- (3) promote or assure uniform application of or to resolve ambiguities in applicable state or federal laws or federal regulations.

Section 9. Section 7-25-201 is enacted to read:

Part 2. Licensing

7-25-201. Licensing required.

(1) Unless exempt under Section 7-25-202, a person may not engage in the business of money transmission without a license.

(2) A licensee may conduct its business in this state at one or more locations, directly or indirectly owned, or through one or more authorized agents, or both, pursuant to the single license granted to the licensee.

Section 10. Section 7-25-202 is enacted to read:

7-25-202. Exemptions.

This chapter does not apply to:

- (1) the United States or a department or agency of the United States;
- (2) the state or a political subdivision of the state; or
- (3) a depository institution or a trust company organized under the laws of a state or the United States.

Section 11. Section 7-25-203 is enacted to read:

7-25-203. License qualifications.

- (1) An applicant for a license shall:
 - (a) demonstrate, and a licensee shall maintain, a net worth of not less than \$1,000,000 as demonstrated by a financial statement for the most recent fiscal year that is prepared and certified by an independent auditor and is satisfactory to the commissioner; and
 - (b) demonstrate experience, character, and general fitness to command the confidence of the

public and warrant the belief that the business to be operated will be operated lawfully and fairly.

(2) A corporate applicant, at the time of filing of an application for a license under this chapter and at all times after a license is issued, shall be in good standing in the state of its incorporation. A noncorporate applicant shall, at the time of the filing of an application for a license under this chapter and at all times after a license is issued, be qualified to do business in the state.

(3) Subject to the commissioner's discretion, a person may not be licensed under this chapter to do business in the state:

- (a) if the person has been convicted of, or pled guilty or no contest to, a felony:
 - (i) during the seven years preceding the day on which the individual files an application; or
 - (ii) at any time, if the felony involves an act of:
 - (A) fraud;
 - (B) dishonesty;
 - (C) breach of trust; or
 - (D) money laundering; or
- (b) if an executive officer, key shareholder, or director of the person has been convicted of, or pled guilty or no contest to, a felony:

(i) during the seven years preceding the day on which the individual files an application; or

- (ii) at any time, if the felony involves an act of:
 - (A) fraud;
 - (B) dishonesty;
 - (C) breach of trust; or
 - (D) money laundering.

(4) The applicant shall submit evidence satisfactory to the commissioner that the person is registered with the nationwide database.

(5) The commissioner may by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, provide for the transition of persons being licensed under this chapter.

Section 12. Section 7-25-204 is enacted to read:

7-25-204. License application -- Bond.

- (1) To apply for a license under this chapter, a person shall:
 - (a) submit an application in writing;
 - (b) pay the original license fee required by Section 7-1-401; and
 - (c) submit a surety bond in accordance with Subsection (3).
- (2) An application shall contain:
 - (a) the exact name of the applicant, the applicant's principal address, any fictitious or trade

name used by the applicant in the conduct of its business, and the location of the applicant's business records;

(b) the history of the applicant's material litigation and criminal convictions for the seven-year period before the date the application is submitted;

(c) a description of the activities conducted by the applicant and a history of operations;

(d) a description of the business activities in which the applicant seeks to be engaged in the state;

(e) a list identifying the applicant's authorized agents in the state, if any, at the time of the filing of the license application;

(f) a sample authorized agent contract, if applicable;

(g) a sample form of payment instrument, if applicable;

(h) the one or more locations at which the applicant and its authorized agents, if any, propose to conduct the licensed activities in the state; and

(i) other information the commissioner requires by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(3) (a) An applicant shall submit with an application filed under this chapter a surety bond satisfactory to the commissioner in the minimum sum of \$50,000 to reimburse the state for expenses of any kind or nature that the department may incur in connection with an administrative or judicial proceeding against a licensee, former licensee, or seller relating to the issuance or sale of a payment instrument in the state.

(b) A licensee shall maintain a surety bond meeting the requirements of Subsection (3)(a) for three years after the licensee ceases money transmission operations in the state. Except that the commissioner may permit the surety bond to be reduced or eliminated before the end of the three-year period to the extent that the amount of the licensee's payment instruments outstanding in this state are reduced.

(c) A surety bond shall remain in effect until cancellation, which may occur only after 30 days' written notice to the commissioner. Cancellation may not affect liability incurred or accrued during that period.

Section 13. Section 7-25-205 is enacted to read:

7-25-205. Issuance of license.

(1) Upon the filing of a complete application, the commissioner shall investigate the financial condition and responsibility, financial and business experience, character, and general fitness of the applicant. The commissioner may conduct an on-site investigation of the applicant, the reasonable cost of which is to be borne by the

applicant in accordance with Subsection 7-1-401(7).

(2) The commissioner shall issue a license to the applicant authorizing the applicant to engage in the licensed activities in this state if the commissioner finds that:

(a) the applicant's business will be conducted honestly, fairly, and in a manner commanding the confidence and trust of the community;

(b) the applicant has fulfilled the requirements imposed by this chapter; and

(c) the applicant has paid the required original license fee under Section 7-1-401.

Section 14. Section 7-25-206 is enacted to read:

7-25-206. Renewal of license.

(1) A license issued or renewed pursuant to this chapter expires on December 31. A licensee may renew the license through the nationwide database for the ensuing 12-month period upon application by the license holder showing continued compliance with the requirements of Sections 7-25-201, 7-25-203, and 7-25-204, and the payment of the license renewal fee required by Section 7-1-401 to the commissioner.

(2) The licensee shall include in its renewal application:

(a) a copy of the licensee's most recent audited unconsolidated annual financial statement, including balance sheet, statement of income or loss, statement of changes in shareholder's equity, and statement of changes in financial position, except that a licensee may provide the most recent audited consolidated annual financial statement of the parent corporation if the statement separately includes the balance sheet, statement of income or loss, statement of changes in shareholder's equity, and statement of changes of financial position of the licensee;

(b) material changes to the information submitted by the licensee on its original application that have not previously been reported to the commissioner on any other report required to be filed under this chapter;

(c) a list of the locations within this state at which business regulated by this chapter is conducted by either the licensee or its authorized agent;

(d) notification of material litigation or litigation relating to money transmission; and

(e) other information the commissioner requires by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(3) Failure to pay the renewal fee or to submit a completed renewal application between November 1 and December 31 shall cause the license to expire at the close of business on December 31.

Section 15. Section 7-25-301 is enacted to read:

Part 3. Operational Requirements

7-25-301. Reporting requirements.

(1) Within 15 days of the occurrence of an event listed in this Subsection (1), a licensee shall file a written report with the commissioner describing the event and its expected impact on the licensee's activities in the state:

(a) the filing for bankruptcy or reorganization by the licensee;

(b) the institution of revocation or suspension proceedings against the licensee by a state or governmental authority with regard to the licensee's money transmission activities;

(c) a felony indictment of the licensee or any of its officers, directors, or principals related to money transmission activities;

(d) a felony conviction of the licensee or any of its officers, directors, or principals related to money transmission activities; and

(e) any other event that the commissioner may determine by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) An authorized agent shall report to the licensee the theft or loss of payment instruments valued at \$5,000 or more within 24 hours from the time the authorized agent knew or should have known of the theft or loss. Upon the receipt of the report, the licensee shall immediately provide the information to the commissioner.

Section 16. Section 7-25-302 is enacted to read:

7-25-302. Changes in control of a licensee.

(1) A change in control of a licensee shall require prior notice to the commissioner. In the case of a publicly traded corporation, notification shall be made in writing within 15 days of a change or acquisition of control of a licensee. Upon notification, the commissioner may require information considered necessary to determine whether an application for a license is required. The commissioner may waive the filing of an application if, in the commissioner's discretion, the change in control does not pose a risk to the interests of the public.

(2) Whenever control of a licensee is acquired or exercised in violation of this section, the license of the licensee shall be considered revoked as of the date of the unlawful acquisition of control. The licensee, or its controlling person, shall surrender the license to the commissioner on demand.

Section 17. Section 7-25-303 is enacted to read:

7-25-303. Authorized agent contracts.

A licensee desiring to conduct licensed activities through authorized agents shall authorize each authorized agent to operate pursuant to an express written contract, which shall, at a minimum, provide the following:

(1) that the licensee appoints the person as its agent with authority to sell payment instruments

or transmit money on behalf of the licensee in compliance with state and federal law;

(2) that neither a licensee nor an authorized agent may authorize a subagent without the written consent of the commissioner;

(3) that licensees are subject to supervision and regulation by the commissioner;

(4) an acknowledgment that the authorized agent consents to the commissioner's inspection, with or without prior notice to the licensee or authorized agent, of the records of the authorized agent or agents of the licensee; and

(5) that an authorized agent is under a duty to act only as authorized under the contract with the licensee and that an authorized agent who exceeds its authority is subject to cancellation of its contract by the licensee and disciplinary action by the commissioner.

Section 18. Section 7-25-304 is enacted to read:

7-25-304. Authorized agent conduct.

(1) An authorized agent may not make a fraudulent or false statement or misrepresentation to a licensee or to the commissioner.

(2) A money transmission, sale, or issuance of payment instrument activity conducted by an authorized agent shall be strictly in accordance with the licensee's written procedures provided to the authorized agent.

(3) An authorized agent shall remit the money owing to the licensee in accordance with the terms of the contract between the licensee and the authorized agent. The failure of an authorized agent to remit money owing to a licensee within the contractual time period shall result in liability of the authorized agent to the licensee for three times the licensee's actual damages. The commissioner shall have the discretion to set, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the maximum remittance time.

(4) The money, less fees, received by an authorized agent of a licensee from the sale or delivery of a payment instrument issued by a licensee or received by an authorized agent for transmission shall, from the time the money is received by the authorized agent until the time when the money or an equivalent amount is remitted by the authorized agent to the licensee, constitute trust funds owned by and belonging to the licensee. If an authorized agent commingles the money with any other money or property owned or controlled by the authorized agent, the commingled proceeds and other property shall be impressed with a trust in favor of the licensee in an amount equal to the amount of the proceeds due the licensee.

Section 19. Section 7-25-305 is enacted to read:

7-25-305. Instrument to bear name of licensee.

A payment instrument issued by a licensee for sale in Utah, or which is sold in Utah, shall state on its face the name of the licensee issuer.

Section 20. Section 7-25-401 is enacted to read:

Part 4. Enforcement

7-25-401. Examinations.

(1) (a) The commissioner may conduct periodic on-site examinations of a licensee. The commissioner may examine a licensee's authorized or apparent agents. At the commissioner's discretion, written notice of the examination may be provided to the licensee or an authorized or apparent agent.

(b) In conducting an examination, the commissioner or the commissioner's staff:

(i) shall have full and free access to all the records of the licensee and its authorized or apparent agents; and

(ii) may summon and qualify as witnesses, under oath, and examine the directors, officers, members, agents, and employees of a licensee or authorized or apparent agent, and any other person concerning the condition and affairs of the licensee.

(c) In accordance with Section 7-1-401, the licensee shall pay the reasonable costs of an examination under this section.

(d) An on-site examination may be conducted in conjunction with examinations to be performed by representatives of agencies of another state or states.

(e) The commissioner, in lieu of an on-site examination, may accept the examination report of an agency of another state, or a report prepared by an independent accounting firm, and a report so accepted is considered for all purposes as an official report of the commissioner.

(2) Upon reasonable cause, the commissioner may conduct an on-site examination of an unlicensed person to determine whether violations of this chapter have occurred or are occurring. In conducting the examination, the commissioner has the applicable powers provided pursuant to Section 7-25-204.

Section 21. Section 7-25-402 is enacted to read:

7-25-402. Confidentiality of information.

(1) Information obtained by the commissioner under this chapter is confidential in accordance with Section 7-1-802.

(2) Subsection (1) does not prohibit the commissioner from releasing to the public a list of persons licensed under this chapter or from releasing aggregated financial data on the licensees.

Section 22. Section 7-25-403 is enacted to read:

7-25-403. Termination or suspension of authorized agent activity.

(1) (a) The commissioner may issue an order suspending or barring an authorized agent from continuing to be or becoming an authorized agent of a licensee during the period for which the order is in effect, if subject to Title 63G, Chapter 4, Administrative Procedures Act, the commissioner finds that an authorized agent of a licensee or a director, officer, employee, or controlling person of the authorized agent has:

(i) violated this chapter or a rule or order issued under this chapter;

(ii) engaged or participated in an unsafe or unsound act with respect to the business of selling or issuing payment instruments of the licensee or the business of money transmission; or

(iii) made or caused to be made in an application or report filed with the commissioner or a proceeding before the commissioner, a statement that was at the time and in the circumstances under which it was made, false or misleading with respect to a material fact, or has omitted to state in the application or report a material fact that is required to be stated in the application or report.

(b) Upon issuance of the order, the licensee shall terminate its relationship with the authorized agent according to the terms of the order.

(2) An authorized agent to whom an order is issued under this section may apply to the commissioner to modify or rescind the order. The commissioner may not grant the application unless the commissioner finds that it is in the public interest to do so and that it is reasonable to believe that the person will, if and when the person is permitted to resume being an authorized agent of a licensee, comply with all applicable provisions of this chapter and a rule or order issued under this title.

Section 23. Section 7-25-404 is enacted to read:

7-25-404. Licensee liability.

A licensee's responsibility to a person who purchases a payment instrument or money transmission transaction from a licensee or a licensee's authorized agent is limited to the face amount of the payment instrument or money transmission transaction purchased.

Section 24. Section 7-25-405 is enacted to read:

7-25-405. Criminal and civil penalties.

(1) A person who violates this chapter or who files materially false information with a license application or renewal under this chapter is:

(a) guilty of a class B misdemeanor; and

(b) subject to revocation of the person's license under this chapter.

(2) Subject to Title 63G, Chapter 4, Administrative Procedures Act, if the

commissioner determines that a person is engaging in the business of money transmission in violation of this chapter, the commissioner may:

(a) suspend, revoke, or not renew that person's license under this chapter;

(b) issue a cease and desist order from committing any further violation;

(c) prohibit the person from continuing to engage in the business of money transmission;

(d) impose an administrative fine not to exceed \$1,000 per violation, except that the aggregate total of fines imposed under this chapter against a person in a calendar year may not exceed \$30,000 for that calendar year; or

(e) take any combination of actions listed under this Subsection (2).

(3) If the commissioner revokes a license, the department is not required to refund any portion of the licensee's filing or renewal fee for the remainder of the period for which the fee is paid.

Section 25. Section 7-25-406 is enacted to read:

7-25-406. Consent orders -- Emergency order.

(1) The commissioner may enter into consent orders at any time with any person to resolve any matter arising under this chapter. A consent order must be signed by the person to whom it is issued or a duly authorized representative, and must indicate agreement to the terms contained in the consent order. A consent order need not constitute an admission by any person that any provision of this chapter, or any rule or order made or issued under this chapter, has been violated, nor need it constitute a finding by the commissioner that the person has violated any provision of this chapter or any rule or order made or issued under this chapter.

(2) Notwithstanding the issuance of a consent order, the commissioner may seek civil or criminal penalties or compromise civil penalties concerning matters encompassed by the consent order.

(3) In cases involving extraordinary circumstances requiring immediate action, the commissioner may take any enforcement action authorized by this chapter without providing the opportunity for a prior hearing, but shall promptly afford a subsequent hearing upon an application to rescind the action taken, which is filed with the commissioner within 20 days of the receipt of the notice of the commissioner's emergency action.

Section 26. Section 7-25-407 is enacted to read:

7-25-407. Required deposits.

If the commissioner finds any reasonable cause to believe that a licensee is in an unsafe or unsound condition or is unwilling or unable to pay its payment instruments when they come due, it may require the licensee to deposit funds in a financial institution acceptable to the commissioner in such

amounts, for such period, and upon such conditions as the commissioner may specify, and may prohibit the licensee from issuing payment instruments for sale in Utah in an aggregate unpaid amount exceeding the amount of any such required deposit or the amount actually deposited pursuant to such a requirement, whichever is less.

Section 27. Section 70D-2-102 is amended to read:

70D-2-102. Definitions.

As used in this chapter:

(1) (a) Except as provided in Subsection (1)(b), "broker" means a person who in the regular course of business assists a person in obtaining a mortgage loan for a fee or other consideration paid directly or indirectly.

(b) "Broker" does not include a person solely because of the person's:

(i) real estate brokerage activities; or

(ii) activities as an attorney licensed to practice law in this state who, in the course of the attorney's practice as an attorney, assists a person in obtaining a mortgage loan.

(2) "Business as a lender, broker, or servicer" means a person who engages in an act for compensation or in the expectation of compensation that makes the person a lender, broker, or servicer.

(3) (a) Except as provided in Subsection (3)(b), "lender" means a person who in the regular course of business originates a loan secured by a mortgage.

(b) "Lender" does not include a person who:

(i) as a seller only receives one or more mortgages as security for a purchase money obligation; or

(ii) only receives a mortgage as security for an obligation:

(A) payable on an installment or deferred payment basis; and

(B) arising out of materials furnished or services rendered in the improvement of real property.

(4) "Manufactured home" means a transportable factory built housing unit that:

(a) is constructed:

(i) on or after June 15, 1976, according to the National Manufactured Housing Construction and Safety Standards Act of 1974; and

(ii) in one or more sections, which:

(A) in the traveling mode, is eight body feet or more in width or 40 body feet or more in length; or

(B) when erected on site, is 400 or more square feet;

(b) is built on a permanent chassis;

(c) is designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities; and

(d) includes the plumbing, heating, air-conditioning, and electrical systems.

(5) "Mobile home" means a transportable factory built housing unit built before June 15, 1976, in accordance with a state mobile home code that existed before the National Manufactured Housing Construction and Safety Standards Act of 1974.

(6) "Modular home" means a modular unit as defined in Section 15A-1-302.

(7) "Nationwide database" means the Nationwide Mortgage Licensing System and Registry, authorized under 12 U.S.C. Sec. 5101 for federal licensing of mortgage loan originators.

[48] (8) "Permanently affixed" means anchored to, and supported by, a permanent foundation or installed in accordance with the manufactured housing installation standard code referred to in Section 15A-1-202.

[48] (9) "Servicer" means a person who in the regular course of business assumes responsibility for servicing and accepting payments for a mortgage loan.

Section 28. Section 70D-2-201 is amended to read:

70D-2-201. Registration -- Exemptions.

(1) (a) Except as provided in Subsection (2), a person may not engage in business as a lender, broker, or servicer in this state before the day on which the person:

~~[(a) files written notification with the commissioner in accordance with Section 70D-2-202; and]~~

~~(i) provides evidence satisfactory to the commissioner that the person is registered with the nationwide database; and~~

~~[(b)] (ii) pays a fee required by Section 70D-2-203.~~

~~(b) The commissioner may by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, provide for the transition of persons registering with the nationwide database.~~

(2) The following persons are exempt from this part, except for a reimbursement or fee described in Subsection 70D-2-203(2):

(a) a federally insured depository institution;

(b) a wholly owned subsidiary of a depository institution described in Subsection (2)(a); and

(c) a person who:

(i) is required to be licensed with the Division of Real Estate pursuant to Title 61, Chapter 2c, Utah Residential Mortgage Practices and Licensing Act; and

(ii) is not a servicer.

Section 29. Section 70D-2-203 is amended to read:

70D-2-203. Fees -- Examination.

(1) (a) A person required to ~~[file notification]~~ register under this part shall pay to the commissioner:

(i) a fee of \$200 with the person's initial ~~[notification]~~ registration; and

(ii) an annual fee, on or before ~~[January]~~ December 31 of each year, in an amount to be set by rule of the commissioner subject to Subsection (1)(b).

(b) The commissioner:

(i) subject to Subsection (1)(b)(ii), shall set the annual renewal fee at an amount that generates sufficient revenue to cover the department's costs of administering this chapter; and

(ii) may not set an annual renewal fee that exceeds \$100 per renewal.

(2) (a) The commissioner may require a lender, broker, or servicer to make a record of the lender, broker, or servicer relating to its activities as a lender, broker, or servicer available to the commissioner or the commissioner's authorized representative for examination.

(b) A lender, broker, or servicer described in Subsection (2)(a) shall:

(i) reimburse the department for travel and other reasonable and necessary costs incurred in the examination described in Subsection (2)(a); and

(ii) pay to the commissioner a fee set by the commissioner based on an hourly rate per each examiner, not to exceed \$55 per hour for each examiner.

(3) No portion of a fee paid or owed to the commissioner under this section is refundable because a person voluntarily or involuntarily ceases to do business as a lender, broker, or servicer:

(a) during the period covered by the fee; or

(b) before the time of an examination by the commissioner of a record pertaining to a transaction preceding the day on which the person ceases to do business as a lender, broker, or servicer.

Section 30. Repealer.

This bill repeals:

Section 70D-2-202, Form of notice.

CHAPTER 285**S. B. 40**

Passed March 2, 2015

Approved March 27, 2015

Effective May 12, 2015

**WATER LAW - APPLICATION
WITHDRAWAL**

Chief Sponsor: Margaret Dayton

House Sponsor: Keith Grover

LONG TITLE**General Description:**

This bill authorizes an individual to withdraw an application for the use of water.

Highlighted Provisions:

This bill:

- ▶ requires an individual who wishes to withdraw an unperfected application to send written notice to the state engineer;
- ▶ requires the state engineer, upon receipt of the notice of withdrawal, to update state engineer records;
- ▶ states that an individual who withdraws an unperfected application is not entitled to a refund of fees; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

73-3-6, as last amended by Laws of Utah 2009, Chapter 388

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

Section 1. Section 73-3-6 is amended to read:**73-3-6. Publication of notice of application -- Corrections or amendments of applications -- Withdrawal of application.**

(1) (a) When an application is filed in compliance with this title, the state engineer shall publish a notice of the application:

(i) once a week for a period of two successive weeks in a newspaper of general circulation in the county in which the source of supply is located, and where the water is to be used; and

(ii) in accordance within Section 45-1-101 for two weeks.

(b) The notice shall:

(i) state that an application has been made; and

(ii) specify where the interested party may obtain additional information relating to the application.

(c) Clerical errors, ambiguities, and mistakes that do not prejudice the rights of others may be corrected by order of the state engineer either before or after the publication of notice.

(2) After publication of notice to water users, the state engineer may authorize amendments or corrections that involve a change of point of diversion, place, or purpose of use of water, only after republication of notice to water users.

(3) (a) An applicant or an applicant's successor in interest may withdraw an unperfected application by notifying, in writing, the state engineer of the withdrawal.

(b) Upon receipt of the notice described in Subsection (3)(a), the state engineer shall promptly update state engineer records to reflect that the application has been withdrawn and is of no further force or effect.

(c) An individual who withdraws an unperfected application under Subsection (3)(a) is not entitled to a refund of fees.

CHAPTER 286**S. B. 58**

Passed February 26, 2015

Approved March 27, 2015

Effective May 12, 2015

**MUNICIPAL AND COUNTY OFFICIALS
ATTENDANCE AT SCHOOL DISTRICT
BOARD MEETINGS**

Chief Sponsor: Wayne A. Harper

House Sponsor: Rich Cunningham

LONG TITLE**General Description:**

This bill modifies provisions relating to open and closed meetings of school district boards.

Highlighted Provisions:

This bill:

- ▶ modifies provisions relating to school district board meetings that a mayor or county executive or county manager, or designee, may attend.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53A-3-409, as last amended by Laws of Utah 2009, Chapter 207

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

Section 1. Section 53A-3-409 is amended to read:**53A-3-409. Local governmental entities and school districts -- Contracts and cooperation -- Disbursement of funds -- Municipal and county representative participation in school district board meetings -- Notice required.**

(1) Local governmental entities and school districts may contract and cooperate with one another in matters affecting the health, welfare, education, and convenience of the inhabitants within their respective territorial limits.

(2) A local governmental entity may disburse public funds in aid of a school district located wholly or partially within the limits of its jurisdiction.

~~[(3) (a) A mayor or the mayor's designee of a municipality that is partly or entirely within the boundaries of a school district and the county commission chair, county executive, or county manager, or their designee, of a county with unincorporated area within the boundaries of a school district may attend and participate in the board discussions at the school district's board meetings.]~~

(3) (a) As used in this Subsection (3):

(i) "Interested county executive" means the county executive or county manager of a county with unincorporated area within the boundary of a

school district, or the designee of the county executive or county manager.

(ii) "Interested mayor" means the mayor of a municipality that is partly or entirely within the boundary of a school district, or the mayor's designee.

(b) A school district board shall allow an interested mayor and interested county executive to attend and participate in the board discussions at a school district board meeting that is open to the public under Title 52, Chapter 4, Open and Public Meetings Act.

(c) An interested county executive and interested mayor may attend and participate in board discussions at a school district board meeting that is closed to the public under Title 52, Chapter 4, Open and Public Meetings Act, if:

(i) the school district board invites the interested county executive or interested mayor to attend and participate; and

(ii) for a closed meeting held for the purpose of discussing the board's disposition or acquisition of real property, the interested county executive or interested mayor does not have a conflict of interest with respect to the real estate disposition or acquisition.

(d) (i) A county or municipality may enter into an agreement with a school district under Title 11, Chapter 13, Interlocal Cooperation Act, to govern the attendance of an interested county executive or interested mayor at a school district board meeting.

(ii) An agreement under Subsection (3)(d)(i) may not be inconsistent with the provisions of this Subsection (3).

~~[(b)]~~ (e) Each local school board shall give notice of board meetings to each interested mayor and interested county executive.

~~[(i) the mayor or the mayor's designee of each municipality that is partly or entirely within the school district's boundaries; and]~~

~~[(ii) the county commission chair, county executive, or county manager, or their designee, of a county with unincorporated area within the school district's boundaries.]~~

~~[(e)]~~ (f) The notice required under Subsection (3)~~[(b)]~~(c) shall be provided by:

(i) mail;

(ii) e-mail; or

(iii) other effective means agreed to by the person to whom notice is given.

CHAPTER 287**S. B. 97**

Passed March 11, 2015
 Approved March 27, 2015
 Effective July 1, 2015

**PROPERTY TAX
 EQUALIZATION AMENDMENTS**

Chief Sponsor: Aaron Osmond
 House Sponsor: Bradley G. Last

LONG TITLE**General Description:**

This bill makes changes related to school property taxes and funding.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ creates the Minimum Basic Growth Account;
- ▶ amends the calculation of the school minimum basic tax rate;
- ▶ requires a certain amount of revenue collected from the minimum basic tax rate to be deposited into the Minimum Basic Growth Account;
- ▶ distributes money deposited into the Minimum Basic Growth Account to fund the state's portion of the voted levy guarantee, the Capital Outlay Foundation Program, and the Capital Outlay Enrollment Growth Program; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides a coordination clause.

Utah Code Sections Affected:**AMENDS:**

11-13-302, as last amended by Laws of Utah 2011, Chapter 371
 53A-17a-103, as last amended by Laws of Utah 2014, Chapter 389
 53A-17a-133, as last amended by Laws of Utah 2014, Chapter 189
 53A-17a-135, as last amended by Laws of Utah 2014, Chapter 4
 59-2-102, as last amended by Laws of Utah 2014, Chapters 65 and 411

ENACTS:

53A-17a-135.1, Utah Code Annotated 1953

Utah Code Sections Affected by Coordination Clause:

53A-17a-135, as last amended by Laws of Utah 2014, Chapter 4

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

Section 1. Section 11-13-302 is amended to read:

11-13-302. Payment of fee in lieu of ad valorem property tax by certain energy suppliers -- Method of calculating -- Collection -- Extent of tax lien.

(1) (a) Each project entity created under this chapter that owns a project and that sells any capacity, service, or other benefit from it to an energy supplier or suppliers whose tangible property is not exempted by Utah Constitution Article XIII, Section 3, from the payment of ad valorem property tax, shall pay an annual fee in lieu of ad valorem property tax as provided in this section to each taxing jurisdiction within which the project or any part of it is located.

(b) For purposes of this section, "annual fee" means the annual fee described in Subsection (1)(a) that is in lieu of ad valorem property tax.

(c) The requirement to pay an annual fee shall commence:

(i) with respect to each taxing jurisdiction that is a candidate receiving the benefit of impact alleviation payments under contracts or determination orders provided for in Sections 11-13-305 and 11-13-306, with the fiscal year of the candidate following the fiscal year of the candidate in which the date of commercial operation of the last generating unit, other than any generating unit providing additional project capacity, of the project occurs, or, in the case of any facilities providing additional project capacity, with the fiscal year of the candidate following the fiscal year of the candidate in which the date of commercial operation of the generating unit providing the additional project capacity occurs; and

(ii) with respect to any taxing jurisdiction other than a taxing jurisdiction described in Subsection (1)(c)(i), with the fiscal year of the taxing jurisdiction in which construction of the project commences, or, in the case of facilities providing additional project capacity, with the fiscal year of the taxing jurisdiction in which construction of those facilities commences.

(d) The requirement to pay an annual fee shall continue for the period of the useful life of the project or facilities.

(2) (a) The annual fees due a school district shall be as provided in Subsection (2)(b) because the ad valorem property tax imposed by a school district and authorized by the Legislature represents both:

(i) a levy mandated by the state for the state minimum school program under Section 53A-17a-135; and

(ii) local levies for capital outlay and other purposes under Sections 53A-16-113, 53A-17a-133, and 53A-17a-164.

(b) The annual fees due a school district shall be as follows:

(i) the project entity shall pay to the school district an annual fee for the state minimum school program at the rate imposed by the school district and authorized by the Legislature under [Subsection] Section 53A-17a-135(4); and

(ii) for all other local property tax levies authorized to be imposed by a school district, the project entity shall pay to the school district either:

- (A) an annual fee; or
- (B) impact alleviation payments under contracts or determination orders provided for in Sections 11-13-305 and 11-13-306.

(3) (a) An annual fee due a taxing jurisdiction for a particular year shall be calculated by multiplying the tax rate or rates of the jurisdiction for that year by the product obtained by multiplying the fee base or value determined in accordance with Subsection (4) for that year of the portion of the project located within the jurisdiction by the percentage of the project which is used to produce the capacity, service, or other benefit sold to the energy supplier or suppliers.

(b) As used in this section, "tax rate," when applied in respect to a school district, includes any assessment to be made by the school district under Subsection (2) or Section 63M-5-302.

(c) There is to be credited against the annual fee due a taxing jurisdiction for each year, an amount equal to the debt service, if any, payable in that year by the project entity on bonds, the proceeds of which were used to provide public facilities and services for impact alleviation in the taxing jurisdiction in accordance with Sections 11-13-305 and 11-13-306.

(d) The tax rate for the taxing jurisdiction for that year shall be computed so as to:

(i) take into account the fee base or value of the percentage of the project located within the taxing jurisdiction determined in accordance with Subsection (4) used to produce the capacity, service, or other benefit sold to the supplier or suppliers; and

(ii) reflect any credit to be given in that year.

(4) (a) Except as otherwise provided in this section, the annual fees required by this section shall be paid, collected, and distributed to the taxing jurisdiction as if:

(i) the annual fees were ad valorem property taxes; and

(ii) the project were assessed at the same rate and upon the same measure of value as taxable property in the state.

(b) (i) Notwithstanding Subsection (4)(a), for purposes of an annual fee required by this section, the fee base of a project may be determined in accordance with an agreement among:

(A) the project entity; and

(B) any county that:

(I) is due an annual fee from the project entity; and

(II) agrees to have the fee base of the project determined in accordance with the agreement described in this Subsection (4).

(ii) The agreement described in Subsection (4)(b)(i):

(A) shall specify each year for which the fee base determined by the agreement shall be used for purposes of an annual fee; and

(B) may not modify any provision of this chapter except the method by which the fee base of a project is determined for purposes of an annual fee.

(iii) For purposes of an annual fee imposed by a taxing jurisdiction within a county described in Subsection (4)(b)(i)(B), the fee base determined by the agreement described in Subsection (4)(b)(i) shall be used for purposes of an annual fee imposed by that taxing jurisdiction.

(iv) (A) If there is not agreement as to the fee base of a portion of a project for any year, for purposes of an annual fee, the State Tax Commission shall determine the value of that portion of the project for which there is not an agreement:

(I) for that year; and

(II) using the same measure of value as is used for taxable property in the state.

(B) The valuation required by Subsection (4)(b)(iv)(A) shall be made by the State Tax Commission in accordance with rules made by the State Tax Commission.

(c) Payments of the annual fees shall be made from:

(i) the proceeds of bonds issued for the project; and

(ii) revenues derived by the project entity from the project.

(d) (i) The contracts of the project entity with the purchasers of the capacity, service, or other benefits of the project whose tangible property is not exempted by Utah Constitution Article XIII, Section 3, from the payment of ad valorem property tax shall require each purchaser, whether or not located in the state, to pay, to the extent not otherwise provided for, its share, determined in accordance with the terms of the contract, of these fees.

(ii) It is the responsibility of the project entity to enforce the obligations of the purchasers.

(5) (a) The responsibility of the project entity to make payment of the annual fees is limited to the extent that there is legally available to the project entity, from bond proceeds or revenues, money to make these payments, and the obligation to make payments of the annual fees is not otherwise a general obligation or liability of the project entity.

(b) No tax lien may attach upon any property or money of the project entity by virtue of any failure to pay all or any part of an annual fee.

(c) The project entity or any purchaser may contest the validity of an annual fee to the same extent as if the payment was a payment of the ad valorem property tax itself.

(d) The payments of an annual fee shall be reduced to the extent that any contest is successful.

(6) (a) The annual fee described in Subsection (1):

(i) shall be paid by a public agency that:

(A) is not a project entity; and

(B) owns an interest in a facility providing additional project capacity if the interest is otherwise exempt from taxation pursuant to Utah Constitution, Article XIII, Section 3; and

(ii) for a public agency described in Subsection (6)(a)(i), shall be calculated in accordance with Subsection (6)(b).

(b) The annual fee required under Subsection (6)(a) shall be an amount equal to the tax rate or rates of the applicable taxing jurisdiction multiplied by the product of the following:

(i) the fee base or value of the facility providing additional project capacity located within the jurisdiction;

(ii) the percentage of the ownership interest of the public agency in the facility; and

(iii) the portion, expressed as a percentage, of the public agency's ownership interest that is attributable to the capacity, service, or other benefit from the facility that is sold by the public agency to an energy supplier or suppliers whose tangible property is not exempted by Utah Constitution, Article XIII, Section 3, from the payment of ad valorem property tax.

(c) A public agency paying the annual fee pursuant to Subsection (6)(a) shall have the obligations, credits, rights, and protections set forth in Subsections (1) through (5) with respect to its ownership interest as though it were a project entity.

Section 2. Section 53A-17a-103 is amended to read:

53A-17a-103. Definitions.

As used in this chapter:

(1) "Basic state-supported school program" or "basic program" means public education programs for kindergarten, elementary, and secondary school students that are operated and maintained for the amount derived by multiplying the number of weighted pupil units for each school district or charter school by the value established each year in statute, except as otherwise provided in this chapter.

(2) (a) "Certified revenue levy" means a property tax levy that provides an amount of ad valorem property tax revenue equal to the sum of:

(i) the amount of ad valorem property tax revenue to be generated statewide in the previous year from imposing a minimum basic tax rate, as specified in [Subsection] Section 53A-17a-135(4)(a); and

(ii) the product of:

(A) new growth, as defined in:

(I) Section 59-2-924; and

(II) rules of the State Tax Commission; and

(B) the minimum basic tax rate certified by the State Tax Commission for the previous year.

(b) For purposes of this Subsection (2), "ad valorem property tax revenue" does not include property tax revenue received statewide from personal property that is:

(i) assessed by a county assessor in accordance with Title 59, Chapter 2, Part 3, County Assessment; and

(ii) semiconductor manufacturing equipment.

(c) For purposes of calculating the certified revenue levy described in this Subsection (2), the State Tax Commission shall use:

(i) the taxable value of real property assessed by a county assessor contained on the assessment roll;

(ii) the taxable value of real and personal property assessed by the State Tax Commission; and

(iii) the taxable year end value of personal property assessed by a county assessor contained on the prior year's assessment roll.

(3) "Pupil in average daily membership (ADM)" means a full-day equivalent pupil.

(4) (a) "State-supported minimum school program" or "Minimum School Program" means public school programs for kindergarten, elementary, and secondary schools as described in this Subsection (4).

(b) The minimum school program established in school districts and charter schools shall include the equivalent of a school term of nine months as determined by the State Board of Education.

(c) (i) The board shall establish the number of days or equivalent instructional hours that school is held for an academic school year.

(ii) Education, enhanced by utilization of technologically enriched delivery systems, when approved by local school boards or charter school governing boards, shall receive full support by the State Board of Education as it pertains to fulfilling the attendance requirements, excluding time spent viewing commercial advertising.

(d) (i) A local school board or charter school governing board may reallocate up to 32 instructional hours or 4 school days established under Subsection (4)(c) for teacher preparation time or teacher professional development.

(ii) A reallocation of instructional hours or school days under Subsection (4)(d)(i) is subject to the approval of two-thirds of the members of a local school board or charter school governing board voting in a regularly scheduled meeting:

(A) at which a quorum of the local school board or charter school governing board is present; and

(B) held in compliance with Title 52, Chapter 4, Open and Public Meetings Act.

(iii) If a local school board or charter school governing board reallocates instructional hours or

school days as provided by this Subsection (4)(d), the school district or charter school shall notify students' parents and guardians of the school calendar at least 90 days before the beginning of the school year.

(iv) Instructional hours or school days reallocated for teacher preparation time or teacher professional development pursuant to this Subsection (4)(d) is considered part of a school term referred to in Subsection (4)(b).

(e) The Minimum School Program includes a program or allocation funded by a line item appropriation or other appropriation designated as follows:

- (i) Basic School Program;
- (ii) Related to Basic Programs;
- (iii) Voted and Board Levy Programs; or
- (iv) Minimum School Program.

(5) "Weighted pupil unit or units or WPU or WPU's" means the unit of measure of factors that is computed in accordance with this chapter for the purpose of determining the costs of a program on a uniform basis for each district.

Section 3. Section 53A-17a-133 is amended to read:

53A-17a-133. State-supported voted local levy authorized -- Election requirements -- State guarantee -- Reconsideration of the program.

(1) As used in this section, "voted and board local levy funding balance" means the difference between:

- (a) the amount appropriated for the voted and board local levy program in a fiscal year; and
- (b) the amount necessary to provide the state guarantee per weighted pupil unit as determined under this section and Section 53A-17a-164 in the same fiscal year.

(2) An election to consider adoption or modification of a voted local levy is required if initiative petitions signed by 10% of the number of electors who voted at the last preceding general election are presented to the local school board or by action of the board.

(3) (a) (i) To impose a voted local levy, a majority of the electors of a district voting at an election in the manner set forth in Subsections (9) and (10) must vote in favor of a special tax.

(ii) The tax rate may not exceed .002 per dollar of taxable value.

(b) Except as provided in Subsection (3)(c), in order to receive state support the first year, a district must receive voter approval no later than December 1 of the year prior to implementation.

(c) Beginning on or after January 1, 2012, a school district may receive state support in accordance with Subsection (4) without complying with the

requirements of Subsection (3)(b) if the local school board imposed a tax in accordance with this section during the taxable year beginning on January 1, 2011 and ending on December 31, 2011.

(4) (a) In addition to the revenue a school district collects from the imposition of a levy pursuant to this section, the state shall contribute an amount sufficient to guarantee ~~[\$27.36]~~ \$33.27 per weighted pupil unit for each .0001 of the first .0016 per dollar of taxable value.

(b) The same dollar amount guarantee per weighted pupil unit for the .0016 per dollar of taxable value under Subsection (4)(a) shall apply to the portion of the board local levy authorized in Section 53A-17a-164, so that the guarantee shall apply up to a total of .002 per dollar of taxable value if a school district levies a tax rate under both programs.

(c) (i) Beginning July 1, ~~[2014]~~ 2015, the ~~[\$27.36]~~ \$33.27 guarantee under Subsections (4)(a) and (b) shall be indexed each year to the value of the weighted pupil unit for the grades 1 through 12 program by making the value of the guarantee equal to ~~[-.00963]~~ .011194 times the value of the prior year's weighted pupil unit for the grades 1 through 12 program.

(ii) The guarantee shall increase by .0005 times the value of the prior year's weighted pupil unit for the grades 1 through 12 program for each succeeding year subject to the Legislature appropriating funds for an increase in the guarantee.

(d) (i) The amount of state guarantee money to which a school district would otherwise be entitled to receive under this Subsection (4) may not be reduced for the sole reason that the district's levy is reduced as a consequence of changes in the certified tax rate under Section 59-2-924 pursuant to changes in property valuation.

(ii) Subsection (4)(d)(i) applies for a period of five years following any such change in the certified tax rate.

(e) The guarantee provided under this section does not apply to the portion of a voted local levy rate that exceeds the voted local levy rate that was in effect for the previous fiscal year, unless an increase in the voted local levy rate was authorized in an election conducted on or after July 1 of the previous fiscal year and before December 2 of the previous fiscal year.

(f) (i) If a voted and board local levy funding balance exists for the prior fiscal year, the State Board of Education shall:

(A) use the voted and board local levy funding balance to increase the value of the state guarantee per weighted pupil unit described in Subsection (4)(c) in the current fiscal year; and

(B) distribute the state contribution to the voted and board local levy programs to school districts based on the increased value of the state guarantee per weighted pupil unit described in Subsection (4)(f)(i)(A).

(ii) The State Board of Education shall report action taken under this Subsection (4)(f) to the Office of the Legislative Fiscal Analyst and the Governor's Office of Planning and Budget.

(5) (a) An election to modify an existing voted local levy is not a reconsideration of the existing authority unless the proposition submitted to the electors expressly so states.

(b) A majority vote opposing a modification does not deprive the district of authority to continue the levy.

(c) If adoption of a voted local levy is contingent upon an offset reducing other local school board levies, the board must allow the electors, in an election, to consider modifying or discontinuing the imposition of the levy prior to a subsequent increase in other levies that would increase the total local school board levy.

(d) Nothing contained in this section terminates, without an election, the authority of a school district to continue imposing an existing voted local levy previously authorized by the voters as a voted leeway program.

(6) Notwithstanding Section 59-2-919, a school district may budget an increased amount of ad valorem property tax revenue derived from a voted local levy imposed under this section in addition to revenue from new growth as defined in Subsection 59-2-924(4), without having to comply with the notice requirements of Section 59-2-919, if:

(a) the voted local levy is approved:

(i) in accordance with Subsections (9) and (10) on or after January 1, 2003; and

(ii) within the four-year period immediately preceding the year in which the school district seeks to budget an increased amount of ad valorem property tax revenue derived from the voted local levy; and

(b) for a voted local levy approved or modified in accordance with this section on or after January 1, 2009, the school district complies with the requirements of Subsection (8).

(7) Notwithstanding Section 59-2-919, a school district may levy a tax rate under this section that exceeds the certified tax rate without having to comply with the notice requirements of Section 59-2-919 if:

(a) the levy exceeds the certified tax rate as the result of a school district budgeting an increased amount of ad valorem property tax revenue derived from a voted local levy imposed under this section;

(b) the voted local levy was approved:

(i) in accordance with Subsections (9) and (10) on or after January 1, 2003; and

(ii) within the four-year period immediately preceding the year in which the school district seeks to budget an increased amount of ad valorem

property tax revenue derived from the voted local levy; and

(c) for a voted local levy approved or modified in accordance with this section on or after January 1, 2009, the school district complies with requirements of Subsection (8).

(8) For purposes of Subsection (6)(b) or (7)(c), the proposition submitted to the electors regarding the adoption or modification of a voted local levy shall contain the following statement:

"A vote in favor of this tax means that (name of the school district) may increase revenue from this property tax without advertising the increase for the next five years."

(9) (a) Before imposing a property tax levy pursuant to this section, a school district shall submit an opinion question to the school district's registered voters voting on the imposition of the tax rate so that each registered voter has the opportunity to express the registered voter's opinion on whether the tax rate should be imposed.

(b) The election required by this Subsection (9) shall be held:

(i) at a regular general election conducted in accordance with the procedures and requirements of Title 20A, Election Code, governing regular elections;

(ii) at a municipal general election conducted in accordance with the procedures and requirements of Section 20A-1-202; or

(iii) at a local special election conducted in accordance with the procedures and requirements of Section 20A-1-203.

(c) Notwithstanding the requirements of Subsections (9)(a) and (b), beginning on or after January 1, 2012, a school district may levy a tax rate in accordance with this section without complying with the requirements of Subsections (9)(a) and (b) if the school district imposed a tax in accordance with this section at any time during the taxable year beginning on January 1, 2011, and ending on December 31, 2011.

(10) If a school district determines that a majority of the school district's registered voters voting on the imposition of the tax rate have voted in favor of the imposition of the tax rate in accordance with Subsection (9), the school district may impose the tax rate.

Section 4. Section 53A-17a-135 is amended to read:

53A-17a-135. Minimum basic tax rate -- Certified revenue levy.

(1) As used in this section, "basic levy increment rate" means a tax rate that will generate an amount of revenue equal to \$75,000,000.

~~(1)~~ (2) (a) In order to qualify for receipt of the state contribution toward the basic program and as its contribution toward its costs of the basic program, each school district shall impose a

minimum basic tax rate per dollar of taxable value that generates ~~[\$296,709,700]~~ \$380,172,300 in revenues statewide.

(b) The preliminary estimate for the ~~[2014-15]~~ 2015-16 minimum basic tax rate is ~~[.001477]~~ .001764.

(c) The State Tax Commission shall certify on or before June 22 the rate that generates ~~[\$296,709,700]~~ \$380,172,300 in revenues statewide.

(d) ~~[If]~~ For the calendar year beginning on January 1, 2016, if the minimum basic tax rate exceeds the certified revenue levy as defined in Section 53A-17a-103, the state is subject to the notice requirements of Section 59-2-926.

~~[(2)]~~ (3) (a) The state shall contribute to each district toward the cost of the basic program in the district that portion which exceeds the proceeds of ~~[the levy authorized under Subsection (1).]~~ the difference between:

(i) the minimum basic tax rate to be imposed under Subsection (2); and

(ii) the basic levy increment rate.

(b) In ~~accord~~ accordance with the state strategic plan for public education and to fulfill its responsibility for the development and implementation of that plan, the Legislature instructs the State Board of Education, the governor, and the Office of Legislative Fiscal Analyst in each of the coming five years to develop budgets that will fully fund student enrollment growth.

~~[(3)]~~ (4) (a) If the ~~[proceeds of the levy authorized under Subsection (1) equal or exceed]~~ difference described in Subsection (3)(a) equals or exceeds the cost of the basic program in a school district, no state contribution shall be made to the basic program.

(b) The proceeds of the ~~[levy authorized under Subsection (1) which]~~ difference described in Subsection (3)(a) that exceed the cost of the basic program shall be paid into the Uniform School Fund as provided by law.

(5) The State Board of Education shall:

(a) deduct from state funds that a school district is authorized to receive under this chapter an amount equal to the proceeds generated within the school district by the basic levy increment rate; and

(b) deposit the money described in Subsection (5)(a) into the Minimum Basic Growth Account created in Section 53A-17a-135.1.

Section 5. Section 53A-17a-135.1 is enacted to read:

53A-17a-135.1. Minimum Basic Growth Account.

(1) As used in this section, "account" means the Minimum Basic Growth Account created in this section.

(2) There is created within the Education Fund a restricted account known as the "Minimum Basic Growth Account."

(3) The account shall be funded by amounts deposited into the account in accordance with Section 53A-17a-135.

(4) The account shall earn interest.

(5) Interest earned on the account shall be deposited into the account.

(6) Upon appropriation by the Legislature:

(a) 75% of the money from the account shall be used to fund the state's contribution to the voted levy guarantee described in Subsection 53A-17a-133(4);

(b) 20% of the money from the account shall be used to fund the Capital Outlay Foundation Program as provided in Title 53A, Chapter 21, Part 2, Capital Outlay Foundation Program; and

(c) 5% of the money from the account shall be used to fund the Capital Outlay Enrollment Growth Program as provided in Title 53A, Chapter 21, Part 3, Capital Outlay Enrollment Growth Program.

Section 6. Section 59-2-102 is amended to read:

59-2-102. Definitions.

As used in this chapter and title:

(1) "Aerial applicator" means aircraft or rotorcraft used exclusively for the purpose of engaging in dispensing activities directly affecting agriculture or horticulture with an airworthiness certificate from the Federal Aviation Administration certifying the aircraft or rotorcraft's use for agricultural and pest control purposes.

(2) "Air charter service" means an air carrier operation which requires the customer to hire an entire aircraft rather than book passage in whatever capacity is available on a scheduled trip.

(3) "Air contract service" means an air carrier operation available only to customers who engage the services of the carrier through a contractual agreement and excess capacity on any trip and is not available to the public at large.

(4) "Aircraft" is as defined in Section 72-10-102.

(5) (a) Except as provided in Subsection (5)(b), "airline" means an air carrier that:

(i) operates:

(A) on an interstate route; and

(B) on a scheduled basis; and

(ii) offers to fly one or more passengers or cargo on the basis of available capacity on a regularly scheduled route.

(b) "Airline" does not include an:

(i) air charter service; or

(ii) air contract service.

(6) “Assessment roll” means a permanent record of the assessment of property as assessed by the county assessor and the commission and may be maintained manually or as a computerized file as a consolidated record or as multiple records by type, classification, or categories.

(7) (a) “Certified revenue levy” means a property tax levy that provides an amount of ad valorem property tax revenue equal to the sum of:

(i) the amount of ad valorem property tax revenue to be generated statewide in the previous year from imposing a school minimum basic tax rate, as specified in [Subsection] Section 53A-17a-135(1)(a), or multicounty assessing and collecting levy, as specified in Section 59-2-1602; and

(ii) the product of:

(A) new growth, as defined in:

(I) Section 59-2-924; and

(II) rules of the commission; and

(B) the school minimum basic tax rate or multicounty assessing and collecting levy certified by the commission for the previous year.

(b) For purposes of this Subsection (7), “ad valorem property tax revenue” does not include property tax revenue received by a taxing entity from personal property that is:

(i) assessed by a county assessor in accordance with Part 3, County Assessment; and

(ii) semiconductor manufacturing equipment.

(c) For purposes of calculating the certified revenue levy described in this Subsection (7), the commission shall use:

(i) the taxable value of real property assessed by a county assessor contained on the assessment roll;

(ii) the taxable value of real and personal property assessed by the commission; and

(iii) the taxable year end value of personal property assessed by a county assessor contained on the prior year’s assessment roll.

(8) “County-assessed commercial vehicle” means:

(a) any commercial vehicle, trailer, or semitrailer which is not apportioned under Section 41-1a-301 and is not operated interstate to transport the vehicle owner’s goods or property in furtherance of the owner’s commercial enterprise;

(b) any passenger vehicle owned by a business and used by its employees for transportation as a company car or vanpool vehicle; and

(c) vehicles that are:

(i) especially constructed for towing or wrecking, and that are not otherwise used to transport goods, merchandise, or people for compensation;

(ii) used or licensed as taxicabs or limousines;

(iii) used as rental passenger cars, travel trailers, or motor homes;

(iv) used or licensed in this state for use as ambulances or hearses;

(v) especially designed and used for garbage and rubbish collection; or

(vi) used exclusively to transport students or their instructors to or from any private, public, or religious school or school activities.

(9) (a) Except as provided in Subsection (9)(b), for purposes of Section 59-2-801, “designated tax area” means a tax area created by the overlapping boundaries of only the following taxing entities:

(i) a county; and

(ii) a school district.

(b) Notwithstanding Subsection (9)(a), “designated tax area” includes a tax area created by the overlapping boundaries of:

(i) the taxing entities described in Subsection (9)(a); and

(ii) (A) a city or town if the boundaries of the school district under Subsection (9)(a) and the boundaries of the city or town are identical; or

(B) a special service district if the boundaries of the school district under Subsection (9)(a) are located entirely within the special service district.

(10) “Eligible judgment” means a final and unappealable judgment or order under Section 59-2-1330:

(a) that became a final and unappealable judgment or order no more than 14 months prior to the day on which the notice required by Section 59-2-919.1 is required to be mailed; and

(b) for which a taxing entity’s share of the final and unappealable judgment or order is greater than or equal to the lesser of:

(i) \$5,000; or

(ii) 2.5% of the total ad valorem property taxes collected by the taxing entity in the previous fiscal year.

(11) (a) “Escaped property” means any property, whether personal, land, or any improvements to the property, subject to taxation and is:

(i) inadvertently omitted from the tax rolls, assigned to the incorrect parcel, or assessed to the wrong taxpayer by the assessing authority;

(ii) undervalued or omitted from the tax rolls because of the failure of the taxpayer to comply with the reporting requirements of this chapter; or

(iii) undervalued because of errors made by the assessing authority based upon incomplete or erroneous information furnished by the taxpayer.

(b) Property that is undervalued because of the use of a different valuation methodology or because of a different application of the same valuation methodology is not “escaped property.”

(12) “Fair market value” means the amount at which property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of the relevant facts. For purposes of taxation, “fair market value” shall be determined using the current zoning laws applicable to the property in question, except in cases where there is a reasonable probability of a change in the zoning laws affecting that property in the tax year in question and the change would have an appreciable influence upon the value.

(13) “Farm machinery and equipment,” for purposes of the exemption provided under Section 59-2-1101, means tractors, milking equipment and storage and cooling facilities, feed handling equipment, irrigation equipment, harvesters, choppers, grain drills and planters, tillage tools, scales, combines, spreaders, sprayers, haying equipment, including balers and cubers, and any other machinery or equipment used primarily for agricultural purposes; but does not include vehicles required to be registered with the Motor Vehicle Division or vehicles or other equipment used for business purposes other than farming.

(14) “Geothermal fluid” means water in any form at temperatures greater than 120 degrees centigrade naturally present in a geothermal system.

(15) “Geothermal resource” means:

(a) the natural heat of the earth at temperatures greater than 120 degrees centigrade; and

(b) the energy, in whatever form, including pressure, present in, resulting from, created by, or which may be extracted from that natural heat, directly or through a material medium.

(16) (a) “Goodwill” means:

(i) acquired goodwill that is reported as goodwill on the books and records:

(A) of a taxpayer; and

(B) that are maintained for financial reporting purposes; or

(ii) the ability of a business to:

(A) generate income:

(I) that exceeds a normal rate of return on assets; and

(II) resulting from a factor described in Subsection (16)(b); or

(B) obtain an economic or competitive advantage resulting from a factor described in Subsection (16)(b).

(b) The following factors apply to Subsection (16)(a)(ii):

(i) superior management skills;

(ii) reputation;

(iii) customer relationships;

(iv) patronage; or

(v) a factor similar to Subsections (16)(b)(i) through (iv).

(c) “Goodwill” does not include:

(i) the intangible property described in Subsection (20)(a) or (b);

(ii) locational attributes of real property, including:

(A) zoning;

(B) location;

(C) view;

(D) a geographic feature;

(E) an easement;

(F) a covenant;

(G) proximity to raw materials;

(H) the condition of surrounding property; or

(I) proximity to markets;

(iii) value attributable to the identification of an improvement to real property, including:

(A) reputation of the designer, builder, or architect of the improvement;

(B) a name given to, or associated with, the improvement; or

(C) the historic significance of an improvement; or

(iv) the enhancement or assemblage value specifically attributable to the interrelation of the existing tangible property in place working together as a unit.

(17) “Governing body” means:

(a) for a county, city, or town, the legislative body of the county, city, or town;

(b) for a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, the local district’s board of trustees;

(c) for a school district, the local board of education; or

(d) for a special service district under Title 17D, Chapter 1, Special Service District Act:

(i) the legislative body of the county or municipality that created the special service district, to the extent that the county or municipal legislative body has not delegated authority to an administrative control board established under Section 17D-1-301; or

(ii) the administrative control board, to the extent that the county or municipal legislative body has delegated authority to an administrative control board established under Section 17D-1-301.

(18) (a) For purposes of Section 59-2-103:

(i) “household” means the association of persons who live in the same dwelling, sharing its

furnishings, facilities, accommodations, and expenses; and

(ii) “household” includes married individuals, who are not legally separated, that have established domiciles at separate locations within the state.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining the term “domicile.”

(19) (a) Except as provided in Subsection (19)(c), “improvement” means a building, structure, fixture, fence, or other item that is permanently attached to land, regardless of whether the title has been acquired to the land, if:

(i) (A) attachment to land is essential to the operation or use of the item; and

(B) the manner of attachment to land suggests that the item will remain attached to the land in the same place over the useful life of the item; or

(ii) removal of the item would:

(A) cause substantial damage to the item; or

(B) require substantial alteration or repair of a structure to which the item is attached.

(b) “Improvement” includes:

(i) an accessory to an item described in Subsection (19)(a) if the accessory is:

(A) essential to the operation of the item described in Subsection (19)(a); and

(B) installed solely to serve the operation of the item described in Subsection (19)(a); and

(ii) an item described in Subsection (19)(a) that:

(A) is temporarily detached from the land for repairs; and

(B) remains located on the land.

(c) Notwithstanding Subsections (19)(a) and (b), “improvement” does not include:

(i) an item considered to be personal property pursuant to rules made in accordance with Section 59-2-107;

(ii) a moveable item that is attached to land:

(A) for stability only; or

(B) for an obvious temporary purpose;

(iii) (A) manufacturing equipment and machinery; or

(B) essential accessories to manufacturing equipment and machinery;

(iv) an item attached to the land in a manner that facilitates removal without substantial damage to:

(A) the land; or

(B) the item; or

(v) a transportable factory-built housing unit as defined in Section 59-2-1502 if that transportable

factory-built housing unit is considered to be personal property under Section 59-2-1503.

(20) “Intangible property” means:

(a) property that is capable of private ownership separate from tangible property, including:

(i) money;

(ii) credits;

(iii) bonds;

(iv) stocks;

(v) representative property;

(vi) franchises;

(vii) licenses;

(viii) trade names;

(ix) copyrights; and

(x) patents;

(b) a low-income housing tax credit;

(c) goodwill; or

(d) a renewable energy tax credit or incentive, including:

(i) a federal renewable energy production tax credit under Section 45, Internal Revenue Code;

(ii) a federal energy credit for qualified renewable electricity production facilities under Section 48, Internal Revenue Code;

(iii) a federal grant for a renewable energy property under American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, Section 1603; and

(iv) a tax credit under Subsection 59-7-614(2)(c).

(21) “Livestock” means:

(a) a domestic animal;

(b) a fur-bearing animal;

(c) a honeybee; or

(d) poultry.

(22) “Low-income housing tax credit” means:

(a) a federal low-income housing tax credit under Section 42, Internal Revenue Code; or

(b) a low-income housing tax credit under:

(i) Section 59-7-607; or

(ii) Section 59-10-1010.

(23) “Metalliferous minerals” includes gold, silver, copper, lead, zinc, and uranium.

(24) “Mine” means a natural deposit of either metalliferous or nonmetalliferous valuable mineral.

(25) “Mining” means the process of producing, extracting, leaching, evaporating, or otherwise removing a mineral from a mine.

(26) (a) “Mobile flight equipment” means tangible personal property that is:

- (i) owned or operated by an:
- (A) air charter service;
- (B) air contract service; or
- (C) airline; and
- (ii) (A) capable of flight;
- (B) attached to an aircraft that is capable of flight;
- or
- (C) contained in an aircraft that is capable of flight if the tangible personal property is intended to be used:
- (I) during multiple flights;
- (II) during a takeoff, flight, or landing; and
- (III) as a service provided by an air charter service, air contract service, or airline.
- (b) (i) "Mobile flight equipment" does not include a spare part other than a spare engine that is rotated:
- (A) at regular intervals; and
- (B) with an engine that is attached to the aircraft.
- (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining the term "regular intervals."
- (27) "Nonmetalliferous minerals" includes, but is not limited to, oil, gas, coal, salts, sand, rock, gravel, and all carboniferous materials.
- (28) "Part-year residential property" means property that is not residential property on January 1 of a calendar year but becomes residential property after January 1 of the calendar year.
- (29) "Personal property" includes:
- (a) every class of property as defined in Subsection (30) that is the subject of ownership and not included within the meaning of the terms "real estate" and "improvements";
- (b) gas and water mains and pipes laid in roads, streets, or alleys;
- (c) bridges and ferries;
- (d) livestock; and
- (e) outdoor advertising structures as defined in Section 72-7-502.
- (30) (a) "Property" means property that is subject to assessment and taxation according to its value.
- (b) "Property" does not include intangible property as defined in this section.
- (31) "Public utility," for purposes of this chapter, means the operating property of a railroad, gas corporation, oil or gas transportation or pipeline company, coal slurry pipeline company, electrical corporation, telephone corporation, sewerage corporation, or heat corporation where the company performs the service for, or delivers the commodity

to, the public generally or companies serving the public generally, or in the case of a gas corporation or an electrical corporation, where the gas or electricity is sold or furnished to any member or consumers within the state for domestic, commercial, or industrial use. Public utility also means the operating property of any entity or person defined under Section 54-2-1 except water corporations.

(32) (a) Subject to Subsection (32)(b), "qualifying exempt primary residential rental personal property" means household furnishings, furniture, and equipment that:

(i) are used exclusively within a dwelling unit that is the primary residence of a tenant;

(ii) are owned by the owner of the dwelling unit that is the primary residence of a tenant; and

(iii) after applying the residential exemption described in Section 59-2-103, are exempt from taxation under this chapter in accordance with Subsection 59-2-1115(2).

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "dwelling unit" for purposes of this Subsection (32) and Subsection (35).

(33) "Real estate" or "real property" includes:

(a) the possession of, claim to, ownership of, or right to the possession of land;

(b) all mines, minerals, and quarries in and under the land, all timber belonging to individuals or corporations growing or being on the lands of this state or the United States, and all rights and privileges appertaining to these; and

(c) improvements.

(34) "Relationship with an owner of the property's land surface rights" means a relationship described in Subsection 267(b), Internal Revenue Code:

(a) except that notwithstanding Subsection 267(b), Internal Revenue Code, the term 25% shall be substituted for the term 50% in Subsection 267(b), Internal Revenue Code; and

(b) using the ownership rules of Subsection 267(c), Internal Revenue Code, for determining the ownership of stock.

(35) (a) Subject to Subsection (35)(b), "residential property," for the purposes of the reductions and adjustments under this chapter, means any property used for residential purposes as a primary residence.

(b) Subject to Subsection (35)(c), "residential property":

(i) except as provided in Subsection (35)(b)(ii), includes household furnishings, furniture, and equipment if the household furnishings, furniture, and equipment are:

(A) used exclusively within a dwelling unit that is the primary residence of a tenant; and

(B) owned by the owner of the dwelling unit that is the primary residence of a tenant; and

(ii) does not include property used for transient residential use.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term “dwelling unit” for purposes of Subsection (32) and this Subsection (35).

(36) “Split estate mineral rights owner” means a person who:

(a) has a legal right to extract a mineral from property;

(b) does not hold more than a 25% interest in:

(i) the land surface rights of the property where the wellhead is located; or

(ii) an entity with an ownership interest in the land surface rights of the property where the wellhead is located;

(c) is not an entity in which the owner of the land surface rights of the property where the wellhead is located holds more than a 25% interest; and

(d) does not have a relationship with an owner of the land surface rights of the property where the wellhead is located.

(37) (a) “State-assessed commercial vehicle” means:

(i) any commercial vehicle, trailer, or semitrailer which operates interstate or intrastate to transport passengers, freight, merchandise, or other property for hire; or

(ii) any commercial vehicle, trailer, or semitrailer which operates interstate and transports the vehicle owner’s goods or property in furtherance of the owner’s commercial enterprise.

(b) “State-assessed commercial vehicle” does not include vehicles used for hire which are specified in Subsection (8)(c) as county-assessed commercial vehicles.

(38) “Taxable value” means fair market value less any applicable reduction allowed for residential property under Section 59-2-103.

(39) “Tax area” means a geographic area created by the overlapping boundaries of one or more taxing entities.

(40) “Taxing entity” means any county, city, town, school district, special taxing district, local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, or other political subdivision of the state with the authority to levy a tax on property.

(41) “Tax roll” means a permanent record of the taxes charged on property, as extended on the assessment roll and may be maintained on the same record or records as the assessment roll or may be maintained on a separate record properly indexed

to the assessment roll. It includes tax books, tax lists, and other similar materials.

Section 7. Effective date.

This bill takes effect on July 1, 2015.

Section 8. Coordinating S.B. 97 with S.B. 1 -- Superseding technical and substantive amendments.

If this S.B. 97 and S.B. 1, Public Education Base Budget Amendments, both pass and become law, it is the intent of the Legislature that the amendments to Section 53A-17a-135 in this S.B. 97 supersede the amendments to Section 53A-17a-135 in S.B. 1, when the Office of Legislative Research and General Counsel prepares the Utah Code database for publication.

CHAPTER 288**S. B. 98**

Passed March 11, 2015

Approved March 27, 2015

Effective July 1, 2015

**MEDICAID ACCOUNTABLE
CARE ORGANIZATIONS**Chief Sponsor: J. Stuart Adams
House Sponsor: James A. Dunnigan**LONG TITLE****General Description:**

This bill requires base budgets to include funding for Medicaid accountable care organizations at specified amounts.

Highlighted Provisions:

This bill:

- ▶ provides definitions;
- ▶ requires base budgets to include funding for Medicaid accountable care organizations at specified amounts; and
- ▶ requires the Governor's Office of Management and Budget, in cooperation with the Office of the Legislative Fiscal Analyst, to develop an estimate of ongoing General Fund revenue for the next fiscal year and provide it to the Department of Health no later than September 1 of each year.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**ENACTS:**

26-18-405.5, Utah Code Annotated 1953

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

Section 1. Section 26-18-405.5 is enacted to read:**26-18-405.5. Base budget appropriations for Medicaid accountable care organizations.**

(1) For purposes of this section:

(a) "ACOs" means accountable care organizations.

(b) "Base budget" means the same as that term is defined in legislative rule.

(c) "Current fiscal year PMPM" means per-member-per-month funding for Medicaid accountable care organizations under the Department of Health in the current fiscal year.

(d) "General Fund growth factor" means the amount determined by dividing the next fiscal year ongoing General Fund revenue estimate by current fiscal year ongoing appropriations from the General Fund.

(e) "Next fiscal year ongoing General Fund revenue estimate" means the next fiscal year ongoing General Fund revenue estimate identified by the Executive Appropriations Subcommittee, in

accordance with legislative rule, for use by the Office of the Legislative Fiscal Analyst in preparing budget recommendations.

(f) "Next fiscal year PMPM" means per-member-per-month funding for Medicaid accountable care organizations under the Department of Health for the next fiscal year.

(2) If the General Fund growth factor is less than 100%, the next fiscal year base budget shall include an appropriation to the Department of Health for Medicaid ACOs in an amount necessary to ensure that next fiscal year PMPM equals current fiscal year PMPM multiplied by 100%.

(3) If the General Fund growth factor is greater than or equal to 100%, but less than 102%, the next fiscal year base budget shall include an appropriation to the Department of Health for Medicaid ACOs in an amount necessary to ensure that next fiscal year PMPM equals current fiscal year PMPM multiplied by the General Fund growth factor.

(4) If the General Fund growth factor is greater than or equal to 102%, the next fiscal year base budget shall include an appropriation to the Department of Health for Medicaid ACOs in an amount necessary to ensure that next fiscal year PMPM is greater than or equal to PMPM multiplied by 102% and less than or equal to current fiscal year PMPM multiplied by the General Fund growth factor.

(5) In order for the department to estimate the impact of Subsections (2) through (4) prior to identification of the next fiscal year ongoing General Fund revenue estimate under Subsection (1)(e), the Governor's Office of Management and Budget shall, in cooperation with the Office of the Legislative Fiscal Analyst, develop an estimate of ongoing General Fund revenue for the next fiscal year and provide it to the department no later than September 1 of each year.

Section 2. Effective date.

This bill takes effect on July 1, 2015.

CHAPTER 289**S. B. 114**

Passed March 11, 2015
 Approved March 27, 2015
 Effective May 12, 2015

**BOARD OF EDUCATION
 COMPENSATION AMENDMENTS**

Chief Sponsor: Aaron Osmond
 House Sponsor: Craig Hall

LONG TITLE**General Description:**

This bill amends provisions related to the compensation of members of the State Board of Education.

Highlighted Provisions:

This bill:

- ▶ provides that the Legislature shall set the compensation of members of the State Board of Education annually in an appropriations act;
- ▶ addresses the compensation of members of the State Board of Education until the Legislature sets that compensation in an appropriations act;
- ▶ requires the Legislature to consider recommendations, if any, on the compensation of members of the State Board of Education made by the Elected Official and Judicial Compensation Commission;
- ▶ amends the powers and duties of the Elected Official and Judicial Compensation Commission to include making recommendations on compensation of members of the State Board of Education; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53A-1-202, as last amended by Laws of Utah 2010, Chapter 286
 67-8-5, as last amended by Laws of Utah 2007, Chapter 34

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

Section 1. Section 53A-1-202 is amended to read:

53A-1-202. Compensation for members of the State Board of Education -- Insurance -- Per diem and expenses.

~~[(1) Each member of the State Board of Education shall receive \$3,000 per year, payable monthly, as compensation for services.]~~

(1) (a) The Legislature shall set the compensation of members of the State Board of Education annually in an appropriations act.

(b) Until the Legislature sets the compensation of members of the State Board of Education in an appropriations act, each member of the State Board

of Education shall receive compensation of \$3,000 per year.

(c) Compensation of members of the State Board of Education is payable monthly.

(d) In setting the compensation of members of the State Board of Education, the Legislature shall consider the recommendations, if any, the Elected Official and Judicial Compensation Commission makes in accordance with Section 67-8-5.

(2) A board member may participate in any group insurance plan provided to employees of the State Office of Education as part of their compensation on the same basis as required for employee participation.

(3) In addition to the provisions of Subsections (1) and (2), a board member may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Section 2. Section 67-8-5 is amended to read:

67-8-5. Duties of commission -- Salary recommendations.

(1) The commission shall recommend to the Legislature ~~[salaries for]~~:

(a) salaries for the governor, the lieutenant governor, the attorney general, the state auditor, and the state treasurer; ~~and~~

(b) salaries for justices of the Supreme Court and judges of the constitutional and statutory courts of record~~[-]~~; and

(c) compensation for members of the State Board of Education.

(2) The commission shall:

(a) in making recommendations on salaries described in Subsections (1)(a) and (b):

(i) make studies and formulate recommendations concerning the wage and salary classification plan based upon factors such as educational requirements, experience, responsibility, accountability for funds and staff, comparisons with wages paid in other comparable public and private employment within this state, and other states similarly situated, and any other factors generally used in similar comprehensive wage and salary classification plans so that the plan and its administration reflect current conditions at all times; and

~~[(b)]~~ (ii) consult and advise with, and make recommendation to, the Department of Human Resource Management regarding the plan, its administration, and the position of any elected official and judge covered by the plan;

(b) in making recommendations on compensation described in Subsection (1)(c), make studies and formulate recommendations concerning

compensation of members of state boards of education in other states and other factors the commission determines to be relevant so that the compensation reflects current conditions at all times;

(c) submit to the Executive Appropriations Committee not later than 60 days before commencement of each annual general session:

(i) a report briefly summarizing its activities during the calendar year immediately preceding the session;

(ii) recommendations concerning revisions, modifications, or changes, if any, ~~which~~ that should be made in the plan, its administration, ~~or~~ ~~in~~ the classification of any ~~officer~~ elected official or judge under the plan, or the compensation of members of the State Board of Education; and

(iii) specific recommendations regarding the office of governor, lieutenant governor, attorney general, state auditor, and state treasurer concerning adjustments, if any, that should be made in the salary or other emoluments of office so that all elected and judicial officials receive equitable and consistent treatment regardless of whether salaries are fixed by the Legislature or by the Department of Human Resource Management; and

(d) conduct a comprehensive review of judicial salary levels and make recommendations for judicial salaries in a report to the president of the Senate, the speaker of the House of Representatives, and the governor by November 1, prior to the convening of the general session of the Legislature in each odd-numbered year.

(3) (a) The recommendation under Subsection (2)(d) shall be based upon consultation with the Judicial Council and upon consideration for the career status of judges. It shall be based upon comparisons with salaries paid in other states and in comparable public and private employment within this state.

(b) In even-numbered years, the commission shall update its prior report, based upon the Consumer Price Index and other relevant factors, and shall forward its updated recommendations as prescribed in this section.

(4) The Judicial Council shall cooperate with the commission in providing information on the judicial branch of government and on the individual levels of court as requested. The director of personnel from the Office of the Court Administrator shall provide the salary comparison data referred to in this section to the legislative fiscal analyst and shall provide other staff assistance and support as requested by the legislative fiscal analyst.

CHAPTER 290**S. B. 120**

Passed February 26, 2015

Approved March 27, 2015

Effective May 12, 2015

REGULATION OF REVERSE MORTGAGES

Chief Sponsor: Wayne A. Harper

House Sponsor: Ken Ivory

LONG TITLE**General Description:**

This bill enacts and modifies provisions relating to reverse mortgages.

Highlighted Provisions:

This bill:

- ▶ enacts the Utah Reverse Mortgage Act;
- ▶ defines terms;
- ▶ provides requirements for a reverse mortgage in the state;
- ▶ addresses the treatment of loan proceeds, priority, foreclosure, and lender default in the context of a reverse mortgage; and
- ▶ addresses the enforcement of the provisions of this bill.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

61-2c-301, as last amended by Laws of Utah 2012, Chapter 166

70D-3-402, as last amended by Laws of Utah 2011, Chapter 342

ENACTS:

57-28-101, Utah Code Annotated 1953

57-28-102, Utah Code Annotated 1953

57-28-201, Utah Code Annotated 1953

57-28-202, Utah Code Annotated 1953

57-28-203, Utah Code Annotated 1953

57-28-204, Utah Code Annotated 1953

57-28-205, Utah Code Annotated 1953

57-28-206, Utah Code Annotated 1953

57-28-207, Utah Code Annotated 1953

57-28-208, Utah Code Annotated 1953

57-28-301, Utah Code Annotated 1953

57-28-302, Utah Code Annotated 1953

57-28-303, Utah Code Annotated 1953

57-28-304, Utah Code Annotated 1953

57-28-305, Utah Code Annotated 1953

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

Section 1. Section 57-28-101 is enacted to read:**CHAPTER 28. UTAH REVERSE MORTGAGE ACT****Part 1. General Provisions****57-28-101. Title.**

(1) This chapter is known as the "Utah Reverse Mortgage Act."

(2) This part is known as "General Provisions."

Section 2. Section 57-28-102 is enacted to read:**57-28-102. Definitions.**

(1) "Borrower" means an individual who executes an agreement for a reverse mortgage.

(2) "Dwelling" means:

(a) a one- to four-family residence in which the borrower occupies at least one unit;

(b) a condominium project approved by the United States Department of Housing and Urban Development; or

(c) a manufactured home built after June 1976.

(3) "Independent housing counselor" means a person who is listed on the United States Department of Housing and Urban Development's Home Equity Conversion Mortgage Counselor Roster described in 24 C.F.R. Part 206.

(4) "Lender" means a person who makes a reverse mortgage.

(5) "Line of credit payment option" means a loan disbursement plan for a reverse mortgage under which the lender pays the loan proceeds to the borrower at times and in amounts determined by the borrower.

(6) "Means-tested program of aid to individuals" means any law or program that relates to payments, allowances, benefits, or services that are provided on a means-tested basis by the state.

(7) "Principal residence" means the dwelling:

(a) that an individual maintains as the individual's permanent place of abode; and

(b) where the individual typically spends the majority of the calendar year.

(8) "Reverse mortgage" means a nonrecourse loan that:

(a) is secured by the borrower's principal residence;

(b) provides cash advances to the borrower based on the borrower's equity in the borrower's principal residence; and

(c) does not require payment of principal or interest until:

(i) each borrower dies;

(ii) the borrower's principal residence is transferred;

(iii) the dwelling that secures the loan is no longer the borrower's principal residence;

(iv) (A) the borrower fails to occupy the property that secures the loan for more than 12 months because of physical or mental illness; and

(B) no other borrower maintains the property as a principal residence; or

(v) the borrower defaults.

(9) “Tenure payment option” means a loan disbursement plan for a reverse mortgage under which the lender pays the loan proceeds to the borrower in equal monthly installments for as long as the dwelling that secures the reverse mortgage remains the borrower’s principal residence.

(10) “Term payment option” means a loan disbursement plan for a reverse mortgage under which the lender pays the loan proceeds to the borrower in equal monthly installments for a fixed term that is chosen by the lender.

Section 3. Section 57-28-201 is enacted to read:

Part 2. Reverse Mortgage Requirements

57-28-201. Title.

This part is known as “Reverse Mortgage Requirements.”

Section 4. Section 57-28-202 is enacted to read:

57-28-202. Borrower requirements.

A borrower shall:

- (1) be 62 years of age or older; and
- (2) occupy the dwelling that secures the reverse mortgage as a principal residence.

Section 5. Section 57-28-203 is enacted to read:

57-28-203. Disclosures to borrower.

A lender shall give a prospective borrower or a borrower the following written disclosures:

(1) at the time the lender provides an application for a reverse mortgage to a prospective borrower:

(a) a disclosure that explains any adjustable interest rate feature of the reverse mortgage, including:

(i) the circumstances under which the interest rate may increase;

(ii) any limitation on the amount that the interest rate may increase; and

(iii) the effect of an increase in the interest rate; and

(b) a list of at least five independent housing counselors that includes each independent housing counselor’s name, address, and telephone number;

(2) at least 10 days before the day on which a reverse mortgage closes, a disclosure that describes:

(a) that the prospective borrower’s liability under the reverse mortgage is limited;

(b) the prospective borrower’s rights, obligations, and remedies that relate to:

(i) temporary absences, late payments, and payment default by the lender; and

(ii) each condition that requires satisfaction of the reverse mortgage; and

(c) the projected total cost of the reverse mortgage to the prospective borrower, based on the projected total future loan balance;

(3) on an annual basis, on or before January 31 of each year, a statement that summarizes:

(a) the total principal amount paid to the borrower under the reverse mortgage;

(b) the total amount of deferred interest added to the principal; and

(c) the outstanding loan balance at the end of the preceding year; and

(4) if applicable, at least 25 days before the day on which the lender adjusts the interest rate on a reverse mortgage, a disclosure that states:

(a) the current index amount;

(b) the publication date of the index; and

(c) the new interest rate.

Section 6. Section 57-28-204 is enacted to read:

57-28-204. Independent counseling.

(1) Before a prospective borrower signs a reverse mortgage application, the prospective borrower shall meet with an independent housing counselor.

(2) During the meeting described in Subsection (1):

(a) the prospective borrower and the independent housing counselor shall discuss the financial impacts of a reverse mortgage, including:

(i) options other than a reverse mortgage that are or may become available to the prospective borrower;

(ii) other home equity conversion options that are or may become available to the prospective borrower, including sale-leaseback financing, a deferred payment loan, and a property tax deferral; and

(iii) the financial implications, specific to the prospective borrower, of entering into a reverse mortgage; and

(b) the independent housing counselor shall give the prospective borrower a written disclosure that states that a reverse mortgage may:

(i) have tax consequences;

(ii) affect the prospective borrower’s eligibility for assistance under certain state and federal programs; and

(iii) impact the prospective borrower’s estate and heirs.

Section 7. Section 57-28-205 is enacted to read:

57-28-205. Costs and repayment.

A lender may collect the following charges and fees in connection with the origination of a reverse mortgage:

(1) the actual expenses that the lender incurs in originating and closing the reverse mortgage, including a mortgage broker's fee if the mortgage broker and the lender do not share any pecuniary interests; and

(2) the actual amount that the lender paid for:

(a) a recording fee;

(b) a credit report;

(c) a survey, if required by the lender or the borrower;

(d) a title examination;

(e) the lender's title insurance; and

(f) an initial appraisal of the real property that secures the reverse mortgage.

Section 8. Section 57-28-206 is enacted to read:

57-28-206. Disbursement.

(1) Subject to Subsection (2) and except as provided in Subsection (3), a lender shall pay the loan proceeds of a reverse mortgage under a term payment option, a tenure payment option, or a line of credit payment option.

(2) Under a term payment option or a tenure payment option, upon a borrower's request, the lender shall disburse a portion of the loan proceeds under a line of credit payment option.

(3) If a reverse mortgage is a fixed interest rate loan, the lender may pay the loan proceeds in a lump sum.

Section 9. Section 57-28-207 is enacted to read:

57-28-207. Cooling off period -- Closing.

(1) After a prospective borrower accepts, in writing, a lender's written commitment to make a reverse mortgage, the lender may not bind the prospective borrower to the reverse mortgage earlier than seven days after the day on which the prospective borrower gives the written acceptance to the lender.

(2) During the seven-day period described in Subsection (1), the lender may not require the prospective borrower to close or otherwise proceed with the reverse mortgage.

(3) A prospective borrower may not waive the provisions of this section.

Section 10. Section 57-28-208 is enacted to read:

57-28-208. Federally insured reverse mortgages.

When a lender makes a reverse mortgage that is federally insured by the United States Department of Housing and Urban Development, the lender satisfies the requirements described in Sections 57-28-202 through 57-28-206 if the lender complies

with the federal requirements described in 12 U.S.C. Sec. 1715z-20 and 24 C.F.R. Part 206.

Section 11. Section 57-28-301 is enacted to read:

Part 3. Reverse Mortgage Proceeds, Priority, Foreclosure, and Lender Default 57-28-301. Title.

This part is known as "Reverse Mortgage Proceeds, Priority, Foreclosure, and Lender Default."

Section 12. Section 57-28-302 is enacted to read:

57-28-302. Treatment of loan proceeds -- Effect on assistance eligibility.

For purposes of determining a borrower's eligibility and benefits for a means-tested program of aid to individuals:

(1) a reverse mortgage loan payment made to a borrower shall be treated as proceeds from a loan and not as income; and

(2) undisbursed funds under a reverse mortgage shall be treated as equity in the borrower's home and not as proceeds from a loan.

Section 13. Section 57-28-303 is enacted to read:

57-28-303. Priority.

(1) All amounts secured by a reverse mortgage have the same lien priority as the first disbursement under the reverse mortgage.

(2) For purposes of Subsection (1), the amount secured by the reverse mortgage includes any payment to the borrower from the loan proceeds, regardless of the purpose of the payment.

Section 14. Section 57-28-304 is enacted to read:

57-28-304. Foreclosure.

Before a person initiates foreclosure proceedings on a reverse mortgage, the person shall:

(1) give the borrower written notice that states the grounds for default and foreclosure; and

(2) provide the borrower at least 30 days after the day on which the borrower receives the notice described in Subsection (1) to cure the borrower's default.

Section 15. Section 57-28-305 is enacted to read:

57-28-305. Lender default.

(1) A lender who fails to make a loan advance on a non-federally insured reverse mortgage in accordance with the reverse mortgage agreement shall forfeit any right to repayment of the outstanding loan balance.

(2) After a lender forfeits the lender's right to repayment under Subsection (1), the reverse mortgage loan agreement is void.

Section 16. Section 61-2c-301 is amended to read:

61-2c-301. Prohibited conduct -- Violations of the chapter.

(1) A person transacting the business of residential mortgage loans in this state may not:

(a) give or receive a referral fee, other compensation, or anything of value in exchange for a referral of residential mortgage loan business;

(b) charge a fee in connection with a residential mortgage loan transaction:

(i) that is excessive; or

(ii) without providing to the loan applicant a written statement signed by the loan applicant:

(A) stating whether or not the fee or deposit is refundable; and

(B) describing the conditions, if any, under which all or a portion of the fee or deposit will be refunded to the applicant;

(c) give or receive compensation or anything of value in exchange for a referral of settlement or loan closing services related to a residential mortgage loan transaction;

(d) do any of the following to induce a lender to extend credit as part of a residential mortgage loan transaction:

(i) make a false statement or representation;

(ii) cause false documents to be generated; or

(iii) knowingly permit false information to be submitted by any party;

(e) give or receive compensation or anything of value, or withhold or threaten to withhold payment of an appraiser fee, to influence the independent judgment of an appraiser in reaching a value conclusion in a residential mortgage loan transaction, except that it is not a violation of this section for a licensee to withhold payment because of a bona fide dispute regarding a failure of the appraiser to comply with the licensing law or the Uniform Standards of Professional Appraisal Practice;

(f) violate or not comply with:

(i) this chapter;

(ii) an order of the commission or division; or

(iii) a rule made by the division;

(g) fail to respond within the required time period to:

(i) a notice or complaint of the division; or

(ii) a request for information from the division;

(h) make false representations to the division, including in a licensure statement;

(i) for a residential mortgage loan transaction beginning on or after January 1, 2004, engage in the business of residential mortgage loans with respect

to the transaction if the person also acts in any of the following capacities with respect to the same residential mortgage loan transaction:

(i) appraiser;

(ii) escrow agent;

(iii) real estate agent;

(iv) general contractor; or

(v) title insurance producer;

(j) order a title insurance report or hold a title insurance policy unless the person provides to the title insurer a copy of a valid, current license under this chapter;

(k) engage in unprofessional conduct as defined by rule;

(l) engage in an act or omission in transacting the business of residential mortgage loans that constitutes dishonesty, fraud, or misrepresentation;

(m) engage in false or misleading advertising;

(n) (i) fail to account for money received in connection with a residential mortgage loan;

(ii) use money for a different purpose from the purpose for which the money is received; or

(iii) except as provided in Subsection (4), retain money paid for services if the services are not performed;

(o) fail, within 90 calendar days of a request from a borrower who has paid for an appraisal, to give a copy of an appraisal ordered and used for a transaction to the borrower;

(p) engage in an act that is performed to:

(i) evade this chapter; or

(ii) assist another person to evade this chapter;

(q) recommend or encourage default, delinquency, or continuation of an existing default or delinquency, by a mortgage applicant on an existing indebtedness before the closing of a residential mortgage loan that will refinance all or part of the indebtedness;

(r) in the case of the lending manager of an entity or a branch office of an entity, fail to exercise reasonable supervision over the activities of:

(i) unlicensed staff; and

(ii) a mortgage loan originator who is affiliated with the lending manager;

(s) pay or offer to pay an individual who does not hold a license under this chapter for work that requires the individual to hold a license under this chapter;

(t) in the case of a dual licensed title licensee as defined in Section 31A-2-402:

(i) provide a title insurance product or service without the approval required by Section 31A-2-405; or

(ii) knowingly provide false or misleading information in the statement required by Subsection 31A-2-405(2);

(u) represent to the public that the person can or will perform any act of a mortgage loan originator if that person is not licensed under this chapter because the person is exempt under Subsection 61-2c-102(1)(h)(ii)(A), including through:

- (i) advertising;
- (ii) a business card;
- (iii) stationery;
- (iv) a brochure;
- (v) a sign;
- (vi) a rate list; or
- (vii) other promotional item; [ø#]

(v) (i) engage in an act of loan modification assistance without being licensed under this chapter;

(ii) engage in an act of foreclosure rescue that requires licensure as a real estate agent or real estate broker under Chapter 2, Division of Real Estate, without being licensed under that chapter;

(iii) engage in an act of loan modification assistance without entering into a written agreement specifying which one or more acts of loan modification assistance will be completed;

(iv) request or require a person to pay a fee before obtaining:

(A) a written offer for a loan modification from the person's lender or servicer; and

(B) the person's written acceptance of the offer from the lender or servicer;

(v) induce a person seeking a loan modification to hire the licensee to engage in an act of loan modification assistance by:

(A) suggesting to the person that the licensee has a special relationship with the person's lender or loan servicer; or

(B) falsely representing or advertising that the licensee is acting on behalf of:

- (I) a government agency;
- (II) the person's lender or loan servicer; or
- (III) a nonprofit or charitable institution;

(vi) recommend or participate in a loan modification that requires a person to:

(A) transfer title to real property to the licensee or to a third-party with whom the licensee has a business relationship or financial interest;

(B) make a mortgage payment to a person other than the person's loan servicer; or

- (C) refrain from contacting the person's:
 - (I) lender;

(II) loan servicer;

(III) attorney;

(IV) credit counselor; or

(V) housing counselor; or

(vii) for an agreement for loan modification assistance entered into on or after May 11, 2010, engage in an act of loan modification assistance without offering in writing to the person entering into the agreement for loan modification assistance a right to cancel the agreement within three business days after the day on which the person enters the agreement[-]; or

(w) violate or fail to comply with a provision of Title 57, Chapter 28, Utah Reverse Mortgage Act.

(2) Whether or not the crime is related to the business of residential mortgage loans, it is a violation of this chapter for a licensee or a person who is a certified education provider to do any of the following with respect to a criminal offense that involves moral turpitude:

- (a) be convicted;
- (b) plead guilty or nolo contendere;
- (c) enter a plea in abeyance; or

(d) be subjected to a criminal disposition similar to the ones described in Subsections (2)(a) through (c).

(3) A lending manager does not violate Subsection (1)(r) if:

(a) in contravention of the lending manager's written policies and instructions, an affiliated licensee of the lending manager violates:

- (i) this chapter; or
- (ii) rules made by the division under this chapter;
- (b) the lending manager established and followed reasonable procedures to ensure that affiliated licensees receive adequate supervision;

(c) upon learning of a violation by an affiliated licensee, the lending manager attempted to prevent or mitigate the damage;

(d) the lending manager did not participate in or ratify the violation by an affiliated licensee; and

(e) the lending manager did not attempt to avoid learning of the violation.

(4) Notwithstanding Subsection (1)(n)(iii), a licensee may, upon compliance with Section 70D-2-305, charge a reasonable cancellation fee for work done originating a mortgage if the mortgage is not closed.

Section 17. Section 70D-3-402 is amended to read:

70D-3-402. Prohibited acts.

(1) An individual transacting the business of a loan originator in this state may not:

- (a) violate or not comply with:

- (i) this chapter;
- (ii) an order of the commissioner under this chapter;
- (iii) a rule made by the commissioner under this chapter;
- (iv) Title 70C, Utah Consumer Credit Code, if subject to that title; or
- (v) Chapter 2, Mortgage Lending and Servicing Act, if subject to that chapter;
- (b) engage in an act that is performed to:
 - (i) evade this chapter; or
 - (ii) assist another person to evade this chapter;
 - (c) do any of the following to induce a lender to extend credit as part of a residential mortgage loan transaction:
 - (i) make a false statement or representation;
 - (ii) cause a false document to be generated; or
 - (iii) knowingly permit false information to be submitted by a person in a transaction;
 - (d) fail to respond within the required time period to:
 - (i) a notice or complaint of the commissioner; or
 - (ii) a request for information from the commissioner;
 - (e) make a false representation to the commissioner, including in a licensure application;
 - (f) engage in the business of a loan originator with respect to a residential mortgage loan transaction if the individual also acts in any of the following capacities with respect to the same residential mortgage loan transaction:
 - (i) appraiser;
 - (ii) escrow agent;
 - (iii) real estate agent;
 - (iv) general contractor; or
 - (v) title insurance agent;
 - (g) engage in an act or omission in transacting the business of a loan originator that constitutes dishonesty, fraud, or misrepresentation;
 - (h) engage in false or misleading advertising;
 - (i) (i) fail to account for money received in connection with a residential mortgage loan;
 - (ii) use money for a different purpose than the purpose for which the money is received; or
 - (iii) subject to Subsection (3), retain money paid for services if the services are not performed;
 - (j) fail, within 90 calendar days of a request from a borrower who has paid for an appraisal, to give a copy of an appraisal ordered and used for a residential mortgage loan to the borrower;

(k) recommend or encourage default, delinquency, or continuation of an existing default or delinquency, by a mortgage applicant on an existing indebtedness before the closing of a residential mortgage loan that will refinance all or part of the indebtedness; [øæ]

(l) pay or offer to pay an individual who does not hold a license under this chapter for services that require the individual to hold a license under this chapter[-]; or

(m) violate or fail to comply with a provision of Title 57, Chapter 28, Utah Reverse Mortgage Act.

(2) (a) An individual engaging solely in loan processor or underwriter activities, may not represent to the public that the individual can or will perform any act of a loan originator.

(b) A representation prohibited under this Subsection (2) includes an advertisement or other means of communicating or providing information including the use of:

- (i) a business card;
- (ii) stationery;
- (iii) a brochure;
- (iv) a sign;
- (v) a rate list; or
- (vi) another promotional item.

(3) Notwithstanding Subsection (1)(i)(iii), if a licensee complies with Section 70D-2-305, the licensee may charge a reasonable cancellation fee for services completed to originate a residential mortgage loan if the residential mortgage loan is not closed.

CHAPTER 291**S. B. 123**

Passed February 18, 2015

Approved March 27, 2015

Effective May 12, 2015

**MOTION PICTURE
LICENSING AMENDMENTS**

Chief Sponsor: Brian E. Shiozawa

House Sponsor: Sophia M. DiCaro

LONG TITLE**General Description:**

This bill amends the Motion Picture Fair Bidding Act.

Highlighted Provisions:

This bill:

- ▶ addresses requirements and prohibitions for blind bidding; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

13-13-1, as enacted by Laws of Utah 1979, Chapter 147

13-13-2, as enacted by Laws of Utah 1979, Chapter 147

13-13-6, as enacted by Laws of Utah 1979, Chapter 147

REPEALS:

13-13-3, as enacted by Laws of Utah 1979, Chapter 147

13-13-5, as enacted by Laws of Utah 1979, Chapter 147

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

Section 1. Section 13-13-1 is amended to read:**CHAPTER 13. MOTION PICTURE FAIR
LICENSING ACT****13-13-1. Title.**

This ~~act shall be known and may be cited~~ chapter is known as the "Motion Picture Fair ~~Bidding~~ Licensing Act."

Section 2. Section 13-13-2 is amended to read:**13-13-2. Definitions.**

As used in this ~~act~~ chapter:

~~[(1) "Blind bidding" means bidding, negotiating, offering terms, making an invitation to bid, or agreeing to terms for the purpose of entering into a license agreement prior to a trade screening of the motion picture that is the subject of the agreement.]~~

~~[(2) (1) "Distributor" means any person engaged in the business of renting, selling or licensing motion pictures to exhibitors.~~

~~[(3) (2) "Exhibitor" means any person engaged in the business of operating a theatre in this state.~~

~~[(4) (3) "License agreement" means any contract between a distributor and an exhibitor for the exhibition of a motion picture by the exhibitor in this state.~~

~~[(5) (4) "Theatre" means any establishment in which motion pictures are exhibited regularly to the public for a charge.~~

~~[(6) "Trade screening" means the showing of a motion picture by a distributor in one of the three largest cities within this state having the largest population, which showing shall be open to any exhibitor interested in exhibiting the motion picture.]~~

Section 3. Section 13-13-6 is amended to read:**13-13-6. Provisions waiving or violating act void.**

Any provision of ~~[an invitation to bid or]~~ a license agreement that ~~[waives any of the prohibitions of or]~~ fails to comply with this act is void and unenforceable.

Section 4. Repealer.

This bill repeals:

Section 13-13-3, Blind bidding prohibited.**Section 13-13-5, Bids -- Contents.**

CHAPTER 292**S. B. 145**

Passed March 11, 2015
 Approved March 27, 2015
 Effective May 12, 2015

PHYSICS EDUCATION PROPOSAL

Chief Sponsor: Howard A. Stephenson
 House Sponsor: Steve Eliason

LONG TITLE**General Description:**

This bill requires the Science, Technology, Engineering, and Mathematics (STEM) Action Center Board to make recommendations to the Legislature related to physics education.

Highlighted Provisions:

This bill:

- ▶ requires the Science, Technology, Engineering, and Mathematics (STEM) Action Center Board to develop a proposal to promote physics education;
- ▶ specifies goals for a physics education proposal; and
- ▶ requires the STEM Action Center Board to report to the Education Interim Committee.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63I-2-263, as last amended by Laws of Utah 2014, Chapters 172, 423, and 427
 63M-1-3207, as last amended by Laws of Utah 2014, Chapters 318 and 371

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

Section 1. Section 63I-2-263 is amended to read:**63I-2-263. Repeal dates, Title 63A to Title 63M.**

- (1) Section 63A-1-115 is repealed on July 1, 2014.
- (2) Section 63C-9-501.1 is repealed on July 1, 2015.
- (3) Subsection 63J-1-218(3) is repealed on December 1, 2013.
- (4) Subsection 63J-1-218(4) is repealed on December 1, 2013.
- (5) Section 63M-1-207 is repealed on December 1, 2014.
- (6) Subsection 63M-1-903(1)(d) is repealed on July 1, 2015.
- (7) Subsection 63M-1-1406(9) is repealed on January 1, 2015.
- (8) Subsection 63M-1-3207(3) is repealed on January 1, 2016.

Section 2. Section 63M-1-3207 is amended to read:**63M-1-3207. Report to Legislature and the State Board of Education.**

(1) The board shall report the progress of the STEM Action Center, including the information described in Subsection (2), to the following groups once each year:

- (a) the Education Interim Committee;
- (b) the Public Education Appropriations Subcommittee;
- (c) the State Board of Education; and
- (d) the office for inclusion in the office's annual written report described in Section 63M-1-206.

(2) The report described in Subsection (1) shall include information that demonstrates the effectiveness of the program, including:

- (a) the number of educators receiving high quality professional development;
- (b) the number of students receiving services from the STEM Action Center;
- (c) a list of the providers selected pursuant to this part;
- (d) a report on the STEM Action Center's fulfillment of its duties described in Section 63M-1-3204; and
- (e) student performance of students participating in a STEM Action Center program as collected in Subsection 63M-1-3204(4).

(3) (a) As used in this Subsection (3):

(i) "Endorsement" means the same as that term is defined in Section 53A-6-103.

(ii) "Proposal" means the proposal described in Subsection (3)(b).

(b) The board shall coordinate with the State Board of Education to develop a proposal to promote physics education in secondary schools.

(c) In developing the proposal described in Subsection (3)(b), the board shall focus on:

(i) strategies and activities that leverage the value and importance of physics education in the pathway of science education; and

(ii) the importance of highly qualified physics teachers in ensuring that students receive high quality physics education that forms the basis for the scientific pathway.

(d) The board shall design the proposal to:

(i) increase the number of secondary school students who take physics;

(ii) encourage a teacher who teaches a subject other than physics to receive an endorsement to teach physics;

(iii) improve outcomes for a student who studies physics;

(iv) use technology to teach physics, which may include replacing physics textbooks with high quality online materials; and

(v) encourage a school to teach physics to students in grade 9.

(e) In the proposal, the board shall make recommendations related to:

(i) providing high-quality professional learning experiences focused on problem based learning for:

(A) an existing physics teacher;

(B) an existing teacher of a subject other than physics who is considering receiving an endorsement to teach physics; and

(C) a student in a teacher preparation program;

(ii) increasing the number of teachers who have an endorsement to teach physics;

(iii) strategically deploying resources to promote and support problem based physics learning in the classroom;

(iv) effectively incorporating classroom technology into physics education;

(v) determining effective sequencing of secondary science courses;

(vi) developing a grant program for schools to receive funding to focus on physics education; and

(vii) implementing a comprehensive evaluation plan for a physics education program that describes participation, performance, and impact data.

(f) Based on the proposal described in Subsection (3)(b), the board may present proposed legislation for the Legislature to consider during the 2016 legislative session.

(g) The board may consult with one or more experts in physics education in designing the proposal.

(h) On or before November 1, 2015, the board shall present the proposal, including proposed legislation, to the Education Interim Committee.

CHAPTER 293**S. B. 169**

Passed March 10, 2015
 Approved March 27, 2015
 Effective May 12, 2015

**CONTACT LENS CONSUMER
 PROTECTION ACT AMENDMENTS**

Chief Sponsor: Deidre M. Henderson
 House Sponsor: John Knotwell

LONG TITLE**General Description:**

This bill amends the Contact Lens Consumer Protection Act.

Highlighted Provisions:

This bill:

- ▶ prohibits a contact lens manufacturer or a contact lens distributor from:
 - taking certain actions to control the price that a contact lens retailer charges or advertises for contact lenses; or
 - discriminating against a contact lens retailer under certain circumstances;
- ▶ addresses the penalty for a violation of a provision of this bill; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

58-16a-906, as enacted by Laws of Utah 2006, Chapter 245

ENACTS:

58-16a-905.1, Utah Code Annotated 1953

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

Section 1. Section 58-16a-905.1 is enacted to read:

58-16a-905.1. Contact lens manufacturer or distributor -- Prohibited conduct.

A contact lens manufacturer or a contact lens distributor may not:

(1) take any action, by agreement, unilaterally, or otherwise, that has the effect of fixing or otherwise controlling the price that a contact lens retailer charges or advertises for contact lenses; or

(2) discriminate against a contact lens retailer based on whether the contact lens retailer:

(a) sells or advertises contact lenses for a particular price;

(b) operates in a particular channel of trade;

(c) is a person authorized by law to prescribe contact lenses; or

(d) is associated with a person authorized by law to prescribe contact lenses.

Section 2. Section 58-16a-906 is amended to read:

58-16a-906. Penalties for violations.

(1) ~~Knowingly~~ A person who knowingly and intentionally ~~violating~~ violates a provision of Section 58-16a-904 is guilty of a class A misdemeanor.

(2) The attorney general may bring a civil action or seek an injunction and a civil penalty against ~~[a] any person[, entity, or manufacturer]~~ who violates a provision of Section 58-16a-904 or 58-16a-905.1.

CHAPTER 294**S. B. 182**

Passed March 11, 2015
 Approved March 27, 2015
 Effective July 1, 2015

**AMENDMENTS TO SALES
AND USE TAX EXEMPTIONS**

Chief Sponsor: Curtis S. Bramble
 House Sponsor: Brad R. Wilson

LONG TITLE**General Description:**

This bill enacts a sales and use tax exemption.

Highlighted Provisions:

This bill:

- ▶ defines a term;
- ▶ enacts a sales and use tax exemption for certain purchases or leases made by a drilling equipment manufacturer;
- ▶ provides that for a certain time period, the exemption may be claimed only by filing for a partial refund of the tax paid; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

59-12-102, as last amended by Laws of Utah 2014, Chapters 380 and 414

59-12-104, as last amended by Laws of Utah 2014, Chapters 24, 27, 122, 376, and 380

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

Section 1. Section 59-12-102 is amended to read:**59-12-102. Definitions.**

As used in this chapter:

(1) "800 service" means a telecommunications service that:

(a) allows a caller to dial a toll-free number without incurring a charge for the call; and

(b) is typically marketed:

(i) under the name 800 toll-free calling;

(ii) under the name 855 toll-free calling;

(iii) under the name 866 toll-free calling;

(iv) under the name 877 toll-free calling;

(v) under the name 888 toll-free calling; or

(vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the Federal Communications Commission.

(2) (a) "900 service" means an inbound toll telecommunications service that:

(i) a subscriber purchases;

(ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to the subscriber's:

(A) prerecorded announcement; or

(B) live service; and

(iii) is typically marketed:

(A) under the name 900 service; or

(B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal Communications Commission.

(b) "900 service" does not include a charge for:

(i) a collection service a seller of a telecommunications service provides to a subscriber; or

(ii) the following a subscriber sells to the subscriber's customer:

(A) a product; or

(B) a service.

(3) (a) "Admission or user fees" includes season passes.

(b) "Admission or user fees" does not include annual membership dues to private organizations.

(4) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on November 12, 2002, including amendments made to the Streamlined Sales and Use Tax Agreement after November 12, 2002.

(5) "Agreement combined tax rate" means the sum of the tax rates:

(a) listed under Subsection (6); and

(b) that are imposed within a local taxing jurisdiction.

(6) "Agreement sales and use tax" means a tax imposed under:

(a) Subsection 59-12-103(2)(a)(i)(A);

(b) Subsection 59-12-103(2)(b)(i);

(c) Subsection 59-12-103(2)(c)(i);

(d) Subsection 59-12-103(2)(d)(i)(A)(I);

(e) Section 59-12-204;

(f) Section 59-12-401;

(g) Section 59-12-402;

(h) Section 59-12-703;

(i) Section 59-12-802;

(j) Section 59-12-804;

(k) Section 59-12-1102;

(l) Section 59-12-1302;

(m) Section 59-12-1402;

(n) Section 59-12-1802;

(o) Section 59-12-2003;

(p) Section 59-12-2103;

- (q) Section 59-12-2213;
- (r) Section 59-12-2214;
- (s) Section 59-12-2215;
- (t) Section 59-12-2216;
- (u) Section 59-12-2217; or
- (v) Section 59-12-2218.
- (7) "Aircraft" is as defined in Section 72-10-102.
- (8) "Aircraft maintenance, repair, and overhaul provider" means a business entity:
- (a) except for:
- (i) an airline as defined in Section 59-2-102; or
- (ii) an affiliated group, as defined in Section 59-7-101, except that "affiliated group" includes a corporation that is qualified to do business but is not otherwise doing business in the state, of an airline; and
- (b) that has the workers, expertise, and facilities to perform the following, regardless of whether the business entity performs the following in this state:
- (i) check, diagnose, overhaul, and repair:
- (A) an onboard system of a fixed wing turbine powered aircraft; and
- (B) the parts that comprise an onboard system of a fixed wing turbine powered aircraft;
- (ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft engine;
- (iii) perform at least the following maintenance on a fixed wing turbine powered aircraft:
- (A) an inspection;
- (B) a repair, including a structural repair or modification;
- (C) changing landing gear; and
- (D) addressing issues related to an aging fixed wing turbine powered aircraft;
- (iv) completely remove the existing paint of a fixed wing turbine powered aircraft and completely apply new paint to the fixed wing turbine powered aircraft; and
- (v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that results in a change in the fixed wing turbine powered aircraft's certification requirements by the authority that certifies the fixed wing turbine powered aircraft.
- (9) "Alcoholic beverage" means a beverage that:
- (a) is suitable for human consumption; and
- (b) contains .5% or more alcohol by volume.
- (10) "Alternative energy" means:
- (a) biomass energy;
- (b) geothermal energy;
- (c) hydroelectric energy;
- (d) solar energy;
- (e) wind energy; or
- (f) energy that is derived from:
- (i) coal-to-liquids;
- (ii) nuclear fuel;
- (iii) oil-impregnated diatomaceous earth;
- (iv) oil sands;
- (v) oil shale;
- (vi) petroleum coke; or
- (vii) waste heat from:
- (A) an industrial facility; or
- (B) a power station in which an electric generator is driven through a process in which water is heated, turns into steam, and spins a steam turbine.
- (11) (a) Subject to Subsection (11)(b), "alternative energy electricity production facility" means a facility that:
- (i) uses alternative energy to produce electricity; and
- (ii) has a production capacity of two megawatts or greater.
- (b) A facility is an alternative energy electricity production facility regardless of whether the facility is:
- (i) connected to an electric grid; or
- (ii) located on the premises of an electricity consumer.
- (12) (a) "Ancillary service" means a service associated with, or incidental to, the provision of telecommunications service.
- (b) "Ancillary service" includes:
- (i) a conference bridging service;
- (ii) a detailed communications billing service;
- (iii) directory assistance;
- (iv) a vertical service; or
- (v) a voice mail service.
- (13) "Area agency on aging" is as defined in Section 62A-3-101.
- (14) "Assisted amusement device" means an amusement device, skill device, or ride device that is started and stopped by an individual:
- (a) who is not the purchaser or renter of the right to use or operate the amusement device, skill device, or ride device; and
- (b) at the direction of the seller of the right to use the amusement device, skill device, or ride device.
- (15) "Assisted cleaning or washing of tangible personal property" means cleaning or washing of tangible personal property if the cleaning or washing labor is primarily performed by an individual:

(a) who is not the purchaser of the cleaning or washing of the tangible personal property; and

(b) at the direction of the seller of the cleaning or washing of the tangible personal property.

(16) “Authorized carrier” means:

(a) in the case of vehicles operated over public highways, the holder of credentials indicating that the vehicle is or will be operated pursuant to both the International Registration Plan and the International Fuel Tax Agreement;

(b) in the case of aircraft, the holder of a Federal Aviation Administration operating certificate or air carrier’s operating certificate; or

(c) in the case of locomotives, freight cars, railroad work equipment, or other rolling stock, a person who uses locomotives, freight cars, railroad work equipment, or other rolling stock in more than one state.

(17) (a) Except as provided in Subsection (17)(b), “biomass energy” means any of the following that is used as the primary source of energy to produce fuel or electricity:

(i) material from a plant or tree; or

(ii) other organic matter that is available on a renewable basis, including:

(A) slash and brush from forests and woodlands;

(B) animal waste;

(C) waste vegetable oil;

(D) methane or synthetic gas produced at a landfill, as a byproduct of the treatment of wastewater residuals, or through the conversion of a waste material through a nonincineration, thermal conversion process;

(E) aquatic plants; and

(F) agricultural products.

(b) “Biomass energy” does not include:

(i) black liquor; or

(ii) treated woods.

(18) (a) “Bundled transaction” means the sale of two or more items of tangible personal property, products, or services if the tangible personal property, products, or services are:

(i) distinct and identifiable; and

(ii) sold for one nonitemized price.

(b) “Bundled transaction” does not include:

(i) the sale of tangible personal property if the sales price varies, or is negotiable, on the basis of the selection by the purchaser of the items of tangible personal property included in the transaction;

(ii) the sale of real property;

(iii) the sale of services to real property;

(iv) the retail sale of tangible personal property and a service if:

(A) the tangible personal property:

(I) is essential to the use of the service; and

(II) is provided exclusively in connection with the service; and

(B) the service is the true object of the transaction;

(v) the retail sale of two services if:

(A) one service is provided that is essential to the use or receipt of a second service;

(B) the first service is provided exclusively in connection with the second service; and

(C) the second service is the true object of the transaction;

(vi) a transaction that includes tangible personal property or a product subject to taxation under this chapter and tangible personal property or a product that is not subject to taxation under this chapter if the:

(A) seller’s purchase price of the tangible personal property or product subject to taxation under this chapter is de minimis; or

(B) seller’s sales price of the tangible personal property or product subject to taxation under this chapter is de minimis; and

(vii) the retail sale of tangible personal property that is not subject to taxation under this chapter and tangible personal property that is subject to taxation under this chapter if:

(A) that retail sale includes:

(I) food and food ingredients;

(II) a drug;

(III) durable medical equipment;

(IV) mobility enhancing equipment;

(V) an over-the-counter drug;

(VI) a prosthetic device; or

(VII) a medical supply; and

(B) subject to Subsection (18)(f):

(I) the seller’s purchase price of the tangible personal property subject to taxation under this chapter is 50% or less of the seller’s total purchase price of that retail sale; or

(II) the seller’s sales price of the tangible personal property subject to taxation under this chapter is 50% or less of the seller’s total sales price of that retail sale.

(c) (i) For purposes of Subsection (18)(a)(i), tangible personal property, a product, or a service that is distinct and identifiable does not include:

(A) packaging that:

(I) accompanies the sale of the tangible personal property, product, or service; and

(II) is incidental or immaterial to the sale of the tangible personal property, product, or service;

(B) tangible personal property, a product, or a service provided free of charge with the purchase of another item of tangible personal property, a product, or a service; or

(C) an item of tangible personal property, a product, or a service included in the definition of "purchase price."

(ii) For purposes of Subsection (18)(c)(i)(B), an item of tangible personal property, a product, or a service is provided free of charge with the purchase of another item of tangible personal property, a product, or a service if the sales price of the purchased item of tangible personal property, product, or service does not vary depending on the inclusion of the tangible personal property, product, or service provided free of charge.

(d) (i) For purposes of Subsection (18)(a)(ii), property sold for one nonitemized price does not include a price that is separately identified by tangible personal property, product, or service on the following, regardless of whether the following is in paper format or electronic format:

(A) a binding sales document; or

(B) another supporting sales-related document that is available to a purchaser.

(ii) For purposes of Subsection (18)(d)(i), a binding sales document or another supporting sales-related document that is available to a purchaser includes:

(A) a bill of sale;

(B) a contract;

(C) an invoice;

(D) a lease agreement;

(E) a periodic notice of rates and services;

(F) a price list;

(G) a rate card;

(H) a receipt; or

(I) a service agreement.

(e) (i) For purposes of Subsection (18)(b)(vi), the sales price of tangible personal property or a product subject to taxation under this chapter is de minimis if:

(A) the seller's purchase price of the tangible personal property or product is 10% or less of the seller's total purchase price of the bundled transaction; or

(B) the seller's sales price of the tangible personal property or product is 10% or less of the seller's total sales price of the bundled transaction.

(ii) For purposes of Subsection (18)(b)(vi), a seller:

(A) shall use the seller's purchase price or the seller's sales price to determine if the purchase

price or sales price of the tangible personal property or product subject to taxation under this chapter is de minimis; and

(B) may not use a combination of the seller's purchase price and the seller's sales price to determine if the purchase price or sales price of the tangible personal property or product subject to taxation under this chapter is de minimis.

(iii) For purposes of Subsection (18)(b)(vi), a seller shall use the full term of a service contract to determine if the sales price of tangible personal property or a product is de minimis.

(f) For purposes of Subsection (18)(b)(vii)(B), a seller may not use a combination of the seller's purchase price and the seller's sales price to determine if tangible personal property subject to taxation under this chapter is 50% or less of the seller's total purchase price or sales price of that retail sale.

(19) "Certified automated system" means software certified by the governing board of the agreement that:

(a) calculates the agreement sales and use tax imposed within a local taxing jurisdiction:

(i) on a transaction; and

(ii) in the states that are members of the agreement;

(b) determines the amount of agreement sales and use tax to remit to a state that is a member of the agreement; and

(c) maintains a record of the transaction described in Subsection (19)(a)(i).

(20) "Certified service provider" means an agent certified:

(a) by the governing board of the agreement; and

(b) to perform all of a seller's sales and use tax functions for an agreement sales and use tax other than the seller's obligation under Section 59-12-124 to remit a tax on the seller's own purchases.

(21) (a) Subject to Subsection (21)(b), "clothing" means all human wearing apparel suitable for general use.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:

(i) listing the items that constitute "clothing"; and

(ii) that are consistent with the list of items that constitute "clothing" under the agreement.

(22) "Coal-to-liquid" means the process of converting coal into a liquid synthetic fuel.

(23) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other fuels that does not constitute industrial use under Subsection [(55)] (56) or residential use under Subsection [(405)] (106).

(24) (a) “Common carrier” means a person engaged in or transacting the business of transporting passengers, freight, merchandise, or other property for hire within this state.

(b) (i) “Common carrier” does not include a person who, at the time the person is traveling to or from that person’s place of employment, transports a passenger to or from the passenger’s place of employment.

(ii) For purposes of Subsection (24)(b)(i), in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining what constitutes a person’s place of employment.

(25) “Component part” includes:

(a) poultry, dairy, and other livestock feed, and their components;

(b) baling ties and twine used in the baling of hay and straw;

(c) fuel used for providing temperature control of orchards and commercial greenhouses doing a majority of their business in wholesale sales, and for providing power for off-highway type farm machinery; and

(d) feed, seeds, and seedlings.

(26) “Computer” means an electronic device that accepts information:

(a) (i) in digital form; or

(ii) in a form similar to digital form; and

(b) manipulates that information for a result based on a sequence of instructions.

(27) “Computer software” means a set of coded instructions designed to cause:

(a) a computer to perform a task; or

(b) automatic data processing equipment to perform a task.

(28) “Computer software maintenance contract” means a contract that obligates a seller of computer software to provide a customer with:

(a) future updates or upgrades to computer software;

(b) support services with respect to computer software; or

(c) a combination of Subsections (28)(a) and (b).

(29) (a) “Conference bridging service” means an ancillary service that links two or more participants of an audio conference call or video conference call.

(b) “Conference bridging service” may include providing a telephone number as part of the ancillary service described in Subsection (29)(a).

(c) “Conference bridging service” does not include a telecommunications service used to reach the ancillary service described in Subsection (29)(a).

(30) “Construction materials” means any tangible personal property that will be converted into real property.

(31) “Delivered electronically” means delivered to a purchaser by means other than tangible storage media.

(32) (a) “Delivery charge” means a charge:

(i) by a seller of:

(A) tangible personal property;

(B) a product transferred electronically; or

(C) services; and

(ii) for preparation and delivery of the tangible personal property, product transferred electronically, or services described in Subsection (32)(a)(i) to a location designated by the purchaser.

(b) “Delivery charge” includes a charge for the following:

(i) transportation;

(ii) shipping;

(iii) postage;

(iv) handling;

(v) crating; or

(vi) packing.

(33) “Detailed telecommunications billing service” means an ancillary service of separately stating information pertaining to individual calls on a customer’s billing statement.

(34) “Dietary supplement” means a product, other than tobacco, that:

(a) is intended to supplement the diet;

(b) contains one or more of the following dietary ingredients:

(i) a vitamin;

(ii) a mineral;

(iii) an herb or other botanical;

(iv) an amino acid;

(v) a dietary substance for use by humans to supplement the diet by increasing the total dietary intake; or

(vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient described in Subsections (34)(b)(i) through (v);

(c) (i) except as provided in Subsection (34)(c)(ii), is intended for ingestion in:

(A) tablet form;

(B) capsule form;

(C) powder form;

(D) softgel form;

(E) gelcap form; or

(F) liquid form; or

(ii) if the product is not intended for ingestion in a form described in Subsections (34)(c)(i)(A) through (F), is not represented:

- (A) as conventional food; and
- (B) for use as a sole item of:
 - (I) a meal; or
 - (II) the diet; and

(d) is required to be labeled as a dietary supplement:

(i) identifiable by the “Supplemental Facts” box found on the label; and

(ii) as required by 21 C.F.R. Sec. 101.36.

~~[(36)]~~ (35) “Digital audio–visual work” means a series of related images which, when shown in succession, imparts an impression of motion, together with accompanying sounds, if any.

~~[(35)]~~ (36) (a) “Digital audio work” means a work that results from the fixation of a series of musical, spoken, or other sounds.

(b) “Digital audio work” includes a ringtone.

(37) “Digital book” means a work that is generally recognized in the ordinary and usual sense as a book.

(38) (a) “Direct mail” means printed material delivered or distributed by United States mail or other delivery service:

(i) to:

- (A) a mass audience; or
- (B) addressees on a mailing list provided:
 - (I) by a purchaser of the mailing list; or
 - (II) at the discretion of the purchaser of the mailing list; and

(ii) if the cost of the printed material is not billed directly to the recipients.

(b) “Direct mail” includes tangible personal property supplied directly or indirectly by a purchaser to a seller of direct mail for inclusion in a package containing the printed material.

(c) “Direct mail” does not include multiple items of printed material delivered to a single address.

(39) “Directory assistance” means an ancillary service of providing:

- (a) address information; or
 - (b) telephone number information.
- (40) (a) “Disposable home medical equipment or supplies” means medical equipment or supplies that:

(i) cannot withstand repeated use; and

(ii) are purchased by, for, or on behalf of a person other than:

(A) a health care facility as defined in Section 26-21-2;

(B) a health care provider as defined in Section 78B-3-403;

(C) an office of a health care provider described in Subsection (40)(a)(ii)(B); or

(D) a person similar to a person described in Subsections (40)(a)(ii)(A) through (C).

(b) “Disposable home medical equipment or supplies” does not include:

- (i) a drug;
- (ii) durable medical equipment;
- (iii) a hearing aid;
- (iv) a hearing aid accessory;
- (v) mobility enhancing equipment; or
- (vi) tangible personal property used to correct impaired vision, including:

- (A) eyeglasses; or
- (B) contact lenses.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes medical equipment or supplies.

(41) “Drilling equipment manufacturer” means a facility:

(a) located in the state;

(b) with respect to which 51% or more of the manufacturing activities of the facility consist of manufacturing component parts of drilling equipment;

(c) that uses pressure of 800,000 or more pounds per square inch as part of the manufacturing process; and

(d) that uses a temperature of 2,000 or more degrees Fahrenheit as part of the manufacturing process.

~~[(41)]~~ (42) (a) “Drug” means a compound, substance, or preparation, or a component of a compound, substance, or preparation that is:

(i) recognized in:

- (A) the official United States Pharmacopoeia;
- (B) the official Homeopathic Pharmacopoeia of the United States;
- (C) the official National Formulary; or
- (D) a supplement to a publication listed in Subsections ~~[(41)]~~ (42)(a)(i)(A) through (C);

(ii) intended for use in the:

- (A) diagnosis of disease;
- (B) cure of disease;
- (C) mitigation of disease;
- (D) treatment of disease; or

<p>(E) prevention of disease; or</p> <p>(iii) intended to affect:</p> <p>(A) the structure of the body; or</p> <p>(B) any function of the body.</p> <p>(b) “Drug” does not include:</p> <p>(i) food and food ingredients;</p> <p>(ii) a dietary supplement;</p> <p>(iii) an alcoholic beverage; or</p> <p>(iv) a prosthetic device.</p> <p>[(42)] (43) (a) Except as provided in Subsection [(42)] (43)(c), “durable medical equipment” means equipment that:</p> <p>(i) can withstand repeated use;</p> <p>(ii) is primarily and customarily used to serve a medical purpose;</p> <p>(iii) generally is not useful to a person in the absence of illness or injury; and</p> <p>(iv) is not worn in or on the body.</p> <p>(b) “Durable medical equipment” includes parts used in the repair or replacement of the equipment described in Subsection [(42)] (43)(a).</p> <p>(c) “Durable medical equipment” does not include mobility enhancing equipment.</p> <p>[(43)] (44) “Electronic” means:</p> <p>(a) relating to technology; and</p> <p>(b) having:</p> <p>(i) electrical capabilities;</p> <p>(ii) digital capabilities;</p> <p>(iii) magnetic capabilities;</p> <p>(iv) wireless capabilities;</p> <p>(v) optical capabilities;</p> <p>(vi) electromagnetic capabilities; or</p> <p>(vii) capabilities similar to Subsections [(43)] (44)(b)(i) through (vi).</p> <p>[(44)] (45) “Electronic financial payment service” means an establishment:</p> <p>(a) within NAICS Code 522320, Financial Transactions Processing, Reserve, and Clearinghouse Activities, of the 2012 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; and</p> <p>(b) that performs electronic financial payment services.</p> <p>[(45)] (46) “Employee” is as defined in Section 59-10-401.</p> <p>[(46)] (47) “Fixed guideway” means a public transit facility that uses and occupies:</p> <p>(a) rail for the use of public transit; or</p>	<p>(b) a separate right-of-way for the use of public transit.</p> <p>[(47)] (48) “Fixed wing turbine powered aircraft” means an aircraft that:</p> <p>(a) is powered by turbine engines;</p> <p>(b) operates on jet fuel; and</p> <p>(c) has wings that are permanently attached to the fuselage of the aircraft.</p> <p>[(48)] (49) “Fixed wireless service” means a telecommunications service that provides radio communication between fixed points.</p> <p>[(49)] (50) (a) “Food and food ingredients” means substances:</p> <p>(i) regardless of whether the substances are in:</p> <p>(A) liquid form;</p> <p>(B) concentrated form;</p> <p>(C) solid form;</p> <p>(D) frozen form;</p> <p>(E) dried form; or</p> <p>(F) dehydrated form; and</p> <p>(ii) that are:</p> <p>(A) sold for:</p> <p>(I) ingestion by humans; or</p> <p>(II) chewing by humans; and</p> <p>(B) consumed for the substance’s:</p> <p>(I) taste; or</p> <p>(II) nutritional value.</p> <p>(b) “Food and food ingredients” includes an item described in Subsection [(90)] (91)(b)(iii).</p> <p>(c) “Food and food ingredients” does not include:</p> <p>(i) an alcoholic beverage;</p> <p>(ii) tobacco; or</p> <p>(iii) prepared food.</p> <p>[(50)] (51) (a) “Fundraising sales” means sales:</p> <p>(i) (A) made by a school; or</p> <p>(B) made by a school student;</p> <p>(ii) that are for the purpose of raising funds for the school to purchase equipment, materials, or provide transportation; and</p> <p>(iii) that are part of an officially sanctioned school activity.</p> <p>(b) For purposes of Subsection [(50)] (51)(a)(iii), “officially sanctioned school activity” means a school activity:</p> <p>(i) that is conducted in accordance with a formal policy adopted by the school or school district governing the authorization and supervision of fundraising activities;</p> <p>(ii) that does not directly or indirectly compensate an individual teacher or other</p>
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educational personnel by direct payment, commissions, or payment in kind; and

(iii) the net or gross revenues from which are deposited in a dedicated account controlled by the school or school district.

~~[(51)]~~ (52) "Geothermal energy" means energy contained in heat that continuously flows outward from the earth that is used as the sole source of energy to produce electricity.

~~[(52)]~~ (53) "Governing board of the agreement" means the governing board of the agreement that is:

- (a) authorized to administer the agreement; and
- (b) established in accordance with the agreement.

~~[(53)]~~ (54) (a) For purposes of Subsection 59-12-104(41), "governmental entity" means:

(i) the executive branch of the state, including all departments, institutions, boards, divisions, bureaus, offices, commissions, and committees;

(ii) the judicial branch of the state, including the courts, the Judicial Council, the Office of the Court Administrator, and similar administrative units in the judicial branch;

(iii) the legislative branch of the state, including the House of Representatives, the Senate, the Legislative Printing Office, the Office of Legislative Research and General Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal Analyst;

(iv) the National Guard;

(v) an independent entity as defined in Section 63E-1-102; or

(vi) a political subdivision as defined in Section 17B-1-102.

(b) "Governmental entity" does not include the state systems of public and higher education, including:

(i) a college campus of the Utah College of Applied Technology;

(ii) a school;

(iii) the State Board of Education;

(iv) the State Board of Regents; or

(v) an institution of higher education.

~~[(54)]~~ (55) "Hydroelectric energy" means water used as the sole source of energy to produce electricity.

~~[(55)]~~ (56) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or other fuels:

(a) in mining or extraction of minerals;

(b) in agricultural operations to produce an agricultural product up to the time of harvest or placing the agricultural product into a storage facility, including:

(i) commercial greenhouses;

(ii) irrigation pumps;

(iii) farm machinery;

(iv) implements of husbandry as defined in Section 41-1a-102 that are not registered under Title 41, Chapter 1a, Part 2, Registration; and

(v) other farming activities;

(c) in manufacturing tangible personal property at an establishment described in SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget;

(d) by a scrap recycler if:

(i) from a fixed location, the scrap recycler utilizes machinery or equipment to process one or more of the following items into prepared grades of processed materials for use in new products:

(A) iron;

(B) steel;

(C) nonferrous metal;

(D) paper;

(E) glass;

(F) plastic;

(G) textile; or

(H) rubber; and

(ii) the new products under Subsection ~~[(55)]~~ (56)(d)(i) would otherwise be made with nonrecycled materials; or

(e) in producing a form of energy or steam described in Subsection 54-2-1(2)(a) by a cogeneration facility as defined in Section 54-2-1.

~~[(56)]~~ (57) (a) Except as provided in Subsection ~~[(56)]~~ (57)(b), "installation charge" means a charge for installing:

(i) tangible personal property; or

(ii) a product transferred electronically.

(b) "Installation charge" does not include a charge for:

(i) repairs or renovations of:

(A) tangible personal property; or

(B) a product transferred electronically; or

(ii) attaching tangible personal property or a product transferred electronically:

(A) to other tangible personal property; and

(B) as part of a manufacturing or fabrication process.

~~[(57)]~~ (58) "Institution of higher education" means an institution of higher education listed in Section 53B-2-101.

~~[(58)]~~ (59) (a) "Lease" or "rental" means a transfer of possession or control of tangible personal property or a product transferred electronically for:

- (i) (A) a fixed term; or
- (B) an indeterminate term; and
- (ii) consideration.
- (b) "Lease" or "rental" includes an agreement covering a motor vehicle and trailer if the amount of consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue Code.
- (c) "Lease" or "rental" does not include:
- (i) a transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments;
- (ii) a transfer of possession or control of property under an agreement that requires the transfer of title:
- (A) upon completion of required payments; and
- (B) if the payment of an option price does not exceed the greater of:
- (I) \$100; or
- (II) 1% of the total required payments; or
- (iii) providing tangible personal property along with an operator for a fixed period of time or an indeterminate period of time if the operator is necessary for equipment to perform as designed.
- (d) For purposes of Subsection ~~[(58)]~~ (59)(c)(iii), an operator is necessary for equipment to perform as designed if the operator's duties exceed the:
- (i) set-up of tangible personal property;
- (ii) maintenance of tangible personal property; or
- (iii) inspection of tangible personal property.
- ~~[(59)]~~ (60) "Life science establishment" means an establishment in this state that is classified under the following NAICS codes of the 2007 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget:
- (a) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;
- (b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus Manufacturing; or
- (c) NAICS Code 334517, Irradiation Apparatus Manufacturing.
- ~~[(60)]~~ (61) "Life science research and development facility" means a facility owned, leased, or rented by a life science establishment if research and development is performed in 51% or more of the total area of the facility.
- ~~[(61)]~~ (62) "Load and leave" means delivery to a purchaser by use of a tangible storage media if the tangible storage media is not physically transferred to the purchaser.
- ~~[(62)]~~ (63) "Local taxing jurisdiction" means a:
- (a) county that is authorized to impose an agreement sales and use tax;
- (b) city that is authorized to impose an agreement sales and use tax; or
- (c) town that is authorized to impose an agreement sales and use tax.
- ~~[(63)]~~ (64) "Manufactured home" is as defined in Section 15A-1-302.
- ~~[(64)]~~ (65) "Manufacturing facility" means:
- (a) an establishment described in SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget;
- (b) a scrap recycler if:
- (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process one or more of the following items into prepared grades of processed materials for use in new products:
- (A) iron;
- (B) steel;
- (C) nonferrous metal;
- (D) paper;
- (E) glass;
- (F) plastic;
- (G) textile; or
- (H) rubber; and
- (ii) the new products under Subsection ~~[(64)]~~ (65)(b)(i) would otherwise be made with nonrecycled materials; or
- (c) a cogeneration facility as defined in Section 54-2-1 if the cogeneration facility is placed in service on or after May 1, 2006.
- ~~[(65)]~~ (66) "Member of the immediate family of the producer" means a person who is related to a producer described in Subsection 59-12-104(20)(a) as a:
- (a) child or stepchild, regardless of whether the child or stepchild is:
- (i) an adopted child or adopted stepchild; or
- (ii) a foster child or foster stepchild;
- (b) grandchild or stepgrandchild;
- (c) grandparent or stepgrandparent;
- (d) nephew or stepnephew;
- (e) niece or stepniece;
- (f) parent or stepparent;
- (g) sibling or stepsibling;
- (h) spouse;
- (i) person who is the spouse of a person described in Subsections ~~[(65)]~~ (66)(a) through (g); or
- (j) person similar to a person described in Subsections ~~[(65)]~~ (66)(a) through (i) as determined

by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

[(66)] (67) "Mobile home" is as defined in Section 15A-1-302.

[(67)] (68) "Mobile telecommunications service" is as defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

[(68)] (69) (a) "Mobile wireless service" means a telecommunications service, regardless of the technology used, if:

(i) the origination point of the conveyance, routing, or transmission is not fixed;

(ii) the termination point of the conveyance, routing, or transmission is not fixed; or

(iii) the origination point described in Subsection [(68)] (69)(a)(i) and the termination point described in Subsection [(68)] (69)(a)(ii) are not fixed.

(b) "Mobile wireless service" includes a telecommunications service that is provided by a commercial mobile radio service provider.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define "commercial mobile radio service provider."

[(69)] (70) (a) Except as provided in Subsection [(69)] (70)(c), "mobility enhancing equipment" means equipment that is:

(i) primarily and customarily used to provide or increase the ability to move from one place to another;

(ii) appropriate for use in a:

(A) home; or

(B) motor vehicle; and

(iii) not generally used by persons with normal mobility.

(b) "Mobility enhancing equipment" includes parts used in the repair or replacement of the equipment described in Subsection [(69)] (70)(a).

(c) "Mobility enhancing equipment" does not include:

(i) a motor vehicle;

(ii) equipment on a motor vehicle if that equipment is normally provided by the motor vehicle manufacturer;

(iii) durable medical equipment; or

(iv) a prosthetic device.

[(70)] (71) "Model 1 seller" means a seller registered under the agreement that has selected a certified service provider as the seller's agent to perform all of the seller's sales and use tax functions for agreement sales and use taxes other than the seller's obligation under Section 59-12-124 to remit a tax on the seller's own purchases.

[(71)] (72) "Model 2 seller" means a seller registered under the agreement that:

(a) except as provided in Subsection [(71)] (72)(b), has selected a certified automated system to perform the seller's sales tax functions for agreement sales and use taxes; and

(b) retains responsibility for remitting all of the sales tax:

(i) collected by the seller; and

(ii) to the appropriate local taxing jurisdiction.

[(72)] (73) (a) Subject to Subsection [(72)] (73)(b), "model 3 seller" means a seller registered under the agreement that has:

(i) sales in at least five states that are members of the agreement;

(ii) total annual sales revenues of at least \$500,000,000;

(iii) a proprietary system that calculates the amount of tax:

(A) for an agreement sales and use tax; and

(B) due to each local taxing jurisdiction; and

(iv) entered into a performance agreement with the governing board of the agreement.

(b) For purposes of Subsection [(72)] (73)(a), "model 3 seller" includes an affiliated group of sellers using the same proprietary system.

[(73)] (74) "Model 4 seller" means a seller that is registered under the agreement and is not a model 1 seller, model 2 seller, or model 3 seller.

[(74)] (75) "Modular home" means a modular unit as defined in Section 15A-1-302.

[(75)] (76) "Motor vehicle" is as defined in Section 41-1a-102.

[(76)] (77) "Oil sands" means impregnated bituminous sands that:

(a) contain a heavy, thick form of petroleum that is released when heated, mixed with other hydrocarbons, or otherwise treated;

(b) yield mixtures of liquid hydrocarbon; and

(c) require further processing other than mechanical blending before becoming finished petroleum products.

[(77)] (78) "Oil shale" means a group of fine black to dark brown shales containing kerogen material that yields petroleum upon heating and distillation.

[(78)] (79) "Optional computer software maintenance contract" means a computer software maintenance contract that a customer is not obligated to purchase as a condition to the retail sale of computer software.

[(79)] (80) (a) "Other fuels" means products that burn independently to produce heat or energy.

(b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible personal property.

~~[(80)]~~ (81) (a) "Paging service" means a telecommunications service that provides transmission of a coded radio signal for the purpose of activating a specific pager.

(b) For purposes of Subsection ~~[(80)]~~ (81)(a), the transmission of a coded radio signal includes a transmission by message or sound.

~~[(81)]~~ (82) "Pawnbroker" is as defined in Section 13-32a-102.

~~[(82)]~~ (83) "Pawn transaction" is as defined in Section 13-32a-102.

~~[(83)]~~ (84) (a) "Permanently attached to real property" means that for tangible personal property attached to real property:

(i) the attachment of the tangible personal property to the real property:

(A) is essential to the use of the tangible personal property; and

(B) suggests that the tangible personal property will remain attached to the real property in the same place over the useful life of the tangible personal property; or

(ii) if the tangible personal property is detached from the real property, the detachment would:

(A) cause substantial damage to the tangible personal property; or

(B) require substantial alteration or repair of the real property to which the tangible personal property is attached.

(b) "Permanently attached to real property" includes:

(i) the attachment of an accessory to the tangible personal property if the accessory is:

(A) essential to the operation of the tangible personal property; and

(B) attached only to facilitate the operation of the tangible personal property;

(ii) a temporary detachment of tangible personal property from real property for a repair or renovation if the repair or renovation is performed where the tangible personal property and real property are located; or

(iii) property attached to oil, gas, or water pipelines, except for the property listed in Subsection ~~[(83)]~~ (84)(c)(iii) or (iv).

(c) "Permanently attached to real property" does not include:

(i) the attachment of portable or movable tangible personal property to real property if that portable or movable tangible personal property is attached to real property only for:

(A) convenience;

(B) stability; or

(C) for an obvious temporary purpose;

(ii) the detachment of tangible personal property from real property except for the detachment described in Subsection ~~[(83)]~~ (84)(b)(ii);

(iii) an attachment of the following tangible personal property to real property if the attachment to real property is only through a line that supplies water, electricity, gas, telecommunications, cable, or supplies a similar item as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(A) a computer;

(B) a telephone;

(C) a television; or

(D) tangible personal property similar to Subsections ~~[(83)]~~ (84)(c)(iii)(A) through (C) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(iv) an item listed in Subsection ~~[(123)]~~ (124)(c).

~~[(84)]~~ (85) "Person" includes any individual, firm, partnership, joint venture, association, corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city, municipality, district, or other local governmental entity of the state, or any group or combination acting as a unit.

~~[(85)]~~ (86) "Place of primary use":

(a) for telecommunications service other than mobile telecommunications service, means the street address representative of where the customer's use of the telecommunications service primarily occurs, which shall be:

(i) the residential street address of the customer; or

(ii) the primary business street address of the customer; or

(b) for mobile telecommunications service, is as defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

~~[(86)]~~ (87) (a) "Postpaid calling service" means a telecommunications service a person obtains by making a payment on a call-by-call basis:

(i) through the use of a:

(A) bank card;

(B) credit card;

(C) debit card; or

(D) travel card; or

(ii) by a charge made to a telephone number that is not associated with the origination or termination of the telecommunications service.

(b) "Postpaid calling service" includes a service, except for a prepaid wireless calling service, that would be a prepaid wireless calling service if the service were exclusively a telecommunications service.

~~[(87)]~~ (88) "Postproduction" means an activity related to the finishing or duplication of a medium described in Subsection 59-12-104(54)(a).

~~[(88)]~~ (89) "Prepaid calling service" means a telecommunications service:

(a) that allows a purchaser access to telecommunications service that is exclusively telecommunications service;

(b) that:

(i) is paid for in advance; and

(ii) enables the origination of a call using an:

(A) access number; or

(B) authorization code;

(c) that is dialed:

(i) manually; or

(ii) electronically; and

(d) sold in predetermined units or dollars that decline:

(i) by a known amount; and

(ii) with use.

~~[(89)]~~ (90) "Prepaid wireless calling service" means a telecommunications service:

(a) that provides the right to utilize:

(i) mobile wireless service; and

(ii) other service that is not a telecommunications service, including:

(A) the download of a product transferred electronically;

(B) a content service; or

(C) an ancillary service;

(b) that:

(i) is paid for in advance; and

(ii) enables the origination of a call using an:

(A) access number; or

(B) authorization code;

(c) that is dialed:

(i) manually; or

(ii) electronically; and

(d) sold in predetermined units or dollars that decline:

(i) by a known amount; and

(ii) with use.

~~[(90)]~~ (91) (a) "Prepared food" means:

(i) food:

(A) sold in a heated state; or

(B) heated by a seller;

(ii) two or more food ingredients mixed or combined by the seller for sale as a single item; or

(iii) except as provided in Subsection ~~[(90)]~~ (91)(c), food sold with an eating utensil provided by the seller, including a:

(A) plate;

(B) knife;

(C) fork;

(D) spoon;

(E) glass;

(F) cup;

(G) napkin; or

(H) straw.

(b) "Prepared food" does not include:

(i) food that a seller only:

(A) cuts;

(B) repackages; or

(C) pasteurizes; or

(ii) (A) the following:

(I) raw egg;

(II) raw fish;

(III) raw meat;

(IV) raw poultry; or

(V) a food containing an item described in Subsections ~~[(90)]~~ (91)(b)(ii)(A)(I) through (IV); and

(B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the Food and Drug Administration's Food Code that a consumer cook the items described in Subsection ~~[(90)]~~ (91)(b)(ii)(A) to prevent food borne illness; or

(iii) the following if sold without eating utensils provided by the seller:

(A) food and food ingredients sold by a seller if the seller's proper primary classification under the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, is manufacturing in Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla Manufacturing;

(B) food and food ingredients sold in an unheated state:

(I) by weight or volume; and

(II) as a single item; or

(C) a bakery item, including:

(I) a bagel;

(II) a bar;

(III) a biscuit;

(IV) bread;

(V) a bun;

(VI) a cake;

- (VII) a cookie;
- (VIII) a croissant;
- (IX) a danish;
- (X) a donut;
- (XI) a muffin;
- (XII) a pastry;
- (XIII) a pie;
- (XIV) a roll;
- (XV) a tart;
- (XVI) a torte; or
- (XVII) a tortilla.

(c) An eating utensil provided by the seller does not include the following used to transport the food:

- (i) a container; or
- (ii) packaging.

~~[(91)]~~ (92) “Prescription” means an order, formula, or recipe that is issued:

- (a) (i) orally;
- (ii) in writing;
- (iii) electronically; or
- (iv) by any other manner of transmission; and
- (b) by a licensed practitioner authorized by the laws of a state.

~~[(92)]~~ (93) (a) Except as provided in Subsection ~~[(92)]~~ (93)(b)(ii) or (iii), “prewritten computer software” means computer software that is not designed and developed:

- (i) by the author or other creator of the computer software; and
- (ii) to the specifications of a specific purchaser.

(b) “Prewritten computer software” includes:

(i) a prewritten upgrade to computer software if the prewritten upgrade to the computer software is not designed and developed:

(A) by the author or other creator of the computer software; and

(B) to the specifications of a specific purchaser;

(ii) computer software designed and developed by the author or other creator of the computer software to the specifications of a specific purchaser if the computer software is sold to a person other than the purchaser; or

(iii) except as provided in Subsection ~~[(92)]~~ (93)(c), prewritten computer software or a prewritten portion of prewritten computer software:

(A) that is modified or enhanced to any degree; and

(B) if the modification or enhancement described in Subsection ~~[(92)]~~ (93)(b)(iii)(A) is designed and

developed to the specifications of a specific purchaser.

(c) “Prewritten computer software” does not include a modification or enhancement described in Subsection ~~[(92)]~~ (93)(b)(iii) if the charges for the modification or enhancement are:

(i) reasonable; and

(ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), separately stated on the invoice or other statement of price provided to the purchaser at the time of sale or later, as demonstrated by:

(A) the books and records the seller keeps at the time of the transaction in the regular course of business, including books and records the seller keeps at the time of the transaction in the regular course of business for nontax purposes;

(B) a preponderance of the facts and circumstances at the time of the transaction; and

(C) the understanding of all of the parties to the transaction.

~~[(93)]~~ (94) (a) “Private communication service” means a telecommunications service:

(i) that entitles a customer to exclusive or priority use of one or more communications channels between or among termination points; and

(ii) regardless of the manner in which the one or more communications channels are connected.

(b) “Private communications service” includes the following provided in connection with the use of one or more communications channels:

(i) an extension line;

(ii) a station;

(iii) switching capacity; or

(iv) another associated service that is provided in connection with the use of one or more communications channels as defined in Section 59-12-215.

~~[(94)]~~ (95) (a) Except as provided in Subsection ~~[(94)]~~ (95)(b), “product transferred electronically” means a product transferred electronically that would be subject to a tax under this chapter if that product was transferred in a manner other than electronically.

(b) “Product transferred electronically” does not include:

(i) an ancillary service;

(ii) computer software; or

(iii) a telecommunications service.

~~[(95)]~~ (96) (a) “Prosthetic device” means a device that is worn on or in the body to:

(i) artificially replace a missing portion of the body;

(ii) prevent or correct a physical deformity or physical malfunction; or

(iii) support a weak or deformed portion of the body.

(b) "Prosthetic device" includes:

- (i) parts used in the repairs or renovation of a prosthetic device;
- (ii) replacement parts for a prosthetic device;
- (iii) a dental prosthesis; or
- (iv) a hearing aid.

(c) "Prosthetic device" does not include:

- (i) corrective eyeglasses; or
- (ii) contact lenses.

[~~(96)~~ (97) (a) "Protective equipment" means an item:

- (i) for human wear; and
- (ii) that is:
 - (A) designed as protection:
 - (I) to the wearer against injury or disease; or
 - (II) against damage or injury of other persons or property; and
 - (B) not suitable for general use.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:

- (i) listing the items that constitute "protective equipment"; and
- (ii) that are consistent with the list of items that constitute "protective equipment" under the agreement.

[~~(97)~~ (98) (a) For purposes of Subsection 59-12-104(41), "publication" means any written or printed matter, other than a photocopy:

- (i) regardless of:
 - (A) characteristics;
 - (B) copyright;
 - (C) form;
 - (D) format;
 - (E) method of reproduction; or
 - (F) source; and
- (ii) made available in printed or electronic format.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "photocopy."

[~~(98)~~ (99) (a) "Purchase price" and "sales price" mean the total amount of consideration:

- (i) valued in money; and
- (ii) for which tangible personal property, a product transferred electronically, or services are:

- (A) sold;
- (B) leased; or

- (C) rented.

(b) "Purchase price" and "sales price" include:

- (i) the seller's cost of the tangible personal property, a product transferred electronically, or services sold;
- (ii) expenses of the seller, including:
 - (A) the cost of materials used;
 - (B) a labor cost;
 - (C) a service cost;
 - (D) interest;
 - (E) a loss;
 - (F) the cost of transportation to the seller; or
 - (G) a tax imposed on the seller;
- (iii) a charge by the seller for any service necessary to complete the sale; or
- (iv) consideration a seller receives from a person other than the purchaser if:
 - (A) (I) the seller actually receives consideration from a person other than the purchaser; and
 - (II) the consideration described in Subsection [~~(98)~~ (99)(b)(iv)(A)(I) is directly related to a price reduction or discount on the sale;
 - (B) the seller has an obligation to pass the price reduction or discount through to the purchaser;
 - (C) the amount of the consideration attributable to the sale is fixed and determinable by the seller at the time of the sale to the purchaser; and
 - (D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the seller to claim a price reduction or discount; and
 - (Bb) a person other than the seller authorizes, distributes, or grants the certificate, coupon, or other documentation with the understanding that the person other than the seller will reimburse any seller to whom the certificate, coupon, or other documentation is presented;
 - (II) the purchaser identifies that purchaser to the seller as a member of a group or organization allowed a price reduction or discount, except that a preferred customer card that is available to any patron of a seller does not constitute membership in a group or organization allowed a price reduction or discount; or
 - (III) the price reduction or discount is identified as a third party price reduction or discount on the:
 - (Aa) invoice the purchaser receives; or
 - (Bb) certificate, coupon, or other documentation the purchaser presents.

(c) "Purchase price" and "sales price" do not include:

- (i) a discount:
 - (A) in a form including:
 - (I) cash;

- (II) term; or
- (III) coupon;
- (B) that is allowed by a seller;
- (C) taken by a purchaser on a sale; and
- (D) that is not reimbursed by a third party; or

(ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), the following if separately stated on an invoice, bill of sale, or similar document provided to the purchaser at the time of sale or later, as demonstrated by the books and records the seller keeps at the time of the transaction in the regular course of business, including books and records the seller keeps at the time of the transaction in the regular course of business for nontax purposes, by a preponderance of the facts and circumstances at the time of the transaction, and by the understanding of all of the parties to the transaction:

(A) the following from credit extended on the sale of tangible personal property or services:

- (I) a carrying charge;
- (II) a financing charge; or
- (III) an interest charge;
- (B) a delivery charge;
- (C) an installation charge;
- (D) a manufacturer rebate on a motor vehicle; or
- (E) a tax or fee legally imposed directly on the consumer.

~~[(99)]~~ (100) "Purchaser" means a person to whom:

- (a) a sale of tangible personal property is made;
- (b) a product is transferred electronically; or
- (c) a service is furnished.

~~[(400)]~~ (101) "Regularly rented" means:

(a) rented to a guest for value three or more times during a calendar year; or

(b) advertised or held out to the public as a place that is regularly rented to guests for value.

~~[(401)]~~ (102) "Rental" is as defined in Subsection ~~[(58)]~~ (59).

~~[(402)]~~ (103) (a) Except as provided in Subsection ~~[(402)]~~ (103)(b), "repairs or renovations of tangible personal property" means:

(i) a repair or renovation of tangible personal property that is not permanently attached to real property; or

(ii) attaching tangible personal property or a product transferred electronically to other tangible personal property or detaching tangible personal property or a product transferred electronically from other tangible personal property if:

(A) the other tangible personal property to which the tangible personal property or product transferred electronically is attached or from which

the tangible personal property or product transferred electronically is detached is not permanently attached to real property; and

(B) the attachment of tangible personal property or a product transferred electronically to other tangible personal property or detachment of tangible personal property or a product transferred electronically from other tangible personal property is made in conjunction with a repair or replacement of tangible personal property or a product transferred electronically.

(b) "Repairs or renovations of tangible personal property" does not include:

(i) attaching prewritten computer software to other tangible personal property if the other tangible personal property to which the prewritten computer software is attached is not permanently attached to real property; or

(ii) detaching prewritten computer software from other tangible personal property if the other tangible personal property from which the prewritten computer software is detached is not permanently attached to real property.

~~[(403)]~~ (104) "Research and development" means the process of inquiry or experimentation aimed at the discovery of facts, devices, technologies, or applications and the process of preparing those devices, technologies, or applications for marketing.

~~[(404)]~~ (105) (a) "Residential telecommunications services" means a telecommunications service or an ancillary service that is provided to an individual for personal use:

(i) at a residential address; or

(ii) at an institution, including a nursing home or a school, if the telecommunications service or ancillary service is provided to and paid for by the individual residing at the institution rather than the institution.

(b) For purposes of Subsection ~~[(404)]~~ (105)(a)(i), a residential address includes an:

(i) apartment; or

(ii) other individual dwelling unit.

~~[(405)]~~ (106) "Residential use" means the use in or around a home, apartment building, sleeping quarters, and similar facilities or accommodations.

~~[(406)]~~ (107) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other than:

(a) resale;

(b) sublease; or

(c) subrent.

~~[(407)]~~ (108) (a) "Retailer" means any person engaged in a regularly organized business in tangible personal property or any other taxable transaction under Subsection 59-12-103(1), and who is selling to the user or consumer and not for resale.

(b) "Retailer" includes commission merchants, auctioneers, and any person regularly engaged in

the business of selling to users or consumers within the state.

~~[(408)]~~ (109) (a) “Sale” means any transfer of title, exchange, or barter, conditional or otherwise, in any manner, of tangible personal property or any other taxable transaction under Subsection 59-12-103(1), for consideration.

(b) “Sale” includes:

- (i) installment and credit sales;
- (ii) any closed transaction constituting a sale;
- (iii) any sale of electrical energy, gas, services, or entertainment taxable under this chapter;
- (iv) any transaction if the possession of property is transferred but the seller retains the title as security for the payment of the price; and
- (v) any transaction under which right to possession, operation, or use of any article of tangible personal property is granted under a lease or contract and the transfer of possession would be taxable if an outright sale were made.

~~[(409)]~~ (110) “Sale at retail” is as defined in Subsection ~~[(406)]~~ (107).

~~[(410)]~~ (111) “Sale-leaseback transaction” means a transaction by which title to tangible personal property or a product transferred electronically that is subject to a tax under this chapter is transferred:

- (a) by a purchaser-lessee;
- (b) to a lessor;
- (c) for consideration; and
- (d) if:
 - (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee’s initial purchase of the tangible personal property or product transferred electronically;
 - (ii) the sale of the tangible personal property or product transferred electronically to the lessor is intended as a form of financing:
 - (A) for the tangible personal property or product transferred electronically; and
 - (B) to the purchaser-lessee; and
 - (iii) in accordance with generally accepted accounting principles, the purchaser-lessee is required to:
 - (A) capitalize the tangible personal property or product transferred electronically for financial reporting purposes; and
 - (B) account for the lease payments as payments made under a financing arrangement.

~~[(411)]~~ (112) “Sales price” is as defined in Subsection ~~[(98)]~~ (99).

~~[(412)]~~ (113) (a) “Sales relating to schools” means the following sales by, amounts paid to, or amounts charged by a school:

- (i) sales that are directly related to the school’s educational functions or activities including:
 - (A) the sale of:
 - (I) textbooks;
 - (II) textbook fees;
 - (III) laboratory fees;
 - (IV) laboratory supplies; or
 - (V) safety equipment;
 - (B) the sale of a uniform, protective equipment, or sports or recreational equipment that:
 - (I) a student is specifically required to wear as a condition of participation in a school-related event or school-related activity; and
 - (II) is not readily adaptable to general or continued usage to the extent that it takes the place of ordinary clothing;
 - (C) sales of the following if the net or gross revenues generated by the sales are deposited into a school district fund or school fund dedicated to school meals:
 - (I) food and food ingredients; or
 - (II) prepared food; or
 - (D) transportation charges for official school activities; or
- (ii) amounts paid to or amounts charged by a school for admission to a school-related event or school-related activity.
 - (b) “Sales relating to schools” does not include:
 - (i) bookstore sales of items that are not educational materials or supplies;
 - (ii) except as provided in Subsection ~~[(412)]~~ (113)(a)(i)(B):
 - (A) clothing;
 - (B) clothing accessories or equipment;
 - (C) protective equipment; or
 - (D) sports or recreational equipment; or
 - (iii) amounts paid to or amounts charged by a school for admission to a school-related event or school-related activity if the amounts paid or charged are passed through to a person:
 - (A) other than a:
 - (I) school;
 - (II) nonprofit organization authorized by a school board or a governing body of a private school to organize and direct a competitive secondary school activity; or
 - (III) nonprofit association authorized by a school board or a governing body of a private school to

organize and direct a competitive secondary school activity; and

(B) that is required to collect sales and use taxes under this chapter.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining the term “passed through.”

~~[(413)]~~ (114) For purposes of this section and Section 59-12-104, “school”:

(a) means:

(i) an elementary school or a secondary school that:

(A) is a:

(I) public school; or

(II) private school; and

(B) provides instruction for one or more grades kindergarten through 12; or

(ii) a public school district; and

(b) includes the Electronic High School as defined in Section 53A-15-1002.

~~[(414)]~~ (115) “Seller” means a person that makes a sale, lease, or rental of:

(a) tangible personal property;

(b) a product transferred electronically; or

(c) a service.

~~[(415)]~~ (116) (a) “Semiconductor fabricating, processing, research, or development materials” means tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically is:

(i) used primarily in the process of:

(A) (I) manufacturing a semiconductor;

(II) fabricating a semiconductor; or

(III) research or development of a:

(Aa) semiconductor; or

(Bb) semiconductor manufacturing process; or

(B) maintaining an environment suitable for a semiconductor; or

(ii) consumed primarily in the process of:

(A) (I) manufacturing a semiconductor;

(II) fabricating a semiconductor; or

(III) research or development of a:

(Aa) semiconductor; or

(Bb) semiconductor manufacturing process; or

(B) maintaining an environment suitable for a semiconductor.

(b) “Semiconductor fabricating, processing, research, or development materials” includes:

(i) parts used in the repairs or renovations of tangible personal property or a product transferred electronically described in Subsection ~~[(415)]~~ (116)(a); or

(ii) a chemical, catalyst, or other material used to:

(A) produce or induce in a semiconductor a:

(I) chemical change; or

(II) physical change;

(B) remove impurities from a semiconductor; or

(C) improve the marketable condition of a semiconductor.

~~[(416)]~~ (117) “Senior citizen center” means a facility having the primary purpose of providing services to the aged as defined in Section 62A-3-101.

~~[(417)]~~ (118) (a) Subject to Subsections ~~[(417)]~~ (118)(b) and (c), “short-term lodging consumable” means tangible personal property that:

(i) a business that provides accommodations and services described in Subsection 59-12-103(1)(i) purchases as part of a transaction to provide the accommodations and services to a purchaser;

(ii) is intended to be consumed by the purchaser; and

(iii) is:

(A) included in the purchase price of the accommodations and services; and

(B) not separately stated on an invoice, bill of sale, or other similar document provided to the purchaser.

(b) “Short-term lodging consumable” includes:

(i) a beverage;

(ii) a brush or comb;

(iii) a cosmetic;

(iv) a hair care product;

(v) lotion;

(vi) a magazine;

(vii) makeup;

(viii) a meal;

(ix) mouthwash;

(x) nail polish remover;

(xi) a newspaper;

(xii) a notepad;

(xiii) a pen;

(xiv) a pencil;

(xv) a razor;

(xvi) saline solution;

(xvii) a sewing kit;

(xviii) shaving cream;

- (xix) a shoe shine kit;
- (xx) a shower cap;
- (xxi) a snack item;
- (xxii) soap;
- (xxiii) toilet paper;
- (xxiv) a toothbrush;
- (xxv) toothpaste; or
- (xxvi) an item similar to Subsections ~~[(417)]~~ (118)(b)(i) through (xxv) as the commission may provide by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(c) "Short-term lodging consumable" does not include:

(i) tangible personal property that is cleaned or washed to allow the tangible personal property to be reused; or

(ii) a product transferred electronically.

~~[(418)]~~ (119) "Simplified electronic return" means the electronic return:

(a) described in Section 318(C) of the agreement; and

(b) approved by the governing board of the agreement.

~~[(419)]~~ (120) "Solar energy" means the sun used as the sole source of energy for producing electricity.

~~[(420)]~~ (121) (a) "Sports or recreational equipment" means an item:

(i) designed for human use; and

(ii) that is:

(A) worn in conjunction with:

(I) an athletic activity; or

(II) a recreational activity; and

(B) not suitable for general use.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:

(i) listing the items that constitute "sports or recreational equipment"; and

(ii) that are consistent with the list of items that constitute "sports or recreational equipment" under the agreement.

~~[(421)]~~ (122) "State" means the state of Utah, its departments, and agencies.

~~[(422)]~~ (123) "Storage" means any keeping or retention of tangible personal property or any other taxable transaction under Subsection 59-12-103(1), in this state for any purpose except sale in the regular course of business.

~~[(423)]~~ (124) (a) Except as provided in Subsection ~~[(423)]~~ (124)(d) or (e), "tangible personal property" means personal property that:

(i) may be:

(A) seen;

(B) weighed;

(C) measured;

(D) felt; or

(E) touched; or

(ii) is in any manner perceptible to the senses.

(b) "Tangible personal property" includes:

(i) electricity;

(ii) water;

(iii) gas;

(iv) steam; or

(v) prewritten computer software, regardless of the manner in which the prewritten computer software is transferred.

(c) "Tangible personal property" includes the following regardless of whether the item is attached to real property:

(i) a dishwasher;

(ii) a dryer;

(iii) a freezer;

(iv) a microwave;

(v) a refrigerator;

(vi) a stove;

(vii) a washer; or

(viii) an item similar to Subsections ~~[(423)]~~ (124)(c)(i) through (vii) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(d) "Tangible personal property" does not include a product that is transferred electronically.

(e) "Tangible personal property" does not include the following if attached to real property, regardless of whether the attachment to real property is only through a line that supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(i) a hot water heater;

(ii) a water filtration system; or

(iii) a water softener system.

~~[(424)]~~ (125) (a) "Telecommunications enabling or facilitating equipment, machinery, or software" means an item listed in Subsection ~~[(424)]~~ (125)(b) if that item is purchased or leased primarily to enable or facilitate one or more of the following to function:

(i) telecommunications switching or routing equipment, machinery, or software; or

(ii) telecommunications transmission equipment, machinery, or software.

(b) The following apply to Subsection [(124)] (125)(a):

- (i) a pole;
- (ii) software;
- (iii) a supplementary power supply;
- (iv) temperature or environmental equipment or machinery;
- (v) test equipment;
- (vi) a tower; or
- (vii) equipment, machinery, or software that functions similarly to an item listed in Subsections [(124)] (125)(b)(i) through (vi) as determined by the commission by rule made in accordance with Subsection [(124)] (125)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections [(124)] (125)(b)(i) through (vi).

[(125)] (126) “Telecommunications equipment, machinery, or software required for 911 service” means equipment, machinery, or software that is required to comply with 47 C.F.R. Sec. 20.18.

[(126)] (127) “Telecommunications maintenance or repair equipment, machinery, or software” means equipment, machinery, or software purchased or leased primarily to maintain or repair one or more of the following, regardless of whether the equipment, machinery, or software is purchased or leased as a spare part or as an upgrade or modification to one or more of the following:

- (a) telecommunications enabling or facilitating equipment, machinery, or software;
- (b) telecommunications switching or routing equipment, machinery, or software; or
- (c) telecommunications transmission equipment, machinery, or software.

[(127)] (128) (a) “Telecommunications service” means the electronic conveyance, routing, or transmission of audio, data, video, voice, or any other information or signal to a point, or among or between points.

(b) “Telecommunications service” includes:

- (i) an electronic conveyance, routing, or transmission with respect to which a computer processing application is used to act:
 - (A) on the code, form, or protocol of the content;
 - (B) for the purpose of electronic conveyance, routing, or transmission; and
 - (C) regardless of whether the service:
 - (I) is referred to as voice over Internet protocol service; or
 - (II) is classified by the Federal Communications Commission as enhanced or value added;

- (ii) an 800 service;
 - (iii) a 900 service;
 - (iv) a fixed wireless service;
 - (v) a mobile wireless service;
 - (vi) a postpaid calling service;
 - (vii) a prepaid calling service;
 - (viii) a prepaid wireless calling service; or
 - (ix) a private communications service.
- (c) “Telecommunications service” does not include:

- (i) advertising, including directory advertising;
- (ii) an ancillary service;
- (iii) a billing and collection service provided to a third party;
- (iv) a data processing and information service if:
 - (A) the data processing and information service allows data to be:
 - (I) (Aa) acquired;
 - (Bb) generated;
 - (Cc) processed;
 - (Dd) retrieved; or
 - (Ee) stored; and
 - (II) delivered by an electronic transmission to a purchaser; and
 - (B) the purchaser’s primary purpose for the underlying transaction is the processed data or information;
 - (v) installation or maintenance of the following on a customer’s premises:
 - (A) equipment; or
 - (B) wiring;
- (vi) Internet access service;
- (vii) a paging service;
- (viii) a product transferred electronically, including:
 - (A) music;
 - (B) reading material;
 - (C) a ring tone;
 - (D) software; or
 - (E) video;
- (ix) a radio and television audio and video programming service:
 - (A) regardless of the medium; and
 - (B) including:
 - (I) furnishing conveyance, routing, or transmission of a television audio and video programming service by a programming service provider;

(II) cable service as defined in 47 U.S.C. Sec. 522(6); or

(III) audio and video programming services delivered by a commercial mobile radio service provider as defined in 47 C.F.R. Sec. 20.3;

- (x) a value-added nonvoice data service; or
- (xi) tangible personal property.

[(428)] (129) (a) "Telecommunications service provider" means a person that:

(i) owns, controls, operates, or manages a telecommunications service; and

(ii) engages in an activity described in Subsection [(428)] (129)(a)(i) for the shared use with or resale to any person of the telecommunications service.

(b) A person described in Subsection [(428)] (129)(a) is a telecommunications service provider whether or not the Public Service Commission of Utah regulates:

- (i) that person; or
- (ii) the telecommunications service that the person owns, controls, operates, or manages.

[(429)] (130) (a) "Telecommunications switching or routing equipment, machinery, or software" means an item listed in Subsection [(429)] (130)(b) if that item is purchased or leased primarily for switching or routing:

- (i) an ancillary service;
- (ii) data communications;
- (iii) voice communications; or
- (iv) telecommunications service.

(b) The following apply to Subsection [(429)] (130)(a):

- (i) a bridge;
- (ii) a computer;
- (iii) a cross connect;
- (iv) a modem;
- (v) a multiplexer;
- (vi) plug in circuitry;
- (vii) a router;
- (viii) software;
- (ix) a switch; or

(x) equipment, machinery, or software that functions similarly to an item listed in Subsections [(429)] (130)(b)(i) through (ix) as determined by the commission by rule made in accordance with Subsection [(429)] (130)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections [(429)] (130)(b)(i) through (ix).

[(430)] (131) (a) "Telecommunications transmission equipment, machinery, or software" means an item listed in Subsection [(430)] (131)(b) if that item is purchased or leased primarily for sending, receiving, or transporting:

- (i) an ancillary service;
- (ii) data communications;
- (iii) voice communications; or
- (iv) telecommunications service.

(b) The following apply to Subsection [(430)] (131)(a):

- (i) an amplifier;
- (ii) a cable;
- (iii) a closure;
- (iv) a conduit;
- (v) a controller;
- (vi) a duplexer;
- (vii) a filter;
- (viii) an input device;
- (ix) an input/output device;
- (x) an insulator;
- (xi) microwave machinery or equipment;
- (xii) an oscillator;
- (xiii) an output device;
- (xiv) a pedestal;
- (xv) a power converter;
- (xvi) a power supply;
- (xvii) a radio channel;
- (xviii) a radio receiver;
- (xix) a radio transmitter;
- (xx) a repeater;
- (xxi) software;
- (xxii) a terminal;
- (xxiii) a timing unit;
- (xxiv) a transformer;
- (xxv) a wire; or

(xxvi) equipment, machinery, or software that functions similarly to an item listed in Subsections [(430)] (131)(b)(i) through (xxv) as determined by the commission by rule made in accordance with Subsection [(430)] (131)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections [(430)] (131)(b)(i) through (xxv).

[(431)] (132) (a) "Textbook for a higher education course" means a textbook or other printed material that is required for a course:

(i) offered by an institution of higher education; and

(ii) that the purchaser of the textbook or other printed material attends or will attend.

(b) "Textbook for a higher education course" includes a textbook in electronic format.

~~[(132)]~~ (133) "Tobacco" means:

- (a) a cigarette;
- (b) a cigar;
- (c) chewing tobacco;
- (d) pipe tobacco; or
- (e) any other item that contains tobacco.

~~[(133)]~~ (134) "Unassisted amusement device" means an amusement device, skill device, or ride device that is started and stopped by the purchaser or renter of the right to use or operate the amusement device, skill device, or ride device.

~~[(134)]~~ (135) (a) "Use" means the exercise of any right or power over tangible personal property, a product transferred electronically, or a service under Subsection 59-12-103(1), incident to the ownership or the leasing of that tangible personal property, product transferred electronically, or service.

(b) "Use" does not include the sale, display, demonstration, or trial of tangible personal property, a product transferred electronically, or a service in the regular course of business and held for resale.

~~[(135)]~~ (136) "Value-added nonvoice data service" means a service:

(a) that otherwise meets the definition of a telecommunications service except that a computer processing application is used to act primarily for a purpose other than conveyance, routing, or transmission; and

(b) with respect to which a computer processing application is used to act on data or information:

- (i) code;
- (ii) content;
- (iii) form; or
- (iv) protocol.

~~[(136)]~~ (137) (a) Subject to Subsection ~~[(136)]~~ (137)(b), "vehicle" means the following that are required to be titled, registered, or titled and registered:

- (i) an aircraft as defined in Section 72-10-102;
- (ii) a vehicle as defined in Section 41-1a-102;
- (iii) an off-highway vehicle as defined in Section 41-22-2; or
- (iv) a vessel as defined in Section 41-1a-102.

(b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:

(i) a vehicle described in Subsection ~~[(136)]~~ (137)(a); or

- (ii) (A) a locomotive;
- (B) a freight car;
- (C) railroad work equipment; or
- (D) other railroad rolling stock.

~~[(137)]~~ (138) "Vehicle dealer" means a person engaged in the business of buying, selling, or exchanging a vehicle as defined in Subsection ~~[(136)]~~ (137).

~~[(138)]~~ (139) (a) "Vertical service" means an ancillary service that:

(i) is offered in connection with one or more telecommunications services; and

(ii) offers an advanced calling feature that allows a customer to:

- (A) identify a caller; and
- (B) manage multiple calls and call connections.

(b) "Vertical service" includes an ancillary service that allows a customer to manage a conference bridging service.

~~[(139)]~~ (140) (a) "Voice mail service" means an ancillary service that enables a customer to receive, send, or store a recorded message.

(b) "Voice mail service" does not include a vertical service that a customer is required to have in order to utilize a voice mail service.

~~[(140)]~~ (141) (a) Except as provided in Subsection ~~[(140)]~~ (141)(b), "waste energy facility" means a facility that generates electricity:

(i) using as the primary source of energy waste materials that would be placed in a landfill or refuse pit if it were not used to generate electricity, including:

- (A) tires;
- (B) waste coal;
- (C) oil shale; or
- (D) municipal solid waste; and

(ii) in amounts greater than actually required for the operation of the facility.

(b) "Waste energy facility" does not include a facility that incinerates:

(i) hospital waste as defined in 40 C.F.R. 60.51c; or

(ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.

~~[(141)]~~ (142) "Watercraft" means a vessel as defined in Section 73-18-2.

~~[(142)]~~ (143) "Wind energy" means wind used as the sole source of energy to produce electricity.

[143] (144) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic location by the United States Postal Service.

Section 2. Section 59-12-104 is amended to read:

59-12-104. Exemptions.

Exemptions from the taxes imposed by this chapter are as follows:

(1) sales of aviation fuel, motor fuel, and special fuel subject to a Utah state excise tax under Chapter 13, Motor and Special Fuel Tax Act;

(2) subject to Section 59-12-104.6, sales to the state, its institutions, and its political subdivisions; however, this exemption does not apply to sales of:

(a) construction materials except:

(i) construction materials purchased by or on behalf of institutions of the public education system as defined in Utah Constitution Article X, Section 2, provided the construction materials are clearly identified and segregated and installed or converted to real property which is owned by institutions of the public education system; and

(ii) construction materials purchased by the state, its institutions, or its political subdivisions which are installed or converted to real property by employees of the state, its institutions, or its political subdivisions; or

(b) tangible personal property in connection with the construction, operation, maintenance, repair, or replacement of a project, as defined in Section 11-13-103, or facilities providing additional project capacity, as defined in Section 11-13-103;

(3) (a) sales of an item described in Subsection (3)(b) from a vending machine if:

(i) the proceeds of each sale do not exceed \$1; and

(ii) the seller or operator of the vending machine reports an amount equal to 150% of the cost of the item described in Subsection (3)(b) as goods consumed; and

(b) Subsection (3)(a) applies to:

(i) food and food ingredients; or

(ii) prepared food;

(4) (a) sales of the following to a commercial airline carrier for in-flight consumption:

(i) alcoholic beverages;

(ii) food and food ingredients; or

(iii) prepared food;

(b) sales of tangible personal property or a product transferred electronically:

(i) to a passenger;

(ii) by a commercial airline carrier; and

(iii) during a flight for in-flight consumption or in-flight use by the passenger; or

(c) services related to Subsection (4)(a) or (b);

(5) (a) (i) beginning on July 1, 2008, and ending on September 30, 2008, sales of parts and equipment:

(A) (I) by an establishment described in NAICS Code 336411 or 336412 of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; and

(II) for:

(Aa) installation in an aircraft, including services relating to the installation of parts or equipment in the aircraft;

(Bb) renovation of an aircraft; or

(Cc) repair of an aircraft; or

(B) for installation in an aircraft operated by a common carrier in interstate or foreign commerce; or

(ii) beginning on October 1, 2008, sales of parts and equipment for installation in an aircraft operated by a common carrier in interstate or foreign commerce; and

(b) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund, a person may claim the exemption allowed by Subsection (5)(a)(i)(B) for a sale by filing for a refund:

(i) if the sale is made on or after July 1, 2008, but on or before September 30, 2008;

(ii) as if Subsection (5)(a)(i)(B) were in effect on the day on which the sale is made;

(iii) if the person did not claim the exemption allowed by Subsection (5)(a)(i)(B) for the sale prior to filing for the refund;

(iv) for sales and use taxes paid under this chapter on the sale;

(v) in accordance with Section 59-1-1410; and

(vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if the person files for the refund on or before September 30, 2011;

(6) sales of commercials, motion picture films, prerecorded audio program tapes or records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture exhibitor, distributor, or commercial television or radio broadcaster;

(7) (a) subject to Subsection (7)(b), sales of cleaning or washing of tangible personal property if the cleaning or washing of the tangible personal property is not assisted cleaning or washing of tangible personal property;

(b) if a seller that sells at the same business location assisted cleaning or washing of tangible personal property and cleaning or washing of tangible personal property that is not assisted cleaning or washing of tangible personal property, the exemption described in Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning or washing of the tangible personal property; and

(c) for purposes of Subsection (7)(b) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules:

(i) governing the circumstances under which sales are at the same business location; and

(ii) establishing the procedures and requirements for a seller to separately account for sales of assisted cleaning or washing of tangible personal property;

(8) sales made to or by religious or charitable institutions in the conduct of their regular religious or charitable functions and activities, if the requirements of Section 59-12-104.1 are fulfilled;

(9) sales of a vehicle of a type required to be registered under the motor vehicle laws of this state if the vehicle is:

(a) not registered in this state; and

(b) (i) not used in this state; or

(ii) used in this state:

(A) if the vehicle is not used to conduct business, for a time period that does not exceed the longer of:

(I) 30 days in any calendar year; or

(II) the time period necessary to transport the vehicle to the borders of this state; or

(B) if the vehicle is used to conduct business, for the time period necessary to transport the vehicle to the borders of this state;

(10) (a) amounts paid for an item described in Subsection (10)(b) if:

(i) the item is intended for human use; and

(ii) (A) a prescription was issued for the item; or

(B) the item was purchased by a hospital or other medical facility; and

(b) (i) Subsection (10)(a) applies to:

(A) a drug;

(B) a syringe; or

(C) a stoma supply; and

(ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the terms:

(A) "syringe"; or

(B) "stoma supply";

(11) purchases or leases exempt under Section 19-12-201;

(12) (a) sales of an item described in Subsection (12)(c) served by:

(i) the following if the item described in Subsection (12)(c) is not available to the general public:

(A) a church; or

(B) a charitable institution;

(ii) an institution of higher education if:

(A) the item described in Subsection (12)(c) is not available to the general public; or

(B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan offered by the institution of higher education; or

(b) sales of an item described in Subsection (12)(c) provided for a patient by:

(i) a medical facility; or

(ii) a nursing facility; and

(c) Subsections (12)(a) and (b) apply to:

(i) food and food ingredients;

(ii) prepared food; or

(iii) alcoholic beverages;

(13) (a) except as provided in Subsection (13)(b), the sale of tangible personal property or a product transferred electronically by a person:

(i) regardless of the number of transactions involving the sale of that tangible personal property or product transferred electronically by that person; and

(ii) not regularly engaged in the business of selling that type of tangible personal property or product transferred electronically;

(b) this Subsection (13) does not apply if:

(i) the sale is one of a series of sales of a character to indicate that the person is regularly engaged in the business of selling that type of tangible personal property or product transferred electronically;

(ii) the person holds that person out as regularly engaged in the business of selling that type of tangible personal property or product transferred electronically;

(iii) the person sells an item of tangible personal property or product transferred electronically that the person purchased as a sale that is exempt under Subsection (25); or

(iv) the sale is of a vehicle or vessel required to be titled or registered under the laws of this state in which case the tax is based upon:

(A) the bill of sale or other written evidence of value of the vehicle or vessel being sold; or

(B) in the absence of a bill of sale or other written evidence of value, the fair market value of the vehicle or vessel being sold at the time of the sale as determined by the commission; and

(c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules establishing the circumstances under which:

(i) a person is regularly engaged in the business of selling a type of tangible personal property or product transferred electronically;

(ii) a sale of tangible personal property or a product transferred electronically is one of a series

of sales of a character to indicate that a person is regularly engaged in the business of selling that type of tangible personal property or product transferred electronically; or

(iii) a person holds that person out as regularly engaged in the business of selling a type of tangible personal property or product transferred electronically;

(14) (a) amounts paid or charged for a purchase or lease:

(i) by a manufacturing facility located in the state; and

(ii) of machinery, equipment, or normal operating repair or replacement parts if the machinery, equipment, or normal operating repair or replacement parts have an economic life of three or more years and are used:

(A) in the manufacturing process to manufacture an item sold as tangible personal property; or

(B) for a scrap recycler, to process an item sold as tangible personal property;

(b) amounts paid or charged for a purchase or lease:

(i) by an establishment:

(A) described in NAICS Subsector 212, Mining (except Oil and Gas), or NAICS Code 213113, Support Activities for Coal Mining, 213114, Support Activities for Metal Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining, of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; and

(B) located in the state; and

(ii) of machinery, equipment, or normal operating repair or replacement parts if the machinery, equipment, or normal operating repair or replacement parts have an economic life of three or more years and are used in:

(A) the production process to produce an item sold as tangible personal property;

(B) research and development;

(C) transporting, storing, or managing tailings, overburden, or similar waste materials produced from mining;

(D) developing or maintaining a road, tunnel, excavation, or similar feature used in mining; or

(E) preventing, controlling, or reducing dust or other pollutants from mining;

(c) amounts paid or charged for a purchase or lease:

(i) by an establishment:

(A) described in NAICS Code 518112, Web Search Portals, of the 2002 North American Industry Classification System of the federal Executive

Office of the President, Office of Management and Budget; and

(B) located in the state; and

(ii) of machinery, equipment, or normal operating repair or replacement parts if the machinery, equipment, or normal operating repair or replacement parts:

(A) are used in the operation of the web search portal; and

(B) have an economic life of three or more years;

(d) for purposes of this Subsection (14) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission:

(i) shall by rule define the term "establishment"; and

(ii) may by rule define what constitutes:

(A) processing an item sold as tangible personal property;

(B) the production process, to produce an item sold as tangible personal property; or

(C) research and development; and

(e) on or before October 1, 2016, and every five years after October 1, 2016, the commission shall:

(i) review the exemptions described in this Subsection (14) and make recommendations to the Revenue and Taxation Interim Committee concerning whether the exemptions should be continued, modified, or repealed; and

(ii) include in its report:

(A) an estimate of the cost of the exemptions;

(B) the purpose and effectiveness of the exemptions; and

(C) the benefits of the exemptions to the state;

(15) (a) sales of the following if the requirements of Subsection (15)(b) are met:

(i) tooling;

(ii) special tooling;

(iii) support equipment;

(iv) special test equipment; or

(v) parts used in the repairs or renovations of tooling or equipment described in Subsections (15)(a)(i) through (iv); and

(b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:

(i) the tooling, equipment, or parts are used or consumed exclusively in the performance of any aerospace or electronics industry contract with the United States government or any subcontract under that contract; and

(ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i), title to the tooling, equipment, or parts is vested in the United States government as evidenced by:

(A) a government identification tag placed on the tooling, equipment, or parts; or

(B) listing on a government-approved property record if placing a government identification tag on the tooling, equipment, or parts is impractical;

(16) sales of newspapers or newspaper subscriptions;

(17) (a) except as provided in Subsection (17)(b), tangible personal property or a product transferred electronically traded in as full or part payment of the purchase price, except that for purposes of calculating sales or use tax upon vehicles not sold by a vehicle dealer, trade-ins are limited to other vehicles only, and the tax is based upon:

(i) the bill of sale or other written evidence of value of the vehicle being sold and the vehicle being traded in; or

(ii) in the absence of a bill of sale or other written evidence of value, the then existing fair market value of the vehicle being sold and the vehicle being traded in, as determined by the commission; and

(b) Subsection (17)(a) does not apply to the following items of tangible personal property or products transferred electronically traded in as full or part payment of the purchase price:

(i) money;

(ii) electricity;

(iii) water;

(iv) gas; or

(v) steam;

(18) (a) (i) except as provided in Subsection (18)(b), sales of tangible personal property or a product transferred electronically used or consumed primarily and directly in farming operations, regardless of whether the tangible personal property or product transferred electronically:

(A) becomes part of real estate; or

(B) is installed by a:

(I) farmer;

(II) contractor; or

(III) subcontractor; or

(ii) sales of parts used in the repairs or renovations of tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically is exempt under Subsection (18)(a)(i); and

(b) amounts paid or charged for the following are subject to the taxes imposed by this chapter:

(i) (A) subject to Subsection (18)(b)(i)(B), the following if used in a manner that is incidental to farming:

(I) machinery;

(II) equipment;

(III) materials; or

(IV) supplies; and

(B) tangible personal property that is considered to be used in a manner that is incidental to farming includes:

(I) hand tools; or

(II) maintenance and janitorial equipment and supplies;

(ii) (A) subject to Subsection (18)(b)(ii)(B), tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically is used in an activity other than farming; and

(B) tangible personal property or a product transferred electronically that is considered to be used in an activity other than farming includes:

(I) office equipment and supplies; or

(II) equipment and supplies used in:

(Aa) the sale or distribution of farm products;

(Bb) research; or

(Cc) transportation; or

(iii) a vehicle required to be registered by the laws of this state during the period ending two years after the date of the vehicle's purchase;

(19) sales of hay;

(20) exclusive sale during the harvest season of seasonal crops, seedling plants, or garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or garden, farm, or other agricultural produce is sold by:

(a) the producer of the seasonal crops, seedling plants, or garden, farm, or other agricultural produce;

(b) an employee of the producer described in Subsection (20)(a); or

(c) a member of the immediate family of the producer described in Subsection (20)(a);

(21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;

(22) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags, nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor, wholesaler, or retailer for use in packaging tangible personal property to be sold by that manufacturer, processor, wholesaler, or retailer;

(23) a product stored in the state for resale;

(24) (a) purchases of a product if:

(i) the product is:

(A) purchased outside of this state;

(B) brought into this state;

(I) at any time after the purchase described in Subsection (24)(a)(i)(A); and

(II) by a nonresident person who is not living or working in this state at the time of the purchase;

(C) used for the personal use or enjoyment of the nonresident person described in Subsection (24)(a)(i)(B)(II) while that nonresident person is within the state; and

(D) not used in conducting business in this state; and

(ii) for:

(A) a product other than a boat described in Subsection (24)(a)(ii)(B), the first use of the product for a purpose for which the product is designed occurs outside of this state;

(B) a boat, the boat is registered outside of this state; or

(C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered outside of this state;

(b) the exemption provided for in Subsection (24)(a) does not apply to:

(i) a lease or rental of a product; or

(ii) a sale of a vehicle exempt under Subsection (33); and

(c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for purposes of Subsection (24)(a), the commission may by rule define what constitutes the following:

(i) conducting business in this state if that phrase has the same meaning in this Subsection (24) as in Subsection (63);

(ii) the first use of a product if that phrase has the same meaning in this Subsection (24) as in Subsection (63); or

(iii) a purpose for which a product is designed if that phrase has the same meaning in this Subsection (24) as in Subsection (63);

(25) a product purchased for resale in this state, in the regular course of business, either in its original form or as an ingredient or component part of a manufactured or compounded product;

(26) a product upon which a sales or use tax was paid to some other state, or one of its subdivisions, except that the state shall be paid any difference between the tax paid and the tax imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax Act;

(27) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a person for use in compounding a service taxable under the subsections;

(28) purchases made in accordance with the special supplemental nutrition program for women,

infants, and children established in 42 U.S.C. Sec. 1786;

(29) sales or leases of rolls, rollers, refractory brick, electric motors, or other replacement parts used in the furnaces, mills, or ovens of a steel mill described in SIC Code 3312 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget;

(30) sales of a boat of a type required to be registered under Title 73, Chapter 18, State Boating Act, a boat trailer, or an outboard motor if the boat, boat trailer, or outboard motor is:

(a) not registered in this state; and

(b) (i) not used in this state; or

(ii) used in this state:

(A) if the boat, boat trailer, or outboard motor is not used to conduct business, for a time period that does not exceed the longer of:

(I) 30 days in any calendar year; or

(II) the time period necessary to transport the boat, boat trailer, or outboard motor to the borders of this state; or

(B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time period necessary to transport the boat, boat trailer, or outboard motor to the borders of this state;

(31) sales of aircraft manufactured in Utah;

(32) amounts paid for the purchase of telecommunications service for purposes of providing telecommunications service;

(33) sales, leases, or uses of the following:

(a) a vehicle by an authorized carrier; or

(b) tangible personal property that is installed on a vehicle:

(i) sold or leased to or used by an authorized carrier; and

(ii) before the vehicle is placed in service for the first time;

(34) (a) 45% of the sales price of any new manufactured home; and

(b) 100% of the sales price of any used manufactured home;

(35) sales relating to schools and fundraising sales;

(36) sales or rentals of durable medical equipment if:

(a) a person presents a prescription for the durable medical equipment; and

(b) the durable medical equipment is used for home use only;

(37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in Section 72-11-102; and

(b) the commission shall by rule determine the method for calculating sales exempt under Subsection (37)(a) that are not separately metered and accounted for in utility billings;

(38) sales to a ski resort of:

(a) snowmaking equipment;

(b) ski slope grooming equipment;

(c) passenger ropeways as defined in Section 72-11-102; or

(d) parts used in the repairs or renovations of equipment or passenger ropeways described in Subsections (38)(a) through (c);

(39) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;

(40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for amusement, entertainment, or recreation an unassisted amusement device as defined in Section 59-12-102;

(b) if a seller that sells or rents at the same business location the right to use or operate for amusement, entertainment, or recreation one or more unassisted amusement devices and one or more assisted amusement devices, the exemption described in Subsection (40)(a) applies if the seller separately accounts for the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for the assisted amusement devices; and

(c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules:

(i) governing the circumstances under which sales are at the same business location; and

(ii) establishing the procedures and requirements for a seller to separately account for the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for assisted amusement devices;

(41) (a) sales of photocopies by:

(i) a governmental entity; or

(ii) an entity within the state system of public education, including:

(A) a school; or

(B) the State Board of Education; or

(b) sales of publications by a governmental entity;

(42) amounts paid for admission to an athletic event at an institution of higher education that is subject to the provisions of Title IX of the Education Amendments of 1972, 20 U.S.C. Sec. 1681 et seq.;

(43) (a) sales made to or by:

(i) an area agency on aging; or

(ii) a senior citizen center owned by a county, city, or town; or

(b) sales made by a senior citizen center that contracts with an area agency on aging;

(44) sales or leases of semiconductor fabricating, processing, research, or development materials regardless of whether the semiconductor fabricating, processing, research, or development materials:

(a) actually come into contact with a semiconductor; or

(b) ultimately become incorporated into real property;

(45) an amount paid by or charged to a purchaser for accommodations and services described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section 59-12-104.2;

(46) beginning on September 1, 2001, the lease or use of a vehicle issued a temporary sports event registration certificate in accordance with Section 41-3-306 for the event period specified on the temporary sports event registration certificate;

(47) (a) sales or uses of electricity, if the sales or uses are made under a tariff adopted by the Public Service Commission of Utah only for purchase of electricity produced from a new alternative energy source, as designated in the tariff by the Public Service Commission of Utah; and

(b) the exemption under Subsection (47)(a) applies to the portion of the tariff rate a customer pays under the tariff described in Subsection (47)(a) that exceeds the tariff rate under the tariff described in Subsection (47)(a) that the customer would have paid absent the tariff;

(48) sales or rentals of mobility enhancing equipment if a person presents a prescription for the mobility enhancing equipment;

(49) sales of water in a:

(a) pipe;

(b) conduit;

(c) ditch; or

(d) reservoir;

(50) sales of currency or coins that constitute legal tender of a state, the United States, or a foreign nation;

(51) (a) sales of an item described in Subsection (51)(b) if the item:

(i) does not constitute legal tender of a state, the United States, or a foreign nation; and

(ii) has a gold, silver, or platinum content of 50% or more; and

(b) Subsection (51)(a) applies to a gold, silver, or platinum:

(i) ingot;

(ii) bar;

(iii) medallion; or

(iv) decorative coin;

(52) amounts paid on a sale-leaseback transaction;

(53) sales of a prosthetic device:

(a) for use on or in a human; and

(b) (i) for which a prescription is required; or

(ii) if the prosthetic device is purchased by a hospital or other medical facility;

(54) (a) except as provided in Subsection (54)(b), purchases, leases, or rentals of machinery or equipment by an establishment described in Subsection (54)(c) if the machinery or equipment is primarily used in the production or postproduction of the following media for commercial distribution:

(i) a motion picture;

(ii) a television program;

(iii) a movie made for television;

(iv) a music video;

(v) a commercial;

(vi) a documentary; or

(vii) a medium similar to Subsections (54)(a)(i) through (vi) as determined by the commission by administrative rule made in accordance with Subsection (54)(d); or

(b) purchases, leases, or rentals of machinery or equipment by an establishment described in Subsection (54)(c) that is used for the production or postproduction of the following are subject to the taxes imposed by this chapter:

(i) a live musical performance;

(ii) a live news program; or

(iii) a live sporting event;

(c) the following establishments listed in the 1997 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, apply to Subsections (54)(a) and (b):

(i) NAICS Code 512110; or

(ii) NAICS Code 512119; and

(d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule:

(i) prescribe what constitutes a medium similar to Subsections (54)(a)(i) through (vi); or

(ii) define:

(A) "commercial distribution";

(B) "live musical performance";

(C) "live news program"; or

(D) "live sporting event";

(55) (a) leases of seven or more years or purchases made on or after July 1, 2004, but on or before June 30, 2027, of tangible personal property that:

(i) is leased or purchased for or by a facility that:

(A) is an alternative energy electricity production facility;

(B) is located in the state; and

(C) (I) becomes operational on or after July 1, 2004; or

(II) has its generation capacity increased by one or more megawatts on or after July 1, 2004, as a result of the use of the tangible personal property;

(ii) has an economic life of five or more years; and

(iii) is used to make the facility or the increase in capacity of the facility described in Subsection (55)(a)(i) operational up to the point of interconnection with an existing transmission grid including:

(A) a wind turbine;

(B) generating equipment;

(C) a control and monitoring system;

(D) a power line;

(E) substation equipment;

(F) lighting;

(G) fencing;

(H) pipes; or

(I) other equipment used for locating a power line or pole; and

(b) this Subsection (55) does not apply to:

(i) tangible personal property used in construction of:

(A) a new alternative energy electricity production facility; or

(B) the increase in the capacity of an alternative energy electricity production facility;

(ii) contracted services required for construction and routine maintenance activities; and

(iii) unless the tangible personal property is used or acquired for an increase in capacity of the facility described in Subsection (55)(a)(i)(C)(II), tangible personal property used or acquired after:

(A) the alternative energy electricity production facility described in Subsection (55)(a)(i) is operational as described in Subsection (55)(a)(iii); or

(B) the increased capacity described in Subsection (55)(a)(i) is operational as described in Subsection (55)(a)(iii);

(56) (a) leases of seven or more years or purchases made on or after July 1, 2004, but on or before June 30, 2027, of tangible personal property that:

(i) is leased or purchased for or by a facility that:

(A) is a waste energy production facility;

(B) is located in the state; and

(C) (I) becomes operational on or after July 1, 2004; or

(II) has its generation capacity increased by one or more megawatts on or after July 1, 2004, as a result of the use of the tangible personal property;

(ii) has an economic life of five or more years; and

(iii) is used to make the facility or the increase in capacity of the facility described in Subsection (56)(a)(i) operational up to the point of interconnection with an existing transmission grid including:

(A) generating equipment;

(B) a control and monitoring system;

(C) a power line;

(D) substation equipment;

(E) lighting;

(F) fencing;

(G) pipes; or

(H) other equipment used for locating a power line or pole; and

(b) this Subsection (56) does not apply to:

(i) tangible personal property used in construction of:

(A) a new waste energy facility; or

(B) the increase in the capacity of a waste energy facility;

(ii) contracted services required for construction and routine maintenance activities; and

(iii) unless the tangible personal property is used or acquired for an increase in capacity described in Subsection (56)(a)(i)(C)(II), tangible personal property used or acquired after:

(A) the waste energy facility described in Subsection (56)(a)(i) is operational as described in Subsection (56)(a)(iii); or

(B) the increased capacity described in Subsection (56)(a)(i) is operational as described in Subsection (56)(a)(iii);

(57) (a) leases of five or more years or purchases made on or after July 1, 2004, but on or before June 30, 2027, of tangible personal property that:

(i) is leased or purchased for or by a facility that:

(A) is located in the state;

(B) produces fuel from alternative energy, including:

(I) methanol; or

(II) ethanol; and

(C) (I) becomes operational on or after July 1, 2004; or

(II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004, as a result of the installation of the tangible personal property;

(ii) has an economic life of five or more years; and

(iii) is installed on the facility described in Subsection (57)(a)(i);

(b) this Subsection (57) does not apply to:

(i) tangible personal property used in construction of:

(A) a new facility described in Subsection (57)(a)(i); or

(B) the increase in capacity of the facility described in Subsection (57)(a)(i); or

(ii) contracted services required for construction and routine maintenance activities; and

(iii) unless the tangible personal property is used or acquired for an increase in capacity described in Subsection (57)(a)(i)(C)(II), tangible personal property used or acquired after:

(A) the facility described in Subsection (57)(a)(i) is operational; or

(B) the increased capacity described in Subsection (57)(a)(i) is operational;

(58) (a) subject to Subsection (58)(b) or (c), sales of tangible personal property or a product transferred electronically to a person within this state if that tangible personal property or product transferred electronically is subsequently shipped outside the state and incorporated pursuant to contract into and becomes a part of real property located outside of this state;

(b) the exemption under Subsection (58)(a) is not allowed to the extent that the other state or political entity to which the tangible personal property is shipped imposes a sales, use, gross receipts, or other similar transaction excise tax on the transaction against which the other state or political entity allows a credit for sales and use taxes imposed by this chapter; and

(c) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund, a person may claim the exemption allowed by this Subsection (58) for a sale by filing for a refund:

(i) if the sale is made on or after July 1, 2004, but on or before June 30, 2008;

(ii) as if this Subsection (58) as in effect on July 1, 2008, were in effect on the day on which the sale is made;

(iii) if the person did not claim the exemption allowed by this Subsection (58) for the sale prior to filing for the refund;

(iv) for sales and use taxes paid under this chapter on the sale;

(v) in accordance with Section 59-1-1410; and

(vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if the person files for the refund on or before June 30, 2011;

(59) purchases:

(a) of one or more of the following items in printed or electronic format:

(i) a list containing information that includes one or more:

- (A) names; or
- (B) addresses; or
- (ii) a database containing information that includes one or more:
- (A) names; or
- (B) addresses; and
- (b) used to send direct mail;
- (60) redemptions or repurchases of a product by a person if that product was:
- (a) delivered to a pawnbroker as part of a pawn transaction; and
- (b) redeemed or repurchased within the time period established in a written agreement between the person and the pawnbroker for redeeming or repurchasing the product;
- (61) (a) purchases or leases of an item described in Subsection (61)(b) if the item:
- (i) is purchased or leased by, or on behalf of, a telecommunications service provider; and
- (ii) has a useful economic life of one or more years; and
- (b) the following apply to Subsection (61)(a):
- (i) telecommunications enabling or facilitating equipment, machinery, or software;
- (ii) telecommunications equipment, machinery, or software required for 911 service;
- (iii) telecommunications maintenance or repair equipment, machinery, or software;
- (iv) telecommunications switching or routing equipment, machinery, or software; or
- (v) telecommunications transmission equipment, machinery, or software;
- (62) (a) beginning on July 1, 2006, and ending on June 30, 2027, purchases of tangible personal property or a product transferred electronically that are used in the research and development of alternative energy technology; and
- (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may, for purposes of Subsection (62)(a), make rules defining what constitutes purchases of tangible personal property or a product transferred electronically that are used in the research and development of alternative energy technology;
- (63) (a) purchases of tangible personal property or a product transferred electronically if:
- (i) the tangible personal property or product transferred electronically is:
- (A) purchased outside of this state;
- (B) brought into this state at any time after the purchase described in Subsection (63)(a)(i)(A); and
- (C) used in conducting business in this state; and
- (ii) for:
- (A) tangible personal property or a product transferred electronically other than the tangible personal property described in Subsection (63)(a)(i)(B), the first use of the property for a purpose for which the property is designed occurs outside of this state; or
- (B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered outside of this state;
- (b) the exemption provided for in Subsection (63)(a) does not apply to:
- (i) a lease or rental of tangible personal property or a product transferred electronically; or
- (ii) a sale of a vehicle exempt under Subsection (33); and
- (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for purposes of Subsection (63)(a), the commission may by rule define what constitutes the following:
- (i) conducting business in this state if that phrase has the same meaning in this Subsection (63) as in Subsection (24);
- (ii) the first use of tangible personal property or a product transferred electronically if that phrase has the same meaning in this Subsection (63) as in Subsection (24); or
- (iii) a purpose for which tangible personal property or a product transferred electronically is designed if that phrase has the same meaning in this Subsection (63) as in Subsection (24);
- (64) sales of disposable home medical equipment or supplies if:
- (a) a person presents a prescription for the disposable home medical equipment or supplies;
- (b) the disposable home medical equipment or supplies are used exclusively by the person to whom the prescription described in Subsection (64)(a) is issued; and
- (c) the disposable home medical equipment and supplies are listed as eligible for payment under:
- (i) Title XVIII, federal Social Security Act; or
- (ii) the state plan for medical assistance under Title XIX, federal Social Security Act;
- (65) sales:
- (a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit District Act; or
- (b) of tangible personal property to a subcontractor of a public transit district, if the tangible personal property is:
- (i) clearly identified; and
- (ii) installed or converted to real property owned by the public transit district;
- (66) sales of construction materials:
- (a) purchased on or after July 1, 2010;

(b) purchased by, on behalf of, or for the benefit of an international airport:

- (i) located within a county of the first class; and
- (ii) that has a United States customs office on its premises; and

(c) if the construction materials are:

- (i) clearly identified;
- (ii) segregated; and

(iii) installed or converted to real property:

(A) owned or operated by the international airport described in Subsection (66)(b); and

(B) located at the international airport described in Subsection (66)(b);

(67) sales of construction materials:

- (a) purchased on or after July 1, 2008;
- (b) purchased by, on behalf of, or for the benefit of a new airport:

- (i) located within a county of the second class; and
- (ii) that is owned or operated by a city in which an airline as defined in Section 59-2-102 is headquartered; and

(c) if the construction materials are:

- (i) clearly identified;
- (ii) segregated; and
- (iii) installed or converted to real property:

(A) owned or operated by the new airport described in Subsection (67)(b);

(B) located at the new airport described in Subsection (67)(b); and

(C) as part of the construction of the new airport described in Subsection (67)(b);

(68) sales of fuel to a common carrier that is a railroad for use in a locomotive engine;

(69) purchases and sales described in Section 63H-4-111;

(70) (a) sales of tangible personal property to an aircraft maintenance, repair, and overhaul provider for use in the maintenance, repair, overhaul, or refurbishment in this state of a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration lists a state or country other than this state as the location of registry of the fixed wing turbine powered aircraft; or

(b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul provider in connection with the maintenance, repair, overhaul, or refurbishment in this state of a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration lists a state or country other than this state as the location of registry of the fixed wing turbine powered aircraft;

(71) subject to Section 59-12-104.4, sales of a textbook for a higher education course:

(a) to a person admitted to an institution of higher education; and

(b) by a seller, other than a bookstore owned by an institution of higher education, if 51% or more of that seller's sales revenue for the previous calendar quarter are sales of a textbook for a higher education course;

(72) a license fee or tax a municipality imposes in accordance with Subsection 10-1-203(5) on a purchaser from a business for which the municipality provides an enhanced level of municipal services;

(73) amounts paid or charged for construction materials used in the construction of a new or expanding life science research and development facility in the state, if the construction materials are:

- (a) clearly identified;
- (b) segregated; and
- (c) installed or converted to real property;

(74) amounts paid or charged for:

(a) a purchase or lease of machinery and equipment that:

(i) are used in performing qualified research:

- (A) as defined in Section 59-7-612;
- (B) in the state; and

(C) with respect to which the purchaser pays or incurs a qualified research expense as defined in Section 59-7-612; and

(ii) have an economic life of three or more years; and

(b) normal operating repair or replacement parts:

(i) for the machinery and equipment described in Subsection (74)(a); and

(ii) that have an economic life of three or more years;

(75) a sale or lease of tangible personal property used in the preparation of prepared food if:

(a) for a sale:

(i) the ownership of the seller and the ownership of the purchaser are identical; and

(ii) the seller or the purchaser paid a tax under this chapter on the purchase of that tangible personal property prior to making the sale; or

(b) for a lease:

(i) the ownership of the lessor and the ownership of the lessee are identical; and

(ii) the lessor or the lessee paid a tax under this chapter on the purchase of that tangible personal property prior to making the lease;

(76) (a) purchases of machinery or equipment if:

(i) the purchaser is an establishment described in NAICS Subsector 713, Amusement, Gambling, and Recreation Industries, of the 2012 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(ii) the machinery or equipment:

(A) has an economic life of three or more years; and

(B) is used by one or more persons who pay admission or user fees described in Subsection 59-12-103(1)(f) to the purchaser of the machinery and equipment; and

(iii) 51% or more of the purchaser's sales revenue for the previous calendar quarter is:

(A) amounts paid or charged as admission or user fees described in Subsection 59-12-103(1)(f); and

(B) subject to taxation under this chapter;

(b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules for verifying that 51% of a purchaser's sales revenue for the previous calendar quarter is:

(i) amounts paid or charged as admission or user fees described in Subsection 59-12-103(1)(f); and

(ii) subject to taxation under this chapter; and

(c) on or before the November 2018 interim meeting, and every five years after the November 2018 interim meeting, the commission shall review the exemption provided in this Subsection (76) and report to the Revenue and Taxation Interim Committee on:

(i) the revenue lost to the state and local taxing jurisdictions as a result of the exemption;

(ii) the purpose and effectiveness of the exemption; and

(iii) whether the exemption benefits the state;

(77) purchases of a short-term lodging consumable by a business that provides accommodations and services described in Subsection 59-12-103(1)(i);

(78) amounts paid or charged to access a database:

(a) if the primary purpose for accessing the database is to view or retrieve information from the database; and

(b) not including amounts paid or charged for a:

(i) digital audiowork;

(ii) digital audio-visual work; or

(iii) digital book;

(79) amounts paid or charged for a purchase or lease made by an electronic financial payment service, of:

(a) machinery and equipment that:

(i) are used in the operation of the electronic financial payment service; and

(ii) have an economic life of three or more years; and

(b) normal operating repair or replacement parts that:

(i) are used in the operation of the electronic financial payment service; and

(ii) have an economic life of three or more years;

(80) beginning on April 1, 2013, sales of a fuel cell as defined in Section 54-15-102;

(81) amounts paid or charged for a purchase or lease of tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically:

(a) is stored, used, or consumed in the state; and

(b) is temporarily brought into the state from another state:

(i) during a disaster period as defined in Section 53-2a-1202;

(ii) by an out-of-state business as defined in Section 53-2a-1202;

(iii) for a declared state disaster or emergency as defined in Section 53-2a-1202; and

(iv) for disaster- or emergency-related work as defined in Section 53-2a-1202; ~~and~~

(82) sales of goods and services at a morale, welfare, and recreation facility, as defined in Section 39-9-102, made pursuant to Title 39, Chapter 9, State Morale, Welfare, and Recreation Program[-]; and

(83) (a) except as provided in Subsection (83)(b), amounts paid or charged for a purchase or lease made by a drilling equipment manufacturer of machinery, equipment, materials, or normal operating repair or replacement parts:

(i) that are used or consumed exclusively in the drilling equipment manufacturer's manufacturing process; and

(ii) except for office:

(A) equipment; or

(B) supplies; and

(b) beginning on July 1, 2015, and ending on June 30, 2017, a person may claim an exemption described in Subsection (83)(a) only by filing for a refund:

(i) of 50% of the tax paid on the amounts paid or charged; and

(ii) in accordance with Section 59-1-1410.

Section 3. Effective date.

This bill takes effect on July 1, 2015.

CHAPTER 295**S. B. 187**

Passed March 11, 2015
Approved March 27, 2015
Effective May 12, 2015

**DEVELOPMENT OF LANDS
AROUND BEAR LAKE**

Chief Sponsor: Scott K. Jenkins
House Sponsor: R. Curt Webb

LONG TITLE**General Description:**

This bill requires the Division of Forestry, Fire, and State Lands to designate certain areas around Bear Lake for recreational development.

Highlighted Provisions:

This bill:

- ▶ requires the Division of Forestry, Fire, and State Lands to designate certain areas around Bear Lake for recreational development.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

65A-2-7, Utah Code Annotated 1953

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

Section 1. Section 65A-2-7 is enacted to read:**65A-2-7. Development of Bear Lake.**

The division shall:

(1) designate state lands along Highway 30 from the Ideal Beach RV Park and Spinnaker Marina southward approximately four miles to Rendevous Beach State Park, which lands are located in Township 13N, Range 5E, Sections 003, 010, 015, 022, and 023, as an area for the ongoing development of facilities for boating, fishing, beach going, swimming, parking, picnicking, and other recreational activities; and

(2) develop the area described in Subsection (1):

(a) consistent with the division's Bear Lake comprehensive management plan; and

(b) as funding allows.

CHAPTER 296**S. B. 207**

Passed March 11, 2015
 Approved March 27, 2015
 Effective May 12, 2015

POLITICAL ACTIVITY AMENDMENTS

Chief Sponsor: Curtis S. Bramble
 House Sponsor: Daniel McCay

LONG TITLE**General Description:**

This bill amends provisions of the Election Code and the Lobbyist Disclosure and Regulation Act.

Highlighted Provisions:

This bill:

- ▶ defines and amends terms;
- ▶ amends and corrects provisions relating to primary elections;
- ▶ changes the date on which a county clerk is required to provide an election notice;
- ▶ modifies the political party registration petition;
- ▶ modifies provisions relating to a declaration of candidacy;
- ▶ amends provisions relating to notifications that a qualified political party is required to provide to the lieutenant governor;
- ▶ amends ballot provisions;
- ▶ modifies provisions relating to rulemaking authority;
- ▶ amends provisions relating to candidate nomination and certification;
- ▶ amends provisions relating to nomination petitions;
- ▶ amends provisions relating to straight party voting;
- ▶ modifies requirements relating to reporting by a corporation or a lobbyist; and
- ▶ makes technical and conforming amendments.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

20A-1-102, as last amended by Laws of Utah 2014, Chapters 17, 31, 231, 362, and 391
 20A-1-201.5, as last amended by Laws of Utah 2013, Chapter 320
 20A-3-106, as last amended by Laws of Utah 2006, Chapter 326
 20A-5-101, as last amended by Laws of Utah 2014, Chapters 17 and 362
 20A-6-303, as last amended by Laws of Utah 2014, Chapter 17
 20A-6-304, as last amended by Laws of Utah 2014, Chapter 17
 20A-9-101, as last amended by Laws of Utah 2014, Chapter 17
 20A-9-201, as last amended by Laws of Utah 2014, Chapter 17
 20A-9-202, as last amended by Laws of Utah 2014, Chapter 17
 20A-9-403, as last amended by Laws of Utah 2014, Chapter 17

20A-9-406, as enacted by Laws of Utah 2014, Chapter 17
 20A-9-407, as enacted by Laws of Utah 2014, Chapter 17
 20A-9-408, as enacted by Laws of Utah 2014, Chapter 17
 20A-9-701, as last amended by Laws of Utah 2014, Chapter 17
 20A-11-701, as last amended by Laws of Utah 2013, Chapters 318 and 420
 36-11-201, as last amended by Laws of Utah 2010, Chapter 325

ENACTS:

20A-9-408.5, Utah Code Annotated 1953
 20A-9-411, Utah Code Annotated 1953
 20A-11-705, Utah Code Annotated 1953

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

Section 1. Section 20A-1-102 is amended to read:**20A-1-102. Definitions.**

As used in this title:

- (1) "Active voter" means a registered voter who has not been classified as an inactive voter by the county clerk.
- (2) "Automatic tabulating equipment" means apparatus that automatically examines and counts votes recorded on paper ballots or ballot sheets and tabulates the results.
- (3) (a) "Ballot" means the storage medium, whether paper, mechanical, or electronic, upon which a voter records the voter's votes.
 (b) "Ballot" includes ballot sheets, paper ballots, electronic ballots, and secrecy envelopes.
- (4) "Ballot label" means the cards, papers, booklet, pages, or other materials that:
 - (a) contain the names of offices and candidates and statements of ballot propositions to be voted on; and
 - (b) are used in conjunction with ballot sheets that do not display that information.
- (5) "Ballot proposition" means a question, issue, or proposal that is submitted to voters on the ballot for their approval or rejection including:
 - (a) an opinion question specifically authorized by the Legislature;
 - (b) a constitutional amendment;
 - (c) an initiative;
 - (d) a referendum;
 - (e) a bond proposition;
 - (f) a judicial retention question;
 - (g) an incorporation of a city or town; or
 - (h) any other ballot question specifically authorized by the Legislature.
- (6) "Ballot sheet":
 - (a) means a ballot that:

(i) consists of paper or a card where the voter's votes are marked or recorded; and

(ii) can be counted using automatic tabulating equipment; and

(b) includes punch card ballots and other ballots that are machine-countable.

(7) "Bind," "binding," or "bound" means securing more than one piece of paper together with a staple or stitch in at least three places across the top of the paper in the blank space reserved for securing the paper.

(8) "Board of canvassers" means the entities established by Sections 20A-4-301 and 20A-4-306 to canvass election returns.

(9) "Bond election" means an election held for the purpose of approving or rejecting the proposed issuance of bonds by a government entity.

(10) "Book voter registration form" means voter registration forms contained in a bound book that are used by election officers and registration agents to register persons to vote.

(11) "Business reply mail envelope" means an envelope that may be mailed free of charge by the sender.

(12) "By-mail voter registration form" means a voter registration form designed to be completed by the voter and mailed to the election officer.

(13) "Canvass" means the review of election returns and the official declaration of election results by the board of canvassers.

(14) "Canvassing judge" means a poll worker designated to assist in counting ballots at the canvass.

(15) "Contracting election officer" means an election officer who enters into a contract or interlocal agreement with a provider election officer.

(16) "Convention" means the political party convention at which party officers and delegates are selected.

(17) "Counting center" means one or more locations selected by the election officer in charge of the election for the automatic counting of ballots.

(18) "Counting judge" means a poll worker designated to count the ballots during election day.

(19) "Counting poll watcher" means a person selected as provided in Section 20A-3-201 to witness the counting of ballots.

(20) "Counting room" means a suitable and convenient private place or room, immediately adjoining the place where the election is being held, for use by the poll workers and counting judges to count ballots during election day.

(21) "County officers" means those county officers that are required by law to be elected.

(22) "Date of the election" or "election day" or "day of the election":

(a) means the day that is specified in the calendar year as the day that the election occurs; and

(b) does not include:

(i) deadlines established for absentee voting; or

(ii) any early voting or early voting period as provided under Chapter 3, Part 6, Early Voting.

(23) "Elected official" means:

(a) a person elected to an office under Section 20A-1-303;

(b) a person who is considered to be elected to a municipal office in accordance with Subsection 20A-1-206(1)(c)(ii); or

(c) a person who is considered to be elected to a local district office in accordance with Subsection 20A-1-206(3)(c)(ii).

(24) "Election" means a regular general election, a municipal general election, a statewide special election, a local special election, a regular primary election, a municipal primary election, and a local district election.

(25) "Election Assistance Commission" means the commission established by Public Law 107-252, the Help America Vote Act of 2002.

(26) "Election cycle" means the period beginning on the first day persons are eligible to file declarations of candidacy and ending when the canvass is completed.

(27) "Election judge" means a poll worker that is assigned to:

(a) preside over other poll workers at a polling place;

(b) act as the presiding election judge; or

(c) serve as a canvassing judge, counting judge, or receiving judge.

(28) "Election officer" means:

(a) the lieutenant governor, for all statewide ballots and elections;

(b) the county clerk for:

(i) a county ballot and election; and

(ii) a ballot and election as a provider election officer as provided in Section 20A-5-400.1 or 20A-5-400.5;

(c) the municipal clerk for:

(i) a municipal ballot and election; and

(ii) a ballot and election as a provider election officer as provided in Section 20A-5-400.1 or 20A-5-400.5;

(d) the local district clerk or chief executive officer for:

(i) a local district ballot and election; and

(ii) a ballot and election as a provider election officer as provided in Section 20A-5-400.1 or 20A-5-400.5; or

(e) the business administrator or superintendent of a school district for:

(i) a school district ballot and election; and

(ii) a ballot and election as a provider election officer as provided in Section 20A-5-400.1 or 20A-5-400.5.

(29) "Election official" means any election officer, election judge, or poll worker.

(30) "Election results" means:

(a) for an election other than a bond election, the count of votes cast in the election and the election returns requested by the board of canvassers; or

(b) for bond elections, the count of those votes cast for and against the bond proposition plus any or all of the election returns that the board of canvassers may request.

(31) "Election returns" includes the pollbook, the military and overseas absentee voter registration and voting certificates, one of the tally sheets, any unprocessed absentee ballots, all counted ballots, all excess ballots, all unused ballots, all spoiled ballots, the ballot disposition form, and the total votes cast form.

(32) "Electronic ballot" means a ballot that is recorded using a direct electronic voting device or other voting device that records and stores ballot information by electronic means.

(33) "Electronic signature" means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

(34) (a) "Electronic voting device" means a voting device that uses electronic ballots.

(b) "Electronic voting device" includes a direct recording electronic voting device.

(35) "Inactive voter" means a registered voter who has:

(a) been sent the notice required by Section 20A-2-306; and

(b) failed to respond to that notice.

(36) "Inspecting poll watcher" means a person selected as provided in this title to witness the receipt and safe deposit of voted and counted ballots.

(37) "Judicial office" means the office filled by any judicial officer.

(38) "Judicial officer" means any justice or judge of a court of record or any county court judge.

(39) "Local district" means a local government entity under Title 17B, Limited Purpose Local Government Entities - Local Districts, and

includes a special service district under Title 17D, Chapter 1, Special Service District Act.

(40) "Local district officers" means those local district board members that are required by law to be elected.

(41) "Local election" means a regular county election, a regular municipal election, a municipal primary election, a local special election, a local district election, and a bond election.

(42) "Local political subdivision" means a county, a municipality, a local district, or a local school district.

(43) "Local special election" means a special election called by the governing body of a local political subdivision in which all registered voters of the local political subdivision may vote.

(44) "Municipal executive" means:

(a) the mayor in the council-mayor form of government defined in Section 10-3b-102; or

(b) the mayor in the council-manager form of government defined in Subsection 10-3b-103(6).

(45) "Municipal general election" means the election held in municipalities and, as applicable, local districts on the first Tuesday after the first Monday in November of each odd-numbered year for the purposes established in Section 20A-1-202.

(46) "Municipal legislative body" means the council of the city or town in any form of municipal government.

(47) "Municipal office" means an elective office in a municipality.

(48) "Municipal officers" means those municipal officers that are required by law to be elected.

(49) "Municipal primary election" means an election held to nominate candidates for municipal office.

(50) "Official ballot" means the ballots distributed by the election officer to the poll workers to be given to voters to record their votes.

(51) "Official endorsement" means:

(a) the information on the ballot that identifies:

(i) the ballot as an official ballot;

(ii) the date of the election; and

(iii) the facsimile signature of the election officer; and

(b) the information on the ballot stub that identifies:

(i) the poll worker's initials; and

(ii) the ballot number.

(52) "Official register" means the official record furnished to election officials by the election officer that contains the information required by Section 20A-5-401.

(53) "Paper ballot" means a paper that contains:

(a) the names of offices and candidates and statements of ballot propositions to be voted on; and

(b) spaces for the voter to record the voter's vote for each office and for or against each ballot proposition.

(54) "Pilot project" means the election day voter registration pilot project created in Section 20A-4-108.

(55) "Political party" means an organization of registered voters that has qualified to participate in an election by meeting the requirements of Chapter 8, Political Party Formation and Procedures.

(56) "Pollbook" means a record of the names of voters in the order that they appear to cast votes.

(57) "Polling place" means the building where voting is conducted.

(58) (a) "Poll worker" means a person assigned by an election official to assist with an election, voting, or counting votes.

(b) "Poll worker" includes election judges.

(c) "Poll worker" does not include a watcher.

(59) "Position" means a square, circle, rectangle, or other geometric shape on a ballot in which the voter marks the voter's choice.

(60) "Primary convention" means the political party conventions held during the year of the regular general election.

(61) "Protective counter" means a separate counter, which cannot be reset, that:

(a) is built into a voting machine; and

(b) records the total number of movements of the operating lever.

(62) "Provider election officer" means an election officer who enters into a contract or interlocal agreement with a contracting election officer to conduct an election for the contracting election officer's local political subdivision in accordance with Section 20A-5-400.1.

(63) "Provisional ballot" means a ballot voted provisionally by a person:

(a) whose name is not listed on the official register at the polling place;

(b) whose legal right to vote is challenged as provided in this title; or

(c) whose identity was not sufficiently established by a poll worker.

(64) "Provisional ballot envelope" means an envelope printed in the form required by Section 20A-6-105 that is used to identify provisional ballots and to provide information to verify a person's legal right to vote.

(65) "Qualify" or "qualified" means to take the oath of office and begin performing the duties of the position for which the person was elected.

(66) "Receiving judge" means the poll worker that checks the voter's name in the official register, provides the voter with a ballot, and removes the ballot stub from the ballot after the voter has voted.

(67) "Registration form" means a book voter registration form and a by-mail voter registration form.

(68) "Regular ballot" means a ballot that is not a provisional ballot.

(69) "Regular general election" means the election held throughout the state on the first Tuesday after the first Monday in November of each even-numbered year for the purposes established in Section 20A-1-201.

(70) "Regular primary election" means the election on the fourth Tuesday of June of each even-numbered year, to nominate candidates of political parties and candidates for nonpartisan local school board positions to advance to the regular general election.

(71) "Resident" means a person who resides within a specific voting precinct in Utah.

(72) "Sample ballot" means a mock ballot similar in form to the official ballot printed and distributed as provided in Section 20A-5-405.

(73) "Scratch vote" means to mark or punch the straight party ticket and then mark or punch the ballot for one or more candidates who are members of different political parties or who are unaffiliated.

(74) "Secrecy envelope" means the envelope given to a voter along with the ballot into which the voter places the ballot after the voter has voted it in order to preserve the secrecy of the voter's vote.

(75) "Special election" means an election held as authorized by Section 20A-1-203.

(76) "Spoiled ballot" means each ballot that:

(a) is spoiled by the voter;

(b) is unable to be voted because it was spoiled by the printer or a poll worker; or

(c) lacks the official endorsement.

(77) "Statewide special election" means a special election called by the governor or the Legislature in which all registered voters in Utah may vote.

(78) "Stub" means the detachable part of each ballot.

(79) "Substitute ballots" means replacement ballots provided by an election officer to the poll workers when the official ballots are lost or stolen.

(80) "Ticket" means each list of candidates for each political party or for each group of petitioners.

(81) "Transfer case" means the sealed box used to transport voted ballots to the counting center.

(82) "Vacancy" means the absence of a person to serve in any position created by statute, whether that absence occurs because of death, disability, disqualification, resignation, or other cause.

(83) "Valid voter identification" means:

(a) a form of identification that bears the name and photograph of the voter which may include:

(i) a currently valid Utah driver license;

(ii) a currently valid identification card that is issued by:

(A) the state; or

(B) a branch, department, or agency of the United States;

(iii) a currently valid Utah permit to carry a concealed weapon;

(iv) a currently valid United States passport; or

(v) a currently valid United States military identification card;

(b) one of the following identification cards, whether or not the card includes a photograph of the voter:

(i) a valid tribal identification card;

(ii) a Bureau of Indian Affairs card; or

(iii) a tribal treaty card; or

(c) two forms of identification not listed under Subsection (83)(a) or (b) but that bear the name of the voter and provide evidence that the voter resides in the voting precinct, which may include:

(i) a current utility bill or a legible copy thereof, dated within the 90 days before the election;

(ii) a bank or other financial account statement, or a legible copy thereof;

(iii) a certified birth certificate;

(iv) a valid Social Security card;

(v) a check issued by the state or the federal government or a legible copy thereof;

(vi) a paycheck from the voter's employer, or a legible copy thereof;

(vii) a currently valid Utah hunting or fishing license;

(viii) certified naturalization documentation;

(ix) a currently valid license issued by an authorized agency of the United States;

(x) a certified copy of court records showing the voter's adoption or name change;

(xi) a valid Medicaid card, Medicare card, or Electronic Benefits Transfer Card;

(xii) a currently valid identification card issued by:

(A) a local government within the state;

(B) an employer for an employee; or

(C) a college, university, technical school, or professional school located within the state; or

(xiii) a current Utah vehicle registration.

(84) "Valid write-in candidate" means a candidate who has qualified as a write-in candidate by following the procedures and requirements of this title.

(85) "Voter" means a person who:

(a) meets the requirements for voting in an election;

(b) meets the requirements of election registration;

(c) is registered to vote; and

(d) is listed in the official register book.

(86) "Voter registration deadline" means the registration deadline provided in Section 20A-2-102.5.

(87) "Voting area" means the area within six feet of the voting booths, voting machines, and ballot box.

(88) "Voting booth" means:

(a) the space or compartment within a polling place that is provided for the preparation of ballots, including the voting machine enclosure or curtain; or

(b) a voting device that is free standing.

(89) "Voting device" means:

(a) an apparatus in which ballot sheets are used in connection with a punch device for piercing the ballots by the voter;

(b) a device for marking the ballots with ink or another substance;

(c) an electronic voting device or other device used to make selections and cast a ballot electronically, or any component thereof;

(d) an automated voting system under Section 20A-5-302; or

(e) any other method for recording votes on ballots so that the ballot may be tabulated by means of automatic tabulating equipment.

(90) "Voting machine" means a machine designed for the sole purpose of recording and tabulating votes cast by voters at an election.

(91) "Voting poll watcher" means a person appointed as provided in this title to witness the distribution of ballots and the voting process.

(92) "Voting precinct" means the smallest voting unit established as provided by law within which qualified voters vote at one polling place.

(93) "Watcher" means a voting poll watcher, a counting poll watcher, an inspecting poll watcher, and a testing watcher.

(94) "Western States Presidential Primary" means the election established in Chapter 9, Part 8, Western States Presidential Primary.

(95) "Write-in ballot" means a ballot containing any write-in votes.

(96) "Write-in vote" means a vote cast for a person whose name is not printed on the ballot according to the procedures established in this title.

Section 2. Section 20A-1-201.5 is amended to read:

20A-1-201.5. Primary election dates.

(1) A regular primary election shall be held throughout the state on the fourth Tuesday of June of each even numbered year as provided in Section 20A-9-403, 20A-9-407, or 20A-9-408, as applicable, to nominate persons for national, state, school board, and county offices.

(2) A municipal primary election shall be held, if necessary, on the second Tuesday following the first Monday in August before the regular municipal election to nominate persons for municipal offices.

(3) If the Legislature makes an appropriation for a Western States Presidential Primary election, the Western States Presidential Primary election shall be held throughout the state on the first Tuesday in February in the year in which a presidential election will be held.

Section 3. Section 20A-3-106 is amended to read:

20A-3-106. Voting straight ticket -- Splitting ballot -- Writing in names -- Effect of unnecessary marking of cross.

(1) When voting a paper ballot, any voter desiring to vote for all the candidates who are listed on the ballot as being from any one registered political party may:

(a) mark in the circle or position above that political party;

(b) mark in the squares or position opposite the names of all candidates for that party ticket; or

(c) make both markings.

(2) (a) When voting a ballot sheet, any voter desiring to vote for all the candidates who are listed on the ballot as being from any one registered political party may:

(i) mark the selected party on the straight party page or section; or

(ii) mark the name of each candidate from that party.

(b) To vote for candidates from two or more political parties, the voter may:

(i) mark in the squares or positions opposite the names of the candidates for whom the voter wishes to vote without marking in any circle; or

(ii) indicate [his] the voter's choice by:

(A) marking in the circle or position above one political party; and

(B) marking in the squares or positions opposite the names of desired candidates who are members of any party, are unaffiliated, or are listed without party name.

(3) (a) When voting an electronic ballot, any voter desiring to vote for all the candidates who are listed

on the ballot as being from any one registered political party may:

(i) select that party on the straight party selection area; or

(ii) select the name of each candidate from that party.

(b) To vote for candidates from two or more political parties, the voter may:

(i) select the names of the candidates for whom the voter wishes to vote without selecting a political party in the straight party selection area; or

(ii) (A) select a political party in the straight party selection area; and

(B) select the names of the candidates for whom the voter wishes to vote who are members of any party, are unaffiliated, or are listed without party name.

(4) In any election other than a primary election, if a voter voting a ballot has selected or placed a mark next to a party name in order to vote a straight party ticket and wishes to vote for a person on another party ticket for an office, or for an unaffiliated candidate, the voter shall select or mark the ballot next to the name of the candidate for whom the voter wishes to vote.

(5) (a) The voter may cast a write-in vote on a paper ballot or ballot sheet:

(i) by entering the name of a valid write-in candidate:

(A) by writing the name of a valid write-in candidate in the blank write-in section of the ballot; or

(B) by affixing a sticker with the office and name of the valid write-in name printed on it in the blank write-in part of the ballot; and

(ii) by placing a mark opposite the name of the write-in candidate to indicate the voter's vote.

(b) On a paper ballot or ballot sheet, a voter is considered to have voted for the person whose name is written or whose sticker appears in the blank write-in part of the ballot, if a mark is made opposite that name.

(c) On a paper ballot or ballot sheet, the unnecessary marking of a mark in a square on the ticket below the marked circle does not affect the validity of the vote.

(6) The voter may cast a write-in vote on an electronic ballot by:

(a) marking the appropriate position opposite the area for entering a write-in candidate for the office sought by the candidate for whom the voter wishes to vote; and

(b) entering the name of a valid write-in candidate in the write-in selection area.

Section 4. Section 20A-5-101 is amended to read:

20A-5-101. Notice of election.

(1) On or before November 15 in the year before each regular general election year, the lieutenant governor shall prepare and transmit a written notice to each county clerk that:

(a) designates the offices to be filled at the next year's regular general election;

(b) identifies the dates for filing a declaration of candidacy, and for submitting and certifying nomination petition signatures, as applicable, under ~~[Section]~~ Sections 20A-9-403, 20A-9-407, and 20A-9-408 for those offices;

(c) includes the master ballot position list for the next year and the year following as established under Section 20A-6-305; and

(d) contains a description of any ballot propositions to be decided by the voters that have qualified for the ballot as of that date.

(2) (a) ~~No later than [November 15 in the year before the regular general election year]~~ seven business days after the day on which the lieutenant governor transmits the written notice described in Subsection (1), each county clerk shall:

(i) publish a notice:

(A) once in a newspaper published in that county; and

(B) as required in Section 45-1-101; or

(ii) (A) cause a copy of the notice to be posted in a conspicuous place most likely to give notice of the election to the voters in each voting precinct within the county; and

(B) prepare an affidavit of that posting, showing a copy of the notice and the places where the notice was posted.

(b) The notice required by Subsection (2)(a) shall:

(i) designate the offices to be voted on in that election; and

(ii) identify the dates for filing a declaration of candidacy for those offices.

(3) Before each election, the election officer shall give written or printed notice of:

(a) the date and place of election;

(b) the hours during which the polls will be open;

(c) the polling places for each voting precinct;

(d) an election day voting center designated under Section 20A-3-703; and

(e) the qualifications for persons to vote in the election.

(4) To provide the notice required by Subsection (3), the election officer shall publish the notice at least two days before the election:

(a) in a newspaper of general circulation common to the area or in which the election is being held; and

(b) as required in Section 45-1-101.

Section 5. Section 20A-6-303 is amended to read:

20A-6-303. Regular general election -- Ballot sheets.

(1) Each election officer shall ensure that:

(a) copy on the ballot sheets or ballot labels, as applicable, are arranged in approximately the same order as paper ballots;

(b) the titles of offices and the names of candidates are printed in vertical columns or in a series of separate pages;

(c) the ballot sheet or any pages used for the ballot label are of sufficient number to include, after the list of candidates:

(i) the names of candidates for judicial offices and any other nonpartisan offices; and

(ii) any ballot propositions submitted to the voters for their approval or rejection;

(d) (i) a voting square or position is included where the voter may record a straight party ticket vote for all the candidates ~~[of]~~ who are listed on the ballot as being from one party by one mark or punch; and

(ii) the name of each political party listed in the straight party selection area includes the word "party" at the end of the party's name;

(e) the tickets are printed in the order specified under Section 20A-6-305;

(f) the office titles are printed immediately adjacent to the names of candidates so as to indicate clearly the candidates for each office and the number to be elected;

(g) the party designation of each candidate who has been nominated by a registered political party under Subsection 20A-9-202(4) or Subsection 20A-9-403(5) is printed immediately adjacent to the candidate's name; and

(h) (i) if possible, all candidates for one office are grouped in one column or upon one page;

(ii) if all candidates for one office cannot be listed in one column or grouped on one page:

(A) the ballot sheet or ballot label shall be clearly marked to indicate that the list of candidates is continued on the following column or page; and

(B) approximately the same number of names shall be printed in each column or on each page.

(2) Each election officer shall ensure that:

(a) proposed amendments to the Utah Constitution are listed in accordance with Section 20A-6-107;

(b) ballot propositions submitted to the voters are listed in accordance with Section 20A-6-107; and

(c) bond propositions that have qualified for the ballot are listed under the title assigned to each bond proposition under Section 11-14-206.

Section 6. Section 20A-6-304 is amended to read:

20A-6-304. Regular general election -- Electronic ballots.

(1) Each election officer shall ensure that:

(a) the format and content of the electronic ballot is arranged in approximately the same order as paper ballots;

(b) the titles of offices and the names of candidates are displayed in vertical columns or in a series of separate display screens;

(c) the electronic ballot is of sufficient length to include, after the list of candidates:

(i) the names of candidates for judicial offices and any other nonpartisan offices; and

(ii) any ballot propositions submitted to the voters for their approval or rejection;

(d) (i) a voting square or position is included where the voter may record a straight party ticket vote for all the candidates ~~of~~ who are listed on the ballot as being from one party by making a single selection; and

(ii) the name of each political party listed in the straight party selection area includes the word "party" at the end of the party's name;

(e) the tickets are displayed in the order specified under Section 20A-6-305;

(f) the office titles are displayed above or at the side of the names of candidates so as to indicate clearly the candidates for each office and the number to be elected;

(g) the party designation of each candidate who has been nominated by a registered political party under Subsection 20A-9-202(4) or Subsection 20A-9-403(5) is displayed adjacent to the candidate's name; and

(h) if possible, all candidates for one office are grouped in one column or upon one display screen.

(2) Each election officer shall ensure that:

(a) proposed amendments to the Utah Constitution are displayed in accordance with Section 20A-6-107;

(b) ballot propositions submitted to the voters are displayed in accordance with Section 20A-6-107; and

(c) bond propositions that have qualified for the ballot are displayed under the title assigned to each bond proposition under Section 11-14-206.

Section 7. Section 20A-9-101 is amended to read:

20A-9-101. Definitions.

As used in this chapter:

(1) (a) "Candidates for elective office" means persons who file a declaration of candidacy under Section 20A-9-202 to run in a regular general

election for a federal office, constitutional office, multicounty office, or county office.

(b) "Candidates for elective office" does not mean candidates for:

(i) justice or judge of court of record or not of record;

(ii) presidential elector;

(iii) any political party offices; and

(iv) municipal or local district offices.

(2) "Constitutional office" means the state offices of governor, lieutenant governor, attorney general, state auditor, and state treasurer.

(3) "Continuing political party" ~~is as~~ means the same as that term is defined in Section 20A-8-101.

(4) (a) "County office" means an elective office where the office holder is selected by voters entirely within one county.

(b) "County office" does not mean:

(i) the office of justice or judge of any court of record or not of record;

(ii) the office of presidential elector;

(iii) any political party offices;

(iv) any municipal or local district offices; and

(v) the office of United States Senator and United States Representative.

(5) "Federal office" means an elective office for United States Senator and United States Representative.

(6) "Filing officer" means:

(a) the lieutenant governor, for:

(i) the office of United States Senator and United States Representative; and

(ii) all constitutional offices;

(b) the county clerk, for county offices and local school district offices, and the county clerk in the filer's county of residence, for multicounty offices;

(c) the city or town clerk, for municipal offices; and

(d) the local district clerk, for local district offices.

(7) "Local district office" means an elected office in a local district.

(8) "Local government office" includes county offices, municipal offices, and local district offices and other elective offices selected by the voters from a political division entirely within one county.

(9) (a) "Multicounty office" means an elective office where the office holder is selected by the voters from more than one county.

(b) "Multicounty office" does not mean:

(i) a county office;

(ii) a federal office;

(iii) the office of justice or judge of any court of record or not of record;

(iv) the office of presidential elector;

(v) any political party offices; and

(vi) any municipal or local district offices.

(10) "Municipal office" means an elective office in a municipality.

(11) (a) "Political division" means a geographic unit from which an office holder is elected and that an office holder represents.

(b) "Political division" includes a county, a city, a town, a local district, a school district, a legislative district, and a county prosecution district.

(12) "Qualified political party" means a registered political party that:

(a) permits voters who are unaffiliated with any political party to vote for the registered political party's candidates in a primary election;

(b) (i) permits a delegate for the registered political party to vote on a candidate nomination in the registered political party's convention remotely; or

(ii) provides a procedure for designating an alternate delegate if a delegate is not present at the registered political party's convention;

(c) does not hold the registered political party's convention before [April 1] the fourth Saturday in March of an even-numbered year;

(d) permits a member of the registered political party to seek the registered political party's nomination for any elective office by the member choosing to seek the nomination by either or both of the following methods:

(i) seeking the nomination through the registered political party's convention process, in accordance with the provisions of Section 20A-9-407; or

(ii) seeking the nomination by collecting signatures, in accordance with the provisions of Section 20A-9-408; and

(e) (i) if the registered political party is a continuing political party, no later than 5 p.m. on September 30 of an odd-numbered year, certifies to the lieutenant governor that, for the election in the following year, the registered political party intends to nominate the registered political party's candidates in accordance with the provisions of [Sections 20A-9-407 and 20A-9-408.] Section 20A-9-406; or

(ii) if the registered political party is not a continuing political party, certifies at the time that the registered political party files the petition described in Section 20A-8-103 that, for the next election, the registered political party intends to nominate the registered political party's candidates in accordance with the provisions of Section 20A-9-406.

Section 8. Section 20A-9-201 is amended to read:

20A-9-201. Declarations of candidacy -- Candidacy for more than one office or of more than one political party prohibited with exceptions -- General filing and form requirements -- Affidavit of impecuniosity.

(1) Before filing a declaration of candidacy for election to any office, a person shall:

(a) be a United States citizen;

(b) meet the legal requirements of that office; and

(c) if seeking a registered political party's nomination as a candidate for elective office, ~~[designate that registered political party as their preferred party affiliation on their declaration of candidacy.]~~ state:

(i) the registered political party of which the person is a member; or

(ii) that the person is not a member of a registered political party.

(2) (a) Except as provided in Subsection (2)(b), ~~[a person]~~ an individual may not:

(i) file a declaration of candidacy for, or be a candidate for, more than one office in Utah during any election year; ~~[or]~~

(ii) appear on the ballot as the candidate of more than one political party~~[-]; or~~

(iii) file a declaration of candidacy for a registered political party of which the individual is not a member, except to the extent that the registered political party permits otherwise in the registered political party's bylaws.

(b) (i) A person may file a declaration of candidacy for, or be a candidate for, president or vice president of the United States and another office, if the person resigns the person's candidacy for the other office after the person is officially nominated for president or vice president of the United States.

(ii) A person may file a declaration of candidacy for, or be a candidate for, more than one justice court judge office.

(iii) A person may file a declaration of candidacy for lieutenant governor even if the person filed a declaration of candidacy for another office in the same election year if the person withdraws as a candidate for the other office in accordance with Subsection 20A-9-202(6) before filing the declaration of candidacy for lieutenant governor.

(3) (a) (i) Except for presidential candidates, before the filing officer may accept any declaration of candidacy, the filing officer shall:

(A) read to the prospective candidate the constitutional and statutory qualification requirements for the office that the candidate is seeking; and

(B) require the candidate to state whether or not the candidate meets those requirements.

(ii) Before accepting a declaration of candidacy for the office of county attorney, the county clerk shall ensure that the person filing that declaration of candidacy is:

(A) a United States citizen;

(B) an attorney licensed to practice law in Utah who is an active member in good standing of the Utah State Bar;

(C) a registered voter in the county in which the person is seeking office; and

(D) a current resident of the county in which the person is seeking office and either has been a resident of that county for at least one year or was appointed and is currently serving as county attorney and became a resident of the county within 30 days after appointment to the office.

(iii) Before accepting a declaration of candidacy for the office of district attorney, the county clerk shall ensure that, as of the date of the election, the person filing that declaration of candidacy is:

(A) a United States citizen;

(B) an attorney licensed to practice law in Utah who is an active member in good standing of the Utah State Bar;

(C) a registered voter in the prosecution district in which the person is seeking office; and

(D) a current resident of the prosecution district in which the person is seeking office and either will have been a resident of that prosecution district for at least one year as of the date of the election or was appointed and is currently serving as district attorney and became a resident of the prosecution district within 30 days after receiving appointment to the office.

(iv) Before accepting a declaration of candidacy for the office of county sheriff, the county clerk shall ensure that the person filing the declaration of candidacy:

(A) as of the date of filing:

(I) is a United States citizen;

(II) is a registered voter in the county in which the person seeks office;

(III) (Aa) has successfully met the standards and training requirements established for law enforcement officers under Title 53, Chapter 6, Part 2, Peace Officer Training and Certification Act; or

(Bb) has met the waiver requirements in Section 53-6-206; and

(IV) is qualified to be certified as a law enforcement officer, as defined in Section 53-13-103; and

(B) as of the date of the election, shall have been a resident of the county in which the person seeks office for at least one year.

(v) Before accepting a declaration of candidacy for the office of governor, lieutenant governor, state

auditor, state treasurer, attorney general, state legislator, or State Board of Education member, the filing officer shall ensure:

(A) that the person filing the declaration of candidacy also files the financial disclosure required by Section 20A-11-1603; and

(B) if the filing officer is not the lieutenant governor, that the financial disclosure is provided to the lieutenant governor according to the procedures and requirements of Section 20A-11-1603.

(b) If the prospective candidate states that the qualification requirements for the office are not met, the filing officer may not accept the prospective candidate's declaration of candidacy.

(c) If the candidate meets the requirements of Subsection (3)(a) and states that the requirements of candidacy are met, the filing officer shall:

(i) inform the candidate that:

(A) the candidate's name will appear on the ballot as it is written on the declaration of candidacy;

(B) the candidate may be required to comply with state or local campaign finance disclosure laws; and

(C) the candidate is required to file a financial statement before the candidate's political convention under:

(I) Section 20A-11-204 for a candidate for constitutional office;

(II) Section 20A-11-303 for a candidate for the Legislature; or

(III) local campaign finance disclosure laws, if applicable;

(ii) except for a presidential candidate, provide the candidate with a copy of the current campaign financial disclosure laws for the office the candidate is seeking and inform the candidate that failure to comply will result in disqualification as a candidate and removal of the candidate's name from the ballot;

(iii) provide the candidate with a copy of Section 20A-7-801 regarding the Statewide Electronic Voter Information Website Program and inform the candidate of the submission deadline under Subsection 20A-7-801(4)(a);

(iv) provide the candidate with a copy of the pledge of fair campaign practices described under Section 20A-9-206 and inform the candidate that:

(A) signing the pledge is voluntary; and

(B) signed pledges shall be filed with the filing officer;

(v) accept the candidate's declaration of candidacy; and

(vi) if the candidate has filed for a partisan office, provide a certified copy of the declaration of candidacy to the chair of the county or state political party of which the candidate is a member.

(d) If the candidate elects to sign the pledge of fair campaign practices, the filing officer shall:

- (i) accept the candidate's pledge; and
- (ii) if the candidate has filed for a partisan office, provide a certified copy of the candidate's pledge to the chair of the county or state political party of which the candidate is a member.

(4) (a) Except for presidential candidates, the form of the declaration of candidacy shall:

- (i) be substantially as follows:

"State of Utah, County of _____

I, _____, declare my candidacy for the office of _____, seeking the nomination of the _____ party[, which is my preferred political party affiliation]. I do solemnly swear that: I will meet the qualifications to hold the office, both legally and constitutionally, if selected; I reside at _____ in the City or Town of _____, Utah, Zip Code _____ Phone No. _____; I will not knowingly violate any law governing campaigns and elections; I will file all campaign financial disclosure reports as required by law; and I understand that failure to do so will result in my disqualification as a candidate for this office and removal of my name from the ballot. The mailing address that I designate for receiving official election notices is _____.

Subscribed and sworn before me this _____ (month \ day \ year).
Notary Public (or other officer qualified to administer oath.); and

(ii) require the candidate to state, in the sworn statement described in Subsection (4)(a)(i):

(A) the registered political party of which the candidate is a member; or

(B) that the candidate is not a member of a registered political party.

(b) An agent designated to file a declaration of candidacy under Section 20A-9-202 may not sign the form described in Subsection (4)(a).

(5) (a) Except for presidential candidates, the fee for filing a declaration of candidacy is:

- (i) \$50 for candidates for the local school district board; and
- (ii) \$50 plus 1/8 of 1% of the total salary for the full term of office legally paid to the person holding the office for all other federal, state, and county offices.

(b) Except for presidential candidates, the filing officer shall refund the filing fee to any candidate:

- (i) who is disqualified; or
- (ii) who the filing officer determines has filed improperly.

(c) (i) The county clerk shall immediately pay to the county treasurer all fees received from candidates.

(ii) The lieutenant governor shall:

(A) apportion to and pay to the county treasurers of the various counties all fees received for filing of nomination certificates or acceptances; and

(B) ensure that each county receives that proportion of the total amount paid to the lieutenant governor from the congressional district that the total vote of that county for all candidates for representative in Congress bears to the total vote of all counties within the congressional district for all candidates for representative in Congress.

(d) (i) A person who is unable to pay the filing fee may file a declaration of candidacy without payment of the filing fee upon a prima facie showing of impecuniosity as evidenced by an affidavit of impecuniosity filed with the filing officer and, if requested by the filing officer, a financial statement filed at the time the affidavit is submitted.

(ii) A person who is able to pay the filing fee may not claim impecuniosity.

(iii) (A) False statements made on an affidavit of impecuniosity or a financial statement filed under this section shall be subject to the criminal penalties provided under Sections 76-8-503 and 76-8-504 and any other applicable criminal provision.

(B) Conviction of a criminal offense under Subsection (5)(d)(iii)(A) shall be considered an offense under this title for the purposes of assessing the penalties provided in Subsection 20A-1-609(2).

(iv) The filing officer shall ensure that the affidavit of impecuniosity is printed in substantially the following form:

"Affidavit of Impecuniosity

Individual Name _____

Address _____
Phone Number _____

I, _____ (name), do solemnly [swear] [affirm], under penalty of law for false statements, that, owing to my poverty, I am unable to pay the filing fee required by law.

Date _____ Signature _____

Affiant

Subscribed and sworn to before me on _____ (month \ day \ year)

_____ (signature)

Name and Title of Officer Authorized to Administer Oath _____"

(v) The filing officer shall provide to a person who requests an affidavit of impecuniosity a statement printed in substantially the following form, which may be included on the affidavit of impecuniosity:

"Filing a false statement is a criminal offense. In accordance with Section 20A-1-609, a candidate

who is found guilty of filing a false statement, in addition to being subject to criminal penalties, will be removed from the ballot.”

(vi) The filing officer may request that a person who makes a claim of impecuniosity under this Subsection (5)(d) file a financial statement on a form prepared by the election official.

(6) (a) If there is no legislative appropriation for the Western States Presidential Primary election, as provided in Part 8, Western States Presidential Primary, a candidate for president of the United States who is affiliated with a registered political party and chooses to participate in the regular primary election shall:

(i) file a declaration of candidacy, in person or via a designated agent, with the lieutenant governor:

(A) on a form developed and provided by the lieutenant governor; and

(B) on or after the second Friday in March and before 5 p.m. on the third Thursday in March before the next regular primary election;

(ii) identify the registered political party whose nomination the candidate is seeking;

(iii) provide a letter from the registered political party certifying that the candidate may participate as a candidate for that party in that party's presidential primary election; and

(iv) pay the filing fee of \$500.

(b) An agent designated to file a declaration of candidacy may not sign the form described in Subsection (6)(a)(i)(A).

(7) Any person who fails to file a declaration of candidacy or certificate of nomination within the time provided in this chapter is ineligible for nomination to office.

(8) A declaration of candidacy filed under this section may not be amended or modified after the final date established for filing a declaration of candidacy.

Section 9. Section 20A-9-202 is amended to read:

20A-9-202. Declarations of candidacy for regular general elections.

(1) (a) Each person seeking to become a candidate for an elective office that is to be filled at the next regular general election shall:

(i) file a declaration of candidacy in person with the filing officer on or after January 1 of the regular general election year, and, if applicable, before the candidate circulates nomination petitions under Section 20A-9-405; and

(ii) pay the filing fee.

(b) Each county clerk who receives a declaration of candidacy from a candidate for multicounty office shall transmit the filing fee and a copy of the candidate's declaration of candidacy to the

lieutenant governor within one working day after it is filed.

(c) Each day during the filing period, each county clerk shall notify the lieutenant governor electronically or by telephone of candidates who have filed in their office.

(d) Each person seeking the office of lieutenant governor, the office of district attorney, or the office of president or vice president of the United States shall comply with the specific declaration of candidacy requirements established by this section.

(2) (a) Each person intending to become a candidate for the office of district attorney within a multicounty prosecution district that is to be filled at the next regular general election shall:

(i) file a declaration of candidacy with the clerk designated in the interlocal agreement creating the prosecution district on or after January 1 of the regular general election year, and before the candidate circulates nomination petitions under Section 20A-9-405; and

(ii) pay the filing fee.

(b) The designated clerk shall provide to the county clerk of each county in the prosecution district a certified copy of each declaration of candidacy filed for the office of district attorney.

(3) (a) On or before 5 p.m. on the first Monday after the third Saturday in April, each lieutenant governor candidate shall:

(i) file a declaration of candidacy with the lieutenant governor;

(ii) pay the filing fee; and

(iii) submit a letter from a candidate for governor who has received certification for the primary-election ballot under Section 20A-9-403 that names the lieutenant governor candidate as a joint-ticket running mate.

(b) Any candidate for lieutenant governor who fails to timely file is disqualified. If a lieutenant governor is disqualified, another candidate shall file to replace the disqualified candidate.

(4) Each registered political party shall:

(a) certify the names of its candidates for president and vice president of the United States to the lieutenant governor no later than August 31; or

(b) provide written authorization for the lieutenant governor to accept the certification of candidates for president and vice president of the United States from the national office of the registered political party.

(5) (a) A declaration of candidacy filed under this section is valid unless a written objection is filed with the clerk or lieutenant governor within five days after the last day for filing.

(b) If an objection is made, the clerk or lieutenant governor shall:

(i) mail or personally deliver notice of the objection to the affected candidate immediately; and

(ii) decide any objection within 48 hours after it is filed.

(c) If the clerk or lieutenant governor sustains the objection, the candidate may cure the problem by amending the declaration or petition within three days after the objection is sustained or by filing a new declaration within three days after the objection is sustained.

(d) (i) The clerk's or lieutenant governor's decision upon objections to form is final.

(ii) The clerk's or lieutenant governor's decision upon substantive matters is reviewable by a district court if prompt application is made to the court.

(iii) The decision of the district court is final unless the Supreme Court, in the exercise of its discretion, agrees to review the lower court decision.

(6) Any person who filed a declaration of candidacy may withdraw as a candidate by filing a written affidavit with the clerk.

(7) Except as provided in Subsection 20A-9-201(4)(b), notwithstanding a requirement in this section to file a declaration of candidacy in person, a person may designate an agent to file the form described in Subsection 20A-9-201(4) in person with the filing officer if:

(a) the person is located outside the state during the filing period because:

(i) of employment with the state or the United States; or

(ii) the person is a member of:

(A) the active or reserve components of the Army, Navy, Air Force, Marine Corps, or Coast Guard of the United States who is on active duty;

(B) the Merchant Marine, the commissioned corps of the Public Health Service, or the commissioned corps of the National Oceanic and Atmospheric Administration of the United States; or

(C) the National Guard on activated status;

(b) the person communicates with the filing officer using an electronic device that allows the person and filing officer to see and hear each other; and

(c) the person provides the filing officer with an email address to which the filing officer may send the copies described in Subsection 20A-9-201(3).

Section 10. Section 20A-9-403 is amended to read:

20A-9-403. Regular primary elections.

(1) (a) Candidates for elective office that are to be filled at the next regular general election shall be nominated in a regular primary election by direct vote of the people in the manner prescribed in this section. The fourth Tuesday of June of each even-numbered year is designated as regular primary election day. Nothing in this section shall

affect a candidate's ability to qualify for a regular general election's ballot as an unaffiliated candidate under Section 20A-9-501 or to participate in a regular general election as a write-in candidate under Section 20A-9-601.

(b) Each registered political party that chooses to have the names of its candidates for elective office featured with party affiliation on the ballot at a regular general election shall comply with the requirements of this section and shall nominate its candidates for elective office in the manner prescribed in this section.

(c) A filing officer may not permit an official ballot at a regular general election to be produced or used if the ballot denotes affiliation between a registered political party or any other political group and a candidate for elective office who was not nominated in the manner prescribed in this section or in Subsection 20A-9-202(4).

(d) Unless noted otherwise, the dates in this section refer to those that occur in each even-numbered year in which a regular general election will be held.

(2) (a) Each registered political party, in a statement filed with the lieutenant governor, shall:

(i) either declare their intent to participate in the next regular primary election or declare that the registered political party chooses not to have the names of its candidates for elective office featured on the ballot at the next regular general election; and

(ii) if the registered political party participates in the upcoming regular primary election, identify one or more registered political parties whose members may vote for the registered political party's candidates and whether or not persons identified as unaffiliated with a political party may vote for the registered political party's candidates[; and].

~~[(iii) if the registered political party participates in the upcoming regular primary election, indicate whether it chooses to nominate unopposed candidates without their name appearing on the ballot, as described under Subsection (5)(e).]~~

(b) (i) A registered political party that is a continuing political party must file the statement described in Subsection (2)(a) with the lieutenant governor no later than 5 p.m. on November 15 of each odd-numbered year.

(ii) An organization that is seeking to become a registered political party under Section 20A-8-103 must file the statement described in ~~Subsection (2)(b) no later than 5 p.m. on February 15]~~ Subsection (2)(a) at the time that the registered political party files the petition described in Section 20A-8-103.

(3) (a) Except as provided in Subsection (3)(e), a person who has submitted a declaration of candidacy under Section 20A-9-202 shall appear as a candidate for elective office on the regular primary ballot of the registered political party listed on the declaration of candidacy only if the person is

certified by the appropriate filing officer as having submitted a set of nomination petitions that was:

(i) circulated and completed in accordance with Section 20A-9-405; and

(ii) signed by at least two percent of the registered political party's members who reside in the political division of the office that the person seeks.

(b) A candidate for elective office shall submit nomination petitions to the appropriate filing officer for verification and certification no later than 5 p.m. on the final day in March. Candidates may supplement their submissions at any time on or before the filing deadline.

(c) The lieutenant governor shall determine for each elective office the total number of signatures that must be submitted under Subsection (3)(a)(ii) by counting the aggregate number of persons residing in each elective office's political division who have designated a particular registered political party on their voter registration forms as of November 1 of each odd-numbered year. The lieutenant governor shall publish this determination for each elective office no later than November 15 of each odd-numbered year.

(d) The filing officer shall:

(i) verify signatures on nomination petitions in a transparent and orderly manner;

(ii) for all qualifying candidates for elective office who submitted nomination petitions to the filing officer, issue certifications referenced in Subsection (3)(a) no later than 5 p.m. on the first Monday after the third Saturday in April;

(iii) consider active and inactive voters eligible to sign nomination petitions;

(iv) consider a person who signs a nomination petition a member of a registered political party for purposes of Subsection (3)(a)(ii) if the person has designated that registered political party as ~~their preferred party affiliation on their~~ the person's party membership on the person's voter registration form [prior to 5 p.m. on the final day in March]; and

(v) utilize procedures described in Section 20A-7-206.3 to verify submitted nomination petition signatures, or use statistical sampling procedures to verify submitted nomination petition signatures pursuant to rules ~~issued by the lieutenant governor~~ made under Subsection (3)(f).

(e) Notwithstanding any other provision in this Subsection (3), a candidate for lieutenant governor may appear on the regular primary ballot of a registered political party without submitting nomination petitions if the candidate files a declaration of candidacy and complies with Subsection 20A-9-202(3).

~~[(f) The lieutenant governor shall issue rules that]~~

(f) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the director of

elections, within the Office of the Lieutenant Governor, shall make rules that:

(i) provide for the use of statistical sampling procedures [for] that:

(A) filing officers are required to use to verify signatures under Subsection (3)(d)[. The statistical sampling procedures shall]; and

(B) reflect a bona fide effort to determine the validity of a candidate's entire submission, using widely recognized statistical sampling techniques[. The lieutenant governor may also issue supplemental rules and guidance that]; and

(ii) provide for the transparent, orderly, and timely submission, verification, and certification of nomination petition signatures.

(g) The county clerk shall:

(i) review the declarations of candidacy filed by candidates for local boards of education to determine if more than two candidates have filed for the same seat;

(ii) place the names of all candidates who have filed a declaration of candidacy for a local board of education seat on the nonpartisan section of the ballot if more than two candidates have filed for the same seat; and

(iii) determine the order of the local board of education candidates' names on the ballot in accordance with Section 20A-6-305.

(4) (a) By 5 p.m. on the first Wednesday after the third Saturday in April, the lieutenant governor shall provide to the county clerks:

(i) a list of the names of all candidates for federal, constitutional, multi-county, and county offices who have received certifications under Subsection (3), along with instructions on how those names shall appear on the primary-election ballot in accordance with Section 20A-6-305; and

(ii) a list of unopposed candidates for elective office who have been nominated by a registered political party under Subsection (5)(c) and instruct the county clerks to exclude such candidates from the primary-election ballot.

(b) A candidate for lieutenant governor and a candidate for governor campaigning as joint-ticket running mates shall appear jointly on the primary-election ballot.

(c) After the county clerk receives the certified list from the lieutenant governor under Subsection (4)(a), the county clerk shall post or publish a primary election notice in substantially the following form:

"Notice is given that a primary election will be held Tuesday, June ____, ____ (year), to nominate party candidates for the parties and candidates for nonpartisan local school board positions listed on the primary ballot. The polling place for voting precinct ____ is _____. The polls will open at 7 a.m. and continue open until 8 p.m. of the same day. Attest: county clerk."

(5) (a) Candidates, other than presidential candidates, receiving the highest number of votes

cast for each office at the regular primary election are nominated by their registered political party for that office or are nominated as a candidate for a nonpartisan local school board position.

(b) If two or more candidates, other than presidential candidates, are to be elected to the office at the regular general election, those party candidates equal in number to positions to be filled who receive the highest number of votes at the regular primary election are the nominees of their party for those positions.

(c) A candidate who is unopposed for an elective office in the regular primary election of a registered political party is nominated by the party for that office without appearing on the primary ballot, ~~provided that the party has chosen to nominate unopposed candidates under Subsection (2)(a)(iii)].~~ A candidate is "unopposed" if no person other than the candidate has received a certification under Subsection (3) for the regular primary election ballot of the candidate's registered political party for a particular elective office.

(6) (a) When a tie vote occurs in any primary election for any national, state, or other office that represents more than one county, the governor, lieutenant governor, and attorney general shall, at a public meeting called by the governor and in the presence of the candidates involved, select the nominee by lot cast in whatever manner the governor determines.

(b) When a tie vote occurs in any primary election for any county office, the district court judges of the district in which the county is located shall, at a public meeting called by the judges and in the presence of the candidates involved, select the nominee by lot cast in whatever manner the judges determine.

(7) The expense of providing all ballots, blanks, or other supplies to be used at any primary election provided for by this section, and all expenses necessarily incurred in the preparation for or the conduct of that primary election shall be paid out of the treasury of the county or state, in the same manner as for the regular general elections.

(8) An individual may not file a declaration of candidacy for a registered political party of which the individual is not a member, except to the extent that the registered political party permits otherwise under the registered political party's bylaws.

Section 11. Section 20A-9-406 is amended to read:

20A-9-406. Qualified political party -- Requirements and exemptions.

The following provisions apply to a qualified political party:

(1) the qualified political party shall ~~certify to the lieutenant governor~~, no later than 5 p.m. on March 1 of each even-numbered year ~~(-a)~~, certify to the lieutenant governor the identity of one or more registered political parties whose members may

vote for the qualified political party's candidates; ~~and]~~

~~(b) whether the qualified political party chooses to nominate unopposed candidates without the names of the candidates appearing on the ballot, as described in Subsection 20A-9-403(5)(e);]~~

(2) the provisions of Subsections 20A-9-403(1) through (4)(a), Subsection 20A-9-403(5)(c), and Section 20A-9-405 do not apply to a nomination for the qualified political party;

(3) an individual may only ~~obtain a]~~ seek the nomination ~~[for]~~ of the qualified political party by using a method described in Section 20A-9-407, Section 20A-9-408, or both;

(4) the qualified political party shall comply with the provisions of Sections 20A-9-407, 20A-9-408, and 20A-9-409;

(5) notwithstanding Subsection 20A-6-301(1)(a), (1)(g), or (2)(a), each election officer shall ensure that a ballot described in Section 20A-6-301 includes each person nominated by a qualified political party ~~under Section 20A-9-407 or 20A-9-408]:~~

(a) under the qualified political party's name and emblem, if any; or

(b) under the title of the qualified registered political party as designated by the qualified political party in the certification described in Subsection (1), or, if none is designated, then under some suitable title;

(6) notwithstanding Subsection 20A-6-302(1)(a), each election officer shall ensure, for paper ballots in regular general elections, that each candidate who is nominated by the qualified political party is listed by party;

(7) notwithstanding Subsection 20A-6-303(1)(g), each election officer shall ensure that the party designation of each candidate who is nominated by the qualified political party is printed immediately adjacent to the candidate's name on ballot sheets or ballot labels;

(8) notwithstanding Subsection 20A-6-304(1)(g), each election officer shall ensure that the party designation of each candidate who is nominated by the qualified political party is displayed adjacent to the candidate's name on an electronic ballot;

(9) "candidates for elective office," defined in Subsection 20A-9-101(1)(a), also includes an individual who files a declaration of candidacy under Section 20A-9-407 or 20A-9-408 to run in a regular general election for a federal office, constitutional office, multicounty office, or county office;

(10) an individual who is nominated by, or seeking the nomination of, the qualified political party is not required to comply with Subsection 20A-9-201(1)(c);

(11) notwithstanding Subsection 20A-9-403(3), the qualified political party is entitled to have each of the qualified political party's candidates for

elective office appear on the primary ballot of the qualified political party with an indication that each candidate is a candidate for the qualified political party;

(12) notwithstanding Subsection 20A-9-403(4)(a), the lieutenant governor shall include on the list provided by the lieutenant governor to the county clerks:

(a) the names of all candidates of the qualified political party for federal, constitutional, multicounty, and county offices; and

(b) the names of unopposed candidates for elective office who have been nominated by the qualified political party and instruct the county clerks to exclude such candidates from the primary-election ballot;

(13) notwithstanding Subsection 20A-9-403(5)(c), a candidate who is unopposed for an elective office in the regular primary election of the qualified political party is nominated by the party for that office without appearing on the primary ballot, provided that the party has chosen to nominate unopposed candidates under Subsection 20A-9-403(2)(a)(iii); and

(14) notwithstanding the provisions of Subsections 20A-9-403(1) and (2) and Section 20A-9-405, the qualified political party is entitled to have the names of its candidates for elective office featured with party affiliation on the ballot at a regular general election.

Section 12. Section 20A-9-407 is amended to read:

20A-9-407. Convention process to seek the nomination of a qualified political party.

(1) This section describes the requirements for a member of a qualified political party who is seeking the nomination of a qualified political party for an elective office through the qualified political party's convention [nomination] process.

(2) Notwithstanding Subsection 20A-9-201(4)(a), the form of the declaration of candidacy for a member of a qualified political party who is nominated by, or who is seeking the nomination of, the qualified political party under this section shall be substantially as [follows:] described in Section 20A-9-408.5.

[²State of Utah, County of ____]

[I, _____, declare my intention of becoming a candidate for the office of ____ as a candidate for the ____ party. I do solemnly swear that: I will meet the qualifications to hold the office, both legally and constitutionally, if selected; I reside at _____ in the City or Town of _____, Utah, Zip Code _____, Phone No. _____; I will not knowingly violate any law governing campaigns and elections; I will file all campaign financial disclosure reports as required by law; and I understand that failure to do so will result in my disqualification as a candidate for this office and removal of my name from the ballot. The mailing address that I

designate for receiving official election notices is

_____] [_____]

[Subscribed and sworn before me this _____ (month \day \year). Notary Public (or other officer qualified to administer oath).²]

(3) Notwithstanding Subsection 20A-9-202(1)(a), and except as provided in Subsection 20A-9-202(4), a member of a qualified political party who, under this section, is seeking the nomination of the qualified political party for an elective office that is to be filled at the next general election, shall:

(a) file a declaration of candidacy in person with the filing officer on or after the second Friday in March and before 5 p.m. on the third Thursday in March before the next regular general election; and

(b) pay the filing fee.

(4) Notwithstanding Subsection 20A-9-202(2)(a), a member of a qualified political party who, under this section, is seeking the nomination of the qualified political party for the office of district attorney within a multicounty prosecution district that is to be filled at the next general election shall:

(a) file a declaration of candidacy with the county clerk designated in the interlocal agreement creating the prosecution district on or after the second Friday in March and before 5 p.m. on the third Thursday in March before the next regular general election; and

(b) pay the filing fee.

(5) Notwithstanding Subsection 20A-9-202(3)(a)(iii), a lieutenant governor candidate who files as the joint-ticket running mate of an individual who is nominated by a qualified political party, under this section, for the office of governor shall submit a letter from the candidate for governor that names the lieutenant governor candidate as a joint-ticket running mate.

(6) (a) A qualified political party that nominates a candidate under this section shall certify the name of the candidate to the lieutenant governor before 5 p.m. on the first Monday after the fourth Saturday in April.

[~~(6)~~] (b) The lieutenant governor shall ensure that the certification described in Subsection 20A-9-701(1) also includes the name of each candidate nominated by a qualified political party under this section.

(7) Notwithstanding Subsection 20A-9-701(2), the ballot shall, for each candidate who is nominated by a qualified political party under this section, designate the qualified political party that nominated the candidate.

Section 13. Section 20A-9-408 is amended to read:

20A-9-408. Signature-gathering process to seek the nomination of a qualified political party.

(1) This section describes the requirements for a member of a qualified political party who is seeking the nomination of the qualified political party for an elective office through the signature-gathering [nomination] process described in this section.

(2) Notwithstanding Subsection 20A-9-201(4)(a), the form of the declaration of candidacy for a member of a qualified political party who is nominated by, or who is seeking the nomination of, the qualified political party under this section shall be substantially as [follows:] described in Section 20A-9-408.5.

[²State of Utah, County of ____]

~~I, _____, declare my intention of becoming a candidate for the office of _____ as a candidate for the _____ party. I do solemnly swear that: I will meet the qualifications to hold the office, both legally and constitutionally, if selected; I reside at _____ in the City or Town of _____, Utah, Zip Code _____, Phone No. _____; I will not knowingly violate any law governing campaigns and elections; I will file all campaign financial disclosure reports as required by law; and I understand that failure to do so will result in my disqualification as a candidate for this office and removal of my name from the ballot. The mailing address that I designate for receiving official election notices is~~

_____) [_____]

~~[Subscribed and sworn before me this _____ (month \ day \ year). Notary Public (or other officer qualified to administer oath).²]~~

(3) Notwithstanding Subsection 20A-9-202(1)(a), and except as provided in Subsection 20A-9-202(4), a member of a qualified political party who, under this section, is seeking the nomination of the qualified political party for an elective office that is to be filled at the next general election shall:

(a) within the period beginning on January 1 before the next regular general election and ending on the third Thursday in March of the same year, and before gathering signatures under this section, file with the filing officer on a form approved by the lieutenant governor a notice of intent to gather signatures for candidacy that includes:

- (i) the name of the member who will attempt to become a candidate for a registered political party under this section;
- (ii) the name of the registered political party for which the member is seeking nomination;
- (iii) the office for which the member is seeking to become a candidate;
- (iv) the address and telephone number of the member; and
- (v) other information required by the lieutenant governor;

(b) file a declaration of candidacy, in person, with the filing officer on or after the second Friday in

March and before 5 p.m. on the third Thursday in March before the next regular general election; and

(c) pay the filing fee.

(4) Notwithstanding Subsection 20A-9-202(2)(a), a member of a qualified political party who, under this section, is seeking the nomination of the qualified political party for the office of district attorney within a multicounty prosecution district that is to be filled at the next general election shall:

(a) on or after January 1 before the next regular general election, and before gathering signatures under this section, file with the filing officer on a form approved by the lieutenant governor a notice of intent to gather signatures for candidacy that includes:

- (i) the name of the member who will attempt to become a candidate for a registered political party under this section;
- (ii) the name of the registered political party for which the member is seeking nomination;
- (iii) the office for which the member is seeking to become a candidate;
- (iv) the address and telephone number of the member; and
- (v) other information required by the lieutenant governor;

(b) file a declaration of candidacy, in person, with the filing officer on or after the second Friday in March and before 5 p.m. on the third Thursday in March before the next regular general election; and

(c) pay the filing fee.

(5) Notwithstanding Subsection 20A-9-202(3)(a)(iii), a lieutenant governor candidate who files as the joint-ticket running mate of an individual who is nominated by a qualified political party, under this section, for the office of governor shall submit a letter from the candidate for governor that names the lieutenant governor candidate as a joint-ticket running mate.

(6) The lieutenant governor shall ensure that the certification described in Subsection 20A-9-701(1) also includes the name of each candidate nominated by a qualified political party under this section.

(7) Notwithstanding Subsection 20A-9-701(2), the ballot shall, for each candidate who is nominated by a qualified political party under this section, designate the qualified political party that nominated the candidate.

(8) A member of a qualified political party may seek the nomination of the qualified political party for an elective office by:

- (a) complying with the requirements described in this section; and
- (b) collecting signatures, on a form approved by the lieutenant [governor's office] governor, during the period beginning on January 1 of an even-numbered year and ending 14 days before the day on which the qualified political party's

convention for the office is held, in the following amounts:

(i) for a statewide race, 28,000 signatures of registered voters in the state who are permitted by the qualified political party to vote for the qualified political party's candidates in a primary election;

(ii) for a congressional district race, 7,000 signatures of registered voters who are residents of the congressional district and are permitted by the qualified political party to vote for the qualified political party's candidates in a primary election;

(iii) for a state Senate district race, 2,000 signatures of registered voters who are residents of the state Senate district and are permitted by the qualified political party to vote for the qualified political party's candidates in a primary election;

(iv) for a state House district race, 1,000 signatures of registered voters who are residents of the state House district and are permitted by the qualified political party to vote for the qualified political party's candidates in a primary election; and

(v) for a county office race, signatures of 3% of the registered voters who are residents of the area permitted to vote for the county office and are permitted by the qualified political party to vote for the qualified political party's candidates in a primary election.

(9) (a) In order for a member of the qualified political party to qualify as a candidate for the qualified political party's nomination for an elective office under this section, the member shall:

(i) collect the signatures on a form approved by the lieutenant ~~[governor's office]~~ governor, using the same circulation and verification requirements described in Sections ~~[20A-7-304 and 20A-7-305]~~ 20A-7-204 and 20A-7-205; and

(ii) submit the signatures to the election officer no later than 14 days before the day on which the qualified political party holds its convention to select candidates, for the elective office, for the qualified political party's nomination.

(b) An individual may not gather signatures under this section until after the individual files a notice of intent to gather signatures for candidacy described in this section.

(c) An individual who files a notice of intent to gather signatures for candidacy, described in Subsection (3)(a) or (4)(a), is, beginning on the day on which the individual files the notice of intent to gather signatures for candidacy:

(i) required to comply with the reporting requirements that a candidate for office is required to comply with; and

(ii) subject to the same enforcement provisions, and civil and criminal penalties, that apply to a candidate for office in relation to the reporting requirements described in Subsection (9)(c)(i).

(d) Upon timely receipt of the signatures described in Subsections (8) and (9)(a), the election

officer shall, no later than one day before the day on which the qualified political party holds the convention to select a nominee for the elective office to which the signature packets relate:

(i) check the name of each individual who completes the verification for a signature packet to determine whether each individual is a resident of Utah and is at least 18 years old;

(ii) submit the name of each individual described in Subsection (9)(d)(i) who is not a Utah resident or who is not at least 18 years old to the attorney general and the county attorney;

(iii) determine whether each signer is a registered voter who is qualified to sign the petition, using the same method, described in Section 20A-7-206.3, used to verify a signature on a petition;

(iv) certify whether each name is that of a registered voter who is qualified to sign the signature packet; and

(v) notify the qualified political party and the lieutenant governor of the name of each member of the qualified political party who qualifies as a nominee of the qualified political party, under this section, for the elective office to which the convention relates.

(e) Upon receipt of a notice of intent to gather signatures for candidacy described in this section, the lieutenant governor shall post the notice of intent to gather signatures for candidacy on the lieutenant governor's website in the same location that the lieutenant governor posts a declaration of candidacy.

Section 14. Section 20A-9-408.5 is enacted to read:

20A-9-408.5. Declaration of candidacy form for qualified political party.

The declaration of candidacy form described in Sections 20A-9-407 and 20A-9-408 shall:

(1) be substantially as follows:

"State of Utah, County of _____

I, _____, declare my intention of becoming a candidate for the office of _____ as a candidate for the _____ party. I do solemnly swear that: I will meet the qualifications to hold the office, both legally and constitutionally, if selected; I reside at _____ in the City or Town of _____, Utah, Zip Code _____, Phone No. _____; I will not knowingly violate any law governing campaigns and elections; I will file all campaign financial disclosure reports as required by law; and I understand that failure to do so will result in my disqualification as a candidate for this office and removal of my name from the ballot. The mailing address that I designate for receiving official election notices is _____

Subscribed and sworn before me this _____ (month \ day \ year). Notary Public (or other officer qualified to administer oath).";

(2) direct the candidate to state, in the sworn statement described in Subsection (1):

(a) the registered political party of which the candidate is a member; or

(b) that the candidate is not a member of a registered political party; and

(3) direct the candidate to indicate whether the candidate is seeking the nomination using:

(a) the convention process described in Section 20A-9-407;

(b) the signature-gathering process described in Section 20A-9-408; or

(c) both processes described in Subsections (3)(a) and (b).

Section 15. Section 20A-9-411 is enacted to read:

20A-9-411. Signing multiple nomination petitions.

(1) An individual who signs a petition, described in Section 20A-9-403 or 20A-9-408, to nominate a candidate may not sign a petition to nominate another candidate for the same office.

(2) If an individual signs more than one petition in violation of Subsection (1), the election officer may only count the signature on the first petition that the election officer reviews for that office.

Section 16. Section 20A-9-701 is amended to read:

20A-9-701. Certification of party candidates to county clerks -- Display on ballot.

(1) No later than August 31 of each regular general election year, the lieutenant governor shall certify to each county clerk, for offices to be voted upon at the regular general election in that county clerk's county:

(a) the names of each candidate nominated under Subsection 20A-9-202(4) or Subsection 20A-9-403(5) [for offices to be voted upon at the regular general election in that county clerk's county]; and

(b) the names of the candidates for president and vice president that are certified by the registered political party as the party's nominees.

(2) The names shall be certified by the lieutenant governor and shall be displayed on the ballot as they are provided on the candidate's declaration of candidacy. No other names may appear on the ballot as affiliated with, endorsed by, or nominated by any other registered political party, political party, or other political group.

Section 17. Section 20A-11-701 is amended to read:

20A-11-701. Campaign financial reporting by corporations -- Filing requirements --

Statement contents -- Donor reporting and notification required.

(1) (a) Each corporation that has made expenditures for political purposes that total at least \$750 during a calendar year shall file a verified financial statement with the lieutenant governor's office:

(i) on January 10, reporting expenditures as of December 31 of the previous year;

(ii) seven days before the state political convention for each major political party;

(iii) seven days before the regular primary election date;

(iv) on August 31; and

(v) seven days before the regular general election date.

(b) The corporation shall report:

(i) a detailed listing of all expenditures made since the last financial statement;

(ii) for financial statements filed under Subsections (1)(a)(ii) through (v), all expenditures as of five days before the required filing date of the financial statement; and

(iii) whether the corporation, including an officer of the corporation, director of the corporation, or person with at least 10% ownership in the corporation:

(A) has bid since the last financial statement on a contract, as defined in Section 63G-6a-103, in excess of \$100,000;

(B) is currently bidding on a contract, as defined in Section 63G-6a-103, in excess of \$100,000; or

(C) is a party to a contract, as defined in Section 63G-6a-103, in excess of \$100,000.

(c) The corporation need not file a financial statement under this section if the corporation made no expenditures during the reporting period.

(d) The corporation is not required to report an expenditure made to, or on behalf of, a reporting entity that the reporting entity is required to include in a financial statement described in this chapter or Chapter 12, Part 2, Judicial Retention Elections.

(2) The financial statement shall include:

(a) the name and address of each reporting entity that received an expenditure from the corporation, and the amount of each expenditure;

(b) the total amount of expenditures disbursed by the corporation:

(i) since the last financial statement; and

(ii) during the calendar year;

(c) (i) a statement that the corporation did not receive any money from any donor during the calendar year or the previous calendar year that the corporation has not reported in a previous financial statement; or

(ii) a report, described in Subsection (3), of the money received from donors during the calendar year or the previous calendar year that the corporation has not reported in a previous financial statement; and

(d) a statement by the corporation's treasurer or chief financial officer certifying the accuracy of the financial statement.

(3) (a) The report required by Subsection (2)(c)(ii) shall include:

(i) the name and address of each donor;

(ii) the amount of the money received by the corporation from each donor; and

(iii) the date on which the corporation received the money.

(b) A corporation shall report money received from donors in the following order:

(i) first, beginning with the least recent date on which the corporation received money that the corporation has not reported in a previous financial statement, the money received from a donor that:

(A) requests that the corporation use the money to make an expenditure;

(B) gives the money to the corporation in response to a solicitation indicating the corporation's intent to make an expenditure; or

(C) knows that the corporation may use the money to make an expenditure; and

(ii) second, divide the difference between the total amount of expenditures made since the last financial statement and the total amount of money reported under Subsection (3)(b)(i) on a proration basis between all donors that:

(A) are not described in Subsection (3)(b)(i);

(B) gave at least \$50 during the calendar year or previous calendar year; and

(C) have not been reported in a previous financial statement.

(c) If the amount reported under Subsection (3)(b) is less than the total amount of expenditures made since the last financial statement, the financial statement shall contain a statement that the corporation has reported all donors that gave money, and all money received by donors, during the calendar year or previous calendar year that the corporation has not reported in a previous financial statement.

(d) The corporation shall indicate on the financial statement that the amount attributed to each donor under Subsection (3)(b)(ii) is only an estimate.

(e) (i) For all individual donations of \$50 or less, the corporation may report a single aggregate figure without separate detailed listings.

(ii) The corporation:

(A) may not report in the aggregate two or more donations from the same source that have an aggregate total of more than \$50; and

(B) shall separately report donations described in Subsection (3)(e)(ii)(A).

(4) If a corporation makes expenditures that total at least \$750 during a calendar year, the corporation shall notify a person giving money to the corporation that:

(a) the corporation may use the money to make an expenditure; and

(b) the person's name and address may be disclosed on the corporation's financial statement.

Section 18. Section 20A-11-705 is enacted to read:

20A-11-705. Notice of in-kind contributions.

(1) A corporation that makes an in-kind contribution to a reporting entity shall, in accordance with Subsection (2), provide the reporting entity a written notice that includes:

(a) the name and address of the corporation;

(b) the date of the in-kind expenditure;

(c) a description of the in-kind expenditure; and

(d) the value, in dollars, of the in-kind expenditure.

(2) A corporation shall provide the written notice described in Subsection (1) to the reporting entity:

(a) except as provided in Subsection (2)(b), within 30 days after the day on which the corporation makes the in-kind contribution; or

(b) within three business days after the day on which the corporation makes the in-kind contribution, if:

(i) the in-kind contribution is to a candidate who is contested in a convention and the corporation makes the in-kind contribution within 30 days before the day on which the convention is held;

(ii) the in-kind contribution is to a candidate who is contested in a primary election and the corporation makes the in-kind contribution within 30 days before the day on which the primary election is held; or

(iii) the in-kind contribution is to a candidate who is contested in a general election and the corporation makes the in-kind contribution within 30 days before the day on which the general election is held.

(3) A corporation that provides, and a reporting entity that receives, the written notice described in Subsection (1) shall retain a copy of the notice for five years after the day on which the written notice is provided to the reporting entity.

(4) A corporation or reporting entity that fails to comply with the requirements of this section is guilty of a class B misdemeanor.

(5) A person that intentionally or knowingly provides, or conspires to provide, false information

on a written notice described in this section is guilty of a class B misdemeanor.

Section 19. Section 36-11-201 is amended to read:

36-11-201. Lobbyist, principal, and government officer financial reporting requirements -- Prohibition for related person to make expenditures.

(1) (a) (i) [A] Except as provided in Subsection (1)(a)(ii), a lobbyist shall file financial reports with the lieutenant governor on or before the due dates specified in Subsection (2).

(ii) [~~If a~~] A lobbyist who has not made an expenditure during [the] a quarterly reporting period[, the lobbyist shall file a financial report listing the amount of expenditures as "none."] is not required to file a quarterly financial report for that quarterly reporting period.

(iii) A lobbyist who is not required to file any quarterly reports under this section for a calendar year shall, on or before January 10 of the following year, file a financial report listing the amount of the expenditures for the entire preceding year as "none."

(b) A government officer or principal that makes an expenditure during any of the quarterly reporting periods under Subsection (2)(a) shall file a financial report with the lieutenant governor on or before the date that a report for that quarter is due.

(2) (a) A financial report is due quarterly on the following dates:

(i) April 10, for the period of January 1 through March 31;

(ii) July 10, for the period of April 1 through June 30;

(iii) October 10, for the period of July 1 through September 30; and

(iv) January 10, for the period of October 1 through December 31 of the previous year.

(b) If the due date for a financial report falls on a Saturday, Sunday, or legal holiday, the report is due on the next succeeding business day.

(c) A financial report is timely filed if it is filed electronically before the close of regular office hours on or before the due date.

(3) A financial report shall contain:

(a) the total amount of expenditures made to benefit any public official during the quarterly reporting period;

(b) the total amount of expenditures made, by the type of public official, during the quarterly reporting period;

(c) for the financial report due on January 10:

(i) the total amount of expenditures made to benefit any public official during the last calendar year; and

(ii) the total amount of expenditures made, by the type of public official, during the last calendar year;

(d) a disclosure of each expenditure made during the quarterly reporting period to reimburse or pay for travel or lodging for a public official, including:

(i) each travel destination and each lodging location;

(ii) the name of each public official who benefitted from the expenditure on travel or lodging;

(iii) the public official type of each public official named;

(iv) for each public official named, a listing of the amount and purpose of each expenditure made for travel or lodging; and

(v) the total amount of expenditures listed under Subsection (3)(d)(iv);

(e) a disclosure of aggregate daily expenditures greater than \$10 made during the quarterly reporting period including:

(i) the date and purpose of the expenditure;

(ii) the location of the expenditure;

(iii) the name of any public official benefitted by the expenditure;

(iv) the type of the public official benefitted by the expenditure; and

(v) the total monetary worth of the benefit that the expenditure conferred on any public official;

(f) for each public official who was employed by the lobbyist, principal, or government officer, a list that provides:

(i) the name of the public official; and

(ii) the nature of the employment with the public official;

(g) each bill or resolution, by number and short title, on behalf of which the lobbyist, principal, or government officer made an expenditure to a public official;

(h) a description of each executive action on behalf of which the lobbyist, principal, or government officer made an expenditure to a public official;

(i) the general purposes, interests, and nature of the entities that the lobbyist, principal, or government officer filing the report represents; and

(j) for a lobbyist, a certification that the information provided in the report is true, accurate, and complete to the lobbyist's best knowledge and belief.

(4) A related person may not, while assisting a lobbyist, principal, or government officer in lobbying, make an expenditure that benefits a public official under circumstances that would otherwise fall within the disclosure requirements of this chapter if the expenditure was made by the lobbyist, principal, or government officer.

(5) The lieutenant governor shall:

(a) (i) develop a preprinted form for a financial report required by this section; and

(ii) make copies of the form available to a lobbyist, principal, or government officer who requests a form; and

(b) provide a reporting system that allows a lobbyist, principal, or government officer to submit a financial report required by this chapter via the Internet.

(6) (a) A lobbyist and a principal shall continue to file a financial report required by this section until the lobbyist or principal files a statement with the lieutenant governor that:

(i) states:

(A) for a lobbyist, that the lobbyist has ceased lobbying activities; or

(B) for a principal, that the principal no longer employs an individual as a lobbyist;

(ii) in the case of a lobbyist, states that the lobbyist is surrendering the lobbyist's license;

(iii) contains a listing, as required by this section, of all previously unreported expenditures that have been made through the date of the statement; and

(iv) states that the lobbyist or principal will not make any additional expenditure that is not disclosed on the statement unless the lobbyist or principal complies with the disclosure and licensing requirements of this chapter.

(b) [A] Except as provided in Subsection (1)(a)(ii), a person that fails to renew the lobbyist's license or otherwise ceases to be licensed is required to file a financial report quarterly until the person files the statement required by Subsection (6)(a).

CHAPTER 297**S. B. 217**

Passed March 11, 2015
 Approved March 27, 2015
 Effective May 12, 2015

CAPITAL IMPROVEMENT AND DEVELOPMENT PROJECT AMENDMENTS

Chief Sponsor: Wayne A. Harper
 House Sponsor: Gage Froerer

LONG TITLE**General Description:**

This bill amends provisions relating to capital improvement and capital development projects.

Highlighted Provisions:

This bill:

- ▶ modifies the State Building Board's duties;
- ▶ addresses the process by which the State Building Board recommends and prioritizes capital development projects;
- ▶ requires the State Building Board to complete a process report relating to operations and maintenance costs; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63A-5-103, as last amended by Laws of Utah 2013, Chapter 250
 63A-5-104, as last amended by Laws of Utah 2014, Chapters 113 and 195
 63I-2-263, as last amended by Laws of Utah 2014, Chapters 172, 423, and 427

ENACTS:

63A-5-104.1, Utah Code Annotated 1953

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

Section 1. Section 63A-5-103 is amended to read:**63A-5-103. Board -- Powers.**

(1) The State Building Board shall:

- (a) in cooperation with state institutions, departments, commissions, and agencies, prepare a master plan of structures built or contemplated;
- (b) submit to the governor and the Legislature a comprehensive five-year building plan for the state containing the information required by Subsection (2);
- (c) amend and keep current the five-year building program for submission to the governor and subsequent legislatures;
- (d) as a part of the long-range plan, recommend to the governor and Legislature any changes in the law that are necessary to insure an effective, well-coordinated building program for all state institutions;

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

(i) that are necessary to discharge its duties and the duties of the Division of Facilities Construction and Management;

(ii) to establish standards and requirements for life cycle cost-effectiveness of state facility projects; ~~and~~

(iii) to govern the disposition of real property by the division and establish factors, including appraised value and historical significance, in evaluating the disposition;

(iv) to establish standards and requirements for a capital development project request, including a requirement for a feasibility study; and

(v) to establish standards and requirements for reporting operations and maintenance expenditures for state-owned facilities, including standards and requirements relating to utility metering;

(f) with support from the Division of Facilities Construction and Management, establish design criteria, standards, and procedures for planning, design, and construction of new state facilities and for improvements to existing state facilities, including life-cycle costing, cost-effectiveness studies, and other methods and procedures that address:

(i) the need for the building or facility;

(ii) the effectiveness of its design;

(iii) the efficiency of energy use; and

(iv) the usefulness of the building or facility over its lifetime;

(g) prepare and submit a yearly request to the governor and the Legislature for a designated amount of square footage by type of space to be leased by the Division of Facilities Construction and Management in that fiscal year; ~~and~~

(h) assure the efficient use of all building space~~[-];~~ and

(i) conduct ongoing facilities maintenance audits for state-owned facilities.

(2) In order to provide adequate information upon which the State Building Board may make its recommendation under Subsection (1), any state agency requesting new full-time employees for the next fiscal year shall report those anticipated requests to the building board at least 90 days before the annual general session in which the request is made.

(3) (a) The State Building Board shall ensure that the five-year building plan required by Subsection (1)(c) includes:

(i) a list that prioritizes construction of new buildings for all structures built or contemplated based upon each agency's, department's, commission's, and institution's present and future needs;

(ii) information, and space use data for all state-owned and leased facilities;

(iii) substantiating data to support the adequacy of any projected plans;

(iv) a summary of all statewide contingency reserve and project reserve balances as of the end of the most recent fiscal year;

(v) a list of buildings that have completed a comprehensive facility evaluation by an architect/engineer or are scheduled to have an evaluation;

(vi) for those buildings that have completed the evaluation, the estimated costs of needed improvements; and

(vii) for projects recommended in the first two years of the five-year building plan:

(A) detailed estimates of the cost of each project;

(B) the estimated cost to operate and maintain the building or facility on an annual basis;

(C) the cost of capital improvements to the building or facility, estimated at 1.1% of the replacement cost of the building or facility, on an annual basis;

(D) the estimated number of new agency full-time employees expected to be housed in the building or facility;

(E) the estimated cost of new or expanded programs and personnel expected to be housed in the building or facility;

(F) the estimated lifespan of the building with associated costs for major component replacement over the life of the building; and

(G) the estimated cost of any required support facilities.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Building Board may make rules prescribing the format for submitting the information required by this Subsection (3).

(4) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Building Board may make rules establishing circumstances under which bids may be modified when all bids for a construction project exceed available funds as certified by the director.

(b) In making those rules, the State Building Board shall provide for the fair and equitable treatment of bidders.

(5) (a) A person who violates a rule adopted by the board under Subsection (1)(e) is subject to a civil penalty not to exceed \$2,500 for each violation plus the amount of any actual damages, expenses, and costs related to the violation of the rule that are incurred by the state.

(b) The board may take any other action allowed by law.

(c) If any violation of a rule adopted by the board is also an offense under Title 76, Utah Criminal Code, the violation is subject to the civil penalty, damages, expenses, and costs allowed under Subsection (1)(e) in addition to any criminal prosecution.

Section 2. Section 63A-5-104 is amended to read:

63A-5-104. Definitions -- Capital development and capital improvement process -- Approval requirements -- Limitations on new projects -- Emergencies.

(1) As used in this section:

(a) "Capital developments" means a:

(i) remodeling, site, or utility project with a total cost of \$2,500,000 or more;

(ii) new facility with a construction cost of \$500,000 or more; or

(iii) purchase of real property where an appropriation is requested to fund the purchase.

(b) "Capital improvements" means a:

(i) remodeling, alteration, replacement, or repair project with a total cost of less than \$2,500,000;

(ii) site and utility improvement with a total cost of less than \$2,500,000; or

(iii) new facility with a total construction cost of less than \$500,000.

(c) (i) "New facility" means the construction of a new building on state property regardless of funding source.

(ii) "New facility" includes:

(A) an addition to an existing building; and

(B) the enclosure of space that was not previously fully enclosed.

(iii) "New facility" does not mean:

(A) the replacement of state-owned space that is demolished or that is otherwise removed from state use, if the total construction cost of the replacement space is less than \$2,500,000; or

(B) the construction of facilities that do not fully enclose a space.

(d) "Replacement cost of existing state facilities and infrastructure" means the replacement cost, as determined by the Division of Risk Management, of state facilities, excluding auxiliary facilities as defined by the State Building Board and the replacement cost of infrastructure as defined by the State Building Board.

(e) "State funds" means public money appropriated by the Legislature.

(2) (a) The State Building Board, on behalf of all state agencies, commissions, departments, and institutions shall submit its capital development recommendations and priorities to the Legislature for approval and prioritization.

(b) In developing the State Building Board's capital development recommendations and priorities, the State Building Board shall:

(i) require each state agency, commission, department, or institution requesting an appropriation for a capital development project to complete a study that demonstrates the feasibility of the capital development project, including:

(A) the need for the capital development project;

(B) the appropriateness of the scope of the capital development project;

(C) any private funding for the capital development project; and

(D) the economic and community impacts of the capital development project; and

(ii) verify the completion and accuracy of the feasibility study described in Subsection (2)(b)(i).

(3) (a) Except as provided in Subsections (3)(b), (d), and (e), a capital development project may not be constructed on state property without legislative approval.

(b) Legislative approval is not required for a capital development project that consists of the design or construction of a new facility if the State Building Board determines that:

(i) the requesting state agency, commission, department, or institution has provided adequate assurance that:

(A) state funds will not be used for the design or construction of the facility; and

(B) the state agency, commission, department, or institution has a plan for funding in place that will not require increased state funding to cover the cost of operations and maintenance to, or state funding for, immediate or future capital improvements to the resulting facility; and

(ii) the use of the state property is:

(A) appropriate and consistent with the master plan for the property; and

(B) will not create an adverse impact on the state.

(c) (i) The Division of Facilities Construction and Management shall maintain a record of facilities constructed under the exemption provided in Subsection (3)(b).

(ii) For facilities constructed under the exemption provided in Subsection (3)(b), a state agency, commission, department, or institution may not request:

(A) increased state funds for operations and maintenance; or

(B) state capital improvement funding.

(d) Legislative approval is not required for:

(i) the renovation, remodeling, or retrofitting of an existing facility with nonstate funds that has been approved by the State Building Board;

(ii) a facility to be built with nonstate funds and owned by nonstate entities within research park areas at the University of Utah and Utah State University;

(iii) a facility to be built at This is the Place State Park by This is the Place Foundation with funds of the foundation, including grant money from the state, or with donated services or materials;

(iv) a capital project that:

(A) is funded by:

(I) the Uintah Basin Revitalization Fund; or

(II) the Navajo Revitalization Fund; and

(B) does not provide a new facility for a state agency or higher education institution; or

(v) a capital project on school and institutional trust lands that is funded by the School and Institutional Trust Lands Administration from the Land Grant Management Fund and that does not fund construction of a new facility for a state agency or higher education institution.

(e) (i) Legislative approval is not required for capital development projects to be built for the Department of Transportation:

(A) as a result of an exchange of real property under Section 72-5-111; or

(B) as a result of a sale or exchange of real property from a maintenance facility if the real property is exchanged for, or the proceeds from the sale of the real property are used for, another maintenance facility, including improvements for a maintenance facility and real property.

(ii) When the Department of Transportation approves a sale or exchange under Subsection (3)(e), it shall notify the president of the Senate, the speaker of the House, and the cochairs of the Infrastructure and General Government Appropriations Subcommittee of the Legislature's Joint Appropriation Committee about any new facilities to be built or improved under this exemption.

(4) (a) (i) The State Building Board, on behalf of all state agencies, commissions, departments, and institutions shall by January 15 of each year, submit a list of anticipated capital improvement requirements to the Legislature for review and approval.

(ii) The list shall identify:

(A) a single project that costs more than \$1,000,000;

(B) multiple projects within a single building or facility that collectively cost more than \$1,000,000;

(C) a single project that will be constructed over multiple years with a yearly cost of \$1,000,000 or more and an aggregate cost of more than \$2,500,000;

(D) multiple projects within a single building or facility with a yearly cost of \$1,000,000 or more and an aggregate cost of more than \$2,500,000;

(E) a single project previously reported to the Legislature as a capital improvement project under \$1,000,000 that, because of an increase in costs or scope of work, will now cost more than \$1,000,000; and

(F) multiple projects within a single building or facility previously reported to the Legislature as a capital improvement project under \$1,000,000 that, because of an increase in costs or scope of work, will now cost more than \$1,000,000.

(b) Unless otherwise directed by the Legislature, the State Building Board shall prioritize capital improvements from the list submitted to the Legislature up to the level of appropriation made by the Legislature.

(c) In prioritizing capital improvements, the State Building Board shall consider the results of facility evaluations completed by an architect/engineer as stipulated by the building board's facilities maintenance standards.

(d) Beginning on July 1, 2013, in prioritizing capital improvements, the State Building Board shall allocate at least 80% of the funds that the Legislature appropriates for capital improvements to:

(i) projects that address:

- (A) a structural issue;
- (B) fire safety;
- (C) a code violation; or
- (D) any issue that impacts health and safety;

(ii) projects that upgrade:

- (A) an HVAC system;
- (B) an electrical system;
- (C) essential equipment;
- (D) an essential building component; or

(E) infrastructure, including a utility tunnel, water line, gas line, sewer line, roof, parking lot, or road; or

(iii) projects that demolish and replace an existing building that is in extensive disrepair and cannot be fixed by repair or maintenance.

(e) Beginning on July 1, 2013, in prioritizing capital improvements, the State Building Board shall allocate no more than 20% of the funds that the Legislature appropriates for capital improvements to:

(i) remodeling and aesthetic upgrades to meet state programmatic needs; or

(ii) construct an addition to an existing building or facility.

(f) The State Building Board may require an entity that benefits from a capital improvement project to repay the capital improvement funds from savings that result from the project.

(g) The State Building Board may provide capital improvement funding to a single project, or to multiple projects within a single building or facility, even if the total cost of the project or multiple projects is \$2,500,000 or more, if:

(i) the capital improvement project or multiple projects require more than one year to complete; and

(ii) the Legislature has affirmatively authorized the capital improvement project or multiple projects to be funded in phases.

(h) In prioritizing and allocating capital improvement funding, the State Building Board shall comply with the requirement in Subsection 63B-23-101(2)(f).

(5) The Legislature may authorize:

(a) the total square feet to be occupied by each state agency; and

(b) the total square feet and total cost of lease space for each agency.

(6) If construction of a new building or facility will be paid for by nonstate funds, but will require an immediate or future increase in state funding for operations and maintenance or for capital improvements, the Legislature may not authorize the new building or facility until the Legislature appropriates funds for:

(a) the portion of operations and maintenance, if any, that will require an immediate or future increase in state funding; and

(b) the portion of capital improvements, if any, that will require an immediate or future increase in state funding.

(7) (a) Except as provided in Subsection (7)(b) or (c), the Legislature may not fund the design or construction of any new capital development projects, except to complete the funding of projects for which partial funding has been previously provided, until the Legislature has appropriated 1.1% of the replacement cost of existing state facilities and infrastructure to capital improvements.

(b) (i) As used in this Subsection (7)(b):

(A) "Education Fund budget deficit" is as defined in Section 63J-1-312; and

(B) "General Fund budget deficit" is as defined in Section 63J-1-312.

(ii) If the Legislature determines that an Education Fund budget deficit or a General Fund budget deficit exists, the Legislature may, in eliminating the deficit, reduce the amount appropriated to capital improvements to 0.9% of the replacement cost of state buildings and infrastructure.

(c) (i) The requirements under Subsections (6)(a) and (b) do not apply to the 2008-09, 2009-10, 2010-11, 2011-12, and 2012-13 fiscal years.

(ii) For the 2013-14 fiscal year, the amount appropriated to capital improvements shall be

reduced to 0.9% of the replacement cost of state facilities.

(8) It is the policy of the Legislature that a new building or facility be approved and funded for construction in a single budget action, therefore the Legislature may not fund the programming, design, and construction of a new building or facility in phases over more than one year unless the Legislature has approved each phase of the funding for the construction of the new building or facility by the affirmative vote of two-thirds of all the members elected to each house.

(9) (a) If, after approval of capital development and capital improvement priorities by the Legislature under this section, emergencies arise that create unforeseen critical capital improvement projects, the State Building Board may, notwithstanding the requirements of Title 63J, Chapter 1, Budgetary Procedures Act, reallocate capital improvement funds to address those projects.

(b) The State Building Board shall report any changes it makes in capital improvement allocations approved by the Legislature to:

(i) the Office of Legislative Fiscal Analyst within 30 days of the reallocation; and

(ii) the Legislature at its next annual general session.

(10) (a) The State Building Board may adopt a rule allocating to institutions and agencies their proportionate share of capital improvement funding.

(b) The State Building Board shall ensure that the rule:

(i) reserves funds for the Division of Facilities Construction and Management for emergency projects; and

(ii) allows the delegation of projects to some institutions and agencies with the requirement that a report of expenditures will be filed annually with the Division of Facilities Construction and Management and appropriate governing bodies.

(11) It is the intent of the Legislature that in funding capital improvement requirements under this section the General Fund be considered as a funding source for at least half of those costs.

(12) (a) Subject to Subsection (12)(b), at least 80% of the state funds appropriated for capital improvements shall be used for maintenance or repair of the existing building or facility.

(b) The State Building Board may modify the requirement described in Subsection (12)(a) if the State Building Board determines that a different allocation of capital improvements funds is in the best interest of the state.

Section 3. Section 63A-5-104.1 is enacted to read:

63A-5-104.1. State Building Board -- Process study and recommendations.

(1) (a) The State Building Board, in collaboration with the Board of Regents, each higher education institution, as defined in Section 53B-1-201, the Utah Schools for the Deaf and the Blind, and any other state entity that the State Building Board invites to participate, shall prepare a report that proposes:

(i) a process for tracking direct and indirect operations and maintenance costs on an individual building basis; and

(ii) alternative funding mechanisms for operations and maintenance costs for state-owned and state-operated facilities that incorporate actual expenses, the purpose for which the facility is used, the age of the facility, the condition of the facility, and the location of the facility.

(b) In preparing a proposal described in Subsection (1)(a)(ii), the State Building Board shall consider an internal service fund, individual appropriation line items, and a formula to determine funding.

(2) No later than September 1, 2015, the State Building Board shall submit the report described in Subsection (1) to:

(a) the legislative fiscal analyst; and

(b) the Infrastructure and General Government Appropriations Subcommittee.

Section 4. Section 63I-2-263 is amended to read:

63I-2-263. Repeal dates, Title 63A to Title 63M.

~~[(1) Section 63A-1-115 is repealed on July 1, 2014.]~~

~~[(1) Section 63A-5-104.1 is repealed on January 1, 2016.]~~

~~[(2) Section 63C-9-501.1 is repealed on July 1, 2015.]~~

~~[(3) Subsection 63J-1-218(3) is repealed on December 1, 2013.]~~

~~[(4) Subsection 63J-1-218(4) is repealed on December 1, 2013.]~~

~~[(5) Section 63M-1-207 is repealed on December 1, 2014.]~~

~~[(6)] (3) Subsection 63M-1-903(1)(d) is repealed on July 1, 2015.~~

~~[(7) Subsection 63M-1-1406(9) is repealed on January 1, 2015.]~~

CHAPTER 298**S. B. 225**

Passed March 11, 2015
 Approved March 27, 2015
 Effective May 12, 2015

**IRRIGATION SERVICE
 WATER RIGHTS AMENDMENTS**

Chief Sponsor: Kevin T. Van Tassell
 House Sponsor: Brad King

LONG TITLE**General Description:**

This bill clarifies procedures related to filing a change application.

Highlighted Provisions:

This bill:

- ▶ states that a change application on a United States Indian Irrigation Service water right that is serving the needs of a township or municipality shall be signed by:
 - the local public water supplier that is contractually responsible for the operation and maintenance of the public water supply system; and
 - the record owner of the water right.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

73-3-3, as last amended by Laws of Utah 2012, Chapter 229

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

Section 1. Section 73-3-3 is amended to read:

73-3-3. Permanent or temporary changes in point of diversion, place of use, or purpose of use.

(1) For purposes of this section:

(a) "Permanent change" means a change for an indefinite period of time with an intent to relinquish the original point of diversion, place of use, or purpose of use.

(b) "Temporary change" means a change for a fixed period of time not exceeding one year.

(2) (a) Subject to Subsection (2)(c), a person entitled to the use of water may make permanent or temporary changes in the:

- (i) point of diversion;
- (ii) place of use; or
- (iii) purpose of use for which the water was originally appropriated.

(b) Except as provided by Section 73-3-30, a change may not be made if it impairs a vested water right without just compensation.

(c) A change application on a federal reclamation project water right shall be signed by:

(i) the local water users organization that is contractually responsible for:

(A) the operation and maintenance of the project; or

(B) the repayment of project costs; and

(ii) the record owner of the water right.

(d) A change application on a United States Indian Irrigation Service water right that is serving the needs of a township or municipality shall be signed by:

(i) the local public water supplier that is responsible for the operation and maintenance of the public water supply system; and

(ii) the record owner of the water right.

(3) A person entitled to use water shall change a point of diversion, place of use, or purpose of water use, including water involved in a general adjudication or other suit, in the manner provided in this section.

(4) (a) A person entitled to use water may not make a change unless the state engineer approves the change application.

(b) A person entitled to use water shall submit a change application upon forms furnished by the state engineer and shall set forth:

(i) the applicant's name;

(ii) the water right description;

(iii) the water quantity;

(iv) the stream or water source;

(v) if applicable, the point on the stream or water source where the water is diverted;

(vi) if applicable, the point to which it is proposed to change the diversion of the water;

(vii) the place, purpose, and extent of the present use;

(viii) the place, purpose, and extent of the proposed use; and

(ix) any other information that the state engineer requires.

(5) (a) The state engineer shall follow the same procedures, and the rights and duties of the applicants with respect to applications for permanent changes of point of diversion, place of use, or purpose of use shall be the same, as provided in this title for applications to appropriate water.

(b) The state engineer may waive notice for a permanent change application involving only a change in point of diversion of 660 feet or less.

(6) (a) The state engineer shall investigate all temporary change applications.

(b) If the state engineer finds that the temporary change will not impair a vested water right, the

state engineer shall issue an order authorizing the change.

(c) If the state engineer finds that the change sought might impair a vested water right, before authorizing the change, the state engineer shall give notice of the application to any person whose right may be affected by the change.

(d) Before making an investigation or giving notice, the state engineer may require the applicant to deposit a sum of money sufficient to pay the expenses of the investigation and publication of notice.

(7) (a) Except as provided by Section 73-3-30, the state engineer may not reject a permanent or temporary change application for the sole reason that the change would impair a vested water right.

(b) If otherwise proper, the state engineer may approve a permanent or temporary change application for part of the water involved or upon the condition that the applicant acquire the conflicting water right.

(8) (a) A person holding an approved application for the appropriation of water may change the point of diversion, place of use, or purpose of use.

(b) A change of an approved application does not:

- (i) affect the priority of the original application; or
- (ii) extend the time period within which the construction of work is to begin or be completed.

(9) Any person who changes or who attempts to change a point of diversion, place of use, or purpose of use, either permanently or temporarily, without first applying to the state engineer in the manner provided in this section:

- (a) obtains no right;
- (b) is guilty of a crime punishable under Section 73-2-27 if the change or attempted change is made knowingly or intentionally; and
- (c) is guilty of a separately punishable offense for each day of the unlawful change.

(10) (a) This section does not apply to the replacement of an existing well by a new well drilled within a radius of 150 feet from the point of diversion of the existing well.

(b) Any replacement well must be drilled in accordance with the requirements of Section 73-3-28.

CHAPTER 299**S. B. 227**

Passed March 12, 2015
 Approved March 27, 2015
 Effective May 12, 2015

CHARTER SCHOOL REVISIONS

Chief Sponsor: Deidre M. Henderson
 House Sponsor: Jon E. Stanard

LONG TITLE**General Description:**

This bill amends and enacts provisions related to charter schools.

Highlighted Provisions:

This bill:

- ▶ defines terms; and
- ▶ allows a charter school authorizer, in response to a request of the governing board of a charter school and subject to certain conditions, to:
 - terminate the school's charter; and
 - transfer operation and control of the charter school to the school district where the charter school is located or to a high performing charter school.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

53A-1a-509.5, Utah Code Annotated 1953

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

Section 1. Section 53A-1a-509.5 is enacted to read:**53A-1a-509.5. Voluntary school improvement process.**

(1) As used in this section, "high performing charter school" means a charter school that:

(a) satisfies all requirements of state law and State Board of Education rules;

(b) has operated for at least three years meeting the terms of the school's charter agreement; and

(c) has students performing at or above the academic performance standard in the school's charter agreement.

(2) (a) Subject to Subsection (2)(b), a governing board may voluntarily request the charter school's authorizer to place the school in a school improvement process.

(b) A governing board shall provide notice and a hearing on the governing board's intent to make a request under Subsection (2)(a) to parents and guardians of students enrolled in the charter school.

(3) An authorizer may grant a governing board's request to be placed in a school improvement

process if the governing board has provided notice and a hearing under Subsection (2)(b).

(4) An authorizer that has entered into a school improvement process with a governing board shall:

(a) enter into a contract with the governing board on the terms of the school improvement process;

(b) notify the State Board of Education that the authorizer has entered into a school improvement process with the governing board; and

(c) notify the Utah Charter School Finance Authority that the authorizer has entered into a school improvement process with the governing board if the charter school is a qualifying charter school with outstanding bonds issued in accordance with Chapter 20b, Part 2, Charter School Credit Enhancement Program.

(5) Upon notification under Subsection (4)(b), the State Board of Education shall notify charter schools and the school district in which the charter school is located that the governing board has entered into a school improvement process with the charter school's authorizer.

(6) A high performing charter school or the school district in which the charter school is located may apply to the governing board to assume operation and control of the charter school that has been placed in a school improvement process.

(7) A governing board that has entered into a school improvement process shall review applications submitted under Subsection (6) and submit a proposal to the charter school's authorizer to:

(a) terminate the school's charter, notwithstanding the requirements of Section 53A-1a-510; and

(b) transfer operation and control of the charter school to:

(i) the school district in which the charter school is located; or

(ii) a high performing charter school.

(8) Except as provided in Subsection (9) and subject to Subsection (10), an authorizer may:

(a) approve a governing board's proposal under Subsection (7); or

(b) (i) deny a governing board's proposal under Subsection (7); and

(ii) (A) terminate the school's charter in accordance with Section 53A-1a-510;

(B) allow the governing board to submit a revised proposal; or

(C) take no action.

(9) An authorizer may not take an action under Subsection (8) for a qualifying charter school with outstanding bonds issued in accordance with Chapter 20b, Part 2, Charter School Credit Enhancement Program without mutual agreement of the Utah Charter School Finance Authority and the authorizer.

(10) (a) An authorizer that intends to transfer operation and control of a charter school as described in Subsection (7)(b) shall request approval from the State Board of Education.

(b) (i) The State Board of Education shall consider an authorizer's request under Subsection (10)(a) within 30 days of receiving the request.

(ii) If the State Board of Education denies an authorizer's request under Subsection (10)(a), the authorizer may not transfer operation and control of the charter school as described in Subsection (7)(b).

(iii) If the State Board of Education does not take action on an authorizer's request under Subsection (10)(a) within 30 days of receiving the request, an authorizer may proceed to transfer operation and control of the charter school as described in Subsection (7)(b).

CHAPTER 300**S. B. 240**

Passed March 12, 2015

Approved March 27, 2015

Effective May 12, 2015

**SCHOOL DISTRICTS -
TRANSPORTATION POLICIES**

Chief Sponsor: J. Stuart Adams

House Sponsor: Steve Eliason

LONG TITLE**General Description:**

This bill enacts provisions related to school districts that coordinate public education transportation services under Title 11, Chapter 13, Interlocal Cooperation Act.

Highlighted Provisions:

This bill:

- ▶ enacts provisions related to school districts that coordinate public education transportation services under Title 11, Chapter 13, Interlocal Cooperation Act.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:**ENACTS:**

53A-3-432, Utah Code Annotated 1953

Utah Code Sections Affected by Coordination Clause:

53A-3-432, Utah Code Annotated 1953

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

Section 1. Section 53A-3-432 is enacted to read:**53A-3-432. Interlocal agreement for public education transportation services.**

(1) In accordance with Title 11, Chapter 13, Interlocal Cooperation Act, at least two school districts may, for the purpose of coordinating public education transportation services:

(a) create an interlocal entity as defined in Section 11-13-103 if the school districts establish an interlocal entity governing body as described in Subsection (2); or

(b) enter into a joint or cooperative undertaking as described in Section 11-13-207 if the school districts establish a joint board as described in Subsection (2).

(2) A governing body described in Subsection (1)(a) or a joint board described in Subsection (1)(b) shall consist of:

(a) at least one elected member of a local school board from each school district that creates the interlocal entity or enters into the joint or cooperative undertaking; and

(b) only elected members of the local school boards of the school districts that create the

interlocal entity or enter into the joint or cooperative undertaking.

Section 2. Coordinating S.B. 240 with H.B. 251 -- Technical amendment.

If this S.B. 240 and H.B. 251, Amendments to the Interlocal Act, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, change the terminology in Subsections 53A-3-432(1)(a) and (2) from "governing body" to "governing board".

CHAPTER 301**H. B. 22**

Passed February 24, 2015

Approved March 30, 2015

Effective July 1, 2015

**TOURISM MARKETING
PERFORMANCE AMENDMENTS**Chief Sponsor: Brad R. Wilson
Senate Sponsor: Evan J. Vickers**LONG TITLE****General Description:**

This bill modifies provisions of the Tourism Marketing Performance Account.

Highlighted Provisions:

This bill:

- ▶ modifies the duties of the Board of Tourism Development and the duties of the Governor's Office of Economic Development related to tourism;
- ▶ modifies the formula for determining potential increases in legislative appropriations for the Tourism Marketing Performance Account; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

63M-1-1403, as last amended by Laws of Utah 2014, Chapter 429

63M-1-1406, as last amended by Laws of Utah 2014, Chapter 423

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

Section 1. Section 63M-1-1403 is amended to read:**63M-1-1403. Board duties.**

(1) The board ~~[shall]~~:

(a) ~~[have]~~ has authority to approve a tourism program of out-of-state advertising, marketing, and branding, taking into account the long-term strategic plan, economic trends, and opportunities for tourism development on a statewide basis, as a condition of the distribution of funds to the office from the:

~~(i) Tourism Marketing Performance Account~~ (i) Tourism Marketing Performance Account ~~[under]~~ created in Section 63M-1-1406; and

~~(b) have authority to approve a tourism program of advertising, marketing, and branding of the state, taking into account the long-term strategic plan, economic trends, and opportunities for tourism development on a statewide basis, as a condition of the distribution of money to the office from the)~~

(ii) Stay Another Day and Bounce Back Account, created in Section 63M-1-3411;

~~(e) (b) shall review [the] office programs [for coordination and integration of] to coordinate and integrate advertising and branding themes [to be used whenever possible in all office programs, including], which may include recreational, scenic, historic, and tourist attractions of the state [at large], to be used in office programs;~~

~~(d) (c) shall encourage and assist in [coordination of the] coordinating activities of persons, firms, associations, corporations, civic groups, and governmental agencies that are engaged in publicizing, developing, and promoting the scenic attractions and tourist advantages of the state; and~~

~~(e) (i) (d) shall advise the office in establishing a [Cooperative Program from the money in] cooperative program using funds from the Tourism Marketing Performance Account [under] created in Section 63M-1-1406 [for use by cities, counties, nonprofit destination marketing organizations, and similar public entities for the purpose of supplementing money committed by these entities for advertising and promotion to and for out-of-state residents to attract them to visit sites advertised by and attend events sponsored by these entities];~~

~~(ii) the Cooperative Program shall be allocated 20% of the revenues appropriated to the office from the Tourism Marketing Performance Account;~~

~~(iii) the office, with approval from the board, shall establish eligibility, advertising, and timing requirements and criteria and provide for an approval process for applications;~~

~~(iv) an application from an eligible applicant to receive money from the Cooperative Program must be submitted on or before the appropriate date established by the office; and]~~

~~(v) Cooperative Program money not used in each fiscal year shall be returned to the Tourism Marketing Performance Account.]~~

(2) The board may:

(a) solicit and accept contributions of money, services, and facilities from any other sources, public or private and shall use these funds for promoting the general interest of the state in tourism; and

(b) establish subcommittees for the purpose of assisting the board in an advisory role ~~[only]~~.

(3) The board may not, except as otherwise provided in Subsection (1)(a), make policy related to the management or operation of the office.

(4) (a) For each fiscal year, the office shall allocate 20% of the funds appropriated to the Tourism Marketing and Performance Account created in Section 63M-1-1406 to the cooperative program described in Subsection (1)(d) and this Subsection (4).

(b) Money allocated to the cooperative program may be awarded to cities, counties, nonprofit destination marketing organizations, and similar public entities for the purpose of supplementing

money committed by these entities for advertising and promoting sites and events in the state.

(c) The office, with approval from the board, shall establish:

(i) an application and approval process for an entity to receive a cooperative program award, including an application deadline;

(ii) the criteria for awarding a cooperative program award, which shall emphasize attracting out-of-state visitors, and may include attracting in-state visitors, to sites and events in the state; and

(iii) eligibility, advertising, timing, and reporting requirements of an entity that receives a cooperative program award.

(d) Money allocated to the cooperative program that is not used in each fiscal year shall be returned to the Tourism Marketing Performance Account.

Section 2. Section 63M-1-1406 is amended to read:

63M-1-1406. Tourism Marketing Performance Account.

(1) There is created within the General Fund a restricted account known as the Tourism Marketing Performance Account.

(2) The account shall be administered by [the office] GOED for the purposes listed in Subsection (5).

(3) (a) The account shall earn interest.

(b) All interest earned on account money shall be deposited into the account.

(4) The account shall be funded by appropriations made to the account by the Legislature in accordance with this section.

(5) The director shall use account money appropriated to [the office] GOED to pay for the statewide advertising, marketing, and branding campaign for promotion of the state as conducted by [the office] GOED.

(6) (a) For [a] each fiscal year beginning on or after July 1, 2007, [the office] GOED shall annually allocate 10% of the account money appropriated to [the office] GOED to a sports organization for advertising, marketing, branding, and promoting Utah in attracting sporting events into the state.

(b) The sports organization shall:

(i) provide an annual written report to [the office] GOED that gives [a complete] an accounting of the use of money the sports organization receives under this Subsection (6); and

(ii) partner with [the office] GOED to promote the state and to encourage economic growth in the state.

(c) For purposes of this Subsection (6), "sports organization" means an organization that is:

(i) exempt from federal income taxation in accordance with Section 501(c)(3), Internal Revenue Code; and

(ii) created to foster national and international sports competitions in the state, including competitions related to Olympic sports, and to promote and encourage sports tourism throughout the state, including advertising, marketing, branding, and promoting Utah for the purpose of attracting, expanding, and retaining sporting events [into] in the state.

(7) Money deposited into the account shall [consist of] include a legislative appropriation from the cumulative sales and use tax revenue increases [identified] described in Subsection (8), plus any additional appropriation made by the Legislature.

(8) (a) In fiscal years 2006 through 2019, a portion of the state sales and use tax revenues determined under this Subsection (8) shall be certified [as a set-aside for the account by the State Tax Commission and reported to the Office of Legislative Fiscal Analyst] by the State Tax Commission as a set-aside for the account, and the State Tax Commission shall report the amount of the set-aside to the office, the Office of Legislative Fiscal Analyst, and the Division of Finance, which shall set aside the certified amount for appropriation to the account.

[~~(b) The State Tax Commission shall determine the set-aside under this Subsection (8) in each fiscal year by applying the following formula: if the increase in the state sales and use tax revenues derived from the retail sales of tourist-oriented goods and services, in the fiscal year two years prior to the fiscal year in which the set-aside is to be made for the account, is at least 3% over the state sales and use tax revenues derived from the retail sales of tourist-oriented goods and services generated in the fiscal year three years prior to the fiscal year in which the set-aside is to be made, an amount equal to 1/2 of the state sales and use tax revenues generated above the 3% increase shall be calculated by the commission and set aside by the state treasurer for appropriation to the account.~~]

(b) For fiscal years 2016 through 2019, the State Tax Commission shall calculate the set-aside under this Subsection (8) in each fiscal year by applying one of the following formulas: if the annual percentage change in the Consumer Price Index for All Urban Consumers, as published by the Bureau of Labor Statistics of the United States Department of Labor, for the fiscal year two years before the fiscal year in which the set-aside is to be made is:

(i) greater than 3%, and if the annual percentage change in the state sales and use tax revenues attributable to the retail sales of tourist-oriented goods and services from the fiscal year three years before the fiscal year in which the set-aside is to be made to the fiscal year two years before the fiscal year in which the set-aside is to be made is greater than the annual percentage change in the Consumer Price Index for the fiscal year two years before the fiscal year in which the set-aside is to be made, then the difference between the annual percentage change in the state sales and use tax

revenues attributable to the retail sales of tourist-oriented goods and services and the annual percentage change in the Consumer Price Index shall be multiplied by an amount equal to the state sales and use tax revenues attributable to the retail sales of tourist-oriented goods and services from the fiscal year three years before the fiscal year in which the set-aside is to be made; or

(ii) 3% or less, and if the annual percentage change in the state sales and use tax revenues attributable to the retail sales of tourist-oriented goods and services from the fiscal year three years before the fiscal year in which the set-aside is to be made to the fiscal year two years before the fiscal year in which the set-aside is to be made is greater than 3%, then the difference between the annual percentage change in the state sales and use tax revenues attributable to the retail sales of tourist-oriented goods and services and 3% shall be multiplied by an amount equal to the state sales and use tax revenues attributable to the retail sales of tourist-oriented goods and services from the fiscal year three years before the fiscal year in which the set-aside is to be made.

(c) The total money appropriated to the account in ~~any~~ a fiscal year under Subsections (8)(a) and (b) may not exceed the amount ~~in the account under this section in the fiscal year immediately preceding the current~~ appropriated to the account in the preceding fiscal year by more than \$3,000,000.

(d) As used in this Subsection (8), “state sales and use tax revenues” are revenues collected under Subsections 59-12-103(2)(a)(i)(A) and 59-12-103(2)(c)(i).

~~(d)~~ (e) As used in this Subsection (8), “retail sales of tourist-oriented goods and services” are ~~[those sales by businesses]~~ calculated by adding the following percentages of sales from each business registered with the State Tax Commission under one of the following codes of the ~~[1997]~~ 2012 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget:

~~(i) NAICS Code 453 Miscellaneous Store Retailers;~~

~~(ii) NAICS Code 481 Passenger Air Transportation;~~

~~(iii) NAICS Code 487 Scenic and Sightseeing Transportation;~~

~~(iv) NAICS Code 711 Performing Arts, Spectator Sports and Related Industries;~~

~~(v) NAICS Code 712 Museums, Historical Sites and Similar Institutions;~~

~~(vi) NAICS Code 713 Amusement, Gambling and Recreation Industries;~~

~~(vii) NAICS Code 721 Accommodations;~~

~~(viii) NAICS Code 722 Food Services and Drinking Places;~~

~~(ix) NAICS Code 4483 Jewelry, Luggage, and Leather Goods Stores;~~

~~(x) NAICS Code 4853 Taxi and Limousine Service;~~

~~(xi) NAICS Code 4855 Charter Bus;~~

~~(xii) NAICS Code 5615 Travel Arrangement and Reservation Services;~~

~~(xiii) NAICS Code 44611 Pharmacies and Drug Stores;~~

~~(xiv) NAICS Code 45111 Sporting Goods Stores;~~

~~(xv) NAICS Code 45112 Hobby Toy and Game Stores;~~

~~(xvi) NAICS Code 45121 Book Stores and News Dealers;~~

~~(xvii) NAICS Code 445120 Convenience Stores without Gas Pumps;~~

~~(xviii) NAICS Code 447110 Gasoline Stations with Convenience Stores;~~

~~(xix) NAICS Code 447190 Other Gasoline Stations;~~

~~(xx) NAICS Code 532111 Passenger Car Rental; and~~

~~(xxi) NAICS Code 532292 Recreational Goods Rental;~~

~~(e) The Division of Finance shall for each fiscal year transfer the first \$6,000,000 of ongoing money in the account to the General Fund.]~~

(i) 80% of the sales from each business under NAICS Codes:

(A) 532111 Passenger Car Rental;

(B) 53212 Truck, Utility Trailer, and RV (Recreational Vehicle) Rental and Leasing;

(C) 5615 Travel Arrangement and Reservation Services;

(D) 7211 Traveler Accommodation; and

(E) 7212 RV (Recreational Vehicle) Parks and Recreational Camps;

(ii) 25% of the sales from each business under NAICS Codes:

(A) 51213 Motion Picture and Video Exhibition;

(B) 532292 Recreational Goods Rental;

(C) 711 Performing Arts, Spectator Sports, and Related Industries;

(D) 712 Museums, Historical Sites, and Similar Institutions; and

(E) 713 Amusement, Gambling, and Recreation Industries;

(iii) 20% of the sales from each business under NAICS Code 722 Food Services and Drinking Places;

(iv) 18% of the sales from each business under NAICS Codes:

(A) 447 Gasoline Stations; and

(B) 81293 Parking Lots and Garages;

(v) 14% of the sales from each business under NAICS Code 8111 Automotive Repair and Maintenance; and

(vi) 5% of the sales from each business under NAICS Codes:

(A) 445 Food and Beverage Stores;

(B) 446 Health and Personal Care Stores;

(C) 448 Clothing and Clothing Accessories Stores;

(D) 451 Sporting Goods, Hobby, Musical Instrument, and Book Stores;

(E) 452 General Merchandise Stores; and

(F) 453 Miscellaneous Store Retailers.

Section 3. Effective date.

This bill takes effect on July 1, 2015.

CHAPTER 302**H. B. 41**

Passed February 17, 2015

Approved March 30, 2015

Effective May 12, 2015

**LOCAL ECONOMIC
DEVELOPMENT AMENDMENTS**Chief Sponsor: V. Lowry Snow
Senate Sponsor: Ralph Okerlund**LONG TITLE****General Description:**

This bill modifies provisions related to community development and renewal agencies.

Highlighted Provisions:

This bill:

- ▶ defines “tax increment incentive”;
- ▶ provides that community development project area plans are not subject to certain notice and public hearing requirements, if certain requirements are met, including that:
 - the community development and renewal agency and each taxing entity and public entity that will be affected by the tax increment incentive enter into an interlocal agreement; and
 - an industry or business entity receives a tax increment incentive only on a postperformance basis.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

17C-4-108, as enacted by Laws of Utah 2006, Chapter 359

ENACTS:

17C-4-109, Utah Code Annotated 1953

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

Section 1. Section 17C-4-108 is amended to read:**17C-4-108. Amending a community development project area plan.**

(1) Except as provided in Subsection (2) and Section 17C-4-109, the requirements under this part that apply to adopting a community development project area plan apply equally to a proposed amendment of a community development project area plan as though the amendment were a proposed project area plan.

(2) (a) Notwithstanding Subsection (1), an adopted project area plan may be amended without complying with the notice and public hearing requirements of this part if the proposed amendment:

(i) makes a minor adjustment in the legal description of a project area boundary requested by

a county assessor or county auditor to avoid inconsistent property boundary lines; or

(ii) subject to Subsection (2)(b), removes a parcel of real property from a project area because the agency determines that inclusion of the parcel is no longer necessary or desirable to the project area.

(b) An amendment removing a parcel of real property from a community development project area under Subsection (2)(a)(ii) may not be made without the consent of the record property owner of the parcel being removed.

(3) (a) An amendment approved by board resolution under this section may not take effect until adopted by ordinance of the legislative body of the community in which the project area that is the subject of the project area plan being amended is located.

(b) Upon a community legislative body passing an ordinance adopting an amendment to a community development project area plan, the agency whose project area plan was amended shall comply with the requirements of Sections 17C-4-106 and 17C-4-107 to the same extent as if the amendment were a project area plan.

Section 2. Section 17C-4-109 is enacted to read:**17C-4-109. Expedited community development project area plan.**

(1) As used in this section, “tax increment incentive” means the portion of tax increment awarded to an industry or business.

(2) A community development project area plan may be adopted or amended without complying with the notice and public hearing requirements of this part and Section 17C-4-402, if the following requirements are met:

(a) the agency determines by resolution adopted in an open and public meeting the need to create or amend a project area plan on an expedited basis, which resolution shall include a description of why expedited action is needed;

(b) a public hearing on the amendment or adoption of the project area plan is held by the agency;

(c) notice of the public hearing is published at least 14 days before the public hearing on:

(i) the website of the community that created the agency; and

(ii) the Utah Public Notice Website created in Section 63F-1-701;

(d) written consent to the amendment or adoption of the project area plan is given by all record property owners within the existing or proposed project area;

(e) each taxing entity and public entity that will be affected by the tax increment incentive enter into or amend an interlocal agreement in accordance with Title 11, Chapter 13, Interlocal Cooperation Act, and Sections 17C-4-201, 17C-4-203, and 17C-4-204;

(f) the primary market for the goods or services that will be created by the industry or business entity that will receive a tax increment incentive from the amendment or adoption of the project area plan is outside of the state;

(g) the industry or business entity that will receive a tax increment incentive from the amendment or adoption of the project area plan is not primarily engaged in retail trade; and

(h) a tax increment incentive is only provided to an industry or business entity:

(i) on a postperformance basis as described in Subsection (3); and

(ii) on an annual basis after the tax increment is received by the agency.

(3) An industry or business entity may only receive a tax increment incentive under this section after entering into an agreement with the agency that sets postperformance targets that shall be met before the industry or business entity may receive the tax increment incentive, including annual targets for:

(a) capital investment in the project area;

(b) the increase in the taxable value of the project area;

(c) the number of new jobs created in the project area;

(d) the average wages of the jobs created, which shall be at least 110% of the prevailing wage of the county where the project area is located; and

(e) the amount of local vendor opportunity generated by the industry or business entity.

CHAPTER 303**H. B. 46**

Passed March 6, 2015
 Approved March 30, 2015
 Effective May 12, 2015

MECHANICS LIEN REVISIONS

Chief Sponsor: Mike K. McKell
 Senate Sponsor: Stephen H. Urquhart

LONG TITLE**General Description:**

This bill amends provisions relating to unauthorized and excessive claims of preconstruction and construction liens.

Highlighted Provisions:

This bill:

- ▶ creates procedures to initiate, conduct, and appeal an arbitration proceeding to resolve a claim for an excessive notice of preconstruction lien or an excessive notice of construction lien;
- ▶ establishes an expedited procedure to nullify a preconstruction lien or a construction lien that is invalid because the lien claimant did not file a notice of preconstruction service or a preliminary service; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

38-1a-308, as renumbered and amended by Laws of Utah 2012, Chapter 278

ENACTS:

38-1a-805, Utah Code Annotated 1953

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

Section 1. Section 38-1a-308 is amended to read:**38-1a-308. Intentional submission of excessive lien notice -- Criminal and civil liability.**

(1) As used in this section, "residential project" means a project on real property:

(a) for which a preconstruction service or construction work is provided; and

(b) that consists of:

(i) one single-family residence; or

(ii) one multi-family residence that contains no more than four units.

[~~(1)~~] (2) A person is guilty of a class B misdemeanor if:

(a) the person intentionally submits for recording a notice of preconstruction lien or notice of construction lien against any property containing a greater demand than the sum due; and

(b) by submitting the notice, the person intends:

(i) to cloud the title;

(ii) to exact from the owner or person liable by means of the excessive notice of preconstruction or construction lien more than is due; or

(iii) to procure any unjustified advantage or benefit.

[~~(2)~~] (3) (a) As used in this Subsection [~~(2)~~] (3), "third party" means an owner, original contractor, or subcontractor.

(b) In addition to any criminal penalty under Subsection [~~(4)~~] (2), a person who submits a notice of preconstruction lien or notice of construction lien as described in Subsection [~~(4)~~] (2) is liable to a third party who is affected by the [~~lien~~] notice of preconstruction lien or the notice of construction lien for twice the amount by which the [~~excessive~~] lien notice exceeds the amount actually due or the actual damages incurred by the owner, original contractor, or subcontractor, whichever is greater.

(4) The parties to a claim described in Subsection (3)(b) who agree to arbitrate the claim shall arbitrate in accordance with Subsections (5) through (15) if the notice of preconstruction lien, or the notice of construction lien, that is the subject of the claim is:

(a) for a residential project; and

(b) for \$50,000 or less.

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

(b) All parties shall agree on the single arbitrator described in Subsection (5)(a) within 60 days after the day on which an answer is filed.

(c) If the parties are unable to agree on a single arbitrator as required under Subsection (5)(b), the parties shall select a panel of three arbitrators.

(d) If the parties select a panel of three arbitrators under Subsection (5)(c):

(i) each side shall select one arbitrator; and

(ii) the arbitrators selected under Subsection (5)(d)(i) shall select one additional arbitrator to be included in the panel.

(6) Unless otherwise agreed to in writing:

(a) each party shall pay an equal share of the fees and costs of the arbitrator selected under Subsection (5)(b); or

(b) if an arbitration panel is selected under Subsection (5)(d):

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

(ii) each party shall pay an equal share of the fees and costs of the arbitrator selected under Subsection (5)(d)(ii).

(7) Except as otherwise provided in this section or otherwise agreed to by the parties, an arbitration proceeding conducted under this section shall be governed by Title 78B, Chapter 11, Utah Uniform Arbitration Act.

(8) (a) Subject to the provisions of this section, the Utah Rules of Civil Procedure and the Utah Rules of Evidence shall apply to an arbitration proceeding under this section.

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

(c) Subject to the provisions of this section, discovery shall be conducted in accordance with Rules 26 through 37 of the Utah Rules of Civil Procedure and shall be subject to the jurisdiction of the district court in which the claim is filed.

(d) Unless otherwise agreed to by the parties or ordered by the court, discovery in an arbitration proceeding under this section shall be limited to the discovery available in a tier 1 case under Rule 26 of the Utah Rules of Civil Procedure.

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

(10) An arbitration award issued under this section:

(a) shall be the final resolution of all excessive notice claims described in Subsection (3)(b) that are:

(i) between the parties;

(ii) for a residential project; and

(iii) for \$50,000 or less; and

(b) may be reduced to judgment by the court upon motion and notice, unless:

(i) any party, within 20 days after the day on which the arbitration award is served, files a notice requesting a trial de novo in district court; or

(ii) the arbitration award has been satisfied.

(11) (a) Upon filing a notice requesting a trial de novo under Subsection (10):

(i) unless otherwise stipulated to by the parties or ordered by the court, the parties are allowed an additional 60 days for discovery; and

(ii) the claim shall proceed through litigation pursuant to the Utah Rules of Civil Procedure and the Utah Rules of Evidence in the district court.

(b) The additional discovery time described in Subsection (11)(a)(i) shall run from the day on which the notice requesting a trial de novo is filed.

(12) If the plaintiff, as the moving party in a trial de novo requested under Subsection (10), does not obtain a verdict that is at least 10% greater than the arbitration award, the plaintiff is responsible for all of the nonmoving party's costs, including expert witness fees.

(13) If a defendant, as the moving party in a trial de novo requested under Subsection (10), does not obtain a verdict that is at least 10% less than the arbitration award, the defendant is responsible for

all of the nonmoving party's costs, including expert witness fees.

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

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

Section 2. Section 38-1a-805 is enacted to read:

38-1a-805. Failure to file notice -- Petition to nullify preconstruction or construction lien -- Expedited proceeding.

(1) An owner of an interest in a project property that is subject to a recorded preconstruction lien or a recorded construction lien may petition the district court in the county in which the project property is located for summary relief to nullify the preconstruction lien or the construction lien if:

(a) the owner claims that the preconstruction lien or the construction lien is invalid because:

(i) the lien claimant did not timely file a notice of preconstruction service under Section 38-1a-401; or

(ii) the lien claimant did not timely file a preliminary notice under Section 38-1a-501;

(b) the owner sent the lien claimant a written request to withdraw in accordance with Subsection (2); and

(c) the lien claimant did not withdraw the preconstruction lien or the construction lien within 10 business days after the day on which the owner sent the written request to withdraw.

(2) A written request to withdraw described in Subsection (1) shall:

(a) be delivered by certified mail to the lien claimant at the lien claimant's address provided in the recorded preconstruction lien or the recorded construction lien;

(b) state the owner's name, address, and telephone number;

(c) contain:

(i) (A) the name of the county in which the property that is subject to the preconstruction lien or the construction lien is located; and

(B) the tax parcel identification number of each parcel that is subject to the preconstruction lien or the construction lien; or

(ii) a legal description of the property that is subject to the preconstruction lien or the construction lien;

(d) state that the lien claimant has failed to timely file:

(i) a notice of preconstruction service under Section 38-1a-401; or

(ii) a preliminary notice under Section 38-1a-501;

(e) request that the lien claimant withdraw the lien claimant's preconstruction lien or construction lien within 10 business days after the day on which the written request to withdraw is sent; and

(f) state that if the lien claimant does not withdraw the preconstruction lien or the construction lien within 10 business days after the day on which the written request to withdraw is sent, the owner may petition a court to nullify the lien in an expedited proceeding under this section.

(3) A petition under Subsection (1) shall:

(a) state with specificity that:

(i) the lien claimant's preconstruction lien or the lien claimant's construction lien is invalid because the lien claimant did not file a notice of preconstruction service or a preliminary notice, as applicable;

(ii) the petitioner sent the lien claimant a written request to withdraw in accordance with Subsection (2); and

(iii) the lien claimant did not withdraw the preconstruction lien or the construction lien within 10 business days after the day on which the owner sent the written request to withdraw;

(b) be supported by a sworn affidavit of the petitioner; and

(c) be served on the lien claimant, in accordance with the Rules of Civil Procedure, within three business days after the day on which the petitioner files the petition in the district court.

(4) (a) If the court finds that a petition does not meet the requirements described in Subsection (3), the court may dismiss the petition without a hearing.

(b) If the court finds that a petition meets the requirements described in Subsection (3), the court shall schedule an expedited hearing to determine whether the preconstruction lien or the construction lien is invalid because the lien claimant failed to file a notice of preconstruction service or a preliminary notice, as applicable.

(5) (a) If the court grants a hearing, within three business days after the day on which the court schedules the hearing and at least seven business days before the day on which the hearing is scheduled, the petitioner shall serve on the lien claimant, in accordance with the Rules of Civil Procedure, a copy of the petition, notice of the hearing, and a copy of the court's order granting the expedited hearing.

(b) The lien claimant may attend the hearing and contest the petition.

(6) An expedited proceeding under this section may only determine:

(a) whether the lien claimant filed a notice of preconstruction service or a preliminary notice; and

(b) if the lien claimant failed to file a notice of preconstruction service or a preliminary notice, whether the lien claimant's preconstruction lien or construction lien is valid.

(7) (a) If, following a hearing, the court determines that the preconstruction lien or the construction lien is invalid, the court shall issue an order that:

(i) contains a legal description of the property;

(ii) declares the preconstruction lien or the construction lien void ab initio;

(iii) releases the property from the lien; and

(iv) awards costs and reasonable attorney fees to the petitioner.

(b) The petitioner may submit a copy of an order issued under Subsection (7)(a) to the county recorder for recording.

(8) (a) If, following a hearing, the court determines that the preconstruction lien or the construction lien is valid, the court shall:

(i) dismiss the petition; and

(ii) award costs and reasonable attorney fees to the lien claimant.

(b) The dismissal order shall contain a legal description of the property.

(c) The lien claimant may submit a copy of the dismissal order to the county recorder for recording.

(9) If a petition under this section contains a claim for damages, the proceedings related to the claim for damages may not be expedited under this section.

CHAPTER 304**H. B. 110**

Passed March 10, 2015
 Approved March 30, 2015
 Effective May 12, 2015

**MOTOR VEHICLE
 EMISSIONS AMENDMENTS**

Chief Sponsor: Patrice M. Arent
 Senate Sponsor: Todd Weiler
 Cosponsors: Jacob L. Anderegg
 Johnny Anderson
 Stewart Barlow
 Joel K. Briscoe
 Rebecca Chavez-Houck
 Kay J. Christofferson
 Rich Cunningham
 Sophia M. DiCaro
 Susan Duckworth
 Rebecca P. Edwards
 Justin L. Fawson
 Craig Hall
 Stephen G. Handy
 Sandra Hollins
 Brian S. King
 Justin J. Miller
 Carol Spackman Moss
 Curtis Oda
 Lee B. Perry
 Marie H. Poulson
 Edward H. Redd
 Angela Romero
 V. Lowry Snow
 Mark A. Wheatley

LONG TITLE**General Description:**

This bill modifies provisions related to motor vehicle emissions.

Highlighted Provisions:

This bill:

- ▶ gives the Division of Motor Vehicles the authority to suspend a vehicle's registration if the vehicle does not meet air emissions standards.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

41-1a-110, as last amended by Laws of Utah 2008, Chapter 322

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

Section 1. Section 41-1a-110 is amended to read:

41-1a-110. Authority of division to suspend or revoke registration, certificate of title, license plate, or permit.

(1) Except as provided in Subsections (3) and (4), the division may suspend or revoke a registration, certificate of title, license plate, or permit if:

(a) the division is satisfied that a registration, certificate of title, license plate, or permit was fraudulently procured or erroneously issued;

(b) the division determines that a registered vehicle is mechanically unfit or unsafe to be operated or moved upon the highways;

(c) a registered vehicle has been dismantled;

(d) the division determines that the required fee has not been paid and the fee is not paid upon reasonable notice and demand;

(e) a registration decal, license plate, or permit is knowingly displayed upon a vehicle other than the one for which issued;

(f) the division determines that the owner has committed any offense under this chapter involving the registration, certificate of title, registration card, license plate, registration decal, or permit; or

(g) the division receives notification by the Department of Transportation that the owner has committed any offense under Title 72, Chapter 9, Motor Carrier Safety Act.

(2) (a) The division shall revoke the registration of a vehicle if the division receives notification by the:

(i) Department of Public Safety that a person:

(A) has been convicted of operating a registered motor vehicle in violation of Section 41-12a-301 or 41-12a-303.2; or

(B) is under an administrative action taken by the Department of Public Safety for operating a registered motor vehicle in violation of Section 41-12a-301; or

(ii) designated agent that the owner of a motor vehicle:

(A) has failed to provide satisfactory proof of owner's or operator's security to the designated agent after the second notice provided under Section 41-12a-804; or

(B) provided a false or fraudulent statement to the designated agent.

(b) The division shall notify the Driver License Division if the division revokes the registration of a vehicle under Subsection (2)(a)(ii)(A).

(3) The division may not suspend or revoke the registration of a vessel or outboard motor unless authorized under Section 73-18-7.3.

(4) The division may not suspend or revoke the registration of an off-highway vehicle unless authorized under Section 41-22-17.

(5) The division shall charge a registration reinstatement fee under Section 41-1a-1220, if the registration is revoked under Subsection (1)(f).

(6) Except as provided in Subsections (3), (4), and (7), the division may suspend or revoke a registered vehicle's registration if the division is notified by a local health department, as defined in Section 26A-1-102, that the registered vehicle is unable to meet state or local air emissions standards.

(7) The division may not suspend or revoke a registered vehicle's registration under Subsection (6) if the registered vehicle has a manufacturer's gross vehicle weight rating that is greater than 26,000 pounds.

CHAPTER 305**H. B. 132**

Passed February 20, 2015

Approved March 30, 2015

Effective May 12, 2015

**INTERSTATE COMPACT ON TRANSFER
OF PUBLIC LANDS AMENDMENTS**

Chief Sponsor: Keven J. Stratton

Senate Sponsor: Evan J. Vickers

LONG TITLE**General Description:**

This bill amends the Interstate Compact on the Transfer of Public Lands.

Highlighted Provisions:

This bill:

- ▶ adds financing provisions to the Interstate Compact on the Transfer of Public Lands.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63L-6-105, as enacted by Laws of Utah 2014, Chapter 324

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

Section 1. Section 63L-6-105 is amended to read:**63L-6-105. Interstate compact -- Transfer of public land.**

The Interstate Compact on the Transfer of Public Lands is hereby enacted and entered into with all other jurisdictions that can legally join in the compact, which is, in form, substantially as follows:

Interstate Compact on the Transfer of Public
Lands

Whereas, the separation of powers, both between the branches of the federal government and between federal and state authority, is essential to the preservation of individual liberty;

Whereas, the Constitution of the United States creates a federal government of limited and enumerated powers and reserves to the states or to the people those powers not expressly granted to the federal government to protect the liberty of individual property incidental to the sovereignty and the health, safety, and welfare of its citizens;

Whereas, each state adopting and agreeing to be bound by this compact finds that the coordinated, regular, institutional exercise of its sovereign power under its respective constitution and the Constitution of the United States is an essential component of the governing partnership between the states and the federal government;

NOW, THEREFORE, the states hereto resolve and, by the adoption into law under their respective

state constitutions of this Interstate Compact on the Transfer of Public Lands, agree, as follows:

Sec. 1. Definitions.

As used in this chapter, unless the context clearly indicates otherwise:

(1) "Associate member state" means any state that is not a "member state."

(2) "Compact" means the Interstate Compact on the Transfer of Public Lands.

(3) "Compact administrator" means the person selected by the compact commission to staff the compact commission and whose duties, powers, and tenure are only those approved by the commission.

(4) "Compact commission" means the entity composed of member state representatives and who will administer the compact.

(5) "Compact notice recipient" means the archivist of the United States, the president of the United States, the office of the secretary of the United States Senate, the majority leader of the United States Senate, the speaker of the United States House of Representatives, the office of the clerk of the United States House of Representatives, the chief executive of each state, and the presiding officer of each chamber of the Legislature of each state.

(6) "Member state" means any of the following states that are a signatory to the compact and that have adopted it under the laws of that state: Alaska; Arizona; California; Colorado; Idaho; Montana; Nevada; New Mexico; Oregon; Utah; Washington; and Wyoming.

Sec. 2. Purpose of the compact and commission.

The purpose of the compact and the compact commission is to study, collect data, and develop political and legal mechanisms for securing the transfer to the respective member states of certain specially identified federally controlled public lands within the respective member state boundaries.

Sec. 3. Compact commission and compact administrator.

(1) The compact commission is hereby established and has the powers and duties as follows:

(a) elect, by majority vote, a chair and cochair from among the compact's members, who shall serve a term of office of two years and may serve no more than two terms as chair or cochair;

(b) appoint a compact administrator who shall report to the chair and cochair;

(c) request and disburse funds for the operation of the compact commission;

(d) allow the compact commission to seek staff and research assistance from nonprofit organizations;

(e) adopt parliamentary procedures and publish bylaws consistent with member states;

(f) receive, evaluate, and respond to input from compact commission members regarding actions

taken by the federal government that interfere with the:

- (i) powers reserved to the state;
- (ii) regulation of real property, including land titles, uses, and transfers;
- (iii) regulation of agriculture and nonagricultural businesses that do not engage in interstate commerce; and
- (iv) jurisdiction for the health, safety, and welfare of a state's residents;
- (g) keep and publish minutes of compact commission meetings and records of the compact administrator both of which shall be considered public records and available upon request by the public; and
- (h) prepare an annual report of the compact commission's activities for member and associate member states.

(2) The compact administrator shall staff the compact commission, perform duties, and exercise powers as granted by the commission, or as directed by the chair or cochair.

(3) A majority of the member state representatives present at a compact commission meeting constitutes a quorum and an action of the quorum constitutes an action of the compact commission. Each member state shall have one official representative who shall have one vote.

(4) The compact commission may not take any action within a member or associate member state that contravenes any state law of that member or associate member state.

Sec. 4. Compact membership and withdrawal.

(1) Each member and associate member state agrees to perform and comply in accordance with the terms of membership of this compact consistent with the constitution and laws of the member or associate member state. Actions by members of the compact, for the purpose for which it was created, are based upon the mutual participation, reliance, and reciprocal performance in agreeing to enact this compact into law.

(2) A state enacting this compact into law shall appoint one official representative to the compact commission and shall provide to the compact commission a letter of that representative's appointment. A copy of the letter of appointment with a government-issued photo identity card shall constitute proof of membership on the compact commission.

(3) For voting purposes, only a member state representative may vote and each member state may have only one vote.

(4) A member or associate member state may withdraw from this compact by enacting legislation and giving notice of the enacted withdrawal legislation to the compact administrator. No such withdrawal shall take effect until six months following the enactment of withdrawal legislation

and a withdrawing state is liable for any obligations that it may have incurred prior to the date upon which its withdrawal legislation becomes effective.

Sec. 5. Adoption of compact.

Upon a state adopting the compact and notifying the compact administrator, the administrator shall notify all other member states of the adoption by sending an updated certified copy of the compact with the new adoptee state listed.

Sec. 6. Commission meetings.

(1) The initial meeting of the compact commission shall be within 90 days after the compact is enacted by two or more states. The official representatives of the enacting states shall determine the date, time, and location of the initial meeting and publish that information in their respective states in a manner consistent with the laws of those states for posting notifications and agendas of public meetings. At the initial meeting, those official representatives shall, as provided in Sec. 4, elect a chair and cochair, and appoint a compact administrator. The compact administrator shall, as directed by the compact commission chairs and as provided in the compact, organize the compact commission's activities.

(2) Following the compact commission's initial meeting, the compact commission shall meet at least one time per year. No meeting shall continue longer than three consecutive days.

(3) Special meetings may be called if half or more of the member states notify the chair of the compact commission in writing of the request for a meeting. Attendance at the meeting may be in person or by electronic means. ~~[No meeting shall continue longer than three consecutive days.]~~

(4) Meetings shall be recorded, and the recording and minutes of the meeting shall be made available to the public within 30 days after the meeting. Meetings closed to the public are not permitted except where provided by law in the state in which the meeting is held.

Sec. 7. Funding.

~~[The activities of the compact commission and compact administrator shall be funded exclusively by each member and associate member state, as permitted by the laws of those states, or by voluntary donations. Records shall be kept of all funding and disbursements.]~~

(1) The compact commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities.

(2) The compact commission may accept any appropriate revenue sources, donations, and grants of money, equipment, supplies, material, and services.

(3) (a) The compact commission may, in accordance with Subsections (3)(b) and (c), levy on and collect an annual assessment from each member state or impose fees on other parties to cover the cost of the operations and activities of the

compact commission and its staff, which must be in a total amount sufficient to cover its annual budget as approved each year for which revenue is not provided by other sources.

(b) The compact commission may not levy and collect an annual assessment against a member state if the member state:

(i) (A) votes against the annual assessment; or

(B) was absent from the commission meeting during which the commission voted to approve the annual assessment; and

(ii) within sixty days of the vote to impose the annual assessment, notifies the commission in writing that the member state does not consent to the levy of the annual assessment.

(c) The aggregate annual assessment amount shall be allocated based on a formula to be determined by the compact commission, which shall adopt a rule that is binding on all member states.

(4) The compact commission shall not incur obligations of any kind prior to securing the funds adequate to meet the obligation, nor shall the compact commission pledge the credit of any of the member states, except by and with authority of the member state.

(5) The compact commission shall keep accurate accounts of all receipts and disbursements, and that information shall be available within 30 days upon request by a compact commission member, or by a member state or associate member state. All receipts and disbursements of funds handled by the compact commission shall be audited yearly by a certified or licensed public accountant, and the report of the audit shall be included in the annual report of the commission.

Sec. 8. Cooperation.

The compact commission, member states, associate member states, and the compact administrator shall cooperate and offer mutual assistance with each other in enforcing the terms of the compact for securing the transfer of title to federally controlled public lands to willing western states.

Sec. 9. Declaration of Interstate Compact on the Transfer of Public Lands goals.

(1) Member states, in order to restore, protect, and promote state sovereignty and the health, safety, and welfare of their citizens, shall:

(a) develop and draft model uniform legislation for member states to adopt in securing sovereignty and jurisdiction over federal lands within the respective member state boundaries;

(b) develop and draft model uniform legislation for member states to send to their federal delegation for introduction in Congress for the transfer of federally controlled public lands to the respective member state governments; and

(c) develop legal strategies for securing state sovereignty and jurisdiction over federally

controlled public lands within member state boundaries.

(2) The compact goals in Subsection (1) take effect when:

(a) two states have become member states and adopted the terms in legislation; and

(b) Congress votes to consent to the terms of this compact under United States Constitution Article I, Section 10.

CHAPTER 306**H. B. 174**

Passed March 2, 2015

Approved March 30, 2015

Effective May 12, 2015

PROCUREMENT CODE MODIFICATION

Chief Sponsor: David E. Lifferth

Senate Sponsor: J. Stuart Adams

LONG TITLE**General Description:**

This bill modifies the Utah Procurement Code by removing an exemption for the Division of Parks and Recreation.

Highlighted Provisions:

This bill:

- ▶ removes an exemption for the Division of Parks and Recreation from the Utah Procurement Code; and
- ▶ makes technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63G-6a-107, as last amended by Laws of Utah 2014, Chapters 180, 196, and 313

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

Section 1. Section 63G-6a-107 is amended to read:**63G-6a-107. Exemptions from chapter -- Compliance with federal law.**

(1) Except for Part 24, Unlawful Conduct and Penalties, the provisions of this chapter do not apply to:

(a) funds administered under the Percent-for-Art Program of the Utah Percent-for-Art Act;

(b) grants awarded by the state or contracts between the state and any of the following:

- (i) an educational procurement unit;
- (ii) a conservation district;
- (iii) a local building authority;
- (iv) a local district;
- (v) a public corporation;
- (vi) a special service district;
- (vii) a public transit district; or

(viii) two or more of the entities described in Subsections (1)(b)(i) through (vii), acting under legislation that authorizes intergovernmental cooperation;

(c) medical supplies or medical equipment, including service agreements for medical

equipment, obtained through a purchasing consortium by the Utah State Hospital, the Utah State Developmental Center, the University of Utah Hospital, or any other hospital owned by the state or a political subdivision of the state, if:

(i) the consortium uses a competitive procurement process; and

(ii) the chief administrative officer of the hospital makes a written finding that the prices for purchasing medical supplies and medical equipment through the consortium are competitive with market prices;

(d) the purchase of firefighting supplies or equipment by the Division of Forestry, Fire, and State Lands, created in Section 65A-1-4, through the federal General Services Administration or the National Fire Cache system; or

(e) goods purchased for resale to the public~~;~~].

~~[(4) the Division of Parks and Recreation, during a fiscal emergency, as defined by Subsection 79-4-1102(1), if the division is acting under the authority described in Sections 79-4-1101 through 79-4-1103.]~~

(2) This chapter does not prevent a procurement unit from complying with the terms and conditions of any grant, gift, or bequest that is otherwise consistent with law.

(3) This chapter does not apply to any action taken by a majority of both houses of the Legislature.

(4) Notwithstanding any conflicting provision of this chapter, when a procurement involves the expenditure of federal assistance, federal contract funds, local matching funds, or federal financial participation funds, the procurement unit shall comply with mandatory applicable federal law and regulations not reflected in this chapter.

(5) This chapter does not supersede the requirements for retention or withholding of construction proceeds and release of construction proceeds as provided in Section 13-8-5.

CHAPTER 307**H. B. 191**

Passed February 26, 2015

Approved March 30, 2015

Effective July 1, 2015

UTAH EMERGENCY MEDICAL SERVICES SYSTEM ACT AMENDMENTS

Chief Sponsor: Paul Ray
Senate Sponsor: Allen M. Christensen

LONG TITLE**General Description:**

This bill amends the Utah Emergency Medical Services System Act.

Highlighted Provisions:

This bill:

- ▶ repeals and reenacts background clearance requirements for emergency medical service personnel;
- ▶ requires ongoing evaluation of information sources to determine whether background clearance should be denied or revoked;
- ▶ requires rulemaking;
- ▶ authorizes the Department of Health to obtain information from specified sources;
- ▶ prohibits agencies providing the information from charging the department for that information, except as specified;
- ▶ requires the department to limit access to the information it receives;
- ▶ authorizes the department to charge fees to cover the costs of background clearances;
- ▶ requires the Criminal Investigations and Technical Services Division within the Department of Public Safety to notify the Department of Health when it receives certain information about individuals who have applied to the Department of Health for background clearance;
- ▶ requires the department to use its Direct Access Clearance System database to manage information about background clearance status;
- ▶ requires local governments to establish cost, quality, and access goals for the ground ambulance and paramedic services that serve their areas;
- ▶ makes conforming amendments; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

- 26-8a-302, as enacted by Laws of Utah 1999, Chapter 141
26-8a-408, as last amended by Laws of Utah 2011, Chapter 297
26-21-209, as enacted by Laws of Utah 2012, Chapter 328
78A-6-209, as last amended by Laws of Utah 2012, Chapter 328
78A-6-323, as last amended by Laws of Utah 2012, Chapter 328

REPEALS AND REENACTS:

- 26-8a-310, as last amended by Laws of Utah 2008, Chapter 382

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

Section 1. Section 26-8a-302 is amended to read:**26-8a-302. Certification of emergency medical service personnel.**

(1) To promote the availability of comprehensive emergency medical services throughout the state, the committee shall establish:

(a) initial and ongoing certification and training requirements for emergency medical service personnel in the following categories:

- (i) paramedic;
- (ii) medical director;
- (iii) emergency medical service instructor; and

(iv) other types of emergency medical personnel as the committee considers necessary; and

(b) guidelines for giving credit for out-of-state training and experience.

(2) The department shall, based on the requirements established in Subsection (1):

(a) develop, conduct, and authorize training and testing for emergency medical service personnel; and

(b) issue certifications and certification renewals to emergency medical service personnel.

(3) As provided in Section 26-8a-502, an individual issued a [certificate] certification under this section may only provide emergency medical services to the extent allowed by the [certificate] certification.

(4) An individual may not be issued or retain a certification under this section unless the individual obtains and retains background clearance under Section 26-8a-310.

Section 2. Section 26-8a-310 is repealed and reenacted to read:**26-8a-310. Background clearance for emergency medical service personnel.**

(1) The department shall determine whether to grant background clearance for an individual

seeking certification under Section 26-8a-302 from whom it receives:

(a) the individual's Social Security number, fingerprints, and other personal identification information specified by the department under Subsection (4); and

(b) any fees established by the department under Subsection (10).

(2) The department shall determine whether to deny or revoke background clearance for individuals for whom it has previously granted background clearance.

(3) The department shall determine whether to grant, deny, or revoke background clearance for an individual based on an initial and ongoing evaluation of information the department obtains under Subsections (5) and (11), which, at a minimum, shall include an initial criminal background check of state, regional, and national databases using the individual's fingerprints.

(4) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that specify:

(a) the criteria the department will use under Subsection (3) to determine whether to grant, deny, or revoke background clearance; and

(b) the other personal identification information an individual seeking certification under Section 26-8a-302 must submit under Subsection (1).

(5) To determine whether to grant, deny, or revoke background clearance, the department may access and evaluate any of the following:

(a) Department of Public Safety arrest, conviction, and disposition records described in Title 53, Chapter 10, Criminal Investigations and Technical Services Act, including information in state, regional, and national records files;

(b) adjudications by a juvenile court of committing an act that if committed by an adult would be a felony or misdemeanor, if:

(i) the applicant is under 28 years of age; or

(ii) the applicant:

(A) is over 28 years of age; and

(B) has been convicted of, has pleaded no contest to, or is currently subject to a plea in abeyance or diversion agreement for a felony or misdemeanor;

(c) juvenile court arrest, adjudication, and disposition records, other than those under Subsection (5)(b), as allowed under Section 78A-6-209;

(d) child abuse or neglect findings described in Section 78A-6-323;

(e) the Department of Human Services' Division of Child and Family Services Licensing Information System described in Section 62A-4a-1006;

(f) the Department of Human Services' Division of Aging and Adult Services database of reports of vulnerable adult abuse, neglect, or exploitation, described in Section 62A-3-311.1;

(g) Division of Occupational and Professional Licensing records of licensing and certification under Title 58, Occupations and Professions;

(h) records in other federal criminal background databases available to the state; and

(i) any other records of arrests, warrants for arrest, convictions, pleas in abeyance, pending diversion agreements, or dispositions.

(6) Except for the Department of Public Safety, an agency may not charge the department for information accessed under Subsection (5).

(7) When evaluating information under Subsection (3), the department shall classify a crime committed in another state according to the closest matching crime under Utah law, regardless of how the crime is classified in the state where the crime was committed.

(8) The department shall adopt measures to protect the security of information it accesses under Subsection (5), which shall include limiting access by department employees to those responsible for acquiring, evaluating, or otherwise processing the information.

(9) The department may disclose personal identification information it receives under Subsection (1) to the Department of Human Services to verify that the subject of the information is not identified as a perpetrator or offender in the information sources described in Subsections (5)(d) through (f).

(10) The department may charge fees, in accordance with Section 63J-1-504, to pay for:

(a) the cost of obtaining, storing, and evaluating information needed under Subsection (3), both initially and on an ongoing basis, to determine whether to grant, deny, or revoke background clearance; and

(b) other department costs related to granting, denying, or revoking background clearance.

(11) The Criminal Investigations and Technical Services Division within the Department of Public Safety shall:

(a) retain, separate from other division records, personal information under Subsection (1), including any fingerprints sent to it by the Department of Health; and

(b) notify the Department of Health upon receiving notice that an individual for whom personal information has been retained is the subject of:

(i) a warrant for arrest;

(ii) an arrest;

(iii) a conviction, including a plea in abeyance; or

(iv) a pending diversion agreement.

(12) The department shall use the Direct Access Clearance System database created under Section 26-21-209 to manage information about the background clearance status of each individual for whom the department is required to make a determination under Subsection (1).

Section 3. Section 26-8a-408 is amended to read:

26-8a-408. Criteria for determining public convenience and necessity.

(1) The criteria for determining public convenience and necessity is set forth in Subsections (2) through (6).

(2) Access to emergency medical services shall be maintained or improved. The officer shall consider the impact on existing services, including the impact on response times, call volumes, populations and exclusive geographic service areas served, and the ability of surrounding licensed providers to service their exclusive geographic service areas. The issuance or amendment of a license may not create an orphaned area.

(3) The quality of service in the area shall be maintained or improved. The officer shall consider the:

(a) staffing and equipment standards of the current licensed provider and the applicant;

(b) training and certification levels of the current licensed provider's staff and the applicant's staff;

(c) continuing medical education provided by the current licensed provider and the applicant;

(d) levels of care as defined by department rule;

(e) plan of medical control; and

(f) the negative or beneficial impact on the regional emergency medical service system to provide service to the public.

(4) The cost to the public shall be justified. The officer shall consider:

(a) the financial solvency of the applicant;

(b) the applicant's ability to provide services within the rates established under Section 26-8a-403;

(c) the applicant's ability to comply with cost reporting requirements;

(d) the cost efficiency of the applicant; and

(e) the cost effect of the application on the public, interested parties, and the emergency medical services system.

(5) Local desires concerning cost, quality, and access shall be considered. The officer shall assess and consider:

(a) the existing provider's record of providing services and the applicant's record and ability to provide similar or improved services;

(b) locally established emergency medical services goals, including those established in Subsection (7);

(c) comment by local governments on the applicant's business and operations plans;

(d) comment by interested parties that are providers on the impact of the application on the parties' ability to provide emergency medical services;

(e) comment by interested parties that are local governments on the impact of the application on the citizens it represents; and

(f) public comment on any aspect of the application or proposed license.

(6) Other related criteria:

(a) the officer considers necessary; or

(b) established by department rule.

(7) ~~The role of local governments in the licensing of ground ambulance and paramedic providers that serve areas also served by the local governments is important. The Legislature strongly encourages local~~ Local governments [to] shall establish cost, quality, and access goals for the ground ambulance and paramedic services that serve their areas.

(8) In a formal adjudicative proceeding, the applicant bears the burden of establishing that public convenience and necessity require the approval of the application for all or part of the exclusive geographic service area requested.

Section 4. Section 26-21-209 is amended to read:

26-21-209. Direct Access Clearance System database -- Contents -- Use.

(1) The department shall create and maintain a Direct Access Clearance System database, which:

(a) includes the names of individuals for whom the department has received:

(i) an application for clearance~~[, and]~~ under this part; or

(ii) an application for background clearance under Section 26-8a-310; and

(b) indicates ~~[for each applicant]~~ whether an application is pending and whether clearance has been granted and retained~~[,]~~ for:

(i) an applicant under this part; and

(ii) an applicant for background clearance under Section 26-8a-310.

(2) (a) The department shall allow covered providers and covered contractors to access the database electronically.

(b) Data accessible to a covered provider or covered contractor is limited to the information under ~~[Subsection (1)]~~ Subsections (1)(a)(i) and (1)(b)(i) for:

(i) covered individuals engaged by the covered provider or covered contractor; and

(ii) individuals:

(A) whom the covered provider or covered contractor could engage as covered individuals; and

(B) who have provided the covered provider or covered contractor with sufficient personal identification information to uniquely identify the individual in the database.

(c) (i) The department may establish fees, in accordance with Section 63J-1-504, for use of the database by a covered contractor.

(ii) The fees may include, in addition to any fees established by the department under Subsection 26-21-204(9), an initial set-up fee, an ongoing access fee, and a per-use fee.

Section 5. Section 78A-6-209 is amended to read:

78A-6-209. Court records -- Inspection.

(1) The court and the probation department shall keep records as required by the board and the presiding judge.

(2) Court records shall be open to inspection by:

(a) the parents or guardian of a child, a minor who is at least 18 years of age, other parties in the case, the attorneys, and agencies to which custody of a minor has been transferred;

(b) for information relating to adult offenders alleged to have committed a sexual offense, a felony or class A misdemeanor drug offense, or an offense against the person under Title 76, Chapter 5, Offenses Against the Person, the State Office of Education for the purpose of evaluating whether an individual should be permitted to obtain or retain a license as an educator or serve as an employee or volunteer in a school, with the understanding that the office must provide the individual with an opportunity to respond to any information gathered from its inspection of the records before it makes a decision concerning licensure or employment;

(c) the Criminal Investigations and Technical Services Division, established in Section 53-10-103, for the purpose of a criminal history background check for the purchase of a firearm and establishing good character for issuance of a concealed firearm permit as provided in Section 53-5-704;

(d) the Division of Child and Family Services for the purpose of Child Protective Services Investigations in accordance with Sections 62A-4a-403 and 62A-4a-409 and administrative hearings in accordance with Section 62A-4a-1009;

(e) for information related to a juvenile offender who has committed a sexual offense, a felony, or an offense that if committed by an adult would be a misdemeanor, the Department of Health for the purpose of evaluating under the provisions of Subsection 26-39-404(3) whether a licensee should be permitted to obtain or retain a license to provide child care, with the understanding that the department must provide the individual who committed the offense with an opportunity to

respond to any information gathered from its inspection of records before it makes a decision concerning licensure; ~~and~~

(f) for information related to a juvenile offender who has committed a sexual offense, a felony, or an offense that if committed by an adult would be a misdemeanor, the Department of Health to determine whether an individual meets the background screening requirements of Title 26, Chapter 21, Part 2, Clearance for Direct Patient Access, with the understanding that the department must provide the individual who committed the offense an opportunity to respond to any information gathered from its inspection of records before it makes a decision under that part[-]; and

(g) for information related to a juvenile offender who has committed a sexual offense, a felony, or an offense that if committed by an adult would be a misdemeanor, the Department of Health to determine whether to grant, deny, or revoke background clearance under Section 26-8a-310 for an individual who is seeking or who has obtained emergency medical service personnel certification under Section 26-8a-302, with the understanding that the department must provide the individual who committed the offense an opportunity to respond to any information gathered from the department's inspection of records before it makes a determination.

(3) With the consent of the judge, court records may be inspected by the child, by persons having a legitimate interest in the proceedings, and by persons conducting pertinent research studies.

(4) If a petition is filed charging a minor 14 years of age or older with an offense that would be a felony if committed by an adult, the court shall make available to any person upon request the petition, any adjudication or disposition orders, and the delinquency history summary of the minor charged unless the records are closed by the court upon findings on the record for good cause.

(5) Probation officers' records and reports of social and clinical studies are not open to inspection, except by consent of the court, given under rules adopted by the board.

(6) (a) Any juvenile delinquency adjudication or disposition orders and the delinquency history summary of any person charged as an adult with a felony offense shall be made available to any person upon request.

(b) This provision does not apply to records that have been destroyed or expunged in accordance with court rules.

(c) The court may charge a reasonable fee to cover the costs associated with retrieving a requested record that has been archived.

Section 6. Section 78A-6-323 is amended to read:

78A-6-323. Additional finding at adjudication hearing -- Petition -- Court records.

(1) Upon the filing with the court of a petition under Section 78A-6-304 by the Division of Child and Family Services or any interested person informing the court, among other things, that the division has made a supported finding that a person committed a severe type of child abuse or neglect as defined in Section 62A-4a-1002, the court shall:

(a) make a finding of substantiated, unsubstantiated, or without merit;

(b) include the finding described in Subsection (1)(a) in a written order; and

(c) deliver a certified copy of the order described in Subsection (1)(b) to the division.

(2) The judicial finding under Subsection (1) shall be made:

(a) as part of the adjudication hearing;

(b) at the conclusion of the adjudication hearing; or

(c) as part of a court order entered pursuant to a written stipulation of the parties.

(3) (a) Any person described in Subsection 62A-4a-1010(1) may at any time file with the court a petition for removal of the person's name from the Licensing Information System.

(b) At the conclusion of the hearing on the petition, the court shall:

(i) make a finding of substantiated, unsubstantiated, or without merit;

(ii) include the finding described in Subsection (1)(a) in a written order; and

(iii) deliver a certified copy of the order described in Subsection (1)(b) to the division.

(4) A proceeding for adjudication of a supported finding under this section of a type of abuse or neglect that does not constitute a severe type of child abuse or neglect may be joined in the juvenile court with an adjudication of a severe type of child abuse or neglect.

(5) If a person whose name appears on the Licensing Information system prior to May 6, 2002 files a petition during the time that an alleged perpetrator's application for clearance to work with children or vulnerable adults is pending, the court shall hear the matter and enter a final decision no later than 60 days after the filing of the petition.

(6) For the purposes of licensing under Sections 26-39-402 and 62A-1-118, and for the purposes described in ~~[Section]~~ Sections 26-8a-310 and 62A-2-121 and Title 26, Chapter 21, Part 2, Clearance for Direct Patient Access:

(a) the court shall make available records of its findings under Subsections (1) and (2):

(i) for those purposes; and

(ii) only to those with statutory authority to access also the Licensing Information System created under Section 62A-4a-1006; and

(b) any appellate court shall make available court records of appeals from juvenile court decisions under Subsections (1), (2), (3), and (4):

(i) for those purposes; and

(ii) only to those with statutory authority to access also the Licensing Information System.

Section 7. Effective date.

This bill takes effect on July 1, 2015.

CHAPTER 308**H. B. 201**

Passed February 27, 2015

Approved March 30, 2015

Effective May 12, 2015

INTERLOCAL ENTITIES AMENDMENTS

Chief Sponsor: Merrill F. Nelson
Senate Sponsor: Ralph Okerlund

LONG TITLE**General Description:**

This bill amends provisions related to a taxed interlocal entity.

Highlighted Provisions:

This bill:

- ▶ defines “governmental law”;
- ▶ provides that a governmental law is not applicable to, is not binding upon, and does not have effect on a taxed interlocal entity unless the governmental law uses express words; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

11-13-315 (Effective 05/12/15), as last amended by Laws of Utah 2014, Chapters 115, 189, 196, and 264

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

Section 1. Section 11-13-315 (Effective 05/12/15) is amended to read:**11-13-315 (Effective 05/12/15). Taxed interlocal entity.**

(1) As used in this section:

(a) “Asset” means funds, money, an account, real or personal property, or personnel.

(b) “Governmental law” means:

(i) Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act;

(ii) Title 63A, Chapter 3, Division of Finance;

(iii) Title 63G, Chapter 6a, Utah Procurement Code;

(iv) a law imposing an obligation on a taxed interlocal entity similar to an obligation imposed by a law described in Subsection (1)(b)(i), (ii), or (iii);

(v) an amendment to or replacement or renumbering of a law described in Subsection (1)(b)(i), (ii), (iii), or (iv); or

(vi) a law superseding a law described in Subsection (1)(b)(i), (ii), (iii), or (iv).

(b) (c) “Public asset” means:

(i) an asset used by a public entity;

(ii) tax revenue;

(iii) state funds; or

(iv) public funds.

(c) (d) (i) “Taxed interlocal entity” means a project entity that:

(A) is not exempt from a tax or fee in lieu of taxes imposed in accordance with Part 3, Project Entity Provisions;

(B) does not receive a payment of funds from a federal agency or office, state agency or office, political subdivision, or other public agency or office other than a payment that does not materially exceed the greater of the fair market value and the cost of a service provided or property conveyed by the project entity; and

(C) does not receive, expend, or have the authority to compel payment from tax revenue.

(ii) “Taxed interlocal entity” includes an interlocal entity that:

(A) was created before 1981 for the purpose of providing power supply at wholesale to its members;

(B) does not receive a payment of funds from a federal agency or office, state agency or office, political subdivision, or other public agency or office other than a payment that does not materially exceed the greater of the fair market value and the cost of a service provided or property conveyed by the interlocal entity; and

(C) does not receive, expend, or have the authority to compel payment from tax revenue.

(d) (e) (i) “Use” means to use, own, manage, hold, keep safe, maintain, invest, deposit, administer, receive, expend, appropriate, disburse, or have custody.

(ii) “Use” includes, when constituting a noun, the corresponding nominal form of each term in Subsection (1)(d)(e)(i), individually.

(2) Notwithstanding any other provision of law, the use of an asset by a taxed interlocal entity does not constitute the use of a public asset.

(3) Notwithstanding any other provision of law, a taxed interlocal entity’s use of an asset that was a public asset prior to the taxed interlocal entity’s use of the asset does not constitute a taxed interlocal entity’s use of a public asset.

(4) Notwithstanding any other provision of law, an official of a project entity is not a public treasurer.

(5) Notwithstanding any other provision of law, a taxed interlocal entity’s governing body, as described in Section 11-13-206, shall determine and direct the use of an asset by the taxed interlocal entity.

(6) A taxed interlocal entity is not subject to the provisions of Title 63G, Chapter 6a, Utah Procurement Code.

(7) (a) A taxed interlocal entity is not a participating local entity as defined in Section 63A-3-401.

(b) For each fiscal year of a taxed interlocal entity, the taxed interlocal entity shall provide:

(i) the taxed interlocal entity's financial statements for and as of the end of the fiscal year and the prior fiscal year, including the taxed interlocal entity's balance sheet as of the end of the fiscal year and the prior fiscal year, and the related statements of revenues and expenses and of cash flows for the fiscal year; and

(ii) the accompanying auditor's report and management's discussion and analysis with respect to the taxed interlocal entity's financial statements for and as of the end of the fiscal year.

(c) The taxed interlocal entity shall provide the information described in Subsections (7)(b)(i) and(ii):

(i) in a manner described in Subsection 63A-3-405(3); and

(ii) within a reasonable time after the taxed interlocal entity's independent auditor delivers to the taxed interlocal entity's governing body the auditor's report with respect to the financial statements for and as of the end of the fiscal year.

(d) Notwithstanding Subsections (7)(b) and (c) or a taxed interlocal entity's compliance with one or more of the requirements of Title 63A, Chapter 3, Division of Finance:

(i) the taxed interlocal entity is not subject to Title 63A, Chapter 3, Division of Finance; and

(ii) the information described in Subsection (7)(b)(i) or (ii) does not constitute public financial information as defined in Section 63A-3-401.

(8) (a) A taxed interlocal entity's governing body is not a governing board as defined in Section 51-2a-102.

(b) A taxed interlocal entity is not subject to the provisions of Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act.

(9) (a) A taxed interlocal entity is not subject to the provisions of Subsection 11-13-204(1)(a)(i) or (c).

(b) In addition to the powers provided in Subsection 11-13-204(1)(a)(ii), a taxed interlocal entity may, for the regulation of the entity's affairs and conduct of its business, adopt, amend, or repeal bylaws, policies, or procedures.

(10) A governmental law enacted after May 12, 2015, is not applicable to, is not binding upon, and does not have effect on a taxed interlocal entity unless the governmental law expressly states the section of governmental law to be applicable to and binding upon the taxed interlocal entity with the following words: "[Applicable section or subsection number] constitutes an exception to Subsection 11-13-315(10) and is applicable to and binding upon a taxed interlocal entity."

CHAPTER 309**H. B. 275**

Passed March 6, 2015

Approved March 30, 2015

Effective May 12, 2015

HIGHWAY DESIGNATION AMENDMENTS

Chief Sponsor: Justin L. Fawson

Senate Sponsor: Peter C. Knudson

LONG TITLE**General Description:**

This bill modifies the Designation of State Highways Act by designating the Vietnam Veterans Memorial Highway.

Highlighted Provisions:

This bill:

- ▶ designates the existing portions of Interstate 84 located within the state as the Vietnam Veterans Memorial Highway; and
- ▶ requires the Department of Transportation to make the designation of this highway on future state highway maps.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

72-4-215, Utah Code Annotated 1953

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

Section 1. Section 72-4-215 is enacted to read:**72-4-215. Vietnam Veterans Memorial Highway.**

(1) There is established the Vietnam Veterans Memorial Highway composed of the existing portions of Interstate 84 located within the state.

(2) In addition to other official designations, the Department of Transportation shall designate the portions of the highway identified in Subsection (1) as the Vietnam Veterans Memorial Highway on future state highway maps.

CHAPTER 310**H. B. 323**

Passed March 12, 2015

Approved March 30, 2015

Effective May 12, 2015

**RESOURCE MANAGEMENT
PLANNING BY LOCAL GOVERNMENTS**

Chief Sponsor: Keven J. Stratton

Senate Sponsor: Ralph Okerlund

LONG TITLE**General Description:**

This bill requires a county to develop a resource management plan.

Highlighted Provisions:

This bill:

- ▶ requires a county to develop a resource management plan as a part of the county's general plan;
- ▶ establishes content requirements for a county's resource management plan;
- ▶ requires the state to provide information and technical assistance to a county;
- ▶ requires a county planning commission to coordinate with other counties;
- ▶ establishes a county's general plan as a basis for coordinating with the federal government;
- ▶ establishes administrative duties of the Public Lands Policy Coordinating Office with regard to county resource management plans; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 17-27a-401, as renumbered and amended by Laws of Utah 2005, Chapter 254
- 17-27a-403, as last amended by Laws of Utah 2014, Chapter 176
- 17-27a-404, as last amended by Laws of Utah 2010, Chapter 90
- 17-27a-405, as enacted by Laws of Utah 2005, Chapter 254
- 17-27a-409, as renumbered and amended by Laws of Utah 2005, Chapter 254
- 17-34-6, as last amended by Laws of Utah 2005, Chapter 254

ENACTS:

63J-4-607, Utah Code Annotated 1953

REPEALS AND REENACTS:

17-27a-402, as last amended by Laws of Utah 2008, Chapter 382

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

Section 1. Section 17-27a-401 is amended to read:

17-27a-401. General plan required -- Content -- Resource management plan -- Provisions related to radioactive waste facility.

(1) ~~[In order to]~~ To accomplish the purposes of this chapter, each county shall prepare and adopt a comprehensive, long-range general plan ~~[for]~~:

(a) for present and future needs of the county; ~~[and]~~

(b) for growth and development of all or any part of the land within the unincorporated portions of the county~~[-]~~; and

(c) as a basis for communicating and coordinating with the federal government on land and resource management issues.

(2) The general plan may provide for:

(a) health, general welfare, safety, energy conservation, transportation, prosperity, civic activities, aesthetics, and recreational, educational, and cultural opportunities;

(b) the reduction of the waste of physical, financial, or human resources that result from either excessive congestion or excessive scattering of population;

(c) the efficient and economical use, conservation, and production of the supply of:

(i) food and water; and

(ii) drainage, sanitary, and other facilities and resources;

(d) the use of energy conservation and solar and renewable energy resources;

(e) the protection of urban development;

(f) the protection or promotion of moderate income housing;

(g) the protection and promotion of air quality;

(h) historic preservation;

(i) identifying future uses of land that are likely to require an expansion or significant modification of services or facilities provided by each affected entity; and

(j) an official map.

(3) (a) The general plan shall contain a resource management plan to provide for the protection, conservation, development, and managed use of resources that are critical to the health, safety, and welfare of the citizens of the county and of the state.

(b) The resource management plan shall:

(i) be centered on the following core resources:

(A) energy;

(B) air; and

(C) water; and

(ii) contain detailed plans regarding:

(A) mining;

(B) land use;

(C) livestock and grazing;

(D) irrigation;

- (E) agriculture;
- (F) fire management;
- (G) noxious weeds;
- (H) forest management;
- (I) water rights;
- (J) ditches and canals;
- (K) water quality and hydrology;
- (L) flood plains and river terraces;
- (M) wetlands;
- (N) riparian areas;
- (O) predator control;
- (P) wildlife;
- (Q) fisheries;
- (R) recreation and tourism;
- (S) energy resources;
- (T) mineral resources;
- (U) cultural, historical, geological, and paleontological resources;
- (V) wilderness;
- (W) wild and scenic rivers;
- (X) threatened, endangered, and sensitive species;
- (Y) land access;
- (Z) law enforcement; and
- (AA) economic considerations.

(c) For each item listed under Subsection (3)(b), a county's resource management plan shall:

- (i) establish any relevant findings pertaining to the item;
- (ii) establish clearly defined objectives; and
- (iii) outline general policies and guidelines on how the objectives described in Subsection (3)(c)(ii) are to be accomplished.

[~~(3)~~] (4) (a) The general plan shall include specific provisions related to any areas within, or partially within, the exterior boundaries of the county, or contiguous to the boundaries of a county, which are proposed for the siting of a storage facility or transfer facility for the placement of high-level nuclear waste or greater than class C radioactive nuclear waste, as these wastes are defined in Section 19-3-303. The provisions shall address the effects of the proposed site upon the health and general welfare of citizens of the state, and shall provide:

- (i) the information identified in Section 19-3-305;

(ii) information supported by credible studies that demonstrates that the provisions of Subsection 19-3-307(2) have been satisfied; and

(iii) specific measures to mitigate the effects of high-level nuclear waste and greater than class C radioactive waste and guarantee the health and safety of the citizens of the state.

(b) A county may, in lieu of complying with Subsection [~~(3)~~] (4)(a), adopt an ordinance indicating that all proposals for the siting of a storage facility or transfer facility for the placement of high-level nuclear waste or greater than class C radioactive waste wholly or partially within the county are rejected.

(c) A county may adopt the ordinance listed in Subsection [~~(3)~~] (4)(b) at any time.

(d) The county shall send a certified copy of the ordinance ~~under~~ described in Subsection [~~(3)~~] (4)(b) to the executive director of the Department of Environmental Quality by certified mail within 30 days of enactment.

(e) If a county repeals an ordinance adopted ~~pursuant to~~ under Subsection [~~(3)~~] (4)(b) the county shall:

- (i) comply with Subsection [~~(3)~~] (4)(a) as soon as reasonably possible; and
- (ii) send a certified copy of the repeal to the executive director of the Department of Environmental Quality by certified mail within 30 days after the repeal.

[~~(4)~~] (5) The general plan may define the county's local customs, local culture, and the components necessary for the county's economic stability.

[~~(5)~~] (6) Subject to Subsection 17-27a-403(2), the county may determine the comprehensiveness, extent, and format of the general plan.

(7) Nothing in this part may be construed to limit the authority of the state to manage and protect wildlife under Title 23, Wildlife Resources Code of Utah.

Section 2. Section 17-27a-402 is repealed and reenacted to read:

17-27a-402. Information and technical assistance from the state.

(1) A county may request that the state, including any agency, department, division, institution, or official of the state, provide the county with information that would assist the county in creating the county's general plan.

(2) The state or an agency, department, division, institution, or official of the state from which a county has requested information under Subsection (1) shall provide the county with:

(a) the information requested by the county, unless providing the information is prohibited by Title 63G, Chapter 2, Government Records Access and Management Act; and

(b) any other technical assistance or advice the county needs with regards to the county's general plan, without any additional cost to the county.

Section 3. Section 17-27a-403 is amended to read:

17-27a-403. Plan preparation.

(1) (a) The planning commission shall provide notice, as provided in Section 17-27a-203, of its intent to make a recommendation to the county legislative body for a general plan or a comprehensive general plan amendment when the planning commission initiates the process of preparing its recommendation.

(b) The planning commission shall make and recommend to the legislative body a proposed general plan for the unincorporated area within the county.

(c) (i) The plan may include planning for incorporated areas if, in the planning commission's judgment, they are related to the planning of the unincorporated territory or of the county as a whole.

(ii) Elements of the county plan that address incorporated areas are not an official plan or part of a municipal plan for any municipality, unless it is recommended by the municipal planning commission and adopted by the governing body of the municipality.

(2) (a) At a minimum, the proposed general plan, with the accompanying maps, charts, and descriptive and explanatory matter, shall include the planning commission's recommendations for the following plan elements:

(i) a land use element that:

(A) designates the long-term goals and the proposed extent, general distribution, and location of land for housing, business, industry, agriculture, recreation, education, public buildings and grounds, open space, and other categories of public and private uses of land as appropriate; and

(B) may include a statement of the projections for and standards of population density and building intensity recommended for the various land use categories covered by the plan;

(ii) a transportation and traffic circulation element consisting of the general location and extent of existing and proposed freeways, arterial and collector streets, mass transit, and any other modes of transportation that the planning commission considers appropriate, all correlated with the population projections and the proposed land use element of the general plan; ~~and~~

(iii) an estimate of the need for the development of additional moderate income housing within the unincorporated area of the county, and a plan to provide a realistic opportunity to meet estimated needs for additional moderate income housing if long-term projections for land use and development occur~~[-];~~ and

(iv) before July 1, 2016, a resource management plan detailing the findings, objectives, and policies required by Subsection 17-27a-401(3).

(b) In drafting the moderate income housing element, the planning commission:

(i) shall consider the Legislature's determination that counties should facilitate a reasonable opportunity for a variety of housing, including moderate income housing;

(A) to meet the needs of people desiring to live there; and

(B) to allow persons with moderate incomes to benefit from and fully participate in all aspects of neighborhood and community life; and

(ii) may include an analysis of why the recommended means, techniques, or combination of means and techniques provide a realistic opportunity for the development of moderate income housing within the planning horizon, which means or techniques may include a recommendation to:

(A) rezone for densities necessary to assure the production of moderate income housing;

(B) facilitate the rehabilitation or expansion of infrastructure that will encourage the construction of moderate income housing;

(C) encourage the rehabilitation of existing uninhabitable housing stock into moderate income housing;

(D) consider county general fund subsidies to waive construction related fees that are otherwise generally imposed by the county;

(E) consider utilization of state or federal funds or tax incentives to promote the construction of moderate income housing;

(F) consider utilization of programs offered by the Utah Housing Corporation within that agency's funding capacity; and

(G) consider utilization of affordable housing programs administered by the Department of Workforce Services.

(c) In drafting the land use element, the planning commission shall:

(i) identify and consider each agriculture protection area within the unincorporated area of the county; and

(ii) avoid proposing a use of land within an agriculture protection area that is inconsistent with or detrimental to the use of the land for agriculture.

(d) In drafting the resource management plan required under Section 17-27a-401, the planning commission shall:

(i) identify any common interests the county shares with any other proximate county with regards to the elements of the resource management plan as described in Subsection 17-27a-401(3)(b); and

(ii) coordinate with the other proximate county to establish, to the greatest extent possible, consistent objectives and policies with regards to the common interests identified under Subsection (2)(d)(i).

(3) The proposed general plan may include:

(a) an environmental element that addresses:

(i) to the extent not covered by the county's resource management plan, the protection, conservation, development, and use of natural resources, including the quality of air, forests, soils, rivers and other waters, harbors, fisheries, wildlife, minerals, and other natural resources; and

(ii) the reclamation of land, flood control, prevention and control of the pollution of streams and other waters, regulation of the use of land on hillsides, stream channels and other environmentally sensitive areas, the prevention, control, and correction of the erosion of soils, protection of watersheds and wetlands, and the mapping of known geologic hazards;

(b) a public services and facilities element showing general plans for sewage, water, waste disposal, drainage, public utilities, rights-of-way, easements, and facilities for them, police and fire protection, and other public services;

(c) a rehabilitation, redevelopment, and conservation element consisting of plans and programs for:

(i) historic preservation;

(ii) the diminution or elimination of blight; and

(iii) redevelopment of land, including housing sites, business and industrial sites, and public building sites;

(d) an economic element composed of appropriate studies and forecasts, as well as an economic development plan, which may include review of existing and projected county revenue and expenditures, revenue sources, identification of basic and secondary industry, primary and secondary market areas, employment, and retail sales activity;

(e) recommendations for implementing all or any portion of the general plan, including the use of land use ordinances, capital improvement plans, community development and promotion, and any other appropriate action;

(f) provisions addressing any of the matters listed in Subsection 17-27a-401(2); and

(g) any other element the county considers appropriate.

Section 4. Section 17-27a-404 is amended to read:

17-27a-404. Public hearing by planning commission on proposed general plan or amendment -- Notice -- Revisions to general plan or amendment -- Adoption or rejection by legislative body.

(1) (a) After completing its recommendation for a proposed general plan, or proposal to amend the general plan, the planning commission shall schedule and hold a public hearing on the proposed plan or amendment.

(b) The planning commission shall provide notice of the public hearing, as required by Section 17-27a-204.

(c) After the public hearing, the planning commission may modify the proposed general plan or amendment.

(2) The planning commission shall forward the proposed general plan or amendment to the legislative body.

(3) (a) As provided by local ordinance and by Section 17-27a-204, the legislative body shall provide notice of its intent to consider the general plan proposal.

(b) (i) In addition to the requirements of Subsections (1), (2), and (3)(a), the legislative body shall hold a public hearing in Salt Lake City on provisions of the proposed county plan regarding Subsection 17-27a-401[(3)](4). The hearing procedure shall comply with this Subsection (3)(b).

(ii) The hearing format shall allow adequate time for public comment at the actual public hearing, and shall also allow for public comment in writing to be submitted to the legislative body for not fewer than 90 days after the date of the public hearing.

(c) (i) The legislative body shall give notice of the hearing in accordance with this Subsection (3) when the proposed plan provisions required by Subsection 17-27a-401[(3)](4) are complete.

(ii) Direct notice of the hearing shall be given, in writing, to the governor, members of the state Legislature, executive director of the Department of Environmental Quality, the state planning coordinator, the Resource Development Coordinating Committee, and any other citizens or entities who specifically request notice in writing.

(iii) Public notice shall be given by publication:

(A) in at least one major Utah newspaper having broad general circulation in the state;

(B) in at least one Utah newspaper having a general circulation focused mainly on the county where the proposed high-level nuclear waste or greater than class C radioactive waste site is to be located; and

(C) on the Utah Public Notice Website created in Section 63F-1-701.

(iv) The notice shall be published to allow reasonable time for interested parties and the state to evaluate the information regarding the provisions of Subsection 17-27a-401[(3)](4), including:

(A) in a newspaper described in Subsection (3)(c)(iii)(A), no less than 180 days before the date of the hearing to be held under this Subsection (3); and

(B) publication described in Subsection (3)(c)(iii)(B) or (C) for 180 days before the date of the hearing to be held under this Subsection (3).

(4) (a) After the public hearing required under this section, the legislative body may make any revisions to the proposed general plan that it considers appropriate.

(b) The legislative body shall respond in writing and in a substantive manner to all those providing

comments as a result of the hearing required by Subsection (3).

(5) (a) The county legislative body may adopt or reject the proposed general plan or amendment either as proposed by the planning commission or after making any revision the county legislative body considers appropriate.

(b) If the county legislative body rejects the proposed general plan or amendment, it may provide suggestions to the planning commission for its consideration.

(6) The legislative body shall adopt:

(a) a land use element as provided in Subsection 17-27a-403(2)(a)(i);

(b) a transportation and traffic circulation element as provided in Subsection 17-27a-403(2)(a)(ii); ~~and~~

(c) after considering the factors included in Subsection 17-27a-403(2)(b), a plan to provide a realistic opportunity to meet estimated needs for additional moderate income housing if long-term projections for land use and development occur[-]; and

(d) before January 1, 2017, a resource management plan as provided by Subsection 17-27a-403(2)(a)(iv).

Section 5. Section 17-27a-405 is amended to read:

17-27a-405. Effect of general plan -- Coordination with federal government.

(1) Except for the mandatory provisions in Subsection 17-27a-401[(3)](4)(b) and Section 17-27a-406, and except as provided in Subsection (3), the general plan is an advisory guide for land use decisions, the impact of which shall be determined by ordinance.

(2) The legislative body may adopt an ordinance mandating compliance with the general plan, and shall adopt an ordinance requiring compliance with all provisions of Subsection 17-27a-401[(3)](4)(b).

(3) (a) As used in this Subsection (3), "coordinate with" means an action taken by the federal government on a given matter, pursuant to a federal law, rule, policy, or regulation, to:

(i) work with a county on the matter to achieve a consistent outcome;

(ii) make resource management plans in conjunction with a county on the matter;

(iii) make resource management plans consistent with a county's plans on the matter;

(iv) integrate a county's plans on the matter into the federal government's plans; or

(v) follow a county's plans when contemplating any action on the matter.

(b) If the federal government is required to coordinate with a county or a local government on a

matter, the county's general plan is the principle document through which the coordination shall take place.

(c) The federal government is not considered to have coordinated with a county or a local government on a matter unless the federal government has:

(i) kept the county apprised of the federal government's proposed plans, amendments, policy changes, and management actions with regard to the matter;

(ii) worked with the county in developing and implementing plans, policies, and management actions on the matter;

(iii) treated the county as an equal partner in negotiations related to the matter;

(iv) listened to and understood the county's position on the matter to determine whether a conflict exists between the federal government's proposed plan, policy, rule, or action and the county's general plan;

(v) worked with the county in an amicable manner to reconcile any differences or disagreements, to the greatest extent possible under federal law, between the federal government and the county with regards to plans, policies, rules, or proposed management actions that relate to the matter;

(vi) engaged in a good-faith effort to reconcile any conflicts discovered under Subsection (3)(c)(iv) to achieve, to the greatest extent possible under federal law, consistency between the federal government's proposed plan, policy, rule, or action and the county's general plan; and

(vii) given full consideration to a county's general plan to the extent that the general plan addresses the matter.

Section 6. Section 17-27a-409 is amended to read:

17-27a-409. State to indemnify county regarding refusal to site nuclear waste -- Terms and conditions.

If a county is challenged in a court of law regarding its decision to deny siting of a storage or transfer facility for the placement of high-level nuclear waste or greater than class C radioactive waste or its refusal to provide municipal-type services regarding the operation of the storage or transfer facility, the state shall indemnify, defend, and hold the county harmless from any claims or damages, including court costs and attorney fees that are assessed as a result of the county's action, if:

(1) the county has complied with the provisions of Subsection 17-27a-401[(3)](4)(b) by adopting an ordinance rejecting all proposals for the siting of a storage or transfer facility for the placement of high-level nuclear waste or greater than class C radioactive waste wholly or partially within the boundaries of the county;

(2) the county has complied with Subsection 17-34-1(3) regarding refusal to provide municipal-type services; and

(3) the court challenge against the county addresses the county's actions in compliance with Subsection 17-27a-401[(3)](4)(b) or 17-34-1(3).

Section 7. Section 17-34-6 is amended to read:

17-34-6. State to indemnify county regarding refusal to site nuclear waste -- Terms and conditions.

If a county is challenged in a court of law regarding its decision to deny siting of a storage or transfer facility for the placement of high-level nuclear waste or greater than class C radioactive waste or its refusal to provide municipal-type services regarding the operation of the storage or transfer facility, the state shall indemnify, defend, and hold the county harmless from any claims or damages, including court costs and attorney fees that are assessed as a result of the county's action, if:

(1) the county has complied with the provisions of Subsection 17-27a-401[(3)](4)(b) by adopting an ordinance rejecting all proposals for the siting of a storage or transfer facility for the placement of high-level nuclear waste or greater than class C radioactive waste wholly or partially within the boundaries of the county;

(2) the county has complied with Subsection 17-34-1(3) regarding refusal to provide municipal-type services; and

(3) the court challenge against the county addresses the county's actions in compliance with Subsection 17-27a-401[(3)](4)(b) or 17-34-1(3).

Section 8. Section 63J-4-607 is enacted to read:

63J-4-607. Resource management plan administration.

(1) The office shall consult with the Commission for the Stewardship of Public Lands before expending funds appropriated by the Legislature for the implementation of this section.

(2) To the extent that the Legislature appropriates sufficient funding, the office shall procure the services of a non-public entity in accordance with Title 63G, Chapter 6a, Utah Procurement Code, to assist the office with the office's responsibilities described in Subsection (3).

(3) The office shall:

(a) assist each county with the creation of the county's resource management plan by:

(i) consulting with the county on policy and legal issues related to the county's resource management plan;

(ii) helping the county ensure that the county's resource management plan meets the requirements of Subsection 17-27a-401(3); and

(iii) facilitating coordination between counties as required by Subsection 17-27a-403(2)(d);

(b) to the greatest extent possible, promote consistent quality standards among all counties' resource management plans; and

(c) calculate the estimated cost of providing the services described in this section to each county.

(4) (a) A county shall cooperate with the office, or an entity procured by the office under Subsection (2), with regards to the office's responsibilities under Subsection (3).

(b) A county that receives assistance from the office under this section shall place a deposit with the office in an amount equal to 50% of the estimated cost calculated under Subsection (3)(c).

(c) To the extent that the Legislature appropriates sufficient funding, the office shall reimburse a county in the amount described in Subsection (4)(d) when a county's resource management plan:

(i) meets the requirements described in Subsection 17-27a-401(3); and

(ii) is adopted under Subsection 17-27a-404(6)(d).

(d) The office shall reimburse a county under Subsection (4)(c) in an amount equal to the lesser of:

(i) the cost estimated under Subsection (3)(c); or

(ii) \$50,000.

(5) To the extent that the Legislature appropriates sufficient funding, after the deadline established in Subsection 17-27a-404(6)(d) for a county to adopt a resource management plan, the office shall:

(a) obtain a copy of each county's resource management plan; and

(b) create a statewide resource management plan that:

(i) meets the same requirements described in Subsection 17-27-401(3)(a); and

(ii) to the greatest extent possible, coordinates and is consistent with any resource management plan or land use plan established under Chapter 8, State of Utah Resource Management Plan for Federal Lands.

(6) To the extent that the Legislature appropriates sufficient funding, the office shall provide legal support to a county that becomes involved in litigation with the federal government over the requirements of Subsection 17-27a-405(3).

CHAPTER 311**H. B. 345**

Passed March 11, 2015
 Approved March 30, 2015
 Effective July 1, 2015

EDUCATION ABUSE POLICY

Chief Sponsor: Daniel McCay
 Senate Sponsor: Aaron Osmond

LONG TITLE**General Description:**

This bill modifies provisions related to school personnel employment and licensing procedures and student abuse reporting.

Highlighted Provisions:

This bill:

- ▶ modifies requirements for providing and obtaining employment and disciplinary history of school personnel;
- ▶ modifies requirements and procedures for educator licensing;
- ▶ gives rulemaking authority to the State Board of Education;
- ▶ modifies provisions related to mandatory reporting of student abuse; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides a coordination clause.

Utah Code Sections Affected:**AMENDS:**

- 53A-6-402, as repealed and reenacted by Laws of Utah 1999, Chapter 108
 53A-6-502, as last amended by Laws of Utah 2003, Chapter 315
 53A-6-604, as enacted by Laws of Utah 1999, Chapter 108
 77-37-4, as last amended by Laws of Utah 2014, Chapter 90

REPEALS AND REENACTS:

- 53A-6-306, as last amended by Laws of Utah 2010, Chapter 283
 53A-6-307, as enacted by Laws of Utah 1999, Chapter 108
 53A-6-405, as enacted by Laws of Utah 1999, Chapter 108
 53A-6-501, as last amended by Laws of Utah 2011, Chapter 320

Utah Code Sections Affected by Coordination Clause:

- 53A-6-306, as last amended by Laws of Utah 2010, Chapter 283

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

Section 1. Section 53A-6-306 is repealed and reenacted to read:**53A-6-306. UPPAC duties and procedures.**

(1) The board may direct UPPAC to review a complaint about an educator and recommend that the board:

- (a) dismiss the complaint; or
- (b) investigate the complaint in accordance with this section.

(2) (a) The board may direct UPPAC to:

- (i) in accordance with this section, investigate a complaint's allegation or decision; or
- (ii) hold a hearing.

(b) UPPAC may initiate a hearing as part of an investigation.

(c) Upon completion of an investigation or hearing, UPPAC shall:

- (i) provide findings to the board; and
- (ii) make a recommendation for board action.

(d) UPPAC may not make a recommendation described in Subsection (2)(c)(ii) to adversely affect an educator's license unless UPPAC gives the educator an opportunity for a hearing.

(3) (a) The board may:

(i) select an independent investigator to conduct a UPPAC investigation with UPPAC oversight; or

(ii) authorize UPPAC to select and oversee an independent investigator to conduct an investigation.

(b) In conducting an investigation, UPPAC or an independent investigator shall conduct the investigation independent of and separate from a related criminal investigation.

(c) In conducting an investigation, UPPAC or an independent investigator may:

(i) in accordance with Section 53A-6-603 administer oaths and issue subpoenas; or

(ii) receive evidence related to an alleged offense, including sealed or expunged records released to the board under Section 77-40-109.

(d) If UPPAC finds that reasonable cause exists during an investigation, UPPAC may recommend that the board initiate a criminal background check on an educator.

(e) UPPAC has a rebuttable presumption that an educator committed a sexual offense against a minor child if the educator voluntarily surrendered a license or certificate or allowed a license or certificate to lapse in the face of a charge of having committed a sexual offense against a minor child.

(4) The board may direct UPPAC to:

(a) recommend to the board procedures for:

- (i) receiving and processing complaints;
- (ii) investigating a complaint's allegation or decision;
- (iii) conducting hearings; or
- (iv) reporting findings and making recommendations to the board for board action;

(b) recommend to the board or a professional organization of educators:

(i) standards of professional performance, competence, and ethical conduct for educators; or

(ii) suggestions for improvement of the education profession; or

(c) fulfill other duties the board finds appropriate.

(5) UPPAC may not participate as a party in a dispute relating to negotiations between:

(a) a school district and the school district's educators; or

(b) a charter school and the charter school's educators.

(6) The board shall make rules establishing UPPAC duties and procedures.

Section 2. Section 53A-6-307 is repealed and reenacted to read:

53A-6-307. Licensing power of the board -- Licensing final action -- Appeal rights.

(1) The board holds the power to license educators.

(2) (a) The board shall take final action with regard to an educator license.

(b) An entity other than the board may not take final action with regard to an educator license.

(3) (a) In accordance with Subsection (3)(b), a license applicant or an educator may seek judicial review of a final action made by the board under this chapter.

(b) A license applicant or educator may file a petition for judicial review of the board's final action if the license applicant or educator files a petition within 30 days after the day on which the license applicant or educator received notice of the final action.

Section 3. Section 53A-6-402 is amended to read:

53A-6-402. Evaluation information on current or prospective school employees -- Notice to employee -- Mandatory employment history check -- Exemption from liability.

(1) (a) The ~~office's administrator of teacher licensing may~~ board shall provide the appropriate administrator of a public or private school or of an agency outside the state ~~which~~ that is responsible for licensing or ~~certification of educators with any~~ certifying educational personnel with a recommendation or other information possessed by the ~~office which~~ board that has significance in evaluating the employment or license of:

(i) a current or prospective school employee~~, license holder, or applicant for licensing.~~

(ii) an educator or education license holder; or

(iii) a license applicant.

(b) Information supplied under Subsection (1)(a) ~~may~~ shall include:

(i) the complete record of a hearing ~~or~~; and

(ii) the investigative report for matters ~~which~~ that:

~~(4)~~ (A) the educator has had an opportunity to contest; and

~~(4)~~ (B) did not proceed to a hearing.

(2) At the request of the ~~office's administrator of teacher licensing,~~ board, an administrator of a public school or school district shall, and an administrator of a private school may, provide ~~any~~ a recommendation or other information possessed by the school or school district ~~which~~ that has significance in evaluating the employment or licensure of:

(a) a current or prospective school employee~~, license holder, or applicant for licensing.~~

(b) an educator or education license holder; or

(c) a license applicant.

(3) If a decision is made to deny licensure, to not hire a prospective employee, or to take action against a current employee or educator based upon information provided under this section, the affected individual shall receive notice of the information and be given an opportunity to respond to the information.

(4) A local school board, a charter school governing board, or the Utah Schools for the Deaf and the Blind shall obtain references and a discipline record from prior employers of an individual before hiring the individual to work:

(a) as an educator; or

(b) in a public school, if the individual would have significant unsupervised access to students.

~~(4)~~ (5) A person who, in good faith, provides a recommendation or discloses or receives information under this section is exempt from civil and criminal liability relating to that recommendation, receipt, or disclosure.

~~(5)~~ (6) For purposes of this section, "employee" includes a volunteer.

Section 4. Section 53A-6-405 is repealed and reenacted to read:

53A-6-405. Ineligibility for educator license.

(1) The board may refuse to issue a license to a license applicant if the board finds good cause for the refusal, including behavior of the applicant:

(a) found pursuant to a criminal, civil, or administrative matter after reasonable opportunity for the applicant to contest the allegation; and

(b) considered, as behavior of an educator, to be:

(i) immoral, unprofessional, or incompetent behavior; or

(ii) a violation of standards of ethical conduct, performance, or professional competence.

(2) The board may not issue, renew, or reinstate an educator license if the license applicant or educator:

- (a) was convicted of a felony of a sexual nature;
- (b) pled guilty to a felony of a sexual nature;
- (c) entered a plea of no contest to a felony of a sexual nature;
- (d) entered a plea in abeyance to a felony of a sexual nature;
- (e) was convicted of a sexual offense under Title 76, Chapter 5, Part 4, Sexual Offenses, against a minor child;
- (f) engaged in sexually explicit conduct, as defined in Section 76-5b-103, with a student who is a minor;
- (g) engaged in sexually explicit conduct, as defined in Section 76-5b-103, with a student who is:
 - (i) not a minor; and
 - (ii) enrolled in a school where the license applicant or educator is or was employed; or

(h) admits to the board or UPPAC that the license applicant or educator committed conduct that amounts to:

- (i) a felony of a sexual nature; or
- (ii) a sexual offense or sexually explicit conduct described in Subsection (2)(e), (f), or (g).

(3) If an individual is ineligible for licensure under Subsection (1) or (2), a public school may not:

- (a) employ the person in the public school; or
- (b) allow the person to volunteer in the public school.

(4) (a) If the board denies licensure under this section, the board shall immediately notify the applicant of:

- (i) the denial; and
- (ii) the applicant's right to request a hearing before UPPAC.

(b) Upon receipt of a notice described in Subsection (4)(a), an applicant may, within 30 days after the day on which the applicant received the notice, request a hearing before UPPAC for the applicant to review and respond to all evidence upon which the board based the denial.

(c) If the board receives a request for a hearing described in Subsection (4)(b), the board shall direct UPPAC to hold a hearing.

Section 5. Section 53A-6-501 is repealed and reenacted to read:

53A-6-501. Board disciplinary action of an educator.

(1) (a) The board shall direct UPPAC to investigate an allegation, administrative decision,

or judicial decision that evidences an educator is unfit for duty because the educator exhibited behavior that:

- (i) is immoral, unprofessional, or incompetent; or
- (ii) violates standards of ethical conduct, performance, or professional competence.

(b) If the board determines an allegation or decision described in Subsection (1)(a) does not evidence an educator's unfitness for duty, the board may dismiss the allegation or decision without an investigation or hearing.

(2) The board shall direct UPPAC to investigate and allow an educator to respond in a UPPAC hearing if the board receives an allegation that the educator:

- (a) was charged with a felony of a sexual nature;
- (b) was convicted of a felony of a sexual nature;
- (c) pled guilty to a felony of a sexual nature;
- (d) entered a plea of no contest to a felony of a sexual nature;
- (e) entered a plea in abeyance to a felony of a sexual nature;

(f) was convicted of a sexual offense under Title 76, Chapter 5, Part 4, Sexual Offenses, against a minor child;

(g) engaged in sexually explicit conduct, as defined in Section 76-5b-103, with a student who is a minor; or

(h) engaged in sexually explicit conduct, as defined in Section 76-5b-103, with a student who is:

- (i) not a minor; and
- (ii) enrolled in a school where the educator is or was employed.

(3) Upon notice that an educator allegedly violated Section 53A-6-502, the board shall direct UPPAC to:

- (a) investigate the alleged violation; and
- (b) hold a hearing to allow the educator to respond to the allegation.

(4) Upon completion of an investigation or hearing described in this section, UPPAC shall:

- (a) provide findings to the board; and
- (b) make a recommendation for board action.

(5) (a) Except as provided in Subsection (5)(b), upon review of UPPAC's findings and recommendation, the board may:

- (i) revoke the educator's license;
- (ii) suspend the educator's license;
- (iii) restrict or prohibit the educator from renewing the educator's license;
- (iv) warn or reprimand the educator;

(v) enter into a written agreement with the educator that requires the educator to comply with certain conditions;

(vi) direct UPPAC to further investigate or gather information; or

(vii) take other action the board finds to be appropriate for and consistent with the educator's behavior.

(b) Upon review of UPPAC's findings and recommendation, the board shall revoke the license of an educator who:

(i) was convicted of a felony of a sexual nature;

(ii) pled guilty to a felony of a sexual nature;

(iii) entered a plea of no contest to a felony of a sexual nature;

(iv) entered a plea in abeyance to a felony of a sexual nature;

(v) was convicted of a sexual offense under Title 76, Chapter 5, Part 4, Sexual Offenses, against a minor child;

(vi) engaged in sexually explicit conduct, as defined in Section 76-5b-103, with a student who is a minor;

(vii) engaged in sexually explicit conduct, as defined in Section 76-5b-103, with a student who is:

(A) not a minor; and

(B) enrolled in a school where the educator is or was employed; or

(viii) admits to the board or UPPAC that the applicant committed conduct that amounts to:

(A) a felony of a sexual nature; or

(B) a sexual offense or sexually explicit conduct described in Subsection (5)(b)(v), (vi), or (vii).

(c) The board may not reinstate a revoked license.

(d) Before the board takes adverse action against an educator under this section, the board shall ensure that the educator had an opportunity for a UPPAC hearing.

Section 6. Section 53A-6-502 is amended to read:

53A-6-502. Mandatory reporting of physical or sexual abuse of students.

(1) For purposes of this section, "educator" means, in addition to a person included under Section 53A-6-103, a person, including a volunteer or temporary employee, who at the time of an alleged offense was performing a function in a private school for which a license would be required in a public school.

(2) In addition to any duty to report suspected cases of child abuse or neglect under Section 62A-4a-403, an educator who has reasonable cause to believe that a student may have been physically or sexually abused by a school employee shall

immediately report the belief and all other relevant information to the school principal, to the superintendent, or to the [office] board.

(3) A school administrator who has received a report under Subsection (2) or who otherwise has reasonable cause to believe that a student may have been physically or sexually abused by an educator shall immediately report that information to the [office] board.

~~[(4) Failure to comply with Subsection (2) or (3) shall be considered unprofessional conduct.]~~

(4) Upon notice that an educator allegedly violated Subsection (2) or (3), the board shall direct UPPAC to investigate the educator's alleged violation as described in Section 53A-6-501.

(5) A person who makes a report under this section in good faith shall be immune from civil or criminal liability that might otherwise arise by reason of that report.

Section 7. Section 53A-6-604 is amended to read:

53A-6-604. Rules for conducting hearings -- Standard of proof.

(1) The board[,], and each local school board[, and UPPAC] shall [each] adopt rules for the conduct of hearings to ensure that requirements of due process are met.

(2) An accused party shall be provided not less than 15 days before a hearing with:

(a) notice of the hearing;

(b) the law, rule, or policy alleged to have been violated;

(c) sufficient information about the allegations and the evidence to be presented in support of the allegations to permit the accused party to prepare a meaningful defense; and

(d) a copy of the rules under which the hearing will be conducted.

(3) If an accused party fails to request a hearing within 30 days after written notice is sent to the party's address as shown on the records of the local board, for actions taken under the auspices of a local board, or on the records of the [office] board, for actions taken under the auspices of [UPPAC or] the [state] board, then the accused party shall be considered to have waived the right to a hearing and the action may proceed without further delay.

(4) Hearing fact finders shall use the preponderance of evidence standard in deciding all questions unless a higher standard is required by law.

(5) Unless otherwise provided in [Title 53A] this title, the decisions of state and local boards are final determinations under this section, appealable to the appropriate court for review.

Section 8. Section 77-37-4 is amended to read:

77-37-4. Additional rights -- Children.

In addition to all rights afforded to victims and witnesses under this chapter, child victims and witnesses shall be afforded these rights:

(1) Children have the right to protection from physical and emotional abuse during their involvement with the criminal justice process.

(2) Children are not responsible for inappropriate behavior adults commit against them and have the right not to be questioned, in any manner, nor to have allegations made, implying this responsibility. Those who interview children have the responsibility to consider the interests of the child in this regard.

(3) Child victims and witnesses have the right to have interviews relating to a criminal prosecution kept to a minimum. All agencies shall coordinate interviews and ensure that they are conducted by persons sensitive to the needs of children.

(4) Child victims have the right to be informed of available community resources that might assist them and how to gain access to those resources. Law enforcement and prosecutors have the duty to ensure that child victims are informed of community resources, including counseling prior to the court proceeding, and have those services available throughout the criminal justice process.

(5) (a) Child victims have the right, once an investigation has been initiated by law enforcement or the Division of Child and Family Services, to keep confidential their interviews that are conducted at a Children's Justice Center, including video and audio recordings, and transcripts of those recordings. Except as provided in Subsection (6), recordings and transcripts of interviews may not be distributed, released, or displayed to anyone without a court order.

(b) A court order described in Subsection (5)(a):

(i) shall describe with particularity to whom the recording or transcript of the interview may be released and prohibit further distribution or viewing by anyone not named in the order; and

(ii) may impose restrictions on access to the materials considered reasonable to protect the privacy of the child victim.

(c) A parent or guardian of the child victim may petition a juvenile or district court for an order allowing the parent or guardian to view a recording or transcript upon a finding of good cause. The order shall designate the agency that is required to display the recording or transcript to the parent or guardian and shall prohibit viewing by anyone not named in the order.

(d) Following the conclusion of any legal proceedings in which the recordings or transcripts are used, the court shall order the recordings and transcripts in the court's file sealed and preserved.

(6) (a) The following offices and their designated employees may distribute and receive a recording or transcript to and from one another without a court order:

- (i) the Division of Child and Family Services;
- (ii) administrative law judges employed by the Department of Human Services;
- (iii) Department of Human Services investigators investigating the Division of Child and Family Services or investigators authorized to investigate under Section 62A-4a-202.6;
- (iv) an office of the city attorney, county attorney, district attorney, or attorney general;
- (v) a law enforcement agency;
- (vi) a Children's Justice Center established under Section 67-5b-102; or
- (vii) the attorney for the child who is the subject of the interview.

(b) In a criminal case or in a juvenile court in which the state is a party:

- (i) the parties may display and enter into evidence a recording or transcript in the course of a prosecution;
- (ii) the state's attorney may distribute a recording or transcript to the attorney for the defendant, pro se defendant, respondent, or pro se respondent pursuant to a valid request for discovery;
- (iii) the attorney for the defendant or respondent may do one or both of the following:

(A) release the recording or transcript to an expert retained by the attorney for the defendant or respondent if the expert agrees in writing that the expert will not distribute, release, or display the recording or transcript to anyone without prior authorization from the court; or

(B) permit the defendant or respondent to view the recording or transcript, but may not distribute or release the recording or transcript to the defendant or respondent; and

(iv) the court shall advise a pro se defendant or respondent that a recording or transcript received as part of discovery is confidential and may not be distributed, released, or displayed without prior authorization from the court.

(c) A court's failure to advise a pro se defendant or respondent that a recording or transcript received as part of discovery is confidential and may not be used as a defense to prosecution for a violation of the disclosure rule.

(d) In an administrative case, pursuant to a written request, the Division of Child and Family Services may display, but may not distribute or release, a recording or transcript to the respondent or to the respondent's designated representative.

(e) (i) Within two business days of a request from a parent or guardian of a child victim, an investigative agency shall allow the parent or guardian to view a recording after the conclusion of an interview, unless:

(A) the suspect is a parent or guardian of the child victim;

(B) the suspect resides in the home with the child victim; or

(C) the investigative agency determines that allowing the parent or guardian to view the recording would likely compromise or impede the investigation.

(ii) If the investigative agency determines that allowing the parent or guardian to view the recording would likely compromise or impede the investigation, the parent or guardian may petition a juvenile or district court for an expedited hearing on whether there is good cause for the court to enter an order allowing the parent or guardian to view the recording in accordance with Subsection (5)(c).

(iii) A Children's Justice Center shall coordinate the viewing of the recording described in this Subsection (6)(e).

(f) A multidisciplinary team assembled by a Children's Justice Center or an interdisciplinary team assembled by the Division of Child and Family Services may view a recording or transcript, but may not receive a recording or transcript.

(g) A Children's Justice Center:

(i) may distribute or display a recording or transcript to an authorized trainer or evaluator for purposes of training or evaluation; and

(ii) may display, but may not distribute, a recording or transcript to an authorized trainee.

(h) An authorized trainer or instructor may display a recording or transcript according to the terms of the authorized trainer's or instructor's contract with the Children's Justice Center or according to the authorized trainer's or instructor's scope of employment.

(i) (i) In an investigation under Section 53A-6-306, in which a child victim who is the subject of the recording or transcript has alleged criminal conduct against an educator, a law enforcement agency may distribute or release the recording or transcript to an investigator operating under [UPPAC] State Board of Education authorization, upon the investigator's written request.

(ii) If the respondent in a case investigated under Section 53A-6-306 requests a hearing authorized under that section, the investigator operating under [UPPAC] State Board of Education authorization may display, release, or distribute the recording or transcript to the prosecutor operating under [UPPAC] State Board of Education authorization or to an expert retained by an investigator.

(iii) Upon request for a hearing under Section 53A-6-306, a prosecutor operating under [UPPAC] State Board of Education authorization may display the recording or transcript to a pro se respondent, to an attorney retained by the respondent, or to an expert retained by the respondent.

(iv) The parties to a hearing authorized under Section 53A-6-306 may display and enter into

evidence a recording or transcript in the course of a prosecution.

(7) Except as otherwise provided in this section, it is a class B misdemeanor for any individual to distribute, release, or display any recording or transcript of an interview of a child victim conducted at a Children's Justice Center.

Section 9. Effective date.

This bill takes effect on July 1, 2015.

Section 10. Coordinating H.B. 345 with H.B. 124 -- Substantive amendment.

If this H.B. 345 and H.B. 124, Education Background Check Amendments, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, amend Subsection 53A-6-306(3)(d) to read:

"(d) If UPPAC finds that reasonable cause exists during an investigation, UPPAC may recommend that the board initiate a background check on an educator as described in Section 53A-15-1504."

CHAPTER 312**H. B. 352**

Passed March 12, 2015

Approved March 30, 2015

Effective May 12, 2015

**TITLE INSURANCE REPORTING
AND ASSESSMENT AMENDMENTS**

Chief Sponsor: Marc K. Roberts

Senate Sponsor: Alvin B. Jackson

LONG TITLE**General Description:**

This bill amends the Insurance Code related to title insurance reporting.

Highlighted Provisions:

This bill:

- ▶ exempts an individual insurance producer, who is an employee of a title insurer or who is designated by an agency title insurance producer, from certain title insurance reporting requirements and assessments;
- ▶ provides a limited exemption for an individual licensed to practice law in Utah; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

31A-19a-209, as last amended by Laws of Utah 2013, Chapter 319

31A-23a-203.5, as last amended by Laws of Utah 2013, Chapter 319

31A-23a-413, as last amended by Laws of Utah 2013, Chapter 319

31A-23a-415, as last amended by Laws of Utah 2013, Chapter 319

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

Section 1. Section 31A-19a-209 is amended to read:**31A-19a-209. Special provisions for title insurance.**

(1) (a) (i) The Title and Escrow Commission shall adopt rules subject to Section 31A-2-404, establishing rate standards and rating methods for individual title insurance producers and agency title insurance producers.

(ii) The commissioner shall determine compliance with rate standards and rating methods for title [insurance] insurers, individual title insurance producers, and agency title insurance producers.

(b) In addition to the considerations in determining compliance with rate standards and rating methods as set forth in Sections 31A-19a-201 and 31A-19a-202, including for title insurers, the commissioner and the Title and Escrow Commission shall consider the costs and expenses incurred by title [insurance] insurers,

individual title insurance producers, and agency title insurance producers peculiar to the business of title insurance including:

(i) the maintenance of title plants; and

(ii) the searching and examining of public records to determine insurability of title to real redevelopment property.

(2) (a) [Every] A title [insurance] insurer [or], an agency title insurance producer, [and every] or an individual title insurance producer who is not an employee of a title insurer or who is not designated by an agency title insurance producer[,] shall file with the commissioner:

(i) a schedule of the escrow charges that the title [insurance] insurer, individual title insurance producer, or agency title insurance producer proposes to use in this state for services performed in connection with the issuance of policies of title insurance; and

(ii) any changes to the schedule of the escrow charges described in Subsection (2)(a)(i).

(b) Except for a schedule filed by a title [insurance] insurer under this Subsection (2), a schedule filed under this Subsection (2) is subject to review by the Title and Escrow Commission.

(c) (i) The schedule of escrow charges required to be filed by Subsection (2)(a)(i) takes effect on the day on which the schedule of escrow charges is filed.

(ii) Any changes to the schedule of the escrow charges required to be filed by Subsection (2)(a)(ii) take effect on the day specified in the change to the schedule of escrow charges except that the effective date may not be less than 30 calendar days after the day on which the change to the schedule of escrow charges is filed.

(3) A title [insurance] insurer, individual title insurance producer, or agency title insurance producer may not file or use any rate or other charge relating to the business of title insurance, including rates or charges filed for escrow that would cause the title insurance company, individual title insurance producer, or agency title insurance producer to:

(a) operate at less than the cost of doing:

(i) the insurance business; or

(ii) the escrow business; or

(b) fail to adequately underwrite a title insurance policy.

(4) (a) All or any of the schedule of rates or schedule of charges, including the schedule of escrow charges, may be changed or amended at any time, subject to the limitations in this Subsection (4).

(b) Each change or amendment shall:

(i) be filed with the commissioner, subject to review by the Title and Escrow Commission; and

(ii) state the effective date of the change or amendment, which may not be less than 30

calendar days after the day on which the change or amendment is filed.

(c) Any change or amendment remains in force for a period of at least 90 calendar days from the change or amendment's effective date.

(5) While the schedule of rates and schedule of charges are effective, a copy of each shall be:

(a) retained in each of the offices of:

(i) the title ~~[insurance]~~ insurer in this state;

(ii) the title ~~[insurance]~~ insurer's individual title insurance producers or agency title insurance producers in this state; and

(b) upon request, furnished to the public.

(6) Except in accordance with the schedules of rates and charges filed with the commissioner, a title ~~[insurance]~~ insurer, individual title insurance producer, or agency title insurance producer may not make or impose any premium or other charge:

(a) in connection with the issuance of a policy of title insurance; or

(b) for escrow services performed in connection with the issuance of a policy of title insurance.

Section 2. Section 31A-23a-203.5 is amended to read:

31A-23a-203.5. Errors and omissions coverage requirements.

(1) In accordance with this section, a resident individual producer shall ensure that the resident individual producer is covered:

(a) for the legal liability of the resident individual producer as the result of an erroneous act or failure to act in the resident individual producer's capacity as a producer; and

(b) at all times during the term of the resident individual producer's license.

(2) The coverage required by Subsection (1) shall consist of:

(a) a policy naming the resident individual producer;

(b) a policy naming the agency that designates the resident individual producer in accordance with this chapter; or

(c) a written agreement by an insurer or group of affiliated insurers, on behalf of a resident individual producer who is or will become an exclusive agent of the insurer or group of affiliated insurers, under which the insurer or group of affiliated insurers agrees to assume responsibility, to the benefit of an aggrieved person, for legal liability of the resident individual producer as the result of an erroneous act or failure to act in the resident individual producer's capacity as a producer for the insurer or group of affiliated insurers.

(3) The commissioner may, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, provide for:

(a) the terms and conditions of the coverage required under Subsection (1); and

(b) if the coverage required by Subsection (1) is terminated during a resident individual producer's license term, requirements to:

(i) provide notice; and

(ii) replace the coverage.

(4) An individual title insurance producer is considered to be in compliance with this section when:

(a) the individual title insurance producer who is not designated by an agency title producer ~~[and]~~ maintains the individual title insurance producer's own bond, policy, or other financial protection in accordance with Subsection 31A-23a-204(2); ~~[or]~~

(b) the individual title insurance producer is designated by an agency title insurance producer that maintains a bond, policy, or other financial protection in accordance with Subsection 31A-23a-204(2)~~[-]~~; or

(c) the individual title insurance producer is an employee of and is appointed by a title insurer.

(5) Notwithstanding the other provisions of this section, a resident individual producer is exempt from the requirement to maintain coverage as provided in this section during a period in which the resident individual producer is not either:

(a) appointed by an insurer under this title; or

(b) designated by an agency under this title.

(6) A limited lines producer is exempt from this section.

Section 3. Section 31A-23a-413 is amended to read:

31A-23a-413. Title insurance producer's annual report.

An agency title insurance producer and an individual title insurance producer who is not an employee of a title insurer or who has not been designated by an agency title insurance producer shall annually file with the commissioner, by a date and in a form the commissioner specifies by rule, a verified statement of the agency title insurance producer's or individual title insurance producer's financial condition, transactions, and affairs as of the end of the preceding calendar year.

Section 4. Section 31A-23a-415 is amended to read:

31A-23a-415. Assessment on agency title insurance producers or title insurers -- Account created.

(1) For purposes of this section:

(a) "Premium" is as defined in Subsection 59-9-101(3).

(b) "Title insurer" means a person:

(i) making any contract or policy of title insurance as:

(A) insurer;

(B) guarantor; or

(C) surety;

(ii) proposing to make any contract or policy of title insurance as:

(A) insurer;

(B) guarantor; or

(C) surety; or

(iii) transacting or proposing to transact any phase of title insurance, including:

(A) soliciting;

(B) negotiating preliminary to execution;

(C) executing of a contract of title insurance;

(D) insuring; and

(E) transacting matters subsequent to the execution of the contract and arising out of the contract.

(c) "Utah risks" means insuring, guaranteeing, or indemnifying with regard to real or personal property located in Utah, an owner of real or personal property, the holders of liens or encumbrances on that property, or others interested in the property against loss or damage suffered by reason of:

(i) liens or encumbrances upon, defects in, or the unmarketability of the title to the property; or

(ii) invalidity or unenforceability of any liens or encumbrances on the property.

(2) (a) The commissioner may assess each title insurer, each individual title insurance producer who is not an employee of a title insurer or who is not designated by an agency title insurance producer, and each agency title insurance producer an annual assessment:

(i) determined by the Title and Escrow Commission:

(A) after consultation with the commissioner; and

(B) in accordance with this Subsection (2); and

(ii) to be used for the purposes described in Subsection (3).

(b) An agency title insurance producer and individual title insurance producer who is not an employee of a title insurer or who is not designated by an agency title insurance producer shall be assessed up to:

(i) \$250 for the first office in each county in which the agency title insurance producer or individual title insurance producer maintains an office; and

(ii) \$150 for each additional office the agency title insurance producer or individual title insurance producer maintains in the county described in Subsection (2)(b)(i).

(c) A title insurer shall be assessed up to:

(i) \$250 for the first office in each county in which the title insurer maintains an office;

(ii) \$150 for each additional office the title insurer maintains in the county described in Subsection (2)(c)(i); and

(iii) an amount calculated by:

(A) aggregating the assessments imposed on:

(I) agency title insurance producers and individual title insurance producers under Subsection (2)(b); and

(II) title insurers under Subsections (2)(c)(i) and (2)(c)(ii);

(B) subtracting the amount determined under Subsection (2)(c)(iii)(A) from the total costs and expenses determined under Subsection (2)(d); and

(C) multiplying:

(I) the amount calculated under Subsection (2)(c)(iii)(B); and

(II) the percentage of total premiums for title insurance on Utah risk that are premiums of the title insurer.

(d) Notwithstanding Section 31A-3-103 and subject to Section 31A-2-404, the Title and Escrow Commission by rule shall establish the amount of costs and expenses described under Subsection (3) that will be covered by the assessment, except the costs or expenses to be covered by the assessment may not exceed \$80,000 annually.

(e) (i) An individual licensed to practice law in Utah is exempt from the requirements of this Subsection (2) if that person issues 12 or less policies during a 12-month period.

(ii) In determining the number of policies issued by an individual licensed to practice law in Utah for purposes of Subsection (2)(e)(i), if the individual issues a policy to more than one party to the same closing, the individual is considered to have issued only one policy.

(3) (a) Money received by the state under this section shall be deposited into the Title Licensee Enforcement Restricted Account.

(b) There is created in the General Fund a restricted account known as the "Title Licensee Enforcement Restricted Account."

(c) The Title Licensee Enforcement Restricted Account shall consist of the money received by the state under this section.

(d) The commissioner shall administer the Title Licensee Enforcement Restricted Account. Subject to appropriations by the Legislature, the commissioner shall use the money deposited into the Title Licensee Enforcement Restricted Account

only to pay for a cost or expense incurred by the department in the administration, investigation, and enforcement of this part and Part 5, Compensation of Producers and Consultants, related to:

- (i) the marketing of title insurance; and
 - (ii) audits of agency title insurance producers.
- (e) An appropriation from the Title Licensee Enforcement Restricted Account is nonlapsing.
- (4) The assessment imposed by this section shall be in addition to any premium assessment imposed under Subsection 59-9-101(3).

CHAPTER 313**H. B. 380**

Passed March 12, 2015

Approved March 30, 2015

Effective May 12, 2015

**DISABLED ADULT
GUARDIANSHIP AMENDMENTS**

Chief Sponsor: Rebecca P. Edwards

Senate Sponsor: J. Stuart Adams

LONG TITLE**General Description:**

This bill provides for the disposition of the remains of a decedent when the decedent was a disabled adult residing with a guardian, and reduces the filing fee for guardianships under certain circumstances.

Highlighted Provisions:

This bill:

- ▶ allows for situations where a parent caring for a disabled adult child is divorced or separated from the other parent and the disabled adult dies;
- ▶ provides for a person who was a guardian of an incapacitated adult to direct the disposition of the decedent's remains if there is no other person; and
- ▶ reduces the filing fee for a guardianship when the prospective ward is the biological or adoptive child of the petitioner.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

58-9-602, as last amended by Laws of Utah 2013, Chapter 364

78A-2-301, as last amended by Laws of Utah 2014, Chapters 189 and 263

*Be it enacted by the Legislature of the state of Utah:***Section 1. Section 58-9-602 is amended to read:****58-9-602. Determination of control of disposition.**

The right and duty to control the disposition of a deceased person, ~~including~~ which may include cremation as well as the location, manner and conditions of the disposition, and arrangements for funeral goods and services to be provided ~~vest~~, vests in the following degrees of relationship in the order named, provided the person is at least 18 and is mentally competent:

(1) the person designated:

(a) in a written instrument, excluding a power of attorney that terminates at death under Sections 75-5-501 and 75-5-502, if the written instrument is acknowledged before a Notary Public or executed with the same formalities required of a will under Section 75-2-502; or

(b) by a service member while serving in a branch of the United States Armed Forces as defined in 10 U.S.C. Sec. 1481 in a federal Record of Emergency Data, DD Form 93 or subsequent form;

(2) the surviving, legally recognized spouse of the decedent, unless a personal representative was nominated by the decedent subsequent to the marriage, in which case the personal representative shall take priority over the spouse;

(3) the person nominated to serve as the personal representative of the decedent's estate in a will executed with the formalities required in Section 75-2-502;

(4) (a) the sole surviving child of the decedent, or if there is more than one child of the decedent, the majority of the surviving children;

(b) less than one-half of the surviving children are vested with the rights of this section if they have used reasonable efforts to notify all other surviving children of their instructions and are not aware of any opposition to those instructions on the part of more than one-half of all surviving children;

(5) the surviving parent or parents of the decedent, ~~and~~ however:

(a) if one of the surviving parents is absent, the remaining parent is vested with the rights and duties of this section after reasonable efforts have been unsuccessful in locating the absent surviving parent; or

(b) if the parents are divorced or separated and the decedent was an incapacitated adult, the parent who was designated as the guardian of the decedent is vested with the rights and duties of this section;

(6) (a) the surviving brother or sister of the decedent, or if there is more than one sibling of the decedent, the majority of the surviving siblings;

(b) less than the majority of surviving siblings ~~[are vested with the rights and duties of this section]~~, if they have used reasonable efforts to notify all other surviving siblings of their instructions and are not aware of any opposition to those instructions on the part of more than one-half of all surviving siblings;

(7) the person in the classes of the next degree of kinship, in descending order, under the laws of descent and distribution to inherit the estate of the decedent, and if there is more than one person of the same degree, any person of that degree may exercise the right of disposition;

(8) in the absence of any person under Subsections (1) through (7), the person who was the decedent's guardian at the time of death;

~~[(8)]~~ (9) any public official charged with arranging the disposition of deceased persons; and

~~[(9)]~~ (10) in the absence of any person under Subsections (1) through ~~[(8)]~~ (9), any other person willing to assume the responsibilities to act and arrange the final disposition of the decedent's remains, including the personal representative of the decedent's estate or the funeral service director

with custody of the body, after attesting in writing that a good faith effort has been made to no avail to contact the individuals referred to in Subsections (1) through [(8)] (9).

Section 2. Section 78A-2-301 is amended to read:

78A-2-301. Civil fees of the courts of record -- Courts complex design.

(1) (a) The fee for filing any civil complaint or petition invoking the jurisdiction of a court of record not governed by another subsection is \$360.

(b) The fee for filing a complaint or petition is:

(i) \$75 if the claim for damages or amount in interpleader exclusive of court costs, interest, and attorney fees is \$2,000 or less;

(ii) \$185 if the claim for damages or amount in interpleader exclusive of court costs, interest, and attorney fees is greater than \$2,000 and less than \$10,000;

(iii) \$360 if the claim for damages or amount in interpleader is \$10,000 or more;

(iv) \$310 if the petition is filed under Title 30, Chapter 3, Divorce, or Title 30, Chapter 4, Separate Maintenance;

(v) \$35 for a motion for temporary separation order filed under Section 30-3-4.5; ~~and~~

(vi) \$125 if the petition is for removal from the Sex Offender and Kidnap Offender Registry under Section 77-41-112[.]; and

(vii) \$35 if the petition is for guardianship and the prospective ward is the biological or adoptive child of the petitioner.

(c) The fee for filing a small claims affidavit is:

(i) \$60 if the claim for damages or amount in interpleader exclusive of court costs, interest, and attorney fees is \$2,000 or less;

(ii) \$100 if the claim for damages or amount in interpleader exclusive of court costs, interest, and attorney fees is greater than \$2,000, but less than \$7,500; and

(iii) \$185 if the claim for damages or amount in interpleader exclusive of court costs, interest, and attorney fees is \$7,500 or more.

(d) The fee for filing a counter claim, cross claim, complaint in intervention, third party complaint, or other claim for relief against an existing or joined party other than the original complaint or petition is:

(i) \$55 if the claim for relief exclusive of court costs, interest, and attorney fees is \$2,000 or less;

(ii) \$150 if the claim for relief exclusive of court costs, interest, and attorney fees is greater than \$2,000 and less than \$10,000;

(iii) \$155 if the original petition is filed under Subsection (1)(a), the claim for relief is \$10,000 or

more, or the party seeks relief other than monetary damages; and

(iv) \$115 if the original petition is filed under Title 30, Chapter 3, Divorce, or Title 30, Chapter 4, Separate Maintenance.

(e) The fee for filing a small claims counter affidavit is:

(i) \$50 if the claim for relief exclusive of court costs, interest, and attorney fees is \$2,000 or less;

(ii) \$70 if the claim for relief exclusive of court costs, interest, and attorney fees is greater than \$2,000, but less than \$7,500; and

(iii) \$120 if the claim for relief exclusive of court costs, interest, and attorney fees is \$7,500 or more.

(f) The fee for depositing funds under Section 57-1-29 when not associated with an action already before the court is determined under Subsection (1)(b) based on the amount deposited.

(g) The fee for filing a petition is:

(i) \$225 for trial de novo of an adjudication of the justice court or of the small claims department; and

(ii) \$65 for an appeal of a municipal administrative determination in accordance with Section 10-3-703.7.

(h) The fee for filing a notice of appeal, petition for appeal of an interlocutory order, or petition for writ of certiorari is \$225.

(i) The fee for filing a petition for expungement is \$135.

(j) (i) Fifteen dollars of the fees established by Subsections (1)(a) through (i) shall be allocated to and between the Judges' Contributory Retirement Trust Fund and the Judges' Noncontributory Retirement Trust Fund, as provided in Title 49, Chapter 17, Judges' Contributory Retirement Act, and Title 49, Chapter 18, Judges' Noncontributory Retirement Act.

(ii) Four dollars of the fees established by Subsections (1)(a) through (i) shall be allocated by the state treasurer to be deposited in the restricted account, Children's Legal Defense Account, as provided in Section 51-9-408.

(iii) Three dollars of the fees established under Subsections (1)(a) through (e), (1)(g), and (1)(s) shall be allocated to and deposited with the Dispute Resolution Account as provided in Section 78B-6-209.

(iv) Fifteen dollars of the fees established by Subsections (1)(a), (1)(b)(iii) and (iv), (1)(d)(iii) and (iv), (1)(g)(ii), (1)(h), and (1)(i) shall be allocated by the state treasurer to be deposited in the restricted account, Court Security Account, as provided in Section 78A-2-602.

(v) Five dollars of the fees established by Subsections (1)(b)(i) and (ii), (1)(d)(ii) and (1)(g)(i) shall be allocated by the state treasurer to be deposited in the restricted account, Court Security Account, as provided in Section 78A-2-602.

(k) The fee for filing a judgment, order, or decree of a court of another state or of the United States is \$35.

(l) The fee for filing a renewal of judgment in accordance with Section 78B-6-1801 is 50% of the fee for filing an original action seeking the same relief.

(m) The fee for filing probate or child custody documents from another state is \$35.

(n) (i) The fee for filing an abstract or transcript of judgment, order, or decree of the Utah State Tax Commission is \$30.

(ii) The fee for filing an abstract or transcript of judgment of a court of law of this state or a judgment, order, or decree of an administrative agency, commission, board, council, or hearing officer of this state or of its political subdivisions other than the Utah State Tax Commission, is \$50.

(o) The fee for filing a judgment by confession without action under Section 78B-5-205 is \$35.

(p) The fee for filing an award of arbitration for confirmation, modification, or vacation under Title 78B, Chapter 11, Utah Uniform Arbitration Act, that is not part of an action before the court is \$35.

(q) The fee for filing a petition or counter-petition to modify a domestic relations order other than a protective order or stalking injunction is \$100.

(r) The fee for filing any accounting required by law is:

(i) \$15 for an estate valued at \$50,000 or less;

(ii) \$30 for an estate valued at \$75,000 or less but more than \$50,000;

(iii) \$50 for an estate valued at \$112,000 or less but more than \$75,000;

(iv) \$90 for an estate valued at \$168,000 or less but more than \$112,000; and

(v) \$175 for an estate valued at more than \$168,000.

(s) The fee for filing a demand for a civil jury is \$250.

(t) The fee for filing a notice of deposition in this state concerning an action pending in another state under Utah Rule of Civil Procedure 26 is \$35.

(u) The fee for filing documents that require judicial approval but are not part of an action before the court is \$35.

(v) The fee for a petition to open a sealed record is \$35.

(w) The fee for a writ of replevin, attachment, execution, or garnishment is \$50 in addition to any fee for a complaint or petition.

(x) (i) The fee for a petition for authorization for a minor to marry required by Section 30-1-9 is \$5.

(ii) The fee for a petition for emancipation of a minor provided in Title 78A, Chapter 6, Part 8, Emancipation, is \$50.

(y) The fee for a certificate issued under Section 26-2-25 is \$8.

(z) The fee for a certified copy of a document is \$4 per document plus 50 cents per page.

(aa) The fee for an exemplified copy of a document is \$6 per document plus 50 cents per page.

(bb) The Judicial Council shall by rule establish a schedule of fees for copies of documents and forms and for the search and retrieval of records under Title 63G, Chapter 2, Government Records Access and Management Act. Fees under this Subsection (1)(bb) shall be credited to the court as a reimbursement of expenditures.

(cc) There is no fee for services or the filing of documents not listed in this section or otherwise provided by law.

(dd) Except as provided in this section, all fees collected under this section are paid to the General Fund. Except as provided in this section, all fees shall be paid at the time the clerk accepts the pleading for filing or performs the requested service.

(ee) The filing fees under this section may not be charged to the state, its agencies, or political subdivisions filing or defending any action. In judgments awarded in favor of the state, its agencies, or political subdivisions, except the Office of Recovery Services, the court shall order the filing fees and collection costs to be paid by the judgment debtor. The sums collected under this Subsection (1)(ee) shall be applied to the fees after credit to the judgment, order, fine, tax, lien, or other penalty and costs permitted by law.

(2) (a) (i) From March 17, 1994 until June 30, 1998, the administrator of the courts shall transfer all revenues representing the difference between the fees in effect after May 2, 1994, and the fees in effect before February 1, 1994, as dedicated credits to the Division of Facilities Construction and Management Capital Projects Fund.

(ii) (A) Except as provided in Subsection (2)(a)(ii)(B), the Division of Facilities Construction and Management shall use up to \$3,750,000 of the revenue deposited in the Capital Projects Fund under this Subsection (2)(a) to design and take other actions necessary to initiate the development of a courts complex in Salt Lake City.

(B) If the Legislature approves funding for construction of a courts complex in Salt Lake City in the 1995 Annual General Session, the Division of Facilities Construction and Management shall use the revenue deposited in the Capital Projects Fund under this Subsection (2)(a)(ii) to construct a courts complex in Salt Lake City.

(C) After the courts complex is completed and all bills connected with its construction have been paid, the Division of Facilities Construction and Management shall use any money remaining in the Capital Projects Fund under this Subsection (2)(a)(ii) to fund the Vernal District Court building.

(iii) The Division of Facilities Construction and Management may enter into agreements and make expenditures related to this project before the receipt of revenues provided for under this Subsection (2)(a)(iii).

(iv) The Division of Facilities Construction and Management shall:

(A) make those expenditures from unexpended and unencumbered building funds already appropriated to the Capital Projects Fund; and

(B) reimburse the Capital Projects Fund upon receipt of the revenues provided for under this Subsection (2).

(b) After June 30, 1998, the administrator of the courts shall ensure that all revenues representing the difference between the fees in effect after May 2, 1994, and the fees in effect before February 1, 1994, are transferred to the Division of Finance for deposit in the restricted account.

(c) The Division of Finance shall deposit all revenues received from the court administrator into the restricted account created by this section.

(d) (i) From May 1, 1995, until June 30, 1998, the administrator of the courts shall transfer \$7 of the amount of a fine or bail forfeiture paid for a violation of Title 41, Motor Vehicles, in a court of record to the Division of Facilities Construction and Management Capital Projects Fund. The division of money pursuant to Section 78A-5-110 shall be calculated on the balance of the fine or bail forfeiture paid.

(ii) After June 30, 1998, the administrator of the courts or a municipality shall transfer \$7 of the amount of a fine or bail forfeiture paid for a violation of Title 41, Motor Vehicles, in a court of record to the Division of Finance for deposit in the restricted account created by this section. The division of money pursuant to Section 78A-5-110 shall be calculated on the balance of the fine or bail forfeiture paid.

(3) (a) There is created within the General Fund a restricted account known as the State Courts Complex Account.

(b) The Legislature may appropriate money from the restricted account to the administrator of the courts for the following purposes only:

(i) to repay costs associated with the construction of the court complex that were funded from sources other than revenues provided for under this Subsection (3)(b)(i); and

(ii) to cover operations and maintenance costs on the court complex.

CHAPTER 314**H. B. 443**

Passed March 12, 2015
 Approved March 30, 2015
 Effective May 12, 2015

**CAPITOL PRESERVATION
BOARD AMENDMENTS**

Chief Sponsor: Keith Grover
 Senate Sponsor: Margaret Dayton

LONG TITLE**General Description:**

This bill amends provisions relating to the Capitol Preservation Board and its duties.

Highlighted Provisions:

This bill:

- ▶ modifies provisions related to parking allocations to reflect current practice;
- ▶ removes references to a capitol gift shop;
- ▶ repeals the Art Placement Subcommittee of the Capitol Preservation Board; and
- ▶ repeals provisions relating to the administration of donations from the 2002 Olympic funds.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 36-5-1, as last amended by Laws of Utah 2008, Chapters 6 and 10
 63C-9-402, as last amended by Laws of Utah 2008, Chapter 10
 63C-9-502, as last amended by Laws of Utah 2013, Chapter 400

REPEALS:

- 63C-9-701, as last amended by Laws of Utah 2005, Chapter 196
 63C-9-702, as last amended by Laws of Utah 2014, Chapter 387
 63C-9-703, as last amended by Laws of Utah 2008, Chapter 10

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

Section 1. Section 36-5-1 is amended to read:**36-5-1. Reservation of area for Legislature -- Duties of Legislative Management Committee.**

(1) As used in this section:

(a) "Architectural integrity" means the architectural elements, materials, color, and quality of the original building construction.

(b) "Capitol hill" means the grounds, monuments, parking areas, buildings, and other man-made and natural objects within the area bounded by 300 North Street, Columbus Street, 500 North Street, and East Capitol Boulevard, and includes:

(i) the White Community Memorial Chapel and its grounds and parking areas, and the Council Hall

Travel Information Center building and its grounds and parking areas;

(ii) the Daughters of the Utah Pioneers building and its grounds and parking areas and other state-owned property included within the area bounded by Columbus Street, North Main Street, and Apricot Avenue;

(iii) the state-owned property included within the area bounded by Columbus Street, Wall Street, and 400 North Street; and

(iv) the state-owned property included within the area bounded by Columbus Street, West Capitol Street, and 500 North Street.

(c) "House Building" means the west building on capitol hill that is located northwest of the State Capitol and southwest of the State Office Building.

(d) "Legislative area" means the buildings, chambers, rooms, hallways, lounges, parking lots, and parking garages designated by this section as being subject to legislative control.

(e) "Senate Building" means the east building on capitol hill that is located northeast of the State Capitol and southeast of the State Office Building.

(f) "State Capitol" means the building dedicated as the Utah State Capitol in 1916.

(g) "State Capitol Preservation Board" or "board" is as created in Section 63C-9-201.

(2) The legislative area on capitol hill includes:

(a) in the State Capitol:

(i) on the fourth floor: the entire floor and the stairs and elevators on the east and west side, except the four art galleries and the four closets on the interior of the State Capitol which are immediately around the art galleries are under the supervision of the board;

(ii) on the third floor: the entire floor, including the stairs and elevators on the east and west side of the third floor, except:

(A) the Supreme Court chambers which is to be controlled and scheduled by the Legislature during any general or special session of the Legislature and on interim days and controlled and scheduled by the Secretary of the Senate on all other days;

(B) one office on the southeast side by the Senate Rules Room which is to be controlled by the Senate during any general or special session of the Legislature and on interim days, and shared with the Supreme Court as scheduled through the Secretary of the Senate on all other days; and

(C) the Senate Rules Room, which Senate Rules Room is to be controlled by the Senate during any general or special session of the Legislature and on interim days, and shared with the Supreme Court as scheduled through the Secretary of the Senate on all other days;

(iii) on the second floor: a committee room on the northeast side which is to be controlled and scheduled by the Legislature during any general or special session of the Legislature and on interim

days and controlled and scheduled by the State Capitol Preservation Board on all other days;

(iv) on the first floor: no legislative space; and

(v) on the basement level:

(A) the Office of Legislative Printing; and

(B) the audio/video control rooms are to be controlled by the Legislature and the governor and scheduled by the Legislature, and the maintenance of the control rooms shall be by the State Capitol Preservation Board at the direction of the Legislature and the governor;

(b) the entire House Building;

(c) in the Senate Building:

(i) on the third floor: no legislative space;

(ii) on the second floor: the entire floor, including the secured elevator, are legislative space;

(iii) on the first floor: the secured corridor to the secured elevator is legislative and executive space controlled by the State Capitol Preservation Board; and

(iv) on the basement level: the secured elevator is legislative space; and

(d) (i) the parking stalls in the underground parking facility located directly east of the House Building and below the central plaza;

(ii) 52 of the parking stalls in the above ground parking lot known as Lot G located north of the House Building and west of the State Office Building;

(iii) 26 of the parking stalls in the underground parking located directly under the Senate Building; and

(iv) [47] 58 of the parking stalls in the underground parking facility directly east of the Senate Building.

(3) (a) The legislative area is reserved for the use and occupancy of the Legislature and its committees and for legislative functions.

(b) The Legislative Management Committee shall delegate oversight of designated portions of the legislative parking areas to the State Capitol Preservation Board for use by the executive branch on nonlegislative days.

(4) The data centers in the House Building, Senate Building, and State Capitol which are associated with the House, Senate, or legislative staff space are the responsibility of the Legislature, and the maintenance of these data centers shall be by the State Capitol Preservation Board at the direction of the Legislature.

(5) The Legislative Management Committee shall exercise complete jurisdiction over the legislative area, except for the following, which are the responsibility of the State Capitol Preservation Board:

(a) the architectural integrity of the legislative area, including:

(i) restored historic architectural or design features;

(ii) historic color schemes, decorative finishes, and stenciling;

(iii) decorative light fixtures; and

(iv) flooring;

(b) control of the central mechanical and electrical core of the House Building, Senate Building, and State Capitol on all floors;

(c) control of the enclosure of the House Building, Senate Building, and State Capitol from the exterior of the building to the interior of the exterior wall;

(d) the roof of the House Building, Senate Building, and State Capitol;

(e) the utility and security tunnels between the underground parking structure and the House Building, Senate Building, and State Capitol;

(f) rest rooms of the House Building, Senate Building, and State Capitol;

(g) maintenance of all the elevators and stairways in the House Building, Senate Building, and State Capitol; and

(h) those functions the Legislative Management Committee delegates in writing to be performed by the State Capitol Preservation Board.

(6) (a) The communications centers in the Senate Building and State Capitol which are associated with the House, Senate, or legislative staff space or are associated with the governor, lieutenant governor, or their staff space are the shared responsibility of the State Capitol Preservation Board, the Legislature, and the governor.

(b) The communications centers in the House Building which are associated with the House, Senate, or legislative staff space are the shared responsibility of the State Capitol Preservation Board and the Legislature.

Section 2. Section 63C-9-402 is amended to read:

63C-9-402. Executive director -- Duties.

The executive director shall:

(1) develop, for board approval, a master plan with a projection of at least 20 years concerning the stewardship responsibilities, operation, activities, maintenance, preservation, restoration, and modification of the capitol hill complex, capitol hill facilities, and capitol hill grounds, including, if directed by the board, a plan to restore the buildings to their original architecture;

(2) develop, as part of the master plan submitted for board approval, a furnishings plan for the placement and care of objects under the care of the board;

(3) prepare, and recommend for board approval, an annual budget and work plan, that is consistent

with the master plan, for all work to be performed under this chapter, including usual operations and maintenance and janitorial and preventative maintenance for the capitol hill complex, capitol hill facilities, capitol hill grounds, and their contents;

(4) develop an operations, maintenance, and janitorial program for the capitol hill complex, capitol hill facilities, capitol hill grounds, and their contents;

(5) develop a program to purchase or accept by donation, permanent loan, or outside funding items necessary to implement the master plan;

(6) develop and maintain a registration system and inventory of the contents of the capitol hill facilities and capitol hill grounds and of the original documents relating to the buildings' construction and alteration;

(7) develop a program to purchase or accept by donation, permanent loan, or outside funding items of historical significance that were at one time in the capitol hill facilities and that are not owned by the state;

(8) develop a program to locate and acquire state-owned items of historical significance that were at one time in the buildings;

(9) develop a collections policy regarding the items of historic significance as identified in the registration system and inventory for the approval of the board;

(10) assist in matters dealing with the preservation of historic materials;

(11) make recommendations on conservation needs and make arrangements to contract for conservation services for objects of significance;

(12) make recommendations for the transfer or loan of objects of significance as detailed in the approved collections policy;

(13) make recommendations to transfer, sell, or otherwise dispose of unused surplus property that is not of significance as defined in the collections policy and by the registration system;

(14) approve all art and exhibits placed on capitol hill after board approval;

(15) employ staff to assist him in administering this chapter and direct and coordinate their activities;

(16) contract for professional services of qualified consultants, including architectural historians, landscape architects with experience in landscape architectural preservation, conservators, historians, historic architects, engineers, artists, exhibit designers, and craftsmen;

(17) prepare annually a complete and detailed written report for the board that accounts for all funds received and disbursed by the board during the preceding fiscal year;

(18) develop and manage a visitor services program for capitol hill which shall include public outreach programs, public tours, events, [~~a gift shop,~~] and communication and public relation services; and

(19) manage and organize all transit and parking programs on the capitol hill complex, except that:

(a) the Legislative Management Committee shall direct the executive director's management and organization of transit and parking associated with the legislative area as defined in Section 36-5-1; and

(b) the governor shall direct the executive director's management and organization of transit and parking associated with the governor's area as defined in Section 67-1-16.

Section 3. Section 63C-9-502 is amended to read:

63C-9-502. Fund created -- Donations.

(1) There is created an expendable special revenue fund entitled the "State Capitol Fund."

(2) The fund consists of money generated from the following revenue sources:

(a) any donations, deposits, contributions, gifts, money, and items of value received from private persons, foundations, or organizations;

~~[(b) gift shop profits;]~~

~~[(e)]~~ (b) appropriations made to the fund by the Legislature; and

~~[(d)]~~ (c) money received by the board from the federal government.

(3) (a) The fund shall earn interest.

(b) All interest earned on fund money shall be deposited into the fund.

(4) The board may use fund money to:

(a) acquire historical and other items to furnish the capitol hill facilities;

(b) pay for the repair and maintenance of the capitol hill facilities and capitol hill grounds;

(c) pay for the rehabilitation of the capitol hill facilities and capitol hill grounds; and

(d) fund all costs incurred in complying with this chapter.

Section 4. Repealer.

This bill repeals:

Section 63C-9-701, Definitions.

Section 63C-9-702, Art Placement Subcommittee of the State Capitol Preservation Board -- Created -- Membership -- Operations.

Section 63C-9-703, Art Placement Subcommittee of the State Capitol Preservation Board -- Duties.

CHAPTER 315**S. B. 11**

Passed February 18, 2015

Approved March 30, 2015

Effective May 12, 2015

UTAH RETIREMENT SYSTEMS REVISIONS

Chief Sponsor: Todd Weiler
House Sponsor: Kraig Powell

LONG TITLE**General Description:**

This bill modifies the Utah State Retirement and Insurance Benefit Act by amending provisions relating to the Utah Retirement Systems.

Highlighted Provisions:

This bill:

- ▶ clarifies that the maximum number of positions that a municipality, county, or political subdivision may exempt from participation with the Utah Retirement Systems applies to the total number of exempted positions for employees covered under both the Tier I and Tier II retirement systems;
- ▶ specifies additional positions covered under the Tier II retirement system that are eligible to file for an exemption from participation in the Utah Retirement Systems;
- ▶ amends the applicability of contribution vesting periods and the effect of system elections for individuals who elect to be exempt from participation in the Tier II Utah Retirement Systems;
- ▶ provides that a full-time elected official or legislator initially entering office on or after July 1, 2011, who has service credit accrued in a Tier I retirement system or a Tier II hybrid retirement system before July 1, 2011, shall continue in the Tier I or Tier II system for which the full-time elected official or legislator is eligible;
- ▶ provides that if an active member dies, employer nonelective contributions made on behalf of the employee to a defined contribution plan are exempt from the vesting requirements and vest to the member upon death; and
- ▶ makes technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 49-12-203, as last amended by Laws of Utah 2014, Chapters 15, 201, and 365
49-13-203, as last amended by Laws of Utah 2014, Chapters 15 and 365
49-22-201, as last amended by Laws of Utah 2014, Chapter 15
49-22-203, as last amended by Laws of Utah 2014, Chapters 15 and 365
49-22-303, as last amended by Laws of Utah 2011, Chapter 439
49-22-401, as last amended by Laws of Utah 2013, Chapters 310 and 316
49-23-201, as last amended by Laws of Utah 2014, Chapter 15

49-23-401, as last amended by Laws of Utah 2013, Chapter 316

ENACTS:

- 49-22-205, Utah Code Annotated 1953
49-22-503, Utah Code Annotated 1953
49-23-203, Utah Code Annotated 1953
49-23-504, Utah Code Annotated 1953

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

Section 1. Section 49-12-203 is amended to read:**49-12-203. Exclusions from membership in system.**

(1) The following employees are not eligible for service credit in this system:

(a) subject to the requirements of Subsection (2), an employee whose employment status is temporary in nature due to the nature or the type of work to be performed;

(b) except as provided under Subsection (3)(a), an employee of an institution of higher education who participates in a retirement system with a public or private retirement system, organization, or company designated by the State Board of Regents during any period in which required contributions based on compensation have been paid on behalf of the employee by the employer;

(c) an employee serving as an exchange employee from outside the state;

(d) an executive department head of the state, a member of the State Tax Commission, the Public Service Commission, and a member of a full-time or part-time board or commission who files a formal request for exemption;

(e) an employee of the Department of Workforce Services who is covered under another retirement system allowed under Title 35A, Chapter 4, Employment Security Act;

(f) an employee who is employed on or after July 1, 2009, with an employer that has elected, prior to July 1, 2009, to be excluded from participation in this system under Subsection 49-12-202(2)(c);

(g) an employee who is employed on or after July 1, 2014, with an employer that has elected, prior to July 1, 2014, to be excluded from participation in this system under Subsection 49-12-202(2)(d); or

(h) an employee who is employed with a withdrawing entity that has elected, prior to January 1, 2017, to exclude new employees from participation in this system under Subsection 49-11-623(3).

(2) If an employee whose status is temporary in nature due to the nature of type of work to be performed:

(a) is employed for a term that exceeds six months and the employee otherwise qualifies for service credit in this system, the participating employer shall report and certify to the office that the employee is a regular full-time employee effective the beginning of the seventh month of employment; or

(b) was previously terminated prior to being eligible for service credit in this system and is reemployed within three months of termination by the same participating employer, the participating employer shall report and certify that the member is a regular full-time employee when the total of the periods of employment equals six months and the employee otherwise qualifies for service credits in this system.

(3) (a) Upon cessation of the participating employer contributions, an employee under Subsection (1)(b) is eligible for service credit in this system.

(b) Notwithstanding the provisions of Subsection (1)(f), any eligibility for service credit earned by an employee under this chapter before July 1, 2009 is not affected under Subsection (1)(f).

(c) Notwithstanding the provisions of Subsection (1)(g), any eligibility for service credit earned by an employee under this chapter before July 1, 2014, is not affected under Subsection (1)(g).

(4) Upon filing a written request for exemption with the office, the following employees shall be exempt from coverage under this system:

(a) a full-time student or the spouse of a full-time student and individuals employed in a trainee relationship;

(b) an elected official;

(c) an executive department head of the state, a member of the State Tax Commission, a member of the Public Service Commission, and a member of a full-time or part-time board or commission;

(d) an employee of the Governor's Office of Management and Budget;

(e) an employee of the Governor's Office of Economic Development;

(f) an employee of the Commission on Criminal and Juvenile Justice;

(g) an employee of the Governor's Office;

(h) an employee of the State Auditor's Office;

(i) an employee of the State Treasurer's Office;

(j) any other member who is permitted to make an election under Section 49-11-406;

(k) a person appointed as a city manager or chief city administrator or another person employed by a municipality, county, or other political subdivision, who is an at-will employee; and

(l) an employee of an interlocal cooperative agency created under Title 11, Chapter 13, Interlocal Cooperation Act, who is engaged in a specialized trade customarily provided through membership in a labor organization that provides retirement benefits to its members.

(5) (a) Each participating employer shall prepare a list designating those positions eligible for exemption under Subsection (4).

(b) An employee may not be exempted unless the employee is employed in an exempted position designated by the participating employer.

(6) (a) In accordance with this section, Section 49-13-203, and Section 49-22-205, a municipality, county, or political subdivision may not exempt a total of more than 50 positions or a number equal to 10% of the employees of the municipality, county, or political subdivision, whichever is [lesser] less.

(b) A municipality, county, or political subdivision may exempt at least one regular full-time employee.

(7) Each participating employer shall:

(a) file employee exemptions annually with the office; and

(b) update the employee exemptions in the event of any change.

(8) The office may make rules to implement this section.

Section 2. Section 49-13-203 is amended to read:

49-13-203. Exclusions from membership in system.

(1) The following employees are not eligible for service credit in this system:

(a) subject to the requirements of Subsection (2), an employee whose employment status is temporary in nature due to the nature or the type of work to be performed;

(b) except as provided under Subsection (3)(a), an employee of an institution of higher education who participates in a retirement system with a public or private retirement system, organization, or company designated by the State Board of Regents during any period in which required contributions based on compensation have been paid on behalf of the employee by the employer;

(c) an employee serving as an exchange employee from outside the state;

(d) an executive department head of the state or a legislative director, senior executive employed by the governor's office, a member of the State Tax Commission, a member of the Public Service Commission, and a member of a full-time or part-time board or commission who files a formal request for exemption;

(e) an employee of the Department of Workforce Services who is covered under another retirement system allowed under Title 35A, Chapter 4, Employment Security Act;

(f) an employee who is employed with an employer that has elected to be excluded from participation in this system under Subsection 49-13-202(5), effective on or after the date of the employer's election under Subsection 49-13-202(5); or

(g) an employee who is employed with a withdrawing entity that has elected, prior to January 1, 2017, to exclude new employees from

participation in this system under Subsection 49-11-623(3).

(2) If an employee whose status is temporary in nature due to the nature of type of work to be performed:

(a) is employed for a term that exceeds six months and the employee otherwise qualifies for service credit in this system, the participating employer shall report and certify to the office that the employee is a regular full-time employee effective the beginning of the seventh month of employment; or

(b) was previously terminated prior to being eligible for service credit in this system and is reemployed within three months of termination by the same participating employer, the participating employer shall report and certify that the member is a regular full-time employee when the total of the periods of employment equals six months and the employee otherwise qualifies for service credits in this system.

(3) (a) Upon cessation of the participating employer contributions, an employee under Subsection (1)(b) is eligible for service credit in this system.

(b) Notwithstanding the provisions of Subsection (1)(f), any eligibility for service credit earned by an employee under this chapter before the date of the election under Subsection 49-13-202(5) is not affected under Subsection (1)(f).

(4) Upon filing a written request for exemption with the office, the following employees shall be exempt from coverage under this system:

(a) a full-time student or the spouse of a full-time student and individuals employed in a trainee relationship;

(b) an elected official;

(c) an executive department head of the state, a member of the State Tax Commission, a member of the Public Service Commission, and a member of a full-time or part-time board or commission;

(d) an employee of the Governor's Office of Management and Budget;

(e) an employee of the Governor's Office of Economic Development;

(f) an employee of the Commission on Criminal and Juvenile Justice;

(g) an employee of the Governor's Office;

(h) an employee of the State Auditor's Office;

(i) an employee of the State Treasurer's Office;

(j) any other member who is permitted to make an election under Section 49-11-406;

(k) a person appointed as a city manager or chief city administrator or another person employed by a municipality, county, or other political subdivision, who is an at-will employee;

(l) an employee of an interlocal cooperative agency created under Title 11, Chapter 13, Interlocal Cooperation Act, who is engaged in a specialized trade customarily provided through membership in a labor organization that provides retirement benefits to its members; and

(m) an employee of the Utah Science Technology and Research Initiative created under Title 63M, Chapter 2, Utah Science Technology and Research Governing Authority Act.

(5) (a) Each participating employer shall prepare a list designating those positions eligible for exemption under Subsection (4).

(b) An employee may not be exempted unless the employee is employed in a position designated by the participating employer.

(6) (a) In accordance with this section, Section 49-12-203, and Section 49-22-205, a municipality, county, or political subdivision may not exempt a total of more than 50 positions or a number equal to 10% of the employees of the municipality, county, or political subdivision, whichever is [lesser] less.

(b) A municipality, county, or political subdivision may exempt at least one regular full-time employee.

(7) Each participating employer shall:

(a) file employee exemptions annually with the office; and

(b) update the employee exemptions in the event of any change.

(8) The office may make rules to implement this section.

Section 3. Section 49-22-201 is amended to read:

49-22-201. System membership -- Eligibility.

(1) Beginning July 1, 2011, a participating employer shall participate in this system.

(2) (a) A person initially entering regular full-time employment with a participating employer on or after July 1, 2011, who does not have service credit accrued before July 1, 2011, in a Tier I system or plan administered by the board, is eligible:

(i) as a member for service credit and defined contributions under the Tier II hybrid retirement system established by Part 3, Tier II Hybrid Retirement System; or

(ii) as a participant for defined contributions under the Tier II defined contribution plan established by Part 4, Tier II Defined Contribution Plan.

(b) A person initially entering regular full-time employment with a participating employer on or after July 1, 2011, shall:

(i) make an election to participate in the system created under this chapter [~~within 30 days from the date of eligibility for accrual of benefits~~];

(A) as a member for service credit and defined contributions under the Tier II hybrid retirement system established by Part 3, Tier II Hybrid Retirement System; or

(B) as a participant for defined contributions under the Tier II defined contribution plan established by Part 4, Tier II Defined Contribution Plan; and

(ii) electronically submit to the office notification of the member's election under Subsection (2)(b)(i) in a manner approved by the office.

(c) An election made by a person initially entering regular full-time employment with a participating employer under this Subsection (2) is irrevocable beginning one year from the date of eligibility for accrual of benefits.

(d) If no election is made under Subsection (2)(b)(i), the person shall become a member eligible for service credit and defined contributions under the Tier II hybrid retirement system established by Part 3, Tier II Hybrid Retirement System.

(3) Notwithstanding the provisions of this section and except as provided in Subsection (4), an elected official initially entering office on or after July 1, 2011:

(a) is only eligible to participate in the Tier II defined contribution plan established under ~~[Chapter 22,]~~ Part 4, Tier II Defined Contribution Plan; and

(b) is not eligible to participate in the Tier II hybrid retirement system established under ~~[Chapter 22,]~~ Part 3, Tier II Hybrid Retirement System.

(4) Notwithstanding the provisions of Subsection (3), a legislator or full-time elected official initially entering office on or after July 1, 2011, who has service credit accrued before July 1, 2011:

(a) in a Tier I retirement system or plan administered by the board shall continue in the Tier I system or plan for which the legislator or full-time elected official is eligible; or

(b) in a Tier II hybrid retirement system shall continue in the Tier II system for which the legislator or full-time elected official is eligible.

Section 4. Section 49-22-203 is amended to read:

49-22-203. Exclusions from membership in system.

(1) The following employees are not eligible for service credit in this system:

(a) subject to the requirements of Subsection (2), an employee whose employment status is temporary in nature due to the nature or the type of work to be performed;

(b) except as provided under Subsection (3), an employee of an institution of higher education who participates in a retirement system with a public or private retirement system, organization, or company designated by the State Board of Regents

during any period in which required contributions based on compensation have been paid on behalf of the employee by the employer;

(c) an employee serving as an exchange employee from outside the state;

(d) an employee of the Department of Workforce Services who is covered under another retirement system allowed under Title 35A, Chapter 4, Employment Security Act; ~~[or]~~

(e) an employee who is employed with a withdrawing entity that has elected, prior to January 1, 2017, to exclude new employees from participation in this system under Subsection 49-11-623(3)[-]; or

(f) a person who files a written request for exemption with the office under Section 49-22-205.

(2) If an employee whose status is temporary in nature due to the nature of type of work to be performed:

(a) is employed for a term that exceeds six months and the employee otherwise qualifies for service credit in this system, the participating employer shall report and certify to the office that the employee is a regular full-time employee effective the beginning of the seventh month of employment; or

(b) was previously terminated prior to being eligible for service credit in this system and is reemployed within three months of termination by the same participating employer, the participating employer shall report and certify that the member is a regular full-time employee when the total of the periods of employment equals six months and the employee otherwise qualifies for service credits in this system.

(3) Upon cessation of the participating employer contributions, an employee under Subsection (1)(b) is eligible for service credit in this system.

Section 5. Section 49-22-205 is enacted to read:

49-22-205. Exemptions from participation in system.

(1) Upon filing a written request for exemption with the office, the following employees are exempt from participation in the system as provided in this section:

(a) an elected official;

(b) an executive department head of the state;

(c) a member of the State Tax Commission;

(d) a member of the Public Service Commission;

(e) a member of a full-time or part-time board or commission;

(f) an employee of the Governor's Office of Management and Budget;

(g) an employee of the Governor's Office of Economic Development;

(h) an employee of the Commission on Criminal and Juvenile Justice;

- (i) an employee of the Governor's Office;
- (j) an employee of the State Auditor's Office;
- (k) an employee of the State Treasurer's Office;
- (l) any other member who is permitted to make an election under Section 49-11-406;

(m) a person appointed as a city manager or appointed as a city administrator or another at-will employee of a municipality, county, or other political subdivision;

(n) an employee of an interlocal cooperative agency created under Title 11, Chapter 13, Interlocal Cooperation Act, who is engaged in a specialized trade customarily provided through membership in a labor organization that provides retirement benefits to its members; and

(o) an employee of the Utah Science Technology and Research Initiative created under Title 63M, Chapter 2, Utah Science Technology and Research Governing Authority Act.

(2) (a) A participating employer shall prepare a list designating those positions eligible for exemption under Subsection (1).

(b) An employee may not be exempted unless the employee is employed in a position designated by the participating employer under Subsection (1).

(3) (a) In accordance with this section, Section 49-12-203, and Section 49-13-203, a municipality, county, or political subdivision may not exempt a total of more than 50 positions or a number equal to 10% of the employees of the municipality, county, or political subdivision, whichever is less.

(b) A municipality, county, or political subdivision may exempt at least one regular full-time employee.

(4) Each participating employer shall:

(a) file each employee exemption annually with the office; and

(b) update an employee exemption in the event of any change.

(5) Beginning on the effective date of the exemption for an employee who elects to be exempt in accordance with Subsection (1):

(a) for a member of the Tier II defined contribution plan:

(i) the participating employer shall contribute the nonelective contribution and the amortization rate described in Section 49-22-401, except that the nonelective contribution is exempt from the vesting requirements of Subsection 49-22-401(3)(a); and

(ii) the member may make voluntary deferrals as provided in Section 49-22-401; and

(b) for a member of the Tier II hybrid retirement system:

(i) the participating employer shall contribute the nonelective contribution and the amortization rate described in Section 49-22-401, except that the contribution is exempt from the vesting requirements of Subsection 49-22-401(3)(a);

(ii) the member may make voluntary deferrals as provided in Section 49-22-401; and

(iii) the member is not eligible for additional service credit in the system.

(6) If an employee who is a member of the Tier II hybrid retirement system subsequently revokes the election of exemption made under Subsection (1), the provisions described in Subsection (5)(b) shall no longer be applicable and the coverage for the employee shall be effective prospectively as provided in Part 3, Tier II Hybrid Retirement System.

(7) (a) All employer contributions made on behalf of an employee shall be invested in accordance with Subsection 49-22-303(3)(a) or 49-22-401(4)(a) until the one-year election period under Subsection 49-22-201(2)(c) is expired if the employee:

(i) elects to be exempt in accordance with Subsection (1); and

(ii) continues employment with the participating employer through the one-year election period under Subsection 49-22-201(2)(c).

(b) An employee is entitled to receive a distribution of the employer contributions made on behalf of the employee and all associated investment gains and losses if the employee:

(i) elects to be exempt in accordance with Subsection (1); and

(ii) terminates employment prior to the one-year election period under Subsection 49-22-201(2)(c).

(8) (a) The office shall make rules to implement this section.

(b) The rules made under this Subsection (8) shall include provisions to allow the exemption provided under Subsection (1) to apply to all contributions made beginning on or after July 1, 2011, on behalf of an exempted employee who began the employment before May 8, 2012.

Section 6. Section 49-22-303 is amended to read:

49-22-303. Defined contribution benefit established -- Contribution by employer and employee -- Vesting of contributions -- Plans to be separate -- Tax-qualified status of plans.

(1) (a) A participating employer shall make a nonelective contribution on behalf of each regular full-time employee who is a member of this system in an amount equal to 10% minus the contribution rate paid by the employer pursuant to Subsection 49-22-301(2)(a) of the member's compensation to a defined contribution plan qualified under Section 401(k) of the Internal Revenue Code which:

(i) is sponsored by the board; and

(ii) has been grandfathered under Section 1116 of the Federal Tax Reform Act of 1986.

(b) The member may make voluntary deferrals to:

(i) the qualified 401(k) plan which receives the employer contribution described in this Subsection (1); or

(ii) at the member's option, another defined contribution plan established by the participating employer.

(2) (a) The total amount contributed by the participating employer under Subsection (1)(a), including associated investment gains and losses, vests to the member upon accruing four years of service credit under this title.

(b) The total amount contributed by the member under Subsection (1)(b) vests to the member's benefit immediately and is nonforfeitable.

(3) (a) Contributions made by a participating employer under Subsection (1)(a) shall be invested in a default option selected by the board until the member is vested in accordance with Subsection (2)(a).

(b) A member may direct the investment of contributions made by a participating employer under Subsection (1)(a) only after the contributions have vested in accordance with Subsection (2)(a).

(c) A member may direct the investment of contributions made by the member under Subsection (1)(b).

(4) No loans shall be available from contributions made by a participating employer under Subsection (1)(a).

(5) No hardship distributions shall be available from contributions made by a participating employer under Subsection (1)(a).

(6) (a) Except as provided in Subsection (6)(b) and Section 49-22-205, if a member terminates employment with a participating employer prior to the vesting period described in Subsection (2)(a), all contributions, including associated investment gains and losses, made by a participating employer on behalf of the member under Subsection (1)(a) are subject to forfeiture.

(b) If a member who terminates employment with a participating employer prior to the vesting period described in Subsection (2)(a) subsequently enters employment with the same or another participating employer within 10 years of the termination date of the previous employment:

(i) all contributions made by the previous participating employer on behalf of the member, including associated investment gains and losses, shall be reinstated upon employment as a regular full-time employee; and

(ii) the length of time that the member worked with the previous employer shall be included in determining whether the member has completed the vesting period under Subsection (2)(a).

(c) The office shall establish a forfeiture account and shall specify the uses of the forfeiture account, which may include an offset against administrative costs or employer contributions made under this section.

(7) The office may request from any other qualified 401(k) plan under Subsection (1) or (2) any relevant information pertaining to the maintenance of its tax qualification under the Internal Revenue Code.

(8) The office may take any action which in its judgment is necessary to maintain the tax-qualified status of its 401(k) defined contribution plan under federal law.

Section 7. Section 49-22-401 is amended to read:

49-22-401. Contributions -- Rates.

(1) Up to the amount allowed by federal law, the participating employer shall make a nonelective contribution of 10% of the participant's compensation to a defined contribution plan.

(2) (a) The participating employer shall contribute the 10% nonelective contribution described in Subsection (1) to a defined contribution plan qualified under Section 401(k) of the Internal Revenue Code which:

(i) is sponsored by the board; and

(ii) has been grandfathered under Section 1116 of the Federal Tax Reform Act of 1986.

(b) The member may make voluntary deferrals to:

(i) the qualified 401(k) plan which receives the employer contribution described in this Subsection (2); or

(ii) at the member's option, another defined contribution plan established by the participating employer.

(c) In addition to the percent specified under Subsection (2)(a), the participating employer shall pay the corresponding Tier I system amortization rate of the employee's compensation to the office to be applied to the employer's corresponding Tier I system liability.

(3) (a) Except as provided under Subsection (3)(c), the total amount contributed by the participating employer under Subsection (2)(a) vests to the member upon accruing four years employment as a regular full-time employee under this title.

(b) The total amount contributed by the member under Subsection (2)(b) vests to the member's benefit immediately and is nonforfeitable.

(c) Upon filing a written request for exemption with the office, ~~[the following employees are]~~ an eligible employee is exempt from the vesting requirements of Subsection (3)(a)[:] in accordance with Section 49-22-205.

~~[(i) an executive department head of the state;]~~

~~[(ii) a member of the State Tax Commission;]~~

~~[(iii) — a member of the Public Service Commission;]~~

~~[(iv) — an employee of the Governor's Office of Management and Budget;]~~

~~[(v) — an employee of the Governor's Office of Economic Development;]~~

~~[(vi) — an employee of the Commission on Criminal and Juvenile Justice;]~~

~~[(vii) — an employee of the Governor's Office;]~~

~~[(viii) — an employee of the State Auditor's Office;]~~

~~[(ix) — an employee of the State Treasurer's Office;]~~

~~[(x) — a person appointed as a city manager or appointed as a city administrator or another at will employee of a municipality, county, or other political subdivision;]~~

~~[(xi) — an employee of an interlocal cooperative agency created under Title 11, Chapter 13, Interlocal Cooperation Act, who is engaged in a specialized trade customarily provided through membership in a labor organization that provides retirement benefits to its members; and]~~

~~[(xii) — an employee of the Utah Science Technology and Research Initiative created under Title 63M, Chapter 2, Utah Science Technology and Research Governing Authority Act.]~~

~~[(d) (i) — A participating employer shall prepare a list designating those positions eligible for exemption under Subsection (3)(e).]~~

~~[(ii) — An employee may not be exempted unless the employee is employed in a position designated by the participating employer under Subsection (3)(e).]~~

~~[(e) (i) — All employer contributions made on behalf of an employee shall be invested in accordance with Subsection 49-22-303(3)(a) until the one-year election period under Subsection 49-22-201(2)(e) is expired if the employee:]~~

~~[(A) — elects to be exempt in accordance with Subsection (3)(e); and]~~

~~[(B) — continues employment with the participating employer through the one-year election period under Subsection 49-22-201(2)(e).]~~

~~[(ii) — An employee is entitled to receive a distribution of the employer contributions made on behalf of the employee and all associated investment gains and losses if the employee:]~~

~~[(A) — elects to be exempt in accordance with Subsection (3)(e); and]~~

~~[(B) — terminates employment prior to the one-year election period under Subsection 49-22-201(2)(e).]~~

~~[(f) (i) — In accordance with this section, a municipality, county, or political subdivision may not exempt more than 50 positions or a number equal to 10% of the employees of the municipality, county, or political subdivision, whichever is less.]~~

~~[(ii) — A municipality, county, or political subdivision may exempt at least one regular full-time employee.]~~

~~[(g) — Each participating employer shall:]~~

~~[(i) — file each employee exemption annually with the office; and]~~

~~[(ii) — update an employee exemption in the event of any change.]~~

~~[(h) (i) — The office shall make rules to implement this Subsection (3).]~~

~~[(ii) — The rules made under Subsection (3)(h)(i) shall include provisions to allow the exemption provided under Subsection (3)(e) to apply to all contributions made beginning on or after July 1, 2011, on behalf of an exempted employee who began the employment before May 8, 2012.]~~

~~(4) (a) — Contributions made by a participating employer under Subsection (2)(a) shall be invested in a default option selected by the board until the member is vested in accordance with Subsection (3)(a).~~

~~(b) — A member may direct the investment of contributions including associated investment gains and losses made by a participating employer under Subsection (2)(a) only after the contributions have vested in accordance with Subsection (3)(a).~~

~~(c) — A member may direct the investment of contributions made by the member under Subsection (3)(b).~~

~~(5) — No loans shall be available from contributions made by a participating employer under Subsection (2)(a).~~

~~(6) — No hardship distributions shall be available from contributions made by a participating employer under Subsection (2)(a).~~

~~(7) (a) — Except as provided in Subsection (7)(b), if a member terminates employment with a participating employer prior to the vesting period described in Subsection (3)(a), all contributions made by a participating employer on behalf of the member including associated investment gains and losses under Subsection (2)(a) are subject to forfeiture.~~

~~(b) — If a member who terminates employment with a participating employer prior to the vesting period described in Subsection (3)(a) subsequently enters employment with the same or another participating employer within 10 years of the termination date of the previous employment:~~

~~(i) — all contributions made by the previous participating employer on behalf of the member including associated investment gains and losses shall be reinstated upon the member's employment as a regular full-time employee; and~~

~~(ii) — the length of time that the member worked with the previous employer shall be included in determining whether the member has completed the vesting period under Subsection (3)(a).~~

~~(c) — The office shall establish a forfeiture account and shall specify the uses of the forfeiture account,~~

which may include an offset against administrative costs or employer contributions made under this section.

(8) The office may request from any other qualified 401(k) plan under Subsection (2) any relevant information pertaining to the maintenance of its tax qualification under the Internal Revenue Code.

(9) The office may take any action which in its judgment is necessary to maintain the tax-qualified status of its 401(k) defined contribution plan under federal law.

Section 8. Section 49-22-503 is enacted to read:

49-22-503. Death of members -- Exemption from vesting requirements for employer nonelective contributions to defined contribution plan.

(1) (a) If an active member dies, employer nonelective contributions made on behalf of the employee to a defined contribution plan under Section 49-22-303 or 49-22-401 are exempt from the vesting requirements of Subsections 49-22-303(2)(a) and 49-22-401(3)(a).

(b) The total amount of nonelective contributions made by the participating employer vests to the member upon death and the member's beneficiary is entitled to receive a distribution of the employer contributions made on behalf of the employee and all associated investment gains and losses.

(2) Employer contributions vested and distributed under this section are in addition to and separate from the benefits payable under Sections 49-22-501 and 49-22-502.

Section 9. Section 49-23-201 is amended to read:

49-23-201. System membership -- Eligibility.

(1) Beginning July 1, 2011, a participating employer that employs public safety service employees or firefighter service employees shall participate in this system.

(2) (a) A public safety service employee or a firefighter service employee initially entering employment with a participating employer on or after July 1, 2011, who does not have service credit accrued before July 1, 2011, in a Tier I system or plan administered by the board, is eligible:

(i) as a member for service credit and defined contributions under the Tier II hybrid retirement system established by Part 3, Tier II Hybrid Retirement System; or

(ii) as a participant for defined contributions under the Tier II defined contributions plan established by Part 4, Tier II Defined Contribution Plan.

(b) A public safety service employee or a firefighter service employee initially entering

employment with a participating employer on or after July 1, 2011, shall:

(i) make an election to participate in the system created under this chapter [~~within 30 days from the date of eligibility for accrual of benefits~~]:

(A) as a member for service credit and defined contributions under the Tier II hybrid retirement system established by Part 3, Tier II Hybrid Retirement System; or

(B) as a participant for defined contributions under the Tier II defined contribution plan established by Part 4, Tier II Defined Contribution Plan; and

(ii) electronically submit to the office notification of the member's election under Subsection (2)(b)(i) in a manner approved by the office.

(c) An election made by a public safety service employee or firefighter service employee initially entering employment with a participating employer under this Subsection (2) is irrevocable beginning one year from the date of eligibility for accrual of benefits.

(d) If no election is made under Subsection (2)(b)(i), the public safety service employee or firefighter service employee shall become a member eligible for service credit and defined contributions under the Tier II hybrid retirement system established by Part 3, Tier II Hybrid Retirement System.

Section 10. Section 49-23-203 is enacted to read:

49-23-203. Exemptions from participation in system.

(1) Upon filing a written request for exemption with the office, the following employees are exempt from participation in the system as provided in this section if the employee is a public safety service employee and is:

- (a) an executive department head of the state;
- (b) an elected or appointed sheriff of a county; or
- (c) an elected or appointed chief of police of a municipality.

(2) (a) A participating employer shall prepare a list designating those positions eligible for exemption under Subsection (1).

(b) An employee may not be exempted unless the employee is employed in a position designated by the participating employer under Subsection (1).

(3) Each participating employer shall:

- (a) file each employee exemption annually with the office; and
- (b) update an employee exemption in the event of any change.

(4) Beginning on the effective date of the exemption for an employee who elects to be exempt in accordance with Subsection (1):

(a) for a member of the Tier II defined contribution plan:

(i) the participating employer shall contribute the nonelective contribution and the amortization rate described in Section 49-23-401, except that the contribution is exempt from the vesting requirements of Subsection 49-23-401(3)(a); and

(ii) the member may make voluntary deferrals as provided in Section 49-23-401; and

(b) for a member of the Tier II hybrid retirement system:

(i) the participating employer shall contribute the nonelective contribution and the amortization rate described in Section 49-23-401, except that the contribution is exempt from the vesting requirements of Subsection 49-23-401(3)(a);

(ii) the member may make voluntary deferrals as provided in Section 49-23-401; and

(iii) the member is not eligible for additional service credit in the system.

(5) If an employee who is a member of the Tier II hybrid retirement system subsequently revokes the election of exemption made under Subsection (1), the provisions described in Subsection (4)(b) shall no longer be applicable and the coverage for the employee shall be effective prospectively as provided in Part 3, Tier II Hybrid Retirement System.

(6) (a) All employer contributions made on behalf of an employee shall be invested in accordance with Subsection 49-23-302(3)(a) or 49-23-401(4)(a) until the one-year election period under Subsection 49-23-201(2)(c) is expired if the employee:

(i) elects to be exempt in accordance with Subsection (1); and

(ii) continues employment with the participating employer through the one-year election period under Subsection 49-23-201(2)(c).

(b) An employee is entitled to receive a distribution of the employer contributions made on behalf of the employee and all associated investment gains and losses if the employee:

(i) elects to be exempt in accordance with Subsection (1); and

(ii) terminates employment prior to the one-year election period under Subsection 49-23-201(2)(c).

(7) (a) The office shall make rules to implement this section.

(b) The rules made under this Subsection (7) shall include provisions to allow the exemption provided under Subsection (1) to apply to all contributions made beginning on or after July 1, 2011, on behalf of an exempted employee who began the employment before May 8, 2012.

Section 11. Section 49-23-401 is amended to read:

49-23-401. Contributions -- Rates.

(1) Up to the amount allowed by federal law, the participating employer shall make a nonelective

contribution of 12% of the participant's compensation to a defined contribution plan.

(2) (a) The participating employer shall contribute the 12% nonelective contribution described in Subsection (1) to a defined contribution plan qualified under Section 401(k) of the Internal Revenue Code which:

(i) is sponsored by the board; and

(ii) has been grandfathered under Section 1116 of the Federal Tax Reform Act of 1986.

(b) The member may make voluntary deferrals to:

(i) the qualified 401(k) plan which receives the employer contribution described in this Subsection (2); or

(ii) at the member's option, another defined contribution plan established by the participating employer.

(c) In addition to the percent specified under Subsection (2)(a), the participating employer shall pay the corresponding Tier I system amortization rate of the employee's compensation to the office to be applied to the employer's corresponding Tier I system liability.

(3) (a) Except as provided under Subsection (3)(c), the total amount contributed by the participating employer under Subsection (2)(a) vests to the member upon accruing four years of service credit under this title.

(b) The total amount contributed by the member under Subsection (2)(b) vests to the member's benefit immediately and is nonforfeitable.

(c) Upon filing a written request for exemption with the office, ~~the following employees are~~ an eligible employee is exempt from the vesting requirements of Subsection (3)(a) ~~if the employee is a public safety service employee and is~~ in accordance with Section 49-23-203.

~~[(i) an executive department head of the state;]~~

~~[(ii) an elected or appointed sheriff of a county; or]~~

~~[(iii) an elected or appointed chief of police of a municipality.]~~

~~[(d) (i) A participating employer shall prepare a list designating those positions eligible for exemption under Subsection (3)(c).]~~

~~[(ii) An employee may not be exempted unless the employee is employed in a position designated by the participating employer under Subsection (3)(c).]~~

~~[(e) (i) All employer contributions made on behalf of an employee shall be invested in accordance with Subsection 49-23-302(3)(a) until the one-year election period under Subsection 49-23-201(2)(c) is expired if the employee:]~~

~~[(A) elects to be exempt in accordance with Subsection (3)(c); and]~~

~~[(B) continues employment with the participating employer through the one-year election period under Subsection 49-23-201(2)(c).]~~

~~(ii) An employee is entitled to receive a distribution of the employer contributions made on behalf of the employee and all associated investment gains and losses if the employee;~~

~~[(A) elects to be exempt in accordance with Subsection (3)(c); and]~~

~~[(B) terminates employment prior to the one-year election period under Subsection 49-23-201(2)(e).]~~

~~[(f) Each participating employer shall:]~~

~~[(i) file each employee exemption annually with the office; and]~~

~~[(ii) update an employee exemption in the event of any change.]~~

~~[(g) (i) The office shall make rules to implement this Subsection (3).]~~

~~[(ii) The rules made under Subsection (3)(g)(i) shall include provisions to allow the exemption provided under Subsection (3)(c) to apply to all contributions made beginning on or after July 1, 2011, on behalf of an exempted employee who began the employment before May 8, 2012.]~~

(4) (a) Contributions made by a participating employer under Subsection (2)(a) shall be invested in a default option selected by the board until the member is vested in accordance with Subsection (3)(a).

(b) A member may direct the investment of contributions, including associated investment gains and losses, made by a participating employer under Subsection (2)(a) only after the contributions have vested in accordance with Subsection (3)(a).

(c) A member may direct the investment of contributions made by the member under Subsection (3)(b).

(5) No loans shall be available from contributions made by a participating employer under Subsection (2)(a).

(6) No hardship distributions shall be available from contributions made by a participating employer under Subsection (2)(a).

(7) (a) Except as provided in Subsection (7)(b), if a member terminates employment with a participating employer prior to the vesting period described in Subsection (3)(a), all contributions made by a participating employer on behalf of the member under Subsection (2)(a), including associated investment gains and losses are subject to forfeiture.

(b) If a member who terminates employment with a participating employer prior to the vesting period described in Subsection (3)(a) subsequently enters employment with the same or another participating employer within 10 years of the termination date of the previous employment:

(i) all contributions made by the previous participating employer on behalf of the member, including associated investment gains and losses,

shall be reinstated upon the member's employment as a regular full-time employee; and

(ii) the length of time that the member worked with the previous employer shall be included in determining whether the member has completed the vesting period under Subsection (3)(a).

(c) The office shall establish a forfeiture account and shall specify the uses of the forfeiture account, which may include an offset against administrative costs of employer contributions made under this section.

(8) The office may request from any other qualified 401(k) plan under Subsection (2) any relevant information pertaining to the maintenance of its tax qualification under the Internal Revenue Code.

(9) The office may take any action which in its judgment is necessary to maintain the tax-qualified status of its 401(k) defined contribution plan under federal law.

Section 12. Section 49-23-504 is enacted to read:

49-23-504. Death of members -- Exemption from vesting requirements for employer nonelective contributions to defined contribution plan.

(1) (a) If an active member dies, employer nonelective contributions made on behalf of the employee to a defined contribution plan under Section 49-23-302 or 49-23-401 are exempt from the vesting requirements of Subsections 49-23-302(2)(a) and 49-23-401(3)(a).

(b) The total amount of nonelective contributions made by the participating employer vests to the member upon death and the member's beneficiary is entitled to receive a distribution of the employer contributions made on behalf of the employee and all associated investment gains and losses.

(2) Employer contributions vested and distributed under this section are in addition to and separate from the benefits payable under Sections 49-23-501, 49-23-502, and 49-23-503.

CHAPTER 316**S. B. 60**

Passed March 12, 2015
 Approved March 30, 2015
 Effective July 1, 2015

**AMERICAN CIVICS
 EDUCATION INITIATIVE**

Chief Sponsor: Howard A. Stephenson
 House Sponsor: Steve Eliason

LONG TITLE**General Description:**

This bill requires an individual to pass a basic civics test as a condition for receiving a high school diploma or adult education secondary diploma.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires a public school student to pass a basic civics test, or alternate assessment, as a condition for receiving a high school diploma;
- ▶ requires a student enrolled in an adult education program to pass a basic civics test as a condition for receiving an adult education secondary diploma;
- ▶ specifies the number of correct answers an individual must provide to pass a basic civics test; and
- ▶ requires the State Board of Education to make rules.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**ENACTS:**

53A-13-109.5, Utah Code Annotated 1953

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

Section 1. Section 53A-13-109.5 is enacted to read:

53A-13-109.5. American civics education initiative.

(1) As used in this section:

(a) “Adult education program” means an organized educational program below the postsecondary level, other than a regular full-time K-12 secondary education program, provided by an LEA or nonprofit organization that provides the opportunity for an adult to further the adult’s high school level education.

(b) “Basic civics test” means a test that includes 50 of the 100 questions on the civics test form used by the United States Citizenship and Immigration Services:

(i) to determine that an individual applying for United States citizenship meets the basic citizenship skills specified in 8 U.S.C. Sec. 1423; and

(ii) in accordance with 8 C.F.R. Sec. 312.2.

(c) “Board” means the State Board of Education.

(d) “LEA” means:

(i) a school district;

(ii) a charter school; or

(iii) the Utah Schools for the Deaf and the Blind.

(2) (a) Except as provided in Subsection (2)(b), the board shall require:

(i) a public school student who graduates on or after January 1, 2016, to pass a basic civics test as a condition for receiving a high school diploma; and

(ii) a student enrolled in an adult education program to pass a basic civics test as a condition for receiving an adult education secondary diploma.

(b) The board may require a public school student to pass an alternate assessment instead of a basic civics test if the student qualifies for an alternate assessment, as defined in board rule.

(3) An individual who correctly answers a minimum of 35 out of the 50 questions on a basic civics test passes the test and an individual who correctly answers fewer than 35 out of 50 questions on a basic civics test does not pass the test.

(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules that:

(a) require an LEA that serves secondary students to administer a basic civics test or alternate assessment to a public school student enrolled in the LEA;

(b) require an adult education program provider to administer a basic civics test to an individual who intends to receive an adult education secondary diploma;

(c) allow an individual to take a basic civics test as many times as needed in order to pass the test; and

(d) for the alternate assessment described in Subsection (2)(b), describe:

(i) the content of an alternate assessment;

(ii) how a public school student qualifies for an alternate assessment; and

(iii) how an LEA determines if a student passes an alternate assessment.

Section 2. Effective date.

This bill takes effect on July 1, 2015.

CHAPTER 317**S. B. 82**

Passed March 11, 2015
 Approved March 30, 2015
 Effective May 12, 2015

FORCIBLE ENTRY AMENDMENTS

Chief Sponsor: Stephen H. Urquhart
 House Sponsor: Bradley G. Last

LONG TITLE**General Description:**

This bill modifies the Utah Code of Criminal Procedure regarding the use of forcible entry when serving a search warrant or making an arrest.

Highlighted Provisions:

This bill:

- ▶ amends existing law regarding the use of forcible entry by a law enforcement officer when executing a warrant;
- ▶ requires that the Utah Peace Officer Standards and Training Council recommend guidelines and procedures regarding use of force in executing a warrant;
- ▶ requires a law enforcement officer to wear a badge, label, or clothing that identifies that person as a peace officer;
- ▶ provides that if the deploying law enforcement agency owns and operates body camera devices, the officer who executes a warrant shall be equipped with a body camera that actively records through the duration of the execution of the warrant;
- ▶ provides that a search or administrative warrant may not be issued by a justice court judge;
- ▶ provides that a warrant authorizing forcible entry may not be issued solely for the purpose of an alleged controlled substance or for drug paraphernalia; and
- ▶ provides that any evidence obtained in violation of these provisions is not admissible in any civil, criminal, or administrative proceeding.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

77-7-8, as last amended by Laws of Utah 2014, Chapter 297
 77-23-210, as last amended by Laws of Utah 2014, Chapter 297

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

Section 1. Section 77-7-8 is amended to read:**77-7-8. Forcible entry to conduct search or make arrest -- Conditions requiring a warrant.**

(1) (a) Subject to Subsection (2), a peace officer when making an arrest may forcibly enter the building in which the person to be arrested is

located, or in which there is probable cause for believing [him] the person to be.

(b) Before making the forcible entry, the officer shall:

(i) identify himself or herself as a law enforcement officer; ~~and~~

(ii) demand admission;

(iii) wait a reasonable period of time for an occupant to admit access; and

(iv) explain the purpose for which admission is desired.

(c) (i) The officer need not give a demand and explanation, or identify himself or herself, before making a forcible entry under the exceptions in Section 77-7-6 or where there is probable cause to believe evidence will be easily or quickly ~~secreted~~ ~~or~~ destroyed.

(ii) The officer shall identify himself or herself and state the purpose ~~of~~ for entering the premises as soon as practicable after entering the premises.

(d) The officer may use only that force which is reasonable and necessary to effectuate forcible entry under this section.

(2) If the building to be entered under Subsection (1) appears to be a private residence or the officer knows the building is a private residence, and if there is no consent to enter or there are no exigent circumstances, the officer shall, before entering the building:

(a) obtain an arrest or search warrant if the building is the residence of the person to be arrested; or

(b) obtain a search warrant if the building is a residence, but not the residence of the person whose arrest is sought.

(3) Notwithstanding any other provision of this chapter, forcible entry under this section may not be made solely for the alleged:

(a) possession or use of a controlled substance under Section 58-37-8; or

(b) the possession of drug paraphernalia as defined in Section 58-37a-3.

Section 2. Section 77-23-210 is amended to read:**77-23-210. Force used in executing a search warrant -- When notice of authority is required as a prerequisite.**

(1) (a) No later than July 1, 2015, any law enforcement agency that seeks a warrant under this section shall comply with guidelines and procedures which are, at a minimum, in accordance with state law and model guidelines and procedures recommended by the Utah Peace Officer Standards and Training Council created in Section 53-6-106.

(b) Written policies adopted pursuant to this section, shall be subject to public disclosure and inspection, in accordance with Title 63G, Chapter 2, Government Access and Management Act.

~~[(4)] (2)~~ When a search warrant has been issued authorizing entry into any building, room, conveyance, compartment, or other enclosure, the officer executing the warrant may enter:

(a) if, after giving notice of the officer's authority and purpose, there is no response or the officer is not admitted with reasonable promptness; or

(b) without notice of the officer's authority and purpose as provided in Subsection (3).

~~[(2) The officer executing the warrant under Subsection (1) may use only that force which is reasonable and necessary to execute the warrant.]~~

~~[(3) (a) The officer shall identify himself or herself and state the purpose of entering the premises as soon as practicable.]~~

~~[(4)] (3) (a)~~ The officer may enter without notice only if:

(i) there is ~~[reason]~~ reasonable suspicion to believe that the notice will endanger the life or safety of the officer or another person;

(ii) there is probable cause to believe that evidence may be easily or quickly ~~[sequestered or]~~ destroyed; or

(iii) the magistrate, having found probable cause based upon proof provided under oath, that the object of the search may be easily or quickly ~~[sequestered or]~~ destroyed, or having found reason to believe that physical harm may result to any person if notice were given, has directed that the officer need not give notice of authority and purpose before entering the premises to be searched under ~~[Rule 40,]~~ the Rules of Criminal Procedure~~[-]~~; or

(iv) the officer physically observes and documents a previously unknown event or circumstance at the time the warrant is being executed which creates probable cause to believe the object of the search is being destroyed, or creates reasonable suspicion to believe that physical harm may result to any person if notice were given.

(b) The officer shall identify himself or herself and state the purpose for entering the premises as soon as practicable after entering.

(4) An officer executing a warrant under this section may use only that force which is reasonable and necessary to execute the warrant.

(5) An officer executing a warrant under this section shall wear readily identifiable markings, including a badge and vest or clothing with a distinguishing label or other writing which indicates that he or she is a law enforcement officer.

(6) (a) An officer executing a warrant under this section shall comply with the officer's employing agency's body worn camera policy when the officer is equipped with a body worn camera.

(b) The employing agency's policy regarding the use of body worn cameras shall include a provision that an officer executing a warrant under this section shall wear a body worn camera when a

camera is available, except in exigent circumstances where it is not practicable to do so.

[(4)] (7) (a) The officer shall take reasonable precautions in execution of any search warrant to minimize the risks of unnecessarily confrontational or invasive methods which may result in harm to any person.

(b) The officer shall minimize the risk of searching the wrong premises by verifying that the premises being searched is consistent with a particularized description in the search warrant, including such factors as the type of structure, the color, the address, and orientation of the target property in relation to nearby structures as is reasonably necessary.

(8) Notwithstanding any provision in this chapter, a warrant authorizing forcible entry without prior announcement may not be issued under this section, solely for:

(a) the alleged possession or use of a controlled substance; or

(b) the alleged possession of drug paraphernalia as provided in Section 58-37a-3.

CHAPTER 318**S. B. 88**

Passed February 18, 2015

Approved March 30, 2015

Effective May 12, 2015

PUBLIC UTILITIES AMENDMENTS

Chief Sponsor: Kevin T. Van Tassell

House Sponsor: Ken Ivory

LONG TITLE**General Description:**

This bill modifies provisions related to an agreement between an electrical corporation and a municipality.

Highlighted Provisions:

This bill:

- ▶ requires the Public Service Commission to post public notice of an agreement it reviews between an electrical corporation and a municipality; and
- ▶ requires the Public Service Commission to, except under certain conditions, accept, within a certain time, an agreement between an electrical corporation and a municipality.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

54-4-40, as enacted by Laws of Utah 2013, Chapter 242

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

Section 1. Section 54-4-40 is amended to read:**54-4-40. Approval of certain agreements between an electrical corporation and a municipality.**

(1) The commission shall review an agreement entered into between an electrical corporation and a municipality if the electrical corporation is required to obtain commission approval in accordance with Section 10-8-14, 54-3-30, or 54-3-31.

(2) The requirements of Subsection (1) do not confer jurisdiction on the commission to regulate any electric service provided by a municipality.

~~[(3) Unless the commission determines that additional time is warranted and is in the public interest, no]~~

~~[later than 120 days after the day on which an application to approve an agreement described in Subsection (1) is filed by an electrical corporation, the commission shall:]~~

~~[(a) approve the agreement;]~~

~~[(b) approve the agreement subject to conditions imposed by the commission; or]~~

~~[(c) reject the agreement.]~~

(3) The commission shall provide public notice of an agreement described in Subsection (1) no later than three business days after the day on which the commission receives an application to approve the agreement.

(4) An agreement described in Subsection (1) is approved 20 days after the day on which the commission posts the notice described in Subsection (3) unless, before the agreement is approved:

(a) the commission:

(i) determines that additional time is warranted and in the public interest; and

(ii) notifies the parties to the agreement of the commission's determination; or

(b) a person that the agreement affects submits a request to the commission, in writing, that the commission:

(i) hold a public hearing regarding the agreement; or

(ii) provide additional time for the person to investigate the agreement.

CHAPTER 319**S. B. 90**

Passed March 11, 2015
 Approved March 30, 2015
 Effective July 1, 2015

UTAH NAVAJO ROYALTIES AMENDMENTS

Chief Sponsor: Kevin T. Van Tassell
 House Sponsor: Jack R. Draxler
 Cosponsor: David P. Hinkins

LONG TITLE**General Description:**

This bill modifies provisions related to public funds and accounts to provide for a Navajo Trust Fund to replace the Utah Navajo Royalties Holding Fund.

Highlighted Provisions:

This bill:

- ▶ exempts the Navajo Trust Fund from the State Money Management Act;
- ▶ defines terms;
- ▶ creates the Navajo Trust Fund;
- ▶ outlines the duties of the Division of Finance, state treasurer, and state auditor with regard to the fund;
- ▶ provides for the board of trustees of the fund;
- ▶ outlines powers and duties of the board of trustees;
- ▶ provides for the appointment of a trust administrator and, if necessary, the creation of the Office of Trust Administrator;
- ▶ outlines powers and duties of the trust administrator;
- ▶ requires the attorney general to act as legal counsel to the board;
- ▶ provides for consultation with state personnel;
- ▶ addresses expenditures from the fund;
- ▶ creates the Diné Advisory Committee and provides for its duties;
- ▶ repeals provisions related to the Utah Navajo Royalties Holding Fund; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

51-7-2, as last amended by Laws of Utah 2013, Chapter 211

ENACTS:

51-10-101, Utah Code Annotated 1953
 51-10-102, Utah Code Annotated 1953
 51-10-201, Utah Code Annotated 1953
 51-10-202, Utah Code Annotated 1953
 51-10-203, Utah Code Annotated 1953
 51-10-204, Utah Code Annotated 1953
 51-10-205, Utah Code Annotated 1953
 51-10-206, Utah Code Annotated 1953

REPEALS:

51-9-501, as enacted by Laws of Utah 2008, Chapter 202
 51-9-502, as enacted by Laws of Utah 2008, Chapter 202
 51-9-503, as enacted by Laws of Utah 2008, Chapter 202
 51-9-504, as last amended by Laws of Utah 2014, Chapter 71

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

Section 1. Section 51-7-2 is amended to read:**51-7-2. Exemptions from chapter.**

The following funds are exempt from this chapter:

- (1) funds invested in accordance with the participating employees' designation or direction pursuant to a public employees' deferred compensation plan established and operated in compliance with Section 457 of the Internal Revenue Code of 1986, as amended;
- (2) funds of the Workers' Compensation Fund;
- (3) funds of the Utah State Retirement Board;
- (4) funds of the Utah Housing Corporation;
- (5) endowment funds of higher education institutions;
- (6) permanent and other land grant trust funds established pursuant to the Utah Enabling Act and the Utah Constitution;
- (7) the State Post-Retirement Benefits Trust Fund;
- (8) the funds of the Utah Educational Savings Plan; ~~and~~
- (9) funds of the permanent state trust fund created by and operated under Utah Constitution, Article XXII, Section 4[-]; and
- (10) the funds in the Navajo Trust Fund.

Section 2. Section 51-10-101 is enacted to read:**CHAPTER 10. NAVAJO TRUST FUND ACT****Part 1. General Provisions****51-10-101. Title.**

This chapter is known as the "Navajo Trust Fund Act."

Section 3. Section 51-10-102 is enacted to read:**51-10-102. Definitions.**

As used in this chapter:

- (1) "Administrative expenditure" means:
 - (a) an expenditure for professional services;
 - (b) per diem and travel expenses for the board and the Diné Advisory Committee; and
 - (c) expense reimbursements, salaries, and benefits for the trust administrator and the trust administrator's staff.

(2) “Blue Mountain Diné” means the off-reservation Navajo community organization known as the Blue Mountain Diné.

(3) “Board” means the board of trustees created in Section 51-10-202.

(4) “Business enterprise” means a sole proprietorship, partnership, corporation, limited liability company, or other private entity organized to provide goods or services for a profit.

(5) “Diné Advisory Committee” means the committee created in Section 51-10-206.

(6) “Fund” means the Navajo Trust Fund created in Section 51-10-201.

(7) “Income” means the revenues from investments made by the state treasurer of the fund principal.

(8) “Navajos” means San Juan County, Utah, Navajos.

(9) “Office of Trust Administrator” means the office created in Section 51-10-203.

(10) “Principal” means:

(a) the balance of the fund as of July 1, 2015; and

(b) the revenue to the fund from whatever source except income.

(11) “Service provider” means any of the following that provides a good or service to Navajos:

(a) a business enterprise;

(b) a private nonprofit organization; or

(c) a government entity.

(12) “Trust administrator” means the trust administrator selected as provided in Subsection 51-10-202(2).

(13) “Utah Navajo Chapter” means one of the following chapters of the Navajo Nation:

(a) Aneth Chapter;

(b) Mexican Water Chapter;

(c) Naatsis’ áán Chapter;

(d) Oljato Chapter;

(e) Dennehotso Chapter;

(f) Red Mesa Chapter; and

(g) Teec Nos Pos Chapter.

Section 4. Section 51-10-201 is enacted to read:

Part 2. Administration of Navajo Trust Fund

51-10-201. Fund created.

(1) There is created a private-purpose trust fund entitled the “Navajo Trust Fund.”

(2) The fund consists of:

(a) revenue received by the state that represents the 37-1/2% of the net oil royalties from the Aneth Extension of the Navajo Indian Reservation required by Pub. L. No. 72-403, 47 Stat. 141, to be paid to the state;

(b) money received by the trust administrator from a contract executed by:

(i) the trust administrator; or

(ii) the board;

(c) appropriations made to the fund by the Legislature, if any;

(d) income;

(e) money related to litigation, including settlement of litigation, related to the royalties described in Subsection (2)(a);

(f) the balance of the Utah Navajo Royalties Holding Fund as of July 1, 2015, which shall be transferred to the fund; and

(g) other revenue received from other sources.

(3) The trust administrator shall account for the receipt and expenditures of fund money in accordance with Subsection 51-10-204(1)(m) and the policies and guidance of the Division of Finance.

(4) (a) (i) The state treasurer shall invest the fund money with the primary goal of providing for the stability, income, and growth of the principal.

(ii) Nothing in this section requires a specific outcome in investing.

(iii) The state treasurer may deduct any administrative costs incurred in managing fund assets from earnings before distributing them.

(iv) (A) The state treasurer may employ professional asset managers to assist in the investment of assets of the fund.

(B) The state treasurer may only provide compensation to asset managers from earnings generated by the fund’s investments.

(v) The state treasurer shall invest and manage the fund assets as a prudent investor would, by:

(A) considering the purposes, terms, distribution requirements, and other circumstances of the fund; and

(B) exercising reasonable care, skill, and caution in order to meet the standard of care of a prudent investor.

(vi) In determining whether or not the state treasurer has met the standard of care of a prudent investor, the judge or finder of fact shall:

(A) consider the state treasurer’s actions in light of the facts and circumstances existing at the time of the investment decision or action, and not by hindsight; and

(B) evaluate the state treasurer’s investment and management decisions respecting individual assets not in isolation, but in the context of a fund portfolio

as a whole as a part of an overall investment strategy that has risk and return objectives reasonably suited to the fund.

(b) (i) The fund shall earn interest.

(ii) The state treasurer shall deposit the interest or other revenue earned from investment of the fund into the fund.

(5) The state auditor shall:

(a) conduct an annual audit of the fund's finances, internal controls, and compliance with statutes, rules, and policies in accordance with Title 67, Chapter 3, Auditor; and

(b) deliver a copy of the annual audit report to the:

(i) board;

(ii) trust administrator;

(iii) Diné Advisory Committee;

(iv) Office of Legislative Research and General Counsel for presentation to the Native American Legislative Liaison Committee, created in Section 36-22-1;

(v) governor's office;

(vi) Division of Indian Affairs;

(vii) Navajo Nation;

(viii) United States Bureau of Indian Affairs; and

(ix) United States Secretary of the Interior.

Section 5. Section 51-10-202 is enacted to read:

51-10-202. Board of trustees of the fund -- Trust administrator.

(1) (a) There is created a board of trustees of the fund composed of the following three members:

(i) the state treasurer;

(ii) the director of the Division of Finance; and

(iii) the director of the Governor's Office of Management and Budget or the director's designee.

(b) The state treasurer is chair of the board.

(c) Three members of the board is a quorum.

(d) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(i) Section 63A-3-106;

(ii) Section 63A-3-107; and

(iii) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(2) (a) The board shall:

(i) contract with a person to act as trust administrator in accordance with Title 63G, Chapter 6a, Utah Procurement Code, and when not provided for by this chapter, define the trust administrator's duties; or

(ii) if unable to find a qualified person under Subsection (2)(a)(i) to act as trust administrator for a reasonable cost, hire a qualified person to act as trust administrator and, when not provided for in this chapter, define the trust administrator's duties.

(b) If the board hires a trust administrator under Subsection (2)(a)(ii), the board may hire or authorize the trust administrator to hire other persons necessary to assist the trust administrator and the board to perform the duties required by this chapter.

(3) The board shall:

(a) on behalf of the state, act as trustee of the fund and exercise the state's fiduciary responsibilities;

(b) meet at least once every other month;

(c) review and approve the policies, projections, rules, criteria, procedures, forms, standards, and performance goals established by the trust administrator;

(d) review and approve the fund budget prepared by the trust administrator;

(e) review the progress reports from programs financed by the fund;

(f) review financial records of the fund, including fund receipts, expenditures, and investments; and

(g) do any other thing necessary to perform the state's fiduciary obligations under the fund.

(4) The attorney general shall:

(a) act as legal counsel and provide legal representation to the board; and

(b) attend or direct an attorney from the attorney general's office to attend each meeting of the board.

(5) The board may consult with knowledgeable state personnel to advise the board on policy and technical matters.

Section 6. Section 51-10-203 is enacted to read:

51-10-203. Office of Trust Administrator.

(1) If the board hires a trust administrator under Subsection 51-10-202(2)(a)(ii), there is created an Office of Trust Administrator.

(2) The trust administrator shall administer the office.

Section 7. Section 51-10-204 is enacted to read:

51-10-204. Trust administrator duties.

(1) Under the direction of the board, the trust administrator shall:

(a) review the documents and decisions highlighting the history of the fund, including:

(i) the Nelson report, prepared as part of the Bigman v. Utah Navajo Development Council, Inc. C77-0031;

(ii) the November 1991 performance audit of the fund by the legislative auditor general;

(iii) Sakezzie v. Utah Indian Affairs Commission, 198 F. Supp. 218 (1961);

(iv) Sakezzie v. Utah Indian Affairs Commission, 215 F. Supp. 12 (1963);

(v) the September 8, 1977, consent decree, the stipulation dated November 29, 1984, modifying the consent decree, and the court's memorandum opinion dated September 25, 1978, in Bigman v. Utah Navajo Development Council, Inc. C77-0031; and

(vi) rulings related to Pelt v. Utah;

(b) review all potential sources of fund revenues;

(c) prepare annual projections of money that will be available for Navajo programs;

(d) identify the property owned by the fund;

(e) establish and maintain a record system and retention schedule to retain records relating to the fund's property and operations, including:

(i) records related to the ethics and conflict policy developed under Subsection (2)(c);

(ii) requests for proposals and proposals received;

(iii) contracts awarded;

(iv) project progress and completion reports;

(v) invoices; and

(vi) purchasing records;

(f) review the existing and proposed programs financed by the fund;

(g) evaluate whether the programs described in Subsection (1)(f) are the most practical and cost-efficient means to provide the desired benefit to Navajos;

(h) consult regularly with the administrators of the programs financed by the fund to obtain progress reports on the programs;

(i) attend all meetings of:

(i) the Diné Advisory Committee; and

(ii) the board;

(j) certify that the expenditures of the fund:

(i) comply with the state's fiduciary responsibilities as trustee of the fund; and

(ii) are consistent with this section;

(k) make an annual report:

(i) to the:

(A) board;

(B) governor; and

(C) Native American Legislative Liaison Committee, created in Section 36-22-1; and

(ii) that:

(A) identifies the source and amount of the revenue received by the fund;

(B) identifies the recipient, purpose, and amount of the expenditures from the fund;

(C) identifies specifically each of the fund's investments and the actual return and the rate of return from each investment; and

(D) recommends any necessary statutory changes to improve administration of the fund or to protect the state from liability as trustee;

(l) submit a written annual report to the:

(i) Division of Indian Affairs;

(ii) Navajo Nation;

(iii) United States Bureau of Indian Affairs; and

(iv) United States Secretary of the Interior;

(m) establish, in conjunction with the state treasurer and the Division of Finance, appropriate accounting practices for the fund receipts, expenditures, and investments according to generally accepted accounting principles;

(n) provide summary records of fund receipts, expenditures, and investments to the board and to the Diné Advisory Committee at each of their meetings;

(o) pay administrative expenses from the fund;

(p) report monthly to the board about:

(i) the trust administrator's activities; and

(ii) the status of the fund; and

(q) call additional meetings of the Diné Advisory Committee when necessary.

(2) In conjunction with the Diné Advisory Committee and under the direction of the board, the trust administrator shall:

(a) before the beginning of each fiscal year, establish a list of the needs of Navajos for that year to be used for the annual budget;

(b) before the beginning of each fiscal year, develop and approve an annual budget for the fund;

(c) develop an ethics and conflict of interest policy that emphasizes the need to avoid even the appearance of conflict of interest or impropriety that is to apply to:

(i) the trust administrator;

(ii) the trust administrator's staff; and

(iii) the Diné Advisory Committee;

(d) require the trust administrator, each of the trust administrator's staff, and each member of the Diné Advisory Committee to sign and keep on file written documentation that acknowledges:

(i) their receipt of the ethics and conflict of interest policy described in Subsection (2)(c); and

(ii) their willingness to abide by the ethics and conflict of interest policy described in Subsection (2)(c); and

(e) make expenditures from the fund:

(i) “for the health, education, and general welfare of the Navajo Indians residing in San Juan County” as required by:

- (A) Pub. L. No. 72-403, 47 Stat. 1418 (1933);
 - (B) Pub. L. No. 90-306, 82 Stat. 121 (1968); and
 - (C) this chapter; and
- (ii) including expenditure for roads and utilities.

(3) The trust administrator, under direction of the board, may:

- (a) contract with public and private entities; and
- (b) unless prohibited by law or this chapter, acquire and hold money and other property received in the administration of the fund.

Section 8. Section 51-10-205 is enacted to read:

51-10-205. Expenditures from the fund.

(1) (a) Under the direction of the board, the trust administrator may make expenditures from the fund in accordance with Subsection 51-10-204(2)(e).

(b) The board may enter into a cost sharing agreement with one or more governmental entities if the cost sharing agreement is recommended by at least four of the Utah Navajo Chapters.

(2) (a) Before making any expenditures from the fund to a service provider, the trust administrator shall:

- (i) comply with Title 63G, Chapter 6a, Utah Procurement Code; and
- (ii) review and approve the service provider’s entire budget.

(b) The trust administrator may require that a service provider modify its budget or meet other conditions precedent established by the trust administrator before the service provider may receive expenditures from the fund.

(3) The trust administrator shall make an expenditure from the fund that is not an administrative expenditure by:

- (a) preparing a written document that:
 - (i) defines specifically how the expenditure from the fund may be used;
 - (ii) establishes any conditions precedent to use of the expenditure; and
 - (iii) requires the recipient of fund money to provide the trust administrator with progress reports detailing how the money has been expended; and
- (b) obtaining the signature of the recipient on that document before releasing any money from the fund.

(4) The trust administrator shall:

- (a) make rules in accordance with Subsection (6) that:
 - (i) establish policies and criteria for expenditure of fund money; and
 - (ii) establish performance evaluation criteria with which to evaluate the success of expenditures from the fund after they are made;
- (b) develop procedures, forms, and standards for persons seeking distribution of fund money that implement the policies and criteria established by rule;
- (c) evaluate the requests for expenditures of fund money against:
 - (i) the policies and criteria established by rule; and
 - (ii) the requestor’s success in meeting performance evaluation criteria and goals in any prior receipt of fund money;
- (d) develop performance goals for each fund expenditure that implement the performance evaluation criteria established in rule; and
- (e) monitor and evaluate each fund expenditure based upon the performance goals and performance evaluation criteria created under this Subsection (4).

(a) make rules in accordance with Subsection (6) that:

(i) establish policies and criteria for expenditure of fund money; and

(ii) establish performance evaluation criteria with which to evaluate the success of expenditures from the fund after they are made;

(b) develop procedures, forms, and standards for persons seeking distribution of fund money that implement the policies and criteria established by rule;

(c) evaluate the requests for expenditures of fund money against:

(i) the policies and criteria established by rule; and

(ii) the requestor’s success in meeting performance evaluation criteria and goals in any prior receipt of fund money;

(d) develop performance goals for each fund expenditure that implement the performance evaluation criteria established in rule; and

(e) monitor and evaluate each fund expenditure based upon the performance goals and performance evaluation criteria created under this Subsection (4).

(5) The trust administrator may expend fund money for per diem and expenses incurred by the Diné Advisory Committee in performance of official duties.

(6) The trust administrator shall make a rule described in Subsection (4)(a):

(a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(b) with the input and recommendation of the Diné Advisory Committee; and

(c) with the approval of the board.

Section 9. Section 51-10-206 is enacted to read:

51-10-206. Diné Advisory Committee.

(1) There is created the Diné Advisory Committee.

(2) (a) The governor, with the consent of the Senate, shall appoint nine members to the Diné Advisory Committee.

(b) In making an appointment under Subsection (2)(a), the governor shall ensure that the Diné Advisory Committee includes:

(i) two registered members of the Aneth Chapter of the Navajo Nation who reside in San Juan County, Utah;

(ii) one registered member of the Blue Mountain Diné who resides in San Juan County, Utah;

(iii) one registered member of the Mexican Water Chapter of the Navajo Nation who resides in San Juan County, Utah;

(iv) one registered member of the Naatsis' áán Chapter of the Navajo Nation who resides in San Juan County, Utah;

(v) subject to Subsection (4), two members who reside in San Juan County, Utah, one of whom is a registered member of the Oljato Chapter of the Navajo Nation, and one of whom is a registered member of either the Oljato Chapter or the Dennehotso Chapter of the Navajo Nation;

(vi) one registered member of the Red Mesa Chapter of the Navajo Nation who resides in San Juan County, Utah; and

(vii) one registered member of the Teec Nos Pos Chapter of the Navajo Nation who resides in San Juan County, Utah.

(3) (a) (i) Each chapter of the Utah Navajo Chapter, except the Aneth, Oljato, and Dennehotso chapters, shall submit to the governor the names of three nominees to the Diné Advisory Committee chosen by the chapter.

(ii) The governor shall select one of the three persons whose names are submitted under Subsection (3)(a)(i) as that chapter's representative on the Diné Advisory Committee.

(b) (i) The Blue Mountain Diné shall submit to the governor the names of three nominees to the Diné Advisory Committee.

(ii) The governor shall select one of the three persons whose names are submitted under Subsection (3)(b)(i) as the Blue Mountain Diné representative on the Diné Advisory Committee.

(c) (i) The Aneth Chapter shall submit to the governor the names of six nominees to the Diné Advisory Committee chosen by the chapter.

(ii) The governor shall select two of the six persons whose names are submitted under Subsection (3)(c)(i) to be the Aneth Chapter's representatives on the Diné Advisory Committee.

(d) (i) The Oljato Chapter shall submit to the governor the names of six nominees to the Diné Advisory Committee chosen by the chapter.

(ii) One of the six names submitted under Subsection (3)(d)(i) may be a registered member of the Dennehotso Chapter.

(iii) The governor shall select two of the six persons whose names are submitted under Subsection (3)(d)(i) to be the representatives on the Diné Advisory Committee of the Oljato and Dennehotso chapters.

(e) Before submitting a name to the governor, a Utah Navajo Chapter and the Blue Mountain Diné shall ensure that the individual's whose name is submitted:

(i) is an enrolled member of the Navajo Nation;

(ii) resides in San Juan County, Utah;

(iii) is 21 years of age or older;

(iv) is not an officer of the chapter;

(v) has not been convicted of a felony; and

(vi) is not currently, or within the last 12 months has not been, an officer, director, employee, or contractor of a service provider that solicits, accepts, or receives a benefit from an expenditure of:

(A) the Division of Indian Affairs; or

(B) the fund.

(4) If both members appointed under Subsection (2)(b)(vi) are registered members of the Oljato Chapter, the two members shall attend Dennehotso Chapter meetings as practicable.

(5) (a) Except as provided in Subsection (5)(b) and other than the amount authorized by this section for Diné Advisory Committee member expenses, a person appointed to the Diné Advisory Committee may not solicit, accept, or receive any benefit from an expenditure of:

(i) the Division of Indian Affairs;

(ii) the fund; or

(iii) the Division of Indian Affairs or fund as an officer, director, employee, or contractor of a service provider that solicits, accepts, or receives a benefit from the expenditure of:

(A) the Division of Indian Affairs; or

(B) the fund.

(b) A member of the Diné Advisory Committee may receive a benefit from an expenditure of the fund if:

(i) when the benefit is discussed by the Diné Advisory Committee:

(A) the member discloses that the member may receive the benefit;

(B) the member physically leaves the room in which the Diné Advisory Committee is discussing the benefit; and

(C) the Diné Advisory Committee approves the member receiving the benefit by a unanimous vote of the members present at the meeting discussing the benefit;

(ii) a Utah Navajo Chapter requests that the benefit be received by the member;

(iii) the member is in compliance with the ethics and conflict of interest policy required under Subsection 51-10-204(2)(c);

(iv) (A) the expenditure from the fund is made in accordance with this chapter; and

(B) the benefit is no greater than the benefit available to members of the Navajo Nation residing in San Juan County, Utah; and

(v) the member is not receiving the benefit as an officer, director, employee, or contractor of a service provider.

(6) (a) (i) Except as required in Subsection (6)(a)(ii), as terms of current committee members expire, the governor shall appoint each new

member or reappointed member to a four-year term.

(ii) The governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of committee members are staggered so that approximately half of the Diné Advisory Committee is appointed every two years.

(b) Except as provided in Subsection (6)(c), a committee member shall serve until the committee member's successor is appointed and qualified.

(c) If a committee member is absent from three consecutive committee meetings, or if the committee member violates the ethical or conflict of interest policies established by statute or the Diné Advisory Committee:

(i) the committee member's appointment is terminated;

(ii) the position is vacant; and

(iii) the governor shall appoint a replacement.

(d) When a vacancy occurs in the membership for any reason, the governor shall appoint a replacement for the unexpired term according to the procedures of this section.

(7) (a) The committee members shall select a chair and vice chair from committee membership each two years subsequent to the appointment of new committee members.

(b) Five members of the Diné Advisory Committee is a quorum for the transaction of business.

(c) The Diné Advisory Committee shall:

(i) comply with Title 52, Chapter 4, Open and Public Meetings Act;

(ii) ensure that its meetings are held at or near:

(A) a chapter house or meeting hall of a Utah Navajo Chapter; or

(B) other places in Utah that the Diné Advisory Committee considers practical and appropriate; and

(iii) ensure that its meetings are public hearings at which a resident of San Juan County, Utah, may appear and speak.

(8) A committee member may not receive compensation or benefits for the committee member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(9) The trust administrator shall staff the Diné Advisory Committee.

(10) The Diné Advisory Committee shall advise the trust administrator about the expenditure of fund money.

Section 10. Repealer.

This bill repeals:

Section 51-9-501, Title.

Section 51-9-502, Definitions.

Section 51-9-503, Purpose statement.

Section 51-9-504, Utah Navajo royalties and related issues.

Section 11. Effective date.

This bill takes effect on July 1, 2015.

CHAPTER 320**S. B. 92**

Passed February 25, 2015

Approved March 30, 2015

Effective May 12, 2015

DENTAL PRACTICE ACT AMENDMENTS

Chief Sponsor: Peter C. Knudson
House Sponsor: Michael S. Kennedy

LONG TITLE**General Description:**

This bill modifies provisions related to the licensure of dentists.

Highlighted Provisions:

This bill:

- ▶ creates an exemption to licensure requirements for the practice of dentistry under certain circumstances.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

58-69-301, as last amended by Laws of Utah 2012, Chapter 349

58-69-302, as last amended by Laws of Utah 2012, Chapter 349

58-69-306, as last amended by Laws of Utah 2012, Chapter 209

63I-1-258, as last amended by Laws of Utah 2014, Chapters 25, 72, and 181

REPEALS:

58-69-302.5, as enacted by Laws of Utah 2012, Chapter 349

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

Section 1. Section 58-69-301 is amended to read:**58-69-301. License required -- License classifications -- Anesthesia and analgesia permits.**

(1) A license is required to engage in the practice of dentistry or dental hygiene except as specifically provided in Section 58-69-306 or 58-1-307.

(2) The division shall issue to individuals qualified under the provisions of this chapter a license in the classification:

(a) dentist; or

~~[(b) dentist educator license; or]~~

~~[(e)]~~ (b) dental hygienist.

(3) A permit is required to engage in administration of anesthesia or analgesia in the practice of dentistry or dental hygiene.

(4) The division in collaboration with the board shall establish by rule:

(a) the classifications of anesthesia and analgesia permits and the scope of practice permitted under each permit; and

(b) the qualifications for each classification of anesthesia and analgesia permit.

Section 2. Section 58-69-302 is amended to read:**58-69-302. Qualifications -- Licensure as a dentist -- Licensure as a dental hygienist.**

(1) An applicant for licensure as a dentist, except as ~~[set forth]~~ provided in Subsection (2) ~~[and Section 58-69-302.5]~~, shall:

(a) submit an application in a form as prescribed by the division;

(b) pay a fee as determined by the department under Section 63J-1-504;

(c) be of good moral character;

(d) provide satisfactory documentation of having successfully completed a program of professional education preparing an individual as a dentist as evidenced by having received an earned doctor's degree in dentistry from a dental school accredited by the Commission on Dental Accreditation of the American Dental Association;

(e) pass the National Board Dental Examinations as administered by the Joint Commission on National Dental Examinations of the American Dental Association;

(f) pass any one of the regional dental clinical licensure examinations unless the division, in collaboration with the board, determines that:

(i) the examination is clearly inferior to the Western Regional Examination Board; and

(ii) reliance upon the examination poses an unjustifiable threat to public health and safety;

(g) pass any other examinations regarding applicable law, rules, or ethics as established by division rule made in collaboration with the board;

(h) be able to read, write, speak, understand, and be understood in the English language and demonstrate proficiency to the satisfaction of the board if requested by the board; and

(i) meet with the board if requested by the board or division for the purpose of examining the applicant's qualifications for licensure.

(2) An applicant for licensure as a dentist qualifying under the endorsement provision of Section 58-1-302 shall:

(a) be currently licensed in good standing in another jurisdiction set forth in Section 58-1-302;

(b) (i) document having met all requirements for licensure under Subsection (1) except, an applicant having received licensure in another state or jurisdiction prior to the year when the National Board Dental Examinations were first administered, shall document having passed a state administered examination acceptable to the division in collaboration with the board; or

(ii) document having obtained licensure in another state or jurisdiction upon which licensure by endorsement is based by meeting requirements which were equal to licensure requirements in Utah at the time the applicant obtained licensure in the other state or jurisdiction; and

(c) document having been successfully engaged in practice as a dentist for not less than 6,000 hours in the five years immediately preceding the date of application for licensure.

(3) An applicant for licensure as a dental hygienist, except as set forth in Subsection (4), shall:

(a) submit an application in a form as prescribed by the division;

(b) pay a fee as determined by the department pursuant to Section 63J-1-504;

(c) be of good moral character;

(d) be a graduate holding a certificate or degree in dental hygiene from a school accredited by the Commission on Dental Accreditation of the American Dental Association;

(e) pass the National Board Dental Hygiene Examination as administered by the Joint Commission on National Dental Examinations of the American Dental Association;

(f) pass an examination consisting of practical demonstrations in the practice of dental hygiene and written or oral examination in the theory and practice of dental hygiene as established by division rule made in collaboration with the board;

(g) pass any other examinations regarding applicable law, rules, and ethics as established by rule by division rule made in collaboration with the board;

(h) be able to read, write, speak, understand, and be understood in the English language and demonstrate proficiency to the satisfaction of the board if requested by the board; and

(i) meet with the board if requested by the board or division for the purpose of examining the applicant's qualifications for licensure.

(4) An applicant for licensure as a dental hygienist qualifying under the endorsement provision of Section 58-1-302 shall:

(a) be currently licensed in another jurisdiction set forth in Section 58-1-302;

(b) (i) document having met all requirements for licensure under Subsection (3) except, an applicant having received licensure in another state or jurisdiction prior to 1962, the year when the National Board Dental Hygiene Examinations were first administered, shall document having passed a state administered examination acceptable to the division in collaboration with the board; or

(ii) document having obtained licensure in another state or jurisdiction upon which licensure

by endorsement is based by meeting requirements which were equal to licensure requirements in Utah at the time the applicant obtained licensure in the other state or jurisdiction; and

(c) document having been successfully engaged in practice as a dental hygienist for not less than 2,000 hours in the two years immediately preceding the date of application for licensure.

Section 3. Section 58-69-306 is amended to read:

58-69-306. Exemptions from licensure.

In addition to the exemptions from licensure in Section 58-1-307:

(1) an individual performing mechanical work on inert matter in a laboratory pursuant to a written prescription from a licensed dentist may engage in acts and practices included in the practice of dentistry or dental hygiene without being licensed under this chapter; ~~and~~

(2) an individual licensed in good standing as a dentist in another state, with no licensing action pending and no less than two years of professional experience, may engage in the practice of dentistry without being licensed under this chapter if:

(a) the services are rendered as a public service and for a noncommercial purpose;

(b) no fee or other consideration of value is charged, received, expected, or contemplated for the services rendered beyond an amount necessary to cover the proportionate cost of malpractice insurance; and

(c) the individual does not otherwise engage in unlawful or unprofessional conduct~~[-];~~ and

(3) an individual who is appointed to a faculty position at an accredited dental school may practice dentistry within the scope of the individual's employment at the accredited dental school or at a hospital or clinic affiliated with the accredited dental school if the individual:

(a) holds a license to practice dentistry in another jurisdiction;

(b) is permitted to the work in the United States under federal immigration law; and

(c) (i) (A) successfully completes Part I and Part II of the National Board Dental Examination; and

(B) holds a degree in a dental specialty area, as defined by the division by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(ii) (A) holds a certificate, master's degree, or doctorate degree from an accredited higher education or dental education institution in an area that supports dental education; and

(B) practices only under the supervision of an individual licensed as a dentist under this chapter;
or

(iii) (A) has established expertise in an area of dentistry that is recognized by a United States

higher education or dental education institution or by a national professional board or association; and

(B) practices only under the supervision of an individual licensed as a dentist under this chapter.

Section 4. Section 63I-1-258 is amended to read:

63I-1-258. Repeal dates, Title 58.

(1) Title 58, Chapter 13, Health Care Providers Immunity from Liability Act, is repealed July 1, 2016.

(2) Title 58, Chapter 15, Health Facility Administrator Act, is repealed July 1, 2015.

(3) Title 58, Chapter 20a, Environmental Health Scientist Act, is repealed July 1, 2018.

(4) Section 58-37-4.3 is repealed July 1, 2016.

(5) Title 58, Chapter 40, Recreational Therapy Practice Act, is repealed July 1, 2023.

(6) Title 58, Chapter 41, Speech-Language Pathology and Audiology Licensing Act, is repealed July 1, 2019.

(7) Title 58, Chapter 42a, Occupational Therapy Practice Act, is repealed July 1, 2015.

(8) Title 58, Chapter 46a, Hearing Instrument Specialist Licensing Act, is repealed July 1, 2023.

(9) Title 58, Chapter 47b, Massage Therapy Practice Act, is repealed July 1, 2024.

~~[(10) Section 58-69-302.5 is repealed on July 1, 2015.]~~

~~[(11)]~~ (10) Title 58, Chapter 72, Acupuncture Licensing Act, is repealed July 1, 2017.

Section 5. Repealer.

This bill repeals:

Section 58-69-302.5, Licensing of dentist-educators.

CHAPTER 321**S. B. 102**

Passed March 6, 2015

Approved March 30, 2015

Effective May 12, 2015

ONLINE PHARMACY AMENDMENTS

Chief Sponsor: Curtis S. Bramble
House Sponsor: Michael S. Kennedy

LONG TITLE**General Description:**

This bill amends the Online Prescribing, Dispensing, and Facilitation Licensing Act.

Highlighted Provisions:

This bill:

- ▶ amends certain provisions related to online prescribing and dispensing of drugs;
- ▶ amends the definition of “unprofessional conduct”; and
- ▶ deletes outdated, transitional language.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

58-83-306, as enacted by Laws of Utah 2010, Chapter 180

58-83-502, as last amended by Laws of Utah 2014, Chapter 72

REPEALS:

58-83-304, as enacted by Laws of Utah 2010, Chapter 180

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

Section 1. Section 58-83-306 is amended to read:**58-83-306. Drugs approved for online prescribing, dispensing, and facilitation -- Delivery of prescription drugs.**

(1) An online prescriber may only prescribe, an online contract pharmacy may only dispense, and an Internet facilitator may only facilitate the prescribing and dispensing of, non-controlled, legend drugs [~~that have been~~]:

(a) that have been approved by the Food and Drug Administration;

(b) that are prescribed to treat the condition for which the drug was approved[~~;~~ ~~and~~], within the drug manufacturer’s guidelines;

(c) that are specifically approved by the division for online prescribing by administrative rule adopted in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act[-];

(d) that are prescribed for a person who is:

(i) 18 years of age or older; or

(ii) at least 16 years of age;

(A) if permitted by the state or country in which the patient will receive the drug;

(B) with parental consent, if required by the state or country in which the patient will receive the drug; and

(C) only if the prescription is for a hormonal based contraceptive; and

(e) to a person who is located in another country, if the country is designated by the division, by administrative rule, as a country with a regulatory framework for prescribing and dispensing of drugs.

(2) If, after January 1, 2010, the Food and Drug Administration issues a clinical black box warning with respect to any drug approved by the board under Subsection (1), the division shall determine what action, if any, is necessary to protect the public health or welfare as a result of the black box warning.

Section 2. Section 58-83-502 is amended to read:**58-83-502. Unprofessional conduct.**

“Unprofessional conduct” includes, in addition to the definition in Section 58-1-501 and as may be further defined by administrative rule:

(1) except as provided in Section 58-83-306, online prescribing, dispensing, or facilitation with respect to a person under the age of 18 years;

(2) using the name or official seal of the state, the Utah Department of Commerce, or the Utah Division of Occupational and Professional Licensing, or their boards, in an unauthorized manner;

(3) failing to respond promptly to a request by the division for information including:

(a) an audit of the website; or

(b) records of the online prescriber, the Internet facilitator, or the online contract pharmacy;

(4) using an online prescriber, online contract pharmacy, or Internet facilitator without approval of the division;

(5) failing to inform a patient of the patient’s freedom of choice in selecting who will dispense a prescription in accordance with Subsection 58-83-305(1)(n);

(6) failing to keep the division informed of the name and contact information of the Internet facilitator or online contract pharmacy; and

(7) violating the dispensing and labeling requirements of Chapter 17b, Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy.

Section 3. Repealer.

This bill repeals:

Section 58-83-304, Existing written agreements for online prescribing -- Pending applications.

CHAPTER 322**S. B. 103**

Passed February 26, 2015

Approved March 30, 2015

Effective May 12, 2015

CHILD WELFARE AMENDMENTS

Chief Sponsor: Wayne A. Harper

House Sponsor: Paul Ray

LONG TITLE**General Description:**

This bill amends provisions of the Utah Code related to child welfare.

Highlighted Provisions:

This bill:

- ▶ amends provisions related to a primary permanency plan and a concurrent permanency plan;
- ▶ adds a child interview to the definition of "record" for purposes of the Public Records Management Act;
- ▶ repeals a provision in the Adoption Act related to the Division of Child and Family Services;
- ▶ includes uncodified language directing the Child Welfare Legislative Oversight Panel to study reporting of child abuse and neglect; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

62A-4a-205, as last amended by Laws of Utah 2011, Chapters 158, 167, and 233

62A-4a-205.6, as last amended by Laws of Utah 2013, Chapter 438

62A-4a-607, as last amended by Laws of Utah 2008, Chapter 3

63A-12-100.5, as last amended by Laws of Utah 2011, Chapter 265

78A-6-312, as last amended by Laws of Utah 2014, Chapter 35

78A-6-314, as last amended by Laws of Utah 2014, Chapter 35

78B-6-141, as last amended by Laws of Utah 2012, Chapter 340

REPEALS:

78A-6-511.1, as enacted by Laws of Utah 2013, Chapter 416

78B-6-135, as last amended by Laws of Utah 2012, Chapter 340

Uncodified Material Affected:

ENACTS UNCODIFIED MATERIAL

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

Section 1. Section 62A-4a-205 is amended to read:

62A-4a-205. Child and family plan -- Parent-time.

(1) No more than 45 days after a child enters the temporary custody of the division, the child's child and family plan shall be finalized.

(2) (a) The division may use an interdisciplinary team approach in developing each child and family plan.

(b) The interdisciplinary team described in Subsection (2)(a) may include representatives from the following fields:

- (i) mental health;
- (ii) education; and
- (iii) if appropriate, law enforcement.

(3) (a) The division shall involve all of the following in the development of a child's child and family plan:

(i) both of the child's natural parents, unless the whereabouts of a parent are unknown;

(ii) the child;

(iii) the child's foster parents;

(iv) if appropriate, the child's stepparent; and

(v) the child's guardian ad litem, if one has been appointed by the court.

(b) In relation to all information considered by the division in developing a child and family plan, additional weight and attention shall be given to the input of the child's natural and foster parents upon their involvement pursuant to Subsections (3)(a)(i) and (iii).

(c) (i) The division shall make a substantial effort to develop a child and family plan with which the child's parents agree.

(ii) If a parent does not agree with a child and family plan:

(A) the division shall strive to resolve the disagreement between the division and the parent; and

(B) if the disagreement is not resolved, the division shall inform the court of the disagreement.

(4) A copy of the child and family plan shall, immediately upon completion, or as soon as reasonably possible thereafter, be provided to the:

(a) guardian ad litem;

(b) child's natural parents; and

(c) child's foster parents.

(5) Each child and family plan shall:

(a) specifically provide for the safety of the child, in accordance with federal law; and

(b) clearly define what actions or precautions will, or may be, necessary to provide for the health, safety, protection, and welfare of the child.

(6) The child and family plan shall set forth, with specificity, at least the following:

(a) the reason the child entered into the custody of the division;

- (b) documentation of the:
- (i) reasonable efforts made to prevent placement of the child in the custody of the division; or
- (ii) emergency situation that existed and that prevented the reasonable efforts described in Subsection (6)(b)(i), from being made;
- (c) the primary permanency [goal] plan for the child and the reason for selection of that [goal] plan;
- (d) the concurrent permanency [goal] plan for the child and the reason for the selection of that [goal] plan;
- (e) if the plan is for the child to return to the child's family:
- (i) specifically what the parents must do in order to enable the child to be returned home;
- (ii) specifically how the requirements described in Subsection (6)(e)(i) may be accomplished; and
- (iii) how the requirements described in Subsection (6)(e)(i) will be measured;
- (f) the specific services needed to reduce the problems that necessitated placing the child in the division's custody;
- (g) the name of the person who will provide for and be responsible for case management;
- (h) subject to Subsection (10), a parent-time schedule between the natural parent and the child;
- (i) subject to Subsection (7), the health and mental health care to be provided to address any known or diagnosed mental health needs of the child;
- (j) if residential treatment rather than a foster home is the proposed placement, a requirement for a specialized assessment of the child's health needs including an assessment of mental illness and behavior and conduct disorders; and
- (k) social summaries that include case history information pertinent to case planning.
- (7) (a) Subject to Subsection (7)(b), in addition to the information required under Subsection (6)(i), the plan shall include a specialized assessment of the medical and mental health needs of a child, if the child:
- (i) is placed in residential treatment; and
- (ii) has medical or mental health issues that need to be addressed.
- (b) Notwithstanding Subsection (7)(a), a parent shall retain the right to seek a separate medical or mental health diagnosis of the parent's child from a licensed practitioner of the parent's choice.
- (8) (a) Each child and family plan shall be specific to each child and the child's family, rather than general.
- (b) The division shall train its workers to develop child and family plans that comply with:

- (i) federal mandates; and

(ii) the specific needs of the particular child and the child's family.

(c) All child and family plans and expectations shall be individualized and contain specific time frames.

(d) Subject to Subsection (8)(h), child and family plans shall address problems that:

(i) keep a child in placement; and

(ii) keep a child from achieving permanence in the child's life.

(e) Each child and family plan shall be designed to minimize disruption to the normal activities of the child's family, including employment and school.

(f) In particular, the time, place, and amount of services, hearings, and other requirements ordered by the court in the child and family plan shall be designed, as much as practicable, to help the child's parents maintain or obtain employment.

(g) The child's natural parents, foster parents, and where appropriate, stepparents, shall be kept informed of and supported to participate in important meetings and procedures related to the child's placement.

(h) For purposes of Subsection (8)(d), a child and family plan may only include requirements that:

(i) address findings made by the court; or

(ii) (A) are requested or consented to by a parent or guardian of the child; and

(B) are agreed to by the division and the guardian ad litem.

(9) (a) Except as provided in Subsection (9)(b), with regard to a child who is three years of age or younger, if the [goal] plan is not to return the child home, the primary permanency plan for that child shall be adoption.

(b) Notwithstanding Subsection (9)(a), if the division documents to the court that there is a compelling reason that adoption, reunification, guardianship, and a placement described in Subsection 78A-6-306(6)(e) are not in the child's best interest, the court may order another planned permanent living arrangement in accordance with federal law.

(10) (a) Except as provided in Subsection (10)(b), parent-time may only be denied by a court order issued pursuant to Subsections 78A-6-312(3), (6), and (7).

(b) Notwithstanding Subsection (10)(a), the person designated by the division or a court to supervise a parent-time session may deny parent-time for that session if the supervising person determines that, based on the parent's condition, it is necessary to deny parent-time in order to:

(i) protect the physical safety of the child;

(ii) protect the life of the child; or

(iii) consistent with Subsection (10)(c), prevent the child from being traumatized by contact with the parent.

(c) In determining whether the condition of the parent described in Subsection (10)(b) will traumatize a child, the person supervising the parent-time session shall consider the impact that the parent's condition will have on the child in light of:

- (i) the child's fear of the parent; and
- (ii) the nature of the alleged abuse or neglect.

(11) The division shall consider visitation with their grandparents for children in state custody if the division determines visitation to be in the best interest of the child and:

(a) there are no safety concerns regarding the behavior or criminal background of the grandparents;

(b) allowing visitation would not compete with or undermine the reunification [goals] plan;

(c) there is a substantial relationship between the grandparents and children; and

(d) the visitation will not unduly burden the foster parents.

Section 2. Section 62A-4a-205.6 is amended to read:

62A-4a-205.6. Adoptive placement time frame -- Contracting with agencies.

(1) With regard to a child who has a primary permanency [goal] plan of adoption or for whom a final plan for pursuing termination of parental rights has been approved in accordance with Section 78A-6-314, the division shall make intensive efforts to place the child in an adoptive home within 30 days of the earlier of:

- (a) approval of the final plan; or
- (b) establishment of the primary permanency [goal] plan.

(2) If within the time periods described in Subsection (1) the division is unable to locate a suitable adoptive home, it shall contract with licensed child placing agencies to search for an appropriate adoptive home for the child, and to place the child for adoption. The division shall comply with the requirements of Section 62A-4a-607 and contract with a variety of child placing agencies licensed under Part 6. In accordance with federal law, the division shall develop plans for the effective use of cross-jurisdictional resources to facilitate timely adoptive or permanent placements for waiting children.

(3) The division shall ensure that children who are adopted and were previously in its custody, continue to receive the medical and mental health coverage that they are entitled to under state and federal law.

(4) The division may not consider a prospective adoptive parent's willingness or unwillingness to enter a postadoption contact agreement under

Section 78B-6-146 as a condition of placing a child with the prospective adoptive parent.

Section 3. Section 62A-4a-607 is amended to read:

62A-4a-607. Promotion of adoption -- Agency notice to potential adoptive parents.

(1) (a) The division and all child placing agencies licensed under this part shall promote adoption when that is a possible and appropriate alternative for a child. Specifically, in accordance with Section 62A-4a-205.6, the division shall actively promote the adoption of all children in its custody who have a final plan for termination of parental rights pursuant to Section 78A-6-314 or a primary permanency [goal] plan of adoption.

(b) Beginning May 1, 2000, the division may not place a child for adoption, either temporarily or permanently, with any individual or individuals who do not qualify for adoptive placement pursuant to the requirements of Sections 78B-6-117, 78B-6-102, and 78B-6-137.

(2) The division shall obtain or conduct research of prior adoptive families to determine what families may do to be successful with their adoptive children and shall make this research available to potential adoptive parents.

(3) (a) A child placing agency licensed under this part shall inform each potential adoptive parent with whom it is working that:

- (i) children in the custody of the state are available for adoption;
- (ii) Medicaid coverage for medical, dental, and mental health services may be available for these children;
- (iii) tax benefits, including the tax credit provided for in Section 59-10-1104, and financial assistance may be available to defray the costs of adopting these children;
- (iv) training and ongoing support may be available to the adoptive parents of these children; and
- (v) information about individual children may be obtained by contacting the division's offices or its Internet site as explained by the child placing agency.

(b) A child placing agency shall:

- (i) provide the notice required by Subsection (3)(a) at the earliest possible opportunity; and
- (ii) simultaneously distribute a copy of the pamphlet prepared by the division in accordance with Subsection (3)(d).

(c) As a condition of licensure, the child placing agency shall certify to the Office of Licensing at the time of license renewal that it has complied with the provisions of this section.

(d) Before July 1, 2000, the division shall:

- (i) prepare a pamphlet that explains the information that is required by Subsection (3)(a); and

(ii) regularly distribute copies of the pamphlet described in Subsection (3)(d)(i) to child placing agencies.

(e) The division shall respond to any inquiry made as a result of the notice provided in Subsection (3)(a).

Section 4. Section 63A-12-100.5 is amended to read:

63A-12-100.5. Definitions.

(1) Except as provided under Subsection (2), the definitions in Section 63G-2-103 apply to this chapter.

(2) As used in this chapter[;]:

(a) “division” or “state archives” means the Division of Archives and Records Service[-]; and

(b) “record” means:

(i) the same as that term is defined in Section 63G-2-103; or

(ii) a video or audio recording of an interview, or a transcript of the video or audio recording, that is conducted at a Children’s Justice Center established under Section 67-5b-102, the release of which is governed by Section 77-37-4.

Section 5. Section 78A-6-312 is amended to read:

78A-6-312. Dispositional hearing -- Reunification services -- Exceptions.

(1) The court may:

(a) make any of the dispositions described in Section 78A-6-117;

(b) place the minor in the custody or guardianship of any:

(i) individual; or

(ii) public or private entity or agency; or

(c) order:

(i) protective supervision;

(ii) family preservation;

(iii) subject to Subsections (12)(b) and 78A-6-117(2)(n)(iii), medical or mental health treatment; or

(iv) other services.

(2) Whenever the court orders continued removal at the dispositional hearing, and that the minor remain in the custody of the division, the court shall first:

(a) establish a primary permanency [goal] plan for the minor; and

(b) determine whether, in view of the primary permanency [goal] plan, reunification services are appropriate for the minor and the minor’s family, pursuant to Subsections (20) through (22).

(3) Subject to Subsections (6) and (7), if the court determines that reunification services are

appropriate for the minor and the minor’s family, the court shall provide for reasonable parent-time with the parent or parents from whose custody the minor was removed, unless parent-time is not in the best interest of the minor.

(4) In cases where obvious sexual abuse, sexual exploitation, abandonment, severe abuse, or severe neglect are involved, neither the division nor the court has any duty to make “reasonable efforts” or to, in any other way, attempt to provide reunification services, or to attempt to rehabilitate the offending parent or parents.

(5) In all cases, the minor’s health, safety, and welfare shall be the court’s paramount concern in determining whether reasonable efforts to reunify should be made.

(6) For purposes of Subsection (3), parent-time is in the best interests of a minor unless the court makes a finding that it is necessary to deny parent-time in order to:

(a) protect the physical safety of the minor;

(b) protect the life of the minor; or

(c) prevent the minor from being traumatized by contact with the parent due to the minor’s fear of the parent in light of the nature of the alleged abuse or neglect.

(7) Notwithstanding Subsection (3), a court may not deny parent-time based solely on a parent’s failure to:

(a) prove that the parent has not used legal or illegal substances; or

(b) comply with an aspect of the child and family plan that is ordered by the court.

(8) (a) In addition to the primary permanency [goal] plan, the court shall establish a concurrent permanency [goal] plan that shall include:

(i) a representative list of the conditions under which the primary permanency [goal] plan will be abandoned in favor of the concurrent permanency [goal] plan; and

(ii) an explanation of the effect of abandoning or modifying the primary permanency [goal] plan.

(b) In determining the primary permanency [goal] plan and concurrent permanency [goal] plan, the court shall consider:

(i) the preference for kinship placement over nonkinship placement;

(ii) the potential for a guardianship placement if the parent-child relationship is legally terminated and no appropriate adoption placement is available; and

(iii) the use of an individualized permanency [goal] plan, only as a last resort.

(9) A permanency hearing shall be conducted in accordance with Subsection 78A-6-314(1)(b) within 30 days after the day on which the dispositional hearing ends if something other than reunification is initially established as a minor’s primary permanency [goal] plan.

(10) (a) The court may amend a minor's primary permanency [goal] plan before the establishment of a final permanency plan under Section 78A-6-314.

(b) The court is not limited to the terms of the concurrent permanency [goal] plan in the event that the primary permanency [goal] plan is abandoned.

(c) If, at any time, the court determines that reunification is no longer a minor's primary permanency [goal] plan, the court shall conduct a permanency hearing in accordance with Section 78A-6-314 on or before the earlier of:

(i) 30 days after the day on which the court makes the determination described in this Subsection (10)(c); or

(ii) the day on which the provision of reunification services, described in Section 78A-6-314, ends.

(11) (a) If the court determines that reunification services are appropriate, it shall order that the division make reasonable efforts to provide services to the minor and the minor's parent for the purpose of facilitating reunification of the family, for a specified period of time.

(b) In providing the services described in Subsection (11)(a), the minor's health, safety, and welfare shall be the division's paramount concern, and the court shall so order.

(12) (a) The court shall:

(i) determine whether the services offered or provided by the division under the child and family plan constitute "reasonable efforts" on the part of the division;

(ii) determine and define the responsibilities of the parent under the child and family plan in accordance with Subsection 62A-4a-205(6)(e); and

(iii) identify verbally on the record, or in a written document provided to the parties, the responsibilities described in Subsection (12)(a)(ii), for the purpose of assisting in any future determination regarding the provision of reasonable efforts, in accordance with state and federal law.

(b) If the parent is in a substance abuse treatment program, other than a certified drug court program:

(i) the court may order the parent to submit to supplementary drug or alcohol testing in addition to the testing recommended by the parent's substance abuse program based on a finding of reasonable suspicion that the parent is abusing drugs or alcohol; and

(ii) the court may order the parent to provide the results of drug or alcohol testing recommended by the substance abuse program to the court or division.

(13) (a) The time period for reunification services may not exceed 12 months from the date that the minor was initially removed from the minor's home, unless the time period is extended under Subsection 78A-6-314(8).

(b) Nothing in this section may be construed to entitle any parent to an entire 12 months of reunification services.

(14) (a) If reunification services are ordered, the court may terminate those services at any time.

(b) If, at any time, continuation of reasonable efforts to reunify a minor is determined to be inconsistent with the final permanency plan for the minor established pursuant to Section 78A-6-314, then measures shall be taken, in a timely manner, to:

(i) place the minor in accordance with the permanency plan; and

(ii) complete whatever steps are necessary to finalize the permanent placement of the minor.

(15) Any physical custody of the minor by the parent or a relative during the period described in Subsections (11) through (14) does not interrupt the running of the period.

(16) (a) If reunification services are ordered, a permanency hearing shall be conducted by the court in accordance with Section 78A-6-314 at the expiration of the time period for reunification services.

(b) The permanency hearing shall be held no later than 12 months after the original removal of the minor.

(c) If reunification services are not ordered, a permanency hearing shall be conducted within 30 days, in accordance with Section 78A-6-314.

(17) With regard to a minor in the custody of the division whose parent or parents are ordered to receive reunification services but who have abandoned that minor for a period of six months from the date that reunification services were ordered:

(a) the court shall terminate reunification services; and

(b) the division shall petition the court for termination of parental rights.

(18) When a court conducts a permanency hearing for a minor under Section 78A-6-314, the court shall attempt to keep the minor's sibling group together if keeping the sibling group together is:

(a) practicable; and

(b) in accordance with the best interest of the minor.

(19) (a) Because of the state's interest in and responsibility to protect and provide permanency for minors who are abused, neglected, or dependent, the Legislature finds that a parent's interest in receiving reunification services is limited.

(b) The court may determine that:

(i) efforts to reunify a minor with the minor's family are not reasonable or appropriate, based on the individual circumstances; and

(ii) reunification services should not be provided.

(c) In determining “reasonable efforts” to be made with respect to a minor, and in making “reasonable efforts,” the minor’s health, safety, and welfare shall be the paramount concern.

(20) There is a presumption that reunification services should not be provided to a parent if the court finds, by clear and convincing evidence, that any of the following circumstances exist:

(a) the whereabouts of the parents are unknown, based upon a verified affidavit indicating that a reasonably diligent search has failed to locate the parent;

(b) subject to Subsection (21)(a), the parent is suffering from a mental illness of such magnitude that it renders the parent incapable of utilizing reunification services;

(c) the minor was previously adjudicated as an abused child due to physical abuse, sexual abuse, or sexual exploitation, and following the adjudication the minor:

(i) was removed from the custody of the minor’s parent;

(ii) was subsequently returned to the custody of the parent; and

(iii) is being removed due to additional physical abuse, sexual abuse, or sexual exploitation;

(d) the parent:

(i) caused the death of another minor through abuse or neglect;

(ii) committed, aided, abetted, attempted, conspired, or solicited to commit:

(A) murder or manslaughter of a child; or

(B) child abuse homicide;

(iii) committed sexual abuse against the child;

(iv) is a registered sex offender or required to register as a sex offender; or

(v) (A) intentionally, knowingly, or recklessly causes the death of another parent of the child;

(B) is identified by a law enforcement agency as the primary suspect in an investigation for intentionally, knowingly, or recklessly causing the death of another parent of the child; or

(C) is being prosecuted for or has been convicted of intentionally, knowingly, or recklessly causing the death of another parent of the child;

(e) the minor suffered severe abuse by the parent or by any person known by the parent, if the parent knew or reasonably should have known that the person was abusing the minor;

(f) the minor is adjudicated an abused child as a result of severe abuse by the parent, and the court finds that it would not benefit the minor to pursue reunification services with the offending parent;

(g) the parent’s rights are terminated with regard to any other minor;

(h) the minor was removed from the minor’s home on at least two previous occasions and reunification services were offered or provided to the family at those times;

(i) the parent has abandoned the minor for a period of six months or longer;

(j) the parent permitted the child to reside, on a permanent or temporary basis, at a location where the parent knew or should have known that a clandestine laboratory operation was located;

(k) except as provided in Subsection (21)(b), with respect to a parent who is the child’s birth mother, the child has fetal alcohol syndrome, fetal alcohol spectrum disorder, or was exposed to an illegal or prescription drug that was abused by the child’s mother while the child was in utero, if the child was taken into division custody for that reason, unless the mother agrees to enroll in, is currently enrolled in, or has recently and successfully completed a substance abuse treatment program approved by the department; or

(l) any other circumstance that the court determines should preclude reunification efforts or services.

(21) (a) The finding under Subsection (20)(b) shall be based on competent evidence from at least two medical or mental health professionals, who are not associates, establishing that, even with the provision of services, the parent is not likely to be capable of adequately caring for the minor within 12 months after the day on which the court finding is made.

(b) A judge may disregard the provisions of Subsection (20)(k) if the court finds, under the circumstances of the case, that the substance abuse treatment described in Subsection (20)(k) is not warranted.

(22) In determining whether reunification services are appropriate, the court shall take into consideration:

(a) failure of the parent to respond to previous services or comply with a previous child and family plan;

(b) the fact that the minor was abused while the parent was under the influence of drugs or alcohol;

(c) any history of violent behavior directed at the child or an immediate family member;

(d) whether a parent continues to live with an individual who abused the minor;

(e) any patterns of the parent’s behavior that have exposed the minor to repeated abuse;

(f) testimony by a competent professional that the parent’s behavior is unlikely to be successful; and

(g) whether the parent has expressed an interest in reunification with the minor.

(23) (a) If reunification services are not ordered pursuant to Subsections (19) through (21), and the whereabouts of a parent become known within six months after the day on which the out-of-home

placement of the minor is made, the court may order the division to provide reunification services.

(b) The time limits described in Subsections (2) through (18) are not tolled by the parent's absence.

(24) (a) If a parent is incarcerated or institutionalized, the court shall order reasonable services unless it determines that those services would be detrimental to the minor.

(b) In making the determination described in Subsection (24)(a), the court shall consider:

- (i) the age of the minor;
- (ii) the degree of parent-child bonding;
- (iii) the length of the sentence;
- (iv) the nature of the treatment;
- (v) the nature of the crime or illness;
- (vi) the degree of detriment to the minor if services are not offered;
- (vii) for a minor 10 years of age or older, the minor's attitude toward the implementation of family reunification services; and
- (viii) any other appropriate factors.

(c) Reunification services for an incarcerated parent are subject to the time limitations imposed in Subsections (2) through (18).

(d) Reunification services for an institutionalized parent are subject to the time limitations imposed in Subsections (2) through (18), unless the court determines that continued reunification services would be in the minor's best interest.

(25) If, pursuant to Subsections (20)(b) through (1), the court does not order reunification services, a permanency hearing shall be conducted within 30 days, in accordance with Section 78A-6-314.

Section 6. Section 78A-6-314 is amended to read:

78A-6-314. Permanency hearing -- Final plan -- Petition for termination of parental rights filed -- Hearing on termination of parental rights.

(1) (a) When reunification services have been ordered in accordance with Section 78A-6-312, with regard to a minor who is in the custody of the Division of Child and Family Services, a permanency hearing shall be held by the court no later than 12 months after the day on which the minor was initially removed from the minor's home.

(b) If reunification services were not ordered at the dispositional hearing, a permanency hearing shall be held within 30 days after the day on which the dispositional hearing ends.

(2) (a) If reunification services were ordered by the court in accordance with Section 78A-6-312, the court shall, at the permanency hearing, determine, consistent with Subsection (3), whether the minor may safely be returned to the custody of the minor's parent.

(b) If the court finds, by a preponderance of the evidence, that return of the minor to the minor's parent would create a substantial risk of detriment to the minor's physical or emotional well-being, the minor may not be returned to the custody of the minor's parent.

(c) Prima facie evidence that return of the minor to a parent or guardian would create a substantial risk of detriment to the minor is established if:

- (i) the parent or guardian fails to:
 - (A) participate in a court approved child and family plan;
 - (B) comply with a court approved child and family plan in whole or in part; or
 - (C) meet the goals of a court approved child and family plan; or
- (ii) the child's natural parent:
 - (A) intentionally, knowingly, or recklessly causes the death of another parent of the child;
 - (B) is identified by a law enforcement agency as the primary suspect in an investigation for intentionally, knowingly, or recklessly causing the death of another parent of the child; or
 - (C) is being prosecuted for or has been convicted of intentionally, knowingly, or recklessly causing the death of another parent of the child.

(3) In making a determination under Subsection (2)(a), the court shall review and consider:

- (a) the report prepared by the Division of Child and Family Services;
- (b) any admissible evidence offered by the minor's guardian ad litem;
- (c) any report submitted by the division under Subsection 78A-6-315(3)(a)(i);
- (d) any evidence regarding the efforts or progress demonstrated by the parent; and
- (e) the extent to which the parent cooperated and utilized the services provided.

(4) With regard to a case where reunification services were ordered by the court, if a minor is not returned to the minor's parent or guardian at the permanency hearing, the court shall, unless the time for the provision of reunification services is extended under Subsection (8):

- (a) order termination of reunification services to the parent;
- (b) make a final determination regarding whether termination of parental rights, adoption, or permanent custody and guardianship is the most appropriate final plan for the minor, taking into account the minor's primary permanency [goal] plan established by the court pursuant to Section 78A-6-312; and
- (c) establish a concurrent permanency plan that identifies the second most appropriate final plan for the minor, if appropriate.

(5) If the Division of Child and Family Services documents to the court that there is a compelling

reason that adoption, reunification, guardianship, and a placement described in Subsection 78A-6-306(6)(e) are not in the minor's best interest, the court may order another planned permanent living arrangement, in accordance with federal law.

(6) If the minor clearly desires contact with the parent, the court shall take the minor's desire into consideration in determining the final plan.

(7) Except as provided in Subsection (8), the court may not extend reunification services beyond 12 months after the day on which the minor was initially removed from the minor's home, in accordance with the provisions of Section 78A-6-312.

(8) (a) Subject to Subsection (8)(b), the court may extend reunification services for no more than 90 days if the court finds, beyond a preponderance of the evidence, that:

(i) there has been substantial compliance with the child and family plan;

(ii) reunification is probable within that 90-day period; and

(iii) the extension is in the best interest of the minor.

(b) (i) Except as provided in Subsection (8)(c), the court may not extend any reunification services beyond 15 months after the day on which the minor was initially removed from the minor's home.

(ii) Delay or failure of a parent to establish paternity or seek custody does not provide a basis for the court to extend services for that parent beyond the 12-month period described in Subsection (7).

(c) In accordance with Subsection (8)(d), the court may extend reunification services for one additional 90-day period, beyond the 90-day period described in Subsection (8)(a), if:

(i) the court finds, by clear and convincing evidence, that:

(A) the parent has substantially complied with the child and family plan;

(B) it is likely that reunification will occur within the additional 90-day period; and

(C) the extension is in the best interest of the child;

(ii) the court specifies the facts upon which the findings described in Subsection (8)(c)(i) are based; and

(iii) the court specifies the time period in which it is likely that reunification will occur.

(d) A court may not extend the time period for reunification services without complying with the requirements of this Subsection (8) before the extension.

(e) In determining whether to extend reunification services for a minor, a court shall take

into consideration the status of the minor siblings of the minor.

(9) The court may, in its discretion:

(a) enter any additional order that it determines to be in the best interest of the minor, so long as that order does not conflict with the requirements and provisions of Subsections (4) through (8); or

(b) order the division to provide protective supervision or other services to a minor and the minor's family after the division's custody of a minor has been terminated.

(10) If the final plan for the minor is to proceed toward termination of parental rights, the petition for termination of parental rights shall be filed, and a pretrial held, within 45 calendar days after the permanency hearing.

(11) (a) Any party to an action may, at any time, petition the court for an expedited permanency hearing on the basis that continuation of reunification efforts are inconsistent with the permanency needs of the minor.

(b) If the court so determines, it shall order, in accordance with federal law, that:

(i) the minor be placed in accordance with the permanency plan; and

(ii) whatever steps are necessary to finalize the permanent placement of the minor be completed as quickly as possible.

(12) Nothing in this section may be construed to:

(a) entitle any parent to reunification services for any specified period of time;

(b) limit a court's ability to terminate reunification services at any time prior to a permanency hearing; or

(c) limit or prohibit the filing of a petition for termination of parental rights by any party, or a hearing on termination of parental rights, at any time prior to a permanency hearing.

(13) (a) Subject to Subsection (13)(b), if a petition for termination of parental rights is filed prior to the date scheduled for a permanency hearing, the court may consolidate the hearing on termination of parental rights with the permanency hearing.

(b) For purposes of Subsection (13)(a), if the court consolidates the hearing on termination of parental rights with the permanency hearing:

(i) the court shall first make a finding regarding whether reasonable efforts have been made by the Division of Child and Family Services to finalize the permanency ~~goal~~ plan for the minor; and

(ii) any reunification services shall be terminated in accordance with the time lines described in Section 78A-6-312.

(c) A decision on a petition for termination of parental rights shall be made within 18 months from the day on which the minor is removed from the minor's home.

(14) If a court determines that a child will not be returned to a parent of the child, the court shall

consider appropriate placement options inside and outside of the state.

Section 7. Section 78B-6-141 is amended to read:

78B-6-141. Petition, report, and documents sealed -- Exceptions.

(1) A petition for adoption[~~, the written report described in Section 78B-6-135,~~] and any other documents filed in connection with the petition are sealed.

(2) The documents described in Subsection (1) may only be open to inspection as follows:

(a) in accordance with Subsection (3)(a), by a party to the adoption proceeding:

(i) while the proceeding is pending; or

(ii) within six months after the day on which the adoption decree is entered;

(b) subject to Subsection (3)(b), a court enters an order permitting access to the documents by a person who has appealed the denial of that person's motion to intervene;

(c) upon order of the court expressly permitting inspection or copying, after good cause has been shown;

(d) as provided under Section 78B-6-144;

(e) those records shall become public on the one hundredth anniversary of the date the final decree of adoption was entered; or

(f) if the adoptee is an adult at the time the final decree of adoption is entered, the documents described in this section are open to inspection and copying without a court order by the adoptee or a parent who adopted the adoptee, unless the final decree of adoption is entered by the juvenile court under Subsection 78B-6-115(3)(b).

(3) (a) A person who files a motion to intervene in an adoption proceeding:

(i) is not a party to the adoption proceeding, unless the motion to intervene is granted; and

(ii) may not be granted access to the documents described in Subsection (1), unless the motion to intervene is granted.

(b) An order described in Subsection (2)(b) shall:

(i) prohibit the person described in Subsection (2)(b) from inspecting a document described in Subsection (1) that contains identifying information of the adoptive or prospective adoptive parent; and

(ii) permit the person described in Subsection (3)(b)(i) to review a copy of a document described in Subsection (3)(b)(i) after the identifying information described in Subsection (3)(b)(i) is redacted from the document.

Section 8. Division of Child and Family Services study item.

(1) During the 2015 interim, the Child Welfare Legislative Oversight Panel shall, in consultation

with the Division of Child and Family Services and appropriate child welfare stakeholders, study and make recommendations regarding reporting requirements for suspected abuse or neglect under Section 62A-4a-403.

(2) Section 8 of this bill is repealed on January 1, 2016.

Section 9. Repealer.

This bill repeals:

Section 78A-6-511.1, Posttermination reunification study item.

Section 78B-6-135, Division of Child and Family Services -- Duties -- Report -- Fee.

CHAPTER 323**S. B. 108**

Passed February 19, 2015

Approved March 30, 2015

Effective May 12, 2015

SOCIAL WORK AMENDMENTS

Chief Sponsor: Gene Davis

House Sponsor: Rebecca P. Edwards

LONG TITLE**General Description:**

This bill amends provisions of the Mental Health Professional Practice Act.

Highlighted Provisions:

This bill:

- ▶ provides that an individual may represent oneself as a, or use the title of, social worker if the individual possesses certified transcripts from an accredited institution of higher education as described in the bill; and
- ▶ amends the qualifications for licensure as a clinical social worker, certified social worker, and social service worker by adding completion of an education accredited by the Canadian Association of Schools of Social Work.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

58-60-109, as last amended by Laws of Utah 2012, Chapter 179

58-60-205, as last amended by Laws of Utah 2013, Chapters 16 and 262

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

Section 1. Section 58-60-109 is amended to read:**58-60-109. Unlawful conduct.**

As used in this chapter, "unlawful conduct" includes:

(1) practice of the following unless licensed in the appropriate classification or exempted from licensure under this title:

- (a) mental health therapy;
- (b) clinical social work;
- (c) certified social work;
- (d) marriage and family therapy;
- (e) clinical mental health counselor;
- (f) practice as a social service worker; or
- (g) substance use disorder counselor;

(2) practice of mental health therapy by a licensed psychologist who has not acceptably documented to the division the licensed psychologist's completion of the supervised training in mental health therapy required under Subsection 58-61-304(1)(f); or

(3) representing oneself as, or using the title of, the following:

(a) unless currently licensed in a license classification under this title:

~~(a)~~ (i) psychiatrist;

~~(b)~~ ~~psychotherapist~~;

(ii) psychologist;

~~(c)~~ (iii) registered psychiatric mental health nurse specialist;

~~(d)~~ (iv) mental health therapist;

~~(e)~~ (v) clinical social worker;

~~(f)~~ (vi) certified social worker;

~~(g)~~ (vii) marriage and family therapist;

~~(h)~~ (viii) clinical mental health counselor;

~~(i)~~ ~~clinical hypnotist~~;

~~(j)~~ (ix) social service worker;

~~(k)~~ (x) substance use disorder counselor;

~~(l)~~ (xi) associate clinical mental health counselor; or

~~(m)~~ (xii) associate marriage and family therapist~~[-];~~ or

(b) unless currently in possession of the credentials described in Subsection (4), social worker.

(4) An individual may represent oneself as a, or use the title of, social worker if the individual possesses certified transcripts from an accredited institution of higher education, recognized by the division in collaboration with the Social Work Licensing Board, verifying satisfactory completion of an education and an earned degree as follows:

(a) a bachelor's or master's degree in a social work program accredited by the Council on Social Work Education or by the Canadian Association of Schools of Social Work; or

(b) a doctoral degree that contains a clinical social work concentration and practicum approved by the division, by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that is consistent with Section 58-1-203.

Section 2. Section 58-60-205 is amended to read:**58-60-205. Qualifications for licensure or certification as a clinical social worker, certified social worker, and social service worker.**

(1) An applicant for licensure as a clinical social worker shall:

(a) submit an application on a form provided by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) be of good moral character;

(d) produce certified transcripts from an accredited institution of higher education recognized by the division in collaboration with the board verifying satisfactory completion of an education and an earned degree as follows:

(i) ~~[an earned]~~ a master's degree in a social work ~~[resulting from completion of an education]~~ program accredited by the Council on Social Work Education or by the Canadian Association of Schools of Social Work; or

(ii) ~~[an earned]~~ a doctoral degree ~~[in social work that results from successful completion of a clinical]~~ that contains a clinical social work concentration and practicum approved by the division ~~[and defined by rule under]~~, by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that is consistent with Section 58-1-203;

(e) have completed a minimum of 4,000 hours of clinical social work training as defined by division rule under Section 58-1-203 in not less than two years and under the supervision of a clinical social worker supervisor approved by the division in collaboration with the board;

(f) document successful completion of not less than 1,000 hours of supervised training in mental health therapy obtained after completion of the education requirement in Subsection (1)(d), which training may be included as part of the 4,000 hours of training in Subsection (1)(e), and of which documented evidence demonstrates not less than 100 of the hours were obtained under the direct supervision of a clinical social worker, as defined by rule;

(g) have completed a case work, group work, or family treatment course sequence with a clinical practicum in content as defined by rule under Section 58-1-203; and

(h) pass the examination requirement established by rule under Section 58-1-203.

(2) An applicant for licensure as a certified social worker shall:

(a) submit an application on a form provided by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) be of good moral character;

(d) produce certified transcripts from an accredited institution of higher education recognized by the division in collaboration with the ~~[Social Worker Licensing Board]~~ board verifying satisfactory completion of an education and an earned degree as follows:

(i) a master's degree in a social work [education] program accredited by the Council on Social Work Education [and an earned master's degree resulting from completion of that program] or by the Canadian Association of Schools of Social Work; or

(ii) ~~[an education program]~~ a doctoral degree that contains ~~[approved]~~ a clinical social work concentration and practicum ~~[in content as defined by rule under Section 58-1-203 and an earned doctorate resulting from completion of that program]~~ approved by the division, by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that is consistent with Section 58-1-203; and

(e) pass the examination requirement established by rule under Section 58-1-203.

(3) (a) An applicant for certification as a certified social worker intern shall meet the requirements of Subsections (2)(a), (b), (c), and (d).

(b) Certification under Subsection (3)(a) is limited to the time necessary to pass the examination required under Subsection (2)(e) or six months, whichever occurs first.

(c) A certified social worker intern may provide mental health therapy under the general supervision of a clinical social worker.

(4) An applicant for licensure as a social service worker shall:

(a) submit an application on a form provided by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) be of good moral character;

(d) produce certified transcripts from an accredited institution of higher education recognized by the division in collaboration with the ~~[Social Worker Licensing Board]~~ board verifying satisfactory completion of an education and an earned degree ~~[resulting from education]~~ as follows:

(i) a bachelor's degree in a social work program accredited by the Council on Social Work Education or by the Canadian Association of Schools of Social Work;

(ii) a master's degree in a field approved by the division in collaboration with the ~~[social worker]~~ board;

(iii) a bachelor's degree in any field if the applicant:

(A) has completed at least three semester hours, or the equivalent, in each of the following areas:

(I) social welfare policy;

(II) human growth and development; and

(III) social work practice methods, as defined by rule; and

(B) provides documentation that the applicant has completed at least 2,000 hours of qualifying experience under the supervision of a mental health therapist, which experience is approved by the division in collaboration with the ~~[Social Worker Licensing Board]~~ board, and which is performed after completion of the requirements to obtain the bachelor's degree required under this Subsection (4); or

(iv) successful completion of the first academic year of a Council on Social Work Education approved master's of social work curriculum and practicum; and

(e) pass the examination requirement established by rule under Section 58-1-203.

(5) The division shall ensure that the rules for an examination described under Subsections (1)(h), (2)(e), and (4)(e) allow additional time to complete the examination if requested by an applicant who is:

(a) a foreign born legal resident of the United States for whom English is a second language; or

(b) an enrolled member of a federally recognized Native American tribe.

CHAPTER 324**S. B. 110**

Passed February 18, 2015

Approved March 30, 2015

Effective May 12, 2015

PUBLIC UTILITY MODIFICATIONS

Chief Sponsor: Alvin B. Jackson

House Sponsor: Scott H. Chew

LONG TITLE**General Description:**

This bill amends provisions related to the net metering of electricity.

Highlighted Provisions:

This bill:

- ▶ modifies the government authority responsible for certain determinations about electricity credits.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

54-15-104, as last amended by Laws of Utah 2014, Chapter 53

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

Section 1. Section 54-15-104 is amended to read:**54-15-104. Charges or credits for net electricity.**

(1) Each electrical corporation with a customer participating in a net metering program shall measure net electricity during each monthly billing period, in accordance with normal metering practices.

(2) If net metering does not result in excess customer-generated electricity during the monthly billing period, the electrical corporation shall bill the customer for the net electricity, in accordance with normal billing practices.

(3) Subject to Subsection (4), if net metering results in excess customer-generated electricity during the monthly billing period:

(a) (i) the electrical corporation shall credit the customer for the excess customer-generated electricity based on the meter reading for the billing period at a value that is at least avoided cost, or as determined by the governing authority; and

(ii) all credits that the customer does not use during the annualized billing period expire at the end of the annualized billing period; and

(b) as authorized by the governing authority, the electrical corporation may bill the customer for customer charges that otherwise would have accrued during that billing period in the absence of excess customer-generated electricity.

(4) At the end of an annualized billing period, an electrical corporation's avoided cost value of remaining unused credits described in Subsection (3)(a) shall be granted:

(a) to the electrical corporation's low-income assistance programs as determined by the ~~commission~~ governing authority; or

(b) for another use as determined by the ~~commission~~ governing authority.

CHAPTER 325**S. B. 118**

Passed March 6, 2015

Approved March 30, 2015

Effective May 12, 2015

**HOMEOWNER AND CONDOMINIUM
ASSOCIATION MODIFICATIONS**

Chief Sponsor: Todd Weiler

House Sponsor: Carol Spackman Moss

LONG TITLE**General Description:**

This bill modifies provisions relating to a homeowner association's governing documents.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ addresses the procedures, requirements, limitations, and enforcement mechanisms that apply to a request to inspect or copy association records;
- ▶ addresses the requirements for an association to amend the association's governing documents;
- ▶ prohibits certain restrictions on the time at which an association may amend the association's governing documents;
- ▶ provides that the provisions of this bill apply regardless of when the association is created; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause to reconcile conflicts between this bill and other legislation.

Utah Code Sections Affected:**AMENDS:**

57-8-3, as last amended by Laws of Utah 2013, Chapters 95 and 152

57-8-7.5, as last amended by Laws of Utah 2014, Chapter 189

57-8-39, as enacted by Laws of Utah 2007, Chapter 223

57-8a-102, as last amended by Laws of Utah 2013, Chapters 95 and 152

57-8a-104, as last amended by Laws of Utah 2011, Chapter 137

57-8a-217, as enacted by Laws of Utah 2011, Chapter 355

57-8a-224, as enacted by Laws of Utah 2013, Chapter 152

ENACTS:

57-8a-225, Utah Code Annotated 1953

REPEALS AND REENACTS:

57-8-17, as last amended by Laws of Utah 2011, Chapter 95

Utah Code Sections Affected by Coordination Clause:

57-8-56, Utah Code Annotated 1953

57-8a-225, Utah Code Annotated 1953

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

Section 1. Section 57-8-3 is amended to read:**57-8-3. Definitions.**

As used in this chapter:

(1) "Assessment" means any charge imposed by the association, including:

(a) common expenses on or against a unit owner pursuant to the provisions of the declaration, bylaws, or this chapter; and

(b) an amount that an association of unit owners assesses to a unit owner under Subsection 57-8-43(9)(g).

(2) "Association of unit owners" means all of the unit owners:

(a) acting as a group in accordance with the declaration and bylaws; or

(b) organized as a legal entity in accordance with the declaration.

(3) "Building" means a building, containing units, and comprising a part of the property.

(4) "Commercial condominium project" means a condominium project that has no residential units within the project.

(5) "Common areas and facilities" unless otherwise provided in the declaration or lawful amendments to the declaration means:

(a) the land included within the condominium project, whether leasehold or in fee simple;

(b) the foundations, columns, girders, beams, supports, main walls, roofs, halls, corridors, lobbies, stairs, stairways, fire escapes, entrances, and exits of the building;

(c) the basements, yards, gardens, parking areas, and storage spaces;

(d) the premises for lodging of janitors or persons in charge of the property;

(e) installations of central services such as power, light, gas, hot and cold water, heating, refrigeration, air conditioning, and incinerating;

(f) the elevators, tanks, pumps, motors, fans, compressors, ducts, and in general all apparatus and installations existing for common use;

(g) such community and commercial facilities as may be provided for in the declaration; and

(h) all other parts of the property necessary or convenient to its existence, maintenance, and safety, or normally in common use.

(6) "Common expenses" means:

(a) all sums lawfully assessed against the unit owners;

(b) expenses of administration, maintenance, repair, or replacement of the common areas and facilities;

(c) expenses agreed upon as common expenses by the association of unit owners; and

(d) expenses declared common expenses by this chapter, or by the declaration or the bylaws.

(7) "Common profits," unless otherwise provided in the declaration or lawful amendments to the declaration, means the balance of all income, rents, profits, and revenues from the common areas and facilities remaining after the deduction of the common expenses.

(8) "Condominium" means the ownership of a single unit in a multiunit project together with an undivided interest in common in the common areas and facilities of the property.

(9) "Condominium plat" means a plat or plats of survey of land and units prepared in accordance with Section 57-8-13.

(10) "Condominium project" means a real estate condominium project; a plan or project whereby two or more units, whether contained in existing or proposed apartments, commercial or industrial buildings or structures, or otherwise, are separately offered or proposed to be offered for sale. Condominium project also means the property when the context so requires.

(11) "Condominium unit" means a unit together with the undivided interest in the common areas and facilities appertaining to that unit. Any reference in this chapter to a condominium unit includes both a physical unit together with its appurtenant undivided interest in the common areas and facilities and a time period unit together with its appurtenant undivided interest, unless the reference is specifically limited to a time period unit.

(12) "Contractible condominium" means a condominium project from which one or more portions of the land within the project may be withdrawn in accordance with provisions of the declaration and of this chapter. If the withdrawal can occur only by the expiration or termination of one or more leases, then the condominium project is not a contractible condominium within the meaning of this chapter.

(13) "Convertible land" means a building site which is a portion of the common areas and facilities, described by metes and bounds, within which additional units or limited common areas and facilities may be created in accordance with this chapter.

(14) "Convertible space" means a portion of the structure within the condominium project, which portion may be converted into one or more units or common areas and facilities, including limited common areas and facilities in accordance with this chapter.

(15) "Declarant" means all persons who execute the declaration or on whose behalf the declaration is executed. From the time of the recordation of any amendment to the declaration expanding an expandable condominium, all persons who execute

that amendment or on whose behalf that amendment is executed shall also come within this definition. Any successors of the persons referred to in this subsection who come to stand in the same relation to the condominium project as their predecessors also come within this definition.

(16) "Declaration" means the instrument by which the property is submitted to the provisions of this act, as it from time to time may be lawfully amended.

(17) "Expandable condominium" means a condominium project to which additional land or an interest in it may be added in accordance with the declaration and this chapter.

(18) "Governing documents":

(a) means a written instrument by which an association of unit owners may:

(i) exercise powers; or

(ii) manage, maintain, or otherwise affect the property under the jurisdiction of the association of unit owners; and

(b) includes:

(i) articles of incorporation;

(ii) bylaws;

(iii) a plat;

(iv) a declaration of covenants, conditions, and restrictions; and

(v) rules of the association of unit owners.

(19) "Independent third party" means a person that:

(a) is not related to the unit owner;

(b) shares no pecuniary interests with the unit owner; and

(c) purchases the unit in good faith and without the intent to defraud a current or future lienholder.

(20) "Leasehold condominium" means a condominium project in all or any portion of which each unit owner owns an estate for years in his unit, or in the land upon which that unit is situated, or both, with all those leasehold interests to expire naturally at the same time. A condominium project including leased land, or an interest in the land, upon which no units are situated or to be situated is not a leasehold condominium within the meaning of this chapter.

(21) "Limited common areas and facilities" means those common areas and facilities designated in the declaration as reserved for use of a certain unit or units to the exclusion of the other units.

(22) "Majority" or "majority of the unit owners," unless otherwise provided in the declaration or lawful amendments to the declaration, means the owners of more than 50% in the aggregate in interest of the undivided ownership of the common areas and facilities.

(23) "Management committee" means the committee as provided in the declaration charged

with and having the responsibility and authority to make and to enforce all of the reasonable rules covering the operation and maintenance of the property.

(24) “Mixed-use condominium project” means a condominium project that has both residential and commercial units in the condominium project.

(25) “Par value” means a number of dollars or points assigned to each unit by the declaration. Substantially identical units shall be assigned the same par value, but units located at substantially different heights above the ground, or having substantially different views, or having substantially different amenities or other characteristics that might result in differences in market value, may be considered substantially identical within the meaning of this subsection. If par value is stated in terms of dollars, that statement may not be considered to reflect or control the sales price or fair market value of any unit, and no opinion, appraisal, or fair market transaction at a different figure may affect the par value of any unit, or any undivided interest in the common areas and facilities, voting rights in the unit owners’ association, liability for common expenses, or right to common profits, assigned on the basis thereof.

(26) “Period of administrative control” means the period of control described in Subsection 57-8-16.5(1).

(27) “Person” means an individual, corporation, partnership, association, trustee, or other legal entity.

(28) “Property” means the land, whether leasehold or in fee simple, the building, if any, all improvements and structures thereon, all easements, rights, and appurtenances belonging thereto, and all articles of personal property intended for use in connection therewith.

(29) “Record,” “recording,” “recorded,” and “recorder” have the meaning stated in Title 57, Chapter 3, Recording of Documents.

(30) “Size” means the number of cubic feet, or the number of square feet of ground or floor space, within each unit as computed by reference to the record of survey map and rounded off to a whole number. Certain spaces within the units including attic, basement, or garage space may be omitted from the calculation or be partially discounted by the use of a ratio, if the same basis of calculation is employed for all units in the condominium project and if that basis is described in the declaration.

(31) “Time period unit” means an annually recurring part or parts of a year specified in the declaration as a period for which a unit is separately owned and includes a timeshare estate as defined in Subsection 57-19-2(19).

(32) “Unit” means either a separate physical part of the property intended for any type of independent use, including one or more rooms or spaces located in one or more floors or part or parts

of floors in a building or a time period unit, as the context may require. A convertible space shall be treated as a unit in accordance with Subsection 57-8-13.4(3). A proposed condominium unit under an expandable condominium project, not constructed, is a unit two years after the date the recording requirements of Section 57-8-13.6 are met.

(33) “Unit number” means the number, letter, or combination of numbers and letters designating the unit in the declaration and in the record of survey map.

(34) “Unit owner” means the person or persons owning a unit in fee simple and an undivided interest in the fee simple estate of the common areas and facilities in the percentage specified and established in the declaration or, in the case of a leasehold condominium project, the person or persons whose leasehold interest or interests in the condominium unit extend for the entire balance of the unexpired term or terms.

Section 2. Section 57-8-7.5 is amended to read:

57-8-7.5. Reserve analysis -- Reserve fund.

(1) As used in this section:

(a) “Reserve analysis” means an analysis to determine:

(i) the need for a reserve fund to accumulate money to cover the cost of repairing, replacing, or restoring common areas and facilities that have a useful life of three years or more and a remaining useful life of less than 30 years, if the cost cannot reasonably be funded from the general budget or other funds of the association of unit owners; and

(ii) the appropriate amount of any reserve fund.

(b) “Reserve fund line item” means the line item in an association of unit owners’ annual budget that identifies the amount to be placed into a reserve fund.

(2) Except as otherwise provided in the declaration, a management committee shall:

(a) cause a reserve analysis to be conducted no less frequently than every six years; and

(b) review and, if necessary, update a previously conducted reserve analysis no less frequently than every three years.

(3) The management committee may conduct a reserve analysis itself or may engage a reliable person or organization, as determined by the management committee, to conduct the reserve analysis.

(4) A reserve fund analysis shall include:

(a) a list of the components identified in the reserve analysis that will reasonably require reserve funds;

(b) a statement of the probable remaining useful life, as of the date of the reserve analysis, of each component identified in the reserve analysis;

(c) an estimate of the cost to repair, replace, or restore each component identified in the reserve analysis;

(d) an estimate of the total annual contribution to a reserve fund necessary to meet the cost to repair, replace, or restore each component identified in the reserve analysis during the component's useful life and at the end of the component's useful life; and

(e) a reserve funding plan that recommends how the association of unit owners may fund the annual contribution described in Subsection (4)(d).

(5) An association of unit owners shall:

(a) annually provide unit owners a summary of the most recent reserve analysis or update; and

(b) provide a copy of the complete reserve analysis or update to a unit owner who requests a copy.

(6) In formulating its budget each year, an association of unit owners shall include a reserve fund line item in:

(a) an amount the management committee determines, based on the reserve analysis, to be prudent; or

(b) an amount required by the declaration, if the declaration requires an amount higher than the amount determined under Subsection (6)(a).

(7) (a) Within 45 days after the day on which an association of unit owners adopts its annual budget, the unit owners may veto the reserve fund line item by a 51% vote of the allocated voting interests in the association of unit owners at a special meeting called by the unit owners for the purpose of voting whether to veto a reserve fund line item.

(b) If the unit owners veto a reserve fund line item under Subsection (7)(a) and a reserve fund line item exists in a previously approved annual budget of the association of unit owners that was not vetoed, the association of unit owners shall fund the reserve account in accordance with that prior reserve fund line item.

(8) (a) Subject to Subsection (8)(b), if an association of unit owners does not comply with the requirements of Subsection (5), (6), or (7) and fails to remedy the noncompliance within the time specified in Subsection (8)(c), a unit owner may file an action in state court for:

(i) injunctive relief requiring the association of unit owners to comply with the requirements of Subsection (5), (6), or (7);

(ii) \$500 or actual damages, whichever is greater;

(iii) any other remedy provided by law; and

(iv) reasonable costs and attorney fees.

(b) No fewer than 90 days before the day on which a unit owner files a complaint under Subsection (8)(a), the unit owner shall deliver written notice described in Subsection (8)(c) to the association of unit owners.

(c) A notice under Subsection (8)(b) shall state:

(i) the requirement in Subsection (5), (6), or (7) with which the association of unit owners has failed to comply;

(ii) a demand that the association of unit owners come into compliance with the requirements; and

(iii) a date, no fewer than 90 days after the day on which the unit owner delivers the notice, by which the association of unit owners shall remedy its noncompliance.

(d) In a case filed under Subsection (8)(a), a court may order an association of unit owners to produce the summary of the reserve analysis or the complete reserve analysis on an expedited basis and at the association of unit owners' expense.

(9) (a) A management committee may not use money in a reserve fund:

(i) for daily maintenance expenses, unless a majority of the members of the association of unit owners vote to approve the use of reserve fund money for that purpose; or

(ii) for any purpose other than the purpose for which the reserve fund was established.

(b) A management committee shall maintain a reserve fund separate from other funds of the association of unit owners.

(c) This Subsection (9) may not be construed to limit a management committee from prudently investing money in a reserve fund, subject to any investment constraints imposed by the declaration.

(10) Subsections (2) through (9) do not apply to an association of unit owners during the period of [~~declarant~~] administrative control [~~described in Subsection 57-8-16.5(1)~~].

(11) This section applies to each association of unit owners, regardless of when the association of unit owners was created.

Section 3. Section 57-8-17 is repealed and reenacted to read:

57-8-17. Records -- Availability for examination.

(1) (a) Subject to Subsection (1)(b), an association of unit owners shall keep and make documents available to unit owners in accordance with Sections 16-6a-1601 through 1603, 16-6a-1605, 16-6a-1606, and 16-6a-1610, regardless of whether the association of unit owners is incorporated under Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act.

(b) An association of unit owners may redact the following information from any document the association of unit owners produces for inspection or copying:

(i) a Social Security number;

(ii) a bank account number; or

(iii) any communication subject to attorney-client privilege.

(2) (a) In addition to the requirements described in Subsection (1), an association of unit owners shall make documents available to unit owners in accordance with the association of unit owners' governing documents.

(b) If a provision of an association of unit owners' governing documents conflicts with a provision of this section, the provision of this section governs.

(3) In a request to inspect or copy documents, a unit owner may:

(a) elect whether to inspect or copy the documents;

(b) if the unit owner elects to copy the documents, request hard copies or electronic scans of the documents; or

(c) subject to Subsection (4), request that:

(i) the association of unit owners make the copies or electronic scans of the requested documents;

(ii) a recognized third party duplicating service make the copies or electronic scans of the requested documents; or

(iii) the unit owner be allowed to bring any necessary imaging equipment to the place of inspection and make copies or electronic scans of the documents while inspecting the documents.

(4) (a) An association of unit owners shall comply with a request described in Subsection (3).

(b) If an association of unit owners produces the copies or electronic scans:

(i) the copies or electronic scans shall be legible and accurate; and

(ii) the unit owner shall pay the association of unit owners the reasonable cost of the copies or electronic scans, which may not exceed:

(A) the actual cost that the association of unit owners paid to a recognized third party duplicating service to make the copies or electronic scans; or

(B) if an employee, manager, or other agent of the association of unit owners makes the copies or electronic scans, 10 cents per page and \$15 per hour for the employee's, manager's, or other agent's time making the copies or electronic scans.

(c) If a unit owner requests a recognized third party duplicating service make the copies or electronic scans:

(i) the association of unit owners shall arrange for the delivery and pick up of the original documents; and

(ii) the unit owner shall pay the duplicating service directly.

(d) If a unit owner requests to bring imaging equipment to the inspection, the association of unit owners shall provide the necessary space, light, and power for the imaging equipment.

(5) If, in response to a unit owner's request to inspect or copy documents, an association of unit

owners fails to comply with a provision of this section, the association of unit owners shall pay:

(a) the reasonable costs of inspecting and copying the requested documents; and

(b) reasonable attorney fees and costs incurred by the unit owner in obtaining the inspection and copies of the requested documents.

(6) (a) In addition to any remedy in the association of unit owners' governing documents or as otherwise provided by law, a unit owner may file an action in court under this section if:

(i) an association of unit owners fails to make documents available to the unit owner in accordance with this section, the association of unit owners' governing documents, or as otherwise provided by law; and

(ii) the association of unit owners fails to timely comply with a notice described in Subsection (6)(d).

(b) In an action described in Subsection (6)(a):

(i) the unit owner may request:

(A) injunctive relief requiring the association of unit owners to comply with the provisions of this section;

(B) \$500 or actual damage, whichever is greater; or

(C) any other relief provided by law; and

(ii) the court shall award costs and reasonable attorney fees to the prevailing party, including any reasonable attorney fees incurred before the action was filed that relate to the request that is the subject of the action.

(c) (i) In an action described in Subsection (6)(a), upon motion by the unit owner, notice to the association of unit owners, and a hearing in which the court finds a likelihood that the association of unit owners failed to comply with a provision of this section, the court shall order the association of unit owners to immediately comply with the provision.

(ii) The court shall hold a hearing described in Subsection (6)(c)(i) within 30 days after the day on which the unit owner files the motion.

(d) At least 10 days before the day on which a unit owner files an action described in Subsection (6)(a), the unit owner shall deliver a written notice to the association of unit owners that states:

(i) the unit owner's name, address, telephone number, and email address;

(ii) each requirement of this section with which the association of unit owners has failed to comply;

(iii) a demand that the association of unit owners comply with each requirement with which the association of unit owners has failed to comply; and

(iv) a date by which the association of unit owners shall remedy the association of unit owners' noncompliance that is at least 10 days after the day on which the unit owner delivers the notice to the association of unit owners.

~~(7) (a) The provisions of Section 16-6a-1604 do not apply to an association of unit owners.~~

~~(b) The provisions of this section apply regardless of any conflicting provision in Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act.~~

~~(8) A unit owner's agent may, on the unit owner's behalf, exercise or assert any right that the unit owner has under this section.~~

Section 4. Section 57-8-39 is amended to read:

57-8-39. Limitation on requirements for amending governing documents -- Limitation on contracts.

~~[(1) When the period of control described in Section 57-8-16.5 ends, neither the declaration nor bylaws may require that an amendment to the declaration or bylaws be approved by more than 67% of the voting interests.]~~

~~[(2) Voting interests under Subsection (1) are calculated in the manner required by the declaration or bylaws.]~~

~~[(3) Nothing in this section affects any other rights reserved by a declarant.]~~

~~(1) (a) (i) To amend the governing documents, the governing documents may not require:~~

~~(A) for an amendment adopted after the period of administrative control, the vote or approval of unit owners with more than 67% of the voting interests;~~

~~(B) the approval of any specific unit owner; or~~

~~(C) the vote or approval of lien holders holding more than 67% of the first position security interests secured by a mortgage or trust deed in the association of unit owners.~~

~~(ii) Any provision in the governing documents that prohibits a vote or approval to amend any part of the governing documents during a particular time period is invalid.~~

~~[(4) (b) Subsection (1)(a) does not apply to an amendment affecting only:~~

~~[(a) (i) the undivided interest of each unit owner in the common areas and facilities, as expressed in the declaration;~~

~~[(b) (ii) unit boundaries; or~~

~~[(c) members'] (iii) unit owners' voting rights.~~

~~[(5) (2) (a) A contract for services such as garbage collection, maintenance, lawn care, or snow removal executed on behalf of the association of unit owners during a period of administrative control is binding beyond the period of administrative control unless terminated by the board of directors after the period of administrative control ends.~~

~~(b) Subsection [(5) (2)(a) does not apply to golf course and amenity management, utilities, cable services, and other similar services that require an investment of infrastructure or capital.~~

~~(3) Voting interests under Subsection (1) are calculated in the manner required by the governing documents.~~

~~(4) Nothing in this section affects any other rights reserved by the declarant.~~

~~(5) This section applies to an association of unit owners regardless of when the association of unit owners is created.~~

Section 5. Section 57-8a-102 is amended to read:

57-8a-102. Definitions.

As used in this chapter:

~~(1) (a) "Assessment" means a charge imposed or levied:~~

~~(i) by the association;~~

~~(ii) on or against a lot or a lot owner; and~~

~~(iii) pursuant to a governing document recorded with the county recorder.~~

~~(b) "Assessment" includes:~~

~~(i) a common expense; and~~

~~(ii) an amount assessed against a lot owner under Subsection 57-8a-405(7).~~

~~(2) (a) Except as provided in Subsection (2)(b), "association" means a corporation or other legal entity, any member of which:~~

~~(i) is an owner of a residential lot located within the jurisdiction of the association, as described in the governing documents; and~~

~~(ii) by virtue of membership or ownership of a residential lot is obligated to pay:~~

~~(A) real property taxes;~~

~~(B) insurance premiums;~~

~~(C) maintenance costs; or~~

~~(D) for improvement of real property not owned by the member.~~

~~(b) "Association" or "homeowner association" does not include an association created under Title 57, Chapter 8, Condominium Ownership Act.~~

~~(3) "Board of directors" or "board" means the entity, regardless of name, with primary authority to manage the affairs of the association.~~

~~(4) "Common areas" means property that the association:~~

~~(a) owns;~~

~~(b) maintains;~~

~~(c) repairs; or~~

~~(d) administers.~~

~~(5) "Common expense" means costs incurred by the association to exercise any of the powers provided for in the association's governing documents.~~

~~(6) "Declarant":~~

(a) means the person who executes a declaration and submits it for recording in the office of the recorder of the county in which the property described in the declaration is located; and

(b) includes the person’s successor and assign.

(7) (a) “Governing documents” means a written instrument by which the association may:

(i) exercise powers; or

(ii) manage, maintain, or otherwise affect the property under the jurisdiction of the association.

(b) “Governing documents” includes:

(i) articles of incorporation;

(ii) bylaws;

(iii) a plat;

(iv) a declaration of covenants, conditions, and restrictions; and

(v) rules of the association.

(8) “Independent third party” means a person that:

(a) is not related to the owner of the residential lot;

(b) shares no pecuniary interests with the owner of the residential lot; and

(c) purchases the residential lot in good faith and without the intent to defraud a current or future lienholder.

(9) “Judicial foreclosure” means a foreclosure of a lot:

(a) for the nonpayment of an assessment; and

(b) (i) in the manner provided by law for the foreclosure of a mortgage on real property; and

(ii) as provided in Part 3, Collection of Assessments.

(10) “Lease” or “leasing” means regular, exclusive occupancy of a lot:

(a) by a person or persons other than the owner; and

(b) for which the owner receives a consideration or benefit, including a fee, service, gratuity, or emolument.

(11) “Limited common areas” means common areas described in the declaration and allocated for the exclusive use of one or more lot owners.

(12) “Lot” means:

(a) a lot, parcel, plot, or other division of land:

(i) designated for separate ownership or occupancy; and

(ii) (A) shown on a recorded subdivision plat; or

(B) the boundaries of which are described in a recorded governing document; or

(b) (i) a unit in a condominium association if the condominium association is a part of a development; or

(ii) a unit in a real estate cooperative if the real estate cooperative is part of a development.

(13) “Mixed-use project” means a project under this chapter that has both residential and commercial lots in the project.

(14) “Nonjudicial foreclosure” means the sale of a lot:

(a) for the nonpayment of an assessment; and

(b) (i) in the same manner as the sale of trust property under Sections 57-1-19 through 57-1-34; and

(ii) as provided in Part 3, Collection of Assessments.

(15) “Period of administrative control” means the period during which the person who filed the association’s governing documents or the person’s successor in interest retains authority to:

(a) appoint or remove members of the association’s board of directors; or

(b) exercise power or authority assigned to the association under the association’s governing documents.

~~[(15)]~~ (16) “Residential lot” means a lot, the use of which is limited by law, covenant, or otherwise to primarily residential or recreational purposes.

Section 6. Section 57-8a-104 is amended to read:

57-8a-104. Limitation on requirements for amending governing documents -- Limitation on contracts.

~~[(1) — As used in this section, “period of administrative control” means the period during which the person who filed the association’s governing documents or a successor in interest retains authority to:]~~

~~[(a) — appoint or remove members of the association’s board of directors; or]~~

~~[(b) — exercise power or authority assigned to the association under its governing documents.]~~

~~[(2) (a) (i) Governing documents may not require that an amendment to the governing documents adopted after the period of administrative control be approved by more than 67% of the voting interests.]~~

~~[(ii) The vote required to adopt an amendment to governing documents may not be greater than 67% of the voting interests, notwithstanding a provision of the governing documents requiring a greater percentage and regardless of whether the governing documents were adopted before, on, or after May 10, 2011.]~~

(1) (a) (i) To amend the governing documents, the governing documents may not require:

(A) for an amendment adopted after the period of administrative control, the vote or approval of lot owners with more than 67% of the voting interests;

(B) the approval of any specific lot owner; or

(C) the vote or approval of lien holders holding more than 67% of the first position security interests secured by a mortgage or trust deed in the association.

(ii) Any provision in the governing documents that prohibits a vote or approval to amend any part of the governing documents during a particular time period is invalid.

(b) Subsection ~~[(2)]~~ (1)(a) does not apply to an amendment affecting only:

(i) lot boundaries; or

(ii) ~~[members']~~ lot owner's voting rights.

~~[(3)]~~ (2) (a) A contract for services such as garbage collection, maintenance, lawn care, or snow removal executed on behalf of the association during a period of administrative control is binding beyond the period of administrative control unless terminated by the board of directors after the period of administrative control ends.

(b) Subsection ~~[(3)]~~ (2)(a) does not apply to golf course and amenity management, utilities, cable services, and other similar services that require an investment of infrastructure or capital.

~~[(4)]~~ (3) Voting interests under ~~[Subsections (2) and (3)]~~ Subsection (1) are calculated in the manner required by the governing documents.

~~[(5)]~~ (4) Nothing in this section affects any other rights reserved by the person who filed the association's original governing documents or a successor in interest.

(5) This section applies to an association regardless of when the association is created.

Section 7. Section 57-8a-217 is amended to read:

57-8a-217. Association rules, including design criteria -- Requirements and limitations relating to board's action on rules and design criteria -- Vote of disapproval.

(1) (a) Subject to Subsection (1)(b), a board may adopt, amend, modify, cancel, limit, create exceptions to, expand, or enforce the rules and design criteria of the association.

(b) A board's action under Subsection (1)(a) is subject to:

(i) this section;

(ii) any limitation that the declaration imposes on the authority stated in Subsection (1)(a);

(iii) the limitation on rules in Sections 57-8a-218 and 57-8a-219;

(iv) the board's duty to exercise business judgment on behalf of:

(A) the association; and

(B) the lot owners in the association; and

(v) the right of the lot owners or declarant to disapprove the action under Subsection (4).

(2) Except as provided in Subsection (3), before adopting, amending, modifying, canceling, limiting, creating exceptions to, or expanding the rules and design criteria of the association, the board shall:

(a) at least 15 days before the board will meet to consider a change to a rule or design criterion, deliver notice to lot owners, as provided in Section 57-8a-214, that the board is considering a change to a rule or design criterion;

(b) provide an open forum at the board meeting giving lot owners an opportunity to be heard at the board meeting before the board takes action under Subsection (1)(a); and

(c) deliver a copy of the change in the rules or design criteria approved by the board to the lot owners as provided in Section 57-8a-214 within 15 days after the date of the board meeting.

(3) (a) Subject to Subsection (3)(b), a board may adopt a rule without first giving notice to the lot owners under Subsection (2) if there is an imminent risk of harm to a common area, a limited common area, a lot owner, an occupant of a lot, a lot, or a dwelling.

(b) The board shall provide notice under Subsection (2) to the lot owners of a rule adopted under Subsection (3)(a).

(4) A board action in accordance with Subsections (1), (2), and (3) is disapproved if within 60 days after the date of the board meeting where the action was taken:

(a) (i) there is a vote of disapproval by at least 51% of all the allocated voting interests of the lot owners in the association; and

(ii) the vote is taken at a special meeting called for that purpose by the lot owners under the declaration, articles, or bylaws; or

(b) (i) the declarant delivers to the board a writing of disapproval; and

(ii) (A) the declarant is within the period of ~~[declarant]~~ administrative control; or

(B) for an expandable project, the declarant has the right to add real estate to the project.

(5) (a) The board has no obligation to call a meeting of the lot owners to consider disapproval, unless lot owners submit a petition, in the same manner as the declaration, articles, or bylaws provide for a special meeting, for the meeting to be held.

(b) Upon the board receiving a petition under Subsection (5)(a), the effect of the board's action is:

(i) stayed until after the meeting is held; and

(ii) subject to the outcome of the meeting.

(6) During the period of administrative control, a declarant may exempt the declarant from

association rules and the rulemaking procedure under this section if the declaration reserves to the declarant the right to exempt the declarant.

Section 8. Section 57-8a-224 is amended to read:

57-8a-224. Responsibility for the maintenance, repair, and replacement of common area and lots.

(1) As used in this section:

(a) "Emergency repair" means a repair that, if not made in a timely manner, will likely result in immediate and substantial damage to a common area or to another lot.

(b) "Reasonable notice" means:

(i) written notice that is hand delivered to the lot at least 24 hours before the proposed entry; or

(ii) in the case of an emergency repair, notice that is reasonable under the circumstances.

(2) Except as otherwise provided in the declaration or Part 4, Insurance:

(a) an association is responsible for the maintenance, repair, and replacement of common areas; and

(b) a lot owner is responsible for the maintenance, repair, and replacement of the lot owner's lot.

(3) After reasonable notice to the occupant of the lot being entered, the board may access a lot:

(a) from time to time during reasonable hours, as necessary for the maintenance, repair, or replacement of any of the common areas; or

(b) for making an emergency repair.

(4) (a) An association is liable to repair damage it causes to the common areas or to a lot the association uses to access the common areas.

(b) An association shall repair damage described in Subsection (4)(a) within a time that is reasonable under the circumstances.

(5) Subsections (2), (3), and (4) do not apply during the period of administrative control [as defined in Section 57-8a-104].

Section 9. Section 57-8a-225 is enacted to read:

57-8a-225. (Codified as 57-8a-227) Records -- Availability for examination.

(1) (a) Subject to Subsection (1)(b), an association shall keep and make documents available to lot owners in accordance with Sections 16-6a-1601 through 1603, 16-6a-1605, 16-6a-1606, and 16-6a-1610, regardless of whether the association is incorporated under Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act.

(b) An association may redact the following information from any document the association produces for inspection or copying:

(i) a Social Security number;

(ii) a bank account number; or

(iii) any communication subject to attorney-client privilege.

(2) (a) In addition to the requirements described in Subsection (1), an association shall make documents available to lot owners in accordance with the association's governing documents.

(b) If a provision of an association's governing documents conflicts with a provision of this section, the provision of this section governs.

(3) In a request to inspect or copy documents, a lot owner may:

(a) elect whether to inspect or copy the documents;

(b) if the lot owner elects to copy the documents, request hard copies or electronic scans of the documents; or

(c) subject to Subsection (4), request that:

(i) the association make the copies or electronic scans of the requested documents;

(ii) a recognized third party duplicating service make the copies or electronic scans of the requested documents; or

(iii) the lot owner be allowed to bring any necessary imaging equipment to the place of inspection and make copies or electronic scans of the documents while inspecting the documents.

(4) (a) An association shall comply with a request described in Subsection (3).

(b) If an association produces the copies or electronic scans:

(i) the copies or electronic scans shall be legible and accurate; and

(ii) the lot owner shall pay the association the reasonable cost of the copies or electronic scans, which may not exceed:

(A) the actual cost that the association paid to a recognized third party duplicating service to make the copies or electronic scans; or

(B) if an employee, manager, or other agent of the association makes the copies or electronic scans, 10 cents per page and \$15 per hour for the employee's, manager's, or other agent's time making the copies or electronic scans.

(c) If a lot owner requests a recognized third party duplicating service make the copies or electronic scans:

(i) the association shall arrange for the delivery and pick up of the original documents; and

(ii) the lot owner shall pay the duplicating service directly.

(d) If a lot owner requests to bring imaging equipment to the inspection, the association shall provide the necessary space, light, and power for the imaging equipment.

(5) If, in response to a lot owner's request to inspect or copy documents, an association fails to

comply with a provision of this section, the association shall pay:

(a) the reasonable costs of inspecting and copying the requested documents; and

(b) reasonable attorney fees and costs incurred by the lot owner in obtaining the inspection and copies of the requested documents.

(6) (a) In addition to any remedy in the association's governing documents or otherwise provided by law, a lot owner may file an action in court under this section if:

(i) an association fails to make documents available to the lot owner in accordance with this section, the association's governing documents, or as otherwise provided by law; and

(ii) the association fails to timely comply with a notice described in Subsection (6)(d).

(b) In an action described in Subsection (6)(a):

(i) the lot owner may request:

(A) injunctive relief requiring the association to comply with the provisions of this section;

(B) \$500 or actual damage, whichever is greater; or

(C) any other relief provided by law; and

(ii) the court shall award costs and reasonable attorney fees to the prevailing party, including any reasonable attorney fees incurred before the action was filed that relate to the request that is the subject of the action.

(c) (i) In an action described in Subsection (6)(a), upon motion by the lot owner, notice to the association, and a hearing in which the court finds a likelihood that the association failed to comply with a provision of this section, the court shall order the association to immediately comply with the provision.

(ii) The court shall hold a hearing described in Subsection (6)(c)(i) within 30 days after the day on which the lot owner files the motion.

(d) At least 10 days before the day on which a lot owner files an action described in Subsection (6)(a), the lot owner shall deliver a written notice to the association that states:

(i) the lot owner's name, address, telephone number, and email address;

(ii) each requirement of this section with which the association has failed to comply;

(iii) a demand that the association comply with each requirement with which the association has failed to comply; and

(iv) a date by which the association shall remedy the association's noncompliance that is at least 10 days after the day on which the lot owner delivers the notice to the association.

(7) (a) The provisions of Section 16-6a-1604 do not apply to an association.

(b) The provisions of this section apply regardless of any conflicting provision in Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act.

(8) A lot owner's agent may, on the lot owner's behalf, exercise or assert any right that the lot owner has under this section.

Section 10. Coordinating S.B. 118 with H.B. 99 -- Substantive amendment.

If this S.B. 118 and H.B. 99, Association Open Meeting Amendments, both pass and become law, the Legislature intends that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, on July 1, 2015:

(1) enact a new Subsection 57-8-56(8) to read:

"(8) (a) Subject to Subsection (8)(d), if an association of unit owners fails to comply with a provision of Subsections (1) through (4) and fails to remedy the noncompliance during the 90-day period described in Subsection (8)(d), a unit owner may file an action in court for:

(i) injunctive relief requiring the association of unit owners to comply with the provisions of Subsections (1) through (4);

(ii) \$500 or actual damages, whichever is greater; or

(iii) any other relief provided by law.

(b) In an action described in Subsection (8)(a), the court may award costs and reasonable attorney fees to the prevailing party.

(c) Upon motion from the unit owner, notice to the association of unit owners, and a hearing in which the court finds a likelihood that the association of unit owners has failed to comply with a provision of Subsections (1) through (4), the court may order the association of unit owners to immediately comply with the provisions of Subsections (1) through (4).

(d) At least 90 days before the day on which a unit owner files an action described in Subsection (8)(a), the unit owner shall deliver a written notice to the association of unit owners that states:

(i) the unit owner's name, address, telephone number, and email address;

(ii) each requirement of Subsections (1) through (4) with which the association of unit owners has failed to comply;

(iii) a demand that the association of unit owners comply with each requirement with which the association of unit owners has failed to comply; and

(iv) a date by which the association of unit owners shall remedy the association of unit owners' noncompliance that is at least 90 days after the day on which the unit owner delivers the notice to the association of unit owners."; and

(2) enact a new Subsection 57-8a-225(8) in H.B. 99 to read:

“(8) (a) Subject to Subsection (8)(d), if an association fails to comply with a provision of Subsections (1) through (4) and fails to remedy the noncompliance during the 90-day period described in Subsection (8)(d), a lot owner may file an action in court for:

(i) injunctive relief requiring the association to comply with the provisions of Subsections (1) through (4);

(ii) \$500 or actual damages, whichever is greater; or

(iii) any other relief provided by law.

(b) In an action described in Subsection (8)(a), the court may award costs and reasonable attorney fees to the prevailing party.

(c) Upon motion from the lot owner, notice to the association, and a hearing in which the court finds a likelihood that the association has failed to comply with a provision of Subsections (1) through (4), the court may order the association to immediately comply with the provisions of Subsections (1) through (4).

(d) At least 90 days before the day on which a lot owner files an action described in Subsection (8)(a), the lot owner shall deliver a written notice to the association that states:

(i) the lot owner’s name, address, telephone number, and email address;

(ii) each requirement of Subsections (1) through (4) with which the association has failed to comply;

(iii) a demand that the association comply with each requirement with which the association has failed to comply; and

(iv) a date by which the association shall remedy the association’s noncompliance that is at least 90 days after the day on which the lot owner delivers the notice to the association.”.

CHAPTER 326**S. B. 119**

Passed March 11, 2015
 Approved March 30, 2015
 Effective May 12, 2015

PRESCRIPTION DATABASE REVISIONS

Chief Sponsor: Todd Weiler
 House Sponsor: Brad M. Daw
 Cosponsors: Jim Dabakis
 Luz Escamilla
 Deidre M. Henderson
 Alvin B. Jackson
 Peter C. Knudson
 Mark B. Madsen
 Aaron Osmond
 Daniel W. Thatcher

LONG TITLE**General Description:**

This bill modifies the Controlled Substance Database Act regarding use of information in the database.

Highlighted Provisions:

This bill:

- ▶ provides that a person may request that the division provide to the person his or her records that are in the controlled substance database;
- ▶ provides a procedure for a patient to correct erroneous information in the database;
- ▶ requires law enforcement to use a search warrant to gain database information related to a controlled substance investigation and requires specification of the person regarding whom the information is sought;
- ▶ authorizes a person whose information is in the database to obtain a list of persons who have had access to that person's information, except when the information is subject to an investigation;
- ▶ provides that a physician employed as medical director for a licensed workers' compensation insurer or an approved self-insured employer may have access to the database regarding requests for workers' compensation; and
- ▶ adds the standards of negligently or recklessly to the elements of the criminal offense of unlawfully releasing database information.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

58-37f-203, as last amended by Laws of Utah 2014, Chapter 72
 58-37f-301, as last amended by Laws of Utah 2014, Chapters 68 and 401
 58-37f-601, as last amended by Laws of Utah 2014, Chapter 68

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

Section 1. Section 58-37f-203 is amended to read:**58-37f-203. Submission, collection, and maintenance of data.**

(1) (a) The pharmacist in charge of the drug outlet where a controlled substance is dispensed shall submit the data described in this section to the division:

- (i) in accordance with the requirements of this section;
- (ii) in accordance with the procedures established by the division; and
- (iii) in the format established by the division.

(b) A dispensing medical practitioner licensed under Chapter 17b, Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, shall comply with the provisions of this section and the dispensing medical practitioner shall assume the duties of the pharmacist under this chapter.

(2) The pharmacist described in Subsection (1) shall, for each controlled substance dispensed by a pharmacist under the pharmacist's supervision other than those dispensed for an inpatient at a health care facility, submit to the division the following information:

- (a) the name of the prescribing practitioner;
- (b) the date of the prescription;
- (c) the date the prescription was filled;
- (d) the name of the individual for whom the prescription was written;
- (e) positive identification of the individual receiving the prescription, including the type of identification and any identifying numbers on the identification;
- (f) the name of the controlled substance;
- (g) the quantity of the controlled substance prescribed;
- (h) the strength of the controlled substance;
- (i) the quantity of the controlled substance dispensed;
- (j) the dosage quantity and frequency as prescribed;
- (k) the name of the drug outlet dispensing the controlled substance; and
- (l) the name of the pharmacist dispensing the controlled substance[; and].

~~[(m) other relevant information as required by division rule.]~~

(3) An individual whose records are in the database may obtain those records upon submission of a written request to the division.

(4) (a) A patient whose record is in the database may contact the division in writing to request

correction of any of the patient's database information that is incorrect. The patient shall provide a postal address for the division's response.

(b) The division shall grant or deny the request within 30 days from receipt of the request and shall advise the requesting patient of its decision by mail postmarked within 35 days of receipt of the request.

(c) If the division denies a request under this Subsection (4) or does not respond within 35 days, the patient may submit an appeal to the Department of Commerce, within 60 days after the postmark date of the patient's letter making a request for a correction under this Subsection (4).

~~[(3)]~~ (5) (a) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish the electronic format in which the information required under this section shall be submitted to the division.

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

(i) the identification of each individual who requests or receives information from the database;

(ii) the information provided to each individual; and

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

Section 2. Section 58-37f-301 is amended to read:

58-37f-301. Access to database.

(1) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(a) effectively enforce the limitations on access to the database as described in this part; and

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

(2) The division shall make information in the database and information obtained from other state or federal prescription monitoring programs by means of the database available only to the following individuals, in accordance with the requirements of this chapter and division rules:

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

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

(c) in accordance with a written agreement entered into with the department, employees of the Department of Health:

(i) whom the director of the Department of Health assigns to conduct scientific studies regarding the

use or abuse of controlled substances, if the identity of the individuals and pharmacies in the database are confidential and are not disclosed in any manner to any individual who is not directly involved in the scientific studies; or

(ii) when the information is requested by the Department of Health in relation to a person or provider whom the Department of Health suspects may be improperly obtaining or providing a controlled substance;

(d) in accordance with a written agreement entered into with the department, a designee of the director of the Department of Health, who is not an employee of the Department of Health, whom the director of the Department of Health assigns to conduct scientific studies regarding the use or abuse of controlled substances pursuant to an application process established in rule by the Department of Health, if:

(i) the designee provides explicit information to the Department of Health regarding the purpose of the scientific studies;

(ii) the scientific studies to be conducted by the designee:

(A) fit within the responsibilities of the Department of Health for health and welfare;

(B) are reviewed and approved by an Institutional Review Board that is approved for human subject research by the United States Department of Health and Human Services; and

(C) are not conducted for profit or commercial gain; and

(D) are conducted in a research facility, as defined by division rule, that is associated with a university or college in the state accredited by the Northwest Commission on Colleges and Universities;

(iii) the designee protects the information as a business associate of the Department of Health; and

(iv) the identity of the prescribers, patients, and pharmacies in the database are de-identified, confidential, not disclosed in any manner to the designee or to any individual who is not directly involved in the scientific studies;

(e) in accordance with the written agreement entered into with the department and the Department of Health, authorized employees of a managed care organization, as defined in 42 C.F.R. Sec. 438, if:

(i) the managed care organization contracts with the Department of Health under the provisions of Section 26-18-405 and the contract includes provisions that:

(A) require a managed care organization employee who will have access to information from the database to submit to a criminal background check; and

(B) limit the authorized employee of the managed care organization to requesting either the division or the Department of Health to conduct a search of

the database regarding a specific Medicaid enrollee and to report the results of the search to the authorized employee; and

(ii) the information is requested by an authorized employee of the managed care organization in relation to a person who is enrolled in the Medicaid program with the managed care organization, and the managed care organization suspects the person may be improperly obtaining or providing a controlled substance;

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

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

(B) is provided to or sought by the practitioner for the purpose of:

(I) prescribing or considering prescribing any controlled substance to the current or prospective patient;

(II) diagnosing the current or prospective patient;

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

(IV) determining whether the current or prospective patient:

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

(Bb) has fraudulently obtained, or attempted to fraudulently obtain, a controlled substance from the practitioner;

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

(B) is provided to or sought by the practitioner for the purpose of determining whether the former patient has fraudulently obtained, or has attempted to fraudulently obtain, a controlled substance from the practitioner;

(iii) relates specifically to an individual who has access to the practitioner's Drug Enforcement Administration identification number, and the practitioner suspects that the individual may have used the practitioner's Drug Enforcement Administration identification number to fraudulently acquire or prescribe a controlled substance;

(iv) relates to the practitioner's own prescribing practices, except when specifically prohibited by the division by administrative rule;

(v) relates to the use of the controlled substance database by an employee of the practitioner, described in Subsection (2)(g); or

(vi) relates to any use of the practitioner's Drug Enforcement Administration identification number to obtain, attempt to obtain, prescribe, or attempt to prescribe, a controlled substance;

(g) in accordance with Subsection (3)(a), an employee of a practitioner described in Subsection

(2)(f), for a purpose described in Subsection (2)(f)(i) or (ii), if:

(i) the employee is designated by the practitioner as an individual authorized to access the information on behalf of the practitioner;

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

(iii) the division:

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

(B) provides the employee with a password that is unique to that employee to access the database in order to permit the division to comply with the requirements of Subsection 58-37f-203[~~(3)~~](4)(b) with respect to the employee;

(h) an employee of the same business that employs a licensed practitioner under Subsection (2)(f) if:

(i) the employee is designated by the practitioner as an individual authorized to access the information on behalf of the practitioner;

(ii) the practitioner and the employing business provide written notice to the division of the identity of the designated employee; and

(iii) the division:

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

(B) provides the employee with a password that is unique to that employee to access the database in order to permit the division to comply with the requirements of Subsection 58-37f-203[~~(3)~~](4)(b) with respect to the employee;

(i) a licensed pharmacist having authority to dispense a controlled substance to the extent the information is provided or sought for the purpose of:

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

(ii) determining whether a person:

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

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

(j) in accordance with Subsection (3)(a), a licensed pharmacy technician who is an employee of a pharmacy as defined in Section 58-17b-102, for the purposes described in Subsection (2)(h)(i) or (ii), if:

(i) the employee is designated by the pharmacist-in-charge as an individual authorized to access the information on behalf of a licensed pharmacist employed by the pharmacy;

(ii) the pharmacist-in-charge provides written notice to the division of the identity of the employee; and

(iii) the division:

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

(B) provides the employee with a password that is unique to that employee to access the database in order to permit the division to comply with the requirements of Subsection 58-37f-203~~(3)~~(4)(b) with respect to the employee;

(k) pursuant to a valid search warrant, federal, state, and local law enforcement ~~[authorities,] agencies and state and local prosecutors[,] that are engaged [as a specified duty of their employment in enforcing laws:]~~ in an investigation related to:

~~(i) one or more controlled substances; and~~

~~(ii) a specific person who is a subject of the investigation;~~

~~(i) regulating controlled substances;~~

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

~~(iii) providing information about a criminal defendant to defense counsel, upon request during the discovery process, for the purpose of establishing a defense in a criminal case;~~

(l) employees of the Office of Internal Audit and Program Integrity within the Department of Health who are engaged in their specified duty of ensuring Medicaid program integrity under Section 26-18-2.3;

(m) a mental health therapist, if:

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

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

(B) receiving treatment from, or under the direction of, the mental health therapist as part of the patient's participation in the licensed substance abuse treatment program described in Subsection (2)(m)(i)(A);

(ii) the information is sought for the purpose of determining whether the patient is using a controlled substance while the patient is enrolled in the licensed substance abuse treatment program described in Subsection (2)(m)(i)(A); and

(iii) the licensed substance abuse treatment program described in Subsection (2)(m)(i)(A) is associated with a practitioner who:

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

(B) is available to consult with the mental health therapist regarding the information obtained by the mental health therapist, under this Subsection (2)(m), from the database;

(n) an individual who is the recipient of a controlled substance prescription entered into the database, upon providing evidence satisfactory to the division that the individual requesting the information is in fact the individual about whom the data entry was made;

(o) an individual under Subsection (2)(n) for the purpose of obtaining a list of the persons and

entities that have requested or received any information from the database regarding the individual, except if the individual's record is subject to a pending or current investigation as authorized under this Subsection (2);

~~(p)~~ (p) the inspector general, or a designee of the inspector general, of the Office of Inspector General of Medicaid Services, for the purpose of fulfilling the duties described in Title 63A, Chapter 13, Part 2, Office and Powers; and

~~(q)~~ (q) the following licensed physicians for the purpose of reviewing and offering an opinion on an individual's request for workers' compensation benefits under Title 34A, Chapter 2, Workers' Compensation Act, or Title 34A, Chapter 3, Utah Occupational Disease Act:

(i) a member of the medical panel described in Section 34A-2-601; ~~or~~

(ii) a physician employed as medical director for a licensed workers' compensation insurer or an approved self-insured employer; or

~~(iii)~~ (iii) a physician offering a second opinion regarding treatment.

(3) (a) (i) A practitioner described in Subsection (2)(f) may designate up to three employees to access information from the database under Subsection (2)(g), (2)(h), or (4)(c).

(ii) A pharmacist described in Subsection (2)(i) who is a pharmacist-in-charge may designate up to three employees to access information from the database under Subsection (2)(j).

(b) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(i) establish background check procedures to determine whether an employee designated under Subsection (2)(g), (2)(h), or (4)(c) should be granted access to the database; and

(ii) establish the information to be provided by an emergency room employee under Subsection (4).

(c) The division shall grant an employee designated under Subsection (2)(g), (2)(h), or (4)(c) access to the database, unless the division determines, based on a background check, that the employee poses a security risk to the information contained in the database.

(4) (a) An individual who is employed in the emergency room of a hospital may exercise access to the database under this Subsection (4) on behalf of a licensed practitioner if the individual is designated under Subsection (4)(c) and the licensed practitioner:

(i) is employed in the emergency room;

(ii) is treating an emergency room patient for an emergency medical condition; and

(iii) requests that an individual employed in the emergency room and designated under Subsection (4)(c) obtain information regarding the patient from the database as needed in the course of treatment.

(b) The emergency room employee obtaining information from the database shall, when gaining access to the database, provide to the database the name and any additional identifiers regarding the requesting practitioner as required by division administrative rule established under Subsection (3)(b).

(c) An individual employed in the emergency room under this Subsection (4) may obtain information from the database as provided in Subsection (4)(a) if:

(i) the employee is designated by the practitioner as an individual authorized to access the information on behalf of the practitioner;

(ii) the practitioner and the hospital operating the emergency room provide written notice to the division of the identity of the designated employee; and

(iii) the division:

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

(B) provides the employee with a password that is unique to that employee to access the database in order to permit the division to comply with the requirements of Subsection 58-37f-203(3)(b) with respect to the employee.

(d) The division may impose a fee, in accordance with Section 63J-1-504, on a practitioner who designates an employee under Subsection (2)(g), (2)(h), or (4)(c) to pay for the costs incurred by the division to conduct the background check and make the determination described in Subsection (3)(b).

(5) (a) An individual who is granted access to the database based on the fact that the individual is a licensed practitioner or a mental health therapist shall be denied access to the database when the individual is no longer licensed.

(b) An individual who is granted access to the database based on the fact that the individual is a designated employee of a licensed practitioner shall be denied access to the database when the practitioner is no longer licensed.

Section 3. Section 58-37f-601 is amended to read:

58-37f-601. Unlawful release or use of database information -- Criminal and civil penalties.

(1) (a) Any person who knowingly and intentionally releases any information in the database or [~~knowingly and intentionally releases~~] any information obtained from other state or federal prescription monitoring programs by means of the database in violation of the limitations under Part 3, Access, is guilty of a third degree felony.

(b) Any person who negligently or recklessly releases any information in the database or any information obtained from other state or federal prescription monitoring programs by means of the database in violation of the limitations under Title

58, Chapter 37f, Part 3, Access, is guilty of a class C misdemeanor.

(2) (a) Any person who obtains or attempts to obtain information from the database or from any other state or federal prescription monitoring programs by means of the database by misrepresentation or fraud is guilty of a third degree felony.

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

(3) (a) Except as provided in Subsection (3)(e), a person may not knowingly and intentionally use, release, publish, or otherwise make available to any other person any information obtained from the database or from any other state or federal prescription monitoring programs by means of the database for any purpose other than those specified in Part 3, Access.

(b) Each separate violation of this Subsection (3) is a third degree felony and is also subject to a civil penalty not to exceed \$5,000.

(c) The procedure for determining a civil violation of this Subsection (3) is in accordance with Section 58-1-108, regarding adjudicative proceedings within the division.

(d) Civil penalties assessed under this Subsection (3) shall be deposited in the General Fund as a dedicated credit to be used by the division under Subsection 58-37f-502(1).

(e) This Subsection (3) does not prohibit a person who obtains information from the database under Subsection 58-37f-301(2)(f), (g), (i), or (4)(c) from:

(i) including the information in the person's medical chart or file for access by a person authorized to review the medical chart or file; or

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

CHAPTER 327**S. B. 124**

Passed March 9, 2015

Approved March 30, 2015

Effective May 12, 2015

LAND USE AMENDMENTS

Chief Sponsor: Jerry W. Stevenson

House Sponsor: Mike Schultz

LONG TITLE**General Description:**

This bill amends municipal and county land use provisions.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ authorizes a municipality or county to make certain exceptions from specific zoning district standards;
- ▶ requires a surveyor to consult with an owner or operator of an existing or proposed underground facility or utility facility for verification of the surveyor's depiction;
- ▶ amends provisions related to the completion of landscaping and infrastructure improvement prior to recording a plat;
- ▶ amends provisions prohibiting certain counties from adopting a land use ordinance that requires an owner to landscape certain single family dwellings;
- ▶ prohibits a municipality or a county from denying a building permit for an incomplete nonessential improvement; and
- ▶ makes technical and conforming amendments.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 10-9a-103, as last amended by Laws of Utah 2014, Chapters 136 and 363
- 10-9a-505, as last amended by Laws of Utah 2008, Chapter 326
- 10-9a-603, as last amended by Laws of Utah 2010, Chapters 269 and 381
- 10-9a-604.5, as repealed and reenacted by Laws of Utah 2013, Chapter 309
- 10-9a-606, as last amended by Laws of Utah 2010, Chapter 381
- 10-9a-802, as renumbered and amended by Laws of Utah 2005, Chapter 254
- 17-27a-103, as last amended by Laws of Utah 2014, Chapters 136 and 363
- 17-27a-505, as last amended by Laws of Utah 2013, Chapter 476
- 17-27a-603, as last amended by Laws of Utah 2011, Chapter 377
- 17-27a-604.5, as repealed and reenacted by Laws of Utah 2013, Chapter 309
- 17-27a-606, as last amended by Laws of Utah 2010, Chapter 381
- 17-27a-802, as renumbered and amended by Laws of Utah 2005, Chapter 254

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

Section 1. Section 10-9a-103 is amended to read:**10-9a-103. Definitions.**

As used in this chapter:

(1) "Affected entity" means a county, municipality, local district, special service district under Title 17D, Chapter 1, Special Service District Act, school district, interlocal cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act, specified public utility, property owner, property owners association, or the Utah Department of Transportation, if:

(a) the entity's services or facilities are likely to require expansion or significant modification because of an intended use of land;

(b) the entity has filed with the municipality a copy of the entity's general or long-range plan; or

(c) the entity has filed with the municipality a request for notice during the same calendar year and before the municipality provides notice to an affected entity in compliance with a requirement imposed under this chapter.

(2) "Appeal authority" means the person, board, commission, agency, or other body designated by ordinance to decide an appeal of a decision of a land use application or a variance.

(3) "Billboard" means a freestanding ground sign located on industrial, commercial, or residential property if the sign is designed or intended to direct attention to a business, product, or service that is not sold, offered, or existing on the property where the sign is located.

(4) (a) "Charter school" means:

(i) an operating charter school;

(ii) a charter school applicant that has its application approved by a charter school authorizer in accordance with Title 53A, Chapter 1a, Part 5, The Utah Charter Schools Act; or

(iii) an entity that is working on behalf of a charter school or approved charter applicant to develop or construct a charter school building.

(b) "Charter school" does not include a therapeutic school.

(5) "Conditional use" means a land use that, because of its unique characteristics or potential impact on the municipality, surrounding neighbors, or adjacent land uses, may not be compatible in some areas or may be compatible only if certain conditions are required that mitigate or eliminate the detrimental impacts.

(6) "Constitutional taking" means a governmental action that results in a taking of private property so that compensation to the owner of the property is required by the:

(a) Fifth or Fourteenth Amendment of the Constitution of the United States; or

(b) Utah Constitution Article I, Section 22.

(7) “Culinary water authority” means the department, agency, or public entity with responsibility to review and approve the feasibility of the culinary water system and sources for the subject property.

(8) “Development activity” means:

(a) any construction or expansion of a building, structure, or use that creates additional demand and need for public facilities;

(b) any change in use of a building or structure that creates additional demand and need for public facilities; or

(c) any change in the use of land that creates additional demand and need for public facilities.

(9) (a) “Disability” means a physical or mental impairment that substantially limits one or more of a person’s major life activities, including a person having a record of such an impairment or being regarded as having such an impairment.

(b) “Disability” does not include current illegal use of, or addiction to, any federally controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C. 802.

(10) “Educational facility”:

(a) means:

(i) a school district’s building at which pupils assemble to receive instruction in a program for any combination of grades from preschool through grade 12, including kindergarten and a program for children with disabilities;

(ii) a structure or facility:

(A) located on the same property as a building described in Subsection (10)(a)(i); and

(B) used in support of the use of that building; and

(iii) a building to provide office and related space to a school district’s administrative personnel; and

(b) does not include:

(i) land or a structure, including land or a structure for inventory storage, equipment storage, food processing or preparing, vehicle storage or maintenance, or similar use that is:

(A) not located on the same property as a building described in Subsection (10)(a)(i); and

(B) used in support of the purposes of a building described in Subsection (10)(a)(i); or

(ii) a therapeutic school.

(11) “Fire authority” means the department, agency, or public entity with responsibility to review and approve the feasibility of fire protection and suppression services for the subject property.

(12) “Flood plain” means land that:

(a) is within the 100-year flood plain designated by the Federal Emergency Management Agency; or

(b) has not been studied or designated by the Federal Emergency Management Agency but presents a likelihood of experiencing chronic flooding or a catastrophic flood event because the land has characteristics that are similar to those of a 100-year flood plain designated by the Federal Emergency Management Agency.

(13) “General plan” means a document that a municipality adopts that sets forth general guidelines for proposed future development of the land within the municipality.

(14) “Geologic hazard” means:

(a) a surface fault rupture;

(b) shallow groundwater;

(c) liquefaction;

(d) a landslide;

(e) a debris flow;

(f) unstable soil;

(g) a rock fall; or

(h) any other geologic condition that presents a risk:

(i) to life;

(ii) of substantial loss of real property; or

(iii) of substantial damage to real property.

(15) “Hookup fee” means a fee for the installation and inspection of any pipe, line, meter, or appurtenance that connects to a municipal water, sewer, storm water, power, or other utility system.

(16) “Identical plans” means building plans submitted to a municipality that:

(a) are clearly marked as “identical plans”;

(b) are substantially identical to building plans that were previously submitted to and reviewed and approved by the municipality; and

(c) describe a building that:

(i) is located on land zoned the same as the land on which the building described in the previously approved plans is located;

(ii) is subject to the same geological and meteorological conditions and the same law as the building described in the previously approved plans;

(iii) has a floor plan identical to the building plan previously submitted to and reviewed and approved by the municipality; and

(iv) does not require any additional engineering or analysis.

(17) “Impact fee” means a payment of money imposed under Title 11, Chapter 36a, Impact Fees Act.

(18) “Improvement completion assurance” means a surety bond, letter of credit, financial institution bond, cash, assignment of rights, lien, or other equivalent security required by a municipality to

guaranty the proper completion of landscaping or an infrastructure ~~[that the land use authority has]~~ improvement required as a condition precedent to:

(a) recording a subdivision plat; or

(b) ~~[beginning]~~ development [activity] of a commercial, industrial, mixed use, or multifamily project.

(19) “Improvement warranty” means an applicant’s unconditional warranty that the applicant’s installed and accepted landscaping or infrastructure improvement:

(a) complies with the municipality’s written standards for design, materials, and workmanship; and

(b) will not fail in any material respect, as a result of poor workmanship or materials, within the improvement warranty period.

(20) “Improvement warranty period” means a period:

(a) no later than one year after a municipality’s acceptance of required landscaping; or

(b) no later than one year after a municipality’s acceptance of required infrastructure, unless the municipality:

(i) determines for good cause that a one-year period would be inadequate to protect the public health, safety, and welfare; and

(ii) has substantial evidence, on record:

(A) of prior poor performance by the applicant; or

(B) that the area upon which the infrastructure will be constructed contains suspect soil and the municipality has not otherwise required the applicant to mitigate the suspect soil.

(21) “Infrastructure improvement” means permanent infrastructure that an applicant must install:

(a) pursuant to published installation and inspection specifications for public improvements; and

(b) as a condition of:

(i) recording a subdivision plat; or

(ii) development of a commercial, industrial, mixed use, condominium, or multifamily project.

[(21)] (22) “Internal lot restriction” means a platted note, platted demarcation, or platted designation that:

(a) runs with the land; and

(b) (i) creates a restriction that is enclosed within the perimeter of a lot described on the plat; or

(ii) designates a development condition that is enclosed within the perimeter of a lot described on the plat.

[(22)] (23) “Land use application” means an application required by a municipality’s land use ordinance.

[(23)] (24) “Land use authority” means:

(a) a person, board, commission, agency, or body, including the local legislative body, designated by the local legislative body to act upon a land use application; or

(b) if the local legislative body has not designated a person, board, commission, agency, or body, the local legislative body.

[(24)] (25) “Land use ordinance” means a planning, zoning, development, or subdivision ordinance of the municipality, but does not include the general plan.

[(25)] (26) “Land use permit” means a permit issued by a land use authority.

[(26)] (27) “Legislative body” means the municipal council.

[(27)] (28) “Local district” means an entity under Title 17B, Limited Purpose Local Government Entities - Local Districts, and any other governmental or quasi-governmental entity that is not a county, municipality, school district, or the state.

[(28)] (29) “Lot line adjustment” means the relocation of the property boundary line in a subdivision between two adjoining lots with the consent of the owners of record.

[(29)] (30) “Moderate income housing” means housing occupied or reserved for occupancy by households with a gross household income equal to or less than 80% of the median gross income for households of the same size in the county in which the city is located.

[(30)] (31) “Nominal fee” means a fee that reasonably reimburses a municipality only for time spent and expenses incurred in:

(a) verifying that building plans are identical plans; and

(b) reviewing and approving those minor aspects of identical plans that differ from the previously reviewed and approved building plans.

[(31)] (32) “Noncomplying structure” means a structure that:

(a) legally existed before its current land use designation; and

(b) because of one or more subsequent land use ordinance changes, does not conform to the setback, height restrictions, or other regulations, excluding those regulations, which govern the use of land.

[(32)] (33) “Nonconforming use” means a use of land that:

(a) legally existed before its current land use designation;

(b) has been maintained continuously since the time the land use ordinance governing the land changed; and

(c) because of one or more subsequent land use ordinance changes, does not conform to the regulations that now govern the use of the land.

[(33)] (34) "Official map" means a map drawn by municipal authorities and recorded in a county recorder's office that:

(a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for highways and other transportation facilities;

(b) provides a basis for restricting development in designated rights-of-way or between designated setbacks to allow the government authorities time to purchase or otherwise reserve the land; and

(c) has been adopted as an element of the municipality's general plan.

[(34)] (35) "Parcel boundary adjustment" means a recorded agreement between owners of adjoining properties adjusting their mutual boundary if:

(a) no additional parcel is created; and

(b) each property identified in the agreement is unsubdivided land, including a remainder of subdivided land.

[(35)] (36) "Person" means an individual, corporation, partnership, organization, association, trust, governmental agency, or any other legal entity.

[(36)] (37) "Plan for moderate income housing" means a written document adopted by a city legislative body that includes:

(a) an estimate of the existing supply of moderate income housing located within the city;

(b) an estimate of the need for moderate income housing in the city for the next five years as revised biennially;

(c) a survey of total residential land use;

(d) an evaluation of how existing land uses and zones affect opportunities for moderate income housing; and

(e) a description of the city's program to encourage an adequate supply of moderate income housing.

[(37)] (38) "Plat" means a map or other graphical representation of lands being laid out and prepared in accordance with Section 10-9a-603, 17-23-17, or 57-8-13.

[(38)] (39) "Potential geologic hazard area" means an area that:

(a) is designated by a Utah Geological Survey map, county geologist map, or other relevant map or report as needing further study to determine the area's potential for geologic hazard; or

(b) has not been studied by the Utah Geological Survey or a county geologist but presents the potential of geologic hazard because the area has characteristics similar to those of a designated geologic hazard area.

[(39)] (40) "Public agency" means:

(a) the federal government;

(b) the state;

(c) a county, municipality, school district, local district, special service district, or other political subdivision of the state; or

(d) a charter school.

[(40)] (41) "Public hearing" means a hearing at which members of the public are provided a reasonable opportunity to comment on the subject of the hearing.

[(41)] (42) "Public meeting" means a meeting that is required to be open to the public under Title 52, Chapter 4, Open and Public Meetings Act.

[(42)] (43) "Receiving zone" means an area of a municipality that the municipality designates, by ordinance, as an area in which an owner of land may receive a transferable development right.

[(43)] (44) "Record of survey map" means a map of a survey of land prepared in accordance with Section 17-23-17.

[(44)] (45) "Residential facility for persons with a disability" means a residence:

(a) in which more than one person with a disability resides; and

(b) (i) which is licensed or certified by the Department of Human Services under Title 62A, Chapter 2, Licensure of Programs and Facilities; or

(ii) which is licensed or certified by the Department of Health under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.

[(45)] (46) "Rules of order and procedure" means a set of rules that govern and prescribe in a public meeting:

(a) parliamentary order and procedure;

(b) ethical behavior; and

(c) civil discourse.

[(46)] (47) "Sanitary sewer authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of sanitary sewer services or onsite wastewater systems.

[(47)] (48) "Sending zone" means an area of a municipality that the municipality designates, by ordinance, as an area from which an owner of land may transfer a transferable development right.

[(48)] (49) "Specified public agency" means:

(a) the state;

(b) a school district; or

(c) a charter school.

[(49)] (50) "Specified public utility" means an electrical corporation, gas corporation, or telephone corporation, as those terms are defined in Section 54-2-1.

[450] (51) “State” includes any department, division, or agency of the state.

[451] (52) “Street” means a public right-of-way, including a highway, avenue, boulevard, parkway, road, lane, walk, alley, viaduct, subway, tunnel, bridge, public easement, or other way.

[452] (53) (a) “Subdivision” means any land that is divided, resubdivided or proposed to be divided into two or more lots, parcels, sites, units, plots, or other division of land for the purpose, whether immediate or future, for offer, sale, lease, or development either on the installment plan or upon any and all other plans, terms, and conditions.

(b) “Subdivision” includes:

(i) the division or development of land whether by deed, metes and bounds description, devise and testacy, map, plat, or other recorded instrument; and

(ii) except as provided in Subsection [452] (53)(c), divisions of land for residential and nonresidential uses, including land used or to be used for commercial, agricultural, and industrial purposes.

(c) “Subdivision” does not include:

(i) a bona fide division or partition of agricultural land for the purpose of joining one of the resulting separate parcels to a contiguous parcel of unsubdivided agricultural land, if neither the resulting combined parcel nor the parcel remaining from the division or partition violates an applicable land use ordinance;

(ii) a recorded agreement between owners of adjoining unsubdivided properties adjusting their mutual boundary if:

(A) no new lot is created; and

(B) the adjustment does not violate applicable land use ordinances;

(iii) a recorded document, executed by the owner of record:

(A) revising the legal description of more than one contiguous unsubdivided parcel of property into one legal description encompassing all such parcels of property; or

(B) joining a subdivided parcel of property to another parcel of property that has not been subdivided, if the joinder does not violate applicable land use ordinances;

(iv) a recorded agreement between owners of adjoining subdivided properties adjusting their mutual boundary if:

(A) no new dwelling lot or housing unit will result from the adjustment; and

(B) the adjustment will not violate any applicable land use ordinance;

(v) a bona fide division or partition of land by deed or other instrument where the land use authority expressly approves in writing the division in

anticipation of further land use approvals on the parcel or parcels; or

(vi) a parcel boundary adjustment.

(d) The joining of a subdivided parcel of property to another parcel of property that has not been subdivided does not constitute a subdivision under this Subsection [452] (53) as to the unsubdivided parcel of property or subject the unsubdivided parcel to the municipality’s subdivision ordinance.

[453] (54) “Suspect soil” means soil that has:

(a) a high susceptibility for volumetric change, typically clay rich, having more than a 3% swell potential;

(b) bedrock units with high shrink or swell susceptibility; or

(c) gypsiferous silt and clay, gypsum, or bedrock units containing abundant gypsum commonly associated with dissolution and collapse features.

[454] (55) “Therapeutic school” means a residential group living facility:

(a) for four or more individuals who are not related to:

(i) the owner of the facility; or

(ii) the primary service provider of the facility;

(b) that serves students who have a history of failing to function:

(i) at home;

(ii) in a public school; or

(iii) in a nonresidential private school; and

(c) that offers:

(i) room and board; and

(ii) an academic education integrated with:

(A) specialized structure and supervision; or

(B) services or treatment related to a disability, an emotional development, a behavioral development, a familial development, or a social development.

[455] (56) “Transferable development right” means a right to develop and use land that originates by an ordinance that authorizes a land owner in a designated sending zone to transfer land use rights from a designated sending zone to a designated receiving zone.

[456] (57) “Unincorporated” means the area outside of the incorporated area of a city or town.

[457] (58) “Water interest” means any right to the beneficial use of water, including:

(a) each of the rights listed in Section 73-1-11; and

(b) an ownership interest in the right to the beneficial use of water represented by:

(i) a contract; or

(ii) a share in a water company, as defined in Section 73-3-3.5.

[458] (59) “Zoning map” means a map, adopted as part of a land use ordinance, that depicts land use zones, overlays, or districts.

Section 2. Section 10-9a-505 is amended to read:

10-9a-505. Zoning districts.

(1) (a) The legislative body may divide the territory over which it has jurisdiction into zoning districts of a number, shape, and area that it considers appropriate to carry out the purposes of this chapter.

(b) Within those zoning districts, the legislative body may regulate and restrict the erection, construction, reconstruction, alteration, repair, or use of buildings and structures, and the use of land.

(c) A municipality may enact an ordinance regulating land use and development in a flood plain or potential geologic hazard area to:

- (i) protect life; and
- (ii) prevent:
 - (A) the substantial loss of real property; or
 - (B) substantial damage to real property.

(2) The legislative body shall ensure that the regulations are uniform for each class or kind of buildings throughout each zoning district, but the regulations in one zone may differ from those in other zones.

(3) (a) There is no minimum area or diversity of ownership requirement for a zone designation.

(b) Neither the size of a zoning district nor the number of landowners within the district may be used as evidence of the illegality of a zoning district or of the invalidity of a municipal decision.

(4) A municipality may by ordinance exempt from specific zoning district standards a subdivision of land to accommodate the siting of a public utility infrastructure.

Section 3. Section 10-9a-603 is amended to read:

10-9a-603. Plat required when land is subdivided -- Approval of plat -- Owner acknowledgment, surveyor certification, and underground utility facility owner verification of plat -- Recording plat.

(1) Unless exempt under Section 10-9a-605 or excluded from the definition of subdivision under Section 10-9a-103, whenever any land is laid out and platted, the owner of the land shall provide an accurate plat that describes or specifies:

(a) a subdivision name that is distinct from any subdivision name on a plat recorded in the county recorder’s office;

(b) the boundaries, course, and dimensions of all of the parcels of ground divided, by their boundaries, course, and extent, whether the owner proposes that any parcel of ground is intended to be used as a street or for any other public use, and whether any such area is reserved or proposed for dedication for a public purpose;

(c) the lot or unit reference, block or building reference, street or site address, street name or coordinate address, acreage or square footage for all parcels, units, or lots, and length and width of the blocks and lots intended for sale; and

(d) every existing right-of-way and easement grant of record for an underground [facilities] facility, as defined in Section 54-8a-2, and for any other utility [facilities] facility.

(2) (a) Subject to Subsections (3), (4), and (5), if the plat conforms to the municipality’s ordinances and this part and has been approved by the culinary water authority [and], the sanitary sewer authority, and the local health department, as defined in Section 26A-1-102, if the local health department and the municipality consider the local health department’s approval necessary, the municipality shall approve the plat.

(b) Municipalities are encouraged to receive a recommendation from the fire authority before approving a plat.

(c) A municipality may not require that a plat be approved or signed by a person or entity who:

- (i) is not an employee or agent of the municipality;
- (ii) does not:

(A) have a legal or equitable interest in the property within the proposed subdivision;

(B) provide a utility or other service directly to a lot within the subdivision;

(C) own an easement or right-of-way adjacent to the proposed subdivision who signs for the purpose of confirming the accuracy of the location of the easement or right-of-way in relation to the plat; or

(D) provide culinary public water service whose source protection zone designated as provided in Section 19-4-113 is included, in whole or in part, within the proposed subdivision; or

(iii) is not entitled to notice of the subdivision pursuant to Subsection 10-9a-509(1)(b)(iv) for the purpose of determining the accuracy of the information depicted on the plat.

(3) The municipality may withhold an otherwise valid plat approval until the owner of the land provides the legislative body with a tax clearance indicating that all taxes, interest, and penalties owing on the land have been paid.

(4) (a) A plat may not be submitted to a county recorder for recording unless:

(i) prior to recordation, each owner of record of land described on the plat has signed the owner’s dedication as shown on the plat; and

(ii) the signature of each owner described in Subsection (4)(a)(i) is acknowledged as provided by law.

(b) The surveyor making the plat shall certify that the surveyor:

(i) holds a license in accordance with Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act;

(ii) has completed a survey of the property described on the plat in accordance with Section 17-23-17 and has verified all measurements; and

(iii) has placed monuments as represented on the plat.

(c) (i) ~~[As applicable]~~ To the extent possible, the surveyor shall consult with the owner or operator of ~~[the] an existing or proposed underground [and] facility or utility [facilities shall approve] facility~~ within the proposed subdivision, or a representative designated by the owner or operator, to verify the accuracy of the surveyor's depiction of the:

(A) boundary, course, dimensions, and intended use of the ~~[right-of-way and] public rights-of-way, a public or private easement, or grants of record;~~

(B) location of an existing underground facility and utility ~~[facilities] facility;~~ and

(C) ~~[conditions or] physical restrictions governing the location of the [facilities within the right-of-way, and easement grants of records,] underground facility and utility [facilities] facility~~ within the subdivision.

(ii) The ~~[approval]~~ cooperation of an owner or operator under Subsection (4)(c)(i):

(A) indicates only that the plat approximates the location of the existing underground and utility facilities but does not warrant or verify their precise location; and

(B) does not affect a right that the owner or operator has under:

(I) Title 54, Chapter 8a, Damage to Underground Utility Facilities;

(II) a recorded easement or right-of-way;

(III) the law applicable to prescriptive rights; or

(IV) any other provision of law.

(5) (a) After the plat has been acknowledged, certified, and approved, the owner of the land shall, within the time period designated by ordinance, record the plat in the county recorder's office in the county in which the lands platted and laid out are situated.

(b) An owner's failure to record a plat within the time period designated by ordinance renders the plat voidable.

Section 4. Section 10-9a-604.5 is amended to read:

10-9a-604.5. Subdivision plat recording or development activity before required infrastructure is completed -- Infrastructure completion assurance -- Infrastructure warranty.

(1) A land use authority shall establish objective inspection standards for acceptance of a required landscaping or infrastructure improvement [required by the land use authority as a condition of].

~~[(a) subdivision; or]~~

~~[(b) development activity.]~~

(2) (a) A land use authority shall require an applicant to complete a required landscaping or infrastructure improvement prior to any plat recordation or development activity.

(b) Subsection (2)(a) does not apply if:

(i) upon the applicant's request, the land use authority has authorized the applicant to post an improvement completion assurance in a manner that is consistent with local ordinance; and

(ii) the land use authority has established a system for the partial release of the improvement completion assurance as portions of required improvements are completed and accepted.

(3) At any time up to the land use authority's acceptance of a landscaping or infrastructure improvement, and for the duration of each improvement warranty period, the land use authority may require the developer to:

(a) execute an improvement warranty for the improvement warranty period; and

(b) post a cash deposit, surety bond, letter of credit, or other similar security, as required by the municipality, in the amount of up to 10% of the lesser of the:

(i) municipal engineer's original estimated cost of completion; or

(ii) applicant's reasonable proven cost of completion.

(4) The provisions of this section may not be interpreted to supersede the terms of a valid development agreement, an adopted phasing plan, or the state construction code.

Section 5. Section 10-9a-606 is amended to read:

10-9a-606. Common or community area parcels on a plat -- No separate ownership -- Ownership interest equally divided among other parcels on plat and included in description of other parcels.

(1) (a) A parcel designated as a common or community area on a plat recorded in compliance with this part may not be separately owned or conveyed independent of the other lots, units, or parcels created by the plat unless:

(i) the parcel is being acquired by a municipality for a governmental purpose; and

(ii) the conveyance is approved by the owners of at least 75% of the lots, units, or parcels on the plat, after the municipality gives its approval.

(b) A notice of the owner approval described in Subsection (1)(a)(ii) shall be:

(i) attached as an exhibit to the document of conveyance; or

(ii) recorded concurrently with the conveyance as a separate document.

(2) The ownership interest in a parcel described in Subsection (1) shall:

(a) for purposes of assessment, be divided equally among all parcels created by the plat, unless a different division of interest for assessment purposes is indicated on the plat or an accompanying recorded document; and

(b) be considered to be included in the description of each instrument describing a parcel on the plat by its identifying plat number, even if the common or community area interest is not explicitly stated in the instrument.

(3) A parcel designated as common or community area on a plat before, on, or after May 12, 2015, may be modified in size and location if the modification:

(a) is approved as part of a subdivision plat amendment by the local government;

(b) is approved by at least 75% of the voting interests in a homeowners association having an interest in the common or community area, if any;

(c) is approved by at least 75% of the owners of lots, units, or parcels on the plat if there is no homeowners association having an interest in the common or community area, if any; and

(d) does not create a new buildable lot.

(4) A parcel designated as common or community area on a plat before, on, or after May 12, 2015, may be modified in size without a subdivision plat amendment approval by the local government, if the modification:

(a) is a lot line adjustment approved by at least 75% of the voting interests in a homeowners association having an interest in the common or community area, if any;

(b) is approved by at least 75% of the owners of lots, units, or parcels on the plat if there is no homeowners association having an interest in the common or community area, if any; and

(c) does not create a new buildable lot.

Section 6. Section 10-9a-802 is amended to read:

10-9a-802. Enforcement.

(1) (a) A municipality or any adversely affected owner of real estate within the municipality in which violations of this chapter or ordinances

enacted under the authority of this chapter occur or are about to occur may, in addition to other remedies provided by law, institute:

(i) injunctions, mandamus, abatement, or any other appropriate actions; or

(ii) proceedings to prevent, enjoin, abate, or remove the unlawful building, use, or act.

(b) A municipality need only establish the violation to obtain the injunction.

(2) (a) ~~[The] A~~ municipality may enforce the municipality's ordinance by withholding a building [permits] permit.

(b) It is unlawful to erect, construct, reconstruct, alter, or change the use of any building or other structure within a municipality without approval of a building permit.

(c) ~~[The] A~~ municipality may not issue a building permit unless the plans of and for the proposed erection, construction, reconstruction, alteration, or use fully conform to all regulations then in effect.

(d) A municipality may not deny an applicant a building permit because the applicant has not completed an infrastructure improvement:

(i) that is not essential to meet the requirements for the issuance of a building permit under the building code and fire code; and

(ii) for which the municipality has accepted an infrastructure improvement assurance for infrastructure improvements for the development.

Section 7. Section 17-27a-103 is amended to read:

17-27a-103. Definitions.

As used in this chapter:

(1) "Affected entity" means a county, municipality, local district, special service district under Title 17D, Chapter 1, Special Service District Act, school district, interlocal cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act, specified property owner, property owners association, public utility, or the Utah Department of Transportation, if:

(a) the entity's services or facilities are likely to require expansion or significant modification because of an intended use of land;

(b) the entity has filed with the county a copy of the entity's general or long-range plan; or

(c) the entity has filed with the county a request for notice during the same calendar year and before the county provides notice to an affected entity in compliance with a requirement imposed under this chapter.

(2) "Appeal authority" means the person, board, commission, agency, or other body designated by ordinance to decide an appeal of a decision of a land use application or a variance.

(3) "Billboard" means a freestanding ground sign located on industrial, commercial, or residential property if the sign is designed or intended to direct

attention to a business, product, or service that is not sold, offered, or existing on the property where the sign is located.

(4) (a) "Charter school" means:

(i) an operating charter school;

(ii) a charter school applicant that has its application approved by a charter school authorizer in accordance with Title 53A, Chapter 1a, Part 5, The Utah Charter Schools Act; or

(iii) an entity that is working on behalf of a charter school or approved charter applicant to develop or construct a charter school building.

(b) "Charter school" does not include a therapeutic school.

(5) "Chief executive officer" means the person or body that exercises the executive powers of the county.

(6) "Conditional use" means a land use that, because of its unique characteristics or potential impact on the county, surrounding neighbors, or adjacent land uses, may not be compatible in some areas or may be compatible only if certain conditions are required that mitigate or eliminate the detrimental impacts.

(7) "Constitutional taking" means a governmental action that results in a taking of private property so that compensation to the owner of the property is required by the:

(a) Fifth or Fourteenth Amendment of the Constitution of the United States; or

(b) Utah Constitution Article I, Section 22.

(8) "Culinary water authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of the culinary water system and sources for the subject property.

(9) "Development activity" means:

(a) any construction or expansion of a building, structure, or use that creates additional demand and need for public facilities;

(b) any change in use of a building or structure that creates additional demand and need for public facilities; or

(c) any change in the use of land that creates additional demand and need for public facilities.

(10) (a) "Disability" means a physical or mental impairment that substantially limits one or more of a person's major life activities, including a person having a record of such an impairment or being regarded as having such an impairment.

(b) "Disability" does not include current illegal use of, or addiction to, any federally controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C. 802.

(11) "Educational facility":

(a) means:

(i) a school district's building at which pupils assemble to receive instruction in a program for any combination of grades from preschool through grade 12, including kindergarten and a program for children with disabilities;

(ii) a structure or facility:

(A) located on the same property as a building described in Subsection (11)(a)(i); and

(B) used in support of the use of that building; and

(iii) a building to provide office and related space to a school district's administrative personnel; and

(b) does not include:

(i) land or a structure, including land or a structure for inventory storage, equipment storage, food processing or preparing, vehicle storage or maintenance, or similar use that is:

(A) not located on the same property as a building described in Subsection (11)(a)(i); and

(B) used in support of the purposes of a building described in Subsection (11)(a)(i); or

(ii) a therapeutic school.

(12) "Fire authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of fire protection and suppression services for the subject property.

(13) "Flood plain" means land that:

(a) is within the 100-year flood plain designated by the Federal Emergency Management Agency; or

(b) has not been studied or designated by the Federal Emergency Management Agency but presents a likelihood of experiencing chronic flooding or a catastrophic flood event because the land has characteristics that are similar to those of a 100-year flood plain designated by the Federal Emergency Management Agency.

(14) "Gas corporation" has the same meaning as defined in Section 54-2-1.

(15) "General plan" means a document that a county adopts that sets forth general guidelines for proposed future development of the unincorporated land within the county.

(16) "Geologic hazard" means:

(a) a surface fault rupture;

(b) shallow groundwater;

(c) liquefaction;

(d) a landslide;

(e) a debris flow;

(f) unstable soil;

(g) a rock fall; or

(h) any other geologic condition that presents a risk:

(i) to life;

(ii) of substantial loss of real property; or

(iii) of substantial damage to real property.

(17) “Hookup fee” means a fee for the installation and inspection of any pipe, line, meter, or appurtenance to connect to a county water, sewer, storm water, power, or other utility system.

(18) “Identical plans” means building plans submitted to a county that:

(a) are clearly marked as “identical plans”;

(b) are substantially identical building plans that were previously submitted to and reviewed and approved by the county; and

(c) describe a building that:

(i) is located on land zoned the same as the land on which the building described in the previously approved plans is located;

(ii) is subject to the same geological and meteorological conditions and the same law as the building described in the previously approved plans;

(iii) has a floor plan identical to the building plan previously submitted to and reviewed and approved by the county; and

(iv) does not require any additional engineering or analysis.

(19) “Impact fee” means a payment of money imposed under Title 11, Chapter 36a, Impact Fees Act.

(20) “Improvement completion assurance” means a surety bond, letter of credit, financial institution bond, cash, assignment of rights, lien, or other equivalent security required by a county to guaranty the proper completion of landscaping or an infrastructure ~~[that the land use authority has]~~ improvement required as a condition precedent to:

(a) recording a subdivision plat; or

(b) ~~[beginning]~~ development ~~[activity]~~ of a commercial, industrial, mixed use, or multifamily project.

(21) “Improvement warranty” means an applicant’s unconditional warranty that the applicant’s installed and accepted landscaping or infrastructure improvement:

(a) complies with the county’s written standards for design, materials, and workmanship; and

(b) will not fail in any material respect, as a result of poor workmanship or materials, within the improvement warranty period.

(22) “Improvement warranty period” means a period:

(a) no later than one year after a county’s acceptance of required landscaping; or

(b) no later than one year after a county’s acceptance of required infrastructure, unless the county:

(i) determines for good cause that a one-year period would be inadequate to protect the public health, safety, and welfare; and

(ii) has substantial evidence, on record:

(A) of prior poor performance by the applicant; or

(B) that the area upon which the infrastructure will be constructed contains suspect soil and the county has not otherwise required the applicant to mitigate the suspect soil.

(23) “Infrastructure improvement” means permanent infrastructure that an applicant must install:

(a) pursuant to published installation and inspection specifications for public improvements; and

(b) as a condition of:

(i) recording a subdivision plat; or

(ii) development of a commercial, industrial, mixed use, condominium, or multifamily project.

~~[(23)]~~ (24) “Internal lot restriction” means a platted note, platted demarcation, or platted designation that:

(a) runs with the land; and

(b) (i) creates a restriction that is enclosed within the perimeter of a lot described on the plat; or

(ii) designates a development condition that is enclosed within the perimeter of a lot described on the plat.

~~[(24)]~~ (25) “Interstate pipeline company” means a person or entity engaged in natural gas transportation subject to the jurisdiction of the Federal Energy Regulatory Commission under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.

~~[(25)]~~ (26) “Intrastate pipeline company” means a person or entity engaged in natural gas transportation that is not subject to the jurisdiction of the Federal Energy Regulatory Commission under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.

~~[(26)]~~ (27) “Land use application” means an application required by a county’s land use ordinance.

~~[(27)]~~ (28) “Land use authority” means:

(a) a person, board, commission, agency, or body, including the local legislative body, designated by the local legislative body to act upon a land use application; or

(b) if the local legislative body has not designated a person, board, commission, agency, or body, the local legislative body.

~~[(28)]~~ (29) “Land use ordinance” means a planning, zoning, development, or subdivision ordinance of the county, but does not include the general plan.

~~[(29)]~~ (30) “Land use permit” means a permit issued by a land use authority.

~~[(30)]~~ (31) "Legislative body" means the county legislative body, or for a county that has adopted an alternative form of government, the body exercising legislative powers.

~~[(31)]~~ (32) "Local district" means any entity under Title 17B, Limited Purpose Local Government Entities - Local Districts, and any other governmental or quasi-governmental entity that is not a county, municipality, school district, or the state.

~~[(32)]~~ (33) "Lot line adjustment" means the relocation of the property boundary line in a subdivision between two adjoining lots with the consent of the owners of record.

~~[(33)]~~ (34) "Moderate income housing" means housing occupied or reserved for occupancy by households with a gross household income equal to or less than 80% of the median gross income for households of the same size in the county in which the housing is located.

~~[(34)]~~ (35) "Nominal fee" means a fee that reasonably reimburses a county only for time spent and expenses incurred in:

(a) verifying that building plans are identical plans; and

(b) reviewing and approving those minor aspects of identical plans that differ from the previously reviewed and approved building plans.

~~[(35)]~~ (36) "Noncomplying structure" means a structure that:

(a) legally existed before its current land use designation; and

(b) because of one or more subsequent land use ordinance changes, does not conform to the setback, height restrictions, or other regulations, excluding those regulations that govern the use of land.

~~[(36)]~~ (37) "Nonconforming use" means a use of land that:

(a) legally existed before its current land use designation;

(b) has been maintained continuously since the time the land use ordinance regulation governing the land changed; and

(c) because of one or more subsequent land use ordinance changes, does not conform to the regulations that now govern the use of the land.

~~[(37)]~~ (38) "Official map" means a map drawn by county authorities and recorded in the county recorder's office that:

(a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for highways and other transportation facilities;

(b) provides a basis for restricting development in designated rights-of-way or between designated setbacks to allow the government authorities time to purchase or otherwise reserve the land; and

(c) has been adopted as an element of the county's general plan.

~~[(38)]~~ (39) "Parcel boundary adjustment" means a recorded agreement between owners of adjoining properties adjusting their mutual boundary if:

(a) no additional parcel is created; and

(b) each property identified in the agreement is unsubdivided land, including a remainder of subdivided land.

~~[(39)]~~ (40) "Person" means an individual, corporation, partnership, organization, association, trust, governmental agency, or any other legal entity.

~~[(40)]~~ (41) "Plan for moderate income housing" means a written document adopted by a county legislative body that includes:

(a) an estimate of the existing supply of moderate income housing located within the county;

(b) an estimate of the need for moderate income housing in the county for the next five years as revised biennially;

(c) a survey of total residential land use;

(d) an evaluation of how existing land uses and zones affect opportunities for moderate income housing; and

(e) a description of the county's program to encourage an adequate supply of moderate income housing.

~~[(41)]~~ (42) "Plat" means a map or other graphical representation of lands being laid out and prepared in accordance with Section 17-27a-603, 17-23-17, or 57-8-13.

~~[(42)]~~ (43) "Potential geologic hazard area" means an area that:

(a) is designated by a Utah Geological Survey map, county geologist map, or other relevant map or report as needing further study to determine the area's potential for geologic hazard; or

(b) has not been studied by the Utah Geological Survey or a county geologist but presents the potential of geologic hazard because the area has characteristics similar to those of a designated geologic hazard area.

~~[(43)]~~ (44) "Public agency" means:

(a) the federal government;

(b) the state;

(c) a county, municipality, school district, local district, special service district, or other political subdivision of the state; or

(d) a charter school.

~~[(44)]~~ (45) "Public hearing" means a hearing at which members of the public are provided a reasonable opportunity to comment on the subject of the hearing.

~~[(45)]~~ (46) "Public meeting" means a meeting that is required to be open to the public under Title 52, Chapter 4, Open and Public Meetings Act.

[446] (47) “Receiving zone” means an unincorporated area of a county that the county designates, by ordinance, as an area in which an owner of land may receive a transferable development right.

[447] (48) “Record of survey map” means a map of a survey of land prepared in accordance with Section 17-23-17.

[448] (49) “Residential facility for persons with a disability” means a residence:

(a) in which more than one person with a disability resides; and

(b) (i) which is licensed or certified by the Department of Human Services under Title 62A, Chapter 2, Licensure of Programs and Facilities; or

(ii) which is licensed or certified by the Department of Health under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.

[449] (50) “Rules of order and procedure” means a set of rules that govern and prescribe in a public meeting:

(a) parliamentary order and procedure;

(b) ethical behavior; and

(c) civil discourse.

[450] (51) “Sanitary sewer authority” means the department, agency, or public entity with responsibility to review and approve the feasibility of sanitary sewer services or onsite wastewater systems.

[451] (52) “Sending zone” means an unincorporated area of a county that the county designates, by ordinance, as an area from which an owner of land may transfer a transferable development right.

[452] (53) “Site plan” means a document or map that may be required by a county during a preliminary review preceding the issuance of a building permit to demonstrate that an owner’s or developer’s proposed development activity meets a land use requirement.

[453] (54) “Specified public agency” means:

(a) the state;

(b) a school district; or

(c) a charter school.

[454] (55) “Specified public utility” means an electrical corporation, gas corporation, or telephone corporation, as those terms are defined in Section 54-2-1.

[455] (56) “State” includes any department, division, or agency of the state.

[456] (57) “Street” means a public right-of-way, including a highway, avenue, boulevard, parkway, road, lane, walk, alley, viaduct, subway, tunnel, bridge, public easement, or other way.

[457] (58) (a) “Subdivision” means any land that is divided, resubdivided or proposed to be divided into two or more lots, parcels, sites, units, plots, or other division of land for the purpose, whether immediate or future, for offer, sale, lease, or development either on the installment plan or upon any and all other plans, terms, and conditions.

(b) “Subdivision” includes:

(i) the division or development of land whether by deed, metes and bounds description, devise and testacy, map, plat, or other recorded instrument; and

(ii) except as provided in Subsection [457] (58)(c), divisions of land for residential and nonresidential uses, including land used or to be used for commercial, agricultural, and industrial purposes.

(c) “Subdivision” does not include:

(i) a bona fide division or partition of agricultural land for agricultural purposes;

(ii) a recorded agreement between owners of adjoining properties adjusting their mutual boundary if:

(A) no new lot is created; and

(B) the adjustment does not violate applicable land use ordinances;

(iii) a recorded document, executed by the owner of record:

(A) revising the legal description of more than one contiguous unsubdivided parcel of property into one legal description encompassing all such parcels of property; or

(B) joining a subdivided parcel of property to another parcel of property that has not been subdivided, if the joinder does not violate applicable land use ordinances;

(iv) a bona fide division or partition of land in a county other than a first class county for the purpose of siting, on one or more of the resulting separate parcels:

(A) an electrical transmission line or a substation;

(B) a natural gas pipeline or a regulation station; or

(C) an unmanned telecommunications, microwave, fiber optic, electrical, or other utility service regeneration, transformation, retransmission, or amplification facility;

(v) a recorded agreement between owners of adjoining subdivided properties adjusting their mutual boundary if:

(A) no new dwelling lot or housing unit will result from the adjustment; and

(B) the adjustment will not violate any applicable land use ordinance;

(vi) a bona fide division or partition of land by deed or other instrument where the land use authority expressly approves in writing the division

in anticipation of further land use approvals on the parcel or parcels; or

(vii) a parcel boundary adjustment.

(d) The joining of a subdivided parcel of property to another parcel of property that has not been subdivided does not constitute a subdivision under this Subsection [(57)] (58) as to the unsubdivided parcel of property or subject the unsubdivided parcel to the county's subdivision ordinance.

[(58)] (59) "Suspect soil" means soil that has:

(a) a high susceptibility for volumetric change, typically clay rich, having more than a 3% swell potential;

(b) bedrock units with high shrink or swell susceptibility; or

(c) gypsiferous silt and clay, gypsum, or bedrock units containing abundant gypsum commonly associated with dissolution and collapse features.

[(59)] (60) "Therapeutic school" means a residential group living facility:

(a) for four or more individuals who are not related to:

(i) the owner of the facility; or

(ii) the primary service provider of the facility;

(b) that serves students who have a history of failing to function:

(i) at home;

(ii) in a public school; or

(iii) in a nonresidential private school; and

(c) that offers:

(i) room and board; and

(ii) an academic education integrated with:

(A) specialized structure and supervision; or

(B) services or treatment related to a disability, an emotional development, a behavioral development, a familial development, or a social development.

[(60)] (61) "Township" means a contiguous, geographically defined portion of the unincorporated area of a county, established under this part or reconstituted or reinstated under Section 17-27a-306, with planning and zoning functions as exercised through the township planning commission, as provided in this chapter, but with no legal or political identity separate from the county and no taxing authority, except that "township" means a former township under Laws of Utah 1996, Chapter 308, where the context so indicates.

[(61)] (62) "Transferable development right" means a right to develop and use land that originates by an ordinance that authorizes a land owner in a designated sending zone to transfer land use rights from a designated sending zone to a designated receiving zone.

[(62)] (63) "Unincorporated" means the area outside of the incorporated area of a municipality.

[(63)] (64) "Water interest" means any right to the beneficial use of water, including:

(a) each of the rights listed in Section 73-1-11; and

(b) an ownership interest in the right to the beneficial use of water represented by:

(i) a contract; or

(ii) a share in a water company, as defined in Section 73-3-3.5.

[(64)] (65) "Zoning map" means a map, adopted as part of a land use ordinance, that depicts land use zones, overlays, or districts.

Section 8. Section 17-27a-505 is amended to read:

17-27a-505. Zoning districts.

(1) (a) The legislative body may divide the territory over which it has jurisdiction into zoning districts of a number, shape, and area that it considers appropriate to carry out the purposes of this chapter.

(b) Within those zoning districts, the legislative body may regulate and restrict the erection, construction, reconstruction, alteration, repair, or use of buildings and structures, and the use of land.

(c) A county may enact an ordinance regulating land use and development in a flood plain or potential geologic hazard area to:

(i) protect life; and

(ii) prevent:

(A) the substantial loss of real property; or

(B) substantial damage to real property.

(d) A county of the second, third, fourth, fifth, or sixth class may not adopt a land use ordinance requiring a property owner to revegetate or landscape a single family dwelling disturbance area unless the property is located in a flood zone or geologic hazard except as required in Title 19, Chapter 5, Water Quality Act, to comply with federal law related to water pollution.

(2) The legislative body shall ensure that the regulations are uniform for each class or kind of buildings throughout each zone, but the regulations in one zone may differ from those in other zones.

(3) (a) There is no minimum area or diversity of ownership requirement for a zone designation.

(b) Neither the size of a zoning district nor the number of landowners within the district may be used as evidence of the illegality of a zoning district or of the invalidity of a county decision.

(4) A county may by ordinance exempt from specific zoning district standards a subdivision of land to accommodate the siting of a public utility infrastructure.

Section 9. Section 17-27a-603 is amended to read:

17-27a-603. Plat required when land is subdivided -- Approval of plat -- Owner

acknowledgment, surveyor certification, and underground utility facility owner verification of plat -- Recording plat.

(1) Unless exempt under Section 17-27a-605 or excluded from the definition of subdivision under Section 17-27a-103, whenever any land is laid out and platted, the owner of the land shall provide an accurate plat that describes or specifies:

(a) a subdivision name that is distinct from any subdivision name on a plat recorded in the county recorder's office;

(b) the boundaries, course, and dimensions of all of the parcels of ground divided, by their boundaries, course, and extent, whether the owner proposes that any parcel of ground is intended to be used as a street or for any other public use, and whether any such area is reserved or proposed for dedication for a public purpose;

(c) the lot or unit reference, block or building reference, street or site address, street name or coordinate address, acreage or square footage for all parcels, units, or lots, and length and width of the blocks and lots intended for sale; and

(d) every existing right-of-way and easement grant of record for an underground ~~[facilities]~~ facility, as defined in Section 54-8a-2, and for any other utility ~~[facilities]~~ facility.

(2) (a) Subject to Subsections (3), (4), and (5), if the plat conforms to the county's ordinances and this part and has been approved by the culinary water authority ~~[and]~~, the sanitary sewer authority, and the local health department, as defined in Section 26A-1-102, if the local health department and the county consider the local health department's approval necessary, the county shall approve the plat.

(b) Counties are encouraged to receive a recommendation from the fire authority before approving a plat.

(c) A county may not require that a plat be approved or signed by a person or entity who:

(i) is not an employee or agent of the county;

(ii) does not:

(A) have a legal or equitable interest in the property within the proposed subdivision;

(B) provide a utility or other service directly to a lot within the subdivision;

(C) own an easement or right-of-way adjacent to the proposed subdivision who signs for the purpose of confirming the accuracy of the location of the easement or right-of-way in relation to the plat; or

(D) provide culinary public water service whose source protection zone designated as provided in Section 19-4-113 is included, in whole or in part, within the proposed subdivision; or

(iii) is not entitled to notice of the subdivision pursuant to Subsection 17-27a-508(1)(b)(iv) for the purpose of determining the accuracy of the information depicted on the plat.

(3) The county may withhold an otherwise valid plat approval until the owner of the land provides the legislative body with a tax clearance indicating that all taxes, interest, and penalties owing on the land have been paid.

(4) (a) A plat may not be submitted to a county recorder for recording unless, subject to Subsection 17-27a-604(2):

(i) prior to recordation, each owner of record of land described on the plat has signed the owner's dedication as shown on the plat; and

(ii) the signature of each owner described in Subsection (4)(a)(i) is acknowledged as provided by law.

(b) The surveyor making the plat shall certify that the surveyor:

(i) holds a license in accordance with Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act;

(ii) has completed a survey of the property described on the plat in accordance with Section 17-23-17 and has verified all measurements; and

(iii) has placed monuments as represented on the plat.

(c) (i) ~~[As applicable]~~ To the extent possible, the surveyor shall consult with the owner or operator of ~~[the] an existing or proposed underground [and] facility or utility [facilities shall approve] facility~~ within the proposed subdivision, or a representative designated by the owner or operator, to verify the accuracy of the surveyor's depiction of the:

(A) boundary, course, dimensions, and intended use of the ~~[right-of-way and] public rights-of-way, a public or private easement, or grants of record;~~

(B) location of an existing underground ~~facility and utility [facilities] facility;~~ and

(C) ~~[conditions or] physical restrictions governing the location of the [facilities within the right-of-way, and easement grants of records,] underground facility and utility [facilities] facility within the subdivision.~~

(ii) The ~~[approval]~~ cooperation of an owner or operator under Subsection (4)(c)(i):

(A) indicates only that the plat approximates the location of the existing underground and utility facilities but does not warrant or verify their precise location; and

(B) does not affect a right that the owner or operator has under:

(I) Title 54, Chapter 8a, Damage to Underground Utility Facilities;

(II) a recorded easement or right-of-way;

(III) the law applicable to prescriptive rights; or

(IV) any other provision of law.

(5) (a) After the plat has been acknowledged, certified, and approved, the owner of the land shall,

within the time period designated by ordinance, record the plat in the county recorder's office in the county in which the lands platted and laid out are situated.

(b) An owner's failure to record a plat within the time period designated by ordinance renders the plat voidable.

Section 10. Section 17-27a-604.5 is amended to read:

17-27a-604.5. Subdivision plat recording or development activity before required infrastructure is completed -- Infrastructure completion assurance -- Infrastructure warranty.

(1) A land use authority shall establish objective inspection standards for acceptance of a required landscaping or infrastructure improvement [required by the land use authority as a condition of:].

~~[(a) subdivision; or]~~

~~[(b) development activity.]~~

(2) (a) A land use authority shall require an applicant to complete a required landscaping or infrastructure improvement prior to any plat recordation or development activity.

(b) Subsection (2)(a) does not apply if:

(i) upon the applicant's request, the land use authority has authorized the applicant to post an improvement completion assurance in a manner that is consistent with local ordinance; and

(ii) the land use authority has established a system for the partial release of the improvement completion assurance as portions of required improvements are completed and accepted.

(3) At any time up to the land use authority's acceptance of a landscaping or infrastructure improvement, and for the duration of each improvement warranty period, the land use authority may require the developer to:

(a) execute an improvement warranty for the improvement warranty period; and

(b) post a cash deposit, surety bond, letter of credit, or other similar security, as required by the county, in the amount of up to 10% of the lesser of the:

(i) county engineer's original estimated cost of completion; or

(ii) applicant's reasonable proven cost of completion.

(4) The provisions of this section may not be interpreted to supersede the terms of a valid development agreement, an adopted phasing plan, or the state construction code.

Section 11. Section 17-27a-606 is amended to read:

17-27a-606. Common or community area parcels on a plat -- No separate ownership

-- Ownership interest equally divided among other parcels on plat and included in description of other parcels.

(1) (a) A parcel designated as a common or community area on a plat recorded in compliance with this part may not be separately owned or conveyed independent of the other lots, units, or parcels created by the plat unless:

(i) the parcel is being acquired by a county for a governmental purpose; and

(ii) the conveyance is approved by the owners of at least 75% of the lots, units, or parcels on the plat, after the county gives its approval.

(b) A notice of the approval required in Subsection (1)(a)(ii) shall be:

(i) attached as an exhibit to the document of conveyance; or

(ii) recorded concurrently with the conveyance as a separate document.

(2) The ownership interest in a parcel described in Subsection (1) shall:

(a) for purposes of assessment, be divided equally among all parcels created by the plat, unless a different division of interest for assessment purposes is indicated on the plat or an accompanying recorded document; and

(b) be considered to be included in the description of each instrument describing a parcel on the plat by its identifying plat number, even if the common or community area interest is not explicitly stated in the instrument.

(3) A parcel designated as common or community area on a plat before, on, or after May 12, 2015, may be modified in size and location if the modification:

(a) is approved as part of a subdivision plat amendment by the local government;

(b) is approved by at least 75% of the voting interests in a homeowners association having an interest in the common or community area, if any;

(c) is approved by at least 75% of the owners of lots, units, or parcels on the plat if there is no homeowners association having an interest in the common or community area, if any; and

(d) does not create a new buildable lot.

(4) A parcel designated as common or community area on a plat before, on, or after May 12, 2015, may be modified in size without a subdivision plat amendment approval by the local government, if the modification:

(a) is a lot line adjustment approved by at least 75% of the voting interests in a homeowners association having an interest in the common or community area, if any;

(b) is approved by at least 75% of the owners of lots, units, or parcels on the plat if there is no homeowners association having an interest in the common or community area, if any; and

(c) does not create a new buildable lot.

Section 12. Section 17-27a-802 is amended to read:

17-27a-802. Enforcement.

(1) (a) A county or any adversely affected owner of real estate within the county in which violations of this chapter or ordinances enacted under the authority of this chapter occur or are about to occur may, in addition to other remedies provided by law, institute:

(i) injunctions, mandamus, abatement, or any other appropriate actions; or

(ii) proceedings to prevent, enjoin, abate, or remove the unlawful building, use, or act.

(b) A county need only establish the violation to obtain the injunction.

(2) (a) ~~The~~ A county may enforce the county's ordinance by withholding a building ~~permits~~ permit.

(b) It is unlawful to erect, construct, reconstruct, alter, or change the use of any building or other structure within a county without approval of a building permit.

(c) The county may not issue a building permit unless the plans of and for the proposed erection, construction, reconstruction, alteration, or use fully conform to all regulations then in effect.

(d) A county may not deny an applicant a building permit because the applicant has not completed an infrastructure improvement:

(i) that is not essential to meet the requirements for the issuance of a building permit under the building code and fire code; and

(ii) for which the county has accepted an infrastructure improvement assurance for infrastructure improvements for the development.

CHAPTER 328**S. B. 128**

Passed February 20, 2015

Approved March 30, 2015

Effective May 12, 2015

**LONG-TERM DISABILITY
INSURANCE PLAN AMENDMENTS**

Chief Sponsor: Margaret Dayton

House Sponsor: Bradley G. Last

LONG TITLE**General Description:**

This bill modifies the Public Employees' Long-Term Disability Act by amending provisions relating to long-term disability benefits.

Highlighted Provisions:

This bill:

- ▶ authorizes the Utah State Retirement Office to request additional information to determine whether an eligible employee has a total disability;
- ▶ specifies an appeal procedure for an eligible employee if the Utah State Retirement Office denies or terminates a claim for long-term disability benefits;
- ▶ provides that when a valid benefit protection contract is in place, a disabled eligible employee does not accrue service credit during the period of total disability if the disabled eligible employee is eligible to retire with an unreduced retirement allowance;
- ▶ amends the amount that a monthly disability benefit is reduced by if an eligible employee engages in approved rehabilitative employment;
- ▶ provides that the Utah State Retirement Office may refer the eligible employee to a rehabilitative or vocational specialist for return to work assistance; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

49-21-401, as last amended by Laws of Utah 2012, Chapter 298

49-21-406, as last amended by Laws of Utah 2003, Chapter 240

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

Section 1. Section 49-21-401 is amended to read:**49-21-401. Disability benefits --
Application -- Eligibility.**

(1) An eligible employee shall apply for long-term disability benefits under this chapter by:

(a) completing an application form prepared by the office;

(b) signing a consent form allowing the office access to the eligible employee's medical records; and

(c) providing any documentation or information reasonably requested by the office.

(2) (a) If an eligible employee is unable to apply on the employee's own behalf, the application may be made by a person who is:

(i) the attorney for an eligible employee; or

(ii) appointed as a conservator or guardian of the eligible employee.

(b) A person described in Subsection (2)(a), may not make an application for a deceased employee.

(3) Upon request by the office, the participating employer of the eligible employee shall provide to the office documentation and information concerning the eligible employee.

(4) The office:

(a) shall review all relevant information;

(b) may request additional information; and

(c) shall determine whether or not the eligible employee has a total disability.

(5) If the office determines that the eligible employee has a total disability due to accidental bodily injury or physical illness which is not the result of the performance of an employment duty, the eligible employee shall receive a monthly disability benefit equal to two-thirds of the eligible employee's regular monthly salary, for each month the total disability continues beyond the elimination period, not to exceed the maximum benefit period.

(6) If the office determines that the eligible employee has a total disability due to psychiatric illness, the eligible employee shall receive:

(a) a maximum of two years of monthly disability benefits equal to two-thirds of the eligible employee's regular monthly salary for each month the total disability continues beyond the elimination period;

(b) a maximum of \$10,000 for psychiatric expenses, including rehabilitation expenses preauthorized by the office's consultants, paid during the period of monthly disability benefits; and

(c) payment of monthly disability benefits according to contractual provisions for a period not to exceed five years if the eligible employee is institutionalized due to psychiatric illness.

(7) If the office determines that the eligible employee has a total disability due to a physical injury resulting from external force or violence as a result of the performance of an employment duty, the eligible employee shall receive a monthly disability benefit equal to 100% of the eligible employee's regular monthly salary, for each month the total disability continues beyond the elimination period, not to exceed the maximum benefit period.

(8) (a) Successive periods of disability are considered as a continuous period of disability if the period of disability:

- (i) results from the same or related causes;
- (ii) is separated by less than six months of continuous full-time work at the individual's usual place of employment; and
- (iii) commences while the individual is an eligible employee covered by this chapter.

(b) The inability to work for a period of less than 15 consecutive calendar days is not considered as a period of disability.

(c) If Subsection (8)(a) or (b) does not apply, successive periods of disability are considered as separate periods of disability.

(9) The office may, at any time, have any eligible employee claiming to have a disability examined by a physician chosen by the office to determine if the eligible employee has a total disability.

(10) A claim brought by an eligible employee for long-term disability benefits under the Public Employee's Long-Term Disability Program is barred if it is not commenced within six months from the eligible employee's date of disability, unless the office determines that under the surrounding facts and circumstances, the eligible employee's failure to comply with the time limitations was reasonable.

(11) (a) If the office denies or terminates a claim for long-term disability benefits, the eligible employee shall have the right to appeal the denial or termination to the office disability claims review committee within 60 days of the denial or termination of long-term disability benefits.

(b) An appeal of a denial or termination of long-term disability benefits described in Subsection (11)(a) is barred if it is not commenced within the time limit described in Subsection (11)(a).

(12) (a) If the office disability claims review committee, after reviewing an appeal denying or terminating long-term disability benefits, denies or terminates a claim for long-term disability benefits, the eligible employee may appeal the office disability claims review committee's denial or termination to the executive director of the office in accordance with Section 49-11-613.

(b) An appeal of a denial or termination of long-term disability benefits described in Subsection (12)(a) is barred if it is not commenced within 60 days of the office disability claims review committee's denial or termination.

(c) Following an appeal commenced under this Subsection (12), any further appeal proceedings shall be conducted in accordance with the administrative hearing process described in Section 49-11-613.

[(14)] (13) Medical or psychiatric conditions which existed prior to eligibility may not be a basis for disability benefits until the eligible employee

has had one year of continuous eligibility in the Public Employees Long-Term Disability Program.

[(12)] (14) If there is a valid benefit protection contract, service credit shall accrue during the period of total disability, unless the disabled eligible employee is:

- (a) exempted from a system[;];
- (b) eligible to retire with an unreduced retirement allowance; or [is]
- (c) otherwise ineligible for service credit.

[(13)] (15) Regardless of any medical evidence provided by the employee to support the application for disability, an employee is not eligible for long-term disability benefits during any period in which the employee:

- (a) makes a claim that the employee is able to work; or
- (b) has a pending action in a court or before any federal, state, or local administrative body in which the employee has made a claim that the employee is able to work.

[(14)] (16) Notwithstanding the provisions of Section 49-11-618, upon written request by an employer, information obtained under this part may, upon an order of a court or an administrative law judge, be released to an employer who is a party in an action under Subsection [(13)] (15).

Section 2. Section 49-21-406 is amended to read:

49-21-406. Rehabilitative employment -- Interview by disability specialist -- Maintaining eligibility -- Additional treatment and care.

(1) (a) If an eligible employee, during a period of total disability for which the monthly disability benefit is payable, engages in approved rehabilitative employment, the monthly disability benefit otherwise payable shall be reduced:

(i) by an amount equal to 50% of the income to which the eligible employee is entitled for the employment during the month; and

(ii) so that the combined amount received from the rehabilitative employment and the monthly disability payment does not exceed 100% of the eligible employee's monthly salary prior to the employee's disability.

(b) This rehabilitative benefit is payable for up to two years or to the end of the maximum benefit period, whichever occurs first.

(2) (a) Each eligible employee receiving a monthly disability benefit shall be interviewed by the office.

(b) The office may refer the eligible employee to a [disability] rehabilitative or vocational specialist for a review of the eligible employee's condition and a written rehabilitation plan and return to work assistance.

(3) If an eligible employee receiving a monthly disability benefit fails to participate in an

office-approved rehabilitation program within the limitations set forth by a physician, the monthly disability benefit may be suspended or terminated.

(4) The office may, as a condition of paying a monthly disability benefit, require that the eligible employee receive medical care and treatment if that treatment is reasonable or usual according to current medical practices.

CHAPTER 329**S. B. 134**

Passed March 11, 2015

Approved March 30, 2015

Effective May 12, 2015

GAME FOWL FIGHTING - AMENDMENTS

Chief Sponsor: Gene Davis
 House Sponsor: Francis D. Gibson
 Cosponsors: J. Stuart Adams
 Jim Dabakis
 Luz Escamilla
 Jani Iwamoto
 Peter C. Knudson
 Karen Mayne
 Wayne L. Niederhauser
 Stephen H. Urquhart
 Todd Weiler

LONG TITLE**General Description:**

This bill amends provisions of the Utah Criminal Code relating to animal cruelty.

Highlighted Provisions:

This bill:

- ▶ makes it a crime to engage in game fowl fighting or in certain conduct relating to game fowl fighting; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

76-9-301, as last amended by Laws of Utah 2008, Chapter 292

ENACTS:

76-9-301.3, Utah Code Annotated 1953

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

Section 1. Section 76-9-301 is amended to read:**76-9-301. Cruelty to animals.**

(1) As used in this section:

(a) (i) "Abandon" means to intentionally deposit, leave, or drop off any live animal:

(A) without providing for the care of that animal, in accordance with accepted animal husbandry practices or customary farming practices; or

(B) in a situation where conditions present an immediate, direct, and serious threat to the life, safety, or health of the animal.

(ii) "Abandon" does not include returning wildlife to its natural habitat.

(b) (i) "Animal" means, except as provided in Subsection (1)(b)(ii), a live, nonhuman vertebrate creature.

(ii) "Animal" does not include:

(A) a live, nonhuman vertebrate creature, if:

(I) the conduct toward the creature, and the care provided to the creature, is in accordance with accepted animal husbandry practices; and

(II) the creature is:

(Aa) owned or kept by a zoological park that is accredited by, or a member of, the American Zoo and Aquarium Association;

(Bb) kept, owned, or used for the purpose of training hunting dogs or raptors; or

(Cc) temporarily in the state as part of a circus or traveling exhibitor licensed by the United States Department of Agriculture under 7 U.S.C. 2133;

(B) a live, nonhuman vertebrate creature that is owned, kept, or used for rodeo purposes, if the conduct toward the creature, and the care provided to the creature, is in accordance with accepted rodeo practices;

(C) livestock, if the conduct toward the creature, and the care provided to the creature, is in accordance with accepted animal husbandry practices or customary farming practices; or

(D) wildlife, as defined in Section 23-13-2, including protected and unprotected wildlife, if the conduct toward the wildlife is in accordance with lawful hunting, fishing, or trapping practices or other lawful practices.

(c) "Companion animal" means an animal that is a domestic dog or a domestic cat.

(d) "Custody" means ownership, possession, or control over an animal.

(e) "Legal privilege" means an act that:

(i) is authorized by state law, including Division of Wildlife Resources rules; and

(ii) is not in violation of a local ordinance.

(f) "Livestock" means:

(i) domesticated:

(A) cattle;

(B) sheep;

(C) goats;

(D) turkeys;

(E) swine;

(F) equines;

(G) camelidae;

(H) ratites; or

(I) bison;

(ii) domesticated elk, as defined in Section 4-39-102; or

(iii) any domesticated nonhuman vertebrate creature, domestic furbearer, or domestic poultry, raised, kept, or used for agricultural purposes.

(g) "Necessary food, water, care, or shelter" means the following, taking into account the species, age, and physical condition of the animal:

- (i) appropriate and essential food and water;
- (ii) adequate protection, including appropriate shelter, against extreme weather conditions; and
- (iii) other essential care.

(h) "Torture" means intentionally or knowingly causing or inflicting extreme physical pain to an animal in an especially heinous, atrocious, cruel, or exceptionally depraved manner.

(2) Except as provided in Subsection (4) or (6), a person is guilty of cruelty to an animal if the person, without legal privilege to do so, intentionally, knowingly, recklessly, or with criminal negligence:

- (a) fails to provide necessary food, water, care, or shelter for an animal in the person's custody;
- (b) abandons an animal in the person's custody;
- (c) injures an animal;
- (d) causes any animal, not including a dog or game fowl, to fight with another animal of like kind for amusement or gain; or
- (e) causes any animal, including a dog or game fowl, to fight with a different kind of animal or creature for amusement or gain.

(3) Except as provided in Section 76-9-301.7, a violation of Subsection (2) is:

- (a) a class B misdemeanor if committed intentionally or knowingly; and
- (b) a class C misdemeanor if committed recklessly or with criminal negligence.

(4) A person is guilty of aggravated cruelty to an animal if the person:

- (a) tortures an animal;
- (b) administers, or causes to be administered, poison or a poisonous substance to an animal; or
- (c) kills an animal or causes an animal to be killed without having a legal privilege to do so.

(5) Except as provided in Subsection (6) or Section 76-9-301.7, a violation of Subsection (4) is:

- (a) a class A misdemeanor if committed intentionally or knowingly;
- (b) a class B misdemeanor if committed recklessly; and
- (c) a class C misdemeanor if committed with criminal negligence.

(6) A person is guilty of a third degree felony if the person intentionally or knowingly tortures a companion animal.

(7) It is a defense to prosecution under this section that the conduct of the actor towards the animal was:

- (a) by a licensed veterinarian using accepted veterinary practice;

(b) directly related to bona fide experimentation for scientific research, provided that if the animal is to be destroyed, the manner employed will not be unnecessarily cruel unless directly necessary to the veterinary purpose or scientific research involved;

- (c) permitted under Section 18-1-3;

(d) by a person who humanely destroys any animal found suffering past recovery for any useful purpose; or

(e) by a person who humanely destroys any apparently abandoned animal found on the person's property.

(8) For purposes of Subsection (7)(d), before destroying the suffering animal, the person who is not the owner of the animal shall obtain:

- (a) the judgment of a veterinarian of the animal's nonrecoverable condition;
- (b) the judgment of two other persons called by the person to view the unrecoverable condition of the animal in the person's presence;
- (c) the consent from the owner of the animal to the destruction of the animal; or
- (d) a reasonable conclusion that the animal's suffering is beyond recovery, through the person's own observation, if the person is in a location or circumstance where the person is unable to contact another person.

- (9) This section does not affect or prohibit:

- (a) the training, instruction, and grooming of animals, if the methods used are in accordance with accepted animal husbandry practices or customary farming practices;
- (b) the use of an electronic locating or training collar by the owner of an animal for the purpose of lawful animal training, lawful hunting practices, or protecting against loss of that animal; or
- (c) the lawful hunting of, fishing for, or trapping of, wildlife.

(10) County and municipal governments may not prohibit the use of an electronic locating or training collar.

(11) Upon conviction under this section, the court may in its discretion, in addition to other penalties:

- (a) order the defendant to be evaluated to determine the need for psychiatric or psychological counseling, to receive counseling as the court determines to be appropriate, and to pay the costs of the evaluation and counseling;
- (b) require the defendant to forfeit any rights the defendant has to the animal subjected to a violation of this section and to repay the reasonable costs incurred by any person or agency in caring for each animal subjected to violation of this section;
- (c) order the defendant to no longer possess or retain custody of any animal, as specified by the court, during the period of the defendant's probation or parole or other period as designated by the court; and

(d) order the animal to be placed for the purpose of adoption or care in the custody of a county ~~and~~ or municipal animal control agency^[,] or an animal welfare agency registered with the state^[,] to be sold at public auction^[,] or humanely destroyed.

(12) This section does not prohibit the use of animals in lawful training.

(13) A veterinarian who, acting in good faith, reports a violation of this section to law enforcement may not be held civilly liable for making the report.

Section 2. Section 76-9-301.3 is enacted to read:

76-9-301.3. Game fowl fighting.

(1) As used in this section:

(a) "Game fowl" means a fowl reared or used for fighting other fowl.

(b) "Promote" means to engage in promoting, producing, or staging events or activities that involve game fowl fighting.

(2) It is unlawful for a person to:

(a) intentionally cause a game fowl to fight with or attack another game fowl for the purpose of entertainment, sport, or contest; or

(b) promote any activity that involves game fowl fighting, including promoting an activity that is a violation of Subsection (2)(a).

(3) A person who violates Subsection (2) is, upon conviction, guilty of:

(a) a class B misdemeanor for the first violation;

(b) a class A misdemeanor for the second violation; or

(c) a third degree felony for a third or subsequent violation.

(4) This section does not prohibit the lawful use of livestock by the livestock owner, an employee or agent of the livestock owner, or a person in the lawful custody of livestock.

CHAPTER 330**S. B. 143**

Passed February 19, 2015

Approved March 30, 2015

Effective May 12, 2015

TITLE AND ESCROW MODIFICATIONS

Chief Sponsor: Curtis S. Bramble

House Sponsor: R. Curt Webb

LONG TITLE**General Description:**

This bill modifies the Insurance Code to address issues related to title and escrow insurance.

Highlighted Provisions:

This bill:

- ▶ modifies definition provisions;
- ▶ changes references from searches to title examinations;
- ▶ addresses duties of the commissioner and the Title and Escrow Commission related to title insurance;
- ▶ addresses adjudication of a title insurance matter and the imposition of penalties;
- ▶ modifies definitions related to licensing;
- ▶ modifies financial requirements for a producer;
- ▶ changes assessment provisions; and
- ▶ makes technical and conforming amendments.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 31A-1-301, as last amended by Laws of Utah 2014, Chapters 290 and 300
- 31A-2-402, as last amended by Laws of Utah 2013, Chapter 319
- 31A-2-403, as last amended by Laws of Utah 2013, Chapter 319
- 31A-2-404, as last amended by Laws of Utah 2013, Chapters 43 and 319
- 31A-19a-209, as last amended by Laws of Utah 2013, Chapter 319
- 31A-20-110, as last amended by Laws of Utah 2013, Chapter 319
- 31A-23a-102, as last amended by Laws of Utah 2014, Chapters 290 and 300
- 31A-23a-106, as last amended by Laws of Utah 2014, Chapter 277
- 31A-23a-204, as last amended by Laws of Utah 2013, Chapter 319
- 31A-23a-415, as last amended by Laws of Utah 2013, Chapter 319
- 31A-23a-504, as last amended by Laws of Utah 2014, Chapter 277
- 31A-41-202, as last amended by Laws of Utah 2013, Chapter 319
- 31A-41-203, as enacted by Laws of Utah 2008, Chapter 220

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

Section 1. Section 31A-1-301 is amended to read:**31A-1-301. Definitions.**

As used in this title, unless otherwise specified:

(1) (a) "Accident and health insurance" means insurance to provide protection against economic losses resulting from:

(i) a medical condition including:

(A) a medical care expense; or

(B) the risk of disability;

(ii) accident; or

(iii) sickness.

(b) "Accident and health insurance":

(i) includes a contract with disability contingencies including:

(A) an income replacement contract;

(B) a health care contract;

(C) an expense reimbursement contract;

(D) a credit accident and health contract;

(E) a continuing care contract; and

(F) a long-term care contract; and

(ii) may provide:

(A) hospital coverage;

(B) surgical coverage;

(C) medical coverage;

(D) loss of income coverage;

(E) prescription drug coverage;

(F) dental coverage; or

(G) vision coverage.

(c) "Accident and health insurance" does not include workers' compensation insurance.

(2) "Actuary" is as defined by the commissioner by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(3) "Administrator" is defined in Subsection (164).

(4) "Adult" means an individual who has attained the age of at least 18 years.

(5) "Affiliate" means a person who controls, is controlled by, or is under common control with, another person. A corporation is an affiliate of another corporation, regardless of ownership, if substantially the same group of individuals manage the corporations.

(6) "Agency" means:

(a) a person other than an individual, including a sole proprietorship by which an individual does business under an assumed name; and

(b) an insurance organization licensed or required to be licensed under Section 31A-23a-301, 31A-25-207, or 31A-26-209.

(7) "Alien insurer" means an insurer domiciled outside the United States.

(8) "Amendment" means an endorsement to an insurance policy or certificate.

(9) "Annuity" means an agreement to make periodical payments for a period certain or over the lifetime of one or more individuals if the making or continuance of all or some of the series of the payments, or the amount of the payment, is dependent upon the continuance of human life.

(10) "Application" means a document:

(a) (i) completed by an applicant to provide information about the risk to be insured; and

(ii) that contains information that is used by the insurer to evaluate risk and decide whether to:

(A) insure the risk under:

(I) the coverage as originally offered; or

(II) a modification of the coverage as originally offered; or

(B) decline to insure the risk; or

(b) used by the insurer to gather information from the applicant before issuance of an annuity contract.

(11) "Articles" or "articles of incorporation" means:

(a) the original articles;

(b) a special law;

(c) a charter;

(d) an amendment;

(e) restated articles;

(f) articles of merger or consolidation;

(g) a trust instrument;

(h) another constitutive document for a trust or other entity that is not a corporation; and

(i) an amendment to an item listed in Subsections (11)(a) through (h).

(12) "Bail bond insurance" means a guarantee that a person will attend court when required, up to and including surrender of the person in execution of a sentence imposed under Subsection 77-20-7(1), as a condition to the release of that person from confinement.

(13) "Binder" is defined in Section 31A-21-102.

(14) "Blanket insurance policy" means a group policy covering a defined class of persons:

(a) without individual underwriting or application; and

(b) that is determined by definition without designating each person covered.

(15) "Board," "board of trustees," or "board of directors" means the group of persons with responsibility over, or management of, a corporation, however designated.

(16) "Bona fide office" means a physical office in this state:

(a) that is open to the public;

(b) that is staffed during regular business hours on regular business days; and

(c) at which the public may appear in person to obtain services.

(17) "Business entity" means:

(a) a corporation;

(b) an association;

(c) a partnership;

(d) a limited liability company;

(e) a limited liability partnership; or

(f) another legal entity.

(18) "Business of insurance" is defined in Subsection (88).

(19) "Business plan" means the information required to be supplied to the commissioner under Subsections 31A-5-204(2)(i) and (j), including the information required when these subsections apply by reference under:

(a) Section 31A-7-201;

(b) Section 31A-8-205; or

(c) Subsection 31A-9-205(2).

(20) (a) "Bylaws" means the rules adopted for the regulation or management of a corporation's affairs, however designated.

(b) "Bylaws" includes comparable rules for a trust or other entity that is not a corporation.

(21) "Captive insurance company" means:

(a) an insurer:

(i) owned by another organization; and

(ii) whose exclusive purpose is to insure risks of the parent organization and an affiliated company; or

(b) in the case of a group or association, an insurer:

(i) owned by the insureds; and

(ii) whose exclusive purpose is to insure risks of:

(A) a member organization;

(B) a group member; or

(C) an affiliate of:

(I) a member organization; or

(II) a group member.

(22) "Casualty insurance" means liability insurance.

(23) "Certificate" means evidence of insurance given to:

- (a) an insured under a group insurance policy; or
- (b) a third party.

(24) "Certificate of authority" is included within the term "license."

(25) "Claim," unless the context otherwise requires, means a request or demand on an insurer for payment of a benefit according to the terms of an insurance policy.

(26) "Claims-made coverage" means an insurance contract or provision limiting coverage under a policy insuring against legal liability to claims that are first made against the insured while the policy is in force.

(27) (a) "Commissioner" or "commissioner of insurance" means Utah's insurance commissioner.

(b) When appropriate, the terms listed in Subsection (27)(a) apply to the equivalent supervisory official of another jurisdiction.

(28) (a) "Continuing care insurance" means insurance that:

- (i) provides board and lodging;
- (ii) provides one or more of the following:
 - (A) a personal service;
 - (B) a nursing service;
 - (C) a medical service; or
 - (D) any other health-related service; and
- (iii) provides the coverage described in this Subsection (28)(a) under an agreement effective:
 - (A) for the life of the insured; or
 - (B) for a period in excess of one year.

(b) Insurance is continuing care insurance regardless of whether or not the board and lodging are provided at the same location as a service described in Subsection (28)(a)(ii).

(29) (a) "Control," "controlling," "controlled," or "under common control" means the direct or indirect possession of the power to direct or cause the direction of the management and policies of a person. This control may be:

- (i) by contract;
- (ii) by common management;
- (iii) through the ownership of voting securities; or
- (iv) by a means other than those described in Subsections (29)(a)(i) through (iii).

(b) There is no presumption that an individual holding an official position with another person controls that person solely by reason of the position.

(c) A person having a contract or arrangement giving control is considered to have control despite

the illegality or invalidity of the contract or arrangement.

(d) There is a rebuttable presumption of control in a person who directly or indirectly owns, controls, holds with the power to vote, or holds proxies to vote 10% or more of the voting securities of another person.

(30) "Controlled insurer" means a licensed insurer that is either directly or indirectly controlled by a producer.

(31) "Controlling person" means a person that directly or indirectly has the power to direct or cause to be directed, the management, control, or activities of a reinsurance intermediary.

(32) "Controlling producer" means a producer who directly or indirectly controls an insurer.

(33) (a) "Corporation" means an insurance corporation, except when referring to:

- (i) a corporation doing business:
 - (A) as:
 - (I) an insurance producer;
 - (II) a surplus lines producer;
 - (III) a limited line producer;
 - (IV) a consultant;
 - (V) a managing general agent;
 - (VI) a reinsurance intermediary;
 - (VII) a third party administrator; or
 - (VIII) an adjuster; and
 - (B) under:
 - (I) Chapter 23a, Insurance Marketing - Licensing Producers, Consultants, and Reinsurance Intermediaries;
 - (II) Chapter 25, Third Party Administrators; or
 - (III) Chapter 26, Insurance Adjusters; or
- (ii) a noninsurer that is part of a holding company system under Chapter 16, Insurance Holding Companies.

(b) "Stock corporation" means a stock insurance corporation.

(c) "Mutual" or "mutual corporation" means a mutual insurance corporation.

(34) (a) "Creditable coverage" has the same meaning as provided in federal regulations adopted pursuant to the Health Insurance Portability and Accountability Act.

(b) "Creditable coverage" includes coverage that is offered through a public health plan such as:

(i) the Primary Care Network Program under a Medicaid primary care network demonstration waiver obtained subject to Section 26-18-3;

(ii) the Children's Health Insurance Program under Section 26-40-106; or

(i) the Primary Care Network Program under a Medicaid primary care network demonstration waiver obtained subject to Section 26-18-3;

(ii) the Children's Health Insurance Program under Section 26-40-106; or

(iii) the Ryan White Program Comprehensive AIDS Resources Emergency Act, Pub. L. 101-381, and Ryan White HIV/AIDS Treatment Modernization Act of 2006, Pub. L. 109-415.

(35) “Credit accident and health insurance” means insurance on a debtor to provide indemnity for payments coming due on a specific loan or other credit transaction while the debtor has a disability.

(36) (a) “Credit insurance” means insurance offered in connection with an extension of credit that is limited to partially or wholly extinguishing that credit obligation.

(b) “Credit insurance” includes:

- (i) credit accident and health insurance;
- (ii) credit life insurance;
- (iii) credit property insurance;
- (iv) credit unemployment insurance;
- (v) guaranteed automobile protection insurance;
- (vi) involuntary unemployment insurance;
- (vii) mortgage accident and health insurance;
- (viii) mortgage guaranty insurance; and
- (ix) mortgage life insurance.

(37) “Credit life insurance” means insurance on the life of a debtor in connection with an extension of credit that pays a person if the debtor dies.

[440] (38) “Creditor” means a person, including an insured, having a claim, whether:

- (a) matured;
- (b) unmatured;
- (c) liquidated;
- (d) unliquidated;
- (e) secured;
- (f) unsecured;
- (g) absolute;
- (h) fixed; or
- (i) contingent.

[438] (39) “Credit property insurance” means insurance:

(a) offered in connection with an extension of credit; and

(b) that protects the property until the debt is paid.

[439] (40) “Credit unemployment insurance” means insurance:

(a) offered in connection with an extension of credit; and

(b) that provides indemnity if the debtor is unemployed for payments coming due on a:

- (i) specific loan; or

(ii) credit transaction.

(41) (a) “Crop insurance” means insurance providing protection against damage to crops from unfavorable weather conditions, fire or lightning, flood, hail, insect infestation, disease, or other yield-reducing conditions or perils that is:

- (i) provided by the private insurance market; or
- (ii) subsidized by the Federal Crop Insurance Corporation.

(b) “Crop insurance” includes multiperil crop insurance.

(42) (a) “Customer service representative” means a person that provides an insurance service and insurance product information:

- (i) for the customer service representative’s:
 - (A) producer;
 - (B) surplus lines producer; or
 - (C) consultant employer; and
- (ii) to the customer service representative’s employer’s:
 - (A) customer;
 - (B) client; or
 - (C) organization.

(b) A customer service representative may only operate within the scope of authority of the customer service representative’s producer, surplus lines producer, or consultant employer.

(43) “Deadline” means a final date or time:

- (a) imposed by:
 - (i) statute;
 - (ii) rule; or
 - (iii) order; and
- (b) by which a required filing or payment must be received by the department.

(44) “Deemer clause” means a provision under this title under which upon the occurrence of a condition precedent, the commissioner is considered to have taken a specific action. If the statute so provides, a condition precedent may be the commissioner’s failure to take a specific action.

(45) “Degree of relationship” means the number of steps between two persons determined by counting the generations separating one person from a common ancestor and then counting the generations to the other person.

(46) “Department” means the Insurance Department.

(47) “Director” means a member of the board of directors of a corporation.

(48) “Disability” means a physiological or psychological condition that partially or totally limits an individual’s ability to:

- (a) perform the duties of:

- (i) that individual's occupation; or
- (ii) an occupation for which the individual is reasonably suited by education, training, or experience; or
- (b) perform two or more of the following basic activities of daily living:
- (i) eating;
- (ii) toileting;
- (iii) transferring;
- (iv) bathing; or
- (v) dressing.
- (49) "Disability income insurance" is defined in Subsection (79).
- (50) "Domestic insurer" means an insurer organized under the laws of this state.
- (51) "Domiciliary state" means the state in which an insurer:
- (a) is incorporated;
- (b) is organized; or
- (c) in the case of an alien insurer, enters into the United States.
- (52) (a) "Eligible employee" means:
- (i) an employee who:
- (A) works on a full-time basis; and
- (B) has a normal work week of 30 or more hours; or
- (ii) a person described in Subsection (52)(b).
- (b) "Eligible employee" includes, if the individual is included under a health benefit plan of a small employer:
- (i) a sole proprietor;
- (ii) a partner in a partnership; or
- (iii) an independent contractor.
- (c) "Eligible employee" does not include, unless eligible under Subsection (52)(b):
- (i) an individual who works on a temporary or substitute basis for a small employer;
- (ii) an employer's spouse; or
- (iii) a dependent of an employer.
- (53) "Employee" means an individual employed by an employer.
- (54) "Employee benefits" means one or more benefits or services provided to:
- (a) an employee; or
- (b) a dependent of an employee.
- (55) (a) "Employee welfare fund" means a fund:
- (i) established or maintained, whether directly or through a trustee, by:
- (A) one or more employers;
- (B) one or more labor organizations; or
- (C) a combination of employers and labor organizations; and
- (ii) that provides employee benefits paid or contracted to be paid, other than income from investments of the fund:
- (A) by or on behalf of an employer doing business in this state; or
- (B) for the benefit of a person employed in this state.
- (b) "Employee welfare fund" includes a plan funded or subsidized by a user fee or tax revenues.
- (56) "Endorsement" means a written agreement attached to a policy or certificate to modify the policy or certificate coverage.
- (57) "Enrollment date," with respect to a health benefit plan, means:
- (a) the first day of coverage; or
- (b) if there is a waiting period, the first day of the waiting period.
- (58) (a) "Escrow" means:
- (i) a transaction that effects the sale, transfer, encumbering, or leasing of real property, when a person not a party to the transaction, and neither having nor acquiring an interest in the title, performs, in accordance with the written instructions or terms of the written agreement between the parties to the transaction, any of the following actions:
- (A) the explanation, holding, or creation of a document; or
- (B) the receipt, deposit, and disbursement of money;
- (ii) a settlement or closing involving:
- (A) a mobile home;
- (B) a grazing right;
- (C) a water right; or
- (D) other personal property authorized by the commissioner.
- (b) "Escrow" does not include:
- (i) the following notarial acts performed by a notary within the state:
- (A) an acknowledgment;
- (B) a copy certification;
- (C) jurat; and
- (D) an oath or affirmation;
- (ii) the receipt or delivery of a document; or
- (iii) the receipt of money for delivery to the escrow agent.

(59) “Escrow agent” means an agency title insurance producer meeting the requirements of Sections 31A-4-107, 31A-14-211, and 31A-23a-204, who is acting through an individual title insurance producer licensed with an escrow subline of authority.

(60) (a) “Excludes” is not exhaustive and does not mean that another thing is not also excluded.

(b) The items listed in a list using the term “excludes” are representative examples for use in interpretation of this title.

(61) “Exclusion” means for the purposes of accident and health insurance that an insurer does not provide insurance coverage, for whatever reason, for one of the following:

- (a) a specific physical condition;
- (b) a specific medical procedure;
- (c) a specific disease or disorder; or
- (d) a specific prescription drug or class of prescription drugs.

(62) “Expense reimbursement insurance” means insurance:

(a) written to provide a payment for an expense relating to hospital confinement resulting from illness or injury; and

(b) written:

(i) as a daily limit for a specific number of days in a hospital; and

(ii) to have a one or two day waiting period following a hospitalization.

(63) “Fidelity insurance” means insurance guaranteeing the fidelity of a person holding a position of public or private trust.

(64) (a) “Filed” means that a filing is:

(i) submitted to the department as required by and in accordance with applicable statute, rule, or filing order;

(ii) received by the department within the time period provided in applicable statute, rule, or filing order; and

(iii) accompanied by the appropriate fee in accordance with:

(A) Section 31A-3-103; or

(B) rule.

(b) “Filed” does not include a filing that is rejected by the department because it is not submitted in accordance with Subsection (64)(a).

(65) “Filing,” when used as a noun, means an item required to be filed with the department including:

- (a) a policy;
- (b) a rate;
- (c) a form;

(d) a document;

(e) a plan;

(f) a manual;

(g) an application;

(h) a report;

(i) a certificate;

(j) an endorsement;

(k) an actuarial certification;

(l) a licensee annual statement;

(m) a licensee renewal application;

(n) an advertisement; or

(o) an outline of coverage.

(66) “First party insurance” means an insurance policy or contract in which the insurer agrees to pay a claim submitted to it by the insured for the insured’s losses.

(67) “Foreign insurer” means an insurer domiciled outside of this state, including an alien insurer.

(68) (a) “Form” means one of the following prepared for general use:

(i) a policy;

(ii) a certificate;

(iii) an application;

(iv) an outline of coverage; or

(v) an endorsement.

(b) “Form” does not include a document specially prepared for use in an individual case.

(69) “Franchise insurance” means an individual insurance policy provided through a mass marketing arrangement involving a defined class of persons related in some way other than through the purchase of insurance.

(70) “General lines of authority” include:

(a) the general lines of insurance in Subsection (71);

(b) title insurance under one of the following sublines of authority:

(i) ~~search~~ title examination, including authority to act as a title marketing representative;

(ii) escrow, including authority to act as a title marketing representative; and

(iii) title marketing representative only;

(c) surplus lines;

(d) workers’ compensation; and

(e) another line of insurance that the commissioner considers necessary to recognize in the public interest.

(71) “General lines of insurance” include:

- (a) accident and health;
- (b) casualty;
- (c) life;
- (d) personal lines;
- (e) property; and
- (f) variable contracts, including variable life and annuity.

(72) "Group health plan" means an employee welfare benefit plan to the extent that the plan provides medical care:

- (a) (i) to an employee; or
- (ii) to a dependent of an employee; and
- (b) (i) directly;
- (ii) through insurance reimbursement; or
- (iii) through another method.

(73) (a) "Group insurance policy" means a policy covering a group of persons that is issued:

- (i) to a policyholder on behalf of the group; and
- (ii) for the benefit of a member of the group who is selected under a procedure defined in:

- (A) the policy; or
- (B) an agreement that is collateral to the policy.

(b) A group insurance policy may include a member of the policyholder's family or a dependent.

(74) "Guaranteed automobile protection insurance" means insurance offered in connection with an extension of credit that pays the difference in amount between the insurance settlement and the balance of the loan if the insured automobile is a total loss.

(75) (a) Except as provided in Subsection (75)(b), "health benefit plan" means a policy or certificate that:

- (i) provides health care insurance;
- (ii) provides major medical expense insurance; or
- (iii) is offered as a substitute for hospital or medical expense insurance, such as:

- (A) a hospital confinement indemnity; or
- (B) a limited benefit plan.

(b) "Health benefit plan" does not include a policy or certificate that:

- (i) provides benefits solely for:
 - (A) accident;
 - (B) dental;
 - (C) income replacement;
 - (D) long-term care;
 - (E) a Medicare supplement;
 - (F) a specified disease;

(G) vision; or

(H) a short-term limited duration; or

(ii) is offered and marketed as supplemental health insurance.

(76) "Health care" means any of the following intended for use in the diagnosis, treatment, mitigation, or prevention of a human ailment or impairment:

- (a) a professional service;
- (b) a personal service;
- (c) a facility;
- (d) equipment;
- (e) a device;
- (f) supplies; or
- (g) medicine.

(77) (a) "Health care insurance" or "health insurance" means insurance providing:

- (i) a health care benefit; or
- (ii) payment of an incurred health care expense.

(b) "Health care insurance" or "health insurance" does not include accident and health insurance providing a benefit for:

- (i) replacement of income;
- (ii) short-term accident;
- (iii) fixed indemnity;
- (iv) credit accident and health;
- (v) supplements to liability;
- (vi) workers' compensation;
- (vii) automobile medical payment;
- (viii) no-fault automobile;
- (ix) equivalent self-insurance; or

(x) a type of accident and health insurance coverage that is a part of or attached to another type of policy.

(78) "Health Insurance Portability and Accountability Act" means the Health Insurance Portability and Accountability Act of 1996, Pub. L. 104-191, 110 Stat. 1936, as amended.

(79) "Income replacement insurance" or "disability income insurance" means insurance written to provide payments to replace income lost from accident or sickness.

(80) "Indemnity" means the payment of an amount to offset all or part of an insured loss.

(81) "Independent adjuster" means an insurance adjuster required to be licensed under Section 31A-26-201 who engages in insurance adjusting as a representative of an insurer.

(82) "Independently procured insurance" means insurance procured under Section 31A-15-104.

(83) "Individual" means a natural person.

(84) "Inland marine insurance" includes insurance covering:

- (a) property in transit on or over land;
- (b) property in transit over water by means other than boat or ship;
- (c) bailee liability;
- (d) fixed transportation property such as bridges, electric transmission systems, radio and television transmission towers and tunnels; and
- (e) personal and commercial property floaters.

(85) "Insolvency" means that:

- (a) an insurer is unable to pay its debts or meet its obligations as the debts and obligations mature;
- (b) an insurer's total adjusted capital is less than the insurer's mandatory control level RBC under Subsection 31A-17-601(8)(c); or
- (c) an insurer is determined to be hazardous under this title.

(86) (a) "Insurance" means:

- (i) an arrangement, contract, or plan for the transfer of a risk or risks from one or more persons to one or more other persons; or
- (ii) an arrangement, contract, or plan for the distribution of a risk or risks among a group of persons that includes the person seeking to distribute that person's risk.

(b) "Insurance" includes:

- (i) a risk distributing arrangement providing for compensation or replacement for damages or loss through the provision of a service or a benefit in kind;
- (ii) a contract of guaranty or suretyship entered into by the guarantor or surety as a business and not as merely incidental to a business transaction; and
- (iii) a plan in which the risk does not rest upon the person who makes an arrangement, but with a class of persons who have agreed to share the risk.

(87) "Insurance adjuster" means a person who directs or conducts the investigation, negotiation, or settlement of a claim under an insurance policy other than life insurance or an annuity, on behalf of an insurer, policyholder, or a claimant under an insurance policy.

(88) "Insurance business" or "business of insurance" includes:

- (a) providing health care insurance by an organization that is or is required to be licensed under this title;
- (b) providing a benefit to an employee in the event of a contingency not within the control of the employee, in which the employee is entitled to the benefit as a right, which benefit may be provided either:

(i) by a single employer or by multiple employer groups; or

(ii) through one or more trusts, associations, or other entities;

(c) providing an annuity:

(i) including an annuity issued in return for a gift; and

(ii) except an annuity provided by a person specified in Subsections 31A-22-1305(2) and (3);

(d) providing the characteristic services of a motor club as outlined in Subsection (116);

(e) providing another person with insurance;

(f) making as insurer, guarantor, or surety, or proposing to make as insurer, guarantor, or surety, a contract or policy of title insurance;

(g) transacting or proposing to transact any phase of title insurance, including:

(i) solicitation;

(ii) negotiation preliminary to execution;

(iii) execution of a contract of title insurance;

(iv) insuring; and

(v) transacting matters subsequent to the execution of the contract and arising out of the contract, including reinsurance;

(h) transacting or proposing a life settlement; and

(i) doing, or proposing to do, any business in substance equivalent to Subsections (88)(a) through (h) in a manner designed to evade this title.

(89) "Insurance consultant" or "consultant" means a person who:

(a) advises another person about insurance needs and coverages;

(b) is compensated by the person advised on a basis not directly related to the insurance placed; and

(c) except as provided in Section 31A-23a-501, is not compensated directly or indirectly by an insurer or producer for advice given.

(90) "Insurance holding company system" means a group of two or more affiliated persons, at least one of whom is an insurer.

(91) (a) "Insurance producer" or "producer" means a person licensed or required to be licensed under the laws of this state to sell, solicit, or negotiate insurance.

(b) (i) "Producer for the insurer" means a producer who is compensated directly or indirectly by an insurer for selling, soliciting, or negotiating an insurance product of that insurer.

(ii) "Producer for the insurer" may be referred to as an "agent."

(c) (i) "Producer for the insured" means a producer who:

(A) is compensated directly and only by an insurance customer or an insured; and

(B) receives no compensation directly or indirectly from an insurer for selling, soliciting, or negotiating an insurance product of that insurer to an insurance customer or insured.

(ii) "Producer for the insured" may be referred to as a "broker."

(92) (a) "Insured" means a person to whom or for whose benefit an insurer makes a promise in an insurance policy and includes:

- (i) a policyholder;
- (ii) a subscriber;
- (iii) a member; and
- (iv) a beneficiary.

(b) The definition in Subsection (92)(a):

(i) applies only to this title; and

(ii) does not define the meaning of this word as used in an insurance policy or certificate.

(93) (a) "Insurer" means a person doing an insurance business as a principal including:

(i) a fraternal benefit society;

(ii) an issuer of a gift annuity other than an annuity specified in Subsections 31A-22-1305(2) and (3);

(iii) a motor club;

(iv) an employee welfare plan; and

(v) a person purporting or intending to do an insurance business as a principal on that person's own account.

(b) "Insurer" does not include a governmental entity to the extent the governmental entity is engaged in an activity described in Section 31A-12-107.

(94) "Interinsurance exchange" is defined in Subsection (147).

(95) "Involuntary unemployment insurance" means insurance:

(a) offered in connection with an extension of credit; and

(b) that provides indemnity if the debtor is involuntarily unemployed for payments coming due on a:

(i) specific loan; or

(ii) credit transaction.

(96) "Large employer," in connection with a health benefit plan, means an employer who, with respect to a calendar year and to a plan year:

(a) employed an average of at least 51 eligible employees on each business day during the preceding calendar year; and

(b) employs at least two employees on the first day of the plan year.

(97) "Late enrollee," with respect to an employer health benefit plan, means an individual whose enrollment is a late enrollment.

(98) "Late enrollment," with respect to an employer health benefit plan, means enrollment of an individual other than:

(a) on the earliest date on which coverage can become effective for the individual under the terms of the plan; or

(b) through special enrollment.

(99) (a) Except for a retainer contract or legal assistance described in Section 31A-1-103, "legal expense insurance" means insurance written to indemnify or pay for a specified legal expense.

(b) "Legal expense insurance" includes an arrangement that creates a reasonable expectation of an enforceable right.

(c) "Legal expense insurance" does not include the provision of, or reimbursement for, legal services incidental to other insurance coverage.

(100) (a) "Liability insurance" means insurance against liability:

(i) for death, injury, or disability of a human being, or for damage to property, exclusive of the coverages under:

(A) Subsection (110) for medical malpractice insurance;

(B) Subsection (138) for professional liability insurance; and

(C) Subsection (173) for workers' compensation insurance;

(ii) for a medical, hospital, surgical, and funeral benefit to a person other than the insured who is injured, irrespective of legal liability of the insured, when issued with or supplemental to insurance against legal liability for the death, injury, or disability of a human being, exclusive of the coverages under:

(A) Subsection (110) for medical malpractice insurance;

(B) Subsection (138) for professional liability insurance; and

(C) Subsection (173) for workers' compensation insurance;

(iii) for loss or damage to property resulting from an accident to or explosion of a boiler, pipe, pressure container, machinery, or apparatus;

(iv) for loss or damage to property caused by:

(A) the breakage or leakage of a sprinkler, water pipe, or water container; or

(B) water entering through a leak or opening in a building; or

(v) for other loss or damage properly the subject of insurance not within another kind of insurance as

defined in this chapter, if the insurance is not contrary to law or public policy.

(b) "Liability insurance" includes:

(i) vehicle liability insurance;

(ii) residential dwelling liability insurance; and

(iii) making inspection of, and issuing a certificate of inspection upon, an elevator, boiler, machinery, or apparatus of any kind when done in connection with insurance on the elevator, boiler, machinery, or apparatus.

(101) (a) "License" means authorization issued by the commissioner to engage in an activity that is part of or related to the insurance business.

(b) "License" includes a certificate of authority issued to an insurer.

(102) (a) "Life insurance" means:

(i) insurance on a human life; and

(ii) insurance pertaining to or connected with human life.

(b) The business of life insurance includes:

(i) granting a death benefit;

(ii) granting an annuity benefit;

(iii) granting an endowment benefit;

(iv) granting an additional benefit in the event of death by accident;

(v) granting an additional benefit to safeguard the policy against lapse; and

(vi) providing an optional method of settlement of proceeds.

(103) "Limited license" means a license that:

(a) is issued for a specific product of insurance; and

(b) limits an individual or agency to transact only for that product or insurance.

(104) "Limited line credit insurance" includes the following forms of insurance:

(a) credit life;

(b) credit accident and health;

(c) credit property;

(d) credit unemployment;

(e) involuntary unemployment;

(f) mortgage life;

(g) mortgage guaranty;

(h) mortgage accident and health;

(i) guaranteed automobile protection; and

(j) another form of insurance offered in connection with an extension of credit that:

(i) is limited to partially or wholly extinguishing the credit obligation; and

(ii) the commissioner determines by rule should be designated as a form of limited line credit insurance.

(105) "Limited line credit insurance producer" means a person who sells, solicits, or negotiates one or more forms of limited line credit insurance coverage to an individual through a master, corporate, group, or individual policy.

(106) "Limited line insurance" includes:

(a) bail bond;

(b) limited line credit insurance;

(c) legal expense insurance;

(d) motor club insurance;

(e) car rental related insurance;

(f) travel insurance;

(g) crop insurance;

(h) self-service storage insurance;

(i) guaranteed asset protection waiver;

(j) portable electronics insurance; and

(k) another form of limited insurance that the commissioner determines by rule should be designated a form of limited line insurance.

(107) "Limited lines authority" includes the lines of insurance listed in Subsection (106).

(108) "Limited lines producer" means a person who sells, solicits, or negotiates limited lines insurance.

(109) (a) "Long-term care insurance" means an insurance policy or rider advertised, marketed, offered, or designated to provide coverage:

(i) in a setting other than an acute care unit of a hospital;

(ii) for not less than 12 consecutive months for a covered person on the basis of:

(A) expenses incurred;

(B) indemnity;

(C) prepayment; or

(D) another method;

(iii) for one or more necessary or medically necessary services that are:

(A) diagnostic;

(B) preventative;

(C) therapeutic;

(D) rehabilitative;

(E) maintenance; or

(F) personal care; and

(iv) that may be issued by:

(A) an insurer;

(B) a fraternal benefit society;

(C) (I) a nonprofit health hospital; and

(II) a medical service corporation;

(D) a prepaid health plan;

(E) a health maintenance organization; or

(F) an entity similar to the entities described in Subsections (109)(a)(iv)(A) through (E) to the extent that the entity is otherwise authorized to issue life or health care insurance.

(b) “Long-term care insurance” includes:

(i) any of the following that provide directly or supplement long-term care insurance:

(A) a group or individual annuity or rider; or

(B) a life insurance policy or rider;

(ii) a policy or rider that provides for payment of benefits on the basis of:

(A) cognitive impairment; or

(B) functional capacity; or

(iii) a qualified long-term care insurance contract.

(c) “Long-term care insurance” does not include:

(i) a policy that is offered primarily to provide basic Medicare supplement coverage;

(ii) basic hospital expense coverage;

(iii) basic medical/surgical expense coverage;

(iv) hospital confinement indemnity coverage;

(v) major medical expense coverage;

(vi) income replacement or related asset-protection coverage;

(vii) accident only coverage;

(viii) coverage for a specified:

(A) disease; or

(B) accident;

(ix) limited benefit health coverage; or

(x) a life insurance policy that accelerates the death benefit to provide the option of a lump sum payment:

(A) if the following are not conditioned on the receipt of long-term care:

(I) benefits; or

(II) eligibility; and

(B) the coverage is for one or more the following qualifying events:

(I) terminal illness;

(II) medical conditions requiring extraordinary medical intervention; or

(III) permanent institutional confinement.

(110) “Medical malpractice insurance” means insurance against legal liability incident to the practice and provision of a medical service other than the practice and provision of a dental service.

(111) “Member” means a person having membership rights in an insurance corporation.

(112) “Minimum capital” or “minimum required capital” means the capital that must be constantly maintained by a stock insurance corporation as required by statute.

(113) “Mortgage accident and health insurance” means insurance offered in connection with an extension of credit that provides indemnity for payments coming due on a mortgage while the debtor has a disability.

(114) “Mortgage guaranty insurance” means surety insurance under which a mortgagee or other creditor is indemnified against losses caused by the default of a debtor.

(115) “Mortgage life insurance” means insurance on the life of a debtor in connection with an extension of credit that pays if the debtor dies.

(116) “Motor club” means a person:

(a) licensed under:

(i) Chapter 5, Domestic Stock and Mutual Insurance Corporations;

(ii) Chapter 11, Motor Clubs; or

(iii) Chapter 14, Foreign Insurers; and

(b) that promises for an advance consideration to provide for a stated period of time one or more:

(i) legal services under Subsection 31A-11-102(1)(b);

(ii) bail services under Subsection 31A-11-102(1)(c); or

(iii) (A) trip reimbursement;

(B) towing services;

(C) emergency road services;

(D) stolen automobile services;

(E) a combination of the services listed in Subsections (116)(b)(iii)(A) through (D); or

(F) other services given in Subsections 31A-11-102(1)(b) through (f).

(117) “Mutual” means a mutual insurance corporation.

(118) “Network plan” means health care insurance:

(a) that is issued by an insurer; and

(b) under which the financing and delivery of medical care is provided, in whole or in part, through a defined set of providers under contract with the insurer, including the financing and delivery of an item paid for as medical care.

(119) “Nonparticipating” means a plan of insurance under which the insured is not entitled to

receive a dividend representing a share of the surplus of the insurer.

(120) "Ocean marine insurance" means insurance against loss of or damage to:

(a) ships or hulls of ships;

(b) goods, freight, cargoes, merchandise, effects, disbursements, profits, money, securities, choses in action, evidences of debt, valuable papers, bottomry, respondentia interests, or other cargoes in or awaiting transit over the oceans or inland waterways;

(c) earnings such as freight, passage money, commissions, or profits derived from transporting goods or people upon or across the oceans or inland waterways; or

(d) a vessel owner or operator as a result of liability to employees, passengers, bailors, owners of other vessels, owners of fixed objects, customs or other authorities, or other persons in connection with maritime activity.

(121) "Order" means an order of the commissioner.

(122) "Outline of coverage" means a summary that explains an accident and health insurance policy.

(123) "Participating" means a plan of insurance under which the insured is entitled to receive a dividend representing a share of the surplus of the insurer.

(124) "Participation," as used in a health benefit plan, means a requirement relating to the minimum percentage of eligible employees that must be enrolled in relation to the total number of eligible employees of an employer reduced by each eligible employee who voluntarily declines coverage under the plan because the employee:

(a) has other group health care insurance coverage; or

(b) receives:

(i) Medicare, under the Health Insurance for the Aged Act, Title XVIII of the Social Security Amendments of 1965; or

(ii) another government health benefit.

(125) "Person" includes:

(a) an individual;

(b) a partnership;

(c) a corporation;

(d) an incorporated or unincorporated association;

(e) a joint stock company;

(f) a trust;

(g) a limited liability company;

(h) a reciprocal;

(i) a syndicate; or

(j) another similar entity or combination of entities acting in concert.

(126) "Personal lines insurance" means property and casualty insurance coverage sold for primarily noncommercial purposes to:

(a) an individual; or

(b) a family.

(127) "Plan sponsor" is as defined in 29 U.S.C. Sec. 1002(16)(B).

(128) "Plan year" means:

(a) the year that is designated as the plan year in:

(i) the plan document of a group health plan; or

(ii) a summary plan description of a group health plan;

(b) if the plan document or summary plan description does not designate a plan year or there is no plan document or summary plan description:

(i) the year used to determine deductibles or limits;

(ii) the policy year, if the plan does not impose deductibles or limits on a yearly basis; or

(iii) the employer's taxable year if:

(A) the plan does not impose deductibles or limits on a yearly basis; and

(B) (I) the plan is not insured; or

(II) the insurance policy is not renewed on an annual basis; or

(c) in a case not described in Subsection (128)(a) or (b), the calendar year.

(129) (a) "Policy" means a document, including an attached endorsement or application that:

(i) purports to be an enforceable contract; and

(ii) memorializes in writing some or all of the terms of an insurance contract.

(b) "Policy" includes a service contract issued by:

(i) a motor club under Chapter 11, Motor Clubs;

(ii) a service contract provided under Chapter 6a, Service Contracts; and

(iii) a corporation licensed under:

(A) Chapter 7, Nonprofit Health Service Insurance Corporations; or

(B) Chapter 8, Health Maintenance Organizations and Limited Health Plans.

(c) "Policy" does not include:

(i) a certificate under a group insurance contract; or

(ii) a document that does not purport to have legal effect.

(130) "Policyholder" means a person who controls a policy, binder, or oral contract by ownership, premium payment, or otherwise.

(131) “Policy illustration” means a presentation or depiction that includes nonguaranteed elements of a policy of life insurance over a period of years.

(132) “Policy summary” means a synopsis describing the elements of a life insurance policy.

(133) “PPACA” means the Patient Protection and Affordable Care Act, Pub. L. No. 111-148 and the Health Care Education Reconciliation Act of 2010, Pub. L. No. 111-152, and related federal regulations and guidance.

(134) “Preexisting condition,” with respect to a health benefit plan:

(a) means a condition that was present before the effective date of coverage, whether or not medical advice, diagnosis, care, or treatment was recommended or received before that day; and

(b) does not include a condition indicated by genetic information unless an actual diagnosis of the condition by a physician has been made.

(135) (a) “Premium” means the monetary consideration for an insurance policy.

(b) “Premium” includes, however designated:

(i) an assessment;

(ii) a membership fee;

(iii) a required contribution; or

(iv) monetary consideration.

(c) (i) “Premium” does not include consideration paid to a third party administrator for the third party administrator’s services.

(ii) “Premium” includes an amount paid by a third party administrator to an insurer for insurance on the risks administered by the third party administrator.

(136) “Principal officers” for a corporation means the officers designated under Subsection 31A-5-203(3).

(137) “Proceeding” includes an action or special statutory proceeding.

(138) “Professional liability insurance” means insurance against legal liability incident to the practice of a profession and provision of a professional service.

(139) (a) Except as provided in Subsection (139)(b), “property insurance” means insurance against loss or damage to real or personal property of every kind and any interest in that property:

(i) from all hazards or causes; and

(ii) against loss consequential upon the loss or damage including vehicle comprehensive and vehicle physical damage coverages.

(b) “Property insurance” does not include:

(i) inland marine insurance; and

(ii) ocean marine insurance.

(140) “Qualified long-term care insurance contract” or “federally tax qualified long-term care insurance contract” means:

(a) an individual or group insurance contract that meets the requirements of Section 7702B(b), Internal Revenue Code; or

(b) the portion of a life insurance contract that provides long-term care insurance:

(i) (A) by rider; or

(B) as a part of the contract; and

(ii) that satisfies the requirements of Sections 7702B(b) and (e), Internal Revenue Code.

(141) “Qualified United States financial institution” means an institution that:

(a) is:

(i) organized under the laws of the United States or any state; or

(ii) in the case of a United States office of a foreign banking organization, licensed under the laws of the United States or any state;

(b) is regulated, supervised, and examined by a United States federal or state authority having regulatory authority over a bank or trust company; and

(c) meets the standards of financial condition and standing that are considered necessary and appropriate to regulate the quality of a financial institution whose letters of credit will be acceptable to the commissioner as determined by:

(i) the commissioner by rule; or

(ii) the Securities Valuation Office of the National Association of Insurance Commissioners.

(142) (a) “Rate” means:

(i) the cost of a given unit of insurance; or

(ii) for property or casualty insurance, that cost of insurance per exposure unit either expressed as:

(A) a single number; or

(B) a pure premium rate, adjusted before the application of individual risk variations based on loss or expense considerations to account for the treatment of:

(I) expenses;

(II) profit; and

(III) individual insurer variation in loss experience.

(b) “Rate” does not include a minimum premium.

(143) (a) Except as provided in Subsection (143)(b), “rate service organization” means a person who assists an insurer in rate making or filing by:

(i) collecting, compiling, and furnishing loss or expense statistics;

(ii) recommending, making, or filing rates or supplementary rate information; or

(iii) advising about rate questions, except as an attorney giving legal advice.

(b) "Rate service organization" does not mean:

- (i) an employee of an insurer;
- (ii) a single insurer or group of insurers under common control;
- (iii) a joint underwriting group; or
- (iv) an individual serving as an actuarial or legal consultant.

(144) "Rating manual" means any of the following used to determine initial and renewal policy premiums:

- (a) a manual of rates;
- (b) a classification;
- (c) a rate-related underwriting rule; and
- (d) a rating formula that describes steps, policies, and procedures for determining initial and renewal policy premiums.

(145) (a) "Rebate" means a licensee paying, allowing, giving, or offering to pay, allow, or give, directly or indirectly:

- (i) a refund of premium or portion of premium;
- (ii) a refund of commission or portion of commission;
- (iii) a refund of all or a portion of a consultant fee; or
- (iv) providing services or other benefits not specified in an insurance or annuity contract.

(b) "Rebate" does not include:

- (i) a refund due to termination or changes in coverage;
- (ii) a refund due to overcharges made in error by the licensee; or
- (iii) savings or wellness benefits as provided in the contract by the licensee.

(146) "Received by the department" means:

- (a) the date delivered to and stamped received by the department, if delivered in person;
- (b) the post mark date, if delivered by mail;
- (c) the delivery service's post mark or pickup date, if delivered by a delivery service;
- (d) the received date recorded on an item delivered, if delivered by:
 - (i) facsimile;
 - (ii) email; or
 - (iii) another electronic method; or
- (e) a date specified in:
 - (i) a statute;
 - (ii) a rule; or

(iii) an order.

(147) "Reciprocal" or "interinsurance exchange" means an unincorporated association of persons:

- (a) operating through an attorney-in-fact common to all of the persons; and
- (b) exchanging insurance contracts with one another that provide insurance coverage on each other.

(148) "Reinsurance" means an insurance transaction where an insurer, for consideration, transfers any portion of the risk it has assumed to another insurer. In referring to reinsurance transactions, this title sometimes refers to:

- (a) the insurer transferring the risk as the "ceding insurer"; and
- (b) the insurer assuming the risk as the:
 - (i) "assuming insurer"; or
 - (ii) "assuming reinsurer."

(149) "Reinsurer" means a person licensed in this state as an insurer with the authority to assume reinsurance.

(150) "Residential dwelling liability insurance" means insurance against liability resulting from or incident to the ownership, maintenance, or use of a residential dwelling that is a detached single family residence or multifamily residence up to four units.

(151) (a) "Retrocession" means reinsurance with another insurer of a liability assumed under a reinsurance contract.

(b) A reinsurer "retrocedes" when the reinsurer reinsures with another insurer part of a liability assumed under a reinsurance contract.

(152) "Rider" means an endorsement to:

- (a) an insurance policy; or
- (b) an insurance certificate.

(153) (a) "Security" means a:

- (i) note;
- (ii) stock;
- (iii) bond;
- (iv) debenture;
- (v) evidence of indebtedness;
- (vi) certificate of interest or participation in a profit-sharing agreement;
- (vii) collateral-trust certificate;
- (viii) preorganization certificate or subscription;
- (ix) transferable share;
- (x) investment contract;
- (xi) voting trust certificate;
- (xii) certificate of deposit for a security;
- (xiii) certificate of interest of participation in an oil, gas, or mining title or lease or in payments out of production under such a title or lease;

(xiv) commodity contract or commodity option;

(xv) certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase any of the items listed in Subsections (153)(a)(i) through (xiv); or

(xvi) another interest or instrument commonly known as a security.

(b) "Security" does not include:

(i) any of the following under which an insurance company promises to pay money in a specific lump sum or periodically for life or some other specified period:

(A) insurance;

(B) an endowment policy; or

(C) an annuity contract; or

(ii) a burial certificate or burial contract.

(154) "Secondary medical condition" means a complication related to an exclusion from coverage in accident and health insurance.

(155) (a) "Self-insurance" means an arrangement under which a person provides for spreading its own risks by a systematic plan.

(b) Except as provided in this Subsection (155), "self-insurance" does not include an arrangement under which a number of persons spread their risks among themselves.

(c) "Self-insurance" includes:

(i) an arrangement by which a governmental entity undertakes to indemnify an employee for liability arising out of the employee's employment; and

(ii) an arrangement by which a person with a managed program of self-insurance and risk management undertakes to indemnify its affiliates, subsidiaries, directors, officers, or employees for liability or risk that is related to the relationship or employment.

(d) "Self-insurance" does not include an arrangement with an independent contractor.

(156) "Sell" means to exchange a contract of insurance:

(a) by any means;

(b) for money or its equivalent; and

(c) on behalf of an insurance company.

(157) "Short-term care insurance" means an insurance policy or rider advertised, marketed, offered, or designed to provide coverage that is similar to long-term care insurance, but that provides coverage for less than 12 consecutive months for each covered person.

(158) "Significant break in coverage" means a period of 63 consecutive days during each of which an individual does not have creditable coverage.

(159) "Small employer" means, in connection with a health benefit plan and with respect to a calendar year and to a plan year, an employer who:

(a) employed at least one employee but not more than an average of 50 eligible employees on business days during the preceding calendar year; and

(b) employs at least one employee on the first day of the plan year.

(160) "Special enrollment period," in connection with a health benefit plan, has the same meaning as provided in federal regulations adopted pursuant to the Health Insurance Portability and Accountability Act.

(161) (a) "Subsidiary" of a person means an affiliate controlled by that person either directly or indirectly through one or more affiliates or intermediaries.

(b) "Wholly owned subsidiary" of a person is a subsidiary of which all of the voting shares are owned by that person either alone or with its affiliates, except for the minimum number of shares the law of the subsidiary's domicile requires to be owned by directors or others.

(162) Subject to Subsection (86)(b), "surety insurance" includes:

(a) a guarantee against loss or damage resulting from the failure of a principal to pay or perform the principal's obligations to a creditor or other obligee;

(b) bail bond insurance; and

(c) fidelity insurance.

(163) (a) "Surplus" means the excess of assets over the sum of paid-in capital and liabilities.

(b) (i) "Permanent surplus" means the surplus of an insurer or organization that is designated by the insurer or organization as permanent.

(ii) Sections 31A-5-211, 31A-7-201, 31A-8-209, 31A-9-209, and 31A-14-205 require that insurers or organizations doing business in this state maintain specified minimum levels of permanent surplus.

(iii) Except for assessable mutuals, the minimum permanent surplus requirement is the same as the minimum required capital requirement that applies to stock insurers.

(c) "Excess surplus" means:

(i) for a life insurer, accident and health insurer, health organization, or property and casualty insurer as defined in Section 31A-17-601, the lesser of:

(A) that amount of an insurer's or health organization's total adjusted capital that exceeds the product of:

(I) 2.5; and

(II) the sum of the insurer's or health organization's minimum capital or permanent surplus required under Section 31A-5-211, 31A-9-209, or 31A-14-205; or

(B) that amount of an insurer's or health organization's total adjusted capital that exceeds the product of:

(I) 3.0; and

(II) the authorized control level RBC as defined in Subsection 31A-17-601(8)(a); and

(ii) for a monoline mortgage guaranty insurer, financial guaranty insurer, or title insurer that amount of an insurer's paid-in-capital and surplus that exceeds the product of:

(A) 1.5; and

(B) the insurer's total adjusted capital required by Subsection 31A-17-609(1).

(164) "Third party administrator" or "administrator" means a person who collects charges or premiums from, or who, for consideration, adjusts or settles claims of residents of the state in connection with insurance coverage, annuities, or service insurance coverage, except:

(a) a union on behalf of its members;

(b) a person administering a:

(i) pension plan subject to the federal Employee Retirement Income Security Act of 1974;

(ii) governmental plan as defined in Section 414(d), Internal Revenue Code; or

(iii) nonelecting church plan as described in Section 410(d), Internal Revenue Code;

(c) an employer on behalf of the employer's employees or the employees of one or more of the subsidiary or affiliated corporations of the employer;

(d) an insurer licensed under the following, but only for a line of insurance for which the insurer holds a license in this state:

(i) Chapter 5, Domestic Stock and Mutual Insurance Corporations;

(ii) Chapter 7, Nonprofit Health Service Insurance Corporations;

(iii) Chapter 8, Health Maintenance Organizations and Limited Health Plans;

(iv) Chapter 9, Insurance Fraternal; or

(v) Chapter 14, Foreign Insurers;

(e) a person:

(i) licensed or exempt from licensing under:

(A) Chapter 23a, Insurance Marketing - Licensing Producers, Consultants, and Reinsurance Intermediaries; or

(B) Chapter 26, Insurance Adjusters; and

(ii) whose activities are limited to those authorized under the license the person holds or for which the person is exempt; or

(f) an institution, bank, or financial institution:

(i) that is:

(A) an institution whose deposits and accounts are to any extent insured by a federal deposit insurance agency, including the Federal Deposit Insurance Corporation or National Credit Union Administration; or

(B) a bank or other financial institution that is subject to supervision or examination by a federal or state banking authority; and

(ii) that does not adjust claims without a third party administrator license.

(165) "Title insurance" means the insuring, guaranteeing, or indemnifying of an owner of real or personal property or the holder of liens or encumbrances on that property, or others interested in the property against loss or damage suffered by reason of liens or encumbrances upon, defects in, or the unmarketability of the title to the property, or invalidity or unenforceability of any liens or encumbrances on the property.

(166) "Total adjusted capital" means the sum of an insurer's or health organization's statutory capital and surplus as determined in accordance with:

(a) the statutory accounting applicable to the annual financial statements required to be filed under Section 31A-4-113; and

(b) another item provided by the RBC instructions, as RBC instructions is defined in Section 31A-17-601.

(167) (a) "Trustee" means "director" when referring to the board of directors of a corporation.

(b) "Trustee," when used in reference to an employee welfare fund, means an individual, firm, association, organization, joint stock company, or corporation, whether acting individually or jointly and whether designated by that name or any other, that is charged with or has the overall management of an employee welfare fund.

(168) (a) "Unauthorized insurer," "unadmitted insurer," or "nonadmitted insurer" means an insurer:

(i) not holding a valid certificate of authority to do an insurance business in this state; or

(ii) transacting business not authorized by a valid certificate.

(b) "Admitted insurer" or "authorized insurer" means an insurer:

(i) holding a valid certificate of authority to do an insurance business in this state; and

(ii) transacting business as authorized by a valid certificate.

(169) "Underwrite" means the authority to accept or reject risk on behalf of the insurer.

(170) "Vehicle liability insurance" means insurance against liability resulting from or incident to ownership, maintenance, or use of a land vehicle or aircraft, exclusive of a vehicle

comprehensive or vehicle physical damage coverage under Subsection (139).

(171) "Voting security" means a security with voting rights, and includes a security convertible into a security with a voting right associated with the security.

(172) "Waiting period" for a health benefit plan means the period that must pass before coverage for an individual, who is otherwise eligible to enroll under the terms of the health benefit plan, can become effective.

(173) "Workers' compensation insurance" means:

(a) insurance for indemnification of an employer against liability for compensation based on:

- (i) a compensable accidental injury; and
- (ii) occupational disease disability;

(b) employer's liability insurance incidental to workers' compensation insurance and written in connection with workers' compensation insurance; and

(c) insurance assuring to a person entitled to workers' compensation benefits the compensation provided by law.

Section 2. Section 31A-2-402 is amended to read:

31A-2-402. Definitions.

As used in this part:

(1) "Commission" means the Title and Escrow Commission created in Section 31A-2-403.

(2) "Concurrence" means the entities given a concurring role must jointly agree for the action to be taken.

(3) "Dual licensed title licensee" means a title licensee who holds:

(a) an individual title insurance producer license as a title licensee; and

(b) a license or certificate under:

(i) Title 61, Chapter 2c, Utah Residential Mortgage Practices and Licensing Act;

(ii) Title 61, Chapter 2f, Real Estate Licensing and Practices Act; or

(iii) Title 61, Chapter 2g, Real Estate Appraiser Licensing and Certification Act.

(4) "Real Estate Commission" means the Real Estate Commission created in Section 61-2f-103.

(5) "Title insurance matter" means a matter related to:

(a) title insurance;

(b) an escrow conducted by an individual title insurance producer or agency title insurance producer;

(c) licensing, examination, and continuing education of an applicant to be a title licensee; or

(d) conduct of a title licensee.

[~~(5)~~] (6) "Title licensee" means a person licensed under this title as:

(a) an agency title insurance producer with a title insurance line of authority;

(b) an individual title insurance producer with:

(i) a general title insurance line of authority; or

(ii) a specific category of authority for title insurance; or

(c) a title insurance adjuster.

Section 3. Section 31A-2-403 is amended to read:

31A-2-403. Title and Escrow Commission created.

(1) (a) Subject to Subsection (1)(b), there is created within the department the Title and Escrow Commission that is comprised of five members appointed by the governor with the consent of the Senate as follows [~~beginning July 1, 2013~~]:

(i) two members shall be employees of a title insurer;

(ii) two members shall:

(A) be employees of a Utah agency title insurance producer;

(B) be or have been licensed under the title insurance line of authority;

(C) as of the day on which the member is appointed, be or have been licensed with the [~~search~~] title examination or escrow subline of authority for at least five years; and

(D) as of the day on which the member is appointed, not be from the same county as another member appointed under this Subsection (1)(a)(ii); and

(iii) one member shall be a member of the general public from any county in the state.

(b) No more than one commission member may be appointed from a single company or an affiliate or subsidiary of the company.

(2) (a) Subject to Subsection (2)(c), a commission member shall file with the commissioner a disclosure of any position of employment or ownership interest that the commission member has with respect to a person that is subject to the jurisdiction of the commissioner.

(b) The disclosure statement required by this Subsection (2) shall be:

(i) filed by no later than the day on which the person begins that person's appointment; and

(ii) amended when a significant change occurs in any matter required to be disclosed under this Subsection (2).

(c) A commission member is not required to disclose an ownership interest that the commission member has if the ownership interest is in a

publicly traded company or held as part of a mutual fund, trust, or similar investment.

(3) (a) Except as required by Subsection (3)(b), as terms of current commission members expire, the governor shall appoint each new commission member to a four-year term ending on June 30.

(b) Notwithstanding the requirements of Subsection (3)(a), the governor shall, at the time of appointment, adjust the length of terms to ensure that the terms of the commission members are staggered so that approximately half of the members appointed under Subsection (1)(a)(i) and half of the members appointed under Subsection (1)(a)(ii) are appointed every two years.

(c) A commission member may not serve more than one consecutive term.

(d) When a vacancy occurs in the membership for any reason, the governor, with the consent of the Senate, shall appoint a replacement for the unexpired term.

(e) Notwithstanding the other provisions of this Subsection (3), a commission member serves until a successor is appointed by the governor with the consent of the Senate.

(4) A commission member may not receive compensation or benefits for the commission member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(5) Members of the commission shall annually select one commission member to serve as chair.

(6) (a) The commission shall meet at least monthly. Notwithstanding Section 52-4-207, a commission member shall physically attend a regularly scheduled monthly meeting of the commission and may not attend through electronic means. A commission member may attend subcommittee meetings, emergency meetings, or other not regularly scheduled meetings electronically in accordance with Section 52-4-207.

(b) The commissioner may call additional meetings:

(i) at the commissioner's discretion;

(ii) upon the request of the chair of the commission; or

(iii) upon the written request of three or more commission members.

(c) (i) Three commission members constitute a quorum for the transaction of business.

(ii) The action of a majority of the commission members when a quorum is present is the action of the commission.

(7) The commissioner shall staff the commission.

Section 4. Section 31A-2-404 is amended to read:

31A-2-404. Duties of the commissioner and Title and Escrow Commission.

(1) (a) Notwithstanding the other provisions of this chapter, to the extent provided in this part, the commissioner shall administer and enforce the provisions in this title related to ~~to: (a) title insurance; and (b) escrow conducted by a title licensee or title insurer~~ a title insurance matter.

(b) (i) The commissioner may impose a penalty:

(A) under this title related to a title insurance matter;

(B) after investigation by the commissioner in accordance with Part 3, Procedures and Enforcement; and

(C) that is enforced by the commissioner.

(ii) The commissioner shall consult with and seek concurrence of the commission in a meeting subject to Title 52, Chapter 4, Open and Public Meetings Act, regarding the imposition of a penalty, and if concurrence cannot be reached, the commissioner has final authority.

(c) Unless a provision of this title grants specific authority to the commission, the commissioner has authority over the implementation of this title related to a title insurance matter. When a provision requires concurrence between the commission and commissioner, and concurrence cannot be reached, the commissioner has final authority.

(d) Except as provided in Subsection (1)(e), when this title requires concurrence between the commissioner and commission related to a title insurance matter:

(i) the commissioner shall report to and update the commission on a regular basis related to that title insurance matter; and

(ii) the commission shall review the report submitted by the commissioner under this Subsection (1)(d) and concur with the report, or:

(A) provide a reason for not concurring with the report; and

(B) provide recommendations to the commissioner.

(e) When this title requires concurrence between the commissioner and commission under Subsection (2), (3), or (4):

(i) the commission shall report to and update the commissioner on a regular basis related to that title insurance matter; and

(ii) the commissioner shall review a report submitted by the commission under this Subsection (1)(e) and concur with the report or:

(A) provide a reason for not concurring with the report; and

(B) provide recommendations to the commission.

(2) The commission shall:

(a) ~~[in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and]~~ subject to Subsection (4), make rules for the administration of the provisions in this title related to title insurance matters including rules related to:

(i) rating standards and rating methods for a title licensee, as provided in Section 31A-19a-209;

(ii) the licensing for a title licensee, including the licensing requirements of Section 31A-23a-204;

(iii) continuing education requirements of Section 31A-23a-202; and

(iv) standards of conduct for a title licensee;

(b) concur in the issuance and renewal of a license in accordance with Section 31A-23a-105 or 31A-26-203;

(c) in accordance with Section 31A-3-103, establish, with the concurrence of the commissioner, the fees imposed by this title on a title licensee;

(d) in accordance with Section 31A-23a-415 determine, after consulting with the commissioner, the assessment on a title insurer as defined in Section 31A-23a-415;

~~[(e) conduct an administrative hearing not delegated by the commission to an administrative law judge related to:]~~

~~[(i) licensing of an applicant;]~~

~~[(ii) conduct of a title licensee; or]~~

~~[(iii) approval of a continuing education program required by Section 31A-23a-202;]~~

~~[(f)] (e) with the concurrence of the commissioner, approve a continuing education program required by Section 31A-23a-202;~~

~~[(g) with the concurrence of the commissioner, impose a penalty;]~~

~~[(i) under this title related to:]~~

~~[(A) title insurance; or]~~

~~[(B) escrow conducted by a title licensee;]~~

~~[(ii) after investigation by the commissioner in accordance with Part 3, Procedures and Enforcement; and]~~

~~[(iii) that is enforced by the commissioner;]~~

~~[(h) advise the commissioner on the administration and enforcement of any matter affecting the title insurance industry;]~~

(f) on a regular basis advise the commissioner of the most critical matters affecting the title insurance industry and request the commissioner to direct the department's investigative resources to investigate and enforce those matters;

(g) in accordance with Section 31A-23a-204, participate in the annual license testing evaluation

conducted by the commissioner's test administrator;

[(4)] (h) advise the commissioner on matters affecting the commissioner's budget related to title insurance; and

[(5)] (i) perform other duties as provided in this title.

(3) The commission may make rules establishing an examination for a license that will satisfy Section 31A-23a-204:

(a) after consultation with ~~[the commissioner and]~~ the commissioner's test administrator; and

~~[(b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and]~~

~~[(e)] (b) subject to Subsection (4).~~

(4) (a) The commission may make a rule under this title only:

(i) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(ii) with the concurrence of the commissioner, except that if concurrence cannot be reached, the commissioner has final authority; and

(iii) if at the time the commission files its proposed rule and rule analysis with the Division of Administrative Rules in accordance with Section 63G-3-301, the commission provides the Real Estate Commission that same information.

(b) The commission may not make a rule regarding adjudicative procedures.

(c) In accordance with Section 31A-2-201, the commissioner may make rules regarding adjudicative procedures.

(5) (a) The commissioner shall annually report the information described in Subsection (5)(b) in writing to the commission.

(b) The information required to be reported under this Subsection (5):

(i) may not identify a person; and

(ii) shall include:

(A) the number of complaints the commissioner receives with regard to transactions involving title insurance or a title licensee during the calendar year immediately proceeding the report;

(B) the type of complaints described in Subsection (5)(b)(ii)(A); and

(C) for each complaint described in Subsection (5)(b)(ii)(A):

(I) any action taken by the commissioner with regard to the complaint; and

(II) the time-period beginning the day on which a complaint is made and ending the day on which the commissioner determines it will take no further action with regard to the complaint.

~~[(6) The commission may not impose a penalty in a manner inconsistent with Subsection (2)(g) or make a rule that conflicts with Subsection (2)(g).]~~

Section 5. Section 31A-19a-209 is amended to read:

31A-19a-209. Special provisions for title insurance.

(1) (a) (i) The Title and Escrow Commission shall adopt rules subject to Section 31A-2-404, establishing rate standards and rating methods for individual title insurance producers and agency title insurance producers.

(ii) The commissioner shall determine compliance with rate standards and rating methods for title insurance insurers, individual title insurance producers, and agency title insurance producers.

(b) In addition to the considerations in determining compliance with rate standards and rating methods as set forth in Sections 31A-19a-201 and 31A-19a-202, including for title insurers, the commissioner and the Title and Escrow Commission shall consider the costs and expenses incurred by title insurance insurers, individual title insurance producers, and agency title insurance producers peculiar to the business of title insurance, including:

(i) the maintenance of title plants; and

(ii) the ~~searching and~~ examining of public records to determine insurability of title to real redevelopment property.

(2) (a) Every title insurance insurer or agency title insurance producer, and every individual title insurance producer who is not designated by an agency title insurance producer, shall file with the commissioner:

(i) a schedule of the escrow charges that the title insurance insurer, individual title insurance producer, or agency title insurance producer proposes to use in this state for services performed in connection with the issuance of policies of title insurance; and

(ii) any changes to the schedule of the escrow charges described in Subsection (2)(a)(i).

(b) Except for a schedule filed by a title insurance insurer under this Subsection (2), a schedule filed under this Subsection (2) is subject to review by the Title and Escrow Commission.

(c) (i) The schedule of escrow charges required to be filed by Subsection (2)(a)(i) takes effect on the day on which the schedule of escrow charges is filed.

(ii) Any changes to the schedule of the escrow charges required to be filed by Subsection (2)(a)(ii) take effect on the day specified in the change to the schedule of escrow charges except that the effective date may not be less than 30 calendar days after the day on which the change to the schedule of escrow charges is filed.

(3) A title insurance insurer, individual title insurance producer, or agency title insurance producer may not file or use any rate or other charge relating to the business of title insurance, including rates or charges filed for escrow that would cause

the title insurance company, individual title insurance producer, or agency title insurance producer to:

(a) operate at less than the cost of doing:

(i) the insurance business; or

(ii) the escrow business; or

(b) fail to adequately underwrite a title insurance policy.

(4) (a) All or any of the schedule of rates or schedule of charges, including the schedule of escrow charges, may be changed or amended at any time, subject to the limitations in this Subsection (4).

(b) Each change or amendment shall:

(i) be filed with the commissioner, subject to review by the Title and Escrow Commission; and

(ii) state the effective date of the change or amendment, which may not be less than 30 calendar days after the day on which the change or amendment is filed.

(c) Any change or amendment remains in force for a period of at least 90 calendar days from the change or amendment's effective date.

(5) While the schedule of rates and schedule of charges are effective, a copy of each shall be:

(a) retained in each of the offices of:

(i) the title insurance insurer in this state;

(ii) the title insurance insurer's individual title insurance producers or agency title insurance producers in this state; and

(b) upon request, furnished to the public.

(6) Except in accordance with the schedules of rates and charges filed with the commissioner, a title insurance insurer, individual title insurance producer, or agency title insurance producer may not make or impose any premium or other charge:

(a) in connection with the issuance of a policy of title insurance; or

(b) for escrow services performed in connection with the issuance of a policy of title insurance.

Section 6. Section 31A-20-110 is amended to read:

31A-20-110. Underwriting rules for title insurance.

(1) A title insurance policy may not be written until the title insurer or its individual title insurance producer or agency title insurance producer has conducted a reasonable ~~search and~~ examination of the title and has made a determination of insurability of title under sound underwriting principles. Evidence of this ~~search~~ examination and reasonable determination shall be retained in the files of the title insurer or its individual title insurance producer or agency title insurance producer for not less than 15 years after the policy has been issued, either in its original form

or as recorded by any process which can accurately and reliably reproduce the original. This section does not apply to a company assuming liability through a contract of reinsurance, or to a company acting as coinsurer, if another reinsuring company has complied with this section.

(2) A title insurance policy may not be issued except by a title insurer, an individual title insurance producer who is appointed by an insurer, or agency title insurance producer licensed under Section 31A-23a-105.

(3) This section is enforceable only by the commissioner. It does not create, eliminate, or modify any private cause of action or remedy.

Section 7. Section 31A-23a-102 is amended to read:

31A-23a-102. Definitions.

As used in this chapter:

(1) "Bail bond producer" is as defined in Section 31A-35-102.

(2) "Home state" means a state or territory of the United States or the District of Columbia in which an insurance producer:

- (a) maintains the insurance producer's principal:
 - (i) place of residence; or
 - (ii) place of business; and
- (b) is licensed to act as an insurance producer.

(3) "Insurer" is as defined in Section 31A-1-301, except that the following persons or similar persons are not insurers for purposes of Part 7, Producer Controlled Insurers:

- (a) a risk retention group as defined in:
 - (i) the Superfund Amendments and Reauthorization Act of 1986, Pub. L. No. 99-499;
 - (ii) the Risk Retention Act, 15 U.S.C. Sec. 3901 et seq.; and
 - (iii) Chapter 15, Part 2, Risk Retention Groups Act;
 - (b) a residual market pool;
 - (c) a joint underwriting authority or association; and
 - (d) a captive insurer.
- (4) "License" is defined in Section 31A-1-301.

(5) (a) "Managing general agent" means a person that:

- (i) manages all or part of the insurance business of an insurer, including the management of a separate division, department, or underwriting office;
- (ii) acts as an agent for the insurer whether it is known as a managing general agent, manager, or other similar term;

(iii) produces and underwrites an amount of gross direct written premium equal to, or more than, 5% of the policyholder surplus as reported in the last annual statement of the insurer in any one quarter or year:

- (A) with or without the authority;
- (B) separately or together with an affiliate; and
- (C) directly or indirectly; and

(iv) (A) adjusts or pays claims in excess of an amount determined by the commissioner; or

(B) negotiates reinsurance on behalf of the insurer.

(b) Notwithstanding Subsection (5)(a), the following persons may not be considered as managing general agent for the purposes of this chapter:

- (i) an employee of the insurer;
- (ii) a United States manager of the United States branch of an alien insurer;
- (iii) an underwriting manager that, pursuant to contract:
 - (A) manages all the insurance operations of the insurer;
 - (B) is under common control with the insurer;
 - (C) is subject to Chapter 16, Insurance Holding Companies; and
 - (D) is not compensated based on the volume of premiums written; and
- (iv) the attorney-in-fact authorized by and acting for the subscribers of a reciprocal insurer or inter-insurance exchange under powers of attorney.

(6) "Negotiate" means the act of conferring directly with or offering advice directly to a purchaser or prospective purchaser of a particular contract of insurance concerning a substantive benefit, term, or condition of the contract if the person engaged in that act:

- (a) sells insurance; or
- (b) obtains insurance from insurers for purchasers.

(7) "Reinsurance intermediary" means:

- (a) a reinsurance intermediary-broker; or
- (b) a reinsurance intermediary-manager.

(8) "Reinsurance intermediary-broker" means a person other than an officer or employee of the ceding insurer, firm, association, or corporation who solicits, negotiates, or places reinsurance cessions or retrocessions on behalf of a ceding insurer without the authority or power to bind reinsurance on behalf of the insurer.

(9) (a) "Reinsurance intermediary-manager" means a person who:

- (i) has authority to bind or who manages all or part of the assumed reinsurance business of a

reinsurer, including the management of a separate division, department, or underwriting office; and

(ii) acts as an agent for the reinsurer whether the person is known as a reinsurance intermediary-manager, manager, or other similar term.

(b) Notwithstanding Subsection (9)(a), the following persons may not be considered reinsurance intermediary-managers for the purpose of this chapter with respect to the reinsurer:

(i) an employee of the reinsurer;

(ii) a United States manager of the United States branch of an alien reinsurer;

(iii) an underwriting manager that, pursuant to contract:

(A) manages all the reinsurance operations of the reinsurer;

(B) is under common control with the reinsurer;

(C) is subject to Chapter 16, Insurance Holding Companies; and

(D) is not compensated based on the volume of premiums written; and

(iv) the manager of a group, association, pool, or organization of insurers that:

(A) engage in joint underwriting or joint reinsurance; and

(B) are subject to examination by the insurance commissioner of the state in which the manager's principal business office is located.

(10) "Resident" is as defined by rule made by the commissioner in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

~~[(11) "Search" means a license subline of authority in conjunction with the title insurance line of authority that allows a person to issue title insurance commitments or policies on behalf of a title insurer.]~~

~~[(12)] (11) "Sell" means to exchange a contract of insurance:~~

~~(a) by any means;~~

~~(b) for money or its equivalent; and~~

~~(c) on behalf of an insurance company.~~

~~[(13)] (12) "Solicit" means:~~

~~(a) attempting to sell insurance;~~

~~(b) asking or urging a person to apply for:~~

~~(i) a particular kind of insurance; and~~

~~(ii) insurance from a particular insurance company;~~

~~(c) advertising insurance, including advertising for the purpose of obtaining leads for the sale of insurance; or~~

~~(d) holding oneself out as being in the insurance business.~~

~~[(14)] (13) "Terminate" means:~~

~~(a) the cancellation of the relationship between:~~

~~(i) an individual licensee or agency licensee and a particular insurer; or~~

~~(ii) an individual licensee and a particular agency licensee; or~~

~~(b) the termination of:~~

~~(i) an individual licensee's or agency licensee's authority to transact insurance on behalf of a particular insurance company; or~~

~~(ii) an individual licensee's authority to transact insurance on behalf of a particular agency licensee.~~

~~(14) "Title examination" means a license subline of authority in conjunction with the title insurance line of authority that allows a person to issue title insurance commitments or policies on behalf of a title insurer.~~

~~(15) "Title marketing representative" means a person who:~~

~~(a) represents a title insurer in soliciting, requesting, or negotiating the placing of:~~

~~(i) title insurance; or~~

~~(ii) escrow services; and~~

~~(b) does not have [a search] a title examination or escrow license as provided in Section 31A-23a-106.~~

~~(16) "Uniform application" means the version of the National Association of Insurance Commissioners' uniform application for resident and nonresident producer licensing at the time the application is filed.~~

~~(17) "Uniform business entity application" means the version of the National Association of Insurance Commissioners' uniform business entity application for resident and nonresident business entities at the time the application is filed.~~

Section 8. Section 31A-23a-106 is amended to read:

31A-23a-106. License types.

(1) (a) A resident or nonresident license issued under this chapter shall be issued under the license types described under Subsection (2).

(b) A license type and a line of authority pertaining to a license type describe the type of licensee and the lines of business that a licensee may sell, solicit, or negotiate. A license type is intended to describe the matters to be considered under any education, examination, and training required of a license applicant under Sections 31A-23a-108, 31A-23a-202, and 31A-23a-203.

(2) (a) A producer license type includes the following lines of authority:

(i) life insurance, including a nonvariable contract;

(ii) variable contracts, including variable life and annuity, if the producer has the life insurance line of authority;

(iii) accident and health insurance, including a contract issued to a policyholder under Chapter 7, Nonprofit Health Service Insurance Corporations, or Chapter 8, Health Maintenance Organizations and Limited Health Plans;

(iv) property insurance;

(v) casualty insurance, including a surety or other bond;

(vi) title insurance under one or more of the following categories:

(A) [search] title examination, including authority to act as a title marketing representative;

(B) escrow, including authority to act as a title marketing representative; and

(C) title marketing representative only; and

(vii) personal lines insurance.

(b) A surplus lines producer license type includes the following lines of authority:

(i) property insurance, if the person holds an underlying producer license with the property line of insurance; and

(ii) casualty insurance, if the person holds an underlying producer license with the casualty line of authority.

(c) A limited line producer license type includes the following limited lines of authority:

(i) limited line credit insurance;

(ii) travel insurance, as set forth in Part 9, Travel Insurance Act;

(iii) motor club insurance;

(iv) car rental related insurance;

(v) legal expense insurance;

(vi) crop insurance;

(vii) self-service storage insurance;

(viii) bail bond producer;

(ix) guaranteed asset protection waiver; and

(x) portable electronics insurance.

(d) A consultant license type includes the following lines of authority:

(i) life insurance, including a nonvariable contract;

(ii) variable contracts, including variable life and annuity, if the consultant has the life insurance line of authority;

(iii) accident and health insurance, including a contract issued to a policyholder under Chapter 7, Nonprofit Health Service Insurance Corporations, or Chapter 8, Health Maintenance Organizations and Limited Health Plans;

(iv) property insurance;

(v) casualty insurance, including a surety or other bond; and

(vi) personal lines insurance.

(e) A managing general agent license type includes the following lines of authority:

(i) life insurance, including a nonvariable contract;

(ii) variable contracts, including variable life and annuity, if the managing general agent has the life insurance line of authority;

(iii) accident and health insurance, including a contract issued to a policyholder under Chapter 7, Nonprofit Health Service Insurance Corporations, or Chapter 8, Health Maintenance Organizations and Limited Health Plans;

(iv) property insurance;

(v) casualty insurance, including a surety or other bond; and

(vi) personal lines insurance.

(f) A reinsurance intermediary license type includes the following lines of authority:

(i) life insurance, including a nonvariable contract;

(ii) variable contracts, including variable life and annuity, if the reinsurance intermediary has the life insurance line of authority;

(iii) accident and health insurance, including a contract issued to a policyholder under Chapter 7, Nonprofit Health Service Insurance Corporations, or Chapter 8, Health Maintenance Organizations and Limited Health Plans;

(iv) property insurance;

(v) casualty insurance, including a surety or other bond; and

(vi) personal lines insurance.

(g) A person who holds a license under Subsection (2)(a) has the qualifications necessary to act as a holder of a license under Subsection (2)(c), except that the person may not act under Subsection (2)(c)(viii) or (ix).

(3) (a) The commissioner may by rule recognize other producer, surplus lines producer, limited line producer, consultant, managing general agent, or reinsurance intermediary lines of authority as to kinds of insurance not listed under Subsections (2)(a) through (f).

(b) Notwithstanding Subsection (3)(a), for purposes of title insurance the Title and Escrow Commission may by rule, with the concurrence of the commissioner and subject to Section 31A-2-404, recognize other categories for an individual title insurance producer or agency title insurance producer line of authority not listed under Subsection (2)(a)(vi).

(4) The variable contracts line of authority requires:

(a) for a producer, licensure by the Financial Industry Regulatory Authority as a:

- (i) registered broker-dealer; or
 - (ii) broker-dealer agent, with a current registration with a broker-dealer; and
- (b) for a consultant, registration with the Securities and Exchange Commission or licensure by the Utah Division of Securities as an:

- (i) investment adviser; or
 - (ii) investment adviser representative, with a current association with an investment adviser.
- (5) A surplus lines producer is a producer who has a surplus lines license.

Section 9. Section 31A-23a-204 is amended to read:

31A-23a-204. Special requirements for title insurance producers and agencies.

An individual title insurance producer or agency title insurance producer shall be licensed in accordance with this chapter, with the additional requirements listed in this section.

(1) (a) A person that receives a new license under this title as an agency title insurance producer shall at the time of licensure be owned or managed by at least one individual who is licensed for at least three of the five years immediately preceding the date on which the agency title insurance producer applies for a license with both:

- (i) ~~a search~~ a title examination line of authority; and
- (ii) an escrow line of authority.

(b) An agency title insurance producer subject to Subsection (1)(a) may comply with Subsection (1)(a) by having the agency title insurance producer owned or managed by:

- (i) one or more individuals who are licensed with the ~~search~~ title examination line of authority for the time period provided in Subsection (1)(a); and
- (ii) one or more individuals who are licensed with the escrow line of authority for the time period provided in Subsection (1)(a).

(c) A person licensed as an agency title insurance producer shall at all times during the term of licensure be owned or managed by at least one individual who is licensed for at least three years within the preceding five-year period with both:

- (i) ~~a search~~ a title examination line of authority; and
- (ii) an escrow line of authority.

(d) The Title and Escrow Commission may by rule, subject to Section 31A-2-404, exempt an attorney with real estate experience from the experience requirements in Subsection (1)(a).

(e) An individual who satisfies the requirements of this Subsection (1) is known as a "qualifying licensee." At any given time, an individual may be a

qualifying licensee for not more than two agency title insurance producers.

(2) (a) An individual title insurance producer or agency title insurance producer appointed by an insurer shall maintain:

- (i) a fidelity bond;
- (ii) a professional liability insurance policy; or
- (iii) a financial protection:

(A) equivalent to that described in Subsection (2)(a)(i) or (ii); and

(B) that the commissioner considers adequate.

(b) The bond, insurance, or financial protection required by this Subsection (2):

(i) shall be supplied under a contract approved by the commissioner to provide protection against the improper performance of any service in conjunction with the issuance of a contract or policy of title insurance; and

(ii) be in a face amount no less than ~~[\$50,000]~~ \$250,000.

(c) The Title and Escrow Commission may by rule, subject to Section 31A-2-404, exempt individual title insurance producer or agency title insurance producers from the requirements of this Subsection (2) upon a finding that, and only so long as, the required policy or bond is generally unavailable at reasonable rates.

(3) An individual title insurance producer or agency title insurance producer appointed by an insurer may maintain a reserve fund to the extent money was deposited before July 1, 2008, and not withdrawn to the income of the individual title insurance producer or agency title insurance producer.

(4) An examination for licensure shall include questions regarding the ~~search and~~ examination of title to real property.

(5) An individual title insurance producer may not perform the functions of escrow unless the individual title insurance producer has been examined on the fiduciary duties and procedures involved in those functions.

(6) The Title and Escrow Commission may adopt rules, ~~subject to Section 31A-2-404, after consulting with the commissioner and the commissioner's test administrator,~~ establishing an examination for a license that will satisfy this section, subject to Section 31A-2-404, and after consulting with the commissioner's test administrator.

(7) A license may be issued to an individual title insurance producer or agency title insurance producer who has qualified:

- (a) to perform only ~~searches and~~ examinations of title as specified in Subsection (4);
- (b) to handle only escrow arrangements as specified in Subsection (5); or
- (c) to act as a title marketing representative.

(8) (a) A person licensed to practice law in Utah is exempt from the requirements of Subsections (2) and (3) if that person issues 12 or less policies in any 12-month period.

(b) In determining the number of policies issued by a person licensed to practice law in Utah for purposes of Subsection (8)(a), if the person licensed to practice law in Utah issues a policy to more than one party to the same closing, the person is considered to have issued only one policy.

(9) A person licensed to practice law in Utah, whether exempt under Subsection (8) or not, shall maintain a trust account separate from a law firm trust account for all title and real estate escrow transactions.

Section 10. Section 31A-23a-415 is amended to read:

31A-23a-415. Assessment on agency title insurance producers or title insurers -- Account created.

(1) For purposes of this section:

(a) "Premium" is as defined in Subsection 59-9-101(3).

(b) "Title insurer" means a person:

(i) making any contract or policy of title insurance as:

- (A) insurer;
- (B) guarantor; or
- (C) surety;

(ii) proposing to make any contract or policy of title insurance as:

- (A) insurer;
- (B) guarantor; or
- (C) surety; or

(iii) transacting or proposing to transact any phase of title insurance, including:

- (A) soliciting;
- (B) negotiating preliminary to execution;
- (C) executing of a contract of title insurance;
- (D) insuring; and

(E) transacting matters subsequent to the execution of the contract and arising out of the contract.

(c) "Utah risks" means insuring, guaranteeing, or indemnifying with regard to real or personal property located in Utah, an owner of real or personal property, the holders of liens or encumbrances on that property, or others interested in the property against loss or damage suffered by reason of:

(i) liens or encumbrances upon, defects in, or the unmarketability of the title to the property; or

(ii) invalidity or unenforceability of any liens or encumbrances on the property.

(2) (a) The commissioner may assess each title insurer, each individual title insurance producer who is not designated by an agency title insurance producer, and each agency title insurance producer an annual assessment:

(i) determined by the Title and Escrow Commission:

- (A) after consultation with the commissioner; and
- (B) in accordance with this Subsection (2); and

(ii) to be used for the purposes described in Subsection (3).

(b) An agency title insurance producer and individual title insurance producer who is not designated by an agency title insurance producer shall be assessed up to:

(i) \$250 for the first office in each county in which the agency title insurance producer or individual title insurance producer maintains an office; and

(ii) \$150 for each additional office the agency title insurance producer or individual title insurance producer maintains in the county described in Subsection (2)(b)(i).

(c) A title insurer shall be assessed up to:

(i) \$250 for the first office in each county in which the title insurer maintains an office;

(ii) \$150 for each additional office the title insurer maintains in the county described in Subsection (2)(c)(i); and

(iii) an amount calculated by:

(A) aggregating the assessments imposed on:

(I) agency title insurance producers and individual title insurance producers under Subsection (2)(b); and

(II) title insurers under Subsections (2)(c)(i) and (2)(c)(ii);

(B) subtracting the amount determined under Subsection (2)(c)(iii)(A) from the total costs and expenses determined under Subsection (2)(d); and

(C) multiplying:

(I) the amount calculated under Subsection (2)(c)(iii)(B); and

(II) the percentage of total premiums for title insurance on Utah risk that are premiums of the title insurer.

(d) Notwithstanding Section 31A-3-103 and subject to Section 31A-2-404, the Title and Escrow Commission by rule shall establish the amount of costs and expenses described under Subsection (3) that will be covered by the assessment, except the costs or expenses to be covered by the assessment may not exceed [~~\$80,000~~] \$100,000 annually.

(3) (a) Money received by the state under this section shall be deposited into the Title Licensee Enforcement Restricted Account.

(b) There is created in the General Fund a restricted account known as the "Title Licensee Enforcement Restricted Account."

(c) The Title Licensee Enforcement Restricted Account shall consist of the money received by the state under this section.

(d) The commissioner shall administer the Title Licensee Enforcement Restricted Account. Subject to appropriations by the Legislature, the commissioner shall use the money deposited into the Title Licensee Enforcement Restricted Account only to pay for a cost or expense incurred by the department in the administration, investigation, and enforcement of this part and Part 5, Compensation of Producers and Consultants, related to:

- (i) the marketing of title insurance; and
- (ii) audits of agency title insurance producers.

(e) An appropriation from the Title Licensee Enforcement Restricted Account is nonlapsing.

(4) The assessment imposed by this section shall be in addition to any premium assessment imposed under Subsection 59-9-101(3).

Section 11. Section 31A-23a-504 is amended to read:

31A-23a-504. Sharing commissions.

(1) (a) Except as provided in Subsection 31A-15-103(3), a licensee under this chapter or an insurer may only pay consideration or reimburse out-of-pocket expenses to a person if the licensee knows that the person is licensed under this chapter as to the particular type of insurance to act in Utah as:

- (i) a producer;
- (ii) a limited line producer;
- (iii) a consultant;
- (iv) a managing general agent; or
- (v) a reinsurance intermediary.

(b) A person may only accept commission compensation or other compensation as a person described in Subsections (1)(a)(i) through (v) that is directly or indirectly the result of an insurance transaction if that person is licensed under this chapter to act as described in Subsection (1)(a).

(2) (a) Except as provided in Section 31A-23a-501, a consultant may not pay or receive a commission or other compensation that is directly or indirectly the result of an insurance transaction.

(b) A consultant may share a consultant fee or other compensation received for consulting services performed within Utah only:

- (i) with another consultant licensed under this chapter; and
 - (ii) to the extent that the other consultant contributed to the services performed.
- (3) This section does not prohibit:

(a) the payment of renewal commissions to former licensees under this chapter, former Title 31, Chapter 17, or their successors in interest under a deferred compensation or agency sales agreement;

(b) compensation paid to or received by a person for referral of a potential customer that seeks to purchase or obtain an opinion or advice on an insurance product if:

- (i) the person is not licensed to sell insurance;
- (ii) the person does not sell or provide opinions or advice on the product; and
- (iii) the compensation does not depend on whether the referral results in a purchase or sale; or

(c) the payment or assignment of a commission, service fee, brokerage, or other valuable consideration to an agency or a person who does not sell, solicit, or negotiate insurance in this state, unless the payment would constitute an inducement or commission rebate under Section 31A-23a-402 or 31A-23a-402.5.

(4) (a) In selling a policy of title insurance, sharing of commissions under Subsection (1) may not occur if it will result in:

- (i) an unlawful rebate;
- (ii) compensation in connection with controlled business; or
- (iii) payment of a forwarding fee or finder's fee.

(b) A person may share compensation for the issuance of a title insurance policy only to the extent that the person contributed to the [search and] examination of the title or other services connected with the title insurance policy.

(5) This section does not apply to:

(a) a bail bond producer or bail enforcement agent as defined in Section 31A-35-102 and as described in Subsection 31A-23a-106(2)(c);

(b) a travel retailer registered pursuant to Part 9, Travel Insurance Act; or

(c) a nonlicensed individual employee or authorized representative of a licensed limited line producer who holds one or more of the following limited lines of authority as described in Subsection 31A-23a-106(2)(c):

- (i) car rental related insurance;
- (ii) self-service storage insurance;
- (iii) portable electronics insurance; or
- (iv) travel insurance.

Section 12. Section 31A-41-202 is amended to read:

31A-41-202. Assessments.

(1) Beginning January 1, 2009, an agency title insurance producer licensed under this title shall pay an annual assessment determined by the commission by rule made in accordance with [Title 63C, Chapter 3, Utah Administrative Rulemaking

Act] Section 31A-2-404, except that the annual assessment:

- (a) may not exceed \$1,000; and
- (b) shall be determined on the basis of title insurance premium volume.

(2) Beginning January 1, 2009, an individual who applies for a license or renewal of a license as an individual title insurance producer, shall pay in addition to any other fee required by this title, an assessment not to exceed \$20, as determined by the commission by rule made in accordance with [Title 63G, Chapter 3, Utah Administrative Rulemaking Act] Section 31A-2-404, except that if the individual holds more than one license, the total of all assessments under this Subsection (2) may not exceed \$20 in a fiscal year.

(3) (a) To be licensed as an agency title insurance producer on or after July 1, 2008, a person shall pay to the department an assessment of \$1,000 before the day on which the person is licensed as a title insurance agency.

(b) (i) By no later than July 15, 2008, the department shall assess on an agency title insurance producer licensed as of June 30, 2008, an amount equal to the greater of:

- (A) \$1,000; or
- (B) subject to Subsection (3)(b)(ii), 2% of the balance as of December 31, 2007, in the agency title insurance producer's reserve account described in Subsection 31A-23a-204(3).

(ii) The department may assess on an agency title insurance producer an amount less than 2% of the balance described in Subsection (3)(b)(i)(B) if:

(A) before issuing the assessments under this Subsection (3)(b) the department determines that the total of all assessments under Subsection (3)(b)(i) will exceed \$250,000;

(B) the amount assessed on the agency title insurance producer is not less than \$1,000; and

(C) the department reduces the assessment in a proportionate amount for agency title insurance producers assessed on the basis of the 2% of the balance described in Subsection (3)(b)(i)(B).

(iii) An agency title insurance producer assessed under this Subsection (3)(b) shall pay the assessment by no later than August 1, 2008.

(4) The department may not assess a title insurance licensee an assessment for purposes of the fund if that assessment is not expressly provided for in this section.

Section 13. Section 31A-41-203 is amended to read:

31A-41-203. Use of money.

(1) Money in the fund may be used to pay claims made under Part 3, Claims on Fund.

(2) (a) Except as limited by Subsection (2)(b), money in the fund in excess of \$250,000 may be used

by the commissioner, with the consent of the commission, to:

(i) investigate violations of this chapter related to fraud by a title insurance licensee;

(ii) conduct education and research in the field of title insurance; or

(iii) examine a title insurance licensee's:

- (A) escrow and trust account;
- (B) [~~search and examine~~] examination procedures; or
- (C) compliance with applicable statutes and rules.

(b) The commissioner may not use more than 75% of money collected under this chapter in a fiscal year from assessments and interest for the purposes outlined in this Subsection (2).

(3) The disclosure of an examination conducted under this section is governed by Section 31A-2-204.

CHAPTER 331**S. B. 146**

Passed February 26, 2015

Approved March 30, 2015

Effective May 12, 2015

DRIVING PRIVILEGE AMENDMENTS

Chief Sponsor: Ann Millner
House Sponsor: Lee B. Perry

LONG TITLE**General Description:**

This bill modifies the Uniform Driver License Act by amending provisions relating to driving privileges.

Highlighted Provisions:

This bill:

- ▶ provides that the privilege to operate a road roller, road machinery, or any farm tractor or implement of husbandry on a highway without a driver license only applies if the person is driving the vehicle in conjunction with a construction or agricultural activity; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53-3-202, as last amended by Laws of Utah 2009, Chapter 253

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

Section 1. Section 53-3-202 is amended to read:**53-3-202. Drivers must be licensed -- Taxicab endorsement -- Violation.**

(1) A person may not drive a motor vehicle on a highway in this state unless the person is:

(a) granted the privilege to operate a motor vehicle by being licensed as a driver by the division under this chapter;

(b) driving an official United States Government class D motor vehicle with a valid United States Government driver permit or license for that type of vehicle;

(c) (i) driving a road roller, road machinery, or any farm tractor or implement of husbandry temporarily drawn, moved, or propelled on the highways; and

(ii) driving the vehicle described in Subsection (1)(c)(i) in conjunction with a construction or agricultural activity;

(d) a nonresident who is at least 16 years of age and younger than 18 years of age who has in the nonresident's immediate possession a valid license certificate issued to the nonresident in the nonresident's home state or country and is driving

in the class or classes identified on the home state license certificate, except those persons referred to in Part 6, Drivers' License Compact, of this chapter;

(e) a nonresident who is at least 18 years of age and who has in the nonresident's immediate possession a valid license certificate issued to the nonresident in the nonresident's home state or country if driving in the class or classes identified on the home state license certificate, except those persons referred to in Part 6, Drivers' License Compact, of this chapter;

(f) driving under a learner permit in accordance with Section 53-3-210.5;

(g) driving with a temporary license certificate issued in accordance with Section 53-3-207; or

(h) exempt under Title 41, Chapter 22, Off-Highway Vehicles.

(2) A person may not drive or, while within the passenger compartment of a motor vehicle, exercise any degree or form of physical control of a motor vehicle being towed by a motor vehicle upon a highway unless the person:

(a) holds a valid license issued under this chapter for the type or class of motor vehicle being towed; or

(b) is exempted under either Subsection (1)(b) or (1)(c).

(3) A person may not drive a motor vehicle as a taxicab on a highway of this state unless the person has a taxicab endorsement issued by the division on his license certificate.

(4) (a) Except as provided in Subsections (4)(b) and (c), a person may not operate:

(i) a motorcycle unless the person has a valid class D driver license and a motorcycle endorsement issued under this chapter;

(ii) a street legal all-terrain vehicle unless the person has a valid class D driver license; or

(iii) a motor-driven cycle unless the person has a valid class D driver license and a motorcycle endorsement issued under this chapter.

(b) A person operating a moped, as defined in Section 41-6a-102, or an electric assisted bicycle, as defined in Section 41-6a-102, is not required to have a motorcycle endorsement issued under this chapter.

(c) A person is not required to have a valid class D driver license if the person is:

(i) operating a motor assisted scooter, as defined in Section 41-6a-102, in accordance with Section 41-6a-1115; or

(ii) operating an electric personal assistive mobility device, as defined in Section 41-6a-102, in accordance with Section 41-6a-1116.

(5) A person who violates this section is guilty of a class C misdemeanor.

CHAPTER 332**S. B. 147**

Passed March 9, 2015
 Approved March 30, 2015
 Effective May 12, 2015

EPINEPHRINE AUTO-INJECTOR USE EXPANSION

Chief Sponsor: Margaret Dayton
 House Sponsor: Patrice M. Arent

LONG TITLE**General Description:**

This bill amends the Emergency Injection For Anaphylactic Reaction Act in the Utah Health Code.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ permits certain qualified entities to obtain a prescription for a supply of epinephrine auto-injectors for use by a trained, qualified adult;
- ▶ requires the qualified entity to store the supply of epinephrine auto-injectors in accordance with standards developed by the Department of Health;
- ▶ expands liability protection with respect to an anaphylactic reaction to:
 - a medical professional prescribing a supply of epinephrine auto-injectors;
 - a person conducting training; and
 - a qualified entity; and
 - provides administrative rulemaking authority to the Department of Health.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 26-41-102, as last amended by Laws of Utah 2008, Chapter 64
 26-41-103, as last amended by Laws of Utah 2008, Chapter 64
 26-41-104, as last amended by Laws of Utah 2011, Chapter 297
 26-41-105, as last amended by Laws of Utah 2008, Chapter 64
 26-41-106, as last amended by Laws of Utah 2008, Chapter 64

ENACTS:

26-41-107, Utah Code Annotated 1953

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

Section 1. Section 26-41-102 is amended to read:**26-41-102. Definitions.**

As used in this chapter:

(1) "Anaphylaxis" means a potentially life-threatening hypersensitivity to a substance.

(a) Symptoms of anaphylaxis may include shortness of breath, wheezing, difficulty breathing, difficulty talking or swallowing, hives, itching, swelling, shock, or asthma.

(b) Causes of anaphylaxis may include insect sting, food allergy, drug reaction, and exercise.

(2) "Epinephrine auto-injector" means a disposable drug delivery system with a spring-activated concealed needle that is designed for emergency administration of epinephrine to provide rapid, convenient first-aid for persons suffering a potentially fatal anaphylactic reaction.

(3) "Qualified adult" means a person who:

(a) is 18 years of age or older; and

(b) has successfully completed the training program established in Section 26-41-104.

(4) "Qualified entity":

(a) means a facility or organization that employs, contracts with, or has a similar relationship with a qualified adult who is likely to have contact with another person who may experience anaphylaxis; and

(b) includes:

(i) recreation camps;

(ii) an education facility, school, or university;

(iii) a day care facility;

(iv) youth sports leagues;

(v) amusement parks;

(vi) food establishments;

(vii) places of employment; and

(viii) recreation areas.

Section 2. Section 26-41-103 is amended to read:**26-41-103. Voluntary participation.**

(1) This chapter does not create a duty or standard of care for:

(a) a person to be trained in the use and storage of epinephrine auto-injectors[.]; or

(b) except as provided in Subsection (5), a qualified entity to store epinephrine auto-injectors on its premises.

(2) Except as provided in Subsections (3) and (5), a decision by a person to successfully complete a training program under Section 26-41-104 and to make emergency epinephrine auto-injectors available under the provisions of this chapter is voluntary.

(3) A school, school board, or school official may not prohibit or dissuade a teacher or other school employee at a primary or secondary school in the state, either public or private, from:

(a) completing a training program under Section 26-41-104;

(b) possessing or storing an epinephrine auto-injector on school property if:

(i) the teacher or school employee is a qualified adult; and

(ii) the possession and storage is in accordance with the training received under Section 26-41-104; or

(c) administering an epinephrine auto-injector to any person, if:

(i) the teacher or school employee is a qualified adult; and

(ii) the administration is in accordance with the training received under Section 26-41-104.

(4) A school, school board, or school official may encourage a teacher or other school employee to volunteer to become a qualified adult.

(5) (a) Each primary or secondary school in the state, both public and private, shall make an emergency epinephrine auto-injector available to any teacher or other school employee who:

(i) is employed at the school; and

(ii) is a qualified adult.

(b) This section does not require a school described in Subsection (5)(a) to keep more than one emergency epinephrine auto-injector on the school premises, so long as it may be quickly accessed by a teacher or other school employee, who is a qualified adult, in the event of an emergency.

(6) No school, school board, or school official shall retaliate or otherwise take adverse action against a teacher or other school employee for:

(a) volunteering under Subsection (2);

(b) engaging in conduct described in Subsection (3); or

(c) failing or refusing to become a qualified adult.

Section 3. Section 26-41-104 is amended to read:

26-41-104. Training in use and storage of epinephrine auto-injector.

(1) (a) Each primary and secondary school in the state, both public and private, shall make initial and annual refresher training, regarding the storage and emergency use of an epinephrine auto-injector, available to any teacher or other school employee who volunteers to become a qualified adult.

(b) The training described in Subsection (1)(a) may be provided by the school nurse, or other person qualified to provide such training, designated by the school district physician, the medical director of the local health department, or the local emergency medical services director.

(2) A person who provides training under Subsection (1) or (6) shall include in the training:

(a) techniques for recognizing symptoms of anaphylaxis;

(b) standards and procedures for the storage and emergency use of epinephrine auto-injectors;

(c) emergency follow-up procedures, including calling the emergency 911 number and contacting, if possible, the student's parent and physician; and

(d) written materials covering the information required under this Subsection (2).

(3) A qualified adult shall retain for reference the written materials prepared in accordance with Subsection (2)(d).

(4) A public school shall permit a student to possess an epinephrine auto-injector or possess and self-administer an epinephrine auto-injector if:

(a) the student's parent or guardian signs a statement:

(i) authorizing the student to possess or possess and self-administer an epinephrine auto-injector; and

(ii) acknowledging that the student is responsible for, and capable of, possessing or possessing and self-administering an epinephrine auto-injector; and

(b) the student's health care provider provides a written statement that states that:

(i) it is medically appropriate for the student to possess or possess and self-administer an epinephrine auto-injector; and

(ii) the student should be in possession of the epinephrine auto-injector at all times.

(5) The Utah Department of Health, in cooperation with the state superintendent of public instruction, shall design forms to be used by public schools for the parental and health care providers statements described in Subsection ~~[(6)]~~ (4).

(6) (a) The department:

(i) shall approve educational programs conducted by other persons, to train:

(A) people under Subsection (6)(b) of this section, regarding the proper use and storage of emergency epinephrine auto-injectors; and

(B) a qualified entity regarding the proper storage and emergency use of epinephrine auto-injectors; and

(ii) may, as funding is available, conduct educational programs to train people regarding the use of and storage of emergency epinephrine auto-injectors.

(b) A person who volunteers to receive training as a qualified adult to administer an epinephrine auto-injector under the provisions of this Subsection (6) shall demonstrate a need for the training to the department, which may be based upon occupational, volunteer, or family circumstances, and shall include:

(i) camp counselors;

(ii) scout leaders;

(iii) forest rangers;

(iv) tour guides; and

(v) other persons who have or reasonably expect to have ~~[responsibility for]~~ contact with at least one other person as a result of the person's occupational or volunteer status.

~~[(7) The department shall adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:]~~

~~[(a) establish and approve training programs in accordance with this section; and]~~

~~[(b) establish a procedure for determining the need for training under Subsection (6)(b)(v).]~~

Section 4. Section 26-41-105 is amended to read:

26-41-105. Authority to obtain and use an epinephrine auto-injector.

(1) A qualified adult who is a teacher or other school employee at a public or private primary or secondary school in the state, or a school nurse, may obtain from the school district physician, the medical director of the local health department, or the local emergency medical services director a prescription for epinephrine auto-injectors.

(2) A qualified adult may obtain from a physician, pharmacist, or any other person or entity authorized to prescribe or ~~[sell prescribed medicines or]~~ dispense prescription drugs, a prescription for an epinephrine auto-injector.

(3) A qualified adult:

(a) may immediately administer an epinephrine auto-injector to a person exhibiting potentially life-threatening symptoms of anaphylaxis when a physician is not immediately available; and

(b) shall initiate emergency medical services or other appropriate medical follow-up in accordance with the training materials retained under Section 26-41-104 after administering an epinephrine auto-injector.

(4) (a) A qualified entity that complies with Subsection (4)(b), may obtain from a physician, pharmacist, or any other person or entity authorized to prescribe or dispense prescription drugs, a prescription for a supply of epinephrine auto-injectors, for:

(i) storing the epinephrine auto-injectors on the qualified entity's premises; and

(ii) use by a qualified adult in accordance with Subsection (3).

(b) A qualified entity shall:

(i) designate an individual to complete an initial and annual refresher training program regarding the proper storage and emergency use of an epinephrine auto-injector available to a qualified adult; and

(ii) store epinephrine auto-injectors in accordance with the standards established by the department in Section 26-41-107.

Section 5. Section 26-41-106 is amended to read:

26-41-106. Immunity from liability.

(1) ~~[A qualified adult who acts in good faith is]~~ The following, if acting in good faith, are not liable in any civil or criminal action for any act taken or not taken under the authority of this chapter with respect to an anaphylactic reaction~~[-]~~:

(a) a qualified adult;

(b) a physician, pharmacist, or any other person or entity authorized to prescribe or dispense prescription drugs;

(c) a person who conducts training described in Section 26-41-104; and

(d) a qualified entity.

(2) Section 53A-11-601 does not apply to the administration of an epinephrine auto-injector in accordance with this chapter.

(3) This section does not eliminate, limit, or reduce any other immunity from liability or defense against liability that may be available under state law.

Section 6. Section 26-41-107 is enacted to read:

26-41-107. Administrative rulemaking authority.

The department shall adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(1) establish and approve training programs in accordance with Section 26-41-104;

(2) establish a procedure for determining who is eligible for training as a qualified adult under Subsection 26-41-104(6)(b)(v); and

(3) establish standards for storage of emergency auto-injectors by a qualified entity under Section 26-41-104.

CHAPTER 333**S. B. 149**

Passed February 27, 2015

Approved March 30, 2015

Effective May 12, 2015

REPEAL OF FUNDS

Chief Sponsor: Allen M. Christensen

House Sponsor: Justin L. Fawson

LONG TITLE**General Description:**

This bill modifies the Utah Health Code by repealing an inactive Women, Infants, and Children (WIC) Supplemental Food Program Fund.

Highlighted Provisions:

This bill:

- ▶ repeals the inactive Women, Infants, and Children (WIC) Supplemental Food Program Fund.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**REPEALS:**

26-10-2.5, as last amended by Laws of Utah 2013,
Chapter 400

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

Section 1. Repealer.

This bill repeals:

Section 26-10-2.5, Creation of fund -- Fund money -- Use for maternal and child nutrition program.

CHAPTER 334**S. B. 155**

Passed March 11, 2015
 Approved March 30, 2015
 Effective May 12, 2015

**CHILDREN'S JUSTICE
 CENTERS AMENDMENTS**

Chief Sponsor: Ralph Okerlund
 House Sponsor: Michael E. Noel

LONG TITLE**General Description:**

This bill amends provisions related to Children's Justice Centers.

Highlighted Provisions:

This bill:

- ▶ amends the counties in which the attorney general shall establish Children's Justice Centers.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

67-5b-102, as last amended by Laws of Utah 2011, Chapter 129

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

Section 1. Section 67-5b-102 is amended to read:

67-5b-102. Children's Justice Center -- Requirements of center -- Purposes of center.

(1) (a) There is established a program that provides a comprehensive, multidisciplinary, nonprofit, intergovernmental response to sexual abuse of children, physical abuse of children, and other crimes involving children where the child is a primary victim or a critical witness, such as in drug-related child endangerment cases, in a facility known as a Children's Justice Center.

(b) The attorney general shall administer the program.

(c) The attorney general shall:

(i) allocate the funds appropriated by a line item pursuant to Section 67-5b-103;

(ii) administer applications for state and federal grants;

(iii) staff the Advisory Board on Children's Justice;

(iv) assist in the development of new centers; and

(v) coordinate services between centers.

(2) (a) The attorney general shall establish Children's Justice Centers or satellite offices in Beaver County, Cache County, Carbon County, Davis County, Duchesne County, Emery County,

Grand County, Iron County, Kane County, Salt Lake County, Sanpete County, Sevier County, Tooele County, Uintah County, Utah County, Wasatch County, Washington County, and Weber County.

(b) The attorney general may establish other centers within a county and in other counties of the state.

(3) The attorney general and each center shall fulfill the statewide purpose of each center by:

(a) minimizing the time and duplication of effort required to investigate, prosecute, and initiate treatment for the abused child in the state;

(b) facilitating the investigation of the alleged offense against the abused child;

(c) conducting interviews of abused children and their families in a professional manner;

(d) obtaining reliable and admissible information which can be used effectively in criminal and child protection proceedings in the state;

(e) coordinating and tracking:

(i) the use of limited medical and psychiatric services;

(ii) investigation of the alleged offense;

(iii) preparation of prosecution;

(iv) treatment of the abused child and family; and

(v) education and training of persons who provide services to the abused child and its family in the state;

(f) expediting the processing of the case through the courts in the state;

(g) protecting the interest of the abused child and the community in the state;

(h) reducing trauma to the abused child in the state;

(i) enhancing the community understanding of sexual abuse of children, physical abuse of children, and other crimes in the state involving children where the child is a primary victim or a critical witness, such as in drug-related child endangerment cases;

(j) providing as many services as possible that are required for the thorough and effective investigation of child abuse cases; and

(k) enhancing the community understanding of criminal offenses committed against or in the presence of children.

(4) To assist a center in fulfilling the requirements and statewide purposes as provided in Subsection (3), each center may obtain access to any relevant juvenile court legal records and adult court legal records, unless sealed by the court.

(5) The statewide purpose of this chapter is to establish a program that provides a comprehensive, multidisciplinary, nonprofit, intergovernmental response to sexual abuse of children, physical abuse

of children, and other crimes involving children where the child is a primary victim or a critical witness, such as drug-related child endangerment cases, in a facility known as a Children's Justice Center.

CHAPTER 335**S. B. 157**

Passed March 12, 2015
 Approved March 30, 2015
 Effective May 12, 2015

GOVERNMENT RECORDS AMENDMENTS

Chief Sponsor: Curtis S. Bramble
 House Sponsor: Brad M. Daw

LONG TITLE**General Description:**

This bill modifies provisions relating to government records.

Highlighted Provisions:

This bill:

- ▶ modifies the process of appealing the denial of a record request;
- ▶ modifies provisions relating to a political subdivision's process for appealing a decision concerning records of the political subdivision;
- ▶ makes certain consumer complaints and responses filed with the Division of Consumer Protection public records; and
- ▶ modifies the timeline that applies in an appeal to the records committee and allows the records committee to defer consideration of an appeal under certain circumstances.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 13-15-3, as last amended by Laws of Utah 2010, Chapter 278
 63G-2-401, as last amended by Laws of Utah 2012, Chapter 377
 63G-2-402, as renumbered and amended by Laws of Utah 2008, Chapter 382
 63G-2-403, as last amended by Laws of Utah 2013, Chapter 445
 63G-2-404, as last amended by Laws of Utah 2012, Chapter 377
 63G-2-501, as last amended by Laws of Utah 2013, Chapter 231
 63G-2-701, as last amended by Laws of Utah 2009, Chapter 131

ENACTS:

- 13-26-12, Utah Code Annotated 1953
 63G-2-400.5, Utah Code Annotated 1953

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

Section 1. Section 13-15-3 is amended to read:

13-15-3. Administration and enforcement -- Powers -- Legal counsel -- Fees -- Consumer complaints.

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

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

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

(4) (a) As used in this Subsection (4), "consumer complaint" means a complaint that:

(i) is filed with the division by a consumer or business;

(ii) alleges facts relating to conduct that the division regulates under this chapter; and

(iii) (A) alleges a loss to the consumer or business of \$3,500 or more; or

(B) is one of at least 50 other complaints against the same person filed by other consumers or businesses during the four years immediately preceding the filing of the complaint.

(b) For purposes of determining the number of complaints against the same person under Subsection (4)(a)(iii)(B), the division may consider complaints filed against multiple corporations, limited liability companies, partnerships, or other business entities under common ownership to be complaints against the same person.

(c) Notwithstanding Subsection 13-11-7(2) and subject to Subsections (4)(d) and (e), a consumer complaint:

(i) is a public record; and

(ii) may not be classified as a private, controlled, or protected record under Title 63G, Chapter 2, Government Records Access and Management Act.

(d) Subsection (4)(c) does not apply to a consumer complaint:

(i) (A) if the division determines through an administrative proceeding that the consumer complaint is nonmeritorious; and

(B) beginning when the nonmeritorious determination is made; or

(ii) that has been on file with the division for more than four years.

(e) Before making a consumer complaint that is subject to Subsection (4)(c) or a response described in Subsection (4)(f) available to the public, the division:

(i) shall redact from the consumer complaint or response any information that would disclose the address, Social Security number, bank account information, email address, or telephone number of the consumer or business; and

(ii) may redact the name of the consumer or business and any other information that could, in the division's judgment, disclose the identity of the consumer or business filing the consumer complaint.

(f) A person's initial, written response to a consumer complaint that is subject to Subsection (4)(c) is a public record.

Section 2. Section 13-26-12 is enacted to read:

13-26-12. Consumer complaints are public.

(1) As used in this section, "consumer complaint" means a complaint that:

(a) is filed with the division by a consumer or business;

(b) alleges facts relating to conduct that the division regulates under this chapter; and

(c) (i) alleges a loss to the consumer or business of \$3,500 or more; or

(ii) is one of at least 50 other complaints against the same person filed by other consumers or businesses during the four years immediately preceding the filing of the complaint.

(2) For purposes of determining the number of complaints against the same person under Subsection (1)(c)(ii), the division may consider complaints filed against multiple corporations, limited liability companies, partnerships, or other business entities under common ownership to be complaints against the same person.

(3) Notwithstanding Subsection 13-11-7(2) and subject to Subsections (4) and (5), a consumer complaint:

(a) is a public record; and

(b) may not be classified as a private, controlled, or protected record under Title 63G, Chapter 2, Government Records Access and Management Act.

(4) Subsection (3) does not apply to a consumer complaint:

(a) (i) if the division determines through an administrative proceeding that the consumer complaint is nonmeritorious; and

(ii) beginning when the nonmeritorious determination is made; or

(b) that has been on file with the division for more than four years.

(5) Before making a consumer complaint that is subject to Subsection (3) or a response described in Subsection (6) available to the public, the division:

(a) shall redact from the consumer complaint or response any information that would disclose the address, Social Security number, bank account information, email address, or telephone number of the consumer or business; and

(b) may redact the name of the consumer or business and any other information that could, in the division's judgment, disclose the identity of the consumer or business filing the consumer complaint.

(6) A person's initial, written response to a consumer complaint that is subject to Subsection (2) is a public record.

Section 3. Section 63G-2-400.5 is enacted to read:

63G-2-400.5. Definitions.

As used in this part:

(1) "Access denial" means a governmental entity's denial, under Subsection 63G-2-204(8) or Section 63G-2-205, in whole or in part, of a record request.

(2) "Appellate affirmation" means a decision of a chief administrative officer, local appeals board, or records committee affirming an access denial.

(3) "Interested party" means a person, other than a requester, who is aggrieved by an access denial or an appellate affirmation, whether or not the person participated in proceedings leading to the access denial or appellate affirmation.

(4) "Local appeals board" means an appeals board established by a political subdivision under Subsection 63G-2-701(5)(c).

(5) "Record request" means a request for a record under Section 63G-2-204.

(6) "Records committee appellant" means:

(a) a political subdivision that seeks to appeal a decision of a local appeals board to the records committee; or

(b) a requester or interested party who seeks to appeal to the records committee a decision affirming an access denial.

(7) "Requester" means a person who submits a record request to a governmental entity.

Section 4. Section 63G-2-401 is amended to read:

63G-2-401. Appeal to chief administrative officer -- Notice of the decision of the appeal.

(1) (a) ~~[Any person aggrieved by a governmental entity's access determination under this chapter, including a person not a party to the governmental entity's proceeding,] A requester or interested party may appeal [the determination within 30 days] an access denial to the chief administrative officer of the governmental entity by filing a notice of appeal[.] with the chief administrative officer within 30 days after:~~

(i) the governmental entity sends a notice of denial under Section 63G-2-205, if the governmental entity denies a record request under Subsection 63G-2-205(1); or

(ii) the record request is considered denied under Subsection 63G-2-204(8), if that subsection applies.

(b) If a governmental entity claims extraordinary circumstances and specifies the date when the records will be available under Subsection 63G-2-204(3), and, if the requester believes the extraordinary circumstances do not exist or that the [time] date specified is unreasonable, the requester may appeal the governmental entity's claim of extraordinary circumstances or date for compliance to the chief administrative officer by filing a notice

of appeal with the chief administrative officer within 30 days after notification of a claim of extraordinary circumstances by the governmental entity, despite the lack of a “determination” or its equivalent under Subsection 63G-2-204~~(7)~~(8).

(2) ~~[The]~~ A notice of appeal shall contain ~~[the following information]:~~

(a) the ~~[petitioner’s]~~ name, mailing address, and daytime telephone number of the requester or interested party; and

(b) the relief sought.

(3) The ~~[petitioner]~~ requester or interested party may file a short statement of facts, reasons, and legal authority in support of the appeal.

(4) (a) If the appeal involves a record that is the subject of a business confidentiality claim under Section 63G-2-309, the chief administrative officer shall:

(i) send notice of the ~~[requester’s]~~ requester’s appeal to the business confidentiality claimant within three business days after receiving notice, except that if notice under this section must be given to more than 35 persons, it shall be given as soon as reasonably possible; and

(ii) send notice of the business confidentiality claim and the schedule for the chief administrative officer’s determination to the requester or interested party within three business days after receiving notice of the ~~[requester’s]~~ requester’s appeal.

(b) The business confidentiality claimant shall have seven business days after notice is sent by the administrative officer to submit further support for the claim of business confidentiality.

(5) (a) The chief administrative officer shall make a ~~[determination]~~ decision on the appeal within ~~[the following period of time]:~~

(i) ~~[within]~~ five business days after the chief administrative officer’s receipt of the notice of appeal; or

(ii) ~~[within]~~ 12 business days after the governmental entity sends the ~~[requester’s]~~ requester’s notice of appeal to a person who submitted a claim of business confidentiality.

(b) (i) If the chief administrative officer fails to make a ~~[determination]~~ decision on an appeal on an access denial within the time specified in Subsection (5)(a), the failure ~~[shall be considered]~~ is the equivalent of [an order denying the appeal] a decision affirming the access denial.

(ii) If the chief administrative officer fails to make a decision on an appeal under Subsection (1)(b) within the time specified in Subsection (5)(a), the failure is the equivalent of a decision affirming the claim of extraordinary circumstances or the reasonableness of the date specified when the records will be available.

(c) The provisions of this section notwithstanding, the parties participating in the

proceeding may, by agreement, extend the time periods specified in this section.

(6) Except as provided in Section 63G-2-406, the chief administrative officer may, upon consideration and weighing of the various interests and public policies pertinent to the classification and disclosure or nondisclosure, order the disclosure of information properly classified as private under Subsection 63G-2-302(2) or protected under Section 63G-2-305 if the interests favoring access are greater than or equal to the interests favoring restriction of access.

(7) (a) The governmental entity shall send written notice of the ~~[determination of the]~~ chief administrative [officer] officer’s decision to all participants.

(b) If the chief administrative ~~[officer affirms the]~~ officer’s decision is to affirm the access denial in whole or in part, the [denial] notice under Subsection (7)(a) shall include:

(i) a statement that the requester or interested party has the right to appeal the [denial] decision, as provided in Section 63G-2-402, to [either]:

(A) the records committee or district court[;]; or

(B) the local appeals board, if the governmental entity is a political subdivision and the governmental entity has established a local appeals board;

(ii) the time limits for filing an appeal[;]; and

(iii) the name and business address of:

(A) the executive secretary of the records committee[;]; and

(B) the individual designated as the contact individual for the appeals board, if the governmental entity is a political subdivision that has established an appeals board under Subsection 63G-2-701(5)(c).

(8) A person aggrieved by a governmental entity’s classification or designation determination under this chapter, but who is not requesting access to the records, may appeal that determination using the procedures provided in this section. If a nonrequester is the only appellant, the procedures provided in this section shall apply, except that the ~~[determination]~~ decision on the appeal shall be made within 30 days after receiving the notice of appeal.

(9) The duties of the chief administrative officer under this section may be delegated.

Section 5. Section 63G-2-402 is amended to read:

63G-2-402. Appealing a decision of a chief administrative officer.

(1) If the decision of the chief administrative officer of a governmental entity [denies a records] under Section 63G-2-401 is to affirm the denial of a record request [under Section 63G-2-401], the requester may:

(a) (i) appeal the ~~[denial]~~ decision to the records committee, as provided in Section 63G-2-403; or

~~[(b)]~~ (ii) petition for judicial review of the decision in district court, as provided in Section 63G-2-404[-]; or

~~[(2) Any person aggrieved by a determination of the chief administrative officer of a governmental entity under this chapter, including persons who did not participate in the governmental entity's proceeding, may appeal the determination to the records committee as provided in Section 63G-2-403.]~~

(b) appeal the decision to the local appeals board if:

(i) the decision is of a chief administrative officer of a governmental entity that is a political subdivision; and

(ii) the political subdivision has established a local appeals board.

(2) A requester who appeals a chief administrative officer's decision to the records committee or a local appeals board does not lose or waive the right to seek judicial review of the decision of the records committee or local appeals board.

(3) As provided in Section 63G-2-403, an interested party may appeal to the records committee a chief administrative officer's decision under Section 63G-2-401 affirming an access denial.

Section 6. Section 63G-2-403 is amended to read:

63G-2-403. Appeals to the records committee.

(1) (a) ~~A [petitioner, including an aggrieved person who did not participate in the appeal to the governmental entity's chief administrative officer, may appeal] records committee appellant appeals to the records committee by filing a notice of appeal with the executive secretary of the records committee no later than [:(a)] 30 days after the [day on which the chief administrative officer of the governmental entity grants or denies the record request in whole or in part, including a denial under Subsection 63G-2-204(8);] date of issuance of the decision being appealed.~~

(b) Notwithstanding Subsection (1)(a), a requester may file a notice of appeal with the executive secretary of the records committee no later than 45 days after the day on which the ~~[original]~~ record request ~~[for a record]~~ is made if:

(i) the circumstances described in Subsection 63G-2-401(1)(b) occur; and

(ii) the chief administrative officer ~~[failed]~~ fails to make a ~~[determination]~~ decision under Section 63G-2-401.

(2) The notice of appeal shall ~~[contain the following information]:~~

(a) contain the ~~[petitioner's]~~ name, mailing address, and daytime telephone number of the records committee appellant;

~~[(b) a copy of any denial of the record request; and]~~

(b) be accompanied by a copy of the decision being appealed; and

(c) state the relief sought.

(3) The ~~[petitioner]~~ records committee appellant:

(a) shall, on the day on which the ~~[petitioner files an appeal to]~~ notice of appeal is filed with the records committee, serve a copy of the notice of appeal on:

(i) the ~~[government entity, described in Subsection (1), to which the appeal relates; and] governmental entity whose access denial is the subject of the appeal, if the records committee appellant is a requester or interested party; or~~

(ii) the requester or interested party who is a party to the local appeals board proceeding that resulted in the decision that the political subdivision is appealing to the records committee, if the records committee appellant is a political subdivision; and

(b) may file a short statement of facts, reasons, and legal authority in support of the appeal.

(4) (a) Except as provided in ~~[Subsection] Subsections (4)(b) and (c)~~, no later than ~~[five] seven~~ business days after receiving a notice of appeal, the executive secretary of the records committee shall:

(i) schedule a hearing for the records committee to discuss the appeal at the next regularly scheduled committee meeting falling at least ~~[14] 16~~ days after the date the notice of appeal is filed but no longer than ~~[52] 64~~ calendar days after the date the notice of appeal was filed except that the records committee may schedule an expedited hearing upon application of the ~~[petitioner] records committee appellant and good cause shown;~~

(ii) send a copy of the notice of hearing to the ~~[petitioner] records committee appellant; and~~

(iii) send a copy of the notice of appeal, supporting statement, and a notice of hearing to:

(A) each member of the records committee;

(B) the records officer and the chief administrative officer of the governmental entity ~~[from which the appeal originated] whose access denial is the subject of the appeal, if the records committee appellant is a requester or interested party;~~

(C) any person who made a business confidentiality claim under Section 63G-2-309 for a record that is the subject of the appeal; and

(D) all persons who participated in the proceedings before the governmental entity's chief administrative officer, if the appeal is of the chief administrative officer's decision affirming an access denial.

(b) (i) The executive secretary of the records committee may decline to schedule a hearing if the

record series that is the subject of the appeal has been found by the committee in a previous hearing involving the same ~~[government]~~ governmental entity to be appropriately classified as private, controlled, or protected.

(ii) (A) If the executive secretary of the records committee declines to schedule a hearing, the executive secretary of the records committee shall send a notice to the ~~[petitioner]~~ records committee appellant indicating that the request for hearing has been denied and the reason for the denial.

(B) The committee shall make rules to implement this section as provided by Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(c) The executive secretary of the records committee may schedule a hearing on an appeal to the records committee at a regularly scheduled records committee meeting that is later than the period described in Subsection (4)(a)(i) if that records committee meeting is the first regularly scheduled records committee meeting at which there are fewer than 10 appeals scheduled to be heard.

(5) (a) [A] No later than five business days before the hearing, a governmental entity shall submit to the executive secretary of the records committee a written statement of facts, reasons, and legal authority in support of the governmental entity's position [must be submitted to the executive secretary of the records committee not later than five business days before the hearing].

(b) The governmental entity shall send a copy of the written statement ~~[to the petitioner]~~ by first class mail, postage prepaid, to the requester or interested party involved in the appeal. The executive secretary shall forward a copy of the written statement to each member of the records committee.

(6) (a) No later than 10 business days after the notice of appeal is sent by the executive secretary, a person whose legal interests may be substantially affected by the proceeding may file a request for intervention before the records committee.

(b) Any written statement of facts, reasons, and legal authority in support of the intervener's position shall be filed with the request for intervention.

(c) The person seeking intervention shall provide copies of the statement described in Subsection (6)(b) to all parties to the proceedings before the records committee.

(7) The records committee shall hold a hearing within the period of time described in Subsection (4).

(8) At the hearing, the records committee shall allow the parties to testify, present evidence, and comment on the issues. The records committee may allow other interested persons to comment on the issues.

(9) (a) (i) The records committee:

~~(A) may review the disputed records[. However, if the committee is weighing the various interests under Subsection (11), the committee must review the disputed records. The review shall be in camera.]; and~~

(B) shall review the disputed records, if the committee is weighing the various interests under Subsection (11).

(ii) A review of the disputed records under Subsection (9)(a)(i) shall be in camera.

(b) Members of the records committee may not disclose any information or record reviewed by the committee in camera unless the disclosure is otherwise authorized by this chapter.

(10) (a) Discovery is prohibited, but the records committee may issue subpoenas or other orders to compel production of necessary evidence.

(b) When the subject of a records committee subpoena disobeys or fails to comply with the subpoena, the records committee may file a motion for an order to compel obedience to the subpoena with the district court.

(c) (i) The records committee's review shall be de novo[.], if the appeal is an appeal from a decision of a chief administrative officer:

(A) issued under Section 63G-2-401; or

(B) issued by a chief administrative officer of a political subdivision that has not established a local appeals board.

(ii) For an appeal from a decision of a local appeals board, the records committee shall review and consider the decision of the local appeals board.

(11) (a) No later than seven business days after the hearing, the records committee shall issue a signed order ~~[either]:~~

(i) granting the [petition] relief sought, in whole or in part; or

(ii) upholding the [determination of the] governmental [entity] entity's access denial, in whole or in part.

(b) Except as provided in Section 63G-2-406, the records committee may, upon consideration and weighing of the various interests and public policies pertinent to the classification and disclosure or nondisclosure, order the disclosure of information properly classified as private, controlled, or protected if the public interest favoring access is greater than or equal to the interest favoring restriction of access.

(c) In making a determination under Subsection (11)(b), the records committee shall consider and, where appropriate, limit the requester's or interested party's use and further disclosure of the record in order to protect:

(i) privacy interests in the case of a private or controlled record;

(ii) business confidentiality interests in the case of a record protected under Subsection 63G-2-305(1), (2), (40)(a)(ii), or (40)(a)(vi); and

(iii) privacy interests or the public interest in the case of other protected records.

(12) The order of the records committee shall include:

(a) a statement of reasons for the decision, including citations to this chapter, court rule or order, another state statute, federal statute, or federal regulation that governs disclosure of the record, ~~[provided that]~~ if the citations do not disclose private, controlled, or protected information;

(b) a description of the record or portions of the record to which access was ordered or denied, ~~[provided that]~~ if the description does not disclose private, controlled, or protected information or information exempt from disclosure under Subsection 63G-2-201(3)(b);

(c) a statement that any party to the proceeding before the records committee may appeal the records committee's decision to district court; and

(d) a brief summary of the appeals process, the time limits for filing an appeal, and a notice that in order to protect its rights on appeal, the party may wish to seek advice from an attorney.

(13) If the records committee fails to issue a decision within ~~[57]~~ 73 calendar days of the filing of the notice of appeal, that failure ~~[shall be considered]~~ is the equivalent of an order denying the appeal. ~~[The petitioner]~~ A records committee appellant shall notify the records committee in writing if the ~~[petitioner]~~ records committee appellant considers the appeal denied.

(14) A party to a proceeding before the records committee may seek judicial review in district court of a records committee order by filing a petition for review of the records committee order as provided in Section 63G-2-404.

~~[(14)]~~ (15) (a) Unless a notice of intent to appeal is filed under Subsection ~~[(14)]~~ (15)(b), each party to the proceeding shall comply with the order of the records committee.

(b) If a party disagrees with the order of the records committee, that party may file a notice of intent to appeal the order of the records committee.

(c) If the records committee orders the governmental entity to produce a record and no appeal is filed, or if, as a result of the appeal, the governmental entity is required to produce a record, the governmental entity shall:

(i) produce the record; and

(ii) file a notice of compliance with the records committee.

(d) (i) If the governmental entity that is ordered to produce a record fails to file a notice of compliance or a notice of intent to appeal, the records committee may do either or both of the following:

(A) impose a civil penalty of up to \$500 for each day of continuing noncompliance; or

(B) send written notice of the governmental entity's noncompliance to:

(I) the governor for executive branch entities;

(II) the Legislative Management Committee for legislative branch entities; and

(III) the Judicial Council for judicial branch agencies entities.

(ii) In imposing a civil penalty, the records committee shall consider the gravity and circumstances of the violation, including whether the failure to comply was due to neglect or was willful or intentional.

Section 7. Section 63G-2-404 is amended to read:

63G-2-404. Judicial review.

~~[(1) (a) Any party to a proceeding before the records committee may petition for judicial review by the district court of the records committee's order.]~~

~~[(b) The petition]~~

(1) (a) A petition for judicial review of an order or decision, as allowed under this part or in Subsection 63G-2-701(6)(a)(ii), shall be filed no later than 30 days after the date of the [records committee's] order or decision.

~~[(e) (b) The records committee is a necessary party to [the] a petition for judicial review of a records committee order.~~

~~[(d) (c) The executive secretary of the records committee shall be served with notice of [the] a petition for judicial review of a records committee order, in accordance with the Utah Rules of Civil Procedure.~~

~~[(2) (a) A requester may petition for judicial review by the district court of a governmental entity's determination as specified in Subsection 63G-2-402(1)(b).]~~

~~[(b) The requester shall file a petition no later than:]~~

~~[(i) 30 days after the governmental entity has responded to the records request by either providing the requested records or denying the request in whole or in part;]~~

~~[(ii) 35 days after the original request if the governmental entity failed to respond to the request; or]~~

~~[(iii) 45 days after the original request for records if:]~~

~~[(A) the circumstances described in Subsection 63G-2-401(1)(b) occur; and]~~

~~[(B) the chief administrative officer failed to make a determination under Section 63G-2-401.]~~

~~[(3) The]~~ (2) A petition for judicial review ~~[shall be]~~ is a complaint governed by the Utah Rules of Civil Procedure and shall contain:

(a) the petitioner's name and mailing address;

(b) a copy of the records committee order from which the appeal is taken, if the petitioner ~~brought a prior appeal to the~~ is seeking judicial review of an order of the records committee;

(c) the name and mailing address of the governmental entity that issued the initial determination with a copy of that determination;

(d) a request for relief specifying the type and extent of relief requested; and

(e) a statement of the reasons why the petitioner is entitled to relief.

[44] (3) If the appeal is based on the denial of access to a protected record based on a claim of business confidentiality, the court shall allow the claimant of business confidentiality to provide to the court the reasons for the claim of business confidentiality.

[45] (4) All additional pleadings and proceedings in the district court are governed by the Utah Rules of Civil Procedure.

[46] (5) The district court may review the disputed records. The review shall be in camera.

[47] (6) The court shall:

(a) make its decision de novo, but, for a petition seeking judicial review of a records committee order, allow introduction of evidence presented to the records committee;

(b) determine all questions of fact and law without a jury; and

(c) decide the issue at the earliest practical opportunity.

[48] (7) (a) Except as provided in Section 63G-2-406, the court may, upon consideration and weighing of the various interests and public policies pertinent to the classification and disclosure or nondisclosure, order the disclosure of information properly classified as private, controlled, or protected if the interest favoring access is greater than or equal to the interest favoring restriction of access.

(b) The court shall consider and, where appropriate, limit the requester's use and further disclosure of the record in order to protect privacy interests in the case of private or controlled records, business confidentiality interests in the case of records protected under Subsections 63G-2-305(1) and (2), and privacy interests or the public interest in the case of other protected records.

Section 8. Section 63G-2-501 is amended to read:

63G-2-501. State Records Committee created -- Membership -- Terms -- Vacancies -- Expenses.

(1) There is created the State Records Committee within the Department of Administrative Services to consist of the following seven individuals:

(a) an individual in the private sector whose profession requires the individual to create or

manage records that if created by a governmental entity would be private or controlled;

(b) the director of the Division of State History or the director's designee;

(c) the governor or the governor's designee;

(d) two citizen members;

(e) one [elected official] person representing political subdivisions, as recommended by the Utah League of Cities and Towns; and

(f) one individual representing the news media.

(2) The members specified in Subsections (1)(a), (d), (e), and (f) shall be appointed by the governor with the consent of the Senate.

(3) (a) Except as required by Subsection (3)(b), as terms of current committee members expire, the governor shall appoint each new member or reappointed member to a four-year term.

(b) Notwithstanding the requirements of Subsection (3)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of committee members are staggered so that approximately half of the committee is appointed every two years.

(c) Each appointed member is eligible for reappointment for one additional term.

(4) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(5) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Section 9. Section 63G-2-701 is amended to read:

63G-2-701. Political subdivisions may adopt ordinances in compliance with chapter -- Appeal process.

(1) As used in this section:

(a) "Access denial" means the same as that term is defined in Section 63G-2-400.5.

(b) "Interested party" means the same as that term is defined in Section 63G-2-400.5.

(c) "Requester" means the same as that term is defined in Section 63G-2-400.5.

[44] (2) (a) Each political subdivision may adopt an ordinance or a policy applicable throughout its jurisdiction relating to information practices including classification, designation, access, denials, segregation, appeals, management, retention, and amendment of records.

(b) The ordinance or policy shall comply with the criteria set forth in this section.

(c) If any political subdivision does not adopt and maintain an ordinance or policy, then that political subdivision is subject to this chapter.

(d) Notwithstanding the adoption of an ordinance or policy, each political subdivision is subject to ~~[Parts 1 and 3]~~ Part 1, General Provisions, Part 3, Classification, and Sections 63A-12-105, 63A-12-107, 63G-2-201, 63G-2-202, 63G-2-205, 63G-2-206, 63G-2-601, and 63G-2-602.

(e) Every ordinance, policy, or amendment to the ordinance or policy shall be filed with the state archives no later than 30 days after its effective date.

(f) The political subdivision shall also report to the state archives all retention schedules, and all designations and classifications applied to record series maintained by the political subdivision.

(g) The report required by Subsection ~~[(4)]~~ (2)(f) is notification to state archives of the political subdivision's retention schedules, designations, and classifications. The report is not subject to approval by state archives. If state archives determines that a different retention schedule is needed for state purposes, state archives shall notify the political subdivision of the state's retention schedule for the records and shall maintain the records if requested to do so under Subsection 63A-12-105(2).

~~[(2)]~~ (3) Each ordinance or policy relating to information practices shall:

(a) provide standards for the classification and designation of the records of the political subdivision as public, private, controlled, or protected in accordance with Part 3 ~~[of this chapter]~~, Classification;

(b) require the classification of the records of the political subdivision in accordance with those standards;

(c) provide guidelines for establishment of fees in accordance with Section 63G-2-203; and

(d) provide standards for the management and retention of the records of the political subdivision comparable to Section 63A-12-103.

~~[(3)]~~ (4) (a) Each ordinance or policy shall establish access criteria, procedures, and response times for requests to inspect, obtain, or amend records of the political subdivision, and time limits for appeals consistent with this chapter.

(b) In establishing response times for access requests and time limits for appeals, the political subdivision may establish reasonable time frames different than those set out in Section 63G-2-204 and Part 4 ~~[of this chapter]~~, Appeals, if it determines that the resources of the political subdivision are insufficient to meet the requirements of those sections.

~~[(4)]~~ (5) (a) ~~[The]~~ A political subdivision shall establish an appeals process for persons aggrieved by classification, designation, or access decisions.

~~[(b) The policy or ordinance shall provide for:]~~

~~[(i) (A) an appeals board composed of the governing body of the political subdivision; or]~~

~~[(B) a separate appeals board composed of members of the governing body and the public, appointed by the governing body; and]~~

~~[(ii) the designation of a person as the chief administrative officer for purposes of determining appeals under Section 63G-2-401 of the governmental entity's determination.]~~

~~[(5) If the requester concurs, the political subdivision may also provide for an additional level of administrative review to the records committee in accordance with Section 63G-2-403.]~~

~~[(6) Appeals of the decisions of the appeals boards established by political subdivisions shall be by petition for judicial review to the district court.]~~

(b) A political subdivision's appeals process shall include a process for a requester or interested party to appeal an access denial to a person designated by the political subdivision as the chief administrative officer for purposes of an appeal under Section 63G-2-401.

(c) (i) A political subdivision may establish an appeals board to decide an appeal of a decision of the chief administrative officer affirming an access denial.

(ii) An appeals board established by a political subdivision shall be composed of three members:

(A) one of whom shall be an employee of the political subdivision; and

(B) two of whom shall be members of the public, at least one of whom shall have professional experience with requesting or managing records.

(iii) If a political subdivision establishes an appeals board, any appeal of a decision of a chief administrative officer shall be made to the appeals board.

(iv) If a political subdivision does not establish an appeals board, the political subdivision's appeals process shall provide for an appeal of a chief administrative officer's decision to the records committee, as provided in Section 63G-2-403.

(6) (a) A political subdivision or requester may appeal an appeals board decision:

(i) to the records committee, as provided in Section 63G-2-403; or

(ii) by filing a petition for judicial review with the district court.

(b) The contents of ~~[the]~~ a petition for judicial review under Subsection (6)(a)(ii) and the conduct of the proceeding shall be in accordance with Sections 63G-2-402 and 63G-2-404.

(c) A person who appeals an appeals board decision to the records committee does not lose or waive the right to seek judicial review of the decision of the records committee.

(7) Any political subdivision that adopts an ordinance or policy under Subsection (1) shall forward to state archives a copy and summary description of the ordinance or policy.

CHAPTER 336**S. B. 158**

Passed March 10, 2015

Approved March 30, 2015

Effective May 12, 2015

PHARMACY AMENDMENTS

Chief Sponsor: Evan J. Vickers

House Sponsor: Jon E. Stanard

LONG TITLE**General Description:**

This bill amends the Pharmacy Practice Act and the Controlled Substance Database Act.

Highlighted Provisions:

This bill:

- ▶ amends definitions;
- ▶ makes a technical amendment to patient counseling;
- ▶ amends unprofessional conduct provisions;
- ▶ authorizes administrative rulemaking regarding dispensing an emergency supply of certain drugs from an emergency room in limited circumstances; and
- ▶ amends access to the controlled substance database to allow a pharmacist in charge to give a pharmacy intern access to the controlled substance database.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

58-17b-102, as last amended by Laws of Utah 2014, Chapters 72, 308, and 308

58-17b-502, as last amended by Laws of Utah 2014, Chapter 72

58-17b-613, as last amended by Laws of Utah 2014, Chapter 72

58-37f-301, as last amended by Laws of Utah 2014, Chapters 68 and 401

ENACTS:

58-17b-610.5, Utah Code Annotated 1953

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

Section 1. Section 58-17b-102 is amended to read:**58-17b-102. Definitions.**

In addition to the definitions in Section 58-1-102, as used in this chapter:

(1) "Administering" means:

(a) the direct application of a prescription drug or device, whether by injection, inhalation, ingestion, or by any other means, to the body of a human patient or research subject by another person; or

(b) the placement by a veterinarian with the owner or caretaker of an animal or group of animals of a prescription drug for the purpose of injection, inhalation, ingestion, or any other means directed to the body of the animal by the owner or caretaker

in accordance with written or verbal directions of the veterinarian.

(2) "Adulterated drug or device" means a drug or device considered adulterated under 21 U.S.C.[S-] Sec. 351 (2003).

(3) (a) "Analytical laboratory" means a facility in possession of prescription drugs for the purpose of analysis.

(b) "Analytical laboratory" does not include a laboratory possessing prescription drugs used as standards and controls in performing drug monitoring or drug screening analysis if the prescription drugs are prediluted in a human or animal body fluid, human or animal body fluid components, organic solvents, or inorganic buffers at a concentration not exceeding one milligram per milliliter when labeled or otherwise designated as being for in vitro diagnostic use.

(4) "Animal euthanasia agency" means an agency performing euthanasia on animals by the use of prescription drugs.

(5) "Automated pharmacy systems" includes mechanical systems which perform operations or activities, other than compounding or administration, relative to the storage, packaging, dispensing, or distribution of medications, and which collect, control, and maintain all transaction information.

(6) "Beyond use date" means the date determined by a pharmacist and placed on a prescription label at the time of dispensing that indicates to the patient or caregiver a time beyond which the contents of the prescription are not recommended to be used.

(7) "Board of pharmacy" or "board" means the Utah State Board of Pharmacy created in Section 58-17b-201.

(8) "Branch pharmacy" means a pharmacy or other facility in a rural or medically underserved area, used for the storage and dispensing of prescription drugs, which is dependent upon, stocked by, and supervised by a pharmacist in another licensed pharmacy designated and approved by the division as the parent pharmacy.

(9) "Centralized prescription processing" means the processing by a pharmacy of a request from another pharmacy to fill or refill a prescription drug order or to perform processing functions such as dispensing, drug utilization review, claims adjudication, refill authorizations, and therapeutic interventions.

(10) "Class A pharmacy" means a pharmacy located in Utah that is authorized as a retail pharmacy to compound or dispense a drug or dispense a device to the public under a prescription order.

(11) "Class B pharmacy":

(a) means a pharmacy located in Utah:

(i) that is authorized to provide pharmaceutical care for patients in an institutional setting; and

(ii) whose primary purpose is to provide a physical environment for patients to obtain health care services; and

(b) (i) includes closed-door, hospital, clinic, nuclear, and branch pharmacies; and

(ii) pharmaceutical administration and sterile product preparation facilities.

(12) "Class C pharmacy" means a pharmacy that engages in the manufacture, production, wholesale, or distribution of drugs or devices in Utah.

(13) "Class D pharmacy" means a nonresident pharmacy.

(14) "Class E pharmacy" means all other pharmacies.

(15) "Closed-door pharmacy" means a pharmacy that provides pharmaceutical care to a defined and exclusive group of patients who have access to the services of the pharmacy because they are treated by or have an affiliation with a specific entity, including a health maintenance organization or an infusion company, but not including a hospital pharmacy, a retailer of goods to the general public, or the office of a practitioner.

(16) "Collaborative pharmacy practice" means a practice of pharmacy whereby one or more pharmacists have jointly agreed, on a voluntary basis, to work in conjunction with one or more practitioners under protocol whereby the pharmacist may perform certain pharmaceutical care functions authorized by the practitioner or practitioners under certain specified conditions or limitations.

(17) "Collaborative pharmacy practice agreement" means a written and signed agreement between one or more pharmacists and one or more practitioners that provides for collaborative pharmacy practice for the purpose of drug therapy management of patients and prevention of disease of human subjects.

(18) (a) "Compounding" means the preparation, mixing, assembling, packaging, or labeling of a limited quantity drug, sterile product, or device:

(i) as the result of a practitioner's prescription order or initiative based on the practitioner, patient, or pharmacist relationship in the course of professional practice;

(ii) for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale or dispensing; or

(iii) in anticipation of prescription drug orders based on routine, regularly observed prescribing patterns.

(b) "Compounding" does not include:

(i) the preparation of prescription drugs by a pharmacist or pharmacy intern for sale to another pharmacist or pharmaceutical facility;

(ii) the preparation by a pharmacist or pharmacy intern of any prescription drug in a dosage form

which is regularly and commonly available from a manufacturer in quantities and strengths prescribed by a practitioner; or

(iii) the preparation of a prescription drug, sterile product, or device which has been withdrawn from the market for safety reasons.

(19) "Confidential information" has the same meaning as "protected health information" under the Standards for Privacy of Individually Identifiable Health Information, 45 C.F.R. Parts 160 and 164.

(20) "Controlled substance" [~~has the same definition as~~] means the same as that term is defined in Section 58-37-2.

(21) "Dietary supplement" has the same meaning as Public Law Title 103, Chapter 417, Sec. 3a(ff) which is incorporated by reference.

(22) "Dispense" means the interpretation, evaluation, and implementation of a prescription drug order or device or nonprescription drug or device under a lawful order of a practitioner in a suitable container appropriately labeled for subsequent administration to or use by a patient, research subject, or an animal.

(23) "Dispensing medical practitioner" means an individual who is:

(a) currently licensed as:

(i) a physician and surgeon under Chapter 67, Utah Medical Practice Act;

(ii) an osteopathic physician and surgeon under Chapter 68, Utah Osteopathic Medical Practice Act;

(iii) a physician assistant under Chapter 70a, Physician Assistant Act;

(iv) a nurse practitioner under Chapter 31b, Nurse Practice Act; or

(v) an optometrist under Chapter 16a, Utah Optometry Practice Act, if the optometrist is acting within the scope of practice for an optometrist; and

(b) licensed by the division under the Pharmacy Practice Act to engage in the practice of a dispensing medical practitioner.

(24) "Dispensing medical practitioner clinic pharmacy" means a closed-door pharmacy located within a licensed dispensing medical practitioner's place of practice.

(25) "Distribute" means to deliver a drug or device other than by administering or dispensing.

(26) (a) "Drug" means:

(i) a substance recognized in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them, intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans or animals;

(ii) a substance that is required by any applicable federal or state law or rule to be dispensed by

prescription only or is restricted to administration by practitioners only;

(iii) a substance other than food intended to affect the structure or any function of the body of humans or other animals; and

(iv) substances intended for use as a component of any substance specified in Subsections (26)(a)(i), (ii), (iii), and (iv).

(b) "Drug" does not include dietary supplements.

(27) "Drug regimen review" includes the following activities:

(a) evaluation of the prescription drug order and patient record for:

(i) known allergies;

(ii) rational therapy-contraindications;

(iii) reasonable dose and route of administration; and

(iv) reasonable directions for use;

(b) evaluation of the prescription drug order and patient record for duplication of therapy;

(c) evaluation of the prescription drug order and patient record for the following interactions:

(i) drug-drug;

(ii) drug-food;

(iii) drug-disease; and

(iv) adverse drug reactions; and

(d) evaluation of the prescription drug order and patient record for proper utilization, including over- or under-utilization, and optimum therapeutic outcomes.

(28) "Drug sample" means a prescription drug packaged in small quantities consistent with limited dosage therapy of the particular drug, which is marked "sample", is not intended to be sold, and is intended to be provided to practitioners for the immediate needs of patients for trial purposes or to provide the drug to the patient until a prescription can be filled by the patient.

(29) "Electronic signature" means a trusted, verifiable, and secure electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

(30) "Electronic transmission" means transmission of information in electronic form or the transmission of the exact visual image of a document by way of electronic equipment.

(31) "Hospital pharmacy" means a pharmacy providing pharmaceutical care to inpatients of a general acute hospital or specialty hospital licensed by the Department of Health under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.

(32) "Legend drug" has the same meaning as prescription drug.

(33) "Licensed pharmacy technician" means an individual licensed with the division, that may, under the supervision of a pharmacist, perform the activities involved in the technician practice of pharmacy.

(34) "Manufacturer" means a person or business physically located in Utah licensed to be engaged in the manufacturing of drugs or devices.

(35) (a) "Manufacturing" means:

(i) the production, preparation, propagation, conversion, or processing of a drug or device, either directly or indirectly, by extraction from substances of natural origin or independently by means of chemical or biological synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container; and

(ii) the promotion and marketing of such drugs or devices.

(b) "Manufacturing" includes the preparation and promotion of commercially available products from bulk compounds for resale by pharmacies, practitioners, or other persons.

(c) "Manufacturing" does not include the preparation or compounding of a drug by a pharmacist, pharmacy intern, or practitioner for that individual's own use or the preparation, compounding, packaging, labeling of a drug, or incident to research, teaching, or chemical analysis.

(36) "Medical order" means a lawful order of a practitioner which may include a prescription drug order.

(37) "Medication profile" or "profile" means a record system maintained as to drugs or devices prescribed for a pharmacy patient to enable a pharmacist or pharmacy intern to analyze the profile to provide pharmaceutical care.

(38) "Misbranded drug or device" means a drug or device considered misbranded under 21 U.S.C. [S.] Sec. 352 (2003).

(39) (a) "Nonprescription drug" means a drug which:

(i) may be sold without a prescription; and

(ii) is labeled for use by the consumer in accordance with federal law.

(b) "Nonprescription drug" includes homeopathic remedies.

(40) "Nonresident pharmacy" means a pharmacy located outside of Utah that sells to a person in Utah.

(41) "Nuclear pharmacy" means a pharmacy providing radio-pharmaceutical service.

(42) "Out-of-state mail service pharmacy" means a pharmaceutical facility located outside the state that is licensed and in good standing in another state, that:

(a) ships, mails, or delivers by any lawful means a dispensed legend drug to a patient in this state pursuant to a lawfully issued prescription;

(b) provides information to a patient in this state on drugs or devices which may include, but is not limited to, advice relating to therapeutic values, potential hazards, and uses; or

(c) counsels pharmacy patients residing in this state concerning adverse and therapeutic effects of drugs.

(43) "Patient counseling" means the written and oral communication by the pharmacist or pharmacy intern of information, to the patient or caregiver, in order to ensure proper use of drugs, devices, and dietary supplements.

(44) "Pharmaceutical administration facility" means a facility, agency, or institution in which:

(a) prescription drugs or devices are held, stored, or are otherwise under the control of the facility or agency for administration to patients of that facility or agency;

(b) prescription drugs are dispensed to the facility or agency by a licensed pharmacist or pharmacy intern with whom the facility has established a prescription drug supervising relationship under which the pharmacist or pharmacy intern provides counseling to the facility or agency staff as required, and oversees drug control, accounting, and destruction; and

(c) prescription drugs are professionally administered in accordance with the order of a practitioner by an employee or agent of the facility or agency.

(45) (a) "Pharmaceutical care" means carrying out the following in collaboration with a prescribing practitioner, and in accordance with division rule:

(i) designing, implementing, and monitoring a therapeutic drug plan intended to achieve favorable outcomes related to a specific patient for the purpose of curing or preventing the patient's disease;

(ii) eliminating or reducing a patient's symptoms; or

(iii) arresting or slowing a disease process.

(b) "Pharmaceutical care" does not include prescribing of drugs without consent of a prescribing practitioner.

(46) "Pharmaceutical facility" means a business engaged in the dispensing, delivering, distributing, manufacturing, or wholesaling of prescription drugs or devices within or into this state.

(47) (a) "Pharmaceutical wholesaler or distributor" means a pharmaceutical facility engaged in the business of wholesale vending or selling of a prescription drug or device to other than a consumer or user of the prescription drug or device that the pharmaceutical facility has not produced, manufactured, compounded, or dispensed.

(b) "Pharmaceutical wholesaler or distributor" does not include a pharmaceutical facility carrying out the following business activities:

(i) intracompany sales;

(ii) the sale, purchase, or trade of a prescription drug or device, or an offer to sell, purchase, or trade a prescription drug or device, if the activity is carried out between one or more of the following entities under common ownership or common administrative control, as defined by division rule:

(A) hospitals;

(B) pharmacies;

(C) chain pharmacy warehouses, as defined by division rule; or

(D) other health care entities, as defined by division rule;

(iii) the sale, purchase, or trade of a prescription drug or device, or an offer to sell, purchase, or trade a prescription drug or device, for emergency medical reasons, including supplying another pharmaceutical facility with a limited quantity of a drug, if:

(A) the facility is unable to obtain the drug through a normal distribution channel in sufficient time to eliminate the risk of harm to a patient that would result from a delay in obtaining the drug; and

(B) the quantity of the drug does not exceed an amount reasonably required for immediate dispensing to eliminate the risk of harm;

(iv) the distribution of a prescription drug or device as a sample by representatives of a manufacturer; and

(v) the distribution of prescription drugs, if:

(A) the facility's total distribution-related sales of prescription drugs does not exceed 5% of the facility's total prescription drug sales; and

(B) the distribution otherwise complies with 21 C.F.R. Sec. 1307.11.

(48) "Pharmacist" means an individual licensed by this state to engage in the practice of pharmacy.

(49) "Pharmacist-in-charge" means a pharmacist currently licensed in good standing who accepts responsibility for the operation of a pharmacy in conformance with all laws and rules pertinent to the practice of pharmacy and the distribution of drugs, and who is personally in full and actual charge of the pharmacy and all personnel.

(50) "Pharmacist preceptor" means a licensed pharmacist in good standing with one or more years of licensed experience. The preceptor serves as a teacher, example of professional conduct, and supervisor of interns in the professional practice of pharmacy.

(51) "Pharmacy" means any place where:

(a) drugs are dispensed;

(b) pharmaceutical care is provided;

(c) drugs are processed or handled for eventual use by a patient; or

(d) drugs are used for the purpose of analysis or research.

(52) "Pharmacy benefits manager or coordinator" means a person or entity that provides pharmacy benefit management services as defined in Section 49-20-502 on behalf of a self-insured employer, insurance company, health maintenance organization, or other plan sponsor, as defined by rule.

(53) "Pharmacy intern" means an individual licensed by this state to engage in practice as a pharmacy intern.

(54) "Pharmacy technician training program" means an approved technician training program providing education for pharmacy technicians.

(55) (a) "Practice as a dispensing medical practitioner" means the practice of pharmacy, specifically relating to the dispensing of a prescription drug in accordance with Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, and division rule adopted after consultation with the Board of pharmacy and the governing boards of the practitioners described in Subsection (23)(a).

(b) "Practice as a dispensing medical practitioner" does not include:

(i) using a vending type of dispenser as defined by the division by administrative rule; or

(ii) except as permitted by Section 58-17b-805, dispensing of a controlled substance as defined in Section 58-37-2.

(56) (a) "Practice as a licensed pharmacy technician" means engaging in practice as a pharmacy technician under the general supervision of a licensed pharmacist and in accordance with a scope of practice defined by division rule made in collaboration with the board.

(b) "Practice as a licensed pharmacy technician" does not include:

(i) performing a drug utilization review, prescription drug order clarification from a prescriber, final review of the prescription, dispensing of the drug, or counseling a patient with respect to a prescription drug;

(ii) except as permitted by rules made by the division in consultation with the board, final review of a prescribed drug prepared for dispensing;

(iii) counseling regarding nonprescription drugs and dietary supplements unless delegated by the supervising pharmacist; or

(iv) receiving new prescription drug orders when communicating telephonically or electronically unless the original information is recorded so the pharmacist may review the prescription drug order as transmitted.

(57) "Practice of pharmacy" includes the following:

(a) providing pharmaceutical care;

(b) collaborative pharmacy practice in accordance with a collaborative pharmacy practice agreement;

(c) compounding, packaging, labeling, dispensing, administering, and the coincident distribution of prescription drugs or devices, provided that the administration of a prescription drug or device is:

(i) pursuant to a lawful order of a practitioner when one is required by law; and

(ii) in accordance with written guidelines or protocols:

(A) established by the licensed facility in which the prescription drug or device is to be administered on an inpatient basis; or

(B) approved by the division, in collaboration with the board and the Physicians Licensing Board, created in Section 58-67-201, if the prescription drug or device is to be administered on an outpatient basis solely by a licensed pharmacist;

(d) participating in drug utilization review;

(e) ensuring proper and safe storage of drugs and devices;

(f) maintaining records of drugs and devices in accordance with state and federal law and the standards and ethics of the profession;

(g) providing information on drugs or devices, which may include advice relating to therapeutic values, potential hazards, and uses;

(h) providing drug product equivalents;

(i) supervising pharmacist's supportive personnel, pharmacy interns, and pharmacy technicians;

(j) providing patient counseling, including adverse and therapeutic effects of drugs;

(k) providing emergency refills as defined by rule;

(l) telepharmacy; and

(m) formulary management intervention.

(58) "Practice of telepharmacy" means the practice of pharmacy through the use of telecommunications and information technologies.

(59) "Practice of telepharmacy across state lines" means the practice of pharmacy through the use of telecommunications and information technologies that occurs when the patient is physically located within one jurisdiction and the pharmacist is located in another jurisdiction.

(60) "Practitioner" means an individual currently licensed, registered, or otherwise authorized by the appropriate jurisdiction to prescribe and administer drugs in the course of professional practice.

(61) "Prescribe" means to issue a prescription:

(a) orally or in writing; or

(b) by telephone, facsimile transmission, computer, or other electronic means of communication as defined by division rule.

(62) "Prescription" means an order issued:

(a) by a licensed practitioner in the course of that practitioner's professional practice or by collaborative pharmacy practice agreement; and

(b) for a controlled substance or other prescription drug or device for use by a patient or an animal.

(63) "Prescription device" means an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent, or other similar or related article, and any component part or accessory, which is required under federal or state law to be prescribed by a practitioner and dispensed by or through a person or entity licensed under this chapter or exempt from licensure under this chapter.

(64) "Prescription drug" means a drug that is required by federal or state law or rule to be dispensed only by prescription or is restricted to administration only by practitioners.

(65) "Repackage":

(a) means changing the container, wrapper, or labeling to further the distribution of a prescription drug; and

(b) does not include:

(i) Subsection (65)(a) when completed by the pharmacist responsible for dispensing the product to a patient; or

(ii) changing or altering a label as necessary for a dispensing practitioner under Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, for dispensing a product to a patient.

~~[(65)]~~ (66) "Research using pharmaceuticals" means research:

(a) conducted in a research facility, as defined by division rule, that is associated with a university or college in the state accredited by the Northwest Commission on Colleges and Universities;

(b) requiring the use of a controlled substance, prescription drug, or prescription device;

(c) that uses the controlled substance, prescription drug, or prescription device in accordance with standard research protocols and techniques, including, if required, those approved by an institutional review committee; and

(d) that includes any documentation required for the conduct of the research and the handling of the controlled substance, prescription drug, or prescription device.

~~[(66)]~~ (67) "Retail pharmacy" means a pharmaceutical facility dispensing prescription drugs and devices to the general public.

~~[(67)]~~ (68) "Self-audit" means an internal evaluation of a pharmacy to determine compliance with this chapter.

~~[(68)]~~ (69) "Supervising pharmacist" means a pharmacist who is overseeing the operation of the pharmacy during a given day or shift.

~~[(69)]~~ (70) "Supportive personnel" means unlicensed individuals who:

(a) may assist a pharmacist, pharmacist preceptor, pharmacy intern, or licensed pharmacy technician in nonjudgmental duties not included in the definition of the practice of pharmacy, practice of a pharmacy intern, or practice of a licensed pharmacy technician, and as those duties may be further defined by division rule adopted in collaboration with the board; and

(b) are supervised by a pharmacist in accordance with rules adopted by the division in collaboration with the board.

~~[(70)]~~ (71) "Unlawful conduct" ~~[is as]~~ means the same as that term is defined in Sections ~~58-1-501~~ and ~~58-17b-501~~.

~~[(71)]~~ (72) "Unprofessional conduct" ~~[is as]~~ means the same as that term is defined in Sections ~~58-1-501~~ and ~~58-17b-502~~ and may be further defined by rule.

~~[(72)]~~ (73) "Veterinary pharmaceutical facility" means a pharmaceutical facility that dispenses drugs intended for use by animals or for sale to veterinarians for the administration for animals.

Section 2. Section 58-17b-502 is amended to read:

58-17b-502. Unprofessional conduct.

"Unprofessional conduct" includes:

(1) willfully deceiving or attempting to deceive the division, the board, or their agents as to any relevant matter regarding compliance under this chapter;

(2) (a) except as provided in Subsection (2)(b):

(i) paying or offering rebates to practitioners or any other health care providers, or receiving or soliciting rebates from practitioners or any other health care provider; or

(ii) paying, offering, receiving, or soliciting compensation in the form of a commission, bonus, rebate, kickback, or split fee arrangement with practitioners or any other health care provider, for the purpose of obtaining referrals.

(b) Subsection (2)(a) does not apply to:

(i) giving or receiving price discounts based on purchase volume;

(ii) passing along pharmaceutical manufacturer's rebates; or

(iii) providing compensation for services to a veterinarian.

(3) misbranding or adulteration of any drug or device or the sale, distribution, or dispensing of any outdated, misbranded, or adulterated drug or device;

(4) engaging in the sale or purchase of drugs or devices that are samples or packages bearing the

inscription "sample" or "not for resale" or similar words or phrases;

(5) except as provided in Section 58-17b-503, accepting back and redistributing of any unused drug, or a part of it, after it has left the premises of any pharmacy, unless the drug is in a unit pack, as defined in Section 58-17b-503, or the manufacturer's sealed container, as defined in rule;

(6) an act in violation of this chapter committed by a person for any form of compensation if the act is incidental to the person's professional activities, including the activities of a pharmacist, pharmacy intern, or pharmacy technician;

(7) violating Federal Title II, P.L. 91, Controlled Substances Act, Title 58, Chapter 37, Utah Controlled Substances Act, or rules or regulations adopted under either act;

(8) requiring or permitting pharmacy interns or technicians to engage in activities outside the scope of practice for their respective license classifications, as defined in this chapter and division rules made in collaboration with the board, or beyond their scope of training and ability;

(9) administering:

(a) without appropriate training, as defined by rule;

(b) without a physician's order, when one is required by law; and

(c) in conflict with a practitioner's written guidelines or written protocol for administering;

(10) disclosing confidential patient information in violation of the provisions of the Health Insurance Portability and Accountability Act of 1996 or other applicable law;

(11) engaging in the practice of pharmacy without a licensed pharmacist designated as the pharmacist-in-charge;

(12) failing to report to the division any adverse action taken by another licensing jurisdiction, government agency, law enforcement agency, or court for conduct that in substance would be considered unprofessional conduct under this section; and

(13) as a pharmacist or pharmacy intern, preparing compounding a prescription drug in a dosage form which is regularly and commonly available from a manufacturer in quantities and strengths prescribed by a practitioner.

Section 3. Section 58-17b-610.5 is enacted to read:

58-17b-610.5. Dispensing in emergency department -- Patient's immediate need.

(1) The division shall adopt administrative rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, in consultation with hospital pharmacies and the boards of dispensing medical practitioners to establish guidelines under which a dispensing medical

practitioner may dispense prescription drugs to a patient in a hospital emergency department if:

(a) the hospital pharmacy is closed;

(b) in the professional judgment of the dispensing medical practitioner, dispensing the drug is necessary for the patient's immediate needs; and

(c) dispensing the prescription drug meets protocols established by the hospital pharmacy.

(2) A prescribing medical practitioner in an emergency department may dispense a prescription drug in accordance with Subsection (1).

Section 4. Section 58-17b-613 is amended to read:

58-17b-613. Patient counseling.

(1) A [~~retail~~] pharmacy shall verbally offer to counsel a patient or a patient's agent in a personal face-to-face discussion regarding each prescription drug dispensed, if the patient or patient's agent:

(a) delivers the prescription in person to the pharmacist or pharmacy intern; or

(b) receives the drug in person at the time it is dispensed at the pharmacy facility.

(2) A pharmacist or pharmacy intern at a pharmacy that receives a prescription from a patient by means other than personal delivery, and that dispenses prescription drugs to the patient by means other than personal delivery, shall:

(a) provide patient counseling to a patient regarding each prescription drug the pharmacy dispenses; and

(b) provide each patient with a toll-free telephone number by which the patient can contact a pharmacist or pharmacy intern at the pharmacy for counseling.

(3) Notwithstanding the provisions of Subsections (1) and (2), a pharmacist or a pharmacy intern may provide patient counseling to an individual under the jurisdiction of the Utah Department of Corrections or a county detention facility via a written, telephone, or electronic communication.

Section 5. Section 58-37f-301 is amended to read:

58-37f-301. Access to database.

(1) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(a) effectively enforce the limitations on access to the database as described in this part; and

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

(2) The division shall make information in the database and information obtained from other state or federal prescription monitoring programs by

means of the database available only to the following individuals, in accordance with the requirements of this chapter and division rules:

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

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

(c) in accordance with a written agreement entered into with the department, employees of the Department of Health:

(i) whom the director of the Department of Health assigns to conduct scientific studies regarding the use or abuse of controlled substances, if the identity of the individuals and pharmacies in the database are confidential and are not disclosed in any manner to any individual who is not directly involved in the scientific studies; or

(ii) when the information is requested by the Department of Health in relation to a person or provider whom the Department of Health suspects may be improperly obtaining or providing a controlled substance;

(d) in accordance with a written agreement entered into with the department, a designee of the director of the Department of Health, who is not an employee of the Department of Health, whom the director of the Department of Health assigns to conduct scientific studies regarding the use or abuse of controlled substances pursuant to an application process established in rule by the Department of Health, if:

(i) the designee provides explicit information to the Department of Health regarding the purpose of the scientific studies;

(ii) the scientific studies to be conducted by the designee:

(A) fit within the responsibilities of the Department of Health for health and welfare;

(B) are reviewed and approved by an Institutional Review Board that is approved for human subject research by the United States Department of Health and Human Services; and

(C) are not conducted for profit or commercial gain; and

(D) are conducted in a research facility, as defined by division rule, that is associated with a university or college in the state accredited by the Northwest Commission on Colleges and Universities;

(iii) the designee protects the information as a business associate of the Department of Health; and

(iv) the identity of the prescribers, patients, and pharmacies in the database are de-identified, confidential, not disclosed in any manner to the

designee or to any individual who is not directly involved in the scientific studies;

(e) in accordance with the written agreement entered into with the department and the Department of Health, authorized employees of a managed care organization, as defined in 42 C.F.R. Sec. 438, if:

(i) the managed care organization contracts with the Department of Health under the provisions of Section 26-18-405 and the contract includes provisions that:

(A) require a managed care organization employee who will have access to information from the database to submit to a criminal background check; and

(B) limit the authorized employee of the managed care organization to requesting either the division or the Department of Health to conduct a search of the database regarding a specific Medicaid enrollee and to report the results of the search to the authorized employee; and

(ii) the information is requested by an authorized employee of the managed care organization in relation to a person who is enrolled in the Medicaid program with the managed care organization, and the managed care organization suspects the person may be improperly obtaining or providing a controlled substance;

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

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

(B) is provided to or sought by the practitioner for the purpose of:

(I) prescribing or considering prescribing any controlled substance to the current or prospective patient;

(II) diagnosing the current or prospective patient;

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

(IV) determining whether the current or prospective patient:

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

(Bb) has fraudulently obtained, or attempted to fraudulently obtain, a controlled substance from the practitioner;

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

(B) is provided to or sought by the practitioner for the purpose of determining whether the former patient has fraudulently obtained, or has attempted to fraudulently obtain, a controlled substance from the practitioner;

(iii) relates specifically to an individual who has access to the practitioner's Drug Enforcement Administration identification number, and the

practitioner suspects that the individual may have used the practitioner's Drug Enforcement Administration identification number to fraudulently acquire or prescribe a controlled substance;

(iv) relates to the practitioner's own prescribing practices, except when specifically prohibited by the division by administrative rule;

(v) relates to the use of the controlled substance database by an employee of the practitioner, described in Subsection (2)(g); or

(vi) relates to any use of the practitioner's Drug Enforcement Administration identification number to obtain, attempt to obtain, prescribe, or attempt to prescribe, a controlled substance;

(g) in accordance with Subsection (3)(a), an employee of a practitioner described in Subsection (2)(f), for a purpose described in Subsection (2)(f)(i) or (ii), if:

(i) the employee is designated by the practitioner as an individual authorized to access the information on behalf of the practitioner;

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

(iii) the division:

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

(B) provides the employee with a password that is unique to that employee to access the database in order to permit the division to comply with the requirements of Subsection 58-37f-203(3)(b) with respect to the employee;

(h) an employee of the same business that employs a licensed practitioner under Subsection (2)(f) if:

(i) the employee is designated by the practitioner as an individual authorized to access the information on behalf of the practitioner;

(ii) the practitioner and the employing business provide written notice to the division of the identity of the designated employee; and

(iii) the division:

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

(B) provides the employee with a password that is unique to that employee to access the database in order to permit the division to comply with the requirements of Subsection 58-37f-203(3)(b) with respect to the employee;

(i) a licensed pharmacist having authority to dispense a controlled substance to the extent the information is provided or sought for the purpose of:

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

(ii) determining whether a person:

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

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

(j) in accordance with Subsection (3)(a), a licensed pharmacy technician and pharmacy intern who is an employee of a pharmacy as defined in Section 58-17b-102, for the purposes described in Subsection (2)(h)(i) or (ii), if:

(i) the employee is designated by the pharmacist-in-charge as an individual authorized to access the information on behalf of a licensed pharmacist employed by the pharmacy;

(ii) the pharmacist-in-charge provides written notice to the division of the identity of the employee; and

(iii) the division:

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

(B) provides the employee with a password that is unique to that employee to access the database in order to permit the division to comply with the requirements of Subsection 58-37f-203(3)(b) with respect to the employee;

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

(i) regulating controlled substances;

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

(iii) providing information about a criminal defendant to defense counsel, upon request during the discovery process, for the purpose of establishing a defense in a criminal case;

(l) employees of the Office of Internal Audit and Program Integrity within the Department of Health who are engaged in their specified duty of ensuring Medicaid program integrity under Section 26-18-2.3;

(m) a mental health therapist, if:

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

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

(B) receiving treatment from, or under the direction of, the mental health therapist as part of the patient's participation in the licensed substance abuse treatment program described in Subsection (2)(m)(i)(A);

(ii) the information is sought for the purpose of determining whether the patient is using a controlled substance while the patient is enrolled in the licensed substance abuse treatment program described in Subsection (2)(m)(i)(A); and

(iii) the licensed substance abuse treatment program described in Subsection (2)(m)(i)(A) is associated with a practitioner who:

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

(B) is available to consult with the mental health therapist regarding the information obtained by the mental health therapist, under this Subsection (2)(m), from the database;

(n) an individual who is the recipient of a controlled substance prescription entered into the database, upon providing evidence satisfactory to the division that the individual requesting the information is in fact the individual about whom the data entry was made;

(o) the inspector general, or a designee of the inspector general, of the Office of Inspector General of Medicaid Services, for the purpose of fulfilling the duties described in Title 63A, Chapter 13, Part 2, Office and Powers; and

(p) the following licensed physicians for the purpose of reviewing and offering an opinion on an individual's request for workers' compensation benefits under Title 34A, Chapter 2, Workers' Compensation Act, or Title 34A, Chapter 3, Utah Occupational Disease Act:

(i) a member of the medical panel described in Section 34A-2-601; or

(ii) a physician offering a second opinion regarding treatment.

(3) (a) (i) A practitioner described in Subsection (2)(f) may designate up to three employees to access information from the database under Subsection (2)(g), (2)(h), or (4)(c).

(ii) A pharmacist described in Subsection (2)(i) who is a pharmacist-in-charge may designate up to ~~three~~ five employees to access information from the database under Subsection (2)(j).

(b) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(i) establish background check procedures to determine whether an employee designated under Subsection (2)(g), (2)(h), or (4)(c) should be granted access to the database; and

(ii) establish the information to be provided by an emergency room employee under Subsection (4).

(c) The division shall grant an employee designated under Subsection (2)(g), (2)(h), or (4)(c) access to the database, unless the division determines, based on a background check, that the employee poses a security risk to the information contained in the database.

(4) (a) An individual who is employed in the emergency room of a hospital may exercise access to the database under this Subsection (4) on behalf of a licensed practitioner if the individual is designated under Subsection (4)(c) and the licensed practitioner:

(i) is employed in the emergency room;

(ii) is treating an emergency room patient for an emergency medical condition; and

(iii) requests that an individual employed in the emergency room and designated under Subsection (4)(c) obtain information regarding the patient from the database as needed in the course of treatment.

(b) The emergency room employee obtaining information from the database shall, when gaining access to the database, provide to the database the name and any additional identifiers regarding the requesting practitioner as required by division administrative rule established under Subsection (3)(b).

(c) An individual employed in the emergency room under this Subsection (4) may obtain information from the database as provided in Subsection (4)(a) if:

(i) the employee is designated by the practitioner as an individual authorized to access the information on behalf of the practitioner;

(ii) the practitioner and the hospital operating the emergency room provide written notice to the division of the identity of the designated employee; and

(iii) the division:

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

(B) provides the employee with a password that is unique to that employee to access the database in order to permit the division to comply with the requirements of Subsection 58-37f-203(3)(b) with respect to the employee.

(d) The division may impose a fee, in accordance with Section 63J-1-504, on a practitioner who designates an employee under Subsection (2)(g), (2)(h), or (4)(c) to pay for the costs incurred by the division to conduct the background check and make the determination described in Subsection (3)(b).

(5) (a) An individual who is granted access to the database based on the fact that the individual is a licensed practitioner or a mental health therapist shall be denied access to the database when the individual is no longer licensed.

(b) An individual who is granted access to the database based on the fact that the individual is a designated employee of a licensed practitioner shall be denied access to the database when the practitioner is no longer licensed.

CHAPTER 337**S. B. 166**

Passed March 5, 2015

Approved March 30, 2015

Effective May 12, 2015

**DIXIE STATE UNIVERSITY MEDIA
CENTER NAME CHANGE**

Chief Sponsor: Stephen H. Urquhart

House Sponsor: Bradley G. Last

LONG TITLE**General Description:**

This bill amends provisions related to certain entities at Dixie State University.

Highlighted Provisions:

This bill:

- ▶ amends the name of the Center for Media Innovation at Dixie State University to refer to it more broadly and allow Dixie State University to change the name of the center.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53B-16-501, as last amended by Laws of Utah 2013, Chapter 10

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

Section 1. Section 53B-16-501 is amended to read:**53B-16-501. Nonprofit corporations or foundations -- Purpose.**

(1) Dixie State University may form a nonprofit corporation or foundation controlled by the president of the [college] university and the Board of Regents to aid and assist the [college] university in attaining its charitable, communications, and other related educational objectives, including support for [~~the Center for Media Innovation~~] media innovation, film festivals, film production, print media, broadcasting, television, and digital media.

(2) The nonprofit corporation or foundation may receive and administer legislative appropriations, government grants, contracts, and private gifts to carry out its public purposes.

CHAPTER 338**S. B. 167**

Passed March 12, 2015
 Approved March 30, 2015
 Effective May 12, 2015
 (Exception clause in Section 8)

JUVENILE OFFENDER AMENDMENTS

Chief Sponsor: Aaron Osmond
 House Sponsor: V. Lowry Snow

LONG TITLE**General Description:**

This bill makes changes to statutes regarding minors and courts.

Highlighted Provisions:

This bill:

- ▶ adds a specific list of previous offenses and conditions to the statute that allows for the direct filing of charges in district court;
- ▶ adds a new option to the serious youth offender statute;
- ▶ creates guidelines for housing a minor convicted in district court in a juvenile secure facility;
- ▶ requires that the court determine that a minor is knowingly and intentionally waiving counsel; and
- ▶ sets a presumption that juveniles are not to be shackled when appearing in court unless ordered by the court.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

62A-7-201, as last amended by Laws of Utah 2010, Chapter 38
 78A-6-701, as last amended by Laws of Utah 2014, Chapter 234
 78A-6-702, as last amended by Laws of Utah 2014, Chapter 234
 78A-6-703, as last amended by Laws of Utah 2014, Chapter 234
 78A-6-1111, as repealed and reenacted by Laws of Utah 2014, Chapter 275

ENACTS:

78A-6-122, Utah Code Annotated 1953
 78A-6-705, Utah Code Annotated 1953

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

Section 1. Section 62A-7-201 is amended to read:**62A-7-201. Confinement -- Facilities -- Restrictions.**

(1) Children under 18 years of age, who are apprehended by any officer or brought before any court for examination under any provision of state law, may not be confined in jails, lockups, or cells used for persons 18 years of age or older who are charged with crime, or in secure postadjudication correctional facilities operated by the division, except as provided in Subsection (2), other specific

statute, or in conformance with standards approved by the board.

(2) (a) Children charged with crimes under Section 78A-6-701, as a serious youth offender under Section 78A-6-702 and bound over to the jurisdiction of the district court, or certified to stand trial as an adult pursuant to Section 78A-6-703, if detained, shall be detained ~~[in a jail or other place of detention used for adults]~~ as provided in these sections.

(b) Children detained in adult facilities under Section 78A-6-702 or 78A-6-703 prior to a hearing before a magistrate, or under Subsection 78A-6-113(3), may only be held in certified juvenile detention accommodations in accordance with rules promulgated by the division. Those rules shall include standards for acceptable sight and sound separation from adult inmates. The division certifies facilities that are in compliance with the division's standards. The provisions of this Subsection (2)(b) do not apply to juveniles held in an adult detention facility in accordance with Subsection (2)(a).

(3) In areas of low density population, the division may, by rule, approve juvenile holding accommodations within adult facilities that have acceptable sight and sound separation. Those facilities shall be used only for short-term holding purposes, with a maximum confinement of six hours, for children alleged to have committed an act which would be a criminal offense if committed by an adult. Acceptable short-term holding purposes are: identification, notification of juvenile court officials, processing, and allowance of adequate time for evaluation of needs and circumstances regarding release or transfer to a shelter or detention facility. The provisions of this Subsection (3) do not apply to juveniles held in an adult detention facility in accordance with Subsection (2)(a).

(4) Children who are alleged to have committed an act which would be a criminal offense if committed by an adult, may be detained in holding rooms in local law enforcement agency facilities for a maximum of two hours, for identification or interrogation, or while awaiting release to a parent or other responsible adult. Those rooms shall be certified by the division, according to the division's rules. Those rules shall include provisions for constant supervision and for sight and sound separation from adult inmates.

(5) Willful failure to comply with any of the provisions of this section is a class B misdemeanor.

(6) (a) The division is responsible for the custody and detention of children under 18 years of age who require detention care prior to trial or examination, or while awaiting assignment to a home or facility, as a dispositional placement under Subsection 78A-6-117(2)(f)(i) or 78A-6-1101(3)(a), and of youth offenders under Subsection 62A-7-504(8). The provisions of this Subsection (6)(a) do not apply to juveniles held in an adult detention facility in accordance with Subsection (2)(a).

(b) The division shall provide standards for custody or detention under Subsections (2)(b), (3),

and (4), and shall determine and set standards for conditions of care and confinement of children in detention facilities.

(c) All other custody or detention shall be provided by the division, or by contract with a public or private agency willing to undertake temporary custody or detention upon agreed terms, or in suitable premises distinct and separate from the general jails, lockups, or cells used in law enforcement and corrections systems. The provisions of this Subsection (6)(c) do not apply to juveniles held in an adult detention facility in accordance with Subsection (2)(a).

Section 2. Section 78A-6-122 is enacted to read:

78A-6-122. Restraint of juveniles.

(1) As used in this section, “restrained” means the use of handcuffs, chains, shackles, zip ties, irons, straightjackets, and any other device or method which may be used to immobilize a juvenile.

(2) The Judicial Council shall adopt rules that address the circumstances under which a juvenile may be restrained while appearing in court. The Judicial Council shall ensure that the rules consider both the welfare of the juvenile and the safety of the court. A juvenile may not be restrained during a court proceeding unless restraint is authorized by rules of the Judicial Council.

Section 3. Section 78A-6-701 is amended to read:

78A-6-701. Jurisdiction of district court.

(1) The district court has exclusive original jurisdiction over all persons 16 years of age or older charged with:

(a) an offense which would be murder or aggravated murder if committed by an adult; [or]

(b) ~~[an offense which would be a felony if committed by an adult]~~ if the minor has been previously committed to a secure facility as defined in Section 62A-7-101[. This Subsection (1)(b) shall not apply if the offense is committed in a secure facility.], a felony violation of:

- (i) Section 76-6-103, aggravated arson;
- (ii) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;
- (iii) Section 76-5-302, aggravated kidnapping;
- (iv) Section 76-6-203, aggravated burglary;
- (v) Section 76-6-302, aggravated robbery;
- (vi) Section 76-5-405, aggravated sexual assault;
- (vii) Section 76-10-508.1, felony discharge of a firearm;
- (viii) Section 76-5-202, attempted aggravated murder; or
- (ix) Section 76-5-203, attempted murder; or

(c) an offense other than those listed in Subsection (1)(b) involving the use of a dangerous weapon, which would be a felony if committed by an adult, and the minor has been previously adjudicated or convicted of an offense involving the use of a dangerous weapon, which also would have been a felony if committed by an adult.

(2) When the district court has exclusive original jurisdiction over a minor under this section, it also has exclusive original jurisdiction over the minor regarding all offenses joined with the qualifying offense, and any other offenses, including misdemeanors, arising from the same criminal episode. The district court is not divested of jurisdiction by virtue of the fact that the minor is allowed to enter a plea to, or is found guilty of, a lesser or joined offense.

(3) (a) Any felony, misdemeanor, or infraction committed after the offense over which the district court takes jurisdiction under Subsection (1) or (2) shall be tried against the defendant as an adult in the district court or justice court having jurisdiction.

(b) If the qualifying charge under Subsection (1) results in an acquittal, a finding of not guilty, or a dismissal of the charge in the district court, the juvenile court under Section 78A-6-103 and the Division of Juvenile Justice Services regain any jurisdiction and authority previously exercised over the minor.

(4) A minor arrested under this section shall be held in a juvenile detention facility until the district court determines where the minor shall be held until the time of trial, except for defendants who are otherwise subject to the authority of the Board of Pardons and Parole.

(5) The district court shall consider the following when determining where the minor will be held until the time of trial:

- (a) the age of the minor;
- (b) the nature, seriousness, and circumstances of the alleged offense;
- (c) the minor’s history of prior criminal acts;
- (d) whether detention in a juvenile detention facility will adequately serve the need for community protection pending the outcome of any criminal proceedings;
- (e) whether the minor’s placement in a juvenile detention facility will negatively impact the functioning of the facility by compromising the goals of the facility to maintain a safe, positive, and secure environment for all minors within the facility;
- (f) the relative ability of the facility to meet the needs of the minor and protect the public;
- (g) whether the minor presents an imminent risk of harm to the minor or others within the facility;
- (h) the physical maturity of the minor;
- (i) the current mental state of the minor as evidenced by relevant mental health or

psychological assessments or screenings that are made available to the court; and

(j) any other factors the court considers relevant.

(6) A minor ordered to a juvenile detention facility under Subsection (5) shall remain in the facility until released by a district court judge, or if convicted, until sentencing.

(7) A minor held in a juvenile detention facility under this section shall have the same right to bail as any other criminal defendant.

(8) If the minor ordered to a juvenile detention facility under Subsection (5) attains the age of 18 years, the minor shall be transferred within 30 days to an adult jail until released by the district court judge, or if convicted, until sentencing.

(9) A minor 16 years of age or older whose conduct or condition endangers the safety or welfare of others in the juvenile detention facility may, by court order that specifies the reasons, be detained in another place of confinement considered appropriate by the court, including jail or other place of pretrial confinement for adults.

Section 4. Section 78A-6-702 is amended to read:

78A-6-702. Serious youth offender -- Procedure.

(1) Any action filed by a county attorney, district attorney, or attorney general charging a minor 16 years of age or older with a felony ~~shall~~ may be by criminal information and filed in the juvenile court if the minor was a principal actor in the offense and the information charges any of the following offenses:

(a) any felony violation of:

(i) Section 76-6-103, aggravated arson;

(ii) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;

(iii) Section 76-5-302, aggravated kidnapping;

(iv) Section 76-6-203, aggravated burglary;

(v) Section 76-6-302, aggravated robbery;

(vi) Section 76-5-405, aggravated sexual assault;

(vii) Section 76-10-508.1, felony discharge of a firearm;

(viii) Section 76-5-202, attempted aggravated murder; or

(ix) Section 76-5-203, attempted murder; or

(b) an offense other than those listed in Subsection (1)(a) involving the use of a dangerous weapon, which would be a felony if committed by an adult, and the minor has been previously adjudicated or convicted of an offense involving the use of a dangerous weapon, which also would have been a felony if committed by an adult.

(2) All proceedings before the juvenile court related to charges filed under Subsection (1) shall

be conducted in conformity with the rules established by the Utah Supreme Court.

(3) (a) If the information alleges the violation of a felony listed in Subsection (1), the state shall have the burden of going forward with its case and the burden of proof to establish probable cause to believe that one of the crimes listed in Subsection (1) has been committed and that the defendant committed it. If proceeding under Subsection (1)(b), the state shall have the additional burden of proving by a preponderance of the evidence that the defendant has previously been adjudicated or convicted of an offense involving the use of a dangerous weapon.

(b) If the juvenile court judge finds the state has met its burden under this Subsection (3), the court shall order that the defendant be bound over and held to answer in the district court in the same manner as an adult unless the juvenile court judge finds that it would be contrary to the best interest of the minor and to the public to bind over the defendant to the jurisdiction of the district court.

(c) In making the bind over determination in Subsection (3)(b), the judge shall consider only the following:

(i) whether the minor has been previously adjudicated delinquent for an offense involving the use of a dangerous weapon which would be a felony if committed by an adult;

(ii) if the offense was committed with one or more other persons, whether the minor appears to have a greater or lesser degree of culpability than the codefendants;

(iii) the extent to which the minor's role in the offense was committed in a violent, aggressive, or premeditated manner;

(iv) the number and nature of the minor's prior adjudications in the juvenile court; and

(v) whether public safety is and the interests of the minor are better served by adjudicating the minor in the juvenile court or in the district court, including whether the resources of the adult system or juvenile system are more likely to assist in rehabilitating the minor and reducing the threat which the minor presents to the public.

(d) Once the state has met its burden under Subsection (3)(a) as to a showing of probable cause, the defendant shall have the burden of going forward and presenting evidence that in light of the considerations listed in Subsection (3)(c), it would be contrary to the best interest of the minor and the best interests of the public to bind the defendant over to the jurisdiction of the district court.

(e) If the juvenile court judge finds by ~~clear and convincing~~ a preponderance of evidence that it would be contrary to the best interest of the minor and the best interests of the public to bind the defendant over to the jurisdiction of the district court, the court shall so state in its findings and order the minor held for trial as a minor and shall proceed upon the information as though it were a juvenile petition.

(4) If the juvenile court judge finds that an offense has been committed, but that the state has not met its burden of proving the other criteria needed to bind the defendant over under Subsection (1), the juvenile court judge shall order the defendant held for trial as a minor and shall proceed upon the information as though it were a juvenile petition.

(5) At the time of a bind over to district court a criminal warrant of arrest shall issue. The defendant shall have the same right to bail as any other criminal defendant and shall be advised of that right by the juvenile court judge. The juvenile court shall set initial bail in accordance with Title 77, Chapter 20, Bail.

(6) At the time the minor is bound over to the district court, the juvenile court shall make the initial determination on where the minor shall be held.

(7) The juvenile court shall consider the following when determining where the minor shall be held until the time of trial:

- (a) the age of the minor;
- (b) the nature, seriousness, and circumstances of the alleged offense;
- (c) the minor's history of prior criminal acts;
- (d) whether detention in a juvenile detention facility will adequately serve the need for community protection pending the outcome of any criminal proceedings;
- (e) whether the minor's placement in a juvenile detention facility will negatively impact the functioning of the facility by compromising the goals of the facility to maintain a safe, positive, and secure environment for all minors within the facility;
- (f) the relative ability of the facility to meet the needs of the minor and protect the public;
- (g) whether the minor presents an imminent risk of harm to the minor or others within the facility;
- (h) the physical maturity of the minor;
- (i) the current mental state of the minor as evidenced by relevant mental health or psychological assessments or screenings that are made available to the court; and
- (j) any other factors the court considers relevant.

(8) If a minor is ordered to a juvenile detention facility under Subsection (7), the minor shall remain in the facility until released by a district court judge, or if convicted, until sentencing.

(9) A minor held in a juvenile detention facility under this section shall have the same right to bail as any other criminal defendant.

(10) If the minor ordered to a juvenile detention facility under Subsection (7) attains the age of 18 years, the minor shall be transferred within 30 days to an adult jail until released by the district court judge, or if convicted, until sentencing.

(11) A minor 16 years of age or older whose conduct or condition endangers the safety or welfare of others in the juvenile detention facility may, by court order that specifies the reasons, be detained in another place of pretrial confinement considered appropriate by the court, including jail or other place of confinement for adults.

(12) The district court may reconsider the decision on where the minor will be held pursuant to Subsection (6).

(13) If an indictment is returned by a grand jury charging a violation under this section, the preliminary examination held by the juvenile court judge need not include a finding of probable cause that the crime alleged in the indictment was committed and that the defendant committed it, but the juvenile court shall proceed in accordance with this section regarding the additional considerations listed in Subsection (3)(b).

(14) When a defendant is charged with multiple criminal offenses in the same information or indictment and is bound over to answer in the district court for one or more charges under this section, other offenses arising from the same criminal episode and any subsequent misdemeanors or felonies charged against him shall be considered together with those charges, and where the court finds probable cause to believe that those crimes have been committed and that the defendant committed them, the defendant shall also be bound over to the district court to answer for those charges.

(15) When a minor has been bound over to the district court under this section, the jurisdiction of the Division of Juvenile Justice Services and the juvenile court over the minor is terminated regarding that offense, any other offenses arising from the same criminal episode, and any subsequent misdemeanors or felonies charged against the minor, except as provided in Subsection (19) or Section 78A-6-705.

(16) A minor who is bound over to answer as an adult in the district court under this section or on whom an indictment has been returned by a grand jury is not entitled to a preliminary examination in the district court.

(17) Allegations contained in the indictment or information that the defendant has previously been adjudicated or convicted of an offense involving the use of a dangerous weapon, or is 16 years of age or older, are not elements of the criminal offense and do not need to be proven at trial in the district court.

(18) If a minor enters a plea to, or is found guilty of, any of the charges filed or any other offense arising from the same criminal episode, the district court retains jurisdiction over the minor for all purposes, including sentencing.

(19) The juvenile court under Section 78A-6-103 and the Division of Juvenile Justice Services regain jurisdiction and any authority previously exercised over the minor when there is an acquittal, a finding of not guilty, or dismissal of all charges in the district court.

Section 5. Section 78A-6-703 is amended to read:

**78A-6-703. Certification hearings --
Juvenile court to hold preliminary hearing
-- Factors considered by juvenile court for
waiver of jurisdiction to district court.**

(1) If a criminal information filed in accordance with Subsection 78A-6-602(3) alleges the commission of an act which would constitute a felony if committed by an adult, the juvenile court shall conduct a preliminary hearing.

(2) At the preliminary hearing the state shall have the burden of going forward with its case and the burden of establishing:

(a) probable cause to believe that a crime was committed and that the defendant committed it; and

(b) by a preponderance of the evidence, that it would be contrary to the best interests of the minor or of the public for the juvenile court to retain jurisdiction.

(3) In considering whether or not it would be contrary to the best interests of the minor or of the public for the juvenile court to retain jurisdiction, the juvenile court shall consider, and may base its decision on, the finding of one or more of the following factors:

(a) the seriousness of the offense and whether the protection of the community requires isolation of the minor beyond that afforded by juvenile facilities;

(b) whether the alleged offense was committed by the minor under circumstances which would subject the minor to enhanced penalties under Section 76-3-203.1 if the minor were adult and the offense was committed:

(i) in concert with two or more persons;

(ii) for the benefit of, at the direction of, or in association with any criminal street gang as defined in Section 76-9-802; or

(iii) to gain recognition, acceptance, membership, or increased status with a criminal street gang as defined in Section 76-9-802;

(c) whether the alleged offense was committed in an aggressive, violent, premeditated, or willful manner;

(d) whether the alleged offense was against persons or property, greater weight being given to offenses against persons, except as provided in Section 76-8-418;

(e) the maturity of the minor as determined by considerations of the minor's home, environment, emotional attitude, and pattern of living;

(f) the record and previous history of the minor;

(g) the likelihood of rehabilitation of the minor by use of facilities available to the juvenile court;

(h) the desirability of trial and disposition of the entire offense in one court when the minor's

associates in the alleged offense are adults who will be charged with a crime in the district court;

(i) whether the minor used a firearm in the commission of an offense; and

(j) whether the minor possessed a dangerous weapon on or about school premises as provided in Section 76-10-505.5.

(4) The amount of weight to be given to each of the factors listed in Subsection (3) is discretionary with the court.

(5) (a) Written reports and other materials relating to the minor's mental, physical, educational, and social history may be considered by the court.

(b) If requested by the minor, the minor's parent, guardian, or other interested party, the court shall require the person or agency preparing the report and other material to appear and be subject to both direct and cross-examination.

(6) At the conclusion of the state's case, the minor may testify under oath, call witnesses, cross-examine adverse witnesses, and present evidence on the factors required by Subsection (3).

(7) At the time the minor is bound over to the district court, the juvenile court shall make the initial determination on where the minor shall be held.

(8) The juvenile court shall consider the following when determining where the minor will be held until the time of trial:

(a) the age of the minor;

(b) the nature, seriousness, and circumstances of the alleged offense;

(c) the minor's history of prior criminal acts;

(d) whether detention in a juvenile detention facility will adequately serve the need for community protection pending the outcome of any criminal proceedings;

(e) whether the minor's placement in a juvenile detention facility will negatively impact the functioning of the facility by compromising the goals of the facility to maintain a safe, positive, and secure environment for all minors within the facility;

(f) the relative ability of the facility to meet the needs of the minor and protect the public;

(g) whether the minor presents an imminent risk of harm to the minor or others within the facility;

(h) the physical maturity of the minor;

(i) the current mental state of the minor as evidenced by relevant mental health or psychological assessments or screenings that are made available to the court; and

(j) any other factors the court considers relevant.

(9) If a minor is ordered to a juvenile detention facility under Subsection (8), the minor shall remain in the facility until released by a district court judge, or if convicted, until sentencing.

(10) A minor held in a juvenile detention facility under this section shall have the same right to bail as any other criminal defendant.

(11) If the minor ordered to a juvenile detention facility under Subsection (8) attains the age of 18 years, the minor shall be transferred within 30 days to an adult jail until released by the district court judge, or if convicted, until sentencing.

(12) A minor 16 years of age or older whose conduct or condition endangers the safety or welfare of others in the juvenile detention facility may, by court order that specifies the reasons, be detained in another place of confinement considered appropriate by the court, including jail or other place of confinement for adults.

(13) The district court may reconsider the decision on where the minor shall be held pursuant to Subsection (7).

(14) If the court finds the state has met its burden under Subsection (2), the court may enter an order:

(a) certifying that finding; and

(b) directing that the minor be held for criminal proceedings in the district court.

(15) If an indictment is returned by a grand jury, the preliminary examination held by the juvenile court need not include a finding of probable cause, but the juvenile court shall proceed in accordance with this section regarding the additional consideration referred to in Subsection (2)(b).

(16) The provisions of Section 78A-6-115, Section 78A-6-1111, and other provisions relating to proceedings in juvenile cases are applicable to the hearing held under this section to the extent they are pertinent.

(17) A minor who has been directed to be held for criminal proceedings in the district court is not entitled to a preliminary examination in the district court.

(18) A minor who has been certified for trial in the district court shall have the same right to bail as any other criminal defendant and shall be advised of that right by the juvenile court judge. The juvenile court shall set initial bail in accordance with Title 77, Chapter 20, Bail.

(19) When a minor has been certified to the district court under this section, the jurisdiction of the Division of Juvenile Justice Services and the jurisdiction of the juvenile court over the minor is terminated regarding that offense, any other offenses arising from the same criminal episode, and any subsequent misdemeanors or felonies charged against the minor, except as provided in Subsection (21) or Section 78A-6-705.

(20) If a minor enters a plea to, or is found guilty of any of the charges filed or on any other offense arising out of the same criminal episode, the district court retains jurisdiction over the minor for all purposes, including sentencing.

(21) The juvenile court under Section 78A-6-103 and the Division of Juvenile Justice Services regain

jurisdiction and any authority previously exercised over the minor when there is an acquittal, a finding of not guilty, or dismissal of all charges in the district court.

Section 6. Section 78A-6-705 is enacted to read:

78A-6-705. Youth prison commitment.

(1) Before sentencing a minor who is under the jurisdiction of the district court under Section 78A-6-701, 78A-6-702, or 78A-6-703, to prison the court shall request a report from the Division of Juvenile Justice Services regarding the potential risk to other juveniles if the minor were to be committed to the custody of the division. The division shall submit the requested report to the court as part of the pre-sentence report or as a separate report.

(2) If, after receiving the report described in Subsection (1), the court determines that probation is not appropriate and commitment to prison is an appropriate sentence, the court shall order the minor committed to prison and the minor shall be provisionally housed in a secure facility operated by the Division of Juvenile Justice Services until the minor reaches 18 years of age, unless released earlier from incarceration by the Board of Pardons and Parole.

(3) The court may order the minor committed directly to the custody of the Department of Corrections if the court finds that:

(a) the minor would present an unreasonable risk to others while in the division's custody;

(b) the minor has previously been committed to a prison for adult offenders; or

(c) housing the minor in a secure facility operated by the Division of Juvenile Justice Services would be contrary to the interests of justice.

(4) The Division of Juvenile Justice Services shall adopt procedures by rule, pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding the transfer of a minor provisionally housed in a division facility under Subsection (2) to the custody of the Department of Corrections. If, in accordance with those rules, the division determines that housing the minor in a division facility presents an unreasonable risk to others or that it is not in the best interest of the minor, it shall transfer the physical custody of the minor to the Department of Corrections.

(5) When a minor is committed to prison but ordered by a court to be housed in a Division of Juvenile Justice Services facility under this section, the court and the division shall immediately notify the Board of Pardons and Parole so that the minor may be scheduled for a hearing according to board procedures. If a minor who is provisionally housed in a division facility under this section has not been paroled or otherwise released from incarceration by the time the minor reaches 18 years of age, the division shall as soon as reasonably possible, but not later than when the minor reaches 18 years and 6 months of age, transfer the minor to the physical custody of the Department of Corrections.

(6) Upon the commitment of a minor to the custody of the Division of Juvenile Justice Services or the Department of Corrections under this section, the Board of Pardons and Parole has authority over the minor for purposes of parole, pardon, commutation, termination of sentence, remission of fines or forfeitures, orders of restitution, and all other purposes authorized by law.

(7) The Youth Parole Authority may hold hearings, receive reports, or otherwise keep informed of the progress of a minor in the custody of the Division of Juvenile Justice Services under this section and may forward to the Board of Pardons and Parole any information or recommendations concerning the minor.

(8) Commitment of a minor under this section is a prison commitment for all sentencing purposes.

Section 7. Section 78A-6-1111 is amended to read:

**78A-6-1111. Right to counsel --
Appointment of counsel for indigent --
Costs.**

(1) (a) In any action in juvenile court initiated by the state, a political subdivision of the state, or a private party, the parents, legal guardian, and the minor, where applicable, shall be informed that they may be represented by counsel at every stage of the proceedings.

(b) In any action initiated by a private party, the parents or legal guardian shall have the right to employ counsel of their own choice at their own expense.

(c) If, in any action initiated by the state or a political subdivision of the state under Part 3, Abuse, Neglect, and Dependency Proceedings; Part 5, Termination of Parental Rights Act; or Part 10, Adult Offenses, of this chapter or under Section 78A-6-1101, a parent or legal guardian requests an attorney and is found by the court to be indigent, counsel shall be appointed by the court to represent the parent or legal guardian in all proceedings directly related to the petition or motion filed by the state, or a political subdivision of the state, subject to the provisions of this section.

(d) In any action initiated by the state, a political subdivision of the state, or a private party under Part 3, Abuse, Neglect, and Dependency Proceedings, or Part 5, Termination of Parental Rights Act, of this chapter, the child shall be represented by a guardian ad litem in accordance with Sections 78A-6-317 and 78A-6-902. The child shall also be represented by an attorney guardian ad litem in other actions initiated under this chapter when appointed by the court under Section 78A-6-902 or as otherwise provided by law.

(e) In any action initiated by the state or a political subdivision of the state under Part 6, Delinquency and Criminal Actions, or Part 7, Transfer of Jurisdiction, of this chapter, or against a minor under Section 78A-6-1101, the parents or legal guardian and the minor shall be informed that

the minor ~~may~~ has the right to be represented by counsel at every stage of the proceedings ~~[and that if].~~

(i) In cases where a minor is facing a felony level offense, the court shall appoint counsel, who shall appear until counsel is retained on the minor's behalf. The minor may not waive counsel unless the minor has had a meaningful opportunity to consult with a defense attorney. The court shall make findings on the record, taking into consideration the minor's unique circumstances and attributes, that the waiver is knowing and voluntary and the minor understands the consequences of waiving the right to counsel.

(ii) In all other situations the right to counsel may not be waived by a minor unless there has been a finding on the record, taking into consideration the minor's unique circumstances and attributes, that the waiver is knowing and voluntary, and the minor understands the consequences of waiving the right to counsel.

(iii) If the minor is found to be indigent, counsel shall be appointed by the court to represent the minor in all proceedings directly related to the petition or motion filed by the state or a political subdivision of the state, subject to the provisions of this section.

(f) Indigency of a parent, legal guardian, or minor shall be determined in accordance with the process and procedure defined in Section 77-32-202. The court shall take into account the income and financial ability of the parent or legal guardian to retain counsel in determining the indigency of the minor.

(g) The cost of appointed counsel for a party found to be indigent, including the cost of counsel and expense of the first appeal, shall be paid by the county in which the trial court proceedings are held. Counties may levy and collect taxes for these purposes.

(2) Counsel appointed by the court may not provide representation as court-appointed counsel for a parent or legal guardian in any action initiated by, or in any proceeding to modify court orders in a proceeding initiated by, a private party.

(3) If the county responsible to provide legal counsel for an indigent under Subsection (1)(g) has arranged by contract to provide services, the court shall appoint the contracting attorney as legal counsel to represent that indigent.

(4) The court may order a parent or legal guardian for whom counsel is appointed, and the parents or legal guardian of any minor for whom counsel is appointed, to reimburse the county for the cost of appointed counsel.

(5) The state, or an agency of the state, may not be ordered to reimburse the county for expenses incurred under Subsection (1)(g).

Section 8. Effective date.

Section 78A-6-122 takes effect October 1, 2015.

CHAPTER 339**S. B. 170**

Passed March 9, 2015

Approved March 30, 2015

Effective May 12, 2015

CAREER SERVICE REVIEW AMENDMENTS

Chief Sponsor: Todd Weiler
House Sponsor: Kraig Powell

LONG TITLE**General Description:**

This bill enacts language related to grievance procedures for an employee of a public entity.

Highlighted Provisions:

This bill:

- ▶ allows the administrator of the Career Service Review Office to act as a hearing officer in certain circumstances.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

67-19a-204, as last amended by Laws of Utah 2010, Chapter 249

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

Section 1. Section 67-19a-204 is amended to read:**67-19a-204. Administrator -- Powers.**

(1) In conjunction with any inquiry, investigation, hearing, or other proceeding, the administrator may:

- (a) administer an oath;
- (b) certify an official act;
- (c) subpoena a witness, document, and other evidence; and
- (d) grant a continuance as provided by rule.

(2) (a) The administrator may:

(i) assign qualified, impartial hearing officers on a per case basis to adjudicate matters under the authority of the office;

(ii) subpoena witnesses, documents, and other evidence in conjunction with any inquiry, investigation, hearing, or other proceeding; ~~and~~

(iii) upon motion made by a party or person to whom the subpoena is directed and upon notice to the party who issued the subpoena, quash or modify the subpoena if it is unreasonable, requires an excessive number of witnesses, or requests evidence not relevant to any matter in issue[-]; and

(iv) act as a hearing officer if the aggrieved employee consents.

(b) In selecting and assigning hearing officers under authority of this section, the administrator

shall appoint hearing officers that have demonstrated by education, training, and experience the ability to adjudicate and resolve personnel administration disputes by applying employee relations principles within a large, public work force.

CHAPTER 340**S. B. 171**

Passed March 11, 2015
 Approved March 30, 2015
 Effective May 12, 2015

METAL RECYCLING AMENDMENTS

Chief Sponsor: Scott K. Jenkins
 House Sponsor: Lee B. Perry

LONG TITLE**General Description:**

This bill deals with the recycling of engine blocks and the disposal of used oil.

Highlighted Provisions:

This bill:

- ▶ states that a person who recycles an engine block is not required to remove the used oil filter on that engine block; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

19-6-706, as last amended by Laws of Utah 2012, Chapter 360

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

Section 1. Section 19-6-706 is amended to read:**19-6-706. Disposal of used oil -- Prohibitions.**

(1) (a) Except as authorized by the director, or by rule of the board, or as exempted in this section, a person may not place, discard, or otherwise dispose of used oil:

(i) in any solid waste treatment, storage, or disposal facility operated by a political subdivision or a private entity, except as authorized for the disposal of used oil that is hazardous waste under state law;

(ii) in sewers, drainage systems, septic tanks, surface or ground waters, watercourses, or any body of water; or

(iii) on the ground.

(b) A person who unknowingly disposes of used oil in violation of Subsection (1)(a)(i) is not guilty of a violation of this section.

(2) (a) A person may dispose of an item or substance that contains de minimis amounts of oil in disposal facilities under Subsection (1)(a)(i) if:

(i) to the extent reasonably possible all oil has been removed from the item or substance; and

(ii) no free flowing oil remains in the item or substance.

(b) (i) A nonterne plated used oil filter complies with this section if it is not mixed with hazardous waste and the oil filter has been gravity hot-drained by one of the following methods:

(A) puncturing the filter antidrain back valve or the filter dome end and gravity hot-draining;

(B) gravity hot-draining and crushing;

(C) dismantling and gravity hot-draining; or

(D) any other equivalent gravity hot-draining method that will remove used oil from the filter at least as effectively as the methods listed in this Subsection (2)(b)(i).

(ii) As used in this Subsection (2), "gravity hot-drained" means drained for not less than 12 hours near operating temperature but above 60 degrees Fahrenheit.

(iii) This Subsection (2) does not require a person who recycles an engine block to drain a used oil filter or remove a used oil filter from that engine block.

(3) A person may not mix or commingle used oil with the following substances, except as incidental to the normal course of processing, mechanical, or industrial operations:

(a) solid waste that is to be disposed of in any solid waste treatment, storage, or disposal facility, except as authorized by the director under this chapter; or

(b) any hazardous waste so the resulting mixture may not be recycled or used for other beneficial purpose as authorized under this part.

(4) (a) This section does not apply to releases to land or water of de minimis quantities of used oil, except:

(i) the release of de minimis quantities of used oil is subject to any regulation or prohibition under the authority of the department; and

(ii) the release of de minimis quantities of used oil is subject to any rule made by the board under this part prohibiting the release of de minimis quantities of used oil to the land or water from tanks, pipes, or other equipment in which used oil is processed, stored, or otherwise managed by used oil handlers, except wastewater under Subsection 19-6-708(2)(j).

(b) As used in this Subsection (4), "de minimis quantities of used oil:"

(i) means small spills, leaks, or drippings from pumps, machinery, pipes, and other similar equipment during normal operations; and

(ii) does not include used oil discarded as a result of abnormal operations resulting in substantial leaks, spills, or other releases.

(5) Used oil may not be used for road oiling, dust control, weed abatement, or other similar uses that have the potential to release used oil in the environment, except in compliance with Section 19-6-711 and board rule.

(6) (a) (i) Facilities in existence on July 1, 1993, and subject to this section may apply to the director for an extension of time beyond that date to meet the requirements of this section.

(ii) The director may grant an extension of time beyond July 1, 1993, upon a finding of need under Subsection (6)(b) or (c).

(iii) The total of all extensions of time granted to one applicant under this Subsection (6)(a) may not extend beyond January 1, 1995.

(b) The director upon receipt of a request for an extension of time may request from the facility any information the director finds reasonably necessary to evaluate the need for an extension. This information may include:

(i) why the facility is unable to comply with the requirements of this section on or before July 1, 1993;

(ii) the processes or functions which prevent compliance on or before July 1, 1993;

(iii) measures the facility has taken and will take to achieve compliance; and

(iv) a proposed compliance schedule, including a proposed date for being in compliance with this section.

(c) Additional extensions of time may be granted by the director upon application by the facility and a showing by the facility that:

(i) the additional extension is reasonably necessary; and

(ii) the facility has made a diligent and good faith effort to comply with this section within the time frame of the prior extension.

CHAPTER 341**S. B. 174**

Passed March 11, 2015
 Approved March 30, 2015
 Effective May 12, 2015

REGISTERED AGENTS AMENDMENTS

Chief Sponsor: Lyle W. Hillyard
 House Sponsor: V. Lowry Snow

LONG TITLE**General Description:**

This bill modifies provisions related to doing business under an assumed name to address registered agents.

Highlighted Provisions:

This bill:

- ▶ requires an entity to designate a registered agent;
- ▶ provides for changes in registered agents; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

42-2-5, as last amended by Laws of Utah 2010, Chapter 43

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

Section 1. Section 42-2-5 is amended to read:**42-2-5. Certificate of assumed and of true name -- Contents -- Execution -- Filing -- Notice.**

(1) For purposes of this section, "filed" means the Division of Corporations and Commercial Code has:

- (a) received and approved, as to form, a document submitted under this chapter; and
- (b) marked on the face of the document a stamp or seal indicating:
 - (i) the time of day and date of approval;
 - (ii) the name of the division; and
 - (iii) the division director's signature and division seal, or facsimiles of the signature or seal.

(2) A person who carries on, conducts, or transacts business in this state under an assumed name, whether that business is carried on, conducted, or transacted as an individual, association, partnership, corporation, or otherwise, shall:

(a) file with the Division of Corporations and Commercial Code a certificate setting forth:

~~(a)~~ (i) the name under which the business is, or is to be carried on, conducted, or transacted;

~~(b)~~ (ii) the full true name, or names, of the person owning, and the person carrying on, conducting, or transacting the business; and

~~(e)~~ (iii) the location of the principal place of business, and the street address of the person~~[-];~~ and

(b) designate, in accordance with Subsection 16-17-203(1), and maintain a registered agent in this state.

(3) A certificate filed under this section shall be:

(a) executed by the person owning, and the person carrying on, conducting, or transacting the business;

(b) filed not later than 30 days after the time of commencing to carry on, conduct, or transact the business; and

(c) submitted in a machine printed format.

(4) A certificate filed with the Division of Corporations and Commercial Code under this chapter shall include the following notice in a conspicuous place on the face thereof:

NOTICE - THE FILING OF THIS APPLICATION AND ITS APPROVAL BY THE DIVISION OF CORPORATIONS AND COMMERCIAL CODE DOES NOT AUTHORIZE THE USE IN THE STATE OF UTAH OF AN ASSUMED NAME IN VIOLATION OF THE RIGHTS OF ANOTHER UNDER FEDERAL, STATE, OR COMMON LAW (SEE UTAH CODE ANN. SECTIONS 42-2-5 ET SEQ.).

(5) (a) A certificate filed under this section shall include a portion that allows the person filing the form to voluntarily disclose the gender and race of one or more owners of the entity for which the filing is made.

(b) Race shall be indicated under Subsection (5)(a) by selecting from the categories of race listed in 15 U.S.C. Sec. 631(f).

(c) A person is not required to provide information under Subsection (5)(a) concerning the gender or race of one or more owners of the entity for which the filing is made.

(d) (i) The Division of Corporations and Commercial Code shall compile information concerning the gender or race included on certificates filed with the Division of Corporations and Commercial Code.

(ii) Information compiled by the Division of Corporations and Commercial Code under Subsection (5)(d)(i) may be compiled in a manner determined by the Division of Corporations and Commercial Code by rules made pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(6) A person who carries on, conducts, or transacts business in this state under an assumed name, whether that business is carried on, conducted, or transacted as an individual, association, partnership, corporation, or otherwise, may change its registered agent or the address of its registered agent by filing with the division a statement of change in accordance with Section 16-17-206.

CHAPTER 342**S. B. 176**

Passed March 11, 2015
 Approved March 30, 2015
 Effective May 12, 2015

**GOVERNMENTAL IMMUNITY
 ACT AMENDMENTS**

Chief Sponsor: Curtis S. Bramble
 House Sponsor: Keven J. Stratton

LONG TITLE**General Description:**

This bill modifies provisions of the Governmental Immunity Act of Utah.

Highlighted Provisions:

This bill:

- ▶ provides that immunity is retained unless expressly waived;
- ▶ modifies provisions relating to governmental immunity;
- ▶ modifies language relating to actions that constitute an exception to a waiver of governmental immunity, replacing that language with language indicating that immunity is not waived for an injury under specified conditions; and
- ▶ makes other technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53A-3-413, as last amended by Laws of Utah 2014, Chapter 73
 63G-7-101, as renumbered and amended by Laws of Utah 2008, Chapter 382
 63G-7-201, as last amended by Laws of Utah 2012, Chapter 24
 63G-7-301, as last amended by Laws of Utah 2014, Chapter 145

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

Section 1. Section 53A-3-413 is amended to read:**53A-3-413. Use of public school buildings and grounds as civic centers.**

(1) As used in this section, "civic center" means a public school building or ground that is established and maintained as a limited public forum to district residents for supervised recreational activities and meetings.

(2) Except as provided in Subsection (3), all public school buildings and grounds shall be civic centers.

(3) The use of school property for a civic center purpose:

(a) may not interfere with a school function or purpose; and

(b) is considered a permit for governmental immunity purposes for a governmental entity under Subsection [63G-7-301(5)(e)] 63G-7-201(4)(c).

Section 2. Section 63G-7-101 is amended to read:**63G-7-101. Title -- Scope of waivers and retentions of immunity.**

(1) This chapter is known as the "Governmental Immunity Act of Utah."

(2) ~~[(a)]~~ The scope of the waivers and retentions of immunity found in this comprehensive chapter apply:

(a) applies to all functions of government, no matter how labeled~~[-]~~; and

(b) ~~[This single, comprehensive chapter]~~ governs all claims against governmental entities or against their employees or agents arising out of the performance of the employee's duties, within the scope of employment, or under color of authority.

(3) A governmental entity and an employee of a governmental entity retain immunity from suit unless that immunity has been expressly waived in this chapter.

Section 3. Section 63G-7-201 is amended to read:**63G-7-201. Immunity of governmental entities and employees from suit.**

(1) Except as ~~[may be]~~ otherwise provided in this chapter, each governmental entity and each employee of a governmental entity are immune from suit for any injury that results from the exercise of a governmental function.

(2) Notwithstanding the waiver of immunity provisions of Section 63G-7-301, a governmental entity, its officers, and its employees are immune from suit for any injury or damage resulting from the implementation of or the failure to implement measures to:

(a) control the causes of epidemic and communicable diseases and other conditions significantly affecting the public health or necessary to protect the public health as set out in Title 26A, Chapter 1, Local Health Departments;

(b) investigate and control suspected bioterrorism and disease as set out in Title 26, Chapter 23b, Detection of Public Health Emergencies Act;

(c) respond to a national, state, or local emergency, a public health emergency as defined in Section 26-23b-102, or a declaration by the President of the United States or other federal official requesting public health related activities; and

(d) adopt methods or measures, in accordance with Section 26-1-30, for health care providers, public health entities, and health care insurers to coordinate among themselves to verify the identity of the individuals they serve.

(3) A governmental entity, its officers, and its employees are immune from suit, and immunity is not waived, for any injury if the injury arises out of or in connection with, or results from:

(a) a latent dangerous or latent defective condition of:

(i) any highway, road, street, alley, crosswalk, sidewalk, culvert, tunnel, bridge, or viaduct; or

(ii) another structure located on any of the items listed in Subsection (3)(a)(i); or

(b) a latent dangerous or latent defective condition of any public building, structure, dam, reservoir, or other public improvement.

(4) A governmental entity, its officers, and its employees are immune from suit, and immunity is not waived, for any injury proximately caused by a negligent act or omission of an employee committed within the scope of employment, if the injury arises out of or in connection with, or results from:

(a) the exercise or performance, or the failure to exercise or perform, a discretionary function, whether or not the discretion is abused;

(b) assault, battery, false imprisonment, false arrest, malicious prosecution, intentional trespass, abuse of process, libel, slander, deceit, interference with contract rights, infliction of mental anguish, or violation of civil rights;

(c) the issuance, denial, suspension, or revocation of, or the failure or refusal to issue, deny, suspend, or revoke, any permit, license, certificate, approval, order, or similar authorization;

(d) a failure to make an inspection or making an inadequate or negligent inspection;

(e) the institution or prosecution of any judicial or administrative proceeding, even if malicious or without probable cause;

(f) a misrepresentation by an employee whether or not the misrepresentation is negligent or intentional;

(g) a riot, unlawful assembly, public demonstration, mob violence, or civil disturbance;

(h) the collection or assessment of taxes;

(i) an activity of the Utah National Guard;

(j) the incarceration of a person in a state prison, county or city jail, or other place of legal confinement;

(k) a natural condition on publicly owned or controlled land;

(l) a condition existing in connection with an abandoned mine or mining operation;

(m) an activity authorized by the School and Institutional Trust Lands Administration or the Division of Forestry, Fire, and State Lands;

(n) the operation or existence of a pedestrian or equestrian trail that is along a ditch, canal, stream,

or river, regardless of ownership or operation of the ditch, canal, stream, or river, if:

(i) the trail is designated under a general plan adopted by a municipality under Section 10-9a-401 or by a county under Section 17-27a-401;

(ii) the trail right-of-way or the right-of-way where the trail is located is open to public use as evidenced by a written agreement between:

(A) the owner or operator of the trail right-of-way or of the right-of-way where the trail is located; and

(B) the municipality or county where the trail is located; and

(iii) the written agreement:

(A) contains a plan for operation and maintenance of the trail; and

(B) provides that an owner or operator of the trail right-of-way or of the right-of-way where the trail is located has, at a minimum, the same level of immunity from suit as the governmental entity in connection with or resulting from the use of the trail;

(o) research or implementation of cloud management or seeding for the clearing of fog;

(p) the management of flood waters, earthquakes, or natural disasters;

(q) the construction, repair, or operation of flood or storm systems;

(r) the operation of an emergency vehicle, while being driven in accordance with the requirements of Section 41-6a-212;

(s) the activity of:

(i) providing emergency medical assistance;

(ii) fighting fire;

(iii) regulating, mitigating, or handling hazardous materials or hazardous wastes;

(iv) an emergency evacuation;

(v) transporting or removing an injured person to a place where emergency medical assistance can be rendered or where the person can be transported by a licensed ambulance service; or

(vi) intervening during a dam emergency;

(t) the exercise or performance, or the failure to exercise or perform, any function pursuant to Title 73, Chapter 10, Board of Water Resources - Division of Water Resources;

(u) an unauthorized access to government records, data, or electronic information systems by any person or entity; or

(v) an activity of wildlife, as defined in Section 23-13-2, that arises during the use of a public or private road.

Section 4. Section 63G-7-301 is amended to read:

63G-7-301. Waivers of immunity.

(1) (a) Immunity from suit of each governmental entity is waived as to any contractual obligation.

(b) Actions arising out of contractual rights or obligations are not subject to the requirements of Sections 63G-7-401, 63G-7-402, 63G-7-403, or 63G-7-601.

(c) The Division of Water Resources is not liable for failure to deliver water from a reservoir or associated facility authorized by Title 73, Chapter 26, Bear River Development Act, if the failure to deliver the contractual amount of water is due to drought, other natural condition, or safety condition that causes a deficiency in the amount of available water.

(2) Immunity from suit of each governmental entity is waived:

(a) as to any action brought to recover, obtain possession of, or quiet title to real or personal property;

(b) as to any action brought to foreclose mortgages or other liens on real or personal property, to determine any adverse claim on real or personal property, or to obtain an adjudication about any mortgage or other lien that the governmental entity may have or claim on real or personal property;

(c) as to any action based on the negligent destruction, damage, or loss of goods, merchandise, or other property while it is in the possession of any governmental entity or employee, if the property was seized for the purpose of forfeiture under any provision of state law;

(d) subject to Subsection 63G-7-302(1), as to any action brought under the authority of [Article I, Section 22, of the] Utah Constitution, Article I, Section 22, for the recovery of compensation from the governmental entity when the governmental entity has taken or damaged private property for public uses without just compensation;

(e) subject to Subsection 63G-7-302(2), as to any action brought to recover attorney fees under Sections 63G-2-405 and 63G-2-802;

(f) for actual damages under Title 67, Chapter 21, Utah Protection of Public Employees Act; [or]

(g) as to any action brought to obtain relief from a land use regulation that imposes a substantial burden on the free exercise of religion under Title 63L, Chapter 5, Utah Religious Land Use Act[.];

[~~(3) (a) Except as provided in Subsection (3)(b), immunity from suit of each governmental entity is waived as to any injury caused by:~~

~~(i) a defective, unsafe, or dangerous condition of any highway, road, street, alley, crosswalk, sidewalk, culvert, tunnel, bridge, viaduct, or other structure located on them; or]~~

~~(ii) any defective or dangerous condition of a public building, structure, dam, reservoir, or other public improvement.]~~

~~(b) Immunity from suit of each governmental entity is not waived if the injury arises out of, in connection with, or results from:]~~

~~(i) a latent dangerous or latent defective condition of any highway, road, street, alley, crosswalk, sidewalk, culvert, tunnel, bridge, viaduct, or other structure located on them; or]~~

~~(ii) a latent dangerous or latent defective condition of any public building, structure, dam, reservoir, or other public improvement.]~~

~~(4) Immunity from suit of each governmental entity is waived]~~

~~(h) except as provided in Subsection 63G-7-201(3), as to any injury caused by:~~

~~(i) a defective, unsafe, or dangerous condition of any highway, road, street, alley, crosswalk, sidewalk, culvert, tunnel, bridge, viaduct, or other structure located on them; or~~

~~(ii) any defective or dangerous condition of a public building, structure, dam, reservoir, or other public improvement; and~~

~~(i) subject to Subsection 63G-7-201(4), as to any injury proximately caused by a negligent act or omission of an employee committed within the scope of employment.~~

~~(5) Immunity from suit of each governmental entity is not waived under Subsections (3) and (4) if the injury arises out of, in connection with, or results from:]~~

~~(a) the exercise or performance, or the failure to exercise or perform, a discretionary function, whether or not the discretion is abused;]~~

~~(b) assault, battery, false imprisonment, false arrest, malicious prosecution, intentional trespass, abuse of process, libel, slander, deceit, interference with contract rights, infliction of mental anguish, or violation of civil rights;]~~

~~(c) the issuance, denial, suspension, or revocation of, or by the failure or refusal to issue, deny, suspend, or revoke, any permit, license, certificate, approval, order, or similar authorization;]~~

~~(d) a failure to make an inspection or by making an inadequate or negligent inspection;]~~

~~(e) the institution or prosecution of any judicial or administrative proceeding, even if malicious or without probable cause;]~~

~~(f) a misrepresentation by an employee whether or not it is negligent or intentional;]~~

~~(g) riots, unlawful assemblies, public demonstrations, mob violence, and civil disturbances;]~~

~~(h) the collection of and assessment of taxes;]~~

~~(i) the activities of the Utah National Guard;]~~

~~(j) the incarceration of any person in any state prison, county or city jail, or other place of legal confinement;]~~

~~[(k) any natural condition on publicly owned or controlled lands;]~~

~~[(l) any condition existing in connection with an abandoned mine or mining operation;]~~

~~[(m) any activity authorized by the School and Institutional Trust Lands Administration or the Division of Forestry, Fire, and State Lands;]~~

~~[(n) the operation or existence of a pedestrian or equestrian trail that is along a ditch, canal, stream, or river, regardless of ownership or operation of the ditch, canal, stream, or river, if:]~~

~~[(i) the trail is designated under a general plan adopted by a municipality under Section 10-9a-401 or by a county under Section 17-27a-401;]~~

~~[(ii) the trail right-of-way or the right-of-way where the trail is located is open to public use as evidenced by a written agreement between the owner or operator of the trail right-of-way, or of the right-of-way where the trail is located, and the municipality or county where the trail is located; and]~~

~~[(iii) the written agreement;]~~

~~[(A) contains a plan for operation and maintenance of the trail; and]~~

~~[(B) provides that an owner or operator of the trail right-of-way or of the right-of-way where the trail is located has, at minimum, the same level of immunity from suit as the governmental entity in connection with or resulting from the use of the trail.]~~

~~[(o) research or implementation of cloud management or seeding for the clearing of fog;]~~

~~[(p) the management of flood waters, earthquakes, or natural disasters;]~~

~~[(q) the construction, repair, or operation of flood or storm systems;]~~

~~[(r) the operation of an emergency vehicle, while being driven in accordance with the requirements of Section 41-6a-212;]~~

~~[(s) the activities of:]~~

~~[(i) providing emergency medical assistance;]~~

~~[(ii) fighting fire;]~~

~~[(iii) regulating, mitigating, or handling hazardous materials or hazardous wastes;]~~

~~[(iv) emergency evacuations;]~~

~~[(v) transporting or removing injured persons to a place where emergency medical assistance can be rendered or where the person can be transported by a licensed ambulance service; or]~~

~~[(vi) intervening during dam emergencies;]~~

~~[(t) the exercise or performance, or the failure to exercise or perform, any function pursuant to Title 73, Chapter 10, Board of Water Resources — Division of Water Resources;]~~

~~[(u) unauthorized access to government records, data, or electronic information systems by any person or entity; or]~~

~~[(v) injury related to the activity of wildlife, as defined in Section 23-13-2, that arises during the use of a public or private road.]~~

CHAPTER 343**S. B. 177**

Passed March 11, 2015
 Approved March 30, 2015
 Effective May 12, 2015

**DENTAL HYGIENIST
 PRACTICE AMENDMENTS**

Chief Sponsor: Stephen H. Urquhart
 House Sponsor: V. Lowry Snow

LONG TITLE**General Description:**

This bill amends provisions related to the practice of dental hygiene.

Highlighted Provisions:

This bill:

- ▶ modifies the scope of practice for a licensed dental hygienist; and
- ▶ modifies unlawful conduct standards for a licensed dental hygienist.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

58-69-102, as enacted by Laws of Utah 1996, Chapter 116
 58-69-501, as enacted by Laws of Utah 1996, Chapter 116
 58-69-801, as enacted by Laws of Utah 1996, Chapter 116

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

Section 1. Section 58-69-102 is amended to read:

58-69-102. Definitions.

In addition to the definitions in Section 58-1-102, as used in this chapter:

(1) "Board" means the Dentist and Dental Hygienist Licensing Board created in Section 58-69-201.

(2) "Dental assistant" means an unlicensed individual who engages in, directly or indirectly, supervised acts and duties as defined by division rule made in collaboration with the board.

(3) "Direct supervision" means the supervising dentist is present and available for face-to-face communication with the person being supervised when and where professional services are being provided.

(4) "General supervision" means that the supervising dentist is available for consultation regarding work the supervising dentist has authorized, without regard as to whether the supervising dentist is located on the same premises as the person being supervised.

(5) "Indirect supervision" means that the supervising dentist is present within the facility in which the person being supervised is providing services and is available to provide immediate face-to-face communication with the person being supervised.

[~~(7)~~] (6) "Practice of dental hygiene" means, regarding humans:

(a) under the general supervision of a dentist, or under a written agreement with a dentist licensed under this chapter, as provided in Section 58-69-801, to:

(i) perform preliminary clinical examination of human teeth and gums;

(ii) make preliminary instrumental examination of patients' teeth;

(iii) expose dental radiographs;

(iv) assess dental hygiene status and collaborate with the supervising dentist regarding a dental hygiene treatment plan for a patient;

(v) remove deposits, accumulations, calculus, and concretions from the surfaces of human teeth;

(vi) remove toxins and debris from subgingival surfaces;

(vii) provide dental hygiene care in accordance with a dentist's treatment plan for a patient;

(viii) take impressions of teeth or jaws except for impressions or registrations to supply artificial teeth as substitutes for natural teeth; or

(ix) engage in other practices of dental hygiene as defined by division rule;

(b) under the indirect supervision of a dentist to administer in accordance with standards and ethics of the professions of dentistry and dental hygiene:

(i) local anesthesia; or

(ii) nitrous oxide analgesia;

(c) to represent oneself by any title, degree, or in any other way as being a dental hygienist; or

(d) to direct a dental assistant when the supervising dentist is not on the premises.

[~~(6)~~] (7) "Practice of dentistry" means the following, regarding humans:

(a) to offer, undertake, or represent that a person will undertake by any means or method to:

(i) examine, evaluate, diagnose, treat, operate, or prescribe therapy for any disease, pain, injury, deficiency, deformity, or any other condition of the human teeth, alveolar process, gums, jaws, or adjacent hard and soft tissues and structures in the maxillofacial region;

(ii) take an appropriate history and physical consistent with the level of professional service to be provided and the available resources in the facility in which the service is to be provided;

(iii) take impressions or registrations;

(iv) supply artificial teeth as substitutes for natural teeth;

(v) remove deposits, accumulations, calculus, and concretions from the surfaces of teeth; and

(vi) correct or attempt to correct malposition of teeth;

(b) to administer anesthetics necessary or proper in the practice of dentistry only as allowed by an anesthesia permit obtained from the division;

(c) to administer and prescribe drugs related to and appropriate in the practice of dentistry;

(d) to supervise the practice of a dental hygienist or dental assistant as established by division rule made in collaboration with the board; or

(e) to represent oneself by any title, degree, or in any other way that one is a dentist.

(8) "Public health setting" means:

(a) an individual's residence, if the individual is unable to leave the residence;

(b) a school, as part of a school-based program;

(c) a nursing home;

(d) an assisted living or long-term care facility;

(e) a community health center;

(f) a federally-qualified health center; or

(g) a mobile dental health program that employs a dentist who is licensed under this chapter.

~~(8)~~ (9) "Supervising dentist" means a licensed dentist who has agreed to provide supervision of a dental hygienist or unlicensed individual in accordance with the provisions of this chapter.

~~(9)~~ (10) "Unlawful conduct" ~~is-as~~ means the same as that term is defined in Sections 58-1-501 and 58-69-501.

~~(10)~~ (11) "Unprofessional conduct" ~~is-as~~ means the same as that term is defined in Sections 58-1-501 and 58-69-502 and as may be further defined by rule.

Section 2. Section 58-69-501 is amended to read:

58-69-501. Unlawful conduct.

"Unlawful conduct" includes, in addition to the definition in Section 58-1-501:

(1) administering anesthesia or analgesia in the practice of dentistry or dental hygiene if the individual does not hold a current permit issued by the division authorizing that individual to administer the type of anesthesia or analgesia used;

(2) practice of dental hygiene by a licensed dental hygienist when not under the supervision of a dentist, or under a written agreement with a dentist who is licensed under this chapter and who is a Utah resident, in accordance with the provisions of this chapter; or

(3) directing or interfering with a licensed dentist's judgment and competent practice of dentistry.

Section 3. Section 58-69-801 is amended to read:

58-69-801. Dental hygienist -- Limitations on practice.

A dental hygienist licensed under this chapter may only practice dental hygiene:

(1) in an accredited dental or dental hygienist school to teach and demonstrate the practice of dental hygiene;

(2) for a public health agency;

(3) under the supervision of a dentist, for an employee leasing company or temporary personnel service company providing employees to a dentist or other person lawfully providing dental services:

(a) under the indirect supervision of a dentist licensed under this chapter at any time the dental hygienist is administering an anesthetic or analgesia as permitted under this chapter or division rules made under this chapter;

(b) under the general supervision of a dentist licensed under this chapter within the office of the supervising dentist and upon patients of record of the supervising dentist; and

(c) under the general supervision of a dentist licensed under this chapter, and the practice is conducted outside of the office of the supervising dentist, if:

(i) the dental hygiene work performed is authorized by the supervising dentist as a part of and in accordance with the supervising dentist's current treatment plan for the patient;

(ii) no anesthetic or analgesia is used;

(iii) the supervising dentist has determined the patient's general health and oral health are so that the dental hygiene work can be performed under general supervision and with an acceptable level of risk or injury as determined by the supervising dentist;

(iv) the supervising dentist accepts responsibility for the dental hygiene work performed under general supervision; and

(v) (A) the dental hygienist's work is performed on a patient who is homebound or within a hospital, nursing home, or public health agency or institution; and

(B) the patient is the supervising dentist's patient of record and the dentist has examined the patient within six months prior to the patient's receiving treatment from a dental hygienist under this Subsection[-] (3); and

(4) under a written agreement with a dentist who is licensed under this chapter and who is a Utah resident if:

(a) the dental hygienist practices in a public health setting; or

(b) the dentist is available in person, by phone, or by electronic communication;

(c) the agreement provides that the dental hygienist shall refer a patient with a dental need beyond the dental hygienist's scope of practice to a licensed dentist; and

(d) the dental hygienist obtains from each patient an informed consent form that provides that treatment by a dental hygienist is not a substitute for a dental examination by a dentist.

CHAPTER 344**S. B. 179**

Passed March 12, 2015
Approved March 30, 2015
Effective September 1, 2015

**AMENDMENTS TO
ECONOMIC DEVELOPMENT**

Chief Sponsor: Brian E. Shiozawa
House Sponsor: Rebecca P. Edwards

LONG TITLE**General Description:**

This bill modifies provisions related to the Governor's Office of Economic Development (GOED).

Highlighted Provisions:

This bill:

- ▶ modifies the definition of "high paying jobs";
- ▶ requires that the executive director of GOED be appointed by the governor, with the consent of the Senate;
- ▶ modifies provisions related to GOED's administration of tax credit incentives, including the provision of tax-increment financing;
- ▶ modifies GOED's reporting of the credit incentives; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides a coordination clause.

Utah Code Sections Affected:**AMENDS:**

- 63M-1-202, as renumbered and amended by Laws of Utah 2008, Chapter 382
63M-1-2402, as enacted by Laws of Utah 2008, Chapter 372
63M-1-2403, as last amended by Laws of Utah 2010, Chapters 104 and 164
63M-1-2404, as last amended by Laws of Utah 2013, Chapter 392
63M-1-2405, as last amended by Laws of Utah 2013, Chapter 392
63M-1-2406, as last amended by Laws of Utah 2014, Chapter 371
63M-1-2407, as last amended by Laws of Utah 2013, Chapter 310

REPEALS:

- 63M-1-2408, as last amended by Laws of Utah 2010, Chapters 164, 323, and 391

Utah Code Sections Affected by Coordination Clause:

- 63M-1-2403, as last amended by Laws of Utah 2010, Chapters 104 and 164

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

Section 1. Section 63M-1-202 is amended to read:**63M-1-202. Director of office -- Appointment -- Removal -- Compensation.**

(1) The office shall be administered, [directed, controlled,] organized, and managed by [a] an executive director appointed by the governor, with the consent of the Senate.

(2) The executive director serves at the pleasure of the governor.

(3) The salary of the executive director shall be established by the governor within the salary range fixed by the Legislature in Title 67, Chapter 22, State Officer Compensation.

Section 2. Section 63M-1-2402 is amended to read:**63M-1-2402. Findings.**

~~[(1) The Legislature finds that:]~~

~~[(a) to foster and develop industry in Utah is a public purpose necessary to assure adequate employment for, and the welfare of, Utah's citizens and the growth of the state's economy;]~~

~~[(b) Utah loses prospective high paying jobs, new economic growth, and corresponding incremental new state and local revenues to competing states because of a wide variety of competing economic incentives offered by those states; and]~~

~~[(c) economic development initiatives and interests of state and local economic development officials should be aligned and united in the creation of higher paying jobs that will lift the wage levels of the communities in which those jobs will be created.]~~

~~[(2)] This part is enacted to:~~

~~(1) foster and develop industry in the state, to provide additional employment opportunities for Utah's citizens, and to improve the state's economy;~~

~~[(a)] (2) address the loss of prospective high paying jobs, the loss of new economic growth, and the corresponding loss of incremental new state and local revenues [by providing] to competing states caused by economic incentives offered by those states;~~

~~(3) provide tax credits to attract new commercial projects and new jobs in economic development zones in the state; and~~

~~[(b)] (4) provide a cooperative and unified working relationship between state and local economic development efforts.~~

Section 3. Section 63M-1-2403 is amended to read:**63M-1-2403. Definitions.**

As used in this part:

(1) "Business entity" means a person that enters into an agreement with the office to initiate a new

commercial project in Utah that will qualify the person to receive a tax credit under Section 59-7-614.2 or 59-10-1107.

(2) “Community development and renewal agency” ~~is as~~ has the same meaning as that term is defined in Section 17C-1-102.

(3) “Development zone” means an economic development zone created under Section 63M-1-2404.

(4) “High paying jobs” means:

(a) with respect to a business entity, the aggregate average annual gross wages, not including healthcare or other paid or unpaid benefits, of newly created full-time employment positions in a business entity that ~~compare favorably against~~ are at least 110% of the average wage of a community in which the employment positions will exist;

(b) with respect to a county, the aggregate average annual gross wages, not including healthcare or other paid or unpaid benefits, of newly created full-time employment positions in a new commercial project within the county that ~~compare favorably against~~ are at least 110% of the average wage of the county in which the employment positions will exist; or

(c) with respect to a city or town, the aggregate average annual gross wages, not including healthcare or other paid or unpaid benefits of newly created full-time employment positions in a new commercial project within the city or town that ~~compare favorably against~~ are at least 110% of the average wages of the city or town in which the employment positions will exist.

(5) “Local government entity” means a county, city, or town that enters into an agreement with the office to have a new commercial project that:

(a) is initiated within the county’s, city’s, or town’s boundaries; and

(b) qualifies the county, city, or town to receive a tax credit under Section 59-7-614.2.

(6) (a) “New commercial project” means an economic development opportunity that involves new or expanded industrial, manufacturing, distribution, or business services in Utah.

(b) “New commercial project” does not include retail business.

(7) (a) “New incremental jobs” means full-time employment positions that are filled by employees who work at least 30 hours per week and that are:

~~[(a) not shifted from one jurisdiction in the state to another jurisdiction in the state; and]~~

~~[(b)]~~ (i) with respect to a business entity, created in addition to the baseline count of employment positions that existed within the business entity before the new commercial project;

(ii) with respect to a county, created as a result of a new commercial project with respect to which the

county or a community development and renewal agency seeks to claim a tax credit under Section 59-7-614.2; or

(iii) with respect to a city or town, created as a result of a new commercial project with respect to which the city, town, or a community development and renewal agency seeks to claim a tax credit under Section 59-7-614.2.

(b) “New incremental jobs” may include full-time equivalent positions that are filled by more than one employee, if each employee who works less than 30 hours per week is provided benefits comparable to a full-time employee.

(c) “New incremental jobs” does not include jobs that are shifted from one jurisdiction in the state to another jurisdiction in the state.

(8) “New state revenues” means:

(a) with respect to a business entity:

(i) incremental new state sales and use tax revenues that a business entity pays under Title 59, Chapter 12, Sales and Use Tax Act, as a result of a new commercial project in a development zone;

(ii) incremental new state tax revenues~~, if any,~~ that a business entity pays as a result of a new commercial project in a development zone under:

(A) Title 59, Chapter 7, Corporate Franchise and Income Taxes;

(B) Title 59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and Information;

(C) Title 59, Chapter 10, Part 2, Trusts and Estates;

(D) Title 59, Chapter 10, Part 4, Withholding of Tax; or

(E) a combination of Subsections (8)(a)(ii)(A) through (D);

(iii) incremental new state tax revenues paid as individual income taxes under Title 59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and Information, by employees of a new or expanded industrial, manufacturing, distribution, or business service within a new commercial project as evidenced by payroll records that indicate the amount of employee income taxes withheld and transmitted to the State Tax Commission by the new or expanded industrial, manufacturing, distribution, or business service within the new commercial project; or

(iv) a combination of Subsections (8)(a)(i) through (iii); or

(b) with respect to a local government entity:

(i) incremental new state sales and use tax revenues that are collected under Title 59, Chapter 12, Sales and Use Tax Act, as a result of a new commercial project in a development zone;

(ii) incremental new state tax revenues~~, if any,~~ that are collected as a result of a new commercial project in a development zone under:

(A) Title 59, Chapter 7, Corporate Franchise and Income Taxes;

(B) Title 59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and Information;

(C) Title 59, Chapter 10, Part 2, Trusts and Estates;

(D) Title 59, Chapter 10, Part 4, Withholding of Tax; or

(E) a combination of Subsections (8)(b)(ii)(A) through (D);

(iii) incremental new state tax revenues paid as individual income taxes under Title 59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and Information, by employees of a new or expanded industrial, manufacturing, distribution, or business service within a new commercial project as evidenced by payroll records that indicate the amount of employee income taxes withheld and transmitted to the State Tax Commission by the new or expanded industrial, manufacturing, distribution, or business service within the new commercial project; or

(iv) a combination of Subsections (8)(b)(i) through (iii).

~~[(9) "Office" means the Governor's Office of Economic Development.]~~

~~[(10) (9) "Significant capital investment" means an amount of at least \$10,000,000 to purchase (a) capital [asset] or (a) fixed [asset] assets, which may include real property, personal property, and other fixtures related to a new commercial project:~~

~~[(a) with the primary purpose of the investment to increase a business entity's rate at which it produces goods based on output per unit of labor;]~~

~~[(b) (a) that represents an expansion of existing [Utah] operations[; and] in the state; or~~

~~[(c) (b) that maintains or increases the business entity's existing [Utah] work force in the state.~~

~~[(11) (10) "Tax credit" means an economic development tax credit created by Section 59-7-614.2 or 59-10-1107.~~

~~[(12) (11) "Tax credit amount" means the amount the office lists as a tax credit on a tax credit certificate for a taxable year.~~

~~[(13) (12) "Tax credit certificate" means a certificate issued by the office that:~~

~~(a) lists the name of the business entity, local government entity, or community development and renewal agency to which the office authorizes a tax credit;~~

~~(b) lists the business entity's, local government entity's, or community development and renewal agency's taxpayer identification number;~~

~~(c) lists the amount of tax credit that the office authorizes the business entity, local government entity, or community development and renewal agency for the taxable year; and~~

(d) may include other information as determined by the office.

Section 4. Section 63M-1-2404 is amended to read:

63M-1-2404. Creation of economic development zones -- Tax credits -- Assignment of tax credit.

(1) The office, with advice from the board, may create an economic development zone in the state ~~[that satisfies all of]~~ if the following requirements are satisfied:

(a) the area is zoned commercial, industrial, manufacturing, business park, research park, or other appropriate business related use in a community-approved master plan;

(b) the request to create a development zone has ~~[been forwarded to the office after]~~ first ~~[being]~~ been approved by an appropriate local government entity; and

(c) local incentives have been ~~[committed]~~ or will be committed to be provided within the area.

(2) (a) ~~[By following the procedures and requirements of]~~ In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office shall make rules establishing the ~~[conditions that]~~ requirements for a business entity or local government entity ~~[shall meet]~~ to qualify for a tax credit for a new commercial project in a development zone under this part.

(b) The office shall ensure that the ~~[conditions]~~ requirements described in Subsection (2)(a) include the following ~~[requirements]~~:

(i) the new commercial project ~~[must be]~~ is within the development zone;

(ii) the new commercial project includes direct investment within the geographic boundaries of the development zone;

(iii) the new commercial project brings new incremental jobs to Utah;

~~[(iv) the new commercial project includes significant capital investment, the creation of high paying jobs, or significant purchases from Utah vendors and providers, or any combination of these three economic factors;]~~

(iv) the new commercial project includes the creation of high paying jobs in the state, significant capital investment in the state, or significant purchases from vendors and providers in the state, or a combination of these three economic factors;

(v) the new commercial project generates new state revenues; and

~~(vi) [(A)] a business entity [or], a local government entity [qualifying for the tax credit], or a community development and renewal agency to which a local government entity assigns a tax credit under this section meets the requirements of Section 63M-1-2405[; or].~~

~~[(B) a community development and renewal agency to which a local government entity assigns a~~

tax credit under this section meets the requirements of Section 63M-1-2405.]

(3) (a) ~~[Subject to the other provisions of this Subsection (3), the office, with advice from]~~ The office, after consultation with the board, may enter into ~~[an]~~ a written agreement with a business entity or local government entity authorizing a tax credit to the business entity or local government entity if the business entity or local government entity meets the ~~[standards established under Subsection (2)]~~ requirements described in this section.

(b) (i) With respect to ~~[one]~~ a new commercial project, the office may authorize a tax credit to a business entity or a local government entity, but not both.

(ii) In determining whether to authorize a tax credit with respect to ~~[one]~~ a new commercial project to a business entity or a local government entity, the office shall authorize the tax credit in a manner that the office determines will result in providing the most effective incentive for the new commercial project.

(c) (i) ~~[The]~~ Except as provided in Subsection (3)(c)(ii), the office may not authorize or commit to authorize a tax credit ~~[if that tax credit]~~ that exceeds:

(A) 50% of the new state revenues from the new commercial project in any given year; or

(B) 30% of the new state revenues from the new commercial project over the lesser of the life of a new commercial project or 20 years~~[, whichever is less]~~.

~~[(ii) Notwithstanding Subsection (3)(c)(i), the office may authorize or commit to authorize a tax credit not exceeding 60% of new state revenues from the new commercial project in any given year, if the eligible business entity creates a significant number of high paying jobs and makes capital expenditures in the state of at least \$1,000,000,000.]~~

(ii) If the eligible business entity makes capital expenditures in the state of \$1,500,000,000 or more associated with a new commercial project, the office may:

(A) authorize or commit to authorize a tax credit not exceeding 60% of new state revenues over the lesser of the life of the project or 20 years, if the other requirements of this part are met;

(B) establish the year that state revenues and incremental jobs baseline data are measured for purposes of an incentive under this Subsection (3)(c)(ii); and

(C) offer an incentive under this Subsection (3)(c)(ii) or modify an existing incentive previously granted under Subsection (3)(c)(i) that is based on the baseline measurements described in Subsection (3)(c)(ii)(B), except that the incentive may not authorize or commit to authorize a tax credit of more than 60% of new state revenues in any one year.

(d) (i) A local government entity may by resolution assign a tax credit ~~[that]~~ authorized by the office ~~[authorizes to the local government entity]~~ to a community development and renewal agency.

(ii) The local government entity shall provide a copy of the resolution described in Subsection (3)(d)(i) to the office.

(iii) If a local government entity assigns a tax credit to a community development and renewal agency~~[-(A)]~~, the written agreement described in ~~[this section]~~ Subsection (3)(a) shall:

~~[(F)]~~ (A) be ~~[among]~~ between the office, the local government entity, and the community development and renewal agency; ~~[and]~~

~~[(H)]~~ (B) establish~~[-(A)]~~ the obligations of the local government entity and the community development and renewal agency; and

~~[(Bb)]~~ (C) establish the extent to which any of the local government entity's obligations are transferred to the community development and renewal agency~~[-]~~.

(iv) If a local government entity assigns a tax credit to a community development and renewal agency:

~~[(B)]~~ (A) the community development and renewal agency shall retain records as described in Subsection (4)(d); and

~~[(C)]~~ (B) a tax credit certificate issued in accordance with Section 63M-1-2406 shall list the community development and renewal agency as the ~~[name of the]~~ named applicant.

(4) ~~[Subject to Subsection (3), the]~~ The office shall ensure that the written agreement described in Subsection (3):

(a) ~~[details]~~ specifies the requirements that the business entity or local government entity shall meet to qualify for a tax credit under this part;

(b) specifies the maximum amount of tax credit that the business entity or local government entity may be authorized for a taxable year and over the life of the new commercial project;

(c) establishes the length of time the business entity or local government entity may claim a tax credit;

(d) requires the business entity or local government entity to retain records supporting a claim for a tax credit for at least four years after the business entity or local government entity claims a tax credit under this part; and

(e) requires the business entity or local government entity to submit to audits for verification of the tax credit claimed.

Section 5. Section 63M-1-2405 is amended to read:

63M-1-2405. Qualifications for tax credit -- Procedure.

(1) The office shall certify a business entity's or local government entity's eligibility for a tax credit as provided in this ~~[section]~~ part.

(2) A business entity or local government entity seeking to receive a tax credit as provided in this part shall provide the office with:

(a) an application for a tax credit certificate, including a certification, by an officer of the business entity, of any signature on the application;

(b) (i) for a business entity, documentation of the new state revenues from the business entity's new commercial project that were paid during the preceding calendar year; or

(ii) for a local government entity, documentation of the new state revenues from the new commercial project within the area of the local government entity that were paid during the preceding calendar year;

(c) known or expected detriments to the state or existing businesses in the state;

(d) if a local government entity seeks to assign the tax credit to a community development and renewal agency ~~[in accordance with]~~ as described in Section 63M-1-2404, a statement providing the name and taxpayer identification number of the community development and renewal agency to which the local government entity seeks to assign the tax credit;

(e) (i) with respect to a business entity, a document that expressly directs and authorizes the State Tax Commission to disclose to the office the business entity's returns and other information that would otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code~~[-to the office]~~;

(ii) with respect to a local government entity that seeks to claim the tax credit:

(A) a document that expressly directs and authorizes the State Tax Commission to disclose to the office the local government entity's returns and other information that would otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code~~[-to the office]~~; and

(B) if the new state revenues collected as a result of a new commercial project are attributable in whole or in part to a new or expanded industrial, manufacturing, distribution, or business service within a new commercial project within the area of the local government entity, a document signed by an authorized representative of the new or expanded industrial, manufacturing, distribution, or business service that:

(I) expressly directs and authorizes the State Tax Commission to disclose to the office the returns of ~~[that]~~ the new or expanded industrial, manufacturing, distribution, or business service and other information that would otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code~~[-to the office]~~; and

(II) lists the taxpayer identification number of ~~[that]~~ the new or expanded industrial, manufacturing, distribution, or business service; or

(iii) with respect to a local government entity that seeks to assign the tax credit to a community development and renewal agency:

(A) a document signed by the members of the governing body of the community development and renewal agency that expressly directs and authorizes the State Tax Commission to disclose to the office the returns of the community development and renewal agency and other information that would otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code~~[-to the office]~~; and

(B) if the new state revenues collected as a result of a new commercial project are attributable in whole or in part to a new or expanded industrial, manufacturing, distribution, or business service within a new commercial project within the community development and renewal agency, a document signed by an authorized representative of the new or expanded industrial, manufacturing, distribution, or business service that:

(I) expressly directs and authorizes the State Tax Commission to disclose to the office the returns of ~~[that]~~ the new or expanded industrial, manufacturing, distribution, or business service and other information that would otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code~~[-to the office]~~; and

(II) lists the taxpayer identification number of ~~[that]~~ the new or expanded industrial, manufacturing, distribution, or business service; and

(f) for a business entity only, documentation that the business entity has satisfied the performance benchmarks outlined in the written agreement described in Subsection 63M-1-2404(3)(a), including:

(i) the creation of new incremental jobs that are also high paying jobs;

~~(i)~~ (ii) significant capital investment;

~~(ii) the creation of high paying jobs;~~

(iii) significant purchases from Utah vendors and providers; or

(iv) ~~[any]~~ a combination of ~~[Subsections (2)(f)(i), (ii), and (iii)]~~ these benchmarks.

(3) (a) The office shall submit the documents described in Subsection (2)(e) to the State Tax Commission.

(b) Upon receipt of a document described in Subsection (2)(e), the State Tax Commission shall provide the office with the returns and other information requested by the office that the State Tax Commission is directed or authorized to provide to the office in accordance with Subsection (2)(e).

(4) If, after review of the returns and other information provided by the State Tax Commission, or after review of the ongoing performance of the business entity or local government entity, the

office determines that the returns and other information are inadequate to provide a reasonable justification for authorizing or continuing a tax credit, the office shall:

- (a) (i) deny the tax credit; or
 - (ii) terminate the agreement described in Subsection 63M-1-2404(3)(a) for failure to meet the performance standards established in the agreement; or
 - (b) inform the business entity or local government entity that the returns or other information were inadequate and ask the business entity or local government entity to submit new documentation.
- (5) If after review of the returns and other information provided by the State Tax Commission, the office determines that the returns and other information provided by the business entity or local government entity provide reasonable justification for authorizing a tax credit, the office shall, based upon the returns and other information:
- (a) determine the amount of the tax credit to be granted to the business entity, local government entity, or if the local government entity assigns the tax credit ~~[in accordance with]~~ as described in Section 63M-1-2404, to the community development and renewal agency to which the local government entity assigns the tax credit;
 - (b) issue a tax credit certificate to the business entity, local government entity, or if the local government entity assigns the tax credit ~~[in accordance with]~~ as described in Section 63M-1-2404, to the community development and renewal agency to which the local government entity assigns the tax credit; and
 - (c) provide a duplicate copy of the tax credit certificate to the State Tax Commission.
- (6) A business entity, local government entity, or community development and renewal agency may not claim a tax credit unless the business entity, local government entity, or community development and renewal agency has a tax credit certificate issued by the office.
- (7) (a) A business entity, local government entity, or community development and renewal agency may claim a tax credit in the amount listed on the tax credit certificate on its tax return.
- (b) A business entity, local government entity, or community development and renewal agency that claims a tax credit under this section shall retain the tax credit certificate in accordance with Section 59-7-614.2 or 59-10-1107.

Section 6. Section 63M-1-2406 is amended to read:

63M-1-2406. Reports -- Posting monthly and annual reports -- Audit and study of tax credits.

(1) The office shall include the following information in the annual written report described in Section 63M-1-206:

- (a) the office's success in attracting new commercial projects to development zones under this part and the corresponding increase in new incremental jobs;
- (b) how many new incremental jobs and high paying jobs are employees of a company that received tax credits under this part, including the number of employees who work for a third-party rather than directly for a company, receiving the tax credits under this part;

~~[(b)]~~ (c) the estimated amount of tax credit commitments made by the office and the period of time over which tax credits will be paid;

~~[(e)]~~ (d) the economic impact on the state ~~[related to generating]~~ from new state revenues and ~~[providing]~~ the provision of tax credits under this part;

~~[(d)]~~ (e) the estimated costs and economic benefits of the tax credit commitments ~~[that]~~ made by the office ~~[made]~~;

~~[(e)]~~ (f) the actual costs and economic benefits of the tax credit commitments ~~[that]~~ made by the office ~~[made]~~; and

~~[(f)]~~ (g) tax credit commitments ~~[that]~~ made by the office ~~[made]~~, with the associated calculation.

(2) ~~[The]~~ Each month, the office shall ~~[monthly]~~ post on its website and on a state website:

- (a) the new tax credit commitments ~~[that]~~ made by the office ~~[made]~~ during the previous month; and
- (b) the estimated costs and economic benefits of those tax credit commitments.

(3) (a) On or before November 1, 2014, and every ~~[five]~~ three years after November 1, 2014, the office shall:

- (i) conduct an audit of the tax credits allowed under Section 63M-1-2405;
- (ii) study the tax credits allowed under Section 63M-1-2405; and
- (iii) make recommendations concerning whether the tax credits should be continued, modified, or repealed.

(b) ~~[An]~~ The audit ~~[under Subsection (3)(a)(i)]~~ shall include an evaluation of:

- (i) the cost of the tax credits;
- (ii) the purposes and effectiveness of the tax credits; ~~[and]~~
- (iii) the extent to which the state benefits from the tax credits~~[-]~~; and

(iv) the state's return on investment under this part measured by new state revenues, compared with the costs of tax credits provided and GOED's expenses in administering this part.

Section 7. Section 63M-1-2407 is amended to read:

63M-1-2407. Reports of new state revenues, partial rebates, and tax credits.

(1) Before ~~December~~ October 1 of each year, the office shall submit a report to the Governor's Office of Management and Budget, the Office of Legislative Fiscal Analyst, and the Division of Finance identifying:

(a) (i) the total estimated amount of new state revenues created from new commercial projects in ~~the~~ development zones; ~~and~~

(ii) the estimated amount of new state revenues from new commercial projects in ~~the~~ development zones that will be generated from:

- (A) sales tax;
- (B) income tax; and
- (C) corporate franchise and income tax;

(b) (i) the total estimated amount of partial rebates as defined in Section 63M-1-2408 that the office projects will be required to be paid in the next fiscal year; and

(ii) the estimated amount of partial rebates as defined in Section 63M-1-2408 that are attributable to:

- (A) sales tax;
- (B) income tax; and
- (C) corporate franchise and income tax; and

(iii) the minimum number of new incremental jobs and high paying jobs that will be created before any tax credit is awarded; and

(c) the total estimated amount of tax credits that the office projects that business entities, local government entities, or community development and renewal agencies will qualify to claim under this part.

(2) By the first business day of each month, the office shall submit a report to the Governor's Office of Management and Budget, the Office of Legislative Fiscal Analyst, and the Division of Finance identifying:

(a) each new agreement entered into by the office since the last report;

(b) the estimated amount of new state revenues that will be generated under each agreement; ~~and~~

(c) the estimated ~~maximum~~ amount of tax credits that a business entity, local government entity, or community development and renewal agency could qualify for under each agreement~~[-]; and~~

(d) the minimum number of new incremental jobs and high paying jobs that will be created before any tax credit is awarded.

(3) At the reasonable request of the Governor's Office of Management and Budget, the Office of Legislative Fiscal Analyst, or the Division of Finance, the office shall provide additional

information about the tax credit, new incremental jobs and high paying jobs, costs, and economic benefits related to this part, if the information is part of a public record as defined in Section 63G-2-103.

Section 8. Repealer.

This bill repeals:

Section 63M-1-2408, Transition clause -- Renegotiation of agreements -- Payment of partial rebates.

Section 9. Effective date.

This bill takes effect on September 1, 2015.

Section 10. Coordinating S.B. 179 with S.B. 18 -- Substantive and technical amendments.

If this S.B. 179 and S.B. 18, Governor's Office of Economic Development Revisions, both pass and become law, it is the intent of the Legislature that the amendments to Section 63M-1-2403 in this bill supersede the amendments to the newly renumbered Section 63N-2-103 in S.B. 18 when the Office of Legislative Research and General Counsel prepares the Utah Code database for publication.

CHAPTER 345**S. B. 180**

Passed March 10, 2015

Approved March 30, 2015

Effective May 12, 2015

ARBITRATION AMENDMENTS

Chief Sponsor: Stephen H. Urquhart

House Sponsor: V. Lowry Snow

LONG TITLE**General Description:**

This bill modifies the Insurance Code by amending provisions relating to arbitration in third party motor vehicle accident cases.

Highlighted Provisions:

This bill:

- ▶ requires a party that requests a trial de novo following an arbitration to file a copy of the notice requesting a trial de novo with the Insurance Commissioner notifying the commissioner of the party's request for a trial de novo.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

31A-22-321, as last amended by Laws of Utah 2010, Chapter 217

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

Section 1. Section 31A-22-321 is amended to read:**31A-22-321. Use of arbitration in third party motor vehicle accident cases.**

(1) A person injured as a result of a motor vehicle accident may elect to submit all third party bodily injury claims to arbitration by filing a notice of the submission of the claim to binding arbitration in a district court if:

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

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

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

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

(2) (a) If a party submits a bodily injury claim to arbitration under Subsection (1), the party submitting the claim or the party's representative is limited to an arbitration award that does not exceed \$50,000 in addition to any available personal injury protection benefits and any claim for property damage.

(b) A claim for reimbursement of personal injury protection benefits is to be resolved between insurers as provided for in Subsection 31A-22-309(6)(a)(ii).

(c) A claim for property damage may not be made in an arbitration proceeding under Subsection (1) unless agreed upon by the parties in writing.

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

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

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

(e) (i) This section does not prevent a party from pursuing an underinsured motorist claim as set out in Section 31A-22-305.3.

(ii) An underinsured motorist claim described in Subsection (2)(e)(i) is not limited to the \$50,000 limit described in Subsection (2)(a).

(iii) There shall be no right of subrogation on the part of the underinsured motorist carrier for a claim submitted to arbitration under this section.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) each side shall select one arbitrator; and

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

(7) Unless otherwise agreed to in writing:

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

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

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

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

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

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

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

(c) Discovery shall be conducted in accordance with Rules 26 through 37 of the Utah Rules of Civil Procedure and shall be subject to the jurisdiction of the district court in which the matter is filed.

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

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

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

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

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

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

(b) the arbitration award has been satisfied.

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

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

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

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

(b) In accordance with Rule 38, Utah Rules of Civil Procedure, either party may request a jury trial with a request for trial de novo filed under Subsection (11)(a)(i).

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

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

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

(ii) the costs of expert witnesses and depositions.

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

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

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

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

(ii) the costs of expert witnesses and depositions.

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

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

(a) was not fully disclosed in writing prior to the arbitration proceeding; or

(b) was not disclosed in response to discovery contrary to the Utah Rules of Civil Procedure.

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

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

(18) (a) If a defendant requests a trial de novo under Subsection (11), in no event can the total verdict at trial exceed \$15,000 above any available limits of insurance coverage and in no event can the total verdict exceed \$65,000.

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

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

(20) If a party requests a trial de novo under Subsection (11), the party shall file a copy of the notice requesting a trial de novo with the commissioner notifying the commissioner of the party's request for a trial de novo under Subsection (11).

CHAPTER 346**S. B. 181**

Passed March 2, 2015

Approved March 30, 2015

Effective May 12, 2015

DRIVER LICENSE MODIFICATIONS

Chief Sponsor: Curtis S. Bramble

House Sponsor: Lee B. Perry

LONG TITLE**General Description:**

This bill modifies the Uniform Driver License Act by amending provisions relating to court reporting of convictions to the Driver License Division.

Highlighted Provisions:

This bill:

- ▶ provides that a court is not required to forward to the Driver License Division within five days an abstract of the court record of the conviction for certain drug violations and the Driver License Division is not required to suspend a person's license for certain drug violations if the person convicted of the violation was not an operator of a motor vehicle at the time of the violation; and
- ▶ makes technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53-3-218, as last amended by Laws of Utah 2011, Chapter 190

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

Section 1. Section 53-3-218 is amended to read:**53-3-218. Court to report convictions and may recommend suspension of license -- Severity of speeding violation defined.**

(1) As used in this section, "conviction" means conviction by the court of first impression or final administrative determination in an administrative traffic proceeding.

(2) (a) Except as provided in Subsection (2)(c), a court having jurisdiction over offenses committed under this chapter or any other law of this state, or under any municipal ordinance regulating driving motor vehicles on highways or driving motorboats on the water, shall forward to the division within five days, an abstract of the court record of the conviction or plea held in abeyance of any person in the court for a reportable traffic or motorboating violation of any laws or ordinances, and may recommend the suspension of the license of the person convicted.

(b) When the division receives a court record of a conviction or plea in abeyance for a motorboat violation, the division may only take action against a person's driver license if the motorboat violation is

for a violation of Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving.

(c) (i) A court is not required to forward to the division within five days an abstract of the court record of the conviction for a violation described in Subsection 53-3-220(1)(c) and the Driver License Division is not required to suspend a person's license for a violation described in Subsection 53-3-220(1)(c) if the person:

~~[(A) the violation did not involve a motor vehicle; and]~~

~~[(B) the person]~~ (A) convicted of a violation described in Subsection 53-3-220(1)(c)[:] was not an operator of a motor vehicle at the time of the violation; and

(B) (I) is participating in or has successfully completed substance abuse treatment at a licensed substance abuse treatment program that is approved by the Division of Substance Abuse and Mental Health in accordance with Section 62A-15-105; or

(II) is participating in or has successfully completed probation through the Department of Corrections Adult Probation and Parole in accordance with Section 77-18-1.

(ii) If the person convicted of a violation described in Subsection 53-3-220(1)(c) fails to comply with the terms of a substance abuse treatment program under Subsection (2)(c)(i)(B)(I) or the terms of probation under Subsection (2)(c)(i)(B)(II):

(A) the substance abuse treatment program licensed by the Division of Substance Abuse and Mental Health or the Department of Corrections Adult Probation and Parole shall immediately provide an affidavit or other sworn information to the court notifying the court that the person has failed to comply with the terms of a substance abuse treatment program under Subsection (2)(c)(i)(B)(I) or the terms of probation under Subsection (2)(c)(i)(B)(II);

(B) upon receipt of an affidavit or sworn statement under Subsection (2)(c)(ii)(A), the court shall immediately forward an abstract of the court record of the conviction for a violation described in Subsection 53-3-220(1)(c) to the division; and

(C) the division shall immediately suspend the person's license in accordance with Subsection 53-3-220(1)(c).

(3) The abstract shall be made in the form prescribed by the division and shall include:

(a) the name, date of birth, and address of the party charged;

(b) the license certificate number of the party charged, if any;

(c) the registration number of the motor vehicle or motorboat involved;

(d) whether the motor vehicle was a commercial motor vehicle;

(e) whether the motor vehicle carried hazardous materials;

(f) whether the motor vehicle carried 16 or more occupants;

(g) whether the driver presented a commercial driver license;

(h) the nature of the offense;

(i) whether the offense involved an accident;

(j) the driver's blood alcohol content, if applicable;

(k) if the offense involved a speeding violation:

(i) the posted speed limit;

(ii) the actual speed; and

(iii) whether the speeding violation occurred on a highway that is part of the interstate system as defined in Section 72-1-102;

(l) the date of the hearing;

(m) the plea;

(n) the judgment or whether bail was forfeited; and

(o) the severity of the violation, which shall be graded by the court as "minimum," "intermediate," or "maximum" as established in accordance with Subsection 53-3-221(4).

(4) When a convicted person secures a judgment of acquittal or reversal in any appellate court after conviction in the court of first impression, the division shall reinstate the convicted person's license immediately upon receipt of a certified copy of the judgment of acquittal or reversal.

(5) Upon a conviction for a violation of the prohibition on using a handheld wireless communication device for text messaging or electronic mail communication while operating a moving motor vehicle under Section 41-6a-1716, a judge may order a suspension of the convicted person's license for a period of three months.

(6) Upon a conviction for a violation of careless driving under Section 41-6a-1715 that causes or results in the death of another person, a judge may order a revocation of the convicted person's license for a period of one year.

CHAPTER 347**S. B. 183**

Passed March 10, 2015
 Approved March 30, 2015
 Effective July 1, 2015

**JUDICIAL SALARIES
AND COMPENSATION**

Chief Sponsor: Lyle W. Hillyard
 House Sponsor: Brad R. Wilson

LONG TITLE**General Description:**

This bill addresses salaries and compensation of judges.

Highlighted Provisions:

This bill:

- ▶ addresses salaries and compensation of judges of courts of record; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

67-8-2, as last amended by Laws of Utah 1996, Chapter 198

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

Section 1. Section 67-8-2 is amended to read:**67-8-2. Salaries of judges established annually in appropriations act -- Bases of salaries -- Additional compensation.**

(1) The salaries of judges of courts of record, as described in Section 78A-1-101, shall be set annually by the Legislature in an appropriations act.

(2) Judicial salaries shall be based ~~[upon]~~ on the following percentages of the salary of a district court judge:

- (a) juvenile court judges: 100%;
- (b) Court of Appeals judges: 105%; and
- (c) ~~[associate]~~ justices of the Supreme Court: 110%.

(3) (a) A salary described in Subsection (2) does not include additional compensation provided for a presiding judge, presiding officer, or associate presiding judge in:

- (i) Section 78A-2-106;
- (ii) Section 78A-4-102;
- (iii) Section 78A-5-106; or
- (iv) Section 78A-6-203.

(b) Compensation described in Subsection (3)(a) does not constitute a salary for purposes of Utah Constitution, Article VIII, Section 14.

Section 2. Effective date.

This bill takes effect on July 1, 2015.

CHAPTER 348

S. B. 184

Passed March 4, 2015

Approved March 30, 2015

Effective July 1, 2015

**DRIVING PRIVILEGE CARD
APPLICATION AMENDMENTS**

Chief Sponsor: Curtis S. Bramble

House Sponsor: Lee B. Perry

LONG TITLE**General Description:**

This bill modifies the Uniform Driver License Act by amending provisions relating to driving privilege card applicant fingerprint and photograph submissions.

Highlighted Provisions:

This bill:

- ▶ provides that every applicant for an original driving privilege card shall submit with the application:
 - fingerprints and a photograph; and
 - a signed waiver from the person for participation in certain criminal records databases;
- ▶ provides that if the person has not submitted fingerprints and a photograph to the Driver License Division before a certain date, the person renewing a driving privilege card shall submit:
 - fingerprints and a photograph; and
 - a signed waiver from the person for participation in certain criminal records databases;
- ▶ amends the Bureau of Criminal Identification's maintenance, notification, and submission requirements for the fingerprints and photographs submitted with a driving privilege card application or renewal; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

53-3-205.5, as enacted by Laws of Utah 2011, Chapter 428

53-10-202, as last amended by Laws of Utah 2014, Chapter 226

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

Section 1. Section 53-3-205.5 is amended to read:**53-3-205.5. Fingerprint and photograph submission required for driving privilege card applicants and cardholders.**

(1) (a) Every applicant for [a] an original driving privilege card shall submit the following with the application to the division:

(i) fingerprints and a photograph in a sealed envelope provided by the Bureau of Criminal Identification or a law enforcement agency [~~with the application to the division.~~]; and

(ii) a signed waiver from the person whose fingerprints are being registered in the Federal Bureau of Investigation's Next Generation Identification system's Rap Back Service.

(b) [A] If a person has not submitted fingerprints and a photograph to the division on or after July 1, 2015, the person that renews a driving privilege card shall submit:

(i) fingerprints and a photograph in a sealed envelope provided by the Bureau of Criminal Identification or a law enforcement agency [~~to the division if the person has not previously submitted fingerprints and a photograph to the division.~~]; and

(ii) a signed waiver from the person whose fingerprints are being registered in the Federal Bureau of Investigation's Next Generation Identification system's Rap Back Service.

(c) The fingerprinting and photograph submission required under this Subsection (1) shall be conducted by:

(i) the Bureau of Criminal Identification; or

(ii) a law enforcement agency that has the capability of handling fingerprint and photograph submissions.

(2) The division shall submit fingerprints for each person described in Subsection (1) to the Bureau of Criminal Identification established in Section 53-10-201.

(3) (a) The Bureau of Criminal Identification shall [~~(a)]~~ check the fingerprints submitted under Subsection (1) against the applicable state and regional criminal records databases[;] and submit the fingerprints to national criminal records databases, including the Federal Bureau of Investigation's Next Generation Identification system.

[~~(b) notify:~~]

[~~(i) the federal Immigration and Customs Enforcement Agency of the United States Department of Homeland Security if the person has a felony in the person's criminal history record; or]~~

[~~(ii) the law enforcement agency that is directed to execute a warrant of arrest if an outstanding warrant of arrest has been issued against the person.]~~

[~~(4) (a) The Bureau of Criminal Identification shall maintain a separate file of fingerprints submitted under Subsection (1) and notify the following persons when a new entry is made in the applicable state and regional database against a person whose fingerprints are held in the file:]~~

[~~(i) the federal Immigration and Customs Enforcement Agency of the United States Department of Homeland Security if the person is involved in an arrest under state law involving a felony; or]~~

~~[(ii) the law enforcement agency that is directed to execute a warrant of arrest if an outstanding warrant of arrest is issued against the person.]~~

(b) The Bureau of Criminal Identification shall:

(i) maintain a separate file of fingerprints submitted under Subsection (1) for search by future submissions to the local and regional criminal records databases, including latent prints;

(ii) request that the fingerprints be retained in the Federal Bureau of Investigation's Next Generation Identification system's Rap Back Service for search by future submissions to national criminal records databases, including the Federal Bureau of Investigation's Next Generation Identification system and latent prints; and

(iii) establish a privacy risk mitigation strategy to ensure that the entity only receives notifications for individuals with whom the entity maintains an authorizing relationship.

(c) Notification of any existing criminal history record or existing or new warrant information and any new criminal history record information entered in local, state, or federal databases shall be made to the federal Immigration and Customs Enforcement Agency of the United States Department of Homeland Security if the person has a criminal history or warrant record or a new criminal history or warrant record is entered in local, state, or federal databases.

~~[(b)]~~ (d) Upon request of the agency described in Subsection [(4)(a)(i)] (3)(c), the Bureau of Criminal Identification shall inform the agency whether a person whose arrest was reported under Subsection [(4)(a)(i)] (3)(c) was subsequently convicted of the charge for which the person was arrested.

~~[(5)]~~ (4) In addition to any fees imposed under this chapter, the division shall:

(a) impose on individuals submitting fingerprints in accordance with this section the fees that the Bureau of Criminal Identification is authorized to collect for the services the Bureau of Criminal Identification or other authorized agency provides under this section; and

(b) remit the fees collected under Subsection [(5)] (4)(a) to the Bureau of Criminal Identification.

Section 2. Section 53-10-202 is amended to read:

53-10-202. Criminal identification -- Duties of bureau.

The bureau shall:

(1) procure and file information relating to identification and activities of persons who:

(a) are fugitives from justice;

(b) are wanted or missing;

(c) have been arrested for or convicted of a crime under the laws of any state or nation; and

(d) are believed to be involved in racketeering, organized crime, or a dangerous offense;

(2) establish a statewide uniform crime reporting system that shall include:

(a) statistics concerning general categories of criminal activities;

(b) statistics concerning crimes that exhibit evidence of prejudice based on race, religion, ancestry, national origin, ethnicity, or other categories that the division finds appropriate; and

(c) other statistics as required by the Federal Bureau of Investigation;

(3) make a complete and systematic record and index of the information obtained under this part;

(4) subject to the restrictions in this part, establish policy concerning the use and dissemination of data obtained under this part;

(5) publish an annual report concerning the extent, fluctuation, distribution, and nature of crime in Utah;

(6) establish a statewide central register for the identification and location of missing persons, which may include:

(a) identifying data including fingerprints of each missing person;

(b) identifying data of any missing person who is reported as missing to a law enforcement agency having jurisdiction;

(c) dates and circumstances of any persons requesting or receiving information from the register; and

(d) any other information, including blood types and photographs found necessary in furthering the purposes of this part;

(7) publish a quarterly directory of missing persons for distribution to persons or entities likely to be instrumental in the identification and location of missing persons;

(8) list the name of every missing person with the appropriate nationally maintained missing persons lists;

(9) establish and operate a 24-hour communication network for reports of missing persons and reports of sightings of missing persons;

(10) coordinate with the National Center for Missing and Exploited Children and other agencies to facilitate the identification and location of missing persons and the identification of unidentified persons and bodies;

(11) receive information regarding missing persons, as provided in Sections 26-2-27 and 53A-11-502, and stolen vehicles, vessels, and outboard motors, as provided in Section 41-1a-1401;

(12) adopt systems of identification, including the fingerprint system, to be used by the division to facilitate law enforcement;

(13) assign a distinguishing number or mark of identification to any pistol or revolver, as provided in Section 76-10-520;

(14) check certain criminal records databases for information regarding motor vehicle salesperson applicants, maintain a separate file of fingerprints for motor vehicle salespersons, and inform the Motor Vehicle Enforcement Division when new entries are made for certain criminal offenses for motor vehicle salespersons in accordance with the requirements of Section 41-3-205.5;

(15) check certain criminal records databases for information regarding driving privilege card applicants or cardholders and maintain a separate file of fingerprints for driving privilege applicants and cardholders and inform the federal Immigration and Customs Enforcement Agency of the United States Department of Homeland Security [~~or law enforcement agencies~~] when new entries are made in accordance with the requirements of Section 53-3-205.5.

(16) review and approve or disapprove applications for license renewal that meet the requirements for renewal;

(17) forward to the board those applications for renewal under Subsection (16) that do not meet the requirements for renewal; and

(18) within funds appropriated by the Legislature for the purpose, implement and manage the operation of a firearm safety program, in conjunction with the state suicide prevention coordinator, as described in this section and Section 62A-15-1101, including:

(a) coordinating with the Department of Health, local mental health and substance abuse authorities, the State Office of Education suicide prevention coordinator, and a representative from a Utah-based nonprofit organization with expertise in the field of firearm use and safety that represents firearm owners, to:

(i) produce a firearm safety brochure with information about the safe handling and use of firearms that includes:

(A) rules for safe handling, storage, and use of firearms in a home environment;

(B) information about at-risk individuals and individuals who are legally prohibited from possessing firearms;

(C) information about suicide prevention and awareness; and

(D) information about the availability of firearm safety packets;

(ii) procure cable-style gun locks for distribution pursuant to this section; and

(iii) produce a firearm safety packet that includes both the firearm safety brochure described in Subsection (18)(a)(i) and the cable-style gun lock described in Subsection (18)(a)(ii);

(b) distributing, free of charge, the firearm safety packet to the following persons, who shall make the firearm safety packet available free of charge:

(i) health care providers, including emergency rooms;

(ii) mental health practitioners;

(iii) other public health suicide prevention organizations;

(iv) entities that teach firearm safety courses; and

(v) school districts for use in the seminar, described in Section 53A-15-1302, for parents of students in the school district;

(c) creating and administering a redeemable coupon program described in this section and Section 76-10-526, that may include:

(i) producing a redeemable coupon that offers between \$10 and \$200 off the purchase of a gun safe from a participating federally licensed firearms dealer, as defined in Section 76-10-501, by a Utah resident who has filed an application for a concealed firearm permit;

(ii) advertising the redeemable coupon program to all federally licensed firearms dealers and maintaining a list of dealers who wish to participate in the program;

(iii) printing or writing the name of a Utah resident who has filed an application for a concealed firearm permit on the redeemable coupon;

(iv) mailing the redeemable coupon and the firearm safety brochure to Utah residents who have filed an application for a concealed firearm permit; and

(v) collecting from the participating dealers receipts described in Section 76-10-526 and reimbursing the dealers;

(d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, making rules that establish procedures for:

(i) producing and distributing the firearm safety brochures and packets;

(ii) procuring the cable-style gun locks for distribution; and

(iii) administering the redeemable coupon program; and

(e) reporting to the Law Enforcement and Criminal Justice Interim Committee regarding implementation and success of the firearm safety program:

(i) during the 2016 interim, before November 1; and

(ii) during the 2018 interim, before June 1.

Section 3. Effective date.

This bill takes effect on July 1, 2015.

CHAPTER 349**S. B. 193**

Passed March 11, 2015

Approved March 30, 2015

Effective May 12, 2015

(Exception clause in Section 12)

LOCAL GOVERNMENT AMENDMENTS

Chief Sponsor: Deidre M. Henderson

House Sponsor: Michael S. Kennedy

LONG TITLE**General Description:**

This bill amends provisions related to an assessment area, a local district, and a special service district.

Highlighted Provisions:

This bill:

- ▶ requires a county treasurer to include certain information on a property tax notice, which notice includes:
 - an assessment levied by a local entity; or
 - a past due fee, administrative cost, or interest charged by a local district;
- ▶ amends provisions authorizing a lien for an assessment;
- ▶ prohibits a local district from compounding interest more frequently than annually;
- ▶ authorizes a local district to charge for administrative costs for collection of a respective past due fee;
- ▶ authorizes a local district to impose or increase a fee only to offset the local district's demonstrable costs;
- ▶ amends provisions authorizing a lien for a local district fee;
- ▶ by amending local district provisions, also amends provisions that govern a special service district; and
- ▶ makes technical and conforming amendments.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

- 11-42-202, as last amended by Laws of Utah 2013, Chapters 246 and 265
- 11-42-401, as last amended by Laws of Utah 2013, Chapter 265
- 11-42-501, as enacted by Laws of Utah 2007, Chapter 329
- 17B-1-107, as last amended by Laws of Utah 2010, Chapter 150
- 17B-1-418, as renumbered and amended by Laws of Utah 2007, Chapter 329
- 17B-1-643, as last amended by Laws of Utah 2011, Chapters 47 and 106
- 17B-1-902, as renumbered and amended by Laws of Utah 2007, Chapter 329
- 17B-1-903, as renumbered and amended by Laws of Utah 2007, Chapter 329
- 17B-2a-506, as last amended by Laws of Utah 2012, Chapter 97

59-2-1317, as last amended by Laws of Utah 2014, Chapter 279

ENACTS:

17B-1-902.1, Utah Code Annotated 1953

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

Section 1. Section 11-42-202 is amended to read:**11-42-202. Requirements applicable to a notice of a proposed assessment area designation.**

(1) Each notice required under Subsection 11-42-201(2)(a) shall:

- (a) state that the local entity proposes to:
 - (i) designate one or more areas within the local entity's jurisdictional boundaries as an assessment area;
 - (ii) provide an improvement to property within the proposed assessment area; and
 - (iii) finance some or all of the cost of improvements by an assessment on benefitted property within the assessment area;
- (b) describe the proposed assessment area by any reasonable method that allows an owner of property in the proposed assessment area to determine that the owner's property is within the proposed assessment area;
- (c) describe, in a general way, the improvements to be provided to the assessment area, including:
 - (i) the general nature of the improvements; and
 - (ii) the general location of the improvements, by reference to streets or portions or extensions of streets or by any other means that the governing body chooses that reasonably describes the general location of the improvements;
- (d) state the estimated cost of the improvements as determined by a project engineer;
- (e) state that the local entity proposes to levy an assessment on benefitted property within the assessment area to pay some or all of the cost of the improvements according to the estimated direct and indirect benefits to the property from the improvements;
- (f) state the assessment method by which the governing body proposes to levy the assessment, including, if the local entity is a municipality or county, whether the assessment will be collected:
 - (i) by directly billing a property owner; or
 - (ii) by inclusion on a property tax notice issued in accordance with Section 59-2-1317 and in compliance with Section 11-42-401;
- (g) state:
 - (i) the date described in Section 11-42-203 and the location at which protests against designation of the proposed assessment area or of the proposed improvements are required to be filed; and
 - (ii) the method by which the governing body will determine the number of protests required to defeat

the designation of the proposed assessment area or acquisition or construction of the proposed improvements;

(h) state the date, time, and place of the public hearing required in Section 11-42-204;

(i) if the governing body elects to create and fund a reserve fund under Section 11-42-702, include a description of:

(i) how the reserve fund will be funded and replenished; and

(ii) how remaining money in the reserve fund is to be disbursed upon full payment of the bonds;

(j) if the governing body intends to designate a voluntary assessment area, include a property owner consent form that:

(i) estimates the total assessment to be levied against the particular parcel of property;

(ii) describes any additional benefits that the governing body expects the assessed property to receive from the improvements; and

(iii) designates the date and time by which the fully executed consent form is required to be submitted to the governing body;

(k) if the local entity intends to levy an assessment to pay operation and maintenance costs or for economic promotion activities, include:

(i) a description of the operation and maintenance costs or economic promotion activities to be paid by assessments and the initial estimated annual assessment to be levied;

(ii) a description of how the estimated assessment will be determined;

(iii) a description of how and when the governing body will adjust the assessment to reflect the costs of:

(A) in accordance with Section 11-42-406, current economic promotion activities; or

(B) current operation and maintenance costs;

(iv) a description of the method of assessment if different from the method of assessment to be used for financing any improvement; and

(v) a statement of the maximum number of years over which the assessment will be levied for:

(A) operation and maintenance costs; or

(B) economic promotion activities; and

(l) if the governing body intends to divide the proposed assessment area into zones under Subsection 11-42-201(1)(b), include a description of the proposed zones.

(2) A notice required under Subsection 11-42-201(2)(a) may contain other information that the governing body considers to be appropriate, including:

(a) the amount or proportion of the cost of the improvement to be paid by the local entity or from sources other than an assessment;

(b) the estimated amount of each type of assessment for the various improvements to be financed according to the method of assessment that the governing body chooses; and

(c) provisions for any improvements described in Subsection 11-42-102(24)(a)(ii).

(3) Each notice required under Subsection 11-42-201(2)(a) shall:

(a) (i) (A) be published in a newspaper of general circulation within the local entity's jurisdictional boundaries, once a week for four consecutive weeks, with the last publication at least five but not more than 20 days before the day of the hearing required in Section 11-42-204; or

(B) if there is no newspaper of general circulation within the local entity's jurisdictional boundaries, be posted in at least three public places within the local entity's jurisdictional boundaries at least 20 but not more than 35 days before the day of the hearing required in Section 11-42-204; and

(ii) be published on the Utah Public Notice Website described in Section 63F-1-701 for four weeks before the deadline for filing protests specified in the notice under Subsection (1)(g); and

(b) be mailed, postage prepaid, within 10 days after the first publication or posting of the notice under Subsection (3)(a) to each owner of property to be assessed within the proposed assessment area at the property owner's mailing address.

Section 2. Section 11-42-401 is amended to read:

11-42-401. Levying an assessment -- Payment of property tax notice -- Prerequisites -- Assessment list.

(1) (a) If a local entity has designated an assessment area in accordance with Part 2, Designating an Assessment Area, the local entity may levy an assessment against property within that assessment area as provided in this part.

(b) If a local entity that is a municipality or county designates an assessment area in accordance with this chapter, the municipality or county may levy an assessment and collect the assessment in accordance with Subsection 11-42-202(1)(f)(i) or (ii).

(c) An assessment billed by a municipality or county in the same manner as a property tax and included on a property tax notice in accordance with Subsection 11-42-202(1)(f)(ii) is enforced in accordance with, constitutes a lien in accordance with, and is subject to other penalty provisions in accordance with this chapter.

(d) If a local entity includes an assessment on a property tax notice, the county treasurer shall on the property tax notice:

(i) clearly state that the assessment is for the improvement, operation and maintenance, or

economic promotion activities provided by the local entity;

(ii) itemize the assessment separate from any other tax, fee, charge, interest, or penalty that is included on the property tax notice in accordance with Section 59-2-1317; and

(iii) state that if less than the full amount of the property tax and assessments included on the property tax notice are paid, the payment will be applied proportionately to the balances due for property taxes and assessments and other permitted charges described in this section unless otherwise specified by the taxpayer and the taxpayer demonstrates that the unpaid fees are being challenged by the taxpayer.

(2) Before a governing body may adopt a resolution or ordinance levying an assessment against property within an assessment area:

(a) the governing body shall:

(i) subject to Subsection (3), prepare an assessment list designating:

(A) each parcel of property proposed to be assessed; and

(B) the amount of the assessment to be levied against the property;

(ii) appoint a board of equalization as provided in Section 11-42-403; and

(iii) give notice as provided in Section 11-42-402; and

(b) the board of equalization, appointed under Section 11-42-403, shall hold hearings, make any corrections it considers appropriate to an assessment, and report its findings to the governing body as provided in Section 11-42-403.

(3) (a) The governing body of a local entity shall prepare the assessment list described in Subsection (2)(a)(i) at any time after:

(i) the governing body has determined the estimated or actual operation and maintenance costs, if the assessment is to pay operation and maintenance costs;

(ii) the governing body has determined the estimated or actual economic promotion costs described in Section 11-42-206, if the assessment is to pay for economic promotion activities; or

(iii) for any other assessment, the governing body has determined:

(A) the estimated or actual acquisition and construction costs of all proposed improvements within the assessment area, including overhead costs and authorized contingencies;

(B) the estimated or actual property price for all property to be acquired to provide the proposed improvements; and

(C) the reasonable cost of any work to be done by the local entity.

(b) In addition to the requirements of Subsection (3)(a), the governing body of a local entity shall prepare the assessment list described in Subsection (2)(a)(i) before:

(i) the light service has commenced, if the assessment is to pay for light service; or

(ii) the park maintenance has commenced, if the assessment is to pay for park maintenance.

(4) A local entity may levy an assessment for some or all of the cost of improvements within an assessment area, including payment of:

(a) operation and maintenance costs of improvements constructed within the assessment area;

(b) (i) if an outside entity furnishes utility services or maintains utility improvements, the actual cost that the local entity pays for utility services or for maintenance of improvements; or

(ii) if the local entity itself furnishes utility service or maintains improvements, for the reasonable cost of supplying the utility service or maintenance;

(c) the reasonable cost of supplying labor, materials, or equipment in connection with improvements; and

(d) (i) the reasonable cost of connection fees; or

(ii) the reasonable costs, as determined by the local entity governing body, if the local entity owns or supplies any sewer, storm drainage, water, gas, electric, or communications connections.

(5) A local entity may not levy an assessment for an amount donated or contributed for an improvement or part of an improvement.

(6) The validity of an otherwise valid assessment is not affected because the actual cost of improvements exceeds the estimated cost.

(7) (a) Subject to Subsection (7)(b), an assessment levied to pay for operation and maintenance costs may not be levied over a period of time exceeding five years beginning on the day on which the local entity adopts the assessment ordinance or assessment resolution for the operation and maintenance costs assessment.

(b) A local entity may levy an additional assessment described in Subsection (7)(a) in the assessment area designated for the assessment described in Subsection (7)(a) if, after the five-year period expires, the local entity complies with the applicable levy provisions of this part.

Section 3. Section 11-42-501 is amended to read:

11-42-501. Assessment constitutes a lien -- Characteristics of an assessment lien.

(1) Each assessment levied under this chapter, including any installment of an assessment, interest, and any penalties and costs of collection, constitutes a lien against the property assessed as of the effective date of the assessment resolution or ordinance.

(2) A lien under this section:

(a) is superior to the lien of a trust deed, mortgage, mechanic's or materialman's lien, or other encumbrances;

(b) ~~is equal to and on a parity with~~ has the same priority as, but is separate and distinct from, a lien for general property taxes;

(c) applies without interruption, change in priority, or alteration in any manner to any reduced payment obligations; and

(d) continues until the assessments, reduced payment obligations, and any interest, penalties, and costs are paid, despite a sale of the property for or on account of a delinquent general property tax, special tax, or other assessment or the issuance of a tax deed, an assignment of interest by the county, or a sheriff's certificate of sale or deed.

Section 4. Section 17B-1-107 is amended to read:

17B-1-107. Recording a release of lien.

If a local district records a lien upon real property or a groundwater right for an unpaid assessment by the owner and the owner then pays the assessment in full, including, subject to Section 17B-1-902.1, any interest and ~~penalties~~ administrative costs, the local district recording the lien shall record the release of the lien.

Section 5. Section 17B-1-418 is amended to read:

17B-1-418. Annexed area subject to fees and taxes.

When an annexation under Section 17B-1-414 or 17B-1-415 or a boundary adjustment under Section 17B-1-417 is complete, the annexed area or the area affected by the boundary adjustment shall be subject to user fees ~~or charges~~ imposed by and property, sales, and other taxes levied by or for the benefit of the local district.

Section 6. Section 17B-1-643 is amended to read:

17B-1-643. Imposing or increasing a fee for service provided by local district.

(1) (a) Before imposing a new fee or increasing an existing fee for a service provided by a local district, each local district board of trustees shall first hold a public hearing at which:

(i) the local district shall demonstrate its need to impose or increase the fee; and

(ii) any interested person may speak for or against the proposal to impose a fee or to increase an existing fee.

(b) Each public hearing under Subsection (1)(a) shall be held in the evening beginning no earlier than 6 p.m.

(c) A public hearing required under this Subsection (1) may be combined with a public

hearing on a tentative budget required under Section 17B-1-610.

(d) Except to the extent that this section imposes more stringent notice requirements, the local district board shall comply with Title 52, Chapter 4, Open and Public Meetings Act, in holding the public hearing under Subsection (1)(a).

(2) (a) Each local district board shall give notice of a hearing under Subsection (1) as provided in ~~Subsection (2)~~ Subsections (2)(b)~~(i) or~~ and (c) or Subsection (2)(d).

(b) ~~(i) (A)~~ The notice required under Subsection (2)(a) shall be published:

(i) on the Utah Public Notice Website established in Section 63F-1-701; and

~~(ii) (A)~~ in a newspaper or combination of newspapers of general circulation in the local district, if there is a newspaper or combination of newspapers of general circulation in the local district; or

~~(B)~~ if there is no newspaper or combination of newspapers of general circulation in the local district, the local district board shall post at least one notice per 1,000 population within the local district, at places within the local district that are most likely to provide actual notice to residents within the local district.

~~(c) (i)~~ The notice described in Subsection (2)(b)~~(i) (A) (B)~~ (ii) (A):

~~(A)~~ shall be no less than 1/4 page in size and the type used shall be no smaller than 18 point, and surrounded by a 1/4-inch border;

~~(B)~~ may not be placed in that portion of the newspaper where legal notices and classified advertisements appear;

~~(C)~~ whenever possible, shall appear in a newspaper that is published at least one day per week;

~~(D)~~ shall be in a newspaper or combination of newspapers of general interest and readership in the local district, and not of limited subject matter; and

~~(E)~~ shall be run once each week for the two weeks preceding the hearing.

(ii) The notice described in Subsection (2)(b)~~(i) (A)~~ shall state that the local district board intends to impose or increase a fee for a service provided by the local district and will hold a public hearing on a certain day, time, and place fixed in the notice, which shall be not less than seven days after the day the first notice is published, for the purpose of hearing comments regarding the proposed imposition or increase of a fee and to explain the reasons for the proposed imposition or increase.

~~(d) (i)~~ In lieu of providing notice under Subsection (2)(b), the local district board of trustees may give the notice required under Subsection (2)(a) by mailing the notice to those within the district who:

(A) will be charged the fee for a district service, if the fee is being imposed for the first time; or

(B) are being charged a fee, if the fee is proposed to be increased.

(ii) Each notice under Subsection (2)(~~e~~)(d)(i) shall comply with Subsection (2)(~~b~~)(c)(ii).

(iii) A notice under Subsection (2)(~~e~~)(d)(i) may accompany a district bill for an existing fee.

~~(d)~~ (e) If the hearing required under this section is combined with the public hearing required under Section 17B-1-610, the notice requirement under this Subsection (2) is satisfied if a notice that meets the requirements of Subsection (2)(~~b~~)(c)(ii) is combined with the notice required under Section 17B-1-609.

~~(e)~~ (f) Proof that notice was given as provided in Subsection (2)(b) or ~~(e)~~ (d) is prima facie evidence that notice was properly given.

~~(f)~~ (g) If no challenge is made to the notice given of a hearing required by Subsection (1) within 30 days after the date of the hearing, the notice is considered adequate and proper.

(3) After holding a public hearing under Subsection (1), a local district board may:

(a) impose the new fee or increase the existing fee as proposed;

(b) adjust the amount of the proposed new fee or the increase of the existing fee and then impose the new fee or increase the existing fee as adjusted; or

(c) decline to impose the new fee or increase the existing fee.

(4) This section applies to each new fee imposed and each increase of an existing fee that occurs on or after July 1, 1998.

(5) (a) This section does not apply to an impact fee.

(b) The imposition or increase of an impact fee is governed by Title 11, Chapter 36a, Impact Fees Act.

Section 7. Section 17B-1-902 is amended to read:

17B-1-902. Lien for past due service fees -- Payment of property tax notice.

(1) (a) A local district may ~~[certify, to the treasurer of the county in which the customer's property is located,]~~ file a lien on a customer's property for past due fees ~~[and charges]~~ for commodities, services, or facilities that the district has provided to the customer's property~~[-(b) Subject]~~ by certifying, subject to Subsection (2), to the treasurer of the county in which the customer's property is located the past due fees [and charges], including, subject to Section 17B-1-902.1, applicable interest [and penalties, upon their] and administrative costs.

(b) Upon certification under Subsection (1)(a), the past due fees, and if applicable, interest and administrative costs, become a lien on the customer's property to which the commodities,

services, or facilities were provided~~[-, on a parity with and collectible at the same time and in the same manner as general county taxes that are a lien on the property].~~

(c) A lien filed in accordance with this section has the same priority as, but is separate and distinct from, a property tax lien.

(2) (a) If a local district certifies past due fees under Subsection (1)(a), the county treasurer shall include on a property tax notice issued in accordance with Section 59-2-1317 an unpaid fee, administrative cost, or interest described in Subsection (1)(a).

(b) If an unpaid fee, administrative cost, or interest is included on a property tax notice in accordance with Subsection (2)(a), the county treasurer shall on the property tax notice:

(i) clearly state that the unpaid fee, administrative cost, or interest is for a service provided by the local district;

(ii) itemize the unpaid fee, administrative cost, or interest separate from any other tax, fee, interest, or penalty that is included on the property tax notice in accordance with Section 59-2-1317; and

(iii) state that if less than the full amount of the property tax and local district fees included on the property tax notice are paid, the payment will be applied proportionately to the balances due for property taxes and local district fees, which shall include all fees and other permitted charges described in this section unless otherwise specified by the taxpayer and the taxpayer demonstrates that the unpaid fees are being challenged by the taxpayer.

~~(2)~~ (3) A lien under Subsection (1) is not valid if certification under Subsection (1) is made after the filing for record of a document conveying title of the customer's property to a new owner.

~~(3)~~ (4) Nothing in this section may be construed to:

(a) waive or release the customer's obligation to pay fees ~~[or charges]~~ that the district has imposed;

(b) preclude the certification of a lien under Subsection (1) with respect to past due fees ~~[or charges]~~ for commodities, services, or facilities provided after the date that title to the property is transferred to a new owner; or

(c) nullify or terminate a valid lien.

~~(4)~~ (5) After all amounts owing under a lien established as provided in this section have been paid, the local district shall file for record in the county recorder's office a release of the lien.

Section 8. Section 17B-1-902.1 is enacted to read:

17B-1-902.1. Interest -- Collection of administrative costs.

(1) (a) A local district may charge interest on a past due fee or past due charge.

(b) If a local district charges interest as described in Subsection (1)(b), the local district shall calculate the interest rate for a calendar year:

(i) based on the federal short-term rate determined by the secretary of the treasury under Section 6621, Internal Revenue Code, in effect for the preceding fourth calendar quarter; and

(ii) as simple interest at the rate of eighteen percentage points above the federal short-term rate.

(c) If a local district charges interest on a past due fee collected by the local district, regardless of whether the fee is certified, the local district may charge the interest monthly but may not compound the interest more frequently than annually.

(2) (a) A local district may charge and collect only one of the following:

(i) a one-time penalty charge not to exceed 8% for a past-due fee; or

(ii) an administrative cost for some or all of the following:

(A) the collection cost of a past due fee or charge;

(B) reasonable attorney fees actually incurred for collection and foreclosure costs, if applicable; and

(C) any other cost.

(b) A local district may not charge interest on an administrative cost.

Section 9. Section 17B-1-903 is amended to read:

17B-1-903. Authority to require written application for water or sewer service and to terminate for failure to pay -- Limitations.

(1) A local district that owns or controls a system for furnishing water or providing sewer service or both may:

(a) before furnishing water or providing sewer service to a property, require the property owner or an authorized agent to submit a written application, signed by the owner or an authorized agent, agreeing to pay for all water furnished or sewer service provided to the property, whether occupied by the owner or by a tenant or other occupant, according to the rules and regulations adopted by the local district; and

(b) if a customer fails to pay for water furnished or sewer service provided to the customer's property, discontinue furnishing water or providing sewer service to the property until all amounts for water furnished or sewer service provided are paid, subject to Subsection (2).

(2) Unless a valid lien has been established as provided in Section 17B-1-902, has not been satisfied, and has not been terminated by a sale as provided in [Subsection] Section 17B-1-902[(2)], a local district may not:

(a) use a customer's failure to pay for water furnished or sewer service provided to the customer's property as a basis for not furnishing water or providing sewer service to the property after ownership of the property is transferred to a subsequent owner; or

(b) require an owner to pay for water that was furnished or sewer service that was provided to the property before the owner's ownership.

Section 10. Section 17B-2a-506 is amended to read:

17B-2a-506. Different use charges for different units -- Use charges based on the size of the land served -- Use charge may not be based on property value.

(1) An irrigation district may:

(a) divide the district into units and apply different use charges to the different units; and

(b) base use charges upon the amount of water or electricity the district provides, the area of the land served, or any other reasonable basis, as determined by the board of trustees.

(2) If an irrigation district imposes a use charge based on the size of the land served or the amount of water allotted to the land:

(a) the assessor of the county in which the land is located shall assist the irrigation district in ascertaining the identity of a parcel served by the district;

(b) the district shall notify the treasurer of the county in which the land is located of the charge to be imposed for each parcel of land served by the district; and

(c) the treasurer of the county in which the land is located:

(i) shall:

(A) provide each landowner a notice of use charges as part of the annual tax notice as an additional charge separate from ad valorem taxes;

(B) collect, receive, and provide an accounting for all money belonging to the district from use charges; and

(C) remit to the irrigation district, by the tenth day of each month, the funds previously collected by the county as use charges on the district's behalf; and

(ii) may receive and account for use charges separately from taxes upon real estate for county purposes.

(3) (a) A use charge described in Subsection (2)(b) shall become a lien on the land served as provided in Section 17B-1-902 except that the certification described in Subsection 17B-1-902(1)[(a)] is not required.

(b) A lien described in Subsection (3)(a) shall remain in force until the use charge is paid.

(c) The county treasurer shall release a lien described in Subsection (3)(a) upon receipt of full payment of the use charge.

(4) A use charge may not be calculated on the basis of property value and does not constitute an ad valorem property tax or other tax.

Section 11. Section 59-2-1317 is amended to read:

59-2-1317. Tax notice -- Contents of notice -- Procedures and requirements for providing notice.

(1) Subject to the other provisions of this section, the county treasurer shall:

- (a) collect the taxes; and
- (b) provide a notice to each taxpayer that contains the following:
 - (i) the kind and value of property assessed to the taxpayer;
 - (ii) the street address of the property, if available to the county;
 - (iii) that the property may be subject to a detailed review in the next year under Section 59-2-303.1;
 - (iv) the amount of taxes levied;
 - (v) a separate statement of the taxes levied only on a certain kind or class of property for a special purpose;
 - (vi) property tax information pertaining to taxpayer relief, options for payment of taxes, and collection procedures;
 - (vii) if applicable, the amount of an assessment assessed in accordance with Section 11-42-401;
 - (viii) if applicable, an unpaid fee, administrative cost, or interest for a local district in accordance with Section 17B-1-902;
 - ~~(viii)~~ (ix) the date the taxes are due;
 - ~~(ix)~~ (x) the street address at which the taxes may be paid;
 - ~~(x)~~ (xi) the date on which the taxes are delinquent;
 - ~~(xi)~~ (xii) the penalty imposed on delinquent taxes;
 - ~~(xii)~~ (xiii) other information specifically authorized to be included on the notice under this chapter; and
 - ~~(xiii)~~ (xiv) other property tax information approved by the commission.

(2) For any property for which property taxes are delinquent, the notice described in Subsection (1) shall state, "Prior taxes are delinquent on this parcel."

(3) Except as provided in Subsection (4), the county treasurer shall:

- (a) mail the notice required by this section, postage prepaid; or

(b) leave the notice required by this section at the taxpayer's residence or usual place of business, if known.

(4) (a) Subject to the other provisions of this Subsection (4), a county treasurer may, at the county treasurer's discretion, provide the notice required by this section by electronic mail if a taxpayer makes an election, according to procedures determined by the county treasurer, to receive the notice by electronic mail.

(b) A taxpayer may revoke an election to receive the notice required by this section by electronic mail if the taxpayer provides written notice to the treasurer on or before October 1.

(c) A revocation of an election under this section does not relieve a taxpayer of the duty to pay a tax due under this chapter on or before the due date for paying the tax.

(d) A county treasurer shall provide the notice required by this section using a method described in Subsection (3), until a taxpayer makes a new election in accordance with this Subsection (4), if:

- (i) the taxpayer revokes an election in accordance with Subsection (4)(b) to receive the notice required by this section by electronic mail; or
- (ii) the county treasurer finds that the taxpayer's electronic mail address is invalid.
- (e) A person is considered to be a taxpayer for purposes of this Subsection (4) regardless of whether the property that is the subject of the notice required by this section is exempt from taxation.

(5) (a) The county treasurer shall provide the notice required by this section to a taxpayer on or before November 1.

(b) The county treasurer shall keep on file in the county treasurer's office the information set forth in the notice.

(c) The county treasurer is not required to mail a tax receipt acknowledging payment.

(6) This section does not apply to property taxed under Section 59-2-1302 or 59-2-1307.

Section 12. Effective date.

(1) Except as provided in Subsection (2), this bill takes effect on May 12, 2015.

(2) The actions affecting the following take effect on January 1, 2016:

- (a) Section 11-42-401;
- (b) Section 17B-1-902; and
- (c) Section 59-2-1317.

CHAPTER 350**S. B. 194**

Passed March 12, 2015
Approved March 30, 2015
Effective July 1, 2015

**ARTS AND CULTURE
BUSINESS ALLIANCE**

Chief Sponsor: Jim Dabakis
House Sponsor: V. Lowry Snow

LONG TITLE**General Description:**

This bill enacts the Arts and Culture Business Alliance Act.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ creates the Arts and Culture Business Alliance;
- ▶ describes the duties of the alliance;
- ▶ provides for the appointment of alliance members;
- ▶ provides for staff support for the alliance;
- ▶ provides for rulemaking;
- ▶ creates the Arts and Culture Business Alliance Account and provides for funding and uses of account funds; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

9-6-201, as last amended by Laws of Utah 2010, Chapter 111
9-6-202, as last amended by Laws of Utah 2012, Chapter 212

ENACTS:

9-6-801, Utah Code Annotated 1953
9-6-802, Utah Code Annotated 1953
9-6-803, Utah Code Annotated 1953
9-6-804, Utah Code Annotated 1953
9-6-805, Utah Code Annotated 1953
9-6-806, Utah Code Annotated 1953

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

Section 1. Section 9-6-201 is amended to read:**9-6-201. Division of Arts and Museums -- Creation -- Powers and duties.**

(1) There is created within the department the Division of Arts and Museums under the administration and general supervision of the executive director or the designee of the executive director.

(2) The division shall be under the policy direction of the board.

(3) The division shall advance the interests of the arts, in all their phases, within the state, and to that end shall:

(a) cooperate with and locally sponsor federal agencies and projects directed to similar undertakings;

(b) develop the influence of arts in education;

(c) involve the private sector, including businesses, charitable interests, educational interests, manufacturers, agriculturalists, and industrialists in these endeavors;

(d) utilize broadcasting facilities and the power of the press in disseminating information; and

(e) foster, promote, encourage, and facilitate, not only a more general and lively study of the arts, but take all necessary and useful means to stimulate a more abundant production of an indigenous art in this state.

(4) The board shall set policy to guide the division in accomplishing the purposes set forth in Subsection (3).

(5) [The] Except for arts development projects under Section 9-6-804, the division may not grant funds for the support of any arts project under this section unless the project has been first approved by the board.

(6) (a) For a pass-through funding grant of at least \$25,000, the division shall make quarterly disbursements to the pass-through funding grant recipient, contingent upon the division receiving a quarterly progress report from the pass-through grant recipient.

(b) The division shall:

(i) provide the pass-through grant recipient with a progress report form for the reporting purposes of Subsection (6)(a); and

(ii) include reporting requirement instructions with the form.

Section 2. Section 9-6-202 is amended to read:**9-6-202. Division director.**

(1) The chief administrative officer of the division shall be a director appointed by the executive director in consultation with the board and the advisory board.

(2) The director shall be a person experienced in administration and knowledgeable about the arts and museums.

(3) In addition to the division, the director is the chief administrative officer for:

(a) the Board of Directors of the Utah Arts Council created in Section 9-6-204;

(b) the Utah Arts Council created in Section 9-6-301;

(c) the Office of Museum Services created in Section 9-6-602; [and]

(d) the Museum Services Advisory Board created in Section 9-6-604[.]; and

(e) the Arts and Culture Business Alliance created in Section 9-6-803.

Section 3. Section 9-6-801 is enacted to read:

Part 8. Arts and Culture Business Alliance Act

9-6-801. Title.

This part is known as the "Arts and Culture Business Alliance Act."

Section 4. Section 9-6-802 is enacted to read:

9-6-802. Definitions.

As used in this part:

(1) "Account" means the Arts and Culture Business Alliance Account created in Section 9-6-806.

(2) "Alliance" means the Arts and Culture Business Alliance created in Section 9-6-803.

(3) (a) "Arts" means the various branches of creative human activity.

(b) "Arts" includes visual arts, film, performing arts, sculpture, literature, music, theater, dance, digital arts, video-game arts, and cultural vitality.

(4) "Arts development" or "development of the arts" means:

(a) constructing, expanding, or repairing facilities that house arts presentations;

(b) providing for public information, preservation, or access to the arts; or

(c) supporting the professional development of artists within the state.

Section 5. Section 9-6-803 is enacted to read:

9-6-803. Arts and Culture Business Alliance -- Creation -- Members -- Vacancies.

(1) There is created within the division the Arts and Culture Business Alliance.

(2) (a) The alliance shall consist of seven members.

(b) The six members described in Subsections (2)(d) and (e) shall be appointed by the governor to four-year terms of office with the consent of the Senate.

(c) Notwithstanding the requirements of Subsection (2)(b), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of the members described in Subsections (2)(d) and (e) are staggered so that approximately half of the members are appointed every two years.

(d) Five members shall be citizens with an interest in supporting and advancing the arts and arts development in the state.

(e) One member shall have expertise in business or finance.

(f) One member is the executive director of the Department of Heritage and Arts, or the executive director's designee.

(3) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term in the same manner as the original member.

(4) Four members of the board constitute a quorum for the transaction of business.

(5) The governor shall annually select one of the board members as chair.

(6) Except for the executive director, a member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance in accordance with Sections 63A-3-106 and 63A-3-107.

(7) A member may not receive a gift, prize, or award of money from the division or the account.

Section 6. Section 9-6-804 is enacted to read:

9-6-804. Alliance duties.

The alliance shall:

(1) promote and encourage the development of the arts in the state;

(2) support the efforts of state and local government and nonprofit arts organizations to encourage the development of the arts in the state;

(3) recommend policies, priorities, and objectives to the division regarding development of the arts in the state; and

(4) approve the use of account funds for arts development.

Section 7. Section 9-6-805 is enacted to read:

9-6-805. Staff support -- Rulemaking.

The division shall:

(1) provide staff support for the alliance; and

(2) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules, in consultation with the alliance, for a process for the alliance to accept and consider applications for arts development projects, and to distribute account money, under this part.

Section 8. Section 9-6-806 is enacted to read:

9-6-806. Arts and Culture Business Alliance Account -- Funding.

(1) There is created within the General Fund a restricted account known as the Arts and Culture Business Alliance Account.

(2) The account shall be administered by the division for the purposes listed in Subsection (5).

(3) (a) The account shall earn interest.

(b) All interest earned on account money shall be deposited into the account.

(4) The account shall be funded by:

(a) appropriations made to the account by the Legislature; and

(b) private donations and grants.

(5) Subject to appropriation, the director shall use account funds to pay for:

(a) the statewide advancement and development of the arts in accordance with the recommendation of the alliance; and

(b) actual administrative costs associated with administering this part.

(6) The division shall submit an annual written report to the department that gives a complete accounting of the use of money from the account for inclusion in the annual report described in Section 9-1-208.

Section 9. Effective date.

This bill takes effect on July 1, 2015.

CHAPTER 351**S. B. 198**

Passed March 11, 2015
 Approved March 30, 2015
 Effective May 12, 2015

**ALCOHOLIC BEVERAGE
 CONTROL AMENDMENTS**

Chief Sponsor: Jerry W. Stevenson
 House Sponsor: Michael E. Noel

LONG TITLE**General Description:**

This bill modifies the Alcoholic Beverage Control Act to address criminal background checks.

Highlighted Provisions:

This bill:

- ▶ modifies language regarding obtaining fingerprints and requiring background checks;
- ▶ addresses the role of the Utah Bureau of Criminal Investigation in the background checks;
- ▶ requires federal background checks for all persons subject to background checks; and
- ▶ makes technical and conforming amendments.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

32B-1-305, as enacted by Laws of Utah 2010, Chapter 276
 32B-1-307, as enacted by Laws of Utah 2010, Chapter 276

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

Section 1. Section 32B-1-305 is amended to read:**32B-1-305. Requirement for a background check.**

(1) The department shall require an individual listed in Subsection (2) ~~[tø]~~, in accordance with this part, to:

(a) provide a signed waiver from the individual whose fingerprints may be registered in the Federal Bureau of Investigation Rap Back system that notifies the signee:

(i) that a criminal history background check will be conducted;

(ii) who will see the information; and

(iii) how the information will be used;

~~[(a)]~~ (b) submit [a fingerprint card] to a background check in a form acceptable to the department; and

~~[(b)]~~ (c) consent to a [fingerprint criminal] background check by:

(i) the Utah Bureau of Criminal Identification; and

(ii) the Federal Bureau of Investigation.

(2) The following shall comply with Subsection (1):

(a) an individual applying for employment with the department if:

(i) the department makes the decision to offer the individual employment with the department; and

(ii) once employed, the individual will receive benefits;

(b) an individual applying to the commission to operate a package agency;

(c) an individual applying to the commission for a license;

(d) an individual who with regard to an entity that is applying to the commission to operate a package agency or for a license is:

(i) a partner;

(ii) a managing agent;

(iii) a manager;

(iv) an officer;

(v) a director;

(vi) a stockholder who holds at least 20% of the total issued and outstanding stock of a corporation;

(vii) a member who owns at least 20% of a limited liability company; or

(viii) an individual employed to act in a supervisory or managerial capacity; or

(e) an individual who becomes involved with an entity that operates a package agency or holds a license, if the individual is in a capacity listed in Subsection (2)(d) on or after the day on which the entity:

(i) is approved to operate a package agency; or

(ii) is licensed by the commission.

(3) The department shall require compliance with Subsection (2)(e) as a condition of an entity's:

(a) continued operation of a package agency; or

(b) renewal of a license.

(4) The department may require as a condition of continued employment that a department employee:

(a) submit [a fingerprint card] to a background check in a form acceptable to the department; and

(b) consent to a fingerprint criminal background check by:

(i) the Utah Bureau of Criminal Identification; and

(ii) the Federal Bureau of Investigation.

Section 2. Section 32B-1-307 is amended to read:

32B-1-307. Background check procedure.

(1) (a) An individual described in Subsections 32B-1-305(2)(b) through (e) shall submit [a fingerprint card] to a background check in a form acceptable to the department, including submitting fingerprints, at the expense of the individual.

(b) The department shall pay the expense of obtaining [a fingerprint card] a background check, including obtaining fingerprints, required of:

(i) an individual applying for employment with the department; or

(ii) a department employee.

(2) (a) The department shall [obtain] establish a procedure for obtaining and evaluating relevant information from a criminal history record maintained by the Utah Bureau of Criminal Identification pursuant to Title 53, Chapter 10, Part 2, Bureau of Criminal Identification, for a purpose outlined in Section 32B-1-306.

(b) An individual described in Subsections 32B-1-305(2)(b) through (e) shall pay to the department the expense of obtaining the criminal history record described in Subsection (2)(a).

(c) The department shall pay the expense of obtaining the criminal history record required for:

(i) an individual applying for employment with the department; or

(ii) a department employee.

(3) (a) The department shall submit [a fingerprint card] fingerprints obtained under [Section 32B-1-305] Subsection (1) of an individual [who has not resided in the state for at least two years before the day on which the fingerprint card is submitted] to the Utah Bureau of Criminal Identification to be forwarded to the Federal Bureau of Investigation for a nationwide criminal history record check.

(b) An individual described in Subsections 32B-1-305(2)(b) through (e) shall pay to the department the expense of obtaining the criminal history record described in Subsection (3)(a).

(c) The department shall pay the expense of obtaining the criminal history record required for:

(i) an individual applying for employment with the department; or

(ii) a department employee.

(4) (a) The Utah Bureau of Criminal Identification:

(i) shall check the fingerprints submitted under Subsection (1) against the applicable state and regional criminal records databases and submit the fingerprints to national criminal records databases;

(ii) shall maintain a separate file of fingerprints submitted under Subsection (1) for search by future submissions to the state and regional records databases, including latent prints, and notify the department when a new entry is made against a

person whose fingerprints are held in the separate file;

(iii) shall release to the department all information received in response to the department's request; and

(iv) may request that the fingerprints be retained in the Federal Bureau of Investigation Rap Back system for search by future submissions to national criminal records databases, including latent prints.

(b) The department shall establish a privacy risk mitigation strategy to ensure that the department only receives notifications for individuals with whom the department maintains a regulatory or employment relationship.

[4] (5) The department shall pay the Utah Bureau of Criminal Identification the costs incurred in providing the department criminal background information.

[4] (6) (a) The following may not disseminate a criminal history record obtained under this part to any person except for a purpose described in Section 32B-1-306:

(i) the commission;

(ii) a commissioner;

(iii) the director;

(iv) the department; or

(v) a department employee.

(b) (i) Notwithstanding Subsection [4] (6)(a), a criminal history record obtained under this part may be provided by the department to the individual who is the subject of the criminal history record.

(ii) The department shall provide an individual who is the subject of a criminal history record and who requests the criminal history record an opportunity to:

(A) review the criminal history record; and

(B) respond to information in the criminal history record.

[6] (7) If an individual described in Subsection 32B-1-305(2) is determined to be disqualified under Subsection 32B-1-306(2)(b), the department shall provide the individual with:

(a) notice of the reason for the disqualification; and

(b) an opportunity to respond to the disqualification.

[7] ~~The department shall maintain the following in one or more separate files so that they may be accessed only for a purpose under Section 32B-1-306:~~

~~(a) a fingerprint card submitted under this part; and~~

~~(b) a criminal history record received from:~~

~~(i) the Utah Bureau of Criminal Identification; and~~

~~(ii) the Federal Bureau of Investigation.]~~

CHAPTER 352**S. B. 199**

Passed March 12, 2015

Approved March 30, 2015

Effective May 12, 2015

LOCAL GOVERNMENT REVISIONS

Chief Sponsor: Karen Mayne

House Sponsor: Eric K. Hutchings

LONG TITLE**General Description:**

This bill enacts provisions related to local government.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ provides population classification for a metro township;
- ▶ amends municipal annexation provisions;
- ▶ enacts "Municipal Incorporation," including:
 - general provisions;
 - incorporation provisions of a city;
 - incorporation provisions of a town; and
 - incorporation provisions of metro townships and unincorporated islands in a county of the first class on and after May 12, 2015;
- ▶ requires a county of the first class to hold a special election on November 3, 2015, for the following ballot propositions:
 - the incorporation of a planning township as a city, town, metro township; and
 - whether unincorporated islands should be annexed by an eligible city or remain unincorporated;
- ▶ provides notice and hearing requirements;
- ▶ provides for the determination of metro township council districts and election of officers;
- ▶ authorizes a five-member council form of government for a metro township;
- ▶ provides the powers and duties of the metro township council chair and council members;
- ▶ repeals and reenacts provisions authorizing a change in form of municipal government;
- ▶ enacts provisions related to the administration of a metro township;
- ▶ authorizes a metro township council to, in certain circumstances, prohibit an ignition source;
- ▶ requires a township located outside of a county of the first class to change its name to "planning advisory area";
- ▶ requires the withdrawal or dissolution of a planning advisory area that is annexed;
- ▶ prohibits a county other than a county of the first class from adopting certain land use ordinances requiring revegetation or landscaping;
- ▶ amends definitions for local district provisions;
- ▶ enacts provisions related to the levy of a municipal services district property tax;
- ▶ enacts provisions related to a general obligation bond issued by a municipal services district;
- ▶ amends provisions related to a municipal services district board of trustees;

- ▶ enacts language requiring the withdrawal of rural real property from a metro township or municipal services district;
- ▶ amends and enacts provisions related to the withdrawal of an area from a local district;
- ▶ enacts provisions related to an audit of a municipal services district;
- ▶ authorizes a metro township to levy a 911 charge and impose a sales and use tax; and
- ▶ makes technical and conforming amendments.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides revisor instructions.

This bill provides a coordination clause to reconcile conflicts between this bill and other legislation.

Utah Code Sections Affected:**AMENDS:**

- 10-1-104, as last amended by Laws of Utah 2003, Chapter 292
- 10-1-114, as last amended by Laws of Utah 2014, Chapter 189
- 10-2-302, as last amended by Laws of Utah 2009, Chapter 350
- 10-2-401, as last amended by Laws of Utah 2009, Chapters 92, 205, and 230
- 10-2-402, as last amended by Laws of Utah 2011, Chapter 234
- 10-2-403, as last amended by Laws of Utah 2010, Chapter 378
- 10-2-405, as last amended by Laws of Utah 2009, Chapter 205
- 10-2-407, as last amended by Laws of Utah 2010, Chapters 90 and 218
- 10-2-408, as last amended by Laws of Utah 2009, Chapter 205
- 10-2-411, as last amended by Laws of Utah 2004, Chapters 90 and 202
- 10-2-413, as last amended by Laws of Utah 2009, Chapter 230
- 10-2-414, as last amended by Laws of Utah 2009, Chapter 205
- 10-2-415, as last amended by Laws of Utah 2010, Chapter 90
- 10-2-416, as last amended by Laws of Utah 2001, Chapter 206
- 10-2-418, as last amended by Laws of Utah 2010, Chapter 90
- 10-2-425, as last amended by Laws of Utah 2009, Chapter 350
- 10-3-205.5, as last amended by Laws of Utah 2003, Chapter 292
- 10-3-1302, as enacted by Laws of Utah 1981, Chapter 57
- 10-3b-102, as enacted by Laws of Utah 2008, Chapter 19
- 10-3b-103, as last amended by Laws of Utah 2011, Chapter 209
- 10-3b-202, as last amended by Laws of Utah 2011, Chapter 209
- 10-5-102, as enacted by Laws of Utah 1983, Chapter 34
- 10-6-103, as enacted by Laws of Utah 1979, Chapter 26
- 10-6-111, as last amended by Laws of Utah 2010, Chapter 378

15A-5-202.5, as last amended by Laws of Utah 2014, Chapter 243

17-23-17, as last amended by Laws of Utah 2007, Chapter 329

17-23-17.5, as last amended by Laws of Utah 2014, Chapter 189

17-27a-103, as last amended by Laws of Utah 2014, Chapters 136 and 363

17-27a-301, as last amended by Laws of Utah 2014, Chapter 189

17-27a-302, as last amended by Laws of Utah 2012, Chapter 359

17-27a-306, as last amended by Laws of Utah 2010, Chapters 90 and 218

17-27a-505, as last amended by Laws of Utah 2013, Chapter 476

17-34-3, as last amended by Laws of Utah 2013, Chapter 371

17-41-101, as last amended by Laws of Utah 2014, Chapter 65

17B-1-102, as last amended by Laws of Utah 2011, Chapters 107 and 205

17B-1-502, as last amended by Laws of Utah 2014, Chapter 405

17B-1-505, as last amended by Laws of Utah 2011, Chapter 68

17B-1-1002, as last amended by Laws of Utah 2011, Chapter 282

17B-1-1102, as enacted by Laws of Utah 2007, Chapter 329

17B-2a-1102, as enacted by Laws of Utah 2014, Chapter 405

17B-2a-1103, as enacted by Laws of Utah 2014, Chapter 405

17B-2a-1104, as enacted by Laws of Utah 2014, Chapter 405

17B-2a-1106, as enacted by Laws of Utah 2014, Chapter 405

17B-2a-1107, as enacted by Laws of Utah 2014, Chapter 405

20A-1-102, as last amended by Laws of Utah 2014, Chapters 17, 31, 231, 362, and 391

20A-1-201.5, as last amended by Laws of Utah 2013, Chapter 320

20A-1-203, as last amended by Laws of Utah 2014, Chapter 158

20A-1-204, as last amended by Laws of Utah 2013, Chapters 295 and 415

20A-11-101, as last amended by Laws of Utah 2014, Chapters 18, 158, and 337

53-2a-208, as renumbered and amended by Laws of Utah 2013, Chapter 295

53-2a-802, as renumbered and amended by Laws of Utah 2013, Chapter 295

53A-2-402, as enacted by Laws of Utah 2006, Chapter 339

53B-21-107, as enacted by Laws of Utah 1987, Chapter 167

59-12-203, as renumbered and amended by Laws of Utah 1987, Chapter 5

63I-2-210, as last amended by Laws of Utah 2014, Chapter 405

67-1a-2, as last amended by Laws of Utah 2013, Chapters 182, 219, 278 and last amended by Coordination Clause, Laws of Utah 2013, Chapter 182

69-2-5, as last amended by Laws of Utah 2014, Chapter 320

69-2-5.5, as last amended by Laws of Utah 2014, Chapter 320

69-2-5.6, as last amended by Laws of Utah 2014, Chapter 320

69-2-5.7, as last amended by Laws of Utah 2014, Chapter 320

78A-7-202, as last amended by Laws of Utah 2012, Chapter 205

ENACTS:

10-2-301.5, Utah Code Annotated 1953

10-2a-101, Utah Code Annotated 1953

10-2a-201, Utah Code Annotated 1953

10-2a-301, Utah Code Annotated 1953

10-2a-401, Utah Code Annotated 1953

10-2a-402, Utah Code Annotated 1953

10-2a-403, Utah Code Annotated 1953

10-2a-404, Utah Code Annotated 1953

10-2a-405, Utah Code Annotated 1953

10-2a-406, Utah Code Annotated 1953

10-2a-407, Utah Code Annotated 1953

10-2a-408, Utah Code Annotated 1953

10-2a-409, Utah Code Annotated 1953

10-2a-410, Utah Code Annotated 1953

10-2a-411, Utah Code Annotated 1953

10-2a-412, Utah Code Annotated 1953

10-2a-413, Utah Code Annotated 1953

10-3b-601, Utah Code Annotated 1953

10-3b-602, Utah Code Annotated 1953

10-3b-603, Utah Code Annotated 1953

10-3b-604, Utah Code Annotated 1953

10-3b-605, Utah Code Annotated 1953

10-3b-606, Utah Code Annotated 1953

10-3b-607, Utah Code Annotated 1953

10-3c-101, Utah Code Annotated 1953

10-3c-102, Utah Code Annotated 1953

10-3c-103, Utah Code Annotated 1953

10-3c-201, Utah Code Annotated 1953

10-3c-202, Utah Code Annotated 1953

10-3c-203, Utah Code Annotated 1953

10-3c-204, Utah Code Annotated 1953

10-3c-205, Utah Code Annotated 1953

17B-2a-1110, Utah Code Annotated 1953

17B-2a-1111, Utah Code Annotated 1953

17B-2a-1112, Utah Code Annotated 1953

REPEALS AND REENACTS:

10-3b-501, as enacted by Laws of Utah 2008, Chapter 19

10-3b-502, as enacted by Laws of Utah 2008, Chapter 19

10-3b-503, as last amended by Laws of Utah 2011, Chapter 209

10-3b-504, as enacted by Laws of Utah 2008, Chapter 19

RENUMBERS AND AMENDS:

10-2a-102, (Renumbered from 10-2-101, as last amended by Laws of Utah 2012, Chapter 359)

10-2a-103, (Renumbered from 10-2-102, as last amended by Laws of Utah 2012, Chapter 359)

10-2a-104, (Renumbered from 10-2-118, as enacted by Laws of Utah 1997, Chapter 389)

10-2a-105, (Renumbered from 10-2-130, as enacted by Laws of Utah 2014, Chapter 405)

10-2a-202, (Renumbered from 10-2-103, as last amended by Laws of Utah 2000, Chapter 184)

10-2a-203, (Renumbered from 10-2-104, as last amended by Laws of Utah 2012, Chapter 359)

10-2a-204, (Renumbered from 10-2-105, as last amended by Laws of Utah 2012, Chapter 359)

10-2a-205, (Renumbered from 10-2-106, as last amended by Laws of Utah 2012, Chapter 359)

10-2a-206, (Renumbered from 10-2-107, as last amended by Laws of Utah 2000, Chapter 184)

10-2a-207, (Renumbered from 10-2-108, as last amended by Laws of Utah 2012, Chapter 359)

10-2a-208, (Renumbered from 10-2-109, as last amended by Laws of Utah 2012, Chapter 359)

10-2a-209, (Renumbered from 10-2-110, as last amended by Laws of Utah 1997, Second Special Session, Chapter 3)

10-2a-210, (Renumbered from 10-2-111, as last amended by Laws of Utah 2014, Chapter 158)

10-2a-211, (Renumbered from 10-2-112, as last amended by Laws of Utah 2008, Chapter 19)

10-2a-212, (Renumbered from 10-2-113, as repealed and reenacted by Laws of Utah 1997, Chapter 389)

10-2a-213, (Renumbered from 10-2-114, as last amended by Laws of Utah 2010, Chapter 90)

10-2a-214, (Renumbered from 10-2-115, as last amended by Laws of Utah 2009, Chapter 388)

10-2a-215, (Renumbered from 10-2-116, as last amended by Laws of Utah 2012, Chapter 359)

10-2a-216, (Renumbered from 10-2-117, as enacted by Laws of Utah 1997, Chapter 389)

10-2a-217, (Renumbered from 10-2-119, as last amended by Laws of Utah 2009, Chapter 350)

10-2a-218, (Renumbered from 10-2-120, as last amended by Laws of Utah 2009, Chapter 350)

10-2a-219, (Renumbered from 10-2-121, as last amended by Laws of Utah 2009, Chapter 350)

10-2a-220, (Renumbered from 10-2-123, as enacted by Laws of Utah 1997, Chapter 389)

10-2a-221, (Renumbered from 10-2-124, as repealed and reenacted by Laws of Utah 2012, Chapter 359)

10-2a-302, (Renumbered from 10-2-125, as last amended by Laws of Utah 2014, Chapter 189)

10-2a-303, (Renumbered from 10-2-126, as last

amended by Laws of Utah 2014, Chapter 189)

10-2a-304, (Renumbered from 10-2-127, as last amended by Laws of Utah 2014, Chapter 158)

10-2a-305, (Renumbered from 10-2-128, as enacted by Laws of Utah 2012, Chapter 359)

10-2a-306, (Renumbered from 10-2-129, as enacted by Laws of Utah 2012, Chapter 359)

REPEALS:

10-2-408.5, as enacted by Laws of Utah 2009, Chapter 205

10-3b-505, as enacted by Laws of Utah 2008, Chapter 19

10-3b-506, as enacted by Laws of Utah 2008, Chapter 19

10-3b-507, as enacted by Laws of Utah 2008, Chapter 19

17-27a-307, as last amended by Laws of Utah 2008, Chapter 250

Utah Code Sections Affected by Coordination Clause:

10-2-102.13, Utah Code Annotated 1953

10-2-111, as last amended by Laws of Utah 2014, Chapter 158

10-2-116, as last amended by Laws of Utah 2012, Chapter 359

10-2-127, as last amended by Laws of Utah 2014, Chapter 158

10-2-128.1, Utah Code Annotated 1953

10-2-128.2, Utah Code Annotated 1953

10-2-131, Utah Code Annotated 1953

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

Section 1. Section 10-1-104 is amended to read:

10-1-104. Definitions.

As used in this title:

(1) "City" means a municipality that is classified by population as a city of the first class, a city of the second class, a city of the third class, a city of the fourth class, or a city of the fifth class, under Section 10-2-301.

(2) "Contiguous" means:

(a) if used to described an area, continuous, uninterrupted, and without an island of territory not included as part of the area; and

(b) if used to describe an area's relationship to another area, sharing a common boundary.

(3) "Governing body" means collectively the legislative body and the executive of any municipality. Unless otherwise provided:

(a) in a city of the first or second class, the governing body is the city commission;

(b) in a city of the third, fourth, or fifth class, the governing body is the city council; ~~and~~

(c) in a town, the governing body is the town council[-]; and

(d) in a metro township, the governing body is the metro township council.

(4) "Municipal" means of or relating to a municipality.

(5) (a) "Municipality" means:

(i) a city of the first class, city of the second class, city of the third class, city of the fourth class, city of the fifth class~~[-or];~~

(ii) a town, as classified in Section 10-2-301~~[-];~~ or

(iii) a metro township as that term is defined in Section 10-2a-403 unless the term is used in the context of authorizing, governing, or otherwise regulating the provision of municipal services.

(6) "Peninsula," when used to describe an unincorporated area, means an area surrounded on more than 1/2 of its boundary distance, but not completely, by incorporated territory and situated so that the length of a line drawn across the unincorporated area from an incorporated area to an incorporated area on the opposite side shall be less than 25% of the total aggregate boundaries of the unincorporated area.

(7) "Person" means an individual, corporation, partnership, organization, association, trust, governmental agency, or any other legal entity.

(8) "Provisions of law" shall include other statutes of the state of Utah and ordinances, rules, and regulations properly adopted by any municipality unless the construction is clearly contrary to the intent of state law.

(9) "Recorder," unless clearly inapplicable, includes and applies to a town clerk.

(10) "Town" means a municipality classified by population as a town under Section 10-2-301.

(11) "Unincorporated" means not within a municipality.

Section 2. Section 10-1-114 is amended to read:

10-1-114. Repealer.

Title 10, Chapter 1, General Provisions; Chapter 2, [~~Incorporation,~~] Classification, Boundaries, Consolidation, and Dissolution of Municipalities; Chapter 3, Municipal Government; Chapter 5, Uniform Fiscal Procedures Act for Utah Towns; and Chapter 6, Uniform Fiscal Procedures Act for Utah Cities, are repealed, except as provided in Section 10-1-115.

Section 3. Section 10-2-301.5 is enacted to read:

**CHAPTER 2. CLASSIFICATION,
BOUNDARIES, CONSOLIDATION, AND
DISSOLUTION OF MUNICIPALITIES**

10-2-301.5. Classification of metro townships according to population.

(1) Each metro township, as defined in Section 10-2a-403, shall be classified according to its population, as provided in this section.

(2) A metro township with a population of:

(a) 1,000 or more is a metro township of the first class; and

(b) fewer than 1,000 is a metro township of the second class.

Section 4. Section 10-2-302 is amended to read:

10-2-302. Change of class of municipality.

(1) Each municipality shall retain its classification under Section 10-2-301 until changed as provided in this section or Subsection 67-1a-2(3).

(2) (a) If a municipality's population, as determined by the lieutenant governor under Subsection 67-1a-2(3), indicates that the municipality's population has decreased below the limit for its current class, the legislative body of the municipality may petition the lieutenant governor to prepare a certificate indicating the class in which the municipality belongs based on the decreased population figure.

(b) Notwithstanding Subsection (2)(a), the legislative body of a metro township may not petition under this section to change from a metro township to a city or town.

(3) A municipality's change in class is effective on the date of the lieutenant governor's certificate under Subsection 67-1a-2(3).

Section 5. Section 10-2-401 is amended to read:

10-2-401. Definitions -- Property owner provisions.

(1) As used in this part:

(a) "Affected entity" means:

(i) a county of the first or second class in whose unincorporated area the area proposed for annexation is located;

(ii) a county of the third, fourth, fifth, or sixth class in whose unincorporated area the area proposed for annexation is located, if the area includes residents or commercial or industrial development;

(iii) a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, or special service district under Title 17D, Chapter 1, Special Service District Act, whose boundary includes any part of an area proposed for annexation;

(iv) a school district whose boundary includes any part of an area proposed for annexation, if the boundary is proposed to be adjusted as a result of the annexation; and

(v) a municipality whose boundaries are within 1/2 mile of an area proposed for annexation.

(b) "Annexation petition" means a petition under Section 10-2-403 proposing the annexation to a municipality of a contiguous, unincorporated area that is contiguous to the municipality.

(c) "Commission" means a boundary commission established under Section 10-2-409 for the county in which the property that is proposed for annexation is located.

(d) "Expansion area" means the unincorporated area that is identified in an annexation policy plan under Section 10-2-401.5 as the area that the municipality anticipates annexing in the future.

(e) "Feasibility consultant" means a person or firm with expertise in the processes and economics of local government.

(f) "Municipal selection committee" means a committee in each county composed of the mayor of each municipality within that county.

(g) "Planning advisory area" means the same as that term is defined in Section 17-27a-306.

(g) (h) "Private," with respect to real property, means not owned by the United States or any agency of the federal government, the state, a county, a municipality, a school district, a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, a special service district under Title 17D, Chapter 1, Special Service District Act, or any other political subdivision or governmental entity of the state.

~~(h)~~ (i) "Specified county" means a county of the second, third, fourth, fifth, or sixth class.

~~(i)~~ "Township" has the same meaning as defined in Section 17-27a-103.

(j) "Unincorporated peninsula" means an unincorporated area:

- (i) that is part of a larger unincorporated area;
- (ii) that extends from the rest of the unincorporated area of which it is a part;
- (iii) that is surrounded by land that is within a municipality, except where the area connects to and extends from the rest of the unincorporated area of which it is a part; and

(iv) whose width, at any point where a straight line may be drawn from a place where it borders a municipality to another place where it borders a municipality, is no more than 25% of the boundary of the area where it borders a municipality.

(k) "Urban development" means:

(i) a housing development with more than 15 residential units and an average density greater than one residential unit per acre; or

(ii) a commercial or industrial development for which cost projections exceed \$750,000 for all phases.

(2) For purposes of this part:

(a) the owner of real property shall be:

(i) except as provided in Subsection (2)(a)(ii), the record title owner according to the records of the county recorder on the date of the filing of the petition or protest; or

(ii) the lessee of military land, as defined in Section 63H-1-102, if the area proposed for annexation includes military land that is within a project area described in a project area plan adopted by the military installation development authority under Title 63H, Chapter 1, Military Installation Development Authority Act; and

(b) the value of private real property shall be determined according to the last assessment roll for county taxes before the filing of the petition or protest.

(3) For purposes of each provision of this part that requires the owners of private real property covering a percentage or majority of the total private land area within an area to sign a petition or protest:

(a) a parcel of real property may not be included in the calculation of the required percentage or majority unless the petition or protest is signed by:

(i) except as provided in Subsection (3)(a)(ii), owners representing a majority ownership interest in that parcel; or

(ii) if the parcel is owned by joint tenants or tenants by the entirety, 50% of the number of owners of that parcel;

(b) the signature of a person signing a petition or protest in a representative capacity on behalf of an owner is invalid unless:

(i) the person's representative capacity and the name of the owner the person represents are indicated on the petition or protest with the person's signature; and

(ii) the person provides documentation accompanying the petition or protest that substantiates the person's representative capacity; and

(c) subject to Subsection (3)(b), a duly appointed personal representative may sign a petition or protest on behalf of a deceased owner.

Section 6. Section 10-2-402 is amended to read:

10-2-402. Annexation -- Limitations.

(1) (a) A contiguous, unincorporated area that is contiguous to a municipality may be annexed to the municipality as provided in this part.

(b) An unincorporated area may not be annexed to a municipality unless:

(i) it is a contiguous area;

(ii) it is contiguous to the municipality;

(iii) except as provided in Subsection 10-2-418~~(1)(b)~~(2)(c), annexation will not leave or create an unincorporated island or unincorporated peninsula; and

(iv) for an area located in a specified county with respect to an annexation that occurs after

December 31, 2002, the area is within the proposed annexing municipality's expansion area.

(2) Except as provided in Section 10-2-418, a municipality may not annex an unincorporated area unless a petition under Section 10-2-403 is filed requesting annexation.

(3) (a) An annexation under this part may not include part of a parcel of real property and exclude part of that same parcel unless the owner of that parcel has signed the annexation petition under Section 10-2-403.

(b) A piece of real property that has more than one parcel number is considered to be a single parcel for purposes of Subsection (3)(a) if owned by the same owner.

(4) A municipality may not annex an unincorporated area in a specified county for the sole purpose of acquiring municipal revenue or to retard the capacity of another municipality to annex the same or a related area unless the municipality has the ability and intent to benefit the annexed area by providing municipal services to the annexed area.

(5) The legislative body of a specified county may not approve urban development within a municipality's expansion area unless:

(a) the county notifies the municipality of the proposed development; and

(b) (i) the municipality consents in writing to the development; or

(ii) (A) within 90 days after the county's notification of the proposed development, the municipality submits to the county a written objection to the county's approval of the proposed development; and

(B) the county responds in writing to the municipality's objections.

(6) (a) An annexation petition may not be filed under this part proposing the annexation of an area located in a county that is not the county in which the proposed annexing municipality is located unless the legislative body of the county in which the area is located has adopted a resolution approving the proposed annexation.

(b) Each county legislative body that declines to adopt a resolution approving a proposed annexation described in Subsection (6)(a) shall provide a written explanation of its reasons for declining to approve the proposed annexation.

(7) (a) As used in this Subsection (7), "airport" means an area that the Federal Aviation Administration has, by a record of decision, approved for the construction or operation of a Class I, II, or III commercial service airport, as designated by the Federal Aviation Administration in 14 C.F.R. Part 139.

(b) A municipality may not annex an unincorporated area within 5,000 feet of the center line of any runway of an airport operated or to be constructed and operated by another municipality

unless the legislative body of the other municipality adopts a resolution consenting to the annexation.

(c) A municipality that operates or intends to construct and operate an airport and does not adopt a resolution consenting to the annexation of an area described in Subsection (7)(b) may not deny an annexation petition proposing the annexation of that same area to that municipality.

~~[(8) An annexation petition may not be filed if it proposes the annexation of an area that is within a proposed township in a petition to establish a township under Subsection 17-27a-306(1)(c) that has been certified under Subsection 17-27a-306(1)(f), until after the canvass of an election on the proposed township under Subsection 17-27a-306(1)(h).]~~

[~~(9)~~ (8) (a) A municipality may not annex an unincorporated area located within a project area described in a project area plan adopted by the military installation development authority under Title 63H, Chapter 1, Military Installation Development Authority Act, without the authority's approval.

(b) (i) Except as provided in Subsection [~~(9)~~ (8)(b)(ii), the Military Installation Development Authority may petition for annexation of a project area and contiguous surrounding land to a municipality as if it was the sole private property owner of the project area and surrounding land, if the area to be annexed is entirely contained within the boundaries of a military installation.

(ii) Before petitioning for annexation under Subsection [~~(9)~~ (8)(b)(i), the Military Installation Development Authority shall provide the military installation with a copy of the petition for annexation. The military installation may object to the petition for annexation within 14 days of receipt of the copy of the annexation petition. If the military installation objects under this Subsection [~~(9)~~ (8)(b)(ii), the Military Installation Development Authority may not petition for the annexation as if it was the sole private property owner.

(iii) If any portion of an area annexed under a petition for annexation filed by a Military Installation Development Authority is located in a specified county:

(A) the annexation process shall follow the requirements for a specified county; and

(B) the provisions of Subsection 10-2-402(6) do not apply.

Section 7. Section 10-2-403 is amended to read:

10-2-403. Annexation petition -- Requirements -- Notice required before filing.

(1) Except as provided in Section 10-2-418, the process to annex an unincorporated area to a municipality is initiated by a petition as provided in this section.

(2) (a) (i) Before filing a petition under Subsection (1) with respect to the proposed annexation of an

area located in a county of the first class, the person or persons intending to file a petition shall:

(A) file with the city recorder or town clerk of the proposed annexing municipality a notice of intent to file a petition; and

(B) send a copy of the notice of intent to each affected entity.

(ii) Each notice of intent under Subsection (2)(a)(i) shall include an accurate map of the area that is proposed to be annexed.

(b) (i) Subject to Subsection (2)(b)(ii), the county in which the area proposed to be annexed is located shall:

(A) mail the notice described in Subsection (2)(b)(iii) to:

(I) each owner of real property located within the area proposed to be annexed; and

(II) each owner of real property located within 300 feet of the area proposed to be annexed; and

(B) send to the proposed annexing municipality a copy of the notice and a certificate indicating that the notice has been mailed as required under Subsection (2)(b)(i)(A).

(ii) The county shall mail the notice required under Subsection (2)(b)(i)(A) within 20 days after receiving from the person or persons who filed the notice of intent:

(A) a written request to mail the required notice; and

(B) payment of an amount equal to the county's expected actual cost of mailing the notice.

(iii) Each notice required under Subsection (2)(b)(i)(A) shall:

(A) be in writing;

(B) state, in bold and conspicuous terms, substantially the following:

“Attention: Your property may be affected by a proposed annexation.

Records show that you own property within an area that is intended to be included in a proposed annexation to (state the name of the proposed annexing municipality) or that is within 300 feet of that area. If your property is within the area proposed for annexation, you may be asked to sign a petition supporting the annexation. You may choose whether or not to sign the petition. By signing the petition, you indicate your support of the proposed annexation. If you sign the petition but later change your mind about supporting the annexation, you may withdraw your signature by submitting a signed, written withdrawal with the recorder or clerk of (state the name of the proposed annexing municipality) within 30 days after (state the name of the proposed annexing municipality) receives notice that the petition has been certified.

There will be no public election on the proposed annexation because Utah law does not provide for an annexation to be approved by voters at a public election. Signing or not signing the annexation petition is the method under Utah law for the owners of property within the area proposed for annexation to demonstrate their support of or opposition to the proposed annexation.

You may obtain more information on the proposed annexation by contacting (state the name, mailing address, telephone number, and email address of the official or employee of the proposed annexing municipality designated to respond to questions about the proposed annexation), (state the name, mailing address, telephone number, and email address of the county official or employee designated to respond to questions about the proposed annexation), or (state the name, mailing address, telephone number, and email address of the person who filed the notice of intent under Subsection (2)(a)(i)(A), or, if more than one person filed the notice of intent, one of those persons). Once filed, the annexation petition will be available for inspection and copying at the office of (state the name of the proposed annexing municipality) located at (state the address of the municipal offices of the proposed annexing municipality).”; and

(C) be accompanied by an accurate map identifying the area proposed for annexation.

(iv) A county may not mail with the notice required under Subsection (2)(b)(i)(A) any other information or materials related or unrelated to the proposed annexation.

(c) (i) After receiving the certificate from the county as provided in Subsection (2)(b)(i)(B), the proposed annexing municipality shall, upon request from the person or persons who filed the notice of intent under Subsection (2)(a)(i)(A), provide an annexation petition for the annexation proposed in the notice of intent.

(ii) An annexation petition provided by the proposed annexing municipality may be duplicated for circulation for signatures.

(3) Each petition under Subsection (1) shall:

(a) be filed with the city recorder or town clerk, as the case may be, of the proposed annexing municipality;

(b) contain the signatures of ~~[(i)]~~, if all the real property within the area proposed for annexation is owned by a public entity other than the federal government, the owners of all the publicly owned real property, or the owners of private real property that:

~~[(A)]~~ (i) is located within the area proposed for annexation;

~~[(B)–(F)]~~ (ii) (A) subject to Subsection (3)(b)(~~(i)~~–~~(F)~~)(ii)(C), covers a majority of the private land area within the area proposed for annexation; ~~and~~

(B) covers 100% of rural real property as that term is defined in Section 17B-2a-1107 within the area proposed for annexation; and

~~[(H)]~~ (C) covers 100% of the private land area within the area proposed for annexation, if the area is within ~~[-(Aa)]~~ an agriculture protection area created under Title 17, Chapter 41, Agriculture and Industrial Protection Areas ~~[-or-(Bb)]~~, or a migratory bird production area created under Title 23, Chapter 28, Migratory Bird Production Area; and

~~[(C)]~~ (iii) is equal in value to at least 1/3 of the value of all private real property within the area proposed for annexation; ~~[ø]~~

~~[(ii)]~~ if all the real property within the area proposed for annexation is owned by a public entity other than the federal government, the owner of all the publicly owned real property;

~~[(e)]~~ if the petition proposes the annexation of an area located within a township, explain that if the annexation petition is granted, the area will also be withdrawn from the township;

~~[(d)]~~ (c) be accompanied by:

(i) an accurate and recordable map, prepared by a licensed surveyor, of the area proposed for annexation; and

(ii) a copy of the notice sent to affected entities as required under Subsection (2)(a)(i)(B) and a list of the affected entities to which notice was sent;

~~[(e)]~~ (d) if the area proposed to be annexed is located in a county of the first class, contain on each signature page a notice in bold and conspicuous terms that states substantially the following:

“Notice:

There will be no public election on the annexation proposed by this petition because Utah law does not provide for an annexation to be approved by voters at a public election.

If you sign this petition and later decide that you do not support the petition, you may withdraw your signature by submitting a signed, written withdrawal with the recorder or clerk of (state the name of the proposed annexing municipality). If you choose to withdraw your signature, you shall do so no later than 30 days after (state the name of the proposed annexing municipality) receives notice that the petition has been certified.”;

~~[(f)]~~ (e) if the petition proposes the annexation of an area located in a county that is not the county in which the proposed annexing municipality is located, be accompanied by a copy of the resolution, required under Subsection 10-2-402(6), of the legislative body of the county in which the area is located; and

~~[(g)]~~ (f) designate up to five of the signers of the petition as sponsors, one of whom shall be designated as the contact sponsor, and indicate the mailing address of each sponsor.

(4) A petition under Subsection (1) may not propose the annexation of all or part of an area proposed for annexation to a municipality in a

previously filed petition that has not been denied, rejected, or granted.

(5) A petition under Subsection (1) proposing the annexation of an area located in a county of the first class may not propose the annexation of an area that includes some or all of an area proposed to be incorporated in a request for a feasibility study under Section ~~[10-2-103]~~ 10-2a-202 or a petition under Section ~~[10-2-125]~~ 10-2a-302 if:

(a) the request or petition was filed before the filing of the annexation petition; and

(b) the request, a petition under Section ~~[10-2-109]~~ 10-2a-208 based on that request, or a petition under Section ~~[10-2-125]~~ 10-2a-302 is still pending on the date the annexation petition is filed.

(6) If practicable and feasible, the boundaries of an area proposed for annexation shall be drawn:

(a) along the boundaries of existing local districts and special service districts for sewer, water, and other services, along the boundaries of school districts whose boundaries follow city boundaries or school districts adjacent to school districts whose boundaries follow city boundaries, and along the boundaries of other taxing entities;

(b) to eliminate islands and peninsulas of territory that is not receiving municipal-type services;

(c) to facilitate the consolidation of overlapping functions of local government;

(d) to promote the efficient delivery of services; and

(e) to encourage the equitable distribution of community resources and obligations.

(7) On the date of filing, the petition sponsors shall deliver or mail a copy of the petition to ~~[-(a)]~~ the clerk of the county in which the area proposed for annexation is located ~~[-and]~~.

~~[(b)]~~ if any of the area proposed for annexation is within a township;

~~[(i)]~~ the legislative body of the county in which the township is located; and

~~[(ii)]~~ the chair of the township planning commission.

(8) A property owner who signs an annexation petition proposing to annex an area located in a county of the first class may withdraw the owner’s signature by filing a written withdrawal, signed by the property owner, with the city recorder or town clerk no later than 30 days after the municipal legislative body’s receipt of the notice of certification under Subsection 10-2-405(2)(c)(i).

Section 8. Section 10-2-405 is amended to read:

10-2-405. Acceptance or denial of an annexation petition -- Petition certification process -- Modified petition.

(1) (a) (i) A municipal legislative body may:

(A) subject to Subsection (1)(a)(ii), deny a petition filed under Section 10-2-403; or

(B) accept the petition for further consideration under this part.

(ii) A petition shall be considered to have been accepted for further consideration under this part if a municipal legislative body fails to act to deny or accept the petition under Subsection (1)(a)(i):

(A) in the case of a city of the first or second class, within 14 days after the filing of the petition; or

(B) in the case of a city of the third, fourth, or fifth class ~~[or]~~, a town, or a metro township, at the next regularly scheduled meeting of the municipal legislative body that is at least 14 days after the date the petition was filed.

(b) If a municipal legislative body denies a petition under Subsection (1)(a)(i), it shall, within five days after the denial, mail written notice of the denial to:

(i) the contact sponsor; and

(ii) the clerk of the county in which the area proposed for annexation is located~~;~~ and].

~~[(iii) if any of the area proposed for annexation is within a township:]~~

~~[(A) the legislative body of the county in which the township is located; and]~~

~~[(B) the chair of the planning commission.]~~

(2) If the municipal legislative body accepts a petition under Subsection (1)(a)(i) or is considered to have accepted the petition under Subsection (1)(a)(ii), the city recorder or town clerk, as the case may be, shall, within 30 days after that acceptance:

(a) obtain from the assessor, clerk, surveyor, and recorder of the county in which the area proposed for annexation is located the records the city recorder or town clerk needs to determine whether the petition meets the requirements of Subsections 10-2-403(3), (4), and (5);

(b) with the assistance of the municipal attorney, determine whether the petition meets the requirements of Subsections 10-2-403(3), (4), and (5); and

(c) (i) if the city recorder or town clerk determines that the petition meets those requirements, certify the petition and mail or deliver written notification of the certification to the municipal legislative body, the contact sponsor, and the county legislative body~~;~~ and the chair of the planning commission of each township in which any part of the area proposed for annexation is located]; or

(ii) if the city recorder or town clerk determines that the petition fails to meet any of those requirements, reject the petition and mail or deliver written notification of the rejection and the reasons for the rejection to the municipal legislative body, the contact sponsor, and the county legislative body~~;~~ and the chair of the planning commission of

~~each township in which any part of the area proposed for annexation is located~~].

(3) (a) (i) If the city recorder or town clerk rejects a petition under Subsection (2)(c)(ii), the petition may be modified to correct the deficiencies for which it was rejected and then refiled with the city recorder or town clerk, as the case may be.

(ii) A signature on an annexation petition filed under Section 10-2-403 may be used toward fulfilling the signature requirement of Subsection 10-2-403(2)(b) for the petition as modified under Subsection (3)(a)(i).

(b) If a petition is refiled under Subsection (3)(a) after having been rejected by the city recorder or town clerk under Subsection (2)(c)(ii), the refiled petition shall be treated as a newly filed petition under Subsection 10-2-403(1).

(4) Each county assessor, clerk, surveyor, and recorder shall provide copies of records that a city recorder or town clerk requests under Subsection (2)(a).

Section 9. Section 10-2-407 is amended to read:

10-2-407. Protest to annexation petition -- Planning advisory area planning commission recommendation -- Petition requirements -- Disposition of petition if no protest filed.

(1) ~~[(a)]~~ A protest to an annexation petition under Section 10-2-403 may be filed by:

~~[(i)]~~ (a) the legislative body or governing board of an affected entity; ~~[or]~~

~~[(b)]~~ the owner of rural real property as defined in Section 17B-2a-1107; or

~~[(ii)]~~ (c) for a proposed annexation of an area within a county of the first class, the owners of private real property that:

~~[(A)]~~ (i) is located in the unincorporated area within 1/2 mile of the area proposed for annexation;

~~[(B)]~~ (ii) covers at least 25% of the private land area located in the unincorporated area within 1/2 mile of the area proposed for annexation; and

~~[(C)]~~ (iii) is equal in value to at least 15% of all real property located in the unincorporated area within 1/2 mile of the area proposed for annexation.

~~[(b)]~~ (i) A planning commission of a township located in a county of the first class may recommend to the legislative body of the county in which the township is located that the county legislative body file a protest against a proposed annexation under this part of an area located within the township.]

~~[(ii)]~~ (A) The township planning commission shall communicate each recommendation under Subsection (1)(b)(i) in writing to the county legislative body within 30 days after the city recorder or town clerk's certification of the annexation petition under Subsection 10-2-405(2)(e)(i).]

~~[(B)]~~ At the time the recommendation is communicated to the county legislative body under

~~Subsection (1)(b)(ii)(A), the township planning commission shall mail or deliver a copy of the recommendation to the legislative body of the proposed annexing municipality and to the contact sponsor.]~~

(2) (a) Each protest under Subsection (1)(a) shall:

(i) be filed:

(A) no later than 30 days after the municipal legislative body's receipt of the notice of certification under Subsection 10-2-405(2)(c)(i); and

(B) (I) in a county that has already created a commission under Section 10-2-409, with the commission; or

(II) in a county that has not yet created a commission under Section 10-2-409, with the clerk of the county in which the area proposed for annexation is located;

(ii) state each reason for the protest of the annexation petition and, if the area proposed to be annexed is located in a specified county, justification for the protest under the standards established in this chapter;

(iii) if the area proposed to be annexed is located in a specified county, contain other information that the commission by rule requires or that the party filing the protest considers pertinent; and

(iv) contain the name and address of a contact person who is to receive notices sent by the commission with respect to the protest proceedings.

(b) The party filing a protest under this section shall on the same date deliver or mail a copy of the protest to the city recorder or town clerk of the proposed annexing municipality.

(c) Each clerk who receives a protest under Subsection (2)(a)(i)(B)(II) shall:

(i) immediately notify the county legislative body of the protest; and

(ii) deliver the protest to the boundary commission within five days after:

(A) receipt of the protest, if the boundary commission has previously been created; or

(B) creation of the boundary commission under Subsection 10-2-409(1)(b), if the boundary commission has not previously been created.

~~[(d) Each protest of a proposed annexation of an area located in a county of the first class under Subsection (1)(a)(ii) shall, in addition to the requirements of Subsections (2)(a) and (b):]~~

~~[(i) indicate the typed or printed name and current residence address of each owner signing the protest; and]~~

~~[(ii) designate one of the signers of the protest as the contact person and state the mailing address of the contact person.]~~

(3) (a) (i) If a protest is filed under this section:

(A) the municipal legislative body may, at its next regular meeting after expiration of the deadline under Subsection (2)(a)(i)(A), deny the annexation petition; or

(B) if the municipal legislative body does not deny the annexation petition under Subsection (3)(a)(i)(A), the municipal legislative body may take no further action on the annexation petition until after receipt of the commission's notice of its decision on the protest under Section 10-2-416.

(ii) If a municipal legislative body denies an annexation petition under Subsection (3)(a)(i)(A), the municipal legislative body shall, within five days after the denial, send notice of the denial in writing to:

(A) the contact sponsor of the annexation petition;

(B) the commission; and

(C) each entity that filed a protest[;].

~~[(D) if a protest was filed under Subsection (1)(a)(ii) for a proposed annexation of an area located in a county of the first class, the contact person; and]~~

~~[(E) if any of the area proposed for annexation is within a township, the legislative body of the county in which the township is located.]~~

(b) (i) If no timely protest is filed under this section, the municipal legislative body may, subject to Subsection (3)(b)(ii), approve the petition.

(ii) Before approving an annexation petition under Subsection (3)(b)(i), the municipal legislative body shall:

(A) hold a public hearing; and

(B) at least seven days before the public hearing under Subsection (3)(b)(ii)(A):

(I) (Aa) publish notice of the hearing in a newspaper of general circulation within the municipality and the area proposed for annexation; or

(Bb) if there is no newspaper of general circulation in those areas, post written notices of the hearing in conspicuous places within those areas that are most likely to give notice to residents within those areas; and

(II) publish notice of the hearing on the Utah Public Notice Website created in Section 63F-1-701.

~~[(iii) Within 10 days after approving an annexation under Subsection (3)(b)(i) of an area that is partly or entirely within a township, the municipal legislative body shall send notice of the approval to the legislative body of the county in which the township is located.]~~

Section 10. Section 10-2-408 is amended to read:

10-2-408. Denying or approving the annexation petition -- Notice of approval.

(1) After receipt of the commission's decision on a protest under Subsection 10-2-416(2), a municipal legislative body may:

(a) deny the annexation petition; or

(b) subject to Subsection (2), if the commission approves the annexation, approve the annexation petition consistent with the commission's decision.

(2) A municipal legislative body shall exclude rural real property, as that term is defined in Section 17B-2a-1107, unless the owner of the rural real property gives written consent to include the rural real property.

~~[(2) Within 10 days after approving an annexation under Subsection (1)(b) of an area that is partly or entirely within a township, the municipal legislative body shall send notice of the approval to the legislative body of the county in which the township is located.]~~

Section 11. Section 10-2-411 is amended to read:

10-2-411. Disqualification of commission member -- Alternate member.

(1) A member of the boundary commission is disqualified with respect to a protest before the commission if that member owns property:

(a) for a proposed annexation of an area located within a county of the first class:

(i) within the area proposed for annexation in a petition that is the subject of the protest; or

(ii) that is in the unincorporated area within 1/2 mile of the area proposed for annexation in a petition that is the subject of a protest under Subsection 10-2-407(1)(~~a~~)(ii)(c); or

(b) for a proposed annexation of an area located in a specified county, within the area proposed for annexation.

(2) If a member is disqualified under Subsection (1), the body that appointed the disqualified member shall appoint an alternate member to serve on the commission for purposes of the protest as to which the member is disqualified.

Section 12. Section 10-2-413 is amended to read:

10-2-413. Feasibility consultant -- Feasibility study -- Modifications to feasibility study.

(1) (a) For a proposed annexation of an area located in a county of the first class, unless a proposed annexing municipality denies an annexation petition under Subsection 10-2-407(3)(a)(i)(A) and except as provided in Subsection (1)(b), the commission shall choose and engage a feasibility consultant within 45 days of:

(i) the commission's receipt of a protest under Section 10-2-407, if the commission had been created before the filing of the protest; or

(ii) the commission's creation, if the commission is created after the filing of a protest.

(b) Notwithstanding Subsection (1)(a), the commission may not require a feasibility study with

respect to a petition that proposes the annexation of an area that:

(i) is undeveloped; and

(ii) covers an area that is equivalent to less than 5% of the total land mass of all private real property within the municipality.

(2) The commission shall require the feasibility consultant to:

(a) complete a feasibility study on the proposed annexation and submit written results of the study to the commission no later than 75 days after the feasibility consultant is engaged to conduct the study;

(b) submit with the full written results of the feasibility study a summary of the results no longer than a page in length; and

(c) attend the public hearing under Subsection 10-2-415(1) and present the feasibility study results and respond to questions at that hearing.

(3) (a) Subject to Subsection (4), the feasibility study shall consider:

(i) the population and population density within the area proposed for annexation, the surrounding unincorporated area, and, if a protest was filed by a municipality with boundaries within 1/2 mile of the area proposed for annexation, that municipality;

(ii) the geography, geology, and topography of and natural boundaries within the area proposed for annexation, the surrounding unincorporated area, and, if a protest was filed by a municipality with boundaries within 1/2 mile of the area proposed for annexation, that municipality;

(iii) whether the proposed annexation eliminates, leaves, or creates an unincorporated island or unincorporated peninsula;

(iv) whether the proposed annexation will hinder or prevent a future and more logical and beneficial annexation or a future logical and beneficial incorporation;

(v) the fiscal impact of the proposed annexation on the remaining unincorporated area, other municipalities, local districts, special service districts, school districts, and other governmental entities;

(vi) current and five-year projections of demographics and economic base in the area proposed for annexation and surrounding unincorporated area, including household size and income, commercial and industrial development, and public facilities;

(vii) projected growth in the area proposed for annexation and the surrounding unincorporated area during the next five years;

(viii) the present and five-year projections of the cost of governmental services in the area proposed for annexation;

(ix) the present and five-year projected revenue to the proposed annexing municipality from the area proposed for annexation;

(x) the projected impact the annexation will have over the following five years on the amount of taxes that property owners within the area proposed for annexation, the proposed annexing municipality, and the remaining unincorporated county will pay;

(xi) past expansion in terms of population and construction in the area proposed for annexation and the surrounding unincorporated area;

(xii) the extension during the past 10 years of the boundaries of each other municipality near the area proposed for annexation, the willingness of the other municipality to annex the area proposed for annexation, and the probability that another municipality would annex some or all of the area proposed for annexation during the next five years if the annexation did not occur;

(xiii) the history, culture, and social aspects of the area proposed for annexation and surrounding area;

(xiv) the method of providing and the entity that has provided municipal-type services in the past to the area proposed for incorporation and the feasibility of municipal-type services being provided by the proposed annexing municipality; and

(xv) the effect on each school district whose boundaries include part or all of the area proposed for annexation or the proposed annexing municipality.

(b) For purposes of Subsection (3)(a)(ix), the feasibility consultant shall assume ad valorem property tax rates on residential property within the area proposed for annexation at the same level that residential property within the proposed annexing municipality would be without the annexation.

(c) For purposes of Subsection (3)(a)(viii), the feasibility consultant shall assume that the level and quality of governmental services that will be provided to the area proposed for annexation in the future is essentially comparable to the level and quality of governmental services being provided within the proposed annexing municipality at the time of the feasibility study.

(4) (a) Except as provided in Subsection (4)(b), the commission may modify the depth of study of and detail given to the items listed in Subsection (3)(a) by the feasibility consultant in conducting the feasibility study depending upon:

- (i) the size of the area proposed for annexation;
- (ii) the size of the proposed annexing municipality;
- (iii) the extent to which the area proposed for annexation is developed;
- (iv) the degree to which the area proposed for annexation is expected to develop and the type of development expected; and
- (v) the number and type of protests filed against the proposed annexation.

(b) Notwithstanding Subsection (4)(a), the commission may not modify the requirement that the feasibility consultant provide a full and complete analysis of the items listed in Subsections (3)(a)(viii), (ix), and (xv).

(5) If the results of the feasibility study do not meet the requirements of Subsection 10-2-416(3), the feasibility consultant may, as part of the feasibility study, make recommendations as to how the boundaries of the area proposed for annexation may be altered so that the requirements of Subsection 10-2-416(3) may be met.

(6) (a) Except as provided in Subsection (6)(b), the feasibility consultant fees and expenses shall be shared equally by the proposed annexing municipality and each entity or group under Subsection 10-2-407(1) that files a protest.

(b) (i) Except as provided in Subsection (6)(b)(ii), if a protest is filed by property owners under Subsection 10-2-407(1)[(a)(ii)](c), the county in which the area proposed for annexation shall pay the owners' share of the feasibility consultant's fees and expenses.

(ii) Notwithstanding Subsection (6)(b)(i), if both the county and the property owners file a protest, the county and the proposed annexing municipality shall equally share the property owners' share of the feasibility consultant's fees and expenses.

Section 13. Section 10-2-414 is amended to read:

10-2-414. Modified annexation petition -- Supplemental feasibility study.

(1) (a) (i) If the results of the feasibility study with respect to a proposed annexation of an area located in a county of the first class do not meet the requirements of Subsection 10-2-416(3), the sponsors of the annexation petition may, within 45 days of the feasibility consultant's submission of the results of the study, file with the city recorder or town clerk of the proposed annexing municipality a modified annexation petition altering the boundaries of the proposed annexation.

(ii) On the date of filing a modified annexation petition under Subsection (1)(a)(i), the sponsors of the annexation petition shall deliver or mail a copy of the modified annexation petition to the clerk of the county in which the area proposed for annexation is located.

(b) Each modified annexation petition under Subsection (1)(a) shall comply with the requirements of Subsections 10-2-403(3), (4), and (5).

(2) (a) Within 20 days of the city recorder or town clerk's receipt of the modified annexation petition, the city recorder or town clerk, as the case may be, shall follow the same procedure for the modified annexation petition as provided under Subsections 10-2-405(2) and (3)(a) for an original annexation petition.

(b) If the city recorder or town clerk certifies the modified annexation petition under Subsection 10-2-405(2)(c)(i), the city recorder or town clerk, as

the case may be, shall send written notice of the certification to:

(i) the commission;

(ii) each entity that filed a protest to the annexation petition; and

(iii) if a protest was filed under Subsection 10-2-407(1)(a)(ii)(c), the contact person.

(c) (i) If the modified annexation petition proposes the annexation of an area that includes part or all of a local district, special service district, or school district that was not included in the area proposed for annexation in the original petition, the city recorder or town clerk, as the case may be, shall also send notice of the certification of the modified annexation petition to the board of the local district, special service district, or school district.

(ii) If the area proposed for annexation in the modified annexation petition is within 1/2 mile of the boundaries of a municipality whose boundaries were not within 1/2 mile of the area proposed for annexation in the original annexation petition, the city recorder or town clerk, as the case may be, shall also send notice of the certification of the modified annexation petition to the legislative body of that municipality.

(3) Within 10 days of the commission's receipt of the notice under Subsection (2)(b), the commission shall engage the feasibility consultant that conducted the feasibility study to supplement the feasibility study to take into account the information in the modified annexation petition that was not included in the original annexation petition.

(4) The commission shall require the feasibility consultant to complete the supplemental feasibility study and to submit written results of the supplemental study to the commission no later than 30 days after the feasibility consultant is engaged to conduct the supplemental feasibility study.

Section 14. Section 10-2-415 is amended to read:

10-2-415. Public hearing -- Notice.

(1) (a) (i) If the results of the feasibility study or supplemental feasibility study meet the requirements of Subsection 10-2-416(3) with respect to a proposed annexation of an area located in a county of the first class, the commission shall hold a public hearing within 30 days of receipt of the feasibility study or supplemental feasibility study results.

(ii) At the hearing under Subsection (1)(a)(i), the commission shall:

(A) require the feasibility consultant to present the results of the feasibility study and, if applicable, the supplemental feasibility study;

(B) allow those present to ask questions of the feasibility consultant regarding the study results; and

(C) allow those present to speak to the issue of annexation.

(iii) (A) The commission shall:

(I) publish notice of each hearing under Subsection (1)(a)(i):

(Aa) at least once a week for two successive weeks in a newspaper of general circulation within the area proposed for annexation, the surrounding 1/2 mile of unincorporated area, and the proposed annexing municipality; and

(Bb) on the Utah Public Notice Website created in Section 63F-1-701, for two weeks; and

(II) send written notice of the hearing to the municipal legislative body of the proposed annexing municipality, the contact sponsor on the annexation petition, each entity that filed a protest, and, if a protest was filed under Subsection 10-2-407(1)(a)(ii)(c), the contact person.

(B) In accordance with Subsection (1)(a)(iii)(A)(I)(Aa), if there is no newspaper of general circulation within the areas described in Subsection (1)(a)(iii)(A)(I)(Aa), the commission shall give the notice required under that subsection by posting notices, at least seven days before the hearing, in conspicuous places within those areas that are most likely to give notice of the hearing to the residents of those areas.

(C) The notice under Subsections (1)(a)(iii)(A) and (B) shall include the feasibility study summary under Subsection 10-2-413(2)(b) and shall indicate that a full copy of the study is available for inspection and copying at the office of the commission.

(b) (i) Within 30 days after the time under Subsection 10-2-407(2) for filing a protest has expired with respect to a proposed annexation of an area located in a specified county, the boundary commission shall hold a hearing on all protests that were filed with respect to the proposed annexation.

(ii) (A) At least 14 days before the date of each hearing under Subsection (1)(b)(i), the commission chair shall cause notice of the hearing to be published in a newspaper of general circulation within the area proposed for annexation.

(B) Each notice under Subsection (1)(b)(ii)(A) shall:

(I) state the date, time, and place of the hearing;

(II) briefly summarize the nature of the protest; and

(III) state that a copy of the protest is on file at the commission's office.

(iii) The commission may continue a hearing under Subsection (1)(b)(i) from time to time, but no continued hearing may be held later than 60 days after the original hearing date.

(iv) In considering protests, the commission shall consider whether the proposed annexation:

(A) complies with the requirements of Sections 10-2-402 and 10-2-403 and the annexation policy plan of the proposed annexing municipality;

(B) conflicts with the annexation policy plan of another municipality; and

(C) if the proposed annexation includes urban development, will have an adverse tax consequence on the remaining unincorporated area of the county.

(2) (a) The commission shall record each hearing under this section by electronic means.

(b) A transcription of the recording under Subsection (2)(a), the feasibility study, if applicable, information received at the hearing, and the written decision of the commission shall constitute the record of the hearing.

Section 15. Section 10-2-416 is amended to read:

10-2-416. Commission decision -- Time limit -- Limitation on approval of annexation.

(1) Subject to Subsection (3), after the public hearing under Subsection 10-2-415(1) the boundary commission may:

(a) approve the proposed annexation, either with or without conditions;

(b) make minor modifications to the proposed annexation and approve it, either with or without conditions; or

(c) disapprove the proposed annexation.

(2) The commission shall issue a written decision on the proposed annexation within 30 days after the conclusion of the hearing under Section 10-2-415 and shall send a copy of the decision to:

(a) the legislative body of the county in which the area proposed for annexation is located;

(b) the legislative body of the proposed annexing municipality;

(c) the contact person on the annexation petition;

(d) the contact person of each entity that filed a protest; and

(e) if a protest was filed under Subsection 10-2-407(1)[(a)(ii)](c) with respect to a proposed annexation of an area located in a county of the first class, the contact person designated in the protest.

(3) Except for an annexation for which a feasibility study may not be required under Subsection 10-2-413(1)(b), the commission may not approve a proposed annexation of an area located within a county of the first class unless the results of the feasibility study under Section 10-2-413 show that the average annual amount under Subsection 10-2-413(3)(a)(ix) does not exceed the average annual amount under Subsection 10-2-413(3)(a)(viii) by more than 5%.

Section 16. Section 10-2-418 is amended to read:

10-2-418. Annexation of an island or peninsula without a petition -- Notice -- Hearing.

(1) For purposes of an annexation conducted in accordance with this section of an area located within a county of the first class, "municipal-type services" for purposes of Subsection (2)(a)(ii)(B) does not include a service provided by a municipality pursuant to a contract that the municipality has with another political subdivision as "political subdivision" is defined in Section 17B-1-102.

[~~(1)~~] (2) (a) Notwithstanding Subsection 10-2-402(2), a municipality may annex an unincorporated area under this section without an annexation petition if:

(i) (A) the area to be annexed consists of one or more unincorporated islands within or unincorporated peninsulas contiguous to the municipality;

(B) the majority of each island or peninsula consists of residential or commercial development;

(C) the area proposed for annexation requires the delivery of municipal-type services; and

(D) the municipality has provided most or all of the municipal-type services to the area for more than one year;

(ii) (A) the area to be annexed consists of one or more unincorporated islands within or unincorporated peninsulas contiguous to the municipality, each of which has fewer than 800 residents; and

(B) the municipality has provided one or more municipal-type services to the area for at least one year; or

(iii) (A) the area consists of:

(I) an unincorporated island within or an unincorporated peninsula contiguous to the municipality; and

(II) for an area outside of the county of the first class proposed for annexation, no more than 50 acres; and

(B) the county in which the area is located, subject to Subsection (3)(b), and the municipality agree that the area should be included within the municipality.

(b) Notwithstanding Subsection 10-2-402(1)(b)(iii), a municipality may annex a portion of an unincorporated island or unincorporated peninsula under this section, leaving unincorporated the remainder of the unincorporated island or unincorporated peninsula, if:

(i) in adopting the resolution under Subsection [~~(2)~~] (4)(a)(i), the municipal legislative body determines that not annexing the entire unincorporated island or unincorporated peninsula is in the municipality's best interest; and

(ii) for an annexation of one or more unincorporated islands under Subsection [~~(1)~~] (2)(a)(ii), the entire island of unincorporated area, of which a portion is being annexed, complies with the requirement of Subsection [~~(1)~~] (2)(a)(ii)(A) relating to the number of residents.

(3) (a) This Subsection (3) applies only to an annexation within a county of the first class.

(b) A county of the first class shall agree to the annexation if the majority of private property owners within the area to be annexed has indicated in writing, subject to Subsection (3)(d), to the city or town recorder of the annexing city or town the private property owners' consent to be annexed into the municipality.

(c) For purposes of Subsection (3)(b), the majority of private property owners is property owners who own:

(i) the majority of the total private land area within the area proposed for annexation; and

(ii) private real property equal to at least one half the value of private real property within the area proposed for annexation.

(d) (i) A property owner consenting to annexation shall indicate the property owner's consent on a form which includes language in substantially the following form:

"Notice: If this written consent is used to proceed with an annexation of your property in accordance with Utah Code Section 10-2-418, no public election is required by law to approve the annexation. If you sign this consent and later decide you do not want to support the annexation of your property, you may withdraw your signature by submitting a signed, written withdrawal with the recorder or clerk of [name of annexing municipality]. If you choose to withdraw your signature, you must do so no later than the close of the public hearing on the annexation conducted in accordance with Utah Code Subsection 10-2-418(4)(a)(iv)."

(e) A private property owner may withdraw the property owner's signature indicating consent by submitting a signed, written withdrawal with the recorder or clerk no later than the close of the public hearing held in accordance with Subsection (4)(a)(iv).

[(2)] (4) (a) The legislative body of each municipality intending to annex an area under this section shall:

(i) adopt a resolution indicating the municipal legislative body's intent to annex the area, describing the area proposed to be annexed;

(ii) publish notice:

(A) (I) at least once a week for three successive weeks in a newspaper of general circulation within the municipality and the area proposed for annexation; or

(II) if there is no newspaper of general circulation in the areas described in Subsection [(2)] (4)(a)(ii)(A), post at least one notice per 1,000 population in places within those areas that are most likely to give notice to the residents of those areas; and

(B) on the Utah Public Notice Website created in Section 63F-1-701, for three weeks;

(iii) send written notice to the board of each local district and special service district whose boundaries contain some or all of the area proposed for annexation and to the legislative body of the county in which the area proposed for annexation is located; and

(iv) hold a public hearing on the proposed annexation no earlier than 30 days after the adoption of the resolution under Subsection [(2)] (4)(a)(i).

(b) Each notice under Subsections [(2)] (4)(a)(ii) and (iii) shall:

(i) state that the municipal legislative body has adopted a resolution indicating its intent to annex the area proposed for annexation;

(ii) state the date, time, and place of the public hearing under Subsection [(2)] (4)(a)(iv);

(iii) describe the area proposed for annexation; and

(iv) except for an annexation that meets the property owner consent requirements of Subsection [(3)] (5)(b), state in conspicuous and plain terms that the municipal legislative body will annex the area unless, at or before the public hearing under Subsection [(2)] (4)(a)(iv), written protests to the annexation are filed by the owners of private real property that:

(A) is located within the area proposed for annexation;

(B) covers a majority of the total private land area within the entire area proposed for annexation; and

(C) is equal in value to at least 1/2 the value of all private real property within the entire area proposed for annexation.

(c) The first publication of the notice required under Subsection [(2)] (4)(a)(ii)(A) shall be within 14 days of the municipal legislative body's adoption of a resolution under Subsection [(2)] (4)(a)(i).

[(3)] (5) (a) Upon conclusion of the public hearing under Subsection [(2)] (4)(a)(iv), the municipal legislative body may adopt an ordinance approving the annexation of the area proposed for annexation under this section unless, at or before the hearing, written protests to the annexation have been filed with the city recorder or town clerk, as the case may be, by the owners of private real property that:

(i) is located within the area proposed for annexation;

(ii) covers a majority of the total private land area within the entire area proposed for annexation; and

(iii) is equal in value to at least 1/2 the value of all private real property within the entire area proposed for annexation.

(b) (i) Upon conclusion of the public hearing under Subsection [(2)] (4)(a)(iv), a municipality may adopt an ordinance approving the annexation of the area proposed for annexation under this section without allowing or considering protests under Subsection [(3)] (5)(a) if the owners of at least 75% of

the total private land area within the entire area proposed for annexation, representing at least 75% of the value of the private real property within the entire area proposed for annexation, have consented in writing to the annexation.

(ii) Upon the effective date under Section 10-2-425 of an annexation approved by an ordinance adopted under Subsection [(3)] (5)(b)(i), the area annexed shall be conclusively presumed to be validly annexed.

[(4)] (6) (a) If protests are timely filed that comply with Subsection [(3)] (5), the municipal legislative body may not adopt an ordinance approving the annexation of the area proposed for annexation, and the annexation proceedings under this section shall be considered terminated.

(b) Subsection [(4)] (6)(a) may not be construed to prohibit the municipal legislative body from excluding from a proposed annexation under Subsection [(4)] (2)(a)(ii) the property within an unincorporated island regarding which protests have been filed and proceeding under Subsection [(4)] (2)(b) to annex some or all of the remaining portion of the unincorporated island.

Section 17. Section 10-2-425 is amended to read:

10-2-425. Filing of notice and plat -- Recording and notice requirements -- Effective date of annexation or boundary adjustment.

(1) The legislative body of each municipality that enacts an ordinance under this part approving the annexation of an unincorporated area or the adjustment of a boundary, or the legislative body of an eligible city, as defined in Section 10-2a-403, that annexes an unincorporated island upon the results of an election held in accordance with Section 10-2a-404, shall:

(a) within 30 days after enacting the ordinance or the day of the election or, in the case of a boundary adjustment, within 30 days after each of the municipalities involved in the boundary adjustment has enacted an ordinance, file with the lieutenant governor:

(i) a notice of an impending boundary action, as defined in Section 67-1a-6.5, that meets the requirements of Subsection 67-1a-6.5(3); and

(ii) a copy of an approved final local entity plat, as defined in Section 67-1a-6.5; and

(b) upon the lieutenant governor's issuance of a certificate of annexation or boundary adjustment, as the case may be, under Section 67-1a-6.5:

(i) (A) if the annexed area or area subject to the boundary adjustment is located within the boundary of a single county, submit to the recorder of that county:

(I) the original:

(Aa) notice of an impending boundary action;

(Bb) certificate of annexation or boundary adjustment; and

(Cc) approved final local entity plat; and

(II) a certified copy of the ordinance approving the annexation or boundary adjustment; or

(B) if the annexed area or area subject to the boundary adjustment is located within the boundaries of more than a single county:

(I) submit to the recorder of one of those counties:

(Aa) the original of the documents listed in Subsections (1)(b)(i)(A)(I)(Aa), (Bb), and (Cc); and

(Bb) a certified copy of the ordinance approving the annexation or boundary adjustment; and

(II) submit to the recorder of each other county:

(Aa) a certified copy of the documents listed in Subsections (1)(b)(i)(A)(I)(Aa), (Bb), and (Cc); and

(Bb) a certified copy of the ordinance approving the annexation or boundary adjustment;

(ii) send notice of the annexation or boundary adjustment to each affected entity; and

(iii) in accordance with Section 26-8a-414, file with the Department of Health:

(A) a certified copy of the ordinance approving the annexation of an unincorporated area or the adjustment of a boundary; and

(B) a copy of the approved final local entity plat.

(2) If an annexation or boundary adjustment under this part or Part 4, Incorporation of Metro Townships and Unincorporated Islands in a County of the First Class on and after May 12, 2015, also causes an automatic annexation to a local district under Section 17B-1-416 or an automatic withdrawal from a local district under Subsection 17B-1-502(2), the municipal legislative body shall, as soon as practicable after the lieutenant governor issues a certificate of annexation or boundary adjustment under Section 67-1a-6.5, send notice of the annexation or boundary adjustment to the local district to which the annexed area is automatically annexed or from which the annexed area is automatically withdrawn.

(3) Each notice required under Subsection (1) relating to an annexation or boundary adjustment shall state the effective date of the annexation or boundary adjustment, as determined under Subsection (4).

(4) An annexation or boundary adjustment under this part is completed and takes effect:

(a) for the annexation of or boundary adjustment affecting an area located in a county of the first class, except for an annexation under Section 10-2-418:

(i) July 1 following the lieutenant governor's issuance under Section 67-1a-6.5 of a certificate of annexation or boundary adjustment if:

(A) the certificate is issued during the preceding November 1 through April 30; and

(B) the requirements of Subsection (1) are met before that July 1; or

(ii) January 1 following the lieutenant governor's issuance under Section 67-1a-6.5 of a certificate of annexation or boundary adjustment if:

(A) the certificate is issued during the preceding May 1 through October 31; and

(B) the requirements of Subsection (1) are met before that January 1; and

(b) subject to Subsection (5), for all other annexations and boundary adjustments, the date of the lieutenant governor's issuance, under Section 67-1a-6.5, of a certificate of annexation or boundary adjustment.

(5) If an annexation of an unincorporated island is based upon the results of an election held in accordance with Section 10-2a-404:

(a) the county and the annexing municipality may agree to a date on which the annexation is complete and takes effect; and

(b) the lieutenant governor shall issue, under Section 67-1a-6.5, a certification of annexation on the date agreed to under Subsection (5)(a).

[~~(5)~~] (6) (a) As used in this Subsection [~~(5)~~] (6):

(i) "Affected area" means:

(A) in the case of an annexation, the annexed area; and

(B) in the case of a boundary adjustment, any area that, as a result of the boundary adjustment, is moved from within the boundary of one municipality to within the boundary of another municipality.

(ii) "Annexing municipality" means:

(A) in the case of an annexation, the municipality that annexes an unincorporated area; and

(B) in the case of a boundary adjustment, a municipality whose boundary includes an affected area as a result of a boundary adjustment.

(b) The effective date of an annexation or boundary adjustment for purposes of assessing property within an affected area is governed by Section 59-2-305.5.

(c) Until the documents listed in Subsection (1)(b)(i) are recorded in the office of the recorder of each county in which the property is located, a municipality may not:

(i) levy or collect a property tax on property within an affected area;

(ii) levy or collect an assessment on property within an affected area; or

(iii) charge or collect a fee for service provided to property within an affected area, unless the municipality was charging and collecting the fee within that area immediately before annexation.

Section 18. Section 10-2a-101 is enacted to read:

CHAPTER 2a. MUNICIPAL INCORPORATION

Part 1. General Provisions

10-2a-101. Title.

(1) This chapter is known as "Municipal Incorporation."

(2) This part is known as "General Provisions."

Section 19. Section 10-2a-102, which is renumbered from Section 10-2-101 is renumbered and amended to read:

[10-2-101]. 10-2a-102. Definitions.

(1) As used in this part:

(a) "Feasibility consultant" means a person or firm:

(i) with expertise in the processes and economics of local government; and

(ii) who is independent of and not affiliated with a county or sponsor of a petition to incorporate.

(b) "Private," with respect to real property, means taxable property.

(2) For purposes of this part:

(a) the owner of real property shall be the record title owner according to the records of the county recorder on the date of the filing of the request or petition; and

(b) the value of private real property shall be determined according to the last assessment roll for county taxes before the filing of the request or petition.

(3) For purposes of each provision of this part that requires the owners of private real property covering a percentage or fraction of the total private land area within an area to sign a request or petition:

(a) a parcel of real property may not be included in the calculation of the required percentage or fraction unless the request or petition is signed by:

(i) except as provided in Subsection (3)(a)(ii), owners representing a majority ownership interest in that parcel; or

(ii) if the parcel is owned by joint tenants or tenants by the entirety, 50% of the number of owners of that parcel;

(b) the signature of a person signing a request or petition in a representative capacity on behalf of an owner is invalid unless:

(i) the person's representative capacity and the name of the owner the person represents are indicated on the request or petition with the person's signature; and

(ii) the person provides documentation accompanying the request or petition that substantiates the person's representative capacity; and

(c) subject to Subsection (3)(b), a duly appointed personal representative may sign a request or petition on behalf of a deceased owner.

Section 20. Section 10-2a-103, which is renumbered from Section 10-2-102 is renumbered and amended to read:

[10-2-102]. 10-2a-103. Incorporation of a contiguous area.

[4] A contiguous area of a county not within a municipality may incorporate as a municipality as provided in this [part] chapter.

~~[(2) (a) Incorporation as a city is governed by Sections 10-2-103 through 10-2-124.]~~

~~[(b) Incorporation as a town is governed by Sections 10-2-125 through 10-2-129.]~~

Section 21. Section 10-2a-104, which is renumbered from Section 10-2-118 is renumbered and amended to read:

[10-2-118]. 10-2a-104. Elections governed by the Election Code.

Except as otherwise provided in this [part] chapter, each election under this [part] chapter shall be governed by the provisions of Title 20A, Election Code.

Section 22. Section 10-2a-105, which is renumbered from Section 10-2-130 is renumbered and amended to read:

[10-2-130]. 10-2a-105. Suspension of township incorporation and annexation procedures on or after January 1, 2014 -- Exceptions.

(1) As used in this section:

(a) "Township incorporation procedure" means the following actions, the subject of which includes an area located in whole or in part in a township:

(i) a request for incorporation described in Section ~~[10-2-103]~~ 10-2a-202;

(ii) a feasibility study described in Section ~~[10-2-106]~~ 10-2a-205;

(iii) a modified request and a supplemental feasibility study described in Section ~~[10-2-107]~~ 10-2a-206; or

(iv) an incorporation petition described in Section ~~[10-2-109]~~ 10-2a-208 that is not certified under Section ~~[10-2-110]~~ 10-2a-109.

(b) "Township annexation procedure" means one or more of the following actions, the subject of which includes an area located in whole or in part in a township:

(i) a petition to annex described in Section 10-2-403;

(ii) a feasibility study described in Section 10-2-413;

(iii) a modified annexation petition or supplemental feasibility study described in Section 10-2-414;

(iv) a boundary commission decision described in Section 10-2-416; or

(v) any action described in Section 10-2-418 before the adoption of an ordinance to approve annexation under Subsection 10-2-418~~(3)~~(5)(b).

(2) (a) Except as provided in Subsections (3) and (4):

(i) if a request for incorporation described in Section ~~[10-2-103]~~ 10-2a-202 is filed with the clerk of the county on or after January 1, 2014, a township incorporation procedure that is the subject of or otherwise relates to that request is suspended until November 15, 2015; and

(ii) if a petition to annex described in Section 10-2-403 is filed with the city recorder or town clerk on or after January 1, 2014, a township annexation procedure that is the subject of or otherwise relates to that petition is suspended until November 15, 2015.

(b) (i) If a township incorporation procedure or township annexation procedure is suspended under Subsection (2)(a), any applicable deadline or timeline is suspended before and on November 15, 2015.

(ii) On November 16, 2015, the applicable deadline or timeline described in Subsection (2)(b)(i):

(A) may proceed and the period of time during the suspension does not toll against that deadline or timeline; and

(B) does not start over.

(3) Subsection (2) does not apply to a township annexation procedure that:

(a) includes any land area located in whole or in part in a township that is:

(i) 50 acres or more; and

(ii) primarily owned or controlled by a government entity; or

(b) is the subject of or otherwise relates to a petition to annex that is filed in accordance with Subsection 10-2-403(3) before January 1, 2014.

(4) (a) For an incorporation petition suspended in accordance with Subsection (2), the petition sponsors may continue to gather petition signatures and file them with the county clerk as provided in Section ~~[10-2-103]~~ 10-2a-202.

(b) The county clerk shall process the petition in accordance with Section ~~[10-2-105]~~ 10-2a-204 and may issue a certification or rejection of the petition as provided in Section ~~[10-2-105]~~ 10-2a-204.

(c) Notwithstanding any other provision of ~~[Chapter 2, Incorporation, Classification, Boundaries, Consolidation, and Dissolution of Municipalities]~~ this chapter, any further processing, including a feasibility study, public hearing, or an incorporation election, is suspended until November 15, 2015.

Section 23. Section 10-2a-201 is enacted to read:

Part 2. Incorporation of a City

10-2a-201. Title.

This part is known as "Incorporation of a City."

Section 24. Section 10-2a-202, which is renumbered from Section 10-2-103 is renumbered and amended to read:

[10-2-103]. 10-2a-202. Request for feasibility study -- Requirements -- Limitations.

(1) The process to incorporate a contiguous area of a county as a city is initiated by a request for a feasibility study filed with the clerk of the county in which the area is located.

(2) Each request under Subsection (1) shall:

(a) be signed by the owners of private real property that:

(i) is located within the area proposed to be incorporated;

(ii) covers at least 10% of the total private land area within the area; and

(iii) is equal in value to at least 7% of the value of all private real property within the area;

(b) indicate the typed or printed name and current residence address of each owner signing the request;

(c) describe the contiguous area proposed to be incorporated as a city;

(d) designate up to five signers of the request as sponsors, one of whom shall be designated as the contact sponsor, with the mailing address and telephone number of each;

(e) be accompanied by and circulated with an accurate map or plat, prepared by a licensed surveyor, showing the boundaries of the proposed city; and

(f) request the county legislative body to commission a study to determine the feasibility of incorporating the area as a city.

(3) A request for a feasibility study under this section may not propose for incorporation an area that includes some or all of an area that is the subject of a completed feasibility study or supplemental feasibility study whose results comply with Subsection ~~[10-2-109]~~ 10-2a-208(3) unless:

(a) the proposed incorporation that is the subject of the completed feasibility study or supplemental feasibility study has been defeated by the voters at an election under Section ~~[10-2-111]~~ 10-2a-210; or

(b) the time provided under Subsection ~~[10-2-109]~~ 10-2a-208(1) for filing an incorporation petition based on the completed feasibility study or supplemental feasibility study has elapsed without the filing of a petition.

(4) (a) Except as provided in Subsection (4)(b), a request under this section may not propose for incorporation an area that includes some or all of an area proposed for annexation in an annexation petition under Section 10-2-403 that:

(i) was filed before the filing of the request; and

(ii) is still pending on the date the request is filed.

(b) Notwithstanding Subsection (4)(a), a request may propose for incorporation an area that includes some or all of an area proposed for annexation in an annexation petition described in Subsection (4)(a) if:

(i) the proposed annexation area that is part of the area proposed for incorporation does not exceed 20% of the area proposed for incorporation;

(ii) the request complies with Subsections (2) and (3) with respect to the area proposed for incorporation excluding the proposed annexation area; and

(iii) excluding the area proposed for annexation from the area proposed for incorporation would not cause the area proposed for incorporation to lose its contiguousness.

(c) Except as provided in Section ~~[10-2-107]~~ 10-2a-206, each request to which Subsection (4)(b) applies shall be considered as not proposing the incorporation of the area proposed for annexation.

~~[(5) At the time of filing the request for a feasibility study with the county clerk, the sponsors of the request shall mail or deliver a copy of the request to the chair of the planning commission of each township in which any part of the area proposed for incorporation is located.]~~

Section 25. Section 10-2a-203, which is renumbered from Section 10-2-104 is renumbered and amended to read:

[10-2-104]. 10-2a-203. Notice to owner of property -- Exclusion of property from proposed boundaries.

(1) As used in this section:

(a) "Assessed value" with respect to property means the value at which the property would be assessed without regard to a valuation for agricultural use under Section 59-2-503.

(b) "Owner" means a person having an interest in real property, including an affiliate, subsidiary, or parent company.

(c) "Urban" means an area with a residential density of greater than one unit per acre.

(2) Within seven calendar days of the date on which a request under Section ~~[10-2-103]~~ 10-2a-202 is filed, the county clerk shall send written notice of the proposed incorporation to each record owner of real property owning more than:

(a) 1% of the assessed value of all property in the proposed incorporation boundaries; or

(b) 10% of the total private land area within the proposed incorporation boundaries.

(3) If an owner owns, controls, or manages more than 1% of the assessed value of all property in the proposed incorporation boundaries, or owns, controls, or manages 10% or more of the total private land area in the proposed incorporation

boundaries, the owner may exclude all or part of the property owned, controlled, or managed by the owner from the proposed boundaries by filing a Notice of Exclusion with the county legislative body within 15 calendar days of receiving the clerk's notice under Subsection (2).

(4) The county legislative body shall exclude the property identified by an owner in the Notice of Exclusion from the proposed incorporation boundaries unless the county legislative body finds by clear and convincing evidence in the record that:

(a) the exclusion will leave an unincorporated island within the proposed municipality; and

(b) the property to be excluded:

(i) is urban; and

(ii) currently receives from the county a majority of municipal-type services including:

(A) culinary or irrigation water;

(B) sewage collection or treatment;

(C) storm drainage or flood control;

(D) recreational facilities or parks;

(E) electric generation or transportation;

(F) construction or maintenance of local streets and roads;

(G) curb and gutter or sidewalk maintenance;

(H) garbage and refuse collection; and

(I) street lighting.

(5) This section applies only to counties of the first or second class.

(6) If the county legislative body excludes property from the proposed boundaries under Subsection (4), the county legislative body shall, within five days of the exclusion, send written notice of the exclusion to the contact sponsor.

Section 26. Section 10-2a-204, which is renumbered from Section 10-2-105 is renumbered and amended to read:

[10-2-105]. 10-2a-204. Processing a request for incorporation -- Certification or rejection by county clerk -- Processing priority -- Limitations -- Planning advisory area planning commission recommendation.

(1) Within 45 days of the filing of a request under Section [10-2-103] 10-2a-202, the county clerk shall:

(a) with the assistance of other county officers from whom the clerk requests assistance, determine whether the request complies with Section [10-2-103] 10-2a-202; and

(b) (i) if the clerk determines that the request complies with Section [10-2-103] 10-2a-202:

(A) certify the request and deliver the certified request to the county legislative body; and

(B) mail or deliver written notification of the certification to ~~(1)~~ the contact sponsor; ~~and~~ or

~~[(1) the chair of the planning commission of each township in which any part of the area proposed for incorporation is located; or]~~

(ii) if the clerk determines that the request fails to comply with Section [10-2-103] 10-2a-202 requirements, reject the request and notify the contact sponsor in writing of the rejection and the reasons for the rejection.

(2) The county clerk shall certify or reject requests under Subsection (1) in the order in which they are filed.

(3) (a) (i) If the county clerk rejects a request under Subsection (1)(b)(ii), the request may be amended to correct the deficiencies for which it was rejected and then refiled with the county clerk.

(ii) A signature on a request under Section [10-2-103] 10-2a-202 may be used toward fulfilling the signature requirement of Subsection [10-2-103] 10-2a-202(2)(a) for the request as modified under Subsection (3)(a)(i).

(b) If a request is amended and refiled under Subsection (3)(a) after having been rejected by the county clerk under Subsection (1)(b)(ii), it shall be considered as a newly filed request, and its processing priority is determined by the date on which it is refiled.

Section 27. Section 10-2a-205, which is renumbered from Section 10-2-106 is renumbered and amended to read:

[10-2-106]. 10-2a-205. Feasibility study -- Feasibility study consultant.

(1) Within 60 days of receipt of a certified request under Subsection [10-2-105] 10-2a-204(1)(b)(i), the county legislative body shall engage the feasibility consultant chosen under Subsection (2) to conduct a feasibility study.

(2) The feasibility consultant shall be chosen:

(a) (i) by the contact sponsor of the incorporation petition with the consent of the county; or

(ii) by the county if the designated sponsors state, in writing, that the contact sponsor defers selection of the feasibility consultant to the county; and

(b) in accordance with applicable county procurement procedures.

(3) The county legislative body shall require the feasibility consultant to:

(a) complete the feasibility study and submit the written results to the county legislative body and the contact sponsor no later than 90 days after the feasibility consultant is engaged to conduct the study;

(b) submit with the full written results of the feasibility study a summary of the results no longer than one page in length; and

(c) attend the public hearings under Subsection [10-2-108] 10-2a-207(1) and present the

feasibility study results and respond to questions from the public at those hearings.

(4) (a) The feasibility study shall consider:

(i) population and population density within the area proposed for incorporation and the surrounding area;

(ii) current and five-year projections of demographics and economic base in the proposed city and surrounding area, including household size and income, commercial and industrial development, and public facilities;

(iii) projected growth in the proposed city and in adjacent areas during the next five years;

(iv) subject to Subsection (4)(b), the present and five-year projections of the cost, including overhead, of governmental services in the proposed city, including:

- (A) culinary water;
- (B) secondary water;
- (C) sewer;
- (D) law enforcement;
- (E) fire protection;
- (F) roads and public works;
- (G) garbage;
- (H) weeds; and
- (I) government offices;

(v) assuming the same tax categories and tax rates as currently imposed by the county and all other current service providers, the present and five-year projected revenue for the proposed city;

(vi) a projection of any new taxes per household that may be levied within the incorporated area within five years of incorporation; and

(vii) the fiscal impact on unincorporated areas, other municipalities, local districts, special service districts, and other governmental entities in the county.

(b) (i) For purposes of Subsection (4)(a)(iv), the feasibility consultant shall assume a level and quality of governmental services to be provided to the proposed city in the future that fairly and reasonably approximate the level and quality of governmental services being provided to the proposed city at the time of the feasibility study.

(ii) In determining the present cost of a governmental service, the feasibility consultant shall consider:

(A) the amount it would cost the proposed city to provide governmental service for the first five years after incorporation; and

(B) the county's present and five-year projected cost of providing governmental service.

(iii) The costs calculated under Subsection (4)(a)(iv), shall take into account inflation and anticipated growth.

(5) If the five year projected revenues under Subsection (4)(a)(v) exceed the five year projected costs under Subsection (4)(a)(iv) by more than 5%, the feasibility consultant shall project and report the expected annual revenue surplus to the contact sponsor and the lieutenant governor.

(6) If the results of the feasibility study or revised feasibility study do not meet the requirements of Subsection ~~[10-2-109]~~ 10-2a-208(3), the feasibility consultant shall, as part of the feasibility study or revised feasibility study and if requested by the sponsors of the request, make recommendations as to how the boundaries of the proposed city may be altered so that the requirements of Subsection ~~[10-2-109]~~ 10-2a-208(3) may be met.

(7) (a) For purposes of this Subsection (7), "pending" means that the process to incorporate an unincorporated area has been initiated by the filing of a request for feasibility study under Section ~~[10-2-103]~~ 10-2a-202 but that, as of May 8, 2012, a petition under Section ~~[10-2-109]~~ 10-2a-208 has not yet been filed.

(b) The amendments to Subsection (4) that become effective upon the effective date of this Subsection (7):

(i) apply to each pending proceeding proposing the incorporation of an unincorporated area; and

(ii) do not apply to a municipal incorporation proceeding under this part in which a petition under Section ~~[10-2-109]~~ 10-2a-208 has been filed.

(c) (i) If, in a pending incorporation proceeding, the feasibility consultant has, as of May 8, 2012, already completed the feasibility study, the county legislative body shall, within 20 days after the effective date of this Subsection (7) and except as provided in Subsection (7)(c)(iii), engage the feasibility consultant to revise the feasibility study to take into account the amendments to Subsection (4) that became effective on the effective date of this Subsection (7).

(ii) Except as provided in Subsection (7)(c)(iii), the county legislative body shall require the feasibility consultant to complete the revised feasibility study under Subsection (7)(c)(i) within 20 days after being engaged to do so.

(iii) Notwithstanding Subsections (7)(c)(i) and (ii), a county legislative body is not required to engage the feasibility consultant to revise the feasibility study if, within 15 days after the effective date of this Subsection (7), the request sponsors file with the county clerk a written withdrawal of the request signed by all the request sponsors.

(d) All provisions of this part that set forth the incorporation process following the completion of a feasibility study shall apply with equal force following the completion of a revised feasibility study under this Subsection (7), except that, if a petition under Section ~~[10-2-109]~~ 10-2a-208 has

already been filed based on the feasibility study that is revised under this Subsection (7):

(i) the notice required by Section [10-2-108] 10-2a-207 for the revised feasibility study shall include a statement informing signers of the petition of their right to withdraw their signatures from the petition and of the process and deadline for withdrawing a signature from the petition;

(ii) a signer of the petition may withdraw the signer's signature by filing with the county clerk a written withdrawal within 30 days after the final notice under Subsection [10-2-108] 10-2a-207(3) has been given with respect to the revised feasibility study; and

(iii) unless withdrawn, a signature on the petition may be used toward fulfilling the signature requirements under Subsection [10-2-109] 10-2a-208(2)(a) for a petition based on the revised feasibility study.

Section 28. Section 10-2a-206, which is renumbered from Section 10-2-107 is renumbered and amended to read:

[10-2-107]. 10-2a-206. Modified request for feasibility study -- Supplemental feasibility study.

(1) (a) (i) The sponsors of a request may modify the request to alter the boundaries of the proposed city and then refile the request, as modified, with the county clerk if:

(A) the results of the feasibility study do not meet the requirements of Subsection [10-2-109] 10-2a-208(3); or

(B) (I) the request meets the conditions of Subsection [10-2-103] 10-2a-202(4)(b);

(II) the annexation petition that proposed the annexation of an area that is part of the area proposed for incorporation has been denied; and

(III) an incorporation petition based on the request has not been filed.

(ii) (A) A modified request under Subsection (1)(a)(i)(A) may not be filed more than 90 days after the feasibility consultant's submission of the results of the study.

(B) A modified request under Subsection (1)(a)(i)(B) may not be filed more than 18 months after the filing of the original request under Section [10-2-103] 10-2a-202.

(b) (i) Subject to Subsection (1)(b)(ii), each modified request under Subsection (1)(a) shall comply with the requirements of Subsections [10-2-103] 10-2a-202(2), (3), and (4) ~~and (5)~~.

(ii) Notwithstanding Subsection (1)(b)(i), a signature on a request filed under Section [10-2-103] 10-2a-202 may be used toward fulfilling the signature requirement of Subsection [10-2-103] 10-2a-202(2)(a) for the request as modified under Subsection (1)(a), unless the modified request proposes the incorporation of an area that is more than 20% greater or smaller than

the area described by the original request in terms of:

(A) private land area; or

(B) value of private real property.

(2) Within 20 days after the county clerk's receipt of the modified request, the county clerk shall follow the same procedure for the modified request as provided under Subsection [10-2-105] 10-2a-204(1) for an original request.

(3) The timely filing of a modified request under Subsection (1) gives the modified request the same processing priority under Subsection [10-2-105] 10-2a-204(2) as the original request.

(4) Within 10 days after the county legislative body's receipt of a certified modified request under Subsection (1)(a)(i)(A) or a certified modified request under Subsection (1)(a)(i)(B) that was filed after the completion of a feasibility study on the original request, the county legislative body shall commission the feasibility consultant who conducted the feasibility study to supplement the feasibility study to take into account the information in the modified request that was not included in the original request.

(5) The county legislative body shall require the feasibility consultant to complete the supplemental feasibility study and to submit written results of the supplemental study to the county legislative body and to the contact sponsor no later than 30 days after the feasibility consultant is commissioned to conduct the supplemental feasibility study.

(6) (a) Subject to Subsection (6)(b), if the results of the supplemental feasibility study do not meet the requirements of Subsection [10-2-109] 10-2a-208(3):

(i) the sponsors may file a further modified request as provided in Subsection (1); and

(ii) Subsections (2), (4), and (5) apply to a further modified request under Subsection (6)(a)(i).

(b) A further modified request under Subsection (6)(a) shall, for purposes of its processing priority, be considered as an original request for a feasibility study under Section [10-2-103] 10-2a-202.

Section 29. Section 10-2a-207, which is renumbered from Section 10-2-108 is renumbered and amended to read:

[10-2-108]. 10-2a-207. Public hearings on feasibility study results -- Notice of hearings.

(1) If the results of the feasibility study or supplemental feasibility study meet the requirements of Subsection [10-2-109] 10-2a-208(3), the county legislative body shall, at its next regular meeting after receipt of the results of the feasibility study or supplemental feasibility study, schedule at least two public hearings to be held:

(a) within the following 60 days;

(b) at least seven days apart;

(c) in geographically diverse locations within the proposed city; and

(d) for the purpose of allowing:

(i) the feasibility consultant to present the results of the study; and

(ii) the public to become informed about the feasibility study results and to ask questions about those results of the feasibility consultant.

(2) At a public hearing described in Subsection (1), the county legislative body shall:

(a) provide a map or plat of the boundary of the proposed city;

(b) provide a copy of the feasibility study for public review; and

(c) allow the public to express its views about the proposed incorporation, including its view about the proposed boundary.

(3) (a) (i) The county clerk shall publish notice of the public hearings required under Subsection (1):

(A) at least once a week for three successive weeks in a newspaper of general circulation within the proposed city; and

(B) on the Utah Public Notice Website created in Section 63F-1-701, for three weeks.

(ii) The last publication of notice required under Subsection (3)(a)(i)(A) shall be at least three days before the first public hearing required under Subsection (1).

(b) (i) If, under Subsection (3)(a)(i)(A), there is no newspaper of general circulation within the proposed city, the county clerk shall post at least one notice of the hearings per 1,000 population in conspicuous places within the proposed city that are most likely to give notice of the hearings to the residents of the proposed city.

(ii) The clerk shall post the notices under Subsection (3)(b)(i) at least seven days before the first hearing under Subsection (1).

(c) The notice under Subsections (3)(a) and (b) shall include the feasibility study summary under Subsection [10-2-106] 10-2a-205(3)(b) and shall indicate that a full copy of the study is available for inspection and copying at the office of the county clerk.

Section 30. Section 10-2a-208, which is renumbered from Section 10-2-109 is renumbered and amended to read:

[10-2-109]. 10-2a-208. Incorporation petition -- Requirements and form.

(1) At any time within one year of the completion of the public hearings required under Subsection [10-2-108] 10-2a-207(1), a petition for incorporation of the area proposed to be incorporated as a city may be filed in the office of the clerk of the county in which the area is located.

(2) Each petition under Subsection (1) shall:

(a) be signed by:

(i) 10% of all registered voters within the area proposed to be incorporated as a city, according to the official voter registration list maintained by the county on the date the petition is filed; and

(ii) 10% of all registered voters within, subject to Subsection (5), 90% of the voting precincts within the area proposed to be incorporated as a city, according to the official voter registration list maintained by the county on the date the petition is filed;

(b) indicate the typed or printed name and current residence address of each owner signing the petition;

(c) describe the area proposed to be incorporated as a city, as described in the feasibility study request or modified request that meets the requirements of Subsection (3);

(d) state the proposed name for the proposed city;

(e) designate five signers of the petition as petition sponsors, one of whom shall be designated as the contact sponsor, with the mailing address and telephone number of each;

(f) state that the signers of the petition appoint the sponsors, if the incorporation measure passes, to represent the signers in the process of:

(i) selecting the number of commission or council members the new city will have; and

(ii) drawing district boundaries for the election of commission or council members, if the voters decide to elect commission or council members by district;

(g) be accompanied by and circulated with an accurate plat or map, prepared by a licensed surveyor, showing the boundaries of the proposed city; and

(h) substantially comply with and be circulated in the following form:

PETITION FOR INCORPORATION OF (insert the proposed name of the proposed city)

To the Honorable County Legislative Body of (insert the name of the county in which the proposed city is located) County, Utah:

We, the undersigned owners of real property within the area described in this petition, respectfully petition the county legislative body to submit to the registered voters residing within the area described in this petition, at the next regular general election, the question of whether the area should incorporate as a city. Each of the undersigned affirms that each has personally signed this petition and is an owner of real property within the described area, and that the current residence address of each is correctly written after the signer's name. The area proposed to be incorporated as a city is described as follows: (insert an accurate description of the area proposed to be incorporated).

(3) A petition for incorporation of a city under Subsection (1) may not be filed unless the results of

the feasibility study or supplemental feasibility study show that the average annual amount of revenue under Subsection [10-2-106] 10-2a-205(4)(a)(v) does not exceed the average annual amount of cost under Subsection [10-2-106] 10-2a-205(4)(a)(iv) by more than 5%.

(4) A signature on a request under Section [10-2-103] 10-2a-202 or a modified request under Section [10-2-107] 10-2a-206 may be used toward fulfilling the signature requirement of Subsection (2)(a):

(a) if the request under Section [10-2-103] 10-2a-202 or modified request under Section [10-2-107] 10-2a-206 notified the signer in conspicuous language that the signature, unless withdrawn, would also be used for purposes of a petition for incorporation under this section; and

(b) unless the signer files with the county clerk a written withdrawal of the signature before the petition under this section is filed with the clerk.

(5) (a) A signature does not qualify as a signature to meet the requirement described in Subsection (2)(a)(ii) if the signature is gathered from a voting precinct that:

(i) is not located entirely within the boundaries of the proposed city; or

(ii) includes less than 50 registered voters.

(b) A voting precinct that is not located entirely within the boundaries of the proposed city does not qualify as a voting precinct to meet the precinct requirements of Subsection (2)(a)(ii).

Section 31. Section 10-2a-209, which is renumbered from Section 10-2-110 is renumbered and amended to read:

[10-2-110]. 10-2a-209. Processing of petition by county clerk -- Certification or rejection -- Processing priority.

(1) Within 45 days of the filing of a petition under Section [10-2-109] 10-2a-208, the county clerk shall:

(a) with the assistance of other county officers from whom the clerk requests assistance, determine whether the petition meets the requirements of Section [10-2-109] 10-2a-208; and

(b) (i) if the clerk determines that the petition meets those requirements, certify the petition, deliver it to the county legislative body, and notify in writing the contact sponsor of the certification; or

(ii) if the clerk determines that the petition fails to meet any of those requirements, reject the petition and notify the contact sponsor in writing of the rejection and the reasons for the rejection.

(2) (a) If the county clerk rejects a petition under Subsection (1)(b)(ii), the petition may be modified to correct the deficiencies for which it was rejected and then refiled with the county clerk.

(b) A modified petition under Subsection (2)(a) may be filed at any time until 30 days after the

county clerk notifies the contact sponsor under Subsection (1)(b)(ii), even though the modified petition is filed after the expiration of the deadline provided in Subsection [10-2-109] 10-2a-208(1).

(c) A signature on an incorporation petition under Section [10-2-109] 10-2a-208 may be used toward fulfilling the signature requirement of Subsection [10-2-109] 10-2a-208(2)(a) for the petition as modified under Subsection (2)(a).

(3) (a) Within 20 days of the county clerk's receipt of a modified petition under Subsection (2)(a), the county clerk shall follow the same procedure for the modified petition as provided under Subsection (1) for an original petition.

(b) If a county clerk rejects a modified petition under Subsection (1)(b)(ii), no further modification of that petition may be filed.

Section 32. Section 10-2a-210, which is renumbered from Section 10-2-111 is renumbered and amended to read:

[10-2-111]. 10-2a-210. Incorporation election.

(1) (a) Upon receipt of a certified petition under Subsection [10-2-110] 10-2a-209(1)(b)(i) or a certified modified petition under Subsection [10-2-110] 10-2a-209(3), the county legislative body shall determine and set an election date for the incorporation election that is:

(i) (A) on a general election date under Section 20A-1-201; or

(B) on a local special election date under Section 20A-1-203; and

(ii) at least 65 days after the day that the legislative body receives the certified petition.

(b) Unless a person is a registered voter who resides, as defined in Section 20A-1-102, within the boundaries of the proposed city, the person may not vote on the proposed incorporation.

(2) (a) The county clerk shall publish notice of the election:

(i) in a newspaper of general circulation within the area proposed to be incorporated at least once a week for three successive weeks; and

(ii) in accordance with Section 45-1-101 for three weeks.

(b) The notice required by Subsection (2)(a) shall contain:

(i) a statement of the contents of the petition;

(ii) a description of the area proposed to be incorporated as a city;

(iii) a statement of the date and time of the election and the location of polling places; and

(iv) the feasibility study summary under Subsection [10-2-106] 10-2a-205(3)(b) and a statement that a full copy of the study is available for inspection and copying at the office of the county clerk.

(c) The last publication of notice required under Subsection (2)(a) shall occur at least one day but no more than seven days before the election.

(d) (i) In accordance with Subsection (2)(a)(i), if there is no newspaper of general circulation within the proposed city, the county clerk shall post at least one notice of the election per 1,000 population in conspicuous places within the proposed city that are most likely to give notice of the election to the voters of the proposed city.

(ii) The clerk shall post the notices under Subsection (2)(d)(i) at least seven days before the election under Subsection (1).

(3) If a majority of those casting votes within the area boundaries of the proposed city vote to incorporate as a city, the area shall incorporate.

Section 33. Section 10-2a-211, which is renumbered from Section 10-2-112 is renumbered and amended to read:

[10-2-112]. 10-2a-211. Ballot used at the incorporation election.

(1) The ballot at the incorporation election under Subsection [10-2-111] 10-2a-210(1) shall pose the incorporation question substantially as follows:

Shall the area described as (insert a description of the proposed city) be incorporated as the city of (insert the proposed name of the proposed city)?

(2) The ballot shall provide a space for the voter to answer yes or no to the question in Subsection (1).

(3) (a) The ballot at the incorporation election shall also pose the question relating to the form of government substantially as follows:

If the above incorporation proposal passes, under what form of municipal government shall (insert the name of the proposed city) operate? Vote for one:

Five-member council form

Six-member council form

Five-member council-mayor form

Seven-member council-mayor form.

(b) The ballot shall provide a space for the voter to vote for one form of government.

(4) (a) The ballot at the incorporation election shall also pose the question of whether to elect city council members by district substantially as follows:

If the above incorporation proposal passes, shall members of the city council of (insert the name of the proposed city) be elected by district?

(b) The ballot shall provide a space for the voter to answer yes or no to the question in Subsection (4)(a).

Section 34. Section 10-2a-212, which is renumbered from Section 10-2-113 is renumbered and amended to read:

[10-2-113]. 10-2a-212. Notification to lieutenant governor of incorporation election results.

Within 10 days of the canvass of the incorporation election, the county clerk shall send written notice to the lieutenant governor of:

- (1) the results of the election; and
- (2) if the incorporation measure passes:
 - (a) the name of the city; and
 - (b) the class of the city as provided under Section 10-2-301.

Section 35. Section 10-2a-213, which is renumbered from Section 10-2-114 is renumbered and amended to read:

[10-2-114]. 10-2a-213. Determination of number of council members -- Determination of election districts -- Hearings and notice.

(1) If the incorporation proposal passes, the petition sponsors shall, within 25 days of the canvass of the election under Section [10-2-111] 10-2a-210:

- (a) if the voters at the incorporation election choose the council-mayor form of government, determine the number of council members that will constitute the council of the future city;
- (b) if the voters at the incorporation election vote to elect council members by district, determine the number of council members to be elected by district and draw the boundaries of those districts, which shall be substantially equal in population;
- (c) determine the initial terms of the mayor and members of the city council so that:
 - (i) the mayor and approximately half the members of the city council are elected to serve an initial term, of no less than one year, that allows their successors to serve a full four-year term that coincides with the schedule established in Subsection 10-3-205(1); and
 - (ii) the remaining members of the city council are elected to serve an initial term, of no less than one year, that allows their successors to serve a full four-year term that coincides with the schedule established in Subsection 10-3-205(2); and
- (d) submit in writing to the county legislative body the results of the sponsors' determinations under Subsections (1)(a), (b), and (c).

(2) (a) Before making a determination under Subsection (1)(a), (b), or (c), the petition sponsors shall hold a public hearing within the future city on the applicable issues under Subsections (1)(a), (b), and (c).

(b) (i) The petition sponsors shall publish notice of the public hearing under Subsection (2)(a):

(ii) The petition sponsors shall publish notice of the public hearing under Subsection (2)(a):

(2) (a) Before making a determination under Subsection (1)(a), (b), or (c), the petition sponsors shall hold a public hearing within the future city on the applicable issues under Subsections (1)(a), (b), and (c).

(b) (i) The petition sponsors shall publish notice of the public hearing under Subsection (2)(a):

(A) in a newspaper of general circulation within the future city at least once a week for two successive weeks before the hearing; and

(B) on the Utah Public Notice Website created in Section 63F-1-701, for two weeks before the hearing.

(ii) The last publication of notice under Subsection (2)(b)(i)(A) shall be at least three days before the public hearing under Subsection (2)(a).

(c) (i) In accordance with Subsection (2)(b)(i)(A), if there is no newspaper of general circulation within the future city, the petition sponsors shall post at least one notice of the hearing per 1,000 population in conspicuous places within the future city that are most likely to give notice of the hearing to the residents of the future city.

(ii) The petition sponsors shall post the notices under Subsection (2)(c)(i) at least seven days before the hearing under Subsection (2)(a).

Section 36. Section 10-2a-214, which is renumbered from Section 10-2-115 is renumbered and amended to read:

[10-2-115]. 10-2a-214. Notice of number of commission or council members to be elected and of district boundaries -- Declaration of candidacy for city office.

(1) (a) Within 20 days of the county legislative body's receipt of the information under Subsection [10-2-114] 10-2a-213(1)(d), the county clerk shall publish, in accordance with Subsection (1)(b), notice containing:

(i) the number of commission or council members to be elected for the new city;

(ii) if some or all of the commission or council members are to be elected by district, a description of the boundaries of those districts as designated by the petition sponsors under Subsection [10-2-114] 10-2a-213(1)(b);

(iii) information about the deadline for filing a declaration of candidacy for those seeking to become candidates for mayor or city commission or council; and

(iv) information about the length of the initial term of each of the city officers, as determined by the petition sponsors under Subsection [10-2-114] 10-2a-213(1)(c).

(b) The notice under Subsection (1)(a) shall be published:

(i) in a newspaper of general circulation within the future city at least once a week for two successive weeks; and

(ii) in accordance with Section 45-1-101 for two weeks.

(c) (i) In accordance with Subsection (1)(b)(i), if there is no newspaper of general circulation within the future city, the county clerk shall post at least one notice per 1,000 population in conspicuous places within the future city that are most likely to give notice to the residents of the future city.

(ii) The notice under Subsection (1)(c)(i) shall contain the information required under Subsection (1)(a).

(iii) The petition sponsors shall post the notices under Subsection (1)(c)(i) at least seven days before the deadline for filing a declaration of candidacy under Subsection (2).

(2) Notwithstanding Subsection 20A-9-203(2)(a), each person seeking to become a candidate for mayor or city commission or council of a city incorporating under this part shall, within 45 days of the incorporation election under Section [10-2-111] 10-2a-210, file a declaration of candidacy with the clerk of the county in which the future city is located.

Section 37. Section 10-2a-215, which is renumbered from Section 10-2-116 is renumbered and amended to read:

[10-2-116]. 10-2a-215. Election of officers of new city.

(1) For the election of city officers, the county legislative body shall:

(a) unless a primary election is prohibited by Subsection 20A-9-404(2), hold a primary election; and

(b) hold a final election.

(2) Each election under Subsection (1) shall be:

(a) appropriate to the form of government chosen by the voters at the incorporation election;

(b) consistent with the voters' decision about whether to elect commission or council members by district and, if applicable, consistent with the boundaries of those districts as determined by the petition sponsors; and

(c) consistent with the sponsors' determination of the number of commission or council members to be elected and the length of their initial term.

(3) (a) Subject to Subsection (3)(b), the primary election under Subsection (1)(a) shall be held at the earliest of the next:

(i) regular general election under Section 20A-1-201;

(ii) municipal primary election under Section 20A-9-404;

(iii) municipal general election under Section 20A-1-202; or

(iv) special election under Section 20A-1-204.

(b) Notwithstanding Subsection (3)(a), the primary election under Subsection (1)(a) may not be held until 75 days after the incorporation election under Section [10-2-111] 10-2a-210.

(4) The final election under Subsection (1)(b) shall be held at the next special election date under Section 20A-1-204:

(a) after the primary election; or

(b) if there is no primary election, more than 75 days after the incorporation election under Section [10-2-111] 10-2a-210.

(5) (a) (i) The county clerk shall publish notice of an election under this section:

(A) at least once a week for two successive weeks in a newspaper of general circulation within the future city; and

(B) in accordance with Section 45-1-101 for two weeks.

(ii) The later notice under Subsection (5)(a)(i) shall be at least one day but no more than seven days before the election.

(b) (i) In accordance with Subsection (5)(a)(i)(A), if there is no newspaper of general circulation within the future city, the county clerk shall post at least one notice of the election per 1,000 population in conspicuous places within the future city that are most likely to give notice of the election to the voters.

(ii) The county clerk shall post the notices under Subsection (5)(b)(i) at least seven days before each election under Subsection (1).

(6) Until the city is incorporated, the county clerk is the election officer for all purposes in an election of officers of the city approved at an incorporation election.

Section 38. Section 10-2a-216, which is renumbered from Section 10-2-117 is renumbered and amended to read:

[10-2-117]. 10-2a-216. Notification to lieutenant governor of election of city officers.

Within 10 days of the canvass of the final election of city officers under Section [10-2-116] 10-2a-215, the county clerk shall send written notice to the lieutenant governor of the name and position of each officer elected and the term for which each has been elected.

Section 39. Section 10-2a-217, which is renumbered from Section 10-2-119 is renumbered and amended to read:

[10-2-119]. 10-2a-217. Filing of notice and approved final local entity plat with lieutenant governor -- Effective date of incorporation -- Necessity of recording documents and effect of not recording.

(1) The mayor-elect of the future city shall:

(a) within 30 days after the canvass of the final election of city officers under Section [10-2-116] 10-2a-215, file with the lieutenant governor:

(i) a copy of a notice of an impending boundary action, as defined in Section 67-1a-6.5, that meets the requirements of Subsection 67-1a-6.5(3); and

(ii) a copy of an approved final local entity plat, as defined in Section 67-1a-6.5; and

(b) upon the lieutenant governor's issuance of a certificate of incorporation under Section 67-1a-6.5:

(i) if the city is located within the boundary of a single county, submit to the recorder of that county the original:

(A) notice of an impending boundary action;

(B) certificate of incorporation; and

(C) approved final local entity plat; or

(ii) if the city is located within the boundaries of more than a single county, submit the original of the documents listed in Subsections (1)(b)(i)(A), (B), and (C) to one of those counties and a certified copy of those documents to each other county.

(2) (a) The incorporation is effective upon the lieutenant governor's issuance of a certificate of incorporation under Section 67-1a-6.5.

(b) Notwithstanding any other provision of law, a city is conclusively presumed to be lawfully incorporated and existing if, for two years following the city's incorporation:

(i) (A) the city has levied and collected a property tax; or

(B) for a city incorporated on or after July 1, 1998, the city has imposed a sales and use tax; and

(ii) no challenge to the existence or incorporation of the city has been filed in the district court for the county in which the city is located.

(3) (a) The effective date of an incorporation for purposes of assessing property within the new city is governed by Section 59-2-305.5.

(b) Until the documents listed in Subsection (1)(b) are recorded in the office of the recorder of each county in which the property is located, a newly incorporated city may not:

(i) levy or collect a property tax on property within the city;

(ii) levy or collect an assessment on property within the city; or

(iii) charge or collect a fee for service provided to property within the city.

Section 40. Section 10-2a-218, which is renumbered from Section 10-2-120 is renumbered and amended to read:

[10-2-120]. 10-2a-218. Powers of officers-elect.

(1) Upon the canvass of the final election of city officers under Section [10-2-116] 10-2a-215 and until the future city becomes legally incorporated, the officers of the future city may:

(a) prepare and adopt, under Chapter 6, Uniform Fiscal Procedures Act for Utah Cities, a proposed budget and compilation of ordinances;

(b) negotiate and make personnel contracts and hirings;

(c) negotiate and make service contracts;

(d) negotiate and make contracts to purchase equipment, materials, and supplies;

(e) borrow funds from the county in which the future city is located under Subsection [10-2-121] 10-2a-219(3);

(f) borrow funds for startup expenses of the future city;

(g) issue tax anticipation notes in the name of the future city; and

(h) make appointments to the city's planning commission.

(2) The city's legislative body shall review and ratify each contract made by the officers-elect under Subsection (1) within 30 days after the effective date of incorporation under Section [10-2-119] 10-2a-217.

Section 41. Section 10-2a-219, which is renumbered from Section 10-2-121 is renumbered and amended to read:

[10-2-121]. 10-2a-219. Division of municipal-type services revenues -- County may provide startup funds.

(1) The county in which an area incorporating under this part is located shall, until the date of the city's incorporation under Section [10-2-119] 10-2a-217, continue:

(a) to levy and collect ad valorem property tax and other revenues from or pertaining to the future city; and

(b) except as otherwise agreed by the county and the officers-elect of the city, to provide the same services to the future city as the county provided before the commencement of the incorporation proceedings.

(2) (a) The legislative body of the county in which a newly incorporated city is located shall share pro rata with the new city, based on the date of incorporation, the taxes and service charges or fees levied and collected by the county under Section 17-34-3 during the year of the new city's incorporation if and to the extent that the new city provides, by itself or by contract, the same services for which the county levied and collected the taxes and service charges or fees.

(b) (i) The legislative body of a county in which a city incorporated after January 1, 2004, is located may share with the new city taxes and service charges or fees that were levied and collected by the county under Section 17-34-3:

(A) before the year of the new city's incorporation;

(B) from the previously unincorporated area that, because of the city's incorporation, is located within the boundaries of the newly incorporated city; and

(C) for the purpose of providing services to the area that before the new city's incorporation was unincorporated.

(ii) A county legislative body may share taxes and service charges or fees under Subsection (2)(b)(i) by a direct appropriation of funds or by a credit or offset against amounts due under a contract for

municipal-type services provided by the county to the new city.

(3) (a) The legislative body of a county in which an area incorporating under this part is located may appropriate county funds to:

(i) before incorporation but after the canvass of the final election of city officers under Section [10-2-116] 10-2a-215, the officers-elect of the future city to pay startup expenses of the future city; or

(ii) after incorporation, the new city.

(b) Funds appropriated under Subsection (3)(a) may be distributed in the form of a grant, a loan, or as an advance against future distributions under Subsection (2).

Section 42. Section 10-2a-220, which is renumbered from Section 10-2-123 is renumbered and amended to read:

[10-2-123]. 10-2a-220. Costs of incorporation.

(1) Subject to Subsection (2), all costs of the incorporation proceeding, including request certification, feasibility study, petition certification, publication of notices, public hearings, and elections, shall be paid by the county in which the proposed city is located.

(2) If incorporation occurs, the new municipality shall reimburse the county for the costs of the notices and hearing under Section [10-2-114] 10-2a-213, the notices and elections under Section [10-2-116] 10-2a-215, and all other incorporation activities occurring after the elections under Section [10-2-116] 10-2a-215.

Section 43. Section 10-2a-221, which is renumbered from Section 10-2-124 is renumbered and amended to read:

[10-2-124]. 10-2a-221. Incorporation petition or feasibility study before May 8, 2012.

(1) A party with a petition in process as of January 1, 2012, and not yet filed for final certification with the county clerk in accordance with Section [10-2-110] 10-2a-209 as of May 8, 2012, shall comply with the provisions of this chapter as enacted on May 8, 2012, except as provided in Subsection (3).

(2) A party described in Subsection (1) may use a signature on a petition in process as of May 8, 2012, to fulfill the requirements of this chapter enacted on May 8, 2012.

(3) If on or before May 8, 2012, a feasibility study has been completed for a party described in Subsection (1):

(a) the completed feasibility study shall fulfill the requirements of this section; and

(b) the party is not required to request a new feasibility study.

Section 44. Section 10-2a-301 is enacted to read:

Part 3. Incorporation of a Town
10-2a-301. Title.

This part is known as "Incorporation of a Town."

Section 45. Section 10-2a-302, which is renumbered from Section 10-2-125 is renumbered and amended to read:

[10-2-125]. 10-2a-302. Incorporation of a town -- Petition.

(1) As used in this section:

(a) "Assessed value," with respect to agricultural land, means the value at which the land would be assessed without regard to a valuation for agricultural use under Section 59-2-503.

~~(f)~~ (b) "Feasibility consultant" means a person or firm:

(i) with expertise in the processes and economics of local government; and

(ii) who is independent of and not affiliated with a county or sponsor of a petition to incorporate.

~~(f)~~ (c) "Financial feasibility study" means a study described in Subsection (7).

(d) "Municipal service" means a publicly provided service that is not provided on a countywide basis.

(e) "Nonurban" means having a residential density of less than one unit per acre.

(2) (a) (i) A contiguous area of a county not within a municipality, with a population of at least 100 but less than 1,000, may incorporate as a town as provided in this section.

(ii) An area within a county of the first class is not contiguous for purposes of Subsection (2)(a)(i) if:

(A) the area includes a strip of land that connects geographically separate areas; and

(B) the distance between the geographically separate areas is greater than the average width of the strip of land connecting the geographically separate areas.

(b) The population figure under Subsection (2)(a) shall be determined:

(i) as of the date the incorporation petition is filed; and

(ii) by the Utah Population Estimates Committee within 20 days after the county clerk's certification under Subsection (6) of a petition filed under Subsection (4).

(3) (a) The process to incorporate an area as a town is initiated by filing a petition to incorporate the area as a town with the clerk of the county in which the area is located.

(b) A petition under Subsection (3)(a) shall:

(i) be signed by:

(A) the owners of private real property that:

(I) is located within the area proposed to be incorporated; and

(II) is equal in assessed value to more than 1/5 of the assessed value of all private real property within the area; and

(B) 1/5 of all registered voters within the area proposed to be incorporated as a town, according to the official voter registration list maintained by the county on the date the petition is filed;

(ii) designate as sponsors at least five of the property owners who have signed the petition, one of whom shall be designated as the contact sponsor, with the mailing address of each owner signing as a sponsor;

(iii) be accompanied by and circulated with an accurate map or plat, prepared by a licensed surveyor, showing a legal description of the boundary of the proposed town; and

(iv) substantially comply with and be circulated in the following form:

PETITION FOR INCORPORATION OF (insert the proposed name of the proposed town)

To the Honorable County Legislative Body of (insert the name of the county in which the proposed town is located) County, Utah:

We, the undersigned owners of real property and registered voters within the area described in this petition, respectfully petition the county legislative body to submit to the registered voters residing within the area described in this petition, at the next regular general election, the question of whether the area should incorporate as a town. Each of the undersigned affirms that each has personally signed this petition and is an owner of real property or a registered voter residing within the described area, and that the current residence address of each is correctly written after the signer's name. The area proposed to be incorporated as a town is described as follows: (insert an accurate description of the area proposed to be incorporated).

(c) A petition under this Subsection (3) may not describe an area that includes some or all of an area proposed for annexation in an annexation petition under Section 10-2-403 that:

(i) was filed before the filing of the petition; and

(ii) is still pending on the date the petition is filed.

(d) A petition may not be filed under this section if the private real property owned by the petition sponsors, designated under Subsection (3)(b)(ii), cumulatively exceeds 40% of the total private land area within the area proposed to be incorporated as a town.

(e) A signer of a petition under this Subsection (3) may withdraw or, after withdrawn, reinstate the signer's signature on the petition:

(i) at any time until the county clerk certifies the petition under Subsection (5); and

(ii) by filing a signed, written withdrawal or reinstatement with the county clerk.

(4) (a) If a petition is filed under Subsection (3)(a) proposing to incorporate as a town an area located

within a county of the first class, the county clerk shall deliver written notice of the proposed incorporation:

(i) to each owner of private real property owning more than 1% of the assessed value of all private real property within the area proposed to be incorporated as a town; and

(ii) within seven calendar days after the date on which the petition is filed.

(b) A private real property owner described in Subsection (4)(a)(i) may exclude all or part of the owner's property from the area proposed to be incorporated as a town by filing a notice of exclusion:

(i) with the county clerk; and

(ii) within 10 calendar days after receiving the clerk's notice under Subsection (4)(a).

(c) The county legislative body shall exclude from the area proposed to be incorporated as a town the property identified in the notice of exclusion under Subsection (4)(b) if:

(i) the property:

(A) is nonurban; and

(B) does not and will not require a municipal service; and

(ii) exclusion will not leave an unincorporated island within the proposed town.

(d) If the county legislative body excludes property from the area proposed to be incorporated as a town, the county legislative body shall send written notice of the exclusion to the contact sponsor within five days after the exclusion.

(5) No later than 20 days after the filing of a petition under Subsection (3), the county clerk shall:

(a) with the assistance of other county officers from whom the clerk requests assistance, determine whether the petition complies with the requirements of Subsection (3); and

(b) (i) if the clerk determines that the petition complies with those requirements:

(A) certify the petition and deliver the certified petition to the county legislative body; and

(B) mail or deliver written notification of the certification to:

(I) the contact sponsor; and

~~[(II) if applicable, the chair of the planning commission of each township in which any part of the area proposed for incorporation is located; and]~~

~~[(III)]~~ (II) the Utah Population Estimates Committee; or

(ii) if the clerk determines that the petition fails to comply with any of those requirements, reject the petition and notify the contact sponsor in writing of the rejection and the reasons for the rejection.

(6) (a) (i) A petition that is rejected under Subsection (5)(b)(ii) may be amended to correct a deficiency for which it was rejected and then refiled with the county clerk.

(ii) A valid signature on a petition filed under Subsection (3)(a) may be used toward fulfilling the signature requirement of Subsection (3)(b) for the same petition that is amended under Subsection (6)(a)(i) and then refiled with the county clerk.

(b) If a petition is amended and refiled under Subsection (6)(a)(i) after having been rejected by the county clerk under Subsection (5)(b)(ii):

(i) the amended petition shall be considered as a newly filed petition; and

(ii) the amended petition's processing priority is determined by the date on which it is refiled.

(7) (a) (i) The legislative body of a county with which a petition is filed under Subsection (4) and certified under Subsection (6) shall commission and pay for a financial feasibility study.

(ii) The feasibility consultant shall be chosen:

(A) (I) by the contact sponsor of the incorporation petition, as described in Subsection (3)(b)(ii), with the consent of the county; or

(II) by the county if the contact sponsor states, in writing, that the sponsor defers selection of the feasibility consultant to the county; and

(B) in accordance with applicable county procurement procedure.

(iii) The county legislative body shall require the feasibility consultant to complete the financial feasibility study and submit written results of the study to the county legislative body no later than 30 days after the feasibility consultant is engaged to conduct the financial feasibility study.

(b) The financial feasibility study shall consider the:

(i) population and population density within the area proposed for incorporation and the surrounding area;

(ii) current and five-year projections of demographics and economic base in the proposed town and surrounding area, including household size and income, commercial and industrial development, and public facilities;

(iii) projected growth in the proposed town and in adjacent areas during the next five years;

(iv) subject to Subsection (7)(c), the present and five-year projections of the cost, including overhead, of governmental services in the proposed town, including:

(A) culinary water;

(B) secondary water;

(C) sewer;

(D) law enforcement;

(E) fire protection;

(F) roads and public works;

(G) garbage;

(H) weeds; and

(I) government offices;

(v) assuming the same tax categories and tax rates as currently imposed by the county and all other current service providers, the present and five-year projected revenue for the proposed town; and

(vi) a projection of any new taxes per household that may be levied within the incorporated area within five years of incorporation.

(c) (i) For purposes of Subsection (7)(b)(iv), the feasibility consultant shall assume a level and quality of governmental services to be provided to the proposed town in the future that fairly and reasonably approximate the level and quality of governmental services being provided to the proposed town at the time of the feasibility study.

(ii) In determining the present cost of a governmental service, the feasibility consultant shall consider:

(A) the amount it would cost the proposed town to provide governmental service for the first five years after incorporation; and

(B) the county's present and five-year projected cost of providing governmental service.

(iii) The costs calculated under Subsection (7)(b)(iv), shall take into account inflation and anticipated growth.

(d) If the five year projected revenues under Subsection (7)(b)(v) exceed the five-year projected costs under Subsection (7)(b)(iv) by more than 10%, the feasibility consultant shall project and report the expected annual revenue surplus to the contact sponsor and the lieutenant governor.

(e) The county legislative body shall approve a certified petition proposing the incorporation of a town and hold a public hearing as provided in Section [10-2-126] 10-2a-303.

Section 46. Section 10-2a-303, which is renumbered from Section 10-2-126 is renumbered and amended to read:

[10-2-126]. 10-2a-303. Incorporation of a town -- Public hearing on feasibility.

(1) If, in accordance with Section [10-2-125] 10-2a-302, the county clerk certifies a petition for incorporation or an amended petition for incorporation, the county legislative body shall, at its next regular meeting after completion of the feasibility study, schedule a public hearing to:

(a) be held no later than 60 days after the day on which the feasibility study is completed; and

(b) consider, in accordance with Subsection (3)(b), the feasibility of incorporation for the proposed town.

(2) The county legislative body shall give notice of the public hearing on the proposed incorporation by:

(a) posting notice of the public hearing on the county's Internet website, if the county has an Internet website;

(b) (i) publishing notice of the public hearing at least once a week for two consecutive weeks in a newspaper of general circulation within the proposed town; or

(ii) if there is no newspaper of general circulation within the proposed town, posting notice of the public hearing in at least five conspicuous public places within the proposed town; and

(c) publishing notice of the public hearing on the Utah Public Notice Website created in Section 63F-1-701.

(3) At the public hearing scheduled in accordance with Subsection (1), the county legislative body shall:

(a) (i) provide a copy of the feasibility study; and

(ii) present the results of the feasibility study to the public; and

(b) allow the public to:

(i) review the map or plat of the boundary of the proposed town;

(ii) ask questions and become informed about the proposed incorporation; and

(iii) express its views about the proposed incorporation, including their views about the boundary of the area proposed to be incorporated.

(4) A county may not hold an election on the incorporation of a town in accordance with Section [10-2-127] 10-2a-304 if the results of the feasibility study show that the five-year projected revenues under Subsection [10-2-125] 10-2a-302(7)(b)(v) exceed the five-year projected costs under Subsection [10-2-125] 10-2a-302(7)(b)(iv) by more than 10%.

Section 47. Section 10-2a-304, which is renumbered from Section 10-2-127 is renumbered and amended to read:

[10-2-127]. 10-2a-304. Incorporation of a town -- Election to incorporate -- Ballot form.

(1) (a) Upon receipt of a certified petition [under Subsection 10-2-110(1)(b)(i)] or a certified [modified] amended petition under [Subsection 10-2-110(3)] Section 10-2a-302, the county legislative body shall determine and set an election date for the incorporation election that is:

(i) (A) on a general election date under Section 20A-1-201; or

(B) on a local special election date under Section 20A-1-203; and

(ii) at least 65 days after the day that the legislative body receives the certified petition.

(b) Unless a person is a registered voter who resides, as defined in Section 20A-1-102, within the boundaries of the proposed town, the person may not vote on the proposed incorporation.

(2) (a) The county clerk shall publish notice of the election:

(i) in a newspaper of general circulation, within the area proposed to be incorporated, at least once a week for three successive weeks; and

(ii) in accordance with Section 45-1-101 for three weeks.

(b) The notice required by Subsection (2)(a) shall contain:

(i) a statement of the contents of the petition;

(ii) a description of the area proposed to be incorporated as a town;

(iii) a statement of the date and time of the election and the location of polling places; and

(iv) the county Internet website address, if applicable, and the address of the county office where the feasibility study is available for review.

(c) The last publication of notice required under Subsection (2)(a) shall occur at least one day but no more than seven days before the election.

(d) (i) In accordance with Subsection (2)(a)(i), if there is no newspaper of general circulation within the proposed town, the county clerk shall post at least one notice of the election per 100 population in conspicuous places within the proposed town that are most likely to give notice of the election to the voters of the proposed town.

(ii) The clerk shall post the notices under Subsection (2)(d)(i) at least seven days before the election under Subsection (1)(a).

(3) The ballot at the incorporation election shall pose the incorporation question substantially as follows:

Shall the area described as (insert a description of the proposed town) be incorporated as the town of (insert the proposed name of the proposed town)?

(4) The ballot shall provide a space for the voter to answer yes or no to the question in Subsection (3).

(5) If a majority of those casting votes within the area boundaries of the proposed town vote to incorporate as a town, the area shall incorporate.

Section 48. Section 10-2a-305, which is renumbered from Section 10-2-128 is renumbered and amended to read:

[10-2-128]. 10-2a-305. Form of government -- Election of officers of new town.

(1) A newly incorporated town shall operate under the five-member council form of government as defined in Section 10-3b-102.

(2) (a) The county legislative body of the county in which a newly incorporated town is located shall hold an election for town officers at the next special

election after the regular general election in which the town incorporation is approved.

(b) The officers elected at an election described in Subsection (2)(a) shall take office at noon on the first Monday in January next following the special election described in Subsection (2)(a).

Section 49. Section 10-2a-306, which is renumbered from Section 10-2-129 is renumbered and amended to read:

[10-2-129]. 10-2a-306. Notice to lieutenant governor -- Effective date of incorporation -- Effect of recording documents.

(1) The mayor-elect of the future town shall:

(a) within 30 days after the canvass of the election of town officers under Section ~~[10-2-128]~~ 10-2a-305, file with the lieutenant governor:

(i) a copy of a notice of an impending boundary action, as defined in Section 67-1a-6.5, that meets the requirements of Section 67-1a-6.5(3); and

(ii) a copy of an approved final local entity plat, as defined in Section 67-1a-6.5; and

(b) upon the lieutenant governor's issuance of a certificate of incorporation under Section 67-1a-6.5:

(i) if the town is located within the boundary of a single county, submit to the recorder of that county the original:

(A) notice of an impending boundary action;

(B) certificate of incorporation; and

(C) approved final local entity plat; or

(ii) if the town is located within the boundaries of more than a single county, submit the original of the documents listed in Subsections (1)(b)(i)(A), (B), and (C) to one of those counties and a certified copy of those documents to each other county.

(2) (a) A new town is incorporated:

(i) on December 31 of the year in which the lieutenant governor issues a certificate of incorporation under Section 67-1a-6.5, if the election of town officers under Section ~~[10-2-128]~~ 10-2a-305 is held on a regular general or municipal general election date; or

(ii) on the last day of the month during which the lieutenant governor issues a certificate of incorporation under Section 67-1a-6.5, if the election of town officers under Section ~~[10-2-128]~~ 10-2a-305 is held on any other date.

(b) (i) The effective date of an incorporation for purposes of assessing property within the new town is governed by Section 59-2-305.5.

(ii) Until the documents listed in Subsection (1)(b)(i) are recorded in the office of the recorder of each county in which the property is located, a newly incorporated town may not:

(A) levy or collect a property tax on property within the town;

(B) levy or collect an assessment on property within the town; or

(C) charge or collect a fee for service provided to property within the town.

Section 50. Section 10-2a-401 is enacted to read:

Part 4. Incorporation of Metro Townships and Unincorporated Islands in a County of the First Class on and after May 12, 2015

10-2a-401. Title.

This part is known as “Incorporation of Metro Townships and Unincorporated Islands in a County of the First Class on and after May 12, 2015.”

Section 51. Section 10-2a-402 is enacted to read:

10-2a-402. Application.

(1) The provisions of this part:

(a) apply to the following located in a county of the first class:

(i) a planning township established before January 1, 2015; and

(ii) subject to Subsection (2), an unincorporated island located in a county of the first class on or after May 12, 2015, and before November 4, 2015; and

(b) do not apply to a planning advisory area, as defined in Section 17-27a-103, or any other unincorporated area located outside of a county of the first class.

(2) (a) The provisions of Part 2, Incorporation of a City, and Part 3, Incorporation of a Town, apply to an unincorporated area described in Subsection (1) for an incorporation as a city after November 3, 2015.

(b) The provisions of Chapter 2, Part 4, Annexation:

(i) do not apply to an unincorporated island for purposes of annexation before November 4, 2015, unless:

(A) otherwise indicated; or

(B) before July 1, 2015, an annexation petition is filed in accordance with Section 10-2-403 or an intent to annex resolution is adopted in accordance with Subsection 10-2-418(2)(a)(i); and

(ii) apply to an unincorporated island that is not annexed at an election under this part for purposes of annexation on or after November 4, 2015.

Section 52. Section 10-2a-403 is enacted to read:

10-2a-403. Definitions.

As used in this section:

(1) “Ballot proposition” means the same as that term is defined in Section 20A-1-102.

(2) “Eligible city” means a city whose legislative body adopts a resolution agreeing to annex an unincorporated island.

(3) “Local special election” means the same as that term is defined in Section 20A-1-102.

(4) “Municipal services district” means a district created in accordance with Title 11, Chapter 2a, Part 11, Municipal Services District Act.

(5) (a) “Metro township” means, except as provided in Subsection (5)(b), a planning township that is incorporated in accordance with this part.

(b) “Metro township” does not include a township as that term is used in the context of identifying a geographic area in common surveyor practice.

(6) (a) “Planning township” means an area located in a county of the first class that is established before January 1, 2015, as a township as defined in and established in accordance with law before the enactment of this bill.

(b) “Planning township” does not include rural real property unless the owner of the rural real property provides written consent in accordance with Section 10-2a-405.

(7) (a) “Unincorporated island” means an unincorporated area that is completely surrounded by one or more municipalities.

(b) “Unincorporated island” does not include a planning township.

Section 53. Section 10-2a-404 is enacted to read:

10-2a-404. Election.

(1) (a) Notwithstanding Section 20A-1-203, a county of the first class shall hold a local special election on November 3, 2015, on the following ballot propositions:

(i) for registered voters residing within a planning township:

(A) whether the planning township shall be incorporated as a city or town, according to the classifications of Section 10-2-301, or as a metro township; and

(B) if the planning township incorporates as a metro township, whether the metro township is included in a municipal services district; and

(ii) for registered voters residing within an unincorporated island, whether the island should maintain its unincorporated status or be annexed into an eligible city.

(b) (i) A metro township incorporated under this part shall be governed by the five-member council in accordance with Chapter 3b, Part 5, Metro Township Council Form of Municipal Government.

(ii) A city or town incorporated under this part shall be governed by the five-member council form of government as defined in Section 10-3b-102.

(2) Unless a person is a registered voter who resides, as defined in Section 20A-1-102, within the boundaries of a planning township or an unincorporated island, the person may not vote on the proposed incorporation or annexation.

(3) The county clerk shall publish notice of the election:

(a) in a newspaper of general circulation within the planning township or unincorporated island at least once a week for three successive weeks; and

(b) in accordance with Section 45-1-101 for three weeks.

(4) The notice required by Subsection (3) shall contain:

(a) for residents of a planning township:

(i) a statement that the voters will vote:

(A) to incorporate as a city or town, according to the classifications of Section 10-2-301, or as a metro township; and

(B) if the planning township incorporates as a metro township, whether the metro township is included in a municipal services district;

(ii) if applicable under Subsection 10-2a-405(5), a map showing the alteration to the planning township boundaries that would be effective upon incorporation;

(iii) a statement that if the residents of the planning township elect to incorporate:

(A) as a metro township, the metro township shall be governed by a five-member metro township council in accordance with Chapter 3b, Part 5, Metro Township Council Form of Municipal Government; or

(B) as a city or town, the city or town shall be governed by the five-member council form of government as defined in Section 10-3b-102; and

(iv) a statement of the date and time of the election and the location of polling places;

(b) for residents of an unincorporated island:

(i) a statement that the voters will vote either to be annexed into an eligible city or maintain unincorporated status; and

(ii) a statement of the eligible city, as determined by the county legislative body in accordance with Section 10-2a-405, the unincorporated island may elect to be annexed by; and

(c) a statement of the date and time of the election and the location of polling places.

(5) The last publication of notice required under Subsection (3) shall occur at least one day but no more than seven days before the election.

(6) (a) In accordance with Subsection (3)(a), if there is no newspaper of general circulation within the proposed metro township or unincorporated island, the county clerk shall post at least one notice of the election per 1,000 population in conspicuous places within the planning township or unincorporated island that are most likely to give notice of the election to the voters of the proposed incorporation or annexation.

(b) The clerk shall post the notices under Subsection (6)(a) at least seven days before the election under Subsection (1).

(7) (a) In a planning township, if a majority of those casting votes within the planning township vote to:

(i) incorporate as a city or town, the planning township shall incorporate as a city or town, respectively; or

(ii) incorporate as a metro township, the planning township shall incorporate as a metro township.

(b) If a majority of those casting votes within the planning township vote to incorporate as a metro township, and a majority of those casting votes vote to include the metro township in a municipal services district and limit the metro township's municipal powers, the metro township shall be included in a municipal services district and have limited municipal powers.

(c) In an unincorporated island, if a majority of those casting a vote within the selected unincorporated island vote to:

(i) be annexed by the eligible city, the area shall be annexed by the eligible city; or

(ii) remain an unincorporated area, the area shall remain unincorporated.

(8) The county shall, in consultation with interested parties, prepare and provide information on an annexation or incorporation subject to this part and an election held in accordance with this section.

Section 54. Section 10-2a-405 is enacted to read:

10-2a-405. Duties of county legislative body -- Public hearing -- Notice -- Other election and incorporation issues -- Rural real property excluded.

(1) The legislative body of a county of the first class shall before an election described in Section 10-2a-404:

(a) in accordance with Subsection (3), publish notice of the public hearing described in Subsection (1)(b);

(b) hold a public hearing; and

(c) at the public hearing, adopt a resolution:

(i) identifying, including a map prepared by the county surveyor, all unincorporated islands within the county;

(ii) identifying each eligible city that will annex each unincorporated island, including whether the unincorporated island may be annexed by one eligible city or divided and annexed by multiple eligible cities, if approved by the residents at an election under Section 10-2a-404; and

(iii) identifying, including a map prepared by the county surveyor, the planning townships within the county and any changes to the boundaries of a planning township that the county legislative body proposes under Subsection (5).

(2) The county legislative body shall exclude from a resolution adopted under Subsection (1)(c) rural real property unless the owner of the rural real property provides written consent to include the property in accordance with Subsection (6).

(3) (a) The county clerk shall publish notice of the public hearing described in Subsection (1)(b):

(i) by mailing notice to each owner of real property located in an unincorporated island or planning township no later than 15 days before the day of the public hearing;

(ii) at least once a week for three successive weeks in a newspaper of general circulation within each unincorporated island, each eligible city, and each planning township; and

(iii) on the Utah Public Notice Website created in Section 63F-1-701, for three weeks before the day of the public hearing.

(b) The last publication of notice required under Subsection (3)(a)(ii) shall be at least three days before the first public hearing required under Subsection (1)(b).

(c) (i) If, under Subsection (3)(a)(ii), there is no newspaper of general circulation within an unincorporated island, an eligible city, or a planning township, the county clerk shall post at least one notice of the hearing per 1,000 population in conspicuous places within the selected unincorporated island, eligible city, or planning township, as applicable, that are most likely to give notice of the hearing to the residents of the unincorporated island, eligible city, or planning township.

(ii) The clerk shall post the notices under Subsection (3)(c)(i) at least seven days before the hearing under Subsection (1)(b).

(d) The notice under Subsection (3)(a) or (c) shall include:

(i) (A) for a resident of an unincorporated island, a statement that the property in the unincorporated island may be, if approved at an election under Section 10-2a-404, annexed by an eligible city, including divided and annexed by multiple cities if applicable, and the name of the eligible city or cities; or

(B) for residents of a planning township, a statement that the property in the planning township shall be, pending the results of the election held under Section 10-2a-404, incorporated as a city, town, or metro township;

(ii) the location and time of the public hearing; and

(iii) the county website where a map may be accessed showing:

(A) how the unincorporated island boundaries will change if annexed by an eligible city; or

(B) how the planning township area boundaries will change, if applicable under Subsection (5),

when the planning township incorporates as a metro township or as a city or town.

(e) The county clerk shall publish a map described in Subsection (3)(c)(iii) on the county website.

(4) The county legislative body may, by ordinance or resolution adopted at a public meeting and in accordance with applicable law, resolve an issue that arises with an election held in accordance with this part or the incorporation and establishment of a metro township in accordance with this part.

(5) (a) The county legislative body may, by ordinance or resolution adopted at a public meeting, change the boundaries of a planning township.

(b) A change to a planning township boundary under this Subsection (5) is effective only upon the vote of the residents of the planning township at an election under Section 10-2a-404 to incorporate as a metro township or as a city or town and does not affect the boundaries of the planning township before the election.

(c) The county legislative body:

(i) may alter a planning township boundary under Subsection (5)(a) only if the alteration:

(A) affects less than 5% of the residents residing within the planning advisory area; and

(B) does not increase the area located within the planning township's boundaries; and

(ii) may not alter the boundaries of a planning township whose boundaries are entirely surrounded by one or more municipalities.

(6) (a) As used in this Subsection (6), "rural real property" means an area:

(i) zoned primarily for manufacturing, commercial, or agricultural purposes; and

(ii) that does not include residential units with a density greater than one unit per acre.

(b) Unless an owner of rural real property gives written consent to a county legislative body, rural real property described in Subsection (6)(c) may not be:

(i) included in a planning township identified under Subsection (1)(c); or

(ii) incorporated as part of a metro township, city, or town, in accordance with this part.

(c) The following rural real property is subject to an owner's written consent under Subsection (6)(b):

(i) rural real property that consists of 1,500 or more contiguous acres of real property consisting of one or more tax parcels;

(ii) rural real property that is not contiguous to, but used in connection with, rural real property that consists of 1,500 or more contiguous acres of real property consisting of one or more tax parcels;

(iii) rural real property that is owned, managed, or controlled by a person, company, or association, including a parent, subsidiary, or affiliate related to

the owner of 1,500 or more contiguous acres of rural real property consisting of one or more tax parcels; or

(iv) rural real property that is located in whole or in part in one of the following as defined in Section 17-41-101:

- (A) an agricultural protection area;
- (B) an industrial protection area; or
- (C) a mining protection area.

Section 55. Section 10-2a-406 is enacted to read:

10-2a-406. Ballot used at metro township incorporation election.

(1) The ballot at the election to incorporate a planning township as a metro township or as a city or town, respectively, shall pose:

(a) the incorporation question substantially as follows:

“Shall [insert name of planning township] be incorporated as a metro township [insert the proposed name of the proposed metro township, which is the formal name of the planning township with the words “metro township” immediately after the formal name] or as the [insert the appropriate designation of city or town based on population classification] of [insert the proposed name of the proposed city or town, respectively, which is the formal name of the planning township with, if the area qualifies as a city under the population classifications, the word “city” immediately after the formal name or if the area qualifies as a town under the population classification, the words “town of” immediately preceding the formal name]?”; and

(b) the question, if a metro township is incorporated, of whether a metro township shall be a metro township with limited municipal powers that is included in a municipal services district substantially as follows:

“If the majority of voters voting in this election vote to incorporate as a metro township, shall the metro township be a metro township with limited municipal powers that is included in a municipal services district?”.

(2) The ballot shall provide a space for the voter to indicate:

- (a) either the metro township or the city or town, respectively, as described in Subsection (1)(a); and
- (b) whether the metro township shall be a metro township with limited municipal powers that is included in a municipal services district.

Section 56. Section 10-2a-407 is enacted to read:

10-2a-407. Ballot used at unincorporated island annexation election.

(1) The ballot at the election to either annex an unincorporated island into an eligible city or to

remain an unincorporated island shall pose the question substantially as follows:

“Shall [insert description of the unincorporated island or part of an island identified in the resolution adopted under Section 10-2a-405] be annexed by [insert name of eligible city identified in the resolution adopted under Section 10-2a-405] or remain unincorporated?”.

(2) The ballot shall provide:

(a) a map of the selected unincorporated island and the eligible city; and

(b) a space for the voter to indicate either to annex into the eligible city or to remain an unincorporated area as described in Subsection (1).

Section 57. Section 10-2a-408 is enacted to read:

10-2a-408. Notification to lieutenant governor of incorporation election results.

Within 10 days of the canvass of the incorporation and annexation election, the county clerk shall send written notice to the lieutenant governor of:

(1) the results of the election;

(2) for a planning township:

(a) if the incorporation of a planning township as a metro township passes:

(i) the name of the metro township; and

(ii) the class of the metro township as provided under Section 10-2-301.5; and

(b) if the incorporation of a planning township as a city or town passes:

(i) the name of the city or town; and

(ii) if the incorporated area is a city, the class of the city as defined in Section 10-2-301; and

(3) for an unincorporated island, whether the unincorporated island or a portion of the island shall be annexed into an eligible city.

Section 58. Section 10-2a-409 is enacted to read:

10-2a-409. Unincorporated island annexation -- Notice and recording-- Applicable provisions.

(1) If the annexation of an unincorporated island into an eligible city passes, the legislative body of the eligible city shall comply with Section 10-2-425.

(2) The following provisions apply to an annexation under this part:

(a) Section 10-2-420;

(b) Section 10-2-421;

(c) Section 10-2-422;

(d) Section 10-2-426; and

(e) Section 10-2-428.

Section 59. Section 10-2a-410 is enacted to read:

10-2a-410. Determination of metro township districts -- Determination of metro township or city initial officer terms -- Adoption of proposed districts.

(1) If a metro township is incorporated in accordance with an election held under Section 10-2a-404:

(a) each of the five metro township council members shall be elected by district; and

(b) the boundaries of the five council districts for election and the terms of office shall be designated and determined in accordance with this section.

(2) (a) If a town is incorporated at an election held in accordance with Section 10-2a-404, the five council members shall be elected at large for terms as designated and determined in accordance with this section.

(b) If a city is incorporated at an election held in accordance with Section 10-2a-404:

(i) (A) the four members of the council district who are not the mayor shall be elected by district; and

(B) the boundaries of the four council districts for election and the term of office shall be designated and determined in accordance with this section; and

(ii) the mayor shall be elected at large for a term designated and determined in accordance with this section.

(3) (a) No later than 90 days after the election day on which the metro township, city, or town is successfully incorporated under this part, the legislative body of the county in which the metro township is located shall adopt by resolution:

(i) subject to Subsection (3)(b), for each incorporated metro township, city, or town, the council terms for a length of time in accordance with this section; and

(ii) (A) for a metro township, the boundaries of the five council districts; and

(B) for a city, the boundaries of the four council districts.

(b) (i) For each metro township, city, or town, the county legislative body shall set the initial terms of the members of the metro township council, city council, or town council so that:

(A) approximately half the members of the council, including the mayor in the case of a city, are elected to serve an initial term, of no less than one year, that allows their successors to serve a full four-year term that coincides with the schedule established in Subsection 10-3-205(1); and

(B) the remaining members of the council are elected to serve an initial term, of no less than one year, that allows their successors to serve a full four-year term that coincides with the schedule established in Subsection 10-3-205(2).

(ii) For a metro township, the county legislative body shall divide the metro township into five council districts that comply with Section 10-3-205.5.

(iii) For a city, the county legislative body shall divide the city into four council districts that comply with Section 10-3-205.5.

(4) (a) Within 20 days of the county legislative body's adoption of a resolution under Subsection (3), the county clerk shall publish, in accordance with Subsection (4)(b), notice containing:

(i) if applicable, a description of the boundaries of the metro township council or city council districts as designated in the resolution;

(ii) information about the deadline for filing a declaration of candidacy for those seeking to become candidates for metro township council, city council, town council, or city mayor, respectively; and

(iii) information about the length of the initial term of city mayor or each of the metro township, city, or town council offices, as described in the resolution.

(b) The notice under Subsection (4)(a) shall be published:

(i) in a newspaper of general circulation within the metro township, city, or town at least once a week for two successive weeks; and

(ii) in accordance with Section 45-1-101 for two weeks.

(c) (i) In accordance with Subsection (4)(b)(i), if there is no newspaper of general circulation within the future metro township, city, or town, the county clerk shall post at least one notice per 1,000 population in conspicuous places within the future metro township, city, or town that are most likely to give notice to the residents of the future metro township, city, or town.

(ii) The notice under Subsection (4)(c)(i) shall contain the information required under Subsection (4)(a).

(iii) The county clerk shall post the notices under Subsection (4)(c)(i) at least seven days before the deadline for filing a declaration of candidacy under Subsection (4)(d).

(d) A person seeking to become a candidate for metro township, city, or town council or city mayor shall, in accordance with Section 20A-9-202, file a declaration of candidacy with the clerk of the county in which the metro township, city, or town is located for an election described in Section 10-2a-411.

Section 60. Section 10-2a-411 is enacted to read:

10-2a-411. Election of officers of new city, town, or metro township.

(1) For the election of the initial office holders of a metro township, city, or town, respectively, incorporated under Section 10-2a-404, the county legislative body shall:

(a) unless a primary election is prohibited by Subsection 20A-9-404(2), hold a primary election at the next regular primary election, as described in Section 20A-1-201.5, following the November 3, 2015, election to incorporate; and

(b) hold a final election at the next regular general election date following the election to incorporate.

(2) An election under Subsection (1) for the officers of:

(a) a metro township shall be consistent with the number of council members as described in Subsection 10-2a-404(1)(b)(i); and

(b) a city or town shall be consistent with the number of council members, including the city mayor as a member of a city council, described in Subsection 10-2a-404(1)(b)(ii).

(3) (a) (i) The county clerk shall publish notice of an election under this section:

(A) at least once a week for two successive weeks in a newspaper of general circulation within the future metro township, city, or town; and

(B) in accordance with Section 45-1-101 for two weeks.

(ii) The later notice under Subsection (3)(a)(i) shall be at least one day but no more than seven days before the election.

(b) (i) In accordance with Subsection (3)(a)(i)(A), if there is no newspaper of general circulation within the future metro township, city, or town, the county clerk shall post at least one notice of the election per 1,000 population in conspicuous places within the future metro township, city, or town that are most likely to give notice of the election to the voters.

(ii) The county clerk shall post the notices under Subsection (3)(b)(i) at least seven days before each election under Subsection (1).

(4) (a) Until the metro township, city, or town is incorporated, the county clerk is the election officer for all purposes in an election of officers of the metro township, city, or town.

(b) The county clerk is responsible to ensure that:

(i) if applicable, the primary election described in Subsection (1)(a) is held on the date described in Subsection (1)(a);

(ii) the final election described in Subsection (1)(b) is held on the date described in Subsection (1)(b); and

(iii) the ballot for each election includes each office that is required to be included for officials in the metro township, city, or town, and the length of term of each office.

(5) The officers elected at an election described in Subsection (1)(b) shall take office at noon on the first Monday in January next following the election.

Section 61. Section 10-2a-412 is enacted to read:

10-2a-412. Notification to lieutenant governor of election of officers.

Within 10 days of the canvass of final election of metro township, city, or town officers under Section 10-2a-411, the county clerk shall send written notice to the lieutenant governor of the name and position of each officer elected and the term for which each has been elected.

Section 62. Section 10-2a-413 is enacted to read:

10-2a-413. Incorporation under this part subject to other provisions.

(1) An incorporation of a metro township, city, or town under this part is subject to the following provisions to the same extent as the incorporation of a city under Part 2, Incorporation of a City:

(a) Section 10-2a-217;

(b) Section 10-2a-219; and

(c) Section 10-2a-220.

(2) An incorporation of a city or town under this part is subject to Section 10-2a-218 to the same extent as the incorporation of a city or town under Part 2, Incorporation of a City.

Section 63. Section 10-3-205.5 is amended to read:

10-3-205.5. At-large election of officers -- Election of commissioners or council members.

(1) Except as provided in [~~Subsection (2)~~] Subsection (2), (3), or (4), the officers of each city shall be elected in an at-large election held at the time and in the manner provided for electing municipal officers.

(2) (a) [~~Notwithstanding Subsection (1), the~~] The governing body of a city may by ordinance provide for the election of some or all commissioners or council members, as the case may be, by district equal in number to the number of commissioners or council members elected by district.

(b) (i) Each district shall be of substantially equal population as the other districts.

(ii) Within six months after the Legislature completes its redistricting process, the governing body of each city that has adopted an ordinance under Subsection (2)(a) shall make any adjustments in the boundaries of the districts as may be required to maintain districts of substantially equal population.

(3) (a) The municipal council members of a metro township, as defined in Section 10-2a-403, are elected:

(i) by district in accordance with Subsection 10-2a-410(1)(a)(i); or

(ii) at large in accordance with Subsection 10-2a-410(1)(b).

(b) The council districts in a metro township shall comply with the requirements of Subsections (2)(b)(i) and (ii).

(4) (a) For a city incorporated in accordance with Chapter 2a, Part 4, Incorporation of Metro Townships and Unincorporated Islands in a County of the First Class on and after May 12, 2015:

(i) the council members are elected by district in accordance with Section 10-2a-410; and

(ii) the mayor is elected at large in accordance with Section 10-2a-410.

(b) The council districts in a city described in Subsection (4)(a) shall comply with the requirements of Subsections (2)(b)(i) and (ii).

Section 64. Section 10-3-1302 is amended to read:

10-3-1302. Purpose.

(1) The purposes of this part are to establish standards of conduct for municipal officers and employees and to require these persons to disclose actual or potential conflicts of interest between their public duties and their personal interests.

(2) In a metro township, as defined in Section 10-2a-403, the provisions of this part may not be applied to an appointed officer as that term is defined in Section 17-16a-3 or a county employee who is required by law to provide services to the metro township.

Section 65. Section 10-3b-102 is amended to read:

10-3b-102. Definitions.

As used in this chapter:

(1) "Council-mayor form of government" means the form of municipal government that:

(a) (i) is provided for in Laws of Utah 1977, Chapter 48;

(ii) may not be adopted without voter approval; and

(iii) consists of two separate, independent, and equal branches of municipal government; and

(b) on and after May 5, 2008, is described in Part 2, Council-Mayor Form of Municipal Government.

(2) "Five-member council form of government" means the form of municipal government described in Part 4, Five-Member Council Form of Municipal Government.

(3) "Metro township" means the same as that term is defined in Section 10-2a-403.

(4) "Metro township council form of government" means the form of metro township government described in Part 5, Metro Township Council Form of Municipal Government.

~~(3)~~ (5) "Six-member council form of government" means the form of municipal government described in Part 3, Six-Member Council Form of Municipal Government.

Section 66. Section 10-3b-103 is amended to read:

10-3b-103. Forms of municipal government -- Form of government for towns -- Former council-manager form.

(1) A municipality operating on May 4, 2008, under the council-mayor form of government:

(a) shall, on and after May 5, 2008:

(i) operate under a council-mayor form of government, as defined in Section 10-3b-102; and

(ii) be subject to:

(A) this part;

(B) Part 2, Council-mayor Form of Municipal Government;

(C) Part [5] 6, Changing to Another Form of Municipal Government; and

(D) except as provided in Subsection (1)(b), other applicable provisions of this title; and

(b) is not subject to:

(i) Part 3, Six-member Council Form of Municipal Government; ~~or~~

(ii) Part 4, Five-member Council Form of Municipal Government~~[-]; or~~

(iii) Part 5, Metro Township Council Form of Municipal Government.

(2) A municipality operating on May 4, 2008 under a form of government known under the law then in effect as the six-member council form:

(a) shall, on and after May 5, 2008, and whether or not the council has adopted an ordinance appointing a manager for the municipality:

(i) operate under a six-member council form of government, as defined in Section 10-3b-102;

(ii) be subject to:

(A) this part;

(B) Part 3, Six-member Council Form of Municipal Government;

(C) Part [5] 6, Changing to Another Form of Municipal Government; and

(D) except as provided in Subsection (2)(b), other applicable provisions of this title; and

(b) is not subject to:

(i) Part 2, Council-mayor Form of Municipal Government; ~~or~~

(ii) Part 4, Five-member Council Form of Municipal Government~~[-]; or~~

(iii) Part 5, Metro Township Council Form of Municipal Government.

(3) A municipality operating on May 4, 2008, under a form of government known under the law then in effect as the five-member council form:

(a) shall, on and after May 5, 2008:

(i) operate under a five-member council form of government, as defined in Section 10-3b-102;

(ii) be subject to:

(A) this part;

(B) Part 4, Five-member Council Form of Municipal Government;

(C) Part ~~5~~ 6, Changing to Another Form of Municipal Government; and

(D) except as provided in Subsection (3)(b), other applicable provisions of this title; and

(b) is not subject to:

(i) Part 2, Council-mayor Form of Municipal Government; ~~or~~

(ii) Part 3, Six-member Council Form of Municipal Government~~[-]; or~~

(iii) Part 5, Metro Township Council Form of Municipal Government.

(4) Subject to Subsection (5), each municipality other than a metro township incorporated on or after May 5, 2008, shall operate under:

(a) the council-mayor form of government, with a five-member council;

(b) the council-mayor form of government, with a seven-member council;

(c) the six-member council form of government; or

(d) the five-member council form of government.

(5) Each town shall operate under a five-member council form of government unless:

(a) before May 5, 2008, the town has changed to another form of municipal government; or

(b) on or after May 5, 2008, the town changes its form of government as provided in Part ~~5~~ 6, Changing to Another Form of Municipal Government.

(6) Each metro township:

(a) shall operate under a metro township council form of government;

(b) is subject to:

(i) this part;

(ii) Part 5, Metro Township Council Form of Municipal Government; and

(iii) except as provided in Subsection (6)(c), other applicable provisions of this title; and

(c) is not subject to:

(i) Part 2, Council-mayor Form of Municipal Government;

(ii) Part 3, Six-member Council Form of Municipal Government; or

(iii) Part 4, Five-Member Council Form of Municipal Government.

~~[(6)]~~ (7) (a) As used in this Subsection ~~[(6)]~~ (7), "council-manager form of government" means the form of municipal government:

(i) provided for in Laws of Utah 1977, Chapter 48;

(ii) that cannot be adopted without voter approval; and

(iii) that provides for, subject to Subsections ~~[(7)]~~ (8) and ~~[(8)]~~ (9), an appointed manager with duties and responsibilities established in Laws of Utah 1977, Chapter 48.

(b) A municipality operating on May 4, 2008, under the council-manager form of government:

(i) shall:

(A) continue to operate, on and after May 5, 2008, under the council-manager form of government according to the applicable provisions of Laws of Utah 1977, Chapter 48; and

(B) be subject to:

(I) this Subsection ~~[(6)]~~ (7) and other applicable provisions of this part;

(II) Part ~~5~~ 6, Changing to Another Form of Municipal Government; and

(III) except as provided in Subsection ~~[(6)]~~ (7)(b)(ii), other applicable provisions of this title; and

(ii) is not subject to:

(A) Part 2, Council-mayor Form of Municipal Government;

(B) Part 3, Six-member Council Form of Municipal Government; ~~or~~

(C) Part 4, Five-member Council Form of Municipal Government~~[-]; or~~

(D) Part 5, Metro Township Council Form of Municipal Government.

~~[(7)]~~ (8) (a) As used in this Subsection ~~[(7)]~~ (8), "interim vacancy period" means the period of time that:

(i) begins on the day on which a municipal general election described in Section 10-3-201 is held to elect a council member; and

(ii) ends on the day on which the council member-elect begins the council member's term.

(b) (i) The council may not appoint a manager during an interim vacancy period.

(ii) Notwithstanding Subsection ~~[(7)]~~ (8)(b)(i):

(A) the council may appoint an interim manager during an interim vacancy period; and

(B) the interim manager's term shall expire once a new manager is appointed by the new administration after the interim vacancy period has ended.

(c) Subsection ~~[(7)]~~ (8)(b) does not apply if all the council members who held office on the day of the municipal general election whose term of office was

vacant for the election are re-elected to the council for the following term.

[~~8~~] (9) A council that appoints a manager in accordance with this section may not, on or after May 10, 2011, enter into an employment contract that contains an automatic renewal provision with the manager.

[~~9~~] (10) Nothing in this section may be construed to prevent or limit a municipality operating under any form of municipal government from changing to another form of government as provided in Part [5] 6, Changing to Another Form of Municipal Government.

Section 67. Section 10-3b-202 is amended to read:

10-3b-202. Mayor in council-mayor form of government.

(1) The mayor in a municipality operating under the council-mayor form of government:

(a) is the chief executive and administrative officer of the municipality;

(b) exercises the executive and administrative powers and performs or supervises the performance of the executive and administrative duties and functions of the municipality;

(c) shall:

(i) keep the peace and enforce the laws of the municipality;

(ii) execute the policies adopted by the council;

(iii) appoint, with the council's advice and consent, a qualified person for each of the following positions:

(A) subject to Subsection (3), chief administrative officer, if required under the resolution or petition under Subsection [~~10-3b-503~~] 10-3b-603(1)(a) that proposed the change to a council-mayor form of government;

(B) recorder;

(C) treasurer;

(D) engineer; and

(E) attorney;

(iv) provide to the council, at intervals provided by ordinance, a written report to the council setting forth:

(A) the amount of budget appropriations;

(B) total disbursements from the appropriations;

(C) the amount of indebtedness incurred or contracted against each appropriation, including disbursements and indebtedness incurred and not paid; and

(D) the percentage of the appropriations encumbered;

(v) report to the council the condition and needs of the municipality;

(vi) report to the council any release granted under Subsection (1)(d)(xiii);

(vii) if the mayor remits a fine or forfeiture under Subsection (1)(d)(xi), report the remittance to the council at the council's next meeting after the remittance;

(viii) perform each other duty:

(A) prescribed by statute; or

(B) required by a municipal ordinance that is not inconsistent with statute;

(d) may:

(i) subject to budget constraints:

(A) appoint:

(I) subject to Subsections (3)(b) and (4), a chief administrative officer; and

(II) one or more deputies or administrative assistants to the mayor; and

(B) (I) create any other administrative office that the mayor considers necessary for good government of the municipality; and

(II) appoint a person to the office;

(ii) with the council's advice and consent and except as otherwise specifically limited by statute, appoint:

(A) each department head of the municipality;

(B) each statutory officer of the municipality; and

(C) each member of a statutory commission, board, or committee of the municipality;

(iii) dismiss any person appointed by the mayor;

(iv) as provided in Section 10-3b-204, veto an ordinance, tax levy, or appropriation passed by the council;

(v) exercise control of and supervise each executive or administrative department, division, or office of the municipality;

(vi) within the general provisions of statute and ordinance, regulate and prescribe the powers and duties of each other executive or administrative officer or employee of the municipality;

(vii) attend each council meeting, take part in council meeting discussions, and freely give advice to the council;

(viii) appoint a budget officer to serve in place of the mayor to comply with and fulfill in all other respects the requirements of, as the case may be:

(A) Chapter 5, Uniform Fiscal Procedures Act for Utah Towns; or

(B) Chapter 6, Uniform Fiscal Procedures Act for Utah Cities;

(ix) execute an agreement on behalf of the municipality, or delegate, by written executive order, the authority to execute an agreement on behalf of the municipality:

(A) if the obligation under the agreement is within certified budget appropriations; and

(B) subject to Section 10-6-138;

(x) at any reasonable time, examine and inspect the official books, papers, records, or documents of:

(A) the municipality; or

(B) any officer, employee, or agent of the municipality;

(xi) remit fines and forfeitures;

(xii) if necessary, call on residents of the municipality over the age of 21 years to assist in enforcing the laws of the state and ordinances of the municipality; and

(xiii) release a person imprisoned for a violation of a municipal ordinance; and

(e) may not vote on any matter before the council.

(2) (a) The first mayor elected under a newly established mayor-council form of government shall, within six months after taking office, draft and submit to the council a proposed ordinance:

(i) providing for the division of the municipality's administrative service into departments, divisions, and bureaus; and

(ii) defining the functions and duties of each department, division, and bureau.

(b) Before the council adopts an ordinance on the municipality's administrative service, the mayor may establish temporary rules and regulations to ensure efficiency and effectiveness in the divisions of the municipal government.

(3) (a) As used in this Subsection (3), "interim vacancy period" means the period of time that:

(i) begins on the day on which a municipal general election described in Section 10-3-201 is held to elect a mayor; and

(ii) ends on the day on which the mayor-elect begins the mayor's term.

(b) Each person appointed as chief administrative officer under Subsection (1)(c)(iii)(A) shall be appointed on the basis of:

(i) the person's ability and prior experience in the field of public administration; and

(ii) any other qualification prescribed by ordinance.

(c) (i) The mayor may not appoint a chief administrative officer during an interim vacancy period.

(ii) Notwithstanding Subsection (3)(c)(i):

(A) the mayor may appoint an interim chief administrative officer during an interim vacancy period; and

(B) the interim chief administrative officer's term shall expire once a new chief administrative officer is appointed by the new mayor after the interim vacancy period has ended.

(d) Subsection (3)(c) does not apply if the mayor who holds office on the day of the municipal general election is re-elected to the mayor's office for the following term.

(4) A mayor who appoints a chief administrative officer in accordance with this section may not, on or after May 10, 2011, enter into an employment contract that contains an automatic renewal provision with the chief administrative officer.

Section 68. Section 10-3b-501 is repealed and reenacted to read:

Part 5. Metro Township Council Form of Municipal Government

10-3b-501. Metro township government powers vested in a five-member council.

The powers of municipal government in a metro township, as defined in Section 10-2a-403, are vested in a council consisting of five members, one of which is the chair.

Section 69. Section 10-3b-502 is repealed and reenacted to read:

10-3b-502. Governance of metro townships that are not in a municipal services district.

For a metro township in which the voters at an election held in accordance with Section 10-2a-404 do not choose a metro township with limited municipal powers that is included in a municipal services district:

(1) (a) the council:

(i) has the same powers, authority, and duties as a council described in Section 10-3b-403; and

(ii) is not subject to Section 10-3b-504; and

(b) the chair:

(i) has the same powers, authority, and duties as a mayor described in Section 10-3b-402; and

(ii) is not subject to Section 10-3b-503.

Section 70. Section 10-3b-503 is repealed and reenacted to read:

10-3b-503. Chair in a metro township included in a municipal services district.

(1) The chair in a metro township that is included in a municipal services district:

(a) is a regular and voting member of the council;

(b) is elected by the members of the council from among the council members;

(c) is the chair of the council and presides at all council meetings;

(d) exercises ceremonial functions for the municipality;

(e) may not veto any ordinance, resolution, tax levy passed, or any other action taken by the council;

(f) represents the metro township on the board of a municipal services district; and

(g) has other powers and duties described in this section and otherwise authorized by law except as modified by ordinance under Subsection 10-3b-504(2).

(2) Except as provided in Subsection (3), the chair in a metro township that is included in a municipal services district:

(a) shall:

(i) keep the peace and enforce the laws of the metro township;

(ii) ensure that all applicable statutes and metro township ordinances and resolutions are faithfully executed and observed;

(iii) if the chair remits a fine or forfeiture under Subsection (2)(g)(ii), report the remittance to the council at the council's next meeting after the remittance;

(iv) perform all duties prescribed by statute or metro township ordinance or resolution;

(v) report to the council the condition and needs of the metro township;

(vi) report to the council any release granted under Subsection (2)(g)(iv); and

(b) may:

(i) recommend for council consideration any measure that the chair considers to be in the best interests of the municipality;

(ii) remit fines and forfeitures;

(iii) if necessary, call on residents of the municipality over the age of 21 years to assist in enforcing the laws of the state and ordinances of the municipality;

(iv) release a person imprisoned for a violation of a municipal ordinance;

(v) with the council's advice and consent appoint a person to fill a municipal office or a vacancy on a commission or committee of the municipality; and

(vi) at any reasonable time, examine and inspect the official books, papers, records, or documents of:

(A) the municipality; or

(B) any officer, employee, or agency of the municipality.

(3) The powers and duties in Subsection (1) are subject to the council's authority to limit or expand the chair's powers and duties under Subsection 10-3b-504(2).

(4) (a) If the chair is absent, unable, or refuses to act, the council may elect a member of the council as chair pro tempore, to:

(i) preside at a council meeting; and

(ii) perform during the chair's absence, disability, or refusal to act, the duties and functions of chair.

(b) In accordance with Section 10-3c-203, the county clerk of the county in which the metro

township is located shall enter in the minutes of the council meeting the election of a council member as chair under Subsection (1)(b) or chair pro tempore under Subsection (4)(a).

Section 71. Section 10-3b-504 is repealed and reenacted to read:

10-3b-504. Council in a metro township that is included in a municipal services district.

(1) The council in a metro township that is included in a municipal services district:

(a) exercises any executive or administrative power and performs or supervises the performance of any executive or administrative power, duty, or function that has not been given to the chair under Section 10-3b-503 unless the council removes that power, duty, or function from the chair in accordance with Subsection (2);

(b) may:

(i) subject to Subsections (1)(c) and (2), adopt an ordinance:

(A) removing from the chair any power, duty, or function of the chair; and

(B) reinstating to the chair any power, duty, or function previously removed under Subsection (1)(b)(i)(A); and

(ii) adopt an ordinance delegating to the chair any executive or administrative power, duty, or function that the council has under Subsection (1)(a); and

(c) may not remove from the chair or delegate:

(i) any of the chair's legislative or judicial powers or ceremonial functions;

(ii) the chair's position as chair of the council; or

(iii) any ex officio position that the chair holds.

(2) Adopting an ordinance under Subsection (1)(b)(i) removing from or reinstating to the chair a power, duty, or function provided for in Section 10-3b-503 requires the affirmative vote of:

(a) the chair and a majority of all other council members; or

(b) all council members except the chair.

(3) The metro township council of a metro township that is included in a municipal services district:

(a) shall:

(i) by ordinance, provide for the manner in which a subdivision is approved, disapproved, or otherwise regulated;

(ii) review municipal administration, and, subject to Subsection (5), pass ordinances;

(iii) perform all duties that the law imposes on the council; and

(iv) elect one of its members to be chair of the metro township and the chair of the council;

(b) may:

(i) (A) notwithstanding Subsection (3)(c), appoint a committee of council members or citizens to conduct an investigation into an officer, department, or agency of the municipality, or any other matter relating to the welfare of the municipality; and

(B) delegate to an appointed committee powers of inquiry that the council considers necessary;

(ii) make and enforce any additional rule or regulation for the government of the council, the preservation of order, and the transaction of the council's business that the council considers necessary; and

(iii) subject to the limitations provided in Subsection (5), take any action allowed under Section 10-8-84 that is reasonably related to the safety, health, morals, and welfare of the metro township inhabitants; and

(c) may not:

(i) direct or request, other than in writing, the appointment of a person to or the removal of a person from an executive municipal office;

(ii) interfere in any way with an executive officer's performance of the officer's duties; or

(iii) publicly or privately give orders to a subordinate of the chair.

(4) A member of a metro township council as described in this section may not have any other compensated employment with the metro township.

(5) The council of a metro township that is included in a municipal services district may not adopt an ordinance or resolution that authorizes, provides, or otherwise governs a municipal service, as defined in Section 17B-2a-1102, that is provided by a municipal services district created under Title 17B, Chapter 2a, Part 11, Municipal Services District Act.

Section 72. Section 10-3b-601 is enacted to read:

Part 6. Changing to Another Form of Municipal Government

10-3b-601. Authority to change to another form of municipal government.

(1) As provided in this part, a municipality may change from the form of government under which it operates to:

(a) the council-mayor form of government with a five-member council;

(b) the council-mayor form of government with a seven-member council;

(c) the six-member council form of government; or

(d) the five-member council form of government.

(2) (a) A metro township that changes from the metro township council form of government to a form described in Subsection (1):

(i) is no longer a metro township; and

(ii) subject to Subsection (2)(b), is a city or town and operates as and has the authority of a city or town.

(b) If a metro township with a population that qualifies as a town in accordance with Section 10-2-301 changes the metro township's form of government in accordance with this part, the metro township may only change to the five-member council form of government.

(3) A municipality other than a metro township may not operate under the metro township council form of government.

Section 73. Section 10-3b-602 is enacted to read:

10-3b-602. Voter approval required for a change in the form of government.

A municipality may not change its form of government under this part unless voters of the municipality approve the change at an election held for that purpose.

Section 74. Section 10-3b-603 is enacted to read:

10-3b-603. Resolution or petition proposing a change in the form of government.

(1) The process to change the form of government under which a municipality operates is initiated by:

(a) the council's adoption of a resolution proposing a change; or

(b) the filing of a petition, as provided in Title 20A, Chapter 7, Part 5, Local Initiatives - Procedures, proposing a change.

(2) Within 45 days after the adoption of a resolution under Subsection (1)(a) or the declaring of a petition filed under Subsection (1)(b) as sufficient under Section 20A-7-507, the council shall hold at least two public hearings on the proposed change.

(3) (a) Except as provided in Subsection (3)(b), the council shall hold an election on the proposed change in the form of government at the next municipal general election or regular general election that is more than 75 days after, as the case may be:

(i) a resolution under Subsection (1)(a) is adopted; or

(ii) a petition filed under Subsection (1)(b) is declared sufficient under Section 20A-7-507.

(b) Notwithstanding Subsection (3)(a), an election on a proposed change in the form of government may not be held if:

(i) in the case of a proposed change initiated by the council's adoption of a resolution under Subsection (1)(a), the council rescinds the resolution within 60 days after adopting it; or

(ii) in the case of a proposed change initiated by a petition under Subsection (1)(b), enough signatures are withdrawn from the petition within 60 days

after the petition is declared sufficient under Section 20A-7-507 that the petition is no longer sufficient.

(4) Each resolution adopted under Subsection (1)(a) or petition filed under Subsection (1)(b) shall:

(a) state the method of election and initial terms of council members; and

(b) specify the boundaries of districts substantially equal in population, if some or all council members are to be elected by district.

(5) A resolution under Subsection (1)(a) or petition under Subsection (1)(b) proposing a change to a council-mayor form of government may require that, if the change is adopted, the mayor appoint, with the council's advice and consent and subject to Section 10-3b-202, a chief administrative officer, to exercise the administrative powers and perform the duties that the mayor prescribes.

Section 75. Section 10-3b-604 is enacted to read:

10-3b-604. Limitations on adoption of a resolution and filing of a petition.

A resolution may not be adopted under Subsection 10-3b-603(1)(a) and a petition may not be filed under Subsection 10-3b-603(1)(b) within:

(1) four years after an election at which voters reject a proposal to change the municipality's form of government, if the resolution or petition proposes changing to the same form of government that voters rejected at the election; or

(2) four years after the effective date of a change in the form of municipal government or an incorporation as a municipality.

Section 76. Section 10-3b-605 is enacted to read:

10-3b-605. Ballot form.

The ballot at an election on a proposal to change the municipality's form of government shall:

(1) state the ballot question substantially as follows: "Shall [state the municipality's name], Utah, change its form of government to the [state "council-mayor form, with a five-member council," "council-mayor form, with a seven-member council," "six-member council form," or "five-member council form," as applicable]?" and

(2) provide a space or method for the voter to vote "yes" or "no."

Section 77. Section 10-3b-606 is enacted to read:

10-3b-606. Election of officers after a change in the form of government.

(1) If voters approve a proposal to change the municipality's form of government at an election held as provided in this part, an election of officers under the new form of government shall be held on the municipal general election date following the election at which voters approve the proposal.

(2) If a municipality changes its form of government under this part resulting in the elimination of an elected official's position, the municipality shall continue to pay that official at the same rate until the date on which the official's term would have expired, unless under the new form of government the official holds municipal office for which the official is regularly compensated.

(3) A council member whose term has not expired at the time the municipality changes its form of government under this part may, at the council member's option, continue to serve as a council member under the new form of government for the remainder of the member's term.

(4) The term of the mayor and each council member is four years or until a successor is qualified, except that approximately half of the initial council members, chosen by lot, shall serve a term of two years or until a successor is qualified.

Section 78. Section 10-3b-607 is enacted to read:

10-3b-607. Effective date of change in the form of government.

A change in the form of government under this chapter takes effect at noon on the first Monday of January next following the election of officers under Section 10-3b-606.

Section 79. Section 10-3c-101 is enacted to read:

CHAPTER 3c. ADMINISTRATION OF METRO TOWNSHIPS

Part 1. General Provisions

10-3c-101. Title.

(1) This chapter is known as "Administration of Metro Townships."

(2) This part is known as "General Provisions."

Section 80. Section 10-3c-102 is enacted to read:

10-3c-102. Definitions.

As used in this chapter:

(1) "Municipal services district" means a local district created in accordance with Title 17B, Chapter 2a, Part 11, Municipal Services District Act.

(2) "Metro township" means a metro township incorporated in accordance with Chapter 2a, Part 4, Incorporation of Metro Townships and Unincorporated Islands in a County of the First Class on and after May 12, 2015.

Section 81. Section 10-3c-103 is enacted to read:

10-3c-103. Status and powers.

A metro township:

(1) is:

(a) a body corporate and politic with perpetual succession;

- (b) a quasi-municipal corporation; and
- (c) a political subdivision of the state; and
- (2) may sue and be sued.

Section 82. Section 10-3c-201 is enacted to read:

Part 2. Administration of Metro Township

10-3c-201. Title.

This part is known as "Administration of Metro Township."

Section 83. Section 10-3c-202 is enacted to read:

10-3c-202. Budget.

A metro township is subject to and shall comply with Chapter 6, Uniform Fiscal Procedures Act for Utah Cities.

Section 84. Section 10-3c-203 is enacted to read:

10-3c-203. Administrative and operational services -- Staff provided by county or municipal services district.

(1) (a) The following officials elected or appointed, or persons employed by, the county in which a municipality township is located shall, for the purposes of interpreting and complying with applicable law, fulfill the responsibilities and hold the following metro township offices or positions:

- (i) the county treasurer shall fulfill the duties and hold the powers of treasurer for the metro township;
- (ii) the county clerk shall fulfill the duties and hold the powers of recorder and clerk for the metro township;
- (iii) the county surveyor shall fulfill, on behalf of the metro township, all surveyor duties imposed by law;
- (iv) the county engineer shall fulfill the duties and hold the powers of engineer for the metro township;
- (v) the district attorney shall provide legal counsel to the metro township; and
- (vi) subject to Subsection (1)(b), the county auditor shall fulfill the duties and hold the powers of auditor for the metro township.

(b) (i) The county auditor shall fulfill the duties and hold the powers of auditor for the metro township to the extent that the county auditor's powers and duties are described in and delegated to the county auditor in accordance with Title 17, Chapter 19a, County Auditor, and a municipal auditor's powers and duties described in this title are the same.

(ii) Notwithstanding Subsection (1)(b), in a metro township, services described in Sections 17-19a-203, 17-19a-204, and 17-19a-205, and services other than those described in Subsection

(1)(b)(i) that are provided by a municipal auditor in accordance with this title that are required by law, shall be performed by county staff other than the county auditor.

(2) (a) Nothing in Subsection (1) may be construed to relieve an official described in Subsections (1)(a)(i) through (iv) of a duty to either the county or metro township or a duty to fulfill that official's position as required by law.

(b) Notwithstanding Subsection (2)(a), an official or the official's deputy or other person described in Subsections (1)(a)(i) through (iv):

(i) is elected, appointed, or otherwise employed, in accordance with the provisions of Title 17, Counties, as applicable to that official's or person's county office;

(ii) is paid a salary and benefits and subject to employment discipline in accordance with the provisions of Title 17, Counties, as applicable to that official's or person's county office;

(iii) is not subject to:

(A) Chapter 3, Part 11, Personnel Rules and Benefits; or

(B) Chapter 3, Part 13, Municipal Officers' and Employees' Ethics Act; and

(iv) is not required to provide a bond for the applicable municipal office if a bond for the office is required by this title.

(3) The metro township may establish a planning commission in accordance with Section 10-9a-301 and an appeal authority in accordance with Section 10-9a-701.

(4) A municipal services district established in accordance with Section 17B, Chapter 2a, Part 11, Municipal Services District Act, and of which the metro township is a part, may provide staff to the metro township planning commission and appeal authority.

(5) (a) This section applies only to a metro township in which:

(i) the electors at an election under Section 10-2a-404 chose a metro township that is included in a municipal services district and has limited municipal powers; or

(ii) the metro township subsequently joins a municipal services district.

(b) This section does not apply to a metro township described in Subsection (5)(a) if the municipal services district is dissolved.

Section 85. Section 10-3c-204 is enacted to read:

10-3c-204. Taxing authority limited.

(1) A metro township may not impose:

(a) a municipal energy sales and use tax as described in Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act; or

(b) a municipal telecommunication's license tax as described in Chapter 1, Part 4, Municipal Telecommunications License Tax.

(2) (a) If the electors at an election under Section 10-2a-404 chose a metro township that is included in a municipal services district and has limited municipal powers, or a metro township subsequently joins a municipal services district, the metro township may not levy or impose a tax unless the Legislature expressly provides that the metro township may levy or impose the tax.

(b) Subsection (2)(a) does not apply if a municipal services district is dissolved.

Section 86. Section 10-3c-205 is enacted to read:

10-3c-205. Fees.

(1) A metro township may impose a fine, fee, or charge.

(2) For a metro township of which the electors at an election under Section 10-2a-404 chose a metro township that is included in a municipal services district and has limited municipal powers, or if a metro township subsequently joins a municipal services district, the municipal services district of which a metro township is a part shall, upon request by the metro township, collect on behalf of the metro township all fines, fees, charges, levies, and other payments imposed by the metro township.

Section 87. Section 10-5-102 is amended to read:

10-5-102. Applicability.

This chapter shall apply to all:

(1) towns[-]; and

(2) metro townships of the second class to the same extent as a town.

Section 88. Section 10-6-103 is amended to read:

10-6-103. Applicability.

This chapter shall apply to all:

(1) cities, including charter cities[-]; and

(2) metro townships of the first class to the same extent as a city.

Section 89. Section 10-6-111 is amended to read:

10-6-111. Tentative budget to be prepared -- Contents -- Estimate of expenditures -- Budget message -- Review by governing body.

(1) (a) On or before the first regularly scheduled meeting of the governing body in the last May of the current period, the budget officer shall prepare for the ensuing fiscal period, on forms provided by the state auditor, and file with the governing body, a tentative budget for each fund for which a budget is required.

(b) The tentative budget of each fund shall set forth in tabular form:

(i) the actual revenues and expenditures in the last completed fiscal period;

(ii) the budget estimates for the current fiscal period;

(iii) the actual revenues and expenditures for a period of 6 to 21 months, as appropriate, of the current fiscal period;

(iv) the estimated total revenues and expenditures for the current fiscal period;

(v) the budget officer's estimates of revenues and expenditures for the budget period, computed as provided in Subsection (1)(c); and

(vi) if the governing body elects, the actual performance experience to the extent established by Section 10-6-154 and available in work units, unit costs, man hours, or man years for each budgeted fund on an actual basis for the last completed fiscal period, and estimated for the current fiscal period and for the ensuing budget period.

(c) (i) In making estimates of revenues and expenditures under Subsection (1)(b)(v), the budget officer shall estimate:

(A) on the basis of demonstrated need, the expenditures for the budget period, after:

(I) hearing each department head; and

(II) reviewing the budget requests and estimates of the department heads; and

(B) (I) the amount of revenue available to serve the needs of each fund;

(II) the portion of revenue to be derived from all sources other than general property taxes; and

(III) the portion of revenue that shall be derived from general property taxes.

(ii) The budget officer may revise any department's estimate under Subsection (1)(c)(i)(A)(II) that the officer considers advisable for the purpose of presenting the budget to the governing body.

(iii) From the estimate made under Subsection (1)(c)(i)(B)(III), the budget officer shall compute and disclose in the budget the lowest rate of property tax levy that will raise the required amount of revenue, calculating the levy upon the latest taxable value.

(2) (a) Each tentative budget, when filed by the budget officer with the governing body, shall contain the estimates of expenditures submitted by department heads, together with specific work programs and such other supporting data as this chapter requires or the governing body may request. Each city of the first or second class shall, and a city of the third, fourth, or fifth class may, submit a supplementary estimate of all capital projects which each department head believes should be undertaken within the next three succeeding years.

(b) Each tentative budget submitted by the budget officer to the governing body shall be accompanied by a budget message, which shall explain the budget, contain an outline of the proposed financial policies of the city for the budget period, and shall describe the important features of the budgetary plan. It shall set forth the reasons for salient changes from the previous fiscal period in appropriation and revenue items and shall explain any major changes in financial policy.

(3) Each tentative budget shall be reviewed, considered, and tentatively adopted by the governing body in any regular meeting or special meeting called for the purpose and may be amended or revised in such manner as is considered advisable prior to public hearings, except that no appropriation required for debt retirement and interest or reduction of any existing deficits pursuant to Section 10-6-117, or otherwise required by law or ordinance, may be reduced below the minimums so required.

(4) (a) If the municipality is acting pursuant to Section ~~[10-2-120]~~ 10-2a-218, the tentative budget shall:

(i) be submitted to the governing body-elect as soon as practicable; and

(ii) cover each fund for which a budget is required from the date of incorporation to the end of the fiscal year.

(b) The governing body shall substantially comply with all other provisions of this chapter, and the budget shall be passed upon incorporation.

Section 90. Section 15A-5-202.5 is amended to read:

15A-5-202.5. Amendments and additions to Chapters 3 and 4 of IFC.

(1) For IFC, Chapter 3, General Requirements:

(a) IFC, Chapter 3, Section 304.1.2, Vegetation, is amended as follows: Delete line six and replace it with: "the Utah Administrative Code, R652-122-200, Minimum Standards for Wildland Fire Ordinance".

(b) IFC, Chapter 3, Section 308.1.2, Throwing or Placing Sources of Ignition, is deleted and rewritten as follows: "No person shall throw or place, or cause to be thrown or placed, a lighted match, cigar, cigarette, matches, lighters, or other flaming or glowing substance or object on any surface or article where it can cause an unwanted fire."

(c) IFC, Chapter 3, Section 310.8, Hazardous and Environmental Conditions, is deleted and rewritten as follows: "When the fire code official determines that hazardous environmental conditions necessitate controlled use of any ignition source, including fireworks, lighters, matches, sky lanterns, and smoking materials, any of the following may occur:

1. If the hazardous environmental conditions exist in a municipality, the legislative body of the municipality may prohibit the ignition or use of an

ignition source in mountainous, brush-covered, or forest-covered areas or the wildland urban interface area, which means the line, area, or zone where structures or other human development meet or intermingle with undeveloped wildland or land being used for an agricultural purpose.

2. Except as provided in paragraph 3, if the hazardous environmental conditions exist in an unincorporated area, the state forester may prohibit the ignition or use of an ignition source in all or part of the areas described in paragraph 1 that are within the unincorporated area, after consulting with the county fire code official who has jurisdiction over that area.

3. If the hazardous environmental conditions exist in a metro township created under ~~[Section 17-27a-306 that is in a county of the first class, the county]~~ Title 10, Chapter 2a, Part 4, Incorporation of Metro Townships and Unincorporated Islands in a County of the First Class on and after May 12, 2015, the metro township legislative body may prohibit the ignition or use of an ignition source in all or part of the areas described in paragraph 1 that are within the township."

(d) IFC, Chapter 3, Section 311.1.1, Abandoned Premises, is amended as follows: On line 10 delete the words "International Property Maintenance Code and the".

(e) IFC, Chapter 3, Section 311.5, Placards, is amended as follows: On line three delete the word "shall" and replace it with the word "may".

(f) IFC, Chapter 3, Section 315.2.1, Ceiling Clearance, is amended to add the following: "Exception: Where storage is not directly below the sprinkler heads, storage is allowed to be placed to the ceiling on wall-mounted shelves that are protected by fire sprinkler heads in occupancies meeting classification as light or ordinary hazard."

(2) IFC, Chapter 4, Emergency Planning and Preparedness:

(a) IFC, Chapter 4, Section 404.2, Where required, Subsection 8, is amended as follows: After the word "buildings" add "to include sororities and fraternity houses".

(b) IFC, Chapter 4, Section 405.2, Table 405.2, is amended to add the following footnotes:

(i) "e. Secondary schools in Group E occupancies shall have an emergency evacuation drill for fire conducted at least every two months, to a total of four emergency evacuation drills during the nine-month school year. The first emergency evacuation drill for fire shall be conducted within 10 school days after the beginning of classes, and the third emergency evacuation drill for fire shall be conducted 10 school days after the beginning of the next calendar year. The second and fourth emergency evacuation drills may be substituted by a security or safety drill to include shelter in place, earthquake drill, or lock down for violence."

(ii) "f. In Group E occupancies, excluding secondary schools, if the AHJ approves, the monthly required emergency evacuation drill can

be substituted by a security or safety drill to include shelter in place, earthquake drill, or lock down for violence. The routine emergency evacuation drill for fire must be conducted at least every other evacuation drill.”

(iii) “g. A-3 occupancies in academic buildings of institutions of higher learning are required to have one emergency evacuation drill per year, provided the following conditions are met:

(A) The building has a fire alarm system in accordance with Section 907.2.

(B) The rooms classified as assembly shall have fire safety floor plans as required in Section 404.3.2(4) posted.

(C) The building is not classified a high-rise building.

(D) The building does not contain hazardous materials over the allowable quantities by code.”

Section 91. Section 17-23-17 is amended to read:

17-23-17. Map of boundary survey -- Procedure for filing -- Contents -- Marking of monuments -- Record of corner changes -- Penalties.

(1) As used in this section[, “~~land~~”]:

(a) “Land surveyor” means a surveyor who is licensed to practice land surveying in this state in accordance with Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act.

(b) (i) “Township” means a term used in the context of identifying a geographic area in common surveyor practice.

(ii) “Township” does not mean a metro township as that term is defined in Section 10-2a-403.

(2) (a) (i) Each land surveyor making a boundary survey of lands within this state to establish or reestablish a boundary line or to obtain data for constructing a map or plat showing a boundary line shall file a map of the survey that meets the requirements of this section with the county surveyor or designated office within 90 days of the establishment or reestablishment of a boundary.

(ii) A land surveyor who fails to file a map of the survey as required by Subsection (2)(a)(i) is guilty of a class C misdemeanor.

(iii) Each failure to file a map of the survey as required by Subsection (2)(a)(i) is a separate violation.

(b) The county surveyor or designated office shall file and index the map of the survey.

(c) The map shall be a public record in the office of the county surveyor or designated office.

(3) This type of map shall show:

(a) the location of survey by quarter section and township and range;

(b) the date of survey;

(c) the scale of drawing and north point;

(d) the distance and course of all lines traced or established, giving the basis of bearing and the distance and course to two or more section corners or quarter corners, including township and range, or to identified monuments within a recorded subdivision;

(e) all measured bearings, angles, and distances separately indicated from those of record;

(f) a written boundary description of property surveyed;

(g) all monuments set and their relation to older monuments found;

(h) a detailed description of monuments found and monuments set, indicated separately;

(i) the surveyor’s seal or stamp; and

(j) the surveyor’s business name and address.

(4) (a) The map shall contain a written narrative that explains and identifies:

(i) the purpose of the survey;

(ii) the basis on which the lines were established; and

(iii) the found monuments and deed elements that controlled the established or reestablished lines.

(b) If the narrative is a separate document, it shall contain:

(i) the location of the survey by quarter section and by township and range;

(ii) the date of the survey;

(iii) the surveyor’s stamp or seal; and

(iv) the surveyor’s business name and address.

(c) The map and narrative shall be referenced to each other if they are separate documents.

(5) The map and narrative shall be created on material of a permanent nature on stable base reproducible material in the sizes required by the county surveyor.

(6) (a) Any monument set by a licensed professional land surveyor to mark or reference a point on a property or land line shall be durably and visibly marked or tagged with the registered business name or the letters “L.S.” followed by the registration number of the surveyor in charge.

(b) If the monument is set by a licensed land surveyor who is a public officer, it shall be marked with the official title of the office.

(7) (a) If, in the performance of a survey, a surveyor finds or makes any changes to the section corner or quarter-section corner, or their accessories, the surveyor shall complete and submit to the county surveyor or designated office a record of the changes made.

(b) The record shall be submitted within 45 days of the corner visits and shall include the surveyor’s seal, business name, and address.

(8) The Utah State Board of Engineers and Land Surveyors Examiners may revoke the license of any land surveyor who fails to comply with the requirements of this section, according to the procedures set forth in Title 58, Chapter 1, Division of Occupational and Professional Licensing Act.

(9) Each federal or state agency, board, or commission, local district, special service district, or municipal corporation that makes a boundary survey of lands within this state shall comply with this section.

Section 92. Section 17-23-17.5 is amended to read:

17-23-17.5. Corner perpetuation and filing -- Definitions -- Establishment of corner file -- Preservation of map records -- Filing fees -- Exemptions.

(1) As used in this section:

(a) "Accessory to a corner" means any exclusively identifiable physical object whose spatial relationship to the corner is recorded. Accessories may be bearing trees, bearing objects, monuments, reference monuments, line trees, pits, mounds, charcoal-filled bottles, steel or wooden stakes, or other objects.

(b) "Corner," unless otherwise qualified, means a property corner, a property controlling corner, a public land survey corner, or any combination of these.

(c) "Geographic coordinates" means mathematical values that designate a position on the earth relative to a given reference system. Coordinates shall be established pursuant to Title 57, Chapter 10, Utah Coordinate System.

(d) "Land surveyor" means a surveyor who is licensed to practice land surveying in this state in accordance with Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act.

(e) "Monument" means an accessory that is presumed to occupy the exact position of a corner.

(f) "Property controlling corner" means a public land survey corner or any property corner which does not lie on a property line of the property in question, but which controls the location of one or more of the property corners of the property in question.

(g) "Property corner" means a geographic point of known geographic coordinates on the surface of the earth, and is on, a part of, and controls a property line.

(h) "Public land survey corner" means any corner actually established and monumented in an original survey or resurvey used as a basis of legal descriptions for issuing a patent for the land to a private person from the United States government.

(i) "Reference monument" means a special monument that does not occupy the same geographical position as the corner itself, but whose

spatial relationship to the corner is recorded and which serves to witness the corner.

(j) (i) "Township" means a term used in the context of identifying a geographic area in common surveyor practice.

(ii) "Township" does not mean a metro township as that term is defined in Section 10-2a-403.

(2) (a) Any land surveyor making a boundary survey of lands within this state and utilizing a corner shall, within 90 days, complete, sign, and file with the county surveyor of the county where the corner is situated, a written record to be known as a corner file for every public land survey corner and accessory to the corner which is used as control in any survey by the surveyor, unless the corner and its accessories are already a matter of record in the county.

(b) Where reasonably possible, the corner file shall include the geographic coordinates of the corner.

(c) A surveyor may file a corner record as to any property corner, reference monument, or accessory to a corner.

(d) Corner records may be filed concerning corners used before the effective date of this section.

(3) The county surveyor of the county containing the corners shall have on record as part of the official files maps of each township within the county, the bearings and lengths of the connecting lines to government corners, and government corners looked for and not found.

(4) The county surveyor shall make these records available for public inspection at the county facilities during normal business hours.

(5) Filing fees for corner records shall be established by the county legislative body consistent with existing fees for similar services. All corners, monuments, and their accessories used prior to the effective date of this section shall be accepted and filed with the county surveyor without requiring the payment of the fees.

(6) When a corner record of a public land survey corner is required to be filed under the provisions of this section and the monument needs to be reconstructed or rehabilitated, the land surveyor shall contact the county surveyor in accordance with Section 17-23-14.

(7) A corner record may not be filed unless it is signed by a land surveyor.

(8) All filings relative to official cadastral surveys of the Bureau of Land Management of the United States of America performed by authorized personnel shall be exempt from filing fees.

Section 93. Section 17-27a-103 is amended to read:

17-27a-103. Definitions.

As used in this chapter:

(1) "Affected entity" means a county, municipality, local district, special service district

under Title 17D, Chapter 1, Special Service District Act, school district, interlocal cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act, specified property owner, property owners association, public utility, or the Utah Department of Transportation, if:

(a) the entity's services or facilities are likely to require expansion or significant modification because of an intended use of land;

(b) the entity has filed with the county a copy of the entity's general or long-range plan; or

(c) the entity has filed with the county a request for notice during the same calendar year and before the county provides notice to an affected entity in compliance with a requirement imposed under this chapter.

(2) "Appeal authority" means the person, board, commission, agency, or other body designated by ordinance to decide an appeal of a decision of a land use application or a variance.

(3) "Billboard" means a freestanding ground sign located on industrial, commercial, or residential property if the sign is designed or intended to direct attention to a business, product, or service that is not sold, offered, or existing on the property where the sign is located.

(4) (a) "Charter school" means:

(i) an operating charter school;

(ii) a charter school applicant that has its application approved by a charter school authorizer in accordance with Title 53A, Chapter 1a, Part 5, The Utah Charter Schools Act; or

(iii) an entity that is working on behalf of a charter school or approved charter applicant to develop or construct a charter school building.

(b) "Charter school" does not include a therapeutic school.

(5) "Chief executive officer" means the person or body that exercises the executive powers of the county.

(6) "Conditional use" means a land use that, because of its unique characteristics or potential impact on the county, surrounding neighbors, or adjacent land uses, may not be compatible in some areas or may be compatible only if certain conditions are required that mitigate or eliminate the detrimental impacts.

(7) "Constitutional taking" means a governmental action that results in a taking of private property so that compensation to the owner of the property is required by the:

(a) Fifth or Fourteenth Amendment of the Constitution of the United States; or

(b) Utah Constitution Article I, Section 22.

(8) "Culinary water authority" means the department, agency, or public entity with responsibility to review and approve the feasibility

of the culinary water system and sources for the subject property.

(9) "Development activity" means:

(a) any construction or expansion of a building, structure, or use that creates additional demand and need for public facilities;

(b) any change in use of a building or structure that creates additional demand and need for public facilities; or

(c) any change in the use of land that creates additional demand and need for public facilities.

(10) (a) "Disability" means a physical or mental impairment that substantially limits one or more of a person's major life activities, including a person having a record of such an impairment or being regarded as having such an impairment.

(b) "Disability" does not include current illegal use of, or addiction to, any federally controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C. 802.

(11) "Educational facility":

(a) means:

(i) a school district's building at which pupils assemble to receive instruction in a program for any combination of grades from preschool through grade 12, including kindergarten and a program for children with disabilities;

(ii) a structure or facility:

(A) located on the same property as a building described in Subsection (11)(a)(i); and

(B) used in support of the use of that building; and

(iii) a building to provide office and related space to a school district's administrative personnel; and

(b) does not include:

(i) land or a structure, including land or a structure for inventory storage, equipment storage, food processing or preparing, vehicle storage or maintenance, or similar use that is:

(A) not located on the same property as a building described in Subsection (11)(a)(i); and

(B) used in support of the purposes of a building described in Subsection (11)(a)(i); or

(ii) a therapeutic school.

(12) "Fire authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of fire protection and suppression services for the subject property.

(13) "Flood plain" means land that:

(a) is within the 100-year flood plain designated by the Federal Emergency Management Agency; or

(b) has not been studied or designated by the Federal Emergency Management Agency but presents a likelihood of experiencing chronic flooding or a catastrophic flood event because the land has characteristics that are similar to those of

a 100-year flood plain designated by the Federal Emergency Management Agency.

(14) “Gas corporation” has the same meaning as defined in Section 54-2-1.

(15) “General plan” means a document that a county adopts that sets forth general guidelines for proposed future development of the unincorporated land within the county.

(16) “Geologic hazard” means:

- (a) a surface fault rupture;
- (b) shallow groundwater;
- (c) liquefaction;
- (d) a landslide;
- (e) a debris flow;
- (f) unstable soil;
- (g) a rock fall; or
- (h) any other geologic condition that presents a risk:
 - (i) to life;
 - (ii) of substantial loss of real property; or
 - (iii) of substantial damage to real property.

(17) “Hookup fee” means a fee for the installation and inspection of any pipe, line, meter, or appurtenance to connect to a county water, sewer, storm water, power, or other utility system.

(18) “Identical plans” means building plans submitted to a county that:

- (a) are clearly marked as “identical plans”;
- (b) are substantially identical building plans that were previously submitted to and reviewed and approved by the county; and
- (c) describe a building that:
 - (i) is located on land zoned the same as the land on which the building described in the previously approved plans is located;
 - (ii) is subject to the same geological and meteorological conditions and the same law as the building described in the previously approved plans;
 - (iii) has a floor plan identical to the building plan previously submitted to and reviewed and approved by the county; and
 - (iv) does not require any additional engineering or analysis.

(19) “Impact fee” means a payment of money imposed under Title 11, Chapter 36a, Impact Fees Act.

(20) “Improvement completion assurance” means a surety bond, letter of credit, cash, or other security required by a county to guaranty the proper completion of landscaping or infrastructure that

the land use authority has required as a condition precedent to:

- (a) recording a subdivision plat; or
- (b) beginning development activity.

(21) “Improvement warranty” means an applicant’s unconditional warranty that the accepted landscaping or infrastructure:

- (a) complies with the county’s written standards for design, materials, and workmanship; and
- (b) will not fail in any material respect, as a result of poor workmanship or materials, within the improvement warranty period.

(22) “Improvement warranty period” means a period:

- (a) no later than one year after a county’s acceptance of required landscaping; or
- (b) no later than one year after a county’s acceptance of required infrastructure, unless the county:
 - (i) determines for good cause that a one-year period would be inadequate to protect the public health, safety, and welfare; and
 - (ii) has substantial evidence, on record:

(A) of prior poor performance by the applicant; or

(B) that the area upon which the infrastructure will be constructed contains suspect soil and the county has not otherwise required the applicant to mitigate the suspect soil.

(23) “Internal lot restriction” means a platted note, platted demarcation, or platted designation that:

- (a) runs with the land; and
- (b) (i) creates a restriction that is enclosed within the perimeter of a lot described on the plat; or
- (ii) designates a development condition that is enclosed within the perimeter of a lot described on the plat.

(24) “Interstate pipeline company” means a person or entity engaged in natural gas transportation subject to the jurisdiction of the Federal Energy Regulatory Commission under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.

(25) “Intrastate pipeline company” means a person or entity engaged in natural gas transportation that is not subject to the jurisdiction of the Federal Energy Regulatory Commission under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.

(26) “Land use application” means an application required by a county’s land use ordinance.

(27) “Land use authority” means:

- (a) a person, board, commission, agency, or body, including the local legislative body, designated by the local legislative body to act upon a land use application; or

(b) if the local legislative body has not designated a person, board, commission, agency, or body, the local legislative body.

(28) "Land use ordinance" means a planning, zoning, development, or subdivision ordinance of the county, but does not include the general plan.

(29) "Land use permit" means a permit issued by a land use authority.

(30) "Legislative body" means the county legislative body, or for a county that has adopted an alternative form of government, the body exercising legislative powers.

(31) "Local district" means any entity under Title 17B, Limited Purpose Local Government Entities - Local Districts, and any other governmental or quasi-governmental entity that is not a county, municipality, school district, or the state.

(32) "Lot line adjustment" means the relocation of the property boundary line in a subdivision between two adjoining lots with the consent of the owners of record.

(33) "Moderate income housing" means housing occupied or reserved for occupancy by households with a gross household income equal to or less than 80% of the median gross income for households of the same size in the county in which the housing is located.

(34) "Nominal fee" means a fee that reasonably reimburses a county only for time spent and expenses incurred in:

(a) verifying that building plans are identical plans; and

(b) reviewing and approving those minor aspects of identical plans that differ from the previously reviewed and approved building plans.

(35) "Noncomplying structure" means a structure that:

(a) legally existed before its current land use designation; and

(b) because of one or more subsequent land use ordinance changes, does not conform to the setback, height restrictions, or other regulations, excluding those regulations that govern the use of land.

(36) "Nonconforming use" means a use of land that:

(a) legally existed before its current land use designation;

(b) has been maintained continuously since the time the land use ordinance regulation governing the land changed; and

(c) because of one or more subsequent land use ordinance changes, does not conform to the regulations that now govern the use of the land.

(37) "Official map" means a map drawn by county authorities and recorded in the county recorder's office that:

(a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for highways and other transportation facilities;

(b) provides a basis for restricting development in designated rights-of-way or between designated setbacks to allow the government authorities time to purchase or otherwise reserve the land; and

(c) has been adopted as an element of the county's general plan.

(38) "Parcel boundary adjustment" means a recorded agreement between owners of adjoining properties adjusting their mutual boundary if:

(a) no additional parcel is created; and

(b) each property identified in the agreement is unsubdivided land, including a remainder of subdivided land.

(39) "Person" means an individual, corporation, partnership, organization, association, trust, governmental agency, or any other legal entity.

(40) "Plan for moderate income housing" means a written document adopted by a county legislative body that includes:

(a) an estimate of the existing supply of moderate income housing located within the county;

(b) an estimate of the need for moderate income housing in the county for the next five years as revised biennially;

(c) a survey of total residential land use;

(d) an evaluation of how existing land uses and zones affect opportunities for moderate income housing; and

(e) a description of the county's program to encourage an adequate supply of moderate income housing.

(41) "Planning advisory area" means a contiguous, geographically defined portion of the unincorporated area of a county established under this part with planning and zoning functions as exercised through the planning advisory area planning commission, as provided in this chapter, but with no legal or political identity separate from the county and no taxing authority.

[41] (42) "Plat" means a map or other graphical representation of lands being laid out and prepared in accordance with Section 17-27a-603, 17-23-17, or 57-8-13.

[42] (43) "Potential geologic hazard area" means an area that:

(a) is designated by a Utah Geological Survey map, county geologist map, or other relevant map or report as needing further study to determine the area's potential for geologic hazard; or

(b) has not been studied by the Utah Geological Survey or a county geologist but presents the potential of geologic hazard because the area has characteristics similar to those of a designated geologic hazard area.

[443] (44) "Public agency" means:

- (a) the federal government;
- (b) the state;
- (c) a county, municipality, school district, local district, special service district, or other political subdivision of the state; or
- (d) a charter school.

[444] (45) "Public hearing" means a hearing at which members of the public are provided a reasonable opportunity to comment on the subject of the hearing.

[445] (46) "Public meeting" means a meeting that is required to be open to the public under Title 52, Chapter 4, Open and Public Meetings Act.

[446] (47) "Receiving zone" means an unincorporated area of a county that the county designates, by ordinance, as an area in which an owner of land may receive a transferable development right.

[447] (48) "Record of survey map" means a map of a survey of land prepared in accordance with Section 17-23-17.

[448] (49) "Residential facility for persons with a disability" means a residence:

- (a) in which more than one person with a disability resides; and
- (b) (i) which is licensed or certified by the Department of Human Services under Title 62A, Chapter 2, Licensure of Programs and Facilities; or
- (ii) which is licensed or certified by the Department of Health under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.

[449] (50) "Rules of order and procedure" means a set of rules that govern and prescribe in a public meeting:

- (a) parliamentary order and procedure;
- (b) ethical behavior; and
- (c) civil discourse.

[450] (51) "Sanitary sewer authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of sanitary sewer services or onsite wastewater systems.

[451] (52) "Sending zone" means an unincorporated area of a county that the county designates, by ordinance, as an area from which an owner of land may transfer a transferable development right.

[452] (53) "Site plan" means a document or map that may be required by a county during a preliminary review preceding the issuance of a building permit to demonstrate that an owner's or developer's proposed development activity meets a land use requirement.

[453] (54) "Specified public agency" means:

- (a) the state;
- (b) a school district; or
- (c) a charter school.

[454] (55) "Specified public utility" means an electrical corporation, gas corporation, or telephone corporation, as those terms are defined in Section 54-2-1.

[455] (56) "State" includes any department, division, or agency of the state.

[456] (57) "Street" means a public right-of-way, including a highway, avenue, boulevard, parkway, road, lane, walk, alley, viaduct, subway, tunnel, bridge, public easement, or other way.

[457] (58) (a) "Subdivision" means any land that is divided, resubdivided or proposed to be divided into two or more lots, parcels, sites, units, plots, or other division of land for the purpose, whether immediate or future, for offer, sale, lease, or development either on the installment plan or upon any and all other plans, terms, and conditions.

(b) "Subdivision" includes:

(i) the division or development of land whether by deed, metes and bounds description, devise and testacy, map, plat, or other recorded instrument; and

(ii) except as provided in Subsection [457] (58)(c), divisions of land for residential and nonresidential uses, including land used or to be used for commercial, agricultural, and industrial purposes.

(c) "Subdivision" does not include:

(i) a bona fide division or partition of agricultural land for agricultural purposes;

(ii) a recorded agreement between owners of adjoining properties adjusting their mutual boundary if:

(A) no new lot is created; and

(B) the adjustment does not violate applicable land use ordinances;

(iii) a recorded document, executed by the owner of record:

(A) revising the legal description of more than one contiguous unsubdivided parcel of property into one legal description encompassing all such parcels of property; or

(B) joining a subdivided parcel of property to another parcel of property that has not been subdivided, if the joinder does not violate applicable land use ordinances;

(iv) a bona fide division or partition of land in a county other than a first class county for the purpose of siting, on one or more of the resulting separate parcels:

(A) an electrical transmission line or a substation;

(B) a natural gas pipeline or a regulation station; or

(C) an unmanned telecommunications, microwave, fiber optic, electrical, or other utility service regeneration, transformation, retransmission, or amplification facility;

(v) a recorded agreement between owners of adjoining subdivided properties adjusting their mutual boundary if:

(A) no new dwelling lot or housing unit will result from the adjustment; and

(B) the adjustment will not violate any applicable land use ordinance;

(vi) a bona fide division or partition of land by deed or other instrument where the land use authority expressly approves in writing the division in anticipation of further land use approvals on the parcel or parcels; or

(vii) a parcel boundary adjustment.

(d) The joining of a subdivided parcel of property to another parcel of property that has not been subdivided does not constitute a subdivision under this Subsection [(57)] (58) as to the unsubdivided parcel of property or subject the unsubdivided parcel to the county's subdivision ordinance.

[(58)] (59) "Suspect soil" means soil that has:

(a) a high susceptibility for volumetric change, typically clay rich, having more than a 3% swell potential;

(b) bedrock units with high shrink or swell susceptibility; or

(c) gypsiferous silt and clay, gypsum, or bedrock units containing abundant gypsum commonly associated with dissolution and collapse features.

[(59)] (60) "Therapeutic school" means a residential group living facility:

(a) for four or more individuals who are not related to:

(i) the owner of the facility; or

(ii) the primary service provider of the facility;

(b) that serves students who have a history of failing to function:

(i) at home;

(ii) in a public school; or

(iii) in a nonresidential private school; and

(c) that offers:

(i) room and board; and

(ii) an academic education integrated with:

(A) specialized structure and supervision; or

(B) services or treatment related to a disability, an emotional development, a behavioral development, a familial development, or a social development.

[(60)] "Township" means a contiguous, geographically defined portion of the unincorporated area of a county, established under this part or reconstituted or reinstated under Section 17-27a-306, with planning and zoning functions as exercised through the township planning commission, as provided in this chapter, but with no legal or political identity separate from the county and no taxing authority, except that "township" means a former township under Laws of Utah 1996, Chapter 308, where the context so indicates.]

(61) "Transferable development right" means a right to develop and use land that originates by an ordinance that authorizes a land owner in a designated sending zone to transfer land use rights from a designated sending zone to a designated receiving zone.

(62) "Unincorporated" means the area outside of the incorporated area of a municipality.

(63) "Water interest" means any right to the beneficial use of water, including:

(a) each of the rights listed in Section 73-1-11; and

(b) an ownership interest in the right to the beneficial use of water represented by:

(i) a contract; or

(ii) a share in a water company, as defined in Section 73-3-3.5.

(64) "Zoning map" means a map, adopted as part of a land use ordinance, that depicts land use zones, overlays, or districts.

Section 94. Section 17-27a-301 is amended to read:

17-27a-301. Ordinance establishing planning commission required -- Exception -- Ordinance requirements -- Planning advisory area planning commission -- Compensation.

(1) (a) Except as provided in Subsection (1)(b), each county shall enact an ordinance establishing a countywide planning commission for the unincorporated areas of the county not within a [township] planning advisory area.

(b) Subsection (1)(a) does not apply if all of the county is included within any combination of:

(i) municipalities; and

(ii) [townships] planning advisory areas with their own planning commissions.

(2) (a) The ordinance shall define:

(i) the number and terms of the members and, if the county chooses, alternate members;

(ii) the mode of appointment;

(iii) the procedures for filling vacancies and removal from office;

(iv) the authority of the planning commission;

(v) subject to Subsection (2)(b), the rules of order and procedure for use by the planning commission in a public meeting; and

(vi) other details relating to the organization and procedures of the planning commission.

(b) Subsection (2)(a)(v) does not affect the planning commission's duty to comply with Title 52, Chapter 4, Open and Public Meetings Act.

(3) (a) (i) If the county establishes a [township] planning advisory area planning commission, the county legislative body shall enact an ordinance that defines:

(A) appointment procedures;

(B) procedures for filling vacancies and removing members from office;

(C) subject to Subsection (3)(a)(ii), the rules of order and procedure for use by the [township] planning advisory area planning commission in a public meeting; and

(D) details relating to the organization and procedures of each [township] planning advisory area planning commission.

(ii) Subsection (3)(a)(i)(C) does not affect the [township] planning advisory area planning commission's duty to comply with Title 52, Chapter 4, Open and Public Meetings Act.

(b) The planning commission for each [township] planning advisory area shall consist of seven members who, ~~except as provided in Subsection (4),~~ shall be appointed by:

(i) in a county operating under a form of government in which the executive and legislative functions of the governing body are separated, the county executive with the advice and consent of the county legislative body; or

(ii) in a county operating under a form of government in which the executive and legislative functions of the governing body are not separated, the county legislative body.

(c) (i) Members shall serve four-year terms and until their successors are appointed ~~or, as provided in Subsection (4), elected~~ and qualified.

(ii) Notwithstanding the provisions of Subsection (3)(c)(i) ~~and except as provided in Subsection (4)~~, members of the first planning commissions shall be appointed so that, for each commission, the terms of at least one member and no more than two members expire each year.

(d) (i) ~~Except as provided in Subsection (3)(d)(ii), each~~ Each member of a [township] planning advisory area planning commission shall be a registered voter residing within the [township] planning advisory area.

(ii) (A) ~~Notwithstanding Subsection (3)(d)(i), one member of a planning commission of a township reconstituted under Laws of Utah 1997, Chapter 389, or reinstated or established under Subsection 17-27a-306(1)(k)(i) may be an appointed member~~

~~who is a registered voter residing outside the township if that member;~~

~~(I) is an owner of real property located within the township; and~~

~~(II) resides within the county in which the township is located.]~~

~~(B) (I) Each appointee under Subsection (3)(d)(ii)(A) shall be chosen by the township planning commission from a list of three persons submitted by the county legislative body.]~~

~~(II) If the township planning commission has not notified the county legislative body of its choice under Subsection (3)(d)(ii)(B)(I) within 60 days of the township planning commission's receipt of the list, the county legislative body may appoint one of the three persons on the list or a registered voter residing within the township as a member of the township planning commission.]~~

~~(4) (a) The legislative body of each county in which a township reconstituted under Laws of Utah 1997, Chapter 389, or reinstated or established under Subsection 17-27a-306(1)(k)(i) is located shall on or before January 1, 2012, enact an ordinance that provides for the election of at least three members of the planning commission of that township.]~~

~~(b) (i) Beginning with the 2012 general election, the election of planning commission members under Subsection (4)(a) shall coincide with the election of other county officers during even-numbered years.]~~

~~(ii) Approximately half the elected planning commission members shall be elected every four years during elections held on even-numbered years, and the remaining elected members shall be elected every four years on alternating even-numbered years.]~~

~~(c) If no person files a declaration of candidacy in accordance with Section 20A-9-202 for an open township planning commission member position:]~~

~~(i) the position may be appointed in accordance with Subsection (3)(b); and]~~

~~(ii) a person appointed under Subsection (4)(c)(i) may not serve for a period of time that exceeds the elected term for which there was no candidate.]~~

~~(5) (a) A legislative body described in Subsection (4)(a) shall on or before January 1, 2012, enact an ordinance that:]~~

~~(i) designates the seats to be elected; and]~~

~~(ii) subject to Subsection (6)(b), appoints a member of the planning and zoning board of the former township, established under Laws of Utah 1996, Chapter 308, as a member of the planning commission of the reconstituted or reinstated township.]~~

~~(b) A member appointed under Subsection (5)(a) is considered an elected member.]~~

~~(6) (a) Except as provided in Subsection (6)(b), the term of each member appointed under~~

Subsection (5)(a) shall continue until the time that the member's term as an elected member of the former township planning and zoning board would have expired.]

~~[(b) (i) Notwithstanding Subsection (6)(a), the county legislative body may adjust the terms of the members appointed under Subsection (5)(a) so that the terms of those members coincide with the schedule under Subsection (4)(b) for elected members.]~~

~~[(ii) Subject to Subsection (6)(b)(iii), the legislative body of a county in which a township reconstituted under Laws of Utah 1997, Chapter 389, or reinstated or established under Subsection 17-27a-306(1)(k)(i) is located may enact an ordinance allowing each appointed member of the planning and zoning board of the former township, established under Laws of Utah 1996, Chapter 308, to continue to hold office as a member of the planning commission of the reconstituted or reinstated township until the time that the member's term as a member of the former township's planning and zoning board would have expired.]~~

~~[(iii) If a planning commission of a township reconstituted under Laws of Utah 1997, Chapter 389, or reinstated or established under Subsection 17-27a-306(1)(k)(i) has more than one appointed member who resides outside the township, the legislative body of the county in which that township is located shall, within 15 days of the effective date of this Subsection (6)(b)(iii), dismiss all but one of the appointed members who reside outside the township, and a new member shall be appointed under Subsection (3)(b) to fill the position of each dismissed member.]~~

~~[(7) (a) Except as provided in Subsection (7)(b), upon]~~

~~(ii) Subsection (3)(d)(i) does not apply to a member described in Subsection (4)(a) if that member was, prior to May 12, 2015, authorized to reside outside of the planning advisory area.~~

~~(4) (a) A member of a planning commission who was elected to and served on a planning commission on May 12, 2015, shall serve out the term to which the member was elected.~~

~~(b) Upon the expiration of an elected term described in Subsection (4)(a), the vacant seat shall be filled by appointment in accordance with this section.~~

~~(5) Upon the appointment [or election] of all members of a [township] planning advisory area planning commission, each [township] planning advisory area planning commission under this section shall begin to exercise the powers and perform the duties provided in Section 17-27a-302 with respect to all matters then pending that previously had been under the jurisdiction of the countywide planning commission or [township] planning advisory area planning and zoning board.~~

~~[(b) Notwithstanding Subsection (7)(a), if the members of a former township planning and zoning~~

~~board continue to hold office as members of the planning commission of the township planning district under an ordinance enacted under Subsection (5)(a), the township planning commission shall immediately begin to exercise the powers and perform the duties provided in Section 17-27a-302 with respect to all matters then pending that had previously been under the jurisdiction of the township planning and zoning board.]~~

~~[(8) (6) The legislative body may fix per diem compensation for the members of the planning commission, based on necessary and reasonable expenses and on meetings actually attended.~~

Section 95. Section 17-27a-302 is amended to read:

17-27a-302. Planning commission powers and duties.

~~[(1) Each countywide or [township] planning advisory area planning commission shall, with respect to the unincorporated area of the county[,], or the [township] planning advisory area, make a recommendation to the county legislative body for:~~

~~[(a) (1) a general plan and amendments to the general plan;~~

~~[(b) (2) land use ordinances, zoning maps, official maps, and amendments;~~

~~[(c) (3) an appropriate delegation of power to at least one designated land use authority to hear and act on a land use application;~~

~~[(d) (4) an appropriate delegation of power to at least one appeal authority to hear and act on an appeal from a decision of the land use authority; and~~

~~[(e) (5) application processes that:~~

~~[(i) (a) may include a designation of routine land use matters that, upon application and proper notice, will receive informal streamlined review and action if the application is uncontested; and~~

~~[(ii) (b) shall protect the right of each:~~

~~[(A) (i) applicant and third party to require formal consideration of any application by a land use authority;~~

~~[(B) (ii) applicant, adversely affected party, or county officer or employee to appeal a land use authority's decision to a separate appeal authority; and~~

~~[(C) (iii) participant to be heard in each public hearing on a contested application.~~

~~[(2) The planning commission of a township under this part may recommend to the legislative body of the county in which the township is located that the legislative body file a protest to a proposed annexation of an area located within the township, as provided in Subsection 10-2-407(1)(b).]~~

Section 96. Section 17-27a-306 is amended to read:

17-27a-306. Planning advisory areas.

~~(1) (a) A [township] planning advisory area may be established as provided in this Subsection (1).~~

(b) A [township] planning advisory area may not be established unless the area to be included within the proposed [township] planning advisory area:

- (i) is unincorporated;
- (ii) is contiguous; and
- (iii) (A) contains:

(I) at least 20% but not more than 80% of:

(Aa) the total private land area in the unincorporated county; or

(Bb) the total value of locally assessed taxable property in the unincorporated county; or

(II) (Aa) in a county of the ~~[first,]~~ second~~;~~ or third class, at least 5% of the total population of the unincorporated county, but not less than 300 residents; or

(Bb) in a county of the fourth, fifth, or sixth class, at least 25% of the total population of the unincorporated county; or

(B) has been declared by the United States Census Bureau as a census designated place.

(c) (i) The process to establish a [township] planning advisory area is initiated by the filing of a petition with the clerk of the county in which the proposed [township] planning advisory area is located.

(ii) A petition to establish a [township] planning advisory area may not be filed if it proposes the establishment of a [township] planning advisory area that includes an area within a proposed [township] planning advisory area in a petition that has previously been certified under Subsection (1)(g), until after the canvass of an election on the proposed [township] planning advisory area under Subsection (1)(j).

(d) A petition under Subsection (1)(c) to establish a [township] planning advisory area shall:

(i) be signed by the owners of private real property that:

(A) is located within the proposed [township] planning advisory area;

(B) covers at least 10% of the total private land area within the proposed [township] planning advisory area; and

(C) is equal in value to at least 10% of the value of all private real property within the proposed [township] planning advisory area;

(ii) be accompanied by an accurate plat or map showing the boundary of the contiguous area proposed to be established as a [township] planning advisory area;

(iii) indicate the typed or printed name and current residence address of each owner signing the petition;

(iv) designate up to five signers of the petition as petition sponsors, one of whom shall be designated

as the contact sponsor, with the mailing address and telephone number of each petition sponsor;

(v) authorize the petition sponsor or sponsors to act on behalf of all owners signing the petition for purposes of the petition; and

(vi) request the county legislative body to provide notice of the petition and of a public hearing, hold a public hearing, and conduct an election on the proposal to establish a [township] planning advisory area.

(e) Subsection ~~[10-2-101]~~ 10-2a-102(3) applies to a petition to establish a [township] planning advisory area to the same extent as if it were an incorporation petition under Title 10, Chapter ~~[2, Part 1,]~~ 2a, Municipal Incorporation.

(f) (i) Within seven days after the filing of a petition under Subsection (1)(c) proposing the establishment of a [township] planning advisory area in a county of the ~~[first-or]~~ second class, the county clerk shall provide notice of the filing of the petition to:

(A) each owner of real property owning more than 1% of the assessed value of all real property within the proposed [township] planning advisory area; and

(B) each owner of real property owning more than 850 acres of real property within the proposed [township] planning advisory area.

(ii) A property owner may exclude all or part of the property owner's property from a proposed [township] planning advisory area in a county of the ~~[first-or]~~ second class:

(A) if:

(I) (Aa) (Ii) the property owner owns more than 1% of the assessed value of all property within the proposed [township] planning advisory area;

(IIii) the property is nonurban; and

(IIIiii) the property does not or will not require municipal provision of municipal-type services; or

(Bb) the property owner owns more than 850 acres of real property within the proposed [township] planning advisory area; and

(II) exclusion of the property will not leave within the [township] planning advisory area an island of property that is not part of the [township] planning advisory area; and

(B) by filing a notice of exclusion within 10 days after receiving the clerk's notice under Subsection (1)(f)(i).

(iii) (A) The county legislative body shall exclude from the proposed [township] planning advisory area the property identified in a notice of exclusion timely filed under Subsection (1)(f)(ii)(B) if the property meets the applicable requirements of Subsection (1)(f)(ii)(A).

(B) If the county legislative body excludes property from a proposed [township] planning advisory area under Subsection (1)(f)(iii), the county legislative body shall, within five days after

the exclusion, send written notice of its action to the contact sponsor.

(g) (i) Within 45 days after the filing of a petition under Subsection (1)(c), the county clerk shall:

(A) with the assistance of other county officers from whom the clerk requests assistance, determine whether the petition complies with the requirements of Subsection (1)(d); and

(B) (I) if the clerk determines that the petition complies with the requirements of Subsection (1)(d):

(Aa) certify the petition and deliver the certified petition to the county legislative body; and

(Bb) mail or deliver written notification of the certification to the contact sponsor; or

(II) if the clerk determines that the petition fails to comply with any of the requirements of Subsection (1)(d), reject the petition and notify the contact sponsor in writing of the rejection and the reasons for the rejection.

(ii) If the county clerk rejects a petition under Subsection (1)(g)(i)(B)(II), the petition may be amended to correct the deficiencies for which it was rejected and then refiled with the county clerk.

(h) (i) Within 90 days after a petition to establish a [township] planning advisory area is certified, the county legislative body shall hold a public hearing on the proposal to establish a [township] planning advisory area.

(ii) A public hearing under Subsection (1)(h)(i) shall be:

(A) within the boundary of the proposed [township] planning advisory area; or

(B) if holding a public hearing in that area is not practicable, as close to that area as practicable.

(iii) At least one week before holding a public hearing under Subsection (1)(h)(i), the county legislative body shall publish notice of the petition and the time, date, and place of the public hearing:

(A) at least once in a newspaper of general circulation in the county; and

(B) on the Utah Public Notice Website created in Section 63F-1-701.

(i) Following the public hearing under Subsection (1)(h)(i), the county legislative body shall arrange for the proposal to establish a [township] planning advisory area to be submitted to voters residing within the proposed [township] planning advisory area at the next regular general election that is more than 90 days after the public hearing.

(j) A [township] planning advisory area is established at the time of the canvass of the results of an election under Subsection (1)(i) if the canvass indicates that a majority of voters voting on the proposal to establish a [township] planning advisory area voted in favor of the proposal.

~~(k) (i) A township that was dissolved under Laws of Utah 1997, Chapter 389, is reinstated as a township under this part with the same boundaries and name as before the dissolution, if the former township consisted of a single, contiguous land area.]~~

~~(ii) Notwithstanding Subsection (1)(k)(i), a county legislative body may enact an ordinance establishing as a township under this part a former township that was dissolved under Laws of Utah 1997, Chapter 389, even though the former township does not qualify to be reinstated under Subsection (1)(k)(i).]~~

~~(iii) A township reinstated under Subsection (1)(k)(i) or established under Subsection (1)(k)(ii) is subject to the provisions of this part.]~~

~~(l) A township established under this section on or after May 5, 1997, may use the word "township" in its name.]~~

(k) An area that is an established township before May 12, 2015:

(i) is, as of May 12, 2015, a planning advisory area; and

(ii) (A) shall change its name, if applicable, to no longer include the word "township"; and

(B) may use the word "planning advisory area" in its name.

(2) The county legislative body may:

(a) assign to the countywide planning commission the duties established in this part that would have been assumed by a [township] planning advisory area planning commission designated under Subsection (2)(b); or

(b) designate and appoint a planning commission for the [township] planning advisory area.

(3) (a) An area within the boundary of a [township] planning advisory area may be withdrawn from the [township] planning advisory area as provided in this Subsection (3) or in accordance with Subsection (5)(a).

(b) The process to withdraw an area from a [township] planning advisory area is initiated by the filing of a petition with the clerk of the county in which the [township] planning advisory area is located.

(c) A petition under Subsection (3)(b) shall:

(i) be signed by the owners of private real property that:

(A) is located within the area proposed to be withdrawn from the [township] planning advisory area;

(B) covers at least 50% of the total private land area within the area proposed to be withdrawn from the [township] planning advisory area; and

(C) is equal in value to at least 33% of the value of all private real property within the area proposed to be withdrawn from the [township] planning advisory area;

(ii) state the reason or reasons for the proposed withdrawal;

(iii) be accompanied by an accurate plat or map showing the boundary of the contiguous area proposed to be withdrawn from the [township] planning advisory area;

(iv) indicate the typed or printed name and current residence address of each owner signing the petition;

(v) designate up to five signers of the petition as petition sponsors, one of whom shall be designated as the contact sponsor, with the mailing address and telephone number of each petition sponsor;

(vi) authorize the petition sponsor or sponsors to act on behalf of all owners signing the petition for purposes of the petition; and

(vii) request the county legislative body to withdraw the area from the [township] planning advisory area.

(d) Subsection [10-2-101] 10-2a-102(3) applies to a petition to withdraw an area from a [township] planning advisory area to the same extent as if it were an incorporation petition under Title 10, Chapter [2, Part 1,] 2a, Municipal Incorporation.

(e) (i) Within 45 days after the filing of a petition under Subsection (3)(b), the county clerk shall:

(A) with the assistance of other county officers from whom the clerk requests assistance, determine whether the petition complies with the requirements of Subsection (3)(c); and

(B) (I) if the clerk determines that the petition complies with the requirements of Subsection (3)(c):

(Aa) certify the petition and deliver the certified petition to the county legislative body; and

(Bb) mail or deliver written notification of the certification to the contact sponsor; or

(II) if the clerk determines that the petition fails to comply with any of the requirements of Subsection (3)(c), reject the petition and notify the contact sponsor in writing of the rejection and the reasons for the rejection.

(ii) If the county clerk rejects a petition under Subsection (3)(e)(i)(B)(II), the petition may be amended to correct the deficiencies for which it was rejected and then refiled with the county clerk.

(f) (i) Within 60 days after a petition to withdraw an area from a [township] planning advisory area is certified, the county legislative body shall hold a public hearing on the proposal to withdraw the area from the [township] planning advisory area.

(ii) A public hearing under Subsection (3)(f)(i) shall be held:

(A) within the area proposed to be withdrawn from the [township] planning advisory area; or

(B) if holding a public hearing in that area is not practicable, as close to that area as practicable.

(iii) Before holding a public hearing under Subsection (3)(f)(i), the county legislative body shall:

(A) publish notice of the petition and the time, date, and place of the public hearing:

(I) at least once a week for three consecutive weeks in a newspaper of general circulation in the [township] planning advisory area; and

(II) on the Utah Public Notice Website created in Section 63F-1-701, for three consecutive weeks; and

(B) mail a notice of the petition and the time, date, and place of the public hearing to each owner of private real property within the area proposed to be withdrawn.

(g) (i) Within 45 days after the public hearing under Subsection (3)(f)(i), the county legislative body shall make a written decision on the proposal to withdraw the area from the [township] planning advisory area.

(ii) In making its decision as to whether to withdraw the area from the [township] planning advisory area, the county legislative body shall consider:

(A) whether the withdrawal would leave the remaining [township] planning advisory area in a situation where the future incorporation of an area within the [township] planning advisory area or the annexation of an area within the [township] planning advisory area to an adjoining municipality would be economically or practically not feasible;

(B) if the withdrawal is a precursor to the incorporation or annexation of the withdrawn area:

(I) whether the proposed subsequent incorporation or withdrawal:

(Aa) will leave or create an unincorporated island or peninsula; or

(Bb) will leave the county with an area within its unincorporated area for which the cost, requirements, or other burdens of providing municipal services would materially increase over previous years; and

(II) whether the municipality to be created or the municipality into which the withdrawn area is expected to annex would be or is capable, in a cost effective manner, of providing service to the withdrawn area that the county will no longer provide due to the incorporation or annexation;

(C) the effects of a withdrawal on adjoining property owners, existing or projected county streets or other public improvements, law enforcement, and zoning and other municipal services provided by the county; and

(D) whether justice and equity favor the withdrawal.

(h) Upon the written decision of the county legislative body approving the withdrawal of an area from a [township] planning advisory area, the area is withdrawn from the [township] planning

advisory area and the [township] planning advisory area continues as a [township] planning advisory area with a boundary that excludes the withdrawn area.

(4) (a) A [township] planning advisory area may be dissolved as provided in this Subsection (4).

(b) The process to dissolve a [township] planning advisory area is initiated by the filing of a petition with the clerk of the county in which the [township] planning advisory area is located.

(c) A petition under Subsection (4)(b) shall:

(i) be signed by registered voters within the [township] planning advisory area equal in number to at least 25% of all votes cast by voters within the [township] planning advisory area at the last congressional election;

(ii) state the reason or reasons for the proposed dissolution;

(iii) indicate the typed or printed name and current residence address of each person signing the petition;

(iv) designate up to five signers of the petition as petition sponsors, one of whom shall be designated as the contact sponsor, with the mailing address and telephone number of each petition sponsor;

(v) authorize the petition sponsors to act on behalf of all persons signing the petition for purposes of the petition; and

(vi) request the county legislative body to provide notice of the petition and of a public hearing, hold a public hearing, and conduct an election on the proposal to dissolve the [township] planning advisory area.

(d) (i) Within 45 days after the filing of a petition under Subsection (4)(b), the county clerk shall:

(A) with the assistance of other county officers from whom the clerk requests assistance, determine whether the petition complies with the requirements of Subsection (4)(c); and

(B) (I) if the clerk determines that the petition complies with the requirements of Subsection (4)(c):

(Aa) certify the petition and deliver the certified petition to the county legislative body; and

(Bb) mail or deliver written notification of the certification to the contact sponsor; or

(II) if the clerk determines that the petition fails to comply with any of the requirements of Subsection (4)(c), reject the petition and notify the contact sponsor in writing of the rejection and the reasons for the rejection.

(ii) If the county clerk rejects a petition under Subsection (4)(d)(i)(B)(II), the petition may be amended to correct the deficiencies for which it was rejected and then refiled with the county clerk.

(e) (i) Within 60 days after a petition to dissolve the [township] planning advisory area is certified, the county legislative body shall hold a public

hearing on the proposal to dissolve the [township] planning advisory area.

(ii) A public hearing under Subsection (4)(e)(i) shall be held:

(A) within the boundary of the [township] planning advisory area; or

(B) if holding a public hearing in that area is not practicable, as close to that area as practicable.

(iii) Before holding a public hearing under Subsection (4)(e)(i), the county legislative body shall publish notice of the petition and the time, date, and place of the public hearing:

(A) at least once a week for three consecutive weeks in a newspaper of general circulation in the [township] planning advisory area; and

(B) on the Utah Public Notice Website created in Section 63F-1-701, for three consecutive weeks immediately before the public hearing.

(f) Following the public hearing under Subsection (4)(e)(i), the county legislative body shall arrange for the proposal to dissolve the [township] planning advisory area to be submitted to voters residing within the [township] planning advisory area at the next regular general election that is more than 90 days after the public hearing.

(g) A [township] planning advisory area is dissolved at the time of the canvass of the results of an election under Subsection (4)(f) if the canvass indicates that a majority of voters voting on the proposal to dissolve the [township] planning advisory area voted in favor of the proposal.

(5) (a) If a portion of an area located within a planning advisory area is annexed by a municipality or incorporates, that portion is withdrawn from the planning advisory area.

(b) If a planning advisory area in whole is annexed by a municipality or incorporates, the planning advisory area is dissolved.

Section 97. Section 17-27a-505 is amended to read:

17-27a-505. Zoning districts.

(1) (a) The legislative body may divide the territory over which it has jurisdiction into zoning districts of a number, shape, and area that it considers appropriate to carry out the purposes of this chapter.

(b) Within those zoning districts, the legislative body may regulate and restrict the erection, construction, reconstruction, alteration, repair, or use of buildings and structures, and the use of land.

(c) A county may enact an ordinance regulating land use and development in a flood plain or potential geologic hazard area to:

(i) protect life; and

(ii) prevent:

(A) the substantial loss of real property; or

(B) substantial damage to real property.

(d) A county of the second, third, fourth, fifth, or sixth class may not adopt a land use ordinance requiring a property owner to revegetate or landscape a single family dwelling disturbance area unless the property is located in a flood zone or geologic hazard except as required in Title 19, Chapter 5, Water Quality Act, to comply with federal law related to water pollution.

(2) The legislative body shall ensure that the regulations are uniform for each class or kind of buildings throughout each zone, but the regulations in one zone may differ from those in other zones.

(3) (a) There is no minimum area or diversity of ownership requirement for a zone designation.

(b) Neither the size of a zoning district nor the number of landowners within the district may be used as evidence of the illegality of a zoning district or of the invalidity of a county decision.

Section 98. Section 17-34-3 is amended to read:

17-34-3. Taxes or service charges.

(1) (a) If a county furnishes the municipal-type services and functions described in Section 17-34-1 to areas of the county outside the limits of incorporated cities or towns, the entire cost of the services or functions so furnished shall be defrayed from funds that the county has derived from:

(i) taxes that the county may lawfully levy or impose outside the limits of incorporated towns or cities;

(ii) service charges or fees the county may impose upon the persons benefited in any way by the services or functions; or

(iii) a combination of these sources.

(b) As the taxes or service charges or fees are levied and collected, they shall be placed in a special revenue fund of the county and shall be disbursed only for the rendering of the services or functions established in Section 17-34-1 within the unincorporated areas of the county or as provided in Subsection ~~[10-2-121]~~ 10-2a-219(2).

(2) (a) For the purpose of levying taxes, service charges, or fees provided in this section, the county legislative body may establish a district or districts in the unincorporated areas of the county.

(b) A district established by a county as provided in Subsection (2)(a) may be reorganized as a local district in accordance with the procedures set forth in Sections 17D-1-601, 17D-1-603, and 17D-1-604.

(3) Nothing contained in this chapter may be construed to authorize counties to impose or levy taxes not otherwise allowed by law.

(4) Notwithstanding any other provision of this chapter, a county providing fire, paramedic, and police protection services in a designated recreational area, as provided in Subsection 17-34-1(5), may fund those services from the county general fund with revenues derived from

both inside and outside the limits of cities and towns, and the funding of those services is not limited to unincorporated area revenues.

Section 99. Section 17-41-101 is amended to read:

17-41-101. Definitions.

As used in this chapter:

(1) "Advisory board" means:

(a) for an agriculture protection area, the agriculture protection area advisory board created as provided in Section 17-41-201; and

(b) for an industrial protection area, the industrial protection area advisory board created as provided in Section 17-41-201.

(2) (a) "Agriculture production" means production for commercial purposes of crops, livestock, and livestock products.

(b) "Agriculture production" includes the processing or retail marketing of any crops, livestock, and livestock products when more than 50% of the processed or merchandised products are produced by the farm operator.

(3) "Agriculture protection area" means a geographic area created under the authority of this chapter that is granted the specific legal protections contained in this chapter.

(4) "Applicable legislative body" means:

(a) with respect to a proposed agriculture protection area or industrial protection area:

(i) the legislative body of the county in which the land proposed to be included in an agriculture protection area or industrial protection area is located, if the land is within the unincorporated part of the county; or

(ii) the legislative body of the city or town in which the land proposed to be included in an agriculture protection area or industrial protection area is located; and

(b) with respect to an existing agriculture protection area or industrial protection area:

(i) the legislative body of the county in which the agriculture protection area or industrial protection area is located, if the agriculture protection area or industrial protection area is within the unincorporated part of the county; or

(ii) the legislative body of the city or town in which the agriculture protection area or industrial protection area is located.

(5) "Board" means the Board of Oil, Gas, and Mining created in Section 40-6-4.

(6) "Crops, livestock, and livestock products" includes:

(a) land devoted to the raising of useful plants and animals with a reasonable expectation of profit, including:

(i) forages and sod crops;

- (ii) grains and feed crops;
- (iii) livestock as defined in Section 59-2-102;
- (iv) trees and fruits; or
- (v) vegetables, nursery, floral, and ornamental stock; or

(b) land devoted to and meeting the requirements and qualifications for payments or other compensation under a crop-land retirement program with an agency of the state or federal government.

(7) "Division" means the Division of Oil, Gas, and Mining created in Section 40-6-15.

(8) "Industrial protection area" means a geographic area created under the authority of this chapter that is granted the specific legal protections contained in this chapter.

(9) "Mine operator" means a natural person, corporation, association, partnership, receiver, trustee, executor, administrator, guardian, fiduciary, agent, or other organization or representative, either public or private, including a successor, assign, affiliate, subsidiary, and related parent company, that, as of January 1, 2009:

(a) owns, controls, or manages a mining use under a large mine permit issued by the division or the board; and

(b) has produced commercial quantities of a mineral deposit from the mining use.

(10) "Mineral deposit" has the same meaning as defined in Section 40-8-4, but excludes:

(a) building stone, decorative rock, and landscaping rock; and

(b) consolidated rock that:

(i) is not associated with another deposit of minerals;

(ii) is or may be extracted from land; and

(iii) is put to uses similar to the uses of sand, gravel, and other aggregates.

(11) "Mining protection area" means land where a vested mining use occurs, including each surface or subsurface land or mineral estate that a mine operator with a vested mining use owns or controls.

(12) "Mining use":

(a) means:

(i) the full range of activities, from prospecting and exploration to reclamation and closure, associated with the exploitation of a mineral deposit; and

(ii) the use of the surface and subsurface and groundwater and surface water of an area in connection with the activities described in Subsection (12)(a)(i) that have been, are being, or will be conducted; and

(b) includes, whether conducted on-site or off-site:

(i) any sampling, staking, surveying, exploration, or development activity;

(ii) any drilling, blasting, excavating, or tunneling;

(iii) the removal, transport, treatment, deposition, and reclamation of overburden, development rock, tailings, and other waste material;

(iv) any removal, transportation, extraction, beneficiation, or processing of ore;

(v) any smelting, refining, autoclaving, or other primary or secondary processing operation;

(vi) the recovery of any mineral left in residue from a previous extraction or processing operation;

(vii) a mining activity that is identified in a work plan or permitting document;

(viii) the use, operation, maintenance, repair, replacement, or alteration of a building, structure, facility, equipment, machine, tool, or other material or property that results from or is used in a surface or subsurface mining operation or activity;

(ix) any accessory, incidental, or ancillary activity or use, both active and passive, including a utility, private way or road, pipeline, land excavation, working, embankment, pond, gravel excavation, mining waste, conveyor, power line, trackage, storage, reserve, passive use area, buffer zone, and power production facility;

(x) the construction of a storage, factory, processing, or maintenance facility; and

(xi) any activity described in Subsection 40-8-4(14)(a).

(13) (a) "Municipal" means of or relating to a city or town.

(b) "Municipality" means a city or town.

(14) "New land" means surface or subsurface land or mineral estate that a mine operator gains ownership or control of, whether or not that land or mineral estate is included in the mine operator's large mine permit.

(15) "Off-site" has the same meaning as provided in Section 40-8-4.

(16) "On-site" has the same meaning as provided in Section 40-8-4.

(17) "Planning commission" means:

(a) a countywide planning commission if the land proposed to be included in the agriculture protection area or industrial protection area is within the unincorporated part of the county and not within a [township] planning advisory area;

(b) a [township] planning advisory area planning commission if the land proposed to be included in the agriculture protection area or industrial protection area is within a [township] planning advisory area; or

(c) a planning commission of a city or town if the land proposed to be included in the agriculture protection area or industrial protection area is within a city or town.

(18) "Political subdivision" means a county, city, town, school district, local district, or special service district.

(19) "Proposal sponsors" means the owners of land in agricultural production or industrial use who are sponsoring the proposal for creating an agriculture protection area or industrial protection area, respectively.

(20) "State agency" means each department, commission, board, council, agency, institution, officer, corporation, fund, division, office, committee, authority, laboratory, library, unit, bureau, panel, or other administrative unit of the state.

(21) "Unincorporated" means not within a city or town.

(22) "Vested mining use" means a mining use:

(a) by a mine operator; and

(b) that existed or was conducted or otherwise engaged in before a political subdivision prohibits, restricts, or otherwise limits a mining use.

Section 100. Section 17B-1-102 is amended to read:

17B-1-102. Definitions.

As used in this title:

(1) "Appointing authority" means the person or body authorized to make an appointment to the board of trustees.

(2) "Basic local district":

(a) means a local district that is not a specialized local district; and

(b) includes an entity that was, under the law in effect before April 30, 2007, created and operated as a local district, as defined under the law in effect before April 30, 2007.

(3) "Bond" means:

(a) a written obligation to repay borrowed money, whether denominated a bond, note, warrant, certificate of indebtedness, or otherwise; and

(b) a lease agreement, installment purchase agreement, or other agreement that:

(i) includes an obligation by the district to pay money; and

(ii) the district's board of trustees, in its discretion, treats as a bond for purposes of Title 11, Chapter 14, Local Government Bonding Act, or Title 11, Chapter 27, Utah Refunding Bond Act.

(4) "Cemetery maintenance district" means a local district that operates under and is subject to the provisions of this chapter and Chapter 2a, Part 1, Cemetery Maintenance District Act, including an

entity that was created and operated as a cemetery maintenance district under the law in effect before April 30, 2007.

(5) "Drainage district" means a local district that operates under and is subject to the provisions of this chapter and Chapter 2a, Part 2, Drainage District Act, including an entity that was created and operated as a drainage district under the law in effect before April 30, 2007.

(6) "Facility" or "facilities" includes any structure, building, system, land, water right, water, or other real or personal property required to provide a service that a local district is authorized to provide, including any related or appurtenant easement or right-of-way, improvement, utility, landscaping, sidewalk, road, curb, gutter, equipment, or furnishing.

(7) "Fire protection district" means a local district that operates under and is subject to the provisions of this chapter and Chapter 2a, Part 3, Fire Protection District Act, including an entity that was created and operated as a fire protection district under the law in effect before April 30, 2007.

(8) "General obligation bond":

(a) means a bond that is directly payable from and secured by ad valorem property taxes that are:

(i) levied:

(A) by the district that issues the bond; and

(B) on taxable property within the district; and

(ii) in excess of the ad valorem property taxes of the district for the current fiscal year; and

(b) does not include:

(i) a short-term bond;

(ii) a tax and revenue anticipation bond; or

(iii) a special assessment bond.

(9) "Improvement assurance" means a surety bond, letter of credit, cash, or other security:

(a) to guarantee the proper completion of an improvement;

(b) that is required before a local district may provide a service requested by a service applicant; and

(c) that is offered to a local district to induce the local district before construction of an improvement begins to:

(i) provide the requested service; or

(ii) commit to provide the requested service.

(10) "Improvement assurance warranty" means a promise that the materials and workmanship of an improvement:

(a) comply with standards adopted by a local district; and

(b) will not fail in any material respect within an agreed warranty period.

(11) "Improvement district" means a local district that operates under and is subject to the provisions of this chapter and Chapter 2a, Part 4, Improvement District Act, including an entity that was created and operated as a county improvement district under the law in effect before April 30, 2007.

(12) "Irrigation district" means a local district that operates under and is subject to the provisions of this chapter and Chapter 2a, Part 5, Irrigation District Act, including an entity that was created and operated as an irrigation district under the law in effect before April 30, 2007.

(13) "Local district" means a limited purpose local government entity, as described in Section 17B-1-103, that operates under, is subject to, and has the powers set forth in:

- (a) this chapter; or
- (b) (i) this chapter; and
- (ii) (A) Chapter 2a, Part 1, Cemetery Maintenance District Act;
- (B) Chapter 2a, Part 2, Drainage District Act;
- (C) Chapter 2a, Part 3, Fire Protection District Act;
- (D) Chapter 2a, Part 4, Improvement District Act;
- (E) Chapter 2a, Part 5, Irrigation District Act;
- (F) Chapter 2a, Part 6, Metropolitan Water District Act;
- (G) Chapter 2a, Part 7, Mosquito Abatement District Act;
- (H) Chapter 2a, Part 8, Public Transit District Act;
- (I) Chapter 2a, Part 9, Service Area Act; [ø]
- (J) Chapter 2a, Part 10, Water Conservancy District Act[-]; or
- (K) Chapter 2a, Part 11, Municipal Services District Act.

(14) "Metropolitan water district" means a local district that operates under and is subject to the provisions of this chapter and Chapter 2a, Part 6, Metropolitan Water District Act, including an entity that was created and operated as a metropolitan water district under the law in effect before April 30, 2007.

(15) "Mosquito abatement district" means a local district that operates under and is subject to the provisions of this chapter and Chapter 2a, Part 7, Mosquito Abatement District Act, including an entity that was created and operated as a mosquito abatement district under the law in effect before April 30, 2007.

(16) "Municipal" means of or relating to a municipality.

(17) "Municipality" means a city or town.

(18) "Municipal services district" means a local district that operates under and is subject to the provisions of this chapter and Chapter 2a, Part 11, Municipal Services District Act.

[~~(18)~~] (19) "Person" means an individual, corporation, partnership, organization, association, trust, governmental agency, or other legal entity.

[~~(19)~~] (20) "Political subdivision" means a county, city, town, local district under this title, special service district under Title 17D, Chapter 1, Special Service District Act, an entity created by interlocal cooperation agreement under Title 11, Chapter 13, Interlocal Cooperation Act, or any other governmental entity designated in statute as a political subdivision of the state.

[~~(20)~~] (21) "Private," with respect to real property, means not owned by the United States or any agency of the federal government, the state, a county, or a political subdivision.

[~~(21)~~] (22) "Public entity" means:

- (a) the United States or an agency of the United States;
- (b) the state or an agency of the state;
- (c) a political subdivision of the state or an agency of a political subdivision of the state;
- (d) another state or an agency of that state; or
- (e) a political subdivision of another state or an agency of that political subdivision.

[~~(22)~~] (23) "Public transit district" means a local district that operates under and is subject to the provisions of this chapter and Chapter 2a, Part 8, Public Transit District Act, including an entity that was created and operated as a public transit district under the law in effect before April 30, 2007.

[~~(23)~~] (24) "Revenue bond":

- (a) means a bond payable from designated taxes or other revenues other than the local district's ad valorem property taxes; and
- (b) does not include:
 - (i) an obligation constituting an indebtedness within the meaning of an applicable constitutional or statutory debt limit;
 - (ii) a tax and revenue anticipation bond; or
 - (iii) a special assessment bond.

[~~(24)~~] (25) "Rules of order and procedure" means a set of rules that govern and prescribe in a public meeting:

- (a) parliamentary order and procedure;
- (b) ethical behavior; and
- (c) civil discourse.

[~~(25)~~] (26) "Service applicant" means a person who requests that a local district provide a service that the local district is authorized to provide.

[~~(26)~~] (27) "Service area" means a local district that operates under and is subject to the provisions

of this chapter and Chapter 2a, Part 9, Service Area Act, including an entity that was created and operated as a county service area or a regional service area under the law in effect before April 30, 2007.

~~[(27)]~~ (28) “Short-term bond” means a bond that is required to be repaid during the fiscal year in which the bond is issued.

~~[(28)]~~ (29) “Special assessment” means an assessment levied against property to pay all or a portion of the costs of making improvements that benefit the property.

~~[(29)]~~ (30) “Special assessment bond” means a bond payable from special assessments.

~~[(30)]~~ (31) “Specialized local district” means a local district that is a cemetery maintenance district, a drainage district, a fire protection district, an improvement district, an irrigation district, a metropolitan water district, a mosquito abatement district, a public transit district, a service area, ~~or~~ a water conservancy district, or a municipal services district.

~~[(31)]~~ (32) “Taxable value” means the taxable value of property as computed from the most recent equalized assessment roll for county purposes.

~~[(32)]~~ (33) “Tax and revenue anticipation bond” means a bond:

(a) issued in anticipation of the collection of taxes or other revenues or a combination of taxes and other revenues; and

(b) that matures within the same fiscal year as the fiscal year in which the bond is issued.

~~[(33)]~~ (34) “Unincorporated” means not included within a municipality.

~~[(34)]~~ (35) “Water conservancy district” means a local district that operates under and is subject to the provisions of this chapter and Chapter 2a, Part 10, Water Conservancy District Act, including an entity that was created and operated as a water conservancy district under the law in effect before April 30, 2007.

~~[(35)]~~ (36) “Works” includes a dam, reservoir, well, canal, conduit, pipeline, drain, tunnel, power plant, and any facility, improvement, or property necessary or convenient for supplying or treating water for any beneficial use, and for otherwise accomplishing the purposes of a local district.

Section 101. Section 17B-1-502 is amended to read:

17B-1-502. Withdrawal of area from local district -- Automatic withdrawal in certain circumstances.

(1) (a) An area within the boundaries of a local district may be withdrawn from the local district only as provided in this part or, if applicable, as provided in Part 11, Municipal Services District Act.

(b) Except as provided in Subsections (2) and (3), the inclusion of an area of a local district within a municipality because of a municipal incorporation under Title 10, Chapter ~~[2, Part 1,]~~ 2a, Municipal Incorporation, or a municipal annexation or boundary adjustment under Title 10, Chapter 2, Part 4, Annexation, does not affect the requirements under this part for the process of withdrawing that area from the local district.

(2) (a) An area within the boundaries of a local district is automatically withdrawn from the local district by the annexation of the area to a municipality or the adding of the area to a municipality by boundary adjustment under Title 10, Chapter 2, Part 4, Annexation, if:

(i) the local district provides:

(A) fire protection, paramedic, and emergency services; or

(B) law enforcement service;

(ii) an election for the creation of the local district was not required because of Subsection 17B-1-214(3)(d); and

(iii) before annexation or boundary adjustment, the boundaries of the local district do not include any of the annexing municipality.

(b) The effective date of a withdrawal under this Subsection (2) is governed by Subsection 17B-1-512(2)(b).

(3) (a) Except as provided in ~~[Subsection]~~ Subsection (3)(c) or (d), an area within the boundaries of a local district located in a county of the first class is automatically withdrawn from the local district by the incorporation of a municipality whose boundaries include the area if:

(i) the local district provides:

(A) fire protection, paramedic, and emergency services;

(B) law enforcement service; or

(C) municipal services, as defined in Section 17B-2a-1102;

(ii) an election for the creation of the local district was not required because of Subsection 17B-1-214(3)(d) or (g); and

(iii) the legislative body of the newly incorporated municipality:

(A) for a city or town incorporated under Title 10, Chapter 2a, Part 4, Incorporation of Metro Townships and Unincorporated Islands in a County of the First Class on and after May 12, 2015, complies with the feasibility study requirements of Section 17B-2a-1110;

~~[(A)]~~ (B) adopts a resolution no later than 180 days after the effective date of incorporation approving the withdrawal that includes the legal description of the area to be withdrawn; and

~~[(B)]~~ (C) delivers a copy of the resolution to the board of trustees of the local district.

(b) The effective date of a withdrawal under this Subsection (3) is governed by Subsection 17B-1-512(2)(a).

(c) Section 17B-1-505 shall govern the withdrawal of an incorporated area within a county of the first class [if] after the expiration of the 180-day period described in Subsection (3)(a)(iii)(B):

(i) the local district from which the area is withdrawn provides:

(A) fire protection, paramedic, and emergency services; [ø]r

(B) law enforcement service; [~~and~~] or

(C) municipal services, as defined in Section 17B-2a-1102; and

(ii) an election for the creation of the local district was not required under Subsection 17B-1-214(3)(d) or (g).

(d) An area within the boundaries of a local district that is incorporated as a metro township and for which the residents of the metro township at an election to incorporate chose to be included in a municipal services district is not subject to the provisions of this Subsection (3).

Section 102. Section 17B-1-505 is amended to read:

17B-1-505. Withdrawal of municipality in certain districts providing fire protection, paramedic, and emergency services or law enforcement service.

(1) (a) The process to withdraw an area from a local district may be initiated by a resolution adopted by the legislative body of a municipality, subject to Subsection (1)(b), that is entirely within the boundaries of a local district:

(i) that provides:

(A) fire protection, paramedic, and emergency services; [ø]r

(B) law enforcement service; [~~and~~] or

(C) municipal services, as defined in Section 17B-2a-1102; and

(ii) in the creation of which an election was not required because of Subsection 17B-1-214(3)(d) or (g).

(b) A municipal legislative body of a municipality that is within a municipal services district established under Chapter 2a, Part 11, Municipal Services District Act, may not adopt a resolution under Subsection (1)(a) to withdraw from the municipal services district unless the municipality has conducted a feasibility study in accordance with Section 17B-2a-1110.

[~~(b)~~] (c) Within 10 days after adopting a resolution under Subsection (1)(a), the municipal legislative body shall submit to the board of trustees of the local district written notice of the adoption of the resolution, accompanied by a copy of the resolution.

(2) If a resolution is adopted under Subsection (1)(a), the municipal legislative body shall hold an election at the next municipal general election that is more than 60 days after adoption of the resolution on the question of whether the municipality should withdraw from the local district.

(3) If a majority of those voting on the question of withdrawal at an election held under Subsection (2) vote in favor of withdrawal, the municipality shall be withdrawn from the local district.

(4) (a) Within 10 days after the canvass of an election at which a withdrawal under this section is submitted to voters, the municipal legislative body shall send written notice to the board of the local district from which the municipality is proposed to withdraw.

(b) Each notice under Subsection (4)(a) shall:

(i) state the results of the withdrawal election; and

(ii) if the withdrawal was approved by voters, be accompanied by a map or legal description of the area to be withdrawn, adequate for purposes of the county assessor and recorder.

(5) The effective date of a withdrawal under this section is governed by Subsection 17B-1-512(2)(a).

Section 103. Section 17B-1-1002 is amended to read:

17B-1-1002. Limit on local district property tax levy -- Exclusions.

(1) The rate at which a local district levies a property tax for district operation and maintenance expenses on the taxable value of taxable property within the district may not exceed:

(a) .0008, for a basic local district;

(b) .0004, for a cemetery maintenance district;

(c) .0004, for a drainage district;

(d) .0008, for a fire protection district;

(e) .0008, for an improvement district;

(f) .0005, for a metropolitan water district;

(g) .0004, for a mosquito abatement district;

(h) .0004, for a public transit district;

(i) (i) .0023, for a service area that:

(A) is located in a county of the first or second class; and

(B) (I) provides fire protection, paramedic, and emergency services; or

(II) subject to Subsection (3), provides law enforcement services; or

(ii) .0014, for each other service area; [ø]r

(j) the rates provided in Section 17B-2a-1006, for a water conservancy district[-]; or

(k) .0008 for a municipal services district.

(2) Property taxes levied by a local district are excluded from the limit applicable to that district under Subsection (1) if the taxes are:

(a) levied under Section 17B-1-1103 by a local district, other than a water conservancy district, to pay principal of and interest on general obligation bonds issued by the district;

(b) levied to pay debt and interest owed to the United States; or

(c) levied to pay assessments or other amounts due to a water users association or other public cooperative or private entity from which the district procures water.

(3) A service area described in Subsection (1)(i)(i)(B)(II) may not collect a tax described in Subsection (1)(i)(i) if a municipality or a county having a right to appoint a member to the board of trustees of the service area under Subsection 17B-2a-905(2) assesses on or after November 30 in the year in which the tax is first collected and each subsequent year that the tax is collected:

(a) a generally assessed fee imposed under Section 17B-1-643 for law enforcement services; or

(b) any other generally assessed fee for law enforcement services.

Section 104. Section 17B-1-1102 is amended to read:

17B-1-1102. General obligation bonds.

(1) Except as provided in Subsection (3), if a district intends to issue general obligation bonds, the district shall first obtain the approval of district voters for issuance of the bonds at an election held for that purpose as provided in Title 11, Chapter 14, Local Government Bonding Act.

(2) General obligation bonds shall be secured by a pledge of the full faith and credit of the district, subject, for a water conservancy district, to the property tax levy limits of Section 17B-2a-1006.

(3) A district may issue refunding general obligation bonds, as provided in Title 11, Chapter 27, Utah Refunding Bond Act, without obtaining voter approval.

(4) (a) A local district may not issue general obligation bonds if the issuance of the bonds will cause the outstanding principal amount of all of the district's general obligation bonds to exceed the amount that results from multiplying the fair market value of the taxable property within the district, as determined under Subsection 11-14-301(3)(b), by a number that is:

- (i) .05, for a basic local district;
- (ii) .004, for a cemetery maintenance district;
- (iii) .002, for a drainage district;
- (iv) .004, for a fire protection district;
- (v) .024, for an improvement district;
- (vi) .1, for an irrigation district;
- (vii) .1, for a metropolitan water district;
- (viii) .0004, for a mosquito abatement district;
- (ix) .03, for a public transit district; ~~or~~

(x) .12, for a service area~~[-];~~ or

(xi) .05 for a municipal services district.

(b) Bonds or other obligations of a local district that are not general obligation bonds are not included in the limit stated in Subsection (4)(a).

(5) A district may not be considered to be a municipal corporation for purposes of the debt limitation of the Utah Constitution, Article XIV, Section 4.

(6) Bonds issued by an administrative or legal entity created under Title 11, Chapter 13, Interlocal Cooperation Act, may not be considered to be bonds of a local district that participates in the agreement creating the administrative or legal entity.

Section 105. Section 17B-2a-1102 is amended to read:

17B-2a-1102. Definitions.

As used in this part~~[-~~, "municipal":

(1) "Municipal services" means~~[-(1)]~~ one or more of the services identified in Section 17-34-1 ~~[or]~~, 17-36-3~~[-and]~~, or 17B-1-202.

~~[(2) any other municipal-type service provided in the district that is in the interest of the district.]~~

(2) "Metro township" means:

(a) a metro township for which the electors at an election under Section 10-2a-404 chose a metro township that is included in a municipal services district; or

(b) a metro township that subsequently joins a municipal services district.

Section 106. Section 17B-2a-1103 is amended to read:

17B-2a-1103. Limited to counties of the first class -- Provisions applicable to municipal services districts.

(1) (a) ~~[A]~~ Except as provided in Subsection (1)(b) and Section 17B-2a-1110, a municipal services district may be created only in unincorporated areas in a county of the first class.

(b) ~~[Notwithstanding Subsection (1)(a) and subject]~~ Subject to Subsection (1)(c), after the initial creation of a municipal services district, an area may be annexed into the municipal services district in accordance with Chapter 1, Part 4, Annexation, whether that area is unincorporated or incorporated.

(c) An area annexed under Subsection (1)(b) may not be located outside of the originating county of the first class.

(2) Each municipal services district is governed by the powers stated in:

(a) this part; and

(b) Chapter 1, Provisions Applicable to All Local Districts.

(3) This part applies only to a municipal services district.

(4) A municipal services district is not subject to the provisions of any other part of this chapter.

(5) If there is a conflict between a provision in Chapter 1, Provisions Applicable to All Local Districts, and a provision in this part, the provisions in this part govern.

Section 107. Section 17B-2a-1104 is amended to read:

17B-2a-1104. Additional municipal services district powers.

In addition to the powers conferred on a municipal services district under Section 17B-1-103, a municipal services district may:

(1) notwithstanding Subsection 17B-1-202(3), provide ~~[one or multiple]~~ no more than six municipal services; and

(2) issue bonds as provided in and subject to Chapter 1, Part 11, Local District Bonds, to carry out the purposes of the district.

Section 108. Section 17B-2a-1106 is amended to read:

17B-2a-1106. Municipal services district board of trustees -- Governance.

(1) Except as provided in Subsection (2), and notwithstanding any other provision of law regarding the membership of a local district board of trustees, the initial board of trustees of a municipal services district shall consist of the county legislative body.

(2) (a) Notwithstanding any provision of law regarding the membership of a local district board of trustees or the governance of a local district, and, except as provided in Subsection (3), if a municipal services district is created in a county of the first class with the county executive-council form of government, the initial governance of the municipal services district is as follows:

(i) subject to Subsection (2)(b), the county council is the municipal services district board of trustees; and

(ii) subject to Subsection (2)(c), the county executive is the executive of the municipal services district.

(b) Notwithstanding any other provision of law, the board of trustees of a municipal services district described in Subsection (2)(a) shall:

(i) act as the legislative body of the district; and

(ii) exercise legislative branch powers and responsibilities established for county legislative bodies in:

(A) Title 17, Counties; and

(B) an optional plan, as defined in Section 17-52-101, adopted for a county executive-council form of county government as described in Section 17-52-504.

(c) Notwithstanding any other provision of law, in a municipal services district described in Subsection (2)(a), the executive of the district shall:

(i) act as the executive of the district; and

(ii) exercise executive branch powers and responsibilities established for a county executive in:

(A) Title 17, Counties; and

(B) an optional plan, as defined in Section 17-52-101, adopted for a county executive-council form of county government as described in Section 17-52-504.

~~[(3) If, after the initial creation of a municipal services district, an area within the district is incorporated as a municipality and the area is not withdrawn from the district in accordance with Section 17B-1-502, or an area within a municipality is annexed into the municipal services district in accordance with Section 17B-2a-1103:]~~

~~[(a) the district's board of trustees shall include a member of that municipality's governing body; and]~~

~~[(b) the member described in Subsection (3)(a) shall be:]~~

~~[(i) designated by the municipality; and]~~

~~[(ii) a member with powers and duties of other board of trustees members as described in Subsection (2)(b).]~~

(3) (a) If, after the initial creation of a municipal services district, an area within the district is incorporated as a municipality as defined in Section 10-1-104 and the area is not withdrawn from the district in accordance with Section 17B-1-502 or 17B-1-505, or an area within the municipality is annexed into the municipal services district in accordance with Section 17B-2a-1103, the district's board of trustees shall be as follows:

(i) subject to Subsection (3)(b), a member of that municipality's governing body;

(ii) subject to Subsection (4), two members of the county council of the county in which the municipal services district is located; and

(iii) the total number of board members shall be an odd number.

(b) A member described in Subsection (3)(a)(i) shall be:

(i) for a municipality other than a metro township, designated by the municipal legislative body; and

(ii) for a metro township, the chair of the metro township.

(c) A member of the board of trustees has the powers and duties described in Subsection (2)(b).

(d) The county executive is the executive and has the powers and duties as described in Subsection (2)(c).

(4) (a) The number of county council members may be increased or decreased to meet the

membership requirements of Subsection (3)(a)(iii) but may not be less than one.

(b) The number of county council members described in Subsection (3)(a)(ii) does not include the county mayor.

(5) For a board of trustees described in Subsection (3), each board member's vote is weighted using the proportion of the municipal services district population that resides:

(a) for each member described in Subsection (3)(a)(i), within that member's municipality; and

(b) for each member described in Subsection (3)(a)(ii), within the unincorporated county, with the members' weighted vote divided evenly if there is more than one member on the board described in Subsection (3)(a)(ii).

[4] (6) The board may adopt a resolution providing for future board members to be appointed, as provided in Section 17B-1-304, or elected, as provided in Section 17B-1-306.

[4] (7) (a) Notwithstanding Subsections 17B-1-309(1) or 17B-1-310(1), the board of trustees may adopt a resolution to determine the internal governance of the board.

(b) A resolution adopted under Subsection [4] (7)(a) may not alter or impair the board of trustees' duties, powers, or responsibilities described in Subsection (2)(b) or the executive's duties, powers, or responsibilities described in Subsection (2)(c).

Section 109. Section 17B-2a-1107 is amended to read:

17B-2a-1107. Exclusion of rural real property.

(1) As used in this section, "rural real property" means an area:

(a) zoned primarily for manufacturing, commercial, or agricultural purposes; and

(b) that does not include residential units with a density greater than one unit per acre.

(2) Unless an owner gives written consent, rural real property may not be included in a municipal services district if the rural real property:

(a) consists of 1,500 or more contiguous acres of rural real property consisting of one or more tax parcels;

(b) is not contiguous to but is used in connection with rural real property that consists of 1,500 acres or more contiguous acres of real property consisting of one or more tax parcels;

(c) is owned, managed, or controlled by a person, company, or association, including a parent, subsidiary, or affiliate related to the owner of 1,500 or more contiguous acres of rural real property consisting of one or more tax parcels; or

(d) is located in whole or in part in one of the following as defined in Section 17-41-101:

(i) an agricultural protection area;

(ii) a mining protection area; or

(iii) an industrial protection area.

(3) (a) Subject to Subsection (3)(b), an owner of rural real property may withdraw consent to inclusion in a municipal services district at any time.

(b) An owner may withdraw consent by submitting a written and signed request to the municipal services district board of trustees that:

(i) identifies and describes the rural real property to be withdrawn; and

(ii) requests that the rural real property be withdrawn.

(c) (i) No later than 30 days after the day on which the municipal services district board of trustees receives a request that complies with Subsection (3)(b), the board shall adopt a resolution withdrawing the rural real property as identified and described in the request.

(ii) The rural real property is withdrawn from and no longer in the jurisdiction of the municipal services district upon adoption of the resolution.

Section 110. Section 17B-2a-1110 is enacted to read:

17B-2a-1110. Withdrawal from a municipal services district upon incorporation -- Feasibility study required for city or town withdrawal -- Public hearing -- Revenues transferred to municipal services district.

(1) A municipality may withdraw from a municipal services district in accordance with Section 17B-1-502 or 17B-1-505, as applicable, and the requirements of this section.

(b) If a municipality engages a feasibility consultant to conduct a feasibility study under Subsection (2)(a), the 180 days described in Subsection 17B-1-502(3)(a)(iii)(A) is tolled from the day that the municipality engages the feasibility consultant to the day on which the municipality holds the final public hearing under Subsection (5).

(2) (a) If a municipality decides to withdraw from a municipal services district, the municipal legislative body shall, before adopting a resolution under Section 17B-1-502 or 17B-1-505, as applicable, engage a feasibility consultant to conduct a feasibility study.

(b) The feasibility consultant shall be chosen:

(i) by the municipal legislative body; and

(ii) in accordance with applicable municipal procurement procedures.

(3) The municipal legislative body shall require the feasibility consultant to:

(a) complete the feasibility study and submit the written results to the municipal legislative body before the council adopts a resolution under Section 17B-1-502;

(b) submit with the full written results of the feasibility study a summary of the results no longer than one page in length; and

(c) attend the public hearings under Subsection (5).

(4) (a) The feasibility study shall consider:

(i) population and population density within the withdrawing municipality;

(ii) current and five-year projections of demographics and economic base in the withdrawing municipality, including household size and income, commercial and industrial development, and public facilities;

(iii) projected growth in the withdrawing municipality during the next five years;

(iv) subject to Subsection (4)(b), the present and five-year projections of the cost, including overhead, of municipal services in the withdrawing municipality;

(v) assuming the same tax categories and tax rates as currently imposed by the municipal services district and all other current service providers, the present and five-year projected revenue for the withdrawing municipality;

(vi) a projection of any new taxes per household that may be levied within the withdrawing municipality within five years of the withdrawal; and

(vii) the fiscal impact on other municipalities serviced by the municipal services district.

(b) (i) For purposes of Subsection (4)(a)(iv), the feasibility consultant shall assume a level and quality of municipal services to be provided to the withdrawing municipality in the future that fairly and reasonably approximates the level and quality of municipal services being provided to the withdrawing municipality at the time of the feasibility study.

(ii) In determining the present cost of a municipal service, the feasibility consultant shall consider:

(A) the amount it would cost the withdrawing municipality to provide municipal services for the first five years after withdrawing; and

(B) the municipal services district's present and five-year projected cost of providing municipal services.

(iii) The costs calculated under Subsection (4)(a)(iv) shall take into account inflation and anticipated growth.

(5) If the results of the feasibility study meet the requirements of Subsection (4), the municipal legislative body shall, at its next regular meeting after receipt of the results of the feasibility study, schedule at least one public hearing to be held:

(a) within the following 60 days; and

(b) for the purpose of allowing:

(i) the feasibility consultant to present the results of the study; and

(ii) the public to become informed about the feasibility study results, including the requirement that if the municipality withdraws from the municipal services district, the municipality must comply with Subsection (9), and to ask questions about those results of the feasibility consultant.

(6) At a public hearing described in Subsection (5), the municipal legislative body shall:

(a) provide a copy of the feasibility study for public review; and

(b) allow the public to express its views about the proposed withdrawal from the municipal services district.

(7) (a) (i) The municipal clerk or recorder shall publish notice of the public hearings required under Subsection (5):

(A) at least once a week for three successive weeks in a newspaper of general circulation within the municipality; and

(B) on the Utah Public Notice Website created in Section 63F-1-701, for three weeks.

(ii) The municipal clerk or recorder shall publish the last publication of notice required under Subsection (7)(a)(i)(A) at least three days before the first public hearing required under Subsection (5).

(b) (i) If, under Subsection (7)(a)(i)(A), there is no newspaper of general circulation within the proposed municipality, the municipal clerk or recorder shall post at least one notice of the hearings per 1,000 population in conspicuous places within the municipality that are most likely to give notice of the hearings to the residents.

(ii) The municipal clerk or recorder shall post the notices under Subsection (7)(b)(i) at least seven days before the first hearing under Subsection (5).

(c) The notice under Subsections (7)(a) and (b) shall include the feasibility study summary and shall indicate that a full copy of the study is available for inspection and copying at the office of the municipal clerk or recorder.

(8) At a public meeting held after the public hearing required under Subsection (5), the municipal legislative body may adopt a resolution under Section 17B-1-502 or 17B-1-505, as applicable, if the municipality is in compliance with the other requirements of that section.

(9) The municipality shall pay revenues in excess of 5% to the municipal services district for 10 years beginning on the next fiscal year immediately following the municipal legislative body adoption of a resolution or an ordinance to withdraw under Section 17B-1-502 or 17B-1-505 if the results of the feasibility study show that the average annual amount of revenue under Subsection (4)(a)(v) exceed the average annual amount of cost under Subsection (4)(a)(iv) by more than 5%.

Section 111. Section 17B-2a-1111 is enacted to read:

17B-2a-1111. Withdrawal of a municipality that changes form of government.

If a municipality after the 180-day period described in Subsection 17B-1-502(3)(a)(iii)(A) changes form of government in accordance with Title 10, Chapter 2b, Part 6, Changing to Another Form of Municipal Government, the municipality under the new form of government may withdraw from a municipal services district only in accordance with the provisions of Section 17B-1-505.

Section 112. Section 17B-2a-1112 is enacted to read:

17B-2a-1112. Audit.

The board of trustees shall provide a copy of an accounting report, as defined in Section 51-2a-102, to each political subdivision that is provided municipal services by the municipal services district that is filed with the state auditor on behalf of the municipal services district in accordance with Section 51-2a-203.

Section 113. Section 20A-1-102 is amended to read:

20A-1-102. Definitions.

As used in this title:

(1) "Active voter" means a registered voter who has not been classified as an inactive voter by the county clerk.

(2) "Automatic tabulating equipment" means apparatus that automatically examines and counts votes recorded on paper ballots or ballot sheets and tabulates the results.

(3) (a) "Ballot" means the storage medium, whether paper, mechanical, or electronic, upon which a voter records the voter's votes.

(b) "Ballot" includes ballot sheets, paper ballots, electronic ballots, and secrecy envelopes.

(4) "Ballot label" means the cards, papers, booklet, pages, or other materials that:

(a) contain the names of offices and candidates and statements of ballot propositions to be voted on; and

(b) are used in conjunction with ballot sheets that do not display that information.

(5) "Ballot proposition" means a question, issue, or proposal that is submitted to voters on the ballot for their approval or rejection including:

(a) an opinion question specifically authorized by the Legislature;

(b) a constitutional amendment;

(c) an initiative;

(d) a referendum;

(e) a bond proposition;

(f) a judicial retention question;

(g) an incorporation of a city or town; or

(h) any other ballot question specifically authorized by the Legislature.

(6) "Ballot sheet":

(a) means a ballot that:

(i) consists of paper or a card where the voter's votes are marked or recorded; and

(ii) can be counted using automatic tabulating equipment; and

(b) includes punch card ballots and other ballots that are machine-countable.

(7) "Bind," "binding," or "bound" means securing more than one piece of paper together with a staple or stitch in at least three places across the top of the paper in the blank space reserved for securing the paper.

(8) "Board of canvassers" means the entities established by Sections 20A-4-301 and 20A-4-306 to canvass election returns.

(9) "Bond election" means an election held for the purpose of approving or rejecting the proposed issuance of bonds by a government entity.

(10) "Book voter registration form" means voter registration forms contained in a bound book that are used by election officers and registration agents to register persons to vote.

(11) "Business reply mail envelope" means an envelope that may be mailed free of charge by the sender.

(12) "By-mail voter registration form" means a voter registration form designed to be completed by the voter and mailed to the election officer.

(13) "Canvass" means the review of election returns and the official declaration of election results by the board of canvassers.

(14) "Canvassing judge" means a poll worker designated to assist in counting ballots at the canvass.

(15) "Contracting election officer" means an election officer who enters into a contract or interlocal agreement with a provider election officer.

(16) "Convention" means the political party convention at which party officers and delegates are selected.

(17) "Counting center" means one or more locations selected by the election officer in charge of the election for the automatic counting of ballots.

(18) "Counting judge" means a poll worker designated to count the ballots during election day.

(19) "Counting poll watcher" means a person selected as provided in Section 20A-3-201 to witness the counting of ballots.

(20) "Counting room" means a suitable and convenient private place or room, immediately adjoining the place where the election is being held, for use by the poll workers and counting judges to count ballots during election day.

(21) "County officers" means those county officers that are required by law to be elected.

(22) "Date of the election" or "election day" or "day of the election":

(a) means the day that is specified in the calendar year as the day that the election occurs; and

(b) does not include:

(i) deadlines established for absentee voting; or

(ii) any early voting or early voting period as provided under Chapter 3, Part 6, Early Voting.

(23) "Elected official" means:

(a) a person elected to an office under Section 20A-1-303;

(b) a person who is considered to be elected to a municipal office in accordance with Subsection 20A-1-206(1)(c)(ii); or

(c) a person who is considered to be elected to a local district office in accordance with Subsection 20A-1-206(3)(c)(ii).

(24) "Election" means a regular general election, a municipal general election, a statewide special election, a local special election, a regular primary election, a municipal primary election, and a local district election.

(25) "Election Assistance Commission" means the commission established by Public Law 107-252, the Help America Vote Act of 2002.

(26) "Election cycle" means the period beginning on the first day persons are eligible to file declarations of candidacy and ending when the canvass is completed.

(27) "Election judge" means a poll worker that is assigned to:

(a) preside over other poll workers at a polling place;

(b) act as the presiding election judge; or

(c) serve as a canvassing judge, counting judge, or receiving judge.

(28) "Election officer" means:

(a) the lieutenant governor, for all statewide ballots and elections;

(b) the county clerk for:

(i) a county ballot and election; and

(ii) a ballot and election as a provider election officer as provided in Section 20A-5-400.1 or 20A-5-400.5;

(c) the municipal clerk for:

(i) a municipal ballot and election; and

(ii) a ballot and election as a provider election officer as provided in Section 20A-5-400.1 or 20A-5-400.5;

(d) the local district clerk or chief executive officer for:

(i) a local district ballot and election; and

(ii) a ballot and election as a provider election officer as provided in Section 20A-5-400.1 or 20A-5-400.5; or

(e) the business administrator or superintendent of a school district for:

(i) a school district ballot and election; and

(ii) a ballot and election as a provider election officer as provided in Section 20A-5-400.1 or 20A-5-400.5.

(29) "Election official" means any election officer, election judge, or poll worker.

(30) "Election results" means:

(a) for an election other than a bond election, the count of votes cast in the election and the election returns requested by the board of canvassers; or

(b) for bond elections, the count of those votes cast for and against the bond proposition plus any or all of the election returns that the board of canvassers may request.

(31) "Election returns" includes the pollbook, the military and overseas absentee voter registration and voting certificates, one of the tally sheets, any unprocessed absentee ballots, all counted ballots, all excess ballots, all unused ballots, all spoiled ballots, the ballot disposition form, and the total votes cast form.

(32) "Electronic ballot" means a ballot that is recorded using a direct electronic voting device or other voting device that records and stores ballot information by electronic means.

(33) "Electronic signature" means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

(34) (a) "Electronic voting device" means a voting device that uses electronic ballots.

(b) "Electronic voting device" includes a direct recording electronic voting device.

(35) "Inactive voter" means a registered voter who has:

(a) been sent the notice required by Section 20A-2-306; and

(b) failed to respond to that notice.

(36) "Inspecting poll watcher" means a person selected as provided in this title to witness the receipt and safe deposit of voted and counted ballots.

(37) "Judicial office" means the office filled by any judicial officer.

(38) "Judicial officer" means any justice or judge of a court of record or any county court judge.

(39) "Local district" means a local government entity under Title 17B, Limited Purpose Local Government Entities - Local Districts, and includes a special service district under Title 17D, Chapter 1, Special Service District Act.

(40) "Local district officers" means those local district board members that are required by law to be elected.

(41) "Local election" means a regular county election, a regular municipal election, a municipal primary election, a local special election, a local district election, and a bond election.

(42) "Local political subdivision" means a county, a municipality, a local district, or a local school district.

(43) "Local special election" means a special election called by the governing body of a local political subdivision in which all registered voters of the local political subdivision may vote.

(44) "Municipal executive" means:

(a) the mayor in the council–mayor form of government defined in Section 10–3b–102; [øæ]

(b) the mayor in the council–manager form of government defined in Subsection 10–3b–103[~~(6)~~](7); or

(c) the chair of a metro township form of government defined in Section 10–3b–102.

(45) "Municipal general election" means the election held in municipalities and, as applicable, local districts on the first Tuesday after the first Monday in November of each odd–numbered year for the purposes established in Section 20A–1–202.

(46) "Municipal legislative body" means:

(a) the council of the city or town in any form of municipal government[-]; or

(b) the council of a metro township.

(47) "Municipal office" means an elective office in a municipality.

(48) "Municipal officers" means those municipal officers that are required by law to be elected.

(49) "Municipal primary election" means an election held to nominate candidates for municipal office.

(50) "Official ballot" means the ballots distributed by the election officer to the poll workers to be given to voters to record their votes.

(51) "Official endorsement" means:

(a) the information on the ballot that identifies:

(i) the ballot as an official ballot;

(ii) the date of the election; and

(iii) the facsimile signature of the election officer; and

(b) the information on the ballot stub that identifies:

(i) the poll worker's initials; and

(ii) the ballot number.

(52) "Official register" means the official record furnished to election officials by the election officer that contains the information required by Section 20A–5–401.

(53) "Paper ballot" means a paper that contains:

(a) the names of offices and candidates and statements of ballot propositions to be voted on; and

(b) spaces for the voter to record the voter's vote for each office and for or against each ballot proposition.

(54) "Pilot project" means the election day voter registration pilot project created in Section 20A–4–108.

(55) "Political party" means an organization of registered voters that has qualified to participate in an election by meeting the requirements of Chapter 8, Political Party Formation and Procedures.

(56) "Pollbook" means a record of the names of voters in the order that they appear to cast votes.

(57) "Polling place" means the building where voting is conducted.

(58) (a) "Poll worker" means a person assigned by an election official to assist with an election, voting, or counting votes.

(b) "Poll worker" includes election judges.

(c) "Poll worker" does not include a watcher.

(59) "Position" means a square, circle, rectangle, or other geometric shape on a ballot in which the voter marks the voter's choice.

(60) "Primary convention" means the political party conventions held during the year of the regular general election.

(61) "Protective counter" means a separate counter, which cannot be reset, that:

(a) is built into a voting machine; and

(b) records the total number of movements of the operating lever.

(62) "Provider election officer" means an election officer who enters into a contract or interlocal agreement with a contracting election officer to conduct an election for the contracting election officer's local political subdivision in accordance with Section 20A–5–400.1.

(63) "Provisional ballot" means a ballot voted provisionally by a person:

(a) whose name is not listed on the official register at the polling place;

(b) whose legal right to vote is challenged as provided in this title; or

(c) whose identity was not sufficiently established by a poll worker.

(64) "Provisional ballot envelope" means an envelope printed in the form required by Section 20A–6–105 that is used to identify provisional ballots and to provide information to verify a person's legal right to vote.

(65) "Qualify" or "qualified" means to take the oath of office and begin performing the duties of the position for which the person was elected.

(66) "Receiving judge" means the poll worker that checks the voter's name in the official register, provides the voter with a ballot, and removes the ballot stub from the ballot after the voter has voted.

(67) "Registration form" means a book voter registration form and a by-mail voter registration form.

(68) "Regular ballot" means a ballot that is not a provisional ballot.

(69) "Regular general election" means the election held throughout the state on the first Tuesday after the first Monday in November of each even-numbered year for the purposes established in Section 20A-1-201.

(70) "Regular primary election" means the election on the fourth Tuesday of June of each even-numbered year, to nominate candidates of political parties and candidates for nonpartisan local school board positions to advance to the regular general election.

(71) "Resident" means a person who resides within a specific voting precinct in Utah.

(72) "Sample ballot" means a mock ballot similar in form to the official ballot printed and distributed as provided in Section 20A-5-405.

(73) "Scratch vote" means to mark or punch the straight party ticket and then mark or punch the ballot for one or more candidates who are members of different political parties.

(74) "Secrecy envelope" means the envelope given to a voter along with the ballot into which the voter places the ballot after the voter has voted it in order to preserve the secrecy of the voter's vote.

(75) "Special election" means an election held as authorized by Section 20A-1-203.

(76) "Spoiled ballot" means each ballot that:

- (a) is spoiled by the voter;
- (b) is unable to be voted because it was spoiled by the printer or a poll worker; or
- (c) lacks the official endorsement.

(77) "Statewide special election" means a special election called by the governor or the Legislature in which all registered voters in Utah may vote.

(78) "Stub" means the detachable part of each ballot.

(79) "Substitute ballots" means replacement ballots provided by an election officer to the poll workers when the official ballots are lost or stolen.

(80) "Ticket" means each list of candidates for each political party or for each group of petitioners.

(81) "Transfer case" means the sealed box used to transport voted ballots to the counting center.

(82) "Vacancy" means the absence of a person to serve in any position created by statute, whether that absence occurs because of death, disability, disqualification, resignation, or other cause.

(83) "Valid voter identification" means:

(a) a form of identification that bears the name and photograph of the voter which may include:

- (i) a currently valid Utah driver license;
- (ii) a currently valid identification card that is issued by:

(A) the state; or
(B) a branch, department, or agency of the United States;

(iii) a currently valid Utah permit to carry a concealed weapon;

(iv) a currently valid United States passport; or

(v) a currently valid United States military identification card;

(b) one of the following identification cards, whether or not the card includes a photograph of the voter:

- (i) a valid tribal identification card;
- (ii) a Bureau of Indian Affairs card; or
- (iii) a tribal treaty card; or

(c) two forms of identification not listed under Subsection (83)(a) or (b) but that bear the name of the voter and provide evidence that the voter resides in the voting precinct, which may include:

(i) a current utility bill or a legible copy thereof, dated within the 90 days before the election;

(ii) a bank or other financial account statement, or a legible copy thereof;

(iii) a certified birth certificate;

(iv) a valid Social Security card;

(v) a check issued by the state or the federal government or a legible copy thereof;

(vi) a paycheck from the voter's employer, or a legible copy thereof;

(vii) a currently valid Utah hunting or fishing license;

(viii) certified naturalization documentation;

(ix) a currently valid license issued by an authorized agency of the United States;

(x) a certified copy of court records showing the voter's adoption or name change;

(xi) a valid Medicaid card, Medicare card, or Electronic Benefits Transfer Card;

(xii) a currently valid identification card issued by:

(A) a local government within the state;

(B) an employer for an employee; or

(C) a college, university, technical school, or professional school located within the state; or

(xiii) a current Utah vehicle registration.

(84) "Valid write-in candidate" means a candidate who has qualified as a write-in candidate

by following the procedures and requirements of this title.

(85) "Voter" means a person who:

(a) meets the requirements for voting in an election;

(b) meets the requirements of election registration;

(c) is registered to vote; and

(d) is listed in the official register book.

(86) "Voter registration deadline" means the registration deadline provided in Section 20A-2-102.5.

(87) "Voting area" means the area within six feet of the voting booths, voting machines, and ballot box.

(88) "Voting booth" means:

(a) the space or compartment within a polling place that is provided for the preparation of ballots, including the voting machine enclosure or curtain; or

(b) a voting device that is free standing.

(89) "Voting device" means:

(a) an apparatus in which ballot sheets are used in connection with a punch device for piercing the ballots by the voter;

(b) a device for marking the ballots with ink or another substance;

(c) an electronic voting device or other device used to make selections and cast a ballot electronically, or any component thereof;

(d) an automated voting system under Section 20A-5-302; or

(e) any other method for recording votes on ballots so that the ballot may be tabulated by means of automatic tabulating equipment.

(90) "Voting machine" means a machine designed for the sole purpose of recording and tabulating votes cast by voters at an election.

(91) "Voting poll watcher" means a person appointed as provided in this title to witness the distribution of ballots and the voting process.

(92) "Voting precinct" means the smallest voting unit established as provided by law within which qualified voters vote at one polling place.

(93) "Watcher" means a voting poll watcher, a counting poll watcher, an inspecting poll watcher, and a testing watcher.

(94) "Western States Presidential Primary" means the election established in Chapter 9, Part 8, Western States Presidential Primary.

(95) "Write-in ballot" means a ballot containing any write-in votes.

(96) "Write-in vote" means a vote cast for a person whose name is not printed on the ballot according to the procedures established in this title.

Section 114. Section 20A-1-201.5 is amended to read:

20A-1-201.5. Primary election dates.

(1) A regular primary election shall be held throughout the state on the fourth Tuesday of June of each even numbered year as provided in Section 20A-9-403, to nominate persons for:

(a) national, state, school board, and county offices[-]; and

(b) offices for a metro township, city, or town incorporated under Section 10-2a-404.

(2) A municipal primary election shall be held, if necessary, on the second Tuesday following the first Monday in August before the regular municipal election to nominate persons for municipal offices.

(3) If the Legislature makes an appropriation for a Western States Presidential Primary election, the Western States Presidential Primary election shall be held throughout the state on the first Tuesday in February in the year in which a presidential election will be held.

Section 115. Section 20A-1-203 is amended to read:

20A-1-203. Calling and purpose of special elections -- Two-thirds vote limitations.

(1) Statewide and local special elections may be held for any purpose authorized by law.

(2) (a) Statewide special elections shall be conducted using the procedure for regular general elections.

(b) Except as otherwise provided in this title, local special elections shall be conducted using the procedures for regular municipal elections.

(3) The governor may call a statewide special election by issuing an executive order that designates:

(a) the date for the statewide special election; and

(b) the purpose for the statewide special election.

(4) The Legislature may call a statewide special election by passing a joint or concurrent resolution that designates:

(a) the date for the statewide special election; and

(b) the purpose for the statewide special election.

(5) (a) The legislative body of a local political subdivision may call a local special election only for:

(i) a vote on a bond or debt issue;

(ii) a vote on a voted local levy authorized by Section 53A-16-110 or 53A-17a-133;

(iii) an initiative authorized by Chapter 7, Part 5, Local Initiatives - Procedures;

(iv) a referendum authorized by Chapter 7, Part 6, Local Referenda - Procedures;

(v) if required or authorized by federal law, a vote to determine whether or not Utah's legal boundaries should be changed;

(vi) a vote authorized or required by Title 59, Chapter 12, Sales and Use Tax Act;

(vii) a vote to elect members to school district boards for a new school district and a remaining school district, as defined in Section 53A-2-117, following the creation of a new school district under Section 53A-2-118.1;

(viii) an election of town officers of a newly incorporated town under Section ~~[10-2-128]~~ 10-2a-305;

(ix) an election of officers for a new city under Section ~~[10-2-116]~~ 10-2a-215;

(x) a vote on a municipality providing cable television services or public telecommunications services under Section 10-18-204;

(xi) a vote to create a new county under Section 17-3-1;

(xii) a vote on the creation of a study committee under Sections 17-52-202 and 17-52-203.5;

(xiii) a vote on a special property tax under Section 53A-16-110;

(xiv) a vote on the incorporation of a city in accordance with Section ~~[10-2-111]~~ 10-2a-210; ~~[or]~~

(xv) a vote on the incorporation of a town in accordance with Section ~~[10-2-127]~~ 10-2a-304; or

(xvi) a vote on incorporation or annexation as described in Section 10-2a-404.

(b) The legislative body of a local political subdivision may call a local special election by adopting an ordinance or resolution that designates:

(i) the date for the local special election as authorized by Section 20A-1-204; and

(ii) the purpose for the local special election.

(c) A local political subdivision may not call a local special election unless the ordinance or resolution calling a local special election under Subsection (5)(b) is adopted by a two-thirds majority of all members of the legislative body, if the local special election is for:

(i) a vote on a bond or debt issue as described in Subsection (5)(a)(i);

(ii) a vote on a voted leeway or levy program as described in Subsection (5)(a)(ii); or

(iii) a vote authorized or required for a sales tax issue as described in Subsection (5)(a)(vi).

Section 116. Section 20A-1-204 is amended to read:

20A-1-204. Date of special election -- Legal effect.

(1) (a) Except as provided by Subsection (1)(d), the governor, Legislature, or the legislative body of

a local political subdivision calling a statewide special election or local special election under Section 20A-1-203 shall schedule the special election to be held on:

(i) the fourth Tuesday in June;

(ii) the first Tuesday after the first Monday in November; or

(iii) for an election of town officers of a newly incorporated town under Section ~~[10-2-128]~~ 10-2a-305, on any date that complies with the requirements of that subsection.

(b) Except as provided in Subsection (1)(c), the governor, Legislature, or the legislative body of a local political subdivision calling a statewide special election or local special election under Section 20A-1-203 may not schedule a special election to be held on any other date.

(c) (i) Notwithstanding the requirements of Subsection (1)(b) or (1)(d), the legislative body of a local political subdivision may call a local special election on a date other than those specified in this section if the legislative body:

(A) determines and declares that there is a disaster, as defined in Section 53-2a-102, requiring that a special election be held on a date other than the ones authorized in statute;

(B) identifies specifically the nature of the disaster, as defined in Section 53-2a-102, and the reasons for holding the special election on that other date; and

(C) votes unanimously to hold the special election on that other date.

(ii) The legislative body of a local political subdivision may not call a local special election for the date established in Chapter 9, Part 8, Western States Presidential Primary, for Utah's Western States Presidential Primary.

(d) The legislative body of a local political subdivision may only call a special election for a ballot proposition related to a bond, debt, leeway, levy, or tax on the first Tuesday after the first Monday in November.

(e) Nothing in this section prohibits:

(i) the governor or Legislature from submitting a matter to the voters at the regular general election if authorized by law; or

(ii) a local government from submitting a matter to the voters at the regular municipal election if authorized by law.

(2) (a) Two or more entities shall comply with Subsection (2)(b) if those entities hold a special election within a county on the same day as:

(i) another special election;

(ii) a regular general election; or

(iii) a municipal general election.

(b) Entities described in Subsection (2)(a) shall, to the extent practicable, coordinate:

- (i) polling places;
- (ii) ballots;
- (iii) election officials; and
- (iv) other administrative and procedural matters connected with the election.

Section 117. Section 20A-11-101 is amended to read:

20A-11-101. Definitions.

As used in this chapter:

(1) "Address" means the number and street where an individual resides or where a reporting entity has its principal office.

(2) "Agent of a reporting entity" means:

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

(b) a person employed by a reporting entity in the reporting entity's capacity as a reporting entity;

(c) the personal campaign committee of a candidate or officeholder;

(d) a member of the personal campaign committee of a candidate or officeholder in the member's capacity as a member of the personal campaign committee of the candidate or officeholder; or

(e) a political consultant of a reporting entity.

(3) "Ballot proposition" includes initiatives, referenda, proposed constitutional amendments, and any other ballot propositions submitted to the voters that are authorized by the Utah Code Annotated 1953.

(4) "Candidate" means any person who:

(a) files a declaration of candidacy for a public office; or

(b) receives contributions, makes expenditures, or gives consent for any other person to receive contributions or make expenditures to bring about the person's nomination or election to a public office.

(5) "Chief election officer" means:

(a) the lieutenant governor for state office candidates, legislative office candidates, officeholders, political parties, political action committees, corporations, political issues committees, state school board candidates, judges, and labor organizations, as defined in Section 20A-11-1501; and

(b) the county clerk for local school board candidates.

(6) (a) "Contribution" means any of the following when done for political purposes:

(i) a gift, subscription, donation, loan, advance, or deposit of money or anything of value given to the filing entity;

(ii) an express, legally enforceable contract, promise, or agreement to make a gift, subscription, donation, unpaid or partially unpaid loan, advance, or deposit of money or anything of value to the filing entity;

(iii) any transfer of funds from another reporting entity to the filing entity;

(iv) compensation paid by any person or reporting entity other than the filing entity for personal services provided without charge to the filing entity;

(v) remuneration from:

(A) any organization or its directly affiliated organization that has a registered lobbyist; or

(B) any agency or subdivision of the state, including school districts;

(vi) a loan made by a candidate deposited to the candidate's own campaign; and

(vii) in-kind contributions.

(b) "Contribution" does not include:

(i) services provided by individuals volunteering a portion or all of their time on behalf of the filing entity if the services are provided without compensation by the filing entity or any other person;

(ii) money lent to the filing entity by a financial institution in the ordinary course of business; or

(iii) goods or services provided for the benefit of a candidate or political party at less than fair market value that are not authorized by or coordinated with the candidate or political party.

(7) "Coordinated with" means that goods or services provided for the benefit of a candidate or political party are provided:

(a) with the candidate's or political party's prior knowledge, if the candidate or political party does not object;

(b) by agreement with the candidate or political party;

(c) in coordination with the candidate or political party; or

(d) using official logos, slogans, and similar elements belonging to a candidate or political party.

(8) (a) "Corporation" means a domestic or foreign, profit or nonprofit, business organization that is registered as a corporation or is authorized to do business in a state and makes any expenditure from corporate funds for:

(i) the purpose of expressly advocating for political purposes; or

(ii) the purpose of expressly advocating the approval or the defeat of any ballot proposition.

(b) "Corporation" does not mean:

(i) a business organization's political action committee or political issues committee; or

(ii) a business entity organized as a partnership or a sole proprietorship.

(9) "County political party" means, for each registered political party, all of the persons within a single county who, under definitions established by the political party, are members of the registered political party.

(10) "County political party officer" means a person whose name is required to be submitted by a county political party to the lieutenant governor in accordance with Section 20A-8-402.

(11) "Detailed listing" means:

(a) for each contribution or public service assistance:

(i) the name and address of the individual or source making the contribution or public service assistance;

(ii) the amount or value of the contribution or public service assistance; and

(iii) the date the contribution or public service assistance was made; and

(b) for each expenditure:

(i) the amount of the expenditure;

(ii) the person or entity to whom it was disbursed;

(iii) the specific purpose, item, or service acquired by the expenditure; and

(iv) the date the expenditure was made.

(12) (a) "Donor" means a person that gives money, including a fee, due, or assessment for membership in the corporation, to a corporation without receiving full and adequate consideration for the money.

(b) "Donor" does not include a person that signs a statement that the corporation may not use the money for an expenditure or political issues expenditure.

(13) "Election" means each:

(a) regular general election;

(b) regular primary election; and

(c) special election at which candidates are eliminated and selected.

(14) "Electioneering communication" means a communication that:

(a) has at least a value of \$10,000;

(b) clearly identifies a candidate or judge; and

(c) is disseminated through the Internet, newspaper, magazine, outdoor advertising facility, direct mailing, broadcast, cable, or satellite provider within 45 days of the clearly identified candidate's or judge's election date.

(15) (a) "Expenditure" means any of the following made by a reporting entity or an agent of a reporting entity on behalf of the reporting entity:

(i) any disbursement from contributions, receipts, or from the separate bank account required by this chapter;

(ii) a purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of value made for political purposes;

(iii) an express, legally enforceable contract, promise, or agreement to make any purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of value for political purposes;

(iv) compensation paid by a filing entity for personal services rendered by a person without charge to a reporting entity;

(v) a transfer of funds between the filing entity and a candidate's personal campaign committee; or

(vi) goods or services provided by the filing entity to or for the benefit of another reporting entity for political purposes at less than fair market value.

(b) "Expenditure" does not include:

(i) services provided without compensation by individuals volunteering a portion or all of their time on behalf of a reporting entity;

(ii) money lent to a reporting entity by a financial institution in the ordinary course of business; or

(iii) anything listed in Subsection (15)(a) that is given by a reporting entity to candidates for office or officeholders in states other than Utah.

(16) "Federal office" means the office of president of the United States, United States Senator, or United States Representative.

(17) "Filing entity" means the reporting entity that is required to file a financial statement required by this chapter or Chapter 12, Part 2, Judicial Retention Elections.

(18) "Financial statement" includes any summary report, interim report, verified financial statement, or other statement disclosing contributions, expenditures, receipts, donations, or disbursements that is required by this chapter or Chapter 12, Part 2, Judicial Retention Elections.

(19) "Governing board" means the individual or group of individuals that determine the candidates and committees that will receive expenditures from a political action committee, political party, or corporation.

(20) "Incorporation" means the process established by Title 10, Chapter ~~[2-Part 1,]~~ 2a, Municipal Incorporation, by which a geographical area becomes legally recognized as a city ~~[or]~~ town, or metro township.

(21) "Incorporation election" means the election authorized by Section ~~[10-2-111 or 10-2-127]~~ 10-2a-210, 10-2a-304, or 10-2a-404.

(22) "Incorporation petition" means a petition authorized by Section ~~[10-2-109]~~ 10-2a-208 or ~~[10-2-125]~~ 10-2a-302.

(23) "Individual" means a natural person.

(24) "In-kind contribution" means anything of value, other than money, that is accepted by or coordinated with a filing entity.

(25) "Interim report" means a report identifying the contributions received and expenditures made since the last report.

(26) "Legislative office" means the office of state senator, state representative, speaker of the House of Representatives, president of the Senate, and the leader, whip, and assistant whip of any party caucus in either house of the Legislature.

(27) "Legislative office candidate" means a person who:

(a) files a declaration of candidacy for the office of state senator or state representative;

(b) declares oneself to be a candidate for, or actively campaigns for, the position of speaker of the House of Representatives, president of the Senate, or the leader, whip, and assistant whip of any party caucus in either house of the Legislature; or

(c) receives contributions, makes expenditures, or gives consent for any other person to receive contributions or make expenditures to bring about the person's nomination, election, or appointment to a legislative office.

(28) "Major political party" means either of the two registered political parties that have the greatest number of members elected to the two houses of the Legislature.

(29) "Officeholder" means a person who holds a public office.

(30) "Party committee" means any committee organized by or authorized by the governing board of a registered political party.

(31) "Person" means both natural and legal persons, including individuals, business organizations, personal campaign committees, party committees, political action committees, political issues committees, and labor organizations, as defined in Section 20A-11-1501.

(32) "Personal campaign committee" means the committee appointed by a candidate to act for the candidate as provided in this chapter.

(33) "Personal use expenditure" has the same meaning as provided under Section 20A-11-104.

(34) (a) "Political action committee" means an entity, or any group of individuals or entities within or outside this state, a major purpose of which is to:

(i) solicit or receive contributions from any other person, group, or entity for political purposes; or

(ii) make expenditures to expressly advocate for any person to refrain from voting or to vote for or against any candidate or person seeking election to a municipal or county office.

(b) "Political action committee" includes groups affiliated with a registered political party but not authorized or organized by the governing board of

the registered political party that receive contributions or makes expenditures for political purposes.

(c) "Political action committee" does not mean:

(i) a party committee;

(ii) any entity that provides goods or services to a candidate or committee in the regular course of its business at the same price that would be provided to the general public;

(iii) an individual;

(iv) individuals who are related and who make contributions from a joint checking account;

(v) a corporation, except a corporation a major purpose of which is to act as a political action committee; or

(vi) a personal campaign committee.

(35) (a) "Political consultant" means a person who is paid by a reporting entity, or paid by another person on behalf of and with the knowledge of the reporting entity, to provide political advice to the reporting entity.

(b) "Political consultant" includes a circumstance described in Subsection (35)(a), where the person:

(i) has already been paid, with money or other consideration;

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

(iii) understands that the person may, in the discretion of the reporting entity or another person on behalf of and with the knowledge of the reporting entity, be paid in the future, with money or other consideration.

(36) "Political convention" means a county or state political convention held by a registered political party to select candidates.

(37) (a) "Political issues committee" means an entity, or any group of individuals or entities within or outside this state, a major purpose of which is to:

(i) solicit or receive donations from any other person, group, or entity to assist in placing a ballot proposition on the ballot, assist in keeping a ballot proposition off the ballot, or to advocate that a voter refrain from voting or vote for or vote against any ballot proposition;

(ii) make expenditures to expressly advocate for any person to sign or refuse to sign a ballot proposition or incorporation petition or refrain from voting, vote for, or vote against any proposed ballot proposition or an incorporation in an incorporation election; or

(iii) make expenditures to assist in qualifying or placing a ballot proposition on the ballot or to assist in keeping a ballot proposition off the ballot.

(b) "Political issues committee" does not mean:

(i) a registered political party or a party committee;

(ii) any entity that provides goods or services to an individual or committee in the regular course of

its business at the same price that would be provided to the general public;

(iii) an individual;

(iv) individuals who are related and who make contributions from a joint checking account; or

(v) a corporation, except a corporation a major purpose of which is to act as a political issues committee.

(38) (a) "Political issues contribution" means any of the following:

(i) a gift, subscription, unpaid or partially unpaid loan, advance, or deposit of money or anything of value given to a political issues committee;

(ii) an express, legally enforceable contract, promise, or agreement to make a political issues donation to influence the approval or defeat of any ballot proposition;

(iii) any transfer of funds received by a political issues committee from a reporting entity;

(iv) compensation paid by another reporting entity for personal services rendered without charge to a political issues committee; and

(v) goods or services provided to or for the benefit of a political issues committee at less than fair market value.

(b) "Political issues contribution" does not include:

(i) services provided without compensation by individuals volunteering a portion or all of their time on behalf of a political issues committee; or

(ii) money lent to a political issues committee by a financial institution in the ordinary course of business.

(39) (a) "Political issues expenditure" means any of the following when made by a political issues committee or on behalf of a political issues committee by an agent of the reporting entity:

(i) any payment from political issues contributions made for the purpose of influencing the approval or the defeat of:

(A) a ballot proposition; or

(B) an incorporation petition or incorporation election;

(ii) a purchase, payment, distribution, loan, advance, deposit, or gift of money made for the express purpose of influencing the approval or the defeat of:

(A) a ballot proposition; or

(B) an incorporation petition or incorporation election;

(iii) an express, legally enforceable contract, promise, or agreement to make any political issues expenditure;

(iv) compensation paid by a reporting entity for personal services rendered by a person without charge to a political issues committee; or

(v) goods or services provided to or for the benefit of another reporting entity at less than fair market value.

(b) "Political issues expenditure" does not include:

(i) services provided without compensation by individuals volunteering a portion or all of their time on behalf of a political issues committee; or

(ii) money lent to a political issues committee by a financial institution in the ordinary course of business.

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

(41) (a) "Poll" means the survey of a person regarding the person's opinion or knowledge of an individual who has filed a declaration of candidacy for public office, or of a ballot proposition that has legally qualified for placement on the ballot, which is conducted in person or by telephone, facsimile, Internet, postal mail, or email.

(b) "Poll" does not include:

(i) a ballot; or

(ii) an interview of a focus group that is conducted, in person, by one individual, if:

(A) the focus group consists of more than three, and less than thirteen, individuals; and

(B) all individuals in the focus group are present during the interview.

(42) "Primary election" means any regular primary election held under the election laws.

[45] (43) "Publicly identified class of individuals" means a group of 50 or more individuals sharing a common occupation, interest, or association that contribute to a political action committee or political issues committee and whose names can be obtained by contacting the political action committee or political issues committee upon whose financial statement the individuals are listed.

[43] (44) "Public office" means the office of governor, lieutenant governor, state auditor, state treasurer, attorney general, state school board member, state senator, state representative, speaker of the House of Representatives, president of the Senate, and the leader, whip, and assistant whip of any party caucus in either house of the Legislature.

[44] (45) (a) "Public service assistance" means the following when given or provided to an officeholder to defray the costs of functioning in a public office or aid the officeholder to communicate with the officeholder's constituents:

(i) a gift, subscription, donation, unpaid or partially unpaid loan, advance, or deposit of money or anything of value to an officeholder; or

(ii) goods or services provided at less than fair market value to or for the benefit of the officeholder.

(b) "Public service assistance" does not include:

(i) anything provided by the state;

(ii) services provided without compensation by individuals volunteering a portion or all of their time on behalf of an officeholder;

(iii) money lent to an officeholder by a financial institution in the ordinary course of business;

(iv) news coverage or any publication by the news media; or

(v) any article, story, or other coverage as part of any regular publication of any organization unless substantially all the publication is devoted to information about the officeholder.

(46) "Receipts" means contributions and public service assistance.

(47) "Registered lobbyist" means a person registered under Title 36, Chapter 11, Lobbyist Disclosure and Regulation Act.

(48) "Registered political action committee" means any political action committee that is required by this chapter to file a statement of organization with the Office of the Lieutenant Governor.

(49) "Registered political issues committee" means any political issues committee that is required by this chapter to file a statement of organization with the Office of the Lieutenant Governor.

(50) "Registered political party" means an organization of voters that:

(a) participated in the last regular general election and polled a total vote equal to 2% or more of the total votes cast for all candidates for the United States House of Representatives for any of its candidates for any office; or

(b) has complied with the petition and organizing procedures of Chapter 8, Political Party Formation and Procedures.

(51) (a) "Remuneration" means a payment:

(i) made to a legislator for the period the Legislature is in session; and

(ii) that is approximately equivalent to an amount a legislator would have earned during the period the Legislature is in session in the legislator's ordinary course of business.

(b) "Remuneration" does not mean anything of economic value given to a legislator by:

(i) the legislator's primary employer in the ordinary course of business; or

(ii) a person or entity in the ordinary course of business:

(A) because of the legislator's ownership interest in the entity; or

(B) for services rendered by the legislator on behalf of the person or entity.

(52) "Reporting entity" means a candidate, a candidate's personal campaign committee, a judge, a judge's personal campaign committee, an officeholder, a party committee, a political action committee, a political issues committee, a corporation, or a labor organization, as defined in Section 20A-11-1501.

(53) "School board office" means the office of state school board.

(54) (a) "Source" means the person or entity that is the legal owner of the tangible or intangible asset that comprises the contribution.

(b) "Source" means, for political action committees and corporations, the political action committee and the corporation as entities, not the contributors to the political action committee or the owners or shareholders of the corporation.

(55) "State office" means the offices of governor, lieutenant governor, attorney general, state auditor, and state treasurer.

(56) "State office candidate" means a person who:

(a) files a declaration of candidacy for a state office; or

(b) receives contributions, makes expenditures, or gives consent for any other person to receive contributions or make expenditures to bring about the person's nomination, election, or appointment to a state office.

(57) "Summary report" means the year end report containing the summary of a reporting entity's contributions and expenditures.

(58) "Supervisory board" means the individual or group of individuals that allocate expenditures from a political issues committee.

Section 118. Section 53-2a-208 is amended to read:

53-2a-208. Local emergency -- Declarations.

(1) (a) A local emergency may be declared by proclamation of the chief executive officer of a municipality or county.

(b) A local emergency shall not be continued or renewed for a period in excess of 30 days except by or with the consent of the governing body of the municipality or county.

(c) Any order or proclamation declaring, continuing, or terminating a local emergency shall be filed promptly with the office of the clerk of the affected municipality or county.

(2) A declaration of a local emergency:

(a) constitutes an official recognition that a disaster situation exists within the affected municipality or county;

(b) provides a legal basis for requesting and obtaining mutual aid or disaster assistance from other political subdivisions or from the state or federal government;

(c) activates the response and recovery aspects of any and all applicable local disaster emergency plans; and

(d) authorizes the furnishing of aid and assistance in relation to the proclamation.

(3) A local emergency proclamation issued under this section shall state:

(a) the nature of the local emergency;

(b) the area or areas that are affected or threatened; and

(c) the conditions which caused the emergency.

(4) The emergency declaration process within the state shall be as follows:

(a) a city, town, or metro township shall declare to the county;

(b) a county shall declare to the state;

(c) the state shall declare to the federal government; and

(d) a tribe, as defined in Section 23-13-12.5, shall declare as determined under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. Sec. 5121 et seq.

(5) Nothing in this part affects:

(a) the governor's authority to declare a state of emergency under Section 53-2a-206; or

(b) the duties, requests, reimbursements, or other actions taken by a political subdivision participating in the state-wide mutual aid system pursuant to Title 53, Chapter 2a, Part 3, Statewide Mutual Aid Act.

Section 119. Section 53-2a-802 is amended to read:

53-2a-802. Definitions.

(1) (a) "Absent" means:

(i) not physically present or not able to be communicated with for 48 hours; or

(ii) for local government officers, as defined by local ordinances.

(b) "Absent" does not include a person who can be communicated with via telephone, radio, or telecommunications.

(2) "Department" means the Department of Administrative Services, the Department of Agriculture and Food, the Alcoholic Beverage Control Commission, the Department of Commerce, the Department of Heritage and Arts, the Department of Corrections, the Department of

Environmental Quality, the Department of Financial Institutions, the Department of Health, the Department of Human Resource Management, the Department of Workforce Services, the Labor Commission, the National Guard, the Department of Insurance, the Department of Natural Resources, the Department of Public Safety, the Public Service Commission, the Department of Human Services, the State Tax Commission, the Department of Technology Services, the Department of Transportation, any other major administrative subdivisions of state government, the State Board of Education, the State Board of Regents, the Utah Housing Corporation, the Workers' Compensation Fund, the State Retirement Board, and each institution of higher education within the system of higher education.

(3) "Division" means the Division of Emergency Management established in Title 53, Chapter 2a, Part 1, Emergency Management Act.

(4) "Emergency interim successor" means a person designated by this part to exercise the powers and discharge the duties of an office when the person legally exercising the powers and duties of the office is unavailable.

(5) "Executive director" means the person with ultimate responsibility for managing and overseeing the operations of each department, however denominated.

(6) (a) "Office" includes all state and local offices, the powers and duties of which are defined by constitution, statutes, charters, optional plans, ordinances, articles, or by-laws.

(b) "Office" does not include the office of governor or the legislative or judicial offices.

(7) "Place of governance" means the physical location where the powers of an office are being exercised.

(8) "Political subdivision" includes counties, cities, towns, metro townships, districts, authorities, and other public corporations and entities whether organized and existing under charter or general law.

(9) "Political subdivision officer" means a person holding an office in a political subdivision.

(10) "State officer" means the attorney general, the state treasurer, the state auditor, and the executive director of each department.

(11) "Unavailable" means:

(a) absent from the place of governance during a disaster that seriously disrupts normal governmental operations, whether or not that absence or inability would give rise to a vacancy under existing constitutional or statutory provisions; or

(b) as otherwise defined by local ordinance.

Section 120. Section 53A-2-402 is amended to read:

53A-2-402. Definitions.

As used in this part:

(1) "Eligible entity" means:

- (a) a city or town with a population density of 3,000 or more people per square mile; or
- (b) a county whose unincorporated area includes a qualifying [township] planning advisory area.

(2) "Purchase price" means the greater of:

- (a) an amount that is the average of:
 - (i) the appraised value of the surplus property, based on the predominant zone in the surrounding area, as indicated in an appraisal obtained by the eligible entity; and
 - (ii) the appraised value of the surplus property, based on the predominant zone in the surrounding area, as indicated in an appraisal obtained by the school district; and
- (b) the amount the school district paid to acquire the surplus property.

(3) "Qualifying [township] planning advisory area" means a [township] planning advisory area under Section 17-27a-306 that has a population density of 3,000 or more people per square mile within the boundaries of the [township] planning advisory area.

(4) "Surplus property" means land owned by a school district that:

- (a) was purchased with taxpayer money;
- (b) is located within a city or town that is an eligible entity or within a qualifying [township] planning advisory area;
- (c) consists of one contiguous tract at least three acres in size; and
- (d) has been declared by the school district to be surplus.

Section 121. Section 53B-21-107 is amended to read:

53B-21-107. Investment in bonds by private and public entities -- Approval as collateral security.

- (1) Any bank, savings and loan association, trust, or insurance company organized under the laws of this state or federal law may invest its capital and surplus in bonds issued under this chapter.
- (2) The officers having charge of a sinking fund or any county, city, metro township, town, [township], or school district may invest the sinking fund in bonds issued under this chapter.
- (3) The bonds shall also be approved as collateral security for the deposit of any public funds and for the investment of trust funds.

Section 122. Section 59-12-203 is amended to read:

59-12-203. County, city, town, or metro township may levy tax -- Contracts pursuant to Interlocal Cooperation Act.

[Any] (1) A county, city, [or] town, or metro township may [levy] impose a sales and use tax under this part. [Any]

(2) If a metro township imposes a tax under this part, the metro township is subject to the same requirements a city is required to meet under this part.

(3) (a) Except as provided in Subsection (3)(b) and notwithstanding any other provision of this part, if a metro township imposes a tax under this part, the State Tax Commission shall distribute the revenues collected from the tax to the metro township.

(b) The State Tax Commission shall transfer the revenues collected within a metro township under this part to a municipal services district created under Title 17B, Chapter 2a, Part 11, Municipal Services District Act, if the metro township:

- (i) provides written notice to the State Tax Commission requesting the transfer; and
- (ii) designates the municipal services district to which the metro township requests the State Tax Commission to transfer the revenues.

(4) A county, city, [or] town [which elects to levy such], or metro township that imposes a sales and use tax under this part may:

- (a) enter into agreements authorized by Title 11, Chapter 13, [the] Interlocal Cooperation Act[;]; and [may]
- (b) use any or all of the [revenues derived from the imposition of such] revenue collected from the tax for the mutual benefit of local governments [which] that elect to contract with one another pursuant to [the] Title 11, Chapter 13, Interlocal Cooperation Act.

Section 123. Section 63I-2-210 is amended to read:

63I-2-210. Repeal dates -- Title 10.

- (1) Section [10-2-130] 10-2a-105 is repealed July 1, 2016.
- (2) Subsection 10-9a-305(2) is repealed July 1, 2013.

Section 124. Section 67-1a-2 is amended to read:

67-1a-2. Duties enumerated.

- (1) The lieutenant governor shall:
 - (a) perform duties delegated by the governor, including assignments to serve in any of the following capacities:
 - (i) as the head of any one department, if so qualified, with the consent of the Senate, and, upon appointment at the pleasure of the governor and without additional compensation;
 - (ii) as the chairperson of any cabinet group organized by the governor or authorized by law for the purpose of advising the governor or coordinating intergovernmental or interdepartmental policies or programs;

(iii) as liaison between the governor and the state Legislature to coordinate and facilitate the governor's programs and budget requests;

(iv) as liaison between the governor and other officials of local, state, federal, and international governments or any other political entities to coordinate, facilitate, and protect the interests of the state;

(v) as personal advisor to the governor, including advice on policies, programs, administrative and personnel matters, and fiscal or budgetary matters; and

(vi) as chairperson or member of any temporary or permanent boards, councils, commissions, committees, task forces, or other group appointed by the governor;

(b) serve on all boards and commissions in lieu of the governor, whenever so designated by the governor;

(c) serve as the chief election officer of the state as required by Subsection (2);

(d) keep custody of the Great Seal of Utah;

(e) keep a register of, and attest, the official acts of the governor;

(f) affix the Great Seal, with an attestation, to all official documents and instruments to which the official signature of the governor is required; and

(g) furnish a certified copy of all or any part of any law, record, or other instrument filed, deposited, or recorded in the office of the lieutenant governor to any person who requests it and pays the fee.

(2) (a) As the chief election officer, the lieutenant governor shall:

(i) exercise general supervisory authority over all elections;

(ii) exercise direct authority over the conduct of elections for federal, state, and multicounty officers and statewide or multicounty ballot propositions and any recounts involving those races;

(iii) assist county clerks in unifying the election ballot;

(iv) (A) prepare election information for the public as required by statute and as determined appropriate by the lieutenant governor; and

(B) make the information under Subsection (2)(a)(iv)(A) available to the public and to news media on the Internet and in other forms as required by statute or as determined appropriate by the lieutenant governor;

(v) receive and answer election questions and maintain an election file on opinions received from the attorney general;

(vi) maintain a current list of registered political parties as defined in Section 20A-8-101;

(vii) maintain election returns and statistics;

(viii) certify to the governor the names of those persons who have received the highest number of votes for any office;

(ix) ensure that all voting equipment purchased by the state complies with the requirements of Subsection 20A-5-302(2) and Sections 20A-5-402.5 and 20A-5-402.7;

(x) conduct the study described in Section 67-1a-14;

(xi) during a declared emergency, to the extent that the lieutenant governor determines it warranted, designate, as provided in Section 20A-1-308, a different method, time, or location relating to:

(A) voting on election day;

(B) early voting;

(C) the transmittal or voting of an absentee ballot or military-overseas ballot;

(D) the counting of an absentee ballot or military-overseas ballot; or

(E) the canvassing of election returns; and

(xii) perform other election duties as provided in Title 20A, Election Code.

(b) As chief election officer, the lieutenant governor may not assume the responsibilities assigned to the county clerks, city recorders, town clerks, or other local election officials by Title 20A, Election Code.

(3) (a) The lieutenant governor shall:

(i) (A) determine a new city's classification under Section 10-2-301 upon the city's incorporation under Title 10, Chapter [2, Part 1, Incorporation,] 2a, Part 2, Incorporation of a City, based on the city's population using the population estimate from the Utah Population Estimates Committee; and

(B) (I) prepare a certificate indicating the class in which the new city belongs based on the city's population; and

(II) within 10 days after preparing the certificate, deliver a copy of the certificate to the city's legislative body;

(ii) (A) determine the classification under Section 10-2-301 of a consolidated municipality upon the consolidation of multiple municipalities under Title 10, Chapter 2, Part 6, Consolidation of Municipalities, using population information from:

(I) each official census or census estimate of the United States Bureau of the Census; or

(II) the population estimate from the Utah Population Estimates Committee, if the population of a municipality is not available from the United States Bureau of the Census; and

(B) (I) prepare a certificate indicating the class in which the consolidated municipality belongs based on the municipality's population; and

(II) within 10 days after preparing the certificate, deliver a copy of the certificate to the consolidated municipality's legislative body; [and]

(iii) (A) determine a new metro township's classification under Section 10-2-301.5 upon the metro township's incorporation under Title 10, Chapter 2a, Part 4, Incorporation of Metro Townships and Unincorporated Islands in a County of the First Class on and after May 12, 2015, based on the metro township's population using the population estimates from the Utah Population Estimates Committee; and

(B) prepare a certificate indicating the class in which the new metro township belongs based on the metro township's population and, within 10 days after preparing the certificate, deliver a copy of the certificate to the metro township's legislative body; and

~~[(iii)]~~ (iv) monitor the population of each municipality using population information from:

(A) each official census or census estimate of the United States Bureau of the Census; or

(B) the population estimate from the Utah Population Estimates Committee, if the population of a municipality is not available from the United States Bureau of the Census.

(b) If the applicable population figure under Subsection (3)(a)(ii) or ~~[(iii)]~~ (iv) indicates that a municipality's population has increased beyond the population for its current class, the lieutenant governor shall:

(i) prepare a certificate indicating the class in which the municipality belongs based on the increased population figure; and

(ii) within 10 days after preparing the certificate, deliver a copy of the certificate to the legislative body of the municipality whose class has changed.

(c) (i) If the applicable population figure under Subsection (3)(a)(ii) or ~~[(iii)]~~ (iv) indicates that a municipality's population has decreased below the population for its current class, the lieutenant governor shall send written notification of that fact to the municipality's legislative body.

(ii) Upon receipt of a petition under Subsection 10-2-302(2) from a municipality whose population has decreased below the population for its current class, the lieutenant governor shall:

(A) prepare a certificate indicating the class in which the municipality belongs based on the decreased population figure; and

(B) within 10 days after preparing the certificate, deliver a copy of the certificate to the legislative body of the municipality whose class has changed.

Section 125. Section 69-2-5 is amended to read:

69-2-5. Funding for 911 emergency service -- Administrative charge.

(1) In providing funding of 911 emergency service, any public agency establishing a 911 emergency service may:

(a) seek assistance from the federal or state government, to the extent constitutionally

permissible, in the form of loans, advances, grants, subsidies, and otherwise, directly or indirectly;

(b) seek funds appropriated by local governmental taxing authorities for the funding of public safety agencies; and

(c) seek gifts, donations, or grants from individuals, corporations, or other private entities.

(2) For purposes of providing funding of 911 emergency service, special service districts may raise funds as provided in Section 17D-1-105 and may borrow money and incur indebtedness as provided in Section 17D-1-103.

(3) (a) (i) Except as provided in Subsection (3)(b) and subject to the other provisions of this Subsection (3), a county, city, ~~or~~ town, or metro township within which 911 emergency service is provided may levy a monthly 911 emergency services charge on:

~~[(i)]~~ (A) each local exchange service switched access line within the boundaries of the county, city, ~~or~~ town, or metro township;

~~[(ii)]~~ (B) each revenue producing radio communications access line with a billing address within the boundaries of the county, city, ~~or~~ town, or metro township; and

~~[(iii)]~~ (C) any other service, including voice over Internet protocol, provided to a user within the boundaries of the county, city, ~~or~~ town, or metro township that allows the user to make calls to and receive calls from the public switched telecommunications network, including commercial mobile radio service networks.

(ii) If a metro township levies a charge under this chapter, the metro township is subject to the same requirements a city is required to meet under this chapter.

(iii) Except as provided in Subsection (3)(a)(iv) and notwithstanding any other provision of this chapter, if a metro township levies a charge described in Subsection (3)(a)(i) under this chapter, the State Tax Commission shall distribute the revenue collected from the charge to the metro township.

(iv) The State Tax Commission shall transfer the revenues collected within a metro township under this chapter to a municipal services district created under Title 17B, Chapter 2a, Part 11, Municipal Services District Act, if the metro township:

(A) provides written notice to the State Tax Commission requesting the transfer; and

(B) designates the municipal services district to which the metro township requests the State Tax Commission to transfer the revenues.

(b) Notwithstanding Subsection (3)(a), an access line provided for public coin telecommunications service is exempt from 911 emergency service charges.

(c) The amount of the charge levied under this section may not exceed:

(i) 61 cents per month for each local exchange service switched access line;

(ii) 61 cents per month for each radio communications access line; and

(iii) 61 cents per month for each service under Subsection (3)(a)(iii).

(d) (i) For purposes of this Subsection (3)(d) the following terms shall be defined as provided in Section 59-12-102 or 59-12-215:

- (A) "mobile telecommunications service";
- (B) "place of primary use";
- (C) "service address"; and
- (D) "telecommunications service."

(ii) An access line described in Subsection (3)(a) is considered to be within the boundaries of a county, city, or town if the telecommunications services provided over the access line are located within the county, city, or town:

(A) for purposes of sales and use taxes under Title 59, Chapter 12, Sales and Use Tax Act; and

(B) determined in accordance with Section 59-12-215.

(iii) The rate imposed on an access line under this section shall be determined in accordance with Subsection (3)(d)(iv) if the location of an access line described in Subsection (3)(a) is determined under Subsection (3)(d)(ii) to be a county, city, or town other than county, city, or town in which is located:

(A) for a telecommunications service, the purchaser's service address; or

(B) for mobile telecommunications service, the purchaser's place of primary use.

(iv) The rate imposed on an access line under this section shall be the lower of:

(A) the rate imposed by the county, city, or town in which the access line is located under Subsection (3)(d)(ii); or

(B) the rate imposed by the county, city, or town in which it is located:

(I) for telecommunications service, the purchaser's service address; or

(II) for mobile telecommunications service, the purchaser's place of primary use.

(e) (i) A county, city, or town shall notify the Public Service Commission of the intent to levy the charge under this Subsection (3) at least 30 days before the effective date of the charge being levied.

(ii) For purposes of this Subsection (3)(e):

(A) "Annexation" means an annexation to:

(I) a city or town under Title 10, Chapter 2, Part 4, Annexation; or

(II) a county under Title 17, Chapter 2, County Consolidations and Annexations.

(B) "Annexing area" means an area that is annexed into a county, city, or town.

(iii) (A) Except as provided in Subsection (3)(e)(iii)(C) or (D), if a county, city, or town enacts or repeals a charge or changes the amount of the charge under this section, the enactment, repeal, or change shall take effect:

(I) on the first day of a calendar quarter; and

(II) after a 90-day period beginning on the date the State Tax Commission receives notice meeting the requirements of Subsection (3)(e)(iii)(B) from the county, city, or town.

(B) The notice described in Subsection (3)(e)(iii)(A) shall state:

(I) that the county, city, or town will enact or repeal a charge or change the amount of the charge under this section;

(II) the statutory authority for the charge described in Subsection (3)(e)(iii)(B)(I);

(III) the effective date of the charge described in Subsection (3)(e)(iii)(B)(I); and

(IV) if the county, city, or town enacts the charge or changes the amount of the charge described in Subsection (3)(e)(iii)(B)(I), the amount of the charge.

(C) Notwithstanding Subsection (3)(e)(iii)(A), the enactment of a charge or a charge increase under this section shall take effect on the first day of the first billing period:

(I) that begins after the effective date of the enactment of the charge or the charge increase; and

(II) if the billing period for the charge begins before the effective date of the enactment of the charge or the charge increase imposed under this section.

(D) Notwithstanding Subsection (3)(e)(iii)(A), the repeal of a charge or a charge decrease under this section shall take effect on the first day of the last billing period:

(I) that began before the effective date of the repeal of the charge or the charge decrease; and

(II) if the billing period for the charge begins before the effective date of the repeal of the charge or the charge decrease imposed under this section.

(iv) (A) Except as provided in Subsection (3)(e)(iv)(C) or (D), if the annexation will result in the enactment, repeal, or a change in the amount of a charge imposed under this section for an annexing area, the enactment, repeal, or change shall take effect:

(I) on the first day of a calendar quarter; and

(II) after a 90-day period beginning on the date the State Tax Commission receives notice meeting the requirements of Subsection (3)(e)(iv)(B) from the county, city, or town that annexes the annexing area.

(B) The notice described in Subsection (3)(e)(iv)(A) shall state:

(I) that the annexation described in Subsection (3)(e)(iv)(A) will result in an enactment, repeal, or a

change in the charge being imposed under this section for the annexing area;

(II) the statutory authority for the charge described in Subsection (3)(e)(iv)(B)(I);

(III) the effective date of the charge described in Subsection (3)(e)(iv)(B)(I); and

(IV) if the county, city, or town enacts the charge or changes the amount of the charge described in Subsection (3)(e)(iv)(B)(I), the amount of the charge.

(C) Notwithstanding Subsection (3)(e)(iv)(A), the enactment of a charge or a charge increase under this section shall take effect on the first day of the first billing period:

(I) that begins after the effective date of the enactment of the charge or the charge increase; and

(II) if the billing period for the charge begins before the effective date of the enactment of the charge or the charge increase imposed under this section.

(D) Notwithstanding Subsection (3)(e)(iv)(A), the repeal of a charge or a charge decrease under this section shall take effect on the first day of the last billing period:

(I) that began before the effective date of the repeal of the charge or the charge decrease; and

(II) if the billing period for the charge begins before the effective date of the repeal of the charge or the charge decrease imposed under this section.

(f) Subject to Subsection (3)(g), a 911 emergency services charge levied under this section shall:

(i) be billed and collected by the person that provides the:

(A) local exchange service switched access line services; or

(B) radio communications access line services; and

(ii) except for costs retained under Subsection (3)(h), remitted to the State Tax Commission.

(g) A 911 emergency services charge on a mobile telecommunications service may be levied, billed, and collected only to the extent permitted by the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.

(h) The person that bills and collects the charges levied under Subsection (3)(f) may:

(i) bill the charge imposed by this section in combination with the charge levied under Section 69-2-5.6 as one line item charge; and

(ii) retain an amount not to exceed 1.5% of the levy collected under this section as reimbursement for the cost of billing, collecting, and remitting the levy.

(i) The State Tax Commission shall collect, enforce, and administer the charge imposed under this Subsection (3) using the same procedures used

in the administration, collection, and enforcement of the state sales and use taxes under:

(i) Title 59, Chapter 1, General Taxation Policies; and

(ii) Title 59, Chapter 12, Part 1, Tax Collection, except for:

(A) Section 59-12-104;

(B) Section 59-12-104.1;

(C) Section 59-12-104.2;

(D) Section 59-12-104.6;

(E) Section 59-12-107.1; and

(F) Section 59-12-123.

(j) The State Tax Commission shall transmit money collected under this Subsection (3) monthly by electronic funds transfer to the county, city, or town that imposes the charge.

(k) A person that pays a charge under this section shall pay the charge to the commission:

(i) monthly on or before the last day of the month immediately following the last day of the previous month if:

(A) the person is required to file a sales and use tax return with the commission monthly under Section 59-12-108; or

(B) the person is not required to file a sales and use tax return under Title 59, Chapter 12, Sales and Use Tax Act; or

(ii) quarterly on or before the last day of the month immediately following the last day of the previous quarter if the person is required to file a sales and use tax return with the commission quarterly under Section 59-12-107.

(l) A charge a person pays under this section shall be paid using a form prescribed by the State Tax Commission.

(m) The State Tax Commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenues the State Tax Commission collects from a charge under this section.

(n) A charge under this section is subject to Section 69-2-5.8.

(4) (a) Any money received by a public agency for the provision of 911 emergency service shall be deposited in a special emergency telecommunications service fund.

(b) (i) Except as provided in Subsection (5)(b), the money in the 911 emergency service fund shall be expended by the public agency to pay the costs of:

(A) establishing, installing, maintaining, and operating a 911 emergency service system;

(B) receiving and processing emergency communications from the 911 system or other communications or requests for emergency services;

(C) integrating a 911 emergency service system into an established public safety dispatch center, including contracting with the providers of local exchange service, radio communications service, and vendors of appropriate terminal equipment as necessary to implement the 911 emergency services; or

(D) indirect costs associated with the maintaining and operating of a 911 emergency services system.

(ii) Revenues derived for the funding of 911 emergency service may be used by the public agency for personnel costs associated with receiving and processing communications and deploying emergency response resources when the system is integrated with any public safety dispatch system.

(c) Any unexpended money in the 911 emergency service fund at the end of a fiscal year does not lapse, and must be carried forward to be used for the purposes described in this section.

(5) (a) Revenue received by a local entity from an increase in the levy imposed under Subsection (3) after the 2004 Annual General Session:

(i) may be used by the public safety answering point for the purposes under Subsection (4)(b); and

(ii) shall be deposited into the special 911 emergency service fund described in Subsection (4)(a).

(b) Revenue received by a local entity from disbursements from the Utah 911 Committee under Section 63H-7-306:

(i) shall be deposited into the special 911 emergency service fund under Subsection (4)(a); and

(ii) shall only be used for that portion of the costs related to the development and operation of wireless and land-based enhanced 911 emergency telecommunications service and the implementation of 911 services as provided in Subsection (5)(c).

(c) The costs allowed under Subsection (5)(b)(ii) include the public safety answering point's costs for:

(i) acquisition, upgrade, modification, maintenance, and operation of public service answering point equipment capable of receiving 911 information;

(ii) database development, operation, and maintenance; and

(iii) personnel costs associated with establishing, installing, maintaining, and operating wireless 911 services, including training emergency service personnel regarding receipt and use of 911 wireless service information and educating consumers regarding the appropriate and responsible use of 911 wireless service.

(6) A local entity that increases the levy it imposes under Subsection (3)(c) after the 2004 Annual General Session shall increase the levy to

the maximum amount permitted by Subsection (3)(c).

Section 126. Section 69-2-5.5 is amended to read:

69-2-5.5. Emergency services telecommunications charge to fund the Computer Aided Dispatch Restricted Account -- Administrative charge.

(1) Subject to Subsection (7), there is imposed an emergency services telecommunications charge of 6 cents per month on each local exchange service switched access line and each revenue producing radio communications access line that is subject to an emergency services telecommunications charge levied by a county, city, ~~or~~ town, or metro township under Section 69-2-5.

(2) (a) Subject to Subsection (7), an emergency services telecommunications charge imposed under this section shall be billed and collected by the person that provides:

(i) local exchange service switched access line services; or

(ii) radio communications access line services.

(b) A person that pays an emergency services telecommunications charge under this section shall pay the emergency services telecommunications charge to the commission:

(i) monthly on or before the last day of the month immediately following the last day of the previous month if:

(A) the person is required to file a sales and use tax return with the commission monthly under Section 59-12-108; or

(B) the person is not required to file a sales and use tax return under Title 59, Chapter 12, Sales and Use Tax Act; or

(ii) quarterly on or before the last day of the month immediately following the last day of the previous quarter if the person is required to file a sales and use tax return with the commission quarterly under Section 59-12-107.

(c) An emergency services telecommunications charge imposed under this section shall be deposited into the Computer Aided Dispatch Restricted Account created in Section 63H-7-310.

(3) Emergency services telecommunications charges remitted to the State Tax Commission pursuant to Subsection (2) shall be accompanied by the form prescribed by the State Tax Commission.

(4) (a) The State Tax Commission shall administer, collect, and enforce the charge imposed under Subsection (1) according to the same procedures used in the administration, collection, and enforcement of the state sales and use tax under:

(i) Title 59, Chapter 1, General Taxation Policies; and

(ii) Title 59, Chapter 12, Part 1, Tax Collection, except for:

- (A) Section 59-12-104;
- (B) Section 59-12-104.1;
- (C) Section 59-12-104.2;
- (D) Section 59-12-104.6;
- (E) Section 59-12-107.1; and
- (F) Section 59-12-123.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Tax Commission may make rules to administer, collect, and enforce the emergency services telecommunications charges imposed under this section.

(c) The State Tax Commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenues the State Tax Commission collects from an emergency services telecommunications charge under this section.

(d) A charge under this section is subject to Section 69-2-5.8.

(5) A provider of local exchange service switched access line services or radio communications access line services who fails to comply with this section is subject to penalties and interest as provided in Sections 59-1-401 and 59-1-402.

(6) An emergency services telecommunications charge under this section on a mobile telecommunications service may be imposed, billed, and collected only to the extent permitted by the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.

Section 127. Section 69-2-5.6 is amended to read:

69-2-5.6. 911 services charge to fund unified statewide 911 emergency service -- Administrative charge.

(1) Subject to Subsection 69-2-5(3)(g), there is imposed a unified statewide 911 emergency service charge of 9 cents per month on each local exchange service switched access line and each revenue producing radio communications access line that is subject to a 911 emergency services charge levied by a county, city, ~~or~~ town, or metro township under Section 69-2-5.

(2) (a) A 911 emergency services charge imposed under this section shall be:

- (i) subject to Subsection 69-2-5(3)(g); and
- (ii) billed and collected by the person that provides:
 - (A) local exchange service switched access line services;
 - (B) radio communications access line services; or
 - (C) service described in Subsection 69-2-5(3)(a)(~~iii~~)(i)(C).

(b) A person that pays a charge under this section shall pay the charge to the commission:

(i) monthly on or before the last day of the month immediately following the last day of the previous month if:

(A) the person is required to file a sales and use tax return with the commission monthly under Section 59-12-108; or

(B) the person is not required to file a sales and use tax return under Title 59, Chapter 12, Sales and Use Tax Act; or

(ii) quarterly on or before the last day of the month immediately following the last day of the previous quarter if the person is required to file a sales and use tax return with the commission quarterly under Section 59-12-107.

(c) A charge imposed under this section shall be deposited into the Unified Statewide 911 Emergency Service Account created by Section 63H-7-304.

(3) The person that bills and collects the charges levied by this section pursuant to Subsections (2)(b) and (c) may:

(a) bill the charge imposed by this section in combination with the charge levied under Section 69-2-5 as one line item charge; and

(b) retain an amount not to exceed 1.5% of the charges collected under this section as reimbursement for the cost of billing, collecting, and remitting the levy.

(4) The State Tax Commission shall collect, enforce, and administer the charges imposed under Subsection (1) using the same procedures used in the administration, collection, and enforcement of the emergency services telecommunications charge to fund the Computer Aided Dispatch Restricted Account under Section 63H-7-310.

(5) Notwithstanding Section 63H-7-304, the State Tax Commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenues the State Tax Commission collects from a charge under this section.

(6) A charge under this section is subject to Section 69-2-5.8.

(7) This section sunsets in accordance with Section 63I-1-269.

Section 128. Section 69-2-5.7 is amended to read:

69-2-5.7. Prepaid wireless telecommunications charge to fund 911 service -- Administrative charge.

(1) As used in this section:

(a) "Consumer" means a person who purchases prepaid wireless telecommunications service in a transaction.

(b) "Prepaid wireless 911 service charge" means the charge that is required to be collected by a seller

from a consumer in the amount established under Subsection (2).

(c) (i) "Prepaid wireless telecommunications service" means a wireless telecommunications service that:

(A) is paid for in advance;

(B) is sold in predetermined units of time or dollars that decline with use in a known amount or provides unlimited use of the service for a fixed amount or time; and

(C) allows a caller to access 911 emergency service.

(ii) "Prepaid wireless telecommunications service" does not include a wireless telecommunications service that is billed:

(A) to a customer on a recurring basis; and

(B) in a manner that includes the emergency services telecommunications charges, described in Sections 69-2-5, 69-2-5.5, and 69-2-5.6, for each radio communication access line assigned to the customer.

(d) "Seller" means a person that sells prepaid wireless telecommunications service to a consumer.

(e) "Transaction" means each purchase of prepaid wireless telecommunications service from a seller.

(f) "Wireless telecommunications service" means commercial mobile radio service as defined by 47 C.F.R. Sec. 20.3, as amended.

(2) There is imposed a prepaid wireless 911 service charge of 1.9% of the sales price per transaction.

(3) The prepaid wireless 911 service charge shall be collected by the seller from the consumer for each transaction occurring in this state.

(4) The prepaid wireless 911 service charge shall be separately stated on an invoice, receipt, or similar document that is provided by the seller to the consumer.

(5) For purposes of Subsection (3), the location of a transaction is determined in accordance with Sections 59-12-211 through 59-12-215.

(6) When prepaid wireless telecommunications service is sold with one or more other products or services for a single non-itemized price, then the percentage specified in Section (2) shall apply to the entire non-itemized price.

(7) A seller may retain 3% of prepaid wireless 911 service charges that are collected by the seller from consumers as reimbursement for the cost of billing, collecting, and remitting the charge.

(8) Prepaid wireless 911 service charges collected by a seller, except as retained under Subsection (7), shall be remitted to the State Tax Commission at the same time as the seller remits to the State Tax Commission money collected by the person under Title 59, Chapter 12, Sales and Use Tax Act.

(9) The State Tax Commission:

(a) shall collect, enforce, and administer the charge imposed under this section using the same procedures used in the administration, collection, and enforcement of the state sales and use taxes under:

(i) Title 59, Chapter 1, General Taxation Policies; and

(ii) Title 59, Chapter 12, Part 1, Tax Collection, except for:

(A) Section 59-12-104;

(B) Section 59-12-104.1;

(C) Section 59-12-104.2;

(D) Section 59-12-107.1; and

(E) Section 59-12-123;

(b) may retain up to 1.5% of the prepaid wireless 911 service charge revenue collected under Subsection (9)(a) as reimbursement for administering this section;

(c) shall distribute the prepaid wireless 911 service charge revenue, except as retained under Subsection (9)(b), as follows:

(i) 80.3% of the revenue shall be distributed to each county, city, [ø] town, or metro township in the same percentages and in the same manner as the entities receive money to fund 911 emergency telecommunications services under Section 69-2-5;

(ii) 7.9% of the revenue shall be distributed to fund the Computer Aided Dispatch Restricted Account created in Section 63H-7-310; and

(iii) 11.8% of the revenue shall be distributed to fund the unified statewide 911 emergency service as in Section 69-2-5.6; and

(d) may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to administer, collect, and enforce the charges imposed under this section.

(10) A charge under this section is subject to Section 69-2-5.8.

Section 129. Section 78A-7-202 is amended to read:

78A-7-202. Justice court judges to be appointed -- Procedure.

(1) As used in this section:

(a) "Local government executive" means:

(i) for a county:

(A) the chair of the county commission in a county operating under the county commission or expanded county commission form of county government;

(B) the county executive in a county operating under the county executive-council form of county government; and

(C) the county manager in a county operating under the council-manager form of county government; ~~and~~

(ii) for a city or town:

(A) the mayor of the city or town; or

(B) the city manager, in the council-manager form of government described in Subsection 10-3b-103~~(6)~~(7); and

(iii) for a metro township, the chair of the metro township council.

(b) "Local legislative body" means:

(i) for a county, the county commission or county council; and

(ii) for a city or town, the council of the city or town.

(2) There is created in each county a county justice court nominating commission to review applicants and make recommendations to the appointing authority for a justice court position. The commission shall be convened when a new justice court judge position is created or when a vacancy in an existing court occurs for a justice court located within the county.

(a) Membership of the justice court nominating commission shall be as follows:

(i) one member appointed by:

(A) the county commission if the county has a county commission form of government; or

(B) the county executive if the county has an executive-council form of government;

(ii) one member appointed by the municipalities in the counties as follows:

(A) if the county has only one municipality, appointment shall be made by the governing authority of that municipality; or

(B) if the county has more than one municipality, appointment shall be made by a municipal selection committee composed of the mayors of each municipality and the chairs of each metro township in the county;

(iii) one member appointed by the county bar association; and

(iv) two members appointed by the governing authority of the jurisdiction where the judicial office is located.

(b) If there is no county bar association, the member in Subsection (2)(a)(iii) shall be appointed by the regional bar association. If no regional bar association exists, the state bar association shall make the appointment.

(c) Members appointed under Subsections (2)(a)(i) and (ii) may not be the appointing authority or an elected official of a county or municipality.

(d) The nominating commission shall submit at least two names to the appointing authority of the

jurisdiction expected to be served by the judge. The local government executive shall appoint a judge from the list submitted and the appointment ratified by the local legislative body.

(e) The state court administrator shall provide staff to the commission. The Judicial Council shall establish rules and procedures for the conduct of the commission.

(3) Judicial vacancies shall be advertised in a newspaper of general circulation, through the Utah State Bar, and other appropriate means.

(4) Selection of candidates shall be based on compliance with the requirements for office and competence to serve as a judge.

(5) Once selected, every prospective justice court judge shall attend an orientation seminar conducted under the direction of the Judicial Council. Upon completion of the orientation program, the Judicial Council shall certify the justice court judge as qualified to hold office.

(6) The selection of a person to fill the office of justice court judge is effective upon certification of the judge by the Judicial Council. A justice court judge may not perform judicial duties until certified by the Judicial Council.

Section 130. Repealer.

This bill repeals:

Section 10-2-408.5, Annexation of an area within a township -- Withdrawing the area from the township.

Section 10-3b-505, Ballot form.

Section 10-3b-506, Election of officers after a change in the form of government.

Section 10-3b-507, Effective date of change in the form of government.

Section 17-27a-307, Certain township planning and zoning board dissolved.

Section 131. Revisor instructions.

The Legislature intends that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, replace the language "this bill" in Subsection 10-2a-403(6)(a) to the bill's designated chapter and section number in the Laws of Utah.

Section 132. Coordinating S.B. 199 with H.B. 97 -- Technical renumbering -- Changing cross references.

If this S.B. 199 and H.B. 97, Election of Officials of New Municipality, both pass, it is the intent of the Legislature that the Office of Legislative Research and General Counsel in preparing the Utah Code database for publication:

(1) renumber Section 10-2-128.1 enacted in H.B. 97 to Section 10-2a-305.1, and change any internal references to that section;

(2) renumber Section 10-2-128.2 enacted in H.B. 97 to Section 10-2a-305.2, and change any internal references to that section;

- (3) change cross references in H.B. 97 from:
- (a) Section 10-2-116 to Section 10-2a-215;
 - (b) Section 10-2-127 to Section 10-2a-304; and
 - (c) Section 10-2-128.2 to Section 10-2a-305.2;
- and
- (4) change any internal cross reference affected by the renumbering..

Section 133. Coordinating S.B. 199 with H.B. 245 -- Technical renumbering -- Changing cross references.

If this S.B. 199 and H.B. 245, Incorporation Process for Cities and Towns, both pass, it is the intent of the Legislature that the Office of Legislative Research and General Counsel in preparing the Utah Code database for publication:

- (1) renumber Section 10-2-102.13 enacted in H.B. 245 to Section 10-2a-106, and change any internal references to that section;
- (2) renumber Section 10-2-131 enacted in H.B. 245 to Section 10-2a-307, and change any internal references to that section;
- (3) change cross references in H.B. 245 from Section 10-2-111 to Section 10-2a-210; and
- (4) renumber all internal cross references affected by the renumbering.

CHAPTER 353**S. B. 201**

Passed March 9, 2015

Approved March 30, 2015

Effective May 12, 2015

(Retrospective operation to July 1, 2012)

**SALES AND USE TAX
EXEMPTION REVISIONS**

Chief Sponsor: Howard A. Stephenson

House Sponsor: Brad R. Wilson

LONG TITLE**General Description:**

This bill amends a sales and use tax exemption.

Highlighted Provisions:

This bill:

- ▶ amends a sales and use tax exemption related to research activities; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides for retrospective operation.

Utah Code Sections Affected:**AMENDS:**

59-12-104, as last amended by Laws of Utah 2014, Chapters 24, 27, 122, 376, and 380

*Be it enacted by the Legislature of the state of Utah:***Section 1. Section 59-12-104 is amended to read:****59-12-104. Exemptions.**

Exemptions from the taxes imposed by this chapter are as follows:

(1) sales of aviation fuel, motor fuel, and special fuel subject to a Utah state excise tax under Chapter 13, Motor and Special Fuel Tax Act;

(2) subject to Section 59-12-104.6, sales to the state, its institutions, and its political subdivisions; however, this exemption does not apply to sales of:

(a) construction materials except:

(i) construction materials purchased by or on behalf of institutions of the public education system as defined in Utah Constitution Article X, Section 2, provided the construction materials are clearly identified and segregated and installed or converted to real property which is owned by institutions of the public education system; and

(ii) construction materials purchased by the state, its institutions, or its political subdivisions which are installed or converted to real property by employees of the state, its institutions, or its political subdivisions; or

(b) tangible personal property in connection with the construction, operation, maintenance, repair, or replacement of a project, as defined in Section

11-13-103, or facilities providing additional project capacity, as defined in Section 11-13-103;

(3) (a) sales of an item described in Subsection (3)(b) from a vending machine if:

(i) the proceeds of each sale do not exceed \$1; and

(ii) the seller or operator of the vending machine reports an amount equal to 150% of the cost of the item described in Subsection (3)(b) as goods consumed; and

(b) Subsection (3)(a) applies to:

(i) food and food ingredients; or

(ii) prepared food;

(4) (a) sales of the following to a commercial airline carrier for in-flight consumption:

(i) alcoholic beverages;

(ii) food and food ingredients; or

(iii) prepared food;

(b) sales of tangible personal property or a product transferred electronically:

(i) to a passenger;

(ii) by a commercial airline carrier; and

(iii) during a flight for in-flight consumption or in-flight use by the passenger; or

(c) services related to Subsection (4)(a) or (b);

(5) (a) (i) beginning on July 1, 2008, and ending on September 30, 2008, sales of parts and equipment:

(A) (I) by an establishment described in NAICS Code 336411 or 336412 of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; and

(II) for:

(Aa) installation in an aircraft, including services relating to the installation of parts or equipment in the aircraft;

(Bb) renovation of an aircraft; or

(Cc) repair of an aircraft; or

(B) for installation in an aircraft operated by a common carrier in interstate or foreign commerce; or

(ii) beginning on October 1, 2008, sales of parts and equipment for installation in an aircraft operated by a common carrier in interstate or foreign commerce; and

(b) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund, a person may claim the exemption allowed by Subsection (5)(a)(i)(B) for a sale by filing for a refund:

(i) if the sale is made on or after July 1, 2008, but on or before September 30, 2008;

(ii) as if Subsection (5)(a)(i)(B) were in effect on the day on which the sale is made;

(iii) if the person did not claim the exemption allowed by Subsection (5)(a)(i)(B) for the sale prior to filing for the refund;

(iv) for sales and use taxes paid under this chapter on the sale;

(v) in accordance with Section 59-1-1410; and

(vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if the person files for the refund on or before September 30, 2011;

(6) sales of commercials, motion picture films, prerecorded audio program tapes or records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture exhibitor, distributor, or commercial television or radio broadcaster;

(7) (a) subject to Subsection (7)(b), sales of cleaning or washing of tangible personal property if the cleaning or washing of the tangible personal property is not assisted cleaning or washing of tangible personal property;

(b) if a seller that sells at the same business location assisted cleaning or washing of tangible personal property and cleaning or washing of tangible personal property that is not assisted cleaning or washing of tangible personal property, the exemption described in Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning or washing of the tangible personal property; and

(c) for purposes of Subsection (7)(b) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules:

(i) governing the circumstances under which sales are at the same business location; and

(ii) establishing the procedures and requirements for a seller to separately account for sales of assisted cleaning or washing of tangible personal property;

(8) sales made to or by religious or charitable institutions in the conduct of their regular religious or charitable functions and activities, if the requirements of Section 59-12-104.1 are fulfilled;

(9) sales of a vehicle of a type required to be registered under the motor vehicle laws of this state if the vehicle is:

(a) not registered in this state; and

(b) (i) not used in this state; or

(ii) used in this state:

(A) if the vehicle is not used to conduct business, for a time period that does not exceed the longer of:

(I) 30 days in any calendar year; or

(II) the time period necessary to transport the vehicle to the borders of this state; or

(B) if the vehicle is used to conduct business, for the time period necessary to transport the vehicle to the borders of this state;

(10) (a) amounts paid for an item described in Subsection (10)(b) if:

(i) the item is intended for human use; and

(ii) (A) a prescription was issued for the item; or

(B) the item was purchased by a hospital or other medical facility; and

(b) (i) Subsection (10)(a) applies to:

(A) a drug;

(B) a syringe; or

(C) a stoma supply; and

(ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the terms:

(A) "syringe"; or

(B) "stoma supply";

(11) purchases or leases exempt under Section 19-12-201;

(12) (a) sales of an item described in Subsection (12)(c) served by:

(i) the following if the item described in Subsection (12)(c) is not available to the general public:

(A) a church; or

(B) a charitable institution;

(ii) an institution of higher education if:

(A) the item described in Subsection (12)(c) is not available to the general public; or

(B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan offered by the institution of higher education; or

(b) sales of an item described in Subsection (12)(c) provided for a patient by:

(i) a medical facility; or

(ii) a nursing facility; and

(c) Subsections (12)(a) and (b) apply to:

(i) food and food ingredients;

(ii) prepared food; or

(iii) alcoholic beverages;

(13) (a) except as provided in Subsection (13)(b), the sale of tangible personal property or a product transferred electronically by a person:

(i) regardless of the number of transactions involving the sale of that tangible personal property or product transferred electronically by that person; and

(ii) not regularly engaged in the business of selling that type of tangible personal property or product transferred electronically;

(b) this Subsection (13) does not apply if:

(i) the sale is one of a series of sales of a character to indicate that the person is regularly engaged in

the business of selling that type of tangible personal property or product transferred electronically;

(ii) the person holds that person out as regularly engaged in the business of selling that type of tangible personal property or product transferred electronically;

(iii) the person sells an item of tangible personal property or product transferred electronically that the person purchased as a sale that is exempt under Subsection (25); or

(iv) the sale is of a vehicle or vessel required to be titled or registered under the laws of this state in which case the tax is based upon:

(A) the bill of sale or other written evidence of value of the vehicle or vessel being sold; or

(B) in the absence of a bill of sale or other written evidence of value, the fair market value of the vehicle or vessel being sold at the time of the sale as determined by the commission; and

(c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules establishing the circumstances under which:

(i) a person is regularly engaged in the business of selling a type of tangible personal property or product transferred electronically;

(ii) a sale of tangible personal property or a product transferred electronically is one of a series of sales of a character to indicate that a person is regularly engaged in the business of selling that type of tangible personal property or product transferred electronically; or

(iii) a person holds that person out as regularly engaged in the business of selling a type of tangible personal property or product transferred electronically;

(14) (a) amounts paid or charged for a purchase or lease:

(i) by a manufacturing facility located in the state; and

(ii) of machinery, equipment, or normal operating repair or replacement parts if the machinery, equipment, or normal operating repair or replacement parts have an economic life of three or more years and are used:

(A) in the manufacturing process to manufacture an item sold as tangible personal property; or

(B) for a scrap recycler, to process an item sold as tangible personal property;

(b) amounts paid or charged for a purchase or lease:

(i) by an establishment:

(A) described in NAICS Subsector 212, Mining (except Oil and Gas), or NAICS Code 213113, Support Activities for Coal Mining, 213114, Support Activities for Metal Mining, or 213115, Support Activities for Nonmetallic Minerals (except

Fuels) Mining, of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; and

(B) located in the state; and

(ii) of machinery, equipment, or normal operating repair or replacement parts if the machinery, equipment, or normal operating repair or replacement parts have an economic life of three or more years and are used in:

(A) the production process to produce an item sold as tangible personal property;

(B) research and development;

(C) transporting, storing, or managing tailings, overburden, or similar waste materials produced from mining;

(D) developing or maintaining a road, tunnel, excavation, or similar feature used in mining; or

(E) preventing, controlling, or reducing dust or other pollutants from mining;

(c) amounts paid or charged for a purchase or lease:

(i) by an establishment:

(A) described in NAICS Code 518112, Web Search Portals, of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; and

(B) located in the state; and

(ii) of machinery, equipment, or normal operating repair or replacement parts if the machinery, equipment, or normal operating repair or replacement parts:

(A) are used in the operation of the web search portal; and

(B) have an economic life of three or more years;

(d) for purposes of this Subsection (14) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission:

(i) shall by rule define the term "establishment"; and

(ii) may by rule define what constitutes:

(A) processing an item sold as tangible personal property;

(B) the production process, to produce an item sold as tangible personal property; or

(C) research and development; and

(e) on or before October 1, 2016, and every five years after October 1, 2016, the commission shall:

(i) review the exemptions described in this Subsection (14) and make recommendations to the Revenue and Taxation Interim Committee concerning whether the exemptions should be continued, modified, or repealed; and

(ii) include in its report:

(A) an estimate of the cost of the exemptions;

(B) the purpose and effectiveness of the exemptions; and

(C) the benefits of the exemptions to the state;

(15) (a) sales of the following if the requirements of Subsection (15)(b) are met:

(i) tooling;

(ii) special tooling;

(iii) support equipment;

(iv) special test equipment; or

(v) parts used in the repairs or renovations of tooling or equipment described in Subsections (15)(a)(i) through (iv); and

(b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:

(i) the tooling, equipment, or parts are used or consumed exclusively in the performance of any aerospace or electronics industry contract with the United States government or any subcontract under that contract; and

(ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i), title to the tooling, equipment, or parts is vested in the United States government as evidenced by:

(A) a government identification tag placed on the tooling, equipment, or parts; or

(B) listing on a government-approved property record if placing a government identification tag on the tooling, equipment, or parts is impractical;

(16) sales of newspapers or newspaper subscriptions;

(17) (a) except as provided in Subsection (17)(b), tangible personal property or a product transferred electronically traded in as full or part payment of the purchase price, except that for purposes of calculating sales or use tax upon vehicles not sold by a vehicle dealer, trade-ins are limited to other vehicles only, and the tax is based upon:

(i) the bill of sale or other written evidence of value of the vehicle being sold and the vehicle being traded in; or

(ii) in the absence of a bill of sale or other written evidence of value, the then existing fair market value of the vehicle being sold and the vehicle being traded in, as determined by the commission; and

(b) Subsection (17)(a) does not apply to the following items of tangible personal property or products transferred electronically traded in as full or part payment of the purchase price:

(i) money;

(ii) electricity;

(iii) water;

(iv) gas; or

(v) steam;

(18) (a) (i) except as provided in Subsection (18)(b), sales of tangible personal property or a product transferred electronically used or consumed primarily and directly in farming operations, regardless of whether the tangible personal property or product transferred electronically:

(A) becomes part of real estate; or

(B) is installed by a:

(I) farmer;

(II) contractor; or

(III) subcontractor; or

(ii) sales of parts used in the repairs or renovations of tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically is exempt under Subsection (18)(a)(i); and

(b) amounts paid or charged for the following are subject to the taxes imposed by this chapter:

(i) (A) subject to Subsection (18)(b)(i)(B), the following if used in a manner that is incidental to farming:

(I) machinery;

(II) equipment;

(III) materials; or

(IV) supplies; and

(B) tangible personal property that is considered to be used in a manner that is incidental to farming includes:

(I) hand tools; or

(II) maintenance and janitorial equipment and supplies;

(ii) (A) subject to Subsection (18)(b)(ii)(B), tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically is used in an activity other than farming; and

(B) tangible personal property or a product transferred electronically that is considered to be used in an activity other than farming includes:

(I) office equipment and supplies; or

(II) equipment and supplies used in:

(Aa) the sale or distribution of farm products;

(Bb) research; or

(Cc) transportation; or

(iii) a vehicle required to be registered by the laws of this state during the period ending two years after the date of the vehicle's purchase;

(19) sales of hay;

(20) exclusive sale during the harvest season of seasonal crops, seedling plants, or garden, farm, or other agricultural produce if the seasonal crops are,

seedling plants are, or garden, farm, or other agricultural produce is sold by:

(a) the producer of the seasonal crops, seedling plants, or garden, farm, or other agricultural produce;

(b) an employee of the producer described in Subsection (20)(a); or

(c) a member of the immediate family of the producer described in Subsection (20)(a);

(21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;

(22) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags, nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor, wholesaler, or retailer for use in packaging tangible personal property to be sold by that manufacturer, processor, wholesaler, or retailer;

(23) a product stored in the state for resale;

(24) (a) purchases of a product if:

(i) the product is:

(A) purchased outside of this state;

(B) brought into this state:

(I) at any time after the purchase described in Subsection (24)(a)(i)(A); and

(II) by a nonresident person who is not living or working in this state at the time of the purchase;

(C) used for the personal use or enjoyment of the nonresident person described in Subsection (24)(a)(i)(B)(II) while that nonresident person is within the state; and

(D) not used in conducting business in this state; and

(ii) for:

(A) a product other than a boat described in Subsection (24)(a)(ii)(B), the first use of the product for a purpose for which the product is designed occurs outside of this state;

(B) a boat, the boat is registered outside of this state; or

(C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered outside of this state;

(b) the exemption provided for in Subsection (24)(a) does not apply to:

(i) a lease or rental of a product; or

(ii) a sale of a vehicle exempt under Subsection (33); and

(c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for purposes of Subsection (24)(a), the commission may by rule define what constitutes the following:

(i) conducting business in this state if that phrase has the same meaning in this Subsection (24) as in Subsection (63);

(ii) the first use of a product if that phrase has the same meaning in this Subsection (24) as in Subsection (63); or

(iii) a purpose for which a product is designed if that phrase has the same meaning in this Subsection (24) as in Subsection (63);

(25) a product purchased for resale in this state, in the regular course of business, either in its original form or as an ingredient or component part of a manufactured or compounded product;

(26) a product upon which a sales or use tax was paid to some other state, or one of its subdivisions, except that the state shall be paid any difference between the tax paid and the tax imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax Act;

(27) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a person for use in compounding a service taxable under the subsections;

(28) purchases made in accordance with the special supplemental nutrition program for women, infants, and children established in 42 U.S.C. Sec. 1786;

(29) sales or leases of rolls, rollers, refractory brick, electric motors, or other replacement parts used in the furnaces, mills, or ovens of a steel mill described in SIC Code 3312 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget;

(30) sales of a boat of a type required to be registered under Title 73, Chapter 18, State Boating Act, a boat trailer, or an outboard motor if the boat, boat trailer, or outboard motor is:

(a) not registered in this state; and

(b) (i) not used in this state; or

(ii) used in this state:

(A) if the boat, boat trailer, or outboard motor is not used to conduct business, for a time period that does not exceed the longer of:

(I) 30 days in any calendar year; or

(II) the time period necessary to transport the boat, boat trailer, or outboard motor to the borders of this state; or

(B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time period necessary to transport the boat, boat trailer, or outboard motor to the borders of this state;

(31) sales of aircraft manufactured in Utah;

(32) amounts paid for the purchase of telecommunications service for purposes of providing telecommunications service;

- (33) sales, leases, or uses of the following:
- (a) a vehicle by an authorized carrier; or
 - (b) tangible personal property that is installed on a vehicle:
 - (i) sold or leased to or used by an authorized carrier; and
 - (ii) before the vehicle is placed in service for the first time;
- (34) (a) 45% of the sales price of any new manufactured home; and
- (b) 100% of the sales price of any used manufactured home;
- (35) sales relating to schools and fundraising sales;
- (36) sales or rentals of durable medical equipment if:
- (a) a person presents a prescription for the durable medical equipment; and
 - (b) the durable medical equipment is used for home use only;
- (37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in Section 72-11-102; and
- (b) the commission shall by rule determine the method for calculating sales exempt under Subsection (37)(a) that are not separately metered and accounted for in utility billings;
- (38) sales to a ski resort of:
- (a) snowmaking equipment;
 - (b) ski slope grooming equipment;
 - (c) passenger ropeways as defined in Section 72-11-102; or
 - (d) parts used in the repairs or renovations of equipment or passenger ropeways described in Subsections (38)(a) through (c);
- (39) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;
- (40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for amusement, entertainment, or recreation an unassisted amusement device as defined in Section 59-12-102;
- (b) if a seller that sells or rents at the same business location the right to use or operate for amusement, entertainment, or recreation one or more unassisted amusement devices and one or more assisted amusement devices, the exemption described in Subsection (40)(a) applies if the seller separately accounts for the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for the assisted amusement devices; and
- (c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3, Utah

Administrative Rulemaking Act, the commission may make rules:

- (i) governing the circumstances under which sales are at the same business location; and
 - (ii) establishing the procedures and requirements for a seller to separately account for the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for assisted amusement devices;
- (41) (a) sales of photocopies by:
- (i) a governmental entity; or
 - (ii) an entity within the state system of public education, including:
 - (A) a school; or
 - (B) the State Board of Education; or
 - (b) sales of publications by a governmental entity;
- (42) amounts paid for admission to an athletic event at an institution of higher education that is subject to the provisions of Title IX of the Education Amendments of 1972, 20 U.S.C. Sec. 1681 et seq.;
- (43) (a) sales made to or by:
- (i) an area agency on aging; or
 - (ii) a senior citizen center owned by a county, city, or town; or
 - (b) sales made by a senior citizen center that contracts with an area agency on aging;
- (44) sales or leases of semiconductor fabricating, processing, research, or development materials regardless of whether the semiconductor fabricating, processing, research, or development materials:
- (a) actually come into contact with a semiconductor; or
 - (b) ultimately become incorporated into real property;
- (45) an amount paid by or charged to a purchaser for accommodations and services described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section 59-12-104.2;
- (46) beginning on September 1, 2001, the lease or use of a vehicle issued a temporary sports event registration certificate in accordance with Section 41-3-306 for the event period specified on the temporary sports event registration certificate;
- (47) (a) sales or uses of electricity, if the sales or uses are made under a tariff adopted by the Public Service Commission of Utah only for purchase of electricity produced from a new alternative energy source, as designated in the tariff by the Public Service Commission of Utah; and
- (b) the exemption under Subsection (47)(a) applies to the portion of the tariff rate a customer pays under the tariff described in Subsection (47)(a) that exceeds the tariff rate under the tariff described in Subsection (47)(a) that the customer would have paid absent the tariff;

(48) sales or rentals of mobility enhancing equipment if a person presents a prescription for the mobility enhancing equipment;

(49) sales of water in a:

- (a) pipe;
- (b) conduit;
- (c) ditch; or
- (d) reservoir;

(50) sales of currency or coins that constitute legal tender of a state, the United States, or a foreign nation;

(51) (a) sales of an item described in Subsection (51)(b) if the item:

(i) does not constitute legal tender of a state, the United States, or a foreign nation; and

(ii) has a gold, silver, or platinum content of 50% or more; and

(b) Subsection (51)(a) applies to a gold, silver, or platinum:

- (i) ingot;
- (ii) bar;
- (iii) medallion; or
- (iv) decorative coin;

(52) amounts paid on a sale-leaseback transaction;

(53) sales of a prosthetic device:

- (a) for use on or in a human; and
- (b) (i) for which a prescription is required; or

(ii) if the prosthetic device is purchased by a hospital or other medical facility;

(54) (a) except as provided in Subsection (54)(b), purchases, leases, or rentals of machinery or equipment by an establishment described in Subsection (54)(c) if the machinery or equipment is primarily used in the production or postproduction of the following media for commercial distribution:

- (i) a motion picture;
- (ii) a television program;
- (iii) a movie made for television;
- (iv) a music video;
- (v) a commercial;
- (vi) a documentary; or

(vii) a medium similar to Subsections (54)(a)(i) through (vi) as determined by the commission by administrative rule made in accordance with Subsection (54)(d); or

(b) purchases, leases, or rentals of machinery or equipment by an establishment described in Subsection (54)(c) that is used for the production or postproduction of the following are subject to the taxes imposed by this chapter:

(i) a live musical performance;

(ii) a live news program; or

(iii) a live sporting event;

(c) the following establishments listed in the 1997 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, apply to Subsections (54)(a) and (b):

(i) NAICS Code 512110; or

(ii) NAICS Code 51219; and

(d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule:

(i) prescribe what constitutes a medium similar to Subsections (54)(a)(i) through (vi); or

(ii) define:

(A) "commercial distribution";

(B) "live musical performance";

(C) "live news program"; or

(D) "live sporting event";

(55) (a) leases of seven or more years or purchases made on or after July 1, 2004, but on or before June 30, 2027, of tangible personal property that:

(i) is leased or purchased for or by a facility that:

(A) is an alternative energy electricity production facility;

(B) is located in the state; and

(C) (I) becomes operational on or after July 1, 2004; or

(II) has its generation capacity increased by one or more megawatts on or after July 1, 2004, as a result of the use of the tangible personal property;

(ii) has an economic life of five or more years; and

(iii) is used to make the facility or the increase in capacity of the facility described in Subsection (55)(a)(i) operational up to the point of interconnection with an existing transmission grid including:

(A) a wind turbine;

(B) generating equipment;

(C) a control and monitoring system;

(D) a power line;

(E) substation equipment;

(F) lighting;

(G) fencing;

(H) pipes; or

(I) other equipment used for locating a power line or pole; and

(b) this Subsection (55) does not apply to:

(i) tangible personal property used in construction of:

(A) a new alternative energy electricity production facility; or

(B) the increase in the capacity of an alternative energy electricity production facility;

(ii) contracted services required for construction and routine maintenance activities; and

(iii) unless the tangible personal property is used or acquired for an increase in capacity of the facility described in Subsection (55)(a)(i)(C)(II), tangible personal property used or acquired after:

(A) the alternative energy electricity production facility described in Subsection (55)(a)(i) is operational as described in Subsection (55)(a)(iii); or

(B) the increased capacity described in Subsection (55)(a)(i) is operational as described in Subsection (55)(a)(iii);

(56) (a) leases of seven or more years or purchases made on or after July 1, 2004, but on or before June 30, 2027, of tangible personal property that:

(i) is leased or purchased for or by a facility that:

(A) is a waste energy production facility;

(B) is located in the state; and

(C) (I) becomes operational on or after July 1, 2004; or

(II) has its generation capacity increased by one or more megawatts on or after July 1, 2004, as a result of the use of the tangible personal property;

(ii) has an economic life of five or more years; and

(iii) is used to make the facility or the increase in capacity of the facility described in Subsection (56)(a)(i) operational up to the point of interconnection with an existing transmission grid including:

(A) generating equipment;

(B) a control and monitoring system;

(C) a power line;

(D) substation equipment;

(E) lighting;

(F) fencing;

(G) pipes; or

(H) other equipment used for locating a power line or pole; and

(b) this Subsection (56) does not apply to:

(i) tangible personal property used in construction of:

(A) a new waste energy facility; or

(B) the increase in the capacity of a waste energy facility;

(ii) contracted services required for construction and routine maintenance activities; and

(iii) unless the tangible personal property is used or acquired for an increase in capacity described in Subsection (56)(a)(i)(C)(II), tangible personal property used or acquired after:

(A) the waste energy facility described in Subsection (56)(a)(i) is operational as described in Subsection (56)(a)(iii); or

(B) the increased capacity described in Subsection (56)(a)(i) is operational as described in Subsection (56)(a)(iii);

(57) (a) leases of five or more years or purchases made on or after July 1, 2004 but on or before June 30, 2027, of tangible personal property that:

(i) is leased or purchased for or by a facility that:

(A) is located in the state;

(B) produces fuel from alternative energy, including:

(I) methanol; or

(II) ethanol; and

(C) (I) becomes operational on or after July 1, 2004; or

(II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004, as a result of the installation of the tangible personal property;

(ii) has an economic life of five or more years; and

(iii) is installed on the facility described in Subsection (57)(a)(i);

(b) this Subsection (57) does not apply to:

(i) tangible personal property used in construction of:

(A) a new facility described in Subsection (57)(a)(i); or

(B) the increase in capacity of the facility described in Subsection (57)(a)(i); or

(ii) contracted services required for construction and routine maintenance activities; and

(iii) unless the tangible personal property is used or acquired for an increase in capacity described in Subsection (57)(a)(i)(C)(II), tangible personal property used or acquired after:

(A) the facility described in Subsection (57)(a)(i) is operational; or

(B) the increased capacity described in Subsection (57)(a)(i) is operational;

(58) (a) subject to Subsection (58)(b) or (c), sales of tangible personal property or a product transferred electronically to a person within this state if that tangible personal property or product transferred electronically is subsequently shipped outside the state and incorporated pursuant to contract into and becomes a part of real property located outside of this state;

(b) the exemption under Subsection (58)(a) is not allowed to the extent that the other state or political entity to which the tangible personal property is

shipped imposes a sales, use, gross receipts, or other similar transaction excise tax on the transaction against which the other state or political entity allows a credit for sales and use taxes imposed by this chapter; and

(c) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund, a person may claim the exemption allowed by this Subsection (58) for a sale by filing for a refund:

(i) if the sale is made on or after July 1, 2004, but on or before June 30, 2008;

(ii) as if this Subsection (58) as in effect on July 1, 2008, were in effect on the day on which the sale is made;

(iii) if the person did not claim the exemption allowed by this Subsection (58) for the sale prior to filing for the refund;

(iv) for sales and use taxes paid under this chapter on the sale;

(v) in accordance with Section 59-1-1410; and

(vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if the person files for the refund on or before June 30, 2011;

(59) purchases:

(a) of one or more of the following items in printed or electronic format:

(i) a list containing information that includes one or more:

(A) names; or

(B) addresses; or

(ii) a database containing information that includes one or more:

(A) names; or

(B) addresses; and

(b) used to send direct mail;

(60) redemptions or repurchases of a product by a person if that product was:

(a) delivered to a pawnbroker as part of a pawn transaction; and

(b) redeemed or repurchased within the time period established in a written agreement between the person and the pawnbroker for redeeming or repurchasing the product;

(61) (a) purchases or leases of an item described in Subsection (61)(b) if the item:

(i) is purchased or leased by, or on behalf of, a telecommunications service provider; and

(ii) has a useful economic life of one or more years; and

(b) the following apply to Subsection (61)(a):

(i) telecommunications enabling or facilitating equipment, machinery, or software;

(ii) telecommunications equipment, machinery, or software required for 911 service;

(iii) telecommunications maintenance or repair equipment, machinery, or software;

(iv) telecommunications switching or routing equipment, machinery, or software; or

(v) telecommunications transmission equipment, machinery, or software;

(62) (a) beginning on July 1, 2006, and ending on June 30, 2027, purchases of tangible personal property or a product transferred electronically that are used in the research and development of alternative energy technology; and

(b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may, for purposes of Subsection (62)(a), make rules defining what constitutes purchases of tangible personal property or a product transferred electronically that are used in the research and development of alternative energy technology;

(63) (a) purchases of tangible personal property or a product transferred electronically if:

(i) the tangible personal property or product transferred electronically is:

(A) purchased outside of this state;

(B) brought into this state at any time after the purchase described in Subsection (63)(a)(i)(A); and

(C) used in conducting business in this state; and

(ii) for:

(A) tangible personal property or a product transferred electronically other than the tangible personal property described in Subsection (63)(a)(ii)(B), the first use of the property for a purpose for which the property is designed occurs outside of this state; or

(B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered outside of this state;

(b) the exemption provided for in Subsection (63)(a) does not apply to:

(i) a lease or rental of tangible personal property or a product transferred electronically; or

(ii) a sale of a vehicle exempt under Subsection (33); and

(c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for purposes of Subsection (63)(a), the commission may by rule define what constitutes the following:

(i) conducting business in this state if that phrase has the same meaning in this Subsection (63) as in Subsection (24);

(ii) the first use of tangible personal property or a product transferred electronically if that phrase has the same meaning in this Subsection (63) as in Subsection (24); or

(iii) a purpose for which tangible personal property or a product transferred electronically is

designed if that phrase has the same meaning in this Subsection (63) as in Subsection (24);

(64) sales of disposable home medical equipment or supplies if:

(a) a person presents a prescription for the disposable home medical equipment or supplies;

(b) the disposable home medical equipment or supplies are used exclusively by the person to whom the prescription described in Subsection (64)(a) is issued; and

(c) the disposable home medical equipment and supplies are listed as eligible for payment under:

(i) Title XVIII, federal Social Security Act; or

(ii) the state plan for medical assistance under Title XIX, federal Social Security Act;

(65) sales:

(a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit District Act; or

(b) of tangible personal property to a subcontractor of a public transit district, if the tangible personal property is:

(i) clearly identified; and

(ii) installed or converted to real property owned by the public transit district;

(66) sales of construction materials:

(a) purchased on or after July 1, 2010;

(b) purchased by, on behalf of, or for the benefit of an international airport:

(i) located within a county of the first class; and

(ii) that has a United States customs office on its premises; and

(c) if the construction materials are:

(i) clearly identified;

(ii) segregated; and

(iii) installed or converted to real property:

(A) owned or operated by the international airport described in Subsection (66)(b); and

(B) located at the international airport described in Subsection (66)(b);

(67) sales of construction materials:

(a) purchased on or after July 1, 2008;

(b) purchased by, on behalf of, or for the benefit of a new airport:

(i) located within a county of the second class; and

(ii) that is owned or operated by a city in which an airline as defined in Section 59-2-102 is headquartered; and

(c) if the construction materials are:

(i) clearly identified;

(ii) segregated; and

(iii) installed or converted to real property:

(A) owned or operated by the new airport described in Subsection (67)(b);

(B) located at the new airport described in Subsection (67)(b); and

(C) as part of the construction of the new airport described in Subsection (67)(b);

(68) sales of fuel to a common carrier that is a railroad for use in a locomotive engine;

(69) purchases and sales described in Section 63H-4-111;

(70) (a) sales of tangible personal property to an aircraft maintenance, repair, and overhaul provider for use in the maintenance, repair, overhaul, or refurbishment in this state of a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration lists a state or country other than this state as the location of registry of the fixed wing turbine powered aircraft; or

(b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul provider in connection with the maintenance, repair, overhaul, or refurbishment in this state of a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration lists a state or country other than this state as the location of registry of the fixed wing turbine powered aircraft;

(71) subject to Section 59-12-104.4, sales of a textbook for a higher education course:

(a) to a person admitted to an institution of higher education; and

(b) by a seller, other than a bookstore owned by an institution of higher education, if 51% or more of that seller's sales revenue for the previous calendar quarter are sales of a textbook for a higher education course;

(72) a license fee or tax a municipality imposes in accordance with Subsection 10-1-203(5) on a purchaser from a business for which the municipality provides an enhanced level of municipal services;

(73) amounts paid or charged for construction materials used in the construction of a new or expanding life science research and development facility in the state, if the construction materials are:

(a) clearly identified;

(b) segregated; and

(c) installed or converted to real property;

(74) amounts paid or charged for:

(a) a purchase or lease of machinery and equipment that:

(i) are used in performing qualified research:

(A) as defined in Section ~~[59-7-612]~~ 41(d), Internal Revenue Code; and

- (B) in the state; and
- ~~[(C) with respect to which the purchaser pays or incurs a qualified research expense as defined in Section 59-7-612; and]~~
- (ii) have an economic life of three or more years; and
- (b) normal operating repair or replacement parts:
- (i) for the machinery and equipment described in Subsection (74)(a); and
- (ii) that have an economic life of three or more years;
- (75) a sale or lease of tangible personal property used in the preparation of prepared food if:
- (a) for a sale:
- (i) the ownership of the seller and the ownership of the purchaser are identical; and
- (ii) the seller or the purchaser paid a tax under this chapter on the purchase of that tangible personal property prior to making the sale; or
- (b) for a lease:
- (i) the ownership of the lessor and the ownership of the lessee are identical; and
- (ii) the lessor or the lessee paid a tax under this chapter on the purchase of that tangible personal property prior to making the lease;
- (76) (a) purchases of machinery or equipment if:
- (i) the purchaser is an establishment described in NAICS Subsector 713, Amusement, Gambling, and Recreation Industries, of the 2012 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;
- (ii) the machinery or equipment:
- (A) has an economic life of three or more years; and
- (B) is used by one or more persons who pay admission or user fees described in Subsection 59-12-103(1)(f) to the purchaser of the machinery and equipment; and
- (iii) 51% or more of the purchaser's sales revenue for the previous calendar quarter is:
- (A) amounts paid or charged as admission or user fees described in Subsection 59-12-103(1)(f); and
- (B) subject to taxation under this chapter;
- (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules for verifying that 51% of a purchaser's sales revenue for the previous calendar quarter is:
- (i) amounts paid or charged as admission or user fees described in Subsection 59-12-103(1)(f); and
- (ii) subject to taxation under this chapter; and
- (c) on or before the November 2018 interim meeting, and every five years after the November 2018 interim meeting, the commission shall review the exemption provided in this Subsection (76) and report to the Revenue and Taxation Interim Committee on:
- (i) the revenue lost to the state and local taxing jurisdictions as a result of the exemption;
- (ii) the purpose and effectiveness of the exemption; and
- (iii) whether the exemption benefits the state;
- (77) purchases of a short-term lodging consumable by a business that provides accommodations and services described in Subsection 59-12-103(1)(i);
- (78) amounts paid or charged to access a database:
- (a) if the primary purpose for accessing the database is to view or retrieve information from the database; and
- (b) not including amounts paid or charged for a:
- (i) digital audiowork;
- (ii) digital audio-visual work; or
- (iii) digital book;
- (79) amounts paid or charged for a purchase or lease made by an electronic financial payment service, of:
- (a) machinery and equipment that:
- (i) are used in the operation of the electronic financial payment service; and
- (ii) have an economic life of three or more years; and
- (b) normal operating repair or replacement parts that:
- (i) are used in the operation of the electronic financial payment service; and
- (ii) have an economic life of three or more years;
- (80) beginning on April 1, 2013, sales of a fuel cell as defined in Section 54-15-102;
- (81) amounts paid or charged for a purchase or lease of tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically:
- (a) is stored, used, or consumed in the state; and
- (b) is temporarily brought into the state from another state:
- (i) during a disaster period as defined in Section 53-2a-1202;
- (ii) by an out-of-state business as defined in Section 53-2a-1202;
- (iii) for a declared state disaster or emergency as defined in Section 53-2a-1202; and
- (iv) for disaster- or emergency-related work as defined in Section 53-2a-1202; and

(82) sales of goods and services at a morale, welfare, and recreation facility, as defined in Section 39-9-102, made pursuant to Title 39, Chapter 9, State Morale, Welfare, and Recreation Program.

Section 2. Retrospective operation.

This bill has retrospective operation to July 1, 2012.

CHAPTER 354**S. B. 214**

Passed March 12, 2015
 Approved March 30, 2015
 Effective May 12, 2015

VETERANS COURT

Chief Sponsor: Peter C. Knudson
 House Sponsor: Paul Ray

LONG TITLE**General Description:**

This bill authorizes the creation of veterans courts statewide.

Highlighted Provisions:

This bill:

- ▶ authorizes the Judicial Council to create veterans courts in each judicial district or a regional veterans court based on veteran geographic populations;
- ▶ specifies which veterans may be eligible for the court's consideration for participation in a veterans court and affiliated intervention programs;
- ▶ authorizes the court to seek federal funding to assist with the veterans courts;
- ▶ provides for participation by the United States Department of Veterans Affairs Veterans Justice Outreach Program; and
- ▶ requires an annual written report not later than October 1 of each year to the Veterans' and Military Affairs Commission.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

78A-5-301, Utah Code Annotated 1953

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

Section 1. Section 78A-5-301 is enacted to read:

78A-5-301. Creation of a veterans court program -- Definition of a veterans court program -- Criteria for participation in a veterans court program -- Reporting requirements.

(1) The Judicial Council may create a veterans court program in any judicial district or geographic region that demonstrates:

- (a) the need for a veterans court program; and
- (b) the existence of a collaborative strategy between the court, prosecutors, defense counsel, corrections, substance abuse treatment services, and the United States Department of Veterans Affairs Veterans Justice Outreach Program to divert veteran offenders.

(2) The collaborative strategy in each veterans court program shall:

(a) include monitoring and evaluation components to measure program effectiveness; and

(b) be submitted, for the purpose of coordinating the disbursement of funding, to the Administrative Office of the Courts.

(3) A veterans court program shall include continuous judicial supervision using a cooperative approach with prosecutors, defense counsel, corrections, substance abuse treatment services, and the United States Department of Veterans Affairs Veterans Justice Outreach Program as appropriate to promote public safety, protect participants' due process rights, and integrate veteran diversion treatment programs with the justice system case processing.

(4) Screening criteria for participation in a veterans court program shall include:

(a) a plea to, conviction of, or adjudication for a criminal offense;

(b) frequent alcohol and other drug testing, if appropriate;

(c) participation in veteran diversion outreach programs, including substance abuse treatment programs where appropriate; and

(d) sanctions for noncompliance with diversion and substance abuse programs' requirements.

(5) The Administrative Office of the Courts shall submit in writing by October 1 of each year, an annual report on each veterans court, including:

(a) types of programs;

(b) number of veteran participants;

(c) outcomes for veteran participants; and

(d) recommendations for future veterans court programs, including expansion and funding.

CHAPTER 355**S. B. 215**

Passed March 11, 2015
 Approved March 30, 2015
 Effective May 12, 2015

SETTLEMENT AUTHORITY AMENDMENTS

Chief Sponsor: Lyle W. Hillyard
 House Sponsor: Brad M. Daw

LONG TITLE**General Description:**

This bill addresses provisions relating to the settlement of claims against the state.

Highlighted Provisions:

This bill:

- ▶ modifies provisions relating to the authority of the state risk manager to settle claims against the state for which the state Risk Management Fund may be liable.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63G-7-602, as renumbered and amended by Laws of Utah 2008, Chapter 382

ENACTS:

63G-10-501, Utah Code Annotated 1953
 63G-10-502, Utah Code Annotated 1953
 63G-10-503, Utah Code Annotated 1953

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

Section 1. Section 63G-7-602 is amended to read:**63G-7-602. Compromise and settlement of claims by political subdivision.**

[~~(1)~~] A political subdivision, after conferring with its legal officer or other legal counsel if it does not have a legal officer, may compromise and settle any action as to the damages or other relief sought.

[~~(2) The risk manager in the Department of Administrative Services may compromise and settle any action against the state for which the Risk Management Fund may be liable.~~]

[~~(a) on the risk manager's own authority, if the amount of the settlement is \$25,000 or less;~~]

[~~(b) with the concurrence of the attorney general or the attorney general's representative and the executive director of the Department of Administrative Services if the amount of the settlement is \$25,000.01 to \$100,000; or~~]

[~~(c) by complying with the procedures and requirements of Title 63G, Chapter 10, State Settlement Agreements, if the amount of the settlement is more than \$100,000.~~]

Section 2. Section 63G-10-501 is enacted to read:**Part 5. Risk Management Fund Settlement Agreements****63G-10-501. Definitions.**

As used in this part:

(1) "Executive director" means the individual appointed under Section 63A-1-105 as the executive director of the Department of Administrative Services, created in Section 63A-1-104.

(2) "Risk management fund" means the fund created in Section 63A-4-201.

(3) "Risk manager" means the state risk manager appointed under Section 63A-4-101.

Section 3. Section 63G-10-502 is enacted to read:**63G-10-502. Application of this part.**

The authority required for the risk manager to settle a claim for which the risk management fund may be liable is governed exclusively by this part.

Section 4. Section 63G-10-503 is enacted to read:**63G-10-503. Risk manager's authority to settle a claim -- Additional approvals required.**

The risk manager may compromise and settle any claim against the state for which the risk management fund may be liable:

(1) on the risk manager's own authority, if the settlement amount is \$50,000 or less;

(2) upon the approval of the attorney general, or the attorney general's representative, and the executive director, if the settlement amount is more than \$50,000 but not more than \$200,000;

(3) upon the governor's approval, if the settlement amount is more than \$200,000 but not more than \$500,000;

(4) upon the Legislative Management Committee's approval, if the settlement amount is more than \$500,000 but not more than \$1,000,000; and

(5) upon the Legislature's approval, if the settlement amount is more than \$1,000,000.

CHAPTER 356**S. B. 216**

Passed March 11, 2015
 Approved March 30, 2015
 Effective May 12, 2015
 (Exception clause in Section 9)

**HIGH COST
 INFRASTRUCTURE TAX CREDITS**

Chief Sponsor: Ralph Okerlund
 House Sponsor: Jon Cox

LONG TITLE**General Description:**

This bill modifies provisions related to tax credits for infrastructure development projects.

Highlighted Provisions:

This bill:

- ▶ directs the Office of Energy Development to issue a tax credit certificate to an entity developing a high cost infrastructure project under certain circumstances; and
- ▶ provides tax credit eligibility criteria for an entity developing a high cost infrastructure project.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

63M-4-401, as last amended by Laws of Utah 2012, Chapters 37 and 410

ENACTS:

59-7-618, Utah Code Annotated 1953
 59-10-1033, Utah Code Annotated 1953
 63M-4-601, Utah Code Annotated 1953
 63M-4-602, Utah Code Annotated 1953
 63M-4-603, Utah Code Annotated 1953
 63M-4-604, Utah Code Annotated 1953
 63M-4-605, Utah Code Annotated 1953

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

Section 1. Section 59-7-618 is enacted to read:**59-7-618. (Codified as 59-7-619)****Nonrefundable high cost infrastructure development tax credit.**

(1) As used in this section:

(a) "High cost infrastructure project" means the same as that term is defined in Section 63M-4-602.

(b) "Infrastructure cost-burdened entity" means the same as that term is defined in Section 63M-4-602.

(c) "Infrastructure-related revenue" means the same as that term is defined in Section 63M-4-602.

(d) "Office" means the Office of Energy Development created in Section 63M-4-401.

(2) Subject to the other provisions of this section, a corporation that is an infrastructure

cost-burdened entity may claim a nonrefundable tax credit for development of a high cost infrastructure project as provided in this section.

(3) The tax credit under this section is the amount listed as the tax credit amount on a tax credit certificate that the office issues under Title 63M, Chapter 4, Part 6, High Cost Infrastructure Development Tax Credit Act, to the infrastructure cost-burdened entity for the taxable year.

(4) An infrastructure cost-burdened entity may carry forward a tax credit under this section for a period that does not exceed the next seven taxable years if:

(a) the infrastructure cost-burdened entity is allowed to claim a tax credit under this section for a taxable year; and

(b) the amount of the tax credit exceeds the infrastructure cost-burdened entity's tax liability under this chapter for that taxable year.

(5) (a) On or before October 1, 2020, and every five years after October 1, 2020, the Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and make recommendations to the Legislative Management Committee concerning whether the tax credit should be continued, modified, or repealed.

(b) For purposes of the study required by this Subsection (5), the office shall provide the following information to the Revenue and Taxation Interim Committee:

(i) the amount of tax credit that the office grants to each infrastructure cost-burdened entity for each taxable year;

(ii) the infrastructure-related revenue generated by each high cost infrastructure project;

(iii) the information contained in the office's latest report to the Legislature under Section 63M-4-505; and

(iv) any other information that the Revenue and Taxation Interim Committee requests.

(c) The Revenue and Taxation Interim Committee shall ensure that the Revenue and Taxation Interim Committee's recommendations under Subsection (5)(a) include an evaluation of:

(i) the cost of the tax credit to the state;

(ii) the purpose and effectiveness of the tax credit; and

(iii) the extent to which the state benefits from the tax credit.

Section 2. Section 59-10-1033 is enacted to read:**59-10-1033. (Codified as 59-10-1034)****Nonrefundable high cost infrastructure development tax credit.**

(1) As used in this section:

(a) "High cost infrastructure project" means the same as that term is defined in Section 63M-4-602.

(b) “Infrastructure cost-burdened entity” means the same as that term is defined in Section 63M-4-602.

(c) “Infrastructure-related revenue” means the same as that term is defined in Section 63M-4-602.

(d) “Office” means the Office of Energy Development created in Section 63M-4-401.

(2) Subject to the other provisions of this section, a claimant, estate, or trust that is an infrastructure cost-burdened entity may claim a nonrefundable tax credit for development of a high cost infrastructure project as provided in this section.

(3) The tax credit under this section is the amount listed as the tax credit amount on a tax credit certificate that the office issues under Title 63M, Chapter 4, Part 6, High Cost Infrastructure Development Tax Credit Act, to the infrastructure cost-burdened entity for the taxable year.

(4) An infrastructure cost-burdened entity may carry forward a tax credit under this section for a period that does not exceed the next seven taxable years if:

(a) the infrastructure cost-burdened entity is allowed to claim a tax credit under this section for a taxable year; and

(b) the amount of the tax credit exceeds the infrastructure cost-burdened entity’s tax liability under this chapter for that taxable year.

(5) (a) On or before October 1, 2020, and every five years after October 1, 2020, the Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and make recommendations to the Legislative Management Committee concerning whether the tax credit should be continued, modified, or repealed.

(b) For purposes of the study required by this Subsection (5), the office shall provide the following information to the Revenue and Taxation Interim Committee:

(i) the amount of tax credit that the office grants to each infrastructure cost-burdened entity for each taxable year;

(ii) the infrastructure-related revenue generated by each high cost infrastructure project;

(iii) the information contained in the office’s latest report to the Legislature under Section 63M-4-505; and

(iv) any other information that the Revenue and Taxation Interim Committee requests.

(c) The Revenue and Taxation Interim Committee shall ensure that the Revenue and Taxation Interim Committee’s recommendations under Subsection (5)(a) include an evaluation of:

(i) the cost of the tax credit to the state;

(ii) the purpose and effectiveness of the tax credit; and

(iii) the extent to which the state benefits from the tax credit.

Section 3. Section 63M-4-401 is amended to read:

63M-4-401. Creation of Office of Energy Development -- Director -- Purpose -- Rulemaking regarding confidential information.

(1) There is created an Office of Energy Development.

(2) (a) The governor’s energy advisor shall appoint a director of the office.

(b) The director shall report to the governor’s energy advisor and may appoint staff as funding within existing budgets allows.

(c) The office may consolidate energy staff and functions existing in the State Energy Program.

(3) The purposes of the office are to:

(a) serve as the primary resource for advancing energy development in the state; and

(b) implement:

(i) the state energy policy under Section 63M-4-301; and

(ii) the governor’s energy goals and objectives.

(4) By following the procedures and requirements of Title 63J, Chapter 5, Federal Funds Procedures Act, the office may:

(a) seek federal grants or loans;

(b) seek to participate in federal programs; and

(c) in accordance with applicable federal program guidelines, administer federally funded state energy programs.

(5) The office shall perform the duties required by Sections 59-7-614.7 [and], 59-10-1029 [and], Part 5, Alternative Energy Development Tax Credit Act, and Part 6, High Cost Infrastructure Development Tax Credit Act.

(6) (a) For purposes of administering this section, the office may make rules, by following the procedures and requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to maintain as confidential, and not as a public record, information that the office receives from any source.

(b) The office shall maintain information the office receives from any source at the level of confidentiality assigned by the source.

Section 4. Section 63M-4-601 is enacted to read:

Part 6. High Cost Infrastructure Development Tax Credit Act

63M-4-601. Title.

This part is known as the “High Cost Infrastructure Development Tax Credit Act.”

Section 5. Section 63M-4-602 is enacted to read:

63M-4-602. Definitions.

As used in this part:

(1) “Applicant” means a person that conducts business in the state and that applies for a tax credit under this part.

(2) “Fuel standard compliance project” means a project designed to retrofit a fuel refinery in order to make the refinery capable of producing fuel that complies with the United States Environmental Protection Agency’s Tier 3 gasoline sulfur standard described in 40 C.F.R. Sec. 79.54.

(3) “High cost infrastructure project” means:

(a) (i) a project that expands or creates new industrial, mining, manufacturing, or agriculture activity in the state, not including a retail business; or

(ii) new investment of at least \$50,000,000 in an existing industrial, mining, manufacturing, or agriculture entity, by the entity;

(b) that requires or is directly facilitated by infrastructure construction; and

(c) for which the cost of infrastructure construction to the entity creating the project is greater than:

(i) 10% of the total cost of the project; or

(ii) \$10,000,000.

(4) “Infrastructure” means:

(a) an energy delivery project as defined in Section 63H-2-102;

(b) a railroad as defined in Section 54-2-1;

(c) a fuel standard compliance project;

(d) a road improvement project;

(e) a water self-supply project;

(f) a water removal system project; or

(g) a project that is designed to:

(i) increase the capacity for water delivery to a water user in the state; or

(ii) increase the capability of an existing water delivery system or related facility to deliver water to a water user in the state.

(5) (a) “Infrastructure cost-burdened entity” means an applicant that enters into an agreement with the office that qualifies the applicant to receive a tax credit as provided in this part.

(b) “Infrastructure cost-burdened entity” includes a pass-through entity taxpayer, as defined in Section 59-10-1402, of a person described in Subsection (5)(a).

(6) “Infrastructure-related revenue” means an amount of tax revenue, for an entity creating a high cost infrastructure project, in a taxable year, that is directly attributable to a high cost infrastructure project, under:

(a) Title 59, Chapter 7, Corporate Franchise and Income Taxes;

(b) Title 59, Chapter 10, Individual Income Tax Act; and

(c) Title 59, Chapter 12, Sales and Use Tax Act.

(7) “Office” means the Office of Energy Development created in Section 63M-4-401.

(8) “Tax credit” means a tax credit under Section 59-7-618 or 59-10-1033.

(9) “Tax credit certificate” means a certificate issued by the office to an infrastructure cost-burdened entity that:

(a) lists the name of the infrastructure cost-burdened entity;

(b) lists the infrastructure cost-burdened entity’s taxpayer identification number;

(c) lists, for a taxable year, the amount of the tax credit authorized for the infrastructure cost-burdened entity under this part; and

(d) includes other information as determined by the office.

Section 6. Section 63M-4-603 is enacted to read:

63M-4-603. Tax credit -- Amount -- Eligibility -- Reporting.

(1) Before the office enters into an agreement described in Subsection (3) with an applicant regarding a project, the office, in consultation with the Utah Energy Infrastructure Authority Board created in Section 63H-2-202, and other state agencies as necessary, shall, in accordance with the procedures described in Section 63M-4-604, certify:

(a) that the project meets the definition of a high cost infrastructure project under this part;

(b) that the high cost infrastructure project will generate infrastructure-related revenue;

(c) the economic life of the high cost infrastructure project; and

(d) that the applicant has received a certificate of good standing from the Division of Corporations and Commercial Code.

(2) (a) Before the office enters into an agreement described in Subsection (3) with an applicant regarding a project, the Utah Energy Infrastructure Authority Board shall evaluate the project’s benefit to the state, based on whether the project:

(i) is likely to increase the property tax revenue for the municipality or county where the project will be located;

(ii) would provide new infrastructure for an area where the type of infrastructure the project would create is underdeveloped;

(iii) would have a positive environmental impact on the state;

(iv) would upgrade or improve an existing entity in order to ensure the entity's continued operation and economic viability; and

(v) is less likely to be completed without a tax credit issued to the applicant under this part.

(b) The Utah Energy Infrastructure Authority Board may recommend that the office deny an applicant a tax credit if the applicant's project does not, as determined by the Utah Energy Infrastructure Authority Board, sufficiently benefit the state based on the criteria described in Subsection (2)(a).

(3) Subject to the procedures described in Section 63M-4-604, if an applicant meets the requirements of Subsection (1) to receive a tax credit, and the applicant's project receives a favorable recommendation from the Utah Energy Infrastructure Authority Board under Subsection (2), the office shall enter into an agreement with the applicant to authorize the tax credit in accordance with this part.

(4) The office shall grant a tax credit to an infrastructure cost-burdened entity, for a high cost infrastructure project, under an agreement described in Subsection (3):

(a) for the lesser of:

(i) the economic life of the high cost infrastructure project;

(ii) 20 years; or

(iii) a time period, the first taxable year of which is the taxable year when the construction of the high cost infrastructure project begins and the last taxable year of which is the taxable year in which the infrastructure cost-burdened entity has recovered, through the tax credit, an amount equal to:

(A) 50% of the cost of the infrastructure construction associated with the high cost infrastructure project; or

(B) if the high cost infrastructure project is a fuel standard compliance project, 30% of the cost of the infrastructure construction associated with the high cost infrastructure project.

(b) except as provided in Subsections (4)(a) and (d), in a total amount equal to 30% of the high cost infrastructure project's total infrastructure-related revenue over the time period described in Subsection (4)(a);

(c) for a taxable year, in an amount that does not exceed the high cost infrastructure project's infrastructure-related revenue during that taxable year; and

(d) if the high cost infrastructure project is a fuel standard compliance project, in a total amount that is:

(i) determined by the Utah Energy Infrastructure Authority Board, based on:

(A) the applicant's likelihood of completing the high cost infrastructure project without a tax credit; and

(B) how soon the applicant plans to complete the high cost infrastructure project; and

(ii) equal to or less than 30% of the high cost infrastructure project's total infrastructure-related revenue over the time period described in Subsection (4)(a).

(5) An infrastructure cost-burdened entity shall, for each taxable year:

(a) file a report with the office showing the high cost infrastructure project's infrastructure-related revenue during the taxable year;

(b) subject to Subsection (7), file a report with the office that is prepared by an independent certified public accountant that verifies the infrastructure-related revenue described in Subsection (5)(a); and

(c) provide the office with information required by the office to certify the economic life of the high cost infrastructure project.

(6) An infrastructure cost-burdened entity shall retain records supporting a claim for a tax credit for the same period of time during which a person is required to keep books and records under Section 59-1-1406.

(7) An infrastructure cost-burdened entity for which a report is prepared under Subsection (5)(b) shall pay the costs of preparing the report.

(8) The office shall certify, for each taxable year, the infrastructure-related revenue generated by an infrastructure cost-burdened entity.

Section 7. Section 63M-4-604 is enacted to read:

63M-4-604. Tax credit -- Application procedure.

(1) An applicant shall provide the office with:

(a) an application for a tax credit certificate;

(b) documentation that the applicant meets the requirements described in Subsection 63M-4-603(1), to the satisfaction of the office, for the taxable year for which the applicant seeks to claim a tax credit; and

(c) documentation that expressly directs and authorizes the State Tax Commission to disclose to the office the applicant's returns and other information concerning the applicant that would otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code.

(2) (a) The office shall, for an applicant, submit the documentation described in Subsection (1)(c) to the State Tax Commission.

(b) Upon receipt of the documentation described in Subsection (1)(c), the State Tax Commission shall provide the office with the documentation described in Subsection (1)(c).

(3) If, after the office reviews the documentation from the State Tax Commission under Subsection (2)(b) and the information the applicant submits to the office under Section 63M-4-603, the office, in consultation with the Utah Energy Infrastructure Authority Board created in Section 63H-2-202, determines that the applicant is not eligible for the tax credit under Section 63M-4-603, or that the applicant's documentation is inadequate, the office shall:

(a) deny the tax credit; or

(b) inform the applicant that the documentation supporting the applicant's claim for a tax credit was inadequate and request that the applicant supplement the applicant's documentation.

(4) Except as provided in Subsection (5), if, after the office reviews the documentation described in Subsection (2)(b) and the information described in Subsection 63M-4-603(6), the office, in consultation with the Utah Energy Infrastructure Authority Board created in Section 63H-2-202, determines that the documentation supporting an applicant's claim for a tax credit adequately demonstrates that the applicant is eligible for the tax credit under Section 63M-4-603, the office shall, on the basis of the documentation:

(a) enter, with the applicant, into the agreement described in Subsection 63M-4-603(3);

(b) issue a tax credit certificate to the applicant; and

(c) provide a duplicate copy of the tax credit certificate described in Subsection (4)(b) to the State Tax Commission.

(5) The office may deny an applicant a tax credit based on the recommendation of the Utah Energy Infrastructure Authority Board, as provided in Subsection 63M-4-603(2).

(6) An infrastructure cost-burdened entity may not claim a tax credit under Section 59-7-618 or 59-10-1033 unless the infrastructure cost-burdened entity receives a tax credit certificate from the office.

(7) An infrastructure cost-burdened entity that claims a tax credit shall retain the tax credit certificate in accordance with Subsection 63M-4-603(7).

(8) Except for the information that is necessary for the office to disclose in order to make the report described in Section 63M-4-605, the office shall treat a document an applicant or infrastructure cost-burdened entity provides to the office as a protected record under Section 63G-2-305.

Section 8. Section 63M-4-605 is enacted to read:

63M-4-605. Report to the Legislature.

The office shall report annually to the Public Utilities and Technology Interim Committee and the Revenue and Taxation Interim Committee describing:

(1) the office's success in attracting high cost infrastructure projects to the state and the resulting increase in infrastructure-related revenue under this part;

(2) the amount of tax credits the office has granted or will grant and the time period during which the tax credits have been or will be granted; and

(3) the economic impact on the state by comparing infrastructure-related revenue to tax credits that have been or will be granted under this part.

Section 9. Effective date.

(1) Except as provided in Subsection (2), this bill takes effect on May 12, 2015.

(2) The actions affecting the following sections take effect for a taxable year beginning on or after January 1, 2016:

(a) Section 59-7-618; and

(b) Section 59-10-1033.

**CHAPTER 357
S. B. 223**

Passed March 11, 2015
Approved March 30, 2015
Effective May 12, 2015

USTAR GOVERNANCE AMENDMENTS

Chief Sponsor: Aaron Osmond
House Sponsor: Rebecca P. Edwards

LONG TITLE

General Description:

This bill modifies provisions regarding the Utah Science Technology and Research Governing Authority.

Highlighted Provisions:

This bill:

- ▶ modifies certain intent language regarding the Utah Science Technology and Research Governing Authority;
- ▶ requires that prospective gubernatorial appointees to the Utah Science Technology and Research Governing Authority be approved by the Senate;
- ▶ gives the governor authority to remove a member of the Utah Science Technology and Research Governing Authority before a member's term is completed;
- ▶ modifies provisions of the technology outreach innovation program; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

- 63B-15-101, as enacted by Laws of Utah 2006, Chapter 123
- 63B-19-101, as enacted by Laws of Utah 2010, Chapter 181
- 63M-2-102, as last amended by Laws of Utah 2014, Chapter 186
- 63M-2-202, as last amended by Laws of Utah 2014, Chapter 186
- 63M-2-204, as last amended by Laws of Utah 2014, Chapter 186
- 63M-2-301, as last amended by Laws of Utah 2014, Chapter 186
- 63M-2-302, as last amended by Laws of Utah 2014, Chapter 186
- 63M-2-401, as enacted by Laws of Utah 2014, Chapter 186
- 63M-2-402, as enacted by Laws of Utah 2014, Chapter 186

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

Section 1. Section 63B-15-101 is amended to read:

63B-15-101. Capital facilities bonds -- Utah Science Technology and Research Governing Authority -- Maximum amount -- Projects authorized.

(1) (a) The total amount of bonds issued under this section may not exceed \$111,100,000.

(b) When Utah State University certifies to the commission that the university has obtained reliable commitments, convertible to cash, of \$10,000,000 or more in nonstate funds to construct the Bio Innovations Research Institute, and when the chairs of the Legislature's Executive Appropriations Committee have certified that the committee has heard a presentation by the chair of the bonding commission and the Utah Science Technology and Research Governing Authority on the project, the commission may issue and sell general obligation bonds in a total amount not to exceed \$40,400,000.

(c) When the University of Utah certifies to the commission that the university has obtained reliable commitments, convertible to cash, of \$30,000,000 or more in nonstate funds to construct the Neuroscience and Biomedical Technology Research Building, and when the chairs of the Legislature's Executive Appropriations Committee have certified that the committee has heard a presentation by the chair of the bonding commission and the Utah Science Technology and Research Governing Authority on the project, the commission may issue and sell general obligation bonds in a total amount not to exceed \$70,700,000.

(2) (a) Proceeds from the issuance of bonds shall be provided to the Utah Science Technology and Research Governing Authority to provide funds to pay all or part of the cost of acquiring and constructing the projects listed in this Subsection (2).

(b) These costs may include the cost of acquiring easements and rights-of-way, improving sites, and acquiring, constructing, equipping, and furnishing facilities and all structures, roads, parking facilities, utilities, and improvements necessary, incidental, or convenient to the facilities, interest estimated to accrue on these bonds during the period to be covered by construction of the projects plus a period of six months after the end of the construction period, and all related engineering, architectural, and legal fees.

(c) For the Utah Science Technology and Research Governing Authority, proceeds shall be provided for the following:

CAPITAL DEVELOPMENT PROJECTS

Project Description	Estimated Operations and Maintenance	Amount Funded
Bio Innovations Research Institute -- Utah State University	\$0	\$40,000,000
Neuroscience and Biomedical Technology Research Building -- University of Utah	\$0	\$70,000,000

TOTAL CAPITAL DEVELOPMENT PROJECTS \$110,000,000

TOTAL GENERAL OBLIGATION BOND AUTHORIZATION FOR

CAPITAL DEVELOPMENT PROJECTS \$110,000,000

~~[(d) The Legislature intends that the Utah Science Technology and Research Governing Authority pay the operations and maintenance costs on the research buildings authorized by this section.]~~

(3) (a) The amounts funded as listed in Subsection (2) are estimates only and do not constitute a limitation on the amount that may be expended for the projects.

(b) The commission, by resolution and in consultation with the Utah Science Technology and Research Governing Authority, may delete the project if the inclusion of that project could be construed to violate state law or federal law or regulation.

(4) The Utah Science Technology and Research Governing Authority may enter into agreements related to the project before the receipt of proceeds of bonds issued under this chapter.

(5) The commission or the state treasurer may make any statement of intent relating to that reimbursement that is necessary or desirable to comply with federal tax law.

(6) The commission may not issue or execute bonds authorized by this section that have a maturity date or dates of more than 20 years after the date of delivery of the bonds.

(7) The Utah Science Technology and Research Governing Authority shall contract with the Division of Facilities Construction and Management to oversee construction of the buildings.

(8) The Utah Science Technology and Research Governing Authority may not delegate authority over construction of the capitol development projects identified in this section to any entity other than the Division of Facilities Construction and Management.

Section 2. Section 63B-19-101 is amended to read:

63B-19-101. Capital facilities bonds -- Utah Science Technology and Research Governing Authority -- Maximum amount -- Projects authorized.

(1) The bonds issued under this section may not exceed \$46,000,000 for acquisition and construction proceeds, plus additional amounts necessary to pay costs of issuance, to pay capitalized interest, and to fund any debt service reserve requirements, with the total amount of the bonds not to exceed \$46,460,000.

(2) (a) Proceeds from the issuance of bonds shall be provided to the Utah Science Technology and Research Governing Authority to provide funds to pay all or part of the cost of constructing the projects listed in this Subsection (2).

(b) These costs may include the cost of acquiring easements and rights-of-way, improving sites, and acquiring, constructing, equipping, and furnishing facilities and all structures, roads, parking facilities, utilities, and improvements necessary, incidental, or convenient to the facilities, interest estimated to accrue on these bonds during the period to be covered by construction of the projects plus a period of six months after the end of the construction period, and all related engineering, architectural, and legal fees.

(c) For the Utah Science Technology and Research Governing Authority, proceeds shall be provided for the following:

CAPITAL DEVELOPMENT PROJECTS		
Project Description	Estimated Operations and Maintenance	Amount Funded
Bio Innovations Research Institute — Utah State University	\$0	\$18,400,000
Neuroscience and Biomedical Technology Research Building — University of Utah	\$0	\$27,600,000
TOTAL CAPITAL DEVELOPMENT PROJECTS		\$46,000,000

ADDITIONAL AUTHORIZED AMOUNTS \$460,000

TOTAL GENERAL OBLIGATION BOND AUTHORIZATION FOR CAPITAL DEVELOPMENT PROJECTS \$46,460,000

~~[(d) The Legislature intends that the Utah Science Technology and Research Governing Authority pay the operations and maintenance costs on the research buildings authorized by this section.]~~

(3) (a) The amounts funded as listed in Subsection (2) are estimates only and do not constitute a limitation on the amount that may be expended for the projects.

(b) The commission, by resolution and in consultation with the Utah Science Technology and Research Governing Authority, may delete the project if the inclusion of that project could be construed to violate state law or federal law or regulation.

(4) The Utah Science Technology and Research Governing Authority may enter into agreements related to the project before the receipt of proceeds of bonds issued under this chapter.

(5) The commission or the state treasurer may make any statement of intent relating to that reimbursement that is necessary or desirable to comply with federal tax law.

(6) The Utah Science Technology and Research Governing Authority shall contract with the Division of Facilities Construction and Management to oversee construction of the buildings.

(7) The Utah Science Technology and Research Governing Authority may not delegate authority over construction of the capital development projects identified in this section to any entity other than the Division of Facilities Construction and Management.

Section 3. Section 63M-2-102 is amended to read:

63M-2-102. Definitions.

As used in this chapter:

(1) “Commercialization revenues” means dividends, realized capital gains, license fees, royalty fees, and all other revenues received by a university as a result of commercial applications, inventions, or intellectual property developed from the USTAR initiative, less:

(a) the portion of ~~those~~ revenues allocated to the inventor; and

(b) expenditures incurred by the university to legally protect the intellectual property.

(2) “Executive director” means the person appointed ~~by the governing authority~~ under Section 63M-2-301.

(3) “Research buildings” means any of the buildings listed in Section 63M-2-201.

(4) “Research universities” means the University of Utah and Utah State University.

(5) “Technology outreach innovation program” or “TOIP” means the program described in Section 63M-2-202.

(6) “USTAR governing authority” means the Utah Science Technology and Research Governing Authority created in Section 63M-2-301.

(7) (a) “USTAR initiative” means the Utah Science Technology and Research Initiative created in Section 63M-2-301.

(b) “USTAR initiative” includes the projects, operations, activities, programs, and services described in this chapter.

Section 4. Section 63M-2-202 is amended to read:

63M-2-202. Technology outreach innovation program.

(1) As funding becomes available from the Legislature or other sources, the USTAR governing authority shall establish a technology outreach innovation program, also known as the TOIP, at up to five locations distributed strategically throughout Utah.

(2) ~~(a)~~ The USTAR governing authority shall ensure that the technology innovation outreach program acts as a resource to:

~~(i)~~ (a) broker ideas, new technologies, and services to entrepreneurs and businesses throughout a defined service area;

~~(ii)~~ (b) engage local entrepreneurs and professors at applied technology centers, colleges, and universities by connecting them to Utah’s research universities;

~~(iii)~~ (c) screen business ideas and new technologies to ensure that the ones with the highest growth potential receive the most targeted services and attention;

~~(iv)~~ (d) connect market ideas and technologies in new or existing businesses or industries or in regional colleges and universities with the expertise of Utah’s research universities;

~~(v)~~ (e) assist businesses, applied technology centers, colleges, and universities in developing commercial applications for their research; and

~~(vi)~~ (f) disseminate and share discoveries and technologies emanating from Utah’s research universities to local entrepreneurs, businesses, applied technology centers, colleges, and universities.

~~(b)~~ (3) In designing and operating the ~~technology outreach program,~~ TOIP, for each TOIP location the USTAR governing authority ~~shall~~:

~~(i) for each technology outreach program location:~~

(a) may hire a TOIP director;

~~(A)~~ (b) shall establish written performance standards and expectations ~~for each location~~; and

~~(B)~~ (c) shall require reporting ~~from each location~~ related to those performance standards and expectations on at least an annual basis~~;~~ and.

~~(ii) work cooperatively with the Technology Commercialization Offices at Utah State University and the University of Utah.]~~

(4) A TOIP director hired under Subsection (3) shall:

(a) be categorized as a schedule AC employee in accordance with Section 67-19-15;

(b) report to, and be supervised by, the executive director;

(c) ensure the TOIP serves to further the vision and mission of the USTAR initiative; and

(d) as directed by the executive director, implement the policies and procedures adopted by the USTAR governing authority.

Section 5. Section 63M-2-204 is amended to read:

63M-2-204. Financial participation agreement.

(1) In consideration of the money and services provided or agreed to be provided, the state of Utah, Utah State University, and the University of Utah agree that they will allocate commercialization revenues as follows:

~~(a) for the first \$15,000,000 received;~~

~~[(i) \$10,000,000 to Utah State University and the University of Utah, with the money distributed proportionately based upon which university conducted the research that generated the commercialization revenues; and]~~

~~[(ii) \$5,000,000 to the USTAR governing authority for the ongoing operations of the USTAR initiative; and]~~

(a) for up to and including the first \$15,000,000 in commercialization revenues generated:

(i) 66.6% shall be retained by the research universities, with the money distributed proportionately to the university that generated the commercialization revenue; and

(ii) 33.4% shall be paid to the USTAR governing authority for the ongoing operation of the USTAR initiative;

(b) for all subsequent money received:

(i) 50% to Utah State University and the University of Utah, with the money distributed proportionately based upon which university conducted the research that generated the commercialization revenues; and

(ii) 50% to the USTAR governing authority or other entity designated by the state to be used for:

(A) unless prohibited by law, deposit with the state treasurer for deposit into the sinking fund created under Section 63B-1a-301 for debt service on the bonds issued to fund planning, design, and construction of the research buildings;

(B) ongoing operations of the USTAR initiative;

(C) replacement of equipment in the research buildings;

(D) recruitment and funding of additional research teams; and

(E) construction of additional research buildings.

Section 6. Section 63M-2-301 is amended to read:

63M-2-301. The Utah Science Technology and Research Initiative and the Utah Science Technology and Research Governing Authority -- Creation -- Membership -- Meetings -- Staff.

(1) There is created the Utah Science Technology and Research Initiative.

(2) To oversee the Utah Science Technology and Research Initiative, there is created the Utah Science Technology and Research Governing Authority consisting of the state treasurer or the state treasurer's designee, the executive director of the Governor's Office of Economic Development, and the following eight members appointed as follows:

(a) three appointed by the governor, with the consent of the Senate;

(b) two appointed by the president of the Senate;

(c) two appointed by the speaker of the House of Representatives; and

(d) one appointed by the commissioner of higher education.

(3) (a) (i) The eight appointed members shall serve four-year staggered terms.

(ii) The appointed members may not serve more than two full consecutive terms.

(iii) An appointed member may be removed from the board for any reason before the member's term is completed at the discretion of the original appointing authority after consultation with the governing authority.

(b) Notwithstanding Subsection (3)(a)(i), the terms of the first members of the governing authority shall be staggered by lot so that half of the initial members serve two-year terms and half serve four-year terms.

(4) Vacancies in the appointed positions on the governing authority shall be filled by the appointing authority [with consent of the Senate] in the same manner as the original appointment for the unexpired term.

(5) (a) The governor, with the consent of the Senate, shall select the chair of the governing authority to serve a one-year term.

(b) The governor may extend the term of a sitting chair of the governing authority without the consent of the Senate.

~~[(b)]~~ (c) The executive director of the Governor's Office of Economic Development shall serve as the vice chair of the governing authority.

(6) The governing authority shall meet at least ~~[monthly]~~ six times each year and may meet more frequently at the request of a majority of the members of the governing authority.

(7) Five members of the governing authority are a quorum.

(8) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses as allowed in:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance according to Sections 63A-3-106 and 63A-3-107.

(9) (a) After consultation with the USTAR governing authority, the governor, with the consent of the Senate, shall appoint a full-time executive director to provide staff support for the USTAR governing authority.

(b) The executive director is an at-will employee who may be terminated without cause by the governor or by majority vote of the USTAR governing authority.

Section 7. Section 63M-2-302 is amended to read:

63M-2-302. USTAR governing authority powers.

(1) The USTAR governing authority shall:

(a) ensure that funds appropriated and received for research and development at the research universities and for the [~~technology outreach program~~] TOIP are used appropriately, effectively, and efficiently in accordance with the intent of the Legislature;

(b) in cooperation with the universities' administrations, expand key research at the two research universities;

(c) enhance technology transfer and commercialization of research and technologies developed at the research universities to create high-quality jobs and new industries in the private sector in Utah;

(d) review state and local economic development plans and appropriations to ensure that the USTAR initiative and its appropriations do not duplicate existing or planned programs;

(e) establish written economic development objectives for the USTAR initiative that are measurable and verifiable, including how to maximize revenue to the USTAR initiative so that it becomes financially self-supporting;

(f) by following the procedures and requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules for allocating appropriated money for research teams and for the commercialization of new technology between Utah State University and the University of Utah;

(g) verify that the USTAR initiative is being enhanced by research grants and that it is meeting the governing authority's economic development objectives;

(h) monitor all research plans that are part of the USTAR initiative at the research universities to determine that appropriations are being spent in accordance with legislative intent and to maximize the benefit and return to the state; and

(i) develop methods and incentives to encourage investment in and contributions to the USTAR initiative from the private sector.

(2) The USTAR governing authority may:

(a) in addition to money received from the Legislature, receive contributions for the USTAR initiative from any source in the form of money, property, labor, or other things of value;

(b) subject to any restrictions imposed by the donation, appropriations, or bond authorizations, allocate money received by it among the research universities, technology outreach program, and technology transfer offices to support commercialization and technology transfer to the private sector; or

(c) enter into agreements necessary to obtain private equity investment in the USTAR initiative.

Section 8. Section 63M-2-401 is amended to read:

63M-2-401. Reporting requirements.

(1) By October 1 of each year, the USTAR governing authority shall submit to the governor; the Legislature; the Business, Economic Development, and Labor Appropriations Subcommittee; and the Economic Development and Workforce Services Interim Committee an annual written report of the operations, activities, programs, and services of the governing authority and the USTAR initiative for the preceding fiscal year.

(2) For each project, operation, activity, program, or service related to the USTAR initiative or overseen or funded through the USTAR governing authority, the annual report shall include:

(a) a description of the project, operation, activity, program, or service;

(b) data selected and used by the governing authority to measure progress, performance, and scope of the project, operation, activity, program, or service, including summary data;

(c) a clear description of the methodology for any data in the report that includes an estimation;

(d) the amount and source of all USTAR initiative funding, including:

(i) funding from legislative appropriations;

(ii) funding procured outside of legislative appropriations, including a separate accounting of grants or investments contributing to research teams and other activities of the USTAR initiative from the federal government, private entities, or other sources, and an explanation of the extent to which:

(A) outside funding was contingent on or leveraged by legislative appropriations; and

(B) outside funding would continue if legislative appropriations were discontinued;

(iii) commercialization revenue, including a separate accounting of:

(A) realized commercialization revenue;

(B) unrealized [~~and expected~~] commercialization revenue; and

(C) commercialization revenue going to other parties attributable to USTAR initiative funding;

(iv) lease revenue from each building in which the USTAR governing authority holds title; and

(v) the amount of money deposited with the state treasurer for deposit into the sinking fund created under Section 63B-1a-301 for debt service on the bonds issued to fund planning, design, and construction of the research buildings;

(e) all expenses of the USTAR initiative, including:

- (i) operational expenses;
- (ii) for each employee receiving compensation from USTAR initiative funding, compensation information, including:
 - (A) salary expenses, benefit expenses, and travel expenses;
 - (B) information for each research team employee and each employee of the ~~[technology outreach program]~~ TOIP that receives compensation directly or indirectly through USTAR initiative funding; and
 - (C) information regarding compensation for each employee from sources other than USTAR initiative funding, including grants and compensation from a university or private entity;
- (iii) for each research team, salary expenses, benefit expenses, travel expenses, and operations and maintenance expenses;
- (iv) operational and maintenance expenses for each building in which the USTAR governing authority holds title;
- (v) operational and maintenance expenses paid for by USTAR initiative funding for each location that has an established ~~[technology outreach program]~~ TOIP; and
- (vi) each grant or other incentive given as a result of the USTAR initiative, including grants or incentives awarded through the ~~[technology outreach program]~~ TOIP;
- (f) the number of jobs and the corresponding salary ranges created by the USTAR initiative, including the number of jobs where the employee is expected to be employed for at least one year and earns at least 125% of the prevailing wage of the county where the employee works;
- (g) the name of each business entity receiving a grant or other incentive as a result of the USTAR initiative, including the outreach program;
- (h) a list of business entities that have hired employees as a result of the USTAR initiative;
- (i) the tax revenue generated as a result of the USTAR initiative, with actual revenue generated clearly separated from potential revenue;
- (j) a list of intellectual property assets, including patents, generated by research teams as a result of the USTAR initiative, including a reasonable estimate of the USTAR initiative's percentage share of potential commercialization revenue that may be realized from those assets;
- (k) a description of any agreements entered into regarding private equity investment in the USTAR initiative;
- (l) beginning with data from the fiscal year beginning July 1, 2013, historical data from previous years for comparison with the annual data reported under this Subsection (2);

- (m) goals, challenges, and achievements related to the project, operation, activity, program, or service;
 - (n) relevant federal and state statutory references and requirements;
 - (o) contact information of officials knowledgeable and responsible for each project, operation, activity, program, or service;
 - (p) other information determined by the USTAR governing authority that:
 - (i) may be needed, useful, or of historical significance; or
 - (ii) promotes accountability and transparency for each project, operation, activity, program, or service with the public and with elected officials;
 - (q) the written economic development objectives required under Subsection 63M-2-302(1)(e) and a description of any progress or challenges in meeting the objectives; and
 - (r) the audit report described in Section 63M-2-402.
- (3) The annual report shall be designed to provide clear, accurate, and accessible information to the public, the governor, and the Legislature.
- (4) The governing authority shall:
- (a) submit the annual report in accordance with Section 68-3-14; and
 - (b) make the annual report and previous annual reports accessible to the public by placing a link to the reports on the USTAR initiative's website.
- (5) In addition to the annual written report described in this section:
- (a) upon the request of a committee, the USTAR governing authority shall provide information and progress reports to the Economic Development and Workforce Services Interim Committee; the Business and Labor Interim Committee; and the Business, Economic Development, and Labor Appropriations Subcommittee; and
 - (b) on or before October 1, 2019, and every five years after October 1, 2019, the USTAR governing authority shall include with the annual report described in this section a written analysis and recommendations concerning the usefulness of the information required in the annual report and the ongoing effectiveness of the USTAR initiative, including whether:
 - (i) the reporting requirements are effective at measuring the performance of the USTAR initiative;
 - (ii) the reporting requirements should be modified; and
 - (iii) the USTAR initiative is beneficial to the state and should continue.

Section 9. Section 63M-2-402 is amended to read:
63M-2-402. Audit requirements.

(1) Each fiscal year, an audit of the activities of the USTAR initiative shall be made as described in this section.

(2) (a) As approved by the Legislative Audit Subcommittee, the audit shall be conducted by:

(i) the legislative auditor; or

(ii) an independent auditor engaged by the legislative auditor.

(b) An independent auditor used under Subsection (2)(a)(ii) may not have a ~~business or contractual connection, or other connection,~~ direct financial conflict of interest with the USTAR initiative or the USTAR governing authority.

(3) The USTAR governing authority shall pay the costs associated with the annual audit.

(4) The annual audit shall:

(a) include a verification of the accuracy of the information required to be included in the annual report described in Section 63M-2-401; and

(b) be completed by September 1 of each year.

CHAPTER 358**S. B. 228**

Passed March 11, 2015
 Approved March 30, 2015
 Effective May 12, 2015

EMERGENCY ORDER AMENDMENTS

Chief Sponsor: Ralph Okerlund
 House Sponsor: Don L. Ipson

LONG TITLE**General Description:**

This bill modifies the Public Safety Code regarding the Emergency Management Act.

Highlighted Provisions:

This bill:

- ▶ makes technical corrections to the Emergency Management Act regarding notification that the governor is required to provide to the Legislature when the governor suspends the enforcement of a statute during a declared disaster.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53-2a-209, as renumbered and amended by Laws of Utah 2013, Chapter 295

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

Section 1. Section 53-2a-209 is amended to read:

53-2a-209. Orders, rules, and regulations having force of law -- Filing requirements -- Suspension of state agency rules -- Suspension of enforcement of certain statutes during a state of emergency.

(1) All orders, rules, and regulations promulgated by the governor, a municipality, a county, or other agency authorized by this part to make orders, rules, and regulations, not in conflict with existing laws except as specifically provided ~~herein~~ in this section, shall have the full force and effect of law during the state of emergency~~, when a copy of the order, rule, or regulation is filed with:~~.

(2) A copy of the order, rule, or regulation promulgated under Subsection (1) shall be filed as soon as practicable with:

(a) the Division of Administrative Rules, if issued by the governor or a state agency; or

(b) the office of the clerk of the municipality or county, if issued by the chief executive officer of a municipality or county.

~~(2)~~ (3) The governor may suspend the provisions of any order, rule, or regulation of any state agency, if the strict compliance with the provisions of the order, rule, or regulation would substantially prevent, hinder, or delay necessary action in coping with the emergency or disaster.

~~(3)~~ (4) (a) Except as provided in Subsection ~~(3)~~ (4)(b) and subject to Subsections ~~(3)~~ (4)(c) and (d), the governor may by executive order suspend the enforcement of a statute if:

(i) the governor declares a state of emergency in accordance with Section 53-2a-206;

(ii) the governor determines that suspending the enforcement of the statute is:

(A) directly related to the state of emergency described in Subsection ~~(3)~~ (4)(a)(i); and

(B) necessary to address the state of emergency described in Subsection ~~(3)~~ (4)(a)(i);

(iii) the executive order:

(A) describes how the suspension of the enforcement of the statute is:

(I) directly related to the state of emergency described in Subsection ~~(3)~~ (4)(a)(i); and

(II) necessary to address the state of emergency described in Subsection ~~(3)~~ (4)(a)(i); and

(B) provides the citation of the statute that is the subject of suspended enforcement;

(iv) the governor acts in good faith;

(v) the governor provides ~~written~~ notice of the suspension of the enforcement of the statute to the speaker of the House of Representatives and the president of the Senate no later than 24 hours after suspending the enforcement of the statute; and

(vi) the governor makes the report required by Section ~~53-2a-214~~ 53-2a-210.

(b) (i) Except as provided in Subsection ~~(3)~~ (4)(b)(ii), the governor may not suspend the enforcement of a criminal penalty created in statute.

(ii) The governor may suspend the enforcement of a misdemeanor or infraction if:

(A) the misdemeanor or infraction relates to food, health, or transportation; and

(B) the requirements of Subsection ~~(3)~~ (4)(a) are met.

(c) A suspension described in this Subsection ~~(3)~~ (4) terminates no later than the date the governor terminates the state of emergency in accordance with Section 53-2a-206 to which the suspension relates.

(d) The governor:

(i) shall provide the notice required by Subsection ~~(3)~~ (4)(a)(v) using the best available method under the circumstances as determined by the governor; ~~and~~

(ii) may provide the notice required by Subsection ~~(3)~~ (4)(a)(v) in electronic format~~[-]; and~~

(iii) shall provide the notice in written form, if practicable.

(e) If circumstances prevent the governor from providing notice to the speaker of the House of

Representatives or the president of the Senate, notice shall be provided in the best available method to the presiding member of the respective body as is reasonable.

CHAPTER 359**S. B. 229**

Passed March 9, 2015

Approved March 30, 2015

Effective May 12, 2015

**CHILD SUPPORT GUIDELINES
ADVISORY COMMITTEE EXTENSION**

Chief Sponsor: Lyle W. Hillyard

House Sponsor: V. Lowry Snow

LONG TITLE**General Description:**

This bill extends the Child Support Guidelines Advisory Committee until 2017.

Highlighted Provisions:

This bill:

- ▶ extends the Child Support Guidelines Advisory Committee until November 2017.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

78B-12-401, as last amended by Laws of Utah 2012, Chapter 19

78B-12-402, as last amended by Laws of Utah 2012, Chapter 19

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

Section 1. Section 78B-12-401 is amended to read:**78B-12-401. Advisory committee -- Membership -- Expiration.**

(1) On or before May 1, 2012, and then on or before May 1 of every fourth year subsequently, the governor shall appoint a child support guidelines advisory committee consisting of:

(a) one representative recommended by the Office of Recovery Services;

(b) one representative recommended by the Judicial Council;

(c) two representatives recommended by the Utah State Bar Association;

(d) two representatives of noncustodial parents;

(e) two representatives of custodial parents;

(f) one representative with expertise in economics; and

(g) two representatives from diverse interests related to child support issues, as the governor may consider appropriate. However, none of the individuals appointed under this subsection may be members of the Utah State Bar Association.

(2) The term of the committee members expires one month after the report of the committee is submitted to the Legislature under Section 78B-12-402.

(3) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(4) The committee ceases to exist no later than November 1, [2015] 2017, and then on or before November 1 of every fourth year subsequently.

Section 2. Section 78B-12-402 is amended to read:**78B-12-402. Duties -- Report -- Staff.**

(1) The advisory committee shall review the child support guidelines to ensure their application results in the determination of appropriate child support award amounts.

(2) The committee shall report to the Legislative Judiciary Interim Committee on or before October 1, [2015] 2017, and then on or before October 1 of every fourth year subsequently.

(3) The committee's report shall include recommendations of the majority of the committee, as well as specific recommendations of individual members of the committee.

(4) Staff for the committee shall be provided from the existing budget of the Department of Human Services.

CHAPTER 360**S. B. 230**

Passed March 11, 2015

Approved March 30, 2015

Effective July 1, 2015

**UTAH PRAIRIE DOG
MANAGEMENT APPROPRIATION**

Chief Sponsor: Evan J. Vickers

House Sponsor: Mike K. McKell

LONG TITLE**General Description:**

This bill appropriates money to fund the Utah prairie dog management plan.

Highlighted Provisions:

This bill:

- ▶ appropriates money to fund the Utah prairie dog management plan.

Monies Appropriated in this Bill:

This bill appropriates for fiscal year 2016:

- ▶ to the Department of Natural Resources - Division of Wildlife Resources, as a one-time appropriation:
 - from the General Fund, \$400,000 to fund implementation of the Utah prairie dog management plan.

Other Special Clauses:

This bill provides a special effective date.

Uncodified Material Affected:

ENACTS UNCODIFIED MATERIAL

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

Section 1. Appropriation.

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, for the fiscal year beginning July 1, 2015, and ending June 30, 2016, the following sums of money are appropriated from resources not otherwise appropriated, or reduced from amounts previously appropriated, out of the funds or accounts indicated. These sums of money are in addition to any amounts previously appropriated for fiscal year 2016.

To the Department of Natural Resources - Division of Wildlife Resources

<u>From General Fund, One-time</u>	<u>\$400,000</u>
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Schedule of Programs:

Director's Office	<u>\$400,000</u>
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The Legislature intends that, under Section 63J-1-603, appropriations under this section not lapse at the close of fiscal year 2016. The use of any nonlapsing funds is limited to implementation of the Utah prairie dog management plan.

The Legislature intends that the appropriation under this section is to be used to fund implementation of the Utah prairie dog management plan.

Section 2. Effective date.

This bill takes effect on July 1, 2015.

CHAPTER 361**S. B. 232**

Passed March 11, 2015
 Approved March 30, 2015
 Effective May 12, 2015

**HIGHER EDUCATION
 PERFORMANCE FUNDING**

Chief Sponsor: Stephen H. Urquhart
 House Sponsor: Keith Grover

LONG TITLE**General Description:**

This bill amends and enacts provisions related to higher education funding.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ amends provisions related to mission based funding for higher education institutions;
- ▶ directs the State Board of Regents to establish performance funding for higher education institutions;
- ▶ requires the State Board of Regents and higher education institutions to annually report to the Higher Education Appropriations Subcommittee on the use of performance funding; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53B-7-101, as last amended by Laws of Utah 2011, Chapter 73

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

Section 1. Section 53B-7-101 is amended to read:**53B-7-101. Combined requests for appropriations -- Board review of operating budgets -- Submission of budgets -- Recommendations -- Hearing request -- Appropriation formulas -- Allocations -- Dedicated credits -- Financial affairs.**

(1) As used in this section:

(a) (i) “Higher education institution” or “institution” means an institution of higher education listed in Section 53B-1-102.

(ii) “Higher education institution” or “institution” does not include the Utah College of Applied Technology.

(b) “Research university” means the University of Utah or Utah State University.

~~(4)~~ (2) (a) The board shall recommend a combined appropriation for the operating budgets

of higher education institutions for inclusion in a state appropriations act.

(b) The board’s combined budget recommendation shall include:

(i) employee compensation;

(ii) mandatory costs, including building operations and maintenance, fuel, and power;

(iii) mission based funding described in Subsection ~~(2)~~ (3);

(iv) performance funding described in Subsection ~~(4)~~;

~~(iv)~~ (v) statewide and institutional priorities, including scholarships, financial aid, and technology infrastructure; and

~~(v)~~ (vi) unfunded historic growth.

(c) The board’s recommendations shall be available for presentation to the governor and to the Legislature at least 30 days prior to the convening of the Legislature, and shall include schedules showing the recommended amounts for each institution, including separately funded programs or divisions.

(d) The recommended appropriations shall be determined by the board only after it has reviewed the proposed institutional operating budgets, and has consulted with the various institutions and board staff in order to make appropriate adjustments.

~~(2)~~ (3) (a) The board shall establish mission based funding.

(b) Mission based funding shall include:

(i) enrollment growth; and

(ii) up to three strategic priorities.

(c) The strategic priorities described in Subsection ~~(2)~~ (3)(b)(ii) shall be:

(i) approved by the board; and

(ii) designed to improve the availability, effectiveness, or quality of higher education in the state.

~~(d) When recommending an allocation of mission based funding to a doctorate-granting university, as defined by the board, or Southern Utah University, the board shall place greater emphasis on the university’s fulfillment of the strategic priorities described in Subsection (2)(b)(ii).]~~

~~(e) Notwithstanding Subsection (2)(d), the board may allocate funding for a modest amount of growth to doctorate-granting institutions and Southern Utah University.]~~

~~(4)~~ (d) Concurrent with recommending mission based funding, the board shall also recommend to the Legislature ways to address funding any inequities for institutions as compared to institutions with similar missions.

(4) (a) The board shall establish performance funding.

(b) Performance funding shall include metrics approved by the board, including:

- (i) degrees and certificates granted;
- (ii) services provided to traditionally underserved populations;
- (iii) responsiveness to workforce needs;
- (iv) institutional efficiency; and
- (v) for a research university, graduate research metrics.

(c) The board shall:

(i) award performance funding appropriated by the Legislature to institutions based on the institution's success in meeting the metrics described in Subsection (4)(b); and

(ii) reallocate funding that is not awarded to an institution under Subsection (4)(c)(i) for distribution to other institutions that meet the metrics described in Subsection (4)(b).

[(3)] (5) (a) Institutional operating budgets shall be submitted to the board at least 90 days prior to the convening of the Legislature in accordance with procedures established by the board.

(b) Funding requests pertaining to capital facilities and land purchases shall be submitted in accordance with procedures prescribed by the State Building Board.

[(4)] (6) (a) The budget recommendations of the board shall be accompanied by full explanations and supporting data.

(b) The appropriations recommended by the board shall be made with the dual objective of:

- (i) justifying for higher educational institutions appropriations consistent with their needs, and consistent with the financial ability of the state; and
- (ii) determining an equitable distribution of funds among the respective institutions in accordance with the aims and objectives of the statewide master plan for higher education.

[(5)] (7) (a) The board shall request a hearing with the governor on the recommended appropriations.

(b) After the governor delivers his budget message to the Legislature, the board shall request hearings on the recommended appropriations with the appropriate committees of the Legislature.

(c) If either the total amount of the state appropriations or its allocation among the institutions as proposed by the Legislature or its committees is substantially different from the recommendations of the board, the board may request further hearings with the Legislature or its appropriate committees to reconsider both the total amount and the allocation.

[(6)] (8) The board may devise, establish, periodically review, and revise formulas for its use and for the use of the governor and the committees of the Legislature in making appropriation recommendations.

[(7)] (9) (a) The board shall recommend to each session of the Legislature the minimum tuitions, resident and nonresident, for each institution which it considers necessary to implement the budget recommendations.

(b) The board may fix the tuition, fees, and charges for each institution at levels it finds necessary to meet budget requirements.

[(8)] (10) (a) Money allocated to each institution by legislative appropriation may be budgeted in accordance with institutional work programs approved by the board, provided that the expenditures funded by appropriations for each institution are kept within the appropriations for the applicable period.

(b) A president of an institution shall:

(i) establish initiatives for the president's institution each year that are:

(A) aligned with the strategic priorities described in Subsection [(2)] (3); and

(B) consistent with the institution's mission and role; and

(ii) allocate the institution's mission based funding to the initiatives.

[(9)] (11) The dedicated credits, including revenues derived from tuitions, fees, federal grants, and proceeds from sales received by the institutions are appropriated to the respective institutions and used in accordance with institutional work programs.

[(10)] (12) Each institution may do its own purchasing, issue its own payrolls, and handle its own financial affairs under the general supervision of the board.

[(11)] (13) (a) If the Legislature appropriates money in accordance with this section, it shall be distributed to the [State Board of Regents] board and higher education institutions to fund the items described in Subsection [(4)] (2)(b).

(b) During each general session of the Legislature following a fiscal year in which the Legislature provides an appropriation for mission based funding or performance funding, the board and institutions shall report to the Legislature's Higher Education Appropriations Subcommittee on the use of the previous year's mission based funding[,] and performance funding, including performance outcomes relating to the strategic initiatives approved by the board.

CHAPTER 362**S. B. 233**

Passed March 10, 2015
 Approved March 30, 2015
 Effective May 12, 2015

**ATTORNEY GENERAL
 CONTINGENT FEE CONTRACTS**

Chief Sponsor: J. Stuart Adams
 House Sponsor: Brad R. Wilson

LONG TITLE**General Description:**

This bill enacts provisions relating to contingent fee contracts between the attorney general and private attorneys.

Highlighted Provisions:

This bill:

- ▶ imposes requirements on the attorney general related to entering into contingent fee contracts with private attorneys;
- ▶ places limits on the amount of contingent fees that can be paid under a contingent fee contract;
- ▶ imposes other requirements on contingent fee contracts between the attorney general and private attorneys; and
- ▶ makes conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63G-6a-106, as last amended by Laws of Utah 2014, Chapter 196

ENACTS:

67-5-33, Utah Code Annotated 1953

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

Section 1. Section 63G-6a-106 is amended to read:

63G-6a-106. Procurement units with specific statutory procurement authority -- Independent procurement authority.

(1) A procurement unit with procurement authority under the following provisions has independent procurement authority to the extent of the applicable provisions and for the procurement items specified in the applicable provisions:

- (a) Title 53B, State System of Higher Education;
- (b) Title 63A, Chapter 5, State Building Board - Division of Facilities Construction and Management;
- (c) Title 67, Chapter 5, Attorney General;
- (d) Title 72, Transportation Code; and
- (e) Title 78A, Chapter 5, District Court.

(2) Except as otherwise provided in Sections 63G-6a-105 and 63G-6a-107, a procurement unit

shall conduct a procurement in accordance with this chapter.

(3) (a) The Department of Transportation may make rules governing the procurement of highway construction or improvement.

(b) The applicable rulemaking authority for a public transit district may make rules governing the procurement of a transit construction project or a transit improvement project.

(c) This Subsection (3) supersedes Subsections (1) and (2).

(4) (a) A procurement unit listed in Subsection (4)(b) may, without the supervision, interference, oversight, control, or involvement of the division or the chief procurement officer, but in accordance with the requirements of this chapter:

- (i) engage in a standard procurement process;
- (ii) procure an item under an exception, as provided in this chapter, to the requirement to use a standard procurement process; or
- (iii) otherwise engage in an act authorized or required by this chapter.

(b) The procurement units to which Subsection (4)(a) applies are:

- (i) a legislative procurement unit;
- (ii) a judicial procurement unit;
- (iii) an educational procurement unit;
- (iv) a local government procurement unit;
- (v) a conservation district;
- (vi) a local building authority;
- (vii) a local district;
- (viii) a public corporation;
- (ix) a special service district;
- (x) a public transit district; and
- (xi) a procurement unit referred to in Subsection (1), to the extent authorized in Subsection (1).

(c) A procurement unit with independent procurement authority shall comply with the requirements of this chapter.

(d) Notwithstanding Subsection (4)(a), a procurement unit with independent procurement authority may agree in writing with the division to extend the authority of the division or the chief procurement officer to the procurement unit, as provided in the agreement.

(5) (a) The attorney general may, in accordance with the provisions of this chapter, but without involvement by the division or the chief procurement officer:

- (i) retain outside counsel, subject to Section 67-5-33 if the attorney general retains outside counsel under a contingent fee contract, as defined in that section; or

(ii) procure litigation support services, including retaining an expert witness.

(b) A procurement unit with independent procurement authority that is not represented by the attorney general's office may, in accordance with the provisions of this chapter, but without involvement by the division or the chief procurement officer:

(i) retain outside counsel; or

(ii) procure litigation support services, including retaining an expert witness.

(6) The state auditor's office may, in accordance with the provisions of this chapter, but without involvement by the division or the chief procurement officer, procure audit services.

(7) The state treasurer may, in accordance with the provisions of this chapter, but without involvement by the division or the chief procurement officer, procure:

(a) deposit and investment services; and

(b) services related to issuing bonds.

Section 2. Section 67-5-33 is enacted to read:

67-5-33. Contingent fee contracts.

(1) As used in this section:

(a) "Contingent fee case" means a legal matter for which legal services are provided under a contingent fee contract.

(b) "Contingent fee contract" means a contract for legal services under which the compensation for legal services is a percentage of the amount recovered in the legal matter for which the legal services are provided.

(c) "Government attorney" means the attorney general or an assistant attorney general.

(d) "Legal matter" means a legal issue or administrative or judicial proceeding within the scope of the attorney general's authority.

(e) "Private attorney" means an attorney or law firm in the private sector.

(f) "Securities class action" means an action brought as a class action alleging a violation of federal securities law, including a violation of the Securities Act of 1933, 15 U.S.C. Sec. 77a et seq., or the Securities Exchange Act of 1934, 15 U.S.C. Sec. 78a et seq.

(2) Subsections (3) through (9):

(a) do not apply to a contingent fee contract in existence before May 12, 2015, or to any renewal or modification of a contingent fee contract in existence before that date;

(b) do not apply to a contingent fee contract with a private attorney that the attorney general hires to collect a debt that the attorney general is authorized by law to collect; and

(c) with respect to a contingent fee contract with a private attorney in a securities class action in which the state is appointed as lead plaintiff under Section 27(a)(3)(B)(i) of the Securities Act of 1933 or Section 21D(a)(3)(B)(i) of the Securities Exchange Act of 1934 or in which any state is a class representative, or in any other action in which the state is participating with one or more other states:

(i) apply only with respect to the state's share of any judgment, settlement amount, or common fund; and

(ii) do not apply to attorney fees awarded to a private attorney for representing other members of a class certified under Rule 23 of the Federal Rules of Civil Procedure or applicable state class action procedural rules.

(3) (a) The attorney general may not enter into a contingent fee contract with a private attorney unless the attorney general or the attorney general's designee makes a written determination that the contingent fee contract is cost-effective and in the public interest.

(b) A written determination under Subsection (3)(a) shall:

(i) be made before or within a reasonable time after the attorney general enters into a contingent fee contract; and

(ii) include specific findings regarding:

(A) whether sufficient and appropriate legal and financial resources exist in the attorney general's office to handle the legal matter that is the subject of the contingent fee contract; and

(B) the nature of the legal matter, unless information conveyed in the findings would violate an ethical responsibility of the attorney general or a privilege held by the state.

(4) The attorney general or attorney general's designee shall request qualifications from a private attorney being considered to provide services under a contingent fee contract unless the attorney general or attorney general's designee:

(a) determines that requesting qualifications is not feasible under the circumstances; and

(b) sets forth the basis for the determination under Subsection (4)(a) in writing.

(5) (a) The attorney general may not enter into a contingent fee contract with a private attorney that provides for the private attorney to receive a contingent fee, exclusive of reasonable costs and expenses, that exceeds:

(i) (A) 25% of the amount recovered, if the amount recovered is no more than \$10,000,000;

(B) 25% of the first \$10,000,000 recovered, plus 20% of the amount recovered that exceeds \$10,000,000, if the amount recovered is over \$10,000,000 but no more than \$15,000,000;

(C) 25% of the first \$10,000,000 recovered, plus 20% of the next \$5,000,000 recovered, plus 15% of the amount recovered that exceeds \$15,000,000, if

the amount recovered is over \$15,000,000 but no more than \$20,000,000; and

(D) 25% of the first \$10,000,000 recovered, plus 20% of the next \$5,000,000 recovered, plus 15% of the next \$5,000,000 recovered, plus 10% of the amount recovered that exceeds \$20,000,000, if the amount recovered is over \$20,000,000; or

(ii) \$50,000,000.

(b) A provision of a contingent fee contract that is inconsistent with a provision of this section is invalid unless, before the contract is executed, the contingent fee contract provision is approved by a majority of the attorney general, state treasurer, and state auditor.

(c) A contingent fee under a contingent fee contract may not be based on the imposition or amount of a penalty or civil fine.

(d) A contingent fee under a contingent fee contract may be paid only on amounts actually recovered by the state.

(6) (a) Throughout the period covered by a contingent fee contract, including any extension of the contingent fee contract:

(i) the private attorney that is a party to the contingent fee contract shall acknowledge that the government attorney retains complete control over the course and conduct of the contingent fee case for which the private attorney provides legal services under the contingent fee contract;

(ii) a government attorney with supervisory authority shall oversee any litigation involved in the contingent fee case;

(iii) a government attorney retains final authority over any pleading or other document that the private attorney submits to court;

(iv) an opposing party in a contingent fee case may contact the lead government attorney directly, without having to confer with the private attorney;

(v) a government attorney with supervisory authority over the contingent fee case may attend all settlement conferences; and

(vi) the private attorney shall acknowledge that final approval regarding settlement of the contingent fee case is reserved exclusively to the discretion of the attorney general.

(b) Nothing in Subsection (6)(a) may be construed to limit the authority of the client regarding the course, conduct, or settlement of the contingent fee case.

(7) (a) Within five business days after entering into a contingent fee contract, the attorney general shall post on the attorney general's website:

(i) the contingent fee contract;

(ii) the written determination under Subsection (3) relating to that contingent fee contract; and

(iii) if applicable, any written determination made under Subsection (4)(b) relating to that contingent fee contract.

(b) The attorney general shall keep the contingent fee contract and written determination posted on the attorney general's website throughout the term of the contingent fee contract.

(8) A private attorney that enters into a contingent fee contract with the attorney general shall:

(a) from the time the contingent fee contract is entered into until three years after the contract expires, maintain detailed records relating to the legal services provided by the private attorney under the contingent fee contract, including documentation of all expenses, disbursements, charges, credits, underlying receipts and invoices, and other financial transactions that relate to the legal services provided by the private attorney; and

(b) maintain detailed contemporaneous time records for the attorneys and paralegals working on the contingent fee case and promptly provide the records to the attorney general upon request.

(9) (a) After June 30 but on or before September 1 of each year, the attorney general shall submit a written report to the president of the Senate and the speaker of the House of Representatives describing the attorney general's use of contingent fee contracts with private attorneys during the fiscal year that ends the immediately preceding June 30.

(b) A report under Subsection (9)(a) shall:

(i) identify:

(A) each contingent fee contract the attorney general entered into during the fiscal year that ends the immediately preceding June 30; and

(B) each contingent fee contract the attorney general entered into during any earlier fiscal year if the contract remained in effect for any part of the fiscal year that ends the immediately preceding June 30;

(ii) for each contingent fee contract identified under Subsection (9)(b)(i):

(A) state the name of the private attorney that is a party to the contingent fee contract, including the name of the private attorney's law firm if the private attorney is an individual;

(B) describe the nature of the legal matter that is the subject of the contingent fee contract, unless describing the nature of the legal matter would violate an ethical responsibility of the attorney general or a privilege held by the state;

(C) identify the state agency which the private attorney was engaged to represent or counsel; and

(D) state the total amount of attorney fees approved by the attorney general for payment to a private attorney for legal services under a contingent fee contract during the fiscal year that ends the immediately preceding June 30; and

(iii) be accompanied by each written determination under Subsection (3) or (4)(b) made

during the fiscal year that ends the immediately preceding June 30.

(10) Nothing in this section may be construed to expand the authority of a state department, division, or other agency to enter into a contract if that authority does not otherwise exist.

CHAPTER 363**S. B. 238**

Passed March 11, 2015
 Approved March 30, 2015
 Effective May 12, 2015

PROSTITUTION AMENDMENTS

Chief Sponsor: Ann Millner
 House Sponsor: Lee B. Perry

LONG TITLE**General Description:**

This bill modifies the Utah Criminal Code regarding prostitution.

Highlighted Provisions:

This bill:

- ▶ provides that a person engages in the offense of prostitution, patronizing a prostitute, or sexual solicitation when the person offers to exchange or pay another person with the functional equivalent of a fee for the purpose of engaging in sexual activity.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

76-10-1302, as last amended by Laws of Utah 2014, Chapter 140
 76-10-1303, as last amended by Laws of Utah 2013, Chapters 30 and 196
 76-10-1313, as last amended by Laws of Utah 2013, Chapter 196

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

Section 1. Section 76-10-1302 is amended to read:**76-10-1302. Prostitution.**

(1) An individual is guilty of prostitution when the individual:

(a) engages in any sexual activity with another individual for a fee, or the functional equivalent of a fee;

(b) is an inmate of a house of prostitution; or

(c) loiters in or within view of any public place for the purpose of being hired to engage in sexual activity.

(2) (a) Except as provided in Subsection (2)(b) or Section 76-10-1309, prostitution is a class B misdemeanor.

(b) Except as provided in Section 76-10-1309, an individual who is convicted a second time, and on all subsequent convictions, of a subsequent offense of prostitution under this section or under a local ordinance adopted in compliance with Section 76-10-1307, is guilty of a class A misdemeanor.

(3) (a) As used in this Subsection (3):

(i) "Child" is as defined in Section 76-10-1301.

(ii) "Child engaged in prostitution" means a child who engages in conduct described in Subsection (1).

(iii) "Child engaged in sexual solicitation" means a child who offers or agrees to commit or engage in any sexual activity with another person for a fee under Subsection 76-10-1313(1)(a) or (c).

(iv) "Division" means the Division of Child and Family Services created in Section 62A-4a-103.

(v) "Receiving center" is as defined in Section 62A-7-101.

(b) Upon encountering a child engaged in prostitution or sexual solicitation, a law enforcement officer shall:

(i) conduct an investigation;

(ii) refer the child to the division;

(iii) if an arrest is made, bring the child to a receiving center, if available; and

(iv) contact the child's parent or guardian, if practicable.

(c) If a law enforcement officer refers a child to the division under Subsection (3)(b)(ii), the division shall:

(i) check the division's records to verify whether law enforcement referred the child to the division under Subsection (3)(b)(ii) on a prior occasion; and

(ii) provide the information described in Subsection (3)(c)(i) to the law enforcement officer.

(d) If law enforcement has not referred the child to the division under Subsection (3)(b)(ii) on at least one prior occasion, the division shall provide services to the child under Title 62A, Chapter 4a, Child and Family Services.

(e) If law enforcement has referred the child to the division under Subsection (3)(b)(ii) on at least one prior occasion the child may be subject to delinquency proceedings under Title 62A, Chapter 7, Juvenile Justice Services, and Section 78A-6-601 through Section 78A-6-704.

Section 2. Section 76-10-1303 is amended to read:**76-10-1303. Patronizing a prostitute.**

(1) A person is guilty of patronizing a prostitute when the person:

(a) pays or offers or agrees to pay another person a fee, or the functional equivalent of a fee, for the purpose of engaging in an act of sexual activity; or

(b) enters or remains in a house of prostitution for the purpose of engaging in sexual activity.

(2) Patronizing a prostitute is a class B misdemeanor, except as provided in Subsection (3) or (4) and Section 76-10-1309.

(3) A violation of this section that is preceded by a conviction under this section or a conviction under local ordinance adopted under Section 76-10-1307 is a class A misdemeanor.

(4) If the patronizing of a prostitute under Subsection (1)(a) involves a child as the other

person, a violation of Subsection (1)(a) is a third degree felony.

Section 3. Section 76-10-1313 is amended to read:

76-10-1313. Sexual solicitation -- Penalty.

(1) A person is guilty of sexual solicitation when the person:

(a) offers or agrees to commit any sexual activity with another person for a fee, or the functional equivalent of a fee;

(b) pays or offers or agrees to pay a fee to another person to commit any sexual activity; or

(c) with intent to engage in sexual activity for a fee or to pay another person to commit any sexual activity for a fee engages in, offers or agrees to engage in, or requests or directs another to engage in any of the following acts:

(i) exposure of a person's genitals, the buttocks, the anus, the pubic area, or the female breast below the top of the areola;

(ii) masturbation;

(iii) touching of a person's genitals, the buttocks, the anus, the pubic area, or the female breast; or

(iv) any act of lewdness.

(2) An intent to engage in sexual activity for a fee may be inferred from a person's engaging in, offering or agreeing to engage in, or requesting or directing another to engage in any of the acts described in Subsection (1)(c) under the totality of the existing circumstances.

(3) (a) Sexual solicitation is a class B misdemeanor, except under Subsection (3)(b).

(b) Any person who is convicted a second or subsequent time under this section or under a local ordinance adopted in compliance with Section 76-10-1307, is guilty of a class A misdemeanor, except as provided in Section 76-10-1309.

(4) If a person commits an act of sexual solicitation and the person solicited is a child, the offense is a third degree felony if the solicitation does not amount to human trafficking or human smuggling, a violation of Section 76-5-308, or aggravated human trafficking or aggravated human smuggling, a violation of Section 76-5-310.

CHAPTER 364**S. B. 239**

Passed March 11, 2015
 Approved March 30, 2015
 Effective March 30, 2015

**RETIREMENT
 WITHDRAWAL MODIFICATIONS**

Chief Sponsor: Todd Weiler
 House Sponsor: Kraig Powell

LONG TITLE**General Description:**

This bill modifies the Utah State Retirement and Insurance Benefit Act by providing for the withdrawal of employees of a withdrawing entity.

Highlighted Provisions:

This bill:

- ▶ allows certain withdrawing entities to make an election to withdraw from participation in a Utah retirement system or plan for current and future employees in certain circumstances;
- ▶ requires the withdrawing entity to pay certain costs that arise out of the election of the withdrawal;
- ▶ excludes all employees of a withdrawing entity from participation in the Public Employees' Contributory Retirement System, the Public Employees' Noncontributory Retirement System, and the New Public Employees' Tier II Contributory Retirement Act under certain circumstances; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

- 49-11-623, as enacted by Laws of Utah 2014, Chapter 365
 49-12-203, as last amended by Laws of Utah 2014, Chapters 15, 201, and 365
 49-13-203, as last amended by Laws of Utah 2014, Chapters 15 and 365
 49-22-203, as last amended by Laws of Utah 2014, Chapters 15 and 365

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

Section 1. Section 49-11-623 is amended to read:

49-11-623. Withdrawing entity -- Participation election date -- Withdrawal costs -- Rulemaking.

(1) As used in this section, "withdrawing entity" means an entity that:

- (a) participates in a system or plan under this title prior to July 1, 2014;
- (b) provides mental health and substance abuse services for a county under Section 17-50-318;
- (c) after beginning participation with a system or plan under this title, has modified its federal tax

status to a nonprofit organization that qualifies under Section 501(c)(3) of the Internal Revenue Code; and

(d) is not a state institution of higher education as described in Section 53B-2-101.

(2) Notwithstanding any other provision of this title, a withdrawing entity may provide for the participation of its employees with that system or plan as follows:

(a) the withdrawing entity shall determine a date that is no later than January 1, 2017, on which the withdrawing entity shall make an election under Subsection (3); and

(b) subject to the provisions of Subsection (6), the withdrawing entity shall pay to the office any reasonable actuarial and administrative costs determined by the office to have arisen out of an election made under this section.

(3) The withdrawing entity described under Subsection (2) may elect to:

(a) (i) continue its participation for all current employees of the withdrawing entity, who are covered by a system or plan as of the date set under Subsection (2)(a); and

~~[(4b)]~~ (ii) withdraw from participation in all systems or plans for all persons initially entering employment with the withdrawing entity, beginning on the date set under Subsection (2)(a)[-]; or

(b) withdraw from participation in all systems or plans for all current and future employees of the withdrawing entity, beginning on the date set under Subsection (2)(a).

(4) (a) An election provided under Subsection (3):

(i) is a one-time election made no later than the date specified under Subsection (2)(a);

(ii) shall be documented by a resolution adopted by the governing body of the withdrawing entity;

(iii) is irrevocable; and

(iv) applies to the withdrawing entity as the employer and to all employees of the withdrawing entity.

(b) Notwithstanding an election made under Subsection (3), any eligibility for service credit earned by an employee under this title before the date specified under Subsection (2)(a) is not affected by this section.

(5) If a withdrawing entity elects to continue participation under Subsection (3), the withdrawing entity shall continue to be subject to the laws and the rules governing the system or plan in which an employee participates, including the accrual of service credit and payment of contributions.

(6) Before a withdrawing entity may withdraw under this section, the withdrawing entity and the office shall enter into an agreement on:

(a) the costs described under Subsection (2)(b); and

(b) arrangements for the payment of the costs described under Subsection (2)(b).

~~[(6)]~~ (7) The board shall make rules to implement this section.

Section 2. Section 49-12-203 is amended to read:

49-12-203. Exclusions from membership in system.

(1) The following employees are not eligible for service credit in this system:

(a) subject to the requirements of Subsection (2), an employee whose employment status is temporary in nature due to the nature or the type of work to be performed;

(b) except as provided under Subsection (3)(a), an employee of an institution of higher education who participates in a retirement system with a public or private retirement system, organization, or company designated by the State Board of Regents during any period in which required contributions based on compensation have been paid on behalf of the employee by the employer;

(c) an employee serving as an exchange employee from outside the state;

(d) an executive department head of the state, a member of the State Tax Commission, the Public Service Commission, and a member of a full-time or part-time board or commission who files a formal request for exemption;

(e) an employee of the Department of Workforce Services who is covered under another retirement system allowed under Title 35A, Chapter 4, Employment Security Act;

(f) an employee who is employed on or after July 1, 2009, with an employer that has elected, prior to July 1, 2009, to be excluded from participation in this system under Subsection 49-12-202(2)(c);

(g) an employee who is employed on or after July 1, 2014, with an employer that has elected, prior to July 1, 2014, to be excluded from participation in this system under Subsection 49-12-202(2)(d); or

(h) an employee who is employed with a withdrawing entity that has elected, prior to January 1, 2017, to exclude;

(i) new employees from participation in this system under Subsection 49-11-623(3)(a); or

(ii) all employees from participation in this system under Subsection 49-11-623(3)(b).

(2) If an employee whose status is temporary in nature due to the nature of type of work to be performed:

(a) is employed for a term that exceeds six months and the employee otherwise qualifies for service credit in this system, the participating employer shall report and certify to the office that the employee is a regular full-time employee effective the beginning of the seventh month of employment; or

(b) was previously terminated prior to being eligible for service credit in this system and is reemployed within three months of termination by the same participating employer, the participating employer shall report and certify that the member is a regular full-time employee when the total of the periods of employment equals six months and the employee otherwise qualifies for service credits in this system.

(3) (a) Upon cessation of the participating employer contributions, an employee under Subsection (1)(b) is eligible for service credit in this system.

(b) Notwithstanding the provisions of Subsection (1)(f), any eligibility for service credit earned by an employee under this chapter before July 1, 2009 is not affected under Subsection (1)(f).

(c) Notwithstanding the provisions of Subsection (1)(g), any eligibility for service credit earned by an employee under this chapter before July 1, 2014, is not affected under Subsection (1)(g).

(4) Upon filing a written request for exemption with the office, the following employees shall be exempt from coverage under this system:

(a) a full-time student or the spouse of a full-time student and individuals employed in a trainee relationship;

(b) an elected official;

(c) an executive department head of the state, a member of the State Tax Commission, a member of the Public Service Commission, and a member of a full-time or part-time board or commission;

(d) an employee of the Governor's Office of Management and Budget;

(e) an employee of the Governor's Office of Economic Development;

(f) an employee of the Commission on Criminal and Juvenile Justice;

(g) an employee of the Governor's Office;

(h) an employee of the State Auditor's Office;

(i) an employee of the State Treasurer's Office;

(j) any other member who is permitted to make an election under Section 49-11-406;

(k) a person appointed as a city manager or chief city administrator or another person employed by a municipality, county, or other political subdivision, who is an at-will employee; and

(l) an employee of an interlocal cooperative agency created under Title 11, Chapter 13, Interlocal Cooperation Act, who is engaged in a specialized trade customarily provided through membership in a labor organization that provides retirement benefits to its members.

(5) (a) Each participating employer shall prepare a list designating those positions eligible for exemption under Subsection (4).

(b) An employee may not be exempted unless the employee is employed in an exempted position designated by the participating employer.

(6) (a) In accordance with this section, a municipality, county, or political subdivision may not exempt more than 50 positions or a number equal to 10% of the employees of the municipality, county, or political subdivision whichever is lesser.

(b) A municipality, county, or political subdivision may exempt at least one regular full-time employee.

(7) Each participating employer shall:

(a) file employee exemptions annually with the office; and

(b) update the employee exemptions in the event of any change.

(8) The office may make rules to implement this section.

Section 3. Section 49-13-203 is amended to read:

49-13-203. Exclusions from membership in system.

(1) The following employees are not eligible for service credit in this system:

(a) subject to the requirements of Subsection (2), an employee whose employment status is temporary in nature due to the nature or the type of work to be performed;

(b) except as provided under Subsection (3)(a), an employee of an institution of higher education who participates in a retirement system with a public or private retirement system, organization, or company designated by the State Board of Regents during any period in which required contributions based on compensation have been paid on behalf of the employee by the employer;

(c) an employee serving as an exchange employee from outside the state;

(d) an executive department head of the state or a legislative director, senior executive employed by the governor's office, a member of the State Tax Commission, a member of the Public Service Commission, and a member of a full-time or part-time board or commission who files a formal request for exemption;

(e) an employee of the Department of Workforce Services who is covered under another retirement system allowed under Title 35A, Chapter 4, Employment Security Act;

(f) an employee who is employed with an employer that has elected to be excluded from participation in this system under Subsection 49-13-202(5), effective on or after the date of the employer's election under Subsection 49-13-202(5); or

(g) an employee who is employed with a withdrawing entity that has elected, prior to January 1, 2017, to exclude:

(i) new employees from participation in this system under Subsection 49-11-623(3)(a); or

(ii) all employees from participation in this system under Subsection 49-11-623(3)(b).

(2) If an employee whose status is temporary in nature due to the nature of type of work to be performed:

(a) is employed for a term that exceeds six months and the employee otherwise qualifies for service credit in this system, the participating employer shall report and certify to the office that the employee is a regular full-time employee effective the beginning of the seventh month of employment; or

(b) was previously terminated prior to being eligible for service credit in this system and is reemployed within three months of termination by the same participating employer, the participating employer shall report and certify that the member is a regular full-time employee when the total of the periods of employment equals six months and the employee otherwise qualifies for service credits in this system.

(3) (a) Upon cessation of the participating employer contributions, an employee under Subsection (1)(b) is eligible for service credit in this system.

(b) Notwithstanding the provisions of Subsection (1)(f), any eligibility for service credit earned by an employee under this chapter before the date of the election under Subsection 49-13-202(5) is not affected under Subsection (1)(f).

(4) Upon filing a written request for exemption with the office, the following employees shall be exempt from coverage under this system:

(a) a full-time student or the spouse of a full-time student and individuals employed in a trainee relationship;

(b) an elected official;

(c) an executive department head of the state, a member of the State Tax Commission, a member of the Public Service Commission, and a member of a full-time or part-time board or commission;

(d) an employee of the Governor's Office of Management and Budget;

(e) an employee of the Governor's Office of Economic Development;

(f) an employee of the Commission on Criminal and Juvenile Justice;

(g) an employee of the Governor's Office;

(h) an employee of the State Auditor's Office;

(i) an employee of the State Treasurer's Office;

(j) any other member who is permitted to make an election under Section 49-11-406;

(k) a person appointed as a city manager or chief city administrator or another person employed by a municipality, county, or other political subdivision, who is an at-will employee;

(l) an employee of an interlocal cooperative agency created under Title 11, Chapter 13,

Interlocal Cooperation Act, who is engaged in a specialized trade customarily provided through membership in a labor organization that provides retirement benefits to its members; and

(m) an employee of the Utah Science Technology and Research Initiative created under Title 63M, Chapter 2, Utah Science Technology and Research Governing Authority Act.

(5) (a) Each participating employer shall prepare a list designating those positions eligible for exemption under Subsection (4).

(b) An employee may not be exempted unless the employee is employed in a position designated by the participating employer.

(6) (a) In accordance with this section, a municipality, county, or political subdivision may not exempt more than 50 positions or a number equal to 10% of the employees of the municipality, county, or political subdivision, whichever is lesser.

(b) A municipality, county, or political subdivision may exempt at least one regular full-time employee.

(7) Each participating employer shall:

(a) file employee exemptions annually with the office; and

(b) update the employee exemptions in the event of any change.

(8) The office may make rules to implement this section.

Section 4. Section 49-22-203 is amended to read:

49-22-203. Exclusions from membership in system.

(1) The following employees are not eligible for service credit in this system:

(a) subject to the requirements of Subsection (2), an employee whose employment status is temporary in nature due to the nature or the type of work to be performed;

(b) except as provided under Subsection (3), an employee of an institution of higher education who participates in a retirement system with a public or private retirement system, organization, or company designated by the State Board of Regents during any period in which required contributions based on compensation have been paid on behalf of the employee by the employer;

(c) an employee serving as an exchange employee from outside the state;

(d) an employee of the Department of Workforce Services who is covered under another retirement system allowed under Title 35A, Chapter 4, Employment Security Act; or

(e) an employee who is employed with a withdrawing entity that has elected, prior to January 1, 2017, to exclude:

(i) new employees from participation in this system under Subsection 49-11-623(3)(a); or

(ii) all employees from participation in this system under Subsection 49-11-623(3)(b).

(2) If an employee whose status is temporary in nature due to the nature of type of work to be performed:

(a) is employed for a term that exceeds six months and the employee otherwise qualifies for service credit in this system, the participating employer shall report and certify to the office that the employee is a regular full-time employee effective the beginning of the seventh month of employment; or

(b) was previously terminated prior to being eligible for service credit in this system and is reemployed within three months of termination by the same participating employer, the participating employer shall report and certify that the member is a regular full-time employee when the total of the periods of employment equals six months and the employee otherwise qualifies for service credits in this system.

(3) Upon cessation of the participating employer contributions, an employee under Subsection (1)(b) is eligible for service credit in this system.

Section 5. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

CHAPTER 365**S. B. 241**

Passed March 9, 2015

Approved March 30, 2015

Effective May 12, 2015

SALES TAX AMENDMENTS

Chief Sponsor: Wayne A. Harper

House Sponsor: Earl D. Tanner

LONG TITLE**General Description:**

This bill amends a local option sales and use tax.

Highlighted Provisions:

This bill:

- ▶ modifies a date for obtaining voter approval to impose a city or town option sales and use tax.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

59-12-2103, as last amended by Laws of Utah 2012, Chapters 254 and 352

*Be it enacted by the Legislature of the state of Utah:***Section 1. Section 59-12-2103 is amended to read:****59-12-2103. Imposition of tax -- Base -- Rate -- Expenditure of revenues collected from the tax -- Administration, collection, and enforcement of tax by commission -- Administrative charge -- Enactment or repeal of tax -- Annexation -- Notice.**

(1) (a) Subject to the other provisions of this section and except as provided in Subsection (2) or (3), beginning on January 1, 2009 and ending on June 30, 2016, if a city or town receives a distribution for the 12 consecutive months of fiscal year 2005-06 because the city or town would have received a tax revenue distribution of less than .75% of the taxable sales within the boundaries of the city or town but for Subsection 59-12-205(4)(a), the city or town legislative body may impose a sales and use tax of up to .20% on the transactions:

- (i) described in Subsection 59-12-103(1); and
- (ii) within the city or town.

(b) A city or town legislative body that imposes a tax under Subsection (1)(a) shall expend the revenues collected from the tax for the same purposes for which the city or town may expend the city's or town's general fund revenues.

(c) For purposes of this Subsection (1), the location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.

(2) (a) A city or town legislative body may not impose a tax under this section on:

(i) the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104; and

(ii) except as provided in Subsection (2)(b), amounts paid or charged for food and food ingredients.

(b) A city or town legislative body imposing a tax under this section shall impose the tax on amounts paid or charged for food and food ingredients if the food and food ingredients are sold as part of a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients.

(3) (a) Beginning on January 1, 2009, and ending on June 30, 2016, to impose a tax under this part, a city or town legislative body shall obtain approval from a majority of the members of the city or town legislative body.

(b) If, on June 30, 2016, a city or town is not imposing a tax under this part, the city or town legislative body may not impose a tax under this part beginning on or after July 1, 2016.

(c) (i) If, on June 30, 2016, a city or town imposes a tax under this part, the city or town shall repeal the tax on July 1, 2016, unless, on or after July 1, 2012, but on or before ~~June 30~~ March 31, 2016, the city or town legislative body obtains approval from a majority vote of the members of the city or town legislative body to continue to impose the tax.

(ii) If a city or town obtains approval under Subsection (3)(c)(i) from a majority vote of the members of the city or town legislative body to continue to impose a tax under this part on or after July 1, 2016, the city or town may impose the tax until no later than June 30, 2030.

(4) The commission shall transmit revenues collected within a city or town from a tax under this part:

- (a) to the city or town legislative body;
- (b) monthly; and
- (c) by electronic funds transfer.

(5) (a) Except as provided in Subsection (5)(b), the commission shall administer, collect, and enforce a tax under this part in accordance with:

(i) the same procedures used to administer, collect, and enforce the tax under:

- (A) Part 1, Tax Collection; or
- (B) Part 2, Local Sales and Use Tax Act; and
- (ii) Chapter 1, General Taxation Policies.

(b) A tax under this part is not subject to Subsections 59-12-205(2) through (6).

(6) The commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenues the commission collects from a tax under this part.

(7) (a) (i) Except as provided in Subsection (7)(b) or (c), if, on or after January 1, 2009, a city or town

enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal, or change shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (7)(a)(i) from the city or town.

(ii) The notice described in Subsection (7)(a)(i)(B) shall state:

(A) that the city or town will enact or repeal a tax or change the rate of the tax under this part;

(B) the statutory authority for the tax described in Subsection (7)(a)(ii)(A);

(C) the effective date of the tax described in Subsection (7)(a)(ii)(A); and

(D) if the city or town enacts the tax or changes the rate of the tax described in Subsection (7)(a)(ii)(A), the rate of the tax.

(b) (i) If the billing period for a transaction begins before the enactment of the tax or the tax rate increase under Subsection (1), the enactment of a tax or a tax rate increase takes effect on the first day of the first billing period that begins on or after the effective date of the enactment of the tax or the tax rate increase.

(ii) If the billing period for a transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under Subsection (1), the repeal of a tax or a tax rate decrease applies to a billing period if the billing statement for the billing period is rendered on or after the effective date of the repeal of the tax or the tax rate decrease.

(c) (i) If a tax due under this part on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax described in Subsection (7)(a)(i) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment, repeal, or change in the rate of the tax under Subsection (7)(a)(i).

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(d) (i) Except as provided in Subsection (7)(e) or (f), if, for an annexation that occurs on or after January 1, 2009, the annexation will result in the enactment, repeal, or change in the rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (7)(d)(ii) from the city or town that annexes the annexing area.

(ii) The notice described in Subsection (7)(d)(i)(B) shall state:

(A) that the annexation described in Subsection (7)(d)(i)(B) will result in the enactment, repeal, or change in the rate of a tax under this part for the annexing area;

(B) the statutory authority for the tax described in Subsection (7)(d)(ii)(A);

(C) the effective date of the tax described in Subsection (7)(d)(ii)(A); and

(D) if the city or town enacts the tax or changes the rate of the tax described in Subsection (7)(d)(ii)(A), the rate of the tax.

(e) (i) If the billing period for a transaction begins before the effective date of the enactment of the tax or a tax rate increase under Subsection (1), the enactment of a tax or a tax rate increase takes effect on the first day of the first billing period that begins on or after the effective date of the enactment of the tax or the tax rate increase.

(ii) If the billing period for a transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under Subsection (1), the repeal of a tax or a tax rate decrease applies to a billing period if the billing statement for the billing period is rendered on or after the effective date of the repeal of the tax or the tax rate decrease.

(f) (i) If a tax due under this part on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax described in Subsection (7)(d)(i) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment, repeal, or change under Subsection (7)(d)(i).

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale." [.]

CHAPTER 366**S. B. 243**

Passed March 12, 2015
 Approved March 30, 2015
 Effective May 12, 2015

**UTAH FUTURES
 PARTICIPATION AMENDMENTS**

Chief Sponsor: Todd Weiler
 House Sponsor: Rebecca P. Edwards

LONG TITLE**General Description:**

This bill modifies provisions of the Utah Futures program.

Highlighted Provisions:

This bill:

- ▶ amends the Department of Workforce Services, the State Board of Regents, and the State Board of Education's participation in the Utah Futures program.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2016:

- ▶ to the Utah Education and Telehealth Network - Utah Education and Telehealth Network as a one-time appropriation:
 - from the General Fund, \$2,000,000.

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**RENUMBERS AND AMENDS:**

53B-17-108, (Renumbered from 53A-1-410, as last amended by Laws of Utah 2014, Chapter 372)

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

Section 1. Section 53B-17-108, which is renumbered from Section 53A-1-410 is renumbered and amended to read:

[53A-1-410]. 53B-17-108. Utah Futures.

- (1) As used in this section:
- (a) "Education provider" means:
 - (i) a Utah institution of higher education as defined in Section 53B-2-101; or
 - (ii) a Utah provider of postsecondary education.
 - (b) "Student user" means:
 - (i) a Utah student in kindergarten through grade 12;
 - (ii) a Utah post secondary education student;
 - (iii) a parent or guardian of a Utah public education student; or
 - (iv) a Utah potential post secondary education student.
 - (c) "Utah Futures" means a career planning program developed and administered by the [Department of Workforce Services, the State

~~Board of Regents, and the State Board of Education]~~ Utah Futures Steering Committee.

(d) "Utah Futures Steering Committee" means a committee of members designated by the governor to administer and manage Utah Futures [~~in collaboration with the Department of Workforce Services, the State Board of Regents, and the State Board of Education]~~.

(2) The Utah Futures Steering Committee shall ensure, as funding allows and is feasible, that Utah Futures will:

(a) allow a student user to:

- (i) access the student user's full academic record;
- (ii) electronically allow the student user to give access to the student user's academic record and related information to an education provider as allowed by law;
- (iii) access information about different career opportunities and understand the related educational requirements to enter that career;

(iv) access information about education providers;

(v) access up to date information about entrance requirements to education providers;

(vi) apply for entrance to multiple schools without having to fully replicate the application process;

(vii) apply for loans, scholarships, or grants from multiple education providers in one location without having to fully replicate the application process for multiple education providers; and

(viii) research open jobs from different companies within the user's career interest and apply for those jobs without having to leave the website to do so;

(b) allow all users to:

(i) access information about different career opportunities and understand the related educational requirements to enter that career;

(ii) access information about education providers;

(iii) access up-to-date information about entrance requirements to education providers;

(iv) apply for entrance to multiple schools without having to fully replicate the application process;

(v) apply for loans, scholarships, or grants from multiple education providers in one location without having to fully replicate the application process for multiple education providers; and

(vi) research open jobs from different companies within the user's career interest and apply for those jobs without having to leave the website to do so;

(c) allow an education provider to:

(i) research and find student users who are interested in various educational outcomes;

(ii) promote the education provider's programs and schools to student users; and

(iii) connect with student users within the Utah Futures website;

(d) allow a Utah business to:

(i) research and find student users who are pursuing educational outcomes that are consistent with jobs the Utah business is trying to fill now or in the future; and

(ii) market jobs and communicate with student users through the Utah Futures website as allowed by law;

(e) ~~[allow the Department of Workforce Services to analyze and report]~~ provide analysis and reporting on student user interests, education paths, and behaviors within the education system so as to predictively determine appropriate career and educational outcomes and results; and

(f) allow all users of the Utah Futures' system to communicate and interact through social networking tools within the Utah Futures website as allowed by law.

~~[(3) On or before October 1, 2014, the State Board of Education, after consulting with the Board of Business and Economic Development created in Section 63M-1-301, may select a technology provider, through a request for proposals process, to provide technology and support for Utah Futures.]~~

~~[(4) In evaluating proposals under Subsection (3) in consultation with the Board of Business and Economic Development, the State Board of Education shall ensure that the technology provided by a proposer:]~~

~~[(a) allows Utah Futures to license the selected service oriented architecture technologies;]~~

~~[(b) allows Utah Futures to protect all user data within the system by leveraging role architecture;]~~

~~[(c) allows Utah Futures to update the user interface, APIs, and web services software layers as needed;]~~

~~[(d) provides the ability for a student user to have a secure profile and login to access and to store personal information related to the services listed in Subsection (2) via the Internet;]~~

~~[(e) protects all user data within Utah Futures;]~~

~~[(f) allows the State Board of Education to license the technology of the selected technology provider; and]~~

~~[(g) provides technology able to support application programming interfaces to integrate technology of other third party providers, which may include cloud-based technology.]~~

~~[(5) (a) On or before August 1, 2014, the evaluation panel described in Subsection (5)(b), using the criteria described in Subsection (5)(c), shall evaluate Utah Futures and determine whether any or all components of Utah Futures, as described in this section, should be outsourced to a private provider or built in-house by the participating state agencies.]~~

~~[(b) The evaluation panel described in Subsection (5)(a) shall consist of the following members,~~

~~appointed by the governor after consulting with the State Board of Education;]~~

~~[(i) five members who represent business, including;]~~

~~[(A) one member who has extensive knowledge and experience in information technology; and]~~

~~[(B) one member who has extensive knowledge and experience in human resources;]~~

~~[(ii) one member who is a user of the information provided by Utah Futures;]~~

~~[(iii) one member who is a parent of a student who uses Utah Futures;]~~

~~[(iv) one member who;]~~

~~[(A) is an educator as defined in Section 53A-6-103; and]~~

~~[(B) teaches students who use Utah Futures; and]~~

~~[(v) one member who is a high school counselor licensed under Title 53A, Chapter 6, Educator Licensing and Professional Practices Act.]~~

~~[(c) The evaluation panel described in Subsections (5)(a) and (b) shall consider at least the following criteria to make the determination described in Subsection (5)(a):]~~

~~[(i) the complete functional capabilities of a private technology provider versus an in-house version;]~~

~~[(ii) the cost of purchasing privately developed technology versus continuing to develop or build an in-house version;]~~

~~[(iii) the data and security capabilities of a private technology provider versus an in-house version;]~~

~~[(iv) the time frames to implementation; and]~~

~~[(v) the best practices and examples of other states who have implemented a tool similar to Utah Futures.]~~

~~[(d) On or before September 30, 2014, the evaluation panel shall report the determination to:]~~

~~[(i) the State Board of Education;]~~

~~[(ii) the Executive Appropriations Committee; and]~~

~~[(iii) the Education Interim Committee.]~~

Section 2. Appropriation.

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, for the fiscal year beginning July 1, 2015, and ending June 30, 2016, the following sums of money are appropriated from resources not otherwise appropriated, or reduced from amounts previously appropriated, out of the funds or accounts indicated. These sums of money are in addition to any amounts previously appropriated for fiscal year 2016.

To Utah Education and Telehealth Network - Utah Education and Telehealth Network

From General Fund, One-time	\$2,000,000
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Schedule of Programs:

<u>Utah Futures</u>	<u>\$2,000,000</u>
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The Legislature intends that:

(1) the Utah Education and Telehealth Network use the appropriation for Utah Futures as directed by the board in consultation with the Utah Futures Steering Committee as described in Section 53B-17-108; and

(2) under Section 63J-1-603, the appropriation provided under this section not lapse at the close of fiscal year 2016, and that the use of any nonlapsing funds is limited to the purposes described in Section 53B-17-108.

Section 3. Effective date.

(1) Except as provided in Subsection (2), this bill takes effect on May 12, 2015.

(2) Uncodified Section 2, Appropriation, takes effect on July 1, 2015.

CHAPTER 367**S. B. 246**

Passed March 11, 2015
 Approved March 30, 2015
 Effective July 1, 2015

LICENSING OF AUTISM PROVIDERS

Chief Sponsor: Brian E. Shiozawa
 House Sponsor: James A. Dunnigan

LONG TITLE**General Description:**

This bill amends the Psychologist Licensing Act to establish a license for an applied behavior analyst and an assistant behavior analyst and a registration for a behavior specialist and an assistant behavior specialist.

Highlighted Provisions:

This bill:

- ▶ creates an exception to insurance coverage nondiscrimination provisions;
- ▶ amends the membership of the Psychologist Licensing Board to include a behavior analyst;
- ▶ establishes a new part to the Psychologist Licensing Act to license the practice of behavior analysis;
- ▶ defines terms;
- ▶ creates a license for a behavior analyst and an assistant behavior analyst;
- ▶ creates a registration for a behavior specialist and an assistant behavior specialist;
- ▶ establishes qualifications for licensure or registration under the Behavior Analyst Licensing Act;
- ▶ provides administrative rulemaking for the division to establish continuing education requirements;
- ▶ provides exemptions from the requirement to be licensed or registered;
- ▶ establishes confidentiality requirements;
- ▶ establishes unprofessional and unlawful conduct; and
- ▶ sunsets Part 7, Behavior Analyst Licensing Act.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

31A-22-618, as last amended by Laws of Utah 2000, Chapter 267
 58-61-201, as last amended by Laws of Utah 2013, Chapter 262
 63I-1-258, as last amended by Laws of Utah 2014, Chapters 25, 72, and 181

ENACTS:

58-61-701, Utah Code Annotated 1953
 58-61-702, Utah Code Annotated 1953
 58-61-703, Utah Code Annotated 1953
 58-61-704, Utah Code Annotated 1953
 58-61-705, Utah Code Annotated 1953
 58-61-706, Utah Code Annotated 1953
 58-61-707, Utah Code Annotated 1953
 58-61-708, Utah Code Annotated 1953

58-61-709, Utah Code Annotated 1953
 58-61-710, Utah Code Annotated 1953
 58-61-711, Utah Code Annotated 1953
 58-61-712, Utah Code Annotated 1953
 58-61-713, Utah Code Annotated 1953
 58-61-714, Utah Code Annotated 1953

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

Section 1. Section 31A-22-618 is amended to read:**31A-22-618. Nondiscrimination among health care professionals.**

(1) Except as provided under Section 31A-22-617 and Subsection (3) of this section, and except as to insurers licensed under Chapter 8, no insurer may unfairly discriminate against any licensed class of health care providers by structuring contract exclusions which exclude payment of benefits for the treatment of any illness, injury, or condition by any licensed class of health care providers when the treatment is within the scope of the licensee's practice and the illness, injury, or condition falls within the coverage of the contract. Upon the written request of an insured alleging an insurer has violated this section, the commissioner shall hold a hearing to determine if the violation exists. The commissioner may consolidate two or more related alleged violations into a single hearing.

(2) This section does not apply to catastrophic mental health coverage provided in accordance with Section 31A-22-625.

(3) Coverage for licensed providers for behavioral analysis may be limited by a insurer in accordance with Section 58-61-714. Nothing in this section prohibits an insurer from electing to provide coverage for other licensed professionals whose scope of practice includes behavior analysis.

Section 2. Section 58-61-201 is amended to read:**58-61-201. Board.**

(1) (a) There is created the Psychologist Licensing Board consisting of four licensed psychologists [and] , one licensed behavior analyst, and one member from the general public.

(b) The licensed behavior analyst shall participate as a member of the board only for issues relevant to Part 7, Behavior Analyst Licensing Act.

(2) The board shall be appointed, serve terms, and be compensated in accordance with Section 58-1-201.

(3) The duties and responsibilities of the board are in accordance with Sections 58-1-202 and 58-1-203. In addition, the board shall:

(a) designate one of its members on a permanent or rotating basis to assist the division in review of complaints concerning unlawful or unprofessional practice by a licensee in the profession regulated by the board and to advise the division regarding the conduct of investigations of the complaints; and

(b) disqualify a member from acting as presiding officer in an administrative procedure in which that

member has previously reviewed the complaint or advised the division.

Section 3. Section 58-61-701 is enacted to read:

Part 7. Behavior Analyst Licensing Act

58-61-701. Title.

This part is known as the "Behavior Analyst Licensing Act."

Section 4. Section 58-61-702 is enacted to read:

58-61-702. Definitions.

In addition to the definitions in Section 58-61-102, as used in this part:

(1) "Confidential communication" means information obtained by an individual licensed or registered under this part, including information obtained by the individual's observation of or interview with the client, patient, or authorized agent, which is:

(a) (i) transmitted between the client, patient, or authorized agent and an individual licensed or registered under this part in the course of that relationship; or

(ii) transmitted among the client, patient, or authorized agent, an individual licensed or registered under this part, and individuals who are participating in the assessment or treatment in conjunction with an individual licensed or registered under this part, including the authorized agent or members of the client's or patient's family; and

(b) made in confidence, for the assessment or treatment of the client or patient by the individual who is licensed or registered under this part, and by a means not intended to be disclosed to a third party other than an individual:

(i) present to further the interest of the client or patient in the consultation, assessment or interview;

(ii) reasonably necessary for the transmission of the communications; or

(iii) participating in the assessment and treatment of the client or patient in conjunction with the behavior analyst or behavior specialist.

(2) "Licensed assistant behavior analyst" means an individual licensed under this part to engage in the practice of behavior analysis under the supervision of a qualified supervisor, as defined by the division by administrative rule.

(3) "Licensed behavior analyst" means an individual licensed under this part to engage in the practice of behavior analysis.

(4) (a) "Practice of behavior analysis" means the design and evaluation of instructional and environmental modifications to produce socially significant improvements in human behavior and includes the following:

(i) the empirical identification of functional relations between behavior and environmental factors, known as functional assessment and analysis;

(ii) interventions based on scientific research and the direct observation and measurement of behavior and environment; and

(iii) utilization of contextual factors, motivating operations, antecedent stimuli, positive reinforcement, and other consequences to help people develop new behaviors, increase or decrease existing behaviors, and emit behaviors under specific environmental conditions.

(b) "Practice of behavior analysis" does not include:

(i) diagnosis of a mental or physical disorder;

(ii) psychological testing;

(iii) educational testing;

(iv) neuropsychology;

(v) neuropsychological testing;

(vi) mental health therapy;

(vii) psychotherapy;

(viii) counseling;

(ix) biofeedback;

(x) neurofeedback;

(xi) cognitive therapy;

(xii) sex therapy;

(xiii) psychoanalysis; or

(xiv) hypnotherapy.

(5) "Registered assistant behavior specialist" means an individual who:

(a) is employed:

(i) as a professional engaging in the practice of behavior analysis within an organization contracted under a division of the Utah Department of Human Services;

(ii) to provide behavior analysis; and

(iii) on or before May 15, 2015;

(b) limits the practice of behavior analysis to the contract described in Subsection (5)(a)(i); and

(c) is registered under this part with the division to engage in the practice of behavior analysis under the supervision of a qualified supervisor, as defined by the division by administrative rule.

(6) "Registered behavior specialist" means an individual who:

(a) is employed:

(i) as a professional engaging in the practice of behavior analysis within an organization contracted under a division of the Utah Department of Human Services to provide behavior analysis; and

(ii) on or before May 15, 2015;

(b) limits the practice of behavior analysis to the contract described in Subsection (6)(a)(i); and

(c) is registered under this part with the division to engage in the practice of behavior analysis.

Section 5. Section 58-61-703 is enacted to read:

58-61-703. License or registration required.

(1) A license or registration is required to engage in the practice of behavior analysis, except as specifically provided in Section 58-1-307.

(2) The division shall issue to a person who qualifies under this part a license in the classification of:

(a) behavior analyst; or

(b) assistant behavior analyst.

(3) The division shall issue to a person who qualifies under this part a registration in the classification of:

(a) behavior specialist; or

(b) assistant behavior specialist.

(4) An individual shall be licensed or registered under this part or exempted from licensure under this part in order to engage in, or represent that the individual is engaged in, the practice of behavior analysis.

Section 6. Section 58-61-704 is enacted to read:

58-61-704. Term of license or registration.

(1) (a) The division shall issue each license under this part with a two-year renewal cycle established by division rule.

(b) The division may by rule extend or shorten a renewal cycle by as much as one year to stagger the renewal cycles it administers.

(2) At the time of renewal, the licensed individual shall show satisfactory evidence of renewal requirements as required under this part.

(3) Each license or registration expires on the expiration date shown on the license unless renewed by the licensed individual in accordance with Section 58-1-308.

(4) (a) A registration as a registered behavior specialist or a registered assistant behavior specialist:

(i) expires on the day the individual is no longer employed in accordance with Subsection 58-61-705(5)(e) or (6)(e); and

(ii) may not be renewed.

(b) The Department of Human Services, or an organization contracted with a division of the Department of Human Services, shall notify the Division of Occupational and Professional Licensing when a person registered under this part is no longer employed as a registered behavior

specialist or a registered assistant behavior specialist.

Section 7. Section 58-61-705 is enacted to read:

58-61-705. Qualifications for licensure -- By examination -- By certification.

(1) An applicant for licensure as a behavior analyst based upon education, supervised experience, and national examination shall:

(a) submit an application on a form provided by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) be of good moral character;

(d) produce certified transcripts of credit verifying satisfactory completion of a master's or doctoral degree in applied behavior analysis from an accredited institution of higher education or an equivalent master or doctorate degree as determined by the division by administrative rule;

(e) as defined by the division by administrative rule, have completed at least 1,500 hours of experiential behavior analysis training within a five year period of time with a qualified supervisor; and

(f) pass the examination requirement established by division rule under Section 58-1-203.

(2) An applicant for licensure as a behavior analyst based upon certification shall:

(a) without exception, on or before November 15, 2015, submit to the division an application on a form provided by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) be of good moral character; and

(d) provide official verification of current certification as a board certified behavior analyst from the Behavior Analyst Certification Board.

(3) An applicant for licensure as an assistant behavior analyst based upon education, supervised experience and national examination shall:

(a) submit an application on a form provided by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) be of good moral character;

(d) produce certified transcripts of credit verifying satisfactory completion of a bachelor's degree from an accredited institution of higher education and satisfactory completion of specific core course work in behavior analysis established under Section 58-1-203 from an accredited institution of higher education;

(e) as defined by the division by administrative rule, have completed at least 1,000 hours of experiential behavior analysis training within a

five-year period of time with a qualified supervisor; and

(f) pass the examination requirement established by division rule under Section 58-1-203.

(4) An applicant for licensure as an assistant behavior analyst based upon certification shall:

(a) without exception, on or before November 15, 2015, submit to the division an application on a form provided by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) be of good moral character; and

(d) provide official verification of current certification as a board certified assistant behavior analyst from the Behavior Analyst Certification Board.

(5) An applicant for registration as a behavior specialist based upon professional experience in behavior analysis shall:

(a) without exception, on or before November 15, 2015, submit to the division, an application on a form provided by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) be of good moral character;

(d) have at least five years of experience as a professional engaged in the practice of behavior analysis on or before May 15, 2015; and

(e) be employed as a professional engaging in the practice of behavior analysis within an organization contracted with a division of the Utah Department of Human Services to provide behavior analysis on or before July 1, 2015.

(6) An applicant for registration as an assistant behavior specialist based upon professional experience in behavior analysis shall:

(a) without exception, on or before November 15, 2015, submit to the division, an application on a form provided by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) be of good moral character;

(d) have at least one year of experience as a professional engaging in the practice of behavior analysis prior to July 1, 2015; and

(e) be employed as a professional engaging in the practice of behavior analysis within an organization contracted with a division of the Utah Department of Human Services to provide behavior analysis on or before July 1, 2015.

Section 8. Section 58-61-706 is enacted to read:

58-61-706. Continuing education.

(1) The division may establish administrative rules in accordance with Title 63G, Chapter 3, Utah

Administrative Rulemaking Act, requiring continuing education as a condition for renewal of any license classification or maintaining a registration classification under this part if the division finds that continuing education is necessary to reasonably protect the public health, safety, or welfare.

(2) If a renewal cycle is extended or shortened under Section 58-61-704, the continuing education hours required for license renewal or maintaining a registration under this part shall be increased or decreased proportionally.

Section 9. Section 58-61-707 is enacted to read:

58-61-707. Exemptions from licensure.

In addition to the exemptions from licensure in Section 58-1-307, the following when practicing within the scope of the license held, may engage in acts included in the definition of the practice of behavior analysis, subject to the stated circumstances and limitations, without being licensed under this chapter:

(1) a psychologist licensed under this chapter, and those acting under the psychologist's authority and direction;

(2) a registered behavior specialist under this part;

(3) a registered assistant behavior specialist under this part;

(4) a mental health therapist licensed under Chapter 60, Mental Health Professional Practice Act;

(5) a behavior analyst who practices with non-human or non-patient clients or consumers, including applied animal behaviorists;

(6) an individual who provides general behavior analysis services to an organization, if the practice of behavior analysis is for the benefit of the organization and does not involve the practice of behavior analysis on an individual;

(7) an individual who teaches behavior analysis or conducts behavior analysis research, provided that the individual does not practice behavior analysis on an individual as part of the teaching or research;

(8) an employee of a school district, private school, or charter school who:

(a) practices behavior analysis as part of the employee's job description with the school district, private school, or charter school; and

(b) limits the employee's practice to the employment settings authorized by the:

(i) State Board of Education, if the employee is employed by a public school or charter school; or

(ii) private school employer, if the employee is employed by a private school;

(9) a matriculated graduate student in:

(a) a mental health field whose activities are part of a defined program of study or professional training; or

(b) education or applied behavior analysis whose activities are part of a defined program of study or professional training;

(10) a person:

(a) who is enrolled in a behavior analysis course sequence approved by the Behavior Analyst Certification Board at an accredited institution of higher education;

(b) whose activities are part of a defined program of study or professional training; and

(c) who is actively accruing supervision hours as defined by division rule under Section 58-1-203 and under the supervision of a licensed behavior analyst;

(11) a person who:

(a) has completed and passed a course sequence approved by the Behavior Analyst Certification Board; and

(b) is completing the supervision hours as defined by division rule under Section 58-1-203 and under the supervision of a licensed behavior analyst or other supervisor as permitted by rule adopted by the division;

(12) a person who:

(a) has completed and passed the course sequence approved by the Behavior Analyst Certification Board;

(b) has completed the supervision hours as defined by division rule under Section 58-1-203;

(c) continues working under the supervision of a behavior analyst; and

(d) is preparing to take the licensing examination or awaiting results of the licensing examination, provided the exemption under this Subsection (12)(d) does not extend beyond six months from the latter of Subsection (12)(b) or (c);

(13) until November 15, 2015, a person who:

(a) has completed and passed the Board Certified Behavior Analyst or Board Certified Assistant Behavior Analyst Examination developed by the Behavior Analyst Certification Board; and

(b) is in the process of applying for a license under this part;

(14) an individual providing advice or counsel to another individual in a setting of the individual's association as friends or relatives and in a nonprofessional and noncommercial relationship, if there is no compensation paid for the advice or counsel; or

(15) an individual exempt under Subsection 58-1-307(1)(b) only if the individual is supervised by qualified faculty or staff and the activities are a defined part of the degree program.

Section 10. Section 58-61-708 is enacted to read:

58-61-708. License and registration denial and discipline.

The division's grounds for refusing to issue a license or registration to an applicant, for refusing to renew the license of a licensed individual or registration of a registered individual, for revoking, suspending, restricting, or placing on probation the license of a licensed individual or registration of a registered individual, for issuing a public or private reprimand to a licensed individual or registered individual, and for issuance of a cease and desist order are under Section 58-1-401.

Section 11. Section 58-61-709 is enacted to read:

58-61-709. Unlawful conduct.

As used in this part, "unlawful conduct" includes:

(1) practice of behavior analysis unless licensed as a behavior analyst or assistant behavior analyst under this part, registered as a behavior specialist or assistant behavior specialist, or exempted from licensure or registration under this title; or

(2) representing oneself as or using the title of licensed behavior analyst or licensed assistant behavior analyst unless currently licensed under this part.

Section 12. Section 58-61-710 is enacted to read:

58-61-710. Unprofessional conduct.

As used in this part, "unprofessional conduct" includes:

(1) using or employing the services of any individual to assist a licensed behavior analyst, licensed assistant behavior analyst, registered behavior specialist, or registered assistant behavior specialist in any manner not in accordance with the generally recognized practices, standards, or ethics of the profession for which the individual is licensed or the laws of the state, including:

(a) acting as a supervisor or accepting supervision of a supervisor without complying with or ensuring compliance with the requirements of administrative rule adopted by the division;

(b) engaging in and aiding or abetting conduct or practices that are false, dishonest, deceptive, or fraudulent;

(c) engaging in or aiding or abetting deceptive or fraudulent billing practices;

(d) failing to establish and maintain appropriate professional boundaries with a client or former client;

(e) engaging in or promising a personal, scientific, professional, financial, or other relationship with a client if it appears likely that such a relationship reasonably might impair the behavior analyst's or registered behavior specialist's objectivity or might harm or exploit the client;

(f) engaging in sexual activities or sexual contact with a client with or without client consent;

(g) engaging in sexual activities or sexual contact with a former client within two years of documented termination of services;

(h) engaging in sexual activities or sexual contact at any time with a former client who is especially vulnerable or susceptible to being disadvantaged because of the client's personal history, current mental status, or any condition that could reasonably be expected to place the client at a disadvantage, recognizing the power imbalance that exists or may exist between the behavior analyst or registered behavior specialist and the client;

(i) engaging in or aiding or abetting sexual harassment or any conduct that is exploitive or abusive with respect to a student, trainee, employee, or colleague with whom the licensee has supervisory or management responsibility;

(j) exploiting a client for personal gain;

(k) using a professional client relationship to exploit a client or other person for personal gain;

(l) failing to maintain appropriate client records for a period of not less than seven years from the documented termination of services to the client;

(m) failing to obtain informed consent from the client or legal guardian before taping, recording, or permitting third party observations of client care or records;

(n) failing to cooperate with the division during an investigation;

(o) using the abbreviated title of LBA unless licensed in the state as a behavior analyst;

(p) using the abbreviated title of LaBA unless licensed in the state as an assistant behavior analyst;

(q) failing to make reasonable efforts to notify a client and seek the transfer or referral of services, according to the client's needs or preferences, when a behavior analyst anticipates the interruption or termination of services to a client;

(r) failing to provide for orderly and appropriate resolution of responsibility for client care in the event that the employment or contractual relationship ends, according to the client's needs and preferences;

(s) failing to make reasonable steps to avoid abandoning a client who is still in need of services;

(t) failing to report conviction of a felony or misdemeanor directly relating to the practice of behavior analysis or public health and safety;

(u) failing to report revocation or suspension of certification from the Behavior Analyst Certification Board; and

(v) failure to confine practice conduct to those acts or practices in which the individual is competent by

education, training, and experience within limits of education, training, and experience; and

(2) other conduct as further defined by administrative rule adopted by the division.

Section 13. Section 58-61-711 is enacted to read:

58-61-711. Penalty for unlawful conduct.

An individual who commits any act of unlawful conduct as defined in:

(1) Subsection 58-61-501(1) is guilty of a third degree felony; or

(2) Subsection 58-61-501(2) is guilty of a class A misdemeanor.

Section 14. Section 58-61-712 is enacted to read:

58-61-712. Reporting of unprofessional or unlawful conduct -- Immunity from liability.

(1) Upon learning of an act of unlawful or unprofessional conduct as defined in Section 58-61-102 by a person licensed or registered under this chapter or an individual not licensed or registered under this chapter who engaged in acts or practices regulated under this chapter, which results in disciplinary action by a licensed health care facility, professional practice group, or professional society, or which results in a significant adverse impact upon the public health, safety, or welfare, the following shall report the conduct in writing to the division within 10 days after learning of the disciplinary action or the conduct, unless the individual or person knows it has been reported:

(a) a licensed health care facility or an organization in which an individual licensed or registered under this chapter engaged in practice;

(b) an individual licensed or registered under this chapter; or

(c) a professional society or organization whose membership individuals licensed or registered under this chapter and that has the authority to discipline or expel a member for acts of unprofessional conduct or unlawful conduct.

(2) Any individual who reports acts of unprofessional or unlawful conduct by an individual licensed or registered under this chapter is immune from liability arising out of the disclosure to the extent the individual furnishes the information in good faith and without malice.

Section 15. Section 58-61-713 is enacted to read:

58-61-713. Confidentiality -- Exemptions.

(1) A behavior analyst or behavior specialist under this chapter may not disclose any confidential communication with a client or patient without the express consent of:

(a) the client or patient;

(b) the parent or legal guardian of a minor client or patient; or

(c) the authorized agent of a client or patient.

(2) A behavior analyst or behavior specialist is not subject to Subsection (1) if:

(a) the behavior analyst or behavior specialist is permitted or required by state or federal law, rule, regulation, or order to report or disclose any confidential communication, including:

(i) reporting under Title 62A, Chapter 3, Part 3, Abuse, Neglect, or Exploitation of a Vulnerable Adult;

(ii) reporting under Title 62A, Chapter 4a, Part 4, Child Abuse or Neglect Reporting Requirements;

(iii) reporting under Title 78B, Chapter 3, Part 5, Limitation of Therapist's Duty to Warn; or

(iv) reporting of a communicable disease as required under Section 26-6-6;

(b) the disclosure is part of an administrative, civil, or criminal proceeding and is made under an exemption from evidentiary privilege under Utah Rules of Evidence, Rule 506; or

(c) the disclosure is made under a generally recognized professional or ethical standard that authorizes or requires the disclosure.

Section 16. Section 58-61-714 is enacted to read:

58-61-714. Third party payment for licensed behavior analyst.

Notwithstanding the provisions of Section 31A-22-618, payment from third party payers for behavior analysis may be limited to:

(1) a licensed behavior analyst as defined in 58-61-701; and

(2) the following, working within the scope of their practice:

(a) a physician licensed under Chapter 67, Utah Medical Practice Act or Chapter 68, Utah Osteopathic Medical Practice Act;

(b) an advanced practice registered nurse licensed under Chapter 31b, Nurse Practice Act;

(c) a psychologist licensed under this chapter;

(d) a clinical social worker licensed under Chapter 60, Part 2, Social Work Licensing Act;

(e) a marriage and family therapist licensed under Chapter 60, Part 3, Marriage and Family Therapist Licensing Act; and

(f) a clinical mental health counselor licensed under Chapter 60, Part 4, Clinical Mental Health Counselor Act.

Section 17. Section 63I-1-258 is amended to read:

63I-1-258. Repeal dates, Title 58.

(1) Title 58, Chapter 13, Health Care Providers Immunity from Liability Act, is repealed July 1, 2016.

(2) Title 58, Chapter 15, Health Facility Administrator Act, is repealed July 1, 2015.

(3) Title 58, Chapter 20a, Environmental Health Scientist Act, is repealed July 1, 2018.

(4) Section 58-37-4.3 is repealed July 1, 2016.

(5) Title 58, Chapter 40, Recreational Therapy Practice Act, is repealed July 1, 2023.

(6) Title 58, Chapter 41, Speech-Language Pathology and Audiology Licensing Act, is repealed July 1, 2019.

(7) Title 58, Chapter 42a, Occupational Therapy Practice Act, is repealed July 1, 2015.

(8) Title 58, Chapter 46a, Hearing Instrument Specialist Licensing Act, is repealed July 1, 2023.

(9) Title 58, Chapter 47b, Massage Therapy Practice Act, is repealed July 1, 2024.

(10) Title 58, Chapter 61, Part 7, Behavior Analyst Licensing Act, is repealed July 1, 2026.

[40] (11) Section 58-69-302.5 is repealed on July 1, 2015.

[41] (12) Title 58, Chapter 72, Acupuncture Licensing Act, is repealed July 1, 2017.

Section 18. Effective date.

This bill takes effect on July 1, 2015.

CHAPTER 368**S. B. 247**

Passed March 12, 2015
 Approved March 30, 2015
 Effective May 12, 2015

**STATE EMPLOYEES' ANNUAL
 LEAVE TRUST FUND AMENDMENTS**

Chief Sponsor: Deidre M. Henderson
 House Sponsor: Steve Eliason

LONG TITLE**General Description:**

This bill modifies the Utah State Personnel Management Act and the State Employees' Annual Leave Program II Trust Fund Act by amending state employee leave provisions.

Highlighted Provisions:

This bill:

- ▶ amends the name of the "State Employees' Annual Leave Program II Trust Fund" to the "State Employees' Annual Leave Trust Fund";
- ▶ allows certain transfers to the State Employees' Annual Leave Trust Fund from the termination pool for annual leave liabilities and allows costs for both annual leave and annual leave II to be paid from the fund;
- ▶ prohibits a creditor from obtaining assets of the trust fund; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

67-19-14.6, as enacted by Laws of Utah 2014, Chapter 437
 67-19f-101, as enacted by Laws of Utah 2014, Chapter 437
 67-19f-102, as enacted by Laws of Utah 2014, Chapter 437
 67-19f-201, as enacted by Laws of Utah 2014, Chapter 437
 67-19f-202, as enacted by Laws of Utah 2014, Chapter 437

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

Section 1. Section 67-19-14.6 is amended to read:

67-19-14.6. Annual leave -- Definitions -- Previously accrued hours -- Recognition of liability.

(1) As used in this section:

(a) (i) "Annual leave II" means leave hours an employing agency provides to an employee, beginning on the change date established in Subsection (2), as time off from work for personal use without affecting the employee's pay.

(ii) "Annual leave II" does not include:

(A) legal holidays under Section 63G-1-301;

(B) time off as compensation for actual time worked in excess of an employee's defined work period;

(C) sick leave;

(D) paid or unpaid administrative leave; or

(E) other paid or unpaid leave from work provided by state statute, administrative rule, or by federal law or regulation.

(b) "Change date" means the date established by the Division of Finance under Subsection (2) when annual leave II begins for a state agency.

(2) In accordance with the Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Division of Finance shall establish a date that is no later than January 2, 2016, when a state agency shall offer annual leave II in lieu of annual leave to an employee who is eligible to receive paid leave.

(3) An employing agency shall allow an employee who has an unused balance of accrued annual leave before the change date, to use the annual leave under the same rules that applied to the leave on the change date.

(4) (a) At the time of employee accrual of annual leave II, an employing agency shall set aside the cost of each hour of annual leave II for each eligible employee in an amount determined in accordance with rules made by the Division of Finance.

(b) The rules made under Subsection (4)(a) shall consider:

(i) the employee hourly rate of pay;

(ii) applicable employer paid taxes that would be required if the employee was paid for the annual leave II instead of using it for time off;

(iii) other applicable employer paid benefits; and

(iv) adjustments due to employee hourly rate changes, including the effect on accrued annual leave II balances.

(c) The Division of Finance shall provide that the amount of costs set aside under Subsection (4)(a) and deposited into the fund increase by at least the projected increase in annual leave liability for that year, until the year-end trust fund balances are reached as required under Subsection 67-19f-201(3)(b).

(5) The cost set aside under Subsection (4) shall be deposited by the Division of Finance into the State Employees' Annual Leave [~~Program II~~] Trust Fund created in Section 67-19f-201.

(6) For annual leave hours accrued before the change date, an employing agency shall continue to comply with the Division of Finance requirements for contributions to the termination pool.

(7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(a) the department shall make rules for the accrual and use of annual leave II provided under this section; and

(b) the Division of Finance shall make rules for the set aside provisions under Subsections (4) and (5).

Section 2. Section 67-19f-101 is amended to read:

CHAPTER 19f. STATE EMPLOYEES' ANNUAL LEAVE TRUST FUND ACT

67-19f-101. Title.

This chapter is known as the "State Employees' Annual Leave [Program II] Trust Fund Act."

Section 3. Section 67-19f-102 is amended to read:

67-19f-102. Definitions.

As used in this chapter:

(1) "Annual leave II" is as defined in Section 67-19-14.6.

(2) "Board of trustees" or "board" means the board of trustees created in Section 67-19f-202.

(3) "Income" means the revenues received by the state treasurer from investments of the trust fund principal.

(4) "Trust fund" means the State Employees' Annual Leave [Program II] Trust Fund created in Section 67-19f-201.

Section 4. Section 67-19f-201 is amended to read:

67-19f-201. Trust fund -- Creation -- Oversight -- Dissolution.

(1) There is created a trust fund entitled the "State Employees' Annual Leave [Program II] Trust Fund."

(2) The trust fund consists of:

(a) ongoing revenue provided from a state agency set aside for accrued annual leave II required under Section 67-19-14.6;

(b) appropriations made to the trust fund by the Legislature, if any;

(c) transfers from the termination pool described in Subsection 67-19-14.6(6) made by the Division of Finance to the trust fund for annual leave liabilities accrued before the change date established under Section 67-19-14.6;

~~(e)~~ (d) income; and

~~(d)~~ (e) revenue received from other sources.

(3) (a) The Division of Finance shall account for the receipt and expenditures of trust fund money.

(b) The Division of Finance shall make the necessary adjustments to the amount of set aside costs required under Subsection 67-19-14.6(4)(a) to provide that upon the trust fund's accrual of funding equal to 10% of the annual leave liability, year-end trust fund balances remain equal to at least 10% of the total state employee annual leave liability.

(4) (a) The state treasurer shall invest trust fund money by following the procedures and requirements of Part 3, Investment of Trust Funds.

(b) (i) The trust fund shall earn interest.

(ii) The state treasurer shall deposit all interest or other income earned from investment of the trust fund back into the trust fund.

(5) The board of trustees created in Section 67-19f-202 may expend money from the trust fund for:

(a) reimbursement to the employer of the costs paid to the trust fund in accordance with Section 67-19-14.6 as annual leave II is used by an employee; ~~and~~

(b) payments based on accrued annual leave and on accrued annual leave II that are made upon termination of an employee; and

~~(b)~~ (c) reasonable administrative costs that the board of trustees incurs in performing its duties as trustee of the trust fund.

(6) The board of trustees shall ensure that:

(a) money deposited into the trust fund is ~~expended only for the costs of annual leave II, including any allotted benefits under Subsection 67-19-14.6(4)~~ irrevocable and is expended only for the costs described in Subsection (5); and

(b) assets of the trust fund are dedicated to providing annual leave and annual leave II established by statute and rule.

(7) A creditor of the board of trustees or a state agency liable for annual leave benefits may not seize, attach, or otherwise obtain assets of the trust fund.

Section 5. Section 67-19f-202 is amended to read:

67-19f-202. Board of trustees of the State Employees' Annual Leave Trust Fund.

(1) (a) There is created a board of trustees of the State Employees' Annual Leave [Program II] Trust Fund composed of the following three members:

(i) the state treasurer or the state treasurer's designee;

(ii) the director of the Division of Finance or the director's designee; and

(iii) the executive director of the Governor's Office of Management and Budget or the executive director's designee.

(b) The state treasurer is chair of the board.

(c) Three members of the board is a quorum.

(d) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses as allowed in:

(i) Section 63A-3-106;

(ii) Section 63A-3-107; and

(iii) rules made by the Division of Finance according to Sections 63A-3-106 and 63A-3-107.

(e) (i) Except as provided in Subsection (1)(e)(ii), the state treasurer shall staff the board of trustees.

(ii) The Division of Finance shall provide accounting services for the trust fund.

(2) The board shall:

(a) on behalf of the state, act as trustee of the trust fund created under Section 67-19f-201 and exercise the state's fiduciary responsibilities;

(b) meet at least twice per year;

(c) review and approve the policies, projections, rules, criteria, procedures, forms, standards, performance goals, and actuarial reports for the trust fund;

(d) review and approve the budget for the trust fund;

(e) review financial records for the trust fund, including trust fund receipts, expenditures, and investments; and

(f) do any other things necessary to perform the state's fiduciary obligations under the trust fund.

(3) The board may:

(a) commission and obtain actuarial studies of the liabilities for the trust fund; and

(b) for purposes of the trust fund, establish labor additive rates to charge for the administrative expenses of the trust fund.

(4) The attorney general shall:

(a) act as legal counsel and provide legal representation to the board of trustees; and

(b) attend, or direct an attorney from the Office of the Attorney General to attend, each meeting of the board of trustees.

CHAPTER 369**S. B. 250**

Passed March 12, 2015
Approved March 30, 2015
Effective January 1, 2016

INCOME TAX REVISIONS

Chief Sponsor: Curtis S. Bramble
House Sponsor: Daniel McCay

LONG TITLE**General Description:**

This bill amends provisions related to income taxes.

Highlighted Provisions:

This bill:

- ▶ addresses income tax penalties;
- ▶ addresses filing requirements for income tax forms and returns;
- ▶ addresses the time period for the State Tax Commission to issue an individual income tax refund; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

59-1-401, as last amended by Laws of Utah 2014, Chapter 52
59-10-406, as last amended by Laws of Utah 2006, Chapter 10

ENACTS:

59-10-529.1, Utah Code Annotated 1953

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

Section 1. Section 59-1-401 is amended to read:**59-1-401. Definitions -- Offenses and penalties -- Rulemaking authority -- Statute of limitations -- Commission authority to waive, reduce, or compromise penalty or interest.**

(1) As used in this section:

(a) "Activated tax, fee, or charge" means a tax, fee, or charge with respect to which the commission:

(i) has implemented the commission's GenTax system; and

(ii) at least 30 days before implementing the commission's GenTax system as described in Subsection (1)(a)(i), has provided notice in a conspicuous place on the commission's website stating:

(A) the date the commission will implement the GenTax system with respect to the tax, fee, or charge; and

(B) that, at the time the commission implements the GenTax system with respect to the tax, fee, or charge:

(I) a person that files a return after the due date as described in Subsection (2)(a) is subject to the penalty described in Subsection (2)(c)(ii); and

(II) a person that fails to pay the tax, fee, or charge as described in Subsection (3)(a) is subject to the penalty described in Subsection (3)(b)(ii).

(b) "Activation date for a tax, fee, or charge" means with respect to a tax, fee, or charge, the later of:

(i) the date on which the commission implements the commission's GenTax system with respect to the tax, fee, or charge; or

(ii) 30 days after the date the commission provides the notice described in Subsection (1)(a)(ii) with respect to the tax, fee, or charge.

(c) (i) Except as provided in Subsection (1)(c)(ii), "tax, fee, or charge" means:

(A) a tax, fee, or charge the commission administers under:

(I) this title;

(II) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

(III) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;

(IV) Section 19-6-410.5;

(V) Section 19-6-714;

(VI) Section 19-6-805;

(VII) Section 32B-2-304;

(VIII) Section 34A-2-202;

(IX) Section 40-6-14;

(X) Section 69-2-5;

(XI) Section 69-2-5.5; or

(XII) Section 69-2-5.6; or

(B) another amount that by statute is subject to a penalty imposed under this section.

(ii) "Tax, fee, or charge" does not include a tax, fee, or charge imposed under:

(A) Title 41, Chapter 1a, Motor Vehicle Act, except for Section 41-1a-301;

(B) Title 41, Chapter 3, Motor Vehicle Business Regulation Act;

(C) Chapter 2, Property Tax Act, except for Section 59-2-1309;

(D) Chapter 3, Tax Equivalent Property Act; or

(E) Chapter 4, Privilege Tax.

(d) "Unactivated tax, fee, or charge" means a tax, fee, or charge except for an activated tax, fee, or charge.

(2) (a) The due date for filing a return is:

(i) if the person filing the return is not allowed by law an extension of time for filing the return, the day on which the return is due as provided by law; or

(ii) if the person filing the return is allowed by law an extension of time for filing the return, the earlier of:

(A) the date the person files the return; or

(B) the last day of that extension of time as allowed by law.

(b) A penalty in the amount described in Subsection (2)(c) is imposed if a person files a return after the due date described in Subsection (2)(a).

(c) For purposes of Subsection (2)(b), the penalty is an amount equal to the greater of:

(i) if the return described in Subsection (2)(b) is filed with respect to an unactivated tax, fee, or charge:

(A) \$20; or

(B) 10% of the unpaid unactivated tax, fee, or charge due on the return; or

(ii) if the return described in Subsection (2)(b) is filed with respect to an activated tax, fee, or charge, beginning on the activation date for the tax, fee, or charge:

(A) \$20; or

(B) (I) 2% of the unpaid activated tax, fee, or charge due on the return if the return is filed no later than five days after the due date described in Subsection (2)(a);

(II) 5% of the unpaid activated tax, fee, or charge due on the return if the return is filed more than five days after the due date but no later than 15 days after the due date described in Subsection (2)(a); or

(III) 10% of the unpaid activated tax, fee, or charge due on the return if the return is filed more than 15 days after the due date described in Subsection (2)(a).

(d) This Subsection (2) does not apply to:

(i) an amended return; or

(ii) a return with no tax due.

(3) (a) A person is subject to a penalty for failure to pay a tax, fee, or charge if:

(i) the person files a return on or before the due date for filing a return described in Subsection (2)(a), but fails to pay the tax, fee, or charge due on the return on or before that due date;

(ii) the person:

(A) is subject to a penalty under Subsection (2)(b); and

(B) fails to pay the tax, fee, or charge due on a return within a 90-day period after the due date for filing a return described in Subsection (2)(a);

(iii) (A) the person is subject to a penalty under Subsection (2)(b); and

(B) the commission estimates an amount of tax due for that person in accordance with Subsection 59-1-1406(2);

(iv) the person:

(A) is mailed a notice of deficiency; and

(B) within a 30-day period after the day on which the notice of deficiency described in Subsection (3)(a)(iv)(A) is mailed:

(I) does not file a petition for redetermination or a request for agency action; and

(II) fails to pay the tax, fee, or charge due on a return;

(v) (A) the commission:

(I) issues an order constituting final agency action resulting from a timely filed petition for redetermination or a timely filed request for agency action; or

(II) is considered to have denied a request for reconsideration under Subsection 63G-4-302(3)(b) resulting from a timely filed petition for redetermination or a timely filed request for agency action; and

(B) the person fails to pay the tax, fee, or charge due on a return within a 30-day period after the date the commission:

(I) issues the order constituting final agency action described in Subsection (3)(a)(v)(A)(I); or

(II) is considered to have denied the request for reconsideration described in Subsection (3)(a)(v)(A)(II); or

(vi) the person fails to pay the tax, fee, or charge within a 30-day period after the date of a final judicial decision resulting from a timely filed petition for judicial review.

(b) For purposes of Subsection (3)(a), the penalty is an amount equal to the greater of:

(i) if the failure to pay a tax, fee, or charge as described in Subsection (3)(a) is with respect to an unactivated tax, fee, or charge:

(A) \$20; or

(B) 10% of the unpaid unactivated tax, fee, or charge due on the return; or

(ii) if the failure to pay a tax, fee, or charge as described in Subsection (3)(a) is with respect to an activated tax, fee, or charge, beginning on the activation date:

(A) \$20; or

(B) (I) 2% of the unpaid activated tax, fee, or charge due on the return if the activated tax, fee, or charge due on the return is paid no later than five days after the due date for filing a return described in Subsection (2)(a);

(II) 5% of the unpaid activated tax, fee, or charge due on the return if the activated tax, fee, or charge due on the return is paid more than five days after the due date for filing a return described in Subsection (2)(a) but no later than 15 days after that due date; or

(III) 10% of the unpaid activated tax, fee, or charge due on the return if the activated tax, fee, or

charge due on the return is paid more than 15 days after the due date for filing a return described in Subsection (2)(a).

(4) (a) Beginning January 1, 1995, in the case of any underpayment of estimated tax or quarterly installments required by Sections 59-5-107, 59-5-207, 59-7-504, and 59-9-104, there shall be added a penalty in an amount determined by applying the interest rate provided under Section 59-1-402 plus four percentage points to the amount of the underpayment for the period of the underpayment.

(b) (i) For purposes of Subsection (4)(a), the amount of the underpayment shall be the excess of the required installment over the amount, if any, of the installment paid on or before the due date for the installment.

(ii) The period of the underpayment shall run from the due date for the installment to whichever of the following dates is the earlier:

(A) the original due date of the tax return, without extensions, for the taxable year; or

(B) with respect to any portion of the underpayment, the date on which that portion is paid.

(iii) For purposes of this Subsection (4), a payment of estimated tax shall be credited against unpaid required installments in the order in which the installments are required to be paid.

(5) (a) Notwithstanding Subsection (2) and except as provided in Subsection (6), a person allowed by law an extension of time for filing a corporate franchise or income tax return under Chapter 7, Corporate Franchise and Income Taxes, or an individual income tax return under Chapter 10, Individual Income Tax Act, is subject to a penalty in the amount described in Subsection (5)(b) if, on or before the day on which the return is due as provided by law, not including the extension of time, the person fails to pay:

(i) for a person filing a corporate franchise or income tax return under Chapter 7, Corporate Franchise and Income Taxes, the payment required by Subsection 59-7-507(1)(b); or

(ii) for a person filing an individual income tax return under Chapter 10, Individual Income Tax Act, the payment required by Subsection 59-10-516(2).

(b) For purposes of Subsection (5)(a), the penalty per month during the period of the extension of time for filing the return is an amount equal to 2% of the tax due on the return, unpaid as of the day on which the return is due as provided by law.

(6) If a person does not file a return within an extension of time allowed by Section 59-7-505 or 59-10-516, the person:

(a) is not subject to a penalty in the amount described in Subsection (5)(b); and

(b) is subject to a penalty in an amount equal to the sum of:

(i) a late file penalty in an amount equal to the greater of:

(A) \$20; or

(B) 10% of the tax due on the return, unpaid as of the day on which the return is due as provided by law, not including the extension of time; and

(ii) a late pay penalty in an amount equal to the greater of:

(A) \$20; or

(B) 10% of the unpaid tax due on the return, unpaid as of the day on which the return is due as provided by law, not including the extension of time.

(7) (a) Additional penalties for an underpayment of a tax, fee, or charge are as provided in this Subsection (7)(a).

(i) Except as provided in Subsection (7)(c), if any portion of an underpayment of a tax, fee, or charge is due to negligence, the penalty is 10% of the portion of the underpayment that is due to negligence.

(ii) Except as provided in Subsection (7)(d), if any portion of an underpayment of a tax, fee, or charge is due to intentional disregard of law or rule, the penalty is 15% of the entire underpayment.

(iii) If any portion of an underpayment is due to an intent to evade a tax, fee, or charge, the penalty is the greater of \$500 per period or 50% of the entire underpayment.

(iv) If any portion of an underpayment is due to fraud with intent to evade a tax, fee, or charge, the penalty is the greater of \$500 per period or 100% of the entire underpayment.

(b) If the commission determines that a person is liable for a penalty imposed under Subsection (7)(a)(ii), (iii), or (iv), the commission shall notify the person of the proposed penalty.

(i) The notice of proposed penalty shall:

(A) set forth the basis of the assessment; and

(B) be mailed by certified mail, postage prepaid, to the person's last-known address.

(ii) Upon receipt of the notice of proposed penalty, the person against whom the penalty is proposed may:

(A) pay the amount of the proposed penalty at the place and time stated in the notice; or

(B) proceed in accordance with the review procedures of Subsection (7)(b)(iii).

(iii) A person against whom a penalty is proposed in accordance with this Subsection (7) may contest the proposed penalty by filing a petition for an adjudicative proceeding with the commission.

(iv) (A) If the commission determines that a person is liable for a penalty under this Subsection (7), the commission shall assess the penalty and give notice and demand for payment.

(B) The commission shall mail the notice and demand for payment described in Subsection (7)(b)(iv)(A):

(I) to the person's last-known address; and

(II) in accordance with Section 59-1-1404.

(c) A seller that voluntarily collects a tax under Subsection 59-12-107(2)(d) is not subject to the penalty under Subsection (7)(a)(i) if on or after July 1, 2001:

(i) a court of competent jurisdiction issues a final unappealable judgment or order determining that:

(A) the seller meets one or more of the criteria described in Subsection 59-12-107(2)(a) or is a seller required to pay or collect and remit sales and use taxes under Subsection 59-12-107(2)(b); and

(B) the commission or a county, city, or town may require the seller to collect a tax under Subsections 59-12-103(2)(a) through (d); or

(ii) the commission issues a final unappealable administrative order determining that:

(A) the seller meets one or more of the criteria described in Subsection 59-12-107(2)(a) or is a seller required to pay or collect and remit sales and use taxes under Subsection 59-12-107(2)(b); and

(B) the commission or a county, city, or town may require the seller to collect a tax under Subsections 59-12-103(2)(a) through (d).

(d) A seller that voluntarily collects a tax under Subsection 59-12-107(2)(d) is not subject to the penalty under Subsection (7)(a)(ii) if:

(i) (A) a court of competent jurisdiction issues a final unappealable judgment or order determining that:

(I) the seller meets one or more of the criteria described in Subsection 59-12-107(2)(a) or is a seller required to pay or collect and remit sales and use taxes under Subsection 59-12-107(2)(b); and

(II) the commission or a county, city, or town may require the seller to collect a tax under Subsections 59-12-103(2)(a) through (d); or

(B) the commission issues a final unappealable administrative order determining that:

(I) the seller meets one or more of the criteria described in Subsection 59-12-107(2)(a) or is a seller required to pay or collect and remit sales and use taxes under Subsection 59-12-107(2)(b); and

(II) the commission or a county, city, or town may require the seller to collect a tax under Subsections 59-12-103(2)(a) through (d); and

(ii) the seller's intentional disregard of law or rule is warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law.

(8) ~~The~~ (a) Subject to Subsections (8)(b) and (c), the penalty for failure to file an information return, information report, or a complete supporting schedule is \$50 for each information return, information report, or supporting schedule up to a maximum of \$1,000.

(b) If an employer is subject to a penalty under Subsection (13), the employer may not be subject to a penalty under Subsection (8)(a).

(c) If an employer is subject to a penalty under this Subsection (8) for failure to file a return in accordance with Subsection 59-10-406(3) on or before the due date described in Subsection 59-10-406(3)(b)(ii), the commission may not impose a penalty under this Subsection (8) unless the return is filed more than 14 days after the due date described in Subsection 59-10-406(3)(b)(ii).

(9) If a person, in furtherance of a frivolous position, has a prima facie intent to delay or impede administration of a law relating to a tax, fee, or charge and files a purported return that fails to contain information from which the correctness of reported tax, fee, or charge liability can be determined or that clearly indicates that the tax, fee, or charge liability shown is substantially incorrect, the penalty is \$500.

(10) (a) A seller that fails to remit a tax, fee, or charge monthly as required by Subsection 59-12-108(1)(a):

(i) is subject to a penalty described in Subsection (2); and

(ii) may not retain the percentage of sales and use taxes that would otherwise be allowable under Subsection 59-12-108(2).

(b) A seller that fails to remit a tax, fee, or charge by electronic funds transfer as required by Subsection 59-12-108(1)(a)(ii)(B):

(i) is subject to a penalty described in Subsection (2); and

(ii) may not retain the percentage of sales and use taxes that would otherwise be allowable under Subsection 59-12-108(2).

(11) (a) A person is subject to the penalty provided in Subsection (11)(c) if that person:

(i) commits an act described in Subsection (11)(b) with respect to one or more of the following documents:

(A) a return;

(B) an affidavit;

(C) a claim; or

(D) a document similar to Subsections (11)(a)(i)(A) through (C);

(ii) knows or has reason to believe that the document described in Subsection (11)(a)(i) will be used in connection with any material matter administered by the commission; and

(iii) knows that the document described in Subsection (11)(a)(i), if used in connection with any material matter administered by the commission, would result in an understatement of another person's liability for a tax, fee, or charge.

(b) The following acts apply to Subsection (11)(a)(i):

(i) preparing any portion of a document described in Subsection (11)(a)(i);

(ii) presenting any portion of a document described in Subsection (11)(a)(i);

(iii) procuring any portion of a document described in Subsection (11)(a)(i);

(iv) advising in the preparation or presentation of any portion of a document described in Subsection (11)(a)(i);

(v) aiding in the preparation or presentation of any portion of a document described in Subsection (11)(a)(i);

(vi) assisting in the preparation or presentation of any portion of a document described in Subsection (11)(a)(i); or

(vii) counseling in the preparation or presentation of any portion of a document described in Subsection (11)(a)(i).

(c) For purposes of Subsection (11)(a), the penalty:

(i) shall be imposed by the commission;

(ii) is \$500 for each document described in Subsection (11)(a)(i) with respect to which the person described in Subsection (11)(a) meets the requirements of Subsection (11)(a); and

(iii) is in addition to any other penalty provided by law.

(d) The commission may seek a court order to enjoin a person from engaging in conduct that is subject to a penalty under this Subsection (11).

(e) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules prescribing the documents that are similar to Subsections (11)(a)(i)(A) through (C).

(12) (a) As provided in Section 76-8-1101, criminal offenses and penalties are as provided in Subsections (12)(b) through (e).

(b) (i) A person who is required by this title or any laws the commission administers or regulates to register with or obtain a license or permit from the commission, who operates without having registered or secured a license or permit, or who operates when the registration, license, or permit is expired or not current, is guilty of a class B misdemeanor.

(ii) Notwithstanding Section 76-3-301, for purposes of Subsection (12)(b)(i), the penalty may not:

(A) be less than \$500; or

(B) exceed \$1,000.

(c) (i) With respect to a tax, fee, or charge, a person who knowingly and intentionally, and without a reasonable good faith basis, fails to make, render, sign, or verify a return within the time required by law or to supply information within the time required by law, or who makes, renders, signs, or verifies a false or fraudulent return or statement, or who supplies false or fraudulent information, is guilty of a third degree felony.

(ii) Notwithstanding Section 76-3-301, for purposes of Subsection (12)(c)(i), the penalty may not:

(A) be less than \$1,000; or

(B) exceed \$5,000.

(d) (i) A person who intentionally or willfully attempts to evade or defeat a tax, fee, or charge or the payment of a tax, fee, or charge is, in addition to other penalties provided by law, guilty of a second degree felony.

(ii) Notwithstanding Section 76-3-301, for purposes of Subsection (12)(d)(i), the penalty may not:

(A) be less than \$1,500; or

(B) exceed \$25,000.

(e) (i) A person is guilty of a second degree felony if that person commits an act:

(A) described in Subsection (12)(e)(ii) with respect to one or more of the following documents:

(I) a return;

(II) an affidavit;

(III) a claim; or

(IV) a document similar to Subsections (12)(e)(i)(A)(I) through (III); and

(B) subject to Subsection (12)(e)(iii), with knowledge that the document described in Subsection (12)(e)(i)(A):

(I) is false or fraudulent as to any material matter; and

(II) could be used in connection with any material matter administered by the commission.

(ii) The following acts apply to Subsection (12)(e)(i):

(A) preparing any portion of a document described in Subsection (12)(e)(i)(A);

(B) presenting any portion of a document described in Subsection (12)(e)(i)(A);

(C) procuring any portion of a document described in Subsection (12)(e)(i)(A);

(D) advising in the preparation or presentation of any portion of a document described in Subsection (12)(e)(i)(A);

(E) aiding in the preparation or presentation of any portion of a document described in Subsection (12)(e)(i)(A);

(F) assisting in the preparation or presentation of any portion of a document described in Subsection (12)(e)(i)(A); or

(G) counseling in the preparation or presentation of any portion of a document described in Subsection (12)(e)(i)(A).

(iii) This Subsection (12)(e) applies:

(A) regardless of whether the person for which the document described in Subsection (12)(e)(i)(A) is prepared or presented:

(I) knew of the falsity of the document described in Subsection (12)(e)(i)(A); or

(II) consented to the falsity of the document described in Subsection (12)(e)(i)(A); and

(B) in addition to any other penalty provided by law.

(iv) Notwithstanding Section 76-3-301, for purposes of this Subsection (12)(e), the penalty may not:

(A) be less than \$1,500; or

(B) exceed \$25,000.

(v) The commission may seek a court order to enjoin a person from engaging in conduct that is subject to a penalty under this Subsection (12)(e).

(vi) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules prescribing the documents that are similar to Subsections (12)(e)(i)(A)(I) through (III).

(f) The statute of limitations for prosecution for a violation of this Subsection (12) is the later of six years:

(i) from the date the tax should have been remitted; or

(ii) after the day on which the person commits the criminal offense.

(13) (a) Subject to Subsection(13)(b), an employer that is required to file a form with the commission in accordance with Subsection 59-10-406(8) is subject to a penalty described in Subsection (13)(b) if the employer:

(i) fails to file the form with the commission in an electronic format approved by the commission as required by Subsection 59-10-406(8);

(ii) fails to file the form on or before the due date provided in Subsection 59-10-406(8);

(iii) fails to provide accurate information on the form; or

(iv) fails to provide all of the information required by the Internal Revenue Service to be contained on the form.

(b) For purposes of Subsection (13)(a), the penalty is:

(i) \$30 per form, not to exceed \$75,000 in a calendar year, if the employer files the form in accordance with Subsection 59-10-406(8), more than 14 days after the due date provided in Subsection 59-10-406(8) but no later than 30 days after the due date provided in Subsection 59-10-406(8);

(ii) \$60 per form, not to exceed \$200,000 in a calendar year, if the employer files the form in accordance with Subsection 59-10-406(8), more than 30 days after the due date provided in Subsection 59-10-406(8) but on or before June 1; or

(iii) \$100 per form, not to exceed \$500,000 in a calendar year, if the employer:

(A) files the form in accordance with Subsection 59-10-406(8) after June 1; or

(B) fails to file the form.

~~[(13)]~~ (14) Upon making a record of its actions, and upon reasonable cause shown, the commission may waive, reduce, or compromise any of the penalties or interest imposed under this part.

Section 2. Section 59-10-406 is amended to read:

59-10-406. Collection and payment of tax -- Forms filed electronically.

(1) (a) Each employer shall, on or before the last day of April, July, October, and January, pay to the commission the amount required to be deducted and withheld from wages paid to any employee during the preceding calendar quarter under this part.

(b) The commission may change the time or period for making reports and payments if:

(i) in its opinion, the tax is in jeopardy; or

(ii) a different time or period will facilitate the collection and payment of the tax by the employer.

(2) Each employer shall file a return, in a form the commission prescribes, with each payment of the amount deducted and withheld under this part showing:

(a) the total amount of wages paid to his employees;

(b) the amount of federal income tax deducted and withheld;

(c) the amount of tax under this part deducted and withheld; and

(d) any other information the commission may require.

(3) (a) Each employer shall file an annual return, in a form the commission prescribes, summarizing:

(i) the total compensation paid;

(ii) the federal income tax deducted and withheld; and

(iii) the state tax deducted and withheld for each employee during the calendar year.

(b) ~~[(4) Except as provided in Subsection (3)(b)(ii), the]~~ The return required by Subsection (3)(a) shall be filed with the commission:

(i) in an electronic format approved by the commission; and

(ii) on or before ~~[February 28]~~ January 31 of the year following that for which the report is made.

~~[(ii) An annual return described in Subsection (3)(a) that is filed electronically shall be filed with the commission on or before the date established in Section 6071(b), Internal Revenue Code, for filing returns.]~~

(4) (a) Each employer shall also, in accordance with rules prescribed by the commission, provide each employee from whom state income tax has been withheld with a statement of the amounts of total compensation paid and the amounts deducted and withheld for that employee during the preceding calendar year in accordance with this part.

(b) The statement shall be made available to each employee described in Subsection (4)(a) on or before January 31 of the year following that for which the report is made.

(5) (a) The employer is liable to the commission for the payment of the tax required to be deducted and withheld under this part.

(b) If an employer pays the tax required to be deducted and withheld under this part:

(i) an employee of the employer is not liable for the amount of any payment described in Subsection (5)(a); and

(ii) the employer is not liable to any person or to any employee for the amount of any such payment described in Subsection (5)(a).

(c) For the purpose of making penal provisions of this title applicable, any amount deducted or required to be deducted and remitted to the commission under this part is considered to be the tax of the employer and with respect to such amounts the employer is considered to be the taxpayer.

(6) (a) Each employer that deducts and withholds any amount under this part shall hold the amount in trust for the state for the payment of the amount to the commission in the manner and at the time provided for in this part.

(b) So long as any delinquency continues, the state shall have a lien to secure the payment of any amounts withheld, and not remitted as provided under this section, upon all of the assets of the employer and all property owned or used by the employer in the conduct of the employer's business, including stock-in-trade, business fixtures, and equipment.

(c) The lien described in Subsection (6)(b) shall be prior to any lien of any kind, including existing liens for taxes.

(7) To the extent consistent with this section, the commission may use all the provisions of this chapter relating to records, penalties, interest, deficiencies, redetermination of deficiencies, overpayments, refunds, assessments, and venue to enforce this section.

~~[(8) For all taxable years beginning on or after January 1, 2001, an employer that is required to file a federal Form W-2 in an electronic format with the Federal Department of the Treasury Internal Revenue Service shall file each Form W-2 that is required to be filed with the commission in an electronic format approved by the commission.]~~

(8) (a) Subject to Subsections (8)(b) and (c), the commission shall require an employer that issues

the following forms for a taxable year to file the forms with the commission in an electronic format approved by the commission:

(i) a federal Form W-2;

(ii) a federal Form 1099 filed for purposes of withholding under Section 59-10-404; or

(iii) a federal form substantially similar to a form described in Subsection (8)(a)(i) or (ii) if designated by the commission in accordance with Subsection (8)(d).

(b) An employer that is required to file a form with the commission in accordance with Subsection (8)(a) shall file the form on or before January 31.

(c) An employer that is required to file a form with the commission in accordance with Subsection (8)(a) shall provide:

(i) accurate information on the form; and

(ii) all of the information required by the Internal Revenue Service to be contained on the form.

(d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for purposes of Subsection (8)(a), the commission may designate a federal form as being substantially similar to a form described in Subsection (8)(a)(i) or (ii) if:

(i) for purposes of federal individual income taxes a different federal form contains substantially similar information to a form described in Subsection (8)(a)(i) or (ii); or

(ii) the Internal Revenue Service replaces a form described in Subsection (8)(a)(i) or (ii) with a different federal form.

Section 3. Section 59-10-529.1 is enacted to read:

59-10-529.1. Time period for commission to issue a refund.

(1) Except as provided in Subsection (2), the commission may not issue a refund before March 1.

(2) The commission may issue a refund before March 1 if, before March 1, the commission determines that:

(a) an employer has filed the one or more forms in accordance with Subsection 59-10-406(8) the employer is required to file with respect to an individual; and

(b) the individual has filed a return in accordance with this chapter.

Section 4. Effective date.

This bill takes effect on January 1, 2016.

CHAPTER 370**S. B. 253**

Passed March 12, 2015
 Approved March 30, 2015
 Effective May 12, 2015

EXCEPTIONS FOR PRIVATELY FUNDED SCHOLARSHIPS

Chief Sponsor: Scott K. Jenkins
 House Sponsor: Brad L. Dee

LONG TITLE**General Description:**

This bill modifies provisions related to verification requirements for receipt of state, local, or federal public benefits.

Highlighted Provisions:

This bill:

- ▶ exempts certain publicly funded scholarships from verification requirements; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63G-12-402, as last amended by Laws of Utah 2013, Chapter 64

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

Section 1. Section 63G-12-402 is amended to read:**63G-12-402. Receipt of state, local, or federal public benefits -- Verification -- Exceptions -- Fraudulently obtaining benefits -- Criminal penalties -- Annual report.**

(1) (a) Except as provided in Subsection (3) or when exempted by federal law, an agency or political subdivision of the state shall verify the lawful presence in the United States of an individual at least 18 years of age who applies for:

(i) a state or local public benefit as defined in 8 U.S.C. Sec. 1621; or

(ii) a federal public benefit as defined in 8 U.S.C. Sec. 1611, that is administered by an agency or political subdivision of this state.

(b) For purpose of a license issued under Title 58, Chapter 55, Utah Construction Trades Licensing Act, to an applicant that is an unincorporated entity, the Department of Commerce shall verify in accordance with this Subsection (1) the lawful presence in the United States of each individual who:

(i) owns an interest in the contractor that is an unincorporated entity; and

(ii) engages, or will engage, in a construction trade in Utah as an owner of the contractor described in Subsection (1)(b)(i).

(2) This section shall be enforced without regard to race, religion, gender, ethnicity, or national origin.

(3) Verification of lawful presence under this section is not required for:

(a) any purpose for which lawful presence in the United States is not restricted by law, ordinance, or regulation;

(b) assistance for health care items and services that:

(i) are necessary for the treatment of an emergency medical condition, as defined in 42 U.S.C. Sec. 1396b(v)(3), of the individual involved; and

(ii) are not related to an organ transplant procedure;

(c) short-term, noncash, in-kind emergency disaster relief;

(d) public health assistance for immunizations with respect to immunizable diseases and for testing and treatment of symptoms of communicable diseases whether or not the symptoms are caused by the communicable disease;

(e) programs, services, or assistance such as soup kitchens, crisis counseling and intervention, and short-term shelter, specified by the United States Attorney General, in the sole and unreviewable discretion of the United States Attorney General after consultation with appropriate federal agencies and departments, that:

(i) deliver in-kind services at the community level, including through public or private nonprofit agencies;

(ii) do not condition the provision of assistance, the amount of assistance provided, or the cost of assistance provided on the income or resources of the individual recipient; and

(iii) are necessary for the protection of life or safety;

(f) the exemption for paying the nonresident portion of total tuition as set forth in Section 53B-8-106;

(g) an applicant for a license under Section 61-1-4, if the applicant:

(i) is registered with the Financial Industry Regulatory Authority; and

(ii) files an application with the state Division of Securities through the Central Registration Depository;

(h) a state public benefit to be given to an individual under Title 49, Utah State Retirement and Insurance Benefit Act;

(i) a home loan that will be insured, guaranteed, or purchased by:

(i) the Federal Housing Administration, the Veterans Administration, or any other federal agency; or

(ii) an enterprise as defined in 12 U.S.C. Sec. 4502;

(j) a subordinate loan or a grant that will be made to an applicant in connection with a home loan that does not require verification under Subsection (3)(i);

(k) an applicant for a license issued by the Department of Commerce or individual described in Subsection (1)(b), if the applicant or individual provides the Department of Commerce:

(i) certification, under penalty of perjury, that the applicant or individual is:

(A) a United States citizen;

(B) a qualified alien as defined in 8 U.S.C. Sec. 1641; or

(C) lawfully present in the United States; and

(ii) (A) the number assigned to a driver license or identification card issued under Title 53, Chapter 3, Uniform Driver License Act; or

(B) the number assigned to a driver license or identification card issued by a state other than Utah if, as part of issuing the driver license or identification card, the state verifies an individual's lawful presence in the United States; and

(l) an applicant for:

(i) a Regents' scholarship described in Section 53B-8-109; ~~or~~

(ii) a New Century scholarship described in Section 53B-8-105~~[-]; or~~

(iii) a privately funded scholarship:

(A) for an individual who is a graduate of a high school located within Utah; and

(B) administered by an institution of higher education as defined in Section 53B-2-101.

(4) (a) An agency or political subdivision required to verify the lawful presence in the United States of an applicant under this section shall require the applicant to certify under penalty of perjury that:

(i) the applicant is a United States citizen; or

(ii) the applicant is:

(A) a qualified alien as defined in 8 U.S.C. Sec. 1641; and

(B) lawfully present in the United States.

(b) The certificate required under this Subsection (4) shall include a statement advising the signer that providing false information subjects the signer to penalties for perjury.

(5) An agency or political subdivision shall verify a certification required under Subsection (4)(a)(ii) through the federal SAVE program.

(6) (a) An individual who knowingly and willfully makes a false, fictitious, or fraudulent statement or representation in a certification under Subsection (3)(k) or (4) is subject to the criminal penalties applicable in this state for:

(i) making a written false statement under Subsection 76-8-504(2); and

(ii) fraudulently obtaining:

(A) public assistance program benefits under Sections 76-8-1205 and 76-8-1206; or

(B) unemployment compensation under Section 76-8-1301.

(b) If the certification constitutes a false claim of United States citizenship under 18 U.S.C. Sec. 911, the agency or political subdivision shall file a complaint with the United States Attorney General for the applicable district based upon the venue in which the application was made.

(c) If an agency or political subdivision receives verification that a person making an application for a benefit, service, or license is not a qualified alien, the agency or political subdivision shall provide the information to the Office of the Attorney General unless prohibited by federal mandate.

(7) An agency or political subdivision may adopt variations to the requirements of this section that:

(a) clearly improve the efficiency of or reduce delay in the verification process; or

(b) provide for adjudication of unique individual circumstances where the verification procedures in this section would impose an unusual hardship on a legal resident of Utah.

(8) It is unlawful for an agency or a political subdivision of this state to provide a state, local, or federal benefit, as defined in 8 U.S.C. Sec. 1611 and 1621, in violation of this section.

(9) A state agency or department that administers a program of state or local public benefits shall:

(a) provide an annual report to the governor, the president of the Senate, and the speaker of the House regarding its compliance with this section; and

(b) (i) monitor the federal SAVE program for application verification errors and significant delays;

(ii) provide an annual report on the errors and delays to ensure that the application of the federal SAVE program is not erroneously denying a state or local benefit to a legal resident of the state; and

(iii) report delays and errors in the federal SAVE program to the United States Department of Homeland Security.

CHAPTER 371**S. B. 255**

Passed March 11, 2015
Approved March 30, 2015
Effective May 12, 2015

DATA SECURITY MANAGEMENT COUNCIL

Chief Sponsor: Wayne A. Harper
House Sponsor: Sophia M. DiCaro

LONG TITLE**General Description:**

This bill creates a Data Security Management Council to develop recommendations for data security and risk assessment.

Highlighted Provisions:

This bill:

- ▶ creates the Data Security Management Council; and
- ▶ directs the council to study statewide data security issues and develop best practice recommendations.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

63F-2-101, Utah Code Annotated 1953
63F-2-102, Utah Code Annotated 1953
63F-2-103, Utah Code Annotated 1953

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

Section 1. Section 63F-2-101 is enacted to read:**CHAPTER 2. DATA SECURITY MANAGEMENT COUNCIL****63F-2-101. Title.**

This chapter is known as "Data Security Management Council."

Section 2. Section 63F-2-102 is enacted to read:**63F-2-102. Data Security Management Council -- Membership -- Duties.**

(1) There is created the Data Security Management Council composed of nine members as follows:

(a) the chief information officer appointed under Section 63F-1-201, or the chief information officer's designee;

(b) one individual appointed by the governor;

(c) one individual appointed by the speaker of the House of Representatives and the president of the Senate from the Legislative Information Technology Steering Committee; and

(d) the highest ranking information technology official, or the highest ranking information technology official's designee, from each of:

(i) the Judicial Council;

(ii) the State Board of Regents;

(iii) the State Office of Education;

(iv) the Utah College of Applied Technology;

(v) the State Tax Commission; and

(vi) the Office of the Attorney General.

(2) The council shall elect a chair of the council by majority vote.

(3) (a) A majority of the members of the council constitutes a quorum.

(b) Action by a majority of a quorum of the council constitutes an action of the council.

(4) The Department of Technology Services shall provide staff to the council.

(5) The council shall meet monthly, or as often as necessary, to:

(a) review existing state government data security policies;

(b) assess ongoing risks to state government information technology;

(c) create a method to notify state and local government entities of new risks;

(d) coordinate data breach simulation exercises with state and local government entities; and

(e) develop data security best practice recommendations for state government that include recommendations regarding:

(i) hiring and training a chief information security officer for each government entity;

(ii) continuous risk monitoring;

(iii) password management;

(iv) using the latest technology to identify and respond to vulnerabilities;

(v) protecting data in new and old systems; and

(vi) best procurement practices.

(6) A member who is not a member of the Legislature may not receive compensation or benefits for the member's service but may receive per diem and travel expenses as provided in:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

Section 3. Section 63F-2-103 is enacted to read:**63F-2-103. Data Security Management Council -- Report to Legislature -- Recommendations.**

(1) The council chair or the council chair's designee shall report annually no later than October 1 of each year to the Public Utilities and Technology Interim Committee.

(2) The council's annual report shall contain:

(a) a summary of topics the council studied during the year;

(b) best practice recommendations for state government; and

(c) recommendations for implementing the council's best practice recommendations.

CHAPTER 372**S. B. 263**

Passed March 12, 2015
 Approved March 30, 2015
 Effective May 12, 2015

EARLY READING AMENDMENTS

Chief Sponsor: Stephen H. Urquhart
 House Sponsor: Bradley G. Last

LONG TITLE**General Description:**

This bill amends provisions related to early reading assessments and interventions in public schools.

Highlighted Provisions:

This bill:

- ▶ amends provisions related to a diagnostic assessment system for early reading;
- ▶ requires the State Board of Education to distribute licenses for early reading software to a school district or charter school by a certain date;
- ▶ requires a public school that receives a license for early reading software to comply with certain standards;
- ▶ directs the State Board of Education to establish certain standards;
- ▶ provides for evaluation of the use of early reading software; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53A-1-606.7, as enacted by Laws of Utah 2011, Chapter 372

53A-17a-167, as last amended by Laws of Utah 2013, Chapter 466

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

Section 1. Section 53A-1-606.7 is amended to read:**53A-1-606.7. State Board of Education required to contract for a diagnostic assessment system for reading.**

(1) The State Board of Education shall contract with ~~[an]~~ [one or more] educational technology ~~[provider]~~ providers, selected through a request for proposals process, for a diagnostic assessment system for reading for students in kindergarten through grade three that meets the requirements of this section.

(2) ~~[The]~~ Subject to legislative appropriations, a diagnostic assessment system for reading shall be made available to school districts and charter schools that apply to use ~~[the]~~ a diagnostic assessment for reading beginning in the 2011-12 school year.

(3) ~~[The]~~ A diagnostic assessment system for reading for students in kindergarten through grade three shall:

(a) be in a digital format;

~~[(a)]~~ (b) include benchmark assessments of reading proficiency to be administered at the beginning, in the middle, and at the end of kindergarten, grade one, grade two, and grade three;

~~[(b)]~~ (c) include formative assessments to be administered every two to four weeks for students who are at high risk of not attaining proficiency in reading;

~~[(e)]~~ (d) align with the language arts core curriculum adopted by the State Board of Education; and

~~[(d)]~~ (e) include a data analysis component hosted by the ~~[contractor]~~ provider that:

(i) has the capacity to generate electronic information immediately and produce individualized student progress reports, class summaries, and class groupings for instruction;

(ii) ~~[has]~~ may have the capability of identifying lesson plans that may be used to develop reading skills;

(iii) enables teachers, administrators, and designated supervisors to access reports through a secured password system;

(iv) produces electronic printable reports for parents and administrators; and

(v) has the capability for principals to monitor usage by teachers.

~~[(4) (a) The benchmark and formative assessments specified in Subsections (3)(a) and (b) shall be available to be downloaded to a portable technology device so that a teacher may be able to sit beside a student as the student is being assessed at any location in the classroom or throughout the school.]~~

~~[(b) After an assessment is downloaded to a portable technology device, the device shall have the capability to operate in stand-alone mode if the Internet connection is lost.]~~

~~[(c) After an assessment is completed and uploaded to the data analysis component, the data analysis component shall be capable of allowing data and reports to be viewed and printed immediately.]~~

~~[(5) The State Board of Education shall:]~~

~~[(a) evaluate the effects of the diagnostic assessment system for reading by comparing the learning gains of students in school districts and charter schools that use the diagnostic assessment system for reading with the learning gains of students in school districts and charter schools that do not use the diagnostic assessment system for reading; and]~~

~~[(b) submit a report on the evaluation to the Public Education Appropriations Subcommittee by November 2013.]~~

Section 2. Section 53A-17a-167 is amended to read:

53A-17a-167. Early intervention program -- Enhanced kindergarten program -- Educational technology.

(1) The State Board of Education shall, as described in Subsection (4), distribute funds appropriated under this section for an enhanced kindergarten program described in Subsection (2), to school districts and charter schools that apply for the funds.

(2) A school district or charter school shall use funds appropriated in this section to offer an early intervention program, delivered through an enhanced kindergarten program that:

(a) is an academic program focused on building age-appropriate literacy and numeracy skills;

(b) uses an evidence-based early intervention model;

(c) is targeted to at-risk students; and

(d) is delivered through additional hours or other means.

(3) A school district or charter school may not require a student to participate in an enhanced kindergarten program described in Subsection (2).

(4) The State Board of Education shall distribute funds appropriated under this section for an enhanced kindergarten program described in Subsection (2) as follows:

(a) (i) the total allocation for charter schools shall be calculated by:

(A) dividing the number of charter school students by the total number of students in the public education system in the prior school year; and

(B) multiplying the resulting percentage by the total amount of available funds; and

(ii) the amount calculated under Subsection (4)(a) shall be distributed to charter schools with the greatest need for an enhanced kindergarten program, as determined by the State Board of Education in consultation with the State Charter School Board;

(b) each school district shall receive the amount calculated by:

(i) multiplying the value of the weighted pupil unit by 0.45; and

(ii) multiplying the result by 20; and

(c) the remaining funds, after the allocations described in Subsections (4)(a) and (4)(b) are made, shall be distributed to applicant school districts by:

(i) determining the number of students eligible to receive free lunch in the prior school year for each school district; and

(ii) prorating the remaining funds based on the number of students eligible to receive free lunch in each district.

(5) In addition to an enhanced kindergarten program described in Subsection (2), the early intervention program includes a component to address early ~~[intervention]~~ reading through the

use of ~~[an interactive computer software program]~~ early interactive reading software.

(6) (a) Subject to legislative appropriations, ~~[by September 1 of each year,]~~ the State Board of Education shall select and contract with one or more technology providers, through a request for proposals process, to provide ~~[an interactive computer software program]~~ early interactive reading software for literacy instruction and assessments for students in kindergarten through grade 3.

(b) ~~[The]~~ By August 1 of each year, the State Board of Education shall distribute licenses for ~~[an interactive computer software program]~~ early interactive reading software described in Subsection (6)(a) to school districts and charter schools that apply for the licenses.

(c) ~~[A]~~ Except as provided in Subsection (7)(c), a school district or charter school that received a license described in Subsection (6)(b) during the prior year shall be given first priority to receive an equivalent license during the current year.

(d) Licenses distributed to school districts and charter schools in addition to the licenses described in Subsection (6)(c) shall be distributed through a competitive process.

~~[(7) On or before November 1, 2013, and every year thereafter, the State Board of Education shall report final testing data regarding an interactive computer software program described in Subsection (6), including student learning gains as a result of the interactive computer software program, to:]~~

~~[(a) the Education Interim Committee; and]~~

~~[(b) the governor.]~~

(7) (a) As used in this Subsection (7), "dosage" means amount of instructional time.

(b) A public school that receives a license described in Subsection (6)(b) shall use the license:

(i) for a student in kindergarten or grade 1:

(A) for intervention for the student if the student is reading below grade level; or

(B) for advancement beyond grade level for the student if the student is reading at or above grade level;

(ii) for a student in grade 2 or 3, for intervention for the student if the student is reading below grade level; and

(iii) in accordance with the technology provider's dosage recommendations.

(c) A public school that does not use the early interactive reading software in accordance with the technology provider's dosage recommendations for two consecutive years may not continue to receive a license.

(8) (a) On or before August 1 of each year, the State Board of Education shall select and contract with an independent evaluator, through a request for proposals process, to act as an independent

contractor to evaluate early interactive reading software provided under this section.

(b) The State Board of Education shall ensure that a contract with an independent evaluator requires the independent evaluator to:

(i) evaluate a student's learning gains as a result of using early interactive reading software provided under Subsection (6);

(ii) for the evaluation under Subsection (8)(b)(i), use an assessment that is not developed by a provider of early interactive reading software; and

(iii) determine the extent to which a public school uses the early interactive reading software in accordance with a technology provider's dosage recommendations under Subsection (7).

(c) The State Board of Education and the independent evaluator selected under Subsection (8)(a) shall report annually on the results of the evaluation to the Education Interim Committee and the governor.

(d) The State Board of Education may use up to 4% of the appropriation provided under Subsection (6)(a) to contract with an independent evaluator selected under Subsection (8)(a).

CHAPTER 373
S. B. 264

Passed March 12, 2015
Approved March 30, 2015
Effective May 12, 2015

SURVEY MONUMENTS REPLACEMENT

Chief Sponsor: Ralph Okerlund
House Sponsor: Kay J. Christofferson

LONG TITLE

General Description:

This bill establishes and amends provisions relating to a state survey monument.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ clarifies reporting requirements for the protection of a survey monument;
- ▶ creates the Monument Replacement and Restoration Committee and provides for the committee's membership;
- ▶ directs the committee to administer a grant program for counties to protect and rehabilitate survey monuments;
- ▶ establishes reporting requirements; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2016:

- ▶ to the Automated Geographic Reference Center, as a one-time, non-lapsing appropriation:
 - from the General Fund, one-time, \$100,000 with intent language that the funds be used to provide staff support and administer a grant program.

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

17-23-14, as last amended by Laws of Utah 2001, Chapter 241

ENACTS:

63F-1-510, Utah Code Annotated 1953

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

Section 1. Section 17-23-14 is amended to read:

17-23-14. Disturbed corners -- County surveyor to be notified.

(1) As used in this section:

(a) "Corner" means the same as that term is defined in Section 17-23-17.5.

(b) "Monument" means the same as that term is defined in Section 17-23-17.5.

~~[(1) Any]~~ (2) A person who finds it necessary to disturb any established corner in the improvement of a road, or for any other cause, or finds a monument ~~[which]~~ that needs rehabilitation, shall notify the county surveyor.

~~[(2)]~~ (3) The county surveyor or the county surveyor's designee shall:

(a) consistent with federal law or rule, reconstruct or rehabilitate the monument for the corner by lowering and witnessing the corner or placing another monument and witness over the existing monument so that the monument:

(i) is left in a physical condition to remain as permanent a monument as is reasonably possible; and

(ii) may be reasonably located at all times in the future; and

(b) file the record of each reconstruction or rehabilitation under Subsection ~~[(2)]~~ (3)(a).

Section 2. Section 63F-1-510 is enacted to read:

63F-1-510. Monument Replacement and Restoration Committee.

(1) As used in this section:

(a) "Committee" means the Monument Replacement and Restoration Committee created in this section.

(b) "Corner" means the same as that term is defined in Section 17-23-17.5.

(c) "Monument" means the same as that term is defined in Section 17-23-17.5.

(2) (a) There is created the Monument Replacement and Restoration Committee composed of the following seven members:

(i) five members appointed by an organization or association that represents Utah counties:

(A) that have knowledge and understanding of the Public Land Survey System; and

(B) who each represents a different county; and

(ii) two members, appointed by the center, who have a knowledge and understanding of the Public Land Survey System.

(b) (i) Except as provided in Subsection (2)(b)(ii), a member appointed to the committee is appointed for a four-year term.

(ii) The director of the center shall, at the time an entity appoints or reappoints an individual to serve on the committee, adjust the length of the appointed individual's term, as necessary, to ensure that the terms of committee members are staggered so that approximately half of the committee members are appointed every two years.

(iii) When a vacancy occurs on the committee for any reason, the replacement appointee shall serve on the committee for the unexpired term.

(c) The committee shall elect one committee member to serve as chair of the committee for a term of two years.

(d) A majority of the committee constitutes a quorum, and the action of a majority of a quorum constitutes the action of the committee.

(e) (i) The center shall provide staff support to the committee.

(ii) An individual who is a member of the committee may not serve as staff to the committee.

(f) A member of the committee may not receive compensation for the member's service on the committee.

(g) The committee may adopt bylaws to govern the committee's operation.

(3) (a) The committee shall administer a grant program to assist counties in maintaining and protecting corners or monuments.

(b) A county wishing to receive a grant under the program described in Subsection (3)(a) shall submit to the committee an application that:

(i) identifies one or more monuments in the county that are in need of protection or rehabilitation;

(ii) establishes a plan that is consistent with federal law or rule to protect or rehabilitate each monument identified under Subsection (3)(b)(i); and

(iii) requests a specific amount of funding to complete the plan established under Subsection (3)(b)(ii).

(c) The committee shall:

(i) adopt criteria to:

(A) evaluate whether a monument identified by a county under Subsection (3)(b)(i) needs protection or rehabilitation; and

(B) identify which monuments identified by a county under Subsection (3)(b)(i) have the greatest need of protection or rehabilitation;

(ii) evaluate each application submitted by a county under Subsection (3)(b) using the criteria adopted by the committee under Subsection (3)(c)(i);

(iii) subject to sufficient funding and Subsection (3)(d), award grants to counties whose applications are most favorably evaluated under Subsection (3)(c)(ii); and

(iv) establish a date by which a county awarded a grant under Subsection (3)(c)(iii) shall report back to the committee.

(d) The committee may not award a grant to a county under this section in an amount greater than \$100,000.

(4) A county that is awarded a grant under this section shall:

(a) document the work performed by the county, pursuant to the plan established by the county under Subsection (3)(b)(ii), to protect or rehabilitate a monument; and

(b) before the date established under Subsection (3)(c)(iv), report to the committee on the work performed by the county.

(5) (a) If the committee has not expended all of the funds appropriated to the committee by the Legislature for the fulfillment of the committee's duties under this section before December 31, 2016, the committee shall disburse any remaining funds equally among all counties that have established a dedicated monument preservation fund by ordinance as provided in Section 17-23-19.

(b) A county to which the center has disbursed funds under Subsection (5)(a) shall:

(i) deposit the funds into the county's monument preservation fund; and

(ii) expend the funds, in consultation with the committee, for the maintenance and preservation of monuments in the county.

Section 3. Appropriation.

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, for the fiscal year beginning July 1, 2015, and ending June 30, 2016, the following sums of money are appropriated from resources not otherwise appropriated, or reduced from amounts previously appropriated, out of the funds or accounts indicated. These sums of money are in addition to any amounts previously appropriated for fiscal year 2016.

To the Automated Geographic Reference Center

From General Fund, One-time \$100,000

Schedule of Programs:

Monument Replacement and Restoration Committee \$100,000

The Legislature intends that the funds appropriated under this section:

(1) be used by:

(a) the Automated Geographic Reference Center to provide staff support to the Monument Replacement Restoration Committee; and

(b) the Monument Replacement and Restoration Committee to administer the grant program described in Section 63F-1-510; and

(2) not lapse at the close of fiscal year 2016.

Section 4. Effective date.

(1) Except as provided in Subsection (2), this bill takes effect on May 12, 2015.

(2) Uncodified Section 3, Appropriation, takes effect on July 1, 2015.

CHAPTER 374**S. B. 270**

Passed March 11, 2015
 Approved March 30, 2015
 Effective May 12, 2015

**CARSON SMITH
 SCHOLARSHIP AMENDMENTS**

Chief Sponsor: J. Stuart Adams
 House Sponsor: Steve Eliason
 Cosponsor: Gene Davis

LONG TITLE**General Description:**

This bill amends provisions related to the Carson Smith Scholarship Program.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ reduces the minimum age that a student can receive a Carson Smith Scholarship from age five to age three;
- ▶ sets a time limit on a requirement for a private school that receives the Carson Smith Scholarship; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53A-1a-703, as last amended by Laws of Utah 2010, Chapter 3
 53A-1a-704, as last amended by Laws of Utah 2014, Chapter 278
 53A-1a-706, as last amended by Laws of Utah 2013, Chapter 154
 53A-1a-708, as enacted by Laws of Utah 2005, Chapter 35
 53A-1a-709, as enacted by Laws of Utah 2005, Chapter 35

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

Section 1. Section 53A-1a-703 is amended to read:

53A-1a-703. Definitions.

As used in this part:

- (1) "Assessment team" means a team consisting of:
- (a) the student's parent or guardian;
 - (b) the student's private school classroom teacher;
 - (c) special education personnel from the student's school district; and
 - (d) if available, special education personnel from the private school at which the student is enrolled.
- (2) "Board" means the State Board of Education.

(3) "Eligible private school" means a private school that meets the requirements of Section 53A-1a-705.

(4) "Individualized Education Program" or "IEP" means a written statement for a student with a disability that is developed, reviewed, and revised in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.

(5) "Local Education Agency" or "LEA" means:

- (a) a school district; or
- (b) a charter school.

(6) "Preschool" means an education program for a student who:

- (a) is age three, four, or five; and
- (b) has not entered kindergarten.

[~~(5)~~] (7) "Scholarship student" means a student who receives a scholarship under this part.

[~~(6)~~] (8) "Value of the weighted pupil unit" means the amount established each year in statute that is multiplied by the number of weighted pupil units to yield the funding level for the basic state-supported school program.

Section 2. Section 53A-1a-704 is amended to read:

53A-1a-704. Scholarship program created -- Qualifications.

(1) The Carson Smith Scholarship Program is created to award scholarships to students with disabilities to attend a private school.

(2) To qualify for a scholarship:

- (a) the student's custodial parent or legal guardian shall reside within Utah;
- (b) the student shall have one or more of the following disabilities:
 - (i) an intellectual disability;
 - (ii) a hearing impairment;
 - (iii) a speech or language impairment;
 - (iv) a visual impairment;
 - (v) a serious emotional disturbance;
 - (vi) an orthopedic impairment;
 - (vii) autism;
 - (viii) traumatic brain injury;
 - (ix) other health impairment;
 - (x) specific learning disabilities; or
 - (xi) a developmental delay, provided the student is at least [~~five~~] three years of age, pursuant to Subsection (2)(c), and is younger than eight years of age;

(c) the student shall be at least [~~five~~] three years of age before September 2 of the year in which admission to a private school is sought and under 19 years of age on the last day of the school year as

determined by the private school, or, if the individual has not graduated from high school, will be under 22 years of age on the last day of the school year as determined by the private school; and

(d) except as provided in Subsection (3), the student shall:

(i) be enrolled in a Utah public school in the school year prior to the school year the student will be enrolled in a private school;

(ii) have an IEP; and

(iii) have obtained acceptance for admission to an eligible private school.

(3) The requirements of Subsection (2)(d) do not apply in the following circumstances:

(a) the student is enrolled or has obtained acceptance for admission to an eligible private school that has previously served students with disabilities; and

(b) an assessment team is able to readily determine with reasonable certainty:

(i) that the student has a disability listed in Subsection (2)(b) and would qualify for special education services, if enrolled in a public school; and

(ii) for the purpose of establishing the scholarship amount, the appropriate level of special education services which should be provided to the student.

(4) (a) To receive a full-year scholarship under this part, a parent of a student shall submit to the ~~[school district]~~ LEA where the student is enrolled an application on or before the August 15 immediately preceding the first day of the school year for which the student would receive the scholarship.

(b) The board may waive the full-year scholarship deadline described in Subsection (4)(a).

(c) An application for a scholarship shall contain an acknowledgment by the parent that the selected school is qualified and capable of providing the level of special education services required for the student.

(5) (a) The scholarship application form shall contain the following statement:

"I acknowledge that:

(1) A private school may not provide the same level of special education services that are provided in a public school;

(2) I will assume full financial responsibility for the education of my scholarship student if I accept this scholarship;

(3) Acceptance of this scholarship has the same effect as a parental refusal to consent to services pursuant to Section 614(a)(1) of the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.; and

(4) My child may return to a public school at any time."

(b) Upon acceptance of the scholarship, the parent assumes full financial responsibility for the education of the scholarship student.

(c) Acceptance of a scholarship has the same effect as a parental refusal to consent to services pursuant to Section 614(a)(1) of the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.

(d) The creation of the scholarship program or granting of a scholarship does not:

(i) imply that a public school did not provide a free and appropriate public education for a student; or

(ii) constitute a waiver or admission by the state.

(6) (a) A scholarship shall remain in force for three years.

(b) A scholarship shall be extended for an additional three years, if:

(i) the student is evaluated by an assessment team; and

(ii) the assessment team determines that the student would qualify for special education services, if enrolled in a public school.

(c) The assessment team shall determine the appropriate level of special education services which should be provided to the student for the purpose of setting the scholarship amount.

(d) A scholarship shall be extended for successive three-year periods as provided in Subsections (6)(a) and (b):

(i) until the student graduates from high school; or

(ii) if the student does not graduate from high school, until the student is age 22.

(7) A student's parent, at any time, may remove the student from a private school and place the student in another eligible private school and retain the scholarship.

(8) A scholarship student may not participate in a dual enrollment program pursuant to Section 53A-11-102.5.

(9) The parents or guardians of a scholarship student have the authority to choose the private school that will best serve the interests and educational needs of that student, which may be a sectarian or nonsectarian school, and to direct the scholarship resources available for that student solely as a result of their genuine and independent private choices.

(10) (a) ~~[A school district or charter school]~~ An LEA shall notify in writing the parents or guardians of students enrolled in the ~~[school district or charter school]~~ LEA who have an IEP of the availability of a scholarship to attend a private school through the Carson Smith Scholarship Program.

(b) The notice described under Subsection (10)(a) shall:

(i) be provided no later than 30 days after the student initially qualifies for an IEP;

(ii) be provided annually no later than February 1 to all students who have an IEP; and

(iii) include the address of the Internet website maintained by the board that provides prospective applicants with detailed program information and application forms for the Carson Smith Scholarship Program.

(c) ~~[A school district,]~~ An LEA or school within ~~[a school district, or charter school]~~ an LEA that has an enrolled student who has an IEP shall post the address of the Internet website maintained by the board that provides prospective applicants with detailed program information and application forms for the Carson Smith Scholarship Program on the ~~[school district's]~~ LEA's or school's website, if the ~~[school district]~~ LEA or school has one.

Section 3. Section 53A-1a-706 is amended to read:

53A-1a-706. Scholarship payments.

(1) (a) Scholarships shall be awarded by the board subject to the availability of money appropriated by the Legislature for that purpose.

(b) The Legislature shall annually appropriate money to the board from the General Fund to make scholarship payments.

(c) Beginning with the 2013-14 school year, the Legislature shall annually increase the amount of money appropriated under Subsection (1)(b) by an amount equal to the product of:

(i) the average scholarship amount awarded as of December 1 in the previous year; and

(ii) the product of:

(A) the number of students in ~~[grades kindergarten]~~ preschool through grade 12 in public schools statewide who have an IEP on December 1 of the previous year; and

(B) 0.0007.

(d) If the number of scholarship students as of December 1 in any school year equals or exceeds 7% of the number of students in ~~[grades kindergarten]~~ preschool through grade 12 in public schools statewide who have an IEP as of December 1 in the same school year, the Public Education Appropriations Subcommittee shall study the requirement to increase appropriations for scholarship payments as provided in this section.

(e) (i) If money is not available to pay for all scholarships requested, the scholarships shall be allocated on a random basis except that preference shall be given to students who received scholarships in the previous school year.

(ii) If money is insufficient in a school year to pay for all the continuing scholarships, new scholarships may not be awarded during that school year and the money available for scholarships shall be prorated among the eligible students who received scholarships in the previous year.

(2) Full-year scholarships shall be awarded in the following amounts:

(a) for a student who received an average of 180 minutes per day or more of special education services in a public school before transferring to a private school, an amount not to exceed the lesser of:

(i) the value of the weighted pupil unit multiplied by 2.5; or

(ii) the private school tuition and fees; and

(b) for a student who received an average of less than 180 minutes per day of special education services in a public school before transferring to a private school, an amount not to exceed the lesser of:

(i) the value of the weighted pupil unit multiplied by 1.5; or

(ii) the private school tuition and fees.

(3) The scholarship amount for a student enrolled in a half-day kindergarten or part-day preschool program shall be the amount specified in Subsection (2)(a) or (b) multiplied by .55.

(4) (a) The scholarship amount for a student who receives a waiver under Subsection 53A-1a-704(3) shall be based upon the assessment team's determination of the appropriate level of special education services to be provided to the student.

(b) (i) If the student requires an average of 180 minutes per day or more of special education services, a full-year scholarship shall be equal to the amount specified in Subsection (2)(a).

(ii) If the student requires less than an average of 180 minutes per day of special education services, a full-year scholarship shall be equal to the amount specified in Subsection (2)(b).

(iii) If the student is enrolled in a half-day kindergarten or part-day preschool program, a full-year scholarship is equal to the amount specified in Subsection (3).

(5) (a) Except as provided in Subsection (5)(b), upon review and receipt of documentation that verifies a student's admission to, or continuing enrollment and attendance at, a private school, the board shall make scholarship payments quarterly in four equal amounts in each school year in which a scholarship is in force.

(b) In accordance with board rule, the board may make a scholarship payment before the first quarterly payment of the school year, if a private school requires partial payment of tuition before the start of the school year to reserve space for a student admitted to the school.

(6) A parent of a scholarship student shall notify the board if the student does not have continuing enrollment and attendance at an eligible private school.

(7) Before scholarship payments are made, the board shall cross-check enrollment lists of

scholarship students, ~~[school districts]~~ LEAs, and youth in custody to ensure that scholarship payments are not erroneously made.

(8) (a) Scholarship payments shall be made by the board by individual warrant made payable to the student's parent and mailed by the board to the private school. The parent shall restrictively endorse the warrant to the private school for deposit into the account of the private school.

(b) A person, on behalf of a private school, may not accept a power of attorney from a parent to sign a warrant referred to in Subsection (8)(a), and a parent of a scholarship student may not give a power of attorney designating a person, on behalf of a private school, as the parent's attorney-in-fact.

Section 4. Section 53A-1a-708 is amended to read:

53A-1a-708. Enforcement and penalties.

(1) (a) The board shall require a private ~~[schools]~~ school to submit a signed ~~[affidavits]~~ affidavit assuring the private school will comply with the requirements of this part.

(b) If a school fails to submit a signed affidavit ~~[after having an opportunity to provide explanations and request delays]~~ within 30 days of receiving notification that the school is an approved private school to receive the Carson Smith Scholarship, the board may:

(i) deny the private school permission to enroll scholarship students; and

(ii) interrupt disbursement of or withhold scholarship payments.

(2) The board may investigate complaints and convene administrative hearings for an alleged violation of this part.

(3) Upon a finding that this part was violated, the board may:

(a) deny a private school permission to enroll scholarship students;

(b) interrupt disbursement of or withhold scholarship payments; or

(c) issue an order for repayment of scholarship payments fraudulently obtained.

Section 5. Section 53A-1a-709 is amended to read:

53A-1a-709. Limitation on regulation of private schools.

Nothing in this part grants additional authority to any state agency or ~~[school district]~~ LEA to regulate private schools except as expressly set forth in this part.

CHAPTER 375**S. B. 271**

Passed March 11, 2015
 Approved March 30, 2015
 Effective May 12, 2015

HEALTH BENEFIT PLAN AMENDMENTS

Chief Sponsor: Curtis S. Bramble
 House Sponsor: James A. Dunnigan

LONG TITLE**General Description:**

This bill addresses provisions related to a health benefit plan.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ prohibits denial of coverage under a health benefit plan because of life expectancy or a terminal condition under certain circumstances;
- ▶ provides that the prohibition may not be interpreted to require an insurer to offer a particular benefit or service as part of a health benefit plan or alter certain policies of a health benefit plan;
- ▶ provides that the prohibition provisions do not create a new or additional private right of action; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

31A-22-644, Utah Code Annotated 1953

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

Section 1. Section 31A-22-644 is enacted to read:**31A-22-644. Denial of coverage under a health benefit plan because of life expectancy or terminal condition.**

(1) As used in this section:

(a) "Health benefit plan" means the same as that term is defined in Section 31A-1-301.

(b) "Terminal condition" means an irreversible condition:

(i) caused by disease, illness, or injury; and

(ii) if:

(A) the irreversible condition will result in imminent death within a six-month period after the date the condition is diagnosed; and

(B) the application of life-sustaining treatment only prolongs the process of dying.

(2) This section applies to a health benefit plan under:

(a) this part; or

(b) Chapter 8, Health Maintenance Organizations and Limited Health Plans.

(3) Except as provided by law, and subject to the other provisions of this section, a health benefit plan may not deny coverage for medically necessary treatment if the medically necessary treatment is:

(a) prescribed by a physician;

(b) agreed to:

(i) by a person who is:

(A) insured under the health benefit plan; and

(B) fully informed regarding the person's life expectancy or diagnosis with a terminal condition; or

(ii) if the person described in Subsection (3)(b)(i) lacks legal capacity to consent, by another person who:

(A) has legal authority to consent on behalf of the person described in Subsection (3)(b)(i); and

(B) is fully informed regarding the life expectancy or diagnosis with a terminal condition of the person described in Subsection (3)(b)(i); and

(c) denied solely because:

(i) of the life expectancy of the person described in Subsection (3)(b)(i); or

(ii) the person has been diagnosed with a terminal condition.

(4) A denial of coverage described in Subsection (3) for medically necessary treatment is a violation of this section.

(5) Whether treatment is considered to be medically necessary treatment is determined by the defined standards and policies of the health benefit plan.

(6) This section may not be interpreted to:

(a) require an insurer to offer a particular benefit or service as part of a health benefit plan; or

(b) alter the clinical policies of a health benefit plan regarding the appropriate location for services.

(7) This section does not create a new or additional private right of action.

CHAPTER 376**S. B. 272**

Passed March 11, 2015
 Approved March 30, 2015
 Effective May 12, 2015

PAYMENT OF WAGES AMENDMENTS

Chief Sponsor: Karen Mayne
 House Sponsor: Mike K. McKell

LONG TITLE**General Description:**

This bill modifies provisions relating to the payment of wages.

Highlighted Provisions:

This bill:

- ▶ addresses the methods by which an employer may pay an employee after the employer separates the employee from the employer's payroll.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

34-28-5, as last amended by Laws of Utah 2011, Chapter 297

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

Section 1. Section 34-28-5 is amended to read:**34-28-5. Separation from payroll -- Resignation -- Cessation because of industrial dispute.**

(1) (a) [~~Whenever~~] When an employer separates an employee from the employer's payroll the unpaid wages of the employee become due immediately, and the employer shall pay the wages to the employee within 24 hours of the time of separation at the specified place of payment.

(b) An employer satisfies the 24-hour time requirement described in Subsection (1)(a) if:

(i) (A) the employer mails the wages to the employee; and

(B) the envelope that contains the wages is postmarked with a date that is no more than one day after the day on which the employer separates the employee from the employer's payroll; or

(ii) within 24 hours after the employer separates the employee from the employer's payroll, the employer:

(A) initiates a direct deposit of the wages into the employee's account; or

(B) hand delivers the wages to the employee.

(~~(b)~~) (c) (i) In case of failure to pay wages due an employee within 24 hours of written demand, the wages of the employee shall continue from the date of demand until paid, but in no event to exceed 60

days, at the same rate that the employee received at the time of separation.

(ii) The employee may recover the penalty thus accruing to the employee in a civil action. This action shall be commenced within 60 days from the date of separation.

(iii) An employee who has not made a written demand for payment is not entitled to any penalty under this Subsection (1)(~~(b)~~)(c).

(2) If an employee does not have a written contract for a definite period and resigns the employee's employment, the wages earned and unpaid together with any deposit held by the employer and properly belonging to the resigned employee for the performance of the employee's employment duties become due and payable on the next regular payday.

(3) If work ceases as the result of an industrial dispute, the wages earned and unpaid at the time of this cessation become due and payable at the next regular payday, as provided in Section 34-28-3, including, without abatement or reduction, all amounts due all persons whose work has been suspended as a result of the industrial dispute, together with any deposit or other guaranty held by the employer for the faithful performance of the duties of the employment.

(4) This section does not apply to the earnings of a sales agent employed on a commission basis who has custody of accounts, money, or goods of the sales agent's principal if the net amount due the agent is determined only after an audit or verification of sales, accounts, funds, or stocks.

CHAPTER 377**S. B. 274**

Passed March 11, 2015
 Approved March 30, 2015
 Effective March 30, 2015

**MILITARY INSTALLATION DEVELOPMENT
 AUTHORITY AMENDMENTS**

Chief Sponsor: Jerry W. Stevenson
 House Sponsor: Brad L. Dee

LONG TITLE**General Description:**

This bill modifies the Military Installation Development Authority Act.

Highlighted Provisions:

This bill:

- ▶ amends definitions;
- ▶ amends certain condominium ownership provisions within a project area;
- ▶ amends certain public notice requirements for a budget hearing of the military installation development authority; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

63H-1-102, as last amended by Laws of Utah 2014, Chapters 183 and 270
 63H-1-201, as last amended by Laws of Utah 2013, Chapter 246
 63H-1-202, as last amended by Laws of Utah 2014, Chapter 183
 63H-1-405, as enacted by Laws of Utah 2009, Chapter 92
 63H-1-501, as last amended by Laws of Utah 2014, Chapter 183
 63H-1-502, as last amended by Laws of Utah 2013, Chapter 362
 63H-1-602, as last amended by Laws of Utah 2010, Chapter 9
 63H-1-701, as last amended by Laws of Utah 2010, Chapter 90
 63H-1-703, as enacted by Laws of Utah 2007, Chapter 23
 63H-1-705, as enacted by Laws of Utah 2007, Chapter 23
 63H-1-706, as enacted by Laws of Utah 2009, Chapter 92

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

Section 1. Section 63H-1-102 is amended to read:

63H-1-102. Definitions.

As used in this chapter:

(1) "Authority" means the Military Installation Development Authority, created under Section 63H-1-201.

(2) "Base taxable value" means:

(a) for military land or other land that was exempt from a property tax at the time that a project area was created that included the military land or other land, a taxable value of zero; or

(b) for private property that is included in a project area, the taxable value of the property within any portion of the project area, as designated by board resolution, from which ~~[tax increment]~~ the property tax allocation will be collected, as shown upon the assessment roll last equalized before the year in which the authority issues a building permit for a building within that portion of the project area.

(3) "Board" means the governing body of the authority created under Section 63H-1-301.

(4) (a) "Dedicated tax collections" means the property tax that remains after the authority is paid the ~~[tax increment]~~ property tax allocation it is entitled to receive under Subsection 63H-1-501(1), for a property tax levied by:

(i) a county, including a district the county has established under Subsection 17-34-3(2) to levy a property tax under Title 17, Chapter 34, Municipal-Type Services to Unincorporated Areas; or

(ii) an included municipality.

(b) "Dedicated tax collections" does not include a county additional property tax or multicounty assessing and collecting levy imposed in accordance with Section 59-2-1602.

(5) (a) "Development" means an activity occurring on land within a project area that is owned or operated by the military, the authority, another public entity, or a private entity.

(b) "Development" includes the demolition, construction, reconstruction, modification, expansion, or improvement of a building, facility, utility, landscape, parking lot, park, trail, or recreational amenity.

(6) "Development project" means a project to develop land within a project area.

(7) "Elected member" means a member of the authority board who:

(a) is a mayor or member of a legislative body appointed under Subsection 63H-1-302(2)(b); or

(b) (i) is appointed to the authority board under Subsection 63H-1-302(2)(a) or (3); and

(ii) concurrently serves in an elected state, county, or municipal office.

(8) "Included municipality" means a municipality, some or all of which is included within a project area.

(9) (a) "Military" means a branch of the armed forces of the United States, including the Utah National Guard.

(b) "Military" includes, in relation to property, property that is occupied by the military and is

owned by the government of the United States or the state.

[49] (10) “Military Installation Development Authority energy tax” or “MIDA energy tax” means the tax levied under Section 63H-1-204.

[40] (11) “Military land” means land or a facility, including leased land or a leased facility, that is part of or affiliated with a base, camp, post, station, yard, center, or installation under the jurisdiction of the [U.S.] United States Department of Defense or the Utah National Guard.

[44] (12) “Municipal energy tax” means a municipal energy sales and use tax under Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act.

[42] (13) “Municipal services revenue” means revenue that the authority:

- (a) collects from the authority’s:
 - (i) levy of a municipal energy tax;
 - (ii) levy of a MIDA energy tax;
 - (iii) levy of a telecommunications tax;
 - (iv) imposition of a transient room tax; and
 - (v) imposition of a resort communities tax;
- (b) receives under Subsection 59-12-205(2)(b)(ii); and
- (c) receives as dedicated tax collections.

[43] (14) “Municipal tax” means a municipal energy tax, MIDA energy tax, telecommunications tax, transient room tax, or resort communities tax.

[44] (15) “Project area” means the land, including military land, whether consisting of a single contiguous area or multiple noncontiguous areas, described in a project area plan or draft project area plan, where the development project set forth in the project area plan or draft project area plan takes place or is proposed to take place.

[45] (16) “Project area budget” means a multiyear projection of annual or cumulative revenues and expenses and other fiscal matters pertaining to a project area that includes:

- (a) the base taxable value of property in the project area;
- (b) the projected ~~[tax increment]~~ property tax allocation expected to be generated within the project area;
- (c) the amount of the ~~[tax increment]~~ property tax allocation expected to be shared with other taxing entities;
- (d) the amount of the ~~[tax increment]~~ property tax allocation expected to be used to implement the project area plan, including the estimated amount of the ~~[tax increment]~~ property tax allocation to be used for land acquisition, public improvements, infrastructure improvements, and loans, grants, or other incentives to private and public entities;

(e) the ~~[tax increment]~~ property tax allocation expected to be used to cover the cost of administering the project area plan;

(f) if the ~~[tax increment]~~ property tax allocation is to be collected at different times or from different portions of the project area, or both:

(i) (A) the tax identification numbers of the parcels from which the ~~[tax increment]~~ property tax allocation will be collected; or

(B) a legal description of the portion of the project area from which the ~~[tax increment]~~ property tax allocation will be collected; and

(ii) an estimate of when other portions of the project area will become subject to collection of the ~~[tax increment]~~ property tax allocation; and

(g) for property that the authority owns or leases and expects to sell or sublease, the expected total cost of the property to the authority and the expected selling price or lease payments.

[46] (17) “Project area plan” means a written plan that, after its effective date, guides and controls the development within a project area.

[47] (18) (a) “Property tax” includes a privilege tax, except as described in Subsection [47] (18)(b), and each levy on an ad valorem basis on tangible or intangible personal or real property.

(b) “Property tax” does not include a privilege tax on the taxable value attributable to a portion of a facility leased to the military for a calendar year when:

(i) a lessee of military land has constructed a facility on the military land that is part of a project area;

(ii) the lessee leases space in the facility to the military for the entire calendar year; and

(iii) the lease rate paid by the military for the space is \$1 or less for the entire calendar year, not including any common charges that are reimbursements for actual expenses.

(19) “Property tax allocation” means the difference between:

(a) the amount of property tax revenues generated each tax year by all taxing entities from the area within a project area designated in the project area plan as the area from which the property tax allocation is to be collected, using the current assessed value of the property; and

(b) the amount of property tax revenues that would be generated from that same area using the base taxable value of the property.

[48] (20) “Public entity” means:

(a) the state, including each department or agency of the state; or

(b) a political subdivision of the state, including a county, city, town, school district, local district, special service district, or interlocal cooperation entity.

[49] (21) (a) “Publicly owned infrastructure and improvements” means infrastructure,

improvements, facilities, or buildings that benefit the public and are:

(i) publicly owned by the military, the authority, or another public entity;

(ii) owned by a utility; or

(iii) publicly maintained or operated by the military, the authority, or another public entity.

(b) "Publicly owned infrastructure and improvements" includes:

(i) facilities, lines, or systems that provide water, chilled water, steam, sewer, storm drainage, natural gas, electricity, or telecommunications; and

(ii) streets, roads, curb, gutter, sidewalk, walkways, solid waste facilities, parking facilities, and public transportation facilities.

~~[(20)]~~ (22) "Remaining municipal services revenue" means municipal services revenue that the authority has not spent during its fiscal year for municipal services as provided in Subsection 63H-1-503(1).

~~[(21)]~~ (23) "Resort communities tax" means a sales and use tax imposed under Section 59-12-401.

~~[(22)]~~ (24) "Taxable value" means the value of property as shown on the last equalized assessment roll as certified by the county assessor.

~~[(23)]~~ "Tax increment" means the difference between:

~~[(a)]~~ the amount of property tax revenues generated each tax year by all taxing entities from the area within a project area designated in the project area plan as the area from which the tax increment is to be collected, using the current assessed value of the property; and

~~[(b)]~~ the amount of property tax revenues that would be generated from that same area using the base taxable value of the property.]

~~[(24)]~~ (25) "Taxing entity" means a public entity that levies a tax on property within a project area.

~~[(25)]~~ (26) "Telecommunications tax" means a telecommunications license tax under Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act.

~~[(26)]~~ (27) "Transient room tax" means a tax under Section 59-12-352.

Section 2. Section 63H-1-201 is amended to read:

63H-1-201. Creation of military installation development authority -- Status and powers of authority -- Limitation.

(1) There is created a military installation development authority.

(2) The authority is:

(a) an independent, nonprofit, separate body corporate and politic, with perpetual succession and statewide jurisdiction, whose purpose is to

facilitate the development of military land in a project area;

(b) a political subdivision of the state; and

(c) a public corporation, as defined in Section 63E-1-102.

(3) The authority may:

(a) as provided in this chapter, facilitate the development of land within one or more project areas, including the ongoing operation of facilities within a project area;

(b) sue and be sued;

(c) enter into contracts generally;

(d) buy, obtain an option upon, or otherwise acquire any interest in real or personal property:

(i) in a project area; or

(ii) outside a project area for publicly owned infrastructure and improvements, if the board considers the purchase, option, or other interest acquisition to be necessary for fulfilling the authority's development objectives;

(e) sell, convey, grant, dispose of by gift, or otherwise dispose of any interest in real or personal property;

(f) enter into a lease agreement on real or personal property, either as lessee or lessor:

(i) in a project area; or

(ii) outside a project area, if the board considers the lease to be necessary for fulfilling the authority's development objectives;

(g) provide for the development of land within a project area under one or more contracts;

(h) exercise powers and perform functions under a contract, as authorized in the contract;

(i) exercise exclusive police power within a project area to the same extent as though the authority were a municipality, including the collection of regulatory fees;

(j) receive ~~[tax increment]~~ the property tax allocation and other taxes and fees as provided in this chapter;

(k) accept financial or other assistance from any public or private source for the authority's activities, powers, and duties, and expend any funds so received for any of the purposes of this chapter;

(l) borrow money, contract with, or accept financial or other assistance from the federal government, a public entity, or any other source for any of the purposes of this chapter and comply with any conditions of the loan, contract, or assistance;

(m) issue bonds to finance the undertaking of any development objectives of the authority, including bonds under Title 11, Chapter 17, Utah Industrial Facilities and Development Act, and bonds under Title 11, Chapter 42, Assessment Area Act;

(n) hire employees, including contract employees;

(o) transact other business and exercise all other powers provided for in this chapter;

(p) enter into a development agreement with a developer of land within a project area;

(q) enter into an agreement with a political subdivision of the state under which the political subdivision provides one or more municipal services within a project area;

(r) enter into an agreement with a private contractor to provide one or more municipal services within a project area;

(s) provide for or finance an energy efficiency upgrade or a renewable energy system, as defined in Section 11-42-102, in accordance with Title 11, Chapter 42, Assessment Area Act;

(t) exercise powers and perform functions that the authority is authorized by statute to exercise or perform; and

(u) enter into an agreement with the federal government or an agency of the federal government under which the federal government or agency:

(i) provides law enforcement services only to military land within a project area; and

(ii) may enter into a mutual aid or other cooperative agreement with a law enforcement agency of the state or a political subdivision of the state.

(4) The authority may not itself provide law enforcement service or fire protection service within a project area but may enter into an agreement for one or both of those services, as provided in Subsection (3)(q).

Section 3. Section 63H-1-202 is amended to read:

63H-1-202. Applicability of other law.

(1) The authority or land within a project area is not subject to:

(a) Title 10, Chapter 9a, Municipal Land Use, Development, and Management Act;

(b) Title 17, Chapter 27a, County Land Use, Development, and Management Act;

(c) ordinances or regulations of a county or municipality, including those relating to land use, health, business license, or franchise; or

(d) the jurisdiction of a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, or a special service district under Title 17D, Chapter 1, Special Service District Act.

(2) The authority is subject to and governed by Sections 63E-2-106, 63E-2-107, 63E-2-108, 63E-2-109, 63E-2-110, and 63E-2-111, but is not otherwise subject to or governed by Title 63E, Independent Entities Code.

(3) (a) The definitions in Section 57-8-3 apply to this Subsection (3).

(b) Notwithstanding the provisions of Title 57, Chapter 8, Condominium Ownership Act, or any other provision of law:

(i) if the military is the owner of land in a project area on which a condominium project is constructed, [~~it~~] the military is not required to sign, execute, or record a declaration of a condominium project; and

(ii) if a condominium unit in a project area is owned by the military or owned by the authority and leased to the military for \$1 or less per calendar year, not including any common charges that are reimbursements for actual expenses:

(A) the condominium unit is not subject to any liens under Title 57, Chapter 8, Condominium Ownership Act; ~~and~~

(B) condominium unit owners within the same building or commercial condominium project may agree on any method of allocation and payment of common area expenses, regardless of the size or par value of each unit~~[-]; and~~

(C) the condominium project may not be dissolved without the consent of all the condominium unit owners.

Section 4. Section 63H-1-405 is amended to read:

63H-1-405. Project area budget.

(1) Before the authority may receive or use [~~tax increment~~] the property tax allocation, the authority board shall prepare and adopt a project area budget.

(2) The authority board may amend an adopted project area budget as and when the authority board considers it appropriate.

Section 5. Section 63H-1-501 is amended to read:

63H-1-501. Authority receipt and use of property tax allocation -- Distribution of property tax allocation.

(1) (a) The authority may:

(i) subject to Subsection (1)(b), receive up to 75% of the [~~tax increment~~] property tax allocation for up to 25 years, as provided in this part; and

(ii) use the [~~tax increment~~] property tax allocation during and after the period described in Subsection (1)(a)(i).

(b) With respect to a parcel located within a project area, the 25-year period described in Subsection (1)(a)(i) shall begin on the day on which the authority receives the first [~~tax increment~~] property tax allocation from that parcel.

(2) Improvements on a parcel within a project area become subject to property tax on January 1 immediately following the day on which the authority or an entity designated by the authority issues a certificate of occupancy with respect to those improvements.

(3) Each county that collects property tax on property within a project area shall pay and

distribute to the authority the ~~[tax increment]~~ property tax allocation and dedicated tax collections that the authority is entitled to collect under this title, in the manner and at the time provided in Section 59-2-1365.

(4) (a) The board shall determine by resolution when the entire project area or an individual parcel within a project area is subject to ~~[tax increment]~~ property tax allocation.

(b) The board shall amend the project area budget to reflect whether a parcel within a project area is subject to ~~[tax increment]~~ property tax allocation.

Section 6. Section 63H-1-502 is amended to read:

63H-1-502. Allowable uses of property tax allocation and other funds.

(1) Other than municipal services revenue, the authority may use ~~[tax increment]~~ the property tax allocation and other funds available to the authority:

(a) for any purpose authorized under this chapter;

(b) for administrative, overhead, legal, and other operating expenses of the authority;

(c) to pay for, including financing or refinancing, all or part of the development of land within the project area from which the ~~[tax increment]~~ property tax allocation or other funds were collected, including assisting the ongoing operation of a development or facility within the project area;

(d) to pay the cost of the installation and construction of publicly owned infrastructure and improvements within the project area from which the ~~[tax increment]~~ property tax allocation funds were collected;

(e) to pay the cost of the installation of publicly owned infrastructure and improvements, including a passenger ropeway, as defined in Section 72-11-102, outside the project area if:

(i) the authority board determines by resolution that the infrastructure and improvements are of benefit to the project area; and

(ii) for a passenger ropeway, at least one end of the ropeway is located within the project area; and

(f) to pay the principal and interest on bonds issued by the authority.

(2) The authority may use revenue generated from the operation of publicly owned infrastructure operated by the authority or improvements operated by the authority to:

(a) operate and maintain the infrastructure or improvements; and

(b) pay for authority operating expenses, including administrative, overhead, and legal expenses.

(3) For purposes of Subsection (1), the authority may use:

(a) tax revenues received under Subsection 59-12-205(2)(b)(ii);

(b) resort communities tax revenues generated from a project area that contains private land; and

(c) MIDA energy tax revenue, received under Section 63H-1-204, which does not have to be used in the project area where the revenue was generated.

(4) The determination of the authority board under Subsection (1)(e) regarding benefit to the project area is final.

Section 7. Section 63H-1-602 is amended to read:

63H-1-602. Sources from which bonds may be made payable -- Authority powers regarding bonds.

(1) The principal and interest on bonds issued by the authority may be made payable from:

(a) the income and revenues of the projects financed with the proceeds of the bonds;

(b) the income and revenues of certain designated projects whether or not they were financed in whole or in part with the proceeds of the bonds;

(c) the income, proceeds, revenues, property, and funds the authority derives from or holds in connection with its undertaking and carrying out development of a project area;

(d) ~~[tax increment]~~ property tax allocation funds;

(e) authority revenues generally;

(f) a contribution, loan, grant, or other financial assistance from the federal government or a public entity in aid of the development of military land; or

(g) funds derived from any combination of the methods listed in Subsections (1)(a) through (f).

(2) In connection with the issuance of authority bonds, the authority may:

(a) pledge all or any part of its gross or net rents, fees, or revenues to which its right then exists or may thereafter come into existence;

(b) encumber by mortgage, deed of trust, or otherwise all or any part of its real or personal property, then owned or thereafter acquired; and

(c) make the covenants and take the action that may be necessary, convenient, or desirable to secure its bonds, or, except as otherwise provided in this chapter, that will tend to make the bonds more marketable, even though such covenants or actions are not specifically enumerated in this chapter.

Section 8. Section 63H-1-701 is amended to read:

63H-1-701. Annual authority budget -- Fiscal year -- Public hearing required -- Auditor forms -- Requirement to file form.

(1) The authority shall prepare and its board adopt an annual budget of revenues and expenditures for the authority for each fiscal year.

(2) Each annual authority budget shall be adopted before June 22.

(3) The authority's fiscal year shall be the period from July 1 to the following June 30.

(4) (a) Before adopting an annual budget, the authority board shall hold a public hearing on the annual budget.

(b) The authority shall provide notice of the public hearing on the annual budget by ~~(i)~~ publishing notice:

~~(A)~~ (i) at least once in a newspaper of general circulation within the ~~authority boundaries~~ state, one week before the public hearing; and

~~(B)~~ (ii) on the Utah Public Notice Website created in Section 63F-1-701, for at least one week immediately before the public hearing ~~(i)~~.

~~(ii) if there is no newspaper of general circulation within the authority boundaries as described in Subsection (4)(a)(i)(A), posting a notice of the public hearing in at least three public places within the authority boundaries.]~~

(c) The authority shall make the annual budget available for public inspection at least three days before the date of the public hearing.

(5) The state auditor shall prescribe the budget forms and the categories to be contained in each authority budget, including:

(a) revenues and expenditures for the budget year;

(b) legal fees; and

(c) administrative costs, including rent, supplies, and other materials, and salaries of authority personnel.

(6) (a) Within 30 days after adopting an annual budget, the authority board shall file a copy of the annual budget with the auditor of ~~the~~ each county in which a project area of the authority is located, the State Tax Commission, the state auditor, the State Board of Education, and each taxing entity that levies a tax on property from which the authority collects tax-increment property tax allocation.

(b) The requirement of Subsection (6)(a) to file a copy of the annual budget with the state as a taxing entity is met if the authority files a copy with the State Tax Commission and the state auditor.

Section 9. Section 63H-1-703 is amended to read:

63H-1-703. Authority report.

(1) (a) On or before November 1 of each year, the authority shall prepare and file a report with the county auditor of each county in which a project area of the authority is located, the State Tax Commission, the State Board of Education, and each taxing entity that levies a tax on property from which the authority collects tax-increment property tax allocation.

(b) The requirement of Subsection (1)(a) to file a copy of the report with the state as a taxing entity is met if the authority files a copy with the State Tax Commission and the state auditor.

(2) Each report under Subsection (1) shall contain:

(a) an estimate of the tax-increment property tax allocation to be paid to the authority for the calendar year ending December 31; and

(b) an estimate of the tax-increment property tax allocation to be paid to the authority for the calendar year beginning the next January 1.

Section 10. Section 63H-1-705 is amended to read:

63H-1-705. Audit report.

(1) The authority shall, within 180 days after the end of the authority's fiscal year, file a copy of the audit report with the county auditor, the State Tax Commission, the State Board of Education, and each taxing entity that levies a tax on property from which the authority collects tax-increment property tax allocation.

(2) Each audit report under Subsection (1) shall include:

(a) the tax-increment property tax allocation collected by the authority for each project area;

(b) the outstanding principal amount of bonds issued or other loans incurred to finance the costs associated with the authority's project areas; and

(c) the actual amount expended for:

(i) acquisition of property;

(ii) site improvements or site preparation costs;

(iii) installation of public utilities or other public improvements; and

(iv) administrative costs of the authority.

Section 11. Section 63H-1-706 is amended to read:

63H-1-706. Authority chief financial officer is a public treasurer -- Certain authority funds are public funds.

(1) The authority's chief financial officer:

(a) is a public treasurer, as defined in Section 51-7-3; and

(b) shall invest the authority funds specified in Subsection (2) as provided in that subsection.

(2) Notwithstanding Subsection 63E-2-110(2)(a), tax-increment property tax allocation funds, municipal services revenue, and appropriations that the authority receives from the state:

(a) are public funds; and

(b) shall be invested as provided in Title 51, Chapter 7, State Money Management Act.

Section 12. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon

approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

CHAPTER 378
S. B. 280

Passed March 12, 2015
Approved March 30, 2015
Effective May 12, 2015

UTAH ENERGY ACT AMENDMENTS

Chief Sponsor: David P. Hinkins
House Sponsor: Scott H. Chew

LONG TITLE

General Description:

This bill modifies provisions related to the governor's energy advisor.

Highlighted Provisions:

This bill:

- ▶ modifies and clarifies the duties of the governor's energy advisor; and
- ▶ allows the governor's energy advisor to serve as the director of the Office of Energy Development.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

- 63M-4-203, as last amended by Laws of Utah 2012, Chapter 37
- 63M-4-301, as renumbered and amended by Laws of Utah 2008, Chapter 382
- 63M-4-401, as last amended by Laws of Utah 2012, Chapters 37 and 410

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

Section 1. Section 63M-4-203 is amended to read:

63M-4-203. Reports.

(1) The governor's energy advisor shall report annually to:

- (a) the governor; and
- (b) the Natural Resources, Agriculture, and Environment Interim Committee.

(2) The report required in Subsection (1) shall:

- (a) summarize the status and development of the state's energy resources;
- (b) summarize the activities and accomplishments of the Office of Energy Development;

~~(b)~~ (c) address the governor's energy advisor's activities under this part; and

~~(c)~~ (d) recommend any energy-related executive or legislative action the governor's energy advisor considers beneficial to the state, including updates to the state energy policy under Section 63M-4-301.

Section 2. Section 63M-4-301 is amended to read:

63M-4-301. State energy policy.

(1) It is the policy of the state that:

(a) Utah shall have adequate, reliable, affordable, sustainable, and clean energy resources;

(b) Utah will promote the development of:

(i) nonrenewable energy resources, including natural gas, coal, oil, oil shale, and ~~tar~~ oil sands; and

(ii) renewable energy resources, including geothermal, solar, wind, biomass, ~~biodiesel,~~ biofuel, and hydroelectric~~, and ethanol~~;

~~(c) Utah will promote the study of nuclear power generation;~~

(iii) nuclear power generation technologies certified for use by the United States Nuclear Regulatory Commission;

(iv) alternative transportation fuels and technologies; and

(v) infrastructure to facilitate energy development and diversified modes of transportation;

~~(d)~~ (c) Utah will promote the development of resources and infrastructure sufficient to meet the state's growing demand, while contributing to the regional and national energy supply, thus reducing dependence on international energy sources;

~~(e)~~ (d) Utah will allow market forces to drive prudent use of energy resources, although incentives and other methods may be used to ensure the state's optimal development and use of energy resources in the short- and long-term;

~~(f)~~ (e) Utah will pursue energy conservation, energy efficiency, and environmental quality;

~~(g)~~ (f) (i) state regulatory processes should be streamlined to balance economic costs with the level of review necessary to ensure protection of the state's various interests; and

(ii) where federal action is required, Utah will encourage expedited federal action and will collaborate with federal agencies to expedite review;

~~(h)~~ (g) Utah will maintain an environment that provides for stable consumer prices that are as low as possible while providing producers and suppliers a fair return on investment, recognizing that:

(i) economic prosperity is linked to the availability, reliability, and affordability of consumer energy supplies; and

(ii) investment will occur only when adequate financial returns can be realized; and

~~(i)~~ (h) Utah will promote training and education programs focused on developing a comprehensive understanding of energy, including programs addressing:

- (i) energy conservation;

- (ii) energy efficiency;
- (iii) supply and demand; and
- (iv) energy related workforce development.

(2) State agencies are encouraged to conduct agency activities consistent with Subsection (1).

(3) A person may not file suit to challenge a state agency's action that is inconsistent with Subsection (1).

Section 3. Section 63M-4-401 is amended to read:

63M-4-401. Creation of Office of Energy Development -- Director -- Purpose -- Rulemaking regarding confidential information.

(1) There is created an Office of Energy Development.

(2) (a) The governor's energy advisor shall serve as the director of the office or appoint a director of the office.

(b) The director [~~shall~~]:

(i) shall, if the governor's energy advisor appoints a director under Subsection (2)(a), report to the governor's energy advisor; and

(ii) may appoint staff as funding within existing budgets allows.

(c) The office may consolidate energy staff and functions existing in the state energy program.

(3) The purposes of the office are to:

(a) serve as the primary resource for advancing energy and mineral development in the state; ~~and~~

(b) implement:

(i) the state energy policy under Section 63M-4-301; and

(ii) the governor's energy and mineral development goals and objectives[.];

(c) advance energy education, outreach, and research, including the creation of elementary, higher education, and technical college energy education programs;

(d) promote energy and mineral development workforce initiatives; and

(e) support collaborative research initiatives targeted at Utah-specific energy and mineral development.

(4) By following the procedures and requirements of Title 63J, Chapter 5, Federal Funds Procedures Act, the office may:

(a) seek federal grants or loans;

(b) seek to participate in federal programs; and

(c) in accordance with applicable federal program guidelines, administer federally funded state energy programs.

(5) The office shall perform the duties required by Sections 59-7-614.7 and 59-10-1029 and Part 5, Alternative Energy Development Tax Credit Act.

(6) (a) For purposes of administering this section, the office may make rules, by following the procedures and requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to maintain as confidential, and not as a public record, information that the office receives from any source.

(b) The office shall maintain information the office receives from any source at the level of confidentiality assigned by the source.

CHAPTER 379**S. B. 282**

Passed March 12, 2015
 Approved March 30, 2015
 Effective May 12, 2015

**ADMINISTRATIVE LAW
 JUDGE AMENDMENTS**

Chief Sponsor: Margaret Dayton
 House Sponsor: Keith Grover

LONG TITLE**General Description:**

This bill modifies provisions relating to permit review adjudicative proceedings.

Highlighted Provisions:

This bill:

- ▶ addresses the procedures governing an administrative review of an order relating to a permit issued by a director within the Department of Environmental Quality; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause to reconcile conflicts between this bill and other legislation.

Utah Code Sections Affected:**AMENDS:**

19-1-301.5, as enacted by Laws of Utah 2012, Chapter 333 and last amended by Coordination Clause, Laws of Utah 2012, Chapter 360

Utah Code Sections Affected by Coordination Clause:

19-1-301.5, as enacted by Laws of Utah 2012, Chapter 333 and last amended by Coordination Clause, Laws of Utah 2012, Chapter 360

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

Section 1. Section 19-1-301.5 is amended to read:**19-1-301.5. Permit review adjudicative proceedings.**

(1) As used in this section:

(a) "Dispositive action" means a final agency action that:

(i) the executive director takes as part of a permit review adjudicative proceeding; and

(ii) is subject to judicial review, in accordance with Subsection [(44)] (15).

(b) "Dispositive motion" means a motion that is equivalent to:

(i) a motion to dismiss under Utah Rules of Civil Procedure, Rule 12(b)(6);

(ii) a motion for judgment on the pleadings under Utah Rules of Civil Procedure, Rule 12(c); or

(iii) a motion for summary judgment under Utah Rules of Civil Procedure, Rule 56.

(c) "Party" means:

(i) the director who issued the permit order being challenged in the permit review adjudicative proceeding;

(ii) the permittee;

(iii) the person who applied for the permit, if the permit was denied; or

(iv) a person granted intervention by the administrative law judge.

(d) "Permit" means any of the following issued under this title:

(i) a permit;

(ii) a plan;

(iii) a license;

(iv) an approval order; or

(v) another administrative authorization made by a director.

(e) (i) "Permit order" means an order issued by a director that:

(A) approves a permit;

(B) renews a permit;

(C) denies a permit;

(D) modifies or amends a permit; or

(E) revokes and reissues a permit.

(ii) "Permit order" does not include an order terminating a permit.

(f) "Permit review adjudicative proceeding" means a proceeding to resolve a challenge to a permit order.

(2) This section governs permit review adjudicative proceedings.

(3) Except as expressly provided in this section, the provisions of Title 63G, Chapter 4, Administrative Procedures Act, do not apply to a permit review adjudicative proceeding.

(4) If a public comment period was provided during the permit application process, a person who challenges a permit order, including the permit applicant, may only raise an issue or argument during the permit review adjudicative proceeding that:

(a) the person raised during the public comment period; and

(b) was supported with [sufficient] information or documentation [~~to enable~~] that is cited with reasonable specificity and sufficiently enables the director to fully consider the substance and significance of the issue.

(5) [The] (a) Upon request by a party, the executive director shall [appoint] issue a notice of appointment appointing an administrative law

judge, in accordance with Subsections 19-1-301(5) and (6), to conduct a permit review adjudicative proceeding.

(b) The executive director shall issue a notice of appointment within 30 days after the day on which a party files a request.

(c) A notice of appointment shall include:

(i) the agency's file number or other reference number assigned to the permit review adjudicative proceeding;

(ii) the name of the permit review adjudicative proceeding; and

(iii) the administrative law judge's name, title, mailing address, email address, and telephone number.

(6) (a) Only the following may file a ~~request for agency action seeking~~ petition for review of a permit order:

(i) a party; or

(ii) a person who is seeking to intervene under Subsection (7).

(b) A person who files a ~~request for agency action seeking~~ petition for review of a permit order shall file the ~~request: (i)~~ petition for review within 30 days after the day on which the permit order is issued~~; and~~.

~~[(ii) in accordance with Subsections 63G-4-201(3)(a) through (e).]~~

(c) The department may, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules allowing the extension of the filing deadline described in Subsection (6)(b).

(d) A petition for review shall:

(i) be served in accordance with department rule;

(ii) include the name and address of each person to whom a copy of the petition for review is sent;

(iii) if known, include the agency's file number or other reference number assigned to the permit review adjudicative proceeding;

(iv) state the date on which the petition for review is served;

(v) include a statement of the petitioner's position, including:

(A) the legal authority under which the petition for review is requested;

(B) the legal authority under which the agency has jurisdiction to review the petition for review;

(C) each of the petitioner's arguments in support of the petitioner's requested relief;

(D) an explanation of how each argument described in Subsection (6)(d)(v)(C) was preserved;

(E) a detailed description of any permit condition to which the petitioner is objecting;

(F) any modification or addition to the permit that the petitioner is requesting;

(G) a demonstration that the agency's permit decision is based on a finding of fact or conclusion of law that is clearly erroneous;

(H) if the agency director addressed a finding of fact or conclusion of law described in Subsection (6)(d)(v)(G) in a response to public comment, a citation to the comment and response that relates to the finding of fact or conclusion of law and an explanation of why the director's response was clearly erroneous or otherwise warrants review; and

(I) a claim for relief.

~~[(e)]~~ (e) A person may not raise an issue or argument in a ~~request for agency action~~ petition for review unless the issue or argument:

(i) was preserved in accordance with Subsection (4); or

(ii) was not reasonably ascertainable before or during the public comment period.

~~[(d) The department may, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules allowing the extension of the filing deadline described in Subsection (6)(b)(i).]~~

(f) To demonstrate that an issue or argument was preserved in accordance with Subsection (4), a petitioner shall include the following in the petitioner's petition for review:

(i) a citation to where the petitioner raised the issue or argument during the public comment period; and

(ii) for each document upon which the petitioner relies in support of an issue or argument, a description that:

(A) states why the document is part of the administrative record; and

(B) demonstrates that the petitioner cited the document with reasonable specificity in accordance with Subsection (4)(b).

(7) (a) A person who is not a party may not participate in a permit review adjudicative proceeding unless the person is granted the right to intervene under this Subsection (7).

(b) A person who seeks to intervene in a permit review adjudicative proceeding under this section shall, within 30 days after the day on which the permit order being challenged was issued, file:

(i) a petition to intervene that:

(A) meets the requirements of Subsection 63G-4-207(1); and

(B) demonstrates that the person is entitled to intervention under Subsection (7)(c)(ii); and

(ii) a timely ~~request for agency action~~ petition for review.

(c) The permittee is a party to a permit review adjudicative proceeding regardless of who files the petition for review and does not need to file a petition to intervene under Subsection (7)(b).

~~[(e)]~~ (d) An administrative law judge shall grant a petition to intervene in a permit review adjudicative proceeding, if:

- (i) the petition to intervene is timely filed; and
- (ii) the petitioner:

(A) demonstrates that the petitioner's legal interests may be substantially affected by the permit review adjudicative proceeding;

(B) demonstrates that the interests of justice and the orderly and prompt conduct of the permit review adjudicative proceeding will not be materially impaired by allowing the intervention; and

(C) in the petitioner's ~~[request for agency action]~~ petition for review, raises issues or arguments that are preserved in accordance with Subsection (4).

~~[(d)]~~ (e) An administrative law judge:

(i) shall issue an order granting or denying a petition to intervene in accordance with Subsection 63G-4-207(3)(a); and

(ii) may impose conditions on intervenors as described in Subsections 63G-4-207(3)(b) and (c).

~~[(e)]~~ (f) The department may, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules allowing the extension of the filing deadline described in Subsection (7)(b).

(8) (a) Unless the parties otherwise agree, the schedule for a permit review adjudicative proceeding is as follows:

(i) the director shall file and serve the administrative record within 40 days after the day on which the executive director issues a notice of appointment, unless otherwise ordered by the administrative law judge;

(ii) any dispositive motion shall be filed and served within 15 days after the day on which the administrative record is filed and served;

(iii) the petitioner shall file and serve an opening brief of no more than 30 pages:

(A) within 30 days after the day on which the director files and serves the administrative record; or

(B) if a party files and serves a dispositive motion, within 30 days after the day on which the administrative law judge issues a decision on the dispositive motion, including a decision to defer the motion;

(iv) each party shall file and serve a response brief of no more than 15 pages within 15 days after the day on which the petitioner files and serves the opening brief;

(v) the petitioner may file and serve a reply brief of not more than 15 pages within 15 days after the day on which the response brief is filed and served; and

(vi) if the petitioner files and serves a reply brief, each party may file and serve a surreply brief of no more than five pages within five business days after the day on which the petitioner files and serves the reply brief.

(b) (i) A reply brief may not raise an issue that was not raised in the response brief; and

(ii) a surreply brief may not raise an issue that was not raised in the reply brief.

~~[(8)]~~ (9) (a) An administrative law judge shall conduct a permit review adjudicative proceeding based only on the administrative record and not as a trial de novo.

(b) To the extent relative to the issues and arguments raised in the ~~[request for agency action]~~ petition for review, the administrative record ~~[shall consist]~~ consists of the following items, if they exist:

(i) the permit application, draft permit, and final permit;

(ii) each statement of basis, fact sheet, engineering review, or other substantive explanation designated by the director as part of the basis for the decision relating to the permit order;

(iii) the notice and record of each public comment period;

(iv) the notice and record of each public hearing, including oral comments made during the public hearing;

(v) written comments submitted during the public comment period;

(vi) responses to comments that are designated by the director as part of the basis for the decision relating to the permit order;

(vii) any information that is:

(A) requested by and submitted to the director; and

(B) designated by the director as part of the basis for the decision relating to the permit order;

(viii) any additional information specified by rule;

(ix) any additional documents agreed to by the parties; and

(x) information supplementing the record under Subsection ~~[(8)]~~ (9)(c).

(c) (i) There is a rebuttable presumption against supplementing the record.

(ii) A party may move to supplement the record described in Subsection ~~[(8)]~~ (9)(b) with technical or factual information.

(iii) The administrative law judge may grant a motion to supplement the record described in Subsection ~~[(8)]~~ (9)(b) with technical or factual information if the moving party proves that:

(A) good cause exists for supplementing the record;

(B) supplementing the record is in the interest of justice; and

(C) supplementing the record is necessary for resolution of the issues.

~~[(iv)] The administrative law judge may supplement the record with technical or factual information on the administrative law judge's own motion if the administrative law judge determines that adequate grounds exist to supplement the record under Subsections (8) (c)(iii)(A) through (C).]~~

~~[(v)] In supplementing the record with testimonial evidence, the administrative law judge may administer an oath or take testimony as necessary.]~~

~~[(vi)] (iv) The department may, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules permitting further supplementation of the record.~~

~~[(9)] (10) (a) [The] Except as otherwise provided by this section, the administrative law judge shall review and respond to a [request for agency action] petition for review in accordance with Subsections 63G-4-201(3)(d) and (e), following the relevant procedures for formal adjudicative proceedings.~~

(b) The administrative law judge shall require the parties to file responsive ~~[pleadings]~~ briefs in accordance with ~~[Section 63G-4-204]~~ Subsection (8).

(c) If an administrative law judge enters an order of default against a party, the administrative law judge shall enter the order of default in accordance with Section 63G-4-209~~, following the relevant procedures for formal adjudicative proceedings].~~

(d) The administrative law judge, in conducting a permit review adjudicative proceeding:

(i) may not participate in an ex parte communication with a party to the permit review adjudicative proceeding regarding the merits of the permit review adjudicative proceeding unless notice and an opportunity to be heard are afforded to all parties; and

(ii) shall, upon receiving an ex parte communication, place the communication in the public record of the proceeding and afford all parties an opportunity to comment on the information.

(e) In conducting a permit review adjudicative proceeding, the administrative law judge may take judicial notice of matters not in the administrative record, in accordance with Utah Rules of Evidence, Rule 201.

(f) An administrative law judge may take any action in a permit review adjudicative proceeding that is not a dispositive action.

~~[(10)] (11) (a) A person who files a [request for agency action] petition for review has the burden of demonstrating that an issue or argument raised in the [request for agency action] petition for review~~

has been preserved in accordance with Subsection (4).

(b) The administrative law judge shall dismiss, with prejudice, any issue or argument raised in a ~~[request for agency action]~~ petition for review that has not been preserved in accordance with Subsection (4).

~~[(11)] (12) In response to a dispositive motion, within 45 days after the day on which oral argument takes place, or, if there is no oral argument, within 45 days after the day on which the reply brief on the dispositive motion is due, the administrative law judge [may] shall:~~

(a) submit a proposed dispositive action to the executive director recommending full or partial resolution of the permit review adjudicative proceeding, that includes:

~~[(a)] (i) written findings of fact;~~

~~[(b)] (ii) written conclusions of law; and~~

~~[(c)] (iii) a recommended order[-]; or~~

(b) if the administrative law judge determines that a full or partial resolution of the permit review adjudicative proceeding is not appropriate, issue an order that explains the basis for the administrative law judge's determination.

~~[(12)] (13) For each issue or argument that is not dismissed or otherwise resolved under Subsection [(10)] (11)(b) or [(11)] (12), the administrative law judge shall:~~

(a) provide the parties an opportunity for briefing and oral argument in accordance with this section;

(b) conduct a review of the director's determination, based on the record described in Subsections ~~[(8)] (9)(b), [(8)] (9)(c), and [(9)] (10)(e);~~ and

(c) within 60 days after the day on which the reply brief on the dispositive motion is due, submit to the executive director a proposed dispositive action, that includes:

(i) written findings of fact;

(ii) written conclusions of law; and

(iii) a recommended order.

~~[(13)] (14) (a) When the administrative law judge submits a proposed dispositive action to the executive director, the executive director may:~~

(i) adopt, adopt with modifications, or reject the proposed dispositive action; or

(ii) return the proposed dispositive action to the administrative law judge for further action as directed.

(b) On review of a proposed dispositive action, the executive director shall uphold all factual, technical, and scientific agency determinations that are ~~[supported by substantial evidence taken from the record as a whole]~~ not clearly erroneous based on the petitioner's marshaling of the evidence.

~~[(c) (i) The executive director may not participate in an ex parte communication with a party to the permit review adjudicative proceeding regarding the merits of the permit review adjudicative proceeding unless notice and an opportunity to be heard are afforded to all parties.]~~

~~[(ii) Upon receiving an ex parte communication, the executive director shall place the communication in the public record of the proceeding and afford all parties an opportunity to comment on the information.]~~

~~[(d) (c) In reviewing a proposed dispositive action during a permit review adjudicative proceeding, the executive director may take judicial notice of matters not in the record, in accordance with Utah Rules of Evidence, Rule 201.~~

~~[(e) (d) The executive director may use the executive director's technical expertise in making a determination.~~

~~[(14) (15) (a) A party may seek judicial review in the Utah Court of Appeals of a dispositive action in a permit review adjudicative proceeding, in accordance with Sections 63G-4-401, 63G-4-403, and 63G-4-405.~~

~~(b) An appellate court shall limit its review of a dispositive action of a permit review adjudicative proceeding to:~~

~~(i) the record described in Subsections ~~[(8) (9)(b), (8) (9)(c), (9) (10)(e), and (13)(d) (14)(c); and~~~~

~~(ii) the record made by the administrative law judge and the executive director during the permit review adjudicative proceeding.~~

~~(c) During judicial review of a dispositive action, the appellate court shall:~~

~~(i) review all agency determinations in accordance with Subsection 63G-4-403(4), recognizing that the agency has been granted substantial discretion to interpret its governing statutes and rules; and~~

~~(ii) uphold all factual, technical, and scientific agency determinations that are ~~[supported by substantial evidence viewed in light of the record as a whole]~~ not clearly erroneous based upon the petitioner's marshaling of the evidence.~~

~~[(15) (16) (a) The filing of a ~~[request for agency action]~~ petition for review does not stay a permit or delay the effective date of a permit.~~

~~(b) A permit may not be stayed or delayed unless a stay is granted under this Subsection ~~[(15) (16)].~~~~

~~(c) The administrative law judge shall:~~

~~(i) consider a party's motion to stay a permit during a permit review adjudicative proceeding; and~~

~~(ii) within 45 days after the day on which the reply brief on the motion to stay is due, submit a proposed determination on the stay to the executive director.~~

(d) The administrative law judge may not recommend to the executive director a stay of a permit, or a portion of a permit, unless:

(i) all parties agree to the stay; or

(ii) the party seeking the stay demonstrates that:

(A) the party seeking the stay will suffer irreparable harm unless the stay is issued;

(B) the threatened injury to the party seeking the stay outweighs whatever damage the proposed stay is likely to cause the party restrained or enjoined;

(C) the stay, if issued, would not be adverse to the public interest; and

(D) there is a substantial likelihood that the party seeking the stay will prevail on the merits of the underlying claim, or the case presents serious issues on the merits, which should be the subject of further adjudication.

(e) A party may appeal the executive director's decision regarding a stay of a permit to the Utah Court of Appeals, in accordance with Section 78A-4-103.

(17) (a) Subject to Subsection (17)(c), the administrative law judge shall issue a written response to a non-dispositive motion within 45 days after the day on which the reply brief on the non-dispositive motion is due or, if the administrative law judge grants oral argument on the non-dispositive motion, within 45 days after the day on which oral argument takes place.

(b) If the administrative law judge determines that the administrative law judge needs more time to issue a response to a non-dispositive motion, the administrative law judge may issue a response after the deadline described in Subsection (17)(a) if, before the deadline expires, the administrative law judge gives notice to the parties that includes:

(i) the amount of additional time that the administrative law judge requires; and

(ii) the reason the administrative law judge needs the additional time.

(c) If the administrative law judge grants oral argument on a non-dispositive motion, the administrative law judge shall hold the oral argument within 30 days after the day on which the reply brief on the non-dispositive motion is due.

Section 2. Coordinating S.B. 282 with S.B. 173 -- Superseding, technical, and substantive amendments.

If this S.B. 282 and S.B. 173, Financial Assurance Determination Review Process, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, modify Section 19-1-301.5 to read as follows:

"19-1-301.5. Permit review and financial assurance determination special adjudicative proceedings.

(1) As used in this section:

(a) “Dispositive action” means a final agency action that:

(i) the executive director takes as part of a ~~[permit review]~~ special adjudicative proceeding; and

(ii) is subject to judicial review, in accordance with Subsection ~~[(44)]~~ (15).

(b) “Dispositive motion” means a motion that is equivalent to:

(i) a motion to dismiss under Utah Rules of Civil Procedure, Rule 12(b)(6);

(ii) a motion for judgment on the pleadings under Utah Rules of Civil Procedure, Rule 12(c); or

(iii) a motion for summary judgment under Utah Rules of Civil Procedure, Rule 56.

(c) “Financial assurance determination” means a decision on whether a facility, site, plan, party, broker, owner, operator, generator, or permittee has met financial assurance or financial responsibility requirements as determined by the director of the:

(i) Division of Radiation Control under Subsection 19-3-104(12); or

(ii) Division of Solid and Hazardous Waste under Subsection 19-6-108(9)(c).

~~[(e)]~~ (d) “Party” means:

(i) the director who issued the permit order or financial assurance determination that is being challenged in the ~~[permit review]~~ special adjudicative proceeding under this section;

(ii) the permittee;

(iii) the person who applied for the permit, if the permit was denied; ~~or~~

(iv) the person who is subject to a financial assurance determination; or

~~[(iv)]~~ (v) a person granted intervention by the administrative law judge.

~~[(d)]~~ (e) “Permit” means any of the following issued under this title:

(i) a permit;

(ii) a plan;

(iii) a license;

(iv) an approval order; or

(v) another administrative authorization made by a director.

~~[(e)]~~ (f) (i) “Permit order” means an order issued by a director that:

(A) approves a permit;

(B) renews a permit;

(C) denies a permit;

(D) modifies or amends a permit; or

(E) revokes and reissues a permit.

(ii) “Permit order” does not include an order terminating a permit.

~~[(f)]~~ “~~Permit review adjudicative proceeding~~” means a proceeding to resolve a challenge to a ~~permit order.~~

(g) “Special adjudicative proceeding” means a proceeding under this section to resolve a challenge to a:

(i) permit order; or

(ii) financial assurance determination.

(2) This section governs permit ~~[review adjudicative]~~ special proceedings.

(3) Except as expressly provided in this section, the provisions of Title 63G, Chapter 4, Administrative Procedures Act, do not apply to a ~~[permit review]~~ special adjudicative proceeding under this section.

(4) If a public comment period was provided during the permit application process or the financial assurance determination process, a person who challenges ~~[a permit order, including the permit applicant,]~~ an order, application, or determination may only raise an issue or argument during the ~~[permit review]~~ special adjudicative proceeding that:

(a) the person raised during the public comment period; and

(b) was supported with ~~[sufficient]~~ information or documentation ~~[to enable]~~ that is cited with reasonable specificity and sufficiently enables the director to fully consider the substance and significance of the issue.

(5) ~~[The]~~ (a) Upon request by a party, the executive director shall ~~[appoint]~~ issue a notice of appointment appointing an administrative law judge, in accordance with Subsections 19-1-301(5) and (6), to conduct a ~~[permit review]~~ special adjudicative proceeding under this section.

(b) The executive director shall issue a notice of appointment within 30 days after the day on which a party files a request.

(c) A notice of appointment shall include:

(i) the agency’s file number or other reference number assigned to the special adjudicative proceeding;

(ii) the name of the special adjudicative proceeding; and

(iii) the administrative law judge’s name, title, mailing address, email address, and telephone number.

(6) (a) Only the following may file a ~~[request for agency action seeking]~~ petition for review of a permit order or financial assurance determination:

(i) a party; or

(ii) a person who is seeking to intervene under Subsection (7).

(b) A person who files a [request for agency action seeking] petition for review of a permit order or a financial assurance determination shall file the [request: (i)] petition for review within 30 days after the day on which the permit order or the financial assurance determination is issued[; and].

[(ii) in accordance with Subsections 63G-4-201(3)(a) through (e)].

(c) The department may, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules allowing the extension of the filing deadline described in Subsection (6)(b).

(d) A petition for review shall:

(i) be served in accordance with department rule;

(ii) include the name and address of each person to whom a copy of the petition for review is sent;

(iii) if known, include the agency's file number or other reference number assigned to the special adjudicative proceeding;

(iv) state the date on which the petition for review is served;

(v) include a statement of the petitioner's position, including, as applicable:

(A) the legal authority under which the petition for review is requested;

(B) the legal authority under which the agency has jurisdiction to review the petition for review;

(C) each of the petitioner's arguments in support of the petitioner's requested relief;

(D) an explanation of how each argument described in Subsection (6)(d)(v)(C) was preserved;

(E) a detailed description of any permit condition to which the petitioner is objecting;

(F) any modification or addition to a permit that the petitioner is requesting;

(G) a demonstration that the agency's permit decision is based on a finding of fact or conclusion of law that is clearly erroneous;

(H) if the agency director addressed a finding of fact or conclusion of law described in Subsection (6)(d)(v)(G) in a response to public comment, a citation to the comment and response that relates to the finding of fact or conclusion of law and an explanation of why the director's response was clearly erroneous or otherwise warrants review; and

(I) a claim for relief.

[(e) (e) A person may not raise an issue or argument in a [request for agency action] petition for review unless the issue or argument:

(i) was preserved in accordance with Subsection (4); or

(ii) was not reasonably ascertainable before or during the public comment period.

[(d) The department may, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules allowing the extension of the filing deadline described in Subsection (6)(b)(i).]

(f) To demonstrate that an issue or argument was preserved in accordance with Subsection (4), a petitioner shall include the following in the petitioner's petition for review:

(i) a citation to where the petitioner raised the issue or argument during the public comment period; and

(ii) for each document upon which the petitioner relies in support of an issue or argument, a description that:

(A) states why the document is part of the administrative record; and

(B) demonstrates that the petitioner cited the document with reasonable specificity in accordance with Subsection (4)(b).

(7) (a) A person who is not a party may not participate in a [permit review] special adjudicative proceeding under this section unless the person is granted the right to intervene under this Subsection (7).

(b) A person who seeks to intervene in a [permit review] special adjudicative proceeding under this section shall, within 30 days after the day on which the permit order or the financial assurance determination being challenged was issued, file:

(i) a petition to intervene that:

(A) meets the requirements of Subsection 63G-4-207(1); and

(B) demonstrates that the person is entitled to intervention under Subsection (7)[(e)](d)(ii); and

(ii) a timely [request for agency action] petition for review.

(c) In a special adjudicative proceeding to review a permit order, the permittee is a party to the special adjudicative proceeding regardless of who files the petition for review and does not need to file a petition to intervene under Subsection (7)(b).

[(e) (d) An administrative law judge shall grant a petition to intervene in a [permit review] special adjudicative proceeding, if:

(i) the petition to intervene is timely filed; and

(ii) the petitioner:

(A) demonstrates that the petitioner's legal interests may be substantially affected by the [permit review] special adjudicative proceeding;

(B) demonstrates that the interests of justice and the orderly and prompt conduct of the [permit review] special adjudicative proceeding will not be materially impaired by allowing the intervention; and

(C) in the petitioner's [request for agency action] petition for review, raises issues or arguments that are preserved in accordance with Subsection (4).

~~(d)~~ (e) An administrative law judge:

(i) shall issue an order granting or denying a petition to intervene in accordance with Subsection 63G-4-207(3)(a); and

(ii) may impose conditions on intervenors as described in Subsections 63G-4-207(3)(b) and (c).

~~(e)~~ (f) The department may, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules allowing the extension of the filing deadline described in Subsection (7)(b).

(8) (a) Unless the parties otherwise agree, the schedule for a special adjudicative proceeding is as follows:

(i) the director shall file and serve the administrative record within 40 days after the day on which the executive director issues a notice of appointment, unless otherwise ordered by the administrative law judge;

(ii) any dispositive motion shall be filed and served within 15 days after the day on which the administrative record is filed and served;

(iii) the petitioner shall file and serve an opening brief of no more than 30 pages:

(A) within 30 days after the day on which the director files and serves the administrative record; or

(B) if a party files and serves a dispositive motion, within 30 days after the day on which the administrative law judge issues a decision on the dispositive motion, including a decision to defer the motion;

(iv) each party shall file and serve a response brief of no more than 15 pages within 15 days after the day on which the petitioner files and serves the opening brief;

(v) the petitioner may file and serve a reply brief of not more than 15 pages within 15 days after the day on which the response brief is filed and served; and

(vi) if the petitioner files and serves a reply brief, each party may file and serve a surreply brief of no more than five pages within five business days after the day on which the petitioner files and serves the reply brief.

(b) (i) A reply brief may not raise an issue that was not raised in the response brief.

(ii) A surreply brief may not raise an issue that was not raised in the reply brief.

~~(8)~~ (9) (a) An administrative law judge shall conduct a ~~[permit review]~~ special adjudicative proceeding based only on the administrative record and not as a trial de novo.

(b) To the extent relative to the issues and arguments raised in the ~~[request for agency action]~~ petition for review, the administrative record ~~[shall consist]~~ consists of the following items, if they exist:

(i) (A) for review of a permit order, the permit application, draft permit, and final permit; or

(B) for review of a financial assurance determination, the proposed financial assurance determination from the owner or operator of the facility, the draft financial assurance determination, and the final financial assurance determination;

(ii) each statement of basis, fact sheet, engineering review, or other substantive explanation designated by the director as part of the basis for the decision relating to the permit order or the financial assurance determination;

(iii) the notice and record of each public comment period;

(iv) the notice and record of each public hearing, including oral comments made during the public hearing;

(v) written comments submitted during the public comment period;

(vi) responses to comments that are designated by the director as part of the basis for the decision relating to the permit order or the financial assurance determination;

(vii) any information that is:

(A) requested by and submitted to the director; and

(B) designated by the director as part of the basis for the decision relating to the permit order or the financial assurance determination;

(viii) any additional information specified by rule;

(ix) any additional documents agreed to by the parties; and

(x) information supplementing the record under Subsection ~~[(8)]~~ (9)(c).

(c) (i) There is a rebuttable presumption against supplementing the record.

(ii) A party may move to supplement the record described in Subsection ~~[(8)]~~ (9)(b) with technical or factual information.

(iii) The administrative law judge may grant a motion to supplement the record described in Subsection ~~[(8)]~~ (9)(b) with technical or factual information if the moving party proves that:

(A) good cause exists for supplementing the record;

(B) supplementing the record is in the interest of justice; and

(C) supplementing the record is necessary for resolution of the issues.

~~(iv) The administrative law judge may supplement the record with technical or factual information on the administrative law judge's own motion if the administrative law judge determines that adequate grounds exist to supplement the record under Subsections (8)(e)(iii)(A) through (C).]~~

~~[(v) In supplementing the record with testimonial evidence, the administrative law judge may administer an oath or take testimony as necessary.]~~

~~[(vi) (iv) The department may, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules permitting further supplementation of the record.~~

~~[(9) (10) (a) [The] Except as otherwise provided by this section, the administrative law judge shall review and respond to a [request for agency action] petition for review in accordance with Subsections 63G-4-201(3)(d) and (e), following the relevant procedures for formal adjudicative proceedings.~~

~~(b) The administrative law judge shall require the parties to file responsive [pleadings] briefs in accordance with [Section 63G-4-204] Subsection (8).~~

~~(c) If an administrative law judge enters an order of default against a party, the administrative law judge shall enter the order of default in accordance with Section 63G-4-209[, following the relevant procedures for formal adjudicative proceedings].~~

~~(d) The administrative law judge, in conducting a [permit review] special adjudicative proceeding:~~

~~(i) may not participate in an ex parte communication with a party to the [permit review] special adjudicative proceeding regarding the merits of the [permit review] special adjudicative proceeding unless notice and an opportunity to be heard are afforded to all parties; and~~

~~(ii) shall, upon receiving an ex parte communication, place the communication in the public record of the proceeding and afford all parties an opportunity to comment on the information.~~

~~(e) In conducting a [permit review] special adjudicative proceeding, the administrative law judge may take judicial notice of matters not in the administrative record, in accordance with Utah Rules of Evidence, Rule 201.~~

~~(f) An administrative law judge may take any action in a [permit review] special adjudicative proceeding that is not a dispositive action.~~

~~[(40) (11) (a) A person who files a [request for agency action] petition for review has the burden of demonstrating that an issue or argument raised in the [request for agency action] petition for review has been preserved in accordance with Subsection (4).~~

~~(b) The administrative law judge shall dismiss, with prejudice, any issue or argument raised in a [request for agency action] petition for review that has not been preserved in accordance with Subsection (4).~~

~~[(41) (12) In response to a dispositive motion, within 45 days after the day on which oral argument takes place, or, if there is no oral argument, within 45 days after the day on which the reply brief on the dispositive motion is due, the administrative law judge [may] shall:~~

~~(a) submit a proposed dispositive action to the executive director recommending full or partial resolution of the [permit review] special adjudicative proceeding, that includes:~~

~~[(a) (i) written findings of fact;~~

~~[(b) (ii) written conclusions of law; and~~

~~[(c) (iii) a recommended order[-]; or~~

~~(b) if the administrative law judge determines that a full or partial resolution of the special adjudicative proceeding is not appropriate, issue an order that explains the basis for the administrative law judge's determination.~~

~~[(42) (13) For each issue or argument that is not dismissed or otherwise resolved under Subsection [(40) (11)(b) or [(41) (12)], the administrative law judge shall:~~

~~(a) provide the parties an opportunity for briefing and oral argument in accordance with this section;~~

~~(b) conduct a review of the director's order or determination, based on the record described in Subsections [(8) (9)(b), [(8) (9)(c), and [(9) (10)(e); and~~

~~(c) within 60 days after the day on which the reply brief on the dispositive motion is due, submit to the executive director a proposed dispositive action, that includes:~~

~~(i) written findings of fact;~~

~~(ii) written conclusions of law; and~~

~~(iii) a recommended order.~~

~~[(43) (14) (a) When the administrative law judge submits a proposed dispositive action to the executive director, the executive director may:~~

~~(i) adopt, adopt with modifications, or reject the proposed dispositive action; or~~

~~(ii) return the proposed dispositive action to the administrative law judge for further action as directed.~~

~~(b) On review of a proposed dispositive action, the executive director shall uphold all factual, technical, and scientific agency determinations that are [supported by substantial evidence taken from the record as a whole] not clearly erroneous based on the petitioner's marshaling of the evidence.~~

~~[(c) (i) The executive director may not participate in an ex parte communication with a party to the permit review adjudicative proceeding regarding the merits of the permit review adjudicative proceeding unless notice and an opportunity to be heard are afforded to all parties.]~~

~~[(ii) Upon receiving an ex parte communication, the executive director shall place the communication in the public record of the proceeding and afford all parties an opportunity to comment on the information.]~~

~~[(d) (c) In reviewing a proposed dispositive action during a [permit review] special adjudicative~~

proceeding, the executive director may take judicial notice of matters not in the record, in accordance with Utah Rules of Evidence, Rule 201.

(e) (d) The executive director may use the executive director's technical expertise in making a determination.

[(14)] (15) (a) A party may seek judicial review in the Utah Court of Appeals of a dispositive action in a [permit review] special adjudicative proceeding, in accordance with Sections 63G-4-401, 63G-4-403, and 63G-4-405.

(b) An appellate court shall limit its review of a dispositive action of a [permit review] special adjudicative proceeding under this section to:

(i) the record described in Subsections [(8)] (9)(b), [(8)] (9)(c), [(9)] (10)(e), and [(13)(d)] (14)(c); and

(ii) the record made by the administrative law judge and the executive director during the [permit review] special adjudicative proceeding.

(c) During judicial review of a dispositive action, the appellate court shall:

(i) review all agency determinations in accordance with Subsection 63G-4-403(4), recognizing that the agency has been granted substantial discretion to interpret its governing statutes and rules; and

(ii) uphold all factual, technical, and scientific agency determinations that are [supported by substantial evidence viewed in light of the record as a whole] not clearly erroneous based upon the petitioner's marshaling of the evidence.

[(15)] (16) (a) The filing of a [request for agency action] petition for review does not:

(i) stay a permit order or a financial assurance determination; or

(ii) delay the effective date of a permit order or a portion of a financial assurance determination.

(b) A permit order or a financial assurance determination may not be stayed or delayed unless a stay is granted under this Subsection [(15)] (16).

(c) The administrative law judge shall:

(i) consider a party's motion to stay a permit order or a financial assurance determination during a [permit review] special adjudicative proceeding; and

(ii) within 45 days after the day on which the reply brief on the motion to stay is due, submit a proposed determination on the stay to the executive director.

(d) The administrative law judge may not recommend to the executive director a stay of a permit order or a financial assurance determination, or a portion of a permit order or a portion of a financial assurance determination, unless:

(i) all parties agree to the stay; or

(ii) the party seeking the stay demonstrates that:

(A) the party seeking the stay will suffer irreparable harm unless the stay is issued;

(B) the threatened injury to the party seeking the stay outweighs whatever damage the proposed stay is likely to cause the party restrained or enjoined;

(C) the stay, if issued, would not be adverse to the public interest; and

(D) there is a substantial likelihood that the party seeking the stay will prevail on the merits of the underlying claim, or the case presents serious issues on the merits, which should be the subject of further adjudication.

(e) A party may appeal the executive director's decision regarding a stay of a permit order or a financial assurance determination to the Utah Court of Appeals, in accordance with Section 78A-4-103.

(17) (a) Subject to Subsection (17)(c), the administrative law judge shall issue a written response to a non-dispositive motion within 45 days after the day on which the reply brief on the non-dispositive motion is due or, if the administrative law judge grants oral argument on the non-dispositive motion, within 45 days after the day on which oral argument takes place.

(b) If the administrative law judge determines that the administrative law judge needs more time to issue a response to a non-dispositive motion, the administrative law judge may issue a response after the deadline described in Subsection (17)(a) if, before the deadline expires, the administrative law judge gives notice to the parties that includes:

(i) the amount of additional time that the administrative law judge requires; and

(ii) the reason the administrative law judge needs the additional time.

(c) If the administrative law judge grants oral argument on a non-dispositive motion, the administrative law judge shall hold the oral argument within 30 days after the day on which the reply brief on the non-dispositive motion is due."

CHAPTER 380**H. B. 2**

Passed March 10, 2015
Approved March 31, 2015
Effective July 1, 2015

**PUBLIC EDUCATION
BUDGET AMENDMENTS**

Chief Sponsor: Dean Sanpei
Senate Sponsor: Lyle W. Hillyard

LONG TITLE**General Description:**

This bill supplements or reduces appropriations previously provided for school districts, charter schools, and certain state education agencies for the fiscal year beginning July 1, 2015, and ending June 30, 2016, and modifies related budgetary provisions.

Highlighted Provisions:

This bill:

- ▶ extends, for an additional year, a provision that allows the number of weighted pupil units assigned to a charter school to be based on the higher of:
 - October 1 enrollment in the current school year; or
 - average daily membership in the prior school year plus growth;
- ▶ provides budget increases and decreases for the use and support of certain state education agencies;
- ▶ provides budget increases and decreases for programs that support school districts and charter schools;
- ▶ provides intent language;
- ▶ establishes the value of the weighted pupil unit for fiscal year 2015-16 at:
 - \$2,837 for the special education and career and technology add-on programs; and
 - \$3,092 for all other programs; and
- ▶ makes technical changes, including deleting outdated language.

Monies Appropriated in this Bill:

This bill appropriates for fiscal year 2016:

- ▶ \$635,000 from the General Fund;
- ▶ \$7,000,000 from the Uniform School Fund;
- ▶ \$246,430,500 from the Education Fund; and
- ▶ \$24,983,100 from various sources as detailed in this bill.

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

53A-1a-513, as last amended by Laws of Utah 2013, Chapter 470

Uncodified Material Affected:

ENACTS UNCODIFIED MATERIAL

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

Section 1. Section 53A-1a-513 is amended to read:

53A-1a-513. Funding for charter schools.

(1) As used in this section:

(a) "Charter school students' average local revenues" means the amount determined as follows:

(i) for each student enrolled in a charter school on the previous October 1, calculate the district per pupil local revenues of the school district in which the student resides;

(ii) sum the district per pupil local revenues for each student enrolled in a charter school on the previous October 1; and

(iii) divide the sum calculated under Subsection (1)(a)(ii) by the number of students enrolled in charter schools on the previous October 1.

(b) "District local property tax revenues" means the sum of a school district's revenue received from the following levies:

~~[(i) (A) a voted levy imposed under Section 53A-17a-133;]~~

~~[(B) a board levy imposed under Section 53A-17a-134;]~~

~~[(C) a 10% of basic levy imposed under Section 53A-17a-145;]~~

~~[(D) a tort liability levy imposed under Section 63G-7-704;]~~

~~[(E) a capital outlay levy imposed under Section 53A-16-107; and]~~

~~[(F) a voted capital outlay levy imposed under Section 53A-16-110; or]~~

~~[(ii) (A) (i) a voted local levy imposed under Section 53A-17a-133;~~

~~[(B) (ii) a board local levy imposed under Section 53A-17a-164, excluding revenues expended for:~~

~~[(1) (A) recreational facilities and activities authorized under Title 11, Chapter 2, Playgrounds;~~

~~[(2) (B) pupil transportation, up to the amount of revenue generated by a .0003 per dollar of taxable value of the school district's board local levy; and~~

~~[(3) (C) the K-3 Reading Improvement Program, up to the amount of revenue generated by a .000121 per dollar of taxable value of the school district's board local levy; and~~

~~[(4) (iii) a capital local levy imposed under Section 53A-16-113.~~

(c) "District per pupil local revenues" means an amount equal to the following, using data from the most recently published school district annual financial reports and state superintendent's annual report:

(i) district local property tax revenues; divided by

(ii) the sum of:

(A) a school district's average daily membership; and

(B) the average daily membership of a school district's resident students who attend charter schools.

(d) "Resident student" means a student who is considered a resident of the school district under Title 53A, Chapter 2, Part 2, District of Residency.

(e) "Statewide average debt service revenues" means the amount determined as follows, using data from the most recently published state superintendent's annual report:

(i) sum the revenues of each school district from the debt service levy imposed under Section 11-14-310; and

(ii) divide the sum calculated under Subsection (1)(e)(i) by statewide school district average daily membership.

(2) (a) Charter schools shall receive funding as described in this section, except Subsections (3) through (8) do not apply to charter schools described in Subsection (2)(b).

(b) Charter schools authorized by local school boards that are converted from district schools or operate in district facilities without paying reasonable rent shall receive funding as prescribed in Section 53A-1a-515.

(3) (a) Except as provided in Subsections (3)(b) and (3)(c), a charter school shall receive state funds, as applicable, on the same basis as a school district receives funds.

(b) For the ~~[2013-14 and 2014-15 school years]~~ 2015-16 school year, the number of weighted pupil units assigned to a charter school for the kindergarten and grades 1 through 12 programs of the Basic School Program shall be:

(i) based on the higher of:

(A) October 1 enrollment in the current school year; or

(B) average daily membership in the prior school year plus growth as determined under Section 53A-17a-106; and

(ii) weighted as provided in Subsection (3)(c).

(c) In distributing funds under Chapter 17a, Minimum School Program Act, to charter schools, charter school pupils shall be weighted, where applicable, as follows:

(i) .55 for kindergarten pupils;

(ii) .9 for pupils in grades 1 through 6;

(iii) .99 for pupils in grades 7 through 8; and

(iv) 1.2 for pupils in grades 9 through 12.

(4) (a) (i) A school district shall allocate a portion of school district revenues for each resident student

of the school district who is enrolled in a charter school on October 1 equal to 25% of the lesser of:

(A) district per pupil local revenues; or

(B) charter school students' average local revenues.

(ii) Nothing in this Subsection (4)(a) affects the school bond guarantee program established under Chapter 28, Utah School Bond Guaranty Act.

(b) The State Board of Education shall:

(i) deduct an amount equal to the allocation provided under Subsection (4)(a) from state funds the school district is authorized to receive under Chapter 17a, Minimum School Program Act; and

(ii) remit the money to the student's charter school.

(c) Notwithstanding the method used to transfer school district revenues to charter schools as provided in Subsection (4)(b), a school district may deduct the allocations to charter schools under this section from:

(i) unrestricted revenues available to the school district; or

(ii) the revenue sources listed in Subsection (1)(b) based on the portion of the allocations to charter schools attributed to each of the revenue sources listed in Subsection (1)(b).

(d) (i) Subject to future budget constraints, the Legislature shall provide an appropriation for charter schools for each student enrolled on October 1 to supplement the allocation of school district revenues under Subsection (4)(a).

(ii) Except as provided in Subsection (4)(d)(iii), the amount of money provided by the state for a charter school student shall be the sum of:

(A) charter school students' average local revenues minus the allocation of school district revenues under Subsection (4)(a); and

(B) statewide average debt service revenues.

(iii) If the total of a school district's allocation for a charter school student under Subsection (4)(a) and the amount provided by the state under Subsection (4)(d)(ii) is less than \$1427, the state shall provide an additional supplement so that a charter school receives at least \$1427 per student under this Subsection (4).

(iv) (A) If the appropriation provided under this Subsection (4)(d) is less than the amount prescribed by Subsection (4)(d)(ii) or (4)(d)(iii), the appropriation shall be allocated among charter schools in proportion to each charter school's enrollment as a percentage of the total enrollment in charter schools.

(B) If the State Board of Education makes adjustments to Minimum School Program allocations as provided under Section 53A-17a-105, the allocation provided in Subsection (4)(d)(iv)(A) shall be determined after adjustments are made under Section 53A-17a-105.

(e) Of the money provided to a charter school under this Subsection (4), 10% shall be expended for funding school facilities only.

(5) Charter schools are eligible to receive federal funds if they meet all applicable federal requirements and comply with relevant federal regulations.

(6) The State Board of Education shall distribute funds for charter school students directly to the charter school.

(7) (a) Notwithstanding Subsection (3), a charter school is not eligible to receive state transportation funding.

(b) The board shall also adopt rules relating to the transportation of students to and from charter schools, taking into account Sections 53A-2-210 and 53A-17a-127.

(c) The governing body of the charter school may provide transportation through an agreement or contract with the local school board, a private provider, or with parents.

(8) (a) (i) In accordance with Section 53A-1a-513.5, the State Charter School Board may allocate grants for start-up costs to charter schools from money appropriated for charter school start-up costs.

(ii) The governing board of a charter school that receives money from a grant under Section 53A-1a-513.5 shall use the grant for expenses for planning and implementation of the charter school.

(b) The State Board of Education shall coordinate the distribution of federal money appropriated to help fund costs for establishing and maintaining charter schools within the state.

(9) (a) A charter school may receive, hold, manage and use any devise, bequest, grant, endowment, gift, or donation of any property made to the school for any of the purposes of this part.

(b) It is unlawful for any person affiliated with a charter school to demand or request any gift, donation, or contribution from a parent, teacher, employee, or other person affiliated with the charter school as a condition for employment or enrollment at the school or continued attendance at the school.

Section 2. One-time appropriation for classroom supplies.

(1) As used in this section, “classroom teacher” or “teacher” means permanent teacher positions filled by one teacher or two or more job-sharing teachers:

- (a) who are licensed personnel;
- (b) who are paid on the teacher’s salary schedule;
- (c) who are hired for an entire contract period; and
- (d) whose primary function is to provide instructional or a combination of instructional and counseling services to students in public schools.

(2) (a) The State Board of Education shall distribute money appropriated for teacher supplies and materials to classroom teachers in school districts, the Utah Schools for the Deaf and the Blind, and charter schools on the basis of the number of classroom teachers in each school as compared to the total number of classroom teachers.

(b) Teachers shall receive up to the following amounts:

(i) \$250 for a teacher on salary schedule steps one through three teaching in kindergarten through grade 6 or preschool handicapped;

(ii) \$200 for a teacher on salary schedule steps one through three teaching in grades 7 through 12;

(iii) \$175 for a teacher on salary schedule step four or higher teaching in kindergarten through grade 6 or preschool handicapped; and

(iv) \$150 for a teacher on salary schedule step four or higher teaching in grades 7 through 12.

(c) If the appropriation is not sufficient to provide to each teacher the full amount allowed under Subsection (2)(b), teachers on salary schedule steps one through three shall receive the full amount allowed with the remaining money apportioned to all other teachers.

(3) Teachers shall spend money appropriated for classroom supplies and materials for school supplies, materials, or field trips under rules adopted by the State Board of Education.

Section 3. Operating and capital budgets -- FY 2016 appropriations for state education agencies, school districts, and charter schools -- Value of the weighted pupil unit.

(1) Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, for the fiscal year beginning July 1, 2015, and ending June 30, 2016, the following sums of money are appropriated from resources not otherwise appropriated, or reduced from amounts previously appropriated, out of the funds or accounts indicated. These sums of money are in addition to any amounts previously appropriated for fiscal year 2016.

(2) The value of each weighted pupil unit (WPU) for fiscal year 2015-16 is increased from the value of the WPU for fiscal year 2015-16 established in S.B. 1, Public Education Base Budget Amendments, and set at:

- (a) \$2,837 for:
 - (i) Special Education -- Add-on; and
 - (ii) Career & Technical Education District Add-on; and
 - (b) \$3,092 for all other programs.

State Board of Education - Minimum School Program

Item 1 To State Board of Education - Minimum School Program - Basic School Program

From Uniform School Fund (3,000,000)

From Uniform School Fund, One-time	10,000,000
From Education Fund	123,960,200
From Education Fund, One-time	(10,000,000)
From Local Revenue	8,462,600
From Beginning Nonlapsing Appropriation Balances	18,473,900
From Closing Nonlapsing Appropriation Balances	(18,473,900)
Schedule of Programs:	
Kindergarten (-896 WPU's)	735,300
Grades 1 - 12 (7,694 WPU's)	90,405,400
Necessarily Existent Small Schools	1,122,800
Professional Staff (710 WPU's)	8,560,300
Administrative Costs	180,600
Special Education - Add-on (2,143 WPU's)	14,181,700
Special Education - Preschool (125 WPU's)	1,556,900
Special Education - Self-contained (-360 WPU's)	601,100
Special Education - Extended School Year	51,500
Special Education - State Programs (351 WPU's)	1,434,100
Career and Technical Education - Add-on (380 WPU's)	4,375,300
Class Size Reduction (499 WPU's)	6,217,800

The Legislature intends that the State Board of Education develop minimum program standards, including maximum class size limits in kindergarten through grade 3, that local education agencies must meet in order to continue to receive Class Size Reduction funding. The Legislature also intends that the State Board of Education develop an estimate of the cost necessary to limit class sizes in kindergarten through grade 3, without impacting class sizes in grades 4 through 12. The Legislature also intends that the State Board of Education report the standards and estimated costs to the Education Interim Committee and the Public Education Appropriations Subcommittee by October 31, 2015.

Item 2 To State Board of Education - Minimum School Program - Related to Basic School Programs

From Education Fund	81,369,400
From Education Fund, One-time	16,400,000
From Interest and Dividends Account	2,149,300
From Beginning Nonlapsing Appropriation Balances	13,347,600

From Closing Nonlapsing Appropriation Balances	(13,347,600)
Schedule of Programs:	
To and From School - Pupil Transportation	9,852,200
Flexible Allocation - WPU Distribution	23,106,600
Enhancement for At-Risk Students	1,304,600
Youth in Custody	1,065,500
Adult Education	523,400
Enhancement for Accelerated Students	232,800
Concurrent Enrollment	3,496,100
School LAND Trust Program	2,149,300
Charter School Local Replacement	25,015,000
Charter School Administration	83,200
K-3 Reading Improvement	2,600,000
Educator Salary Adjustments	3,430,000
USFR Teacher Salary Supplement Restricted Account	1,500,000
School Library Books and Electronic Resources	1,050,000
Matching Funds for School Nurses	60,000
Critical Languages and Dual Immersion	600,000
USTAR Centers (Year-Round Math and Science)	6,200,000
Teacher Supplies and Materials	6,000,000
Beverly Taylor Sorenson Elementary Arts	4,500,000
Civics Education - State Capitol Field Trips	150,000
K-12 Digital Literacy	5,000,000
Special Education - Intensive Services	2,000,000

The Legislature intends that the appropriation for the Flexible Allocation - WPU Distribution program be distributed to school districts and charter schools on the basis of the number of weighted pupil units in a school district or charter school compared to the total number of weighted pupil units and that the State Board of Education provide for the reporting of school district and charter school expenditures of the program money. The Legislature intends that the State Board of Education review the Pupil Transportation Allocation Formula and recommend ways to improve the formula to increase efficiency, simplify allocation methodology to school districts, and provide incentives for alternative transportation methods. The Legislature further intends that the State Board of Education report its recommendations to the Education Interim

Committee and the Public Education Appropriations Subcommittee by October 31, 2015. The Legislature intends that the State Board of Education and the State Board of Regents provide joint recommendations on how to ensure that each concurrent enrollment course is taught by a qualified instructor, that credits earned by students count towards major and minor degree requirements at state colleges and universities, and that students are advised on the transferability of credits to private and out of state institutions. The Legislature also intends that these recommendations be reported to the Education Interim Committee and the Public Education Appropriations Subcommittee by October 31, 2015.

Item 3 To State Board of Education - Minimum School Program - Voted and Board Local Levy Programs

From Education Fund	23,023,600
From Local Revenue	12,456,100
Schedule of Programs:	
Voted Local Levy Program	28,779,000
Board Local Levy Program	6,700,700
State Board of Education	

Item 4 To State Board of Education - State Office of Education

From Education Fund	1,545,000
From Education Fund, One-time	1,090,300
From General Fund Restricted - Mineral Lease	300
From General Fund Restricted - Substance Abuse Prevention	200
From Interest and Dividends Account	2,200
From Revenue Transfers - Indirect Costs	2,265,400
Schedule of Programs:	
Assessment and Accountability	206,600
Educational Equity	(37,100)
Board and Administration	6,159,300
Business Services	58,400
Career and Technical Education	(388,200)
District Computer Services	(401,000)
Federal Elementary and Secondary Education Act	(166,300)
Law and Legislation	(28,500)
Public Relations	(12,700)
School Trust	(48,200)
Special Education	(183,600)
Teaching and Learning	(255,300)

The Legislature intends that the State Board of Education use any nonlapsing balances generated

from the licensing of Student Assessment of Growth and Excellence (SAGE) questions to other states to develop additional assessment questions and provide professional learning for Utah educators.

The Legislature intends that the State Board of Education use the revenue bond savings of \$264,700 from the Education Fund to support a portion of the State Board of Education's Risk Mitigation Plan.

Item 5 To State Board of Education - Utah State Office of Education - Initiative Programs

From General Fund, One-time	635,000
From Education Fund	50,000
From Education Fund, One-time	4,300,000
From Revenue Transfers - Indirect Costs	(31,100)
Schedule of Programs:	
Contracts and Grants	50,000
Electronic High School	(14,300)
Upstart Early Childhood Education	1,000,000
ProStart Culinary Arts Program	300,000
General Financial Literacy	(5,600)
Carson Smith Scholarships	623,800
Early Intervention	3,000,000

Item 6 To State Board of Education - State Charter School Board

From Education Fund	200,000
From Revenue Transfers - Indirect Costs	(49,100)
Schedule of Programs:	
State Charter School Board	150,900

Item 7 To State Board of Education - Educator Licensing Professional Practices

From Professional Practices Restricted Subfund	1,700
From Revenue Transfers - Indirect Costs	(106,800)
Schedule of Programs:	
Educator Licensing	(105,100)

Item 8 To State Board of Education - State Office of Education - Child Nutrition

From Federal Funds	(19,159,300)
From Revenue Transfers - Indirect Costs	(167,700)
Schedule of Programs:	
Child Nutrition	(19,327,000)

Item 9 To State Board of Education - Child Nutrition - Federal Commodities

From Federal Funds	19,159,300
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Schedule of Programs:

Child Nutrition - Federal Commodities	19,159,300
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Item 10 To State Board of Education - Fine Arts
Outreach

From Education Fund	100,000
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From Education Fund, One-time	750,000
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Schedule of Programs:

Professional Outreach Programs	600,000
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Requests for Proposals	250,000
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Item 11 To State Board of Education - Science
Outreach

From Education Fund	1,790,000
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Schedule of Programs:

Informal Science Education Enhancement	1,790,000
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Item 12 To State Board of Education - Utah
Schools for the Deaf and the Blind

From Education Fund	1,200,000
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From Education Fund, One-time	652,000
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Schedule of Programs:

Instructional Services	300,000
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Support Services	1,552,000
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Section 4. Effective date.

This bill takes effect on July 1, 2015.

CHAPTER 381**H. B. 15**

Passed March 12, 2015

Approved March 31, 2015

Effective May 12, 2015

**CLEAN FUEL AMENDMENTS
AND REBATES**

Chief Sponsor: Stephen G. Handy

Senate Sponsor: Todd Weiler

LONG TITLE**General Description:**

This bill creates the Conversion to Alternative Fuel Grant Program and extends tax credits for energy efficient vehicles.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ amends definitions;
- ▶ authorizes the Department of Environmental Quality to make grants from the Clean Fuels and Vehicle Technology Fund to a person who installs conversion equipment on an eligible vehicle;
- ▶ describes the process for a person to apply for a grant to install conversion equipment on an eligible vehicle;
- ▶ describes the amount of grant money the director of the Division of Air Quality may award to a person who installs conversion equipment on an eligible vehicle;
- ▶ grants rulemaking authority to the Air Quality Board;
- ▶ extends tax credits for energy efficient vehicles; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

19-1-403, as last amended by Laws of Utah 2014, Chapter 295

59-7-605, as last amended by Laws of Utah 2014, Chapter 125

59-10-1009, as last amended by Laws of Utah 2014, Chapter 125

ENACTS:

19-2-301, Utah Code Annotated 1953

19-2-302, Utah Code Annotated 1953

19-2-303, Utah Code Annotated 1953

19-2-304, Utah Code Annotated 1953

19-2-305, Utah Code Annotated 1953

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

Section 1. Section 19-1-403 is amended to read:**19-1-403. Clean Fuels and Vehicle Technology Fund -- Contents -- Loans or grants made with fund money.**

(1) (a) There is created a revolving fund known as the Clean Fuels and Vehicle Technology Fund.

(b) The fund consists of:

- (i) appropriations to the fund;
- (ii) other public and private contributions made under Subsection (1)(c);

(iii) interest earnings on cash balances; and

(iv) all money collected for loan repayments and interest on loans.

(c) The department may accept contributions from other public and private sources for deposit into the fund.

(2) (a) The department may make a loan or a grant with money available in the fund ~~[for]~~:

(i) for the conversion of a private sector business vehicle or a government vehicle to use a clean fuel, if certified by the Air Quality Board under Subsection 19-1-405(1)(a); ~~or~~

(ii) for the purchase of an OEM vehicle for use as a private sector business vehicle or government vehicle[-]; or

(iii) to a person who installs conversion equipment on an eligible vehicle, as described in Sections 19-2-301 through 19-2-304.

(b) The amount of a loan for any vehicle under Subsection (2)(a) may not exceed:

(i) the actual cost of the vehicle conversion;

(ii) the incremental cost of purchasing the OEM vehicle; or

(iii) the cost of purchasing the OEM vehicle if there is no documented incremental cost.

(c) The amount of a grant for any vehicle under Subsection (2)(a) may not exceed:

(i) 50% of the actual cost of the vehicle conversion minus the amount of any tax credit claimed under Section 59-7-605 or 59-10-1009 for the vehicle for which a grant is requested; or

(ii) 50% of the incremental cost of purchasing an OEM vehicle minus the amount of any tax credit claimed under Section 59-7-605 or 59-10-1009 for the vehicle for which a grant is requested.

(d) (i) Subject to the availability of money in the fund, the department may make a loan or grant for the purchase of vehicle refueling equipment for a private sector business vehicle or a government vehicle.

(ii) The maximum amount loaned or granted per installation of refueling equipment may not exceed the actual cost of the refueling equipment.

(3) The department may:

(a) establish an application fee for a loan or grant from the fund by following the procedures and requirements of Section 63J-1-504; and

(b) reimburse itself for the costs incurred in administering the fund from:

(i) the fund; or

(ii) application fees established under Subsection (3)(a).

(4) (a) The fund balance may not exceed \$10,000,000.

(b) Interest on cash balances and repayment of loans in excess of the amount necessary to maintain the fund balance at \$10,000,000 shall be deposited in the General Fund.

(5) (a) Loans made from money in the fund shall be supported by loan documents evidencing the intent of the borrower to repay the loan.

(b) The original loan documents shall be filed with the Division of Finance and a copy shall be filed with the department.

Section 2. Section 19-2-301 is enacted to read:

Part 3. Conversion to Alternative Fuel Grant Program

19-2-301. Title.

This part is known as the "Conversion to Alternative Fuel Grant Program."

Section 3. Section 19-2-302 is enacted to read:

19-2-302. Definitions.

As used in this part:

(1) "Air quality standards" means vehicle emission standards equal to or greater than the standards established in bin 4 in Table S04-1 of 40 C.F.R. 86.1811-04(c)(6).

(2) "Alternative fuel" means:

- (a) propane, natural gas, or electricity; or
- (b) other fuel that the board determines, by rule, to be:
- (i) at least as effective in reducing air pollution as the fuels listed in Subsection (2)(a); or

(ii) substantially more effective in reducing air pollution as the fuel for which the engine was originally designed.

(3) "Board" means the Air Quality Board.

(4) "Clean fuel grant" means a grant awarded under Title 19, Chapter 1, Part 4, Clean Fuels and Vehicle Technology Program Act, for reimbursement for a portion of the incremental cost of an OEM vehicle or the cost of conversion equipment.

(5) "Conversion equipment" means equipment designed to:

(a) allow an eligible vehicle to operate on an alternative fuel; and

(b) reduce an eligible vehicle's emissions of regulated pollutants, as demonstrated by:

(i) certification of the conversion equipment by the Environmental Protection Agency or by a state or country that has certification standards that are recognized, by rule, by the board;

(ii) testing the eligible vehicle, before and after the installation of the equipment, in accordance with 40 C.F.R. Part 86, Control of Emissions from New and In-Use Highway Vehicles and Engines, using all fuel the motor vehicle is capable of using;

(iii) for a retrofit natural gas vehicle that is retrofit in accordance with Section 19-1-406, satisfying the emission standards described in Section 19-1-406; or

(iv) any other test or standard recognized by board rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(6) "Cost" means the total reasonable cost of a conversion kit and the paid labor, if any, required to install it.

(7) "Director" means the director of the Division of Air Quality.

(8) "Division" means the Division of Air Quality, created in Subsection 19-1-105(1)(a).

(9) "Eligible vehicle" means a:

(a) commercial vehicle, as defined in Section 41-1a-102;

(b) farm tractor, as defined in Section 41-1a-102; or

(c) motor vehicle, as defined in Section 41-1a-102.

Section 4. Section 19-2-303 is enacted to read:

19-2-303. Grants and programs -- Conditions.

(1) The director may make grants to a person who installs conversion equipment on an eligible vehicle as described in this part.

(2) A person who installs conversion equipment on an eligible vehicle:

(a) may apply to the division for a grant to offset the cost of installation; and

(b) shall pass along any savings on the cost of conversion equipment to the owner of the eligible vehicle being converted in the amount of grant money received.

(3) As a condition for receiving the grant, a person who installs conversion equipment shall agree to:

(a) provide information to the division about the eligible vehicle to be converted with the grant proceeds;

(b) allow inspections by the division to ensure compliance with the terms of the grant; and

(c) comply with the conditions for the grant.

(4) A grant issued under this section may not exceed the lesser of 50% of the cost of the conversion system and associated labor, or \$2,500, per converted eligible vehicle.

Section 5. Section 19-2-304 is enacted to read:

19-2-304. Duties and authorities -- Rulemaking.

(1) The board may, by following the procedures and requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules:

(a) specifying the amount of money to be dedicated annually for grants under this part;

(b) specifying criteria the director shall consider in prioritizing and awarding grants, including a limitation on the types of vehicles that are eligible for funds;

(c) specifying the minimum qualifications of a person who:

(i) installs conversion equipment on an eligible vehicle; and

(ii) receives a grant from the division;

(d) specifying the terms of a grant; and

(e) requiring all grant applicants to apply on forms provided by the division.

(2) The division shall:

(a) administer funds to encourage eligible vehicle owners to reduce emissions from eligible vehicles; and

(b) provide information about which conversion technology meets the requirements of this part.

(3) The division may inspect vehicles for which a grant was made to ensure compliance with the terms of the grant.

Section 6. Section 19-2-305 is enacted to read:

19-2-305. Limitation on applying for a tax credit.

An owner of an eligible vehicle who receives the savings on the cost of conversion equipment, as described in Subsection 19-2-303(2)(b), may not claim a tax credit for the conversion under Section 59-7-605 or 59-10-1009 unless the savings are less than the tax credit authorized by those sections, in which case the owner may claim a tax credit in the amount of the difference.

Section 7. Section 59-7-605 is amended to read:

59-7-605. Definitions -- Tax credits related to energy efficient vehicles.

(1) As used in this section:

(a) "Air quality standards" means that a vehicle's emissions are equal to or cleaner than the standards established in bin 4 in Table S04-1, of 40 C.F.R. 86.1811-04(c)(6).

(b) "Board" means the Air Quality Board created under Title 19, Chapter 2, Air Conservation Act.

(c) "Certified by the board" means that:

(i) a motor vehicle on which conversion equipment has been installed meets the following criteria:

(A) before the installation of conversion equipment, the vehicle does not exceed the emission

cut points for a transient test driving cycle, as specified in 40 C.F.R. Part 51, Appendix E to Subpart S, or an equivalent test for the make, model, and year of the vehicle; and

(B) as a result of the installation of conversion equipment on the motor vehicle, the motor vehicle has reduced emissions; or

(ii) special mobile equipment on which conversion equipment has been installed has reduced emissions.

(d) "Clean fuel grant" means a grant awarded:

(i) under Title 19, Chapter 1, Part 4, Clean Fuels and Vehicle Technology Program Act, for reimbursement of a portion of the incremental cost of an OEM vehicle or the cost of conversion equipment[-]; or

(ii) under Title 19, Chapter 2, Part 3, Conversion to Alternative Fuel Grant Program.

(e) "Conversion equipment" means equipment referred to in Subsection (2)(c) or (d).

(f) "OEM vehicle" has the same meaning as in Section 19-1-402.

(g) "Original purchase" means the purchase of a vehicle that has never been titled or registered and has been driven less than 7,500 miles.

(h) "Qualifying electric vehicle" means a vehicle that:

(i) meets air quality standards;

(ii) is not fueled by natural gas;

(iii) is fueled by electricity only; and

(iv) is an OEM vehicle except that the vehicle is fueled by a fuel described in Subsection (1)(h)(iii).

(i) "Qualifying plug-in hybrid vehicle" means a vehicle that:

(i) meets air quality standards;

(ii) is not fueled by natural gas or propane;

(iii) has a battery capacity that meets or exceeds the battery capacity described in Section 30D(b)(3), Internal Revenue Code; and

(iv) is fueled by a combination of electricity and:

(A) diesel fuel;

(B) gasoline; or

(C) a mixture of gasoline and ethanol.

(j) "Reduced emissions" means:

(i) for purposes of a motor vehicle on which conversion equipment has been installed, that the motor vehicle's emissions of regulated pollutants, when operating on a fuel listed in Subsection (2)(d)(i) or (ii), is less than the emissions were before the installation of the conversion equipment, as demonstrated by:

(A) certification of the conversion equipment by the federal Environmental Protection Agency or by a state that has certification standards recognized by the board;

(B) testing the motor vehicle, before and after installation of the conversion equipment, in accordance with 40 C.F.R. Part 86, Control of Emissions from New and In-use Highway Vehicles and Engines, using all fuel the motor vehicle is capable of using;

(C) for a retrofit natural gas vehicle that is retrofit in accordance with Section 19-1-406, testing that as a result of the retrofit, the retrofit natural gas vehicle satisfies the emission standards applicable under Section 19-1-406; or

(D) any other test or standard recognized by board rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(ii) for purposes of special mobile equipment on which conversion equipment has been installed, that the special mobile equipment's emissions of regulated pollutants, when operating on fuels listed in Subsection (2)(d)(i) or (ii), is less than the emissions were before the installation of conversion equipment, as demonstrated by:

(A) certification of the conversion equipment by the federal Environmental Protection Agency or by a state that has certification standards recognized by the board; or

(B) any other test or standard recognized by board rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(k) "Special mobile equipment":

(i) means any mobile equipment or vehicle that is not designed or used primarily for the transportation of persons or property; and

(ii) includes construction or maintenance equipment.

(2) For the taxable [~~year~~] years beginning on or after January 1, 2015, but beginning on or before December 31, [2015] 2016, a taxpayer may claim a tax credit against tax otherwise due under this chapter or Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act, in an amount equal to:

(a) (i) for the original purchase of a new qualifying electric vehicle that is registered in this state, the lesser of:

(A) \$1,500; or

(B) 35% of the purchase price of the vehicle; or

(ii) for the original purchase of a new qualifying plug-in hybrid vehicle that is registered in this state, \$1,000;

(b) for the original purchase of a new vehicle fueled by natural gas or propane that is registered in this state, the lesser of:

(i) \$1,500; or

(ii) 35% of the purchase price of the vehicle;

(c) 50% of the cost of equipment for conversion, if certified by the board, of a motor vehicle registered in this state minus the amount of any clean fuel grant received, up to a maximum tax credit of \$1,500 per motor vehicle, if the motor vehicle is to:

(i) be fueled by propane, natural gas, or electricity;

(ii) be fueled by other fuel the board determines annually on or before July 1 to be at least as effective in reducing air pollution as fuels under Subsection (2)(c)(i); or

(iii) meet the federal clean-fuel vehicle standards in the federal Clean Air Act Amendments of 1990, 42 U.S.C. Sec. 7521 et seq.;

(d) 50% of the cost of equipment for conversion, if certified by the board, of a special mobile equipment engine minus the amount of any clean fuel grant received, up to a maximum tax credit of \$1,000 per special mobile equipment engine, if the special mobile equipment is to be fueled by:

(i) propane, natural gas, or electricity; or

(ii) other fuel the board determines annually on or before July 1 to be:

(A) at least as effective in reducing air pollution as the fuels under Subsection (2)(d)(i); or

(B) substantially more effective in reducing air pollution than the fuel for which the engine was originally designed; and

(e) for a lease of a vehicle described in Subsection (2)(a) or (b), an amount equal to the product of:

(i) the amount of tax credit the taxpayer would otherwise qualify to claim under Subsection (2)(a) or (b) had the taxpayer purchased the vehicle, except that the purchase price described in Subsection (2)(a)(i)(B) or (2)(b)(ii) is considered to be the value of the vehicle at the beginning of the lease; and

(ii) a percentage calculated by:

(A) determining the difference between the value of the vehicle at the beginning of the lease, as stated in the lease agreement, and the value of the vehicle at the end of the lease, as stated in the lease agreement; and

(B) dividing the difference determined under Subsection (2)(e)(ii)(A) by the value of the vehicle at the beginning of the lease, as stated in the lease agreement.

(3) (a) The board shall:

(i) determine the amount of tax credit a taxpayer is allowed under this section; and

(ii) provide the taxpayer with a written certification of the amount of tax credit the taxpayer is allowed under this section.

(b) A taxpayer shall provide proof of the purchase or lease of an item for which a tax credit is allowed under this section by:

(i) providing proof to the board in the form the board requires by rule;

(ii) receiving a written statement from the board acknowledging receipt of the proof; and

(iii) retaining the written statement described in Subsection (3)(b)(ii).

(c) A taxpayer shall retain the written certification described in Subsection (3)(a)(ii).

(4) Except as provided by Subsection (5), the tax credit under this section is allowed only:

(a) against a tax owed under this chapter or Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act, in the taxable year by the taxpayer;

(b) for the taxable year in which a vehicle described in Subsection (2)(a) or (b) is purchased, a vehicle described in Subsection (2)(e) is leased, or conversion equipment described in Subsection (2)(c) or (d) is installed; and

(c) once per vehicle.

(5) A taxpayer may not assign a tax credit under this section to another person.

(6) If the amount of a tax credit claimed by a taxpayer under this section exceeds the taxpayer's tax liability under this chapter or Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act, for a taxable year, the amount of the tax credit exceeding the tax liability may be carried forward for a period that does not exceed the next five taxable years.

(7) In accordance with any rules prescribed by the commission under Subsection (8), the commission shall transfer at least annually from the General Fund into the Education Fund the amount by which the amount of tax credit claimed under this section for a taxable year exceeds \$500,000.

(8) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules for making a transfer from the General Fund into the Education Fund as required by Subsection (7).

Section 8. Section 59-10-1009 is amended to read:

59-10-1009. Definitions -- Tax credits related to energy efficient vehicles.

(1) As used in this section:

(a) "Air quality standards" means that a vehicle's emissions are equal to or cleaner than the standards established in bin 4 in Table S04-1, of 40 C.F.R. 86.1811-04(c)(6).

(b) "Board" means the Air Quality Board created in Title 19, Chapter 2, Air Conservation Act.

(c) "Certified by the board" means that:

(i) a motor vehicle on which conversion equipment has been installed meets the following criteria:

(A) before the installation of conversion equipment, the vehicle does not exceed the emission cut points for a transient test driving cycle, as specified in 40 C.F.R. Part 51, Appendix E to Subpart S, or an equivalent test for the make, model, and year of the vehicle; and

(B) as a result of the installation of conversion equipment on the motor vehicle, the motor vehicle has reduced emissions; or

(ii) special mobile equipment on which conversion equipment has been installed has reduced emissions.

(d) "Clean fuel grant" means a grant a claimant, estate, or trust receives under Title 19, Chapter 1, Part 4, Clean Fuels and Vehicle Technology Program Act[,] or Title 19, Chapter 2, Part 3, Conversion to Alternative Fuel Grant Program, for reimbursement of a portion of the incremental cost of the OEM vehicle or the cost of conversion equipment.

(e) "Conversion equipment" means equipment referred to in Subsection (2)(c) or (d).

(f) "OEM vehicle" has the same meaning as in Section 19-1-402.

(g) "Original purchase" means the purchase of a vehicle that has never been titled or registered and has been driven less than 7,500 miles.

(h) "Qualifying electric vehicle" means a vehicle that:

(i) meets air quality standards;

(ii) is not fueled by natural gas;

(iii) is fueled by electricity only; and

(iv) is an OEM vehicle except that the vehicle is fueled by a fuel described in Subsection (1)(h)(iii).

(i) "Qualifying plug-in hybrid vehicle" means a vehicle that:

(i) meets air quality standards;

(ii) is not fueled by natural gas or propane;

(iii) has a battery capacity that meets or exceeds the battery capacity described in Section 30D(b)(3), Internal Revenue Code; and

(iv) is fueled by a combination of electricity and:

(A) diesel fuel;

(B) gasoline; or

(C) a mixture of gasoline and ethanol.

(j) "Reduced emissions" means:

(i) for purposes of a motor vehicle on which conversion equipment has been installed, that the motor vehicle's emissions of regulated pollutants, when operating on a fuel listed in Subsection (2)(d)(i) or (ii), is less than the emissions were before the installation of the conversion equipment, as demonstrated by:

(A) certification of the conversion equipment by the federal Environmental Protection Agency or by

a state that has certification standards recognized by the board;

(B) testing the motor vehicle, before and after installation of the conversion equipment, in accordance with 40 C.F.R. Part 86, Control of Emissions from New and In-use Highway Vehicles and Engines, using all fuel the motor vehicle is capable of using;

(C) for a retrofit natural gas vehicle that is retrofit in accordance with Section 19-1-406, testing that as a result of the retrofit, the retrofit natural gas vehicle satisfies the emission standards applicable under Section 19-1-406; or

(D) any other test or standard recognized by board rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(ii) for purposes of special mobile equipment on which conversion equipment has been installed, that the special mobile equipment's emissions of regulated pollutants, when operating on fuels listed in Subsection (2)(d)(i) or (ii), is less than the emissions were before the installation of conversion equipment, as demonstrated by:

(A) certification of the conversion equipment by the federal Environmental Protection Agency or by a state that has certification standards recognized by the board; or

(B) any other test or standard recognized by board rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(k) "Special mobile equipment":

(i) means any mobile equipment or vehicle not designed or used primarily for the transportation of persons or property; and

(ii) includes construction or maintenance equipment.

(2) For the taxable [year] years beginning on or after January 1, 2015, but beginning on or before December 31, [2015] 2016, a claimant, estate, or trust may claim a nonrefundable tax credit against tax otherwise due under this chapter in an amount equal to:

(a) (i) for the original purchase of a new qualifying electric vehicle that is registered in this state, the lesser of:

(A) \$1,500; or

(B) 35% of the purchase price of the vehicle; or

(ii) for the original purchase of a new qualifying plug-in hybrid vehicle that is registered in this state, \$1,000;

(b) for the original purchase of a new vehicle fueled by natural gas or propane that is registered in this state, the lesser of:

(i) \$1,500; or

(ii) 35% of the purchase price of the vehicle;

(c) 50% of the cost of equipment for conversion, if certified by the board, of a motor vehicle registered in this state minus the amount of any clean fuel ~~[conversion]~~ grant received, up to a maximum tax credit of \$1,500 per vehicle, if the motor vehicle:

(i) is to be fueled by propane, natural gas, or electricity;

(ii) is to be fueled by other fuel the board determines annually on or before July 1 to be at least as effective in reducing air pollution as fuels under Subsection (2)(c)(i); or

(iii) will meet the federal clean fuel vehicle standards in the federal Clean Air Act Amendments of 1990, 42 U.S.C. Sec. 7521 et seq.;

(d) 50% of the cost of equipment for conversion, if certified by the board, of a special mobile equipment engine minus the amount of any clean fuel ~~[conversion]~~ grant received, up to a maximum tax credit of \$1,000 per special mobile equipment engine, if the special mobile equipment is to be fueled by:

(i) propane, natural gas, or electricity; or

(ii) other fuel the board determines annually on or before July 1 to be:

(A) at least as effective in reducing air pollution as the fuels under Subsection (2)(d)(i); or

(B) substantially more effective in reducing air pollution than the fuel for which the engine was originally designed; and

(e) for a lease of a vehicle described in Subsection (2)(a) or (b), an amount equal to the product of:

(i) the amount of tax credit the claimant, estate, or trust would otherwise qualify to claim under Subsection (2)(a) or (b) had the claimant, estate, or trust purchased the vehicle, except that the purchase price described in Subsection (2)(a)(i)(B) or (2)(b)(ii) is considered to be the value of the vehicle at the beginning of the lease; and

(ii) a percentage calculated by:

(A) determining the difference between the value of the vehicle at the beginning of the lease, as stated in the lease agreement, and the value of the vehicle at the end of the lease, as stated in the lease agreement; and

(B) dividing the difference determined under Subsection (2)(e)(ii)(A) by the value of the vehicle at the beginning of the lease, as stated in the lease agreement.

(3) (a) The board shall:

(i) determine the amount of tax credit a claimant, estate, or trust is allowed under this section; and

(ii) provide the claimant, estate, or trust with a written certification of the amount of tax credit the claimant, estate, or trust is allowed under this section.

(b) A claimant, estate, or trust shall provide proof of the purchase or lease of an item for which a tax credit is allowed under this section by:

(i) providing proof to the board in the form the board requires by rule;

(ii) receiving a written statement from the board acknowledging receipt of the proof; and

(iii) retaining the written statement described in Subsection (3)(b)(ii).

(c) A claimant, estate, or trust shall retain the written certification described in Subsection (3)(a)(ii).

(4) Except as provided by Subsection (5), the tax credit under this section is allowed only:

(a) against a tax owed under this chapter in the taxable year by the claimant, estate, or trust;

(b) for the taxable year in which a vehicle described in Subsection (2)(a) or (b) is purchased, a vehicle described in Subsection (2)(e) is leased, or conversion equipment described in Subsection (2)(c) or (d) is installed; and

(c) once per vehicle.

(5) A claimant, estate, or trust may not assign a tax credit under this section to another person.

(6) If the amount of a tax credit claimed by a claimant, estate, or trust under this section exceeds the claimant's, estate's, or trust's tax liability under this chapter for a taxable year, the amount of the tax credit exceeding the tax liability may be carried forward for a period that does not exceed the next five taxable years.

(7) In accordance with any rules prescribed by the commission under Subsection (8), the commission shall transfer at least annually from the General Fund into the Education Fund the amount by which the amount of tax credit claimed under this section for a taxable year exceeds \$500,000.

(8) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules for making a transfer from the General Fund into the Education Fund as required by Subsection (7).

CHAPTER 382**H. B. 34**

Passed March 6, 2015
 Approved March 31, 2015
 Effective May 12, 2015

**PERSONAL INJURY
 DAMAGES AMENDMENTS**

Chief Sponsor: Kay L. McIff
 Senate Sponsor: Stephen H. Urquhart

LONG TITLE**General Description:**

This bill limits the amount of damages recoverable in certain personal injury actions.

Highlighted Provisions:

This bill:

- ▶ limits the amount of damages recoverable in personal injury actions when the injured person dies before judgment or settlement of causes unrelated to the action.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

78B-3-107, as last amended by Laws of Utah 2014, Chapter 220

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

Section 1. Section 78B-3-107 is amended to read:

78B-3-107. Survival of action for injury or death to person, upon death of wrongdoer or injured person -- Exception and restriction to out-of-pocket expenses.

(1) (a) A cause of action arising out of personal injury to a person, or death caused by the wrongful act or negligence of a wrongdoer, does not abate upon the death of the wrongdoer or the injured person. The injured person, or the personal representatives or heirs of the person who died, has a cause of action against the wrongdoer or the personal representatives of the wrongdoer for special and general damages, subject to Subsection (1)(b).

(b) If, prior to judgment or settlement, the injured person dies as a result of a cause other than the injury received as a result of the wrongful act or negligence of the wrongdoer, the personal representatives or heirs of the person have a cause of action against the wrongdoer or personal representatives of the wrongdoer for special and general damages which resulted from the injury caused by the wrongdoer and which occurred prior to death of the injured party from the unrelated cause. ~~[General damages may not exceed \$100,000.]~~

(c) If the death of the injured party from an unrelated cause occurs more than six months after the incident giving rise to the claim for damages,

the claim shall be limited to special damages unless, prior to the injured party's death:

(i) written notice of intent to hold the wrongdoer responsible has been mailed to or served upon the wrongdoer or the wrongdoer's insurance carrier or the uninsured motorist carrier of the injured party, and proof of mailing or service can be produced upon request; or

(ii) a claim for damages against the wrongdoer or against the uninsured motorist carrier of the injured party is the subject of ongoing negotiations between the parties or persons representing the parties or their insurers.

(d) A subsequent claim against an underinsured motorist carrier for which the injured party was a covered person is not subject to the notice requirement described in Subsection (1)(c).

(e) In no event shall ~~the~~ an award of general [damage award] damages available under the circumstances described in Subsection (1)(b) or (1)(c) against a wrongdoer or any insurer exceed \$100,000 regardless of available liability, uninsured or underinsured motor vehicle coverage.

(2) Under Subsection (1) neither the injured person nor the personal representatives or heirs of the person who dies may recover judgment except upon competent satisfactory evidence other than the testimony of the injured person.

(3) This section may not be construed to be retroactive.

CHAPTER 383

H. B. 37

Passed March 11, 2015
Approved March 31, 2015
Effective May 1, 2015

**REAUTHORIZATION OF
ADMINISTRATIVE RULES**

Chief Sponsor: Curtis Oda
Senate Sponsor: Howard A. Stephenson

LONG TITLE**General Description:**

This bill modifies provisions relating to the Administrative Rules Review Committee and provides legislative action regarding administrative rules.

Highlighted Provisions:

This bill:

- ▶ provides that the Division of Administrative Rules shall provide a copy of each issue of the bulletin to the Administrative Rules Review Committee;
- ▶ makes technical amendments to provisions relating to the Administrative Rules Review Committee; and
- ▶ reauthorizes all state agency administrative rules.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

63G-3-501, as renumbered and amended by Laws of Utah 2008, Chapter 382

Uncodified Material Affected:

ENACTS UNCODIFIED MATERIAL

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

Section 1. Section 63G-3-501 is amended to read:

63G-3-501. Administrative Rules Review Committee.

(1) (a) There is created an Administrative Rules Review Committee of the following 10 permanent members ~~[and four ex officio members]:~~

~~[(b)] (i) [The committee's permanent members shall be composed of] five members of the Senate^[7] appointed by the president of the Senate, no more than three of whom may be from the same political party; and~~

~~(ii) five members of the House^[7] of Representatives appointed by the speaker of the House of Representatives, [with] no more than three [senators and three representatives] of whom may be from the same political party.~~

~~[(ii) The permanent members shall convene at least once each month as a committee to review new agency rules, amendments to existing agency rules, and repeals of existing agency rules. Meetings may~~

~~be suspended at the discretion of the committee chairs.]~~

~~[(iii) Members] (b) Each permanent member shall serve:~~

~~(i) for a two-year [terms] term; or~~

~~(ii) until [their successors are] the permanent member's successor is appointed.~~

~~[(iv)] (c) (i) A vacancy exists [whenever a committee] when a permanent member ceases to be a member of the Legislature, or when a permanent member resigns from the committee. [Vacancies shall be filled by the appointing authority, and the replacement shall serve out the unexpired term.]~~

~~(ii) When a vacancy exists:~~

~~(A) if the departing member is a member of the Senate, the president of the Senate shall appoint a member of the Senate to fill the vacancy; or~~

~~(B) if the departing member is a member of the House of Representatives, the speaker of the House of Representatives shall appoint a member of the House of Representatives to fill the vacancy.~~

~~(iii) The newly appointed member shall serve the remainder of the departing member's unexpired term.~~

~~[(e) When the committee reviews existing rules, the committee's permanent members shall invite the Senate and House chairmen of the standing committee and the Senate and House chairmen of the appropriation subcommittee that have jurisdiction over the agency whose existing rules are being reviewed to participate as nonvoting, ex officio members with the committee.]~~

~~(d) (i) The president of the Senate shall designate a member of the Senate appointed under Subsection (1)(a)(i) as a cochair of the committee.~~

~~(ii) The speaker of the House of Representatives shall designate a member of the House of Representatives appointed under Subsection (1)(a)(ii) as a cochair of the committee.~~

~~[(d)] (e) Three representatives and three senators from the permanent members are a quorum for the transaction of business at any meeting.~~

~~(f) (i) Subject to Subsection (1)(f)(ii), the committee shall meet at least once each month to review new agency rules, amendments to existing agency rules, and repeals of existing agency rules.~~

~~(ii) The committee chairs may suspend the meeting requirement described in Subsection (1)(f)(i) at the committee chairs' discretion.~~

~~[(2) Each agency rule as defined in Section 63G-3-102 shall be submitted to the committee at the same time public notice is given under Section 63G-3-301.]~~

~~(2) The division shall submit a copy of each issue of the bulletin to the committee.~~

~~(3) (a) The committee shall exercise continuous oversight of the [process of] rulemaking process.~~

~~(b) The committee shall examine [rules] each rule submitted by [each] an agency to determine:~~

(i) whether ~~[or not they are]~~ the rule is authorized by statute;

(ii) whether ~~[or not they comply]~~ the rule complies with legislative intent;

(iii) ~~[their]~~ the rule's impact on the economy and the government operations of the state and local political subdivisions; and

(iv) ~~[their]~~ the rule's impact on affected persons.

(c) To carry out these duties, the committee may examine any other issues that ~~[it]~~ the committee considers necessary. The committee may also notify and refer rules to the ~~[chairmen]~~ chairs of the interim committee [which] that has jurisdiction over a particular agency when the committee determines that an issue involved in an agency's rules may be more appropriately addressed by that committee.

(d) In reviewing ~~[the rules]~~ a rule, the committee shall follow generally accepted principles of statutory construction.

(4) When the committee reviews existing rules, the committee chairs shall invite the Senate and House chairs of the standing committee and of the appropriation subcommittee that have jurisdiction over the agency whose existing rules are being reviewed to participate as nonvoting, ex officio members with the committee.

~~[(4)]~~ (5) The committee may request that the Office of the Legislative Fiscal Analyst prepare a fiscal note on any rule.

~~[(5)]~~ (6) In order to accomplish [its oversight] the committee's functions described in this chapter, the committee has all the powers granted to legislative interim committees [as set forth in] under Section 36-12-11.

~~[(6)]~~ (7) (a) The committee may prepare written findings of [its] the committee's review of [each] a rule and may include any recommendations, including legislative action.

(b) ~~[The]~~ When the committee reviews a rule, the committee shall provide to the agency that enacted the rule:

(i) ~~[its]~~ the committee's findings, if any; and

(ii) a request that the agency notify the committee of any changes ~~[it]~~ the agency makes [in] to the rule.

(c) The committee shall provide ~~[its]~~ a copy of the committee's findings, if any, to:

(i) any member of the Legislature ~~[and to], upon request;~~

(ii) any person affected by the rule ~~[who requests the findings.], upon request;~~

(iii) the president of the Senate;

(iv) the speaker of the House of Representatives;

(v) the Senate and House chairs of the standing committee that has jurisdiction over the agency that made the rule; and

(vi) the Senate and House chairs of the appropriation subcommittee that has jurisdiction over the agency that made the rule.

~~[(d) The committee shall provide its findings to the presiding officers of both the House and the Senate, Senate and House chairs of the standing committee, and the Senate and House chairs of the Appropriation Subcommittee that have jurisdiction over the agency whose rules are the subject of the findings.]~~

~~[(7)]~~ (8) (a) The committee may submit a report on its review of state agency rules to each member of the Legislature at each regular session.

(b) The report shall include:

(i) ~~[the]~~ any findings and recommendations the committee made [by the committee] under Subsection [(6)] (7);

(ii) any action ~~[taken by]~~ an agency took in response to committee recommendations; and

(iii) any recommendations by the committee for legislation.

Section 2. Rules reauthorized.

All rules of Utah state agencies are reauthorized.

Section 3. Effective date.

If approved by two-thirds of all members elected to each house, this bill takes effect on May 1, 2015.

CHAPTER 384**H. B. 68**

Passed March 12, 2015

Approved March 31, 2015

Effective May 12, 2015

STUDENT PRIVACY STUDY

Chief Sponsor: Jacob L. Anderegg
Senate Sponsor: Howard A. Stephenson

LONG TITLE**General Description:**

This bill requires the State Board of Education to develop a student privacy funding proposal and make recommendations to the Legislature.

Highlighted Provisions:

This bill:

- ▶ requires the State Board of Education to develop a funding proposal and make recommendations to the Legislature on how the State Board of Education and the Legislature can update student privacy laws in statute and in board rule;
- ▶ requires the State Board of Education to designate a chief privacy officer; and
- ▶ requires the State Board of Education and the chief privacy officer to report to the Public Education Appropriations Subcommittee.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2016:

- ▶ to the State Board of Education - State Office of Education - Assessment and Accountability, as an ongoing appropriation:
 - from the Education Fund, \$180,000; and
- ▶ to the State Board of Education - State Office of Education - Assessment and Accountability, as a one-time appropriation:
 - from the Education Fund, One-time, \$5,000.

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**ENACTS:**

53A-1-710, Utah Code Annotated 1953

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

Section 1. Section 53A-1-710 is enacted to read:**53A-1-710. (Codified as 53-A-711)****State Board of Education student privacy study -- Chief privacy officer.**

- (1) For purposes of this section:
- (a) "Board" means the State Board of Education.
- (b) "Chief privacy officer" means the chief privacy officer designated by the board in Subsection (4).
- (c) "Education entity" means:
- (i) the board;
 - (ii) a local school board or charter school governing board;
 - (iii) a school district;

(iv) a public school; or

(v) the Utah Schools for the Deaf and the Blind.

(d) "Third party service provider" means a person, other than an education entity, that:

(i) enters into a contract or written agreement with an education entity to provide a service or product; and

(ii) receives student data from the education entity pursuant to the contract or written agreement.

(2) (a) The board shall develop a funding proposal and make recommendations to the Legislature on how the board and the Legislature can update student privacy laws in statute and in board rule.

(b) The board shall consider input from education entities, parents, and other stakeholders as the board develops the funding proposal and recommendations described in Subsection (2)(a).

(3) The board shall consider the following issues as the board develops the funding proposal and recommendations described in Subsection (2)(a):

(a) how an education entity can better maintain, secure, and safeguard student data, including using industry best practices to maintain, secure, and safeguard the student data;

(b) how to provide disclosures to parents and students on how student data will be collected, maintained, and used;

(c) the process to release student data to an education entity or to a person, including to the following:

(i) another education entity;

(ii) a government entity:

(A) within the state; or

(B) outside of the state; and

(iii) a private third party;

(d) how to allow a student to expunge the student's data;

(e) how to manage a contract with a third party service provider to ensure that a contract entered into between an education entity and a third party service provider includes:

(i) provisions requiring specific restrictions on the use of student data;

(ii) specific dates governing the destruction of student data given to a third party service provider;

(iii) provisions that prohibit a third party service provider from using personally identifiable information for a secondary use, including sales, marketing, or advertising;

(iv) provisions limiting a third party service provider's use of student data strictly for the purpose of providing services to the education entity; and

(v) provisions requiring a third party service provider to maintain, secure, and safeguard all

student data by using industry best practices to maintain, secure, and safeguard the student data; and

(f) the penalties for:

(i) an unauthorized release of student data; or

(ii) failing to maintain, secure, and safeguard student data.

(4) (a) The board shall designate a chief privacy officer.

(b) The chief privacy officer shall:

(i) oversee the administration of student privacy laws; and

(ii) work with the board to develop the funding proposal and recommendations described in Subsection (2)(a).

(5) On or before January 31, 2016, the board and the chief privacy officer shall present the funding proposal and recommendations described in Subsection (2)(a) to the Public Education Appropriations Subcommittee.

Section 2. Appropriation.

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, for the fiscal year beginning July 1, 2015, and ending June 30, 2016, the following sums of money are appropriated from resources not otherwise appropriated, or reduced from amounts previously appropriated, out of the funds or accounts indicated. These sums of money are in addition to any amounts previously appropriated for fiscal year 2016.

To State Board of Education - State Office of Education - Assessment and Accountability

<u>From Education Fund</u>	<u>\$180,000</u>
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<u>From Education Fund, One-time</u>	<u>\$5,000</u>
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Schedule of Programs:

<u>Assessment and Accountability</u>	<u>\$185,000</u>
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The Legislature intends that:

(1) the State Board of Education use the appropriation under this section as described in Section 53A-1-710; and

(2) \$180,000 of the appropriation under this section be:

(a) ongoing; and

(b) non-lapsing.

Section 3. Effective date.

(1) Except as provided in Subsection (2), this bill takes effect on May 12, 2015.

(2) Uncodified Section 2, Appropriation, takes effect on July 1, 2015.

CHAPTER 385**H. B. 76**

Passed March 11, 2015
 Approved March 31, 2015
 Effective May 12, 2015

**INSURANCE CANCELLATION AND
NONRENEWAL AMENDMENTS**

Chief Sponsor: Jacob L. Anderegg
 Senate Sponsor: Curtis S. Bramble

LONG TITLE**General Description:**

This bill modifies the Insurance Code to address issues related to cancellation or nonrenewal of insurance.

Highlighted Provisions:

This bill:

- ▶ amends the provision related to renewal of certain insurance policies;
- ▶ clarifies how deadlines are measured; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

31A-21-303, as last amended by Laws of Utah 2010, Chapter 190

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

Section 1. Section 31A-21-303 is amended to read:**31A-21-303. Cancellation, issuance, renewal.**

(1) (a) Except as otherwise provided in this section, other statutes, or by rule under Subsection (1)(c), this section applies to all policies of insurance:

- (i) except for:
 - (A) life insurance;
 - (B) accident and health insurance; and
 - (C) annuities; and

(ii) if the policies of insurance are issued on forms that are subject to filing under Subsection 31A-21-201(1).

(b) A policy may provide terms more favorable to insureds than this section requires.

(c) The commissioner may by rule totally or partially exempt from this section classes of insurance policies in which the insureds do not need protection against arbitrary or unannounced termination.

(d) The rights provided by this section are in addition to and do not prejudice any other rights the

insureds may have at common law or under other statutes.

(2) (a) As used in this Subsection (2), "grounds" means:

- (i) material misrepresentation;
- (ii) substantial change in the risk assumed, unless the insurer should reasonably have foreseen the change or contemplated the risk when entering into the contract;
- (iii) substantial breaches of contractual duties, conditions, or warranties;

(iv) attainment of the age specified as the terminal age for coverage, in which case the insurer may cancel by notice under Subsection (2)(c), accompanied by a tender of proportional return of premium; or

(v) in the case of motor vehicle insurance, revocation or suspension of the driver's license of:

- (A) the named insured; or
- (B) any other person who customarily drives the motor vehicle.

(b) (i) Except as provided in Subsection (2)(e) or unless the conditions of Subsection (2)(b)(ii) are met, an insurance policy may not be canceled by the insurer before the earlier of:

- (A) the expiration of the agreed term; or
- (B) one year from the effective date of the policy or renewal.

(ii) Notwithstanding Subsection (2)(b)(i), an insurance policy may be canceled by the insurer for:

- (A) nonpayment of a premium when due; or
- (B) on grounds defined in Subsection (2)(a).

(c) (i) The cancellation provided by Subsection (2)(b), except cancellation for nonpayment of premium, is effective no sooner than 30 days after the delivery or first-class mailing of a written notice to the policyholder.

(ii) Cancellation for nonpayment of premium is effective no sooner than 10 days after delivery or first class mailing of a written notice to the policyholder.

(d) (i) Notice of cancellation for nonpayment of premium shall include a statement of the reason for cancellation.

(ii) Subsection (7) applies to the notice required for grounds of cancellation other than nonpayment of premium.

(e) (i) Subsections (2)(a) through (d) do not apply to any insurance contract that has not been previously renewed if the contract has been in effect less than 60 days when the written notice of cancellation is mailed or delivered.

(ii) A cancellation under this Subsection (2)(e) may not be effective until at least 10 days after the delivery to the insured of a written notice of cancellation.

(iii) If the notice required by this Subsection (2)(e) is sent by first-class mail, postage prepaid, to the insured at the insured's last-known address, delivery is considered accomplished after the passing, since the mailing date, of the mailing time specified in the Utah Rules of Civil Procedure.

(iv) A policy cancellation subject to this Subsection (2)(e) is not subject to the procedures described in Subsection (7).

(3) A policy may be issued for a term longer than one year or for an indefinite term if the policy includes a clause providing for cancellation by the insurer by giving notice as provided in Subsection (4)(b)(i) 30 days prior to any anniversary date.

(4) (a) Subject to Subsections (2), (3), and (4)(b), a policyholder has a right to have the policy renewed:

(i) on the terms then being applied by the insurer to similar risks; and

(ii) (A) for an additional period of time equivalent to the expiring term if the agreed term is one year or less; or

(B) for one year if the agreed term is longer than one year.

(b) Except as provided in Subsections (4)(c) and (5), the right to renewal under Subsection (4)(a) is extinguished if:

(i) at least 30 days ~~[prior to]~~ before the policy expiration or anniversary date a notice of intention not to renew the policy beyond the agreed expiration or anniversary date is delivered or sent by first-class mail by the insurer to the policyholder at the policyholder's last-known address;

(ii) not more than 45 nor less than 14 days ~~[prior to]~~ before the due date of the renewal premium, the insurer delivers or sends by first-class mail a notice to the policyholder at the policyholder's last-known address, clearly stating:

(A) the renewal premium;

(B) how the renewal premium may be paid, including the due date for payment of the renewal premium; ~~and~~

(C) that failure to pay the renewal premium ~~[by the due date]~~ extinguishes the policyholder's right to renewal; and

(D) subject to Subsection (4)(e), that the extinguishment of the right to renew for nonpayment of premium is effective no sooner than at least 10 days after delivery or first class mailing of a written notice to the policyholder that the policyholder has failed to pay the premium when due;

(iii) the policyholder has:

(A) accepted replacement coverage; or

(B) requested or agreed to nonrenewal; or

(iv) the policy is expressly designated as nonrenewable.

(c) Unless the conditions of Subsection (4)(b)(iii) or (iv) apply, an insurer may not fail to renew an insurance policy as a result of a telephone call or other inquiry that:

(i) references a policy coverage; and

(ii) does not result in the insured requesting payment of a claim.

(d) Failure to renew under this Subsection (4) is subject to Subsection (5).

(e) (i) During the period that begins when the notice described in Subsection (4)(b)(ii)(D) is delivered or mailed and ends when the premium is paid, coverage exists and premiums are due.

(ii) If after receiving the notice required by Subsection (4)(b)(ii)(D) a policyholder fails to pay the renewal premium, the coverage is extinguished as of the date the renewal premium is originally due.

(iii) Delivery of the notice required by Subsection (4)(b)(ii)(D) includes electronic delivery in accordance with Section 31A-21-316.

(iv) An insurer is not subject to Subsection (4)(b)(ii)(D) if it provides notice of the extinguishment of the right to renew for failure to pay premium at least 15 days, but no longer than 45 days, before the day the renewal payment is due.

(v) Subsection (4)(b)(ii)(D) does not apply to a policy that provides coverage for 30 days or less.

(5) Notwithstanding Subsection (4), an insurer may not fail to renew the following personal lines insurance policies solely on the basis of:

(a) in the case of a motor vehicle insurance policy:

(i) a claim from the insured that:

(A) results from an accident in which:

(I) the insured is not at fault; and

(II) the driver of the motor vehicle that is covered by the motor vehicle insurance policy is 21 years of age or older; and

(B) is the only claim meeting the condition of Subsection (5)(a)(i)(A) within a 36-month period;

(ii) a single traffic violation by an insured that:

(A) is a violation of a speed limit under Title 41, Chapter 6a, Traffic Code;

(B) is not in excess of 10 miles per hour over the speed limit;

(C) is not a traffic violation under:

(I) Section 41-6a-601;

(II) Section 41-6a-604; or

(III) Section 41-6a-605;

(D) is not a violation by an insured driver who is younger than 21 years of age; and

(E) is the only violation meeting the conditions of Subsections (5)(a)(ii)(A) through (D) within a 36-month period; or

(iii) a claim for damage that:

(A) results solely from:

(I) wind;

(II) hail;

(III) lightning; or

(IV) an earthquake;

(B) is not preventable by the exercise of reasonable care; and

(C) is the only claim meeting the conditions of Subsections (5)(a)(iii)(A) and (B) within a 36-month period; and

(b) in the case of a homeowner's insurance policy, a claim by the insured that is for damage that:

(i) results solely from:

(A) wind;

(B) hail; or

(C) lightning;

(ii) is not preventable by the exercise of reasonable care; and

(iii) is the only claim meeting the conditions of Subsections (5)(b)(i) and (ii) within a 36-month period.

(6) (a) (i) Subject to Subsection (6)(b), if the insurer offers or purports to renew the policy, but on less favorable terms or at higher rates, the new terms or rates take effect on the renewal date if the insurer delivered or sent by first-class mail to the policyholder notice of the new terms or rates at least 30 days prior to the expiration date of the prior policy.

(ii) If the insurer did not give the prior notification described in Subsection (6)(a)(i) to the policyholder, the new terms or rates do not take effect until 30 days after the notice is delivered or sent by first-class mail, in which case the policyholder may elect to cancel the renewal policy at any time during the 30-day period.

(iii) Return premiums or additional premium charges shall be calculated proportionately on the basis that the old rates apply.

(b) Subsection (6)(a) does not apply if the only change in terms that is adverse to the policyholder is:

(i) a rate increase generally applicable to the class of business to which the policy belongs;

(ii) a rate increase resulting from a classification change based on the altered nature or extent of the risk insured against; or

(iii) a policy form change made to make the form consistent with Utah law.

(7) (a) If a notice of cancellation or nonrenewal under Subsection (2)(c) does not state with reasonable precision the facts on which the

insurer's decision is based, the insurer shall send by first-class mail or deliver that information within 10 working days after receipt of a written request by the policyholder.

(b) A notice under Subsection (2)(c) is not effective unless it contains information about the policyholder's right to make the request.

(8) (a) An insurer that gives a notice of nonrenewal or cancellation of insurance on a motor vehicle insurance policy issued in accordance with the requirements of Chapter 22, Part 3, Motor Vehicle Insurance, for nonpayment of a premium shall provide notice of nonrenewal or cancellation to a lienholder if the insurer has been provided the name and mailing address of the lienholder.

(b) The notice described in Subsection (8)(a) shall be provided to the lienholder by first class mail or, if agreed by the parties, any electronic means of communication.

(c) A lienholder shall provide a current physical address of notification or an electronic address of notification to an insurer that is required to make a notification under Subsection (8)(a).

(9) If a risk-sharing plan under Section 31A-2-214 exists for the kind of coverage provided by the insurance being cancelled or nonrenewed, a notice of cancellation or nonrenewal required under Subsection (2)(c) or (4)(b)(i) may not be effective unless it contains instructions to the policyholder for applying for insurance through the available risk-sharing plan.

(10) There is no liability on the part of, and no cause of action against, any insurer, its authorized representatives, agents, employees, or any other person furnishing to the insurer information relating to the reasons for cancellation or nonrenewal or for any statement made or information given by them in complying or enabling the insurer to comply with this section unless actual malice is proved by clear and convincing evidence.

(11) This section does not alter any common law right of contract rescission for material misrepresentation.

(12) If a person is required to pay a premium in accordance with this section:

(a) the person may make the payment using:

(i) the United States Postal Service;

(ii) a delivery service the commissioner describes or designates by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(iii) electronic means; and

(b) the payment is considered to be made:

(i) for a payment that is mailed using the method described in Subsection (12)(a)(i), on the date the payment is postmarked;

(ii) for a payment that is delivered using the method described in Subsection (12)(a)(ii), on the

date the delivery service records or marks the payment as having been received by the delivery service; or

(iii) for a payment that is made using the method described in Subsection (12)(a)(iii), on the date the payment is made electronically.

CHAPTER 386**H. B. 83**

Passed February 27, 2015

Approved March 31, 2015

Effective March 31, 2015

CRIMES AGAINST HEALTH CARE PROVIDERS IN CORRECTIONAL SYSTEM

Chief Sponsor: Brad M. Daw
Senate Sponsor: Margaret Dayton

LONG TITLE**General Description:**

This bill modifies the Utah Criminal Code regarding propelling a substance or object at a health care provider.

Highlighted Provisions:

This bill:

- ▶ provides that employees, volunteers, and health care providers are victims in the statutory section that currently defines the offense of propelling a substance or object, including a bodily fluid, at a peace officer or correctional officer; and
- ▶ applies the same penalties as currently apply to the offense when committed against a peace officer or correctional officer.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

53-10-403, as last amended by Laws of Utah 2014, Chapter 331

76-5-102.6, as last amended by Laws of Utah 2013, Chapter 306

76-5-102.7, as last amended by Laws of Utah 2008, Chapter 3

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

Section 1. Section 53-10-403 is amended to read:**53-10-403. DNA specimen analysis -- Application to offenders, including minors.**

(1) Sections 53-10-404, 53-10-404.5, 53-10-405, and 53-10-406 apply to any person who:

(a) has pled guilty to or has been convicted of any of the offenses under Subsection (2)(a) or (b) on or after July 1, 2002;

(b) has pled guilty to or has been convicted by any other state or by the United States government of an offense which if committed in this state would be punishable as one or more of the offenses listed in Subsection (2)(a) or (b) on or after July 1, 2003;

(c) has been booked on or after January 1, 2011, through December 31, 2014, for any offense under Subsection (2)(c);

(d) has been booked:

(i) by a law enforcement agency that is obtaining a DNA specimen on or after May 13, 2014, through December 31, 2014, under Subsection 53-10-404(4)(b) for any felony offense; or

(ii) on or after January 1, 2015, for any felony offense; or

(e) is a minor under Subsection (3).

(2) Offenses referred to in Subsection (1) are:

(a) any felony or class A misdemeanor under the Utah Code;

(b) any offense under Subsection (2)(a):

(i) for which the court enters a judgment for conviction to a lower degree of offense under Section 76-3-402; or

(ii) regarding which the court allows the defendant to enter a plea in abeyance as defined in Section 77-2a-1; or

(c) (i) any violent felony as defined in Section 53-10-403.5;

(ii) sale or use of body parts, Section 26-28-116;

(iii) failure to stop at an accident that resulted in death, Section 41-6a-401.5;

(iv) driving with any amount of a controlled substance in a person's body and causing serious bodily injury or death, Subsection 58-37-8(2)(g);

(v) a felony violation of enticing a minor over the Internet, Section 76-4-401;

(vi) a felony violation of propelling a substance or object at a correctional ~~or~~ officer, a peace officer, or an employee or a volunteer, including health care providers, Section 76-5-102.6;

(vii) aggravated human trafficking and aggravated human smuggling, Section 76-5-310;

(viii) a felony violation of unlawful sexual activity with a minor, Section 76-5-401;

(ix) a felony violation of sexual abuse of a minor, Section 76-5-401.1;

(x) unlawful sexual contact with a 16 or 17-year old, Section 76-5-401.2;

(xi) sale of a child, Section 76-7-203;

(xii) aggravated escape, Subsection 76-8-309(2);

(xiii) a felony violation of assault on an elected official, Section 76-8-315;

(xiv) influencing, impeding, or retaliating against a judge or member of the Board of Pardons and Parole, Section 76-8-316;

(xv) advocating criminal syndicalism or sabotage, Section 76-8-902;

(xvi) assembly for advocating criminal syndicalism or sabotage, Section 76-8-903;

(xvii) a felony violation of sexual battery, Section 76-9-702.1;

(xviii) a felony violation of lewdness involving a child, Section 76-9-702.5;

(xix) a felony violation of abuse or desecration of a dead human body, Section 76-9-704;

(xx) manufacture, possession, sale, or use of a weapon of mass destruction, Section 76-10-402;

(xxi) manufacture, possession, sale, or use of a hoax weapon of mass destruction, Section 76-10-403;

(xxii) possession of a concealed firearm in the commission of a violent felony, Subsection 76-10-504(4);

(xxiii) assault with the intent to commit bus hijacking with a dangerous weapon, Subsection 76-10-1504(3);

(xxiv) commercial obstruction, Subsection 76-10-2402(2);

(xxv) a felony violation of failure to register as a sex or kidnap offender, Section 77-41-107;

(xxvi) repeat violation of a protective order, Subsection 77-36-1.1(2)(c); or

(xxvii) violation of condition for release after arrest for domestic violence, Section 77-36-2.5.

(3) A minor under Subsection (1) is a minor 14 years of age or older whom a Utah court has adjudicated to be within the jurisdiction of the juvenile court due to the commission of any offense described in Subsection (2), and who is:

(a) within the jurisdiction of the juvenile court on or after July 1, 2002 for an offense under Subsection (2); or

(b) in the legal custody of the Division of Juvenile Justice Services on or after July 1, 2002 for an offense under Subsection (2).

Section 2. Section 76-5-102.6 is amended to read:

76-5-102.6. Propelling substance or object at a correctional or peace officer -- Penalties.

(1) Any prisoner or person detained pursuant to Section 77-7-15 who throws or otherwise propels any substance or object at a peace ~~officer~~ officer, a correctional officer, or an employee or volunteer, including a health care provider, is guilty of a class A misdemeanor, except as provided under Subsection (2).

(2) A violation of Subsection (1) is a third degree felony if:

(a) the object or substance is:

(i) blood, urine, or fecal material;

(ii) an infectious agent as defined in Section 26-6-2 or a material that carries an infectious agent;

(iii) vomit or a material that carries vomit; or

(iv) the prisoner's or detained person's saliva, and the prisoner or detained person knows he or she is infected with HIV, hepatitis B, or hepatitis C; and

(b) the object or substance comes into contact with any portion of the officer's or health care provider's face, including the eyes or mouth, or comes into contact with any open wound on the officer's or health care provider's body.

(3) If an offense committed under this section amounts to an offense subject to a greater penalty under another provision of state law than under this section, this section does not prohibit prosecution and sentencing for the more serious offense.

Section 3. Section 76-5-102.7 is amended to read:

76-5-102.7. Assault against health care provider and emergency medical service worker -- Penalty.

(1) A person who assaults a health care provider or emergency medical service worker is guilty of a class A misdemeanor if:

(a) the person is not a prisoner or a person detained under Section 77-7-15;

~~(a)~~ (b) the person knew that the victim was a health care provider or emergency medical service worker; and

~~(b)~~ (c) the health care provider or emergency medical service worker was performing emergency or life saving duties within the scope of his or her authority at the time of the assault.

(2) As used in this section:

(a) "Emergency medical service worker" means a person certified under Section 26-8a-302.

(b) "Health care provider" ~~[has the meaning as provided]~~ means the same as that term is defined in Section 78B-3-403.

Section 4. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

CHAPTER 387**H. B. 99**

Passed February 12, 2015

Approved March 31, 2015

Effective July 1, 2015

**ASSOCIATION OPEN
MEETING AMENDMENTS**Chief Sponsor: Mike Schultz
Senate Sponsor: J. Stuart Adams**LONG TITLE****General Description:**

This bill enacts and modifies provisions relating to meetings of the governing body of an association of unit owners and an association of lot owners.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ provides that a management committee meeting and a board meeting shall be open to each unit owner or lot owner;
- ▶ provides certain circumstances under which a management committee or a board may close a meeting;
- ▶ requires that, upon request, the management committee or the board send written notice of a meeting to each unit owner or lot owner by email;
- ▶ requires each management committee meeting and each board meeting to include time for comment from the unit owners or lot owners; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

57-8-3, as last amended by Laws of Utah 2013, Chapters 95 and 152

57-8a-102, as last amended by Laws of Utah 2013, Chapters 95 and 152

57-8a-104, as last amended by Laws of Utah 2011, Chapter 137

57-8a-224, as enacted by Laws of Utah 2013, Chapter 152

ENACTS:

57-8-56, Utah Code Annotated 1953

57-8a-225, Utah Code Annotated 1953

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

Section 1. Section 57-8-3 is amended to read:**57-8-3. Definitions.**

As used in this chapter:

(1) "Assessment" means any charge imposed by the association, including:

(a) common expenses on or against a unit owner pursuant to the provisions of the declaration, bylaws, or this chapter; and

(b) an amount that an association of unit owners assesses to a unit owner under Subsection 57-8-43(9)(g).

(2) "Association of unit owners" means all of the unit owners:

(a) acting as a group in accordance with the declaration and bylaws; or

(b) organized as a legal entity in accordance with the declaration.

(3) "Building" means a building, containing units, and comprising a part of the property.

(4) "Commercial condominium project" means a condominium project that has no residential units within the project.

(5) "Common areas and facilities" unless otherwise provided in the declaration or lawful amendments to the declaration means:

(a) the land included within the condominium project, whether leasehold or in fee simple;

(b) the foundations, columns, girders, beams, supports, main walls, roofs, halls, corridors, lobbies, stairs, stairways, fire escapes, entrances, and exits of the building;

(c) the basements, yards, gardens, parking areas, and storage spaces;

(d) the premises for lodging of janitors or persons in charge of the property;

(e) installations of central services such as power, light, gas, hot and cold water, heating, refrigeration, air conditioning, and incinerating;

(f) the elevators, tanks, pumps, motors, fans, compressors, ducts, and in general all apparatus and installations existing for common use;

(g) such community and commercial facilities as may be provided for in the declaration; and

(h) all other parts of the property necessary or convenient to its existence, maintenance, and safety, or normally in common use.

(6) "Common expenses" means:

(a) all sums lawfully assessed against the unit owners;

(b) expenses of administration, maintenance, repair, or replacement of the common areas and facilities;

(c) expenses agreed upon as common expenses by the association of unit owners; and

(d) expenses declared common expenses by this chapter, or by the declaration or the bylaws.

(7) "Common profits," unless otherwise provided in the declaration or lawful amendments to the declaration, means the balance of all income, rents, profits, and revenues from the common areas and facilities remaining after the deduction of the common expenses.

(8) "Condominium" means the ownership of a single unit in a multiunit project together with an

undivided interest in common in the common areas and facilities of the property.

(9) “Condominium plat” means a plat or plats of survey of land and units prepared in accordance with Section 57-8-13.

(10) “Condominium project” means a real estate condominium project; a plan or project whereby two or more units, whether contained in existing or proposed apartments, commercial or industrial buildings or structures, or otherwise, are separately offered or proposed to be offered for sale. Condominium project also means the property when the context so requires.

(11) “Condominium unit” means a unit together with the undivided interest in the common areas and facilities appertaining to that unit. Any reference in this chapter to a condominium unit includes both a physical unit together with its appurtenant undivided interest in the common areas and facilities and a time period unit together with its appurtenant undivided interest, unless the reference is specifically limited to a time period unit.

(12) “Contractible condominium” means a condominium project from which one or more portions of the land within the project may be withdrawn in accordance with provisions of the declaration and of this chapter. If the withdrawal can occur only by the expiration or termination of one or more leases, then the condominium project is not a contractible condominium within the meaning of this chapter.

(13) “Convertible land” means a building site which is a portion of the common areas and facilities, described by metes and bounds, within which additional units or limited common areas and facilities may be created in accordance with this chapter.

(14) “Convertible space” means a portion of the structure within the condominium project, which portion may be converted into one or more units or common areas and facilities, including limited common areas and facilities in accordance with this chapter.

(15) “Declarant” means all persons who execute the declaration or on whose behalf the declaration is executed. From the time of the recordation of any amendment to the declaration expanding an expandable condominium, all persons who execute that amendment or on whose behalf that amendment is executed shall also come within this definition. Any successors of the persons referred to in this subsection who come to stand in the same relation to the condominium project as their predecessors also come within this definition.

(16) “Declaration” means the instrument by which the property is submitted to the provisions of this act, as it from time to time may be lawfully amended.

(17) “Expandable condominium” means a condominium project to which additional land or an

interest in it may be added in accordance with the declaration and this chapter.

(18) “Governing documents”:

(a) means a written instrument by which an association of unit owners may:

(i) exercise powers; or

(ii) manage, maintain, or otherwise affect the property under the jurisdiction of the association of unit owners; and

(b) includes:

(i) articles of incorporation;

(ii) bylaws;

(iii) a plat;

(iv) a declaration of covenants, conditions, and restrictions; and

(v) rules of the association of unit owners.

(19) “Independent third party” means a person that:

(a) is not related to the unit owner;

(b) shares no pecuniary interests with the unit owner; and

(c) purchases the unit in good faith and without the intent to defraud a current or future lienholder.

(20) “Leasehold condominium” means a condominium project in all or any portion of which each unit owner owns an estate for years in his unit, or in the land upon which that unit is situated, or both, with all those leasehold interests to expire naturally at the same time. A condominium project including leased land, or an interest in the land, upon which no units are situated or to be situated is not a leasehold condominium within the meaning of this chapter.

(21) “Limited common areas and facilities” means those common areas and facilities designated in the declaration as reserved for use of a certain unit or units to the exclusion of the other units.

(22) “Majority” or “majority of the unit owners,” unless otherwise provided in the declaration or lawful amendments to the declaration, means the owners of more than 50% in the aggregate in interest of the undivided ownership of the common areas and facilities.

(23) “Management committee” means the committee as provided in the declaration charged with and having the responsibility and authority to make and to enforce all of the reasonable rules covering the operation and maintenance of the property.

(24) (a) “Means of electronic communication” means an electronic system that allows individuals to communicate orally in real time.

(b) “Means of electronic communication” includes:

(i) web conferencing;

(ii) video conferencing; and

(iii) telephone conferencing.

(25) “Meeting” means a gathering of a management committee, whether in person or by means of electronic communication, at which the management committee can take binding action.

[(24)] (26) “Mixed-use condominium project” means a condominium project that has both residential and commercial units in the condominium project.

[(25)] (27) “Par value” means a number of dollars or points assigned to each unit by the declaration. Substantially identical units shall be assigned the same par value, but units located at substantially different heights above the ground, or having substantially different views, or having substantially different amenities or other characteristics that might result in differences in market value, may be considered substantially identical within the meaning of this subsection. If par value is stated in terms of dollars, that statement may not be considered to reflect or control the sales price or fair market value of any unit, and no opinion, appraisal, or fair market transaction at a different figure may affect the par value of any unit, or any undivided interest in the common areas and facilities, voting rights in the unit owners’ association, liability for common expenses, or right to common profits, assigned on the basis thereof.

(28) “Period of administrative control” means the period of control described in Subsection 57-8-16.5(1).

[(26)] (29) “Person” means an individual, corporation, partnership, association, trustee, or other legal entity.

[(27)] (30) “Property” means the land, whether leasehold or in fee simple, the building, if any, all improvements and structures thereon, all easements, rights, and appurtenances belonging thereto, and all articles of personal property intended for use in connection therewith.

[(28)] (31) “Record,” “recording,” “recorded,” and “recorder” have the meaning stated in Title 57, Chapter 3, Recording of Documents.

[(29)] (32) “Size” means the number of cubic feet, or the number of square feet of ground or floor space, within each unit as computed by reference to the record of survey map and rounded off to a whole number. Certain spaces within the units including attic, basement, or garage space may be omitted from the calculation or be partially discounted by the use of a ratio, if the same basis of calculation is employed for all units in the condominium project and if that basis is described in the declaration.

[(30)] (33) “Time period unit” means an annually recurring part or parts of a year specified in the declaration as a period for which a unit is separately owned and includes a timeshare estate as defined in Subsection 57-19-2(19).

[(31)] (34) “Unit” means either a separate physical part of the property intended for any type of independent use, including one or more rooms or spaces located in one or more floors or part or parts of floors in a building or a time period unit, as the context may require. A convertible space shall be treated as a unit in accordance with Subsection 57-8-13.4(3). A proposed condominium unit under an expandable condominium project, not constructed, is a unit two years after the date the recording requirements of Section 57-8-13.6 are met.

[(32)] (35) “Unit number” means the number, letter, or combination of numbers and letters designating the unit in the declaration and in the record of survey map.

[(33)] (36) “Unit owner” means the person or persons owning a unit in fee simple and an undivided interest in the fee simple estate of the common areas and facilities in the percentage specified and established in the declaration or, in the case of a leasehold condominium project, the person or persons whose leasehold interest or interests in the condominium unit extend for the entire balance of the unexpired term or terms.

Section 2. Section 57-8-56 is enacted to read:

57-8-56. (Codified as 57-8-57) Management committee meetings -- Open meetings.

(1) (a) At least 48 hours before a meeting, the association of unit owners shall give written notice of the meeting via email to each unit owner who requests notice of a meeting, unless:

(i) notice of the meeting is included in a meeting schedule that was previously provided to the unit owner; or

(ii) (A) the meeting is to address an emergency; and

(B) each management committee member receives notice of the meeting less than 48 hours before the meeting.

(b) A notice described in Subsection (1)(a) shall:

(i) be delivered to the unit owner by email, to the email address that the unit owner provides to the management committee or the association of unit owners;

(ii) state the time and date of the meeting;

(iii) state the location of the meeting; and

(iv) if a management committee member may participate by means of electronic communication, provide the information necessary to allow the unit owner to participate by the available means of electronic communication.

(2) (a) Except as provided in Subsection (2)(b), a meeting shall be open to each unit owner or the unit owner’s representative if the representative is designated in writing.

(b) A management committee may close a meeting to:

(i) consult with an attorney for the purpose of obtaining legal advice;

(ii) discuss ongoing or potential litigation, mediation, arbitration, or administrative proceedings;

(iii) discuss a personnel matter;

(iv) discuss a matter relating to contract negotiations, including review of a bid or proposal;

(v) discuss a matter that involves an individual if the discussion is likely to cause the individual undue embarrassment or violate the individual's reasonable expectation of privacy; or

(vi) discuss a delinquent assessment or fine.

(3) (a) At each meeting, the management committee shall provide each unit owner a reasonable opportunity to offer comments.

(b) The management committee may limit the comments described in Subsection (3)(a) to one specific time period during the meeting.

(4) A management committee member may not avoid or obstruct the requirements of this section.

(5) Nothing in this section shall affect the validity or enforceability of an action of a management committee.

(6) The provisions of this section do not apply during the period of administrative control.

(7) The provisions of this section apply regardless of when the condominium project's initial declaration was recorded.

Section 3. Section 57-8a-102 is amended to read:

57-8a-102. Definitions.

As used in this chapter:

(1) (a) "Assessment" means a charge imposed or levied:

(i) by the association;

(ii) on or against a lot or a lot owner; and

(iii) pursuant to a governing document recorded with the county recorder.

(b) "Assessment" includes:

(i) a common expense; and

(ii) an amount assessed against a lot owner under Subsection 57-8a-405(7).

(2) (a) Except as provided in Subsection (2)(b), "association" means a corporation or other legal entity, any member of which:

(i) is an owner of a residential lot located within the jurisdiction of the association, as described in the governing documents; and

(ii) by virtue of membership or ownership of a residential lot is obligated to pay:

(A) real property taxes;

(B) insurance premiums;

(C) maintenance costs; or

(D) for improvement of real property not owned by the member.

(b) "Association" or "homeowner association" does not include an association created under Title 57, Chapter 8, Condominium Ownership Act.

(3) "Board of directors" or "board" means the entity, regardless of name, with primary authority to manage the affairs of the association.

(4) "Common areas" means property that the association:

(a) owns;

(b) maintains;

(c) repairs; or

(d) administers.

(5) "Common expense" means costs incurred by the association to exercise any of the powers provided for in the association's governing documents.

(6) "Declarant":

(a) means the person who executes a declaration and submits it for recording in the office of the recorder of the county in which the property described in the declaration is located; and

(b) includes the person's successor and assign.

(7) (a) "Governing documents" means a written instrument by which the association may:

(i) exercise powers; or

(ii) manage, maintain, or otherwise affect the property under the jurisdiction of the association.

(b) "Governing documents" includes:

(i) articles of incorporation;

(ii) bylaws;

(iii) a plat;

(iv) a declaration of covenants, conditions, and restrictions; and

(v) rules of the association.

(8) "Independent third party" means a person that:

(a) is not related to the owner of the residential lot;

(b) shares no pecuniary interests with the owner of the residential lot; and

(c) purchases the residential lot in good faith and without the intent to defraud a current or future lienholder.

(9) "Judicial foreclosure" means a foreclosure of a lot:

(a) for the nonpayment of an assessment; and

(b) (i) in the manner provided by law for the foreclosure of a mortgage on real property; and

(ii) as provided in Part 3, Collection of Assessments.

(10) "Lease" or "leasing" means regular, exclusive occupancy of a lot:

(a) by a person or persons other than the owner; and

(b) for which the owner receives a consideration or benefit, including a fee, service, gratuity, or emolument.

(11) "Limited common areas" means common areas described in the declaration and allocated for the exclusive use of one or more lot owners.

(12) "Lot" means:

(a) a lot, parcel, plot, or other division of land:

(i) designated for separate ownership or occupancy; and

(ii) (A) shown on a recorded subdivision plat; or

(B) the boundaries of which are described in a recorded governing document; or

(b) (i) a unit in a condominium association if the condominium association is a part of a development; or

(ii) a unit in a real estate cooperative if the real estate cooperative is part of a development.

(13) (a) "Means of electronic communication" means an electronic system that allows individuals to communicate orally in real time.

(b) "Means of electronic communication" includes:

(i) web conferencing;

(ii) video conferencing; and

(iii) telephone conferencing.

(14) "Meeting" means a gathering of a board, whether in person or by means of electronic communication, at which the board can take binding action.

~~(13)~~ (15) "Mixed-use project" means a project under this chapter that has both residential and commercial lots in the project.

~~(14)~~ (16) "Nonjudicial foreclosure" means the sale of a lot:

(a) for the nonpayment of an assessment; and

(b) (i) in the same manner as the sale of trust property under Sections 57-1-19 through 57-1-34; and

(ii) as provided in Part 3, Collection of Assessments.

(17) "Period of administrative control" means the period during which the person who filed the association's governing documents or the person's successor in interest retains authority to:

(a) appoint or remove members of the association's board of directors; or

(b) exercise power or authority assigned to the association under the association's governing documents.

~~(15)~~ (18) "Residential lot" means a lot, the use of which is limited by law, covenant, or otherwise to primarily residential or recreational purposes.

Section 4. Section 57-8a-104 is amended to read:

57-8a-104. Limitation on requirements for amending governing documents -- Limitation on contracts.

~~(1) As used in this section, "period of administrative control" means the period during which the person who filed the association's governing documents or a successor in interest retains authority to:~~

~~(a) appoint or remove members of the association's board of directors; or~~

~~(b) exercise power or authority assigned to the association under its governing documents.~~

~~(2)~~ (1) (a) (i) Governing documents may not require that an amendment to the governing documents adopted after the period of administrative control be approved by more than 67% of the voting interests.

(ii) The vote required to adopt an amendment to governing documents may not be greater than 67% of the voting interests, notwithstanding a provision of the governing documents requiring a greater percentage and regardless of whether the governing documents were adopted before, on, or after May 10, 2011.

(b) Subsection ~~(2)~~ (1)(a) does not apply to an amendment affecting only:

(i) lot boundaries; or

(ii) members' voting rights.

~~(3)~~ (2) (a) A contract for services such as garbage collection, maintenance, lawn care, or snow removal executed on behalf of the association during a period of administrative control is binding beyond the period of administrative control unless terminated by the board of directors after the period of administrative control ends.

(b) Subsection ~~(3)~~ (2)(a) does not apply to golf course and amenity management, utilities, cable services, and other similar services that require an investment of infrastructure or capital.

~~(4)~~ (3) Voting interests under ~~Subsections (2) and (3)~~ Subsection (1) are calculated in the manner required by the governing documents.

~~(5)~~ (4) Nothing in this section affects any other rights reserved by the person who filed the association's original governing documents or a successor in interest.

Section 5. Section 57-8a-224 is amended to read:

57-8a-224. Responsibility for the maintenance, repair, and replacement of common areas and lots.

(1) As used in this section:

(a) "Emergency repair" means a repair that, if not made in a timely manner, will likely result in immediate and substantial damage to a common area or to another lot.

(b) "Reasonable notice" means:

(i) written notice that is hand delivered to the lot at least 24 hours before the proposed entry; or

(ii) in the case of an emergency repair, notice that is reasonable under the circumstances.

(2) Except as otherwise provided in the declaration or Part 4, Insurance:

(a) an association is responsible for the maintenance, repair, and replacement of common areas; and

(b) a lot owner is responsible for the maintenance, repair, and replacement of the lot owner's lot.

(3) After reasonable notice to the occupant of the lot being entered, the board may access a lot:

(a) from time to time during reasonable hours, as necessary for the maintenance, repair, or replacement of any of the common areas; or

(b) for making an emergency repair.

(4) (a) An association is liable to repair damage it causes to the common areas or to a lot the association uses to access the common areas.

(b) An association shall repair damage described in Subsection (4)(a) within a time that is reasonable under the circumstances.

(5) Subsections (2), (3), and (4) do not apply during the period of administrative control [as defined in Section 57-8a-104].

Section 6. Section 57-8a-225 is enacted to read:

57-8a-225. (Codified as 57-8a--226) Board meetings -- Open meetings.

(1) (a) At least 48 hours before a meeting, the association shall give written notice of the meeting via email to each lot owner who requests notice of a meeting, unless:

(i) notice of the meeting is included in a meeting schedule that was previously provided to the lot owner; or

(ii) (A) the meeting is to address an emergency; and

(B) each board member receives notice of the meeting less than 48 hours before the meeting.

(b) A notice described in Subsection (1)(a) shall:

(i) be delivered to the lot owner by email, to the email address that the lot owner provides to the board or the association;

(ii) state the time and date of the meeting;

(iii) state the location of the meeting; and

(iv) if a board member may participate by means of electronic communication, provide the information necessary to allow the lot owner to participate by the available means of electronic communication.

(2) (a) Except as provided in Subsection (2)(b), a meeting shall be open to each lot owner or the lot owner's representative if the representative is designated in writing.

(b) A board may close a meeting to:

(i) consult with an attorney for the purpose of obtaining legal advice;

(ii) discuss ongoing or potential litigation, mediation, arbitration, or administrative proceedings;

(iii) discuss a personnel matter;

(iv) discuss a matter relating to contract negotiations, including review of a bid or proposal;

(v) discuss a matter that involves an individual if the discussion is likely to cause the individual undue embarrassment or violate the individual's reasonable expectation of privacy; or

(vi) discuss a delinquent assessment or fine.

(3) (a) At each meeting, the board shall provide each lot owner a reasonable opportunity to offer comments.

(b) The board may limit the comments described in Subsection (3)(a) to one specific time period during the meeting.

(4) A board member may not avoid or obstruct the requirements of this section.

(5) Nothing in this section shall affect the validity or enforceability of an action of a board.

(6) The provisions of this section do not apply during the period of administrative control.

(7) The provisions of this section apply regardless of when the association's first governing document was recorded.

Section 7. Effective date.

This bill takes effect on July 1, 2015.

CHAPTER 388**H. B. 107**

Passed March 2, 2015

Approved March 31, 2015

Effective May 12, 2015

**POLITICAL ISSUES
COMMITTEE AMENDMENTS**

Chief Sponsor: Brian M. Greene

Senate Sponsor: Alvin B. Jackson

LONG TITLE**General Description:**

This bill amends the Election Code in relation to the definition of, and the requirements placed on, a political issues committee.

Highlighted Provisions:

This bill:

- ▶ provides that a political issues committee does not include certain associations of individuals who seek to challenge a single ballot proposition, ordinance, or other governmental action of a county, city, town, local district, special service district, or other local political subdivision of the state; and
- ▶ changes the amount of political issues expenditures that trigger the requirement for a political issues committee to file a statement of organization and a financial report.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

20A-11-101, as last amended by Laws of Utah 2014, Chapters 18, 158, and 337

20A-11-801, as last amended by Laws of Utah 2008, Chapter 225

20A-11-802, as last amended by Laws of Utah 2013, Chapter 420

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

Section 1. Section 20A-11-101 is amended to read:**20A-11-101. Definitions.**

As used in this chapter:

(1) "Address" means the number and street where an individual resides or where a reporting entity has its principal office.

(2) "Agent of a reporting entity" means:

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

(b) a person employed by a reporting entity in the reporting entity's capacity as a reporting entity;

(c) the personal campaign committee of a candidate or officeholder;

(d) a member of the personal campaign committee of a candidate or officeholder in the

member's capacity as a member of the personal campaign committee of the candidate or officeholder; or

(e) a political consultant of a reporting entity.

(3) "Ballot proposition" includes initiatives, referenda, proposed constitutional amendments, and any other ballot propositions submitted to the voters that are authorized by the Utah Code Annotated 1953.

(4) "Candidate" means any person who:

(a) files a declaration of candidacy for a public office; or

(b) receives contributions, makes expenditures, or gives consent for any other person to receive contributions or make expenditures to bring about the person's nomination or election to a public office.

(5) "Chief election officer" means:

(a) the lieutenant governor for state office candidates, legislative office candidates, officeholders, political parties, political action committees, corporations, political issues committees, state school board candidates, judges, and labor organizations, as defined in Section 20A-11-1501; and

(b) the county clerk for local school board candidates.

(6) (a) "Contribution" means any of the following when done for political purposes:

(i) a gift, subscription, donation, loan, advance, or deposit of money or anything of value given to the filing entity;

(ii) an express, legally enforceable contract, promise, or agreement to make a gift, subscription, donation, unpaid or partially unpaid loan, advance, or deposit of money or anything of value to the filing entity;

(iii) any transfer of funds from another reporting entity to the filing entity;

(iv) compensation paid by any person or reporting entity other than the filing entity for personal services provided without charge to the filing entity;

(v) remuneration from:

(A) any organization or its directly affiliated organization that has a registered lobbyist; or

(B) any agency or subdivision of the state, including school districts;

(vi) a loan made by a candidate deposited to the candidate's own campaign; and

(vii) in-kind contributions.

(b) "Contribution" does not include:

(i) services provided by individuals volunteering a portion or all of their time on behalf of the filing entity if the services are provided without

compensation by the filing entity or any other person;

(ii) money lent to the filing entity by a financial institution in the ordinary course of business; or

(iii) goods or services provided for the benefit of a candidate or political party at less than fair market value that are not authorized by or coordinated with the candidate or political party.

(7) "Coordinated with" means that goods or services provided for the benefit of a candidate or political party are provided:

(a) with the candidate's or political party's prior knowledge, if the candidate or political party does not object;

(b) by agreement with the candidate or political party;

(c) in coordination with the candidate or political party; or

(d) using official logos, slogans, and similar elements belonging to a candidate or political party.

(8) (a) "Corporation" means a domestic or foreign, profit or nonprofit, business organization that is registered as a corporation or is authorized to do business in a state and makes any expenditure from corporate funds for:

(i) the purpose of expressly advocating for political purposes; or

(ii) the purpose of expressly advocating the approval or the defeat of any ballot proposition.

(b) "Corporation" does not mean:

(i) a business organization's political action committee or political issues committee; or

(ii) a business entity organized as a partnership or a sole proprietorship.

(9) "County political party" means, for each registered political party, all of the persons within a single county who, under definitions established by the political party, are members of the registered political party.

(10) "County political party officer" means a person whose name is required to be submitted by a county political party to the lieutenant governor in accordance with Section 20A-8-402.

(11) "Detailed listing" means:

(a) for each contribution or public service assistance:

(i) the name and address of the individual or source making the contribution or public service assistance;

(ii) the amount or value of the contribution or public service assistance; and

(iii) the date the contribution or public service assistance was made; and

(b) for each expenditure:

(i) the amount of the expenditure;

(ii) the person or entity to whom it was disbursed;

(iii) the specific purpose, item, or service acquired by the expenditure; and

(iv) the date the expenditure was made.

(12) (a) "Donor" means a person that gives money, including a fee, due, or assessment for membership in the corporation, to a corporation without receiving full and adequate consideration for the money.

(b) "Donor" does not include a person that signs a statement that the corporation may not use the money for an expenditure or political issues expenditure.

(13) "Election" means each:

(a) regular general election;

(b) regular primary election; and

(c) special election at which candidates are eliminated and selected.

(14) "Electioneering communication" means a communication that:

(a) has at least a value of \$10,000;

(b) clearly identifies a candidate or judge; and

(c) is disseminated through the Internet, newspaper, magazine, outdoor advertising facility, direct mailing, broadcast, cable, or satellite provider within 45 days of the clearly identified candidate's or judge's election date.

(15) (a) "Expenditure" means any of the following made by a reporting entity or an agent of a reporting entity on behalf of the reporting entity:

(i) any disbursement from contributions, receipts, or from the separate bank account required by this chapter;

(ii) a purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of value made for political purposes;

(iii) an express, legally enforceable contract, promise, or agreement to make any purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of value for political purposes;

(iv) compensation paid by a filing entity for personal services rendered by a person without charge to a reporting entity;

(v) a transfer of funds between the filing entity and a candidate's personal campaign committee; or

(vi) goods or services provided by the filing entity to or for the benefit of another reporting entity for political purposes at less than fair market value.

(b) "Expenditure" does not include:

(i) services provided without compensation by individuals volunteering a portion or all of their time on behalf of a reporting entity;

(ii) money lent to a reporting entity by a financial institution in the ordinary course of business; or

(iii) anything listed in Subsection (15)(a) that is given by a reporting entity to candidates for office or officeholders in states other than Utah.

(16) "Federal office" means the office of president of the United States, United States Senator, or United States Representative.

(17) "Filing entity" means the reporting entity that is required to file a financial statement required by this chapter or Chapter 12, Part 2, Judicial Retention Elections.

(18) "Financial statement" includes any summary report, interim report, verified financial statement, or other statement disclosing contributions, expenditures, receipts, donations, or disbursements that is required by this chapter or Chapter 12, Part 2, Judicial Retention Elections.

(19) "Governing board" means the individual or group of individuals that determine the candidates and committees that will receive expenditures from a political action committee, political party, or corporation.

(20) "Incorporation" means the process established by Title 10, Chapter 2, Part 1, Incorporation, by which a geographical area becomes legally recognized as a city or town.

(21) "Incorporation election" means the election authorized by Section 10-2-111 or 10-2-127.

(22) "Incorporation petition" means a petition authorized by Section 10-2-109 or 10-2-125.

(23) "Individual" means a natural person.

(24) "In-kind contribution" means anything of value, other than money, that is accepted by or coordinated with a filing entity.

(25) "Interim report" means a report identifying the contributions received and expenditures made since the last report.

(26) "Legislative office" means the office of state senator, state representative, speaker of the House of Representatives, president of the Senate, and the leader, whip, and assistant whip of any party caucus in either house of the Legislature.

(27) "Legislative office candidate" means a person who:

(a) files a declaration of candidacy for the office of state senator or state representative;

(b) declares oneself to be a candidate for, or actively campaigns for, the position of speaker of the House of Representatives, president of the Senate, or the leader, whip, and assistant whip of any party caucus in either house of the Legislature; or

(c) receives contributions, makes expenditures, or gives consent for any other person to receive contributions or make expenditures to bring about the person's nomination, election, or appointment to a legislative office.

(28) "Major political party" means either of the two registered political parties that have the greatest number of members elected to the two houses of the Legislature.

(29) "Officeholder" means a person who holds a public office.

(30) "Party committee" means any committee organized by or authorized by the governing board of a registered political party.

(31) "Person" means both natural and legal persons, including individuals, business organizations, personal campaign committees, party committees, political action committees, political issues committees, and labor organizations, as defined in Section 20A-11-1501.

(32) "Personal campaign committee" means the committee appointed by a candidate to act for the candidate as provided in this chapter.

(33) "Personal use expenditure" has the same meaning as provided under Section 20A-11-104.

(34) (a) "Political action committee" means an entity, or any group of individuals or entities within or outside this state, a major purpose of which is to:

(i) solicit or receive contributions from any other person, group, or entity for political purposes; or

(ii) make expenditures to expressly advocate for any person to refrain from voting or to vote for or against any candidate or person seeking election to a municipal or county office.

(b) "Political action committee" includes groups affiliated with a registered political party but not authorized or organized by the governing board of the registered political party that receive contributions or makes expenditures for political purposes.

(c) "Political action committee" does not mean:

(i) a party committee;

(ii) any entity that provides goods or services to a candidate or committee in the regular course of its business at the same price that would be provided to the general public;

(iii) an individual;

(iv) individuals who are related and who make contributions from a joint checking account;

(v) a corporation, except a corporation a major purpose of which is to act as a political action committee; or

(vi) a personal campaign committee.

(35) (a) "Political consultant" means a person who is paid by a reporting entity, or paid by another person on behalf of and with the knowledge of the reporting entity, to provide political advice to the reporting entity.

(b) "Political consultant" includes a circumstance described in Subsection (35)(a), where the person:

(i) has already been paid, with money or other consideration;

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

(iii) understands that the person may, in the discretion of the reporting entity or another person on behalf of and with the knowledge of the reporting entity, be paid in the future, with money or other consideration.

(36) “Political convention” means a county or state political convention held by a registered political party to select candidates.

(37) (a) “Political issues committee” means an entity, or any group of individuals or entities within or outside this state, a major purpose of which is to:

(i) solicit or receive donations from any other person, group, or entity to assist in placing a ballot proposition on the ballot, assist in keeping a ballot proposition off the ballot, or to advocate that a voter refrain from voting or vote for or vote against any ballot proposition;

(ii) make expenditures to expressly advocate for any person to sign or refuse to sign a ballot proposition or incorporation petition or refrain from voting, vote for, or vote against any proposed ballot proposition or an incorporation in an incorporation election; or

(iii) make expenditures to assist in qualifying or placing a ballot proposition on the ballot or to assist in keeping a ballot proposition off the ballot.

(b) “Political issues committee” does not mean:

(i) a registered political party or a party committee;

(ii) any entity that provides goods or services to an individual or committee in the regular course of its business at the same price that would be provided to the general public;

(iii) an individual;

(iv) individuals who are related and who make contributions from a joint checking account; [øø]

(v) a corporation, except a corporation a major purpose of which is to act as a political issues committee[-]; or

(vi) a group of individuals who:

(A) associate together for the purpose of challenging a single ballot proposition, ordinance, or other governmental action by a county, city, town, local district, special service district, or other local political subdivision of the state;

(B) have a common liberty, property, or financial interest that is directly impacted by the ballot proposition, ordinance, or other governmental action;

(C) do not associate together, for the purpose described in Subsection (37)(b)(vi)(A), via a legal entity;

(D) do not receive funds for challenging the ballot proposition, ordinance, or other governmental

action from a person other than an individual in the group; and

(E) do not expend a total of more than \$5,000 for the purpose described in Subsection (37)(b)(vi)(A).

(38) (a) “Political issues contribution” means any of the following:

(i) a gift, subscription, unpaid or partially unpaid loan, advance, or deposit of money or anything of value given to a political issues committee;

(ii) an express, legally enforceable contract, promise, or agreement to make a political issues donation to influence the approval or defeat of any ballot proposition;

(iii) any transfer of funds received by a political issues committee from a reporting entity;

(iv) compensation paid by another reporting entity for personal services rendered without charge to a political issues committee; and

(v) goods or services provided to or for the benefit of a political issues committee at less than fair market value.

(b) “Political issues contribution” does not include:

(i) services provided without compensation by individuals volunteering a portion or all of their time on behalf of a political issues committee; or

(ii) money lent to a political issues committee by a financial institution in the ordinary course of business.

(39) (a) “Political issues expenditure” means any of the following when made by a political issues committee or on behalf of a political issues committee by an agent of the reporting entity:

(i) any payment from political issues contributions made for the purpose of influencing the approval or the defeat of:

(A) a ballot proposition; or

(B) an incorporation petition or incorporation election;

(ii) a purchase, payment, distribution, loan, advance, deposit, or gift of money made for the express purpose of influencing the approval or the defeat of:

(A) a ballot proposition; or

(B) an incorporation petition or incorporation election;

(iii) an express, legally enforceable contract, promise, or agreement to make any political issues expenditure;

(iv) compensation paid by a reporting entity for personal services rendered by a person without charge to a political issues committee; or

(v) goods or services provided to or for the benefit of another reporting entity at less than fair market value.

(b) "Political issues expenditure" does not include:

(i) services provided without compensation by individuals volunteering a portion or all of their time on behalf of a political issues committee; or

(ii) money lent to a political issues committee by a financial institution in the ordinary course of business.

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

(41) (a) "Poll" means the survey of a person regarding the person's opinion or knowledge of an individual who has filed a declaration of candidacy for public office, or of a ballot proposition that has legally qualified for placement on the ballot, which is conducted in person or by telephone, facsimile, Internet, postal mail, or email.

(b) "Poll" does not include:

(i) a ballot; or

(ii) an interview of a focus group that is conducted, in person, by one individual, if:

(A) the focus group consists of more than three, and less than thirteen, individuals; and

(B) all individuals in the focus group are present during the interview.

(42) "Primary election" means any regular primary election held under the election laws.

[45] (43) "Publicly identified class of individuals" means a group of 50 or more individuals sharing a common occupation, interest, or association that contribute to a political action committee or political issues committee and whose names can be obtained by contacting the political action committee or political issues committee upon whose financial statement the individuals are listed.

[43] (44) "Public office" means the office of governor, lieutenant governor, state auditor, state treasurer, attorney general, state school board member, state senator, state representative, speaker of the House of Representatives, president of the Senate, and the leader, whip, and assistant whip of any party caucus in either house of the Legislature.

[44] (45) (a) "Public service assistance" means the following when given or provided to an officeholder to defray the costs of functioning in a public office or aid the officeholder to communicate with the officeholder's constituents:

(i) a gift, subscription, donation, unpaid or partially unpaid loan, advance, or deposit of money or anything of value to an officeholder; or

(ii) goods or services provided at less than fair market value to or for the benefit of the officeholder.

(b) "Public service assistance" does not include:

(i) anything provided by the state;

(ii) services provided without compensation by individuals volunteering a portion or all of their time on behalf of an officeholder;

(iii) money lent to an officeholder by a financial institution in the ordinary course of business;

(iv) news coverage or any publication by the news media; or

(v) any article, story, or other coverage as part of any regular publication of any organization unless substantially all the publication is devoted to information about the officeholder.

(46) "Receipts" means contributions and public service assistance.

(47) "Registered lobbyist" means a person registered under Title 36, Chapter 11, Lobbyist Disclosure and Regulation Act.

(48) "Registered political action committee" means any political action committee that is required by this chapter to file a statement of organization with the Office of the Lieutenant Governor.

(49) "Registered political issues committee" means any political issues committee that is required by this chapter to file a statement of organization with the Office of the Lieutenant Governor.

(50) "Registered political party" means an organization of voters that:

(a) participated in the last regular general election and polled a total vote equal to 2% or more of the total votes cast for all candidates for the United States House of Representatives for any of its candidates for any office; or

(b) has complied with the petition and organizing procedures of Chapter 8, Political Party Formation and Procedures.

(51) (a) "Remuneration" means a payment:

(i) made to a legislator for the period the Legislature is in session; and

(ii) that is approximately equivalent to an amount a legislator would have earned during the period the Legislature is in session in the legislator's ordinary course of business.

(b) "Remuneration" does not mean anything of economic value given to a legislator by:

(i) the legislator's primary employer in the ordinary course of business; or

(ii) a person or entity in the ordinary course of business:

(A) because of the legislator's ownership interest in the entity; or

(B) for services rendered by the legislator on behalf of the person or entity.

(52) "Reporting entity" means a candidate, a candidate's personal campaign committee, a judge, a judge's personal campaign committee, an officeholder, a party committee, a political action committee, a political issues committee, a corporation, or a labor organization, as defined in Section 20A-11-1501.

(53) "School board office" means the office of state school board.

(54) (a) "Source" means the person or entity that is the legal owner of the tangible or intangible asset that comprises the contribution.

(b) "Source" means, for political action committees and corporations, the political action committee and the corporation as entities, not the contributors to the political action committee or the owners or shareholders of the corporation.

(55) "State office" means the offices of governor, lieutenant governor, attorney general, state auditor, and state treasurer.

(56) "State office candidate" means a person who:

(a) files a declaration of candidacy for a state office; or

(b) receives contributions, makes expenditures, or gives consent for any other person to receive contributions or make expenditures to bring about the person's nomination, election, or appointment to a state office.

(57) "Summary report" means the year end report containing the summary of a reporting entity's contributions and expenditures.

(58) "Supervisory board" means the individual or group of individuals that allocate expenditures from a political issues committee.

Section 2. Section 20A-11-801 is amended to read:

20A-11-801. Political issues committees -- Registration -- Criminal penalty for providing false information or accepting unlawful contribution.

(1) (a) Each political issues committee shall file a statement of organization with the lieutenant governor's office by January 10 of each year, unless the political issues committee has filed a notice of dissolution under Subsection (4).

(b) If a political issues committee is organized after the January 10 filing date, the political issues committee shall file an initial statement of organization no later than seven days after:

(i) receiving political issues contributions totaling at least \$750; or

(ii) disbursing political issues expenditures totaling at least ~~[\$50]~~ \$750.

(2) Each political issues committee shall designate two officers that have primary

decision-making authority for the political issues committee.

(3) The statement of organization shall include:

(a) the name and street address of the political issues committee;

(b) the name, street address, phone number, occupation, and title of the two primary officers designated under Subsection (2);

(c) the name, street address, occupation, and title of all other officers of the political issues committee;

(d) the name and street address of the organization, individual, corporation, association, unit of government, or union that the political issues committee represents, if any;

(e) the name and street address of all affiliated or connected organizations and their relationships to the political issues committee;

(f) the name, street address, business address, occupation, and phone number of the committee's treasurer or chief financial officer;

(g) the name, street address, and occupation of each member of the supervisory and advisory boards, if any; and

(h) the ballot proposition whose outcome they wish to affect, and whether they support or oppose it.

(4) (a) Any registered political issues committee that intends to permanently cease operations during a calendar year shall file a notice of dissolution with the lieutenant governor's office.

(b) Any notice of dissolution filed by a political issues committee does not exempt that political issues committee from complying with the financial reporting requirements of this chapter.

(5) (a) Unless the political issues committee has filed a notice of dissolution under Subsection (4), a political issues committee shall file, with the lieutenant governor's office, notice of any change of an officer described in Subsection (2).

(b) Notice of a change of a primary officer described in Subsection (2) shall:

(i) be filed within 10 days of the date of the change; and

(ii) contain the name and title of the officer being replaced and the name, street address, occupation, and title of the new officer.

(6) (a) A person is guilty of providing false information in relation to a political issues committee if the person intentionally or knowingly gives false or misleading material information in the statement of organization or the notice of change of primary officer.

(b) Each primary officer designated in Subsection (2) is guilty of accepting an unlawful contribution if the political issues committee knowingly or recklessly accepts a contribution from a corporation that:

(i) was organized less than 90 days before the date of the general election; and

(ii) at the time the political issues committee accepts the contribution, has failed to file a statement of organization with the lieutenant governor's office as required by Section 20A-11-704.

(c) A violation of this Subsection (6) is a third degree felony.

Section 3. Section 20A-11-802 is amended to read:

20A-11-802. Political issues committees -- Financial reporting.

(1) (a) Each registered political issues committee that has received political issues contributions totaling at least \$750, or disbursed political issues expenditures totaling at least [~~\$50~~] \$750, during a calendar year, shall file a verified financial statement with the lieutenant governor's office:

(i) on January 10, reporting contributions and expenditures as of December 31 of the previous year;

(ii) seven days before the state political convention of each major political party;

(iii) seven days before the regular primary election date;

(iv) seven days before the date of an incorporation election, if the political issues committee has received donations or made disbursements to affect an incorporation;

(v) at least three days before the first public hearing held as required by Section 20A-7-204.1;

(vi) if the political issues committee has received or expended funds in relation to an initiative or referendum, at the time the initiative or referendum sponsors submit:

(A) the verified and certified initiative packets as required by Section 20A-7-206; or

(B) the signed and verified referendum packets as required by Section 20A-7-306;

(vii) on August 31; and

(viii) seven days before:

(A) the municipal general election; and

(B) the regular general election.

(b) The political issues committee shall report:

(i) a detailed listing of all contributions received and expenditures made since the last statement; and

(ii) all contributions and expenditures as of five days before the required filing date of the financial statement, except for a financial statement filed on January 10.

(c) The political issues committee need not file a statement under this section if it received no contributions and made no expenditures during the reporting period.

(2) (a) That statement shall include:

(i) the name and address of any individual that makes a political issues contribution to the reporting political issues committee, and the amount of the political issues contribution;

(ii) the identification of any publicly identified class of individuals that makes a political issues contribution to the reporting political issues committee, and the amount of the political issues contribution;

(iii) the name and address of any political issues committee, group, or entity that makes a political issues contribution to the reporting political issues committee, and the amount of the political issues contribution;

(iv) the name and address of each reporting entity that makes a political issues contribution to the reporting political issues committee, and the amount of the political issues contribution;

(v) for each nonmonetary contribution, the fair market value of the contribution;

(vi) except as provided in Subsection (2)(c), the name and address of each individual, entity, or group of individuals or entities that received a political issues expenditure of more than \$50 from the reporting political issues committee, and the amount of each political issues expenditure;

(vii) for each nonmonetary expenditure, the fair market value of the expenditure;

(viii) the total amount of political issues contributions received and political issues expenditures disbursed by the reporting political issues committee;

(ix) a statement by the political issues committee's treasurer or chief financial officer certifying that, to the best of the person's knowledge, the financial statement is accurate; and

(x) a summary page in the form required by the lieutenant governor that identifies:

(A) beginning balance;

(B) total contributions during the period since the last statement;

(C) total contributions to date;

(D) total expenditures during the period since the last statement; and

(E) total expenditures to date.

(b) (i) Political issues contributions received by a political issues committee that have a value of \$50 or less need not be reported individually, but shall be listed on the report as an aggregate total.

(ii) Two or more political issues contributions from the same source that have an aggregate total of more than \$50 may not be reported in the aggregate, but shall be reported separately.

(c) When reporting political issue expenditures made to circulators of initiative petitions, the political issues committee:

(i) need only report the amount paid to each initiative petition circulator; and

(ii) need not report the name or address of the circulator.

(3) (a) As used in this Subsection (3), "received" means:

(i) for a cash contribution, that the cash is given to a political issues committee;

(ii) for a contribution that is a negotiable instrument or check, that the negotiable instrument or check is negotiated; and

(iii) for any other type of contribution, that any portion of the contribution's benefit inures to the political issues committee.

(b) A political issues committee shall report each contribution to the lieutenant governor within 30 days after the contribution is received.

CHAPTER 389**H. B. 124**

Passed March 12, 2015
 Approved March 31, 2015
 Effective July 1, 2015

**EDUCATION BACKGROUND
 CHECK AMENDMENTS**

Chief Sponsor: Stephen G. Handy
 Senate Sponsor: Ann Millner

LONG TITLE**General Description:**

This bill modifies provisions regarding criminal background checks.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ clarifies and amends background check provisions for licensed educators and employees or volunteers who work at local education agencies and certain private schools;
- ▶ amends the Public Safety Code to allow certain qualifying entities to request that the Bureau of Criminal Identification within the Department of Public Safety (bureau) register fingerprints taken for the purpose of conducting a criminal background check with certain systems;
- ▶ amends background check provisions for charter school governing board members;
- ▶ requires an entity that is authorized to request a background check under the provisions of this bill (authorized entity) to register fingerprints of certain individuals with certain systems for ongoing monitoring;
- ▶ requires the bureau to notify an authorized entity when a new entry is made against an individual whose fingerprints are registered with certain systems regarding any alleged offense or a conviction, including a plea in abeyance;
- ▶ removes the requirement that a local education agency or qualifying private school require certain individuals to periodically submit to a criminal background check;
- ▶ provides that authorized entities may only consider certain offenses when making employment, appointment, or licensing decisions;
- ▶ requires certain individuals to self-report criminal history information to authorized entities in accordance with rules established by the State Board of Education;
- ▶ requires the State Board of Education and the bureau to collaborate to provide training to authorized entities;
- ▶ requires the State Board of Education to update certain rules;
- ▶ requires a local school board or charter school governing board to update certain policies;
- ▶ requires the legislative auditor general to issue a report; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

- 53-10-108, as last amended by Laws of Utah 2014, Chapters 79 and 377
 53A-1a-504, as repealed and reenacted by Laws of Utah 2014, Chapter 363
 53A-1a-512.5, as repealed and reenacted by Laws of Utah 2010, Chapter 362
 53A-1a-705, as last amended by Laws of Utah 2009, Chapter 197
 53A-6-104.1, as enacted by Laws of Utah 2008, Chapter 145
 53A-6-104.5, as last amended by Laws of Utah 2004, Chapter 19
 53A-6-109, as repealed and reenacted by Laws of Utah 1999, Chapter 108
 53A-6-306, as last amended by Laws of Utah 2010, Chapter 283
 53A-6-403, as enacted by Laws of Utah 1999, Chapter 108
 53A-6-404, as last amended by Laws of Utah 2000, Chapter 103
 53A-29-104, as enacted by Laws of Utah 1996, Chapter 73
 53B-16-404, as enacted by Laws of Utah 1996, Chapter 73
 78A-6-1105, as last amended by Laws of Utah 2009, Chapter 148

ENACTS:

- 53A-15-1501, Utah Code Annotated 1953
 53A-15-1502, Utah Code Annotated 1953
 53A-15-1503, Utah Code Annotated 1953
 53A-15-1504, Utah Code Annotated 1953
 53A-15-1505, Utah Code Annotated 1953
 53A-15-1506, Utah Code Annotated 1953
 53A-15-1507, Utah Code Annotated 1953
 53A-15-1508, Utah Code Annotated 1953
 53A-15-1509, Utah Code Annotated 1953
 53A-15-1510, Utah Code Annotated 1953

REPEALS AND REENACTS:

- 53A-6-401, as last amended by Laws of Utah 2010, Chapter 362

REPEALS:

- 53A-3-410, as last amended by Laws of Utah 2010, Chapter 362

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

Section 1. Section 53-10-108 is amended to read:

53-10-108. Restrictions on access, use, and contents of division records -- Limited use of records for employment purposes -- Challenging accuracy of records -- Usage fees -- Missing children records -- Penalty for misuse of records.

(1) As used in this section:

(a) "FBI Rap Back System" means the rap back system maintained by the Federal Bureau of Investigation.

(b) "Rap back system" means a system that enables authorized entities to receive ongoing

status notifications of any criminal history reported on individuals whose fingerprints are registered in the system.

(c) “WIN Database” means the Western Identification Network Database that consists of eight western states sharing one electronic fingerprint database.

[~~(1)~~] (2) Dissemination of information from a criminal history record or warrant of arrest information from division files is limited to:

(a) criminal justice agencies for purposes of administration of criminal justice and for employment screening by criminal justice agencies;

(b) noncriminal justice agencies or individuals for any purpose authorized by statute, executive order, court rule, court order, or local ordinance;

(c) agencies or individuals for the purpose of obtaining required clearances connected with foreign travel or obtaining citizenship;

(d) (i) agencies or individuals pursuant to a specific agreement with a criminal justice agency to provide services required for the administration of criminal justice; and

(ii) the agreement shall specifically authorize access to data, limit the use of the data to purposes for which given, and ensure the security and confidentiality of the data;

(e) agencies or individuals for the purpose of a preplacement adoptive study, in accordance with the requirements of Sections 78B-6-128 and 78B-6-130;

(f) (i) agencies and individuals as the commissioner authorizes for the express purpose of research, evaluative, or statistical activities pursuant to an agreement with a criminal justice agency; and

(ii) private security agencies through guidelines established by the commissioner for employment background checks for their own employees and prospective employees;

(g) a qualifying entity for employment background checks for their own employees and persons who have applied for employment with the qualifying entity; and

(h) other agencies and individuals as the commissioner authorizes and finds necessary for protection of life and property and for offender identification, apprehension, and prosecution pursuant to an agreement.

[~~(2)~~] (3) An agreement under Subsection [~~(1)~~] (2)(f) or [~~(1)~~] (2)(h) shall specifically authorize access to data, limit the use of data to research, evaluative, or statistical purposes, preserve the anonymity of individuals to whom the information relates, and ensure the confidentiality and security of the data.

[~~(3)~~] (4) (a) Before requesting information under Subsection [~~(1)~~] (2)(g), a qualifying entity must

obtain a signed waiver from the person whose information is requested.

(b) The waiver must notify the signee:

(i) that a criminal history background check will be conducted;

(ii) who will see the information; and

(iii) how the information will be used.

(c) Information received by a qualifying entity under Subsection [~~(1)~~] (2)(g) may only be:

(i) available to persons involved in the hiring or background investigation of the employee; and

(ii) used for the purpose of assisting in making an employment or promotion decision.

(d) A person who disseminates or uses information obtained from the division under Subsection [~~(1)~~] (2)(g) for purposes other than those specified under Subsection [~~(3)~~] (4)(c), in addition to any penalties provided under this section, is subject to civil liability.

(e) A qualifying entity that obtains information under Subsection [~~(1)~~] (2)(g) shall provide the employee or employment applicant an opportunity to:

(i) review the information received as provided under Subsection [~~(8)~~] (9); and

(ii) respond to any information received.

(f) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules to implement this Subsection [~~(3)~~] (4).

[~~(g) (i) The applicant fingerprint card fee under Subsection (1)(g) is \$20.~~]

[~~(ii) The name check fee under Subsection (1)(g) is \$15.~~]

[~~(iii) These fees remain in effect until changed by the division through the process under Section 63J-1-504.~~]

[~~(iv) Funds generated under Subsections (3)(g)(i), (3)(g)(ii), and (8)(b) shall be deposited in the General Fund as a dedicated credit by the department to cover the costs incurred in providing the information.~~]

[~~(h)~~] (g) The division or its employees are not liable for defamation, invasion of privacy, negligence, or any other claim in connection with the contents of information disseminated under Subsection [~~(1)~~] (2)(g).

[~~(4)~~] (5) (a) Any criminal history record information obtained from division files may be used only for the purposes for which it was provided and may not be further disseminated, except under Subsection [~~(4)~~] (5)(b), (c), or (d).

(b) A criminal history provided to an agency pursuant to Subsection [~~(1)~~] (2)(e) may be provided by the agency to the person who is the subject of the history, another licensed child-placing agency, or the attorney for the adoptive parents for the purpose of facilitating an adoption.

(c) A criminal history of a defendant provided to a criminal justice agency under Subsection ~~[(4)]~~ (2)(a) may also be provided by the prosecutor to a defendant's defense counsel, upon request during the discovery process, for the purpose of establishing a defense in a criminal case.

(d) A public transit district, as described in Title 17B, Chapter 2a, Part 8, Public Transit District Act, that is under contract with a state agency to provide services may, for the purposes of complying with Subsection 62A-5-103.5(7), provide a criminal history record to the state agency or the agency's designee.

~~[(5)]~~ (6) The division may not disseminate criminal history record information to qualifying entities under Subsection ~~[(4)]~~ (2)(g) regarding employment background checks if the information is related to charges:

- (a) that have been declined for prosecution;
- (b) that have been dismissed; or
- (c) regarding which a person has been acquitted.

~~[(6)]~~ (7) (a) This section does not preclude the use of the division's central computing facilities for the storage and retrieval of criminal history record information.

(b) This information shall be stored so it cannot be modified, destroyed, or accessed by unauthorized agencies or individuals.

~~[(7)]~~ (8) Direct access through remote computer terminals to criminal history record information in the division's files is limited to those agencies authorized by the commissioner under procedures designed to prevent unauthorized access to this information.

~~[(8)]~~ (9) (a) The commissioner shall establish procedures to allow an individual right of access to review and receive a copy of the individual's criminal history report.

(b) A processing fee for the right of access service, including obtaining a copy of the individual's criminal history report under Subsection ~~[(8)]~~ (9)(a) is \$15. This fee remains in effect until changed by the commissioner through the process under Section 63J-1-504.

(c) (i) The commissioner shall establish procedures for an individual to challenge the completeness and accuracy of criminal history record information contained in the division's computerized criminal history files regarding that individual.

(ii) These procedures shall include provisions for amending any information found to be inaccurate or incomplete.

~~[(9)]~~ (10) The private security agencies as provided in Subsection ~~[(4)]~~ (2)(f)(ii):

- (a) shall be charged for access; and

(b) shall be registered with the division according to rules made by the division under Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

~~[(40)]~~ (11) Before providing information requested under this section, the division shall give priority to criminal justice agencies needs.

~~[(11)]~~ (12) (a) It is a class B misdemeanor for a person to knowingly or intentionally access, use, disclose, or disseminate a record created, maintained, or to which access is granted by the division or any information contained in a record created, maintained, or to which access is granted by the division for a purpose prohibited or not permitted by statute, rule, regulation, or policy of a governmental entity.

(b) A person who discovers or becomes aware of any unauthorized use of records created or maintained, or to which access is granted by the division shall inform the commissioner and the director of the Utah Bureau of Criminal Identification of the unauthorized use.

(13) (a) Subject to Subsection (13)(b), a qualifying entity or an entity described in Subsection (2)(b) may request that the division register fingerprints taken for the purpose of conducting current and future criminal background checks under this section with:

- (i) the WIN Database rap back system, or any successor system;
- (ii) the FBI Rap Back System; or
- (iii) a system maintained by the division.

(b) A qualifying entity or an entity described in Subsection (2)(b) may only make a request under Subsection (13)(a) if the entity:

- (i) has the authority through state or federal statute or federal executive order;
- (ii) obtains a signed waiver from the individual whose fingerprints are being registered; and
- (iii) establishes a privacy risk mitigation strategy to ensure that the entity only receives notifications for individuals with whom the entity maintains an authorizing relationship.

(14) The division is authorized to submit fingerprints to the FBI Rap Back System to be retained in the FBI Rap Back System for the purpose of being searched by future submissions to the FBI Rap Back System, including latent fingerprint searches.

(15) (a) (i) The applicant fingerprint card fee under Subsection (2) is \$20.

(ii) The name check fee under Subsection (2) is \$15.

(iii) The fee to register fingerprints under Subsection (13)(a)(i) is \$5.

(iv) The fees described in this Subsection (15)(a) remain in effect until changed by the division through the process under Section 63J-1-504.

(b) Funds generated under this Subsection (15) shall be deposited into the General Fund as a

dedicated credit by the department to cover the costs incurred in providing the information.

(c) The division may collect fees charged by an outside agency for services required under this section.

Section 2. Section 53A-1a-504 is amended to read:

53A-1a-504. Charter school application -- Applicants -- Contents -- Expansion.

(1) (a) An application to establish a charter school may be submitted by:

- (i) an individual;
- (ii) a group of individuals; or

(iii) a nonprofit legal entity organized under Utah law.

(b) An authorized charter school may apply under this chapter for a charter from another charter school authorizer.

(2) A charter school application shall include:

(a) the purpose and mission of the school;

(b) except for a charter school authorized by a local school board, a statement that, after entering into a charter agreement, the charter school will be organized and managed under Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act;

(c) a description of the governance structure of the school, including:

(i) a list of the governing board members that describes the qualifications of each member; and

(ii) an assurance that the applicant shall, within 30 days of authorization, provide the authorizer with the results of a background check for each member;

(d) a description of the target population of the school that includes:

(i) the projected maximum number of students the school proposes to enroll;

(ii) the projected school enrollment for each of the first three years of school operation; and

(iii) the ages or grade levels the school proposes to serve;

(e) academic goals;

(f) qualifications and policies for school employees, including policies that:

(i) require completion of a comply with the criminal background check for teachers requirements described in Section 53A-1a-512.5;

(ii) require employee evaluations; and

(iii) address employment of relatives within the charter school;

(g) a description of how the charter school will provide, as required by state and federal law, special education and related services;

(h) for a public school converting to charter status, arrangements for:

(i) students who choose not to continue attending the charter school; and

(ii) teachers who choose not to continue teaching at the charter school;

(i) a statement that describes the charter school's plan for establishing the charter school's facilities, including:

(i) whether the charter school intends to lease or purchase the charter school's facilities; and

(ii) financing arrangements;

(j) a market analysis of the community the school plans to serve;

(k) a capital facility plan;

(l) a business plan;

(m) other major issues involving the establishment and operation of the charter school; and

(n) the signatures of the governing board members of the charter school.

(3) A charter school authorizer may require a charter school application to include:

(a) the charter school's proposed:

(i) curriculum;

(ii) instructional program; or

(iii) delivery methods;

(b) a method for assessing whether students are reaching academic goals, including, at a minimum, participation in the Utah Performance Assessment System for Students under Chapter 1, Part 6, Achievement Tests;

(c) a proposed calendar;

(d) sample policies;

(e) a description of opportunities for parental involvement;

(f) a description of the school's administrative, supervisory, or other proposed services that may be obtained through service providers; or

(g) other information that demonstrates an applicant's ability to establish and operate a charter school.

(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Board of Education shall make rules regarding the expansion of a charter school, including establishing a satellite campus, that provide:

(a) requirements for a charter school to apply and qualify for expansion; and

(b) procedures and deadlines for the application process.

Section 3. Section 53A-1a-512.5 is amended to read:

53A-1a-512.5. Criminal background checks on school personnel.

The following individuals are required to submit to a criminal background check and ongoing monitoring as provided in Section ~~[53A-3-410]~~ 53A-15-1503:

(1) an employee of a charter school who does not hold a current Utah educator license issued by the State Board of Education under Title 53A, Chapter 6, Educator Licensing and Professional Practices Act;

(2) a volunteer for a charter school who is given significant unsupervised access to a student in connection with the volunteer's assignment; ~~[øø]~~

(3) a contract employee, as defined in Section ~~[53A-3-410]~~ 53A-15-1502, who works at a charter school~~[-];~~ and

(4) a charter school governing board member.

Section 4. Section 53A-1a-705 is amended to read:

53A-1a-705. Eligible private schools.

(1) To be eligible to enroll a scholarship student, a private school shall:

(a) have a physical location in Utah where the scholarship students attend classes and have direct contact with the school's teachers;

(b) (i) (A) obtain an audit and report from a licensed independent certified public accountant that conforms with the following requirements:

(I) the audit shall be performed in accordance with generally accepted auditing standards;

(II) the financial statements shall be presented in accordance with generally accepted accounting principles; and

(III) the audited financial statements shall be as of a period within the last 12 months; or

(B) contract with a licensed independent certified public accountant to perform an agreed upon procedure as follows:

(I) the agreed upon procedure shall be to determine that the private school has adequate working capital to maintain operations for the first full year; and

(II) working capital shall be calculated by subtracting current liabilities from current assets; and

(ii) submit the audit report or report of the agreed upon procedure to the board when the private school applies to accept scholarship students;

(c) comply with the antidiscrimination provisions of 42 U.S.C. Sec. 2000d;

(d) meet state and local health and safety laws and codes;

(e) disclose to the parent of each prospective student, before the student is enrolled, the special education services that will be provided to the student, including the cost of those services;

(f) (i) administer an annual assessment of each scholarship student's academic progress;

(ii) report the results of the assessment to the student's parent; and

(iii) make the results available to the assessment team evaluating the student pursuant to Subsection 53A-1a-704(6);

(g) employ or contract with teachers who:

(i) hold baccalaureate or higher degrees;

(ii) have at least three years of teaching experience in public or private schools; or

(iii) have the necessary special skills, knowledge, or expertise that qualifies them to provide instruction:

(A) in the subjects taught; and

(B) to the special needs students taught; ~~[and]~~

(h) require the following individuals to submit to a criminal background check and ongoing monitoring, in accordance with Section 53A-15-1503, as a condition for employment or appointment:

(i) an employee who does not hold a current Utah educator license issued by the board under Title 53A, Chapter 6, Educator Licensing and Professional Practices Act;

(ii) a contract employee; and

(iii) a volunteer who is given significant unsupervised access to a student in connection with the volunteer's assignment; and

~~[(h)]~~ (i) provide to parents the relevant credentials of the teachers who will be teaching their students.

(2) A private school is not eligible to enroll scholarship students if:

(a) the audit report submitted under Subsection (1)(b) contains a going concern explanatory paragraph; or

(b) the report of the agreed upon procedure submitted under Subsection (1)(b) shows that the private school does not have adequate working capital to maintain operations for the first full year, as determined under Subsection (1)(b).

(3) A home school is not eligible to enroll scholarship students.

(4) Residential treatment facilities licensed by the state are not eligible to enroll scholarship students.

(5) A private school intending to enroll scholarship students shall submit an application to the board by May 1 of the school year preceding the school year in which it intends to enroll scholarship students.

(6) The board shall:

(a) approve a private school's application to enroll scholarship students, if the private school meets the eligibility requirements of this section; and

(b) make available to the public a list of the eligible private schools.

(7) An approved eligible private school that changes ownership shall submit a new application to the board and demonstrate that it continues to meet the eligibility requirements of this section.

Section 5. Section 53A-6-104.1 is amended to read:

53A-6-104.1. Reinstatement of a license.

(1) An educator who previously held a license and whose license has expired may have the license reinstated by:

(a) filing an application with the board on the form prescribed by the board;

(b) paying the fee required by Section 53A-6-105; and

(c) submitting to a criminal background check as required by Section ~~[53A-6-401]~~ 53A-15-1504.

(2) Upon successful completion of the criminal background check and verification that the applicant's previous license had not been revoked, suspended, or surrendered, the board shall reinstate the license.

(3) An educator whose license is reinstated may not be required to obtain professional development not required of other educators with the same number of years of experience, except as provided in Subsection (4).

(4) The principal of the school at which an educator whose license is reinstated is employed shall provide information and training, based on the educator's experience and education, that will assist the educator in performing the educator's assigned position.

(5) The procedures for reinstating a license as provided in this section do not apply to an educator's license that expires while the educator is employed in a position requiring the license.

Section 6. Section 53A-6-104.5 is amended to read:

53A-6-104.5. Licensing by competency.

(1) A competency-based license to teach may be issued based on the demonstrated competence of a teacher as provided in this section.

(2) A local school board or charter school may request, and the State Board of Education shall grant, upon receipt of documentation from the local school board or charter school verifying the person's qualifications as specified in this section, a competency-based license to a person who meets the qualifications specified in this section and submits to a criminal background check as required in Section ~~[53A-6-401]~~ 53A-15-1504.

(3) A local school board or charter school may request a competency-based license if the candidate meets the following qualifications:

(a) a license candidate who teaches one or more core academic subjects in an elementary school shall:

(i) hold at least a bachelor's degree; and

(ii) have demonstrated, by passing a rigorous state test, subject knowledge and teaching skills in reading, writing, mathematics, and other areas of the basic elementary school curriculum;

(b) a license candidate who teaches one or more core academic subjects in a middle or secondary school shall:

(i) hold at least a bachelor's degree; and

(ii) have demonstrated a high level of competency in each of the academic subjects in which the teacher teaches by:

(A) passing a rigorous state academic subject test in each of the academic subjects in which the teacher teaches; or

(B) successful completion, in each of the academic subjects in which the teacher teaches, of an academic major, a graduate degree, course work equivalent to an undergraduate academic major, or advanced certification or credentialing; or

(c) a license candidate who teaches subjects other than a core academic subject in an elementary, middle, or high school shall:

(i) hold a bachelor's degree, associate's degree, or skill certification; and

(ii) have skills, talents, or abilities, as evaluated by the employing entity, that make the person suited for the teaching position.

(4) A school district or charter school:

(a) shall monitor and assess the performance of each teacher holding a competency-based license; and

(b) may recommend that the competency-based license holder's training and assessment be reviewed by the Utah State Office of Education for a level 1 license.

Section 7. Section 53A-6-109 is amended to read:

53A-6-109. Substitute teachers.

(1) A substitute teacher need not hold a license to teach, but school districts are encouraged to hire licensed personnel as substitutes when available.

(2) A person must submit to a background check under Section ~~[53A-3-419]~~ 53A-15-1503 prior to employment as a substitute teacher.

(3) A teacher's position in the classroom may not be filled by an unlicensed substitute ~~[teachers]~~ teacher for more than a total of 20 days during any school year unless licensed personnel are not available.

(4) A person who is ineligible to hold a license for any reason other than professional preparation may not serve as a substitute teacher.

Section 8. Section 53A-6-306 is amended to read:

53A-6-306. Purpose, powers, and duties of UPPAC.

(1) UPPAC shall:

(a) adopt rules consistent with applicable law and board rules to carry out its responsibilities under this chapter;

(b) make recommendations to the board and professional organizations of educators:

(i) concerning standards of professional performance, competence, and ethical conduct for persons holding licenses issued by the board; and

(ii) for the improvement of the education profession;

(c) establish procedures for receiving and acting upon reports or allegations regarding immoral, unprofessional, or incompetent conduct, unfitness for duty, or other violations of standards of ethical conduct, performance, or professional competence;

(d) investigate any allegation of sexual abuse of a student or a minor by an educator; and

(e) establish the manner in which hearings are conducted and reported, and recommendations are submitted to the board for its action.

(2) (a) UPPAC may conduct or authorize investigations relating to any matter before UPPAC.

(b) Those investigations shall be independent of and separate from any criminal investigation.

(c) In conducting an investigation UPPAC or an investigator operating under UPPAC authorization may:

(i) administer oaths and issue subpoenas which may be enforced through the state district courts;

(ii) receive any evidence related to an alleged offense, including sealed or expunged records released to the board under Section 77-40-109; and

(iii) where reasonable cause exists, initiate a criminal background check on a license holder.

(d) (i) A license holder shall receive written notice if a fingerprint check is required as a part of the background check.

(ii) Fingerprints of the individual shall be taken, and the Law Enforcement and Technical Services Division of the Department of Public Safety shall release the individual's full record, as shown on state, regional, and national records, to UPPAC.

(iii) UPPAC shall pay the cost of the background check except as provided under Section ~~[53A-6-401]~~ 53A-15-1504, and the money collected shall be credited to the Law Enforcement and Technical Services Division to offset its expenses.

(3) UPPAC is entitled to a rebuttable evidentiary presumption that a person has committed a sexual offense against a minor child if the person has:

(a) after having had a reasonable opportunity to contest the allegation, been found pursuant to a criminal, civil, or administrative action to have committed a sexual offense against a minor child;

(b) pled guilty to a reduced charge in the face of a charge of having committed a sexual offense against a minor child, entered a plea of no contest, entered into a plea in abeyance resulting in subsequent dismissal of such a charge, or failed to defend himself against such a charge when given reasonable opportunity to do so; or

(c) voluntarily surrendered a license or certificate or allowed a license or certificate to lapse in the face of a charge of having committed a sexual offense against a minor child.

(4) In resolving a complaint UPPAC may:

(a) dismiss the complaint;

(b) issue a warning or reprimand;

(c) issue an order of probation requiring an educator to comply with specific conditions in order to retain a license;

(d) enter into a written agreement requiring an educator to comply with certain conditions;

(e) recommend board action such as revocation or suspension of a license or restriction or prohibition of licensure; or

(f) take other appropriate action.

(5) UPPAC may not:

(a) participate as a party in any dispute relating to negotiations between a school district or charter school and its educators;

(b) take action against an educator without giving the individual an opportunity for a fair hearing to contest the allegations upon which the action would be based; or

(c) take action against an educator unless it finds that the action or the failure of the educator to act impairs the educator's ability to perform the functions of the educator's position.

Section 9. Section 53A-6-401 is repealed and reenacted to read:

53A-6-401. Background checks.

In accordance with Section 53A-15-1504, the State Board of Education shall require a license applicant to submit to a criminal background check and ongoing monitoring as a condition for licensing.

Section 10. Section 53A-6-403 is amended to read:

53A-6-403. Office tie-in with the Criminal Investigations and Technical Services Division.

(1) The office shall:

(a) be an online terminal agency with the Department of Public Safety's Criminal

Investigations and Technical Services Division under Section 53-10-108; and

(b) provide relevant information concerning current or prospective employees or volunteers upon request to other school officials as provided in Section 53A-6-402.

(2) The cost of the online service shall be borne by the entity making the inquiry [~~using funds available to the entity, which may include funds authorized under Section 53A-6-401~~].

Section 11. Section 53A-6-404 is amended to read:

53A-6-404. Certification in other jurisdictions -- Impact on licensing in Utah.

(1) An applicant for a license, renewal of a license, or reinstatement of a license shall provide the administrator of teacher licensing with an affidavit, stating under oath the current status of any certificate, license, or other authorization required for a professional position in education, which the applicant holds or has held in any other jurisdiction.

(2) An applicant for a license who has held a teacher's license in any other jurisdiction or who graduated from an institution of higher education in another state shall also provide the administrator of teacher licensing with:

(a) a complete listing of the higher education institutions attended by the applicant, whether the applicant's enrollment or eligibility for completion of a program was terminated by the institution, and, if so, the reasons for termination;

(b) a complete list of prior school employers; and

(c) a release on a form provided by the administrator permitting the office to obtain records from other jurisdictions and from institutions of higher education attended by the applicant, including expunged or otherwise protected records, relating to any offense described substantially in the same language as in [~~Subsection 53A-6-401(5)] Section 53A-15-1506.~~

(3) If the applicant's certificate, license, or authorization as an educator in any other jurisdiction is under investigation, has expired or been surrendered, suspended or revoked, or is currently not valid for any other reason, the office may not grant the requested license, renewal, or reinstatement until it has received confirmation from the administrator of professional certification in that jurisdiction that the applicant would be eligible for certification or licensure in that jurisdiction.

(4) The office may not withhold a license for the sole reason that the applicant would be ineligible for certification, licensure, or authorization in the jurisdiction referred to in Subsection (3) because of failure to meet current requirements in that jurisdiction relating to education, time in service, or residence.

Section 12. Section 53A-15-1501 is enacted to read:

Part 15. Background Checks

53A-15-1501. Title.

This part is known as "Background Checks."

Section 13. Section 53A-15-1502 is enacted to read:

53A-15-1502. Definitions.

As used in this part:

(1) "Authorized entity" means an LEA, qualifying private school, or the State Board of Education that is authorized to request a background check and ongoing monitoring under this part.

(2) "Bureau" means the Bureau of Criminal Identification within the Department of Public Safety created in Section 53-10-201.

(3) "Contract employee" means an employee of a staffing service who works at a public or private school under a contract between the staffing service and the public or private school.

(4) "LEA" means a school district, charter school, or the Utah Schools for the Deaf and the Blind.

(5) (a) "License applicant" means an applicant for a license issued by the State Board of Education under Title 53A, Chapter 6, Educator Licensing and Professional Practices Act.

(b) "License applicant" includes an applicant for reinstatement of an expired, lapsed, suspended, or revoked license.

(6) "Non-licensed employee" means an employee of an LEA or qualifying private school that does not hold a current Utah educator license issued by the State Board of Education under Title 53A, Chapter 6, Educator Licensing and Professional Practices Act.

(7) "Personal identifying information" means:

(a) current name, former names, nicknames, and aliases;

(b) date of birth;

(c) address;

(d) telephone number;

(e) driver license number or other government-issued identification number;

(f) Social Security number; and

(g) fingerprints.

(8) "Qualifying private school" means a private school that enrolls students under Title 53A, Chapter 1a, Part 7, Carson Smith Scholarships for Students with Special Needs Act.

(9) "Rap back system" means a system that enables authorized entities to receive ongoing status notifications of any criminal history reported on individuals whose fingerprints are registered in the system.

(10) “WIN Database” means the Western Identification Network Database that consists of eight western states sharing one electronic fingerprint database.

Section 14. Section 53A-15-1503 is enacted to read:

53A-15-1503. Background checks for non-licensed employees, contract employees, volunteers, and charter school governing board members.

(1) An LEA or qualifying private school shall:

(a) require the following individuals to submit to a criminal background check and ongoing monitoring as a condition for employment or appointment:

- (i) a non-licensed employee;
- (ii) a contract employee;
- (iii) a volunteer who will be given significant unsupervised access to a student in connection with the volunteer’s assignment; and

(iv) a charter school governing board member;

(b) collect the following from an individual required to submit to a background check under Subsection (1)(a):

- (i) personal identifying information;
- (ii) subject to Subsection (2), a fee described in Subsection 53-10-108(15); and
- (iii) consent, on a form specified by the LEA or qualifying private school, for:

(A) an initial background check upon submission of the application; and

(B) retention of personal identifying information for ongoing monitoring through registration with the systems described in Section 53A-15-1505;

(c) submit the individual’s personal identifying information, including fingerprints, to the bureau for:

- (i) an initial background check; and
- (ii) ongoing monitoring through registration with the systems described in Section 53A-15-1505 if the results of the initial background check do not contain disqualifying criminal history information as determined by the LEA or qualifying private school in accordance with Section 53A-15-1506; and

(d) identify the appropriate privacy risk mitigation strategy that will be used to ensure that the LEA or qualifying private school only receives notifications for individuals with whom the LEA or qualifying private school maintains an authorizing relationship.

(2) An LEA or qualifying private school may not require an individual to pay the fee described in Subsection (1)(b)(ii) unless the individual:

- (a) has passed an initial review; and

(b) is one of a pool of no more than five candidates for the position.

(3) By September 1, 2018, an LEA or qualifying private school shall:

(a) collect the information described in Subsection (1)(b) from individuals:

(i) who were employed or appointed prior to July 1, 2015; and

(ii) with whom the LEA or qualifying private school currently maintains an authorizing relationship; and

(b) submit the information to the bureau for ongoing monitoring through registration with the systems described in Section 53A-15-1505.

(4) An LEA or qualifying private school that receives criminal history information about a licensed educator under Subsection 53A-15-1504(5) shall assess the employment status of the licensed educator as provided in Section 53A-15-1506.

(5) An LEA or qualifying private school may establish a policy to exempt an individual described in Subsections (1)(a)(i) through (iv) from ongoing monitoring under Subsection (1) if the individual is being temporarily employed or appointed.

Section 15. Section 53A-15-1504 is enacted to read:

53A-15-1504. Background checks for licensed educators.

The State Board of Education shall:

(1) require a license applicant to submit to a criminal background check and ongoing monitoring as a condition for licensing;

(2) collect the following from an applicant:

- (a) personal identifying information;
- (b) a fee described in Subsection 53-10-108(15); and

(c) consent, on a form specified by the State Board of Education, for:

- (i) an initial background check upon submission of the application;
- (ii) retention of personal identifying information for ongoing monitoring through registration with the systems described in Section 53A-15-1505; and

(iii) disclosure of any criminal history information to the individual’s employing LEA or qualifying private school;

(3) submit an applicant’s personal identifying information, including fingerprints, to the bureau for:

- (a) an initial background check; and
- (b) ongoing monitoring through registration with the systems described in Section 53A-15-1505 if the results of the initial background check do not contain disqualifying criminal history information as determined by the State Board of Education in accordance with Section 53A-15-1506;

(4) identify the appropriate privacy risk mitigation strategy that will be used to ensure that the board only receives notifications for individuals with whom the State Board of Education maintains an authorizing relationship;

(5) notify the employing LEA or qualifying private school upon receipt of any criminal history information reported on a licensed educator employed by the LEA or qualifying private school; and

(6) (a) collect the information described in Subsection (2) from individuals who were licensed prior to July 1, 2015, by the individual's next license renewal date; and

(b) submit the information to the bureau for ongoing monitoring through registration with the systems described in Section 53A-15-1505.

Section 16. Section 53A-15-1505 is enacted to read:

53A-15-1505. Bureau responsibilities.

The bureau shall:

(1) upon request from an authorized entity, register the fingerprints submitted by the authorized entity as part of a background check with:

(a) the WIN Database rap back system, or any successor system; and

(b) the rap back system maintained by the Federal Bureau of Investigation;

(2) notify an authorized entity when a new entry is made against an individual whose fingerprints are registered with the rap back systems described in Subsection (1) regarding:

(a) an alleged offense; or

(b) a conviction, including a plea in abeyance;

(3) assist authorized entities to identify the appropriate privacy risk mitigation strategy that is to be used to ensure that the authorized entity only receives notifications for individuals with whom the authorized entity maintains an authorizing relationship; and

(4) collaborate with the State Board of Education to provide training to authorized entities on the notification procedures and privacy risk mitigation strategies described in this part.

Section 17. Section 53A-15-1506 is enacted to read:

53A-15-1506. Due process for individuals--Review of criminal history information.

(1) (a) In accordance with Section 53-10-108, an authorized entity shall provide an individual an opportunity to review and respond to any criminal history information received under this part.

(b) If an authorized entity decides to disqualify an individual as a result of criminal history

information received under this part, an individual may request a review of:

(i) information received; and

(ii) the reasons for the disqualification.

(c) An authorized entity shall provide an individual described in Subsection (1)(b) with written notice of:

(i) the reasons for the disqualification; and

(ii) the individual's right to request a review of the disqualification.

(2) (a) An LEA or qualifying private school shall make decisions regarding criminal history information for the individuals subject to the background check requirements under Section 53A-15-1503 in accordance with:

(i) Subsection (3);

(ii) administrative procedures established by the LEA or qualifying private school; and

(iii) rules established by the State Board of Education.

(b) The State Board of Education shall make decisions regarding criminal history information for licensed educators in accordance with:

(i) Subsection (3);

(ii) Title 53A, Chapter 6, Educator Licensing and Professional Practices Act; and

(iii) rules established by the State Board of Education.

(3) When making decisions regarding initial employment, initial licensing, or initial appointment for the individuals subject to background checks under this part, an authorized entity shall consider:

(a) any convictions, including pleas in abeyance;

(b) any matters involving a felony; and

(c) any matters involving an alleged:

(i) sexual offense;

(ii) class A misdemeanor drug offense;

(iii) offense against the person under Title 76, Chapter 5, Offenses Against the Person;

(iv) class A misdemeanor property offense that is alleged to have occurred within the previous three years; and

(v) any other type of criminal offense, if more than one occurrence of the same type of offense is alleged to have occurred within the previous eight years.

Section 18. Section 53A-15-1507 is enacted to read:

53A-15-1507. Self-reporting requirement.

(1) Individuals subject to the background check requirements under this part shall self-report conviction, arrest, or offense information in accordance with rules established by the State Board of Education.

(2) An LEA shall report conviction, arrest, or offense information received from licensed educators under Subsection (1) to the State Board of Education in accordance with rules established by the State Board of Education.

Section 19. Section 53A-15-1508 is enacted to read:

53A-15-1508. Update criminal background check rules and policies.

On or before September 1, 2015:

(1) the board shall update the board's criminal background check rules consistent with this part; and

(2) an LEA shall update the LEA's criminal background check policies consistent with this part.

Section 20. Section 53A-15-1509 is enacted to read:

53A-15-1509. Training provided to authorized entities.

The board shall collaborate with the bureau to provide training to authorized entities on the provisions of this part.

Section 21. Section 53A-15-1510 is enacted to read:

53A-15-1510. Legislative audit.

After the conclusion of the 2018-2019 school year, subject to the prioritization of the Legislative Audit Subcommittee, the legislative auditor general shall conduct a review and issue a report on the extent to which the criminal background check procedures and ongoing monitoring described in this part adequately detect and identify the criminal histories of individuals who are employed by or volunteering in public schools.

Section 22. Section 53A-29-104 is amended to read:

53A-29-104. Internship programs -- Criminal background checks.

Officers and employees of a cooperating employer who will be given significant unsupervised access to a student in connection with the student's activities as an intern shall be considered to be a volunteer ~~[school workers solely]~~ for purposes of criminal background checks under Section ~~[53A-3-410]~~ 53A-15-1503.

Section 23. Section 53B-16-404 is amended to read:

53B-16-404. Internship programs -- Criminal background checks.

An institution of higher education shall require an officer or employee of the institution or a cooperating employer, who will be given significant unsupervised access to a minor student in connection with the student's activities as an intern, to submit to a criminal background check on the same basis as a volunteer ~~[school district workers]~~ under Section ~~[53A-3-410]~~ 53A-15-1503.

Section 24. Section 78A-6-1105 is amended to read:

78A-6-1105. Expungement of juvenile court record -- Petition -- Procedure.

(1) (a) A person who has been adjudicated under this chapter may petition the court for the expungement of the person's juvenile court record and any related records in the custody of a state agency, if:

(i) the person has reached 18 years of age; and

(ii) one year has elapsed from the date of termination of the continuing jurisdiction of the juvenile court or, if the person was committed to a secure youth corrections facility, one year from the date of the person's unconditional release from the custody of the Division of Juvenile Justice Services.

(b) The court may waive the requirements in Subsection (1)(a), if the court finds, and states on the record, the reason why the waiver is appropriate.

(c) The petitioner shall include in the petition any agencies known or alleged to have any documents related to the offense for which expungement is being sought.

(d) The petitioner shall include with the petition the original criminal history report obtained from the Bureau of Criminal Identification in accordance with the provisions of ~~[Subsection]~~ Section 53-10-108~~(8)~~.

(e) The petitioner shall send a copy of the petition to the county attorney or, if within a prosecution district, the district attorney.

(f) (i) Upon the filing of a petition, the court shall:

(A) set a date for a hearing;

(B) notify the county attorney or district attorney, and the agency with custody of the records at least 30 days prior to the hearing of the pendency of the petition; and

(C) notify the county attorney or district attorney, and the agency with records the petitioner is asking the court to expunge of the date of the hearing.

(ii) The court shall provide a victim with the opportunity to request notice of a petition for expungement. A victim shall receive notice of a petition for expungement at least 30 days prior to the hearing if, prior to the entry of an expungement order, the victim or, in the case of a child or a person who is incapacitated or deceased, the victim's next of kin or authorized representative, submits a written and signed request for notice to the court in the judicial district in which the crime occurred or judgment was entered. The notice shall include a copy of the petition and statutes and rules applicable to the petition.

(2) (a) At the hearing, the county attorney or district attorney, a victim, and any other person who may have relevant information about the petitioner may testify.

(b) In deciding whether to grant a petition for expungement, the court shall consider whether the

rehabilitation of the petitioner has been attained to the satisfaction of the court, taking into consideration the petitioner's response to programs and treatment, the petitioner's behavior subsequent to adjudication, and the nature and seriousness of the conduct.

(c) The court may order sealed all petitioner's records under the control of the juvenile court and any of petitioner's records under the control of any other agency or official pertaining to the petitioner's adjudicated juvenile court cases, including relevant related records contained in the Management Information System created by Section 62A-4a-1003 and the Licensing Information System created by Section 62A-4a-1005, if the court finds that:

(i) the petitioner has not, since the termination of the court's jurisdiction or [his] the petitioner's unconditional release from the Division of Juvenile Justice Services, been convicted of a:

(A) felony; or

(B) misdemeanor involving moral turpitude;

(ii) no proceeding involving a felony or misdemeanor is pending or being instituted against the petitioner; and

(iii) a judgment for restitution entered by the court on the conviction for which the expungement is sought has been satisfied.

(3) The petitioner shall be responsible for service of the order of expungement to all affected state, county, and local entities, agencies, and officials. To avoid destruction or sealing of the records in whole or in part, the agency or entity receiving the expungement order shall only expunge all references to the petitioner's name in the records pertaining to the petitioner's adjudicated juvenile court cases.

(4) Upon the entry of the order, the proceedings in the petitioner's case shall be considered never to have occurred and the petitioner may properly reply accordingly upon any inquiry in the matter. Inspection of the records may thereafter only be permitted by the court upon petition by the person who is the subject of the records, and only to persons named in the petition.

(5) The court may not expunge a juvenile court record if the record contains an adjudication of:

(a) Section 76-5-202, aggravated murder; or

(b) Section 76-5-203, murder.

(6) (a) A person whose juvenile court record consists solely of nonjudicial adjustments as provided in Section 78A-6-602 may petition the court for expungement of the person's record if the person:

(i) has reached 18 years of age; and

(ii) has completed the conditions of the nonjudicial adjustments.

(b) The court shall, without a hearing, order sealed all petitioner's records under the control of

the juvenile court and any of petitioner's records under the control of any other agency or official pertaining to the petitioner's nonjudicial adjustments.

Section 25. Repealer.

This bill repeals:

Section 53A-3-410, Criminal background checks on school personnel -- Notice -- Payment of costs -- Request for review.

Section 26. Effective date.

This bill takes effect on July 1, 2015.

CHAPTER 390**H. B. 140**

Passed March 2, 2015
 Approved March 31, 2015
 Effective March 31, 2015

SOVEREIGN LANDS AROUND BEAR LAKE

Chief Sponsor: R. Curt Webb
 Senate Sponsor: Scott K. Jenkins

LONG TITLE**General Description:**

This bill modifies provisions relating to activities on state lands surrounding Bear Lake.

Highlighted Provisions:

This bill:

- ▶ modifies the requirements of the Division of Forestry, Fire, and State Lands to issue a permit to a person to launch and retrieve a motorboat on state lands surrounding Bear Lake;
- ▶ modifies criminal provisions relating to the use of state lands; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

65A-2-6, as enacted by Laws of Utah 2013, Chapter 370
 65A-3-1, as last amended by Laws of Utah 2013, Chapter 370

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

Section 1. Section 65A-2-6 is amended to read:**65A-2-6. Permitted areas at Bear Lake for launching and retrieving watercraft -- Rulemaking authority.**

~~[(1) If a person owns property adjacent to state lands surrounding Bear Lake, the division shall issue a permit that allows the person to launch or retrieve a vessel in an area adjacent to the person's property.]~~

(1) As used in this section, "motorboat" means the same as that term is defined in Section 73-18-2.

(2) The division shall issue a permit to an applicant that allows the applicant to launch or retrieve a motorboat on state lands surrounding Bear Lake.

(3) A permit is required to launch or retrieve a motorboat on state lands surrounding Bear Lake.

(4) A permit authorizes a person to launch or retrieve a motorboat if:

(a) the person owns private property adjacent to state lands surrounding Bear Lake, or has legal right to occupy or use private property adjacent to state lands surrounding Bear Lake, and the person accesses the water from that private property; or

(b) the person accesses the water from a recorded point of public access that allows motor vehicle traffic.

~~[(2)] (5)~~ The division shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to administer ~~[Subsection (4)]~~ this section.

Section 2. Section 65A-3-1 is amended to read:**65A-3-1. Trespassing on state lands -- Penalties.**

(1) As used in this section:

(a) "Anchored" ~~[is as]~~ means the same as that term is defined in Section 73-18-2.

(b) "Beached" ~~[is as]~~ means the same as that term is defined in Section 73-18-2.

(c) "Motorboat" means the same as that term is defined in Section 73-18-2.

~~[(e)] (d)~~ "Vessel" ~~[is as]~~ means the same as that term is defined in Section 73-18-2.

(2) A person is guilty of a class B misdemeanor and liable for the civil damages prescribed in Subsection (4) if, without written authorization from the division, the person:

(a) removes, extracts, uses, consumes, or destroys any mineral resource, gravel, sand, soil, vegetation, or improvement on state lands;

(b) grazes livestock on state lands;

(c) uses, occupies, or constructs improvements or structures on state lands;

(d) uses or occupies state lands for more than 30 days after the cancellation or expiration of written authorization;

(e) knowingly and willfully uses state lands for commercial gain;

(f) appropriates, alters, injures, or destroys any historical, prehistorical, archaeological, or paleontological resource on state lands;

(g) starts a campfire or camps on the bed of a navigable lake or river except in a posted and designated area;

~~[(g)] (h)~~ camps on [the beds of navigable lakes or rivers] state lands, except in posted [and] or designated areas;

~~[(4)] (i)~~ camps on [sovereign land] state lands for longer than 15 consecutive days at the same location or within one mile of the same location;

~~[(4)] (j)~~ camps on [sovereign land] state lands for 15 consecutive days, and then returns to camp at the same location before 15 consecutive days have elapsed after the day on which the person left that location;

~~[(j)] (k)~~ leaves an anchored or beached vessel unattended for longer than 48 hours on sovereign land or navigable lakes or rivers;

~~[(4)] (l)~~ anchors or beaches a vessel for longer than 72 hours at the same location, on sovereign land or

navigable lakes or rivers, and then fails to move the vessel at least two miles from that location; or

~~(4)~~ (m) parks or operates motor vehicles on the beds of navigable lakes and rivers except in those areas;

(i) supervised by the Division of Parks and Recreation or ~~[other]~~ another state or local enforcement entity; and

(ii) which are posted as open to vehicle use.

(3) A person is guilty of a class C misdemeanor and liable for civil damages described in Subsection (4) if, on state lands surrounding Bear Lake and without written authorization of the division, the person:

(a) parks or operates a motor vehicle in an area on the exposed lake bed that is ~~[not]~~ specifically posted by the division as ~~[open]~~ closed for usage;

~~[(b) launches or retrieves a vessel in an area not specifically designated by the division as open for launching or retrieving a vessel;]~~

(b) camps, except in an area that is posted and designated as open to camping;

(c) exceeds a speed limit of ~~[15]~~ 10 miles per hour while operating a motor vehicle;

~~[(d) except as necessary while launching or retrieving a vessel in an area where the person is permitted to launch or retrieve a vessel;]~~

(d) drives recklessly while operating a motor vehicle;

(e) parks or operates a motor vehicle within an area between the water's edge and ~~[a line posted by the division;]~~ 100 feet of the water's edge except as necessary to:

~~[(e) except as allowed and posted by the division;]~~

(i) launch or retrieve a motorboat, if the person is permitted to launch or retrieve a motorboat;

(ii) transport an individual with limited mobility; or

(iii) deposit or retrieve equipment to a beach site;

(f) travels in a motor vehicle parallel to the water's edge:

(i) in areas designated by the division as closed;

(ii) a distance greater than 500 yards; or

(iii) for purposes other than travel to or from a beach site;

~~[(f)]~~ (g) parks or operates a motor vehicle between the hours of 10 p.m. and 7 a.m.; or

~~[(g)]~~ (h) starts a campfire or uses fireworks.

(4) A person who commits any act described in Subsection (2) or (3) is liable for damages in the amount of:

(a) three times the value of the mineral or other resource removed, destroyed, or extracted;

(b) three times the value of damage committed; or

(c) three times the consideration which would have been charged by the division for use of the land during the period of trespass.

(5) In addition to the damages described in Subsection (4), a person found guilty of a misdemeanor under Subsection (2) or (3) is subject to the penalties provided in Section 76-3-204.

(6) Money collected under this section shall be deposited in the fund in which similar revenues from that land would be deposited.

Section 3. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

CHAPTER 391**H. B. 158**

Passed February 23, 2015

Approved March 31, 2015

Effective May 12, 2015

DRILL STATUS TRAVEL AMENDMENTS

Chief Sponsor: Val L. Peterson
Senate Sponsor: Curtis S. Bramble

LONG TITLE**General Description:**

This bill amends the privilege from arrest or citation exceptions for members of the National Guard.

Highlighted Provisions:

This bill:

- ▶ limits the privilege from arrest by civil authorities during certain conditions requiring a member of the National Guard's presence;
- ▶ includes traveling to and from locations related to orders for a prompt response; and
- ▶ modifies the penalties for which a member of the National Guard can be arrested or cited when responding to orders for a prompt response.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

39-1-54, as repealed and reenacted by Laws of Utah 1988, Chapter 210

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

Section 1. Section 39-1-54 is amended to read:**39-1-54. Privilege from arrest or citation -- Exceptions.**

(1) ~~[The members]~~ A member of the National Guard ~~[are]~~ is privileged from arrest or citation by civil authorities ~~[during their attendance at drill parades or encampments, or in going to and returning from any of these activities.];~~

(a) during military formations, exercises, mobilizations, or other duty when exigent, perilous, emergency, or similar circumstances require the member's presence; and

(b) while traveling to and from military duty locations when exigent, perilous, emergency, or similar circumstances require the member's presence.

(2) This privilege does not extend to arrest or citation for:

- (a) treason;
- (b) any class A misdemeanor or felony;
- (c) breach of the peace; or
- (d) operation of a vehicle in a reckless manner or while under the influence of any drug or alcohol; ~~or~~].

~~[(c) offenses which under state law are class A misdemeanors or greater.]~~

CHAPTER 392**H. B. 166**

Passed February 26, 2015

Approved March 31, 2015

Effective May 12, 2015

ELECTION REVISIONS

Chief Sponsor: Robert M. Spendlove

Senate Sponsor: Wayne A. Harper

LONG TITLE**General Description:**

This bill amends ballot provisions.

Highlighted Provisions:

This bill:

- ▶ removes the name of a county clerk from the caption on a ballot; and
- ▶ makes technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

20A-1-102, as last amended by Laws of Utah 2014, Chapters 17, 31, 231, 362, and 391

20A-5-406, as last amended by Laws of Utah 2006, Chapter 326

20A-6-301, as last amended by Laws of Utah 2014, Chapters 17 and 169

*Be it enacted by the Legislature of the state of Utah:***Section 1. Section 20A-1-102 is amended to read:****20A-1-102. Definitions.**

As used in this title:

(1) "Active voter" means a registered voter who has not been classified as an inactive voter by the county clerk.

(2) "Automatic tabulating equipment" means apparatus that automatically examines and counts votes recorded on paper ballots or ballot sheets and tabulates the results.

(3) (a) "Ballot" means the storage medium, whether paper, mechanical, or electronic, upon which a voter records the voter's votes.

(b) "Ballot" includes ballot sheets, paper ballots, electronic ballots, and secrecy envelopes.

(4) "Ballot label" means the cards, papers, booklet, pages, or other materials that:

(a) contain the names of offices and candidates and statements of ballot propositions to be voted on; and

(b) are used in conjunction with ballot sheets that do not display that information.

(5) "Ballot proposition" means a question, issue, or proposal that is submitted to voters on the ballot for their approval or rejection including:

(a) an opinion question specifically authorized by the Legislature;

(b) a constitutional amendment;

(c) an initiative;

(d) a referendum;

(e) a bond proposition;

(f) a judicial retention question;

(g) an incorporation of a city or town; or

(h) any other ballot question specifically authorized by the Legislature.

(6) "Ballot sheet":

(a) means a ballot that:

(i) consists of paper or a card where the voter's votes are marked or recorded; and

(ii) can be counted using automatic tabulating equipment; and

(b) includes punch card ballots and other ballots that are machine-countable.

(7) "Bind," "binding," or "bound" means securing more than one piece of paper together with a staple or stitch in at least three places across the top of the paper in the blank space reserved for securing the paper.

(8) "Board of canvassers" means the entities established by Sections 20A-4-301 and 20A-4-306 to canvass election returns.

(9) "Bond election" means an election held for the purpose of approving or rejecting the proposed issuance of bonds by a government entity.

(10) "Book voter registration form" means voter registration forms contained in a bound book that are used by election officers and registration agents to register persons to vote.

(11) "Business reply mail envelope" means an envelope that may be mailed free of charge by the sender.

(12) "By-mail voter registration form" means a voter registration form designed to be completed by the voter and mailed to the election officer.

(13) "Canvass" means the review of election returns and the official declaration of election results by the board of canvassers.

(14) "Canvassing judge" means a poll worker designated to assist in counting ballots at the canvass.

(15) "Contracting election officer" means an election officer who enters into a contract or interlocal agreement with a provider election officer.

(16) "Convention" means the political party convention at which party officers and delegates are selected.

(17) "Counting center" means one or more locations selected by the election officer in charge of the election for the automatic counting of ballots.

(18) "Counting judge" means a poll worker designated to count the ballots during election day.

(19) "Counting poll watcher" means a person selected as provided in Section 20A-3-201 to witness the counting of ballots.

(20) "Counting room" means a suitable and convenient private place or room, immediately adjoining the place where the election is being held, for use by the poll workers and counting judges to count ballots during election day.

(21) "County officers" means those county officers that are required by law to be elected.

(22) "Date of the election" or "election day" or "day of the election":

(a) means the day that is specified in the calendar year as the day that the election occurs; and

(b) does not include:

- (i) deadlines established for absentee voting; or
- (ii) any early voting or early voting period as provided under Chapter 3, Part 6, Early Voting.

(23) "Elected official" means:

(a) a person elected to an office under Section 20A-1-303;

(b) a person who is considered to be elected to a municipal office in accordance with Subsection 20A-1-206(1)(c)(ii); or

(c) a person who is considered to be elected to a local district office in accordance with Subsection 20A-1-206(3)(c)(ii).

(24) "Election" means a regular general election, a municipal general election, a statewide special election, a local special election, a regular primary election, a municipal primary election, and a local district election.

(25) "Election Assistance Commission" means the commission established by Public Law 107-252, the Help America Vote Act of 2002.

(26) "Election cycle" means the period beginning on the first day persons are eligible to file declarations of candidacy and ending when the canvass is completed.

(27) "Election judge" means a poll worker that is assigned to:

(a) preside over other poll workers at a polling place;

(b) act as the presiding election judge; or

(c) serve as a canvassing judge, counting judge, or receiving judge.

(28) "Election officer" means:

(a) the lieutenant governor, for all statewide ballots and elections;

(b) the county clerk for:

(i) a county ballot and election; and

(ii) a ballot and election as a provider election officer as provided in Section 20A-5-400.1 or 20A-5-400.5;

(c) the municipal clerk for:

(i) a municipal ballot and election; and

(ii) a ballot and election as a provider election officer as provided in Section 20A-5-400.1 or 20A-5-400.5;

(d) the local district clerk or chief executive officer for:

(i) a local district ballot and election; and

(ii) a ballot and election as a provider election officer as provided in Section 20A-5-400.1 or 20A-5-400.5; or

(e) the business administrator or superintendent of a school district for:

(i) a school district ballot and election; and

(ii) a ballot and election as a provider election officer as provided in Section 20A-5-400.1 or 20A-5-400.5.

(29) "Election official" means any election officer, election judge, or poll worker.

(30) "Election results" means:

(a) for an election other than a bond election, the count of votes cast in the election and the election returns requested by the board of canvassers; or

(b) for bond elections, the count of those votes cast for and against the bond proposition plus any or all of the election returns that the board of canvassers may request.

(31) "Election returns" includes the pollbook, the military and overseas absentee voter registration and voting certificates, one of the tally sheets, any unprocessed absentee ballots, all counted ballots, all excess ballots, all unused ballots, all spoiled ballots, the ballot disposition form, and the total votes cast form.

(32) "Electronic ballot" means a ballot that is recorded using a direct electronic voting device or other voting device that records and stores ballot information by electronic means.

(33) "Electronic signature" means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

(34) (a) "Electronic voting device" means a voting device that uses electronic ballots.

(b) "Electronic voting device" includes a direct recording electronic voting device.

(35) "Inactive voter" means a registered voter who has:

(a) been sent the notice required by Section 20A-2-306; and

(b) failed to respond to that notice.

(36) “Inspecting poll watcher” means a person selected as provided in this title to witness the receipt and safe deposit of voted and counted ballots.

(37) “Judicial office” means the office filled by any judicial officer.

(38) “Judicial officer” means any justice or judge of a court of record or any county court judge.

(39) “Local district” means a local government entity under Title 17B, Limited Purpose Local Government Entities - Local Districts, and includes a special service district under Title 17D, Chapter 1, Special Service District Act.

(40) “Local district officers” means those local district board members that are required by law to be elected.

(41) “Local election” means a regular county election, a regular municipal election, a municipal primary election, a local special election, a local district election, and a bond election.

(42) “Local political subdivision” means a county, a municipality, a local district, or a local school district.

(43) “Local special election” means a special election called by the governing body of a local political subdivision in which all registered voters of the local political subdivision may vote.

(44) “Municipal executive” means:

(a) the mayor in the council-mayor form of government defined in Section 10-3b-102; or

(b) the mayor in the council-manager form of government defined in Subsection 10-3b-103(6).

(45) “Municipal general election” means the election held in municipalities and, as applicable, local districts on the first Tuesday after the first Monday in November of each odd-numbered year for the purposes established in Section 20A-1-202.

(46) “Municipal legislative body” means the council of the city or town in any form of municipal government.

(47) “Municipal office” means an elective office in a municipality.

(48) “Municipal officers” means those municipal officers that are required by law to be elected.

(49) “Municipal primary election” means an election held to nominate candidates for municipal office.

(50) “Official ballot” means the ballots distributed by the election officer to the poll workers to be given to voters to record their votes.

(51) “Official endorsement” means:

(a) the information on the ballot that identifies:

(i) the ballot as an official ballot;

(ii) the date of the election; and

(iii) (A) for a ballot prepared by an election officer other than a county clerk, the facsimile signature ~~[of the election officer; and]~~ required by Subsection 20A-6-401(1)(b)(iii); or

(B) for a ballot prepared by a county clerk, the words required by Subsection 20A-6-301(1)(c)(iii); and

(b) the information on the ballot stub that identifies:

(i) the poll worker’s initials; and

(ii) the ballot number.

(52) “Official register” means the official record furnished to election officials by the election officer that contains the information required by Section 20A-5-401.

(53) “Paper ballot” means a paper that contains:

(a) the names of offices and candidates and statements of ballot propositions to be voted on; and

(b) spaces for the voter to record the voter’s vote for each office and for or against each ballot proposition.

(54) “Pilot project” means the election day voter registration pilot project created in Section 20A-4-108.

(55) “Political party” means an organization of registered voters that has qualified to participate in an election by meeting the requirements of Chapter 8, Political Party Formation and Procedures.

(56) “Pollbook” means a record of the names of voters in the order that they appear to cast votes.

(57) “Polling place” means the building where voting is conducted.

(58) (a) “Poll worker” means a person assigned by an election official to assist with an election, voting, or counting votes.

(b) “Poll worker” includes election judges.

(c) “Poll worker” does not include a watcher.

(59) “Position” means a square, circle, rectangle, or other geometric shape on a ballot in which the voter marks the voter’s choice.

(60) “Primary convention” means the political party conventions held during the year of the regular general election.

(61) “Protective counter” means a separate counter, which cannot be reset, that:

(a) is built into a voting machine; and

(b) records the total number of movements of the operating lever.

(62) “Provider election officer” means an election officer who enters into a contract or interlocal agreement with a contracting election officer to conduct an election for the contracting election

officer's local political subdivision in accordance with Section 20A-5-400.1.

(63) "Provisional ballot" means a ballot voted provisionally by a person:

(a) whose name is not listed on the official register at the polling place;

(b) whose legal right to vote is challenged as provided in this title; or

(c) whose identity was not sufficiently established by a poll worker.

(64) "Provisional ballot envelope" means an envelope printed in the form required by Section 20A-6-105 that is used to identify provisional ballots and to provide information to verify a person's legal right to vote.

(65) "Qualify" or "qualified" means to take the oath of office and begin performing the duties of the position for which the person was elected.

(66) "Receiving judge" means the poll worker that checks the voter's name in the official register, provides the voter with a ballot, and removes the ballot stub from the ballot after the voter has voted.

(67) "Registration form" means a book voter registration form and a by-mail voter registration form.

(68) "Regular ballot" means a ballot that is not a provisional ballot.

(69) "Regular general election" means the election held throughout the state on the first Tuesday after the first Monday in November of each even-numbered year for the purposes established in Section 20A-1-201.

(70) "Regular primary election" means the election on the fourth Tuesday of June of each even-numbered year, to nominate candidates of political parties and candidates for nonpartisan local school board positions to advance to the regular general election.

(71) "Resident" means a person who resides within a specific voting precinct in Utah.

(72) "Sample ballot" means a mock ballot similar in form to the official ballot printed and distributed as provided in Section 20A-5-405.

(73) "Scratch vote" means to mark or punch the straight party ticket and then mark or punch the ballot for one or more candidates who are members of different political parties.

(74) "Secrecy envelope" means the envelope given to a voter along with the ballot into which the voter places the ballot after the voter has voted it in order to preserve the secrecy of the voter's vote.

(75) "Special election" means an election held as authorized by Section 20A-1-203.

(76) "Spoiled ballot" means each ballot that:

(a) is spoiled by the voter;

(b) is unable to be voted because it was spoiled by the printer or a poll worker; or

(c) lacks the official endorsement.

(77) "Statewide special election" means a special election called by the governor or the Legislature in which all registered voters in Utah may vote.

(78) "Stub" means the detachable part of each ballot.

(79) "Substitute ballots" means replacement ballots provided by an election officer to the poll workers when the official ballots are lost or stolen.

(80) "Ticket" means each list of candidates for each political party or for each group of petitioners.

(81) "Transfer case" means the sealed box used to transport voted ballots to the counting center.

(82) "Vacancy" means the absence of a person to serve in any position created by statute, whether that absence occurs because of death, disability, disqualification, resignation, or other cause.

(83) "Valid voter identification" means:

(a) a form of identification that bears the name and photograph of the voter which may include:

(i) a currently valid Utah driver license;

(ii) a currently valid identification card that is issued by:

(A) the state; or

(B) a branch, department, or agency of the United States;

(iii) a currently valid Utah permit to carry a concealed weapon;

(iv) a currently valid United States passport; or

(v) a currently valid United States military identification card;

(b) one of the following identification cards, whether or not the card includes a photograph of the voter:

(i) a valid tribal identification card;

(ii) a Bureau of Indian Affairs card; or

(iii) a tribal treaty card; or

(c) two forms of identification not listed under Subsection (83)(a) or (b) but that bear the name of the voter and provide evidence that the voter resides in the voting precinct, which may include:

(i) a current utility bill or a legible copy thereof, dated within the 90 days before the election;

(ii) a bank or other financial account statement, or a legible copy thereof;

(iii) a certified birth certificate;

(iv) a valid Social Security card;

(v) a check issued by the state or the federal government or a legible copy thereof;

(vi) a paycheck from the voter's employer, or a legible copy thereof;

(vii) a currently valid Utah hunting or fishing license;

(viii) certified naturalization documentation;

(ix) a currently valid license issued by an authorized agency of the United States;

(x) a certified copy of court records showing the voter's adoption or name change;

(xi) a valid Medicaid card, Medicare card, or Electronic Benefits Transfer Card;

(xii) a currently valid identification card issued by:

(A) a local government within the state;

(B) an employer for an employee; or

(C) a college, university, technical school, or professional school located within the state; or

(xiii) a current Utah vehicle registration.

(84) "Valid write-in candidate" means a candidate who has qualified as a write-in candidate by following the procedures and requirements of this title.

(85) "Voter" means a person who:

(a) meets the requirements for voting in an election;

(b) meets the requirements of election registration;

(c) is registered to vote; and

(d) is listed in the official register book.

(86) "Voter registration deadline" means the registration deadline provided in Section 20A-2-102.5.

(87) "Voting area" means the area within six feet of the voting booths, voting machines, and ballot box.

(88) "Voting booth" means:

(a) the space or compartment within a polling place that is provided for the preparation of ballots, including the voting machine enclosure or curtain; or

(b) a voting device that is free standing.

(89) "Voting device" means:

(a) an apparatus in which ballot sheets are used in connection with a punch device for piercing the ballots by the voter;

(b) a device for marking the ballots with ink or another substance;

(c) an electronic voting device or other device used to make selections and cast a ballot electronically, or any component thereof;

(d) an automated voting system under Section 20A-5-302; or

(e) any other method for recording votes on ballots so that the ballot may be tabulated by means of automatic tabulating equipment.

(90) "Voting machine" means a machine designed for the sole purpose of recording and tabulating votes cast by voters at an election.

(91) "Voting poll watcher" means a person appointed as provided in this title to witness the distribution of ballots and the voting process.

(92) "Voting precinct" means the smallest voting unit established as provided by law within which qualified voters vote at one polling place.

(93) "Watcher" means a voting poll watcher, a counting poll watcher, an inspecting poll watcher, and a testing watcher.

(94) "Western States Presidential Primary" means the election established in Chapter 9, Part 8, Western States Presidential Primary.

(95) "Write-in ballot" means a ballot containing any write-in votes.

(96) "Write-in vote" means a vote cast for a person whose name is not printed on the ballot according to the procedures established in this title.

Section 2. Section 20A-5-406 is amended to read:

20A-5-406. Delivery of ballots.

(1) In elections using paper ballots or ballot sheets:

(a) Each election officer shall deliver ballots to the poll workers of each voting precinct in his jurisdiction in an amount sufficient to meet voting needs during the voting period.

(b) The election officer shall:

(i) package and deliver the ballots to the election judges;

(ii) clearly mark the outside of the package with:

(A) the voting precinct and polling place for which it is intended; and

(B) the number of each type of ballots enclosed;

(iii) ensure that each package is delivered before commencement of voting to a poll worker in each precinct; and

(iv) obtain a receipt for the ballots from the poll worker to whom they were delivered that identifies the date and time when, and the manner in which, each ballot package was sent and delivered.

(c) The election officer shall prepare substitute ballots in the form required by this Subsection (1) if any poll worker reports that:

(i) the ballots were not delivered on time; or

(ii) after delivery, they were destroyed or stolen.

(d) The election officer shall:

(i) prepare the substitute ballots as nearly in the form prescribed for official ballots as practicable;

(ii) cause the word “substitute” to be printed in brackets;

(A) for a ballot prepared by an election officer other than a county clerk, immediately under the facsimile signature [of the clerk or recorder preparing the ballots;] required by Subsection 20A-6-401(1)(b)(iii); or

(B) for a ballot prepared by a county clerk, immediately under the words required by Subsection 20A-6-301(1)(c)(iii);

(iii) place the ballots in two separate packages, each package containing 1/2 the ballots sent to that voting precinct; and

(iv) place a signed statement in each package certifying that the substitute ballots found in the package were prepared and furnished by the election officer, and that the original ballots were not received, were destroyed, or were stolen.

(2) In elections using electronic ballots:

(a) Each election officer shall:

(i) deliver the voting devices and electronic ballots prior to the commencement of voting;

(ii) ensure that the voting devices, equipment, and electronic ballots are properly secured before commencement of voting; and

(iii) when electronic ballots or voting devices containing electronic ballots are delivered to a poll worker, obtain a receipt from the poll worker to whom they were delivered that identifies:

(A) the name of the poll worker receiving delivery; and

(B) the date and time when the ballots or voting devices containing the electronic ballots were delivered.

(b) The election officer shall repair or provide substitute voting devices, equipment, or electronic ballots, if available, if any poll worker reports that:

(i) the voting devices or equipment were not delivered on time;

(ii) the voting devices or equipment do not contain the appropriate electronic ballot information;

(iii) the safety devices on the voting devices, equipment, or electronic ballots appear to have been tampered with;

(iv) the voting devices or equipment do not appear to be functioning properly; or

(v) after delivery, the voting devices, equipment, or electronic ballots were destroyed or stolen.

(c) If the election officer is unable to prepare and provide substitute voting devices, equipment, or electronic ballots, the election officer may elect to provide paper ballots or ballot sheets according to the requirements of Subsection (1).

Section 3. Section 20A-6-301 is amended to read:

20A-6-301. Paper ballots -- Regular general election.

(1) Each election officer shall ensure that:

(a) all paper ballots furnished for use at the regular general election contain:

(i) no captions or other endorsements except as provided in this section;

(ii) no symbols, markings, or other descriptions of a political party or group, except for a registered political party that has chosen to nominate its candidates in accordance with Section 20A-9-403; and

(iii) no indication that a candidate for elective office has been nominated by, or has been endorsed by, or is in any way affiliated with a political party or group, unless the candidate has been nominated by a registered political party in accordance with Subsection 20A-9-202(4) or Subsection 20A-9-403(5).

(b) (i) the paper ballot contains a ballot stub at least one inch wide, placed across the top of the ballot, and divided from the rest of ballot by a perforated line;

(ii) the ballot number and the words “Poll Worker’s Initial ____” are printed on the stub; and

(iii) ballot stubs are numbered consecutively;

(c) immediately below the perforated ballot stub, the following endorsements are printed in 18 point bold type:

(i) “Official Ballot for ____ County, Utah”;

(ii) the date of the election; and

(iii) ~~[a facsimile of the signature of the county clerk and]~~ the words ~~“county clerk”~~ “Clerk of _____ County”;

(d) each ticket is placed in a separate column on the ballot in the order specified under Section 20A-6-305 with the party emblem, followed by the party name, at the head of the column;

(e) the party name or title is printed in capital letters not less than one-fourth of an inch high;

(f) a circle one-half inch in diameter is printed immediately below the party name or title, and the top of the circle is placed not less than two inches below the perforated line;

(g) unaffiliated candidates, candidates not affiliated with a registered political party, and all other candidates for elective office who were not nominated by a registered political party in accordance with Subsection 20A-9-202(4) or Subsection 20A-9-403(5), are listed in one column in the order specified under Section 20A-6-305, without a party circle, with the following instructions printed at the head of the column: “All candidates not affiliated with a political party are listed below. They are to be considered with all offices and candidates listed to the left. Only one vote is allowed for each office.”;

(h) the columns containing the lists of candidates, including the party name and device, are separated by heavy parallel lines;

(i) the offices to be filled are plainly printed immediately above the names of the candidates for those offices;

(j) the names of candidates are printed in capital letters, not less than one-eighth nor more than one-fourth of an inch high in heavy-faced type not smaller than 10 point, between lines or rules three-eighths of an inch apart;

(k) a square with sides measuring not less than one-fourth of an inch in length is printed immediately adjacent to the name of each candidate;

(l) for the offices of president and vice president and governor and lieutenant governor, one square with sides measuring not less than one-fourth of an inch in length is printed on the same side as but opposite a double bracket enclosing the names of the two candidates;

(m) in an election in which a voter is authorized to cast a write-in vote and where a write-in candidate is qualified under Section 20A-9-601, immediately adjacent to the unaffiliated ticket on the ballot, the ballot contains a write-in column long enough to contain as many written names of candidates as there are persons to be elected with:

(i) for each office on the ballot, the office to be filled plainly printed immediately above:

(A) a blank, horizontal line to enable the entry of a valid write-in candidate and a square with sides measuring not less than one-fourth of an inch in length printed immediately adjacent to the blank horizontal line; or

(B) for the offices of president and vice president and governor and lieutenant governor, two blank horizontal lines, one placed above the other, to enable the entry of two valid write-in candidates, and one square with sides measuring not less than one-fourth of an inch in length printed on the same side as but opposite a double bracket enclosing the two blank horizontal lines; and

(ii) the words "Write-In Voting Column" printed at the head of the column without a one-half inch circle;

(n) when required, the ballot includes a nonpartisan ticket placed immediately adjacent to the write-in ticket, or, if there is no write-in ticket, immediately adjacent to the unaffiliated ticket, with the word "NONPARTISAN" in reverse type in an 18 point solid rule running vertically the full length of the nonpartisan ballot copy; and

(o) constitutional amendments or other questions submitted to the vote of the people, are printed on the ballot after the list of candidates.

(2) Each election officer shall ensure that:

(a) each person nominated by any registered political party under Subsection 20A-9-202(4) or

Subsection 20A-9-403(5), and no other person, is placed on the ballot:

(i) under the registered political party's name and emblem, if any; or

(ii) under the title of the registered political party as designated by them in their certificates of nomination or petition, or, if none is designated, then under some suitable title;

(b) the names of all unaffiliated candidates that qualify as required in Title 20A, Chapter 9, Part 5, Candidates not Affiliated with a Party, are placed on the ballot;

(c) the names of the candidates for president and vice president are used on the ballot instead of the names of the presidential electors; and

(d) the ballots contain no other names.

(3) When the ballot contains a nonpartisan section, the election officer shall ensure that:

(a) the designation of the office to be filled in the election and the number of candidates to be elected are printed in type not smaller than eight point;

(b) the words designating the office are printed flush with the left-hand margin;

(c) the words, "Vote for one" or "Vote for up to ____ (the number of candidates for which the voter may vote)" extend to the extreme right of the column;

(d) the nonpartisan candidates are grouped according to the office for which they are candidates;

(e) the names in each group are placed in the order specified under Section 20A-6-305 with the surnames last; and

(f) each group is preceded by the designation of the office for which the candidates seek election, and the words, "Vote for one" or "Vote for up to ____ (the number of candidates for which the voter may vote)," according to the number to be elected.

(4) Each election officer shall ensure that:

(a) proposed amendments to the Utah Constitution are listed on the ballot in accordance with Section 20A-6-107;

(b) ballot propositions submitted to the voters are listed on the ballot in accordance with Section 20A-6-107; and

(c) bond propositions that have qualified for the ballot are listed on the ballot under the title assigned to each bond proposition under Section 11-14-206.

CHAPTER 393**H. B. 172**

Passed February 26, 2015

Approved March 31, 2015

Effective May 12, 2015

PAYROLL SERVICES AMENDMENTS

Chief Sponsor: Robert M. Spendlove

Senate Sponsor: Aaron Osmond

LONG TITLE**General Description:**

This bill enacts language related to payroll services for Utah Schools for the Deaf and the Blind.

Highlighted Provisions:

This bill:

- ▶ amends the definition of executive branch entities that are provided payroll services by the Department of Human Resource Management to exclude Utah Schools for the Deaf and the Blind.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

67-19-13.5, as last amended by Laws of Utah 2013, Chapters 128 and 278

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

Section 1. Section 67-19-13.5 is amended to read:**67-19-13.5. Department provides payroll services to executive branch agencies -- Report.**

(1) As used in this section:

(a) (i) "Executive branch entity" means a department, division, agency, board, or office within the executive branch of state government that employs a person who is paid through the central payroll system developed by the Division of Finance as of December 31, 2011.

(ii) "Executive branch entity" does not include ~~[the Offices of the Attorney General, State Treasurer, State Auditor, Departments of Transportation, Technology Services, Public Safety, or Natural Resources.];~~

(A) the Office of the Attorney General;

(B) the Office of the State Treasurer;

(C) the Office of the State Auditor;

(D) the Department of Transportation;

(E) the Department of Technology Services;

(F) the Department of Public Safety;

(G) the Department of Natural Resources; or

(H) the Utah Schools for the Deaf and the Blind.

(b) (i) "Payroll services" means using the central payroll system as directed by the Division of Finance to:

(A) enter and validate payroll reimbursements, which include reimbursements for mileage, a service award, and other wage types;

(B) calculate, process, and validate a retirement;

(C) enter a leave adjustment; and

(D) certify payroll by ensuring an entry complies with a rule or policy adopted by the department or the Division of Finance.

(ii) "Payroll services" does not mean:

(A) a function related to payroll that is performed by an employee of the Division of Finance;

(B) a function related to payroll that is performed by an executive branch agency on behalf of a person who is not an employee of the executive branch agency;

(C) the entry of time worked by an executive branch agency employee into the central payroll system; or

(D) approval or verification by a supervisor or designee of the entry of time worked.

(2) The department shall provide payroll services to all executive branch entities.

(3) After September 19, 2012, an executive branch entity, other than the department or the Division of Finance, may not create a full-time equivalent position or part-time position, or request an appropriation to fund a full-time equivalent position or part-time position for the purpose of providing payroll services to the entity.

(4) The Department of Transportation, the Department of Technology Services, and the Department of Natural Resources shall report on the inability to transfer payroll services to the department or the progress of transferring payroll services to the department:

(a) to the Government Operations Interim Committee before October 30, 2012; and

(b) to the Infrastructure and General Government Appropriations Subcommittee on or before February 11, 2013.

CHAPTER 394**H. B. 177**

Passed March 6, 2015

Approved March 31, 2015

Effective May 12, 2015

MODIFICATIONS TO VOTING LAW

Chief Sponsor: Fred C. Cox
 Senate Sponsor: Gene Davis

LONG TITLE**General Description:**

This bill amends provisions related to absentee ballots and voter registration.

Highlighted Provisions:

This bill:

- ▶ establishes that a voter's absentee status does not expire, unless the voter designates otherwise;
- ▶ describes the action that a county clerk is required to take if an individual does not designate a party affiliation on a voter registration form;
- ▶ modifies a voter registration deadline; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 20A-2-107, as last amended by Laws of Utah 2008, Chapter 329
- 20A-2-201, as last amended by Laws of Utah 2014, Chapters 98, 231 and last amended by Coordination Clause, Laws of Utah 2014, Chapter 231
- 20A-3-304, as last amended by Laws of Utah 2013, Chapters 198, 218 and last amended by Coordination Clause, Laws of Utah 2013, Chapter 198
- 20A-4-108, as enacted by Laws of Utah 2014, Chapter 231 and last amended by Coordination Clause, Laws of Utah 2014, Chapter 231

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

Section 1. Section 20A-2-107 is amended to read:**20A-2-107. Designating or changing party affiliation -- Times permitted.**

- (1) The county clerk shall:
- (a) record the party affiliation designated by the voter on the voter registration form as the voter's party affiliation; or
- (b) if no political party affiliation is designated by the voter on the voter registration form^[,]:
- (i) except as provided in Subsection (1)(b)(ii), record the voter's party affiliation as the party that the voter designated the last time that the voter

designated a party on a voter registration form, unless the voter more recently registered as "unaffiliated"; or

(ii) record the voter's party affiliation as "unaffiliated[.]" if the voter:

(A) did not previously designate a party;

(B) most recently designated the voter's party affiliation as "unaffiliated"; or

(C) did not previously register.

(2) (a) Any registered voter may designate or change the voter's political party affiliation by complying with the procedures and requirements of this Subsection (2).

(b) A registered voter may designate or change the voter's political party affiliation by filing a signed form with the county clerk that identifies the registered political party with which the voter chooses to affiliate, during any period except the following:

(i) the period beginning on the day after the voter registration deadline and continuing through the date of the regular primary election; and

(ii) the period beginning on the day after the voter registration deadline and continuing through the date of the Western States Presidential Primary.

Section 2. Section 20A-2-201 is amended to read:**20A-2-201. Registering to vote at office of county clerk.**

(1) Except as provided in Subsection (3), the county clerk shall register to vote each individual who registers in person at the county clerk's office during designated office hours if the individual will, on the date of the election, be legally eligible to vote in a voting precinct in the county in accordance with Section 20A-2-101.

(2) If an individual submits a registration form in person at the office of the county clerk during the period beginning on the date after the voter registration deadline and ending on the date that is 15 calendar days before the date of the election, the county clerk shall:

(a) accept a registration form from each individual who submits a registration form in person at the clerk's office during designated office hours if the individual, on the date of the election, will be legally qualified and entitled to vote in a voting precinct in the county; and

(b) inform the individual that the individual will be registered to vote in the pending election.

(3) If an individual who will be legally qualified and entitled to vote in a voting precinct in the county on the date of an election appears in person, during designated office hours, and submits a registration form on the date of the election or during the 14 calendar days before an election, the county clerk shall:

(a) accept the registration form; and

(b) (i) if it is ~~more than~~ seven or more calendar days before the date of an election:

(A) inform the individual that the individual is registered to vote in the pending election; and

(B) for the pending election, the individual must vote on the day of the election and is not eligible to vote using early voting under Chapter 3, Part 6, Early Voting, because the individual registered too late; or

(ii) except as provided in Subsection 20A-4-108(5), if it is on the date of an election or during the ~~seven~~ six calendar days before an election, inform the individual that the individual will be registered to vote but may not vote in the pending election because the individual registered too late.

Section 3. Section 20A-3-304 is amended to read:

20A-3-304. Application for absentee ballot -- Time for filing and voting.

(1) (a) Any registered voter who wishes to vote an absentee ballot may either:

(i) file an absentee ballot application:

(A) on the electronic system maintained by the lieutenant governor under Section 20A-2-206; or

(B) with the appropriate election officer for an official absentee ballot as provided in this section; or

(ii) vote in person at the office of the appropriate election officer as provided in Section 20A-3-306.

(b) A person that collects a completed absentee ballot application from a registered voter shall file the completed absentee ballot application with the appropriate election official before the earlier of:

(i) 14 days after the day on which the registered voter signed the absentee ballot form; or

(ii) the Thursday before the next election.

(2) As it relates to an absentee ballot application to be filled out entirely by the voter:

(a) except as provided in Subsection (2)(b), the lieutenant governor or election officer shall approve an application form for absentee ballot applications:

(i) in substantially the following form:

"I, _____, a qualified elector, residing at _____ Street, _____ City, _____ County, Utah apply for an official absentee ballot to be voted by me at the election.

Date _____ (month \ day \ year)
Signed _____ Voter"; and

(ii) that asks the voter to indicate whether the voter wishes to maintain absentee voter status:

(A) until the voter requests otherwise at a future date; or

(B) until a date specified by the voter in the application form; and

(b) the lieutenant governor or election officer shall approve an application form for regular primary elections and for the Western States Presidential Primary:

(i) in substantially the following form:

"I, _____, a qualified elector, residing at _____ Street, _____ City, _____ County, Utah apply for an official absentee ballot for the _____ political party to be voted by me at the primary election.

I understand that I must be affiliated with or authorized to vote the political party's ballot that I request.

Dated _____ (month \ day \ year) ____
Signed _____

Voter"; and

(ii) that asks the voter to indicate whether the voter wishes to maintain absentee voter status:

(A) until the voter requests otherwise at a future date; or

(B) until a date specified by the voter in the application form.

~~[(e)]~~ (3) If requested by the applicant, the election officer shall:

~~[(4)]~~ (a) mail or fax the application form to the absentee voter; or

~~[(4)]~~ (b) deliver the application form to any voter who personally applies for it at the office of the election officer.

~~[(3)]~~ (4) As it relates to an absentee ballot application to be filled out for, and finished and signed by, a voter:

(a) except as provided in Subsection ~~[(3)]~~ (4)(b), the lieutenant governor or election officer shall approve an application form for absentee ballot applications:

(i) in substantially the following form:

"I, _____, a qualified elector, residing at _____ Street, _____ City, _____ County, Utah apply for an official absentee ballot to be voted by me at the election.

I understand that a person that collects this absentee ballot application is required to file it with the appropriate election official before the earlier of fourteen days after the day on which I sign the application or the Thursday before the next election.

This form is provided by (insert name of person or organization).

I have verified that the information on this application is correct.

I understand that I will receive a ballot at the following address: (insert address and an adjacent check box);

OR

I request that the ballot be mailed to the following address: (insert blank space for an address and an adjacent check box).

Date _____ (month \ day \ year)
Signed _____

Voter"; and

(ii) that asks the voter to indicate whether the voter wishes to maintain absentee voter status:

(A) until the voter requests otherwise at a future date; or

(B) until a date specified by the voter in the application form; and

(b) the lieutenant governor or election officer shall approve an application form for regular primary elections and for the Western States Presidential Primary:

(i) in substantially the following form:

"I, _____, a qualified elector, residing at _____ Street, _____ City, _____ County, Utah apply for an official absentee ballot for the _____ political party to be voted by me at the primary election.

I understand that I must be affiliated with or authorized to vote the political party's ballot that I request. I understand that a person that collects this absentee ballot application is required to file it with the appropriate election official before the earlier of fourteen days after the day on which I sign the application or the Thursday before the next primary election.

This form is provided by (insert name of person or organization).

I have verified that the information on this application is correct.

I understand that I will receive a ballot at the following address: (insert address and an adjacent check box);

OR

I request that the ballot be mailed to the following address: (insert blank space for an address and an adjacent check box).

Dated _____ (month \ day \ year) _____
Signed _____

Voter"; and

(ii) that asks the voter to indicate whether the voter wishes to maintain absentee voter status:

(A) until the voter requests otherwise at a future date; or

(B) until a date specified by the voter in the application form.

[44] (5) The forms described in Subsections (2) and [43] (4) shall contain instructions on how a voter may cancel an absentee ballot application.

[45] (6) Except as provided in Subsection 20A-3-306(2)(a), a voter who wishes to vote by absentee ballot shall file the application for an absentee ballot with the lieutenant governor or appropriate election officer no later than the Thursday before election day.

[46] (7) (a) A county clerk ~~may~~ shall establish ~~[a permanent] an~~ absentee voter list ~~[(b) The clerk shall place on the list] containing~~ the name of ~~[any person] each voter~~ who:

(i) requests ~~[permanent]~~ absentee voter status; and

(ii) meets the requirements of this section.

(b) A county clerk may not remove a voter's name from the list described in Subsection (7)(a) unless:

(i) the voter is no longer listed in the official register;

(ii) the voter cancels the voter's absentee status; or

(iii) the voter's name is removed on the date specified by the voter on the absentee ballot application form.

(c) (i) Each year, the clerk shall mail a questionnaire to each ~~[person] voter~~ whose name is on the absentee voter list.

(ii) The questionnaire shall allow the ~~[absentee person to] voter to:~~

(A) verify the voter's residence[-]; or

(B) cancel the voter's absentee status.

~~[(iii) The clerk may remove the names of any voter from the absentee voter registration list if:]~~

~~[(A) the voter is no longer listed in the official register; or]~~

~~[(B) the voter fails to verify the voter's residence and absentee status.]~~

(d) The clerk shall provide a copy of the ~~[permanent]~~ absentee voter list to election officers for use in elections.

Section 4. Section 20A-4-108 is amended to read:

20A-4-108. Election day voter registration pilot project.

(1) There is created, beginning on June 1, 2014, and ending on January 1, 2017, an election day voter registration pilot project, as described in this section.

(2) A county may participate in the pilot project if the county clerk submits to the lieutenant governor a written application to participate in the pilot project that contains:

(a) the name of the county;

(b) a request that the county be permitted to participate in the pilot project;

(c) an estimate of the extent to which election day voter registration may increase voter participation; and

(d) any other reasons that the county desires to participate in the project.

(3) A municipality may participate in the pilot project for a municipal election if the municipal clerk submits to the lieutenant governor a written application to participate in the pilot project that contains:

(a) the name of the municipality;

(b) a request that the municipality be permitted to participate in the pilot project;

(c) an estimate of the extent to which election day voter registration may increase voter participation; and

(d) any other reasons that the municipality desires to participate in the project.

(4) Within 10 business days after the day on which the lieutenant governor receives an application described in Subsection (2) or (3), the lieutenant governor shall approve the application if:

(a) the application complies with the requirements described in Subsection (2) or (3), as applicable; and

(b) the lieutenant governor determines, based on the information contained in the application, that implementing the pilot project in the county or municipality:

(i) will yield valuable information to determine whether election day voter registration should be implemented on a permanent, statewide basis; and

(ii) will not adversely affect the rights of voters or candidates.

(5) For a county or municipality that is approved by the lieutenant governor to participate in the pilot project, if, under Subsection 20A-2-201(3)(b)(ii), a registration form is submitted to the county clerk on the date of the election or during the ~~seven~~ six calendar days before an election, the county clerk shall:

(a) if the person desires to vote in the pending election, inform the person that the person must, on election day, register to vote by casting a provisional ballot in accordance with Subsection (10); or

(b) if the person does not desire to vote in the pending election:

(i) accept a registration form from the person if, on the date of the election, the person will be legally qualified and entitled to vote in a voting precinct in the county or municipality; and

(ii) inform the person that the person will be registered to vote but may not vote in the pending election because the person registered too late and chose not to register and vote as described in Subsection (5)(a).

(6) For a county or municipality that is approved by the lieutenant governor to participate in the pilot

project, if, under Subsection 20A-2-202(3)(a), the county clerk receives a correctly completed by-mail voter registration form that is postmarked after the voter registration deadline, the county clerk shall:

(a) unless the applicant registers on election day by casting a provisional ballot in accordance with Subsection (10), register the applicant for the next election; and

(b) if possible, promptly phone, mail, or email a notice to the applicant before the election, informing the applicant that:

(i) the applicant's registration will not be effective until after the election; and

(ii) the applicant may register to vote on election day by casting a provisional ballot in accordance with Subsection (10).

(7) For a county or municipality that is approved by the lieutenant governor to participate in the pilot project, if, under Subsection 20A-2-204(5)(a), the county clerk receives a correctly completed voter registration form that is dated after the voter registration deadline, the county clerk shall:

(a) unless the applicant registers to vote on election day by casting a provisional ballot in accordance with Subsection (10), register the applicant after the next election; and

(b) if possible, promptly phone, mail, or email a notice to the applicant before the election, informing the applicant that:

(i) the applicant's registration will not be effective until after the election; and

(ii) the applicant may register to vote on election day by casting a provisional ballot in accordance with Subsection (10).

(8) For a county or municipality that is approved by the lieutenant governor to participate in the pilot project, if, under Subsection 20A-2-205(7)(a), the county clerk receives a correctly completed voter registration form that is dated after the voter registration deadline, the county clerk shall:

(a) unless the applicant registers to vote on election day by casting a provisional ballot in accordance with Subsection (10), register the applicant after the next election; and

(b) if possible, promptly phone, mail, or email a notice to the applicant before the election, informing the applicant that:

(i) the applicant's registration will not be effective until after the election; and

(ii) the applicant may register to vote on election day by casting a provisional ballot in accordance with Subsection (10).

(9) For a county or municipality that is approved by the lieutenant governor to participate in the pilot project, if, under Subsection 20A-2-206(8)(c), an individual applies to register under this section during the six calendar days before an election, the county clerk shall:

(a) if the individual desires to vote in the pending election, inform the individual that the individual must, on election day, register to vote by casting a provisional ballot in accordance with Subsection (10); or

(b) if the individual does not desire to vote in the pending election:

(i) accept the application for registration if the individual, on the date of the election, will be legally qualified and entitled to vote in a voting precinct in the state; and

(ii) inform the individual that the individual is registered to vote but may not vote in the pending election because the individual registered too late and chose not to register and vote as described in Subsection (9)(a).

(10) For a county or municipality that is approved by the lieutenant governor to participate in the pilot project:

(a) the election officer shall take the action described in Subsection (10)(b) in relation to a provisional ballot if the election officer determines that:

(i) the person who voted the ballot is not registered to vote, but is otherwise legally entitled to vote the ballot;

(ii) the ballot that the person voted is identical to the ballot for the precinct in which the person resides;

(iii) the information on the ballot is complete; and

(iv) the person provided valid voter identification and proof of residence to the poll worker;

(b) if a provisional ballot and the person who voted the provisional ballot comply with the requirements described in Subsection (10)(a), the election officer shall:

(i) consider the provisional ballot a voter registration form;

(ii) place the ballot with the absentee ballots, to be counted with those ballots at the canvass; and

(iii) as soon as reasonably possible, register the person to vote; and

(c) except as provided in Subsection (11), the election officer shall retain a provisional ballot envelope, unopened, for the period specified in Section 20A-4-202, if the election officer determines that the person who voted the ballot:

(i) (A) is not registered to vote in this state; and

(B) is not eligible for registration under Subsection (10); or

(ii) is not legally entitled to vote the ballot that the person voted.

(11) Subsection (10)(c) does not apply if a court orders the election officer to produce or count the provisional ballot.

(12) For a county or municipality that is approved by the lieutenant governor to participate in the pilot project, if, under Subsection 20A-4-107(4), the election officer determines that the person is not registered to vote in this state, that the information on the provisional ballot envelope is complete, and that the provisional ballot and the person who voted the provisional ballot do not comply with the requirements described in Subsection (10)(a), the election officer shall:

(a) consider the provisional ballot envelope a voter registration form for the person's county of residence; and

(b) (i) register the person if the voter's county of residence is within the county; or

(ii) forward the voter registration form to the election officer of the person's county of residence, which election officer shall register the person.

(13) (a) The county clerk of a county that is approved to participate in the pilot project, and the municipal clerk of a municipality that is approved to participate in the pilot project, shall provide training for the poll workers of the county or municipality on administering the pilot program.

(b) The lieutenant governor shall, for a county or municipality that is approved to participate in the pilot project, provide information relating to the pilot project in accordance with the provisions of Subsection 67-1a-2(2)(a)(iv).

(14) The lieutenant governor and each county and municipality that is approved by the lieutenant governor to participate in the pilot project shall:

(a) report to the Government Operations Interim Committee, on or before October 31 of each year that the pilot project is in effect, regarding:

(i) the implementation of the pilot project;

(ii) the number of ballots cast by voters who registered on election day;

(iii) any difficulties resulting from the pilot project; and

(iv) whether, in the opinion of the lieutenant governor, the county, or the municipality, the state would benefit from implementing election day voter registration permanently and on a statewide basis; and

(b) on or before December 31, 2016, report to the Legislative Management Committee regarding the matters described in Subsection (14)(a).

(15) During the 2016 interim, the Government Operations Interim Committee shall study and make a recommendation to the Legislature regarding whether to implement statewide election day voter registration on a permanent, statewide basis.

CHAPTER 395**H. B. 188**

Passed February 26, 2015

Approved March 31, 2015

Effective May 12, 2015

**TRANSPORTATION CORRIDOR
PRESERVATION AMENDMENTS**

Chief Sponsor: Kay J. Christofferson

Senate Sponsor: Alvin B. Jackson

LONG TITLE**General Description:**

This bill modifies provisions relating to the Local Transportation Corridor Preservation Fund.

Highlighted Provisions:

This bill:

- ▶ provides an exception to the provision that the state will not be charged for any asset purchased with the money allocated to a county, city, or town from the Local Transportation Corridor Preservation Fund; and
- ▶ makes technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

72-2-117.5, as last amended by Laws of Utah 2013, Chapter 35

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

Section 1. Section 72-2-117.5 is amended to read:**72-2-117.5. Definitions -- Local
Transportation Corridor Preservation
Fund -- Disposition of fund money.**

(1) As used in this section:

(a) "Council of governments" means a decision-making body in each county composed of the county governing body and the mayors of each municipality in the county.

(b) "Metropolitan planning organization" has the same meaning as defined in Section 72-1-208.5.

(2) There is created the Local Transportation Corridor Preservation Fund within the Transportation Fund.

(3) The fund shall be funded from the following sources:

(a) a local option highway construction and transportation corridor preservation fee imposed under Section 41-1a-1222;

(b) appropriations made to the fund by the Legislature;

(c) contributions from other public and private sources for deposit into the fund;

(d) all money collected from rents and sales of real property acquired with fund money;

(e) proceeds from general obligation bonds, revenue bonds, or other obligations issued as authorized by Title 63B, Bonds;

(f) the portion of the sales and use tax described in Subsection 59-12-2217(2)(b) and required by Subsection 59-12-2217(8)(a) to be deposited into the fund; and

(g) sales and use tax revenues deposited into the fund in accordance with Section 59-12-2218.

(4) (a) The fund shall earn interest.

(b) All interest earned on fund money shall be deposited into the fund.

(c) The State Tax Commission shall provide the department with sufficient data for the department to allocate the revenues:

(i) provided under Subsection (3)(a) to each county imposing a local option highway construction and transportation corridor preservation fee under Section 41-1a-1222;

(ii) provided under Subsection 59-12-2217(2)(b) to each county imposing a county option sales and use tax for transportation; and

(iii) provided under Subsection (3)(g) to each county of the second class or city or town within a county of the second class that imposes the sales and use tax authorized by Section 59-12-2218.

(d) (i) The department shall annually allocate the interest earned on fund money to each county based on the proportionate amount of interest earned on each county's allocation of funds under Subsection (4)(c) on an average monthly balance basis.

(ii) The initial annual allocation of fund interest shall include all interest earned on fund money since the creation of the fund.

(e) The money allocated under Subsection (4)(c):

(i) shall be used for the purposes provided in this section for each county, city, or town;

(ii) is allocated to each county, city, or town as provided in this section with the condition that the state will not be charged for any asset purchased with the money allocated under Subsections (4)(c) and (d), unless there is a written agreement in place with the department prior to the purchase of the asset stipulating a reimbursement by the state to the county, city, or town of no more than the original purchase price paid by the county, city, or town; and

(iii) is considered a local matching contribution for the purposes described under Section 72-2-123 if used on a state highway.

(f) Administrative costs of the department to implement this section shall be paid from the fund.

(5) (a) The department shall authorize the expenditure of fund money to allow a highway authority to acquire real property or any interests in real property for state, county, and municipal highway corridors subject to:

(i) money available in the fund to each county under Subsections (4)(c) and (d); and

(ii) the provisions of this section.

(b) Fund money may be used to pay interest on debts incurred in accordance with this section.

(c) (i) (A) Fund money may be used to pay maintenance costs of properties acquired under this section but limited to a total of 5% of the purchase price of the property.

(B) Any additional maintenance cost shall be paid from funds other than under this section.

(C) Revenue generated by any property acquired under this section is excluded from the limitations under this Subsection (5)(c)(i).

(ii) Fund money may be used to pay direct costs of acquisition of properties acquired under this section.

(d) Fund money allocated under Subsections (4)(c) and (d) may be used by a county highway authority for countywide transportation planning if:

(i) the county's planning focus area is outside the boundaries of a metropolitan planning organization;

(ii) the transportation planning is part of the county's continuing, cooperative, and comprehensive process for transportation planning, corridor preservation, right-of-way acquisition, and project programming;

(iii) no more than four years allocation every 20 years to each county is used for transportation planning under this Subsection (5)(d); and

(iv) the county otherwise qualifies to use the fund money as provided under this section.

(e) (i) Subject to Subsection (11), fund money allocated under Subsections (4)(c) and (d) may be used by a county highway authority for transportation corridor planning that is part of the corridor elements of an ongoing work program of transportation projects.

(ii) The transportation corridor planning under Subsection (5)(e)(i) shall be under the direction of:

(A) the metropolitan planning organization if the county is within the boundaries of a metropolitan planning organization; or

(B) the department if the county is not within the boundaries of a metropolitan planning organization.

(f) (i) A county, city, or town that imposes a local option highway construction and transportation corridor preservation fee under Section 41-1a-1222 may elect to administer the funds allocated to that county, city, or town under Subsection (4)(c) as a revolving loan fund.

(ii) If a county, city, or town elects to administer the funds allocated to that county, city, or town

under Subsection (4)(c) as a revolving loan fund, a local highway authority shall:

(A) apply to the department as required under this section for money from the fund created in this section for a specified transportation corridor project; and

(B) repay the fund money authorized for the project to the fund.

(iii) A county, city, or town that elects to administer the funds allocated to that county, city, or town under Subsection (4)(c) as a revolving loan fund shall establish repayment conditions of the money to the fund from the specified project funds.

(6) (a) (i) The Local Transportation Corridor Preservation Fund shall be used to preserve highway corridors, promote long-term statewide transportation planning, save on acquisition costs, and promote the best interests of the state in a manner which minimizes impact on prime agricultural land.

(ii) The Local Transportation Corridor Preservation Fund shall only be used to preserve a highway corridor that is right-of-way:

(A) in a county of the first or second class for:

(I) a state highway;

(II) a principal arterial highway as defined in Section 72-4-102.5;

(III) a minor arterial highway as defined in Section 72-4-102.5; or

(IV) a collector highway in an urban area as defined in Section 72-4-102.5; or

(B) in a county of the third, fourth, fifth, or sixth class for:

(I) a state highway;

(II) a principal arterial highway as defined in Section 72-4-102.5;

(III) a minor arterial highway as defined in Section 72-4-102.5;

(IV) a major collector highway as defined in Section 72-4-102.5; or

(V) a minor collector road as defined in Section 72-4-102.5.

(iii) The Local Transportation Corridor Preservation Fund may not be used for a highway corridor that is primarily a recreational trail as defined under Section 79-5-102.

(b) (i) The department shall develop and implement a program to educate highway authorities on the objectives, application process, use, and responsibilities of the Local Transportation Corridor Preservation Fund as provided under this section to promote the most efficient and effective use of fund money including priority use on designated high priority corridor preservation projects.

(ii) The department shall develop a model transportation corridor property acquisition policy

or ordinance that meets federal requirements for the benefit of a highway authority to acquire real property or any interests in real property under this section.

(c) The department shall authorize the expenditure of fund money after determining that the expenditure is being made in accordance with this section from applications that are:

- (i) made by a highway authority;
- (ii) endorsed by the council of governments; and
- (iii) for a right-of-way purchase for a highway authorized under Subsection (6)(a)(ii).

(7) (a) (i) A council of governments shall establish a council of governments endorsement process which includes prioritization and application procedures for use of the money allocated to each county under this section.

(ii) The endorsement process under Subsection (7)(a)(i) may include review or endorsement of the preservation project by:

(A) the metropolitan planning organization if the county is within the boundaries of a metropolitan planning organization; or

(B) the department if the county is not within the boundaries of a metropolitan planning organization.

(b) All fund money shall be prioritized by each highway authority and council of governments based on considerations, including:

- (i) areas with rapidly expanding population;
- (ii) the willingness of local governments to complete studies and impact statements that meet department standards;
- (iii) the preservation of corridors by the use of local planning and zoning processes;
- (iv) the availability of other public and private matching funds for a project;
- (v) the cost-effectiveness of the preservation projects;
- (vi) long and short-term maintenance costs for property acquired; and
- (vii) whether the transportation corridor is included as part of:
 - (A) the county and municipal master plan; and
 - (B) (I) the statewide long range plan; or
 - (II) the regional transportation plan of the area metropolitan planning organization if one exists for the area.

(c) The council of governments shall:

(i) establish a priority list of highway corridor preservation projects within the county;

(ii) submit the list described in Subsection (7)(c)(i) to the county's legislative body for approval; and

(iii) obtain approval of the list described in Subsection (7)(c)(i) from a majority of the members of the county legislative body.

(d) A county's council of governments may only submit one priority list described in Subsection (7)(c)(i) per calendar year.

(e) A county legislative body may only consider and approve one priority list described in Subsection (7)(c)(i) per calendar year.

(8) (a) Unless otherwise provided by written agreement with another highway authority, the highway authority that holds the deed to the property is responsible for maintenance of the property.

(b) The transfer of ownership for property acquired under this section from one highway authority to another shall include a recorded deed for the property and a written agreement between the highway authorities.

(9) (a) The proceeds from any bonds or other obligations secured by revenues of the Local Transportation Corridor Preservation Fund shall be used for the purposes authorized for funds under this section.

(b) The highway authority shall pledge the necessary part of the revenues of the Local Transportation Corridor Preservation Fund to the payment of principal and interest on the bonds or other obligations.

(10) (a) A highway authority may not apply for money under this section to purchase a right-of-way for a state highway unless the highway authority has:

- (i) a transportation corridor property acquisition policy or ordinance in effect that meets federal requirements for the acquisition of real property or any interests in real property under this section; and
- (ii) an access management policy or ordinance in effect that meets the requirements under Subsection 72-2-117(8).

(b) The provisions of Subsection (10)(a)(i) do not apply if the highway authority has a written agreement with the department for the acquisition of real property or any interests in real property under this section.

(11) (a) The department shall, in expending or authorizing the expenditure of fund money, ensure to the extent possible that the fund money allocated to a city or town in accordance with Subsection (4) is expended:

(i) to fund a project or service as allowed by this section within the city or town to which the fund money is allocated;

(ii) to pay debt service, principal, or interest on a bond or other obligation as allowed by this section if that bond or other obligation is:

(A) secured by money allocated to the city or town; and

(B) issued to finance a project or service as allowed by this section within the city or town to which the fund money is allocated;

(iii) to fund transportation planning as allowed by this section within the city or town to which the fund money is allocated; or

(iv) for another purpose allowed by this section within the city or town to which the fund money is allocated.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make rules to implement the requirements of Subsection (11)(a).

CHAPTER 396**H. B. 190**

Passed March 11, 2015
 Approved March 31, 2015
 Effective May 12, 2015

ASSESSMENT AREA ACT MODIFICATIONS

Chief Sponsor: R. Curt Webb
 Senate Sponsor: Curtis S. Bramble

LONG TITLE**General Description:**

This bill amends provisions related to the designation of an assessment area and the levy of an assessment.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ amends provisions related to an action to contest an assessment;
- ▶ allows a local entity to divide an assessment area into classifications;
- ▶ prohibits an assessment area that is coextensive or substantially coterminous with the boundaries of a local entity;
- ▶ amends notice requirements for designation of an assessment area;
- ▶ amends provisions related to a protest filed against the designation of an assessment area;
- ▶ amends provisions related to a public hearing on a proposed assessment area;
- ▶ amends provisions related to a public meeting held to designate an assessment area;
- ▶ enacts language requiring notice for a subsequent purchaser;
- ▶ amends provisions related to an assessment levy;
- ▶ amends provisions related to a board of equalization;
- ▶ amends provisions related to an assessment for economic promotion activities;
- ▶ prohibits a local entity from levying an assessment unless certain criteria are met;
- ▶ requires a local entity to pay for any increase in an improvement size or capacity for service to properties outside of an assessment area with funds other than those levied by the assessment;
- ▶ authorizes a local entity to proportionally assess benefitted properties for an unassessed benefitted government property; and
- ▶ makes technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 11-42-102, as last amended by Laws of Utah 2013, Chapter 246
 11-42-103, as last amended by Laws of Utah 2013, Chapter 246
 11-42-106, as enacted by Laws of Utah 2007, Chapter 329
 11-42-201, as last amended by Laws of Utah 2010, Chapter 238

- 11-42-202, as last amended by Laws of Utah 2013, Chapters 246 and 265
 11-42-203, as last amended by Laws of Utah 2013, Chapter 265
 11-42-204, as last amended by Laws of Utah 2013, Chapter 265
 11-42-206, as last amended by Laws of Utah 2013, Chapter 265
 11-42-207, as last amended by Laws of Utah 2009, Chapter 246
 11-42-401, as last amended by Laws of Utah 2013, Chapter 265
 11-42-402, as last amended by Laws of Utah 2010, Chapters 90 and 238
 11-42-403, as last amended by Laws of Utah 2009, Chapter 246
 11-42-404, as last amended by Laws of Utah 2010, Chapter 238
 11-42-406, as last amended by Laws of Utah 2010, Chapter 238
 11-42-409, as enacted by Laws of Utah 2007, Chapter 329

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

Section 1. Section 11-42-102 is amended to read:**11-42-102. Definitions.**

(1) "Adequate protests" means timely filed, written protests under Section 11-42-203 that represent at least [50%] 40% of the frontage, area, taxable value, fair market value, lots, number of connections, or equivalent residential units of the property proposed to be assessed, according to the same assessment method by which the assessment is proposed to be levied, after eliminating:

- (a) protests relating to:
 - (i) property that has been deleted from a proposed assessment area; or
 - (ii) an improvement that has been deleted from the proposed improvements to be provided to property within the proposed assessment area; and
- (b) protests that have been withdrawn under Subsection 11-42-203(3).

(2) "Assessment area" means an area, or, if more than one area is designated, the aggregate of all areas within a local entity's jurisdictional boundaries that is designated by a local entity under Part 2, Designating an Assessment Area, for the purpose of financing the costs of improvements, operation and maintenance, or economic promotion activities that benefit property within the area.

(3) "Assessment bonds" means bonds that are:

- (a) issued under Section 11-42-605; and
 - (b) payable in part or in whole from assessments levied in an assessment area, improvement revenues, and a guaranty fund or reserve fund.
- (4) "Assessment fund" means a special fund that a local entity establishes under Section 11-42-412.
- (5) "Assessment lien" means a lien on property within an assessment area that arises from the levy

of an assessment, as provided in Section 11-42-501.

(6) “Assessment method” means the method:

(a) by which an assessment is levied against benefitted property, whether by frontage, area, taxable value, fair market value, lot, parcel, number of connections, equivalent residential unit, any combination of these methods, or any other method [that equitably reflects the benefit received from the improvement.]; and

(b) that, when applied to a benefitted property, accounts for an assessment that meets the requirements of Section 11-42-409.

(7) “Assessment ordinance” means an ordinance adopted by a local entity under Section 11-42-404 that levies an assessment on benefitted property within an assessment area.

(8) “Assessment resolution” means a resolution adopted by a local entity under Section 11-42-404 that levies an assessment on benefitted property within an assessment area.

(9) “Benefitted property” means property within an assessment area that directly or indirectly benefits from improvements, operation and maintenance, or economic promotion activities.

(10) “Bond anticipation notes” means notes issued under Section 11-42-602 in anticipation of the issuance of assessment bonds.

(11) “Bonds” means assessment bonds and refunding assessment bonds.

(12) “Commercial area” means an area in which at least 75% of the property is devoted to the interchange of goods or commodities.

(13) (a) “Commercial or industrial real property” means real property used directly or indirectly or held for one of the following purposes or activities, regardless of whether the purpose or activity is for profit:

- (i) commercial;
- (ii) mining;
- (iii) industrial;
- (iv) manufacturing;
- (v) governmental;
- (vi) trade;
- (vii) professional;
- (viii) a private or public club;
- (ix) a lodge;
- (x) a business; or
- (xi) a similar purpose.

(b) “Commercial or industrial real property” includes real property that:

- (i) is used as or held for dwelling purposes; and

(ii) contains more than four [~~or more~~] rental units.

(14) “Connection fee” means a fee charged by a local entity to pay for the costs of connecting property to a publicly owned sewer, storm drainage, water, gas, communications, or electrical system, whether or not improvements are installed on the property.

(15) “Contract price” means:

(a) the cost of acquiring an improvement, if the improvement is acquired; or

(b) the amount payable to one or more contractors for the design, engineering, inspection, and construction of an improvement.

(16) “Designation ordinance” means an ordinance adopted by a local entity under Section 11-42-206 designating an assessment area.

(17) “Designation resolution” means a resolution adopted by a local entity under Section 11-42-206 designating an assessment area.

(18) “Economic promotion activities” means activities that promote economic growth in a commercial area of a local entity, including:

- (a) sponsoring festivals and markets;
- (b) promoting business investment or activities;
- (c) helping to coordinate public and private actions; and
- (d) developing and issuing publications designed to improve the economic well-being of the commercial area.

(19) “Energy efficiency upgrade” means an improvement that is permanently affixed to commercial or industrial real property that is designed to reduce energy consumption, including:

- (a) insulation in:
 - (i) a wall, roof, floor, or foundation; or
 - (ii) a heating and cooling distribution system;
- (b) a window or door, including:
 - (i) a storm window or door;
 - (ii) a multiglazed window or door;
 - (iii) a heat-absorbing window or door;
 - (iv) a heat-reflective glazed and coated window or door;
 - (v) additional window or door glazing;
 - (vi) a window or door with reduced glass area; or
 - (vii) other window or door modifications;
- (c) an automatic energy control system;
- (d) in a building or a central plant, a heating, ventilation, or air conditioning and distribution system;
- (e) caulk or weatherstripping;
- (f) a light fixture that does not increase the overall illumination of a building unless an increase

is necessary to conform with the applicable building code;

- (g) an energy recovery system;
- (h) a daylighting system;
- (i) measures to reduce the consumption of water, through conservation or more efficient use of water, including:
 - (i) installation of low-flow toilets and showerheads;
 - (ii) installation of timer or timing systems for a hot water heater; or
 - (iii) installation of rain catchment systems; or
- (j) a modified, installed, or remodeled fixture that is approved as a utility cost-saving measure by the governing body of a local entity.

(20) “Environmental remediation activity” means a surface or subsurface enhancement, effort, cost, initial or ongoing maintenance expense, facility, installation, system, earth movement, or change to grade or elevation which improves the use, function, aesthetics, or environmental condition of publicly or privately owned property.

[(20)] (21) “Equivalent residential unit” means a dwelling, unit, or development that is equal to a single-family residence in terms of the nature of its use or impact on an improvement to be provided in the assessment area.

[(21)] (22) “Governing body” means:

- (a) for a county, city, or town, the legislative body of the county, city, or town;
- (b) for a local district, the board of trustees of the local district;
- (c) for a special service district:
 - (i) the legislative body of the county, city, or town that established the special service district, if no administrative control board has been appointed under Section 17D-1-301; or
 - (ii) the administrative control board of the special service district, if an administrative control board has been appointed under Section 17D-1-301; and
- (d) for the military installation development authority created in Section 63H-1-201, the authority board, as defined in Section 63H-1-102.

[(22)] (23) “Guaranty fund” means the fund established by a local entity under Section 11-42-701.

[(23)] (24) “Improved property” means property [proposed to be assessed within an assessment area] upon which a residential, commercial, or other building has been built.

[(24)] (25) “Improvement”:

- (a) (i) means a publicly owned infrastructure, system, or other facility, a publicly or privately owned energy efficiency upgrade, ~~or~~ a publicly or privately owned renewable energy system, or

publicly or privately owned environmental remediation activity that:

- (A) a local entity is authorized to provide;
- (B) the governing body of a local entity determines is necessary or convenient to enable the local entity to provide a service that the local entity is authorized to provide; or
- (C) a local entity is requested to provide through an interlocal agreement in accordance with Title 11, Chapter 13, Interlocal Cooperation Act; and
 - (i) includes facilities in an assessment area, including a private driveway, an irrigation ditch, and a water turnout, that:
 - (A) can be conveniently installed at the same time as an infrastructure, system, or other facility described in Subsection ~~[(24)]~~ (25)(a)(i); and
 - (B) are requested by a property owner on whose property or for whose benefit the infrastructure, system, or other facility is being installed; or
 - (b) for a local district created to assess groundwater rights in accordance with Section 17B-1-202, means a system or plan to regulate groundwater withdrawals within a specific groundwater basin in accordance with Sections 17B-1-202 and 73-5-15.

~~[(25)]~~ (26) “Improvement revenues”:

- (a) means charges, fees, impact fees, or other revenues that a local entity receives from improvements; and
 - (b) does not include revenue from assessments.
- [(26)] (27) “Incidental refunding costs” means any costs of issuing refunding assessment bonds and calling, retiring, or paying prior bonds, including:
- (a) legal and accounting fees;
 - (b) charges of financial advisors, escrow agents, certified public accountant verification entities, and trustees;
 - (c) underwriting discount costs, printing costs, the costs of giving notice;
 - (d) any premium necessary in the calling or retiring of prior bonds;
 - (e) fees to be paid to the local entity to issue the refunding assessment bonds and to refund the outstanding prior bonds;
 - (f) any other costs that the governing body determines are necessary ~~or desirable~~ and proper to incur in connection with the issuance of refunding assessment bonds; and

[(27)] (28) “Installment payment date” means the date on which an installment payment of an assessment is payable.

[(28)] (29) “Interim warrant” means a warrant issued by a local entity under Section 11-42-601.

[~~(29)~~ (30) “Jurisdictional boundaries” means:

(a) for a county, the boundaries of the unincorporated area of the county; and

(b) for each other local entity, the boundaries of the local entity.

[~~(30)~~ (31) “Local district” means a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts.

[~~(31)~~ (32) “Local entity” means a county, city, town, special service district, local district, an interlocal entity as defined in Section 11-13-103, a military installation development authority created in Section 63H-1-201, or other political subdivision of the state.

[~~(32)~~ (33) “Local entity obligations” means assessment bonds, refunding assessment bonds, interim warrants, and bond anticipation notes issued by a local entity.

[~~(33)~~ (34) “Mailing address” means:

(a) a property owner’s last-known address using the name and address appearing on the last completed real property assessment roll of the county in which the property is located; and

(b) if the property is improved property:

(i) the property’s street number; or

(ii) the post office box, rural route number, or other mailing address of the property, if a street number has not been assigned.

[~~(34)~~ (35) “Net improvement revenues” means all improvement revenues that a local entity has received since the last installment payment date, less all amounts payable by the local entity from those improvement revenues for operation and maintenance costs.

[~~(35)~~ (36) “Operation and maintenance costs”:

(a) means the costs that a local entity incurs in operating and maintaining improvements in an assessment area, whether or not those improvements have been financed under this chapter; and

(b) includes service charges, administrative costs, ongoing maintenance charges, and tariffs or other charges for electrical, water, gas, or other utility usage.

[~~(36)~~ (37) “Overhead costs” means the actual costs incurred or the estimated costs to be incurred by a local entity in connection with an assessment area for appraisals, legal fees, filing fees, financial advisory charges, underwriting fees, placement fees, escrow, trustee, and paying agent fees, publishing and mailing costs, costs of levying an assessment, recording costs, and all other incidental costs.

[~~(37)~~ (38) “Prior assessment ordinance” means the ordinance levying the assessments from which the prior bonds are payable.

[~~(38)~~ (39) “Prior assessment resolution” means the resolution levying the assessments from which the prior bonds are payable.

[~~(39)~~ (40) “Prior bonds” means the assessment bonds that are refunded in part or in whole by refunding assessment bonds.

[~~(40)~~ (41) “Project engineer” means the surveyor or engineer employed by or the private consulting engineer engaged by a local entity to perform the necessary engineering services for and to supervise the construction or installation of the improvements.

[~~(41)~~ (42) “Property” includes real property and any interest in real property, including water rights and leasehold rights.

[~~(42)~~ (43) “Property price” means the price at which a local entity purchases or acquires by eminent domain property to make improvements in an assessment area.

[~~(43)~~ (44) “Provide” or “providing,” with reference to an improvement, includes the acquisition, construction, reconstruction, renovation, maintenance, repair, operation, and expansion of an improvement.

[~~(44)~~ (45) “Public agency” means:

(a) the state or any agency, department, or division of the state; and

(b) a political subdivision of the state.

[~~(45)~~ (46) “Reduced payment obligation” means the full obligation of an owner of property within an assessment area to pay an assessment levied on the property after the assessment has been reduced because of the issuance of refunding assessment bonds, as provided in Section 11-42-608.

[~~(46)~~ (47) “Refunding assessment bonds” means assessment bonds that a local entity issues under Section 11-42-607 to refund, in part or in whole, assessment bonds.

[~~(47)~~ (48) “Renewable energy system” means a product, a system, a device, or an interacting group of devices that:

(a) is permanently affixed to commercial or industrial real property; and

(b) produces energy from renewable resources, including:

(i) a photovoltaic system;

(ii) a solar thermal system;

(iii) a wind system;

(iv) a geothermal system, including:

(A) a generation system;

(B) a direct-use system; or

(C) a ground source heat pump system;

(v) a microhydro system; or

(vi) other renewable sources approved by the governing body of a local entity.

[48] (49) "Reserve fund" means a fund established by a local entity under Section 11-42-702.

[49] (50) "Service" means:

(a) water, sewer, storm drainage, garbage collection, library, recreation, communications, or electric service;

(b) economic promotion activities; or

(c) any other service that a local entity is required or authorized to provide.

[50] (51) "Special service district" has the same meaning as defined in Section 17D-1-102.

(52) "Unassessed benefitted government property" means property that a local entity may not assess in accordance with Section 11-42-408 but is benefitted by an improvement, operation and maintenance, or economic promotion activities.

[51] (53) "Unimproved property" means property upon which no residential, commercial, or other building has been built.

[52] (54) "Voluntary assessment area" means an assessment area that contains only property whose owners have voluntarily consented to an assessment.

Section 2. Section 11-42-103 is amended to read:

11-42-103. Limit on effect of this chapter.

(1) Nothing in this chapter may be construed to authorize a local entity to provide an improvement or service that the local entity is not otherwise authorized to provide.

(2) Notwithstanding Subsection (1), a local entity may provide a renewable energy system ~~or~~, energy efficiency upgrade, or environmental remediation activity that the local entity finds or determines to be in the public interest.

Section 3. Section 11-42-106 is amended to read:

11-42-106. Action to contest assessment or proceeding -- Requirements -- Exclusive remedy -- Bonds and assessment incontestable.

(1) A person who contests an assessment or any proceeding to designate an assessment area or levy an assessment may commence a civil action against the local entity to:

(a) set aside a proceeding to designate an assessment area; or

(b) enjoin the levy or collection of an assessment.

(2) (a) Each action under Subsection (1) shall be commenced in the district court with jurisdiction in the county in which the assessment area is located.

(b) An action under Subsection (1) may not be commenced against and a summons relating to the action may not be served on the local entity more than ~~30~~ 60 days after the effective date of the:

(i) designation resolution or designation ordinance, if the challenge is to the designation of an assessment area;

(ii) assessment resolution or ordinance ~~or, in the case of an amendment, the~~, if the challenge is to an assessment; or

(iii) amended resolution or ordinance, if the challenge is to an amendment.

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

(i) claims an error or irregularity in an assessment or in any proceeding to designate an assessment area or levy an assessment~~[-]~~; or

(ii) challenges a bondholder's right to repayment.

(b) A court may not hear any complaint under Subsection (1) that a person was authorized to make but did not make in a protest under Section 11-42-203 or at a hearing under Section 11-42-204.

(c) (i) If a person has not brought a claim for which the person was previously authorized to bring but is otherwise barred from making under Subsection (2)(b), the claim may not be brought later because of an amendment to the resolution or ordinance unless the claim arises from the amendment itself.

(ii) In an action brought pursuant to Subsection (1), a person may not contest a previous decision, proceeding, or determination for which the service deadline described in Subsection (2)(b) has expired by challenging a subsequent decision, proceeding, or determination.

(4) An assessment or a proceeding to designate an assessment area or to levy an assessment may not be declared invalid or set aside in part or in whole because of an error or irregularity that does not go to the equity or justice of the proceeding or the assessment ~~or proceeding~~ meeting the requirements of Section 11-42-409.

(5) After the expiration of the ~~30-day~~ 60-day period referred to in Subsection (2)(b):

(a) assessment bonds and refunding assessment bonds issued or to be issued with respect to an assessment area and assessments levied on property in the assessment area become at that time incontestable against all persons who have not commenced an action and served a summons as provided in this section; and

(b) a suit to enjoin the issuance or payment of assessment bonds or refunding assessment bonds, the levy, collection, or enforcement of an assessment, or to attack or question in any way the legality of assessment bonds, refunding assessment bonds, or an assessment may not be commenced, and a court may not inquire into those matters.

(6) (a) This section may not be interpreted to insulate a local entity from a claim of misuse of assessment funds after the expiration of the 60-day period described in Subsection (2)(b).

(b) (i) Except as provided in Subsection (6)(b)(ii), an action in the nature of mandamus is the sole form

of relief available to a party challenging the misuse of assessment funds.

(ii) The limitation in Subsection (6)(b)(i) does not prohibit the filing of criminal charges against or the prosecution of a party for the misuse of assessment funds.

Section 4. Section 11-42-201 is amended to read:

11-42-201. Resolution or ordinance designating an assessment area -- Classifications within an assessment area -- Preconditions to adoption of a resolution or ordinance.

(1) (a) Subject to the requirements of this part, a governing body of a local entity intending to levy an assessment on property to pay some or all of the cost of providing improvements benefitting the property, performing operation and maintenance benefitting the property, or conducting economic promotion activities benefitting the property shall adopt a resolution or ordinance designating an assessment area.

(b) A designation resolution or designation ordinance described in Subsection (1)(a) may divide the assessment area into [~~zones~~] multiple classifications to allow the governing body to:

(i) levy a different level of assessment; or

(ii) use a different assessment method in each [~~zone~~] classification to reflect more fairly the benefits that property within the different [~~zones~~] classifications is expected to receive because of the proposed improvement, operation and maintenance, or economic promotion activities.

(c) The boundaries of a proposed assessment area:

(i) may include property that is not intended to be assessed[.]; and

(ii) may not be coextensive or substantially coterminous with the boundaries of the local entity.

(2) Before adopting a designation resolution or designation ordinance described in Subsection (1)(a), the governing body of the local entity shall:

(a) give notice as provided in Section 11-42-202;

(b) receive and consider all protests filed under Section 11-42-203; and

(c) hold a public hearing as provided in Section 11-42-204.

Section 5. Section 11-42-202 is amended to read:

11-42-202. Requirements applicable to a notice of a proposed assessment area designation.

(1) Each notice required under Subsection 11-42-201(2)(a) shall:

(a) state that the local entity proposes to:

(i) designate one or more areas within the local entity's jurisdictional boundaries as an assessment area;

(ii) provide an improvement to property within the proposed assessment area; and

(iii) finance some or all of the cost of improvements by an assessment on benefitted property within the assessment area;

(b) describe the proposed assessment area by any reasonable method that allows an owner of property in the proposed assessment area to determine that the owner's property is within the proposed assessment area;

(c) describe, in a general and reasonably accurate way, the improvements to be provided to the assessment area, including:

(i) the [~~general~~] nature of the improvements; and

(ii) the [~~general~~] location of the improvements, by reference to streets or portions or extensions of streets or by any other means that the governing body chooses that reasonably describes the general location of the improvements;

(d) state the estimated cost of the improvements as determined by a project engineer;

(e) for the version of notice mailed in accordance with Subsection (4)(b), state the estimated total assessment specific to the benefitted property for which the notice is mailed;

~~[(e)]~~ (f) state that the local entity proposes to levy an assessment on benefitted property within the assessment area to pay some or all of the cost of the improvements according to the estimated [~~direct and indirect~~] benefits to the property from the improvements;

(g) if applicable, state that an unassessed benefitted government property will receive improvements for which the cost will be allocated proportionately to the remaining benefitted properties within the proposed assessment area and that a description of each unassessed benefitted government property is available for public review at the location or website described in Subsection (6);

~~[(f)]~~ (h) state the assessment method by which the governing body proposes to levy the assessment, including, if the local entity is a municipality or county, whether the assessment will be collected:

(i) by directly billing a property owner; or

(ii) by inclusion on a property tax notice issued in accordance with Section 59-2-1317;

~~[(g)]~~ (i) state:

(i) the date described in Section 11-42-203 and the location at which protests against designation of the proposed assessment area or of the proposed improvements are required to be filed; [~~and~~]

(ii) the method by which the governing body will determine the number of protests required to defeat the designation of the proposed assessment area or

acquisition or construction of the proposed improvements; and

(iii) in large, boldface, and conspicuous type that a property owner must protest the designation of the assessment area in writing if the owner objects to the area designation or being assessed for the proposed improvements, operation and maintenance costs, or economic promotion activities;

(4) (j) state the date, time, and place of the public hearing required in Section 11-42-204;

(4) (k) if the governing body elects to create and fund a reserve fund under Section 11-42-702, include a description of:

(i) how the reserve fund will be funded and replenished; and

(ii) how remaining money in the reserve fund is to be disbursed upon full payment of the bonds;

(4) (l) if the governing body intends to designate a voluntary assessment area, include a property owner consent form that:

(i) estimates the total assessment to be levied against the particular parcel of property;

(ii) describes any additional benefits that the governing body expects the assessed property to receive from the improvements; and

(iii) designates the date and time by which the fully executed consent form is required to be submitted to the governing body;

(4) (m) if the local entity intends to levy an assessment to pay operation and maintenance costs or for economic promotion activities, include:

(i) a description of the operation and maintenance costs or economic promotion activities to be paid by assessments and the initial estimated annual assessment to be levied;

(ii) a description of how the estimated assessment will be determined;

(iii) a description of how and when the governing body will adjust the assessment to reflect the costs of:

(A) in accordance with Section 11-42-406, current economic promotion activities; or

(B) current operation and maintenance costs;

(iv) a description of the method of assessment if different from the method of assessment to be used for financing any improvement; and

(v) a statement of the maximum number of years over which the assessment will be levied for:

(A) operation and maintenance costs; or

(B) economic promotion activities; and

(4) (n) if the governing body intends to divide the proposed assessment area into zones classifications under Subsection 11-42-201(1)(b),

include a description of the proposed zones classifications;

(o) if applicable, state the portion and value of the improvement that will be increased in size or capacity to serve property outside of the assessment area and how the increases will be financed; and

(p) state whether the improvements will be financed with a bond and, if so, the currently estimated interest rate and term of financing, subject to Subsection (2), for which the benefitted properties within the assessment area may be obligated.

(2) The estimated interest rate and term of financing in Subsection (1)(p) may not be interpreted as a limitation to the actual interest rate incurred or the actual term of financing as subject to the market rate at the time of the issuance of the bond.

(2) (3) A notice required under Subsection 11-42-201(2)(a) may contain other information that the governing body considers to be appropriate, including:

(a) the amount or proportion of the cost of the improvement to be paid by the local entity or from sources other than an assessment;

(b) the estimated total amount of each type of assessment for the various improvements to be financed according to the method of assessment that the governing body chooses; and

(c) provisions for any improvements described in Subsection 11-42-102~~(24)~~(25)(a)(ii).

(3) (4) Each notice required under Subsection 11-42-201(2)(a) shall:

(a) (i) (A) be published in a newspaper of general circulation within the local entity's jurisdictional boundaries, once a week for four consecutive weeks, with the last publication at least five but not more than 20 days before the day of the hearing required in Section 11-42-204; or

(B) if there is no newspaper of general circulation within the local entity's jurisdictional boundaries, be posted in at least three public places within the local entity's jurisdictional boundaries at least 20 but not more than 35 days before the day of the hearing required in Section 11-42-204; and

(ii) be published on the Utah Public Notice Website described in Section 63F-1-701 for four weeks before the deadline for filing protests specified in the notice under Subsection (1)~~(g)~~(i); and

(b) be mailed, postage prepaid, within 10 days after the first publication or posting of the notice under Subsection ~~(3)~~ (4)(a) to each owner of property to be assessed within the proposed assessment area at the property owner's mailing address.

(5) (a) The local entity may record the version of the notice that is published or posted in accordance with Subsection (4)(a) with the office of the county recorder, by legal description and tax identification

number as identified in county records, against the property proposed to be assessed.

(b) The notice recorded under Subsection (5)(a) expires and is no longer valid one year after the day on which the local entity records the notice if the local entity has failed to adopt the designation ordinance or resolution under Section 11-42-201 designating the assessment area for which the notice was recorded.

(6) A local entity shall make available on the local entity's website, or, if no website is available, at the local entity's place of business, the address and type of use of each unassessed benefitted government property described in Subsection (1)(g).

(7) If a governing body fails to provide actual or constructive notice under this section, the local entity may not assess a levy against a benefitted property omitted from the notice unless:

(a) the property owner gives written consent;

(b) the property owner received notice under Subsection 11-42-401(2)(a)(iii) and did not object to the levy of the assessment before the final hearing of the board of equalization; or

(c) the benefitted property is conveyed to a subsequent purchaser and, before the date of conveyance, the requirements of Subsections 11-42-206(3)(a)(i) and (ii), or, if applicable, Subsection 11-42-207(1)(d)(i) are met.

Section 6. Section 11-42-203 is amended to read:

11-42-203. Protests.

(1) An owner of property that is proposed to be assessed [~~within~~] and who does not want the property to be included in an assessment area may, within 60 days after the day of the hearing described in Subsection 11-42-204(1), file a written protest:

(a) against:

~~(a)~~ (i) the designation of the assessment area;

~~(b)~~ (ii) the inclusion of the owner's property in the proposed assessment area;

~~(c)~~ (iii) the proposed improvements to be acquired or constructed; or

(iv) if applicable, the inclusion of an unassessed benefitted government property, the benefit for which the other assessed properties will collectively pay; or

~~(d)~~ (b) protesting:

(i) whether the assessment meets the requirements of Section 11-42-409; or

(ii) any other aspect of the proposed designation of an assessment area.

(2) Each protest under [~~Subsection (1)(a)~~] Subsection (1) shall:

(a) describe or otherwise identify the property owned by the person filing the protest[.]; and

(b) include the signature of the owner of the property.

(3) An owner may withdraw a protest at any time before the expiration of the 60-day period described in Subsection (1) by filing a written withdrawal with the governing body.

(4) If the governing body intends to assess property within the proposed assessment area by type of improvement or [~~by zone,~~] classification, as described in Section 11-42-201, and the governing body has clearly noticed its intent, the governing body shall[.];

(a) in determining whether adequate protests have been filed, aggregate the protests by the type of improvement or by [~~zone,~~] classification; and

(b) apply to and calculate for each type of improvement or classification the threshold requirements of adequate protests.

(5) The failure of an owner of property within the proposed assessment area to file a timely written protest constitutes a waiver of any objection to:

(a) the designation of the assessment area;

(b) any improvement to be provided to property within the assessment area; [~~and~~]

(c) the inclusion of the owner's property within the assessment area[.];

(d) the fact, but not amount, of benefit to the owner's property; and

(e) the inclusion of an unassessed benefitted government property in the assessment area.

(6) The local entity shall post the total and percentage of the written protests it has received on the local entity's website, or, if no website is available, at the local entity's place of business at least five days before the public meeting described in Section 11-42-206.

Section 7. Section 11-42-204 is amended to read:

11-42-204. Hearing.

(1) On the date and at the time and place specified in the notice under Section 11-42-202, the governing body shall hold a public hearing.

(2) (a) The governing body:

(i) subject to Subsection (2)(a)(ii), may continue the public hearing from time to time to a fixed future date and time[.]; and

(ii) may not hold a public hearing that is a continuance less than five days before the deadline for filing protests described in Section 11-42-203.

(b) The continuance of a public hearing does not restart or extend the protest period described in Subsection 11-42-203(1).

(3) At the public hearing, the governing body shall[~~(a)~~] hear all:

(a) objections to the designation of the proposed assessment area or the improvements proposed to be provided in the assessment area; [and]

(b) objections to whether the assessment will meet the requirements of Section 11-42-409;

(c) objections to the inclusion within the assessment area of an unassessed benefitted government property, the benefit for which the other assessed properties will collectively pay; and

~~[(b) hear all]~~ (d) persons desiring to be heard.

~~[(4) The governing body may make changes in:]~~

~~[(a) improvements proposed to be provided to the proposed assessment area; or]~~

~~[(b) the area or areas proposed to be included within the proposed assessment area.]~~

Section 8. Section 11-42-206 is amended to read:

11-42-206. Public meeting -- Adoption of a resolution or ordinance regarding a proposed assessment area -- Designation prohibited if adequate protests filed -- Recording of resolution or ordinance and notice of proposed assessment.

(1) (a) After holding a public hearing under Section 11-42-204 and ~~[considering protests filed under Section 11-42-203, and subject to Subsection (3), the governing body shall hold a public meeting to adopt a resolution or ordinance:]~~ within 15 days after the day that the protest period expires in accordance with Subsection 11-42-203(1), the governing body shall:

(i) count the written protests filed or withdrawn in accordance with Section 11-42-203 and calculate whether adequate protests have been filed; and

(ii) hold a public meeting to announce the protest tally and whether adequate protests have been filed.

(b) If adequate protests are not filed, the governing body at the public meeting may adopt a resolution or ordinance:

(i) abandoning the proposal to designate an assessment area; or

(ii) designating an assessment area as described in the notice under Section 11-42-202 or with the changes made as authorized under Subsection ~~[11-42-204(4)]~~ (1)(d).

~~[(b) In accordance with Section 11-42-203, the governing body:]~~

~~[(i) may not schedule the public meeting before the expiration of the 60-day protest period; and]~~

~~[(ii) shall consider and report on any timely filed protests.]~~

(c) If adequate protests are filed, the governing body at the public meeting:

(i) may not adopt a resolution or ordinance designating the assessment area; and

(ii) may adopt a resolution or ordinance to abandon the proposal to designate the assessment area.

(d) (i) In the absence of adequate protests upon the expiration of the protest period and subject to Subsection (1)(d)(ii), the governing body may make changes to:

(A) an improvement proposed to be provided to the proposed assessment area; or

(B) the area or areas proposed to be included within the proposed assessment area.

(ii) A governing body may not make a change in accordance with Subsection (1)(d)(i) if the change would result in:

(A) a change in the nature of an improvement or reduction in the estimated amount of benefit to a benefitted property, whether in size, quality, or otherwise, than that described in the notice under Subsection 11-42-202(1)(c);

(B) an estimated total assessment to any benefitted property within the proposed assessment area that exceeds the estimate stated in the notice under Subsection 11-42-202(1)(e) or 11-42-202(1)(l); or

(C) a financing term that extends beyond the estimated term of financing described in Subsection 11-42-202(1)(p).

(2) If the notice under Section 11-42-202 indicates that the proposed assessment area is a voluntary assessment area, the governing body shall:

(a) delete from the proposed assessment area all property whose owners have not submitted an executed consent form consenting to inclusion of the owner's property in the proposed assessment area; [and]

(b) delete all improvements that solely benefit the property whose owners did not consent; and

~~[(b)]~~ (c) determine whether to designate a voluntary assessment area, after considering:

(i) the extent of the improvements required to benefit property owners who consented;

~~[(4)]~~ (ii) the amount of the proposed assessment to be levied on the property within the voluntary assessment area; [and]

~~[(ii)]~~ (iii) the value of the benefits that property within the voluntary assessment area will receive from improvements proposed to be financed by assessments on the property[.]; and

~~[(3) If adequate protests have been filed, the governing body may not designate an assessment area as described in the notice under Section 11-42-202.]~~

(iv) the extent to which the improvements may be scaled to benefit only the assessed properties.

~~[(4)]~~ (3) (a) If the governing body adopts a designation resolution or ordinance designating an assessment area, the governing body shall, within

15 days after adopting the designation resolution or ordinance:

(i) record the original or certified copy of the designation resolution or ordinance in the office of the recorder of the county in which property within the assessment area is located; and

(ii) file with the recorder of the county in which property within the assessment area is located a notice of proposed assessment that:

(A) states that the local entity has designated an assessment area; and

(B) lists, by legal description and tax identification number as identified on county records, the property proposed to be assessed.

~~[(b) A governing body's failure to comply with the requirements of Subsection (4) (a) does not invalidate the designation of an assessment area.]~~

(b) If a governing body fails to comply with the requirements of Subsection (3)(a):

(i) the failure does not invalidate the designation of an assessment area; and

(ii) the local entity may not assess a levy against a subsequent purchaser of a benefitted property that lacked recorded notice unless:

(A) the subsequent purchaser gives written consent;

(B) the subsequent purchaser has actual notice of the assessment levy; or

(C) the subsequent purchaser purchased the property after a corrected notice was filed under Subsection (3)(c).

(c) The governing body may file a corrected notice under Subsection (3)(a)(i) or (ii) if it failed to comply with the date or other requirements for recording notice of the designation resolution or ordinance.

(d) If a governing body has filed a corrected notice under Subsection (3)(c), the local entity may not retroactively collect or adjust the amount of the levy to recapture lost funds for a levy that the local entity was prohibited from collecting, if applicable, under Subsection (3)(b).

(e) A local entity shall pay for a shortfall in assessment funds created under Subsection (3)(b) or (d) from the local entity's general fund and not by increasing or adjusting the assessment of any other property within the assessment area.

~~[(4)]~~ (4) After the adoption of a designation resolution or ordinance under Subsection (1)(a)(b)(ii), the local entity may begin providing the specified improvements.

Section 9. Section 11-42-207 is amended to read:

11-42-207. Adding property to an assessment area.

(1) A local entity may add to a designated assessment area property to be benefitted and assessed if the governing body:

(a) finds that the inclusion of the property will not adversely affect the owners of property already in the assessment area;

(b) obtains from each owner of property to be added and benefitted a written consent that contains:

(i) the owner's consent to:

(A) the owner's property being added to the assessment area; and

(B) the making of the proposed improvements with respect to the owner's property;

(ii) the legal description and tax identification number of the property to be added; and

(iii) the owner's waiver of any right to protest the creation of the assessment area;

(c) amends the designation resolution or ordinance to include the added property; and

(d) within 15 days after amending the designation resolution or ordinance:

(i) records in the office of the recorder of the county in which the added property is located the original or certified copy of the amended designation resolution or ordinance containing the legal description and tax identification number as identified on county records of each additional parcel of property added to the assessment area and proposed to be assessed; and

(ii) gives written notice to the property owner of the inclusion of the owner's property in the assessment area.

~~[(2) The failure of a local entity's governing body to comply with the requirement of Subsection (1)(d) does not affect the validity of the amended designation resolution or ordinance.]~~

(2) (a) If a governing body fails to comply with the requirements of Subsection (1)(d)(i):

(i) the failure does not invalidate the amended designation resolution or ordinance; and

(ii) the local entity may not assess a levy against a subsequent purchaser of a benefitted property that lacked recorded notice unless:

(A) the subsequent purchaser gives written consent;

(B) the subsequent purchaser has actual notice of the assessment levy; or

(C) the subsequent purchaser purchased the property after a corrected notice was filed under Subsection (2)(c).

(b) The governing body may file a corrected notice under Subsection (1)(d)(i) if it failed to comply with the date or other requirements for recording notice of the amended designation resolution or ordinance.

(c) If a governing body has filed a corrected notice under Subsection (2)(b), the local entity may not retroactively collect or adjust the amount of the levy to recapture lost funds for a levy that the local entity

was prohibited from collecting, if applicable, under Subsection (2)(a).

(d) A local entity shall pay for a shortfall in assessment funds created under Subsection (2)(a) or (c) from the local entity's general fund and not by increasing or adjusting the assessment of any other property within the assessment area.

(3) Except as provided in this section, a local entity may not add to an assessment area property not included in a notice under Section 11-42-202, or provide for making improvements that are not stated in the notice, unless the local entity gives notice as provided in Section 11-42-202 and holds a hearing as required under Section 11-42-204 as to the added property or additional improvements.

Section 10. Section 11-42-401 is amended to read:

11-42-401. Levying an assessment -- Prerequisites -- Assessment list.

(1) (a) If a local entity has designated an assessment area in accordance with Part 2, Designating an Assessment Area, the local entity may levy an assessment against property within that assessment area as provided in this part.

(b) If a local entity that is a municipality or county designates an assessment area in accordance with this chapter, the municipality or county may levy an assessment and collect the assessment in accordance with Subsection 11-42-202(1)(~~f~~)(h)(i) or (ii).

(c) An assessment billed by a municipality or county in the same manner as a property tax and included on a property tax notice in accordance with Subsection 11-42-202(1)(~~f~~)(h)(ii) is enforced in accordance with, constitutes a lien in accordance with, and is subject to other penalty provisions in accordance with this chapter.

(2) Before a governing body may adopt a resolution or ordinance levying an assessment against property within an assessment area:

(a) the governing body shall:

(i) subject to Subsection (3), prepare an assessment list designating:

(A) each parcel of property proposed to be assessed; and

(B) the amount of the assessment to be levied against the property;

(ii) appoint a board of equalization as provided in Section 11-42-403; and

(iii) give notice as provided in Section 11-42-402; and

(b) the board of equalization, appointed under Section 11-42-403, shall:

(i) hold hearings[;];

(ii) determine if the assessment for each benefitted property meets the requirements of Section 11-42-409;

(iii) make necessary corrections so that assessed properties are not assessed for benefits conferred exclusively outside of the assessment area;

(iv) make necessary corrections so that the benefitted properties are not charged for an increase in size or capacity of an improvement where the increased size or capacity is to serve property outside of the assessment area;

(v) make any corrections it considers appropriate to an assessment[;]; and

(vi) report its findings to the governing body as provided in Section 11-42-403.

(3) (a) The governing body of a local entity shall prepare the assessment list described in Subsection (2)(a)(i) at any time after:

(i) the governing body has determined the estimated or actual operation and maintenance costs, if the assessment is to pay operation and maintenance costs;

(ii) the governing body has determined the estimated or actual economic promotion costs described in Section 11-42-206, if the assessment is to pay for economic promotion activities; or

(iii) for any other assessment, the governing body has determined:

(A) the estimated or actual acquisition and construction costs of all proposed improvements within the assessment area, including overhead costs actually incurred and authorized reasonable contingencies;

(B) the estimated or actual property price for all property to be acquired to provide the proposed improvements; and

(C) the estimated reasonable cost of any work to be ~~done~~ performed by the local entity.

(b) In addition to the requirements of Subsection (3)(a), the governing body of a local entity shall prepare the assessment list described in Subsection (2)(a)(i) before:

(i) the light service has commenced, if the assessment is to pay for light service; or

(ii) the park maintenance has commenced, if the assessment is to pay for park maintenance.

(4) A local entity may levy an assessment for some or all of the cost of improvements within an assessment area, including payment of:

(a) operation and maintenance costs of improvements constructed within the assessment area only to the extent the improvements provide benefits to the properties within the assessment area and in accordance with Section 11-42-409;

(b) (i) if an outside entity furnishes utility services or maintains utility improvements, the actual cost that the local entity pays for utility services or for maintenance of improvements; or

(ii) if the local entity itself furnishes utility service or maintains improvements, for the ~~reasonable cost of~~ actual costs that are reasonable,

including reasonable administrative costs or reasonable costs for reimbursement of actual costs incurred by the local entity, for supplying the utility service or maintenance;

(c) the ~~reasonable cost of supplying~~ actual costs that are reasonable to supply labor, materials, or equipment in connection with improvements; and

(d) (i) the actual costs that are reasonable ~~cost of~~ for valid connection fees; or

(ii) the reasonable ~~costs, as determined by the local entity governing body, if the local entity owns or supplies any sewer, storm drainage, water, gas, electric, or communications connections~~ and generally applicable costs of locally provided utilities.

(5) A local entity may not levy an assessment for an amount donated or contributed for an improvement or part of an improvement or for anything other than the costs actually and reasonably incurred by the local entity in order to provide an improvement or conduct operation and maintenance or economic promotion activities.

(6) The validity of an otherwise valid assessment is not affected because the actual and reasonable cost of improvements exceeds the estimated cost.

(7) (a) Subject to Subsection (7)(b), an assessment levied to pay for operation and maintenance costs may not be levied over a period of time exceeding five years beginning on the day on which the local entity adopts the assessment ordinance or assessment resolution for the operation and maintenance costs assessment.

(b) A local entity may levy an additional assessment described in Subsection (7)(a) in the assessment area designated for the assessment described in Subsection (7)(a) if, after the five-year period expires, the local entity:

(i) gives notice in accordance with Section 11-42-402 of the new five-year term of the assessment; and

(ii) complies with the applicable levy provisions of this part.

Section 11. Section 11-42-402 is amended to read:

11-42-402. Notice of assessment and board of equalization hearing.

Each notice required under Subsection 11-42-401(2)(a)(iii) shall:

(1) state:

(a) that an assessment list is completed and available for examination at the offices of the local entity;

(b) the total estimated or actual cost of the improvements;

(c) the amount of the total estimated or actual cost of the proposed improvements to be paid by the local entity;

(d) the amount of the assessment to be levied against benefitted property within the assessment area;

(e) the assessment method used to calculate the proposed assessment;

(f) the unit cost used to calculate the assessments shown on the assessment list, based on the assessment method used to calculate the proposed assessment; and

(g) the dates, times, and place of the board of equalization hearings under Subsection 11-42-401(2)(b)(i);

(2) (a) beginning at least 20 but not more than 35 days before the day on which the first hearing of the board of equalization is held:

(i) be published at least once in a newspaper of general circulation within the local entity's jurisdictional boundaries; or

(ii) if there is no newspaper of general circulation within the local entity's jurisdictional boundaries, be posted in at least three public places within the local entity's jurisdictional boundaries; and

(b) be published on the Utah Public Notice Website created in Section 63F-1-701 for 35 days immediately before the day on which the first hearing of the board of equalization is held; and

(3) be mailed, postage prepaid, within 10 days after the first publication or posting of the notice under Subsection (2) to each owner of property to be assessed within the proposed assessment area at the property owner's mailing address.

Section 12. Section 11-42-403 is amended to read:

11-42-403. Board of equalization -- Hearings -- Corrections to proposed assessment list -- Report to governing body -- Appeal -- Board findings final -- Waiver of objections.

(1) After preparing an assessment list under Subsection 11-42-401(2)(a)(i), the governing body shall appoint a board of equalization.

(2) Each board of equalization under this section shall, at the option of the governing body, consist of:

(a) three or more members of the governing body;

(b) (i) two members of the governing body; and

(ii) (A) a representative of the treasurer's office of the local entity; or

(B) a representative of the office of the local entity's engineer or the project engineer; or

(c) (i) (A) one member of the governing body; or

(B) a representative of the governing body, whether or not a member of the governing body, appointed by the governing body;

(ii) a representative of the treasurer's office of the local entity; and

(iii) a representative of the office of the local entity's engineer or the project engineer.

(3) (a) The board of equalization shall hold hearings on at least three consecutive days for at least one hour per day between 9 a.m. and 9 p.m., as specified in the notice under Section 11-42-402.

(b) The board of equalization may continue a hearing from time to time to a specific place and a specific hour and day until the board's work is completed.

(c) At each hearing, the board of equalization shall hear arguments from any person who claims to be aggrieved, including arguments relating to:

(i) the ~~[direct or indirect]~~ amount of benefits accruing to a tract, block, lot, or parcel of property in the assessment area; or

(ii) the amount of the proposed assessment against the tract, block, lot, or parcel.

(4) (a) After the hearings under Subsection (3) are completed, the board of equalization shall:

(i) consider all facts and arguments presented at the hearings; and

(ii) make any corrections to the proposed assessment list ~~[that the board considers just and equitable]~~ necessary to ensure that the assessment meets the requirements of Section 11-42-409.

(b) A correction under Subsection (4)(a)(ii) may:

(i) eliminate one or more pieces of property from the assessment list; or

(ii) increase or decrease the amount of the assessment proposed to be levied against a parcel of property.

(c) (i) If the board of equalization makes a correction under Subsection (4)(a)(ii) that results in an increase of a proposed assessment, the board shall, before approving a corrected assessment list:

(A) give notice as provided in Subsection (4)(c)(ii);

(B) hold a hearing at which the owner whose assessment is proposed to be increased may appear and object, in person or in writing, to the proposed increase; and

(C) after holding a hearing, make any further corrections that the board considers ~~[just and equitable with respect to]~~ necessary to make the proposed increased assessment meet the requirements of Section 11-42-409.

(ii) Each notice required under Subsection (4)(c)(i)(A) shall:

(A) state:

(I) that the property owner's assessment is proposed to be increased;

(II) the amount of the proposed increased assessment;

(III) that a hearing will be held at which the owner may appear and object to the increase; and

(IV) the date, time, and place of the hearing; and

(B) be mailed, at least 15 days before the date of the hearing, to each owner of property as to which the assessment is proposed to be increased at the property owner's mailing address.

(5) (a) After the board of equalization has held all hearings required by this section and has made all corrections the board considers ~~[just and equitable]~~ necessary to comply with Section 11-42-409, the board shall report to the governing body its findings that:

(i) each ~~[parcel of]~~ assessed property within the assessment area will be ~~[directly or indirectly benefitted in an amount not less than the assessment to be levied against the property]~~ assessed in a manner that meets the requirements of Section 11-42-409; and

(ii) except as provided in Subsection 11-42-409~~(6)~~(5), no parcel of property on the assessment list will bear more than its ~~[proportionate share]~~ equitable portion of the [cost] actual costs that are reasonable of the improvements benefitting the property in accordance with Subsection 11-42-409.

(b) The board of equalization shall, within 10 days after submitting its report to the governing body, mail a copy of the board's final report to each property owner who objected at the board hearings to the assessment proposed to be levied against the property owner's property at the property owner's mailing address.

(6) (a) If a board of equalization includes members other than the governing body of the local entity, a property owner may appeal a decision of the board to the governing body by filing with the governing body a written notice of appeal within 15 days after the board's final report is mailed to property owners under Subsection (5)(b).

(b) Except as provided in Subsection (6)(a), no appeal may be taken from the findings of a board of equalization.

(7) The findings of a board of equalization are final:

(a) when approved by the governing body, if no appeal is allowed under Subsection (6); or

(b) after the time for appeal under Subsection (6) is passed, if an appeal is allowed under that subsection.

(8) (a) If a governing body has levied an assessment to pay operation and maintenance costs within an assessment area, the governing body may periodically appoint a new board of equalization to review assessments for operation and maintenance costs.

(b) Each board of equalization appointed under Subsection (8)(a) shall comply with the requirements of Subsections (3) through (6).

~~[(9) The failure of an owner of property within the assessment area to appear before the board of equalization to object to the levy of the assessment constitutes a waiver of all objections to the levy, except an objection that the governing body failed to~~

~~obtain jurisdiction to order that the improvements which the assessment is intended to pay be provided to the assessment area.]~~

(9) (a) An owner who fails to make an objection setting forth all claims, in accordance with Subsection (9)(b), to the board of equalization waives all objections, except as provided in Subsection (10), to the levy.

(b) An owner may set forth a claim and object to a levy by:

(i) appearing before the board of equalization in person or through a designated agent; or

(ii) submitting the objection in writing if the objection is received by the board of equalization before:

(A) the first hearing as described in Subsection (3)(a); or

(B) if applicable to the owner, a subsequent hearing described in Subsection (4)(c)(i)(B).

(10) The provisions of Subsection (9)(a) do not prohibit an owner's objection that the governing body failed to obtain jurisdiction to order that the improvements which the assessment is intended to pay be provided to the assessment area.

(11) (a) This section may not be interpreted to insulate a local entity from a claim of misuse of assessment funds.

(b) (i) Except as provided in Subsection (11)(b)(ii), an action in the nature of mandamus is the sole form of relief available to a party challenging the misuse of assessment funds.

(ii) The limitation in Subsection (11)(b)(i) does not prohibit the filing of criminal charges against or the prosecution of a party for the misuse of assessment funds.

Section 13. Section 11-42-404 is amended to read:

11-42-404. Adoption of a resolution or ordinance levying an assessment -- Notice of the adoption -- Effective date of resolution or ordinance -- Notice of assessment interest.

(1) (a) After receiving a final report from a board of equalization under Subsection 11-42-403(5) or, if applicable, after the time for filing an appeal under Subsection 11-42-403(6) has passed, the governing body may adopt a resolution or ordinance levying an assessment against benefitted property within the assessment area designated in accordance with Part 2, Designating an Assessment Area.

(b) ~~[(4)]~~ Except as provided in Subsection (1)~~[(b)(ii)]~~(c), a local entity may not levy more than one assessment under this chapter for an assessment area designated in accordance with Part 2, Designating an Assessment Area.

~~[(ii)]~~ (c) A local entity may levy more than one assessment in an assessment area designated in

accordance with Part 2, Designating an Assessment Area, if:

~~[(A)]~~ (i) the local entity has adopted a designation resolution or designation ordinance for each assessment in accordance with Section 11-42-201; and

~~[(B)]~~ (ii) the assessment is levied to pay:

~~[(4)]~~ (A) subject to Section 11-42-401, operation and maintenance costs; ~~[ø]~~

~~[(4)]~~ (B) subject to Section 11-42-406, the costs of economic promotion activities~~[-];~~ or

(C) the costs of environmental remediation activities.

~~[(e)]~~ (d) An assessment resolution or ordinance adopted under Subsection (1)(a):

(i) need not describe each tract, block, lot, part of block or lot, or parcel of property to be assessed;

(ii) need not include the legal description or tax identification number of the parcels of property assessed in the assessment area; and

(iii) is adequate for purposes of identifying the property to be assessed within the assessment area if the assessment resolution or ordinance incorporates by reference the corrected assessment list that describes the property assessed by legal description and tax identification number.

(2) (a) A local entity that adopts an assessment resolution or ordinance shall give notice of the adoption by:

(i) (A) publishing a copy of the resolution or ordinance, or a summary of the resolution or ordinance, once in a newspaper of general circulation within the local entity's jurisdictional boundaries; or

(B) if there is no newspaper of general circulation with the local entity's jurisdictional boundaries as described in Subsection (2)(a)(i), posting a copy of the resolution or ordinance in at least three public places within the local entity's jurisdictional boundaries for at least 21 days; and

(ii) publishing, in accordance with Section 45-1-101, a copy of the resolution or ordinance for at least 21 days.

(b) No other publication or posting of the resolution or ordinance is required.

(3) Notwithstanding any other statutory provision regarding the effective date of a resolution or ordinance, each assessment resolution or ordinance takes effect:

(a) on the date of publication or posting of the notice under Subsection (2); or

(b) at a later date provided in the resolution or ordinance.

(4) (a) The governing body of each local entity that has adopted an assessment resolution or ordinance under Subsection (1) shall, within five days after the day on which the 25-day prepayment period

under Subsection 11-42-411(6) has passed, file a notice of assessment interest with the recorder of the county in which the assessed property is located.

(b) Each notice of assessment interest under Subsection (4)(a) shall:

(i) state that the local entity has an assessment interest in the assessed property;

(ii) if the assessment is to pay operation and maintenance costs or for economic promotion activities, state the maximum number of years over which an assessment will be payable; and

(iii) describe the property assessed by legal description and tax identification number.

(c) A local entity's failure to file a notice of assessment interest under this Subsection (4) has no effect on the validity of an assessment levied under an assessment resolution or ordinance adopted under Subsection (1).

Section 14. Section 11-42-406 is amended to read:

11-42-406. Assessment for economic promotion activities -- Duration -- Reporting.

(1) (a) If the governing body of a local entity designates an assessment area in accordance with Part 2, Designating an Assessment Area, for economic promotion activities, the governing body:

(i) subject to Subsection (1)(a)(ii), may levy an assessment to pay for economic promotion activities by adopting an assessment resolution or ordinance in accordance with Section 11-42-404; and

~~[(ii) subject to Subsection (1)(b), may levy an additional assessment for economic promotion activities for the designated assessment area described in Subsection (1)(a).]~~

~~[(A) by adopting an assessment resolution or an ordinance in accordance with Section 11-42-404; and]~~

~~[(B) for a period of five years, beginning on the day on which the local entity adopts the initial assessment resolution or ordinance described in Subsection (1)(a)(i).]~~

(ii) except as provided in Subsection (1)(b), may not levy the assessment for a period longer than five years.

(b) A governing body may ~~[not]~~ levy ~~[an]~~ additional ~~[assessment]~~ assessments to pay for economic promotion activities after the five-year period described in Subsection (1)(a)(ii)~~[(B) unless]~~ if the governing body:

(i) designates a new assessment area in accordance with Part 2, Designating an Assessment Area; ~~[and]~~

(ii) adopts a new assessment resolution or ordinance in accordance with Section 11-42-404~~[-];~~

(iii) limits each additional assessment to a five-year period; and

(iv) complies with Subsections (1)(b)(i) through (iii) for each additional assessment.

(2) If a local entity designates an assessment area for economic promotion activities, the local entity:

(a) shall spend on economic promotion activities at least 70% of the money generated from an assessment levied in the assessment area and from improvement revenues;

(b) may not spend more than 30% of the money generated from the assessment levied in the assessment area and from improvement revenues on administrative costs, including salaries, benefits, rent, travel, and costs incidental to publications; and

(c) in accordance with Subsection (3), shall publish a detailed report including the following:

(i) an account of money deposited into the assessment fund described in Section 11-42-412;

(ii) an account of expenditures from the fund described in Section 11-42-412; and

(iii) a detailed account of whether each expenditure described in Subsection (2)(c)(ii) was made for economic promotion activities described in Subsection (2)(a) or for administrative costs described in Subsection (2)(b).

(3) A local entity shall publish a report required in Subsection (2)(c):

(a) on:

(i) if available, the local entity's public web site; and

(ii) if the local entity is not a county or municipality, on the public web site of any county or municipality in which the local entity has jurisdiction;

(b) (i) within one year after the day on which the local entity adopts a new assessment resolution or ordinance for economic promotion activities; and

(ii) each subsequent year that the economic promotion activities levy is assessed by updating the information described in Subsection (2)(c); and

(c) for six months on a web site described in Subsection (3)(a) after the day on which the report is initially published under Subsection (3)(b) or updated under Subsection (3)(b)(ii).

Section 15. Section 11-42-409 is amended to read:

11-42-409. Assessment requirements and prohibitions -- Economic promotion activities assessment requirements and prohibitions -- Allocation for unassessed benefitted government property.

(1) (a) Each local entity that levies an assessment under this chapter ~~[shall levy the assessment on each block, lot, tract, or parcel of property that borders, is adjacent to, or benefits from an improvement];~~

~~(i) to the extent that the improvement directly or indirectly benefits the property; and]~~

~~(ii) to whatever depth on the parcel of property that the governing body determines, including the full depth.]~~

~~(i) except for an appropriate allocation for an unassessed benefitted government property, may not assess a property for more than the amount that the property benefits by the improvement, operation and maintenance, or economic promotion activities;~~

~~(ii) may levy an assessment only for the actual costs that are reasonable; and~~

~~(iii) shall levy an assessment on a benefitted property in an amount that reflects an equitable portion, subject to Subsection (1)(b), of the benefit the property will receive from an improvement, operation and maintenance, or economic promotion activities for which the assessment is levied.~~

~~(b) The local entity, in accounting for a property's benefit or portion of a benefit received from an improvement, operation and maintenance, or economic promotion activities, shall consider:~~

~~(i) any benefit that can be directly identified with the property; and~~

~~(ii) the property's roughly equivalent portion of the benefit that is collectively shared by all the assessed properties in the entire assessment area or classification.~~

~~[(b)] (c) The validity of an otherwise valid assessment is not affected by the fact that the benefit to the property from the improvement[-(i) is only indirect; or (ii)] does not increase the fair market value of the property.~~

~~(2) The assessment method a governing body uses to calculate an assessment may be according to frontage, area, taxable value, fair market value, lot, parcel, number of connections, equivalent residential unit, or any combination of these methods, or any other method as the governing body considers [fair and equitable] appropriate to comply with Subsections (1)(a) and (b).~~

~~[(3) In calculating assessments, a governing body may:]~~

~~(3) A local entity that levies an assessment under this chapter for an improvement:~~

~~(a) shall:~~

~~(i) (A) levy the assessment on each block, lot, tract, or parcel of property that benefits from the improvement; and~~

~~(B) to whatever depth, including full depth, on the parcel of property that the governing body determines but that still complies with Subsections (1)(a) and (b);~~

~~(ii) make an allowance for each corner lot receiving the same improvement on both sides so that the property is not assessed at the full rate on both sides; and~~

~~(iii) pay for any increase in size or capacity that serves property outside of the assessment area with funds other than those levied by an assessment;~~

~~(b) may:~~

~~[(a)] (i) use different methods for different improvements in an assessment area; [and]~~

~~[(b)] (ii) assess different amounts in different [zones] classifications, even when using the same method, if acquisition or construction costs differ from [zone to zone-] classification to classification;~~

~~[(4) (a) Each local entity shall make an allowance for each corner lot receiving the same improvement on both sides so that the property is not assessed at the full rate on both sides.]~~

~~[(b) A local entity may]~~

~~(iii) allocate a corner lot allowance under Subsection [(4)(a)] (3)(a)(ii) to all other benefitted property within the assessment area by increasing the assessment levied against the other assessed property[-] in the same proportion as the improvement is assessed;~~

~~[(5) (a) Assessments shall be fair and equitable according to the benefit to the benefitted property from the improvement.]~~

~~[(b) To] (iv) to comply with Subsection [(5)] (1)(a), [a local entity may levy assessments within zones.] levy an assessment within classifications; and~~

~~(v) assess property to replace improvements that are approaching or have exceeded their useful life or to increase the level of service of an existing improvement; and~~

~~(c) may not:~~

~~(i) consider the costs of the additional size or capacity of an improvement that will be increased in size or capacity to serve property outside of the assessment area when calculating an assessment or determining an assessment method; or~~

~~(ii) except for in a voluntary assessment area or as provided in Subsection (3)(b)(v), assess a property for an improvement that would duplicate or provide a reasonably similar service that is already provided to the property.~~

~~(4) A local entity that levies an assessment under this chapter for economic promotion activities:~~

~~(a) may:~~

~~(i) levy an assessment only on commercial or industrial real property; and~~

~~(ii) create classifications based on property use, or other distinguishing factors, to determine the estimated benefit to the assessed property;~~

~~(b) may rely on, in addition to the assessment methods described in Subsection (2), estimated benefits from an increase in:~~

~~(i) office lease rates;~~

~~(ii) retail sales rates;~~

~~(iii) customer base;~~

- (iv) public perception;
- (v) hotel room rates and occupancy levels;
- (vi) property values;
- (vii) the commercial environment from enhanced services;
- (viii) another articulable method of estimating benefits; or
- (ix) a combination of the methods described in Subsections (4)(b)(i) through (viii);
- (c) subject to Subsection (4)(d), shall use an assessment method that, when applied to a benefitted property, meets the requirements of Subsection (1)(a); and
- (d) may not use taxable value, fair market value, or any other assessment method based on the value of the property as the sole assessment method.
- [~~6~~] (5) A local entity may levy an assessment that would otherwise violate a provision of this chapter if the owners of all property to be assessed voluntarily enter into a written agreement with the local entity consenting to the assessment.
- (6) A local entity may allocate the cost of a benefit received by an unassessed benefitted government property to all other benefitted property within the assessment area by increasing the assessment levied against the other assessed property in the same proportion as the improvement, operation and maintenance, or economic promotion activities are assessed.

CHAPTER 397**H. B. 204**

Passed March 11, 2015
 Approved March 31, 2015
 Effective May 12, 2015

TAX INCREMENT AMENDMENTS

Chief Sponsor: Jeremy A. Peterson
 Senate Sponsor: Curtis S. Bramble

LONG TITLE**General Description:**

This bill addresses tax increment under community development and renewal agency provisions.

Highlighted Provisions:

This bill:

- ▶ modifies the definition of “tax increment”; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

17C-1-102, as last amended by Laws of Utah 2012, Chapters 212 and 235

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

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

As used in this title:

(1) “Adjusted tax increment” means:

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

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

(2) “Affordable housing” means housing to be owned or occupied by persons and families of low or moderate income, as determined by resolution of the agency.

(3) “Agency” or “community development and renewal agency” means a separate body corporate and politic, created under Section 17C-1-201 or as a redevelopment agency under previous law, that is a political subdivision of the state, that is created to undertake or promote urban renewal, economic development, or community development, or any combination of them, as provided in this title, and whose geographic boundaries are coterminous with:

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

(b) for an agency created by a city or town, the boundaries of the city or town.

(4) “Annual income” has the meaning as defined under regulations of the United States Department of Housing and Urban Development, 24 C.F.R. Sec. 5.609, as amended or as superseded by replacement regulations.

(5) “Assessment roll” has the meaning as defined in Section 59-2-102.

(6) “Base taxable value” means:

(a) unless otherwise designated by the taxing entity committee in accordance with Subsection 17C-1-402(4)(b)(ix), for an urban renewal or economic development project area, the taxable value of the property within a project area from which tax increment will be collected, as shown upon the assessment roll last equalized before:

(i) for a pre-July 1, 1993, project area plan, the effective date of the project area plan;

(ii) for a post-June 30, 1993, project area plan:

(A) the date of the taxing entity committee’s approval of the first project area budget; or

(B) if no taxing entity committee approval is required for the project area budget, the later of:

(I) the date the project area plan is adopted by the community legislative body; and

(II) the date the agency adopts the first project area budget;

(iii) for a project on an inactive industrial site, a year after the date on which the inactive industrial site is sold for remediation and development; or

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

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

(B) the date on which the airport that had been operated on the inactive airport site ceased operations; and

(b) for a community development project area, the agreed value specified in a resolution or interlocal agreement under Subsection 17C-4-201(2).

(7) “Basic levy” means the portion of a school district’s tax levy constituting the minimum basic levy under Section 59-2-902.

(8) “Blight” or “blighted” means the condition of an area that meets the requirements of Subsection 17C-2-303(1).

(9) “Blight hearing” means a public hearing under Subsection 17C-2-102(1)(a)(i)(C) and Section 17C-2-302 regarding the existence or nonexistence of blight within the proposed urban renewal project area.

(10) “Blight study” means a study to determine the existence or nonexistence of blight within a survey area as provided in Section 17C-2-301.

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

(12) "Budget hearing" means the public hearing on a draft project area budget required under Subsection 17C-2-201(2)(d) for an urban renewal project area budget or Subsection 17C-3-201(2)(d) for an economic development project area budget.

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

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

(15) "Community" means a county, city, or town.

(16) "Community development" means development activities within a community, including the encouragement, promotion, or provision of development.

(17) "Contest" means to file a written complaint in the district court of the county in which the person filing the complaint resides.

(18) "Economic development" means to promote the creation or retention of public or private jobs within the state through:

(a) planning, design, development, construction, rehabilitation, business relocation, or any combination of these, within a community; and

(b) the provision of office, industrial, manufacturing, warehousing, distribution, parking, public, or other facilities, or other improvements that benefit the state or a community.

(19) "Fair share ratio" means the ratio derived by:

(a) for a city or town, comparing the percentage of all housing units within the city or town that are publicly subsidized income targeted housing units to the percentage of all housing units within the whole county that are publicly subsidized income targeted housing units; or

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

(20) "Family" has the meaning as defined under regulations of the United States Department of Housing and Urban Development, 24 C.F.R. Section 5.403, as amended or as superseded by replacement regulations.

(21) "Greenfield" means land not developed beyond agricultural or forestry use.

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

(23) "Housing funds" means the funds allocated in an urban renewal project area budget under Section 17C-2-203 for the purposes provided in Subsection 17C-1-412(1).

(24) (a) "Inactive airport site" means land that:

(i) consists of at least 100 acres;

(ii) is occupied by an airport:

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

(II) (Aa) that is scheduled to be decommissioned; and

(Bb) for which a replacement commercial service airport is under construction; and

(B) that is owned or was formerly owned and operated by a public entity; and

(iii) requires remediation because:

(A) of the presence of hazardous waste or solid waste; or

(B) the site lacks sufficient public infrastructure and facilities, including public roads, electric service, water system, and sewer system, needed to support development of the site.

(b) "Inactive airport site" includes a perimeter of up to 2,500 feet around the land described in Subsection (24)(a).

(25) (a) "Inactive industrial site" means land that:

(i) consists of at least 1,000 acres;

(ii) is occupied by an inactive or abandoned factory, smelter, or other heavy industrial facility; and

(iii) requires remediation because of the presence of hazardous waste or solid waste.

(b) "Inactive industrial site" includes a perimeter of up to 1,500 feet around the land described in Subsection (25)(a).

(26) "Income targeted housing" means housing to be owned or occupied by a family whose annual income is at or below 80% of the median annual income for the county in which the housing is located.

(27) "Incremental value" means a figure derived by multiplying the marginal value of the property located within an urban renewal project area on which tax increment is collected by a number that represents the percentage of adjusted tax increment from that project area that is paid to the agency.

(28) "Loan fund board" means the Olene Walker Housing Loan Fund Board, established under Title 35A, Chapter 8, Part 5, Olene Walker Housing Loan Fund.

(29) "Marginal value" means the difference between actual taxable value and base taxable value.

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

(31) (a) "Municipal building" means a building owned and operated by a municipality for the purpose of providing one or more primary municipal functions, including:

- (i) a fire station;
- (ii) a police station;
- (iii) a city hall; or
- (iv) a court or other judicial building.

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

(32) "Plan hearing" means the public hearing on a draft project area plan required under Subsection 17C-2-102(1)(a)(vi) for an urban renewal project area plan, Subsection 17C-3-102(1)(d) for an economic development project area plan, and Subsection 17C-4-102(1)(d) for a community development project area plan.

(33) "Post-June 30, 1993, project area plan" means a project area plan adopted on or after July 1, 1993, whether or not amended subsequent to its adoption.

(34) "Pre-July 1, 1993, project area plan" means a project area plan adopted before July 1, 1993, whether or not amended subsequent to its adoption.

(35) "Private," with respect to real property, means:

(a) not owned by the United States or any agency of the federal government, a public entity, or any other governmental entity; and

(b) not dedicated to public use.

(36) "Project area" means the geographic area described in a project area plan or draft project area plan where the urban renewal, economic development, or community development, as the case may be, set forth in the project area plan or draft project area plan takes place or is proposed to take place.

(37) "Project area budget" means a multiyear projection of annual or cumulative revenues and expenses and other fiscal matters pertaining to a urban renewal or economic development project area that includes:

(a) the base taxable value of property in the project area;

(b) the projected tax increment expected to be generated within the project area;

(c) the amount of tax increment expected to be shared with other taxing entities;

(d) the amount of tax increment expected to be used to implement the project area plan, including the estimated amount of tax increment to be used for land acquisition, public improvements, infrastructure improvements, and loans, grants, or other incentives to private and public entities;

(e) the tax increment expected to be used to cover the cost of administering the project area plan;

(f) if the area from which tax increment is to be collected is less than the entire project area:

(i) the tax identification numbers of the parcels from which tax increment will be collected; or

(ii) a legal description of the portion of the project area from which tax increment will be collected;

(g) for property that the agency owns and expects to sell, the expected total cost of the property to the agency and the expected selling price; and

(h) (i) for an urban renewal project area, the information required under Subsection 17C-2-201(1)(b); and

(ii) for an economic development project area, the information required under Subsection 17C-3-201(1)(b).

(38) "Project area plan" means a written plan under Chapter 2, Part 1, Urban Renewal Project Area Plan, Chapter 3, Part 1, Economic Development Project Area Plan, or Chapter 4, Part 1, Community Development Project Area Plan, as the case may be, that, after its effective date, guides and controls the urban renewal, economic development, or community development activities within a project area.

(39) "Property tax" includes privilege tax and each levy on an ad valorem basis on tangible or intangible personal or real property.

(40) "Public entity" means:

(a) the state, including any of its departments or agencies; or

(b) a political subdivision of the state, including a county, city, town, school district, local district, special service district, or interlocal cooperation entity.

(41) "Publicly owned infrastructure and improvements" means water, sewer, storm drainage, electrical, and other similar systems and lines, streets, roads, curb, gutter, sidewalk, walkways, parking facilities, public transportation facilities, and other facilities, infrastructure, and improvements benefitting the public and to be publicly owned or publicly maintained or operated.

(42) "Record property owner" or "record owner of property" means the owner of real property as shown on the records of the recorder of the county in which the property is located and includes a purchaser under a real estate contract if the

contract is recorded in the office of the recorder of the county in which the property is located or the purchaser gives written notice of the real estate contract to the agency.

(43) "Superfund site":

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

(b) includes an area formerly included in the National Priorities List, as described in Subsection (43)(a), but removed from the list following remediation that leaves on site the waste that caused the area to be included in the National Priorities List.

(44) "Survey area" means an area designated by a survey area resolution for study to determine whether one or more urban renewal projects within the area are feasible.

(45) "Survey area resolution" means a resolution adopted by the agency board under Subsection 17C-2-101(1)(a) designating a survey area.

(46) "Taxable value" means the value of property as shown on the last equalized assessment roll as certified by the county assessor.

(47) (a) [~~"Tax~~] Except as provided in Subsection (47)(b), "tax increment" means, ~~except as provided in Subsection (47)(b),~~ the difference between:

(i) the amount of property tax revenues generated each tax year by all taxing entities from the area within a project area designated in the project area plan as the area from which tax increment is to be collected_[,]:

(A) using the current assessed value of the property; and

(B) that are paid to the agency from funds from all of the tax levies used in establishing the certified tax rate in accordance with Section 59-2-924 of the taxing entity within which the agency is located, including funds that are restricted for a particular use by statute to the extent bond covenants are not impaired; and

(ii) the amount of property tax revenues that would be generated from that same area using the base taxable value of the property.

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

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

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

(48) "Taxing entity" means a public entity that levies a tax on a parcel or parcels of property located within a community.

(49) "Taxing entity committee" means a committee representing the interests of taxing entities, created as provided in Section 17C-1-402.

(50) "Unincorporated" means not within a city or town.

(51) (a) "Urban renewal" means the development activities under a project area plan within an urban renewal project area, including:

(i) planning, design, development, demolition, clearance, construction, rehabilitation, environmental remediation, or any combination of these, of part or all of a project area;

(ii) the provision of residential, commercial, industrial, public, or other structures or spaces, including recreational and other facilities incidental or appurtenant to them;

(iii) altering, improving, modernizing, demolishing, reconstructing, or rehabilitating, or any combination of these, existing structures in a project area;

(iv) providing open space, including streets and other public grounds and space around buildings;

(v) providing public or private buildings, infrastructure, structures, and improvements; and

(vi) providing improvements of public or private recreation areas and other public grounds.

(b) "Urban renewal" means "redevelopment," as defined under the law in effect before May 1, 2006, if the context requires.

CHAPTER 398**H. B. 207**

Passed March 12, 2015

Approved March 31, 2015

Effective May 12, 2015

EDUCATOR TAX CREDIT STUDY

Chief Sponsor: Steve Eliason

Senate Sponsor: Ann Millner

LONG TITLE**General Description:**

This bill requires a study related to a tax credit.

Highlighted Provisions:

This bill:

- ▶ defines terms; and
- ▶ requires the State Board of Education to conduct a study related to a tax credit for educator expenses.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:None**Uncodified Material Affected:**

ENACTS UNCODIFIED MATERIAL

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

Section 1. State Board of Education study.

(1) As used in this section, "eligible educator" means the following at a public elementary school or public secondary school that provides student instruction for one or more years of kindergarten through grade 12 in the state:

- (a) a teacher;
- (b) an instructor;
- (c) a counselor;
- (d) a principal; or
- (e) an aide.

(2) During the 2015 interim, the State Board of Education shall study the following for each school district:

(a) the types of items eligible educators purchase for:

- (i) use in a classroom; and
- (ii) educational purposes; and

(b) the amount of expenses eligible educators incur during a school year to purchase the items described in Subsection (2)(a).

(3) The State Board of Education shall report its findings and recommendations on the study described in Subsection (2) to the Education Interim Committee at or before the November 2015 interim meeting.

(4) For purposes of Subsection (3), the State Board of Education's findings and

recommendations shall include recommendations on provisions that could be included in legislation to enact a tax credit for the purchase of the items described in Subsection (2)(a), including the amount of the tax credit.

(5) This section is repealed on November 30, 2015.

CHAPTER 399**H. B. 208**

Passed March 10, 2015

Approved March 31, 2015

Effective July 1, 2015

**SCHOOL DISTRICT POSTEMPLOYMENT
HEALTH INSURANCE BENEFITS**Chief Sponsor: Steve Eliason
Senate Sponsor: Curtis S. Bramble**LONG TITLE****General Description:**

This bill modifies the State System of Public Education code by amending provisions relating to school district and charter school postemployment health insurance benefits.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ prohibits a school district or a charter school from offering postemployment health insurance benefits to new employees under certain circumstances;
- ▶ provides an exemption for a school district or a charter school that recognizes current payments and all liabilities associated with the postemployment health insurance benefits in budgetary accounts and fully funds the annual required contributions;
- ▶ makes provisions for a school district or a charter school that fails to fund annual required postretirement health insurance contributions; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

53A-3-402, as last amended by Laws of Utah 2014, Chapter 202

ENACTS:

53A-19-401, Utah Code Annotated 1953

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

Section 1. Section 53A-3-402 is amended to read:**53A-3-402. Powers and duties generally.**

(1) Each local school board shall:

(a) implement the core curriculum utilizing instructional materials that best correlate to the core curriculum and graduation requirements;

(b) administer tests, required by the State Board of Education, which measure the progress of each student, and coordinate with the state superintendent and State Board of Education to assess results and create plans to improve the student's progress which shall be submitted to the State Office of Education for approval;

(c) use progress-based assessments as part of a plan to identify schools, teachers, and students that need remediation and determine the type and amount of federal, state, and local resources to implement remediation;

(d) develop early warning systems for students or classes failing to make progress;

(e) work with the State Office of Education to establish a library of documented best practices, consistent with state and federal regulations, for use by the local districts; and

(f) implement training programs for school administrators, including basic management training, best practices in instructional methods, budget training, staff management, managing for learning results and continuous improvement, and how to help every child achieve optimal learning in core academics.

(2) Local school boards shall spend minimum school program funds for programs and activities for which the State Board of Education has established minimum standards or rules under Section 53A-1-402.

(3) (a) A board may purchase, sell, and make improvements on school sites, buildings, and equipment and construct, erect, and furnish school buildings.

(b) School sites or buildings may only be conveyed or sold on board resolution affirmed by at least two-thirds of the members.

(4) (a) A board may participate in the joint construction or operation of a school attended by children residing within the district and children residing in other districts either within or outside the state.

(b) Any agreement for the joint operation or construction of a school shall:

(i) be signed by the president of the board of each participating district;

(ii) include a mutually agreed upon pro rata cost; and

(iii) be filed with the State Board of Education.

(5) A board may establish, locate, and maintain elementary, secondary, and applied technology schools.

(6) Except as provided in Section 53A-1-1001, a board may enroll children in school who are at least five years of age before September 2 of the year in which admission is sought.

(7) A board may establish and support school libraries.

(8) A board may collect damages for the loss, injury, or destruction of school property.

(9) A board may authorize guidance and counseling services for children and their parents or guardians prior to, during, or following enrollment of the children in schools.

(10) (a) A board shall administer and implement federal educational programs in accordance with

Title 53A, Chapter 1, Part 9, Implementing Federal Programs Act.

(b) Federal funds are not considered funds within the school district budget under Title 53A, Chapter 19, [School District] Public School Budgets.

(11) (a) A board may organize school safety patrols and adopt rules under which the patrols promote student safety.

(b) A student appointed to a safety patrol shall be at least 10 years old and have written parental consent for the appointment.

(c) Safety patrol members may not direct vehicular traffic or be stationed in a portion of a highway intended for vehicular traffic use.

(d) Liability may not attach to a school district, its employees, officers, or agents or to a safety patrol member, a parent of a safety patrol member, or an authorized volunteer assisting the program by virtue of the organization, maintenance, or operation of a school safety patrol.

(12) (a) A board may on its own behalf, or on behalf of an educational institution for which the board is the direct governing body, accept private grants, loans, gifts, endowments, devises, or bequests that are made for educational purposes.

(b) These contributions are not subject to appropriation by the Legislature.

(13) (a) A board may appoint and fix the compensation of a compliance officer to issue citations for violations of Subsection 76-10-105(2).

(b) A person may not be appointed to serve as a compliance officer without the person's consent.

(c) A teacher or student may not be appointed as a compliance officer.

(14) A board shall adopt bylaws and rules for its own procedures.

(15) (a) A board shall make and enforce rules necessary for the control and management of the district schools.

(b) All board rules and policies shall be in writing, filed, and referenced for public access.

(16) A board may hold school on legal holidays other than Sundays.

(17) (a) Each board shall establish for each school year a school traffic safety committee to implement this Subsection (17).

(b) The committee shall be composed of one representative of:

- (i) the schools within the district;
- (ii) the Parent Teachers' Association of the schools within the district;
- (iii) the municipality or county;
- (iv) state or local law enforcement; and
- (v) state or local traffic safety engineering.

(c) The committee shall:

(i) receive suggestions from school community councils, parents, teachers, and others and recommend school traffic safety improvements, boundary changes to enhance safety, and school traffic safety program measures;

(ii) review and submit annually to the Department of Transportation and affected municipalities and counties a child access routing plan for each elementary, middle, and junior high school within the district;

(iii) consult the Utah Safety Council and the Division of Family Health Services and provide training to all school children in kindergarten through grade six, within the district, on school crossing safety and use; and

(iv) help ensure the district's compliance with rules made by the Department of Transportation under Section 41-6a-303.

(d) The committee may establish subcommittees as needed to assist in accomplishing its duties under Subsection (17)(c).

(18) (a) Each school board shall adopt and implement a comprehensive emergency response plan to prevent and combat violence in its public schools, on school grounds, on its school vehicles, and in connection with school-related activities or events.

~~[(b) The board shall implement its plan by July 1, 2000.]~~

~~[(e)]~~ (b) The plan shall:

(i) include prevention, intervention, and response components;

(ii) be consistent with the student conduct and discipline policies required for school districts under Title 53A, Chapter 11, Part 9, School Discipline and Conduct Plans;

(iii) require inservice training for all district and school building staff on what their roles are in the emergency response plan;

(iv) provide for coordination with local law enforcement and other public safety representatives in preventing, intervening, and responding to violence in the areas and activities referred to in Subsection (18)(a); and

(v) include procedures to notify a student, to the extent practicable, who is off campus at the time of a school violence emergency because the student is:

(A) participating in a school-related activity; or

(B) excused from school for a period of time during the regular school day to participate in religious instruction at the request of the student's parent or guardian.

~~[(d)]~~ (c) The State Board of Education, through the state superintendent of public instruction, shall develop comprehensive emergency response plan models that local school boards may use, where appropriate, to comply with Subsection (18)(a).

[~~(e)~~] (d) Each local school board shall, by July 1 of each year, certify to the State Board of Education that its plan has been practiced at the school level and presented to and reviewed by its teachers, administrators, students, and their parents and local law enforcement and public safety representatives.

(19) (a) Each local school board may adopt an emergency response plan for the treatment of sports-related injuries that occur during school sports practices and events.

(b) The plan may be implemented by each secondary school in the district that has a sports program for students.

(c) The plan may:

(i) include emergency personnel, emergency communication, and emergency equipment components;

(ii) require inservice training on the emergency response plan for school personnel who are involved in sports programs in the district's secondary schools; and

(iii) provide for coordination with individuals and agency representatives who:

(A) are not employees of the school district; and

(B) would be involved in providing emergency services to students injured while participating in sports events.

(d) The board, in collaboration with the schools referred to in Subsection (19)(b), may review the plan each year and make revisions when required to improve or enhance the plan.

(e) The State Board of Education, through the state superintendent of public instruction, shall provide local school boards with an emergency plan response model that local boards may use to comply with the requirements of this Subsection (19).

(20) A board shall do all other things necessary for the maintenance, prosperity, and success of the schools and the promotion of education.

(21) (a) Before closing a school or changing the boundaries of a school, a board shall:

(i) hold a public hearing, as defined in Section 10-9a-103; and

(ii) provide public notice of the public hearing, as specified in Subsection (21)(b).

(b) The notice of a public hearing required under Subsection (21)(a) shall:

(i) indicate the:

(A) school or schools under consideration for closure or boundary change; and

(B) date, time, and location of the public hearing; and

(ii) at least 10 days prior to the public hearing, be:

(A) published:

(I) in a newspaper of general circulation in the area; and

(II) on the Utah Public Notice Website created in Section 63F-1-701; and

(B) posted in at least three public locations within the municipality or on the district's official website.

(22) A board may implement a facility energy efficiency program established under Title 11, Chapter 44, Facility Energy Efficiency Act.

Section 2. Section 53A-19-401 is enacted to read:

CHAPTER 19. PUBLIC SCHOOL BUDGETS

Part 4. Postemployment Benefits Restrictions

53A-19-401. Postemployment health insurance benefits restrictions -- Definitions -- Restrictions -- Exceptions.

(1) As used in this section:

(a) "Budgetary accounts" means the same as that term is defined in Section 51-5-3.

(b) "GASB" means the same as that term is defined in Section 51-5-3.

(c) "Liabilities" means the same as that term is defined in Section 51-5-3.

(d) "Postemployment" means the same as that term is defined in Section 51-5-3.

(e) "Postemployment health insurance benefits" means health insurance benefits:

(i) offered or promised to an employee for the employee's postemployment; or

(ii) continued into postemployment.

(2) Except as provided under Subsection (3), a school district or charter school may not offer or provide a postemployment health insurance benefit to an employee who begins employment with the school district or charter school on or after July 1, 2015.

(3) A school district or charter school may offer or provide postemployment health care insurance to employees if the school district or charter school:

(a) calculates the liabilities associated with postemployment health insurance benefits by applying GASB standards;

(b) recognizes current payments and all liabilities associated with the postemployment health insurance benefits in budgetary accounts;

(c) fully funds the annual required contributions associated with the postemployment health insurance benefits liabilities;

(d) establishes and implements a plan approved by the school district's local school board or charter school's governing board to catch up on any unfunded liabilities within no more than 20 years; and

(e) provides for ongoing payments against the postemployment health insurance liabilities as

employees qualify for receiving the postemployment health insurance benefits.

(4) (a) Except as provided in Subsection (4)(b), if in a fiscal year, a school district or charter school fails to fully fund the annual required contributions described in Subsection (3)(c), the school district or charter school may not offer or provide a postemployment health insurance benefit for new employees beginning on the first day of that fiscal year.

(b) The provisions of Subsection (4)(a) do not apply if:

(i) for a school district only, the school district is imposing the maximum allowed local school board levy under Section 53A-17a-164;

(ii) the school district or charter school fully funds the annual required contributions, including any missed contributions, by the end of the fiscal year following the fiscal year of inadequate funding; or

(iii) no increase was approved by the Legislature in the weighted pupil unit as defined in Section 53A-17a-103 for the fiscal year the annual required contributions were not fully funded.

Section 3. Effective date.

This bill takes effect on July 1, 2015.

CHAPTER 400**H. B. 243**

Passed March 11, 2015
 Approved March 31, 2015
 Effective May 12, 2015

VINTAGE VEHICLE AMENDMENTS

Chief Sponsor: Fred C. Cox
 Senate Sponsor: Evan J. Vickers

LONG TITLE**General Description:**

This bill modifies the Motor Vehicle Act by amending vintage vehicle provisions.

Highlighted Provisions:

This bill:

- ▶ amends provisions for an owner of a vintage vehicle to disclose the vehicle's safety when applying for vehicle registration;
- ▶ clarifies safety and emissions inspection exemptions for vintage vehicles; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

41-1a-226, as last amended by Laws of Utah 2012, Chapter 299

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

Section 1. Section 41-1a-226 is amended to read:**41-1a-226. Vintage vehicle -- Signed statement -- Registration.**

(1) The owner of a vintage vehicle ~~[applying]~~ who applies for registration under this part shall provide a signed statement ~~[certifying]~~ that the vintage vehicle:

(a) is owned and operated for the purposes ~~[enumerated]~~ described in Section 41-21-1; and

(b) ~~[has been inspected and found]~~ is safe to operate on the highways of this state as described in Section 41-21-4.

~~[(2) A vintage travel trailer, as defined in Section 41-21-1, is exempt from the requirement under Subsection (1)(b).]~~

(2) The signed statement described in Subsection (1) is in lieu of:

(a) a safety inspection, from which a vintage vehicle is exempt under Subsection 41-1a-205(3); and

(b) an emissions inspection, from which a vintage vehicle is exempt under Subsection 41-6a-1642(3).

CHAPTER 401**H. B. 258**

Passed March 6, 2015
 Approved March 31, 2015
 Effective January 1, 2016

**EMPLOYEE CLASSIFICATION
 AMENDMENTS**

Chief Sponsor: Scott H. Chew
 Senate Sponsor: Kevin T. Van Tassell

LONG TITLE**General Description:**

This bill classifies a water commissioner as an employee of the state.

Highlighted Provisions:

This bill:

- ▶ classifies a water commissioner as a career service exempt employee of the state;
- ▶ makes the Water Commissioner Fund an expendable special revenue fund; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

67-19-15, as last amended by Laws of Utah 2014, Chapter 154
 73-5-1, as last amended by Laws of Utah 2006, Chapter 193
 73-5-1.5, as last amended by Laws of Utah 2002, Chapter 256

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

Section 1. Section 67-19-15 is amended to read:**67-19-15. Career service -- Exempt positions -- Schedules for civil service positions -- Coverage of career service provisions.**

(1) Except as otherwise provided by law or by rules and regulations established for federally aided programs, the following positions are exempt from the career service provisions of this chapter and are designated under the following schedules:

(a) schedule AA includes the governor, members of the Legislature, and all other elected state officers;

(b) schedule AB includes appointed executives and board or commission executives enumerated in Section 67-22-2;

(c) schedule AC includes all employees and officers in:

(i) the office and at the residence of the governor;

(ii) the Utah Science Technology and Research Initiative (USTAR);

(iii) the Public Lands Policy Coordinating Council;

(iv) the Office of the State Auditor; and

(v) the Office of the State Treasurer;

(d) schedule AD includes employees who:

(i) are in a confidential relationship to an agency head or commissioner; and

(ii) report directly to, and are supervised by, a department head, commissioner, or deputy director of an agency or its equivalent;

(e) schedule AG includes employees in the Office of the Attorney General who are under their own career service pay plan under Sections 67-5-7 through 67-5-13;

(f) schedule AH includes:

(i) teaching staff of all state institutions; and

(ii) employees of the Utah Schools for the Deaf and the Blind who are:

(A) educational interpreters as classified by the department; or

(B) educators as defined by Section 53A-25b-102;

(g) schedule AN includes employees of the Legislature;

(h) schedule AO includes employees of the judiciary;

(i) schedule AP includes all judges in the judiciary;

(j) schedule AQ includes:

(i) members of state and local boards and councils appointed by the governor and governing bodies of agencies;

(ii) a water commissioner appointed under Section 73-5-1;

~~(iii)~~ (iii) other local officials serving in an ex officio capacity; and

~~(iii)~~ (iv) officers, faculty, and other employees of state universities and other state institutions of higher education;

(k) schedule AR includes employees in positions that involve responsibility:

(i) for determining policy;

(ii) for determining the way in which a policy is carried out; or

(iii) of a type not appropriate for career service, as determined by the agency head with the concurrence of the executive director;

(l) schedule AS includes any other employee:

(i) whose appointment is required by statute to be career service exempt;

(ii) whose agency is not subject to this chapter; or

(iii) whose agency has authority to make rules regarding the performance, compensation, and bonuses for its employees;

(m) schedule AT includes employees of the Department of Technology Services, designated as executive/professional positions by the executive director of the Department of Technology Services with the concurrence of the executive director;

(n) schedule AU includes patients and inmates employed in state institutions;

(o) employees of the Department of Workforce Services, designated as schedule AW:

(i) who are temporary employees that are federally funded and are required to work under federally qualified merit principles as certified by the director; or

(ii) for whom substantially all of their work is repetitive, measurable, or transaction based, and who voluntarily apply for and are accepted by the Department of Workforce Services to work in a pay for performance program designed by the Department of Workforce Services with the concurrence of the executive director; and

(p) for employees in positions that are temporary, seasonal, time limited, funding limited, or variable hour in nature, under schedule codes and parameters established by the department by administrative rule.

(2) The civil service shall consist of two schedules as follows:

(a) (i) Schedule A is the schedule consisting of positions under Subsection (1).

(ii) Removal from any appointive position under schedule A, unless otherwise regulated by statute, is at the pleasure of the appointing officers without regard to tenure.

(b) Schedule B is the competitive career service schedule, consisting of:

(i) all positions filled through competitive selection procedures as defined by the executive director; or

(ii) positions filled through a department approved on-the-job examination intended to appoint a qualified person with a disability or a veteran as defined in Section 71-10-1.

(3) (a) The executive director, after consultation with the heads of concerned executive branch departments and agencies and with the approval of the governor, shall allocate positions to the appropriate schedules under this section.

(b) Agency heads shall make requests and obtain approval from the executive director before changing the schedule assignment and tenure rights of any position.

(c) Unless the executive director's decision is reversed by the governor, when the executive director denies an agency's request, the executive director's decision is final.

(4) (a) Compensation for employees of the Legislature shall be established by the directors of the legislative offices in accordance with Section 36-12-7.

(b) Compensation for employees of the judiciary shall be established by the state court administrator in accordance with Section 78A-2-107.

(c) Compensation for officers, faculty, and other employees of state universities and institutions of higher education shall be established as provided in Title 53B, Chapter 1, Governance, Powers, Rights, and Responsibilities, and Title 53B, Chapter 2, Institutions of Higher Education.

(d) Unless otherwise provided by law, compensation for all other schedule A employees shall be established by their appointing authorities, within ranges approved by, and after consultation with the executive director of the Department of Human Resource Management.

(5) An employee who is in a position designated schedule AC and who holds career service status on June 30, 2010, shall retain the career service status if the employee:

(a) remains in the position that the employee is in on June 30, 2010; and

(b) does not elect to convert to career service exempt status in accordance with a rule made by the department.

Section 2. Section 73-5-1 is amended to read:

73-5-1. Appointment of water commissioners -- Procedure.

(1) (a) If, in the judgment of the state engineer or the district court, it is necessary to appoint a water commissioner for the distribution of water from any river system or water source, the commissioner shall be appointed for a four-year term by the state engineer.

(b) The state engineer shall determine whether all or a part of a river system or other water source shall be served by a commissioner, and if only a part is to be served, the state engineer shall determine the boundaries of that part.

(c) The state engineer may appoint:

(i) more than one commissioner to distribute water from all or a part of a water source; or

(ii) a single commissioner to distribute water from several separate and distinct water sources.

(d) A water commissioner appointed by the state engineer under this section is:

(i) an employee of the Division of Water Rights;

(ii) career service exempt under Subsection 67-19-15(1)(j); and

(iii) exempt under Subsection 67-19-12(2)(f) from the classified service provisions of Section 67-19-12.

(2) (a) The state engineer shall consult with the water users before appointing a commissioner. The

form of consultation and notice to be given shall be determined by the state engineer so as to best suit local conditions, while providing for full expression of majority opinion.

~~[(b) If a majority of the water users agree upon a qualified person to be appointed as water commissioner, the duties the person shall perform, and the compensation the person shall receive, and they make recommendations to the state engineer on the appointment, duties, and compensation, the state engineer shall act in accordance with their recommendations.]~~

(b) The state engineer shall act in accordance with the recommendation of a majority of the water users, if the majority of the water users:

(i) agree upon:

(A) a qualified individual to be appointed as a water commissioner;

(B) the duties the individual shall perform; and

(C) subject to the requirements of Title 49, Utah State Retirement and Insurance Benefit Act, the compensation the individual shall receive; and

(ii) submit a recommendation to the state engineer on the items described in Subsection (2)(b)(i).

(c) If a majority of water users do not agree on the appointment, duties, or compensation, the state engineer shall make a determination for them.

(3) (a) (i) The salary and expenses of the commissioner and all other expenses of distribution, including printing, postage, equipment, water users' expenses, and any other expenses considered necessary by the state engineer, shall be borne pro rata by the users of water from the river system or water source in accordance with a schedule to be fixed by the state engineer.

(ii) The schedule shall be based on the established rights of each water user, and the pro rata share shall be paid by each water user to the state engineer on or before May 1 of each year.

(b) The payments shall be deposited in the Water Commissioner Fund created in Section 73-5-1.5.

(c) If a water user fails to pay the assessment as provided by Subsection (3)(a), the state engineer may do any or all of the following:

(i) create a lien upon the water right affected by filing a notice of lien in the office of the county recorder in the county where the water is diverted and bring an action to enforce the lien;

(ii) forbid the use of water by the delinquent water user or the delinquent water user's successors or assignees, while the default continues; or

(iii) bring an action in the district court for the unpaid expense and salary.

(d) In any action brought to collect any unpaid assessment or to enforce any lien under this section,

the delinquent water user shall be liable for the amount of the assessment, interest, any penalty, and for all costs of collection, including all court costs and a reasonable attorney fee.

(4) (a) A commissioner may be removed by the state engineer for cause.

(b) The users of water from any river system or water source may petition the district court for the removal of a commissioner and after notice and hearing, the court may order the removal of the commissioner and direct the state engineer to appoint a successor.

Section 3. Section 73-5-1.5 is amended to read:

73-5-1.5. Water Commissioner Fund.

(1) There is created ~~[a private purpose trust fund]~~ an expendable special revenue fund known as the "Water Commissioner Fund."

(2) The fund consists of assessments paid to the state engineer by water users pursuant to Subsection 73-5-1(3).

(3) (a) The fund shall earn interest.

(b) Interest earned on fund money shall be deposited into the fund.

(4) The state engineer shall use fund money to pay for salary and expenses of water commissioners and other expenses related to the distribution of water specified in Subsection 73-5-1(3).

Section 4. Effective date.

This bill takes effect on January 1, 2016.

CHAPTER 402**H. B. 269**

Passed March 9, 2015

Approved March 31, 2015

Effective May 12, 2015

**TOURIST-ORIENTED
HIGHWAY SIGNING PROGRAM**Chief Sponsor: Michael E. Noel
Senate Sponsor: Kevin T. Van Tassell**LONG TITLE****General Description:**

This bill modifies the Protection of Highways Act by amending provisions relating to outdoor advertising near an interstate or primary system.

Highlighted Provisions:

This bill:

- ▶ provides a definition;
- ▶ provides an exception to the Department of Transportation's authorization to erect, administer, and maintain informational signs on the main-traveled way of an interstate or primary system;
- ▶ authorizes the Department of Transportation to erect or by contract erect, administer, and maintain tourist-oriented directional signs that display logo advertising and information of interest to the traveling public on rural conventional roads;
- ▶ specifies requirements for the Department of Transportation to lease or contract with a private party for the sign or sign space;
- ▶ provides that certain existing noncompliant signs shall be permitted for a certain period of time; and
- ▶ makes technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

72-7-504, as last amended by Laws of Utah 2012, Chapter 347

72-7-505, as last amended by Laws of Utah 2011, Chapter 346

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

Section 1. Section 72-7-504 is amended to read:**72-7-504. Advertising prohibited near interstate or primary system -- Exceptions -- Logo advertising -- Department rules.**

(1) As used in this section, "specific service trailblazer sign" means a guide sign that provides users with business identification or directional information for services and eligible activities that are advertised on a logo advertising sign authorized under Subsection (3)(a)(i).

[4] (2) Outdoor advertising that is capable of being read or comprehended from any place on the

main-traveled way of an interstate or primary system may not be erected or maintained, except:

(a) directional and other official signs and notices authorized or required by law, including signs and notices pertaining to natural wonders and scenic and historic attractions, informational or directional signs regarding utility service, emergency telephone signs, buried or underground utility markers, and above ground utility closure signs;

(b) signs advertising the sale or lease of property upon which they are located;

(c) signs advertising activities conducted on the property where they are located, including signs on the premises of a public assembly facility as provided in Section 72-7-504.5;

(d) signs located in a commercial or industrial zone;

(e) signs located in unzoned industrial or commercial areas as determined from actual land uses; and

(f) logo advertising under Subsection [(2)] (3).

[(2)] (3) The department may itself or by contract erect, administer, and maintain informational signs:

(i) on the main-traveled way of an interstate or primary system, as it existed on June 1, 1991, specific service signs for the display of logo advertising and information of interest, excluding specific service trailblazer signs as defined in rules adopted in accordance with Section 41-6a-301, to the traveling public if:

[(4)] (A) the department complies with Title 63G, Chapter 6a, Utah Procurement Code, in the lease or other contract agreement with a private party for the sign or sign space; and

[(ii)] (B) the private party for the lease of the sign or sign space pays an amount set by the department to be paid to the department or the party under contract with the department under this Subsection [(2)] (3); and

(ii) only on rural conventional roads as defined in rules adopted in accordance with Section 41-6a-301 in a county of the fourth, fifth, or sixth class for tourist-oriented directional signs that display logo advertising and information of interest to the traveling public if:

(A) the department complies with Title 63G, Chapter 6a, Utah Procurement Code, in the lease or other contract agreement with a private party for the tourist-oriented directional sign or sign space; and

(B) the private party for the lease of the sign or sign space pays an amount set by the department to be paid to the department or the party under contract with the department under this Subsection (3).

(b) The amount shall be sufficient to cover the costs of erecting, administering, and maintaining the signs or sign spaces.

(c) (i) Any sign erected pursuant to this Subsection (3) which was existing as of March 1, 2015, shall be permitted as if it were in compliance with this Subsection (3).

(ii) A noncompliant sign shall only be permitted for the contract period of the advertising contract.

(iii) A new advertising contract may not be issued for a noncompliant sign.

(d) The department may consult the Governor's Office of Economic Development in carrying out this Subsection (3).

(4) (a) Revenue generated under Subsection (3) shall be:

(i) applied first to cover department costs under Subsection (3); and

(ii) deposited in the Transportation Fund.

(b) Revenue in excess of costs under Subsection (3)(a) shall be deposited in the General Fund as a dedicated credit for use by the Governor's Office of Economic Development no later than the following fiscal year.

(5) Outdoor advertising under Subsections (2)(a), (d), (e), and (f) shall conform to the rules made by the department under Sections 72-7-506 and 72-7-507.

Section 2. Section 72-7-505 is amended to read:

72-7-505. Sign size -- Sign spacing -- Location in outdoor advertising corridor -- Limit on implementation.

(1) (a) Except as provided in Subsection (2), a sign face within the state may not exceed the following limits:

(i) maximum area - 1,000 square feet;

(ii) maximum length - 60 feet; and

(iii) maximum height - 25 feet.

(b) No more than two facings visible and readable from the same direction on the main-traveled way may be erected on any one sign structure. Whenever two facings are so positioned, neither shall exceed the maximum allowed square footage.

(c) Two or more advertising messages on a sign face and double-faced, back-to-back, stacked, side-by-side, and V-type signs are permitted as a single sign or structure if both faces enjoy common ownership.

(d) A changeable message sign is permitted if the interval between message changes is not more frequent than at least eight seconds and the actual message rotation process is accomplished in three seconds or less.

(e) An illumination standard adopted by any jurisdiction shall be uniformly applied to all signs, public or private, on or off premise.

(2) (a) An outdoor sign structure located inside the unincorporated area of a nonurbanized county may have the maximum height allowed by the county for outdoor advertising structures in the commercial or industrial zone in which the sign is located. If no maximum height is provided for the location, the maximum sign height may be 65 feet above the ground or 25 feet above the grade of the main traveled way, whichever is greater.

(b) An outdoor sign structure located inside an incorporated municipality or urbanized county may have the maximum height allowed by the municipality or urbanized county for outdoor advertising structures in the commercial or industrial zone in which the sign is located. If no maximum height is provided for the location, the maximum sign height may be 65 feet above the ground or 25 feet above the grade of the main traveled way, whichever is greater.

(3) Except as provided in Section 72-7-509:

(a) Any sign allowed to be erected by reason of the exceptions set forth in Subsection 72-7-504(1)(2) or in H-1 zones may not be closer than 500 feet to an existing off-premise sign adjacent to an interstate highway or limited access primary highway, except that signs may be erected closer than 500 feet if the signs on the same side of the interstate highway or limited access primary highway are not simultaneously visible.

(b) Signs may not be located within 500 feet of any of the following which are adjacent to the highway, unless the signs are in an incorporated area:

(i) public parks;

(ii) public forests;

(iii) public playgrounds;

(iv) areas designated as scenic areas by the department or other state agency having and exercising this authority; or

(v) cemeteries.

(c) (i) (A) Except under Subsection (3)(c)(ii), signs may not be located on an interstate highway or limited access highway on the primary system within 500 feet of an interchange, or intersection at grade, or rest area measured along the interstate highway or freeway from the sign to the nearest point of the beginning or ending of pavement widening at the exit from or entrance to the main-traveled way.

(B) Interchange and intersection distance limitations shall be measured separately for each direction of travel. A measurement for each direction of travel may not control or affect any other direction of travel.

(ii) A sign may be placed closer than 500 feet from the nearest point of the beginning or ending of pavement widening at the exit from or entrance to the main-traveled way, if:

(A) the sign is replacing an existing outdoor advertising use or structure which is being removed or displaced to accommodate the widening,

construction, or reconstruction of an interstate, federal aid primary highway existing as of June 1, 1991, or national highway system highway; and

(B) it is located in a commercial or industrial zoned area inside an urbanized county or an incorporated municipality.

(d) The location of signs situated on nonlimited access primary highways in commercial, industrial, or H-1 zoned areas between streets, roads, or highways entering the primary highway shall not exceed the following minimum spacing criteria:

(i) Where the distance between centerlines of intersecting streets, roads, or highways is less than 1,000 feet, a minimum spacing between structures of 150 feet may be permitted between the intersecting streets or highways.

(ii) Where the distance between centerlines of intersecting streets, roads, or highways is 1,000 feet or more, minimum spacing between sign structures shall be 300 feet.

(e) All outdoor advertising shall be erected and maintained within the outdoor advertising corridor.

(4) Subsection (3)(c)(ii) may not be implemented until:

(a) the Utah-Federal Agreement for carrying out national policy relative to control of outdoor advertising in areas adjacent to the national system of interstate and defense highways and the federal-aid primary system is modified to allow the sign placement specified in Subsection (3)(c)(ii); and

(b) the modified agreement under Subsection (4)(a) is signed on behalf of both the state and the United States Secretary of Transportation.

CHAPTER 403**H. B. 272**

Passed March 6, 2015

Approved March 31, 2015

Effective May 12, 2015

**FORENSIC MENTAL HEALTH
COORDINATING COUNCIL AMENDMENTS**Chief Sponsor: Norman K Thurston
Senate Sponsor: Deidre M. Henderson**LONG TITLE****General Description:**

This bill amends provisions relating to the composition and responsibilities of the Forensic Mental Health Coordinating Council.

Highlighted Provisions:

This bill:

- ▶ amends the composition of the Forensic Mental Health Coordinating Council;
- ▶ clarifies the responsibilities of the Forensic Mental Health Coordinating Council; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

62A-15-605, as last amended by Laws of Utah 2011, Chapter 366

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

Section 1. Section 62A-15-605 is amended to read:**62A-15-605. Forensic Mental Health Coordinating Council -- Establishment and purpose.**

(1) There is established the Forensic Mental Health Coordinating Council composed of the following members:

(a) the director of the Division of Substance Abuse and Mental Health or the director's appointee;

(b) the superintendent of the state hospital or the superintendent's appointee;

(c) the executive director of the Department of Corrections or the executive director's appointee;

(d) a member of the Board of Pardons and Parole or its appointee;

(e) the attorney general or the attorney general's appointee;

(f) the director of the Division of Services for People with Disabilities or the director's appointee;

(g) the director of the Division of Juvenile Justice Services or the director's appointee;

(h) the director of the Commission on Criminal and Juvenile Justice or the director's appointee;

(i) the state court administrator or the administrator's appointee;

(j) the state juvenile court administrator or the administrator's appointee;

(k) a representative from a local mental health authority or an organization, excluding the state hospital that provides mental health services under contract with the Division of Substance Abuse and Mental Health or a local mental health authority, as appointed by the director of the division;

(l) the executive director of the [~~Governor's Council for People with Disabilities~~] Utah Developmental Disabilities Council or the director's appointee; and

(m) other [~~persons~~] individuals, including individuals from appropriate advocacy organizations with an interest in the mission described in Subsection (3), as appointed by the members described in Subsections (1)(a) through (l).

(2) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(3) The purpose of the Forensic Mental Health Coordinating Council is to:

(a) advise the director regarding the state hospital admissions [to the state hospital of persons] policy for individuals in the custody of the Department of Corrections;

(b) develop policies for coordination between the division and the Department of Corrections;

(c) advise the executive director of the Department of Corrections regarding [issues of care for persons] department policy related to the care of individuals in the custody of the Department of Corrections who are mentally ill;

(d) promote communication between and coordination among all agencies dealing with [persons] individuals with an intellectual disability or mental illness who become involved in the civil commitment system or in the criminal or juvenile justice system;

(e) study, evaluate, and recommend changes to laws and procedures relating to [persons] individuals with an intellectual disability or mental illness who become involved in the civil commitment system or in the criminal or juvenile justice system;

(f) identify and promote the implementation of specific policies and programs to deal fairly and efficiently with [persons] individuals with an intellectual disability or mental illness who become involved in the civil commitment system or in the criminal or juvenile justice system; and

(g) promote judicial education relating to [persons] individuals with an intellectual disability

or mental illness who become involved in the civil commitment system or in the criminal or juvenile justice system.

CHAPTER 404**H. B. 282**

Passed March 11, 2015
 Approved March 31, 2015
 Effective May 12, 2015

**ONLINE EDUCATION
PROGRAM AMENDMENTS**

Chief Sponsor: Brad M. Daw
 Senate Sponsor: Howard A. Stephenson

LONG TITLE**General Description:**

This bill expands the entities that may offer secondary school level courses through the Statewide Online Education Program.

Highlighted Provisions:

This bill:

- ▶ allows a program of a higher education institution that offers secondary school level courses exclusively online to offer the online courses through the Statewide Online Education Program; and
- ▶ authorizes an institution within the state system of higher education, including a college campus of the Utah College of Applied Technology, to offer secondary school level courses through the Statewide Online Education Program.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53A-15-1205, as last amended by Laws of Utah 2012, Chapter 238

53B-2a-106, as last amended by Laws of Utah 2009, Chapter 346

ENACTS:

53B-16-108, Utah Code Annotated 1953

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

Section 1. Section 53A-15-1205 is amended to read:**53A-15-1205. Authorized online course providers.**

The following entities may offer online courses to eligible students through the Statewide Online Education Program:

(1) [~~beginning with the 2011-12 school year,~~] a charter school or district school created exclusively for the purpose of serving students online; [~~and~~]

(2) [~~beginning with the 2011-12 school year,~~] an LEA program, approved by the LEA's governing board, that is created exclusively for the purpose of serving students online[.]; and

(3) a program of an institution of higher education listed in Section 53B-2-101 that:

(a) offers secondary school level courses; and

(b) is created exclusively for the purpose of serving students online.

Section 2. Section 53B-2a-106 is amended to read:**53B-2a-106. College campuses -- Duties.**

(1) Each Utah College of Applied Technology college campus shall, within the geographic area served by the college campus:

(a) offer a non-credit post-secondary and secondary career and technical education curriculum;

(b) offer that curriculum at:

(i) low cost to adult students, as approved by the board of trustees; and

(ii) no tuition to secondary students;

(c) provide career and technical education that will result in:

(i) appropriate licensing, certification, or other evidence of completion of training; and

(ii) qualification for specific employment, with an emphasis on high demand, high wage, and high skill jobs in business and industry;

(d) develop cooperative agreements with school districts, charter schools, other higher education institutions, businesses, industries, and community and private agencies to maximize the availability of instructional facilities within the geographic area served by the college campus; and

(e) after consulting with school districts and charter schools within the geographic area served by the college campus:

(i) ensure that secondary students in the public education system have access to career and technical education at each college campus; and

(ii) prepare and submit an annual report to the Utah College of Applied Technology detailing:

(A) how the career and technical education needs of secondary students within the region are being met;

(B) what access secondary students within the region have to programs offered at college campuses;

(C) how the emphasis on high demand, high wage, high skill jobs in business and industry described in Subsection (1)(c)(ii) is being provided; and

(D) student tuition and fees.

(2) A college campus may offer:

(a) a competency-based high school diploma approved by the State Board of Education in accordance with Section 53A-1-402;

(b) non-credit, basic instruction in areas such as reading, language arts, and mathematics that are necessary for student success in a chosen career and technical education or job-related program; [~~and~~]

(c) non-credit courses of interest when similar offerings to the community are limited and courses are financially self-supporting[.]; and

(d) secondary school level courses through the Statewide Online Education Program in accordance with Section 53A-15-1205.

level course through the Statewide Online Education Program in accordance with Section 53A-15-1205.

(3) [A] Except as provided in Subsection (2)(d), a college campus may not:

(a) offer courses other than non-credit career and technical education or the non-credit, basic instruction described in Subsections (2)(b) and (c);

(b) offer a degree;

(c) offer career and technical education or basic instruction outside the geographic area served by the college campus without a cooperative agreement between an affected institution, except as provided in Subsection (6);

(d) provide tenure or academic rank for its instructors; and

(e) participate in intercollegiate athletics.

(4) The mission of a college campus is limited to non-credit career and technical education and may not expand to include credit-based academic programs typically offered by community colleges or other institutions of higher education.

(5) A campus shall be recognized as a college campus of the Utah College of Applied Technology, and regional affiliation shall be retained and recognized through local designations such as "Bridgerland Applied Technology College: A Utah College of Applied Technology Campus."

(6) (a) A college campus may offer career and technical education or basic instruction outside the geographic area served by the college campus without a cooperative agreement, as required in Subsection (3)(c), if:

(i) the career and technical education or basic instruction is specifically requested by:

(A) an employer; or

(B) a craft, trade, or apprenticeship program;

(ii) the college campus notifies the affected institution about the request; and

(iii) the affected institution is given an opportunity to make a proposal, prior to any contract being finalized or training being initiated by the college campus, to the employer, craft, trade, or apprenticeship program about offering the requested career and technical education or basic instruction, provided that the proposal shall be presented no later than one business week from the delivery of the notice described under Subsection (6)(b).

(b) The requirements under Subsection (6)(a)(iii) do not apply if there is a prior training relationship.

Section 3. Section 53B-16-108 is enacted to read:

53B-16-108. Courses offered through the Statewide Online Education Program.

An institution of higher education listed in Section 53B-2-101 may offer a secondary school

CHAPTER 405**H. B. 283**

Passed March 12, 2015
 Approved March 31, 2015
 Effective May 12, 2015

**MEDIA PRODUCTION
VEHICLE EXEMPTION**

Chief Sponsor: Daniel McCay
 Senate Sponsor: Todd Weiler

LONG TITLE**General Description:**

This bill modifies the Traffic Code by amending vehicle equipment restrictions.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ exempts a media production vehicle from certain vehicle lighting restrictions in certain circumstances related to a media production; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

41-6a-1616, as last amended by Laws of Utah 2006, Chapter 100

ENACTS:

41-6a-1718, Utah Code Annotated 1953

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

Section 1. Section 41-6a-1616 is amended to read:**41-6a-1616. High intensity beams -- Red or blue lights -- Flashing lights -- Color of rear lights and reflectors.**

(1) (a) Except as provided under Subsection (1)(b), under the conditions specified under Subsection 41-6a-1603(1)(a), a lighted lamp or illuminating device on a vehicle, which projects a beam of light of an intensity greater than 300 candlepower shall be directed so that no part of the high intensity portion of the beam will strike the level of the roadway on which the vehicle stands at a distance of more than 75 feet from the vehicle.

(b) The provisions of Subsection (1)(a) do not apply to head lamps, spot lamps, auxiliary lamps, flashing turn signals, hazard warning lamps, and school bus warning lamps.

(c) A motor vehicle on a highway may not have more than a total of four lamps lighted on the front of the vehicle including head lamps, auxiliary lamps, spot lamps, or any other lamp if the lamp projects a beam of an intensity greater than 300 candlepower.

(2) (a) Except for an authorized emergency vehicle ~~and~~ described in Section 41-6a-1601, a school bus described in Section 41-6a-1302, or a media production vehicle used in accordance with Section 41-6a-1718, a person may not operate or move any vehicle or equipment on a highway with a lamp or device capable of displaying a red light that is visible from directly in front of the center of the vehicle.

(b) Except for a law enforcement vehicle, or a media production vehicle used in accordance with Section 41-6a-1718, a person may not operate or move any vehicle or equipment on a highway with a lamp or device capable of displaying a blue light that is visible from directly in front of the center of the vehicle.

(3) A person may not use flashing lights on a vehicle except for:

(a) taillights of bicycles ~~under~~ described in Section 41-6a-1114;

(b) authorized emergency vehicles ~~under rules made by the department under~~ described in Section 41-6a-1601;

(c) turn signals ~~under~~ described in Section 41-6a-1604;

(d) hazard warning lights ~~under~~ described in Sections 41-6a-1608 and 41-6a-1611;

(e) school bus flashing lights ~~under~~ described in Section 41-6a-1302; ~~and~~

(f) vehicles engaged in highway construction or maintenance ~~under~~ described in Section 41-6a-1617[.]; ~~and~~

(g) a media production vehicle used in accordance with Section 41-6a-1718.

(4) [A] Except for an authorized emergency vehicle described in Section 41-6a-1601, or a media production vehicle used in accordance with Section 41-7a-1718, a person may not use a rotating light on any vehicle ~~other than an authorized emergency vehicle~~.

Section 2. Section 41-6a-1718 is enacted to read:**41-6a-1718. Media production vehicle -- Definition -- Exemption -- Identification.**

(1) As used in this section:

(a) "Media production" means the making of a motion picture, television show, video, commercial, Internet video, or other viewable programming provided to viewers via a movie theater or transmitted through broadcast radio wave, cable, satellite, wireless, or Internet.

(b) "Media production vehicle" means a vehicle used exclusively for media production.

(2) A media production vehicle is exempt from the restrictions of Section 41-6a-1616 while the vehicle is:

(a) being used to simulate an authorized emergency vehicle in a media production; or

(b) being driven in transit between the media production location and the media production vehicle storage location if during transit the vehicle displays a sign prominently on each front-side door of the media production vehicle stating "Media Production Vehicle."

CHAPTER 406**H. B. 300**

Passed March 12, 2015

Approved March 31, 2015

Effective May 12, 2015

**FIREARM AND DANGEROUS
WEAPONS AMENDMENTS**Chief Sponsor: Brian M. Greene
Senate Sponsor: Alvin B. Jackson**LONG TITLE****General Description:**

This bill amends provisions relating to concealed weapons.

Highlighted Provisions:

This bill:

- ▶ eliminates the definition of concealed dangerous weapon;
- ▶ amends provisions related to the penalties for carrying a concealed firearm; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 53-5a-104, as enacted by Laws of Utah 2014, Chapter 431
- 76-10-501, as last amended by Laws of Utah 2014, Chapter 428
- 76-10-504, as last amended by Laws of Utah 2013, Chapter 301
- 76-10-507, as enacted by Laws of Utah 1973, Chapter 196

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

Section 1. Section 53-5a-104 is amended to read:**53-5a-104. Firearm transfer certification.**

(1) As used in this section:

(a) "Certification" means the participation and assent of the chief law enforcement officer necessary under federal law for the approval of the application to transfer or make a firearm.

(b) "Chief law enforcement officer" means any official the Bureau of Alcohol, Tobacco, Firearms and Explosives, or any successor agency, identifies by regulation or otherwise as eligible to provide any required certification for the making or transfer of a firearm.

(c) "Firearm" ~~[has the same meaning as provided]~~ means the same as that term is defined in the National Firearms Act, [6] 26 U.S.C. Sec. 5845(a).

(2) A chief law enforcement officer may not make a certification under this section that the chief law enforcement officer knows to be untrue. The chief law enforcement officer may not refuse to provide certification based on a generalized objection to

private persons or entities making, possessing, or receiving firearms or any certain type of firearm, the possession of which is not prohibited by law.

(3) Upon receiving a federal firearm transfer form a chief law enforcement officer or the chief law enforcement officer's designee shall provide certification if the applicant:

(a) is not prohibited by law from receiving or possessing the firearm; or

(b) is not the subject of a proceeding that could result in the applicant being prohibited by law from receiving or possessing the firearm.

(4) The chief law enforcement officer, the chief law enforcement officer's designee, or official signing the federal transfer form shall:

(a) return the federal transfer form to the applicant within 15 calendar days; or

(b) if the applicant is denied, provide to the applicant the reasons for denial in writing within 15 calendar days.

(5) Chief law enforcement officers and their employees who act in good faith when acting within the scope of their duties are immune from liability arising from any act or omission in making a certification as required by this section. Any action taken against a chief law enforcement officer or an employee shall be in accordance with Title 63G, Chapter 7, Governmental Immunity Act of Utah.

Section 2. Section 76-10-501 is amended to read:**76-10-501. Definitions.**

As used in this part:

(1) (a) "Antique firearm" means:

(i) any firearm, including any firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system, manufactured in or before 1898; or

(ii) a firearm that is a replica of any firearm described in this Subsection (1)(a), if the replica:

(A) is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition; or

(B) uses rimfire or centerfire fixed ammunition which is:

(I) no longer manufactured in the United States; and

(II) is not readily available in ordinary channels of commercial trade; or

(iii) (A) that is a muzzle loading rifle, shotgun, or pistol; and

(B) is designed to use black powder, or a black powder substitute, and cannot use fixed ammunition.

(b) "Antique firearm" does not include:

(i) a weapon that incorporates a firearm frame or receiver;

(ii) a firearm that is converted into a muzzle loading weapon; or

(iii) a muzzle loading weapon that can be readily converted to fire fixed ammunition by replacing the:

- (A) barrel;
- (B) bolt;
- (C) breechblock; or

(D) any combination of Subsection (1)(b)(iii)(A), (B), or (C).

(2) "Bureau" means the Bureau of Criminal Identification created in Section 53-10-201 within the Department of Public Safety.

(3) (a) "~~Concealed [dangerous weapon] firearm~~" means a ~~[dangerous weapon] firearm~~ that is:

(i) covered, hidden, or secreted in a manner that the public would not be aware of its presence; and

- (ii) readily accessible for immediate use.

~~[(b) A dangerous weapon is not a concealed dangerous weapon if it is a firearm which is unloaded and is securely encased.]~~

(b) A firearm that is unloaded and securely encased is not a concealed firearm for the purposes of this part.

(4) "Criminal history background check" means a criminal background check conducted by a licensed firearms dealer on every purchaser of a handgun, except a Federal Firearms Licensee, through the bureau or the local law enforcement agency where the firearms dealer conducts business.

(5) "Curio or relic firearm" means a firearm that:

(a) is of special interest to a collector because of a quality that is not associated with firearms intended for:

- (i) sporting use;
- (ii) use as an offensive weapon; or
- (iii) use as a defensive weapon;

(b) (i) was manufactured at least 50 years before the current date; and

(ii) is not a replica of a firearm described in Subsection (5)(b)(i);

(c) is certified by the curator of a municipal, state, or federal museum that exhibits firearms to be a curio or relic of museum interest;

(d) derives a substantial part of its monetary value:

- (i) from the fact that the firearm is:

- (A) novel;
- (B) rare; or
- (C) bizarre; or

(ii) because of the firearm's association with an historical:

- (A) figure;
- (B) period; or

(C) event; and

(e) has been designated as a curio or relic firearm by the director of the United States Treasury Department Bureau of Alcohol, Tobacco, and Firearms under 27 C.F.R. Sec. 478.11.

(6) (a) "Dangerous weapon" means:

(i) a firearm; or

(ii) an object that in the manner of its use or intended use is capable of causing death or serious bodily injury.

(b) The following factors are used in determining whether any object, other than a firearm, is a dangerous weapon:

(i) the location and circumstances in which the object was used or possessed;

(ii) the primary purpose for which the object was made;

(iii) the character of the wound, if any, produced by the object's unlawful use;

(iv) the manner in which the object was unlawfully used;

(v) whether the manner in which the object is used or possessed constitutes a potential imminent threat to public safety; and

(vi) the lawful purposes for which the object may be used.

(c) "Dangerous weapon" does not include an explosive, chemical, or incendiary device as defined by Section 76-10-306.

(7) "Dealer" means a person who is:

(a) licensed under 18 U.S.C. Sec. 923; and

(b) engaged in the business of selling, leasing, or otherwise transferring a handgun, whether the person is a retail or wholesale dealer, pawnbroker, or otherwise.

(8) "Enter" means intrusion of the entire body.

(9) "Federal Firearms Licensee" means a person who:

(a) holds a valid Federal Firearms License issued under 18 U.S.C. Sec. 923; and

(b) is engaged in the activities authorized by the specific category of license held.

(10) (a) "Firearm" means a pistol, revolver, shotgun, short barreled shotgun, rifle or short barreled rifle, or a device that could be used as a dangerous weapon from which is expelled a projectile by action of an explosive.

(b) As used in Sections 76-10-526 and 76-10-527, "firearm" does not include an antique firearm.

(11) "Firearms transaction record form" means a form created by the bureau to be completed by a person purchasing, selling, or transferring a handgun from a dealer in the state.

(12) "Fully automatic weapon" means a firearm which fires, is designed to fire, or can be readily

restored to fire, automatically more than one shot without manual reloading by a single function of the trigger.

(13) (a) "Handgun" means a pistol, revolver, or other firearm of any description, loaded or unloaded, from which a shot, bullet, or other missile can be discharged, the length of which, not including any revolving, detachable, or magazine breech, does not exceed 12 inches.

(b) As used in Sections 76-10-520, 76-10-521, and 76-10-522, "handgun" and "pistol or revolver" do not include an antique firearm.

(14) "House of worship" means a church, temple, synagogue, mosque, or other building set apart primarily for the purpose of worship in which religious services are held and the main body of which is kept for that use and not put to any other use inconsistent with its primary purpose.

(15) "Prohibited area" means a place where it is unlawful to discharge a firearm.

(16) "Readily accessible for immediate use" means that a firearm or other dangerous weapon is carried on the person or within such close proximity and in such a manner that it can be retrieved and used as readily as if carried on the person.

(17) "Residence" means an improvement to real property used or occupied as a primary or secondary residence.

(18) "Securely encased" means not readily accessible for immediate use, such as held in a gun rack, or in a closed case or container, whether or not locked, or in a trunk or other storage area of a motor vehicle, not including a glove box or console box.

(19) "Short barreled shotgun" or "short barreled rifle" means a shotgun having a barrel or barrels of fewer than 18 inches in length, or in the case of a rifle, having a barrel or barrels of fewer than 16 inches in length, or a dangerous weapon made from a rifle or shotgun by alteration, modification, or otherwise, if the weapon as modified has an overall length of fewer than 26 inches.

(20) "State entity" means a department, commission, board, council, agency, institution, officer, corporation, fund, division, office, committee, authority, laboratory, library, unit, bureau, panel, or other administrative unit of the state.

(21) "Violent felony" has the same meaning as defined in Section 76-3-203.5.

Section 3. Section 76-10-504 is amended to read:

76-10-504. Carrying concealed firearm -- Penalties.

(1) Except as provided in Section 76-10-503 and in Subsections (2), (3), and (4), a person who carries a concealed ~~[dangerous weapon]~~ firearm, as defined in Section 76-10-501, including an unloaded firearm on his or her person or one that is readily accessible for immediate use which is not securely encased, as defined in this part, in or on a place

other than the person's residence, property, a vehicle in the person's lawful possession, or a vehicle, with the consent of the individual who is lawfully in possession of the vehicle, or business under the person's control is guilty of a class B misdemeanor.

(2) A person who carries a concealed ~~[dangerous weapon which]~~ firearm that is a loaded firearm in violation of Subsection (1) is guilty of a class A misdemeanor.

(3) A person who carries concealed an unlawfully possessed short barreled shotgun or a short barreled rifle is guilty of a second degree felony.

(4) If the concealed firearm is used in the commission of a violent felony as defined in Section 76-3-203.5, and the person is a party to the offense, the person is guilty of a second degree felony.

(5) Nothing in Subsection (1) or (2) ~~[shall prohibit]~~ prohibits a person engaged in the lawful taking of protected or unprotected wildlife as defined in Title 23, Wildlife Resources Code of Utah, from carrying a ~~[concealed weapon or a]~~ concealed firearm as long as the taking of wildlife does not occur:

(a) within the limits of a municipality in violation of that municipality's ordinances; or

(b) upon the highways of the state as defined in Section 41-6a-102.

Section 4. Section 76-10-507 is amended to read:

76-10-507. Possession of deadly weapon with criminal intent.

Every person having upon his person any dangerous weapon with intent to ~~[unlawfully assault another]~~ use it to commit a criminal offense is guilty of a class A misdemeanor.

CHAPTER 407**H. B. 312**

Passed March 12, 2015
 Approved March 31, 2015
 Effective May 12, 2015

**REPORTING AND EXPENDITURE OF
 PUBLIC FUNDS AMENDMENTS**

Chief Sponsor: Sophia M. DiCaro
 Senate Sponsor: Curtis S. Bramble
 Cosponsors: Kim Coleman
 Mike Schultz
 V. Lowry Snow
 Robert M. Spendlove

LONG TITLE**General Description:**

This bill modifies provisions related to fiscal matters.

Highlighted Provisions:

This bill:

- ▶ addresses definition provisions;
- ▶ requires the Governor's Office of Management and Budget to provide certain reports;
- ▶ modifies the date the Governor's Office of Management and Budget is to provide information to the Office of Legislative Fiscal Analyst;
- ▶ requires written agreement to provide accounting of certain money;
- ▶ provides exemptions;
- ▶ requires state agencies to submit reports to the Governor's Office of Management and Budget;
- ▶ repeals provisions related to a nonprofit entity's receipt of money; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

51-2a-102, as last amended by Laws of Utah 2014, Chapter 341
 63J-1-201, as last amended by Laws of Utah 2014, Chapters 320, 344, and 430

ENACTS:

63J-1-220, Utah Code Annotated 1953

REPEALS:

51-2a-204, as enacted by Laws of Utah 2014, Chapter 341
 63J-9-101, as enacted by Laws of Utah 2014, Chapter 341
 63J-9-102, as enacted by Laws of Utah 2014, Chapter 341
 63J-9-201, as enacted by Laws of Utah 2014, Chapter 341
 63J-9-202, as enacted by Laws of Utah 2014, Chapter 341

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

Section 1. Section 51-2a-102 is amended to read:

51-2a-102. Definitions.

As used in this chapter:

(1) "Accounting reports" means an audit, a review, a compilation, or a fiscal report.

(2) "Audit" means an examination that:

~~[(a) analyzes the accounts of all officers of the entity having responsibility for the care, management, collection, or disbursement of money belonging to it or appropriated by law or otherwise acquired for its use or benefit;]~~

~~[(b)]~~ (a) is performed in accordance with generally accepted government auditing standards, or for nonprofit corporations described in Subsection (6)(f), in accordance with generally accepted auditing standards; and

~~[(e)]~~ (b) conforms to the uniform classification of accounts established or approved by the state auditor or any other classification of accounts established by any federal government agency.

(3) "Audit report" means:

(a) the financial statements presented in conformity with generally accepted accounting principles;

(b) the auditor's opinion on the financial statements;

(c) a statement by the auditor expressing positive assurance of compliance with state fiscal laws identified by the state auditor;

(d) a copy of the auditor's letter to management that identifies any material weakness in internal controls discovered by the auditor and other financial issues related to the expenditure of funds received from federal, state, or local governments to be considered by management; and

(e) management's response to the specific recommendations.

(4) "Compilation" means information presented in the form of financial statements presented in conformity with generally accepted accounting principles that are the representation of management without the accountant undertaking to express any assurances on the statements.

(5) "Fiscal report" means providing information detailing revenues and expenditures of all funds using forms provided by the state auditor.

(6) "Governing board" means:

(a) the governing board of each political subdivision;

(b) the governing board of each interlocal organization having the power to tax or to expend public funds;

(c) the governing board of any local mental health authority established under the authority of Title

62A, Chapter 15, Substance Abuse and Mental Health Act;

(d) the governing board of any substance abuse authority established under the authority of Title 62A, Chapter 15, Substance Abuse and Mental Health Act;

(e) the governing board of any area agency established under the authority of Title 62A, Chapter 3, Aging and Adult Services;

(f) the governing board of any nonprofit corporation that receives ~~at least 50%~~ of its funds from federal, state, and local government entities through contracts; ~~or~~

~~[(ii) an amount from state entities that is equal to or exceeds the amount specified in Subsection 51-2a-201(1) that would require an audit to be made by a competent certified public accountant;]~~

(g) the governing board of any other entity established by a local governmental unit that receives tax exempt status for bonding or taxing purposes; and

(h) in municipalities organized under an optional form of municipal government, the municipal legislative body.

(7) "Review" means performing inquiry and analytical procedures that provide the accountant with a reasonable basis for expressing limited assurance that there are no material modifications that should be made to the financial statements for them to be in conformity with generally accepted accounting principles.

~~[(8) "State entity" means a department, commission, board, council, agency, institution, officer, corporation, fund, division, office, committee, authority, laboratory, library, unit, bureau, panel, or other administrative unit of the state.]~~

Section 2. Section 63J-1-201 is amended to read:

63J-1-201. Governor's proposed budget to Legislature -- Contents -- Preparation -- Appropriations based on current tax laws and not to exceed estimated revenues.

(1) The governor shall deliver, not later than 30 days before the date the Legislature convenes in the annual general session, a confidential draft copy of the governor's proposed budget recommendations to the Office of the Legislative Fiscal Analyst according to the requirements of this section.

(2) (a) When submitting a proposed budget, the governor shall, within the first three days of the annual general session of the Legislature, submit to the presiding officer of each house of the Legislature:

(i) a proposed budget for the ensuing fiscal year;

(ii) a schedule for all of the proposed changes to appropriations in the proposed budget, with each change clearly itemized and classified; and

(iii) as applicable, a document showing proposed changes in estimated revenues that are based on changes in state tax laws or rates.

(b) The proposed budget shall include:

(i) a projection of:

(A) estimated revenues by major tax type;

(B) 15-year trends for each major tax type;

(C) estimated receipts of federal funds; and

(D) appropriations for the next fiscal year;

(ii) the source of changes to all direct, indirect, and in-kind matching funds for all federal grants or assistance programs included in the budget;

(iii) a plan of proposed changes to appropriations and estimated revenues for the next fiscal year that is based upon the current fiscal year state tax laws and rates and considers projected changes in federal grants or assistance programs included in the budget;

(iv) an itemized estimate of the proposed changes to appropriations for:

(A) the Legislative Department as certified to the governor by the president of the Senate and the speaker of the House;

(B) the Executive Department;

(C) the Judicial Department as certified to the governor by the state court administrator;

(D) changes to salaries payable by the state under the Utah Constitution or under law for lease agreements planned for the next fiscal year; and

(E) all other changes to ongoing or one-time appropriations, including dedicated credits, restricted funds, nonlapsing balances, grants, and federal funds;

(v) for each line item, the average annual dollar amount of staff funding associated with all positions that were vacant during the last fiscal year;

(vi) deficits or anticipated deficits;

(vii) the recommendations for each state agency for new full-time employees for the next fiscal year, which shall also be provided to the State Building Board as required by Subsection 63A-5-103(2);

(viii) a written description and itemized report submitted by a state agency to the Governor's Office of Management and Budget under Section 63J-1-220, including:

(A) a written description and an itemized report provided at least annually detailing the expenditure of the state money, or the intended expenditure of any state money that has not been spent; and

(B) a final written itemized report when all the state money is spent;

~~[(viii)]~~ (ix) any explanation that the governor may desire to make as to the important features of the budget and any suggestion as to methods for the

reduction of expenditures or increase of the state's revenue; and

~~(ix)~~ (x) information detailing certain fee increases as required by Section 63J-1-504.

(3) For the purpose of preparing and reporting the proposed budget:

(a) The governor shall require the proper state officials, including all public and higher education officials, all heads of executive and administrative departments and state institutions, bureaus, boards, commissions, and agencies expending or supervising the expenditure of the state money, and all institutions applying for state money and appropriations, to provide itemized estimates of changes in revenues and appropriations.

(b) The governor may require the persons and entities subject to Subsection (3)(a) to provide other information under these guidelines and at times as the governor may direct, which may include a requirement for program productivity and performance measures, where appropriate, with emphasis on outcome indicators.

(c) The governor may require representatives of public and higher education, state departments and institutions, and other institutions or individuals applying for state appropriations to attend budget meetings.

(4) (a) The Governor's Office of Management and Budget shall provide to the Office of Legislative Fiscal Analyst, as soon as practicable, but no later than ~~November 15 of each year~~ 30 days before the date the Legislature convenes in the annual general session, data, analysis, or requests used in preparing the governor's budget recommendations, notwithstanding the restrictions imposed on such recommendations by available revenue.

(b) The information under Subsection (4)(a) shall include:

(i) actual revenues and expenditures for the fiscal year ending the previous June 30;

(ii) estimated or authorized revenues and expenditures for the current fiscal year;

(iii) requested revenues and expenditures for the next fiscal year;

(iv) detailed explanations of any differences between the amounts appropriated by the Legislature in the current fiscal year and the amounts reported under Subsections (4)(b)(ii) and (iii);

(v) a statement of agency and program objectives, effectiveness measures, and program size indicators; and

(vi) other budgetary information required by the Legislature in statute.

(c) The budget information under Subsection (4)(a) shall cover:

(i) all items of appropriation, funds, and accounts included in appropriations acts for the current and previous fiscal years; and

(ii) any new appropriation, fund, or account items requested for the next fiscal year.

(d) The information provided under Subsection (4)(a) may be provided as a shared record under Section 63G-2-206 as considered necessary by the Governor's Office of Management and Budget.

(5) (a) In submitting the budget for the Department of Public Safety, the governor shall include a separate recommendation in the governor's budget for maintaining a sufficient number of alcohol-related law enforcement officers to maintain the enforcement ratio equal to or below the number specified in Subsection 32B-1-201(2).

(b) If the governor does not include in the governor's budget an amount sufficient to maintain the number of alcohol-related law enforcement officers described in Subsection (5)(a), the governor shall include a message to the Legislature regarding the governor's reason for not including that amount.

(6) (a) The governor may revise all estimates, except those relating to the Legislative Department, the Judicial Department, and those providing for the payment of principal and interest to the state debt and for the salaries and expenditures specified by the Utah Constitution or under the laws of the state.

(b) The estimate for the Judicial Department, as certified by the state court administrator, shall also be included in the budget without revision, but the governor may make separate recommendations on the estimate.

(7) The total appropriations requested for expenditures authorized by the budget may not exceed the estimated revenues from taxes, fees, and all other sources for the next ensuing fiscal year.

(8) If any item of the budget as enacted is held invalid upon any ground, the invalidity does not affect the budget itself or any other item in it.

Section 3. Section 63J-1-220 is enacted to read:

63J-1-220. Reporting related to pass through money distributed by state agencies.

(1) As used in this section:

(a) "Local government entity" means a county, municipality, school district, local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, special service district under Title 17D, Chapter 1, Special Service District Act, or any other political subdivision of the state.

(b) (i) "Pass through funding" means money appropriated by the Legislature to a state agency that is intended to be passed through the state agency to one or more:

(A) local government entities;

(B) private organizations, including not-for-profit organizations; or

(C) persons in the form of a loan or grant.

(ii) "Pass through funding" may be:

(A) general funds, dedicated credits, or any combination of state funding sources; and

(B) ongoing or one-time.

(c) "Recipient entity" means a local government entity or private entity, including a nonprofit entity, that receives money by way of pass through funding from a state agency.

(d) "State agency" means a department, commission, board, council, agency, institution, officer, corporation, fund, division, office, committee, authority, laboratory, library, unit, bureau, panel, or other administrative unit of the executive branch of the state.

(e) (i) "State money" means money that is owned, held, or administered by a state agency and derived from state fees or tax revenues.

(ii) "State money" does not include contributions or donations received by a state agency.

(2) A state agency may not provide a recipient entity state money through pass through funding unless:

(a) the state agency enters into a written agreement with the recipient entity; and

(b) the written agreement described in Subsection (2)(a) requires the recipient entity to provide the state agency:

(i) a written description and an itemized report at least annually detailing the expenditure of the state money, or the intended expenditure of any state money that has not been spent; and

(ii) a final written itemized report when all the state money is spent.

(3) A state agency shall provide to the Governor's Office of Management and Budget a copy of a written description or itemized report received by the state agency under Subsection (2).

(4) Notwithstanding Subsection (2), a state agency is not required to comply with this section to the extent that the pass through funding is issued:

(a) under a competitive award process;

(b) in accordance with a formula enacted in statute;

(c) in accordance with a state program under parameters in statute or rule that guides the distribution of the pass through funding; or

(d) under the authority of the minimum school program, as defined in Subsection 53A-17a-103(4)(e).

Section 4. Repealer.

This bill repeals:

Section 51-2a-204, Grants to nonprofit corporations -- Reporting to the state auditor.

Section 63J-9-101, Title.

Section 63J-9-102, Definitions.

Section 63J-9-201, Conditions for providing state grant money to a nonprofit entity.

Section 63J-9-202, Nonprofit entity's return of state money.

CHAPTER 408**H. B. 324**

Passed March 12, 2015

Approved March 31, 2015

Effective July 1, 2015

SEARCH AND RESCUE FINANCIAL ASSISTANCE AMENDMENTS

Chief Sponsor: Sophia M. DiCaro
Senate Sponsor: David P. Hinkins

LONG TITLE**General Description:**

This bill creates within the Emergency Management Act the Utah Search and Rescue Assistance Card Program regarding reimbursement of rescue expenses.

Highlighted Provisions:

This bill:

- ▶ establishes a voluntary Utah Search and Rescue Assistance Card Program with cards to be issued by the Division of Emergency Management for the purpose of providing an additional revenue source for the Search and Rescue Financial Assistance Program;
- ▶ requires the division to provide a discount of not less than 10% on the search and rescue card fee if the applicant has paid for a hunting or fishing license, an off-highway vehicle registration, or a motorboat or sailboat registration in the same year the person applies for the assistance card program; and
- ▶ allows counties the option to bill individuals for the costs of their rescue if the individual is not registered as having a current Search and Rescue Assistance Card at the time of the rescue.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

53-2a-1102, as renumbered and amended by Laws of Utah 2013, Chapter 295

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

Section 1. Section 53-2a-1102 is amended to read:**53-2a-1102. Search and Rescue Financial Assistance Program -- Uses -- Rulemaking -- Distribution.**

(1) (a) “Assistance card program” means the Utah Search and Rescue Assistance Card Program created within this section.

(b) “Card” means the Search and Rescue Assistance Card issued under this section to a participant.

(c) “Participant” means an individual, family, or group who is registered pursuant to this section as having a valid card at the time search, rescue, or both are provided.

(d) “Program” means the Search and Rescue Financial Assistance Program created within this section.

~~(1)(a)~~ (e) (i) “Reimbursable expenses,” as used in this section, means those reasonable expenses incidental to search and rescue activities.

~~(b)~~ (ii) “Reimbursable expenses” include:

~~(4)~~ (A) rental for fixed wing aircraft, helicopters, snowmobiles, boats, and generators;

~~(4ii)~~ (B) replacement and upgrade of search and rescue equipment;

~~(4iii)~~ (C) training of search and rescue volunteers;

~~(4iv)~~ (D) costs of providing workers’ compensation benefits for volunteer search and rescue team members under Section 67-20-7.5; and

~~(4v)~~ (E) any other equipment or expenses necessary or appropriate for conducting search and rescue activities.

~~(4e)~~ (iii) “Reimbursable expenses” do not include any salary or overtime paid to any person on a regular or permanent payroll, including permanent part-time employees of any agency [or political subdivision] of the state.

(f) “Rescue” means search services, rescue services, or both search and rescue services.

(2) There is created the Search and Rescue Financial Assistance Program within the division.

(3) (a) The program shall be funded from the following revenue sources:

(i) any voluntary contributions to the state received for search and rescue operations;

(ii) money received by the state under [Section] Subsection (11) and under Sections 23-19-42, [Section] 41-22-34, and [Section] 73-18-24; and

(iii) appropriations made to the program by the Legislature.

(b) All money received from the revenue sources in Subsections (3)(a)(i) and (ii) shall be deposited into the General Fund as a dedicated credit to be used solely for the purposes under this section.

~~(b)~~ (c) All funding for the program [shall be] is nonlapsing.

(4) The director shall use the money to reimburse counties for all or a portion of each county’s reimbursable expenses for search and rescue operations, subject to:

(a) the approval of the Search and Rescue Advisory Board as provided in Section 53-2a-1104;

(b) money available in the program; and

(c) rules made under Subsection (7).

(5) Program money may not be used to reimburse for any paid personnel costs or paid man hours spent in emergency response and search and rescue related activities.

(6) The Legislature finds that these funds are for a general and statewide public purpose.

(7) The division, with the approval of the Search and Rescue Advisory Board, shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and consistent with this [aet] section:

(a) specifying the costs that qualify as reimbursable expenses;

(b) defining the procedures of [ageneies] counties to submit expenses and be reimbursed; [and]

(c) defining a participant in the assistance card program, including:

(i) individuals; and

(ii) families and organized groups who qualify as participants;

(d) defining the procedure for issuing a card to a participant;

(e) defining excluded expenses that may not be reimbursed under the program, including medical expenses;

(f) establishing the card renewal cycle for the Utah Search and Rescue Assistance Card Program;

(g) establishing the frequency of review of the fee schedule;

(h) providing for the administration of the program; and

[~~e~~] (i) providing a formula to govern the distribution of available money among the counties for uncompensated search and rescue expenses based on:

(i) the total qualifying expenses submitted;

(ii) the number of search and rescue incidents per county population;

(iii) the number of victims that reside outside the county; and

(iv) the number of volunteer hours spent in each county in emergency response and search and rescue related activities per county population.

(8) (a) The division shall, in consultation with the Outdoor Recreation Office, establish the fee schedule of the Search and Rescue Assistance Card under Subsection 63J-1-504(6).

(b) The division shall provide a discount of not less than 10% of the card fee under Subsection (8)(a) to a person who has paid a fee under Section 23-19-42, 41-22-34, or 73-18-24 during the same calendar year in which the person applies to be a participant in the assistance card program.

(9) (a) Counties may bill reimbursable expenses to an individual for costs incurred for the rescue of an individual, if the individual is not a participant in the Utah Search and Rescue Assistance Card Program.

(b) Counties may bill a participant for reimbursable expenses for costs incurred for the

rescue of the participant if the participant is found by the rescuing county to have acted recklessly or to have intentionally created a situation resulting in the need for a county to provide rescue service for the participant.

(10) (a) There is created the Utah Search and Rescue Assistance Card Program. The program is located within the division.

(b) The program may not be utilized to cover any expenses, such as medically related expenses, that are not reimbursable expenses related to the rescue.

(11) (a) To participate in the program, a person shall purchase a Search and Rescue Assistance Card from the division by paying the fee as determined by the division in Subsection (8).

(b) The money generated by the fees shall be deposited into the General Fund as a dedicated credit for the Search and Rescue Financial Assistance Program created in this section.

(c) Participation and payment of fees by a person under Sections 23-19-42, 41-22-34, and 73-18-24 do not constitute purchase of a card under this section.

(12) The division shall consult with the Outdoor Recreation Office regarding:

(a) administration of the assistance card program; and

(b) outreach and marketing strategies.

(13) Pursuant to Subsection 31A-1-103(7), the Utah Search and Rescue Assistance Card Program under this section is exempt from being considered an insurance program under Subsection 31A-1-301(86).

Section 2. Effective date.

This bill takes effect on July 1, 2015.

CHAPTER 409**H. B. 326**

Passed March 11, 2015
 Approved March 31, 2015
 Effective May 12, 2015

**FEDERAL FUNDS
 COMMISSION EXTENSION**

Chief Sponsor: Ken Ivory
 Senate Sponsor: Deidre M. Henderson

LONG TITLE**General Description:**

This bill modifies provisions relating to the Federal Funds Commission.

Highlighted Provisions:

This bill:

- ▶ extends the date that the Federal Funds Commission is authorized to meet to study and assess certain issues relating to federal funds;
- ▶ removes the repeal date of the Federal Funds Commission; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2016:

- ▶ to the Legislature - Senate, as an ongoing appropriation:
 - from the General Fund, \$7,000;
- ▶ to the Legislature - House of Representatives, as an ongoing appropriation:
 - from the General Fund, \$7,000; and
- ▶ to the Legislature - Office of Legislative Research and General Counsel, as an ongoing appropriation:
 - from the General Fund, \$40,000.

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

- 63C-14-301, as enacted by Laws of Utah 2013, Chapter 62
 63C-14-302, as enacted by Laws of Utah 2013, Chapter 62
 63I-1-263, as last amended by Laws of Utah 2014, Chapters 113, 189, 195, 211, 419, 429, and 435

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

Section 1. Section 63C-14-301 is amended to read:

63C-14-301. Commission duties.

(1) Until November 30, [2014] 2019, the commission shall:

- (a) study and assess:
 - (i) the financial stability of the federal government;
 - (ii) the level of dependency that the state and local governments have on the receipt of federal funds;

(iii) the risk that the state and local governments in the state will experience a reduction in the amount or value of federal funds they receive, in both the near and distant future;

(iv) the likely and potential impact on the state and its citizens from a reduction in the amount or value of federal funds received by the state and by local governments in the state, in both the near and distant future; and

(v) the likely and potential national impact from a reduction in the amount or value of federal funds paid to the states, in both the near and distant future; and

(b) make recommendations to the governor and Legislature on methods to:

(i) avoid or minimize the risk of a reduction in the amount or value of federal funds by the state and by local governments in the state;

(ii) reduce the dependency of the state and of local governments in the state on federal funds; and

(iii) prepare for and respond to a reduction in the amount or value of federal funds by the state and by local governments in the state.

(2) After November 30, [2014] 2019, the commission shall study, assess, and provide recommendations on any federal issue that the governor, the Legislature through a joint resolution of the Legislature, or the Legislative Management Committee directs the commission to study, assess, and make recommendations on.

(3) On or before November 30 of each year, the commission shall report to the Government Operations Interim Committee of the Legislature on the commission's findings and recommendations.

Section 2. Section 63C-14-302 is amended to read:

63C-14-302. Commission meetings -- Quorum -- Bylaws -- Staff support.

(1) (a) Until November 30, [2014] 2019, the commission shall meet at least quarterly but no more frequently than once a month.

(b) After November 30, [2014] 2019, the commission shall meet as directed by the governor, the Legislature, or the Legislative Management Committee in conjunction with direction given under Subsection 63C-14-301(2).

(2) A majority of the commission members constitutes a quorum, and the action of a majority of a quorum constitutes action of the commission.

(3) The commission may adopt bylaws to govern its operations and proceedings.

(4) The Office of Legislative Research and General Counsel shall provide staff support to the commission.

Section 3. Section 63I-1-263 is amended to read:

63I-1-263. Repeal dates, Titles 63A to 63M.

(1) Section 63A-4-204, authorizing the Risk Management Fund to provide coverage to any public school district which chooses to participate, is repealed July 1, 2016.

(2) Subsection 63A-5-104(4)(h) is repealed on July 1, 2024.

(3) Section 63A-5-603, State Facility Energy Efficiency Fund, is repealed July 1, 2016.

(4) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July 1, 2018.

~~[(5) Title 63C, Chapter 14, Federal Funds Commission, is repealed July 1, 2018.]~~

~~[(6) (5) Title 63C, Chapter 15, Prison Relocation Commission, is repealed July 1, 2017.]~~

~~[(7) (6) Subsection 63G-6a-1402(7) authorizing certain transportation agencies to award a contract for a design-build transportation project in certain circumstances, is repealed July 1, 2015.]~~

~~[(8) (7) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1, 2020.]~~

~~[(9) (8) The Resource Development Coordinating Committee, created in Section 63J-4-501, is repealed July 1, 2015.]~~

~~[(10) (9) Title 63M, Chapter 1, Part 4, Enterprise Zone Act, is repealed July 1, 2018.]~~

~~[(11) (10) (a) Title 63M, Chapter 1, Part 11, Recycling Market Development Zone Act, is repealed January 1, 2021.]~~

(b) Subject to Subsection ~~[(11) (10)(c)~~, Sections 59-7-610 and 59-10-1007 regarding tax credits for certain persons in recycling market development zones, are repealed for taxable years beginning on or after January 1, 2021.

(c) A person may not claim a tax credit under Section 59-7-610 or 59-10-1007:

(i) for the purchase price of machinery or equipment described in Section 59-7-610 or 59-10-1007, if the machinery or equipment is purchased on or after January 1, 2021; or

(ii) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), if the expenditure is made on or after January 1, 2021.

(d) Notwithstanding Subsections ~~[(11) (10)(b)~~ and (c), a person may carry forward a tax credit in accordance with Section 59-7-610 or 59-10-1007 if:

(i) the person is entitled to a tax credit under Section 59-7-610 or 59-10-1007; and

(ii) (A) for the purchase price of machinery or equipment described in Section 59-7-610 or 59-10-1007, the machinery or equipment is purchased on or before December 31, 2020; or

(B) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), the expenditure is made on or before December 31, 2020.

~~[(12) (11) Section 63M-1-3412 is repealed on July 1, 2021.]~~

~~[(13) (12) (a) Section 63M-1-2507, Health Care Compact is repealed on July 1, 2014.]~~

(b) (i) The Legislature shall, before reauthorizing the Health Care Compact:

(A) direct the Health System Reform Task Force to evaluate the issues listed in Subsection ~~[(13) (12)(b)(ii)~~, and by January 1, 2013, develop and recommend criteria for the Legislature to use to negotiate the terms of the Health Care Compact; and

(B) prior to July 1, 2014, seek amendments to the Health Care Compact among the member states that the Legislature determines are appropriate after considering the recommendations of the Health System Reform Task Force.

(ii) The Health System Reform Task Force shall evaluate and develop criteria for the Legislature regarding:

(A) the impact of the Supreme Court ruling on the Affordable Care Act;

(B) whether Utah is likely to be required to implement any part of the Affordable Care Act prior to negotiating the compact with the federal government, such as Medicaid expansion in 2014;

(C) whether the compact's current funding formula, based on adjusted 2010 state expenditures, is the best formula for Utah and other state compact members to use for establishing the block grants from the federal government;

(D) whether the compact's calculation of current year inflation adjustment factor, without consideration of the regional medical inflation rate in the current year, is adequate to protect the state from increased costs associated with administering a state based Medicaid and a state based Medicare program;

(E) whether the state has the flexibility it needs under the compact to implement and fund state based initiatives, or whether the compact requires uniformity across member states that does not benefit Utah;

(F) whether the state has the option under the compact to refuse to take over the federal Medicare program;

(G) whether a state based Medicare program would provide better benefits to the elderly and disabled citizens of the state than a federally run Medicare program;

(H) whether the state has the infrastructure necessary to implement and administer a better state based Medicare program;

(I) whether the compact appropriately delegates policy decisions between the legislative and executive branches of government regarding the development and implementation of the compact with other states and the federal government; and

(J) the impact on public health activities, including communicable disease surveillance and epidemiology.

[(14)] (13) (a) Title 63M, Chapter 1, Part 35, Utah Small Business Jobs Act, is repealed January 1, 2021.

(b) Section 59-9-107 regarding tax credits against premium taxes is repealed for calendar years beginning on or after January 1, 2021.

(c) Notwithstanding Subsection [(14)] (13)(b), an entity may carry forward a tax credit in accordance with Section 59-9-107 if:

(i) the person is entitled to a tax credit under Section 59-9-107 on or before December 31, 2020; and

(ii) the qualified equity investment that is the basis of the tax credit is certified under Section 63M-1-3503 on or before December 31, 2023.

[(15)] (14) The Crime Victim Reparations and Assistance Board, created in Section 63M-7-504, is repealed July 1, 2017.

[(16)] (15) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2017.

Section 4. Appropriation.

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, for the fiscal year beginning July 1, 2015, and ending June 30, 2016, the following sums of money are appropriated from resources not otherwise appropriated, or reduced from amounts previously appropriated, out of the funds or accounts indicated. These sums of money are in addition to any amounts previously appropriated for fiscal year 2016.

To Legislature - Senate

From General Fund \$7,000

Schedule of Programs:

Administration \$7,000

To Legislature - House of Representatives

From General Fund \$7,000

Schedule of Programs:

Administration \$7,000

To Legislature - Office of Legislative Research and General Counsel

From General Fund \$40,000

Schedule of Programs:

Administration \$40,000

Section 5. Effective date.

(1) Except as provided in Subsection (2), this bill takes effect on May 12, 2015.

(2) Uncodified Section 4, Appropriation, takes effect on July 1, 2015.

CHAPTER 410**H. B. 332**

Passed March 9, 2015

Approved March 31, 2015

Effective May 12, 2015

LOCAL TRANSPORTATION CORRIDOR PRESERVATION FUND AMENDMENTS

Chief Sponsor: Michael S. Kennedy
Senate Sponsor: Kevin T. Van Tassell

LONG TITLE**General Description:**

This bill modifies the Transportation Code by amending provisions relating to the Local Transportation Corridor Preservation Fund.

Highlighted Provisions:

This bill:

- ▶ provides that the expenditure of revenues from the Local Transportation Corridor Preservation Fund shall be authorized and managed by the local highway authority rather than the Department of Transportation;
- ▶ requires the State Tax Commission to allocate the revenues provided to each county, city, or town imposing certain fees and taxes of funds;
- ▶ requires the Department of Transportation to distribute the funds allocated to each county, city, or town;
- ▶ provides that a highway authority may not expend money to purchase a right-of-way for a state highway unless the highway authority has a transportation corridor property acquisition policy or ordinance in effect that meets Department of Transportation requirements for the acquisition of real property or any interests in real property except in certain circumstances; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

72-2-117.5, as last amended by Laws of Utah 2013, Chapter 35

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

Section 1. Section 72-2-117.5 is amended to read:**72-2-117.5. Definitions -- Local Transportation Corridor Preservation Fund -- Disposition of fund money.**

(1) As used in this section:

(a) "Council of governments" means a decision-making body in each county composed of the county governing body and the mayors of each municipality in the county.

(b) "Metropolitan planning organization" has the same meaning as defined in Section 72-1-208.5.

(2) There is created the Local Transportation Corridor Preservation Fund within the Transportation Fund.

(3) The fund shall be funded from the following sources:

(a) a local option highway construction and transportation corridor preservation fee imposed under Section 41-1a-1222;

(b) appropriations made to the fund by the Legislature;

(c) contributions from other public and private sources for deposit into the fund;

(d) all money collected from rents and sales of real property acquired with fund money;

(e) proceeds from general obligation bonds, revenue bonds, or other obligations issued as authorized by Title 63B, Bonds;

(f) the portion of the sales and use tax described in Subsection 59-12-2217(2)(b) and required by Subsection 59-12-2217(8)(a) to be deposited into the fund; and

(g) sales and use tax revenues deposited into the fund in accordance with Section 59-12-2218.

(4) (a) The fund shall earn interest.

(b) All interest earned on fund money shall be deposited into the fund.

(c) The State Tax Commission shall ~~provide the department with sufficient data for the department to~~ allocate the revenues:

(i) provided under Subsection (3)(a) to each county imposing a local option highway construction and transportation corridor preservation fee under Section 41-1a-1222;

(ii) provided under Subsection 59-12-2217(2)(b) to each county imposing a county option sales and use tax for transportation; and

(iii) provided under Subsection (3)(g) to each county of the second class or city or town within a county of the second class that imposes the sales and use tax authorized by Section 59-12-2218.

~~[(d) (i) The department shall annually allocate the interest earned on fund money to each county based on the proportionate amount of interest earned on each county's allocation of funds under Subsection (4)(c) on an average monthly balance basis.]~~

~~[(ii) The initial annual allocation of fund interest shall include all interest earned on fund money since the creation of the fund.]~~

(d) The department shall distribute the funds allocated to each county, city, or town under Subsection (4)(c) to each county, city, or town.

(e) The money allocated and distributed under this Subsection (4)(e):

(i) shall be used for the purposes provided in this section for each county, city, or town;

(ii) is allocated to each county, city, or town as provided in this section with the condition that the state will not be charged for any asset purchased with the money allocated ~~under Subsections (4)(e) and (d)~~ and distributed under this Subsection (4); and

(iii) is considered a local matching contribution for the purposes described under Section 72-2-123 if used on a state highway.

(f) Administrative costs of the department to implement this section shall be paid from the fund.

(5) (a) ~~The department shall authorize the expenditure of fund money to allow a~~ A highway authority ~~to~~ may acquire real property or any interests in real property for state, county, and municipal highway corridors subject to:

(i) money available in the fund to each county under ~~Subsections~~ Subsection (4)~~(e) and (d)~~; and

(ii) the provisions of this section.

(b) Fund money may be used to pay interest on debts incurred in accordance with this section.

(c) (i) (A) Fund money may be used to pay maintenance costs of properties acquired under this section but limited to a total of 5% of the purchase price of the property.

(B) Any additional maintenance cost shall be paid from funds other than under this section.

(C) Revenue generated by any property acquired under this section is excluded from the limitations under this Subsection (5)(c)(i).

(ii) Fund money may be used to pay direct costs of acquisition of properties acquired under this section.

(d) Fund money allocated ~~under Subsections (4)(e) and (d)~~ and distributed under Subsection (4) may be used by a county highway authority for countywide transportation planning if:

(i) the county's planning focus area is outside the boundaries of a metropolitan planning organization;

(ii) the transportation planning is part of the county's continuing, cooperative, and comprehensive process for transportation planning, corridor preservation, right-of-way acquisition, and project programming;

(iii) no more than four years allocation every 20 years to each county is used for transportation planning under this Subsection (5)(d); and

(iv) the county otherwise qualifies to use the fund money as provided under this section.

(e) (i) Subject to Subsection (11), fund money allocated ~~under Subsections (4)(e) and (d)~~ and distributed under Subsection (4) may be used by a county highway authority for transportation corridor planning that is part of the corridor elements of an ongoing work program of transportation projects.

(ii) The transportation corridor planning under Subsection (5)(e)(i) shall be under the direction of:

(A) the metropolitan planning organization if the county is within the boundaries of a metropolitan planning organization; or

(B) the department if the county is not within the boundaries of a metropolitan planning organization.

(f) (i) A county, city, or town that imposes a local option highway construction and transportation corridor preservation fee under Section 41-1a-1222 may elect to administer the funds allocated and distributed to that county, city, or town under Subsection (4)~~(e)~~ as a revolving loan fund.

(ii) If a county, city, or town elects to administer the funds allocated and distributed to that county, city, or town under Subsection (4)~~(e)~~ as a revolving loan fund, a local highway authority shall: ~~(A) apply to the department as required under this section for money from the fund created in this section for a specified transportation corridor project; and (B) repay the fund money authorized for the project to the fund.~~

(iii) A county, city, or town that elects to administer the funds allocated and distributed to that county, city, or town under Subsection (4)~~(e)~~ as a revolving loan fund shall establish repayment conditions of the money to the fund from the specified project funds.

(6) (a) (i) The Local Transportation Corridor Preservation Fund shall be used to preserve highway corridors, promote long-term statewide transportation planning, save on acquisition costs, and promote the best interests of the state in a manner which minimizes impact on prime agricultural land.

(ii) The Local Transportation Corridor Preservation Fund shall only be used to preserve a highway corridor that is right-of-way:

(A) in a county of the first or second class for:

(I) a state highway;

(II) a principal arterial highway as defined in Section 72-4-102.5;

(III) a minor arterial highway as defined in Section 72-4-102.5; or

(IV) a collector highway in an urban area as defined in Section 72-4-102.5; or

(B) in a county of the third, fourth, fifth, or sixth class for:

(I) a state highway;

(II) a principal arterial highway as defined in Section 72-4-102.5;

(III) a minor arterial highway as defined in Section 72-4-102.5;

(IV) a major collector highway as defined in Section 72-4-102.5; or

(V) a minor collector road as defined in Section 72-4-102.5.

(iii) The Local Transportation Corridor Preservation Fund may not be used for a highway corridor that is primarily a recreational trail as defined under Section 79-5-102.

~~[(b) (i) The department shall develop and implement a program to educate highway authorities on the objectives, application process, use, and responsibilities of the Local Transportation Corridor Preservation Fund as provided under this section to promote the most efficient and effective use of fund money including priority use on designated high priority corridor preservation projects.]~~

~~[(ii) The department shall develop a model transportation corridor property acquisition policy or ordinance that meets federal requirements for the benefit of a highway authority to acquire real property or any interests in real property under this section.]~~

~~[(e) The department]~~

(b) A highway authority shall authorize the expenditure of fund money after determining that the expenditure is being made in accordance with this section from applications that are:

~~[(i) made by a highway authority;]~~

~~[(iii)]~~ (i) endorsed by the council of governments; and

~~[(iii)]~~ (ii) for a right-of-way purchase for a highway authorized under Subsection (6)(a)(ii).

(7) (a) (i) A council of governments shall establish a council of governments endorsement process which includes prioritization and application procedures for use of the money allocated to each county under this section.

(ii) The endorsement process under Subsection (7)(a)(i) may include review or endorsement of the preservation project by:

(A) the metropolitan planning organization if the county is within the boundaries of a metropolitan planning organization; or

(B) the department if the county is not within the boundaries of a metropolitan planning organization.

(b) All fund money shall be prioritized by each highway authority and council of governments based on considerations, including:

(i) areas with rapidly expanding population;

(ii) the willingness of local governments to complete studies and impact statements that meet department standards;

(iii) the preservation of corridors by the use of local planning and zoning processes;

(iv) the availability of other public and private matching funds for a project;

(v) the cost-effectiveness of the preservation projects;

(vi) long and short-term maintenance costs for property acquired; and

(vii) whether the transportation corridor is included as part of:

(A) the county and municipal master plan; and

(B) (I) the statewide long range plan; or

(II) the regional transportation plan of the area metropolitan planning organization if one exists for the area.

(c) The council of governments shall:

(i) establish a priority list of highway corridor preservation projects within the county;

(ii) submit the list described in Subsection (7)(c)(i) to the county's legislative body for approval; and

(iii) obtain approval of the list described in Subsection (7)(c)(i) from a majority of the members of the county legislative body.

(d) A county's council of governments may only submit one priority list described in Subsection (7)(c)(i) per calendar year.

(e) A county legislative body may only consider and approve one priority list described in Subsection (7)(c)(i) per calendar year.

(8) (a) Unless otherwise provided by written agreement with another highway authority, the highway authority that holds the deed to the property is responsible for maintenance of the property.

(b) The transfer of ownership for property acquired under this section from one highway authority to another shall include a recorded deed for the property and a written agreement between the highway authorities.

(9) (a) The proceeds from any bonds or other obligations secured by revenues of the Local Transportation Corridor Preservation Fund shall be used for the purposes authorized for funds under this section.

(b) The highway authority shall pledge the necessary part of the revenues of the Local Transportation Corridor Preservation Fund to the payment of principal and interest on the bonds or other obligations.

(10) (a) A highway authority may not ~~apply for~~ expend money under this section to purchase a right-of-way for a state highway unless the highway authority has:

(i) a transportation corridor property acquisition policy or ordinance in effect that meets ~~federal~~ department requirements for the acquisition of real property or any interests in real property under this section; and

(ii) an access management policy or ordinance in effect that meets the requirements under Subsection 72-2-117(8).

(b) The provisions of Subsection (10)(a)(i) do not apply if the highway authority has a written

agreement with the department for ~~[the acquisition of]~~ the department to acquire real property or any interests in real property on behalf of the local highway authority under this section.

(11) ~~[(a)]~~ The ~~[department]~~ county shall~~[- in expending or authorizing the expenditure of fund money,]~~ ensure, to the extent possible, that the fund money allocated and distributed to a city or town in accordance with Subsection (4) is expended:

~~[(i)]~~ (a) to fund a project or service as allowed by this section within the city or town to which the fund money is allocated;

~~[(ii)]~~ (b) to pay debt service, principal, or interest on a bond or other obligation as allowed by this section if that bond or other obligation is:

~~[(A)]~~ (i) secured by money allocated to the city or town; and

~~[(B)]~~ (ii) issued to finance a project or service as allowed by this section within the city or town to which the fund money is allocated;

~~[(iii)]~~ (c) to fund transportation planning as allowed by this section within the city or town to which the fund money is allocated; or

~~[(iv)]~~ (d) for another purpose allowed by this section within the city or town to which the fund money is allocated.

~~[(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make rules to implement the requirements of Subsection (11)(a).]~~

CHAPTER 411**H. B. 343**

Passed March 12, 2015
 Approved March 31, 2015
 Effective July 1, 2015

**UTAH COMMUNICATION AUTHORITY
 EMERGENCY RADIO AND
 911 AMENDMENTS**

Chief Sponsor: Brad L. Dee
 Senate Sponsor: Wayne A. Harper

LONG TITLE**General Description:**

This bill amends the Utah Communications Authority Act and the Emergency Telephone Service Law to implement a statewide public communications network for 911 emergency services.

Highlighted Provisions:

This bill:

- ▶ rennumbers the Utah Communications Authority Act;
- ▶ amends definitions;
- ▶ amends powers of the Utah Communications Authority;
- ▶ amends the duties of the board of the authority;
- ▶ creates the 911 Division within the authority and:
 - establishes the division's duties;
 - specifies the role of the 911 Division in recommending disbursements from certain restricted accounts;
 - requires the 911 Division to report to the executive director of the authority; and
 - creates a 911 advisory committee to the 911 Division and designates membership and duties of the advisory committee;
- ▶ creates the Radio Network Division within the authority and:
 - establishes the division's duties;
 - creates a Utah Statewide Radio System Restricted Account within the General Fund and specifies its purpose;
 - specifies the role of the Radio Network Division in the disbursement of money from certain restricted accounts; and
 - authorizes the appointment of an advisory committee and designates membership and duties;
- ▶ creates the Interoperability Division within the authority and:
 - establishes the division's duties;
 - creates a statewide interoperability coordinator and the coordinator's duties; and
 - authorizes the appointment of an advisory committee and designates membership and duties;
- ▶ creates the Administrative Services Division within the authority and:
 - establishes the division's duties, which include the investment, safekeeping of funds, and financial reporting for the authority; and

- appoints a financial officer for the authority and establishes the duties of the financial officer; and
- ▶ makes technical and conforming amendments.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

- 26-8b-102, as last amended by Laws of Utah 2014, Chapter 320
- 59-1-403, as last amended by Laws of Utah 2014, Chapter 320
- 63A-4-205.5, as last amended by Laws of Utah 2014, Chapter 320
- 63E-1-102, as last amended by Laws of Utah 2014, Chapters 320, 426, and 426
- 63G-2-305, as last amended by Laws of Utah 2014, Chapters 90 and 320
- 63I-4a-102, as last amended by Laws of Utah 2014, Chapter 320
- 63J-7-102, as last amended by Laws of Utah 2014, Chapter 320
- 69-2-5, as last amended by Laws of Utah 2014, Chapter 320
- 69-2-5.5, as last amended by Laws of Utah 2014, Chapter 320
- 69-2-5.6, as last amended by Laws of Utah 2014, Chapter 320
- 69-2-5.7, as last amended by Laws of Utah 2014, Chapter 320
- 69-2-7, as last amended by Laws of Utah 2014, Chapter 36

ENACTS:

- 63H-7a-402, Utah Code Annotated 1953
- 63H-7a-403, Utah Code Annotated 1953
- 63H-7a-404, Utah Code Annotated 1953
- 63H-7a-405, Utah Code Annotated 1953
- 63H-7a-502, Utah Code Annotated 1953
- 63H-7a-503, Utah Code Annotated 1953
- 63H-7a-504, Utah Code Annotated 1953
- 63H-7a-601, Utah Code Annotated 1953
- 63H-7a-603, Utah Code Annotated 1953
- 63H-7a-700, Utah Code Annotated 1953
- 63H-7a-800, Utah Code Annotated 1953

RENUMBERS AND AMENDS:

- 63H-7a-101, (Renumbered from 63H-7-101, as renumbered and amended by Laws of Utah 2014, Chapter 320)
- 63H-7a-102, (Renumbered from 63H-7-102, as renumbered and amended by Laws of Utah 2014, Chapter 320)
- 63H-7a-103, (Renumbered from 63H-7-103, as renumbered and amended by Laws of Utah 2014, Chapter 320)
- 63H-7a-201, (Renumbered from 63H-7-201, as renumbered and amended by Laws of Utah 2014, Chapter 320)
- 63H-7a-202, (Renumbered from 63H-7-202, as renumbered and amended by Laws of Utah 2014, Chapter 320)
- 63H-7a-203, (Renumbered from 63H-7-203, as renumbered and amended by Laws of Utah 2014, Chapter 320)

63H-7a-204, (Renumbered from 63H-7-204, as renumbered and amended by Laws of Utah 2014, Chapter 320)

63H-7a-205, (Renumbered from 63H-7-205, as renumbered and amended by Laws of Utah 2014, Chapter 320)

63H-7a-301, (Renumbered from 63H-7-301, as enacted by Laws of Utah 2014, Chapter 320)

63H-7a-302, (Renumbered from 63H-7-303, as renumbered and amended by Laws of Utah 2014, Chapter 320)

63H-7a-303, (Renumbered from 63H-7-310, as enacted by Laws of Utah 2014, Chapter 320)

63H-7a-304, (Renumbered from 63H-7-304, as renumbered and amended by Laws of Utah 2014, Chapter 320)

63H-7a-305, (Renumbered from 63H-7-305, as renumbered and amended by Laws of Utah 2014, Chapter 320)

63H-7a-306, (Renumbered from 63H-7-307, as renumbered and amended by Laws of Utah 2014, Chapter 320)

63H-7a-307, (Renumbered from 63H-7-302, as renumbered and amended by Laws of Utah 2014, Chapter 320)

63H-7a-401, (Renumbered from 63H-7-308, as enacted by Laws of Utah 2014, Chapter 320)

63H-7a-501, (Renumbered from 63H-7-309, as enacted by Laws of Utah 2014, Chapter 320)

63H-7a-602, (Renumbered from 63H-7-306, as renumbered and amended by Laws of Utah 2014, Chapter 320)

63H-7a-701, (Renumbered from 63H-7-401, as renumbered and amended by Laws of Utah 2014, Chapter 320)

63H-7a-702, (Renumbered from 63H-7-402, as renumbered and amended by Laws of Utah 2014, Chapter 320)

63H-7a-703, (Renumbered from 63H-7-403, as renumbered and amended by Laws of Utah 2014, Chapter 320)

63H-7a-704, (Renumbered from 63H-7-404, as renumbered and amended by Laws of Utah 2014, Chapter 320)

63H-7a-705, (Renumbered from 63H-7-405, as renumbered and amended by Laws of Utah 2014, Chapter 320)

63H-7a-706, (Renumbered from 63H-7-406, as renumbered and amended by Laws of Utah 2014, Chapter 320)

63H-7a-801, (Renumbered from 63H-7-501, as renumbered and amended by Laws of Utah 2014, Chapter 320)

63H-7a-802, (Renumbered from 63H-7-502, as renumbered and amended by Laws of Utah 2014, Chapter 320)

63H-7a-803, (Renumbered from 63H-7-503, as renumbered and amended by Laws of Utah 2014, Chapter 320)

63H-7a-804, (Renumbered from 63H-7-504, as renumbered and amended by Laws of Utah 2014, Chapter 320)

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

Section 1. Section 26-8b-102 is amended to read:

26-8b-102. Definitions.

As used in this chapter:

(1) "Account" means the Automatic External Defibrillator Restricted Account, created in Section 26-8b-602.

(2) "Automatic external defibrillator" or "AED" means an automated or automatic computerized medical device that:

(a) has received pre-market notification approval from the United States Food and Drug Administration, pursuant to [~~Section 360(k), Title 21 of the United States Code~~] 21 U.S.C. Sec. 360(k);

(b) is capable of recognizing the presence or absence of ventricular fibrillation or rapid ventricular tachycardia;

(c) is capable of determining, without intervention by an operator, whether defibrillation should be performed; and

(d) upon determining that defibrillation should be performed, automatically charges, enabling delivery of, or automatically delivers, an electrical impulse through the chest wall and to a person's heart.

(3) "Bureau" means the Bureau of Emergency Medical Services, within the department.

(4) "Cardiopulmonary resuscitation" or "CPR" means artificial ventilation or external chest compression applied to a person who is unresponsive and not breathing.

(5) "Emergency medical dispatch center" means a public safety answering point, as defined in Section [~~63H-7-103~~] 63H-7a-103, that is designated as an emergency medical dispatch center by the bureau.

(6) "Sudden cardiac arrest" means a life-threatening condition that results when a person's heart stops or fails to produce a pulse.

Section 2. Section 59-1-403 is amended to read:

59-1-403. Confidentiality -- Exceptions -- Penalty -- Application to property tax.

(1) (a) Any of the following may not divulge or make known in any manner any information gained by that person from any return filed with the commission:

(i) a tax commissioner;

(ii) an agent, clerk, or other officer or employee of the commission; or

(iii) a representative, agent, clerk, or other officer or employee of any county, city, or town.

(b) An official charged with the custody of a return filed with the commission is not required to produce the return or evidence of anything contained in the return in any action or proceeding in any court, except:

- (i) in accordance with judicial order;
- (ii) on behalf of the commission in any action or proceeding under:
 - (A) this title; or
 - (B) other law under which persons are required to file returns with the commission;
- (iii) on behalf of the commission in any action or proceeding to which the commission is a party; or
- (iv) on behalf of any party to any action or proceeding under this title if the report or facts shown by the return are directly involved in the action or proceeding.
- (c) Notwithstanding Subsection (1)(b), a court may require the production of, and may admit in evidence, any portion of a return or of the facts shown by the return, as are specifically pertinent to the action or proceeding.
 - (2) This section does not prohibit:
 - (a) a person or that person's duly authorized representative from receiving a copy of any return or report filed in connection with that person's own tax;
 - (b) the publication of statistics as long as the statistics are classified to prevent the identification of particular reports or returns; and
 - (c) the inspection by the attorney general or other legal representative of the state of the report or return of any taxpayer:
 - (i) who brings action to set aside or review a tax based on the report or return;
 - (ii) against whom an action or proceeding is contemplated or has been instituted under this title; or
 - (iii) against whom the state has an unsatisfied money judgment.
 - (3) (a) Notwithstanding Subsection (1) and for purposes of administration, the commission may by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, provide for a reciprocal exchange of information with:
 - (i) the United States Internal Revenue Service; or
 - (ii) the revenue service of any other state.
 - (b) Notwithstanding Subsection (1) and for all taxes except individual income tax and corporate franchise tax, the commission may by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, share information gathered from returns and other written statements with the federal government, any other state, any of the political subdivisions of another state, or any political subdivision of this state, except as limited by Sections 59-12-209 and 59-12-210, if the political subdivision, other state, or the federal government grant substantially similar privileges to this state.
 - (c) Notwithstanding Subsection (1) and for all taxes except individual income tax and corporate

franchise tax, the commission may by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, provide for the issuance of information concerning the identity and other information of taxpayers who have failed to file tax returns or to pay any tax due.

(d) Notwithstanding Subsection (1), the commission shall provide to the director of the Division of Solid and Hazardous Waste, as defined in Section 19-6-102, as requested by the director of the Division of Solid and Hazardous Waste, any records, returns, or other information filed with the commission under Chapter 13, Motor and Special Fuel Tax Act, or Section 19-6-410.5 regarding the environmental assurance program participation fee.

(e) Notwithstanding Subsection (1), at the request of any person the commission shall provide that person sales and purchase volume data reported to the commission on a report, return, or other information filed with the commission under:

- (i) Chapter 13, Part 2, Motor Fuel; or
- (ii) Chapter 13, Part 4, Aviation Fuel.

(f) Notwithstanding Subsection (1), upon request from a tobacco product manufacturer, as defined in Section 59-22-202, the commission shall report to the manufacturer:

(i) the quantity of cigarettes, as defined in Section 59-22-202, produced by the manufacturer and reported to the commission for the previous calendar year under Section 59-14-407; and

(ii) the quantity of cigarettes, as defined in Section 59-22-202, produced by the manufacturer for which a tax refund was granted during the previous calendar year under Section 59-14-401 and reported to the commission under Subsection 59-14-401(1)(a)(v).

(g) Notwithstanding Subsection (1), the commission shall notify manufacturers, distributors, wholesalers, and retail dealers of a tobacco product manufacturer that is prohibited from selling cigarettes to consumers within the state under Subsection 59-14-210(2).

(h) Notwithstanding Subsection (1), the commission may:

(i) provide to the Division of Consumer Protection within the Department of Commerce and the attorney general data:

(A) reported to the commission under Section 59-14-212; or

(B) related to a violation under Section 59-14-211; and

(ii) upon request, provide to any person data reported to the commission under Subsections 59-14-212(1)(a) through (c) and Subsection 59-14-212(1)(g).

(i) Notwithstanding Subsection (1), the commission shall, at the request of a committee of the Legislature, the Office of the Legislative Fiscal Analyst, or the Governor's Office of Management

and Budget, provide to the committee or office the total amount of revenues collected by the commission under Chapter 24, Radioactive Waste Facility Tax Act, for the time period specified by the committee or office.

(j) Notwithstanding Subsection (1), the commission shall make the directory required by Section 59-14-603 available for public inspection.

(k) Notwithstanding Subsection (1), the commission may share information with federal, state, or local agencies as provided in Subsection 59-14-606(3).

(l) (i) Notwithstanding Subsection (1), the commission shall provide the Office of Recovery Services within the Department of Human Services any relevant information obtained from a return filed under Chapter 10, Individual Income Tax Act, regarding a taxpayer who has become obligated to the Office of Recovery Services.

(ii) The information described in Subsection (3)(l)(i) may be provided by the Office of Recovery Services to any other state's child support collection agency involved in enforcing that support obligation.

(m) (i) Notwithstanding Subsection (1), upon request from the state court administrator, the commission shall provide to the state court administrator, the name, address, telephone number, county of residence, and Social Security number on resident returns filed under Chapter 10, Individual Income Tax Act.

(ii) The state court administrator may use the information described in Subsection (3)(m)(i) only as a source list for the master jury list described in Section 78B-1-106.

(n) Notwithstanding Subsection (1), the commission shall at the request of a committee, commission, or task force of the Legislature provide to the committee, commission, or task force of the Legislature any information relating to a tax imposed under Chapter 9, Taxation of Admitted Insurers, relating to the study required by Section 59-9-101.

(o) (i) As used in this Subsection (3)(o), "office" means the:

(A) Office of the Legislative Fiscal Analyst; or

(B) Office of Legislative Research and General Counsel.

(ii) Notwithstanding Subsection (1) and except as provided in Subsection (3)(o)(iii), the commission shall at the request of an office provide to the office all information:

(A) gained by the commission; and

(B) required to be attached to or included in returns filed with the commission.

(iii) (A) An office may not request and the commission may not provide to an office a person's:

(I) address;

(II) name;

(III) Social Security number; or

(IV) taxpayer identification number.

(B) The commission shall in all instances protect the privacy of a person as required by Subsection (3)(o)(iii)(A).

(iv) An office may provide information received from the commission in accordance with this Subsection (3)(o) only:

(A) as:

(I) a fiscal estimate;

(II) fiscal note information; or

(III) statistical information; and

(B) if the information is classified to prevent the identification of a particular return.

(v) (A) A person may not request information from an office under Title 63G, Chapter 2, Government Records Access and Management Act, or this section, if that office received the information from the commission in accordance with this Subsection (3)(o).

(B) An office may not provide to a person that requests information in accordance with Subsection (3)(o)(v)(A) any information other than the information the office provides in accordance with Subsection (3)(o)(iv).

(p) Notwithstanding Subsection (1), the commission may provide to the governing board of the agreement or a taxing official of another state, the District of Columbia, the United States, or a territory of the United States:

(i) the following relating to an agreement sales and use tax:

(A) information contained in a return filed with the commission;

(B) information contained in a report filed with the commission;

(C) a schedule related to Subsection (3)(p)(i)(A) or (B); or

(D) a document filed with the commission; or

(ii) a report of an audit or investigation made with respect to an agreement sales and use tax.

(q) Notwithstanding Subsection (1), the commission may provide information concerning a taxpayer's state income tax return or state income tax withholding information to the Driver License Division if the Driver License Division:

(i) requests the information; and

(ii) provides the commission with a signed release form from the taxpayer allowing the Driver License Division access to the information.

(r) Notwithstanding Subsection (1), the commission shall provide to the ~~Utah 911 Committee the information requested by the Utah 911 Committee under Subsection 63H-7-303(4)~~

Utah Communications Authority, or a division of the Utah Communications Authority, the information requested by the authority under Sections 63H-7a-302, 63H-7a-402, and 63H-7a-502.

(s) Notwithstanding Subsection (1), the commission shall provide to the Utah Educational Savings Plan information related to a resident or nonresident individual's contribution to a Utah Educational Savings Plan account as designated on the resident or nonresident's individual income tax return as provided under Section 59-10-1313.

(t) Notwithstanding Subsection (1), for the purpose of verifying eligibility under Sections 26-18-2.5 and 26-40-105, the commission shall provide an eligibility worker with the Department of Health or its designee with the adjusted gross income of an individual if:

(i) an eligibility worker with the Department of Health or its designee requests the information from the commission; and

(ii) the eligibility worker has complied with the identity verification and consent provisions of Sections 26-18-2.5 and 26-40-105.

(u) Notwithstanding Subsection (1), the commission may provide to a county, as determined by the commission, information declared on an individual income tax return in accordance with Section 59-10-103.1 that relates to eligibility to claim a residential exemption authorized under Section 59-2-103.

(4) (a) Each report and return shall be preserved for at least three years.

(b) After the three-year period provided in Subsection (4)(a) the commission may destroy a report or return.

(5) (a) Any person who violates this section is guilty of a class A misdemeanor.

(b) If the person described in Subsection (5)(a) is an officer or employee of the state, the person shall be dismissed from office and be disqualified from holding public office in this state for a period of five years thereafter.

(c) Notwithstanding Subsection (5)(a) or (b), an office that requests information in accordance with Subsection (3)(o)(iii) or a person that requests information in accordance with Subsection (3)(o)(v):

(i) is not guilty of a class A misdemeanor; and

(ii) is not subject to:

(A) dismissal from office in accordance with Subsection (5)(b); or

(B) disqualification from holding public office in accordance with Subsection (5)(b).

(6) Except as provided in Section 59-1-404, this part does not apply to the property tax.

Section 3. Section 63A-4-205.5 is amended to read:

63A-4-205.5. Risk management -- Coverage of the Utah Communications Authority.

The Utah Communications Authority established under authority of Title 63H, Chapter [7] 7a, Utah Communications Authority Act, may participate in the Risk Management Fund.

Section 4. Section 63E-1-102 is amended to read:

63E-1-102. Definitions -- List of independent entities.

As used in this title:

(1) "Authorizing statute" means the statute creating an entity as an independent entity.

(2) "Committee" means the Retirement and Independent Entities Committee created by Section 63E-1-201.

(3) "Independent corporation" means a corporation incorporated in accordance with Chapter 2, Independent Corporations Act.

(4) (a) "Independent entity" means an entity having a public purpose relating to the state or its citizens that is individually created by the state or is given by the state the right to exist and conduct its affairs as an:

(i) independent state agency; or

(ii) independent corporation.

(b) "Independent entity" includes the:

(i) Utah Dairy Commission created by Section 4-22-2;

(ii) Heber Valley Historic Railroad Authority created by Section 63H-4-102;

(iii) Utah State Railroad Museum Authority created by Section 63H-5-102;

(iv) Utah Science Center Authority created by Section 63H-3-103;

(v) Utah Housing Corporation created by Section 35A-8-704;

(vi) Utah State Fair Corporation created by Section 63H-6-103;

(vii) Workers' Compensation Fund created by Section 31A-33-102;

(viii) Utah State Retirement Office created by Section 49-11-201;

(ix) School and Institutional Trust Lands Administration created by Section 53C-1-201;

(x) School and Institutional Trust Fund Office created by Section 53D-1-201;

(xi) Utah Communications Authority created in Section ~~63H-7-201~~ 63H-7a-201;

(xii) Utah Energy Infrastructure Authority created by Section 63H-2-201;

(xiii) Utah Capital Investment Corporation created by Section 63M-1-1207; and

(xiv) Military Installation Development Authority created by Section 63H-1-201.

(c) Notwithstanding this Subsection (4), “independent entity” does not include:

(i) the Public Service Commission of Utah created by Section 54-1-1;

(ii) an institution within the state system of higher education;

(iii) a city, county, or town;

(iv) a local school district;

(v) a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts; or

(vi) a special service district under Title 17D, Chapter 1, Special Service District Act.

(5) “Independent state agency” means an entity that is created by the state, but is independent of the governor’s direct supervisory control.

(6) “Money held in trust” means money maintained for the benefit of:

(a) one or more private individuals, including public employees;

(b) one or more public or private entities; or

(c) the owners of a quasi-public corporation.

(7) “Public corporation” means an artificial person, public in ownership, individually created by the state as a body politic and corporate for the administration of a public purpose relating to the state or its citizens.

(8) “Quasi-public corporation” means an artificial person, private in ownership, individually created as a corporation by the state which has accepted from the state the grant of a franchise or contract involving the performance of a public purpose relating to the state or its citizens.

Section 5. Section 63G-2-305 is amended to read:

63G-2-305. Protected records.

The following records are protected if properly classified by a governmental entity:

(1) trade secrets as defined in Section 13-24-2 if the person submitting the trade secret has provided the governmental entity with the information specified in Section 63G-2-309;

(2) commercial information or nonindividual financial information obtained from a person if:

(a) disclosure of the information could reasonably be expected to result in unfair competitive injury to the person submitting the information or would impair the ability of the governmental entity to obtain necessary information in the future;

(b) the person submitting the information has a greater interest in prohibiting access than the public in obtaining access; and

(c) the person submitting the information has provided the governmental entity with the information specified in Section 63G-2-309;

(3) commercial or financial information acquired or prepared by a governmental entity to the extent that disclosure would lead to financial speculations in currencies, securities, or commodities that will interfere with a planned transaction by the governmental entity or cause substantial financial injury to the governmental entity or state economy;

(4) records, the disclosure of which could cause commercial injury to, or confer a competitive advantage upon a potential or actual competitor of, a commercial project entity as defined in Subsection 11-13-103(4);

(5) test questions and answers to be used in future license, certification, registration, employment, or academic examinations;

(6) records, the disclosure of which would impair governmental procurement proceedings or give an unfair advantage to any person proposing to enter into a contract or agreement with a governmental entity, except, subject to Subsections (1) and (2), that this Subsection (6) does not restrict the right of a person to have access to, after the contract or grant has been awarded and signed by all parties, a bid, proposal, application, or other information submitted to or by a governmental entity in response to:

(a) an invitation for bids;

(b) a request for proposals;

(c) a request for quotes;

(d) a grant; or

(e) other similar document;

(7) information submitted to or by a governmental entity in response to a request for information, except, subject to Subsections (1) and (2), that this Subsection (7) does not restrict the right of a person to have access to the information, after:

(a) a contract directly relating to the subject of the request for information has been awarded and signed by all parties; or

(b) (i) a final determination is made not to enter into a contract that relates to the subject of the request for information; and

(ii) at least two years have passed after the day on which the request for information is issued;

(8) records that would identify real property or the appraisal or estimated value of real or personal property, including intellectual property, under consideration for public acquisition before any rights to the property are acquired unless:

(a) public interest in obtaining access to the information is greater than or equal to the governmental entity’s need to acquire the property on the best terms possible;

(b) the information has already been disclosed to persons not employed by or under a duty of confidentiality to the entity;

(c) in the case of records that would identify property, potential sellers of the described property have already learned of the governmental entity's plans to acquire the property;

(d) in the case of records that would identify the appraisal or estimated value of property, the potential sellers have already learned of the governmental entity's estimated value of the property; or

(e) the property under consideration for public acquisition is a single family residence and the governmental entity seeking to acquire the property has initiated negotiations to acquire the property as required under Section 78B-6-505;

(9) records prepared in contemplation of sale, exchange, lease, rental, or other compensated transaction of real or personal property including intellectual property, which, if disclosed prior to completion of the transaction, would reveal the appraisal or estimated value of the subject property, unless:

(a) the public interest in access is greater than or equal to the interests in restricting access, including the governmental entity's interest in maximizing the financial benefit of the transaction; or

(b) when prepared by or on behalf of a governmental entity, appraisals or estimates of the value of the subject property have already been disclosed to persons not employed by or under a duty of confidentiality to the entity;

(10) records created or maintained for civil, criminal, or administrative enforcement purposes or audit purposes, or for discipline, licensing, certification, or registration purposes, if release of the records:

(a) reasonably could be expected to interfere with investigations undertaken for enforcement, discipline, licensing, certification, or registration purposes;

(b) reasonably could be expected to interfere with audits, disciplinary, or enforcement proceedings;

(c) would create a danger of depriving a person of a right to a fair trial or impartial hearing;

(d) reasonably could be expected to disclose the identity of a source who is not generally known outside of government and, in the case of a record compiled in the course of an investigation, disclose information furnished by a source not generally known outside of government if disclosure would compromise the source; or

(e) reasonably could be expected to disclose investigative or audit techniques, procedures, policies, or orders not generally known outside of government if disclosure would interfere with enforcement or audit efforts;

(11) records the disclosure of which would jeopardize the life or safety of an individual;

(12) records the disclosure of which would jeopardize the security of governmental property,

governmental programs, or governmental recordkeeping systems from damage, theft, or other appropriation or use contrary to law or public policy;

(13) records that, if disclosed, would jeopardize the security or safety of a correctional facility, or records relating to incarceration, treatment, probation, or parole, that would interfere with the control and supervision of an offender's incarceration, treatment, probation, or parole;

(14) records that, if disclosed, would reveal recommendations made to the Board of Pardons and Parole by an employee of or contractor for the Department of Corrections, the Board of Pardons and Parole, or the Department of Human Services that are based on the employee's or contractor's supervision, diagnosis, or treatment of any person within the board's jurisdiction;

(15) records and audit workpapers that identify audit, collection, and operational procedures and methods used by the State Tax Commission, if disclosure would interfere with audits or collections;

(16) records of a governmental audit agency relating to an ongoing or planned audit until the final audit is released;

(17) records that are subject to the attorney client privilege;

(18) records prepared for or by an attorney, consultant, surety, indemnitor, insurer, employee, or agent of a governmental entity for, or in anticipation of, litigation or a judicial, quasi-judicial, or administrative proceeding;

(19) (a) (i) personal files of a state legislator, including personal correspondence to or from a member of the Legislature; and

(ii) notwithstanding Subsection (19)(a)(i), correspondence that gives notice of legislative action or policy may not be classified as protected under this section; and

(b) (i) an internal communication that is part of the deliberative process in connection with the preparation of legislation between:

(A) members of a legislative body;

(B) a member of a legislative body and a member of the legislative body's staff; or

(C) members of a legislative body's staff; and

(ii) notwithstanding Subsection (19)(b)(i), a communication that gives notice of legislative action or policy may not be classified as protected under this section;

(20) (a) records in the custody or control of the Office of Legislative Research and General Counsel, that, if disclosed, would reveal a particular legislator's contemplated legislation or contemplated course of action before the legislator has elected to support the legislation or course of action, or made the legislation or course of action public; and

(b) notwithstanding Subsection (20)(a), the form to request legislation submitted to the Office of

Legislative Research and General Counsel is a public document unless a legislator asks that the records requesting the legislation be maintained as protected records until such time as the legislator elects to make the legislation or course of action public;

(21) research requests from legislators to the Office of Legislative Research and General Counsel or the Office of the Legislative Fiscal Analyst and research findings prepared in response to these requests;

(22) drafts, unless otherwise classified as public;

(23) records concerning a governmental entity's strategy about:

(a) collective bargaining; or

(b) imminent or pending litigation;

(24) records of investigations of loss occurrences and analyses of loss occurrences that may be covered by the Risk Management Fund, the Employers' Reinsurance Fund, the Uninsured Employers' Fund, or similar divisions in other governmental entities;

(25) records, other than personnel evaluations, that contain a personal recommendation concerning an individual if disclosure would constitute a clearly unwarranted invasion of personal privacy, or disclosure is not in the public interest;

(26) records that reveal the location of historic, prehistoric, paleontological, or biological resources that if known would jeopardize the security of those resources or of valuable historic, scientific, educational, or cultural information;

(27) records of independent state agencies if the disclosure of the records would conflict with the fiduciary obligations of the agency;

(28) records of an institution within the state system of higher education defined in Section 53B-1-102 regarding tenure evaluations, appointments, applications for admissions, retention decisions, and promotions, which could be properly discussed in a meeting closed in accordance with Title 52, Chapter 4, Open and Public Meetings Act, provided that records of the final decisions about tenure, appointments, retention, promotions, or those students admitted, may not be classified as protected under this section;

(29) records of the governor's office, including budget recommendations, legislative proposals, and policy statements, that if disclosed would reveal the governor's contemplated policies or contemplated courses of action before the governor has implemented or rejected those policies or courses of action or made them public;

(30) records of the Office of the Legislative Fiscal Analyst relating to budget analysis, revenue estimates, and fiscal notes of proposed legislation

before issuance of the final recommendations in these areas;

(31) records provided by the United States or by a government entity outside the state that are given to the governmental entity with a requirement that they be managed as protected records if the providing entity certifies that the record would not be subject to public disclosure if retained by it;

(32) transcripts, minutes, or reports of the closed portion of a meeting of a public body except as provided in Section 52-4-206;

(33) records that would reveal the contents of settlement negotiations but not including final settlements or empirical data to the extent that they are not otherwise exempt from disclosure;

(34) memoranda prepared by staff and used in the decision-making process by an administrative law judge, a member of the Board of Pardons and Parole, or a member of any other body charged by law with performing a quasi-judicial function;

(35) records that would reveal negotiations regarding assistance or incentives offered by or requested from a governmental entity for the purpose of encouraging a person to expand or locate a business in Utah, but only if disclosure would result in actual economic harm to the person or place the governmental entity at a competitive disadvantage, but this section may not be used to restrict access to a record evidencing a final contract;

(36) materials to which access must be limited for purposes of securing or maintaining the governmental entity's proprietary protection of intellectual property rights including patents, copyrights, and trade secrets;

(37) the name of a donor or a prospective donor to a governmental entity, including an institution within the state system of higher education defined in Section 53B-1-102, and other information concerning the donation that could reasonably be expected to reveal the identity of the donor, provided that:

(a) the donor requests anonymity in writing;

(b) any terms, conditions, restrictions, or privileges relating to the donation may not be classified protected by the governmental entity under this Subsection (37); and

(c) except for an institution within the state system of higher education defined in Section 53B-1-102, the governmental unit to which the donation is made is primarily engaged in educational, charitable, or artistic endeavors, and has no regulatory or legislative authority over the donor, a member of the donor's immediate family, or any entity owned or controlled by the donor or the donor's immediate family;

(38) accident reports, except as provided in Sections 41-6a-404, 41-12a-202, and 73-18-13;

(39) a notification of workers' compensation insurance coverage described in Section 34A-2-205;

(40) (a) the following records of an institution within the state system of higher education defined in Section 53B-1-102, which have been developed, discovered, disclosed to, or received by or on behalf of faculty, staff, employees, or students of the institution:

- (i) unpublished lecture notes;
- (ii) unpublished notes, data, and information:

(A) relating to research; and

(B) of:

(I) the institution within the state system of higher education defined in Section 53B-1-102; or

(II) a sponsor of sponsored research;

(iii) unpublished manuscripts;

(iv) creative works in process;

(v) scholarly correspondence; and

(vi) confidential information contained in research proposals;

(b) Subsection (40)(a) may not be construed to prohibit disclosure of public information required pursuant to Subsection 53B-16-302(2)(a) or (b); and

(c) Subsection (40)(a) may not be construed to affect the ownership of a record;

(41) (a) records in the custody or control of the Office of Legislative Auditor General that would reveal the name of a particular legislator who requests a legislative audit prior to the date that audit is completed and made public; and

(b) notwithstanding Subsection (41)(a), a request for a legislative audit submitted to the Office of the Legislative Auditor General is a public document unless the legislator asks that the records in the custody or control of the Office of Legislative Auditor General that would reveal the name of a particular legislator who requests a legislative audit be maintained as protected records until the audit is completed and made public;

(42) records that provide detail as to the location of an explosive, including a map or other document that indicates the location of:

(a) a production facility; or

(b) a magazine;

(43) information:

(a) contained in the statewide database of the Division of Aging and Adult Services created by Section 62A-3-311.1; or

(b) received or maintained in relation to the Identity Theft Reporting Information System (IRIS) established under Section 67-5-22;

(44) information contained in the Management Information System and Licensing Information System described in Title 62A, Chapter 4a, Child and Family Services;

(45) information regarding National Guard operations or activities in support of the National Guard's federal mission;

(46) records provided by any pawn or secondhand business to a law enforcement agency or to the central database in compliance with Title 13, Chapter 32a, Pawnshop and Secondhand Merchandise Transaction Information Act;

(47) information regarding food security, risk, and vulnerability assessments performed by the Department of Agriculture and Food;

(48) except to the extent that the record is exempt from this chapter pursuant to Section 63G-2-106, records related to an emergency plan or program, a copy of which is provided to or prepared or maintained by the Division of Emergency Management, and the disclosure of which would jeopardize:

(a) the safety of the general public; or

(b) the security of:

(i) governmental property;

(ii) governmental programs; or

(iii) the property of a private person who provides the Division of Emergency Management information;

(49) records of the Department of Agriculture and Food that provides for the identification, tracing, or control of livestock diseases, including any program established under Title 4, Chapter 24, Utah Livestock Brand and Anti-Theft Act or Title 4, Chapter 31, Control of Animal Disease;

(50) as provided in Section 26-39-501:

(a) information or records held by the Department of Health related to a complaint regarding a child care program or residential child care which the department is unable to substantiate; and

(b) information or records related to a complaint received by the Department of Health from an anonymous complainant regarding a child care program or residential child care;

(51) unless otherwise classified as public under Section 63G-2-301 and except as provided under Section 41-1a-116, an individual's home address, home telephone number, or personal mobile phone number, if:

(a) the individual is required to provide the information in order to comply with a law, ordinance, rule, or order of a government entity; and

(b) the subject of the record has a reasonable expectation that this information will be kept confidential due to:

(i) the nature of the law, ordinance, rule, or order; and

(ii) the individual complying with the law, ordinance, rule, or order;

(52) the name, home address, work addresses, and telephone numbers of an individual that is

engaged in, or that provides goods or services for, medical or scientific research that is:

(a) conducted within the state system of higher education, as defined in Section 53B-1-102; and

(b) conducted using animals;

(53) an initial proposal under Title 63M, Chapter 1, Part 26, Government Procurement Private Proposal Program, to the extent not made public by rules made under that chapter;

(54) in accordance with Section 78A-12-203, any record of the Judicial Performance Evaluation Commission concerning an individual commissioner's vote on whether or not to recommend that the voters retain a judge;

(55) information collected and a report prepared by the Judicial Performance Evaluation Commission concerning a judge, unless Section 20A-7-702 or Title 78A, Chapter 12, Judicial Performance Evaluation Commission Act, requires disclosure of, or makes public, the information or report;

(56) records contained in the Management Information System created in Section 62A-4a-1003;

(57) records provided or received by the Public Lands Policy Coordinating Office in furtherance of any contract or other agreement made in accordance with Section 63J-4-603;

(58) information requested by and provided to the [~~Utah State 911 Committee under Section 63H-7-303~~] 911 Division under Section 63H-7a-302;

(59) in accordance with Section 73-10-33:

(a) a management plan for a water conveyance facility in the possession of the Division of Water Resources or the Board of Water Resources; or

(b) an outline of an emergency response plan in possession of the state or a county or municipality;

(60) the following records in the custody or control of the Office of Inspector General of Medicaid Services, created in Section 63A-13-201:

(a) records that would disclose information relating to allegations of personal misconduct, gross mismanagement, or illegal activity of a person if the information or allegation cannot be corroborated by the Office of Inspector General of Medicaid Services through other documents or evidence, and the records relating to the allegation are not relied upon by the Office of Inspector General of Medicaid Services in preparing a final investigation report or final audit report;

(b) records and audit workpapers to the extent they would disclose the identity of a person who, during the course of an investigation or audit, communicated the existence of any Medicaid fraud, waste, or abuse, or a violation or suspected violation of a law, rule, or regulation adopted under the laws of this state, a political subdivision of the state, or

any recognized entity of the United States, if the information was disclosed on the condition that the identity of the person be protected;

(c) before the time that an investigation or audit is completed and the final investigation or final audit report is released, records or drafts circulated to a person who is not an employee or head of a governmental entity for the person's response or information;

(d) records that would disclose an outline or part of any investigation, audit survey plan, or audit program; or

(e) requests for an investigation or audit, if disclosure would risk circumvention of an investigation or audit;

(61) records that reveal methods used by the Office of Inspector General of Medicaid Services, the fraud unit, or the Department of Health, to discover Medicaid fraud, waste, or abuse;

(62) information provided to the Department of Health or the Division of Occupational and Professional Licensing under Subsection 58-68-304(3) or (4);

(63) a record described in Section 63G-12-210; and

(64) captured plate data that is obtained through an automatic license plate reader system used by a governmental entity as authorized in Section 41-6a-2003.

Section 6. Section 63H-7a-101, which is renumbered from Section 63H-7-101 is renumbered and amended to read:

CHAPTER 7a. UTAH COMMUNICATIONS AUTHORITY ACT

Part 1. General Provisions

[63H-7-101]. 63H-7a-101. Title.

(1) This chapter is known as the "Utah Communications Authority Act."

(2) This part is known as "General Provisions."

Section 7. Section 63H-7a-102, which is renumbered from Section 63H-7-102 is renumbered and amended to read:

[63H-7-102]. 63H-7a-102. Purpose.

The purpose of this chapter is to establish an independent state agency and a board to administer the creation, administration, and maintenance of the Utah Communications Authority to provide a public safety communications network, facilities, and 911 emergency services on a statewide basis for the benefit and use of public agencies, and state and federal agencies.

Section 8. Section 63H-7a-103, which is renumbered from Section 63H-7-103 is renumbered and amended to read:

[63H-7-103]. 63H-7a-103. Definitions.

As used in this chapter:

(1) “Authority” means the Utah Communications Authority, an independent state agency created in Section ~~[67H-7-201]~~ 63H-7a-201.

(2) “Board” means the Utah Communications Authority Board created in Section ~~[67H-7-203]~~ 63H-7a-203.

(3) “Bonds” means bonds, notes, certificates, debentures, contracts, lease purchase agreements, or other evidences of indebtedness or borrowing issued or incurred by the authority pursuant to this chapter.

~~[(5)]~~ (4) “FirstNet” means the First Responder Network Authority created by Congress in the Middle Class Tax Relief and Job Creation Act of 2012.

~~[(6)]~~ (5) “Lease” means any lease, lease purchase, sublease, operating, management, or similar agreement.

~~[(7)]~~ (6) “Local entity” means a county, city, town, local district, special service district, or interlocal entity created under Title 11, Chapter 13, Interlocal Cooperation Act.

~~[(8)]~~ (7) “Member” means a public agency which:

(a) adopts a membership resolution to be included within the authority; and

(b) submits an originally executed copy of an authorizing resolution to the authority’s office.

~~[(9)]~~ (8) “Member representative” means a person or that person’s designee appointed by the governing body of each member.

~~[(10)]~~ (9) “Public agency” means any political subdivision of the state, including cities, towns, counties, school districts, local districts, and special service districts, dispatched by a public safety answering point.

~~[(11)]~~ (10) “Public safety answering point” means an organization, entity, or combination of entities which have joined together to form a central answering point for the receipt, management, and dissemination to the proper responding agency, of emergency and nonemergency communications, including 911 communications, police, fire, emergency medical, transportation, parks, wildlife, corrections, and any other governmental communications.

~~[(4) — “Communications”]~~ (11) “Public safety communications network” means:

(a) a regional or statewide public safety governmental communications network and related facilities, including real property, improvements, and equipment necessary for the acquisition, construction, and operation of the services and facilities; and

(b) 911 emergency services, including radio communications, microwave connectivity, FirstNet coordination, and computer aided dispatch system.

(12) “State” means the state of Utah.

(13) “State representative” means the six appointees of the governor or their designees and the Utah State Treasurer or his designee.

Section 9. Section 63H-7a-201, which is renumbered from Section 63H-7-201 is renumbered and amended to read:

Part 2. Utah Communications Authority and the Board

~~[63H-7-201]. 63H-7a-201. Establishment of Utah Communications Authority.~~

(1) This part is known as the “Utah Communications Authority and the Board.”

~~[(4)]~~ (2) There is established the Utah Communications Authority, formerly known as the Utah Communications Agency Network, which shall assume the operations of the Utah Communications Agency Network and shall perform the functions as provided in this chapter.

~~[(2)]~~ (3) The Utah Communications Authority is an independent state agency and not a division within any other department of the state.

~~[(3)]~~ (4) The initial offices of the authority shall be in Salt Lake County, but branches of the office may be established in other areas of the state upon approval of the board.

Section 10. Section 63H-7a-202, which is renumbered from Section 63H-7-202 is renumbered and amended to read:

~~[63H-7-202]. 63H-7a-202. Powers of the Authority.~~

The authority shall have the power to:

(1) sue and be sued in its own name;

(2) have an official seal and power to alter that seal at will;

(3) make and execute contracts and all other instruments necessary or convenient for the performance of its duties and the exercise of its powers and functions under this chapter, including contracts with private companies licensed under Title 26, Chapter 8a, Utah Emergency Medical Services System Act;

(4) own, acquire, design, construct, operate, maintain, ~~[and] repair [a]~~, and dispose of any portion of a public safety communications network, ~~and dispose of any portion of it~~ utilizing technology that is fiscally prudent, upgradable, technologically advanced, redundant, and secure;

(5) borrow money and incur indebtedness;

(6) issue bonds as provided in this chapter;

(7) enter into agreements with public agencies, private entities, the state, and federal government to provide public safety communications network services on terms and conditions it considers to be in the best interest of its members;

(8) acquire, by gift, grant, purchase, or by exercise of eminent domain, any real property or personal property in connection with the acquisition and construction of a public safety communications

network and all related facilities and rights-of-way which it owns, operates, and maintains;

(9) contract with other public agencies, the state, or federal government to provide public safety communications network services in excess of those required to meet the needs or requirements of its members and the state and federal government if:

(a) it is determined by the board to be necessary to accomplish the purposes and realize the benefits of this chapter; and

(b) any excess is sold to other public agencies, the state, or federal government and is sold on terms that assure:

(i) that the excess services will be used only for the purposes and benefits authorized by the authority under Section ~~[63H-7-102]~~ 63H-7a-102; and

(ii) that the cost of providing the excess service will be received by the authority;

(10) provide and maintain the public safety communications network for all state and local governmental agencies:

(a) within the current authority network for the state and local governmental agencies that currently subscribe to the authority; and

~~(b) [outside of the current authority network for state and local governmental agencies that do not currently subscribe to the authority; and (c)]~~ in a manner that:

(i) promotes high quality, cost effective services; and

(ii) evaluates the benefits, costs, existing facilities and equipment, and services of public and private providers;

(iii) where economically feasible, utilizes existing infrastructure to avoid duplication of facilities, equipment, and services of providers of communication services.

(11) maintain the current VHF ~~[high-band network]~~ and 800 MHz radio networks;

(12) review, approve, disapprove, or revise recommendations ~~[made by the Utah 911 Committee]~~ regarding the expenditure of funds under Sections 69-2-5.5 and 69-2-5.6 that are made by:

(a) the 911 Division;

(b) the Radio Network Division; and

(c) the Interoperability Division; and

(13) perform all other duties authorized by this chapter.

Section 11. Section 63H-7a-203, which is renumbered from Section 63H-7-203 is renumbered and amended to read:

[63H-7-203]. 63H-7a-203. Board established -- Terms -- Vacancies.

(1) There is created the "Utah Communications Authority Board."

(2) The board shall consist of the following individuals, who may not be employed by the authority or any office or division of the authority:

(a) the member representatives elected as follows:

(i) one representative elected from each county of the first and second class, who:

(A) is in law enforcement, fire service, or a public safety answering point; and

(B) has a leadership position with public safety communication experience;

(ii) one representative elected from each of the seven associations of government who:

(A) is in law enforcement, fire service, or a public safety answering point; and

(B) has a leadership position with public safety communication experience;

(iii) one representative of the Native American tribes elected by the representative of tribal governments listed in Subsection 9-9-104.5(2);

(iv) one representative elected by the Utah National Guard;

(v) one representative elected by an association that represents fire chiefs;

(vi) one representative elected by an association that represents sheriffs;

(vii) one representative elected by an association that represents chiefs of police; and

(viii) one member elected by the ~~[Utah]~~ 911 Advisory Committee created in Section ~~[63H-7-302]~~ 63H-7a-307; and

(b) seven state representatives appointed in accordance with Subsection (3).

(3) (a) (i) Six of the state representatives shall be appointed by the governor, with two of the positions having an initial term of two years, two having an initial term of three years, and one having an initial term of four years.

(ii) Successor state representatives shall each serve for a term of four years.

(iii) The six governor-appointed state representatives shall consist of:

(A) the executive director of the Utah Department of Transportation or the director's designee;

(B) the commissioner of public safety or the commissioner's designee;

(C) the executive director of the Department of Natural Resources or the director's designee;

(D) the executive director of the Department of Corrections or the director's designee;

(E) the chief information officer of the Department of Technology Services, or the officer's designee; and

(F) the executive director of the Department of Health or the director's designee.

(b) The seventh state representative shall be the Utah State Treasurer or the treasurer's designee.

(c) A vacancy on the board for a state representative shall be filled for the unexpired term by ~~appointment by the governor~~ the director of the department or the director's designee as described in Subsection (3)(a)(iii).

(d) An employee of the authority may not be a member of the board.

(4) (a) (i) One-half of the positions for member representatives selected under Subsection (2) shall have an initial term of two years and one-half of the positions shall have an initial term of four years.

(ii) Successor member representatives of the board shall each serve for a term of four years, so that the term of office for six of the member representatives expires every two years.

(b) The member representatives of the board shall be removable, with or without cause, by the entity that selected the member. A vacancy on the board for a member representative shall be filled for the unexpired term by the entity the member represents.

(5) The board shall elect annually one of its members as chair.

(6) The board shall meet on an as-needed basis and as provided in the bylaws.

(7) The board shall also elect a vice chair, secretary, and treasurer to perform those functions provided in the bylaws.

(a) The vice chair shall be a member of the board.

(b) The secretary and treasurer need not be members of the board, but shall not have voting powers if they are not members of the board.

(c) The offices of chair, vice chair, secretary, and treasurer shall be held by separate individuals.

(8) Each member representative and state representative shall have one vote, including the chair, at all meetings of the board.

(9) A constitutional majority of the members of the board constitutes a quorum. A vote of a majority of the quorum at any meeting of the board is necessary to take action on behalf of the board.

(10) A board member may not receive compensation for the member's service on the board, but may, in accordance with administrative rules adopted by the board, receive:

(a) a per diem at the rate established under Section 63A-3-106; and

(b) travel expenses at the rate established under Section 63A-3-107.

Section 12. Section 63H-7a-204, which is renumbered from Section 63H-7-204 is renumbered and amended to read:

[63H-7-204]. 63H-7a-204. Board -- Powers and duties.

The board shall:

(1) manage the affairs and business of the authority consistent with this chapter including adopting bylaws by a majority vote of its members;

(2) appoint an executive director to administer the authority;

(3) receive and act upon reports covering the operations of the public safety communications network and funds administered by the authority;

(4) ensure that the public safety communications network and funds are administered according to law;

(5) examine and approve an annual operating budget for the authority;

(6) receive and act upon recommendations of the chair;

(7) recommend to the governor and Legislature any necessary or desirable changes in the statutes governing the public safety communications network;

(8) develop broad policies for the long-term operation of the authority for the performance of its functions;

(9) make and execute contracts and other instruments on behalf of the authority, including agreements with members and other entities;

(10) authorize the borrowing of money, the incurring of indebtedness, and the issuance of bonds as provided in this chapter;

(11) adopt rules consistent with this chapter and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for the management of the public safety communications network in order to carry out the purposes of this chapter, and perform all other acts necessary for the administration of the public safety communications network;

(12) exercise the powers and perform the duties conferred on it by this chapter;

(13) provide for audits of the authority;

(14) establish ~~a division~~ the following divisions within the authority ~~[for radio network services];~~:

(a) 911 Division;

(b) Radio Network Division;

(c) Interoperability Division; and

(d) Administrative Services Division;

~~[(15) establish an office within the authority for a statewide interoperability coordinator; and]~~

~~[(16) establish an office within the authority for a 911 program manager.]~~

(15) establish a 911 advisory committee to the 911 Division in accordance with Section 63H-7a-307;

(16) establish one or more advisory committees to the Radio Network Division in accordance with Section 63H-7a-405; and

(17) establish one or more advisory committees to the Interoperability Division in accordance with Section 63H-7a-504.

Section 13. Section 63H-7a-205, which is renumbered from Section 63H-7-205 is renumbered and amended to read:

[63H-7-205]. 63H-7a-205. Executive director -- Powers and duties.

The executive director shall:

- (1) act as the executive officer of the authority;
- (2) administer the various acts, systems, plans, programs, and functions assigned to the office;
- (3) ~~[with the approval of the board, develop and make]~~ recommend administrative rules and policies to the board, which are within the authority granted by this title for the administration of the authority;
- (4) recommend to the board any changes in the statutes affecting the authority;
- (5) recommend to the board an annual administrative budget covering administration, management, and operations of the public safety communications network and, upon approval of the board, direct and control the subsequent expenditures of the budget; ~~[and]~~
- (6) within the limitations of the budget, employ staff personnel, consultants, a ~~[chief]~~ financial officer, and legal counsel to provide professional services and advice regarding the administration of the authority~~[-];~~ and
- (7) submit an annual report, on or before November 1 of each year, to the Executive Offices and Criminal Justice Appropriations Subcommittee, which shall include:

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

(b) the amount of each disbursement from the restricted accounts;

(c) the recipient of each disbursement, or goods and services received, describing the project for which money was disbursed, or goods and services provided;

(d) the conditions, if any, placed by a division, the authority, the executive director, or the board on the disbursements from a restricted account;

(e) the anticipated expenditures from the restricted accounts for the next fiscal year;

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

(g) a progress report of implementation of statewide 911 emergency services, including:

(i) fund balance or balance sheet from the emergency telephone service fund of each agency that has imposed a levy under Section 69-2-5;

(ii) a report from each public safety answering point of annual call activity separating wireless and land-based 911 call volumes; and

(iii) other relevant justification for ongoing support from the restricted accounts created by Sections 63H-7a-303, 63H-7a-304, and 63H-7a-403; and

(h) the anticipated expenditures from the restricted accounts.

Section 14. Section 63H-7a-301, which is renumbered from Section 63H-7-301 is renumbered and amended to read:

Part 3. 911 Division

[63H-7-301]. 63H-7a-301. 911 Division.

(1) This part is known as the "911 Division."

~~[(1)]~~ (2) There is created within the authority the 911 ~~[program manager]~~ Division.

~~[(2)]~~ The 911 program manager shall:

~~[(a)]~~ be appointed by the executive director;

~~[(i)]~~ based on the recommendation of the Utah 911 Committee; and

~~[(ii)]~~ with the approval of the board; and

~~[(b)]~~ provide staff services to the Utah 911 Committee created in Section 63H-7-302.

(3) The 911 Division shall have the duties and powers described in this chapter.

Section 15. Section 63H-7a-302, which is renumbered from Section 63H-7-303 is renumbered and amended to read:

[63H-7-303]. 63H-7a-302. 911 Division duties and powers.

(1) The ~~[committee]~~ 911 Division shall:

(a) review and make recommendations to the ~~[board, public safety answering points, and the Legislature on]~~ executive director:

(i) regarding:

(A) technical, administrative, fiscal, network, and operational ~~[issues]~~ standards for the implementation of unified statewide 911 emergency services;

~~[(ii)]~~ technology and standards for the implementation of unified statewide 911 emergency services;

~~[(iii)]~~ (B) emerging ~~[technological upgrades]~~ technology; and

~~[(iv)]~~ (C) expenditures ~~[by]~~ from the restricted accounts created in Section 69-2-5.6 by the 911 Division on behalf of local public safety answering points in the state, with an emphasis on efficiencies and coordination in a regional manner;

(ii) to assure implementation of a unified statewide 911 emergency services ~~and~~ network;

(iii) to establish standards of operation throughout the state; and

~~(iv)~~ (iv) regarding mapping systems and technology necessary to implement the unified statewide 911 emergency services;

(b) ~~administer the program~~ prepare and submit to the executive director for approval by the board:

(i) an annual budget for the 911 Division; and

(ii) an annual plan for the programs funded by the Computer Aided Dispatch Restricted Account created in Section 63H-7a-303 and the Unified Statewide 911 Emergency Service Account ~~as provided in this part~~ created in Section 63H-7a-304;

~~(c) administer the program funded by the Computer Aided Dispatch Restricted Account created in Section 63H-7-310;~~

~~(d) assist as many local entities as possible, at their request, to implement the recommendations of the committee; and~~

(c) assist local Utah public safety answering points with the implementation and coordination of the 911 Division responsibilities as approved by the executive director and the board;

(d) reimburse the state's Automated Geographic Reference Center in the Division of Integrated Technology of the Department of Technology Services, an amount equal to 1 cent per month levied on telecommunications service under Section 69-2-5.6 to enhance and upgrade digital mapping standards for unified statewide 911 emergency service as required by the division; and

(e) fulfill all other duties imposed on the ~~committee~~ 911 Division by ~~the Legislature by this part~~ this chapter.

(2) The ~~committee~~ 911 Division may recommend to the ~~board~~ executive director to sell, lease, or otherwise dispose of equipment or personal property purchased, leased, or belonging to the ~~board~~ authority that is related to: ~~(a) unified statewide 911 emergency service; (b) the computer aided dispatch system; or (c) funds expended from the restricted account created in Sections 69-2-5.5 and 69-2-5.6, the proceeds from which shall return to the respective restricted accounts.~~

(3) The ~~committee~~ 911 Division may make recommendations to the ~~board~~ executive director to own, operate, or enter into contracts for ~~unified statewide 911 emergency services and a computer aided dispatch system~~ the use of the funds expended from the restricted account created in Section 69-2-5.5.

(4) (a) The ~~committee~~ 911 Division shall review information regarding:

(i) in aggregate, the number of service subscribers by service type in a political subdivision;

(ii) ~~911 delivery~~ network costs;

(iii) public safety answering point costs;

(iv) system engineering information; and

(v) a computer aided dispatch system.

(b) In accordance with Subsection (4)(a) the ~~committee~~ 911 Division may request:

(i) information as described in Subsection (4)(a)(i) from the Utah State Tax Commission; and

(ii) information from public safety answering points ~~connected~~ related to the computer aided dispatch system.

(c) The information requested by and provided to the ~~committee~~ 911 Division under Subsection (4) is a protected record in accordance with Section 63G-2-305.

(5) The ~~committee~~ 911 Division shall ~~make~~ recommend to the executive director, for approval by the board, rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(a) administer the program funded by the Unified Statewide 911 Emergency Service restricted account created in Section ~~63H-7-304~~ 63H-7a-304, including rules that establish the criteria, standards, technology, and equipment that a ~~local entity or state agency~~ public safety answering point in Utah must adopt in order to qualify for ~~funds~~ goods or services that are funded from the restricted account~~[-]; and~~

~~(6) The committee shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to~~

(b) administer the Computer Aided Dispatch Restricted Account created in Section ~~63H-7-310~~ 63H-7a-303, including rules that establish the criteria, standards, technology, and equipment that ~~a local entity or state agency~~ a public safety answering point must adopt in order to qualify as a recipient ~~of a computer aided dispatch system~~ of goods or services that are funded from the restricted account.

~~(7) (6) The committee may~~ board may authorize the 911 Division to employ an outside consultant to ~~(a) study and advise (on the issue of public safety answering points; and) the division on matters related to the 911 Division duties regarding the public safety communications network.~~

~~(b) advise the committee regarding;~~

~~(i) public safety communications and other issues regarding unified state 911 emergency services;~~

~~(ii) computer aided dispatch system consolidation; and~~

~~(iii) consolidation of public safety answering points by county or region.]~~

~~(8) (7) This section does not expand the authority of the Utah State Tax Commission to request additional information from a telecommunication service provider.~~

Section 16. Section 63H-7a-303, which is renumbered from Section 63H-7-310 is renumbered and amended to read:

[63H-7-310]. 63H-7a-303. Creation of Computer Aided Dispatch Restricted Account -- Administration -- Use of money.

(1) There is created a restricted account within the General Fund known as the "Computer Aided Dispatch Restricted Account," consisting of:

(a) proceeds from the fee imposed in Section 69-2-5.5;

(b) money appropriated or otherwise made available by the Legislature; and

(c) contributions of money from federal agencies, political subdivisions of the state, persons, or corporations.

(2) The money in this restricted account shall be used exclusively for the following statewide public purposes:

(a) enhancing public safety as provided in this chapter; and

(b) creating ~~and maintaining~~ a shared computer aided dispatch system including:

(i) ~~a single~~ an interoperable computer aided dispatch platform that will be selected, ~~maintained~~, shared, or hosted on a statewide or regional basis;

(ii) ~~a single~~ an interoperable computer aided dispatch platform selected by a county of the first class, when:

(A) authorized through an interlocal agreement between the county's two primary public safety answering points; and

(B) the county's computer aided dispatch platform is capable of interfacing with the platform described in Subsection (2)(b)(i); and

(iii) a statewide computer aided dispatch system data sharing platform to provide interoperability of systems.

~~[(3) Subject to appropriation, the Division of Finance may charge the administrative costs incurred in discharging the responsibilities imposed by this section.]~~

~~[(4) (a) Subject to an annual legislative appropriation from the restricted account to the Division of Finance, the Division of Finance shall disburse the money in the fund, based on the authorization of the committee under Subsections (4)(b) and (e).]~~

~~[(b) The Utah 911 Committee shall administer the development and maintenance of the shared computer aided dispatch system.]~~

(3) (a) The 911 Division shall coordinate the development of an interoperable CAD to CAD platform:

(i) for ~~[state agencies and local entities]~~ public safety answering points; and

(ii) where needed, to assist public ~~[agencies]~~ safety answering points with the creation or integration ~~[and maintenance of the shared computer aided dispatch system]~~ of the interoperable computer aided dispatch system.

~~[(e) (b) The [Utah 911 Committee] Administrative Services Division shall, in accordance with Section 63H-7a-602:~~

(i) annually report to the ~~[Division of Finance the committee's]~~ executive director the 911 Division's authorized disbursements from the restricted account;

(ii) be responsible for the care, custody, safekeeping, collection, and accounting for disbursements; and

(iii) submit an annual report to the ~~[Executive Offices and Criminal Justice Appropriations Subcommittee]~~ executive director, which shall include:

(A) the amount of each disbursement from the restricted account;

(B) the recipient of each disbursement and a description of the project for which money was disbursed;

(C) the conditions, if any, placed by the ~~[committee]~~ 911 Division, the board, or the ~~[Division of Finance]~~ Administrative Services Division on disbursements from the amount appropriated from the restricted account;

(D) the planned expenditures from the restricted account for the next fiscal year; and

(E) the amount of any unexpended funds carried forward~~]; and~~].

~~[(F) a progress report of implementation of a statewide computer aided dispatch system.]~~

~~[(5) (4) (a) The [committee] Administrative Services Division may request information from a public safety answering point as necessary to prepare the report required by this section.~~

(b) A recipient of goods or services under this section shall provide the information requested pursuant to Subsection ~~[(5) (4)(a)]~~ (4)(a).

(5) Subject to appropriation, the Administrative Services Division, created in Section 63H-7a-601, may charge the administrative costs incurred in discharging the responsibilities imposed by this section.

(6) Subject to an annual legislative appropriation from the restricted account to the Administrative Services Division, the Administrative Services Division shall disburse the money in the fund, based on the authorization of the board and the 911 Division under Subsection 63H-7a-302(5).

Section 17. Section 63H-7a-304, which is renumbered from Section 63H-7-304 is renumbered and amended to read:

[63H-7-304]. 63H-7a-304. Creation of Unified Statewide 911 Emergency Service Account.

(1) There is created a restricted account within the General Fund known as the "Unified Statewide 911 Emergency Service Account," consisting of:

(a) proceeds from the fee imposed in Section 69-2-5.6;

(b) money appropriated or otherwise made available by the Legislature; and

(c) contributions of money, property, or equipment from federal agencies, political subdivisions of the state, persons, or corporations.

(2) The money in this restricted account shall be used exclusively for the [following] statewide public purposes: (a) purpose of enhancing the public safety [as provided in this chapter; and] communications network related to the rapid and efficient delivery of 911 services in the state.

~~[(b) providing unified statewide 911 emergency service available to public safety answering points.]~~

(3) Subject to an annual legislative appropriation from the restricted account to the Administrative Services Division, the Administrative Services Division shall disburse the money in the fund, based on the authorization of the board and the 911 Division under Subsection 63H-7a-302(5).

Section 18. Section 63H-7a-305, which is renumbered from Section 63H-7-305 is renumbered and amended to read:

[63H-7-305]. 63H-7a-305. 911 Division expenses -- Responsibilities.

(1) Subject to appropriation, expenses and the costs of administering disbursements from the restricted account, as provided in Subsection (2), shall be paid from the restricted account.

(2) (a) The ~~[committee]~~ Administrative Services Division, created in Section 63H-7a-601, shall be responsible for the care, custody, safekeeping, collection, and accounting for disbursements made by the [committee] 911 Division at the approval of the board under the provisions of Section [63H-7-306] 63H-7a-603.

(b) Subject to appropriation, the ~~[Division of Finance]~~ Administrative Services Division may charge the restricted account the administrative costs incurred by the Administrative Services Division in discharging the responsibilities imposed by this part and Section [63H-7-306] 63H-7a-603.

Section 19. Section 63H-7a-306, which is renumbered from Section 63H-7-307 is renumbered and amended to read:

[63H-7-307]. 63H-7a-306. 911 Division to report annually.

(1) The ~~[committee]~~ 911 Division shall submit an annual report to the [Executive Offices and Criminal Justice Appropriations Subcommittee] executive director for approval by the board, which shall include:

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

(b) the amount of each disbursement from the restricted ~~[account]~~ accounts created in Sections 63H-7a-303 and 63H-7a-304;

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

(d) the conditions, if any, placed ~~[by the committee or the Division of Finance]~~ by the 911 Division, the board, or the Administrative Services Division on disbursements from the restricted [account] accounts;

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

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

~~[(g) a cost study to guide the Legislature towards necessary adjustments of both the Unified Statewide 911 Emergency Service Account and the monthly emergency services telephone charge imposed under Section 69-2-5; and]~~

~~[(h) (g) a progress report of [local government] implementation of statewide 911 emergency services, including:~~

(i) a fund balance or balance sheet from the emergency telephone service fund of each agency [maintaining its own emergency telephone service fund] that has imposed a levy under Section 69-2-5;

(ii) a report from each public safety answering point of annual call activity separating wireless and land-based 911 call volumes; and

(iii) other relevant justification for ongoing support from the ~~[Unified Statewide 911 Emergency Service Account]~~ restricted accounts created by [Section 63H-7-304] Sections 63H-7a-303 and 63H-7a-304.

(2) (a) The ~~[committee]~~ 911 Division may request information from a local entity as necessary to prepare the report required by this section.

(b) A local entity imposing a levy under Section 69-2-5 or receiving ~~[a disbursement under Section 63H-7-306]~~ services or goods funded from accounts created in Section 63H-7a-603 shall provide the information requested pursuant to Subsection (2)(a).

Section 20. Section 63H-7a-307, which is renumbered from Section 63H-7-302 is renumbered and amended to read:

[63H-7-302]. 63H-7a-307. 911 Advisory Committee -- Membership -- Duties.

(1) There is created within the ~~[authority]~~ 911 Division the [Utah] 911 Advisory Committee consisting of the following members:

(a) one representative from a primary public safety answering point from each county of the first and second class;

(b) one representative from a primary public safety answering point representing each of the following:

- (i) Bear River Association;
- (ii) Uintah Basin Association;
- (iii) South East Association;
- (iv) Six County Association;
- (v) Five County Association;
- (vi) Mountainlands Association; and
- (vii) Wasatch Front Regional Council; and

(c) ~~[two representatives]~~ one representative from the Department of Public Safety[?] who represents a Utah public safety answering point.

~~[(i) one of whom represents an urban Utah public service answering point; and]~~

~~[(ii) one of whom represents a rural Utah public safety answering point; and]~~

~~[(d) the statewide interoperability coordinator, created in Section 63H-7-309.]~~

(2) (a) Each advisory committee member shall be appointed as follows:

(i) a member described in Subsection (1)(a) shall be appointed by the ~~[governor]~~ board from a nominee or nominees submitted to the ~~[governor]~~ board by the council of government for that member's county;

(ii) the seven members described in Subsection (1)(b) shall be appointed by the ~~[governor]~~ board from a nominee or nominees submitted to the ~~[governor]~~ board by the associations described in Subsection (1)(b) [as follows:]; and

~~[(A) the seven associations shall select by lot the first five associations to begin the rotation of membership as required by Subsection (2)(b)(i); and]~~

~~[(B) as each association is represented on the committee in accordance with Subsection (2)(b)(i), that association shall select the person to represent it on the commission; and]~~

(iii) the ~~[members]~~ member described in ~~[Subsections]~~ Subsection (1)(c) [and (d)] shall be appointed by the ~~[governor]~~ board based on the nomination from the public safety commissioner.

(b) The term of office of each member is four years.

~~[(c) No member of the committee may serve more than two consecutive four-year terms.]~~

~~[(4)] (c) Each mid-term vacancy shall be filled for the unexpired term in the same manner as an appointment under Subsection (2)(a).~~

~~[(3) (a) Committee members shall elect a chair from their number and establish rules for the organization and operation of the committee, with the chair selected by representatives from Subsections (1)(a), (b), and (c) every year.]~~

(3) (a) The 911 Advisory Committee members shall annually elect a chair for the advisory committee by selecting from the members described in Subsections (1)(a) through (c).

(b) Staff and contracting services to the advisory committee shall be provided by the [authority] 911 Division.

(c) Funding for staff and contracting services shall be provided with funds approved by the board from those identified under Section [63H-7-306] 63H-7a-304.

(4) (a) No advisory committee member may receive compensation or benefits for the member's service on the advisory committee.

(b) A member is not required to give bond for the performance of official duties.

(5) A majority of the advisory committee constitutes a quorum for voting purposes.

(6) An advisory committee member can be removed from the advisory committee by the board based on rules adopted by the board.

(7) The advisory committee shall:

(a) provide input and guidance to the 911 Division concerning the public safety communications network;

(b) advise the 911 Division regarding standards related to the public safety communications network;

(c) review and make recommendations for the 911 Division's strategic plan;

(d) provide information and evaluate industry trends related to the 911 Division's responsibilities;

(e) advise the 911 Division regarding professional development; and

(f) make recommendations to the 911 Division regarding the development of cooperative partnerships.

Section 21. Section 63H-7a-401, which is renumbered from Section 63H-7-308 is renumbered and amended to read:

Part 4. Radio Network Division

[63H-7-308]. 63H-7a-401. Radio Network Division.

(1) This part is known as the "Radio Network Division."

~~[(4)] (2) There is created within the authority the Radio Network Division.~~

~~[(2) The technical operations manager of the Radio Network Division shall be appointed by the executive director with the approval of the board.]~~

~~[(3) The Radio Network Division shall provide technical staff and support to the authority.]~~

Section 22. Section 63H-7a-402 is enacted to read:

63H-7a-402. Radio Network Division duties.

(1) The Radio Network Division shall:

(a) provide and maintain the public safety communications network for state and local government agencies within the authority network, including the existing VHF and 800 MHz networks, in a manner that:

(i) promotes high quality, cost effective service;

(ii) evaluates the benefits, cost, existing facilities, equipment, and services of public and private providers; and

(iii) where economically feasible, utilizes existing infrastructure to avoid duplication of facilities, equipment, and services of providers of communication services;

(b) prepare and submit to the executive director for approval by the board:

(i) an annual budget for the Radio Network Division; and

(ii) an annual plan for the program funded by the Utah Statewide Radio System Restricted Account created in Section 63H-7a-403;

(c) conduct bi-monthly meetings:

(i) including:

(A) if retained, a consultant assisting with the design and development of a public safety radio network;

(B) all private and public vendors; and

(C) all public safety radio users;

(ii) for the purpose of discussing public safety radio network emerging technologies; and

(iii) for which minutes shall be made available to the public;

(d) recommend to the executive director administrative rules for approval by the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to administer the program funded by the restricted account created in Section 63H-7a-403, including rules that establish the criteria, standards, technology, equipment, and services that will qualify for goods or services that are funded from the restricted accounts; and

(e) fulfill other duties assigned to the Radio Network Division under this chapter.

(2) The Radio Network Division may:

(a) recommend to the executive director to sell, lease, or otherwise dispose of equipment or personal

property purchased, leased, or belonging to the authority that is related to the public safety communications network;

(b) recommend to the executive director to own, operate, or enter into contracts for the public safety communications network;

(c) review information regarding:

(i) in aggregate, the number of radio service subscribers by service type in a political subdivision; and

(ii) matters related to the public safety communications network;

(d) in accordance with Subsection (2)(c), request information from:

(i) local and state entities; and

(ii) public safety agencies; and

(e) employ outside consultants to study and advise the division on issues related to:

(i) the public safety communications network;

(ii) radio technologies and services;

(iii) microwave connectivity;

(iv) fiber connectivity; and

(v) public safety communication network connectivity and usage.

(3) The information requested by and provided to the Radio Network Division under Subsections (2)(c) and (d) is a protected record in accordance with Section 63G-2-305.

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

Section 23. Section 63H-7a-403 is enacted to read:

63H-7a-403. Creation of Utah Statewide Radio System Restricted Account -- Administration -- Use of money.

(1) There is created a restricted account within the General Fund known as the "Utah Statewide Radio System Restricted Account," consisting of:

(a) money appropriated or otherwise made available by the Legislature; and

(b) contributions of money from federal agencies, political subdivisions of the state, persons, or corporations.

(2) The money in this restricted account shall be used exclusively for the statewide purpose of acquiring, constructing, operating, maintaining, and repairing a statewide radio system public safety communications network as authorized in Section 63H-7a-202, including:

(a) a public safety communications network and related facilities, real property, improvements, and equipment necessary for the acquisition,

construction, and operation of services and facilities;

(b) installation, implementation, and maintenance of the public safety communications network;

(c) maintaining the VHF and 800 MHz radio networks; and

(d) an operating budget to include personnel costs not otherwise covered by funds from another account.

(3) (a) Subject to appropriation, the Administrative Services Division, created in Section 63H-7a-601 may charge the administrative costs incurred in discharging the responsibilities imposed by this section.

(b) Subject to an annual legislative appropriation from the restricted account to the Administrative Services Division, the Administrative Services Division shall disburse the money in the fund, based on the authorization of the board and the Radio Network Division under Subsection 63H-7a-402(1)(c).

Section 24. Section 63H-7a-404 is enacted to read:

63H-7a-404. Radio Network Division -- Restricted account -- Duties.

(1) The Radio Network Division shall:

(a) (i) administer the development, installation, implementation, and maintenance of the Utah Statewide Public Safety Communications network system for the authority;

(ii) spend up to \$1,500,000 of the one-time appropriation in fiscal year 2015-16 for a study, the scope of which shall be determined by the board based on the advice of the Radio Network Division, the 911 Division, and the executive director, to complete a detailed design and planning proposal for the upgrade and expansion of all phases of the public safety communication network, which shall include at least:

(A) the system design for the state backbone and the implications of local coverage;

(B) whether other public safety communications networks can be integrated with the state backbone;

(C) estimates of the full cost of completing the state backbone to specified standards, local subsystems, and the potential advantages of using a request for proposal approach to solicit private and public sector participation in the project;

(D) a financial analysis estimating funds necessary to cover debt service of revenue bonds issued to finance the cost of completing the statewide radio system upgrade and expansion; and

(E) a review of the project governance and implementation; and

(iii) spend the remainder of the one-time appropriation in the 2015-16 fiscal year:

(A) for exigent circumstances related to the public safety communications network;

(B) to purchase dispatch radio consoles; and

(C) for other needs identified within the detailed design proposal.

(b) The one-time appropriation in the 2015-16 fiscal year to the Radio Network Division is non-lapsing.

(c) (i) When the study under Subsection (1)(a) is complete, the board shall report to the Legislative Executive Appropriations Committee, which shall study appropriate funding mechanisms for upgrade and maintenance of the statewide radio system network.

(ii) The division shall annually report to the executive director and the board the Radio Network Division's authorized disbursements from the restricted account.

(2) Current radio user fees imposed by the authority may be repealed on July 1, 2016, contingent upon an ongoing funding source being established for the construction of a new public safety communications network and the operation and maintenance of the authority.

(3) In accordance with Section 63H-7a-603, the Administrative Services Division is responsible for the care, custody, safekeeping, collection, and accounting for disbursements from the Utah Statewide Radio System Restricted Account and shall submit an annual report to the executive director for approval by the board.

Section 25. Section 63H-7a-405 is enacted to read:

63H-7a-405. Radio network advisory committees.

(1) (a) The Radio Network Division may request the executive director to ask the board to establish one or more technical advisory committees in accordance with this section.

(b) If approved by the board under Subsection (1), the board may appoint any combination of the following as members of the advisory committee:

(i) local government officials;

(ii) consumers;

(iii) 911 public safety answering point personnel;

(iv) law enforcement personnel;

(v) firefighting personnel;

(vi) emergency medical services personnel;

(vii) emergency management personnel;

(viii) information technology personnel and radio technicians; and

(ix) other representatives selected by the board.

(2) (a) The Radio Network Advisory Committee shall annually elect a chair for the advisory committee by selecting from members described in Subsections (1)(b)(i) through (viii).

(b) Staff and contracting services to the advisory committee shall be provided by the Radio Network Division.

(c) Funding for staff and contracting services shall be provided with funds approved by the board from those identified under Section 63H-7a-403.

(3) An advisory committee member:

(a) shall not receive compensation or benefits for the member's service on the advisory committee;

(b) is not required to give bond for the performance of official duties; and

(c) can be removed from the advisory committee by the board based on rules adopted by the board.

(4) A majority of the advisory committee constitutes a quorum for voting purposes.

(5) The advisory committee shall:

(a) provide input and guidance to the Radio Network Division concerning the public safety communications network;

(b) advise the Radio Network Division regarding standards related to the public safety communications network;

(c) review and make recommendations for the Radio Network Division's strategic plan;

(d) provide information and evaluate industry trends related to the Radio Network Division's responsibilities;

(e) advise the Radio Network Division regarding professional development; and

(f) make recommendations regarding the development of cooperative partnerships.

Section 26. Section 63H-7a-501, which is renumbered from Section 63H-7-309 is renumbered and amended to read:

Part 5. Interoperability Division

[63H-7-309]. 63H-7a-501. Interoperability Division.

(1) This part is known as the "Interoperability Division."

[(4)] (2) There is created within the authority the [Office of the Statewide Interoperability Coordinator] Interoperability Division, which shall be responsible for the duties of the authority as specified in this chapter.

[(2)] (3) The executive director shall appoint [the] a statewide interoperability coordinator with the approval of the board. The statewide interoperability coordinator shall be funded by the Department of Public Safety within appropriations to the Department of Public Safety for this purpose.

[(3)] The Office of the Statewide Interoperability Coordinator shall:

[(a)] promote wireless technology information and interoperability among local, state, federal, and other agencies;

[(b)] provide a mechanism for coordinating and resolving wireless communication issues among local, state, federal, and other agencies;

[(c)] improve data and information sharing and coordination of multijurisdictional responses;

[(d)] identify opportunities to consolidate infrastructures and technologies;

[(e)] evaluate current technologies and determine if they are meeting the needs of agency personnel in respective service areas; and]

[(f)] create and maintain procedures for requesting interoperability channels.]

Section 27. Section 63H-7a-502 is enacted to read:

63H-7a-502. Interoperability Division duties.

(1) The Interoperability Division shall:

(a) review and make recommendations to the executive director, for approval by the board, regarding:

(i) statewide interoperability coordination and FirstNet standards;

(ii) technical, administrative, fiscal, technological, network, and operational issues for the implementation of statewide interoperability, coordination, and FirstNet;

(iii) assisting local agencies with the implementation and coordination of the Interoperability Division responsibilities; and

(iv) training for the public safety communications network and unified statewide 911 emergency services;

(b) review information and records regarding:

(i) aggregate information of the number of service subscribers by service type in a political subdivision;

(ii) matters related to statewide interoperability coordination;

(iii) matters related to FirstNet including advising the governor regarding FirstNet; and

(iv) training needs;

(c) prepare and submit to the executive director for approval by the board an annual plan for the Interoperability Division; and

(d) fulfill all other duties imposed on the Interoperability Division by this chapter.

(2) The Interoperability Division may:

(a) recommend to the executive director to own, operate, or enter into contracts related to statewide interoperability, FirstNet, and training;

(b) request information needed under Subsection (1)(b)(i) from:

(i) the State Tax Commission; and

(ii) public safety agencies;

(c) employ an outside consultant to study and advise the Interoperability Division on:

- (i) issues of statewide interoperability;
- (ii) FirstNet; and
- (iii) training; and

(d) request the board to appoint an advisory committee in accordance with Section 63H-7a-504.

(3) The information requested by and provided to the Interoperability Division under Subsection (1)(b)(i) is a protected record in accordance with Section 63G-2-305.

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

Section 28. Section 63H-7a-503 is enacted to read:

63H-7a-503. Statewide interoperability coordinator.

The statewide interoperability coordinator shall:

(1) promote wireless technology information and interoperability among local, state, federal, and other agencies;

(2) provide a mechanism for coordinating and resolving wireless communication issues among local, state, federal, and other agencies;

(3) improve data and information sharing and coordination of multijurisdictional responses;

(4) consider opportunities to consolidate or improve interoperability of infrastructures and technologies;

(5) evaluate current technologies and determine if they are meeting the needs of agency personnel in respective service areas;

(6) create and maintain procedures for requesting interoperability channels; and

(7) act as the FirstNet single point of contact for the authority.

Section 29. Section 63H-7a-504 is enacted to read:

63H-7a-504. Interoperability advisory committees.

(1) (a) The Interoperability Division may request the board to establish one or more temporary advisory committees in accordance with this section.

(b) If approved by the board under Subsection (1)(a), the board may appoint any combination of the following as members of the advisory committee:

- (i) local government officials;
- (ii) consumers;
- (iii) 911 public safety answering point personnel;

(iv) law enforcement personnel;

(v) firefighting personnel;

(vi) emergency medical services personnel;

(vii) emergency management personnel;

(viii) information technology personnel and radio technicians; and

(ix) other representatives selected by the board.

(c) A member appointed to an advisory committee:

(i) shall not receive compensation or benefits for the member's service on the advisory committee;

(ii) is not required to give bond for the performance of official duties; and

(iii) can be removed from the advisory committee by the board based on rules adopted by the board.

(2) (a) The Interoperability Advisory Committee shall annually elect a chair for the advisory committee by selecting from the members described in Subsections (1)(b)(i) through (viii).

(b) Staff and contracting services to the advisory committee shall be provided by the Interoperability Division.

(c) Funding for staff and contracting services shall be provided with funds approved by the board from those identified under Section 63H-7a-602.

(3) A majority of the advisory committee constitutes a quorum for voting purposes.

(4) The advisory committee shall:

(a) provide input and guidance to the Interoperability Division concerning the public safety communications network;

(b) advise the Interoperability Division regarding standards related to the public safety communications network;

(c) review and make recommendations for the Interoperability Division's strategic plan;

(d) provide information and evaluate industry trends related to the Interoperability Division's responsibilities;

(e) advise the Interoperability Division regarding professional development; and

(f) make recommendations regarding the development of cooperative partnerships.

Section 30. Section 63H-7a-601 is enacted to read:

Part 6. Administrative Services Division

63H-7a-601. Administrative Services Division -- Duties.

(1) This part is known as the "Administrative Services Division."

(2) There is created within the authority the Administrative Services Division.

(3) The Administrative Services Division shall provide financial and human resources assistance to the authority under the direction of the board and the executive director. At the board's request and with the board's approval, the Administrative Services Division shall establish or contract for legal services for the authority.

Section 31. Section 63H-7a-602, which is renumbered from Section 63H-7-306 is renumbered and amended to read:

[63H-7-306]. 63H-7a-602. Use of money in restricted account -- Criteria -- Administrative Services Division responsibilities.

(1) (a) Subject to an annual legislative appropriation from the Unified Statewide 911 Emergency Service restricted account, created in Section 63H-7a-304, and the Computer Aided Dispatch Restricted Account, created in Section 63H-7a-303, to the [Division of Finance, the Division of Finance] Administrative Services Division, the Administrative Services Division shall disburse the money in the fund [for the benefit of a public agency in accordance with this Subsection (1) and Subsection (2)] as authorized in this chapter.

(b) The [committee] 911 Division shall administer the program funded by the restricted accounts created in Sections 63H-7a-303 and 63H-7a-304, and forward to the [Division of Finance the committee's authorization] Administrative Services Division the 911 Division's documentation for disbursement as approved by the board from the restricted [account] accounts in accordance with this section and Part 3, 911 Division.

(c) The [committee] Administrative Services Division shall[;] disburse funds on behalf of the 911 Division for board authorized expenditures related to the 911 Division's duties under Part 3, 911 Division.

(i) [disburse on behalf of public agencies an amount not to exceed the per month fee levied on telecommunications service under Section 69-2-5.6 for installation, implementation, and maintenance of unified statewide 911 emergency services and technology; and]

(ii) [in addition to any money under Subsection (1)(c)(i), disburse on behalf of counties of the third through sixth class the amount dedicated for rural assistance, which is at least 3 cents per month levied on 911 emergency service under Section 69-2-5.6 to;]

(A) [enhance the 911 emergency services with a focus on areas or counties that do not have 911 emergency services; and]

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

(d) The committee shall reimburse the state's Automated Geographic Reference Center in the

Division of Integrated Technology of the Department of Technology Services, an amount equal to 1 cent per month levied on telecommunications service under Section 69-2-5.6 to enhance and upgrade digital mapping standards for unified statewide 911 emergency service as required by the committee.]

[(2) Beginning July 1, 2014, the committee may not authorize disbursements and the Division of Finance may not disburse the money in the restricted account on behalf of an entity unless the entity has the capability to receive Internet protocol based 911 emergency service.]

(2) (a) Subject to an annual legislative appropriation from the Utah Statewide Radio System Restricted Account, created in Section 63H-7a-403, to the Administrative Services Division, the Administrative Services Division shall disburse the money in the fund as authorized by this chapter.

(b) The Radio Network Division shall administer the program funded by the restricted account created in Section 63H-7a-403 and forward to the Administrative Services Division the Radio Network Division's documentation for disbursement, as approved by the board, from the restricted account in accordance with this section and Part 4, Radio Network Division.

(c) The Administrative Services Division shall disburse funds on behalf of the Radio Network Division for board authorized expenditures related to the Radio Network Division's duties under Part 4, Radio Network Division.

(3) Subject to an annual legislative appropriation from the restricted account in Section 63H-7a-303 to the Administrative Services Division, the Administrative Services Division shall disburse the money in the fund as authorized by this chapter.

Section 32. Section 63H-7a-603 is enacted to read:

63H-7a-603. Financial officer -- Duties.

(1) The executive director shall appoint a financial officer for the Administrative Services Division with the approval of the board. The financial officer shall be responsible for accounting for the authority, including:

(a) safekeeping and investment of public funds of the authority, including the funds expended from the restricted accounts created in Sections 69-2-5.5, 69-2-5.6, 69-2-5.7, and 69-2-5.8;

(b) the proper collection, deposit, disbursement, and management of the public funds of the authority in accordance with Title 51, Chapter 7, State Money Management Act;

(c) have authority to sign all bills payable, notes, checks, drafts, warrants, or other negotiable instruments in the absence of the executive director and the executive director's designated employee;

(d) provide to the board and the executive director a statement of the condition of the finances of the

authority, at least annually and at such other times as shall be requested by the board; and

(e) perform all other duties incident to the financial officer.

(2) The financial officer shall:

(a) be bonded in an amount established by the State Money Management Council; and

(b) file written reports with the State Money Management Council pursuant to Section 51-7-15.

Section 33. Section 63H-7a-700 is enacted to read:

Part 7. Bonding Authority

63H-7a-700. Title.

This part is known as "Bonding Authority."

Section 34. Section 63H-7a-701, which is renumbered from Section 63H-7-401 is renumbered and amended to read:

[63H-7-401]. 63H-7a-701. Bond authorized -- Payment -- Security -- Liability -- Purpose -- Exemption from certain taxes.

(1) The authority may:

(a) issue bonds from time to time for any of its corporate purposes provided in Section [63H-7-102] 63H-7a-102;

(b) issue refunding bonds for the purpose of paying or retiring bonds previously issued by it;

(c) issue bonds on which the principal and interest are payable:

(i) exclusively from the income, purchase or lease payments, and revenues of all or a portion of the public safety communications network; or

(ii) from its revenues generally.

(2) Any bonds issued by the authority may be additionally secured by a pledge of any loan, lease, grant, agreement, or contribution, in whole or in part, from the federal government or other source, or a pledge of any income or revenue of the authority.

(3) The officers of the authority and any person executing the bonds are not liable personally on the bonds.

(4) (a) The bonds and other obligations of the authority are not a debt of any member or state representative of the authority, and do not constitute indebtedness for purposes of any constitutional or statutory debt limitation or restrictions.

(b) The face of the bonds and other obligations shall state the provisions of Subsection (4)(a).

(5) Any bonds of the authority shall be revenue obligations, payable solely from the proceeds, revenues, or purchase and lease payments received by the authority for the public safety communications network.

(6) The full faith and credit of any member or state representative may not be pledged directly or indirectly for the payment of the bonds.

(7) A member or state representative may not incur any pecuniary liability under this chapter until it enters into a service contract, lease, or other financing obligation with the authority. Once a member enters into a service contract, lease, or other financing obligation with the authority, the member shall be obligated to the authority as provided in that contract, lease, or financing obligation.

(8) A bond or obligation may not be made payable out of any funds or properties other than those of the authority.

(9) Bonds of the authority are:

(a) declared to be issued for an essential public and governmental purpose by public instrumentalities; and

(b) together with interest and income, exempt from all taxes, except the corporate franchise tax.

(10) The provisions of this chapter exempting the properties of the authority and its bonds and interest and income on them from taxation shall be considered part of the contract for the security of bonds and have the force of contract, by virtue of this part and without the necessity of this being restated in the bonds, between the bondholders, including all transferees of the bonds, the authority and the state.

Section 35. Section 63H-7a-702, which is renumbered from Section 63H-7-402 is renumbered and amended to read:

[63H-7-402]. 63H-7a-702. Bonds to be authorized by resolution -- Form -- Sale -- Negotiability -- Validity presumed.

(1) Bonds of the authority shall:

(a) be authorized by resolution of the board and may be issued in one or more series;

(b) bear dates, mature, bear interest rates, be in denominations, be either coupon or registered, carry conversion or registration privileges, have rank or priority, be executed, and be payable; and

(c) be subject to terms of redemption, with or without premium, as the resolution or its trust indenture provides.

(2) The bonds may bear interest at a fixed or variable interest rate as the resolution provides. The resolution may establish a method, formula, or index pursuant to which the interest rate on the bonds may be determined from time to time.

(3) In connection with the bonds, and on behalf of the authority, the board may authorize and enter into agreements or other arrangements with financial, banking, and other institutions for letters of credit, standby letters of credit, surety bonds, reimbursement agreements, remarketing agreements, indexing agreements, tender agent agreements, and other agreements to secure the bonds, to enhance the marketability and

creditworthiness of the bonds, to determine a fixed or variable interest rate on the bonds, and to pay from any legally available source, including the proceeds of the bonds, of fees, charges, and other amounts coming due with respect to any such agreements.

(4) The bonds may be sold at public or private sale in a manner and at prices, either at, in excess of, or below par value as provided by resolution of the board.

(5) If members or officers of the authority whose signatures appear on bonds or coupons cease to be members or officers before the delivery of the bonds, their signatures are valid and sufficient for all purposes.

(6) Any bonds issued under this part are fully negotiable.

(7) In any suit, action, or proceeding involving the validity or enforceability of any bond of the authority or the security for it, any bond reciting in substance that it has been issued by the authority to aid in financing the public safety communications network shall be conclusively considered to have been issued for such purposes, and the public safety communications network shall be conclusively considered to have been planned, located, and carried out in accordance with this part.

Section 36. Section 63H-7a-703, which is renumbered from Section 63H-7-403 is renumbered and amended to read:

[63H-7-403]. 63H-7a-703. Bonds and other obligations -- Additional powers of the authority.

In connection with the issuance of bonds or the incurring of obligations under leases, and in order to secure the payment of bonds or obligations, the authority, in addition to its other powers, may:

(1) pledge all or any part of its gross or net rents, fees, or revenues to which its right then exists or may accrue in the future;

(2) mortgage all or any part of its real or personal property owned or acquired in the future;

(3) covenant against:

(a) pledging all or any part of its rents, fees, and revenues;

(b) mortgaging all or any part of its real or personal property to which its right or title then exists or accrues in the future;

(c) permitting any lien on its revenues or property;

(d) extending the time for the payment of its bonds or interest on them;

(e) the use and disposition of the money held in the funds in Subsection (7); and

(f) the use, maintenance, and replacement of any or all of its real or personal property;

(4) covenant as to:

(a) bonds to be issued;

(b) the issuance of bonds in escrow or otherwise;

(c) the use and disposition of the bond proceeds;

(d) the insurance to be carried on the property in Subsection (3)(f) and the use and disposition of insurance money; and

(e) the rights, liabilities, powers, and duties arising upon its breach of any covenant, condition, or obligation;

(5) provide for the replacement of lost, destroyed, or mutilated bonds;

(6) covenant for the redemption of the bonds and provide the terms and conditions for their redemption;

(7) create or authorize the creation of special funds for money held for construction or operating costs, debt service, reserves, or other purposes;

(8) prescribe the procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the number of bondholders of outstanding bonds which must consent to the action, and the manner in which consent shall be given;

(9) covenant and prescribe as to events of default and terms and conditions upon which any or all of its bonds or obligations shall become or may be declared due before maturity, and as to the terms and conditions upon which such declaration and its consequences may be waived;

(10) vest in any obligee of the authority or any specified proportion of them the right:

(a) to enforce the payment of bonds or any covenants securing or relating to the bonds;

(b) after default by the authority to:

(i) take possession of and use, operate, and manage any facilities or any part of it or any funds connected with the facilities and funds, and collect the revenues arising from them; and

(ii) dispose of the facilities and funds in accordance with the agreement with the authority;

(11) provide the:

(a) powers and duties of an obligee and limit the obligee's liabilities; and

(b) terms and conditions upon which the obligees may enforce any covenant or rights securing or relating to the bonds;

(12) exercise all or any part or combination of the powers granted in this chapter;

(13) perform any acts necessary, convenient, or desirable to secure its bonds; and

(14) make any covenants or perform any acts calculated to make the bonds more marketable.

Section 37. Section 63H-7a-704, which is renumbered from Section 63H-7-404 is renumbered and amended to read:

[63H-7-404]. 63H-7a-704. Reserve funds for debt service.

(1) To assure the continued operation and solvency of the authority for the carrying out of its purpose, the authority may establish reserve funds necessary to secure the payment of debt service on its bonds.

(2) The resolution authorizing the issuance of the bonds shall specify the minimum amount that is required to be on deposit in the reserve funds.

(3) The chair shall annually, on or before December 1, certify to the governor, the director of finance, and to each member the amount, if any, required to restore the funds to their required funding levels.

(4) (a) The governor may request from the Legislature an appropriation of the amount certified in Subsection (3) to restore the reserve funds to their required funding levels or to meet any projected principal or interest payment deficiency. Any amount appropriated shall be repaid to the General Fund of the state in excess of the amounts which the board determines will keep it self-supporting.

(b) The board shall adjust the fees of the members so that the state is repaid for the amount appropriated in Subsection (4)(a) within 18 months after the state has paid the deficit.

(5) The members are jointly responsible for 1/2 the amount certified in Subsection (3) to restore the reserve funds to their required funding levels. The board may request from each member money proportionate to their participation in the network to restore the funding level. Any amount paid by the members shall be proportionally repaid to them from 1/2 of any money in excess of the amounts which the board determines will keep it self-supporting.

Section 38. Section 63H-7a-705, which is renumbered from Section 63H-7-405 is renumbered and amended to read:

[63H-7-405]. 63H-7a-705. Investment of the authority funds.

The state treasurer shall invest all money held on deposit by or on behalf of the authority. The board may provide advice to the state treasurer concerning investment of the money of the authority.

Section 39. Section 63H-7a-706, which is renumbered from Section 63H-7-406 is renumbered and amended to read:

[63H-7-406]. 63H-7a-706. Publication of notice, resolution, or other proceeding -- Period for contesting.

(1) The board may provide for the publication of any resolution or other proceedings adopted under this chapter:

(a) in a newspaper of general circulation within the state; and

(b) as required in Section 45-1-101.

(2) In case of a resolution or other proceeding providing for the issuance of bonds, the board may, in lieu of publishing the entire resolution or other proceeding, publish a notice of bonds to be issued containing:

(a) the name of the issuer;

(b) the purpose of the issue;

(c) the type of bonds and the maximum principal amount which may be issued;

(d) the maximum number of years over which the bonds may mature;

(e) the maximum interest rate which the bonds may bear, if any;

(f) the maximum discount from par, expressed as a percentage of principal amount, at which the bonds may be sold; and

(g) the times and place where a copy of the resolution or other proceeding may be examined, which shall be at the principal office of the authority during regular business hours and for a period of at least 30 days after the publication of the notice.

(3) For a period of 30 days after the publication, any person in interest may contest the legality of the resolution or proceeding, any bonds which may be authorized by the resolution or proceeding, or any provision made for the security and payment of the bonds by filing a pleading with the district court for the city in which the authority maintains its principal office.

Section 40. Section 63H-7a-800 is enacted to read:

Part 8. Miscellaneous Provisions

63H-7a-800. Title.

This part is known as "Miscellaneous Provisions."

Section 41. Section 63H-7a-801, which is renumbered from Section 63H-7-501 is renumbered and amended to read:

[63H-7-501]. 63H-7a-801. Property and funds of the authority declared public property -- Exemption from taxes.

(1) The property and funds of the authority are declared to be public property used for essential public and governmental purposes.

(2) The property and the authority are exempt from all taxes and special assessments of any public body. This tax exemption does not apply to any portion of a project used for a profit-making enterprise.

Section 42. Section 63H-7a-802, which is renumbered from Section 63H-7-502 is renumbered and amended to read:

[63H-7-502]. 63H-7a-802. Term of the authority -- Dissolution -- Withdrawal.

(1) (a) The authority may be dissolved by an act of the Legislature.

(b) Title to all assets of the authority upon its dissolution shall revert to the members and the

state pro rata, based upon the total amount of money paid to the authority by each member or the state for services provided to each by the public safety communications network.

(c) The board is authorized to:

(i) take any necessary action to dissolve the authority; and

(ii) dispose of the property of the authority upon its dissolution as provided in Subsection (1)(b).

(2) (a) Each member may, at any time, withdraw as a member of the authority by delivering to the board a written notice of withdrawal which has been approved by the governing body of the member, except that a member may not withdraw from the authority at any time during which it has an outstanding payment obligation to the authority as a result of having entered into a service contract, lease, or other financial obligation.

(b) Except as provided in Subsection (2)(a), the board shall delete the petitioning member from the membership of the authority as of the date of the board's receipt of the member's notice of withdrawal. The board may not include a member who has given notice of withdrawal in any future obligation of the authority.

Section 43. Section 63H-7a-803, which is renumbered from Section 63H-7-503 is renumbered and amended to read:

[63H-7-503]. 63H-7a-803. Relation to certain acts -- Participation in Risk Management Fund.

(1) The Utah Communications Authority is exempt from:

(a) Title 63J, Chapter 1, Budgetary Procedures Act;

(b) Title 63A, Utah Administrative Services Code, except as provided in Section 63A-4-205.5;

(c) Title 63G, Chapter 6a, Utah Procurement Code, however, the authority shall adopt and follow an open and transparent purchasing policy which shall be published on the authority website;

(d) Title 63G, Chapter 4, Administrative Procedures Act; and

(e) Title 67, Chapter 19, Utah State Personnel Management Act.

(2) The board shall adopt budgetary procedures, accounting, procurement, and personnel policies substantially similar to those from which they have been exempted in Subsection (1).

(3) Subject to the requirements of Subsection 63E-1-304(2), the administration may participate in coverage under the Risk Management Fund created by Section 63A-4-201.

Section 44. Section 63H-7a-804, which is renumbered from Section 63H-7-504 is renumbered and amended to read:

[63H-7-504]. 63H-7a-804. Annual report to governor and Legislature -- Contents -- Audit by state auditor -- Reimbursement for costs.

(1) The authority shall, following the close of each fiscal year, submit an annual report of its activities for the preceding year to the governor and the Legislature. Each report shall set forth a complete operating and financial statement of the agency during the fiscal year it covers.

(2) The state auditor shall at least once in each year audit the books and accounts of the authority or shall contract with an independent certified public accountant for this audit. The audit shall include a review of the procedures adopted under the requirements of Subsection [63H-7-503] 63H-7a-803(2) and a determination as to whether the board has complied with the requirements of Subsection [63H-7-503] 63H-7a-803(2).

(3) The authority shall reimburse the state auditor from available money of the authority for the actual and necessary costs of that audit.

Section 45. Section 63I-4a-102 is amended to read:

63I-4a-102. Definitions.

(1) (a) "Activity" means to provide a good or service.

(b) "Activity" includes to:

(i) manufacture a good or service;

(ii) process a good or service;

(iii) sell a good or service;

(iv) offer for sale a good or service;

(v) rent a good or service;

(vi) lease a good or service;

(vii) deliver a good or service;

(viii) distribute a good or service; or

(ix) advertise a good or service.

(2) (a) Except as provided in Subsection (2)(b), "agency" means:

(i) the state; or

(ii) an entity of the state including a department, office, division, authority, commission, or board.

(b) "Agency" does not include:

(i) the Legislature;

(ii) an entity or agency of the Legislature;

(iii) the state auditor;

(iv) the state treasurer;

(v) the Office of the Attorney General;

(vi) the Dairy Commission created in Title 4, Chapter 22, Dairy Promotion Act;

(vii) the Utah Science Center Authority created in Title 63H, Chapter 3, Utah Science Center Authority;

(viii) the Heber Valley Railroad Authority created in Title 63H, Chapter 4, Heber Valley Historic Railroad Authority;

(ix) the Utah State Railroad Museum Authority created in Title 63H, Chapter 5, Utah State Railroad Museum Authority;

(x) the Utah Housing Corporation created in Title 35A, Chapter 8, Part 7, Utah Housing Corporation Act;

(xi) the Utah State Fair Corporation created in Title 63H, Chapter 6, Utah State Fair Corporation Act;

(xii) the Workers' Compensation Fund created in Title 31A, Chapter 33, Workers' Compensation Fund;

(xiii) the Utah State Retirement Office created in Title 49, Chapter 11, Utah State Retirement Systems Administration;

(xiv) a charter school chartered by the State Charter School Board or a board of trustees of a higher education institution under Title 53A, Chapter 1a, Part 5, The Utah Charter Schools Act;

(xv) the Utah Schools for the Deaf and the Blind created in Title 53A, Chapter 25b, Utah Schools for the Deaf and the Blind;

(xvi) an institution of higher education as defined in Section 53B-3-102;

(xvii) the School and Institutional Trust Lands Administration created in Title 53C, Chapter 1, Part 2, School and Institutional Trust Lands Administration;

(xviii) the Utah Communications Authority created in Title 63H, Chapter [7] 7a, Utah Communications Authority Act; or

(xix) the Utah Capital Investment Corporation created in Title 63M, Chapter 1, Part 12, Utah Venture Capital Enhancement Act.

(3) "Agency head" means the chief administrative officer of an agency.

(4) "Board" means the Free Market Protection and Privatization Board created in Section 63I-4a-202.

(5) "Commercial activity" means to engage in an activity that can be obtained in whole or in part from a private enterprise.

(6) "Local entity" means:

(a) a political subdivision of the state, including a:

(i) county;

(ii) city;

(iii) town;

(iv) local school district;

(v) local district; or

(vi) special service district;

(b) an agency of an entity described in this Subsection (6), including a department, office, division, authority, commission, or board; or

(c) an entity created by an interlocal cooperative agreement under Title 11, Chapter 13, Interlocal Cooperation Act, between two or more entities described in this Subsection (6).

(7) "Private enterprise" means a person that engages in an activity for profit.

(8) "Privatize" means that an activity engaged in by an agency is transferred so that a private enterprise engages in the activity, including a transfer by:

(a) contract;

(b) transfer of property; or

(c) another arrangement.

(9) "Special district" means:

(a) a local district, as defined in Section 17B-1-102;

(b) a special service district, as defined in Section 17D-1-102; or

(c) a conservation district, as defined in Section 17D-3-102.

Section 46. Section 63J-7-102 is amended to read:

63J-7-102. Scope and applicability of chapter.

(1) Except as provided in Subsection (2), and except as otherwise provided by a statute superseding provisions of this chapter by explicit reference to this chapter, the provisions of this chapter apply to each agency and govern each grant received on or after May 5, 2008.

(2) This chapter does not govern:

(a) a grant deposited into a General Fund restricted account;

(b) a grant deposited into a Trust and Agency Fund as defined in Section 51-5-4;

(c) a grant deposited into an Enterprise Fund as defined in Section 51-5-4;

(d) a grant made to the state without a restriction or other designated purpose that is deposited into the General Fund as free revenue;

(e) a grant made to the state that is restricted only to "education" and that is deposited into the Education Fund or Uniform School Fund as free revenue;

(f) in-kind donations;

(g) a tax, fees, penalty, fine, surcharge, money judgment, or other money due the state when required by state law or application of state law;

(h) a contribution made under Title 59, Chapter 10, Part 13, Individual Income Tax Contribution Act;

(i) a grant received by an agency from another agency or political subdivision;

(j) a grant to the Dairy Commission created in Title 4, Chapter 22, Dairy Promotion Act;

(k) a grant to the Utah Science Center Authority created in Title 63H, Chapter 3, Utah Science Center Authority;

(l) a grant to the Heber Valley Railroad Authority created in Title 63H, Chapter 4, Heber Valley Historic Railroad Authority;

(m) a grant to the Utah State Railroad Museum Authority created in Title 63H, Chapter 5, Utah State Railroad Museum Authority;

(n) a grant to the Utah Housing Corporation created in Title 35A, Chapter 8, Part 7, Utah Housing Corporation Act;

(o) a grant to the Utah State Fair Corporation created in Title 63H, Chapter 6, Utah State Fair Corporation Act;

(p) a grant to the Workers' Compensation Fund created in Title 31A, Chapter 33, Workers' Compensation Fund;

(q) a grant to the Utah State Retirement Office created in Title 49, Chapter 11, Utah State Retirement Systems Administration;

(r) a grant to the School and Institutional Trust Lands Administration created in Title 53C, Chapter 1, Part 2, School and Institutional Trust Lands Administration;

(s) a grant to the Utah Communications Authority created in Title 63H, Chapter [7] 7a, Utah Communications Authority Act;

(t) a grant to the Medical Education Program created in Section 53B-24-202;

(u) a grant to the Utah Capital Investment Corporation created in Title 63M, Chapter 1, Part 12, Utah Venture Capital Enhancement Act;

(v) a grant to the Utah Charter School Finance Authority created in Section 53A-20b-103;

(w) a grant to the State Building Ownership Authority created in Section 63B-1-304;

(x) a grant to the Utah Comprehensive Health Insurance Pool created in Section 31A-29-104; or

(y) a grant to the Military Installation Development Authority created in Section 63H-1-201.

(3) An agency need not seek legislative review or approval of grants under Part 2, Grant Approval Requirements, if:

(a) the governor has declared a state of emergency; and

(b) the grant is donated to the agency to assist victims of the state of emergency under Subsection 53-2a-204(1).

Section 47. Section 69-2-5 is amended to read:

69-2-5. Funding for 911 emergency service -- Administrative charge.

(1) In providing funding of 911 emergency service, any public agency establishing a 911 emergency service may:

(a) seek assistance from the federal or state government, to the extent constitutionally permissible, in the form of loans, advances, grants, subsidies, and otherwise, directly or indirectly;

(b) seek funds appropriated by local governmental taxing authorities for the funding of public safety agencies; and

(c) seek gifts, donations, or grants from individuals, corporations, or other private entities.

(2) For purposes of providing funding of 911 emergency service, special service districts may raise funds as provided in Section 17D-1-105 and may borrow money and incur indebtedness as provided in Section 17D-1-103.

(3) (a) Except as provided in Subsection (3)(b) and subject to the other provisions of this Subsection (3) a county, city, or town within which 911 emergency service is provided may levy a monthly 911 emergency services charge on:

(i) each local exchange service switched access line within the boundaries of the county, city, or town;

(ii) each revenue producing radio communications access line with a billing address within the boundaries of the county, city, or town; and

(iii) any other service, including voice over Internet protocol, provided to a user within the boundaries of the county, city, or town that allows the user to make calls to and receive calls from the public switched telecommunications network, including commercial mobile radio service networks.

(b) Notwithstanding Subsection (3)(a), an access line provided for public coin telecommunications service is exempt from 911 emergency service charges.

(c) The amount of the charge levied under this section may not exceed:

(i) 61 cents per month for each local exchange service switched access line;

(ii) 61 cents per month for each radio communications access line; and

(iii) 61 cents per month for each service under Subsection (3)(a)(iii).

(d) (i) For purposes of this Subsection (3)(d) the following terms shall be defined as provided in Section 59-12-102 or 59-12-215:

- (A) “mobile telecommunications service”;
- (B) “place of primary use”;
- (C) “service address”; and
- (D) “telecommunications service.”

(ii) An access line described in Subsection (3)(a) is considered to be within the boundaries of a county, city, or town if the telecommunications services provided over the access line are located within the county, city, or town:

(A) for purposes of sales and use taxes under Title 59, Chapter 12, Sales and Use Tax Act; and

(B) determined in accordance with Section 59-12-215.

(iii) The rate imposed on an access line under this section shall be determined in accordance with Subsection (3)(d)(iv) if the location of an access line described in Subsection (3)(a) is determined under Subsection (3)(d)(ii) to be a county, city, or town other than county, city, or town in which is located:

(A) for a telecommunications service, the purchaser’s service address; or

(B) for mobile telecommunications service, the purchaser’s place of primary use.

(iv) The rate imposed on an access line under this section shall be the lower of:

(A) the rate imposed by the county, city, or town in which the access line is located under Subsection (3)(d)(ii); or

(B) the rate imposed by the county, city, or town in which it is located:

(I) for telecommunications service, the purchaser’s service address; or

(II) for mobile telecommunications service, the purchaser’s place of primary use.

(e) (i) A county, city, or town shall notify the Public Service Commission of the intent to levy the charge under this Subsection (3) at least 30 days before the effective date of the charge being levied.

(ii) For purposes of this Subsection (3)(e):

(A) “Annexation” means an annexation to:

(I) a city or town under Title 10, Chapter 2, Part 4, Annexation; or

(II) a county under Title 17, Chapter 2, County Consolidations and Annexations.

(B) “Annexing area” means an area that is annexed into a county, city, or town.

(iii) (A) Except as provided in Subsection (3)(e)(iii)(C) or (D), if a county, city, or town enacts or repeals a charge or changes the amount of the charge under this section, the enactment, repeal, or change shall take effect:

(I) on the first day of a calendar quarter; and

(II) after a 90-day period beginning on the date the State Tax Commission receives notice meeting

the requirements of Subsection (3)(e)(iii)(B) from the county, city, or town.

(B) The notice described in Subsection (3)(e)(iii)(A) shall state:

(I) that the county, city, or town will enact or repeal a charge or change the amount of the charge under this section;

(II) the statutory authority for the charge described in Subsection (3)(e)(iii)(B)(I);

(III) the effective date of the charge described in Subsection (3)(e)(iii)(B)(I); and

(IV) if the county, city, or town enacts the charge or changes the amount of the charge described in Subsection (3)(e)(iii)(B)(I), the amount of the charge.

(C) Notwithstanding Subsection (3)(e)(iii)(A), the enactment of a charge or a charge increase under this section shall take effect on the first day of the first billing period:

(I) that begins after the effective date of the enactment of the charge or the charge increase; and

(II) if the billing period for the charge begins before the effective date of the enactment of the charge or the charge increase imposed under this section.

(D) Notwithstanding Subsection (3)(e)(iii)(A), the repeal of a charge or a charge decrease under this section shall take effect on the first day of the last billing period:

(I) that began before the effective date of the repeal of the charge or the charge decrease; and

(II) if the billing period for the charge begins before the effective date of the repeal of the charge or the charge decrease imposed under this section.

(iv) (A) Except as provided in Subsection (3)(e)(iv)(C) or (D), if the annexation will result in the enactment, repeal, or a change in the amount of a charge imposed under this section for an annexing area, the enactment, repeal, or change shall take effect:

(I) on the first day of a calendar quarter; and

(II) after a 90-day period beginning on the date the State Tax Commission receives notice meeting the requirements of Subsection (3)(e)(iv)(B) from the county, city, or town that annexes the annexing area.

(B) The notice described in Subsection (3)(e)(iv)(A) shall state:

(I) that the annexation described in Subsection (3)(e)(iv)(A) will result in an enactment, repeal, or a change in the charge being imposed under this section for the annexing area;

(II) the statutory authority for the charge described in Subsection (3)(e)(iv)(B)(I);

(III) the effective date of the charge described in Subsection (3)(e)(iv)(B)(I); and

(IV) if the county, city, or town enacts the charge or changes the amount of the charge described in

Subsection (3)(e)(iv)(B)(I), the amount of the charge.

(C) Notwithstanding Subsection (3)(e)(iv)(A), the enactment of a charge or a charge increase under this section shall take effect on the first day of the first billing period:

(I) that begins after the effective date of the enactment of the charge or the charge increase; and

(II) if the billing period for the charge begins before the effective date of the enactment of the charge or the charge increase imposed under this section.

(D) Notwithstanding Subsection (3)(e)(iv)(A), the repeal of a charge or a charge decrease under this section shall take effect on the first day of the last billing period:

(I) that began before the effective date of the repeal of the charge or the charge decrease; and

(II) if the billing period for the charge begins before the effective date of the repeal of the charge or the charge decrease imposed under this section.

(f) Subject to Subsection (3)(g), a 911 emergency services charge levied under this section shall:

(i) be billed and collected by the person that provides the:

(A) local exchange service switched access line services; or

(B) radio communications access line services; and

(ii) except for costs retained under Subsection (3)(h), remitted to the State Tax Commission.

(g) A 911 emergency services charge on a mobile telecommunications service may be levied, billed, and collected only to the extent permitted by the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.

(h) The person that bills and collects the charges levied under Subsection (3)(f) may:

(i) bill the charge imposed by this section in combination with the charge levied under Section 69-2-5.6 as one line item charge; and

(ii) retain an amount not to exceed 1.5% of the levy collected under this section as reimbursement for the cost of billing, collecting, and remitting the levy.

(i) The State Tax Commission shall collect, enforce, and administer the charge imposed under this Subsection (3) using the same procedures used in the administration, collection, and enforcement of the state sales and use taxes under:

(i) Title 59, Chapter 1, General Taxation Policies; and

(ii) Title 59, Chapter 12, Part 1, Tax Collection, except for:

(A) Section 59-12-104;

(B) Section 59-12-104.1;

(C) Section 59-12-104.2;

(D) Section 59-12-104.6;

(E) Section 59-12-107.1; and

(F) Section 59-12-123.

(j) The State Tax Commission shall transmit money collected under this Subsection (3) monthly by electronic funds transfer to the county, city, or town that imposes the charge.

(k) A person that pays a charge under this section shall pay the charge to the commission:

(i) monthly on or before the last day of the month immediately following the last day of the previous month if:

(A) the person is required to file a sales and use tax return with the commission monthly under Section 59-12-108; or

(B) the person is not required to file a sales and use tax return under Title 59, Chapter 12, Sales and Use Tax Act; or

(ii) quarterly on or before the last day of the month immediately following the last day of the previous quarter if the person is required to file a sales and use tax return with the commission quarterly under Section 59-12-107.

(l) A charge a person pays under this section shall be paid using a form prescribed by the State Tax Commission.

(m) The State Tax Commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenues the State Tax Commission collects from a charge under this section.

(n) A charge under this section is subject to Section 69-2-5.8.

(4) (a) Any money received by a public agency for the provision of 911 emergency service shall be deposited in a special emergency telecommunications service fund.

(b) (i) Except as provided in Subsection (5)(b), the money in the 911 emergency service fund shall be expended by the public agency to pay the costs of:

(A) establishing, installing, maintaining, and operating a 911 emergency service system;

(B) receiving and processing emergency communications from the 911 system or other communications or requests for emergency services;

(C) integrating a 911 emergency service system into an established public safety dispatch center, including contracting with the providers of local exchange service, radio communications service, and vendors of appropriate terminal equipment as necessary to implement the 911 emergency services; or

(D) indirect costs associated with the maintaining and operating of a 911 emergency services system.

(ii) Revenues derived for the funding of 911 emergency service may be used by the public agency for personnel costs associated with receiving and processing communications and deploying emergency response resources when the system is integrated with any public safety dispatch system.

(c) Any unexpended money in the 911 emergency service fund at the end of a fiscal year does not lapse, and must be carried forward to be used for the purposes described in this section.

(5) (a) Revenue received by a local entity from an increase in the levy imposed under Subsection (3) after the 2004 Annual General Session:

(i) may be used by the public safety answering point for the purposes under Subsection (4)(b); and

(ii) shall be deposited into the special 911 emergency service fund described in Subsection (4)(a).

(b) Revenue received by a local entity from disbursements from the [~~Utah 911 Committee under Section 63H-7-306~~] 911 Division under Section 63H-7a-602:

(i) shall be deposited into the special 911 emergency service fund under Subsection (4)(a); and

(ii) shall only be used for that portion of the costs related to the development and operation of wireless and land-based enhanced 911 emergency telecommunications service and the implementation of 911 services as provided in Subsection (5)(c).

(c) The costs allowed under Subsection (5)(b)(ii) include the public safety answering point's costs for:

(i) acquisition, upgrade, modification, maintenance, and operation of public service answering point equipment capable of receiving 911 information;

(ii) database development, operation, and maintenance; and

(iii) personnel costs associated with establishing, installing, maintaining, and operating wireless 911 services, including training emergency service personnel regarding receipt and use of 911 wireless service information and educating consumers regarding the appropriate and responsible use of 911 wireless service.

(6) A local entity that increases the levy it imposes under Subsection (3)(c) after the 2004 Annual General Session shall increase the levy to the maximum amount permitted by Subsection (3)(c).

Section 48. Section 69-2-5.5 is amended to read:

69-2-5.5. Emergency services telecommunications charge to fund the Computer Aided Dispatch Restricted Account -- Administrative charge.

(1) Subject to Subsection (7), there is imposed an emergency services telecommunications charge of 6

cents per month on each local exchange service switched access line and each revenue producing radio communications access line that is subject to an emergency services telecommunications charge levied by a county, city, or town under Section 69-2-5.

(2) (a) Subject to Subsection (7), an emergency services telecommunications charge imposed under this section shall be billed and collected by the person that provides:

(i) local exchange service switched access line services; or

(ii) radio communications access line services.

(b) A person that pays an emergency services telecommunications charge under this section shall pay the emergency services telecommunications charge to the commission:

(i) monthly on or before the last day of the month immediately following the last day of the previous month if:

(A) the person is required to file a sales and use tax return with the commission monthly under Section 59-12-108; or

(B) the person is not required to file a sales and use tax return under Title 59, Chapter 12, Sales and Use Tax Act; or

(ii) quarterly on or before the last day of the month immediately following the last day of the previous quarter if the person is required to file a sales and use tax return with the commission quarterly under Section 59-12-107.

(c) An emergency services telecommunications charge imposed under this section shall be deposited into the Computer Aided Dispatch Restricted Account created in Section [~~63H-7-310~~] 63H-7a-303.

(3) Emergency services telecommunications charges remitted to the State Tax Commission pursuant to Subsection (2) shall be accompanied by the form prescribed by the State Tax Commission.

(4) (a) The State Tax Commission shall administer, collect, and enforce the charge imposed under Subsection (1) according to the same procedures used in the administration, collection, and enforcement of the state sales and use tax under:

(i) Title 59, Chapter 1, General Taxation Policies; and

(ii) Title 59, Chapter 12, Part 1, Tax Collection, except for:

(A) Section 59-12-104;

(B) Section 59-12-104.1;

(C) Section 59-12-104.2;

(D) Section 59-12-104.6;

(E) Section 59-12-107.1; and

(F) Section 59-12-123.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Tax

Commission may make rules to administer, collect, and enforce the emergency services telecommunications charges imposed under this section.

(c) The State Tax Commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenues the State Tax Commission collects from an emergency services telecommunications charge under this section.

(d) A charge under this section is subject to Section 69-2-5.8.

(5) A provider of local exchange service switched access line services or radio communications access line services who fails to comply with this section is subject to penalties and interest as provided in Sections 59-1-401 and 59-1-402.

(6) An emergency services telecommunications charge under this section on a mobile telecommunications service may be imposed, billed, and collected only to the extent permitted by the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.

Section 49. Section 69-2-5.6 is amended to read:

69-2-5.6. 911 services charge to fund unified statewide 911 emergency service -- Administrative charge.

(1) Subject to Subsection 69-2-5(3)(g), there is imposed a unified statewide 911 emergency service charge of 9 cents per month on each local exchange service switched access line and each revenue producing radio communications access line that is subject to a 911 emergency services charge levied by a county, city, or town under Section 69-2-5.

(2) (a) A 911 emergency services charge imposed under this section shall be:

(i) subject to Subsection 69-2-5(3)(g); and

(ii) billed and collected by the person that provides:

(A) local exchange service switched access line services;

(B) radio communications access line services; or

(C) service described in Subsection 69-2-5(3)(a)(iii).

(b) A person that pays a charge under this section shall pay the charge to the commission:

(i) monthly on or before the last day of the month immediately following the last day of the previous month if:

(A) the person is required to file a sales and use tax return with the commission monthly under Section 59-12-108; or

(B) the person is not required to file a sales and use tax return under Title 59, Chapter 12, Sales and Use Tax Act; or

(ii) quarterly on or before the last day of the month immediately following the last day of the previous quarter if the person is required to file a sales and use tax return with the commission quarterly under Section 59-12-107.

(c) A charge imposed under this section shall be deposited into the Unified Statewide 911 Emergency Service Account created by Section 63H-7-304.

(3) The person that bills and collects the charges levied by this section pursuant to Subsections (2)(b) and (c) may:

(a) bill the charge imposed by this section in combination with the charge levied under Section 69-2-5 as one line item charge; and

(b) retain an amount not to exceed 1.5% of the charges collected under this section as reimbursement for the cost of billing, collecting, and remitting the levy.

(4) The State Tax Commission shall collect, enforce, and administer the charges imposed under Subsection (1) using the same procedures used in the administration, collection, and enforcement of the emergency services telecommunications charge to fund the Computer Aided Dispatch Restricted Account under Section [63H-7-310] 63H-7a-303.

(5) Notwithstanding Section [63H-7-304] 63H-7a-304, the State Tax Commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenues the State Tax Commission collects from a charge under this section.

(6) A charge under this section is subject to Section 69-2-5.8.

(7) This section sunsets in accordance with Section 63I-1-269.

Section 50. Section 69-2-5.7 is amended to read:

69-2-5.7. Prepaid wireless telecommunications charge to fund 911 service -- Administrative charge.

(1) As used in this section:

(a) "Consumer" means a person who purchases prepaid wireless telecommunications service in a transaction.

(b) "Prepaid wireless 911 service charge" means the charge that is required to be collected by a seller from a consumer in the amount established under Subsection (2).

(c) (i) "Prepaid wireless telecommunications service" means a wireless telecommunications service that:

(A) is paid for in advance;

(B) is sold in predetermined units of time or dollars that decline with use in a known amount or provides unlimited use of the service for a fixed amount or time; and

(C) allows a caller to access 911 emergency service.

(ii) "Prepaid wireless telecommunications service" does not include a wireless telecommunications service that is billed:

(A) to a customer on a recurring basis; and

(B) in a manner that includes the emergency services telecommunications charges, described in Sections 69-2-5, 69-2-5.5, and 69-2-5.6, for each radio communication access line assigned to the customer.

(d) "Seller" means a person that sells prepaid wireless telecommunications service to a consumer.

(e) "Transaction" means each purchase of prepaid wireless telecommunications service from a seller.

(f) "Wireless telecommunications service" means commercial mobile radio service as defined by 47 C.F.R. Sec. 20.3, as amended.

(2) There is imposed a prepaid wireless 911 service charge of 1.9% of the sales price per transaction.

(3) The prepaid wireless 911 service charge shall be collected by the seller from the consumer for each transaction occurring in this state.

(4) The prepaid wireless 911 service charge shall be separately stated on an invoice, receipt, or similar document that is provided by the seller to the consumer.

(5) For purposes of Subsection (3), the location of a transaction is determined in accordance with Sections 59-12-211 through 59-12-215.

(6) When prepaid wireless telecommunications service is sold with one or more other products or services for a single non-itemized price, then the percentage specified in Section (2) shall apply to the entire non-itemized price.

(7) A seller may retain 3% of prepaid wireless 911 service charges that are collected by the seller from consumers as reimbursement for the cost of billing, collecting, and remitting the charge.

(8) Prepaid wireless 911 service charges collected by a seller, except as retained under Subsection (7), shall be remitted to the State Tax Commission at the same time as the seller remits to the State Tax Commission money collected by the person under Title 59, Chapter 12, Sales and Use Tax Act.

(9) The State Tax Commission:

(a) shall collect, enforce, and administer the charge imposed under this section using the same procedures used in the administration, collection, and enforcement of the state sales and use taxes under:

(i) Title 59, Chapter 1, General Taxation Policies; and

(ii) Title 59, Chapter 12, Part 1, Tax Collection, except for:

(A) Section 59-12-104;

(B) Section 59-12-104.1;

(C) Section 59-12-104.2;

(D) Section 59-12-107.1; and

(E) Section 59-12-123;

(b) may retain up to 1.5% of the prepaid wireless 911 service charge revenue collected under Subsection (9)(a) as reimbursement for administering this section;

(c) shall distribute the prepaid wireless 911 service charge revenue, except as retained under Subsection (9)(b), as follows:

(i) 80.3% of the revenue shall be distributed to each county, city, or town in the same percentages and in the same manner as the entities receive money to fund 911 emergency telecommunications services under Section 69-2-5;

(ii) 7.9% of the revenue shall be distributed to fund the Computer Aided Dispatch Restricted Account created in Section ~~[63H-7-310; and]~~ 63H-7a-303;

(iii) 11.8% of the revenue shall be distributed to fund the unified statewide 911 emergency service as in Section 69-2-5.6; and

(d) may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to administer, collect, and enforce the charges imposed under this section.

(10) A charge under this section is subject to Section 69-2-5.8.

Section 51. Section 69-2-7 is amended to read:

69-2-7. Limitation of duties and liabilities.

Except as provided in Section 69-2-8, nothing contained in this chapter imposes any duties or liabilities beyond those otherwise specified by law upon any provider of local exchange service, radio communications service, voice over Internet protocol service, or terminal equipment needed to implement 911 emergency telephone service and the Utah statewide radio system and public safety communication network, created in Title 63H, Chapter 7a, Utah Communications Authority Act.

Section 52. Effective date.

This bill takes effect on July 1, 2015.

CHAPTER 412**H. B. 348**

Passed March 12, 2015

Approved March 31, 2015

Effective May 12, 2015

(Exception clause in Section 211)

**CRIMINAL JUSTICE
PROGRAMS AND AMENDMENTS**

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Senate Sponsor: J. Stuart Adams

Cosponsors: Patrice M. Arent

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LONG TITLE**General Description:**

This bill amends Utah Code provisions regarding corrections, sentencing, probation and parole, controlled substance offenses, substance abuse and mental health treatment, vehicle offenses, and related provisions to modify penalties and sentencing guidelines, treatment programs for persons in the criminal justice system, and probation and parole compliance and violations to address recidivism.

Highlighted Provisions:

This bill:

- ▶ reduces penalties for specified offenses involving controlled substances and provides that specified penalties be increased for subsequent convictions for the same offenses;
- ▶ reduces the penalties for motor vehicle and vessel offenses as specified;
- ▶ defines criminal risk factors and requires that these factors be considered in providing mental health and substance abuse treatment through governmental programs to individuals involved in the criminal justice system;
- ▶ requires the Division of Substance Abuse and Mental Health to establish standards for mental health and substance abuse treatment, and for treatment providers, concerning individuals who are incarcerated or who are required by a court or the Board of Pardons and Parole to participate in treatment;
- ▶ requires that the Division of Substance Abuse and Mental Health, working with the courts and the Department of Corrections, establish performance goals and outcome measurements for treatment programs, including recidivism;
- ▶ requires that the Division of Substance Abuse and Mental Health track the performance and outcome data and make this information available to the public;
- ▶ requires that the collected data be submitted to the Commission on Criminal and Juvenile Justice and that the commission compile the data and make it available to specified legislative interim committees;
- ▶ requires the Division of Substance Abuse and Mental Health, in collaboration with the Commission on Criminal and Juvenile Justice, to analyze specified programs and practices, and provide recommendations to the Legislature;
- ▶ requires the Commission on Criminal and Juvenile Justice to study and report on programs initiated by state and local agencies to address recidivism, including cost reductions and the costs and resources required to meet goals for providing treatment as an alternative to incarceration;
- ▶ provides that the Commission on Criminal and Juvenile Justice administer a performance incentive grant program that allocates funds to counties for programs and practices that reduce recidivism;
- ▶ requires that the Sentencing Commission modify sentencing guidelines, criminal history scores, and guidelines for periods of incarceration to implement the recommendations of the Commission on

- Criminal and Juvenile Justice regarding reducing recidivism;
- ▶ requires that the Sentencing Commission establish graduated sanctions to provide prompt and effective responses to violations of probation or parole;
 - ▶ requires that the Sentencing Commission establish graduated incentives to provide prompt and effective responses to an offender's compliance and positive conduct;
 - ▶ requires that the Department of Corrections implement the graduated sanctions and incentives established by the Sentencing Commission;
 - ▶ requires that the Department of Corrections, in collaboration with the Commission on Criminal and Juvenile Justice, the Division of Substance Abuse and Mental Health, and the Utah Association of Counties gather information related to treatment and program outcomes, including recidivism reduction and cost savings based on the reduction in the number of inmates, and provide the information to the Commission on Criminal and Juvenile Justice;
 - ▶ provides payments to county jails for housing probation and parole violators as funding is available;
 - ▶ requires that the Department of Corrections develop case action plans for offenders, including a risk and needs assessment and treatment priorities;
 - ▶ provides that the Department of Corrections may impose a sanction of three to five days for violations of probation or parole as part of the program of graduated sanctions;
 - ▶ requires that the Department of Corrections evaluate and update inmates' case action plans, including treatment resources and supervision levels to address reentry of inmates into the community at the termination of incarceration;
 - ▶ requires that the Department of Corrections establish a program allowing offenders to earn credits of days for compliance with terms of probation or parole, which will reduce the time on probation or parole;
 - ▶ requires that the Department of Corrections report annually to the Commission on Criminal and Juvenile Justice the data collected regarding the earned credits program;
 - ▶ requires the Department of Corrections to establish standards, including best practices, for treatment programs provided in county jails;
 - ▶ requires the Department of Corrections to establish standards and a certification program for the public and private providers of the treatment programs;
 - ▶ requires the Department of Corrections to establish goals and outcome measurements regarding the treatment programs, collect related data, and analyze the data to determine effectiveness;
 - ▶ requires that the Department of Corrections collaborate with the Division of Substance Abuse and Mental Health to:
 - track a group of program participants to determine net benefit from using treatment as an alternative to incarceration; and
 - evaluate costs and resources needed to meet goals for using treatment as an alternative to incarceration;

- ▶ requires that the Department of Corrections provide the data collected regarding the treatment programs to the Commission on Criminal and Juvenile Justice for the commission's use in preparing its annual report;
- ▶ requires that the Department of Corrections establish an audit for compliance with the treatment standards;
- ▶ provides that time served in confinement for a violation of probation is counted as time served toward any term of incarceration imposed for the violation of probation;
- ▶ requires that the Board of Pardons and Parole establish an earned time program that reduces the period of incarceration for offenders who successfully complete programs intended to reduce the risk of recidivism, collect data on the implementation of the program, and report the data to the Commission on Criminal and Juvenile Justice;
- ▶ requires that if the Board of Pardons and Parole orders incarceration for a parole violation, the board shall impose a period of incarceration that is consistent with the guidelines established by the Sentencing Commission;
- ▶ amends the offense of criminal trespass; and
- ▶ modifies a description regarding restricted persons and dangerous weapons as related to amendments made in this legislation regarding controlled substances.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

- 41-1a-201, as last amended by Laws of Utah 2014, Chapter 237
- 41-1a-205, as last amended by Laws of Utah 2014, Chapter 229
- 41-1a-214, as renumbered and amended by Laws of Utah 1992, Chapter 1
- 41-1a-218, as last amended by Laws of Utah 2013, Chapter 91
- 41-1a-220, as renumbered and amended by Laws of Utah 1992, Chapter 1
- 41-1a-221, as last amended by Laws of Utah 1999, Chapter 238
- 41-1a-229, as last amended by Laws of Utah 2014, Chapter 237
- 41-1a-301, as last amended by Laws of Utah 2014, Chapter 237
- 41-1a-401, as last amended by Laws of Utah 2014, Chapters 61, 237, and 237
- 41-1a-402, as last amended by Laws of Utah 2008, Chapter 210
- 41-1a-403, as renumbered and amended by Laws of Utah 1992, Chapter 1
- 41-1a-404, as last amended by Laws of Utah 2008, Chapter 106
- 41-1a-414, as last amended by Laws of Utah 2003, Chapter 1
- 41-1a-701, as last amended by Laws of Utah 1993, Chapter 222
- 41-1a-702, as last amended by Laws of Utah 2012, Chapter 379
- 41-1a-703, as renumbered and amended by Laws of Utah 1992, Chapter 1

41-1a-704, as last amended by Laws of Utah 1992, Chapter 234 and renumbered and amended by Laws of Utah 1992, Chapter 1	41-6a-705, as last amended by Laws of Utah 2013, Chapter 210
41-1a-803, as renumbered and amended by Laws of Utah 1992, Chapter 1	41-6a-706, as renumbered and amended by Laws of Utah 2005, Chapter 2
41-1a-904, as renumbered and amended by Laws of Utah 1992, Chapter 1	41-6a-706.5, as last amended by Laws of Utah 2013, Chapter 431
41-1a-1206, as last amended by Laws of Utah 2014, Chapters 61, 237, and 237	41-6a-707, as renumbered and amended by Laws of Utah 2005, Chapter 2
41-1a-1302, as enacted by Laws of Utah 1992, Chapter 1	41-6a-708, as last amended by Laws of Utah 2013, Chapter 293
41-1a-1303, as last amended by Laws of Utah 2013, Chapter 245	41-6a-709, as renumbered and amended by Laws of Utah 2005, Chapter 2
41-1a-1303.5, as enacted by Laws of Utah 2013, Chapter 245	41-6a-710, as last amended by Laws of Utah 2013, Chapter 294
41-1a-1304, as renumbered and amended by Laws of Utah 1992, Chapter 1	41-6a-711, as last amended by Laws of Utah 2007, Chapter 52
41-1a-1307, as last amended by Laws of Utah 2002, Chapter 56	41-6a-712, as last amended by Laws of Utah 2011, Chapter 363
41-1a-1310, as last amended by Laws of Utah 1992, Chapter 218 and renumbered and amended by Laws of Utah 1992, Chapter 1	41-6a-713, as renumbered and amended by Laws of Utah 2005, Chapter 2
41-6a-202, as last amended by Laws of Utah 2013, Chapter 47	41-6a-714, as renumbered and amended by Laws of Utah 2005, Chapter 2
41-6a-216, as renumbered and amended by Laws of Utah 2005, Chapter 2	41-6a-716, as enacted by Laws of Utah 2005, Chapter 245
41-6a-304, as renumbered and amended by Laws of Utah 2005, Chapter 2	41-6a-717, as enacted by Laws of Utah 2013, Chapter 233
41-6a-305, as last amended by Laws of Utah 2014, Chapter 39	41-6a-801, as renumbered and amended by Laws of Utah 2005, Chapter 2
41-6a-306, as renumbered and amended by Laws of Utah 2005, Chapter 2	41-6a-802, as last amended by Laws of Utah 2012, Chapter 135
41-6a-307, as renumbered and amended by Laws of Utah 2005, Chapter 2	41-6a-803, as renumbered and amended by Laws of Utah 2005, Chapter 2
41-6a-308, as renumbered and amended by Laws of Utah 2005, Chapter 2	41-6a-804, as last amended by Laws of Utah 2007, Chapter 52
41-6a-309, as renumbered and amended by Laws of Utah 2005, Chapter 2	41-6a-901, as renumbered and amended by Laws of Utah 2005, Chapter 2
41-6a-311, as renumbered and amended by Laws of Utah 2005, Chapter 2	41-6a-902, as renumbered and amended by Laws of Utah 2005, Chapter 2
41-6a-401, as last amended by Laws of Utah 2011, Chapter 241	41-6a-903, as renumbered and amended by Laws of Utah 2005, Chapter 2
41-6a-401.7, as enacted by Laws of Utah 2007, Chapter 132	41-6a-904, as last amended by Laws of Utah 2012, Chapter 308
41-6a-402, as last amended by Laws of Utah 2013, Chapter 65	41-6a-906, as renumbered and amended by Laws of Utah 2005, Chapter 2
41-6a-405, as renumbered and amended by Laws of Utah 2005, Chapter 2	41-6a-907, as renumbered and amended by Laws of Utah 2005, Chapter 26
41-6a-407, as renumbered and amended by Laws of Utah 2005, Chapter 2	41-6a-1001, as renumbered and amended by Laws of Utah 2005, Chapter 2
41-6a-518, as last amended by Laws of Utah 2011, Chapter 421	41-6a-1003, as renumbered and amended by Laws of Utah 2005, Chapter 2
41-6a-526, as last amended by Laws of Utah 2010, Chapters 256 and 276	41-6a-1004, as renumbered and amended by Laws of Utah 2005, Chapter 2
41-6a-601, as renumbered and amended by Laws of Utah 2005, Chapter 2	41-6a-1005, as last amended by Laws of Utah 2012, Chapter 135
41-6a-605, as renumbered and amended by Laws of Utah 2005, Chapter 2	41-6a-1009, as last amended by Laws of Utah 2014, Chapter 306
41-6a-702, as last amended by Laws of Utah 2013, Chapter 254	41-6a-1115, as last amended by Laws of Utah 2007, Chapter 322
41-6a-703, as renumbered and amended by Laws of Utah 2005, Chapter 2	41-6a-1116, as last amended by Laws of Utah 2007, Chapter 86
41-6a-704, as last amended by Laws of Utah 2008, Chapter 350	41-6a-1117, as enacted by Laws of Utah 2005, Chapter 111
	41-6a-1201, as renumbered and amended by Laws of Utah 2005, Chapter 2
	41-6a-1202, as renumbered and amended by Laws of Utah 2005, Chapter 2

41-6a-1203, as last amended by Laws of Utah 2012, Chapter 135	41-6a-1619, as renumbered and amended by Laws of Utah 2005, Chapter 2
41-6a-1204, as renumbered and amended by Laws of Utah 2005, Chapter 2	41-6a-1623, as renumbered and amended by Laws of Utah 2005, Chapter 2
41-6a-1205, as renumbered and amended by Laws of Utah 2005, Chapter 2	41-6a-1624, as renumbered and amended by Laws of Utah 2005, Chapter 2
41-6a-1206, as renumbered and amended by Laws of Utah 2005, Chapter 2	41-6a-1625, as renumbered and amended by Laws of Utah 2005, Chapter 2
41-6a-1301, as renumbered and amended by Laws of Utah 2005, Chapter 2	41-6a-1626, as renumbered and amended by Laws of Utah 2005, Chapter 2
41-6a-1302, as renumbered and amended by Laws of Utah 2005, Chapter 2	41-6a-1627, as renumbered and amended by Laws of Utah 2005, Chapter 2
41-6a-1307, as last amended by Laws of Utah 2008, Chapter 382	41-6a-1628, as renumbered and amended by Laws of Utah 2005, Chapter 2
41-6a-1402, as renumbered and amended by Laws of Utah 2005, Chapter 2	41-6a-1630, as renumbered and amended by Laws of Utah 2005, Chapter 2
41-6a-1404, as renumbered and amended by Laws of Utah 2005, Chapter 2	41-6a-1631, as renumbered and amended by Laws of Utah 2005, Chapter 2
41-6a-1407, as renumbered and amended by Laws of Utah 2005, Chapter 2	41-6a-1632, as last amended by Laws of Utah 2005, Chapter 26 and renumbered and amended by Laws of Utah 2005, Chapter 2
41-6a-1408, as last amended by Laws of Utah 2011, Chapter 386	41-6a-1633, as last amended by Laws of Utah 2009, Chapter 171
41-6a-1501, as renumbered and amended by Laws of Utah 2005, Chapter 2	41-6a-1634, as last amended by Laws of Utah 2013, Chapter 140
41-6a-1502, as renumbered and amended by Laws of Utah 2005, Chapter 2	41-6a-1635, as last amended by Laws of Utah 2005, Chapter 26 and renumbered and amended by Laws of Utah 2005, Chapter 2
41-6a-1503, as renumbered and amended by Laws of Utah 2005, Chapter 2	41-6a-1636, as last amended by Laws of Utah 2008, Chapter 382
41-6a-1504, as renumbered and amended by Laws of Utah 2005, Chapter 2	41-6a-1637, as renumbered and amended by Laws of Utah 2005, Chapter 2
41-6a-1505, as last amended by Laws of Utah 2010, Chapter 363	41-6a-1638, as renumbered and amended by Laws of Utah 2005, Chapter 2
41-6a-1506, as renumbered and amended by Laws of Utah 2005, Chapter 2	41-6a-1639, as last amended by Laws of Utah 2008, Chapter 382
41-6a-1508, as last amended by Laws of Utah 2010, Chapter 255	41-6a-1641, as renumbered and amended by Laws of Utah 2005, Chapter 2
41-6a-1509, as last amended by Laws of Utah 2014, Chapters 104 and 229	41-6a-1713, as last amended by Laws of Utah 2013, Chapter 365
41-6a-1601, as last amended by Laws of Utah 2008, Chapters 36 and 382	41-8-1, as last amended by Laws of Utah 2008, Chapters 36 and 250
41-6a-1602, as renumbered and amended by Laws of Utah 2005, Chapter 2	41-8-2, as last amended by Laws of Utah 2006, Chapter 234
41-6a-1603, as renumbered and amended by Laws of Utah 2005, Chapter 2	41-8-3, as last amended by Laws of Utah 2006, Chapter 234
41-6a-1604, as renumbered and amended by Laws of Utah 2005, Chapter 2	41-12a-302, as last amended by Laws of Utah 2007, Chapter 132
41-6a-1606, as renumbered and amended by Laws of Utah 2005, Chapter 2	41-12a-303.2, as last amended by Laws of Utah 2013, Chapters 91 and 138
41-6a-1607, as renumbered and amended by Laws of Utah 2005, Chapter 2	41-22-3, as last amended by Laws of Utah 2012, Chapter 319
41-6a-1608, as renumbered and amended by Laws of Utah 2005, Chapter 2	41-22-4, as last amended by Laws of Utah 2006, Chapter 160
41-6a-1609, as renumbered and amended by Laws of Utah 2005, Chapter 2	41-22-5.5, as last amended by Laws of Utah 2010, Chapter 308
41-6a-1610, as renumbered and amended by Laws of Utah 2005, Chapter 2	41-22-10.1, as last amended by Laws of Utah 1999, Chapter 73
41-6a-1611, as renumbered and amended by Laws of Utah 2005, Chapter 2	41-22-10.2, as last amended by Laws of Utah 2005, Chapter 2
41-6a-1612, as renumbered and amended by Laws of Utah 2005, Chapter 2	41-22-10.3, as last amended by Laws of Utah 2008, Chapter 36
41-6a-1613, as renumbered and amended by Laws of Utah 2005, Chapter 2	41-22-10.7, as last amended by Laws of Utah 2010, Chapter 77
41-6a-1616, as last amended by Laws of Utah 2006, Chapter 100	
41-6a-1618, as renumbered and amended by Laws of Utah 2005, Chapter 2	

41-22-11, as last amended by Laws of Utah 1986, Second Special Session, Chapter 1	64-13e-104, as last amended by Laws of Utah 2014, Chapter 436
41-22-12, as last amended by Laws of Utah 2009, Chapters 289 and 344	72-7-402, as last amended by Laws of Utah 2008, Chapters 140 and 382
41-22-12.1, as last amended by Laws of Utah 2002, Chapter 148	72-7-403, as last amended by Laws of Utah 2012, Chapter 304
41-22-12.2, as enacted by Laws of Utah 2009, Chapter 289	72-7-404, as last amended by Laws of Utah 1999, Chapter 21
41-22-12.5, as last amended by Laws of Utah 2009, Chapter 289	72-7-405, as renumbered and amended by Laws of Utah 1998, Chapter 270
41-22-12.7, as enacted by Laws of Utah 2009, Chapter 289	72-7-406, as last amended by Laws of Utah 2012, Chapter 304
41-22-13, as last amended by Laws of Utah 1986, Second Special Session, Chapter 1	72-7-407, as last amended by Laws of Utah 2008, Chapters 140 and 382
41-22-15, as last amended by Laws of Utah 1989, Chapter 21	72-7-408, as last amended by Laws of Utah 2001, Chapter 37
41-22-17, as last amended by Laws of Utah 2004, Chapter 159	72-7-409, as last amended by Laws of Utah 2013, Chapter 365
53-3-202, as last amended by Laws of Utah 2009, Chapter 253	73-18-6, as last amended by Laws of Utah 1987, Chapter 99
53-3-203, as last amended by Laws of Utah 1997, Chapter 51	73-18-7, as last amended by Laws of Utah 2009, Chapter 183
53-3-207, as last amended by Laws of Utah 2014, Chapter 85	73-18-8, as last amended by Laws of Utah 2010, Chapter 256
53-3-208, as renumbered and amended by Laws of Utah 1993, Chapter 234	73-18-8.1, as enacted by Laws of Utah 1990, Chapter 216
53-3-210.6, as enacted by Laws of Utah 2008, Chapter 304	73-18-13, as last amended by Laws of Utah 2012, Chapter 153
53-3-213, as last amended by Laws of Utah 2010, Chapter 324	73-18-15.1, as last amended by Laws of Utah 2010, Chapter 256
53-3-217, as last amended by Laws of Utah 1997, Chapter 51	73-18-15.2, as last amended by Laws of Utah 2009, Chapter 183
53-3-218, as last amended by Laws of Utah 2011, Chapter 190	73-18-15.3, as enacted by Laws of Utah 1998, Chapter 205
53-3-412, as last amended by Laws of Utah 2013, Chapter 411	73-18-16, as last amended by Laws of Utah 2012, Chapter 411
53-8-205, as last amended by Laws of Utah 2013, Chapter 453	73-18-20.4, as enacted by Laws of Utah 1990, Chapter 216
53B-3-107, as last amended by Laws of Utah 2009, Chapter 388	73-18-21, as last amended by Laws of Utah 1987, Chapter 99
58-37-8, as last amended by Laws of Utah 2014, Chapters 19 and 51	73-18c-302, as last amended by Laws of Utah 2006, Chapter 211
62A-15-102, as last amended by Laws of Utah 2011, Chapter 342	73-18c-304, as last amended by Laws of Utah 2011, Chapter 386
62A-15-103, as last amended by Laws of Utah 2014, Chapters 119, 205, and 240	76-3-202, as last amended by Laws of Utah 2013, Chapter 278
63M-7-204, as renumbered and amended by Laws of Utah 2008, Chapter 382	76-6-206, as last amended by Laws of Utah 2013, Chapter 152
63M-7-404, as renumbered and amended by Laws of Utah 2008, Chapter 382	76-10-503, as last amended by Laws of Utah 2014, Chapters 299 and 428
64-13-1, as last amended by Laws of Utah 2003, Chapter 36	77-1-3, as last amended by Laws of Utah 2008, Chapter 3
64-13-6, as last amended by Laws of Utah 2011, Chapter 51	77-18-1, as last amended by Laws of Utah 2014, Chapters 120 and 170
64-13-7.5, as last amended by Laws of Utah 2002, Fifth Special Session, Chapter 8	77-27-1, as last amended by Laws of Utah 2013, Chapter 41
64-13-14.5, as enacted by Laws of Utah 1987, Chapter 116	77-27-10, as last amended by Laws of Utah 2008, Chapters 294 and 382
64-13-21, as last amended by Laws of Utah 2008, Chapter 382	77-27-11, as last amended by Laws of Utah 2010, Chapter 110
64-13-25, as last amended by Laws of Utah 2008, Chapter 382	78A-5-201, as renumbered and amended by Laws of Utah 2008, Chapter 3
64-13-26, as last amended by Laws of Utah 1989, Chapter 224	
64-13-29, as last amended by Laws of Utah 1994, Chapter 13	

ENACTS:

64-13-10.5, Utah Code Annotated 1953
77-27-5.4, Utah Code Annotated 1953

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

Section 1. Section 41-1a-201 is amended to read:

41-1a-201. Function of registration -- Registration required -- Penalty.

(1) Unless exempted, a person may not operate and an owner may not give another person permission to operate a motor vehicle, combination of vehicles, trailer, semitrailer, vintage vehicle, off-highway vehicle, vessel, or park model recreational vehicle in this state unless it has been registered in accordance with this chapter, Title 41, Chapter 22, Off-Highway Vehicles, or Title 73, Chapter 18, State Boating Act.

(2) A violation of this section is an infraction.

Section 2. Section 41-1a-205 is amended to read:

41-1a-205. Safety inspection certificate required for renewal or registration of motor vehicle -- Exemptions.

(1) If required in the current year, a safety inspection certificate, as required by Section 53-8-205, or proof of exemption from safety inspection shall be presented at the time of, and as a condition of, registration or renewal of registration of a motor vehicle.

(2) (a) Except as provided in Subsections (2)(b), (c), and (d), the safety inspection required under this section may be made no more than two months prior to the renewal of registration.

(b) (i) If the title of a used motor vehicle is being transferred, a safety inspection certificate issued for the motor vehicle during the previous 11 months may be used to satisfy the requirement under Subsection (1).

(ii) If the transferor is a licensed and bonded used motor vehicle dealer, a safety inspection certificate issued for the motor vehicle in a licensed and bonded motor vehicle dealer's name during the previous 11 months may be used to satisfy the requirement under Subsection (1).

(c) If the title of a leased vehicle is being transferred to the lessee of the vehicle, a safety inspection certificate issued during the previous 11 months may be used to satisfy the requirement under Subsection (1).

(d) If the motor vehicle is part of a fleet of 101 or more vehicles, the safety inspection required under this section may be made no more than 11 months prior to the renewal of registration.

(e) If the application for renewal of registration is for a six-month registration period under Section 41-1a-215.5, a safety inspection certificate issued during the previous eight months may be used to satisfy the requirement under Subsection (1).

(3) (a) The following motor vehicles are exempt from this section:

(i) except as provided in Subsection (3)(b), a new motor vehicle when registered the first time, if:

(A) a new car predelivery inspection has been made by a dealer;

(B) the dealer provides a written disclosure statement listing any known deficiency, existing with the new motor vehicle at the time of delivery, that would cause the motor vehicle to fail a safety inspection given in accordance with Section 53-8-205; and

(C) the buyer signs the disclosure statement to acknowledge that the buyer has read and understands the listed deficiencies;

(ii) a motor vehicle required to be registered under this chapter that bears a dealer plate or other special plate under Title 41, Chapter 3, Part 5, Special Dealer License Plates, except that if the motor vehicle is propelled by its own power and is not being moved for repair or dismantling, the motor vehicle shall comply with Section 41-6a-1601 regarding safe mechanical condition; and

(iii) a vintage vehicle as defined in Section 41-21-1.

(b) A street-legal all-terrain vehicle registered in accordance with Section 41-6a-1509 is subject to a safety inspection:

(i) the first time that a person registers an off-highway vehicle as a street-legal all-terrain vehicle; and

(ii) subsequently, on the same frequency as described in Subsection 53-8-205(2) based on the age of the vehicle as determined by the model year identified by the manufacturer.

(4) (a) A safety inspection certificate shall be displayed on:

(i) all registered commercial motor vehicles with a gross vehicle weight rating of 26,000 pounds or more;

(ii) a motor vehicle with three or more axles, pulling a trailer, or pulling a trailer with multiple axles;

(iii) a combination unit; and

(iv) a bus or van for hire.

(b) A commercial vehicle under Subsection (4)(a) is exempt from the requirements of Subsection (1).

(5) A motor vehicle may be sold and the title assigned to the new owner without a valid safety inspection, but the motor vehicle may not be registered in the new owner's name until the motor vehicle complies with this section.

(6) A violation of this section is an infraction.

Section 3. Section 41-1a-214 is amended to read:

41-1a-214. Registration card to be signed, carried, and exhibited.

(1) A registration card shall be signed by the owner in ink in the space provided.

(2) A registration card shall be carried at all times in the vehicle to which it was issued.

(3) The person driving or in control of a vehicle shall display the registration card upon demand of a peace officer or any officer or employee of the division.

(4) A violation of this section is an infraction.

Section 4. Section 41-1a-218 is amended to read:

41-1a-218. Notice of change of address.

(1) If a person after making application for or obtaining a vehicle registration moves from the address named in the application, the person shall within 10 days of moving notify the division of his old and new addresses.

(2) A violation of this section is an infraction.

Section 5. Section 41-1a-220 is amended to read:

41-1a-220. Lost or damaged registration card.

(1) If a registration card is lost, mutilated, or becomes illegible the owner of the vehicle for which the registration card was issued, as shown by the records of the division, shall immediately:

[~~(1)~~] (a) apply for a duplicate;

[~~(2)~~] (b) furnish the information satisfactory to the division; and

[~~(3)~~] (c) pay the proper fees.

(2) A violation of this section is an infraction.

Section 6. Section 41-1a-221 is amended to read:

41-1a-221. Registration of vehicles of political subdivisions or state -- Renewal of registration -- Expiration of registration -- Certification of information -- Failure to comply.

(1) (a) An entity referred to in Subsection 41-1a-407(1) shall register by June 30 of each year each vehicle that it owns, operates, or leases.

(b) This section does not apply to unmarked vehicles referred to in Section 41-1a-407, which shall be registered by the expiration date on the registration card.

(2) (a) The entity shall apply to the division to renew registration pursuant to Section 41-1a-217.

(b) The division shall renew registration pursuant to Section 41-1a-216.

(3) A registration card and license plate issued to an entity under this section are in full force and effect until:

(a) the registration expires;

(b) the vehicle is no longer owned or operated by that entity; or

(c) the division takes action as provided in Subsection (6).

(4) (a) If the owner of a vehicle subject to the provisions of this section transfers or assigns title or interest in the vehicle, the registration of that vehicle expires.

(b) The transferor shall remove the license plates and within 20 days from the date of transfer forward them to the division to be destroyed.

(5) Each entity shall:

(a) account to the division annually for all "EX" license plates issued to it; and

(b) certify to the division that the information is correct.

(6) If an entity fails to comply with this section, the division may:

(a) refuse to renew the registration of its vehicles;

(b) refuse to issue it additional license plates;

(c) suspend all its vehicle registrations; and

(d) recall license plates issued to an entity refusing to comply with this section.

(6) A violation of this section is an infraction.

Section 7. Section 41-1a-229 is amended to read:

41-1a-229. Display of gross laden weight.

(1) Each vehicle registered by gross laden weight and exceeding 12,000 pounds of gross laden weight shall have the gross laden weight for which it is registered painted, stenciled, or shown by decal upon both the left and right sides of the vehicle, in a conspicuous place, in letters of a reasonable size as determined by the commission.

(2) If vehicles are registered in combination, the gross laden weight for which the combination of vehicles is registered shall be displayed upon the power unit.

(3) An owner or operator of a vehicle or combination of vehicles may not display a gross laden weight other than that shown on the certificate of registration of the vehicle.

(4) A park model recreational vehicle is exempt from this section.

(5) A violation of this section is an infraction.

Section 8. Section 41-1a-301 is amended to read:

41-1a-301. Apportioned registration and licensing of interstate vehicles.

(1) (a) An owner or operator of a fleet of commercial vehicles based in this state and operating in two or more jurisdictions may register commercial vehicles for operation under the International Registration Plan or the Uniform Vehicle Registration Proration and Reciprocity Agreement by filing an application with the division.

(b) The application shall include information that identifies the vehicle owner, the vehicle, the miles traveled in each jurisdiction, and other information

pertinent to the registration of apportioned vehicles.

(c) Vehicles operated exclusively in this state may not be apportioned.

(2) (a) If no operations were conducted during the preceding year, the application shall contain a statement of the proposed operations and an estimate of annual mileage for each jurisdiction.

(b) The division may adjust the estimate if the division is not satisfied with its correctness.

(c) At renewal, the registrant shall use the actual mileage from the preceding year in computing fees due each jurisdiction.

(3) The registration fee for apportioned vehicles shall be determined as follows:

(a) divide the in-jurisdiction miles by the total miles generated during the preceding year;

(b) total the fees for each vehicle based on the fees prescribed in Section 41-1a-1206; and

(c) multiply the sum obtained under Subsection (3)(b) by the quotient obtained under Subsection (3)(a).

(4) Trailers or semitrailers of apportioned fleets may be listed separately as "trailer fleets" with the fees paid according to the total distance those trailers were towed in all jurisdictions during the preceding year mileage reporting period.

(5) (a) (i) When the proper fees have been paid and the property tax or in lieu fee has been cleared under Section 41-1a-206 or 41-1a-207, a registration card, annual decal, and where necessary, license plate, will be issued for each unit listed on the application.

(ii) An original registration must be carried in each vehicle at all times.

(b) Original registration cards for trailers or semitrailers may be carried in the power unit.

(c) (i) In lieu of a permanent registration card or license plate, the division may issue one temporary permit authorizing operation of new or unlicensed vehicles until the permanent registration is completed.

(ii) Once a temporary permit is issued, the registration process may not be cancelled. Registration must be completed and the fees and any property tax or in lieu fee due must be paid for the vehicle for which the permit was issued.

(iii) Temporary permits may not be issued for renewals.

(d) (i) The division shall issue one distinctive license plate that displays the letters APP for apportioned vehicles.

(ii) The plate shall be displayed on the front of an apportioned truck tractor or power unit or on the rear of any apportioned vehicle.

(iii) Distinctive decals displaying the word "apportioned" and the month and year of expiration shall be issued for each apportioned vehicle.

(e) A nonrefundable administrative fee, determined by the commission pursuant to Section 63J-1-504, shall be charged for each temporary permit, registration, or both.

(6) Vehicles that are apportionally registered are fully registered for intrastate and interstate movements, providing the proper interstate and intrastate authority has been secured.

(7) (a) Vehicles added to an apportioned fleet after the beginning of the registration year shall be registered by applying the quotient under Subsection (3)(a) for the original application to the fees due for the remainder of the registration year.

(b) (i) The owner shall maintain and submit complete annual mileage for each vehicle in each jurisdiction, showing all miles operated by the lessor and lessee.

(ii) The fiscal mileage reporting period begins July 1, and continues through June 30 of the year immediately preceding the calendar year in which the registration year begins.

(c) (i) An owner-operator, who is a lessor, may be the registrant and the vehicle may be registered in the name of the owner-operator.

(ii) The identification plates and registration card shall be the property of the lessor and may reflect both the owner-operator's name and that of the carrier as lessee.

(iii) The allocation of fees shall be according to the operational records of the owner-operator.

(d) (i) The lessee may be the registrant of a leased vehicle at the option of the lessor.

(ii) If a lessee is the registrant of a leased vehicle, both the lessor's and lessee's name shall appear on the registration.

(iii) The allocation of fees shall be according to the records of the carrier.

(8) (a) Any registrant whose application for apportioned registration has been accepted shall preserve the records on which the application is based for a period of three years after the close of the registration year.

(b) The records shall be made available to the division upon request for audit as to accuracy of computations, payments, and assessments for deficiencies, or allowances for credits.

(c) An assessment for deficiency or claim for credit may not be made for any period for which records are no longer required.

(d) Interest in the amount prescribed by Section 59-1-402 shall be assessed or paid from the date due until paid on deficiencies found due after audit.

(e) Registrants with deficiencies are subject to the penalties under Section 59-1-401.

(f) The division may enter into agreements with other International Registration Plan jurisdictions for joint audits.

(9) (a) Except as provided in Subsection (9)(b), all state fees collected under this section shall be deposited in the Transportation Fund.

(b) The following fees may be used by the commission as a dedicated credit to cover the costs of electronic credentialing as provided in Section 41-1a-303:

(i) \$5 of each temporary registration permit fee paid under Subsection (12)(a)(i) for a single unit; and

(ii) \$10 of each temporary registration permit fee paid under Subsection (12)(a)(ii) for multiple units.

(10) If registration is for less than a full year, fees for apportioned registration shall be assessed according to Section 41-1a-1207.

(a) (i) If the registrant is replacing a vehicle for one withdrawn from the fleet and the new vehicle is of the same weight category as the replaced vehicle, the registrant must file a supplemental application.

(ii) A registration card that transfers the license plate to the new vehicle shall be issued.

(iii) When a replacement vehicle is of greater weight than the replaced vehicle, additional registration fees are due.

(b) If a vehicle is withdrawn from an apportioned fleet during the period for which it is registered, the registrant shall notify the division and surrender the registration card and license plate of the withdrawn vehicle.

(11) (a) An out-of-state carrier with an apportionally registered vehicle who has not presented a certificate of property tax or in lieu fee as required by Section 41-1a-206 or 41-1a-207, shall pay, at the time of registration, a proportional part of an equalized highway use tax computed as follows:

(i) Multiply the number of vehicles or combination vehicles registered in each weight class by the equivalent tax figure from the following tables:

Vehicle or Combination Registered Weight	Age of Vehicle	Equivalent Tax
12,000 pounds or less	12 or more years	\$10
12,000 pounds or less	9 or more years but less than 12 years	\$50
12,000 pounds or less	6 or more years but less than 9 years	\$80
12,000 pounds or less	3 or more years but less than 6 years	\$110
12,000 pounds or less	Less than 3 years	\$150

Vehicle or Combination Registered Weight |	Equivalent Tax
12,001 - 18,000 pounds	\$150
18,001 - 34,000 pounds	200
34,001 - 48,000 pounds	300

48,001 - 64,000 pounds 450

64,001 pounds and over 600

(ii) Multiply the equivalent tax value for the total fleet determined under Subsection (11)(a)(i) by the fraction computed under Subsection (3) for the apportioned fleet for the registration year.

(b) Fees shall be assessed as provided in Section 41-1a-1207.

(12) (a) Commercial vehicles meeting the registration requirements of another jurisdiction may, as an alternative to full or apportioned registration, secure a temporary registration permit for a period not to exceed 96 hours or until they leave the state, whichever is less, for a fee of:

(i) \$25 for a single unit; and

(ii) \$50 for multiple units.

(b) A state temporary permit or registration fee is not required from nonresident owners or operators of vehicles or combination of vehicles having a gross laden weight of 26,000 pounds or less for each single unit or combination.

(13) A park model recreational vehicle may not be registered under this section.

(14) A violation of this section is an infraction.

Section 9. Section 41-1a-401 is amended to read:

41-1a-401. License plates -- Number of plates -- Reflectorization -- Indicia of registration in lieu of or used with plates.

(1) (a) The division upon registering a vehicle shall issue to the owner:

(i) one license plate for a motorcycle, trailer, or semitrailer;

(ii) one decal for a park model recreational vehicle, in lieu of a license plate, which shall be attached in plain sight to the rear of the park model recreational vehicle;

(iii) one decal for a camper, in lieu of a license plate, which shall be attached in plain sight to the rear of the camper; and

(iv) two identical license plates for every other vehicle.

(b) The license plate or decal issued under Subsection (1)(a) is for the particular vehicle registered and may not be removed during the term for which the license plate or decal is issued or used upon any other vehicle than the registered vehicle.

(2) The division may receive applications for registration renewal, renew registration, and issue new license plates or decals at any time prior to the expiration of registration.

(3) (a) All license plates to be manufactured and issued by the division shall be treated with a fully reflective material on the plate face that provides effective and dependable reflective brightness during the service period of the license plate.

(b) The division shall prescribe all license plate material specifications and establish and

implement procedures for conforming to the specifications.

(c) The specifications for the materials used such as the aluminum plate substrate, the reflective sheeting, and glue shall be drawn in a manner so that at least two manufacturers may qualify as suppliers.

(d) The granting of contracts for the materials shall be by public bid.

(4) (a) The commission may issue, adopt, and require the use of indicia of registration it considers advisable in lieu of or in conjunction with license plates as provided in this part.

(b) All provisions of this part relative to license plates apply to these indicia of registration, so far as the provisions are applicable.

(5) A violation of this section is an infraction, except that a violation of Subsection (1)(b) is a class C misdemeanor.

Section 10. Section 41-1a-402 is amended to read:

41-1a-402. Required colors, numerals, and letters -- Expiration.

(1) Each license plate shall have displayed on it:

(a) the registration number assigned to the vehicle for which it is issued;

(b) the name of the state; and

(c) a registration decal showing the date of expiration displayed in accordance with Subsection (6).

(2) If registration is extended by affixing a registration decal to the license plate, the expiration date of the decal governs the expiration date of the license plate.

(3) Except as provided in Subsection (4), each original license plate that is not one of the special group license plates issued under Section 41-1a-418 shall be a:

(a) statehood centennial license plate with the same color, design, and slogan as the plates issued in conjunction with the statehood centennial; or

(b) Ski Utah license plate.

(4) Beginning on the date that the division determines the existing inventories of statehood centennial license plates and Ski Utah license plates are exhausted, each license plate that is not one of the special group license plates issued under Section 41-1a-418 shall:

(a) display the "Life Elevated" slogan; and

(b) have a color and design approved by the 57th Legislature in the 2007 General Session that features:

(i) a skier with the "Greatest Snow on Earth" slogan; or

(ii) Delicate Arch.

(5) (a) Except as provided under Subsection 41-1a-215(2), license plates shall be renewed annually.

(b) (i) The division shall issue the vehicle owner a month decal and a year decal upon the vehicle's first registration with the division.

(ii) The division shall issue the vehicle owner only a year decal upon subsequent renewals of registration to validate registration renewal.

(6) The decals issued in accordance with Subsection (5) shall be applied as follows:

(a) for license plates issued beginning in 1974 through 1985, decals displayed on license plates with black lettering on a white background shall be applied to the lower left-hand corner of the rear of the license plate vehicles;

(b) decals displayed on statehood centennial license plates and on Ski Utah license plates issued in accordance with Subsection (3) shall be applied to the upper left-hand corner of the rear license plate;

(c) decals displayed on special group license plates issued in accordance with Section 41-1a-418 shall be applied to the upper right-hand corner of the license plate unless there is a plate indentation on the upper left-hand corner of the license plate;

(d) decals displayed on license plates with the "Life Elevated" slogan issued in accordance with Subsection (4) shall be applied in the upper left-hand corner for the month decal and the upper right-hand corner for the year decal;

(e) decals issued for truck tractors shall be applied to the front license plate in the position described in Subsection (6)(a), (b), or (d);

(f) decals issued for motorcycles shall be applied to the upper corner of the license plate opposite the word "Utah"; and

(g) decals displayed on license plates issued under Section 41-1a-416 shall be applied as appropriate for the year of the plate.

(7) (a) The month decal issued in accordance with Subsection (5) shall be displayed on the license plate in the left position.

(b) The year decal issued in accordance with Subsection (5) shall be displayed on the license plate in the right position.

(8) The current year decal issued in accordance with Subsection (5) shall be placed over the previous year decal.

(9) If a license plate, month decal, or year decal is lost or destroyed, a replacement shall be issued upon application and payment of the fees required under Section 41-1a-1211 or 41-1a-1212.

(10) A violation of this section is an infraction.

Section 11. Section 41-1a-403 is amended to read:

41-1a-403. Plates to be legible from 100 feet.

(1) License plates and the required letters and numerals on them, except the decals and the slogan,

shall be of sufficient size to be plainly readable from a distance of 100 feet during daylight.

(2) A violation of this section is an infraction.

Section 12. Section 41-1a-404 is amended to read:

41-1a-404. Location and position of plates.

(1) License plates issued for a vehicle other than a motorcycle, trailer, or semitrailer shall be attached to the vehicle, one in the front and the other in the rear.

(2) The license plate issued for a motorcycle, trailer, or semitrailer shall be attached to the rear of the motorcycle, trailer, or semitrailer.

(3) Every license plate shall at all times be:

(a) securely fastened:

(i) in a horizontal position to the vehicle for which it is issued to prevent the plate from swinging;

(ii) at a height of not less than 12 inches from the ground, measuring from the bottom of the plate; and

(iii) in a place and position to be clearly visible; and

(b) maintained:

(i) free from foreign materials; and

(ii) in a condition to be clearly legible.

(4) Enforcement by a state or local law enforcement officer of the requirement under Subsection (1) to attach a license plate to the front of a vehicle shall be only as a secondary action when the vehicle has been detained for a suspected violation by any person in the vehicle of Title 41, Motor Vehicles, other than the requirement under Subsection (1) to attach a license plate to the front of the vehicle, or for another offense.

(5) A violation of this section is an infraction.

Section 13. Section 41-1a-414 is amended to read:

41-1a-414. Parking privileges for persons with disabilities.

(1) As used in this section, "accessible parking space" means a parking space that is clearly identified as reserved for use by a person with a disability and includes:

(a) vertical signage, including the international symbol of accessibility, that is visible from a passing vehicle; and

(b) a clearly marked access aisle, if provided, that is adjacent to and considered part of the parking space.

(2) Except in parking areas designated for emergency use, a person with a disability, qualifying under rules made in accordance with Section 41-1a-420, may park an appropriately marked vehicle for reasonable periods without charge in metered parking zones and restricted

parking areas, in a manner that allows proper access to the vehicle by the person with a disability.

(3) (a) Only those vehicles carrying a person with a disability special group license plate, temporary removable windshield placard, or removable windshield placard and transporting a qualifying person with a disability may park in an accessible parking space.

(b) A violation of Subsection (3)(a) is a class C misdemeanor.

(4) This section applies to and may be enforced on public property and on private property that is used or intended for use by the public.

(5) The parking privileges granted by this section also apply to vehicles displaying a person with a disability special group license plate, temporary removable windshield placard, or removable windshield placard issued by another jurisdiction if displayed on a vehicle being used by a person with a disability.

Section 14. Section 41-1a-701 is amended to read:

41-1a-701. Transfer by owner -- Removal of plates.

(1) If the owner of a registered vehicle transfers his title or interest to the vehicle the registration of the vehicle expires. The owner shall remove the license plates from the transferred vehicle.

(2) Within 20 days from the date of transfer the owner shall forward the plates to the division to be destroyed or may have the plates and the registration number assigned to another vehicle, subject to the rules of the division.

(3) A violation of this section is an infraction.

Section 15. Section 41-1a-702 is amended to read:

41-1a-702. Endorsement of assignment and warranty of title -- Co-owners.

(1) (a) To transfer a vehicle, vessel, or outboard motor the owner shall endorse the certificate of title issued for the vehicle, vessel, or outboard motor in the space for assignment and warranty of title.

(b) The endorsement and assignment shall include a statement of all liens or encumbrances on the vehicle, vessel, or outboard motor.

(c) Upon the endorsement and assignment of a certificate of title, the same certificate of title may not be reendorsed and reassigned to a new owner except as provided in Section 41-1a-705.

(2) (a) If a title certificate reflects the names of two or more people as co-owners in the alternative by use of the word "or" or "and/or," each co-owner is considered to have granted the other co-owners the absolute right to endorse and deliver title and to dispose of the vehicle, vessel, or outboard motor.

(b) If the title certificate reflects the names of two or more people as co-owners in the conjunctive by use of the word "and," or the title does not reflect any alternative or conjunctive word, the endorsement of

each co-owner is required to transfer title to the vehicle, vessel, or outboard motor.

(3) The owner shall deliver the certificate of title containing the odometer disclosure statement required under Section 41-1a-902 and the certificate of registration to the purchaser or transferee at the time of, or within 48 hours after delivering the vehicle, vessel, or outboard motor, as applicable, except as provided for under Sections 41-3-301, 41-1a-519, and 41-1a-709.

(4) A violation of this section is an infraction, except that a violation of Subsection (3) is a class C misdemeanor.

Section 16. Section 41-1a-703 is amended to read:

41-1a-703. New owner to secure new registration and new certificate of title.

(1) The transferee before operating or permitting the operation of a transferred vehicle on a highway shall present to the division the certificate of registration and the certificate of title, properly endorsed, and shall apply for a new certificate of title and obtain a new registration for the transferred vehicle, as upon an original registration, except as permitted under Sections 41-1a-223, 41-1a-520, and 41-1a-704.

(2) A violation of this section is an infraction.

Section 17. Section 41-1a-704 is amended to read:

41-1a-704. Transfer by operation of law.

(1) Except as provided under Subsection (2), if the title or interest of an owner in or to a registered vehicle passes to another person other than by voluntary transfer:

(a) the registration of the vehicle expires; and

(b) the vehicle may not be operated upon a highway until the person entitled to possession of the vehicle applies for and obtains a valid registration or temporary permit.

(2) (a) A vehicle under Subsection (1) may be operated on the highways by the person entitled to its possession or his legal representative, for a distance not exceeding 75 miles, upon displaying on the vehicle the license plates issued to the former owner.

(b) If title is vested in a person holding a lien or encumbrance on the vehicle, the new title holder may apply to the Motor Vehicle Enforcement Division for special plates issued under Section 41-3-505 to transporters and may operate the repossessed vehicle under the special plate for the purposes of:

(i) transporting the vehicle to a garage or warehouse; or

(ii) demonstrating the vehicle for sale.

(3) A violation of this section is an infraction.

Section 18. Section 41-1a-803 is amended to read:

41-1a-803. Identification numbers -- Assigning numbers -- Requirement for sale.

(1) (a) If a vehicle, vessel, or outboard motor has a permanent manufacturer's identification number, the number shall be used as the vehicle's, vessel's, or outboard motor's identification number.

(b) If it has no permanent manufacturer's identification number, the division shall assign an identification number to it.

(c) An identification number assigned by the division shall be permanently affixed or imprinted on the vehicle, vessel, or outboard motor as directed by the division.

(2) A person may not sell or offer for sale in this state a new vehicle, vessel, or outboard motor without an identification number.

(3) (a) Each permanent manufacturer's identification number for a vehicle shall be clearly marked in an accessible place on a vehicle.

(b) (i) Each permanent manufacturer's identification number for a vessel shall be clearly marked in an accessible place on the starboard outboard side of the transom or to the starboard outboard side of the hull.

(ii) If the permanent manufacturer's identification number is displayed in a location other than on or near the starboard outboard side of the transom, the manufacturer shall notify the division of its location.

(4) A person may not destroy, remove, alter, or cover an identification number.

(5) A violation of this section is an infraction, except that Subsection (4) is a class C misdemeanor.

Section 19. Section 41-1a-904 is amended to read:

41-1a-904. Retention of statements by dealers -- Inspection.

(1) Each dealer required to execute and furnish an odometer mileage disclosure statement under Section 41-1a-902 shall retain at its primary place of business for four years after each transfer of a motor vehicle each statement that he receives and a legible copy of each statement that he issues in connection with those transfers.

(2) These statements shall be available for inspection by, and copies shall be furnished to, any peace officer during reasonable business hours.

(3) A violation of this section is an infraction.

Section 20. Section 41-1a-1206 is amended to read:

41-1a-1206. Registration fees -- Fees by gross laden weight.

(1) Except as provided in Subsections (2) and (3), at the time application is made for registration or

renewal of registration of a vehicle or combination of vehicles under this chapter, a registration fee shall be paid to the division as follows:

- (a) \$44.50 for each motorcycle;
 - (b) \$43 for each motor vehicle of 12,000 pounds or less gross laden weight, excluding motorcycles;
 - (c) unless the semitrailer or trailer is exempt from registration under Section 41-1a-202 or is registered under Section 41-1a-301:
 - (i) \$31 for each trailer or semitrailer over 750 pounds gross unladen weight; or
 - (ii) \$28.50 for each commercial trailer or commercial semitrailer of 750 pounds or less gross unladen weight;
 - (d) (i) \$53 for each farm truck over 12,000 pounds, but not exceeding 14,000 pounds gross laden weight; plus
 - (ii) \$9 for each 2,000 pounds over 14,000 pounds gross laden weight;
 - (e) (i) \$69.50 for each motor vehicle or combination of motor vehicles, excluding farm trucks, over 12,000 pounds, but not exceeding 14,000 pounds gross laden weight; plus
 - (ii) \$19 for each 2,000 pounds over 14,000 pounds gross laden weight;
 - (f) (i) \$69.50 for each park model recreational vehicle over 12,000 pounds, but not exceeding 14,000 pounds gross laden weight; plus
 - (ii) \$19 for each 2,000 pounds over 14,000 pounds gross laden weight; and
 - (g) \$45 for each vintage vehicle that is less than 40 years old.
- (2) At the time application is made for registration or renewal of registration of a vehicle under this chapter for a six-month registration period under Section 41-1a-215.5, a registration fee shall be paid to the division as follows:
- (a) \$33.50 for each motorcycle; and
 - (b) \$32.50 for each motor vehicle of 12,000 pounds or less gross laden weight, excluding motorcycles.
- (3) (a) The initial registration fee for a vintage vehicle that is 40 years old or older is \$40.
- (b) A vintage vehicle that is 40 years old or older is exempt from the renewal of registration fees under Subsection (1).
- (c) A vehicle with a Purple Heart special group license plate issued in accordance with Section 41-1a-421 is exempt from the registration fees under Subsection (1).
- (d) A camper is exempt from the registration fees under Subsection (1).
- (4) If a motor vehicle is operated in combination with a semitrailer or trailer, each motor vehicle shall register for the total gross laden weight of all

units of the combination if the total gross laden weight of the combination exceeds 12,000 pounds.

(5) (a) Registration fee categories under this section are based on the gross laden weight declared in the licensee's application for registration.

(b) Gross laden weight shall be computed in units of 2,000 pounds. A fractional part of 2,000 pounds is a full unit.

(6) The owner of a commercial trailer or commercial semitrailer may, as an alternative to registering under Subsection (1)(c), apply for and obtain a special registration and license plate for a fee of \$130.

(7) Except as provided in Section 41-6a-1642, a truck may not be registered as a farm truck unless:

(a) the truck meets the definition of a farm truck under Section 41-1a-102; and

(b) (i) the truck has a gross vehicle weight rating of more than 12,000 pounds; or

(ii) the truck has a gross vehicle weight rating of 12,000 pounds or less and the owner submits to the division a certificate of emissions inspection or a waiver in compliance with Section 41-6a-1642.

(8) A violation of Subsection (7) is a class ~~B~~ C misdemeanor that shall be punished by a fine of not less than \$200.

(9) Trucks used exclusively to pump cement, bore wells, or perform crane services with a crane lift capacity of five or more tons, are exempt from 50% of the amount of the fees required for those vehicles under this section.

Section 21. Section 41-1a-1302 is amended to read:

41-1a-1302. Infraction.

A violation of any provision of this chapter is [~~a class C misdemeanor~~] an infraction, unless otherwise provided.

Section 22. Section 41-1a-1303 is amended to read:

41-1a-1303. Driving without registration or certificate of title.

(1) Except as provided in Section 41-1a-211 or 41-1a-1303.5, a person may not drive or move, or an owner may not knowingly permit to be driven or moved upon any highway any vehicle of a type required to be registered in this state:

~~(1)~~ (a) that is not properly registered or for which a certificate of title has not been issued or applied for; or

~~(2)~~ (b) for which the required fee has not been paid.

(2) A violation of this section is an infraction.

Section 23. Section 41-1a-1303.5 is amended to read:

41-1a-1303.5. Driving without registration or certificate of title -- Class C misdemeanor.

(1) (a) A violation of Subsection 41-1a-202(3), related to registration of vehicles after establishing residency, is a class [B] C misdemeanor and, except as provided in Subsection (1)(b), has a minimum fine of \$1,000.

(b) A court may not dismiss an action brought for a violation of Subsection 41-1a-202(3) merely because the defendant has obtained the appropriate registration subsequent to violating the section. The court may, however, reduce the fine to \$200 if the violator presents evidence at the time of the hearing that:

(i) the vehicle is currently registered properly; and

(ii) the violation has not existed for more than one year.

(2) A court may require proof of proper motor vehicle registration as part of any sentence imposed under this section.

Section 24. Section 41-1a-1304 is amended to read:

41-1a-1304. Operating motor vehicle, trailer, or semitrailer in excess of registered gross laden weight -- Infraction.

It is [~~a class C misdemeanor~~] an infraction for a person to operate, or cause to be operated, a motor vehicle, trailer, or semitrailer, or combination of them the gross laden weight of which is in excess of the gross laden weight for which the motor vehicle, trailer, or semitrailer, or combination of vehicles is registered.

Section 25. Section 41-1a-1307 is amended to read:

41-1a-1307. Operation of motor vehicles, trailers, or semitrailers without payment of fees -- Infraction.

(1) It is [~~a class C misdemeanor~~] an infraction for a person to operate a motor vehicle, trailer, or semitrailer upon the highways without having paid the title and registration or transfer fees and taxes required by law.

(2) In addition to any other penalty, the owner of a motor vehicle, trailer, or semitrailer operated in violation of this section shall pay a penalty equal to title and registration fees in addition to any other fee required under this chapter.

(3) A court may require proof of proper vehicle registration as part of any sentence imposed under this section.

Section 26. Section 41-1a-1310 is amended to read:

41-1a-1310. Failure to deliver title -- Odometer offenses.

(1) It is [~~a class B misdemeanor~~] an infraction for any person to:

[(4)] (a) fail to properly endorse and deliver a valid certificate of title to a vehicle, vessel, or outboard motor to a transferee or owner lawfully entitled to it in accordance with Section 41-1a-702, except as provided for under Sections 41-3-301, 41-1a-519, and 41-1a-709; or

[(2)] (b) fail to give an odometer disclosure statement to the transferee as required by Section 41-1a-902[~~5~~].

(2) It is a class B misdemeanor to:

[(3)] (a) operate, or cause to be operated, a motor vehicle knowing that the odometer is disconnected or nonfunctional, except while moving the motor vehicle to a place of repair;

[(4)] (b) offer for sale, sell, use, or install on any part of a motor vehicle or on an odometer in a motor vehicle any device that causes the odometer to register miles or kilometers other than the true miles or kilometers driven as registered by the odometer within the manufacturer's designed tolerance;

[(5)] (c) fail to adjust an odometer or affix a notice as required by Section 41-1a-906 regarding the adjustment;

[(6)] (d) remove, alter, or cause to be removed or altered any notice of adjustment affixed to a motor vehicle as required by Section 41-1a-906; or

(e) accept or give an incomplete odometer statement when an odometer statement is required under Section 41-1a-902.

[(7)] (3) It is a class C misdemeanor to fail to record the odometer reading on the certificate of title at the time of transfer[~~5 or 6~~].

[(8) ~~accept or give an incomplete odometer statement when an odometer statement is required under Section 41-1a-902.~~]

Section 27. Section 41-6a-202 is amended to read:

41-6a-202. Violations of chapter -- Penalties -- Acceptance of plea of guilty.

(1) As used in this section, "serious bodily injury" is as defined in Section 41-6a-401.3.

(2) A violation of any provision of this chapter is [~~a class C misdemeanor~~] an infraction, unless otherwise provided.

(3) A violation of any provision of Parts 2, 11, 17, and 18 of this chapter is an infraction, unless otherwise provided.

(4) (a) If a person has received a citation for a moving traffic violation under this chapter that resulted in a collision and any person involved in the collision sustained serious bodily injury or death as a proximate result of the collision, a court may not accept a plea of guilty or no contest to a charge for the moving traffic violation unless the prosecutor agrees to the plea:

(i) in open court;

(ii) in writing; or

(iii) by another means of communication which the court finds adequate to record the prosecutor's agreement.

(b) A peace officer that issues a citation for a moving traffic violation under this chapter shall record on the citation whether the moving traffic violation resulted in a collision in which any person involved in the collision sustained serious bodily injury or death as a proximate result of the traffic collision.

Section 28. Section 41-6a-216 is amended to read:

41-6a-216. Removal of plants or other obstructions impairing view -- Notice to owner -- Penalty.

(1) The owner of real property shall remove from his property any tree, plant, shrub, or other obstruction, or part of it that constitutes a traffic hazard by obstructing the view of an operator of a vehicle on a highway.

(2) When a highway authority determines on the basis of an engineering and traffic investigation that a traffic hazard exists, it shall notify the owner and order that the hazard be removed within 10 days.

(3) The failure of the owner to remove the traffic hazard within 10 days is ~~a class C misdemeanor~~ an infraction.

Section 29. Section 41-6a-304 is amended to read:

41-6a-304. Obeying devices -- Effect of improper position, illegibility, or absence -- Presumption of lawful placement and compliance with chapter.

(1) (a) Except as otherwise directed by a peace officer or other authorized personnel under Section 41-6a-209 and except as provided under Section 41-6a-212 for authorized emergency vehicles, the operator of a vehicle shall obey the instructions of any traffic-control device placed or held in accordance with this chapter.

(b) A violation of Subsection (1)(a) is an infraction.

(2) (a) Any provision of this chapter, for which a traffic-control device is required, may not be enforced if at the time and place of the alleged violation the traffic-control device is not in proper position and sufficiently legible to be seen by an ordinarily observant person.

(b) The provisions of this chapter are effective independently of the placement of a traffic-control device unless the provision requires the placement of a traffic-control device prior to its enforcement.

(3) A traffic-control device placed or held in a position approximately conforming to the requirements of this chapter is presumed to have been placed or held by the official act or direction of a highway authority or other lawful authority, unless the contrary is established by competent evidence.

(4) A traffic-control device placed or held under this chapter and purporting to conform to the lawful requirements of the device is presumed to comply with the requirements of this chapter, unless the contrary is established by competent evidence.

Section 30. Section 41-6a-305 is amended to read:

41-6a-305. Traffic-control signal -- At intersections -- At place other than intersection -- Color of light signal -- Inoperative traffic-control signals -- Affirmative defense.

(1) (a) Green, red, and yellow are the only colors that may be used in a traffic-control signal, except for a:

(i) pedestrian traffic-control signal that may use white and orange; and

(ii) rail vehicle that may use white.

(b) Traffic-control signals apply to the operator of a vehicle and to a pedestrian as provided in this section.

(2) (a) (i) Except as provided in Subsection (2)(a)(ii), the operator of a vehicle facing a circular green signal may:

(A) proceed straight through the intersection;

(B) turn right; or

(C) turn left.

(ii) The operator of a vehicle facing a circular green signal, including an operator turning right or left:

(A) shall yield the right-of-way to other vehicles and to pedestrians lawfully within the intersection or an adjacent crosswalk at the time the signal is exhibited; and

(B) may not turn right or left if a sign at the intersection prohibits the turn.

(b) The operator of a vehicle facing a green arrow signal shown alone or in combination with another indication:

(i) may cautiously enter the intersection only to make the movement indicated by the arrow or other indication shown at the same time; and

(ii) shall yield the right-of-way to pedestrians lawfully within an adjacent crosswalk and to other traffic lawfully using the intersection.

(c) Unless otherwise directed by a pedestrian traffic-control signal under Section 41-6a-306, a pedestrian facing any green signal other than a green turn arrow may proceed across the roadway within any marked or unmarked crosswalk.

(3) (a) The operator of a vehicle facing a steady circular yellow or yellow arrow signal is warned that the allowable movement related to a green signal is being terminated.

(b) Unless otherwise directed by a pedestrian traffic-control signal under Section 41-6a-306, a pedestrian facing a steady circular yellow or yellow

arrow signal is advised that there is insufficient time to cross the roadway before a red indication is shown, and a pedestrian may not start to cross the roadway.

(4) (a) Except as provided in Subsection (4)(c), the operator of a vehicle facing a steady circular red or red arrow signal:

(i) may not enter the intersection unless entering the intersection to make a movement is permitted by another indication; and

(ii) shall stop at a clearly marked stop line, but if none, before entering the marked or unmarked crosswalk on the near side of the intersection and shall remain stopped until an indication to proceed is shown.

(b) Unless otherwise directed by a pedestrian traffic-control signal under Section 41-6a-306, a pedestrian facing a steady red signal alone may not enter the roadway.

(c) (i) (A) The operator of a vehicle facing a steady circular red signal may cautiously enter the intersection to turn right, or may turn left from a one-way street into a one-way street, after stopping as required by Subsection (4)(a).

(B) If permitted by a traffic control device on the state highway system, the operator of a vehicle facing a steady red arrow signal may cautiously enter the intersection to turn left from a one-way street into a one-way street after stopping as required by Subsection (4)(a).

(ii) The operator of a vehicle under Subsection (4)(c)(i) shall yield the right-of-way to:

(A) another vehicle moving through the intersection in accordance with an official traffic-control signal; and

(B) a pedestrian lawfully within an adjacent crosswalk.

(5) (a) This section applies to a highway or rail line where a traffic-control signal is erected and maintained.

(b) Any stop required shall be made at a sign or marking on the highway pavement indicating where the stop shall be made, but, in the absence of any sign or marking, the stop shall be made at the signal.

(6) The operator of a vehicle approaching an intersection that has an inoperative traffic-control signal shall:

(a) stop before entering the intersection; and

(b) yield the right-of-way to any vehicle as required under Section 41-6a-901.

(7) (a) For an operator of a motorcycle, moped, or bicycle who is 16 years of age or older, it is an affirmative defense to a violation of Subsection (4)(a) if the operator of a motorcycle, moped, or bicycle facing a steady circular red signal or red arrow:

(i) brings the motorcycle, moped, or bicycle to a complete stop at the intersection or stop line;

(ii) determines that:

(A) the traffic-control signal has not detected the operator's presence by waiting a reasonable period of time of not less than 90 seconds at the intersection or stop line before entering the intersection;

(B) no other vehicle that is entitled to have the right-of-way under applicable law is sitting at, traveling through, or approaching the intersection; and

(C) no pedestrians are attempting to cross at or near the intersection in the direction of travel of the operator; and

(iii) cautiously enters the intersection and proceeds across the roadway.

(b) The affirmative defense under this section does not apply at an active railroad grade crossing as defined in Section 41-6a-1005.

(8) A violation of this section is an infraction.

Section 31. Section 41-6a-306 is amended to read:

41-6a-306. Pedestrian traffic-control signals -- Rights and duties.

(1) A pedestrian facing a steady "Walk" or symbol of "Walking Person" of a pedestrian traffic-control signal has the right-of-way and may proceed across the roadway in the direction of the signal.

(2) A pedestrian facing a flashing "Don't Walk" or "Upraised Hand" of a pedestrian traffic-control signal may not start to cross the roadway in the direction of the signal, but a pedestrian who has partially completed crossing on the walk signal shall proceed to a sidewalk or safety island.

(3) A pedestrian facing a steady "Don't Walk" or "Upraised Hand" of a pedestrian traffic-control signal may not enter the roadway in the direction of the signal.

(4) A violation of this section is an infraction.

Section 32. Section 41-6a-307 is amended to read:

41-6a-307. Flashing red or yellow signals -- Rights and duties of operators -- Railroad grade crossings excluded.

(1) Except as provided under Section 41-6a-1203 regarding railroad grade [crossing] crossings, the:

~~(1)~~ (a) operator of a vehicle facing an illuminated flashing red stop signal used in a traffic-control signal or with a traffic sign shall stop at a clearly marked stop line, but if none, before entering the crosswalk on the nearest side of the intersection, or if none, then at a point nearest the intersecting roadway where the operator has a view of approaching traffic on the intersecting roadway before entering;

~~(2)~~ (b) right to proceed is subject to the rules applicable after making a stop at a stop sign; and

~~[(3)]~~ (c) operator of a vehicle facing an illuminated flashing yellow caution signal may cautiously proceed through the intersection or cautiously proceed past the signal.

(2) A violation of this section is an infraction.

Section 33. Section 41-6a-308 is amended to read:

41-6a-308. Lane use control signals -- Colors.

(1) The operator of a vehicle facing a traffic-control signal placed to control individual lane use shall obey the signal as follows:

~~[(1)]~~ (a) Green signal -- vehicular traffic may travel in any lane over which a green signal is shown.

~~[(2)]~~ (b) Steady yellow signal -- vehicular traffic is warned that a lane control change is being made.

~~[(3)]~~ (c) Steady red signal -- vehicular traffic may not enter or travel in any lane over which a red signal is shown.

~~[(4)]~~ (d) Flashing yellow signal -- vehicular traffic may use the lane only for the purpose of approaching and making a left turn.

(2) A violation of this section is an infraction.

Section 34. Section 41-6a-309 is amended to read:

41-6a-309. Prohibition of unauthorized signs, signals, lights, or markings -- Commercial advertising -- Public nuisance -- Removal.

(1) Except as provided in Section 41-6a-310, a person may not place, maintain, or display upon or in view of any highway any unauthorized sign, signal, light, marking, or device which:

(a) purports to be or which resembles a traffic-control device or railroad sign or signal, or authorized emergency vehicle flashing light;

(b) attempts to direct the movement of traffic;

(c) hides from view or interferes with the effectiveness of a traffic-control device or any railroad sign or signal; or

(d) blinds or dazzles an operator on any adjacent highway.

(2) Except as provided under Section 72-7-504 regarding logo advertising, a person may not place or maintain any commercial advertising on any traffic-control device.

(3) The provisions of Subsections (1) and (2) do not prohibit a sign on private property adjacent to a highway providing directional information in a manner that may not be mistaken for a traffic-control device.

(4) Every prohibited sign, signal, or light, or marking is a public nuisance and the highway authority having jurisdiction over the highway may remove it or cause it to be removed without notice.

(5) A violation of this section is an infraction.

Section 35. Section 41-6a-311 is amended to read:

41-6a-311. Interference with traffic-control devices prohibited -- Traffic signal preemption device prohibited -- Exceptions -- Defense.

(1) Except as provided in Subsection (3), a person may not alter, deface, damage, knock down, or remove any:

(a) traffic-control device;

(b) traffic-monitoring device; or

(c) railroad traffic-control device.

(2) Except as provided in Subsection (3), a person may not:

(a) knowingly use a traffic signal preemption device to interfere with the authorized operation or the authorized cycle of a traffic-control signal; or

(b) operate a motor vehicle on a highway while in possession of a traffic signal preemption device.

(3) The provisions of Subsections (1) and (2) do not apply to a person authorized by the highway authority or railroad authority with jurisdiction over the device.

(4) A violation of Subsection (1) or (2) is a class C misdemeanor.

~~[(4)]~~ (5) It is an affirmative defense to a charge under Subsection (2)(b) that the traffic signal preemption device was inoperative and could not be readily used at the time of the citation or arrest.

Section 36. Section 41-6a-401 is amended to read:

41-6a-401. Accident involving property damage -- Duties of operator, occupant, and owner -- Exchange of information -- Notification of law enforcement -- Penalties.

(1) As used in this section, "reason to believe" means information from which a reasonable person would believe that the person may have been involved in an accident.

(2) (a) The operator of a vehicle who has reason to believe that the operator may have been involved in an accident resulting only in damage to another vehicle or other property:

(i) may move the vehicle as soon as possible off the roadway or freeway main lines, shoulders, medians, or adjacent areas to the nearest safe location on an exit ramp shoulder, a frontage road, the nearest suitable cross street, or other suitable location that does not obstruct traffic; and

(ii) shall remain at the scene of the accident or the location described in Subsection (2)(a)(i) until the operator has fulfilled the requirements of this section.

(b) Moving a vehicle as required under Subsection (2)(a)(i) does not affect the determination of fault for an accident.

(c) If the operator has reason to believe that the operator may have been involved in an accident resulting in damage to another vehicle or other property only after leaving the scene of the accident, the operator shall immediately comply as nearly as possible with the requirements of this section.

(3) Except as provided under Subsection (6), if the vehicle or other property is operated, occupied, or attended by any person or if the owner of the vehicle or property is present, the operator of the vehicle involved in the accident shall:

(a) give to the persons involved:

(i) the operator's name, address, and the registration number of the vehicle being operated; and

(ii) the name of the insurance provider covering the vehicle being operated including the phone number of the agent or provider; and

(b) upon request and if available, exhibit the operator's license to:

(i) any investigating peace officer present;

(ii) the operator, occupant of, or person attending the vehicle or other property damaged in the accident; and

(iii) the owner of property damaged in the accident, if present.

(4) The operator of a vehicle involved in an accident shall immediately and by the quickest means of communication available give notice or cause to give notice of the accident to the nearest office of a law enforcement agency if the accident resulted in property damage to an apparent extent of \$1,500 or more.

(5) Except as provided under Subsection (6), if the vehicle or other property damaged in the accident is unattended, the operator of the vehicle involved in the accident shall:

(a) locate and notify the operator or owner of the vehicle or the owner of other property damaged in the accident of the operator's name, address, and the registration number of the vehicle causing the damage; or

(b) attach securely in a conspicuous place on the vehicle or other property a written notice giving the operator's name, address, and the registration number of the vehicle causing the damage.

(6) The operator of a vehicle that provides the information required under this section to an investigating peace officer at the scene of the accident is exempt from providing the information to other persons required under this section.

~~[(7) (a) A person who violates the provisions of Subsection (2) is guilty of a class B misdemeanor.]~~

~~[(b) A person who violates the provision of Subsection (5) is guilty of a class B misdemeanor.]~~

(7) A violation of this section is a class C misdemeanor.

Section 37. Section 41-6a-401.7 is amended to read:

41-6a-401.7. Accident involving injury, death, or property damage -- Duties of operator, occupant, and owner -- Exchange of information -- Notification of law enforcement -- Penalties.

(1) The operator of a vehicle involved in an accident under Section 41-6a-401.3 or 41-6a-401.5 shall:

(a) give to the persons involved:

(i) the operator's name, address, and the registration number of the vehicle being operated; and

(ii) the name of the insurance provider covering the vehicle being operated including the phone number of the agent or provider;

(b) upon request and if available, exhibit the operator's license to:

(i) any investigating peace officer present;

(ii) the person struck;

(iii) the operator, occupant of, or person attending the vehicle or other property damaged in the accident; and

(iv) the owner of property damaged in the accident, if present; and

(c) render to any person injured in the accident reasonable assistance, including transporting or making arrangements for transporting, of the injured person to a physician or hospital for medical treatment if:

(i) it is apparent that treatment is necessary; or

(ii) transportation is requested by the injured person.

(2) The operator of a vehicle involved in an accident under Section 41-6a-401.3 or 41-6a-401.5 shall immediately and by the quickest means of communication available give notice or cause to give notice of the accident to the nearest office of a law enforcement agency.

(3) The occupant of a vehicle involved in an accident under Section 41-6a-401.3 or 41-6a-401.5 who is not the operator of the vehicle shall give or cause to give the immediate notice required under Subsection (2) if:

(a) the operator of a vehicle involved in an accident is physically incapable of giving the notice; and

(b) the occupant is capable of giving an immediate notice.

(4) Except as provided under Subsection (5), if a vehicle or other property damaged in the accident is unattended, the operator of the vehicle involved in the accident shall:

(a) locate and notify the operator or owner of the vehicle or the owner of other property damaged in the accident of the operator's name, address, and

the registration number of the vehicle causing the damage; or

(b) attach securely in a conspicuous place on the vehicle or other property a written notice giving the operator's name, address, and the registration number of the vehicle causing the damage.

(5) The operator of a vehicle that provides the information required under this section to an investigating peace officer at the scene of the accident is exempt from providing the information to other persons required under this section.

~~[(6) A person who violates Subsection (4) is guilty of a class B misdemeanor.]~~

(6) A violation of this section is a class C misdemeanor.

Section 38. Section 41-6a-402 is amended to read:

41-6a-402. Accident reports -- Duty of operator and investigative officer to file.

(1) The department may require any operator of a vehicle involved in an accident resulting in injury to or death of any person or total property damage to the apparent extent of \$1,500 or more to file within 10 days after the request:

(a) a report of the accident to the department in a manner specified by the department; and

(b) a supplemental report when the original report is insufficient in the opinion of the department.

(2) The department may require witnesses of accidents to file reports to the department.

(3) (a) An accident report is not required under this section from any person who is physically incapable of making a report, during the period of incapacity.

(b) If the operator is physically incapable of making an accident report under this section and the operator is not the owner of the vehicle, the owner of the vehicle involved in the accident shall within 15 days after becoming aware of the accident make the report required of the operator under this section.

(4) (a) The department shall, upon request, supply to law enforcement agencies, justice court judges, sheriffs, garages, and other appropriate agencies or individuals forms for accident reports required under this part.

(b) A request for an accident report form under Subsection (4)(a) shall be made in a manner specified by the division.

(c) The accident reports shall:

(i) provide sufficient detail to disclose the cause, conditions then existing, and the persons and vehicles involved in the accident; and

(ii) contain all of the information required that is available.

(5) (a) A person shall file an accident report if required under this section.

(b) The department shall suspend the license or permit to operate a motor vehicle and any nonresident operating privileges of any person failing to file an accident report in accordance with this section.

(c) The suspension under Subsection (5)(b) shall be in effect until the report has been filed except that the department may extend the suspension not to exceed 30 days.

(6) (a) A peace officer who, in the regular course of duty, investigates a motor vehicle accident described under Subsection (1) shall file an electronic copy of the report of the accident with the department within 10 days after completing the investigation.

(b) The accident report shall be made either at the time of and at the scene of the accident or later by interviewing participants or witnesses.

(7) The accident reports required to be filed with the department under this section and the information in them are protected and confidential and may be disclosed only as provided in Section 41-6a-404.

(8) (a) In addition to the reports required under this part, a local highway authority may, by ordinance, require that for each accident that occurs within its jurisdiction, the operator of a vehicle involved in an accident, or the owner of the vehicle involved in an accident, shall file with the local law enforcement agency a report of the accident or a copy of any report required to be filed with the department under this part.

(b) All reports are for the confidential use of the municipal department and are subject to the provisions of Section 41-6a-404.

(9) A violation of this section is an infraction.

Section 39. Section 41-6a-405 is amended to read:

41-6a-405. Garage keeper to report damaged vehicle without damage sticker.

(1) (a) The person in charge of any garage or repair shop shall make a report to the nearest law enforcement agency within 24 hours of receiving a vehicle which shows evidence of having been:

(i) involved in an accident for which an accident report may be requested under Section 41-6a-402; or

(ii) struck by any bullet.

(b) The report required under Subsection (1)(a) shall include the:

(i) vehicle identification number;

(ii) registration number; and

(iii) name and address of the owner or operator of the vehicle.

(2) If a damaged vehicle sticker describing the damage is affixed to the vehicle by a peace officer, a report under Subsection (1) is not required.

(3) A violation of Subsection (1) is an infraction.

Section 40. Section 41-6a-407 is amended to read:

41-6a-407. Livestock on highway -- Restrictions -- Collision, action for damages.

(1) (a) A person who owns or is in possession or control of any livestock may not willfully or negligently permit any of the livestock to stray or remain unaccompanied on a highway, if both sides of the highway are separated from adjoining property by a fence, wall, hedge, sidewalk, curb, lawn, or building.

(b) Subsection (1)(a) does not apply to range stock drifting onto any highway moving to or from their accustomed ranges.

(2) (a) A person may not drive any livestock upon, over, or across any highway during the period from half an hour after sunset to half an hour before sunrise.

(b) Subsection (2)(a) does not apply if the person has a sufficient number of herders with warning lights on continual duty to open the road to permit the passage of vehicles.

(3) A violation of Subsection (1) or (2) is an infraction.

[43] (4) In any civil action brought for damages caused by collision with any domestic animal or livestock on a highway, there is no presumption that the collision was due to negligence on behalf of the owner or the person in possession of the domestic animal or livestock.

Section 41. Section 41-6a-518 is amended to read:

41-6a-518. Ignition interlock devices -- Use -- Probationer to pay cost -- Impecuniosity -- Fee.

(1) As used in this section:

(a) "Commissioner" means the commissioner of the Department of Public Safety.

(b) "Ignition interlock system" or "system" means a constant monitoring device or any similar device certified by the commissioner that prevents a motor vehicle from being started or continuously operated without first determining the driver's breath alcohol concentration.

(c) "Probation provider" means the supervisor and monitor of the ignition interlock system required as a condition of probation who contracts with the court in accordance with Subsections 41-6a-507(2) and (3).

(2) (a) In addition to any other penalties imposed under Sections 41-6a-503 and 41-6a-505, and in addition to any requirements imposed as a condition of probation, the court may require that any person who is convicted of violating Section 41-6a-502 and who is granted probation may not operate a motor vehicle during the period of

probation unless that motor vehicle is equipped with a functioning, certified ignition interlock system installed and calibrated so that the motor vehicle will not start or continuously operate if the operator's blood alcohol concentration exceeds a level ordered by the court.

(b) If a person convicted of violating Section 41-6a-502 was under the age of 21 when the violation occurred, the court shall order the installation of the ignition interlock system as a condition of probation.

(c) The division shall post the ignition interlock restriction on the electronic record available to law enforcement.

(d) This section does not apply to a person convicted of a violation of Section 41-6a-502 whose violation involves drugs other than alcohol.

(3) If the court imposes the use of an ignition interlock system as a condition of probation, the court shall:

(a) stipulate on the record the requirement for and the period of the use of an ignition interlock system;

(b) order that an ignition interlock system be installed on each motor vehicle owned or operated by the probationer, at the probationer's expense;

(c) immediately notify the Driver License Division and the person's probation provider of the order; and

(d) require the probationer to provide proof of compliance with the court's order to the probation provider within 30 days of the order.

(4) (a) The probationer shall provide timely proof of installation within 30 days of an order imposing the use of a system or show cause why the order was not complied with to the court or to the probationer's probation provider.

(b) The probation provider shall notify the court of failure to comply under Subsection (4)(a).

(c) For failure to comply under Subsection (4)(a) or upon receiving the notification under Subsection (4)(b), the court shall order the Driver License Division to suspend the probationer's driving privileges for the remaining period during which the compliance was imposed.

(d) Cause for failure to comply means any reason the court finds sufficiently justifiable to excuse the probationer's failure to comply with the court's order.

(5) (a) Any probationer required to install an ignition interlock system shall have the system monitored by the manufacturer or dealer of the system for proper use and accuracy at least semiannually and more frequently as the court may order.

(b) (i) A report of the monitoring shall be issued by the manufacturer or dealer to the court or the person's probation provider.

(ii) The report shall be issued within 14 days following each monitoring.

(6) (a) If an ignition interlock system is ordered installed, the probationer shall pay the reasonable costs of leasing or buying and installing and maintaining the system.

(b) A probationer may not be excluded from this section for inability to pay the costs, unless:

(i) the probationer files an affidavit of impecuniosity; and

(ii) the court enters a finding that the probationer is impecunious.

(c) In lieu of waiver of the entire amount of the cost, the court may direct the probationer to make partial or installment payments of costs when appropriate.

(d) The ignition interlock provider shall cover the costs of waivers by the court under this Subsection (6).

(7) (a) If a probationer is required in the course and scope of employment to operate a motor vehicle owned by the probationer's employer, the probationer may operate that motor vehicle without installation of an ignition interlock system only if:

(i) the motor vehicle is used in the course and scope of employment;

(ii) the employer has been notified that the employee is restricted; and

(iii) the employee has proof of the notification in the employee's possession while operating the employer's motor vehicle.

(b) (i) To the extent that an employer-owned motor vehicle is made available to a probationer subject to this section for personal use, no exemption under this section shall apply.

(ii) A probationer intending to operate an employer-owned motor vehicle for personal use and who is restricted to the operation of a motor vehicle equipped with an ignition interlock system shall notify the employer and obtain consent in writing from the employer to install a system in the employer-owned motor vehicle.

(c) A motor vehicle owned by a business entity that is all or partly owned or controlled by a probationer subject to this section is not a motor vehicle owned by the employer and does not qualify for an exemption under this Subsection (7).

(8) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commissioner shall make rules setting standards for the certification of ignition interlock systems.

(b) The standards under Subsection (8)(a) shall require that the system:

(i) not impede the safe operation of the motor vehicle;

(ii) have features that make circumventing difficult and that do not interfere with the normal use of the motor vehicle;

(iii) require a deep lung breath sample as a measure of breath alcohol concentration;

(iv) prevent the motor vehicle from being started if the driver's breath alcohol concentration exceeds a specified level;

(v) work accurately and reliably in an unsupervised environment;

(vi) resist tampering and give evidence if tampering is attempted;

(vii) operate reliably over the range of motor vehicle environments; and

(viii) be manufactured by a party who will provide liability insurance.

(c) The commissioner may adopt in whole or in part, the guidelines, rules, studies, or independent laboratory tests relied upon in certification of ignition interlock systems by other states.

(d) A list of certified systems shall be published by the commissioner and the cost of certification shall be borne by the manufacturers or dealers of ignition interlock systems seeking to sell, offer for sale, or lease the systems.

(e) (i) In accordance with Section 63J-1-504, the commissioner may establish an annual dollar assessment against the manufacturers of ignition interlock systems distributed in the state for the costs incurred in certifying.

(ii) The assessment under Subsection (8)(e)(i) shall be apportioned among the manufacturers on a fair and reasonable basis.

(f) The commissioner shall require a provider of an ignition interlock system certified in accordance with this section to comply with the requirements of Title 53, Chapter 3, Part 10, Ignition Interlock System Program Act.

(9) A violation of this section is a class C misdemeanor.

~~(9)~~ (10) There shall be no liability on the part of, and no cause of action of any nature shall arise against, the state or its employees in connection with the installation, use, operation, maintenance, or supervision of an interlock ignition system as required under this section.

Section 42. Section 41-6a-526 is amended to read:

41-6a-526. Drinking alcoholic beverage and open containers in motor vehicle prohibited -- Definitions -- Exceptions.

(1) As used in this section:

(a) "Alcoholic beverage" has the same meaning as defined in Section 32B-1-102.

(b) "Chartered bus" has the same meaning as defined in Section 32B-1-102.

(c) "Limousine" has the same meaning as defined in Section 32B-1-102.

(d) (i) "Passenger compartment" means the area of the vehicle normally occupied by the operator and passengers.

(ii) "Passenger compartment" includes areas accessible to the operator and passengers while traveling, including a utility or glove compartment.

(iii) "Passenger compartment" does not include a separate front or rear trunk compartment or other area of the vehicle not accessible to the operator or passengers while inside the vehicle.

(e) "Waters of the state" has the same meaning as defined in Section 73-18-2.

(2) A person may not drink any alcoholic beverage while operating a motor vehicle or while a passenger in a motor vehicle, whether the vehicle is moving, stopped, or parked on any highway or waters of the state.

(3) A person may not keep, carry, possess, transport, or allow another to keep, carry, possess, or transport in the passenger compartment of a motor vehicle, when the vehicle is on any highway or waters of the state, any container which contains any alcoholic beverage if the container has been opened, its seal broken, or the contents of the container partially consumed.

(4) Subsections (2) and (3) do not apply to a passenger:

(a) in the living quarters of a motor home or camper;

(b) who has carried an alcoholic beverage onto a limousine or chartered bus that is in compliance with Subsections 32B-4-415(4)(b) and (c); or

(c) in a motorboat on the waters of the state.

(5) Subsection (3) does not apply to passengers traveling in any licensed taxicab or bus.

(6) A violation of Subsection (2) or (3) is a class C misdemeanor.

Section 43. Section 41-6a-601 is amended to read:

41-6a-601. Speed regulations -- Safe and appropriate speeds at certain locations -- Prima facie speed limits -- Emergency power of the governor.

(1) A person may not operate a vehicle at a speed greater than is reasonable and prudent under the existing conditions, giving regard to the actual and potential hazards then existing, including when:

(a) approaching and crossing an intersection or railroad grade crossing;

(b) approaching and going around a curve;

(c) approaching a hill crest;

(d) traveling upon any narrow or winding roadway; and

(e) approaching other hazards that exist due to pedestrians, other traffic, weather, or highway conditions.

(2) Subject to Subsections (1) and (4) and Sections 41-6a-602 and 41-6a-603, the following speeds are lawful:

(a) 20 miles per hour in a reduced speed school zone as defined in Section 41-6a-303;

(b) 25 miles per hour in any urban district; and

(c) 55 miles per hour in other locations.

(3) Except as provided in Section 41-6a-604, any speed in excess of the limits provided in this section or established under Sections 41-6a-602 and 41-6a-603 is prima facie evidence that the speed is not reasonable or prudent and that it is unlawful.

(4) A violation of Subsection (1) is a class C misdemeanor.

[4] (5) The governor by proclamation in time of war or emergency may change the speed limits on the highways of the state.

Section 44. Section 41-6a-605 is amended to read:

41-6a-605. Minimum speed regulations.

(1) A person may not operate a motor vehicle at a speed so slow as to impede or block the normal and reasonable movement of traffic except when:

(a) a reduced speed is necessary for safe operation;

(b) upon a grade; or

(c) in compliance with a traffic-control device.

(2) Operating a motor vehicle on a limited access highway at less than the speed limit side by side with and at the same speed as a vehicle operated in the adjacent right lane is evidence of a violation of Subsection (1).

(3) (a) If, based on an engineering and traffic investigation, a highway authority determines that slow speeds on any part of a highway under its jurisdiction consistently impede the normal and reasonable movement of traffic, the highway authority may post a minimum speed limit.

(b) If a minimum speed limit is posted under this Subsection (3), a person may not operate a vehicle at a speed below the posted minimum speed limit except:

(i) when necessary for safe operation; or

(ii) in accordance with Section 41-6a-205.

(c) The minimum speed limit is effective when appropriate signs giving notice are erected along the highway or section of the highway.

(4) A violation of this section is an infraction.

Section 45. Section 41-6a-702 is amended to read:

41-6a-702. Left lane restrictions -- Exceptions -- Other lane restrictions -- Penalties.

(1) As used in this section and Section 41-6a-704, "general purpose lane" means a highway lane open to vehicular traffic but does not include a designated:

(a) high occupancy vehicle (HOV) lane; or

(b) auxiliary lane that begins as a freeway on-ramp and ends as part of the next freeway off-ramp.

(2) On a freeway or section of a freeway which has three or more general purpose lanes in the same direction, a person may not operate a vehicle in the left most general purpose lane if the person's:

(a) vehicle is drawing a trailer or semitrailer regardless of size; or

(b) vehicle or combination of vehicles has a gross vehicle weight of 12,001 or more pounds.

(3) Subsection (2) does not apply to a person operating a vehicle who is:

(a) preparing to turn left or taking a different highway split or an exit on the left;

(b) responding to emergency conditions;

(c) avoiding actual or potential traffic moving onto the highway from an acceleration or merging lane; or

(d) following direction signs that direct use of a designated lane.

(4) (a) A highway authority may designate a specific lane or lanes of travel for any type of vehicle on a highway or portion of a highway under its jurisdiction for the:

(i) safety of the public;

(ii) efficient maintenance of a highway; or

(iii) use of high occupancy vehicles.

(b) The lane designation under Subsection (4)(a) is effective when appropriate signs giving notice are erected on the highway or portion of the highway.

(c) If a highway authority establishes an HOV lane, the highway authority shall annually report to the Transportation Interim Committee no later than November 30 of each year regarding:

(i) the types of vehicles that may access the lane;

(ii) where, when, and how a vehicle may access the lane;

(iii) how a tax, fee, or charge is assessed for a vehicle carrying less than the number of persons specified for the lane;

(iv) the usage of the HOV lane as compared to the usage of the general purpose lanes along the same stretch of highway; and

(v) the compliance issues, safety risks, and impacts of the lane parameters described under Subsections (4)(c)(i), (ii), and (iii).

(5) (a) Subject to Subsection (5)(b) and beginning on July 1, 2011, the lane designation under Subsection (4)(a)(iii) shall allow a vehicle with a clean fuel vehicle decal issued in accordance with Section 72-6-121 to travel in lanes designated for the use of high occupancy vehicles regardless of the number of occupants as permitted by federal law or federal regulation.

(b) (i) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Department of Transportation may make rules to allow a vehicle with a clean fuel vehicle decal to travel in lanes designated for the use of high occupancy vehicles regardless of the number of occupants as permitted by federal law or federal regulation.

(ii) Except as provided in Subsection (5)(b)(iii), the Department of Transportation may not issue more than 6,000 clean fuel vehicle decals under Section 72-6-121.

(iii) The Department of Transportation may, through rules made under Subsection (5)(b)(i), increase the number of clean fuel vehicle decals issued in accordance with Section 72-6-121 beyond the minimum described in Subsection (5)(b)(ii) if the increased issuance will allow the Department of Transportation to continue to meet its goals for operational management of the lane designated under Subsection (4)(a)(iii).

(6) A person who operates a vehicle in violation of Subsection (2) or in violation of the restrictions made under Subsection (4) is guilty of ~~a class C misdemeanor~~ an infraction.

Section 46. Section 41-6a-703 is amended to read:

41-6a-703. Passing vehicles proceeding in opposite directions.

(1) In accordance with Section 41-6a-701, a person operating a vehicle proceeding in an opposite direction from another vehicle shall pass the other vehicle to the right.

(2) On a roadway having width for not more than one line of traffic in each direction, the operator of a vehicle shall, as nearly as possible, give to the other at least 1/2 of the main traveled portion of the roadway.

(3) A violation of this section is an infraction.

Section 47. Section 41-6a-704 is amended to read:

41-6a-704. Overtaking and passing vehicles proceeding in same direction.

(1) (a) On any highway:

(i) the operator of a vehicle overtaking another vehicle proceeding in the same direction shall:

(A) except as provided under Section 41-6a-705, promptly pass the overtaken vehicle on the left at a safe distance; and

(B) enter a right-hand lane or the right side of the roadway only when safely clear of the overtaken vehicle;

(ii) the operator of an overtaken vehicle:

(A) shall give way to the right in favor of the overtaking vehicle; and

(B) may not increase the speed of the vehicle until completely passed by the overtaking vehicle.

(b) The exemption from the minimum speed regulations for a vehicle operating on a grade under

Section 41-6a-605 does not exempt the vehicle from promptly passing a vehicle as required under Subsection (1)(a)(i)(A).

(2) On a highway having more than one lane in the same direction, the operator of a vehicle traveling in the left general purpose lane:

(a) shall, upon being overtaken by another vehicle in the same lane, yield to the overtaking vehicle by moving safely to a lane to the right; and

(b) may not impede the movement or free flow of traffic in the left general purpose lane.

(3) An operator of a vehicle traveling in the left general purpose lane that has a vehicle following directly behind the operator's vehicle at a distance so that less than two seconds elapse before reaching the location of the operator's vehicle when space is available for the operator to yield to the overtaking vehicle by traveling in the right-hand lane is prima facie evidence that the operator is violating Subsection (2).

(4) The provisions of Subsection (2) do not apply to an operator of a vehicle traveling in the left general purpose lane when:

(a) overtaking and passing another vehicle proceeding in the same direction in accordance with Subsection (1)(a)(i);

(b) preparing to turn left or taking a different highway or an exit on the left;

(c) responding to emergency conditions;

(d) avoiding actual or potential traffic moving onto the highway from an acceleration or merging lane; or

(e) following the direction of a traffic-control device that directs the use of a designated lane.

(5) A violation of Subsection (1) or (2) is an infraction.

Section 48. Section 41-6a-705 is amended to read:

41-6a-705. Passing upon right -- When permissible.

(1) The operator of a vehicle may overtake and pass on the right of another vehicle only:

(a) when the vehicle overtaken is making or preparing to make a left turn; or

(b) on a roadway with unobstructed pavement of sufficient width for two or more lines of vehicles moving lawfully in the direction being traveled by the overtaking vehicle.

(2) The operator of a vehicle may overtake and pass another vehicle on the right only under conditions permitting the movement with safety.

(3) Except for a person operating a bicycle, the operator of a vehicle may not overtake and pass another vehicle if the movement is made by driving off the roadway.

(4) A violation of this section is an infraction.

Section 49. Section 41-6a-706 is amended to read:

41-6a-706. Limitation on passing -- Prohibitions.

(1) Subject to the provisions of Section 41-6a-707, on a two-way highway, a person may not operate a vehicle to the left side of the center of the roadway to pass another vehicle proceeding in the same direction unless the left side is:

(a) clearly visible; and

(b) free of oncoming traffic for a sufficient distance to permit the passing movement to be completed without interfering with the operation of any vehicle approaching from the opposite direction in accordance with Subsection (2).

(2) The person operating the overtaking vehicle shall return the vehicle to an authorized lane of travel:

(a) as soon as practical; and

(b) if the passing movement involves the use of a lane authorized for vehicles approaching in the opposite direction, before coming within 200 feet of any vehicle approaching from the opposite direction.

(3) A violation of this section is an infraction.

Section 50. Section 41-6a-706.5 is amended to read:

41-6a-706.5. Definitions -- Operation of motor vehicle near a vulnerable user of a highway prohibited -- Endangering a vulnerable user of a highway prohibited.

(1) As used in this section, "vulnerable user of a highway" means:

(a) a pedestrian, including a person engaged in work upon a highway or upon utilities facilities along a highway or providing emergency services within the right-of-way of a highway;

(b) a person riding an animal; or

(c) a person operating any of the following on a highway:

(i) a farm tractor or implement of husbandry, without an enclosed shell;

(ii) a skateboard;

(iii) roller skates;

(iv) in-line skates;

(v) a bicycle;

(vi) an electric-assisted bicycle;

(vii) an electric personal assistive mobility device;

(viii) a moped;

(ix) a motor-driven cycle;

(x) a motorized scooter;

(xi) a motorcycle; or

(xii) a manual wheelchair.

(2) An operator of a motor vehicle may not knowingly, intentionally, or recklessly:

(a) operate a motor vehicle within three feet of a vulnerable user of a highway;

(b) distract or attempt to distract a vulnerable user of a highway for the purpose of causing violence or injury to the vulnerable user of a highway; or

(c) force or attempt to force a vulnerable user of a highway off of the roadway for a purpose unrelated to public safety.

(3) (a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is [~~a class C misdemeanor~~] an infraction.

(b) A violation of Subsection (2) that results in bodily injury to the vulnerable user of a highway is a class [B] C misdemeanor.

Section 51. Section 41-6a-707 is amended to read:

41-6a-707. Limitations on driving on left side of road -- Exceptions.

(1) A person may not operate a vehicle on the left side of the roadway:

(a) when approaching or on a crest of a grade or a curve on the highway where the person's view is obstructed within a distance which creates a hazard if another vehicle approached from the opposite direction;

(b) when approaching within 100 feet of or traversing any intersection or railroad grade crossing unless otherwise indicated by a traffic-control device or a peace officer; or

(c) when the view is obstructed while approaching within 100 feet of any bridge, viaduct, or tunnel.

(2) Subsection (1) does not apply:

(a) on a one-way roadway;

(b) under the conditions described in Subsection 41-6a-701(1)(b); or

(c) to a person operating a vehicle turning left onto or from an alley, private road, or driveway.

(3) A violation of Subsection (1) is an infraction.

Section 52. Section 41-6a-708 is amended to read:

41-6a-708. Signs and markings on roadway -- No-passing zones -- Exceptions.

(1) (a) A highway authority may designate no-passing zones on any portion of a highway under its jurisdiction if the highway authority determines passing is especially hazardous.

(b) A highway authority shall designate a no-passing zone under Subsection (1)(a) by placing appropriate traffic-control devices on the highway.

(2) A person operating a vehicle may not drive on the left side of:

(a) the roadway within the no-passing zone; or

(b) any pavement striping designed to mark the no-passing zone.

(3) Subsection (2) does not apply:

(a) under the conditions described under Subsections 41-6a-701(1)(b) and (c); or

(b) to a person operating a vehicle turning left onto or from an alley, private road, or driveway.

(3) A violation of Subsection (2) is an infraction.

Section 53. Section 41-6a-709 is amended to read:

41-6a-709. One-way traffic.

(1) A highway authority may designate any highway, roadway, part of a roadway, or specific lanes under the highway authority's jurisdiction for one direction of vehicle travel at all times as indicated by traffic-control devices.

(2) On a roadway designated for one-way traffic, a person operating a vehicle shall operate the vehicle in the direction indicated by traffic-control devices.

(3) A person operating a vehicle in a roundabout shall operate the vehicle only to the right of the roundabout island.

(4) A violation of Subsection (2) or (3) is an infraction.

Section 54. Section 41-6a-710 is amended to read:

41-6a-710. Roadway divided into marked lanes -- Provisions -- Traffic-control devices.

On a roadway divided into two or more clearly marked lanes for traffic the following provisions apply and any violation of this section is an infraction:

(1) (a) A person operating a vehicle:

(i) shall keep the vehicle as nearly as practical entirely within a single lane; and

(ii) may not move the vehicle from the lane until the operator has reasonably determined the movement can be made safely.

(b) A determination under Subsection (1)(a)(ii) is reasonable if a reasonable person acting under the same conditions and having regard for actual and potential hazards then existing would determine that the movement could be made safely.

(2) (a) On a roadway divided into three or more lanes and providing for two-way movement of traffic, a person operating a vehicle may not drive in the center lane except:

(i) when overtaking and passing another vehicle traveling in the same direction, and when the center lane is:

(A) clear of traffic within a safe distance; and

(B) not a two-way left turn lane;

(ii) in preparation of making or completing a left turn in compliance with Section 41-6a-801; or

(iii) where the center lane is allocated exclusively to traffic moving in the same direction that the vehicle is proceeding as indicated by traffic-control devices.

(b) Notwithstanding Subsection (2)(a)(i) and in accordance with Subsection (1)(a), a person operating a vehicle may drive in a center lane that is a two-way left turn lane if:

(i) the center lane is:

(A) on a roadway divided into three or more lanes that provides for two-way movement of traffic; and

(B) clear of traffic within a safe distance;

(ii) there is only one lane of travel in the direction the person operating the vehicle is traveling; and

(iii) the person operating the vehicle is overtaking and passing a bicycle or moped that is moving at less than the reasonable speed of traffic that is present.

(3) (a) A highway authority may erect traffic-control devices directing specified traffic to use a designated lane or designating those lanes to be used by traffic moving in a particular direction regardless of the center of the roadway.

(b) An operator of a vehicle shall obey the directions of a traffic-control device erected under Subsection (3)(a).

Section 55. Section 41-6a-711 is amended to read:

41-6a-711. Following another vehicle -- Safe distance -- Exceptions.

(1) The operator of a vehicle:

(a) may not follow another vehicle more closely than is reasonable and prudent, having regard for the:

(i) speed of the vehicles;

(ii) traffic upon the highway; and

(iii) condition of the highway; and

(b) shall follow at a distance so that at least two seconds elapse before reaching the location of the vehicle directly in front of the operator's vehicle.

(2) Subsection (1)(b) does not apply to funeral processions or to congested traffic conditions resulting in prevailing vehicle speeds of less than 35 miles per hour.

(3) A violation of Subsection (1) is an infraction.

Section 56. Section 41-6a-712 is amended to read:

41-6a-712. Divided highway -- Use of right-hand side -- Crossing only where permitted.

(1) A person operating a vehicle on a divided highway shall use the right-hand roadway unless

directed or permitted to use another roadway by a traffic-control device or a peace officer.

(2) A person operating a vehicle may not operate the vehicle over, across, or within any dividing space, median, or barrier of a divided highway, except when:

(a) authorized by a traffic-control device or a peace officer; or

(b) operating a tow truck in response to a customer service call and the tow truck motor carrier has already received authorization from the local law enforcement agency in the jurisdiction where the vehicle to be towed is located.

(3) A violation of this section is an infraction.

Section 57. Section 41-6a-713 is amended to read:

41-6a-713. Driving over gore area or island prohibited -- Exceptions -- Penalties.

(1) (a) A person may not operate a vehicle over, across, or within any part of a gore area or an island.

(b) Subsection (1)(a) does not apply to:

(i) a person operating a vehicle that is disabled; or

(ii) an operator of an authorized emergency vehicle under conditions described under Section 41-6a-208.

(2) A person who violates Subsection (1) is guilty of [~~class C misdemeanor~~] an infraction.

Section 58. Section 41-6a-714 is amended to read:

41-6a-714. Freeway and controlled-access highways -- Driving onto and from highways where permitted.

(1) A person may not operate a vehicle onto or from any freeway or other controlled-access highway except at entrances and exits established by the highway authority having jurisdiction over the highway.

(2) A violation of Subsection (1) is an infraction.

Section 59. Section 41-6a-716 is amended to read:

41-6a-716. Driving on tollway without paying toll prohibited.

(1) As used in this section, "tollway" has the same meaning as defined in Section 72-6-118.

(2) The operator of a vehicle traveling on a tollway shall pay the toll imposed by the department or other entity for that tollway under Section 72-6-118.

(3) A person who violates Subsection (2) is guilty of [~~a class C misdemeanor~~] an infraction.

Section 60. Section 41-6a-717 is amended to read:

41-6a-717. Use of runaway vehicle ramps.

(1) A person may not use a runaway vehicle ramp unless the person is in an emergency situation

requiring the use of the ramp to stop the person's vehicle.

(2) A person may not stop, stand, or park a vehicle on a runaway vehicle ramp or in the pathway of the runaway vehicle ramp.

(3) A violation of this section is an infraction.

Section 61. Section 41-6a-801 is amended to read:

41-6a-801. Turning -- Manner -- Traffic-control devices.

The operator of a vehicle shall make turns as follows, and a violation of this section is an infraction:

(1) Right turns: both a right turn and an approach for a right turn shall be made as close as practical to the right-hand curb or edge of the roadway.

(2) Left turns:

(a) the operator of a vehicle intending to turn left shall approach the turn from the extreme left-hand lane for traffic moving in the same direction;

(b) whenever practicable, shall be made by turning onto the roadway being entered in the extreme left-hand lane for traffic moving in the new direction, unless otherwise directed by a traffic-control device; and

(c) may be made on a highway across solid double yellow line pavement markings indicating a two-direction, no-passing zone.

(3) Two-way left turn lanes:

(a) where a two-way left turn lane is provided, a left turn may not be made from any other lane;

(b) a vehicle may not be driven in the two-way left turn lane except when preparing for or making:

(i) a left turn from or into the roadway; or

(ii) a U-turn except when prohibited by a traffic-control device;

(c) (i) except as provided under Subsection (3)(c)(ii), the operator of a vehicle intending to turn left may not enter a two-way left turn lane more than 500 feet prior to making the turn;

(ii) if traffic in the two-way left turn lane extends beyond 500 feet, the operator of a vehicle intending to turn left may enter the two-way left turn lane immediately upon reaching the last vehicle in the two-way left turn lane;

(d) the operator of a vehicle that has turned left into the two-way left turn lane may not travel in the lane more than 500 feet unless the operator intends to turn left and Subsection (3)(c)(ii) applies; and

(e) the operator of a vehicle may not travel straight through an intersection in a two-way left turn lane.

(4) (a) A highway authority in its jurisdiction may provide exceptions to the provisions of this section by erecting traffic-control devices directing a different course to be traveled by turning vehicles.

(b) The operator of a vehicle may not turn a vehicle in violation of a traffic-control device erected under Subsection (4)(a).

Section 62. Section 41-6a-802 is amended to read:

41-6a-802. Turning around -- Where prohibited -- Visibility.

(1) As used in this section, "railroad grade crossing" means the area between the passive or active warning signs where a railroad track and roadway intersect.

(2) The operator of a vehicle may not make a U-turn or turn the vehicle to proceed in the opposite direction:

(a) unless the movement can be made safely and without interfering with other traffic;

(b) on any curve, or upon the approach to, or near the crest of a grade, if the vehicle is not visible at a distance of 500 feet by the operator of any other vehicle approaching from either direction; and

(c) on a railroad track or railroad grade crossing.

(3) A violation of Subsection (2) is an infraction.

Section 63. Section 41-6a-803 is amended to read:

41-6a-803. Moving a vehicle -- Safety.

(1) A person may not move a vehicle which is stopped, standing, or parked until the movement may be made with reasonable safety.

(2) A violation of this section is an infraction.

Section 64. Section 41-6a-804 is amended to read:

41-6a-804. Turning or changing lanes -- Safety -- Signals -- Stopping or sudden decrease in speed -- Signal flashing -- Where prohibited.

(1) (a) A person may not turn a vehicle or move right or left on a roadway or change lanes until:

(i) the movement can be made with reasonable safety; and

(ii) an appropriate signal has been given as provided under this section.

(b) A signal of intention to turn right or left or to change lanes shall be given continuously for at least the last two seconds preceding the beginning of the movement.

(2) A person may not stop or suddenly decrease the speed of a vehicle without first giving an appropriate signal to the operator of any vehicle immediately to the rear when there is opportunity to give a signal.

(3) (a) A stop or turn signal when required shall be given either by the hand and arm or by signal lamps.

(b) If hand and arm signals are used, a person operating a vehicle shall give the required hand and arm signals from the left side of the vehicle as follows:

- (i) left turn: hand and arm extended horizontally;
- (ii) right turn: hand and arm extended upward; and
- (iii) stop or decrease speed: hand and arm extended downward.

(c) (i) A person operating a bicycle or device propelled by human power may give the required hand and arm signals for a right turn by extending the right hand and arm horizontally to the right.

(ii) This Subsection (3)(c) is an exception to the provision of Subsection (3)(b)(ii).

(4) A person required to make a signal under this section may not flash a signal:

- (a) on one side only on a disabled vehicle;
 - (b) as a courtesy or “do pass” to operators of other vehicles approaching from the rear; or
 - (c) on one side only of a parked vehicle.
- (5) A violation of this section is an infraction.

Section 65. Section 41-6a-901 is amended to read:

41-6a-901. Right-of-way between vehicles -- Unregulated intersection.

(1) The operator of a vehicle approaching an intersection not regulated by a traffic-control device shall yield the right-of-way to any vehicle that has entered the intersection from a different highway.

(2) Except as specified in Subsection (3) and unless otherwise directed by a peace officer, the operator of the vehicle on the left shall yield the right-of-way to the vehicle on the right when:

- (a) more than one vehicle enters or approaches an intersection from different highways at approximately the same time; and
- (b) the intersection:
 - (i) is not regulated by a traffic-control device;
 - (ii) is not regulated because the traffic-control signal is inoperative; or
 - (iii) is regulated from all directions by stop signs.

(3) The operator of a vehicle approaching an intersection not regulated by a traffic-control device:

- (a) from a highway that does not continue beyond the intersection, shall yield the right-of-way to the operator of any vehicle on the intersecting highway; and
 - (b) from a highway that is not paved, shall yield the right-of-way to the operator of any vehicle on a paved intersecting highway.
- (4) A violation of this section is an infraction.

Section 66. Section 41-6a-902 is amended to read:

41-6a-902. Right-of-way -- Stop or yield signals -- Yield -- Collisions at intersections or junctions of roadways -- Evidence.

(1) Preferential right-of-way may be indicated by stop signs or yield signs under Section 41-6a-906.

(2) (a) Except when directed to proceed by a peace officer, every operator of a vehicle approaching a stop sign shall stop:

- (i) at a clearly marked stop line;
- (ii) before entering the crosswalk on the near side of the intersection if there is not a clearly marked stop line; or
- (iii) at a point nearest the intersecting roadway where the operator has a view of approaching traffic on the intersecting roadway before entering it if there is not a clearly marked stop line or a crosswalk.

(b) After having stopped at a stop sign, the operator of a vehicle shall yield the right-of-way to any vehicle in the intersection or approaching on another roadway so closely as to constitute an immediate hazard.

(c) The operator of a vehicle approaching a stop sign shall yield the right-of-way to pedestrians within an adjacent crosswalk.

(3) (a) The operator of a vehicle approaching a yield sign shall:

- (i) slow down to a speed reasonable for the existing conditions; and
- (ii) if required for safety, stop as provided under Subsection (2).

(b) (i) After slowing or stopping at a yield sign, the operator of a vehicle shall yield the right-of-way to any vehicle in the intersection or approaching on another roadway so closely as to constitute an immediate hazard during the time the operator is moving across or within the intersection or junction of roadways.

(ii) The operator of a vehicle approaching a yield sign shall yield to pedestrians within an adjacent crosswalk.

(4) (a) A collision is prima facie evidence of an operator's failure to yield the right-of-way after passing a yield sign without stopping if the operator is involved in a collision:

- (i) with a vehicle in the intersection or junction of roadways; or
 - (ii) with a pedestrian at an adjacent crosswalk.
- (b) A collision under Subsection (4)(a) is not considered negligence per se in determining liability for the accident.

(5) A violation of Subsection (2) or (3) is an infraction.

Section 67. Section 41-6a-903 is amended to read:

41-6a-903. Yield right-of-way -- Vehicle turning left -- Entering or crossing highway other than from another roadway -- Merging lanes.

(1) The operator of a vehicle:

[4] (a) intending to turn to the left shall yield the right-of-way to any vehicle approaching from the opposite direction which is so close to the turning vehicle as to constitute an immediate hazard;

[2] (b) about to enter or cross a highway from any place other than another highway shall yield the right-of-way to all vehicles approaching on the highway to be entered or crossed; and

[3] (c) traveling in a lane that is about to merge into a continuing lane, shall yield the right-of-way to all vehicles traveling in the continuing lane and which are so close as to be an immediate hazard.

(2) A violation of Subsection (1) is an infraction.

Section 68. Section 41-6a-904 is amended to read:

41-6a-904. Approaching emergency vehicle -- Necessary signals -- Stationary emergency vehicle -- Duties of respective operators.

(1) Except when otherwise directed by a peace officer, the operator of a vehicle, upon the immediate approach of an authorized emergency vehicle using audible or visual signals under Section 41-6a-212 or 41-6a-1625, shall:

(a) yield the right-of-way and immediately move to a position parallel to, and as close as possible to, the right-hand edge or curb of the highway, clear of any intersection; and

(b) then stop and remain stopped until the authorized emergency vehicle has passed.

(2) The operator of a vehicle, upon approaching a stationary authorized emergency vehicle that is displaying alternately flashing red, red and white, or red and blue lights, shall:

(a) reduce the speed of the vehicle;

(b) provide as much space as practical to the stationary authorized emergency vehicle; and

(c) if traveling in a lane adjacent to the stationary authorized emergency vehicle and if practical, with due regard to safety and traffic conditions, make a lane change into a lane not adjacent to the authorized emergency vehicle.

(3) The operator of a vehicle, upon approaching a stationary tow truck or highway maintenance vehicle that is displaying flashing amber lights, shall:

(a) reduce the speed of the vehicle; and

(b) provide as much space as practical to the stationary tow truck or highway maintenance vehicle.

(4) This section does not relieve the operator of an authorized emergency vehicle, tow truck, or highway maintenance vehicle from the duty to drive with regard for the safety of all persons using the highway.

(5) (a) (i) In addition to the penalties prescribed under ~~[Section 41-6a-202]~~ Subsection (7), a person who violates this section shall attend a four hour live classroom defensive driving course approved by:

(A) the Driver License Division; or

(B) a court in this state.

(ii) Upon completion of the four hour live classroom course under Subsection (5)(a)(i), the person shall provide to the Driver License Division a certificate of attendance of the classroom course.

(b) The Driver License Division shall suspend a person's driver license for a period of 90 days if the person:

(i) violates a provision of Subsections (1) through (3); and

(ii) fails to meet the requirements of Subsection (5)(a)(i) within 90 days of sentencing for or pleading guilty to a violation of this section.

(c) Notwithstanding the provisions of Subsection (5)(b), the Driver License Division shall shorten the 90-day suspension period imposed under Subsection (5)(b) effective immediately upon receiving a certificate of attendance of the four hour live classroom course required under Subsection (5)(a)(i) if the certificate of attendance is received prior to completion of the suspension period.

(d) A person whose license is suspended under Subsection (5)(b) is required to pay the license reinstatement fees under Subsection 53-3-105(23), including a person whose suspension is shortened as described under Subsection (5)(c).

(6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Driver License Division shall make rules to implement the provisions of this part.

(7) A violation of Subsection (1), (2), or (3) is a class C misdemeanor.

Section 69. Section 41-6a-906 is amended to read:

41-6a-906. Designation of through highways -- Stop signs, yield signs, and traffic-control devices -- Designation of intersections as locations for preferential right-of-way treatment.

(1) A highway authority, with reference to highways under its jurisdiction, may erect and maintain stop signs, yield signs, or other traffic-control devices to designate:

[4] (a) through highways; or

[42] (b) intersections or other roadway junctions at which vehicular traffic on one or more of the roadways should yield or stop and yield before entering the intersection or junction.

(2) A violation of Subsection (1) is an infraction.

Section 70. Section 41-6a-907 is amended to read:

41-6a-907. Vehicles emerging from alleys, buildings, private roads, or driveways must stop prior to sidewalk area or street.

(1) The operator of a vehicle emerging from an alley, building, private road or driveway within a business or residence district shall stop:

[4] (a) the vehicle immediately prior to driving onto a sidewalk or onto the sidewalk area extending across the alley, building, private road, or driveway; or

[2] (b) if there is no sidewalk area, at the point nearest the street to be entered where the operator has a view of approaching traffic.

(2) A violation of Subsection (1) is an infraction.

Section 71. Section 41-6a-1001 is amended to read:

41-6a-1001. Pedestrians subject to traffic-control devices -- Other controls.

(1) A pedestrian shall obey the instructions of a traffic-control device specifically applicable to the pedestrian unless otherwise directed by a peace officer.

(2) A pedestrian is subject to traffic and pedestrian-control signals under Sections 41-6a-305 and 41-6a-306.

(3) A violation of this section is an infraction.

Section 72. Section 41-6a-1003 is amended to read:

41-6a-1003. Pedestrians yielding right-of-way -- Limits on pedestrians.

(1) A pedestrian crossing a roadway at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield the right-of-way to all vehicles on the roadway.

(2) A pedestrian crossing a roadway at a point where there is a pedestrian tunnel or overhead pedestrian crossing shall yield the right-of-way to all vehicles on the roadway.

(3) Between adjacent intersections at which traffic-control signals are in operation, a pedestrian may not cross at any place except in a marked crosswalk.

(4) (a) A pedestrian may not cross a roadway intersection diagonally unless authorized by a traffic-control device.

(b) If a pedestrian is authorized to cross diagonally under Subsection (4)(a), the pedestrian shall cross only as directed by the appropriate traffic-control device.

(5) A violation of this section is an infraction.

Section 73. Section 41-6a-1004 is amended to read:

41-6a-1004. Emergency vehicle -- Necessary signals -- Duties of operator -- Pedestrian to yield.

(1) A pedestrian shall yield the right-of-way to an authorized emergency vehicle upon the immediate approach of an authorized emergency vehicle using audible or visual signals in accordance with Section 41-6a-212 or 41-6a-1625.

(2) This section does not relieve the operator of an authorized emergency vehicle from:

(a) the duty to drive with regard for the safety of all persons using the highway; nor

(b) from the duty to exercise care to avoid colliding with a pedestrian.

(3) A violation of this section is an infraction.

Section 74. Section 41-6a-1005 is amended to read:

41-6a-1005. Limitation on pedestrians related to railroad grade crossings or bridges.

(1) As used in this section, "active railroad grade crossing" means a railroad grade crossing when:

(a) the gate or barrier is closed or is being opened or closed;

(b) warning lights are flashing;

(c) audible warning devices are being sounded; or

(d) other traffic control devices signal the approach of a railroad train.

(2) A pedestrian may not pass through, around, over, or under or remain on a crossing gate or barrier at an active railroad grade crossing or bridge.

(3) A pedestrian may not enter or remain within the area between a railroad track and a railroad sign or signal if the railroad grade crossing is active.

(4) A pedestrian may not occupy or remain on a railroad grade crossing when the railroad sign or signal is not active except to cross the railroad crossing on a designated walkway.

(5) A pedestrian may not remain in an area between railroad signs or signals, railroad gates, or rail crossing arms if the railroad grade crossing is active.

(6) A violation of Subsection (2), (3), (4), or (5) is an infraction.

Section 75. Section 41-6a-1009 is amended to read:

41-6a-1009. Use of roadway by pedestrians -- Prohibited activities.

(1) Where there is a sidewalk provided and its use is practicable, a pedestrian may not walk along or on an adjacent roadway.

(2) Where a sidewalk is not provided, a pedestrian walking along or on a highway shall walk only on the shoulder, as far as practicable from the edge of the roadway.

(3) Where a sidewalk or a shoulder is not available, a pedestrian walking along or on a highway shall:

(a) walk as near as practicable to the outside edge of the roadway; and

(b) if on a two-way roadway, walk only on the left side of the roadway facing traffic.

(4) (a) An individual may not engage in conduct that impedes or blocks traffic within any of the following:

(i) an interstate system, as defined in Section 72-1-102;

(ii) a freeway, as defined in Section 41-6a-102;

(iii) a state highway, as defined in Title 72, Chapter 4, Designation of State Highways Act; or

(iv) a state route, or "SR," as defined in Section 72-1-102.

(b) The locations described in Subsection (4)(a) include:

(i) shoulder areas, as defined in Section 41-6a-102;

(ii) on-ramps;

(iii) off-ramps; and

(iv) an area between the roadways of a divided highway, as defined in Section 41-6a-102.

(c) The locations described in Subsection (4)(a) do not include sidewalks, as defined in Section 41-6a-102.

(d) Conduct that impedes or blocks traffic may include:

(i) loitering;

(ii) demonstrating or picketing;

(iii) distributing materials;

(iv) gathering signatures;

(v) holding signs; or

(vi) soliciting rides, contributions, or other business.

(e) Conduct that impedes or blocks traffic does not include the conduct described in Section 41-6a-209.

(f) A county or municipality may adopt a resolution, ordinance, or regulation prohibiting conduct in locations described in Subsections (4)(a) and (b) within any of the roadways under its jurisdiction.

(g) (i) The state, a county, or a municipality shall create a permitting process for granting a person an exemption from this Subsection (4).

(ii) Upon receipt of a valid permit application, the state, a county, or a municipality shall grant a person a temporary exemption from this Subsection (4) for a specified location or time.

(h) Nothing in this section prohibits a temporary spontaneous demonstration.

(5) A pedestrian who is under the influence of alcohol or any drug to a degree which renders the pedestrian a hazard may not walk or be on a highway except on a sidewalk or sidewalk area.

(6) Except as otherwise provided in this chapter, a pedestrian on a roadway shall yield the right-of-way to all vehicles on the roadway.

(7) A pedestrian may not walk along or on a no-access freeway facility except during an emergency.

(8) (a) As used in this Subsection (8):

(i) "Aggressive manner" means intentionally:

(A) persisting in approaching or following an individual after the individual has negatively responded to the solicitation;

(B) engaging in conduct that would cause a reasonable individual to fear imminent bodily harm;

(C) engaging in conduct that would intimidate a reasonable individual into giving money or goods;

(D) blocking the path of an individual; or

(E) physically contacting an individual or the individual's personal property without that individual's consent.

(ii) "Bank" is as defined in Section 13-42-102.

(iii) "Sidewalk" is as defined in Section 41-6a-102.

(b) An individual may not solicit money or goods from another individual in an aggressive manner:

(i) during the business hours of a bank if either the individual soliciting, or the individual being solicited, is on the portion of a sidewalk that is within 10 feet of the bank's entrance or exit; or

(ii) on the portion of a sidewalk that is within 10 feet of an automated teller machine.

(9) A violation of this section is an infraction.

Section 76. Section 41-6a-1115 is amended to read:

41-6a-1115. Motor assisted scooters -- Conflicting provisions -- Restrictions -- Penalties.

(1) (a) Except as otherwise provided in this section, a motor assisted scooter is subject to the provisions under this chapter for a bicycle, moped, or a motor-driven cycle.

(b) For a person operating a motor assisted scooter, the following provisions do not apply:

(i) seating positions under Section 41-6a-1501;

(ii) required lights, horns, and mirrors under Section 41-6a-1506;

(iii) entitlement to full use of a lane under Subsection 41-6a-1502(1); and

(iv) driver licensing requirements under Section 53-3-202.

(2) A person under 15 years of age may not operate a motor assisted scooter using the motor unless the person is under the direct supervision of the person's parent or guardian.

(3) A person under eight years of age may not operate a motor assisted scooter with the motor running on any public property, highway, path, or sidewalk.

(4) A person may not operate a motor assisted scooter:

(a) in a public parking structure;

(b) on public property posted as an area prohibiting skateboards;

(c) on a highway consisting of a total of four or more lanes designated for regular vehicular traffic;

(d) on a highway with a posted speed limit greater than 25 miles per hour;

(e) while carrying more persons at one time than the number for which it is designed; or

(f) that has been structurally or mechanically altered from the original manufacturer's design.

(5) Except where posted or prohibited by local ordinance, a motor assisted scooter is considered a nonmotorized vehicle if it is being used with the motor turned off.

(6) An owner may not authorize or knowingly permit a person to operate a motor assisted scooter in violation of this section.

(7) A person who violates this section is guilty of ~~a class C misdemeanor~~ an infraction.

Section 77. Section 41-6a-1116 is amended to read:

41-6a-1116. Electric personal assistive mobility devices -- Conflicting provisions -- Restrictions -- Penalties.

(1) (a) Except as otherwise provided in this section, an electric personal assistive mobility device is subject to the provisions under this chapter for a bicycle, moped, or a motor-driven cycle.

(b) For a person operating an electric personal assistive mobility device, the following provisions do not apply:

(i) seating positions under Section 41-6a-1501;

(ii) required lights, horns, and mirrors under Section 41-6a-1506;

(iii) entitlement to full use of a lane under Subsection 41-6a-1502(1); and

(iv) driver licensing requirements under Section 53-3-202.

(2) A person under 15 years of age may not operate an electric personal assistive mobility device using the motor unless the person is under the direct supervision of the person's parent or guardian.

(3) A person may not operate an electric personal assistive mobility device:

(a) on a highway consisting of a total of four or more lanes designated for regular vehicular traffic;

(b) on a highway with a posted speed limit greater than 35 miles per hour; or

(c) that has been structurally or mechanically altered from the original manufacturer's design.

(4) An owner may not authorize or knowingly permit a person to operate an electric personal assistive mobility device in violation of this section.

(5) A person may operate an electric personal assistive mobility device on a sidewalk if the operation does not:

(a) exceed a speed which is greater than is reasonable or prudent having due regard for weather, visibility, and pedestrians; or

(b) endanger the safety of other persons or property.

(6) A person operating an electric personal assistive mobility device shall yield to a pedestrian or other person using a mobility aid.

(7) (a) An electric personal assistive mobility device may be operated on:

(i) a path or trail designed for the use of a bicycle; or

(ii) on a highway where a bicycle is allowed if the speed limit on the highway does not exceed 35 miles per hour.

(b) A person operating an electric personal assistive mobility device in an area described in Subsection (7)(a)(i) or (ii) is subject to the laws governing bicycles.

(8) A person may operate an electric personal assistive mobility device at night if the device is equipped with or the operator is wearing:

(a) a lamp pointing to the front that emits a white light visible from a distance of not less than 300 feet in front of the device; and

(b) front, rear, and side reflectors.

(9) A person may not operate an electric personal assistive mobility device while carrying an article that prevents the person from keeping both hands on the handlebars or interferes with the person's ability to safely operate the electric personal assistive mobility device.

(10) Only one person may operate an electric personal assistive mobility device at a time.

(11) A person may not park an electric personal assistive mobility device on a highway or sidewalk

in a manner that obstructs vehicular or pedestrian traffic.

(1) A person who violates this section is guilty of ~~[a class C misdemeanor]~~ an infraction.

Section 78. Section 41-6a-1117 is amended to read:

41-6a-1117. Mini-motorcycle restrictions -- Exceptions.

(1) A person may not operate a mini-motorcycle on any public property, highway, path, or sidewalk unless:

(a) the mini-motorcycle is registered for highway use in accordance with Title 41, Chapter 1a, Motor Vehicle Act; and

(b) the operator is licensed to operate a motorcycle in accordance with Title 53, Chapter 3, Uniform Driver License Act.

(2) An owner may not authorize or knowingly permit a person to operate a mini-motorcycle in violation of this section.

(3) A person who violates this section is guilty of ~~[a class C misdemeanor]~~ an infraction.

Section 79. Section 41-6a-1201 is amended to read:

41-6a-1201. Driving on tracks.

(1) The operator of a vehicle proceeding on any track in front of a railroad train on a highway shall remove the vehicle from the track as soon as practicable after signal from the operator of the train.

(2) When a railroad train has started to cross an intersection, an operator of a vehicle may not drive:

(a) on or across the tracks; or

(b) in the path of the train within the intersection in front of the train.

(3) A violation of this section is an infraction.

Section 80. Section 41-6a-1202 is amended to read:

41-6a-1202. Driving through safety zone.

(1) The operator of a vehicle may not drive through or within a safety zone.

(2) A violation of this section is an infraction.

Section 81. Section 41-6a-1203 is amended to read:

41-6a-1203. Railroad grade crossing -- Duty to stop -- Malfunctions and school buses -- Driving through, around, or under gate or barrier prohibited.

(1) As used in this section, "active railroad grade crossing" has the same meaning as defined in Section 41-6a-1005.

(2) Whenever a person operating a vehicle approaches a railroad grade crossing, the operator of the vehicle shall stop within 50 feet but not less

than 15 feet from the nearest rail of the railroad track and may not proceed if:

(a) a clearly visible electric or mechanical signal device gives warning of the immediate approach of a train;

(b) a crossing gate is lowered, or when a human flagman gives or continues to give a signal of the approach or passage of a train;

(c) a railroad train approaching within approximately 1,500 feet of the highway crossing emits a signal audible and the train by reason of its speed or nearness to the crossing is an immediate hazard;

(d) an approaching train is plainly visible and is in hazardous proximity to the crossing; or

(e) there is any other condition that makes it unsafe to proceed through the crossing.

(3) (a) An operator of a vehicle who suspects a false activation or malfunction of a railroad grade crossing signal device where there is no gate or barrier may drive a vehicle through the railroad grade crossing after stopping if:

(i) the operator of a vehicle has a clear line of sight of at least one mile of the railroad tracks in all directions;

(ii) there is no evidence of an approaching train;

(iii) the vehicle can cross over the tracks safely; and

(iv) the operator of a school bus is compliant with written district policy.

(b) As soon as is reasonably possible, the operator of a school bus shall notify the driver's dispatcher and the dispatcher shall notify the owner of the railroad track where the grade crossing signal device is located of the false activation or malfunction.

(4) (a) A person may not drive a vehicle through, around, or under a crossing gate or barrier at a railroad grade crossing if the railroad grade crossing is active.

(b) A person may not cause a non-rail vehicle, whether or not occupied, to pass through, around, over, or under or remain on a gate or barrier at a railroad grade crossing if the railroad grade crossing is active.

(c) A person may not cause a non-rail vehicle, whether or not occupied, to pass around, through, over, or under or remain in a rail or fixed guideway right-of-way in a manner that would cause a railroad train or other rail vehicle to make contact with the non-rail vehicle.

(5) A violation of this section is an infraction.

Section 82. Section 41-6a-1204 is amended to read:

41-6a-1204. Trains -- Interference with vehicles limited.

(1) A person or government agency may not operate a train in a manner to prevent vehicular use

of a roadway for a period of time in excess of five consecutive minutes except:

[41] (a) when necessary to comply with signals affecting the safety of the movement of trains;

[42] (b) when necessary to avoid striking any object or person on the track;

[43] (c) when the train is disabled;

[44] (d) when the train is in motion or while engaged in switching operations;

[45] (e) when there is no vehicular traffic waiting to use the crossing;

[46] (f) when necessary to comply with a governmental safety regulation; or

[47] (g) as determined by a highway authority.

(2) A violation of this section is an infraction.

Section 83. Section 41-6a-1205 is amended to read:

41-6a-1205. Railroad grade crossings -- Certain vehicles must stop -- Exceptions -- Rules.

(1) An operator of a commercial motor vehicle, as defined under Section 53-3-102, shall upon approaching a railroad grade crossing:

(a) unless Subsection (2) applies, slow down and check that the tracks are clear of an approaching train;

(b) stop within 50 feet, but not closer than 15 feet, from the nearest rail of the railroad track before reaching the crossing if the tracks are not clear;

(c) obey all traffic control devices or the directions of a peace officer, or other crossing official at the crossing; and

(d) before proceeding over a railroad grade crossing:

(i) ensure that the vehicle has sufficient space to drive completely through a railroad grade crossing without stopping; and

(ii) ensure that the vehicle has sufficient undercarriage clearance to safely and completely pass through the crossing.

(2) (a) Except as provided in Subsection (3), the operator of a vehicle described in 49 CFR 392.10 shall stop within 50 feet, but not closer than 15 feet, from the nearest rail of the railroad track before crossing, at grade, any track of a railroad.

(b) While stopped, the operator shall look in both directions along the track for any sign of an approaching train and look and listen for signals indicating the approach of any train.

(c) The operator may proceed across the railroad track only when the movement may be made with reasonable safety.

(d) After stopping as required and upon safely proceeding, the operator shall only cross the

railroad track in a gear that ensures no necessity for manually changing gears while traversing the crossing.

(e) The operator may not manually shift gears while crossing the railroad track.

(3) This section does not apply at a:

(a) railroad grade crossing where traffic is controlled by a peace officer or other crossing official;

(b) railroad grade crossing where traffic is regulated by a traffic-control signal;

(c) railroad grade crossing where a traffic-control device gives notice that the stopping requirements of this section are not applicable; or

(d) other railroad grade crossings excluded under 49 CFR 392.10.

(4) A violation of this section is an infraction.

Section 84. Section 41-6a-1206 is amended to read:

41-6a-1206. Railroad crossing duties respecting crawler type tractor, power shovel, derrick, or other equipment or structure.

(1) A person may not operate or move the following on or across any tracks at a railroad grade crossing without first complying with this section:

(a) a crawler type tractor;

(b) a power shovel;

(c) a derrick;

(d) a roller; or

(e) any equipment or structure having:

(i) normal operating speed of 10 or less miles per hour; or

(ii) a vertical body or load clearance of less than:

(A) 1/2 inch per foot of the distance between any two adjacent axles; or

(B) in any event, nine inches measured above the level surface of a roadway.

(2) Notice of an intended crossing under this section shall be given to the railroad and a reasonable time shall be given to the railroad to provide proper protection at the crossing.

(3) (a) Before making a crossing under this section the person operating or moving the vehicle or equipment shall first stop within 50 feet but not closer than 15 feet from the nearest rail of the railway.

(b) While stopped, the operator of the vehicle shall listen and look in both directions along the track for any approaching train and for signals indicating the approach of a railroad train.

(c) The operator may proceed across the track only when the crossing can be made safely.

(4) The operator of a vehicle shall obey all traffic control devices or the directions of a peace officer or other crossing official at the crossing.

(5) A violation of this section is an infraction.

Section 85. Section 41-6a-1301 is amended to read:

41-6a-1301. Standards and specifications for lighting and special warning devices on school buses.

(1) (a) A school bus shall be equipped with red signal lamps mounted as high and as widely spaced laterally as practicable.

(b) The red signal lamps shall display two alternately flashing red lights, located at the same level, to the front and rear of the school bus.

(c) The red signal lamps shall be visible at 500 feet in normal sunlight.

(2) (a) A school bus shall be equipped with yellow signal lamps mounted near each of the four red signal lamps and at the same level but closer to the vertical centerline of the bus.

(b) The yellow signal lamps shall display two alternately flashing yellow lights to the front and rear of the school bus.

(c) The yellow signal lamps shall be visible at 500 feet in normal sunlight.

(3) A school bus driver shall activate the yellow signal lamps at least 100 feet, but not more than 500 feet, before every stop at which the alternately flashing red lights are activated.

(4) A violation of this section is an infraction.

Section 86. Section 41-6a-1302 is amended to read:

41-6a-1302. School bus -- Signs and light signals -- Flashing amber lights -- Flashing red lights -- Passing school bus -- Duty to stop -- Travel in opposite direction -- Penalties.

(1) A school bus, when operated for the transportation of school children, shall:

(a) bear on the front and rear of the bus a plainly visible sign containing the words "school bus" in letters not less than eight inches in height, which shall be removed or covered when the vehicle is not in use for the transportation of school children; and

(b) be equipped with alternating flashing amber and red light signals visible from the front and rear, of a type approved and mounted as required under Section 41-6a-1301 and prescribed by the department under Section 41-6a-1601.

(2) The operator of a vehicle on a highway, upon meeting or overtaking a school bus equipped with signals required under this section which is displaying alternating flashing:

(a) amber warning light signals, shall slow the vehicle, but may proceed past the school bus using

due care and caution at a speed not greater than specified in Subsection 41-6a-601(2) for school zones for the safety of the school children that may be in the vicinity; or

(b) red light signals visible from the front or rear, shall stop immediately before reaching the bus and may not proceed until the flashing red light signals cease operation.

(3) The operator of a vehicle need not stop upon meeting or passing a school bus displaying alternating flashing red light signals if the school bus is traveling in the opposite direction when:

(a) traveling on a divided highway;

(b) the bus is stopped at an intersection or other place controlled by a traffic-control signal or by a peace officer; or

(c) on a highway of five or more lanes, which may include a left-turn lane or two-way left turn lane.

(4) (a) The operator of a school bus shall operate alternating flashing red light signals at all times when:

(i) children are unloading from a school bus to cross a highway;

(ii) a school bus is stopped for the purpose of loading children who must cross a highway to board the bus; or

(iii) it would be hazardous for vehicles to proceed past the stopped school bus.

(b) The alternating flashing red light signals may not be operated except:

(i) when the school bus is stopped for loading or unloading school children; or

(ii) for an emergency purpose.

(5) The operator of a school bus being operated on a highway shall have the headlights of the school bus lighted.

(6) (a) A violation of Subsection (2) or (3) is a class C misdemeanor and the minimum fine is:

(i) \$100 for a first offense;

(ii) \$200 for a second offense within three years of a previous conviction or bail forfeiture; and

(iii) \$500 for a third or subsequent offense within three years of a previous conviction or bail forfeiture.

(b) A violation of Subsection (5) is ~~a class C misdemeanor~~ an infraction and the fine is \$50.

(c) The court may order the person to perform compensatory service in lieu of the fine or any portion of the fine if the court makes the reasons for the waiver part of the record.

(7) A violation of Subsection (1) or (4) is an infraction.

~~[(7)]~~ (8) The Driver License Division shall develop and implement a record system to distinguish:

(a) a conviction or bail forfeiture under this section from other convictions; and

(b) between a first and subsequent conviction or bail forfeiture under this section.

Section 87. Section 41-6a-1307 is amended to read:

41-6a-1307. School bus parking zones -- Establishment -- Uniform markings -- Penalty.

(1) As used in this section, "school bus parking zone" means a parking space that is clearly identified as reserved for use by a school bus.

(2) A highway authority for highways under its jurisdiction and school boards for roadways located on school property may establish and locate school bus parking zones in accordance with specifications established under Subsection (3).

(3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Department of Transportation, after consultation with local highway authorities and school boards which may include input from school traffic safety committees established under Section 53A-3-402, shall make rules establishing specifications for uniform signage or markings to clearly identify school bus parking zones.

(4) A person may not stop, stand, or park a vehicle other than a school bus, whether occupied or not, in a clearly identified school bus parking zone.

(5) (a) A violation of Subsection (4) is an infraction.

~~(5)~~ (b) A person who violates Subsection (4) shall pay a minimum fine of \$75.

Section 88. Section 41-6a-1402 is amended to read:

41-6a-1402. Stopping or parking on roadways -- Angle parking -- Traffic-control devices prohibiting or restricting.

(1) Except as otherwise provided in this section, a vehicle stopped or parked on a two-way roadway shall be stopped or parked with the right-hand wheels:

(a) parallel to and within 12 inches of the right-hand curb; or

(b) as close as practicable to the right edge of the right-hand shoulder.

(2) Except when otherwise provided by local ordinance, a vehicle stopped or parked on a one-way roadway shall be stopped or parked parallel to the curb or edge of the roadway in the direction of authorized traffic movement with its:

(a) right-hand wheels:

(i) within 12 inches of the right-hand curb; or

(ii) as close as practicable to the right edge of the right-hand shoulder; or

(b) left-hand wheels:

(i) within 12 inches of the left-hand curb; or

(ii) as close as practicable to the left edge of the left-hand shoulder.

(3) (a) Except as provided in Subsection (3)(b), local highway authorities may by ordinance permit angle parking on any roadway.

(b) Angle parking is not permitted on any federal-aid or state highway unless the Department of Transportation has determined that the roadway is of sufficient width to permit angle parking without interfering with the free movement of traffic.

(4) (a) The Department of Transportation, with respect to highways under its jurisdiction, may place traffic-control devices prohibiting or restricting the stopping, standing, or parking of vehicles on a highway where:

(i) the stopping, standing, or parking is dangerous to those using the highway; or

(ii) the stopping, standing, or parking of vehicles would unduly interfere with the free movement of traffic.

(b) A person may not stop, stand, or park a vehicle in violation of the restriction indicated by the devices under Subsection (4)(a).

(5) A violation of this section is an infraction.

Section 89. Section 41-6a-1404 is amended to read:

41-6a-1404. Stopping or parking on roadway outside business or residential district.

(1) Outside a business or residence district, a person may not stop, park, or leave standing a vehicle, whether attended or unattended, on the roadway when it is practical to stop, park, or leave the vehicle off the roadway.

(2) A person who stops, parks, or leaves a vehicle standing on a roadway shall:

(a) leave an unobstructed width of the highway opposite the vehicle for the free passage of other vehicles; and

(b) leave the vehicle so that other vehicle operators have a clear view of the stopped vehicle from a distance of 200 feet in each direction on the roadway.

(3) This section and Sections 41-6a-1401 and 41-6a-1402 do not apply to the operator of a vehicle if the vehicle becomes disabled while on the paved or main traveled portion of a roadway in a manner and to the extent that it is impossible to avoid stopping and temporarily leaving the disabled vehicle on the paved or main traveled portion of the roadway.

(4) A violation of this section is an infraction.

Section 90. Section 41-6a-1407 is amended to read:

41-6a-1407. Removal of unattended vehicles prohibited without authorization -- Penalties.

(1) In cases not amounting to burglary or theft of a vehicle, a person may not remove an unattended vehicle without prior authorization of:

- (a) a peace officer;
- (b) a law enforcement agency;
- (c) a highway authority having jurisdiction over the highway on which there is an unattended vehicle; or
- (d) the owner or person in lawful possession or control of the real property.

(2) (a) An authorization from a person specified under Subsection (1)(a), (b), or (c) shall be in a form specified by the Motor Vehicle Division.

(b) The removal of the unattended vehicle shall comply with requirements of Section 41-6a-1406.

(3) The removal of the unattended vehicle authorized under Subsection (1)(d) shall comply with requirements of Section 72-9-603.

(4) A person who violates Subsection (1) or (3) is guilty of [~~a class C misdemeanor~~] an infraction.

Section 91. Section 41-6a-1408 is amended to read:

41-6a-1408. Abandoned vehicles -- Removal by peace officer -- Report -- Vehicle identification.

(1) As used in this section, "abandoned vehicle, vessel, or outboard motor" means a vehicle, vessel, or outboard motor that is left unattended:

- (a) on a highway or on or in the waters of the state for a period in excess of 48 hours; or
- (b) on public or private property for a period in excess of seven days without express or implied consent of the owner or person in lawful possession or control of the property.

(2) A person may not abandon a vehicle, vessel, or outboard motor on a highway or on or in the waters of the state.

(3) A person may not abandon a vehicle, vessel, or outboard motor on public or private property without the express or implied consent of the owner or person in lawful possession or control of the property.

(4) A peace officer who has reasonable grounds to believe that a vehicle, vessel, or outboard motor has been abandoned may remove the vehicle, vessel, or outboard motor or cause it to be removed in accordance with Section 41-6a-1406 or 73-18-20.1.

(5) If the motor number, manufacturer's number or identification mark of the abandoned vehicle, vessel, or outboard motor has been defaced, altered

or obliterated, the vehicle, vessel, or outboard motor may not be released or sold until:

- (a) the original motor number, manufacturer's number or identification mark has been replaced; or
- (b) a new number assigned by the Motor Vehicle Division has been stamped on the vehicle, vessel, or outboard motor.

(6) A violation of this section is an infraction.

Section 92. Section 41-6a-1501 is amended to read:

41-6a-1501. Motorcycle or motor-driven cycle -- Place for operator to ride -- Passengers.

(1) A person operating a motorcycle or motor-driven cycle shall ride only on the permanent and regular seat attached to the motorcycle or motor-driven cycle.

(2) (a) Except as provided in Subsection (2)(b):

- (i) a person operating a motorcycle or motor-driven cycle may not carry any other person on the motorcycle or motor-driven cycle; and
- (ii) a passenger may not ride on a motorcycle or a motor-driven cycle.

(b) If a motorcycle or motor-driven cycle is designed to carry more than one person, a passenger may ride on:

- (i) the permanent and regular seat, if designed for two persons; or
- (ii) another seat firmly attached to the motorcycle or motor-driven cycle at the rear or side of the operator.

(3) A person shall ride on a motorcycle or motor-driven cycle only while sitting astride the seat, facing forward, with one leg on either side of the motorcycle or motor-driven cycle.

(4) A person may not operate a motorcycle or motor-driven cycle while carrying a package, bundle, or other article which prevents the person from keeping both hands on the handlebars.

(5) An operator of a motorcycle or motor-driven cycle may not carry a person and a person may not ride in a position that interferes with:

- (a) the operation or control of the motorcycle or motor-driven cycle; or
- (b) the view of the operator.

(6) A violation of this section is an infraction.

Section 93. Section 41-6a-1502 is amended to read:

41-6a-1502. Motorcycles, motor-driven cycles, or all-terrain type I vehicles -- Operation on public highways.

(1) (a) A motorcycle or a motor-driven cycle is entitled to full use of a lane.

(b) A person may not operate a motor vehicle in a manner that deprives a motorcycle or motor-driven cycle of the full use of a lane.

(c) This Subsection (1) does not apply to motorcycles or motor-driven cycles operated two abreast in a single lane.

(2) The operator of a motorcycle or motor-driven cycle may not overtake and pass in the same lane occupied by the vehicle being overtaken.

(3) A person may not operate a motorcycle or motor-driven cycle between:

(a) lanes of traffic; or

(b) adjacent lines or rows of vehicles.

(4) Motorcycles or motor-driven cycles may not be operated more than two abreast in a single lane.

(5) Subsections (2) and (3) do not apply to peace officers acting in the peace officers' official capacities.

(6) The provisions of this section also apply to all-terrain type I vehicles.

(7) A violation of this section is an infraction.

Section 94. Section 41-6a-1503 is amended to read:

41-6a-1503. Motorcycle or motor-driven cycle -- Attaching to another vehicle prohibited.

(1) A person riding on a motorcycle or motor-driven cycle may not attach himself to any other vehicle on a roadway.

(2) A violation of this section is an infraction.

Section 95. Section 41-6a-1504 is amended to read:

41-6a-1504. Motorcycle or motor-driven cycle -- Footrests for passenger -- Height of handlebars limited.

(1) A motorcycle or motor-driven vehicle carrying a passenger on a public highway, other than in a sidecar or enclosed cab, shall be equipped with footrests for the passenger.

(2) A person may not operate a motorcycle or motor-driven cycle with handlebars above shoulder height.

(3) A violation of this section is an infraction.

Section 96. Section 41-6a-1505 is amended to read:

41-6a-1505. Motorcycle or motor-driven cycle -- Protective headgear -- Closed cab excepted -- Electric assisted bicycles, motor assisted scooters, electric personal assistive mobility devices.

(1) A person under the age of 18 may not operate or ride on a motorcycle or motor-driven cycle on a highway unless the person is wearing protective headgear which complies with specifications adopted under Subsection (3).

(2) This section does not apply to persons riding within an enclosed cab.

(3) The following standards and specifications for protective headgear are adopted:

(a) 49 C.F.R. 571.218 related to protective headgear for motorcycles; and

(b) 16 C.F.R. Part 1203 related to protective headgear for bicycles, motor assisted scooters, and electric personal assistive mobility devices.

(4) A court shall waive \$8 of a fine charged to a person operating a motorcycle or motor-driven cycle for a moving traffic violation if the person was:

(a) 18 years of age or older at the time of operation; and

(b) wearing protective headgear that complies with the specifications adopted under Subsection (3) at the time of operation.

(5) The failure to wear protective headgear:

(a) does not constitute contributory or comparative negligence on the part of a person seeking recovery for injuries; and

(b) may not be introduced as evidence in any civil litigation on the issue of negligence, injuries, or the mitigation of damages.

(6) Notwithstanding Subsection (4), a court may not waive \$8 of a fine charged to a person operating a motorcycle or motor-driven cycle for a driving under the influence violation of Section 41-6a-502.

(7) A violation of this section is an infraction.

Section 97. Section 41-6a-1506 is amended to read:

41-6a-1506. Motorcycles -- Required equipment -- Brakes.

(1) A motorcycle and a motor-driven cycle shall be equipped with the following items:

(a) one head lamp which, when factory equipped with an automatic lighting ignition system, may not be disconnected;

(b) one tail lamp;

(c) either a tail lamp or a separate lamp which illuminates the rear license plate with a white light;

(d) one red reflector on the rear, either separate or as part of the tail lamp;

(e) one stop lamp;

(f) a braking system, other than parking brake, in accordance with Section 41-6a-1623;

(g) a horn or warning device in accordance with Section 41-6a-1625;

(h) a muffler and emission control system in accordance with Section 41-6a-1626;

(i) a mirror in accordance with Section 41-6a-1627; and

(j) tires in accordance with Section 41-6a-1636.

(2) The department may require an inspection of the braking system on a motor-driven cycle and disapprove a braking system that is not designed or

constructed as to insure reasonable and reliable performance in actual use in accordance with Section 41-6a-1623.

(3) A person may not operate a motor-driven cycle on a highway if the department has disapproved the braking system on the motor-driven cycle.

(4) (a) Upon notice to the party to whom the motor-driven cycle is registered, the department may suspend the registration of a motor-driven cycle if the department has disapproved the braking system under this section.

(b) The Motor Vehicle Division shall, under Subsection 41-1a-109(1)(e) or (2), refuse to register a motor-driven cycle if it has reason to believe the motor-driven cycle has a braking system disapproved under this section.

(5) A violation of this section is an infraction.

Section 98. Section 41-6a-1508 is amended to read:

41-6a-1508. Low-speed vehicle.

(1) Except as otherwise provided in this section, a low-speed vehicle is considered a motor vehicle for purposes of the Utah Code including requirements for:

(a) traffic rules under Title 41, Chapter 6a, Traffic Code;

(b) driver licensing under Title 53, Chapter 3, Uniform Driver License Act;

(c) motor vehicle insurance under Title 41, Chapter 12a, Financial Responsibility of Motor Vehicle Owners and Operators Act;

(d) vehicle registration, titling, vehicle identification numbers, license plates, and registration fees under Title 41, Chapter 1a, Motor Vehicle Act;

(e) vehicle taxation under Title 59, Chapter 13, Motor and Special Fuel Tax Act, and fee in lieu of property taxes or in lieu fees under Section 59-2-405;

(f) motor vehicle dealer licensing under Title 41, Chapter 3, Motor Vehicle Business Regulation Act;

(g) motor vehicle safety inspection requirements under Section 53-8-205; and

(h) safety belt requirements under Title 41, Chapter 6a, Part 18, Motor Vehicle Safety Belt Usage Act.

(2) (a) A low-speed vehicle shall comply with federal safety standards established in 49 C.F.R. 571.500 and shall be equipped with:

(i) headlamps;

(ii) front and rear turn signals, tail lamps, and stop lamps;

(iii) turn signal lamps;

(iv) reflex reflectors one on the rear of the vehicle and one on the left and right side and as far to the rear of the vehicle as practical;

(v) a parking brake;

(vi) a windshield that meets the standards under Section 41-6a-1635, including a device for cleaning rain, snow, or other moisture from the windshield; and

(vii) an exterior rearview mirror on the driver's side and either an interior rearview mirror or an exterior rearview mirror on the passenger side.

(b) A low-speed vehicle that complies with this Subsection (2) and Subsection (3) and that is not altered from the manufacturer is considered to comply with equipment requirements under Part 16, Vehicle Equipment.

(3) A person may not operate a low-speed vehicle that has been structurally altered from the original manufacturer's design.

(4) A low-speed vehicle is exempt from a motor vehicle emissions inspection and maintenance program requirements under Section 41-6a-1642.

(5) (a) Except to cross a highway at an intersection, a low-speed vehicle may not be operated on a highway with a posted speed limit of more than 35 miles per hour.

(b) In addition to the restrictions under Subsection (5)(a), a highway authority, may prohibit or restrict the operation of a low-speed vehicle on any highway under its jurisdiction, if the highway authority determines the prohibition or restriction is necessary for public safety.

(6) A person may not operate a low-speed vehicle on a highway without displaying on the rear of the low-speed vehicle, a slow-moving vehicle identification emblem that complies with the Society of Automotive Engineers standard SAE J943.

(7) A person who violates Subsection (2), (3), (5), or (6) is guilty of [~~a class C misdemeanor~~] an infraction.

Section 99. Section 41-6a-1509 is amended to read:

41-6a-1509. Street-legal all-terrain vehicle -- Operation on highways -- Registration and licensing requirements -- Equipment requirements.

(1) (a) Except as provided in Subsection (1)(b), an all-terrain type I vehicle, utility type vehicle, or full-sized all-terrain vehicle that meets the requirements of this section may be operated as a street-legal ATV on a street or highway unless the highway is an interstate freeway or a limited access highway as defined in Section 41-6a-102.

(b) Unless a street or highway is designated as open for street-legal ATV use by the controlling highway authority in accordance with Section 41-22-10.5, a person may not operate a street-legal ATV on a street or highway in accordance with Subsection (1)(a) if the highway is under the jurisdiction of:

- (i) a county of the first class; or
 - (ii) a municipality that is within a county of the first class.
- (2) A street-legal ATV shall comply with the same requirements as:
- (a) a motorcycle for:
 - (i) traffic rules under Title 41, Chapter 6a, Traffic Code;
 - (ii) registration, titling, odometer statement, vehicle identification, license plates, and registration fees under Title 41, Chapter 1a, Motor Vehicle Act;
 - (iii) fees in lieu of property taxes or in lieu of fees under Section 59-2-405.2; and
 - (iv) the county motor vehicle emissions inspection and maintenance programs under Section 41-6a-1642;
 - (b) a motor vehicle for:
 - (i) driver licensing under Title 53, Chapter 3, Uniform Driver License Act;
 - (ii) motor vehicle insurance under Title 41, Chapter 12a, Financial Responsibility of Motor Vehicle Owners and Operators Act; and
 - (iii) safety inspection requirements under Title 53, Chapter 8, Part 2, Motor Vehicle Safety Inspection Act, except that a street-legal ATV shall be subject to a safety inspection:
 - (A) when registered for the first time; and
 - (B) subsequently, on the same frequency as described in Subsection 53-8-205(2) based on the age of the vehicle as determined by the model year identified by the manufacturer; and
 - (c) an all-terrain type I or type II vehicle for off-highway vehicle provisions under Title 41, Chapter 22, Off-Highway Vehicles, and Title 41, Chapter 3, Motor Vehicle Business Regulation Act, unless otherwise specified in this section.
- (3) (a) An all-terrain type I vehicle and a utility type vehicle being operated as a street-legal ATV shall be equipped with:
- (i) one or more headlamps that meet the requirements of Section 41-6a-1603;
 - (ii) one or more tail lamps;
 - (iii) a tail lamp or other lamp constructed and placed to illuminate the registration plate with a white light;
 - (iv) one or more red reflectors on the rear;
 - (v) one or more stop lamps on the rear;
 - (vi) amber or red electric turn signals, one on each side of the front and rear;
 - (vii) a braking system, other than a parking brake, that meets the requirements of Section 41-6a-1623;

- (viii) a horn or other warning device that meets the requirements of Section 41-6a-1625;
 - (ix) a muffler and emission control system that meets the requirements of Section 41-6a-1626;
 - (x) rearview mirrors on the right and left side of the driver in accordance with Section 41-6a-1627;
 - (xi) a windshield, unless the operator wears eye protection while operating the vehicle;
 - (xii) a speedometer, illuminated for nighttime operation;
 - (xiii) for vehicles designed by the manufacturer for carrying one or more passengers, a seat designed for passengers, including a footrest and handhold for each passenger;
 - (xiv) for vehicles with side-by-side seating, seatbelts for each vehicle occupant; and
 - (xv) tires that:
 - (A) do not exceed 29 inches in height;
 - (B) are not larger than the tires that the all-terrain vehicle manufacturer made available for the all-terrain vehicle model; and
 - (C) have at least 2/32 inches or greater tire tread.
- (b) A full-sized all-terrain vehicle being operated as a street-legal all-terrain vehicle shall be equipped with:
- (i) two headlamps that meet the requirements of Section 41-6a-1603;
 - (ii) two tail lamps;
 - (iii) a tail lamp or other lamp constructed and placed to illuminate the registration plate with a white light;
 - (iv) one or more red reflectors on the rear;
 - (v) two stop lamps on the rear;
 - (vi) amber or red electric turn signals, one on each side of the front and rear;
 - (vii) a braking system, other than a parking brake, that meets the requirements of Section 41-6a-1623;
 - (viii) a horn or other warning device that meets the requirements of Section 41-6a-1625;
 - (ix) a muffler and emission control system that meets the requirements of Section 41-6a-1626;
 - (x) rearview mirrors on the right and left side of the driver in accordance with Section 41-6a-1627;
 - (xi) a windshield, unless the operator wears eye protection while operating the vehicle;
 - (xii) a speedometer, illuminated for nighttime operation;
 - (xiii) for vehicles designed by the manufacturer for carrying one or more passengers, a seat designed for passengers, including a footrest and handhold for each passenger;
 - (xiv) for vehicles with side-by-side seating, seatbelts for each vehicle occupant; and

(xv) tires that:

- (A) do not exceed 44 inches in height; and
- (B) have at least 2/32 inches or greater tire tread.

(4) (a) Subject to the requirement in Subsection (4)(b), an operator of a street-legal all-terrain vehicle, when operating a street-legal all-terrain vehicle on a highway in accordance with this section, may not exceed the lesser of:

- (i) the posted speed limit; or
- (ii) 45 miles per hour.

(b) An operator of a street-legal all-terrain vehicle, when operating a street-legal all-terrain vehicle on a highway with a posted speed limit higher than 45 miles per hour, shall:

(i) operate the street-legal all-terrain vehicle on the extreme right hand side of the roadway; and

(ii) equip the street-legal all-terrain vehicle with a reflector or reflective tape to the front and back of both sides of the vehicle.

(5) (a) A nonresident operator of an off-highway vehicle that is authorized to be operated on the highways of another state has the same rights and privileges as a street-legal ATV that is granted operating privileges on the highways of this state, subject to the restrictions under this section and rules made by the Board of Parks and Recreation, if the other state offers reciprocal operating privileges to Utah residents.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Board of Parks and Recreation shall establish eligibility requirements for reciprocal operating privileges for nonresident users granted under Subsection (5)(a).

(6) Nothing in this chapter shall restrict the operation of an off-highway vehicle in accordance with Section 41-22-10.5.

(7) A violation of this section is an infraction.

Section 100. Section 41-6a-1601 is amended to read:

41-6a-1601. Operation of unsafe or improperly equipped vehicles on public highways -- Exceptions.

(1) (a) A person may not operate or move and an owner may not cause or knowingly permit to be operated or moved on a highway a vehicle or combination of vehicles which:

(i) is in an unsafe condition that may endanger any person;

(ii) does not contain those parts or is not at all times equipped with lamps and other equipment in proper condition and adjustment as required in this chapter;

(iii) is equipped in any manner in violation of this chapter; or

(iv) emits pollutants in excess of the limits allowed under the rules of the Air Quality Board created under Title 19, Chapter 2, Air Conservation Act, or under rules made by local health departments.

(b) A person may not do any act forbidden or fail to perform any act required under this chapter.

(2) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and in coordination with the rules made under Section 53-8-204, the department shall make rules setting minimum standards covering the design, construction, condition, and operation of vehicle equipment for safely operating a motor vehicle on the highway as required under this part.

(b) The rules under Subsection (2)(a):

(i) shall conform as nearly as practical to Federal Motor Vehicle Safety Standards and Regulations;

(ii) may incorporate by reference, in whole or in part, the federal standards under Subsection (2)(b)(i) and nationally recognized and readily available standards and codes on motor vehicle safety;

(iii) shall include provisions for the issuance of a permit under Section 41-6a-1602;

(iv) shall include standards for the emergency lights of authorized emergency vehicles;

(v) may provide standards and specifications applicable to lighting equipment on school buses consistent with:

(A) this part;

(B) federal motor vehicle safety standards; and

(C) current specifications of the Society of Automotive Engineers;

(vi) shall provide procedures for the submission, review, approval, disapproval, issuance of an approval certificate, and expiration or renewal of approval of any part as required under Section 41-6a-1620;

(vii) shall establish specifications for the display or etching of a vehicle identification number on a vehicle;

(viii) shall establish specifications in compliance with this part for a flare, fusee, electric lantern, warning flag, or portable reflector used in compliance with this part;

(ix) shall establish approved safety and law enforcement purposes when video display is visible to the motor vehicle operator; and

(x) shall include standards and specifications for both original equipment and parts included when a vehicle is manufactured and aftermarket equipment and parts included after the original manufacture of a vehicle.

(c) The following standards and specifications for vehicle equipment are adopted:

(i) 49 C.F.R. 571.209 related to safety belts;

(ii) 49 C.F.R. 571.213 related to child restraint devices;

(iii) 49 C.F.R. 393, 396, and 396 Appendix G related to commercial motor vehicles and trailers operated in interstate commerce;

(iv) 49 C.F.R. 571 Standard 108 related to lights and illuminating devices; and

(v) 40 C.F.R. 82.30 through 82.42 and Part 82, Subpart B, Appendix A and B related to air conditioning equipment.

(3) Nothing in this chapter or the rules made by the department prohibit:

(a) equipment required by the United States Department of Transportation; or

(b) the use of additional parts and accessories on a vehicle not inconsistent with the provisions of this chapter or the rules made by the department.

(4) Except as specifically made applicable, the provisions of this chapter and rules of the department with respect to equipment required on vehicles do not apply to:

(a) implements of husbandry;

(b) road machinery;

(c) road rollers;

(d) farm tractors;

(e) motorcycles;

(f) motor-driven cycles;

(g) vehicles moved solely by human power;

(h) off-highway vehicles registered under Section 41-22-3 either:

(i) on a highway designated as open for off-highway vehicle use; or

(ii) in the manner prescribed by Subsections 41-22-10.3(1) through (3); or

(i) off-highway implements of husbandry when operated in the manner prescribed by Subsections 41-22-5.5(3) through (5).

(5) The vehicles referred to in Subsections (4)(h) and (i) are subject to the equipment requirements of Title 41, Chapter 22, Off-highway Vehicles, and the rules made under that chapter.

(6) (a) (i) Except as provided in Subsection (6)(a)(ii), a federal motor vehicle safety standard supersedes any conflicting provision of this chapter.

(ii) Federal motor vehicle safety standards do not supersede the provisions of Section 41-6a-1509 governing the requirements for and use of street-legal all-terrain vehicles on highways.

(b) The department:

(i) shall report any conflict found under Subsection (6)(a) to the appropriate committees or officials of the Legislature; and

(ii) may adopt a rule to replace the superseded provision.

(7) A violation of this section is an infraction.

Section 101. Section 41-6a-1602 is amended to read:

41-6a-1602. Permit to operate vehicle in violation of equipment regulations.

(1) The department may issue a permit which will allow temporary operation of a vehicle in violation of the provisions of this chapter or in violation of rules made by the department.

(2) The permit shall be carried in the vehicle and shall be displayed upon demand of a magistrate or peace officer.

(3) (a) The department may limit the time, manner, or duration of operation and may otherwise prescribe conditions of operation that are necessary to protect the safety of highway users or efficient movement of traffic.

(b) Any conditions shall be stated on the permit and a person may not violate them.

(4) A violation of this section is an infraction.

Section 102. Section 41-6a-1603 is amended to read:

41-6a-1603. Lights and illuminating devices -- Duty to display -- Time.

(1) (a) The operator of a vehicle shall turn on the lamps or lights of the vehicle on a highway at any time from a half hour after sunset to a half hour before sunrise and at any other time when, due to insufficient light or unfavorable atmospheric conditions, persons and vehicles on the highway are not clearly discernible at a distance of 1,000 feet ahead.

(b) The lights, lighted lamps, and other lamps and illuminating devices under Subsection (1)(a) shall be lighted as respectively required for different classes of vehicles, subject to the exceptions for parked vehicles under Section 41-6a-1607.

(2) Whenever a requirement is made as to distance from which certain lamps and devices shall render objects visible or within which the lamps or devices shall be visible, the provisions apply during the times specified under Subsection (1)(a) for a vehicle without load on a straight, level, unlighted highway under normal atmospheric conditions, unless a different time or condition is expressly stated.

(3) Whenever a requirement is made as to the mounted height of lamps or devices it shall mean from the center of the lamp or device to the level ground upon which the vehicle stands when the vehicle is without a load.

(4) A violation of this section is an infraction.

Section 103. Section 41-6a-1604 is amended to read:

41-6a-1604. Motor vehicle head lamp, tail lamps, stop lamps, and other lamps -- Requirements.

(1) A motor vehicle shall be equipped with at least two head lamps with at least one on each side of the front of the motor vehicle.

(2) (a) A motor vehicle, trailer, semitrailer, pole trailer, and any other vehicle which is being drawn at the end of a combination of vehicles, shall be equipped with at least two tail lamps and two or more red reflectors mounted on the rear.

(b) (i) Except as provided under Subsections (2)(b)(ii), (2)(c), and Section 41-6a-1612, all stop lamps or other lamps and reflectors mounted on the rear of a vehicle shall display or reflect a red color.

(ii) A turn signal or hazard warning light may be red or yellow.

(c) Either a tail lamp or a separate lamp shall be so constructed and placed as to illuminate with a white light the rear registration plate.

(3) (a) A motor vehicle, trailer, semitrailer, and pole trailer shall be equipped with two or more stop lamps and flashing turn signals.

(b) A supplemental stop lamp may be mounted on the rear of a vehicle, if the supplemental lamp:

- (i) emits a red light;
- (ii) is mounted:

(A) and constructed so that no light emitted from the device, either direct or reflected, is visible to the driver;

(B) not lower than 15 inches above the roadway; and

(C) on the vertical center line of the vehicle; and

(iii) is the size, design, and candle power that conforms to federal standards regulating stop lamps.

(4) (a) Each head lamp, tail lamp, supplemental stop lamp, flashing turn lamp, other lamp, or reflector required under this part shall comply with the requirements and limitations established under Section 41-6a-1601.

(b) The department, by rules made under Section 41-6a-1601, may require trucks, buses, motor homes, motor vehicles with truck-campers, trailers, semitrailers, and pole trailers to have additional lamps and reflectors.

(5) The department, by rules made under Section 41-6a-1601, may allow:

(a) one tail lamp on any vehicle equipped with only one when it was made;

(b) one stop lamp on any vehicle equipped with only one when it was made; and

(c) passenger cars and trucks with a width less than 80 inches and manufactured or assembled prior to January 1, 1953, need not be equipped with electric turn signal lamps.

(6) A violation of this section is an infraction.

Section 104. Section 41-6a-1606 is amended to read:

41-6a-1606. Load extending beyond rear of vehicle -- Duty to display lamps and reflectors or flags.

(1) If a load on a vehicle extends to the rear four feet or more beyond the bed or body of the vehicle, the operator shall display lamps, reflectors, or flags at the extreme rear end of the load in accordance with this section.

(2) During hours of darkness as specified in Section 41-6a-1603, the following shall be displayed:

(a) two red reflectors located so as to indicate maximum width; and

(b) two red lamps, one on each side with one red lamp located so as to indicate maximum overhang.

(3) (a) At a time other than the time indicated under Subsection (2), on a vehicle having a load which extends beyond its sides or more than four feet beyond its rear, red flags shall be displayed marking the extremities of the load, at each point where a lamp or reflector is required under Subsection (2).

(b) The red flags shall be at least 12 inches square.

(4) A violation of this section is an infraction.

Section 105. Section 41-6a-1607 is amended to read:

41-6a-1607. Parking lamps required -- Use when vehicle parked at night -- Head lamps dimmed.

(1) (a) A vehicle shall be equipped with one or more parking lamps.

(b) The parking lamps shall comply with requirements established under Section 41-6a-1601.

(2) A vehicle parked or stopped on a roadway or shoulder, whether attended or unattended, shall display lighted parking lamps if conditions exist as specified under Subsection 41-6a-1603(1)(a).

(3) Any lighted head lamps on a parked vehicle shall be dimmed.

(4) A violation of this section is an infraction.

Section 106. Section 41-6a-1608 is amended to read:

41-6a-1608. Farm tractors and equipment -- Lamps and reflectors -- Slow-moving vehicle emblem.

(1) (a) A farm tractor and a self-propelled implement of husbandry manufactured or assembled after January 1, 1970, shall be equipped with hazard warning lights of a type described in Section 41-6a-1611.

(b) The hazard warning lights shall be:

(i) visible from a distance of not less than 1,000 feet to the front and rear in normal sunlight; and

(ii) displayed whenever a farm tractor or self-propelled implement of husbandry is operated on a highway.

(2) (a) A farm tractor and a self-propelled implement of husbandry manufactured or assembled after January 1, 1970, shall be equipped with lamps and reflectors as required under this section.

(b) A farm tractor and a self-propelled implement of husbandry manufactured or assembled prior to January 1, 1970 shall be equipped with lamps and reflectors as required in this section if operated on a highway under the conditions specified under Subsection 41-6a-1603(1)(a).

(3) Subject to the provisions of Subsection (2), a farm tractor and an implement of husbandry shall be equipped with:

(a) at least two head lamps;

(b) at least one red lamp visible when lighted from a distance of not less than 1,000 feet to the rear mounted as far to the left of the center of the vehicle as practicable; and

(c) at least two red reflectors visible from all distances within 600 feet to 100 feet to the rear when directly in front of lawful lower beams of head lamps.

(4) Towed farm equipment or a towed implement of husbandry shall be equipped with lamps and reflectors as provided under this Subsection (4), if operated on a highway under the conditions specified under Subsection 41-6a-1603(1)(a).

(a) If the towed unit or its load extends more than four feet to the rear of the tractor or obscures any light on a tractor, the towed unit shall be equipped on the rear with at least two red reflectors visible from all distances within 600 feet to 100 feet to the rear when directly in front of lawful lower beams of head lamps.

(b) (i) If the towed unit extends more than four feet to the left of the center line of the tractor, the towed unit shall be equipped on the front with an amber reflector visible from all distances within 600 feet to 100 feet to the front when directly in front of lawful lower beams of head lamps.

(ii) The reflector under Subsection (4)(b)(i) shall be positioned to indicate, as nearly as practicable, the extreme left projection of the towed unit.

(c) If the towed unit or its load obscures either of the vehicle hazard warning lights on the tractor, the towed unit shall be equipped with vehicle hazard warning lights described in Subsection (1).

(5) (a) The two red reflectors required under Subsections (3) and (4) shall be positioned to show, as nearly as practicable, the extreme width of the vehicle or combination of vehicles as viewed from the rear of the vehicle or combination of vehicles.

(b) Reflective tape or paint may be used in lieu of the reflectors required under this section.

(6) (a) A slow-moving vehicle emblem mounted on the rear is required on:

(i) a farm tractor and a self-propelled implement of husbandry designed for operation at speeds not in excess of 25 miles per hour; or

(ii) towed farm equipment or a towed implement of husbandry if the towed unit or any load on it obscures the slow-moving vehicle emblem on the farm tractor or self-propelled implement of husbandry.

(b) The slow-moving vehicle emblem's design, size, mounting, and position on the vehicle required under this Subsection (6), shall:

(i) comply with current standards and specifications of the American Society of Agricultural Engineers; and

(ii) be approved by the department.

(c) A slow-moving vehicle identification emblem may not be:

(i) used except as required under this section and Sections 41-6a-1508 and 41-6a-1609; or

(ii) displayed on a vehicle traveling at a speed in excess of 25 miles per hour.

(7) A violation of this section is an infraction.

Section 107. Section 41-6a-1609 is amended to read:

41-6a-1609. Lamps and reflectors on vehicles not otherwise specified -- Slow-moving vehicle identification emblems on animal-drawn vehicles.

(1) An animal-drawn vehicle, a vehicle under Section 41-6a-1604, and a vehicle not specifically required by the provisions of other sections in this chapter to be equipped with lamps or other lighting devices, shall be equipped with lamps or other lighting devices if operated on a highway under the conditions specified under Subsection 41-6a-1603(1)(a) as follows:

(a) at least one lamp displaying a white light visible from a distance of not less than 1,000 feet to the front of the vehicle; and

(b) (i) two lamps displaying red light visible from a distance of not less than 1,000 feet to the rear of the vehicle; or

(ii) one lamp displaying a red light visible from a distance of not less than 1,000 feet to the rear and two red reflectors visible from all distances of 600 to 100 feet to the rear when illuminated by the lawful lower beams of head lamps.

(2) An animal-drawn vehicle shall at all times be equipped with a slow-moving vehicle identification emblem as provided under Section 41-6a-1608.

(3) A violation of this section is an infraction.

Section 108. Section 41-6a-1610 is amended to read:

41-6a-1610. Spot lamps.

(1) A motor vehicle may not be equipped with more than two spot lamps.

(2) A lighted spot lamp may not be aimed or used so that any part of the high intensity portion of the beam strikes the windshield, or any windows, mirror, or occupant of another vehicle in use.

(3) This section does not apply to spot lamps on an authorized emergency vehicle.

(4) A violation of this section is an infraction.

Section 109. Section 41-6a-1611 is amended to read:

41-6a-1611. Hazard warning lamps.

(1) A vehicle manufactured with hazard warning lights shall be equipped with hazard warning lights for the purpose of warning the operators of other vehicles of the presence of a vehicular traffic hazard requiring the exercise of unusual care in approaching, overtaking, or passing.

(2) In addition to the requirements of Subsection (1), a bus, truck, truck-tractor, trailer, semitrailer, or pole trailer shall be equipped with hazard warning lights if the bus, truck, truck-tractor, trailer, semitrailer, or pole trailer is 80 inches or more in overall width or 30 feet or more in overall length.

(3) The hazard warning lights required under this section shall comply with rules made by the department under Section 41-6a-1601.

(4) A violation of this section is an infraction.

Section 110. Section 41-6a-1612 is amended to read:

41-6a-1612. Back-up lamps -- Side marker lamps.

(1) (a) A motor vehicle may be equipped with one or more back-up lamps either separately or in combination with other lamps.

(b) A back-up lamp or lamps may not be lighted when the motor vehicle is in forward motion.

(c) A lighted back-up lamp shall emit a white light.

(2) A vehicle may be equipped with one or more side marker lamps that may be flashed in conjunction with turn or vehicular hazard warning signals.

(3) A back-up lamp and side marker lamp under this section shall comply with rules made by the department under Section 41-6a-1601.

(4) A violation of this section is an infraction.

Section 111. Section 41-6a-1613 is amended to read:

41-6a-1613. Lamp required for operation of vehicle on highway or adjacent shoulder -- Dimming of lights.

(1) (a) If a vehicle is operated on a highway or shoulder adjacent to the highway under the conditions specified under Subsection

41-6a-1603(1)(a), the operator of a vehicle shall use a high or low beam distribution of light or composite beam except as provided under Subsection (1)(c).

(b) Except as provided under Subsection (1)(c), the distribution of light or composite beam shall be directed high enough and of sufficient intensity to reveal persons and vehicles at a safe distance in advance of the vehicle.

(c) The operator of a vehicle shall use a low beam distribution of light or composite beam if the vehicle approaches:

(i) an oncoming vehicle within 500 feet; or

(ii) another vehicle from the rear within 300 feet.

(2) (a) The low beam distribution of light or composite beam shall be aimed to avoid projecting glaring rays into the:

(i) eyes of an oncoming operator; or

(ii) rearview mirror of a vehicle approached from the rear.

(b) A vehicle is not in violation of Subsection (2)(a) if:

(i) the vehicle has not been significantly altered from the original vehicle manufacturer's specifications; or

(ii) the glaring rays result from road contour or a temporary load on the vehicle.

(3) A violation of this section is an infraction.

Section 112. Section 41-6a-1616 is amended to read:

41-6a-1616. High intensity beams -- Red or blue lights -- Flashing lights -- Color of rear lights and reflectors.

(1) (a) Except as provided under Subsection (1)(b), under the conditions specified under Subsection 41-6a-1603(1)(a), a lighted lamp or illuminating device on a vehicle, which projects a beam of light of an intensity greater than 300 candlepower shall be directed so that no part of the high intensity portion of the beam will strike the level of the roadway on which the vehicle stands at a distance of more than 75 feet from the vehicle.

(b) The provisions of Subsection (1)(a) do not apply to head lamps, spot lamps, auxiliary lamps, flashing turn signals, hazard warning lamps, and school bus warning lamps.

(c) A motor vehicle on a highway may not have more than a total of four lamps lighted on the front of the vehicle including head lamps, auxiliary lamps, spot lamps, or any other lamp if the lamp projects a beam of an intensity greater than 300 candlepower.

(2) (a) Except for an authorized emergency vehicle and a school bus, a person may not operate or move any vehicle or equipment on a highway with a lamp or device capable of displaying a red light that is visible from directly in front of the center of the vehicle.

(b) Except for a law enforcement vehicle, a person may not operate or move any vehicle or equipment

on a highway with a lamp or device capable of displaying a blue light that is visible from directly in front of the center of the vehicle.

(3) A person may not use flashing lights on a vehicle except for:

(a) taillights of bicycles under Section 41-6a-1114;

(b) authorized emergency vehicles under rules made by the department under Section 41-6a-1601;

(c) turn signals under Section 41-6a-1604;

(d) hazard warning lights under Sections 41-6a-1608 and 41-6a-1611;

(e) school bus flashing lights under Section 41-6a-1302; and

(f) vehicles engaged in highway construction or maintenance under Section 41-6a-1617.

(4) A person may not use a rotating light on any vehicle other than an authorized emergency vehicle.

(5) A violation of this section is an infraction.

Section 113. Section 41-6a-1618 is amended to read:

41-6a-1618. Sale or use of unapproved lighting equipment or devices prohibited.

(1) Except as provided under Subsection (2), a person may not use, have for sale, sell, or offer for sale for use on or as a part of the equipment of a motor vehicle, trailer, semitrailer, or pole trailer any head lamp, auxiliary fog lamp, rear lamp, signal lamp, required reflector, or any parts of that equipment which tend to change the original design or performance, unless the part or equipment complies with the specifications adopted under Section 41-6a-1601.

(2) The provisions of Subsection (1) do not apply to equipment in actual use prior to July 1, 1979 or to replacement parts of this equipment.

(3) A person may not use on a motor vehicle, trailer, semitrailer, or pole trailer any lamps under this section unless the lamps are mounted, adjusted, and aimed in accordance with this part.

(4) A violation of this section is an infraction.

Section 114. Section 41-6a-1619 is amended to read:

41-6a-1619. Sale of unapproved equipment prohibited -- Trademark or brand name.

(1) A person shall not sell or offer for sale any equipment or parts that do not comply with the standards adopted under Section 41-6a-1601 including any lamp, reflector, hydraulic brake fluid, seat belt, safety glass, emergency disablement warning device, studded tire, motorcycle helmet, eye protection device for motorists, or red rear bicycle reflector.

(2) Any equipment described under Subsection (1) or Section 41-6a-1618 or any package containing the equipment shall bear the manufacturer's trademark or brand name unless it complies with identification requirements of the United States Department of Transportation or other federal agencies.

(3) A violation of this section is an infraction.

Section 115. Section 41-6a-1623 is amended to read:

41-6a-1623. Braking systems required -- Adoption of performance requirements by department.

(1) A motor vehicle and a combination of vehicles shall have a service braking system which will stop the motor vehicle or combination of vehicles within:

(a) 40 feet from an initial speed of 20 miles per hour on a level, dry, smooth, hard surface; or

(b) a shorter distance as may be specified by the department in accordance with federal standards.

(2) A motor vehicle and a combination of vehicles shall have a parking brake system:

(a) adequate to hold the motor vehicle or combination of vehicles on any grade on which it is operated under all conditions of loading on a surface free from snow, ice or loose material; or

(b) which complies with performance standards issued by the department in accordance with federal standards.

(3) In addition to the requirements of Subsections (1) and (2), if necessary for safe operation, the department may by rule require additional braking systems in accordance with federal standards.

(4) A violation of this section is an infraction.

Section 116. Section 41-6a-1624 is amended to read:

41-6a-1624. Failure to repair a damaged or deployed airbag -- Penalty.

(1) As used in this section, "person" includes the owner or lessee of a motor vehicle, a body shop, dealer, remanufacturer, salvage rebuilder, vehicle service maintenance facility, or any entity or individual engaged in the repair or replacement of motor vehicles or airbag passive restraint systems.

(2) Except as provided under Subsection (3), if a repair to a vehicle to be used on a highway is initiated, a person who has actual knowledge that a motor vehicle's airbag passive restraint system is damaged or has been deployed may not fail or cause another person to fail to fully restore, arm, and return to original operating condition, the motor vehicle's airbag passive restraint system.

(3) In the course of repairing a motor vehicle, a person who has actual knowledge that the motor vehicle's airbag passive restraint system is damaged or has been deployed shall notify the owner or lessee of the vehicle, in a form approved by the Department of Public Safety, that the failure to repair and fully restore the motor vehicle's airbag passive restraint system is a class B misdemeanor.

(4) Unless acting under a dismantling permit under Section 41-1a-1010, a person may not remove or modify a motor vehicle's airbag passive restraint system with the intent of rendering the motor vehicle's airbag passive restraint system inoperable.

(5) A person who violates this section is guilty of a class [B] C misdemeanor.

Section 117. Section 41-6a-1625 is amended to read:

41-6a-1625. Horns and warning devices -- Emergency vehicles.

(1) (a) A motor vehicle operated on a highway shall be equipped with a horn or other warning device in good working order.

(b) The horn or other warning device:

(i) shall be capable of emitting sound audible under normal conditions from a distance of not less than 200 feet; and

(ii) may not emit an unreasonably loud or harsh sound or a whistle.

(c) The operator of a motor vehicle:

(i) when reasonably necessary to insure safe operation, shall give audible warning with the horn; and

(ii) except as provided under Subsection (1)(c)(i), may not use the horn on a highway.

(2) Except as provided under this section, a vehicle may not be equipped with and a person may not use on a vehicle a siren, whistle, or bell.

(3) (a) A vehicle may be equipped with a theft alarm signal device if it is arranged so that it cannot be used by the operator as an ordinary warning signal.

(b) A theft alarm signal device may:

(i) use a whistle, bell, horn or other audible signal; and

(ii) not use a siren.

(4) (a) An authorized emergency vehicle shall be equipped with a siren, whistle, or bell capable of emitting sound audible under normal conditions from a distance of not less than 500 feet.

(b) The type of sound shall be approved by the department based on standards adopted by rules under Section 41-6a-1601.

(c) The siren on an authorized emergency vehicle may not be used except:

(i) when the vehicle is operated in response to an emergency call; or

(ii) in the immediate pursuit of an actual or suspected violator of the law.

(d) The operator of an authorized emergency vehicle shall sound the siren in accordance with this section when reasonably necessary to warn

pedestrians and other vehicle operators of the approach of the authorized emergency vehicle.

(5) A violation of this section is an infraction.

Section 118. Section 41-6a-1626 is amended to read:

41-6a-1626. Mufflers -- Prevention of noise, smoke, and fumes -- Air pollution control devices.

(1) (a) A vehicle shall be equipped, maintained, and operated to prevent excessive or unusual noise.

(b) A motor vehicle shall be equipped with a muffler or other effective noise suppressing system in good working order and in constant operation.

(c) A person may not use a muffler cut-out, bypass, or similar device on a vehicle.

(2) (a) Except while the engine is being warmed to the recommended operating temperature, the engine and power mechanism of a:

(i) gasoline-powered motor vehicle may not emit visible contaminants during operation;

(ii) diesel engine manufactured on or after January 1, 1973, may not emit visible contaminants of a shade or density darker than 20% opacity; and

(iii) diesel engine manufactured before January 1, 1973, may not emit visible contaminants of a shade or density darker than 40% opacity.

(b) A person who violates the provisions of Subsection (2)(a) is guilty of ~~a class C misdemeanor~~ an infraction.

(3) (a) A motor vehicle equipped by a manufacturer with air pollution control devices shall maintain the devices in good working order and in constant operation.

(b) For purposes of the first sale of a vehicle at retail, an air pollution control device may be substituted for the manufacturer's original device if the substituted device is at least as effective in the reduction of emissions from the vehicle motor as the air pollution control device furnished by the manufacturer of the vehicle as standard equipment for the same vehicle class.

(c) A person who renders inoperable an air pollution control device on a motor vehicle is guilty of a class [B] C misdemeanor.

(4) Subsection (3) does not apply to a motor vehicle altered and modified to use clean fuel, as defined under Section 59-13-102, when the emissions from the modified or altered motor vehicle are at levels that comply with existing state or federal standards for the emission of pollutants from a motor vehicle of the same class.

(5) A violation of this section is an infraction, except that a violation of Subsection (3) is a class C misdemeanor.

Section 119. Section 41-6a-1627 is amended to read:

41-6a-1627. Mirrors.

(1) (a) A motor vehicle shall be equipped with a mirror mounted on the left side of the vehicle.

(b) A mirror under Subsection (1)(a) shall be located to reflect to the driver a view of the highway to the rear of the vehicle.

(2) (a) Except for a motorcycle, in addition to the mirror required under Subsection (1), a motor vehicle shall be equipped with a mirror mounted either inside the vehicle approximately in the center or outside the vehicle on the right side.

(b) The mirror under Subsection (2)(a) shall be located to reflect to the driver a view of the highway to the rear of the vehicle.

(3) A violation of this section is an infraction.

Section 120. Section 41-6a-1628 is amended to read:

41-6a-1628. Seat belts -- Design and installation -- Specifications or requirements.

(1) A safety belt installed in a vehicle to accommodate an adult person shall be designed and installed to prevent or materially reduce the movement of the person using the safety belt in the event of collision or upset of the vehicle.

(2) A person may not sell, offer, or keep for sale a safety belt or attachments for use in a vehicle that does not comply with the specifications under Section 41-6a-1601.

(3) A violation of this section is an infraction.

Section 121. Section 41-6a-1630 is amended to read:

41-6a-1630. Standards applicable to vehicles.

(1) The following standards apply to vehicles under Sections 41-6a-1629 through 41-6a-1633:

(a) A replacement part and equipment used in a mechanical alteration shall be:

(i) designed and capable of performing the function for which they are intended; and

(ii) equal to or greater in strength and durability than the original parts provided by the original manufacturer.

(b) Except for original equipment, a person may not use spacers to increase wheel track width of a vehicle.

(c) A person may not use axle blocks to alter the suspension on the front axle of a vehicle.

(d) A person may not stack two or more axle blocks of a vehicle.

(2) (a) In doubtful or unusual cases, or to meet specific industrial requirements, personnel of the Utah Highway Patrol shall inspect the vehicle to determine:

(i) the road worthiness and safe condition of the vehicle; and

(ii) whether it complies with Sections 41-6a-1629 through 41-6a-1633.

(b) If the vehicle complies, the Utah Highway Patrol shall issue a permit of approval that shall be carried in the vehicle.

(3) (a) Upon notice to the party to whom the motor vehicle is registered, the department shall suspend the registration of any motor vehicle equipped, altered, or modified in violation of Sections 41-6a-1629 through 41-6a-1633.

(b) The Motor Vehicle Division shall, under Subsection 41-1a-109(1)(e) or (2), refuse to register any motor vehicle it has reason to believe is equipped, altered, or modified in violation of Sections 41-6a-1629 through 41-6a-1633.

(4) A violation of this section is a class C misdemeanor.

Section 122. Section 41-6a-1631 is amended to read:

41-6a-1631. Prohibitions.

(1) A person may not operate on a highway a motor vehicle that is mechanically altered or changed:

(a) in any way that may under normal operation:

(i) cause the motor vehicle body or chassis to come in contact with the roadway;

(ii) expose the fuel tank to damage from collision; or

(iii) cause the wheels to come in contact with the body;

(b) in any manner that may impair the safe operation of the vehicle;

(c) so that any part of the vehicle other than tires, rims, and mudguards are less than three inches above the ground;

(d) to a frame height of more than 24 inches for a motor vehicle with a gross vehicle weight rating of less than 4,500 pounds;

(e) to a frame height of more than 26 inches for a motor vehicle with a gross vehicle weight rating of at least 4,500 pounds and less than 7,500 pounds;

(f) to a frame height of more than 28 inches for a motor vehicle with a gross vehicle weight rating of at least 7,500 pounds;

(g) by stacking or attaching vehicle frames (one from on top of or beneath another frame); or

(h) so that the lowest portion of the body floor is raised more than three inches above the top of the frame.

(2) If the wheel track is increased beyond the O.E.M. specification, the top 50% of the tires shall be covered by the original fenders, by rubber, or other flexible fender extenders under any loading condition.

(3) A violation of this section is a class C misdemeanor.

Section 123. Section 41-6a-1632 is amended to read:**41-6a-1632. Bumpers.**

(1) A motor vehicle shall be equipped with a bumper on both front and rear of the motor vehicle, except a motor vehicle that was not originally designed or manufactured with a bumper or bumpers.

(2) (a) On a motor vehicle required to have bumpers under Subsection (1), a bumper shall be:

(i) at least 4.5 inches in vertical height;

(ii) centered on the vehicle's center line; and

(iii) extend no less than the width of the respective wheel track distance.

(b) A bumper shall be securely mounted, horizontal load bearing, and attached to the motor vehicle's frame to effectively transfer impact when engaged.

(3) If a motor vehicle is originally or later equipped with a bumper, the bumper shall:

(a) be maintained in operational condition; and

(b) comply with this section.

(4) A violation of this section is an infraction.

Section 124. Section 41-6a-1633 is amended to read:**41-6a-1633. Mudguards or flaps at rear wheels of trucks, trailers, truck tractors, or altered motor vehicles -- Exemptions.**

(1) (a) Except as provided in Subsection (2), when operated on a highway, the following vehicles shall be equipped with wheel covers, mudguards, flaps, or splash aprons behind the rearmost wheels to prevent, as far as practicable, the wheels from throwing dirt, water, or other materials on other vehicles:

(i) a vehicle that has been altered:

(A) from the original manufacturer's frame height; or

(B) in any other manner so that the motor vehicle's wheels may throw dirt, water, or other materials on other vehicles;

(ii) any truck with a gross vehicle weight rating of 10,500 pounds or more;

(iii) any truck tractor; and

(iv) any trailer or semitrailer with an unladen weight of 750 pounds or more.

(b) The wheel covers, mudguards, flaps, or splash aprons shall:

(i) be at least as wide as the tires they are protecting;

(ii) be directly in line with the tires; and

(iii) have a ground clearance of not more than 50% of the diameter of a rear-axle wheel, under any conditions of loading of the motor vehicle.

(2) Wheel covers, mudguards, flaps, or splash aprons are not required:

(a) if the motor vehicle, trailer, or semitrailer is designed and constructed so that the requirements of Subsection (1) are accomplished by means of fenders, body construction, or other means of enclosure; or

(b) on a vehicle operated or driven during fair weather on well-maintained, hard-surfaced roads if the motor vehicle:

(i) was made in America prior to 1935;

(ii) is registered as a vintage vehicle; or

(iii) is a custom vehicle as defined under Section 41-6a-1507.

(3) Except as provided in Subsection (2)(b), rear wheels not covered at the top by fenders, bodies, or other parts of the vehicle shall be covered at the top by protective means extending rearward at least to the center line of the rearmost axle.

(4) A violation of this section is an infraction.

Section 125. Section 41-6a-1634 is amended to read:**41-6a-1634. Safety chains on towed vehicles required -- Exemptions.**

(1) A towed vehicle shall be coupled by means of a safety chain, cable or equivalent device, in addition to the regular trailer hitch or coupling.

(2) Except as provided under Subsection (3), a safety chain, cable or equivalent device shall be:

(a) securely connected with the chassis of the towing vehicle, the towed vehicle, and the drawbar;

(b) of sufficient material and strength to prevent the two vehicles from becoming separated; and

(c) attached to:

(i) have no more slack than is necessary for proper turning;

(ii) the trailer drawbar to prevent it from dropping to the ground; and

(iii) assure the towed vehicle follows substantially in the course of the towing vehicle in case the vehicles become separated.

(3) A violation of Subsection (1) or (2) is an infraction.

~~(3)~~ (4) The provisions of Subsection (2) do not apply to a:

(a) semitrailer having a connecting device composed of a fifth wheel and king pin assembly;

(b) pole trailer; or

(c) trailer being towed by a bicycle.

Section 126. Section 41-6a-1635 is amended to read:

41-6a-1635. Windshields and windows -- Tinting -- Obstructions reducing visibility -- Wipers -- Prohibitions.

(1) Except as provided in Subsections (2) and (3), a person may not operate a motor vehicle with:

(a) a windshield that allows less than 70% light transmittance;

(b) a front side window that allows less than 43% light transmittance;

(c) any windshield or window that is composed of, covered by, or treated with any material or component that presents a metallic or mirrored appearance; or

(d) any sign, poster, or other nontransparent material on the windshield or side windows of the motor vehicle except:

(i) a certificate or other paper required to be so displayed by law; or

(ii) the vehicle's identification number displayed or etched in accordance with rules made by the department under Section 41-6a-1601.

(2) Nontransparent materials may be used:

(a) along the top edge of the windshield if the materials do not extend downward more than four inches from the top edge of the windshield or beyond the AS-1 line whichever is lowest;

(b) in the lower left-hand corner of the windshield provided they do not extend more than three inches to the right of the left edge or more than four inches above the bottom edge of the windshield; or

(c) on the rear windows including rear side windows located behind the vehicle operator.

(3) A windshield or other window is considered to comply with the requirements of Subsection (1) if the windshield or other window meets the federal statutes and regulations for motor vehicle window composition, covering, light transmittance, and treatment.

(4) Except for material used on the windshield in compliance with Subsections (2)(a) and (b), a motor vehicle with tinting or nontransparent material on any window shall be equipped with rear-view mirrors mounted on the left side and on the right side of the motor vehicle to reflect to the driver a view of the highway to the rear of the motor vehicle.

(5) (a) (i) The windshield on a motor vehicle shall be equipped with a device for cleaning rain, snow, or other moisture from the windshield.

(ii) The device shall be constructed to be operated by the operator of the motor vehicle.

(b) A windshield wiper on a motor vehicle shall be maintained in good working order.

(6) A person may not have for sale, sell, offer for sale, install, cover, or treat a windshield or window in violation of this section.

(7) Notwithstanding this section, any person subject to the federal Motor Vehicle Safety Standards, including motor vehicle manufacturers, distributors, dealers, importers, and repair businesses, shall comply with the federal standards on motor vehicle window tinting.

(8) A violation of this section is an infraction.

Section 127. Section 41-6a-1636 is amended to read:

41-6a-1636. Tires which are prohibited -- Regulatory powers of state transportation department -- Winter use of studs -- Special permits -- Tread depth.

(1) A solid rubber tire on a vehicle shall have rubber on its entire traction surface at least one inch thick above the edge of the flange of the entire periphery.

(2) A person may not operate or move on a highway a motor vehicle, trailer, or semitrailer having a metal tire in contact with the roadway.

(3) Except as otherwise provided in this section, a person may not have a tire on a vehicle that is moved on a highway that has on the tire's periphery a block, stud, flange, cleat, or spike or any other protuberances of any material other than rubber which projects beyond the tread of the traction surface of the tire.

(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Department of Transportation may make rules to permit the use of tires on a vehicle having protuberances other than rubber, if the department concludes that protuberances do not:

(a) damage the highway significantly; or

(b) constitute a hazard to life, health, or property.

(5) Notwithstanding any other provision of this section, a person may use:

(a) a tire with protuberances consisting of tungsten carbide studs on a vehicle if the studs:

(i) are only used during the winter periods of October 15 through December 31 and January 1 through March 31 of each year;

(ii) do not project beyond the tread of the traction surface of the tire more than .050 inches; and

(iii) are not used on a vehicle with a maximum gross weight in excess of 9,000 pounds unless the vehicle is an emergency vehicle or school bus;

(b) farm machinery with tires having protuberances which will not injure the highway; and

(c) tire chains of reasonable proportions on a vehicle when required for safety because of snow, ice, or other conditions tending to cause a vehicle to skid.

(6) Notwithstanding any other provision of this chapter, a highway authority, for a highway under

its jurisdiction, may issue special permits authorizing the operation on a highway of:

- (a) farm tractors;
 - (b) other farm machinery; or
 - (c) traction engines or tractors having movable tracks with transverse corrugations on the periphery of the movable tracks.
- (7) (a) A person may not operate a vehicle if one or more of the tires in use on the vehicle:
- (i) is in an unsafe operating condition; or
 - (ii) has a tread depth less than $\frac{2}{32}$ inch measured in any two adjacent tread grooves at three equally spaced intervals around the circumference of the tire.
- (b) The measurement under Subsection (7)(a) may not be made at the location of any tread wear indicator, tie bar, hump, or fillet.
- (8) A person in the business of selling tires may not sell or offer for sale for highway use any tire prohibited for use under Subsection (7).
- (9) A violation of this section is an infraction.

Section 128. Section 41-6a-1637 is amended to read:

41-6a-1637. Flares, fuses, or electric lanterns and flags -- Alternative reflector units -- Duty to carry in trucks and buses -- Requirements.

(1) Except as provided under Subsection (2) and unless the vehicle is carrying the equipment required under this section, a person may not operate a truck, bus or truck-tractor, or a motor vehicle towing a house trailer:

- (a) on a highway outside an urban district; or
 - (b) on a divided highway during hours of darkness specified under Section 41-6a-1603.
- (2) (a) The vehicle shall carry at least:
- (i) three flares;
 - (ii) three red electric lanterns;
 - (iii) three portable red emergency reflectors; or
 - (iv) three red-burning fuses.
- (b) The equipment required under Subsections (2)(a)(i) and (ii) shall be capable of being seen and distinguished at a distance of not less than 600 feet under normal atmospheric conditions during the hours of darkness.
- (c) The equipment required under Subsection (2)(a)(iii) shall be capable of reflecting red light clearly visible from a distance of not less than 600 feet under normal atmospheric conditions during the hours of darkness when directly in front of lawful lower beams of head lamps.
- (3) A flare, fusee, electric lantern, warning flag, or portable reflector used under this section or Section

41-6a-1638 shall comply with specifications adopted under Section 41-6a-1601.

(4) (a) A person may not operate a motor vehicle used for the transportation of explosives or any cargo tank truck used for the transportation of flammable liquids or compressed gases under the conditions specified under Subsections (1)(a) and (b) unless there is carried in the vehicle:

- (i) three red electric lanterns; or
- (ii) three portable red emergency reflectors.

(b) A person operating a vehicle specified under Subsection (4)(a) or a vehicle using compressed gas as a motor fuel may not carry in the vehicle a flare, fusee, or signal produced by flame.

(5) A person may not operate a vehicle described under this section on a highway outside of an urban district or on a divided highway during daylight hours unless at least two red flags, not less than 12 inches square, with standards to support the flags are carried in the vehicle.

(6) A violation of this section is an infraction.

Section 129. Section 41-6a-1638 is amended to read:

41-6a-1638. Warning signal around disabled vehicle -- Time and place.

(1) (a) When a truck, bus, truck-tractor, trailer, semitrailer, or pole trailer 80 inches or more in over-all width or 30 feet or more in over-all length is stopped on a roadway or adjacent shoulder, the operator shall immediately actuate vehicular hazard warning signal lamps meeting the requirements of Section 41-6a-1611.

(b) The signal lights need not be displayed by a vehicle:

- (i) parked lawfully in an urban district;
- (ii) stopped lawfully to receive or discharge passengers;
- (iii) stopped to avoid conflict with other traffic or to comply with the directions of a peace officer or an official traffic-control device; or
- (iv) while the devices specified in Subsections (2) through (6) are in place.

(2) (a) Except as provided in Subsection (3), if a vehicle of a type specified under Subsection (1) is disabled or stopped for more than 10 minutes on a roadway outside of an urban district under the conditions specified under Subsection 41-6a-1603(1), the operator of the vehicle shall display the following warning devices:

- (i) a lighted fusee, a lighted red electric lantern, or a portable red emergency reflector shall immediately be placed at the traffic side of the vehicle in the direction of the nearest approaching traffic; and
- (ii) as soon as possible after placing the warning devices under Subsection (2)(a)(i) but within the burning period of the fusee (15 minutes), the driver shall place three liquid-burning flares (pot

torches), or three lighted red electric lanterns, or three portable red emergency reflectors on the roadway in the following order:

(A) one approximately 100 feet from the disabled vehicle in the center of the lane occupied by the vehicle and toward traffic approaching in that lane;

(B) one approximately 100 feet in the opposite direction from the disabled vehicle and in the center of the traffic lane occupied by the vehicle; and

(C) one at the traffic side of the disabled vehicle not less than 10 feet rearward or forward of the disabled vehicle in the direction of the nearest approaching traffic.

(b) If a lighted red electric lantern or a red portable emergency reflector has been placed at the traffic side of the vehicle in accordance with Subsection (2)(a)(ii)(A), a rearward lantern or reflector under Subsection (2)(a)(ii)(C) is not required.

(3) If a vehicle specified under this section is disabled, or stopped for more than 10 minutes:

(a) within 500 feet of a curve, hillcrest, or other obstruction to view, the warning device in that direction shall be placed to afford ample warning to other users of the highway, but in no case less than 100 feet or more than 500 feet from the disabled vehicle;

(b) on a roadway of a divided highway under the conditions specified under Subsection 41-6a-1603(1), the appropriate warning devices required under Subsections (2) and (4) shall be placed as follows:

(i) one at a distance of approximately 200 feet from the vehicle in the center of the lane occupied by the stopped vehicle and in the direction of traffic approaching in that lane;

(ii) one at a distance of approximately 100 feet from the vehicle, in the center of the lane occupied by the vehicle and in the direction of traffic approaching in that lane; and

(iii) one at the traffic side of the vehicle and approximately 10 feet from the vehicle in the direction of the nearest approaching traffic; or

(c) on a roadway outside of an urban district or on the roadway of a divided highway not under the conditions specified under Subsection 41-6a-1603(1), the driver of the vehicle shall display two red flags as follows:

(i) if traffic on the roadway moves in two directions, one flag shall be placed approximately 100 feet to the rear and one flag approximately 100 feet in advance of the vehicle in the center of the lane occupied by the vehicle; or

(ii) on a one-way roadway, one flag shall be placed approximately 100 feet and one flag approximately 200 feet to the rear of the vehicle in the center of the lane occupied by the vehicle.

(4) When a motor vehicle used in the transportation of explosives or any cargo tank truck

used for the transportation of any flammable liquid or compressed gas is disabled, or stopped for more than 10 minutes, at any time and place specified under Subsection (2) or (3), the operator of the vehicle shall immediately display red electric lanterns or portable red emergency reflectors in the same number and manner as specified in Subsection (2) or (3).

(5) The warning devices specified under Subsections (2) through (4) are not required to be displayed where there is sufficient light to reveal persons and vehicles within a distance of 1,000 feet.

(6) If a vehicle described under this section is stopped entirely off the roadway and on an adjacent shoulder, the warning devices shall be placed, as nearly as practicable, on the shoulder near the edge of the roadway.

(7) A violation of this section is an infraction.

Section 130. Section 41-6a-1639 is amended to read:

41-6a-1639. Hazardous materials -- Transportation regulations -- Fire extinguishers.

(1) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Department of Transportation shall make rules for the safe transportation of hazardous materials.

(b) The rules shall adopt by reference or be consistent with current Hazardous Materials Regulations of the United States Department of Transportation.

(c) An adoption by reference under Subsection (1)(b) shall be construed to incorporate amendments thereto as may be made from time to time.

(2) A person operating a vehicle transporting any hazardous material as a cargo or part of a cargo on a highway shall at all times comply with rules made by the Department of Transportation under this section including being:

(a) marked or placarded; and

(b) equipped with fire extinguishers:

(i) of a type, size, and number approved by rule; and

(ii) that are filled, ready for immediate use, and placed at a convenient point on the vehicle.

(c) A violation of Subsection (2)(a) or (b) is an infraction.

Section 131. Section 41-6a-1641 is amended to read:

41-6a-1641. Video display in motor vehicles prohibited if visible to driver -- Exceptions.

(1) A motor vehicle may not be operated on a highway if the motor vehicle is equipped with a video display located so that the display is visible to the operator of the vehicle.

(2) This section does not prohibit the use of a video display used exclusively for:

(a) safety or law enforcement purposes if the use is approved by rule of the department under Section 41-6a-1601;

(b) motor vehicle navigation; or

(c) monitoring of equipment and operating systems of the motor vehicle.

(3) A violation of this section is an infraction.

Section 132. Section 41-6a-1713 is amended to read:

41-6a-1713. Penalty for littering on a highway.

(1) A person who violates any of the provisions of Section 41-6a-1712 is guilty of ~~[a class C misdemeanor]~~ an infraction and shall be fined:

(a) not less than \$200 for a violation; or

(b) not less than \$500 for a second or subsequent violation within three years of a previous violation of this section.

(2) The sentencing judge may require that the offender devote at least eight hours in cleaning up:

(a) litter caused by the offender; and

(b) existing litter from a safe area designated by the sentencing judge.

Section 133. Section 41-8-1 is amended to read:

41-8-1. Operation of vehicle by persons under 16 prohibited -- Exceptions for off-highway vehicles and off-highway implements of husbandry.

(1) A person under 16 years of age, whether resident or nonresident of this state, may not operate a motor vehicle upon any highway of this state.

(2) This section does not apply to a person operating:

(a) a motor vehicle under a permit issued under Section 53-3-210.5;

(b) an off-highway vehicle registered under Section 41-22-3 either:

(i) on a highway designated as open for off-highway vehicle use; or

(ii) in the manner prescribed by Subsections 41-22-10.3(1) through (3); or

(c) an off-highway implement of husbandry in the manner prescribed by Subsections 41-22-5.5(3) through (5).

(3) A violation of this section is an infraction.

Section 134. Section 41-8-2 is amended to read:

41-8-2. Operation of vehicle by persons under 17 during night hours prohibited -- Exceptions.

(1) In addition to the provisions of Title 53, Chapter 3, Uniform Driver License Act, a person younger than 17 years of age, whether resident or nonresident of this state, may not operate a motor vehicle upon any highway of this state between the hours of 12:00 a.m. and 5:00 a.m.

(2) It is an affirmative defense to a charge under Subsection (1) that the person is operating a motor vehicle:

(a) accompanied by a licensed driver at least 21 years of age who is occupying a seat next to the driver;

(b) for the driver's employment, including the trip to and from the driver's residence and the driver's employment;

(c) directly to the driver's residence from a school-sponsored activity if:

(i) transportation to the activity is provided by a school or school district; and

(ii) the transportation under Subsection (2)(c)(i) commences from and returns to the school property where the driver is enrolled;

(d) on assignment of a farmer or rancher and the driver is engaged in an agricultural operation; or

(e) in an emergency.

(3) (a) In addition to any penalties imposed under Title 53, Chapter 3, Uniform Driver License Act, a violation of this section is ~~[a class C misdemeanor]~~ an infraction.

(b) A peace officer may not seize or impound a vehicle if:

(i) the operator of the vehicle is cited for a violation of this section; and

(ii) the seizure or impoundment is not otherwise authorized under Section 41-1a-1101, 41-6a-1405, 41-6a-1608, or 73-18-20.1 or required under Section 41-6a-527.

Section 135. Section 41-8-3 is amended to read:

41-8-3. Operation of vehicle by persons under 16 and six months -- Passenger limitations -- Exceptions -- Penalties.

(1) In addition to the provisions of Title 53, Chapter 3, Uniform Driver License Act, a person, whether resident or nonresident of this state, may not operate a motor vehicle upon any highway of this state with any passenger who is not an immediate family member of the driver until the earlier of:

(a) six months from the date the person's driver license was issued; or

(b) the person reaches 18 years of age.

(2) It is an affirmative defense to a charge under Subsection (1) that the person is operating a motor vehicle:

(a) accompanied by a licensed driver at least 21 years of age who is occupying a seat next to the driver;

(b) on assignment of a farmer or rancher and the driver is engaged in an agricultural operation; or

(c) in an emergency.

(3) In addition to any penalties imposed under Title 53, Chapter 3, Uniform Driver License Act, a violation of this section is [~~a class C misdemeanor~~] an infraction.

(4) (a) Enforcement of this section by state or local law enforcement officers shall be only as a secondary action when an operator of a motor vehicle has been detained for a suspected violation of Title 41, other than this section, or for another offense.

(b) A peace officer may not seize or impound a vehicle if:

(i) the operator of the vehicle is cited for a violation of this section; and

(ii) the seizure or impoundment is not otherwise authorized under Section 41-1a-1101, 41-6a-1405, 41-6a-1608, or 73-18-20.1 or required under Section 41-6a-527.

Section 136. Section 41-12a-302 is amended to read:

41-12a-302. Operating motor vehicle without owner's or operator's security -- Penalty.

(1) (a) Except as provided in Subsection (1)(b), an owner of a motor vehicle on which owner's or operator's security is required under Section 41-12a-301, who operates the owner's vehicle or permits it to be operated on a highway in this state without owner's security being in effect is guilty of a class [~~B~~] C misdemeanor, and the fine shall be not less than:

(i) \$400 for a first offense; and

(ii) \$1,000 for a second and subsequent offense within three years of a previous conviction or bail forfeiture.

(b) A court may waive up to \$300 of the fine charged to the owner of a motor vehicle under Subsection (1)(a)(i) if the owner demonstrates that owner's or operator's security required under Section 41-12a-301 was obtained subsequent to the violation but before sentencing.

(2) (a) Except as provided under Subsection (2)(b), any other person who operates a motor vehicle upon a highway in Utah with the knowledge that the owner does not have owner's security in effect for the motor vehicle is also guilty of a class [~~B~~] C misdemeanor, and the fine shall be not less than:

(i) \$400 for a first offense; and

(ii) \$1,000 for a second and subsequent offense within three years of a previous conviction or bail forfeiture.

(b) A person that has in effect owner's security on a Utah-registered motor vehicle or its equivalent

that covers the operation, by the person, of the motor vehicle in question is exempt from this Subsection (2).

Section 137. Section 41-12a-303.2 is amended to read:

41-12a-303.2. Evidence of owner's or operator's security to be carried when operating motor vehicle -- Defense -- Penalties.

(1) As used in this section:

(a) "Division" means the Motor Vehicle Division of the State Tax Commission.

(b) "Registration materials" means the evidences of motor vehicle registration, including all registration cards, license plates, temporary permits, and nonresident temporary permits.

(2) (a) (i) A person operating a motor vehicle shall:

(A) have in the person's immediate possession evidence of owner's or operator's security for the motor vehicle the person is operating; and

(B) display it upon demand of a peace officer.

(ii) A person is exempt from the requirements of Subsection (2)(a)(i) if the person is operating:

(A) a government-owned or leased motor vehicle; or

(B) an employer-owned or leased motor vehicle and is driving it with the employer's permission.

(b) Evidence of owner's or operator's security includes any one of the following:

(i) a copy of the operator's valid:

(A) insurance policy;

(B) insurance policy declaration page;

(C) binder notice;

(D) renewal notice; or

(E) card issued by an insurance company as evidence of insurance;

(ii) a certificate of insurance issued under Section 41-12a-402;

(iii) a certified copy of a surety bond issued under Section 41-12a-405;

(iv) a certificate of the state treasurer issued under Section 41-12a-406;

(v) a certificate of self-funded coverage issued under Section 41-12a-407; or

(vi) information that the vehicle or driver is insured from the Uninsured Motorist Identification Database Program created under Title 41, Chapter 12a, Part 8.

(c) A card issued by an insurance company as evidence of owner's or operator's security under Subsection (2)(b)(i)(E) on or after July 1, 2014, may not display the owner's or operator's address on the card.

(d) (i) A person may provide to a peace officer evidence of owner's or operator's security described in this Subsection (2) in:

(A) a hard copy format; or

(B) an electronic format using a mobile electronic device.

(ii) If a person provides evidence of owner's or operator's security in an electronic format using a mobile electronic device under this Subsection (2)(d), the peace officer viewing the owner's or operator's security on the mobile electronic device may not view any other content on the mobile electronic device.

(iii) Notwithstanding any other provision under this section, a peace officer is not subject to civil liability or criminal penalties under this section if the peace officer inadvertently views content other than the evidence of owner's or operator's security on the mobile electronic device.

(e) (i) Evidence of owner's or operator's security from the Uninsured Motorist Identification Database Program described under Subsection (2)(b)(vi) supercedes any evidence of owner's or operator's security described under Subsection (2)(b)(i)(D) or (E).

(ii) A peace officer may not cite or arrest a person for a violation of Subsection (2)(a) if the Uninsured Motorist Identification Database Program created under Title 41, Chapter 12a, Part 8, information indicates that the vehicle or driver is insured.

(3) It is an affirmative defense to a charge under this section that the person had owner's or operator's security in effect for the vehicle the person was operating at the time of the person's citation or arrest.

(4) (a) Evidence of owner's or operator's security as defined under Subsection (2)(b) or a written statement from an insurance producer or company verifying that the person had the required motor vehicle insurance coverage on the date specified is considered proof of owner's or operator's security for purposes of Subsection (3) and Section 41-12a-804.

(b) The court considering a citation issued under this section shall allow the evidence or a written statement under Subsection (4)(a) and a copy of the citation to be faxed or mailed to the clerk of the court to satisfy Subsection (3).

(c) The notice under Section 41-12a-804 shall specify that the written statement under Subsection (4)(a) and a copy of the notice shall be faxed or mailed to the designated agent to satisfy the proof of owner's or operator's security required under Section 41-12a-804.

(5) A violation of this section is a class [B] C misdemeanor, and the fine shall be not less than:

(a) \$400 for a first offense; and

(b) \$1,000 for a second and subsequent offense within three years of a previous conviction or bail forfeiture.

(6) Upon receiving notification from a court of a conviction for a violation of this section, the department:

(a) shall suspend the person's driver license; and

(b) may not renew the person's driver license or issue a driver license to the person until the person gives the department proof of owner's or operator's security.

(i) This proof of owner's or operator's security shall be given by any of the ways required under Section 41-12a-401.

(ii) This proof of owner's or operator's security shall be maintained with the department for a three-year period.

(iii) An insurer that provides a certificate of insurance as provided under Section 41-12a-402 or 41-12a-403 may not terminate the insurance policy unless notice of termination is filed with the department no later than 10 days after termination as required under Section 41-12a-404.

(iv) If a person who has canceled the certificate of insurance applies for a license within three years from the date proof of owner's or operator's security was originally required, the department shall refuse the application unless the person reestablishes proof of owner's or operator's security and maintains the proof for the remainder of the three-year period.

Section 138. Section 41-22-3 is amended to read:

**41-22-3. Registration of vehicles --
Application -- Issuance of sticker and card
-- Proof of property tax payment --
Records.**

(1) (a) Unless exempted under Section 41-22-9, a person may not operate or transport and an owner may not give another person permission to operate or transport any off-highway vehicle on any public land, trail, street, or highway in this state unless the off-highway vehicle is registered under this chapter for the current year.

(b) Unless exempted under Section 41-22-9, a dealer may not sell an off-highway vehicle which can be used or transported on any public land, trail, street, or highway in this state, unless the off-highway vehicle is registered or is in the process of being registered under this chapter for the current year.

(2) The owner of an off-highway vehicle subject to registration under this chapter shall apply to the Motor Vehicle Division for registration on forms approved by the Motor Vehicle Division.

(3) Each application for registration of an off-highway vehicle shall be accompanied by:

(a) evidence of ownership, a title, or a manufacturer's certificate of origin, and a bill of sale showing ownership, make, model, horsepower or displacement, and serial number;

(b) the past registration card; or

(c) the fee for a duplicate.

(4) (a) Upon each annual registration, the Motor Vehicle Division shall issue a registration sticker and a registration card for each off-highway vehicle registered.

(b) The registration sticker shall:

(i) contain a unique number using numbers, letters, or combination of numbers and letters to identify the off-highway vehicle for which it is issued;

(ii) be affixed to the off-highway vehicle for which it is issued in a plainly visible position as prescribed by rule of the board under Section 41-22-5.1; and

(iii) be maintained free of foreign materials and in a condition to be clearly legible.

(c) At all times, a registration card shall be kept with the off-highway vehicle and shall be available for inspection by a law enforcement officer.

(5) (a) Except as provided by Subsection (5)(c), an applicant for a registration card and registration sticker shall provide the Motor Vehicle Division a certificate, described under Subsection (5)(b), from the county assessor of the county in which the off-highway vehicle has situs for taxation.

(b) The certificate required under Subsection (5)(a) shall state one of the following:

(i) the property tax on the off-highway vehicle for the current year has been paid;

(ii) in the county assessor's opinion, the tax is a lien on real property sufficient to secure the payment of the tax; or

(iii) the off-highway vehicle is exempt by law from payment of property tax for the current year.

(c) An off-highway vehicle for which an off-highway implement of husbandry sticker has been issued in accordance with Section 41-22-5.5 is exempt from the requirement under this Subsection (5).

(6) (a) All records of the division made or kept under this section shall be classified by the Motor Vehicle Division in the same manner as motor vehicle records are classified under Section 41-1a-116.

(b) Division records are available for inspection in the same manner as motor vehicle records under Section 41-1a-116.

(7) A violation of this section is an infraction.

Section 139. Section 41-22-4 is amended to read:

41-22-4. Falsification of documents unlawful -- Alteration or removal of serial number unlawful -- Display of sticker.

(1) A person may not:

(4) (a) knowingly falsify an application for registration, affidavit of ownership, or bill of sale for any off-highway vehicle;

(2) (b) alter, deface, or remove any manufacturer's serial number on any off-highway vehicle;

(3) (c) use or permit the use or display of any registration sticker, registration card, or permit upon an off-highway vehicle or in the operation of any off-highway vehicle other than the vehicle for which it was issued; or

(4) (d) alter or deface a registration sticker, registration card, or permit issued to an off-highway vehicle.

(2) A violation of this section is a class C misdemeanor.

Section 140. Section 41-22-5.5 is amended to read:

41-22-5.5. Off-highway husbandry vehicles.

(1) (a) (i) The owner of an all-terrain type I vehicle, motorcycle, all-terrain type II vehicle, or snowmobile used for agricultural purposes may apply to the Motor Vehicle Division for an off-highway implement of husbandry sticker.

(ii) Each application under Subsection (1)(a)(i) shall be accompanied by:

(A) evidence of ownership;

(B) a title or a manufacturer's certificate of origin; and

(C) a signed statement certifying that the off-highway vehicle is used for agricultural purposes.

(iii) The owner shall receive an off-highway implement of husbandry sticker upon production of:

(A) the documents required under this Subsection (1); and

(B) payment of an off-highway implement of husbandry sticker fee established by the board not to exceed \$10.

(b) If the vehicle is also used for recreational purposes on public lands, trails, streets, or highways, it shall also be registered under Section 41-22-3.

(c) The off-highway implement of husbandry sticker shall be displayed in a manner prescribed by the board and shall identify the all-terrain type I vehicle, motorcycle, or snowmobile as an off-highway implement of husbandry.

(2) The off-highway implement of husbandry sticker is valid only for the life of the ownership of the all-terrain type I vehicle, motorcycle, or snowmobile and is not transferable.

(3) The off-highway implement of husbandry sticker is valid for an all-terrain type I vehicle, motorcycle, or snowmobile which is being operated adjacent to a roadway:

(a) when the all-terrain type I vehicle, motorcycle, or snowmobile is only being used to travel from one parcel of land owned or operated by the owner of the vehicle to another parcel of land owned or operated by the owner; and

(b) when this operation is necessary for the furtherance of agricultural purposes.

(4) If the operation of an off-highway implement of husbandry adjacent to a roadway is impractical, it may be operated on the roadway if the operator exercises due care towards conventional motor vehicle traffic.

(5) It is unlawful to operate an off-highway implement of husbandry along, across, or within the boundaries of an interstate freeway.

(6) A violation of this section is an infraction.

Section 141. Section 41-22-10.1 is amended to read:

41-22-10.1. Vehicles operated on posted public land.

(1) Currently registered off-highway vehicles may be operated on public land, trails, streets, or highways that are posted by sign or designated by map or description as open to off-highway vehicle use by the controlling federal, state, county, or municipal agency.

(2) The controlling federal, state, county, or municipal agency may:

(a) provide a map or description showing or describing land, trails, streets, or highways open to off-highway vehicle use; or

(b) post signs designating lands, trails, streets, or highways open to off-highway vehicle use.

(3) Liability may not be imposed on any federal, state, county, or municipality relating to the designation or maintenance of any land, trail, street, or highway open for off-highway vehicle use.

(4) A violation of this section is an infraction.

Section 142. Section 41-22-10.2 is amended to read:

41-22-10.2. Off-highway vehicles -- Prohibited on interstate freeway.

(1) It is unlawful for an off-highway vehicle to operate along, across, or within the boundaries of an interstate freeway or controlled access highway, as defined in Section 41-6a-102.

(2) A violation of this section is an infraction.

Section 143. Section 41-22-10.3 is amended to read:

41-22-10.3. Operation of vehicles on highways -- Limits.

A person may not operate an off-highway vehicle upon any street or highway, not designated as open to off-highway vehicle use, except:

(1) when crossing a street or highway and the operator comes to a complete stop before crossing, proceeds only after yielding the right of way to oncoming traffic, and crosses at a right angle;

(2) when loading or unloading an off-highway vehicle from a vehicle or trailer, which shall be done

with due regard for safety, and at the nearest practical point of operation;

(3) when an emergency exists, during any period of time and at those locations when the operation of conventional motor vehicles is impractical or when the operation is directed by a peace officer or other public authority; or

(4) when operating a street-legal all-terrain vehicle on a highway in accordance with Section 41-6a-1509.

(5) A violation of this section is an infraction.

Section 144. Section 41-22-10.7 is amended to read:

41-22-10.7. Vehicle equipment requirements -- Rulemaking -- Exceptions.

(1) Except as provided under Subsection (3), an off-highway vehicle shall be equipped with:

(a) brakes adequate to control the movement of and to stop and hold the vehicle under normal operating conditions;

(b) headlights and taillights when operated between sunset and sunrise;

(c) a noise control device and except for a snowmobile, a spark arrestor device; and

(d) when operated on sand dunes designated by the board, a safety flag that is:

(i) red or orange in color;

(ii) a minimum of six by 12 inches; and

(iii) attached to:

(A) the off-highway vehicle so that the safety flag is at least eight feet above the surface of level ground; or

(B) the protective headgear of a person operating a motorcycle so that the safety flag is at least 18 inches above the top of the person's head.

(2) A violation of Subsection (1) is an infraction.

[~~(2)~~] (3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board may make rules which set standards for the equipment and which designate sand dunes where safety flags are required under Subsection (1).

[~~(3)~~] (4) An off-highway implement of husbandry used only in agricultural operations and not operated on a highway, is exempt from the provisions of this section.

Section 145. Section 41-22-11 is amended to read:

41-22-11. Agencies authorized to erect regulatory signs on public land.

(1) No person, except an agent of an appropriate federal, state, county, or city agency, operating within that agency's authority, may place a regulatory sign governing off-highway vehicle use on any public land.

(2) A violation of this section is an infraction.

Section 146. Section 41-22-12 is amended to read:

41-22-12. Restrictions on use of public lands.

(1) Except as provided in Sections 79-4-203 and 79-4-304, federal agencies are encouraged and agencies of the state and its subdivisions shall pursue opportunities to open public land to responsible off-highway vehicle use and cross-country motor vehicle travel.

(2) A person may not tear down, mutilate, deface, or destroy:

(a) a sign, signboard, or other notice that prohibits or regulates the use of an off-highway vehicle on public land; or

(b) a fence or other enclosure or a gate or bars belonging to the fence or other enclosure.

(3) A violation of Subsection (2) is an infraction.

Section 147. Section 41-22-12.1 is amended to read:

41-22-12.1. Restrictions on use of snowmobile trails.

(1) A person may not operate a wheeled vehicle with a gross vehicle weight of 800 pounds or more on any snowmobile trail that the division has marked, posted, designated, or maintained as a snowmobile trail.

(2) A violation of this section is an infraction.

Section 148. Section 41-22-12.2 is amended to read:

41-22-12.2. Unlawful cross-country motor vehicle travel on public land.

(1) A person may not operate and an owner of a motor vehicle may not give another person permission to operate a motor vehicle cross-country on any public land not designated for that use by the controlling agency.

(2) A person who violates this section is guilty of ~~[a class C misdemeanor]~~ an infraction.

(3) As part of any sentence for a conviction of a violation of this section, the court:

(a) may impose a fine not to exceed \$150; and

(b) may require the person to perform community service in the form of repairing any damage to the public land caused by the unlawful cross-country motor vehicle travel.

Section 149. Section 41-22-12.5 is amended to read:

41-22-12.5. Restrictions on use of privately-owned lands without permission -- Unlawful for person to tamper with signs or fencing on privately-owned land.

(1) (a) A person may not operate or accompany a person operating a motor vehicle on privately-owned land of any other person, firm, or

corporation without permission from the owner or person in charge.

(b) A person operating or accompanying a person operating a motor vehicle may not refuse to immediately leave private land upon request of the owner or person in charge of the land.

(c) Subsections (1)(a) and (b) do not apply to prescriptive easements on privately owned land.

(d) A person who violates Subsection (1)(a) ~~[or (b)]~~ is guilty of a class C misdemeanor is guilty of an infraction.

(e) A person who violates Subsection (1)(b) is guilty of a class C misdemeanor.

~~[(e)]~~ (f) As part of any sentence for a conviction of a violation of Subsection (1)(a) or (b), the court may:

(i) impose a fine of not more than \$150;

(ii) require the person to pay restitution not to exceed \$500 for any damage caused by the unlawful motor vehicle travel; and

(iii) require the person to perform community service in the form of repairing any damage caused by the unlawful motor vehicle travel.

(2) A person operating or accompanying a person operating a motor vehicle may not obstruct an entrance or exit to private property without the owner's permission.

(3) A person may not:

(a) tear down, mutilate, or destroy any sign, signboards, or other notice which regulates trespassing for purposes of operating a motor vehicle on land; or

(b) tear down, deface, or destroy any fence or other enclosure or any gate or bars belonging to the fence or enclosure.

(4) (a) A violation of Subsection (2) is an infraction.

(b) A violation of Subsection (3) is a class C misdemeanor.

Section 150. Section 41-22-12.7 is amended to read:

41-22-12.7. Enhanced penalties for unlawful motor vehicle use on public or private property.

(1) A person is guilty of a class ~~[B]~~ C misdemeanor for unlawful cross-country use of a motor vehicle on public land or unlawful motor vehicle use on private property if the person:

(a) violates Section 41-22-12.2, 41-22-12.5, or 41-22-13; and

(b) (i) has been convicted of violating Section 41-22-12, 41-22-12.2, 41-22-12.5, or 41-22-13 within the last two years; or

(ii) knowingly, intentionally, or recklessly:

(A) damages vegetation, trees, wetlands, riparian areas, fences, structures, or improvements; or

(B) harasses wildlife or livestock.

(2) As part of any sentence for a conviction of a violation described in Subsection (1), the court may:

- (a) impose a fine not to exceed \$300;
- (b) require the person to pay restitution not to exceed \$1,000 for damage caused by the unlawful motor vehicle use; and
- (c) require the person to perform community service in the form of repairing any damage to the public land caused by the unlawful motor vehicle use.

(3) As part of any sentence for a conviction described in Subsection (1) that is within five years of a prior conviction described in Subsection (1), the court may:

- (a) impose a fine not to exceed \$1,000;
- (b) require the person to pay restitution not to exceed \$2,000 for damage caused by the unlawful motor vehicle use; and
- (c) require the person to perform community service in the form of repairing any damage caused by the unlawful motor vehicle use.

Section 151. Section 41-22-13 is amended to read:

41-22-13. Prohibited uses.

(1) No person may operate an off-highway vehicle in connection with acts of vandalism, harassment of wildlife or domestic animals, burglaries or other crimes, or damage to the environment which includes excessive pollution of air, water, or land, abuse of the watershed, impairment of plant or animal life, or excessive mechanical noise.

(2) A violation of this section is an infraction.

Section 152. Section 41-22-15 is amended to read:

41-22-15. Permission required for race or organized event.

(1) No person may organize, promote, or hold an off-highway vehicle race or other organized event on any land or highway within this state, except as permitted by the appropriate agency or landowner having jurisdiction over the land or highway.

(2) A violation of this section is an infraction.

Section 153. Section 41-22-17 is amended to read:

41-22-17. Penalties for violations.

(1) Except as otherwise provided, a person who violates the provisions of this chapter is guilty of [a class C misdemeanor] an infraction.

(2) The division may revoke or suspend the registration of any off-highway vehicle whose application for registration has been falsified. The owner shall surrender to the division, within 15 days of suspension or revocation, the suspended or revoked registration card and registration sticker.

Section 154. Section 53-3-202 is amended to read:

53-3-202. Drivers must be licensed -- Taxicab endorsement -- Violation.

(1) A person may not drive a motor vehicle on a highway in this state unless the person is:

- (a) granted the privilege to operate a motor vehicle by being licensed as a driver by the division under this chapter;
- (b) driving an official United States Government class D motor vehicle with a valid United States Government driver permit or license for that type of vehicle;
- (c) driving a road roller, road machinery, or any farm tractor or implement of husbandry temporarily drawn, moved, or propelled on the highways;

(d) a nonresident who is at least 16 years of age and younger than 18 years of age who has in the nonresident's immediate possession a valid license certificate issued to the nonresident in the nonresident's home state or country and is driving in the class or classes identified on the home state license certificate, except those persons referred to in Part 6, Drivers' License Compact, of this chapter;

(e) a nonresident who is at least 18 years of age and who has in the nonresident's immediate possession a valid license certificate issued to the nonresident in the nonresident's home state or country if driving in the class or classes identified on the home state license certificate, except those persons referred to in Part 6, Drivers' License Compact, of this chapter;

(f) driving under a learner permit in accordance with Section 53-3-210.5;

(g) driving with a temporary license certificate issued in accordance with Section 53-3-207; or

(h) exempt under Title 41, Chapter 22, Off-Highway Vehicles.

(2) A person may not drive or, while within the passenger compartment of a motor vehicle, exercise any degree or form of physical control of a motor vehicle being towed by a motor vehicle upon a highway unless the person:

(a) holds a valid license issued under this chapter for the type or class of motor vehicle being towed; or

(b) is exempted under either Subsection (1)(b) or (1)(c).

(3) A person may not drive a motor vehicle as a taxicab on a highway of this state unless the person has a taxicab endorsement issued by the division on his license certificate.

(4) (a) Except as provided in Subsections (4)(b) and (c), a person may not operate:

(i) a motorcycle unless the person has a valid class D driver license and a motorcycle endorsement issued under this chapter;

(ii) a street legal all-terrain vehicle unless the person has a valid class D driver license; or

(iii) a motor-driven cycle unless the person has a valid class D driver license and a motorcycle endorsement issued under this chapter.

(b) A person operating a moped, as defined in Section 41-6a-102, or an electric assisted bicycle, as defined in Section 41-6a-102, is not required to have a motorcycle endorsement issued under this chapter.

(c) A person is not required to have a valid class D driver license if the person is:

(i) operating a motor assisted scooter, as defined in Section 41-6a-102, in accordance with Section 41-6a-1115; or

(ii) operating an electric personal assistive mobility device, as defined in Section 41-6a-102, in accordance with Section 41-6a-1116.

(5) A person who violates this section is guilty of ~~a class C misdemeanor~~ an infraction.

Section 155. Section 53-3-203 is amended to read:

53-3-203. Authorizing or permitting driving in violation of chapter -- Renting of motor vehicles -- License requirements -- Employees must be licensed -- Violations.

(1) A person may not authorize or knowingly permit a motor vehicle owned by him or under his control to be driven by a person in violation of this chapter.

(2) (a) A person may not rent a motor vehicle to another person unless the person who will be the driver is licensed in this state, or in the case of a nonresident, licensed under the laws of the state or country of his residence.

(b) A person may not rent a motor vehicle to another person until he has inspected the license certificate of the person who will be the driver and verified the signature on the license certificate by comparison with the signature of the person who will be the driver written in his presence.

(c) A person renting a motor vehicle to another shall keep a record of the:

(i) registration number of the rented motor vehicle;

(ii) name and address of the person to whom the motor vehicle is rented;

(iii) number of the license certificate of the renter; and

(iv) date and place the license certificate was issued.

(d) The record is open to inspection by any peace officer or officer or employee of the division.

(3) A person may not employ a person to drive a motor vehicle who is not licensed as required under this chapter.

(4) A person who violates ~~[Subsection (1), (2)(a), or (3)] this section~~ is guilty of ~~[a class C misdemeanor]~~ an infraction.

Section 156. Section 53-3-207 is amended to read:

53-3-207. License certificates or driving privilege cards issued to drivers by class of motor vehicle -- Contents -- Release of anatomical gift information -- Temporary licenses or driving privilege cards -- Minors' licenses, cards, and permits -- Violation.

(1) As used in this section:

(a) "Driving privilege" means the privilege granted under this chapter to drive a motor vehicle.

(b) "Governmental entity" means the state and its political subdivisions as defined in this Subsection (1).

(c) "Political subdivision" means any county, city, town, school district, public transit district, community development and renewal agency, special improvement or taxing district, local district, special service district, an entity created by an interlocal agreement adopted under Title 11, Chapter 13, Interlocal Cooperation Act, or other governmental subdivision or public corporation.

(d) "State" means this state, and includes any office, department, agency, authority, commission, board, institution, hospital, college, university, children's justice center, or other instrumentality of the state.

(2) (a) The division shall issue to every person privileged to drive a motor vehicle, a regular license certificate, a limited-term license certificate, or a driving privilege card indicating the type or class of motor vehicle the person may drive.

(b) A person may not drive a class of motor vehicle unless granted the privilege in that class.

(3) (a) Every regular license certificate, limited-term license certificate, or driving privilege card shall bear:

(i) the distinguishing number assigned to the person by the division;

(ii) the name, birth date, and Utah residence address of the person;

(iii) a brief description of the person for the purpose of identification;

(iv) any restrictions imposed on the license under Section 53-3-208;

(v) a photograph of the person;

(vi) a photograph or other facsimile of the person's signature;

(vii) an indication whether the person intends to make an anatomical gift under Title 26, Chapter 28, Revised Uniform Anatomical Gift Act, unless the driving privilege is extended under Subsection 53-3-214(3); and

(viii) except as provided in Subsection (3)(b), if the person states that the person is a veteran of the United States military on the application for a driver license in accordance with Section 53-3-205

and provides verification that the person was granted an honorable or general discharge from the United States Armed Forces, an indication that the person is a United States military veteran for a regular license certificate or limited-term license certificate issued on or after July 1, 2011.

(b) A regular license certificate or limited-term license certificate issued to any person younger than 21 years on a portrait-style format as required in Subsection (5)(b)(i) is not required to include an indication that the person is a United States military veteran under Subsection (3)(a)(viii).

(c) A new license certificate issued by the division may not bear the person's Social Security number.

(d) (i) The regular license certificate, limited-term license certificate, or driving privilege card shall be of an impervious material, resistant to wear, damage, and alteration.

(ii) Except as provided under Subsection (4)(b), the size, form, and color of the regular license certificate, limited-term license certificate, or driving privilege card shall be as prescribed by the commissioner.

(iii) The commissioner may also prescribe the issuance of a special type of limited regular license certificate, limited-term license certificate, or driving privilege card under Subsection 53-3-220(4).

(4) (a) (i) The division, upon determining after an examination that an applicant is mentally and physically qualified to be granted a driving privilege, may issue to an applicant a receipt for the fee if the applicant is eligible for a regular license certificate or limited-term license certificate.

(ii) (A) The division shall issue a temporary regular license certificate or temporary limited-term license certificate allowing the person to drive a motor vehicle while the division is completing its investigation to determine whether the person is entitled to be granted a driving privilege.

(B) A temporary regular license certificate or a temporary limited-term license certificate issued under this Subsection (4) shall be recognized and have the same rights and privileges as a regular license certificate or a limited-term license certificate.

(b) The temporary regular license certificate or temporary limited-term license certificate shall be in the person's immediate possession while driving a motor vehicle, and it is invalid when the person's regular license certificate or limited-term license certificate has been issued or when, for good cause, the privilege has been refused.

(c) The division shall indicate on the temporary regular license certificate or temporary limited-term license certificate a date after which it is not valid as a temporary license.

(d) (i) Except as provided in Subsection (4)(d)(ii), the division may not issue a temporary driving

privilege card or other temporary permit to an applicant for a driving privilege card.

(ii) The division may issue a learner permit issued in accordance with Section 53-3-210.5 to an applicant for a driving privilege card.

(5) (a) The division shall distinguish learner permits, temporary permits, regular license certificates, limited-term license certificates, and driving privilege cards issued to any person younger than 21 years of age by use of plainly printed information or the use of a color or other means not used for other regular license certificates, limited-term license certificates, or driving privilege cards.

(b) The division shall distinguish a regular license certificate, limited-term license certificate, or driving privilege card issued to any person:

(i) younger than 21 years of age by use of a portrait-style format not used for other regular license certificates, limited-term license certificates, or driving privilege cards and by plainly printing the date the regular license certificate, limited-term license certificate, or driving privilege card holder is 21 years of age, which is the legal age for purchasing an alcoholic beverage or alcoholic product under Section 32B-4-403; and

(ii) younger than 19 years of age, by plainly printing the date the regular license certificate, limited-term license certificate, or driving privilege card holder is 19 years of age, which is the legal age for purchasing tobacco products under Section 76-10-104.

(6) The division shall distinguish a limited-term license certificate by clearly indicating on the document:

- (a) that it is temporary; and
- (b) its expiration date.

(7) (a) The division shall only issue a driving privilege card to a person whose privilege was obtained without providing evidence of lawful presence in the United States as required under Subsection 53-3-205(8).

(b) The division shall distinguish a driving privilege card from a license certificate by:

- (i) use of a format, color, font, or other means; and
- (ii) clearly displaying on the front of the driving privilege card a phrase substantially similar to "FOR DRIVING PRIVILEGES ONLY -- NOT VALID FOR IDENTIFICATION".

(8) The provisions of Subsection (5)(b) do not apply to a learner permit, temporary permit, temporary regular license certificate, temporary limited-term license certificate, or any other temporary permit.

(9) The division shall issue temporary license certificates of the same nature, except as to duration, as the license certificates that they temporarily replace, as are necessary to implement

applicable provisions of this section and Section 53-3-223.

(10) (a) A governmental entity may not accept a driving privilege card as proof of personal identification.

(b) A driving privilege card may not be used as a document providing proof of a person's age for any government required purpose.

(11) A person who violates Subsection (2)(b) is guilty of ~~[a class C misdemeanor]~~ an infraction.

(12) Unless otherwise provided, the provisions, requirements, classes, endorsements, fees, restrictions, and sanctions under this code apply to a:

(a) driving privilege in the same way as a license or limited-term license issued under this chapter; and

(b) limited-term license certificate or driving privilege card in the same way as a regular license certificate issued under this chapter.

Section 157. Section 53-3-208 is amended to read:

53-3-208. Restrictions.

(1) (a) When granting a license, the division may for good cause impose restrictions, suitable to the licensee's driving ability, for the type of motor vehicle or special mechanical control devices required on a motor vehicle that the licensee may drive.

(b) The division may impose other restrictions on the licensee as it determines appropriate to assure safe driving of a motor vehicle by the licensee.

(2) The division may either grant a special restricted license or may set forth restrictions upon the regular license certificate.

(3) (a) The division may suspend or revoke any license upon receiving satisfactory evidence of any violation of the restrictions imposed on the license.

(b) Each licensee is entitled to a hearing for a suspension or revocation under this chapter.

(4) It is ~~[a class C misdemeanor]~~ an infraction for a person to drive a motor vehicle in violation of the restrictions imposed on his license under this section.

Section 158. Section 53-3-210.6 is amended to read:

53-3-210.6. Motorcycle learner permit.

(1) The division, upon receiving an application for a motorcycle learner permit, may issue a motorcycle learner permit effective for six months to an applicant who:

(a) holds an original or provisional class D license, a CDL, or an out-of-state equivalent of an original or provisional class D license or a CDL; and

(b) has passed the motorcycle knowledge test.

(2) A motorcycle learner permit entitles an applicant to operate a motorcycle on a highway subject to the restrictions in Subsection (3).

(3) (a) For the first two months from the date a motorcycle learner permit is issued, the operator of a motorcycle holding the motorcycle learner permit may not operate a motorcycle:

(i) on a highway with a posted speed limit of more than 60 miles per hour;

(ii) with any passengers; or

(iii) during the nighttime hours after 10 p.m. and before 6 a.m.

(b) For the third through sixth months from the date a motorcycle learner permit is issued, the operator of a motorcycle holding the motorcycle learner permit may operate a motorcycle without any restrictions imposed under this Subsection (3).

(c) It is an affirmative defense to a charge that a person who has been issued a motorcycle learner permit is operating a motorcycle in violation of the restrictions under Subsection (3)(a) if the person is operating the motorcycle:

(i) for the operator's employment, including the trip to and from the operator's residence and the operator's employment;

(ii) on assignment of a rancher or farmer and the operator is engaged in an agricultural operation; or

(iii) in an emergency.

(d) A violation of Subsection (3)(a) is an infraction.

(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules governing the issuance of a motorcycle learner permit and establishing the proof requirements for an applicant to demonstrate that the applicant has completed a motorcycle rider education program.

Section 159. Section 53-3-213 is amended to read:

53-3-213. Age and experience requirements to drive school bus or certain other carriers -- Misdemeanor to drive unauthorized class of motor vehicle -- Waiver of driving examination by third party certification.

(1) (a) A person must be at least 21 years of age:

(i) to drive any school bus;

(ii) to drive any commercial motor vehicle outside this state; or

(iii) while transporting passengers for hire or hazardous materials.

(b) Subject to the requirements of Subsection (1)(a), the division may grant a commercial driver license to any applicant who is at least 18 years of age and has had at least one year of previous driving experience.

(c) It is ~~[a class C misdemeanor]~~ an infraction for any person to drive a class of motor vehicle for which he is not licensed.

(2) (a) At the discretion of the commissioner and under standards established by the division, persons employed as commercial drivers may submit a third party certification as provided in Part 4, Uniform Commercial Driver License Act, in lieu of the driving segment of the examination.

(b) The division shall maintain necessary records and set standards to certify companies desiring to qualify under Subsection (2)(a).

Section 160. Section 53-3-217 is amended to read:

53-3-217. License to be carried when driving motor vehicle -- Production in court -- Violation.

(1) (a) The licensee shall have his license certificate in his immediate possession at all times when driving a motor vehicle.

(b) A licensee shall display his license certificate upon demand of a justice of peace, a peace officer, or a field deputy or inspector of the division.

(2) It is a defense to a charge under this section that the person charged produces in court a license certificate issued to him and valid at the time of his citation or arrest.

(3) A person who violates Subsection (1)(a) or (1)(b) is guilty of ~~[a class C misdemeanor]~~ an infraction.

Section 161. Section 53-3-218 is amended to read:

53-3-218. Court to report convictions and may recommend suspension of license -- Severity of speeding violation defined.

(1) As used in this section, "conviction" means conviction by the court of first impression or final administrative determination in an administrative traffic proceeding.

(2) (a) Except as provided in Subsection (2)(c), a court having jurisdiction over offenses committed under this chapter or any other law of this state, or under any municipal ordinance regulating driving motor vehicles on highways or driving motorboats on the water, shall forward to the division within five days, an abstract of the court record of the conviction or plea held in abeyance of any person in the court for a reportable traffic or motorboating violation of any laws or ordinances, and may recommend the suspension of the license of the person convicted.

(b) When the division receives a court record of a conviction or plea in abeyance for a motorboat violation, the division may only take action against a person's driver license if the motorboat violation is for a violation of Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving.

(c) (i) A court ~~[is] may not [required to]~~ forward to the division ~~[within five days]~~ an abstract of the

court record of the conviction for a violation described in Subsection 53-3-220(1)(c) and the Driver License Division ~~[is] may not [required to]~~ suspend a person's license for a violation described in Subsection 53-3-220(1)(c) if:

(A) the violation did not involve a motor vehicle; and

(B) the person convicted of a violation described in Subsection 53-3-220(1)(c):

(I) is participating in or has successfully completed substance abuse treatment at a licensed substance abuse treatment program that is approved by the Division of Substance Abuse and Mental Health in accordance with Section 62A-15-105; or

(II) is participating in or has successfully completed probation through the Department of Corrections Adult Probation and Parole in accordance with Section 77-18-1.

(ii) If the person convicted of a violation described in Subsection 53-3-220(1)(c) fails to comply with the terms of a substance abuse treatment program under Subsection (2)(c)(i)(B)(I) or the terms of probation under Subsection (2)(c)(i)(B)(II):

(A) the substance abuse treatment program licensed by the Division of Substance Abuse and Mental Health or the Department of Corrections Adult Probation and Parole shall immediately provide an affidavit or other sworn information to the court notifying the court that the person has failed to comply with the terms of a substance abuse treatment program under Subsection (2)(c)(i)(B)(I) or the terms of probation under Subsection (2)(c)(i)(B)(II);

(B) upon receipt of an affidavit or sworn statement under Subsection (2)(c)(ii)(A), the court shall immediately forward an abstract of the court record of the conviction for a violation described in Subsection 53-3-220(1)(c) to the division; and

(C) the division shall immediately suspend the person's license in accordance with Subsection 53-3-220(1)(c).

(3) The abstract shall be made in the form prescribed by the division and shall include:

(a) the name, date of birth, and address of the party charged;

(b) the license certificate number of the party charged, if any;

(c) the registration number of the motor vehicle or motorboat involved;

(d) whether the motor vehicle was a commercial motor vehicle;

(e) whether the motor vehicle carried hazardous materials;

(f) whether the motor vehicle carried 16 or more occupants;

(g) whether the driver presented a commercial driver license;

- (h) the nature of the offense;
- (i) whether the offense involved an accident;
- (j) the driver's blood alcohol content, if applicable;
- (k) if the offense involved a speeding violation:
 - (i) the posted speed limit;
 - (ii) the actual speed; and
 - (iii) whether the speeding violation occurred on a highway that is part of the interstate system as defined in Section 72-1-102;
- (l) the date of the hearing;
- (m) the plea;
- (n) the judgment or whether bail was forfeited; and

(o) the severity of the violation, which shall be graded by the court as "minimum," "intermediate," or "maximum" as established in accordance with Subsection 53-3-221(4).

(4) When a convicted person secures a judgment of acquittal or reversal in any appellate court after conviction in the court of first impression, the division shall reinstate the convicted person's license immediately upon receipt of a certified copy of the judgment of acquittal or reversal.

(5) Upon a conviction for a violation of the prohibition on using a handheld wireless communication device for text messaging or electronic mail communication while operating a moving motor vehicle under Section 41-6a-1716, a judge may order a suspension of the convicted person's license for a period of three months.

(6) Upon a conviction for a violation of careless driving under Section 41-6a-1715 that causes or results in the death of another person, a judge may order a revocation of the convicted person's license for a period of one year.

Section 162. Section 53-3-412 is amended to read:

53-3-412. CDL classifications, endorsements, and restrictions.

(1) A CDL may be granted with the following classifications, endorsements, and restrictions:

- (a) Classifications:
 - (i) Class A: any combination of vehicles with a GVWR of 26,001 pounds or more, if the GVWR of the one or more vehicles being towed is in excess of 10,000 pounds;
 - (ii) Class B: any single motor vehicle with a GVWR of 26,001 pounds or more, including that motor vehicle when towing a vehicle with a GVWR of 10,000 pounds or less; and
 - (iii) Class C: any single motor vehicle with a GVWR of less than 26,001 pounds or that motor vehicle when towing a vehicle with a GVWR of 10,000 pounds or less when the vehicle is designed:

(A) to carry 16 or more passengers, including the driver;

(B) as a school bus, and weighing less than 26,001 pounds GVWR; or

(C) to transport hazardous materials that requires the vehicle to be placarded under 49 C.F.R. Part 172, Subpart F.

(b) Endorsements:

(i) "H" authorizes the driver to drive a commercial motor vehicle transporting hazardous materials as defined in 49 C.F.R. Sec. 383.5.

(ii) "N" authorizes the driver to drive a tank vehicle.

(iii) "P" authorizes the driver to drive a motor vehicle designed to carry 16 or more passengers including the driver.

(iv) "S" authorizes the driver to transport preprimary, primary, or secondary school students from home to school, school to home, or to and from school-sponsored events.

(v) "T" authorizes the driver to drive a commercial motor vehicle with a double or triple trailer.

(vi) "X" authorizes the driver to drive a tank vehicle and transport hazardous materials.

(c) Restrictions:

(i) "E" restricts the driver from driving a commercial motor vehicle with a manual transmission.

(ii) "K" restricts the driver to driving intrastate only any commercial motor vehicle as defined by 49 C.F.R. Parts 383 and 390.

(iii) "L" restricts the driver to driving a commercial motor vehicle not equipped with air brakes.

(iv) "J" provides for other CDL restrictions.

(v) "M" restricts a driver from transporting passengers using a class A bus.

(vi) "N" restricts a driver from transporting passengers using a class A or class B bus.

(vii) "O" restricts a driver from driving a commercial motor vehicle equipped with a tractor trailer.

(viii) (A) "V" indicates that the driver has been issued a variance by the Federal Motor Carrier Safety Administration in reference to the driver's medical certification status.

(B) A driver with a "V" restriction shall have the letter outlining the specifications for the variance in the driver's possession along with the driver's commercial driver license when operating a commercial motor vehicle.

(ix) "Z" restricts a driver from driving a commercial motor vehicle with non-fully equipped air brakes.

(2) A commercial driver instruction permit may be granted with the following classifications, endorsements, and restrictions:

(a) Classifications:

(i) Class A: any combination of vehicles with a GVWR of 26,001 pounds or more, if the GVWR of the one or more vehicles being towed is in excess of 10,000 pounds;

(ii) Class B: any single motor vehicle with a GVWR of 26,001 pounds or more, including that motor vehicle when towing a vehicle with a GVWR of 10,000 pounds or less; and

(iii) Class C: any single motor vehicle with a GVWR of less than 26,001 pounds or that motor vehicle when towing a vehicle with a GVWR of 10,000 pounds or less when the vehicle is designed:

(A) to carry 16 or more passengers, including the driver;

(B) as a school bus, and weighing less than 26,001 pounds GVWR; or

(C) to transport hazardous material that requires the vehicle to be placarded under 49 C.F.R. Part 172, Subpart F.

(b) Endorsements:

(i) "N" authorizes the driver to drive a tank vehicle. An "N" endorsement may only be issued with an "X" restriction.

(ii) "P" authorizes the driver to drive a motor vehicle designed to carry 16 or more passengers including the driver. A "P" endorsement may only be issued with a "P" restriction.

(iii) "S" authorizes the driver to transport preprimary, primary, or secondary school students from home to school, school to home, or to and from school-sponsored events. An "S" endorsement may only be issued with a "P" restriction.

(c) Restrictions:

(i) "K" restricts the driver to driving intrastate only any commercial motor vehicle as defined by 49 C.F.R. Parts 383 and 390.

(ii) "L" restricts the driver to driving a commercial motor vehicle not equipped with air brakes.

(iii) "M" restricts a driver from transporting passengers using a class A bus.

(iv) "N" restricts a driver from transporting passengers using a class A or class B bus.

(v) "P" restricts a driver from having one or more passengers in the vehicle while driving a commercial motor vehicle bus unless the passenger is:

(A) a federal or state auditor or inspector;

(B) a test examiner;

(C) another trainee; or

(D) the CDL holder accompanying the CDIP holder as required in 49 C.F.R. Sec. 383.25.

(vi) (A) "V" indicates that the driver has been issued a variance by the Federal Motor Carrier

Safety Administration in reference to the driver's medical certification status.

(B) A driver with a "V" restriction shall have the letter outlining the specifications for the variance in the driver's possession along with the driver's commercial driver license when operating a commercial motor vehicle.

(vii) "X" restricts a driver from having cargo in a commercial motor vehicle tank vehicle.

(3) A violation of this section is a class C misdemeanor.

Section 163. Section 53-8-205 is amended to read:

53-8-205. Safety inspection required -- Frequency of safety inspection -- Safety inspection certificate required -- Out-of-state permits.

(1) (a) Except as provided in Subsection (1)(b), a person may not operate on a highway a motor vehicle required to be registered in this state unless the motor vehicle has passed a safety inspection if required in the current year.

(b) Subsection (1)(a) does not apply to:

(i) a vehicle that is exempt from registration under Section 41-1a-205;

(ii) an off-highway vehicle, unless the off-highway vehicle is being registered as a street-legal all-terrain vehicle in accordance with Section 41-6a-1509;

(iii) a vintage vehicle as defined in Section 41-21-1;

(iv) a commercial vehicle with a gross vehicle weight rating over 26,000 pounds that:

(A) is operating with an apportioned registration under Section 41-1a-301; and

(B) has a valid annual federal inspection that complies with the requirements of 49 C.F.R. Sec. 396.17; and

(v) a trailer, semitrailer, or trailering equipment attached to a commercial motor vehicle described in Subsection (1)(b)(iv) that has a valid annual federal inspection that complies with the requirements of 49 C.F.R. Sec. 396.17.

(2) Except as provided in Subsection (3), the frequency of the safety inspection shall be determined based on the age of the vehicle determined by model year and shall:

(a) be required each year for a vehicle that is 10 or more years old on January 1; or

(b) for each vehicle that is less than 10 years old on January 1, be required in the fourth year and the eighth year;

(c) be made by a safety inspector certified by the division at a safety inspection station authorized by the division;

(d) cover an inspection of the motor vehicle mechanism, brakes, and equipment to ensure

proper adjustment and condition as required by department rules; and

(e) include an inspection for the display of license plates in accordance with Section 41-1a-404.

(3) (a) (i) A salvage vehicle as defined in Section 41-1a-1001 is required to pass a safety inspection when an application is made for initial registration as a salvage vehicle.

(ii) After initial registration as a salvage vehicle, the frequency of the safety inspection shall correspond with the model year, as provided in Subsection (2).

(b) Beginning on the date that the Motor Vehicle Division has implemented the Motor Vehicle Division's GenTax system, a commercial vehicle as defined in Section 41-1a-102 with a gross vehicle weight rating of 10,001 pounds or more is required to pass a safety inspection annually or comply with Subsection (1)(b)(iv)(B).

(4) (a) A safety inspection station shall issue two safety inspection certificates to the owner of:

(i) each motor vehicle that passes a safety inspection under this section; and

(ii) a street-legal all-terrain vehicle that meets all the equipment requirements in Section 41-6a-1509.

(b) A safety inspection station shall use one safety inspection certificate issued under this Subsection (4) for processing the vehicle registration.

(c) A person operating a motor vehicle shall have in the person's immediate possession a safety inspection certificate or other evidence of compliance with the requirement to obtain a safety inspection under this section.

(5) The division may:

(a) authorize the acceptance in this state of a safety inspection certificate issued in another state having a safety inspection law similar to this state; and

(b) extend the time within which a safety inspection certificate must be obtained by the resident owner of a vehicle that was not in this state during the time a safety inspection was required.

(6) A violation of this section is an infraction.

Section 164. Section 53B-3-107 is amended to read:

53B-3-107. Traffic violations -- Notice of rule or regulation.

(1) It is a violation of this section for any person to operate or park a vehicle upon any property owned or controlled by a state institution of higher education contrary to posted signs authorized by the published rules and regulations of the institution or to block or impede traffic through or on any of these properties.

(2) A violation of Subsection (1) is a class C misdemeanor.

[~~(2)~~] (3) Notice of a rule or regulation to all persons is sufficient if the rule or regulation is published in one issue of a newspaper of general circulation in the county or counties in which the institution and the campus or facility is located.

Section 165. Section 58-37-8 is amended to read:

58-37-8. Prohibited acts -- Penalties.

(1) Prohibited acts A -- Penalties:

(a) Except as authorized by this chapter, it is unlawful for any person to knowingly and intentionally:

(i) produce, manufacture, or dispense, or to possess with intent to produce, manufacture, or dispense, a controlled or counterfeit substance;

(ii) distribute a controlled or counterfeit substance, or to agree, consent, offer, or arrange to distribute a controlled or counterfeit substance;

(iii) possess a controlled or counterfeit substance with intent to distribute; or

(iv) engage in a continuing criminal enterprise where:

(A) the person participates, directs, or engages in conduct which results in any violation of any provision of Title 58, Chapters 37, 37a, 37b, 37c, or 37d that is a felony; and

(B) the violation is a part of a continuing series of two or more violations of Title 58, Chapters 37, 37a, 37b, 37c, or 37d on separate occasions that are undertaken in concert with five or more persons with respect to whom the person occupies a position of organizer, supervisor, or any other position of management.

(b) Any person convicted of violating Subsection (1)(a) with respect to:

(i) a substance or a counterfeit of a substance classified in Schedule I or II, a controlled substance analog, or gammahydroxybutyric acid as listed in Schedule III is guilty of a second degree felony, punishable by imprisonment for not more than 15 years, and upon a second or subsequent conviction is guilty of a first degree felony;

(ii) a substance or a counterfeit of a substance classified in Schedule III or IV, or marijuana, or a substance listed in Section 58-37-4.2 is guilty of a third degree felony, and upon a second or subsequent conviction is guilty of a second degree felony; or

(iii) a substance or a counterfeit of a substance classified in Schedule V is guilty of a class A misdemeanor and upon a second or subsequent conviction is guilty of a third degree felony.

(c) Any person who has been convicted of a violation of Subsection (1)(a)(ii) or (iii) may be sentenced to imprisonment for an indeterminate term as provided by law, but if the trier of fact finds a firearm as defined in Section 76-10-501 was used, carried, or possessed on his person or in his immediate possession during the commission or in

furtherance of the offense, the court shall additionally sentence the person convicted for a term of one year to run consecutively and not concurrently; and the court may additionally sentence the person convicted for an indeterminate term not to exceed five years to run consecutively and not concurrently.

(d) Any person convicted of violating Subsection (1)(a)(iv) is guilty of a first degree felony punishable by imprisonment for an indeterminate term of not less than seven years and which may be for life. Imposition or execution of the sentence may not be suspended, and the person is not eligible for probation.

(2) Prohibited acts B -- Penalties:

(a) It is unlawful:

(i) for any person knowingly and intentionally to possess or use a controlled substance analog or a controlled substance, unless it was obtained under a valid prescription or order, directly from a practitioner while acting in the course of the person's professional practice, or as otherwise authorized by this chapter;

(ii) for any owner, tenant, licensee, or person in control of any building, room, tenement, vehicle, boat, aircraft, or other place knowingly and intentionally to permit them to be occupied by persons unlawfully possessing, using, or distributing controlled substances in any of those locations; or

(iii) for any person knowingly and intentionally to possess an altered or forged prescription or written order for a controlled substance.

(b) Any person convicted of violating Subsection (2)(a)(i) with respect to:

(i) marijuana, if the amount is 100 pounds or more, is guilty of a second degree felony; or

(ii) a substance classified in Schedule I or II, ~~marijuana, if the amount is more than 16 ounces, but less than 100 pounds,~~ or a controlled substance analog, is guilty of a class A misdemeanor on a first or second conviction, and on a third or subsequent conviction is guilty of a third degree felony~~;~~.

~~[(iii) marijuana, if the marijuana is not in the form of an extracted resin from any part of the plant, and the amount is more than one ounce but less than 16 ounces, is guilty of a class A misdemeanor.]~~

(c) Upon a person's conviction of a violation of this Subsection (2) subsequent to a conviction under Subsection (1)(a), that person shall be sentenced to a one degree greater penalty than provided in this Subsection (2).

(d) Any person who violates Subsection (2)(a)(i) with respect to all other controlled substances not included in Subsection (2)(b)(i)~~;~~ or (ii), ~~or (iii),~~ including a substance listed in Section 58-37-4.2, or ~~[less than one ounce of]~~ marijuana, is guilty of a class B misdemeanor. Upon a ~~[second]~~ third

conviction the person is guilty of a class A misdemeanor, and upon a ~~[third]~~ fourth or subsequent conviction the person is guilty of a third degree felony.

(e) Any person convicted of violating Subsection (2)(a)(i) while inside the exterior boundaries of property occupied by any correctional facility as defined in Section 64-13-1 or any public jail or other place of confinement shall be sentenced to a penalty one degree greater than provided in Subsection (2)(b), and if the conviction is with respect to controlled substances as listed in:

(i) Subsection (2)(b), the person may be sentenced to imprisonment for an indeterminate term as provided by law, and:

(A) the court shall additionally sentence the person convicted to a term of one year to run consecutively and not concurrently; and

(B) the court may additionally sentence the person convicted for an indeterminate term not to exceed five years to run consecutively and not concurrently; and

(ii) Subsection (2)(d), the person may be sentenced to imprisonment for an indeterminate term as provided by law, and the court shall additionally sentence the person convicted to a term of six months to run consecutively and not concurrently.

(f) Any person convicted of violating Subsection (2)(a)(ii) or(iii) is:

(i) on a first conviction, guilty of a class B misdemeanor;

(ii) on a second conviction, guilty of a class A misdemeanor; and

(iii) on a third or subsequent conviction, guilty of a third degree felony.

(g) A person is subject to the penalties under Subsection (2)(h) who, in an offense not amounting to a violation of Section 76-5-207:

(i) violates Subsection (2)(a)(i) by knowingly and intentionally having in the person's body any measurable amount of a controlled substance; and

(ii) operates a motor vehicle as defined in Section 76-5-207 in a negligent manner, causing serious bodily injury as defined in Section 76-1-601 or the death of another.

(h) A person who violates Subsection (2)(g) by having in the person's body:

(i) a controlled substance classified under Schedule I, other than those described in Subsection (2)(h)(ii), or a controlled substance classified under Schedule II is guilty of a second degree felony;

(ii) marijuana, tetrahydrocannabinols, or equivalents described in Subsection 58-37-4(2)(a)(iii)(S) or (AA), or a substance listed in Section 58-37-4.2 is guilty of a third degree felony; or

(iii) any controlled substance classified under Schedules III, IV, or V is guilty of a class A misdemeanor.

(i) A person is guilty of a separate offense for each victim suffering serious bodily injury or death as a result of the person's negligent driving in violation of Subsection 58-37-8(2)(g) whether or not the injuries arise from the same episode of driving.

(3) Prohibited acts C -- Penalties:

(a) It is unlawful for any person knowingly and intentionally:

(i) to use in the course of the manufacture or distribution of a controlled substance a license number which is fictitious, revoked, suspended, or issued to another person or, for the purpose of obtaining a controlled substance, to assume the title of, or represent oneself to be, a manufacturer, wholesaler, apothecary, physician, dentist, veterinarian, or other authorized person;

(ii) to acquire or obtain possession of, to procure or attempt to procure the administration of, to obtain a prescription for, to prescribe or dispense to any person known to be attempting to acquire or obtain possession of, or to procure the administration of any controlled substance by misrepresentation or failure by the person to disclose receiving any controlled substance from another source, fraud, forgery, deception, subterfuge, alteration of a prescription or written order for a controlled substance, or the use of a false name or address;

(iii) to make any false or forged prescription or written order for a controlled substance, or to utter the same, or to alter any prescription or written order issued or written under the terms of this chapter; or

(iv) to make, distribute, or possess any punch, die, plate, stone, or other thing designed to print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or device of another or any likeness of any of the foregoing upon any drug or container or labeling so as to render any drug a counterfeit controlled substance.

~~[(b) Any person convicted of violating Subsection (3)(a) is guilty of a third degree felony.]~~

(b) (i) A first or second conviction under Subsection (3)(a)(i), (ii), or (iii) is a class A misdemeanor.

(ii) A third or subsequent conviction under Subsection (3)(a)(i), (ii), or (iii) is a third degree felony.

(c) A violation of Subsection (3)(a)(iv) is a third degree felony.

(4) Prohibited acts D -- Penalties:

(a) Notwithstanding other provisions of this section, a person not authorized under this chapter who commits any act ~~[declared to be]~~ that is unlawful under ~~[this section, Title 58, Chapter 37a, Utah Drug Paraphernalia Act, or under Title 58, Chapter 37b, Imitation Controlled Substances Act,]~~

Subsection (1)(a), Section 58-37a-5, or Section 58-37b-4 is upon conviction subject to the penalties and classifications under this Subsection (4) if the trier of fact finds the act is committed:

(i) in a public or private elementary or secondary school or on the grounds of any of those schools during the hours of 6 a.m. through 10 p.m.;

(ii) in a public or private vocational school or postsecondary institution or on the grounds of any of those schools or institutions during the hours of 6 a.m. through 10 p.m.;

~~[(iii) in those portions of any building, park, stadium, or other structure or grounds which are, at the time of the act, being used for an activity sponsored by or through a school or institution under Subsections (4)(a)(i) and (ii);]~~

~~[(iv)] (iii) in or on the grounds of a preschool or child-care facility during the preschool's or facility's hours of operation;~~

~~[(v)] (iv) in a public park, amusement park, arcade, or recreation center when the public or amusement park, arcade, or recreation center is open to the public;~~

~~[(vi)] (v) in or on the grounds of a house of worship as defined in Section 76-10-501;~~

~~[(vii) in a shopping mall, sports facility, stadium, arena, theater, movie house, playhouse, or parking lot or structure adjacent thereto;]~~

~~[(viii)] (vi) in or on the grounds of a library when the library is open to the public;~~

~~[(ix)] (vii) within any area that is within [1,000] 100 feet of any structure, facility, or grounds included in Subsections (4)(a)(i), (ii), (iii), (iv), (v), and (vi), and (vii);]~~

~~[(x)] (viii) in the presence of a person younger than 18 years of age, regardless of where the act occurs; or~~

~~[(xi)] (ix) for the purpose of facilitating, arranging, or causing the transport, delivery, or distribution of a substance in violation of this section to an inmate or on the grounds of any correctional facility as defined in Section 76-8-311.3.~~

(b) (i) A person convicted under this Subsection (4) is guilty of a first degree felony and shall be imprisoned for a term of not less than five years if the penalty that would otherwise have been established but for this Subsection (4) would have been a first degree felony.

(ii) Imposition or execution of the sentence may not be suspended, and the person is not eligible for probation.

(c) If the classification that would otherwise have been established would have been less than a first degree felony but for this Subsection (4), a person convicted under this Subsection (4) is guilty of one degree more than the maximum penalty prescribed for that offense. This Subsection (4)(c) does not apply to a violation of Subsection (2)(g).

(d) (i) If the violation is of Subsection (4)(a)~~[(xi)]~~(ix):

(A) the person may be sentenced to imprisonment for an indeterminate term as provided by law, and the court shall additionally sentence the person convicted for a term of one year to run consecutively and not concurrently; and

(B) the court may additionally sentence the person convicted for an indeterminate term not to exceed five years to run consecutively and not concurrently; and

(ii) the penalties under this Subsection (4)(d) apply also to any person who, acting with the mental state required for the commission of an offense, directly or indirectly solicits, requests, commands, coerces, encourages, or intentionally aids another person to commit a violation of Subsection (4)(a)(~~(xi)~~)(ix).

(e) It is not a defense to a prosecution under this Subsection (4) that the actor mistakenly believed the individual to be 18 years of age or older at the time of the offense or was unaware of the individual's true age; nor that the actor mistakenly believed that the location where the act occurred was not as described in Subsection (4)(a) or was unaware that the location where the act occurred was as described in Subsection (4)(a).

(5) Any violation of this chapter for which no penalty is specified is a class B misdemeanor.

(6) (a) For purposes of penalty enhancement under Subsections (1)(~~b~~) and (2)(~~e~~), a plea of guilty or no contest to a violation or attempted violation of this section or a plea which is held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction, even if the charge has been subsequently reduced or dismissed in accordance with the plea in abeyance agreement.

(b) A prior conviction used for a penalty enhancement under Subsection (2) shall be a conviction that is:

(i) from a separate criminal episode than the current charge; and

(ii) from a conviction that is separate from any other conviction used to enhance the current charge.

(7) A person may be charged and sentenced for a violation of this section, notwithstanding a charge and sentence for a violation of any other section of this chapter.

(8) (a) Any penalty imposed for violation of this section is in addition to, and not in lieu of, any civil or administrative penalty or sanction authorized by law.

(b) Where violation of this chapter violates a federal law or the law of another state, conviction or acquittal under federal law or the law of another state for the same act is a bar to prosecution in this state.

(9) In any prosecution for a violation of this chapter, evidence or proof which shows a person or

persons produced, manufactured, possessed, distributed, or dispensed a controlled substance or substances, is prima facie evidence that the person or persons did so with knowledge of the character of the substance or substances.

(10) This section does not prohibit a veterinarian, in good faith and in the course of the veterinarian's professional practice only and not for humans, from prescribing, dispensing, or administering controlled substances or from causing the substances to be administered by an assistant or orderly under the veterinarian's direction and supervision.

(11) Civil or criminal liability may not be imposed under this section on:

(a) any person registered under this chapter who manufactures, distributes, or possesses an imitation controlled substance for use as a placebo or investigational new drug by a registered practitioner in the ordinary course of professional practice or research; or

(b) any law enforcement officer acting in the course and legitimate scope of the officer's employment.

(12) (a) Civil or criminal liability may not be imposed under this section on any Indian, as defined in Subsection 58-37-2(1)(v), who uses, possesses, or transports peyote for bona fide traditional ceremonial purposes in connection with the practice of a traditional Indian religion as defined in Subsection 58-37-2(1)(w).

(b) In a prosecution alleging violation of this section regarding peyote as defined in Subsection 58-37-4(2)(a)(iii)(V), it is an affirmative defense that the peyote was used, possessed, or transported by an Indian for bona fide traditional ceremonial purposes in connection with the practice of a traditional Indian religion.

(c) (i) The defendant shall provide written notice of intent to claim an affirmative defense under this Subsection (12) as soon as practicable, but not later than 10 days prior to trial.

(ii) The notice shall include the specific claims of the affirmative defense.

(iii) The court may waive the notice requirement in the interest of justice for good cause shown, if the prosecutor is not unfairly prejudiced by the lack of timely notice.

(d) The defendant shall establish the affirmative defense under this Subsection (12) by a preponderance of the evidence. If the defense is established, it is a complete defense to the charges.

(13) (a) It is an affirmative defense that the person produced, possessed, or administered a controlled substance listed in Section 58-37-4.2 if the person:

(i) was engaged in medical research; and

(ii) was a holder of a valid license to possess controlled substances under Section 58-37-6.

(b) It is not a defense under Subsection (13)(a) that the person prescribed or dispensed a controlled substance listed in Section 58-37-4.2.

(14) It is an affirmative defense that the person possessed, in the person's body, a controlled substance listed in Section 58-37-4.2 if:

(a) the person was the subject of medical research conducted by a holder of a valid license to possess controlled substances under Section 58-37-6; and

(b) the substance was administered to the person by the medical researcher.

(15) The application of any increase in penalty under this section to a violation of Subsection (2)(a)(i) may not result in any greater penalty than a second degree felony. This Subsection (15) takes precedence over any conflicting provision of this section.

(16) (a) It is an affirmative defense to an allegation of the commission of an offense listed in Subsection (16)(b) that the person:

(i) reasonably believes that the person or another person is experiencing an overdose event due to the ingestion, injection, inhalation, or other introduction into the human body of a controlled substance or other substance;

(ii) reports in good faith the overdose event to a medical provider, an emergency medical service provider as defined in Section 26-8a-102, a law enforcement officer, a 911 emergency call system, or an emergency dispatch system, or the person is the subject of a report made under this Subsection (16);

(iii) provides in the report under Subsection (16)(a)(ii) a functional description of the actual location of the overdose event that facilitates responding to the person experiencing the overdose event;

(iv) remains at the location of the person experiencing the overdose event until a responding law enforcement officer or emergency medical service provider arrives, or remains at the medical care facility where the person experiencing an overdose event is located until a responding law enforcement officer arrives;

(v) cooperates with the responding medical provider, emergency medical service provider, and law enforcement officer, including providing information regarding the person experiencing the overdose event and any substances the person may have injected, inhaled, or otherwise introduced into the person's body; and

(vi) is alleged to have committed the offense in the same course of events from which the reported overdose arose.

(b) The offenses referred to in Subsection (16)(a) are:

(i) the possession or use of less than 16 ounces of marijuana;

(ii) the possession or use of a scheduled or listed controlled substance other than marijuana; and

(iii) any violation of Chapter 37a, Utah Drug Paraphernalia Act, or Chapter 37b, Imitation Controlled Substances Act.

(c) As used in this Subsection (16) and in Section 76-3-203.11, "good faith" does not include seeking medical assistance under this section during the course of a law enforcement agency's execution of a search warrant, execution of an arrest warrant, or other lawful search.

(17) If any provision of this chapter, or the application of any provision to any person or circumstances, is held invalid, the remainder of this chapter shall be given effect without the invalid provision or application.

(18) A legislative body of a political subdivision may not enact an ordinance that is less restrictive than any provision of this chapter.

Section 166. Section 62A-15-102 is amended to read:

62A-15-102. Definitions.

As used in this chapter:

(1) "Criminal risk factors" means a person's characteristics and behaviors that:

(a) affect the person's risk of engaging in criminal behavior; and

(b) are diminished when addressed by effective treatment, supervision, and other support resources, resulting in reduced risk of criminal behavior.

~~(1)~~ (2) "Director" means the director of the Division of Substance Abuse and Mental Health.

~~(2)~~ (3) "Division" means the Division of Substance Abuse and Mental Health established in Section 62A-15-103.

~~(3)~~ (4) "Local mental health authority" means a county legislative body.

(4) (5) "Local substance abuse authority" means a county legislative body.

~~(5)~~ (6) (a) "Public funds" means federal money received from the Department of Human Services or the Department of Health, and state money appropriated by the Legislature to the Department of Human Services, the Department of Health, a county governing body, or a local substance abuse authority, or a local mental health authority for the purposes of providing substance abuse or mental health programs or services.

(b) "Public funds" include federal and state money that has been transferred by a local substance abuse authority or a local mental health authority to a private provider under an annual or otherwise ongoing contract to provide comprehensive substance abuse or mental health programs or services for the local substance abuse authority or local mental health authority. The money maintains the nature of "public funds" while in the possession of the private entity that has an annual or otherwise ongoing contract with a local substance abuse authority or a local mental health

authority to provide comprehensive substance abuse or mental health programs or services for the local substance abuse authority or local mental health authority.

(c) Public funds received for the provision of services pursuant to substance abuse or mental health service plans may not be used for any other purpose except those authorized in the contract between the local mental health or substance abuse authority and provider for the provision of plan services.

[~~(6)~~] (7) "Severe mental disorder" means schizophrenia, major depression, bipolar disorders, delusional disorders, psychotic disorders, and other mental disorders as defined by the division.

Section 167. Section 62A-15-103 is amended to read:

62A-15-103. Division -- Creation -- Responsibilities.

(1) There is created the Division of Substance Abuse and Mental Health within the department, under the administration and general supervision of the executive director. The division is the substance abuse authority and the mental health authority for this state.

(2) The division shall:

(a) (i) educate the general public regarding the nature and consequences of substance abuse by promoting school and community-based prevention programs;

(ii) render support and assistance to public schools through approved school-based substance abuse education programs aimed at prevention of substance abuse;

(iii) promote or establish programs for the prevention of substance abuse within the community setting through community-based prevention programs;

(iv) cooperate with and assist treatment centers, recovery residences, and other organizations that provide services to individuals recovering from a substance abuse disorder, by identifying and disseminating information about effective practices and programs;

(v) promote integrated programs that address an individual's substance abuse, mental health, ~~and~~ physical ~~healthcare needs~~ health, and criminal risk factors;

(vi) establish and promote an evidence-based continuum of screening, assessment, prevention, treatment, and recovery support services in the community for individuals with substance abuse and mental illness that addresses criminal risk factors;

[~~(vi)~~] (vii) evaluate the effectiveness of programs described in Subsection (2);

[~~(vii)~~] (viii) consider the impact of the programs described in Subsection (2) on:

(A) emergency department utilization;

(B) jail and prison populations;

(C) the homeless population; and

(D) the child welfare system; and

[~~(viii)~~] (ix) promote or establish programs for education and certification of instructors to educate persons convicted of driving under the influence of alcohol or drugs or driving with any measurable controlled substance in the body;

(b) (i) collect and disseminate information pertaining to mental health;

(ii) provide direction over the state hospital including approval of its budget, administrative policy, and coordination of services with local service plans;

(iii) promulgate rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to educate families concerning mental illness and promote family involvement, when appropriate, and with patient consent, in the treatment program of a family member; and

(iv) promulgate rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to direct that all individuals receiving services through local mental health authorities or the Utah State Hospital be informed about and, if desired, provided assistance in completion of a declaration for mental health treatment in accordance with Section 62A-15-1002;

(c) (i) consult and coordinate with local substance abuse authorities and local mental health authorities regarding programs and services;

(ii) provide consultation and other assistance to public and private agencies and groups working on substance abuse and mental health issues;

(iii) promote and establish cooperative relationships with courts, hospitals, clinics, medical and social agencies, public health authorities, law enforcement agencies, education and research organizations, and other related groups;

(iv) promote or conduct research on substance abuse and mental health issues, and submit to the governor and the Legislature recommendations for changes in policy and legislation;

(v) receive, distribute, and provide direction over public funds for substance abuse and mental health services;

(vi) monitor and evaluate programs provided by local substance abuse authorities and local mental health authorities;

(vii) examine expenditures of any local, state, and federal funds;

(viii) monitor the expenditure of public funds by:

(A) local substance abuse authorities;

(B) local mental health authorities; and

(C) in counties where they exist, the private contract provider that has an annual or otherwise ongoing contract to provide comprehensive substance abuse or mental health programs or services for the local substance abuse authority or local mental health authorities;

(ix) contract with local substance abuse authorities and local mental health authorities to provide a comprehensive continuum of services that include community-based services for individuals involved in the criminal justice system, in accordance with division policy, contract provisions, and the local plan;

(x) contract with private and public entities for special statewide or nonclinical services, or services for individuals involved in the criminal justice system, according to division rules;

(xi) review and approve each local substance abuse authority's plan and each local mental health authority's plan in order to ensure:

(A) a statewide comprehensive continuum of substance abuse services;

(B) a statewide comprehensive continuum of mental health services;

(C) services result in improved overall health and functioning; ~~and~~

(D) a statewide comprehensive continuum of community-based services designed to reduce criminal risk factors for individuals who are determined to have substance abuse or mental illness conditions or both, and who are involved in the criminal justice system;

(E) compliance, where appropriate, with the certification requirements in Subsection (2)(i); and

~~(D)~~ (F) appropriate expenditure of public funds;

(xii) review and make recommendations regarding each local substance abuse authority's contract with its provider of substance abuse programs and services and each local mental health authority's contract with its provider of mental health programs and services to ensure compliance with state and federal law and policy;

(xiii) monitor and ensure compliance with division rules and contract requirements; and

(xiv) withhold funds from local substance abuse authorities, local mental health authorities, and public and private providers for contract noncompliance, failure to comply with division directives regarding the use of public funds, or for misuse of public funds or money;

(d) assure that the requirements of this part are met and applied uniformly by local substance abuse authorities and local mental health authorities across the state;

(e) require each local substance abuse authority and each local mental health authority to submit its plan to the division by May 1 of each year;

(f) conduct an annual program audit and review of each local substance abuse authority in the state and its contract provider and each local mental health authority in the state and its contract provider, including:

(i) a review and determination regarding whether:

(A) public funds allocated to local substance abuse authorities and local mental health authorities are consistent with services rendered and outcomes reported by them or their contract providers; and

(B) each local substance abuse authority and each local mental health authority is exercising sufficient oversight and control over public funds allocated for substance abuse and mental health programs and services; and

(ii) items determined by the division to be necessary and appropriate; and

(g) define "prevention" by rule as required under Title 32B, Chapter 2, Part 4, Alcoholic Beverage and Substance Abuse Enforcement and Treatment Restricted Account Act[-];

(h) establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, minimum standards and requirements for the provision of substance abuse and mental health treatment to individuals who are required to participate in treatment by the court or the Board of Pardons and Parole, or who are incarcerated, including:

(i) collaboration with the Department of Corrections, the Utah Substance Abuse Advisory Council to develop and coordinate the standards, including standards for county and state programs serving individuals convicted of class A and class B misdemeanors;

(ii) determining that the standards ensure available treatment includes the most current practices and procedures demonstrated by recognized scientific research to reduce recidivism, including focus on the individual's criminal risk factors; and

(iii) requiring that all public and private treatment programs meet the standards established under this Subsection (2)(h) in order to receive public funds allocated to the division, the Department of Corrections, or the Commission on Criminal and Juvenile Justice for the costs of providing screening, assessment, prevention, treatment, and recovery support;

(i) establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the requirements and procedures for the certification of licensed public and private providers who provide, as part of their practice, substance abuse and mental health treatment to individuals involved in the criminal justice system, including:

(i) collaboration with the Department of Corrections, the Utah Substance Abuse Advisory Council, and the Utah Association of Counties to

develop, coordinate, and implement the certification process;

(ii) basing the certification process on the standards developed under Subsection (2)(h) for the treatment of individuals involved in the criminal justice system; and

(iii) the requirement that all public and private providers of treatment to individuals involved in the criminal justice system shall obtain certification on or before July 1, 2016, and shall renew the certification every two years, in order to qualify for funds allocated to the division, the Department of Corrections, or the Commission on Criminal and Juvenile Justice on or after July 1, 2016;

(j) collaboration with the Commission on Criminal and Juvenile Justice to analyze and provide recommendations to the Legislature regarding:

(i) pretrial services and the resources needed for the reduced recidivism efforts;

(ii) county jail and county behavioral health early-assessment resources needed for offenders convicted of a class A or class B misdemeanor; and

(iii) the replacement of federal dollars associated with drug interdiction law enforcement task forces that are reduced;

(k) (i) establish performance goals and outcome measurements for all treatment programs for which minimum standards are established under Subsection (2)(h), including recidivism data and data regarding cost savings associated with recidivism reduction and the reduction in the number of inmates, that are obtained in collaboration with the Administrative Office of the Courts and the Department of Corrections; and

(ii) collect data to track and determine whether the goals and measurements are being attained and make this information available to the public;

(l) in its discretion, use the data to make decisions regarding the use of funds allocated to the division, the Administrative Office of the Courts, and the Department of Corrections to provide treatment for which standards are established under Subsection (2)(h); and

(m) annually, on or before August 31, submit the data collected under Subsection (2)(j) to the Commission on Criminal and Juvenile Justice, which shall compile a report of findings based on the data and provide the report to the legislative Judiciary Interim Committee, the Health and Human Services Interim Committee, the Law Enforcement and Criminal Justice Interim Committee, and the related appropriations subcommittees.

(3) (a) The division may refuse to contract with and may pursue its legal remedies against any local substance abuse authority or local mental health authority that fails, or has failed, to expend public funds in accordance with state law, division policy,

contract provisions, or directives issued in accordance with state law.

(b) The division may withhold funds from a local substance abuse authority or local mental health authority if the authority's contract with its provider of substance abuse or mental health programs or services fails to comply with state and federal law or policy.

(4) Before reissuing or renewing a contract with any local substance abuse authority or local mental health authority, the division shall review and determine whether the local substance abuse authority or local mental health authority is complying with its oversight and management responsibilities described in Sections 17-43-201, 17-43-203, 17-43-303, and 17-43-309. Nothing in this Subsection (4) may be used as a defense to the responsibility and liability described in Section 17-43-303 and to the responsibility and liability described in Section 17-43-203.

(5) In carrying out its duties and responsibilities, the division may not duplicate treatment or educational facilities that exist in other divisions or departments of the state, but shall work in conjunction with those divisions and departments in rendering the treatment or educational services that those divisions and departments are competent and able to provide.

(6) The division may accept in the name of and on behalf of the state donations, gifts, devises, or bequests of real or personal property or services to be used as specified by the donor.

(7) The division shall annually review with each local substance abuse authority and each local mental health authority the authority's statutory and contract responsibilities regarding:

(a) the use of public funds;

(b) oversight responsibilities regarding public funds; and

(c) governance of substance abuse and mental health programs and services.

(8) The Legislature may refuse to appropriate funds to the division upon the division's failure to comply with the provisions of this part.

(9) If a local substance abuse authority contacts the division under Subsection 17-43-201(9) for assistance in providing treatment services to a pregnant woman or pregnant minor, the division shall:

(a) refer the pregnant woman or pregnant minor to a treatment facility that has the capacity to provide the treatment services; or

(b) otherwise ensure that treatment services are made available to the pregnant woman or pregnant minor.

Section 168. Section 63M-7-204 is amended to read:

63M-7-204. Duties of commission.

The State Commission on Criminal and Juvenile Justice administration shall:

(1) promote the commission's purposes as enumerated in Section 63M-7-201;

(2) promote the communication and coordination of all criminal and juvenile justice agencies;

(3) study, evaluate, and report on the status of crime in the state and on the effectiveness of criminal justice policies, procedures, and programs that are directed toward the reduction of crime in the state;

(4) study, evaluate, and report on programs initiated by state and local agencies to address reducing recidivism, including changes in penalties and sentencing guidelines intended to reduce recidivism, costs savings associated with the reduction in the number of inmates, and evaluation of expenses and resources needed to meet goals regarding the use of treatment as an alternative to incarceration, as resources allow;

[(4)] (5) study, evaluate, and report on policies, procedures, and programs of other jurisdictions which have effectively reduced crime;

[(5)] (6) identify and promote the implementation of specific policies and programs the commission determines will significantly reduce crime in Utah;

[(6)] (7) provide analysis and recommendations on all criminal and juvenile justice legislation, state budget, and facility requests, including program and fiscal impact on all components of the criminal and juvenile justice system;

[(7)] (8) provide analysis, accountability, recommendations, and supervision for state and federal criminal justice grant money;

[(8)] (9) provide public information on the criminal and juvenile justice system and give technical assistance to agencies or local units of government on methods to promote public awareness;

[(9)] (10) promote research and program evaluation as an integral part of the criminal and juvenile justice system;

[(10)] (11) provide a comprehensive criminal justice plan annually;

[(11)] (12) review agency forecasts regarding future demands on the criminal and juvenile justice systems, including specific projections for secure bed space;

[(12)] (13) promote the development of criminal and juvenile justice information systems that are consistent with common standards for data storage and are capable of appropriately sharing information with other criminal justice information systems by:

(a) developing and maintaining common data standards for use by all state criminal justice agencies;

(b) annually performing audits of criminal history record information maintained by state criminal justice agencies to assess their accuracy, completeness, and adherence to standards;

(c) defining and developing state and local programs and projects associated with the improvement of information management for law enforcement and the administration of justice; and

(d) establishing general policies concerning criminal and juvenile justice information systems and making rules as necessary to carry out the duties under this Subsection [(12)] (13) and Subsection [(10)] (11);

[(13)] (14) allocate and administer grants, from money made available, for approved education programs to help prevent the sexual exploitation of children; and

[(14)] (15) allocate and administer grants funded from money from the Law Enforcement Operations Account created in Section 51-9-411 for law enforcement operations and programs related to reducing illegal drug activity and related criminal activity[-];

(16) request, receive, and evaluate data and recommendations collected and reported by agencies and contractors related to policies recommended by the commission regarding recidivism reduction; and

(17) establish and administer a performance incentive grant program that allocates funds appropriated by the Legislature to programs and practices implemented by counties that reduce recidivism and reduce the number of offenders per capita who are incarcerated.

Section 169. Section 63M-7-404 is amended to read:

63M-7-404. Purpose -- Duties.

(1) The purpose of the commission shall be to develop guidelines and propose recommendations to the Legislature, the governor, and the Judicial Council about the sentencing and release of juvenile and adult offenders in order to:

[(1)] (a) respond to public comment;

[(2)] (b) relate sentencing practices and correctional resources;

[(3)] (c) increase equity in criminal sentencing;

[(4)] (d) better define responsibility in criminal sentencing; and

[(5)] (e) enhance the discretion of sentencing judges while preserving the role of the Board of Pardons and Parole and the Youth Parole Authority.

(2) (a) The commission shall modify the sentencing guidelines for adult offenders to implement the recommendations of the Commission on Criminal and Juvenile Justice for reducing recidivism.

(b) The modifications under Subsection (2)(a) shall be for the purposes of protecting the public and ensuring efficient use of state funds.

(3) (a) The commission shall modify the criminal history score in the sentencing guidelines for adult offenders to implement the recommendations of the

Commission on Criminal and Juvenile Justice for reducing recidivism.

(b) The modifications to the criminal history score under Subsection (3)(a) shall include factors in an offender's criminal history that are relevant to the accurate determination of an individual's risk of offending again.

(4) (a) The commission shall establish sentencing guidelines for periods of incarceration for individuals who are on probation and:

(i) who have violated one or more conditions of probation; and

(ii) whose probation has been revoked by the court.

(b) The guidelines shall consider the seriousness of the violation of the conditions of probation, the probationer's conduct while on probation, and the probationer's criminal history.

(5) (a) The commission shall establish sentencing guidelines for periods of incarceration for individuals who are on parole and:

(i) who have violated a condition of parole; and

(ii) whose parole has been revoked by the Board of Pardons and Parole.

(b) The guidelines shall consider the seriousness of the violation of the conditions of parole, the individual's conduct while on parole, and the individual's criminal history.

(6) The commission shall establish graduated sanctions to facilitate the prompt and effective response to an individual's violation of the terms of probation or parole by the adult probation and parole section of the Department of Corrections in order to implement the recommendations of the Commission on Criminal and Juvenile Justice for reducing recidivism, including:

(a) sanctions to be used in response to a violation of the terms of probation or parole;

(b) when violations should be reported to the court or the Board of Pardons and Parole; and

(c) a range of sanctions that may not exceed a period of incarceration of more than:

(i) three consecutive days; and

(ii) a total of five days in a period of 30 days.

(7) The commission shall establish graduated incentives to facilitate a prompt and effective response by the adult probation and parole section of the Department of Corrections to an offender's:

(a) compliance with the terms of probation or parole; and

(b) positive conduct that exceeds those terms.

Section 170. Section 64-13-1 is amended to read:

64-13-1. Definitions.

As used in this chapter:

(1) "Case action plan" means a document developed by the Department of Corrections that identifies the program priorities for the treatment of the offender, including the criminal risk factors as determined by a risk and needs assessment conducted by the department.

[(4)] (2) "Community correctional center" means a nonsecure correctional facility operated:

(a) by the department; or

(b) under a contract with the department.

[(2)] (3) "Correctional facility" means any facility operated to house offenders, either in a secure or nonsecure setting:

(a) by the department; or

(b) under a contract with the department.

(4) "Criminal risk factors" means a person's characteristics and behaviors that:

(a) affect that person's risk of engaging in criminal behavior; and

(b) are diminished when addressed by effective treatment, supervision, and other support resources, resulting in a reduced risk of criminal behavior.

[(3)] (5) "Department" means the Department of Corrections.

[(4)] (6) "Emergency" means any riot, disturbance, homicide, inmate violence occurring in any correctional facility, or any situation that presents immediate danger to the safety, security, and control of the department.

[(5)] (7) "Executive director" means the executive director of the Department of Corrections.

[(6)] (8) "Inmate" means any person who is committed to the custody of the department and who is housed at a correctional facility or at a county jail at the request of the department.

[(7)] (9) "Offender" means any person who has been convicted of a crime for which he may be committed to the custody of the department and is at least one of the following:

(a) committed to the custody of the department;

(b) on probation; or

(c) on parole.

(10) "Risk and needs assessment" means an actuarial tool validated on criminal offenders that determines:

(a) an individual's risk of reoffending; and

(b) the criminal risk factors that, when addressed, reduce the individual's risk of reoffending.

[(8)] (11) "Secure correctional facility" means any prison, penitentiary, or other institution operated by the department or under contract for the confinement of offenders, where force may be used to restrain them if they attempt to leave the institution without authorization.

Section 171. Section 64-13-6 is amended to read:

64-13-6. Department duties.

(1) The department shall:

(a) protect the public through institutional care and confinement, and supervision in the community of offenders where appropriate;

(b) implement court-ordered punishment of offenders;

(c) provide program opportunities for offenders;

(d) provide treatment for sex offenders who are found to be treatable based upon criteria developed by the department;

(e) provide the results of ongoing assessment of sex offenders and objective diagnostic testing to sentencing and release authorities;

(f) manage programs that take into account the needs and interests of victims, where reasonable;

(g) supervise probationers and parolees as directed by statute and implemented by the courts and the Board of Pardons and Parole;

(h) subject to Subsection (2), investigate criminal conduct involving offenders incarcerated in a state correctional facility;

(i) cooperate and exchange information with other state, local, and federal law enforcement agencies to achieve greater success in prevention and detection of crime and apprehension of criminals; ~~and~~

(j) implement the provisions of Title 77, Chapter 28c, Interstate Compact for Adult Offender Supervision[-]; and

(k) establish a case action plan for each offender as follows:

(i) if an offender is to be supervised in the community, the case action plan shall be established for the offender not more than 90 days after supervision by the department begins; and

(ii) if the offender is committed to the custody of the department, the case action plan shall be established for the offender not more than 120 days after the commitment.

(2) The department may in the course of supervising probationers and parolees:

(a) impose graduated sanctions, as established by the Utah Sentencing Commission under Subsection 63M-7-404(6), for an individual's violation of one or more terms of the probation or parole; and

(b) upon approval by the court or the Board of Pardons and Parole, impose as a sanction for an individual's violation of the terms of probation or parole a period of incarceration of not more than three consecutive days and not more than a total of five days within a period of 30 days.

~~[(2)]~~ (3) (a) By following the procedures in Subsection ~~[(2)]~~ (3)(b), the department may

investigate the following occurrences at state correctional facilities:

(i) criminal conduct of departmental employees;

(ii) felony crimes resulting in serious bodily injury;

(iii) death of any person; or

(iv) aggravated kidnaping.

(b) Prior to investigating any occurrence specified in Subsection ~~[(2)]~~ (3)(a), the department shall:

(i) notify the sheriff or other appropriate law enforcement agency promptly after ascertaining facts sufficient to believe an occurrence specified in Subsection ~~[(2)]~~ (3)(a) has occurred; and

(ii) obtain consent of the sheriff or other appropriate law enforcement agency to conduct an investigation involving an occurrence specified in Subsection ~~[(2)]~~ (3)(a).

~~[(3)]~~ (4) Upon request, the department shall provide copies of investigative reports of criminal conduct to the sheriff or other appropriate law enforcement agencies.

~~[(4)]~~ (5) The department shall provide data to the Commission on Criminal and Juvenile Justice to show the criteria for determining sex offender treatability, the implementation and effectiveness of sex offender treatment, and the results of ongoing assessment and objective diagnostic testing. The Commission on Criminal and Juvenile Justice shall then report these data in writing to the Judiciary Interim Committee, if requested by the committee, and to the appropriate appropriations subcommittee annually.

~~[(5)]~~ (6) The Department of Corrections shall collect accounts receivable ordered by the district court as a result of prosecution for a criminal offense according to the requirements and during the time periods established in Subsection 77-18-1(9).

Section 172. Section 64-13-7.5 is amended to read:

64-13-7.5. Persons in need of mental health services -- Contracts.

(1) Except as provided for in Subsection (2), when the department determines that a person in its custody is in need of mental health services, the department shall contract with the Division of Substance Abuse and Mental Health, local mental health authorities, or the state hospital to provide mental health services for that person. Those services may be provided at the Utah State Hospital or in community programs provided by or under contract with the Division of Substance Abuse and Mental Health, a local mental health authority, or other public or private mental health care providers.

(2) (a) If the Division of Substance Abuse and Mental Health, a local mental health authority, or the state hospital notifies the department that it is unable to provide mental health services under Subsection (1), the department may contract with other public or private mental health care providers

to provide mental health services for persons in its custody.

(b) The standards established by rule under Section 64-13-25 apply to the public or private mental health care providers with whom the department contracts under this Subsection (2).

(3) A person who provides mental health services for sex offender treatment as required in Section 64-13-6 shall be licensed as a mental health professional in accordance with Title 58, Chapter 60, Mental Health Professional Practice Act, or Title 58, Chapter 61, Psychologist Licensing Act, and exhibit competency to practice in the area of sex offender treatment based on education, training, and practice.

Section 173. Section 64-13-10.5 is enacted to read:

64-13-10.5. Transition and reentry of inmates at termination of incarceration.

(1) The department shall evaluate the case action plan and update the case action plan as necessary to prepare for the offender's transition from incarceration to release, including:

(a) establishing the supervision level and program needs, based on the offender's criminal risk factors;

(b) identifying barriers to the offender's ability to obtain housing, food, clothing, and transportation;

(c) identifying community-based treatment resources that are reasonably accessible to the offender; and

(d) establishing the initial supervision procedures and strategy for the offender's parole officer.

(2) The department shall notify the Board of Pardons and Parole not fewer than 30 days prior to an offender's release of:

(a) the offender's case action plan; and

(b) any specific conditions of parole necessary to better facilitate transition to the community.

Section 174. Section 64-13-14.5 is amended to read:

64-13-14.5. Limits of confinement place -- Release status -- Work release.

(1) The department may extend the limits of the place of confinement of an inmate when, as established by department policies and procedures, there is cause to believe the inmate will honor [his] the trust, by authorizing [him] the inmate under prescribed conditions:

(a) to leave temporarily for purposes specified by department policies and procedures to visit specifically designated places for a period not to exceed 30 days;

(b) to participate in a voluntary training program in the community while housed at a correctional facility or to work at paid employment;

(c) to be housed in a nonsecure community correctional center operated by the department; or

(d) to be housed in any other facility under contract with the department.

(2) The department shall establish rules governing offenders on release status. A copy of the rules shall be furnished to the offender and to any employer or other person participating in the offender's release program. Any employer or other participating person shall agree in writing to abide by the rules and to notify the department of the offender's discharge or other release from a release program activity, or of any violation of the rules governing release status.

(3) The willful failure of an inmate to remain within the extended limits of his confinement or to return within the time prescribed to an institution or facility designated by the department is an escape from custody.

(4) If an offender is arrested for the commission of a crime, the arresting authority shall immediately notify the department of the arrest.

(5) The department may impose appropriate sanctions pursuant to Section 64-13-21 upon offenders who violate [rules] guidelines established by the Utah Sentencing Commission, including prosecution for escape under Section 76-8-309 and for unauthorized absence.

(6) An inmate who is housed at a nonsecure correctional facility and on work release may not be required to work for less than the current federally established minimum wage, or under substandard working conditions.

Section 175. Section 64-13-21 is amended to read:

64-13-21. Supervision of sentenced offenders placed in community -- Rulemaking -- POST certified parole or probation officers and peace officers -- Duties -- Supervision fee.

(1) (a) The department, except as otherwise provided by law, shall supervise sentenced offenders placed in the community on probation by the courts, on parole by the Board of Pardons and Parole, or upon acceptance for supervision under the terms of the Interstate Compact for the Supervision of Parolees and Probationers.

(b) Standards for the supervision of offenders shall be established by the department in accordance with [Title 63G, Chapter 3, Utah Administrative Rulemaking Act] sentencing guidelines, including the graduated sanctions matrix, established by the Utah Sentencing Commission, giving priority, based on available resources, to felony offenders and offenders sentenced pursuant to Subsection 58-37-8(2)(b)(ii).

(2) The department shall apply graduated sanctions established by the Utah Sentencing Commission to facilitate a prompt and appropriate response to an individual's violation of the terms of probation or parole, including:

(a) sanctions to be used in response to a violation of the terms of probation or parole; and

(b) requesting approval from the court or Board of Pardons and Parole to impose a sanction for an individual's violation of the terms of probation or parole, for a period of incarceration of not more than three consecutive days and not more than a total of five days within a period of 30 days.

(3) The department shall implement a program of graduated incentives as established by the Utah Sentencing Commission to facilitate the department's prompt and appropriate response to an offender's:

(a) compliance with the terms of probation or parole; or

(b) positive conduct that exceeds those terms.

(4) (a) The department shall, in collaboration with the Commission on Criminal and Juvenile Justice and the Division of Substance Abuse and Mental Health, create standards and procedures for the collection of information, including cost savings related to recidivism reduction and the reduction in the number of inmates, related to the use of the graduated sanctions and incentives, and offenders' outcomes.

(b) The collected information shall be provided to the Commission on Criminal and Juvenile Justice not less frequently than annually on or before August 31.

[2] (5) Employees of the department who are POST certified as law enforcement officers or correctional officers and who are designated as parole and probation officers by the executive director have the following duties:

(a) monitoring, investigating, and supervising a parolee's or probationer's compliance with the conditions of the parole or probation agreement;

(b) investigating or apprehending any offender who has escaped from the custody of the department or absconded from supervision;

(c) providing investigative services for the courts, the department, or the Board of Pardons and Parole;

(d) supervising any offender during transportation; or

(e) collecting DNA specimens when the specimens are required under Section 53-10-404.

[3] (6) (a) A monthly supervision fee of \$30 shall be collected from each offender on probation or parole. The fee may be suspended or waived by the department upon a showing by the offender that imposition would create a substantial hardship or if the offender owes restitution to a victim.

(b) (i) The department shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, specifying the criteria for suspension or waiver of the supervision fee and the circumstances under which an offender may request a hearing.

(ii) In determining whether the imposition of the supervision fee would constitute a substantial hardship, the department shall consider the financial resources of the offender and the burden that the fee would impose, with regard to the offender's other obligations.

(7) (a) The department shall establish a program allowing an offender on probation under Section 77-18-1 or on parole under Subsection 76-3-202(1)(a) to earn credits for the offender's compliance with the terms of the offender's probation or parole, which shall be applied to reducing the period of probation or parole as provided in this Subsection (7).

(b) The program shall provide that an offender earns a reduction credit of 30 days from the offender's period of probation or parole for each month the offender completes without any violation of the terms of the offender's probation or parole agreement, including the case action plan.

(c) The department shall maintain a record of credits earned by an offender under this Subsection (7) and shall request from the court or the Board of Pardons and Parole the termination of probation or parole not fewer than 30 days prior to the termination date that reflects the credits earned under this Subsection (7).

(d) This Subsection (7) does not prohibit the department from requesting a termination date earlier than the termination date established by earned credits under Subsection (7)(c).

(e) The court or the Board of Pardons and Parole shall terminate an offender's probation or parole upon completion of the period of probation or parole accrued by time served and credits earned under this Subsection (7) unless the court or the Board of Pardons and Parole finds that termination would interrupt the completion of a necessary treatment program, in which case the termination of probation or parole shall occur when the treatment program is completed.

(f) The department shall report annually to the Commission on Criminal and Juvenile Justice on or before August 31:

(i) the number of offenders who have earned probation or parole credits under this Subsection (7) in one or more months of the preceding fiscal year and the percentage of the offenders on probation or parole during that time that this number represents;

(ii) the average number of credits earned by those offenders who earned credits;

(iii) the number of offenders who earned credits by county of residence while on probation or parole;

(iv) the cost savings associated with sentencing reform programs and practices; and

(v) a description of how the savings will be invested in treatment and early-intervention programs and practices at the county and state levels.

Section 176. Section 64-13-25 is amended to read:

64-13-25. Standards for programs -- Audits.

(1) To promote accountability and to ensure safe and professional operation of correctional programs, the department shall establish minimum standards for the organization and operation of its programs, including collaborating with the Department of Human Services to establish minimum standards for programs providing assistance for individuals involved in the criminal justice system.

(a) The standards shall be promulgated according to state rulemaking provisions. Those standards that apply to offenders are exempt from the provisions of Title 63G, Chapter 3, the Utah Administrative Rulemaking Act. Offenders are not a class of persons under that act.

(b) Standards shall provide for inquiring into and processing offender complaints.

(c) (i) The department shall establish minimum standards and qualifications for treatment programs provided in county jails to which persons committed to the state prison are placed by jail contract under Section 64-13e-103.

(ii) In establishing the standards and qualifications for the treatment programs, the department shall:

(A) consult and collaborate with the county sheriffs and the Division of Substance Abuse and Mental Health; and

(B) include programs demonstrated by recognized scientific research to reduce recidivism by addressing an offender's criminal risk factors as determined by a risk and needs assessment.

(iii) All jails contracting to house offenders committed to the state prison shall meet the minimum standards for treatment programs as established under this Subsection (1)(c).

(d) (i) The department shall establish minimum standards of treatment for sex offenders, which shall include the requirements under Subsection 64-13-7.5(3) regarding licensure and competency.

(ii) The standards shall require the use of the most current best practices demonstrated by recognized scientific research to address an offender's criminal risk factors.

(iii) The department shall collaborate with the Division of Substance Abuse and Mental Health to develop and effectively distribute the standards to jails and to mental health professionals who desire to provide mental health treatment for sex offenders.

(iv) The department shall establish the standards by administrative rule pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) ~~[There shall be]~~ The department shall establish an audit for compliance with standards

established under this section according to policies and procedures established by the department, for continued operation of correctional and treatment programs provided to offenders committed to the department's custody, including inmates housed in county jails by contract with the Department of Corrections.

(a) At least every three years, the department shall internally audit all programs for compliance with established standards.

(b) All financial statements and accounts of the department shall be reviewed during the audit. Written review shall be provided to the managers of the programs and the executive director of the department.

(c) The reports shall be classified as confidential internal working papers and access is available at the discretion of the executive director or the governor, or upon court order.

(3) The department shall establish a certification program for public and private providers of treatment for sex offenders on probation or parole that requires the providers' sex offender treatment practices meet the standards and practices established under Subsection (1)(d) to reduce sex offender recidivism.

(a) The department shall collaborate with the Division of Substance Abuse and Mental Health to develop, coordinate, and implement the certification program.

(b) The certification program shall be based on the standards under Subsection (1)(d) and shall require renewal of certification every two years.

(c) All public and private providers of sex offender treatment, including those providing treatment to offenders housed in county jails by contract under Section 64-13e-103, shall comply with these standards on and after July 1, 2016, in order to begin receiving or continue receiving payment from the department to provide sex offender treatment on or after July 1, 2016.

(d) The department shall establish the certification program by administrative rule pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(4) The department shall establish performance goals and outcome measurements for all programs that are subject to the minimum standards established under this section and shall collect data to analyze and evaluate whether the goals and measurements are attained.

(a) The department shall collaborate with the Division of Substance Abuse and Mental Health to develop and coordinate the performance goals and outcome measurements, including recidivism rates and treatment success and failure rates.

(b) The department may use these data to make decisions on the use of funds to provide treatment for which standards are established under this section.

(c) The department shall collaborate with the Division of Substance Abuse and Mental Health to

track a subgroup of participants to determine if there is a net positive result from the use of treatment as an alternative to incarceration.

(d) The department shall collaborate with the Division of Substance Abuse and Mental Health to evaluate the costs, including any additional costs, and the resources needed to attain the performance goals established for the use of treatment as an alternative to incarceration.

(e) The department shall annually provide data collected under this Subsection (4) to the Commission on Criminal and Juvenile Justice on or before August 31. The commission shall compile a written report of the findings based on the data and shall provide the report to the legislative Judiciary Interim Committee, the Health and Human Services Interim Committee, the Law Enforcement and Criminal Justice Interim Committee, and the related appropriations subcommittees.

Section 177. Section 64-13-26 is amended to read:

64-13-26. Private providers of services.

(1) The department may contract with private providers or other agencies for the provision of care, treatment, and supervision of offenders committed to the care and custody of the department.

(2) (a) The department shall:

(i) establish standards for the operation of the programs; ~~and~~

(ii) establish standards pursuant to Section 64-13-25 regarding program standards; and

~~(iii)~~ (iii) annually review the programs for compliance.

(b) The reviews shall be classified as confidential internal working papers.

(c) Access to records regarding the reviews is available upon the discretion of the executive director or the governor, or upon court order.

Section 178. Section 64-13-29 is amended to read:

64-13-29. Violation of parole or probation -- Detention -- Hearing.

(1) (a) The department shall ensure that the court is notified of violations of the terms and conditions of probation in the case of probationers under the department's supervision, or the Board of Pardons and Parole in the case of parolees under the department's supervision~~[-]~~ when:

(i) a sanction of incarceration is recommended; or

(ii) the department determines that a graduated sanction is not an appropriate response to the offender's violation and recommends revocation of probation or parole.

(b) In cases where the department desires to detain an offender alleged to have violated his parole or probation and where it is unlikely that the Board of Pardons and Parole or court will conduct a hearing within a reasonable time to determine if the

offender has violated his conditions of parole or probation, the department shall hold an administrative hearing within a reasonable time, unless the hearing is waived by the parolee or probationer, to determine if there is probable cause to believe that a violation has occurred.

(c) If there is a conviction for a crime based on the same charges as the probation or parole violation, or a finding by a federal or state court that there is probable cause to believe that an offender has committed a crime based on the same charges as the probation or parole violation, the department need not hold ~~its~~ an administrative hearing.

(2) The appropriate officer or officers of the department shall, as soon as practical following the department's administrative hearing, report to the court or the Board of Pardons and Parole, furnishing a summary of the hearing, and may make recommendations regarding the disposition to be made of the parolee or probationer. Pending any proceeding under this section, the department may take custody of and detain the parolee or probationer involved for a period not to exceed 72 hours excluding weekends and holidays.

(3) If the hearing officer determines that there is probable cause to believe that the offender has violated the conditions of his parole or probation, the department may detain the offender for a reasonable period of time after the hearing or waiver, as necessary to arrange for the incarceration of the offender. Written order of the department is sufficient authorization for any peace officer to incarcerate the offender. The department may promulgate rules for the implementation of this section.

Section 179. Section 64-13e-104 is amended to read:

64-13e-104. Housing of state probationary inmates or state parole inmates -- Payments.

(1) (a) A county shall accept and house a state probationary inmate or a state parole inmate in a county correctional facility, subject to available resources.

(b) A county may release a number of inmates from a county correctional facility, but not to exceed the number of state probationary inmates and state parole inmates in excess of the number of inmates funded by the appropriation authorized in Subsection (2) if:

(i) the state does not fully comply with the provisions of Subsection (9) for the most current fiscal year; or

(ii) funds appropriated by the Legislature for this purpose are less than 50% of the average actual state daily incarceration rate.

(2) Within funds appropriated by the Legislature for this purpose, the Division of Finance shall pay a county that houses a state probationary inmate or a state parole inmate at a rate of 50% of the final state daily incarceration rate.

(3) Funds appropriated by the Legislature under Subsection (2):

- (a) are nonlapsing;
- (b) may only be used for the purposes described in Subsection (2) and Subsection (10); and
- (c) may not be used for:
- (i) the costs of administering the payment described in this section; or
- (ii) payment of contract costs under Section 64-13e-103.
- (4) The costs described in Subsection (3)(c)(i) shall be covered by legislative appropriation.
- (5) (a) The Division of Finance shall administer the payment described in Subsection (2) and Subsection (10).
- (b) In accordance with Subsection (9), CCJJ shall, by rule made pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establish procedures for the calculation of the payment described in Subsection (2) and Subsection (10).
- (c) Notwithstanding any other provision of this section, CCJJ shall adjust the amount of the payments described in Subsection (7)(b), on a pro rata basis, to ensure that the total amount of the payments made does not exceed the amount appropriated by the Legislature for the payments.
- (6) Counties that receive the payment described in Subsection (2) and Subsection (10) shall, on at least a monthly basis, submit a report to CCJJ that includes:
- (a) the number of state probationary inmates and state parole inmates the county housed under this section; ~~and~~
- (b) the total number of state probationary inmate days of incarceration and state parole inmate days of incarceration that were provided by the county[-];
- (c) the total number of offenders housed pursuant to Subsection 64-13-21(2)(b); and
- (d) the total number of days of incarceration of offenders housed pursuant to Subsection 64-13-21(2)(b).
- (7) (a) On or before September 30 of each year, CCJJ shall compile the information from the reports described in Subsection (6) that relate to the preceding state fiscal year and provide a copy of the compilation to each county that submitted a report.
- (b) On or before October 15 of each year, CCJJ shall inform the Division of Finance and each county of the exact amount of the payment described in this section that shall be made to each county.
- (8) On or before December 15 of each year, the Division of Finance shall distribute the payment described in Subsection (7)(b) in a single payment to each county.
- (9) (a) The amount paid to each county under Subsection (8) shall be calculated on a pro rata basis, based on the average number of state

probationary inmate days of incarceration and the average state parole inmate days of incarceration that were provided by each county for the preceding five state fiscal years[-]; and

(b) if funds are available, the total number of days of incarceration of offenders housed pursuant to Subsection 64-13-21(2)(b).

(10) If funds appropriated under Subsection (2) remain after payments are made pursuant to Subsection (8), the Division of Finance shall pay a county that houses in its jail a person convicted of a felony who is on probation or parole and who is incarcerated pursuant to Subsection 64-13-21(2)(b) on a pro rata basis not to exceed 50% of the final state daily incarceration rate.

Section 180. Section 72-7-402 is amended to read:

72-7-402. Limitations as to vehicle width, height, length, and load extensions.

(1) (a) Except as provided by statute, all state or federally approved safety devices and any other lawful appurtenant devices, including refrigeration units, hitches, air line connections, and load securing devices related to the safe operation of a vehicle are excluded for purposes of measuring the width and length of a vehicle under the provisions of this part, if the devices are not designed or used for carrying cargo.

(b) Load-induced tire bulge is excluded for purposes of measuring the width of vehicles under the provisions of this part.

(c) Appurtenances attached to the sides or rear of a recreational vehicle that is not a commercial motor vehicle are excluded for purposes of measuring the width and length of the recreational vehicle if the additional width or length of the appurtenances does not exceed six inches.

(2) A vehicle unladen or with a load may not exceed a width of 8-1/2 feet.

(3) A vehicle unladen or with a load may not exceed a height of 14 feet.

(4) (a) (i) A single-unit vehicle, unladen or with a load, may not exceed a length of 45 feet including front and rear bumpers.

(ii) In this section, a truck tractor coupled to one or more semitrailers or trailers is not considered a single-unit vehicle.

(b) (i) Except as provided under Subsection (4)(b)(iii), a semitrailer, unladen or with a load, may not exceed a length of 48 feet excluding refrigeration units, hitches, air line connections, and safety appurtenances.

(ii) There is no overall length limitation on a truck tractor and semitrailer combination when the semitrailer length is 48 feet or less.

(iii) A semitrailer that exceeds a length of 48 feet but does not exceed a length of 53 feet may operate on a route designated by the department or within one mile of that route.

(c) (i) Two trailers coupled together, unladen or with a load, may not exceed an overall length of 61 feet, measured from the front of the first trailer to the rear of the second trailer.

(ii) There is no overall length limitation on a truck tractor and double trailer combination when the trailers coupled together measure 61 feet or less.

(d) All other combinations of vehicles, unladen or with a load, when coupled together, may not exceed a total length of 65 feet, except the length limitations do not apply to combinations of vehicles operated at night by a public utility when required for emergency repair of public service facilities or properties, or when operated under a permit under Section 72-7-406.

(5) (a) Subject to Subsection (4), a vehicle or combination of vehicles may not carry any load extending more than three feet beyond the front of the body of the vehicle or more than six feet beyond the rear of the bed or body of the vehicle.

(b) A passenger vehicle may not carry any load extending beyond the line of the fenders on the left side of the vehicle nor extending more than six inches beyond the line of the fenders on the right side of the vehicle.

(6) Any exception to this section must be authorized by a permit as provided under Section 72-7-406.

(7) Any person who violates this section is guilty of a class [B] C misdemeanor.

Section 181. Section 72-7-403 is amended to read:

72-7-403. Towing requirements and limitations on towing.

(1) (a) The draw-bar or other connection between any two vehicles, one of which is towing or drawing the other on a highway, may not exceed 15 feet in length from one vehicle to the other except:

(i) in the case of a connection between any two vehicles transporting poles, pipe, machinery, or structural material that cannot be dismembered when transported upon a pole trailer as defined in Section 41-6a-102; or

(ii) when operated under a permit under Section 72-7-406.

(b) When the connection between the two vehicles is a chain, rope, or cable, a red flag or other signal or cloth not less than 12 inches both in length and width shall be displayed on or near the midpoint of the connection.

(2) A person may not operate a combination of vehicles when any trailer, semitrailer, or other vehicle being towed:

(a) whips or swerves from side to side dangerously or unreasonably; or

(b) fails to follow substantially in the path of the towing vehicle.

(3) A person who violates this section is guilty of a class [B] C misdemeanor.

Section 182. Section 72-7-404 is amended to read:

72-7-404. Maximum gross weight limitation for vehicles -- Bridge formula for weight limitations -- Minimum mandatory fines.

(1) (a) As used in this section:

(i) "Axle load" means the total load on all wheels whose centers may be included between two parallel transverse vertical planes 40 inches apart.

(ii) "Tandem axle" means two or more axles spaced not less than 40 inches nor more than 96 inches apart and having at least one common point of weight suspension.

(b) The tire load rating shall be marked on the tire sidewall. A tire, wheel, or axle may not carry a greater weight than the manufacturer's rating.

(2) (a) A vehicle may not be operated or moved on any highway in the state with:

(i) a gross weight in excess of 10,500 pounds on one wheel;

(ii) a single axle load in excess of 20,000 pounds; or

(iii) a tandem axle load in excess of 34,000 pounds.

(b) Subject to the limitations of Subsection (3), the gross vehicle weight of any vehicle or combination of vehicles may not exceed 80,000 pounds.

(3) (a) Subject to the limitations in Subsection (2), no group of two or more consecutive axles between the first and last axle of a vehicle or combination of vehicles and no vehicle or combination of vehicles may carry a gross weight in excess of the weight provided by the following bridge formula, except as provided in Subsection (3)(b):

$$W = 500 \{LN/(N-1) + 12N+36\}$$

(i) W = overall gross weight on any group of two or more consecutive axles to the nearest 500 pounds.

(ii) L = distance in feet between the extreme of any group of two or more consecutive axles. When the distance in feet includes a fraction of a foot of one inch or more the next larger number of feet shall be used.

(iii) N = number of axles in the group under consideration.

(b) Two consecutive sets of tandem axles may carry a gross weight of 34,000 pounds each if the overall distance between the first and last axles of the consecutive sets of tandem axles is 36 feet or more.

(4) Any exception to this section must be authorized by an overweight permit as provided in Section 72-7-406.

(5) (a) Any person who violates this section is guilty of a class [B] C misdemeanor except that, notwithstanding Sections 76-3-301 and 76-3-302,

the violator shall pay the largest minimum mandatory fine of either:

(i) \$50 plus the sum of the overweight axle fines calculated under Subsection (5)(b); or

(ii) \$50 plus the gross vehicle weight fine calculated under Subsection (5)(b).

(b) The fine for each axle and a gross vehicle weight violation shall be calculated according to the following schedule:

Number of Pounds Overweight	Axle Fine (Cents per Pound for Each Overweight Axle)	Gross Vehicle Weight Fine (Cents per Pound)
1 - 2,000	0	0
2,001 - 5,000	4	5
5,001 - 8,000	5	5
8,001 - 12,000	6	5
12,001 - 16,000	7	5
16,001 - 20,000	9	5
20,001 - 25,000	11	5
25,001 or more	13	5

Section 183. Section 72-7-405 is amended to read:

72-7-405. Measuring vehicles for size and weight compliance -- Summary powers of peace officers -- Penalty for violations.

(1) Any peace officer having reason to believe that the height, width, length, or weight of a vehicle and load is unlawful may require the operator to stop the vehicle and submit to a measurement or weighing of the vehicle and load.

(2) A peace officer may require that the vehicle be driven to the nearest scales or port-of-entry if the scales or port-of-entry is within three miles.

(3) (a) A peace officer, special function officer, or port-of-entry agent may measure or weigh a vehicle and vehicle load for compliance with this chapter.

(b) If, upon measuring or weighing a vehicle and load, it is determined that the height, width, length, or weight is unlawful, the measuring or weighing peace officer, special function officer, or port-of-entry agent may require the operator to park the vehicle in a suitable place. The vehicle shall remain parked until the vehicle or its load is adjusted or a portion of the load is removed to conform to legal limits. All materials unloaded shall be cared for by the owner or operator of the vehicle at his risk.

(4) An operator who fails or refuses to stop and submit the vehicle and load to a measurement or weighing, or who fails or refuses when directed by a peace officer, special function officer, or

port-of-entry agent to comply with this section is guilty of a class [B] C misdemeanor.

(5) Any driver or owner of a vehicle who violates Section 72-7-404 or 72-7-406 is guilty of a class [B] C misdemeanor.

Section 184. Section 72-7-406 is amended to read:

72-7-406. Oversize permits and oversize and overweight permits for vehicles of excessive size or weight -- Applications -- Restrictions -- Fees -- Rulemaking provisions -- Penalty.

(1) (a) The department may, upon receipt of an application and good cause shown, issue in writing an oversize permit or an oversize and overweight permit. The oversize permit or oversize and overweight permit may authorize the applicant to operate or move upon a highway:

(i) a vehicle or combination of vehicles, unladen or with a load weighing more than the maximum weight specified in Section 72-7-404 for any wheel, axle, group of axles, or total gross weight; or

(ii) a vehicle or combination of vehicles that exceeds the vehicle width, height, or length provisions under Section 72-7-402 or draw-bar length restriction under Subsection 72-7-403(1)(a).

(b) Except as provided under Subsection (8), an oversize and overweight permit may not be issued under this section to allow the transportation of a load that is reasonably divisible.

(c) The maximum size or weight authorized by a permit under this section shall be within limits that do not impair the state's ability to qualify for federal-aid highway funds.

(d) The department may deny or issue a permit under this section to protect the safety of the traveling public and to protect highway foundation, surfaces, or structures from undue damage by one or more of the following:

(i) limiting the number of trips the vehicle may make;

(ii) establishing seasonal or other time limits within which the vehicle may operate or move on the highway indicated;

(iii) requiring security in addition to the permit to compensate for any potential damage by the vehicle to any highway; and

(iv) otherwise limiting the conditions of operation or movement of the vehicle.

(e) Prior to granting a permit under this section, the department shall approve the route of any vehicle or combination of vehicles.

(2) An application for a permit under this section shall state:

(a) the proposed maximum wheel loads, maximum axle loads, all axle spacings of each vehicle or combination of vehicles;

(b) the proposed maximum load size and maximum size of each vehicle or combination of vehicles;

(c) the specific roads requested to be used under authority of the permit; and

(d) if the permit is requested for a single trip or if other seasonal limits or time limits apply.

(3) Each oversize permit or oversize and overweight permit shall be carried in the vehicle or combination of vehicles to which it refers and shall be available for inspection by any peace officer, special function officer, port of entry agent, or other personnel authorized by the department.

(4) A permit under this section may not be issued or is not valid unless the vehicle or combination of vehicles is:

(a) properly registered for the weight authorized by the permit; or

(b) registered for a gross laden weight of 78,001 pounds or over, if the gross laden weight authorized by the permit exceeds 80,000 pounds.

(5) (a) (i) An oversize permit may be issued under this section for a vehicle or combination of vehicles that exceeds one or more of the maximum width, height, or length provisions under Section 72-7-402.

(ii) Except for an annual oversize permit for an implement of husbandry under Section 72-7-407 or for an annual oversize permit issued under Subsection (5)(a)(iii), only a single trip oversize permit may be issued for a vehicle or combination of vehicles that is more than 14 feet 6 inches wide, 14 feet high, or 105 feet long.

(iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules for the issuance of an annual oversize permit for a vehicle or combination of vehicles that is more than 14 feet 6 inches wide, 14 feet high, or 105 feet long if the department determines that the permit is needed to accommodate highway transportation needs for multiple trips on a specified route.

(b) The fee is \$30 for a single trip oversize permit under this Subsection (5). This permit is valid for not more than 96 continuous hours.

(c) The fee is \$75 for a semiannual oversize permit under this Subsection (5). This permit is valid for not more than 180 continuous days.

(d) The fee is \$90 for an annual oversize permit under this Subsection (5). This permit is valid for not more than 365 continuous days.

(6) (a) An oversize and overweight permit may be issued under this section for a vehicle or combination of vehicles carrying a nondivisible load that exceeds one or more of the maximum weight provisions of Section 72-7-404 up to a gross weight of 125,000 pounds.

(b) The fee is \$60 for a single trip oversize and overweight permit under this Subsection (6). This permit is valid for not more than 96 continuous hours.

(c) A semiannual oversize and overweight permit under this Subsection (6) is valid for not more than 180 continuous days. The fee for this permit is:

(i) \$180 for a vehicle or combination of vehicles with gross vehicle weight of more than 80,000 pounds, but not exceeding 84,000 pounds;

(ii) \$320 for a vehicle or combination of vehicles with gross vehicle weight of more than 84,000 pounds, but not exceeding 112,000 pounds; and

(iii) \$420 for a vehicle or combination of vehicles with gross vehicle weight of more than 112,000 pounds, but not exceeding 125,000 pounds.

(d) An annual oversize and overweight permit under this Subsection (6) is valid for not more than 365 continuous days. The fee for this permit is:

(i) \$240 for a vehicle or combination of vehicles with gross vehicle weight of more than 80,000 pounds, but not exceeding 84,000 pounds;

(ii) \$480 for a vehicle or combination of vehicles with gross vehicle weight of more than 84,000 pounds, but not exceeding 112,000 pounds; and

(iii) \$540 for a vehicle or combination of vehicles with gross vehicle weight of more than 112,000 pounds, but not exceeding 125,000 pounds.

(7) (a) A single trip oversize and overweight permit may be issued under this section for a vehicle or combination of vehicles carrying a nondivisible load that exceeds:

(i) one or more of the maximum weight provisions of Section 72-7-404; or

(ii) a gross weight of 125,000 pounds.

(b) (i) The fee for a single trip oversize and overweight permit under this Subsection (7), which is valid for not more than 96 continuous hours, is \$.012 per mile for each 1,000 pounds above 80,000 pounds subject to the rounding described in Subsection (7)(c).

(ii) The minimum fee that may be charged under this Subsection (7) is \$80.

(iii) The maximum fee that may be charged under this Subsection (7) is \$540.

(c) (i) The miles used to calculate the fee under this Subsection (7) shall be rounded up to the nearest 50 mile increment.

(ii) The pounds used to calculate the fee under this Subsection (7) shall be rounded up to the nearest 25,000 pound increment.

(iii) The dollar amount used to calculate the fee under this Subsection (7) shall be rounded to the nearest \$10 increment.

(8) (a) An oversize and overweight permit may be issued under this section for a vehicle or combination of vehicles carrying a divisible load if:

(i) the bridge formula under Subsection 72-7-404(3) is not exceeded; and

(ii) the length of the vehicle or combination of vehicles is:

(A) more than the limitations specified under Subsections 72-7-402(4)(c) and (d) or Subsection 72-7-403(1)(a) but not exceeding 81 feet in cargo carrying length and the application is for a single trip, semiannual trip, or annual trip permit; or

(B) more than 81 feet in cargo carrying length but not exceeding 95 feet in cargo carrying length and the application is for an annual trip permit.

(b) The fee is \$60 for a single trip oversize and overweight permit under this Subsection (8). The permit is valid for not more than 96 continuous hours.

(c) The fee for a semiannual oversize and overweight permit under this Subsection (8), which permit is valid for not more than 180 continuous days is:

(i) \$180 for a vehicle or combination of vehicles with gross vehicle weight of more than 80,000 pounds, but not exceeding 84,000 pounds;

(ii) \$320 for a vehicle or combination of vehicles with gross vehicle weight of more than 84,000 pounds, but not exceeding 112,000 pounds; and

(iii) \$420 for a vehicle or combination of vehicles with gross vehicle weight of more than 112,000 pounds, but not exceeding 129,000 pounds.

(d) The fee for an annual oversize and overweight permit under this Subsection (8), which permit is valid for not more than 365 continuous days is:

(i) \$240 for a vehicle or combination of vehicles with gross vehicle weight of more than 80,000 pounds, but not exceeding 84,000 pounds;

(ii) \$480 for a vehicle or combination of vehicles with gross vehicle weight of more than 84,000 pounds, but not exceeding 112,000 pounds; and

(iii) \$540 for a vehicle or combination of vehicles with gross vehicle weight of more than 112,000 pounds, but not exceeding 129,000 pounds.

(9) Permit fees collected under this section shall be credited monthly to the Transportation Fund.

(10) The department shall prepare maps, drawings, and instructions as guidance when issuing permits under this section.

(11) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules governing the issuance and revocation of all permits under this section and Section 72-7-407.

(12) Any person who violates any of the terms or conditions of a permit issued under this section:

(a) may have the person's permit revoked; and

(b) is guilty of a class [B] C misdemeanor, except that a violation of any rule made under Subsection (11) is not subject to a criminal penalty.

Section 185. Section 72-7-407 is amended to read:

72-7-407. Implements of husbandry -- Escort vehicle requirements -- Oversize permit -- Penalty.

(1) As used in this section, "escort vehicle" means a motor vehicle, as defined under Section 41-1a-102, that has its emergency warning lights operating, and that is being used to warn approaching motorists by either preceding or following a slow or oversized vehicle, object, or implement of husbandry being moved on the highway.

(2) An implement of husbandry being moved on a highway shall be accompanied by:

(a) front and rear escort vehicles when the implement of husbandry is 16 feet in width or greater unless the implement of husbandry is moved by a farmer or rancher or the farmer or rancher's employees in connection with an agricultural operation; or

(b) one or more escort vehicles when the implement of husbandry is traveling on a highway where special hazards exist related to weather, pedestrians, other traffic, or highway conditions.

(3) In addition to the requirements of Subsection (2), a person may not move an implement of husbandry on a highway during hours of darkness without lights and reflectors as required under Section 41-6a-1608 or 41-6a-1609.

(4) (a) Except for an implement of husbandry moved by a farmer or rancher or the farmer's or rancher's employees in connection with an agricultural operation, a person may not move an implement of husbandry on the highway without:

(i) an oversize permit obtained under Section 72-7-406 if required;

(ii) trained escort vehicle drivers and approved escort vehicles when required under Subsection (2); and

(iii) compliance with the vehicle weight requirements of Section 72-7-404.

(b) (i) The department shall issue an annual oversize permit for the purpose of allowing the movement of implements of husbandry on the highways in accordance with this chapter.

(ii) The permit shall require the applicant to obtain verbal permission from the department for each trip involving the movement of an implement of husbandry 16 feet or greater in width.

(5) Any person who violates this section is guilty of a class [B] C misdemeanor.

Section 186. Section 72-7-408 is amended to read:

72-7-408. Highway authority -- Restrictions on highway use -- Erection and maintenance of signs designating restrictions -- Penalty.

(1) (a) Subject to Subsection (1)(b), a highway authority may by rule or ordinance prescribe

procedures and criteria which prohibit the operation of any vehicle or impose restrictions on the weight of a vehicle upon any highway under its jurisdiction.

(b) A highway authority may impose restrictions for a highway under Subsection (1)(a) if an engineering inspection concludes that, due to deterioration caused by climatic conditions, a highway will be seriously damaged or destroyed unless certain vehicles are prohibited or vehicle weights are restricted.

(2) The highway authority imposing restrictions under this section shall erect signs citing the provisions of the rule or ordinance at each end of that portion of any highway affected. The restriction is effective only when the signs are erected and maintained.

(3) Any person who violates any restriction imposed under the authority of this section is guilty of a class [B] C misdemeanor.

Section 187. Section 72-7-409 is amended to read:

72-7-409. Loads on vehicles -- Limitations -- Confining, securing, and fastening load required -- Penalty.

(1) As used in this section:

(a) "Agricultural product" means any raw product which is derived from agriculture, including silage, hay, straw, grain, manure, and other similar product.

(b) "Vehicle" has the same meaning set forth in Section 41-1a-102.

(2) A vehicle may not be operated or moved on any highway unless the vehicle is constructed or loaded to prevent its contents from dropping, sifting, leaking, or otherwise escaping.

(3) (a) In addition to the requirements under Subsection (2), a vehicle carrying dirt, sand, gravel, rock fragments, pebbles, crushed base, aggregate, any other similar material, or scrap metal shall have a covering over the entire load unless:

(i) the highest point of the load does not extend above the top of any exterior wall or sideboard of the cargo compartment of the vehicle; and

(ii) the outer edges of the load are at least six inches below the top inside edges of the exterior walls or sideboards of the cargo compartment of the vehicle.

(b) In addition to the requirements under Subsection (2), a vehicle carrying trash or garbage shall have a covering over the entire load.

(c) The following material is exempt from the provisions of Subsection (3)(a):

(i) hot mix asphalt;

(ii) construction debris or scrap metal if the debris or scrap metal is a size and in a form not susceptible to being blown out of the vehicle;

(iii) material being transported across a highway between two parcels of property that would be contiguous but for the highway that is being crossed; and

(iv) material listed under Subsection (3)(a) that is enclosed on all sides by containers, bags, or packaging.

(d) A chemical substance capable of coating or bonding a load so that the load is confined on a vehicle, may be considered a covering for purposes of Subsection (3)(a) so long as the chemical substance remains effective at confining the load.

(4) Subsections (2) and (3) do not apply to a vehicle or implement of husbandry carrying an agricultural product, if the agricultural product is:

(a) being transported in a manner which is not a hazard or a potential hazard to the safe operation of the vehicle or to other highway users; and

(b) loaded in a manner that only allows minimal spillage.

(5) (a) An authorized vehicle performing snow removal services on a highway is exempt from the requirements of this section.

(b) This section does not prohibit the necessary spreading of any substance connected with highway maintenance, construction, securing traction, or snow removal.

(6) A person may not operate a vehicle with a load on any highway unless the load and any load covering is fastened, secured, and confined to prevent the covering or load from becoming loose, detached, or in any manner a hazard to the safe operation of the vehicle, or to other highway users.

(7) Before entering a highway, the operator of a vehicle carrying any material listed under Subsection (3), shall remove all loose material on any portion of the vehicle not designed to carry the material.

(8) (a) Any person who violates this section is guilty of a class [B] C misdemeanor.

(b) A person who violates a provision of this section shall be fined not less than:

(i) \$200 for a violation; or

(ii) \$500 for a second or subsequent violation within three years of a previous violation of this section.

(c) A person who violates a provision of this section while operating a commercial vehicle as defined in Section 72-9-102 shall be fined:

(i) not less than \$500 for a violation; or

(ii) \$1,000 for a second or subsequent violation within three years of a previous violation of this section.

Section 188. Section 73-18-6 is amended to read:

73-18-6. Numbering of motorboats and sailboats required -- Exception.

(1) Every motorboat and sailboat on the waters of this state shall be numbered. No person shall operate or give permission for the operation of any motorboat or sailboat on the waters of this state unless the motorboat or sailboat is numbered in accordance with:

- (a) this chapter;
- (b) applicable federal law; or
- (c) a federally-approved numbering system of another state, if the owner is a resident of that state and his motorboat or sailboat has not been in this state in excess of 60 days for the calendar year.

(2) The number assigned to a motorboat or sailboat in accordance with this chapter, applicable federal law, or a federally-approved numbering system of another state shall be displayed on each side of the bow of the motorboat or sailboat, except this requirement does not apply to any vessel which has a valid marine document issued by the United States Coast Guard.

(3) A violation of this section is a class C misdemeanor.

Section 189. Section 73-18-7 is amended to read:

73-18-7. Registration requirements -- Exemptions -- Fee -- Agents -- Records -- Period of registration and renewal -- Expiration -- Notice of transfer of interest or change of address -- Duplicate registration card -- Invalid registration -- Powers of board.

(1) (a) Except as provided by Section 73-18-9, the owner of each motorboat and sailboat on the waters of this state shall register it with the division as provided in this chapter.

(b) A person may not place, give permission for the placement of, operate, or give permission for the operation of a motorboat or sailboat on the waters of this state, unless the motorboat or sailboat is registered as provided in this chapter.

(2) (a) The owner of a motorboat or sailboat required to be registered shall file an application for registration with the division on forms approved by the division.

(b) The owner of the motorboat or sailboat shall sign the application and pay the fee set by the board in accordance with Section 63J-1-504.

(c) Before receiving a registration card and registration decals, the applicant shall provide the division with a certificate from the county assessor of the county in which the motorboat or sailboat has situs for taxation, stating that:

- (i) the property tax on the motorboat or sailboat for the current year has been paid;
- (ii) in the county assessor's opinion, the property tax is a lien on real property sufficient to secure the payment of the property tax; or

(iii) the motorboat or sailboat is exempt by law from payment of property tax for the current year.

(d) If the board modifies the fee under Subsection (2)(b), the modification shall take effect on the first day of the calendar quarter after 90 days from the day on which the board provides the State Tax Commission:

- (i) notice from the board stating that the board will modify the fee; and
- (ii) a copy of the fee modification.

(3) (a) Upon receipt of the application in the approved form, the division shall record the receipt and issue to the applicant registration decals and a registration card that state the number assigned to the motorboat or sailboat and the name and address of the owner.

(b) The registration card shall be available for inspection on the motorboat or sailboat for which it was issued, whenever that motorboat or sailboat is in operation.

(4) The assigned number shall:

- (a) be painted or permanently attached to each side of the forward half of the motorboat or sailboat;
- (b) consist of plain vertical block characters not less than three inches in height;
- (c) contrast with the color of the background and be distinctly visible and legible;
- (d) have spaces or hyphens equal to the width of a letter between the letter and numeral groupings; and

(e) read from left to right.

(5) A motorboat or sailboat with a valid marine document issued by the United States Coast Guard is exempt from the number display requirements of Subsection (4).

(6) The nonresident owner of any motorboat or sailboat already covered by a valid number that has been assigned to it according to federal law or a federally approved numbering system of the owner's resident state is exempt from registration while operating the motorboat or sailboat on the waters of this state unless the owner is operating in excess of the reciprocity period provided for in Subsection 73-18-9(1).

(7) (a) If the ownership of a motorboat or sailboat changes, the new owner shall file a new application form and fee with the division, and the division shall issue a new registration card and registration decals in the same manner as provided for in Subsections (2) and (3).

(b) The division shall reassign the current number assigned to the motorboat or sailboat to the new owner to display on the motorboat or sailboat.

(8) If the United States Coast Guard has in force an overall system of identification numbering for motorboats or sailboats within the United States, the numbering system employed under this chapter by the board shall conform with that system.

(9) (a) The division may authorize any person to act as its agent for the registration of motorboats and sailboats.

(b) A number assigned, a registration card, and registration decals issued by an agent of the division in conformity with this chapter and rules of the board are valid.

(10) (a) The Motor Vehicle Division shall classify all records of the division made or kept according to this section in the same manner that motor vehicle records are classified under Section 41-1a-116.

(b) Division records are available for inspection in the same manner as motor vehicle records pursuant to Section 41-1a-116.

(11) (a) (i) Each registration, registration card, and decal issued under this chapter shall continue in effect for 12 months, beginning with the first day of the calendar month of registration.

(ii) A registration may be renewed by the owner in the same manner provided for in the initial application.

(iii) The division shall reassign the current number assigned to the motorboat or sailboat when the registration is renewed.

(b) Each registration, registration card, and registration decal expires the last day of the month in the year following the calendar month of registration.

(c) If the last day of the registration period falls on a day in which the appropriate state or county offices are not open for business, the registration of the motorboat or sailboat is extended to 12 midnight of the next business day.

(d) The division may receive applications for registration renewal and issue new registration cards at any time before the expiration of the registration, subject to the availability of renewal materials.

(e) The new registration shall retain the same expiration month as recorded on the original registration even if the registration has expired.

(f) The year of registration shall be changed to reflect the renewed registration period.

(g) If the registration renewal application is an application generated by the division through its automated system, the owner is not required to surrender the last registration card or duplicate.

(12) (a) An owner shall notify the division of:

(i) the transfer of all or any part of the owner's interest, other than creation of a security interest, in a motorboat or sailboat registered in this state under Subsections (2) and (3); and

(ii) the destruction or abandonment of the owner's motorboat or sailboat.

(b) Notification must take place within 15 days of the transfer, destruction, or abandonment.

(c) (i) The transfer, destruction, or abandonment of a motorboat or sailboat terminates its registration.

(ii) Notwithstanding Subsection (12)(c)(i), a transfer of a part interest that does not affect the owner's right to operate a motorboat or sailboat does not terminate the registration.

(13) (a) A registered owner shall notify the division within 15 days if the owner's address changes from the address appearing on the registration card and shall, as a part of this notification, furnish the division with the owner's new address.

(b) The board may provide in its rules for:

(i) the surrender of the registration card bearing the former address; and

(ii) (A) the replacement of the card with a new registration card bearing the new address; or

(B) the alteration of an existing registration card to show the owner's new address.

(14) (a) If a registration card is lost or stolen, the division may collect a fee of \$4 for the issuance of a duplicate card.

(b) If a registration decal is lost or stolen, the division may collect a fee of \$3 for the issuance of a duplicate decal.

(15) A number other than the number assigned to a motorboat or sailboat or a number for a motorboat or sailboat granted reciprocity under this chapter may not be painted, attached, or otherwise displayed on either side of the bow of a motorboat or sailboat.

(16) A motorboat or sailboat registration and number are invalid if obtained by knowingly falsifying an application for registration.

(17) The board may designate the suffix to assigned numbers, and by following the procedures and requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules for:

(a) the display of registration decals;

(b) the issuance and display of dealer numbers and registrations; and

(c) the issuance and display of temporary registrations.

(18) A violation of this section is a class C misdemeanor.

Section 190. Section 73-18-8 is amended to read:

73-18-8. Safety equipment required to be on board vessels.

(1) (a) Except as provided in Subsection (1)(c), each vessel shall have, for each person on board, one personal flotation device that is approved for the type of use by the commandant of the United States Coast Guard.

(b) Each personal flotation device shall be:

(i) in serviceable condition;

(ii) legally marked with the United States Coast Guard approval number; and

(iii) of an appropriate size for the person for whom it is intended.

(c) (i) Sailboards are exempt from the provisions of Subsection (1)(a).

(ii) The board may exempt certain types of vessels from the provisions of Subsection (1)(a) under certain conditions or upon certain waters.

(d) The board may require by rule for personal flotation devices to be worn:

(i) while a person is on board a certain type of vessel;

(ii) by a person under a certain age; or

(iii) on certain waters of the state.

(e) For vessels 16 feet or more in length, there shall also be on board, one Type IV throwable personal flotation device which is approved for this use by the commandant of the United States Coast Guard.

(2) The operator of a vessel operated between sunset and sunrise shall display lighted navigation lights approved by the division.

(3) If a vessel is not entirely open and it carries or uses any flammable or toxic fluid in any enclosure for any purpose, the vessel shall be equipped with an efficient natural or mechanical ventilation system that is capable of removing resulting gases before and during the time the vessel is occupied by any person.

(4) Each vessel shall have fire extinguishing equipment on board.

(5) Any inboard gasoline engine shall be equipped with a carburetor backfire flame control device.

(6) The board may:

(a) require additional safety equipment by rule; and

(b) adopt rules conforming with the requirements of this section which govern specifications for and the use of safety equipment.

(7) A person may not operate or give permission for the operation of a vessel that is not equipped as required by this section or rules promulgated under this section.

(8) A violation of this section is a class C misdemeanor.

Section 191. Section 73-18-8.1 is amended to read:

73-18-8.1. Capacity and certification label.

(1) Each vessel manufactured after November 1, 1972, which is less than 20 feet in length, except a sailboat, canoe, kayak, inflatable vessel, or homemade motor boat must have a United States Coast Guard capacity and certification label permanently affixed to the vessel and clearly visible to the operator when boarding or operating the

vessel. The capacity and certification information may be combined together and displayed on one label.

(2) No person shall operate, or give permission for the operation of, any vessel on the waters of this state if it is loaded or powered in excess of the maximum capacity information on the United States Coast Guard capacity label.

(3) No person shall alter, deface, or remove any United States Coast Guard capacity or certification information label affixed to a vessel.

(4) No person shall operate, or give permission for the operation of, a vessel on the waters of this state if the required United States Coast Guard capacity or certification information label has been altered, defaced, or removed.

(5) A violation of this section is a class C misdemeanor.

Section 192. Section 73-18-13 is amended to read:

73-18-13. Duties of operator involved in accident -- Notification and reporting procedures -- Use of accident reports -- Giving false information as misdemeanor.

(1) As used in this section, "agent" has the same meaning as provided in Section 41-6a-404.

(2) (a) It is the duty of the operator of a vessel involved in an accident, if the operator can do so without seriously endangering the operator's own vessel, crew, or passengers, to render aid to those affected by the accident as may be practicable.

(b) The operator shall also give the operator's name, address, and identification of the operator's vessel in writing to:

(i) any person injured; or

(ii) the owner of any property damaged in the accident.

(c) A violation of this Subsection (2) is a class B misdemeanor.

(3) (a) The board shall adopt rules governing the notification and reporting procedure for vessels involved in accidents.

(b) The rules shall be consistent with federal requirements.

(4) (a) Except as provided in Subsection (4)(b), all accident reports:

(i) are protected and shall be for the confidential use of the division or other state, local, or federal agencies having use for the records for official governmental statistical, investigative, and accident prevention purposes; and

(ii) may be disclosed only in a statistical form that protects the privacy of any person involved in the accident.

(b) The division shall disclose a written accident report and its accompanying data to:

(i) a person involved in the accident, excluding a witness to the accident;

(ii) a person suffering loss or injury in the accident;

(iii) an agent, parent, or legal guardian of a person described in Subsections (4)(b)(i) and (ii);

(iv) a member of the press or broadcast news media;

(v) a state, local, or federal agency that uses the records for official governmental, investigative, or accident prevention purposes;

(vi) law enforcement personnel when acting in their official governmental capacity; and

(vii) a licensed private investigator.

(c) Information provided to a member of the press or broadcast news media under Subsection (4)(b)(iv) may only include:

(i) the name, age, sex, and city of residence of each person involved in the accident;

(ii) the make and model year of each vehicle involved in the accident;

(iii) whether or not each person involved in the accident was covered by a vehicle insurance policy;

(iv) the location of the accident; and

(v) a description of the accident that excludes personal identifying information not listed in Subsection (4)(c)(i).

(5) (a) Except as provided in Subsection (5)(c), an accident report may not be used as evidence in any civil or criminal trial, arising out of an accident.

(b) Upon demand of any person who has, or claims to have, made the report, or upon demand of any court, the division shall furnish a certificate showing that a specified accident report has or has not been made to the division solely to prove a compliance or a failure to comply with the requirement that a report be made to the division.

(c) Accident reports may be used as evidence when necessary to prosecute charges filed in connection with a violation of Subsection (6).

(6) Any person who gives false information, knowingly or having reason to believe it is false, in an oral or written report as required in this chapter, is guilty of a class [A] B misdemeanor.

Section 193. Section 73-18-15.1 is amended to read:

73-18-15.1. Vessel navigation and steering laws.

(1) The operator of a vessel shall maintain a proper lookout by sight and hearing at all times to avoid the risk of collision.

(2) When the operators of two motorboats approach each other where there is risk of collision, each operator shall alter course to the right and pass on the left side of the other.

(3) When the operators of two motorboats are crossing paths and are at risk of a collision, the

operator of the vessel that has the other vessel on its right side shall keep out of the way and yield right-of-way if necessary.

(4) The operator of any vessel overtaking any other vessel shall keep out of the way of the vessel being overtaken.

(5) The operator of a vessel underway shall keep out of the way of a:

(a) vessel not under command;

(b) vessel restricted in its ability to maneuver;

(c) vessel engaged in fishing; and

(d) sailing vessel.

(6) If the operator of one of two vessels is to keep out of the way, the other vessel operator shall maintain his course and speed unless it becomes apparent the other vessel is not taking the appropriate action.

(7) In narrow channels an operator of a vessel underway shall keep to the right of the middle of the channel.

(8) The operator of a vessel shall proceed at a safe speed at all times so that the operator can take proper and effective action to avoid collision and be stopped within a distance appropriate to the prevailing circumstances or conditions.

(9) (a) When the operators of two sailboats are approaching one another so as to involve risk of collision, one of the operators shall keep out of the way of the other as follows:

(i) when each has the wind on a different side, the operator of the vessel that has the wind on the left side shall keep out of the way of the other;

(ii) when both have the wind on the same side, the operator of the vessel that is to the windward shall keep out of the way of the vessel that is to leeward; and

(iii) if the operator of a vessel with the wind on the left side sees a vessel to windward and cannot determine with certainty whether the other vessel has the wind on the left or on the right side, the operator shall keep out of way of the other vessel.

(b) For purposes of this Subsection (9), the windward side shall be the side opposite that on which the mainsail is carried.

(10) The operator of any vessel may not exceed a wakeless speed when within 150 feet of:

(a) another vessel;

(b) a person in or floating on the water;

(c) a water skier being towed by another boat;

(d) a water skier that had been towed behind the operator's vessel unless the skier is still surfing or riding in an upright stance on the wake created by the vessel;

(e) a water skier that had been towed behind another vessel and the skier is still surfing or riding

in an upright stance on the wake created by the other vessel;

- (f) a shore fisherman;
- (g) a launching ramp;
- (h) a dock; or
- (i) a designated swimming area.

(11) The operator of a motorboat is responsible for any damage or injury caused by the wake produced by the operator's motorboat.

(12) (a) Except as provided in Subsection (12)(b), the operator of a motorboat that is less than 65 feet in length may not exceed a wakeless speed while any person is riding upon the bow decking, gunwales, transom, seatbacks, or motor cover.

(b) Subsection (12)(a) does not apply if the motorboat is:

- (i) between 16 feet and 65 feet in length; and
- (ii) the motorboat is equipped with adequate rails or other safeguards to prevent a person from falling overboard.

(13) If a person is riding upon the bow decking of a motorboat that does not have designed seating for passengers, the person shall straddle one of the upright supports of the bow rail and may not block the vision of the operator.

(14) The operator of a vessel may not tow a water skier or a person on another device:

- (a) unless an onboard observer, who is at least eight years of age, is designated by the operator to watch the person being towed; or
- (b) between sunset and sunrise.

(15) A person who violates this section is guilty of ~~[a class C misdemeanor]~~ an infraction.

Section 194. Section 73-18-15.2 is amended to read:

73-18-15.2. Minimum age of operators -- Boating safety course for youth to operate personal watercraft.

(1) (a) A person under 16 years of age may not operate a motorboat on the waters of this state unless the person is under the on-board and direct supervision of a person who is at least 18 years of age.

(b) A person under 16 years of age may operate a sailboat, if the person is under the direct supervision of a person who is at least 18 years of age.

(2) A person who is at least 12 years of age or older but under 16 years of age may operate a personal watercraft provided he:

- (a) is under the direct supervision of a person who is at least 18 years of age;
- (b) completes a boating safety course approved by the division; and

(c) has in his possession a boating safety certificate issued by the boating safety course provider.

(3) A person who is at least 16 years of age but under 18 years of age may operate a personal watercraft, if the person:

(a) completes a boating safety course approved by the division; and

(b) has in his possession a boating safety certificate issued by the boating safety course provider.

(4) A person required to attend a boating safety course under Subsection (3)(a) need not be accompanied by a parent or legal guardian while completing a boating safety course.

(5) A person may not give permission to another person to operate a vessel in violation of this section.

(6) As used in this section, "direct supervision" means oversight at a distance within which visual contact is maintained.

(7) (a) The division may collect fees set by the board in accordance with Section 63J-1-504 from each person who takes the division's boating safety course to help defray the cost of the boating safety course.

(b) Money collected from the fees collected under Subsection (7)(a) shall be deposited in the Boating Account.

(8) A violation of this section is a class C misdemeanor.

Section 195. Section 73-18-15.3 is amended to read:

73-18-15.3. Personal watercraft -- Prohibition on operation between sunset and sunrise.

(1) A person may not operate a personal watercraft on the waters of this state between sunset and sunrise.

(2) A violation of this section is a class C misdemeanor.

Section 196. Section 73-18-16 is amended to read:

73-18-16. Regattas, races, exhibitions -- Rules.

(1) The division may authorize the holding of regattas, motorboat or other boat races, marine parades, tournaments, or exhibitions on any waters of this state.

(2) The board may adopt rules concerning the safety of vessels and persons, either as observers or participants, that do not conflict with the provisions of Subsections (3) and (4).

(3) A person may elect, at the person's own risk, to wear a non-Coast Guard approved personal flotation device if the person is on an American Water Ski Association regulation tournament slalom course and is:

- (a) engaged in barefoot water skiing;
- (b) water skiing in an American Water Ski Association regulation competition;
- (c) a performer participating in a professional exhibition or other tournament; or
- (d) practicing for an event described in Subsection (3)(b) or (c).

(4) If a person is water skiing in an American Water Ski Association regulation tournament slalom course, an observer and flag are not required if the vessel is:

(a) equipped with a wide angle mirror with a viewing surface of at least 48 square inches; and

(b) operated by a person who is at least 18 years of age.

(5) A violation of this section is a class C misdemeanor.

Section 197. Section 73-18-20.4 is amended to read:

73-18-20.4. Duty to report falsified vessel or motor number.

(1) Any person owning or operating a marina, marine dealership, service station, public garage, paint shop, or a vessel repair shop shall immediately notify the local police authorities of any vessel or outboard motor that has any numbers that have apparently been altered, obliterated, or removed.

(2) A violation of this section is a class B misdemeanor.

Section 198. Section 73-18-21 is amended to read:

73-18-21. Violation of chapter as class C misdemeanor.

Unless otherwise specified, any person who violates any provision of this chapter or rule promulgated under this chapter is guilty of a class [B] C misdemeanor.

Section 199. Section 73-18c-302 is amended to read:

73-18c-302. Operating motorboats without owner's or operator's security -- Penalty.

(1) Any owner of a motorboat on which owner's or operator's security is required under Section 73-18c-301, who operates the motorboat or permits it to be operated on waters of the state without owner's security being in effect is guilty of a class [B] C misdemeanor.

(2) Any other person who operates a motorboat upon waters of the state with the knowledge that the owner does not have owner's security in effect for the motorboat is also guilty of a class [B] C misdemeanor, unless that person has in effect owner's or operator's security on a Utah-registered motorboat or its equivalent that covers the operation, by him or her, of the motorboat in question.

Section 200. Section 73-18c-304 is amended to read:

73-18c-304. Evidence of owner's or operator's security to be carried when operating motorboat -- Defense -- Penalties.

(1) (a) (i) Except as provided in Subsection (1)(a)(ii), a person operating a motorboat shall:

(A) have in the person's immediate possession evidence of owner's or operator's security for the motorboat the person is operating; and

(B) display it upon demand of a peace officer.

(ii) A person operating a government-owned or government-leased motorboat is exempt from the requirements of Subsection (1)(a)(i).

(b) Evidence of owner's or operator's security includes any one of the following:

(i) the operator's:

(A) insurance policy;

(B) binder notice;

(C) renewal notice; or

(D) card issued by an insurance company as evidence of insurance;

(ii) a copy of a surety bond, certified by the surety, which conforms to Section 73-18c-102;

(iii) a certificate of the state treasurer issued under Section 73-18c-305; or

(iv) a certificate of self-funded coverage issued under Section 73-18c-306.

(2) It is an affirmative defense to a charge under this section that the person had owner's or operator's security in effect for the motorboat the person was operating at the time of the person's citation or arrest.

(3) (a) A letter from an insurance producer or company verifying that the person had the required liability insurance coverage on the date specified is considered proof of owner's or operator's security for purposes of Subsection (2).

(b) The court considering a citation issued under this section shall allow the letter under Subsection (3)(a) and a copy of the citation to be faxed or mailed to the clerk of the court to satisfy Subsection (2).

(4) A violation of this section is a class [B] C misdemeanor.

(5) If a person is convicted of a violation of this section and if the person is the owner of a motorboat, the court shall:

(a) require the person to surrender the person's registration materials to the court; and

(b) forward the registration materials, together with a copy of the conviction, to the division.

(6) (a) Upon receiving notification from a court of a conviction for a violation of this section, the division shall revoke the person's motorboat registration.

(b) Any registration revoked shall be renewed in accordance with Section 73-18-7.

Section 201. Section 76-3-202 is amended to read:

76-3-202. Paroled persons -- Termination or discharge from sentence -- Time served on parole -- Discretion of Board of Pardons and Parole.

(1) (a) Except as provided in Subsection (1)(b), every person committed to the state prison to serve an indeterminate term and later released on parole shall, upon completion of three years on parole outside of confinement and without violation, be terminated from the person's sentence unless the parole is earlier terminated by the Board of Pardons and Parole or is terminated pursuant to Section 64-13-21.

(b) Every person committed to the state prison to serve an indeterminate term and later released on parole on or after July 1, 2008, and who was convicted of any felony offense under Title 76, Chapter 5, Offenses Against the Person, or any attempt, conspiracy, or solicitation to commit any of these felony offenses, shall complete a term of parole that extends through the expiration of the person's maximum sentence, unless the parole is earlier terminated by the Board of Pardons and Parole.

(2) Every person convicted of a second degree felony for violating Section 76-5-404, forcible sexual abuse, or 76-5-404.1, sexual abuse of a child and aggravated sexual abuse of a child, or attempting, conspiring, or soliciting the commission of a violation of any of those sections, and who is paroled before July 1, 2008, shall, upon completion of 10 years parole outside of confinement and without violation, be terminated from the sentence unless the person is earlier terminated by the Board of Pardons and Parole.

(3) (a) Every person convicted of a first degree felony for committing any offense listed in Subsection (3)(b), or attempting, conspiring, or soliciting the commission of a violation of any of those sections, shall complete a term of lifetime parole outside of confinement and without violation unless the person is earlier terminated by the Board of Pardons and Parole.

(b) The offenses referred to in Subsection (3)(a) are:

- (i) Section 76-5-301.1, child kidnapping;
- (ii) Subsection 76-5-302(1)(b)(vi), aggravated kidnapping involving a sexual offense;
- (iii) Section 76-5-402, rape;
- (iv) Section 76-5-402.1, rape of a child;
- (v) Section 76-5-402.2, object rape;
- (vi) Section 76-5-402.3, object rape of a child;
- (vii) Subsection 76-5-403(2), forcible sodomy;
- (viii) Section 76-5-403.1, sodomy on a child;

(ix) Section 76-5-404.1, sexual abuse of a child and aggravated sexual abuse of a child; or

(x) Section 76-5-405, aggravated sexual assault.

(4) Any person who violates the terms of parole, while serving parole, for any offense under Subsection (1), (2), or (3), shall at the discretion of the Board of Pardons and Parole be recommitted to prison to serve the portion of the balance of the term as determined by the Board of Pardons and Parole, but not to exceed the maximum term.

(5) In order for a parolee convicted on or after May 5, 1997, to be eligible for early termination from parole, the parolee must provide to the Board of Pardons and Parole:

(a) evidence that the parolee has completed high school classwork and has obtained a high school graduation diploma, a GED certificate, or a vocational certificate; or

(b) documentation of the inability to obtain one of the items listed in Subsection (5)(a) because of:

- (i) a diagnosed learning disability; or
- (ii) other justified cause.

(6) Any person paroled following a former parole revocation may not be discharged from the person's sentence until:

(a) the person has served the applicable period of parole under this section outside of confinement and without violation;

(b) the person's maximum sentence has expired; or

(c) the Board of Pardons and Parole orders the person to be discharged from the sentence.

(7) (a) All time served on parole, outside of confinement and without violation, constitutes service of the total sentence but does not preclude the requirement of serving the applicable period of parole under this section, outside of confinement and without violation.

(b) Any time a person spends outside of confinement after commission of a parole violation does not constitute service of the total sentence unless the person is exonerated at a parole revocation hearing.

(c) (i) Any time a person spends in confinement awaiting a hearing before the Board of Pardons and Parole or a decision by the board concerning revocation of parole constitutes service of the sentence.

(ii) In the case of exoneration by the board, the time spent is included in computing the total parole term.

(8) When any parolee without authority from the Board of Pardons and Parole absents himself from the state or avoids or evades parole supervision, the period of absence, avoidance, or evasion tolls the parole period.

(9) (a) While on parole, time spent in confinement outside the state may not be credited toward the service of any Utah sentence.

(b) Time in confinement outside the state or in the custody of any tribal authority or the United States government for a conviction obtained in another jurisdiction tolls the expiration of the Utah sentence.

(10) This section does not preclude the Board of Pardons and Parole from paroling or discharging an inmate at any time within the discretion of the Board of Pardons and Parole unless otherwise specifically provided by law.

(11) A parolee sentenced to lifetime parole may petition the Board of Pardons and Parole for termination of lifetime parole.

Section 202. Section 76-6-206 is amended to read:

76-6-206. Criminal trespass.

(1) As used in this section, "enter" means intrusion of the entire body.

(2) A person is guilty of criminal trespass if, under circumstances not amounting to burglary as defined in Section 76-6-202, 76-6-203, or 76-6-204 or a violation of Section 76-10-2402 regarding commercial obstruction:

(a) the person enters or remains unlawfully on property and:

(i) intends to cause annoyance or injury to any person or damage to any property, including the use of graffiti as defined in Section 76-6-107;

(ii) intends to commit any crime, other than theft or a felony; or

(iii) is reckless as to whether his presence will cause fear for the safety of another;

(b) knowing the person's entry or presence is unlawful, the person enters or remains on property as to which notice against entering is given by:

(i) personal communication to the actor by the owner or someone with apparent authority to act for the owner;

(ii) fencing or other enclosure obviously designed to exclude intruders; or

(iii) posting of signs reasonably likely to come to the attention of intruders; or

(c) the person enters a condominium unit in violation of Subsection 57-8-7(8).

(3) (a) A violation of Subsection (2)(a) or (b) is a class B misdemeanor unless it was committed in a dwelling, in which event it is a class A misdemeanor.

(b) A violation of Subsection (2)(c) is an infraction.

(4) It is a defense to prosecution under this section that:

(a) the property was at the time open to the public [~~when the actor entered or remained~~]; and

(b) [~~the actor's conduct did not substantially interfere with the owner's use of the property~~] the

actor complied with all lawful conditions imposed on access to or remaining on the property.

Section 203. Section 76-10-503 is amended to read:

76-10-503. Restrictions on possession, purchase, transfer, and ownership of dangerous weapons by certain persons -- Exceptions.

(1) For purposes of this section:

(a) A Category I restricted person is a person who:

(i) has been convicted of any violent felony as defined in Section 76-3-203.5;

(ii) is on probation or parole for any felony;

(iii) is on parole from a secure facility as defined in Section 62A-7-101;

(iv) within the last 10 years has been adjudicated delinquent for an offense which if committed by an adult would have been a violent felony as defined in Section 76-3-203.5; ~~or~~

(v) is an alien who is illegally or unlawfully in the United States~~;~~ or

(vi) is on probation for a conviction of possessing a substance classified in Schedule I or II in Section 58-37-8, or a controlled substance analog or a substance listed in Section 58-37-4.2.

(b) A Category II restricted person is a person who:

(i) has been convicted of any felony;

(ii) within the last seven years has been adjudicated delinquent for an offense which if committed by an adult would have been a felony;

(iii) is an unlawful user of a controlled substance as defined in Section 58-37-2;

(iv) is in possession of a dangerous weapon and is knowingly and intentionally in unlawful possession of a Schedule I or II controlled substance as defined in Section 58-37-2;

(v) has been found not guilty by reason of insanity for a felony offense;

(vi) has been found mentally incompetent to stand trial for a felony offense;

(vii) has been adjudicated as mentally defective as provided in the Brady Handgun Violence Prevention Act, Pub. L. No. 103-159, 107 Stat. 1536 (1993), or has been committed to a mental institution;

(viii) has been dishonorably discharged from the armed forces; or

(ix) has renounced his citizenship after having been a citizen of the United States.

(c) As used in this section, a conviction of a felony or adjudication of delinquency for an offense which would be a felony if committed by an adult does not include:

(i) a conviction or adjudication of delinquency for an offense pertaining to antitrust violations, unfair

trade practices, restraint of trade, or other similar offenses relating to the regulation of business practices not involving theft or fraud; or

(ii) a conviction or adjudication of delinquency which, according to the law of the jurisdiction in which it occurred, has been expunged, set aside, reduced to a misdemeanor by court order, pardoned or regarding which the person's civil rights have been restored unless the pardon, reduction, expungement, or restoration of civil rights expressly provides that the person may not ship, transport, possess, or receive firearms.

(d) It is the burden of the defendant in a criminal case to provide evidence that a conviction or adjudication of delinquency is subject to an exception provided in Subsection (1)(c), after which it is the burden of the state to prove beyond a reasonable doubt that the conviction or adjudication of delinquency is not subject to that exception.

(2) A Category I restricted person who intentionally or knowingly agrees, consents, offers, or arranges to purchase, transfer, possess, use, or have under the person's custody or control, or who intentionally or knowingly purchases, transfers, possesses, uses, or has under the person's custody or control:

(a) any firearm is guilty of a second degree felony; or

(b) any dangerous weapon other than a firearm is guilty of a third degree felony.

(3) A Category II restricted person who intentionally or knowingly purchases, transfers, possesses, uses, or has under the person's custody or control:

(a) any firearm is guilty of a third degree felony; or

(b) any dangerous weapon other than a firearm is guilty of a class A misdemeanor.

(4) A person may be subject to the restrictions of both categories at the same time.

(5) If a higher penalty than is prescribed in this section is provided in another section for one who purchases, transfers, possesses, uses, or has under this custody or control any dangerous weapon, the penalties of that section control.

(6) It is an affirmative defense to a charge based on the definition in Subsection (1)(b)(iv) that the person was:

(a) in possession of a controlled substance pursuant to a lawful order of a practitioner for use of a member of the person's household or for administration to an animal owned by the person or a member of the person's household; or

(b) otherwise authorized by law to possess the substance.

(7) (a) It is an affirmative defense to transferring a firearm or other dangerous weapon by a person

restricted under Subsection (2) or (3) that the firearm or dangerous weapon:

(i) was possessed by the person or was under the person's custody or control before the person became a restricted person;

(ii) was not used in or possessed during the commission of a crime or subject to disposition under Section 24-3-103;

(iii) is not being held as evidence by a court or law enforcement agency;

(iv) was transferred to a person not legally prohibited from possessing the weapon; and

(v) unless a different time is ordered by the court, was transferred within 10 days of the person becoming a restricted person.

(b) Subsection (7)(a) is not a defense to the use, purchase, or possession on the person of a firearm or other dangerous weapon by a restricted person.

(8) (a) A person may not sell, transfer, or otherwise dispose of any firearm or dangerous weapon to any person, knowing that the recipient is a person described in Subsection (1)(a) or (b).

(b) A person who violates Subsection (8)(a) when the recipient is:

(i) a person described in Subsection (1)(a) and the transaction involves a firearm, is guilty of a second degree felony;

(ii) a person described in Subsection (1)(a) and the transaction involves any dangerous weapon other than a firearm, and the transferor has knowledge that the recipient intends to use the weapon for any unlawful purpose, is guilty of a third degree felony;

(iii) a person described in Subsection (1)(b) and the transaction involves a firearm, is guilty of a third degree felony; or

(iv) a person described in Subsection (1)(b) and the transaction involves any dangerous weapon other than a firearm, and the transferor has knowledge that the recipient intends to use the weapon for any unlawful purpose, is guilty of a class A misdemeanor.

(9) (a) A person may not knowingly solicit, persuade, encourage or entice a dealer or other person to sell, transfer or otherwise dispose of a firearm or dangerous weapon under circumstances which the person knows would be a violation of the law.

(b) A person may not provide to a dealer or other person any information that the person knows to be materially false information with intent to deceive the dealer or other person about the legality of a sale, transfer or other disposition of a firearm or dangerous weapon.

(c) "Materially false information" means information that portrays an illegal transaction as legal or a legal transaction as illegal.

(d) A person who violates this Subsection (9) is guilty of:

(i) a third degree felony if the transaction involved a firearm; or

(ii) a class A misdemeanor if the transaction involved a dangerous weapon other than a firearm.

Section 204. Section 77-1-3 is amended to read:

77-1-3. Definitions.

For the purpose of this act:

(1) "Criminal action" means the proceedings by which a person is charged, accused, and brought to trial for a public offense.

(2) "Indictment" means an accusation in writing presented by a grand jury to the district court charging a person with a public offense.

(3) "Information" means an accusation, in writing, charging a person with a public offense which is presented, signed, and filed in the office of the clerk where the prosecution is commenced pursuant to Section 77-2-1.1.

(4) "Magistrate" means a justice or judge of a court of record or not of record or a commissioner of such a court appointed in accordance with Section 78A-5-107, except that the authority of a court commissioner to act as a magistrate shall be limited by rule of the judicial council. The judicial council rules shall not exceed constitutional limitations upon the delegation of judicial authority.

(5) "Risk and needs assessment" means an actuarial tool validated on offenders that determines:

(a) an individual's risk of reoffending; and

(b) the criminal risk factors that, when addressed, reduce the individual's risk of reoffending.

Section 205. Section 77-18-1 is amended to read:

77-18-1. Suspension of sentence -- Pleas held in abeyance -- Probation -- Supervision -- Presentence investigation -- Standards -- Confidentiality -- Terms and conditions -- Termination, revocation, modification, or extension -- Hearings -- Electronic monitoring.

(1) On a plea of guilty or no contest entered by a defendant in conjunction with a plea in abeyance agreement, the court may hold the plea in abeyance as provided in Title 77, Chapter 2a, Pleas in Abeyance, and under the terms of the plea in abeyance agreement.

(2) (a) On a plea of guilty, guilty with a mental illness, no contest, or conviction of any crime or offense, the court may, after imposing sentence, suspend the execution of the sentence and place the defendant on probation. The court may place the defendant:

(i) on probation under the supervision of the Department of Corrections except in cases of class C misdemeanors or infractions;

(ii) on probation with an agency of local government or with a private organization; or

(iii) on bench probation under the jurisdiction of the sentencing court.

(b) (i) The legal custody of all probationers under the supervision of the department is with the department.

(ii) The legal custody of all probationers under the jurisdiction of the sentencing court is vested as ordered by the court.

(iii) The court has continuing jurisdiction over all probationers.

(3) (a) The department shall establish supervision and presentence investigation standards for all individuals referred to the department. These standards shall be based on:

(i) the type of offense;

(ii) the results of a risk and needs assessment;

~~(iii)~~ (iii) the demand for services;

~~(iv)~~ (iv) the availability of agency resources;

~~(v)~~ ~~the~~ (v) public safety; and

~~(vi)~~ (vi) other criteria established by the department to determine what level of services shall be provided.

(b) Proposed supervision and investigation standards shall be submitted to the Judicial Council and the Board of Pardons and Parole on an annual basis for review and comment prior to adoption by the department.

(c) The Judicial Council and the department shall establish procedures to implement the supervision and investigation standards.

(d) The Judicial Council and the department shall annually consider modifications to the standards based upon criteria in Subsection (3)(a) and other criteria as they consider appropriate.

(e) The Judicial Council and the department shall annually prepare an impact report and submit it to the appropriate legislative appropriations subcommittee.

(4) Notwithstanding other provisions of law, the department is not required to supervise the probation of persons convicted of class B or C misdemeanors or infractions or to conduct presentence investigation reports on class C misdemeanors or infractions. However, the department may supervise the probation of class B misdemeanants in accordance with department standards.

(5) (a) Before the imposition of any sentence, the court may, with the concurrence of the defendant, continue the date for the imposition of sentence for a reasonable period of time for the purpose of obtaining a presentence investigation report from

the department or information from other sources about the defendant.

(b) The presentence investigation report shall include:

(i) a victim impact statement according to guidelines set in Section 77-38a-203 describing the effect of the crime on the victim and the victim's family;

(ii) a specific statement of pecuniary damages, accompanied by a recommendation from the department regarding the payment of restitution with interest by the defendant in accordance with Title 77, Chapter 38a, Crime Victims Restitution Act;

(iii) findings from any screening and any assessment of the offender conducted under Section 77-18-1.1;

(iv) recommendations for treatment of the offender; and

(v) the number of days since the commission of the offense that the offender has spent in the custody of the jail and the number of days, if any, the offender was released to a supervised release or alternative incarceration program under Section 17-22-5.5.

(c) The contents of the presentence investigation report are protected and are not available except by court order for purposes of sentencing as provided by rule of the Judicial Council or for use by the department.

(6) (a) The department shall provide the presentence investigation report to the defendant's attorney, or the defendant if not represented by counsel, the prosecutor, and the court for review, three working days prior to sentencing. Any alleged inaccuracies in the presentence investigation report, which have not been resolved by the parties and the department prior to sentencing, shall be brought to the attention of the sentencing judge, and the judge may grant an additional 10 working days to resolve the alleged inaccuracies of the report with the department. If after 10 working days the inaccuracies cannot be resolved, the court shall make a determination of relevance and accuracy on the record.

(b) If a party fails to challenge the accuracy of the presentence investigation report at the time of sentencing, that matter shall be considered to be waived.

(7) At the time of sentence, the court shall receive any testimony, evidence, or information the defendant or the prosecuting attorney desires to present concerning the appropriate sentence. This testimony, evidence, or information shall be presented in open court on record and in the presence of the defendant.

(8) While on probation, and as a condition of probation, the court may require that the defendant:

(a) perform any or all of the following:

(i) pay, in one or several sums, any fine imposed at the time of being placed on probation;

(ii) pay amounts required under Title 77, Chapter 32a, Defense Costs;

(iii) provide for the support of others for whose support the defendant is legally liable;

(iv) participate in available treatment programs, including any treatment program in which the defendant is currently participating, if the program is acceptable to the court;

(v) serve a period of time, not to exceed one year, in a county jail designated by the department, after considering any recommendation by the court as to which jail the court finds most appropriate;

(vi) serve a term of home confinement, which may include the use of electronic monitoring;

(vii) participate in compensatory service restitution programs, including the compensatory service program provided in Section 76-6-107.1;

(viii) pay for the costs of investigation, probation, and treatment services;

(ix) make restitution or reparation to the victim or victims with interest in accordance with Title 77, Chapter 38a, Crime Victims Restitution Act; and

(x) comply with other terms and conditions the court considers appropriate; and

(b) if convicted on or after May 5, 1997:

(i) complete high school classwork and obtain a high school graduation diploma, a GED certificate, or a vocational certificate at the defendant's own expense if the defendant has not received the diploma, GED certificate, or vocational certificate prior to being placed on probation; or

(ii) provide documentation of the inability to obtain one of the items listed in Subsection (8)(b)(i) because of:

(A) a diagnosed learning disability; or

(B) other justified cause.

(9) The department shall collect and disburse the account receivable as defined by Section 76-3-201.1, with interest and any other costs assessed under Section 64-13-21 during:

(a) the parole period and any extension of that period in accordance with Subsection 77-27-6(4); and

(b) the probation period in cases for which the court orders supervised probation and any extension of that period by the department in accordance with Subsection (10).

(10) (a) (i) Probation may be terminated at any time at the discretion of the court or upon completion without violation of 36 months probation in felony or class A misdemeanor cases, ~~or~~ 12 months in cases of class B or C misdemeanors or infractions, or as allowed pursuant to Section 64-13-21 regarding earned credits.

(ii) (A) If, upon expiration or termination of the probation period under Subsection (10)(a)(i), there

remains an unpaid balance upon the account receivable as defined in Section 76-3-201.1, the court may retain jurisdiction of the case and continue the defendant on bench probation for the limited purpose of enforcing the payment of the account receivable. If the court retains jurisdiction for this limited purpose, the court may order the defendant to pay to the court the costs associated with continued probation under this Subsection (10).

(B) In accordance with Section 77-18-6, the court shall record in the registry of civil judgments any unpaid balance not already recorded and immediately transfer responsibility to collect the account to the Office of State Debt Collection.

(iii) Upon motion of the Office of State Debt Collection, prosecutor, victim, or upon its own motion, the court may require the defendant to show cause why the defendant's failure to pay should not be treated as contempt of court.

(b) (i) The department shall notify the sentencing court, the Office of State Debt Collection, and the prosecuting attorney in writing in advance in all cases when termination of supervised probation will occur by law.

(ii) The notification shall include a probation progress report and complete report of details on outstanding accounts receivable.

(11) (a) (i) Any time served by a probationer outside of confinement after having been charged with a probation violation and prior to a hearing to revoke probation does not constitute service of time toward the total probation term unless the probationer is exonerated at a hearing to revoke the probation.

(ii) Any time served in confinement awaiting a hearing or decision concerning revocation of probation does not constitute service of time toward the total probation term unless the probationer is exonerated at the hearing.

(iii) Any time served in confinement awaiting a hearing or decision concerning revocation of probation constitutes service of time toward a term of incarceration imposed as a result of the revocation of probation.

(b) The running of the probation period is tolled upon the filing of a violation report with the court alleging a violation of the terms and conditions of probation or upon the issuance of an order to show cause or warrant by the court.

(12) (a) (i) Probation may not be modified or extended except upon waiver of a hearing by the probationer or upon a hearing and a finding in court that the probationer has violated the conditions of probation.

(ii) Probation may not be revoked except upon a hearing in court and a finding that the conditions of probation have been violated.

(b) (i) Upon the filing of an affidavit alleging with particularity facts asserted to constitute violation of the conditions of probation, the court that

authorized probation shall determine if the affidavit establishes probable cause to believe that revocation, modification, or extension of probation is justified.

(ii) If the court determines there is probable cause, it shall cause to be served on the defendant a warrant for the defendant's arrest or a copy of the affidavit and an order to show cause why the defendant's probation should not be revoked, modified, or extended.

(c) (i) The order to show cause shall specify a time and place for the hearing and shall be served upon the defendant at least five days prior to the hearing.

(ii) The defendant shall show good cause for a continuance.

(iii) The order to show cause shall inform the defendant of a right to be represented by counsel at the hearing and to have counsel appointed if the defendant is indigent.

(iv) The order shall also inform the defendant of a right to present evidence.

(d) (i) At the hearing, the defendant shall admit or deny the allegations of the affidavit.

(ii) If the defendant denies the allegations of the affidavit, the prosecuting attorney shall present evidence on the allegations.

(iii) The persons who have given adverse information on which the allegations are based shall be presented as witnesses subject to questioning by the defendant unless the court for good cause otherwise orders.

(iv) The defendant may call witnesses, appear and speak in the defendant's own behalf, and present evidence.

(e) (i) After the hearing the court shall make findings of fact.

(ii) Upon a finding that the defendant violated the conditions of probation, the court may order the probation revoked, modified, continued, or that the entire probation term commence anew.

~~[(iii) If probation is revoked, the defendant shall be sentenced or the sentence previously imposed shall be executed.]~~

(iii) If a period of incarceration is imposed for a violation, the defendant shall be sentenced within the guidelines established by the Utah Sentencing Commission pursuant to Subsection 63M-7-404(4), unless the judge determines that:

(A) the defendant needs substance abuse or mental health treatment, as determined by a risk and needs assessment, that warrants treatment services that are immediately available in the community; or

(B) the sentence previously imposed shall be executed.

(iv) If the defendant had, prior to the imposition of a term of incarceration or the execution of the previously imposed sentence under this Subsection (12), served time in jail as a condition of probation or

due to a violation of probation under Subsection 77-18-1(12)(e)(iii), the time the probationer served in jail constitutes service of time toward the sentence previously imposed.

(13) The court may order the defendant to commit himself or herself to the custody of the Division of Substance Abuse and Mental Health for treatment at the Utah State Hospital as a condition of probation or stay of sentence, only after the superintendent of the Utah State Hospital or the superintendent's designee has certified to the court that:

(a) the defendant is appropriate for and can benefit from treatment at the state hospital;

(b) treatment space at the hospital is available for the defendant; and

(c) persons described in Subsection 62A-15-610(2)(g) are receiving priority for treatment over the defendants described in this Subsection (13).

(14) Presentence investigation reports are classified protected in accordance with Title 63G, Chapter 2, Government Records Access and Management Act. Notwithstanding Sections 63G-2-403 and 63G-2-404, the State Records Committee may not order the disclosure of a presentence investigation report. Except for disclosure at the time of sentencing pursuant to this section, the department may disclose the presentence investigation only when:

(a) ordered by the court pursuant to Subsection 63G-2-202(7);

(b) requested by a law enforcement agency or other agency approved by the department for purposes of supervision, confinement, and treatment of the offender;

(c) requested by the Board of Pardons and Parole;

(d) requested by the subject of the presentence investigation report or the subject's authorized representative; or

(e) requested by the victim of the crime discussed in the presentence investigation report or the victim's authorized representative, provided that the disclosure to the victim shall include only information relating to statements or materials provided by the victim, to the circumstances of the crime including statements by the defendant, or to the impact of the crime on the victim or the victim's household.

(15) (a) The court shall consider home confinement as a condition of probation under the supervision of the department, except as provided in Sections 76-3-406 and 76-5-406.5.

(b) The department shall establish procedures and standards for home confinement, including electronic monitoring, for all individuals referred to the department in accordance with Subsection (16).

(16) (a) If the court places the defendant on probation under this section, it may order the

defendant to participate in home confinement through the use of electronic monitoring as described in this section until further order of the court.

(b) The electronic monitoring shall alert the department and the appropriate law enforcement unit of the defendant's whereabouts.

(c) The electronic monitoring device shall be used under conditions which require:

(i) the defendant to wear an electronic monitoring device at all times; and

(ii) that a device be placed in the home of the defendant, so that the defendant's compliance with the court's order may be monitored.

(d) If a court orders a defendant to participate in home confinement through electronic monitoring as a condition of probation under this section, it shall:

(i) place the defendant on probation under the supervision of the Department of Corrections;

(ii) order the department to place an electronic monitoring device on the defendant and install electronic monitoring equipment in the residence of the defendant; and

(iii) order the defendant to pay the costs associated with home confinement to the department or the program provider.

(e) The department shall pay the costs of home confinement through electronic monitoring only for those persons who have been determined to be indigent by the court.

(f) The department may provide the electronic monitoring described in this section either directly or by contract with a private provider.

Section 206. Section 77-27-1 is amended to read:

77-27-1. Definitions.

As used in this chapter:

(1) "Appearance" means any opportunity to address the board, a board member, a panel, or hearing officer, including an interview.

(2) "Board" means the Board of Pardons and Parole.

(3) "Case action plan" means a document developed by the Department of Corrections that identifies the program priorities for the treatment of the offender, including the criminal risk factors as determined by a risk and needs assessment conducted by the department.

~~(3)~~ (4) "Commission" means the Commission on Criminal and Juvenile Justice.

~~(4)~~ (5) "Commutation" is the change from a greater to a lesser punishment after conviction.

(6) "Criminal risk factors" means a person's characteristics and behaviors that:

(a) affect that person's risk of engaging in criminal behavior; and

(b) are diminished when addressed by effective treatment, supervision, and other support resources resulting in reduced risk of criminal behavior.

[45] (7) “Department” means the Department of Corrections.

[46] (8) “Expiration” occurs when the maximum sentence has run.

[47] (9) “Family” means persons related to the victim as a spouse, child, sibling, parent, or grandparent, or the victim’s legal guardian.

[48] (10) “Hearing” means an appearance before the board, a panel, a board member or hearing examiner, at which an offender or inmate is afforded an opportunity to be present and address the board, and encompasses the term “full hearing.”

[49] (11) “Location,” in reference to a hearing, means the physical location at which the board, a panel, a board member, or a hearing examiner is conducting the hearing, regardless of the location of any person participating by electronic means.

[49] (12) “Open session” means any hearing before the board, a panel, a board member, or a hearing examiner which is open to the public, regardless of the location of any person participating by electronic means.

[41] (13) “Panel” means members of the board assigned by the chairperson to a particular case.

[42] (14) “Pardon” is an act of grace that forgives a criminal conviction and restores the rights and privileges forfeited by or because of the criminal conviction. A pardon releases an offender from the entire punishment prescribed for a criminal offense and from disabilities that are a consequence of the criminal conviction. A pardon reinstates any civil rights lost as a consequence of conviction or punishment for a criminal offense.

[43] (15) “Parole” is a release from imprisonment on prescribed conditions which, if satisfactorily performed by the parolee, enables the parolee to obtain a termination of his sentence.

[44] (16) “Probation” is an act of grace by the court suspending the imposition or execution of a convicted offender’s sentence upon prescribed conditions.

[45] (17) “Reprieve or respite” is the temporary suspension of the execution of the sentence.

[46] (18) “Termination” is the act of discharging from parole or concluding the sentence of imprisonment prior to the expiration of the sentence.

[47] (19) “Victim” means:

(a) a person against whom the defendant committed a felony or class A misdemeanor offense, and regarding which offense a hearing is held under this chapter; or

(b) the victim’s family, if the victim is deceased as a result of the offense for which a hearing is held under this chapter.

Section 207. Section 77-27-5.4 is enacted to read:

77-27-5.4. Earned time program.

(1) The board shall establish an earned time program that reduces the period of incarceration for offenders who successfully complete specified programs, the purpose of which is to reduce the risk of recidivism.

(2) The earned time program shall:

(a) provide not less than four months of earned time credit for the completion of the highest ranked priority in the offender’s case action plan;

(b) provide not less than four months of earned time credit for completion of one of the recommended programs in the offender’s case action plan; or

(c) allow the board to grant in its discretion earned time credit in addition to the earned time credit provided under Subsections (2)(a) and (b).

(3) The program may not provide earned time credit for offenders:

(a) whose previously ordered release date does not provide enough time for the Board of Pardons and Parole to grant the earned time credit;

(b) who have been sentenced by the court to a term of life without the possibility of parole; or

(c) who have been ordered by the Board of Pardons and Parole to serve a life sentence.

(4) The board may order the forfeiture of earned time credits under this section if the offender commits a major disciplinary infraction.

(5) The department shall notify the board not more than 30 days after an offender completes a priority in the case action plan.

(6) The board shall collect data for the fiscal year regarding the operation of the earned time credit program, including:

(a) the number of offenders who have earned time credit under this section in the prior year;

(b) the amount of time credit earned in the prior year;

(c) the number of offenders who forfeited earned time credit; and

(d) additional related information as requested by the Commission on Criminal and Juvenile Justice.

(7) The board shall collaborate with the Department of Corrections in the establishment of the earned time credit program.

(8) To the extent possible, programming and hearings shall be provided early enough in an offender’s incarceration to allow the offender to earn time credit.

Section 208. Section 77-27-10 is amended to read:

77-27-10. Conditions of parole -- Inmate agreement to warrant -- Rulemaking -- Intensive early release parole program.

(1) (a) When the Board of Pardons and Parole releases an offender on parole, it shall issue to the parolee a certificate setting forth the conditions of parole, including the use of graduated sanctions pursuant to Section 64-13-21, which the offender shall accept and agree to as evidenced by the offender's signature affixed to the agreement.

(b) The parole agreement shall require that the inmate agree in writing that the board may issue a warrant and conduct a parole revocation hearing if:

(i) the board determines after the grant of parole that the inmate willfully provided to the board false or inaccurate information that the board finds was significant in the board's determination to grant parole; or

(ii) (A) the inmate has engaged in criminal conduct prior to the granting of parole; and

(B) the board did not have information regarding the conduct at the time parole was granted.

(c) A copy of the agreement shall be delivered to the Department of Corrections and a copy shall be given to the parolee. The original shall remain with the board's file.

(2) (a) If an offender convicted of violating or attempting to violate Section 76-5-301.1, Subsection 76-5-302(1), Section 76-5-402, 76-5-402.1, 76-5-402.2, 76-5-402.3, 76-5-403, 76-5-403.1, 76-5-404, 76-5-404.1, or 76-5-405, is released on parole, the board shall order outpatient mental health counseling and treatment as a condition of parole.

(b) The board shall develop standards and conditions of parole under this Subsection (2) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(c) This Subsection (2) does not apply to intensive early release parole.

(3) (a) In addition to the conditions set out in Subsection (1), the board may place offenders in an intensive early release parole program. The board shall determine the conditions of parole which are reasonably necessary to protect the community as well as to protect the interests of the offender and to assist the offender to lead a law-abiding life.

(b) The offender is eligible for this program only if the offender:

(i) has not been convicted of a sexual offense; or

(ii) has not been sentenced pursuant to Section 76-3-406.

(c) The department shall:

(i) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for operation of the program;

(ii) adopt and implement internal management policies for operation of the program;

(iii) determine whether or not to refer an offender into this program within 120 days from the date the offender is committed to prison by the sentencing court; and

(iv) make the final recommendation to the board regarding the placement of an offender into the program.

(d) The department may not consider credit for time served in a county jail awaiting trial or sentencing when calculating the 120-day period.

(e) The prosecuting attorney or sentencing court may refer an offender for consideration by the department for participation in the program.

(f) The board shall determine whether or not to place an offender into this program within 30 days of receiving the department's recommendation.

(4) This program shall be implemented by the department within the existing budget.

(5) During the time the offender is on parole, the department shall collect from the offender the monthly supervision fee authorized by Section 64-13-21.

(6) When a parolee commits a violation of the parole agreement, the department may:

(a) impose a graduated sanction pursuant to Section 64-13-21; or

(b) when the graduated sanctions matrix under Subsection 63M-7-404(6) indicates, refer the parolee to the Board of Pardons and Parole for revocation of parole.

Section 209. Section 77-27-11 is amended to read:

77-27-11. Revocation of parole.

(1) The board may revoke the parole of any person who is found to have violated any condition of his parole.

(2) (a) If a parolee is [~~detained~~] confined by the Department of Corrections or any law enforcement official for a suspected violation of parole, the Department of Corrections shall immediately report the alleged violation to the board, by means of an incident report, and make any recommendation regarding the incident.

(b) No parolee may be held for a period longer than 72 hours, excluding weekends and holidays, without first obtaining a warrant.

(3) Any member of the board may issue a warrant based upon a certified warrant request to a peace officer or other persons authorized to arrest, detain, and return to actual custody a parolee, and may upon arrest or otherwise direct the Department of Corrections to determine if there is probable cause

to believe that the parolee has violated the conditions of his parole.

(4) Upon a finding of probable cause, a parolee may be further detained or imprisoned again pending a hearing by the board or its appointed examiner.

(5) (a) The board or its appointed examiner shall conduct a hearing on the alleged violation, and the parolee shall have written notice of the time and location of the hearing, the alleged violation of parole, and a statement of the evidence against him.

(b) The board or its appointed examiner shall provide the parolee the opportunity:

(i) to be present;

(ii) to be heard;

(iii) to present witnesses and documentary evidence;

(iv) to confront and cross-examine adverse witnesses, absent a showing of good cause for not allowing the confrontation; and

(v) to be represented by counsel when the parolee is mentally incompetent or pleading not guilty.

(c) If heard by an appointed examiner, the examiner shall make a written decision which shall include a statement of the facts relied upon by the examiner in determining the guilt or innocence of the parolee on the alleged violation and a conclusion as to whether the alleged violation occurred. The appointed examiner shall then refer the case to the board for disposition.

(d) Final decisions shall be reached by majority vote of the members of the board sitting and the parolee shall be promptly notified in writing of the board's findings and decision.

(6) (a) Parolees found to have violated the conditions of parole may, at the discretion of the board, be returned to parole, have restitution ordered, or be imprisoned again as determined by the board, not to exceed the maximum term, or be subject to any other conditions the board may impose within its discretion.

(b) If the board revokes parole for a violation and orders incarceration, the board shall impose a period of incarceration consistent with the guidelines under Subsection 63M-7-404(5).

(c) The following periods of time constitute service of time toward the period of incarceration imposed under Subsection (6)(b):

(i) time served in jail by a parolee awaiting a hearing or decision concerning revocation of parole; and

(ii) time served in jail by a parolee due to a violation of parole under Subsection 64-13-6(2).

Section 210. Section 78A-5-201 is amended to read:

78A-5-201. Creation and expansion of existing drug court programs -- Definition

of drug court program -- Criteria for participation in drug court programs -- Reporting requirements.

(1) There may be created a drug court program in any judicial district that demonstrates:

(a) the need for a drug court program; and

(b) the existence of a collaborative strategy between the court, prosecutors, defense counsel, corrections, and substance abuse treatment services to reduce substance abuse by offenders.

(2) The collaborative strategy in each drug court program shall:

(a) include monitoring and evaluation components to measure program effectiveness; and

(b) be submitted to, for the purpose of coordinating the disbursement of funding, the:

(i) executive director of the Department of Human Services;

(ii) executive director of the Department of Corrections; and

(iii) state court administrator.

(3) (a) Funds disbursed to a drug court program shall be allocated as follows:

(i) 87% to the Department of Human Services for testing, treatment, and case management; and

(ii) 13% to the Administrative Office of the Courts for increased judicial and court support costs.

(b) This provision does not apply to federal block grant funds.

(4) A drug court program shall include continuous judicial supervision using a cooperative approach with prosecutors, defense counsel, corrections, substance abuse treatment services, juvenile court probation, and the Division of Child and Family Services as appropriate to promote public safety, protect participants' due process rights, and integrate substance abuse treatment with justice system case processing.

(5) Screening criteria for participation in a drug court program shall include:

(a) a plea to, conviction of, or adjudication for a nonviolent drug offense or drug-related offense;

(b) an agreement to frequent alcohol and other drug testing;

(c) participation in one or more substance abuse treatment programs; and

(d) an agreement to submit to sanctions for noncompliance with drug court program requirements.

(6) (a) The Judicial Council shall develop rules prescribing eligibility requirements for participation in adult criminal drug courts.

(b) Acceptance of an offender into a drug court shall be based on a risk and needs assessment, without regard to the nature of the offense.

Section 211. Effective date.

(1) Except as provided in Subsections (2) and (3), this bill takes effect on May 12, 2015.

(2) Section 64-13e-104 takes effect on July 1, 2015; and

(3) The following sections take effect on October 1, 2015:

(a) Section 58-37-8;

(b) Section 64-13-6;

(c) Section 64-13-10.5;

(d) Section 64-13-14.5;

(e) Section 64-13-21;

(f) Section 64-13-29;

(g) Section 76-3-202;

(h) Section 77-18-1;

(i) Section 77-27-10; and

(j) Section 77-27-11.

CHAPTER 413**H. B. 353**

Passed March 12, 2015
 Approved March 31, 2015
 Effective May 12, 2015

PROBATION AMENDMENTS

Chief Sponsor: Mike Schultz
 Senate Sponsor: Curtis S. Bramble

LONG TITLE**General Description:**

This bill amends provisions of the criminal procedure code.

Highlighted Provisions:

This bill:

- ▶ provides for notification to certain parties when termination of probation is requested by the department.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

77-18-1, as last amended by Laws of Utah 2014, Chapters 120 and 170

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

Section 1. Section 77-18-1 is amended to read:

77-18-1. Suspension of sentence -- Pleas held in abeyance -- Probation -- Supervision -- Presentence investigation -- Standards -- Confidentiality -- Terms and conditions -- Termination, revocation, modification, or extension -- Hearings -- Electronic monitoring.

(1) On a plea of guilty or no contest entered by a defendant in conjunction with a plea in abeyance agreement, the court may hold the plea in abeyance as provided in Title 77, Chapter 2a, Pleas in Abeyance, and under the terms of the plea in abeyance agreement.

(2) (a) On a plea of guilty, guilty with a mental illness, no contest, or conviction of any crime or offense, the court may, after imposing sentence, suspend the execution of the sentence and place the defendant on probation. The court may place the defendant:

(i) on probation under the supervision of the Department of Corrections except in cases of class C misdemeanors or infractions;

(ii) on probation with an agency of local government or with a private organization; or

(iii) on bench probation under the jurisdiction of the sentencing court.

(b) (i) The legal custody of all probationers under the supervision of the department is with the department.

(ii) The legal custody of all probationers under the jurisdiction of the sentencing court is vested as ordered by the court.

(iii) The court has continuing jurisdiction over all probationers.

(3) (a) The department shall establish supervision and presentence investigation standards for all individuals referred to the department. These standards shall be based on:

(i) the type of offense;

(ii) the demand for services;

(iii) the availability of agency resources;

(iv) the public safety; and

(v) other criteria established by the department to determine what level of services shall be provided.

(b) Proposed supervision and investigation standards shall be submitted to the Judicial Council and the Board of Pardons and Parole on an annual basis for review and comment prior to adoption by the department.

(c) The Judicial Council and the department shall establish procedures to implement the supervision and investigation standards.

(d) The Judicial Council and the department shall annually consider modifications to the standards based upon criteria in Subsection (3)(a) and other criteria as they consider appropriate.

(e) The Judicial Council and the department shall annually prepare an impact report and submit it to the appropriate legislative appropriations subcommittee.

(4) Notwithstanding other provisions of law, the department is not required to supervise the probation of persons convicted of class B or C misdemeanors or infractions or to conduct presentence investigation reports on class C misdemeanors or infractions. However, the department may supervise the probation of class B misdemeanants in accordance with department standards.

(5) (a) Before the imposition of any sentence, the court may, with the concurrence of the defendant, continue the date for the imposition of sentence for a reasonable period of time for the purpose of obtaining a presentence investigation report from the department or information from other sources about the defendant.

(b) The presentence investigation report shall include:

(i) a victim impact statement according to guidelines set in Section 77-38a-203 describing the effect of the crime on the victim and the victim's family;

(ii) a specific statement of pecuniary damages, accompanied by a recommendation from the department regarding the payment of restitution with interest by the defendant in accordance with Title 77, Chapter 38a, Crime Victims Restitution Act;

(iii) findings from any screening and any assessment of the offender conducted under Section 77-18-1.1;

(iv) recommendations for treatment of the offender; and

(v) the number of days since the commission of the offense that the offender has spent in the custody of the jail and the number of days, if any, the offender was released to a supervised release or alternative incarceration program under Section 17-22-5.5.

(c) The contents of the presentence investigation report are protected and are not available except by court order for purposes of sentencing as provided by rule of the Judicial Council or for use by the department.

(6) (a) The department shall provide the presentence investigation report to the defendant's attorney, or the defendant if not represented by counsel, the prosecutor, and the court for review, three working days prior to sentencing. Any alleged inaccuracies in the presentence investigation report, which have not been resolved by the parties and the department prior to sentencing, shall be brought to the attention of the sentencing judge, and the judge may grant an additional 10 working days to resolve the alleged inaccuracies of the report with the department. If after 10 working days the inaccuracies cannot be resolved, the court shall make a determination of relevance and accuracy on the record.

(b) If a party fails to challenge the accuracy of the presentence investigation report at the time of sentencing, that matter shall be considered to be waived.

(7) At the time of sentence, the court shall receive any testimony, evidence, or information the defendant or the prosecuting attorney desires to present concerning the appropriate sentence. This testimony, evidence, or information shall be presented in open court on record and in the presence of the defendant.

(8) While on probation, and as a condition of probation, the court may require that the defendant:

(a) perform any or all of the following:

(i) pay, in one or several sums, any fine imposed at the time of being placed on probation;

(ii) pay amounts required under Title 77, Chapter 32a, Defense Costs;

(iii) provide for the support of others for whose support the defendant is legally liable;

(iv) participate in available treatment programs, including any treatment program in which the defendant is currently participating, if the program is acceptable to the court;

(v) serve a period of time, not to exceed one year, in a county jail designated by the department, after considering any recommendation by the court as to which jail the court finds most appropriate;

(vi) serve a term of home confinement, which may include the use of electronic monitoring;

(vii) participate in compensatory service restitution programs, including the compensatory service program provided in Section 76-6-107.1;

(viii) pay for the costs of investigation, probation, and treatment services;

(ix) make restitution or reparation to the victim or victims with interest in accordance with Title 77, Chapter 38a, Crime Victims Restitution Act; and

(x) comply with other terms and conditions the court considers appropriate; and

(b) if convicted on or after May 5, 1997:

(i) complete high school classwork and obtain a high school graduation diploma, a GED certificate, or a vocational certificate at the defendant's own expense if the defendant has not received the diploma, GED certificate, or vocational certificate prior to being placed on probation; or

(ii) provide documentation of the inability to obtain one of the items listed in Subsection (8)(b)(i) because of:

(A) a diagnosed learning disability; or

(B) other justified cause.

(9) The department shall collect and disburse the account receivable as defined by Section 76-3-201.1, with interest and any other costs assessed under Section 64-13-21 during:

(a) the parole period and any extension of that period in accordance with Subsection 77-27-6(4); and

(b) the probation period in cases for which the court orders supervised probation and any extension of that period by the department in accordance with Subsection (10).

(10) (a) (i) Probation may be terminated at any time at the discretion of the court or upon completion without violation of 36 months probation in felony or class A misdemeanor cases, or 12 months in cases of class B or C misdemeanors or infractions.

(ii) (A) If, upon expiration or termination of the probation period under Subsection (10)(a)(i), there remains an unpaid balance upon the account receivable as defined in Section 76-3-201.1, the court may retain jurisdiction of the case and continue the defendant on bench probation for the limited purpose of enforcing the payment of the account receivable. If the court retains jurisdiction for this limited purpose, the court may order the defendant to pay to the court the costs associated with continued probation under this Subsection (10).

(B) In accordance with Section 77-18-6, the court shall record in the registry of civil judgments any unpaid balance not already recorded and immediately transfer responsibility to collect the account to the Office of State Debt Collection.

(iii) Upon motion of the Office of State Debt Collection, prosecutor, victim, or upon its own

motion, the court may require the defendant to show cause why the defendant's failure to pay should not be treated as contempt of court.

(b) (i) The department shall notify the sentencing court, the Office of State Debt Collection, and the prosecuting attorney in writing in advance in all cases when termination of supervised probation is being requested by the department or will occur by law.

(ii) The notification shall include a probation progress report and complete report of details on outstanding accounts receivable.

(11) (a) (i) Any time served by a probationer outside of confinement after having been charged with a probation violation and prior to a hearing to revoke probation does not constitute service of time toward the total probation term unless the probationer is exonerated at a hearing to revoke the probation.

(ii) Any time served in confinement awaiting a hearing or decision concerning revocation of probation does not constitute service of time toward the total probation term unless the probationer is exonerated at the hearing.

(b) The running of the probation period is tolled upon the filing of a violation report with the court alleging a violation of the terms and conditions of probation or upon the issuance of an order to show cause or warrant by the court.

(12) (a) (i) Probation may not be modified or extended except upon waiver of a hearing by the probationer or upon a hearing and a finding in court that the probationer has violated the conditions of probation.

(ii) Probation may not be revoked except upon a hearing in court and a finding that the conditions of probation have been violated.

(b) (i) Upon the filing of an affidavit alleging with particularity facts asserted to constitute violation of the conditions of probation, the court that authorized probation shall determine if the affidavit establishes probable cause to believe that revocation, modification, or extension of probation is justified.

(ii) If the court determines there is probable cause, it shall cause to be served on the defendant a warrant for the defendant's arrest or a copy of the affidavit and an order to show cause why the defendant's probation should not be revoked, modified, or extended.

(c) (i) The order to show cause shall specify a time and place for the hearing and shall be served upon the defendant at least five days prior to the hearing.

(ii) The defendant shall show good cause for a continuance.

(iii) The order to show cause shall inform the defendant of a right to be represented by counsel at the hearing and to have counsel appointed if the defendant is indigent.

(iv) The order shall also inform the defendant of a right to present evidence.

(d) (i) At the hearing, the defendant shall admit or deny the allegations of the affidavit.

(ii) If the defendant denies the allegations of the affidavit, the prosecuting attorney shall present evidence on the allegations.

(iii) The persons who have given adverse information on which the allegations are based shall be presented as witnesses subject to questioning by the defendant unless the court for good cause otherwise orders.

(iv) The defendant may call witnesses, appear and speak in the defendant's own behalf, and present evidence.

(e) (i) After the hearing the court shall make findings of fact.

(ii) Upon a finding that the defendant violated the conditions of probation, the court may order the probation revoked, modified, continued, or that the entire probation term commence anew.

(iii) If probation is revoked, the defendant shall be sentenced or the sentence previously imposed shall be executed.

(13) The court may order the defendant to commit himself or herself to the custody of the Division of Substance Abuse and Mental Health for treatment at the Utah State Hospital as a condition of probation or stay of sentence, only after the superintendent of the Utah State Hospital or the superintendent's designee has certified to the court that:

(a) the defendant is appropriate for and can benefit from treatment at the state hospital;

(b) treatment space at the hospital is available for the defendant; and

(c) persons described in Subsection 62A-15-610(2)(g) are receiving priority for treatment over the defendants described in this Subsection (13).

(14) Presentence investigation reports are classified protected in accordance with Title 63G, Chapter 2, Government Records Access and Management Act. Notwithstanding Sections 63G-2-403 and 63G-2-404, the State Records Committee may not order the disclosure of a presentence investigation report. Except for disclosure at the time of sentencing pursuant to this section, the department may disclose the presentence investigation only when:

(a) ordered by the court pursuant to Subsection 63G-2-202(7);

(b) requested by a law enforcement agency or other agency approved by the department for purposes of supervision, confinement, and treatment of the offender;

(c) requested by the Board of Pardons and Parole;

(d) requested by the subject of the presentence investigation report or the subject's authorized representative; or

(e) requested by the victim of the crime discussed in the presentence investigation report or the victim's authorized representative, provided that the disclosure to the victim shall include only information relating to statements or materials provided by the victim, to the circumstances of the crime including statements by the defendant, or to the impact of the crime on the victim or the victim's household.

(15) (a) The court shall consider home confinement as a condition of probation under the supervision of the department, except as provided in Sections 76-3-406 and 76-5-406.5.

(b) The department shall establish procedures and standards for home confinement, including electronic monitoring, for all individuals referred to the department in accordance with Subsection (16).

(16) (a) If the court places the defendant on probation under this section, it may order the defendant to participate in home confinement through the use of electronic monitoring as described in this section until further order of the court.

(b) The electronic monitoring shall alert the department and the appropriate law enforcement unit of the defendant's whereabouts.

(c) The electronic monitoring device shall be used under conditions which require:

(i) the defendant to wear an electronic monitoring device at all times; and

(ii) that a device be placed in the home of the defendant, so that the defendant's compliance with the court's order may be monitored.

(d) If a court orders a defendant to participate in home confinement through electronic monitoring as a condition of probation under this section, it shall:

(i) place the defendant on probation under the supervision of the Department of Corrections;

(ii) order the department to place an electronic monitoring device on the defendant and install electronic monitoring equipment in the residence of the defendant; and

(iii) order the defendant to pay the costs associated with home confinement to the department or the program provider.

(e) The department shall pay the costs of home confinement through electronic monitoring only for those persons who have been determined to be indigent by the court.

(f) The department may provide the electronic monitoring described in this section either directly or by contract with a private provider.

CHAPTER 414**H. B. 355**

Passed March 12, 2015
Approved March 31, 2015
Effective May 12, 2015

**UTAH AGRICULTURAL
CODE AMENDMENTS**

Chief Sponsor: Stephen G. Handy
Senate Sponsor: David P. Hinkins

LONG TITLE**General Description:**

This bill modifies the Utah Agricultural Code.

Highlighted Provisions:

This bill:

- ▶ states that the county bee inspector or the Department of Agriculture and Food may inspect an apiary within a county;
- ▶ states that the Department of Agriculture and Food may make rules to control and eradicate certain infectious diseases in livestock;
- ▶ establishes fines;
- ▶ repeals language; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

4-11-7, as last amended by Laws of Utah 2010, Chapter 73
4-23-8, as last amended by Laws of Utah 2010, Chapters 73 and 378
4-31-109, as enacted by Laws of Utah 2012, Chapter 331

ENACTS:

4-31-109.1, Utah Code Annotated 1953

REPEALS:

4-23-9, as last amended by Laws of Utah 1994, Chapter 98

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

Section 1. Section 4-11-7 is amended to read:**4-11-7. Inspector -- Duties -- Diseased apiaries -- Examination of diseased bees by department -- Election to transport bees to wax-salvage plant.**

(1) The county bee inspector or the department ~~shall~~ may inspect all apiaries within the county at least once each year and, also, inspect immediately any apiary within the county that is alleged in a written complaint to be severely diseased, parasitized, or abandoned.

(2) If, upon inspection, the inspector determines that an apiary is diseased or parasitized, the inspector shall take the following action based on the severity of the disease or parasite present:

(a) prescribe the course of treatment that the owner or caretaker of the bees shall follow to eliminate the disease or parasite;

(b) personally, for the purpose of treatment approved by the department, take control of the afflicted bees, hives, combs, broods, honey, and equipment; or

(c) destroy the afflicted bees and, if necessary, their hives, combs, broods, honey, and all appliances that may have become infected.

(3) If, upon reinspection, the inspector determines that the responsible party has not executed the course of treatment prescribed by Subsection (2), the inspector may take immediate possession of the afflicted colony for control or destruction in accordance with Subsection (2)(b) or (c).

(4) (a) The owner of an apiary who is dissatisfied with the diagnosis or course of action proposed by an inspector under this section may, at the owner's expense, have the department examine the alleged diseased bees.

(b) The decision of the commissioner with respect to the condition of bees at the time of the examination is final and conclusive upon the owner and the inspector involved.

(5) The owner of a diseased apiary, notwithstanding the provisions of Subsections (2), (3), and (4), may elect under the direction of the county bee inspector to kill the diseased bees, seal their hives, and transport them to a licensed wax-salvage plant.

Section 2. Section 4-23-8 is amended to read:**4-23-8. Proceeds of sheep fee -- Refund of sheep fees -- Annual audit of books, records, and accounts.**

(1) (a) Subject to the other provisions of this Subsection (1), the commissioner may spend an amount each year from the proceeds collected from the fee imposed on sheep for the promotion, advancement, and protection of the sheep interests of the state.

(b) The amount described in Subsection (1)(a) shall be the equivalent to an amount that:

- (i) equals or exceeds 18 cents per head; and
- (ii) equals or is less than 25 cents per head.

(c) The commissioner shall set the amount described in Subsection (1)(a):

- (i) on or before January 1 of each year; and
- (ii) in consultation with one or more statewide organizations that represent persons who grow wool.

~~[(d) All costs to promote or advance sheep interests shall be deducted from the total revenue collected before calculating the annual budget request, which shall be made by the Division of Wildlife Resources as specified in Section 4-23-9.]~~

[~~(e)~~] (d) A sheep fee is refundable in an amount equal to that part of the fee used to promote, advance, or protect sheep interests.

[~~(f)~~] (e) A refund claim shall be filed with the department on or before January 1 of the year immediately succeeding the year for which the fee was paid.

[~~(g)~~] (f) A refund claim shall be certified by the department to the state treasurer for payment from the Agricultural and Wildlife Damage Prevention Account created in Section 4-23-7.5.

(2) Any expense incurred by the department in administering refunds shall be paid from funds allocated for the promotion, advancement, and protection of the sheep interests of the state.

(3) (a) The books, records, and accounts of the Utah Woolgrowers Association, or any other organization which receives funds from the agricultural and wildlife damage prevention account, for the purpose of promoting, advancing, or protecting the sheep interests of the state, shall be audited at least once annually by a licensed accountant.

(b) The results of this audit shall be submitted to the commissioner.

Section 3. Section 4-31-109 is amended to read:

4-31-109. Department authorized to make and enforce rules concerning brucellosis, trichomoniasis, tuberculosis, and other infectious diseases in livestock.

(1) The department may:

(a) make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to control and eradicate brucellosis, trichomoniasis, ~~and~~ tuberculosis, and other infectious diseases in livestock; and

(b) enforce the rules described in Subsection (1)(a).

(2) The department shall, in making the rules described in Subsection (1)(a), protect against negative impact on the interstate or intrastate commerce of livestock that is transferred, sold, or exhibited.

Section 4. Section 4-31-109.1 is enacted to read:

4-31-109.1. Trichomoniasis fines.

(1) A person who knowingly sells a bull infected with trichomoniasis, other than to slaughter, without declaring the disease status of the animal shall be subject to citation and fines as prescribed by the department or may be called to appear before an administrative proceeding by the department, as established by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and Section 4-31-109.

(2) After May 15 of each calendar year, an owner of a bull that has not been tested for trichomoniasis shall be fined \$1,000 per violation.

(3) An owner of a bull that has not been tested for trichomoniasis and that has been exposed to female cattle shall be fined \$1,000 per violation regardless of the time of year.

Section 5. Repealer.

This bill repeals:

Section 4-23-9, Annual budget requests -- Relation to amount of fees and supplemental contributions deposited in Agricultural and Wildlife Damage Prevention Account -- Commissioner to certify amount deposited.

CHAPTER 415**H. B. 360**

Passed March 12, 2015
 Approved March 31, 2015
 Effective May 12, 2015

UTAH EDUCATION AMENDMENTS

Chief Sponsor: LaVar Christensen
 Senate Sponsor: Margaret Dayton

LONG TITLE**General Description:**

This bill enacts provisions related to statewide education policy and planning and amends provisions related to national education programs and state academic standards.

Highlighted Provisions:

This bill:

- ▶ enacts provisions related to statewide education policy;
- ▶ requires the State Board of Education to:
 - generate a report regarding the history of the state public education system;
 - create a 10-year plan; and
 - report to the Education Interim Committee;
- ▶ removes nonvoting members from the State Board of Education and requires the State Board of Education to meet quarterly with certain individuals;
- ▶ amends provisions relating to academic standards established by the State Board of Education and curriculum in public schools;
- ▶ provides for certain education entities to meet certain requirements when establishing certain national programs or standards; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 53A-1-201, as last amended by Laws of Utah 2013, Chapter 111
 53A-1-203, as enacted by Laws of Utah 1988, Chapter 2
 53A-1-301, as last amended by Laws of Utah 2012, Chapter 425
 53A-1-402.6, as last amended by Laws of Utah 2014, Chapter 352
 53A-1-402.8, as enacted by Laws of Utah 2014, Chapter 352
 53A-1-409, as last amended by Laws of Utah 2013, Chapter 398
 53A-1-413, as enacted by Laws of Utah 2013, Chapter 305
 53A-1-602, as last amended by Laws of Utah 2013, Chapter 161
 53A-1-603, as last amended by Laws of Utah 2013, Chapter 161
 53A-1-606.7, as enacted by Laws of Utah 2011, Chapter 372
 53A-1-708, as last amended by Laws of Utah 2012, Chapter 367

- 53A-1-709, as last amended by Laws of Utah 2013, Chapter 173
 53A-1-901, as enacted by Laws of Utah 2005, First Special Session, Chapter 2
 53A-1-902, as last amended by Laws of Utah 2009, Chapter 112
 53A-1-905, as last amended by Laws of Utah 2009, Chapter 112
 53A-1-906, as last amended by Laws of Utah 2009, Chapter 112
 53A-1-907, as last amended by Laws of Utah 2009, Chapter 112
 53A-1-908, as last amended by Laws of Utah 2009, Chapter 112
 53A-1-1103, as last amended by Laws of Utah 2014, Chapter 403
 53A-1a-103, as last amended by Laws of Utah 2012, Chapter 123
 53A-1a-104, as last amended by Laws of Utah 2003, Chapter 315
 53A-1a-107, as last amended by Laws of Utah 2003, Chapter 221
 53A-3-402, as last amended by Laws of Utah 2014, Chapter 202
 53A-3-602.5, as last amended by Laws of Utah 2013, Chapter 161
 53A-3-701, as last amended by Laws of Utah 2003, Chapter 221
 53A-13-108, as last amended by Laws of Utah 2014, Chapter 70
 53A-13-108.5, as enacted by Laws of Utah 2006, Chapter 227
 53A-13-110, as last amended by Laws of Utah 2014, Chapter 70
 53A-13-111, as enacted by Laws of Utah 2012, Chapter 181
 53A-14-102, as last amended by Laws of Utah 2002, Chapter 299
 53A-14-107, as last amended by Laws of Utah 2010, Chapter 305
 53A-15-1002.5, as enacted by Laws of Utah 2012, Chapter 238
 53A-15-1003, as last amended by Laws of Utah 2012, Chapter 238
 53A-15-1206, as last amended by Laws of Utah 2012, Chapter 238

ENACTS:

- 53A-1-102, Utah Code Annotated 1953

REPEALS AND REENACTS:

- 53A-1-101, as last amended by Laws of Utah 2010, Chapter 162

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

Section 1. Section 53A-1-101 is repealed and reenacted to read:

Part 1. Policy and Planning for Utah's Public Education System

53A-1-101. Policy for Utah's public education system.

(1) (a) The continuous cultivation of an informed and virtuous citizenry among succeeding generations is essential to the state and the nation.

(b) The state's public education system is established and maintained as provided in Utah Constitution, Article X, and this title.

(c) Parents and guardians have the primary responsibility for the education of their children and elect representatives in the Legislature and on state and local school boards to administer the state public education system, which provides extensive support and assistance. All children of the state are entitled to a free elementary and secondary public education as provided in Utah Constitution, Article X.

(d) Public schools fulfill a vital purpose in the education and preparation of informed and responsible citizens who:

(i) fully understand and lawfully exercise their individual rights and liberties;

(ii) become self-reliant and able to provide for themselves and their families; and

(iii) contribute to the public good and the health, welfare, and security of the state and the nation.

(2) In the implementation of all policies, programs, and responsibilities adopted in accordance with this title, the Legislature, the State Board of Education, local school boards, and charter school governing boards shall:

(a) respect, protect, and further the interests of parents and guardians in their children's public education; and

(b) promote and encourage full and active participation and involvement of parents and guardians at all public schools.

Section 2. Section 53A-1-102 is enacted to read:

53A-1-102. Planning for Utah's public education system.

(1) Before November 30, 2016, the State Board of Education shall:

(a) (i) prepare a report that summarizes, for the last 15 years or more, the policies and programs established by, and the performance history of, the state's public education system; and

(ii) prepare a formal 10-year plan for the state's public education system, including recommendations to:

(A) repeal outdated policies and programs; and

(B) clarify and correlate current policies and programs; and

(b) submit the report and plan described in Subsection (1)(a) to the Education Interim Committee for review and recommendations.

(2) The State Board of Education shall review and maintain the 10-year plan described in Subsection (1)(a)(ii) and submit the updated plan to the Education Interim Committee for review and approval at least once every five years.

Section 3. Section 53A-1-201 is amended to read:

Part 2. State Board of Education Members - Officers - Compensation - Meetings

53A-1-201. State Board of Education members -- Election and appointment of officers -- Removal from office.

(1) Members of the State Board of Education shall be nominated and elected as provided in Title 20A, Chapter 14, Nomination and Election of State and Local School Boards.

~~[(4)]~~ (2) The State Board of Education shall elect from its members a chair, and at least one vice chair, but no more than three vice chairs, each year at a meeting held any time between November 15 and January 15.

~~[(2)]~~ (3) (a) If the election of officers is held subsequent to the election of a new member of the board, but prior to the time that the new member takes office, the new member shall assume the position of the outgoing member for purposes of the election of officers.

(b) In all other matters the outgoing member shall retain the full authority of the office until replaced as provided by law.

~~[(3)]~~ (4) The duties of these officers shall be determined by the board.

~~[(4)]~~ (5) The board shall appoint a secretary who serves at the pleasure of the board.

~~[(5)]~~ (6) An officer appointed or elected by the board under this section may be removed from office for cause by a vote of two-thirds of the board.

Section 4. Section 53A-1-203 is amended to read:

53A-1-203. State board meetings -- Quorum requirements.

(1) The State Board of Education shall meet at the call of the chairman and at least 11 times each year.

(2) The State Board of Education shall, at least quarterly, meet with and receive recommendations from:

(a) two members of the State Board of Regents, appointed by the chair of the State Board of Regents;

(b) one member of the Utah College of Applied Technology Board of Trustees, appointed by the chair of the board of trustees; and

(c) one member of the State Charter School Board, appointed by the chair of the State Charter School Board.

~~[(2)]~~ (3) A majority of all members is required to validate an act of the board.

Section 5. Section 53A-1-301 is amended to read:

53A-1-301. Appointment -- Qualifications -- Duties.

(1) (a) The State Board of Education shall appoint a superintendent of public instruction, hereinafter

called the state superintendent, who is the executive officer of the board and serves at the pleasure of the board.

(b) The board shall appoint the state superintendent on the basis of outstanding professional qualifications.

(c) The state superintendent shall administer all programs assigned to the State Board of Education in accordance with the policies and the standards established by the board.

(2) The State Board shall with the appointed superintendent develop a statewide education strategy focusing on core academics, including the development of:

(a) core curriculum standards for Utah public schools and graduation requirements;

(b) a process to select model instructional materials that best correlate to the core curriculum standards for Utah public schools and graduation requirements that are supported by generally accepted scientific standards of evidence;

(c) professional development programs for teachers, superintendents, and principals;

(d) model remediation programs;

(e) a model method for creating individual student learning targets, and a method of measuring an individual student's performance toward those targets;

(f) progress-based assessments for ongoing performance evaluations of districts and schools;

(g) incentives to achieve the desired outcome of individual student progress in core academics, and which do not create disincentives for setting high goals for the students;

(h) an annual report card for school and district performance, measuring learning and reporting progress-based assessments;

(i) a systematic method to encourage innovation in schools and school districts as they strive to achieve improvement in their performance; and

(j) a method for identifying and sharing best demonstrated practices across districts and schools.

(3) The superintendent shall perform duties assigned by the board, including the following:

(a) investigating all matters pertaining to the public schools;

(b) adopting and keeping an official seal to authenticate the superintendent's official acts;

(c) holding and conducting meetings, seminars, and conferences on educational topics;

(d) presenting to the governor and the Legislature each December a report of the public school system for the preceding year to include:

(i) data on the general condition of the schools with recommendations considered desirable for specific programs;

(ii) a complete statement of fund balances;

(iii) a complete statement of revenues by fund and source;

(iv) a complete statement of adjusted expenditures by fund, the status of bonded indebtedness, the cost of new school plants, and school levies;

(v) a complete statement of state funds allocated to each school district and charter school by source, including supplemental appropriations, and a complete statement of expenditures by each school district and charter school, including supplemental appropriations, by function and object as outlined in the U.S. Department of Education publication "Financial Accounting for Local and State School Systems";

(vi) a complete statement, by school district and charter school, of the amount of and percentage increase or decrease in expenditures from the previous year attributed to:

(A) wage increases, with expenditure data for base salary adjustments identified separately from step and lane expenditures;

(B) medical and dental premium cost adjustments; and

(C) adjustments in the number of teachers and other staff;

(vii) a statement that includes data on:

(A) fall enrollments;

(B) average membership;

(C) high school graduates;

(D) licensed and classified employees, including data reported by school districts on educator ratings pursuant to Section 53A-8a-405;

(E) pupil-teacher ratios;

(F) average class sizes calculated in accordance with State Board of Education rules adopted under Subsection 53A-3-602.5(4);

(G) average salaries;

(H) applicable private school data; and

(I) data from standardized norm-referenced tests in grades 5, 8, and 11 on each school and district;

(viii) statistical information regarding incidents of delinquent activity in the schools or at school-related activities with separate categories for:

(A) alcohol and drug abuse;

(B) weapon possession;

(C) assaults; and

(D) arson;

- (ix) information about:
- (A) the development and implementation of the strategy of focusing on core academics;
- (B) the development and implementation of competency-based education and progress-based assessments; and
- (C) the results being achieved under Subsections (3)(d)(ix)(A) and (B), as measured by individual progress-based assessments and a comparison of Utah students' progress with the progress of students in other states using standardized norm-referenced tests as benchmarks; and
- (x) other statistical and financial information about the school system which the state superintendent considers pertinent;
- (e) collecting and organizing education data into an automated decision support system to facilitate school district and school improvement planning, accountability reporting, performance recognition, and the evaluation of educational policy and program effectiveness to include:
- (i) data that are:
- (A) comparable across schools and school districts;
- (B) appropriate for use in longitudinal studies; and
- (C) comprehensive with regard to the data elements required under applicable state or federal law or state board rule;
- (ii) features that enable users, most particularly school administrators, teachers, and parents, to:
- (A) retrieve school and school district level data electronically;
- (B) interpret the data visually; and
- (C) draw conclusions that are statistically valid; and
- (iii) procedures for the collection and management of education data that:
- (A) require the state superintendent of public instruction to:
- (I) collaborate with school districts in designing and implementing uniform data standards and definitions;
- (II) undertake or sponsor research to implement improved methods for analyzing education data;
- (III) provide for data security to prevent unauthorized access to or contamination of the data; and
- (IV) protect the confidentiality of data under state and federal privacy laws; and
- (B) require all school districts and schools to comply with the data collection and management procedures established under Subsection (3)(e);
- (f) administering and implementing federal educational programs in accordance with Title 53A,

Chapter 1, Part 9, Implementing Federal Programs Act; and

(g) with the approval of the board, preparing and submitting to the governor a budget for the board to be included in the budget that the governor submits to the Legislature.

(4) The state superintendent shall distribute funds deposited in the Autism Awareness Restricted Account created in Section 53A-1-304 in accordance with the requirements of Section 53A-1-304.

(5) Upon leaving office, the state superintendent shall deliver to the state superintendent's successor all books, records, documents, maps, reports, papers, and other articles pertaining to the state superintendent's office.

(6) (a) For the purpose of Subsection (3)(d)(vii):

(i) the pupil-teacher ratio for a school shall be calculated by dividing the number of students enrolled in a school by the number of full-time equivalent teachers assigned to the school, including regular classroom teachers, school-based specialists, and special education teachers;

(ii) the pupil-teacher ratio for a school district shall be the median pupil-teacher ratio of the schools within a school district;

(iii) the pupil-teacher ratio for charter schools aggregated shall be the median pupil-teacher ratio of charter schools in the state; and

(iv) the pupil-teacher ratio for the state's public schools aggregated shall be the median pupil-teacher ratio of public schools in the state.

(b) The printed copy of the report required by Subsection (3)(d) shall:

(i) include the pupil-teacher ratio for:

(A) each school district;

(B) the charter schools aggregated; and

(C) the state's public schools aggregated; and

(ii) indicate the Internet website where pupil-teacher ratios for each school in the state may be accessed.

Section 6. Section 53A-1-402.6 is amended to read:

53A-1-402.6. Core standards for Utah public schools.

(1) (a) In establishing minimum standards related to curriculum and instruction requirements under Section 53A-1-402, the State Board of Education shall, in consultation with local school boards, school superintendents, teachers, employers, and parents implement core ~~curriculum standards which~~ standards for Utah public schools that will enable students to, among other objectives:

~~(a)~~ (i) communicate effectively, both verbally and through written communication;

~~(b)~~ (ii) apply mathematics; and

(e) (iii) access, analyze, and apply information.

(b) Except as provided in this title, the State Board of Education may recommend but may not require a local school board or charter school governing board to use:

(i) a particular curriculum or instructional material; or

(ii) a model curriculum or instructional material.

(2) The board shall, in establishing the core standards for Utah public schools:

(a) identify the basic knowledge, skills, and competencies each student is expected to acquire or master as the student advances through the public education system; and

(b) align the core ~~curriculum standards~~ standards for Utah public schools and tests administered under the Utah Performance Assessment System for Students (U-PASS) with each other.

(3) The basic knowledge, skills, and competencies identified pursuant to Subsection (2)(a) shall increase in depth and complexity from year to year and focus on consistent and continual progress within and between grade levels and courses in the ~~core academic~~ basic academic areas of:

(a) English, including explicit phonics, spelling, grammar, reading, writing, vocabulary, speech, and listening; and

(b) mathematics, including basic computational skills.

(4) Before adopting core ~~curriculum standards~~ standards for Utah public schools, the State Board of Education shall:

(a) publicize draft core ~~curriculum standards~~ standards for Utah public schools on the State Board of Education's website and the Utah Public Notice website created under Section 63F-1-701;

(b) invite public comment on the draft core ~~curriculum standards~~ standards for Utah public schools for a period of not less than 90 days; and

(c) conduct three public hearings that are held in different regions of the state on the draft core ~~curriculum standards~~ standards for Utah public schools.

(5) Local school boards shall design their school programs, that are supported by generally accepted scientific standards of evidence, to focus on the core ~~curriculum standards~~ standards for Utah public schools with the expectation that each program will enhance or help achieve mastery of the core ~~curriculum standards~~ standards for Utah public schools.

(6) Except as provided in Section 53A-13-101, each school may select instructional materials and methods of teaching, that are supported by generally accepted scientific standards of evidence, that it considers most appropriate to meet ~~core~~

~~curriculum standards~~ the core standards for Utah public schools.

(7) The state may exit any agreement, contract, memorandum of understanding, or consortium that cedes control of ~~Utah's core curriculum standards~~ the core standards for Utah public schools to any other entity, including a federal agency or consortium, for any reason, including:

(a) the cost of developing or implementing ~~core curriculum standards~~ the core standards for Utah public schools;

(b) the proposed core ~~curriculum standards~~ standards for Utah public schools are inconsistent with community values; or

(c) the agreement, contract, memorandum of understanding, or consortium:

(i) was entered into in violation of Part 9, Implementing Federal Programs Act, or Title 63J, Chapter 5, Federal Funds Procedures Act;

(ii) conflicts with Utah law;

(iii) requires Utah student data to be included in a national or multi-state database;

(iv) requires records of teacher performance to be included in a national or multi-state database; or

(v) imposes curriculum, assessment, or data tracking requirements on home school or private school students.

(8) The State Board of Education shall annually report to the Education Interim Committee on the development and implementation of ~~core curriculum standards~~ the core standards for Utah public schools, including the time line established for the review of ~~core curriculum standards~~ the core standards for Utah public schools by a standards review committee and the recommendations of a standards review committee established under Section 53A-1-402.8.

Section 7. Section 53A-1-402.8 is amended to read:

53A-1-402.8. Standards review committee.

(1) As used in this section, "board" means the State Board of Education.

(2) Subject to Subsection (5), the State Board of Education shall establish:

(a) a time line for the review by a standards review committee of ~~core curriculum standards~~ the core standards for Utah public schools for:

(i) English language arts;

(ii) mathematics;

(iii) science;

(iv) social studies;

(v) fine arts;

(vi) physical education and health; and

(vii) early childhood education; and

(b) a separate standards review committee for each subject area specified in Subsection (2)(a) to

review, and recommend to the board revisions to, ~~[core curriculum standards]~~ the core standards for Utah public schools.

(3) At least one year before the board takes formal action to adopt new core ~~[curriculum standards]~~ standards for Utah public schools, the board shall establish a standards review committee as required by Subsection (2)(b).

(4) A standards review committee shall meet at least twice during the time period described in Subsection (3).

(5) In establishing a time line for the review of core ~~[curriculum standards]~~ standards for Utah public schools by a standards review committee, the board shall give priority to establishing a standards review committee to review, and recommend revisions to, the ~~[core curriculum standards for mathematics]~~ mathematics core standards for Utah public schools.

(6) The membership of a standards review committee consists of:

(a) seven individuals, with expertise in the subject being reviewed, appointed by the board chair, including teachers, business representatives, faculty of higher education institutions in Utah, and others as determined by the board chair;

(b) five parents or guardians of public education students appointed by the speaker of the House of Representatives; and

(c) five parents or guardians of public education students appointed by the president of the Senate.

(7) The board shall provide staff support to the standards review committee.

(8) A member of the standards review committee may not receive compensation or benefits for the member's service on the committee.

(9) Among the criteria a standards review committee shall consider when reviewing ~~[core curriculum standards]~~ the core standards for Utah public schools is giving students an adequate foundation to successfully pursue college, technical education, a career, or other life pursuits.

(10) A standards review committee shall submit, to the board, comments and recommendations for revision of ~~[core curriculum standards]~~ the core standards for Utah public schools.

(11) The board shall take into consideration the comments and recommendations of a standards review committee in adopting ~~[core curriculum standards]~~ the core standards for Utah public schools.

(12) (a) Nothing in this section prohibits the board from amending or adding individual core ~~[curriculum standards]~~ standards for Utah public schools as the need arises in the board's ongoing responsibilities.

(b) If the board makes changes as described in Subsection (12)(a), the board shall include the changes in the annual report the board submits to

the Education Interim Committee under Section 53A-1-402.6.

Section 8. Section 53A-1-409 is amended to read:

53A-1-409. Competency-based education -- Recommendations -- Coordination.

(1) As used in this section:

(a) "Competency" means a demonstrable acquisition of a specified knowledge, skill, or ability that has been organized into a hierarchical arrangement leading to higher levels of knowledge, skill, or ability.

(b) "Competency-based education" means an education approach that requires a student to acquire a competency and includes a classroom structure and operation that aid and facilitate the acquisition of specified competencies on an individual basis wherein a student is allowed to master and demonstrate competencies as fast as the student is able.

(c) "Gain score" means the measured difference of a student's score at the beginning and end of a time period that may be aggregated at the class, grade, school, and school district levels.

(2) The State Board of Education shall:

(a) provide expertise to and consult with local school boards, school districts, and charter schools relating to competency-based education and progress-based assessments;

(b) before the beginning of the 2014 General Session of the Legislature, make recommendations to the Public Education Appropriations Subcommittee, including the amount and allocation of public education money, based upon both new public education money and the reallocation of money required to develop and implement:

(i) competency-based education and progress-based assessments;

(ii) (A) a weighted competency unit that distributes public education money based on student achievement resulting from competency-based program objectives, strategies, and standards; and

(B) a course-level funding formula that distributes funds to school districts and charter schools that establish competency-based education;

(iii) a plan to assist students, teachers, schools, and districts that need remediation based upon Subsections (2)(b)(i) and (ii);

(iv) the reallocation of teaching resources from noncore electives into grades 1-3, 7-12 math, and 7-12 English; and

(v) a teacher development program focused on achieving progress in ~~[core academics]~~ basic academic subjects, including instruction in explicit, systematic, and intensive phonics for teachers in grades kindergarten through 3;

(c) assist school districts and charter schools to develop and implement:

- (i) competency-based education; and
- (ii) the use of gain scores; and

(d) develop and use monetary and nonmonetary incentives, tools, and rewards to encourage school districts and charter schools to accomplish the items described under this section.

(3) A funding formula described in Subsection (2)(b)(ii)(B) shall:

(a) base the funding for a competency-based course on a proportionate amount of the weighted pupil unit;

(b) partially distribute funds based on initial enrollment;

(c) distribute remaining funds based on a student's successful completion of a course through demonstrated competency and subject mastery; and

(d) not be dependent on the amount of time a student is instructed in the course or the age of the student.

(4) A local school board or a charter school governing board may establish a competency-based education program.

(5) A local school board or charter school governing board that establishes a competency-based education program shall:

(a) establish assessments to accurately measure competency;

(b) provide the assessments to an enrolled student at no cost to the student;

(c) award credit to a student who demonstrates competency and subject mastery;

(d) submit the competency-based [curriculum] standards to the State Board of Education for review; and

(e) publish the competency-based [curriculum] standards on its website or by other electronic means readily accessible to the public.

(6) A local school board or charter school governing board may:

(a) on a random lottery-based basis, limit enrollment to courses that have been designated as competency-based courses;

(b) waive or adapt traditional attendance requirements;

(c) adjust class sizes to maximize the value of course instructors or course mentors;

(d) enroll students from any geographic location within the state; and

(e) provide proctored online competency-based assessments.

Section 9. Section 53A-1-413 is amended to read:

53A-1-413. Student Achievement Backpack -- Utah Student Record Store.

(1) As used in this section:

(a) "Authorized LEA user" means a teacher or other person who is:

(i) employed by an LEA that provides instruction to a student; and

(ii) authorized to access data in a Student Achievement Backpack through the Utah Student Record Store.

(b) "LEA" means a school district, charter school, or the Utah Schools for the Deaf and the Blind.

(c) "Student Achievement Backpack" means, for a student from kindergarten through grade 12, a complete learner profile that:

(i) is in electronic format;

(ii) follows the student from grade to grade and school to school; and

(iii) is accessible by the student's parent or guardian or an authorized LEA user.

(d) "U-PASS" means the Utah Performance Assessment System for Students established in Part 6, Achievement Tests.

(e) "Utah Student Record Store" means a repository of student data collected from LEAs as part of the state's longitudinal data system that is:

(i) managed by the Utah State Office of Education;

(ii) cloud-based; and

(iii) accessible via a web browser to authorized LEA users.

(2) (a) The State Board of Education shall use the robust, comprehensive data collection system maintained by the Utah State Office of Education, which collects longitudinal student transcript data from LEAs and the unique student identifiers as described in Section 53A-1-603.5, to allow the following to access a student's Student Achievement Backpack:

(i) the student's parent or guardian; and

(ii) each LEA that provides instruction to the student.

(b) The State Board of Education shall ensure that a Student Achievement Backpack:

(i) provides a uniform, transparent reporting mechanism for individual student progress;

(ii) provides a complete learner history for postsecondary planning;

(iii) provides a teacher with visibility into a student's complete learner profile to better inform instruction and personalize education;

(iv) assists a teacher or administrator in diagnosing a student's learning needs through the

use of data already collected by the State Board of Education;

(v) facilitates a student's parent or guardian taking an active role in the student's education by simplifying access to the student's complete learner profile; and

(vi) serves as additional disaster mitigation for LEAs by using a cloud-based data storage and collection system.

(3) Using existing information collected and stored in the data warehouse maintained by the Utah State Office of Education, the State Board of Education shall create the Utah Student Record Store where an authorized LEA user may:

(a) access data in a Student Achievement Backpack relevant to the user's LEA or school; or

(b) request student records to be transferred from one LEA to another.

(4) The State Board of Education shall implement security measures to ensure that:

(a) student data stored or transmitted to or from the Utah Student Record Store is secure and confidential pursuant to the requirements of the Family Educational Rights and Privacy Act, 20 U.S.C. Sec. 1232g; and

(b) an authorized LEA user may only access student data that is relevant to the user's LEA or school.

(5) A student's parent or guardian may request the student's Student Achievement Backpack from the LEA or the school in which the student is enrolled.

(6) No later than June 30, 2014, an authorized LEA user shall be able to access student data in a Student Achievement Backpack, which shall include the following data, or request the data be transferred from one LEA to another:

(a) student demographics;

(b) course grades;

(c) course history; and

(d) results for an assessment administered under U-PASS.

(7) No later than June 30, 2015, an authorized LEA user shall be able to access student data in a Student Achievement Backpack, which shall include the data listed in Subsections (6)(a) through (d) and the following data, or request the data be transferred from one LEA to another:

(a) section attendance;

(b) the name of a student's teacher for classes or courses the student takes;

(c) teacher qualifications for a student's teacher, including years of experience, degree, license, and endorsement;

(d) results of formative, interim, and summative computer adaptive assessments administered pursuant to Section 53A-1-603;

(e) detailed data demonstrating a student's mastery of the core standards for Utah public schools and objectives as measured by computer adaptive assessments administered pursuant to Section 53A-1-603;

(f) a student's writing sample written for an online writing assessment administered pursuant to Section 53A-1-603;

(g) student growth scores for U-PASS tests;

(h) a school's grade assigned pursuant to Part 11, School Grading Act;

(i) results of benchmark assessments of reading administered pursuant to Section 53A-1-606.6; and

(j) a student's reading level at the end of grade 3.

(8) No later than June 30, 2017, the State Board of Education shall ensure that data collected in the Utah Student Record Store for a Student Achievement Backpack shall be integrated into each LEA's student information system and shall be made available to a student's parent or guardian and an authorized LEA user in an easily accessible viewing format.

Section 10. Section 53A-1-602 is amended to read:

53A-1-602. Definitions.

As used in this part:

(1) "Basic [~~skills course~~] academic subject" means a subject [~~which~~] that requires mastery of specific functions, as defined under rules made by the State Board of Education, to include reading, language arts, mathematics, science in grades 4 through 12, and effectiveness of written expression.

~~(2) "IEP" means a written statement for a student with a disability that is developed, reviewed, and revised in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.]~~

~~(3) "Utah's common core"]~~

(2) "Core standards for Utah public schools" means the [~~core set of English language arts and mathematics~~] standards developed and adopted by the State Board of Education [~~which~~] that define the knowledge and skills students should have in kindergarten through grade 12 to enable [~~them~~] students to be prepared for college or workforce training.

(3) "IEP" means a written statement for a student with a disability that is developed, reviewed, and revised in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.

(4) "Utah Performance Assessment System for Students" or "U-PASS" means:

(a) as determined by the State Board of Education, criterion-referenced achievement

testing or online computer adaptive testing of students in grades 3 through 12 in basic ~~[skills courses]~~ academic subjects;

(b) an online writing assessment in grades 5 and 8;

(c) college readiness assessments as detailed in Section 53A-1-611;

(d) the use of student behavior indicators in assessing student performance; and

(e) testing of students in grade 3 to measure reading grade level.

Section 11. Section 53A-1-603 is amended to read:

53A-1-603. Duties of State Board of Education.

(1) The State Board of Education shall:

(a) require each school district and charter school to implement the Utah Performance Assessment System for Students, hereafter referred to as U-PASS;

(b) require the state superintendent of public instruction to submit and recommend criterion-referenced achievement tests or online computer adaptive tests, college readiness assessments, an online writing assessment for grades 5 and 8, and a test for students in grade 3 to measure reading grade level to the board for approval and adoption and distribution to each school district and charter school by the state superintendent;

(c) develop an assessment method to uniformly measure statewide performance, school district performance, and school performance of students in grades 3 through 12 in mastering basic ~~[skills courses]~~ academic subjects; and

(d) provide for the state to participate in the National Assessment of Educational Progress state-by-state comparison testing program.

(2) Except as provided in Subsection (3) and Subsection 53A-1-611(3), under U-PASS, the State Board of Education shall annually require each school district and charter school, as applicable, to administer:

(a) as determined by the State Board of Education, statewide criterion-referenced tests or online computer adaptive tests in grades 3 through 12 and courses in basic ~~[skill areas]~~ academic subjects of the core [curriculum] standards for Utah public schools;

(b) an online writing assessment to all students in grades 5 and 8;

(c) college readiness assessments as detailed in Section 53A-1-611; and

(d) a test to all students in grade 3 to measure reading grade level.

(3) Beginning with the 2014-15 school year, the State Board of Education shall annually require

each school district and charter school, as applicable, to administer a computer adaptive assessment system that is:

(a) adopted by the State Board of Education; and

(b) aligned to ~~[Utah's common core]~~ the core standards for Utah public schools.

(4) The board shall adopt rules for the conduct and administration of U-PASS to include the following:

(a) the computation of student performance based on information that is disaggregated with respect to race, ethnicity, gender, limited English proficiency, and those students who qualify for free or reduced price school lunch;

(b) security features to maintain the integrity of the system, which could include statewide uniform testing dates, multiple test forms, and test administration protocols;

(c) the exemption of student test scores, by exemption category, such as limited English proficiency, mobility, and students with disabilities, with the percent or number of student test scores exempted being publically reported at a district level;

(d) compiling of criterion-referenced, online computer adaptive, and online writing test scores and test score averages at the classroom level to allow for:

(i) an annual review of those scores by parents of students and professional and other appropriate staff at the classroom level at the earliest point in time;

(ii) the assessment of year-to-year student progress in specific classes, courses, and subjects;

(iii) a teacher to review, prior to the beginning of a new school year, test scores from the previous school year of students who have been assigned to the teacher's class for the new school year;

(e) allowing a school district or charter school to have its tests administered and scored electronically to accelerate the review of test scores and their usefulness to parents and educators under Subsection (4)(d), without violating the integrity of U-PASS; and

(f) providing that scores on the tests and assessments required under Subsection (2)(a) and Subsection (3) shall be considered in determining a student's academic grade for the appropriate course and whether a student shall advance to the next grade level.

(5) (a) A school district or charter school, as applicable, is encouraged to administer an online writing assessment to students in grade 11.

(b) The State Board of Education may award a grant to a school district or charter school to pay for an online writing assessment and instruction program that may be used to assess the writing of students in grade 11.

(6) The State Board of Education shall make rules:

(a) establishing procedures for applying for and awarding money for computer adaptive tests;

(b) specifying how money for computer adaptive tests shall be allocated among school districts and charter schools that qualify to receive the money; and

(c) requiring reporting of the expenditure of money awarded for computer adaptive testing and evidence that the money was used to implement computer adaptive testing.

(7) The State Board of Education shall assure that computer adaptive tests are administered in compliance with the requirements of Chapter 13, Part 3, Utah Family Educational Rights and Privacy Act.

(8) (a) The State Board of Education shall establish a committee consisting of 15 parents of Utah public education students to review all computer adaptive test questions.

(b) The committee established in Subsection (8)(a) shall include the following parent members:

(i) five members appointed by the chair of the State Board of Education;

(ii) five members appointed by the speaker of the House of Representatives; and

(iii) five members appointed by the president of the Senate.

(c) The State Board of Education shall provide staff support to the parent committee.

(d) The term of office of each member appointed in Subsection (8)(b) is four years.

(e) The chair of the State Board of Education, the speaker of the House of Representatives, and the president of the Senate shall adjust the length of terms to stagger the terms of committee members so that approximately 1/2 of the committee members are appointed every two years.

(f) No member may receive compensation or benefits for the member's service on the committee.

(9) (a) School districts and charter schools shall require each licensed employee to complete two hours of professional development on youth suicide prevention within their license cycle in accordance with Section 53A-6-104.

(b) The State Board of Education shall develop or adopt sample materials to be used by a school district or charter school for professional development training on youth suicide prevention.

(c) The training required by this Subsection (9) shall be incorporated into professional development training required by rule in accordance with Section 53A-6-104.

Section 12. Section 53A-1-606.7 is amended to read:

53A-1-606.7. State Board of Education required to contract for a diagnostic assessment system for reading.

(1) The State Board of Education shall contract with an educational technology provider, selected through a request for proposals process, for a diagnostic assessment system for reading for students in kindergarten through grade three that meets the requirements of this section.

(2) The diagnostic assessment system for reading shall be made available to school districts and charter schools that apply to use the diagnostic assessment for reading beginning in the 2011-12 school year.

(3) The diagnostic assessment system for reading for students in kindergarten through grade three shall:

(a) include benchmark assessments of reading proficiency to be administered at the beginning, in the middle, and at the end of kindergarten, grade one, grade two, and grade three;

(b) include formative assessments to be administered every two to four weeks for students who are at high risk of not attaining proficiency in reading;

(c) align with the language arts core ~~curriculum~~ standards for Utah public schools adopted by the State Board of Education; and

(d) include a data analysis component hosted by the contractor that:

(i) has the capacity to generate electronic information immediately and produce individualized student progress reports, class summaries, and class groupings for instruction;

(ii) has the capability of identifying lesson plans that may be used to develop reading skills;

(iii) enables teachers, administrators, and designated supervisors to access reports through a secured password system;

(iv) produces electronic printable reports for parents and administrators; and

(v) has the capability for principals to monitor usage by teachers.

(4) (a) The benchmark and formative assessments specified in Subsections (3)(a) and (b) shall be available to be downloaded to a portable technology device so that a teacher may be able to sit beside a student as the student is being assessed at any location in the classroom or throughout the school.

(b) After an assessment is downloaded to a portable technology device, the device shall have the capability to operate in stand-alone mode if the Internet connection is lost.

(c) After an assessment is completed and uploaded to the data analysis component, the data

analysis component shall be capable of allowing data and reports to be viewed and printed immediately.

(5) The State Board of Education shall:

(a) evaluate the effects of the diagnostic assessment system for reading by comparing the learning gains of students in school districts and charter schools that use the diagnostic assessment system for reading with the learning gains of students in school districts and charter schools that do not use the diagnostic assessment system for reading; and

(b) submit a report on the evaluation to the Public Education Appropriations Subcommittee by November 2013.

Section 13. Section 53A-1-708 is amended to read:

53A-1-708. Grants for online delivery of U-PASS tests.

(1) As used in this section:

(a) "Adaptive tests" means tests administered during the school year using an online adaptive test system.

(b) "Core standards for Utah public schools" means the standards developed and adopted by the State Board of Education that define the knowledge and skills students should have in kindergarten through grade 12 to enable students to be prepared for college or workforce training.

~~(b)~~ (c) "Summative tests" means tests administered near the end of a course to assess overall achievement of course goals.

~~(e)~~ (d) "Uniform online summative test system" means a single system for the online delivery of summative tests required under U-PASS that:

(i) is coordinated by the Utah State Office of Education;

(ii) ensures the reliability and security of U-PASS tests; and

(iii) is selected through collaboration between Utah State Office of Education and school district representatives with expertise in technology, assessment, and administration.

~~(d)~~ (e) "U-PASS" means the Utah Performance Assessment System for Students.

~~(e) "Utah's common core" means the core set of English language arts and mathematics standards developed and adopted by the State Board of Education that define the knowledge and skills students should have in kindergarten through grade 12 to enable them to be prepared for college or workforce training.]~~

(2) The State Board of Education may award grants to school districts and charter schools to implement one or both of the following:

(a) a uniform online summative test system to enable parents of students and school staff to

review U-PASS test scores by the end of the school year; or

(b) an online adaptive test system to enable parents of students and school staff to measure and monitor a student's academic progress during a school year.

(3) (a) Grant money may be used to pay for any of the following, provided it is directly related to implementing a uniform online summative test system, an online adaptive test system, or both:

(i) computer equipment and peripherals, including electronic data capture devices designed for electronic test administration and scoring;

(ii) software;

(iii) networking equipment;

(iv) upgrades of existing equipment or software;

(v) upgrades of existing physical plant facilities;

(vi) personnel to provide technical support or coordination and management; and

(vii) teacher professional development.

(b) Equipment purchased in compliance with Subsection (3)(a), when not in use for the online delivery of summative tests or adaptive tests required under U-PASS may be used for other purposes.

(4) The State Board of Education shall make rules:

(a) establishing procedures for applying for and awarding grants;

(b) specifying how grant money shall be allocated among school districts and charter schools;

(c) requiring reporting of grant money expenditures and evidence showing that the grant money has been used to implement a uniform online summative test system, an online adaptive test system, or both;

(d) establishing technology standards for an online adaptive testing system;

(e) requiring a school district or charter school that receives a grant under this section to implement, in compliance with Chapter 13, Part 3, Utah Family Educational Rights and Privacy Act, an online adaptive test system by the 2014-15 school year that:

(i) meets the technology standards established under Subsection (4)(d); and

(ii) is aligned with ~~Utah's common core~~ the core standards for Utah public schools;

(f) requiring a school district or charter school to provide matching funds to implement a uniform online summative test system, an online adaptive test system, or both in an amount that is greater than or equal to the amount of a grant received under this section; and

(g) assuring that student identifiable data is not released to any person, except as provided by

Section 53A-13-301 and rules of the State Board of Education adopted under that section.

(5) If a school district or charter school uses grant money for purposes other than those stated in Subsection (3), the school district or charter school is liable for reimbursing the State Board of Education in the amount of the grant money improperly used.

(6) A school district or charter school may not use federal funds to provide the matching funds required to receive a grant under this section.

(7) A school district may not impose a tax rate above the certified tax rate for the purpose of generating revenue to provide matching funds for a grant under this section.

Section 14. Section 53A-1-709 is amended to read:

53A-1-709. Smart School Technology Program.

(1) As used in this section, "program" means the Smart School Technology Program.

(2) The Smart School Technology Program is created to encourage the deployment of whole-school one-to-one mobile device technology in public schools.

(3) The Board of Business and Economic Development with input from an independent evaluating committee, shall issue a request for proposals for the development and implementation of a whole-school one-to-one mobile device technology deployment plan for schools.

(4) From recommendations submitted by an independent evaluating committee, the Board of Business and Economic Development shall select a single education technology provider with integrated whole-school technology deployment experience through the request for proposals process.

(5) (a) An independent evaluating committee shall be established to:

(i) advise the Board of Business and Economic Development in issuing a request for proposals under Subsection (3);

(ii) evaluate proposals submitted through a request for proposals issued under Subsection (3); and

(iii) advise the State Board of Education on selecting schools to participate in the program.

(b) The membership of the independent evaluating committee shall include:

(i) three members of the State Board of Education appointed by the chair of the State Board of Education;

(ii) the state chief information officer;

(iii) two members appointed by the executive director of the Governor's Office of Economic Development; and

(iv) the governor's education director.

(c) The independent evaluating committee shall evaluate a proposal on:

(i) a provider's experience with integrated whole-school technology deployment; and

(ii) the components of a whole-school technology deployment plan.

(6) An educational technology provider selected under Subsection (4) shall develop a customized whole-school one-to-one mobile device technology deployment plan for each school participating in the program.

(7) The whole-school technology deployment plan shall be based on submitted proposals to the committee and may include the following components:

(a) a personal mobile learning device for each student;

(b) desktop or laptop computers for each classroom;

(c) peripherals and networking equipment, including a wireless network that is not self-interfering;

(d) wireless audio equipment in each classroom;

(e) digital projectors or televisions with wireless device mirroring technology;

(f) on and off campus Internet filtering;

(g) operating software for the technology system, including software that connects personal mobile learning devices among students and a teacher to facilitate classroom interaction;

(h) curriculum and instructional software purchase credits per device to be used toward improving student outcomes with respect to the core ~~curriculum~~ standards for Utah public schools and skill building on the use of technology;

(i) device repair and replacement criteria;

(j) professional development for educators and technology specialists on:

(i) the operation and use of the technology equipment; and

(ii) accessing and using online content; and

(k) ongoing technical support.

(8) (a) A school within a school district, with the approval of the local school board, or a charter school, may submit an application to the State Board of Education to participate in the program.

(b) With input from the independent evaluating committee established under Subsection (5), the State Board of Education shall select schools to participate in the program.

(c) In selecting schools, the State Board of Education shall seek to include in the program schools:

(i) from different regions of the state;

- (ii) from urban and rural areas;
- (iii) with a variety of economic and demographic characteristics; and
- (iv) with documented technology implementation plans, including a plan for the use of:
 - (A) instructional software that improves student outcomes with respect to the core [curriculum] standards for Utah public schools; and
 - (B) software that provides students with skill building on the use of technology.
- (d) The State Board of Education shall make rules:
 - (i) specifying procedures and criteria to be used for selecting schools that may participate in the program; and
 - (ii) requiring selected schools to provide matching funds to participate in the program.

(9) (a) The State Board of Education, in collaboration with the education technology provider and the schools participating in the program, shall evaluate the program and submit a report on the evaluation to the Governor's Office of Economic Development and the Education Interim Committee by the committee's October meetings in 2013 and 2014.

(b) The State Board of Education may contract with an independent evaluator to conduct the evaluation required in Subsection (9)(a).

(c) The evaluation shall be based on the following criteria:

- (i) technology system functionality;
- (ii) school level outcomes;
- (iii) teacher instruction and outcomes; and
- (iv) student engagement and outcomes.

Section 15. Section 53A-1-901 is amended to read:

Part 9. Implementing Federal or National Education Programs Act

53A-1-901. Title.

This part is known as the "Implementing Federal or National Education Programs Act."

Section 16. Section 53A-1-902 is amended to read:

53A-1-902. Definitions.

As used in this part:

- (1) (a) "Cost" means an estimation of state and local money required to implement a federal education agreement or national program.
- (b) "Cost" does not include capital costs associated with implementing a federal education agreement or national program.

- (2) "Education entities" means the entities that may bear the state and local costs of implementing a federal program or national program, including:
 - (a) the State Board of Education;
 - (b) the state superintendent ~~[and the State Office of Education]~~ of public instruction;
 - (c) a local school board;
 - (d) a school district and its schools;
 - (e) a charter school governing board; and
 - (f) a charter school.

(3) "Federal education agreement" means a legally binding document or representation that requires a school official to implement a federal program or set of requirements that originates from the U.S. Department of Education and that has, as a primary focus, an impact on the educational services at a district or charter school.

(4) "Federal programs" include:

- (a) the No Child Left Behind Act;
- (b) the Individuals with Disabilities Education Act Amendments of 1997, Public Law 105-17, and subsequent amendments; and
- (c) other federal educational programs.

(5) "National program" means a national or multi-state education program, agreement, or standards that:

- (a) originated from, or were received directly or indirectly from, a national or multi-state organization, coalition, or compact;
- (b) have, as a primary focus, an impact on the educational services at a public school; and
- (c) are adopted by the State Board of Education or state superintendent of public instruction with the intent to cause a local school official to implement the national or multi-state education program, agreement, or standards.

~~[(5)]~~ (6) "No Child Left Behind Act" means the No Child Left Behind Act of 2001, 20 U.S.C. Sec. 6301 et seq.

~~[(6)]~~ (7) "School official" includes:

- (a) the State Board of Education;
- (b) the state superintendent;
- (c) employees of the State Board of Education and the state superintendent;
- (d) local school boards;
- (e) school district superintendents and employees; and
- (f) charter school board members, administrators, and employees.

Section 17. Section 53A-1-905 is amended to read:

53A-1-905. Notice of voidableness of federal education agreements or national programs.

A federal education agreement or national program that may cost education entities more than \$500,000 annually from state and local money to implement, that is executed by a school official in violation of this part, is voidable by the governor or the Legislature as provided in this part.

Section 18. Section 53A-1-906 is amended to read:

53A-1-906. Governor to approve federal education agreements or national programs.

(1) Before legally binding the state by executing a federal education agreement or national program that may cost education entities more than \$500,000 annually from state and local money to implement, a school official shall submit the proposed federal education agreement or national program to the governor for the governor's approval or rejection.

(2) The governor shall approve or reject each federal education agreement or national program.

(3) (a) If the governor approves the federal education agreement or national program, the school official may execute the agreement.

(b) If the governor rejects the federal education agreement or national program, the school official may not execute the agreement.

(4) If a school official executes a federal education agreement or national program without obtaining the governor's approval under this section, the governor may issue an executive order declaring the federal education agreement or national program void.

Section 19. Section 53A-1-907 is amended to read:

53A-1-907. Legislative review and approval of federal education agreements or national programs.

(1) (a) Before legally binding the state by executing a federal education agreement or national program that may cost education entities more than \$1,000,000 annually from state and local money to implement, the school official shall:

(i) submit the proposed federal education agreement or national program to the governor for the governor's approval or rejection as required by Section 53A-1-906; and

(ii) if the governor approves the federal education agreement or national program, submit the federal education agreement to the Executive Appropriations Committee of the Legislature for its review and recommendations.

(b) The Executive Appropriations Committee shall review the federal education agreement or national program and may:

(i) recommend that the school official execute the federal education agreement or national program;

(ii) recommend that the school official reject the federal education agreement or national program; or

(iii) recommend to the governor that the governor call a special session of the Legislature to review and approve or reject the federal education agreement or national program.

(2) (a) Before legally binding the state by executing a federal education agreement or national program that may cost education entities more than \$5,000,000 annually to implement, a school official shall:

(i) submit the proposed federal education agreement or national program to the governor for the governor's approval or rejection as required by Section 53A-1-906; and

(ii) if the governor approves the federal education agreement or national program, submit the federal education agreement or national program to the Legislature for its approval in an annual general session or a special session.

(b) (i) If the Legislature approves the federal education agreement or national program, the school official may execute the agreement.

(ii) If the Legislature rejects the federal education agreement or national program, the school official may not execute the agreement.

(c) If a school official executes a federal education agreement or national program without obtaining the Legislature's approval under this Subsection (2):

(i) the governor may issue an executive order declaring the federal education agreement or national program void; or

(ii) the Legislature may pass a joint resolution declaring the federal education agreement or national program void.

Section 20. Section 53A-1-908 is amended to read:

53A-1-908. Cost evaluation of federal education agreements or national programs.

(1) Before legally binding the state to a federal education agreement or national program that may cost the state a total of \$500,000 or more to implement, a school official shall estimate the state and local cost of implementing the federal education agreement or national program and submit that cost estimate to the governor and the Executive Appropriations Committee of the Legislature.

(2) The Executive Appropriations Committee may:

(a) direct its staff to make an independent cost estimate of the cost of implementing the federal education agreement or national program; and

(b) affirmatively adopt a cost estimate as the benchmark for determining which authorizations established by this part are necessary.

Section 21. Section 53A-1-1103 is amended to read:

53A-1-1103. State Board of Education to establish school grading system -- Report to Education Interim Committee.

(1) (a) The State Board of Education shall establish a school grading system in accordance with this part in which a school annually is designated a grade of A, B, C, D, or F based on the performance of the school's students on statewide assessments, and for a high school, the graduation rate and, except for the 2012-13 school year, student performance on a college admissions test administered pursuant to Section 53A-1-611.

(b) The school grading system established in this part shall be known and referred to as "school grading."

(2) The State Board of Education shall:

(a) model the school grading system described in this part using school performance data for the 2010-11 school year;

(b) study modifications to the school grading system; and

(c) make recommendations for proposed legislation to the Education Interim Committee on modifications to the school grading system by the committee's September 2012 meeting.

(3) The school grading system shall take effect for the 2012-13 school year and shall replace the U-PASS accountability system developed and implemented by the State Board of Education.

(4) For the purposes of school grading, the State Board of Education shall create an alignment mapping of scale scores when transitioning to a new assessment system to reflect the [~~standards of academic achievement~~] core standards for Utah public schools set by the State Board of Education.

Section 22. Section 53A-1a-103 is amended to read:

53A-1a-103. Public education's vision and mission.

(1) The Legislature envisions an educated citizenry that encompasses the following foundational principles:

(a) citizen participation in civic and political affairs;

(b) economic prosperity for the state by graduating students who are college and career ready;

(c) strong moral and social values; and

(d) loyalty and commitment to constitutional government.

(2) The Legislature recognizes that public education's mission is to assure Utah the best educated citizenry in the world and each individual the training to succeed in a global society by providing students with:

- (a) learning and occupational skills;
- (b) character development;
- (c) literacy and numeracy;
- (d) high quality instruction;
- (e) curriculum [~~with~~] based on high standards and relevance; and
- (f) effective assessment to inform high quality instruction and accountability.

(3) The Legislature:

(a) recognizes that parents or guardians are a child's first teachers and are responsible for the education of their children;

(b) encourages family engagement and adequate preparation so that students enter the public education system ready to learn; and

(c) intends that the mission detailed in Subsection (2) be carried out through a responsive educational system that guarantees local school communities autonomy, flexibility, and client choice, while holding them accountable for results.

(4) This section will be applied consistent with Section 53A-13-109.

Section 23. Section 53A-1a-104 is amended to read:

53A-1a-104. Characteristics of public education system.

The Legislature shall assist in maintaining a public education system that has the following characteristics:

(1) assumes that all students have the ability to learn and that each student departing the system will be prepared to achieve success in productive employment, further education, or both;

(2) provides a personalized education plan or personalized education occupation plan for each student, which involves the student, the student's parent or guardian, and school personnel in establishing the plan;

(3) provides students with the knowledge and skills to take responsibility for their decisions and to make appropriate choices;

(4) provides opportunities for students to exhibit the capacity to learn, think, reason, and work effectively, individually and in groups;

(5) offers [~~a world-class core curriculum that enables~~] world-class core standards that enable students to successfully compete in a global society, and to succeed as citizens of a constitutional republic;

(6) incorporates an information retrieval system that provides students, parents, and educators with reliable, useful, and timely data on the progress of each student;

(7) attracts, prepares, inducts, and retains excellent teachers for every classroom in large part through collaborative efforts among the State

Board of Education, the State Board of Regents, and school districts, provides effective ongoing professional development opportunities for teachers to improve their teaching skills, and provides recognition, rewards, and compensation for their excellence;

(8) empowers each school district and public school to create its own vision and plan to achieve results consistent with the objectives outlined in this chapter;

(9) uses technology to improve teaching and learning processes and for the delivery of educational services;

(10) promotes ongoing research and development projects at the district and the school level that are directed at improving or enhancing public education;

(11) offers a public school choice program, which gives students and their parents options to best meet the student's personalized education needs;

(12) emphasizes the involvement of educators, parents, business partnerships, and the community at large in the educational process by allowing them to be involved in establishing and implementing educational goals and participating in decision-making at the school site; and

(13) emphasizes competency-based standards and progress-based assessments, including tracking and measurement systems.

Section 24. Section 53A-1a-107 is amended to read:

53A-1a-107. State Board of Education assistance to districts and schools.

In order to assist school districts and individual schools in acquiring and maintaining the characteristics set forth in Section 53A-1a-104, the State Board of Education shall:

(1) provide the framework for an education system, including core ~~competencies~~ competency standards and their assessment, in which school districts and public schools permit students to advance by demonstrating competency in subject matter and mastery of skills;

~~[(2) develop and disseminate a state model curriculum, structured to incorporate the concepts of quality versus quantity, depth versus breadth, subject integration and application, applied thinking skills, character development, and a global perspective, which districts and schools may use to assist teachers in helping students acquire the competencies and skills required to advance through the public education system, and periodically review and, if appropriate, revise the curriculum;]~~

~~[(3) (2) conduct a statewide public awareness program on competency-based educational systems;~~

~~[(4) (3) compile and publish, for the state as a whole, a set of educational performance indicators describing trends in student performance;~~

~~[(5) (4) promote a public education climate of high expectations and academic excellence;~~

~~[(6) (5) disseminate successful site-based decision-making models to districts and schools and provide teacher professional development opportunities and evaluation programs for site-based plans consistent with Subsections 53A-1a-104(7) and 53A-6-102(2)(a) and (b);]~~

~~[(7) (6) provide a mechanism for widespread dissemination of information about strategic planning for public education, including involvement of business and industry in the education process, in order to ensure the understanding and support of all the individuals and groups concerned with the mission of public education as outlined in Section 53A-1a-103;~~

~~[(8) (7) provide for a research and development clearing house at the state level to receive and share with school districts and public schools information on effective and innovative practices and programs in education;~~

~~[(9) (8) help school districts develop and implement guidelines, strategies, and professional development programs for administrators and teachers consistent with Subsections 53A-1a-104(7) and 53A-6-102(2)(a) and (b) focused on improving interaction with parents and promoting greater parental involvement in the public schools; and]~~

~~[(10) (9) in concert with the State Board of Regents and the state's colleges of education review and revise teacher licensing requirements to be consistent with teacher preparation for participation in personalized education programs within the public schools.]~~

Section 25. Section 53A-3-402 is amended to read:

53A-3-402. Powers and duties generally.

(1) Each local school board shall:

(a) implement the core ~~curriculum~~ curriculum standards for Utah public schools utilizing instructional materials that best correlate to the core ~~curriculum~~ curriculum standards for Utah public schools and graduation requirements;

(b) administer tests, required by the State Board of Education, which measure the progress of each student, and coordinate with the state superintendent and State Board of Education to assess results and create plans to improve the student's progress which shall be submitted to the State Office of Education for approval;

(c) use progress-based assessments as part of a plan to identify schools, teachers, and students that need remediation and determine the type and amount of federal, state, and local resources to implement remediation;

(d) develop early warning systems for students or classes failing to make progress;

(e) work with the State Office of Education to establish a library of documented best practices, consistent with state and federal regulations, for use by the local districts; and

(f) implement training programs for school administrators, including basic management training, best practices in instructional methods, budget training, staff management, managing for learning results and continuous improvement, and how to help every child achieve optimal learning in ~~core academics~~ basic academic subjects.

(2) Local school boards shall spend minimum school program funds for programs and activities for which the State Board of Education has established minimum standards or rules under Section 53A-1-402.

(3) (a) A board may purchase, sell, and make improvements on school sites, buildings, and equipment and construct, erect, and furnish school buildings.

(b) School sites or buildings may only be conveyed or sold on board resolution affirmed by at least two-thirds of the members.

(4) (a) A board may participate in the joint construction or operation of a school attended by children residing within the district and children residing in other districts either within or outside the state.

(b) Any agreement for the joint operation or construction of a school shall:

(i) be signed by the president of the board of each participating district;

(ii) include a mutually agreed upon pro rata cost; and

(iii) be filed with the State Board of Education.

(5) A board may establish, locate, and maintain elementary, secondary, and applied technology schools.

(6) Except as provided in Section 53A-1-1001, a board may enroll children in school who are at least five years of age before September 2 of the year in which admission is sought.

(7) A board may establish and support school libraries.

(8) A board may collect damages for the loss, injury, or destruction of school property.

(9) A board may authorize guidance and counseling services for children and their parents or guardians prior to, during, or following enrollment of the children in schools.

(10) (a) A board shall administer and implement federal educational programs in accordance with Title 53A, Chapter 1, Part 9, Implementing Federal Programs Act.

(b) Federal funds are not considered funds within the school district budget under Title 53A, Chapter 19, School District Budgets.

(11) (a) A board may organize school safety patrols and adopt rules under which the patrols promote student safety.

(b) A student appointed to a safety patrol shall be at least 10 years old and have written parental consent for the appointment.

(c) Safety patrol members may not direct vehicular traffic or be stationed in a portion of a highway intended for vehicular traffic use.

(d) Liability may not attach to a school district, its employees, officers, or agents or to a safety patrol member, a parent of a safety patrol member, or an authorized volunteer assisting the program by virtue of the organization, maintenance, or operation of a school safety patrol.

(12) (a) A board may on its own behalf, or on behalf of an educational institution for which the board is the direct governing body, accept private grants, loans, gifts, endowments, devises, or bequests that are made for educational purposes.

(b) These contributions are not subject to appropriation by the Legislature.

(13) (a) A board may appoint and fix the compensation of a compliance officer to issue citations for violations of Subsection 76-10-105(2).

(b) A person may not be appointed to serve as a compliance officer without the person's consent.

(c) A teacher or student may not be appointed as a compliance officer.

(14) A board shall adopt bylaws and rules for its own procedures.

(15) (a) A board shall make and enforce rules necessary for the control and management of the district schools.

(b) All board rules and policies shall be in writing, filed, and referenced for public access.

(16) A board may hold school on legal holidays other than Sundays.

(17) (a) Each board shall establish for each school year a school traffic safety committee to implement this Subsection (17).

(b) The committee shall be composed of one representative of:

(i) the schools within the district;

(ii) the Parent Teachers' Association of the schools within the district;

(iii) the municipality or county;

(iv) state or local law enforcement; and

(v) state or local traffic safety engineering.

(c) The committee shall:

(i) receive suggestions from school community councils, parents, teachers, and others and recommend school traffic safety improvements, boundary changes to enhance safety, and school traffic safety program measures;

(ii) review and submit annually to the Department of Transportation and affected municipalities and counties a child access routing

plan for each elementary, middle, and junior high school within the district;

(iii) consult the Utah Safety Council and the Division of Family Health Services and provide training to all school children in kindergarten through grade six, within the district, on school crossing safety and use; and

(iv) help ensure the district's compliance with rules made by the Department of Transportation under Section 41-6a-303.

(d) The committee may establish subcommittees as needed to assist in accomplishing its duties under Subsection (17)(c).

(18) (a) Each school board shall adopt and implement a comprehensive emergency response plan to prevent and combat violence in its public schools, on school grounds, on its school vehicles, and in connection with school-related activities or events.

(b) The board shall implement its plan by July 1, 2000.

(c) The plan shall:

(i) include prevention, intervention, and response components;

(ii) be consistent with the student conduct and discipline policies required for school districts under Title 53A, Chapter 11, Part 9, School Discipline and Conduct Plans;

(iii) require inservice training for all district and school building staff on what their roles are in the emergency response plan;

(iv) provide for coordination with local law enforcement and other public safety representatives in preventing, intervening, and responding to violence in the areas and activities referred to in Subsection (18)(a); and

(v) include procedures to notify a student, to the extent practicable, who is off campus at the time of a school violence emergency because the student is:

(A) participating in a school-related activity; or

(B) excused from school for a period of time during the regular school day to participate in religious instruction at the request of the student's parent or guardian.

(d) The State Board of Education, through the state superintendent of public instruction, shall develop comprehensive emergency response plan models that local school boards may use, where appropriate, to comply with Subsection (18)(a).

(e) Each local school board shall, by July 1 of each year, certify to the State Board of Education that its plan has been practiced at the school level and presented to and reviewed by its teachers, administrators, students, and their parents and local law enforcement and public safety representatives.

(19) (a) Each local school board may adopt an emergency response plan for the treatment of sports-related injuries that occur during school sports practices and events.

(b) The plan may be implemented by each secondary school in the district that has a sports program for students.

(c) The plan may:

(i) include emergency personnel, emergency communication, and emergency equipment components;

(ii) require inservice training on the emergency response plan for school personnel who are involved in sports programs in the district's secondary schools; and

(iii) provide for coordination with individuals and agency representatives who:

(A) are not employees of the school district; and

(B) would be involved in providing emergency services to students injured while participating in sports events.

(d) The board, in collaboration with the schools referred to in Subsection (19)(b), may review the plan each year and make revisions when required to improve or enhance the plan.

(e) The State Board of Education, through the state superintendent of public instruction, shall provide local school boards with an emergency plan response model that local boards may use to comply with the requirements of this Subsection (19).

(20) A board shall do all other things necessary for the maintenance, prosperity, and success of the schools and the promotion of education.

(21) (a) Before closing a school or changing the boundaries of a school, a board shall:

(i) hold a public hearing, as defined in Section 10-9a-103; and

(ii) provide public notice of the public hearing, as specified in Subsection (21)(b).

(b) The notice of a public hearing required under Subsection (21)(a) shall:

(i) indicate the:

(A) school or schools under consideration for closure or boundary change; and

(B) date, time, and location of the public hearing; and

(ii) at least 10 days prior to the public hearing, be:

(A) published:

(I) in a newspaper of general circulation in the area; and

(II) on the Utah Public Notice Website created in Section 63F-1-701; and

(B) posted in at least three public locations within the municipality or on the district's official website.

(22) A board may implement a facility energy efficiency program established under Title 11, Chapter 44, Facility Energy Efficiency Act.

Section 26. Section 53A-3-602.5 is amended to read:

53A-3-602.5. School performance report -- Components -- Annual filing.

(1) For a school year beginning with or after the 2010-11 school year, the State Board of Education in collaboration with the state's school districts and charter schools shall develop a school performance report to inform the state's residents of the quality of schools and the educational achievement of students in the state's public education system.

(2) The report described in Subsection (1) shall be written and include the following statistical data for each school in a school district and each charter school, as applicable, except as provided by Subsection (2)(g), and shall also aggregate the data at the school district and state level:

(a) test scores over the previous year on:

(i) criterion-referenced or online computer adaptive tests to include the scores aggregated for all students:

(A) by grade level or course for the previous two years and an indication of whether there was a sufficient magnitude of gain in the scores between the two years; and

(B) by class;

(ii) online writing assessments required under Section 53A-1-603; and

(iii) college readiness assessments required under Section 53A-1-603;

(b) college entrance examinations data, including the number and percentage of each graduating class taking the examinations for the previous four years;

(c) advanced placement and concurrent enrollment data, including:

(i) the number of students taking advanced placement and concurrent enrollment courses;

(ii) the number and percent of students taking a specific advanced placement course who take advanced placement tests to receive college credit for the course;

(iii) of those students taking the test referred to in Subsection (2)(c)(ii), the number and percent who pass the test; and

(iv) of those students taking a concurrent enrollment course, the number and percent of those who receive college credit for the course;

(d) the number and percent of students in grade 3 reading at or above grade level;

(e) the number and percent of students who were absent from school 10 days or more during the school year;

(f) achievement gaps that reflect the differences in achievement of various student groups as defined by State Board of Education rule;

(g) the number and percent of "student dropouts" within the school district as defined by State Board of Education rule;

(h) course-taking patterns and trends in secondary schools;

(i) student mobility;

(j) staff qualifications, to include years of professional service and the number and percent of staff who have a degree or endorsement in their assigned teaching area and the number and percent of staff who have a graduate degree;

(k) the number and percent of parents who participate in SEP, SEOP, and parent-teacher conferences;

(l) average class size calculated in accordance with State Board of Education rule adopted under Subsection (4);

(m) average daily attendance as defined by State Board of Education rule, including every period in secondary schools; and

(n) enrollment totals disaggregated with respect to race, ethnicity, gender, limited English proficiency, and those students who qualify for free or reduced price school lunch.

(3) For a school year beginning with or after the 2010-11 school year, the State Board of Education, in collaboration with the state's school districts and charter schools, shall provide for the collection and electronic reporting of the following data for a school in each school district and each charter school:

(a) test scores and trends over the previous four years on the tests referred to in Subsection (2)(a);

(b) the average grade given in each math, science, and English course in grades 9 through 12 for which criterion-referenced or online computer adaptive tests are required under Section 53A-1-603;

(c) incidents of student discipline as defined by State Board of Education rule, including suspensions, expulsions, and court referrals; and

(d) the number and percent of students receiving fee waivers and the total dollar amount of fees waived.

(4) (a) The State Board of Education shall adopt common definitions and data collection procedures for local school boards and charter schools to use in collecting and forwarding the data required under Subsections (2) and (3) to the state superintendent of public instruction.

(b) (i) In accordance with Subsections (4)(b)(ii) through (4)(b)(iv), the State Board of Education shall adopt rules specifying how average class size shall be calculated.

(ii) (A) Except as provided by Subsections (4)(b)(ii)(B) through (4)(b)(ii)(D) or for nontraditional classes identified by rule, average class size at the elementary school level shall:

(I) be calculated by grade level; and

(II) indicate the average number of students who are assigned to a teacher for instruction together during a designated time period.

(B) If students at the elementary school level receive instruction in ~~core~~ basic academic classes from different teachers, average class size may be calculated as provided by Subsection (4)(b)(iii) for secondary school students.

(C) An elementary school class that includes students from multiple grade levels shall be counted as a single class.

(D) An extended day class in which a portion of the class arrives early and the other portion stays late shall be counted as a single class.

(iii) (A) Except as provided by Subsection (4)(b)(iii)(B) or for nontraditional classes identified by rule, average class size at the secondary school level shall:

(I) be calculated for core language arts, mathematics, and science courses; and

(II) indicate the average number of students who are assigned to a teacher for instruction together during a designated time period.

(B) A secondary school class in which a teacher provides instruction in multiple courses shall be counted as a single class.

(iv) Special education classes and online classes shall be excluded when determining average class size by grade at the elementary school level or the average class size of core language arts, mathematics, and science courses at the secondary level.

(c) The State Board of Education, through the state superintendent of public instruction, shall adopt standard reporting forms and provide a common template for collecting and reporting the data, which shall be used by all school districts and charter schools.

(d) The state superintendent shall use the automated decision support system referred to in Section 53A-1-301 to collect and report the data required under Subsections (2) and (3).

(5) (a) For a school year beginning with or after the 2010-11 school year, the State Board of Education, through the state superintendent of public instruction, shall issue its report annually by October 1 to include the required data from the previous school year or years as indicated in Subsections (2) and (3).

(b) The State Board of Education shall publish on the State Board of Education's website U-PASS school reports for the 2009-10 school year that indicate the academic proficiency and progress of a school's students and whether the school meets state standards of performance.

(6) (a) Each local school board and each charter school shall receive a written or an electronic copy of the report from the state superintendent of public

instruction containing the data for that school district or charter school in a clear summary format and have it distributed, on a one per household basis, to the residence of students enrolled in the school district or charter school before November 30th of each year.

(b) Each local school board, each charter school, and the State Board of Education shall have a complete report of the statewide data available for copying or in an electronic format at their respective offices.

Section 27. Section 53A-3-701 is amended to read:

53A-3-701. Professional learning standards.

(1) As used in this section, "professional learning" means a comprehensive, sustained, and evidence-based approach to improving teachers' and principals' effectiveness in raising student achievement.

(2) A school district or charter school shall implement high quality professional learning that meets the following standards:

(a) professional learning occurs within learning communities committed to continuous improvement, individual and collective responsibility, and goal alignment;

(b) professional learning requires skillful leaders who develop capacity, advocate, and create support systems, for professional learning;

(c) professional learning requires prioritizing, monitoring, and coordinating resources for educator learning;

(d) professional learning uses a variety of sources and types of student, educator, and system data to plan, assess, and evaluate professional learning;

(e) professional learning integrates theories, research, and models of human learning to achieve its intended outcomes;

(f) professional learning applies research on change and sustains support for implementation of professional learning for long-term change;

(g) professional learning aligns its outcomes with:

(i) performance standards for teachers and school administrators as described in rules of the State Board of Education; and

(ii) performance standards for students as described in the core ~~curriculum standards~~ standards for Utah public schools adopted by the State Board of Education pursuant to Section 53A-1-402.6; and

(h) professional learning:

(i) incorporates the use of technology in the design, implementation, and evaluation of high quality professional learning practices; and

(ii) includes targeted professional learning on the use of technology devices to enhance the teaching

and learning environment and the integration of technology in content delivery.

(3) School districts and charter schools shall use money appropriated by the Legislature for professional learning or federal grant money awarded for professional learning to implement professional learning that meets the standards specified in Subsection (2).

(4) (a) In the fall of 2014, the State Board of Education, through the state superintendent of public instruction, and in collaboration with an independent consultant acquired through a competitive bid process, shall conduct a statewide survey of school districts and charter schools to:

(i) determine the current state of professional learning for educators as aligned with the standards specified in Subsection (2);

(ii) determine the effectiveness of current professional learning practices; and

(iii) identify resources to implement professional learning as described in Subsection (2).

(b) The State Board of Education shall select a consultant from bidders who have demonstrated successful experience in conducting a statewide analysis of professional learning.

(c) (i) Annually in the fall, beginning in 2015 through 2020, the State Board of Education, through the state superintendent of public instruction, in conjunction with school districts and charter schools, shall gather and use data to determine the impact of professional learning efforts and resources.

(ii) Data used to determine the impact of professional learning efforts and resources under Subsection (4)(c)(i) shall include:

- (A) student achievement data;
- (B) educator evaluation data; and
- (C) survey data.

Section 28. Section 53A-13-108 is amended to read:

53A-13-108. Standards and graduation requirements.

(1) The State Board of Education shall establish rigorous ~~curriculum~~ core standards for Utah public schools and graduation requirements under Section 53A-1-402 for grades 9 through 12 that:

(a) are consistent with state law and federal regulations; and

(b) beginning no later than with the graduating class of 2008:

(i) use competency-based standards and assessments;

(ii) include instruction that stresses general financial literacy from basic budgeting to financial

investments, including bankruptcy education and a general financial literacy test-out option; and

(iii) increase graduation requirements in language arts, mathematics, and science to exceed the existing credit requirements of 3.0 units in language arts, 2.0 units in mathematics, and 2.0 units in science.

(2) The State Board of Education shall also establish competency-based standards and assessments for elective courses.

(3) On or before July 1, 2014, the State Board of Education shall adopt revised course standards and objectives for the course of instruction in general financial literacy described in Subsection (1)(b) that address:

(a) the costs of going to college, student loans, scholarships, and the Free Application for Federal Student Aid (FAFSA); and

(b) technology that relates to banking, savings, and financial products.

(4) The State Board of Education shall administer the course of instruction in general financial literacy described in Subsection (1)(b) in the same manner as other core ~~curriculum~~ standards for Utah public schools courses for grades 9 through 12 are administered.

Section 29. Section 53A-13-108.5 is amended to read:

53A-13-108.5. Acceptance of credits and grades awarded by accredited schools.

(1) (a) A public school shall accept credits and grades awarded to a student by a school accredited or approved by the State Board of Education or accredited or recognized by the Northwest Association of Accredited Schools as issued by the school, without alterations.

(b) Credits awarded for a core ~~curriculum~~ standards for Utah public schools course shall be applied to fulfilling core ~~curriculum~~ standards for Utah public schools requirements.

(2) Subsection (1) applies to credits awarded to a student who:

(a) transfers to a public school; or

(b) while enrolled in the public school, takes courses offered by another public or private school.

(3) Subsection (1) applies to:

(a) traditional classes in which an instructor is present in the classroom and the student is required to attend the class for a particular length of time;

(b) open entry/open exit classes in which the student has the flexibility to begin or end study at any time, progress through course material at his own pace, and demonstrate competency when knowledge and skills have been mastered;

(c) courses offered over the Internet; or

(d) distance learning courses.

Section 30. Section 53A-13-110 is amended to read:

53A-13-110. Financial and economic literacy education.

(1) As used in this section:

(a) "Financial and economic activities" include activities related to the topics listed in Subsection (1)(b).

(b) "Financial and economic literacy concepts" include concepts related to the following topics:

(i) basic budgeting;

(ii) saving and financial investments;

(iii) banking and financial services, including balancing a checkbook or a bank account and online banking services;

(iv) career management, including earning an income;

(v) rights and responsibilities of renting or buying a home;

(vi) retirement planning;

(vii) loans and borrowing money, including interest, credit card debt, predatory lending, and payday loans;

(viii) insurance;

(ix) federal, state, and local taxes;

(x) charitable giving;

(xi) online commerce;

(xii) identity fraud and theft;

(xiii) negative financial consequences of gambling;

(xiv) bankruptcy;

(xv) free markets and prices;

(xvi) supply and demand;

(xvii) monetary and fiscal policy;

(xviii) effective business plan creation, including using economic analysis in creating a plan;

(xix) scarcity and choices;

(xx) opportunity cost and tradeoffs;

(xxi) productivity;

(xxii) entrepreneurship; and

(xxiii) economic reasoning.

(c) "Financial and economic literacy passport" means a document that tracks mastery of financial and economic literacy concepts and completion of financial and economic activities in kindergarten through grade 12.

(d) "General financial literacy course" means the course of instruction described in Section 53A-13-108.

(2) The State Board of Education shall:

(a) in cooperation with interested private and nonprofit entities:

(i) develop a financial and economic literacy passport that students may elect to complete;

(ii) develop methods of encouraging parent and educator involvement in completion of the financial and economic literacy passport; and

(iii) develop and implement appropriate recognition and incentives for students who complete the financial and economic literacy passport, including:

(A) a financial and economic literacy endorsement on the student's diploma of graduation;

(B) a specific designation on the student's official transcript; and

(C) any incentives offered by community partners;

(b) more fully integrate existing and new financial and economic literacy education into instruction in kindergarten through grade 12 by:

(i) coordinating financial and economic literacy instruction with existing instruction in other ~~core curriculum areas~~ areas of the core standards for Utah public schools, such as mathematics and social studies;

(ii) using curriculum mapping;

(iii) creating training materials and staff development programs that:

(A) highlight areas of potential coordination between financial and economic literacy education and other core ~~curriculum~~ standards for Utah public schools concepts; and

(B) demonstrate specific examples of financial and economic literacy concepts as a way of teaching other core ~~curriculum~~ standards for Utah public schools concepts; and

(iv) using appropriate financial and economic literacy assessments to improve financial and economic literacy education and, if necessary, developing assessments;

(c) work with interested public, private, and nonprofit entities to:

(i) identify, and make available to teachers, online resources for financial and economic literacy education, including modules with interactive activities and turnkey instructor resources;

(ii) coordinate school use of existing financial and economic literacy education resources;

(iii) develop simple, clear, and consistent messaging to reinforce and link existing financial literacy resources;

(iv) coordinate the efforts of school, work, private, nonprofit, and other financial education providers in implementing methods of appropriately

communicating to teachers, students, and parents key financial and economic literacy messages; and

(v) encourage parents and students to establish higher education savings, including a Utah Educational Savings Plan account;

(d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to develop guidelines and methods for school districts and charter schools to more fully integrate financial and economic literacy education into other core ~~[curriculum]~~ standards for Utah public schools courses;

(e) (i) contract with a provider, through a request for proposals process, to develop an online, end-of-course assessment for the general financial literacy course;

(ii) require a school district or charter school to administer an online, end-of-course assessment to a student who takes the general financial literacy course; and

(iii) develop a plan, through the state superintendent of public instruction, to analyze the results of an online, end-of-course assessment in general financial literacy that includes:

(A) an analysis of assessment results by standard; and

(B) average scores statewide and by school district and school;

(f) in cooperation with school districts, charter schools, and interested private and nonprofit entities, provide opportunities for professional development in financial and economic literacy to teachers, including:

(i) a statewide learning community for financial and economic literacy;

(ii) summer workshops; and

(iii) online videos of experts in the field of financial and economic literacy education; and

(g) implement a teacher endorsement in general financial literacy that includes course work in financial planning, credit and investing, consumer economics, personal budgeting, and family economics.

(3) A public school shall provide the following to the parents or guardian of a kindergarten student during kindergarten enrollment:

(a) a financial and economic literacy passport; and

(b) information about higher education savings options, including information about opening a Utah Educational Savings Plan account.

(4) (a) The State Board of Education shall establish a task force to study and make recommendations to the board on how to improve financial and economic literacy education in the public school system.

(b) The task force membership shall include representatives of:

(i) the State Board of Education;

(ii) school districts and charter schools; and

(iii) private or public entities that teach financial education and share a commitment to empower individuals and families to achieve economic stability, opportunity, and upward mobility.

(c) In 2013, the task force shall:

(i) review and recommend modifications to the course standards and objectives of the general financial literacy course described in Section 53A-13-108 to ensure the course standards and objectives reflect current and relevant content consistent with the financial and economic literacy concepts listed in Subsection (1)(b);

(ii) study the development of an online assessment of students' competency in financial and economic literacy that may be used to:

(A) measure student learning growth and proficiency in financial and economic literacy; and

(B) assess the effectiveness of instruction in financial and economic literacy;

(iii) consider the development of a rigorous, online only, course to fulfill the general financial literacy curriculum and graduation requirements specified in Section 53A-13-108;

(iv) identify opportunities for teaching financial and economic literacy through an integrated school curriculum and in the regular course of school work;

(v) study and make recommendations for educator license endorsements for teachers of financial and economic literacy;

(vi) identify efficient and cost-effective methods of delivering professional development in financial and economic literacy content and instructional methods; and

(vii) study how financial and economic literacy education may be enhanced through community partnerships.

(d) The task force shall reconvene every three years to review and recommend adjustments to the ~~[course]~~ standards and objectives of the general financial literacy course.

(e) The State Board of Education shall make a report to the Education Interim Committee no later than the committee's November 2013 meeting summarizing the findings and recommendations of the task force and actions taken by the board in response to the task force's findings and recommendations.

Section 31. Section 53A-13-111 is amended to read:

53A-13-111. Educational program on the use of information technology.

(1) The State Board of Education shall provide for an educational program on the use of information technology, which shall be offered by high schools.

(2) An educational program on the use of information technology shall:

(a) provide instruction on skills and competencies essential for the workplace and requested by employers;

(b) include the following components:

(i) a curriculum;

(ii) online access to the curriculum;

(iii) instructional software for classroom and student use;

(iv) certification of skills and competencies most frequently requested by employers;

(v) professional development for teachers; and

(vi) deployment and program support, including integration with existing ~~curriculum standards~~ core standards for Utah public schools; and

(c) be made available to high school students, faculty, and staff.

Section 32. Section 53A-14-102 is amended to read:

53A-14-102. Commission's evaluation of instructional materials -- Recommendation by the state board.

(1) Semi-annually after reviewing the evaluations of the commission, the board shall recommend instructional materials for use in the public schools.

(2) The standard period of time instructional materials shall remain on the list of recommended instructional materials shall be five years.

(3) Unsatisfactory instructional materials may be removed from the list of recommended instructional materials at any time within the period applicable to the instructional materials.

(4) Except as provided in Section 53A-13-101, each school shall have discretion to select instructional materials for use by the school. A school may select:

(a) instructional materials recommended by the board as provided in this section; or

(b) other instructional materials ~~[it] the school~~ considers appropriate to teach the ~~core~~ ~~curriculum~~ standards for Utah public schools.

Section 33. Section 53A-14-107 is amended to read:

53A-14-107. Instructional materials alignment with core standards for Utah public schools.

(1) For a school year beginning with or after the 2012-13 school year, a school district may not purchase primary instructional materials unless the primary instructional materials provider:

(a) contracts with an independent party to evaluate and map the alignment of the primary instructional materials with the core ~~curriculum~~

standards for Utah public schools adopted under Section 53A-1-402;

(b) provides a detailed summary of the evaluation under Subsection (1)(a) on a public website at no charge, for use by teachers and the general public; and

(c) pays the costs related to the requirements of this Subsection (1).

(2) The requirements under Subsection (1) may not be performed by:

(a) the State Board of Education;

(b) the superintendent of public instruction or the State Office of Education;

(c) the State Instructional Materials Commission appointed pursuant to Section 53A-14-101;

(d) a local school board or a school district; or

(e) the instructional materials creator or publisher.

(3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Board of Education shall make rules that establish:

(a) the qualifications of the independent parties who may evaluate and map the alignment of the primary instructional materials in accordance with the provisions of Subsection (1)(a); and

(b) requirements for the detailed summary of the evaluation and its placement on a public website in accordance with the provisions of Subsection (1)(b).

Section 34. Section 53A-15-1002.5 is amended to read:

53A-15-1002.5. Electronic High School created -- Purpose.

The Electronic High School is created:

(1) to provide an opportunity for a student who has failed a course to retake the course and earn course credit;

(2) to allow a student to complete high school graduation requirements and exit high school early;

(3) to allow a student to take a course online so that the student has greater flexibility in scheduling courses during the regular school day; and

(4) to allow a home-schooled or private school student in Utah to take a course ~~[within]~~ that meets the Utah high school core ~~curriculum~~ standards for Utah public schools.

Section 35. Section 53A-15-1003 is amended to read:

53A-15-1003. Courses and credit.

(1) The Electronic High School may only offer courses required for high school graduation or that fulfill ~~core curriculum~~ course requirements established by the State Board of Education.

(2) The Electronic High School shall:

(a) offer courses in an open-entry, open-exit format; and

(b) offer ~~[core curriculum]~~ courses that are in conformance with ~~[course standards and objectives]~~ the core standards for Utah public schools established by the board.

(3) Public schools shall:

(a) accept all credits awarded to students by the Electronic High School; and

(b) apply credits awarded for a ~~[core curriculum]~~ course described in Subsection (2)(b) toward the fulfillment of ~~[core curriculum]~~ course requirements.

Section 36. Section 53A-15-1206 is amended to read:

53A-15-1206. Payment for an online course.

(1) For the 2012-13 school year, the fee for a .5 credit online course or .5 credit of a 1 credit online course is:

(a) \$200 for the following ~~[core curriculum]~~ courses, except a concurrent enrollment course:

- (i) financial literacy;
- (ii) health;
- (iii) fitness for life; and
- (iv) computer literacy;

(b) \$200 for driver education;

(c) \$250 for a course that meets core ~~[curriculum requirements]~~ standards for Utah public schools in fine arts or career and technical education, except a concurrent enrollment course;

(d) \$300 for the following courses:

(i) a course that meets core ~~[curriculum]~~ standards for Utah public schools requirements in social studies, except a concurrent enrollment course; and

(ii) a world language course, except a concurrent enrollment course;

(e) \$350 for the following courses:

(i) a course that meets core ~~[curriculum]~~ standards for Utah public schools requirements for language arts, mathematics, or science; and

(ii) a concurrent enrollment course; and

(f) \$250 for a course not described in Subsections (1)(a) through (e).

(2) If a course meets the requirements of more than one course fee category described in Subsection (1), the course fee shall be the lowest of the applicable course fee categories.

(3) Beginning with the 2013-14 school year, the online course fees described in Subsection (1) shall be adjusted each school year in accordance with the percentage change in value of the weighted pupil unit from the previous school year.

(4) An online learning provider shall receive payment for an online course as follows:

(a) for a .5 credit online course, 50% of the online course fee after the withdrawal period described in Section 53A-15-1206.5;

(b) for a 1 credit online course, 25% of the online course fee after the withdrawal period described in Section 53A-15-1206.5 and 25% of the online course fee upon the beginning of the second .5 credit of the online course; and

(c) if a student completes a 1 credit online course within 12 months or a .5 credit course within nine weeks following the end of a traditional semester, 50% of the online course fee.

(5) (a) If a student fails to complete a 1 credit course within 12 months or a .5 credit course within nine weeks following the end of a traditional semester, the student may continue to be enrolled in the course until the student graduates from high school.

(b) To encourage an online course provider to provide remediation to a student who remains enrolled in an online course pursuant to Subsection (5)(a) and avoid the need for credit recovery, an online course provider shall receive a payment equal to 30% of the online course fee if the student completes the online course before the student graduates from high school.

(6) Notwithstanding the online course fees prescribed in Subsections (1) through (3), a school district or charter school may:

(a) negotiate a fee with an online course provider for an amount up to the amount prescribed in Subsections (1) through (3); and

(b) pay the negotiated fee instead of the fee prescribed in Subsections (1) through (3).

(7) An online course provider who contracts with a vendor for the acquisition of online course content or online course instruction may negotiate the payment for the vendor's service independent of the fees specified in Subsections (1) through (3).

CHAPTER 416**H. B. 396**

Passed March 12, 2015
 Approved March 31, 2015
 Effective July 1, 2015

SOLID FUEL BURNING AMENDMENTS

Chief Sponsor: Brad L. Dee
 Senate Sponsor: Ralph Okerlund
 Cosponsors: Scott H. Chew
 Brad M. Daw
 Jack R. Draxler
 Justin L. Fawson
 Lee B. Perry
 Marc K. Roberts
 Mike Schultz
 Norman K. Thurston

LONG TITLE**General Description:**

This bill provides for a solid fuel burning program.

Highlighted Provisions:

This bill:

- ▶ prohibits the Division of Air Quality from implementing a seasonal ban on burning;
- ▶ provides for exemptions; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

This bill appropriates for fiscal year 2016:

- ▶ to the Department of Environmental Quality - Division of Air Quality, as a one-time appropriation:
 - from the General Fund, one-time, \$70,000 to fund modeling.

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

19-2-107.5, as enacted by Laws of Utah 2014, Chapter 230

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

Section 1. Section 19-2-107.5 is amended to read:**19-2-107.5. Solid fuel burning.**

(1) The division shall create a:

(a) public awareness campaign, in consultation with representatives of the solid fuel burning industry, the healthcare industry, and members of the clean air community, on best wood burning practices and the effects of wood burning on air quality, specifically targeting nonattainment areas; and

(b) program to assist an individual to convert a dwelling to a natural gas [or other clean fuel], propane, or wood pellet heating source or a wood burning stove certified by the United States Environmental Protection Agency, as funding allows, if the individual:

(i) lives in a dwelling where a wood burning stove is the sole source of heat; and

(ii) is on the list of registered sole heating source homes.

(2) (a) The division may not impose a burning ban prohibiting burning during a specified seasonal period of time.

(b) Notwithstanding Subsection (2)(a), the division shall:

(i) allow burning during local emergencies and utility outages; and

(ii) provide for exemptions, through registration with the division, for:

(A) devices that are sole sources of heat; or

(B) locations where natural gas service is limited or unavailable.

[2] (3) The division may seek private donations and federal sources of funding to supplement any funds appropriated by the Legislature to fulfill Subsection (1)(b).

Section 2. Appropriation.

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, for the fiscal year beginning July 1, 2015, and ending June 30, 2016, the following sums of money are appropriated from resources not otherwise appropriated, or reduced from amounts previously appropriated, out of the funds or accounts indicated. These sums of money are in addition to any amounts previously appropriated for fiscal year 2016.

To the Department of Environmental Quality - Division of Air Quality

From General Fund, One-time	\$70,000
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Schedule of Programs:

Director's Office	\$70,000
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The Legislature intends that, under Section 63J-1-603, appropriations under this section not lapse at the close of fiscal year 2016. The use of any nonlapsing funds is limited to modeling to consider the impact of emissions from solid fuel burning devices.

The Legislature intends that the appropriation under this section is to be used for modeling to determine:

(1) a two-stage program that will best reduce emissions from wood-burning stoves while allowing the maximum amount of days when EPA-certified devices and other low-emission devices may be used for solid fuel burning; and

(2) the impact of a program to encourage citizens to replace unapproved solid fuel burning devices in their homes with EPA-certified devices and other low-emission devices for solid fuel burning.

The Legislature intends that, as the division performs the modeling described above, the division may engage in standard procurement processes, as described in Title 63G, Chapter 6a, Utah Procurement Code, and consult with both the Executive Appropriations Committee and the solid fuel burning industry.

Section 3. Effective date.

This bill takes effect on July 1, 2015.

CHAPTER 417**H. B. 402**

Passed March 12, 2015
 Approved March 31, 2015
 Effective July 1, 2015

**NEW CONVENTION FACILITIES
 DEVELOPMENT INCENTIVE
 ACT AMENDMENTS**

Chief Sponsor: Brad R. Wilson
 Senate Sponsor: J. Stuart Adams

LONG TITLE**General Description:**

This bill addresses provisions relating to incentives for the development of new convention facilities.

Highlighted Provisions:

This bill:

- ▶ modifies the incentive for the development of new convention facilities from an income tax credit to payments of sales and use tax money from a restricted special revenue fund;
- ▶ provides for new tax revenue from a qualified hotel to be placed into a restricted special revenue fund;
- ▶ establishes a restricted special revenue fund and provides for its funding;
- ▶ modifies duties of the independent review committee;
- ▶ modifies provisions relating to the submission of a claim for a convention incentive and the processing of a claim;
- ▶ modifies provisions relating to incremental property tax revenue; and
- ▶ modifies provisions relating to the authorized use of a convention incentive.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

- 63M-1-3402, as enacted by Laws of Utah 2014, Chapter 429
 63M-1-3403, as enacted by Laws of Utah 2014, Chapter 429
 63M-1-3404, as enacted by Laws of Utah 2014, Chapter 429
 63M-1-3405, as enacted by Laws of Utah 2014, Chapter 429
 63M-1-3407, as enacted by Laws of Utah 2014, Chapter 429
 63M-1-3408, as enacted by Laws of Utah 2014, Chapter 429
 63M-1-3409, as enacted by Laws of Utah 2014, Chapter 429
 63M-1-3410, as enacted by Laws of Utah 2014, Chapter 429
 63M-1-3411, as enacted by Laws of Utah 2014, Chapter 429
 63M-1-3412, as enacted by Laws of Utah 2014, Chapter 429
 63M-1-3413, as enacted by Laws of Utah 2014, Chapter 429

ENACTS:

63M-1-3403.5, Utah Code Annotated 1953

REPEALS:

- 59-7-616, as enacted by Laws of Utah 2014, Chapter 429
 59-10-1110, as enacted by Laws of Utah 2014, Chapter 429
 63M-1-3406, as enacted by Laws of Utah 2014, Chapter 429

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

Section 1. Section 63M-1-3402 is amended to read:

63M-1-3402. Definitions.

As used in this part:

(1) "Agreement" means an agreement described in Section 63M-1-3403.

(2) "Base taxable value" means the value of hotel property before the construction on a qualified hotel begins, as that value is established by the county in which the hotel property is located, using a reasonable valuation method that may include the value of the hotel property on the county assessment rolls the year before the year during which construction on the qualified hotel begins.

(3) "Certified claim" means a claim that the office has approved and certified as provided in Section 63M-1-3405.

(4) "Claim" means a written document submitted by a qualified hotel owner or host local government to request a convention incentive.

(5) "Claimant" means the qualified hotel owner or host local government that submits a claim under Subsection 63M-1-3405(1)(a) for a convention incentive.

(6) "Commission" means the Utah State Tax Commission.

(7) "Community development and renewal agency" [has the same meaning as] means the same as that term is defined in Section 17C-1-102.

(8) "Construction revenue" means revenue generated from state taxes and local taxes imposed on transactions occurring during the eligibility period as a result of the construction of the hotel property, including purchases made by a qualified hotel owner and its subcontractors.

(9) "Convention incentive" means an incentive for the development of a qualified hotel, in the form of payment from the incentive fund as provided in this part, as authorized in an agreement.

(10) "Eligibility period" means:

(a) the period that:

(i) begins the date construction of a qualified hotel begins; and

(ii) ends:

(A) for purposes of the state portion, 20 years after the date of initial occupancy of that qualified hotel; or

(B) for purposes of the local portion and incremental property tax revenue, 25 years after the date of initial occupancy of that hotel; or

(b) as provided in an agreement between the office and a qualified hotel owner or host local government, a period that:

(i) begins no earlier than the date construction of a qualified hotel begins; and

(ii) is shorter than the period described in Subsection ~~[(4)]~~ (10)(a).

~~[(5)]~~ (11) “Endorsement letter” means a letter:

(a) from the county in which a qualified hotel is located or is proposed to be located;

(b) signed by the county executive; and

(c) expressing the county’s endorsement of a developer of a qualified hotel as meeting all the county’s criteria for receiving the county’s endorsement.

~~[(6)]~~ (12) “Host agency” means the community development and renewal agency of the host local government.

~~[(7)]~~ (13) “Host local government” means:

(a) a county that enters into an agreement with the office for the construction of a qualified hotel within the unincorporated area of the county; or

(b) a city or town that enters into an agreement with the office for the construction of a qualified hotel within the boundary of the city or town.

~~[(8)]~~ (14) “Hotel property” means a qualified hotel and any property that is included in the same development as the qualified hotel, including convention, exhibit, and meeting space, retail shops, restaurants, parking, and other ancillary facilities and amenities.

(15) “Incentive fund” means the Convention Incentive Fund created in Section 63M-1-3403.5.

~~[(9)]~~ (16) “Incremental property tax revenue” means the amount of property tax revenue generated from hotel property that equals the difference between:

(a) the amount of property tax revenue generated in any tax year by all taxing entities from hotel property, using the current assessed value of the hotel property; and

(b) the amount of property tax revenue that would be generated that tax year by all taxing entities from hotel property, using ~~[(a)]~~ the hotel property’s base taxable value ~~[of the hotel property as established by the county in which the hotel property is located].~~

~~[(10)]~~ (17) “Local portion” means ~~[(a)]~~ the portion of new tax revenue that is ~~[not the state portion; and]~~ generated by local taxes.

~~[(b)]~~ incremental property tax revenue.

(18) “Local taxes” means a tax imposed under:

(a) Section 59-12-204;

(b) Section 59-12-301;

(c) Sections 59-12-352 and 59-12-353;

(d) Subsection 59-12-603(1)(a)(i)(A);

(e) Subsection 59-12-603(1)(a)(i)(B);

(f) Subsection 59-12-603(1)(a)(ii);

(g) Subsection 59-12-603(1)(a)(iii); or

(h) Section 59-12-1102.

~~[(11)]~~ (19) “New tax revenue” means ~~[(i)]~~ construction revenue, offsite revenue, and onsite revenue.

~~[(a)]~~ all new revenue generated from a tax under Title 59, Chapter 12, Sales and Use Tax Act, on transactions occurring during the eligibility period as a result of the construction of the hotel property, including purchases made by a qualified hotel owner and its subcontractors;]

~~[(b)]~~ all new revenue generated from a tax under Title 59, Chapter 12, Sales and Use Tax Act, on transactions occurring on hotel property during the eligibility period; and]

~~[(c)]~~ all new (20) “Offsite revenue” means revenue generated from ~~[a tax under Title 59, Chapter 12, Sales and Use Tax Act,]~~ state taxes and local taxes imposed on transactions by a third-party seller occurring other than on hotel property during the eligibility period, if:

~~[(i)]~~ (a) the transaction is subject to a tax under Title 59, Chapter 12, Sales and Use Tax Act; and

~~[(ii)]~~ (b) the third-party seller voluntarily consents to the disclosure of information to the office, as provided in Subsection 63M-1-3405~~[(1)]~~(2)(b)(i)(E).

(21) “Onsite revenue” means revenue generated from state taxes and local taxes imposed on transactions occurring on hotel property during the eligibility period.

~~[(12)]~~ (22) “Public infrastructure” means:

(a) water, sewer, storm drainage, electrical, telecommunications, and other similar systems and lines;

(b) streets, roads, curbs, gutters, sidewalks, walkways, parking facilities, and public transportation facilities; and

(c) other buildings, facilities, infrastructure, and improvements that benefit the public.

~~[(13)]~~ (23) “Qualified hotel” means a full-service hotel development constructed in the state on or after July 1, 2014 that:

(a) requires a significant capital investment;

(b) includes at least 85 square feet of convention, exhibit, and meeting space per guest room; and

(c) is located within 1,000 feet of a convention center that contains at least 500,000 square feet of convention, exhibit, and meeting space.

[14] (24) "Qualified hotel owner" means a person who owns a qualified hotel.

[15] (25) "Review committee" means the independent review committee established under Section 63M-1-3404.

[16] (26) "Significant capital investment" means an amount of at least \$200,000,000.

[17] (27) "State portion" means the portion of new tax revenue that is ~~attributable to a tax imposed under Subsection 59-12-103(2)(a)(i)(A)~~ generated by state taxes.

[18] "Tax credit" means a tax credit under Section 59-7-616 or 59-10-1110.]

[19] "Tax credit applicant" means a qualified hotel owner or host local government that:

[a] has entered into an agreement with the office; and]

[b] pursuant to that agreement, submits an application for the issuance of a tax credit certificate.]

[20] "Tax credit certificate" means a certificate issued by the office that includes:]

[a] the name of the tax credit recipient;]

[b] the tax credit recipient's taxpayer identification number;]

[c] the amount of the tax credit authorized under this part for a taxable year; and]

[d] other information as determined by the office.]

[21] "Tax credit recipient" means a tax credit applicant that has been issued a tax credit certificate.]

(28) "State taxes" means a tax imposed under Subsection 59-12-103(2)(a)(i), (2)(b)(i), (2)(c)(i), or (2)(d)(i)(A).

[22] (29) "Third-party seller" means a person who is a seller in a transaction:

(a) occurring other than on hotel property;

(b) that is:

(i) the sale, rental, or lease of a room or of convention or exhibit space or other facilities on hotel property; or

(ii) the sale of tangible personal property or a service that is part of a bundled transaction, as defined in Section 59-12-102, with a sale, rental, or lease described in Subsection [22] (29)(b)(i); and

(c) that is subject to a tax under Title 59, Chapter 12, Sales and Use Tax Act.

Section 2. Section 63M-1-3403 is amended to read:

63M-1-3403. Agreement for development of new convention hotel -- Convention incentive authorized -- Agreement requirements.

(1) The office, with the board's advice, may enter into an agreement with a qualified hotel owner or a host local government:

(a) for the development of a qualified hotel; and

(b) to authorize a ~~tax credit~~ convention incentive:

(i) to the qualified hotel owner or host local government, but not both;

(ii) for a period not to exceed the eligibility period;

(iii) in the amount of new tax revenue, subject to Subsection (2) and notwithstanding any other restriction provided by law;

~~(iii)~~ (iv) if:

(A) the county in which the qualified hotel is proposed to be located has issued an endorsement letter endorsing the qualified hotel owner; and

(B) all applicable requirements of this part and the agreement are met; and

~~(iv)~~ (v) that is reduced by \$1,900,000 per year during the first two years of the eligibility period, as described in Subsection (2)(c).

(2) An agreement under Subsection (1) shall:

(a) specify the requirements for ~~a tax credit recipient~~ the qualified hotel owner or host local government to qualify for a ~~tax credit~~ convention incentive;

(b) require compliance with the terms of the endorsement letter issued by the county in which the qualified hotel is proposed to be located;

(c) require the amount of ~~a tax credit listed in a tax credit certificate issued during~~ certified claims for the first two years of the eligibility period to be reduced by \$1,900,000 per year;

(d) with respect to the state portion of ~~any tax credit that the tax credit recipient may receive during the eligibility period~~ the convention incentive:

(i) specify the maximum dollar amount that the ~~tax credit recipient~~ qualified hotel owner or host local government may receive, subject to a maximum of:

(A) for any ~~taxable~~ calendar year, the amount of the state portion ~~of new tax revenue~~ in that ~~taxable~~ calendar year; and

(B) \$75,000,000 in the aggregate for ~~any tax credit recipient~~ the qualified hotel owner or host local government during an eligibility period, calculated as though the two \$1,900,000 reductions of the tax credit amount under Subsection (1)(b)(iv) had not occurred; and

(ii) specify the maximum percentage of the state portion ~~of new tax revenue~~ that may be used in calculating ~~a tax credit that a tax credit recipient~~ the portion of the convention incentive that the qualified hotel owner or host local government may receive during the eligibility period for each ~~taxable~~ calendar year and in the aggregate;

(e) establish a shorter period of time than the period described in Subsection 63M-1-3402(5)(a) during which the ~~tax credit recipient may claim a tax credit~~ qualified hotel owner or host local government may claim the convention incentive or that the host agency may be paid incremental property tax revenue, if the office and qualified hotel owner or host local government agree to a shorter period of time;

(f) require the ~~tax credit recipient~~ qualified hotel owner to retain books and records supporting a claim for ~~a tax credit~~ the convention incentive as required by Section 59-1-1406;

(g) allow the transfer of the agreement to a third party if the third party assumes all liabilities and responsibilities in the agreement;

(h) limit the expenditure of funds received under ~~a tax credit~~ the convention incentive as provided in Section 63M-1-3412; and

(i) require the ~~tax credit recipient~~ qualified hotel owner or host local government to submit to any audit and to provide any audit level attestation or other level of review the office considers appropriate for verification of any ~~tax credit or claimed tax credit~~ claim.

(3) Notwithstanding any other provision of law, a county or city in which a qualified hotel is located may contribute property to the qualified hotel owner or host local government without consideration, to be used as provided in Subsection 63M-1-3408(3)(a).

Section 3. Section 63M-1-3403.5 is enacted to read:

63M-1-3403.5. (Codified as 63N-2-503.5) Convention Incentive Fund.

(1) There is created an expendable special revenue fund known as the Convention Incentive Fund.

(2) (a) The incentive fund shall be funded by new tax revenue, as provided in Subsection (3).

(b) No legislative appropriation is required to fund the incentive fund.

(c) All interest generated from the investment of money in the incentive fund shall be deposited into the incentive fund.

(3) (a) During the portion of the eligibility period specified by the office under Subsection 63M-1-3405(7)(a), the commission shall cause new tax revenue to be deposited into the incentive fund as provided in this Subsection (3).

(b) To the extent the commission is able to identify sellers involved in transactions generating state taxes or local taxes before the payment of those taxes, the commission shall deposit new tax revenue directly into the incentive fund, notwithstanding Subsection 59-12-103(3) and before the allocations required by Section 59-12-204, Subsection 59-12-205(2), Section

59-12-401, Section 59-12-603, and Section 59-12-1102.

(c) The commission shall, within 30 days after the office provides the information required under Subsection 63M-1-3405(7)(b):

(i) except as provided in Subsection (3)(d), withhold from distribution to counties, cities, and towns the local portion of new tax revenue not deposited into the incentive fund under Subsection (3)(b) and transfer that local portion to the incentive fund; and

(ii) transfer to the incentive fund any state portion of new tax revenue not deposited into the incentive fund under Subsection (3)(b).

(d) The commission may equalize over a 12-month period the withholding required under Subsection (3)(c)(i) for a county, city, or town that requests equalization.

(4) One year after the end of the eligibility period, the commission shall transfer any money remaining in the incentive fund to the Stay Another Day and Bounce Back Fund created in Section 63M-1-3411, except to the extent the money is needed to pay an unpaid certified claim.

(5) Except as otherwise provided in this chapter, an agreement with or approval by a local government entity is not required for the use of the state portion or local portion to fund a convention incentive.

(6) Distributions of money from the incentive fund shall be in accordance with Section 63M-1-3405.

Section 4. Section 63M-1-3404 is amended to read:

63M-1-3404. Independent review committee.

(1) In accordance with rules adopted by the office under Section ~~[63M-1-3408]~~ 63M-1-3409, the board shall establish a separate, independent review committee to ~~provide recommendations to the office regarding the terms and conditions of an agreement and to consult with the office as provided in this part or in rule.~~

~~[(a) review each initial tax credit application submitted under this part for compliance with the requirements of this part and the agreement; and]~~

~~[(b) consult with the office, as provided in this part.]~~

(2) The review committee shall consist of:

(a) one member appointed by the director to represent the office;

(b) two members appointed by the mayor or chief executive of the county in which the qualified hotel is located or proposed to be located;

(c) two members appointed by:

(i) the mayor of the municipality in which the qualified hotel is located or proposed to be located, if

the qualified hotel is located or proposed to be located within the boundary of a municipality; or

(ii) the mayor or chief executive of the county in which the qualified hotel is located or proposed to be located, in addition to the two members appointed under Subsection (2)(b), if the qualified hotel is located or proposed to be located outside the boundary of a municipality;

(d) an individual representing the hotel industry, appointed by the Utah Hotel and Lodging Association;

(e) an individual representing the commercial development and construction industry, appointed by the president or chief executive officer of the local chamber of commerce;

(f) an individual representing the convention and meeting planners industry, appointed by the president or chief executive officer of the local convention and visitors bureau; and

(g) one member appointed by the board.

(3) (a) A member serves an indeterminate term and may be removed from the review committee by the appointing authority at any time.

(b) A vacancy may be filled in the same manner as an appointment under Subsection (2).

(4) A member of the review committee may not be paid for serving on the review committee and may not receive per diem or expense reimbursement.

(5) The office shall provide any necessary staff support to the review committee.

Section 5. Section 63M-1-3405 is amended to read:

63M-1-3405. Submission of written claim for convention incentive -- Disclosure of tax returns and other information -- Determination of claim.

~~[(1) For each taxable year for which a tax credit applicant seeks the issuance of a tax credit certificate, the tax credit applicant shall submit to the office:]~~

~~[(a) a written application for a tax credit certificate;]~~

(1) The office may not pay any money from the incentive fund to a qualified hotel owner or host local government unless:

(a) the qualified hotel owner or host local government submits a claim and other required documentation, as provided in this section; and

(b) the office approves and certifies the claim, as provided in this section.

(2) A qualified hotel owner or host local government that desires to qualify for a convention incentive shall submit to the office:

(a) a written claim for a convention incentive;

(b) (i) for ~~[an application]~~ a claim submitted by a qualified hotel owner;

(A) a certification by the individual signing the ~~[application]~~ claim that the individual is duly authorized to sign the ~~[application]~~ claim on behalf of the qualified hotel owner;

(B) documentation of the new tax revenue previously generated ~~[during the preceding year]~~, itemized by construction revenue, offsite revenue, onsite revenue, type of sales or use tax, and the location of the transaction generating the new tax revenue as determined under Sections 59-12-211, 59-12-211.1, 59-12-212, 59-12-213, 59-12-214, and 59-12-215;

(C) the identity of sellers collecting onsite revenue and the date the sellers will begin collecting onsite revenue;

~~[(C)] (D) a document in which the qualified hotel owner expressly directs and authorizes the commission to disclose to the office the qualified hotel owner's tax returns and other information that would otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code;~~

~~[(D)] (E) a document in which the qualified hotel's direct vendors, lessees, or subcontractors, as applicable, expressly direct and authorize the commission to disclose to the office the tax returns and other information of those vendors, lessees, or subcontractors that would otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code;~~

~~[(E)] (F) a document in which a third-party seller expressly and voluntarily directs and authorizes the commission to disclose to the office the third-party seller's tax returns and other information that would otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code; and]~~

~~[(F)] (G) documentation verifying that the qualified hotel owner is in compliance with the terms of the agreement; and~~

(H) any other documentation that the agreement or office requires; and

(ii) for an application submitted by a host local government, documentation of the new tax revenue generated during the preceding year;

(c) if the host local government intends to assign the ~~[tax credit sought in the tax credit application]~~ convention incentive to a community development and renewal agency~~[-(i) the taxpayer identification number of the community development and renewal agency; and (ii)]~~, a document signed by the governing body members of the community development and renewal agency that expressly directs and authorizes the commission to disclose to the office the agency's tax returns and other information that would otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code; and

(d) ~~[a statement provided by]~~ an audit level attestation, or other level of review approved by the office, from an independent certified public accountant, ~~[at the tax credit applicant's expense]~~

hired by the claimant, attesting to the accuracy ~~[of the documentation of new tax revenue]~~ and validity of the amount of the state portion and the local portion being claimed by the claimant.

~~[(2)]~~ (3) (a) The office shall submit to the commission the documents described in Subsections ~~[(1)]~~ (2)(b)(i)(C), (D), and (E) and ~~[(1)]~~ (2)(c)~~[(ii)]~~ authorizing disclosure of the tax returns and other information.

(b) Upon receipt of the documents described in Subsection ~~[(2)]~~ (3)(a), the commission shall provide to the office the tax returns and other information described in those documents.

~~[(3)]~~ (4) If the office determines that the tax returns and other information ~~[is]~~ are inadequate to ~~[validate the issuance of a tax credit certificate]~~ enable the office to approve and certify a claim, the office shall inform the ~~[tax credit applicant]~~ claimant that the tax returns and other information were inadequate and request the tax credit applicant to submit additional documentation to validate the ~~[issuance of a tax credit certificate]~~ claim.

~~[(4)]~~ (5) If the office determines that the returns and other information, including any additional documentation provided under Subsection ~~[(3),]~~ (4), comply with applicable requirements and provide reasonable justification ~~[for the issuance of a tax credit certificate]~~ to approve and certify the claim, the office shall:

(a) approve and certify the claim;

~~[(a)]~~ (b) determine the amount of the ~~[tax credit to be listed on the tax credit certificate;]~~ certified claim; and

~~[(b)]~~ ~~issue a tax credit certificate to the tax credit applicant for the amount of that tax credit; and]~~

~~[(c)]~~ ~~provide a copy of the tax credit certificate to the commission.]~~

(c) disburse money from the incentive fund to pay the certified claim as provided in Subsection (6).

(6) The office shall pay claims from available money in the incentive fund at least annually.

(7) For each certified claim, the office shall provide the commission:

(a) for onsite revenue:

(i) the identity of sellers operating upon the hotel property;

(ii) the date that the commission is to begin depositing or transferring onsite revenue under Section 63M-1-3403.5 for each seller operating upon the hotel property;

(iii) the date that the commission is to stop depositing or transferring onsite revenue to the incentive fund under Section 63M-1-3403.5 for each seller operating upon the hotel property; and

(iv) the type of sales or use tax subject to the commission's deposit or transfer to the incentive fund under Section 63M-1-3403.5;

(b) for construction revenue and offsite revenue:

(i) the amount of new tax revenue authorized under the agreement constituting construction revenue or offsite revenue;

(ii) the location of the transactions generating the construction revenue and offsite revenue, as determined under Sections 59-12-211, 59-12-211.1, 59-12-212, 59-12-213, 59-12-214, and 59-12-215; and

(iii) the type of sales or use tax that constitutes the construction revenue of offsite revenue described in Subsection (7)(b)(ii); and

(c) any other information the commission requires.

Section 6. Section 63M-1-3407 is amended to read:

63M-1-3407. Assigning convention incentive.

(1) A host local government that enters into an agreement with the office may, by resolution, assign a ~~[tax credit]~~ convention incentive to a community development and renewal agency, in accordance with rules adopted by the office.

(2) A host local government that adopts a resolution assigning a ~~[tax credit]~~ convention incentive under Subsection (1) shall provide a copy of the resolution to the office ~~[and the commission].~~

Section 7. Section 63M-1-3408 is amended to read:

63M-1-3408. Payment of incremental property tax revenue.

(1) As used in this section:

(a) "Displaced tax increment" means the amount of tax increment that a county would have paid to the host agency, except for Subsection (2)(b), from tax increment revenue generated from the project area in which the hotel property is located.

(b) "Secured obligations" means bonds or other obligations of a host agency for the payment of which the host agency has, before March 13, 2015, pledged tax increment generated from the project area in which the hotel property is located.

(c) "Tax increment" means the same as that term is defined in Section 17C-1-102.

(d) "Tax increment shortfall" means the amount of displaced tax increment a host agency needs to receive, in addition to any other tax increment the host agency receives from the project area in which the hotel property is located, to provide the host agency sufficient tax increment funds to be able to pay the debt service on its secured obligations.

~~[(1)]~~ (2) (a) In accordance with rules adopted by the office, ~~[a host agency shall be paid]~~ and subject to Subsection (5), a county in which a qualified hotel is located shall retain incremental property tax revenue during the eligibility period.

(b) The amount of incremental property tax revenue that a county retains under Subsection (2)(a) for a taxable year reduces by that amount any tax increment that the county would otherwise have paid to the host agency for that year, subject to Subsection (5).

(c) For any taxable year in which a reduction of tax increment occurs as provided in Subsection (2)(b), the county shall provide the host agency a notice that:

(i) states the amount of displaced tax increment for that year;

(ii) states the number of years remaining in the eligibility period;

(iii) provides a detailed accounting of how the displaced tax increment was used; and

(iv) explains how the displaced tax increment will be used in the following taxable year.

[(b)] (3) Incremental property tax revenue may be used only for:

[(4)] (a) the purchase of or payment for, or reimbursement of a previous purchase of or payment for:

[(A)] (i) tangible personal property used in the construction of convention, exhibit, or meeting space on hotel property;

[(B)] (ii) tangible personal property that, upon the construction of hotel property, becomes affixed to hotel property as real property; or

[(C)] (iii) any labor and overhead costs associated with the construction described in Subsections [(1)(b)(i)(A) and (B)] (3)(a)(i) and (ii); and

[(ii)] (b) public infrastructure[; and].

[(iii) other purposes as approved by the host agency.]

[(2) A county that collects property tax on hotel property during the eligibility period shall pay and distribute to the host agency the incremental property tax revenue that the host agency is entitled to collect under Subsection (1), in the manner and at the time provided in Section 59-2-1365.]

(4) (a) Incremental property tax:

(i) is not tax increment; and

(ii) is not subject to:

(A) Title 17C, Limited Purpose Local Government Entities -- Community Development and Renewal Agencies Act; or

(B) any other law governing tax increment, except as provided in Subsection (4)(c).

(b) The payment and use of incremental property tax, as provided in this part, is not subject to the approval of any taxing entity, as defined in Section 17C-1-102.

(c) Revenue from an increase in the taxable value of hotel property is considered to be a redevelopment adjustment for purposes of calculating the certified tax rate under Section 59-2-924.

(5) (a) Subject to Subsection (5)(b), a county may not spend the portion of incremental property tax revenue that is displaced tax increment until after 30 days after the county provides the notice required under Subsection (2)(c).

(b) If, within 30 days after the county provides the notice required under Subsection (2)(c), a host agency provides written notice to the county that the host agency will experience a tax increment shortfall, the county shall, unless the host agency agrees otherwise, pay to the host agency displaced tax increment in the amount of the tax increment shortfall.

Section 8. Section 63M-1-3409 is amended to read:

63M-1-3409. Rulemaking authority -- Requirements for rules.

(1) The office shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to carry out its responsibilities under this part and to implement the provisions of this part.

(2) The rules the office makes under Subsection (1) shall:

(a) establish, consistent with this part, the conditions ~~[that a tax credit applicant is]~~ required ~~[to meet to qualify for a tax credit]~~ for a convention incentive;

(b) require that a significant capital investment be made in the development of the hotel property;

(c) require a ~~[tax credit applicant]~~ claimant to meet all applicable requirements in order to receive a ~~[tax credit certificate]~~ distribution from the incentive fund;

(d) require that a qualified hotel owner meet the county's requirements to receive an endorsement letter; and

(e) provide for the establishment of an independent review committee, in accordance with the requirements of Section 63M-1-3404.

Section 9. Section 63M-1-3410 is amended to read:

63M-1-3410. Report by office -- Posting of report.

(1) Before November 1 of each year, the office shall submit a written report to the Economic Development and Workforce Services Interim Committee of the Legislature, the Governor's Office of Management and Budget, and the Office of the Legislative Fiscal Analyst describing:

(a) the state's success in attracting new conventions and corresponding new state revenue;

(b) the estimated amount of ~~[tax credit]~~ convention incentive commitments and the

associated calculation made by the office and the period of time over which ~~[tax credits]~~ convention incentives are expected to be paid;

(c) the economic impact on the state related to generating new state revenue and providing ~~[tax credits]~~ convention incentives; and

(d) the estimated and actual costs and economic benefits of the ~~[tax credit]~~ convention incentive commitments that the office made.

(2) The office shall post the annual report under Subsection (1) on its website and on a state website.

(3) Upon the commencement of the construction of a qualified hotel, the office shall send a written notice to the Division of Finance:

(a) referring to the two annual deposits required under Subsection 59-12-103~~(14)~~(13); and

(b) notifying the Division of Finance that construction on the qualified hotel has begun.

Section 10. Section 63M-1-3411 is amended to read:

63M-1-3411. Stay Another Day and Bounce Back Fund.

(1) As used in this section:

(a) "Bounce back fund" means the Stay Another Day and Bounce Back Fund, created in Subsection (2).

(b) "Tourism board" means the Board of Tourism Development created in Section 63M-1-1401.

(2) There is created an expendable special revenue fund known as the Stay Another Day and Bounce Back Fund.

(3) The bounce back fund shall:

(a) be administered by the tourism board;

(b) earn interest; and

(c) be funded by:

(i) annual payments under Section 17-31-9 from the county in which a qualified hotel is located;

(ii) money transferred to the bounce back fund under Section 63M-1-3403.5 or 63M-1-3412; and

(iii) any money that the Legislature chooses to appropriate to the bounce back fund.

(4) Interest earned by the bounce back fund shall be deposited into the bounce back fund.

(5) The tourism board may use money in the bounce back fund to pay for a tourism program of advertising, marketing, and branding of the state, taking into consideration the long-term strategic plan, economic trends, and opportunities for tourism development on a statewide basis.

Section 11. Section 63M-1-3412 is amended to read:

63M-1-3412. Hotel Impact Mitigation Fund.

(1) As used in this section:

(a) "Affected hotel" means a hotel built in the state before July 1, 2014.

(b) "Direct losses" means affected hotels' losses of hotel guest business attributable to the qualified hotel room supply being added to the market in the state.

(c) "Mitigation fund" means the Hotel Impact Mitigation Fund, created in Subsection (2).

(2) There is created an expendable special revenue fund known as the Hotel Impact Mitigation Fund.

(3) The mitigation fund shall:

(a) be administered by the board;

(b) earn interest; and

(c) be funded by:

(i) payments required to be deposited into the mitigation fund by the Division of Finance under Subsection 59-12-103~~(14)~~(13);

(ii) money required to be deposited into the mitigation fund under Subsection 17-31-9(2) by the county in which a qualified hotel is located; and

(iii) any money deposited into the mitigation fund under Subsection (6).

(4) Interest earned by the mitigation fund shall be deposited into the mitigation fund.

(5) (a) In accordance with office rules, the board shall annually pay up to \$2,100,000 of money in the mitigation fund:

(i) to affected hotels;

(ii) for four consecutive years, beginning 12 months after the date of initial occupancy of the qualified hotel occurs; and

(iii) to mitigate direct losses.

(b) (i) If the amount the board pays under Subsection (5)(a) in any year is less than \$2,100,000, the board shall pay to the Stay Another Day and Bounce Back Fund, created in Section 63M-1-3411, the difference between \$2,100,000 and the amount paid under Subsection (5)(a).

(ii) The board shall make any required payment under Subsection (5)(b)(i) within 90 days after the end of the year for which a determination is made of how much the board is required to pay to affected hotels under Subsection (5)(a).

(6) A host local government or qualified hotel owner may make payments to the Division of Finance for deposit into the mitigation fund.

(7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office shall, in consultation with the Utah Hotel and Lodging Association and the county in which the qualified hotel is located, make rules establishing procedures and criteria governing payments under Subsection (5)(a) to affected hotels.

Section 12. Section 63M-1-3413 is amended to read:

63M-1-3413. Authorized expenditures of convention incentive.

(1) A ~~[tax credit recipient]~~ qualified hotel owner or host local government may spend money received ~~[as a direct result of]~~ from the state portion of a ~~[tax credit only for the purchase of or payment for, or reimbursement of a previous purchase of or payment for;]~~ convention incentive only for a purpose described in Subsection 63M-1-3408(2)(a).

~~[(a) tangible personal property used in the construction of convention, exhibit, or meeting space on hotel property;]~~

~~[(b) tangible personal property that, upon the construction of hotel property, becomes affixed to hotel property as real property; or]~~

~~[(c) any labor and overhead costs associated with the construction described in Subsections (1)(a) and (b).]~~

(2) A ~~[tax credit recipient]~~ qualified hotel owner or host local government may spend money received ~~[as a direct result of]~~ from the local portion of a ~~[tax credit]~~ convention incentive only for:

- (a) a purpose described in Subsection (1);
- (b) public infrastructure; and
- (c) other purposes as ~~[approved by the host agency]~~ specified in the agreement.

Section 13. Repealer.

This bill repeals:

Section 59-7-616, Refundable tax credit for certain business entities.

Section 59-10-1110, Refundable tax credit for certain business entities.

Section 63M-1-3406, Effect of tax credit certificate -- Retaining tax credit certificate.

Section 14. Effective date.

This bill takes effect on July 1, 2015.

CHAPTER 418**H. B. 403**

Passed March 11, 2015
 Approved March 31, 2015
 Effective May 12, 2015

**ONLINE EDUCATION SURVEY
 PROGRAM AMENDMENTS**

Chief Sponsor: Steve Eliason
 Senate Sponsor: Aaron Osmond

LONG TITLE**General Description:**

This bill amends provisions related to the pilot online school survey program.

Highlighted Provisions:

This bill:

- ▶ extends the pilot online school survey program for an additional year;
- ▶ amends the repeal date related to the pilot online school survey; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2016:

- ▶ to the State Board of Education - Utah State Office of Education - Initiative Programs as a one-time appropriation:
 - from the Education Fund, \$80,000.

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

53A-1-411, as enacted by Laws of Utah 2012, Chapter 280
 63I-2-253, as last amended by Laws of Utah 2014, Chapters 102, 189, 372, and 393

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

Section 1. Section 53A-1-411 is amended to read:

53A-1-411. Pilot online school survey program.

(1) As used in this section, "board" means the State Board of Education.

(2) (a) Beginning with the 2012-13 school year, the State Board of Education shall establish a [~~three-year~~] pilot online school survey [~~system~~] program in consultation with representatives of local school boards, charter school governing boards, school district and school administrators, teachers, and parents.

(b) The board shall develop the technology, or contract with a provider selected through a request for proposals process to provide the technology, for the pilot online school survey [~~system~~] program to be used by the board, a school district, or a school.

(3) The purposes of the pilot online school survey [~~system~~] program are to:

(a) provide information to school districts and schools on how to better serve and meet the needs of students and parents;

(b) allow school districts and schools to monitor progress of school improvement efforts; and

(c) provide data that may be used as part of a school district's or school's educator evaluation system and inform decisions about employment and professional development.

(4) The pilot online school survey [~~system~~] program shall include:

(a) age appropriate surveys for students to evaluate each of their teachers;

(b) age appropriate surveys for students to evaluate their school's administrators;

(c) a survey for parents to evaluate their children's teachers;

(d) a survey for parents to evaluate their children's schools and administrators, including whether the school or administrators solicited parent involvement in the school;

(e) a survey for parents to self-evaluate their participation in their children's education, including attendance at parent teacher conferences, involvement in the school, and involvement in their children's homework;

(f) a survey for teachers to evaluate their school, including safety and security of the school;

(g) a survey for teachers to evaluate their school's administrators and, if applicable, their school district's administrators;

(h) statistically valid and reliable measurement tools; and

(i) survey questions that represent information that a student, parent, or teacher has direct knowledge of.

(5) (a) Except as provided in Subsection (5)(b), the pilot online school survey program instruments shall be uniform statewide to allow for comparison of:

(i) survey results statewide; and

(ii) survey results from year to year.

(b) The State Board of Education may allow a school participating in the pilot online school survey program to create a supplement to the pilot online school survey program instrument that includes items specific to the school.

(6) (a) The board shall select a sampling of schools to participate in and administer the pilot online school survey program to students, parents, and teachers.

(b) The sampling of urban and rural schools selected by the board shall:

(i) represent at least 5% of total state enrollment in public schools; and

(ii) include at least:

(A) eight elementary schools;

(B) eight junior high or middle schools;

(C) eight high schools; and

(D) five charter schools.

(c) The schools selected in Subsection (6)(b)(ii) shall be selected from at least five school districts.

(d) Except as provided in Subsection (6)(e), a participating school shall survey all of the students enrolled in the participating school.

(e) A participating school shall survey:

(i) students in grades 1 and 2 if considered appropriate;

(ii) students in grades 3 through 12; and

(iii) parents and teachers of students in kindergarten through grade 12.

(7) (a) A participating school shall, annually for an elementary school or semi-annually for a secondary school:

(i) administer online student surveys of teachers for each of a student's teachers;

(ii) make available to parents online access to surveys, which they may complete for each of their children's teachers and schools; and

(iii) make available to teachers online access to a survey of their school, which they may complete.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Board of Education shall make rules establishing procedures for administering or making available online the surveys specified in Subsection (7)(a), including rules to ensure the privacy and protection of individual educator survey results.

(8) The survey data shall be available to:

(a) the State Board of Education for the purpose of analyzing and aggregating the survey data; and

(b) school district and school administrators for the purposes stated in Subsection ~~[(2)]~~ (3).

~~[(9) On or before the November meeting of the Education Interim Committee in 2012, the State Board of Education shall report:]~~

~~[(a) the names of the participating schools;]~~

~~[(b) the identity of the provider selected through the request for proposals process; and]~~

~~[(c) the progress of the pilot online school survey system.]~~

~~[(10) (9) On or before the November meeting of the Education Interim Committee in [2013 and 2014] 2015, the State Board of Education shall report:~~

(a) the response rate of students, parents, and teachers in each of the participating schools; and

(b) the reliability of the pilot online school survey ~~[system]~~ program as an evaluation tool.

Section 2. Section 63I-2-253 is amended to read:

63I-2-253. Repeal dates -- Titles 53, 53A, and 53B.

- (1) Section 53A-1-402.7 is repealed July 1, 2014.
- (2) Section 53A-1-403.5 is repealed July 1, 2017.
- (3) Subsection 53A-1-410(5) is repealed July 1, 2015.
- (4) Section 53A-1-411 is repealed July 1, ~~[2016]~~ 2017.
- (5) Section 53A-1a-513.5 is repealed July 1, 2017.
- (6) Title 53A, Chapter 1a, Part 10, UPSTART, is repealed July 1, 2019.
- (7) Title 53A, Chapter 8a, Part 8, Peer Assistance and Review Pilot Program, is repealed July 1, 2017.
- (8) Section 53A-17a-169 is repealed July 1, 2017.

Section 3. Appropriation.

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, for the fiscal year beginning July 1, 2015, and ending June 30, 2016, the following sums of money are appropriated from resources not otherwise appropriated, or reduced from amounts previously appropriated, out of the funds or accounts indicated. These sums of money are in addition to any amounts previously appropriated for fiscal year 2016.

To State Board of Education - Utah State Office of Education - Initiative Programs

<u>From Education Fund, one-time</u>	<u>\$80,000</u>
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Schedule of Programs:

<u>Contracts and Grants - Pilot</u>	
<u>Online School Survey Program</u>	<u>\$80,000</u>

The Legislature intends that:

- (1) the State Board of Education use the appropriation under this section to implement the pilot online school survey program created in Section 53A-1-411; and
- (2) the appropriation under this section be:
 - (a) ongoing; and
 - (b) non-lapsing.

Section 4. Effective date.

- (1) Except as provided in Subsection (2), this bill takes effect on May 12, 2015.
- (2) Uncodified Section 3, Appropriation, takes effect on July 1, 2015.

CHAPTER 419**H. B. 408**

Passed March 12, 2015
 Approved March 31, 2015
 Effective May 12, 2015

**CATASTROPHIC WILDFIRE AND
PUBLIC NUISANCE AMENDMENTS**

Chief Sponsor: Kay J. Christofferson
 Senate Sponsor: David P. Hinkins

LONG TITLE**General Description:**

This bill addresses catastrophic public nuisances.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ states that a chief executive officer of a political subdivision or a county sheriff may determine that a catastrophic public nuisance exists;
- ▶ describes the criteria for determining whether a catastrophic public nuisance exists;
- ▶ describes the procedure for serving notice of the catastrophic public nuisance determination to the federal or state agency managing land; and
- ▶ authorizes a chief executive officer of a political subdivision or a county sheriff to abate a catastrophic public nuisance, under certain circumstances.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

11-51a-101, Utah Code Annotated 1953
 11-51a-102, Utah Code Annotated 1953
 11-51a-103, Utah Code Annotated 1953
 11-51a-104, Utah Code Annotated 1953
 11-51a-201, Utah Code Annotated 1953

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

Section 1. Section 11-51a-101 is enacted to read:**CHAPTER 51a. CATASTROPHIC PUBLIC
NUISANCE ACT****Part 1. General Provisions****11-51a-101. Title.**

This chapter is known as the "Catastrophic Public Nuisance Act."

Section 2. Section 11-51a-102 is enacted to read:**11-51a-102. Definitions.**

As used in this chapter:

(1) "Catastrophic public nuisance" means a condition on state or federal land where natural resources and biota have been managed or neglected to such an extent as to cause:

(a) the threat of a catastrophic wildfire demonstrated by:

(i) stand density, basal area, or ground fuel load greater than 150% of land health standards; or

(ii) an insect or disease infestation severe enough to threaten the mortality of at least 20% of the trees in the area; or

(b) a condition in the area that threatens the:

(i) quantity or quality of the public water supply of a political subdivision;

(ii) health, safety, or welfare of the citizens of a political subdivision;

(iii) air quality of a nonattainment area; or

(iv) vegetative resources required to support land health and authorized livestock grazing.

(2) "Chief executive officer" means:

(a) for a municipality:

(i) the mayor, if the municipality is operating under a form of municipal government other than the council-manager form of government; or

(ii) the city manager, if the municipality is operating under the council-manager form of government;

(b) for a county:

(i) the chair of the county commission, if the county is operating under the county commission or expanded county commission form of government;

(ii) the county executive officer, if the county is operating under the county-executive form of government; or

(iii) the county manager, if the county is operating under the council-manager form of government.

(3) "County sheriff" means an individual:

(a) elected to the office of county sheriff; and

(b) who fulfills the duties described in Subsection 17-22-1.5(1).

(4) "Federal agency" means the:

(a) United States Bureau of Land Management;

(b) United States Forest Service;

(c) United States Fish and Wildlife Service; or

(d) National Park Service.

(5) "Federally managed land" means land that is managed by a federal agency.

(6) "Political subdivision" means a municipality or county.

Section 3. Section 11-51a-103 is enacted to read:**11-51a-103. Declaration of catastrophic public nuisance -- Authority to declare and demand abatement.**

(1) The chief executive officer of a political subdivision or a county sheriff may determine that

a catastrophic public nuisance exists on land within the borders of the political subdivision.

(2) In evaluating whether a catastrophic public nuisance exists, the chief executive officer of a political subdivision or a county sheriff may consider:

(a) tree density and overall health of a forested area, including the fire regime condition class;

(b) insect and disease infestation, including insect and disease hazard ratings;

(c) fuel loads;

(d) forest or range type;

(e) slope and other natural characteristics of an area;

(f) watershed protection criteria;

(g) weather and climate; and

(h) any other factor that the chief executive officer of a political subdivision or a county sheriff reasonably considers to be relevant, under the circumstances.

(3) Except as provided in Section 11-51a-104, upon making the determination described in Subsection (1), the chief executive officer of a political subdivision or a county sheriff shall after consultation with the attorney general:

(a) serve notice of the determination described in Subsection (1), by hand or certified mail, on the federal or state agency that manages the land upon which the catastrophic nuisance exists; and

(b) provide a copy of the determination that is served under Subsection (3)(a) to the governor, the attorney general, and if the catastrophic public nuisance exists on federally managed land, the state's congressional delegation.

(4) The notice described in Subsection (3)(a) shall include:

(a) a detailed explanation of the basis for determination that a catastrophic public nuisance exists on the land in question;

(b) a demand that the federal or state agency formulate a plan to abate the catastrophic nuisance; and

(c) a specific date, no less than 30 days after the day on which the notice is received, by which time the federal or state agency that manages the land shall:

(i) abate the catastrophic public nuisance; or

(ii) produce a plan for mitigating the catastrophic public nuisance that is reasonably acceptable to the county or subdivision.

(5) The chief executive officer of a political subdivision or a county sheriff may enter into a plan with the relevant federal or state agency, or both, to abate the catastrophic public nuisance.

(6) If, after receiving the notice described in Subsections (3)(a) and (4), the federal or state

agency does not respond by the date requested in the notice or otherwise indicates that the federal or state agency is unwilling to take action to abate the catastrophic public nuisance, the chief executive officer of a political subdivision or a county sheriff shall consult with the county attorney and attorney general.

Section 4. Section 11-51a-104 is enacted to read:

11-51a-104. Emergency abatement of a catastrophic public nuisance.

(1) If a chief executive officer of a political subdivision or a county sheriff determines that a public nuisance exists on federally managed land, pursuant to Subsection 11-51a-103(1), and the chief executive officer of a political subdivision or the county sheriff also finds that the catastrophic public nuisance in question adversely affects, or constitutes a threat to, the public health, safety, and welfare of the people of the political subdivision, the chief executive officer of the political subdivision or the county sheriff may, after consulting with the attorney general, pursue all remedies allowed by law.

(2) In seeking an emergency abatement of a catastrophic public nuisance, a chief executive officer of a political subdivision or a county sheriff shall attempt, as much as possible, to:

(a) coordinate with state and federal agencies; and

(b) seek the advice of professionals, including private sector professionals, with expertise in abating a catastrophic public nuisance.

Section 5. Section 11-51a-201 is enacted to read:

Part 2. Limitations

11-51a-201. Limitation.

Nothing in this chapter limits:

(1) the authority of the state to manage and protect wildlife under Title 23, Wildlife Resources Code of Utah; or

(2) the power of a municipality under Section 10-8-60.

CHAPTER 420**H. B. 411**

Passed March 12, 2015
 Approved March 31, 2015
 Effective May 12, 2015

**VENTURE CAPITAL
 ENHANCEMENT AMENDMENTS**

Chief Sponsor: Brad R. Wilson
 Senate Sponsor: Curtis S. Bramble
 Cosponsors: Jacob L. Anderegg
 Stewart Barlow
 Sophia M. DiCaro
 Eric K. Hutchings
 Don L. Ipson
 Bradley G. Last

LONG TITLE**General Description:**

This bill modifies provisions of the Utah Venture Capital Enhancement Act.

Highlighted Provisions:

This bill:

- ▶ modifies the criteria and procedures for allocating and issuing contingent tax credits to an investor in the Utah fund of funds;
- ▶ modifies the criteria and qualifications for redeeming contingent tax credits for an investor in the Utah fund of funds;
- ▶ amends reporting requirements of the Utah Capital Investment Board and the Utah Capital Investment Corporation;
- ▶ modifies conflict of interest provisions of the Utah Capital Investment Corporation's board of directors;
- ▶ modifies the organization of the Utah Capital Investment Corporation;
- ▶ increases the aggregate amount of outstanding contingent tax credits that may be issued by the Utah Capital Investment Board related to investments entered into by the Utah fund of funds on or after July 1, 2014;
- ▶ decreases the aggregate amount of outstanding contingent tax credits that may be issued by the Utah Capital Investment Board related to investments entered into by the Utah fund of funds before July 1, 2014; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63M-1-1202, as renumbered and amended by Laws of Utah 2008, Chapter 382
 63M-1-1203, as last amended by Laws of Utah 2014, Chapter 334
 63M-1-1206, as last amended by Laws of Utah 2014, Chapters 334, 371 and last amended by Coordination Clause, Laws of Utah 2014, Chapter 334
 63M-1-1207, as last amended by Laws of Utah 2011, Chapter 342

63M-1-1209, as renumbered and amended by Laws of Utah 2008, Chapter 382
 63M-1-1213, as last amended by Laws of Utah 2008, Chapter 18 and renumbered and amended by Laws of Utah 2008, Chapter 382
 63M-1-1217, as last amended by Laws of Utah 2014, Chapter 334
 63M-1-1218, as last amended by Laws of Utah 2014, Chapter 334
 63M-1-1222, as renumbered and amended by Laws of Utah 2008, Chapter 382

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

Section 1. Section 63M-1-1202 is amended to read:**63M-1-1202. Findings -- Purpose.**

(1) The Legislature finds that:

(a) fundamental changes have occurred in national and international financial markets and in the state's financial markets;

(b) a critical shortage of seed ~~and~~, venture capital, and private equity resources exists in the state, and that shortage is impairing the growth of commerce in the state;

(c) a need exists to increase the availability of venture ~~equity~~ capital and private equity for emerging, expanding, and restructuring enterprises in Utah, including enterprises in the life sciences, advanced manufacturing, and information technology;

(d) increased venture and private equity capital investments in emerging, expanding, and restructuring enterprises in Utah will:

- (i) create new jobs in the state; and
- (ii) help to diversify the state's economic base; and

(e) a well-trained work force is critical for the maintenance and development of Utah's economy.

(2) This part is enacted to:

(a) mobilize private investment in a broad variety of venture capital and private equity partnerships in diversified industries and locales;

(b) retain the private-sector culture of focusing on rate of return in the investing process;

(c) secure the services of the best managers in the venture capital ~~industry~~ and private equity industries, regardless of location;

(d) facilitate the organization of the Utah fund of funds to seek private investments and to serve as a catalyst in those investments by offering state incentives for private persons to make investments in the Utah fund of funds;

(e) enhance the ~~venture capital~~ culture and infrastructure in the state ~~so as~~ to increase venture capital and private equity investment within the state ~~and to promote venture capital investing within the state~~;

(f) accomplish the purposes referred to in Subsections (2)(a) through (e) in a manner that

would maximize the direct economic impact for the state; and

(g) authorize the issuance and use of contingent tax credits to accomplish the purposes referred to in Subsections (2)(a) through (e) while protecting the interests of the state by limiting the manner in which contingent tax credits are issued, registered, transferred, claimed as an offset to the payment of state income tax, and redeemed.

Section 2. Section 63M-1-1203 is amended to read:

63M-1-1203. Definitions.

As used in this part:

(1) "Board" means the Utah Capital Investment Board.

(2) "Certificate" means a contract between the board and a designated investor under which a contingent tax credit is available and issued to the designated investor.

(3) (a) Except as provided in Subsection (3)(b), "claimant" means a resident or nonresident person.

(b) "Claimant" does not include an estate or trust.

(4) "Commitment" means a written commitment by a designated purchaser to purchase from the board certificates presented to the board for redemption by a designated investor. Each commitment shall state the dollar amount of contingent tax credits that the designated purchaser has committed to purchase from the board.

(5) "Contingent tax credit" means a contingent tax credit issued under this part that is available against tax liabilities imposed by Title 59, Chapter 7, Corporate Franchise and Income Taxes, or Title 59, Chapter 10, Individual Income Tax Act, if there are insufficient funds in the redemption reserve and the board has not exercised other options for redemption under Subsection 63M-1-1220(3)(b).

(6) "Corporation" means the Utah Capital Investment Corporation created under Section 63M-1-1207.

(7) "Designated investor" means:

- (a) a person who makes a private investment; or
- (b) a transferee of a certificate or contingent tax credit.

(8) "Designated purchaser" means:

(a) a person who enters into a written undertaking with the board to purchase a commitment; or

(b) a transferee who assumes the obligations to make the purchase described in the commitment.

(9) "Estate" means a nonresident estate or a resident estate.

(10) "Person" means an individual, partnership, limited liability company, corporation, association,

organization, business trust, estate, trust, or any other legal or commercial entity.

(11) "Private investment" means:

- (a) an equity interest in the Utah fund of funds; or
- (b) a loan to the Utah fund of funds initiated before July 1, 2014, including a loan [~~refinanced on or after July 1, 2014,~~] that was originated before July 1, 2014, and that is refinanced on or after July 1, 2014.

(12) "Redemption reserve" means the reserve established by the corporation to facilitate the cash redemption of certificates.

(13) "Taxpayer" means a taxpayer:

- (a) of an investor; and
- (b) if that taxpayer is a:
 - (i) claimant;
 - (ii) estate; or
 - (iii) trust.

(14) "Trust" means a nonresident trust or a resident trust.

(15) "Utah fund of funds" means a limited partnership or limited liability company established under Section 63M-1-1213 in which a designated investor purchases an equity interest.

Section 3. Section 63M-1-1206 is amended to read:

63M-1-1206. Board duties and powers.

(1) The board shall, by rule:

(a) establish criteria and procedures for the allocation and issuance of contingent tax credits to designated investors by means of certificates issued by the board, ~~provided that a contingent tax credit may not be issued unless the Utah fund of funds;~~];

~~[(i) first agrees to treat the amount of the tax credit redeemed by the state as a loan from the state to the Utah fund of funds; and]~~

~~[(ii) agrees to repay the loan upon terms and conditions established by the board;]~~

(b) establish criteria and procedures for assessing the likelihood of future certificate redemptions by designated investors, including:

(i) criteria and procedures for evaluating the value of investments made by the Utah fund of funds; and

(ii) the returns from the Utah fund of funds;

(c) establish criteria and procedures for issuing, calculating, registering, and redeeming contingent tax credits by designated investors holding certificates issued by the board;

(d) establish a target rate of return or range of returns for the investment portfolio of the Utah fund of funds;

(e) establish criteria and procedures governing commitments obtained by the board from designated purchasers including:

(i) entering into commitments with designated purchasers; and

(ii) drawing on commitments to redeem certificates from designated investors;

(f) have power to:

(i) expend funds;

(ii) invest funds;

(iii) issue debt and borrow funds;

(iv) enter into contracts;

(v) insure against loss; and

(vi) perform any other act necessary to carry out its purpose; and

(g) make, amend, and repeal rules for the conduct of its affairs, consistent with this part and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) (a) All rules made by the board under Subsection (1)(g) are subject to review by the Legislative Management Committee:

(i) whenever made, modified, or repealed; and

(ii) in each even-numbered year.

(b) Subsection (2)(a) does not preclude the legislative Administrative Rules Review Committee from reviewing and taking appropriate action on any rule made, amended, or repealed by the board.

(3) (a) The criteria and procedures established by the board for the allocation and issuance of contingent tax credits shall ~~[-(i)]~~ include the contingencies that must be met for a certificate and its related tax credits to be:

~~[(A)]~~ (i) issued by the board;

~~[(B)]~~ (ii) transferred by a designated investor; and

~~[(C)]~~ (iii) redeemed by a designated investor in order to receive a contingent tax credit ~~[-and]~~.

~~[(ii)]~~ (b) The board shall tie the contingencies for redemption of certificates to:

(i) for a private investment initiated before July 1, 2015:

(A) the targeted rates of return and scheduled redemptions of equity interests purchased by designated investors in the Utah fund of funds; and

(B) the scheduled principal and interest payments payable to designated investors that have made loans initiated before July 1, 2014, including a loan refinanced on or after July 1, 2014, that was originated before July 1, 2014, to the Utah fund of funds ~~[-]; or~~

~~[(b)]~~ The board may not issue contingent tax credits under this part before July 1, 2004.]

(ii) for an equity-based private investment initiated on or after July 1, 2015, the positive impact on economic development in the state that is related to the fund's investments or the success of the

corporation's economic development plan in the state, including:

(A) encouraging the availability of a wide variety of venture capital in the state;

(B) strengthening the state's economy;

(C) helping business in the state gain access to sources of capital;

(D) helping build a significant, permanent source of capital available for businesses in the state; and

(E) creating benefits for the state while minimizing the use of contingent tax credits.

(4) (a) The board may charge a placement fee to the Utah fund of funds for the issuance of a certificate and related contingent tax credit to a designated investor.

(b) The fee shall:

(i) be charged only to pay for reasonable and necessary costs of the board; and

(ii) not exceed .5% of the private investment of the designated investor.

(5) The board's criteria and procedures for redeeming certificates:

(a) shall give priority to the redemption amount from the available funds in the redemption reserve; and

(b) to the extent there are insufficient funds in the redemption reserve to redeem certificates, shall grant the board the option to redeem certificates:

(i) by certifying a contingent tax credit to the designated investor; or

(ii) by making demand on designated purchasers consistent with the requirements of Section 63M-1-1221.

~~[(6) (a) The board shall, in consultation with the corporation, publish on or before September 1 an annual report of the activities conducted by the Utah fund of funds, and submit the report to the governor, the Business, Economic Development, and Labor Appropriations Subcommittee, the Business and Labor Interim Committee, and the Retirement and Independent Entities Committee.]~~

~~[(b) The annual report shall:]~~

~~[(i) be designed to provide clear, accurate, and accessible information to the public, the governor, and the Legislature;]~~

~~[(ii) include a copy of the audit of the Utah fund of funds described in Section 63M-1-1217;]~~

~~[(iii) include a detailed balance sheet, revenue and expenses statement, and cash flow statement;]~~

~~[(iv) include detailed information regarding new fund commitments made during the year, including the amount of money committed;]~~

~~[(v) include the net annual rate of return of the Utah fund of funds for the reported year, and the net rate of return from the inception of the Utah fund of funds, after accounting for all expenses, including administrative and financing costs;]~~

~~[(vi) include detailed information regarding:]~~

~~[(A) realized gains from investments and any realized losses; and]~~

~~[(B) unrealized gains and any unrealized losses based on the net present value of ongoing investments;]~~

~~[(vii) include detailed information regarding all yearly expenditures, including:]~~

~~[(A) administrative, operating, and financing costs;]~~

~~[(B) aggregate compensation information separated by full- and part-time employees, including benefit and travel expenses; and]~~

~~[(C) expenses related to the allocation manager;]~~

~~[(viii) include detailed information regarding all funding sources for administrative, operations, and financing expenses, including expenses charged by or to the Utah fund of funds, including management and placement fees;]~~

~~[(ix) review the progress of the investment fund allocation manager in implementing its investment plan and provide a general description of the investment plan;]~~

~~[(x) for each individual fund that the Utah fund of funds is invested in that represents at least 5% of the net assets of the Utah fund of funds, include the name of the fund, the total value of the fund, the fair market value of the Utah fund of funds' investment in the fund, and the percentage of the total value of the fund held by the Utah fund of funds;]~~

~~[(xi) include the number of companies in Utah where an investment was made from a fund that the Utah fund of funds is invested in, and provide an aggregate count of new full-time employees in the state added by all companies where investments were made by funds that the Utah fund of funds is invested in;]~~

~~[(xii) include an aggregate total value for all funds the Utah fund of funds is invested in, and an aggregate total amount of money invested in the state by the funds the Utah fund of funds is invested in;]~~

~~[(xiii) describe any redemption or transfer of a certificate issued under this part;]~~

~~[(xiv) include actual and estimated potential appropriations the Legislature will be required to provide as a result of redeemed certificates or tax credits during the following five years;]~~

~~[(xv) include an evaluation of the state's progress in accomplishing the purposes stated in Section 63M-1-1202; and]~~

~~[(xvi) be directly accessible to the public via a link from the main page of the Utah fund of fund's website.]~~

~~[(e) The annual report may not identify a specific designated investor who has redeemed or transferred a certificate.]~~

Section 4. Section 63M-1-1207 is amended to read:

63M-1-1207. Utah Capital Investment Corporation -- Powers and purposes.

(1) (a) There is created an independent quasi-public nonprofit corporation known as the Utah Capital Investment Corporation.

(b) The corporation:

(i) may exercise all powers conferred on independent corporations under Section 63E-2-106;

(ii) is subject to the prohibited participation provisions of Section 63E-2-107; and

(iii) is subject to the other provisions of Title 63E, Chapter 2, Independent Corporations Act, except as otherwise provided in this part.

(c) The corporation shall file with the Division of Corporations and Commercial Code:

(i) articles of incorporation; and

(ii) any amendment to its articles of incorporation.

(d) In addition to the articles of incorporation, the corporation may adopt bylaws and operational policies that are consistent with this chapter.

(e) Except as otherwise provided in this part, this part does not exempt the corporation from the requirements under state law which apply to other corporations organized under Title 63E, Chapter 2, Independent Corporations Act.

(2) The purposes of the corporation are to:

(a) organize the Utah fund of funds;

(b) select [a venture capital] an investment fund allocation manager to make venture capital and private equity fund investments by the Utah fund of funds;

(c) negotiate the terms of a contract with the [venture capital] investment fund allocation manager;

(d) execute the contract with the selected [venture capital] investment fund manager on behalf of the Utah fund of funds;

(e) receive funds paid by designated investors for the issuance of certificates by the board for private investment in the Utah fund of funds;

(f) receive investment returns from the Utah fund of funds; and

(g) establish the redemption reserve to be used by the corporation to redeem certificates.

(3) The corporation may not:

(a) exercise governmental functions;

(b) have members;

(c) pledge the credit or taxing power of the state or any political subdivision of the state; or

(d) make its debts payable out of any money except money of the corporation.

(4) The obligations of the corporation are not obligations of the state or any political subdivision of the state within the meaning of any constitutional or statutory debt limitations, but are obligations of the corporation payable solely and only from the corporation's funds.

(5) The corporation may:

- (a) engage consultants and legal counsel;
- (b) expend funds;
- (c) invest funds;
- (d) issue debt and equity, and borrow funds;
- (e) enter into contracts;
- (f) insure against loss;
- (g) hire employees; and

(h) perform any other act necessary to carry out its purposes.

(6) (a) The corporation shall, in consultation with the board, publish on or before September 1 an annual report of the activities conducted by the Utah fund of funds and submit the report to the governor; the Business, Economic Development, and Labor Appropriations Subcommittee; the Business and Labor Interim Committee; and the Retirement and Independent Entities Interim Committee.

(b) The annual report shall:

(i) be designed to provide clear, accurate, and accessible information to the public, the governor, and the Legislature;

(ii) include a copy of the audit of the Utah fund of funds described in Section 63M-1-1217;

(iii) include a detailed balance sheet, revenue and expenses statement, and cash flow statement;

(iv) include detailed information regarding new fund commitments made during the year, including the amount of money committed;

(v) include the net rate of return of the Utah fund of funds from the inception of the Utah fund of funds, after accounting for all expenses, including administrative and financing costs;

(vi) include detailed information regarding:

(A) realized gains from investments and any realized losses; and

(B) unrealized gains and any unrealized losses based on the net present value of ongoing investments;

(vii) include detailed information regarding all yearly expenditures, including:

(A) administrative, operating, and financing costs;

(B) aggregate compensation information for full- and part-time employees, including benefit and travel expenses; and

(C) expenses related to the allocation manager;

(viii) include detailed information regarding all funding sources for administrative, operations, and financing expenses, including expenses charged by or to the Utah fund of funds, including management and placement fees;

(ix) review the progress of the investment fund allocation manager in implementing its investment plan and provide a general description of the investment plan;

(x) for each individual fund that the Utah fund of funds is invested in that represents at least 5% of the net assets of the Utah fund of funds, include the name of the fund, the total value of the fund, the fair market value of the Utah fund of funds' investment in the fund, and the percentage of the total value of the fund held by the Utah fund of funds;

(xi) include the number of companies in Utah where an investment was made from a fund that the Utah fund of funds is invested in, and provide an aggregate count of new full-time employees in the state added by all companies where investments were made by funds that the Utah fund of funds is invested in;

(xii) include an aggregate total value for all funds the Utah fund of funds is invested in, and an aggregate total amount of money invested in the state by the funds the Utah fund of funds is invested in;

(xiii) describe any redemption or transfer of a certificate issued under this part;

(xiv) include actual and estimated potential appropriations the Legislature will be required to provide as a result of redeemed certificates or tax credits during the following five years;

(xv) include an evaluation of the state's progress in accomplishing the purposes stated in Section 63M-1-1202; and

(xvi) be directly accessible to the public via a link from the main page of the Utah fund of fund's website.

(c) The annual report may not identify a specific designated investor who has redeemed or transferred a certificate.

Section 5. Section 63M-1-1209 is amended to read:

63M-1-1209. Board of directors.

(1) The initial board of directors of the corporation shall consist of five members.

(2) The persons elected to the initial board of directors by the appointment committee shall include persons who have an expertise, as considered appropriate by the appointment committee, in the areas of:

(a) the selection and supervision of investment managers;

(b) fiduciary management of investment funds; and

(c) other areas of expertise as considered appropriate by the appointment committee.

(3) After the election of the initial board of directors, vacancies in the board of directors of the corporation shall be filled by election by the remaining directors of the corporation.

(4) (a) Board members shall serve four-year terms, except that of the five initial members:

- (i) two shall serve four-year terms;
- (ii) two shall serve three-year terms; and
- (iii) one shall serve a two-year term.

(b) Board members shall serve until their successors are elected and qualified and may serve successive terms.

(c) A majority of the board members may remove a board member for cause.

(d) (i) The board shall select a chair by majority vote.

(ii) The chair's term is for one year, which may be extended annually by a majority vote of the members of the board of directors.

(5) Three members of the board are a quorum for the transaction of business.

(6) Members of the board of directors:

(a) are subject to any restrictions on conflicts of interest specified in the organizational documents of the corporation; ~~and~~

~~[(b) may have no interest in any:]~~

~~[(i) venture capital investment fund allocation manager selected by the corporation under this part; or]~~

~~[(ii) investments made by the Utah fund of funds.]~~

(b) shall annually disclose any venture capital and private equity interests to the corporation; and

(c) may not participate in a vote by the board of directors related to an investment by the Utah fund of funds, if the member has an interest in the investment.

(7) Directors of the corporation:

(a) shall be compensated for direct expenses and mileage; and

(b) may not receive a director's fee or salary for service as directors.

Section 6. Section 63M-1-1213 is amended to read:

63M-1-1213. Organization of Utah fund of funds.

(1) The corporation shall organize the Utah fund of funds.

(2) The Utah fund of funds shall make investments in ~~[private seed and]~~ venture capital and private equity partnerships or entities in a manner and for the following purposes:

(a) to encourage the availability of a wide variety of venture capital in the state;

(b) to strengthen the economy of the state;

(c) to help business in the state gain access to sources of capital;

(d) to help build a significant, permanent source of capital available to serve the needs of businesses in the state; and

(e) to accomplish all these benefits in a way that minimizes the use of contingent tax credits.

(3) The Utah fund of funds shall be organized:

(a) as a limited partnership or limited liability company under Utah law having the corporation and qualified investment professionals as the general partner or manager;

(b) to provide for equity interests for designated investors, which provide for a designated scheduled ~~[rate of]~~ return and a scheduled redemption in accordance with rules made by the board pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(c) to provide for loans by or the issuance of debt obligations to designated investors ~~[which]~~ that provide for designated payments of principal, interest, or interest equivalent in accordance with rules made by the board pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(4) Public money may not be invested in the Utah fund of funds.

Section 7. Section 63M-1-1217 is amended to read:

63M-1-1217. Annual audits.

(1) Each calendar year, an audit of the activities of the Utah fund of funds shall be made as described in this section.

(2) (a) The audit shall be conducted by:

(i) the state auditor; or

(ii) an independent auditor engaged by the state auditor.

(b) An independent auditor used under Subsection (2)(a)(ii) must have no business, contractual, or other connection to:

(i) the corporation; or

(ii) the Utah fund of funds.

(3) The corporation shall pay the costs associated with the annual audit.

(4) The annual audit report shall:

(a) be delivered to:

(i) the corporation; and

(ii) the board;

(b) include a valuation of the assets owned by the Utah fund of funds as of the end of the reporting year;

(c) include an opinion regarding the accuracy of the information provided in the annual report described in Subsection ~~[63M-1-1206]~~ 63M-1-1207(6); and

(d) include an opinion regarding the accuracy of the information that supports the economic development impact in the state of the Utah fund of funds as described in Subsections 63M-1-1206(3)(b)(ii) and 63M-1-1218(3); and

~~(d)~~ (e) be completed on or before September 1 for the previous calendar year so that it may be included in the annual report described in ~~[Section 63M-1-1206]~~ Subsection 63M-1-1207(6).

Section 8. Section 63M-1-1218 is amended to read:

63M-1-1218. Certificates and contingent tax credits.

(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board, in consultation with the State Tax Commission, shall make rules governing the application for, form, issuance, transfer, and redemption of certificates.

(2) The board's issuance of certificates and related contingent tax credits to designated investors is subject to the following:

(a) the aggregate outstanding certificates may not exceed a total of:

(i) ~~[\$150,000,000]~~ \$130,000,000 of contingent tax credits used as collateral or a guarantee on loans for the debt-based financing of investments in the Utah fund of funds ~~[, including]~~ initiated before July 1, 2014, or \$120,000,000 of contingent tax credits for a loan refinanced using debt- or equity-based financing as described in Subsection (2)(e); and

(ii) ~~[\$75,000,000]~~ \$100,000,000 used as ~~[a guarantee on]~~ an incentive for equity investments in the Utah fund of funds;

(b) the board shall issue a certificate contemporaneously with ~~[an]~~ a debt-based investment in the Utah fund of funds by a designated investor, including a refinanced loan as described in Subsection (2)(e);

(c) the board shall issue contingent tax credits in a manner that not more than \$20,000,000 of contingent tax credits for each \$100,000,000 increment of contingent tax credits may be redeemable in a fiscal year;

(d) the credits are certifiable if there are insufficient funds in the redemption reserve to make a cash redemption and the board does not exercise its other options under Subsection 63M-1-1220(3)(b);

(e) the board may not issue additional certificates as collateral or a guarantee on a loan for the debt-based financing of investments in the Utah fund of funds that is initiated after July 1, 2014, except for a loan refinanced using debt- or equity-based financing on or after July 1, 2014, that was originated before July 1, 2014; and

(f) after July 1, 2014, ~~[and on or before December 31, 2017,]~~ the board may issue certificates that represent ~~[a guarantee of]~~ no more than 100% of the principal of each equity investment in the Utah fund of funds ~~[, and]~~.

~~[(g) the board may not issue certificates after December 31, 2017.]~~

(3) For an equity-based private investment initiated on or after July 1, 2015, the applicable designated investor may apply for a tax credit if the following criteria are met:

(a) the Utah fund of funds has received payment from the designated investor as set forth in the investor's agreement with the Utah fund of funds;

(b) the designated investor has not received a return of the initial equity investment in the time established in the investor's agreement with the Utah fund of funds;

(c) there are insufficient funds in the redemption reserve to make a cash redemption and the board does not exercise its other options under Subsection 63M-1-1220(3)(b); and

(d) there is a demonstrated positive impact on economic development in the state related to the Utah fund of funds' investments or the success of the corporation's economic development plan in the state, which shall be measured by:

(i) a method to calculate the impact on economic development in the state, established by rule; and

(ii) the corporation, with approval of the board, engaging an independent third party to evaluate the Utah fund of funds and determine the economic impact of the Utah fund of funds and the activities of the corporation as further described in Section 63M-1-1206 and board rules.

~~[(3)]~~ (4) In determining the maximum limits in Subsections (2)(a)(i) and (ii) and the \$20,000,000 limitation for each \$100,000,000 increment of contingent tax credits in Subsection (2)(e)(b):

(a) the board shall use the cumulative amount of scheduled aggregate returns on certificates issued by the board to designated investors;

(b) certificates and related contingent tax credits that have expired may not be included; and

(c) certificates and related contingent tax credits that have been redeemed shall be included only to the extent of tax credits actually allowed.

~~[(4)]~~ (5) Contingent tax credits are subject to the following:

(a) a contingent tax credit may not be redeemed except by a designated investor in accordance with the terms of a certificate from the board;

(b) a contingent tax credit may not be redeemed prior to the time the Utah fund of funds receives full payment from the designated investor for the certificate as established in the agreement with the Utah fund of funds;

(c) a contingent tax credit shall be claimed for a tax year that begins during the calendar year maturity date stated on the certificate;

(d) an investor who redeems a certificate and the related contingent tax credit shall allocate the amount of the contingent tax credit to the taxpayers of the investor based on the taxpayer's pro rata share of the investor's earnings; and

(e) a contingent tax credit shall be claimed as a refundable credit.

~~[(5)]~~ (6) In calculating the amount of a contingent tax credit:

(a) the board shall certify a contingent tax credit only if the actual return, or payment of principal and interest for a loan initiated before July 1, 2014, including a loan refinanced on or after July 1, 2014, that was originated before July 1, 2014, to the designated investor is less than that targeted at the issuance of the certificate;

(b) the amount of the contingent tax credit for a designated investor with an equity interest may not exceed the difference between the actual principal investment of the designated investor in the Utah fund of funds and the aggregate actual return received by the designated investor and any predecessor in interest of the initial equity investment and interest on the initial equity investment;

(c) the rates, whether fixed rates or variable rates, shall be determined by a formula stipulated in the certificate; and

(d) the amount of the contingent tax credit for a designated investor with an outstanding loan to the Utah fund of funds initiated before July 1, 2014, including a loan refinanced on or after July 1, 2014, that was originated before July 1, 2014, ~~[shall]~~ may be equal to no more than the amount of any principal, interest, or interest equivalent unpaid at the redemption of the loan or other obligation, as stipulated in the certificate.

~~[(6)]~~ (7) The board shall clearly indicate on the certificate:

(a) the targeted return on the invested capital, if the private investment is an equity interest;

(b) the payment schedule of principal, interest, or interest equivalent, if the private investment is a loan initiated before July 1, 2014, including a loan refinanced on or after July 1, 2014, that was originated before July 1, 2014;

(c) the amount of the initial private investment;

(d) the calculation formula for determining the scheduled aggregate return on the initial equity investment, if applicable; and

(e) the calculation formula for determining the amount of the contingent tax credit that may be claimed.

~~[(7)]~~ (8) Once ~~[money is invested by a designated investor,]~~ a certificate is issued, a certificate:

(a) is binding on the board; and

(b) may not be modified, terminated, or rescinded.

~~[(8)]~~ (9) Funds invested by a designated investor for a certificate shall be paid to the corporation for placement in the Utah fund of funds.

~~[(9)]~~ (10) The State Tax Commission may, in accordance with Title 63G, Chapter 3, Utah

Administrative Rulemaking Act, and in consultation with the board, make rules to help implement this section.

Section 9. Section 63M-1-1222 is amended to read:

63M-1-1222. Powers and effectiveness.

(1) This part may not be construed as a restriction or limitation upon any power which the board might otherwise have under any other law of this state and the provisions of this part are cumulative to those powers.

(2) This part shall be construed to provide a complete, additional, and alternative method for performing the duties authorized and shall be regarded as supplemental and additional powers to those conferred by any other laws.

(3) ~~[The]~~ With respect to a debt-based private investment only, the provisions of any contract entered into by the board or the Utah fund of funds may not be compromised, diminished, invalidated, or affected by the:

(a) level, timing, or degree of success of the Utah fund of funds or the investment funds in which the Utah fund of funds invests; or

(b) extent to which the investment funds are:

(i) invested in Utah venture capital projects; or

(ii) successful in accomplishing any economic development objectives.

CHAPTER 421**H. B. 420**

Passed March 12, 2015
 Approved March 31, 2015
 Effective May 12, 2015

**REVISIONS TO
TRANSPORTATION FUNDING**

Chief Sponsor: Johnny Anderson
 Senate Sponsor: Wayne A. Harper

LONG TITLE**General Description:**

This bill modifies provisions relating to transportation funding.

Highlighted Provisions:

This bill:

- ▶ amends the allowable uses for revenue in the County of the First Class Highway Projects Fund;
- ▶ provides that a portion of the revenue in the County of the First Class Highway Projects Fund shall be transferred to the legislative body of a county of the first class to be used for certain purposes;
- ▶ provides that a portion of the revenue in the County of the First Class Highway Projects Fund shall be transferred to the Transportation Investment Fund of 2005;
- ▶ provides that for fiscal years 2015-16 only, a portion of the revenues in the Transportation Investment Fund of 2005 shall be transferred to the County of the First Class Highway Projects Fund;
- ▶ requires the Transportation Commission to develop a funding plan and identify a program that meets long-term transportation needs beyond the normal four year programming horizon;
- ▶ requires the Transportation Commission to report the funding plan and program to the Transportation Interim Committee of the Legislature; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

41-1a-1222, as last amended by Laws of Utah 2012, Chapter 397
 59-12-2214, as enacted by Laws of Utah 2010, Chapter 263
 59-12-2217, as last amended by Laws of Utah 2012, Chapter 400
 72-2-121, as last amended by Laws of Utah 2013, Chapter 389
 72-2-121.3, as last amended by Laws of Utah 2013, Chapter 389
 72-2-121.4, as last amended by Laws of Utah 2012, Chapter 131
 72-2-124, as last amended by Laws of Utah 2013, Chapters 389 and 400

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

Section 1. Section 41-1a-1222 is amended to read:**41-1a-1222. Local option highway construction and transportation corridor preservation fee -- Exemptions -- Deposit -- Transfer -- County ordinance -- Notice.**

(1) (a) (i) Except as provided in Subsection (1)(a)(ii), a county legislative body may impose a local option highway construction and transportation corridor preservation fee of up to \$10 on each motor vehicle registration within the county.

(ii) A county legislative body may impose a local option highway construction and transportation corridor preservation fee of up to \$7.75 on each motor vehicle registration for a six-month registration period under Section 41-1a-215.5 within the county.

(iii) A fee imposed under Subsection (1)(a)(i) or (ii) shall be set in whole dollar increments.

(b) If imposed under Subsection (1)(a), at the time application is made for registration or renewal of registration of a motor vehicle under this chapter, the applicant shall pay the local option highway construction and transportation corridor preservation fee established by the county legislative body.

(c) The following are exempt from the fee required under Subsection (1)(a):

(i) a motor vehicle that is exempt from the registration fee under Section 41-1a-1209 or Subsection 41-1a-419(3);

(ii) a commercial vehicle with an apportioned registration under Section 41-1a-301; and

(iii) a motor vehicle with a Purple Heart special group license plate issued in accordance with Section 41-1a-421.

(2) (a) Except as provided in Subsection (2)(b), the revenue generated under this section shall be:

(i) deposited in the Local Transportation Corridor Preservation Fund created in Section 72-2-117.5;

(ii) credited to the county from which it is generated; and

(iii) used and distributed in accordance with Section 72-2-117.5.

(b) The revenue generated by a fee imposed under this section in a county of the first class shall be deposited or transferred as follows:

(i) 50% of the revenue shall be:

(A) deposited in the County of the First Class [State] Highway Projects Fund created in Section 72-2-121; and

(B) used in accordance with Section 72-2-121;

(ii) 20% of the revenue shall be:

(A) transferred to the legislative body of a city of the first class:

- (I) located in a county of the first class; and
- (II) that has:
 - (Aa) an international airport within its boundaries; and

(Bb) a United States customs office on the premises of the international airport described in Subsection (2)(b)(ii)(A)(II)(Aa); and

(B) used by the city described in Subsection (2)(b)(ii)(A) for highway construction, reconstruction, or maintenance projects; and

(iii) 30% of the revenue shall be deposited, credited, and used as provided in Subsection (2)(a).

(3) To impose or change the amount of a fee under this section, the county legislative body shall pass an ordinance:

- (a) approving the fee;
- (b) setting the amount of the fee; and
- (c) providing an effective date for the fee as provided in Subsection (4).

(4) (a) If a county legislative body enacts, changes, or repeals a fee under this section, the enactment, change, or repeal shall take effect on July 1 if the commission receives notice meeting the requirements of Subsection (4)(b) from the county prior to April 1.

- (b) The notice described in Subsection (4)(a) shall:
 - (i) state that the county will enact, change, or repeal a fee under this part;
 - (ii) include a copy of the ordinance imposing the fee; and
 - (iii) if the county enacts or changes the fee under this section, state the amount of the fee.

Section 2. Section 59-12-2214 is amended to read:

59-12-2214. County, city, or town option sales and use tax to fund a system for public transit, an airport facility, a water conservation project, or to be deposited into the County of the First Class Highway Projects Fund -- Base -- Rate -- Voter approval exception.

(1) Subject to the other provisions of this part, a county, city, or town may impose a sales and use tax of .25% on the transactions described in Subsection 59-12-103(1) located within the county, city, or town.

(2) Subject to Subsection (3), a county, city, or town that imposes a sales and use tax under this section shall expend the revenues collected from the sales and use tax:

- (a) to fund a system for public transit;
- (b) to fund a project or service related to an airport facility for the portion of the project or service that is performed within the county, city, or town within which the sales and use tax is imposed:

(i) for a county that imposes the sales and use tax, if the airport facility is part of the regional transportation plan of the area metropolitan planning organization if a metropolitan planning organization exists for the area; or

(ii) for a city or town that imposes the sales and use tax, if:

- (A) that city or town is located within a county of the second class;
- (B) that city or town owns or operates the airport facility; and
- (C) an airline is headquartered in that city or town; or
- (c) for a combination of Subsections (2)(a) and (b).

(3) A county of the first class that imposes a sales and use tax under this section shall expend the revenues collected from the sales and use tax as follows:

- (a) 80% of the revenues collected from the sales and use tax shall be expended to fund a system for public transit; and
- (b) 20% of the revenues collected from the sales and use tax shall be deposited into the County of the First Class [State] Highway Projects Fund created by Section 72-2-121.

(4) Notwithstanding Section 59-12-2208, a county, city, or town legislative body is not required to submit an opinion question to the county's, city's, or town's registered voters in accordance with Section 59-12-2208 to impose a sales and use tax under this section if:

- (a) the county, city, or town imposes the sales and use tax under this section on or after July 1, 2010, but on or before July 1, 2011;
- (b) on July 1, 2010, the county, city, or town imposes a sales and use tax under:

- (i) Section 59-12-2213; or
- (ii) Section 59-12-2215; and
- (c) the county, city, or town obtained voter approval to impose the sales and use tax under:
 - (i) Section 59-12-2213; or
 - (ii) Section 59-12-2215.

Section 3. Section 59-12-2217 is amended to read:

59-12-2217. County option sales and use tax for transportation -- Base -- Rate -- Written prioritization process -- Approval by county legislative body.

(1) Subject to the other provisions of this part, a county legislative body may impose a sales and use tax of up to .25% on the transactions described in Subsection 59-12-103(1) within the county, including the cities and towns within the county.

(2) Subject to Subsections (3) through (8) and Section 59-12-2207, the revenues collected from a sales and use tax under this section may only be expended for:

- (a) a project or service:
- (i) relating to a regionally significant transportation facility for the portion of the project or service that is performed within the county;
 - (ii) for new capacity or congestion mitigation if the project or service is performed within a county:
 - (A) of the first or second class; or
 - (B) if that county is part of an area metropolitan planning organization; and
 - (iii) that is on a priority list:
 - (A) created by the county's council of governments in accordance with Subsection (7); and
 - (B) approved by the county legislative body in accordance with Subsection (7);
 - (b) corridor preservation for a project or service described in Subsection (2)(a) as provided in Subsection (8); or
 - (c) debt service or bond issuance costs related to a project or service described in Subsection (2)(a)(i) or (ii).
 - (3) If a project or service described in Subsection (2) is for:
 - (a) a principal arterial highway or a minor arterial highway in a county of the first or second class or a collector road in a county of the second class, that project or service shall be part of the:
 - (i) county and municipal master plan; and
 - (ii) (A) statewide long-range plan; or
 - (B) regional transportation plan of the area metropolitan planning organization if a metropolitan planning organization exists for the area; or
 - (b) a fixed guideway or an airport, that project or service shall be part of the regional transportation plan of the area metropolitan planning organization if a metropolitan planning organization exists for the area.
 - (4) In a county of the first or second class, a regionally significant transportation facility project or service described in Subsection (2)(a)(i) shall have a funded year priority designation on a Statewide Transportation Improvement Program and Transportation Improvement Program if the project or service described in Subsection (2)(a)(i) is:
 - (a) a principal arterial highway;
 - (b) a minor arterial highway;
 - (c) a collector road in a county of the second class; or
 - (d) a major collector highway in a rural area.
 - (5) Of the revenues collected from a sales and use tax imposed under this section within a county of the first or second class, 25% or more shall be expended for the purpose described in Subsection (2)(b).
- (6) (a) As provided in this Subsection (6), a council of governments shall:
- (i) develop a written prioritization process for the prioritization of projects to be funded by revenues collected from a sales and use tax under this section;
 - (ii) create a priority list of regionally significant transportation facility projects or services described in Subsection (2)(a)(i) in accordance with Subsection (7); and
 - (iii) present the priority list to the county legislative body for approval in accordance with Subsection (7).
- (b) The written prioritization process described in Subsection (6)(a)(i) shall include:
- (i) a definition of the type of projects to which the written prioritization process applies;
 - (ii) subject to Subsection (6)(c), the specification of a weighted criteria system that the council of governments will use to rank proposed projects and how that weighted criteria system will be used to determine which proposed projects will be prioritized;
 - (iii) the specification of data that is necessary to apply the weighted criteria system;
 - (iv) application procedures for a project to be considered for prioritization by the council of governments; and
 - (v) any other provision the council of governments considers appropriate.
- (c) The weighted criteria system described in Subsection (6)(b)(ii) shall include the following:
- (i) the cost effectiveness of a project;
 - (ii) the degree to which a project will mitigate regional congestion;
 - (iii) the compliance requirements of applicable federal laws or regulations;
 - (iv) the economic impact of a project;
 - (v) the degree to which a project will require tax revenues to fund maintenance and operation expenses; and
 - (vi) any other provision the council of governments considers appropriate.
- (d) A council of governments of a county of the first or second class shall submit the written prioritization process described in Subsection (6)(a)(i) to the Executive Appropriations Committee for approval prior to taking final action on:
- (i) the written prioritization process; or
 - (ii) any proposed amendment to the written prioritization process.
- (7) (a) A council of governments shall use the weighted criteria system adopted in the written prioritization process developed in accordance with Subsection (6) to create a priority list of regionally significant transportation facility projects or services for which revenues collected from a sales and use tax under this section may be expended.

(b) Before a council of governments may finalize a priority list or the funding level of a project, the council of governments shall conduct a public meeting on:

- (i) the written prioritization process; and
- (ii) the merits of the projects that are prioritized as part of the written prioritization process.

(c) A council of governments shall make the weighted criteria system ranking for each project prioritized as part of the written prioritization process publicly available before the public meeting required by Subsection (7)(b) is held.

(d) If a council of governments prioritizes a project over another project with a higher rank under the weighted criteria system, the council of governments shall:

(i) identify the reasons for prioritizing the project over another project with a higher rank under the weighted criteria system at the public meeting required by Subsection (7)(b); and

(ii) make the reasons described in Subsection (7)(d)(i) publicly available.

(e) Subject to Subsections (7)(f) and (g), after a council of governments finalizes a priority list in accordance with this Subsection (7), the council of governments shall:

(i) submit the priority list to the county legislative body for approval; and

(ii) obtain approval of the priority list from a majority of the members of the county legislative body.

(f) A council of governments may only submit one priority list per calendar year to the county legislative body.

(g) A county legislative body may only consider and approve one priority list submitted under Subsection (7)(e) per calendar year.

(8) (a) Except as provided in Subsection (8)(b), revenues collected from a sales and use tax under this section that a county allocates for a purpose described in Subsection (2)(b) shall be:

(i) deposited in or transferred to the Local Transportation Corridor Preservation Fund created by Section 72-2-117.5; and

(ii) expended as provided in Section 72-2-117.5.

(b) In a county of the first class, revenues collected from a sales and use tax under this section that a county allocates for a purpose described in Subsection (2)(b) shall be:

(i) deposited in or transferred to the County of the First Class [State] Highway Projects Fund created by Section 72-2-121; and

(ii) expended as provided in Section 72-2-121.

Section 4. Section 72-2-121 is amended to read:

72-2-121. County of the First Class Highway Projects Fund.

(1) There is created a special revenue fund within the Transportation Fund known as the "County of the First Class [State] Highway Projects Fund."

(2) The fund consists of money generated from the following revenue sources:

(a) any voluntary contributions received for new construction, major renovations, and improvements to [state] highways within a county of the first class;

(b) the portion of the sales and use tax described in Subsection 59-12-2214(3)(b) deposited in or transferred to the fund;

(c) the portion of the sales and use tax described in Subsection 59-12-2217(2)(b) and required by Subsection 59-12-2217(8)(b) to be deposited in or transferred to the fund; and

(d) a portion of the local option highway construction and transportation corridor preservation fee imposed in a county of the first class under Section 41-1a-1222 deposited in or transferred to the fund.

(3) (a) The fund shall earn interest.

(b) All interest earned on fund money shall be deposited into the fund.

(4) The executive director shall use the fund money only:

(a) to pay debt service and bond issuance costs for bonds issued under Sections 63B-16-102 and 63B-18-402;

(b) for right-of-way acquisition, new construction, major renovations, and improvements to [state] highways within a county of the first class and to pay any debt service and bond issuance costs related to those projects, including improvements to a highway located within a municipality in a county of the first class where the municipality is located within the boundaries of more than a single county;

(c) for the construction, maintenance, or operation of an active transportation facility that is for nonmotorized vehicles and multimodal transportation and connects an origin with a destination;

[~~(e)~~] (d) for fiscal year 2012-13 only, to pay for or to provide funds to a municipality or county to pay for a portion of right-of-way acquisition, construction, reconstruction, renovations, and improvements to highways described in Subsections 72-2-121.4(7), (8), and (9);

[~~(d)~~] (e) to transfer to the 2010 Salt Lake County Revenue Bond Sinking Fund created by Section 72-2-121.3 the amount required in Subsection 72-2-121.3(4)(c) minus the amounts transferred in accordance with Subsection 72-2-124(4)(a)(iv);

(e) (f) for a fiscal year beginning on or after July 1, 2013, to pay debt service and bond issuance costs for \$30,000,000 of the bonds issued under Section 63B-18-401 for the projects described in Subsection 63B-18-401(4)(a); ~~and~~

(f) (g) for a fiscal year beginning on or after July 1, 2013, and after the department has verified that the amount required under Subsection 72-2-121.3(4)(c) is available in the fund, to transfer an amount equal to 50% of the revenue generated by the local option highway construction and transportation corridor preservation fee imposed under Section 41-1a-1222 in a county of the first class:

(i) to the legislative body of a county of the first class; and

(ii) to be used by a county of the first class for:

(A) highway construction, reconstruction, or maintenance projects; or

(B) the enforcement of state motor vehicle and traffic laws[-];

(h) for fiscal year 2015 only, and after the department has verified that the amount required under Subsection 72-2-121.3(4)(c) is available in the fund and the transfer under Subsection (4)(f) has been made, to transfer an amount equal to the remainder of the revenue available in the fund for the 2015 fiscal year:

(i) to the legislative body of a county of the first class; and

(ii) to be used by a county of the first class for:

(A) highway construction, reconstruction, or maintenance projects; or

(B) the enforcement of state motor vehicle and traffic laws;

(i) for fiscal year 2015-16 only, and after the department has verified that the amount required under Subsection 72-2-121.3(4)(c) is available in the fund and the transfer under Subsection (4)(f) has been made, to transfer an amount equal to \$25,000,000:

(i) to the legislative body of a county of the first class; and

(ii) to be used by the county for the purposes described in this section;

(j) for a fiscal year beginning on or after July 1, 2015, after the department has verified that the amount required under Subsection 72-2-121.3(4)(c) is available in the fund and the transfer under Subsection (4)(f) has been made, to annually transfer an amount equal to up to 42.5% of the sales and use tax revenue imposed in a county of the first class and deposited into the fund in accordance with Subsection 59-12-2214(3)(b) to the Transportation Investment Fund of 2005 created in Section 72-2-124 until \$28,079,000 has been deposited into the Transportation Investment Fund of 2005;

(k) for a fiscal year beginning after the amount described in Subsection (4)(j) has been repaid to the Transportation Investment Fund of 2005 until fiscal year 2030, and after the department has verified that the amount required under Subsection 72-2-121.3(4)(c) is available in the fund and the transfer under Subsection (4)(f) has been made, to annually transfer an amount equal to up to 42.5% of the sales and use tax revenue imposed in a county of the first class and deposited into the fund in accordance with Subsection 59-12-2214(3)(b):

(i) to the legislative body of a county of the first class; and

(ii) to be used by the county for the purposes described in this section.

(5) The revenues described in Subsections (2)(b), (c), and (d) that are deposited in the fund and bond proceeds from bonds issued under Sections 63B-16-102 and 63B-18-402 are considered a local matching contribution for the purposes described under Section 72-2-123.

(6) The additional administrative costs of the department to administer this fund shall be paid from money in the fund.

(7) Notwithstanding any statutory or other restrictions on the use or expenditure of the revenue sources deposited into this fund, the Department of Transportation may use the money in this fund for any of the purposes detailed in Subsection (4).

Section 5. Section 72-2-121.3 is amended to read:

72-2-121.3. Special revenue fund -- 2010 Salt Lake County Revenue Bond Sinking Fund.

(1) There is created a special revenue fund within the County of the First Class [State] Highway Projects Fund entitled "2010 Salt Lake County Revenue Bond Sinking Fund."

(2) The fund consists of:

(a) money transferred into the fund from the County of the First Class [State] Highway Projects Fund in accordance with Subsection 72-2-121(4)(d)(e); and

(b) for a fiscal year beginning on or after July 1, 2013, money transferred into the fund from the Transportation Investment Fund of 2005 in accordance with Subsection 72-2-124(4)(a)(iv).

(3) (a) The fund shall earn interest.

(b) All interest earned on fund money shall be deposited into the fund.

(4) (a) The director of the Division of Finance may use fund money only as provided in this section.

(b) The director of the Division of Finance may not distribute any money from the fund under this section until the director has received a formal opinion from the attorney general that Salt Lake County has entered into a binding agreement with the state of Utah containing all of the terms required by Section 72-2-121.4.

(c) Except as provided in Subsection (4)(b), and until the bonds issued by Salt Lake County as provided in the interlocal agreement required by Section 72-2-121.4 are paid off, on July 1 of each year beginning July 1, 2011, the director of the Division of Finance shall transfer from the County of the First Class [State] Highway Projects Fund and the Transportation Investment Fund of 2005 to the 2010 Salt Lake County Revenue Bond Sinking Fund the amount certified by Salt Lake County that is necessary to pay:

(i) up to two times the debt service requirement necessary to pay debt service on the revenue bonds issued by Salt Lake County for that fiscal year; and

(ii) any additional amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements.

(d) Except as provided in Subsection (4)(b), and until the bonds issued by Salt Lake County as provided in the interlocal agreement required by Section 72-2-121.4 are paid off, the director of the Division of Finance shall, upon request from Salt Lake County, transfer to Salt Lake County or its designee from the 2010 Salt Lake County Revenue Bond Sinking Fund the amount certified by Salt Lake County as necessary to pay:

(i) the debt service on the revenue bonds issued by Salt Lake County as provided in the interlocal agreement required by Section 72-2-121.4; and

(ii) any additional amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements.

(5) Any money remaining in the 2010 Salt Lake County Revenue Bond Sinking Fund at the end of the fiscal year lapses to the County of the First Class [State] Highway Projects Fund.

Section 6. Section 72-2-121.4 is amended to read:

72-2-121.4. 2010 interlocal agreement governing state highway projects in Salt Lake County.

(1) Under the direction of the attorney general, the state of Utah and Salt Lake County may enter into an interlocal agreement that includes, at minimum, the provisions specified in this section.

(2) The attorney general shall ensure that, in the agreement, Salt Lake County covenants to:

(a) issue revenue bonds in an amount generating proceeds of at least \$77,000,000, together with additional amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements, and secured by revenues received from the state of Utah under Section 72-2-121.3;

(b) transfer at least \$68,500,000 to the Department of Transportation to be used for state highway projects in Salt Lake County as provided in the interlocal agreement; and

(c) use or transfer to a municipality to use \$8,500,000 to pay all or part of the costs of the following highway construction projects in Salt Lake County in the following amounts:

(i) \$2,000,000 to Salt Lake County for 2300 East in Salt Lake County;

(ii) \$3,500,000 to Salt Lake City for North Temple;

(iii) \$1,500,000 to Murray City for 4800 South; and

(iv) \$1,500,000 to Riverton City for 13400 South -- 4000 West to 4570 West.

(3) The attorney general shall ensure that, in the agreement, the state of Utah covenants to:

(a) use the money transferred by Salt Lake County under Subsection (2)(b) to pay all or part of the costs of the following state highway construction or reconstruction projects within Salt Lake County:

(i) 5400 South -- Bangerter Highway to 4000 West;

(ii) Bangerter Highway at SR-201;

(iii) 12300 South at State Street;

(iv) Bangerter Highway at 6200 South;

(v) Bangerter Highway at 7000 South;

(vi) Bangerter Highway at 3100 South;

(vii) 5400 South -- 4000 West to past 4800 West;

(viii) 9400 South and Wasatch Boulevard; and

(ix) I-215 West Interchange -- 3500 South to 3800 South and ramp work;

(b) widen and improve US-89 between 7200 South and 9000 South with available highway funding identified by the commission; and

(c) transfer to Salt Lake County or its designee from the 2010 Salt Lake County Revenue Bond Sinking Fund the amount certified by Salt Lake County as necessary to pay:

(i) the debt service on the revenue bonds issued by Salt Lake County; and

(ii) any additional amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements.

(4) The costs under Subsections (2)(c) and (3)(a) may include the cost of acquiring land, interests in land, easements and rights-of-way, improving sites, and making all improvements necessary, incidental, or convenient to the facilities and all related engineering, architectural, and legal fees.

(5) In preparing the agreement required by this section, the attorney general and Salt Lake County shall:

(a) review each existing interlocal agreement with Salt Lake County concerning Salt Lake County revenues received by the state for state highway projects within Salt Lake County; and

(b) as necessary, modify those agreements or draft a new interlocal agreement encompassing all of the provisions necessary to reflect the state of Utah's and Salt Lake County's obligations for those revenues and projects.

(6) If project savings are identified by the Department of Transportation from the funds provided to the Department of Transportation as described in Subsection (2)(b) and if the use of funds is not in violation of any agreement, the Department of Transportation shall provide \$1,000,000 of the funds described in Subsection (2)(b) to Draper City to pay for highway improvements to 13490 South.

(7) If project savings are identified from the funds provided to the Department of Transportation as described in Subsection (2)(b) and if the use of funds is not in violation of any agreement, the Department of Transportation shall provide \$3,000,000 of the funds described in Subsection (2)(b) and from funds in the County of the First Class [State] Highway Projects Fund created by Section 72-2-121 to fund the following highway projects:

(a) \$2,000,000 to West Valley City to pay for highway improvements to SR-201 Frontage Road at Bangerter Highway and associated roads to ease traffic flow onto Bangerter Highway between SR-201 and Lake Park Boulevard; and

(b) \$1,000,000 to West Valley City for improvements to SR-201 Frontage Road at 7200 West.

(8) If project savings are identified by the Department of Transportation from the funds provided to the Department of Transportation as described in Subsection (2)(b) and if the use of funds is not in violation of any agreement, the Department of Transportation shall provide \$1,100,000 of the funds described in Subsection (2)(b) and from funds in the County of the First Class [State] Highway Projects Fund created by Section 72-2-121 to West Jordan City for highway improvements on 4000 West from 7800 South to Old Bingham Highway.

(9) If project savings are identified by the Department of Transportation from the funds provided to the Department of Transportation as described in Subsection (2)(b) and if the use of funds is not in violation of any agreement, the Department of Transportation shall provide \$1,000,000 of the funds described in Subsection (2)(b) and from funds in the County of the First Class [State] Highway Projects Fund created by Section 72-2-121 to Midvale City to fund the following highway projects:

(a) \$500,000 to Midvale City for improvements to Union Park Avenue from I-215 exit south to Creek Road and Wasatch Boulevard; and

(b) \$500,000 to Midvale City for improvements to 7200 South from I-15 to 700 West.

(10) (a) (i) Before providing funds to a municipality or county under Subsections (7), (8), and (9), the Department of Transportation shall obtain from the municipality or county:

(A) a written certification signed by the county or city mayor or the mayor's designee certifying that the municipality or county will use the funds provided under Subsections (7), (8), and (9) solely for the projects described in Subsections (7), (8), and (9); and

(B) other documents necessary to protect the state and the bondholders and to ensure that all legal requirements are met.

(ii) Except as provided in Subsection (10)(b), by January 1 of each year, the municipality or county receiving funds described in Subsections (7), (8), and (9) shall submit to the Department of Transportation a statement of cash flow for the current fiscal year detailing the funds necessary to pay project costs for the projects described in Subsections (7), (8), and (9).

(iii) Except as provided in Subsection (10)(b), after receiving the statement required under Subsection (10)(a)(ii) and after July 1, the Department of Transportation shall provide funds to the municipality or county necessary to pay project costs for the current fiscal year based upon the statement of cash flow submitted by the municipality or county.

(iv) Upon the financial close of each project described in Subsections (7), (8), and (9), the municipality or county receiving funds under Subsections (7), (8), and (9) shall submit a statement to the Department of Transportation detailing the expenditure of funds received for each project.

(b) For calendar year 2012 only:

(i) the municipality or county shall submit to the Department of Transportation a statement of cash flow as provided in Subsection (10)(a)(ii) as soon as possible; and

(ii) the Department of Transportation shall provide funds to the municipality or county necessary to pay project costs based upon the statement of cash flow.

(c) The commission or the state treasurer may make any statement of intent relating to a reimbursement under this Subsection (10) that is necessary or desirable to comply with federal tax law.

Section 7. Section 72-2-124 is amended to read:

72-2-124. Transportation Investment Fund of 2005.

(1) There is created a capital projects fund entitled the Transportation Investment Fund of 2005.

(2) The fund consists of money generated from the following sources:

(a) any voluntary contributions received for the maintenance, construction, reconstruction, or renovation of state and federal highways;

(b) appropriations made to the fund by the Legislature;

(c) the sales and use tax revenues deposited into the fund in accordance with Section 59-12-103; and

(d) registration fees designated under Section 41-1a-1201.

(3) (a) The fund shall earn interest.

(b) All interest earned on fund money shall be deposited into the fund.

(4) (a) Except as provided in Subsection (4)(b), the executive director may use fund money only to pay:

(i) the costs of maintenance, construction, reconstruction, or renovation to state and federal highways prioritized by the Transportation Commission through the prioritization process for new transportation capacity projects adopted under Section 72-1-304;

(ii) the costs of maintenance, construction, reconstruction, or renovation to the highway projects described in Subsections 63B-18-401(2), (3), and (4);

(iii) principal, interest, and issuance costs of bonds authorized by Section 63B-18-401 minus the costs paid from the County of the First Class [State] Highway Projects Fund in accordance with Subsection 72-2-121(4)(~~e~~)(f); ~~and~~

(iv) for a fiscal year beginning on or after July 1, 2013, to transfer to the 2010 Salt Lake County Revenue Bond Sinking Fund created by Section 72-2-121.3 the amount certified by Salt Lake County in accordance with Subsection 72-2-121.3(4)(c) as necessary to pay the debt service on \$30,000,000 of the revenue bonds issued by Salt Lake County;

(v) principal, interest, and issuance costs of bonds authorized by Section 63B-16-101 for projects prioritized in accordance with Section 72-2-125;

(vi) all highway general obligation bonds that are intended to be paid from revenues in the Centennial Highway Fund created by Section 72-2-118; and

(vii) for fiscal year [~~2013-14~~] 2015-16 only, to transfer [~~up to \$13,250,000~~] \$25,000,000 to the County of the First Class [State] Highway Projects Fund created in Section 72-2-121 to be used for the purposes described in Section 72-2-121.

(b) The executive director may use fund money to exchange for an equal or greater amount of federal transportation funds to be used as provided in Subsection (4)(a).

(5) (a) Before bonds authorized by Section 63B-18-401 may be issued in any fiscal year, the department and the commission shall appear before the Executive Appropriations Committee of the Legislature and present the amount of bond proceeds that the department needs to provide

funding for the projects identified in Subsections 63B-18-401(2), (3), and (4) for the next fiscal year.

(b) The Executive Appropriations Committee of the Legislature shall review and comment on the amount of bond proceeds needed to fund the projects.

(6) The Division of Finance shall, from money deposited into the fund, transfer the amount of funds necessary to pay principal, interest, and issuance costs of bonds authorized by Section 63B-18-401 in the current fiscal year to the appropriate debt service or sinking fund.

(7) (a) The commission shall develop prior to June 30, 2015, a funding plan and identify a highway construction program using the prioritization process for new transportation capacity projects adopted under Section 72-1-304 that meets long-term transportation needs beyond the normal four year programming horizon.

(b) The commission shall report the plan and program established under Subsection (7)(a) to the Transportation Interim Committee of the Legislature by no later than September 30, 2015.

CHAPTER 422**S. B. 20**

Passed February 5, 2015
 Approved March 31, 2015
 Effective May 12, 2015

**UNIFORM DRIVER LICENSE
 ACT AMENDMENTS**

Chief Sponsor: Kevin T. Van Tassell
 House Sponsor: Don L. Ipson

LONG TITLE**General Description:**

This bill modifies the Uniform Driver License Act by amending provisions relating to commercial driver licenses.

Highlighted Provisions:

This bill:

- ▶ amends definitions;
- ▶ prohibits the Driver License Division from issuing a CDL to a person who is younger than 18 years of age at the time of application;
- ▶ provides that a CDL may be issued to an individual who is an out-of-state resident if the person qualifies for a non-domiciled CDL;
- ▶ provides that a temporary CDL may only be issued until June 30, 2015, to a person who is enrolled in a CDL driving training school located in Utah;
- ▶ adds a requirement to the CDL application that, beginning July 1, 2015, a person must hold a commercial driver instruction permit for a minimum of 14 days prior to taking the skills test, including a person who is upgrading a CDL class or endorsement requiring a skills test;
- ▶ adds a requirement to the commercial driver instruction permit application that a person must be 18 years of age or older to be eligible for a commercial driver instruction permit;
- ▶ authorizes the Driver License Division, beginning July 1, 2015, to accept a skills test result from another state or a party authorized by another state or jurisdiction that is compliant with certain federal requirements for issuance of a Utah CDL if the applicant holds a valid Utah commercial driver instruction permit at the time the test is administered;
- ▶ authorizes the Driver License Division or an authorized third party, beginning July 1, 2015, to administer a skills test to an out-of-state resident that holds a valid commercial driver instruction permit issued by a state or jurisdiction that is compliant with certain federal requirements;
- ▶ requires the Driver License Division or an authorized third party who administers a skills test to:
 - electronically transmit the skills test results for an out-of-state resident to the state or jurisdiction in which the out-of-state resident holds a valid commercial driver instruction permit; and
 - provide an out-of-state resident with documentary evidence upon successful completion of the test;
- ▶ authorizes the Driver License Division or an authorized third party to collect a fee when a

skills test is administered to an out-of-state resident; and

- ▶ makes technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53-3-204, as last amended by Laws of Utah 2014, Chapter 58
 53-3-205, as last amended by Laws of Utah 2014, Chapter 85
 53-3-402, as last amended by Laws of Utah 2013, Chapter 411
 53-3-407, as last amended by Laws of Utah 2014, Chapter 85
 53-3-408, as last amended by Laws of Utah 2006, Chapter 201

ENACTS:

53-3-401.1, Utah Code Annotated 1953

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

Section 1. Section 53-3-204 is amended to read:

53-3-204. Persons who may not be licensed.

- (1) (a) The division may not license a person who:
- (i) is younger than 16 years of age;
 - (ii) if the person is 18 years of age or younger, has not completed a course in driver training approved by the commissioner;
 - (iii) if the person is 19 years of age or older has not completed:
 - (A) a course in driver training approved by the commissioner; or
 - (B) the requirements under Subsection 53-3-210.5(6)(c);
 - (iv) if the person is a minor as defined in Section 53-3-211, has not completed the driving requirement under Section 53-3-211;
 - (v) is not a resident of the state, unless the person:
 - (A) is issued a temporary CDL under Subsection 53-3-407(2)(b) prior to July 1, 2015; or
 - (B) qualifies for a non-domiciled CDL as defined in 49 C.F.R. Part 383;
 - (vi) if the person is 17 years of age or younger, has not held a learner permit issued under Section 53-3-210.5 or an equivalent by another state or branch of the United States Armed Forces for six months; or
 - (vii) is younger than 18 years of age and applying for a CDL under 49 C.F.R. Part 383.
- (b) Subsections (1)(a)(i), (ii), (iii), (iv), and (vi) do not apply to a person:
- (i) who has been licensed before July 1, 1967; or
 - (ii) who is 16 years of age or older making application for a license who has been licensed in another state or country.

(2) The division may not issue a license certificate to a person:

(a) whose license has been suspended, denied, cancelled, or disqualified during the period of suspension, denial, cancellation, or disqualification;

(b) whose privilege has been revoked, except as provided in Section 53-3-225;

(c) who has previously been adjudged mentally incompetent and who has not at the time of application been restored to competency as provided by law;

(d) who is required by this chapter to take an examination unless the person successfully passes the examination;

(e) whose driving privileges have been denied or suspended under:

(i) Section 78A-6-606 by an order of the juvenile court; or

(ii) Section 53-3-231; or

(f) beginning on or after July 1, 2012, who holds an unexpired Utah identification card issued under Part 8, Identification Card Act, unless:

(i) the Utah identification card is canceled; and

(ii) if the Utah identification card is in the person's possession, the Utah identification card is surrendered to the division.

(3) (a) Except as provided in Subsection (3)(c), the division may not grant a motorcycle endorsement to a person who:

(i) has not been granted an original or provisional class D license, a CDL, or an out-of-state equivalent to an original or provisional class D license or a CDL; and

(ii) if the person is under 19 years of age, has not held a motorcycle learner permit for two months unless Subsection (3)(b) applies.

(b) The division may waive the two month motorcycle learner permit holding period requirement under Subsection (3)(a)(ii) if the person proves to the satisfaction of the division that the person has completed a motorcycle rider education program that meets the requirements under Section 53-3-903.

(c) The division may grant a motorcycle endorsement to a person under 19 years of age who has not held a motorcycle learner permit for two months if the person was issued a motorcycle endorsement prior to July 1, 2008.

(4) The division may grant a class D license to a person whose commercial license is disqualified under Part 4, Uniform Commercial Driver License Act, if the person is not otherwise sanctioned under this chapter.

Section 2. Section 53-3-205 is amended to read:

53-3-205. Application for license or endorsement -- Fee required -- Tests -- Expiration dates of licenses and endorsements -- Information required -- Previous licenses surrendered -- Driving record transferred from other states -- Reinstatement -- Fee required -- License agreement.

(1) An application for any original license, provisional license, or endorsement shall be:

(a) made upon a form furnished by the division; and

(b) accompanied by a nonrefundable fee set under Section 53-3-105.

(2) An application and fee for an original provisional class D license or an original class D license entitle the applicant to:

(a) not more than three attempts to pass both the knowledge and the skills tests for a class D license within six months of the date of the application;

(b) a learner permit if needed pending completion of the application and testing process; and

(c) an original class D license and license certificate after all tests are passed and requirements are completed.

(3) An application and fee for a motorcycle or taxicab endorsement entitle the applicant to:

(a) not more than three attempts to pass both the knowledge and skills tests within six months of the date of the application;

(b) a motorcycle learner permit after the motorcycle knowledge test is passed; and

(c) a motorcycle or taxicab endorsement when all tests are passed.

(4) An application and fees for a commercial class A, B, or C license entitle the applicant to:

(a) not more than two attempts to pass a knowledge test and not more than two attempts to pass a skills test within six months of the date of the application;

(b) a commercial driver instruction permit if needed after the knowledge test is passed; and

(c) an original commercial class A, B, or C license and license certificate when all applicable tests are passed.

(5) An application and fee for a CDL endorsement entitle the applicant to:

(a) not more than two attempts to pass a knowledge test and not more than two attempts to pass a skills test within six months of the date of the application; and

(b) a CDL endorsement when all tests are passed.

(6) (a) If a CDL applicant does not pass a knowledge test, skills test, or an endorsement test

within the number of attempts provided in Subsection (4) or (5), each test may be taken two additional times within the six months for the fee provided in Section 53-3-105.

(b) (i) Beginning July 1, 2015, an out-of-state resident who holds a valid CDIP issued by a state or jurisdiction that is compliant with 49 C.F.R. Part 383 may take a skills test administered by the division if the out-of-state resident pays the fee provided in Subsection 53-3-105(20)(b).

(ii) The division shall:

(A) electronically transmit skills test results for an out-of-state resident to the licensing agency in the state or jurisdiction in which the person has obtained a valid CDIP; and

(B) provide the out-of-state resident with documentary evidence upon successful completion of the skills test.

(7) (a) Except as provided under Subsections (7)(f), (g), and (h), an original license expires on the birth date of the applicant in the fifth year following the year the license certificate was issued.

(b) Except as provided under Subsections (7)(f), (g), and (h), a renewal or an extension to a license expires on the birth date of the licensee in the fifth year following the expiration date of the license certificate renewed or extended.

(c) Except as provided under Subsections (7)(f) and (g), a duplicate license expires on the same date as the last license certificate issued.

(d) An endorsement to a license expires on the same date as the license certificate regardless of the date the endorsement was granted.

(e) (i) A regular license certificate and any endorsement to the regular license certificate held by a person described in Subsection (7)(e)(ii), which expires during the time period the person is stationed outside of the state, is valid until 90 days after the person's orders have been terminated, the person has been discharged, or the person's assignment has been changed or terminated, unless:

(A) the license is suspended, disqualified, denied, or has been cancelled or revoked by the division; or

(B) the licensee updates the information or photograph on the license certificate.

(ii) The provisions in Subsection (7)(e)(i) apply to a person:

(A) ordered to active duty and stationed outside of Utah in any of the armed forces of the United States;

(B) who is an immediate family member or dependent of a person described in Subsection (7)(e)(ii)(A) and is residing outside of Utah;

(C) who is a civilian employee of the United States State Department or United States Department of Defense and is stationed outside of the United States; or

(D) who is an immediate family member or dependent of a person described in Subsection (7)(e)(ii)(C) and is residing outside of the United States.

(f) (i) Except as provided in Subsection (7)(f)(ii), a limited-term license certificate or a renewal to a limited-term license certificate expires:

(A) on the expiration date of the period of time of the individual's authorized stay in the United States or on the date provided under this Subsection (7), whichever is sooner; or

(B) on the date of issuance in the first year following the year that the limited-term license certificate was issued if there is no definite end to the individual's period of authorized stay.

(ii) A limited-term license certificate or a renewal to a limited-term license certificate issued to an approved asylee or a refugee expires on the birth date of the applicant in the fourth year following the year that the limited-term license certificate was issued.

(g) A driving privilege card issued or renewed under Section 53-3-207 expires on the birth date of the applicant in the first year following the year that the driving privilege card was issued or renewed.

(h) An original license or a renewal to an original license expires on the birth date of the applicant in the first year following the year that the license was issued if the applicant is required to register as a sex offender in accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry.

(8) (a) In addition to the information required by Title 63G, Chapter 4, Administrative Procedures Act, for requests for agency action, each applicant shall:

(i) provide:

(A) the applicant's full legal name;

(B) the applicant's birth date;

(C) the applicant's gender;

(D) (I) documentary evidence of the applicant's valid Social Security number;

(II) written proof that the applicant is ineligible to receive a Social Security number;

(III) the applicant's temporary identification number (ITIN) issued by the Internal Revenue Service for a person who:

(Aa) does not qualify for a Social Security number; and

(Bb) is applying for a driving privilege card; or

(IV) other documentary evidence approved by the division;

(E) the applicant's Utah residence address as documented by a form or forms acceptable under rules made by the division under Section 53-3-104, unless the application is for a temporary CDL issued under Subsection 53-3-407(2)(b); and

(F) fingerprints and a photograph in accordance with Section 53-3-205.5 if the person is applying for a driving privilege card;

(ii) provide evidence of the applicant's lawful presence in the United States by providing documentary evidence:

(A) that a person is:

(I) a United States citizen;

(II) a United States national; or

(III) a legal permanent resident alien; or

(B) of the applicant's:

(I) unexpired immigrant or nonimmigrant visa status for admission into the United States;

(II) pending or approved application for asylum in the United States;

(III) admission into the United States as a refugee;

(IV) pending or approved application for temporary protected status in the United States;

(V) approved deferred action status;

(VI) pending application for adjustment of status to legal permanent resident or conditional resident; or

(VII) conditional permanent resident alien status;

(iii) provide a description of the applicant;

(iv) state whether the applicant has previously been licensed to drive a motor vehicle and, if so, when and by what state or country;

(v) state whether the applicant has ever had any license suspended, cancelled, revoked, disqualified, or denied in the last 10 years, or whether the applicant has ever had any license application refused, and if so, the date of and reason for the suspension, cancellation, revocation, disqualification, denial, or refusal;

(vi) state whether the applicant intends to make an anatomical gift under Title 26, Chapter 28, Revised Uniform Anatomical Gift Act, in compliance with Subsection (15);

(vii) state whether the applicant is required to register as a sex offender in accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry;

(viii) state whether the applicant is a veteran of the United States military, provide verification that the applicant was granted an honorable or general discharge from the United States Armed Forces, and state whether the applicant does or does not authorize sharing the information with the state Department of Veterans' and Military Affairs;

(ix) provide all other information the division requires; and

(x) sign the application which signature may include an electronic signature as defined in Section 46-4-102.

(b) Each applicant shall have a Utah residence address, unless the application is for a temporary CDL issued under Subsection 53-3-407(2)(b).

(c) Each applicant shall provide evidence of lawful presence in the United States in accordance with Subsection (8)(a)(ii), unless the application is for a driving privilege card.

(d) The division shall maintain on its computerized records an applicant's:

(i) (A) Social Security number;

(B) temporary identification number (ITIN); or

(C) other number assigned by the division if Subsection (8)(a)(i)(D)(IV) applies; and

(ii) indication whether the applicant is required to register as a sex offender in accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry.

(9) The division shall require proof of every applicant's name, birthdate, and birthplace by at least one of the following means:

(a) current license certificate;

(b) birth certificate;

(c) Selective Service registration; or

(d) other proof, including church records, family Bible notations, school records, or other evidence considered acceptable by the division.

(10) (a) Except as provided in Subsection (10)(c), if an applicant receives a license in a higher class than what the applicant originally was issued:

(i) the license application shall be treated as an original application; and

(ii) license and endorsement fees shall be assessed under Section 53-3-105.

(b) An applicant that receives a downgraded license in a lower license class during an existing license cycle that has not expired:

(i) may be issued a duplicate license with a lower license classification for the remainder of the existing license cycle; and

(ii) shall be assessed a duplicate license fee under Subsection 53-3-105(22) if a duplicate license is issued under Subsection (10)(b)(i).

(c) An applicant who has received a downgraded license in a lower license class under Subsection (10)(b):

(i) may, when eligible, receive a duplicate license in the highest class previously issued during a license cycle that has not expired for the remainder of the existing license cycle; and

(ii) shall be assessed a duplicate license fee under Subsection 53-3-105(22) if a duplicate license is issued under Subsection (10)(c)(i).

(11) (a) When an application is received from a person previously licensed in another state to drive

a motor vehicle, the division shall request a copy of the driver's record from the other state.

(b) When received, the driver's record becomes part of the driver's record in this state with the same effect as though entered originally on the driver's record in this state.

(12) An application for reinstatement of a license after the suspension, cancellation, disqualification, denial, or revocation of a previous license shall be accompanied by the additional fee or fees specified in Section 53-3-105.

(13) A person who has an appointment with the division for testing and fails to keep the appointment or to cancel at least 48 hours in advance of the appointment shall pay the fee under Section 53-3-105.

(14) A person who applies for an original license or renewal of a license agrees that the person's license is subject to any suspension or revocation authorized under this title or Title 41, Motor Vehicles.

(15) (a) The indication of intent under Subsection (8)(a)(vi) shall be authenticated by the licensee in accordance with division rule.

(b) (i) Notwithstanding Title 63G, Chapter 2, Government Records Access and Management Act, the division may, upon request, release to an organ procurement organization, as defined in Section 26-28-102, the names and addresses of all persons who under Subsection (8)(a)(vi) indicate that they intend to make an anatomical gift.

(ii) An organ procurement organization may use released information only to:

(A) obtain additional information for an anatomical gift registry; and

(B) inform licensees of anatomical gift options, procedures, and benefits.

(16) Notwithstanding Title 63G, Chapter 2, Government Records Access and Management Act, the division may release to the Department of Veterans' and Military Affairs the names and addresses of all persons who indicate their status as a veteran under Subsection (8)(a)(viii).

(17) The division and its employees are not liable, as a result of false or inaccurate information provided under Subsection (8)(a)(vi) or (viii), for direct or indirect:

(a) loss;

(b) detriment; or

(c) injury.

(18) A person who knowingly fails to provide the information required under Subsection (8)(a)(vii) is guilty of a class A misdemeanor.

(19) (a) Until December 1, 2014, a person born on or after December 1, 1964, may hold both an unexpired Utah license certificate and an unexpired Utah identification card.

(b) On or after December 1, 2014, a person born on or after December 1, 1964:

(i) may not hold both an unexpired Utah license certificate and an unexpired identification card; and

(ii) if the person has both an unexpired Utah license certificate and an unexpired Utah identification card in the person's possession, shall be required to surrender either the unexpired Utah license certificate or the unexpired Utah identification card.

(c) If a person has not surrendered either the Utah license certificate or the Utah identification card as required under this Subsection (19), the division shall cancel the Utah identification card on December 1, 2014.

(20) (a) Until December 1, 2017, a person born prior to December 1, 1964, may hold both an unexpired Utah license certificate and an unexpired Utah identification card.

(b) On or after December 1, 2017, a person born prior to December 1, 1964:

(i) may not hold both an unexpired Utah license certificate and an unexpired identification card; and

(ii) if the person has both an unexpired Utah license certificate and an unexpired Utah identification card in the person's possession, shall be required to surrender either the unexpired Utah license certificate or the unexpired Utah identification card.

(c) If a person has not surrendered either the Utah license certificate or the Utah identification card as required under this Subsection (20), the division shall cancel the Utah identification card on December 1, 2017.

(21) (a) A person who applies for an original motorcycle endorsement to a regular license certificate is exempt from the requirement to pass the knowledge and skills test to be eligible for the motorcycle endorsement if the person:

(i) is a resident of the state of Utah;

(ii) (A) is ordered to active duty and stationed outside of Utah in any of the armed forces of the United States; or

(B) is an immediate family member or dependent of a person described in Subsection (21)(a)(ii)(A) and is residing outside of Utah;

(iii) has a digitized driver license photo on file with the division;

(iv) provides proof to the division of the successful completion of a certified Motorcycle Safety Foundation rider training course; and

(v) provides the necessary information and documentary evidence required under Subsection (8).

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules:

(i) establishing the procedures for a person to obtain a motorcycle endorsement under this Subsection (21); and

(ii) identifying the applicable restrictions for a motorcycle endorsement issued under this Subsection (21).

Section 3. Section 53-3-401.1 is enacted to read:

53-3-401.1. Conflict with Federal Motor Carrier Safety Regulations.

Federal Motor Carrier Safety Regulations supercede any conflicting provisions of this chapter pertaining to licensing of commercial motor vehicle operators.

Section 4. Section 53-3-402 is amended to read:

53-3-402. Definitions.

As used in this part:

(1) "Alcohol" means any substance containing any form of alcohol, including ethanol, methanol, propanol, and isopropanol.

(2) "Alcohol concentration" means the number of grams of alcohol per:

- (a) 100 milliliters of blood;
- (b) 210 liters of breath; or
- (c) 67 milliliters of urine.

(3) "Commercial driver instruction permit" or "CDIP" means a commercial learner permit:

- (a) issued under Section 53-3-408[.]; or
- (b) issued by a state or other jurisdiction of domicile in compliance with the standards contained in 49 C.F.R. Part 383.

(4) "Commercial driver license information system" or "CDLIS" means the information system established under Title XII, Pub. L. 99-570, the Commercial Motor Vehicle Safety Act of 1986, as a clearinghouse for information related to the licensing and identification of commercial motor vehicle drivers.

(5) "Controlled substance" means any substance so classified under Section 102(6) of the Controlled Substance Act, 21 U.S.C. 802(6), and includes all substances listed on the current Schedules I through V of 21 C.F.R., Part 1308 as they may be revised from time to time.

(6) "Employee" means any driver of a commercial motor vehicle, including:

- (a) full-time, regularly employed drivers;
- (b) casual, intermittent, or occasional drivers;
- (c) leased drivers; and

(d) independent, owner-operator contractors while in the course of driving a commercial motor vehicle who are either directly employed by or under lease to an employer.

(7) "Employer" means any individual or person including the United States, a state, or a political subdivision of a state, who owns or leases a commercial motor vehicle, or assigns an individual to drive a commercial motor vehicle.

(8) "Felony" means any offense under state or federal law that is punishable by death or imprisonment for a term of more than one year.

(9) "Foreign jurisdiction" means any jurisdiction other than the United States or a state of the United States.

(10) "Gross vehicle weight rating" or "GVWR" means the value specified by the manufacturer as the maximum loaded weight of a single vehicle or GVWR of a combination or articulated vehicle, and includes the GVWR of the power unit plus the total weight of all towed units and the loads on those units.

(11) "Hazardous material" has the same meaning as defined under 49 C.F.R. Sec. 383.5.

(12) "Imminent hazard" means the existence of a condition, practice, or violation that presents a substantial likelihood that death, serious illness, severe personal injury, or a substantial endangerment to health, property, or the environment is expected to occur immediately, or before the condition, practice, or violation can be abated.

(13) "Medical certification status" means the medical certification of a commercial driver license holder or commercial motor vehicle operator in any of the following categories:

(a) Non-excepted interstate. A person shall certify that the person:

(i) operates or expects to operate in interstate commerce;

(ii) is both subject to and meets the qualification requirements under 49 C.F.R. Part 391; and

(iii) is required to obtain a medical examiner's certificate under 49 C.F.R. Sec. 391.45.

(b) Excepted interstate. A person shall certify that the person:

(i) operates or expects to operate in interstate commerce, but engages exclusively in transportation or operations excepted under 49 C.F.R. Sec. 390.3(f), 391.2, 391.68, or 398.3 from all or parts of the qualification requirements of 49 C.F.R. Part 391; and

(ii) is not required to obtain a medical examiner's certificate under 49 C.F.R. Sec. 391.45.

(c) Non-excepted intrastate. A person shall certify that the person:

(i) operates only in intrastate commerce; and

(ii) is subject to state driver qualification requirements under Sections 53-3-303.5, 53-3-304, and 53-3-414.

(d) Excepted intrastate. A person shall certify that the person:

(i) operates in intrastate commerce; and

(ii) engages exclusively in transportation or operations excepted from all parts of the state driver qualification requirements.

(14) "NDR" means the National Driver Register.

(15) "Nonresident CDL" means a commercial driver license issued by a state to an individual who resides in a foreign jurisdiction.

(16) "Out-of-service order" means a temporary prohibition against driving a commercial motor vehicle.

(17) "Port-of-entry agent" has the same meaning as provided in Section 72-1-102.

(18) "Serious traffic violation" means a conviction of any of the following:

(a) speeding 15 or more miles per hour above the posted speed limit;

(b) reckless driving as defined by state or local law;

(c) improper or erratic traffic lane changes;

(d) following the vehicle ahead too closely;

(e) any other motor vehicle traffic law which arises in connection with a fatal traffic accident;

(f) operating a commercial motor vehicle without a CDL or a CDIP;

(g) operating a commercial motor vehicle without the proper class of CDL or CDL endorsement for the type of vehicle group being operated or for the passengers or cargo being transported;

(h) operating a commercial motor vehicle without a CDL or CDIP license certificate in the driver's possession in violation of Section 53-3-404;

(i) using a handheld wireless communication device in violation of Section 41-6a-1716 while operating a commercial motor vehicle; or

(j) using a hand-held mobile telephone while operating a commercial motor vehicle in violation of 49 C.F.R. Sec. 392.82.

(19) "State" means a state of the United States, the District of Columbia, any province or territory of Canada, or Mexico.

(20) "United States" means the 50 states and the District of Columbia.

Section 5. Section 53-3-407 is amended to read:

53-3-407. Qualifications for commercial driver license -- Fee -- Third parties may administer skills test.

(1) (a) As used in this section, "CDL driver training school" means a business enterprise conducted by an individual, association, partnership, or corporation that:

(i) educates and trains persons, either practically or theoretically, or both, to drive commercial motor vehicles; and

(ii) prepares an applicant for an examination under Subsection (2)(a)(~~iii~~)(iii) or (2)(~~b~~)(c)(i)(B).

(b) A CDL driver training school may charge a consideration or tuition for the services provided under Subsection (1)(a).

(2) (a) Except as provided in [~~Subsection (2)(b) and (c)~~] Subsections (2)(c) and (d), a CDL may be issued only to a person who:

(i) is a resident of this state or is an out-of-state resident if the person qualifies for a non-domiciled CDL as defined in 49 C.F.R. Part 383;

(ii) beginning July 1, 2015, has held a CDIP for a minimum of 14 days prior to taking the skills test under 49 C.F.R. Part 383, including a person who is upgrading a CDL class or endorsement requiring a skills test under 49 C.F.R. Part 383;

~~(iii)~~ (iii) has passed a test of knowledge and skills for driving a commercial motor vehicle, that complies with minimum standards established by federal regulation in 49 C.F.R. Part 383, Subparts G and H; and

~~(iv)~~ (iv) has complied with all requirements of 49 C.F.R. Part 383 and other applicable state laws and federal regulations.

(b) A person who applies for a CDL is exempt from the requirement to pass a skills test to be eligible for the license if the person:

(i) is a resident of the state of Utah;

(ii) has successfully completed a skills test administered by a state or a party authorized by a state or jurisdiction that is compliant with 49 C.F.R. Part 383; and

(iii) held a valid Utah CDIP at the time the test was administered.

~~(b)~~ (c) (i) [A] Until June 30, 2015, a temporary CDL may be issued to [a person] an out-of-state resident who:

(A) is enrolled in a CDL driver training school located in Utah;

(B) has passed a test of knowledge and skills for driving a commercial motor vehicle, that complies with minimum standards established by federal regulation in 49 C.F.R. Part 383, Subparts G and H; and

(C) has complied with all requirements of 49 C.F.R. Part 383, Subparts G and H.

(ii) A temporary CDL issued under this Subsection (2)(~~b~~)(c):

(A) is valid for 60 days; and

(B) may not be renewed or extended.

(iii) Except as provided in this section and Subsections 53-3-204(1)(a)(v), 53-3-205(8)(a)(i)(E) and (8)(b), and 53-3-410(1)(c), the provisions, requirements, classes,

endorsements, fees, restrictions, and sanctions under this code apply to a temporary CDL issued under this Subsection (2)(~~(b)~~)(c) in the same way as a commercial driver license issued under this part.

[~~(e)~~] (d) The department shall waive the skills test specified in this section for a commercial driver license applicant who, subject to the limitations and requirements of 49 C.F.R. Sec. 383.77, meets all certifications required for a waiver under 49 C.F.R. Sec. 383.77 and certifies that the applicant:

(i) is a member of the active or reserve components of any branch or unit of the armed forces or a veteran who received an honorable or general discharge from any branch or unit of the active or reserve components of the United States Armed Forces;

(ii) is or was regularly employed in a position in the armed forces requiring operation of a commercial motor vehicle; and

(iii) has legally operated, while on active duty for at least two years immediately preceding application for a commercial driver license, a vehicle representative of the commercial motor vehicle the driver applicant operates or expects to operate.

[~~(d)~~] (e) An applicant who requests a waiver under Subsection (2)(~~(e)~~)(d) shall present a completed application for a military skills test waiver at the time of the request.

(3) Tests required under this section shall be prescribed and administered by the division.

(4) The division shall authorize a person, an agency of this state, an employer, a private driver training facility or other private institution, or a department, agency, or entity of local government to administer the skills test required under this section if:

(a) the test is the same test as prescribed by the division, and is administered in the same manner; and

(b) the party authorized under this section to administer the test has entered into an agreement with the state that complies with the requirements of 49 C.F.R. Sec. 383.75.

(5) (a) Beginning July 1, 2015, an out-of-state resident who holds a valid CDIP issued by a state or jurisdiction that is compliant with 49 C.F.R. Part 383 may take a skills test administered by a party authorized under this section.

(b) A person authorized under this section to administer the skills test may charge a fee for administration of the skills test.

(c) A person authorized under this section to administer the skills test shall:

(i) electronically transmit skills test results for an out-of-state resident to the licensing agency in the state or jurisdiction in which the person has obtained a valid CDIP; and

(ii) provide the out-of-state resident with documentary evidence upon successful completion of the skills test.

[~~(5)~~] (6) A person who has an appointment with the division for testing and fails to keep the appointment or to cancel at least 48 hours in advance of the appointment shall pay the fee under Section 53-3-105.

[~~(6)~~] (7) A person authorized under this section to administer the skills test is not criminally or civilly liable for the administration of the test unless he administers the test in a grossly negligent manner.

[~~(7)~~] (8) The division may waive the skills test required under this section if it determines that the applicant meets the requirements of 49 C.F.R. Sec. 383.77.

Section 6. Section 53-3-408 is amended to read:

53-3-408. Qualifications for commercial driver instruction permit.

(1) The division may issue a CDIP to a person who:

(a) is 18 years of age or older;

[~~(a)~~] (b) holds a valid license;

[~~(b)~~] (c) has at least one year of driving experience; and

[~~(c)~~] (d) has passed the vision and knowledge test for the class of license for which [~~he~~] the person is applying.

(2) A CDIP may be:

(a) issued only for a period not to exceed six months; and

(b) renewed or issued again only once within a two-year period.

(3) The holder of a CDIP may drive a commercial motor vehicle on a highway only when accompanied by a person who:

(a) (i) holds a CDL valid for the [~~type~~] class and endorsements of commercial motor vehicle driven; or

(ii) is certified by the division to administer driver licensing examinations to CDL applicants; and

(b) occupies a seat beside the individual for the purpose of:

(i) giving the driver instruction regarding the driving of the commercial motor vehicle; or

(ii) administering a driver licensing examination to a CDL applicant.

(4) A CDL or CDIP may not be issued to a person:

(a) subject to disqualification from driving a commercial motor vehicle; or

(b) whose license is suspended, revoked, or canceled in any state.

(5) A CDL or CDIP may not be issued to a person until the person has surrendered all license certificates the person holds to the division for cancellation.

CHAPTER 423**S. B. 23**

Passed February 26, 2015

Approved March 31, 2015

Effective May 12, 2015

STATE HIGHWAY SYSTEM AMENDMENTS

Chief Sponsor: Kevin T. Van Tassell

House Sponsor: Johnny Anderson

LONG TITLE**General Description:**

This bill modifies the Designation of State Highways Act by amending state highway descriptions.

Highlighted Provisions:

This bill:

- ▶ adds SR-129 to the state highway system;
- ▶ amends the description of SR-130 in the Cedar City area;
- ▶ amends the description of SR-145 in the Saratoga Springs area;
- ▶ deletes SR-146 from the state highway system;
- ▶ amends the description of SR-193 in the Clearfield area; and
- ▶ makes technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

72-4-118, as last amended by Laws of Utah 2012, Chapter 336

72-4-120, as last amended by Laws of Utah 2011, Chapter 127

72-4-125, as last amended by Laws of Utah 2012, Chapter 336

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

Section 1. Section 72-4-118 is amended to read:**72-4-118. State highways -- SR-121 to SR-130.**

State highways include:

(1) SR-121. From Route 40 in Roosevelt northerly to Neola; then easterly through LaPoint and Maeser to Route 40 in Vernal.

(2) SR-122. From the Utah Railway right-of-way line near Hiawatha easterly to Route 10 near Carbon-Emery County line.

(3) SR-123. From Route 6 at Sunnyside Junction easterly to Sunnyside.

(4) SR-124. From Horse Canyon coal mine northerly through Columbia Junction to Route 123.

(5) SR-125. From Route 50 east of Delta easterly to Oak City; then northerly to Route 132 near Leamington.

(6) SR-126. From Fort Lane at Layton Parkway Interchange northerly to Route 89 at Hot Springs Junction.

(7) SR-127. From Route 110 easterly on Syracuse Road to a junction with Route 108 in Syracuse.

(8) SR-128. From Route 191 near Moab northeasterly along south bank of Colorado River to Dewey; then northerly to Route 70 approximately six miles west of Cisco.

(9) SR-129. From Route 89 in Lindon westerly on 700 North; then northerly on North County Boulevard to Route 92 in Highland.

~~(9)~~ (10) SR-130. From ~~Route 15 northerly~~ Royal Hunte Drive east on Cross Hollow Road; then northerly on Main Street through Cedar City to Route 21 north of Minersville.

Section 2. Section 72-4-120 is amended to read:**72-4-120. State highways -- SR-141 to SR-145, SR-147 to SR-151.**

State highways include:

(1) SR-141. From Route 6 in Genola to Route 147 west of Payson.

(2) SR-142. From Route 23 near Newton to Clarkston; then easterly through Trenton to Route 91 in Richmond.

(3) SR-143. From Route 15 west of Parowan easterly through Parowan, then southerly to the Panguitch Lake Road, then easterly and northerly coincident with the Panguitch Lake Road to Route 89 in Panguitch.

(4) SR-144. From Route 92 in American Fork Canyon northerly to Tibble Fork Reservoir.

(5) SR-145. From Route ~~68~~ 73 in Saratoga Springs easterly on Pioneer Crossing to Route 89 in American Fork.

~~(6) SR-146. From Route 89 at Pleasant Grove northerly to Route 92 near the mouth of American Fork Canyon.]~~

~~(7)~~ (6) SR-147. From Route 141, McBeth Corner; then northerly four miles; then east approximately three miles to Benjamin; then north approximately one mile; then easterly crossing Route 89 one mile; then north to Mapleton; then west to Route 89.

~~(8)~~ (7) SR-148. From Route 14 north to Cedar Breaks National Monument south boundary.

~~(9)~~ (8) SR-149. From Route 40 at Jensen northerly to Dinosaur National Monument boundary.

~~(10)~~ (9) SR-150. From Route 32 in Kamas easterly to Mirror Lake and northerly to Utah-Wyoming state line.

~~(11)~~ (10) SR-151. From Route 154 east on 10400 South Street to 1300 West Street; then southeasterly to 10600 South Street; then east on 10600 South Street to Route 15.

Section 3. Section 72-4-125 is amended to read:

72-4-125. State highways -- SR-191, SR-193, SR-196, SR-198 to SR-200.

State highways include:

(1) SR-191. From the Utah-Arizona state line south of Bluff northerly through Blanding, Monticello, and Moab to Route 70 at Crescent Junction; then beginning again from Route 6 north of Helper northerly through Indian Canyon to Route 40 at Duchesne; then beginning again from Route 40 at Vernal northerly through Greendale Junction and Dutch John to the Utah-Wyoming state line.

(2) SR-193. From Route [126] 108 in Clearfield east through the south entrance to Hill Air Force Base to Route 89.

(3) SR-196. From Route 199 near the control gate at Dugway Proving Grounds northerly via the Skull Valley Road to the west bound on and off ramps of Route 80 at the Rowley Junction Interchange.

(4) SR-198. From Route 15 northbound ramps of the North Santaquin Interchange northeasterly through Spring Lake, to 100 North in Payson; then easterly and northeasterly through Salem to 300 South in Spanish Fork; then easterly and southeasterly to Route 6 at Moark Junction.

(5) SR-199. From Route 196 north of the Dugway Proving Grounds main gate northeasterly through Clover to Route 36.

(6) SR-200. From Route 61 in Lewiston, approximately three miles west of Route 91, north to the Utah-Idaho state line.

CHAPTER 424**S. B. 25**

Passed February 9, 2015
 Approved March 31, 2015
 Effective May 12, 2015

**RESOURCE DEVELOPMENT
 COORDINATING COMMITTEE
 REAUTHORIZATION**

Chief Sponsor: Margaret Dayton
 House Sponsor: Jack R. Draxler

LONG TITLE**General Description:**

This bill amends Title 63I, Chapter 1, Legislative Oversight and Sunset Act.

Highlighted Provisions:

This bill:

- ▶ reauthorizes the Resource Development Coordinating Committee until July 1, 2025; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63I-1-263, as last amended by Laws of Utah 2014, Chapters 113, 189, 195, 211, 419, 429, and 435

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

Section 1. Section 63I-1-263 is amended to read:**63I-1-263. Repeal dates, Titles 63A to 63M.**

(1) Section 63A-4-204, authorizing the Risk Management Fund to provide coverage to any public school district which chooses to participate, is repealed July 1, 2016.

(2) Subsection 63A-5-104(4)(h) is repealed on July 1, 2024.

(3) Section 63A-5-603, State Facility Energy Efficiency Fund, is repealed July 1, 2016.

(4) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July 1, 2018.

(5) Title 63C, Chapter 14, Federal Funds Commission, is repealed July 1, 2018.

(6) Title 63C, Chapter 15, Prison Relocation Commission, is repealed July 1, 2017.

(7) Subsection 63G-6a-1402(7) authorizing certain transportation agencies to award a contract for a design-build transportation project in certain circumstances, is repealed July 1, 2015.

(8) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1, 2020.

(9) ~~[The Resource Development Coordinating Committee, created in Section 63J-4-501, is repealed July 1, 2015.]~~ On July 1, 2025:

(a) in Subsection 17-27a-404(3)(c)(ii), the language that states “the Resource Development Coordinating Committee,” is repealed;

(b) Subsection 23-14-21(2)(c) is amended to read “(c) provide notification of proposed sites for the transplant of species to local government officials having jurisdiction over areas that may be affected by a transplant.”;

(c) in Subsection 23-14-21(3), the language that states “and the Resource Development Coordinating Committee” is repealed;

(d) in Subsection 23-21-2.3(1), the language that states “the Resource Development Coordinating Committee created in Section 63J-4-501 and” is repealed;

(e) in Subsection 23-21-2.3(2), the language that states “the Resource Development Coordinating Committee and” is repealed;

(f) Subsection 63J-4-102(1) is repealed and the remaining subsections are renumbered accordingly;

(g) Subsections 63J-4-401(5)(a) and (c) are repealed;

(h) Subsection 63J-4-401(5)(b) is renumbered to Subsection 63J-4-401(5)(a) and the word “and” is inserted immediately after the semicolon;

(i) Subsection 63J-4-401(5)(d) is renumbered to Subsection 63J-4-401(5)(b);

(j) Sections 63J-4-501, 63J-4-502, 63J-4-503, 63J-4-504, and 63J-4-505 are repealed; and

(k) Subsection 63J-4-603(1)(e)(iv) is repealed and the remaining subsections are renumbered accordingly.

(10) Title 63M, Chapter 1, Part 4, Enterprise Zone Act, is repealed July 1, 2018.

(11) (a) Title 63M, Chapter 1, Part 11, Recycling Market Development Zone Act, is repealed January 1, 2021.

(b) Subject to Subsection (11)(c), Sections 59-7-610 and 59-10-1007 regarding tax credits for certain persons in recycling market development zones, are repealed for taxable years beginning on or after January 1, 2021.

(c) A person may not claim a tax credit under Section 59-7-610 or 59-10-1007:

(i) for the purchase price of machinery or equipment described in Section 59-7-610 or 59-10-1007, if the machinery or equipment is purchased on or after January 1, 2021; or

(ii) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), if the expenditure is made on or after January 1, 2021.

(d) Notwithstanding Subsections (11)(b) and (c), a person may carry forward a tax credit in accordance with Section 59-7-610 or 59-10-1007 if:

(i) the person is entitled to a tax credit under Section 59-7-610 or 59-10-1007; and

(ii) (A) for the purchase price of machinery or equipment described in Section 59-7-610 or 59-10-1007, the machinery or equipment is purchased on or before December 31, 2020; or

(B) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), the expenditure is made on or before December 31, 2020.

(12) Section 63M-1-3412 is repealed on July 1, 2021.

(13) (a) Section 63M-1-2507, Health Care Compact is repealed on July 1, 2014.

(b) (i) The Legislature shall, before reauthorizing the Health Care Compact:

(A) direct the Health System Reform Task Force to evaluate the issues listed in Subsection (13)(b)(ii), and by January 1, 2013, develop and recommend criteria for the Legislature to use to negotiate the terms of the Health Care Compact; and

(B) prior to July 1, 2014, seek amendments to the Health Care Compact among the member states that the Legislature determines are appropriate after considering the recommendations of the Health System Reform Task Force.

(ii) The Health System Reform Task Force shall evaluate and develop criteria for the Legislature regarding:

(A) the impact of the Supreme Court ruling on the Affordable Care Act;

(B) whether Utah is likely to be required to implement any part of the Affordable Care Act prior to negotiating the compact with the federal government, such as Medicaid expansion in 2014;

(C) whether the compact's current funding formula, based on adjusted 2010 state expenditures, is the best formula for Utah and other state compact members to use for establishing the block grants from the federal government;

(D) whether the compact's calculation of current year inflation adjustment factor, without consideration of the regional medical inflation rate in the current year, is adequate to protect the state from increased costs associated with administering a state based Medicaid and a state based Medicare program;

(E) whether the state has the flexibility it needs under the compact to implement and fund state based initiatives, or whether the compact requires uniformity across member states that does not benefit Utah;

(F) whether the state has the option under the compact to refuse to take over the federal Medicare program;

(G) whether a state based Medicare program would provide better benefits to the elderly and

disabled citizens of the state than a federally run Medicare program;

(H) whether the state has the infrastructure necessary to implement and administer a better state based Medicare program;

(I) whether the compact appropriately delegates policy decisions between the legislative and executive branches of government regarding the development and implementation of the compact with other states and the federal government; and

(J) the impact on public health activities, including communicable disease surveillance and epidemiology.

(14) (a) Title 63M, Chapter 1, Part 35, Utah Small Business Jobs Act, is repealed January 1, 2021.

(b) Section 59-9-107 regarding tax credits against premium taxes is repealed for calendar years beginning on or after January 1, 2021.

(c) Notwithstanding Subsection (14)(b), an entity may carry forward a tax credit in accordance with Section 59-9-107 if:

(i) the person is entitled to a tax credit under Section 59-9-107 on or before December 31, 2020; and

(ii) the qualified equity investment that is the basis of the tax credit is certified under Section 63M-1-3503 on or before December 31, 2023.

(15) The Crime Victim Reparations and Assistance Board, created in Section 63M-7-504, is repealed July 1, 2017.

(16) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2017.

CHAPTER 425**S. B. 39**

Passed March 10, 2015

Approved March 31, 2015

Effective May 12, 2015

CONDITIONS OF PROBATION

Chief Sponsor: Scott K. Jenkins

House Sponsor: Eric K. Hutchings

LONG TITLE**General Description:**

This bill modifies the provisions regarding the incarceration of state probationary inmates in a county correctional facility.

Highlighted Provisions:

This bill:

- ▶ provides that a county may release a specified number of inmates from a county correctional facility if the state does not appropriate an amount of funds as specified.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

64-13e-104, as last amended by Laws of Utah 2014, Chapter 436

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

Section 1. Section 64-13e-104 is amended to read:**64-13e-104. Housing of state probationary inmates or state parole inmates -- Payment.**

(1) (a) A county shall accept and house a state probationary inmate or a state parole inmate in a county correctional facility, subject to available resources.

(b) A county may release a number of inmates from a county correctional facility, but not to exceed the number of state probationary inmates [~~and state parole inmates~~] in excess of the number of inmates funded by the appropriation authorized in Subsection (2), if:

(i) the state does not fully comply with the provisions of Subsection (9) for the most current fiscal year; or

(ii) funds appropriated by the Legislature for this purpose are less than 50% of the average actual state daily incarceration rate.

(2) Within funds appropriated by the Legislature for this purpose, the Division of Finance shall pay a county that houses a state probationary inmate or a state parole inmate at a rate of 50% of the final state daily incarceration rate.

(3) Funds appropriated by the Legislature under Subsection (2):

(a) are nonlapsing;

(b) may only be used for the purposes described in Subsection (2); and

(c) may not be used for:

(i) the costs of administering the payment described in this section; or

(ii) payment of contract costs under Section 64-13e-103.

(4) The costs described in Subsection (3)(c)(i) shall be covered by legislative appropriation.

(5) (a) The Division of Finance shall administer the payment described in Subsection (2).

(b) In accordance with Subsection (9), CCJJ shall, by rule made pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establish procedures for the calculation of the payment described in Subsection (2).

(c) Notwithstanding any other provision of this section, CCJJ shall adjust the amount of the payments described in Subsection (7)(b), on a pro rata basis, to ensure that the total amount of the payments made does not exceed the amount appropriated by the Legislature for the payments.

(6) Counties that receive the payment described in Subsection (2) shall, on at least a monthly basis, submit a report to CCJJ that includes:

(a) the number of state probationary inmates and state parole inmates the county housed under this section; and

(b) the total number of state probationary inmate days of incarceration and state parole inmate days of incarceration that were provided by the county.

(7) (a) On or before September 30 of each year, CCJJ shall compile the information from the reports described in Subsection (6) that relate to the preceding state fiscal year and provide a copy of the compilation to each county that submitted a report.

(b) On or before October 15 of each year, CCJJ shall inform the Division of Finance and each county of the exact amount of the payment described in this section that shall be made to each county.

(8) On or before December 15 of each year, the Division of Finance shall distribute the payment described in Subsection (7)(b) in a single payment to each county.

(9) The amount paid to each county under Subsection (8) shall be calculated on a pro rata basis, based on the average number of state probationary inmate days of incarceration and the average state parole inmate days of incarceration that were provided by each county for the preceding five state fiscal years.

CHAPTER 426**S. B. 59**

Passed February 25, 2015

Approved March 31, 2015

Effective May 12, 2015

DOMESTIC VIOLENCE AMENDMENTS

Chief Sponsor: Todd Weiler
House Sponsor: Angela Romero

LONG TITLE**General Description:**

This bill modifies provisions in the Cohabitant Abuse Procedures Act.

Highlighted Provisions:

This bill:

- ▶ amends provisions related to a plea of guilty or no contest to a domestic violence offense.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

77-36-1, as last amended by Laws of Utah 2012, Chapter 39

77-36-1.1, as last amended by Laws of Utah 2005, Chapter 55

ENACTS:

77-36-1.2, Utah Code Annotated 1953

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

Section 1. Section 77-36-1 is amended to read:**77-36-1. Definitions.**

As used in this chapter:

(1) "Cohabitant" has the same meaning as in Section 78B-7-102.

(2) "Department" means the Department of Public Safety.

(3) "Divorced" means an individual who has obtained a divorce under Title 30, Chapter 3, Divorce.

(4) "Domestic violence" or "domestic violence offense" means any criminal offense involving violence or physical harm or threat of violence or physical harm, or any attempt, conspiracy, or solicitation to commit a criminal offense involving violence or physical harm, when committed by one cohabitant against another. "Domestic violence" or "domestic violence offense" also means commission or attempt to commit, any of the following offenses by one cohabitant against another:

(a) aggravated assault, as described in Section 76-5-103;

(b) assault, as described in Section 76-5-102;

(c) criminal homicide, as described in Section 76-5-201;

(d) harassment, as described in Section 76-5-106;

(e) electronic communication harassment, as described in Section 76-9-201;

(f) kidnapping, child kidnapping, or aggravated kidnapping, as described in Sections 76-5-301, 76-5-301.1, and 76-5-302;

(g) mayhem, as described in Section 76-5-105;

(h) sexual offenses, as described in Title 76, Chapter 5, Part 4, Sexual Offenses, and Section 76-5b-201, Sexual Exploitation of a Minor;

(i) stalking, as described in Section 76-5-106.5;

(j) unlawful detention or unlawful detention of a minor, as described in Section 76-5-304;

(k) violation of a protective order or ex parte protective order, as described in Section 76-5-108;

(l) any offense against property described in Title 76, Chapter 6, Part 1, Property Destruction, Part 2, Burglary and Criminal Trespass, or Part 3, Robbery;

(m) possession of a deadly weapon with intent to assault, as described in Section 76-10-507;

(n) discharge of a firearm from a vehicle, near a highway, or in the direction of any person, building, or vehicle, as described in Section 76-10-508;

(o) disorderly conduct, as defined in Section 76-9-102, if a conviction of disorderly conduct is the result of a plea agreement in which the defendant was originally charged with ~~[any of the]~~ a domestic violence ~~[offenses]~~ offense otherwise described in this Subsection (4). Conviction of disorderly conduct as a domestic violence offense, in the manner described in this Subsection (4)(o), does not constitute a misdemeanor crime of domestic violence under 18 U.S.C. Section 921, and is exempt from the provisions of the federal Firearms Act, 18 U.S.C. Section 921 et seq.; or

(p) child abuse as described in Section 76-5-109.1.

(5) "Jail release agreement" means a written agreement:

(a) specifying and limiting the contact a person arrested for a domestic violence offense may have with an alleged victim or other specified individuals; and

(b) specifying other conditions of release from jail as required in Subsection 77-36-2.5(2).

(6) "Jail release court order" means a written court order:

(a) specifying and limiting the contact a person arrested for a domestic violence offense may have with an alleged victim or other specified individuals; and

(b) specifying other conditions of release from jail as required in Subsection 77-36-2.5(2).

(7) "Marital status" means married and living together, divorced, separated, or not married.

(8) "Married and living together" means a man and a woman whose marriage was solemnized under Section 30-1-4 or 30-1-6 and who are living in the same residence.

(9) "Not married" means any living arrangement other than married and living together, divorced, or separated.

(10) "Pretrial protective order" means a written order:

(a) specifying and limiting the contact a person who has been charged with a domestic violence offense may have with an alleged victim or other specified individuals; and

(b) specifying other conditions of release pursuant to Subsection 77-36-2.5(3)(c), Subsection 77-36-2.6(3), or Section 77-36-2.7, pending trial in the criminal case.

(11) "Sentencing protective order" means a written order of the court as part of sentencing in a domestic violence case that limits the contact a person who has been convicted of a domestic violence offense may have with a victim or other specified individuals pursuant to Sections 77-36-5 and 77-36-5.1.

(12) "Separated" means a man and a woman who have had their marriage solemnized under Section 30-1-4 or 30-1-6 and who are not living in the same residence.

(13) "Victim" means a cohabitant who has been subjected to domestic violence.

Section 2. Section 77-36-1.1 is amended to read:

77-36-1.1. Enhancement of offense and penalty for subsequent domestic violence offenses.

(1) For purposes of this section, "qualifying domestic violence offense" means:

(a) a domestic violence offense in Utah; or

(b) an offense in any other state, or in any district, possession, or territory of the United States, that would be a domestic violence offense under Utah law.

(2) A person who is convicted of a domestic violence offense is:

(a) guilty of a class B misdemeanor if:

(i) the domestic violence offense described in this Subsection (2) is designated by law as a class C misdemeanor; and

(ii) (A) the domestic violence offense described in this Subsection (2) is committed within five years after the person is convicted of a qualifying domestic violence offense; or

(B) the person is convicted of the domestic violence offense described in this Subsection (2)

within five years after the person is convicted of a qualifying domestic violence offense;

(b) guilty of a class A misdemeanor if:

(i) the domestic violence offense described in this Subsection (2) is designated by law as a class B misdemeanor; and

(ii) (A) the domestic violence offense described in this Subsection (2) is committed within five years after the person is convicted of a qualifying domestic violence offense; or

(B) the person is convicted of the domestic violence offense described in this Subsection (2) within five years after the person is convicted of a qualifying domestic violence offense; or

(c) guilty of a felony of the third degree if:

(i) the domestic violence offense described in this Subsection (2) is designated by law as a class A misdemeanor; and

(ii) (A) the domestic violence offense described in this Subsection (2) is committed within five years after the person is convicted of a qualifying domestic violence offense; or

(B) the person is convicted of the domestic violence offense described in this Subsection (2) within five years after the person is convicted of a qualifying domestic violence offense.

~~[(3) For purposes of this section, a plea of guilty or no contest to any qualifying domestic violence offense in Utah which plea is held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction, even if the charge has been subsequently reduced or dismissed in accordance with the plea in abeyance agreement.]~~

Section 3. Section 77-36-1.2 is enacted to read:

77-36-1.2. Acceptance of a plea of guilty or no contest to domestic violence -- Restrictions.

(1) For purposes of this section, "qualifying domestic violence offense" means:

(a) a domestic violence offense in Utah; or

(b) an offense in any other state, or in any district, possession, or territory of the United States, that would be a domestic violence offense under Utah law.

(2) For purposes of this section and Section 77-36-1.1, a plea of guilty or no contest to any domestic violence offense in Utah, which plea is held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction, even if the charge has been subsequently reduced or dismissed in accordance with the plea in abeyance agreement.

(3) (a) Before agreeing to a plea of guilty or no contest or to filing an information, the prosecutor shall examine the criminal history of the defendant.

(b) The court may not accept a plea of guilty or no contest to a domestic violence offense, unless:

- (i) the prosecutor agrees to the plea:
- (A) in open court;
- (B) in writing; or
- (C) by another means of communication that the court finds adequate to record the prosecutor's agreement; or
- (ii) (A) the domestic violence offense is filed by information;
- (B) the court receives a copy of the defendant's criminal history; and
- (C) the criminal history contains no record of a conviction or a pending charge of a qualifying domestic violence offense within five years before the date on which the plea is entered.
- (c) A plea of guilty or no contest is not made invalid by the failure of a court, a prosecutor, or a law enforcement agency to comply with this section.

CHAPTER 427**S. B. 63**

Passed February 12, 2015

Approved March 31, 2015

Effective May 12, 2015

(Exception clause in Section 5)

**WORKERS' COMPENSATION
FUND AMENDMENTS**Chief Sponsor: Curtis S. Bramble
House Sponsor: James A. Dunnigan**LONG TITLE****General Description:**

This bill modifies the Insurance Code to address the Workers' Compensation Fund.

Highlighted Provisions:

This bill:

- ▶ modifies definitions;
- ▶ addresses the powers of the fund and its subsidiaries;
- ▶ changes the method by which board members are selected;
- ▶ removes references to the Governor's Office of Economic Development;
- ▶ addresses compensation of board members; and
- ▶ makes technical and conforming amendments.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

31A-33-101, as last amended by Laws of Utah 2000, Chapter 222

31A-33-103.5, as last amended by Laws of Utah 2001, Chapters 33 and 116

31A-33-106, as last amended by Laws of Utah 2007, Chapter 74

31A-33-107, as last amended by Laws of Utah 2012, Chapter 347

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

Section 1. Section 31A-33-101 is amended to read:**31A-33-101. Definitions.**

As used in this chapter:

- (1) "Board" means the board of directors of the Workers' Compensation Fund.
- (2) "Chief executive officer" means the chief executive officer appointed by the board.
- (3) "Director" means a member of the board.
- (4) "Fund" and "Workers' Compensation Fund" mean the nonprofit, quasi-public corporation established by this chapter.
- (5) "Injury Fund" means the premiums, reserves, investment income, and any other funds administered by the Workers' Compensation Fund as provided in this chapter.

(6) "Joint enterprise" means a joint business activity either for-profit or not-for-profit:

(a) by which two or more persons provide insurance, products, or services; and

(b) that is established by contract between the persons providing the insurance, products, or services.

(7) (a) "Workers' compensation products and services" means:

(i) medical or lost time claims management;

(ii) utilization review;

(iii) rehabilitation counseling or training;

(iv) fraud detection for workers' compensation claims;

(v) loss prevention or safety consultation;

(vi) data or information reporting or processing involving workers' compensation; ~~and~~

(vii) services related to improved employment practices, procedures, and data security; and

~~[(vii)]~~ (viii) liability insurance claims management if the claims management is related to or arising out of:

(A) the sale of workers' compensation products and services described in Subsections (7)(a)(i) through ~~[(vi)]~~ (vii) by:

(I) the Workers' Compensation Fund; or

(II) a subsidiary of the fund; or

(B) workers' compensation insurance coverage through:

(I) the Workers' Compensation Fund; or

(II) a subsidiary of the fund in accordance with Section 31A-33-103.5.

(b) "Workers' compensation products and services" does not include the bearing of any insurance risk associated with insurance coverage.

Section 2. Section 31A-33-103.5 is amended to read:**31A-33-103.5. Powers of fund -- Limitations.**

(1) The fund may form or acquire subsidiaries or enter into a joint enterprise:

(a) in accordance with Section 31A-33-107; and

(b) except as limited by this section and applicable insurance rules and statutes.

(2) Subject to applicable insurance rules and statutes, the fund may only offer:

(a) workers' compensation insurance and, subject to Subsection (5)(b), reinsurance in Utah;

(b) workers' compensation insurance and workers' compensation reinsurance in a state other than Utah ~~[to the extent necessary to];~~

~~[(4) accomplish its purpose under Subsection 31A-33-102(1)(b); and]~~

~~[(ii) provide workers' compensation or occupational disease insurance coverage to Utah employers and their employees engaged in interstate commerce; and]~~

~~(c) death, disability, or medical benefits arising from an industrial accident or occupational disease arising from employment in Utah or other states; and~~

~~[(e) (d) workers' compensation products and services in Utah or other states.~~

~~(3) Subject to applicable law, including insurance rules and statutes, a subsidiary of the fund [may:] shall operate in Utah or a state other than Utah as a for profit, taxable business enterprise.~~

~~[(a) offer workers' compensation insurance coverage only:]~~

~~[(i) in a state other than Utah; and]~~

~~[(ii) (A) to insure the following against liability for compensation based on job-related accidental injuries and occupational diseases:]~~

~~[(I) an employer, as defined in Section 34A-2-103, that has a majority of its employees, as defined in Section 34A-2-104, hired or regularly employed in Utah;]~~

~~[(II) an employer, as defined in Section 34A-2-103, whose principal administrative office is located in Utah;]~~

~~[(III) a subsidiary or affiliate of an employer described in Subsection (3)(a)(ii)(A)(I) or (II); or]~~

~~[(IV) an employer, as defined in Section 34A-2-103, whose purchase of insurance arises solely out of the purchase of workers' compensation products and services from the fund or a fund subsidiary; or]~~

~~[(B) for a state fund organization that is not an admitted insurer in the other state:]~~

~~[(I) on a fee for service basis; and]~~

~~[(II) without bearing any insurance risk; and]~~

~~[(b) offer workers' compensation products and services in Utah and other states.]~~

~~(4) The fund shall write workers' compensation insurance in accordance with Section 31A-22-1001.~~

~~(5) (a) The fund may enter into a joint enterprise that offers workers' compensation insurance and other coverage [only in the state], provided:~~

~~(i) the joint enterprise offers only property or liability insurance in addition to workers' compensation insurance;~~

~~(ii) the fund may not bear any insurance risk associated with the insurance coverage other than risk associated with workers' compensation insurance; and~~

~~(iii) the offer of other insurance shall be part of an insurance program that includes workers'~~

compensation insurance coverage that is provided by the fund.

~~(b) (i) The fund or a subsidiary of the fund may not offer, or enter into a joint enterprise that offers, or otherwise participate in the offering of accident and health insurance or administer a health benefit plan.~~

~~(ii) Subject to Subsection (5)(b)(i), the fund or a subsidiary of the fund may serve as a reinsurer or reinsurance intermediary for medical or disability costs or exposures assumed by a self-insured employer in Utah.~~

Section 3. Section 31A-33-106 is amended to read:

31A-33-106. Board of directors -- Status of the fund in relationship to the state.

~~(1) There is created a board of directors of the Workers' Compensation Fund.~~

~~(2) The board shall consist of seven directors.~~

~~[(3) Subject to Subsection (8), one director:]~~

~~[(a) (i) shall be the executive director of the Department of Administrative Services or the executive director's designee; and]~~

~~[(ii) acts as the representative of the state as a policyholder of the Workers' Compensation Fund; or]~~

~~[(b) is a public director appointed in accordance with Subsection (8)(b).]~~

~~[(4) (3) One director shall be the chief executive officer of the fund.~~

~~[(5) (4) (a) In accordance with a plan that meets the requirements of this section[, the governor, with the consent of the Senate, shall appoint five] and the fund's articles of incorporation and bylaws, the board shall nominate and the policyholders shall elect six public directors as follows:~~

~~(i) [three] four directors who are owners, officers, or employees of policyholders [other than the state], each of whom is an owner, officer, or employee of a policyholder that has been insured by the Workers' Compensation Fund for at least one year before the [appointment] election of the director representing the policyholder; and~~

~~(ii) two directors from the public in general.~~

~~(b) The plan described in Subsection [(5) (4)(a)] shall comply with Section 31A-5-409 to the extent that Section 31A-5-409 does not conflict with this section.~~

~~[(6) (5) No two directors may represent or be employed by the same policyholder.~~

~~[(7) (6) At least [four] five directors [appointed by the governor] elected by the policyholders shall have had previous experience in:~~

~~(a) the actuarial profession;~~

~~(b) accounting;~~

~~(c) investments;~~

- (d) risk management;
- (e) occupational safety;
- (f) casualty insurance; or
- (g) the legal profession.

~~[(8) (a) Any] (7) A director who represents a policyholder that fails to maintain workers' compensation insurance through the Workers' Compensation Fund shall immediately resign from the board, including the executive director of the Department of Administrative Services or the executive director's designee if the state is no longer insured by the Workers' Compensation Fund pursuant to Section 34A-2-203.~~

~~[(b) (i) If the state is no longer insured by the Workers' Compensation Fund pursuant to Section 34A-2-203, the governor with the consent of the Senate, shall appoint a public director to replace the executive director of the Department of Administrative Services or the executive director's designee.]~~

~~[(ii) The public director appointed under this Subsection (8)(b) shall:]~~

~~[(A) be an owner, officer, or employee of a policyholder that has been insured by the Workers' Compensation Fund for at least one year before the appointment of the director representing the policyholder;]~~

~~[(B) have previous experience described in Subsection (7); or]~~

~~[(C) be the director of the Governor's Office of Economic Development.]~~

~~[(e) Once the executive director of the Department of Administrative Services or the executive director's designee is not a member of the board under Subsection (3), the state shall have a member on the board to represent the state as a policyholder only if the member is appointed in accordance with Subsection (5) or (8)(b).]~~

~~[(9) (8) A person may not be a director if that person:~~

~~(a) has any interest as a stockholder, employee, attorney, or contractor of a competing insurance carrier providing workers' compensation insurance in Utah;~~

~~(b) fails to meet or comply with the conflict of interest policies established by the board; or~~

~~(c) is not bondable.~~

~~[(10) (9) After notice and a hearing, the [governor] board may remove any director for cause which includes:~~

~~(a) neglect of duty; or~~

~~(b) malfeasance.~~

~~[(11) (10) (a) Except as required by Subsection [(11) (10)(b), the term of office of the directors [appointed by the governor] elected by the policyholders shall be four years, beginning July 1 of the year of appointment.~~

(b) Notwithstanding the requirements of Subsection [(11) (10)(a), the [governor] board shall, at the time of [appointment or reappointment] election or reelection, adjust the length of terms to ensure that no more than two terms expire in a calendar year.

~~[(12) Each] (11) A director shall hold office until the director's successor is [appointed] selected and qualified.~~

~~[(13) (12) When a vacancy occurs in the membership of the board for any reason, the replacement shall be appointed by a majority of the board for the unexpired term, after which time the replacement shall stand for policyholder election as described in the fund's articles of incorporation and bylaws.~~

~~[(14) (13) The board shall annually elect a chair and other officers as needed from its membership.~~

~~[(15) (14) (a) The board shall meet at least quarterly at a time and place designated by the chair.~~

~~(b) The chair:~~

~~(i) may call board meetings more frequently than quarterly; and~~

~~(ii) shall call additional board meetings if requested to do so by a majority of the board.~~

~~[(16) (15) Four directors are a quorum for the purpose of transacting all business of the board.~~

~~[(17) (16) Each decision of the board requires the affirmative vote of at least four directors for approval.~~

~~[(18) (17) (a) (i) A director may receive compensation and be reimbursed for reasonable expenses incurred in the performance of the director's official duties:~~

~~(A) as determined by the board of directors; and~~

~~(B) if the aggregate of compensation paid to all directors of the Workers' Compensation Fund in a calendar year is less than or equal to the amount described in Subsection [(18) (17)(a)(ii).~~

~~(ii) (A) For the period beginning [May 1, 2007] January 1, 2016, and ending December 31, [2007] 2016, the amount described in Subsection [(18) (17)(a)(i)(B) is [\$75,000 except that any compensation paid to a director of the Workers' Compensation Fund on or after January 1, 2007 but on or before April 30, 2007 shall be included in determining whether the aggregate amount described in Subsection (18)(a)(i)(B) is exceeded] \$150,000.~~

~~(B) For calendar years beginning on or after January 1, [2008] 2017, the amount described in Subsection [(18) (17)(a)(i)(B) is the sum of the amount under this Subsection [(18) (17)(a) for the previous year and an amount equal to the greater of:~~

~~(I) an amount calculated by multiplying the amount under this Subsection [(18) (17)(a) for the previous year by the actual percent change during the previous calendar year in the consumer price index; and~~

(II) 0.

(C) For purposes of this Subsection ~~[(18)]~~ (17), the consumer price index shall be calculated as provided in Sections 1(f)(4) and 1(f)(5), Internal Revenue Code.

(b) Directors may decline to receive compensation and expenses for their service.

(c) The Worker's Compensation Fund shall pay compensation to and reimburse reasonable expenses of directors as permitted by this section:

(i) from the Injury Fund; and

(ii) upon vouchers drawn in the same manner as the Workers' Compensation Fund pays its normal operating expenses.

(d) The ~~[following]~~ chief executive officer of the Workers' Compensation Fund shall serve on the board without payment of compensation, but may be reimbursed for reasonable expenses in accordance with Subsection ~~[(18)]~~ (17)(a)[;].

~~[(i) the executive director of the Department of Administrative Services, or the executive director's designee;]~~

~~[(ii) the chief executive officer of the Workers' Compensation Fund; and]~~

~~[(iii) the director of the Governor's Office of Economic Development if appointed under Subsection (8).]~~

(e) The Workers' Compensation Fund shall annually report to the commissioner compensation and expenses paid to the directors on the board.

~~[(19) The requirement that the governor, with the consent of the Senate, appoint the directors of the Workers' Compensation Fund specified in Subsection (5) or (8), does not;]~~

(18) The placement of this chapter in this title does not:

(a) remove from the board of directors the managerial, financial, or operational control of the Workers' Compensation Fund;

(b) give to the state or the governor managerial, financial, or operational control of the Workers' Compensation Fund;

(c) consistent with Section 31A-33-105, cause the state to be liable for any:

(i) obligation of the Workers' Compensation Fund; or

(ii) expense, liability, or debt described in Section 31A-33-105;

(d) alter the legal status of the Workers' Compensation Fund as:

(i) a nonprofit, self-supporting, quasi-public corporation; and

(ii) an insurer;

(A) regulated under this title;

(B) that is structured to operate in perpetuity; and

(C) domiciled in the state; or

(e) alter the requirement that the Workers' Compensation Fund provide workers' compensation:

(i) for the purposes set forth in Section 31A-33-102;

(ii) consistent with Section 34A-2-201; and

(iii) as provided in Section 31A-22-1001.

Section 4. Section 31A-33-107 is amended to read:

31A-33-107. Duties of board -- Creation of subsidiaries -- Entering into joint enterprises.

(1) The board shall:

(a) appoint a chief executive officer to administer the Workers' Compensation Fund;

(b) receive and act upon financial, management, and actuarial reports covering the operations of the Workers' Compensation Fund;

(c) ensure that the Workers' Compensation Fund is administered according to law;

(d) examine and approve an annual operating budget for the Workers' Compensation Fund;

(e) serve as investment trustees and fiduciaries of the Injury Fund;

(f) receive and act upon recommendations of the chief executive officer;

(g) develop broad policy for the long-term operation of the Workers' Compensation Fund, consistent with its mission and fiduciary responsibility;

(h) subject to Chapter 19a, Part 4, Workers' Compensation Rates, approve any rating plans that would modify a policyholder's premium;

(i) subject to Chapter 19a, Part 4, Workers' Compensation Rates, approve the amount of deviation, if any, from standard insurance rates;

(j) approve the amount of the dividends, if any, to be returned to policyholders;

(k) adopt a procurement policy consistent with the provisions of Title 63G, Chapter 6a, Utah Procurement Code;

(l) develop and publish an annual report to policyholders, the governor, the Legislature, and interested parties that describes the financial condition of the Injury Fund, including a statement of expenses and income and what measures were taken or will be necessary to keep the Injury Fund actuarially sound;

(m) establish a fiscal year;

(n) determine and establish an actuarially sound price for insurance offered by the fund;

(o) establish conflict of interest requirements that govern the board, officers, and employees;

(p) establish compensation and reasonable expenses to be paid to directors on the board subject to the requirements of Section 31A-33-106, so that the board may not approve compensation that exceeds the amount described in Subsection 31A-33-106~~(18)~~(17)(a)(i)(B); and

(q) perform all other acts necessary for the policymaking and oversight of the Workers' Compensation Fund.

(2) Subject to board review and its responsibilities under Subsection (1)(e), the board may delegate authority to make daily investment decisions.

(3) The fund may form or acquire a subsidiary or enter into a joint enterprise:

(a) only if that action is approved by the board; and

(b) subject to the limitations in Section 31A-33-103.5.

Section 5. Effective date.

This bill takes effect on May 12, 2015, except that the amendments to Sections 31A-33-106 and 31A-33-107 in this bill take effect on January 1, 2016.

CHAPTER 428**S. B. 78**

Passed March 11, 2015
 Approved March 31, 2015
 Effective May 12, 2015

**SCHOOL DISTRICT
 PROPERTY TAX AMENDMENTS**

Chief Sponsor: Howard A. Stephenson
 House Sponsor: David E. Lifferth

LONG TITLE**General Description:**

This bill modifies requirements for the imposition of property taxes in a new district and remaining school district after a school district split.

Highlighted Provisions:

This bill:

- ▶ removes the time limit on the requirement that a new district and remaining district continue to impose property tax levies that were imposed by the divided school district in the taxable year prior to the calendar year in which a new district begins to provide educational services.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53A-2-118.4, as last amended by Laws of Utah 2012, Chapter 116

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

Section 1. Section 53A-2-118.4 is amended to read:

53A-2-118.4. Property tax levies in new district and remaining district -- Distribution of property tax revenue.

- (1) As used in this section:
- (a) "Divided school district" or "existing district" means a school district from which a new district is created.
- (b) "New district" means a school district created under Section 53A-2-118.1 after May 10, 2011.
- (c) "Property tax levy" means a property tax levy that a school district is authorized to impose, except:
- (i) the minimum basic rate imposed under Section 53A-17a-135;
 - (ii) a debt service levy imposed under Section 11-14-310; or
 - (iii) a judgment levy imposed under Section 59-2-1330.
- (d) "Qualifying taxable year" means the calendar year in which a new district begins to provide educational services.
- (e) "Remaining district" means an existing district after the creation of a new district.

(2) A new district and remaining district shall, ~~for a period of five consecutive years beginning in the qualifying taxable year,~~ continue to impose property tax levies that were imposed by the divided school district in the taxable year prior to the qualifying taxable year.

(3) Except as provided in Subsection (6), a property tax levy that a new district and remaining district are required to impose under Subsection (2) shall be set at a rate that:

(a) is uniform in the new district and remaining district; and

(b) generates the same amount of revenue that was generated by the property tax levy within the divided school district in the taxable year prior to the qualifying taxable year.

(4) (a) Except as provided in Subsection (4)(b), the county treasurer of the county in which a property tax levy is imposed under Subsection (2) shall distribute revenues generated by the property tax levy to the new district and remaining district in proportion to the percentage of the divided school district's enrollment on the October 1 prior to the new district commencing educational services that were enrolled in schools currently located in the new district or remaining district.

(b) The county treasurer of a county of the first class shall distribute revenues generated by a capital local levy of .0006 that a school district in a county of the first class is required to impose under Section 53A-16-113 in accordance with the distribution method specified in Section 53A-16-114.

(5) On or before March 31, a county treasurer shall distribute revenues generated by a property tax levy imposed under Subsection (2) in the prior calendar year to a new district and remaining district as provided in Subsection (4).

(6) (a) Subject to the notice and public hearing requirements of Section 59-2-919, a new district or remaining district may set a property tax rate higher than the rate required by Subsection (3), up to:

- (i) the maximum rate, if any, allowed by law; or
- (ii) the maximum rate authorized by voters for a voted local levy under Section 53A-17a-133.

(b) The revenues generated by the portion of a property tax rate in excess of the rate required by Subsection (3) shall be retained by the district that imposes the higher rate.

CHAPTER 429**S. B. 96**

Passed February 19, 2015

Approved March 31, 2015

Effective May 12, 2015

SAFETY INSPECTION REVISIONS

Chief Sponsor: Wayne A. Harper

House Sponsor: Don L. Ipson

LONG TITLE**General Description:**

This bill modifies the Motor Vehicle Safety Inspection Act by amending provisions relating to safety inspection station requirements.

Highlighted Provisions:

This bill:

- ▶ provides that a safety inspection station permit holder shall immediately terminate all safety inspection activities and return all safety inspection certificates and the safety inspection station permit to the Utah Highway Patrol Division after the conclusion of any adjudicative proceedings upholding a suspension or revocation.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53-8-206, as last amended by Laws of Utah 2012, Chapter 356

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

Section 1. Section 53-8-206 is amended to read:

53-8-206. Safety inspection -- Station requirements -- Permits not transferable -- Certificate of inspection -- Fees -- Unused certificates -- Suspension or revocation of permits.

(1) The safety inspection required under Section 53-8-205 may only be performed:

(a) by a person certified by the division as a safety inspector; and

(b) at a safety inspection station with a valid safety inspection station permit issued by the division.

(2) A safety inspection station permit may not be assigned or transferred or used at any location other than a designated location, and every safety inspection station permit shall be posted in a conspicuous place at the location designated.

(3) If required by the division, a record and report shall be made of every safety inspection and every safety inspection certificate issued.

(4) A safety inspection station holding a safety inspection station permit issued by the division may

charge a reasonable fee for labor in performing safety inspections, not to exceed:

(a) \$7 or less for motorcycles and street-legal all-terrain vehicles;

(b) unless Subsection (4)(a) or (c) applies, \$15 or less for motor vehicles; or

(c) \$20 or less for 4-wheel drive, split axle, and any motor vehicles that necessitate disassembly of front hub or removal of rear axle for inspection.

(5) A safety inspection station may return unused safety inspection certificates in a quantity of 10 or more and shall be reimbursed by the division for the cost of the safety inspection certificates.

(6) (a) Upon receiving notice of the suspension or revocation of a safety inspection station permit and after the conclusion of any adjudicative proceedings upholding the suspension or revocation, the safety inspection station permit holder shall immediately terminate all safety inspection activities and return all safety inspection certificates and the safety inspection station permit to the division.

(b) The division shall issue a receipt for all unused safety inspection certificates.

CHAPTER 430**S. B. 115**

Passed March 10, 2015

Approved March 31, 2015

Effective May 12, 2015

ASSAULT OFFENSES AMENDMENTS

Chief Sponsor: Daniel W. Thatcher
House Sponsor: Eric K. Hutchings

LONG TITLE**General Description:**

This bill modifies the Utah Criminal Code regarding assault and related offenses.

Highlighted Provisions:

This bill:

- ▶ removes the reference to a threat accompanied by force or violence from the current assault offense;
- ▶ modifies the offense of aggravated assault to include as an element:
 - the reference to a threat accompanied by force or violence;
 - an attempt, with unlawful force or violence, to do bodily injury; or
 - an act committed with unlawful force or violence that causes injury or creates a substantial risk of injury; and
- ▶ modifies the offense of a threat of violence to include the element of a threat accompanied by immediate force or violence to do bodily injury.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

76-5-102, as last amended by Laws of Utah 2003, Chapter 109

76-5-103, as last amended by Laws of Utah 2010, Chapter 193

76-5-107, as last amended by Laws of Utah 2010, Chapter 334

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

Section 1. Section 76-5-102 is amended to read:**76-5-102. Assault -- Penalties.**

(1) Assault is:

(a) an attempt, with unlawful force or violence, to do bodily injury to another; or

~~[(b) a threat, accompanied by a show of immediate force or violence, to do bodily injury to another; or]~~

~~[(e) (b) an act, committed with unlawful force or violence, that causes bodily injury to another or creates a substantial risk of bodily injury to another.~~

(2) Assault is a class B misdemeanor.

(3) Assault is a class A misdemeanor if:

(a) the person causes substantial bodily injury to another; or

(b) the victim is pregnant and the person has knowledge of the pregnancy.

(4) It is not a defense against assault, that the accused caused serious bodily injury to another.

Section 2. Section 76-5-103 is amended to read:**76-5-103. Aggravated assault -- Penalties.**

~~[(1) A person commits aggravated assault if the person commits assault as defined in Section 76-5-102 and uses:]~~

(1) Aggravated assault is an actor's conduct:

(a) that is:

(i) an attempt, with unlawful force or violence, to do bodily injury to another;

(ii) a threat, accompanied by a show of immediate force or violence, to do bodily injury to another; or

(iii) an act, committed with unlawful force or violence, that causes bodily injury to another or creates a substantial risk of bodily injury to another; and

(b) that includes the use of:

~~[(a)] (i) a dangerous weapon as defined in Section 76-1-601; or~~

~~[(b)] (ii) other means or force likely to produce death or serious bodily injury.~~

(2) (a) A violation of Subsection (1) is a third degree felony, except under Subsection (2)(b).

(b) A violation of Subsection (1) that results in serious bodily injury is a second degree felony.

Section 3. Section 76-5-107 is amended to read:**76-5-107. Threat of violence -- Penalty.**

(1) A person commits a threat of violence if:

(a) the person threatens to commit any offense involving bodily injury, death, or substantial property damage, and acts with intent to place a person in fear of imminent serious bodily injury, substantial bodily injury, or death[-]; or

(b) the person makes a threat, accompanied by a show of immediate force or violence, to do bodily injury to another.

(2) A violation of this section is a class B misdemeanor.

(3) It is not a defense under this section that the person did not attempt to or was incapable of carrying out the threat.

(4) A threat under this section may be express or implied.

(5) A person who commits an offense under this section is subject to punishment for that offense, in addition to any other offense committed, including the carrying out of the threatened act.

(6) In addition to any other penalty authorized by law, a court shall order any person convicted of any violation of this section to reimburse any federal, state, or local unit of government, or any private business, organization, individual, or entity for all expenses and losses incurred in responding to the violation, unless the court states on the record the reasons why the reimbursement would be inappropriate.

CHAPTER 431**S. B. 117**

Passed March 11, 2015
 Approved March 31, 2015
 Effective May 12, 2015

INTERVENTIONS FOR READING DIFFICULTIES PILOT PROGRAM

Chief Sponsor: Aaron Osmond
 House Sponsor: Francis D. Gibson

LONG TITLE**General Description:**

This bill creates a pilot program to provide interventions for students at risk for, or experiencing, reading difficulties, including dyslexia.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ creates a pilot program to provide:
 - professional development for educators; and
 - literacy interventions to students in kindergarten through grade 5 who are at risk for or experiencing reading difficulties, including dyslexia;
- ▶ provides criteria for the State Board of Education to use in selecting local education agencies to participate in the pilot program;
- ▶ defines requirements for local education agencies that participate in the pilot program; and
- ▶ provides for a third-party evaluation.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2016:

- ▶ to the State Board of Education - State Office of Education as a one-time appropriation:
 - from the Education Fund, One-time, \$375,000.

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

631-1-253, as last amended by Laws of Utah 2014, Chapters 189, 226, and 412

ENACTS:

53A-15-106, Utah Code Annotated 1953

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

Section 1. Section 53A-15-106 is enacted to read:

53A-15-106. Interventions for Reading Difficulties Pilot Program.

(1) As used in this section:

(a) "Board" means the State Board of Education.

(b) "Dyslexia" means a specific learning disability that is neurological in origin and characterized by difficulties with accurate or fluent word recognition and by poor spelling and decoding abilities that typically result from a deficit in the phonological component of language that is often unexpected in

relation to other cognitive abilities and the provision of effective classroom instruction.

(c) "Endorsement" means the same as that term is defined in Section 53A-6-103.

(d) "Local education agency" or "LEA" means:

(i) a school district;

(ii) a charter school; or

(iii) the Utah Schools for the Deaf and the Blind.

(e) "Multi-Tier System of Supports" or "MTSS" means a framework integrating assessment and intervention that:

(i) provides increasingly intensive interventions for students at risk for or experiencing reading difficulties, including:

(A) tier II interventions that, in addition to standard classroom reading, provide supplemental and targeted small group instruction in reading using evidence-based curricula; and

(B) tier III interventions that address the specific needs of students who are the most at risk or who have not responded to tier II interventions by providing frequent, intensive, and targeted small group instruction using evidence-based curricula; and

(ii) is developed to:

(A) maximize student achievement;

(B) reduce behavior problems; and

(C) increase long-term success.

(f) "Program" means the Interventions for Reading Difficulties Pilot Program.

(g) "Reading difficulty" means an impairment, including dyslexia, that negatively affects a student's ability to learn to read.

(2) There is created the Interventions for Reading Difficulties Pilot Program to provide:

(a) specific evidence-based literacy interventions using an MTSS for students in kindergarten through grade 5 who are at risk for or experiencing a reading difficulty, including dyslexia; and

(b) professional development to educators who provide the literacy interventions described in Subsection (2)(a).

(3) (a) An LEA may submit a proposal to the board to participate in the program.

(b) An LEA proposal described in Subsection (3)(a) shall:

(i) specify:

(A) a range of current benchmark assessment in reading scores described in Section 53A-1-606.6 that the LEA will use to determine whether a student is at risk for a reading difficulty; and

(B) other reading difficulty risk factors that the LEA will use to determine whether a student is at risk for a reading difficulty;

(ii) describe the LEA's existing reading program;
(iii) describe the LEA's MTSS approach; and
(iv) include any other information requested by the board.

(c) The board may:

(i) specify the format for an LEA proposal; and
(ii) set a deadline for an LEA to submit a proposal.

(4) The board shall:

(a) define criteria for selecting an LEA to participate in the program;

(b) during fiscal year 2016, select five LEAs to participate in the program:

(i) on a competitive basis; and

(ii) using criteria described in Subsection (4)(a); and

(c) provide each LEA, selected as described in Subsection (4)(b), up to \$30,000 per school within the LEA.

(5) During fiscal years 2017, 2018, and 2019, if funding allows, the board may select additional LEAs to participate in the program.

(6) An LEA that participates in the program:

(a) shall, beginning with the 2016-17 school year, provide the interventions described in Subsection (7)(c) from the time the LEA is selected until the end of the 2018-19 school year; and

(b) may provide the professional development described in Subsections (8)(a) and (b) beginning in fiscal year 2016.

(7) An LEA that participates in the program shall:

(a) select at least one school in the LEA to participate in the program;

(b) identify students in kindergarten through grade 5 for participation in the program by:

(i) using current benchmark assessment in reading scores as described in Section 53A-1-606.6; and

(ii) considering other reading difficulty risk factors identified by the LEA;

(c) provide interventions for each student participating in the program using an MTSS implemented by an educator trained in evidence-based interventions;

(d) include the LEA's proposal submitted under Subsection (3)(b) in the reading achievement plan described in Section 53A-1-606.5 for each school in the LEA that participates in the program; and

(e) report annually to the board on:

(i) individual student outcomes in changes in reading ability;

(ii) school level outcomes; and

(iii) any other information requested by the board.

(8) Subject to funding for the program, an LEA may use the funds described in Subsection (4)(c) for the following purposes:

(a) to provide for ongoing professional development in evidence-based literacy interventions;

(b) to support educators in earning a reading interventionist endorsement that prepares teachers to provide a student who is at risk for or experiencing reading difficulty, including dyslexia, with reading intervention that is:

(i) explicit;

(ii) systematic; and

(iii) targeted to a student's specific reading difficulty; and

(c) to implement the program.

(9) The board shall contract with an independent evaluator to evaluate the program on:

(a) whether the program improves reading outcomes for a student who receives the interventions described in Subsection (7)(c);

(b) whether the program may reduce future special education costs; and

(c) any other student or school achievement outcomes requested by the board.

(10) (a) The board shall make a final report on the program to the Education Interim Committee on or before November 1, 2018.

(b) In the final report described in Subsection (10)(a), the board shall include the results of the evaluation described in Subsection (9).

Section 2. Section 63I-1-253 is amended to read:

63I-1-253. Repeal dates, Titles 53, 53A, and 53B.

The following provisions are repealed on the following dates:

(1) Section 53-3-232, Conditional license, is repealed July 1, 2015.

(2) Subsection 53-10-202(18) is repealed July 1, 2018.

(3) Section 53-10-202.1 is repealed July 1, 2018.

(4) Title 53A, Chapter 1a, Part 6, Public Education Job Enhancement Program is repealed July 1, 2020.

(5) Title 53A, Chapter 11, Part 15, School Safety Tip Line, is repealed July 1, 2015.

(6) The State Instructional Materials Commission, created in Section 53A-14-101, is repealed July 1, 2016.

(7) Section 53A-15-106 is repealed July 1, 2019.

[~~7~~] (8) Subsections 53A-16-113(3) and (4) are repealed December 31, 2016.

~~[(8)]~~ (9) Section 53A-16-114 is repealed December 31, 2016.

~~[(9)]~~ (10) Section 53A-17a-163, Performance-based Compensation Pilot Program is repealed July 1, 2016.

~~[(10)]~~ (11) Section 53B-24-402, Rural residency training program, is repealed July 1, 2015.

~~[(11)]~~ (12) Subsection 53C-3-203(4)(b)(vii), which provides for the distribution of money from the Land Exchange Distribution Account to the Geological Survey for test wells, other hydrologic studies, and air quality monitoring in the West Desert, is repealed July 1, 2020.

Section 3. Appropriation.

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, for the fiscal year beginning July 1, 2015, and ending June 30, 2016, the following sums of money are appropriated from resources not otherwise appropriated, or reduced from amounts previously appropriated, out of the funds or accounts indicated. These sums of money are in addition to any amounts previously appropriated for fiscal year 2016.

To State Board of Education State Office of Education Initiative Programs

From Education Fund, One-time	<u>\$375,000</u>
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Schedule of Programs:

<u>Contracts and Grants - Interventions for Reading Difficulties Pilot Program</u>	<u>\$375,000</u>
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The Legislature intends that:

(1) the State Board of Education expend appropriations under this section in fiscal years 2016, 2017, 2018, and 2019, to implement the Interventions for Reading Difficulties Pilot Program described in 53A-15-106; and

(2) in accordance with Section 63J-1-603, the appropriations provided under this section not lapse at the close of fiscal years 2016, 2017, and 2018.

Section 4. Effective date.

(1) Except as provided in Subsection (2), this bill takes effect on May 12, 2015.

(2) Uncodified Section 3, Appropriation, takes effect on July 1, 2015.

CHAPTER 432**S. B. 131**

Passed March 5, 2015

Approved March 31, 2015

Effective May 12, 2015

**OCCUPATIONAL
THERAPISTS AMENDMENTS**Chief Sponsor: Gene Davis
House Sponsor: Carol Spackman Mossav**LONG TITLE****General Description:**

This bill modifies the Occupational Therapy Practice Act and related provisions.

Highlighted Provisions:

This bill:

- ▶ defines terms, including the “practice of occupational therapy”;
- ▶ modifies the qualifications for an individual to get a license as an occupational therapist or as an occupational therapy assistant;
- ▶ modifies the supervision requirements of an occupational therapist when supervising an occupational therapy assistant;
- ▶ modifies who may engage in the practice of occupational therapy without a license;
- ▶ describes what is unlawful and unprofessional conduct under the act;
- ▶ extends the sunset date of the Occupational Therapy Practice Act; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

58-42a-102, as last amended by Laws of Utah 2005, Chapter 71

58-42a-201, as enacted by Laws of Utah 1994, Chapter 240

58-42a-302, as last amended by Laws of Utah 2009, Chapter 183

58-42a-303, as enacted by Laws of Utah 1994, Chapter 240

58-42a-304, as enacted by Laws of Utah 1994, Chapter 240

58-42a-305, as enacted by Laws of Utah 1994, Chapter 240

58-42a-306, as enacted by Laws of Utah 1994, Chapter 240

63I-1-258, as last amended by Laws of Utah 2014, Chapters 25, 72, and 181

ENACTS:

58-42a-103, Utah Code Annotated 1953

58-42a-303.5, Utah Code Annotated 1953

58-42a-502, Utah Code Annotated 1953

REPEALS AND REENACTS:

58-42a-501, as enacted by Laws of Utah 1994, Chapter 240

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

Section 1. Section 58-42a-102 is amended to read:

58-42a-102. Definitions.

In addition to the definitions in Section 58-1-102, as used in this chapter:

~~[(1) “Assessment” means the use of skilled observation or evaluation by administering and interpreting standardized or nonstandardized tests and measurements to identify areas for occupational therapy services.]~~

~~[(2)]~~ (1) “Board” means the [Occupational Therapy] Board of Occupational Therapy created in Section 58-42a-201.

~~[(3) “Certified occupational therapy assistant” or “COTA” means a person certified as a certified occupational therapy assistant by the National Board for Certification in Occupational Therapy.]~~

(2) (a) “Individual treatment plan” means a written record composed for each client by a person licensed under this chapter to engage in the practice of occupational therapy.

~~[(4)]~~ (b) “Individual treatment plan” includes:

~~[(a)]~~ (i) planning and directing specific exercises and programs to improve sensory integration and motor functioning at the level of performance neurologically appropriate for the individual’s stage of development;

~~[(b)]~~ (ii) establishing a program of instruction to teach a [patient in] client skills, behaviors, and attitudes necessary for the [patient’s] client’s independent productive, emotional, and social functioning;

~~[(c)]~~ (iii) analyzing, selecting, and adapting functional exercises to achieve and maintain the [patient’s] client’s optimal functioning in activities of daily living [tasks] and to prevent further disability; and

~~[(d)]~~ (iv) planning and directing specific programs to evaluate and enhance perceptual, motor, and cognitive skills.

~~[(5)]~~ (3) “Occupational therapist” [or “OT”] means a person licensed [in the state] under this chapter to practice occupational therapy.

~~[(6) “Occupational therapist registered” or “OTR” means a person certified as an occupational therapist registered by the National Board for Certification in Occupational Therapy.]~~

~~[(7) “Occupational therapy” means the use of purposeful activity or occupational therapy interventions to develop or restore the highest possible level of independence of an individual who is limited by a physical injury or illness, a dysfunctional condition, a cognitive impairment, a psychosocial dysfunction, a mental illness, a developmental or learning disability, or an adverse environmental condition.]~~

(4) “Occupational therapy aide” means a person who is not licensed under this chapter but who

provides supportive services under the supervision of an occupational therapist or occupational therapy assistant.

~~[(8)] (5) “Occupational therapy assistant” [or “OTA”] means a person licensed [in the state] under this chapter to practice occupational therapy under the supervision of an occupational therapist as [set forth] described in [Section] Sections 58-42a-305 and 58-42a-306.~~

~~[(9) “Occupational therapy services” include:]~~

~~[(a) assessing, treating, educating, or consulting with an individual, family, or other persons;]~~

~~[(b) developing, improving, or restoring an individual’s daily living skills, work readiness, work performance, play skills, or leisure capacities, or enhancing an individual’s educational performance skills;]~~

~~[(c) developing, improving, or restoring an individual’s sensory-motor, oral-motor, perceptual, or neuromuscular functioning, or the individual’s range of motion;]~~

~~[(d) developing, improving, or restoring the individual’s emotional, motivational, cognitive, or psychosocial components of performance;]~~

~~[(e) assessing the need for and recommending, developing, adapting, designing, or fabricating splints or assistive technology devices for individuals;]~~

~~[(f) training individuals in the use of rehabilitative or assistive technology devices such as selected orthotic or prosthetic devices;]~~

~~[(g) applying physical agent modalities as an adjunct to or in preparation for purposeful activity;]~~

~~[(h) applying the use of ergonomic principles; and]~~

~~[(i) adapting or modifying environments and processes to enhance or promote the functional performance, health, and wellness of individuals.]~~

~~[(10) “Practice of occupational therapy” means rendering or offering to render occupational therapy services to individuals, groups, agencies, organizations, industries, or the public.]~~

~~(6) (a) “Practice of occupational therapy” means the therapeutic use of everyday life activities with an individual:~~

~~(i) that has or is at risk of developing an illness, injury, disease, disorder, condition, impairment, disability, activity limitation, or participation restriction; and~~

~~(ii) to develop or restore the individual’s ability to engage in everyday life activities by addressing physical, cognitive, psychosocial, sensory, or other aspects of the individual’s performance.~~

~~(b) “Practice of occupational therapy” includes:~~

~~(i) establishing, remediating, or restoring an undeveloped or impaired skill or ability of an individual;~~

~~(ii) modifying or adapting an activity or environment to enhance an individual’s performance;~~

~~(iii) maintaining and improving an individual’s capabilities to avoid declining performance in everyday life activities;~~

~~(iv) promoting health and wellness to develop or improve an individual’s performance in everyday life activities;~~

~~(v) performance-barrier prevention for an individual, including disability prevention;~~

~~(vi) evaluating factors that affect an individual’s activities of daily living in educational, work, play, leisure, and social situations, including:~~

~~(A) body functions and structures;~~

~~(B) habits, routines, roles, and behavioral patterns;~~

~~(C) cultural, physical, environmental, social, virtual, and spiritual contexts and activity demands that affect performance; and~~

~~(D) motor, process, communication, interaction, and other performance skills;~~

~~(vii) providing interventions and procedures to promote or enhance an individual’s safety and performance in activities of daily living in educational, work, and social situations, including:~~

~~(A) the therapeutic use of occupations and exercises;~~

~~(B) training in self-care, self-management, home-management, and community and work reintegration;~~

~~(C) the development, remediation, or compensation of behavioral skills and physical, cognitive, neuromuscular, and sensory functions;~~

~~(D) the education and training of an individual’s family members and caregivers;~~

~~(E) care coordination, case management, and transition services;~~

~~(F) providing consulting services to groups, programs, organizations, or communities;~~

~~(G) modifying the environment and adapting processes, including the application of ergonomic principles;~~

~~(H) assessing, designing, fabricating, applying, fitting, and providing training in assistive technology, adaptive devices, orthotic devices, and prosthetic devices;~~

~~(I) assessing, recommending, and training an individual in techniques to enhance functional mobility, including wheelchair management;~~

~~(J) driver rehabilitation and community mobility;~~

~~(K) enhancing eating and feeding performance; and~~

~~(L) applying physical agent modalities, managing wound care, and using manual therapy techniques to enhance an individual’s performance~~

skills, if the occupational therapist has received the necessary training as determined by division rule in collaboration with the board.

(7) "Unlawful conduct" means the same as that term is defined in Sections 58-1-501 and 58-42a-501.

~~[(11)]~~ (8) "Unprofessional conduct" ~~is as defined in Section 58-42a-501~~ means the same as that term is defined in Sections 58-1-501 and 58-42a-502.

Section 2. Section 58-42A-103 is enacted to read:

58-42A-103. Rulemaking.

When exercising rulemaking authority under this chapter, the division shall comply with the requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 3. Section 58-42a-201 is amended to read:

58-42a-201. Board.

(1) There is created the ~~[Occupational Therapy Licensing]~~ Board of Occupational Therapy consisting of three licensed occupational therapists, one licensed occupational therapy assistant, and one member of the general public.

(2) The board shall be appointed and serve in accordance with Section 58-1-201.

(3) The duties and responsibilities of the board shall be in accordance with Sections 58-1-202 and 58-1-203~~[, and in addition, the]~~.

(4) ~~The~~ board shall~~[-(a)]~~ designate one of its members on a permanent or rotating basis to:

~~(a)~~ assist the division in reviewing complaints concerning the unlawful or unprofessional practice of ~~[occupational therapy]~~ a licensee; and ~~[to]~~

~~(b)~~ advise the division ~~[with respect to]~~ in its investigation of these complaints~~[, and]~~.

~~[(b)]~~ disqualify any member of the board from participating as a member of the board in its capacity as a presiding officer in any administrative procedure in which that member has reviewed the complaint or advised the division.

(5) A board member who has, under Subsection (4), reviewed a complaint or advised in its investigation may not participate with the board while the board serves as a presiding officer of an administrative proceeding concerning the complaint.

Section 4. Section 58-42a-302 is amended to read:

58-42a-302. Qualifications for licensure.

(1) ~~[All applicants]~~ An applicant for licensure as an occupational therapist shall:

(a) submit an application in a form as prescribed by the division;

(b) pay a fee as determined by the department under Section 63J-1-504;

(c) be of good moral character as it relates to the functions and responsibilities of the practice of occupational therapy;

(d) graduate with a ~~[bachelors]~~ bachelor's or graduate degree ~~[in]~~ for the practice of occupational therapy from ~~[a]~~ an education program accredited by the ~~[Accreditation Council for Occupational Therapy Education; and]~~ American Occupational Therapy Association's Accreditation Council for Occupational Therapy Education, a predecessor organization, or an equivalent organization as determined by division rule;

(e) ~~[be certified by the National Board for Certification in Occupational Therapy as an occupational therapist registered.]~~ if applying for licensure on or after July 1, 2015, complete a minimum of 24 weeks of supervised fieldwork experience; and

(f) pass an examination approved by the division in consultation with the board and administered by the National Board for Certification in Occupational Therapy, or by another nationally recognized credentialing body as approved by division rule, to demonstrate knowledge of the practice, skills, theory, and professional ethics related to occupational therapy.

(2) All applicants for licensure as an occupational ~~[therapist]~~ therapy assistant shall:

(a) submit an application in a form as prescribed by the division;

(b) pay a fee as determined by the department under Section 63J-1-504;

(c) be of good moral character as it relates to the functions and responsibilities of the practice of occupational therapy;

(d) ~~[graduate with a two-year associate degree in occupational therapy from a program accredited by the Accreditation Council for Occupational Therapy Education; and]~~ graduate from an educational program for the practice of occupational therapy as an occupational therapy assistant that is accredited by the American Occupational Therapy Association's Accreditation Council for Occupational Therapy Education, a predecessor organization, or an equivalent organization as determined by division rule;

~~[(e)]~~ be certified by the National Board for Certification in Occupational Therapy as a certified occupational therapist assistant.]

(e) if applying for licensure on or after July 1, 2015, complete a minimum of 16 weeks of supervised fieldwork experience; and

(f) pass an examination approved by the division in consultation with the board and administered by the National Board for Certification in Occupational Therapy, or by another nationally recognized credentialing body as approved by division rule, to demonstrate knowledge of the

practice, skills, theory, and professional ethics related to occupational therapy.

(3) Notwithstanding the other requirements of this section, the division may issue a license as an occupational therapist or as an occupational therapy assistant to an applicant who:

(a) meets the requirements of receiving a license by endorsement under Section 58-1-302; or

(b) has been licensed in a state, district, or territory of the United States, or in a foreign country, where the education, experience, or examination requirements are not substantially equal to the requirements of this state, if the applicant passes the applicable examination described in Subsection (1)(f) or (2)(f).

Section 5. Section 58-42a-303 is amended to read:

58-42a-303. Term of license -- Expiration -- Renewal.

(1) The division shall issue each license under this chapter in accordance with a two-year renewal cycle established by division rule.

(2) The division may by rule extend or shorten a renewal period by as much as one year to stagger the renewal cycles it administers.

~~(2)~~ (3) Each license automatically expires on the expiration date shown on the license unless the licensee renews it in accordance with Section 58-1-308.

Section 6. Section 58-42a-303.5 is enacted to read:

58-42a-303.5. Continuing education.

(1) As a condition for renewal of a license under this chapter, a licensee shall complete 24 hours of qualified continuing professional education, in accordance with standards defined by division rule in collaboration with the board, during each two-year licensure cycle.

(2) If a renewal cycle is extended or shortened under Subsection (1), the continuing education hours required for license renewal under this section shall be increased or decreased proportionally.

Section 7. Section 58-42a-304 is amended to read:

58-42a-304. Exemptions from licensure.

In addition to the exemptions from licensure in Section 58-1-307, ~~[a person who performs activities that are repetitive and routine in nature and that do not require specific skills or knowledge may engage in acts or practices included within the definition of the practice of occupational therapy under general supervision of an occupational therapist as defined by rule, without being licensed under this chapter.]~~ the following may engage in the stated limited acts or practices without being licensed under this chapter:

(1) a person licensed in the state who is engaging in the practice of the person's profession or occupation as defined in statute under which the person is licensed;

(2) a person pursuing a course of study leading to a degree for the practice of occupational therapy at an accredited education program, if that person is acting under appropriate supervision and is designated by a title that clearly indicates the person's status as a student; and

(3) a person fulfilling the supervised fieldwork experience requirements for licensure described in Section 58-42a-302, if the person is acting under appropriate supervision and is designated by a title that clearly indicates the person is performing supervised fieldwork experience to qualify for a license under this chapter.

Section 8. Section 58-42a-305 is amended to read:

58-42a-305. Limitation upon occupational therapy services provided by an occupational therapy assistant and an occupational therapy aide.

(1) An occupational ~~[therapist]~~ therapy assistant ~~[shall]~~:

(a) may only perform occupational therapy services under the supervision of an occupational therapist as ~~[set forth]~~ described in Section 58-42a-306~~[-]~~;

~~(2) (a) An occupational therapist assistant]~~

(b) may not write an individual treatment plan ~~[or]~~;

(c) may not approve or cosign modifications to ~~[a]~~ an individual treatment plan~~[-]~~; and

~~(b) An occupational therapist assistant]~~ (d) may contribute to and maintain ~~[a]~~ an individual treatment plan.

(2) An occupational therapy aide:

(a) may only perform occupational therapy services under the direct supervision of an occupational therapist or an occupational therapy assistant;

(b) may not write, modify, contribute, or maintain an individual treatment plan; and

(c) may only perform tasks that are repetitive and routine for which the aide has been trained and has demonstrated competence.

Section 9. Section 58-42a-306 is amended to read:

58-42a-306. Supervision requirements.

~~[The supervising]~~ An occupational therapist who is supervising an occupational therapy assistant shall ~~[perform the following functions]~~:

(1) write or contribute to an individual treatment plan before referring a client to a supervised occupational therapy assistant for treatment;

(2) approve and cosign on all modifications to the individual treatment plan;

~~[(3) perform an assessment of the patient before referring the patient to a supervised occupational therapist assistant for treatment;]~~

~~[(4) (3) meet face to face with the supervised occupational [therapist] therapy assistant as often as necessary but at least once every two weeks in person or by video conference, and at least one time every month in person, to adequately provide consultation, advice, training, and direction to the occupational therapy assistant;~~

~~[(5) (4) meet with each [patient] client who has been referred to a supervised occupational [therapist] therapy assistant at least once each month, [unless otherwise approved by the division in collaboration with the board,] to further assess the patient, evaluate the treatment, and modify the individual's treatment plan, except that if the interval of client care occurs one time per month or less, the occupational therapist shall meet with the client at least once every four visits;~~

~~[(6) (5) [limit supervision to not] supervise no more than two full-time occupational [therapist] therapy assistants at one time, or four part-time occupational therapy assistants if the combined work hours of the assistants do not exceed 40 hours per week, unless otherwise approved by the division in collaboration with the board; [and]~~

~~[(7) (6) remain responsible for [patient] client treatment provided by the occupational [therapist] therapy assistant[-]; and~~

~~(7) fulfill any other supervisory responsibilities as determined by division rule.~~

Section 10. Section 58-42a-501 is repealed and reenacted to read:

Part 5. Unlawful and Unprofessional Conduct

58-42a-501. Unlawful conduct.

"Unlawful conduct," as defined in Section 58-1-501 and as may be further defined by division rule, includes:

(1) engaging or offering to engage in the practice of occupational therapy unless licensed under this chapter or exempted from licensure under Section 58-1-307 or 58-42a-304;

(2) using the title occupational therapist or occupational therapy assistant unless licensed under this chapter;

(3) employing or aiding and abetting an unqualified or unlicensed person to engage or offer to engage in the practice of occupational therapy unless the person is exempted from licensure under Section 58-1-307 or 58-42a-304; and

(4) obtaining a license under this chapter by means of fraud, misrepresentation, or concealment of a material fact.

Section 11. Section 58-42a-502 is enacted to read:

58-42a-502. Unprofessional conduct.

"Unprofessional conduct," as defined in Section 58-1-501 and as may be further defined by division rule, includes:

(1) being convicted of a crime in any court except for minor offenses;

(2) violating a lawful order, rule, or regulation adopted by the division in consultation with the board;

(3) providing substandard care as an occupational therapist due to a deliberate or negligent act or failure to act regardless of whether actual injury to the client is established;

(4) providing substandard care as an occupational therapy assistant, including exceeding the authority to perform components of intervention selected and delegated by the supervising occupational therapist, regardless of whether actual injury to the client is established;

(5) knowingly delegating responsibilities related to the practice of occupational therapy to an individual, including an occupational therapy aide, who does not have the knowledge, skills, or abilities to perform those responsibilities;

(6) failing to provide appropriate supervision in accordance with this chapter to an occupational therapy assistant or occupational therapy aide;

(7) practicing as an occupational therapist or occupational therapy assistant when physical or mental impairment of the occupational therapist or occupational therapy assistant prevents the provision of competent services to clients;

(8) having had an occupational therapist, occupational therapy assistant, or equivalent license or application refused, revoked, suspended, or other disciplinary action taken in another state, United States territory, or country;

(9) engaging in sexual misconduct, including:

(a) engaging in or soliciting a sexual relationship with a client;

(b) making a sexual advance, requesting a sexual favor, or engaging in physical contact of a sexual nature with a client; and

(c) engaging in verbal or physical conduct of a sexual nature in the presence of a client; and

(10) abandoning or neglecting a client in need of immediate professional care without making reasonable arrangements for the continuation of care.

Section 12. Section 63I-1-258 is amended to read:

63I-1-258. Repeal dates, Title 58.

(1) Title 58, Chapter 13, Health Care Providers Immunity from Liability Act, is repealed July 1, 2016.

(2) Title 58, Chapter 15, Health Facility Administrator Act, is repealed July 1, 2015.

(3) Title 58, Chapter 20a, Environmental Health Scientist Act, is repealed July 1, 2018.

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- (4) Section 58-37-4.3 is repealed July 1, 2016.
- (5) Title 58, Chapter 40, Recreational Therapy Practice Act, is repealed July 1, 2023.
- (6) Title 58, Chapter 41, Speech-Language Pathology and Audiology Licensing Act, is repealed July 1, 2019.
- (7) Title 58, Chapter 42a, Occupational Therapy Practice Act, is repealed July 1, [~~2015~~] 2025.
- (8) Title 58, Chapter 46a, Hearing Instrument Specialist Licensing Act, is repealed July 1, 2023.
- (9) Title 58, Chapter 47b, Massage Therapy Practice Act, is repealed July 1, 2024.
- (10) Section 58-69-302.5 is repealed on July 1, 2015.
- (11) Title 58, Chapter 72, Acupuncture Licensing Act, is repealed July 1, 2017.
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CHAPTER 433**S. B. 135**

Passed March 4, 2015

Approved March 31, 2015

Effective May 12, 2015

**WORKERS' COMPENSATION
COVERAGE FOR FIREFIGHTERS**

Chief Sponsor: Karen Mayne

House Sponsor: Paul Ray

LONG TITLE**General Description:**

This bill modifies the Utah Occupational Disease Act to address coverage for firefighters.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ creates a rebuttable presumption of coverage for certain presumptive cancers under certain circumstances;
- ▶ addresses when there are multiple employers; and
- ▶ clarifies when a claim arises.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

34A-3-113, Utah Code Annotated 1953

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

Section 1. Section 34A-3-113 is enacted to read:**34A-3-113. Presumption of workers' compensation benefits for firefighters.**

(1) As used in this section:

(a) (i) "Firefighter" means a member, including a volunteer member, as described in Subsection 67-20-2(5)(b)(ii), or a member paid on call, of a fire department or other organization that provides fire suppression and other fire-related service who is responsible for or is in a capacity that includes responsibility for the extinguishment of fires.

(ii) "Firefighter" does not include a person whose job description, duties, or responsibilities do not include direct involvement in fire suppression.

(b) "Presumptive cancer" means one or more of the following cancers:

- (i) pharynx;
- (ii) esophagus;
- (iii) lung; and
- (iv) mesothelioma.

(2) If a firefighter who contracts a presumptive cancer meets the requirements of Subsection (3), there is a rebuttable presumption that:

(a) the presumptive cancer was contracted arising out of and in the course of employment; and

(b) the presumptive cancer was not contracted by a willful act of the firefighter.

(3) To be entitled to the rebuttable presumption described in Subsection (2):

(a) during the time of employment as a firefighter, the firefighter undergoes annual physical examinations;

(b) the firefighter shall have been employed as a firefighter for eight years or more and regularly responded to firefighting or emergency calls within the eight-year period; and

(c) if a firefighter has used tobacco, the firefighter provides documentation from a physician that indicates that the firefighter has not used tobacco for the eight years preceding reporting the presumptive cancer to the employer or division.

(4) A presumption established under this section may be rebutted by a preponderance of the evidence.

(5) If a firefighter who contracts a presumptive cancer is employed as a firefighter by more than one employer and qualifies for the presumption under Subsection (2), and that presumption has not been rebutted, the employer and insurer at the time of the last substantial exposure to risk of the presumptive cancer are liable under this chapter pursuant to Section 34A-3-105.

(6) A cause of action subject to the presumption under this section is considered to arise on the date after May 12, 2015, that the employee:

(a) suffers disability from the occupational disease;

(b) knows, or in the exercise of reasonable diligence should have known, that the occupational disease is caused by employment; and

(c) files a claim as provided in Section 34A-3-108.

CHAPTER 434**S. B. 136**

Passed February 25, 2015

Approved March 31, 2015

Effective May 12, 2015

**STATUTE OF LIMITATIONS FOR
CRIMINAL FINES, FEES,
AND RESTITUTION**

Chief Sponsor: Lyle W. Hillyard

House Sponsor: Jack R. Draxler

LONG TITLE**General Description:**

This bill provides that criminal fines, fees, and restitution payments never expire.

Highlighted Provisions:

This bill:

- ▶ provides that criminal judgment accounts receivable administered by the Office of State Debt Collection do not expire;
- ▶ creates an exception to the civil statute of limitations for criminal judgments assigned by a court to the State Office of State Debt Collection; and
- ▶ makes technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

76-3-201.1, as last amended by Laws of Utah 2013, Chapter 74

78B-2-115, as renumbered and amended by Laws of Utah 2008, Chapter 3

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

Section 1. Section 76-3-201.1 is amended to read:**76-3-201.1. Collection of criminal judgment accounts receivable.**

(1) As used in this section:

~~[(a) "Criminal judgment accounts receivable" means any amount due the state arising from a criminal judgment for which payment has not been received by the state agency that is servicing the debt.]~~

~~[(b) "Accounts receivable" includes unpaid fees, overpayments, fines, forfeitures, surcharges, costs, interest, penalties, restitution to victims, third party claims, claims, reimbursement of a reward, and damages.]~~

(a) "Accounts receivable" includes unpaid fees, overpayments, fines, forfeitures, surcharges, costs, interest, penalties, restitution to victims, third party claims, claims, reimbursement of a reward, and damages.

(b) "Criminal judgment accounts receivable" means any amount due the state arising from a

criminal judgment for which payment has not been received by the state agency that is servicing the debt.

(2) (a) A criminal judgment account receivable ordered by the court as a result of prosecution for a criminal offense may be collected by any means authorized by law for the collection of a civil judgment.

(b) (i) The court may permit a defendant to pay a criminal judgment account receivable in installments.

(ii) In the district court, if the criminal judgment account receivable is paid in installments, the total amount due shall include all fines, surcharges, postjudgment interest, and fees.

(c) Upon default in the payment of a criminal judgment account receivable or upon default in the payment of any installment of that receivable, the criminal judgment account receivable may be collected as provided in this section or Subsection 77-18-1(9) or (10), and by any means authorized by law for the collection of a civil judgment.

(3) When a defendant defaults in the payment of a criminal judgment account receivable or any installment of that receivable, the court, on motion of the prosecution, victim, or upon its own motion may:

(a) order the defendant to appear and show cause why the default should not be treated as contempt of court; or

(b) issue a warrant of arrest.

(4) (a) Unless the defendant shows that the default was not attributable to an intentional refusal to obey the order of the court or to a failure to make a good faith effort to make the payment, the court may find that the default constitutes contempt.

(b) Upon a finding of contempt, the court may order the defendant committed until the criminal judgment account receivable, or a specified part of it, is paid.

(5) If it appears to the satisfaction of the court that the default is not contempt, the court may enter an order for any of the following or any combination of the following:

(a) require the defendant to pay the criminal judgment account receivable or a specified part of it by a date certain;

(b) restructure the payment schedule;

(c) restructure the installment amount;

(d) except as provided in Section 77-18-8, execute the original sentence of imprisonment;

(e) start the period of probation anew;

(f) except as limited by Subsection (6), convert the criminal judgment account receivable or any part of it to compensatory service;

(g) except as limited by Subsection (6), reduce or revoke the unpaid amount of the criminal judgment account receivable; or

(h) in the court, record the unpaid balance of the criminal judgment account receivable as a civil judgment and transfer the responsibility for collecting the judgment to the Office of State Debt Collection.

(6) In issuing an order under this section, the court may not modify the amount of the judgment of complete restitution.

(7) Whether or not a default constitutes contempt, the court may add to the amount owed the fees established under Subsection 63A-3-502(4)(g) and postjudgment interest.

(8) (a) (i) If a criminal judgment account receivable is past due in a case supervised by the Department of Corrections, the judge shall determine whether to record the unpaid balance of the account receivable as a civil judgment.

(ii) If the judge records the unpaid balance of the account receivable as a civil judgment, the judge shall transfer the responsibility for collecting the judgment to the Office of State Debt Collection.

(b) If a criminal judgment account receivable in a case not supervised by the Department of Corrections is past due, the court may, without a motion or hearing, record the unpaid balance of the criminal judgment account receivable as a civil judgment and transfer the responsibility for collecting the account receivable to the Office of State Debt Collection.

(c) If a criminal judgment account receivable in a case not supervised by the Department of Corrections is more than 90 days past due, the district court shall, without a motion or hearing, record the unpaid balance of the criminal judgment account receivable as a civil judgment and transfer the responsibility for collecting the criminal judgment account receivable to the Office of State Debt Collection.

(9) (a) When a fine, forfeiture, surcharge, cost permitted by statute, fee, or an order of restitution is imposed on a corporation or unincorporated association, the person authorized to make disbursement from the assets of the corporation or association shall pay the obligation from those assets.

(b) Failure to pay the obligation may be held to be contempt under Subsection (3).

(10) The prosecuting attorney may collect restitution ~~in~~ on behalf of a victim.

(11) (a) Criminal judgment accounts receivable are not subject to civil statutes of limitations and expire only upon payment in full.

(b) This Subsection (11) applies to all criminal judgment accounts receivable not paid in full on or before May 12, 2015.

Except for the provisions of Section 78B-2-116, and the collection of criminal fines, fees, and restitution by the Office of State Debt Collection in accordance with Sections 63A-3-502 and 76-3-201.1, the limitations in this chapter apply to actions brought in the name of or for the benefit of the state or other governmental entity the same as to actions by private parties.

Section 2. Section 78B-2-115 is amended to read:

78B-2-115. Actions by state or other governmental entity.

CHAPTER 435**S. B. 137**

Passed March 11, 2015
 Approved March 31, 2015
 Effective May 12, 2015

**CAMPAIGN AND FINANCIAL REPORTING
 REQUIREMENTS REVISIONS**

Chief Sponsor: Todd Weiler
 House Sponsor: Daniel McCay

LONG TITLE**General Description:**

This bill establishes a deadline to pay a fine imposed for violating Title 20A, Chapter 11, Campaign and Financial Reporting Requirements, and prohibits a person from using the email of a public entity to send an email for a political purpose.

Highlighted Provisions:

This bill:

- ▶ amends the definition of “political purposes”;
- ▶ establishes a deadline to pay a fine imposed for violating Title 20A, Chapter 11, Campaign and Financial Reporting Requirements;
- ▶ prohibits a person from sending an email, using the email of a public entity, for a political purpose or to advocate for or against a ballot proposition;
- ▶ provides for a civil fine against a person who violates the provisions of this bill; and
- ▶ makes technical and conforming amendments.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 20A-11-1202, as last amended by Laws of Utah 2009, Chapter 60
 20A-11-1203, as last amended by Laws of Utah 2014, Chapter 158
 20A-11-1204, as enacted by Laws of Utah 2004, Chapter 142

ENACTS:

- 20A-11-105, Utah Code Annotated 1953
 20A-11-1205, Utah Code Annotated 1953
 20A-11-1206, Utah Code Annotated 1953

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

Section 1. Section 20A-11-105 is enacted to read:

20A-11-105. Deadline for payment of fine.

A person against whom the lieutenant governor imposes a fine under this chapter shall pay the fine within 30 days after the day on which the lieutenant governor imposes the fine.

Section 2. Section 20A-11-1202 is amended to read:

20A-11-1202. Definitions.

As used in this part:

- (1) “Applicable election officer” means:

(a) a county clerk, if the email relates only to a local election; or

(b) the lieutenant governor, if the email relates to an election other than a local election.

~~[(1)]~~ (2) “Ballot proposition” means constitutional amendments, initiatives, referenda, judicial retention questions, opinion questions, bond approvals, or other questions submitted to the voters for their approval or rejection.

~~[(2)]~~ (3) (a) “Commercial interlocal cooperation agency” means an interlocal cooperation agency that receives its revenues from conduct of its commercial operations.

(b) “Commercial interlocal cooperation agency” does not mean an interlocal cooperation agency that receives some or all of its revenues from:

(i) government appropriations;

(ii) taxes;

(iii) government fees imposed for regulatory or revenue raising purposes; or

(iv) interest earned on public funds or other returns on investment of public funds.

~~[(3)]~~ (4) “Expenditure” means:

(a) a purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of value;

(b) an express, legally enforceable contract, promise, or agreement to make any purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of value;

(c) a transfer of funds between a public entity and a candidate’s personal campaign committee;

(d) a transfer of funds between a public entity and a political issues committee; or

(e) goods or services provided to or for the benefit of a candidate, a candidate’s personal campaign committee, or a political issues committee for political purposes at less than fair market value.

~~[(4)]~~ (5) “Governmental interlocal cooperation agency” means an interlocal cooperation agency that receives some or all of its revenues from:

(a) government appropriations;

(b) taxes;

(c) government fees imposed for regulatory or revenue raising purposes; or

(d) interest earned on public funds or other returns on investment of public funds.

~~[(5)]~~ (6) (a) “Influence” means to campaign or advocate for or against a ballot proposition.

(b) “Influence” does not mean providing a brief statement about a public entity’s position on a ballot proposition and the reason for that position.

~~[(6)]~~ (7) “Interlocal cooperation agency” means an entity created by interlocal agreement under the authority of Title 11, Chapter 13, Interlocal Cooperation Act.

~~(7)~~ (8) "Local district" means an entity under Title 17B, Limited Purpose Local Government Entities - Local Districts, and includes a special service district under Title 17D, Chapter 1, Special Service District Act.

~~(8)~~ (9) "Political purposes" means an act done with the intent or in a way to influence or intend to influence, directly or indirectly, any person to refrain from voting or to vote for or against any:

(a) candidate for public office at any caucus, political convention, primary, or election~~[-];~~ or

(b) judge standing for retention at any election.

~~(9)~~ (10) (a) "Public entity" includes the state, each state agency, each county, municipality, school district, local district, governmental interlocal cooperation agency, and each administrative subunit of each of them.

(b) "Public entity" does not include a commercial interlocal cooperation agency.

(c) "Public entity" includes local health departments created under Title 26, Chapter 1, Department of Health Organization.

~~(10)~~ (11) (a) "Public funds" means any money received by a public entity from appropriations, taxes, fees, interest, or other returns on investment.

(b) "Public funds" does not include money donated to a public entity by a person or entity.

~~(11)~~ (12) (a) "Public official" means an elected or appointed member of government with authority to make or determine public policy.

(b) "Public official" includes the person or group that:

(i) has supervisory authority over the personnel and affairs of a public entity; and

(ii) approves the expenditure of funds for the public entity.

~~(12)~~ (13) (a) "State agency" means each department, commission, board, council, agency, institution, officer, corporation, fund, division, office, committee, authority, laboratory, library, unit, bureau, panel, or other administrative unit of the state.

(b) "State agency" includes the legislative branch, the Board of Regents, the institutional councils of each higher education institution, and each higher education institution.

Section 3. Section 20A-11-1203 is amended to read:

20A-11-1203. Public entity prohibited from expending public funds on certain electoral matters.

(1) Unless specifically required by law, and except as provided in Section 20A-11-1206, a public entity may not make an expenditure from public funds for political purposes or to influence a ballot proposition.

~~(2) Nothing in this chapter prohibits a public official from speaking, campaigning, contributing personal money, or otherwise exercising the public official's individual First Amendment rights for political purposes.]~~

~~(3) Nothing in this chapter prohibits a public entity from providing factual information about a ballot proposition to the public, so long as the information grants equal access to both the opponents and proponents of the ballot proposition.]~~

~~(4) Nothing in this chapter prohibits a public entity from the neutral encouragement of voters to vote.]~~

~~(5) Nothing in this chapter prohibits an elected official from campaigning or advocating for or against a ballot proposition.]~~

~~(6)~~ (2) A violation of this section does not invalidate an otherwise valid election.

Section 4. Section 20A-11-1204 is amended to read:

20A-11-1204. Criminal penalty.

Each public official who violates ~~[this part]~~ Section 20A-11-1203 is guilty of a class B misdemeanor.

Section 5. Section 20A-11-1205 is enacted to read:

20A-11-1205. Use of public email for a political purpose.

(1) Except as provided in Subsection (5), a person may not send an email using the email of a public entity, for a political purpose or to advocate for or against a ballot proposition.

(2) The applicable election officer shall impose a civil fine against a person who violates Subsection (1) as follows:

(a) up to \$250 for a first violation; and

(b) except as provided in Subsection (3), for each subsequent violation committed after any applicable election officer imposes a fine against the person for a first violation, \$1,000 multiplied by the number of violations committed by the person.

(3) The applicable election officer shall consider a violation of this section as a first violation if the violation is committed more than seven years after the day on which the person last committed a violation of this section.

(4) For purposes of this section, one violation means one act of sending an email, regardless of the number of recipients of the email.

(5) A person does not violate this section if the lieutenant governor finds that the email described in Subsection (1) was inadvertently sent, as a reply to an email received by the person described in Subsection (1), using the email of a public entity.

(6) A violation of this section does not invalidate an otherwise valid election.

Section 6. Section 20A-11-1206 is enacted to read:

20A-11-1206. Exclusions.

(1) Nothing in this chapter prohibits a public official from speaking, campaigning, contributing personal money, or otherwise exercising the public official's individual First Amendment rights for political purposes.

(2) Nothing in this chapter prohibits a public entity from providing factual information about a ballot proposition to the public, so long as the information grants equal access to both the opponents and proponents of the ballot proposition.

(3) Nothing in this chapter prohibits a public entity from the neutral encouragement of voters to vote.

(4) Nothing in this chapter prohibits an elected official from campaigning or advocating for or against a ballot proposition.

CHAPTER 436**S. B. 138**

Passed March 11, 2015

Approved March 31, 2015

Effective May 12, 2015

SERVICE DISTRICT MODIFICATIONS

Chief Sponsor: Jerry W. Stevenson
House Sponsor: Stephen G. Handy

LONG TITLE**General Description:**

This bill amends provisions related to local districts.

Highlighted Provisions:

This bill:

- ▶ provides that a board of trustees shall hold a public hearing on a proposed withdrawal with certain exceptions;
- ▶ clarifies language related to the time in which a board of trustees adopts a withdrawal resolution;
- ▶ authorizes combining a notice on a budget hearing with notice to increase or impose a new fee;
- ▶ amends provisions related to the preparation of a tentative budget;
- ▶ authorizes a local district to combine certain notices of fees; and
- ▶ makes technical and conforming amendments.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

17B-1-508, as renumbered and amended by Laws of Utah 2007, Chapter 329

17B-1-510, as last amended by Laws of Utah 2011, Chapter 297

17B-1-607, as last amended by Laws of Utah 2011, Chapter 297

17B-1-609, as last amended by Laws of Utah 2014, Chapter 377

17B-1-643, as last amended by Laws of Utah 2011, Chapters 47 and 106

53-13-103, as last amended by Laws of Utah 2014, Chapters 290 and 300

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

Section 1. Section 17B-1-508 is amended to read:**17B-1-508. Public hearing -- Quorum of board required to be present.**

(1) A public hearing on the proposed withdrawal shall be held by the board of trustees of a local district that:

- (a) certifies a petition under Subsection 17B-1-507(1)(b)(i) unless the petition was signed by all of the owners of private land within the area proposed to be withdrawn or all of the registered

voters residing within the area proposed to be withdrawn; or

- (b) adopts a resolution under Subsection 17B-1-504(1)(a)(iii) unless another local district provides to the area proposed to be withdrawn the same retail or wholesale service as provided by the local district that adopted the resolution.

(2) The public hearing required by Subsection (1) for a petition certified by the board of trustees of a local district under Subsection 17B-1-507(1)(b)(i), other than a petition filed in accordance with Subsection 17B-1-504(1)(a)(iv), may be held as an agenda item of a meeting of the board of trustees of the local district without complying with the requirements of Subsection (3)(b), (3)(c), or Section 17B-1-509.

(3) Except as provided in Subsection (2), the public hearing required by Subsection (1) shall be held:

- (a) no later than 90 days after:

(i) certification of the petition under Subsection 17B-1-507(1)(b)(i); or

(ii) adoption of a resolution under Subsection 17B-1-504(1)(a)(iii);

(b) (i) for a local district located entirely within a single county:

(A) within or as close as practicable to the area proposed to be withdrawn; or

- (B) at the local district office; or

(ii) for a local district located in more than one county:

(A) (I) within the county in which the area proposed to be withdrawn is located; and

(II) within or as close as practicable to the area proposed to be withdrawn; or

(B) if the local district office is reasonably accessible to all residents within the area proposed to be annexed, at the local district office;

(c) on a weekday evening other than a holiday beginning no earlier than 6:00 p.m.; and

- (d) for the purpose of allowing:

(i) the public to ask questions and obtain further information about the proposed withdrawal and issues raised by it; and

(ii) any interested person to address the board of trustees concerning the proposed withdrawal.

(4) A quorum of the board of trustees of the local district shall be present throughout the public hearing provided for under this section.

(5) A public hearing under this section may be postponed or continued to a new time, date, and place without further notice by a resolution of the board of trustees adopted at the public hearing held at the time, date, and place specified in the published notice; provided, however, that the public hearing may not be postponed or continued to a date later than 15 days after the 90-day period under Subsection (3).

Section 2. Section 17B-1-510 is amended to read:

17B-1-510. Resolution approving or rejecting withdrawal -- Criteria for approval or rejection -- Terms and conditions.

(1) (a) ~~[On or before the date of the board meeting next following the public hearing under Section 17B-1-508, but in no case]~~ No later than 90 days after the public hearing under Section 17B-1-508, or, if no hearing is held, within 90 days after the filing of a petition under Section 17B-1-504, the board of trustees of the local district in which the area proposed to be withdrawn is located shall adopt a resolution:

(i) approving the withdrawal of some or all of the area from the local district; or

(ii) rejecting the withdrawal.

(b) Each resolution approving a withdrawal shall:

(i) include a legal description of the area proposed to be withdrawn;

(ii) state the effective date of the withdrawal; and

(iii) set forth the terms and conditions under Subsection (5), if any, of the withdrawal.

(c) Each resolution rejecting a withdrawal shall include a detailed explanation of the board of trustees' reasons for the rejection.

(2) Unless denial of the petition is required under Subsection (3), the board of trustees shall adopt a resolution approving the withdrawal of some or all of the area from the local district if the board of trustees determines that:

(a) the area to be withdrawn does not and will not require the service that the local district provides;

(b) the local district will not be able to provide service to the area to be withdrawn for the reasonably foreseeable future; or

(c) the area to be withdrawn has obtained the same service that is provided by the local district or a commitment to provide the same service that is provided by the local district from another source.

(3) The board of trustees shall adopt a resolution denying the withdrawal if it determines that the proposed withdrawal would:

(a) result in a breach or default by the local district under:

(i) any of its notes, bonds, or other debt or revenue obligations;

(ii) any of its agreements with entities which have insured, guaranteed, or otherwise credit-enhanced any debt or revenue obligations of the local district; or

(iii) any of its agreements with the United States or any agency of the United States; provided, however, that, if the local district has entered into an agreement with the United States that requires the consent of the United States for a withdrawal of

territory from the district, a withdrawal under this part may occur if the written consent of the United States is obtained and filed with the board of trustees;

(b) adversely affect the ability of the local district to make any payments or perform any other material obligations under:

(i) any of its agreements with the United States or any agency of the United States;

(ii) any of its notes, bonds, or other debt or revenue obligations; or

(iii) any of its agreements with entities which have insured, guaranteed, or otherwise credit-enhanced any debt or revenue obligations of the local district;

(c) result in the reduction or withdrawal of any rating on an outstanding note, bond, or other debt or revenue obligation of the local district;

(d) create an island or peninsula of nondistrict territory within the local district or of district territory within nondistrict territory that has a material adverse affect on the local district's ability to provide service or materially increases the cost of providing service to the remainder of the local district;

(e) materially impair the operations of the remaining local district; or

(f) require the local district to materially increase the fees it charges or property taxes or other taxes it levies in order to provide to the remainder of the district the same level and quality of service that was provided before the withdrawal.

(4) In determining whether the withdrawal would have any of the results described in Subsection (3), the board of trustees may consider the cumulative impact that multiple withdrawals over a specified period of time would have on the local district.

(5) (a) Despite the presence of one or more of the conditions listed in Subsection (3), the board of trustees may approve a resolution withdrawing an area from the local district imposing terms or conditions that mitigate or eliminate the conditions listed in Subsection (3), including:

(i) a requirement that the owners of property located within the area proposed to be withdrawn or residents within that area pay their proportionate share of any outstanding district bond or other obligation as determined pursuant to Subsection (5)(b);

(ii) a requirement that the owners of property located within the area proposed to be withdrawn or residents within that area make one or more payments in lieu of taxes, fees, or assessments;

(iii) a requirement that the board of trustees and the receiving entity agree to reasonable payment and other terms in accordance with Subsections (5)(f) through (g) regarding the transfer to the receiving entity of district assets that the district used before withdrawal to provide service to the

withdrawn area but no longer needs because of the withdrawal; provided that, if those district assets are allocated in accordance with Subsections (5)(f) through (g), the district shall immediately transfer to the receiving entity on the effective date of the withdrawal, all title to and possession of district assets allocated to the receiving entity; or

(iv) any other reasonable requirement considered to be necessary by the board of trustees.

(b) Other than as provided for in Subsection 17B-1-511(2), and except as provided in Subsection (5)(e), in determining the proportionate share of outstanding bonded indebtedness or other obligations under Subsection (5)(a)(i) and for purposes of determining the allocation and transfer of district assets under Subsection (5)(a)(iii), the board of trustees and the receiving entity, or in cases where there is no receiving entity, the board and the sponsors of the petition shall:

(i) engage engineering and accounting consultants chosen by the procedure provided in Subsection (5)(d); provided however, that if the withdrawn area is not receiving service, an engineering consultant need not be engaged; and

(ii) require the engineering and accounting consultants engaged under Subsection (5)(b)(i) to communicate in writing to the board of trustees and the receiving entity, or in cases where there is no receiving entity, the board and the sponsors of the petition the information required by Subsections (5)(f) through (h).

(c) For purposes of this Subsection (5):

(i) "accounting consultant" means a certified public accountant or a firm of certified public accountants with the expertise necessary to make the determinations required under Subsection (5)(h); and

(ii) "engineering consultant" means a person or firm that has the expertise in the engineering aspects of the type of system by which the withdrawn area is receiving service that is necessary to make the determination required under Subsections (5)(f) and (g).

(d) (i) Unless the board of trustees and the receiving entity, or in cases where there is no receiving entity, the board and the sponsors of the petition agree on an engineering consultant and an accounting consultant, each consultant shall be chosen from a list of consultants provided by the Consulting Engineers Council of Utah and the Utah Association of Certified Public Accountants, respectively, as provided in this Subsection (5)(d).

(ii) A list under Subsection (5)(d)(i) may not include a consultant who has had a contract for services with the district or the receiving entity during the two-year period immediately before the list is provided to the local district.

(iii) Within 20 days of receiving the lists described in Subsection (5)(d)(i), the board of trustees shall eliminate the name of one engineering consultant from the list of engineering consultants and the

name of one accounting consultant from the list of accounting consultants and shall notify the receiving entity, or in cases where there is no receiving entity, the sponsors of the petition in writing of the eliminations.

(iv) Within three days of receiving notification under Subsection (5)(d), the receiving entity, or in cases where there is no receiving entity, the sponsors of the petition shall eliminate another name of an engineering consultant from the list of engineering consultants and another name of an accounting consultant from the list of accounting consultants and shall notify the board of trustees in writing of the eliminations.

(v) The board of trustees and the receiving entity, or in cases where there is no receiving entity, the board and the sponsors of the petition shall continue to alternate between them, each eliminating the name of one engineering consultant from the list of engineering consultants and the name of one accounting consultant from the list of accounting consultants and providing written notification of the eliminations within three days of receiving notification of the previous notification, until the name of only one engineering consultant remains on the list of engineering consultants and the name of only one accounting consultant remains on the list of accounting consultants.

(e) The requirement under Subsection (5)(b) to engage engineering and accounting consultants does not apply if the board of trustees and the receiving entity, or in cases where there is no receiving entity, the board and the sponsors of the petition agree on the allocations that are the engineering consultant's responsibility under Subsection (5)(f) or the determinations that are the accounting consultant's responsibility under Subsection (5)(h); provided however, that if engineering and accounting consultants are engaged, the district and the receiving entity, or in cases where there is no receiving entity, the district and the sponsors of the petition shall equally share the cost of the engineering and accounting consultants.

(f) (i) The engineering consultant shall allocate the district assets between the district and the receiving entity as provided in this Subsection (5)(f).

(ii) The engineering consultant shall allocate:

(A) to the district those assets reasonably needed by the district to provide to the area of the district remaining after withdrawal the kind, level, and quality of service that was provided before withdrawal; and

(B) to the receiving entity those assets reasonably needed by the receiving entity to provide to the withdrawn area the kind and quality of service that was provided before withdrawal.

(iii) If the engineering consultant determines that both the local district and the receiving entity reasonably need a district asset to provide to their respective areas the kind and quality of service provided before withdrawal, the engineering consultant shall:

(A) allocate the asset between the local district and the receiving entity according to their relative needs, if the asset is reasonably susceptible of division; or

(B) allocate the asset to the local district, if the asset is not reasonably susceptible of division.

(g) All district assets remaining after application of Subsection (5)(f) shall be allocated to the local district.

(h) (i) The accounting consultant shall determine the withdrawn area's proportionate share of any redemption premium and the principal of and interest on:

(A) the local district's revenue bonds that were outstanding at the time the petition was filed;

(B) the local district's general obligation bonds that were outstanding at the time the petition was filed; and

(C) the local district's general obligation bonds that:

(I) were outstanding at the time the petition was filed; and

(II) are treated as revenue bonds under Subsection (5)(i); and

(D) the district's bonds that were issued prior to the date the petition was filed to refund the district's revenue bonds, general obligation bonds, or general obligation bonds treated as revenue bonds.

(ii) For purposes of Subsection (5)(h)(i), the withdrawn area's proportionate share of redemption premium, principal, and interest shall be the amount that bears the same relationship to the total redemption premium, principal, and interest for the entire district that the average annual gross revenues from the withdrawn area during the three most recent complete fiscal years before the filing of the petition bears to the average annual gross revenues from the entire district for the same period.

(i) For purposes of Subsection (5)(h)(i), a district general obligation bond shall be treated as a revenue bond if:

(i) the bond is outstanding on the date the petition was filed; and

(ii) the principal of and interest on the bond, as of the date the petition was filed, had been paid entirely from local district revenues and not from a levy of ad valorem tax.

(j) (i) Before the board of trustees of the local district files a resolution approving a withdrawal, the receiving entity, or in cases where there is no receiving entity, the sponsors of the petition shall irrevocably deposit government obligations, as defined in Subsection 11-27-2(6), into an escrow trust fund the principal of and interest on which are sufficient to provide for the timely payment of the amount determined by the accounting consultant under Subsection (5)(h) or in an amount mutually

agreeable to the board of trustees of the local district and the receiving entity, or in cases where there is no receiving entity, the board and the sponsors of the petition. Notwithstanding Subsection 17B-1-512(1), the board of trustees may not be required to file a resolution approving a withdrawal until the requirements for establishing and funding an escrow trust fund in this Subsection (5)(j)(i) have been met; provided that, if the escrow trust fund has not been established and funded within 180 days after the board of trustees passes a resolution approving a withdrawal, the resolution approving the withdrawal shall be void.

(ii) Concurrently with the creation of the escrow, the receiving entity, or in cases where there is no receiving entity, the sponsors of the petition shall provide to the board of trustees of the local district:

(A) a written opinion of an attorney experienced in the tax-exempt status of municipal bonds stating that the establishment and use of the escrow to pay the proportionate share of the district's outstanding revenue bonds and general obligation bonds that are treated as revenue bonds will not adversely affect the tax-exempt status of the bonds; and

(B) a written opinion of an independent certified public accountant verifying that the principal of and interest on the deposited government obligations are sufficient to provide for the payment of the withdrawn area's proportionate share of the bonds as provided in Subsection (5)(h).

(iii) The receiving entity, or in cases where there is no receiving entity, the sponsors of the petition shall bear all expenses of the escrow and the redemption of the bonds.

(iv) The receiving entity may issue bonds under Title 11, Chapter 14, Local Government Bonding Act, and Title 11, Chapter 27, Utah Refunding Bond Act, to fund the escrow.

(6) A requirement imposed by the board of trustees as a condition to withdrawal under Subsection (5) shall, in addition to being expressed in the resolution, be reduced to a duly authorized and executed written agreement between the parties to the withdrawal.

(7) An area that is the subject of a withdrawal petition under Section 17B-1-504 that results in a board of trustees resolution denying the proposed withdrawal may not be the subject of another withdrawal petition under Section 17B-1-504 for two years after the date of the board of trustees resolution denying the withdrawal.

Section 3. Section 17B-1-607 is amended to read:

17B-1-607. Tentative budget to be prepared -- Review by governing body.

(1) On or before the first regularly scheduled meeting of the board of trustees in November for a calendar year entity and May for a fiscal year entity, the budget officer of each local district shall prepare for the ensuing year, [on forms provided by the state auditor] in a format prescribed by the state auditor, and file with the board of trustees a

tentative budget for each fund for which a budget is required.

(2) (a) Each tentative budget under Subsection (1) shall provide in tabular form:

(i) actual revenues and expenditures for the last completed fiscal year;

(ii) estimated total revenues and expenditures for the current fiscal year; and

(iii) the budget officer's estimates of revenues and expenditures for the budget year.

(b) The budget officer shall estimate the amount of revenue available to serve the needs of each fund, estimate the portion to be derived from all sources other than general property taxes, and estimate the portion that shall be derived from general property taxes.

(3) The tentative budget, when filed by the budget officer with the board of trustees, shall contain the estimates of expenditures together with specific work programs and any other supporting data required by this part or requested by the board.

(4) The board of trustees shall review, consider, and tentatively adopt the tentative budget in any regular meeting or special meeting called for that purpose and may amend or revise the tentative budget in any manner that the board considers advisable prior to public hearings, but no appropriation required for debt retirement and interest or reduction of any existing deficits under Section 17B-1-613, or otherwise required by law, may be reduced below the minimums so required.

(5) When a new district is created, the board of trustees shall:

(a) prepare a budget covering the period from the date of incorporation to the end of the fiscal year;

(b) substantially comply with all other provisions of this part with respect to notices and hearings; and

(c) pass the budget as soon after incorporation as feasible.

Section 4. Section 17B-1-609 is amended to read:

17B-1-609. Hearing to consider adoption -- Notice.

(1) At the meeting at which the tentative budget is adopted, the board of trustees shall:

(a) establish the time and place of a public hearing to consider its adoption; and

(b) except as provided in Subsection ~~[(5)]~~ (6), order that notice of the hearing:

(i) (A) be published at least seven days before the hearing in at least one issue of a newspaper of general circulation ~~[published]~~ in the county or counties in which the district is located; or

(B) if no newspaper is ~~[published]~~ circulated generally in the county or counties, be posted in three public places within the district; and

(ii) be published at least seven days before the hearing on the Utah Public Notice Website created in Section 63F-1-701.

(2) If the budget hearing is held in conjunction with a tax increase hearing, the notice required in Subsection (1)(b):

(a) may be combined with the notice required under Section 59-2-919; and

(b) shall be published in accordance with the advertisement provisions of Section 59-2-919.

(3) If the budget hearing is to be held in conjunction with a fee increase hearing, the notice required in Subsection (1)(b):

(a) may be combined with the notice required under Section 17B-1-643; and

(b) shall be published or mailed in accordance with the notice provisions of Section 17B-1-643.

~~[(3)]~~ (4) Proof that notice was given in accordance with Subsection (1)(b), (2), (3), or ~~[(5)]~~ (6) is prima ~~[faae]~~ facie evidence that notice was properly given.

~~[(4)]~~ (5) If a notice required under Subsection (1)(b), (2), (3), or ~~[(5)]~~ (6) is not challenged within 30 days after the day on which the hearing is held, the notice is adequate and proper.

~~[(5)]~~ (6) A board of trustees of a local district with an annual operating budget of less than \$250,000 may satisfy the notice requirements in Subsection (1)(b) by:

(a) mailing a written notice, postage prepaid, to each voter in the local district ~~[or special service district]; and~~

(b) posting the notice in three public places within the district.

Section 5. Section 17B-1-643 is amended to read:

17B-1-643. Imposing or increasing a fee for service provided by local district.

(1) (a) Before imposing a new fee or increasing an existing fee for a service provided by a local district, each local district board of trustees shall first hold a public hearing at which any interested person may speak for or against the proposal to impose a fee or to increase an existing fee.

(b) Each public hearing under Subsection (1)(a) shall be held in the evening beginning no earlier than 6 p.m.

(c) A public hearing required under this Subsection (1) may be combined with a public hearing on a tentative budget required under Section 17B-1-610.

(d) Except to the extent that this section imposes more stringent notice requirements, the local district board shall comply with Title 52, Chapter 4, Open and Public Meetings Act, in holding the public hearing under Subsection (1)(a).

(2) (a) Each local district board shall give notice of a hearing under Subsection (1) as provided in Subsection (2)(b)(i) or (c).

(b) (i) (A) The notice required under Subsection (2)(a) shall be published:

(I) in a newspaper or combination of newspapers of general circulation in the local district, if there is a newspaper or combination of newspapers of general circulation in the local district; or

(II) if there is no newspaper or combination of newspapers of general circulation in the local district, the local district board shall post at least one notice per 1,000 population within the local district, at places within the local district that are most likely to provide actual notice to residents within the local district.

(B) The notice described in Subsection (2)(b)(i)(A)(I):

(I) shall be no less than 1/4 page in size and the type used shall be no smaller than 18 point, and surrounded by a 1/4-inch border;

(II) may not be placed in that portion of the newspaper where legal notices and classified advertisements appear;

(III) whenever possible, shall appear in a newspaper that is published at least one day per week;

(IV) shall be in a newspaper or combination of newspapers of general interest and readership in the local district, and not of limited subject matter; and

(V) shall be run once each week for the two weeks preceding the hearing.

(ii) The notice described in Subsection (2)(b)(i)(A) shall state that the local district board intends to impose or increase a fee for a service provided by the local district and will hold a public hearing on a certain day, time, and place fixed in the notice, which shall be not less than seven days after the day the first notice is published, for the purpose of hearing comments regarding the proposed imposition or increase of a fee and to explain the reasons for the proposed imposition or increase.

(c) (i) In lieu of providing notice under Subsection (2)(b), the local district board of trustees may give the notice required under Subsection (2)(a) by mailing the notice to those within the district who:

(A) will be charged the fee for a district service, if the fee is being imposed for the first time; or

(B) are being charged a fee, if the fee is proposed to be increased.

(ii) Each notice under Subsection (2)(c)(i) shall comply with Subsection (2)(b)(ii).

(iii) A notice under Subsection (2)(c)(i) may accompany a district bill for an existing fee.

(d) If the hearing required under this section is combined with the public hearing required under Section 17B-1-610, the notice [requirement]

required under this Subsection (2) [is satisfied if a notice that meets the requirements of Subsection (2)(b)(i) is combined with];

(i) may be combined with the notice required under Section 17B-1-609[.]; and

(ii) shall be published or mailed in accordance with the notice provisions of Subsection (2)(c).

(e) Proof that notice was given as provided in Subsection (2)(b) or (c) is prima facie evidence that notice was properly given.

(f) If no challenge is made to the notice given of a hearing required by Subsection (1) within 30 days after the date of the hearing, the notice is considered adequate and proper.

(3) After holding a public hearing under Subsection (1), a local district board may:

(a) impose the new fee or increase the existing fee as proposed;

(b) adjust the amount of the proposed new fee or the increase of the existing fee and then impose the new fee or increase the existing fee as adjusted; or

(c) decline to impose the new fee or increase the existing fee.

(4) This section applies to each new fee imposed and each increase of an existing fee that occurs on or after July 1, 1998.

(5) (a) This section does not apply to an impact fee.

(b) The imposition or increase of an impact fee is governed by Title 11, Chapter 36a, Impact Fees Act.

Section 6. Section 53-13-103 is amended to read:

53-13-103. Law enforcement officer.

(1) (a) "Law enforcement officer" means a sworn and certified peace officer who is an employee of a law enforcement agency that is part of or administered by the state or any of its political subdivisions, and whose primary and principal duties consist of the prevention and detection of crime and the enforcement of criminal statutes or ordinances of this state or any of its political subdivisions.

(b) "Law enforcement officer" [specifically] includes the following:

(i) any sheriff or deputy sheriff, chief of police, police officer, or marshal of any county, city, or town;

(ii) the commissioner of public safety and any member of the Department of Public Safety certified as a peace officer;

(iii) all persons specified in Sections 23-20-1.5 and 79-4-501;

(iv) any police officer employed by any college or university;

(v) investigators for the Motor Vehicle Enforcement Division;

(vi) investigators for the Department of Insurance, Fraud Division;

(vii) special agents or investigators employed by the attorney general, district attorneys, and county attorneys;

(viii) employees of the Department of Natural Resources designated as peace officers by law;

(ix) school district police officers as designated by the board of education for the school district;

(x) the executive director of the Department of Corrections and any correctional enforcement or investigative officer designated by the executive director and approved by the commissioner of public safety and certified by the division;

(xi) correctional enforcement, investigative, or adult probation and parole officers employed by the Department of Corrections serving on or before July 1, 1993;

(xii) members of a law enforcement agency established by a private college or university provided that the college or university has been certified by the commissioner of public safety according to rules of the Department of Public Safety;

(xiii) airport police officers of any airport owned or operated by the state or any of its political subdivisions; and

(xiv) transit police officers designated under Section [~~17B-2a-823~~] 17B-2a-822.

(2) Law enforcement officers may serve criminal process and arrest violators of any law of this state and have the right to require aid in executing their lawful duties.

(3) (a) A law enforcement officer has statewide full-spectrum peace officer authority, but the authority extends to other counties, cities, or towns only when the officer is acting under Title 77, Chapter 9, Uniform Act on Fresh Pursuit, unless the law enforcement officer is employed by the state.

(b) (i) A local law enforcement agency may limit the jurisdiction in which its law enforcement officers may exercise their peace officer authority to a certain geographic area.

(ii) Notwithstanding Subsection (3)(b)(i), a law enforcement officer may exercise authority outside of the limited geographic area, pursuant to Title 77, Chapter 9, Uniform Act on Fresh Pursuit, if the officer is pursuing an offender for an offense that occurred within the limited geographic area.

(c) The authority of law enforcement officers employed by the Department of Corrections is regulated by Title 64, Chapter 13, Department of Corrections - State Prison.

(4) A law enforcement officer shall, prior to exercising peace officer authority:

(a) (i) have satisfactorily completed the requirements of Section 53-6-205; or

(ii) have met the waiver requirements in Section 53-6-206; and

(b) have satisfactorily completed annual certified training of at least 40 hours per year as directed by the director of the division, with the advice and consent of the council.

CHAPTER 437**S. B. 139**

Passed March 11, 2015
 Approved March 31, 2015
 Effective May 12, 2015

SERVICE DISTRICT AMENDMENTS

Chief Sponsor: Jerry W. Stevenson
 House Sponsor: Stephen G. Handy

LONG TITLE**General Description:**

This bill amends provisions related to a special service district.

Highlighted Provisions:

This bill:

- ▶ amends provisions related to the creation of a special service district administrative control board;
- ▶ amends provisions governing the annexation of an area into or addition of a service provided by a special service district; and
- ▶ makes technical and conforming amendments.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

17D-1-301, as last amended by Laws of Utah 2009, Chapter 356

17D-1-401, as last amended by Laws of Utah 2009, Chapter 92

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

Section 1. Section 17D-1-301 is amended to read:

17D-1-301. Governance of a special service district -- Authority to create and delegate authority to an administrative control board -- Limitations on authority to delegate.

(1) Each special service district shall be governed by the legislative body of the county or municipality that creates the special service district, subject to any delegation under this section of a right, power, or authority to an administrative control board.

(2) At the time a special service district is created or at any time thereafter, the legislative body of a county or municipality that creates a special service district may, by resolution or ordinance:

(a) create an administrative control board for the special service district; ~~and~~

(b) subject to Subsection (3), delegate to the administrative control board the exercise of any right, power, or authority that the legislative body possesses with respect to the governance of the special service district~~;~~; and

(c) specify the members of the initial administrative control board by name or other

designation that clearly identifies each member of the initial administrative control board.

(3) A county or municipal legislative body may not delegate to an administrative control board of a special service district the power to:

(a) annex an area to an existing special service district or add a service within the area of an existing special service district under Part 4, Annexing a New Area and Adding a New Service;

(b) designate, under Section 17D-1-107, the classes of special service district contracts that are subject to Title 11, Chapter 39, Building Improvements and Public Works Projects;

(c) levy a tax on the taxable property within the special service district;

(d) issue special service district bonds payable from taxes;

(e) call or hold an election for the authorization of a property tax or the issuance of bonds;

(f) levy an assessment;

(g) issue interim warrants or bonds payable from an assessment; or

(h) appoint a board of equalization under Section 11-42-403.

(4) (a) A county or municipal legislative body that has delegated a right, power, or authority under this section to an administrative control board may at any time modify, limit, or revoke any right, power, or authority delegated to the administrative control board.

(b) A modification, limitation, or revocation under Subsection (4)(a) does not affect the validity of an action taken by an administrative control board before the modification, limitation, or revocation.

Section 2. Section 17D-1-401 is amended to read:

17D-1-401. Annexing an area or adding a service to an existing special service district.

(1) Except as provided in Subsections (3) and (4), a county or municipal legislative body acting as the governing body of the special service district may, as provided in this part:

(a) annex an area to an existing special service district to provide to that area a service that the special service district is authorized to provide;

(b) add a service under Section 17D-1-201 within the area of an existing special service district that the special service district is not already authorized to provide; or

(c) both annex an area under Subsection (1)(a) and add a service under Subsection (1)(b).

(2) Except for Section 17D-1-209, the provisions of Part 2, Creating a Special Service District, apply to and govern the process of annexing an area to an existing special service district or adding a service that the special service district is not already

authorized to provide, to the same extent as if the annexation or addition were the creation of a special service district.

(3) A county or municipal legislative body may not:

(a) annex an area to an existing special service district if a local district provides to that area the same service that the special service district is proposed to provide to the area, unless the local district consents to the annexation; or

(b) add a service within the area of an existing special service district if a local district provides to that area the same service that is proposed to be added, unless the local district consents to the addition.

(4) A county or municipal legislative body may not annex an area to an existing special service district or add a service within the area of an existing special service district if the creation of a special service district including that area or providing that service would not be allowed under Part 2, Creating a Special Service District.

(5) A county or municipal legislative body may not annex an area to an existing special service district or add a service within the area of an existing special service district if the area is located within a project area described in a project area plan adopted by the military installation development authority under Title 63H, Chapter 1, Military Installation Development Authority Act, unless the county or municipal legislative body has first obtained the authority's approval.

CHAPTER 438**S. B. 150**

Passed March 11, 2015
 Approved March 31, 2015
 Effective May 12, 2015

**DRIVING UNDER THE INFLUENCE
 SENTENCING REVISIONS**

Chief Sponsor: Scott K. Jenkins
 House Sponsor: Lee B. Perry

LONG TITLE**General Description:**

This bill modifies provisions relating to sentencing requirements for driving under the influence violations.

Highlighted Provisions:

This bill:

- ▶ provides that an impaired driving plea is not available to a person who has certain prior convictions;
- ▶ requires the court to impose, for a felony driving under the influence violation, an order requiring the person to obtain a screening and assessment for alcohol and substance abuse and treatment as appropriate;
- ▶ requires the court to order the installation of the ignition interlock system, at the person's expense, for all motor vehicles registered to that person and all motor vehicles operated by that person if a person is convicted of a driving under the influence violation within 10 years of a prior conviction;
- ▶ provides that a person who operates a motor vehicle without an ignition interlock device as ordered by the court is in violation of driving without an ignition interlock system; and
- ▶ makes technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 41-6a-502.5, as last amended by Laws of Utah 2010, Chapter 109
 41-6a-505, as last amended by Laws of Utah 2013, Chapter 71
 41-6a-512, as last amended by Laws of Utah 2008, Chapter 226
 41-6a-518, as last amended by Laws of Utah 2011, Chapter 421

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

Section 1. Section 41-6a-502.5 is amended to read:**41-6a-502.5. Impaired driving -- Penalty -- Reporting of convictions -- Sentencing requirements.**

(1) With the agreement of the prosecutor, a plea to a class B misdemeanor violation of Section 41-6a-502 committed on or after July 1, 2008, may

be entered as a conviction of impaired driving under this section if:

- (a) the defendant completes court ordered probation requirements; or
- (b) (i) the prosecutor agrees as part of a negotiated plea; and

(ii) the court finds the plea to be in the interest of justice.

(2) A conviction entered under this section is a class B misdemeanor.

(3) (a) (i) If the entry of an impaired driving plea is based on successful completion of probation under Subsection (1)(a), the court shall enter the conviction at the time of the plea.

(ii) If the defendant fails to appear before the court and establish successful completion of the court ordered probation requirements under Subsection (1)(a), the court shall enter an amended conviction of Section 41-6a-502.

(iii) The date of entry of the amended order under Subsection (3)(a)(ii) is the date of conviction.

(b) The court may enter a conviction of impaired driving immediately under Subsection (1)(b).

(4) For purposes of Section 76-3-402, the entry of a plea to a class B misdemeanor violation of Section 41-6a-502 as impaired driving under this section is a reduction of one degree.

(5) (a) The court shall notify the Driver License Division of each conviction entered under this section.

(b) Beginning on July 1, 2012, a court shall, monthly, send to the Division of Occupational and Professional Licensing, created in Section 58-1-103, a report containing the name, case number, and, if known, the date of birth of each person convicted during the preceding month of a violation of this section for whom there is evidence that the person was driving while impaired, in whole or in part, by a prescribed controlled substance.

(6) (a) The provisions in Subsections 41-6a-505(1), (2), and [(3)] (4) that require a sentencing court to order a convicted person to participate in a screening, an assessment, or an educational series, or obtain substance abuse treatment or do a combination of those things, apply to a conviction entered under this section.

(b) The court shall render the same order regarding screening, assessment, an educational series, or substance abuse treatment in connection with a first, second, or subsequent conviction under this section as the court would render in connection with applying respectively, the first, second, or subsequent conviction requirements of Subsection 41-6a-505(1), (2), or [(3)] (4).

(7) (a) Except as provided in Subsection (7)(b), a report authorized by Section 53-3-104 may not contain any evidence of a conviction for impaired driving in this state if the reporting court notifies

the Driver License Division that the defendant is participating in or has successfully completed the program of a driving under the influence court.

(b) The provisions of Subsection (7)(a) do not apply to a report concerning:

- (i) a CDL license holder; or
- (ii) a violation that occurred in a commercial motor vehicle.

(8) The provisions of this section are not available to a person who has a prior conviction as that term is defined in Subsection 41-6a-501(2).

Section 2. Section 41-6a-505 is amended to read:

41-6a-505. Sentencing requirements for driving under the influence of alcohol, drugs, or a combination of both violations.

(1) As part of any sentence for a first conviction of Section 41-6a-502:

- (a) the court shall:
 - (i) (A) impose a jail sentence of not less than 48 consecutive hours;
 - (B) require the person to work in a compensatory-service work program for not less than 48 hours; or
 - (C) require the person to participate in home confinement of not fewer than 48 consecutive hours through the use of electronic monitoring in accordance with Section 41-6a-506;
 - (ii) order the person to participate in a screening;
 - (iii) order the person to participate in an assessment, if it is found appropriate by a screening under Subsection (1)(a)(ii);
 - (iv) order the person to participate in an educational series if the court does not order substance abuse treatment as described under Subsection (1)(b);
 - (v) impose a fine of not less than \$700; and
 - (vi) order probation for the person in accordance with Section 41-6a-507, if there is admissible evidence that the person had a blood alcohol level of .16 or higher; and
- (b) the court may:
 - (i) order the person to obtain substance abuse treatment if the substance abuse treatment program determines that substance abuse treatment is appropriate; or
 - (ii) order probation for the person in accordance with Section 41-6a-507.

(2) If a person is convicted under Section 41-6a-502 within 10 years of a prior conviction as defined in Subsection 41-6a-501(2):

- (a) the court shall:
 - (i) (A) impose a jail sentence of not less than 240 consecutive hours;

(B) require the person to work in a compensatory-service work program for not less than 240 hours; or

(C) require the person to participate in home confinement of not fewer than 240 consecutive hours through the use of electronic monitoring in accordance with Section 41-6a-506;

- (ii) order the person to participate in a screening;
- (iii) order the person to participate in an assessment, if it is found appropriate by a screening under Subsection (2)(a)(ii);
- (iv) order the person to participate in an educational series if the court does not order substance abuse treatment as described under Subsection (2)(b);

(v) impose a fine of not less than \$800; and

(vi) order probation for the person in accordance with Section 41-6a-507; and

(b) the court may order the person to obtain substance abuse treatment if the substance abuse treatment program determines that substance abuse treatment is appropriate.

(3) Under Subsection 41-6a-503(2), if the court suspends the execution of a prison sentence and places the defendant on probation:

(a) the court shall impose:

(i) a fine of not less than \$1,500;

(ii) a jail sentence of not less than 1,500 hours; and

(iii) supervised probation; and

~~[(iv) an order requiring the person to obtain a screening and assessment and substance abuse treatment at a substance abuse treatment program providing intensive care or inpatient treatment and long-term closely supervised follow-through after treatment for not less than 240 hours; and]~~

(b) in lieu of Subsection (3)(a)(ii), the court may require the person to participate in home confinement of not fewer than 1,500 hours through the use of electronic monitoring in accordance with Section 41-6a-506.

(4) For Subsection (3)(a) or Subsection 41-6a-503(2)(b), the court shall impose an order requiring the person to obtain a screening and assessment for alcohol and substance abuse, and treatment as appropriate.

~~[(4)] (5) (a) The requirements of Subsections (1)(a), (2)(a), ~~and~~ (3)(a), and (4) may not be suspended.~~

(b) Probation or parole resulting from a conviction for a violation under this section may not be terminated.

~~[(5)] (6) If a person is convicted of a violation of Section 41-6a-502 and there is admissible evidence that the person had a blood alcohol level of .16 or higher, the court shall order the following, or describe on record why the order or orders are not appropriate:~~

(a) treatment as described under Subsection (1)(b), (2)(b), or [~~(3)(a)(iv)] (4); and~~

(b) one or more of the following:

(i) the installation of an ignition interlock system as a condition of probation for the person in accordance with Section 41-6a-518;

(ii) the imposition of an ankle attached continuous transdermal alcohol monitoring device as a condition of probation for the person; or

(iii) the imposition of home confinement through the use of electronic monitoring in accordance with Section 41-6a-506.

Section 3. Section 41-6a-512 is amended to read:

41-6a-512. Factual basis for alcohol or drug-related reckless driving plea.

(1) (a) The prosecution shall state for the record a factual basis for a plea, including whether or not there had been consumption of alcohol, drugs, or a combination of both, by the defendant in connection with the violation when the prosecution agrees to a plea of guilty or no contest to a charge of a violation of the following in satisfaction of, or as a substitute for, an original charge of a violation of Section 41-6a-502 for an offense committed before July 1, 2008:

(i) reckless driving under Section 41-6a-528; or

(ii) an ordinance enacted under Section 41-6a-510.

(b) The statement under Subsection (1)(a) is an offer of proof of the facts that shows whether there was consumption of alcohol, drugs, or a combination of both, by the defendant, in connection with the violation.

(2) The court shall advise the defendant before accepting the plea offered under this section of the consequences of a violation of Section 41-6a-528.

(3) The court shall notify the Driver License Division of each conviction of Section 41-6a-528 entered under this section.

(4) (a) The provisions in Subsections 41-6a-505(1), (2), and [~~(3)] (4) that require a sentencing court to order a convicted person to participate in a screening, an assessment, or an educational series or obtain substance abuse treatment or do a combination of those things, apply to a conviction for a violation of Section 41-6a-528 under Subsection (1).~~

(b) The court shall render the same order regarding screening, assessment, an educational series, or substance abuse treatment in connection with a first, second, or subsequent conviction under Section 41-6a-528 under Subsection (1), as the court would render in connection with applying respectively, the first, second, or subsequent conviction requirements of Subsections 41-6a-505(1), (2), and [~~(3)] (4).~~

Section 4. Section 41-6a-518 is amended to read:

41-6a-518. Ignition interlock devices -- Use -- Probationer to pay cost -- Impecuniosity -- Fee.

(1) As used in this section:

(a) "Commissioner" means the commissioner of the Department of Public Safety.

(b) "Ignition interlock system" or "system" means a constant monitoring device or any similar device certified by the commissioner that prevents a motor vehicle from being started or continuously operated without first determining the driver's breath alcohol concentration.

(c) "Probation provider" means the supervisor and monitor of the ignition interlock system required as a condition of probation who contracts with the court in accordance with Subsections 41-6a-507(2) and (3).

(2) (a) In addition to any other penalties imposed under Sections 41-6a-503 and 41-6a-505, and in addition to any requirements imposed as a condition of probation, the court may require that any person who is convicted of violating Section 41-6a-502 and who is granted probation may not operate a motor vehicle during the period of probation unless that motor vehicle is equipped with a functioning, certified ignition interlock system installed and calibrated so that the motor vehicle will not start or continuously operate if the operator's blood alcohol concentration exceeds a level ordered by the court.

(b) If a person convicted of violating Section 41-6a-502 was under the age of 21 when the violation occurred, the court shall order the installation of the ignition interlock system as a condition of probation.

(c) (i) If a person is convicted of a violation of Section 41-6a-502 within 10 years of a prior conviction as defined in Subsection 41-6a-501(2), the court shall order the installation of the interlock ignition system, at the person's expense, for all motor vehicles registered to that person and all motor vehicles operated by that person.

(ii) A person who operates a motor vehicle without an ignition interlock device as required under this Subsection (2)(c) is in violation of Section 41-6a-518.2.

[~~(e)~~] (d) The division shall post the ignition interlock restriction on the electronic record available to law enforcement.

[~~(d)~~] (e) This section does not apply to a person convicted of a violation of Section 41-6a-502 whose violation involves drugs other than alcohol.

(3) If the court imposes the use of an ignition interlock system as a condition of probation, the court shall:

(a) stipulate on the record the requirement for and the period of the use of an ignition interlock system;

(b) order that an ignition interlock system be installed on each motor vehicle owned or operated by the probationer, at the probationer's expense;

(c) immediately notify the Driver License Division and the person's probation provider of the order; and

(d) require the probationer to provide proof of compliance with the court's order to the probation provider within 30 days of the order.

(4) (a) The probationer shall provide timely proof of installation within 30 days of an order imposing the use of a system or show cause why the order was not complied with to the court or to the probationer's probation provider.

(b) The probation provider shall notify the court of failure to comply under Subsection (4)(a).

(c) For failure to comply under Subsection (4)(a) or upon receiving the notification under Subsection (4)(b), the court shall order the Driver License Division to suspend the probationer's driving privileges for the remaining period during which the compliance was imposed.

(d) Cause for failure to comply means any reason the court finds sufficiently justifiable to excuse the probationer's failure to comply with the court's order.

(5) (a) Any probationer required to install an ignition interlock system shall have the system monitored by the manufacturer or dealer of the system for proper use and accuracy at least semiannually and more frequently as the court may order.

(b) (i) A report of the monitoring shall be issued by the manufacturer or dealer to the court or the person's probation provider.

(ii) The report shall be issued within 14 days following each monitoring.

(6) (a) If an ignition interlock system is ordered installed, the probationer shall pay the reasonable costs of leasing or buying and installing and maintaining the system.

(b) A probationer may not be excluded from this section for inability to pay the costs, unless:

(i) the probationer files an affidavit of impecuniosity; and

(ii) the court enters a finding that the probationer is impecunious.

(c) In lieu of waiver of the entire amount of the cost, the court may direct the probationer to make partial or installment payments of costs when appropriate.

(d) The ignition interlock provider shall cover the costs of waivers by the court under this Subsection (6).

(7) (a) If a probationer is required in the course and scope of employment to operate a motor vehicle owned by the probationer's employer, the

probationer may operate that motor vehicle without installation of an ignition interlock system only if:

(i) the motor vehicle is used in the course and scope of employment;

(ii) the employer has been notified that the employee is restricted; and

(iii) the employee has proof of the notification in the employee's possession while operating the employer's motor vehicle.

(b) (i) To the extent that an employer-owned motor vehicle is made available to a probationer subject to this section for personal use, no exemption under this section shall apply.

(ii) A probationer intending to operate an employer-owned motor vehicle for personal use and who is restricted to the operation of a motor vehicle equipped with an ignition interlock system shall notify the employer and obtain consent in writing from the employer to install a system in the employer-owned motor vehicle.

(c) A motor vehicle owned by a business entity that is all or partly owned or controlled by a probationer subject to this section is not a motor vehicle owned by the employer and does not qualify for an exemption under this Subsection (7).

(8) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commissioner shall make rules setting standards for the certification of ignition interlock systems.

(b) The standards under Subsection (8)(a) shall require that the system:

(i) not impede the safe operation of the motor vehicle;

(ii) have features that make circumventing difficult and that do not interfere with the normal use of the motor vehicle;

(iii) require a deep lung breath sample as a measure of breath alcohol concentration;

(iv) prevent the motor vehicle from being started if the driver's breath alcohol concentration exceeds a specified level;

(v) work accurately and reliably in an unsupervised environment;

(vi) resist tampering and give evidence if tampering is attempted;

(vii) operate reliably over the range of motor vehicle environments; and

(viii) be manufactured by a party who will provide liability insurance.

(c) The commissioner may adopt in whole or in part, the guidelines, rules, studies, or independent laboratory tests relied upon in certification of ignition interlock systems by other states.

(d) A list of certified systems shall be published by the commissioner and the cost of certification shall be borne by the manufacturers or dealers of ignition

interlock systems seeking to sell, offer for sale, or lease the systems.

(e) (i) In accordance with Section 63J-1-504, the commissioner may establish an annual dollar assessment against the manufacturers of ignition interlock systems distributed in the state for the costs incurred in certifying.

(ii) The assessment under Subsection (8)(e)(i) shall be apportioned among the manufacturers on a fair and reasonable basis.

(f) The commissioner shall require a provider of an ignition interlock system certified in accordance with this section to comply with the requirements of Title 53, Chapter 3, Part 10, Ignition Interlock System Program Act.

(9) There shall be no liability on the part of, and no cause of action of any nature shall arise against, the state or its employees in connection with the installation, use, operation, maintenance, or supervision of an interlock ignition system as required under this section.

CHAPTER 439**S. B. 156**

Passed March 11, 2015

Approved March 31, 2015

Effective May 12, 2015

(Retrospective operation to January 1, 2015)

**ENERGY EFFICIENT VEHICLE TAX
CREDIT FOR MOTORCYCLES**

Chief Sponsor: Margaret Dayton

House Sponsor: Keith Grover

LONG TITLE**General Description:**

This bill enacts an energy efficient vehicle tax credit for certain motorcycles.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ enacts an energy efficient vehicle tax credit for certain motorcycles; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides for retrospective operation.

Utah Code Sections Affected:**AMENDS:**

59-7-605, as last amended by Laws of Utah 2014, Chapter 125

59-10-1009, as last amended by Laws of Utah 2014, Chapter 125

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

Section 1. Section 59-7-605 is amended to read:**59-7-605. Definitions -- Tax credits related to energy efficient vehicles.**

(1) As used in this section:

(a) "Air quality standards" means that a vehicle's emissions are equal to or cleaner than the standards established in bin 4 in Table S04-1, of 40 C.F.R. 86.1811-04(c)(6).

(b) "Board" means the Air Quality Board created under Title 19, Chapter 2, Air Conservation Act.

(c) "Certified by the board" means that:

(i) a motor vehicle on which conversion equipment has been installed meets the following criteria:

(A) before the installation of conversion equipment, the vehicle does not exceed the emission cut points for a transient test driving cycle, as specified in 40 C.F.R. Part 51, Appendix E to Subpart S, or an equivalent test for the make, model, and year of the vehicle; and

(B) as a result of the installation of conversion equipment on the motor vehicle, the motor vehicle has reduced emissions; or

(ii) special mobile equipment on which conversion equipment has been installed has reduced emissions.

(d) "Clean fuel grant" means a grant awarded under Title 19, Chapter 1, Part 4, Clean Fuels and Vehicle Technology Program Act, for reimbursement of a portion of the incremental cost of an OEM vehicle or the cost of conversion equipment.

(e) "Conversion equipment" means equipment ~~referred to~~ described in Subsection ~~(2)(e) or (d)~~ (2)(d) or (e).

(f) "OEM vehicle" has the same meaning as in Section 19-1-402.

(g) "Original purchase" means the purchase of a vehicle that has never been titled or registered and has been driven less than 7,500 miles.

(h) "Qualifying electric motorcycle" means a vehicle that:

(i) has a seat or saddle for the use of the rider;

(ii) is designed to travel with not more than three wheels in contact with the ground;

(iii) may lawfully be operated on a freeway, as defined in Section 41-6a-102;

(iv) is not fueled by natural gas;

(v) is fueled by electricity only; and

(vi) is an OEM vehicle except that the vehicle is fueled by a fuel described in Subsection (1)(h)(v).

~~(4)~~ (i) "Qualifying electric vehicle" means a vehicle that:

(i) meets air quality standards;

(ii) is not fueled by natural gas;

(iii) is fueled by electricity only; and

(iv) is an OEM vehicle except that the vehicle is fueled by a fuel described in Subsection (1)~~(4)~~(i)(iii).

~~(4)~~ (j) "Qualifying plug-in hybrid vehicle" means a vehicle that:

(i) meets air quality standards;

(ii) is not fueled by natural gas or propane;

(iii) has a battery capacity that meets or exceeds the battery capacity described in Section 30D(b)(3), Internal Revenue Code; and

(iv) is fueled by a combination of electricity and:

(A) diesel fuel;

(B) gasoline; or

(C) a mixture of gasoline and ethanol.

~~(4)~~ (k) "Reduced emissions" means:

(i) for purposes of a motor vehicle on which conversion equipment has been installed, that the motor vehicle's emissions of regulated pollutants, when operating on a fuel listed in Subsection (2)~~(4)~~(e)(i) or (ii), is less than the emissions were

before the installation of the conversion equipment, as demonstrated by:

(A) certification of the conversion equipment by the federal Environmental Protection Agency or by a state that has certification standards recognized by the board;

(B) testing the motor vehicle, before and after installation of the conversion equipment, in accordance with 40 C.F.R. Part 86, Control of Emissions from New and In-use Highway Vehicles and Engines, using all fuel the motor vehicle is capable of using;

(C) for a retrofit natural gas vehicle that is retrofit in accordance with Section 19-1-406, testing that as a result of the retrofit, the retrofit natural gas vehicle satisfies the emission standards applicable under Section 19-1-406; or

(D) any other test or standard recognized by board rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(ii) for purposes of special mobile equipment on which conversion equipment has been installed, that the special mobile equipment's emissions of regulated pollutants, when operating on ~~fuels~~ a fuel listed in Subsection (2)(~~d~~)(e)(i) or (ii), is less than the emissions were before the installation of conversion equipment, as demonstrated by:

(A) certification of the conversion equipment by the federal Environmental Protection Agency or by a state that has certification standards recognized by the board; or

(B) any other test or standard recognized by board rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

~~(k)~~ (l) "Special mobile equipment":

(i) means any mobile equipment or vehicle that is not designed or used primarily for the transportation of persons or property; and

(ii) includes construction or maintenance equipment.

(2) For the taxable year beginning on or after January 1, 2015, but beginning on or before December 31, 2015, a taxpayer may claim a tax credit against tax otherwise due under this chapter or Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act, in an amount equal to:

(a) (i) for the original purchase of a new qualifying electric vehicle that is registered in this state, the lesser of:

(A) \$1,500; or

(B) 35% of the purchase price of the vehicle; or

(ii) for the original purchase of a new qualifying plug-in hybrid vehicle that is registered in this state, \$1,000;

(b) for the original purchase of a new vehicle fueled by natural gas or propane that is registered in this state, the lesser of:

(i) \$1,500; or

(ii) 35% of the purchase price of the vehicle;

(c) for the original purchase of a new qualifying electric motorcycle that is registered in this state, the lesser of:

(i) \$750; or

(ii) 35% of the purchase price of the vehicle;

~~(e)~~ (d) 50% of the cost of equipment for conversion, if certified by the board, of a motor vehicle registered in this state minus the amount of any clean fuel grant received, up to a maximum tax credit of \$1,500 per motor vehicle, if the motor vehicle is to:

(i) be fueled by propane, natural gas, or electricity;

(ii) be fueled by other fuel the board determines annually on or before July 1 to be at least as effective in reducing air pollution as fuels under Subsection (2)(~~e~~)(d)(i); or

(iii) meet the federal clean-fuel vehicle standards in the federal Clean Air Act Amendments of 1990, 42 U.S.C. Sec. 7521 et seq.;

~~(d)~~ (e) 50% of the cost of equipment for conversion, if certified by the board, of a special mobile equipment engine minus the amount of any clean fuel grant received, up to a maximum tax credit of \$1,000 per special mobile equipment engine, if the special mobile equipment is to be fueled by:

(i) propane, natural gas, or electricity; or

(ii) other fuel the board determines annually on or before July 1 to be:

(A) at least as effective in reducing air pollution as the fuels under Subsection (2)(~~d~~)(e)(i); or

(B) substantially more effective in reducing air pollution than the fuel for which the engine was originally designed; and

~~(e)~~ (f) for a lease of a vehicle described in Subsection (2)(a) ~~(a)~~, (b), or (c), an amount equal to the product of:

(i) the amount of tax credit the taxpayer would otherwise qualify to claim under Subsection (2)(a) ~~(a)~~, (b), or (c) had the taxpayer purchased the vehicle, except that the purchase price described in Subsection (2)(a)(i)(B) ~~(a)~~, (2)(b)(ii), or (2)(c)(ii) is considered to be the value of the vehicle at the beginning of the lease; and

(ii) a percentage calculated by:

(A) determining the difference between the value of the vehicle at the beginning of the lease, as stated in the lease agreement, and the value of the vehicle at the end of the lease, as stated in the lease agreement; and

(B) dividing the difference determined under Subsection (2)(~~e~~)(f)(ii)(A) by the value of the

vehicle at the beginning of the lease, as stated in the lease agreement.

(3) (a) The board shall:

(i) determine the amount of tax credit a taxpayer is allowed under this section; and

(ii) provide the taxpayer with a written certification of the amount of tax credit the taxpayer is allowed under this section.

(b) A taxpayer shall provide proof of the purchase or lease of an item for which a tax credit is allowed under this section by:

(i) providing proof to the board in the form the board requires by rule;

(ii) receiving a written statement from the board acknowledging receipt of the proof; and

(iii) retaining the written statement described in Subsection (3)(b)(ii).

(c) A taxpayer shall retain the written certification described in Subsection (3)(a)(ii).

(4) Except as provided by Subsection (5), the tax credit under this section is allowed only:

(a) against a tax owed under this chapter or Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act, in the taxable year by the taxpayer;

(b) for the taxable year in which a vehicle described in Subsection (2)(a) ~~is~~, (b), or (c) is purchased, a vehicle described in Subsection (2)(~~e~~)(f) is leased, or conversion equipment described in Subsection (2)(~~e~~)(d) or ~~(d)~~ (e) is installed; and

(c) once per vehicle.

(5) A taxpayer may not assign a tax credit under this section to another person.

(6) If the amount of a tax credit claimed by a taxpayer under this section exceeds the taxpayer's tax liability under this chapter or Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act, for a taxable year, the amount of the tax credit exceeding the tax liability may be carried forward for a period that does not exceed the next five taxable years.

(7) In accordance with any rules prescribed by the commission under Subsection (8), the commission shall transfer at least annually from the General Fund into the Education Fund the amount by which the amount of tax credit claimed under this section for a taxable year exceeds \$500,000.

(8) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules for making a transfer from the General Fund into the Education Fund as required by Subsection (7).

Section 2. Section 59-10-1009 is amended to read:

59-10-1009. Definitions -- Tax credits related to energy efficient vehicles.

(1) As used in this section:

(a) "Air quality standards" means that a vehicle's emissions are equal to or cleaner than the standards established in bin 4 in Table S04-1, of 40 C.F.R. 86.1811-04(c)(6).

(b) "Board" means the Air Quality Board created in Title 19, Chapter 2, Air Conservation Act.

(c) "Certified by the board" means that:

(i) a motor vehicle on which conversion equipment has been installed meets the following criteria:

(A) before the installation of conversion equipment, the vehicle does not exceed the emission cut points for a transient test driving cycle, as specified in 40 C.F.R. Part 51, Appendix E to Subpart S, or an equivalent test for the make, model, and year of the vehicle; and

(B) as a result of the installation of conversion equipment on the motor vehicle, the motor vehicle has reduced emissions; or

(ii) special mobile equipment on which conversion equipment has been installed has reduced emissions.

(d) "Clean fuel grant" means a grant a claimant, estate, or trust receives under Title 19, Chapter 1, Part 4, Clean Fuels and Vehicle Technology Program Act, for reimbursement of a portion of the incremental cost of the OEM vehicle or the cost of conversion equipment.

(e) "Conversion equipment" means equipment ~~referred to~~ described in Subsection (2)(~~e~~)(d) or ~~(d)~~ (e).

(f) "OEM vehicle" has the same meaning as in Section 19-1-402.

(g) "Original purchase" means the purchase of a vehicle that has never been titled or registered and has been driven less than 7,500 miles.

(h) "Qualifying electric motorcycle" means a vehicle that:

(i) has a seat or saddle for the use of the rider;

(ii) is designed to travel with not more than three wheels in contact with the ground;

(iii) may lawfully be operated on a freeway, as defined in Section 41-6a-102;

(iv) is not fueled by natural gas;

(v) is fueled by electricity only; and

(vi) is an OEM vehicle except that the vehicle is fueled by a fuel described in Subsection (1)(h)(v).

~~(h)~~ (i) "Qualifying electric vehicle" means a vehicle that:

(i) meets air quality standards;

- (ii) is not fueled by natural gas;
- (iii) is fueled by electricity only; and
- (iv) is an OEM vehicle except that the vehicle is fueled by a fuel described in Subsection (1)(~~(h)~~)(i)(iii).

~~(4)~~ (j) "Qualifying plug-in hybrid vehicle" means a vehicle that:

- (i) meets air quality standards;
- (ii) is not fueled by natural gas or propane;
- (iii) has a battery capacity that meets or exceeds the battery capacity described in Section 30D(b)(3), Internal Revenue Code; and
- (iv) is fueled by a combination of electricity and:

- (A) diesel fuel;
- (B) gasoline; or
- (C) a mixture of gasoline and ethanol.

~~(4)~~ (k) "Reduced emissions" means:

(i) for purposes of a motor vehicle on which conversion equipment has been installed, that the motor vehicle's emissions of regulated pollutants, when operating on a fuel listed in Subsection (2)(~~(d)~~)(e)(i) or (ii), is less than the emissions were before the installation of the conversion equipment, as demonstrated by:

(A) certification of the conversion equipment by the federal Environmental Protection Agency or by a state that has certification standards recognized by the board;

(B) testing the motor vehicle, before and after installation of the conversion equipment, in accordance with 40 C.F.R. Part 86, Control of Emissions from New and In-use Highway Vehicles and Engines, using all fuel the motor vehicle is capable of using;

(C) for a retrofit natural gas vehicle that is retrofit in accordance with Section 19-1-406, testing that as a result of the retrofit, the retrofit natural gas vehicle satisfies the emission standards applicable under Section 19-1-406; or

(D) any other test or standard recognized by board rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(ii) for purposes of special mobile equipment on which conversion equipment has been installed, that the special mobile equipment's emissions of regulated pollutants, when operating on ~~(fuels)~~ a fuel listed in Subsection (2)(~~(d)~~)(e)(i) or (ii), is less than the emissions were before the installation of conversion equipment, as demonstrated by:

(A) certification of the conversion equipment by the federal Environmental Protection Agency or by a state that has certification standards recognized by the board; or

(B) any other test or standard recognized by board rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

~~(4)~~ (l) "Special mobile equipment":

(i) means any mobile equipment or vehicle not designed or used primarily for the transportation of persons or property; and

(ii) includes construction or maintenance equipment.

(2) For the taxable year beginning on or after January 1, 2015, but beginning on or before December 31, 2015, a claimant, estate, or trust may claim a nonrefundable tax credit against tax otherwise due under this chapter in an amount equal to:

(a) (i) for the original purchase of a new qualifying electric vehicle that is registered in this state, the lesser of:

- (A) \$1,500; or
- (B) 35% of the purchase price of the vehicle; or

(ii) for the original purchase of a new qualifying plug-in hybrid vehicle that is registered in this state, \$1,000;

(b) for the original purchase of a new vehicle fueled by natural gas or propane that is registered in this state, the lesser of:

- (i) \$1,500; or
- (ii) 35% of the purchase price of the vehicle;

(c) for the original purchase of a new qualifying electric motorcycle that is registered in this state, the lesser of:

- (i) \$750; or
- (ii) 35% of the purchase price of the vehicle;

~~(4)~~ (d) 50% of the cost of equipment for conversion, if certified by the board, of a motor vehicle registered in this state minus the amount of any clean fuel conversion grant received, up to a maximum tax credit of \$1,500 per vehicle, if the motor vehicle:

(i) is to be fueled by propane, natural gas, or electricity;

(ii) is to be fueled by other fuel the board determines annually on or before July 1 to be at least as effective in reducing air pollution as fuels under Subsection (2)(~~(e)~~)(d)(i); or

(iii) will meet the federal clean fuel vehicle standards in the federal Clean Air Act Amendments of 1990, 42 U.S.C. Sec. 7521 et seq.;

~~(4)~~ (e) 50% of the cost of equipment for conversion, if certified by the board, of a special mobile equipment engine minus the amount of any clean fuel conversion grant received, up to a maximum tax credit of \$1,000 per special mobile equipment engine, if the special mobile equipment is to be fueled by:

- (i) propane, natural gas, or electricity; or

(ii) other fuel the board determines annually on or before July 1 to be:

(A) at least as effective in reducing air pollution as the fuels under Subsection (2)(~~(d)~~)(e)(i); or

(B) substantially more effective in reducing air pollution than the fuel for which the engine was originally designed; and

(~~(e)~~) (f) for a lease of a vehicle described in Subsection (2)(a) [~~(e)~~], (b), or (c), an amount equal to the product of:

(i) the amount of tax credit the claimant, estate, or trust would otherwise qualify to claim under Subsection (2)(a) [~~(e)~~], (b), or (c) had the claimant, estate, or trust purchased the vehicle, except that the purchase price described in Subsection (2)(a)(i)(B) [~~(e)~~], (2)(b)(ii), or (2)(c)(ii) is considered to be the value of the vehicle at the beginning of the lease; and

(ii) a percentage calculated by:

(A) determining the difference between the value of the vehicle at the beginning of the lease, as stated in the lease agreement, and the value of the vehicle at the end of the lease, as stated in the lease agreement; and

(B) dividing the difference determined under Subsection (2)(~~(e)~~)(f)(ii)(A) by the value of the vehicle at the beginning of the lease, as stated in the lease agreement.

(3) (a) The board shall:

(i) determine the amount of tax credit a claimant, estate, or trust is allowed under this section; and

(ii) provide the claimant, estate, or trust with a written certification of the amount of tax credit the claimant, estate, or trust is allowed under this section.

(b) A claimant, estate, or trust shall provide proof of the purchase or lease of an item for which a tax credit is allowed under this section by:

(i) providing proof to the board in the form the board requires by rule;

(ii) receiving a written statement from the board acknowledging receipt of the proof; and

(iii) retaining the written statement described in Subsection (3)(b)(ii).

(c) A claimant, estate, or trust shall retain the written certification described in Subsection (3)(a)(ii).

(4) Except as provided by Subsection (5), the tax credit under this section is allowed only:

(a) against a tax owed under this chapter in the taxable year by the claimant, estate, or trust;

(b) for the taxable year in which a vehicle described in Subsection (2)(a) [~~(e)~~], (b), or (c) is purchased, a vehicle described in Subsection (2)(~~(e)~~)(f) is leased, or conversion equipment described in Subsection (2)(~~(e)~~)(d) or [~~(d)~~] (e) is installed; and

(c) once per vehicle.

(5) A claimant, estate, or trust may not assign a tax credit under this section to another person.

(6) If the amount of a tax credit claimed by a claimant, estate, or trust under this section exceeds the claimant's, estate's, or trust's tax liability under this chapter for a taxable year, the amount of the tax credit exceeding the tax liability may be carried forward for a period that does not exceed the next five taxable years.

(7) In accordance with any rules prescribed by the commission under Subsection (8), the commission shall transfer at least annually from the General Fund into the Education Fund the amount by which the amount of tax credit claimed under this section for a taxable year exceeds \$500,000.

(8) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules for making a transfer from the General Fund into the Education Fund as required by Subsection (7).

Section 3. Retrospective operation.

This bill has retrospective operation for a taxable year beginning on or after January 1, 2015.

CHAPTER 440**S. B. 172**

Passed February 26, 2015

Approved March 31, 2015

Effective July 1, 2015

EMERGENCY MEDICAL SERVICES AMENDMENTS

Chief Sponsor: Curtis S. Bramble

House Sponsor: Brad R. Wilson

LONG TITLE**General Description:**

This bill enacts provisions related to an assessment on ambulance service providers.

Highlighted Provisions:

This bill:

- ▶ imposes a uniform assessment on ambulance service providers;
- ▶ directs the Division of Health Care Financing to collect the assessment;
- ▶ gives the division the authority to impose a penalty on an ambulance service provider that declines to pay the assessment; and
- ▶ provides for the administration of the funds collected through the assessment.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**ENACTS:**

26-37a-101, Utah Code Annotated 1953
 26-37a-102, Utah Code Annotated 1953
 26-37a-103, Utah Code Annotated 1953
 26-37a-104, Utah Code Annotated 1953
 26-37a-105, Utah Code Annotated 1953
 26-37a-106, Utah Code Annotated 1953
 26-37a-107, Utah Code Annotated 1953
 26-37a-108, Utah Code Annotated 1953

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

Section 1. Section 26-37a-101 is enacted to read:**CHAPTER 37a. AMBULANCE SERVICE PROVIDER ASSESSMENT****Part 1. General Provisions****26-37a-101. Title.**

This chapter is known as "Ambulance Service Provider Assessment."

Section 2. Section 26-37a-102 is enacted to read:**26-37a-102. Definitions.**

As used in this chapter:

(1) "Ambulance provider" means:

(a) an ambulance provider as defined in Section 26-8a-102; or

(b) a non-911 service provider as defined in Section 26-8a-102.

(2) "Assessment" means the Medicaid ambulance provider assessment established by this chapter.

(3) "Division" means the Division of Health Care Financing within the department.

(4) "Non-federal portion" means the non-federal share the division needs to seed amounts that will support fee-for-service ambulance provider rates, as described in Section 26-27a-105.

(5) "Total transports" means the number of total ambulance transports applicable to a given fiscal year, as determined under Subsection 26-37a-104(5).

Section 3. Section 26-37a-103 is enacted to read:**26-37a-103. Assessment, collection, and payment of ambulance service provider assessment.**

(1) An ambulance service provider shall pay an assessment to the division:

(a) in the amount designated in Section 26-37a-104;

(b) in accordance with this chapter;

(c) quarterly, on a day determined by the division by rule made under Subsection (2)(b); and

(d) no more than 15 business days after the day on which the division issues the ambulance service provider notice of the assessment.

(2) The division shall:

(a) collect the assessment described in Subsection (1);

(b) determine, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, standards and procedures for implementing and enforcing the provisions of this chapter; and

(c) transfer assessment proceeds to the state treasurer for deposit into the Ambulance Service Provider Assessment Expendable Revenue Fund created in Section 26-37a-107.

Section 4. Section 26-37a-104 is enacted to read:**26-37a-104. Calculation of assessment.**

(1) The division shall calculate a uniform assessment per transport as described in this section.

(2) The assessment due from a given ambulance service provider equals the non-federal portion divided by total transports, multiplied by the number of transports for the ambulance service provider.

(3) The division shall apply any quarterly changes to the assessment rate, calculated as described in Subsection (2), uniformly to all assessed ambulance service providers.

(4) The assessment may not generate more than the total of:

(a) an annual amount of \$20,000 to offset Medicaid administration expenses; and

(b) the non-federal portion.

(5) (a) For each state fiscal year, the division shall calculate total transports using data from the Emergency Medical System as follows:

(i) for state fiscal year 2016, the division shall use ambulance service provider transports during the 2014 calendar year; and

(ii) for a fiscal year after 2016, the division shall use ambulance service provider transports during the calendar year ending 18 months before the end of the fiscal year.

(b) If an ambulance service provider fails to submit transport information to the Emergency Medical System, the division may audit the ambulance service provider to determine the ambulance service provider's transports for a given fiscal year.

Section 5. Section 26-37a-105 is enacted to read:

26-37a-105. Medicaid ambulance service provider adjustment under fee-for-service rates.

The division shall, if the assessment imposed by this chapter is approved by the Centers for Medicare and Medicaid Services, for fee-for-service rates effective on or after July 1, 2015, reimburse an ambulance service provider in an amount up to the Emergency Medical Services Ambulance Rates adopted annually by the department.

Section 6. Section 26-37a-106 is enacted to read:

26-37a-106. Penalties.

The division shall require an ambulance service provider that fails to pay an assessment due under this chapter to pay the division, in addition to the assessment, a penalty determined by the division by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 7. Section 26-37a-107 is enacted to read:

26-37a-107. Ambulance Service Provider Assessment Expendable Revenue Fund.

(1) There is created an expendable special revenue fund known as the "Ambulance Service Provider Assessment Expendable Revenue Fund."

(2) The fund shall consist of:

(a) the assessments collected by the division under this chapter;

(b) the penalties collected by the division under this chapter;

(c) donations to the fund; and

(d) appropriations by the Legislature.

(3) Money in the fund shall be used:

(a) to support fee-for-service rates; and

(b) to reimburse money to an ambulance service provider that is collected by the division from the ambulance service provider through a mistake made under this chapter.

Section 8. Section 26-37a-108 is enacted to read:

26-37a-108. Repeal of assessment.

(1) This chapter is repealed when, as certified by the executive director of the department, any of the following occurs:

(a) an action by Congress that disqualifies the assessment imposed by this chapter from state Medicaid funds available to be used to determine the federal financial participation takes legal effect; or

(b) an action, decision, enactment, or other determination by the Legislature or by any court, officer, department, or agency of the state or federal government takes effect that:

(i) disqualifies the assessment from counting toward state Medicaid funds available to be used to determine federal financial participation for Medicaid matching funds; or

(ii) creates for any reason a failure of the state to use the assessments for the Medicaid program as described in this chapter.

(2) If this chapter is repealed under Subsection (1):

(a) money in the Ambulance Service Provider Assessment Expendable Revenue Fund that was derived from assessments imposed by this chapter, deposited before the determination made under Subsection (1), shall be disbursed under Section 26-37a-107 to the extent federal matching is not reduced due to the impermissibility of the assessments; and

(b) any funds remaining in the special revenue fund shall be refunded to each ambulance service provider in proportion to the amount paid by the ambulance service provider.

Section 9. Effective date.

This bill takes effect on July 1, 2015.

CHAPTER 441**S. B. 173**

Passed March 4, 2015

Approved March 31, 2015

Effective May 12, 2015

**FINANCIAL ASSURANCE
DETERMINATION REVIEW PROCESS**

Chief Sponsor: J. Stuart Adams

House Sponsor: Mike K. McKell

LONG TITLE**General Description:**

This bill modifies the Environmental Quality Code by amending provisions for certain special adjudicative proceedings related to financial assurance and by enacting certain rulemaking requirements related to waste disposal.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ provides for arbitration or a special adjudicative proceeding for a challenge of a financial assurance determination made by the director of the Division of Radiation Control or the director of the Division of Solid and Hazardous Waste;
- ▶ requires the Radiation Control Board to include certain provisions in rules for financial assurance requirements for radioactive waste land disposal facilities; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 19-1-201, as last amended by Laws of Utah 2012, Chapter 360 and last amended by Coordination Clause, Laws of Utah 2012, Chapter 360
- 19-1-301, as last amended by Laws of Utah 2012, Chapters 333, 360 and last amended by Coordination Clause, Laws of Utah 2012, Chapter 360
- 19-1-301.5, as enacted by Laws of Utah 2012, Chapter 333 and last amended by Coordination Clause, Laws of Utah 2012, Chapter 360
- 19-2-108, as last amended by Laws of Utah 2012, Chapters 333 and 360
- 19-3-104, as last amended by Laws of Utah 2012, Chapter 360
- 63G-4-102, as last amended by Laws of Utah 2012, Chapter 333
- 78A-4-103, as last amended by Laws of Utah 2012, Chapter 333

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

Section 1. Section 19-1-201 is amended to read:**19-1-201. Powers and duties of department
-- Rulemaking authority.**

(1) The department shall:

(a) enter into cooperative agreements with the Department of Health to delineate specific responsibilities to assure that assessment and management of risk to human health from the environment are properly administered;

(b) consult with the Department of Health and enter into cooperative agreements, as needed, to ensure efficient use of resources and effective response to potential health and safety threats from the environment, and to prevent gaps in protection from potential risks from the environment to specific individuals or population groups;

(c) coordinate implementation of environmental programs to maximize efficient use of resources by developing, with local health departments, a Comprehensive Environmental Service Delivery Plan that:

(i) recognizes that the department and local health departments are the foundation for providing environmental health programs in the state;

(ii) delineates the responsibilities of the department and each local health department for the efficient delivery of environmental programs using federal, state, and local authorities, responsibilities, and resources;

(iii) provides for the delegation of authority and pass through of funding to local health departments for environmental programs, to the extent allowed by applicable law, identified in the plan, and requested by the local health department; and

(iv) is reviewed and updated annually; and

(d) make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, as follows:

(i) for a board created in Section 19-1-106, rules regarding:

(A) board meeting attendance; and

(B) conflicts of interest procedures; and

(ii) procedural rules that govern:

(A) an adjudicative proceeding, consistent with Section 19-1-301; and

(B) a ~~permit review~~ special adjudicative proceeding, consistent with Section 19-1-301.5.

(2) The department may:

(a) investigate matters affecting the environment;

(b) investigate and control matters affecting the public health when caused by environmental hazards;

(c) prepare, publish, and disseminate information to inform the public concerning issues involving environmental quality;

(d) establish and operate programs, as authorized by this title, necessary for protection of the environment and public health from environmental hazards;

(e) use local health departments in the delivery of environmental health programs to the extent provided by law;

(f) enter into contracts with local health departments or others to meet responsibilities established under this title;

(g) acquire real and personal property by purchase, gift, devise, and other lawful means;

(h) prepare and submit to the governor a proposed budget to be included in the budget submitted by the governor to the Legislature;

(i) (i) establish a schedule of fees that may be assessed for actions and services of the department according to the procedures and requirements of Section 63J-1-504; and

(ii) in accordance with Section 63J-1-504, all fees shall be reasonable, fair, and reflect the cost of services provided;

(j) prescribe by rule reasonable requirements not inconsistent with law relating to environmental quality for local health departments;

(k) perform the administrative functions of the boards established by Section 19-1-106, including the acceptance and administration of grants from the federal government and from other sources, public or private, to carry out the board's functions;

(l) upon the request of any board or a division director, provide professional, technical, and clerical staff and field and laboratory services, the extent of which are limited by the funds available to the department for the staff and services; and

(m) establish a supplementary fee, not subject to Section 63J-1-504, to provide service that the person paying the fee agrees by contract to be charged for the service in order to efficiently utilize department resources, protect department permitting processes, address extraordinary or unanticipated stress on permitting processes, or make use of specialized expertise.

(3) In providing service under Subsection (2)(m), the department may not provide service in a manner that impairs any other person's service from the department.

Section 2. Section 19-1-301 is amended to read:

19-1-301. Adjudicative proceedings.

(1) As used in this section, "dispositive action" means a final agency action that:

(a) the executive director takes following an adjudicative proceeding on a request for agency action; and

(b) is subject to judicial review under Section 63G-4-403.

(2) This section governs adjudicative proceedings that are not ~~permit review~~ special adjudicative proceedings as defined in Section 19-1-301.5.

(3) (a) The department and its boards shall comply with the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act.

(b) The procedures for an adjudicative proceeding conducted by an administrative law judge are governed by:

(i) Title 63G, Chapter 4, Administrative Procedures Act;

(ii) this title;

(iii) rules adopted by the department under:

(A) Subsection 63G-4-102(6); or

(B) this title; and

(iv) the Utah Rules of Civil Procedure, in the absence of a procedure established under Subsection (3)(b)(i), (ii), or (iii).

(4) Except as provided in Section 19-2-113, an administrative law judge shall hear a party's request for agency action.

(5) The executive director shall appoint an administrative law judge who:

(a) is a member in good standing of the Utah State Bar;

(b) has a minimum of:

(i) 10 years of experience practicing law; and

(ii) five years of experience practicing in the field of:

(A) environmental compliance;

(B) natural resources;

(C) regulation by an administrative agency; or

(D) a field related to a field listed in Subsections (5)(b)(ii)(A) through (C); and

(c) has a working knowledge of the federal laws and regulations and state statutes and rules applicable to a request for agency action.

(6) In appointing an administrative law judge who meets the qualifications described in Subsection (5), the executive director may:

(a) compile a list of persons who may be engaged as an administrative law judge pro tempore by mutual consent of the parties to an adjudicative proceeding;

(b) appoint an assistant attorney general as an administrative law judge pro tempore; or

(c) (i) appoint an administrative law judge as an employee of the department; and

(ii) assign the administrative law judge responsibilities in addition to conducting an adjudicative proceeding.

(7) (a) An administrative law judge:

(i) shall conduct an adjudicative proceeding;

(ii) may take any action that is not a dispositive action; and

(iii) shall submit to the executive director a proposed dispositive action, including:

- (A) written findings of fact;
- (B) written conclusions of law; and
- (C) a recommended order.

(b) The executive director may:

(i) approve, approve with modifications, or disapprove a proposed dispositive action submitted to the executive director under Subsection (7)(a); or

(ii) return the proposed dispositive action to the administrative law judge for further action as directed.

(c) In making a decision regarding a dispositive action, the executive director may seek the advice of, and consult with:

(i) the assistant attorney general assigned to the department; or

(ii) a special master who:

(A) is appointed by the executive director; and

(B) is an expert in the subject matter of the proposed dispositive action.

(d) The executive director shall base a final dispositive action on the record of the proceeding before the administrative law judge.

(8) To conduct an adjudicative proceeding, an administrative law judge may:

(a) compel:

(i) the attendance of a witness; and

(ii) the production of a document or other evidence;

(b) administer an oath;

(c) take testimony; and

(d) receive evidence as necessary.

(9) A party may appear before an administrative law judge in person, through an agent or employee, or as provided by department rule.

(10) (a) An administrative law judge or the executive director may not participate in an ex parte communication with a party to an adjudicative proceeding regarding the merits of the adjudicative proceeding unless notice and an opportunity to be heard are afforded to all parties.

(b) If an administrative law judge or the executive director receives an ex parte communication, the person who receives the ex parte communication shall place the communication into the public record of the proceedings and afford all parties an opportunity to comment on the information.

(11) Nothing in this section limits a party's right to an adjudicative proceeding under Title 63G, Chapter 4, Administrative Procedures Act.

Section 3. Section 19-1-301.5 is amended to read:

19-1-301.5. Permit review and financial assurance determination special adjudicative proceedings.

(1) As used in this section:

(a) "Dispositive action" means a final agency action that:

(i) the executive director takes as part of a ~~permit review~~ special adjudicative proceeding; and

(ii) is subject to judicial review, in accordance with Subsection (14).

(b) "Dispositive motion" means a motion that is equivalent to:

(i) a motion to dismiss under Utah Rules of Civil Procedure, Rule 12(b)(6);

(ii) a motion for judgment on the pleadings under Utah Rules of Civil Procedure, Rule 12(c); or

(iii) a motion for summary judgment under Utah Rules of Civil Procedure, Rule 56.

(c) "Financial assurance determination" means a decision on whether a facility, site, plan, party, broker, owner, operator, generator, or permittee has met financial assurance or financial responsibility requirements as determined by the director of the:

(i) Division of Radiation Control under Subsection 19-3-104(12); or

(ii) Division of Solid and Hazardous Waste under Subsection 19-6-108(9)(c).

~~(e)~~ (d) "Party" means:

(i) the director who issued the permit order or financial assurance determination that is being challenged in the ~~permit review~~ special adjudicative proceeding under this section;

(ii) the permittee;

(iii) the person who applied for the permit, if the permit was denied; ~~or~~

(iv) the person who is subject to a financial assurance determination; or

~~(iv)~~ (v) a person granted intervention by the administrative law judge.

~~(d)~~ (e) "Permit" means any of the following issued under this title:

(i) a permit;

(ii) a plan;

(iii) a license;

(iv) an approval order; or

(v) another administrative authorization made by a director.

~~(e)~~ (f) (i) "Permit order" means an order issued by a director that:

(A) approves a permit;

(B) renews a permit;

(C) denies a permit;

(D) modifies or amends a permit; or

(E) revokes and reissues a permit.

(ii) "Permit order" does not include an order terminating a permit.

~~[(f) "Permit review adjudicative proceeding" means a proceeding to resolve a challenge to a permit order.]~~

[(g) "Special adjudicative proceeding" means a proceeding under this section to resolve a challenge to a:

(i) permit order; or

(ii) financial assurance determination.

(2) This section governs ~~[permit review] special~~ adjudicative proceedings.

(3) Except as expressly provided in this section, the provisions of Title 63G, Chapter 4, Administrative Procedures Act, do not apply to a ~~[permit review] special~~ adjudicative proceeding under this section.

(4) If a public comment period was provided during the permit application process or the financial assurance determination process, a person who challenges ~~[a permit order, including the permit applicant,]~~ an order, application, or determination may only raise an issue or argument during the ~~[permit review] special~~ adjudicative proceeding that:

(a) the person raised during the public comment period; and

(b) was supported with sufficient information or documentation to enable the director to fully consider the substance and significance of the issue.

(5) The executive director shall appoint an administrative law judge, in accordance with Subsections 19-1-301(5) and (6), to conduct a ~~[permit review] special~~ adjudicative proceeding under this section.

(6) (a) Only the following may file a request for agency action seeking review of a permit order or a financial assurance determination:

(i) a party; or

(ii) a person who is seeking to intervene under Subsection (7).

(b) A person who files a request for agency action seeking review of a permit order or a financial assurance determination shall file the request:

(i) within 30 days after the day on which the permit order or the financial assurance determination is issued; and

(ii) in accordance with Subsections 63G-4-201(3)(a) through (c).

(c) A person may not raise an issue or argument in a request for agency action unless the issue or argument:

(i) was preserved in accordance with Subsection (4); or

(ii) was not reasonably ascertainable before or during the public comment period.

(d) The department may, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules allowing the extension of the filing deadline described in Subsection (6)(b)(i).

(7) (a) A person who is not a party may not participate in a ~~[permit review] special~~ adjudicative proceeding under this section unless the person is granted the right to intervene under this Subsection (7).

(b) A person who seeks to intervene in a ~~[permit review] special~~ adjudicative proceeding under this section shall, within 30 days after the day on which the permit order or the financial assurance determination being challenged was issued, file:

(i) a petition to intervene that:

(A) meets the requirements of Subsection 63G-4-207(1); and

(B) demonstrates that the person is entitled to intervention under Subsection (7)(c)(ii); and

(ii) a timely request for agency action.

(c) An administrative law judge shall grant a petition to intervene in a ~~[permit review] special~~ adjudicative proceeding, if:

(i) the petition to intervene is timely filed; and

(ii) the petitioner:

(A) demonstrates that the petitioner's legal interests may be substantially affected by the ~~[permit review] special~~ adjudicative proceeding;

(B) demonstrates that the interests of justice and the orderly and prompt conduct of the ~~[permit review] special~~ adjudicative proceeding will not be materially impaired by allowing the intervention; and

(C) in the petitioner's request for agency action, raises issues or arguments that are preserved in accordance with Subsection (4).

(d) An administrative law judge:

(i) shall issue an order granting or denying a petition to intervene in accordance with Subsection 63G-4-207(3)(a); and

(ii) may impose conditions on intervenors as described in Subsections 63G-4-207(3)(b) and (c).

(e) The department may, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules allowing the extension of the filing deadline described in Subsection (7)(b).

(8) (a) An administrative law judge shall conduct a ~~[permit review] special~~ adjudicative proceeding based only on the administrative record and not as a trial de novo.

(b) To the extent relative to the issues and arguments raised in the request for agency action,

the administrative record shall consist of the following items, if they exist:

(i) (A) for a permit review, the permit application, draft permit, and final permit; or

(B) for a financial assurance determination review, the proposed financial assurance determination from the owner or operator of the facility, the draft financial assurance determination, and the final financial assurance determination;

(ii) each statement of basis, fact sheet, engineering review, or other substantive explanation designated by the director as part of the basis for the decision relating to the permit order or the financial assurance determination;

(iii) the notice and record of each public comment period;

(iv) the notice and record of each public hearing, including oral comments made during the public hearing;

(v) written comments submitted during the public comment period;

(vi) responses to comments that are designated by the director as part of the basis for the decision relating to the permit order or the financial assurance determination;

(vii) any information that is:

(A) requested by and submitted to the director; and

(B) designated by the director as part of the basis for the decision relating to the permit order or the financial assurance determination;

(viii) any additional information specified by rule;

(ix) any additional documents agreed to by the parties; and

(x) information supplementing the record under Subsection (8)(c).

(c) (i) There is a rebuttable presumption against supplementing the record.

(ii) A party may move to supplement the record described in Subsection (8)(b) with technical or factual information.

(iii) The administrative law judge may grant a motion to supplement the record described in Subsection (8)(b) with technical or factual information if the moving party proves that:

(A) good cause exists for supplementing the record;

(B) supplementing the record is in the interest of justice; and

(C) supplementing the record is necessary for resolution of the issues.

(iv) The administrative law judge may supplement the record with technical or factual information on the administrative law judge's own

motion if the administrative law judge determines that adequate grounds exist to supplement the record under Subsections (8)(c)(iii)(A) through (C).

(v) In supplementing the record with testimonial evidence, the administrative law judge may administer an oath or take testimony as necessary.

(vi) The department may, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules permitting further supplementation of the record.

(9) (a) The administrative law judge shall review and respond to a request for agency action in accordance with Subsections 63G-4-201(3)(d) and (e), following the relevant procedures for formal adjudicative proceedings.

(b) The administrative law judge shall require the parties to file responsive pleadings in accordance with Section 63G-4-204.

(c) If an administrative law judge enters an order of default against a party, the administrative law judge shall enter the order of default in accordance with Section 63G-4-209, following the relevant procedures for formal adjudicative proceedings.

(d) The administrative law judge, in conducting a ~~permit review~~ special adjudicative proceeding:

(i) may not participate in an ex parte communication with a party to the ~~permit review~~ special adjudicative proceeding regarding the merits of the ~~permit review~~ special adjudicative proceeding unless notice and an opportunity to be heard are afforded to all parties; and

(ii) shall, upon receiving an ex parte communication, place the communication in the public record of the proceeding and afford all parties an opportunity to comment on the information.

(e) In conducting a ~~permit review~~ special adjudicative proceeding, the administrative law judge may take judicial notice of matters not in the administrative record, in accordance with Utah Rules of Evidence, Rule 201.

(f) An administrative law judge may take any action in a ~~permit review~~ special adjudicative proceeding that is not a dispositive action.

(10) (a) A person who files a request for agency action has the burden of demonstrating that an issue or argument raised in the request for agency action has been preserved in accordance with Subsection (4).

(b) The administrative law judge shall dismiss, with prejudice, any issue or argument raised in a request for agency action that has not been preserved in accordance with Subsection (4).

(11) In response to a dispositive motion, the administrative law judge may submit a proposed dispositive action to the executive director recommending full or partial resolution of the ~~permit review~~ special adjudicative proceeding, that includes:

(a) written findings of fact;

(b) written conclusions of law; and

(c) a recommended order.

(12) For each issue or argument that is not dismissed or otherwise resolved under Subsection (10)(b) or (11), the administrative law judge shall:

(a) provide the parties an opportunity for briefing and oral argument;

(b) conduct a review of the director's order or determination, based on the record described in Subsections (8)(b), (8)(c), and (9)(e); and

(c) submit to the executive director a proposed dispositive action, that includes:

(i) written findings of fact;

(ii) written conclusions of law; and

(iii) a recommended order.

(13) (a) When the administrative law judge submits a proposed dispositive action to the executive director, the executive director may:

(i) adopt, adopt with modifications, or reject the proposed dispositive action; or

(ii) return the proposed dispositive action to the administrative law judge for further action as directed.

(b) On review of a proposed dispositive action, the executive director shall uphold all factual, technical, and scientific agency determinations that are supported by substantial evidence taken from the record as a whole.

(c) (i) The executive director may not participate in an ex parte communication with a party to the ~~permit review~~ special adjudicative proceeding regarding the merits of the ~~permit review~~ special adjudicative proceeding unless notice and an opportunity to be heard are afforded to all parties.

(ii) Upon receiving an ex parte communication, the executive director shall place the communication in the public record of the proceeding and afford all parties an opportunity to comment on the information.

(d) In reviewing a proposed dispositive action during a ~~permit review~~ special adjudicative proceeding, the executive director may take judicial notice of matters not in the record, in accordance with Utah Rules of Evidence, Rule 201.

(e) The executive director may use the executive director's technical expertise in making a determination.

(14) (a) A party may seek judicial review in the Utah Court of Appeals of a dispositive action in a ~~permit review~~ special adjudicative proceeding, in accordance with Sections 63G-4-401, 63G-4-403, and 63G-4-405.

(b) An appellate court shall limit its review of a dispositive action of a ~~permit review~~ special adjudicative proceeding under this section to:

(i) the record described in Subsections (8)(b), (8)(c), (9)(e), and (13)(d); and

(ii) the record made by the administrative law judge and the executive director during the ~~permit review~~ special adjudicative proceeding.

(c) During judicial review of a dispositive action, the appellate court shall:

(i) review all agency determinations in accordance with Subsection 63G-4-403(4), recognizing that the agency has been granted substantial discretion to interpret its governing statutes and rules; and

(ii) uphold all factual, technical, and scientific agency determinations that are supported by substantial evidence viewed in light of the record as a whole.

(15) (a) The filing of a request for agency action does not:

(i) stay a permit order or a financial assurance determination; or

(ii) delay the effective date of a permit order or a financial assurance determination.

(b) A permit order or a financial assurance determination may not be stayed or delayed unless a stay is granted under this Subsection (15).

(c) The administrative law judge shall:

(i) consider a party's motion to stay a permit order or a financial assurance determination during a ~~permit review~~ special adjudicative proceeding; and

(ii) submit a proposed determination on the stay to the executive director.

(d) The administrative law judge may not recommend to the executive director a stay of a permit order or a financial assurance determination, or a portion of a permit order or a portion of a financial assurance determination, unless:

(i) all parties agree to the stay; or

(ii) the party seeking the stay demonstrates that:

(A) the party seeking the stay will suffer irreparable harm unless the stay is issued;

(B) the threatened injury to the party seeking the stay outweighs whatever damage the proposed stay is likely to cause the party restrained or enjoined;

(C) the stay, if issued, would not be adverse to the public interest; and

(D) there is a substantial likelihood that the party seeking the stay will prevail on the merits of the underlying claim, or the case presents serious issues on the merits, which should be the subject of further adjudication.

(e) A party may appeal the executive director's decision regarding a stay of a permit order or a financial assurance determination to the Utah Court of Appeals, in accordance with Section 78A-4-103.

Section 4. Section 19-2-108 is amended to read:

19-2-108. Notice of construction or modification of installations required --

Authority of director to prohibit construction -- Hearings -- Limitations on authority of director -- Inspections authorized.

(1) Notice shall be given to the director by any person planning to construct a new installation which will or might reasonably be expected to be a source or indirect source of air pollution or to make modifications to an existing installation which will or might reasonably be expected to increase the amount of or change the character or effect of air contaminants discharged, so that the installation may be expected to be a source or indirect source of air pollution, or by any person planning to install an air cleaning device or other equipment intended to control emission of air contaminants.

(2) (a) (i) The director may require, as a condition precedent to the construction, modification, installation, or establishment of the air contaminant source or indirect source, the submission of plans, specifications, and other information as he finds necessary to determine whether the proposed construction, modification, installation, or establishment will be in accord with applicable rules in force under this chapter.

(ii) Plan approval for an indirect source may be delegated by the director to a local authority when requested and upon assurance that the local authority has and will maintain sufficient expertise to insure that the planned installation will meet the requirements established by law.

(b) If within 90 days after the receipt of plans, specifications, or other information required under this subsection, the director determines that the proposed construction, installation, or establishment or any part of it will not be in accord with the requirements of this chapter or applicable rules or that further time, not exceeding three extensions of 30 days each, is required by the director to adequately review the plans, specifications, or other information, he shall issue an order prohibiting the construction, installation, or establishment of the air contaminant source or sources in whole or in part.

(3) In addition to any other remedies but prior to invoking any such other remedies, any person aggrieved by the issuance of an order either granting or denying a request for the construction of a new installation, [~~and prior to invoking any such other remedies~~] shall, upon request, in accordance with the rules of the department, be entitled to a [~~permit review~~] special adjudicative proceeding conducted by an administrative law judge as provided by Section 19-1-301.5.

(4) Any features, machines, and devices constituting parts of or called for by plans, specifications, or other information submitted under Subsection (1) shall be maintained in good working order.

(5) This section does not authorize the director to require the use of machinery, devices, or equipment from a particular supplier or produced by a particular manufacturer if the required

performance standards may be met by machinery, devices, or equipment otherwise available.

(6) (a) Any authorized officer, employee, or representative of the director may enter and inspect any property, premise, or place on or at which an air contaminant source is located or is being constructed, modified, installed, or established at any reasonable time for the purpose of ascertaining the state of compliance with this chapter and the rules adopted under it.

(b) (i) A person may not refuse entry or access to any authorized representative of the director who requests entry for purposes of inspection and who presents appropriate credentials.

(ii) A person may not obstruct, hamper, or interfere with any inspection.

(c) If requested, the owner or operator of the premises shall receive a report setting forth all facts found which relate to compliance status.

Section 5. Section 19-3-104 is amended to read:

19-3-104. Registration and licensing of radiation sources by department -- Assessment of fees -- Rulemaking authority and procedure -- Siting criteria -- Indirect and direct costs.

(1) As used in this section:

(a) "Decommissioning" includes financial assurance.

(b) "Source material" and "byproduct material" have the same definitions as in the Atomic Energy Act of 1954, 42 U.S.C.[A] Sec. 2014, [Atomic Energy Act of 1954,] as amended.

(2) The division may require the registration or licensing of radiation sources that constitute a significant health hazard.

(3) All sources of ionizing radiation, including ionizing radiation producing machines, shall be registered or licensed by the department.

(4) [~~The~~] In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board may make rules:

(a) necessary for controlling exposure to sources of radiation that constitute a significant health hazard;

(b) to meet the requirements of federal law relating to radiation control to ensure the radiation control program under this part is qualified to maintain primacy from the federal government;

(c) to establish:

(i) board accreditation requirements and procedures for mammography facilities; and

(ii) certification procedure and qualifications for persons who survey mammography equipment and oversee quality assurance practices at mammography facilities; and

(d) as necessary regarding the possession, use, transfer, or delivery of source and byproduct

material and the disposal of byproduct material to establish requirements for:

(i) the licensing, operation, decontamination, and decommissioning, including financial assurances; and

(ii) the reclamation of sites, structures, and equipment used in conjunction with the activities described in this Subsection (4).

(5) (a) On and after January 1, 2003, a fee is imposed for the regulation of source and byproduct material and the disposal of byproduct material at uranium mills or commercial waste facilities, as provided in this Subsection (5).

(b) On and after January 1, 2003, through March 30, 2003:

(i) \$6,667 per month for uranium mills or commercial sites disposing of or reprocessing byproduct material; and

(ii) \$4,167 per month for those uranium mills the director has determined are on standby status.

(c) On and after March 31, 2003, through June 30, 2003, the same fees as in Subsection (5)(b) apply, but only if the federal Nuclear Regulatory Commission grants to Utah an amendment for agreement state status for uranium recovery regulation on or before March 30, 2003.

(d) If the Nuclear Regulatory Commission does not grant the amendment for state agreement status on or before March 30, 2003, fees under Subsection (5)(e) do not apply and are not required to be paid until on and after the later date of:

(i) October 1, 2003; or

(ii) the date the Nuclear Regulatory Commission grants to Utah an amendment for agreement state status for uranium recovery regulation.

(e) For the payment periods beginning on and after July 1, 2003, the department shall establish the fees required under Subsection (5)(a) under Section 63J-1-504, subject to the restrictions under Subsection (5)(d).

(f) The division shall deposit fees it receives under this Subsection (5) into the Environmental Quality Restricted Account created in Section 19-1-108.

(6) (a) The division shall assess fees for registration, licensing, and inspection of radiation sources under this section.

(b) The division shall comply with the requirements of Section 63J-1-504 in assessing fees for licensure and registration.

(7) The division shall coordinate its activities with the Department of Health rules made under Section 26-21a-203.

(8) (a) Except as provided in Subsection (9), and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board may not adopt rules, for the purpose of the state assuming responsibilities from the United States Nuclear Regulatory Commission with respect to regulation

of sources of ionizing radiation, that are more stringent than the corresponding federal regulations which address the same circumstances.

(b) In adopting those rules, the board may incorporate corresponding federal regulations by reference.

(9) (a) The board may adopt rules more stringent than corresponding federal regulations for the purpose described in Subsection (8) only if it makes a written finding after public comment and hearing and based on evidence in the record that corresponding federal regulations are not adequate to protect public health and the environment of the state.

(b) Those findings shall be accompanied by an opinion referring to and evaluating the public health and environmental information and studies contained in the record which form the basis for the board's conclusion.

(10) (a) ~~[The]~~ In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall by rule:

(i) authorize independent qualified experts to conduct inspections required under this chapter of x-ray facilities registered with the division; and

(ii) establish qualifications and certification procedures necessary for independent experts to conduct these inspections.

(b) Independent experts under this Subsection (10) are not considered employees or representatives of the division or the state when conducting the inspections.

(11) (a) ~~[The]~~ In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board may by rule establish criteria for siting commercial low-level radioactive waste treatment or disposal facilities, subject to the prohibition imposed by Section 19-3-103.7.

(b) Subject to Subsection 19-3-105(10), any facility under Subsection (11)(a) for which a radioactive material license is required by this section shall comply with those criteria.

(c) Subject to Subsection 19-3-105(10), a facility may not receive a radioactive material license until siting criteria have been established by the board. The criteria also apply to facilities that have applied for but not received a radioactive material license.

(12) ~~[The board shall by rule establish]~~ In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules that establish financial assurance requirements for closure and postclosure care of radioactive waste land disposal facilities, taking into account existing financial assurance requirements.

(13) The rules described in Subsection (12) shall include the following provisions:

(a) the financial assurance shall be based on an annual calculation and shall include the costs of closure and postclosure care of radioactive waste

land disposal facilities in all areas subject to the licensed or permitted portions of the facility;

(b) financial assurance for closing the areas within the disposal embankments shall be limited to the cost of closing areas where waste has been disposed; and

(c) at the option of the licensee or permittee, the financial assurance requirements shall be based on:

(i) an annual calculation using the current edition of RS Means Facilities Construction Cost Data or using a process, including an indirect cost multiplier, previously agreed to between the licensee or permittee and the director; or

(ii) (A) for an initial financial assurance determination and for each financial assurance determination every five years thereafter, a competitive site-specific bid for closure and postclosure care of the facility at least once every five years; and

(B) for each year between a financial assurance determination as described in Subsection (13)(c)(ii)(A), an annual inflation adjustment to the financial assurance determination using the Gross Domestic Product Implicit Price Deflator of the Bureau of Economic Analysis, United States Department of Commerce, calculated by dividing the latest annual deflator by the deflator for the previous year.

(14) Subject to the financial assurance requirements described in Subsections (12) and (13), if the director and the licensee or permittee do not agree on a final financial assurance determination made by the director, the licensee or permittee may appeal the determination in:

(a) an arbitration proceeding governed by Title 78B, Chapter 11, Utah Uniform Arbitration Act, with the costs of the arbitration to be split equally between the licensee or permittee and the division, if both the licensee or permittee and the director agree in writing to arbitration; or

(b) a special adjudicative proceeding under Section 19-1-301.5.

Section 6. Section 63G-4-102 is amended to read:

63G-4-102. Scope and applicability of chapter.

(1) Except as set forth in Subsection (2), and except as otherwise provided by a statute superseding provisions of this chapter by explicit reference to this chapter, the provisions of this chapter apply to every agency of the state and govern:

(a) state agency action that determines the legal rights, duties, privileges, immunities, or other legal interests of an identifiable person, including agency action to grant, deny, revoke, suspend, modify, annul, withdraw, or amend an authority, right, or license; and

(b) judicial review of the action.

(2) This chapter does not govern:

(a) the procedure for making agency rules, or judicial review of the procedure or rules;

(b) the issuance of a notice of a deficiency in the payment of a tax, the decision to waive a penalty or interest on taxes, the imposition of and penalty or interest on taxes, or the issuance of a tax assessment, except that this chapter governs an agency action commenced by a taxpayer or by another person authorized by law to contest the validity or correctness of the action;

(c) state agency action relating to extradition, to the granting of a pardon or parole, a commutation or termination of a sentence, or to the rescission, termination, or revocation of parole or probation, to the discipline of, resolution of a grievance of, supervision of, confinement of, or the treatment of an inmate or resident of a correctional facility, the Utah State Hospital, the Utah State Developmental Center, or a person in the custody or jurisdiction of the Division of Substance Abuse and Mental Health, or a person on probation or parole, or judicial review of the action;

(d) state agency action to evaluate, discipline, employ, transfer, reassign, or promote a student or teacher in a school or educational institution, or judicial review of the action;

(e) an application for employment and internal personnel action within an agency concerning its own employees, or judicial review of the action;

(f) the issuance of a citation or assessment under Title 34A, Chapter 6, Utah Occupational Safety and Health Act, and Title 58, Occupations and Professions, except that this chapter governs an agency action commenced by the employer, licensee, or other person authorized by law to contest the validity or correctness of the citation or assessment;

(g) state agency action relating to management of state funds, the management and disposal of school and institutional trust land assets, and contracts for the purchase or sale of products, real property, supplies, goods, or services by or for the state, or by or for an agency of the state, except as provided in those contracts, or judicial review of the action;

(h) state agency action under Title 7, Chapter 1, Part 3, Powers and Duties of Commissioner of Financial Institutions, Title 7, Chapter 2, Possession of Depository Institution by Commissioner, Title 7, Chapter 19, Acquisition of Failing Depository Institutions or Holding Companies, and Title 63G, Chapter 7, Governmental Immunity Act of Utah, or judicial review of the action;

(i) the initial determination of a person's eligibility for unemployment benefits, the initial determination of a person's eligibility for benefits under Title 34A, Chapter 2, Workers' Compensation Act, and Title 34A, Chapter 3, Utah Occupational Disease Act, or the initial determination of a person's unemployment tax liability;

(j) state agency action relating to the distribution or award of a monetary grant to or between

governmental units, or for research, development, or the arts, or judicial review of the action;

(k) the issuance of a notice of violation or order under Title 26, Chapter 8a, Utah Emergency Medical Services System Act, Title 19, Chapter 2, Air Conservation Act, Title 19, Chapter 3, Radiation Control Act, Title 19, Chapter 4, Safe Drinking Water Act, Title 19, Chapter 5, Water Quality Act, Title 19, Chapter 6, Part 1, Solid and Hazardous Waste Act, Title 19, Chapter 6, Part 4, Underground Storage Tank Act, or Title 19, Chapter 6, Part 7, Used Oil Management Act, or Title 19, Chapter 6, Part 10, Mercury Switch Removal Act, except that this chapter governs an agency action commenced by a person authorized by law to contest the validity or correctness of the notice or order;

(l) state agency action, to the extent required by federal statute or regulation, to be conducted according to federal procedures;

(m) the initial determination of a person's eligibility for government or public assistance benefits;

(n) state agency action relating to wildlife licenses, permits, tags, and certificates of registration;

(o) a license for use of state recreational facilities;

(p) state agency action under Title 63G, Chapter 2, Government Records Access and Management Act, except as provided in Section 63G-2-603;

(q) state agency action relating to the collection of water commissioner fees and delinquency penalties, or judicial review of the action;

(r) state agency action relating to the installation, maintenance, and repair of headgates, caps, valves, or other water controlling works and weirs, flumes, meters, or other water measuring devices, or judicial review of the action;

(s) the issuance and enforcement of an initial order under Section 73-2-25;

(t) (i) a hearing conducted by the Division of Securities under Section 61-1-11.1; and

(ii) an action taken by the Division of Securities ~~[pursuant to]~~ under a hearing conducted under Section 61-1-11.1, including a determination regarding the fairness of an issuance or exchange of securities described in Subsection 61-1-11.1(1); and

(u) state agency action relating to water well driller licenses, water well drilling permits, water well driller registration, or water well drilling construction standards, or judicial review of the action.

(3) This chapter does not affect a legal remedy otherwise available to:

(a) compel an agency to take action; or

(b) challenge an agency's rule.

(4) This chapter does not preclude an agency, prior to the beginning of an adjudicative proceeding, or the presiding officer during an adjudicative proceeding from:

(a) requesting or ordering a conference with parties and interested persons to:

(i) encourage settlement;

(ii) clarify the issues;

(iii) simplify the evidence;

(iv) facilitate discovery; or

(v) expedite the proceeding; or

(b) granting a timely motion to dismiss or for summary judgment if the requirements of Rule 12(b) or Rule 56 of the Utah Rules of Civil Procedure are met by the moving party, except to the extent that the requirements of those rules are modified by this chapter.

(5) (a) A declaratory proceeding authorized by Section 63G-4-503 is not governed by this chapter, except as explicitly provided in that section.

(b) Judicial review of a declaratory proceeding authorized by Section 63G-4-503 is governed by this chapter.

(6) This chapter does not preclude an agency from enacting a rule affecting or governing an adjudicative proceeding or from following the rule, if the rule is enacted according to the procedures outlined in Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and if the rule conforms to the requirements of this chapter.

(7) (a) If the attorney general issues a written determination that a provision of this chapter would result in the denial of funds or services to an agency of the state from the federal government, the applicability of the provision to that agency shall be suspended to the extent necessary to prevent the denial.

(b) The attorney general shall report the suspension to the Legislature at its next session.

(8) Nothing in this chapter may be interpreted to provide an independent basis for jurisdiction to review final agency action.

(9) Nothing in this chapter may be interpreted to restrict a presiding officer, for good cause shown, from lengthening or shortening a time period prescribed in this chapter, except the time period established for judicial review.

(10) Notwithstanding any other provision of this section, this chapter does not apply to a ~~[permit review]~~ special adjudicative proceeding, as defined in Section 19-1-301.5, except to the extent expressly provided in Section 19-1-301.5.

Section 7. Section 78A-4-103 is amended to read:

78A-4-103. Court of Appeals jurisdiction.

(1) The Court of Appeals has jurisdiction to issue all extraordinary writs and to issue all writs and process necessary:

(a) to carry into effect its judgments, orders, and decrees; or

(b) in aid of its jurisdiction.

(2) The Court of Appeals has appellate jurisdiction, including jurisdiction of interlocutory appeals, over:

(a) (i) a final order or decree resulting from:

(A) a formal adjudicative proceeding of a state agency; or

(B) a ~~permit-review~~ special adjudicative proceeding, as ~~defined~~ described in Section 19-1-301.5; or

(ii) an appeal from the district court review of an informal adjudicative proceeding of an agency other than the following:

(A) the Public Service Commission;

(B) the State Tax Commission;

(C) the School and Institutional Trust Lands Board of Trustees;

(D) the Division of Forestry, Fire, and State Lands, for an action reviewed by the executive director of the Department of Natural Resources;

(E) the Board of Oil, Gas, and Mining; or

(F) the state engineer;

(b) appeals from the district court review of:

(i) adjudicative proceedings of agencies of political subdivisions of the state or other local agencies; and

(ii) a challenge to agency action under Section 63G-3-602;

(c) appeals from the juvenile courts;

(d) interlocutory appeals from any court of record in criminal cases, except those involving a charge of a first degree or capital felony;

(e) appeals from a court of record in criminal cases, except those involving a conviction or charge of a first degree felony or capital felony;

(f) appeals from orders on petitions for extraordinary writs sought by persons who are incarcerated or serving any other criminal sentence, except petitions constituting a challenge to a conviction of or the sentence for a first degree or capital felony;

(g) appeals from the orders on petitions for extraordinary writs challenging the decisions of the Board of Pardons and Parole except in cases involving a first degree or capital felony;

(h) appeals from district court involving domestic relations cases, including, but not limited to, divorce, annulment, property division, child custody, support, parent-time, visitation, adoption, and paternity;

(i) appeals from the Utah Military Court; and

(j) cases transferred to the Court of Appeals from the Supreme Court.

(3) The Court of Appeals upon its own motion only and by the vote of four judges of the court may certify to the Supreme Court for original appellate review and determination any matter over which the Court of Appeals has original appellate jurisdiction.

(4) The Court of Appeals shall comply with the requirements of Title 63G, Chapter 4, Administrative Procedures Act, in its review of agency adjudicative proceedings.

CHAPTER 442**S. B. 175**

Passed March 12, 2015
 Approved March 31, 2015
 Effective May 12, 2015

SCHOOL SAFETY AND CRISIS LINE

Chief Sponsor: Daniel W. Thatcher
 House Sponsor: Steve Eliason

LONG TITLE**General Description:**

This bill establishes a School Safety and Crisis Line.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires the University Neuropsychiatric Institute, within the University of Utah Hospitals and Clinics, to establish a statewide School Safety and Crisis Line;
- ▶ removes the sunset provision for the School Safety Tip Line Commission and renames it the School Safety and Crisis Line Commission (commission);
- ▶ amends the membership of the commission;
- ▶ requires the commission to fulfill certain duties;
- ▶ requires the State Board of Education to revise certain policies and curricula;
- ▶ requires a local school board or charter school governing board to revise certain policies; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2016:

- ▶ to the University of Utah - University Neuropsychiatric Institute, as an ongoing appropriation:
 - from the Education Fund, \$150,000; and
- ▶ to the University of Utah - University Neuropsychiatric Institute, as a one-time appropriation:
 - from the Education Fund, \$150,000.

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

- 53A-11-901, as last amended by Laws of Utah 2007, Chapter 161
 53A-11-902, as last amended by Laws of Utah 2010, Chapter 207
 53A-11-1501, as enacted by Laws of Utah 2014, Chapter 412
 53A-11-1502, as enacted by Laws of Utah 2014, Chapter 412
 53A-11-1504, as enacted by Laws of Utah 2014, Chapter 412
 53A-11-1505, as enacted by Laws of Utah 2014, Chapter 412
 53A-15-1302, as last amended by Laws of Utah 2014, Chapter 349
 63I-1-253, as last amended by Laws of Utah 2014, Chapters 189, 226, and 412

ENACTS:

53A-11-1506, Utah Code Annotated 1953

REPEALS AND REENACTS:

53A-11-1503, as enacted by Laws of Utah 2014, Chapter 412

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

Section 1. Section 53A-11-901 is amended to read:**53A-11-901. Public school discipline policies -- Basis of the policies -- Enforcement.**

(1) The Legislature recognizes that every student in the public schools should have the opportunity to learn in an environment which is safe, conducive to the learning process, and free from unnecessary disruption.

(2) (a) To foster such an environment, each local school board or governing board of a charter school, with input from school employees, parents and guardians of students, students, and the community at large, shall adopt conduct and discipline policies for the public schools.

(b) Each district or charter school shall base its policies on the principle that every student is expected:

(i) to follow accepted rules of conduct; and

(ii) to show respect for other people and to obey persons in authority at the school.

(c) (i) ~~[The State Superintendent of Public Instruction shall develop]~~ On or before September 1, 2015, the State Board of Education shall revise the conduct and discipline policy models for elementary and secondary public schools to include procedures for responding to reports received through the School Safety and Crisis Line under Subsection 53A-11-1503(3).

(ii) Each district or charter school shall use the models, where appropriate, in developing its conduct and discipline policies under this chapter.

(d) The policies shall emphasize that certain behavior, most particularly behavior which disrupts, is unacceptable and may result in disciplinary action.

(3) The local superintendent and designated employees of the district or charter school shall enforce the policies so that students demonstrating unacceptable behavior and their parents or guardians understand that such behavior will not be tolerated and will be dealt with in accordance with the district's conduct and discipline policies.

Section 2. Section 53A-11-902 is amended to read:**53A-11-902. Conduct and discipline policies and procedures.**

The conduct and discipline policies required under Section 53A-11-901 shall include:

(1) provisions governing student conduct, safety, and welfare;

(2) standards and procedures for dealing with students who cause disruption in the classroom, on school grounds, on school vehicles, or in connection with school-related activities or events;

(3) procedures for the development of remedial discipline plans for students who cause a disruption at any of the places referred to in Subsection (2);

(4) procedures for the use of reasonable and necessary physical restraint or force in dealing with disruptive students, consistent with Section 53A-11-802;

(5) standards and procedures for dealing with student conduct in locations other than those referred to in Subsection (2), if the conduct threatens harm or does harm to:

- (a) the school;
- (b) school property;
- (c) a person associated with the school; or
- (d) property associated with a person described in Subsection (5)(c);

(6) procedures for the imposition of disciplinary sanctions, including suspension and expulsion;

(7) specific provisions, consistent with Section 53A-15-603, for preventing and responding to gang-related activities in the school, on school grounds, on school vehicles, or in connection with school-related activities or events; ~~and~~

(8) standards and procedures for dealing with habitual disruptive student behavior in accordance with the provisions of this part~~[-]~~; and

(9) procedures for responding to reports received through the School Safety and Crisis Line under Subsection 53A-11-1503(3).

Section 3. Section 53A-11-1501 is amended to read:

Part 15. School Safety and Crisis Line

53A-11-1501. Title.

This part is known as "School Safety ~~[Tip]~~ and Crisis Line."

Section 4. Section 53A-11-1502 is amended to read:

53A-11-1502. Definitions.

As used in this part~~[-]~~, "commission":

(1) "Commission" means the School Safety ~~[Tip]~~ and Crisis Line Commission established in Section 53A-11-1504.

(2) "University Neuropsychiatric Institute" means the mental health and substance abuse treatment institute within the University of Utah Hospitals and Clinics.

Section 5. Section 53A-11-1503 is repealed and reenacted to read:

53A-11-1503. School Safety and Crisis Line established.

The University Neuropsychiatric Institute shall:

(1) establish a School Safety and Crisis Line to provide:

(a) a means for an individual to anonymously report:

(i) unsafe, violent, or criminal activities, or the threat of such activities at or near a public school;

(ii) incidents of bullying, cyber-bullying, harassment, or hazing; and

(iii) incidents of physical or sexual abuse committed by a school employee or school volunteer; and

(b) crisis intervention, including suicide prevention, to individuals experiencing emotional distress or psychiatric crisis;

(2) provide the services described in Subsection (1) 24 hours a day, seven days a week; and

(3) when necessary, or as required by law, promptly forward a report received under Subsection (1)(a) to appropriate:

(a) school officials; and

(b) law enforcement officials.

Section 6. Section 53A-11-1504 is amended to read:

53A-11-1504. School Safety and Crisis Line Commission established -- Members.

(1) There is created the School Safety ~~[Tip]~~ and Crisis Line Commission~~[-]~~, ~~within the Office of the Attorney General,~~ composed of the following members:

(a) one member who represents the Office of the Attorney General, appointed by the attorney general;

(b) ~~[two members]~~ one member who ~~[represent]~~ represents the Utah Public Education System, appointed by the State Board of Education;

(c) one member who represents the Utah System of Higher Education, appointed by the State Board of Regents;

~~[(e)]~~ (d) one member who represents the Utah Department of Health, appointed by the executive director of the Department of Health;

~~[(d) two members]~~ (e) one member of the House of Representatives, appointed by the speaker of the House of Representatives; ~~and~~

~~[(e) two members]~~ (f) one member of the Senate, appointed by the president of the Senate~~[-]~~;

(g) one member who represents the University Neuropsychiatric Institute, appointed by the chair of the commission;

(h) one member who represents law enforcement who has extensive experience in emergency response, appointed by the chair of the commission;

(i) one member who represents the Utah Department of Human Services who has experience

in youth services or treatment services, appointed by the executive director of the Department of Human Services; and

(j) two members of the public, appointed by the chair of the commission.

(2) (a) Except as provided in Subsection (2)(b), members of the commission shall be appointed to four-year terms.

(b) The length of the terms of the members shall be staggered so that approximately half of the committee is appointed every two years.

(c) When a vacancy occurs in the membership of the commission, the replacement shall be appointed for the unexpired term.

[2] (3) (a) The attorney general's designee shall serve as chair of the commission.

(b) The chair shall set the agenda for commission meetings.

[3] (4) Attendance of a simple majority of the members constitutes a quorum for the transaction of official commission business.

(4) (5) Formal action by the commission requires a majority vote of a quorum.

[5] (6) (a) Except as provided in Subsection [5] (6)(b), a member may not receive compensation, benefits, per diem, or travel expenses for the member's service.

(b) Compensation and expenses of a member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

[6] (7) The Office of the Attorney General shall provide staff support to the commission.

Section 7. Section 53A-11-1505 is amended to read:

53A-11-1505. School Safety and Crisis Line Commission duties.

(1)-(a) The commission shall coordinate:

~~(i) designate a School Safety Tip Line provider network after consideration of the ability of the proposed provider network's ability to;~~

~~(A) provide the services described in Section 53A-11-1503 24 hours a day, seven days a week; and~~

~~(B) employ, as operators, social workers licensed by the Division of Occupational and Professional Licensing under Section 58-60-204;~~

~~(ii) estimate the cost of operating a School Safety Tip Line including the extent to which operations will be funded through private donations and grants; and~~

~~(iii) designate a phone number for the School Safety Tip Line.~~

(1) statewide efforts related to the School Safety and Crisis Line; and

(2) with the State Board of Education and the State Board of Regents to promote awareness of the services available through the School Safety and Crisis Line.

~~(b) The commission may conduct other business related to establishing a School Safety Tip Line.]~~

~~[(2) The commission shall report to the Education Interim Committee and the Executive Appropriations Committee before November 30, 2014, regarding:]~~

~~[(a) how the commission fulfilled its duties during the year; and]~~

~~[(b) recommendations for future legislation related to a School Safety Tip Line.]~~

Section 8. Section 53A-11-1506 is enacted to read:

53A-11-1506. State Board of Education and local boards of education to update policies and promote awareness.

(1) The State Board of Education shall:

(a) revise the conduct and discipline policy models, described in Section 53A-11-901, to include procedures for responding to reports received under Subsection 53A-11-1503(3); and

(b) revise the curriculum developed by the State Board of Education for the parent seminar, described in Section 53A-15-1302, to include information about the School Safety and Crisis Line.

(2) A local school board or charter school governing board shall:

(a) revise the conduct and discipline policies, described in Section 53A-11-902, to include procedures for responding to reports received under Subsection 53A-11-1503(3); and

(b) inform students, parents, and school personnel about the School Safety and Crisis Line.

Section 9. Section 53A-15-1302 is amended to read:

53A-15-1302. Parent education -- Mental health -- Bullying -- Safety.

(1) (a) Except as provided in Subsection [5] (4), a school district shall offer a seminar for parents of students in the school district that:

(i) is offered at no cost to parents;

(ii) begins at or after 6 p.m.;

(iii) is held in at least one school located in the school district; and

(iv) covers the topics described in Subsection (2).

(b) A school district shall annually offer one parent seminar for each 11,000 students enrolled in the school district.

(c) A school district may:

(i) develop its own curriculum for the seminar described in Subsection (1)(a); or

(ii) use the curriculum developed by the State Board of Education under Subsection (2).

(d) A school district shall notify each charter school located in the attendance boundaries of the school district of the date and time of a parent seminar, so the charter school may inform parents of the seminar.

(2) The State Board of Education shall:

(a) develop a curriculum for the parent seminar described in Subsection (1) that includes information on:

(i) substance abuse, including illegal drugs and prescription drugs and prevention;

(ii) bullying;

(iii) mental health, depression, suicide awareness, and suicide prevention, including education on limiting access to fatal means; ~~and~~

(iv) Internet safety, including pornography addiction; and

(v) the School Safety and Crisis Line established in Section 53A-11-1503; and

(b) provide the curriculum, including resources and training, to school districts upon request.

~~[(3) The State Board of Education shall report to the Legislature's Education Interim Committee, by the November 2013 meeting, on the progress of implementation of the parent seminar, including if a local school board has opted out of providing the parent seminar, as described in Subsection (5), and the reasons why a local school board opted out.]~~

[~~(4)~~ (3) The State Board of Education shall report to the Legislature's Education Interim Committee by the November 2014 meeting on:

(a) the progress of implementation of the parent seminar;

(b) the estimated attendance reported by each school district;

(c) a recommendation of whether to continue the parent seminar program; and

(d) if a local school board has opted out of providing the parent seminar, as described in Subsection [~~(5)~~] (4), and the reasons why a local school board opted out.

[~~(5)~~ (4) (a) A school district is not required to offer the parent seminar if the local school board determines that the topics described in Subsection (2) are not of significant interest or value to families in the school district.

(b) If a local school board chooses not to offer the parent seminar, the local school board shall notify the State Board of Education and provide the reasons why the local school board chose not to offer the parent seminar.

Section 10. Section 63I-1-253 is amended to read:

63I-1-253. Repeal dates, Titles 53, 53A, and 53B.

The following provisions are repealed on the following dates:

(1) Section 53-3-232, Conditional license, is repealed July 1, 2015.

(2) Subsection 53-10-202(18) is repealed July 1, 2018.

(3) Section 53-10-202.1 is repealed July 1, 2018.

(4) Title 53A, Chapter 1a, Part 6, Public Education Job Enhancement Program is repealed July 1, 2020.

~~[(5) Title 53A, Chapter 11, Part 15, School Safety Tip Line, is repealed July 1, 2015.]~~

[~~(6)~~ (5) The State Instructional Materials Commission, created in Section 53A-14-101, is repealed July 1, 2016.

[~~(7)~~ (6) Subsections 53A-16-113(3) and (4) are repealed December 31, 2016.

[~~(8)~~ (7) Section 53A-16-114 is repealed December 31, 2016.

[~~(9)~~ (8) Section 53A-17a-163, Performance-based Compensation Pilot Program is repealed July 1, 2016.

[~~(10)~~ (9) Section 53B-24-402, Rural residency training program, is repealed July 1, 2015.

[~~(11)~~ (10) Subsection 53C-3-203(4)(b)(vii), which provides for the distribution of money from the Land Exchange Distribution Account to the Geological Survey for test wells, other hydrologic studies, and air quality monitoring in the West Desert, is repealed July 1, 2020.

Section 11. Appropriation.

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, for the fiscal year beginning July 1, 2015, and ending June 30, 2016, the following sums of money are appropriated from resources not otherwise appropriated, or reduced from amounts previously appropriated, out of the funds or accounts indicated. These sums of money are in addition to any amounts previously appropriated for fiscal year 2016.

<u>To University of Utah -</u>	
<u>University Neuropsychiatric Institute</u>	
<u>From Education Fund</u>	<u>\$150,000</u>
<u>From Education Fund, One-time</u>	<u>\$150,000</u>
<u>Schedule of Programs:</u>	
<u>University Neuropsychiatric Institute</u>	<u>\$300,000</u>

The Legislature intends that the appropriation provided in this section is to be used by the University Neuropsychiatric Institute to provide the services described in Title 53A, Chapter 11, Part 15, School Safety and Crisis Line.

Section 12. Effective date.

(1) Except as provided in Subsection (2), this bill takes effect on May 12, 2015.

(2) Uncodified Section 11, Appropriation, takes effect on July 1, 2015.

CHAPTER 443**S. B. 196**

Passed March 11, 2015
 Approved March 31, 2015
 Effective May 12, 2015

MATH COMPETENCY INITIATIVE

Chief Sponsor: Ann Millner
 House Sponsor: Francis D. Gibson

LONG TITLE**General Description:**

This bill enacts provisions relating to public school mathematics competency standards.

Highlighted Provisions:

This bill:

- ▶ enacts provisions relating to public school mathematics competency standards.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

53A-1-1201, Utah Code Annotated 1953
 53A-1-1202, Utah Code Annotated 1953

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

Section 1. Section 53A-1-1201 is enacted to read:**Part 12. Career and College Readiness Mathematics Competency****53A-1-1201. (Codified as 53A-1-1301) Title.**

This part is known as "Career and College Readiness Mathematics Competency."

Section 2. Section 53A-1-1202 is enacted to read:**53A-1-1202. (Codified as 53A-1-1302) Career and college readiness mathematics competency standards.**

(1) As used in this section, "qualifying score" means a score established as described in Subsection (4), that, if met by a student, qualifies the student to receive college credit for a mathematics course that satisfies the state system of higher education quantitative literacy requirement.

(2) The State Board of Education shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules that:

(a) (i) establish the mathematics competency standards described in Subsection (3) as a graduation requirement beginning with the 2016-17 school year; and

(ii) include the qualifying scores described in Subsection (4); and

(b) establish systematic reporting of college and career ready mathematics achievement.

(3) In addition to other graduation requirements established by the State Board of Education, a student shall fulfill one of the following requirements to demonstrate mathematics competency that supports the student's future college and career goals as outlined in the student's college and career plan:

(a) for a student pursuing a college degree after graduation:

(i) receive a score that at least meets the qualifying score for:

(A) an Advanced Placement calculus or statistics exam;

(B) an International Baccalaureate higher level mathematics exam;

(C) the ACCUPLACER College-Level Math test or an equivalent test described in Subsection (5);

(D) a College Level Examination Program precalculus or calculus exam; or

(E) the ACT Mathematics Test; or

(ii) receive at least a "C" grade in a concurrent enrollment mathematics course that satisfies the state system of higher education quantitative literacy requirement;

(b) for a non college degree-seeking student, the student shall complete appropriate math competencies for the student's career goals as described in the student's college and career plan;

(c) for a student with an individualized education program prepared in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq., the student shall meet the mathematics standards described in the student's individualized education program; or

(d) for a senior student with special circumstances as described in State Board of Education rule, the student shall fulfill a requirement associated with the student's special circumstances, as established in State Board of Education rule.

(4) The State Board of Regents shall, in consultation with the State Board of Education, determine qualifying scores for the tests and exams described in Subsection (3)(a)(i).

(5) The State Board of Regents, established in Section 53B-1-103, may make a policy to select at least one test the State Board of Regents finds is equivalent to the ACCUPLACER College-Level Math test.

(6) The State Board of Regents shall, in consultation with the State Board of Education, make policies to:

(a) develop mechanisms for a student who completes a math competency requirement described in Subsection (3)(a) to:

(i) receive college credit; and

(ii) satisfy the state system of higher education quantitative literacy requirement;

(b) allow a student, upon completion of required high school mathematics courses with at least a "C" grade, entry into a mathematics concurrent enrollment course;

(c) increase access to a range of mathematics concurrent enrollment courses;

(d) establish a consistent concurrent enrollment course approval process; and

(e) establish a consistent process to qualify high school teachers with an upper level mathematics endorsement to teach entry level mathematics concurrent enrollment courses.

CHAPTER 444
S. B. 204

Passed March 11, 2015
Approved March 31, 2015
Effective May 12, 2015

**PARENTAL RIGHTS IN PUBLIC
EDUCATION AMENDMENTS**

Chief Sponsor: Aaron Osmond
House Sponsor: Rich Cunningham

LONG TITLE

General Description:

This bill amends provisions related to certain rights of a parent or guardian of a student enrolled in a public school and provisions related to achievement tests.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ limits the grade levels of a student that is subject to a parent's or guardian's right to retain a student on grade level;
- ▶ amends provisions related to a parent's or guardian's right to excuse a student from attendance for certain purposes;
- ▶ amends provisions related to a parent's or guardian's right to excuse a student from taking certain tests;
- ▶ provides that an accommodation to certain rights of a parent or guardian may only be provided if the accommodation is consistent with federal law and a student's Individualized Education Plan, if applicable; and
- ▶ requires the State Board of Education to make rules providing that scores on certain tests may not be considered in determining a student's academic grade or whether a student may advance to the next grade level.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

- 53A-1-603, as last amended by Laws of Utah 2013, Chapter 161
53A-15-1401, as enacted by Laws of Utah 2014, Chapter 392
53A-15-1402, as enacted by Laws of Utah 2014, Chapter 392
53A-15-1403, as enacted by Laws of Utah 2014, Chapter 392

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

Section 1. Section 53A-1-603 is amended to read:

53A-1-603. Duties of State Board of Education.

(1) The State Board of Education shall:

(a) require each school district and charter school to implement the Utah Performance Assessment

System for Students, hereafter referred to as U-PASS;

(b) require the state superintendent of public instruction to submit and recommend criterion-referenced achievement tests or online computer adaptive tests, college readiness assessments, an online writing assessment for grades 5 and 8, and a test for students in grade 3 to measure reading grade level to the board for approval and adoption and distribution to each school district and charter school by the state superintendent;

(c) develop an assessment method to uniformly measure statewide performance, school district performance, and school performance of students in grades 3 through 12 in mastering basic skills courses; and

(d) provide for the state to participate in the National Assessment of Educational Progress state-by-state comparison testing program.

(2) Except as provided in Subsection (3) and Subsection 53A-1-611(3), under U-PASS, the State Board of Education shall annually require each school district and charter school, as applicable, to administer:

(a) as determined by the State Board of Education, statewide criterion-referenced tests or online computer adaptive tests in grades 3 through 12 and courses in basic skill areas of the core curriculum;

(b) an online writing assessment to all students in grades 5 and 8;

(c) college readiness assessments as detailed in Section 53A-1-611; and

(d) a test to all students in grade 3 to measure reading grade level.

(3) Beginning with the 2014-15 school year, the State Board of Education shall annually require each school district and charter school, as applicable, to administer a computer adaptive assessment system that is:

(a) adopted by the State Board of Education; and

(b) aligned to Utah's common core.

(4) The board shall adopt rules for the conduct and administration of U-PASS to include the following:

(a) the computation of student performance based on information that is disaggregated with respect to race, ethnicity, gender, limited English proficiency, and those students who qualify for free or reduced price school lunch;

(b) security features to maintain the integrity of the system, which could include statewide uniform testing dates, multiple test forms, and test administration protocols;

(c) the exemption of student test scores, by exemption category, such as limited English proficiency, mobility, and students with disabilities, with the percent or number of student

test scores exempted being publically reported at a district level;

(d) compiling of criterion-referenced, online computer adaptive, and online writing test scores and test score averages at the classroom level to allow for:

(i) an annual review of those scores by parents of students and professional and other appropriate staff at the classroom level at the earliest point in time;

(ii) the assessment of year-to-year student progress in specific classes, courses, and subjects;

(iii) a teacher to review, prior to the beginning of a new school year, test scores from the previous school year of students who have been assigned to the teacher's class for the new school year;

(e) allowing a school district or charter school to have its tests administered and scored electronically to accelerate the review of test scores and their usefulness to parents and educators under Subsection (4)(d), without violating the integrity of U-PASS; and

(f) providing that scores on the tests and assessments required under Subsection (2)(a) and Subsection (3) ~~shall~~ may not be considered in determining:

(i) a student's academic grade for the appropriate course ~~and~~; or

(ii) whether a student ~~shall~~ may advance to the next grade level.

(5) (a) A school district or charter school, as applicable, is encouraged to administer an online writing assessment to students in grade 11.

(b) The State Board of Education may award a grant to a school district or charter school to pay for an online writing assessment and instruction program that may be used to assess the writing of students in grade 11.

(6) The State Board of Education shall make rules:

(a) establishing procedures for applying for and awarding money for computer adaptive tests;

(b) specifying how money for computer adaptive tests shall be allocated among school districts and charter schools that qualify to receive the money; and

(c) requiring reporting of the expenditure of money awarded for computer adaptive testing and evidence that the money was used to implement computer adaptive testing.

(7) The State Board of Education shall assure that computer adaptive tests are administered in compliance with the requirements of Chapter 13, Part 3, Utah Family Educational Rights and Privacy Act.

(8) (a) The State Board of Education shall establish a committee consisting of 15 parents of

Utah public education students to review all computer adaptive test questions.

(b) The committee established in Subsection (8)(a) shall include the following parent members:

(i) five members appointed by the chair of the State Board of Education;

(ii) five members appointed by the speaker of the House of Representatives; and

(iii) five members appointed by the president of the Senate.

(c) The State Board of Education shall provide staff support to the parent committee.

(d) The term of office of each member appointed in Subsection (8)(b) is four years.

(e) The chair of the State Board of Education, the speaker of the House of Representatives, and the president of the Senate shall adjust the length of terms to stagger the terms of committee members so that approximately 1/2 of the committee members are appointed every two years.

(f) No member may receive compensation or benefits for the member's service on the committee.

(9) (a) School districts and charter schools shall require each licensed employee to complete two hours of professional development on youth suicide prevention within their license cycle in accordance with Section 53A-6-104.

(b) The State Board of Education shall develop or adopt sample materials to be used by a school district or charter school for professional development training on youth suicide prevention.

(c) The training required by this Subsection (9) shall be incorporated into professional development training required by rule in accordance with Section 53A-6-104.

Section 2. Section 53A-15-1401 is amended to read:

53A-15-1401. Definitions.

As used in this part:

(1) "Federal law" means:

(a) a statute passed by the Congress of the United States; or

(b) a final regulation:

(i) adopted by an administrative agency of the United States government; and

(ii) published in the code of federal regulations or the federal register.

(2) "Individualized Education Program" or "IEP" means a written statement, for a student with a disability, that is developed, reviewed, and revised in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.

~~(1)~~ (3) "LEA" means a school district, charter school, or the Utah Schools for the Deaf and the Blind.

~~[(2)]~~ (4) “Reasonably accommodate” means an LEA shall make its best effort to enable a parent or guardian to exercise a parental right specified in Section 53A-15-1403:

(a) without substantial impact to staff and resources, including employee working conditions, safety and supervision on school premises and for school activities, and the efficient allocation of expenditures; and

(b) while balancing:

(i) the parental rights of parents or guardians;

(ii) the educational needs of other students;

(iii) the academic and behavioral impacts to a classroom;

(iv) a teacher’s workload; and

(v) the assurance of the safe and efficient operation of a school.

Section 3. Section 53A-15-1402 is amended to read:

53A-15-1402. Annual notice of parental rights.

(1) An LEA shall annually notify a parent or guardian of a student enrolled in the LEA of the parent’s or guardian’s rights as specified in this part.

(2) An LEA satisfies the notification requirement described in Subsection (1) by posting the information on the LEA’s website or through other means of electronic communication.

Section 4. Section 53A-15-1403 is amended to read:

53A-15-1403. Parental right to academic accommodations.

(1) (a) A student’s parent or guardian is the primary person responsible for the education of the student, and the state is in a secondary and supportive role to the parent or guardian. As such, a student’s parent or guardian has the right to reasonable academic accommodations from the student’s LEA as specified in this section.

(b) Each accommodation shall be considered on an individual basis and no student shall be considered to a greater or lesser degree than any other student.

(c) The parental rights specified in this section do not include all the rights or accommodations that may be available to a student’s parent or guardian as a user of the public education system.

(d) An accommodation under this section may only be provided if the accommodation is:

(i) consistent with federal law; and

(ii) consistent with a student’s IEP if the student already has an IEP.

(2) An LEA shall reasonably accommodate a parent’s or guardian’s written request to retain a

student in kindergarten through grade 8 on grade level based on the student’s academic ability or the student’s social, emotional, or physical maturity.

(3) An LEA shall reasonably accommodate a parent’s or guardian’s initial selection of a teacher or request for a change of teacher.

(4) An LEA shall reasonably accommodate the request of a student’s parent or guardian to visit and observe any class the student attends.

~~[(5) (a) An LEA shall reasonably accommodate a written request of a student’s parent or guardian to excuse the student from attendance for a family event or visit to a health care provider, without obtaining a note from the provider.]~~

~~[(b) An excused absence provided under Subsection (5)(a) does not diminish expectations for the student’s academic performance.]~~

(5) Notwithstanding Chapter 11, Part 1, Compulsory Education Requirements, an LEA shall record an excused absence for a scheduled family event or a scheduled proactive visit to a health care provider if:

(a) the parent or guardian submits a written statement at least one school day before the scheduled absence; and

(b) the student agrees to make up course work for school days missed for the scheduled absence in accordance with LEA policy.

(6) (a) An LEA shall reasonably accommodate a parent’s or guardian’s written request to place a student in a specialized class, a specialized program, or an advanced course.

(b) An LEA shall consider multiple academic data points when determining an accommodation under Subsection (6)(a).

(7) Consistent with Section 53A-13-108, which requires the State Board of Education to establish graduation requirements that use competency-based standards and assessments, an LEA shall allow a student to earn course credit towards high school graduation without completing a course in school by:

(a) testing out of the course; or

(b) demonstrating competency in course standards.

(8) An LEA shall reasonably accommodate a parent’s or guardian’s request to meet with a teacher at a mutually agreeable time if the parent or guardian is unable to attend a regularly scheduled parent teacher conference.

~~[(9) (a) Upon the written request of a student’s parent or guardian, an LEA shall excuse the student from taking a test that is administered statewide or the National Assessment of Educational Progress.]~~

~~[(b) The State Board of Education shall ensure through board rule that neither an LEA nor its employees are negatively impacted through school~~

grading or employee evaluation due to a student not taking a test pursuant to Subsection (9)(a).]

(9) (a) At the request of a student's parent or guardian, an LEA shall excuse a student from taking an assessment that:

(i) is federally mandated;

(ii) is mandated by the state under this title; or

(iii) requires the use of:

(A) a state assessment system; or

(B) software that is provided or paid for by the state.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Board of Education shall make rules:

(i) to establish a statewide procedure for excusing a student under Subsection (9)(a) that:

(A) does not place an undue burden on a parent or guardian; and

(B) may be completed online; and

(ii) to prevent negative impact, to the extent authorized by state statute, to an LEA or an LEA's employees through school grading or employee evaluations due to a student not taking a test under Subsection (9)(a).

(c) An LEA:

(i) shall follow the procedures outlined in rules made by the State Board of Education under Subsection (9)(b) to excuse a student under Subsection (9)(a);

(ii) may not require procedures to excuse a student under Subsection (9)(a) in addition to the procedures outlined in rules made by the State Board of Education under Subsection (9)(b); and

(iii) may not reward a student for taking an assessment described in Subsection (9)(a).

(d) The State Board of Education shall:

(i) maintain and publish a list of state assessments, state assessment systems, and software that qualify under Subsection (9)(a); and

(ii) audit and verify an LEA's compliance with the requirements of this Subsection (9).

(10) (a) An LEA shall provide for:

(i) the distribution of a copy of a school's discipline and conduct policy to each student in accordance with Section 53A-11-903; and

(ii) a parent's or guardian's signature acknowledging receipt of the school's discipline and conduct policy.

(b) An LEA shall notify a parent or guardian of a student's violation of a school's discipline and conduct policy and allow a parent or guardian to respond to the notice in accordance with Chapter 11, Part 9, School Discipline and Conduct Plans.

CHAPTER 445**S. B. 205**

Passed March 11, 2015
 Approved March 31, 2015
 Effective May 12, 2015

ASSESSMENT AREA REVISIONS

Chief Sponsor: Curtis S. Bramble
 House Sponsor: Daniel McCay

LONG TITLE**General Description:**

This bill enacts language related to assessment area bonds.

Highlighted Provisions:

This bill:

- ▶ authorizes a local entity to transfer title to property in satisfaction of debt if certain requirements are met.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

11-42-504, as enacted by Laws of Utah 2007,
 Chapter 329

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

Section 1. Section 11-42-504 is amended to read:

11-42-504. Assessments on property that the local entity acquires at tax sale or foreclosure -- Transferring title of property in lieu of paying assessments -- Reimbursement.

(1) (a) Each local entity that purchases property at a tax sale or foreclosure under this part shall pay into the assessment fund all applicable annual installments of assessments and interest for as long as the local entity owns the property.

(b) A local entity may make payments required under this Subsection (1) from the guaranty fund or reserve fund.

(2) (a) In lieu of making payments under Subsection (1), a local entity may elect to transfer title of the property to the owners of all outstanding assessment bonds, refunding assessment bonds, interim warrants, or bond anticipation notes as payment in full for all delinquent assessments with respect to the property[-] only if:

(i) the local entity and owners agree to the election to transfer; and

(ii) an indenture, private placement memo, or other document or contract memorializing the terms of debt explicitly discloses the terms of the agreement described in Subsection (2)(a)(i).

(b) If a local entity transfers title to property as provided in Subsection (2)(a) or sells property it has received from a tax sale or foreclosure, the selling

price may not be less than the amount sufficient to reimburse the local entity for all amounts the local entity paid with respect to an assessment on the property, including an amount sufficient to reimburse the guaranty fund or reserve fund, as the case may be, for all amounts paid from the fund for delinquent assessments or installments of assessments relating to the property, plus interest, penalties, and costs.

(c) Each local entity that sells property it has received from a tax sale or foreclosure shall place the money it receives from the sale into the guaranty fund, reserve fund, or other local entity fund, as the case may be, to the extent of full reimbursement as required in this section.

CHAPTER 446**S. B. 222**

Passed March 12, 2015
 Approved March 31, 2015
 Effective May 12, 2015

**DIGITAL TEACHING AND
 LEARNING PROGRAM PROPOSAL**

Chief Sponsor: Howard A. Stephenson
 House Sponsor: Francis D. Gibson

LONG TITLE**General Description:**

This bill requires the State Board of Education and UETN to develop a digital teaching and learning program proposal and provide technical support to LEAs.

Highlighted Provisions:

This bill:

- ▶ requires the State Board of Education to establish a digital teaching and learning task force to develop a funding proposal for digital teaching and learning in elementary and secondary schools;
- ▶ requires the State Board of Education to develop a master plan for a statewide digital teaching and learning program;
- ▶ requires the Utah Education and Telehealth Network:
 - to conduct an inventory of the public education system's current technology resources;
 - to perform an engineering study to determine the technology infrastructure needs of the public education system to implement a digital teaching and learning program; and
 - as funding allows, to provide infrastructure and technology support for school districts and charter schools; and
- ▶ requires the State Board of Education and the Utah Education and Telehealth Network to report to the Education Interim Committee and the Executive Appropriations Committee.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2016:

- ▶ to the Utah Education and Telehealth Network as a one-time appropriation:
 - from the Education Fund, \$4,000,000; and
- ▶ to the State Board of Education - Utah State Office of Education - Initiative Programs as a one-time appropriation:
 - from the Education Fund, \$1,000,000.

Other Special Clauses:

This bill provides a special effective date.

This bill provides a coordination clause.

Utah Code Sections Affected:**ENACTS:**

53A-1-710, Utah Code Annotated 1953

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

Section 1. Section 53A-1-710 is enacted to read:

53A-1-710. Digital teaching and learning program task force -- Funding proposal for a program -- Master plan -- Reporting requirements.

(1) As used in this section:

(a) "Board" means the State Board of Education.

(b) "Core subject areas" means the following subject areas:

(i) English language arts;

(ii) mathematics;

(iii) science; and

(iv) social studies.

(c) "High quality professional learning" means the professional learning standards described in Section 53A-3-701.

(d) "LEA plan" means an LEA's plan to implement a digital teaching and learning program that meets requirements set by the board.

(e) "Local education agency" or "LEA" means:

(i) a school district;

(ii) a charter school; or

(iii) the Utah Schools for the Deaf and the Blind.

(f) "Statewide assessment" means a test of student achievement in English language arts, mathematics, or science, including a test administered in a computer adaptive format, which is administered statewide under Part 6, Achievement Tests.

(g) "Utah Education and Telehealth Network" or "UETN" means the Utah Education and Telehealth Network created in Section 53B-17-105.

(2) (a) The board shall establish a digital teaching and learning task force to develop a funding proposal to present to the Legislature for digital teaching and learning in elementary and secondary schools.

(b) The digital teaching and learning task force shall include representatives of:

(i) the board;

(ii) UETN;

(iii) LEAs; and

(iv) the Governor's Education Excellence Commission.

(3) (a) The board, in consultation with the digital teaching and learning task force created in Subsection (2), shall create a funding proposal for a statewide digital teaching and learning program designed to:

(i) improve student outcomes through the use of digital teaching and learning technology; and

(ii) provide high quality professional learning for educators to improve student outcomes through the use of digital teaching and learning technology.

(b) The board shall:

(i) identify outcome based metrics to measure student achievement related to a digital teaching and learning program; and

(ii) develop minimum benchmark standards for student achievement and school level outcomes to measure successful implementation of a digital teaching and learning program.

(4) As funding allows, the board shall develop a master plan for a statewide digital teaching and learning program, including the following:

(a) a statement of purpose that describes the objectives or goals the board will accomplish by implementing a digital teaching and learning program;

(b) a forecast for fundamental components needed to implement a digital teaching and learning program, including a forecast for:

- (i) student and teacher devices;
- (ii) Wi-Fi and wireless compatible technology;
- (iii) curriculum software;
- (iv) assessment solutions;
- (v) technical support;
- (vi) change management of LEAs;
- (vii) high quality professional learning;
- (viii) Internet delivery and capacity; and
- (ix) security and privacy of users;

(c) a determination of the requirements for:

- (i) statewide technology infrastructure; and
- (ii) local LEA technology infrastructure;

(d) standards for high quality professional learning related to implementing and maintaining a digital teaching and learning program;

(e) a statewide technical support plan that will guide the implementation and maintenance of a digital teaching and learning program, including standards and competency requirements for technical support personnel;

(f) (i) a grant program for LEAs; or

(ii) a distribution formula to fund LEA digital teaching and learning programs;

(g) in consultation with UETN, an inventory of the state public education system's current technology resources and other items and a plan to integrate those resources into a digital teaching and learning program;

(h) an ongoing evaluation process that is overseen by the board;

(i) proposed rules that incorporate the principles of the master plan into the state's public education system as a whole; and

(j) a plan to ensure long-term sustainability that:

(i) accounts for the financial impacts of a digital teaching and learning program; and

(ii) facilitates the redirection of LEA savings that arise from implementing a digital teaching and learning program.

(5) UETN shall:

(a) in consultation with the board, conduct an inventory of the state public education system's current technology resources and other items as determined by UETN, including software;

(b) perform an engineering study to determine the technology infrastructure needs of the public education system to implement a digital teaching and learning program, including the infrastructure needed for the board, UETN, and LEAs; and

(c) as funding allows, provide infrastructure and technology support for school districts and charter schools.

(6) On or before December 1, 2015, the board and UETN shall present the funding proposal for a statewide digital teaching and learning program described in Subsection (3) to the Education Interim Committee and the Executive Appropriations Committee, including:

(a) the board's progress on the development of a master plan described in Subsection (4); and

(b) the progress of UETN on the inventory and study described in Subsection (5).

Section 2. Appropriation.

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, for the fiscal year beginning July 1, 2015, and ending June 30, 2016, the following sums of money are appropriated from resources not otherwise appropriated, or reduced from amounts previously appropriated, out of the funds or accounts indicated. These sums of money are in addition to any amounts previously appropriated for fiscal year 2016.

To State Board of Education - Utah State Office of Education

From Education Fund, one-time \$1,000,000

Schedule of Programs:

Board and Administration \$1,000,000

To the Utah Education and Telehealth Network

From Education Fund, one-time \$4,000,000

Schedule of Programs:

Technical Services \$4,000,000

The Legislature intends that:

(1) the State Board of Education use the \$1,000,000 appropriation to the State Board of Education under this section to establish a task

force and prepare a funding proposal for a statewide digital teaching and learning program as described in Section 53A-1-710; and

(2) the Utah Education and Telehealth Network use the \$4,000,000 appropriation to the Utah Education and Telehealth Network:

(a) to conduct an inventory of the state public education system's current technology resources as required in Section 53A-1-710;

(b) to perform an engineering study as required in Section 53A-1-710; and

(c) for infrastructure and technology support for school districts and charter schools.

Section 3. Effective date.

(1) Except as provided in Subsection (2), this bill takes effect on May 12, 2015.

(2) Uncodified Section 2, Appropriation, takes effect on July 1, 2015.

Section 4. Coordinating H.B. 222 with H.B. 2 -- Substantive and technical amendments.

If this S.B. 222 and H.B. 2, Public Education Budget Amendments, both pass and become law, the Legislature intends that the following intent language applies to H.B. 2 Uncodified Section 3, Operating and capital budgets, "The Legislature intends that the State Board of Education may use the appropriation for K-12 Digital Literacy for purposes of creating a digital teaching and learning task force and funding proposal as described in Section 53A-1-710."

CHAPTER 447**S. B. 226**

Passed March 11, 2015
 Approved March 31, 2015
 Effective May 12, 2015

SEARCH AND SEIZURE AMENDMENTS

Chief Sponsor: Mark B. Madsen
 House Sponsor: John Knotwell

LONG TITLE**General Description:**

This bill enacts provisions relating to the use of an imaging surveillance device by a government entity.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ describes the circumstances under which a government entity is required to obtain a warrant in order to use an imaging surveillance device;
- ▶ describes exceptions to the requirement to obtain a warrant;
- ▶ imposes notification requirements relating to the use of an imaging surveillance device; and
- ▶ addresses data use and retention.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

77-23d-101, Utah Code Annotated 1953
 77-23d-102, Utah Code Annotated 1953
 77-23d-103, Utah Code Annotated 1953
 77-23d-104, Utah Code Annotated 1953
 77-23d-105, Utah Code Annotated 1953

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

Section 1. Section 77-23d-101 is enacted to read:**CHAPTER 23d. IMAGING SURVEILLANCE PRIVACY****77-23d-101. Title.**

This chapter is known as "Imaging Surveillance Privacy."

Section 2. Section 77-23d-102 is enacted to read:**77-23d-102. Definitions.**

As used in this chapter:

(1) "Government entity" means the state, a county, a municipality, a higher education institution, a local district, a special service district, or any other political subdivision of the state or an administrative subunit of any political subdivision, including a law enforcement entity or any other investigative entity, agency, department, division, bureau, board, or commission, or an individual

acting or purporting to act for or on behalf of a state or local agency.

(2) "Imaging surveillance device" means a device that uses radar, sonar, infrared, or other remote sensing or detection technology used by the individual operating the device to obtain information, not otherwise directly observable, about individuals, items, or activities within a closed structure.

(3) "Target" means a person or a structure upon which a government entity intentionally collects or attempts to collect information using an imaging surveillance device.

Section 3. Section 77-23d-103 is enacted to read:**77-23d-103. Use of imaging surveillance device -- Warrant required -- Exceptions.**

(1) Except as provided in Subsection (2), a government entity may not operate an imaging surveillance device without a search warrant issued upon probable cause.

(2) A government entity may operate an imaging surveillance device without a search warrant:

(a) for testing equipment or training if the testing or training:

(i) is not conducted as part of an investigation or law enforcement activity; and

(ii) is conducted with the knowledge and consent of:

(A) each individual who is imaged; and

(B) an owner of each property that is imaged;

(b) in exigent circumstances; or

(c) in fresh pursuit of a person suspected of committing a felony.

Section 4. Section 77-23d-104 is enacted to read:**77-23d-104. Notification required -- Delayed notification.**

(1) Except as provided in Subsection (2), a government entity that executes a search warrant that authorizes the use of an imaging surveillance device shall, within 14 days after the day on which the warrant is executed, provide notice to the individual who owns, resides in, or rents the structure specified in the warrant that states:

(a) that a warrant was applied for and granted;

(b) the type of warrant issued;

(c) the period of time during which the collection of data from the structure was authorized;

(d) the offense specified in the application for the warrant;

(e) the identity of the government entity that filed the application; and

(f) the name of the court that issued the warrant.

(2) A government entity seeking a warrant described in Subsection 77-23d-103(1) may submit

a request, and the court may grant permission, to delay the notification described in Subsection (1) for a period not to exceed 30 days, if the court determines that there is probable cause to believe that the notification may:

(a) endanger the life or physical safety of an individual;

(b) cause an individual to flee from prosecution;

(c) lead to the destruction of or tampering with evidence;

(d) result in the intimidation of a potential witness; or

(e) otherwise seriously jeopardize an investigation or unduly delay a trial.

(3) When a delay of notification is granted under Subsection (2), and upon application by the government entity, the court may grant additional extensions of up to 30 days each.

(4) Upon expiration of the period of delayed notification granted under Subsection (2) or (3), the government entity shall serve upon or deliver by first-class mail to the individual who owns, resides in, or rents the structure specified in the warrant a copy of the warrant together with a notice that:

(a) states with reasonable specificity the nature of the law enforcement inquiry; and

(b) contains:

(i) the information described in Subsections (1)(a) through (f);

(ii) a statement that notification of the search was delayed;

(iii) the name of the court that authorized the delay of notification; and

(iv) a reference to the provision of this chapter that allowed the delay of notification.

(5) A government entity is not required to notify the owner of a structure if the owner is located outside of the United States.

Section 5. Section 77-23d-105 is enacted to read:

77-23d-105. Data use and retention.

(1) Except as provided in Subsection (2), a government entity:

(a) may not use, copy, or disclose data collected using an imaging surveillance device on an individual or structure that is not a target; and

(b) shall ensure that data described in Subsection (1)(a) is destroyed as soon as reasonably possible after the government entity collects or receives the data.

(2) A government entity is not required to comply with Subsection (1) if:

(a) deleting the data would also require the deletion of data that:

(i) relates to the target of the operation; and

(ii) is requisite for the success of the operation;

(b) the government entity receives the data:

(i) through a court order that:

(A) requires a person to release the data to the government entity; or

(B) prohibits the destruction of the data; or

(ii) from a person who is a nongovernment actor;

(c) (i) the data was collected inadvertently; and

(ii) the data appears to pertain to the commission of a crime; or

(d) (i) the government entity reasonably determines that the data pertains to an emergency situation; and

(ii) using or disclosing the data would assist in remedying the emergency.

CHAPTER 448**S. B. 234**

Passed March 12, 2015
 Approved March 31, 2015
 Effective May 12, 2015

**UTAH FIRE PREVENTION
 BOARD AMENDMENTS**

Chief Sponsor: Howard A. Stephenson
 House Sponsor: James A. Dunnigan

LONG TITLE**General Description:**

This bill modifies the membership of the Utah Fire Prevention Board.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ increases the membership of the Utah Fire Prevention Board; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53-7-202, as last amended by Laws of Utah 2013, Chapter 247
 53-7-203, as last amended by Laws of Utah 2010, Chapter 286

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

Section 1. Section 53-7-202 is amended to read:

53-7-202. Definitions.

As used in this part:

(1) "Agricultural and wildlife fireworks" means a class C dangerous explosive that:

(a) uses sound or light when deployed; and

(b) is designated to prevent crop damage or unwanted animals from entering a specified area.

(2) "Class A explosive" means a division 1.1 or 1.2 explosive as defined by the United States Department of Transportation in Part 173, Title 49, Code of Federal Regulations.

(3) "Class B explosive" means a division 1.2 or 1.3G explosive as defined by the United States Department of Transportation in Part 173, Title 49, Code of Federal Regulations.

(4) "Class C explosive" means a division 1.4G explosive as defined by the United States Department of Transportation in Part 173, Title 49, Code of Federal Regulations.

(5) "Class C common state approved explosive" means a firework that:

(a) is purchased at retail for use by a consumer; and

(b) is not a Class C dangerous explosive.

(6) (a) "Class C dangerous explosive" means a class C explosive that is:

(i) a firecracker, cannon cracker, ground salute, M-80, cherry bomb, or other similar explosive;

(ii) (A) a skyrocket;

(B) a missile type rocket;

(C) a single shot, or reloadable aerial shell; or

(D) a rocket similar to one described in Subsections (6)(a)(ii)(A) through (C), including an aerial salute, a flash shell, a comet, a mine, or a cake containing more than 500 grams of pyrotechnic composition; or

(iii) (A) a bottle rocket;

(B) a roman candle;

(C) a rocket mounted on a wire or stick; or

(D) a device containing a rocket described in this Subsection (6)(a)(iii).

(b) A "class C dangerous explosive" does not mean exempt explosives.

(7) "Commercial cooking appliance fire suppression system":

(a) means an automatic or manual fire protection system designed for commercial cooking appliances, exhaust hoods, and ducts; and

(b) includes a commercial kitchen exhaust system attached to a fire suppression system that is designed to remove smoke, soot, toxic gases, and grease-laden vapor resulting from cooking operations.

(8) (a) "Display fireworks" means large firework devices that consist of explosive materials that are intended for use in outdoor aerial fireworks displays to produce visible or audible effects by combustion, deflagration, or detonation.

(b) "Display fireworks" includes aerial shells, salutes, roman candles, flash shells, comets, mines, and other similar explosives.

(9) (a) "Display operator" means a person licensed under Section 53-7-223 and who is responsible for site selection, setting up, permits, overseeing assistants and support personnel, and discharging display fireworks outdoors in situations where the audience maintains a specific distance separating it from the display fireworks being discharged.

(b) "Display operator" does not mean a fire department.

(10) "Exempt explosive" means a model rocket, toy pistol cap, emergency signal flare, snake or glow worm, party popper, trick noisemaker, match, and wire sparkler under 12 inches in length.

(11) "Fire executive" means a fire chief, deputy fire chief, or other active member of a fire department or fire district who has been appointed by the elected officials of a municipality or county, by a fire district board, or by an established

procedure within a volunteer fire service organization, to officially represent a fire department.

[~~(41)~~] (12) "Fire extinguisher" means a portable or stationary device that discharges water, foam, gas, or other material to extinguish a fire.

[~~(42)~~] (13) "Fire suppression system" means an automatic fire protection system that automatically detects fire and discharges a fire extinguishing agent onto or in the area of the fire.

[~~(43)~~] (14) (a) "Fireworks" means:

- (i) class C explosives;
- (ii) class C dangerous explosives; and
- (iii) class C common state approved explosives.

(b) "Fireworks" does not mean:

- (i) exempt explosives;
- (ii) class A explosives; or
- (iii) class B explosives.

[~~(44)~~] (15) "Flame effects" means the combustion of flammable solids, liquids, or gases to produce thermal, physical, visual, or audible phenomena before an audience.

[~~(45)~~] (16) (a) "Flame effects operator" means a person licensed under Section 53-7-223 who, regarding flame effects, is responsible for:

(i) storage, setup, operations, teardown, devices, equipment, overseeing assistants and support personnel, and preventing accidental discharge; and

(ii) completion of the sequence of control system functions that release the fuel for ignition to cause combustion and create the flame effects.

(b) (i) "Flame effects operator" does not include a person who participates in a meeting, as limited under Subsection [~~(45)~~] (16)(b)(ii), with other persons solely to receive training, to practice, or provide instruction regarding flame effects performance.

(ii) A meeting under Subsection [~~(45)~~] (16)(b)(i) may include a nonpaying and unsolicited audience of not more than 25 persons.

[~~(46)~~] (17) "Importer" means a person who brings class B or class C explosives into Utah for the general purpose of:

- (a) resale or use within the state; or
- (b) exportation to other states.

[~~(47)~~] (18) (a) "Pyrotechnic" means any composition or device manufactured or used to produce a visible or audible effect by combustion, deflagration, or detonation.

(b) "Pyrotechnic" does not mean exempt explosives.

[~~(48)~~] (19) "Retail seller" means a person who sells class C common state approved explosives to the

public during the period authorized under Section 53-7-225.

[~~(19)~~] (20) "Service" means the inspection, maintenance, repair, modification, testing, or cleaning of an automatic fire suppression system.

[~~(20)~~] (21) "Special effects" means a visual or audible effect caused by chemical mixtures that produce a controlled, self-sustaining, and self-controlled exothermic chemical reaction that results in heat, gas, sound, or light and may also create an illusion.

[~~(21)~~] (22) "Special effects operator" means a person licensed under Section 53-7-223 who is responsible for setting up, permits, overseeing assistants and support personnel, analyzing potential hazards, setting clearances, and discharging pyrotechnic devices, either indoor or outdoor, where the audience is allowed to be in closer proximity to the pyrotechnic devices than the audience separation distance generally required for display fireworks.

[~~(22)~~] (23) "Trick noisemaker" includes a:

(a) tube or sphere containing pyrotechnic composition that produces a white or colored smoke as its primary effect when ignited; and

(b) device that produces a small report intended to surprise the user, including a:

(i) "booby trap," which is a small tube with a string protruding from both ends that ignites the friction sensitive composition in the tube when the string is pulled;

(ii) "snapper," which is a small paper-wrapped device containing a minute quantity of explosive composition coated on bits of sand that explodes producing a small report;

(iii) "trick match," which is a kitchen or book match coated with a small quantity of explosive or pyrotechnic composition that produces a small shower of sparks when ignited;

(iv) "cigarette load," which is a small wooden peg coated with a small quantity of explosive composition that produces a small report when ignited; and

(v) "auto burglar alarm," which is a tube that:

(A) contains pyrotechnic composition that produces a loud whistle and smoke when ignited;

(B) may contain a small quantity of explosive to produce a small explosive noise; and

(C) is ignited by a squib.

[~~(23)~~] (24) "Unclassified fireworks" means:

(a) a pyrotechnic device that is used, given away, or offered for sale, that has not been tested, approved, and classified by the United States Department of Transportation;

(b) an approved device that has been altered or redesigned since obtaining approval by the United States Department of Transportation; and

(c) a pyrotechnic device that is being tested by a manufacturer, importer, or wholesaler before

receiving approval by the United States Department of Transportation.

[~~(24)~~] (25) "Wholesaler" means:

(a) a person who sells class C common state approved explosives to a retailer; or

(b) a person who sells class B explosives or class C dangerous explosives for display use.

Section 2. Section 53-7-203 is amended to read:

53-7-203. Utah Fire Prevention Board -- Creation -- Members -- Terms -- Selection of chair and officers -- Quorum -- Meetings -- Compensation -- Division's duty to implement board rules.

(1) There is created within the division the Utah Fire Prevention Board.

(2) The board shall be nonpartisan and be composed of [~~14~~] 13 members appointed by the governor as follows:

(a) a city or county official;

(b) a licensed architect;

(c) a licensed engineer;

(d) a member of the Utah State Firemen's Association;

(e) the state forester or the state forester's designee;

(f) the commissioner of the Labor Commission or the commissioner's designee;

(g) a member of the Utah State Fire Chiefs Association;

(h) a member of the Utah Fire Marshal's Association;

(i) a building inspector; [~~and~~]

(j) a citizen appointed at large[-];

(k) a fire executive appointed from a full-time fire department in a county of the first class;

(l) a fire executive appointed from a full-time fire department in a county of the second class; and

(m) a fire executive appointed from a fire department in a county of the third, fourth, fifth, or sixth class.

(3) (a) Except as required by Subsection (3)(b), as terms of current board members expire, the governor shall appoint each new member or reappointed member to a four-year term.

(b) Notwithstanding the requirements of Subsection (3)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

(4) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(5) A member whose term has expired may continue to serve until a replacement is appointed pursuant to Subsection (3).

(6) The board shall select from its members a chair and other officers as the board finds necessary.

(7) A majority of the members of the board is a quorum.

(8) The board shall hold regular semiannual meetings for the transaction of its business at a time and place to be fixed by the board and shall hold other meetings as necessary for proper transaction of business.

(9) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(10) The division shall implement the rules of the board and perform all other duties delegated by the board.

CHAPTER 449**S. B. 235**

Passed March 12, 2015

Approved March 31, 2015

Effective May 12, 2015

EDUCATION MODIFICATIONS

Chief Sponsor: Wayne L. Niederhauser

House Sponsor: Bradley G. Last

LONG TITLE**General Description:**

This bill enacts and amends provisions related to public education.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires the State Board of Education to designate low performing schools, subject to certain conditions;
- ▶ requires a local school board to take certain actions to turn around a low performing district school;
- ▶ requires a charter school authorizer and a charter school governing board to take certain actions to turn around a low performing charter school;
- ▶ directs the State Board of Education to:
 - select independent school turnaround experts, through a request for proposals process;
 - review and approve school turnaround plans submitted by a local school board or charter school governing board; and
 - make rules imposing certain consequences on a school district or charter school that fails to improve the school grade of a low performing school within a certain amount of time;
- ▶ creates the School Recognition and Reward Program to provide incentives to schools and educators to improve the school grade of a low performing school;
- ▶ creates the School Leadership Development Program to increase the number of highly effective school leaders capable of initiating, achieving, and sustaining school improvement efforts;
- ▶ requires the State Board of Education to annually report to the Education Interim Committee;
- ▶ allows the State Board of Education to use certain nonlapsing funds, remaining at the end of fiscal year 2015, for certain purposes; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2016:

- ▶ to the State Board of Education - State Office of Education - Initiative Programs, as an ongoing appropriation:
 - from the Education Fund, \$7,000,000; and
- ▶ to the State Board of Education - State Office of Education - Initiative Programs, as a one-time appropriation:
 - from the Education Fund, \$1,000,000.

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

53A-1a-108.5, as enacted by Laws of Utah 2002, Chapter 324

53A-1a-510, as last amended by Laws of Utah 2014, Chapter 363

53A-17a-105, as last amended by Laws of Utah 2013, Chapter 310

ENACTS:

53A-1-1201, Utah Code Annotated 1953

53A-1-1202, Utah Code Annotated 1953

53A-1-1203, Utah Code Annotated 1953

53A-1-1204, Utah Code Annotated 1953

53A-1-1205, Utah Code Annotated 1953

53A-1-1206, Utah Code Annotated 1953

53A-1-1207, Utah Code Annotated 1953

53A-1-1208, Utah Code Annotated 1953

53A-1-1209, Utah Code Annotated 1953

53A-1-1210, Utah Code Annotated 1953

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

Section 1. Section 53A-1-1201 is enacted to read:**Part 12. School Turnaround and Leadership Development Act****53A-1-1201. Title.**

This part is known as the "School Turnaround and Leadership Development Act."

Section 2. Section 53A-1-1202 is enacted to read:**53A-1-1202. Definitions.**

As used in this part:

(1) "Board" means the State Board of Education.

(2) "Charter school authorizer" means the same as that term is defined in Section 53A-1a-501.3.

(3) "District school" means a public school under the control of a local school board elected under Title 20A, Chapter 14, Nomination and Election of State and Local School Boards.

(4) "Educator" means the same as that term is defined in Section 53A-6-103.

(5) "Initial remedial year" means the year in which a district school or charter school is designated as a low performing school under Section 53A-1-1203.

(6) "Low performing school" means a district school or charter school that has been designated a low performing school by the board because the school is:

(a) in the lowest performing 3% of schools statewide according to the percentage of possible points earned under the school grading system; and

(b) a low performing school according to other outcome-based measures as may be defined in rules made by the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(7) “School grade” or “grade” means the letter grade assigned to a school under the school grading system.

(8) “School grading system” means the system established under Part 11, School Grading Act, of assigning letter grades to schools.

(9) “Statewide assessment” means a test of student achievement in English language arts, mathematics, or science, including a test administered in a computer adaptive format that is administered statewide under Part 6, Achievement Tests.

Section 3. Section 53A-1-1203 is enacted to read:

53A-1-1203. State Board of Education to designate low performing schools.

On or before August 15, the board shall annually designate a school as a low performing school if the school is:

(1) in the lowest performing 3% of schools statewide according to the percentage of possible points earned under the school grading system; and

(2) a low performing school according to other outcome-based measures as may be defined in rules made by the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 4. Section 53A-1-1204 is enacted to read:

53A-1-1204. Required action to turn around a low performing district school.

(1) On or before October 1 of an initial remedial year, a local school board of a low performing school shall establish a school turnaround committee composed of the following members:

(a) the local school board member who represents the voting district where the low performing school is located;

(b) the school principal;

(c) three parents of students enrolled in the low performing school appointed by the chair of the school community council;

(d) one teacher at the low performing school appointed by the principal; and

(e) one teacher at the low performing school appointed by the school district superintendent.

(2) (a) Subject to Subsection (2)(b), on or before October 15 of an initial remedial year, a local school board of a low performing school shall partner with the school turnaround committee to select an independent school turnaround expert from the experts identified by the board under Section 53A-1-1206.

(b) A local school board may not select an independent school turnaround expert that is:

(i) the school district; or

(ii) an employee of the school district.

(3) A school turnaround committee shall partner with the independent school turnaround expert selected under Subsection (2) to develop and implement a school turnaround plan that includes:

(a) the findings of the analysis conducted by the independent school turnaround expert described in Subsection 53A-1-1206(1)(a);

(b) recommendations regarding changes to the low performing school’s personnel, culture, curriculum, assessments, instructional practices, governance, leadership, finances, policies, or other areas that may be necessary to implement the school turnaround plan;

(c) measurable student achievement goals and objectives;

(d) a professional development plan that identifies a strategy to address problems of instructional practice;

(e) a detailed budget specifying how the school turnaround plan will be funded;

(f) a plan to assess and monitor progress;

(g) a plan to communicate and report data on progress to stakeholders; and

(h) a timeline for implementation.

(4) A local school board of a low performing school shall:

(a) prioritize school district funding and resources to the low performing school; and

(b) grant the low performing school streamlined authority over staff, schedule, policies, budget, and academic programs to implement the school turnaround plan.

(5) (a) On or before March 1 of an initial remedial year, a school turnaround committee shall submit the school turnaround plan to the local school board for approval.

(b) Except as provided in Subsection (5)(c), on or before April 1 of an initial remedial year, a local school board of a low performing school shall submit the school turnaround plan to the board for approval.

(c) If the local school board does not approve the school turnaround plan submitted under Subsection (5)(a), the school turnaround committee may appeal the disapproval in accordance with rules made by the board as described in Subsection 53A-1-1206(5).

Section 5. Section 53A-1-1205 is enacted to read:

53A-1-1205. Required action to terminate or turn around a low performing charter school.

(1) On or before August 20 of an initial remedial year, a charter school authorizer of a low performing school shall initiate a review to determine whether the charter school is in compliance with the school’s charter agreement

described in Section 53A-1a-508, including the school's established minimum standards for student achievement.

(2) If a low performing school is found to be out of compliance with the school's charter agreement, the charter school authorizer may terminate the school's charter in accordance with Section 53A-1a-510.

(3) A charter school authorizer shall make a determination on the status of a low performing school's charter under Subsection (2) on or before September 15 of an initial remedial year.

(4) If a charter school authorizer does not terminate a low performing school's charter under Subsection (2), a charter school governing board of a low performing school shall:

(a) on or before October 1 of an initial remedial year, establish a school turnaround committee composed of the following members:

(i) a member of the charter school governing board, appointed by the chair of the charter school governing board;

(ii) the school principal;

(iii) three parents of students enrolled in the low performing school, appointed by the chair of the charter school governing board; and

(iv) two teachers at the low performing school, appointed by the school principal; and

(b) subject to Subsection (5), on or before October 15 of an initial remedial year, in partnership with the school turnaround committee, select an independent school turnaround expert from the experts identified by the board under Section 53A-1-1206.

(5) A charter school governing board may not select a school turnaround expert that:

(a) is a member of the charter school governing board;

(b) is an employee of the charter school; or

(c) has a contract to operate the charter school.

(6) A school turnaround committee shall partner with the independent school turnaround expert selected under Subsection (4)(b) to develop and implement a school turnaround plan that includes the elements described in Subsection 53A-1-1204(3).

(7) (a) On or before March 1 of an initial remedial year, a school turnaround committee shall submit the school turnaround plan to the charter school governing board for approval.

(b) Except as provided in Subsection (7)(c), on or before April 1 of an initial remedial year, a charter school governing board of a low performing school shall submit the school turnaround plan to the board for approval.

(c) If the charter school governing board does not approve the school turnaround plan submitted

under Subsection (7)(a), the school turnaround committee may appeal the disapproval in accordance with rules made by the board as described in Subsection 53A-1-1206(5).

Section 6. Section 53A-1-1206 is enacted to read:

53A-1-1206. State Board of Education to identify independent school turnaround experts -- Review and approval of school turnaround plans -- Appeals process.

(1) On or before August 30, the board shall identify two or more approved independent school turnaround experts, through a request for proposals process, that a low performing school may select from to partner with to:

(a) collect and analyze data on the low performing school's student achievement, personnel, culture, curriculum, assessments, instructional practices, governance, leadership, finances, and policies;

(b) recommend changes to the low performing school's culture, curriculum, assessments, instructional practices, governance, finances, policies, or other areas based on data collected under Subsection (1)(a);

(c) develop and implement, in partnership with the school turnaround committee, a school turnaround plan that meets the criteria described in Subsection 53A-1-1204(3);

(d) monitor the effectiveness of a school turnaround plan through reliable means of evaluation, including on-site visits, observations, surveys, analysis of student achievement data, and interviews;

(e) provide ongoing implementation support and project management for a school turnaround plan;

(f) provide high-quality professional development personalized for school staff that is designed to build the:

(i) leadership capacity of the school principal; and

(ii) instructional capacity of school staff; and

(g) leverage support from community partners to coordinate an efficient delivery of supports to students both inside and outside the classroom.

(2) In identifying independent school turnaround experts under Subsection (1), the board shall identify experts that:

(a) have a credible track record of improving student academic achievement in public schools with various demographic characteristics, as measured by statewide assessments;

(b) have experience designing, implementing, and evaluating data-driven instructional systems in public schools;

(c) have experience coaching public school administrators and teachers on designing data-driven school improvement plans;

(d) have experience working with the various education entities that govern public schools;

(e) have experience delivering high-quality professional development in instructional effectiveness to public school administrators and teachers;

(f) are willing to be compensated for professional services based on performance as described in Subsection (3); and

(g) are willing to partner with any low performing school in the state, regardless of location.

(3) (a) When awarding a contract to an independent school turnaround expert selected by a local school board under Subsection 53A-1-1204(2) or by a charter school governing board under Subsection 53A-1-1205(4)(b), the board shall ensure that a contract between the board and the independent school turnaround expert specifies that the board will:

(i) pay an independent school turnaround expert no more than 50% of the expert's professional fees at the beginning of the independent school turnaround expert's work for the low performing school; and

(ii) pay the remainder of the independent school turnaround expert's professional fees upon the independent school turnaround expert successfully helping a low performing school improve the low performing school's grade within three school years after a school is designated a low performing school.

(b) In negotiating a contract with an independent school turnaround expert, the board shall offer:

(i) differentiated amounts of funding based on student enrollment; and

(ii) a higher amount of funding for schools that are in the lowest performing 1% of schools statewide according to the percentage of possible points earned under the school grading system.

(4) The board shall:

(a) review a school turnaround plan submitted for approval under Subsection 53A-1-1204(5)(b) or under Subsection 53A-1-1205(7)(b) within 30 days of submission;

(b) approve a school turnaround plan that:

(i) is timely;

(ii) is well-developed; and

(iii) meets the criteria described in Subsection 53A-1-1204(3); and

(c) subject to legislative appropriations, provide funding to a low performing school for interventions identified in an approved school turnaround plan if the local school board or charter school governing board provides matching funds or an in-kind contribution of goods or services in an amount equal to the funding the low performing school would receive from the board.

(5) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules to establish an appeals process for:

(i) a low performing district school that is not granted approval from the district school's local school board under Subsection 53A-1-1204(5)(b);

(ii) a low performing charter school that is not granted approval from the charter school's charter school governing board under Subsection 53A-1-1205(7)(b); and

(iii) a local school board or charter school governing board that is not granted approval from the board under Subsection (4)(b).

(b) The board shall ensure that rules made under Subsection (5)(a) require an appeals process described in:

(i) Subsections (5)(a)(i) and (ii) to be resolved on or before April 1 of the initial remedial year; and

(ii) Subsection (5)(a)(iii) to be resolved on or before May 15 of the initial remedial year.

(6) The board shall balance the need to prioritize funding appropriated by the Legislature to contract with highly qualified independent school turnaround experts with the need to set aside funding for:

(a) interventions to facilitate the implementation of a school turnaround plan under Subsection (4)(c); and

(b) the School Recognition and Reward Program created under Section 53A-1-1208.

Section 7. Section 53A-1-1207 is enacted to read:

53A-1-1207. Consequences for failing to improve the school grade of a low performing school.

(1) As used in this section, "high performing charter school" means a charter school that:

(a) satisfies all requirements of state law and board rules;

(b) meets or exceeds standards for student achievement established by the charter school's charter school authorizer; and

(c) has received at least a "B" grade under the school grading system in the previous two school years.

(2) (a) A low performing school that does not improve the low performing school's grade by at least one letter grade within three school years after the day on which the school is designated a low performing school may petition the board for an extension to continue school improvement efforts for up to two years.

(b) The board may only grant an extension under Subsection (2)(a) if the low performing school has increased the number of points awarded under the school grading system by at least:

(i) 25% for a school that is not a high school; and

(ii) 10% for a high school.

(c) The board may extend the contract of an independent school turnaround expert of a low

performing school that is granted an extension under this Subsection (2).

(d) A school that has been granted an extension under this Subsection (2) is eligible for:

(i) continued funding under Subsection 53A-1-1206(4)(c); and

(ii) the School Recognition and Reward Program under Section 53A-1-1208.

(3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules establishing consequences for a low performing school that:

(a) (i) does not improve the school's grade within three school years after the day on which the school is designated a low performing school; and

(ii) is not granted an extension under Subsection (2); or

(b) (i) is granted an extension under Subsection (2); and

(ii) does not improve the school's grade within two school years after the day on which the low performing school is granted an extension.

(4) The board shall ensure that the rules established under Subsection (3) include a mechanism for:

(a) restructuring a district school that may include:

(i) contract management;

(ii) conversion to a charter school; or

(iii) state takeover; and

(b) restructuring a charter school that may include:

(i) termination of a school's charter;

(ii) closure of a charter school; or

(iii) transferring operation and control of the charter school to:

(A) a high performing charter school; or

(B) the school district in which the charter school is located.

Section 8. Section 53A-1-1208 is enacted to read:

53A-1-1208. School Recognition and Reward Program.

(1) As used in this section, "eligible school" means a low performing school that:

(a) improves the school's grade by at least one grade level within three school years after the day on which the school is designated a low performing school; or

(b) (i) has been granted an extension under Subsection 53A-1-1207(2); and

(ii) improves the school's grade by at least one grade level within the extension period.

(2) The School Recognition and Reward Program is created to provide incentives to schools and educators to improve the school grade of a low performing school.

(3) Subject to appropriations by the Legislature, upon the annual release of school grades by the board, the board shall distribute a reward equal to:

(a) for an eligible school that improves the eligible school's grade one grade level:

(i) \$100 per tested student; and

(ii) \$1,000 per educator;

(b) for an eligible school that improves the eligible school's grade two grade levels:

(i) \$200 per tested student; and

(ii) \$2,000 per educator;

(c) for an eligible school that improves the eligible school's grade three grade levels:

(i) \$300 per tested student; and

(ii) \$3,000 per educator; and

(d) for an eligible school that improves the eligible school's grade four grade levels:

(i) \$500 per tested student; and

(ii) \$5,000 per educator.

(4) The principal of an eligible school that receives a reward under Subsection (3), in consultation with the educators at the eligible school, may determine how to use the money in the best interest of the school, including providing bonuses to educators.

(5) If the number of qualifying eligible schools exceeds available funds, the board may reduce the amounts specified in Subsection (3).

Section 9. Section 53A-1-1209 is enacted to read:

53A-1-1209. School Leadership Development Program.

(1) As used in this section, "school leader" means a school principal or assistant principal.

(2) There is created the School Leadership Development Program to increase the number of highly effective school leaders capable of initiating, achieving, and sustaining school improvement efforts.

(3) The board shall identify one or more providers, through a request for proposals process, to develop or provide leadership development training for school leaders that:

(a) may provide in-depth training in proven strategies to turn around low performing schools;

(b) may emphasize hands-on and job-embedded learning;

(c) aligns with the state's leadership standards established by board rule;

(d) reflects the needs of a school district or charter school where a school leader serves;

(e) may include training on using student achievement data to drive decisions;

(f) may develop skills in implementing and evaluating evidence-based instructional practices; and

(g) may develop skills in leading collaborative school improvement structures, including professional learning communities.

(4) Subject to legislative appropriations, the State Board of Education shall provide incentive pay to a school leader who:

(a) completes leadership development training under this section; and

(b) agrees to work, for at least five years, in a school that received an "F" grade or "D" grade under the school grading system in the school year previous to the first year the school leader:

(i) completes leadership development training; and

(ii) begins to work, or continues to work, in a school described in this Subsection (4)(b).

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules specifying:

(a) eligibility criteria for a school leader to participate in the School Leadership Development Program;

(b) application procedures for the School Leadership Development Program;

(c) criteria for selecting school leaders from the application pool; and

(d) procedures for awarding incentive pay under Subsection (4).

Section 10. Section 53A-1-1210 is enacted to read:

53A-1-1210. Reporting requirement.

On or before November 30 of each year, the board shall report to the Education Interim Committee on the provisions of this part.

Section 11. Section 53A-1a-108.5 is amended to read:

53A-1a-108.5. School improvement plan.

(1) (a) Each school community council shall annually evaluate the school's [U-PASS] statewide achievement test results and use the evaluations in developing a school improvement plan.

(b) In evaluating [U-PASS] statewide achievement test results and developing a school improvement plan, a school community council may not have access to data that reveal the identity of students.

(2) [Each] A school community council shall develop a school improvement plan [shall] that:

(a) [identify] identifies the school's most critical academic needs;

(b) [recommend] recommends a course of action to meet the identified needs;

(c) [list] lists any programs, practices, materials, or equipment that the school will need to implement its action plan to have a direct impact on the instruction of students and result in measurable increased student performance; and

(d) [describe] describes how the school intends to enhance or improve academic achievement, including how financial resources available to the school, such as School LAND Trust Program money received under Section 53A-16-101.5 and state and federal grants, will be used to enhance or improve academic achievement.

(3) [The] Although a school improvement plan [shall focus] focuses on the school's most critical academic needs [but], the plan may include other actions to enhance or improve academic achievement and the community environment for students.

(4) The school principal shall make available to the school community council the school budget and other data needed to develop the school improvement plan.

(5) The school improvement plan [shall be] is subject to the approval of the local school board of the school district in which the school is located.

(6) A school community council may develop a multiyear school improvement plan, but the plan must be presented to and approved annually by the local school board.

(7) Each school shall:

(a) implement the school improvement plan as developed by the school community council and approved by the local school board;

(b) provide ongoing support for the council's plan; and

(c) meet local school board reporting requirements regarding performance and accountability.

(8) The school community council of a low performing school, as defined in Section 53A-1-1202, shall develop a school improvement plan that is consistent with the school turnaround plan developed by the school turnaround committee under Chapter 1, Part 12, School Turnaround and Leadership Development Act.

Section 12. Section 53A-1a-510 is amended to read:

53A-1a-510. Termination of a charter.

(1) Subject to the requirements of Subsection (3), a charter school authorizer may terminate a school's charter for any of the following reasons:

(a) failure of the charter school to meet the requirements stated in the charter;

(b) failure to meet generally accepted standards of fiscal management;

(c) subject to Subsection (8), failure to make adequate yearly progress under the No Child Left Behind Act of 2001, 20 U.S.C. Sec. 6301 et seq.;

(d) (i) designation as a low performing school under Chapter 1, Part 11, School Grading Act; and

(ii) failure to improve the school's grade under the conditions described in Chapter 1, Part 12, School Turnaround and Leadership Development Act;

[(d)] (e) violation of requirements under this part or another law; or

[(e)] (f) other good cause shown.

(2) (a) The authorizer shall notify the following of the proposed termination in writing, state the grounds for the termination, and stipulate that the governing board may request an informal hearing before the authorizer:

(i) the governing board of the charter school; and

(ii) if the charter school is a qualifying charter school with outstanding bonds issued in accordance with Chapter 20b, Part 2, Charter School Credit Enhancement Program, the Utah Charter School Finance Authority.

(b) Except as provided in Subsection (2)(e), the authorizer shall conduct the hearing in accordance with Title 63G, Chapter 4, Administrative Procedures Act, within 30 days after receiving a written request under Subsection (2)(a).

(c) If the authorizer, by majority vote, approves a motion to terminate a charter school, the governing board of the charter school may appeal the decision to the State Board of Education.

(d) (i) The State Board of Education shall hear an appeal of a termination made pursuant to Subsection (2)(c).

(ii) The State Board of Education's action is final action subject to judicial review.

(e) (i) If the authorizer proposes to terminate the charter of a qualifying charter school with outstanding bonds issued in accordance with Chapter 20b, Part 2, Charter School Credit Enhancement Program, the authorizer shall conduct a hearing described in Subsection (2)(b) 120 days or more after notifying the following of the proposed termination:

(A) the governing board of the qualifying charter school; and

(B) the Utah Charter School Finance Authority.

(ii) Prior to the hearing described in Subsection (2)(e)(i), the Utah Charter School Finance Authority shall meet with the authorizer to determine whether the deficiency may be remedied in lieu of termination of the qualifying charter school's charter.

(3) An authorizer may not terminate the charter of a qualifying charter school with outstanding bonds issued in accordance with Chapter 20b, Part 2, Charter School Credit Enhancement Program, without mutual agreement of the Utah Charter School Finance Authority and the authorizer.

(4) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State

Board of Education shall make rules that require a charter school to report any threats to the health, safety, or welfare of its students to the State Charter School Board in a timely manner.

(b) The rules under Subsection (4)(a) shall also require the charter school report to include what steps the charter school has taken to remedy the threat.

(5) Subject to the requirements of Subsection (3), the authorizer may terminate a charter immediately if good cause has been shown or if the health, safety, or welfare of the students at the school is threatened.

(6) If a charter is terminated during a school year, the following entities may apply to the charter school's authorizer to assume operation of the school:

(a) the school district where the charter school is located;

(b) the governing board of another charter school; or

(c) a private management company.

(7) (a) If a charter is terminated, a student who attended the school may apply to and shall be enrolled in another public school under the enrollment provisions of Chapter 2, Part 2, District of Residency, subject to space availability.

(b) Normal application deadlines shall be disregarded under Subsection (7)(a).

(8) Subject to the requirements of Subsection (3), an authorizer may terminate a charter pursuant to Subsection (1)(c) under the same circumstances that local educational agencies are required to implement alternative governance arrangements under 20 U.S.C. Sec. 6316.

Section 13. Section 53A-17a-105 is amended to read:

53A-17a-105. Powers and duties of State Board of Education to adjust Minimum School Program allocations -- Use of remaining funds at the end of a fiscal year.

(1) For purposes of this section:

(a) "Board" means the State Board of Education.

(b) "ESEA" means the Elementary and Secondary Education Act of 1965, 20 U.S.C. Sec. 6301 et seq.

(c) "LEA" means:

(i) a school district; or

(ii) a charter school.

(d) "Program" means a program or allocation funded by a line item appropriation or other appropriation designated as:

(i) Basic Program;

(ii) Related to Basic Programs;

(iii) Voted and Board Levy Programs; or

(iv) Minimum School Program.

~~[(4)] (2)~~ Except as provided in Subsection ~~[(2)] (3)~~ or ~~[(4)] (5)~~, if the number of weighted pupil units in a program is underestimated, the ~~[State Board of Education]~~ board shall reduce the value of the weighted pupil unit in that program so that the total amount paid for the program does not exceed the amount appropriated for the program.

~~[(2)] (3)~~ If the number of weighted pupil units in a program is overestimated, the ~~[State Board of Education]~~ board shall spend excess money appropriated for the following purposes giving priority to the purpose described in Subsection ~~[(2)] (3)(a)~~:

(a) to support the value of the weighted pupil unit in a program within the basic state-supported school program in which the number of weighted pupil units is underestimated;

(b) to support the state guarantee per weighted pupil unit provided under the voted local levy program established in Section 53A-17a-133 or the board local levy program established in Section 53A-17a-164, if:

(i) local contributions to the voted local levy program or board local levy program are overestimated; or

(ii) the number of weighted pupil units within school districts qualifying for a guarantee is underestimated;

(c) to support the state supplement to local property taxes allocated to charter schools, if the state supplement is less than the amount prescribed by Subsection 53A-1a-513(4); or

(d) to support a school district with a loss in student enrollment as provided in Section 53A-17a-139.

~~[(3)] (4)~~ If local contributions from the minimum basic tax rate imposed under Section 53A-17a-135 are overestimated, the ~~[State Board of Education]~~ board shall reduce the value of the weighted pupil unit for all programs within the basic state-supported school program so the total state contribution to the basic state-supported school program does not exceed the amount of state funds appropriated.

~~[(4)] (5)~~ If local contributions from the minimum basic tax rate imposed under Section 53A-17a-135 are underestimated, the ~~[State Board of Education]~~ board shall:

(a) spend the excess local contributions for the purposes specified in Subsection ~~[(2)] (3)~~, giving priority to supporting the value of the weighted pupil unit in programs within the basic state-supported school program in which the number of weighted pupil units is underestimated; and

(b) reduce the state contribution to the basic state-supported school program so the total cost of the basic state-supported school program does not exceed the total state and local funds appropriated to the basic state-supported school program plus the local contributions necessary to support the

value of the weighted pupil unit in programs within the basic state-supported school program in which the number of weighted pupil units is underestimated.

~~[(5)] (6)~~ Except as provided in Subsection ~~[(2)] (3)~~ or ~~[(4)] (5)~~, the ~~[State Board of Education]~~ board shall reduce the guarantee per weighted pupil unit provided under the voted local levy program established in Section 53A-17a-133 or board local levy program established in Section 53A-17a-164, if:

(a) local contributions to the voted local levy program or board local levy program are overestimated; or

(b) the number of weighted pupil units within school districts qualifying for a guarantee is underestimated.

~~(7) (a)~~ The board may use program funds as described in Subsection ~~(7)(b) if~~:

(i) the state loses flexibility due to the U.S. Department of Education's rejection of the state's renewal application for flexibility under the ESEA; and

(ii) the state is required to fully implement the requirements of Title I of the ESEA, as amended by the No Child Left Behind Act of 2001.

(b) Subject to the requirements of Subsections ~~(7)(a)~~ and (c), for fiscal year 2016, after any transfers or adjustments described in Subsections ~~(2)~~ through ~~(6)~~ are made, the board may use up to \$15,000,000 of excess money appropriated to a program, remaining at the end of fiscal year 2015, to mitigate a budgetary impact to an LEA due to the LEA's loss of flexibility related to implementing the requirements of Title I of the ESEA, as amended by the No Child Left Behind Act of 2001.

(c) In addition to the reporting requirement described in Subsection (9), the board shall report actions taken by the board under this Subsection (7) to the Executive Appropriations Committee.

~~[(6)] (8)~~ Money appropriated to the ~~[State Board of Education]~~ board is nonlapsing.

~~[(7)] (9)~~ The ~~[State Board of Education]~~ board shall report actions taken by the board under this section to the Office of the Legislative Fiscal Analyst and the Governor's Office of Management and Budget.

Section 14. Appropriation.

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, for the fiscal year beginning July 1, 2015, and ending June 30, 2016, the following sums of money are appropriated from resources not otherwise appropriated, or reduced from amounts previously appropriated, out of the funds or accounts indicated. These sums of money are in addition to any amounts previously appropriated for fiscal year 2016.

To State Board of Education - State Office of Education - Initiative Programs

From Education Fund	\$7,000,000
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From Education Fund, One-time \$1,000,000

Schedule of Programs:

Contracts and Grants - Low
Performing Schools \$8,000,000

The Legislature intends that:

(1) the State Board of Education:

(a) may use up to \$500,000 of the appropriation under this section for the School Leadership Development Program created under Section 53A-1-1209;

(b) shall use, or set aside for future use, at least \$1,000,000 of the appropriation under this section for the School Recognition and Reward Program created under Section 53A-1-1208; and

(c) shall use the remaining funds in accordance with the direction provided in Subsection 53A-1-1206(6); and

(2) \$7,000,000 of the appropriation under this section is:

(a) ongoing; and

(b) non-lapsing.

Section 15. Effective date.

Uncodified Section 14, Appropriation, takes effect on July 1, 2015.

CHAPTER 450**S. B. 237**

Passed March 12, 2015
 Approved March 31, 2015
 Effective May 12, 2015

PUBLIC SAFETY AMENDMENTS

Chief Sponsor: Wayne A. Harper
 House Sponsor: Brad L. Dee

LONG TITLE**General Description:**

This bill amends provisions of the Utah Communications Authority Act.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ authorizes the Utah Communications Authority Board to commission a performance audit and study of the state's 911 emergency response system within the public safety communications network, which study shall include:
 - determining potential cost savings that may be achieved by the functional consolidation of public safety answering points; and
 - creating a strategic plan for the state's 911 emergency response system;
- ▶ limits the use of expenditures from the Unified Statewide 911 Emergency Service Account during the study; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:**AMENDS:**

63H-7-103, as renumbered and amended by Laws of Utah 2014, Chapter 320

ENACTS:

63H-7-206, Utah Code Annotated 1953

Utah Code Sections Affected by Coordination Clause:

63H-7-206, Utah Code Annotated 1953

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

Section 1. Section 63H-7-103 is amended to read:**63H-7-103. Definitions.**

As used in this chapter:

(1) "Authority" means the Utah Communications Authority, an independent state agency created in Section 67H-7-201.

(2) "Board" means the Utah Communications Authority Board created in Section 67H-7-203.

(3) "Bonds" means bonds, notes, certificates, debentures, contracts, lease purchase agreements, or other evidences of indebtedness or borrowing

issued or incurred by the authority pursuant to this chapter.

~~(45)~~ (4) "FirstNet" means the First Responder Network Authority created by Congress in the Middle Class Tax Relief and Job Creation Act of 2012.

~~(46)~~ (5) "Lease" means any lease, lease purchase, sublease, operating, management, or similar agreement.

~~(47)~~ (6) "Local entity" means a county, city, town, local district, special service district, or interlocal entity created under Title 11, Chapter 13, Interlocal Cooperation Act.

~~(48)~~ (7) "Member" means a public agency which:

(a) adopts a membership resolution to be included within the authority; and

(b) submits an originally executed copy of an authorizing resolution to the authority's office.

~~(49)~~ (8) "Member representative" means a person or that person's designee appointed by the governing body of each member.

~~(40)~~ (9) "Public agency" means any political subdivision of the state, including cities, towns, counties, school districts, local districts, and special service districts, dispatched by a public safety answering point.

~~(41)~~ (10) "Public safety answering point" or "PSAP" means an organization, entity, or combination of entities [which] that have joined together to form a central answering point for the receipt, management, and dissemination to the proper responding agency, of emergency and nonemergency communications, including 911 communications, police, fire, emergency medical, transportation, parks, wildlife, corrections, and any other governmental communications.

~~(4)~~ (11) "Public safety communications network" means:

(a) a regional or statewide public safety governmental communications network and related facilities, including real property, improvements, and equipment necessary for the acquisition, construction, and operation of the services and facilities; and

(b) 911 emergency services, including radio communications, microwave connectivity, FirstNet coordination, and computer aided dispatch system.

(12) "State" means the state of Utah.

(13) "State representative" means the six appointees of the governor or their designees and the Utah state treasurer or his designee.

Section 2. Section 63H-7-206 is enacted to read:**63H-7-206. (Codified as 63H-7a-206)****Functional consolidation of PSAPs study.**

(1) As used in this section:

(a) "Functional consolidation" means the process of ensuring that disparate public safety answering

points and public safety dispatching centers work together in an efficient and effective way.

(b) “PSAP operator”:

(i) means a public agency that operates a PSAP; and

(ii) does not include an institution of higher education, a school district, or an airport authority that operates a PSAP.

(2) Beginning on or after July 1, 2015, the board shall commission and oversee a performance audit and study of the state’s 911 emergency response system and related elements of the public safety communications network, which shall include:

(a) a review of statutory provisions and efforts of the Utah 911 Committee, the 911 program manager, and the Office of the Statewide Interoperability Coordinator regarding the assessment, planning, rules, technology review, and standardization of the state’s 911 emergency response system and related elements of the public safety communications network;

(b) working with state and local stakeholders to determine potential cost savings and increases in quality and efficiency that may be achieved by the functional consolidation of PSAPs and dispatch centers throughout the state, including recommendations regarding:

(i) an efficient and effective public safety communications management structure to ensure that high quality 911 emergency services are available to the state’s citizens;

(ii) common standard operating procedures that ensure the least amount of call processing time;

(iii) efficient methods to transfer calls between PSAPs and from a PSAP to a first responder, regardless of jurisdiction;

(iv) uniformity of equipment and software protocols to accomplish seamless functionality between computer aided dispatch systems;

(v) interoperable telephonic and radio systems to ensure coordination between jurisdictions; and

(vi) how unnecessary duplication of services may be reduced or eliminated;

(c) making recommendations for inclusion in the strategic plan for the state’s 911 emergency response system and related elements of the public safety communications network, which recommendations may include:

(i) how PSAPs may benefit from functional consolidation;

(ii) how PSAPs within designated regions may accept calls and provide emergency communication services for first responders using interoperable equipment, software, protocols, and standard operating procedures; and

(iii) how PSAPs, regardless of physical location, may operate on interoperable, shared, or hosted

technology platforms and with common policies to reduce the need to transfer calls between PSAPs;

(d) describing and recommending potential solutions to the biggest impediments to functional consolidation of PSAPs; and

(e) making recommendations regarding necessary personnel and associated job duties within the Utah Communications Authority.

(3) On or before July 1, 2016, the performance audit and study described in Subsection (2) shall be completed and submitted by the board in writing to the Law Enforcement and Criminal Justice Interim Committee and the Retirement and Independent Entities Interim Committee.

(4) (a) Money from the Unified Statewide 911 Emergency Service Account created in Section 63H-7-304 may not be used to fund a new local PSAP, call taking, or dispatching project before the completion of the performance audit and study described in Subsection (2), unless the board determines that an exigent circumstance requires the allocation of funds.

(b) Money from the Unified Statewide 911 Emergency Service Account may be used to fund ongoing maintenance of existing equipment and projects approved before July 1, 2015.

(5) After July 1, 2016, money spent from the Unified Statewide 911 Emergency Service Account created in Section 63H-7-304 for projects, including state and local PSAP and dispatching projects, shall be made after consideration of the:

(a) recommendations of the performance audit and study described in Subsection (2); and

(b) strategic plan for the state’s network 911 emergency response system and related elements of the public safety communications network described in Subsection (2)(c).

Section 3. Coordinating S.B. 237 with H.B. 343 -- Substantive and technical amendments.

If this S.B. 237 and H.B. 343, Utah Communication Authority Emergency Radio and 911 Amendments, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication:

(1) renumber Section 63H-7-206 created in this S.B. 237 to 63H-7a-206;

(2) provide that this S.B. 237 takes effect on July 1, 2015; and

(3) that Section 63H-7-206 in this S.B. 237 be replaced with the following:

“63H-7a-206. Functional consolidation of PSAPs study.

(1) As used in this section:

(a) “Functional consolidation” means the process of ensuring that disparate public safety answering points and public safety dispatching centers work together in an efficient and effective way.

(b) "PSAP operator":

(i) means a public agency that operates a PSAP; and

(ii) does not include an institution of higher education, a school district, or an airport authority that operates a PSAP.

(2) Beginning on or after July 1, 2015, the board shall commission and oversee a performance audit and study of the state's 911 emergency response system and related elements of the public safety communications network, which shall include:

(a) a review of statutory provisions and efforts of the authority, executive director, Utah 911 Division, and Interoperability Division regarding the assessment, planning, rules, technology review, and standardization of the state's 911 emergency response system and related elements of the public safety communications network;

(b) working with state and local stakeholders to determine potential cost savings and increases in quality and efficiency that may be achieved by the functional consolidation of PSAPs and dispatch centers throughout the state, including recommendations regarding:

(i) an efficient and effective public safety communications management structure to ensure that high quality 911 emergency services are available to the state's citizens;

(ii) common standard operating procedures that ensure the least amount of call processing time;

(iii) efficient methods to transfer calls between PSAPs and from a PSAP to a first responder, regardless of jurisdiction;

(iv) uniformity of equipment and software protocols to accomplish seamless functionality between computer aided dispatch systems;

(v) interoperable telephonic and radio systems to ensure coordination between jurisdictions; and

(vi) how unnecessary duplication of services may be reduced or eliminated;

(c) making recommendations for inclusion in the strategic plan for the state's 911 emergency response system and related elements of the public safety communications network, which recommendations may include:

(i) how PSAPs may benefit from functional consolidation;

(ii) how PSAPs within designated regions may accept calls and provide emergency communication services for first responders using interoperable equipment, software, protocols, and standard operating procedures; and

(iii) how PSAPs, regardless of physical location, may operate on interoperable, shared, or hosted technology platforms and with common policies to reduce the need to transfer calls between PSAPs;

(d) describing and recommending potential solutions to the biggest impediments to functional consolidation of PSAPs; and

(e) making recommendations regarding necessary personnel and associated job duties within the authority.

(3) On or before July 1, 2016, the performance audit and study described in Subsection (2) shall be completed and submitted by the board in writing to the Law Enforcement and Criminal Justice Interim Committee and the Retirement and Independent Entities Interim Committee.

(4) (a) Money from the Unified Statewide 911 Emergency Service Account created in Section 63H-7a-304 may not be used to fund a new local PSAP, call taking, or dispatching project before the completion of the performance audit and study described in Subsection (2), unless the board determines that an exigent circumstance requires the allocation of funds.

(b) Money from the Unified Statewide 911 Emergency Service Account may be used to fund ongoing maintenance of existing equipment and projects approved before July 1, 2015.

(5) After July 1, 2016, money spent from the Unified Statewide 911 Emergency Service Account created in Section 63H-7a-304 for projects, including state and local PSAP and dispatching projects, shall be made after consideration of the:

(a) recommendations of the performance audit and study described in Subsection (2); and

(b) strategic plan for the state's network 911 emergency response system and related elements of the public safety communications network described in Subsection (2)(c)."

CHAPTER 451**S. B. 244**

Passed March 11, 2015
 Approved March 31, 2015
 Effective July 1, 2015

**DEPARTMENT OF ENVIRONMENTAL
 QUALITY MODIFICATIONS**

Chief Sponsor: Margaret Dayton
 House Sponsor: Keith Grover

LONG TITLE**General Description:**

This bill modifies the organizational structure of the Department of Environmental Quality.

Highlighted Provisions:

This bill:

- ▶ combines the Division of Radiation and the Division of Solid and Hazardous Waste to create a new division known as the Division of Waste Management and Radiation Control; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides a coordination clause.

Utah Code Sections Affected:**AMENDS:**

- 17-15-23, as last amended by Laws of Utah 1991, Chapter 112
- 19-1-105, as last amended by Laws of Utah 2012, Chapter 360
- 19-1-106, as enacted by Laws of Utah 1991, Chapter 112
- 19-1-307, as last amended by Laws of Utah 2010, Chapter 278
- 19-3-102, as last amended by Laws of Utah 2012, Chapter 360
- 19-3-104, as last amended by Laws of Utah 2012, Chapter 360
- 19-3-105, as last amended by Laws of Utah 2013, Chapter 330
- 19-5-102, as last amended by Laws of Utah 2013, Chapter 227
- 19-6-102, as last amended by Laws of Utah 2012, Chapter 360
- 19-6-102.1, as last amended by Laws of Utah 2012, Chapter 360
- 19-6-103, as last amended by Laws of Utah 2012, Chapter 360
- 19-6-104, as last amended by Laws of Utah 2012, Chapter 360
- 19-6-107, as last amended by Laws of Utah 2012, Chapter 360
- 19-6-202, as last amended by Laws of Utah 2011, Chapter 297
- 19-6-402, as last amended by Laws of Utah 2014, Chapter 227
- 19-6-601, as last amended by Laws of Utah 2012, Chapter 360
- 19-6-703, as last amended by Laws of Utah 2012, Chapter 360
- 19-6-803, as last amended by Laws of Utah 2012, Chapters 263 and 360

- 19-6-902, as last amended by Laws of Utah 2013, Chapter 278
- 19-6-906, as last amended by Laws of Utah 2008, Chapter 382
- 19-6-1002, as last amended by Laws of Utah 2012, Chapter 360
- 19-6-1102, as last amended by Laws of Utah 2012, Chapter 360
- 26-7-7, as enacted by Laws of Utah 2014, Chapter 93
- 59-1-403, as last amended by Laws of Utah 2014, Chapter 320
- 63J-4-502, as last amended by Laws of Utah 2012, Chapter 212

REPEALS:

- 19-3-103, as last amended by Laws of Utah 2012, Chapter 360
- 19-3-103.5, as last amended by Laws of Utah 2012, Chapter 360
- 19-3-108, as last amended by Laws of Utah 2012, Chapter 360

Utah Code Sections Affected by Coordination Clause:

- 19-1-301.5, as enacted by Laws of Utah 2012, Chapter 333 and last amended by Coordination Clause, Laws of Utah 2012, Chapter 360

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

Section 1. Section 17-15-23 is amended to read:**17-15-23. County solid waste management plans.**

(1) (a) Each county or entity created or designated by a county for this purpose shall submit to the [~~Solid and Hazardous~~ Waste Management and Radiation Control Board, organized in Section 19-6-103, a county solid waste management plan providing solid waste management information as reasonably required by the board and according to a timetable established by the board.

(b) Each county shall review and modify its solid waste management plan no less frequently than every five years.

(2) Each county solid waste management plan shall be consistent with Title 19, Chapter 6, Part 5, Solid Waste Management Act, and shall establish the county's solid waste management plan for the next 20 years.

(3) Each county solid waste management plan shall include an estimate of the solid waste capacity needed in the county for the next 20 years and the county's program to ensure that the county will have sufficient solid waste disposal capacity for the next 20 years.

(4) The solid waste management plan mandated by this section is contingent upon the adoption and implementation of a funding mechanism. Nothing contained in this section precludes a political subdivision, local health department, or district from undertaking comprehensive solid waste planning.

Section 2. Section 19-1-105 is amended to read:

19-1-105. Divisions of department -- Control by division directors.

(1) The following divisions are created within the department:

(a) the Division of Air Quality, to administer Title 19, Chapter 2, Air Conservation Act;

(b) the Division of Drinking Water, to administer Title 19, Chapter 4, Safe Drinking Water Act;

(c) the Division of Environmental Response and Remediation, to administer:

(i) Title 19, Chapter 6, Part 3, Hazardous Substances Mitigation Act; and

(ii) Title 19, Chapter 6, Part 4, Underground Storage Tank Act;

~~[(d) the Division of Radiation Control, to administer Title 19, Chapter 3, Radiation Control Act;]~~

~~[(e) the Division of Solid and Hazardous Waste, to administer:]~~

(d) the Division of Waste Management and Radiation Control, to administer:

(i) Title 19, Chapter 3, Radiation Control Act;

~~[(4)]~~ (ii) Title 19, Chapter 6, Part 1, Solid and Hazardous Waste Act;

~~[(4ii)]~~ (iii) Title 19, Chapter 6, Part 2, Hazardous Waste Facility Siting Act;

~~[(4iii)]~~ (iv) Title 19, Chapter 6, Part 5, Solid Waste Management Act;

~~[(4iv)]~~ (v) Title 19, Chapter 6, Part 6, Lead Acid Battery Disposal;

~~[(4v)]~~ (vi) Title 19, Chapter 6, Part 7, Used Oil Management Act;

~~[(4vi)]~~ (vii) Title 19, Chapter 6, Part 8, Waste Tire Recycling Act;

~~[(4vii)]~~ (viii) Title 19, Chapter 6, Part 10, Mercury Switch Removal Act;

~~[(4viii)]~~ (ix) Title 19, Chapter 6, Part 11, Industrial Byproduct Reuse; and

~~[(4ix)]~~ (x) Title 19, Chapter 6, Part 12, Disposal of Electronic Waste Program; and

~~[(4)]~~ (e) the Division of Water Quality, to administer Title 19, Chapter 5, Water Quality Act.

(2) Each division is under the immediate direction and control of a division director appointed by the executive director.

(3) (a) A division director shall possess the administrative skills and training necessary to perform the duties of division director.

(b) A division director shall hold one of the following degrees from an accredited college or university:

(i) a four-year degree in physical or biological science or engineering;

(ii) a related degree; or

(iii) a degree in law.

(4) The executive director may remove a division director at will.

(5) A division director shall serve as the executive secretary to the policymaking board, created in Section 19-1-106, that has rulemaking authority over the division director's division.

Section 3. Section 19-1-106 is amended to read:

19-1-106. Boards within department.

(1) The following policymaking boards are created within the department:

(a) the Air Quality Board, appointed under Section 19-2-103;

~~[(b) the Radiation Control Board, appointed under Section 19-3-103;]~~

~~[(e)]~~ (b) the Drinking Water Board, appointed under Section 19-4-103;

~~[(4d)]~~ (c) the Water Quality Board, appointed under Section 19-5-103; and

(d) the Waste Management and Radiation Control Board, appointed under Section 19-6-104.

~~[(e) the Solid and Hazardous Waste Control Board, appointed under Section 19-6-103.]~~

(2) The authority of the boards created in Subsection (1) is limited to the specific authority granted them under this title.

Section 4. Section 19-1-307 is amended to read:

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

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

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

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

(b) The evaluation shall determine:

(i) whether the amount of financial assurance required is adequate for closure and postclosure

care of hazardous waste treatment, storage, or disposal facilities;

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

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

- (A) groundwater corrective action;
- (B) differential settlement failure; or
- (C) major maintenance of a cell or cells.

(c) The ~~[Solid and Hazardous]~~ Waste Management and Radiation Control Board shall evaluate in 2006 whether financial assurance or funds are necessary for perpetual care and maintenance following the closure and postclosure period of a commercial hazardous waste treatment, storage, or disposal facility to protect human health and the environment.

(2) (a) Beginning in 2006, the Waste Management and Radiation Control Board created in Section 19-1-106 shall direct an evaluation every five years of:

(i) the adequacy of the Radioactive Waste Perpetual Care and Maintenance Account created by Section 19-3-106.2; and

(ii) the adequacy of the amount of financial assurance required for closure and postclosure care of commercial radioactive waste treatment or disposal facilities under Subsection 19-3-104~~(12)~~(11).

(b) The evaluation shall determine:

(i) whether the restricted account is adequate to provide for perpetual care and maintenance of commercial radioactive waste treatment or disposal facilities;

(ii) whether the amount of financial assurance required is adequate to provide for closure and postclosure care of commercial radioactive waste treatment or disposal facilities;

(iii) the costs under Subsection 19-3-106.2(5)(b) of using the Radioactive Waste Perpetual Care and Maintenance Account during the period before the end of 100 years following final closure of the facility for maintenance, monitoring, or corrective action in the event that the owner or operator is unwilling or unable to carry out the duties of postclosure maintenance, monitoring, or corrective action; and

(iv) the costs above the minimal maintenance and monitoring for reasonable risks that may occur during closure, postclosure, and perpetual care and

maintenance of commercial radioactive waste treatment or disposal facilities including:

- (A) groundwater corrective action;
- (B) differential settlement failure; or
- (C) major maintenance of a cell or cells.

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

Section 5. Section 19-3-102 is amended to read:

19-3-102. Definitions.

As used in this chapter:

(1) "Board" means the Waste Management and Radiation Control Board created under Section 19-1-106.

(2) (a) "Broker" means a person who performs one or more of the following functions for a generator:

- (i) arranges for transportation of the radioactive waste;
- (ii) collects or consolidates shipments of radioactive waste; or
- (iii) processes radioactive waste in some manner.

(b) "Broker" does not include a carrier whose sole function is to transport the radioactive waste.

(3) "Byproduct material" has the same meaning as in 42 U.S.C. Sec. 2014(e)(2).

(4) "Class B and class C low-level radioactive waste" has the same meaning as in 10 CFR 61.55.

(5) "Director" means the director of the Division of Waste Management and Radiation Control.

(6) "Division" means the Division of Waste Management and Radiation Control, created in Subsection 19-1-105(1)(d).

(7) "Generator" means a person who:

- (a) possesses any material or component:
 - (i) that contains radioactivity or is radioactively contaminated; and
 - (ii) for which the person foresees no further use; and
- (b) transfers the material or component to:
 - (i) a commercial radioactive waste treatment or disposal facility; or
 - (ii) a broker.

(8) (a) "High-level nuclear waste" means spent reactor fuel assemblies, dismantled nuclear reactor components, and solid and liquid wastes from fuel reprocessing and defense-related wastes.

(b) "High-level nuclear waste" does not include medical or institutional wastes, naturally-occurring radioactive materials, or uranium mill tailings.

(9) (a) "Low-level radioactive waste" means waste material which contains radioactive nuclides emitting primarily beta or gamma radiation, or both, in concentrations or quantities which exceed applicable federal or state standards for unrestricted release.

(b) "Low-level radioactive waste" does not include waste containing more than 100 nanocuries of transuranic contaminants per gram of material, nor spent reactor fuel, nor material classified as either high-level waste or waste which is unsuited for disposal by near-surface burial under any applicable federal regulations.

(10) "Radiation" means ionizing and nonionizing radiation, including gamma rays, X-rays, alpha and beta particles, high speed electrons, and other nuclear particles.

(11) "Radioactive" means any solid, liquid, or gas which emits radiation spontaneously from decay of unstable nuclei.

Section 6. Section 19-3-104 is amended to read:

19-3-104. Registration and licensing of radiation sources by department -- Assessment of fees -- Rulemaking authority and procedure -- Siting criteria.

(1) As used in this section:

(a) "Decommissioning" includes financial assurance.

(b) "Source material" and "byproduct material" have the same definitions as in 42 U.S.C.A. 2014, Atomic Energy Act of 1954, as amended.

(2) The division may require the registration or licensing of radiation sources that constitute a significant health hazard.

(3) All sources of ionizing radiation, including ionizing radiation producing machines, shall be registered or licensed by the department.

(4) The board may make rules:

(a) necessary for controlling exposure to sources of radiation that constitute a significant health hazard;

(b) to meet the requirements of federal law relating to radiation control to ensure the radiation control program under this part is qualified to maintain primacy from the federal government;

~~[(c) to establish:]~~

~~[(i) board accreditation requirements and procedures for mammography facilities; and]~~

~~[(ii)]~~ (c) to establish certification procedure and qualifications for persons who survey mammography equipment and oversee quality assurance practices at mammography facilities; and

(d) as necessary regarding the possession, use, transfer, or delivery of source and byproduct

material and the disposal of byproduct material to establish requirements for:

(i) the licensing, operation, decontamination, and decommissioning, including financial assurances; and

(ii) the reclamation of sites, structures, and equipment used in conjunction with the activities described in this Subsection (4).

(5) (a) On and after January 1, 2003, a fee is imposed for the regulation of source and byproduct material and the disposal of byproduct material at uranium mills or commercial waste facilities, as provided in this Subsection (5).

(b) On and after January 1, 2003 through March 30, 2003:

(i) \$6,667 per month for uranium mills or commercial sites disposing of or reprocessing byproduct material; and

(ii) \$4,167 per month for those uranium mills the director has determined are on standby status.

(c) On and after March 31, 2003 through June 30, 2003 the same fees as in Subsection (5)(b) apply, but only if the federal Nuclear Regulatory Commission grants to Utah an amendment for agreement state status for uranium recovery regulation on or before March 30, 2003.

(d) If the Nuclear Regulatory Commission does not grant the amendment for state agreement status on or before March 30, 2003, fees under Subsection (5)(e) do not apply and are not required to be paid until on and after the later date of:

(i) October 1, 2003; or

(ii) the date the Nuclear Regulatory Commission grants to Utah an amendment for agreement state status for uranium recovery regulation.

(e) For the payment periods beginning on and after July 1, 2003, the department shall establish the fees required under Subsection (5)(a) under Section 63J-1-504, subject to the restrictions under Subsection (5)(d).

(f) The division shall deposit fees it receives under this Subsection (5) into the Environmental Quality Restricted Account created in Section 19-1-108.

(6) (a) The division shall assess fees for registration, licensing, and inspection of radiation sources under this section.

(b) The division shall comply with the requirements of Section 63J-1-504 in assessing fees for licensure and registration.

~~[(7) The division shall coordinate its activities with the Department of Health rules made under Section 26-21a-203.]~~

~~[(8)]~~ (7) (a) Except as provided in Subsection ~~[(9)]~~ (8), the board may not adopt rules, for the purpose of the state assuming responsibilities from the United States Nuclear Regulatory Commission with respect to regulation of sources of ionizing radiation, that are more stringent than the

corresponding federal regulations which address the same circumstances.

(b) In adopting those rules, the board may incorporate corresponding federal regulations by reference.

~~[(9)]~~ (8) (a) The board may adopt rules more stringent than corresponding federal regulations for the purpose described in Subsection ~~[(8)]~~ (7) only if it makes a written finding after public comment and hearing and based on evidence in the record that corresponding federal regulations are not adequate to protect public health and the environment of the state.

(b) Those findings shall be accompanied by an opinion referring to and evaluating the public health and environmental information and studies contained in the record which form the basis for the board's conclusion.

~~[(10)]~~ (9) (a) The board shall by rule:

(i) authorize independent qualified experts to conduct inspections required under this chapter of x-ray facilities registered with the division; and

(ii) establish qualifications and certification procedures necessary for independent experts to conduct these inspections.

(b) Independent experts under this Subsection ~~[(10)]~~ (9) are not considered employees or representatives of the division or the state when conducting the inspections.

~~[(11)]~~ (10) (a) The board may by rule establish criteria for siting commercial low-level radioactive waste treatment or disposal facilities, subject to the prohibition imposed by Section 19-3-103.7.

(b) Subject to Subsection 19-3-105(10), any facility under Subsection ~~[(11)]~~ (10)(a) for which a radioactive material license is required by this section shall comply with those criteria.

(c) Subject to Subsection 19-3-105(10), a facility may not receive a radioactive material license until siting criteria have been established by the board. The criteria also apply to facilities that have applied for but not received a radioactive material license.

~~[(12)]~~ (11) The board shall by rule establish financial assurance requirements for closure and postclosure care of radioactive waste land disposal facilities, taking into account existing financial assurance requirements.

Section 7. Section 19-3-105 is amended to read:

19-3-105. Definitions -- Legislative and gubernatorial approval required for radioactive waste license -- Exceptions -- Application for new, renewed, or amended license.

(1) As used in this section:

(a) "Alternate feed material" has the same definition as provided in Section 59-24-102.

(b) "Approval application" means an application by a radioactive waste facility regulated under this chapter or Title 19, Chapter 5, Water Quality Act, for a permit, license, registration, certification, or other authorization.

(c) (i) "Class A low-level radioactive waste" means:

(A) radioactive waste that is classified as class A waste under 10 C.F.R. 61.55; and

(B) radium-226 up to a maximum radionuclide concentration level of 10,000 picocuries per gram.

(ii) "Class A low-level radioactive waste" does not include:

(A) uranium mill tailings;

(B) naturally occurring radioactive materials; or

(C) the following radionuclides if classified as "special nuclear material" under the Atomic Energy Act of 1954, 42 U.S.C. 2014:

(I) uranium-233; and

(II) uranium-235 with a radionuclide concentration level greater than the concentration limits for specific conditions and enrichments established by an order of the Nuclear Regulatory Commission:

(Aa) to ensure criticality safety for a radioactive waste facility in the state; and

(Bb) in response to a request, submitted prior to January 1, 2004, from a radioactive waste facility in the state to the Nuclear Regulatory Commission to amend the facility's special nuclear material exemption order.

(d) (i) "Radioactive waste facility" or "facility" means a facility that receives, transfers, stores, decays in storage, treats, or disposes of radioactive waste:

(A) commercially for profit; or

(B) generated at locations other than the radioactive waste facility.

(ii) "Radioactive waste facility" does not include a facility that receives:

(A) alternate feed material for reprocessing; or

(B) radioactive waste from a location in the state designated as a processing site under 42 U.S.C. 7912(f).

(e) "Radioactive waste license" or "license" means a radioactive material license issued by the director under Subsection 19-3-108(2)(d), to own, construct, modify, or operate a radioactive waste facility.

(2) The provisions of this section are subject to the prohibition under Section 19-3-103.7.

(3) Subject to Subsection (8), a person may not own, construct, modify, or operate a radioactive waste facility without:

(a) having received a radioactive waste license for the facility;

(b) meeting the requirements established by rule under Section 19-3-104;

(c) the approval of the governing body of the municipality or county responsible for local planning and zoning where the radioactive waste is or will be located; and

(d) subsequent to meeting the requirements of Subsections (3)(a) through (c), the approval of the governor and the Legislature.

(4) Subject to Subsection (8), a new radioactive waste license application, or an application to renew or amend an existing radioactive waste license, is subject to the requirements of Subsections (3)(b) through (d) if the application, renewal, or amendment:

(a) specifies a different geographic site than a previously submitted application;

(b) would cost 50% or more of the cost of construction of the original radioactive waste facility or the modification would result in an increase in capacity or throughput of a cumulative total of 50% of the total capacity or throughput which was approved in the facility license as of January 1, 1990, or the initial approval facility license if the initial license approval is subsequent to January 1, 1990; or

(c) requests approval to receive, transfer, store, decay in storage, treat, or dispose of radioactive waste having a higher radionuclide concentration limit than allowed, under an existing approved license held by the facility, for the specific type of waste to be received, transferred, stored, decayed in storage, treated, or disposed of.

(5) The requirements of Subsection (4)(c) do not apply to an application to renew or amend an existing radioactive waste license if:

(a) the radioactive waste facility requesting the renewal or amendment has received a license prior to January 1, 2004; and

(b) the application to renew or amend its license is limited to a request to approve the receipt, transfer, storage, decay in storage, treatment, or disposal of class A low-level radioactive waste.

(6) A radioactive waste facility which receives a new radioactive waste license after May 3, 2004, is subject to the requirements of Subsections (3)(b) through (d) for any license application, renewal, or amendment that requests approval to receive, transfer, store, decay in storage, treat, or dispose of radioactive waste not previously approved under an existing license held by the facility.

(7) If the board finds that approval of additional radioactive waste license applications, renewals, or amendments will result in inadequate oversight, monitoring, or licensure compliance and enforcement of existing and any additional radioactive waste facilities, the board shall suspend acceptance of further applications for radioactive waste licenses. The board shall report the suspension to the Legislative Management Committee.

(8) The requirements of Subsections (3)(c) and (d) and Subsection 19-3-104~~(11)~~(10) do not apply to:

(a) a radioactive waste license that is in effect on December 31, 2006, including all amendments to the license that have taken effect as of December 31, 2006;

(b) a license application for a facility in existence as of December 31, 2006, unless the license application includes an area beyond the facility boundary approved in the license described in Subsection (8)(a); or

(c) an application to renew or amend a license described in Subsection (8)(a), unless the renewal or amendment includes an area beyond the facility boundary approved in the license described in Subsection (8)(a).

(9) (a) The director shall review an approval application to determine whether the application complies with the requirements of this chapter and the rules of the board.

(b) Within 60 days after the day on which the director receives an approval application described in Subsection (10)(a)(ii) or (iii), the director shall:

(i) determine whether the application is complete and contains all the information necessary to process the application for approval; and

(ii) (A) issue a notice of completeness to the applicant; or

(B) issue a notice of deficiency to the applicant and list the additional information necessary to complete the application.

(c) The director shall review information submitted in response to a notice of deficiency within 30 days after the day on which the director receives the information.

(10) The board shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(a) categorize approval applications as follows:

(i) approval applications that:

(A) are administrative in nature;

(B) require limited scrutiny by the director; and

(C) do not require public input;

(ii) approval applications that:

(A) require substantial scrutiny by the director;

(B) require public input; and

(C) are not described in Subsection (10)(a)(iii); and

(iii) approval applications for:

(A) the granting or renewal of a radioactive waste license;

(B) the granting or renewal of a groundwater permit issued by the director for a radioactive waste facility;

(C) an amendment to a radioactive waste license, or a groundwater permit, that allows the design and approval of a new disposal cell;

(D) an amendment to a radioactive waste license or groundwater discharge permit for a radioactive waste facility to eliminate groundwater monitoring; and

(E) a radioactive waste facility closure plan;

(b) provide time periods for the director to review, and approve or deny, an application described in Subsection (10)(a) as follows:

(i) for applications categorized under Subsection (10)(a)(i), within 30 days after the day on which the director receives the application;

(ii) for applications categorized under Subsection (10)(a)(ii), within 180 days after the day on which the director receives the application;

(iii) for applications categorized under Subsection (10)(a)(iii), as follows:

(A) for a new radioactive waste license, within 540 days after the day on which the director receives the application;

(B) for a new groundwater permit issued by the director for a radioactive waste facility consistent with the provisions of Title 19, Chapter 5, Water Quality Act, within 540 days after the day on which the director receives the application;

(C) for a radioactive waste license renewal, within 365 days after the day on which the director receives the application;

(D) for a groundwater permit renewal issued by the director for a radioactive waste facility, within 365 days after the day on which the director receives the application;

(E) for an amendment to a radioactive waste license, or a groundwater permit, that allows the design and approval of a new disposal cell, within 365 days after the day on which the director receives the application;

(F) for an amendment to a radioactive waste license, or a groundwater discharge permit, for a radioactive waste facility to eliminate groundwater monitoring, within 365 days after the day on which the director receives the application; and

(G) for a radioactive waste facility closure plan, within 365 days after the day on which the director receives the application;

(c) toll the time periods described in Subsection (10)(b):

(i) while an owner or operator of a facility responds to the director's request for information;

(ii) during a public comment period; or

(iii) while the federal government reviews the application; and

(d) require the director to prepare a detailed written explanation of the basis for the director's approval or denial of an approval application.

Section 8. Section 19-5-102 is amended to read:

19-5-102. Definitions.

As used in this chapter:

(1) "Agriculture discharge":

(a) means the release of agriculture water from the property of a farm, ranch, or feed lot that:

(i) pollutes a surface body of water, including a stream, lake, pond, marshland, watercourse, waterway, river, ditch, and other water conveyance system of the state;

(ii) pollutes the ground water of the state; or

(iii) constitutes a significant nuisance on urban land; and

(b) does not include:

(i) runoff from a farm, ranch, or feed lot or return flows from irrigated fields onto land that is not part of a body of water; or

(ii) a release into a normally dry water conveyance to an active body of water, unless the release reaches the water of a lake, pond, stream, marshland, river, or other active body of water.

(2) "Agriculture water" means:

(a) water used by a farmer, rancher, or feed lot for the production of food, fiber, or fuel;

(b) return flows from irrigated agriculture; and

(c) agricultural storm water runoff.

(3) "Board" means the Water Quality Board created in Section 19-1-106.

(4) "Commission" means the Conservation Commission, created in Section 4-18-104.

(5) "Contaminant" means any physical, chemical, biological, or radiological substance or matter in water.

(6) "Director" means the director of the Division of Water Quality or, for purposes of groundwater quality at a facility licensed by and under the jurisdiction of the Division of Waste Management and Radiation Control, the director of the Division of Waste Management and Radiation Control.

(7) "Discharge" means the addition of any pollutant to any waters of the state.

(8) "Discharge permit" means a permit issued to a person who:

(a) discharges or whose activities would probably result in a discharge of pollutants into the waters of the state; or

(b) generates or manages sewage sludge.

(9) "Disposal system" means a system for disposing of wastes and includes sewerage systems and treatment works.

(10) "Division" means the Division of Water Quality, created in Subsection 19-1-105(1)(~~f~~)(e).

(11) "Effluent limitations" means any restrictions, requirements, or prohibitions,

including schedules of compliance established under this chapter, which apply to discharges.

(12) "Point source":

(a) means any discernible, confined, and discrete conveyance, including any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged; and

(b) does not include return flows from irrigated agriculture.

(13) "Pollution" means any man-made or man-induced alteration of the chemical, physical, biological, or radiological integrity of any waters of the state, unless the alteration is necessary for the public health and safety.

(14) "Publicly owned treatment works" means any facility for the treatment of pollutants owned by the state, its political subdivisions, or other public entity.

(15) "Schedule of compliance" means a schedule of remedial measures, including an enforceable sequence of actions or operations leading to compliance with this chapter.

(16) "Sewage sludge" means any solid, semisolid, or liquid residue removed during the treatment of municipal wastewater or domestic sewage.

(17) "Sewerage system" means pipelines or conduits, pumping stations, and all other constructions, devices, appurtenances, and facilities used for collecting or conducting wastes to a point of ultimate disposal.

(18) "Total maximum daily load" means a calculation of the maximum amount of a pollutant that a body of water can receive and still meet water quality standards.

(19) "Treatment works" means any plant, disposal field, lagoon, dam, pumping station, incinerator, or other works used for the purpose of treating, stabilizing, or holding wastes.

(20) "Underground injection" means the subsurface emplacement of fluids by well injection.

(21) "Underground wastewater disposal system" means a system for disposing of domestic wastewater discharges as defined by the board and the executive director.

(22) "Waste" or "pollutant" means dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste discharged into water.

(23) "Waters of the state":

(a) means all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface and underground,

natural or artificial, public or private, which are contained within, flow through, or border upon this state or any portion of the state; and

(b) does not include bodies of water confined to and retained within the limits of private property, and which do not develop into or constitute a nuisance, a public health hazard, or a menace to fish or wildlife.

Section 9. Section 19-6-102 is amended to read:

19-6-102. Definitions.

As used in this part:

(1) "Board" means the [~~Solid and Hazardous Waste Control~~] Waste Management and Radiation Control Board created in Section 19-1-106.

(2) "Closure plan" means a plan under Section 19-6-108 to close a facility or site at which the owner or operator has disposed of nonhazardous solid waste or has treated, stored, or disposed of hazardous waste including, if applicable, a plan to provide postclosure care at the facility or site.

(3) (a) "Commercial nonhazardous solid waste treatment, storage, or disposal facility" means a facility that receives, for profit, nonhazardous solid waste for treatment, storage, or disposal.

(b) "Commercial nonhazardous solid waste treatment, storage, or disposal facility" does not include a facility that:

(i) receives waste for recycling;

(ii) receives waste to be used as fuel, in compliance with federal and state requirements; or

(iii) is solely under contract with a local government within the state to dispose of nonhazardous solid waste generated within the boundaries of the local government.

(4) "Construction waste or demolition waste":

(a) means waste from building materials, packaging, and rubble resulting from construction, demolition, remodeling, and repair of pavements, houses, commercial buildings, and other structures, and from road building and land clearing; and

(b) does not include: asbestos; contaminated soils or tanks resulting from remediation or cleanup at any release or spill; waste paints; solvents; sealers; adhesives; or similar hazardous or potentially hazardous materials.

(5) "Demolition waste" has the same meaning as the definition of construction waste in this section.

(6) "Director" means the director of the Division of [~~Solid and Hazardous~~] Waste Management and Radiation Control.

(7) "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid or hazardous waste into or on any land or water so that the waste or any constituent of the waste may enter the environment, be emitted into

the air, or discharged into any waters, including groundwaters.

(8) “Division” means the Division of [~~Solid and Hazardous~~] Waste Management and Radiation Control, created in Subsection 19-1-105(1)(~~e~~)(d).

(9) “Generation” or “generated” means the act or process of producing nonhazardous solid or hazardous waste.

(10) “Hazardous waste” means a solid waste or combination of solid wastes other than household waste which, because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness or may pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

(11) “Health facility” means hospitals, psychiatric hospitals, home health agencies, hospices, skilled nursing facilities, intermediate care facilities, intermediate care facilities for people with an intellectual disability, residential health care facilities, maternity homes or birthing centers, free standing ambulatory surgical centers, facilities owned or operated by health maintenance organizations, and state renal disease treatment centers including free standing hemodialysis units, the offices of private physicians and dentists whether for individual or private practice, veterinary clinics, and mortuaries.

(12) “Household waste” means any waste material, including garbage, trash, and sanitary wastes in septic tanks, derived from households, including single-family and multiple-family residences, hotels and motels, bunk houses, ranger stations, crew quarters, campgrounds, picnic grounds, and day-use recreation areas.

(13) “Infectious waste” means a solid waste that contains or may reasonably be expected to contain pathogens of sufficient virulence and quantity that exposure to the waste by a susceptible host could result in an infectious disease.

(14) “Manifest” means the form used for identifying the quantity, composition, origin, routing, and destination of hazardous waste during its transportation from the point of generation to the point of disposal, treatment, or storage.

(15) “Mixed waste” means any material that is a hazardous waste as defined in this chapter and is also radioactive as defined in Section 19-3-102.

(16) “Modification plan” means a plan under Section 19-6-108 to modify a facility or site for the purpose of disposing of nonhazardous solid waste or treating, storing, or disposing of hazardous waste.

(17) “Operation plan” or “nonhazardous solid or hazardous waste operation plan” means a plan or approval under Section 19-6-108, including:

(a) a plan to own, construct, or operate a facility or site for the purpose of disposing of nonhazardous

solid waste or treating, storing, or disposing of hazardous waste;

(b) a closure plan;

(c) a modification plan; or

(d) an approval that the director is authorized to issue.

(18) “Permittee” means a person who is obligated under an operation plan.

(19) (a) “Solid waste” means any garbage, refuse, sludge, including sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility, or other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining, or agricultural operations and from community activities but does not include solid or dissolved materials in domestic sewage or in irrigation return flows or discharges for which a permit is required under Title 19, Chapter 5, Water Quality Act, or under the Water Pollution Control Act, 33 U.S.C., Section 1251, et seq.

(b) “Solid waste” does not include any of the following wastes unless the waste causes a public nuisance or public health hazard or is otherwise determined to be a hazardous waste:

(i) certain large volume wastes, such as inert construction debris used as fill material;

(ii) drilling muds, produced waters, and other wastes associated with the exploration, development, or production of oil, gas, or geothermal energy;

(iii) fly ash waste, bottom ash waste, slag waste, and flue gas emission control waste generated primarily from the combustion of coal or other fossil fuels;

(iv) solid wastes from the extraction, beneficiation, and processing of ores and minerals; or

(v) cement kiln dust.

(20) “Storage” means the actual or intended containment of solid or hazardous waste either on a temporary basis or for a period of years in such a manner as not to constitute disposal of the waste.

(21) “Transportation” means the off-site movement of solid or hazardous waste to any intermediate point or to any point of storage, treatment, or disposal.

(22) “Treatment” means a method, technique, or process designed to change the physical, chemical, or biological character or composition of any solid or hazardous waste so as to neutralize the waste or render the waste nonhazardous, safer for transport, amenable for recovery, amenable to storage, or reduced in volume.

(23) “Underground storage tank” means a tank which is regulated under Subtitle I of the Resource Conservation and Recovery Act, 42 U.S.C., Section 6991, et seq.

Section 10. Section 19-6-102.1 is amended to read:

19-6-102.1. Treatment and disposal -- Exclusions.

As used in Subsections 19-6-104[(1)](3)(e)(ii)(B), 19-6-108(3)(b) [~~and~~], 19-6-108(3)(c)(ii)(B), [~~and~~] 19-6-119(1)(a), and 19-3-103.5(2)(f)(i) and (ii), the term "treatment and disposal" specifically excludes the recycling, use, reuse, or reprocessing of fly ash waste, bottom ash waste, slag waste, or flue gas emission control waste generated primarily from the combustion of coal or other fossil fuels; waste from the extraction, beneficiation, and processing of ores and minerals; or cement kiln dust, including recycle, reuse, use, or reprocessing for road sanding, sand blasting, road construction, railway ballast, construction fill, aggregate, and other construction-related purposes.

Section 11. Section 19-6-103 is amended to read:

19-6-103. Waste Management and Radiation Control Board -- Members -- Terms -- Organization -- Meetings -- Per diem and expenses.

(1) The board consists of the following [~~nine~~] 12 members:

(a) the following non-voting member, except that the member may vote to break a tie vote between the voting members:

(i) the executive director; or

(ii) an employee of the department designated by the executive director; and

(b) the following [~~eight~~] 11 voting members appointed by the governor with the consent of the Senate:

(i) one representative who is:

(A) [~~is~~] not connected with industry; and

[(B) ~~is an expert in waste management matters; and~~]

[(C) ~~is~~] (B) a Utah-licensed professional engineer;

(ii) two government representatives who do not represent the federal government;

(iii) one representative from the manufacturing, mining, or fuel industry;

(iv) one representative from the private solid or hazardous waste disposal industry;

(v) one representative from the private hazardous waste recovery industry;

(vi) one representative from the radioactive waste management industry;

(vii) one representative from the uranium milling industry;

[(vii)] (viii) one representative from the public who represents:

(A) an environmental nongovernmental organization; or

(B) a nongovernmental organization that represents community interests and does not represent industry interests; [~~and~~]

[(vii)] (ix) one representative from the public who is trained and experienced in public health[-] and a licensed:

(A) medical doctor; or

(B) dentist; and

(x) one representative who is:

(A) a medical physicist or a health physicist; or

(B) a professional employed in the field of radiation safety.

(2) A member of the board shall:

(a) be knowledgeable about solid and hazardous waste matters and radiation safety and protection as evidenced by a professional degree, a professional accreditation, or documented experience;

(b) be a resident of Utah;

(c) attend board meetings in accordance with the attendance rules made by the department under Subsection 19-1-201(1)(d)(i)(A); and

(d) comply with all applicable statutes, rules, and policies, including the conflict of interest rules made by the department in accordance with Subsection 19-1-201(1)(d)(i)(B).

(3) No more than [~~five~~] six of the appointed members may be from the same political party.

(4) (a) Members shall be appointed for terms of four years each.

(b) Notwithstanding the requirements of Subsection (4)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that half of the appointed board is appointed every two years.

(c) (i) Notwithstanding Subsection (4)(a), the term of a board member who is appointed before March 1, 2013, shall expire on February 28, 2013.

(ii) On March 1, 2013, the governor shall appoint or reappoint board members in accordance with this section.

(5) Each member is eligible for reappointment.

(6) Board members shall continue in office until the expiration of their terms and until their successors are appointed, but not more than 90 days after the expiration of their terms.

(7) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term by the governor, after considering recommendations of the board and with the consent of the Senate.

(8) The board shall elect a chair and vice chair on or before April 1 of each year from its membership.

(9) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

- (a) Section 63A-3-106;
- (b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(10) (a) The board shall hold a meeting at least once every three months including one meeting during each annual general session of the Legislature.

(b) Meetings shall be held on the call of the chair, the director, or any three of the members.

(11) [Five] Six members constitute a quorum at any meeting, and the action of the majority of members present is the action of the board.

Section 12. Section 19-6-104 is amended to read:

19-6-104. Powers of board -- Creation of statewide solid waste management plan.

(1) The board may:

(a) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that are necessary to implement the provisions of the Radiation Control Act;

(b) recommend that the director:

(i) issue orders necessary to enforce the provisions of the Radiation Control Act;

(ii) enforce the orders by appropriate administrative and judicial proceedings; or

(iii) institute judicial proceedings to secure compliance with this part;

(c) (i) hold a hearing that is not an adjudicative proceeding; or

(ii) appoint hearing officers to conduct a hearing that is not an adjudicative proceeding;

(d) accept, receive, and administer grants or other funds or gifts from public and private agencies, including the federal government, for the purpose of carrying out any of the functions of the Radiation Control Act; or

(e) order the director to impound radioactive material in accordance with Section 19-3-111.

(2) (a) The board shall promote the planning and application of pollution prevention and radioactive waste minimization measures to prevent the unnecessary waste and depletion of natural resources; and

(b) review the qualifications of, and issue certificates of approval to, individuals who:

(i) survey mammography equipment; or

(ii) oversee quality assurance practices at mammography facilities.

[4] (3) The board shall:

(a) survey solid and hazardous waste generation and management practices within this state and, after public hearing and after providing opportunities for comment by local governmental entities, industry, and other interested persons, prepare and revise, as necessary, a waste management plan for the state;

(b) order the director to:

(i) issue orders necessary to effectuate the provisions of this part and rules made under this part;

(ii) enforce the orders by administrative and judicial proceedings; or

(iii) initiate judicial proceedings to secure compliance with this part;

(c) promote the planning and application of resource recovery systems to prevent the unnecessary waste and depletion of natural resources;

(d) meet the requirements of federal law related to solid and hazardous wastes to insure that the solid and hazardous wastes program provided for in this part is qualified to assume primacy from the federal government in control over solid and hazardous waste;

(e) (i) require any facility, including those listed in Subsection [(4)] (3)(e)(ii), that is intended for disposing of nonhazardous solid waste or wastes listed in Subsection [(4)] (3)(e)(ii)(B) to submit plans, specifications, and other information required by the board to the board prior to construction, modification, installation, or establishment of a facility to allow the board to determine whether the proposed construction, modification, installation, or establishment of the facility will be in accordance with rules made under this part;

(ii) facilities referred to in Subsection [(4)] (3)(e)(i) include:

(A) any incinerator that is intended for disposing of nonhazardous solid waste; and

(B) except for facilities that receive the following wastes solely for the purpose of recycling, reuse, or reprocessing, any commercial facility that accepts for treatment or disposal, and with the intent to make a profit: fly ash waste, bottom ash waste, slag waste, or flue gas emission control waste generated primarily from the combustion of coal or other fossil fuels; wastes from the extraction, beneficiation, and processing of ores and minerals; or cement kiln dust wastes; and

(f) to ensure compliance with applicable statutes and regulations:

(i) review a settlement negotiated by the director in accordance with Subsection 19-6-107(3)(a) that requires a civil penalty of \$25,000 or more; and

(ii) approve or disapprove the settlement.

[(2)] (4) The board may:

(a) (i) hold a hearing that is not an adjudicative proceeding; or

(ii) appoint hearing officers to conduct a hearing that is not an adjudicative proceeding; or

(b) advise, consult, cooperate with, or provide technical assistance to other agencies of the state or federal government, other states, interstate agencies, or affected groups, political subdivisions, industries, or other persons in carrying out the purposes of this part.

~~[(3)]~~ (5) (a) The board shall establish a comprehensive statewide ~~[solid]~~ waste management plan by January 1, 1994.

(b) The plan shall:

(i) incorporate the solid waste management plans submitted by the counties;

(ii) provide an estimate of solid waste capacity needed in the state for the next 20 years;

(iii) assess the state's ability to minimize waste and recycle;

(iv) evaluate solid waste treatment, disposal, and storage options, as well as solid waste needs and existing capacity;

(v) evaluate facility siting, design, and operation;

(vi) review funding alternatives for solid waste management; and

(vii) address other solid waste management concerns that the board finds appropriate for the preservation of the public health and the environment.

(c) The board shall consider the economic viability of solid waste management strategies prior to incorporating them into the plan and shall consider the needs of population centers.

(d) The board shall review and modify the comprehensive statewide solid waste management plan no less frequently than every five years.

~~[(4)]~~ (6) (a) The board shall determine the type of solid waste generated in the state and tonnage of solid waste disposed of in the state in developing the comprehensive statewide solid waste management plan.

(b) The board shall review and modify the inventory no less frequently than once every five years.

~~[(5)]~~ (7) Subject to the limitations contained in Subsection 19-6-102(19)(b), the board shall establish siting criteria for nonhazardous solid waste disposal facilities, including incinerators.

~~[(6)]~~ (8) The board may not issue, amend, renew, modify, revoke, or terminate any of the following that are subject to the authority granted to the director under Section 19-6-107:

(a) a permit;

(b) a license;

(c) a registration;

(d) a certification; or

(e) another administrative authorization made by the director.

~~[(7)]~~ (9) A board member may not speak or act for the board unless the board member is authorized by a majority of a quorum of the board in a vote taken at a meeting of the board.

Section 13. Section 19-6-107 is amended to read:

19-6-107. Director -- Appointment -- Powers.

(1) The executive director shall appoint the director. The director shall serve under the administrative direction of the executive director.

(2) The director shall:

(a) develop programs to promote and protect the public from radiation sources in the state;

(b) advise, consult, cooperate with, and provide technical assistance to other agencies, states, the federal government, political subdivisions, industries, and other persons in carrying out the provisions of the Radiation Control Act;

(c) receive specifications or other information relating to licensing applications for radioactive materials or registration of radiation sources for review, approval, disapproval, or termination;

(d) issue permits, licenses, registrations, certifications, and other administrative authorizations;

(e) review and approve plans;

(f) assess penalties in accordance with Section 19-3-109;

(g) impound radioactive material under Section 19-3-111;

(h) issue orders necessary to enforce the provisions of this part, to enforce the orders by appropriate administrative and judicial proceedings, or to institute judicial proceedings to secure compliance with this part;

~~[(a)]~~ (i) carry out inspections pursuant to Section 19-6-109;

~~[(b)]~~ (j) require submittal of specifications or other information relating to hazardous waste plans for review, and approve, disapprove, revoke, or review the plans;

~~[(e)]~~ (k) develop programs for solid waste and hazardous waste management and control within the state;

~~[(d)]~~ (l) advise, consult, and cooperate with other agencies of the state, the federal government, other states and interstate agencies, and with affected groups, political subdivisions, and industries in furtherance of the purposes of this part;

~~[(e)]~~ (m) subject to the provisions of this part, enforce rules made or revised by the board through the issuance of orders;

~~[(f)]~~ (n) review plans, specifications or other data relative to solid waste and hazardous waste control

systems or any part of the systems as provided in this part;

~~[(g)]~~ (o) under the direction of the executive director, represent the state in all matters pertaining to interstate solid waste and hazardous waste management and control including, under the direction of the board, entering into interstate compacts and other similar agreements; and

~~[(h)]~~ (p) as authorized by the board and subject to the provisions of this part, act as executive secretary of the board under the direction of the chairman of the board.

(3) The director may:

(a) subject to Subsection 19-6-104~~[(4)]~~(3)(f), settle or compromise any administrative or civil action initiated to compel compliance with this part and any rules adopted under this part;

(b) employ full-time employees necessary to carry out this part;

(c) as authorized by the board pursuant to the provisions of this part, authorize any employee or representative of the department to conduct inspections as permitted in this part;

(d) encourage, participate in, or conduct studies, investigations, research, and demonstrations relating to solid waste and hazardous waste management and control necessary for the discharge of duties assigned under this part;

(e) collect and disseminate information relating to solid waste and hazardous waste management control; ~~and~~

(f) cooperate with any person in studies and research regarding solid waste and hazardous waste management and control~~[-];~~

(g) cooperate with any person in studies, research, or demonstration projects regarding radioactive waste management or control of radiation sources;

(h) settle or compromise any civil action initiated by the division to compel compliance with this chapter or the rules made under this chapter; and

(i) authorize employees or representatives of the department to enter, at reasonable times and upon reasonable notice, in and upon public or private property for the purpose of inspecting and investigating conditions and records concerning radiation sources.

Section 14. Section 19-6-202 is amended to read:

19-6-202. Definitions.

As used in this part:

(1) "Board" means the ~~[Solid and Hazardous]~~ Waste Management and Radiation Control Board created in Section 19-1-106.

(2) "Disposal" means the final disposition of hazardous wastes into or onto the lands, waters, and air of this state.

(3) "Hazardous wastes" means wastes as defined in Section 19-6-102.

(4) "Hazardous waste treatment, disposal, and storage facility" means a facility or site used or intended to be used for the treatment, storage, or disposal of hazardous waste materials, including physical, chemical, or thermal processing systems, incinerators, and secure landfills.

(5) "Site" means land used for the treatment, disposal, or storage of hazardous wastes.

(6) "Siting plan" means the state hazardous waste facilities siting plan adopted by the board pursuant to Sections 19-6-204 and 19-6-205.

(7) "Storage" means the containment of hazardous wastes for a period of more than 90 days.

(8) "Treatment" means any method, technique, or process designed to change the physical, chemical, or biological character or composition of any hazardous waste to neutralize or render it nonhazardous, safer for transport, amenable to recovery or storage, convertible to another usable material, or reduced in volume and suitable for ultimate disposal.

Section 15. Section 19-6-402 is amended to read:

19-6-402. Definitions.

As used in this part:

(1) "Abatement action" means action taken to limit, reduce, mitigate, or eliminate:

(a) a release from an underground storage tank or petroleum storage tank; or

(b) the damage caused by that release.

(2) "Board" means the ~~[Solid and Hazardous]~~ Waste Management and Radiation Control Board created in Section 19-1-106.

(3) "Bodily injury" means bodily harm, sickness, disease, or death sustained by a person.

(4) "Certificate of compliance" means a certificate issued to a facility by the director:

(a) demonstrating that an owner or operator of a facility containing one or more petroleum storage tanks has met the requirements of this part; and

(b) listing all tanks at the facility, specifying:

(i) which tanks may receive petroleum; and

(ii) which tanks have not met the requirements for compliance.

(5) "Certificate of registration" means a certificate issued to a facility by the director demonstrating that an owner or operator of a facility containing one or more underground storage tanks has:

(a) registered the tanks; and

(b) paid the annual underground storage tank fee.

(6) (a) "Certified underground storage tank consultant" means a person who:

(i) for a fee, or in connection with services for which a fee is charged, provides or contracts to provide information, opinions, or advice relating to underground storage tank release:

- (A) management;
- (B) abatement;
- (C) investigation;
- (D) corrective action; or
- (E) evaluation;

(ii) has submitted an application to the director;

(iii) received a written statement of certification from the director; and

(iv) meets the education and experience standards established by the board under Subsection 19-6-403(1)(a)(vii).

(b) "Certified underground storage tank consultant" does not include:

(i) (A) an employee of the owner or operator of the underground storage tank; or

(B) an employee of a business operation that has a business relationship with the owner or operator of the underground storage tank, and markets petroleum products or manages underground storage tanks; or

(ii) a person licensed to practice law in this state who offers only legal advice on underground storage tank release:

- (A) management;
- (B) abatement;
- (C) investigation;
- (D) corrective action; or
- (E) evaluation.

(7) "Closed" means an underground storage tank no longer in use that has been:

(a) emptied and cleaned to remove all liquids and accumulated sludges; and

(b) (i) removed from the ground; or

(ii) filled with an inert solid material.

(8) "Corrective action plan" means a plan for correcting a release from a petroleum storage tank that includes provisions for any of the following:

- (a) cleanup or removal of the release;
- (b) containment or isolation of the release;
- (c) treatment of the release;
- (d) correction of the cause of the release;

(e) monitoring and maintenance of the site of the release;

(f) provision of alternative water supplies to a person whose drinking water has become contaminated by the release; or

(g) temporary or permanent relocation, whichever is determined by the director to be more cost-effective, of a person whose dwelling has been determined by the director to be no longer habitable due to the release.

(9) "Costs" means money expended for:

- (a) investigation;
- (b) abatement action;
- (c) corrective action;

(d) judgments, awards, and settlements for bodily injury or property damage to third parties;

(e) legal and claims adjusting costs incurred by the state in connection with judgments, awards, or settlements for bodily injury or property damage to third parties; or

(f) costs incurred by the state risk manager in determining the actuarial soundness of the fund.

(10) "Covered by the fund" means the requirements of Section 19-6-424 have been met.

(11) "Director" means the director of the Division of Environmental Response and Remediation.

(12) "Division" means the Division of Environmental Response and Remediation, created in Subsection 19-1-105(1)(c).

(13) "Dwelling" means a building that is usually occupied by a person lodging there at night.

(14) "Enforcement proceedings" means a civil action or the procedures to enforce orders established by Section 19-6-425.

(15) "Facility" means all underground storage tanks located on a single parcel of property or on any property adjacent or contiguous to that parcel.

(16) "Fund" means the Petroleum Storage Tank Trust Fund created in Section 19-6-409.

(17) "Operator" means a person in control of or who is responsible on a daily basis for the maintenance of an underground storage tank that is in use for the storage, use, or dispensing of a regulated substance.

(18) "Owner" means:

(a) in the case of an underground storage tank in use on or after November 8, 1984, a person who owns an underground storage tank used for the storage, use, or dispensing of a regulated substance; and

(b) in the case of an underground storage tank in use before November 8, 1984, but not in use on or after November 8, 1984, a person who owned the tank immediately before the discontinuance of its use for the storage, use, or dispensing of a regulated substance.

(19) "Petroleum" includes crude oil or a fraction of crude oil that is liquid at:

(a) 60 degrees Fahrenheit; and

(b) a pressure of 14.7 pounds per square inch absolute.

(20) "Petroleum storage tank" means a tank that:

(a) (i) is underground;

(ii) is regulated under Subtitle I of the Resource Conservation and Recovery Act, 42 U.S.C. Sec. 6991c, et seq.; and

(iii) contains petroleum; or

(b) the owner or operator voluntarily submits for participation in the Petroleum Storage Tank Trust Fund under Section 19-6-415.

(21) "Petroleum Storage Tank Restricted Account" means the account created in Section 19-6-405.5.

(22) "Program" means the Environmental Assurance Program under Section 19-6-410.5.

(23) "Property damage" means physical injury to, destruction of, or loss of use of tangible property.

(24) (a) "Regulated substance" means petroleum and petroleum-based substances comprised of a complex blend of hydrocarbons derived from crude oil through processes of separation, conversion, upgrading, and finishing.

(b) "Regulated substance" includes motor fuels, jet fuels, distillate fuel oils, residual fuel oils, lubricants, petroleum solvents, and used oils.

(25) (a) "Release" means spilling, leaking, emitting, discharging, escaping, leaching, or disposing a regulated substance from an underground storage tank or petroleum storage tank.

(b) A release of a regulated substance from an underground storage tank or petroleum storage tank is considered a single release from that tank system.

(26) (a) "Responsible party" means a person who:

(i) is the owner or operator of a facility;

(ii) owns or has legal or equitable title in a facility or an underground storage tank;

(iii) owned or had legal or equitable title in a facility at the time petroleum was received or contained at the facility;

(iv) operated or otherwise controlled activities at a facility at the time petroleum was received or contained at the facility; or

(v) is an underground storage tank installation company.

(b) "Responsible party" is as defined in Subsections (26)(a)(i), (ii), and (iii) does not include:

(i) a person who is not an operator and, without participating in the management of a facility and otherwise not engaged in petroleum production, refining, and marketing, holds indicia of ownership:

(A) primarily to protect the person's security interest in the facility; or

(B) as a fiduciary or custodian under Title 75, Utah Uniform Probate Code, or under an employee benefit plan; or

(ii) governmental ownership or control of property by involuntary transfers as provided in CERCLA Section 101(20)(D), 42 U.S.C. Sec. 9601(20)(D).

(c) The exemption created by Subsection (26)(b)(i)(B) does not apply to actions taken by the state or its officials or agencies under this part.

(d) The terms and activities "indicia of ownership," "primarily to protect a security interest," "participation in management," and "security interest" under this part are in accordance with 40 C.F.R. Part 280, Subpart I, as amended, and 42 U.S.C. Sec. 6991b(h)(9).

(e) The terms "participate in management" and "indicia of ownership" as defined in 40 C.F.R. Part 280, Subpart I, as amended, and 42 U.S.C. Sec. 6991b(h)(9) include and apply to the fiduciaries listed in Subsection (26)(b)(i)(B).

(27) "Soil test" means a test, established or approved by board rule, to detect the presence of petroleum in soil.

(28) "State cleanup appropriation" means money appropriated by the Legislature to the department to fund the investigation, abatement, and corrective action regarding releases not covered by the fund.

(29) "Underground storage tank" means a tank regulated under Subtitle I, Resource Conservation and Recovery Act, 42 U.S.C. Sec. 6991c, et seq., including:

(a) a petroleum storage tank;

(b) underground pipes and lines connected to a storage tank;

(c) underground ancillary equipment;

(d) a containment system; and

(e) each compartment of a multi-compartment storage tank.

(30) "Underground storage tank installation company" means a person, firm, partnership, corporation, governmental entity, association, or other organization who installs underground storage tanks.

(31) "Underground storage tank installation company permit" means a permit issued to an underground storage tank installation company by the director.

(32) "Underground storage tank technician" means a person employed by and acting under the direct supervision of a certified underground storage tank consultant to assist in carrying out the functions described in Subsection (6)(a).

Section 16. Section 19-6-601 is amended to read:

19-6-601. Definitions.

As used in this part:

(1) "Board" means the [~~Solid and Hazardous~~] Waste Management and Radiation Control Board appointed under Title 19, Chapter 6, Hazardous Substances.

(2) "Director" means the director of the Division of [~~Solid and Hazardous~~] Waste Management and Radiation Control.

Section 17. Section 19-6-703 is amended to read:

19-6-703. Definitions.

(1) "Board" means the [~~Solid and Hazardous~~] Waste Management and Radiation Control Board created in Section 19-1-106.

(2) "Commission" means the State Tax Commission.

(3) "Department" means the Department of Environmental Quality created in Title 19, Chapter 1, General Provisions.

(4) "Director" means the director of the Division of [~~Solid and Hazardous~~] Waste Management and Radiation Control.

(5) "Division" means the Division of [~~Solid and Hazardous~~] Waste Management and Radiation Control, created in [~~Subsection~~] Section 19-1-105[~~(4)(e)~~].

(6) "DIY" means do it yourself.

(7) "DIYer" means a person who generates used oil through household activities, including maintenance of personal vehicles.

(8) "DIYer used oil" means used oil a person generates through household activities, including maintenance of personal vehicles.

(9) "DIYer used oil collection center" means any site or facility that accepts or aggregates and stores used oil collected only from DIYers.

(10) "Hazardous waste" means any substance defined as hazardous waste under Title 19, Chapter 6, Hazardous Substances.

(11) "Lubricating oil" means the fraction of crude oil or synthetic oil used to reduce friction in an industrial or mechanical device. Lubricating oil includes rerefined oil.

(12) "Lubricating oil vendor" means the person making the first sale of a lubricating oil in Utah.

(13) "Manifest" means the form used for identifying the quantity and composition and the origin, routing, and destination of used oil during its transportation from the point of collection to the point of storage, processing, use, or disposal.

(14) "Off-specification used oil" means used oil that exceeds levels of constituents and properties as specified by board rule and consistent with 40 CFR 279, Standards for the Management of Used Oil.

(15) "On-specification used oil" means used oil that does not exceed levels of constituents and properties as specified by board rule and consistent

with 40 CFR 279, Standards for the Management of Used Oil.

(16) (a) "Processing" means chemical or physical operations under Subsection (16)(b) designed to produce from used oil, or to make used oil more amenable for production of:

(i) gasoline, diesel, and other petroleum derived fuels;

(ii) lubricants; or

(iii) other products derived from used oil.

(b) "Processing" includes:

(i) blending used oil with virgin petroleum products;

(ii) blending used oils to meet fuel specifications;

(iii) filtration;

(iv) simple distillation;

(v) chemical or physical separation; and

(vi) rerefining.

(17) "Recycled oil" means oil reused for any purpose following its original use, including:

(a) the purpose for which the oil was originally used; and

(b) used oil processed or burned for energy recovery.

(18) "Rerefining distillation bottoms" means the heavy fraction produced by vacuum distillation of filtered and dehydrated used oil. The composition varies with column operation and feedstock.

(19) "Used oil" means any oil, refined from crude oil or a synthetic oil, that has been used and as a result of that use is contaminated by physical or chemical impurities.

(20) (a) "Used oil aggregation point" means any site or facility that accepts, aggregates, or stores used oil collected only from other used oil generation sites owned or operated by the owner or operator of the aggregation point, from which used oil is transported to the aggregation point in shipments of no more than 55 gallons.

(b) A used oil aggregation point may also accept oil from DIYers.

(21) "Used oil burner" means a person who burns used oil for energy recovery.

(22) "Used oil collection center" means any site or facility registered with the state to manage used oil and that accepts or aggregates and stores used oil collected from used oil generators, other than DIYers, who are regulated under this part and bring used oil to the collection center in shipments of no more than 55 gallons and under the provisions of this part. Used oil collection centers may accept DIYer used oil also.

(23) "Used oil fuel marketer" means any person who:

(a) directs a shipment of off-specification used oil from its facility to a used oil burner; or

(b) first claims the used oil to be burned for energy recovery meets the used oil fuel specifications of 40 CFR 279, Standards for the Management of Used Oil, except when the oil is to be burned in accordance with rules for on-site burning in space heaters in accordance with 40 CFR 279.

(24) "Used oil generator" means any person, by site, whose act or process produces used oil or whose act first causes used oil to become subject to regulation.

(25) "Used oil handler" means a person generating used oil, collecting used oil, transporting used oil, operating a transfer facility or aggregation point, processing or rerefining used oil, or marketing used oil.

(26) "Used oil processor or rerefiner" means a facility that processes used oil.

(27) "Used oil transfer facility" means any transportation-related facility, including loading docks, parking areas, storage areas, and other areas where shipments of used oil are held for more than 24 hours during the normal course of transportation and not longer than 35 days.

(28) (a) "Used oil transporter" means the following persons unless they are exempted under Subsection (28)(b):

(i) any person who transports used oil;

(ii) any person who collects used oil from more than one generator and transports the collected oil;

(iii) except as exempted under Subsection (28)(b)(i), (ii), or (iii), any person who transports collected DIYer used oil from used oil generators, collection centers, aggregation points, or other facilities required to be permitted or registered under this part and where household DIYer used oil is collected; and

(iv) owners and operators of used oil transfer facilities.

(b) "Used oil transporter" does not include:

(i) persons who transport oil on site;

(ii) generators who transport shipments of used oil totalling 55 gallons or less from the generator to a used oil collection center as allowed under 40 CFR 279.24, Off-site Shipments;

(iii) generators who transport shipments of used oil totalling 55 gallons or less from the generator to a used oil aggregation point owned or operated by the same generator as allowed under 40 CFR 279.24, Off-site Shipments;

(iv) persons who transport used oil generated by DIYers from the initial generator to a used oil generator, used oil collection center, used oil aggregation point, used oil processor or rerefiner, or used oil burner subject to permitting or registration under this part; or

(v) railroads that transport used oil and are regulated under 49 U.S.C. Subtitle V, Rail Programs, and 49 U.S.C. 5101 et seq., federal

Hazardous Materials Transportation Uniform Safety Act.

Section 18. Section 19-6-803 is amended to read:

19-6-803. Definitions.

As used in this part:

(1) "Abandoned waste tire pile" means a waste tire pile regarding which the local department of health has not been able to:

(a) locate the persons responsible for the tire pile; or

(b) cause the persons responsible for the tire pile to remove it.

(2) (a) "Beneficial use" means the use of chipped tires in a manner that is not recycling, storage, or disposal, but that serves as a replacement for another product or material for specific purposes.

(b) "Beneficial use" includes the use of chipped tires:

(i) as daily landfill cover;

(ii) for civil engineering purposes;

(iii) as low-density, light-weight aggregate fill; or

(iv) for septic or drain field construction.

(c) "Beneficial use" does not include the use of waste tires or material derived from waste tires:

(i) in the construction of fences; or

(ii) as fill, other than low-density, light-weight aggregate fill.

(3) "Board" means the [~~Solid and Hazardous~~] Waste Management and Radiation Control Board created under Section 19-1-106.

(4) "Chip" or "chipped tire" means a two inch square or smaller piece of a waste tire.

(5) "Commission" means the Utah State Tax Commission.

(6) (a) "Consumer" means a person who purchases a new tire to satisfy a direct need, rather than for resale.

(b) "Consumer" includes a person who purchases a new tire for a motor vehicle to be rented or leased.

(7) "Crumb rubber" means waste tires that have been ground, shredded, or otherwise reduced in size such that the particles are less than or equal to 3/8 inch in diameter and are 98% wire free by weight.

(8) "Director" means the director of the Division of [~~Solid and Hazardous~~] Waste Management and Radiation Control.

(9) "Disposal" means the deposit, dumping, or permanent placement of any waste tire in or on any land or in any water in the state.

(10) "Dispose of" means to deposit, dump, or permanently place any waste tire in or on any land or in any water in the state.

(11) "Division" means the Division of ~~[Solid and Hazardous] Waste[,]~~ Management and Radiation Control created in ~~[Subsection]~~ Section 19-1-105~~(1)(e)~~.

(12) "Fund" means the Waste Tire Recycling Fund created in Section 19-6-807.

(13) "Landfill waste tire pile" means a waste tire pile:

(a) located within the permitted boundary of a landfill operated by a governmental entity; and

(b) consisting solely of waste tires brought to a landfill for disposal and diverted from the landfill waste stream to the waste tire pile.

(14) "Local health department" means the local health department, as defined in Section 26A-1-102, with jurisdiction over the recycler.

(15) "Materials derived from waste tires" means tire sections, tire chips, tire shreddings, rubber, steel, fabric, or other similar materials derived from waste tires.

(16) "Mobile facility" means a mobile facility capable of cutting waste tires on site so the waste tires may be effectively disposed of by burial, such as in a landfill.

(17) "New motor vehicle" means a motor vehicle which has never been titled or registered.

(18) "Passenger tire equivalent" means a measure of mixed sizes of tires where each 25 pounds of whole tires or material derived from waste tires is equal to one waste tire.

(19) "Proceeds of the fee" means the money collected by the commission from payment of the recycling fee including interest and penalties on delinquent payments.

(20) "Recycler" means a person who:

(a) annually uses, or can reasonably be expected within the next year to use, a minimum of 100,000 waste tires generated in the state or 1,000 tons of waste tires generated in the state to recover energy or produce energy, crumb rubber, chipped tires, or an ultimate product; and

(b) is registered as a recycler in accordance with Section 19-6-806.

(21) "Recycling fee" means the fee provided for in Section 19-6-805.

(22) "Shredded waste tires" means waste tires or material derived from waste tires that has been reduced to a six inch square or smaller.

(23) (a) "Storage" means the placement of waste tires in a manner that does not constitute disposal of the waste tires.

(b) "Storage" does not include:

(i) the use of waste tires as ballast to maintain covers on agricultural materials or to maintain covers at a construction site;

(ii) the storage for five or fewer days of waste tires or material derived from waste tires that are to be recycled or applied to a beneficial use; or

(iii) the storage of a waste tire before the tire is:

(A) resold wholesale or retail; or

(B) recapped.

(24) (a) "Store" means to place waste tires in a manner that does not constitute disposal of the waste tires.

(b) "Store" does not include:

(i) to use waste tires as ballast to maintain covers on agricultural materials or to maintain covers at a construction site; or

(ii) to store for five or fewer days waste tires or material derived from waste tires that are to be recycled or applied to a beneficial use.

(25) "Tire" means a pneumatic rubber covering designed to encircle the wheel of a vehicle in which a person or property is or may be transported or drawn upon a highway.

(26) "Tire retailer" means any person engaged in the business of selling new tires either as replacement tires or as part of a new vehicle sale.

(27) (a) "Ultimate product" means a product that has as a component materials derived from waste tires and that the director finds has a demonstrated market.

(b) "Ultimate product" includes pyrolyzed materials derived from:

(i) waste tires; or

(ii) chipped tires.

(c) "Ultimate product" does not include a product regarding which a waste tire remains after the product is disposed of or disassembled.

(28) "Waste tire" means:

(a) a tire that is no longer suitable for its original intended purpose because of wear, damage, or defect; or

(b) a tire that a tire retailer removes from a vehicle for replacement with a new or used tire.

(29) "Waste tire pile" means a pile of 1,000 or more waste tires at one location.

(30) (a) "Waste tire transporter" means a person or entity engaged in picking up or transporting at one time more than 10 whole waste tires, or the equivalent amount of material derived from waste tires, generated in Utah for the purpose of storage, processing, or disposal.

(b) "Waste tire transporter" includes any person engaged in the business of collecting, hauling, or transporting waste tires or who performs these functions for another person, except as provided in Subsection (30)(c).

(c) "Waste tire transporter" does not include:

(i) a person transporting waste tires generated solely by:

- (A) that person's personal vehicles;
- (B) a commercial vehicle fleet owned or operated by that person or that person's employer;
- (C) vehicles sold, leased, or purchased by a motor vehicle dealership owned or operated by that person or that person's employer; or
- (D) a retail tire business owned or operated by that person or that person's employer;
- (ii) a solid waste collector operating under a license issued by a unit of local government as defined in Section 63M-5-103, or a local health department;
- (iii) a recycler of waste tires;
- (iv) a person transporting tires by rail as a common carrier subject to federal regulation; or
- (v) a person transporting processed or chipped tires.

Section 19. Section 19-6-902 is amended to read:

19-6-902. Definitions.

As used in this part:

(1) "Board" means the [~~Solid and Hazardous~~] Waste Management and Radiation Control Board, as defined in Section 19-1-106, within the Department of Environmental Quality.

(2) "Certified decontamination specialist" means an individual who has met the standards for certification as a decontamination specialist and has been certified by the board under Subsection 19-6-906(2).

(3) "Contaminated" or "contamination" means:

(a) polluted by hazardous materials that cause property to be unfit for human habitation or use due to immediate or long-term health hazards; or

(b) that a property is polluted by hazardous materials as a result of the use, production, or presence of methamphetamine in excess of decontamination standards adopted by the Department of Health under Section 26-51-201.

(4) "Contamination list" means a list maintained by the local health department of properties:

(a) reported to the local health department under Section 19-6-903; and

(b) determined by the local health department to be contaminated.

(5) (a) "Decontaminated" means property that at one time was contaminated, but the contaminants have been removed.

(b) "Decontaminated" for a property that was contaminated by the use, production, or presence of methamphetamine means that the property satisfies decontamination standards adopted by the Department of Health under Section 26-51-201.

(6) "Hazardous materials":

(a) has the same meaning as "hazardous or dangerous material" as defined in Section 58-37d-3; and

(b) includes any illegally manufactured controlled substances.

(7) "Health department" means a local health department under Title 26A, Local Health Authorities.

(8) "Owner of record":

(a) means the owner of real property as shown on the records of the county recorder in the county where the property is located; and

(b) may include an individual, financial institution, company, corporation, or other entity.

(9) "Property":

(a) means any real property, site, structure, part of a structure, or the grounds surrounding a structure; and

(b) includes single-family residences, outbuildings, garages, units of multiplexes, condominiums, apartment buildings, warehouses, hotels, motels, boats, motor vehicles, trailers, manufactured housing, shops, or booths.

(10) "Reported property" means property that is the subject of a law enforcement report under Section 19-6-903.

Section 20. Section 19-6-906 is amended to read:

19-6-906. Decontamination standards -- Specialist certification standards -- Rulemaking.

(1) The Department of Health shall make rules under Title 63G, Chapter 3, Utah Administrative Rulemaking Act, in consultation with the local health departments and the Department of Environmental Quality, to establish:

(a) decontamination and sampling standards and best management practices for the inspection and decontamination of property and the disposal of contaminated debris under this part;

(b) appropriate methods for the testing of buildings and interior surfaces, and furnishings, soil, and septic tanks for contamination; and

(c) when testing for contamination may be required.

(2) The Department of Environmental Quality [~~Solid and Hazardous~~] Waste Management and Radiation Control Board shall make rules under Title 63G, Chapter 3, Utah Administrative Rulemaking Act, in consultation with the Department of Health and local health departments, to establish within the Department of Environmental Quality Division of Environmental Response and Remediation:

(a) certification standards for any private person, firm, or entity involved in the decontamination of contaminated property; and

(b) a process for revoking the certification of a decontamination specialist who fails to maintain the certification standards.

(3) All rules made under this part shall be consistent with other state and federal requirements.

(4) The board has authority to enforce the provisions under Subsection (2).

Section 21. Section 19-6-1002 is amended to read:

19-6-1002. Definitions.

(1) "Board" means the [~~Solid and Hazardous~~] Waste Management and Radiation Control Board created in Section 19-1-106.

(2) "Director" means the director of the Division [~~of Solid and Hazardous~~] Waste Management and Radiation Control.

(3) "Division" means the Division of [~~Solid and Hazardous~~] Waste[,], Management and Radiation Control created in [~~Subsection~~] Section 19-1-105[~~(4)~~(e)].

(4) "Manufacturer" means the last person in the production or assembly process of a vehicle.

(5) "Mercury switch" means a mercury-containing capsule that is part of a convenience light switch assembly installed in a vehicle's hood or trunk.

(6) "Person" means an individual, a firm, an association, a partnership, a corporation, the state, or a local government.

(7) "Plan" means a plan for removing and collecting mercury switches from vehicles.

(8) "Vehicle" means any passenger automobile or car, station wagon, truck, van, or sport utility vehicle that may contain one or more mercury switches.

Section 22. Section 19-6-1102 is amended to read:

19-6-1102. Definitions.

As used in this part:

(1) "Board" means the [~~Solid and Hazardous~~] Waste Management and Radiation Control Board created under Section 19-1-106.

(2) "Director" means the director of the Division of [~~Solid and Hazardous~~] Waste Management and Radiation Control.

(3) "Division" means the Division of [~~Solid and Hazardous~~] Waste[,], Management and Radiation Control created in [~~Subsection~~] Section 19-1-105[~~(4)~~(e)].

(4) (a) "Industrial byproduct" means an industrial residual, including:

- (i) inert construction debris;
- (ii) fly ash;
- (iii) bottom ash;
- (iv) slag;

(v) flue gas emission control residuals generated primarily from the combustion of coal or other fossil fuel;

(vi) residual from the extraction, beneficiation, and processing of an ore or mineral;

(vii) cement kiln dust; or

(viii) contaminated soil extracted as a result of a corrective action subject to an operation plan under Part 1, Solid and Hazardous Waste Act.

(b) "Industrial byproduct" does not include material that:

(i) causes a public nuisance or public health hazard; or

(ii) is a hazardous waste under Part 1, Solid and Hazardous Waste Act.

(5) "Public project" means a project of the Department of Transportation to construct:

(a) a highway or road;

(b) a curb;

(c) a gutter;

(d) a walkway;

(e) a parking facility;

(f) a public transportation facility; or

(g) a facility, infrastructure, or transportation improvement that benefits the public.

(6) "Reuse" means to use an industrial byproduct in place of a raw material.

Section 23. Section 26-7-7 is amended to read:

26-7-7. Radon awareness campaign.

The department shall, in consultation with the Division of Waste Management and Radiation Control, develop a statewide electronic awareness campaign to educate the public regarding:

(1) the existence and prevalence of radon gas in buildings and structures;

(2) the health risks associated with radon gas;

(3) options for radon gas testing; and

(4) options for radon gas remediation.

Section 24. Section 59-1-403 is amended to read:

59-1-403. Confidentiality -- Exceptions -- Penalty -- Application to property tax.

(1) (a) Any of the following may not divulge or make known in any manner any information gained by that person from any return filed with the commission:

(i) a tax commissioner;

(ii) an agent, clerk, or other officer or employee of the commission; or

(iii) a representative, agent, clerk, or other officer or employee of any county, city, or town.

(b) An official charged with the custody of a return filed with the commission is not required to produce the return or evidence of anything contained in the return in any action or proceeding in any court, except:

- (i) in accordance with judicial order;
- (ii) on behalf of the commission in any action or proceeding under:

(A) this title; or

(B) other law under which persons are required to file returns with the commission;

(iii) on behalf of the commission in any action or proceeding to which the commission is a party; or

(iv) on behalf of any party to any action or proceeding under this title if the report or facts shown by the return are directly involved in the action or proceeding.

(c) Notwithstanding Subsection (1)(b), a court may require the production of, and may admit in evidence, any portion of a return or of the facts shown by the return, as are specifically pertinent to the action or proceeding.

(2) This section does not prohibit:

(a) a person or that person's duly authorized representative from receiving a copy of any return or report filed in connection with that person's own tax;

(b) the publication of statistics as long as the statistics are classified to prevent the identification of particular reports or returns; and

(c) the inspection by the attorney general or other legal representative of the state of the report or return of any taxpayer:

(i) who brings action to set aside or review a tax based on the report or return;

(ii) against whom an action or proceeding is contemplated or has been instituted under this title; or

(iii) against whom the state has an unsatisfied money judgment.

(3) (a) Notwithstanding Subsection (1) and for purposes of administration, the commission may by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, provide for a reciprocal exchange of information with:

- (i) the United States Internal Revenue Service; or
- (ii) the revenue service of any other state.

(b) Notwithstanding Subsection (1) and for all taxes except individual income tax and corporate franchise tax, the commission may by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, share information gathered from returns and other written statements with the federal government, any other state, any of the political subdivisions of another state, or any political subdivision of this state, except as limited by Sections 59-12-209 and

59-12-210, if the political subdivision, other state, or the federal government grant substantially similar privileges to this state.

(c) Notwithstanding Subsection (1) and for all taxes except individual income tax and corporate franchise tax, the commission may by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, provide for the issuance of information concerning the identity and other information of taxpayers who have failed to file tax returns or to pay any tax due.

(d) Notwithstanding Subsection (1), the commission shall provide to the director of the Division of ~~[Solid and Hazardous Waste]~~ Environmental Response and Remediation, as defined in Section ~~[19-6-102]~~ 19-6-402, as requested by the director of the Division of ~~[Solid and Hazardous Waste]~~ Environmental Response and Remediation, any records, returns, or other information filed with the commission under Chapter 13, Motor and Special Fuel Tax Act, or Section 19-6-410.5 regarding the environmental assurance program participation fee.

(e) Notwithstanding Subsection (1), at the request of any person the commission shall provide that person sales and purchase volume data reported to the commission on a report, return, or other information filed with the commission under:

- (i) Chapter 13, Part 2, Motor Fuel; or
- (ii) Chapter 13, Part 4, Aviation Fuel.

(f) Notwithstanding Subsection (1), upon request from a tobacco product manufacturer, as defined in Section 59-22-202, the commission shall report to the manufacturer:

- (i) the quantity of cigarettes, as defined in Section 59-22-202, produced by the manufacturer and reported to the commission for the previous calendar year under Section 59-14-407; and
- (ii) the quantity of cigarettes, as defined in Section 59-22-202, produced by the manufacturer for which a tax refund was granted during the previous calendar year under Section 59-14-401 and reported to the commission under Subsection 59-14-401(1)(a)(v).

(g) Notwithstanding Subsection (1), the commission shall notify manufacturers, distributors, wholesalers, and retail dealers of a tobacco product manufacturer that is prohibited from selling cigarettes to consumers within the state under Subsection 59-14-210(2).

(h) Notwithstanding Subsection (1), the commission may:

(i) provide to the Division of Consumer Protection within the Department of Commerce and the attorney general data:

(A) reported to the commission under Section 59-14-212; or

(B) related to a violation under Section 59-14-211; and

(ii) upon request, provide to any person data reported to the commission under Subsections

59-14-212(1)(a) through (c) and Subsection 59-14-212(1)(g).

(i) Notwithstanding Subsection (1), the commission shall, at the request of a committee of the Legislature, the Office of the Legislative Fiscal Analyst, or the Governor's Office of Management and Budget, provide to the committee or office the total amount of revenues collected by the commission under Chapter 24, Radioactive Waste Facility Tax Act, for the time period specified by the committee or office.

(j) Notwithstanding Subsection (1), the commission shall make the directory required by Section 59-14-603 available for public inspection.

(k) Notwithstanding Subsection (1), the commission may share information with federal, state, or local agencies as provided in Subsection 59-14-606(3).

(l) (i) Notwithstanding Subsection (1), the commission shall provide the Office of Recovery Services within the Department of Human Services any relevant information obtained from a return filed under Chapter 10, Individual Income Tax Act, regarding a taxpayer who has become obligated to the Office of Recovery Services.

(ii) The information described in Subsection (3)(l)(i) may be provided by the Office of Recovery Services to any other state's child support collection agency involved in enforcing that support obligation.

(m) (i) Notwithstanding Subsection (1), upon request from the state court administrator, the commission shall provide to the state court administrator, the name, address, telephone number, county of residence, and Social Security number on resident returns filed under Chapter 10, Individual Income Tax Act.

(ii) The state court administrator may use the information described in Subsection (3)(m)(i) only as a source list for the master jury list described in Section 78B-1-106.

(n) Notwithstanding Subsection (1), the commission shall at the request of a committee, commission, or task force of the Legislature provide to the committee, commission, or task force of the Legislature any information relating to a tax imposed under Chapter 9, Taxation of Admitted Insurers, relating to the study required by Section 59-9-101.

(o) (i) As used in this Subsection (3)(o), "office" means the:

(A) Office of the Legislative Fiscal Analyst; or

(B) Office of Legislative Research and General Counsel.

(ii) Notwithstanding Subsection (1) and except as provided in Subsection (3)(o)(iii), the commission shall at the request of an office provide to the office all information:

(A) gained by the commission; and

(B) required to be attached to or included in returns filed with the commission.

(iii) (A) An office may not request and the commission may not provide to an office a person's:

(I) address;

(II) name;

(III) Social Security number; or

(IV) taxpayer identification number.

(B) The commission shall in all instances protect the privacy of a person as required by Subsection (3)(o)(iii)(A).

(iv) An office may provide information received from the commission in accordance with this Subsection (3)(o) only:

(A) as:

(I) a fiscal estimate;

(II) fiscal note information; or

(III) statistical information; and

(B) if the information is classified to prevent the identification of a particular return.

(v) (A) A person may not request information from an office under Title 63G, Chapter 2, Government Records Access and Management Act, or this section, if that office received the information from the commission in accordance with this Subsection (3)(o).

(B) An office may not provide to a person that requests information in accordance with Subsection (3)(o)(v)(A) any information other than the information the office provides in accordance with Subsection (3)(o)(iv).

(p) Notwithstanding Subsection (1), the commission may provide to the governing board of the agreement or a taxing official of another state, the District of Columbia, the United States, or a territory of the United States:

(i) the following relating to an agreement sales and use tax:

(A) information contained in a return filed with the commission;

(B) information contained in a report filed with the commission;

(C) a schedule related to Subsection (3)(p)(i)(A) or (B); or

(D) a document filed with the commission; or

(ii) a report of an audit or investigation made with respect to an agreement sales and use tax.

(q) Notwithstanding Subsection (1), the commission may provide information concerning a taxpayer's state income tax return or state income tax withholding information to the Driver License Division if the Driver License Division:

(i) requests the information; and

(ii) provides the commission with a signed release form from the taxpayer allowing the Driver License Division access to the information.

(r) Notwithstanding Subsection (1), the commission shall provide to the Utah 911 Committee the information requested by the Utah 911 Committee under Subsection 63H-7-303(4).

(s) Notwithstanding Subsection (1), the commission shall provide to the Utah Educational Savings Plan information related to a resident or nonresident individual's contribution to a Utah Educational Savings Plan account as designated on the resident or nonresident's individual income tax return as provided under Section 59-10-1313.

(t) Notwithstanding Subsection (1), for the purpose of verifying eligibility under Sections 26-18-2.5 and 26-40-105, the commission shall provide an eligibility worker with the Department of Health or its designee with the adjusted gross income of an individual if:

(i) an eligibility worker with the Department of Health or its designee requests the information from the commission; and

(ii) the eligibility worker has complied with the identity verification and consent provisions of Sections 26-18-2.5 and 26-40-105.

(u) Notwithstanding Subsection (1), the commission may provide to a county, as determined by the commission, information declared on an individual income tax return in accordance with Section 59-10-103.1 that relates to eligibility to claim a residential exemption authorized under Section 59-2-103.

(4) (a) Each report and return shall be preserved for at least three years.

(b) After the three-year period provided in Subsection (4)(a) the commission may destroy a report or return.

(5) (a) Any person who violates this section is guilty of a class A misdemeanor.

(b) If the person described in Subsection (5)(a) is an officer or employee of the state, the person shall be dismissed from office and be disqualified from holding public office in this state for a period of five years thereafter.

(c) Notwithstanding Subsection (5)(a) or (b), an office that requests information in accordance with Subsection (3)(o)(iii) or a person that requests information in accordance with Subsection (3)(o)(v):

(i) is not guilty of a class A misdemeanor; and

(ii) is not subject to:

(A) dismissal from office in accordance with Subsection (5)(b); or

(B) disqualification from holding public office in accordance with Subsection (5)(b).

(6) Except as provided in Section 59-1-404, this part does not apply to the property tax.

Section 25. Section 63J-4-502 is amended to read:

63J-4-502. Membership -- Terms -- Chair -- Expenses.

(1) The Resource Development Coordinating Committee shall consist of the following [25] 24 members:

(a) the state science advisor;

(b) a representative from the Department of Agriculture and Food appointed by the executive director;

(c) a representative from the Department of Heritage and Arts appointed by the executive director;

(d) a representative from the Department of Environmental Quality appointed by the executive director;

(e) a representative from the Department of Natural Resources appointed by the executive director;

(f) a representative from the Department of Transportation appointed by the executive director;

(g) a representative from the Governor's Office of Economic Development appointed by the director;

(h) a representative from the Housing and Community Development Division appointed by the director;

(i) a representative from the Division of State History appointed by the director;

(j) a representative from the Division of Air Quality appointed by the director;

(k) a representative from the Division of Drinking Water appointed by the director;

(l) a representative from the Division of Environmental Response and Remediation appointed by the director;

~~[(m)] a representative from the Division of Radiation appointed by the director;~~

~~[(n)]~~ (m) a representative from the Division of ~~[Solid and Hazardous]~~ Waste Management and Radiation Control appointed by the director;

~~[(o)]~~ (n) a representative from the Division of Water Quality appointed by the director;

~~[(p)]~~ (o) a representative from the Division of Oil, Gas, and Mining appointed by the director;

~~[(q)]~~ (p) a representative from the Division of Parks and Recreation appointed by the director;

~~[(r)]~~ (q) a representative from the Division of Forestry, Fire, and State Lands appointed by the director;

~~[(s)]~~ (r) a representative from the Utah Geological Survey appointed by the director;

~~[(t)]~~ (s) a representative from the Division of Water Resources appointed by the director;

~~[(u)]~~ (t) a representative from the Division of Water Rights appointed by the director;

~~[(v)]~~ (u) a representative from the Division of Wildlife Resources appointed by the director;

~~[(w)]~~ (v) a representative from the School and Institutional Trust Lands Administration appointed by the director;

~~[(x)]~~ (w) a representative from the Division of Facilities Construction and Management appointed by the director; and

~~[(y)]~~ (x) a representative from the Division of Emergency Management appointed by the director.

(2) (a) As particular issues require, the committee may, by majority vote of the members present, and with the concurrence of the state planning coordinator, appoint additional temporary members to serve as ex officio voting members.

(b) Those ex officio members may discuss and vote on the issue or issues for which they were appointed.

(3) A chair shall be selected by a majority vote of committee members with the concurrence of the state planning coordinator.

(4) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Section 26. Repealer.

This bill repeals:

Section 19-3-103, Radiation Control Board -- Members -- Organization -- Meetings -- Per diem and expenses.

Section 19-3-103.5, Board authority and duties.

Section 19-3-108, Powers and duties of director.

Section 27. Effective date.

This bill takes effect on July 1, 2015.

Section 28. Coordinating S.B. 244 with S.B. 173 -- Technical amendment.

If this S.B. 244 and S.B. 173, Financial Assurance Determination Review Process, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, modify Subsection 19-1-301.5(1)(c) to read:

(c) "Financial assurance determination" means a decision on whether a facility, site, plan, party, broker, owner, operator, generator, or permittee has met financial assurance or financial responsibility requirements as determined by the director of the

Division of Waste Management and Radiation Control.

CHAPTER 452**S. B. 245**

Passed March 12, 2015

Approved March 31, 2015

Effective May 12, 2015

SCHOOL GRADING AMENDMENTS

Chief Sponsor: Ann Millner
House Sponsor: Bradley G. Last

LONG TITLE**General Description:**

This bill amends provisions related to assigning a letter grade to a school based on the proficiency, learning gains, or college and career readiness of the school's students.

Highlighted Provisions:

This bill:

- ▶ allows the State Board of Education to exempt certain schools from school grading;
- ▶ requires the State Board of Education to evaluate a school that is exempted from school grading in accordance with an accountability plan;
- ▶ amends provisions related to calculating student growth;
- ▶ requires the State Board of Education to make recommendations to the Education Interim Committee on calculating student growth;
- ▶ provides an alternative grade distribution for the 2014-15 school year only; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53A-1-1102, as last amended by Laws of Utah 2014, Chapter 403

53A-1-1104, as last amended by Laws of Utah 2014, Chapter 403

53A-1-1107.5, as enacted by Laws of Utah 2014, Chapter 403

53A-1-1114, as enacted by Laws of Utah 2014, Chapter 403

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

Section 1. Section 53A-1-1102 is amended to read:**53A-1-1102. Definitions.**

As used in this part:

- (1) "Alternative school" means a school:
 - (a) established to serve youth who are not succeeding in a traditional school environment; and
 - (b) designated as an alternative school by the State Board of Education.
- (2) "Board" means the State Board of Education.
- (3) "Combination school" means a school that includes:

- (a) grade 12; and
- (b) a grade lower than grade 7.
- (4) "High school" means:
 - (a) a school that:
 - (i) includes grade 12; and
 - (ii) does not include any grade lower than grade 7; or
 - (b) grades 9 through 12 of a combination school.
- (5) "Individualized education program" or "IEP" means a written statement, for a student with a disability, that is developed, reviewed, and revised in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.

(6) "Statewide assessment" means a criterion-referenced test of student achievement in language arts, mathematics, or science, including a test administered in a computer adaptive format, which is administered statewide under Part 6, Achievement Tests.

(7) "Sufficient growth" means a student's scale score on a statewide assessment is equal to or exceeds the student's growth target established pursuant to Section 53A-1-1107.5.

~~[(8) "Year 1" means the first year of two consecutive years in which a student takes a statewide assessment in the same subject.]~~

~~[(9) "Year 2" means the second year of two consecutive years in which a student takes a statewide assessment in the same subject.]~~

Section 2. Section 53A-1-1104 is amended to read:**53A-1-1104. Schools included in grading system.**

(1) Except as provided in Subsections (2) through (5), a school that has students who take statewide assessments shall receive a school grade.

(2) A school may not receive a school grade, if the number of a school's students tested is less than the minimum sample size necessary, based on accepted professional practice for statistical reliability or the prevention of the unlawful release of personally identifiable student data under 20 U.S.C. Sec. 1232h.

~~[(3) (a) An alternative school is exempt from school grading.]~~

~~[(b) The board shall annually:]~~

~~[(i) evaluate an alternative school in accordance with an accountability plan approved by the board; and]~~

~~[(ii) report the results on a school report card.]~~

~~[(c) The State Board of Education, a local school board, and a charter school governing board shall provide to a parent or guardian a school report card for an alternative school and electronically publish the school report card in the same manner and at the same time as other school report cards are]~~

~~provided and published pursuant to Section 53A-11-1112.]~~

~~[(4)] (3) The [State Board of Education] board shall exempt a school from school grading in the school's first year of operations if the school's local school board or charter school governing board requests the exemption.~~

~~[(5)] (4) The [State Board of Education] board shall exempt a high school from school grading or exempt a combination school from the school grading requirement described in Subsection 53A-1-1104.5(2) in the high school's or combination school's second year of operations if the school's local school board or charter school governing board requests the exemption.~~

~~(5) (a) The board may exempt a school from school grading if the school:~~

~~(i) (A) is an alternative school; or~~

~~(B) is a special needs school, as defined by rules made by the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and~~

~~(ii) requests the exemption with the approval of:~~

~~(A) the school's governing board; or~~

~~(B) for the Utah Schools for the Deaf and the Blind, the school's advisory committee.~~

~~(b) If the board exempts a school under Subsection (5)(a), the board shall annually:~~

~~(i) evaluate the school in accordance with an accountability plan established by the board through rules made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;~~

~~(ii) report the results on a school report card; and~~

~~(iii) electronically publish the school report card in the same manner and at the same time as other school report cards under Section 53A-1-1112.~~

~~(c) If a school is granted an exemption from school grading under Subsection (5)(a), the school shall:~~

~~(i) provide to a parent or guardian the school report card described in Subsection (5)(b)(ii); and~~

~~(ii) electronically publish the school report card in the same manner and at the same time as other school report cards under Section 53A-1-1112.~~

Section 3. Section 53A-1-1107.5 is amended to read:

53A-1-1107.5. Growth target established to determine whether a student demonstrates sufficient growth in a subject.

~~[(1)] (a) For the purpose of determining whether a student demonstrates sufficient growth in the 2013-14 school year in language arts, mathematics, or science as provided in Section 53A-1-1107, the board shall establish a growth target for a student for each statewide assessment the student takes.]~~

~~[(b)] A student demonstrates sufficient growth in the 2013-14 school year if the student's scale score on a statewide assessment administered in the 2013-14 school year is equal to or exceeds the growth target established pursuant to Subsections (1)(c) and (1)(d).]~~

~~[(c)] The board shall establish a 2013-14 growth target for each cohort of students with the same scale score on a particular statewide assessment in the 2012-13 school year.]~~

~~[(d)] (i) The board shall establish a 2013-14 growth target based on actual student growth in the 2011-12 school year as measured by statewide assessments administered at the end of the 2010-11 and 2011-12 school years.]~~

~~[(ii)] Among a cohort of students with the same scale score on a particular statewide assessment in the 2010-11 school year, the scale score of the student who scores in the 2011-12 school year, at a percentile determined by the board in rule, becomes the 2013-14 growth target for any student with a scale score in the 2012-13 school year that is the same as the cohort's scale score in the 2010-11 school year.]~~

~~[(2)] (a) (1) For the purpose of determining whether a student demonstrates sufficient growth in the 2014-15 school year, or a succeeding school year, in language arts, mathematics, or science as provided in Section 53A-1-1107, the board shall establish a [year-2] formula for a growth target for a student for each statewide assessment the student takes.~~

~~[(b)] (2) A student demonstrates sufficient growth if the student's scale score on a statewide assessment [in year-2] is equal to or exceeds the [year-2] student's growth target established pursuant to Subsections [(2)(e)] (3) and [(2)(d)] (4).~~

~~[(e)] (3) The board shall establish a [year-2] formula for a growth target for each [cohort of students with] student based on:~~

~~(a) the statewide cohort of students with the same scale score on a particular statewide assessment [in year-1]; and~~

~~[(d)] (i) The board shall establish a year-2 growth target based on]~~

~~(b) actual student growth in the 2014-15 school year as measured by statewide assessments administered at the end of the 2013-14 and 2014-15 school years and for each succeeding school year.~~

~~[(ii)] Among a cohort of students with the same scale score on a particular statewide assessment in the 2013-14 school year, the scale score of the student who scores on a similar statewide assessment in the 2014-15 school year, at a percentile determined by the board in rule, becomes the year-2 growth target for statewide assessments administered in the 2014-15 school year and succeeding years for any student with a year-1 scale score that is the same as the cohort's scale score in the 2013-14 school year.]~~

~~(4) On or before November 30, 2015, the State Board of Education shall make recommendations to~~

the Legislature's Education Interim Committee on the method for determining whether a student demonstrates sufficient growth for the 2015-16 school year and succeeding school years.

Section 4. Section 53A-1-1114 is amended to read:

53A-1-1114. Exceptions applicable to determining school grades for the 2014-15 school year.

~~[(1) Notwithstanding the requirements of [Subsection 53A-1-1102(7), Subsection 53A-1-1103(4), Section 53A-1-1107.5,] Subsection 53A-1-1110(1), and Subsections 53A-1-1112(5) through (7), for the purposes of determining school grades for the [2013-14] 2014-15 school year, [when] as schools transition to a new assessment system[;], a school's grade is based on the percentage of the maximum number of points the school may earn as calculated under Section 53A-1-1109 as follows:~~

~~[(a) the State Board of Education is not required to create an alignment mapping of scale scores between assessments administered in the 2012-13 school year and those administered in the 2013-14 school year;]~~

~~[(b) the State Board of Education shall determine, by rule:]~~

~~[(i) how to measure growth of a school's students on statewide assessments of language arts, mathematics, and science achievement; and]~~

~~[(ii) a standard for sufficient growth;]~~

~~[(c) the State Board of Education may, by rule, adjust the percentage of the maximum number of points required to earn A through F letter grades; and]~~

~~[(d) the State Board of Education, school districts, and charter schools shall publish on their websites school grades for the 2013-14 school year on or before December 15, 2014.]~~

~~[(2) (a) Before the State Board of Education adopts a rule pursuant to Subsection (1)(c), the board shall submit one or more proposals to the Executive Appropriations Committee to adjust the maximum number of points required to earn A through F letter grades for the 2013-14 school year.]~~

~~[(b) For each proposal submitted to the Executive Appropriations Committee, the board shall model the projected distribution of schools earning each letter grade.]~~

~~[(c) The Executive Appropriations Committee may:]~~

~~[(i) recommend that the board adopt a proposal to adjust the maximum number of points required to earn A through F letter grades for the 2013-14 school year;]~~

~~[(ii) recommend that the board modify a proposal to adjust the maximum number of points required to earn A through F letter grades for the 2013-14 school year; or]~~

~~[(iii) recommend that no adjustment be made to the maximum number of points required to earn A through F letter grades for the 2013-14 school year.]~~

~~(1) for a school that is not a high school:~~

~~(a) A, 100%-64%;~~

~~(b) B, 63%-51%;~~

~~(c) C, 50%-39%;~~

~~(d) D, 38%-30%; and~~

~~(e) F, 30% or less; and~~

~~(2) for a high school:~~

~~(a) A, 100%-64%;~~

~~(b) B, 63%-51%;~~

~~(c) C, 50%-43%;~~

~~(d) D, 42%-40%; and~~

~~(e) F, 40% or less.~~

CHAPTER 453**S. B. 248**

Passed March 12, 2015
 Approved March 31, 2015
 Effective May 12, 2015

**LOCAL HEALTH
 DEPARTMENT AMENDMENTS**

Chief Sponsor: Ralph Okerlund
 House Sponsor: Edward H. Redd

LONG TITLE**General Description:**

This bill amends provisions related to local health departments.

Highlighted Provisions:

This bill:

- ▶ establishes a committee within the Department of Environmental Quality that reviews matters affecting the Department of Environmental Quality and local health departments.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

19-1-201, as last amended by Laws of Utah 2012, Chapter 360 and last amended by Coordination Clause, Laws of Utah 2012, Chapter 360

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

Section 1. Section 19-1-201 is amended to read:

19-1-201. Powers and duties of department -- Rulemaking authority -- Committee.

(1) The department shall:

(a) enter into cooperative agreements with the Department of Health to delineate specific responsibilities to assure that assessment and management of risk to human health from the environment are properly administered;

(b) consult with the Department of Health and enter into cooperative agreements, as needed, to ensure efficient use of resources and effective response to potential health and safety threats from the environment, and to prevent gaps in protection from potential risks from the environment to specific individuals or population groups;

(c) coordinate implementation of environmental programs to maximize efficient use of resources by developing, in consultation with local health departments, a Comprehensive Environmental Service Delivery Plan that:

(i) recognizes that the department and local health departments are the foundation for providing environmental health programs in the state;

(ii) delineates the responsibilities of the department and each local health department for the efficient delivery of environmental programs using federal, state, and local authorities, responsibilities, and resources;

(iii) provides for the delegation of authority and pass through of funding to local health departments for environmental programs, to the extent allowed by applicable law, identified in the plan, and requested by the local health department; and

(iv) is reviewed and updated annually; and

(d) make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, as follows:

(i) for a board created in Section 19-1-106, rules regarding:

- (A) board meeting attendance; and
- (B) conflicts of interest procedures; and

(ii) procedural rules that govern:

(A) an adjudicative proceeding, consistent with Section 19-1-301; and

(B) a permit review adjudicative proceeding, consistent with Section 19-1-301.5.

(2) The department shall establish a committee that consists of:

(a) the executive director or the executive director's designee;

(b) two representatives of the department appointed by the executive director; and

(c) three representatives of local health departments appointed by a group of all the local health departments in the state.

(3) The committee established in Subsection (2) shall:

(a) review the allocation of environmental quality resources between the department and the local health departments;

(b) evaluate department policies that affect local health departments;

(c) consider policy changes proposed by the department or by local health departments;

(d) coordinate the implementation of environmental quality programs to maximize environmental quality resources; and

(e) review each department application for any grant from the federal government that affects a local health department before the department submits the application.

(4) The committee shall create bylaws to govern the committee's operations.

~~(4)~~ (5) The department may:

(a) investigate matters affecting the environment;

(b) investigate and control matters affecting the public health when caused by environmental hazards;

(c) prepare, publish, and disseminate information to inform the public concerning issues involving environmental quality;

(d) establish and operate programs, as authorized by this title, necessary for protection of the environment and public health from environmental hazards;

(e) use local health departments in the delivery of environmental health programs to the extent provided by law;

(f) enter into contracts with local health departments or others to meet responsibilities established under this title;

(g) acquire real and personal property by purchase, gift, devise, and other lawful means;

(h) prepare and submit to the governor a proposed budget to be included in the budget submitted by the governor to the Legislature;

(i) (i) establish a schedule of fees that may be assessed for actions and services of the department according to the procedures and requirements of Section 63J-1-504; and

(ii) in accordance with Section 63J-1-504, all fees shall be reasonable, fair, and reflect the cost of services provided;

(j) prescribe by rule reasonable requirements not inconsistent with law relating to environmental quality for local health departments;

(k) perform the administrative functions of the boards established by Section 19-1-106, including the acceptance and administration of grants from the federal government and from other sources, public or private, to carry out the board's functions;

(l) upon the request of any board or a division director, provide professional, technical, and clerical staff and field and laboratory services, the extent of which are limited by the funds available to the department for the staff and services; and

(m) establish a supplementary fee, not subject to Section 63J-1-504, to provide service that the person paying the fee agrees by contract to be charged for the service in order to efficiently utilize department resources, protect department permitting processes, address extraordinary or unanticipated stress on permitting processes, or make use of specialized expertise.

~~[(3)]~~ (6) In providing service under Subsection ~~[(2)]~~ (5)(m), the department may not provide service in a manner that impairs any other person's service from the department.

CHAPTER 454**S. B. 258**

Passed March 12, 2015

Approved March 31, 2015

Effective May 12, 2015

**STREET-LEGAL ALL-TERRAIN
VEHICLE AMENDMENTS**

Chief Sponsor: Scott K. Jenkins

House Sponsor: Michael E. Noel

LONG TITLE**General Description:**

This bill amends provisions related to all-terrain vehicles.

Highlighted Provisions:

This bill:

- ▶ amends provisions related to where an individual may operate a street-legal all-terrain vehicle;
- ▶ amends equipment requirements for a street-legal all-terrain vehicle;
- ▶ amends speed limitations relating to the use of a street-legal all-terrain vehicle; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

41-6a-1509, as last amended by Laws of Utah 2014, Chapters 104 and 229

41-6a-1633, as last amended by Laws of Utah 2009, Chapter 171

41-22-10.2, as last amended by Laws of Utah 2005, Chapter 2

41-22-10.5, as last amended by Laws of Utah 2008, Chapter 36

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

Section 1. Section 41-6a-1509 is amended to read:**41-6a-1509. Street-legal all-terrain vehicle -- Operation on highways -- Registration and licensing requirements -- Equipment requirements.**

(1) (a) Except as provided in Subsection (1)(b), an all-terrain type I vehicle, utility type vehicle, or full-sized all-terrain vehicle that meets the requirements of this section may be operated as a street-legal ATV on a street or highway unless the highway is an interstate freeway [~~or a limited access highway~~] as defined in Section 41-6a-102.

(b) Unless a street or highway is designated as open for street-legal ATV use by the controlling highway authority in accordance with Section 41-22-10.5, a person may not operate a street-legal ATV on a street or highway in accordance with Subsection (1)(a) if the highway is under the jurisdiction of:

- (i) a county of the first class; or
 - (ii) a municipality that is within a county of the first class.
- (2) A street-legal ATV shall comply with the same requirements as:
- (a) a motorcycle for:
 - (i) traffic rules under Title 41, Chapter 6a, Traffic Code;
 - (ii) registration, titling, odometer statement, vehicle identification, license plates, and registration fees under Title 41, Chapter 1a, Motor Vehicle Act;
 - (iii) fees in lieu of property taxes or in lieu of fees under Section 59-2-405.2; and
 - (iv) the county motor vehicle emissions inspection and maintenance programs under Section 41-6a-1642;
 - (b) a motor vehicle for:
 - (i) driver licensing under Title 53, Chapter 3, Uniform Driver License Act;
 - (ii) motor vehicle insurance under Title 41, Chapter 12a, Financial Responsibility of Motor Vehicle Owners and Operators Act; and
 - (iii) safety inspection requirements under Title 53, Chapter 8, Part 2, Motor Vehicle Safety Inspection Act, except that a street-legal ATV shall be subject to a safety inspection:
 - (A) when registered for the first time; and
 - (B) subsequently, on the same frequency as described in Subsection 53-8-205(2) based on the age of the vehicle as determined by the model year identified by the manufacturer; and
 - (c) an all-terrain type I or type II vehicle for off-highway vehicle provisions under Title 41, Chapter 22, Off-Highway Vehicles, and Title 41, Chapter 3, Motor Vehicle Business Regulation Act, unless otherwise specified in this section.
- (3) (a) An all-terrain type I vehicle and a utility type vehicle being operated as a street-legal ATV shall be equipped with:
- (i) one or more headlamps that meet the requirements of Section 41-6a-1603;
 - (ii) one or more tail lamps;
 - (iii) a tail lamp or other lamp constructed and placed to illuminate the registration plate with a white light;
 - (iv) one or more red reflectors on the rear;
 - (v) one or more stop lamps on the rear;
 - (vi) amber or red electric turn signals, one on each side of the front and rear;
 - (vii) a braking system, other than a parking brake, that meets the requirements of Section 41-6a-1623;
 - (viii) a horn or other warning device that meets the requirements of Section 41-6a-1625;

(ix) a muffler and emission control system that meets the requirements of Section 41-6a-1626;

(x) rearview mirrors on the right and left side of the driver in accordance with Section 41-6a-1627;

(xi) a windshield, unless the operator wears eye protection while operating the vehicle;

(xii) a speedometer, illuminated for nighttime operation;

(xiii) for vehicles designed by the manufacturer for carrying one or more passengers, a seat designed for passengers, including a footrest and handhold for each passenger;

(xiv) for vehicles with side-by-side seating, seatbelts for each vehicle occupant; and

(xv) tires that:

~~[(A) do not exceed 29 inches in height;]~~

~~[(B)]~~ (A) are not larger than the tires that the all-terrain vehicle manufacturer made available for the all-terrain vehicle model; and

~~[(C)]~~ (B) have at least 2/32 inches or greater tire tread.

(b) A full-sized all-terrain vehicle being operated as a street-legal all-terrain vehicle shall be equipped with:

(i) two headlamps that meet the requirements of Section 41-6a-1603;

(ii) two tail lamps;

(iii) a tail lamp or other lamp constructed and placed to illuminate the registration plate with a white light;

(iv) one or more red reflectors on the rear;

(v) two stop lamps on the rear;

(vi) amber or red electric turn signals, one on each side of the front and rear;

(vii) a braking system, other than a parking brake, that meets the requirements of Section 41-6a-1623;

(viii) a horn or other warning device that meets the requirements of Section 41-6a-1625;

(ix) a muffler and emission control system that meets the requirements of Section 41-6a-1626;

(x) rearview mirrors on the right and left side of the driver in accordance with Section 41-6a-1627;

(xi) a windshield, unless the operator wears eye protection while operating the vehicle;

(xii) a speedometer, illuminated for nighttime operation;

(xiii) for vehicles designed by the manufacturer for carrying one or more passengers, a seat designed for passengers, including a footrest and handhold for each passenger;

(xiv) for vehicles with side-by-side seating, seatbelts for each vehicle occupant; and

(xv) tires that:

(A) do not exceed 44 inches in height; and

(B) have at least 2/32 inches or greater tire tread.

(c) A street-legal all-terrain vehicle is not required to be equipped with wheel covers, mudguards, flaps, or splash aprons.

(4) (a) Subject to the requirement in Subsection (4)(b), an operator of a street-legal all-terrain vehicle, when operating a street-legal all-terrain vehicle on a highway ~~[in accordance with this section]~~, may not exceed the lesser of:

(i) the posted speed limit; or

(ii) ~~[45]~~ 50 miles per hour.

(b) An operator of a street-legal all-terrain vehicle, when operating a street-legal all-terrain vehicle on a highway with a posted speed limit higher than ~~[45]~~ 50 miles per hour, shall:

(i) operate the street-legal all-terrain vehicle on the extreme right hand side of the roadway; and

(ii) equip the street-legal all-terrain vehicle with a reflector or reflective tape to the front and back of both sides of the vehicle.

(5) (a) A nonresident operator of an off-highway vehicle that is authorized to be operated on the highways of another state has the same rights and privileges as a street-legal ATV that is granted operating privileges on the highways of this state, subject to the restrictions under this section and rules made by the Board of Parks and Recreation, if the other state offers reciprocal operating privileges to Utah residents.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Board of Parks and Recreation shall establish eligibility requirements for reciprocal operating privileges for nonresident users granted under Subsection (5)(a).

(6) Nothing in this chapter shall restrict the operation of an off-highway vehicle in accordance with Section 41-22-10.5.

Section 2. Section 41-6a-1633 is amended to read:

41-6a-1633. Mudguards or flaps at rear wheels of trucks, trailers, truck tractors, or altered motor vehicles -- Exemptions.

(1) (a) Except as provided in Subsection (2), when operated on a highway, the following vehicles shall be equipped with wheel covers, mudguards, flaps, or splash aprons behind the rearmost wheels to prevent, as far as practicable, the wheels from throwing dirt, water, or other materials on other vehicles:

(i) a vehicle that has been altered:

(A) from the original manufacturer's frame height; or

(B) in any other manner so that the motor vehicle's wheels may throw dirt, water, or other materials on other vehicles;

(ii) any truck with a gross vehicle weight rating of 10,500 pounds or more;

(iii) any truck tractor; and

(iv) any trailer or semitrailer with an unladen weight of 750 pounds or more.

(b) The wheel covers, mudguards, flaps, or splash aprons shall:

(i) be at least as wide as the tires they are protecting;

(ii) be directly in line with the tires; and

(iii) have a ground clearance of not more than 50% of the diameter of a rear-axle wheel, under any conditions of loading of the motor vehicle.

(2) Wheel covers, mudguards, flaps, or splash aprons are not required:

(a) if the motor vehicle, trailer, or semitrailer is designed and constructed so that the requirements of Subsection (1) are accomplished by means of fenders, body construction, or other means of enclosure; ~~or~~

(b) on a vehicle operated or driven during fair weather on well-maintained, hard-surfaced roads if the motor vehicle:

(i) was made in America prior to 1935;

(ii) is registered as a vintage vehicle; or

(iii) is a custom vehicle as defined under Section 41-6a-1507~~[-]; or~~

(c) on a street-legal all-terrain vehicle.

(3) Except as provided in Subsection (2)(b), rear wheels not covered at the top by fenders, bodies, or other parts of the vehicle shall be covered at the top by protective means extending rearward at least to the center line of the rearmost axle.

Section 3. Section 41-22-10.2 is amended to read:

41-22-10.2. Off-highway vehicles -- Prohibited on interstate freeway.

It is unlawful for an off-highway vehicle to operate along, across, or within the boundaries of an interstate freeway ~~or controlled-access highway~~, as defined in Section 41-6a-102.

Section 4. Section 41-22-10.5 is amended to read:

41-22-10.5. Local ordinances -- Designating routes -- Supervision.

(1) A municipality or county may adopt ordinances:

(a) designating certain streets and highways under its respective jurisdiction:

~~[(a) as open for street-legal all-terrain vehicle use;]~~

~~[(b)] (i)~~ as open for general off-highway vehicle use; or

~~[(e)] (ii)~~ as open for limited off-highway vehicle use to allow off-highway vehicle operators to gain direct access to or from a private or public area open for off-highway vehicle use~~[-]; or~~

(b) permitting the use of a street-legal all-terrain vehicle on a street or highway designated for:

(i) general off-highway vehicle use under Subsection (1)(a)(i); or

(ii) limited off-highway vehicle use under Subsection (1)(a)(ii).

(2) A municipality or county may not prohibit or restrict the use of a street-legal all-terrain vehicle on a street or highway where the use of another street-legal vehicle is permitted.

~~[(2)] (3)~~ A municipality or a county may adopt an ordinance requiring an operator who is under 16 years of age to be under the direct visual supervision of an adult who is at least 18 years of age while using a route designated under Subsection (1).

~~[(3)] (4)~~ A route designated under Subsection (1) may not be along, across, or within the boundaries of an interstate freeway ~~or limited-access highway~~.

~~[(4)] (5)~~ Except as provided under Section 41-22-10.3, a person may not operate an off-highway vehicle on any street or highway that is not designated or posted as open for off-highway vehicle use in accordance with Subsection (1) or Section 41-22-10.1.

~~[(5)] (6)~~ Subsection ~~[(4)] (5)~~ does not apply to off-highway implements of husbandry used in accordance with Section 41-22-5.5.

CHAPTER 455**S. B. 265**

Passed March 12, 2015

Approved March 31, 2015

Effective May 12, 2015

**ABUSE DETERRENT OPIOID
ANALGESIC DRUG PRODUCTS**Chief Sponsor: Jerry W. Stevenson
House Sponsor: Michael S. Kennedy**LONG TITLE****General Description:**

This bill enacts language related to the study of abuse-deterrent opioid analgesic drug products.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires the Public Employees' Benefit and Insurance Program to:
 - study the barriers to and efficacy of use of abuse-deterrent opioid analgesic drug products; and
 - report to the Business and Labor Interim Committee and the Health and Human Services Interim Committee; and
- ▶ provides a repeal date.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

49-20-412, Utah Code Annotated 1953

63I-2-249, Utah Code Annotated 1953

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

Section 1. Section 49-20-412 is enacted to read:**49-20-412. Study of abuse-deterrent opioid analgesic drug products.**

(1) As used in this section:

(a) "Abuse-deterrent opioid analgesic drug product" means an opioid analgesic drug product with labeling approved by the Food and Drug Administration indicating that the product has properties that are expected to reduce abuse of the product.

(b) "Opioid analgesic drug product" means a product in the opioid analgesic drug class that is prescribed to treat moderate to severe pain, regardless of whether the drug is combined with other substances in a single product or dosage form.

(2) For purposes of the report required by Subsection (3), the program shall study available information regarding the barriers to and the efficacy of the use of abuse-deterrent opioid analgesic drug products.

(3) The program shall report to the Business and Labor Interim Committee and the Health and

Human Services Interim Committee by no later than the respective committee's November 2015 interim committee meeting regarding the study required by Subsection (2).

Section 2. Section 63I-2-249 is enacted to read:**63I-2-249. Repeal dates -- Title 49.**

Section 49-20-412 is repealed January 1, 2016.

CHAPTER 456**S. B. 268**

Passed March 11, 2015
 Approved March 31, 2015
 Effective July 1, 2015

STUDENT LEADERSHIP SKILLS GRANT

Chief Sponsor: Aaron Osmond
 House Sponsor: Steve Eliason

LONG TITLE**General Description:**

This bill modifies provisions related to the Student Leadership Skills Development Pilot Program and converts the pilot program to an ongoing program.

Highlighted Provisions:

This bill:

- ▶ converts the Student Leadership Skills Development Pilot Program to an ongoing program; and
- ▶ requires the State Board of Education to provide information related to the Student Leadership Skills Development Program on the State Board of Education's website.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

53A-17a-169, as last amended by Laws of Utah 2014, Chapter 393
 63I-2-253, as last amended by Laws of Utah 2014, Chapters 102, 189, 372, and 393

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

Section 1. Section 53A-17a-169 is amended to read:**53A-17a-169. Student Leadership Skills Development Program.**

(1) For purposes of this section:

- (a) "Board" means the State Board of Education.
- (b) "[Pilot] Program" means the Student Leadership Skills Development [Pilot] Program created in Subsection (2).

(2) There is created the Student Leadership Skills Development [Pilot] Program to develop student behaviors and skills that enhance a school's learning environment and are vital for success in a career, including:

- (a) communication skills;
- (b) teamwork skills;
- (c) interpersonal skills;
- (d) initiative and self-motivation;
- (e) goal setting skills;
- (f) problem solving skills; and
- (g) creativity.

(3) (a) The board shall administer the program and award grants to elementary schools that apply for a grant on a competitive basis.

(b) The board may award a grant of:

- (i) up to \$10,000 per school for the first year a school participates in the [pilot] program; and
- (ii) up to \$20,000 per school for subsequent years a school participates in the [pilot] program.

(c) (i) After awarding a grant to a school for a particular year, the board may not change the grant amount awarded to the school for that year.

(ii) The board may award a school a different amount in subsequent years.

(4) An elementary school may participate in the [pilot] program established under this section in accordance with [rules of the] State Board of Education rules, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(5) In selecting elementary schools to participate in the [pilot] program, the board shall:

(a) require a school in the first year the school participates in the [pilot] program to provide matching funds or an in-kind contribution of goods or services in an amount equal to the grant the school receives from the board;

(b) require a school to participate in the [pilot] program for two years; and

(c) give preference to Title I schools or schools in need of academic improvement.

(6) The board shall make the following information related to the grants described in Subsection (3) publicly available on the board's website:

(a) reimbursement procedures that clearly define how a school may spend grant money and how the board will reimburse the school;

(b) the period of time a school is permitted to spend grant money;

(c) criteria for selecting a school to receive a grant; and

(d) a list of schools that receive a grant and the amount of each school's grant.

~~[(6)]~~ (7) A school that receives a grant described in Subsection (3) shall:

(a) (i) set school-wide goals for the school's student leadership skills development program; and

(ii) require each student to set personal goals; and

(b) provide the following to the board after the first school year of implementation of the program:

(i) evidence that the grant money was used for the purpose of purchasing or developing the school's own student leadership skills development program; and

(ii) a report on the effectiveness and impact of the school's student leadership skills development

program on student behavior and academic results as measured by:

- (A) a reduction in truancy;
- (B) assessments of academic achievement;
- (C) a reduction in incidents of student misconduct or disciplinary actions; and
- (D) the achievement of school-wide goals and students' personal goals.

~~[(7)]~~ (8) After ~~[three years' participation]~~ participating in the ~~[pilot]~~ program for two years, a school may not receive additional grant money in subsequent years if the school fails to demonstrate an improvement in student behavior and academic achievement as measured by the data reported under Subsection ~~[(6)]~~ (7)(b).

~~[(8)]~~ (9) (a) The board shall make a report on the ~~[pilot]~~ program to the Education Interim Committee by the committee's October 2016 meeting.

(b) The report shall include an evaluation of the ~~[pilot]~~ program's success in enhancing a school's learning environment and improving academic achievement.

Section 2. Section 63I-2-253 is amended to read:

63I-2-253. Repeal dates -- Titles 53, 53A, and 53B.

- (1) Section 53A-1-402.7 is repealed July 1, 2014.
- (2) Section 53A-1-403.5 is repealed July 1, 2017.
- (3) Subsection 53A-1-410(5) is repealed July 1, 2015.
- (4) Section 53A-1-411 is repealed July 1, 2016.
- (5) Section 53A-1a-513.5 is repealed July 1, 2017.
- (6) Title 53A, Chapter 1a, Part 10, UPSTART, is repealed July 1, 2019.
- (7) Title 53A, Chapter 8a, Part 8, Peer Assistance and Review Pilot Program, is repealed July 1, 2017.
- ~~[(8) Section 53A-17a-169 is repealed July 1, 2017.]~~

Section 3. Effective date.

This bill takes effect on July 1, 2015.

CHAPTER 457**S. B. 269**

Passed March 12, 2015
 Approved March 31, 2015
 Effective May 12, 2015

FAMILY EXPENSES AMENDMENTS

Chief Sponsor: Curtis S. Bramble
 House Sponsor: Daniel McCay

LONG TITLE**General Description:**

This bill amends provisions related to family expenses.

Highlighted Provisions:

This bill:

- ▶ describes conditions of contracts or agreements between spouses related to family expenses.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

30-2-9, as last amended by Laws of Utah 2011, Chapter 109

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

Section 1. Section 30-2-9 is amended to read:**30-2-9. Family expenses -- Joint and several liability.**

(1) The expenses of the family and the education of the children are chargeable upon the property of both ~~[husband and wife]~~ spouses or of either of them~~[, and in relation thereto]~~ separately, for which expenses they may be sued jointly or separately.

~~[(2) In an action by a creditor against either husband or wife for the payment of a family expense, the creditor or debtor as the prevailing party shall be entitled to recover reasonable collection costs, interest, and attorney fees as provided in a contract between the creditor and debtor.]~~

(2) For the expenses described in Subsection (1), where there is a written agreement signed by either spouse that allows for the recovery of agreed upon amounts, a creditor or an assignee or successor in interest of the creditor is entitled to recover the contractually allowed amounts against both spouses, jointly and severally.

(3) Subsection (2) applies to all contracts and agreements under this section entered into by either spouse during the time the parties are married and living together.

(4) For the purposes of this section, family expenses are considered expenses incurred that benefit and promote the family unit. Items purchased pursuant to a written contract or

agreement during the marriage that do not relate to family expenses are not covered by this section.

(5) The provisions of Subsections (2) and (3) do not create a right to attorney's fees or collection fees as to the nonsigning spouse for purchases of:

(a) food or clothing; or

(b) home improvements or repairs over \$5,000.

CHAPTER 458**S. B. 281**

Passed March 12, 2015
Approved March 31, 2015
Effective May 12, 2015

WATER INFRASTRUCTURE FUNDING

Chief Sponsor: J. Stuart Adams
House Sponsor: Don L. Ipson

LONG TITLE**General Description:**

This bill creates the Water Infrastructure Restricted Account.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ creates the Water Infrastructure Restricted Account;
- ▶ describes uses of money in the Water Infrastructure Restricted Account;
- ▶ requires the Division of Water Resources and the Board of Water Resources to make rules; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2016:

- ▶ to the Water Infrastructure Restricted Account, as a one-time appropriation from the General Fund, \$5,000,000.

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

73-10g-101, Utah Code Annotated 1953
73-10g-102, Utah Code Annotated 1953
73-10g-103, Utah Code Annotated 1953
73-10g-104, Utah Code Annotated 1953
73-10g-105, Utah Code Annotated 1953
73-10g-106, Utah Code Annotated 1953

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

Section 1. Section 73-10g-101 is enacted to read:**CHAPTER 10g. WATER INFRASTRUCTURE****Part 1. Funding****73-10g-101. Title.**

(1) This chapter is known as “Water Infrastructure.”

(2) This part is known as “Funding.”

Section 2. Section 73-10g-102 is enacted to read:**73-10g-102. Definitions.**

As used in this chapter:

- (1) “Board” means the Board of Water Resources;
- (2) “Division” means the Division of Water Resources; and

(3) “Restricted account” means the Water Infrastructure Restricted Account created in Section 73-10g-103.

Section 3. Section 73-10g-103 is enacted to read:**73-10g-103. Creation of the Water Infrastructure Restricted Account.**

(1) (a) There is created a restricted account in the General Fund known as the “Water Infrastructure Restricted Account.”

(b) The restricted account shall earn interest.

(2) The restricted account consists of money generated from the following sources:

(a) voluntary contributions made to the division for the construction, operation, or maintenance of state water projects;

(b) appropriations made to the fund by the Legislature; and

(c) interest earned on the restricted account.

(3) Subject to appropriation, the division and the board shall manage the restricted account created in Subsection (1) in accordance with this chapter.

Section 4. Section 73-10g-104 is enacted to read:**73-10g-104. Authorized use of the Water Infrastructure Restricted Account.**

Money in the restricted account is to be used for:

(1) the development of the state’s undeveloped share of the Bear and Colorado Rivers, pursuant to existing interstate compacts governing both rivers as described in Title 73, Chapter 26, Bear River Development Act, and Chapter 28, Lake Powell Pipeline Development Act; and

(2) repair, replacement, or improvement of federal water projects for local sponsors in the state of Utah when federal funds are not available.

Section 5. Section 73-10g-105 is enacted to read:**73-10g-105. Loans -- Rulemaking.**

(1) The division and the board shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act in preparation to make loans from available funds to repair, replace, or improve underfunded federal water infrastructure projects.

(2) The rules described in Subsection (1)(a) shall:

(a) specify the amount of money that may be loaned;

(b) specify the criteria the division and the board shall consider in prioritizing and awarding loans;

(c) specify the minimum qualifications for an individual who, or entity that, receives a loan, including the amount of cost-sharing to be the responsibility of the individual or entity applying for a loan;

(d) specify the terms of the loan, including the terms of repayment; and

(e) require all applicants for a loan to apply on forms provided by the division and in a manner required by the division.

Section 6. Section 73-10g-106 is enacted to read:

73-10g-106. Requirement for repayment.

(1) Any money utilized to construct water infrastructure to develop the state's share of the Bear and Colorado Rivers are subject to the repayment provisions of Title 73, Chapter 26, Bear River Development Act, and Chapter 28, Lake Powell Pipeline Development Act.

(2) Any money utilized for the repair, replacement, or improvement of federal water infrastructure projects when federal funds are not available shall be repaid pursuant to the terms and conditions established by the division and the board by rule under Section 73-10g-105.

Section 7. Appropriation.

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, for the fiscal year beginning July 1, 2015, and ending June 30, 2016, the following sums of money are appropriated from resources not otherwise appropriated, or reduced from amounts previously appropriated, out of the funds or accounts indicated. These sums of money are in addition to any amounts previously appropriated for fiscal year 2016.

To General Fund Restricted - Water Infrastructure Restricted Account

From General Fund, One-time \$5,000,000

Schedule of Programs:

<u>General Fund Restricted -</u>	
<u>Water Infrastructure</u>	
<u>Restricted Account</u>	<u>\$5,000,000</u>

The Legislature intends that, under Section 63J-1-603, appropriations under this section not lapse at the close of fiscal year 2016.

CHAPTER 459**S. B. 287**

Passed March 12, 2015

Approved March 31, 2015

Effective May 12, 2015

**UNIFORM FRAUDULENT
TRANSFER ACT AMENDMENTS**

Chief Sponsor: Curtis S. Bramble

House Sponsor: Brad R. Wilson

LONG TITLE**General Description:**

This bill provides exemptions for good faith transfers to a merchant from a debtor.

Highlighted Provisions:

This bill:

- ▶ provides that transfers to a merchant who provides goods and services in good faith without knowledge of the debtor's motives or insolvency are not voidable.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

25-6-9, as last amended by Laws of Utah 2011, Chapter 297

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

Section 1. Section 25-6-9 is amended to read:**25-6-9. Good faith transfer.**

(1) [A] Except as otherwise provided in this section, a transfer or obligation is not voidable under Subsection 25-6-5(1)(a) against a person who took in good faith and for a reasonably equivalent value or against any subsequent transferee or obligee.

(2) Except as otherwise provided in this section, to the extent a transfer is voidable in an action by a creditor under Subsection 25-6-8(1)(a), the creditor may recover judgment for the value of the asset transferred, as adjusted under Subsection (3), or the amount necessary to satisfy the creditor's claim, whichever is less. The judgment may be entered against:

(a) the first transferee of the asset or the person for whose benefit the transfer was made; or

(b) any subsequent transferee other than a good faith transferee who took for value or from any subsequent transferee.

(3) If the judgment under Subsection (2) is based upon the value of the asset transferred, the judgment shall be for an amount equal to the value of the asset at the time of the transfer, subject to an adjustment as equities may require.

(4) ~~[Notwithstanding]~~ Except as otherwise provided in this section, notwithstanding the voidability of a transfer or an obligation under this chapter, a good-faith transferee or obligee is entitled, to the extent of the value given the debtor for the transfer or obligation, to:

(a) a lien on or a right to retain any interest in the asset transferred;

(b) enforcement of any obligation incurred; or

(c) a reduction in the amount of the liability on the judgment.

(5) A transfer is not voidable under Subsection 25-6-5(1)(b) or Section 25-6-6 if the transfer results from:

(a) termination of a lease upon default by the debtor when the termination is pursuant to the lease and applicable law; or

(b) enforcement of a security interest in compliance with Title 70A, Chapter 9a, Uniform Commercial Code - Secured Transactions.

(6) [A] Except as otherwise provided in this section, a transfer is not voidable under Subsection 25-6-6(2):

(a) to the extent the insider gave new value to or for the benefit of the debtor after the transfer was made unless the new value was secured by a valid lien;

(b) if made in the ordinary course of business or financial affairs of the debtor and the insider; or

(c) if made pursuant to a good-faith effort to rehabilitate the debtor and the transfer secured present value given for that purpose as well as an antecedent debt of the debtor.

(7) Notwithstanding the foregoing, a transfer is not voidable under Section 25-6-5 or Subsection 25-6-6(1) if:

(a) the transfer was made by the debtor:

(i) in payment of or in exchange for goods, services, or other consideration obtained by the debtor or a third party from a merchant in the ordinary course of the merchant's business; or

(ii) in payment of amounts loaned or advanced by a merchant or a credit or financing company to pay for the goods, services, or other consideration obtained by the debtor or a third party from a merchant in the ordinary course of the merchant's business;

(b) the goods, services, or other consideration obtained from the merchant or the amounts loaned or advanced by the merchant or the credit or financing company in payment of the goods, services, or other consideration obtained from the merchant in the ordinary course of the merchant's business was of a reasonably equivalent value to the transfer, as provided in Subsection (8); and

(c) the transferee received the transfer in good faith, in the ordinary course of the transferee's business, and without actual knowledge that:

(i) the transfer was made by the debtor with actual intent to hinder, delay, or defraud any creditor of the debtor; or

(ii) that the debtor was insolvent at the time the transfer was made.

(8) For purposes of Subsection (7):

(a) the term “merchant” means the same as that term is defined in Section 70A-2-104;

(b) where the value of the goods, services, or other consideration obtained from the merchant, or where the value of the amounts loaned or advanced by a merchant or a credit or financing company in payment of the goods, services, or other consideration obtained from the merchant, was reasonably equivalent to the value of the transfer, the “reasonably equivalent value” requirement in Subsection (7)(b) will be satisfied regardless of whether the debtor or a third party received the reasonably equivalent value for the transfer; and

(c) a transferee’s receipt of payment from a debtor is not, and may not be used as, evidence that:

(i) the transferee did not act in good faith;

(ii) the goods, services, or other consideration were not provided by the merchant in the ordinary course of the merchant’s business;

(iii) the transferee had actual knowledge that the transfer was made by the debtor with actual intent to hinder, delay, or defraud any creditor of the debtor; or

(iv) the debtor was insolvent at the time the transfer was made.

CHAPTER 460**S. B. 292**

Passed March 12, 2015

Approved March 31, 2015

Effective May 12, 2015

(Exception clause in Section 15)

ACHIEVING A BETTER LIFE EXPERIENCE PROGRAM AND TAX CREDITS

Chief Sponsor: Todd Weiler

House Sponsor: Rebecca P. Edwards

LONG TITLE**General Description:**

This bill enacts the Achieving a Better Life Experience Program Act and provides tax credits for contributions to accounts created under the program.

Highlighted Provisions:

This bill:

- ▶ enacts the Achieving a Better Life Experience Program Act;
- ▶ requires the Department of Workforce Services to conduct a study related to the program;
- ▶ enacts nonrefundable tax credits for contributions to accounts created under the program; and
- ▶ provides a repeal date for the study.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**ENACTS:**

35A-12-101, Utah Code Annotated 1953
 35A-12-102, Utah Code Annotated 1953
 35A-12-201, Utah Code Annotated 1953
 35A-12-202, Utah Code Annotated 1953
 35A-12-301, Utah Code Annotated 1953
 35A-12-302, Utah Code Annotated 1953
 35A-12-303, Utah Code Annotated 1953
 35A-12-304, Utah Code Annotated 1953
 35A-12-305, Utah Code Annotated 1953
 35A-12-401, Utah Code Annotated 1953
 35A-12-402, Utah Code Annotated 1953
 59-7-618, Utah Code Annotated 1953
 59-10-1033, Utah Code Annotated 1953
 63I-2-235, Utah Code Annotated 1953

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

Section 1. Section 35A-12-101 is enacted to read:**CHAPTER 12. ACHIEVING A BETTER LIFE EXPERIENCE PROGRAM ACT****Part 1. General Provisions****35A-12-101. Title.**

This chapter is known as the "Achieving a Better Life Experience Program Act."

Section 2. Section 35A-12-102 is enacted to read:**35A-12-102. Definitions.**

As used in this chapter:

(1) "Account" means a state Achieving a Better Life Experience Program account established under this chapter.

(2) "Account administrator" means a person who administers accounts in accordance with this chapter.

(3) "Account agreement" means an agreement between an account administrator and an account owner to establish an account.

(4) "Account owner" means the following who enter into an agreement with an account administrator to establish an account under this chapter:

(a) an eligible individual; or

(b) if the eligible individual is under 18 years of age or is incapacitated, a parent or legal guardian of the eligible individual.

(5) "Beneficiary" means an individual who is:

(a) an eligible individual;

(b) a resident of:

(i) this state; or

(ii) a contracting state; and

(c) designated as the beneficiary of an account under an account agreement.

(6) "Contracting state" means a state that:

(a) does not have an Achieving a Better Life Experience program that meets the requirements to be a qualified Achieving a Better Life Experience program under the federal Achieving a Better Life Experience Act; and

(b) has entered into a contract with this state to provide residents of the other state access to the state Achieving a Better Life Experience Program.

(7) "Eligible individual" means an individual who, before the individual turns 26 years of age:

(a) as determined by the department, has a medically determinable physical or mental impairment that:

(i) results in marked and severe functional limitations that can be expected to result in death; or

(ii) has lasted or can be expected to last for a continuous period of 12 months or more; or

(b) is eligible for benefits under title II or title XVI of the Social Security Act on the basis of blindness.

(8) "Federal Achieving a Better Life Experience Act" means the Stephen Beck, Jr., Achieving a Better Life Experience Act of 2014, Pub. L. No. 113-295, 128 Stat. 4010.

(9) "Qualified disability expenses" means the same as that term is defined in the federal Achieving a Better Life Experience Act.

(10) "State Achieving a Better Life Experience Program" means the program created by this chapter.

Section 3. Section 35A-12-201 is enacted to read:

Part 2. State Achieving a Better Life Experience Program

35A-12-201. Creation of program.

(1) There is created the state Achieving a Better Life Experience Program.

(2) The department shall administer the program in compliance with:

- (a) this chapter;
- (b) the federal Achieving a Better Life Experience Act; and
- (c) regulations, if any, issued by the United States Department of the Treasury.

(3) The program shall authorize the creation of an account for the purpose of allowing contributions on behalf of a beneficiary for the payment of qualified disability expenses.

(4) Subject to Subsection 35A-12-301(3), the department shall ensure that contributions to an account:

- (a) are held in trust for a beneficiary; and
- (b) may not be used for a purpose other than the payment of qualified disability expenses.

Section 4. Section 35A-12-202 is enacted to read:

35A-12-202. Application.

(1) (a) If an individual seeks to become an account owner, the individual shall file an application with the department on a form provided by the department.

(b) The form:

(i) shall include documentation that the individual who will be designated as the beneficiary of the account is:

- (A) an eligible individual; and
- (B) a resident of this state or a contracting state; and

(ii) may include other information required by the department.

(2) (a) If the individual who will be designated as the beneficiary of the account has a medically determinable physical or mental impairment described in Subsection 35A-12-102(7)(a), the individual shall submit documentation required by the department on the individual's diagnosis prepared by a physician.

(b) For purposes of Subsection (2)(a), the individual who will be designated as the beneficiary of the account shall pay any costs of obtaining the documentation required by Subsection (2)(a).

(3) If the individual who will be designated as the beneficiary of the account is eligible for benefits under title II or title XVI of the Social Security Act on the basis of blindness, the individual shall submit documentation that the individual is eligible for the benefits.

(4) (a) Within a 60-day period after the date an individual who seeks to become an account owner files an application under Subsection (1), the department shall make a determination as to whether the individual who will be designated as the beneficiary of the account is:

- (i) an eligible individual; and
- (ii) a resident of this state or a contracting state.

(b) If the department determines that the individual who will be designated as the beneficiary of the account meets the requirements of Subsection (4)(a), the department shall issue the individual who seeks to become an account owner a certificate to authorize the individual to enter into an account agreement.

(c) If the department determines that the individual who would be designated as the beneficiary of the account does not meet the requirements of Subsection (4)(a), the department shall inform the individual who seeks to become an account owner in writing that:

- (i) the individual who would be designated as the beneficiary of the account does not meet the requirements of Subsection (4)(a); and
- (ii) provide the individual who seeks to become an account owner with an opportunity to provide new or additional documentation to the department to establish that the individual who would be designated as the beneficiary of the account meets the requirements of Subsection (4)(a).

(5) (a) The department may charge a fee of \$35 for processing an application under this section.

(b) The department shall retain the fees the department charges in accordance with Subsection (5)(a) as dedicated credits to be expended to cover the costs of processing applications under this section.

Section 5. Section 35A-12-301 is enacted to read:

Part 3. Administration of Accounts

35A-12-301. Account administrator -- Fees or service charges.

(1) The department shall:

- (a) serve as the account administrator; or
- (b) designate another person to serve as the account administrator in accordance with Title 63G, Chapter 6a, Utah Procurement Code.

(2) Subject to Section 35A-12-302, the account administrator shall:

- (a) receive contributions to an account; and
- (b) make distributions for the payment of qualified disability expenses on behalf of a beneficiary.

(3) The department may authorize the account administrator to collect a reasonable fee or reasonable service charge to offset the costs of administering an account.

Section 6. Section 35A-12-302 is enacted to read:

35A-12-302. Contributions.

(1) For a calendar year, the total contributions to an account from all persons who contribute to the account may not exceed the federal gift tax exclusion provided in Section 2503, Internal Revenue Code, for the calendar year.

(2) If a contribution to an account would result in the total contributions to the account for a calendar year exceeding the amount provided in Subsection (1), the account administrator shall return the excess contribution to the person who made the contribution within 30 days after the date of the contribution.

Section 7. Section 35A-12-303 is enacted to read:

35A-12-303. Account agreements -- Beneficiaries.

(1) Beginning on or after July 1, 2016, the department may authorize an account owner who holds a certificate issued under Section 35A-12-202 to enter into an account agreement with the account administrator.

(2) The account agreement shall designate a beneficiary.

(3) An individual may only be designated as a beneficiary of one account under this chapter.

(4) An account agreement shall state that:

(a) an account is not insured or guaranteed by the state; and

(b) the state does not guarantee the rate or payment of interest or other return on an account.

Section 8. Section 35A-12-304 is enacted to read:

35A-12-304. Duties of account administrator.

(1) The account administrator shall ensure that an account, a contribution to an account, a distribution from an account, or the return of an excess contribution is administered in compliance with:

(a) this chapter;

(b) the federal Achieving a Better Life Experience Act, including a requirement for or prohibition on:

(i) the manner in which a contribution may be made;

(ii) providing a separate accounting for a beneficiary;

(iii) directing the investment of a contribution;

(iv) pledging an amount as security for a loan; and

(v) making excess contributions; and

(c) regulations, if any, issued by the United States Department of the Treasury.

(2) (a) The account administrator shall provide a statement to an account owner at least monthly.

(b) The statement described in Subsection (2)(a) shall itemize:

(i) contributions made to an account;

(ii) distributions made from an account; and

(iii) the return of an excess contribution.

(3) (a) The account administrator shall provide a statement to a person who contributes to an account within 30 days after the person makes the contribution.

(b) The statement described in Subsection (3)(a) shall itemize:

(i) the amount of the contribution made to the account; and

(ii) the amount of any excess contribution returned to the person who made the contribution.

Section 9. Section 35A-12-305 is enacted to read:

35A-12-305. Reports.

(1) Except as provided in Subsection (2), the department shall issue statements and make reports as required by:

(a) this chapter;

(b) the federal Achieving a Better Life Experience Act; and

(c) regulations, if any, issued by the United States Department of the Treasury.

(2) The department may delegate the requirement to issue a statement or make a report under this section to the account administrator if:

(a) the department is not the account administrator; and

(b) the delegation is authorized or permitted by the federal Achieving a Better Life Experience Act or regulations, if any, issued by the United States Department of the Treasury.

(3) The department shall file a copy of a statement issued or report made under this section to the state treasurer.

Section 10. Section 35A-12-401 is enacted to read:

Part 4. Miscellaneous Provisions

35A-12-401. Scope of chapter -- No state guarantee.

(1) This chapter may not be interpreted to:

(a) authorize or provide a disability-related service to an eligible individual;

(b) be a factor in establishing residency; or

(c) provide that contributions made into an account are sufficient to cover the qualified disability expenses of an eligible individual.

(2) An account is not insured or guaranteed by the state.

(3) The state does not guarantee the rate or payment of interest or other return on an account.

Section 11. Section 35A-12-402 is enacted to read:

35A-12-402. Department study -- Report to Social Services Appropriations Subcommittee.

(1) During the 2015 interim, the department shall study the implementation of the state Achieving a Better Life Experience Program.

(2) In conducting the study required by this section, the department shall evaluate:

(a) the federal Achieving a Better Life Experience Act; and

(b) regulations, if any, issued by the United States Department of the Treasury.

(3) The study shall include:

(a) an evaluation of the process for determining whether an individual is an eligible individual;

(b) an evaluation of whether the department should designate a person other than the department to be the account administrator;

(c) establishing a reasonable fee or reasonable service charge that the account administrator may charge to offset the costs of administering an account;

(d) an evaluation of similar programs in other states;

(e) whether the state should enter into agreements with:

(i) other contracting states; or

(ii) other states that provide a qualified Achieving a Better Life Experience program under the federal Achieving a Better Life Experience Act;

(f) an evaluation of best practices for administering accounts, including:

(i) the investment of contributions made into accounts; and

(ii) contracting for personnel, goods, and services; and

(g) an evaluation of reporting requirements for the department.

(4) The study may include other issues as determined by the department.

(5) The department shall report to the Social Services Appropriations Subcommittee on or before the November 2015 interim meeting on the issues the department studies under this section.

(6) As part of the report required by Subsection (5), the department shall make recommendations on whether the state Achieving a Better Life Experience Program should be modified.

Section 12. Section 59-7-618 is enacted to read:

59-7-618. (Codified as 59-7-620)

Nonrefundable tax credit for contribution to state Achieving A Better Life Experience Program account.

(1) As used in this section:

(a) "Account" means the same as that term is defined in Section 35A-12-102.

(b) "Account administrator" means the same as that term is defined in Section 35A-12-102.

(c) "Contributor" means a corporation that:

(i) makes a contribution to an account; and

(ii) receives a statement from the account administrator in accordance with Section 35A-12-304 itemizing the contribution.

(d) "State Achieving a Better Life Experience Program" means the same as that term is defined in Section 35A-12-102.

(2) A contributor to an account created under the state Achieving a Better Life Experience Program may claim a nonrefundable tax credit as provided in this section.

(3) Subject to the other provisions of this section, the tax credit is equal to the product of:

(a) 5%; and

(b) the total amount of contributions:

(i) the contributor makes for the taxable year; and

(ii) for which the contributor receives a statement from the account administrator in accordance with Section 35A-12-304 itemizing the contributions.

(4) A contributor may not claim a tax credit under this section:

(a) for an amount of excess contribution that is returned to the contributor in accordance with Section 35A-12-302; or

(b) with respect to an amount the contributor deducts on a federal income tax return.

(5) A tax credit under this section may not be carried forward or carried back.

Section 13. Section 59-10-1033 is enacted to read:

59-10-1033. (Codified as 59-10-1035)

Nonrefundable tax credit for contribution to state Achieving A Better Life Experience Program account.

(1) As used in this section:

(a) "Account" means the same as that term is defined in Section 35A-12-102.

(b) "Account administrator" means the same as that term is defined in Section 35A-12-102.

(c) "Contributor" means a claimant, estate, or trust that:

(i) makes a contribution to an account; and

(ii) receives a statement from the account administrator in accordance with Section 35A-12-304 itemizing the contribution.

(d) “State Achieving a Better Life Experience Program” means the same as that term is defined in Section 35A-12-102.

(2) A contributor to an account created under the state Achieving a Better Life Experience Program may claim a nonrefundable tax credit as provided in this section.

(3) Subject to the other provisions of this section, the tax credit is equal to the product of:

(a) 5%; and

(b) the total amount of contributions:

(i) the contributor makes for the taxable year; and

(ii) for which the contributor receives a statement from the account administrator in accordance with Section 35A-12-304 itemizing the contributions.

(4) A contributor may not claim a tax credit under this section:

(a) for an amount of excess contribution that is returned to the contributor in accordance with Section 35A-12-302; or

(b) with respect to an amount the contributor deducts on a federal income tax return.

(5) A tax credit under this section may not be carried forward or carried back.

Section 14. Section 63I-2-235 is enacted to read:

63I-2-235. Repeal date -- Title 35A.

Section 35A-12-402 is repealed December 31, 2015.

Section 15. Effective dates.

(1) Except as provided in Subsection (2), this bill takes effect on May 12, 2015.

(2) The actions affecting Sections 59-7-618 and 59-10-1033 take effect for a taxable year beginning on or after January 1, 2016.

CHAPTER 461**S. B. 294**

Passed March 12, 2015
 Approved March 31, 2015
 Effective May 12, 2015

**TRANSPORTATION NETWORK
COMPANY AMENDMENTS**

Chief Sponsor: J. Stuart Adams
 House Sponsor: Daniel McCay

LONG TITLE**General Description:**

This bill amends provisions related to transportation network services.

Highlighted Provisions:

This bill:

- ▶ requires a transportation network company to register with the Division of Consumer Protection;
- ▶ exempts a vehicle used to provide transportation network services from certain requirements;
- ▶ provides operation and eligibility requirements for a transportation network company and a transportation network driver;
- ▶ provides insurance requirements for a transportation network company and a transportation network driver; and
- ▶ provides that a local highway authority may not enact a rule, regulation, or ordinance that requires a ground transportation vehicle to maintain liability insurance coverage in an amount that is greater than the minimum amount a transportation network company or transportation network driver is required to maintain.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2016:

- ▶ to Department of Commerce - Commerce General Regulation - Consumer Protection, as an ongoing appropriation:
 - from the General Fund Restricted - Commerce Service Account, \$20,000.

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 13-2-1, as last amended by Laws of Utah 2014, Chapter 360
 41-6a-208, as last amended by Laws of Utah 2013, Chapters 157 and 360
 53-3-102, as last amended by Laws of Utah 2014, Chapter 252
 59-12-102, as last amended by Laws of Utah 2014, Chapters 380 and 414

ENACTS:

- 13-51-101, Utah Code Annotated 1953
 13-51-102, Utah Code Annotated 1953
 13-51-103, Utah Code Annotated 1953
 13-51-104, Utah Code Annotated 1953
 13-51-105, Utah Code Annotated 1953
 13-51-106, Utah Code Annotated 1953
 13-51-107, Utah Code Annotated 1953
 13-51-108, Utah Code Annotated 1953
 13-51-109, Utah Code Annotated 1953

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

Section 1. Section 13-2-1 is amended to read:**13-2-1. Consumer protection division established -- Functions.**

(1) There is established within the Department of Commerce the Division of Consumer Protection.

(2) The division shall administer and enforce the following:

- (a) Chapter 5, Unfair Practices Act;
- (b) Chapter 10a, Music Licensing Practices Act;
- (c) Chapter 11, Utah Consumer Sales Practices Act;
- (d) Chapter 15, Business Opportunity Disclosure Act;
- (e) Chapter 20, New Motor Vehicle Warranties Act;
- (f) Chapter 21, Credit Services Organizations Act;
- (g) Chapter 22, Charitable Solicitations Act;
- (h) Chapter 23, Health Spa Services Protection Act;
- (i) Chapter 25a, Telephone and Facsimile Solicitation Act;
- (j) Chapter 26, Telephone Fraud Prevention Act;
- (k) Chapter 28, Prize Notices Regulation Act;
- (l) Chapter 32a, Pawnshop and Secondhand Merchandise Transaction Information Act;
- (m) Chapter 34, Utah Postsecondary Proprietary School Act;
- (n) Chapter 34a, Utah Postsecondary School State Authorization Act;
- (o) Chapter 41, Price Controls During Emergencies Act;
- (p) Chapter 42, Uniform Debt-Management Services Act; ~~and~~
- (q) Chapter 49, Immigration Consultants Registration Act[-]; and
- (r) Chapter 51, Transportation Network Company Registration Act.

Section 2. Section 13-51-101 is enacted to read:**CHAPTER 51. TRANSPORTATION
NETWORK COMPANY REGISTRATION ACT****13-51-101. Title.**

This chapter is known as "Transportation Network Company Registration Act."

Section 3. Section 13-51-102 is enacted to read:**13-51-102. Definitions.**

(1) “Division” means the Division of Consumer Protection within the Department of Commerce.

(2) “Prearranged ride” means a period of time that:

(a) begins when the transportation network driver has accepted a passenger’s request for a ride through the transportation network company’s software application; and

(b) ends when the passenger exits the transportation network driver’s vehicle.

(3) “Software application” means an Internet-connected software platform, including a mobile application, that a transportation network company uses to:

(a) connect a transportation network driver to a passenger; and

(b) process passenger requests.

(4) “Transportation network company” means an entity that:

(a) uses a software application to connect a passenger to a transportation network driver providing transportation network services;

(b) is not:

(i) a taxicab, as defined in Section 53-3-102; or

(ii) a motor carrier, as defined in Section 72-9-102; and

(c) does not own, control, operate, or manage the vehicle used to provide the transportation network services.

(5) “Transportation network driver” means an individual who:

(a) pays a fee to a transportation network company, and, in exchange, receives a connection to a potential passenger from the transportation network company;

(b) operates a motor vehicle that:

(i) the individual owns, leases, or is authorized to use; and

(ii) the individual uses to provide transportation network services; and

(c) receives, in exchange for providing a passenger a ride, compensation that exceeds the individual’s cost to provide the ride.

(6) “Transportation network services” means, for a transportation network driver providing services through a transportation network company:

(a) providing a prearranged ride; or

(b) being engaged in a waiting period.

(7) “Waiting period” means a period of time when:

(a) a transportation network driver is logged into a transportation network company’s software application; and

(b) the transportation network driver is not engaged in a prearranged ride.

Section 4. Section 13-51-103 is enacted to read:

13-51-103. Exemptions -- Transportation network company and transportation network driver.

A transportation network company or a transportation network driver is not subject to the requirements applicable to:

(1) a motor carrier, under Title 72, Chapter 9, Motor Carrier Safety Act;

(2) a common carrier, under Title 59, Chapter 12, Sales and Use Tax Act; or

(3) a taxicab, under Title 53, Chapter 3, Uniform Driver License Act.

Section 5. Section 13-51-104 is enacted to read:

13-51-104. Licensure -- Division audits -- Fines.

(1) A person may not operate a transportation network company without registering with the division under Subsection (2).

(2) The division shall register a person to operate a transportation network company if:

(a) the person:

(i) demonstrates to the division that the person meets the definition of a transportation network company under Section 13-51-102; and

(ii) pays a registration fee in an amount determined by the division in accordance with Section 63J-1-504; and

(b) the division determines that the person complies with the operating requirements for a transportation network company described in this chapter.

(3) A transportation network company’s registration under Subsection (2) is:

(a) valid until one year after the day on which the transportation network company registers with the division; and

(b) renewable if the transportation network company meets the requirements of Subsection (2).

(4) The division may audit the records of a transportation network company, including a random sample of the transportation network company’s records related to transportation network drivers:

(a) no more than twice per year;

(b) at a location agreed to by the division and the transportation network company; and

(c) notwithstanding Subsection (4)(a), at any time to investigate a complaint.

(5) The division may fine a transportation network company up to \$500 for each violation of this chapter.

Section 6. Section 13-51-105 is enacted to read:

13-51-105. Operating requirements.

(1) A transportation network company shall maintain an agent for service of process in the state and shall notify the division of the name and address of the agent.

(2) A transportation network company may collect, on behalf of a transportation network driver, a fare for a prearranged ride if the transportation network company:

(a) posts the method for calculating the fare on the transportation network company's software application;

(b) provides a passenger the rate used to calculate the fare for a prearranged ride; and

(c) allows a passenger the option to obtain an estimated fare for a prearranged ride before the passenger enters a transportation network driver's vehicle.

(3) For each prearranged ride, a transportation network company shall:

(a) before a passenger enters a transportation network driver's vehicle, display on the transportation network company's software application a picture of the transportation network driver; and

(b) shortly after the prearranged ride is complete, transmit an electronic receipt to the passenger that lists:

(i) the prearranged ride's origin and destination;

(ii) the prearranged ride's total time and distance; and

(iii) an itemization of the total fare the passenger paid, if any.

(4) A transportation network driver may not, while providing transportation network services:

(a) provide a ride to an individual who requests the ride by a means other than a transportation network company's software application;

(b) solicit or accept cash payments from a passenger; or

(c) accept any means of payment other than payment through a transportation network company's software application.

(5) A transportation network company shall maintain a record of:

(a) all trips, for a minimum of five years after the day on which the trip occurred; and

(b) all information in a transportation network company's possession regarding a transportation network driver, for a minimum of five years after the day on which the transportation network driver last provided transportation network services using the transportation network company's software application.

(6) A transportation network company shall adopt a policy that prohibits unlawful discrimination with respect to a passenger and shall:

(a) provide a copy of the policy to each transportation network driver; or

(b) post the policy on the transportation network company's website.

(7) (a) A transportation network driver shall accommodate:

(i) a service animal; or

(ii) an individual with a physical disability.

(b) A transportation network driver or transportation network company may not impose an additional charge to provide the accommodations described in Subsections (7)(a) and (8).

(8) A transportation network company shall:

(a) allow a passenger to request a prearranged ride in a wheelchair-accessible vehicle; and

(b) if a wheelchair-accessible vehicle is not available to a passenger who requests a wheelchair-accessible vehicle under Subsection (8)(a), direct the passenger to a transportation service that provides wheelchair-accessible service, if available.

(9) A transportation network company shall disclose to a transportation network driver:

(a) a description of the insurance coverage the transportation network company provides the transportation network driver while the transportation network driver is providing transportation network services, including the insurance coverage's liability limit;

(b) that the transportation network company's personal automobile insurance policy may not provide coverage to the transportation network driver during a waiting period or a prearranged ride;

(c) that if the vehicle the transportation network driver uses to provide transportation network services has a lien against the vehicle, the transportation network driver is required to notify the lienholder that the transportation network driver is using the vehicle to provide transportation network services; and

(d) that using a vehicle with a lien against the vehicle to provide transportation network services may violate the transportation network driver's contract with the lienholder.

(10) A transportation network company and the transportation network company's insurer shall, for an incident that occurs while a transportation network driver is providing transportation network services:

(a) cooperate with a liability insurer that insures the vehicle the transportation network driver uses to provide the transportation network services;

(b) provide, to the liability insurer, the precise date and time that an incident occurred, including the precise time when a driver logged in or out of the transportation network company's software application; and

(c) provide the information described in Subsection (10)(b) to a liability insurer no later than 10 business days after the day on which the liability insurer requests the information from the transportation network company.

(11) If a transportation network company's insurer insures a vehicle with a lien against the vehicle, and the transportation network company's insurer covers a claim regarding the vehicle under comprehensive or collision coverage, the transportation network company shall direct the transportation network company's insurer to issue the payment for the claim:

(a) directly to the person that is repairing the vehicle; or

(b) jointly to the owner of the vehicle and the primary lienholder.

Section 7. Section 13-51-106 is enacted to read:

13-51-106. Transportation network driver drug or alcohol use policy.

(1) A transportation network company shall implement a policy that:

(a) provides that a transportation network driver may not use a drug or alcohol or be under the influence of a drug or alcohol while providing transportation network services;

(b) is posted on the transportation network company's website or software application; and

(c) provides procedures for a passenger to report to the transportation network company a transportation network driver who the passenger suspects violated the policy.

(2) If a transportation network company receives a complaint about a transportation network driver under Subsection (1)(c), the transportation network company shall:

(a) suspend the transportation network company driver; and

(b) conduct an investigation into the transportation network company driver and the conduct alleged in the complaint.

(3) A transportation network company shall maintain records related to a complaint or investigation under this section for a minimum of two years after the day on which the transportation network company receives the complaint.

Section 8. Section 13-51-107 is enacted to read:

13-51-107. Driver requirements.

(1) Before a transportation network company allows an individual to use the transportation network company's software application as a

transportation network driver, the transportation network company shall:

(a) require the individual to submit to the transportation network company:

(i) the individual's name, address, and age;

(ii) a copy of the individual's driver license, including the driver license number; and

(iii) proof that the vehicle that the individual will use to provide transportation network services is registered with the Division of Motor Vehicles;

(b) require the individual to consent to a criminal background check of the individual by the transportation network company or the transportation network company's designee; and

(c) obtain and review a report that lists the individual's driving history.

(2) A transportation company may not allow an individual to provide transportation network services as a transportation network driver if the individual:

(a) has committed more than three moving violations in the three years before the day on which the individual applies to become a transportation network driver;

(b) has been convicted, in the seven years before the day on which the individual applies to become a transportation network driver, of:

(i) driving under the influence of alcohol or drugs;

(ii) fraud;

(iii) a sexual offense;

(iv) a felony involving a motor vehicle;

(v) a crime involving property damage;

(vi) a crime involving theft;

(vii) a crime of violence; or

(viii) an act of terror;

(c) is required to register as a sex offender in accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry;

(d) does not have a valid Utah driver license; or

(e) is not at least 19 years of age.

(3) A transportation network company shall prohibit a transportation network driver from accepting a request for a prearranged ride if the motor vehicle that the transportation network driver uses to provide transportation network services fails to comply with:

(a) safety and inspection requirements described in Section 53-8-205;

(b) equipment standards described in Section 41-6a-1601; and

(c) emission requirements adopted by a county under Section 41-6a-1642.

(4) A transportation network driver, while providing transportation network services, shall

carry proof, in physical or electronic form, that the transportation network driver is covered by insurance that satisfies the requirements of Section 13-51-108.

Section 9. Section 13-51-108 is enacted to read:

13-51-108. Insurance.

(1) A transportation network company or a transportation network driver shall maintain insurance that covers, on a primary basis, a transportation network driver's use of a vehicle during a prearranged ride and that includes:

(a) an acknowledgment that the transportation network driver is using the vehicle in connection with a transportation network company during a prearranged ride or that the transportation network driver is otherwise using the vehicle for a commercial purpose;

(b) liability coverage for a minimum amount of \$1,000,000 per occurrence;

(c) personal injury protection to the extent required under Sections 31A-22-306 through 31A-22-309;

(d) uninsured motorist coverage where required by Section 31A-22-305; and

(e) underinsured motorist coverage where required by Section 31A-22-305.3.

(2) A transportation network company or a transportation network driver shall maintain insurance that covers, on a primary basis, a transportation network driver's use of a vehicle during a waiting period and that includes:

(a) an acknowledgment that the transportation network driver is using the vehicle in connection with a transportation network company during a waiting period or that the transportation network driver is otherwise using the vehicle for a commercial purpose;

(b) liability coverage in a minimum amount, per occurrence, of:

(i) \$50,000 to any one individual;

(ii) \$100,000 to all individuals; and

(iii) \$30,000 for property damage;

(c) personal injury protection to the extent required under Sections 31A-22-306 through 31A-22-309;

(d) uninsured motorist coverage where required by Section 31A-22-305; and

(e) underinsured motorist coverage where required by Section 31A-22-305.3.

(3) A transportation network company and a transportation network driver may satisfy the requirements of Subsections (1) and (2) by:

(a) the transportation network driver purchasing coverage that complies with Subsections (1) and (2);

(b) the transportation network company purchasing, on the transportation network driver's behalf, coverage that complies with Subsections (1) and (2); or

(c) a combination of Subsections (3)(a) and (b).

(4) An insurer may offer to a transportation network driver a personal automobile liability insurance policy, or an amendment or endorsement to a personal automobile liability policy, that:

(a) covers a private passenger motor vehicle while used to provide transportation network services; and

(b) satisfies the coverage requirements described in Subsection (1) or (2).

(5) Nothing in this section requires a personal automobile insurance policy to provide coverage while a driver is providing transportation network services.

(6) If a transportation network company does not purchase a policy that complies with Subsections (1) and (2) on behalf of a transportation network driver, the transportation network company shall verify that the driver has purchased a policy that complies with Subsections (1) and (2).

(7) An insurance policy that a transportation network company or a transportation network driver maintains under Subsection (1) or (2):

(a) satisfies the security requirements of Section 41-12a-301; and

(b) may be placed with:

(i) an insurer that is certified under Section 31A-4-103; or

(ii) a surplus lines insurer licensed under Section 31A-23a-104.

(8) An insurer that provides coverage for a transportation network driver explicitly for the transportation network driver's transportation network services under Subsection (1) or (2) shall have the duty to defend a liability claim arising from an occurrence while the transportation network driver is providing transportation network services.

(9) If insurance a transportation network driver maintains under Subsection (1) or (2) lapses or ceases to exist, a transportation network company shall provide coverage complying with Subsection (1) or (2) beginning with the first dollar of a claim.

(10) (a) An insurance policy that a transportation network company or transportation network driver maintains under Subsection (1) or (2) may not provide that coverage is dependent on a transportation network driver's personal automobile insurance policy first denying a claim.

(b) Subsection (10)(a) does not apply to coverage a transportation network company provides under Subsection (9) in the event a transportation network driver's coverage under Subsection (1) or (2) lapses or ceases to exist.

(11) A personal automobile insurer:

(a) notwithstanding Section 31A-22-302, may offer a personal automobile liability policy that excludes coverage for a loss that arises from the use of the insured vehicle to provide transportation network services; and

(b) does not have the duty to defend or indemnify a loss if an exclusion described in Subsection (11)(a) excludes coverage according to the policy's terms.

Section 10. Section 13-51-109 is enacted to read:

13-51-109. Preemption clause.

(1) Except as provided in Subsection (2), this chapter supersedes any regulation of a municipality, county, or local government regarding a transportation network company, a transportation network driver, or transportation network services.

(2) This chapter does not supersede a municipal, county, or local government regulation regarding a transportation network driver providing transportation network services at an airport.

Section 11. Section 41-6a-208 is amended to read:

41-6a-208. Regulatory powers of local highway authorities -- Traffic-control device affecting state highway -- Necessity of erecting traffic-control devices.

(1) As used in this section:

(a) (i) "Ground transportation vehicle" means a motor vehicle used for the transportation of persons, used in ride or shared ride, on demand, or for hire transportation of passengers or baggage over public highways.

(ii) "Ground transportation vehicle" includes a:

- (A) shared ride vehicle;
- (B) bus;
- (C) courtesy vehicle;
- (D) hotel vehicle;
- (E) limousine;
- (F) minibuss;
- (G) special transportation vehicle;
- (H) specialty vehicle;
- (I) taxicab;
- (J) van; or

(K) trailer being towed by a ground transportation vehicle.

(b) "Idle" means the operation of a vehicle engine while the vehicle is stationary or not in the act of performing work or its normal function.

(2) The provisions of this chapter do not prevent a local highway authority for a highway under its jurisdiction and within the reasonable exercise of police power, from:

(a) regulating or prohibiting stopping, standing, or parking;

(b) regulating traffic by means of a peace officer or a traffic-control device;

(c) regulating or prohibiting processions or assemblages on a highway;

(d) designating particular highways or roadways for use by traffic moving in one direction under Section 41-6a-709;

(e) establishing speed limits for vehicles in public parks, which supersede Section 41-6a-603 regarding speed limits;

(f) designating any highway as a through highway or designating any intersection or junction of roadways as a stop or yield intersection or junction;

(g) restricting the use of a highway under Section 72-7-408;

(h) requiring the registration and inspection of bicycles, including requiring a registration fee;

(i) regulating or prohibiting:

(i) certain turn movements of a vehicle; or

(ii) specified types of vehicles;

(j) altering or establishing speed limits under Section 41-6a-603;

(k) requiring written accident reports under Section 41-6a-403;

(l) designating no-passing zones under Section 41-6a-708;

(m) prohibiting or regulating the use of controlled-access highways by any class or kind of traffic under Section 41-6a-715;

(n) prohibiting or regulating the use of heavily traveled streets by any class or kind of traffic found to be incompatible with the normal and safe movement of traffic;

(o) establishing minimum speed limits under Subsection 41-6a-605(3);

(p) prohibiting pedestrians from crossing a highway in a business district or any designated highway except in a crosswalk under Section 41-6a-1001;

(q) restricting pedestrian crossings at unmarked crosswalks under Section 41-6a-1010;

(r) regulating persons upon skates, coasters, sleds, skateboards, and other toy vehicles;

(s) adopting and enforcing temporary or experimental ordinances as necessary to cover emergencies or special conditions;

(t) prohibiting drivers of ambulances from exceeding maximum speed limits;

(u) adopting other traffic ordinances as specifically authorized by this chapter; or

(v) adopting an ordinance that requires a ground transportation vehicle to conform to state safety

standards and reasonable annual appearance requirements, in consultation with a transportation advisory board of the local highway authority.

(3) A local highway authority may not:

(a) in accordance with Title 72, Chapter 3, Part 1, Highways in General, erect or maintain any official traffic-control device at any location which regulates the traffic on a highway not under the local highway authority's jurisdiction, unless written approval is obtained from the highway authority having jurisdiction over the highway;

(b) prohibit or restrict the use of a cellular phone by the operator or passenger of a motor vehicle;

(c) enact an ordinance that prohibits or restricts an owner or operator of a vehicle from causing or permitting the vehicle's engine to idle unless the ordinance:

(i) is primarily educational;

(ii) provides that a person must be issued at least three warning citations before imposing a fine;

(iii) has the same fine structure as a parking violation;

(iv) provides for the safety of law enforcement personnel who enforce the ordinance; and

(v) provides that the ordinance may be enforced on:

(A) public property; or

(B) private property that is open to the general public unless the private property owner:

(I) has a private business that has a drive-through service as a component of the private property owner's business operations and posts a sign provided by or acceptable to the local highway authority informing its customers and the public of the local highway authority's time limit for idling vehicle engines; or

(II) adopts an idle reduction education policy approved by the local highway authority;

(d) enact an ordinance that prohibits a vehicle from being licensed as a ground transportation vehicle:

(i) if the vehicle to be licensed otherwise passes all state safety inspection requirements established by the Utah Highway Patrol Division in accordance with Section 53-8-204; and

(ii) (A) based on the manufacture date of the vehicle; or

(B) based on the number of miles the vehicle has accumulated;

(e) enact an ordinance, regulation, rule, fee, or criminal or civil fine pertaining to a registration violation under Section 41-1a-201 or a registration decal issued under Section 41-1a-402 that conflicts with or is more stringent than the registration requirements under Title 41, Motor Vehicles; ~~or~~

(f) enact an ordinance that:

(i) is inconsistent with the provisions of this chapter; or

(ii) prohibits the use of a bicycle on any public street or highway, except as allowed by Section 41-6a-714, unless the local highway authority has:

(A) documented that the local highway authority has reviewed the safety history of the highway and considered other reasonable alternatives, including signage and routes; and

(B) clearly marked a safe alternative route for the prohibited section of highway[-]; or

(g) enact an ordinance, regulation, or rule that requires the owner or driver of a ground transportation vehicle to maintain liability insurance coverage in an amount that is greater than the minimum amount of liability coverage a transportation network company or transportation network driver is required to maintain under Subsection 13-51-108(1)(b).

(4) An ordinance enacted under Subsection (2)(d), (e), (f), (g), (i), (j), (l), (m), (n), or (q) is not effective until official traffic-control devices giving notice of the local traffic ordinances are erected upon or at the entrances to the highway or part of it affected as is appropriate.

(5) An ordinance enacted by a local highway authority that violates Subsection (3) is not effective.

Section 12. Section 53-3-102 is amended to read:

53-3-102. Definitions.

As used in this chapter:

(1) "Cancellation" means the termination by the division of a license issued through error or fraud or for which consent under Section 53-3-211 has been withdrawn.

(2) "Class D license" means the class of license issued to drive motor vehicles not defined as commercial motor vehicles or motorcycles under this chapter.

(3) "Commercial driver license" or "CDL" means a license:

(a) issued substantially in accordance with the requirements of Title XII, Pub. L. 99-570, the Commercial Motor Vehicle Safety Act of 1986, and in accordance with Part 4, Uniform Commercial Driver License Act, which authorizes the holder to drive a class of commercial motor vehicle; and

(b) that was obtained by providing evidence of lawful presence in the United States with one of the document requirements described in Subsection 53-3-410(1)(i)(i).

(4) (a) "Commercial motor vehicle" means a motor vehicle or combination of motor vehicles designed or used to transport passengers or property if the motor vehicle:

(i) has a gross vehicle weight rating of 26,001 or more pounds or a lesser rating as determined by federal regulation;

(ii) is designed to transport 16 or more passengers, including the driver; or

(iii) is transporting hazardous materials and is required to be placarded in accordance with 49 C.F.R. Part 172, Subpart F.

(b) The following vehicles are not considered a commercial motor vehicle for purposes of Part 4, Uniform Commercial Driver License Act:

(i) equipment owned and operated by the United States Department of Defense when driven by any active duty military personnel and members of the reserves and national guard on active duty including personnel on full-time national guard duty, personnel on part-time training, and national guard military technicians and civilians who are required to wear military uniforms and are subject to the code of military justice;

(ii) vehicles controlled and driven by a farmer to transport agricultural products, farm machinery, or farm supplies to or from a farm within 150 miles of his farm but not in operation as a motor carrier for hire;

(iii) firefighting and emergency vehicles; ~~and~~

(iv) recreational vehicles that are not used in commerce and are driven solely as family or personal conveyances for recreational purposes[-]; and

(v) vehicles used to provide transportation network services, as defined in Section 13-51-102.

(5) "Conviction" means any of the following:

(a) an unvacated adjudication of guilt or a determination that a person has violated or failed to comply with the law in a court of original jurisdiction or an administrative proceeding;

(b) an unvacated forfeiture of bail or collateral deposited to secure a person's appearance in court;

(c) a plea of guilty or nolo contendere accepted by the court;

(d) the payment of a fine or court costs; or

(e) violation of a condition of release without bail, regardless of whether the penalty is rebated, suspended, or probated.

(6) "Denial" or "denied" means the withdrawal of a driving privilege by the division to which the provisions of Title 41, Chapter 12a, Part 4, Proof of Owner's or Operator's Security, do not apply.

(7) "Director" means the division director appointed under Section 53-3-103.

(8) "Disqualification" means either:

(a) the suspension, revocation, cancellation, denial, or any other withdrawal by a state of a person's privileges to drive a commercial motor vehicle;

(b) a determination by the Federal Highway Administration, under 49 C.F.R. Part 386, that a person is no longer qualified to drive a commercial motor vehicle under 49 C.F.R. Part 391; or

(c) the loss of qualification that automatically follows conviction of an offense listed in 49 C.F.R. Part 383.51.

(9) "Division" means the Driver License Division of the department created in Section 53-3-103.

(10) "Downgrade" means to obtain a lower license class than what was originally issued during an existing license cycle.

(11) "Drive" means:

(a) to operate or be in physical control of a motor vehicle upon a highway; and

(b) in Subsections 53-3-414(1) through (3), Subsection 53-3-414(5), and Sections 53-3-417 and 53-3-418, the operation or physical control of a motor vehicle at any place within the state.

(12) (a) "Driver" means any person who drives, or is in actual physical control of a motor vehicle in any location open to the general public for purposes of vehicular traffic.

(b) In Part 4, Uniform Commercial Driver License Act, "driver" includes any person who is required to hold a CDL under Part 4 or federal law.

(13) "Driving privilege card" means the evidence of the privilege granted and issued under this chapter to drive a motor vehicle to a person whose privilege was obtained without providing evidence of lawful presence in the United States.

(14) "Extension" means a renewal completed in a manner specified by the division.

(15) "Farm tractor" means every motor vehicle designed and used primarily as a farm implement for drawing plows, mowing machines, and other implements of husbandry.

(16) "Highway" means the entire width between property lines of every way or place of any nature when any part of it is open to the use of the public, as a matter of right, for traffic.

(17) "Identification card" means a card issued under Part 8, Identification Card Act, to a person for identification purposes.

(18) "Indigent" means that a person's income falls below the federal poverty guideline issued annually by the U.S. Department of Health and Human Services in the Federal Register.

(19) "License" means the privilege to drive a motor vehicle.

(20) (a) "License certificate" means the evidence of the privilege issued under this chapter to drive a motor vehicle.

(b) "License certificate" evidence includes a:

(i) regular license certificate;

(ii) limited-term license certificate;

(iii) driving privilege card;

(iv) CDL license certificate;

(v) limited-term CDL license certificate;

- (vi) temporary regular license certificate; and
- (vii) temporary limited-term license certificate.
- (21) "Limited-term commercial driver license" or "limited-term CDL" means a license:
- (a) issued substantially in accordance with the requirements of Title XII, Pub. L. 99-570, the Commercial Motor Vehicle Safety Act of 1986, and in accordance with Part 4, Uniform Commercial Driver License Act, which authorizes the holder to drive a class of commercial motor vehicle; and
- (b) that was obtained by providing evidence of lawful presence in the United States with one of the document requirements described in Subsection 53-3-410(1)(i)(ii).
- (22) "Limited-term identification card" means an identification card issued under this chapter to a person whose card was obtained by providing evidence of lawful presence in the United States with one of the document requirements described in Subsection 53-3-804(2)(i)(ii).
- (23) "Limited-term license certificate" means the evidence of the privilege granted and issued under this chapter to drive a motor vehicle to a person whose privilege was obtained providing evidence of lawful presence in the United States with one of the document requirements described in Subsection 53-3-205(8)(a)(ii)(B).
- (24) "Motorboat" has the same meaning as provided under Section 73-18-2.
- (25) "Motorcycle" means every motor vehicle, other than a tractor, having a seat or saddle for the use of the rider and designed to travel with not more than three wheels in contact with the ground.
- (26) "Office of Recovery Services" means the Office of Recovery Services, created in Section 62A-11-102.
- (27) (a) "Owner" means a person other than a lien holder having an interest in the property or title to a vehicle.
- (b) "Owner" includes a person entitled to the use and possession of a vehicle subject to a security interest in another person but excludes a lessee under a lease not intended as security.
- (28) "Regular identification card" means an identification card issued under this chapter to a person whose card was obtained by providing evidence of lawful presence in the United States with one of the document requirements described in Subsection 53-3-804(2)(i)(i).
- (29) "Regular license certificate" means the evidence of the privilege issued under this chapter to drive a motor vehicle whose privilege was obtained by providing evidence of lawful presence in the United States with one of the document requirements described in Subsection 53-3-205(8)(a)(ii)(A).
- (30) "Renewal" means to validate a license certificate so that it expires at a later date.

(31) "Reportable violation" means an offense required to be reported to the division as determined by the division and includes those offenses against which points are assessed under Section 53-3-221.

(32) (a) "Resident" means an individual who:

(i) has established a domicile in this state, as defined in Section 41-1a-202, or regardless of domicile, remains in this state for an aggregate period of six months or more during any calendar year;

(ii) engages in a trade, profession, or occupation in this state, or who accepts employment in other than seasonal work in this state, and who does not commute into the state;

(iii) declares himself to be a resident of this state by obtaining a valid Utah driver license certificate or motor vehicle registration; or

(iv) declares himself a resident of this state to obtain privileges not ordinarily extended to nonresidents, including going to school, or placing children in school without paying nonresident tuition or fees.

(b) "Resident" does not include any of the following:

(i) a member of the military, temporarily stationed in this state;

(ii) an out-of-state student, as classified by an institution of higher education, regardless of whether the student engages in any type of employment in this state;

(iii) a person domiciled in another state or country, who is temporarily assigned in this state, assigned by or representing an employer, religious or private organization, or a governmental entity; or

(iv) an immediate family member who resides with or a household member of a person listed in Subsections (32)(b)(i) through (iii).

(33) "Revocation" means the termination by action of the division of a licensee's privilege to drive a motor vehicle.

(34) (a) "School bus" means a commercial motor vehicle used to transport pre-primary, primary, or secondary school students to and from home and school, or to and from school sponsored events.

(b) "School bus" does not include a bus used as a common carrier as defined in Section 59-12-102.

(35) "Suspension" means the temporary withdrawal by action of the division of a licensee's privilege to drive a motor vehicle.

(36) "Taxicab" means any class D motor vehicle transporting any number of passengers for hire and that is subject to state or federal regulation as a taxi.

Section 13. Section 59-12-102 is amended to read:

59-12-102. Definitions.

As used in this chapter:

(1) “800 service” means a telecommunications service that:

(a) allows a caller to dial a toll-free number without incurring a charge for the call; and

(b) is typically marketed:

(i) under the name 800 toll-free calling;

(ii) under the name 855 toll-free calling;

(iii) under the name 866 toll-free calling;

(iv) under the name 877 toll-free calling;

(v) under the name 888 toll-free calling; or

(vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the Federal Communications Commission.

(2) (a) “900 service” means an inbound toll telecommunications service that:

(i) a subscriber purchases;

(ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to the subscriber’s:

(A) prerecorded announcement; or

(B) live service; and

(iii) is typically marketed:

(A) under the name 900 service; or

(B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal Communications Commission.

(b) “900 service” does not include a charge for:

(i) a collection service a seller of a telecommunications service provides to a subscriber; or

(ii) the following a subscriber sells to the subscriber’s customer:

(A) a product; or

(B) a service.

(3) (a) “Admission or user fees” includes season passes.

(b) “Admission or user fees” does not include annual membership dues to private organizations.

(4) “Agreement” means the Streamlined Sales and Use Tax Agreement adopted on November 12, 2002, including amendments made to the Streamlined Sales and Use Tax Agreement after November 12, 2002.

(5) “Agreement combined tax rate” means the sum of the tax rates:

(a) listed under Subsection (6); and

(b) that are imposed within a local taxing jurisdiction.

(6) “Agreement sales and use tax” means a tax imposed under:

(a) Subsection 59-12-103(2)(a)(i)(A);

(b) Subsection 59-12-103(2)(b)(i);

(c) Subsection 59-12-103(2)(c)(i);

(d) Subsection 59-12-103(2)(d)(i)(A)(I);

(e) Section 59-12-204;

(f) Section 59-12-401;

(g) Section 59-12-402;

(h) Section 59-12-703;

(i) Section 59-12-802;

(j) Section 59-12-804;

(k) Section 59-12-1102;

(l) Section 59-12-1302;

(m) Section 59-12-1402;

(n) Section 59-12-1802;

(o) Section 59-12-2003;

(p) Section 59-12-2103;

(q) Section 59-12-2213;

(r) Section 59-12-2214;

(s) Section 59-12-2215;

(t) Section 59-12-2216;

(u) Section 59-12-2217; or

(v) Section 59-12-2218.

(7) “Aircraft” is as defined in Section 72-10-102.

(8) “Aircraft maintenance, repair, and overhaul provider” means a business entity:

(a) except for:

(i) an airline as defined in Section 59-2-102; or

(ii) an affiliated group, as defined in Section 59-7-101, except that “affiliated group” includes a corporation that is qualified to do business but is not otherwise doing business in the state, of an airline; and

(b) that has the workers, expertise, and facilities to perform the following, regardless of whether the business entity performs the following in this state:

(i) check, diagnose, overhaul, and repair:

(A) an onboard system of a fixed wing turbine powered aircraft; and

(B) the parts that comprise an onboard system of a fixed wing turbine powered aircraft;

(ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft engine;

(iii) perform at least the following maintenance on a fixed wing turbine powered aircraft:

(A) an inspection;

(B) a repair, including a structural repair or modification;

(C) changing landing gear; and

(D) addressing issues related to an aging fixed wing turbine powered aircraft;

(iv) completely remove the existing paint of a fixed wing turbine powered aircraft and completely apply new paint to the fixed wing turbine powered aircraft; and

(v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that results in a change in the fixed wing turbine powered aircraft's certification requirements by the authority that certifies the fixed wing turbine powered aircraft.

(9) "Alcoholic beverage" means a beverage that:

- (a) is suitable for human consumption; and
- (b) contains .5% or more alcohol by volume.

(10) "Alternative energy" means:

- (a) biomass energy;
- (b) geothermal energy;
- (c) hydroelectric energy;
- (d) solar energy;
- (e) wind energy; or
- (f) energy that is derived from:
 - (i) coal-to-liquids;
 - (ii) nuclear fuel;
 - (iii) oil-impregnated diatomaceous earth;
 - (iv) oil sands;
 - (v) oil shale;
 - (vi) petroleum coke; or
 - (vii) waste heat from:
 - (A) an industrial facility; or

(B) a power station in which an electric generator is driven through a process in which water is heated, turns into steam, and spins a steam turbine.

(11) (a) Subject to Subsection (11)(b), "alternative energy electricity production facility" means a facility that:

- (i) uses alternative energy to produce electricity; and
- (ii) has a production capacity of two megawatts or greater.

(b) A facility is an alternative energy electricity production facility regardless of whether the facility is:

- (i) connected to an electric grid; or
- (ii) located on the premises of an electricity consumer.

(12) (a) "Ancillary service" means a service associated with, or incidental to, the provision of telecommunications service.

(b) "Ancillary service" includes:

- (i) a conference bridging service;
- (ii) a detailed communications billing service;
- (iii) directory assistance;
- (iv) a vertical service; or
- (v) a voice mail service.

(13) "Area agency on aging" is as defined in Section 62A-3-101.

(14) "Assisted amusement device" means an amusement device, skill device, or ride device that is started and stopped by an individual:

(a) who is not the purchaser or renter of the right to use or operate the amusement device, skill device, or ride device; and

(b) at the direction of the seller of the right to use the amusement device, skill device, or ride device.

(15) "Assisted cleaning or washing of tangible personal property" means cleaning or washing of tangible personal property if the cleaning or washing labor is primarily performed by an individual:

(a) who is not the purchaser of the cleaning or washing of the tangible personal property; and

(b) at the direction of the seller of the cleaning or washing of the tangible personal property.

(16) "Authorized carrier" means:

(a) in the case of vehicles operated over public highways, the holder of credentials indicating that the vehicle is or will be operated pursuant to both the International Registration Plan and the International Fuel Tax Agreement;

(b) in the case of aircraft, the holder of a Federal Aviation Administration operating certificate or air carrier's operating certificate; or

(c) in the case of locomotives, freight cars, railroad work equipment, or other rolling stock, a person who uses locomotives, freight cars, railroad work equipment, or other rolling stock in more than one state.

(17) (a) Except as provided in Subsection (17)(b), "biomass energy" means any of the following that is used as the primary source of energy to produce fuel or electricity:

- (i) material from a plant or tree; or
- (ii) other organic matter that is available on a renewable basis, including:
 - (A) slash and brush from forests and woodlands;
 - (B) animal waste;
 - (C) waste vegetable oil;
 - (D) methane or synthetic gas produced at a landfill, as a byproduct of the treatment of wastewater residuals, or through the conversion of a waste material through a nonincineration, thermal conversion process;
 - (E) aquatic plants; and

<p>(F) agricultural products.</p> <p>(b) “Biomass energy” does not include:</p> <p>(i) black liquor; or</p> <p>(ii) treated woods.</p> <p>(18) (a) “Bundled transaction” means the sale of two or more items of tangible personal property, products, or services if the tangible personal property, products, or services are:</p> <p>(i) distinct and identifiable; and</p> <p>(ii) sold for one nonitemized price.</p> <p>(b) “Bundled transaction” does not include:</p> <p>(i) the sale of tangible personal property if the sales price varies, or is negotiable, on the basis of the selection by the purchaser of the items of tangible personal property included in the transaction;</p> <p>(ii) the sale of real property;</p> <p>(iii) the sale of services to real property;</p> <p>(iv) the retail sale of tangible personal property and a service if:</p> <p>(A) the tangible personal property:</p> <p>(I) is essential to the use of the service; and</p> <p>(II) is provided exclusively in connection with the service; and</p> <p>(B) the service is the true object of the transaction;</p> <p>(v) the retail sale of two services if:</p> <p>(A) one service is provided that is essential to the use or receipt of a second service;</p> <p>(B) the first service is provided exclusively in connection with the second service; and</p> <p>(C) the second service is the true object of the transaction;</p> <p>(vi) a transaction that includes tangible personal property or a product subject to taxation under this chapter and tangible personal property or a product that is not subject to taxation under this chapter if the:</p> <p>(A) seller’s purchase price of the tangible personal property or product subject to taxation under this chapter is de minimis; or</p> <p>(B) seller’s sales price of the tangible personal property or product subject to taxation under this chapter is de minimis; and</p> <p>(vii) the retail sale of tangible personal property that is not subject to taxation under this chapter and tangible personal property that is subject to taxation under this chapter if:</p> <p>(A) that retail sale includes:</p> <p>(I) food and food ingredients;</p> <p>(II) a drug;</p>	<p>(III) durable medical equipment;</p> <p>(IV) mobility enhancing equipment;</p> <p>(V) an over-the-counter drug;</p> <p>(VI) a prosthetic device; or</p> <p>(VII) a medical supply; and</p> <p>(B) subject to Subsection (18)(f):</p> <p>(I) the seller’s purchase price of the tangible personal property subject to taxation under this chapter is 50% or less of the seller’s total purchase price of that retail sale; or</p> <p>(II) the seller’s sales price of the tangible personal property subject to taxation under this chapter is 50% or less of the seller’s total sales price of that retail sale.</p> <p>(c) (i) For purposes of Subsection (18)(a)(i), tangible personal property, a product, or a service that is distinct and identifiable does not include:</p> <p>(A) packaging that:</p> <p>(I) accompanies the sale of the tangible personal property, product, or service; and</p> <p>(II) is incidental or immaterial to the sale of the tangible personal property, product, or service;</p> <p>(B) tangible personal property, a product, or a service provided free of charge with the purchase of another item of tangible personal property, a product, or a service; or</p> <p>(C) an item of tangible personal property, a product, or a service included in the definition of “purchase price.”</p> <p>(ii) For purposes of Subsection (18)(c)(i)(B), an item of tangible personal property, a product, or a service is provided free of charge with the purchase of another item of tangible personal property, a product, or a service if the sales price of the purchased item of tangible personal property, product, or service does not vary depending on the inclusion of the tangible personal property, product, or service provided free of charge.</p> <p>(d) (i) For purposes of Subsection (18)(a)(ii), property sold for one nonitemized price does not include a price that is separately identified by tangible personal property, product, or service on the following, regardless of whether the following is in paper format or electronic format:</p> <p>(A) a binding sales document; or</p> <p>(B) another supporting sales-related document that is available to a purchaser.</p> <p>(ii) For purposes of Subsection (18)(d)(i), a binding sales document or another supporting sales-related document that is available to a purchaser includes:</p> <p>(A) a bill of sale;</p> <p>(B) a contract;</p> <p>(C) an invoice;</p> <p>(D) a lease agreement;</p>
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- (E) a periodic notice of rates and services;
- (F) a price list;
- (G) a rate card;
- (H) a receipt; or
- (I) a service agreement.

(e) (i) For purposes of Subsection (18)(b)(vi), the sales price of tangible personal property or a product subject to taxation under this chapter is de minimis if:

(A) the seller's purchase price of the tangible personal property or product is 10% or less of the seller's total purchase price of the bundled transaction; or

(B) the seller's sales price of the tangible personal property or product is 10% or less of the seller's total sales price of the bundled transaction.

(ii) For purposes of Subsection (18)(b)(vi), a seller:

(A) shall use the seller's purchase price or the seller's sales price to determine if the purchase price or sales price of the tangible personal property or product subject to taxation under this chapter is de minimis; and

(B) may not use a combination of the seller's purchase price and the seller's sales price to determine if the purchase price or sales price of the tangible personal property or product subject to taxation under this chapter is de minimis.

(iii) For purposes of Subsection (18)(b)(vi), a seller shall use the full term of a service contract to determine if the sales price of tangible personal property or a product is de minimis.

(f) For purposes of Subsection (18)(b)(vii)(B), a seller may not use a combination of the seller's purchase price and the seller's sales price to determine if tangible personal property subject to taxation under this chapter is 50% or less of the seller's total purchase price or sales price of that retail sale.

(19) "Certified automated system" means software certified by the governing board of the agreement that:

(a) calculates the agreement sales and use tax imposed within a local taxing jurisdiction:

- (i) on a transaction; and
- (ii) in the states that are members of the agreement;

(b) determines the amount of agreement sales and use tax to remit to a state that is a member of the agreement; and

(c) maintains a record of the transaction described in Subsection (19)(a)(i).

(20) "Certified service provider" means an agent certified:

- (a) by the governing board of the agreement; and

(b) to perform all of a seller's sales and use tax functions for an agreement sales and use tax other than the seller's obligation under Section 59-12-124 to remit a tax on the seller's own purchases.

(21) (a) Subject to Subsection (21)(b), "clothing" means all human wearing apparel suitable for general use.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:

- (i) listing the items that constitute "clothing"; and
- (ii) that are consistent with the list of items that constitute "clothing" under the agreement.

(22) "Coal-to-liquid" means the process of converting coal into a liquid synthetic fuel.

(23) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other fuels that does not constitute industrial use under Subsection (55) or residential use under Subsection (105).

(24) (a) "Common carrier" means a person engaged in or transacting the business of transporting passengers, freight, merchandise, or other property for hire within this state.

(b) (i) "Common carrier" does not include a person who, at the time the person is traveling to or from that person's place of employment, transports a passenger to or from the passenger's place of employment.

(ii) For purposes of Subsection (24)(b)(i), in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining what constitutes a person's place of employment.

(c) "Common carrier" does not include a person that provides transportation network services, as defined in Section 13-51-102.

(25) "Component part" includes:

(a) poultry, dairy, and other livestock feed, and their components;

(b) baling ties and twine used in the baling of hay and straw;

(c) fuel used for providing temperature control of orchards and commercial greenhouses doing a majority of their business in wholesale sales, and for providing power for off-highway type farm machinery; and

(d) feed, seeds, and seedlings.

(26) "Computer" means an electronic device that accepts information:

- (a) (i) in digital form; or
- (ii) in a form similar to digital form; and

(b) manipulates that information for a result based on a sequence of instructions.

(27) "Computer software" means a set of coded instructions designed to cause:

- (a) a computer to perform a task; or
- (b) automatic data processing equipment to perform a task.
- (28) “Computer software maintenance contract” means a contract that obligates a seller of computer software to provide a customer with:
- (a) future updates or upgrades to computer software;
- (b) support services with respect to computer software; or
- (c) a combination of Subsections (28)(a) and (b).
- (29) (a) “Conference bridging service” means an ancillary service that links two or more participants of an audio conference call or video conference call.
- (b) “Conference bridging service” may include providing a telephone number as part of the ancillary service described in Subsection (29)(a).
- (c) “Conference bridging service” does not include a telecommunications service used to reach the ancillary service described in Subsection (29)(a).
- (30) “Construction materials” means any tangible personal property that will be converted into real property.
- (31) “Delivered electronically” means delivered to a purchaser by means other than tangible storage media.
- (32) (a) “Delivery charge” means a charge:
- (i) by a seller of:
- (A) tangible personal property;
- (B) a product transferred electronically; or
- (C) services; and
- (ii) for preparation and delivery of the tangible personal property, product transferred electronically, or services described in Subsection (32)(a)(i) to a location designated by the purchaser.
- (b) “Delivery charge” includes a charge for the following:
- (i) transportation;
- (ii) shipping;
- (iii) postage;
- (iv) handling;
- (v) crating; or
- (vi) packing.
- (33) “Detailed telecommunications billing service” means an ancillary service of separately stating information pertaining to individual calls on a customer’s billing statement.
- (34) “Dietary supplement” means a product, other than tobacco, that:
- (a) is intended to supplement the diet;
- (b) contains one or more of the following dietary ingredients:
- (i) a vitamin;
- (ii) a mineral;
- (iii) an herb or other botanical;
- (iv) an amino acid;
- (v) a dietary substance for use by humans to supplement the diet by increasing the total dietary intake; or
- (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient described in Subsections (34)(b)(i) through (v);
- (c) (i) except as provided in Subsection (34)(c)(ii), is intended for ingestion in:
- (A) tablet form;
- (B) capsule form;
- (C) powder form;
- (D) softgel form;
- (E) gelcap form; or
- (F) liquid form; or
- (ii) if the product is not intended for ingestion in a form described in Subsections (34)(c)(i)(A) through (F), is not represented:
- (A) as conventional food; and
- (B) for use as a sole item of:
- (I) a meal; or
- (II) the diet; and
- (d) is required to be labeled as a dietary supplement:
- (i) identifiable by the “Supplemental Facts” box found on the label; and
- (ii) as required by 21 C.F.R. Sec. 101.36.
- [(36)] (35) “Digital audio-visual work” means a series of related images which, when shown in succession, imparts an impression of motion, together with accompanying sounds, if any.
- [(35)] (36) (a) “Digital audio work” means a work that results from the fixation of a series of musical, spoken, or other sounds.
- (b) “Digital audio work” includes a ringtone.
- (37) “Digital book” means a work that is generally recognized in the ordinary and usual sense as a book.
- (38) (a) “Direct mail” means printed material delivered or distributed by United States mail or other delivery service:
- (i) to:
- (A) a mass audience; or
- (B) addressees on a mailing list provided:
- (I) by a purchaser of the mailing list; or

(II) at the discretion of the purchaser of the mailing list; and

(ii) if the cost of the printed material is not billed directly to the recipients.

(b) "Direct mail" includes tangible personal property supplied directly or indirectly by a purchaser to a seller of direct mail for inclusion in a package containing the printed material.

(c) "Direct mail" does not include multiple items of printed material delivered to a single address.

(39) "Directory assistance" means an ancillary service of providing:

(a) address information; or

(b) telephone number information.

(40) (a) "Disposable home medical equipment or supplies" means medical equipment or supplies that:

(i) cannot withstand repeated use; and

(ii) are purchased by, for, or on behalf of a person other than:

(A) a health care facility as defined in Section 26-21-2;

(B) a health care provider as defined in Section 78B-3-403;

(C) an office of a health care provider described in Subsection (40)(a)(ii)(B); or

(D) a person similar to a person described in Subsections (40)(a)(ii)(A) through (C).

(b) "Disposable home medical equipment or supplies" does not include:

(i) a drug;

(ii) durable medical equipment;

(iii) a hearing aid;

(iv) a hearing aid accessory;

(v) mobility enhancing equipment; or

(vi) tangible personal property used to correct impaired vision, including:

(A) eyeglasses; or

(B) contact lenses.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes medical equipment or supplies.

(41) (a) "Drug" means a compound, substance, or preparation, or a component of a compound, substance, or preparation that is:

(i) recognized in:

(A) the official United States Pharmacopoeia;

(B) the official Homeopathic Pharmacopoeia of the United States;

(C) the official National Formulary; or

(D) a supplement to a publication listed in Subsections (41)(a)(i)(A) through (C);

(ii) intended for use in the:

(A) diagnosis of disease;

(B) cure of disease;

(C) mitigation of disease;

(D) treatment of disease; or

(E) prevention of disease; or

(iii) intended to affect:

(A) the structure of the body; or

(B) any function of the body.

(b) "Drug" does not include:

(i) food and food ingredients;

(ii) a dietary supplement;

(iii) an alcoholic beverage; or

(iv) a prosthetic device.

(42) (a) Except as provided in Subsection (42)(c), "durable medical equipment" means equipment that:

(i) can withstand repeated use;

(ii) is primarily and customarily used to serve a medical purpose;

(iii) generally is not useful to a person in the absence of illness or injury; and

(iv) is not worn in or on the body.

(b) "Durable medical equipment" includes parts used in the repair or replacement of the equipment described in Subsection (42)(a).

(c) "Durable medical equipment" does not include mobility enhancing equipment.

(43) "Electronic" means:

(a) relating to technology; and

(b) having:

(i) electrical capabilities;

(ii) digital capabilities;

(iii) magnetic capabilities;

(iv) wireless capabilities;

(v) optical capabilities;

(vi) electromagnetic capabilities; or

(vii) capabilities similar to Subsections (43)(b)(i) through (vi).

(44) "Electronic financial payment service" means an establishment:

(a) within NAICS Code 522320, Financial Transactions Processing, Reserve, and Clearinghouse Activities, of the 2012 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; and

(b) that performs electronic financial payment services.

(45) "Employee" is as defined in Section 59-10-401.

(46) "Fixed guideway" means a public transit facility that uses and occupies:

(a) rail for the use of public transit; or

(b) a separate right-of-way for the use of public transit.

(47) "Fixed wing turbine powered aircraft" means an aircraft that:

(a) is powered by turbine engines;

(b) operates on jet fuel; and

(c) has wings that are permanently attached to the fuselage of the aircraft.

(48) "Fixed wireless service" means a telecommunications service that provides radio communication between fixed points.

(49) (a) "Food and food ingredients" means substances:

(i) regardless of whether the substances are in:

(A) liquid form;

(B) concentrated form;

(C) solid form;

(D) frozen form;

(E) dried form; or

(F) dehydrated form; and

(ii) that are:

(A) sold for:

(I) ingestion by humans; or

(II) chewing by humans; and

(B) consumed for the substance's:

(I) taste; or

(II) nutritional value.

(b) "Food and food ingredients" includes an item described in Subsection (90)(b)(iii).

(c) "Food and food ingredients" does not include:

(i) an alcoholic beverage;

(ii) tobacco; or

(iii) prepared food.

(50) (a) "Fundraising sales" means sales:

(i) (A) made by a school; or

(B) made by a school student;

(ii) that are for the purpose of raising funds for the school to purchase equipment, materials, or provide transportation; and

(iii) that are part of an officially sanctioned school activity.

(b) For purposes of Subsection (50)(a)(iii), "officially sanctioned school activity" means a school activity:

(i) that is conducted in accordance with a formal policy adopted by the school or school district governing the authorization and supervision of fundraising activities;

(ii) that does not directly or indirectly compensate an individual teacher or other educational personnel by direct payment, commissions, or payment in kind; and

(iii) the net or gross revenues from which are deposited in a dedicated account controlled by the school or school district.

(51) "Geothermal energy" means energy contained in heat that continuously flows outward from the earth that is used as the sole source of energy to produce electricity.

(52) "Governing board of the agreement" means the governing board of the agreement that is:

(a) authorized to administer the agreement; and

(b) established in accordance with the agreement.

(53) (a) For purposes of Subsection 59-12-104(41), "governmental entity" means:

(i) the executive branch of the state, including all departments, institutions, boards, divisions, bureaus, offices, commissions, and committees;

(ii) the judicial branch of the state, including the courts, the Judicial Council, the Office of the Court Administrator, and similar administrative units in the judicial branch;

(iii) the legislative branch of the state, including the House of Representatives, the Senate, the Legislative Printing Office, the Office of Legislative Research and General Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal Analyst;

(iv) the National Guard;

(v) an independent entity as defined in Section 63E-1-102; or

(vi) a political subdivision as defined in Section 17B-1-102.

(b) "Governmental entity" does not include the state systems of public and higher education, including:

(i) a college campus of the Utah College of Applied Technology;

(ii) a school;

(iii) the State Board of Education;

(iv) the State Board of Regents; or

(v) an institution of higher education.

(54) "Hydroelectric energy" means water used as the sole source of energy to produce electricity.

(55) “Industrial use” means the use of natural gas, electricity, heat, coal, fuel oil, or other fuels:

- (a) in mining or extraction of minerals;
 - (b) in agricultural operations to produce an agricultural product up to the time of harvest or placing the agricultural product into a storage facility, including:
 - (i) commercial greenhouses;
 - (ii) irrigation pumps;
 - (iii) farm machinery;
 - (iv) implements of husbandry as defined in Section 41-1a-102 that are not registered under Title 41, Chapter 1a, Part 2, Registration; and
 - (v) other farming activities;
 - (c) in manufacturing tangible personal property at an establishment described in SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget;
 - (d) by a scrap recycler if:
 - (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process one or more of the following items into prepared grades of processed materials for use in new products:
 - (A) iron;
 - (B) steel;
 - (C) nonferrous metal;
 - (D) paper;
 - (E) glass;
 - (F) plastic;
 - (G) textile; or
 - (H) rubber; and
 - (ii) the new products under Subsection (55)(d)(i) would otherwise be made with nonrecycled materials; or
 - (e) in producing a form of energy or steam described in Subsection 54-2-1(2)(a) by a cogeneration facility as defined in Section 54-2-1.
- (56) (a) Except as provided in Subsection (56)(b), “installation charge” means a charge for installing:
- (i) tangible personal property; or
 - (ii) a product transferred electronically.
- (b) “Installation charge” does not include a charge for:
- (i) repairs or renovations of:
 - (A) tangible personal property; or
 - (B) a product transferred electronically; or
 - (ii) attaching tangible personal property or a product transferred electronically:
 - (A) to other tangible personal property; and

(B) as part of a manufacturing or fabrication process.

(57) “Institution of higher education” means an institution of higher education listed in Section 53B-2-101.

(58) (a) “Lease” or “rental” means a transfer of possession or control of tangible personal property or a product transferred electronically for:

- (i) (A) a fixed term; or
 - (B) an indeterminate term; and
 - (ii) consideration.
- (b) “Lease” or “rental” includes an agreement covering a motor vehicle and trailer if the amount of consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue Code.
- (c) “Lease” or “rental” does not include:
- (i) a transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments;
 - (ii) a transfer of possession or control of property under an agreement that requires the transfer of title:
 - (A) upon completion of required payments; and
 - (B) if the payment of an option price does not exceed the greater of:
 - (I) \$100; or
 - (II) 1% of the total required payments; or
 - (iii) providing tangible personal property along with an operator for a fixed period of time or an indeterminate period of time if the operator is necessary for equipment to perform as designed.
- (d) For purposes of Subsection (58)(c)(iii), an operator is necessary for equipment to perform as designed if the operator’s duties exceed the:
- (i) set-up of tangible personal property;
 - (ii) maintenance of tangible personal property; or
 - (iii) inspection of tangible personal property.

(59) “Life science establishment” means an establishment in this state that is classified under the following NAICS codes of the 2007 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget:

- (a) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;
- (b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus Manufacturing; or
- (c) NAICS Code 334517, Irradiation Apparatus Manufacturing.

(60) “Life science research and development facility” means a facility owned, leased, or rented by

a life science establishment if research and development is performed in 51% or more of the total area of the facility.

(61) "Load and leave" means delivery to a purchaser by use of a tangible storage media if the tangible storage media is not physically transferred to the purchaser.

(62) "Local taxing jurisdiction" means a:

(a) county that is authorized to impose an agreement sales and use tax;

(b) city that is authorized to impose an agreement sales and use tax; or

(c) town that is authorized to impose an agreement sales and use tax.

(63) "Manufactured home" is as defined in Section 15A-1-302.

(64) "Manufacturing facility" means:

(a) an establishment described in SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget;

(b) a scrap recycler if:

(i) from a fixed location, the scrap recycler utilizes machinery or equipment to process one or more of the following items into prepared grades of processed materials for use in new products:

(A) iron;

(B) steel;

(C) nonferrous metal;

(D) paper;

(E) glass;

(F) plastic;

(G) textile; or

(H) rubber; and

(ii) the new products under Subsection (64)(b)(i) would otherwise be made with nonrecycled materials; or

(c) a cogeneration facility as defined in Section 54-2-1 if the cogeneration facility is placed in service on or after May 1, 2006.

(65) "Member of the immediate family of the producer" means a person who is related to a producer described in Subsection 59-12-104(20)(a) as a:

(a) child or stepchild, regardless of whether the child or stepchild is:

(i) an adopted child or adopted stepchild; or

(ii) a foster child or foster stepchild;

(b) grandchild or stepgrandchild;

(c) grandparent or stepgrandparent;

(d) nephew or stepnephew;

(e) niece or stepniece;

(f) parent or stepparent;

(g) sibling or stepsibling;

(h) spouse;

(i) person who is the spouse of a person described in Subsections (65)(a) through (g); or

(j) person similar to a person described in Subsections (65)(a) through (i) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(66) "Mobile home" is as defined in Section 15A-1-302.

(67) "Mobile telecommunications service" is as defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

(68) (a) "Mobile wireless service" means a telecommunications service, regardless of the technology used, if:

(i) the origination point of the conveyance, routing, or transmission is not fixed;

(ii) the termination point of the conveyance, routing, or transmission is not fixed; or

(iii) the origination point described in Subsection (68)(a)(i) and the termination point described in Subsection (68)(a)(ii) are not fixed.

(b) "Mobile wireless service" includes a telecommunications service that is provided by a commercial mobile radio service provider.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define "commercial mobile radio service provider."

(69) (a) Except as provided in Subsection (69)(c), "mobility enhancing equipment" means equipment that is:

(i) primarily and customarily used to provide or increase the ability to move from one place to another;

(ii) appropriate for use in a:

(A) home; or

(B) motor vehicle; and

(iii) not generally used by persons with normal mobility.

(b) "Mobility enhancing equipment" includes parts used in the repair or replacement of the equipment described in Subsection (69)(a).

(c) "Mobility enhancing equipment" does not include:

(i) a motor vehicle;

(ii) equipment on a motor vehicle if that equipment is normally provided by the motor vehicle manufacturer;

(iii) durable medical equipment; or

(iv) a prosthetic device.

(70) "Model 1 seller" means a seller registered under the agreement that has selected a certified service provider as the seller's agent to perform all of the seller's sales and use tax functions for agreement sales and use taxes other than the seller's obligation under Section 59-12-124 to remit a tax on the seller's own purchases.

(71) "Model 2 seller" means a seller registered under the agreement that:

(a) except as provided in Subsection (71)(b), has selected a certified automated system to perform the seller's sales tax functions for agreement sales and use taxes; and

(b) retains responsibility for remitting all of the sales tax:

(i) collected by the seller; and

(ii) to the appropriate local taxing jurisdiction.

(72) (a) Subject to Subsection (72)(b), "model 3 seller" means a seller registered under the agreement that has:

(i) sales in at least five states that are members of the agreement;

(ii) total annual sales revenues of at least \$500,000,000;

(iii) a proprietary system that calculates the amount of tax:

(A) for an agreement sales and use tax; and

(B) due to each local taxing jurisdiction; and

(iv) entered into a performance agreement with the governing board of the agreement.

(b) For purposes of Subsection (72)(a), "model 3 seller" includes an affiliated group of sellers using the same proprietary system.

(73) "Model 4 seller" means a seller that is registered under the agreement and is not a model 1 seller, model 2 seller, or model 3 seller.

(74) "Modular home" means a modular unit as defined in Section 15A-1-302.

(75) "Motor vehicle" is as defined in Section 41-1a-102.

(76) "Oil sands" means impregnated bituminous sands that:

(a) contain a heavy, thick form of petroleum that is released when heated, mixed with other hydrocarbons, or otherwise treated;

(b) yield mixtures of liquid hydrocarbon; and

(c) require further processing other than mechanical blending before becoming finished petroleum products.

(77) "Oil shale" means a group of fine black to dark brown shales containing kerogen material that yields petroleum upon heating and distillation.

(78) "Optional computer software maintenance contract" means a computer software maintenance contract that a customer is not obligated to purchase as a condition to the retail sale of computer software.

(79) (a) "Other fuels" means products that burn independently to produce heat or energy.

(b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible personal property.

(80) (a) "Paging service" means a telecommunications service that provides transmission of a coded radio signal for the purpose of activating a specific pager.

(b) For purposes of Subsection (80)(a), the transmission of a coded radio signal includes a transmission by message or sound.

(81) "Pawnbroker" is as defined in Section 13-32a-102.

(82) "Pawn transaction" is as defined in Section 13-32a-102.

(83) (a) "Permanently attached to real property" means that for tangible personal property attached to real property:

(i) the attachment of the tangible personal property to the real property:

(A) is essential to the use of the tangible personal property; and

(B) suggests that the tangible personal property will remain attached to the real property in the same place over the useful life of the tangible personal property; or

(ii) if the tangible personal property is detached from the real property, the detachment would:

(A) cause substantial damage to the tangible personal property; or

(B) require substantial alteration or repair of the real property to which the tangible personal property is attached.

(b) "Permanently attached to real property" includes:

(i) the attachment of an accessory to the tangible personal property if the accessory is:

(A) essential to the operation of the tangible personal property; and

(B) attached only to facilitate the operation of the tangible personal property;

(ii) a temporary detachment of tangible personal property from real property for a repair or renovation if the repair or renovation is performed

where the tangible personal property and real property are located; or

(iii) property attached to oil, gas, or water pipelines, except for the property listed in Subsection (83)(c)(iii) or (iv).

(c) "Permanently attached to real property" does not include:

(i) the attachment of portable or movable tangible personal property to real property if that portable or movable tangible personal property is attached to real property only for:

- (A) convenience;
- (B) stability; or
- (C) for an obvious temporary purpose;

(ii) the detachment of tangible personal property from real property except for the detachment described in Subsection (83)(b)(ii);

(iii) an attachment of the following tangible personal property to real property if the attachment to real property is only through a line that supplies water, electricity, gas, telecommunications, cable, or supplies a similar item as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

- (A) a computer;
- (B) a telephone;
- (C) a television; or

(D) tangible personal property similar to Subsections (83)(c)(iii)(A) through (C) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(iv) an item listed in Subsection (123)(c).

(84) "Person" includes any individual, firm, partnership, joint venture, association, corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city, municipality, district, or other local governmental entity of the state, or any group or combination acting as a unit.

(85) "Place of primary use":

(a) for telecommunications service other than mobile telecommunications service, means the street address representative of where the customer's use of the telecommunications service primarily occurs, which shall be:

(i) the residential street address of the customer; or

(ii) the primary business street address of the customer; or

(b) for mobile telecommunications service, is as defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

(86) (a) "Postpaid calling service" means a telecommunications service a person obtains by making a payment on a call-by-call basis:

(i) through the use of a:

- (A) bank card;
- (B) credit card;
- (C) debit card; or
- (D) travel card; or

(ii) by a charge made to a telephone number that is not associated with the origination or termination of the telecommunications service.

(b) "Postpaid calling service" includes a service, except for a prepaid wireless calling service, that would be a prepaid wireless calling service if the service were exclusively a telecommunications service.

(87) "Postproduction" means an activity related to the finishing or duplication of a medium described in Subsection 59-12-104(54)(a).

(88) "Prepaid calling service" means a telecommunications service:

(a) that allows a purchaser access to telecommunications service that is exclusively telecommunications service;

(b) that:

- (i) is paid for in advance; and
- (ii) enables the origination of a call using an:

- (A) access number; or
- (B) authorization code;

(c) that is dialed:

- (i) manually; or
- (ii) electronically; and

(d) sold in predetermined units or dollars that decline:

- (i) by a known amount; and
- (ii) with use.

(89) "Prepaid wireless calling service" means a telecommunications service:

(a) that provides the right to utilize:

(i) mobile wireless service; and

(ii) other service that is not a telecommunications service, including:

(A) the download of a product transferred electronically;

(B) a content service; or

(C) an ancillary service;

(b) that:

(i) is paid for in advance; and

(ii) enables the origination of a call using an:

(A) access number; or

(B) authorization code;

(c) that is dialed:

(i) manually; or

(ii) electronically; and

(d) sold in predetermined units or dollars that decline:

(i) by a known amount; and

(ii) with use.

(90) (a) "Prepared food" means:

(i) food:

(A) sold in a heated state; or

(B) heated by a seller;

(ii) two or more food ingredients mixed or combined by the seller for sale as a single item; or

(iii) except as provided in Subsection (90)(c), food sold with an eating utensil provided by the seller, including a:

(A) plate;

(B) knife;

(C) fork;

(D) spoon;

(E) glass;

(F) cup;

(G) napkin; or

(H) straw.

(b) "Prepared food" does not include:

(i) food that a seller only:

(A) cuts;

(B) repackages; or

(C) pasteurizes; or

(ii) (A) the following:

(I) raw egg;

(II) raw fish;

(III) raw meat;

(IV) raw poultry; or

(V) a food containing an item described in Subsections (90)(b)(ii)(A)(I) through (IV); and

(B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the Food and Drug Administration's Food Code that a consumer cook the items described in Subsection (90)(b)(ii)(A) to prevent food borne illness; or

(iii) the following if sold without eating utensils provided by the seller:

(A) food and food ingredients sold by a seller if the seller's proper primary classification under the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, is manufacturing in Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla Manufacturing;

(B) food and food ingredients sold in an unheated state:

(I) by weight or volume; and

(II) as a single item; or

(C) a bakery item, including:

(I) a bagel;

(II) a bar;

(III) a biscuit;

(IV) bread;

(V) a bun;

(VI) a cake;

(VII) a cookie;

(VIII) a croissant;

(IX) a danish;

(X) a donut;

(XI) a muffin;

(XII) a pastry;

(XIII) a pie;

(XIV) a roll;

(XV) a tart;

(XVI) a torte; or

(XVII) a tortilla.

(c) An eating utensil provided by the seller does not include the following used to transport the food:

(i) a container; or

(ii) packaging.

(91) "Prescription" means an order, formula, or recipe that is issued:

(a) (i) orally;

(ii) in writing;

(iii) electronically; or

(iv) by any other manner of transmission; and

(b) by a licensed practitioner authorized by the laws of a state.

(92) (a) Except as provided in Subsection (92)(b)(ii) or (iii), "prewritten computer software" means computer software that is not designed and developed:

(i) by the author or other creator of the computer software; and

(ii) to the specifications of a specific purchaser.

(b) "Prewritten computer software" includes:

(i) a prewritten upgrade to computer software if the prewritten upgrade to the computer software is not designed and developed:

(A) by the author or other creator of the computer software; and

(B) to the specifications of a specific purchaser;

(ii) computer software designed and developed by the author or other creator of the computer software to the specifications of a specific purchaser if the computer software is sold to a person other than the purchaser; or

(iii) except as provided in Subsection (92)(c), prewritten computer software or a prewritten portion of prewritten computer software:

(A) that is modified or enhanced to any degree; and

(B) if the modification or enhancement described in Subsection (92)(b)(iii)(A) is designed and developed to the specifications of a specific purchaser.

(c) "Prewritten computer software" does not include a modification or enhancement described in Subsection (92)(b)(iii) if the charges for the modification or enhancement are:

(i) reasonable; and

(ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), separately stated on the invoice or other statement of price provided to the purchaser at the time of sale or later, as demonstrated by:

(A) the books and records the seller keeps at the time of the transaction in the regular course of business, including books and records the seller keeps at the time of the transaction in the regular course of business for nontax purposes;

(B) a preponderance of the facts and circumstances at the time of the transaction; and

(C) the understanding of all of the parties to the transaction.

(93) (a) "Private ~~communication~~ communications service" means a telecommunications service:

(i) that entitles a customer to exclusive or priority use of one or more communications channels between or among termination points; and

(ii) regardless of the manner in which the one or more communications channels are connected.

(b) "Private communications service" includes the following provided in connection with the use of one or more communications channels:

(i) an extension line;

(ii) a station;

(iii) switching capacity; or

(iv) another associated service that is provided in connection with the use of one or more

communications channels as defined in Section 59-12-215.

(94) (a) Except as provided in Subsection (94)(b), "product transferred electronically" means a product transferred electronically that would be subject to a tax under this chapter if that product was transferred in a manner other than electronically.

(b) "Product transferred electronically" does not include:

(i) an ancillary service;

(ii) computer software; or

(iii) a telecommunications service.

(95) (a) "Prosthetic device" means a device that is worn on or in the body to:

(i) artificially replace a missing portion of the body;

(ii) prevent or correct a physical deformity or physical malfunction; or

(iii) support a weak or deformed portion of the body.

(b) "Prosthetic device" includes:

(i) parts used in the repairs or renovation of a prosthetic device;

(ii) replacement parts for a prosthetic device;

(iii) a dental prosthesis; or

(iv) a hearing aid.

(c) "Prosthetic device" does not include:

(i) corrective eyeglasses; or

(ii) contact lenses.

(96) (a) "Protective equipment" means an item:

(i) for human wear; and

(ii) that is:

(A) designed as protection:

(I) to the wearer against injury or disease; or

(II) against damage or injury of other persons or property; and

(B) not suitable for general use.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:

(i) listing the items that constitute "protective equipment"; and

(ii) that are consistent with the list of items that constitute "protective equipment" under the agreement.

(97) (a) For purposes of Subsection 59-12-104(41), "publication" means any written or printed matter, other than a photocopy:

(i) regardless of:

(A) characteristics;

- (B) copyright;
 - (C) form;
 - (D) format;
 - (E) method of reproduction; or
 - (F) source; and
- (ii) made available in printed or electronic format.
- (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "photocopy."
- (98) (a) "Purchase price" and "sales price" mean the total amount of consideration:
- (i) valued in money; and
 - (ii) for which tangible personal property, a product transferred electronically, or services are:
 - (A) sold;
 - (B) leased; or
 - (C) rented.
- (b) "Purchase price" and "sales price" include:
- (i) the seller's cost of the tangible personal property, a product transferred electronically, or services sold;
 - (ii) expenses of the seller, including:
 - (A) the cost of materials used;
 - (B) a labor cost;
 - (C) a service cost;
 - (D) interest;
 - (E) a loss;
 - (F) the cost of transportation to the seller; or
 - (G) a tax imposed on the seller;
 - (iii) a charge by the seller for any service necessary to complete the sale; or
 - (iv) consideration a seller receives from a person other than the purchaser if:
 - (A) (I) the seller actually receives consideration from a person other than the purchaser; and
 - (II) the consideration described in Subsection (98)(b)(iv)(A)(I) is directly related to a price reduction or discount on the sale;
 - (B) the seller has an obligation to pass the price reduction or discount through to the purchaser;
 - (C) the amount of the consideration attributable to the sale is fixed and determinable by the seller at the time of the sale to the purchaser; and
 - (D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the seller to claim a price reduction or discount; and
 - (Bb) a person other than the seller authorizes, distributes, or grants the certificate, coupon, or

other documentation with the understanding that the person other than the seller will reimburse any seller to whom the certificate, coupon, or other documentation is presented;

(II) the purchaser identifies that purchaser to the seller as a member of a group or organization allowed a price reduction or discount, except that a preferred customer card that is available to any patron of a seller does not constitute membership in a group or organization allowed a price reduction or discount; or

(III) the price reduction or discount is identified as a third party price reduction or discount on the:

(Aa) invoice the purchaser receives; or

(Bb) certificate, coupon, or other documentation the purchaser presents.

(c) "Purchase price" and "sales price" do not include:

(i) a discount:

(A) in a form including:

(I) cash;

(II) term; or

(III) coupon;

(B) that is allowed by a seller;

(C) taken by a purchaser on a sale; and

(D) that is not reimbursed by a third party; or

(ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), the following if separately stated on an invoice, bill of sale, or similar document provided to the purchaser at the time of sale or later, as demonstrated by the books and records the seller keeps at the time of the transaction in the regular course of business, including books and records the seller keeps at the time of the transaction in the regular course of business for nontax purposes, by a preponderance of the facts and circumstances at the time of the transaction, and by the understanding of all of the parties to the transaction:

(A) the following from credit extended on the sale of tangible personal property or services:

(I) a carrying charge;

(II) a financing charge; or

(III) an interest charge;

(B) a delivery charge;

(C) an installation charge;

(D) a manufacturer rebate on a motor vehicle; or

(E) a tax or fee legally imposed directly on the consumer.

(99) "Purchaser" means a person to whom:

(a) a sale of tangible personal property is made;

(b) a product is transferred electronically; or

(c) a service is furnished.

(100) “Regularly rented” means:

- (a) rented to a guest for value three or more times during a calendar year; or
- (b) advertised or held out to the public as a place that is regularly rented to guests for value.

(101) “Rental” is as defined in Subsection (58).

(102) (a) Except as provided in Subsection (102)(b), “repairs or renovations of tangible personal property” means:

(i) a repair or renovation of tangible personal property that is not permanently attached to real property; or

(ii) attaching tangible personal property or a product transferred electronically to other tangible personal property or detaching tangible personal property or a product transferred electronically from other tangible personal property if:

(A) the other tangible personal property to which the tangible personal property or product transferred electronically is attached or from which the tangible personal property or product transferred electronically is detached is not permanently attached to real property; and

(B) the attachment of tangible personal property or a product transferred electronically to other tangible personal property or detachment of tangible personal property or a product transferred electronically from other tangible personal property is made in conjunction with a repair or replacement of tangible personal property or a product transferred electronically.

(b) “Repairs or renovations of tangible personal property” does not include:

(i) attaching prewritten computer software to other tangible personal property if the other tangible personal property to which the prewritten computer software is attached is not permanently attached to real property; or

(ii) detaching prewritten computer software from other tangible personal property if the other tangible personal property from which the prewritten computer software is detached is not permanently attached to real property.

(103) “Research and development” means the process of inquiry or experimentation aimed at the discovery of facts, devices, technologies, or applications and the process of preparing those devices, technologies, or applications for marketing.

(104) (a) “Residential telecommunications services” means a telecommunications service or an ancillary service that is provided to an individual for personal use:

(i) at a residential address; or

(ii) at an institution, including a nursing home or a school, if the telecommunications service or ancillary service is provided to and paid for by the

individual residing at the institution rather than the institution.

(b) For purposes of Subsection (104)(a)(i), a residential address includes an:

- (i) apartment; or
- (ii) other individual dwelling unit.

(105) “Residential use” means the use in or around a home, apartment building, sleeping quarters, and similar facilities or accommodations.

(106) “Retail sale” or “sale at retail” means a sale, lease, or rental for a purpose other than:

- (a) resale;
- (b) sublease; or
- (c) subrent.

(107) (a) “Retailer” means any person engaged in a regularly organized business in tangible personal property or any other taxable transaction under Subsection 59-12-103(1), and who is selling to the user or consumer and not for resale.

(b) “Retailer” includes commission merchants, auctioneers, and any person regularly engaged in the business of selling to users or consumers within the state.

(108) (a) “Sale” means any transfer of title, exchange, or barter, conditional or otherwise, in any manner, of tangible personal property or any other taxable transaction under Subsection 59-12-103(1), for consideration.

(b) “Sale” includes:

- (i) installment and credit sales;
- (ii) any closed transaction constituting a sale;
- (iii) any sale of electrical energy, gas, services, or entertainment taxable under this chapter;
- (iv) any transaction if the possession of property is transferred but the seller retains the title as security for the payment of the price; and
- (v) any transaction under which right to possession, operation, or use of any article of tangible personal property is granted under a lease or contract and the transfer of possession would be taxable if an outright sale were made.

(109) “Sale at retail” is as defined in Subsection (106).

(110) “Sale-leaseback transaction” means a transaction by which title to tangible personal property or a product transferred electronically that is subject to a tax under this chapter is transferred:

- (a) by a purchaser-lessee;
- (b) to a lessor;
- (c) for consideration; and
- (d) if:

(i) the purchaser-lessee paid sales and use tax on the purchaser-lessee’s initial purchase of the

tangible personal property or product transferred electronically;

(ii) the sale of the tangible personal property or product transferred electronically to the lessor is intended as a form of financing:

(A) for the tangible personal property or product transferred electronically; and

(B) to the purchaser-lessee; and

(iii) in accordance with generally accepted accounting principles, the purchaser-lessee is required to:

(A) capitalize the tangible personal property or product transferred electronically for financial reporting purposes; and

(B) account for the lease payments as payments made under a financing arrangement.

(111) "Sales price" is as defined in Subsection (98).

(112) (a) "Sales relating to schools" means the following sales by, amounts paid to, or amounts charged by a school:

(i) sales that are directly related to the school's educational functions or activities including:

(A) the sale of:

(I) textbooks;

(II) textbook fees;

(III) laboratory fees;

(IV) laboratory supplies; or

(V) safety equipment;

(B) the sale of a uniform, protective equipment, or sports or recreational equipment that:

(I) a student is specifically required to wear as a condition of participation in a school-related event or school-related activity; and

(II) is not readily adaptable to general or continued usage to the extent that it takes the place of ordinary clothing;

(C) sales of the following if the net or gross revenues generated by the sales are deposited into a school district fund or school fund dedicated to school meals:

(I) food and food ingredients; or

(II) prepared food; or

(D) transportation charges for official school activities; or

(ii) amounts paid to or amounts charged by a school for admission to a school-related event or school-related activity.

(b) "Sales relating to schools" does not include:

(i) bookstore sales of items that are not educational materials or supplies;

(ii) except as provided in Subsection (112)(a)(i)(B):

(A) clothing;

(B) clothing accessories or equipment;

(C) protective equipment; or

(D) sports or recreational equipment; or

(iii) amounts paid to or amounts charged by a school for admission to a school-related event or school-related activity if the amounts paid or charged are passed through to a person:

(A) other than a:

(I) school;

(II) nonprofit organization authorized by a school board or a governing body of a private school to organize and direct a competitive secondary school activity; or

(III) nonprofit association authorized by a school board or a governing body of a private school to organize and direct a competitive secondary school activity; and

(B) that is required to collect sales and use taxes under this chapter.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining the term "passed through."

(113) For purposes of this section and Section 59-12-104, "school":

(a) means:

(i) an elementary school or a secondary school that:

(A) is a:

(I) public school; or

(II) private school; and

(B) provides instruction for one or more grades kindergarten through 12; or

(ii) a public school district; and

(b) includes the Electronic High School as defined in Section 53A-15-1002.

(114) "Seller" means a person that makes a sale, lease, or rental of:

(a) tangible personal property;

(b) a product transferred electronically; or

(c) a service.

(115) (a) "Semiconductor fabricating, processing, research, or development materials" means tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically is:

(i) used primarily in the process of:

(A) (I) manufacturing a semiconductor;

(II) fabricating a semiconductor; or

(III) research or development of a:

(Aa) semiconductor; or

(Bb) semiconductor manufacturing process; or

(B) maintaining an environment suitable for a semiconductor; or

(ii) consumed primarily in the process of:

(A) (I) manufacturing a semiconductor;

(II) fabricating a semiconductor; or

(III) research or development of a:

(Aa) semiconductor; or

(Bb) semiconductor manufacturing process; or

(B) maintaining an environment suitable for a semiconductor.

(b) "Semiconductor fabricating, processing, research, or development materials" includes:

(i) parts used in the repairs or renovations of tangible personal property or a product transferred electronically described in Subsection (115)(a); or

(ii) a chemical, catalyst, or other material used to:

(A) produce or induce in a semiconductor a:

(I) chemical change; or

(II) physical change;

(B) remove impurities from a semiconductor; or

(C) improve the marketable condition of a semiconductor.

(116) "Senior citizen center" means a facility having the primary purpose of providing services to the aged as defined in Section 62A-3-101.

(117) (a) Subject to Subsections (117)(b) and (c), "short-term lodging consumable" means tangible personal property that:

(i) a business that provides accommodations and services described in Subsection 59-12-103(1)(i) purchases as part of a transaction to provide the accommodations and services to a purchaser;

(ii) is intended to be consumed by the purchaser; and

(iii) is:

(A) included in the purchase price of the accommodations and services; and

(B) not separately stated on an invoice, bill of sale, or other similar document provided to the purchaser.

(b) "Short-term lodging consumable" includes:

(i) a beverage;

(ii) a brush or comb;

(iii) a cosmetic;

(iv) a hair care product;

(v) lotion;

(vi) a magazine;

(vii) makeup;

(viii) a meal;

(ix) mouthwash;

(x) nail polish remover;

(xi) a newspaper;

(xii) a notepad;

(xiii) a pen;

(xiv) a pencil;

(xv) a razor;

(xvi) saline solution;

(xvii) a sewing kit;

(xviii) shaving cream;

(xix) a shoe shine kit;

(xx) a shower cap;

(xxi) a snack item;

(xxii) soap;

(xxiii) toilet paper;

(xxiv) a toothbrush;

(xxv) toothpaste; or

(xxvi) an item similar to Subsections (117)(b)(i) through (xxv) as the commission may provide by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(c) "Short-term lodging consumable" does not include:

(i) tangible personal property that is cleaned or washed to allow the tangible personal property to be reused; or

(ii) a product transferred electronically.

(118) "Simplified electronic return" means the electronic return:

(a) described in Section 318(C) of the agreement; and

(b) approved by the governing board of the agreement.

(119) "Solar energy" means the sun used as the sole source of energy for producing electricity.

(120) (a) "Sports or recreational equipment" means an item:

(i) designed for human use; and

(ii) that is:

(A) worn in conjunction with:

(I) an athletic activity; or

(II) a recreational activity; and

(B) not suitable for general use.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:

(i) listing the items that constitute “sports or recreational equipment”; and

(ii) that are consistent with the list of items that constitute “sports or recreational equipment” under the agreement.

(121) “State” means the state of Utah, its departments, and agencies.

(122) “Storage” means any keeping or retention of tangible personal property or any other taxable transaction under Subsection 59-12-103(1), in this state for any purpose except sale in the regular course of business.

(123) (a) Except as provided in Subsection (123)(d) or (e), “tangible personal property” means personal property that:

(i) may be:

(A) seen;

(B) weighed;

(C) measured;

(D) felt; or

(E) touched; or

(ii) is in any manner perceptible to the senses.

(b) “Tangible personal property” includes:

(i) electricity;

(ii) water;

(iii) gas;

(iv) steam; or

(v) prewritten computer software, regardless of the manner in which the prewritten computer software is transferred.

(c) “Tangible personal property” includes the following regardless of whether the item is attached to real property:

(i) a dishwasher;

(ii) a dryer;

(iii) a freezer;

(iv) a microwave;

(v) a refrigerator;

(vi) a stove;

(vii) a washer; or

(viii) an item similar to Subsections (123)(c)(i) through (vii) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(d) “Tangible personal property” does not include a product that is transferred electronically.

(e) “Tangible personal property” does not include the following if attached to real property, regardless of whether the attachment to real property is only through a line that supplies water, electricity, gas, telephone, cable, or supplies a similar item as

determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(i) a hot water heater;

(ii) a water filtration system; or

(iii) a water softener system.

(124) (a) “Telecommunications enabling or facilitating equipment, machinery, or software” means an item listed in Subsection (124)(b) if that item is purchased or leased primarily to enable or facilitate one or more of the following to function:

(i) telecommunications switching or routing equipment, machinery, or software; or

(ii) telecommunications transmission equipment, machinery, or software.

(b) The following apply to Subsection (124)(a):

(i) a pole;

(ii) software;

(iii) a supplementary power supply;

(iv) temperature or environmental equipment or machinery;

(v) test equipment;

(vi) a tower; or

(vii) equipment, machinery, or software that functions similarly to an item listed in Subsections (124)(b)(i) through (vi) as determined by the commission by rule made in accordance with Subsection (124)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections (124)(b)(i) through (vi).

(125) “Telecommunications equipment, machinery, or software required for 911 service” means equipment, machinery, or software that is required to comply with 47 C.F.R. Sec. 20.18.

(126) “Telecommunications maintenance or repair equipment, machinery, or software” means equipment, machinery, or software purchased or leased primarily to maintain or repair one or more of the following, regardless of whether the equipment, machinery, or software is purchased or leased as a spare part or as an upgrade or modification to one or more of the following:

(a) telecommunications enabling or facilitating equipment, machinery, or software;

(b) telecommunications switching or routing equipment, machinery, or software; or

(c) telecommunications transmission equipment, machinery, or software.

(127) (a) “Telecommunications service” means the electronic conveyance, routing, or transmission of audio, data, video, voice, or any other information or signal to a point, or among or between points.

(b) "Telecommunications service" includes:

(i) an electronic conveyance, routing, or transmission with respect to which a computer processing application is used to act:

(A) on the code, form, or protocol of the content;

(B) for the purpose of electronic conveyance, routing, or transmission; and

(C) regardless of whether the service:

(I) is referred to as voice over Internet protocol service; or

(II) is classified by the Federal Communications Commission as enhanced or value added;

(ii) an 800 service;

(iii) a 900 service;

(iv) a fixed wireless service;

(v) a mobile wireless service;

(vi) a postpaid calling service;

(vii) a prepaid calling service;

(viii) a prepaid wireless calling service; or

(ix) a private communications service.

(c) "Telecommunications service" does not include:

(i) advertising, including directory advertising;

(ii) an ancillary service;

(iii) a billing and collection service provided to a third party;

(iv) a data processing and information service if:

(A) the data processing and information service allows data to be:

(I) (Aa) acquired;

(Bb) generated;

(Cc) processed;

(Dd) retrieved; or

(Ee) stored; and

(II) delivered by an electronic transmission to a purchaser; and

(B) the purchaser's primary purpose for the underlying transaction is the processed data or information;

(v) installation or maintenance of the following on a customer's premises:

(A) equipment; or

(B) wiring;

(vi) Internet access service;

(vii) a paging service;

(viii) a product transferred electronically, including:

(A) music;

(B) reading material;

(C) a ring tone;

(D) software; or

(E) video;

(ix) a radio and television audio and video programming service:

(A) regardless of the medium; and

(B) including:

(I) furnishing conveyance, routing, or transmission of a television audio and video programming service by a programming service provider;

(II) cable service as defined in 47 U.S.C. Sec. 522(6); or

(III) audio and video programming services delivered by a commercial mobile radio service provider as defined in 47 C.F.R. Sec. 20.3;

(x) a value-added nonvoice data service; or

(xi) tangible personal property.

(128) (a) "Telecommunications service provider" means a person that:

(i) owns, controls, operates, or manages a telecommunications service; and

(ii) engages in an activity described in Subsection (128)(a)(i) for the shared use with or resale to any person of the telecommunications service.

(b) A person described in Subsection (128)(a) is a telecommunications service provider whether or not the Public Service Commission of Utah regulates:

(i) that person; or

(ii) the telecommunications service that the person owns, controls, operates, or manages.

(129) (a) "Telecommunications switching or routing equipment, machinery, or software" means an item listed in Subsection (129)(b) if that item is purchased or leased primarily for switching or routing:

(i) an ancillary service;

(ii) data communications;

(iii) voice communications; or

(iv) telecommunications service.

(b) The following apply to Subsection (129)(a):

(i) a bridge;

(ii) a computer;

(iii) a cross connect;

(iv) a modem;

(v) a multiplexer;

(vi) plug in circuitry;

(vii) a router;

(viii) software;

(ix) a switch; or

(x) equipment, machinery, or software that functions similarly to an item listed in Subsections (129)(b)(i) through (ix) as determined by the commission by rule made in accordance with Subsection (129)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections (129)(b)(i) through (ix).

(130) (a) "Telecommunications transmission equipment, machinery, or software" means an item listed in Subsection (130)(b) if that item is purchased or leased primarily for sending, receiving, or transporting:

- (i) an ancillary service;
 - (ii) data communications;
 - (iii) voice communications; or
 - (iv) telecommunications service.
- (b) The following apply to Subsection (130)(a):
- (i) an amplifier;
 - (ii) a cable;
 - (iii) a closure;
 - (iv) a conduit;
 - (v) a controller;
 - (vi) a duplexer;
 - (vii) a filter;
 - (viii) an input device;
 - (ix) an input/output device;
 - (x) an insulator;
 - (xi) microwave machinery or equipment;
 - (xii) an oscillator;
 - (xiii) an output device;
 - (xiv) a pedestal;
 - (xv) a power converter;
 - (xvi) a power supply;
 - (xvii) a radio channel;
 - (xviii) a radio receiver;
 - (xix) a radio transmitter;
 - (xx) a repeater;
 - (xxi) software;
 - (xxii) a terminal;
 - (xxiii) a timing unit;

(xxiv) a transformer;

(xxv) a wire; or

(xxvi) equipment, machinery, or software that functions similarly to an item listed in Subsections (130)(b)(i) through (xxv) as determined by the commission by rule made in accordance with Subsection (130)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections (130)(b)(i) through (xxv).

(131) (a) "Textbook for a higher education course" means a textbook or other printed material that is required for a course:

(i) offered by an institution of higher education; and

(ii) that the purchaser of the textbook or other printed material attends or will attend.

(b) "Textbook for a higher education course" includes a textbook in electronic format.

(132) "Tobacco" means:

- (a) a cigarette;
- (b) a cigar;
- (c) chewing tobacco;
- (d) pipe tobacco; or
- (e) any other item that contains tobacco.

(133) "Unassisted amusement device" means an amusement device, skill device, or ride device that is started and stopped by the purchaser or renter of the right to use or operate the amusement device, skill device, or ride device.

(134) (a) "Use" means the exercise of any right or power over tangible personal property, a product transferred electronically, or a service under Subsection 59-12-103(1), incident to the ownership or the leasing of that tangible personal property, product transferred electronically, or service.

(b) "Use" does not include the sale, display, demonstration, or trial of tangible personal property, a product transferred electronically, or a service in the regular course of business and held for resale.

(135) "Value-added nonvoice data service" means a service:

(a) that otherwise meets the definition of a telecommunications service except that a computer processing application is used to act primarily for a purpose other than conveyance, routing, or transmission; and

(b) with respect to which a computer processing application is used to act on data or information:

- (i) code;
- (ii) content;

(iii) form; or

(iv) protocol.

(136) (a) Subject to Subsection (136)(b), “vehicle” means the following that are required to be titled, registered, or titled and registered:

(i) an aircraft as defined in Section 72-10-102;

(ii) a vehicle as defined in Section 41-1a-102;

(iii) an off-highway vehicle as defined in Section 41-22-2; or

(iv) a vessel as defined in Section 41-1a-102.

(b) For purposes of Subsection 59-12-104(33) only, “vehicle” includes:

(i) a vehicle described in Subsection (136)(a); or

(ii) (A) a locomotive;

(B) a freight car;

(C) railroad work equipment; or

(D) other railroad rolling stock.

(137) “Vehicle dealer” means a person engaged in the business of buying, selling, or exchanging a vehicle as defined in Subsection (136).

(138) (a) “Vertical service” means an ancillary service that:

(i) is offered in connection with one or more telecommunications services; and

(ii) offers an advanced calling feature that allows a customer to:

(A) identify a caller; and

(B) manage multiple calls and call connections.

(b) “Vertical service” includes an ancillary service that allows a customer to manage a conference bridging service.

(139) (a) “Voice mail service” means an ancillary service that enables a customer to receive, send, or store a recorded message.

(b) “Voice mail service” does not include a vertical service that a customer is required to have in order to utilize a voice mail service.

(140) (a) Except as provided in Subsection (140)(b), “waste energy facility” means a facility that generates electricity:

(i) using as the primary source of energy waste materials that would be placed in a landfill or refuse pit if it were not used to generate electricity, including:

(A) tires;

(B) waste coal;

(C) oil shale; or

(D) municipal solid waste; and

(ii) in amounts greater than actually required for the operation of the facility.

(b) “Waste energy facility” does not include a facility that incinerates:

(i) hospital waste as defined in 40 C.F.R. 60.51c; or

(ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.

(141) “Watercraft” means a vessel as defined in Section 73-18-2.

(142) “Wind energy” means wind used as the sole source of energy to produce electricity.

(143) “ZIP Code” means a Zoning Improvement Plan Code assigned to a geographic location by the United States Postal Service.

Section 14. Appropriation.

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, for the fiscal year beginning July 1, 2015, and ending June 30, 2016, the following sums of money are appropriated from resources not otherwise appropriated, or reduced from amounts previously appropriated, out of the funds or accounts indicated. These sums of money are in addition to any amounts previously appropriated for fiscal year 2016.

To Department of Commerce - Commerce General Regulation

<u>From General Fund Restricted - Commerce Service Account</u>	<u>\$20,000</u>
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Schedule of Programs:

<u>Consumer Protection</u>	<u>\$20,000</u>
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CHAPTER 462**H. B. 42**

Passed March 9, 2015

Approved April 1, 2015

Effective April 1, 2015

ANNEXATION AMENDMENTS

Chief Sponsor: John R. Westwood

Senate Sponsor: Evan J. Vickers

LONG TITLE**General Description:**

This bill amends provisions governing the annexation of an unincorporated area.

Highlighted Provisions:

This bill:

- ▶ authorizes, in certain circumstances, an annexation that leaves or creates an unincorporated island or peninsula.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

10-2-402, as last amended by Laws of Utah 2011, Chapter 234

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

Section 1. Section 10-2-402 is amended to read:**10-2-402. Annexation -- Limitations.**

(1) (a) A contiguous, unincorporated area that is contiguous to a municipality may be annexed to the municipality as provided in this part.

(b) An unincorporated area may not be annexed to a municipality unless:

- (i) it is a contiguous area;
- (ii) it is contiguous to the municipality;
- (iii) ~~[except as provided in Subsection 10-2-418(1)(b),]~~ annexation will not leave or create an unincorporated island or unincorporated peninsula~~[-and];~~

(A) except as provided in Subsection 10-2-418(1)(b); or

(B) unless the county and municipality have otherwise agreed; and

(iv) for an area located in a specified county with respect to an annexation that occurs after December 31, 2002, the area is within the proposed annexing municipality's expansion area.

(2) Except as provided in Section 10-2-418, a municipality may not annex an unincorporated area unless a petition under Section 10-2-403 is filed requesting annexation.

(3) (a) An annexation under this part may not include part of a parcel of real property and exclude

part of that same parcel unless the owner of that parcel has signed the annexation petition under Section 10-2-403.

(b) A piece of real property that has more than one parcel number is considered to be a single parcel for purposes of Subsection (3)(a) if owned by the same owner.

(4) A municipality may not annex an unincorporated area in a specified county for the sole purpose of acquiring municipal revenue or to retard the capacity of another municipality to annex the same or a related area unless the municipality has the ability and intent to benefit the annexed area by providing municipal services to the annexed area.

(5) The legislative body of a specified county may not approve urban development within a municipality's expansion area unless:

(a) the county notifies the municipality of the proposed development; and

(b) (i) the municipality consents in writing to the development; or

(ii) (A) within 90 days after the county's notification of the proposed development, the municipality submits to the county a written objection to the county's approval of the proposed development; and

(B) the county responds in writing to the municipality's objections.

(6) (a) An annexation petition may not be filed under this part proposing the annexation of an area located in a county that is not the county in which the proposed annexing municipality is located unless the legislative body of the county in which the area is located has adopted a resolution approving the proposed annexation.

(b) Each county legislative body that declines to adopt a resolution approving a proposed annexation described in Subsection (6)(a) shall provide a written explanation of its reasons for declining to approve the proposed annexation.

(7) (a) As used in this Subsection (7), "airport" means an area that the Federal Aviation Administration has, by a record of decision, approved for the construction or operation of a Class I, II, or III commercial service airport, as designated by the Federal Aviation Administration in 14 C.F.R. Part 139.

(b) A municipality may not annex an unincorporated area within 5,000 feet of the center line of any runway of an airport operated or to be constructed and operated by another municipality unless the legislative body of the other municipality adopts a resolution consenting to the annexation.

(c) A municipality that operates or intends to construct and operate an airport and does not adopt a resolution consenting to the annexation of an area described in Subsection (7)(b) may not deny an annexation petition proposing the annexation of that same area to that municipality.

(8) An annexation petition may not be filed if it proposes the annexation of an area that is within a

proposed township in a petition to establish a township under Subsection 17-27a-306(1)(c) that has been certified under Subsection 17-27a-306(1)(f), until after the canvass of an election on the proposed township under Subsection 17-27a-306(1)(h).

(9) (a) A municipality may not annex an unincorporated area located within a project area described in a project area plan adopted by the military installation development authority under Title 63H, Chapter 1, Military Installation Development Authority Act, without the authority's approval.

(b) (i) Except as provided in Subsection (9)(b)(ii), the Military Installation Development Authority may petition for annexation of a project area and contiguous surrounding land to a municipality as if it was the sole private property owner of the project area and surrounding land, if the area to be annexed is entirely contained within the boundaries of a military installation.

(ii) Before petitioning for annexation under Subsection (9)(b)(i), the Military Installation Development Authority shall provide the military installation with a copy of the petition for annexation. The military installation may object to the petition for annexation within 14 days of receipt of the copy of the annexation petition. If the military installation objects under this Subsection (9)(b)(ii), the Military Installation Development Authority may not petition for the annexation as if it was the sole private property owner.

(iii) If any portion of an area annexed under a petition for annexation filed by a Military Installation Development Authority is located in a specified county:

(A) the annexation process shall follow the requirements for a specified county; and

(B) the provisions of Subsection 10-2-402(6) do not apply.

Section 2. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

CHAPTER 463**H. B. 115**

Passed March 11, 2015

Approved April 1, 2015

Effective July 1, 2015

**PUBLIC SAFETY RETIREMENT
FOR DISPATCHERS**

Chief Sponsor: Kraig Powell

Senate Sponsor: Curtis S. Bramble

LONG TITLE**General Description:**

This bill allows certified dispatchers to be covered in the public safety retirement systems.

Highlighted Provisions:

This bill:

- ▶ provides definitions;
- ▶ requires the state to cover its certified dispatchers under the public safety retirement systems;
- ▶ authorizes other participating employers to elect to cover their certified dispatchers under the public safety retirement systems; and
- ▶ makes technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

- 49-14-102, as last amended by Laws of Utah 2013, Chapter 40
- 49-14-201, as last amended by Laws of Utah 2014, Chapter 15
- 49-15-102, as last amended by Laws of Utah 2013, Chapter 40
- 49-15-201, as last amended by Laws of Utah 2014, Chapter 15
- 49-23-102, as last amended by Laws of Utah 2013, Chapter 40
- 49-23-201, as last amended by Laws of Utah 2014, Chapter 15
- 49-23-503, as last amended by Laws of Utah 2014, Chapter 15

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

Section 1. Section 49-14-102 is amended to read:**49-14-102. Definitions.**

As used in this chapter:

(1) (a) "Compensation" means the total amount of payments that are includable in gross income which are received by a public safety service employee as base income for the regularly scheduled work period. The participating employer shall establish the regularly scheduled work period. Base income shall be determined prior to the deduction of member contributions or any amounts the public safety service employee authorizes to be deducted for salary deferral or other benefits authorized by federal law.

(b) "Compensation" includes performance-based bonuses and cost-of-living adjustments.

(c) "Compensation" does not include:

- (i) overtime;
- (ii) sick pay incentives;
- (iii) retirement pay incentives;

(iv) the monetary value of remuneration paid in kind, including a residence, use of equipment or uniform, travel, or similar payments;

(v) a lump-sum payment or special payments covering accumulated leave; and

(vi) all contributions made by a participating employer under this system or under any other employee benefit system or plan maintained by a participating employer for the benefit of a member or participant.

(d) "Compensation" for purposes of this chapter may not exceed the amount allowed under Internal Revenue Code Section 401(a)(17).

(2) "Dispatcher" means the same as that term is defined in Section 53-6-102.

[(2)] (3) "Final average salary" means the amount computed by averaging the highest three years of annual compensation preceding retirement[,] subject to Subsections [(2)] (3)(a) and (b).

(a) Except as provided in Subsection [(2)] (3)(b), the percentage increase in annual compensation in any one of the years used may not exceed the previous year's compensation by more than 10% plus a cost-of-living adjustment equal to the decrease in the purchasing power of the dollar during the previous year, as measured by a United States Bureau of Labor Statistics Consumer Price Index average as determined by the board.

(b) In cases where the participating employer provides acceptable documentation to the office, the limitation in Subsection [(2)] (3)(a) may be exceeded if:

- (i) the public safety service employee has transferred from another agency; or
- (ii) the public safety service employee has been promoted to a new position.

[(3)] (4) (a) "Line-of-duty death" means a death resulting from:

- (i) external force, violence, or disease occasioned by an act of duty as a public safety service employee; or
- (ii) strenuous activity, including a heart attack or stroke, that occurs during strenuous training or another strenuous activity required as an act of duty as a public safety service employee.

(b) "Line-of-duty death" does not include a death that:

- (i) occurs during an activity that is required as an act of duty as a public safety service employee if the activity is not a strenuous activity, including an activity that is clerical, administrative, or of a nonmanual nature;

(ii) occurs during the commission of a crime committed by the employee;

(iii) the employee's intoxication or use of alcohol or drugs, whether prescribed or nonprescribed, contributes to the employee's death; or

(iv) occurs in a manner other than as described in Subsection ~~[(3)]~~ (4)(a).

~~[(4)]~~ (5) "Participating employer" means an employer which meets the participation requirements of Section 49-14-201.

~~[(5)]~~ (6) (a) "Public safety service" means employment normally requiring an average of 2,080 hours of regularly scheduled employment per year rendered by a member who is a:

(i) law enforcement officer in accordance with Section 53-13-103;

(ii) correctional officer in accordance with Section 53-13-104;

(iii) special function officer approved in accordance with Sections 49-14-201 and 53-13-105; ~~and~~

~~[(iv)]~~ (v) dispatcher who is certified in accordance with Section 53-6-303; or

~~[(iv)]~~ (v) full-time member of the Board of Pardons and Parole created under Section 77-27-2.

(b) Except as provided under ~~[Subsection (5)]~~ Subsections (6)(a)(iv) and (v), "public safety service" also requires that in the course of employment the employee's life or personal safety is at risk.

(c) Except for the minimum hour requirement, ~~Subsections [(5)]~~ (6)(a) and (b) do not apply to any person who was eligible for service credit in this system before January 1, 1984.

~~[(6)]~~ (7) "Public safety service employee" means an employee of a participating employer who performs public safety service under this chapter.

~~[(7)]~~ (8) (a) "Strenuous activity" means engagement involving a difficult, stressful, or vigorous fire suppression, rescue, hazardous material response, emergency medical service, physical law enforcement, prison security, disaster relief, or other emergency response activity.

(b) "Strenuous activity" includes participating in a participating employer sanctioned and funded training exercise that involves difficult, stressful, or vigorous physical activity.

~~[(8)]~~ (9) "System" means the Public Safety Contributory Retirement System created under this chapter.

~~[(9)]~~ (10) "Years of service credit" means the number of periods, each to consist of 12 full months as determined by the board, whether consecutive or not, during which a public safety service employee was employed by a participating employer, including time the public safety service employee was absent in the service of the United States government on military duty.

Section 2. Section 49-14-201 is amended to read:

49-14-201. System membership -- Eligibility.

(1) Except as provided in Section 49-15-201, a public safety service employee of a participating employer participating in this system is eligible for service credit in this system at the earliest of:

(a) July 1, 1969, if the public safety service employee was employed by the participating employer on July 1, 1969, and the participating employer was participating in this system on that date;

(b) the date the participating employer begins participating in this system if the public safety service employee was employed by the participating employer on that date; or

(c) the date the public safety service employee is employed by the participating employer and is eligible to perform public safety service, except that a public safety service employee initially entering employment with a participating employer on or after July 1, 2011, who does not have service credit accrued before July 1, 2011, in a Tier I system or plan administered by the board, may not participate in this system.

(2) (a) (i) A participating employer that has public safety service and firefighter service employees that require cross-training and duty shall enroll those dual purpose employees in the system in which the greatest amount of time is actually worked.

(ii) The employees shall either be full-time public safety service or full-time firefighter service employees of the participating employer.

(b) (i) Prior to transferring a dual purpose employee from one system to another, the participating employer shall receive written permission from the office.

(ii) The office may request documentation to verify the appropriateness of the transfer.

(3) The board may combine or segregate the actuarial experience of participating employers in this system for the purpose of setting contribution rates.

(4) (a) (i) Each participating employer participating in this system shall annually submit to the office a schedule indicating the positions to be covered under this system in accordance with this chapter.

(ii) The office may require documentation to justify the inclusion of any position under this system.

(b) If there is a dispute between the office and a participating employer or employee over any position to be covered, the disputed position shall be submitted to the Peace Officer Standards and Training Council established under Section 53-6-106 for determination.

(c) (i) The Peace Officer Standards and Training Council's authority to decide eligibility for public

safety service credit is limited to claims for coverage under this system for time periods after July 1, 1989.

(ii) A decision of the Peace Officer Standards and Training Council may not be applied to service credit earned in another system prior to July 1, 1989.

(iii) Except as provided under Subsection (4)(c)(iv), a decision of the Peace Officer Standards and Training Council granting a position coverage under this system may only be applied prospectively from the date of that decision.

(iv) A decision of the Peace Officer Standards and Training Council granting a position coverage under this system may be applied retroactively only if:

(A) the participating employer covered other similarly situated positions under this system during the time period in question; and

(B) the position otherwise meets all eligibility requirements for receiving service credit in this system during the period for which service credit is to be granted.

(5) The Peace Officer Standards and Training Council may use a subcommittee to provide a recommendation to the council in determining disputes between the office and a participating employer or employee over a position to be covered under this system.

(6) The Peace Officer Standards and Training Council shall comply with Title 63G, Chapter 4, Administrative Procedures Act, in resolving coverage disputes in this system.

(7) A public safety employee who is transferred or promoted to an administration position not covered by this system shall continue to earn public safety service credit in this system as long as the employee remains employed in the same department.

(8) Any employee who is reassigned to the Department of Technology Services or to the Department of Human Resource Management, and who was a member of this system, shall be entitled to remain a member of this system.

(9) (a) To determine that a position is covered under this system, the office and, if a coverage dispute arises, the Peace Officer Standards and Training Council shall find that the position requires the employee to:

(i) except for a dispatcher, place the employee's life or personal safety at risk; and

(ii) complete training as provided in Section 53-6-303, 53-13-103, 53-13-104, or 53-13-105.

(b) If a position satisfies the requirements of Subsection (9)(a), the office and the Peace Officer Standards and Training Council shall consider whether or not the position requires the employee to:

(i) perform duties that consist primarily of actively preventing or detecting crime and enforcing criminal statutes or ordinances of this state or any of its political subdivisions;

(ii) perform duties that consist primarily of providing community protection; and

(iii) respond to situations involving threats to public safety and make emergency decisions affecting the lives and health of others.

(10) If a subcommittee is used to recommend the determination of disputes to the Peace Officer Standards and Training Council, the subcommittee shall comply with the requirements of Subsection (9) in making its recommendation.

(11) A final order of the Peace Officer Standards and Training Council regarding a dispute is a final agency action for purposes of Title 63G, Chapter 4, Administrative Procedures Act.

(12) Except as provided under Subsection (13), if a participating employer's public safety service employees are not covered by this system or under Chapter 15, Public Safety Noncontributory Retirement Act, as of January 1, 1998, those public safety service employees who may otherwise qualify for membership in this system shall, at the discretion of the participating employer, remain in their current retirement system.

(13) (a) A public safety service employee employed by an airport police department, which elects to cover its public safety service employees under the Public Safety Noncontributory Retirement System under Subsection (12), may elect to remain in the public safety service employee's current retirement system.

(b) The public safety service employee's election to remain in the current retirement system under Subsection (13)(a):

(i) shall be made at the time the employer elects to move its public safety service employees to a public safety retirement system;

(ii) documented by written notice to the participating employer; and

(iii) is irrevocable.

(14) (a) Subject to Subsection (15), beginning July 1, 2015, a public safety service employee who is a dispatcher employed by:

(i) the state shall be eligible for service credit in this system; and

(ii) a participating employer other than the state shall be eligible for service credit in this system if the dispatcher's participating employer elects to cover its dispatchers under this system.

(b) A participating employer's election to cover its dispatchers under this system under Subsection (14)(a)(ii) is irrevocable and shall be documented by a resolution adopted by the governing body of the participating employer in accordance with rules made by the office.

(c) A dispatcher's service before July 1, 2015, or before a date specified by resolution of a

participating employer under Subsection (14)(b), is not eligible for service credit in this system.

~~[(14)]~~ (15) Notwithstanding any other provision of this section, a person initially entering employment with a participating employer on or after July 1, 2011, who does not have service credit accrued before July 1, 2011, in a Tier I system or plan administered by the board, may not participate in this system.

Section 3. Section 49-15-102 is amended to read:

49-15-102. Definitions.

As used in this chapter:

(1) (a) "Compensation" means the total amount of payments that are includable in gross income received by a public safety service employee as base income for the regularly scheduled work period. The participating employer shall establish the regularly scheduled work period. Base income shall be determined prior to the deduction of any amounts the public safety service employee authorizes to be deducted for salary deferral or other benefits authorized by federal law.

(b) "Compensation" includes performance-based bonuses and cost-of-living adjustments.

(c) "Compensation" does not include:

(i) overtime;

(ii) sick pay incentives;

(iii) retirement pay incentives;

(iv) the monetary value of remuneration paid in kind, as in a residence, use of equipment or uniform, travel, or similar payments;

(v) a lump-sum payment or special payment covering accumulated leave; and

(vi) all contributions made by a participating employer under this system or under any other employee benefit system or plan maintained by a participating employer for the benefit of a member or participant.

(d) "Compensation" for purposes of this chapter may not exceed the amount allowed under Internal Revenue Code Section 401(a)(17).

(2) "Dispatcher" means the same as that term is defined in Section 53-6-102.

~~[(2)]~~ (3) "Final average salary" means the amount computed by averaging the highest three years of annual compensation preceding retirement subject to Subsections ~~[(2)]~~ (3)(a) and (b).

(a) Except as provided in Subsection ~~[(2)]~~ (3)(b), the percentage increase in annual compensation in any one of the years used may not exceed the previous year's compensation by more than 10% plus a cost-of-living adjustment equal to the decrease in the purchasing power of the dollar during the previous year, as measured by a United States Bureau of Labor Statistics Consumer Price Index average as determined by the board.

(b) In cases where the participating employer provides acceptable documentation to the office, the limitation in Subsection ~~[(2)]~~ (3)(a) may be exceeded if:

(i) the public safety service employee has transferred from another agency; or

(ii) the public safety service employee has been promoted to a new position.

~~[(3)]~~ (4) (a) "Line-of-duty death" means a death resulting from:

(i) external force, violence, or disease occasioned by an act of duty as a public safety service employee; or

(ii) strenuous activity, including a heart attack or stroke, that occurs during strenuous training or another strenuous activity required as an act of duty as a public safety service employee.

(b) "Line-of-duty death" does not include a death that:

(i) occurs during an activity that is required as an act of duty as a public safety service employee if the activity is not a strenuous activity, including an activity that is clerical, administrative, or of a nonmanual nature;

(ii) occurs during the commission of a crime committed by the employee;

(iii) the employee's intoxication or use of alcohol or drugs, whether prescribed or nonprescribed, contributes to the employee's death; or

(iv) occurs in a manner other than as described in Subsection ~~[(3)]~~ (4)(a).

~~[(4)]~~ (5) "Participating employer" means an employer which meets the participation requirements of Section 49-15-201.

~~[(5)]~~ (6) (a) "Public safety service" means employment normally requiring an average of 2,080 hours of regularly scheduled employment per year rendered by a member who is a:

(i) law enforcement officer in accordance with Section 53-13-103;

(ii) correctional officer in accordance with Section 53-13-104;

(iii) special function officer approved in accordance with Sections 49-15-201 and 53-13-105; ~~[and]~~

(iv) dispatcher who is certified in accordance with Section 53-6-303; or

~~[(iv)]~~ (v) full-time member of the Board of Pardons and Parole created under Section 77-27-2.

(b) Except as provided under ~~[Subsection (5)]~~ Subsections (6)(a)(iv) and (v), "public safety service" also requires that in the course of employment the employee's life or personal safety is at risk.

~~[(6)]~~ (7) "Public safety service employee" means an employee of a participating employer who performs public safety service under this chapter.

~~[(7)]~~ (8) (a) "Strenuous activity" means engagement involving a difficult, stressful, or

vigorous fire suppression, rescue, hazardous material response, emergency medical service, physical law enforcement, prison security, disaster relief, or other emergency response activity.

(b) "Strenuous activity" includes participating in a participating employer sanctioned and funded training exercise that involves difficult, stressful, or vigorous physical activity.

~~(8)~~ (9) "System" means the Public Safety Noncontributory Retirement System created under this chapter.

~~(9)~~ (10) "Years of service credit" means the number of periods, each to consist of 12 full months as determined by the board, whether consecutive or not, during which a public safety service employee was employed by a participating employer, including time the public safety service employee was absent in the service of the United States government on military duty.

Section 4. Section 49-15-201 is amended to read:

49-15-201. System membership -- Eligibility.

(1) (a) A public safety service employee employed by the state after July 1, 1989, but before July 1, 2011, is eligible for service credit in this system.

(b) A public safety service employee employed by the state prior to July 1, 1989, may either elect to receive service credit in this system or continue to receive service credit under the system established under Chapter 14, Public Safety Contributory Retirement Act, by following the procedures established by the board under this chapter.

(2) (a) Public safety service employees of a participating employer other than the state that elected on or before July 1, 1989, to remain in the Public Safety Contributory Retirement System shall be eligible only for service credit in that system.

(b) (i) A participating employer other than the state that elected on or before July 1, 1989, to participate in this system shall, have allowed, prior to July 1, 1989, a public safety service employee to elect to participate in either this system or the Public Safety Contributory Retirement System.

(ii) Except as expressly allowed by this title, the election of the public safety service employee is final and may not be changed.

(c) A public safety service employee hired by a participating employer other than the state after July 1, 1989, but before July 1, 2011, shall become a member in this system.

(d) A public safety service employee of a participating employer other than the state who began participation in this system after July 1, 1989, but before July 1, 2011, is only eligible for service credit in this system.

(e) A person initially entering employment with a participating employer on or after July 1, 2011, who

does not have service credit accrued before July 1, 2011, in a Tier I system or plan administered by the board, may not participate in this system.

(3) (a) (i) A participating employer that has public safety service and firefighter service employees that require cross-training and duty shall enroll those dual purpose employees in the system in which the greatest amount of time is actually worked.

(ii) The employees shall either be full-time public safety service or full-time firefighter service employees of the participating employer.

(b) (i) Prior to transferring a dual purpose employee from one system to another, the participating employer shall receive written permission from the office.

(ii) The office may request documentation to verify the appropriateness of the transfer.

(4) The board may combine or segregate the actuarial experience of participating employers in this system for the purpose of setting contribution rates.

(5) (a) (i) Each participating employer participating in this system shall annually submit to the office a schedule indicating the positions to be covered under this system in accordance with this chapter.

(ii) The office may require documentation to justify the inclusion of any position under this system.

(b) If there is a dispute between the office and a participating employer or employee over any position to be covered, the disputed position shall be submitted to the Peace Officer Standards and Training Council established under Section 53-6-106 for determination.

(c) (i) The Peace Officer Standards and Training Council's authority to decide eligibility for public safety service credit is limited to claims for coverage under this system for time periods after July 1, 1989.

(ii) A decision of the Peace Officer Standards and Training Council may not be applied to service credit earned in another system prior to July 1, 1989.

(iii) Except as provided under Subsection (5)(c)(iv), a decision of the Peace Officer Standards and Training Council granting a position coverage under this system may only be applied prospectively from the date of that decision.

(iv) A decision of the Peace Officer Standards and Training Council granting a position coverage under this system may be applied retroactively only if:

(A) the participating employer covered other similarly situated positions under this system during the time period in question; and

(B) the position otherwise meets all eligibility requirements for receiving service credit in this

system during the period for which service credit is to be granted.

(6) The Peace Officer Standards and Training Council may use a subcommittee to provide a recommendation to the council in determining disputes between the office and a participating employer or employee over a position to be covered under this system.

(7) The Peace Officer Standards and Training Council shall comply with Title 63G, Chapter 4, Administrative Procedures Act, in resolving coverage disputes in this system.

(8) A public safety service employee who is transferred or promoted to an administration position not covered by this system shall continue to earn public safety service credit in this system as long as the employee remains employed in the same department.

(9) Any employee who is reassigned to the Department of Technology Services or to the Department of Human Resource Management, and who was a member in this system, shall be entitled to remain a member in this system.

(10) (a) To determine that a position is covered under this system, the office and, if a coverage dispute arises, the Peace Officer Standards and Training Council shall find that the position requires the employee to:

(i) except for a dispatcher, place the employee's life or personal safety at risk; and

(ii) complete training as provided in Section 53-6-303, 53-13-103, 53-13-104, or 53-13-105.

(b) If a position satisfies the requirements of Subsection (10)(a), the office and Peace Officer Standards and Training Council shall consider whether the position requires the employee to:

(i) perform duties that consist primarily of actively preventing or detecting crime and enforcing criminal statutes or ordinances of this state or any of its political subdivisions;

(ii) perform duties that consist primarily of providing community protection; and

(iii) respond to situations involving threats to public safety and make emergency decisions affecting the lives and health of others.

(11) If a subcommittee is used to recommend the determination of disputes to the Peace Officer Standards and Training Council, the subcommittee shall comply with the requirements of Subsection (10) in making its recommendation.

(12) A final order of the Peace Officer Standards and Training Council regarding a dispute is a final agency action for purposes of Title 63G, Chapter 4, Administrative Procedures Act.

(13) Except as provided under Subsection (14), if a participating employer's public safety service employees are not covered by this system or under Chapter 14, Public Safety Contributory Retirement Act, as of January 1, 1998, those public safety

service employees who may otherwise qualify for membership in this system shall, at the discretion of the participating employer, remain in their current retirement system.

(14) (a) A public safety service employee employed by an airport police department, which elects to cover its public safety service employees under the Public Safety Noncontributory Retirement System under Subsection (13), may elect to remain in the public safety service employee's current retirement system.

(b) The public safety service employee's election to remain in the current retirement system under Subsection (14)(a):

(i) shall be made at the time the employer elects to move its public safety service employees to a public safety retirement system;

(ii) documented by written notice to the participating employer; and

(iii) is irrevocable.

(15) (a) Subject to Subsection (16), beginning July 1, 2015, a public safety service employee who is a dispatcher employed by:

(i) the state shall be eligible for service credit in this system; and

(ii) a participating employer other than the state shall be eligible for service credit in this system if the dispatcher's participating employer elects to cover its dispatchers under this system.

(b) A participating employer's election to cover its dispatchers under this system under Subsection (15)(a)(ii) is irrevocable and shall be documented by a resolution adopted by the governing body of the participating employer in accordance with rules made by the office.

(c) A dispatcher's service before July 1, 2015, or before a date specified by resolution of a participating employer under Subsection (15)(b), is not eligible for service credit in this system.

[(15)] (16) Notwithstanding any other provision of this section, a person initially entering employment with a participating employer on or after July 1, 2011, who does not have service credit accrued before July 1, 2011, in a Tier I system or plan administered by the board, may not participate in this system.

Section 5. Section 49-23-102 is amended to read:

49-23-102. Definitions.

As used in this chapter:

(1) (a) "Compensation" means the total amount of payments that are includable in gross income received by a public safety service employee or a firefighter service employee as base income for the regularly scheduled work period. The participating employer shall establish the regularly scheduled work period. Base income shall be determined prior to the deduction of any amounts the public safety service employee or firefighter service employee

authorizes to be deducted for salary deferral or other benefits authorized by federal law.

(b) "Compensation" includes performance-based bonuses and cost-of-living adjustments.

(c) "Compensation" does not include:

(i) overtime;

(ii) sick pay incentives;

(iii) retirement pay incentives;

(iv) the monetary value of remuneration paid in kind, as in a residence, use of equipment or uniform, travel, or similar payments;

(v) a lump-sum payment or special payment covering accumulated leave; and

(vi) all contributions made by a participating employer under this system or under any other employee benefit system or plan maintained by a participating employer for the benefit of a member or participant.

(d) "Compensation" for purposes of this chapter may not exceed the amount allowed under Internal Revenue Code Section 401(a)(17).

(2) "Corresponding Tier I system" means the system or plan that would have covered the member if the member had initially entered employment before July 1, 2011.

(3) "Dispatcher" means the same as that term is defined in Section 53-6-102.

[~~(3)~~] (4) "Final average salary" means the amount computed by averaging the highest five years of annual compensation preceding retirement subject to Subsections [~~(3)~~] (4)(a), (b), (c), and (d).

(a) Except as provided in Subsection [~~(3)~~] (4)(b), the percentage increase in annual compensation in any one of the years used may not exceed the previous year's compensation by more than 10% plus a cost-of-living adjustment equal to the decrease in the purchasing power of the dollar during the previous year, as measured by a United States Bureau of Labor Statistics Consumer Price Index average as determined by the board.

(b) In cases where the participating employer provides acceptable documentation to the office, the limitation in Subsection [~~(3)~~] (4)(a) may be exceeded if:

(i) the member has transferred from another agency; or

(ii) the member has been promoted to a new position.

(c) If the member retires more than six months from the date of termination of employment, the member is considered to have been in service at the member's last rate of pay from the date of the termination of employment to the effective date of retirement for purposes of computing the member's final average salary only.

(d) If the member has less than five years of service credit in this system, final average salary means the average annual compensation paid to the member during the full period of service credit.

[~~(4)~~] (5) "Firefighter service" means employment normally requiring an average of 2,080 hours of regularly scheduled employment per year rendered by a member who is a firefighter service employee trained in firefighter techniques and assigned to a position of hazardous duty with a regularly constituted fire department, but does not include secretarial staff or other similar employees.

[~~(5)~~] (6) "Firefighter service employee" means an employee of a participating employer who provides firefighter service under this chapter. An employee of a regularly constituted fire department who does not perform firefighter service is not a firefighter service employee.

[~~(6)~~] (7) (a) "Line-of-duty death" means a death resulting from:

(i) external force, violence, or disease occasioned by an act of duty as a public safety service or firefighter service employee; or

(ii) strenuous activity, including a heart attack or stroke, that occurs during strenuous training or another strenuous activity required as an act of duty as a public safety service or firefighter service employee.

(b) "Line-of-duty death" does not include a death that:

(i) occurs during an activity that is required as an act of duty as a public safety service or firefighter service employee if the activity is not a strenuous activity, including an activity that is clerical, administrative, or of a nonmanual nature;

(ii) occurs during the commission of a crime committed by the employee;

(iii) the employee's intoxication or use of alcohol or drugs, whether prescribed or nonprescribed, contributes to the employee's death; or

(iv) occurs in a manner other than as described in Subsection [~~(6)~~] (7)(a).

[~~(7)~~] (8) "Participating employer" means an employer which meets the participation requirements of:

(a) Sections 49-14-201 and 49-14-202;

(b) Sections 49-15-201 and 49-15-202;

(c) Sections 49-16-201 and 49-16-202; or

(d) Sections 49-23-201 and 49-23-202.

[~~(8)~~] (9) (a) "Public safety service" means employment normally requiring an average of 2,080 hours of regularly scheduled employment per year rendered by a member who is a:

(i) law enforcement officer in accordance with Section 53-13-103;

(ii) correctional officer in accordance with Section 53-13-104;

(iii) special function officer approved in accordance with Sections 49-15-201 and 53-13-105; ~~and~~

(iv) dispatcher who is certified in accordance with Section 53-6-303; and

~~[(iv)]~~ (v) full-time member of the Board of Pardons and Parole created under Section 77-27-2.

(b) Except as provided under ~~[Subsection (8)]~~ Subsections (9)(a)(iv) and (v), "public safety service" also requires that in the course of employment the employee's life or personal safety is at risk.

~~[(9)]~~ (10) "Public safety service employee" means an employee of a participating employer who performs public safety service under this chapter.

~~[(40)]~~ (11) (a) "Strenuous activity" means engagement involving a difficult, stressful, or vigorous fire suppression, rescue, hazardous material response, emergency medical service, physical law enforcement, prison security, disaster relief, or other emergency response activity.

(b) "Strenuous activity" includes participating in a participating employer sanctioned and funded training exercise that involves difficult, stressful, or vigorous physical activity.

~~[(41)]~~ (12) "System" means the New Public Safety and Firefighter Tier II Contributory Retirement System created under this chapter.

~~[(42)]~~ (13) (a) "Volunteer firefighter" means any individual that is not regularly employed as a firefighter service employee, but who:

(i) has been trained in firefighter techniques and skills;

(ii) continues to receive regular firefighter training; and

(iii) is on the rolls of a legally organized volunteer fire department which provides ongoing training and serves a political subdivision of the state.

(b) An individual that volunteers assistance but does not meet the requirements of Subsection ~~[(42)]~~ (13)(a) is not a volunteer firefighter for purposes of this chapter.

~~[(43)]~~ (14) "Years of service credit" means:

(a) a period, consisting of 12 full months as determined by the board; or

(b) a period determined by the board, whether consecutive or not, during which a regular full-time employee performed services for a participating employer, including any time the regular full-time employee was absent on a paid leave of absence granted by a participating employer or was absent in the service of the United States government on military duty as provided by this chapter.

Section 6. Section 49-23-201 is amended to read:

49-23-201. System membership -- Eligibility.

(1) Beginning July 1, 2011, a participating employer that employs public safety service employees or firefighter service employees shall participate in this system.

(2) (a) A public safety service employee or a firefighter service employee initially entering employment with a participating employer on or after July 1, 2011, who does not have service credit accrued before July 1, 2011, in a Tier I system or plan administered by the board, is eligible:

(i) as a member for service credit and defined contributions under the Tier II hybrid retirement system established by Part 3, Tier II Hybrid Retirement System; or

(ii) as a participant for defined contributions under the Tier II defined contributions plan established by Part 4, Tier II Defined Contribution Plan.

(b) A public safety service employee or a firefighter service employee initially entering employment with a participating employer on or after July 1, 2011, shall:

(i) make an election to participate in the system created under this chapter within 30 days from the date of eligibility for accrual of benefits:

(A) as a member for service credit and defined contributions under the Tier II hybrid retirement system established by Part 3, Tier II Hybrid Retirement System; or

(B) as a participant for defined contributions under the Tier II defined contribution plan established by Part 4, Tier II Defined Contribution Plan; and

(ii) electronically submit to the office notification of the member's election under Subsection (2)(b)(i) in a manner approved by the office.

(c) An election made by a public safety service employee or firefighter service employee initially entering employment with a participating employer under this Subsection (2) is irrevocable beginning one year from the date of eligibility for accrual of benefits.

(d) If no election is made under Subsection (2)(b)(i), the public safety service employee or firefighter service employee shall become a member eligible for service credit and defined contributions under the Tier II hybrid retirement system established by Part 3, Tier II Hybrid Retirement System.

(3) (a) Beginning July 1, 2015, a public safety service employee who is a dispatcher employed by:

(i) the state shall be eligible for service credit in this system; and

(ii) a participating employer other than the state shall be eligible for service credit in this system if the dispatcher's participating employer elects to cover its dispatchers under this system.

(b) A participating employer's election to cover its dispatchers under this system under Subsection (3)(a)(ii) is irrevocable and shall be documented by a

resolution adopted by the governing body of the participating employer in accordance with rules made by the office.

(c) A dispatcher's service before July 1, 2015, or before a date specified by resolution of a participating employer under Subsection (3)(b), is not eligible for service credit in this system.

Section 7. Section 49-23-503 is amended to read:

49-23-503. Death of active member in line of duty -- Payment of benefits.

If an active member of this system dies, benefits are payable as follows:

(1) If the death is classified by the office as a line-of-duty death, benefits are payable as follows:

(a) If the member has accrued less than 20 years of public safety service or firefighter service credit, the spouse at the time of death shall receive a lump sum of \$1,000 and an allowance equal to 30% of the member's final average monthly salary.

(b) If the member has accrued 20 or more years of public safety service or firefighter service credit, the member shall be considered to have retired with an Option One allowance calculated without an actuarial reduction under Section 49-23-304 and the spouse at the time of death shall receive the allowance that would have been payable to the member.

(2) (a) A volunteer firefighter is eligible for a line-of-duty death benefit under this section if the death results from external force, violence, or disease directly resulting from firefighter service.

(b) The lowest monthly compensation of firefighters of a city of the first class in this state at the time of death shall be considered to be the final average monthly salary of a volunteer firefighter for purposes of computing these benefits.

(c) Each volunteer fire department shall maintain a current roll of all volunteer firefighters which meet the requirements of Subsection 49-23-102~~(12)~~(13) to determine the eligibility for this benefit.

(3) (a) If the death is classified as a line-of-duty death by the office, death benefits are payable under this section and the spouse at the time of death is not eligible for benefits under Section 49-23-502.

(b) If the death is not classified as a line-of-duty death by the office, benefits are payable in accordance with Section 49-23-502.

(4) (a) A spouse who qualifies for a monthly benefit under this section shall apply in writing to the office.

(b) The allowance shall begin on the first day of the month following the month in which the:

(i) member or participant died, if the application is received by the office within 90 days of the date of death of the member or participant; or

(ii) application is received by the office, if the application is received by the office more than 90 days after the date of death of the member or participant.

Section 8. Effective date.

This bill takes effect on July 1, 2015.

CHAPTER 464**H. B. 291**

Passed March 11, 2015

Approved April 1, 2015

Effective May 12, 2015

PROCUREMENT CHANGES

Chief Sponsor: Keven J. Stratton
 Senate Sponsor: Curtis S. Bramble

LONG TITLE**General Description:**

This bill modifies the Utah Procurement Code.

Highlighted Provisions:

This bill:

- ▶ modifies definitions relating to grants and procurements in which the source of the funds imposes requirements on the procurement;
- ▶ modifies a provision regarding the application of the procurement code;
- ▶ modifies a provision relating to exemptions from the procurement code; and
- ▶ modifies a provision relating to issuing and conducting procurement units.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63G-6a-103, as last amended by Laws of Utah 2014, Chapter 196

63G-6a-105, as last amended by Laws of Utah 2013, Chapter 445

63G-6a-107, as last amended by Laws of Utah 2014, Chapters 180, 196, and 313

63G-6a-109, as enacted by Laws of Utah 2014, Chapter 196

63G-6a-1702, as last amended by Laws of Utah 2014, Chapter 196

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

Section 1. Section 63G-6a-103 is amended to read:**63G-6a-103. Definitions.**

As used in this chapter:

- (1) "Architect-engineer services" means:
 - (a) professional services within the scope of the practice of architecture as defined in Section 58-3a-102;
 - (b) professional engineering as defined in Section 58-22-102; or
 - (c) master planning and programming services.
- (2) "Bidder" means a person who responds to an invitation for bids.
- (3) "Change directive" means a written order signed by the procurement officer that directs the contractor to suspend work or make changes, as

authorized by contract, without the consent of the contractor.

(4) "Change order" means a written alteration in specifications, delivery point, rate of delivery, period of performance, price, quantity, or other provisions of a contract, upon mutual agreement of the parties to the contract.

(5) "Chief procurement officer" means the chief procurement officer appointed under Subsection 63G-6a-302(1).

(6) "Conducting procurement unit" means a procurement unit that conducts all aspects of a procurement:

(a) except:

(i) reviewing a solicitation to verify that it is in proper form; and

(ii) causing the publication of a notice of a solicitation; and

(b) including:

(i) preparing any solicitation document;

(ii) appointing an evaluation committee;

(iii) conducting the evaluation process, except as provided in Subsection 63G-6a-707(5)(b) relating to scores calculated for costs of proposals;

(iv) selecting and recommending the person to be awarded a contract;

(v) negotiating the terms and conditions of a contract, subject to the issuing procurement unit's approval; and

(vi) administering a contract.

(7) (a) "Construction" means the process of building, renovating, altering, improving, or repairing a public building or public work.

(b) "Construction" does not include the routine operation, routine repair, or routine maintenance of an existing structure, building, or real property.

(8) (a) "Construction manager/general contractor" means a contractor who enters into a contract for the management of a construction project when the contract allows the contractor to subcontract for additional labor and materials that are not included in the contractor's cost proposal submitted at the time of the procurement of the contractor's services.

(b) "Construction manager/general contractor" does not include a contractor whose only subcontract work not included in the contractor's cost proposal submitted as part of the procurement of the contractor's services is to meet subcontracted portions of change orders approved within the scope of the project.

(9) "Contract" means an agreement for the procurement or disposal of a procurement item.

(10) "Contractor" means a person who is awarded a contract with a procurement unit.

(11) "Cooperative procurement" means procurement conducted by, or on behalf of:

- (a) more than one procurement unit; or
- (b) a procurement unit and a cooperative purchasing organization.

(12) “Cost-plus-a-percentage-of-cost contract” means a contract where the contractor is paid a percentage over and above the contractor’s actual expenses or costs.

(13) “Cost-reimbursement contract” means a contract under which a contractor is reimbursed for costs which are allowed and allocated in accordance with the contract terms and the provisions of this chapter, and a fee, if any.

(14) “Days” means calendar days, unless expressly provided otherwise.

(15) “Definite quantity contract” means a fixed price contract that provides for the supply of a specified amount of goods over a specified period, with deliveries scheduled according to a specified schedule.

(16) “Design-build” means the procurement of architect-engineer services and construction by the use of a single contract with the design-build provider.

(17) “Directed procurement” means a procurement of a procurement item in which the source of the funds used to procure the procurement item:

(a) directs from whom the procurement item is to be procured; or

(b) imposes requirements on how the procurement is to be administered.

~~[(17)]~~ (18) “Director” means the director of the division.

~~[(18)]~~ (19) “Established catalogue price” means the price included in a catalogue, price list, schedule, or other form that:

(a) is regularly maintained by a manufacturer or contractor;

(b) is either published or otherwise available for inspection by customers; and

(c) states prices at which sales are currently or were last made to a significant number of any category of buyers or buyers constituting the general buying public for the supplies or services involved.

~~[(19)]~~ (20) “Fixed price contract” means a contract that provides a price, for each procurement item obtained under the contract, that is not subject to adjustment except to the extent that:

(a) the contract provides, under circumstances specified in the contract, for an adjustment in price that is not based on cost to the contractor; or

(b) an adjustment is required by law.

~~[(20)]~~ (21) “Fixed price contract with price adjustment” means a fixed price contract that

provides for an upward or downward revision of price, precisely described in the contract, that:

(a) is based on the consumer price index or another commercially acceptable index, source, or formula; and

(b) is not based on a percentage of the cost to the contractor.

~~[(21) (a)]~~ (22) “Grant” means ~~[furnishing, by a public entity or by any other public or private source, financial or other assistance to a person to support a program authorized by law]~~ an expenditure of public funds or other assistance, or an agreement to expend public funds or other assistance, for a public purpose authorized by law, without acquiring a procurement item in exchange.

~~[(b) “Grant” does not include:]~~

~~[(i) an award whose primary purpose is to procure an end product or procurement item; or]~~

~~[(ii) a contract that is awarded as a result of a procurement or a procurement process.]~~

~~[(22)]~~ (23) “Head of a procurement unit” means:

(a) as it relates to a legislative procurement unit, any person designated by rule made by the applicable rulemaking authority;

(b) as it relates to an executive branch procurement unit:

(i) the director of a division; or

(ii) any other person designated by the board, by rule;

(c) as it relates to a judicial procurement unit:

(i) the Judicial Council; or

(ii) any other person designated by the Judicial Council, by rule;

(d) as it relates to a local government procurement unit:

(i) the legislative body of the local government procurement unit; or

(ii) any other person designated by the local government procurement unit;

(e) as it relates to a local district, the board of trustees of the local district or a designee of the board of trustees;

(f) as it relates to a special service district, the governing body of the special service district or a designee of the governing body;

(g) as it relates to a local building authority, the board of directors of the local building authority or a designee of the board of directors;

(h) as it relates to a conservation district, the board of supervisors of the conservation district or a designee of the board of supervisors;

(i) as it relates to a public corporation, the board of directors of the public corporation or a designee of the board of directors;

(j) as it relates to a school district or any school or entity within a school district, the board of the school district, or the board's designee;

(k) as it relates to a charter school, the individual or body with executive authority over the charter school, or the individual's or body's designee;

(l) as it relates to an institution of higher education of the state, the president of the institution of higher education, or the president's designee; or

(m) as it relates to a public transit district, the board of trustees or a designee of the board of trustees.

~~[(23)]~~ (24) "Indefinite quantity contract" means a fixed price contract that:

(a) is for an indefinite amount of procurement items to be supplied as ordered by a procurement unit; and

(b) (i) does not require a minimum purchase amount; or

(ii) provides a maximum purchase limit.

~~[(24)]~~ (25) "Independent procurement authority" means authority granted to a procurement unit under Subsection 63G-6a-106(4)(a).

~~[(25)]~~ (26) "Invitation for bids" includes all documents, including documents that are attached or incorporated by reference, used for soliciting bids to provide a procurement item to a procurement unit.

~~[(26)]~~ (27) "Issuing procurement unit" means a procurement unit that:

(a) reviews a solicitation to verify that it is in proper form;

(b) causes the notice of a solicitation to be published; and

(c) negotiates the terms and conditions of a contract.

~~[(27)]~~ (28) "Labor hour contract" is a contract where:

(a) the supplies and materials are not provided by, or through, the contractor; and

(b) the contractor is paid a fixed rate that includes the cost of labor, overhead, and profit for a specified number of labor hours or days.

~~[(28)]~~ (29) "Multiple award contracts" means the award of a contract for an indefinite quantity of a procurement item to more than one bidder or offeror.

~~[(29)]~~ (30) "Multiyear contract" means a contract that extends beyond a one-year period, including a contract that permits renewal of the contract, without competition, beyond the first year of the contract.

~~[(30)]~~ (31) "Municipality" means a city or a town.

~~[(31)]~~ (32) "Offeror" means a person who responds to a request for proposals.

~~[(32)]~~ (33) "Preferred bidder" means a bidder that is entitled to receive a reciprocal preference under the requirements of this chapter.

~~[(33)-(a)]~~ (34) "Procure" ~~or "procurement" means buying, purchasing, renting, leasing, leasing with an option to purchase, or otherwise acquiring a procurement item~~ means to acquire a procurement item through a procurement.

(35) "Procurement":

(a) means an expenditure of public funds, or an agreement to expend public funds, in exchange for a procurement item;

(b) [~~"Procure" or "procurement"~~] includes all functions that pertain to the ~~[obtaining]~~ acquisition of a procurement item, including:

(i) the description of requirements;

(ii) the selection process;

(iii) solicitation of sources;

(iv) the preparation for soliciting a procurement item; and

(v) the award of a contract[-]; and

(c) does not include a grant.

~~[(34)]~~ (36) "Procurement item" means a supply, a service, construction, or technology.

~~[(35)]~~ (37) "Procurement officer" means:

(a) as it relates to a procurement unit with independent procurement authority:

(i) the head of the procurement unit;

(ii) a designee of the head of the procurement unit; or

(iii) a person designated by rule made by the applicable rulemaking authority; or

(b) as it relates to the division or a procurement unit without independent procurement authority, the chief procurement officer.

~~[(36)]~~ (38) "Professional service" means a service that requires a high degree of specialized knowledge and discretion in the performance of the service, including:

(a) legal services;

(b) consultation services;

(c) architectural services;

(d) engineering;

(e) design;

(f) underwriting;

(g) bond counsel;

(h) financial advice;

(i) construction management;

(j) medical services;

(k) psychiatric services; or

(l) counseling services.

[377] (39) "Protest officer" means:

(a) as it relates to the division or a procurement unit with independent procurement authority:

(i) the head of the procurement unit;

(ii) a designee of the head of the procurement unit; or

(iii) a person designated by rule made by the applicable rulemaking authority; or

(b) as it relates to a procurement unit without independent procurement authority, the chief procurement officer or the chief procurement officer's designee.

[389] (40) "Request for information" means a nonbinding process where a procurement unit requests information relating to a procurement item.

[399] (41) "Request for proposals" includes all documents, including documents that are attached or incorporated by reference, used for soliciting proposals to provide a procurement item to a procurement unit.

[409] (42) "Request for statement of qualifications" means all documents used to solicit information about the qualifications of the person interested in responding to a potential procurement, including documents attached or incorporated by reference.

[419] (43) "Requirements contract" means a contract:

(a) where a contractor agrees to provide a procurement unit's entire requirements for certain procurement items at prices specified in the contract during the contract period; and

(b) that:

(i) does not require a minimum purchase amount; or

(ii) provides a maximum purchase limit.

[429] (44) "Responsible" means being capable, in all respects, of:

(a) meeting all the requirements of a solicitation; and

(b) fully performing all the requirements of the contract resulting from the solicitation, including being financially solvent with sufficient financial resources to perform the contract.

[439] (45) "Responsive" means conforming in all material respects to the invitation for bids or request for proposals.

[444] (46) "Sealed" means manually or electronically sealed and submitted bids or proposals.

[455] (47) (a) "Services" means the furnishing of labor, time, or effort by a contractor, not involving the delivery of a specific end product other than a report that is incidental to the required performance.

(b) "Services" does not include an employment agreement or a collective bargaining agreement.

[466] (48) "Sole source contract" means a contract resulting from a sole source procurement.

[477] (49) "Sole source procurement" means a procurement without competition pursuant to a determination under Subsection 63G-6a-802(2)(a) that there is only one source for the procurement item.

[488] (50) "Solicitation" means an invitation for bids, request for proposals, notice of a sole source procurement, request for statement of qualifications, request for information, or any document used to obtain bids, proposals, pricing, qualifications, or information for the purpose of entering into a procurement contract.

[499] (51) "Specification" means any description of the physical or functional characteristics, or nature of a procurement item included in an invitation for bids or a request for proposals, or otherwise specified or agreed to by a procurement unit, including a description of:

(a) a requirement for inspecting or testing a procurement item; or

(b) preparing a procurement item for delivery.

[509] (52) "Standard procurement process" means one of the following methods of obtaining a procurement item:

(a) bidding, as described in Part 6, Bidding;

(b) request for proposals, as described in Part 7, Request for Proposals; or

(c) small purchases, in accordance with the requirements established under Section 63G-6a-408.

[519] (53) "State cooperative contract" means a contract awarded by the division for and in behalf of all public entities.

[529] (54) "Statement of qualifications" means a written statement submitted to a procurement unit in response to a request for statement of qualifications.

[539] (55) (a) "Subcontractor" means a person under contract with a contractor or another subcontractor to provide services or labor for design or construction.

(b) "Subcontractor" includes a trade contractor or specialty contractor.

(c) "Subcontractor" does not include a supplier who provides only materials, equipment, or supplies to a contractor or subcontractor.

[549] (56) "Supplies" means all property, including equipment, materials, and printing.

~~[(55)] (57)~~ “Tie bid” means that the lowest responsive and responsible bids are identical in price.

~~[(56)] (58)~~ “Time and materials contract” means a contract where the contractor is paid:

(a) the actual cost of direct labor at specified hourly rates;

(b) the actual cost of materials and equipment usage; and

(c) an additional amount, expressly described in the contract, to cover overhead and profit, that is not based on a percentage of the cost to the contractor.

Section 2. Section 63G-6a-105 is amended to read:

63G-6a-105. Application of chapter.

(1) The provisions of this chapter that are enacted on May 1, 2013, apply only to a procurement advertised, or begun on or after May 1, 2013, unless the parties agree to have the provisions apply with respect to a procurement that was advertised or begun before May 1, 2013, but is not completed before May 1, 2013.

(2) (a) Except as provided in Section 63G-6a-107, this chapter shall apply to every expenditure of public funds irrespective of the source of the funds, including federal assistance, by any procurement unit, under any contract.

(b) The provisions of this chapter do not apply to a public entity that is not a procurement unit.

(3) Except as provided in Subsection 17B-1-108(3) relating to local districts, the following procurement units shall adopt ordinances or resolutions relating to the procurement of architect-engineer services not inconsistent with the provisions of Part 15, Architect-Engineer Services:

- (a) an educational procurement unit;
- (b) a conservation district;
- (c) a local building authority;
- (d) a local district;
- (e) a public corporation; or
- (f) a special service district.

(4) Any section of this chapter, or its implementing regulations, may be adopted by:

- (a) a county;
- (b) a municipality; or
- (c) the Utah Housing Corporation.

(5) Rules adopted under this chapter shall be consistent with the provisions of this chapter.

(6) An applicable rulemaking authority or a procurement unit may not adopt rules, policies, or regulations that are inconsistent with this chapter.

(7) Unless otherwise provided by statute, this chapter does not apply to procurement of real property.

(8) Notwithstanding any provision of this chapter, a procurement unit may administer a direct procurement in accordance with the requirements imposed by the source of the funds used to procure the procurement item.

Section 3. Section 63G-6a-107 is amended to read:

63G-6a-107. Exemptions from chapter -- Compliance with federal law.

(1) Except for Part 24, Unlawful Conduct and Penalties, the provisions of this chapter do not apply to:

(a) funds administered under the Percent-for-Art Program of the Utah Percent-for-Art Act;

~~[(b) grants awarded by the state or contracts between the state and any of the following:]~~

~~[(i) an educational procurement unit;]~~

~~[(ii) a conservation district;]~~

~~[(iii) a local building authority;]~~

~~[(iv) a local district;]~~

~~[(v) a public corporation;]~~

~~[(vi) a special service district;]~~

~~[(vii) a public transit district; or]~~

~~[(viii) two or more of the entities described in Subsections (1)(b)(i) through (vii), acting under legislation that authorizes intergovernmental cooperation;]~~

(b) a grant;

(c) a contract between procurement units;

~~[(e)] (d) medical supplies or medical equipment, including service agreements for medical equipment, obtained through a purchasing consortium by the Utah State Hospital, the Utah State Developmental Center, the University of Utah Hospital, or any other hospital owned by the state or a political subdivision of the state, if:~~

~~(i) the consortium uses a competitive procurement process; and~~

~~(ii) the chief administrative officer of the hospital makes a written finding that the prices for purchasing medical supplies and medical equipment through the consortium are competitive with market prices;~~

~~[(d)] (e) the purchase of firefighting supplies or equipment by the Division of Forestry, Fire, and State Lands, created in Section 65A-1-4, through the federal General Services Administration or the National Fire Cache system;~~

~~[(e)] (f) goods purchased for resale to the public; or~~

~~[(f)] (g) the Division of Parks and Recreation, during a fiscal emergency, as defined by Subsection~~

79-4-1102(1), if the division is acting under the authority described in Sections 79-4-1101 through 79-4-1103.

(2) This chapter does not prevent a procurement unit from complying with the terms and conditions of any grant, gift, or bequest that is otherwise consistent with law.

(3) This chapter does not apply to any action taken by a majority of both houses of the Legislature.

(4) Notwithstanding any conflicting provision of this chapter, when a procurement involves the expenditure of federal assistance, federal contract funds, local matching funds, or federal financial participation funds, the procurement unit shall comply with mandatory applicable federal law and regulations not reflected in this chapter.

(5) This chapter does not supersede the requirements for retention or withholding of construction proceeds and release of construction proceeds as provided in Section 13-8-5.

Section 4. Section 63G-6a-109 is amended to read:

63G-6a-109. Issuing procurement unit and conducting procurement unit.

(1) ~~With~~ (a) Except as provided in Subsection (1)(b), with respect to a procurement by an executive branch procurement unit:

~~(a)~~ (i) the division is the issuing procurement unit; and

~~(b)~~ (ii) the executive branch procurement unit is the conducting procurement unit and is responsible to ensure that the procurement is conducted in compliance with this chapter.

(b) An executive branch procurement unit administering a directed procurement is both the issuing procurement unit and the conducting procurement unit.

(2) With respect to a procurement by any other procurement unit, the procurement unit is both the issuing procurement unit and the conducting procurement unit.

Section 5. Section 63G-6a-1702 is amended to read:

63G-6a-1702. Appeal to Utah State Procurement Policy Board -- Appointment of procurement appeals panel -- Proceedings.

(1) This part applies to all procurement units other than:

- (a) a legislative procurement unit;
- (b) a judicial procurement unit;
- (c) a local government procurement unit; or
- (d) a public transit district.

(2) (a) Subject to Section 63G-6a-1703, a party to a protest involving a procurement unit other than a

procurement unit listed in Subsection (1)(a), (b), (c), or (d) may appeal the protest decision to the board by filing a written notice of appeal with the chair of the board within seven days after:

(i) the day on which the written decision described in Section 63G-6a-1603 is:

(A) personally served on the party or the party's representative; or

(B) emailed or mailed to the address or email address of record provided by the party under Subsection 63G-6a-1602~~(3)~~(2); or

(ii) the day on which the 30-day period described in Subsection 63G-6a-1603(7) ends, if a written decision is not issued before the end of the 30-day period.

(b) A person appealing a debarment or suspension of a procurement unit other than a procurement unit listed in Subsection (1)(a), (b), (c), or (d) shall file a written notice of appeal with the chair of the board no later than seven days after the debarment or suspension.

(c) A notice of appeal under Subsection (2)(a) or (b) shall:

(i) include the address of record and email address of record of the party filing the notice of appeal; and

(ii) be accompanied by a copy of any written protest decision or debarment or suspension order.

(3) A person may not base an appeal of a protest under this section on a ground not specified in the person's protest under Section 63G-6a-1602.

(4) A person may not appeal from a protest described in Section 63G-6a-1602, unless:

(a) a decision on the protest has been issued; or

(b) a decision is not issued and the 30-day period described in Subsection 63G-6a-1603(7), or a longer period agreed to by the parties, has passed.

(5) The chair of the board or a designee of the chair who is not employed by the procurement unit responsible for the solicitation, contract award, or other action complained of:

(a) shall, within seven days after the day on which the chair receives a timely written notice of appeal under Subsection (2), and if all the requirements of Subsection (2) and Section 63G-6a-1703 have been met, appoint:

(i) a procurement appeals panel to hear and decide the appeal, consisting of at least three individuals, each of whom is:

(A) a member of the board; or

(B) a designee of a member appointed under Subsection ~~[(4)]~~ (5)(a)(i)(A), if the designee is approved by the chair; and

(ii) one of the members of the procurement appeals panel to be the chair of the panel;

(b) may:

(i) appoint the same procurement appeals panel to hear more than one appeal; or

(ii) appoint a separate procurement appeals panel for each appeal;

(c) may not appoint a person to a procurement appeals panel if the person is employed by the procurement unit responsible for the solicitation, contract award, or other action complained of; and

(d) shall, at the time the procurement appeals panel is appointed, provide appeals panel members with a copy of the protest officer's written decision and all other records and other evidence that the protest officer relied on in reaching the decision.

(6) A procurement appeals panel described in Subsection (5) shall:

(a) consist of an odd number of members;

(b) conduct an informal proceeding on the appeal within 60 days after the day on which the procurement appeals panel is appointed:

(i) unless all parties stipulate to a later date; and

(ii) subject to Subsection (8);

(c) at least seven days before the proceeding, mail, email, or hand-deliver a written notice of the proceeding to the parties to the appeal; and

(d) within seven days after the day on which the proceeding ends:

(i) issue a written decision on the appeal; and

(ii) mail, email, or hand-deliver the written decision on the appeal to the parties to the appeal and to the protest officer.

(7) (a) The deliberations of a procurement appeals panel may be held in private.

(b) If the procurement appeals panel is a public body, as defined in Section 52-4-103, the procurement appeals panel shall comply with Section 52-4-205 in closing a meeting for its deliberations.

(8) A procurement appeals panel may continue a procurement appeals proceeding beyond the 60-day period described in Subsection (6)(b) if the procurement appeals panel determines that the continuance is in the interests of justice.

(9) A procurement appeals panel:

(a) shall, subject to Subsection (9)(c), consider the appeal based solely on:

(i) the protest decision;

(ii) the record considered by the person who issued the protest decision; and

(iii) if a protest hearing was held, the record of the protest hearing;

(b) may not take additional evidence;

(c) notwithstanding Subsection (9)(b), may, during an informal hearing, ask questions and receive responses regarding the appeal, the protest decision, or the record in order to assist the panel to understand the appeal, the protest decision, and the record; and

(d) shall uphold the decision of the protest officer, unless the decision is arbitrary and capricious or clearly erroneous.

(10) If a procurement appeals panel determines that the decision of the protest officer is arbitrary and capricious or clearly erroneous, the procurement appeals panel:

(a) shall remand the matter to the protest officer, to cure the problem or render a new decision;

(b) may recommend action that the protest officer should take; and

(c) may not order that:

(i) a contract be awarded to a certain person;

(ii) a contract or solicitation be cancelled; or

(iii) any other action be taken other than the action described in Subsection (10)(a).

(11) The board shall make rules relating to the conduct of an appeals proceeding, including rules that provide for:

(a) expedited proceedings; and

(b) electronic participation in the proceedings by panel members and participants.

(12) The Rules of Evidence do not apply to an appeals proceeding.

CHAPTER 465**H. B. 351**

Passed March 12, 2015

Approved April 1, 2015

Effective May 12, 2015

PLANNING DISTRICT AMENDMENTS

Chief Sponsor: Brad L. Dee
 Senate Sponsor: Todd Weiler

LONG TITLE**General Description:**

This bill authorizes the creation and governance of a mountainous planning district.

Highlighted Provisions:

This bill:

- ▶ excludes, with certain exceptions, any area located within a mountainous planning district from the land use jurisdiction, including the general plan, of a municipality;
- ▶ defines terms;
- ▶ authorizes a county to establish a planning commission for a mountainous planning district;
- ▶ amends other applicable provisions of Title 17, Chapter 27a, County Land Use, Development, and Management Act;
- ▶ authorizes a county to designate a mountainous planning district under certain circumstances;
- ▶ provides a repeal date; and
- ▶ makes technical and conforming amendments.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides revisor instructions.

Utah Code Sections Affected:**AMENDS:**

- 10-9a-304, as renumbered and amended by Laws of Utah 2005, Chapter 254
- 17-27a-102, as last amended by Laws of Utah 2007, Chapter 363
- 17-27a-103, as last amended by Laws of Utah 2014, Chapters 136 and 363
- 17-27a-210, as enacted by Laws of Utah 2005, Chapter 231
- 17-27a-301, as last amended by Laws of Utah 2014, Chapter 189
- 17-27a-302, as last amended by Laws of Utah 2012, Chapter 359
- 17-27a-305, as last amended by Laws of Utah 2013, Chapter 200
- 17-27a-401, as renumbered and amended by Laws of Utah 2005, Chapter 254
- 17-27a-403, as last amended by Laws of Utah 2014, Chapter 176
- 17-27a-502, as last amended by Laws of Utah 2013, Chapter 324
- 17-27a-505.5, as last amended by Laws of Utah 2012, Chapter 172
- 17-27a-602, as renumbered and amended by Laws of Utah 2005, Chapter 254
- 17-27a-604, as last amended by Laws of Utah 2011, Chapter 377
- 17-27a-605, as last amended by Laws of Utah 2012, Chapter 99

63I-2-210, as last amended by Laws of Utah 2014, Chapter 405

63I-2-217, as last amended by Laws of Utah 2014, Chapters 189 and 405

ENACTS:

17-27a-901, Utah Code Annotated 1953

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

Section 1. Section 10-9a-304 is amended to read:**10-9a-304. State and federal property -- Mountainous planning district.**

(1) Unless otherwise provided by law, nothing contained in this chapter may be construed as giving a municipality jurisdiction over property owned by the state or the United States.

(2) (a) Except as provided in Subsection (2)(b), for purposes of this chapter, a municipality, a municipal planning commission, or a municipal land use authority does not have jurisdiction over property located within a mountainous planning district as defined in Section 17-27a-103.

(b) Subsection (2)(a) does not apply to a municipality that:

(i) (A) is wholly located within the boundaries of a mountainous planning district; and

(B) was incorporated in or before 1970;

(ii) is exercising its extraterritorial jurisdiction as authorized by Section 10-8-15; or

(iii) has been granted joint authority to regulate, subject to Subsection (2)(c), its watershed areas by a local health authority.

(c) The exception for a municipality under Subsection (2)(b)(iii) applies only for matters related to regulation of the watershed within a watershed area.

Section 2. Section 17-27a-102 is amended to read:**17-27a-102. Purposes -- General land use authority.**

(1) (a) The purposes of this chapter are to provide for the health, safety, and welfare, and promote the prosperity, improve the morals, peace and good order, comfort, convenience, and aesthetics of each county and its present and future inhabitants and businesses, to protect the tax base, to secure economy in governmental expenditures, to foster the state's agricultural and other industries, to protect both urban and nonurban development, to protect and ensure access to sunlight for solar energy devices, to provide fundamental fairness in land use regulation, and to protect property values.

(b) To accomplish the purposes of this chapter, counties may enact all ordinances, resolutions, and rules and may enter into other forms of land use controls and development agreements that they consider necessary or appropriate for the use and development of land within the unincorporated area of the county or a designated mountainous planning district, including ordinances,

resolutions, rules, restrictive covenants, easements, and development agreements governing uses, density, open spaces, structures, buildings, energy-efficiency, light and air, air quality, transportation and public or alternative transportation, infrastructure, street and building orientation and width requirements, public facilities, fundamental fairness in land use regulation, considerations of surrounding land uses and the balance of the foregoing purposes with a landowner's private property interests, height and location of vegetation, trees, and landscaping, unless expressly prohibited by law.

(2) Each county shall comply with the mandatory provisions of this part before any agreement or contract to provide goods, services, or municipal-type services to any storage facility or transfer facility for high-level nuclear waste, or greater than class C radioactive waste, may be executed or implemented.

Section 3. Section 17-27a-103 is amended to read:

17-27a-103. Definitions.

As used in this chapter:

(1) "Affected entity" means a county, municipality, local district, special service district under Title 17D, Chapter 1, Special Service District Act, school district, interlocal cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act, specified property owner, property owners association, public utility, or the Utah Department of Transportation, if:

(a) the entity's services or facilities are likely to require expansion or significant modification because of an intended use of land;

(b) the entity has filed with the county a copy of the entity's general or long-range plan; or

(c) the entity has filed with the county a request for notice during the same calendar year and before the county provides notice to an affected entity in compliance with a requirement imposed under this chapter.

(2) "Appeal authority" means the person, board, commission, agency, or other body designated by ordinance to decide an appeal of a decision of a land use application or a variance.

(3) "Billboard" means a freestanding ground sign located on industrial, commercial, or residential property if the sign is designed or intended to direct attention to a business, product, or service that is not sold, offered, or existing on the property where the sign is located.

(4) (a) "Charter school" means:

(i) an operating charter school;

(ii) a charter school applicant that has its application approved by a charter school authorizer in accordance with Title 53A, Chapter 1a, Part 5, The Utah Charter Schools Act; or

(iii) an entity that is working on behalf of a charter school or approved charter applicant to develop or construct a charter school building.

(b) "Charter school" does not include a therapeutic school.

(5) "Chief executive officer" means the person or body that exercises the executive powers of the county.

(6) "Conditional use" means a land use that, because of its unique characteristics or potential impact on the county, surrounding neighbors, or adjacent land uses, may not be compatible in some areas or may be compatible only if certain conditions are required that mitigate or eliminate the detrimental impacts.

(7) "Constitutional taking" means a governmental action that results in a taking of private property so that compensation to the owner of the property is required by the:

(a) Fifth or Fourteenth Amendment of the Constitution of the United States; or

(b) Utah Constitution Article I, Section 22.

(8) "Culinary water authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of the culinary water system and sources for the subject property.

(9) "Development activity" means:

(a) any construction or expansion of a building, structure, or use that creates additional demand and need for public facilities;

(b) any change in use of a building or structure that creates additional demand and need for public facilities; or

(c) any change in the use of land that creates additional demand and need for public facilities.

(10) (a) "Disability" means a physical or mental impairment that substantially limits one or more of a person's major life activities, including a person having a record of such an impairment or being regarded as having such an impairment.

(b) "Disability" does not include current illegal use of, or addiction to, any federally controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C. 802.

(11) "Educational facility":

(a) means:

(i) a school district's building at which pupils assemble to receive instruction in a program for any combination of grades from preschool through grade 12, including kindergarten and a program for children with disabilities;

(ii) a structure or facility:

(A) located on the same property as a building described in Subsection (11)(a)(i); and

(B) used in support of the use of that building; and

(iii) a building to provide office and related space to a school district's administrative personnel; and

(b) does not include:

(i) land or a structure, including land or a structure for inventory storage, equipment storage, food processing or preparing, vehicle storage or maintenance, or similar use that is:

(A) not located on the same property as a building described in Subsection (11)(a)(i); and

(B) used in support of the purposes of a building described in Subsection (11)(a)(i); or

(ii) a therapeutic school.

(12) "Fire authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of fire protection and suppression services for the subject property.

(13) "Flood plain" means land that:

(a) is within the 100-year flood plain designated by the Federal Emergency Management Agency; or

(b) has not been studied or designated by the Federal Emergency Management Agency but presents a likelihood of experiencing chronic flooding or a catastrophic flood event because the land has characteristics that are similar to those of a 100-year flood plain designated by the Federal Emergency Management Agency.

(14) "Gas corporation" has the same meaning as defined in Section 54-2-1.

(15) "General plan" means a document that a county adopts that sets forth general guidelines for proposed future development of:

(a) the unincorporated land within the county[-]; or

(b) for a mountainous planning district, the land within the mountainous planning district.

(16) "Geologic hazard" means:

(a) a surface fault rupture;

(b) shallow groundwater;

(c) liquefaction;

(d) a landslide;

(e) a debris flow;

(f) unstable soil;

(g) a rock fall; or

(h) any other geologic condition that presents a risk:

(i) to life;

(ii) of substantial loss of real property; or

(iii) of substantial damage to real property.

(17) "Hookup fee" means a fee for the installation and inspection of any pipe, line, meter, or appurtenance to connect to a county water, sewer, storm water, power, or other utility system.

(18) "Identical plans" means building plans submitted to a county that:

(a) are clearly marked as "identical plans";

(b) are substantially identical building plans that were previously submitted to and reviewed and approved by the county; and

(c) describe a building that:

(i) is located on land zoned the same as the land on which the building described in the previously approved plans is located;

(ii) is subject to the same geological and meteorological conditions and the same law as the building described in the previously approved plans;

(iii) has a floor plan identical to the building plan previously submitted to and reviewed and approved by the county; and

(iv) does not require any additional engineering or analysis.

(19) "Impact fee" means a payment of money imposed under Title 11, Chapter 36a, Impact Fees Act.

(20) "Improvement completion assurance" means a surety bond, letter of credit, cash, or other security required by a county to guaranty the proper completion of landscaping or infrastructure that the land use authority has required as a condition precedent to:

(a) recording a subdivision plat; or

(b) beginning development activity.

(21) "Improvement warranty" means an applicant's unconditional warranty that the accepted landscaping or infrastructure:

(a) complies with the county's written standards for design, materials, and workmanship; and

(b) will not fail in any material respect, as a result of poor workmanship or materials, within the improvement warranty period.

(22) "Improvement warranty period" means a period:

(a) no later than one year after a county's acceptance of required landscaping; or

(b) no later than one year after a county's acceptance of required infrastructure, unless the county:

(i) determines for good cause that a one-year period would be inadequate to protect the public health, safety, and welfare; and

(ii) has substantial evidence, on record:

(A) of prior poor performance by the applicant; or

(B) that the area upon which the infrastructure will be constructed contains suspect soil and the county has not otherwise required the applicant to mitigate the suspect soil.

(23) "Internal lot restriction" means a platted note, platted demarcation, or platted designation that:

- (a) runs with the land; and
- (b) (i) creates a restriction that is enclosed within the perimeter of a lot described on the plat; or
- (ii) designates a development condition that is enclosed within the perimeter of a lot described on the plat.
- (24) “Interstate pipeline company” means a person or entity engaged in natural gas transportation subject to the jurisdiction of the Federal Energy Regulatory Commission under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.
- (25) “Intrastate pipeline company” means a person or entity engaged in natural gas transportation that is not subject to the jurisdiction of the Federal Energy Regulatory Commission under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.
- (26) “Land use application” means an application required by a county’s land use ordinance.
- (27) “Land use authority” means:
- (a) a person, board, commission, agency, or body, including the local legislative body, designated by the local legislative body to act upon a land use application; or
- (b) if the local legislative body has not designated a person, board, commission, agency, or body, the local legislative body.
- (28) “Land use ordinance” means a planning, zoning, development, or subdivision ordinance of the county, but does not include the general plan.
- (29) “Land use permit” means a permit issued by a land use authority.
- (30) “Legislative body” means the county legislative body, or for a county that has adopted an alternative form of government, the body exercising legislative powers.
- (31) “Local district” means any entity under Title 17B, Limited Purpose Local Government Entities - Local Districts, and any other governmental or quasi-governmental entity that is not a county, municipality, school district, or the state.
- (32) “Lot line adjustment” means the relocation of the property boundary line in a subdivision between two adjoining lots with the consent of the owners of record.
- (33) “Moderate income housing” means housing occupied or reserved for occupancy by households with a gross household income equal to or less than 80% of the median gross income for households of the same size in the county in which the housing is located.
- (34) “Mountainous planning district” means an area:

(a) designated by a county legislative body in accordance with Section 17-27a-901; and

(b) that is not otherwise exempt under Subsection 10-9a-304(2)(b).

~~[(34)]~~ (35) “Nominal fee” means a fee that reasonably reimburses a county only for time spent and expenses incurred in:

(a) verifying that building plans are identical plans; and

(b) reviewing and approving those minor aspects of identical plans that differ from the previously reviewed and approved building plans.

~~[(35)]~~ (36) “Noncomplying structure” means a structure that:

(a) legally existed before its current land use designation; and

(b) because of one or more subsequent land use ordinance changes, does not conform to the setback, height restrictions, or other regulations, excluding those regulations that govern the use of land.

~~[(36)]~~ (37) “Nonconforming use” means a use of land that:

(a) legally existed before its current land use designation;

(b) has been maintained continuously since the time the land use ordinance regulation governing the land changed; and

(c) because of one or more subsequent land use ordinance changes, does not conform to the regulations that now govern the use of the land.

~~[(37)]~~ (38) “Official map” means a map drawn by county authorities and recorded in the county recorder’s office that:

(a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for highways and other transportation facilities;

(b) provides a basis for restricting development in designated rights-of-way or between designated setbacks to allow the government authorities time to purchase or otherwise reserve the land; and

(c) has been adopted as an element of the county’s general plan.

~~[(38)]~~ (39) “Parcel boundary adjustment” means a recorded agreement between owners of adjoining properties adjusting their mutual boundary if:

(a) no additional parcel is created; and

(b) each property identified in the agreement is unsubdivided land, including a remainder of subdivided land.

~~[(39)]~~ (40) “Person” means an individual, corporation, partnership, organization, association, trust, governmental agency, or any other legal entity.

~~[(40)]~~ (41) “Plan for moderate income housing” means a written document adopted by a county legislative body that includes:

(a) an estimate of the existing supply of moderate income housing located within the county;

(b) an estimate of the need for moderate income housing in the county for the next five years as revised biennially;

(c) a survey of total residential land use;

(d) an evaluation of how existing land uses and zones affect opportunities for moderate income housing; and

(e) a description of the county's program to encourage an adequate supply of moderate income housing.

[(41)] (42) "Plat" means a map or other graphical representation of lands being laid out and prepared in accordance with Section 17-27a-603, 17-23-17, or 57-8-13.

[(42)] (43) "Potential geologic hazard area" means an area that:

(a) is designated by a Utah Geological Survey map, county geologist map, or other relevant map or report as needing further study to determine the area's potential for geologic hazard; or

(b) has not been studied by the Utah Geological Survey or a county geologist but presents the potential of geologic hazard because the area has characteristics similar to those of a designated geologic hazard area.

[(43)] (44) "Public agency" means:

(a) the federal government;

(b) the state;

(c) a county, municipality, school district, local district, special service district, or other political subdivision of the state; or

(d) a charter school.

[(44)] (45) "Public hearing" means a hearing at which members of the public are provided a reasonable opportunity to comment on the subject of the hearing.

[(45)] (46) "Public meeting" means a meeting that is required to be open to the public under Title 52, Chapter 4, Open and Public Meetings Act.

[(46)] (47) "Receiving zone" means an unincorporated area of a county that the county designates, by ordinance, as an area in which an owner of land may receive a transferable development right.

[(47)] (48) "Record of survey map" means a map of a survey of land prepared in accordance with Section 17-23-17.

[(48)] (49) "Residential facility for persons with a disability" means a residence:

(a) in which more than one person with a disability resides; and

(b) (i) which is licensed or certified by the Department of Human Services under Title 62A, Chapter 2, Licensure of Programs and Facilities; or

(ii) which is licensed or certified by the Department of Health under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.

[(49)] (50) "Rules of order and procedure" means a set of rules that govern and prescribe in a public meeting:

(a) parliamentary order and procedure;

(b) ethical behavior; and

(c) civil discourse.

[(50)] (51) "Sanitary sewer authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of sanitary sewer services or onsite wastewater systems.

[(51)] (52) "Sending zone" means an unincorporated area of a county that the county designates, by ordinance, as an area from which an owner of land may transfer a transferable development right.

[(52)] (53) "Site plan" means a document or map that may be required by a county during a preliminary review preceding the issuance of a building permit to demonstrate that an owner's or developer's proposed development activity meets a land use requirement.

[(53)] (54) "Specified public agency" means:

(a) the state;

(b) a school district; or

(c) a charter school.

[(54)] (55) "Specified public utility" means an electrical corporation, gas corporation, or telephone corporation, as those terms are defined in Section 54-2-1.

[(55)] (56) "State" includes any department, division, or agency of the state.

[(56)] (57) "Street" means a public right-of-way, including a highway, avenue, boulevard, parkway, road, lane, walk, alley, viaduct, subway, tunnel, bridge, public easement, or other way.

[(57)] (58) (a) "Subdivision" means any land that is divided, resubdivided or proposed to be divided into two or more lots, parcels, sites, units, plots, or other division of land for the purpose, whether immediate or future, for offer, sale, lease, or development either on the installment plan or upon any and all other plans, terms, and conditions.

(b) "Subdivision" includes:

(i) the division or development of land whether by deed, metes and bounds description, devise and testacy, map, plat, or other recorded instrument; and

(ii) except as provided in Subsection [(57)] (58)(c), divisions of land for residential and nonresidential uses, including land used or to be used for commercial, agricultural, and industrial purposes.

(c) "Subdivision" does not include:

(i) a bona fide division or partition of agricultural land for agricultural purposes;

(ii) a recorded agreement between owners of adjoining properties adjusting their mutual boundary if:

(A) no new lot is created; and

(B) the adjustment does not violate applicable land use ordinances;

(iii) a recorded document, executed by the owner of record:

(A) revising the legal description of more than one contiguous unsubdivided parcel of property into one legal description encompassing all such parcels of property; or

(B) joining a subdivided parcel of property to another parcel of property that has not been subdivided, if the joinder does not violate applicable land use ordinances;

(iv) a bona fide division or partition of land in a county other than a first class county for the purpose of siting, on one or more of the resulting separate parcels:

(A) an electrical transmission line or a substation;

(B) a natural gas pipeline or a regulation station; or

(C) an unmanned telecommunications, microwave, fiber optic, electrical, or other utility service regeneration, transformation, retransmission, or amplification facility;

(v) a recorded agreement between owners of adjoining subdivided properties adjusting their mutual boundary if:

(A) no new dwelling lot or housing unit will result from the adjustment; and

(B) the adjustment will not violate any applicable land use ordinance;

(vi) a bona fide division or partition of land by deed or other instrument where the land use authority expressly approves in writing the division in anticipation of further land use approvals on the parcel or parcels; or

(vii) a parcel boundary adjustment.

(d) The joining of a subdivided parcel of property to another parcel of property that has not been subdivided does not constitute a subdivision under this Subsection [(57)] (58) as to the unsubdivided parcel of property or subject the unsubdivided parcel to the county's subdivision ordinance.

[(58)] (59) "Suspect soil" means soil that has:

(a) a high susceptibility for volumetric change, typically clay rich, having more than a 3% swell potential;

(b) bedrock units with high shrink or swell susceptibility; or

(c) gypsiferous silt and clay, gypsum, or bedrock units containing abundant gypsum commonly associated with dissolution and collapse features.

[(59)] (60) "Therapeutic school" means a residential group living facility:

(a) for four or more individuals who are not related to:

(i) the owner of the facility; or

(ii) the primary service provider of the facility;

(b) that serves students who have a history of failing to function:

(i) at home;

(ii) in a public school; or

(iii) in a nonresidential private school; and

(c) that offers:

(i) room and board; and

(ii) an academic education integrated with:

(A) specialized structure and supervision; or

(B) services or treatment related to a disability, an emotional development, a behavioral development, a familial development, or a social development.

[(60)] (61) "Township" means a contiguous, geographically defined portion of the unincorporated area of a county, established under this part or reconstituted or reinstated under Section 17-27a-306, with planning and zoning functions as exercised through the township planning commission, as provided in this chapter, but with no legal or political identity separate from the county and no taxing authority, except that "township" means a former township under Laws of Utah 1996, Chapter 308, where the context so indicates.

[(61)] (62) "Transferable development right" means a right to develop and use land that originates by an ordinance that authorizes a land owner in a designated sending zone to transfer land use rights from a designated sending zone to a designated receiving zone.

[(62)] (63) "Unincorporated" means the area outside of the incorporated area of a municipality.

[(63)] (64) "Water interest" means any right to the beneficial use of water, including:

(a) each of the rights listed in Section 73-1-11; and

(b) an ownership interest in the right to the beneficial use of water represented by:

(i) a contract; or

(ii) a share in a water company, as defined in Section 73-3-3.5.

[(64)] (65) "Zoning map" means a map, adopted as part of a land use ordinance, that depicts land use zones, overlays, or districts.

Section 4. Section 17-27a-210 is amended to read:

17-27a-210. Notice to county when a private institution of higher education is constructing student housing.

(1) Each private institution of higher education that intends to construct student housing on property owned by the institution shall provide written notice of the intended construction, as provided in Subsection (2), before any funds are committed to the construction, if any of the proposed student housing buildings is within 300 feet of privately owned residential property.

(2) Each notice under Subsection (1) shall be provided to the legislative body and, if applicable, the mayor of:

(a) the county in whose unincorporated area or the mountainous planning district area the privately owned residential property is located; or

(b) the municipality in whose boundaries the privately owned residential property is located.

(3) At the request of a county or municipality that is entitled to notice under this section, the institution and the legislative body of the affected county or municipality shall jointly hold a public hearing to provide information to the public and receive input from the public about the proposed construction.

Section 5. Section 17-27a-301 is amended to read:

17-27a-301. Ordinance establishing planning commission required -- Exception -- Ordinance requirements -- Township planning commission -- Compensation.

(1) (a) Except as provided in Subsection (1)(b), each county shall enact an ordinance establishing a countywide planning commission for the unincorporated areas of the county not within a township.

(b) Subsection (1)(a) does not apply if all of the county is included within any combination of:

- (i) municipalities; ~~and~~
- (ii) townships with their own planning commissions~~[-]; and~~
- (iii) mountainous planning districts.

(c) (i) Notwithstanding Subsection (1)(a), and except as provided in Subsection (1)(c)(ii), a county that designates a mountainous planning district shall enact an ordinance, subject to Subsection (1)(c)(ii), establishing a planning commission that has jurisdiction over the entire mountainous planning district, including areas of the mountainous planning district that are also located within a municipality or are unincorporated.

(ii) A planning commission described in Subsection (1)(c)(i):

(A) does not have jurisdiction over a municipality described in Subsection 10-9a-304(2)(b); and

(B) has jurisdiction subject to a local health department exercising its authority in accordance with Title 26A, Chapter 1, Local Health Departments and a municipality exercising the

municipality's authority in accordance with Section 10-8-15.

(iii) The ordinance shall require that:

(A) members of the planning commission represent areas located in the unincorporated and incorporated county;

(B) members of the planning commission be registered voters who reside either in the unincorporated or incorporated county; and

(C) at least one member of the planning commission resides within the mountainous planning district.

(2) (a) The ordinance described in Subsection (1)(a) or (c) shall define:

(i) the number and terms of the members and, if the county chooses, alternate members;

(ii) the mode of appointment;

(iii) the procedures for filling vacancies and removal from office;

(iv) the authority of the planning commission;

(v) subject to Subsection (2)(b), the rules of order and procedure for use by the planning commission in a public meeting; and

(vi) other details relating to the organization and procedures of the planning commission.

(b) Subsection (2)(a)(v) does not affect the planning commission's duty to comply with Title 52, Chapter 4, Open and Public Meetings Act.

(3) (a) (i) If the county establishes a township planning commission, the county legislative body shall enact an ordinance that defines:

(A) appointment procedures;

(B) procedures for filling vacancies and removing members from office;

(C) subject to Subsection (3)(a)(ii), the rules of order and procedure for use by the township planning commission in a public meeting; and

(D) details relating to the organization and procedures of each township planning commission.

(ii) Subsection (3)(a)(i)(C) does not affect the township planning commission's duty to comply with Title 52, Chapter 4, Open and Public Meetings Act.

(b) The planning commission for each township shall consist of seven members who, except as provided in Subsection (4), shall be appointed by:

(i) in a county operating under a form of government in which the executive and legislative functions of the governing body are separated, the county executive with the advice and consent of the county legislative body; or

(ii) in a county operating under a form of government in which the executive and legislative functions of the governing body are not separated, the county legislative body.

(c) (i) Members shall serve four-year terms and until their successors are appointed or, as provided in Subsection (4), elected and qualified.

(ii) Notwithstanding the provisions of Subsection (3)(c)(i) and except as provided in Subsection (4), members of the first planning commissions shall be appointed so that, for each commission, the terms of at least one member and no more than two members expire each year.

(d) (i) Except as provided in Subsection (3)(d)(ii), each member of a township planning commission shall be a registered voter residing within the township.

(ii) (A) Notwithstanding Subsection (3)(d)(i), one member of a planning commission of a township reconstituted under Laws of Utah 1997, Chapter 389, or reinstated or established under Subsection 17-27a-306(1)(k)(i) may be an appointed member who is a registered voter residing outside the township if that member:

(I) is an owner of real property located within the township; and

(II) resides within the county in which the township is located.

(B) (I) Each appointee under Subsection (3)(d)(ii)(A) shall be chosen by the township planning commission from a list of three persons submitted by the county legislative body.

(II) If the township planning commission has not notified the county legislative body of its choice under Subsection (3)(d)(ii)(B)(I) within 60 days of the township planning commission's receipt of the list, the county legislative body may appoint one of the three persons on the list or a registered voter residing within the township as a member of the township planning commission.

(4) (a) The legislative body of each county in which a township reconstituted under Laws of Utah 1997, Chapter 389, or reinstated or established under Subsection 17-27a-306(1)(k)(i) is located shall on or before January 1, 2012, enact an ordinance that provides for the election of at least three members of the planning commission of that township.

(b) (i) Beginning with the 2012 general election, the election of planning commission members under Subsection (4)(a) shall coincide with the election of other county officers during even-numbered years.

(ii) Approximately half the elected planning commission members shall be elected every four years during elections held on even-numbered years, and the remaining elected members shall be elected every four years on alternating even-numbered years.

(c) If no person files a declaration of candidacy in accordance with Section 20A-9-202 for an open township planning commission member position:

(i) the position may be appointed in accordance with Subsection (3)(b); and

(ii) a person appointed under Subsection (4)(c)(i) may not serve for a period of time that exceeds the elected term for which there was no candidate.

(5) (a) A legislative body described in Subsection (4)(a) shall on or before January 1, 2012, enact an ordinance that:

(i) designates the seats to be elected; and

(ii) subject to Subsection (6)(b), appoints a member of the planning and zoning board of the former township, established under Laws of Utah 1996, Chapter 308, as a member of the planning commission of the reconstituted or reinstated township.

(b) A member appointed under Subsection (5)(a) is considered an elected member.

(6) (a) Except as provided in Subsection (6)(b), the term of each member appointed under Subsection (5)(a) shall continue until the time that the member's term as an elected member of the former township planning and zoning board would have expired.

(b) (i) Notwithstanding Subsection (6)(a), the county legislative body may adjust the terms of the members appointed under Subsection (5)(a) so that the terms of those members coincide with the schedule under Subsection (4)(b) for elected members.

(ii) Subject to Subsection (6)(b)(iii), the legislative body of a county in which a township reconstituted under Laws of Utah 1997, Chapter 389, or reinstated or established under Subsection 17-27a-306(1)(k)(i) is located may enact an ordinance allowing each appointed member of the planning and zoning board of the former township, established under Laws of Utah 1996, Chapter 308, to continue to hold office as a member of the planning commission of the reconstituted or reinstated township until the time that the member's term as a member of the former township's planning and zoning board would have expired.

(iii) If a planning commission of a township reconstituted under Laws of Utah 1997, Chapter 389, or reinstated or established under Subsection 17-27a-306(1)(k)(i) has more than one appointed member who resides outside the township, the legislative body of the county in which that township is located shall, within 15 days of the effective date of this Subsection (6)(b)(iii), dismiss all but one of the appointed members who reside outside the township, and a new member shall be appointed under Subsection (3)(b) to fill the position of each dismissed member.

(7) (a) Except as provided in Subsection (7)(b), upon the appointment or election of all members of a township planning commission, each township planning commission under this section shall begin to exercise the powers and perform the duties provided in Section 17-27a-302 with respect to all

matters then pending that previously had been under the jurisdiction of the countywide planning commission or township planning and zoning board.

(b) Notwithstanding Subsection (7)(a), if the members of a former township planning and zoning board continue to hold office as members of the planning commission of the township planning district under an ordinance enacted under Subsection (5)(a), the township planning commission shall immediately begin to exercise the powers and perform the duties provided in Section 17-27a-302 with respect to all matters then pending that had previously been under the jurisdiction of the township planning and zoning board.

(8) The legislative body may fix per diem compensation for the members of the planning commission, based on necessary and reasonable expenses and on meetings actually attended.

Section 6. Section 17-27a-302 is amended to read:

17-27a-302. Planning commission powers and duties.

(1) Each countywide ~~or~~ township or mountainous planning district planning commission shall, with respect to the unincorporated area of the county, ~~or~~ the township, or the mountainous planning district, make a recommendation to the county legislative body for:

(a) a general plan and amendments to the general plan;

(b) land use ordinances, zoning maps, official maps, and amendments;

(c) an appropriate delegation of power to at least one designated land use authority to hear and act on a land use application;

(d) an appropriate delegation of power to at least one appeal authority to hear and act on an appeal from a decision of the land use authority; and

(e) application processes that:

(i) may include a designation of routine land use matters that, upon application and proper notice, will receive informal streamlined review and action if the application is uncontested; and

(ii) shall protect the right of each:

(A) applicant and third party to require formal consideration of any application by a land use authority;

(B) applicant, adversely affected party, or county officer or employee to appeal a land use authority's decision to a separate appeal authority; and

(C) participant to be heard in each public hearing on a contested application.

(2) The planning commission of a township under this part may recommend to the legislative body of

the county in which the township is located that the legislative body file a protest to a proposed annexation of an area located within the township, as provided in Subsection 10-2-407(1)(b).

Section 7. Section 17-27a-305 is amended to read:

17-27a-305. Other entities required to conform to county's land use ordinances -- Exceptions -- School districts and charter schools -- Submission of development plan and schedule.

(1) (a) Each county, municipality, school district, charter school, local district, special service district, and political subdivision of the state shall conform to any applicable land use ordinance of any county when installing, constructing, operating, or otherwise using any area, land, or building situated within a mountainous planning district or the unincorporated portion of the county, as applicable.

(b) In addition to any other remedies provided by law, when a county's land use ordinance is violated or about to be violated by another political subdivision, that county may institute an injunction, mandamus, abatement, or other appropriate action or proceeding to prevent, enjoin, abate, or remove the improper installation, improvement, or use.

(2) (a) Except as provided in Subsection (3), a school district or charter school is subject to a county's land use ordinances.

(b) (i) Notwithstanding Subsection (3), a county may:

(A) subject a charter school to standards within each zone pertaining to setback, height, bulk and massing regulations, off-site parking, curb cut, traffic circulation, and construction staging; and

(B) impose regulations upon the location of a project that are necessary to avoid unreasonable risks to health or safety, as provided in Subsection (3)(f).

(ii) The standards to which a county may subject a charter school under Subsection (2)(b)(i) shall be objective standards only and may not be subjective.

(iii) Except as provided in Subsection (7)(d), the only basis upon which a county may deny or withhold approval of a charter school's land use application is the charter school's failure to comply with a standard imposed under Subsection (2)(b)(i).

(iv) Nothing in Subsection (2)(b)(iii) may be construed to relieve a charter school of an obligation to comply with a requirement of an applicable building or safety code to which it is otherwise obligated to comply.

(3) A county may not:

(a) impose requirements for landscaping, fencing, aesthetic considerations, construction methods or materials, additional building inspections, county building codes, building use for educational purposes, or the placement or use of temporary classroom facilities on school property;

(b) except as otherwise provided in this section, require a school district or charter school to participate in the cost of any roadway or sidewalk, or a study on the impact of a school on a roadway or sidewalk, that is not reasonably necessary for the safety of school children and not located on or contiguous to school property, unless the roadway or sidewalk is required to connect an otherwise isolated school site to an existing roadway;

(c) require a district or charter school to pay fees not authorized by this section;

(d) provide for inspection of school construction or assess a fee or other charges for inspection, unless the school district or charter school is unable to provide for inspection by an inspector, other than the project architect or contractor, who is qualified under criteria established by the state superintendent;

(e) require a school district or charter school to pay any impact fee for an improvement project unless the impact fee is imposed as provided in Title 11, Chapter 36a, Impact Fees Act;

(f) impose regulations upon the location of an educational facility except as necessary to avoid unreasonable risks to health or safety; or

(g) for a land use or a structure owned or operated by a school district or charter school that is not an educational facility but is used in support of providing instruction to pupils, impose a regulation that:

(i) is not imposed on a similar land use or structure in the zone in which the land use or structure is approved; or

(ii) uses the tax exempt status of the school district or charter school as criteria for prohibiting or regulating the land use or location of the structure.

(4) Subject to Section 53A-20-108, a school district or charter school shall coordinate the siting of a new school with the county in which the school is to be located, to:

(a) avoid or mitigate existing and potential traffic hazards, including consideration of the impacts between the new school and future highways; and

(b) maximize school, student, and site safety.

(5) Notwithstanding Subsection (3)(d), a county may, at its discretion:

(a) provide a walk-through of school construction at no cost and at a time convenient to the district or charter school; and

(b) provide recommendations based upon the walk-through.

(6) (a) Notwithstanding Subsection (3)(d), a school district or charter school shall use:

(i) a county building inspector;

(ii) (A) for a school district, a school district building inspector from that school district; or

(B) for a charter school, a school district building inspector from the school district in which the charter school is located; or

(iii) an independent, certified building inspector who is:

(A) not an employee of the contractor;

(B) approved by:

(I) a county building inspector; or

(II) (Aa) for a school district, a school district building inspector from that school district; or

(Bb) for a charter school, a school district building inspector from the school district in which the charter school is located; and

(C) licensed to perform the inspection that the inspector is requested to perform.

(b) The approval under Subsection (6)(a)(iii)(B) may not be unreasonably withheld.

(c) If a school district or charter school uses a school district or independent building inspector under Subsection (6)(a)(ii) or (iii), the school district or charter school shall submit to the state superintendent of public instruction and county building official, on a monthly basis during construction of the school building, a copy of each inspection certificate regarding the school building.

(7) (a) A charter school shall be considered a permitted use in all zoning districts within a county.

(b) Each land use application for any approval required for a charter school, including an application for a building permit, shall be processed on a first priority basis.

(c) Parking requirements for a charter school may not exceed the minimum parking requirements for schools or other institutional public uses throughout the county.

(d) If a county has designated zones for a sexually oriented business, or a business which sells alcohol, a charter school may be prohibited from a location which would otherwise defeat the purpose for the zone unless the charter school provides a waiver.

(e) (i) A school district or a charter school may seek a certificate authorizing permanent occupancy of a school building from:

(A) the state superintendent of public instruction, as provided in Subsection 53A-20-104(3), if the school district or charter school used an independent building inspector for inspection of the school building; or

(B) a county official with authority to issue the certificate, if the school district or charter school used a county building inspector for inspection of the school building.

(ii) A school district may issue its own certificate authorizing permanent occupancy of a school building if it used its own building inspector for inspection of the school building, subject to the

notification requirement of Subsection 53A-20-104(3)(a)(ii).

(iii) A charter school may seek a certificate authorizing permanent occupancy of a school building from a school district official with authority to issue the certificate, if the charter school used a school district building inspector for inspection of the school building.

(iv) A certificate authorizing permanent occupancy issued by the state superintendent of public instruction under Subsection 53A-20-104(3) or a school district official with authority to issue the certificate shall be considered to satisfy any county requirement for an inspection or a certificate of occupancy.

(8) (a) A specified public agency intending to develop its land shall submit to the land use authority a development plan and schedule:

(i) as early as practicable in the development process, but no later than the commencement of construction; and

(ii) with sufficient detail to enable the land use authority to assess:

(A) the specified public agency's compliance with applicable land use ordinances;

(B) the demand for public facilities listed in Subsections 11-36a-102(16)(a), (b), (c), (d), (e), and (g) caused by the development;

(C) the amount of any applicable fee described in Section 17-27a-509;

(D) any credit against an impact fee; and

(E) the potential for waiving an impact fee.

(b) The land use authority shall respond to a specified public agency's submission under Subsection (8)(a) with reasonable promptness in order to allow the specified public agency to consider information the municipality provides under Subsection (8)(a)(ii) in the process of preparing the budget for the development.

(9) Nothing in this section may be construed to:

(a) modify or supersede Section 17-27a-304; or

(b) authorize a county to enforce an ordinance in a way, or enact an ordinance, that fails to comply with Title 57, Chapter 21, Utah Fair Housing Act, the federal Fair Housing Amendments Act of 1988, 42 U.S.C. Sec. 3601 et seq., the Americans with Disabilities Act of 1990, 42 U.S.C. 12102, or any other provision of federal law.

Section 8. Section 17-27a-401 is amended to read:

17-27a-401. General plan required -- Content -- Provisions related to radioactive waste facility.

(1) In order to accomplish the purposes of this chapter, each county shall prepare and adopt a comprehensive, long-range general plan [for]:

(a) for present and future needs of the county; and

(b) (i) for growth and development of all or any part of the land within the unincorporated portions of the county[-]; or

(ii) if a county has designated a mountainous planning district, for growth and development of all or any part of the land within the mountainous planning district.

(2) The plan may provide for:

(a) health, general welfare, safety, energy conservation, transportation, prosperity, civic activities, aesthetics, and recreational, educational, and cultural opportunities;

(b) the reduction of the waste of physical, financial, or human resources that result from either excessive congestion or excessive scattering of population;

(c) the efficient and economical use, conservation, and production of the supply of:

(i) food and water; and

(ii) drainage, sanitary, and other facilities and resources;

(d) the use of energy conservation and solar and renewable energy resources;

(e) the protection of urban development;

(f) the protection or promotion of moderate income housing;

(g) the protection and promotion of air quality;

(h) historic preservation;

(i) identifying future uses of land that are likely to require an expansion or significant modification of services or facilities provided by each affected entity; and

(j) an official map.

(3) (a) The plan shall include specific provisions related to any areas within, or partially within, the exterior boundaries of the county, or contiguous to the boundaries of a county, which are proposed for the siting of a storage facility or transfer facility for the placement of high-level nuclear waste or greater than class C radioactive nuclear waste, as these wastes are defined in Section 19-3-303. The provisions shall address the effects of the proposed site upon the health and general welfare of citizens of the state, and shall provide:

(i) the information identified in Section 19-3-305;

(ii) information supported by credible studies that demonstrates that the provisions of Subsection 19-3-307(2) have been satisfied; and

(iii) specific measures to mitigate the effects of high-level nuclear waste and greater than class C radioactive waste and guarantee the health and safety of the citizens of the state.

(b) A county may, in lieu of complying with Subsection (3)(a), adopt an ordinance indicating that all proposals for the siting of a storage facility or transfer facility for the placement of high-level

nuclear waste or greater than class C radioactive waste wholly or partially within the county are rejected.

(c) A county may adopt the ordinance listed in Subsection (3)(b) at any time.

(d) The county shall send a certified copy of the ordinance under Subsection (3)(b) to the executive director of the Department of Environmental Quality by certified mail within 30 days of enactment.

(e) If a county repeals an ordinance adopted pursuant to Subsection (3)(b) the county shall:

(i) comply with Subsection (3)(a) as soon as reasonably possible; and

(ii) send a certified copy of the repeal to the executive director of the Department of Environmental Quality by certified mail within 30 days after the repeal.

(4) The plan may define the county's local customs, local culture, and the components necessary for the county's economic stability.

(5) Subject to Subsection 17-27a-403(2), the county may determine the comprehensiveness, extent, and format of the general plan.

(6) If a county has designated a mountainous planning district, the general plan for the mountainous planning district is the controlling plan and takes precedence over a municipality's general plan for property located within the mountainous planning district.

Section 9. Section 17-27a-403 is amended to read:

17-27a-403. Plan preparation.

(1) (a) The planning commission shall provide notice, as provided in Section 17-27a-203, of its intent to make a recommendation to the county legislative body for a general plan or a comprehensive general plan amendment when the planning commission initiates the process of preparing its recommendation.

(b) The planning commission shall make and recommend to the legislative body a proposed general plan for:

(i) the unincorporated area within the county[-]; or

(ii) if the planning commission is a planning commission for a mountainous planning district, the mountainous planning district.

(c) (i) The plan may include planning for incorporated areas if, in the planning commission's judgment, they are related to the planning of the unincorporated territory or of the county as a whole.

(ii) Elements of the county plan that address incorporated areas are not an official plan or part of a municipal plan for any municipality, unless it is recommended by the municipal planning

commission and adopted by the governing body of the municipality.

(iii) Notwithstanding Subsection (1)(c)(ii), if property is located in a mountainous planning district, the plan for the mountainous planning district controls and precedes a municipal plan, if any, to which the property would be subject.

(2) (a) At a minimum, the proposed general plan, with the accompanying maps, charts, and descriptive and explanatory matter, shall include the planning commission's recommendations for the following plan elements:

(i) a land use element that:

(A) designates the long-term goals and the proposed extent, general distribution, and location of land for housing, business, industry, agriculture, recreation, education, public buildings and grounds, open space, and other categories of public and private uses of land as appropriate; and

(B) may include a statement of the projections for and standards of population density and building intensity recommended for the various land use categories covered by the plan;

(ii) a transportation and traffic circulation element consisting of the general location and extent of existing and proposed freeways, arterial and collector streets, mass transit, and any other modes of transportation that the planning commission considers appropriate, all correlated with the population projections and the proposed land use element of the general plan; and

(iii) an estimate of the need for the development of additional moderate income housing within the unincorporated area of the county or the mountainous planning district, and a plan to provide a realistic opportunity to meet estimated needs for additional moderate income housing if long-term projections for land use and development occur.

(b) In drafting the moderate income housing element, the planning commission:

(i) shall consider the Legislature's determination that counties should facilitate a reasonable opportunity for a variety of housing, including moderate income housing:

(A) to meet the needs of people desiring to live there; and

(B) to allow persons with moderate incomes to benefit from and fully participate in all aspects of neighborhood and community life; and

(ii) may include an analysis of why the recommended means, techniques, or combination of means and techniques provide a realistic opportunity for the development of moderate income housing within the planning horizon, which means or techniques may include a recommendation to:

(A) rezone for densities necessary to assure the production of moderate income housing;

(B) facilitate the rehabilitation or expansion of infrastructure that will encourage the construction of moderate income housing;

(C) encourage the rehabilitation of existing uninhabitable housing stock into moderate income housing;

(D) consider county general fund subsidies to waive construction related fees that are otherwise generally imposed by the county;

(E) consider utilization of state or federal funds or tax incentives to promote the construction of moderate income housing;

(F) consider utilization of programs offered by the Utah Housing Corporation within that agency's funding capacity; and

(G) consider utilization of affordable housing programs administered by the Department of Workforce Services.

(c) In drafting the land use element, the planning commission shall:

(i) identify and consider each agriculture protection area within the unincorporated area of the county or mountainous planning district; and

(ii) avoid proposing a use of land within an agriculture protection area that is inconsistent with or detrimental to the use of the land for agriculture.

(3) The proposed general plan may include:

(a) an environmental element that addresses:

(i) the protection, conservation, development, and use of natural resources, including the quality of air, forests, soils, rivers and other waters, harbors, fisheries, wildlife, minerals, and other natural resources; and

(ii) the reclamation of land, flood control, prevention and control of the pollution of streams and other waters, regulation of the use of land on hillsides, stream channels and other environmentally sensitive areas, the prevention, control, and correction of the erosion of soils, protection of watersheds and wetlands, and the mapping of known geologic hazards;

(b) a public services and facilities element showing general plans for sewage, water, waste disposal, drainage, public utilities, rights-of-way, easements, and facilities for them, police and fire protection, and other public services;

(c) a rehabilitation, redevelopment, and conservation element consisting of plans and programs for:

(i) historic preservation;

(ii) the diminution or elimination of blight; and

(iii) redevelopment of land, including housing sites, business and industrial sites, and public building sites;

(d) an economic element composed of appropriate studies and forecasts, as well as an economic

development plan, which may include review of existing and projected county revenue and expenditures, revenue sources, identification of basic and secondary industry, primary and secondary market areas, employment, and retail sales activity;

(e) recommendations for implementing all or any portion of the general plan, including the use of land use ordinances, capital improvement plans, community development and promotion, and any other appropriate action;

(f) provisions addressing any of the matters listed in Subsection 17-27a-401(2); and

(g) any other element the county considers appropriate.

Section 10. Section 17-27a-502 is amended to read:

17-27a-502. Preparation and adoption of land use ordinance or zoning map.

(1) The planning commission shall:

(a) provide notice as required by Subsection 17-27a-205(1)(a) and, if applicable, Subsection 17-27a-205(4);

(b) hold a public hearing on a proposed land use ordinance or zoning map;

(c) if applicable, consider each written objection filed in accordance with Subsection 17-27a-205(4) prior to the public hearing; and

(d) (i) prepare and recommend to the legislative body a proposed land use ordinance or ordinances and zoning map that represent the planning commission's recommendation for regulating the use and development of land within:

(A) all or any part of the unincorporated area of the county; ~~and~~ or

(B) for a mountainous planning district, all or any part of the area in the mountainous planning district; and

(ii) forward to the legislative body all objections filed in accordance with Subsection 17-27a-205(4).

(2) The county legislative body shall consider each proposed land use ordinance and zoning map recommended to it by the planning commission, and, after providing notice as required by Subsection 17-27a-205(1)(b) and holding a public meeting, the legislative body may adopt or reject the proposed ordinance or map either as proposed by the planning commission or after making any revision the county legislative body considers appropriate.

Section 11. Section 17-27a-505.5 is amended to read:

17-27a-505.5. Limit on single family designation.

(1) As used in this section, "single-family limit" means the number of unrelated individuals allowed to occupy each residential unit that is recognized by a land use authority in a zone permitting occupancy by a single family.

(2) A county may not adopt a single-family limit that is less than:

(a) three, if the county has within its unincorporated area:

(i) a state university; ~~or~~

(ii) a private university with a student population of at least 20,000; or

(iii) a mountainous planning district; or

(b) four, for each other county.

Section 12. Section 17-27a-602 is amended to read:

17-27a-602. Planning commission preparation and recommendation of subdivision ordinance -- Adoption or rejection by legislative body.

(1) The planning commission shall:

(a) prepare and recommend a proposed ordinance to the legislative body that regulates the subdivision of land;

(b) prepare and recommend or consider and recommend a proposed ordinance that amends the regulation of the subdivision of the unincorporated land in the county or, in the case of a mountainous planning district, the mountainous planning district;

(c) provide notice consistent with Section 17-27a-205; and

(d) hold a public hearing on the proposed ordinance before making its final recommendation to the legislative body.

(2) The county legislative body may adopt or reject the ordinance either as proposed by the planning commission or after making any revision the county legislative body considers appropriate.

Section 13. Section 17-27a-604 is amended to read:

17-27a-604. Subdivision plat approval procedure -- Effect of not complying.

(1) A person may not submit a subdivision plat to the county recorder's office for recording unless:

(a) the person has complied with the requirements of Subsection 17-27a-603(4)(a);

(b) the plat has been approved by:

(i) the land use authority of the:

(A) county in whose unincorporated area the land described in the plat is located; ~~and~~ or

(B) mountainous planning district in whose area the land described in the plat is located; and

(ii) other officers that the county designates in its ordinance; and

(c) all approvals described in Subsection (1)(b) are entered in writing on the plat by designated officers.

(2) An owner of a platted lot is the owner of record sufficient to re-subdivide the lot if the owner's platted lot is not part of a community association subject to Title 57, Chapter 8a, Community Association Act.

(3) A plat recorded without the signatures required under this section is void.

(4) A transfer of land pursuant to a void plat is voidable.

Section 14. Section 17-27a-605 is amended to read:

17-27a-605. Exemptions from plat requirement.

(1) Notwithstanding Sections 17-27a-603 and 17-27a-604, the land use authority may approve the subdivision of unincorporated land or mountainous planning district land into 10 lots or less without a plat, by certifying in writing that:

(a) the county has provided notice as required by ordinance; and

(b) the proposed subdivision:

(i) is not traversed by the mapped lines of a proposed street as shown in the general plan and does not require the dedication of any land for street or other public purposes;

(ii) has been approved by the culinary water authority and the sanitary sewer authority;

(iii) is located in a zoned area; and

(iv) conforms to all applicable land use ordinances or has properly received a variance from the requirements of an otherwise conflicting and applicable land use ordinance.

(2) (a) Subject to Subsection (1), a lot or parcel resulting from a division of agricultural land is exempt from the plat requirements of Section 17-27a-603 if:

(i) the lot or parcel:

(A) qualifies as land in agricultural use under Section 59-2-502; and

(B) is not used and will not be used for any nonagricultural purpose; and

(ii) the new owner of record completes, signs, and records with the county recorder a notice:

(A) describing the parcel by legal description; and

(B) stating that the lot or parcel is created for agricultural purposes as defined in Section 59-2-502 and will remain so until a future zoning change permits other uses.

(b) If a lot or parcel exempted under Subsection (2)(a) is used for a nonagricultural purpose, the county shall require the lot or parcel to comply with the requirements of Section 17-27a-603 and all applicable land use ordinance requirements.

(3) (a) Except as provided in Subsection (4), a document recorded in the county recorder's office that divides property by a metes and bounds

description does not create an approved subdivision allowed by this part unless the land use authority's certificate of written approval required by Subsection (1) is attached to the document.

(b) The absence of the certificate or written approval required by Subsection (1) does not:

(i) prohibit the county recorder from recording a document; or

(ii) affect the validity of a recorded document.

(c) A document which does not meet the requirements of Subsection (1) may be corrected by the recording of an affidavit to which the required certificate or written approval is attached in accordance with Section 57-3-106.

(4) (a) As used in this Subsection (4):

(i) "Divided land" means land that:

(A) is described as the land to be divided in a notice under Subsection (4)(b)(ii); and

(B) has been divided by a minor subdivision.

(ii) "Land to be divided" means land that is proposed to be divided by a minor subdivision.

(iii) "Minor subdivision" means a division of at least 100 contiguous acres of agricultural land in a county of the third, fourth, fifth, or sixth class to create one new lot that, after the division, is separate from the remainder of the original 100 or more contiguous acres of agricultural land.

(iv) "Minor subdivision lot" means a lot created by a minor subdivision.

(b) Notwithstanding Sections 17-27a-603 and 17-27a-604, an owner of at least 100 contiguous acres of agricultural land may make a minor subdivision by submitting for recording in the office of the recorder of the county in which the land to be divided is located:

(i) a recordable deed containing the legal description of the minor subdivision lot; and

(ii) a notice:

(A) indicating that the owner of the land to be divided is making a minor subdivision;

(B) referring specifically to this section as the authority for making the minor subdivision; and

(C) containing the legal description of:

(I) the land to be divided; and

(II) the minor subdivision lot.

(c) A minor subdivision lot:

(i) may not be less than one acre in size;

(ii) may not be within 1,000 feet of another minor subdivision lot; and

(iii) is not subject to the subdivision ordinance of the county in which the minor subdivision lot is located.

(d) Land to be divided by a minor subdivision may not include divided land.

(e) A county:

(i) may not deny a building permit to an owner of a minor subdivision lot based on:

(A) the lot's status as a minor subdivision lot; or

(B) the absence of standards described in Subsection (4)(e)(ii); and

(ii) may, in connection with the issuance of a building permit, subject a minor subdivision lot to reasonable health, safety, and access standards that the county has established and made public.

Section 15. Section 17-27a-901 is enacted to read:

Part 9. Mountainous Planning District

17-27a-901. Mountainous planning district.

(1) (a) The legislative body of a county of the first class may adopt an ordinance designating an area located within the county as a mountainous planning district if the legislative body determines that:

(i) the area is primarily used for recreational purposes, including canyons, foothills, ski resorts, wilderness areas, lakes and reservoirs, campgrounds, or picnic areas;

(ii) the area is used by residents of the county who live inside and outside the limits of a municipality;

(iii) the total resident population in the proposed mountainous planning district is equal to or less than 5% of the population of the county; and

(iv) the area is within the unincorporated area of the county or was within the unincorporated area of the county before May 12, 2015.

(b) (i) A mountainous planning district may include within its boundaries a municipality, whether in whole or in part.

(ii) If a mountainous planning district includes within its boundaries an unincorporated area, and that area subsequently incorporates as a municipality:

(A) the area of the incorporated municipality that is located in the mountainous planning district is included within the mountainous planning district boundaries; and

(B) property within the municipality that is also within the mountainous planning district is subject to the authority of the mountainous planning district.

(iii) A subdivision and zoning ordinance that governs property located within a mountainous planning district shall control over any subdivision or zoning ordinance, as applicable, that a municipality may adopt.

(c) The population figure under Subsection (1)(a)(iii) shall be derived from a population estimate by the Utah Population Estimates Committee.

(d) If any portion of a proposed mountainous planning district includes a municipality with a land base of five square miles or less, the county shall ensure that all of that municipality is wholly located within the boundaries of the mountainous planning district.

(2) (a) Notwithstanding Subsection 10-9a-102(2), 17-34-1(2)(a), or 17-50-302(1)(b), or Section 17-50-314, a county may adopt a general plan and adopt a zoning or subdivision ordinance for a property that is located within:

(i) a mountainous planning district; and

(ii) a municipality.

(b) A county plan or zoning or subdivision ordinance governs a property described in Subsection (2)(a).

Section 16. Section 63I-2-210 is amended to read:

63I-2-210. Repeal dates -- Title 10.

(1) Section 10-2-130 is repealed July 1, 2016.

[~~(2) Subsection 10-9a-305(2) is repealed July 1, 2013.~~]

(2) Subsection 10-9a-304(2) is repealed June 1, 2016.

Section 17. Section 63I-2-217 is amended to read:

63I-2-217. Repeal dates -- Title 17.

(1) Subsection 17-8-7(2), the language that states "Sections 17-19-1 to 17-19-28 and" and "as applicable," is repealed January 1, 2015.

(2) Section 17-15-30 is repealed July 1, 2015.

(3) Title 17, Chapter 19, County Auditor, is repealed January 1, 2015.

(4) Subsection 17-24-1(4)(b), the language that states "as applicable, Sections 17-19-1, 17-19-3, and 17-19-5 or" is repealed January 1, 2015.

(5) Subsection 17-24-4(2), the language that states "as applicable, Subsection 17-19-3(3)(b) or" is repealed January 1, 2015.

(6) Subsection 17-27a-102(1)(b), the language that states "or a designated mountainous planning district" is repealed June 1, 2016.

(7) (a) Subsection 17-27a-103(15)(b) is repealed June 1, 2016.

(b) Subsection 17-27a-103(34) is repealed June 1, 2016.

(8) Subsection 17-27a-210(2)(a), the language that states "or the mountainous planning district area" is repealed June 1, 2016.

(9) (a) Subsection 17-27a-301(1)(b)(iii) is repealed June 1, 2016.

(b) Subsection 17-27a-301(1)(c) is repealed June 1, 2016.

(c) Subsection 17-27a-301(2)(a), the language that states "described in Subsection (1)(a) or (c)" is repealed June 1, 2016.

(10) Subsection 17-27a-302(1), the language that states "or mountainous planning district" and "or the mountainous planning district," is repealed June 1, 2016.

(11) Subsection 17-27a-305(1)(a), the language that states "a mountainous planning district or" and "as applicable" is repealed June 1, 2016.

(12) (a) Subsection 17-27a-401(1)(b)(ii) is repealed June 1, 2016.

(b) Subsection 17-27a-401(6) is repealed June 1, 2016.

(13) (a) Subsection 17-27a-403(1)(b)(ii) is repealed June 1, 2016.

(b) Subsection 17-27a-403(1)(c)(iii) is repealed June 1, 2016.

(c) Subsection (2)(a)(iii), the language that states "or the mountainous planning district" is repealed June 1, 2016.

(d) Subsection 17-27a-403(2)(c)(i), the language that states "or mountainous planning district" is repealed June 1, 2016.

(14) Subsection 17-27a-502(1)(d)(i)(B) is repealed June 1, 2016.

(15) Subsection 17-27a-505.5(2)(a)(iii) is repealed June 1, 2016.

(16) Subsection 17-27a-602(1)(b), the language that states "or, in the case of a mountainous planning district, the mountainous planning district" is repealed June 1, 2016.

(17) Subsection 17-27a-604(1)(b)(i)(B) is repealed June 1, 2016.

(18) Subsection 17-27a-605(1), the language that states "or mountainous planning district land" is repealed June 1, 2016.

(19) Title 17, Chapter 27a, Part 9, Mountainous Planning District, is repealed June 1, 2016.

[~~6~~] (20) (a) Subsection 17-36-3(5)(a), the language that states "for a county of the second, third, fourth, fifth, or sixth class, the county auditor, county clerk, or county executive as provided in Subsection 17-19-19(1); or" is repealed January 1, 2015.

(b) Subsection 17-36-3(5)(b), the language that states "for a county of the first class," is repealed January 1, 2015.

(c) Subsection 17-36-3(7), the language that states "17-19-3," and "or 17-24-4, as applicable" is repealed January 1, 2015.

[~~7~~] (21) Subsection 17-36-9(1)(a)(iii), the language that states "17-36-10.1, as applicable, or" is repealed January 1, 2015.

[~~8~~] (22) Subsection 17-36-10(1), the language that states the following is repealed January 1, 2015:

“(1) (a) On or before December 31, 2014, a county of the second, third, fourth, fifth, or sixth class is not subject to the provisions of this section; and

(b) on or after January 1, 2015, a county of the second, third, fourth, fifth, or sixth class is subject to the provisions of this section.”

[~~49~~] (23) Section 17-36-10.1 is repealed January 1, 2015.

[~~40~~] (24) Subsection 17-36-11(1), the language that states the following is repealed January 1, 2015:

“(1) (a) On or before December 31, 2014, a county of the second, third, fourth, fifth, or sixth class is not subject to the provisions of this section; and

(b) on or after January 1, 2015, a county of the second, third, fourth, fifth, or sixth class is subject to the provisions of this section.”

[~~44~~] (25) Section 17-36-11.1 is repealed January 1, 2015.

[~~42~~] (26) Subsection 17-36-15(1), the language that states the following is repealed January 1, 2015:

“(1) (a) On or before December 31, 2014, a county of the second, third, fourth, fifth, or sixth class is not subject to the provisions of this section; and

(b) on or after January 1, 2015, a county of the second, third, fourth, fifth, or sixth class is subject to the provisions of this section.”

[~~43~~] (27) Section 17-36-15.1 is repealed January 1, 2015.

[~~44~~] (28) Subsection 17-36-20(1), the language that states the following is repealed January 1, 2015:

“(1) (a) On or before December 31, 2014, a county of the second, third, fourth, fifth, or sixth class is not subject to the provisions of this section; and

(b) on or after January 1, 2015, a county of the second, third, fourth, fifth, or sixth class is subject to the provisions of this section.”

[~~45~~] (29) Section 17-36-20.1 is repealed January 1, 2015.

[~~46~~] (30) Subsection 17-36-32(4), the language that states “or 17-36-20.1, as applicable, and” is repealed January 1, 2015.

[~~47~~] (31) Subsection 17-36-43(1), the language that states the following is repealed January 1, 2015:

“(1) (a) On or before December 31, 2014, a county of the second, third, fourth, fifth, or sixth class is not subject to the provisions of this section; and

(b) on or after January 1, 2015, a county of the second, third, fourth, fifth, or sixth class is subject to the provisions of this section.”

[~~48~~] (32) Section 17-36-43.1 is repealed January 1, 2015.

[~~49~~] (33) Section 17-36-44, the language that states “or 17-36-43.1, as applicable” is repealed January 1, 2015.

[~~20~~] (34) Subsection 17-50-401(1), the language that states the following is repealed January 1, 2015:

“(1) (a) On or before December 31, 2014, a county of the second, third, fourth, fifth, or sixth class is not subject to the provisions of this section; and

(b) on or after January 1, 2015, a county of the second, third, fourth, fifth, or sixth class is subject to the provisions of this section.”

[~~24~~] (35) Section 17-50-401.1 is repealed January 1, 2015.

[~~22~~] (36) Subsection 17-52-101(2), the language that states “or 17-52-401.1, as applicable” is repealed January 1, 2015.

[~~23~~] (37) Subsection 17-52-401(1), the language that states the following is repealed January 1, 2015:

“(1) (a) On or before December 31, 2014, a county of the second, third, fourth, fifth, or sixth class is not subject to the provisions of this section; and

(b) on or after January 1, 2015, a county of the second, third, fourth, fifth, or sixth class is subject to the provisions of this section.”

[~~24~~] (38) Section 17-52-401.1 is repealed January 1, 2015.

[~~25~~] (39) Subsection 17-52-403(1)(a), the language that states “or 17-52-401.1(2)(c), as applicable” is repealed January 1, 2015.

[~~26~~] (40) On January 1, 2015, when making the changes in this section, the Office of Legislative Research and General Counsel shall:

(a) in addition to its authority under Subsection 36-12-12(3), make corrections necessary to ensure that sections and subsections identified in this section are complete sentences and accurately reflect the office’s perception of the Legislature’s intent; and

(b) identify the text of the affected sections and subsections based upon the section and subsection numbers used in Laws of Utah 2012, Chapter 17.

(41) On June 1, 2016, when making the changes in this section, the Office of Legislative Research and General Counsel shall:

(a) in addition to its authority under Subsection 36-12-12(3), make corrections necessary to ensure that sections and subsections identified in this section are complete sentences and accurately reflect the office’s perception of the Legislature’s intent; and

(b) identify the text of the affected sections and subsections based upon the section and subsection numbers used in this bill.

Section 18. Revisor instructions.

The Legislature intends that the Office of Legislative Research and General Counsel, in

preparing the Utah Code database for publication, replace the language “this bill” in Subsection 63I-2-217(41)(b) with the bill’s designated chapter number in the Laws of Utah.

CHAPTER 466**H. B. 368**

Passed March 12, 2015

(Passed into law without governor's signature)

Effective May 12, 2015

EXECUTIVE OFFICE COMPENSATION

Chief Sponsor: Brad R. Wilson
Senate Sponsor: Lyle W. Hillyard

LONG TITLE**General Description:**

This bill addresses the salaries of constitutional offices.

Highlighted Provisions:

This bill:

- ▶ addresses the salaries of state constitutional offices; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

67-22-1, as last amended by Laws of Utah 2010, Chapter 266

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

Section 1. Section 67-22-1 is amended to read:**67-22-1. Compensation -- Constitutional offices.**

(1) (a) ~~[The]~~ Beginning on June 28, 2008, and ending on December 31, 2016, the Legislature fixes salaries for the constitutional offices as follows:

- ~~[(a)]~~ (i) governor: \$109,900;
- ~~[(b)]~~ (ii) lieutenant governor: 95% of the governor's salary;
- ~~[(c)]~~ (iii) attorney general: 95% of the governor's salary;
- ~~[(d)]~~ (iv) state auditor: 95% of the governor's salary ~~[beginning June 28, 2008]~~; and
- ~~[(e)]~~ (v) state treasurer: 95% of the governor's salary.

(b) (i) Subject to Subsection (1)(b)(iii), beginning on January 1, 2017, the salary for the governor shall be set annually by the Legislature in an appropriations act.

(ii) Beginning on January 1, 2017, constitutional office salaries shall be based on the following percentages of the salary of the governor:

(A) lieutenant governor: 90% of the governor's salary;

(B) attorney general: 95% of the governor's salary;

(C) state auditor: 90% of the governor's salary; and

(D) state treasurer: 90% of the governor's salary.

(iii) Beginning on January 1, 2017, until the Legislature sets the salary of the governor in an appropriations act, the governor's salary is \$150,000 per year.

(2) The Legislature fixes benefits for the constitutional offices as follows:

- (a) governor:
- (i) a vehicle for official and personal use;
- (ii) housing;
- (iii) household and security staff;
- (iv) household expenses;
- (v) retirement benefits as provided in Title 49, Utah State Retirement and Insurance Benefit Act;
- (vi) health insurance;
- (vii) dental insurance;
- (viii) basic life insurance;
- (ix) workers' compensation;
- (x) required employer contribution to Social Security;
- (xi) long-term disability income insurance; and
- (xii) the same additional state paid life insurance available to other noncareer service employees[-]; and
- (b) lieutenant governor, attorney general, state auditor, and state treasurer:
- (i) a vehicle for official and personal use;
- (ii) the option of participating in a:
- (A) state retirement system in accordance with Title 49, Utah State Retirement and Insurance Benefit Act:
- (I) Chapter 12, Public Employees' Contributory Retirement Act;
- (II) Chapter 13, Public Employees' Noncontributory Retirement Act; or
- (III) Chapter 22, New Public Employees' Tier II Contributory Retirement Act; or
- (B) deferred compensation plan administered by the State Retirement Office, in accordance with the Internal Revenue Code and its accompanying rules and regulations;
- (iii) health insurance;
- (iv) dental insurance;
- (v) basic life insurance;
- (vi) workers' compensation;
- (vii) required employer contribution to Social Security;
- (viii) long-term disability income insurance; and

(ix) the same additional state paid life insurance available to other noncareer service employees.

[~~e~~] (3) Each constitutional office shall pay the cost of the additional state-paid life insurance for its constitutional officer from its existing budget.

CHAPTER 467**H. B. 406**

Passed March 12, 2015

Approved April 1, 2015

Effective May 12, 2015

(Exception clause in Section 5)

NATURAL GAS VEHICLE AMENDMENTS

Chief Sponsor: Stephen G. Handy

Senate Sponsor: Todd Weiler

LONG TITLE**General Description:**

This bill addresses provisions relating to natural gas vehicles.

Highlighted Provisions:

This bill:

- ▶ provides an income tax credit for the purchase of a natural gas heavy duty vehicle;
- ▶ provides requirements for the tax credit and an aggregate limit on tax credits;
- ▶ authorizes the Air Quality Board to make rules relating to administration of the tax credit program;
- ▶ modifies a provision relating to the taxation of natural gas used in vehicles; and
- ▶ provides for the repeal of the tax credit provisions.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

59-13-301, as last amended by Laws of Utah 2011, Chapter 259

63I-1-259, as last amended by Laws of Utah 2014, Chapter 54

ENACTS:

59-7-618, Utah Code Annotated 1953

59-10-1033, Utah Code Annotated 1953

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

Section 1. Section 59-7-618 is enacted to read:**59-7-618. Tax credit related to natural gas heavy duty vehicles.**

(1) As used in this section:

(a) "Board" means the Air Quality Board created under Title 19, Chapter 2, Air Conservation Act.

(b) "Heavy duty vehicle" means a commercial category 7 or 8 vehicle, according to vehicle classifications established by the Federal Highway Administration.

(c) "Natural gas" includes compressed natural gas and liquified natural gas.

(d) "Qualified heavy duty vehicle" means a heavy duty vehicle that:

(i) has never been titled or registered and has been driven less than 7,500 miles; and

(ii) is fueled by natural gas.

(e) "Qualified purchase" means the purchase of a qualified heavy duty vehicle.

(f) "Qualified taxpayer" means a taxpayer who:

(i) purchases a qualified heavy duty vehicle; and

(ii) receives a tax credit certificate from the board.

(g) "Small fleet" means 40 or fewer heavy duty vehicles registered in the state and owned by a single taxpayer.

(h) "Tax credit certificate" means a certificate issued by the board certifying that a taxpayer is entitled to a tax credit as provided in this section and stating the amount of the tax credit.

(2) For a taxable year beginning on or after January 1, 2015, a qualified taxpayer may claim a tax credit against tax otherwise due under this chapter or Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act:

(a) in an amount equal to:

(i) \$25,000, if the qualified purchase occurs during calendar year 2015, calendar year 2016, or calendar year 2017;

(ii) \$20,000, if the qualified purchase occurs during calendar year 2018;

(iii) \$18,000, if the qualified purchase occurs during calendar year 2019; and

(iv) \$15,000, if the qualified purchase occurs during calendar year 2020; and

(b) if the taxpayer certifies under oath that over 50% of the miles that the heavy duty vehicle that is the subject of the qualified purchase will travel annually will be within the state.

(3) (a) Except as provided in Subsection (3)(b), a taxpayer may not submit an application for, and the board may not issue to the taxpayer, a tax credit certificate under this section in any taxable year for a qualifying purchase if the board has already issued tax credit certificates to the taxpayer for 10 qualifying purchases in the same taxable year.

(b) If, by May 1 of any year, more than 30% of the aggregate annual total amount of tax credits under Subsection (5) has not been claimed, a taxpayer may submit an application for, and the board may issue to the taxpayer, one or more tax credit certificates for up to eight additional qualifying purchases, even if the board has already issued to that taxpayer tax credit certificates for the maximum number of qualifying purchases allowed under Subsection (3)(a).

(4) (a) Subject to Subsection (4)(b), the board shall reserve 25% of all tax credits available under this section for taxpayers with a small fleet.

(b) Subsection (4)(a) does not prevent a taxpayer from submitting an application for, or the board from issuing, a tax credit certificate if the amount reserved under Subsection (4)(a) for taxpayers with a small fleet has not been claimed by a date that is 90 days before the end of the year.

(5) (a) The aggregate annual total amount of tax credits represented by tax credit certificates that the board issues under this section, when combined with the aggregate annual total amount of tax credits represented by tax credit certificates that the board issues under Section 59-10-1033, may not exceed \$500,000.

(b) The board shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to establish a process whereby a taxpayer may reserve a potential tax credit under this section for a limited time to allow the taxpayer to make a qualifying purchase with the assurance that the aggregate limit under Subsection (5)(a) will not be met before the taxpayer is able to submit an application for a tax credit certificate.

(6) (a) (i) A taxpayer wishing to claim a tax credit under this section shall, using forms the board requires by rule:

(A) submit to the board an application for a tax credit;

(B) provide the board proof of a qualifying purchase; and

(C) submit to the board the certification under oath required under Subsection (2)(b).

(ii) Upon receiving the application, proof, and certification required under Subsection (6)(a)(i), the board shall provide the taxpayer a written statement from the board acknowledging receipt of the proof.

(b) If the board determines that a taxpayer qualifies for a tax credit under this section, the board shall:

(i) determine the amount of tax credit the taxpayer is allowed under this section; and

(ii) provide the qualifying taxpayer with a written tax credit certificate:

(A) stating that the taxpayer has qualified for a tax credit; and

(B) showing the amount of tax credit for which the taxpayer has qualified under this section.

(c) A taxpayer shall retain the tax credit certificate.

(d) The board shall at least annually submit to the commission a list of all taxpayers to whom the board has issued a tax credit certificate and the amount of each tax credit represented by the tax credit certificates.

(7) The tax credit under this section is allowed only:

(a) against a tax owed under this chapter or Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act, in the taxable year by the qualified taxpayer;

(b) for the taxable year in which the qualifying purchase occurs; and

(c) once per vehicle.

(8) A qualifying taxpayer may not assign a tax credit or a tax credit certificate under this section to another person.

(9) If the amount of a tax credit claimed by a qualifying taxpayer under this section exceeds the qualifying taxpayer's tax liability under this chapter or Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act, for a taxable year, the amount of the tax credit exceeding the tax liability may be carried forward for a period that does not exceed the next five taxable years.

(10) (a) In accordance with any rules prescribed by the commission under Subsection (10)(b), the commission shall transfer at least annually from the General Fund into the Education Fund the aggregate amount of all tax credits claimed under this section.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules for making a transfer from the General Fund into the Education Fund as required by Subsection (10)(a).

Section 2. Section 59-10-1033 is enacted to read:

59-10-1033. Tax credit related to natural gas heavy duty vehicles.

(1) As used in this section:

(a) "Board" means the Air Quality Board created under Title 19, Chapter 2, Air Conservation Act.

(b) "Heavy duty vehicle" means a commercial category 7 or 8 vehicle, according to vehicle classifications established by the Federal Highway Administration.

(c) "Natural gas" includes compressed natural gas and liquified natural gas.

(d) "Qualified heavy duty vehicle" means a heavy duty vehicle that:

(i) has never been titled or registered and has been driven less than 7,500 miles;

(ii) is fueled by natural gas; and

(iii) meets air quality standards.

(e) "Qualified purchase" means the purchase of a qualified heavy duty vehicle.

(f) "Qualified taxpayer" means a claimant, estate, or trust that:

(i) purchases a qualified heavy duty vehicle; and

(ii) receives a tax credit certificate from the board.

(g) "Small fleet" means 40 or fewer heavy duty vehicles registered in the state and owned by a single claimant, estate, or trust.

(h) "Tax credit certificate" means a certificate issued by the board certifying that a claimant, estate, or trust is entitled to a tax credit as provided in this section and stating the amount of the tax credit.

(2) For a taxable year beginning on or after January 1, 2015, a qualified taxpayer may claim a nonrefundable tax credit against tax otherwise due under this chapter:

(a) in an amount equal to:

(i) \$25,000, if the qualified purchase occurs during calendar year 2015, calendar year 2016, or calendar year 2017;

(ii) \$20,000, if the qualified purchase occurs during calendar year 2018;

(iii) \$18,000, if the qualified purchase occurs during calendar year 2019; and

(iv) \$15,000, if the qualified purchase occurs during calendar year 2020; and

(b) if the claimant, estate, or trust certifies under oath that over 50% of the miles that the heavy duty vehicle that is the subject of the qualified purchase or qualified conversion will travel annually will be within the state.

(3) (a) Except as provided in Subsection (3)(b), a claimant, estate, or trust may not submit an application for, and the board may not issue to the claimant, estate, or trust, a tax credit certificate under this section in any taxable year for a qualifying purchase if the board has already issued to the claimant, estate, or trust 10 tax credits for qualifying purchases in the same taxable year.

(b) If, by May 1 of any year, more than 30% of the aggregate annual total amount of tax credits under Subsection (5) has not been claimed, a claimant, estate, or trust may submit an application for, and the board may issue to the claimant, estate, or trust, one or more tax credit certificates for up to eight additional qualifying purchases, even if the board has already issued to that claimant, estate, or trust tax credit certificates for the maximum number of qualifying purchases allowed under Subsection (3)(a).

(4) (a) Subject to Subsection (4)(b), the board shall reserve 25% of all tax credits available under this section for claimants, estates, or trusts with a small fleet.

(b) Subsection (4)(a) does not prevent a claimant, estate, or trust from submitting an application for, or the board from issuing, a tax credit certificate if the amount reserved under Subsection (4)(a) for claimants, estates, or trusts with a small fleet has not been claimed by a date that is 90 days before the end of the year.

(5) (a) The aggregate annual total amount of tax credits represented by tax credit certificates that the board issues under this section, when combined with the aggregate annual total amount of tax credits represented by tax credit certificates that the board issues under Section 59-7-618, may not exceed \$500,000.

(b) The board shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to establish a process whereby a

taxpayer may reserve a potential tax credit under this section for a limited time to allow the taxpayer to make a qualifying purchase with the assurance that the aggregate limit under Subsection (5)(a) will not be met before the taxpayer is able to submit an application for a tax credit certificate.

(6) (a) (i) A claimant, estate, or trust wishing to claim a tax credit under this section shall, using forms the board requires by rule:

(A) submit to the board an application for a tax credit;

(B) provide the board proof of a qualifying purchase or qualifying conversion; and

(C) submit to the board the certification under oath required under Subsection (2)(b).

(ii) Upon receiving the application, proof, and certification required under Subsection (6)(a)(i), the board shall provide the claimant, estate, or trust a written statement from the board acknowledging receipt of the proof.

(b) If the board determines that a claimant, estate, or trust qualifies for a tax credit under this section, the board shall:

(i) determine the amount of tax credit the claimant, estate, or trust is allowed under this section; and

(ii) provide the qualifying taxpayer with a written tax credit certificate:

(A) stating that the claimant, estate, or trust has qualified for a tax credit; and

(B) showing the amount of tax credit for which the claimant, estate, or trust has qualified under this section.

(c) A claimant, estate, or trust shall retain the tax credit certificate.

(d) The board shall at least annually submit to the commission a list of all claimants, estates, and trusts to which the board has issued a tax credit certificate and the amount of each tax credit represented by the tax credit certificates.

(7) The tax credit under this section is allowed only:

(a) against a tax owed under this chapter in the taxable year by the qualified taxpayer;

(b) for the taxable year in which the qualifying purchase occurs; and

(c) once per vehicle.

(8) A qualifying taxpayer may not assign a tax credit or a tax credit certificate under this section to another person.

(9) If the amount of a tax credit claimed by a qualifying taxpayer under this section exceeds the qualifying taxpayer's tax liability under this chapter for a taxable year, the amount of the tax credit exceeding the tax liability may be carried forward for a period that does not exceed the next five taxable years.

(10) (a) In accordance with any rules prescribed by the commission under Subsection (10)(b), the commission shall transfer at least annually from the General Fund into the Education Fund the aggregate amount of all tax credits claimed under this section.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules for making a transfer from the General Fund into the Education Fund as required by Subsection (10)(a).

Section 3. Section 59-13-301 is amended to read:

59-13-301. Tax basis -- Rate -- Exemptions -- Revenue deposited with treasurer and credited to Transportation Fund -- Reduction of tax in limited circumstances -- Tax on natural gas.

(1) (a) Except as provided in Subsections (2), (3), (11), and (12) and Section 59-13-304, a tax is imposed at the same rate imposed under Subsection 59-13-201(1)(a) on the:

(i) removal of undyed diesel fuel from any refinery;

(ii) removal of undyed diesel fuel from any terminal;

(iii) entry into the state of any undyed diesel fuel for consumption, use, sale, or warehousing;

(iv) sale of undyed diesel fuel to any person who is not registered as a supplier under this part unless the tax has been collected under this section;

(v) any untaxed special fuel blended with undyed diesel fuel; or

(vi) use of untaxed special fuel other than propane or electricity.

(b) The tax imposed under this section shall only be imposed once upon any special fuel.

(2) (a) No special fuel tax is imposed or collected upon dyed diesel fuel which:

(i) is sold or used for any purpose other than to operate or propel a motor vehicle upon the public highways of the state, but this exemption applies only in those cases where the purchasers or the users of special fuel establish to the satisfaction of the commission that the special fuel was used for purposes other than to operate a motor vehicle upon the public highways of the state; or

(ii) is sold to this state or any of its political subdivisions.

(b) No special fuel tax is imposed on undyed diesel fuel or clean fuel that is:

(i) sold to the United States government or any of its instrumentalities or to this state or any of its political subdivisions;

(ii) exported from this state if proof of actual exportation on forms prescribed by the commission is made within 180 days after exportation;

(iii) used in a vehicle off-highway;

(iv) used to operate a power take-off unit of a vehicle;

(v) used for off-highway agricultural uses;

(vi) used in a separately fueled engine on a vehicle that does not propel the vehicle upon the highways of the state; or

(vii) used in machinery and equipment not registered and not required to be registered for highway use.

(3) No tax is imposed or collected on special fuel if it is:

(a) (i) purchased for business use in machinery and equipment not registered and not required to be registered for highway use; and

(ii) used pursuant to the conditions of a state implementation plan approved under Title 19, Chapter 2, Air Conservation Act; or

(b) propane or electricity.

(4) Upon request of a buyer meeting the requirements under Subsection (3), the Division of Air Quality shall issue an exemption certificate that may be shown to a seller.

(5) The special fuel tax shall be paid by the supplier.

(6) (a) The special fuel tax shall be paid by every user who is required by Sections 59-13-303 and 59-13-305 to obtain a special fuel user permit and file special fuel tax reports.

(b) The user shall receive a refundable credit for special fuel taxes paid on purchases which are delivered into vehicles and for which special fuel tax liability is reported.

(7) (a) Except as provided under Subsections (7)(b) and (c), all revenue received by the commission from taxes and license fees under this part shall be deposited daily with the state treasurer and credited to the Transportation Fund.

(b) An appropriation from the Transportation Fund shall be made to the commission to cover expenses incurred in the administration and enforcement of this part and the collection of the special fuel tax.

(c) Five dollars of each special fuel user trip permit fee paid under Section 59-13-303 may be used by the commission as a dedicated credit to cover the costs of electronic credentialing as provided in Section 41-1a-303.

(8) The commission may either collect no tax on special fuel exported from the state or, upon application, refund the tax paid.

(9) (a) The United States government or any of its instrumentalities, this state, or a political subdivision of this state that has purchased special fuel from a supplier or from a retail dealer of special fuel and has paid the tax on the special fuel as provided in this section is entitled to a refund of the tax and may file with the commission for a quarterly refund in a manner prescribed by the commission.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules governing the application and refund provided for in Subsection (9)(a).

(10) (a) The purchaser shall pay the tax on diesel fuel or clean fuel purchased for uses under Subsections (2)(b)(i), (iii), (iv), (v), (vi), and (vii) and apply for a refund for the tax paid as provided in Subsection (9) and this Subsection (10).

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules governing the application and refund for off-highway and nonhighway uses provided under Subsections (2)(b)(iii), (iv), (vi), and (vii).

(c) A refund of tax paid under this part on diesel fuel used for nonhighway agricultural uses shall be made in accordance with the tax return procedures under Section 59-13-202.

(11) (a) Beginning on April 1, 2001, a tax imposed under this section on special fuel is reduced to the extent provided in Subsection (11)(b) if:

(i) the Navajo Nation imposes a tax on the special fuel;

(ii) the tax described in Subsection (11)(a)(i) is imposed without regard to whether the person required to pay the tax is an enrolled member of the Navajo Nation; and

(iii) the commission and the Navajo Nation execute and maintain an agreement as provided in this Subsection (11) for the administration of the reduction of tax.

(b) (i) If but for Subsection (11)(a) the special fuel is subject to a tax imposed by this section:

(A) the state shall be paid the difference described in Subsection (11)(b)(ii) if that difference is greater than \$0; and

(B) a person may not require the state to provide a refund, a credit, or similar tax relief if the difference described in Subsection (11)(b)(ii) is less than or equal to \$0.

(ii) The difference described in Subsection (11)(b)(i) is equal to the difference between:

(A) the amount of tax imposed on the special fuel by this section; less

(B) the tax imposed and collected by the Navajo Nation on the special fuel.

(c) For purposes of Subsections (11)(a) and (b), the tax paid to the Navajo Nation on the special fuel does not include any interest or penalties a taxpayer may be required to pay to the Navajo Nation.

(d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules governing the procedures for administering the reduction of tax provided under this Subsection (11).

(e) The agreement required under Subsection (11)(a):

(i) may not:

(A) authorize the state to impose a tax in addition to a tax imposed under this chapter;

(B) provide a reduction of taxes greater than or different from the reduction described in this Subsection (11); or

(C) affect the power of the state to establish rates of taxation;

(ii) shall:

(A) be in writing;

(B) be signed by:

(I) the chair of the commission or the chair's designee; and

(II) a person designated by the Navajo Nation that may bind the Navajo Nation;

(C) be conditioned on obtaining any approval required by federal law;

(D) state the effective date of the agreement; and

(E) state any accommodation the Navajo Nation makes related to the construction and maintenance of state highways and other infrastructure within the Utah portion of the Navajo Nation; and

(iii) may:

(A) notwithstanding Section 59-1-403, authorize the commission to disclose to the Navajo Nation information that is:

(I) contained in a document filed with the commission; and

(II) related to the tax imposed under this section;

(B) provide for maintaining records by the commission or the Navajo Nation; or

(C) provide for inspections or audits of suppliers, distributors, carriers, or retailers located or doing business within the Utah portion of the Navajo Nation.

(f) (i) If, on or after April 1, 2001, the Navajo Nation changes the tax rate of a tax imposed on special fuel, any change in the amount of the reduction of taxes under this Subsection (11) as a result of the change in the tax rate is not effective until the first day of the calendar quarter after a 60-day period beginning on the date the commission receives notice:

(A) from the Navajo Nation; and

(B) meeting the requirements of Subsection (11)(f)(ii).

(ii) The notice described in Subsection (11)(f)(i) shall state:

(A) that the Navajo Nation has changed or will change the tax rate of a tax imposed on special fuel;

(B) the effective date of the rate change of the tax described in Subsection (11)(f)(ii)(A); and

(C) the new rate of the tax described in Subsection (11)(f)(ii)(A).

(g) If the agreement required by Subsection (11)(a) terminates, a reduction of tax is not permitted under this Subsection (11) beginning on the first day of the calendar quarter after a 30-day period beginning on the day the agreement terminates.

(h) If there is a conflict between this Subsection (11) and the agreement required by Subsection (11)(a), this Subsection (11) governs.

(12) (a) ~~Beginning on January 1, 2009, a~~ A tax imposed under this section on compressed natural gas is imposed at a ~~reduced~~ rate of ~~8-1/2 cents~~:

(i) ~~until June 30, 2016, 10-1/2 cents per gasoline gallon equivalent [to be increased or decreased proportionately with any increase or decrease in the rate in Subsection 59-13-201(1)(a)];~~

(ii) ~~beginning on July 1, 2016, and until June 30, 2017, 12-1/2 cents per gasoline gallon equivalent;~~

(iii) ~~beginning on July 1, 2017, and until June 30, 2018, 14-1/2 cents per gasoline gallon equivalent; and~~

(iv) ~~beginning on or after July 1, 2018, 16-1/2 cents per gasoline gallon equivalent.~~

(b) ~~Beginning on July 1, 2011, a~~ A tax imposed under this section on liquified natural gas is imposed at a ~~reduced~~ rate of ~~8-1/2 cents~~:

(i) ~~until June 30, 2016, 10-1/2 cents per gasoline gallon equivalent [to be increased or decreased proportionately with any increase or decrease in the rate in Subsection 59-13-201(1)(a)];~~

(ii) ~~beginning on July 1, 2016, and until June 30, 2017, 12-1/2 cents per gasoline gallon equivalent;~~

(iii) ~~beginning on July 1, 2017, and until June 30, 2018, 14-1/2 cents per gasoline gallon equivalent; and~~

(iv) ~~beginning on or after July 1, 2018, 16-1/2 cents per gasoline gallon equivalent.~~

Section 4. Section 63I-1-259 is amended to read:

63I-1-259. Repeal dates, Title 59.

(1) Subsection 59-2-924(3)(g) is repealed on December 31, 2016.

(2) Section 59-2-924.3 is repealed on December 31, 2016.

(3) Section 59-7-618 is repealed July 1, 2020.

~~{3}~~ (4) Section 59-9-102.5 is repealed December 31, 2020.

(5) Section 59-10-1033 is repealed July 1, 2020.

Section 5. Effective date.

(1) Except as provided in Subsection (2), this bill takes effect May 12, 2015.

(2) The amendments to Section 59-13-301 take effect July 1, 2015.

CHAPTER 468

S. B. 2

Passed March 11, 2015

Approved April 1, 2015

Effective July 1, 2015

**NEW FISCAL YEAR SUPPLEMENTAL
APPROPRIATIONS ACT**

Chief Sponsor: Lyle W. Hillyard

House Sponsor: Dean Sanpei

LONG TITLE

General Description:

This bill supplements or reduces appropriations previously provided for the use and operation of state government for the fiscal year beginning July 1, 2015 and ending June 30, 2016.

Highlighted Provisions:

This bill:

- ▶ provides budget increases and decreases for the use and support of certain state agencies;
- ▶ provides budget increases and decreases for the use and support of certain institutions of higher education;
- ▶ provides budget increases and decreases for other purposes as described;
- ▶ authorizes capital outlay amounts for certain internal service funds;
- ▶ authorizes full time employment levels for certain internal service funds; and
- ▶ provides intent language.

Money Appropriated in this Bill:

This bill appropriates \$744,708,700 in operating and capital budgets for fiscal year 2016, including:

- ▶ \$216,074,900 from the General Fund;
- ▶ \$282,883,500 from the Education Fund;
- ▶ \$245,750,300 from various sources as detailed in this bill.

This bill appropriates \$1,700,000 in expendable funds and accounts for fiscal year 2016, including:

- ▶ \$1,200,000 from the General Fund;
- ▶ \$500,000 from various sources as detailed in this bill.

This bill appropriates \$259,000 in business-like activities for fiscal year 2016.

This bill appropriates \$19,841,100 in restricted fund and account transfers for fiscal year 2016, including:

- ▶ \$18,352,400 from the General Fund;
- ▶ \$1,488,700 from various sources as detailed in this bill.

This bill appropriates \$2,308,300 in capital project funds for fiscal year 2016.

Other Special Clauses:

This bill takes effect on July 1, 2015.

Utah Code Sections Affected:

ENACTS UNCODIFIED MATERIAL

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

Section 1. FY 2016 Appropriations. The following sums of money are appropriated for

the fiscal year beginning July 1, 2015 and ending June 30, 2016. These are additions to amounts previously appropriated for fiscal year 2016.

Subsection 1(a). Operating and Capital Budgets.

Under the terms and conditions of Utah Code Title 63J, the Legislature appropriates the following sums of money from the funds or fund accounts indicated for the use and support of the government of the State of Utah.

**EXECUTIVE OFFICES AND
CRIMINAL JUSTICE**

GOVERNOR'S OFFICE

Item 1

To Governor's Office - Public Lands Litigation

From Beginning Nonlapsing

Appropriation Balances (879,500)

Schedule of Programs:

Public Lands Litigation (879,500)

Item 2

To Governor's Office - School Readiness Initiative

From General Fund Restricted - School

Readiness Account 2,800,000

From Beginning Nonlapsing

Appropriation Balances 1,500,000

From Closing Nonlapsing Appropriation

Balances (3,300,000)

Schedule of Programs:

School Readiness Initiative 1,000,000

Item 3

To Governor's Office - Governor's Office of Management and Budget

From General Fund, One-time 140,000

From Dedicated Credits Revenue 26,000

From General Fund Restricted -

School Readiness Account (2,800,000)

From Beginning Nonlapsing

Appropriation Balances (1,500,000)

From Closing Nonlapsing Appropriation

Balances 3,300,000

Schedule of Programs:

Operational Excellence 26,000

State and Local Planning 140,000

School Readiness Initiative (1,000,000)

Item 4

To Governor's Office - Quality Growth Commission - LeRay McAllister Program

From General Fund, One-time 900,000

Schedule of Programs:

LeRay McAllister Critical Land

Conservation Program 900,000

The Legislature intends that funds appropriated to the LeRay McAllister Critical Land Conservation Program in FY 2016 be used exclusively for protection of sage grouse habitat.

Item 5

To Governor's Office - Commission on Criminal and Juvenile Justice

From Federal Funds 13,900,000

From General Fund Restricted -

Criminal Forfeiture Restricted

Account 1,000,000

Schedule of Programs:
Utah Office for Victims of Crime ... 14,900,000

Item 6

To Governor's Office - CCJJ Factual
Innocence Payments
From General Fund, One-time 60,200
Schedule of Programs:
Factual Innocence Payments 60,200

Item 7

To Governor's Office - CCJJ Jail Reimbursement
From General Fund 12,967,100
From General Fund, One-time 2,000,000
Schedule of Programs:
Jail Reimbursement 14,967,100

OFFICE OF THE STATE AUDITOR

Item 8

To Office of the State Auditor - State Auditor
From General Fund 308,500
Schedule of Programs:
State Auditor 308,500

STATE TREASURER

Item 9

To State Treasurer
From General Fund 18,500
Schedule of Programs:
Treasury and Investment 18,500

ATTORNEY GENERAL

Item 10

To Attorney General
From General Fund 1,228,100
From General Fund, One-time 1,800,000
Schedule of Programs:
Administration 1,828,100
Civil 1,200,000

The Legislature intends that \$1,000,000 appropriated in this item for "Legal Fees - Endangered Species" be used for multi-stage sage grouse litigation.

Item 11

To Attorney General - Children's Justice Centers
From General Fund 350,000
Schedule of Programs:
Children's Justice Centers 350,000

Item 12

To Attorney General - Prosecution Council
From Dedicated Credits Revenue 16,700
Schedule of Programs:
Prosecution Council 16,700

UTAH DEPARTMENT OF CORRECTIONS

Item 13

To Utah Department of Corrections - Programs and Operations
From General Fund 10,778,900
From General Fund, One-time (4,900,000)
Schedule of Programs:
Institutional Operations Draper Facility 2,778,900

Institutional Operations Central
Utah/Gunnison 3,100,000

The Legislature intends that, if the Department of Corrections is able to reallocate resources internally to fund additional Adult Probation and Parole agents, for every two agents hired, the Legislature grants authority to purchase one vehicle with Department funds.

The Legislature grants authority to the Department of Corrections to purchase up to 22 vehicles for new staff to implement the Justice Reinvestment Initiative.

Item 14

To Utah Department of Corrections - Jail Contracting
From General Fund 1,208,000
From General Fund, One-time 1,000,000
Schedule of Programs:
Jail Contracting 2,208,000

Under Section 64-13e-105 the Legislature intends that the final state daily incarceration rate be set at \$67.59 for FY 2016.

DEPARTMENT OF HUMAN SERVICES - DIVISION OF JUVENILE JUSTICE SERVICES

Item 15

To Department of Human Services - Division of Juvenile Justice Services - Programs and Operations
From General Fund 1,364,200
From General Fund, One-time 1,113,600
Schedule of Programs:
Administration 17,200
Early Intervention Services 442,100
Community Programs 298,500
Correctional Facilities 1,720,000

The Legislature intends that in order to decrease recidivism and more effectively utilize state resources, that private providers that contract with the Division of Juvenile Justice Services for residential, community-based services, including both family-based and group home services, will adhere to evidence-based practices proven to reduce recidivism as directed by the Division of Juvenile Justice Services.

JUDICIAL COUNCIL/STATE COURT ADMINISTRATOR

Item 16

To Judicial Council/State Court Administrator - Administration
From General Fund 2,081,000
From General Fund, One-time 100,000
From General Fund Restricted - Court Trust Interest (581,000)
Schedule of Programs:
District Courts 1,100,000
Administrative Office 500,000

Under provisions of Section 67-8-2, Utah Code Annotated, salaries for District Court judges for the fiscal year beginning July 1,

2015 and ending June 30, 2016 shall be \$150,000. Other judicial salaries shall be calculated in accordance with the formula set forth in Section 67-8-2 and rounded to the nearest \$50.

Item 17

To Judicial Council/State Court Administrator - Contracts and Leases
 From General Fund 549,100
 From General Fund, One-time (549,100)

DEPARTMENT OF PUBLIC SAFETY

Item 18

To Department of Public Safety - Programs & Operations
 From General Fund 2,426,200
 From General Fund, One-time 1,883,300
 From Federal Funds 523,300
 From Dedicated Credits Revenue 303,000
 From General Fund Restricted - Fire Academy Support 86,000
 From Department of Public Safety Restricted Account (629,300)
 Schedule of Programs:
 Department Commissioner's Office 1,663,000
 CITS Bureau of Criminal Identification 40,000
 CITS Communications 330,000
 CITS State Crime Labs 1,550,200
 Highway Patrol - Field Operations 623,300
 Highway Patrol - Protective Services 300,000
 Fire Marshall - Fire Operations 86,000

The Legislature intends that the department is authorized to increase its fleet by the same number of new officers authorized and funded by the legislature for FY 2016

Item 19

To Department of Public Safety - Emergency Management
 From Dedicated Credits Revenue 50,000
 From Beginning Nonlapsing Appropriation Balances (150,000)
 Schedule of Programs:
 Emergency Management (100,000)

Item 20

To Department of Public Safety - Emergency Management - National Guard Response
 From Nonlapsing Balances - Department of Public Safety 150,000
 Schedule of Programs:
 National Guard Response 150,000

Item 21

To Department of Public Safety - Driver License
 From Department of Public Safety Restricted Account 806,000
 Schedule of Programs:
 Driver Services 806,000

INFRASTRUCTURE AND GENERAL GOVERNMENT

TRANSPORTATION

Item 22

To Transportation - Support Services
 From Transportation Fund 11,400
 Schedule of Programs:
 Administrative Services 11,400

Item 23

To Transportation - Engineering Services
 From Transportation Fund (70,500)
 Schedule of Programs:
 Materials Lab (70,500)

Item 24

To Transportation - Operations/ Maintenance Management
 From Transportation Fund 669,400
 Schedule of Programs:
 Maintenance Administration 737,800
 Field Crews 25,400
 Traffic Safety/Tramway (93,800)

The Legislature intends that the Department of Transportation use maintenance funds previously used on state highways that now qualify for Transportation Investment Funds of 2005 to address maintenance and preservation issues on other state highways.

Item 25

To Transportation - Construction Management
 From Transportation Fund (650,000)
 Schedule of Programs:
 Rehabilitation/Preservation (650,000)

There is appropriated to the Department of Transportation from the Transportation Fund, not otherwise appropriated, a sum sufficient but not more than the surplus of the Transportation Fund, to be used by the Department for the construction, rehabilitation and preservation of State highways in Utah. The Legislature intends that the appropriation fund first, a maximum participation with the federal government for the construction of federally designated highways, as provided by law, and last the construction of State highways, as funding permits. No portion of the money appropriated by this item shall be used either directly or indirectly to enhance the appropriation otherwise made by this act to the Department of Transportation for other purposes.

Item 26

To Transportation - Region Management
 From Transportation Fund 150,200
 Schedule of Programs:
 Region 1 11,300
 Region 2 (51,400)
 Region 3 190,300

Item 27

To Transportation - Equipment Management
 From Transportation Fund 581,900
 Schedule of Programs:

Equipment Purchases 581,900

Item 28

To Transportation - Aeronautics

The Legislature intends that the Division of Aeronautics use funds from the Aeronautics Restricted Account to conduct an audit of the Utah Based Aircraft Database and Aircraft Registration program to evaluate the existing process for collecting aircraft data, accuracy of information, and to make recommendations for improvement.

Item 29

To Transportation - Safe Sidewalk Construction

The Legislature intends that the funds appropriated from the Transportation Fund for pedestrian safety projects be used specifically to correct pedestrian hazards on State highways. The Legislature also intends that local authorities be encouraged to participate in the construction of pedestrian safety devices. The appropriated funds are to be used according to the criteria set forth in Section 72-8-104, Utah Code Annotated, 1953. The funds appropriated for sidewalk construction shall not lapse. If local governments cannot use their allocation of Sidewalk Safety Funds in two years, these funds will be available for other governmental entities which are prepared to use the resources. The Legislature intends that local participation in the Sidewalk Construction Program be on a 75% state and 25% local match basis.

Item 30

To Transportation - Mineral Lease

The Legislature intends that the funds appropriated from the Federal Mineral Lease Account shall be used for improvement or reconstruction of highways that have been heavily impacted by energy development. The Legislature further intends that if private industries engaged in developing the State's natural resources are willing to participate in the cost of the construction of highways leading to their facilities, that local governments consider that highway as a higher priority as they prioritize the use of Mineral Lease Funds received through 59-21-1(4)(C)(i). The funds appropriated for improvement or reconstruction of energy impacted highways are nonlapsing.

Item 31

To Transportation - Transportation Investment Fund Capacity Program

There is appropriated to the Department of Transportation from the Transportation Investment Fund of 2005, not otherwise appropriated, a sum sufficient, but not more than the surplus of the Transportation Investment Fund of 2005, to be used by the Department for the construction, rehabilitation, and preservation of State and Federal highways in Utah. No portion of the money appropriated by this item shall be used

either directly or indirectly to enhance or increase the appropriations otherwise made by this act to the Department of Transportation for other purposes.

DEPARTMENT OF ADMINISTRATIVE SERVICES

Item 32

To Department of Administrative

Services - Executive Director

From General Fund (83,700)

From Dedicated Credits Revenue (20,000)

From Beginning Nonlapsing

Appropriation Balances (41,800)

From Closing Nonlapsing Appropriation

Balances 41,800

Schedule of Programs:

Parental Defense (103,700)

Item 33

To Department of Administrative Services - Inspector General of Medicaid Services

The Legislature intends that the Inspector General of Medicaid Services retain up to an additional \$60,000 of Medicaid collections during FY 2016 to pay the Attorney Generals Office for the state costs of the one attorney FTE that the Office of the Inspector General is using.

Item 34

To Department of Administrative

Services - Administrative Rules

From General Fund 8,100

Schedule of Programs:

DAR Administration 8,100

Item 35

To Department of Administrative Services -

DFCM Administration

From General Fund 49,700

Schedule of Programs:

DFCM Administration 49,700

Item 36

To Department of Administrative Services -

State Archives

From Federal Funds 10,000

Schedule of Programs:

Archives Administration (730,000)

Patron Services 10,000

Open Records 730,000

Item 37

To Department of Administrative

Services - Finance Administration

From General Fund 124,700

Schedule of Programs:

Finance Director's Office 124,700

Item 38

To Department of Administrative

Services - Finance - Mandated

From General Fund (12,967,100)

From General Fund Restricted -

Economic Incentive Restricted

Account (5,310,600)

Schedule of Programs:

Development Zone Partial

Rebates (5,310,600)

Jail Reimbursement (12,967,100)

The Legislature intends that, if revenues deposited in the Land Exchange Distribution Account exceed appropriations from the account, the Division of Finance distribute the excess deposits according to the formula provided in UCA 53C-3-203(4).

Item 39

To Department of Administrative Services - Finance - Mandated - Parental Defense
 From General Fund 85,400
 From Dedicated Credits Revenue 20,000
 From Closing Nonlapsing Appropriation Balances 41,800
 From Lapsing Balance (41,800)
 Schedule of Programs:
 Parental Defense 105,400

Item 40

To Department of Administrative Services - Finance - Mandated - Ethics Commission
 From General Fund 3,000
 Schedule of Programs:
 Executive Branch Ethics Commission 3,000

Item 41

To Department of Administrative Services - Judicial Conduct Commission
 From General Fund 4,900
 Schedule of Programs:
 Judicial Conduct Commission 4,900

Item 42

To Department of Administrative Services - Purchasing
 From General Fund 12,600
 Schedule of Programs:
 Purchasing and General Services 12,600

DEPARTMENT OF TECHNOLOGY SERVICES

Item 43

To Department of Technology Services - Chief Information Officer
 From General Fund 10,500
 Schedule of Programs:
 Chief Information Officer 10,500

Item 44

To Department of Technology Services - Integrated Technology Division
 From General Fund 15,700
 Schedule of Programs:
 Automated Geographic Reference Center 15,700

CAPITAL BUDGET

Item 45

To Capital Budget - Capital Development Fund
 The Legislature intends that Utah Valley University use donated or institutional funds for planning and design of the proposed Fine/Performing Arts Building.

The Legislature intends that no General or Education Fund appropriations made by the Legislature for state-funded capital

developments approved during the 2015 General Session may be expended by the Division of Facilities Construction and Management until the State Building Board has certified that: (1) the board has received credible evidence that any other funding sources for a building as presented to the State Building Board and the Legislature during their prioritization processes are actually available, and (2) until the State Building Board votes to certify that such funds are available.

The Legislature intends that Utah State University transfer \$350,000 from its Contingency Reserve Fund from state-funded projects to its Project Reserve Fund.

Item 46

To Capital Budget - Capital Development - Higher Education
 From Education Fund, One-time 105,337,000
 Schedule of Programs:
 UU Huntsman Cancer Institute 9,500,000
 Snow College Science Building 19,937,000
 Dixie ATC Permanent Campus 31,900,000
 UU Crocker Science Center 34,000,000
 USU Clinical Services Building 10,000,000

Item 47

To Capital Budget - Capital Development - Other State Government
 From General Fund, One-time 145,571,500
 Schedule of Programs:
 Unified State Lab Module 2 39,741,500
 Dead Horse Point State Park Campground 5,000,000
 DWR Great Salt Lake Nature Center 1,200,000
 DJJS Weber Valley Multi-use Youth Center 19,630,000
 Prison Relocation 80,000,000

Item 48

To Capital Budget - Capital Development - Public Education
 From Education Fund, One-time 14,500,000
 Schedule of Programs:
 USDB Salt Lake Facility 14,500,000

Item 49

To Capital Budget - Capital Improvements
 From General Fund 25,907,800
 From General Fund, One-time 135,000
 From Education Fund 38,861,800
 From Education Fund, One-time 4,000,000
 Schedule of Programs:
 Capital Improvements 64,769,600
 WSU Browning Center Seating 1,000,000
 Goblin Valley State Park Access Road Fencing 135,000
 SLCC Fencing 250,000
 USU Botanical Center 1,250,000
 UVU Student Activity Center 1,500,000

Item 50

To Capital Budget - Property Acquisition
 From Education Fund, One-time 3,000,000
 Schedule of Programs:
 DSU University Plaza Classroom and Land 3,000,000

Item 51

To Capital Budget - Pass-Through
 From General Fund, One-time 7,000,000
 Schedule of Programs:
 Box Elder DPS Consolidation 2,500,000
 Historic Wendover Airfield 500,000
 Olympic Oval Expansion 3,000,000
 Olympic Park Improvement 1,000,000

**STATE BOARD OF BONDING
 COMMISSIONERS - DEBT SERVICE**

Item 52

To State Board of Bonding Commissioners -
 Debt Service - Debt Service
 From General Fund 62,700
 From Education Fund 19,800
 From Transportation Investment
 Fund of 2005 22,768,200
 Schedule of Programs:
 General Obligation Bonds Debt
 Service 22,850,700

**BUSINESS, ECONOMIC
 DEVELOPMENT, AND LABOR**

DEPARTMENT OF HERITAGE AND ARTS

Item 53

To Department of Heritage and Arts - Division of
 Arts and Museums
 From General Fund 50,000
 From General Fund, One-time 200,000
 Schedule of Programs:
 Community Arts Outreach 250,000

Item 54

To Department of Heritage and Arts - Division of
 Arts and Museums - Office of Museum Services
 From General Fund, One-time 100,000
 Schedule of Programs:
 Office of Museum Services 100,000

Item 55

To Department of Heritage and Arts - State Library
 From General Fund 49,900
 From General Fund, One-time 100,000
 Schedule of Programs:
 Library Resources 149,900

Item 56

To Department of Heritage and
 Arts - Pass-Through
 From General Fund (130,000)
 From General Fund, One-time 2,745,000
 Schedule of Programs:
 Pass-Through 2,615,000

**GOVERNOR'S OFFICE OF
 ECONOMIC DEVELOPMENT**

Item 57

To Governor's Office of Economic
 Development - Administration
 From General Fund (158,400)
 From General Fund, One-time 3,655,000
 Schedule of Programs:
 Administration 3,496,600

The Legislature intends that \$240,000 of the one-time appropriation in Administration be used for the Sichuan Province Partnership. The Legislature intends: (1) this appropriation is nonlapsing; (2) GOED ensure that this appropriation is spent to create and organize a legal entity to promote business, education, and investment between Utah and Sichuan, China; (3) GOED may delegate the task of creating and organizing the entity to the World Trade Center Utah; (4) in creating and organizing the entity, GOED shall consult with the World Trade Center Utah, the co-chairs of the Business and Labor Interim Committee, and the co-chairs of Utah International Relations and Trade Commission; (5) GOED may only release monies to the entity after it is legally created; and (6) the new entity, with the assistance of GOED and World Trade Center Utah shall: (a) report to the Business and Labor Interim Committee, and the Utah International Relations and Trade Commission by October 31, 2015; (b) provide an accounting of the expenditure of this appropriation; and (c) provide proposed legislation to that committee and commission to formally create, or authorize the creation of, the entity in statute.

Item 58

To Governor's Office of Economic
 Development - Office of Tourism
 From General Fund 36,300
 From General Fund, One-time 163,700
 From General Fund Restricted -
 Tourism Marketing Performance ... 18,000,000
 Schedule of Programs:
 Marketing and Advertising 18,000,000
 Film Commission 200,000

Item 59

To Governor's Office of Economic Development -
 Business Development
 From General Fund 190,000
 From General Fund, One-time 1,125,000
 Schedule of Programs:
 Outreach and International Trade ... 1,205,000
 Corporate Recruitment and
 Business Services 110,000

UTAH STATE TAX COMMISSION

Item 60

To Utah State Tax Commission -
 Tax Administration
 From General Fund Restricted -
 Electronic Payment Fee Restricted
 Account 600,000
 Schedule of Programs:
 Motor Vehicles 600,000

Item 61

To Utah State Tax Commission - Liquor
 Profit Distribution
 From General Fund Restricted-Alcoholic
 Beverage Enforcement & Treatment 5,500
 Schedule of Programs:
 Liquor Profit Distribution 5,500

**DEPARTMENT OF ALCOHOLIC
BEVERAGE CONTROL**

Item 62

To Department of Alcoholic Beverage
Control - DABC Operations
From Liquor Control Fund 2,024,000
Schedule of Programs:
Operations 924,000
Stores and Agencies 1,100,000

Item 63

To Department of Alcoholic Beverage
Control - Parents Empowered
From GFR - Underage Drinking Prevention
Media and Education Campaign
Restricted Account 122,400
Schedule of Programs:
Parents Empowered 122,400

FINANCIAL INSTITUTIONS

Item 64

To Financial Institutions - Financial Institutions
Administration
From General Fund Restricted -
Financial Institutions 26,000
Schedule of Programs:
Building Operations and
Maintenance 26,000

INSURANCE DEPARTMENT

Item 65

To Insurance Department - Insurance Department
Administration
From General Fund Restricted -
Insurance Department Account 75,000
From General Fund Restricted - Guaranteed
Asset Protection Waiver 40,000
From General Fund Restricted -
Relative Value Study Account 35,000
From General Fund Restricted -
Captive Insurance 225,000
Schedule of Programs:
Administration 75,000
Relative Value Study 35,000
Captive Insurers 225,000
GAP Waiver Program 40,000

Item 66

To Insurance Department - Title
Insurance Program
From General Fund Restricted - Title
Licensee Enforcement Account 9,800
Schedule of Programs:
Title Insurance Program 9,800

PUBLIC SERVICE COMMISSION

Item 67

To Public Service Commission - Alternative
Fuel Vehicles
From General Fund 2,000,000
Schedule of Programs:
Alternative Fuel Vehicles 2,000,000

SOCIAL SERVICES

DEPARTMENT OF HEALTH

Item 68

To Department of Health - Executive Director's
Operations

The Legislature intends the Departments of Workforce Services, Health, Human Services, and the Utah State Office of Rehabilitation provide a report regarding each agency's highest cost individuals and possible efficiencies through coordination, early intervention, and prevention. The Legislature further intends these agencies provide a report to the Office of the Legislative Fiscal Analyst by September 1, 2015. The report shall include the following regarding high cost individuals: 1) a summary, by program, of individuals receiving services in excess of \$100,000 total fund annually in any given agency, what percentage of total costs is spent on these individuals, and what the agency is doing to manage these costs in an efficient manner, 2) an assessment of these high cost individuals receiving services from multiple agencies, 3) a description of agency coordination regarding high cost individuals accompanied by a list of areas where agencies specifically coordinate on these high cost individuals, 4) recommendations regarding how best to serve these high cost individuals in least restrictive settings where appropriate and consistent with choice, and 5) recommendation on how agency efforts might better be coordinated across programs.

The Legislature intends that the Department of Health prepare proposed performance measures for all new state funding or TANF federal funds for building blocks and give this information to the Office of the Legislative Fiscal Analyst by June 30, 2015. At a minimum the proposed measures should include those presented to the Subcommittee during the requests for funding. If the same measures are not included, a detailed explanation as to why should be included. The Department of Health shall provide its first report on its performance measures to the Office of the Legislative Fiscal Analyst by October 31, 2015. The Office of the Legislative Fiscal Analyst shall give this information to the legislative staff of the Health and Human Services Interim Committee.

Item 69

To Department of Health - Family Health
and Preparedness
From General Fund 276,000
From General Fund, One-time 2,050,000
From Federal Funds 301,700
Schedule of Programs:
Child Development 220,000
Health Facility Licensing and
Certification 357,700

Primary Care 2,050,000

Item 70

To Department of Health - Disease Control and Prevention
 From General Fund 249,400
 From General Fund, One-time 508,600
 Schedule of Programs:
 Health Promotion 700,000
 Office of the Medical Examiner 58,000

Item 71

To Department of Health - Workforce Financial Assistance
 From General Fund, One-time 600,000
 From Federal Funds 100,000
 Schedule of Programs:
 Workforce Financial Assistance 700,000

Item 72

To Department of Health - Medicaid and Health Financing
 The Legislature intends that the Inspector General of Medicaid Services pay the Attorney General's Office the full state cost of the one attorney FTE that it is using at the Department of Health.

Item 73

To Department of Health - Children's Health Insurance Program
 From General Fund 1,488,700
 From General Fund, One-time (4,100,000)
 From Federal Funds 9,648,000
 From General Fund Restricted - Tobacco Settlement Account (7,036,700)

Item 74

To Department of Health - Medicaid Mandatory Services
 From General Fund 7,760,000
 From General Fund, One-time 3,752,000
 From Federal Funds 69,432,400
 From General Fund Restricted - Nursing Care Facilities Account 2,450,200
 From General Fund Restricted - Tobacco Settlement Account 5,548,000
 Schedule of Programs:
 Managed Health Care 28,840,900
 Nursing Home 8,255,300
 Physician Services 16,846,400
 Medicaid Management Information System Replacement 35,000,000

Item 75

To Department of Health - Medicaid Optional Services
 From General Fund 4,070,000
 From General Fund, One-time 1,000,000
 From Federal Funds 12,352,100
 From General Fund Restricted - Nursing Care Facilities Account 143,400
 Schedule of Programs:
 Intermediate Care Facilities for Intellectually Disabled 673,900
 Dental Services 13,477,100
 Hospice Care Services 483,200
 Other Optional Services 2,931,300

The Legislature intends that with the funding appropriated for the building block

titled, "Intermediate Care Facilities - Intellectually Disabled," the Department of Health shall: 1) Direct funds to increase the salaries of direct care workers; 2) Increase only those rates which include a direct care service component, including respite; 3) Monitor providers to ensure that all funds appropriated are applied to direct care worker wages and that none of the funding goes to administrative functions or provider profits; In conjunction with Intermediate Care Facilities - Intellectually Disabled providers, report to the Office of the Legislature Fiscal Analyst no later than September 1, 2015 regarding: 1) the implementation and status of increasing salaries for direct care workers, 2) a detailed explanation with supporting documentation of how Intermediate Care Facilities - Intellectually Disabled providers are reimbursed, including all accounting codes used and the previous and current rates for each accounting code, and 3) a conceptual explanation of how Intermediate Care Facilities - Intellectually Disabled providers realize profit within the closed market of providing Intermediate Care Facilities - Intellectually Disabled services.

The Legislature intends that, if funds are available, Medicaid fee-for-service payments for anesthesia services be increased from the current amount of \$18.27 to \$23.73 for Fiscal Year 2016.

The Legislature intends that 5% of all funds provided in the Medicaid program for managed care dental plans be used for contracted plan administration and that any funds provided for the Affordable are Act premium tax not be included in that 5% administrative funds amount.

DEPARTMENT OF WORKFORCE SERVICES

Item 76

To Department of Workforce Services - Administration
 From General Fund Restricted - Special Administrative Expense Account 50,000
 From Unemployment Compensation Fund 10,000
 Schedule of Programs:
 Executive Director's Office 7,000
 Communications 4,000
 Human Resources 7,000
 Administrative Support 39,000
 Internal Audit 3,000

The Legislature intends that the American Recovery and Reinvestment Act appropriation provided for the Administration line item is limited to one-time projects associated with Unemployment Insurance modernization.

All General Funds appropriated to the Department of Workforce Services - Administration line item are contingent upon

expenditures from Federal Funds - American Recovery and Reinvestment Act (H.R. 1, 111th United States Congress) not exceeding amounts appropriated from Federal Funds - American Recovery and Reinvestment Act in all appropriation bills passed for Fiscal Year 2016. If expenditures in the Administration line item from Federal Funds - American Recovery and Reinvestment Act exceed amounts appropriated to the Administration line item from Federal Funds - American Recovery and Reinvestment Act in Fiscal Year 2016, the Division of Finance shall reduce the General Fund allocations to the Administration line item by one dollar for every one dollar in Federal Funds - American Recovery and Reinvestment Act expenditures that exceed Federal Funds - American Recovery and Reinvestment Act appropriations.

The Legislature intends that the Department of Workforce Services prepare proposed performance measures for all new state funding or TANF federal funds for building blocks and give this information to the Office of the Legislative Fiscal Analyst by June 30, 2015. At a minimum the proposed measures should include those presented to the Subcommittee during the requests for funding. If the same measures are not included, a detailed explanation as to why should be included. The Department of Workforce Services shall provide its first report on its performance measures to the Office of the Legislative Fiscal Analyst by October 31, 2015. The Office of the Legislative Fiscal Analyst shall give this information to the legislative staff of the Health and Human Services Interim Committee.

The Legislature intends the Departments of Workforce Services, Health, Human Services, and the Utah State Office of Rehabilitation provide a report regarding each agency's highest cost individuals and possible efficiencies through coordination, early intervention, and prevention. The Legislature further intends these agencies provide a report to the Office of the Legislative Fiscal Analyst by September 1, 2015. The report shall include the following regarding high cost individuals: 1) a summary, by program, of individuals receiving services in excess of \$100,000 total fund annually in any given agency, what percentage of total costs is spent on these individuals, and what the agency is doing to manage these costs in an efficient manner, 2) an assessment of these high cost individuals receiving services from multiple agencies, 3) a description of agency coordination regarding high cost individuals accompanied by a list of areas where agencies specifically coordinate on these high cost individuals, 4) recommendations regarding how best to serve these high cost individuals in least restrictive settings where appropriate and consistent with choice, and 5)

recommendation on how agency efforts might better be coordinated across programs.

Item 77

To Department of Workforce Services - Operations and Policy
 From General Fund Restricted - Special Administrative Expense
 Account (50,000)
 From Unemployment Compensation Fund 1,800,000
 Schedule of Programs:
 Workforce Development (50,000)
 Information Technology 1,800,000

All General Funds appropriated to the Department of Workforce Services - Operations and Policy line item are contingent upon expenditures from Federal Funds - American Recovery and Reinvestment Act (H.R. 1, 111th United States Congress) not exceeding amounts appropriated from Federal Funds - American Recovery and Reinvestment Act in all appropriation bills passed for Fiscal Year 2016. If expenditures in the Operations and Policy line item from Federal Funds - American Recovery and Reinvestment Act exceed amounts appropriated to the Operations and Policy line item from Federal Funds - American Recovery and Reinvestment Act in Fiscal Year 2016, the Division of Finance shall reduce the General Fund allocations to the Operations and Policy line item by one dollar for every one dollar in Federal Funds - American Recovery and Reinvestment Act expenditures that exceed Federal Funds - American Recovery and Reinvestment Act appropriations.

The Legislature intends the Department of Workforce Services and the Administrative Offices of the Courts provide a report to the Office of the Legislative Fiscal Analyst no later than September 1, 2015. The report shall include, at a minimum: 1) a summary of efforts to improve coordination between the Drug Court program and DWS' Workforce Development Division in order to improve Drug Court success, 2) data indicating the success of the efforts including the implementation and reporting on measures of post program recidivism, and 3) any identified savings or additional funding of drug court recipients as a result of improved coordination efforts.

The Legislature intends that the American Recovery and Reinvestment Act appropriation provided for the Operations and Policy line item is limited to one-time projects associated with Unemployment Insurance modernization.

Item 78

To Department of Workforce Services - Unemployment Insurance
 From Unemployment Compensation Fund 190,000
 Schedule of Programs:

Unemployment Insurance
Administration 190,000

All General Funds appropriated to the Department of Workforce Services - Unemployment Insurance Administration line item are contingent upon expenditures from Federal Funds - American Recovery and Reinvestment Act (H.R. 1, 111th United States Congress) not exceeding amounts appropriated from Federal Funds - American Recovery and Reinvestment Act in all appropriation bills passed for Fiscal Year 2016. If expenditures in the Unemployment Insurance Administration line item from Federal Funds - American Recovery and Reinvestment Act exceed amounts appropriated to the Unemployment Insurance Administration line item from Federal Funds - American Recovery and Reinvestment Act in Fiscal Year 2016, the Division of Finance shall reduce the General Fund allocations to the Unemployment Insurance Administration line item by one dollar for every one dollar in Federal Funds - American Recovery and Reinvestment Act expenditures that exceed Federal Funds - American Recovery and Reinvestment Act appropriations.

The Legislature intends that the American Recovery and Reinvestment Act appropriation provided for the Unemployment Insurance Administration line item is limited to one-time projects associated with Unemployment Insurance modernization.

Item 79

To Department of Workforce Services - Housing and Community Development
From General Fund Restricted - Pamela Atkinson Homeless Account 1,000,000
Schedule of Programs:
Homeless Committee 1,000,000

The Legislature intends that the Department of Workforce Services report on the following performance measures for the Housing and Community Development line item: (1) Ending Chronic Homelessness - offer housing to all chronically homeless individuals who want to be housed (Target = 9% reduction per year), (2) Utilities Assistance for Low-income Households - Number of eligible households assisted with home energy costs (Target = 35,000 households), and (3) Weatherization Assistance - Number of low income households assisted by installing permanent energy conservation measures in their homes (Target = 800 homes) by January 1, 2016 to the Social Services Appropriations Subcommittee.

Item 80

To Department of Workforce Services - Special Service Districts

The Legislature intends that the Department of Workforce Services report on

the following performance measure for the Special Service Districts line item: the Department of Workforce Services is required to pass through the funds to qualifying special service districts in counties of the 5th, 6th and 7th class (this is completed quarterly) by January 1, 2016 to the Social Services Appropriations Subcommittee.

DEPARTMENT OF HUMAN SERVICES

Item 81

To Department of Human Services - Executive Director Operations
From General Fund, One-time 550,000
Schedule of Programs:
Executive Director's Office 550,000

The Legislature intends the Department of Human Services (DHS) report to the Office of the Legislative Fiscal Analyst by September 1, 2015 regarding its efforts and progress in addressing each specific recommendation contained in the Office of the Legislative Auditor General's "An In-Depth Budget Review of the Department of Human Services" (No. 2014-09) released in October of 2014. If there are any recommendations DHS is not addressing, the Legislature further intends DHS explain why it is not addressing those recommendations. The Legislature further intends DHS identify specific savings resulting from its process improvement efforts.

The Legislature intends that the Department of Human Services prepare proposed performance measures for all new state funding or TANF federal funds for building blocks and give this information to the Office of the Legislative Fiscal Analyst by June 30, 2015. At a minimum the proposed measures should include those presented to the Subcommittee during the requests for funding. If the same measures are not included, a detailed explanation as to why should be included. The Department of Human Services shall provide its first report on its performance measures to the Office of the Legislative Fiscal Analyst by October 31, 2015. The Office of the Legislative Fiscal Analyst shall give this information to the legislative staff of the Health and Human Services Interim Committee.

The Legislature intends the Departments of Workforce Services, Health, Human Services, and the Utah State Office of Rehabilitation provide a report regarding each agency's highest cost individuals and possible efficiencies through coordination, early intervention, and prevention. The Legislature further intends these agencies provide a report to the Office of the Legislative Fiscal Analyst by September 1, 2015. The report shall include the following regarding high cost individuals: 1) a summary, by program, of individuals receiving services in excess of \$100,000 total fund annually in any given agency, what percentage of total costs is spent on these

individuals, and what the agency is doing to manage these costs in an efficient manner, 2) an assessment of these high cost individuals receiving services from multiple agencies, 3) a description of agency coordination regarding high cost individuals accompanied by a list of areas where agencies specifically coordinate on these high cost individuals, 4) recommendations regarding how best to serve these high cost individuals in least restrictive settings where appropriate and consistent with choice, and 5) recommendation on how agency efforts might better be coordinated across programs.

Item 82

To Department of Human Services - Division of Substance Abuse and Mental Health

From General Fund 2,533,000
 From General Fund, One-time 7,400,000
 From Federal Funds 420,000
 From Revenue Transfers - Medicaid (33,000)

Schedule of Programs:

Community Mental Health

Services 2,120,000
 Mental Health Centers 6,350,000
 State Hospital 1,400,000
 State Substance Abuse Services 500,000
 Local Substance Abuse Services (50,000)

The Legislature intends the Department of Workforce Services and the Administrative Offices of the Courts provide a report to the Office of the Legislative Fiscal Analyst no later than September 1, 2015. The report shall include, at a minimum: 1) a summary of efforts to improve coordination between the Drug Court program and DWS' Workforce Development Division in order to improve Drug Court success, 2) data indicating the success of the efforts including the implementation and reporting on measures of post program recidivism, and 3) any identified savings or additional funding of drug court recipients as a result of improved coordination efforts.

The Legislature intends that the one-time General Fund appropriation of \$6,400,000 to the Department of Human Services for Local Authority Mental Health Medicaid Match is provided to assist local mental health authorities for one year until they can find ways to provide their own matching funds in the future. The Legislature further intends the local mental health authorities report their plans to provide their own matching funds in the future to the Office of the Legislative Fiscal Analyst by September 1, 2015.

The Legislature intends that the \$300,000 in federal funds appropriated for Children's Mental Health Early Intervention for Children and Youth in the Department of Human Services in the Division of Substance Abuse and Mental Health line item is dependent upon the availability of and qualification for the Children's Mental Health Early Intervention for Children and

Youth for Temporary Assistance for Needy Families federal funds.

Item 83

To Department of Human Services - Division of Services for People with Disabilities

From General Fund 7,894,900
 From General Fund, One-time 852,700
 From Revenue Transfers - Medicaid 16,698,300

Schedule of Programs:

Community Supports Waiver 25,445,900

The Legislature intends the Division of Services for People with Disabilities (DSPD) in the Department of Human Services provide to the Office of the Legislative Fiscal Analyst no later than September 1, 2015 a report that includes a(n): 1) response to each specific audit recommendation found in A Performance Audit of the Division of Services for People with Disabilities (October 2014 - Audit No. 2014 - 10), 2) identification of specific efficiencies gained by DSPD through implementing the audit's recommendations, 3) estimate of savings, if any, achieved through implementation of each recommendation, and 4) measures that demonstrate effective implementation of each recommendation. The Legislature further intends the Office of the Legislative Fiscal Analyst provide the report to the Office of the Legislative Auditor General (OLAG) and that OLAG review the report in order to assess: 1) if the measures accurately demonstrate effective implementation of the recommendations and 2) the accuracy of the savings estimates, if any. The Legislature further intends OLAG report its review of the DSPD report to the Social Services Appropriations Subcommittee.

The Legislature intends that for the building block titled "DSPD - Direct Care Staff Salary Increase," the Division of Services for People with Disabilities (DSPD) shall: 1) Direct funds to increase the salaries of direct care workers; 2) Increase only those rates which include a direct care service component, including respite; 3) Monitor providers to ensure that all funds appropriated are applied to direct care worker wages and that none of the funding goes to administrative functions or provider profits; 4)

In conjunction with DSPD community providers, report to the Office of the Legislative Fiscal Analyst no later than September 1, 2015 regarding: 1) the implementation and status of increasing salaries for direct care workers, 2) a detailed explanation with supporting documentation of how DSPD providers are reimbursed, including all accounting codes used and the previous and current rates for each accounting code, and 3) a conceptual explanation of how DSPD community providers realize profit within the closed market of providing DSPD community services.

Item 84

To Department of Human Services - Office of Recovery Services

The Legislature intends the Office of Recovery Services report to the Office of the Legislative Fiscal Analyst by September 1, 2015 regarding implementation of 2014 General Session fee increases and a detailed listing of the intended uses of the additional fee revenue with associated amounts.

Item 85

To Department of Human Services - Division of Child and Family Services

From General Fund	686,600
From General Fund, One-time	893,500
From Federal Funds	(36,500)
Schedule of Programs:	
Out-of-Home Care	639,400
Domestic Violence	893,500
Adoption Assistance	10,700

The Legislature intends the Department of Human Services' Division of Child and Family Services use nonlapsing state funds originally appropriated for Adoption Assistance non-IV-E monthly subsidies for any children that were not initially Title IV-E eligible in foster care, but that now qualify for Title IV-E adoption assistance monthly subsidies under eligibility exception criteria specified in P.L. 112-34 [Social Security Act Section 473(e)]. These funds shall only be used for child welfare services allowable under Title IV-B or Title IV-E of the Social Security Act consistent with the requirements found at UCA 63J-1-603(3)(b).

The Legislature intends to reinvest non-lapsing state funds originally appropriated for Out of Home Care to enhance Service Delivery or In-Home Services consistent with the requirements found at UCA 63J-1-603(3)(b). The purpose of this reinvestment of funds is to increase capacity to keep children safely at home and reduce the need for foster care, in accordance with Utah's Child Welfare Demonstration Project authorized under Section 1130 of the Social Security Act (Act) (42 U.S.C. 1320a-9), which grants a waiver for certain foster care funding requirements under Title IV-E of the Act. These funds shall only be used for child welfare services allowable under Title IV-B or Title IV-E of the Act.

Item 86

To Department of Human Services - Division of Aging and Adult Services

From General Fund	437,100
From General Fund, One-time	600,000
From Federal Funds	150,000
From Revenue Transfers - Medicaid	466,500
Schedule of Programs:	
Local Government Grants -	
Formula Funds	750,000
Adult Protective Services	229,700
Aging Waiver Services	673,900

The Legislature intends the Department of Human Services' Division of Aging and Adult Services use applicable federal funding reserves to provide one-time funding of \$150,000 for Aging Nutrition.

STATE BOARD OF EDUCATION

Item 87

To State Board of Education - State Office of Rehabilitation

From Education Fund, One-time	775,000
From Revenue Transfers -	
Indirect Costs	(1,910,700)
Schedule of Programs:	
Executive Director	(262,200)
Blind and Visually Impaired	(101,300)
Rehabilitation Services	(53,500)
Disability Determination	(637,900)
Deaf and Hard of Hearing	(80,800)

The Legislature intends the Utah State Office of Rehabilitation (USOR), in conjunction with the Utah State Office of Education and the Utah State Board of Education, provide to the Office of the Legislative Fiscal Analyst no later than September 1, 2015: 1) A report on the USOR fiscal status for the recently completed state Fiscal Year 2015, including identification of one-time funding sources used to pay for ongoing services; 2) A projection of the USOR fiscal status for state Fiscal Year 2016, including any anticipated uses of one-time funding sources to pay for ongoing services; 3) A projection of the USOR anticipated fiscal status for state Fiscal Year 2017, including any anticipated uses of one-time funding sources to pay for ongoing services; 4) Any anticipated reductions in paid client services for state fiscal years 2015, 2016, or 2017; 5) The status of paid client services and numbers affected by reductions, if any; 6) The status of the Order of Selection waiting list and estimated numbers affected, if any; 7) The status of federal Maintenance of Effort and its effect on state liability; 8) Recommendations regarding the organizational placement of USOR and its subunits in order to provide proper oversight, management, and support; and 9) The history and current status of the individuals with Visual Impairment Fund.

The Legislature intends the Departments of Workforce Services, Health, Human Services, and the Utah State Office of Rehabilitation provide a report regarding each agency's highest cost individuals and possible efficiencies through coordination, early intervention, and prevention. The Legislature further intends these agencies provide a report to the Office of the Legislative Fiscal Analyst by September 1, 2015. The report shall include the following regarding high cost individuals: 1) a summary, by program, of individuals receiving services in excess of \$100,000 total fund annually in any given agency, what percentage of total costs is spent on these

individuals, and what the agency is doing to manage these costs in an efficient manner, 2) an assessment of these high cost individuals receiving services from multiple agencies, 3) a description of agency coordination regarding high cost individuals accompanied by a list of areas where agencies specifically coordinate on these high cost individuals, 4) recommendations regarding how best to serve these high cost individuals in least restrictive settings where appropriate and consistent with choice, and 5) recommendation on how agency efforts might better be coordinated across programs.

The Legislature intends that the Utah State Office of Rehabilitation prepare proposed performance measures for all new state funding or TANF federal funds for building blocks and give this information to the Office of the Legislative Fiscal Analyst by June 30, 2015. At a minimum the proposed measures should include those presented to the Subcommittee during the requests for funding. If the same measures are not included, a detailed explanation as to why should be included. The Utah State Office of Rehabilitation shall provide its first report on its performance measures to the Office of the Legislative Fiscal Analyst by October 31, 2015. The Office of the Legislative Fiscal Analyst shall give this information to the legislative staff of the Health and Human Services Interim Committee.

HIGHER EDUCATION

UNIVERSITY OF UTAH

Item 88

To University of Utah - Education and General
 From General Fund (41,015,600)
 From General Fund, One-time (38,000,000)
 From Education Fund 50,943,900
 From Education Fund, One-time 34,218,100
 From Dedicated Credits Revenue 26,243,700
 Schedule of Programs:
 Education and General 30,071,300
 Operations and Maintenance 2,318,800

The Legislature intends that the University of Utah report on the following performance measures: (1) graduation rates (100 percent, 150 percent, and 200 percent) by cohort, with comparisons to national averages; (2) transfer and retention rate, by cohort; (3) job placement rates following graduation, by discipline; (4) degree completion per discipline; (5) percentage of students enrolling in, and successfully completing, developmental mathematics course who immediately or concurrently enroll in college level math (1030 or higher); and (6) the amount of grant money applied for and received and the number of research/outreach initiatives funded by non-state-funded grants. The Legislature intend that this information be available to

the Higher Education Appropriations Subcommittee by December 31, 2016.

The Legislature intends that the University of Utah be authorized to purchase 15 new vehicles for its motor pool.

Item 89

To University of Utah -
 Educationally Disadvantaged
 From General Fund 12,200
 From Education Fund 1,500
 Schedule of Programs:
 Educationally Disadvantaged 13,700

Item 90

To University of Utah - School of Medicine
 From General Fund 18,100
 From Education Fund 604,600
 Schedule of Programs:
 School of Medicine 622,700

Item 91

To University of Utah - Health Sciences
 From General Fund 35,200
 Schedule of Programs:
 Health Sciences 35,200

Item 92

To University of Utah - University Hospital
 From General Fund 77,100
 From Education Fund 16,900
 Schedule of Programs:
 University Hospital 91,900
 Miners' Hospital 2,100

Item 93

To University of Utah - Regional Dental
 Education Program
 From General Fund 9,600
 From Education Fund 1,200
 Schedule of Programs:
 Regional Dental Education Program 10,800

Item 94

To University of Utah - Public Service
 From General Fund 150,100
 From General Fund, One-time 150,000
 From Education Fund (459,400)
 Schedule of Programs:
 Seismograph Stations 14,000
 Natural History Museum of Utah (175,600)
 State Arboretum 2,300

Item 95

To University of Utah -
 Statewide TV Administration
 From General Fund 41,900
 From Education Fund 7,100
 Schedule of Programs:
 Public Broadcasting 49,000

Item 96

To University of Utah - Poison Control Center
 From General Fund 42,000
 Schedule of Programs:
 Poison Control Center 42,000

Item 97

To University of Utah - Center on Aging
 From General Fund 2,100
 Schedule of Programs:
 Center on Aging 2,100

UTAH STATE UNIVERSITY

Item 98

To Utah State University - Education and General
From General Fund 1,982,400
From Education Fund 5,901,600
From Education Fund, One-time (1,252,400)
From Dedicated Credits Revenue 5,819,800
Schedule of Programs:
Education and General 10,258,300
USU - School of Veterinary Medicine . . . 64,800
Operations and Maintenance 2,128,300

The Legislature intends that the Utah State University report on the following performance measures: (1) graduation rates (100 percent, 150 percent, and 200 percent) by cohort, with comparisons to national averages; (2) transfer and retention rate, by cohort; (3) job placement rates following graduation, by discipline; (4) degree completion per discipline; (5) percentage of students enrolling in, and successfully completing, developmental mathematics course who immediately or concurrently enroll in college level math (1030 or higher); and (6) the amount of grant money applied for and received and the number of research/outreach initiatives funded by non-state-funded grants. The Legislature intend that this information be available to the Higher Education Appropriations Subcommittee by December 31, 2016.

Item 99

To Utah State University - USU -
Eastern Education and General
From General Fund 41,000
From Education Fund (79,400)
From Dedicated Credits Revenue 141,300
Schedule of Programs:
USU - Eastern Education and
General 102,900

Item 100

To Utah State University -
Educationally Disadvantaged
From General Fund 2,000
Schedule of Programs:
Educationally Disadvantaged 2,000

Item 101

To Utah State University - USU -
Eastern Educationally Disadvantaged
From General Fund 2,100
Schedule of Programs:
USU - Eastern Educationally
Disadvantaged 2,100

Item 102

To Utah State University - USU - Eastern Career
and Technical Education
From General Fund 3,400
From Education Fund 23,300
Schedule of Programs:
USU - Eastern Career and Technical
Education 26,700

Item 103

To Utah State University - Uintah Basin Regional
Campus
From General Fund 45,300
From Education Fund 32,700
From Dedicated Credits Revenue 108,500
Schedule of Programs:
Uintah Basin Regional Campus 186,500

Item 104

To Utah State University -
Southeastern Continuing Education Center
From General Fund 11,600
From Education Fund 3,200
From Dedicated Credits Revenue 71,800
Schedule of Programs:
Southeastern Continuing Education
Center 86,600

Item 105

To Utah State University - Brigham
City Regional Campus
From General Fund 19,800
From Education Fund (551,400)
From Dedicated Credits Revenue 1,017,300
Schedule of Programs:
Brigham City Regional Campus 485,700

Item 106

To Utah State University - Tooele
Regional Campus
From General Fund 13,000
From Education Fund 38,500
From Dedicated Credits Revenue 433,400
Schedule of Programs:
Tooele Regional Campus 484,900

Item 107

To Utah State University - Water
Research Laboratory
From General Fund 26,500
From Education Fund 10,100
Schedule of Programs:
Water Research Laboratory 36,600

Item 108

To Utah State University - Agriculture
Experiment Station
From General Fund 19,200
From Education Fund (181,800)
Schedule of Programs:
Agriculture Experiment Station (162,600)

Item 109

To Utah State University - Cooperative Extension
From General Fund 20,200
From Education Fund 443,900
Schedule of Programs:
Cooperative Extension 464,100

Item 110

To Utah State University - Prehistoric Museum
From General Fund 2,900
From Education Fund 2,300
Schedule of Programs:
Prehistoric Museum 5,200

Item 111

To Utah State University - Blanding Campus
From General Fund 32,700
From Education Fund 10,800
From Dedicated Credits Revenue 65,200

Schedule of Programs:
 Blanding Campus 108,700

WEBER STATE UNIVERSITY

Item 112

To Weber State University - Education and General
 From General Fund 1,249,500
 From Education Fund 225,100
 From Education Fund, One-time (590,200)
 From Dedicated Credits Revenue 3,783,700
 Schedule of Programs:
 Education and General 3,822,300
 Operations and Maintenance 845,800

The Legislature intends that Weber State University report on the following performance measures: (1) graduation rates (100 percent, 150 percent, and 200 percent) by cohort, with comparisons to national averages; (2) transfer and retention rate, by cohort; (3) job placement rates following graduation, by discipline; (4) degree completion per discipline; and (5) percentage of students enrolling in, and successfully completing, developmental mathematics course who immediately or concurrently enroll in college level math (1030 or higher). The Legislature intend that this information be available to the Higher Education Appropriations Subcommittee by December 31, 2016.

Item 113

To Weber State University - Educationally Disadvantaged
 From General Fund 5,900
 From Education Fund 1,200
 Schedule of Programs:
 Educationally Disadvantaged 7,100

SOUTHERN UTAH UNIVERSITY

Item 114

To Southern Utah University - Education and General
 From General Fund 226,200
 From Education Fund 425,000
 From Education Fund, One-time 100,000
 From Dedicated Credits Revenue 3,781,400
 Schedule of Programs:
 Education and General 4,208,200
 Operations and Maintenance 324,400

The Legislature intends that Southern Utah University report on the following performance measures: (1) graduation rates (100 percent, 150 percent, and 200 percent) by cohort, with comparisons to national averages; (2) transfer and retention rate, by cohort; (3) job placement rates following graduation, by discipline; (4) degree completion per discipline; and (5) percentage of students enrolling in, and successfully completing, developmental mathematics course who immediately or concurrently enroll in college level math (1030 or higher). The Legislature intend that this information be available to the Higher Education

Appropriations Subcommittee by December 31, 2016.

Item 115

To Southern Utah University - Educationally Disadvantaged
 From General Fund 1,600
 From Education Fund 200
 Schedule of Programs:
 Educationally Disadvantaged 1,800

Item 116

To Southern Utah University - Shakespeare Festival
 From General Fund 200
 From Education Fund 300
 Schedule of Programs:
 Shakespeare Festival 500

Item 117

To Southern Utah University - Rural Development
 From General Fund 1,700
 From Education Fund 300
 Schedule of Programs:
 Rural Development 2,000

UTAH VALLEY UNIVERSITY

Item 118

To Utah Valley University - Education and General
 From General Fund 1,156,900
 From Education Fund 717,900
 From Dedicated Credits Revenue 6,864,000
 Schedule of Programs:
 Education and General 5,510,300
 Operations and Maintenance 3,228,500

The Legislature intends that Utah Valley University report on the following performance measures: (1) graduation rates (100 percent, 150 percent, and 200 percent) by cohort, with comparisons to national averages; (2) transfer and retention rate, by cohort; (3) job placement rates following graduation, by discipline; (4) degree completion per discipline; and (5) percentage of students enrolling in, and successfully completing, developmental mathematics course who immediately or concurrently enroll in college level math (1030 or higher). The Legislature intend that this information be available to the Higher Education Appropriations Subcommittee by December 31, 2016.

The Legislature intends that Utah Valley University be authorized to purchase 6 new vehicles for its motor pool.

Item 119

To Utah Valley University - Educationally Disadvantaged
 From General Fund 2,800
 From Education Fund 500
 Schedule of Programs:
 Educationally Disadvantaged 3,300

SNOW COLLEGE

Item 120

To Snow College - Education and General
 From General Fund 71,600

From Education Fund	691,700
From Education Fund, One-time	(322,000)
From Dedicated Credits Revenue	922,000
Schedule of Programs:	
Education and General	911,100
Operations and Maintenance	452,200

The Legislature intends that Snow College report on the following performance measures: (1) graduation rates (100 percent, 150 percent, and 200 percent) by cohort, with comparisons to national averages; (2) transfer and retention rate, by cohort; (3) job placement rates following graduation, by discipline; (4) degree completion per discipline; and (5) percentage of students enrolling in, and successfully completing, developmental mathematics course who immediately or concurrently enroll in college level math (1030 or higher). The Legislature intend that this information be available to the Higher Education Appropriations Subcommittee by December 31, 2016.

Item 121

To Snow College - Educationally Disadvantaged	
From General Fund	600
Schedule of Programs:	
Educationally Disadvantaged	600

Item 122

To Snow College - Career and Technical Education	
From General Fund	25,100
From Education Fund	800
Schedule of Programs:	
Career and Technical Education	25,900

DIXIE STATE UNIVERSITY**Item 123**

To Dixie State University - Education and General	
From General Fund	45,700
From Education Fund	573,200
From Education Fund, One-time	100,000
From Dedicated Credits Revenue	2,887,300
Schedule of Programs:	
Education and General	2,894,200
Operations and Maintenance	712,000

The Legislature intends that Dixie State University report on the following performance measures: (1) graduation rates (100 percent, 150 percent, and 200 percent) by cohort, with comparisons to national averages; (2) transfer and retention rate, by cohort; (3) job placement rates following graduation, by discipline; (4) degree completion per discipline; and (5) percentage of students enrolling in, and successfully completing, developmental mathematics course who immediately or concurrently enroll in college level math (1030 or higher). The Legislature intend that this information be available to the Higher Education Appropriations Subcommittee by December 31, 2016.

Item 124

To Dixie State University -	
Educationally Disadvantaged	

From General Fund	500
Schedule of Programs:	
Educationally Disadvantaged	500

Item 125

To Dixie State University -	
Zion Park Amphitheater	
From General Fund	900
From Education Fund	100
Schedule of Programs:	
Zion Park Amphitheater	1,000

SALT LAKE COMMUNITY COLLEGE**Item 126**

To Salt Lake Community College - Education and	
General	
From General Fund	200,000
From Education Fund	1,273,400
From Dedicated Credits Revenue	1,801,500
Schedule of Programs:	
Education and General	2,684,500
Operations and Maintenance	590,400

The Legislature intends that Salt Lake Community College report on the following performance measures: (1) graduation rates (100 percent, 150 percent, and 200 percent) by cohort, with comparisons to national averages; (2) transfer and retention rate, by cohort; (3) job placement rates following graduation, by discipline; (4) degree completion per discipline; and (5) percentage of students enrolling in, and successfully completing, developmental mathematics course who immediately or concurrently enroll in college level math (1030 or higher). The Legislature intend that this information be available to the Higher Education Appropriations Subcommittee by December 31, 2016.

The Legislature intends that Salt Lake Community College be authorized to purchase 5 new vehicles for its motor pool.

Item 127

To Salt Lake Community College -	
Educationally Disadvantaged	
From General Fund	3,600
Schedule of Programs:	
Educationally Disadvantaged	3,600

Item 128

To Salt Lake Community College -	
School of Applied Technology	
From General Fund	82,800
From Education Fund	189,200
Schedule of Programs:	
School of Applied Technology	272,000

STATE BOARD OF REGENTS**Item 129**

To State Board of Regents - Administration	
From General Fund	(24,200)
From Education Fund	16,200
Schedule of Programs:	
Administration	(8,000)

The Legislature intends that the State Board of Regents explore the feasibility of

collecting graduation rates by CIP and report its findings to the Legislature during the 2016 General Session.

The Legislature further intends that the State Board of Regents support institutions within the Utah System of Higher Education in compiling, standardizing, and reporting data to the Higher Education Appropriations Subcommittee.

The Legislature intends that State Board of Regents make earnings and other pertinent data from Utah Data Alliance available to students, parents, teachers, counselors, and other interested parties, subject to the Utah Data Alliance receiving continued funding.

Item 130

To State Board of Regents - Student Assistance

From General Fund	151,400
From Education Fund	114,300
From Education Fund, One-time	2,500,000
Schedule of Programs:	
Regents' Scholarship	2,583,700
Student Financial Aid	65,000
Minority Scholarships	700
New Century Scholarships	39,700
Success Stipend	27,800
Western Interstate Commission for Higher Education	16,800
T.H. Bell Teaching Incentive	
Loans Program	29,500
Veterans Tuition Gap Program	2,500

Item 131

To State Board of Regents - Student Support

From General Fund	15,400
From Education Fund	16,300
Schedule of Programs:	
Services for Hearing Impaired	
Students	15,900
Concurrent Enrollment	8,800
Articulation Support	5,400
Campus Compact	1,600

Item 132

To State Board of Regents - Technology

From General Fund	79,900
From Education Fund	63,700
Schedule of Programs:	
Higher Education Technology	
Initiative	91,400
Utah Academic Library Consortium	52,200

Item 133

To State Board of Regents - Economic Development

From General Fund	7,100
From Education Fund	3,500,100
Schedule of Programs:	
Engineering Initiative	3,500,000
Engineering Loan Repayment	800
Economic Development Initiatives	6,400

Item 134

To State Board of Regents - Education Excellence

From Education Fund	2,020,000
From Education Fund, One-time	6,000,000
Schedule of Programs:	
Education Excellence	8,020,000

Item 135

To State Board of Regents - Medical Education Council

From General Fund	11,200
Schedule of Programs:	
Medical Education Council	11,200

UTAH COLLEGE OF APPLIED TECHNOLOGY

Item 136

To Utah College of Applied Technology - Administration

From General Fund	60,100
From Education Fund	52,700
Schedule of Programs:	
Administration	37,300
Equipment	11,400
Custom Fit	64,100

The Legislature intends that the Utah College of Applied Technology provide summary year-end performance data for certificate-seeking, occupational upgrade, other post-secondary, and secondary students detailing the number and percentage of: (1) completers (graduate and non-graduate/early-hire completers, where applicable); (2) non-completers; and (3) those who are still enrolled at the end of the fiscal year. The Legislature further intends that the Utah College of Applied Technology provide summary data detailing average cost per membership hour, average cost per certificate awarded, and average cost per occupational upgrade awarded.

Item 137

To Utah College of Applied Technology - Bridgerland Applied Technology College

From General Fund	83,100
From Education Fund	265,300
Schedule of Programs:	
Bridgerland Applied Technology	
College	348,400

The Legislature intends that the Bridgerland Applied Technology College provide year-end performance data for certificate-seeking, occupational upgrade, other post-secondary, and secondary students detailing the number and percentage of: (1) completers (graduate and non-graduate/early-hire completers, where applicable); (2) non-completers; and (3) those who are still enrolled at the end of the fiscal year. The Legislature further intends that the Bridgerland Applied Technology College provide average cost per membership hour, average cost per certificate awarded, and average cost per occupational upgrade awarded.

The Legislature intends that any equity funding approved for campuses at the Utah College of Applied Technology not be allocated for any non-state funded operations and maintenance (O&M) projects or facilities.

Item 138

To Utah College of Applied Technology - Davis Applied Technology College

From General Fund 84,500
 From Education Fund 565,100
 Schedule of Programs:
 Davis Applied Technology College 649,600

The Legislature intends that the Davis Applied Technology College provide year-end performance data for certificate-seeking, occupational upgrade, other post-secondary, and secondary students detailing the number and percentage of: (1) completers (graduate and non-graduate/early-hire completers, where applicable); (2) non-completers; and (3) those who are still enrolled at the end of the fiscal year. The Legislature further intends that the Davis Applied Technology College provide average cost per membership hour, average cost per certificate awarded, and average cost per occupational upgrade awarded.

The Legislature intends that any equity funding approved for campuses at the Utah College of Applied Technology not be allocated for any non-state funded operations and maintenance (O&M) projects or facilities.

Item 139

To Utah College of Applied Technology -
 Dixie Applied Technology College
 From General Fund 1,700
 From Education Fund 1,740,700
 From Education Fund, One-time (1,366,400)
 Schedule of Programs:
 Dixie Applied Technology College 376,000

The Legislature intends that the Dixie Applied Technology College provide year-end performance data for certificate-seeking, occupational upgrade, other post-secondary, and secondary students detailing the number and percentage of: (1) completers (graduate and non-graduate/early-hire completers, where applicable); (2) non-completers; and (3) those who are still enrolled at the end of the fiscal year. The Legislature further intends that the Dixie Applied Technology College provide average cost per membership hour, average cost per certificate awarded, and average cost per occupational upgrade awarded.

The Legislature intends that any equity funding approved for campuses at the Utah College of Applied Technology not be allocated for any non-state funded operations and maintenance (O&M) projects or facilities.

The Legislature intends that the Dixie Applied Technology College be authorized to purchase a new vehicle for its motor pool.

Item 140

To Utah College of Applied Technology -
 Mountainland Applied Technology College
 From Education Fund 1,089,100
 Schedule of Programs:
 Mountainland Applied Technology
 College 1,089,100

The Legislature intends that the Mountainland Applied Technology College

provide year-end performance data for certificate-seeking, occupational upgrade, other post-secondary, and secondary students detailing the number and percentage of: (1) completers (graduate and non-graduate/early-hire completers, where applicable); (2) non-completers; and (3) those who are still enrolled at the end of the fiscal year. The Legislature further intends that the Mountainland Applied Technology College provide average cost per membership hour, average cost per certificate awarded, and average cost per occupational upgrade awarded.

The Legislature intends that any equity funding approved for campuses at the Utah College of Applied Technology not be allocated for any non-state funded operations and maintenance (O&M) projects or facilities.

Item 141

To Utah College of Applied Technology -
 Ogden/Weber Applied Technology College
 From General Fund 102,500
 From Education Fund 152,400
 Schedule of Programs:
 Ogden/Weber Applied Technology
 College 254,900

The Legislature intends that the Ogden-Weber Applied Technology College provide year-end performance data for certificate-seeking, occupational upgrade, other post-secondary, and secondary students detailing the number and percentage of: (1) completers (graduate and non-graduate/early-hire completers, where applicable); (2) non-completers; and (3) those who are still enrolled at the end of the fiscal year. The Legislature further intends that the Ogden-Weber Applied Technology College provide average cost per membership hour, average cost per certificate awarded, and average cost per occupational upgrade awarded.

The Legislature intends that any equity funding approved for campuses at the Utah College of Applied Technology not be allocated for any non-state funded operations and maintenance (O&M) projects or facilities.

Item 142

To Utah College of Applied Technology - Southwest
 Applied Technology College
 From General Fund 3,300
 From Education Fund 205,100
 From Education Fund, One-time (228,100)
 Schedule of Programs:
 Southwest Applied Technology
 College (19,700)

The Legislature intends that the Southwest Applied Technology College provide year-end performance data for certificate-seeking, occupational upgrade, other post-secondary, and secondary students detailing the number and percentage of: (1) completers (graduate and non-graduate/early-hire completers, where applicable); (2) non-completers; and (3) those who are still enrolled at the end of

the fiscal year. The Legislature further intends that the Southwest Applied Technology College provide average cost per membership hour, average cost per certificate awarded, and average cost per occupational upgrade awarded.

The Legislature intends that any equity funding approved for campuses at the Utah College of Applied Technology not be allocated for any non-state funded operations and maintenance (O&M) projects or facilities.

Item 143

To Utah College of Applied Technology -
Tooele Applied Technology College
From General Fund 17,100
From Education Fund 43,800
Schedule of Programs:
Tooele Applied Technology College 60,900

The Legislature intends that the Tooele Applied Technology College provide year-end performance data for certificate-seeking, occupational upgrade, other post-secondary, and secondary students detailing the number and percentage of: (1) completers (graduate and non-graduate/early-hire completers, where applicable); (2) non-completers; and (3) those who are still enrolled at the end of the fiscal year. The Legislature further intends that the Tooele Applied Technology College provide average cost per membership hour, average cost per certificate awarded, and average cost per occupational upgrade awarded.

The Legislature intends that any equity funding approved for campuses at the Utah College of Applied Technology not be allocated for any non-state funded operations and maintenance (O&M) projects or facilities.

Item 144

To Utah College of Applied Technology - Uintah Basin Applied Technology College
From General Fund 25,900
From Education Fund 217,600
Schedule of Programs:
Uintah Basin Applied Technology College 243,500

The Legislature intends that the Uintah Basin Applied Technology College provide year-end performance data for certificate-seeking, occupational upgrade, other post-secondary, and secondary students detailing the number and percentage of: (1) completers (graduate and non-graduate/early-hire completers, where applicable); (2) non-completers; and (3) those who are still enrolled at the end of the fiscal year. The Legislature further intends that the Uintah Basin Applied Technology College provide average cost per membership hour, average cost per certificate awarded, and average cost per occupational upgrade awarded.

The Legislature intends that any equity funding approved for campuses at the Utah College of Applied Technology not be

allocated for any non-state funded operations and maintenance (O&M) projects or facilities.

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY

DEPARTMENT OF NATURAL RESOURCES

Item 145

To Department of Natural Resources - Administration
From General Fund 705,400
Schedule of Programs:
Administrative Services 705,400

The Legislature intends that the Department of Natural Resources work with the Office of the Legislative Fiscal Analyst to identify ways to better optimize the resources of its financial operations and report to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee by November 30, 2015.

The Legislature intends that the Department of Natural Resources transfer \$50,000 to the Bear Lake Commission to be expended only as a one-to-one match with funds from the State of Idaho.

The Legislature intends that the Department of Natural Resources continue to facilitate and staff the Executive Water Task Force.

Item 146

To Department of Natural Resources - Species Protection
From General Fund Restricted -
Species Protection 500,000
Schedule of Programs:
Species Protection 500,000

The Legislature intends that the Utah Lake Commission present specific long-term funding plans for the carp-removal efforts during the 2016 General Session.

Item 147

To Department of Natural Resources - DNR Pass Through
From General Fund 1,158,400
From General Fund, One-time 3,350,000
From General Fund Restricted -
Sovereign Land Management 2,006,300
Schedule of Programs:
DNR Pass Through 6,514,700

The Legislature intends that the "Jordan River/Utah Lake Improvements" funding request be contingent upon a 3-to-1 match with non-state funds.

Item 148

To Department of Natural Resources - Forestry, Fire and State Lands
From General Fund Restricted -
Sovereign Land Management 5,666,200
Schedule of Programs:
Fire Management 56,600
Program Delivery 74,600
Project Management 5,535,000

The Legislature intends that the \$250,000 for Bear Lake Access be contingent upon at

least a 50% match from other state and/or local sources.

The Legislature intends that the \$50,000 for Jordan River bank stabilization be contingent upon a one-to-one match from non-state sources.

The Legislature intends that the \$250,000 for LiDAR for Northern Utah be contingent upon a one-to-one match from other state, federal, and/or local sources.

Item 149

To Department of Natural Resources - Oil, Gas and Mining
 From General Fund Restricted -
 Oil & Gas Conservation Account 168,500
 Schedule of Programs:
 Oil and Gas Program 168,500

Item 150

To Department of Natural Resources - Wildlife Resources
 From General Fund, One-time 1,040,000
 From Federal Funds 6,695,600
 From General Fund Restricted -
 Wildlife Habitat 20,000
 From General Fund Restricted -
 Predator Control Account 200,000
 Schedule of Programs:
 Habitat Section 2,736,200
 Wildlife Section 2,996,500
 Aquatic Section 2,222,900

Item 151

To Department of Natural Resources - Parks and Recreation
 From General Fund 220,000
 From General Fund, One-time 180,000
 Schedule of Programs:
 Park Management Contracts 400,000
 The Legislature intends that the \$50,000 appropriation increase for This Is the Place Heritage Park be transferred to the park only after the park has received matching funds of at least \$50,000 from Salt Lake City and at least \$50,000 from Salt Lake County.

Item 152

To Department of Natural Resources - Parks and Recreation Capital Budget
 From General Fund, One-time 100,000
 From General Fund Restricted -
 State Park Fees 1,000,000
 Schedule of Programs:
 Renovation and Development 1,100,000

Item 153

To Department of Natural Resources - Utah Geological Survey
 From General Fund 184,800
 From General Fund, One-time 3,000
 Schedule of Programs:
 Geologic Hazards 187,800

Item 154

To Department of Natural Resources - Water Resources
 From General Fund, One-time 11,000,000
 From Federal Funds 700,000

Schedule of Programs:

Planning 11,000,000
 Construction 700,000

Item 155

To Department of Natural Resources - Water Rights
 From General Fund 438,000
 From General Fund, One-time 130,000
 Schedule of Programs:
 Field Services 568,000

The Legislature intends that the Division of Water Rights work with the Office of the Legislative Fiscal Analyst to realign its appropriations unit structure to better match its operations.

DEPARTMENT OF ENVIRONMENTAL QUALITY

Item 156

To Department of Environmental Quality - Executive Director's Office
 From General Fund, One-time 600,000
 Schedule of Programs:
 Executive Director's Office 600,000

Item 157

To Department of Environmental Quality - Air Quality
 From General Fund 495,300
 Schedule of Programs:
 Air Quality 495,300

The Legislature intends that the Division of Air Quality purchase one new vehicle through the Division of Fleet Operations.

Item 158

To Department of Environmental Quality - Radiation Control
 From Federal Funds 38,000
 Schedule of Programs:
 Radiation Control 38,000

The Legislature intends that, if Senate Bill 244 passes, upon closing FY 2015, all nonlapsing balances for the Division of Radiation Control and for the Division of Solid and Hazardous Waste be established as beginning nonlapsing balances for the new Division of Waste Management and Radiation Control.

Item 159

To Department of Environmental Quality - Water Quality
 From General Fund, One-time 1,500,000
 From Dedicated Credits Revenue 78,700
 Schedule of Programs:
 Water Quality 1,578,700

Item 160

To Department of Environmental Quality - Solid and Hazardous Waste
 The Legislature intends that, if Senate Bill 244 passes, upon closing FY 2015, all nonlapsing balances for the Division of Radiation Control and for the Division of Solid and Hazardous Waste be established as beginning nonlapsing balances for the new

Division of Waste Management and
Radiation Control.

Item 161

To Department of Environmental Quality - Clean
Air Retrofit, Replacement, and Off-road
Technology

From General Fund, One-time 500,000
Schedule of Programs:

Clean Air Retrofit, Replacement,
and Off-road Technology 500,000

**PUBLIC LANDS POLICY
COORDINATING OFFICE**

Item 162

To Public Lands Policy Coordinating Office

From General Fund 500,000
From General Fund, One-time 3,350,000

From General Fund Restricted -
Sovereign Land Management 1,000,000

Schedule of Programs:
Public Lands Office 4,850,000

Item 163

To Public Lands Policy Coordinating Office -
Commission for Stewardship of Public Lands

From General Fund, One-time 2,000,000
Schedule of Programs:

Commission for Stewardship of
Public Lands 2,000,000

Item 164

To Public Lands Policy Coordinating Office -
Public Lands Litigation

From General Fund Restricted -
Constitutional Defense 1,000,000

From Beginning Nonlapsing
Appropriation Balances 879,500

Schedule of Programs:
Public Lands Litigation 1,879,500

GOVERNOR'S OFFICE

Item 165

To Governor's Office - Office of
Energy Development

From General Fund, One-time 200,000
Schedule of Programs:

Office of Energy Development 200,000

**DEPARTMENT OF
AGRICULTURE AND FOOD**

Item 166

To Department of Agriculture and
Food - Administration

From General Fund (577,200)
From General Fund, One-time (188,800)

From Federal Funds 589,200
Schedule of Programs:

General Administration (165,900)
Chemistry Laboratory (10,900)

Item 167

To Department of Agriculture and Food -
Animal Health

From General Fund 360,800
Schedule of Programs:

Animal Health 206,800

Brand Inspection 43,500
Meat Inspection 110,500

Item 168

To Department of Agriculture and Food -
Plant Industry

From General Fund 155,300
From Federal Funds (420,400)

Schedule of Programs:
Environmental Quality (215,300)

Grain Inspection 1,500
Insect Infestation (186,700)
Plant Industry 268,100
Grazing Improvement Program (132,700)

Item 169

To Department of Agriculture and
Food - Regulatory Services

From General Fund 131,700
From Dedicated Credits Revenue 73,900

Schedule of Programs:
Regulatory Services 205,600

Item 170

To Department of Agriculture and
Food - Marketing and Development

From General Fund 118,200
From General Fund, One-time 100,000

Schedule of Programs:
Marketing and Development 218,200

Item 171

To Department of Agriculture and Food -
Resource Conservation

From General Fund 100,000
From General Fund, One-time 782,000

From Federal Funds 5,625,000
From Agriculture Resource

Development Fund 80,000
From Revenue Transfers 340,000

Schedule of Programs:
Resource Conservation

Administration 5,125,000
Resource Conservation 1,802,000

Item 172

To Department of Agriculture and
Food - Rangeland Improvement

From General Fund Restricted -
Rangeland Improvement Account ... 1,000,000

Schedule of Programs:
Rangeland Improvement 1,000,000

Item 173

To Department of Agriculture and Food -
Utah State Fair Corporation

From General Fund, One-time 675,000
Schedule of Programs:

State Fair Corporation 675,000

**SCHOOL AND INSTITUTIONAL
TRUST LANDS ADMINISTRATION**

Item 174

To School and Institutional Trust
Lands Administration

From Land Grant Management Fund 96,500
From Land Grant Management

Fund, One-time 446,300
Schedule of Programs:

Director 400,000

Auditing	70,000
Oil and Gas	140,000
Surface	46,300
Legal/Contracts	(113,500)

Item 175

To School and Institutional Trust Lands Administration - Land Stewardship and Restoration
From Land Grant Management
Fund 1,613,500
Schedule of Programs:
Land Stewardship and Restoration 1,613,500

Item 176

To School and Institutional Trust Lands Administration - School and Institutional Trust Lands Administration Capital
From Land Grant Management
Fund (3,300,000)
Schedule of Programs:
Capital (3,300,000)

RETIREMENT AND INDEPENDENT ENTITIES

UTAH EDUCATION AND TELEHEALTH NETWORK

Item 177

To Utah Education and Telehealth Network - Utah Education Network
From General Fund 142,000
From General Fund, One-time 501,800
From Education Fund 300,000
From Education Fund, One-time 6,000,000
Schedule of Programs:
Technical Services 6,000,000
Statewide Data Alliance 300,000
Utah Telehealth Network 643,800

EXECUTIVE APPROPRIATIONS

UTAH NATIONAL GUARD

Item 178

To Utah National Guard
From General Fund 210,000
Schedule of Programs:
Administration 210,000

The Legislature intends that the Utah National Guard be allowed to increase its vehicle fleet by three vehicles for operations and maintenance if funding for the vehicles comes from appropriated federal funds.

DEPARTMENT OF VETERANS' AND MILITARY AFFAIRS

Item 179

To Department of Veterans' and Military Affairs - Veterans' and Military Affairs
From General Fund 10,000
From General Fund, One-time 435,000
Schedule of Programs:
Administration 235,000
Outreach Services 200,000

Military Affairs	10,000
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The Legislature intends that the Department of Veterans' and Military Affairs be allowed to increase its vehicle fleet by two vehicles for nursing home operations if funding for the vehicles comes from nursing home per diem payments.

CAPITOL PRESERVATION BOARD

Item 180

To Capitol Preservation Board
From General Fund, One-time 3,400,000
Schedule of Programs:
Capitol Preservation Board 3,400,000

LEGISLATURE

Item 181

To Legislature - Senate
From General Fund 1,500
From General Fund, One-time 2,500
Schedule of Programs:
Administration 4,000

Item 182

To Legislature - House of Representatives
From General Fund 1,500
From General Fund, One-time 2,500
Schedule of Programs:
Administration 4,000

Item 183

To Legislature - Office of the Legislative Auditor General
From General Fund 125,000
Schedule of Programs:
Administration 125,000

Item 184

To Legislature - Office of the Legislative Fiscal Analyst
From General Fund 98,000
From General Fund, One-time 60,000
Schedule of Programs:
Administration and Research 158,000

Item 185

To Legislature - Legislative Printing
From General Fund 14,000
From Dedicated Credits Revenue 75,000
Schedule of Programs:
Administration 89,000

Item 186

To Legislature - Office of Legislative Research and General Counsel
From General Fund 700,000
From General Fund, One-time 297,600
Schedule of Programs:
Administration 997,600

The Legislature intends that the Legislative Management Committee study by its October 2015 interim meeting the long term viability of the State Fairpark in its current location.

Item 187

To Legislature - Legislative Services
From General Fund 450,000
From General Fund, One-time 474,800

Schedule of Programs:
Administration 924,800

Subsection 1(b). Expendable Funds and Accounts. The Legislature has reviewed the following expendable funds. Where applicable, the Legislature authorizes the State Division of Finance to transfer amounts among funds and accounts as indicated. Outlays and expenditures from the recipient funds or accounts may be made without further legislative action according to a fund or account's applicable authorizing statute.

BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR

GOVERNOR'S OFFICE OF ECONOMIC DEVELOPMENT

Item 188
To Governor's Office of Economic Development - General Fund Restricted - Industrial Assistance Account

The Legislature intends that up to \$4,000,000 of the Industrial Assistance Fund allocation to economic opportunities be allowed as incentive for a television series.

SOCIAL SERVICES

DEPARTMENT OF HEALTH

Item 189
To Department of Health - Traumatic Brain Injury Fund
From General Fund 200,000
Schedule of Programs:
Traumatic Brain Injury Fund 200,000

DEPARTMENT OF WORKFORCE SERVICES

Item 190
To Department of Workforce Services - Permanent Community Impact Fund

The Legislature intends that the Department of Workforce Services report on the following performance measures for the Permanent Community Impact Fund line item: (1) 100% of new receipts will be invested in communities annually, (2) employ up to 5 rural planners to determine needs and impacts of infrastructure development in rural Utah, and (3) staff and board will meet at least three times per year with representatives of each partnering sector by January 1, 2016 to the Social Services Appropriations Subcommittee.

Item 191
To Department of Workforce Services - Intermountain Weatherization Training Fund

The Legislature intends that the Department of Workforce Services report on the following performance measures for the Intermountain Weatherization Training

Fund line item: (1) Number of Private Individuals trained each year (Target => 20), (2) Number of Private Individuals receiving training certifications (Target => 20), and (3) Number of Subgrantees trained each year (Target => 40) by January 1, 2016 to the Social Services Appropriations Subcommittee.

Item 192
To Department of Workforce Services - Navajo Revitalization Fund

The Legislature intends that the Department of Workforce Services report on the following performance measures for the Navajo Revitalization Fund line item: (1) Allocate new and re-allocated funds within one year to improve the quality of life for those living on the Utah portion of the Navajo Reservation (Target = \$4.57 million allocated) and (2) Improve the housing stock on the Navajo Reservation by investing in new and improved sanitary housing (Target = \$3.0 million invested) by January 1, 2016 to the Social Services Appropriations Subcommittee.

Item 193
To Department of Workforce Services - Olene Walker Housing Loan Fund
From General Fund, One-time 1,000,000
Schedule of Programs:
Olene Walker Housing Loan Fund ... 1,000,000

The Legislature intends that the Department of Workforce Services report on the following performance measures for the Olene Walker Housing Loan Fund line item: (1) Housing units preserved or created (Target = 800), (2) Construction jobs preserved or created (Target = 1,200), and (3) Leveraging of other funds in each project to Olene Walker Housing Loan Fund monies (Target = 9:1) by January 1, 2016 to the Social Services Appropriations Subcommittee.

The Legislature intends any location for permanent supportive housing to be considered will go through a site evaluation process in cooperation with Salt Lake City and with local ordinances considered as part of that analysis. No locations for permanent supportive housing have been approved for funding based solely on presentations made to the Social Services Appropriations Subcommittee.

Item 194
To Department of Workforce Services - Qualified Emergency Food Agencies Fund

The Legislature intends that the Department of Workforce Services report on the following performance measure for the Qualified Emergency Food Agencies Fund line item - distribute, on a first come, first served basis, the sales tax rebates to qualifying food pantries (Target = 100%) by January 1, 2016 to the Social Services Appropriations Subcommittee.

Item 195

To Department of Workforce Services - Uintah Basin Revitalization Fund

The Legislature intends that the Department of Workforce Services report on the following performance measure for the Uintah Basin Revitalization Fund line item: allocate new and re-allocated funds within one year to improve the quality of life for those living in the Uintah Basin (Target = \$8.4 million allocated) by January 1, 2016 to the Social Services Appropriations Subcommittee.

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY

DEPARTMENT OF ENVIRONMENTAL QUALITY

Item 196

To Department of Environmental Quality - Hazardous Substance Mitigation Fund

From General Fund Restricted - Environmental Quality 400,000
Schedule of Programs:
Hazardous Substance Mitigation Fund 400,000

EXECUTIVE APPROPRIATIONS

CAPITOL PRESERVATION BOARD

Item 197

To Capitol Preservation Board - State Capitol Restricted Special Revenue Fund

From Dedicated Credits Revenue 100,000
Schedule of Programs:
State Capitol Fund 100,000

Subsection 1(c). Business-like Activities.

The Legislature has reviewed the following proprietary funds. Under the terms and conditions of Utah Code 63J-1-410, for any included Internal Service Fund the Legislature approves budgets, full-time permanent positions, and capital acquisition amounts as indicated, and appropriates to the funds as indicated estimated revenue from rates, fees, and other charges. Where applicable, the Legislature authorizes the State Division of Finance to transfer amounts among funds and accounts as indicated.

INFRASTRUCTURE AND GENERAL GOVERNMENT

DEPARTMENT OF ADMINISTRATIVE SERVICES INTERNAL SERVICE FUNDS

Item 198

To Department of Administrative Services - Division of Finance

The Legislature intends that the Finance Internal Service Fund Consolidated Budget & Accounting Program may add up to two FTE if new customers or tasks come on line. Any added FTE will be reviewed and may be

approved by the Legislature in the next legislative session.

Item 199

To Department of Administrative Services - Division of Purchasing and General Services
Authorized Capital Outlay 1,571,500

Item 200

To Department of Administrative Services - Division of Fleet Operations

Budgeted FTE (1.0)

The Legislature intends that the Division of Fleet Operations discontinue charging agencies a flat rate for fuel, and that the fuel pass-through charged by the Division be actual cost as reflected in Senate Bill 8, State Agency Fees and Internal Service Fund Rate Authorization and Appropriations.

Item 201

To Department of Administrative Services - Risk Management

Budgeted FTE 1.0

Item 202

To Department of Administrative Services - Division of Facilities Construction and Management - Facilities Management

Authorized Capital Outlay 32,300

The Legislature intends that the DFCM Internal Service Fund may add up to three FTEs and up to two vehicles beyond the authorized level if new facilities come on line or maintenance agreements are requested. Any added FTEs or vehicles will be reviewed and may be approved by the Legislature in the next legislative session.

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY

DEPARTMENT OF ENVIRONMENTAL QUALITY

Item 203

To Department of Environmental Quality - Water Security Development Account - Water Pollution

From Federal Funds 259,000
Schedule of Programs:

Water Pollution 259,000

DEPARTMENT OF AGRICULTURE AND FOOD

Item 204

To Department of Agriculture and Food - Agriculture Loan Programs

From Agriculture Rural Development Loan Fund (200)

From Utah Rural Rehabilitation Loan State Fund 200

Subsection 1(d). Restricted Fund and

Account Transfers. The Legislature authorizes the State Division of Finance to transfer the following amounts among the following funds or accounts as indicated. Expenditures and outlays from the recipient

funds must be authorized elsewhere in an appropriations act.

BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR

FUND AND ACCOUNT TRANSFERS

Item 205

To Fund and Account Transfers - GFR -
 Tourism Marketing Performance Fund
 From General Fund 15,000,000
 From General Fund, One-time 3,000,000
 Schedule of Programs:
 GFR - Tourism Marketing Performance
 Fund 18,000,000

SOCIAL SERVICES

FUND AND ACCOUNT TRANSFERS

Item 206

To Fund and Account Transfers - GFR -
 Homeless Account
 From General Fund 352,400
 Schedule of Programs:
 General Fund Restricted - Pamela
 Atkinson Homeless Account 352,400

The Legislature intends that the Department of Workforce Services report on the following performance measures for the Fund and Account Transfers to the Pamela Atkinson Homeless Account: (1) homeless providers funded by the State (except domestic violence shelter providers) will utilize the Centralized Client Intake and Coordinated Assessment System (Target => 80%), and (2) complete by scheduled date the statewide report of homeless demographics and conditions by county (Target = November 1) by January 1, 2016 to the Social Services Appropriations Subcommittee.

Item 207

To Fund and Account Transfers -
 State Endowment Fund
 From General Fund Restricted -
 Tobacco Settlement Account 1,488,700
 Schedule of Programs:
 State Endowment Fund 1,488,700

Subsection 1(e). Capital Project Funds. The Legislature has reviewed the following capital project funds. Where applicable, the Legislature authorizes the State Division of Finance to transfer amounts among funds and accounts as indicated.

INFRASTRUCTURE AND GENERAL GOVERNMENT

TRANSPORTATION

Item 208

To Transportation - Transportation Investment Fund of 2005
 From Transportation Fund (601,400)
 From Designated Sales Tax 2,909,700
 Schedule of Programs:

Transportation Investment Fund 2,308,300

Section 2. Effective Date.

This bill takes effect on July 1, 2015.

CHAPTER 469**S. B. 3**

Passed March 12, 2015

Approved April 1, 2015

Effective April 1, 2015

(Exception clause in Section 4)

(Line Items 34, 175, and 177 vetoed)

APPROPRIATIONS ADJUSTMENTS

Chief Sponsor: Lyle W. Hillyard

House Sponsor: Dean Sanpei

LONG TITLE**General Description:**

This bill supplements or reduces appropriations previously provided for the use and support of state government for the fiscal years beginning July 1, 2014 and ending June 30, 2015 and beginning July 1, 2015 and ending June 30, 2016.

Highlighted Provisions:

This bill:

- ▶ provides budget increases and decreases for the use and support of certain state agencies;
- ▶ provides budget increases and decreases for the use and support of certain public education programs;
- ▶ provides budget increases and decreases for the use and support of certain institutions of higher education;
- ▶ provides funds for the bills with fiscal impact passed in the 2015 General Session;
- ▶ provides budget increases and decreases for other purposes as described;
- ▶ provides a mathematical formula for the annual appropriations limit; and,
- ▶ provides intent language.

Money Appropriated in this Bill:

This bill appropriates \$9,379,600 in operating and capital budgets for fiscal year 2015, including:

- ▶ \$843,400 from the General Fund;
- ▶ \$187,000 from the Education Fund;
- ▶ \$8,349,200 from various sources as detailed in this bill.

This bill appropriates \$13,000 in expendable funds and accounts for fiscal year 2015.

This bill appropriates \$86,489,800 in operating and capital budgets for fiscal year 2016, including:

- ▶ (\$35,773,300) from the General Fund;
- ▶ (\$72,435,900) from the Education Fund;
- ▶ \$194,699,000 from various sources as detailed in this bill.

This bill appropriates \$3,842,400 in expendable funds and accounts for fiscal year 2016.

This bill appropriates \$155,325,000 in restricted fund and account transfers for fiscal year 2016, including:

- ▶ \$80,325,000 from the General Fund;
- ▶ \$75,000,000 from the Education Fund.

This bill appropriates \$8,000,000 in transfers to unrestricted funds for fiscal year 2016.

This bill appropriates \$142,707,000 in capital project funds for fiscal year 2016.

Other Special Clauses:

Section 1 of this bill takes effect immediately. Sections 2 and 3 of this bill take effect on July 1, 2015.

Utah Code Sections Affected:

ENACTS UNCODIFIED MATERIAL

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

Section 1. FY 2015 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2014 and ending June 30, 2015. These are additions to amounts previously appropriated for fiscal year 2015.

Subsection 1(a). Operating and Capital

Budgets. Under the terms and conditions of Utah Code Title 63J, the Legislature appropriates the following sums of money from the funds or fund accounts indicated for the use and support of the government of the State of Utah.

**EXECUTIVE OFFICES AND
CRIMINAL JUSTICE****UTAH DEPARTMENT OF CORRECTIONS****Item 1**

To Utah Department of Corrections - Programs and Operations

From General Fund, One-time (2,100,000)

From Capital Projects Fund 1,954,300

From Closing Nonlapsing Appropriation

Balances 2,100,000

Schedule of Programs:

Department Administrative

Services 993,600

Institutional Operations

Administration 960,700

Notwithstanding intent language in Item 150, House Bill 3, 2015 General Session, the Legislature intends that the Division of Facilities Construction and Management (DFCM) transfer \$960,700 from the Capital Projects Fund to the Department of Corrections (UDC) to be used in the following manner: (1) \$190,700 for equipment and furnishings for the new 192 bed Gunnison pod, and (2) \$770,000 for the purchase of vehicles. This funding comes from surplus money that was transferred from UDC to DFCM in previous years for the retrofit of the Fortitude Parole Violator Center.

The Legislature intends that the Division of Facilities and Construction Management transfer \$993,600 from the Capital Projects Fund to the Department of Corrections - Programs and Operations to be held by the Department of Corrections until such time as needed to help purchase a new prison site. This funding comes from surplus money that was transferred from Corrections to DFCM in previous years for the retrofit of the Fortitude Parole Violator Center.

Item 2

To Utah Department of Corrections - Department Medical Services
 From General Fund, One-time 1,600,000
 Schedule of Programs:
 Medical Services 1,600,000

Item 3

To Utah Department of Corrections - Jail Contracting
 From General Fund, One-time 250,000
 Schedule of Programs:
 Jail Contracting 250,000
 To implement the provisions of Jail Contracting Treatment Rate Amendments (House Bill 319, 2015 General Session).

DEPARTMENT OF PUBLIC SAFETY

Item 4

To Department of Public Safety - Programs & Operations
 From General Fund, One-time 500,000
 From Department of Public Safety Restricted Account 500,000
 Schedule of Programs:
 Highway Patrol - Field Operations 1,000,000

Item 5

To Department of Public Safety - Programs & Operations
 From Dedicated Credits Revenue (15,000)
 Schedule of Programs:
 CITS Bureau of Criminal Identification (15,000)
 To implement the provisions of Child Care Amendments (Senate Bill 12, 2015 General Session).

Item 6

To Department of Public Safety - Driver License
 From Department of Public Safety Restricted Account 36,000
 Schedule of Programs:
 Driver License Administration 36,000
 To implement the provisions of Driver License Testing Amendments (House Bill 147, 2015 General Session).

Item 7

To Department of Public Safety - Driver License
 From Department of Public Safety Restricted Account 4,000
 Schedule of Programs:
 Driver License Administration 4,000
 To implement the provisions of Uniform Driver License Act Amendments (Senate Bill 20, 2015 General Session).

INFRASTRUCTURE AND GENERAL GOVERNMENT

TRANSPORTATION

Item 8

To Transportation - Engineering Services
 From General Fund, One-time (3,000,000)
 Schedule of Programs:

Program Development (3,000,000)

DEPARTMENT OF ADMINISTRATIVE SERVICES

Item 9

To Department of Administrative Services - Finance Administration
 From General Fund, One-time 7,200
 Schedule of Programs:
 Payroll 7,200
 To implement the provisions of Supplemental Savings Plan Amendments (House Bill 38, 2015 General Session).

Item 10

To Department of Administrative Services - Finance - Mandated
 From General Fund Restricted - Statewide Unified E-911 Emergency Account 3,740,600
 Schedule of Programs:
 E-911 Emergency Services 3,740,600
 The Legislature intends that the appropriations provided in this item not lapse at the close of fiscal year 2015 and that the Division of Finance transfer any balance of appropriations to the new financial structure created in House Bill 343, Utah Communication Authority Emergency Radio and 911 Amendments.

BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR

GOVERNOR'S OFFICE OF ECONOMIC DEVELOPMENT

Item 11

To Governor's Office of Economic Development - Administration
 From General Fund, One-time 3,000,000
 Schedule of Programs:
 Administration 3,000,000
 The Legislature intends that \$3,000,000 provided by this item be used to support the Mountain Accord and that, under section 63J-1-603 of the Utah Code, up to \$3,000,000 not lapse at the close of fiscal year 2015.

INSURANCE DEPARTMENT

Item 12

To Insurance Department - Insurance Department Administration
 From General Fund Restricted - Insurance Department Account, One-time 6,000
 Schedule of Programs:
 Administration 6,000
 To implement the provisions of Insurance Modifications (House Bill 24, 2015 General Session).

Item 13

To Insurance Department - Insurance Department Administration
 From General Fund Restricted - Insurance Department Account, One-time 18,300
 Schedule of Programs:
 Administration 18,300

To implement the provisions of Insurance Cancellation and Nonrenewal Amendments (House Bill 76, 2015 General Session).

SOCIAL SERVICES

DEPARTMENT OF HEALTH

Item 14

To Department of Health - Family Health and Preparedness
From General Fund, One-time 12,000
Schedule of Programs:
Child Development 12,000

To implement the provisions of Child Care Amendments (Senate Bill 12, 2015 General Session).

Item 15

To Department of Health - Disease Control and Prevention

Under Section 63J-1-603 of the Utah Code the Legislature intends that up to \$75,000 funds of Item 22 of Chapter 13, Laws of Utah 2014, not otherwise designated as nonlapsing to the Department of Health - Disease Control and Prevention line item shall not lapse at the close of Fiscal Year 2015. The use of any nonlapsing funds is for services to people with traumatic brain injury.

Item 16

To Department of Health - Medicaid and Health Financing

Under Section 63J-1-603 of the Utah Code the Legislature intends that up to \$550,000 funds of Item 24 of Chapter 13, Laws of Utah 2014, not otherwise designated as nonlapsing to the Department of Health - Medicaid and Health Financing line item shall not lapse at the close of Fiscal Year 2015. The use of any nonlapsing funds is for services to people with traumatic brain injury.

DEPARTMENT OF WORKFORCE SERVICES

Item 17

To Department of Workforce Services - Operations and Policy
From Federal Funds 5,000
Schedule of Programs:
Temporary Assistance to Needy Families . 5,000

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$2,000,000 of savings above \$7,392,800 from savings from Savings from Higher Federal Match Rate not lapse at the close of FY 2015. The use of any nonlapsing funds is limited to upgrading technology and phone systems to voice over Internet Protocol (VOIP) in FY 2016.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$350,000 of savings above \$753,500 from savings from Affordable Care Act Mandatory Changes not lapse at the close of FY 2015. The use of any

nonlapsing funds is limited to upgrading technology and phone systems to voice over Internet Protocol (VOIP) in FY 2016.

The \$5,000 in federal funds appropriated for the Weber County Youth Impact program in Department of Workforce Services in the Operations and Policy line item is dependent upon the availability of and qualification for the the Weber County Youth Impact program for Temporary Assistance for Needy Families federal funds.

Item 18

To Department of Workforce Services - General Assistance

Under Section 63J-1-603 of the Utah Code the Legislature intends that up to \$800,000 of the appropriations provided for the General Assistance line item in Item 31 of Chapter 13 Laws of Utah 2014 not lapse at the close of Fiscal Year 2015. The use of any nonlapsing funds is limited to computer equipment and software, one-time projects associated with client services, and client benefit payments.

Item 19

To Department of Workforce Services - Housing and Community Development

Under Section 63J-1-603 of the Utah Code the Legislature intends that up to \$100,000 funds of Item 33 Chapter 13, Laws of Utah 2014, not otherwise designated as nonlapsing to the Department of Workforce Services - Housing and Community Development line item shall not lapse at the close of Fiscal Year 2015. The use of any nonlapsing funds is for upgrading technology and phone systems to voice over Internet Protocol (VOIP).

DEPARTMENT OF HUMAN SERVICES

Item 20

To Department of Human Services - Executive Director Operations

Under Section 63J-1-603 of the Utah Code the Legislature intends that up to \$75,000 funds provided by Item 37, Chapter 13, Laws of Utah 2014 not otherwise designated as nonlapsing to the Department of Human Services - Executive Director Operations line item shall not lapse at the close of Fiscal Year 2015. The use of any nonlapsing funds is for respite care for individuals with disabilities in the Division of Services for People with Disabilities.

Item 21

To Department of Human Services - Division of Substance Abuse and Mental Health

Under Section 63J-1-603 of the Utah Code the Legislature intends that up to \$400,000 funds provided by Item 38, Chapter 13, Laws of Utah 2014 not otherwise designated as nonlapsing to the Department of Human Services - Division of Substance Abuse and Mental Health line item shall not lapse at the close of Fiscal Year 2015. The use of any nonlapsing funds is for respite care for

individuals with disabilities in the Division of Services for People with Disabilities.

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY

DEPARTMENT OF NATURAL RESOURCES

Item 22

To Department of Natural Resources - DNR Pass Through
From General Fund, One-time 500,000
Schedule of Programs:
DNR Pass Through 500,000

The Legislature intends that the \$500,000 one-time appropriation from the General Fund for delisting of wolves be used for the renewal of contract #136039.

DEPARTMENT OF ENVIRONMENTAL QUALITY

Item 23

To Department of Environmental Quality - Air Quality

Under Section 63J-1-603 of the Utah Code the Legislature intends that appropriations provided for the Division of Air Quality in Item 110, House Bill 3, 2015 General Session, shall not lapse at the close of FY 2015. Expenditures of these funds are limited to vehicle purchase and other costs associated with new compliance officers: \$43,600.

PUBLIC EDUCATION

STATE BOARD OF EDUCATION

Item 24

To State Board of Education - State Office of Education
From Education Fund, One-time 37,000
Schedule of Programs:
Board and Administration 37,000

To implement the provisions of American Indian-alaskan Native Education Amendments (House Bill 33, 2015 General Session).

Item 25

To State Board of Education - State Office of Education
From Education Fund, One-time 150,000
Schedule of Programs:
Board and Administration 150,000

To implement the provisions of Utah Education Amendments (House Bill 360, 2015 General Session).

RETIREMENT AND INDEPENDENT ENTITIES

DEPARTMENT OF HUMAN RESOURCE MANAGEMENT

Item 26

To Department of Human Resource Management - Human Resource Management

Notwithstanding intent language in Item 131, House Bill 3, 2015 General Session, the Legislature intends that appropriations provided for the Department of Human Resource Management in Laws of Utah 2014, Chapter 6, Item 3 shall not lapse at the close of fiscal year 2015. The use of any nonlapsing funds is limited to \$250,000 for Human Resource Enterprise system rebuild and \$50,000 for Statewide Management Training.

EXECUTIVE APPROPRIATIONS

LEGISLATURE

Item 27

To Legislature - Senate
From General Fund, One-time 20,000
Schedule of Programs:
Administration 20,000

To implement the provisions of Joint Rules Resolution Providing for Reimbursement for Legislative Training Days (House Joint Resolution 6, 2015 General Session).

Item 28

To Legislature - Senate
From General Fund, One-time 1,900
Schedule of Programs:
Administration 1,900

To implement the provisions of Joint Resolution Authorizing Pay of In-session Employees (House Joint Resolution 11, 2015 General Session).

Item 29

To Legislature - House of Representatives
From General Fund, One-time 50,000
Schedule of Programs:
Administration 50,000

To implement the provisions of Joint Rules Resolution Providing for Reimbursement for Legislative Training Days (House Joint Resolution 6, 2015 General Session).

Item 30

To Legislature - House of Representatives
From General Fund, One-time 2,300
Schedule of Programs:
Administration 2,300

To implement the provisions of Joint Resolution Authorizing Pay of In-session Employees (House Joint Resolution 11, 2015 General Session).

Subsection 1(b). Expendable Funds and Accounts. The Legislature has reviewed the following expendable funds. Where applicable,

the Legislature authorizes the State Division of Finance to transfer amounts among funds and accounts as indicated. Outlays and expenditures from the recipient funds or accounts may be made without further legislative action according to a fund or account's applicable authorizing statute.

SOCIAL SERVICES

DEPARTMENT OF WORKFORCE SERVICES

Item 31

To Department of Workforce Services - Olene Walker Housing Loan Fund From General Fund Restricted - Methamphetamine Housing Reconstruction and Rehabilitation Account 13,000 Schedule of Programs: Olene Walker Housing Loan Fund 13,000 To implement the provisions of Repeal of Methamphetamine Housing Reconstruction and Rehabilitation Account (House Bill 55, 2015 General Session).

Subsection 1(c). Capital Project Funds. The Legislature has reviewed the following capital project funds. Where applicable, the Legislature authorizes the State Division of Finance to transfer amounts among funds and accounts as indicated.

INFRASTRUCTURE AND GENERAL GOVERNMENT

TRANSPORTATION

Item 32

To Transportation - Transportation Investment Fund of 2005 The Legislature intends that the Transportation Commission consider funding \$500,000 from the Transportation Investment Fund of 2005 Capacity Program for the East Capitol Boulevard project.

Section 2. FY 2016 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2015 and ending June 30, 2016. These are additions to amounts previously appropriated for fiscal year 2016.

Subsection 2(a). Operating and Capital Budgets. Under the terms and conditions of Utah Code Title 63J, the Legislature appropriates the following sums of money from the funds or fund accounts indicated for the use and support of the government of the State of Utah.

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

GOVERNOR'S OFFICE

Item 33

To Governor's Office

From General Fund 210,000 From General Fund, One-time 250,000 Schedule of Programs: Administration 210,000 Lt. Governor's Office 250,000

Item 34

To Governor's Office From General Fund, One-time 31,500 Schedule of Programs: Lt. Governor's Office 31,500 To implement the provisions of State School Board Membership and Election Amendments (House Bill 186, 2015 General Session).

Item 35

To Governor's Office From General Fund 90,700 From General Fund, One-time (90,700) To implement the provisions of Executive Office Compensation (House Bill 368, 2015 General Session).

Item 36

To Governor's Office From Dedicated Credits Revenue 25,000 Schedule of Programs: Lt. Governor's Office 25,000 To implement the provisions of Lobbyist Disclosure and Regulation Act Amendments (Senate Bill 31, 2015 General Session).

Item 37

To Governor's Office - Governor's Office of Management and Budget From General Fund, One-time 950,000 Schedule of Programs: Administration 300,000 Operational Excellence 650,000

Item 38

To Governor's Office - Quality Growth Commission - LeRay McAllister Program From General Fund, One-time 100,000 Schedule of Programs: LeRay McAllister Critical Land Conservation Program 100,000 The Legislature intends that funding provided for Sage Grouse Habitat in this item and in Item 4, Senate Bill 2, 2015 General Session shall be used on private lands listed in the Utah Sage Grouse Plan. The Legislature further intends that no more than five percent of each grant issued from this appropriation may be used for administrative costs.

Item 39

To Governor's Office - Commission on Criminal and Juvenile Justice From General Fund Restricted - Law Enforcement Services 250,000 From General Fund Restricted - Criminal Forfeiture Restricted Account 300,000 Schedule of Programs: CCJJ Commission 250,000 State Asset Forfeiture Grant Program 300,000

Item 40

To Governor's Office - Commission on Criminal and Juvenile Justice
 From General Fund 2,468,200
 From General Fund, One-time 380,000
 Schedule of Programs:
 CCJJ Commission 249,500
 County Incentive Grant Program 2,598,700
 To implement the provisions of Criminal Justice Programs and Amendments (House Bill 348, 2015 General Session).

Item 41

To Governor's Office - Commission on Criminal and Juvenile Justice
 From General Fund Restricted - Criminal Forfeiture Restricted Account 36,000
 Schedule of Programs:
 State Asset Forfeiture Grant Program 36,000
 To implement the provisions of Asset Forfeiture Amendments (Senate Bill 52, 2015 General Session).

OFFICE OF THE STATE AUDITOR

Item 42

To Office of the State Auditor - State Auditor
 From General Fund 20,900
 From General Fund, One-time (20,900)
 To implement the provisions of Executive Office Compensation (House Bill 368, 2015 General Session).

STATE TREASURER

Item 43

To State Treasurer
 From General Fund 25,700
 From General Fund, One-time (25,700)
 To implement the provisions of Executive Office Compensation (House Bill 368, 2015 General Session).

ATTORNEY GENERAL

Item 44

To Attorney General
 From General Fund 4,900
 Schedule of Programs:
 Child Protection 4,900
 To implement the provisions of Child and Family Amendments (House Bill 334, 2015 General Session).

Item 45

To Attorney General
 From General Fund 11,900
 Schedule of Programs:
 Child Protection 11,900
 To implement the provisions of Parent and Child Amendments (House Bill 356, 2015 General Session).

Item 46

To Attorney General

From General Fund 47,600
 From General Fund, One-time (47,600)
 To implement the provisions of Executive Office Compensation (House Bill 368, 2015 General Session).

Item 47

To Attorney General
 From General Fund 12,000
 From Federal Funds 30,000
 Schedule of Programs:
 Administration 42,000
 To implement the provisions of White Collar Crime Registry (House Bill 378, 2015 General Session).

Item 48

To Attorney General
 From General Fund 42,300
 Schedule of Programs:
 Administration 42,300
 To implement the provisions of Utah Navajo Royalties Amendments (Senate Bill 90, 2015 General Session).

Item 49

To Attorney General - Children's Justice Centers
 From General Fund 80,000
 Schedule of Programs:
 Children's Justice Centers 80,000
 To implement the provisions of Children's Justice Centers Amendments (Senate Bill 155, 2015 General Session).

UTAH DEPARTMENT OF CORRECTIONS

Item 50

To Utah Department of Corrections - Programs and Operations
 From General Fund 4,990,900
 Schedule of Programs:
 Adult Probation and Parole Programs 3,597,900
 Programming Treatment 1,393,000
 To implement the provisions of Criminal Justice Programs and Amendments (House Bill 348, 2015 General Session).

Item 51

To Utah Department of Corrections - Department Medical Services
 From General Fund 1,045,100
 Schedule of Programs:
 Medical Services 1,045,100
 To implement the provisions of Criminal Justice Programs and Amendments (House Bill 348, 2015 General Session).

Item 52

To Utah Department of Corrections - Jail Contracting
 From General Fund 438,000
 Schedule of Programs:
 Jail Contracting 438,000
 To implement the provisions of Jail Contracting Treatment Rate Amendments (House Bill 319, 2015 General Session).

BOARD OF PARDONS AND PAROLE**Item 53**

To Board of Pardons and Parole
 From General Fund 120,800
 Schedule of Programs:
 Board of Pardons and Parole 120,800
 To implement the provisions of Criminal Justice Programs and Amendments (House Bill 348, 2015 General Session).

**DEPARTMENT OF HUMAN SERVICES -
 DIVISION OF JUVENILE JUSTICE
 SERVICES**

Item 54

To Department of Human Services - Division of Juvenile Justice Services - Programs and Operations
 From General Fund 28,800
 From Federal Funds 7,100
 Schedule of Programs:
 Community Programs 35,900
 To implement the provisions of Vulnerable Adult Worker Amendments (House Bill 145, 2015 General Session).

**JUDICIAL COUNCIL/STATE
 COURT ADMINISTRATOR**

Item 55

To Judicial Council/State Court Administrator - Administration
 From General Fund 650,000
 Schedule of Programs:
 District Courts 500,000
 Administrative Office 150,000
 Notwithstanding the judicial salary rate set in Senate Bill 2 Item 16, under provisions of Section 67-8-2, Utah Code Annotated, the new salary for District Court judges for the fiscal year beginning July 1, 2015 and ending June 30, 2016 shall be \$152,850. Other judicial salaries shall be calculated in accordance with the formula set forth in Section 67-8-2 and rounded to the nearest \$50.

Item 56

To Judicial Council/State Court Administrator - Administration
 From General Fund (3,300)
 Schedule of Programs:
 Administrative Office (3,300)
 To implement the provisions of Jury Duty Amendments (House Bill 20, 2015 General Session).

Item 57

To Judicial Council/State Court Administrator - Administration
 From General Fund Restricted -
 Dispute Resolution Account 86,000
 Schedule of Programs:
 Juvenile Courts 86,000
 To implement the provisions of Child Welfare Mediation (House Bill 189, 2015 General Session).

Item 58

To Judicial Council/State Court Administrator - Administration
 From General Fund 5,300
 Schedule of Programs:
 District Courts 5,300
 To implement the provisions of Child and Family Amendments (House Bill 334, 2015 General Session).

Item 59

To Judicial Council/State Court Administrator - Administration
 From General Fund 32,000
 Schedule of Programs:
 District Courts 32,000
 To implement the provisions of Parent and Child Amendments (House Bill 356, 2015 General Session).

Item 60

To Judicial Council/State Court Administrator - Administration
 From General Fund 7,000
 From General Fund, One-time 28,000
 Schedule of Programs:
 Administrative Office 35,000
 To implement the provisions of White Collar Crime Registry (House Bill 378, 2015 General Session).

Item 61

To Judicial Council/State Court Administrator - Administration
 From General Fund 9,100
 Schedule of Programs:
 Administrative Office 9,100
 To implement the provisions of Domestic Violence Amendments (Senate Bill 59, 2015 General Session).

Item 62

To Judicial Council/State Court Administrator - Administration
 From General Fund 22,400
 Schedule of Programs:
 Administrative Office 22,400
 To implement the provisions of Prescription Database Revisions (Senate Bill 119, 2015 General Session).

Item 63

To Judicial Council/State Court Administrator - Administration
 From General Fund 37,200
 Schedule of Programs:
 District Courts 37,200
 To implement the provisions of Driving Under the Influence Sentencing Revisions (Senate Bill 150, 2015 General Session).

Item 64

To Judicial Council/State Court Administrator - Administration
 From General Fund 57,600
 Schedule of Programs:
 District Courts 57,600
 To implement the provisions of Juvenile Offender Amendments (Senate Bill 167, 2015 General Session).

Item 65

To Judicial Council/State Court Administrator -
Guardian ad Litem
From General Fund 3,700
Schedule of Programs:
Guardian ad Litem 3,700
To implement the provisions of Child and
Family Amendments (House Bill 334, 2015
General Session).

Item 66

To Judicial Council/State Court Administrator -
Guardian ad Litem
From General Fund 9,000
Schedule of Programs:
Guardian ad Litem 9,000
To implement the provisions of Parent and
Child Amendments (House Bill 356, 2015
General Session).

DEPARTMENT OF PUBLIC SAFETY

Item 67

To Department of Public Safety -
Programs & Operations
From General Fund, One-time 1,500,000
Schedule of Programs:
Department Commissioner's Office .. 1,500,000

Item 68

To Department of Public Safety -
Programs & Operations
From General Fund 309,000
From Dedicated Credits Revenue 222,400
Schedule of Programs:
CITS Communications 531,400
To implement the provisions of Public
Safety Retirement for Dispatchers (House
Bill 115, 2015 General Session).

Item 69

To Department of Public Safety -
Programs & Operations
From Dedicated Credits Revenue 5,200
Schedule of Programs:
CITS Bureau of Criminal Identification .. 5,200
To implement the provisions of Education
Background Check Amendments (House Bill
124, 2015 General Session).

Item 70

To Department of Public Safety -
Programs & Operations
From General Fund Restricted -
Fire Academy Support (68,300)
Schedule of Programs:
Fire Marshall - Fire Operations (53,900)
Fire Marshall - Fire Fighter
Training (14,400)
To implement the provisions of Firefighter
Retirement Amendments (House Bill 133,
2015 General Session).

Item 71

To Department of Public Safety -
Programs & Operations
From Dedicated Credits Revenue 50,000
From Pass-through 158,700

Schedule of Programs:

CITS Bureau of Criminal
Identification 208,700
To implement the provisions of Vulnerable
Adult Worker Amendments (House Bill 145,
2015 General Session).

Item 72

To Department of Public Safety -
Programs & Operations
From Dedicated Credits Revenue 49,200
Schedule of Programs:
CITS Bureau of Criminal
Identification 49,200
To implement the provisions of Utah
Emergency Medical Services System Act
Amendments (House Bill 191, 2015 General
Session).

Item 73

To Department of Public Safety -
Programs & Operations
From Dedicated Credits Revenue 12,500
Schedule of Programs:
CITS Bureau of Criminal
Identification 12,500
To implement the provisions of White
Collar Crime Registry (House Bill 378, 2015
General Session).

Item 74

To Department of Public Safety -
Programs & Operations
From Dedicated Credits Revenue (105,000)
Schedule of Programs:
CITS Bureau of Criminal
Identification (105,000)
To implement the provisions of Child Care
Amendments (Senate Bill 12, 2015 General
Session).

Item 75

To Department of Public Safety -
Programs & Operations
From Dedicated Credits Revenue 175,000
From Pass-through 887,500
Schedule of Programs:
CITS Bureau of Criminal
Identification 1,062,500
To implement the provisions of Driving
Privilege Card Application Amendments
(Senate Bill 184, 2015 General Session).

Item 76

To Department of Public Safety -
Programs & Operations
From Dedicated Credits Revenue 4,000
From Pass-through 10,400
Schedule of Programs:
CITS Bureau of Criminal
Identification 14,400
To implement the provisions of Alcoholic
Beverage Control Amendments (Senate Bill
198, 2015 General Session).

Item 77

To Department of Public Safety - Driver License
From Department of Public Safety
Restricted Account 8,500

Schedule of Programs:
 Driver License Administration 8,500
 To implement the provisions of
 Amendments to Driver License Records
 (House Bill 26, 2015 General Session).

**INFRASTRUCTURE AND
 GENERAL GOVERNMENT**

TRANSPORTATION

Item 78
 To Transportation - Operations/Maintenance
 Management
 From Transportation Fund (601,400)
 From Transportation Investment
 Fund of 2005 601,400

Item 79
 To Transportation - Construction Management
 From Transportation Fund 8,608,000
 From Designated Sales Tax 3,136,700
 Schedule of Programs:
 Federal Construction - New 11,744,700

Item 80
 To Transportation - B and C Roads
 From Transportation Fund 3,689,000
 Schedule of Programs:
 B and C Roads 3,689,000

Item 81
 To Transportation - Mineral Lease
 From General Fund Restricted -
 Mineral Lease (9,533,800)
 Schedule of Programs:
 Mineral Lease Payments (9,647,900)
 Payment in Lieu 114,100

**DEPARTMENT OF
 ADMINISTRATIVE SERVICES**

Item 82
 To Department of Administrative Services -
 Inspector General of Medicaid Services
 From General Fund 600
 From Federal Funds 1,400
 Schedule of Programs:
 Inspector General of Medicaid Services .. 2,000
 To implement the provisions of Medicaid
 Audit Amendments (Senate Bill 61, 2015
 General Session).

Item 83
 To Department of Administrative Services -
 State Archives
 From General Fund 28,600
 Schedule of Programs:
 Archives Administration 28,600
 To implement the provisions of
 Government Records Access and
 Management Act Amendments (Senate Bill
 157, 2015 General Session).

Item 84
 To Department of Administrative Services -
 Finance Administration

From Dedicated Credits Revenue 20,800
 Schedule of Programs:
 Financial Information Systems 20,800
 To implement the provisions of Utah
 Educational Savings Plan Amendments
 (Senate Bill 64, 2015 General Session).

Item 85
 To Department of Administrative
 Services - Finance - Mandated
 From General Fund (1,500,000)
 From General Fund, One-time (1,500,000)
 Schedule of Programs:
 Employee Health Benefits (3,000,000)

Item 86
 To Department of Administrative
 Services - Finance - Mandated
 From General Fund, One-time 153,100
 Schedule of Programs:
 Employee Health Benefits 153,100
 To implement the provisions of State
 Employee Health Clinic (House Bill 148, 2015
 General Session).

**DEPARTMENT OF
 TECHNOLOGY SERVICES**

Item 87
 To Department of Technology Services -
 Chief Information Officer
 From General Fund 2,600
 Schedule of Programs:
 Chief Information Officer 2,600
 To implement the provisions of Data
 Security Management Council (Senate Bill
 255, 2015 General Session).

CAPITAL BUDGET

Item 88
 To Capital Budget - Capital Development Fund
 The Legislature intends that institutions of
 higher education may use donated or
 institutional funds for planning and design of
 proposed capital developments. This intent
 does not signify the Building Board or the
 Legislature will provide a higher
 prioritization to such projects in the future.

Item 89
 To Capital Budget - Capital Development - Higher
 Education
 From Education Fund, One-time 3,000,000
 Schedule of Programs:
 SLCC CTE Learning Resource
 Classroom Building 3,000,000

Item 90
 To Capital Budget - Capital Development - Other
 State Government
 From General Fund, One-time (80,250,000)
 Schedule of Programs:
 DJJS Weber Valley Multi-use
 Youth Center (250,000)
 Prison Relocation (80,000,000)

**BUSINESS, ECONOMIC
DEVELOPMENT, AND LABOR**

DEPARTMENT OF HERITAGE AND ARTS

Item 91

To Department of Heritage and
Arts - Pass-Through
From General Fund 100,000
From General Fund, One-time 345,000
Schedule of Programs:
Pass-Through 445,000

Item 92

To Department of Heritage and
Arts - Pass-Through
From General Fund Restricted - Arts and Culture
Business Alliance Account 75,000
Schedule of Programs:
Pass-Through 75,000

To implement the provisions of Arts and
Culture Business Alliance (Senate Bill 194,
2015 General Session).

**GOVERNOR'S OFFICE OF ECONOMIC
DEVELOPMENT**

Item 93

To Governor's Office of Economic
Development - Administration
From General Fund, One-time 1,760,000
Schedule of Programs:
Administration 1,760,000

Item 94

To Governor's Office of Economic
Development - Business Development
From General Fund, One-time 100,000
Schedule of Programs:
Outreach and International Trade 100,000

Item 95

To Governor's Office of Economic
Development - Business Development
From General Fund 100,000
Schedule of Programs:
Corporate Recruitment and Business
Services 100,000

To implement the provisions of
Amendments to Economic Development
(Senate Bill 179, 2015 General Session).

UTAH STATE TAX COMMISSION

Item 96

To Utah State Tax Commission -
Tax Administration
From Dedicated Credits Revenue (175,800)
From General Fund Restricted -
Motor Vehicle Enforcement Division
Temporary Permit Account 175,800

To implement the provisions of Motor
Vehicle Enforcement Division Account
Amendments (Senate Bill 51, 2015 General
Session).

Item 97

To Utah State Tax Commission -
Tax Administration

From Dedicated Credits Revenue 10,200
Schedule of Programs:
Technology Management 10,200
To implement the provisions of Utah
Educational Savings Plan Amendments
(Senate Bill 64, 2015 General Session).

Item 98

To Utah State Tax Commission -
Tax Administration
From Education Fund 83,000
From Education Fund, One-time 46,000
Schedule of Programs:
Tax Processing Division 129,000
To implement the provisions of Income Tax
Revisions (Senate Bill 250, 2015 General
Session).

**DEPARTMENT OF ALCOHOLIC
BEVERAGE CONTROL**

Item 99

To Department of Alcoholic Beverage
Control - DABC Operations
From Liquor Control Fund 31,200
Schedule of Programs:
Stores and Agencies 31,200
To implement the provisions of Alcoholic
Beverage Control Amendments (Senate Bill
198, 2015 General Session).

DEPARTMENT OF COMMERCE

Item 100

To Department of Commerce - Commerce General
Regulation
From Dedicated Credits Revenue 500,000
From General Fund Restricted -
Commerce Service Account 74,100
From General Fund Restricted - Commerce
Service Account, One-time 18,400
Schedule of Programs:
Occupational and Professional
Licensing 592,500
To implement the provisions of Interstate
Medical Licensure Compact (House Bill 121,
2015 General Session).

Item 101

To Department of Commerce - Commerce
General Regulation
From General Fund Restricted - Commerce
Service Account, One-time 2,600
Schedule of Programs:
Occupational and Professional
Licensing 2,600
To implement the provisions of Suicide
Prevention Program Amendments (House
Bill 209, 2015 General Session).

Item 102

To Department of Commerce - Commerce
General Regulation
From General Fund Restricted - Commerce
Service Account 8,800
Schedule of Programs:
Administration 8,800
To implement the provisions of New Car
Dealership Franchise Amendments (House
Bill 290, 2015 General Session).

Item 103

To Department of Commerce - Commerce
 General Regulation
 From General Fund Restricted - Commerce
 Service Account (2,000)
 Schedule of Programs:
 Occupational and Professional
 Licensing (2,000)
 To implement the provisions of Dental
 Practice Act Amendments (Senate Bill 92,
 2015 General Session).

Item 104

To Department of Commerce - Commerce
 General Regulation
 From General Fund Restricted - Commerce
 Service Account, One-time 3,000
 Schedule of Programs:
 Corporations and Commercial Code 3,000
 To implement the provisions of Uniform
 Commercial Code Filing Amendments
 (Senate Bill 93, 2015 General Session).

Item 105

To Department of Commerce - Commerce
 General Regulation
 From General Fund Restricted - Commerce
 Service Account 8,600
 Schedule of Programs:
 Occupational and Professional
 Licensing 8,600
 To implement the provisions of Social Work
 Amendments (Senate Bill 108, 2015 General
 Session).

Item 106

To Department of Commerce - Commerce
 General Regulation
 From General Fund Restricted - Commerce
 Service Account 17,200
 From General Fund Restricted - Commerce
 Service Account, One-time 16,700
 Schedule of Programs:
 Occupational and Professional
 Licensing 33,900
 To implement the provisions of Prescription
 Database Revisions (Senate Bill 119, 2015
 General Session).

Item 107

To Department of Commerce - Commerce
 General Regulation
 From General Fund Restricted - Commerce
 Service Account 800
 From General Fund Restricted - Commerce
 Service Account, One-time 1,300
 Schedule of Programs:
 Occupational and Professional
 Licensing 2,100
 To implement the provisions of
 Occupational Therapists Amendments
 (Senate Bill 131, 2015 General Session).

Item 108

To Department of Commerce - Commerce
 General Regulation
 From General Fund Restricted - Commerce
 Service Account 2,300

Schedule of Programs:

Occupational and Professional
 Licensing 2,300
 To implement the provisions of Podiatric
 Physician Amendments (Senate Bill 133,
 2015 General Session).

Item 109

To Department of Commerce - Commerce
 General Regulation
 From General Fund Restricted - Commerce
 Service Account 16,500
 From General Fund Restricted - Commerce
 Service Account, One-time 9,000
 Schedule of Programs:
 Occupational and Professional
 Licensing 25,500
 To implement the provisions of Licensing of
 Autism Providers (Senate Bill 246, 2015
 General Session).

INSURANCE DEPARTMENT**Item 110**

To Insurance Department - Insurance Department
 Administration
 From General Fund Restricted -
 Insurance Department Account 9,000
 Schedule of Programs:
 Administration 9,000
 To implement the provisions of Insurance
 Modifications (House Bill 24, 2015 General
 Session).

Item 111

To Insurance Department - Title
 Insurance Program
 From General Fund Restricted - Title
 Licensee Enforcement Account 20,000
 Schedule of Programs:
 Title Insurance Program 20,000
 To implement the provisions of Title and
 Escrow Modifications (Senate Bill 143, 2015
 General Session).

PUBLIC SERVICE COMMISSION**Item 112**

To Public Service Commission - Alternative Fuel
 Vehicles
 From General Fund (2,000,000)
 Schedule of Programs:
 Alternative Fuel Vehicles (2,000,000)

SOCIAL SERVICES**DEPARTMENT OF HEALTH****Item 113**

To Department of Health - Family Health
 and Preparedness
 From General Fund 686,900
 From General Fund, One-time (600,000)
 From Federal Funds 1,000,000
 Schedule of Programs:
 Maternal and Child Health 1,000,000
 Health Facility Licensing and
 Certification 86,900

The \$1,000,000 in federal funds appropriated for the Nurse Family Partnership in the Department of Health in the Family Health and Preparedness line item is dependent upon the availability of and qualification for the Nurse Family Partnership for Temporary Assistance for Needy Families federal funds.

Item 114

To Department of Health - Family Health and Preparedness

From Dedicated Credits Revenue 68,700

Schedule of Programs:

Emergency Medical Services 68,700

To implement the provisions of Utah Emergency Medical Services System Act Amendments (House Bill 191, 2015 General Session).

Item 115

To Department of Health - Family Health and Preparedness

From General Fund 88,000

Schedule of Programs:

Child Development 88,000

To implement the provisions of Child Care Amendments (Senate Bill 12, 2015 General Session).

Item 116

To Department of Health - Disease Control and Prevention

From General Fund, One-time 50,000

Schedule of Programs:

Epidemiology 25,000

Radon Awareness Campaign 25,000

Item 117

To Department of Health - Disease Control and Prevention

From General Fund 161,200

Schedule of Programs:

Health Promotion 161,200

To implement the provisions of Alzheimer State Plan Amendments (House Bill 175, 2015 General Session).

Item 118

To Department of Health - Workforce Financial Assistance

From General Fund 300,000

From Dedicated Credits Revenue 300,000

Schedule of Programs:

Workforce Financial Assistance 600,000

To implement the provisions of Rural Physician Loan Repayment Program (Senate Bill 76, 2015 General Session).

Item 119

To Department of Health - Medicaid and Health Financing

From General Fund 2,100,000

From General Fund, One-time (2,100,000)

To implement the provisions of Medicaid Accountable Care Organizations (Senate Bill 98, 2015 General Session).

Item 120

To Department of Health - Children's Health Insurance Program

From Federal Funds 3,000,000

From General Fund Restricted -

Tobacco Settlement Account (3,000,000)

Item 121

To Department of Health - Medicaid

Mandatory Services

From General Fund (400,000)

From General Fund, One-time (1,450,000)

From Federal Funds 16,016,800

From General Fund Restricted -

Nursing Care Facilities Account 1,272,300

From General Fund Restricted -

Tobacco Settlement Account 3,000,000

Schedule of Programs:

Managed Health Care (1,347,700)

Nursing Home 4,286,800

Medicaid Management Information

System Replacement 15,500,000

The Legislature intends that the Medicaid Accountable Care Organizations receive a scheduled two percent increase effective January 1, 2016 consistent with the intent of S.B. 180, 2011 General Session.

Item 122

To Department of Health - Medicaid

Mandatory Services

From Federal Funds 7,502,100

Schedule of Programs:

Other Mandatory Services 7,502,100

To implement the provisions of Emergency Medical Services Amendments (Senate Bill 172, 2015 General Session).

Item 123

To Department of Health - Medicaid

Optional Services

From General Fund (686,900)

From General Fund, One-time (1,000,000)

From Federal Funds (3,820,500)

From General Fund Restricted -

Nursing Care Facilities Account 74,400

Schedule of Programs:

Home and Community Based

Waiver Services 1,054,900

Dental Services (6,738,600)

Hospice Care Services 250,700

Item 124

To Department of Health - Medicaid

Optional Services

From General Fund, One-time 3,216,000

From Federal Funds 7,619,600

Schedule of Programs:

Home and Community Based

Waiver Services 10,835,600

To implement the provisions of Pilot Program for Assistance for Children with Disabilities and Complex Medical Conditions (House Bill 199, 2015 General Session).

Under Section 63J-1-603 of the Utah Code the Legislature intends that up to \$3,216,000 of the appropriations provided for the Medicaid Optional Services line item not lapse at the close of Fiscal Year 2016. The use

of any nonlapsing funds is limited to a pilot program for assistance for children with disabilities and complex medical conditions to be used in similar amounts over three years with the goal of serving a similar number of clients over three years.

DEPARTMENT OF WORKFORCE SERVICES

Item 125

To Department of Workforce Services - Operations and Policy
From Federal Funds 30,000
From Beginning Nonlapsing Appropriation Balances 100,000
Schedule of Programs:
Temporary Assistance to Needy Families 30,000
Information Technology 100,000

The Legislature intends that the \$100,000 in Beginning Nonlapsing provided to the Department of Workforce Services - Operations and Policy line item is dependent upon up to \$100,000 funds not otherwise designated as nonlapsing to the Workforce Services - Housing and Community Development line item being retained as nonlapsing in FY 2015.

The \$30,000 in federal funds appropriated for the Weber County Youth Impact program in Department of Workforce Services in the Operations and Policy line item is dependent upon the availability of and qualification for the the Weber County Youth Impact program for Temporary Assistance for Needy Families federal funds.

Notwithstanding the intent language in Item 193 in S.B. 2, New Fiscal Year Supplemental Appropriations Act, on lines 2086 through 2092, the Legislature intends any location for permanent supportive housing to be considered will go through a site evaluation process in cooperation with the local municipality and with local ordinances considered as part of that analysis. No locations for permanent supportive housing have been approved for funding based solely on presentations made to the Social Services Appropriations Subcommittee.

Item 126

To Department of Workforce Services - Operations and Policy
From General Fund 18,300
Schedule of Programs:
Workforce Research and Analysis 18,300

To implement the provisions of Career and Technical Education Comprehensive Study (House Bill 337, 2015 General Session).

Item 127

To Department of Workforce Services - Operations and Policy
From General Fund 67,300
From General Fund, One-time (15,800)
Schedule of Programs:

Eligibility Services 51,500

To implement the provisions of Achieving a Better Life Experience Program and Tax Credits (Senate Bill 292, 2015 General Session).

Item 128

To Department of Workforce Services - General Assistance
From Dedicated Credits Revenue 250,000
Schedule of Programs:
General Assistance 250,000
To implement the provisions of General Assistance Program Changes (Senate Bill 42, 2015 General Session).

DEPARTMENT OF HUMAN SERVICES

Item 129

To Department of Human Services - Executive Director Operations
From Federal Funds 300,000
Schedule of Programs:
Utah Marriage Commission 300,000

The \$300,000 in federal funds appropriated for the Marriage Commission in the Department of Human Services in the Executive Director Operations line item is dependent upon the availability of and qualification for the the Marriage Commission for Temporary Assistance for Needy Families federal funds.

Item 130

To Department of Human Services - Executive Director Operations
From General Fund 60,700
From General Fund, One-time 1,500
Schedule of Programs:
Legal Affairs 6,100
Office of Licensing 56,100

To implement the provisions of Vulnerable Adult Worker Amendments (House Bill 145, 2015 General Session).

Item 131

To Department of Human Services - Executive Director Operations
From General Fund 1,500
Schedule of Programs:
Executive Director's Office 1,500

To implement the provisions of Parent and Child Amendments (House Bill 356, 2015 General Session).

Item 132

To Department of Human Services - Division of Substance Abuse and Mental Health
From General Fund 29,800
Schedule of Programs:
Community Mental Health Services 29,800

To implement the provisions of Vulnerable Adult Worker Amendments (House Bill 145, 2015 General Session).

Item 133

To Department of Human Services - Division of Substance Abuse and Mental Health
From General Fund 3,355,000

From General Fund, One-time 1,620,000
 Schedule of Programs:
 State Substance Abuse Services 475,000
 Local Substance Abuse Services 4,500,000
 To implement the provisions of Criminal Justice Programs and Amendments (House Bill 348, 2015 General Session).

Item 134

To Department of Human Services - Division of Services for People with Disabilities
 From General Fund, One-time 200,000
 From Beginning Nonlapsing
 Appropriation Balances 475,000
 Schedule of Programs:
 Utah State Developmental Center 200,000
 Community Supports Waiver 475,000

The Legislature intends that the \$400,000 in Beginning Nonlapsing provided to respite care for individuals with disabilities in the Division of Services for People with Disabilities is dependent upon up to \$400,000 funds not otherwise designated as nonlapsing to the Department of Human Services - Division of Substance Abuse and Mental Health line item being retained as nonlapsing in FY 2015.

The Legislature intends that the \$75,000 in Beginning Nonlapsing provided to respite care for individuals with disabilities in the Division of Services for People with Disabilities is dependent upon up to \$75,000 funds not otherwise designated as nonlapsing to the Department of Human Services - Executive Director Operations line item being retained as nonlapsing in FY 2015.

Item 135

To Department of Human Services - Division of Services for People with Disabilities
 From General Fund 88,700
 From Revenue Transfers - Medicaid 142,700
 Schedule of Programs:
 Community Supports Waiver 231,400

To implement the provisions of Vulnerable Adult Worker Amendments (House Bill 145, 2015 General Session).

Item 136

To Department of Human Services - Division of Child and Family Services
 From General Fund 400,000
 From General Fund, One-time (200,000)
 Schedule of Programs:
 Domestic Violence 200,000

Item 137

To Department of Human Services - Division of Child and Family Services
 From General Fund 116,100
 From Federal Funds 34,600
 Schedule of Programs:
 Out-of-Home Care 150,700

To implement the provisions of Vulnerable Adult Worker Amendments (House Bill 145, 2015 General Session).

Item 138

To Department of Human Services - Division of Child and Family Services
 From General Fund 11,100
 Schedule of Programs:
 Service Delivery 11,100
 To implement the provisions of Child and Family Amendments (House Bill 334, 2015 General Session).

Item 139

To Department of Human Services - Division of Aging and Adult Services
 From General Fund 4,400
 Schedule of Programs:
 Local Government Grants -
 Formula Funds 4,400
 To implement the provisions of Vulnerable Adult Worker Amendments (House Bill 145, 2015 General Session).

STATE BOARD OF EDUCATION

Item 140

To State Board of Education - State Office of Rehabilitation
 Schedule of Programs:
 Executive Director (9,837,000)
 Aspire Grant 9,837,000

The Legislature intends that, under 63J-1-206(e), the Utah State Office of Rehabilitation transfer \$9,837,000 from the federal Aspire Grant between the Executive Director's Office to the newly created Aspire Grant program beginning in FY 2016.

HIGHER EDUCATION

UNIVERSITY OF UTAH

Item 141

To University of Utah - Education and General
 From General Fund 3,950,000
 From General Fund, One-time 2,600,000
 From Education Fund (2,500,000)
 From Education Fund, One-time (2,600,000)
 Schedule of Programs:
 Education and General 1,450,000

The Legislature intends that the University of Utah use \$450,000 appropriated by this item to provide demographic data and decision support to the Legislature as well as to the Governor's Office of Management and Budget and other state and local entities as funds allow.

Item 142

To University of Utah - Rocky Mountain Center for Occupational and Environmental Health
 From General Fund, One-time 125,000
 Schedule of Programs:
 Center for Occupational and
 Environmental Health 125,000

SOUTHERN UTAH UNIVERSITY

Item 143

To Southern Utah University - Education and General

From Education Fund, One-time 180,000
 Schedule of Programs:
 Education and General 180,000

DIXIE STATE UNIVERSITY

Item 144

To Dixie State University - Education and General
 From Education Fund, One-time 180,000
 Schedule of Programs:
 Education and General 180,000

STATE BOARD OF REGENTS

Item 145

To State Board of Regents - Student Assistance
 From General Fund, One-time 60,000
 From Education Fund 500,000
 Schedule of Programs:
 Regents' Scholarship 500,000
 Veterans Tuition Gap Program 60,000

Item 146

To State Board of Regents - Economic Development
 From Education Fund, One-time 1,000,000
 Schedule of Programs:
 Engineering Initiative 1,000,000

Item 147

To State Board of Regents - Education Excellence
 From Education Fund, One-time 1,000,000
 Schedule of Programs:
 Education Excellence 1,000,000

Item 148

To State Board of Regents - Math
 Competency Initiative
 From Education Fund 1,925,000
 From Education Fund, One-time (100,000)
 Schedule of Programs:
 Math Competency Initiative 1,825,000
 To implement the provisions of Math
 Competency Initiative (Senate Bill 196, 2015
 General Session).

UTAH COLLEGE OF APPLIED TECHNOLOGY

Item 149

To Utah College of Applied Technology -
 Bridgerland Applied Technology College
 From Education Fund 63,400
 Schedule of Programs:
 Bridgerland Applied Technology
 College 63,400

Item 150

To Utah College of Applied Technology -
 Davis Applied Technology College
 From Education Fund 201,300
 Schedule of Programs:
 Davis Applied Technology College 201,300

Item 151

To Utah College of Applied Technology -
 Dixie Applied Technology College
 From Education Fund 153,300
 Schedule of Programs:
 Dixie Applied Technology College 153,300

Item 152

To Utah College of Applied Technology -
 Mountainland Applied Technology College
 From Education Fund 461,100
 Schedule of Programs:
 Mountainland Applied Technology
 College 461,100

Item 153

To Utah College of Applied Technology -
 Southwest Applied Technology College
 From Education Fund 63,800
 Schedule of Programs:
 Southwest Applied Technology
 College 63,800

Item 154

To Utah College of Applied Technology - Uintah
 Basin Applied Technology College
 From Education Fund 57,100
 Schedule of Programs:
 Uintah Basin Applied Technology
 College 57,100

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY

DEPARTMENT OF NATURAL RESOURCES

Item 155

To Department of Natural Resources -
 DNR Pass Through
 From General Fund, One-time 1,500,000
 Schedule of Programs:
 DNR Pass Through 1,500,000
 The Legislature intends that the
 \$2,000,000 appropriated in Item 147, Senate
 Bill 2, 2015 General Session be used for the
 renewal of the FY 2015 contract #146311.

Item 156

To Department of Natural Resources -
 Forestry, Fire and State Lands
 From General Fund Restricted -
 Sovereign Land Management 1,000,000
 Schedule of Programs:
 Project Management 1,000,000

Item 157

To Department of Natural Resources - Parks
 and Recreation Capital Budget
 From General Fund Restricted - State
 Park Fees 500,000
 Schedule of Programs:
 Renovation and Development 500,000

DEPARTMENT OF ENVIRONMENTAL QUALITY

Item 158

To Department of Environmental
 Quality - Executive Director's Office
 From General Fund, One-time 9,000
 Schedule of Programs:
 Executive Director's Office 9,000
 To implement the provisions of
 Administrative Law Judge Amendments
 (Senate Bill 282, 2015 General Session).

Item 159

To Department of Environmental Quality -
 Air Quality

From General Fund, One-time 200,000
 Schedule of Programs:
 Air Quality 200,000

Item 160

To Department of Environmental Quality - Radiation Control
 From General Fund (769,900)
 From General Fund, One-time (3,900)
 From Federal Funds (46,300)
 From Dedicated Credits Revenue (273,900)
 From General Fund Restricted - Environmental Quality (2,849,100)
 From Revenue Transfers - Within Agency 28,200
 Schedule of Programs:
 Radiation Control (3,914,900)

To implement the provisions of Department of Environmental Quality Modifications (Senate Bill 244, 2015 General Session).

Item 161

To Department of Environmental Quality - Water Quality
 From General Fund, One-time (1,500,000)
 Schedule of Programs:
 Water Quality (1,500,000)

Item 162

To Department of Environmental Quality - Solid and Hazardous Waste
 From Federal Funds (1,318,700)
 From Dedicated Credits Revenue (1,259,400)
 From General Fund Restricted - Environmental Quality (3,298,700)
 From General Fund Restricted - Used Oil Collection Administration (781,200)
 From Waste Tire Recycling Fund (142,900)
 From Revenue Transfers - Within Agency 227,400
 From Beginning Nonlapsing Appropriation Balances (425,000)
 Schedule of Programs:
 Solid and Hazardous Waste (6,998,500)

To implement the provisions of Department of Environmental Quality Modifications (Senate Bill 244, 2015 General Session).

Item 163

To Department of Environmental Quality - Clean Air Retrofit, Replacement, and Off-road Technology
 From General Fund, One-time 200,000
 Schedule of Programs:
 Clean Air Retrofit, Replacement, and Off-road Technology 200,000

Item 164

To Department of Environmental Quality - Division of Waste Management
 From Dedicated Credits Revenue 30,600
 From General Fund Restricted - Environmental Quality 30,400
 Schedule of Programs:
 Solid and Hazardous Waste 61,000

To implement the provisions of Coal Ash Regulation Amendments (Senate Bill 154, 2015 General Session).

Item 165

To Department of Environmental Quality - Division of Waste Management
 From General Fund 769,900
 From General Fund, One-time 3,900
 From Federal Funds 1,365,000
 From Dedicated Credits Revenue 1,533,300
 From General Fund Restricted - Environmental Quality 5,893,600
 From General Fund Restricted - Used Oil Collection Administration 781,200
 From Waste Tire Recycling Fund 142,900
 From Revenue Transfers - Within Agency (255,600)
 From Beginning Nonlapsing Appropriation Balances 425,000
 Schedule of Programs:
 Solid and Hazardous Waste 6,871,400
 Radiation Control 3,787,800

To implement the provisions of Department of Environmental Quality Modifications (Senate Bill 244, 2015 General Session).

Item 166

To Department of Environmental Quality - Facilities for Alternative Fuel Vehicles
 From General Fund 2,000,000
 Schedule of Programs:
 Facilities for Alternative Fuel Vehicles 2,000,000

The Legislature intends that the Department of Environmental Quality use the \$2,000,000 appropriation to Facilities for Alternative Fuel Vehicles toward funding for the construction, operation, and maintenance of facilities for alternative fuel vehicles that are used by or benefit the interlocal entity as described in UCA 11-13-224 of the Utah Code.

GOVERNOR'S OFFICE

Item 167

To Governor's Office - Office of Energy Development
 From Federal Funds 117,500
 Schedule of Programs:
 Office of Energy Development 117,500

DEPARTMENT OF AGRICULTURE AND FOOD

Item 168

To Department of Agriculture and Food - Animal Health
 From Dedicated Credits Revenue 20,000
 Schedule of Programs:
 Animal Health 20,000

To implement the provisions of Utah Agricultural Code Amendments (House Bill 355, 2015 General Session).

PUBLIC EDUCATION

**STATE BOARD OF EDUCATION -
MINIMUM SCHOOL PROGRAM**

Item 169

To State Board of Education - Minimum School Program - Basic School Program

From Education Fund (75,000,000)
From Local Revenue 75,000,000

To implement the provisions of Property Tax Equalization Amendments (Senate Bill 97, 2015 General Session).

Item 170

To State Board of Education - Minimum School Program - Related to Basic School Programs

From Education Fund 2,860,000
From Education Fund, One-time (2,800,000)
From Revenue Transfers (8,000,000)
From Beginning Nonlapsing

Appropriation Balances 9,014,000
From Closing Nonlapsing Appropriation

Balances (1,014,000)
Schedule of Programs:

Matching Funds for School Nurses 60,000

Item 171

To State Board of Education - Minimum School Program - Related to Basic School Programs

From Education Fund (2,800,000)
Schedule of Programs:

Charter School Local Replacement (2,800,000)

To implement the provisions of Charter School Finance Amendments (House Bill 119, 2015 General Session).

Item 172

To State Board of Education - Minimum School Program - Related to Basic School Programs

From Education Fund 53,600
Schedule of Programs:

USFR Teacher Salary Supplement Restricted Account 53,600

To implement the provisions of Teacher Salary Supplement Program Amendments (House Bill 203, 2015 General Session).

Item 173

To State Board of Education - Minimum School Program - Voted and Board Local Levy Programs

From Education Fund Restricted - Minimum Basic Growth Account ... 56,250,000
Schedule of Programs:

Voted Local Levy Program 44,030,300
Board Local Levy Program 12,219,700

To implement the provisions of Property Tax Equalization Amendments (Senate Bill 97, 2015 General Session).

SCHOOL BUILDING PROGRAMS

Item 174

To School Building Programs

From Education Fund Restricted - Minimum Basic Growth Account ... 18,750,000
Schedule of Programs:

Capital Outlay Foundation

Program 15,000,000

Capital Outlay Enrollment Growth Program 3,750,000

To implement the provisions of Property Tax Equalization Amendments (Senate Bill 97, 2015 General Session).

STATE BOARD OF EDUCATION

Item 175

To State Board of Education - State Office of Education

From Education Fund 127,000
Schedule of Programs:

Board and Administration 127,000

To implement the provisions of State School Board Membership and Election Amendments (House Bill 186, 2015 General Session).

Item 176

To State Board of Education - State Office of Education

From Education Fund, One-time 100,000
Schedule of Programs:

Business Services 100,000

To implement the provisions of Math Competency Initiative (Senate Bill 196, 2015 General Session).

Item 177

To State Board of Education - State Office of Education

From Education Fund, One-time 14,500
Schedule of Programs:

Business Services 14,500

To implement the provisions of World Language Proficiency Recognition (Senate Bill 219, 2015 General Session).

Item 178

To State Board of Education - Utah State Office of Education - Initiative Programs

From Education Fund 400,000
From Education Fund, One-time 510,000
Schedule of Programs:

Peer Assistance 400,000
IT Academy 510,000

Item 179

To State Board of Education - Utah State Office of Education - Initiative Programs

From Education Fund, One-time 250,000
Schedule of Programs:

Student Leadership Skills Pilot 250,000

To implement the provisions of Student Leadership Skills Grant (Senate Bill 268, 2015 General Session).

Item 180

To State Board of Education - Utah State Office of Education - Initiative Programs

From General Fund, One-time 115,000
Schedule of Programs:

Carson Smith Scholarships 115,000

To implement the provisions of Carson Smith Scholarship Amendments (Senate Bill 270, 2015 General Session).

Item 181
 To State Board of Education - State Charter School Board
 From Education Fund 150,000
 Schedule of Programs:
 State Charter School Board 150,000

Item 182
 To State Board of Education - Utah Schools for the Deaf and the Blind
 From Education Fund (15,000)
 Schedule of Programs:
 Support Services (15,000)
 To implement the provisions of Payroll Services Amendments (House Bill 172, 2015 General Session).

RETIREMENT AND INDEPENDENT ENTITIES

UTAH COMMUNICATIONS AUTHORITY

Item 183
 To Utah Communications Authority - Administrative Services Division
 From General Fund (2,000,000)
 From General Fund, One-time 19,500,000
 Schedule of Programs:
 Administrative Services Division ... 17,500,000
 The Legislature intends that \$1.5 million of the appropriation for E-911 Emergency Radio System be used to carry out a study on implementing provisions of House Bill 343.

EXECUTIVE APPROPRIATIONS

DEPARTMENT OF VETERANS' AND MILITARY AFFAIRS

Item 184
 To Department of Veterans' and Military Affairs - Veterans' and Military Affairs
 From General Fund, One-time 350,000
 Schedule of Programs:
 Military Affairs 350,000

LEGISLATURE

Item 185
 To Legislature - Senate
 From General Fund 37,500
 Schedule of Programs:
 Administration 37,500

Item 186
 To Legislature - Senate
 From General Fund 20,000
 Schedule of Programs:
 Administration 20,000
 To implement the provisions of Joint Rules Resolution Providing for Reimbursement for Legislative Training Days (House Joint Resolution 6, 2015 General Session).

Item 187
 To Legislature - Senate
 From General Fund 1,900
 Schedule of Programs:

Administration 1,900
 To implement the provisions of Joint Resolution Authorizing Pay of In-session Employees (House Joint Resolution 11, 2015 General Session).

Item 188
 To Legislature - Senate
 From General Fund (800)
 Schedule of Programs:
 Administration (800)
 To implement the provisions of School Safety and Crisis Line (Senate Bill 175, 2015 General Session).

Item 189
 To Legislature - House of Representatives
 From General Fund 37,500
 From General Fund, One-time 200,000
 Schedule of Programs:
 Administration 237,500

Item 190
 To Legislature - House of Representatives
 From General Fund 50,000
 Schedule of Programs:
 Administration 50,000
 To implement the provisions of Joint Rules Resolution Providing for Reimbursement for Legislative Training Days (House Joint Resolution 6, 2015 General Session).

Item 191
 To Legislature - House of Representatives
 From General Fund 2,300
 Schedule of Programs:
 Administration 2,300
 To implement the provisions of Joint Resolution Authorizing Pay of In-session Employees (House Joint Resolution 11, 2015 General Session).

Item 192
 To Legislature - House of Representatives
 From General Fund (800)
 Schedule of Programs:
 Administration (800)
 To implement the provisions of School Safety and Crisis Line (Senate Bill 175, 2015 General Session).

Item 193
 To Legislature - Office of the Legislative Fiscal Analyst
 From General Fund, One-time (20,000)
 Schedule of Programs:
 Administration and Research (20,000)

Item 194
 To Legislature - Legislative Services
 From General Fund (525,000)
 From General Fund, One-time 20,000
 Schedule of Programs:
 Administration (505,000)

Subsection 2(b). Expendable Funds and Accounts. The Legislature has reviewed the following expendable funds. Where applicable, the Legislature authorizes the State Division of Finance to transfer amounts among funds and

accounts as indicated. Outlays and expenditures from the recipient funds or accounts may be made without further legislative action according to a fund or account's applicable authorizing statute.

BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR

GOVERNOR'S OFFICE OF ECONOMIC DEVELOPMENT

Item 195

To Governor's Office of Economic Development - Industrial Assistance Fund

Notwithstanding language in Item 188, Senate Bill 2, 2015 General Session, the Legislature intends that up to \$3,000,000 of the Industrial Assistance Fund allocation to economic opportunities may be allowed as an incentive for a television series in the event the Motion Picture Incentive Fund is fully utilized. Provided, however, that nothing herein shall restrict GOED from utilizing the entire Industrial Assistance Fund allocation to economic opportunities to take timely advantage of economic opportunities that provide a catalyst or stimulus for corporate growth or retention in the state.

SOCIAL SERVICES

DEPARTMENT OF HEALTH

Item 196

To Department of Health - Ambulance Service Provider Assessment Fund

From Dedicated Credits Revenue 3,217,400
Schedule of Programs:

Ambulance Service Provider
Assessment Fund 3,217,400

To implement the provisions of Emergency Medical Services Amendments (Senate Bill 172, 2015 General Session).

Item 197

To Department of Health - Traumatic Brain Injury Fund

From Beginning Nonlapsing Appropriation Balances 625,000
Schedule of Programs:

Traumatic Brain Injury Fund 625,000

The Legislature intends that the \$75,000 in Beginning Nonlapsing provided to the Traumatic Brain Injury Fund is dependent upon up to \$75,000 funds not otherwise designated as nonlapsing to the Department of Health - Disease Control and Prevention line item being retained as nonlapsing in FY 2015.

The Legislature intends that the \$550,000 in Beginning Nonlapsing provided to the Traumatic Brain Injury Fund is dependent upon up to \$550,000 funds not otherwise designated as nonlapsing to the Department of Health - Medicaid and Health Financing

line item being retained as nonlapsing in FY 2015.

Subsection 2(c). Restricted Fund and Account Transfers.

The Legislature authorizes the State Division of Finance to transfer the following amounts among the following funds or accounts as indicated. Expenditures and outlays from the recipient funds must be authorized elsewhere in an appropriations act.

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

FUND AND ACCOUNT TRANSFERS

Item 198

To General Fund Restricted - Law Enforcement Services Account

From General Fund, One-time 250,000
Schedule of Programs:

General Fund Restricted - Law Enforcement Services Account 250,000

INFRASTRUCTURE AND GENERAL GOVERNMENT

Item 199

To General Fund Restricted - Prison Development Restricted Account

From General Fund, One-time 80,000,000
Schedule of Programs:

GFR - Prison Development Restricted Account 80,000,000

BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR

Item 200

To General Fund Restricted - Arts and Culture Business Alliance Account

From General Fund, One-time 75,000
Schedule of Programs:

General Fund Restricted - Arts and Culture Business Alliance 75,000

To implement the provisions of Arts and Culture Business Alliance (Senate Bill 194, 2015 General Session).

PUBLIC EDUCATION

Item 201

To Education Fund Restricted - Minimum Basic Growth Account

From Education Fund 75,000,000
Schedule of Programs:

Education Fund Restricted - Minimum Basic Growth Account 75,000,000

To implement the provisions of Property Tax Equalization Amendments (Senate Bill 97, 2015 General Session).

Subsection 2(d). Transfers to Unrestricted Funds.

The Legislature authorizes the State Division of Finance to transfer the following amounts to the unrestricted General, Education, or Uniform School Fund as indicated from the restricted funds or accounts indicated. Expenditures and outlays from the General,

Education, or Uniform School Fund must be authorized elsewhere in an appropriations act.

PUBLIC EDUCATION

TRANSFERS TO UNRESTRICTED FUNDS

Item 202

To Education Fund
From Nonlapping Balances - MSP -
Related to Basic Program 8,000,000
Schedule of Programs:
Education Fund, One-time 8,000,000

Subsection 2(e). Capital Project Funds. The Legislature has reviewed the following capital project funds. Where applicable, the Legislature authorizes the State Division of Finance to transfer amounts among funds and accounts as indicated.

INFRASTRUCTURE AND GENERAL GOVERNMENT

TRANSPORTATION

Item 203

To Transportation - Transportation Investment Fund of 2005
From Transportation Fund 601,400
From Designated Sales Tax 62,105,600
Schedule of Programs:
Transportation Investment Fund ... 62,707,000

CAPITAL BUDGET

Item 204

To Capital Budget - DFCM Prison Project Fund
From General Fund Restricted -
Prison Development Restricted
Account 80,000,000
Schedule of Programs:
DFCM Prison Project Fund 80,000,000

Section 3. Appropriations Limit Formula.

The state appropriations limit for a given fiscal year, FY, shall be calculated by

$$AppropLimit_{FY} = PerCapitaBase_{1985} \times Pop_{FY-2} \times Inflation_{FY-2} \times SumAdjust_{FY}$$

, where:

$$(a) \quad Inflation_{Base} = \frac{GNPIndex_{int,agr,1985}}{GNPIndex_{int,agr,1985}} = \frac{(100.8+101.7+102.5+103.3)/4}{(121.9+123.3+124.5+125.9)/4} = \frac{102.075}{123.900}$$

$$(b) \quad Inflation_{FY-2} = \frac{GNPIndex_{FY-2}}{GNPIndex_{1985}} \times Inflation_{Base}$$

$$(c) \quad PerCapitaBase_{1985} = \frac{Appropriations_{1985} - Debt_{1985}}{Pop_{1985} \times Inflation_{Base}} = \frac{734,333,000 - 52,273,100}{1,594,943 \times \left(\frac{102.075}{123.900}\right)}$$

$$(d) \quad SumAdjust_{FY} = \sum_{i=1985}^{FY} \left[Adjust_i \times \left(\frac{Inflation_{FY-2}}{Inflation_{i-2}}\right) \times \left(\frac{Pop_{FY-2}}{Pop_{i-2}}\right) \right]; \text{ and}$$

(e) as used in the state appropriations limit formula:

(i) *i* is a variable representing a given fiscal year;

(ii) *Adjust_i* is the net adjustments to the state appropriations limit for a given fiscal year due to program or service adjustments, as required under Section 63J-3-203;

(iii) *Appropriations₁₉₈₅* is the state capital and operations appropriations from the General Fund and non-Uniform School fund in fiscal year 1985;

(iv) *Debt₁₉₈₅* is the amount the state paid in debt payments in fiscal year 1985;

(v) *GNPIndex_{FY-2}* is the average of the quarterly values of the Gross National Product Implicit Price Deflator for the fiscal year two fiscal years before FY, as published by the United States Federal Reserve by January 31 of each year;

(vi) *GNPIndex_{int,agr,i}* is the average of the quarterly values of the Gross National Product Implicit Price Deflator for a given fiscal year, as measured by the Gross National Product Implicit Price Deflator from the vintage series published by the United States Department of Commerce on January 26, 1990;

(vii) *Inflation_{i-2}* is the change in the general price level of goods and services nationally from 1983 to two fiscal years before a given fiscal year, as measured by the most current Gross National Product Implicit Price Deflator series published by the United States Federal Reserve, adjusted to a 1989 basis;

(viii) *PerCapitaBase₁₉₈₅* is the amount of real per capita state appropriations for fiscal year 1985; and

(ix) *Pop_{i-2}* is:

(A) the population as of July 1 in the fiscal year two fiscal years before a given fiscal year, as estimated by the United States Census Bureau by January 31 of each year; or

(B) if the estimate described in Subsection (3)(e)(ix)(A) is not available, an amount determined by the Governor's Office of Management and Budget, estimated by adjusting an available April 1 decennial census count or by adjusting a fiscal year population estimate available from the United States Census Bureau.

Section 4. Effective Date.

If approved by two-thirds of all the members elected to each house, Section 1 of this bill takes effect upon approval by the Governor, or the day following the constitutional time limit of Utah Constitution Article VII, Section 8 without the Governor's signature, or in the case of a veto, the date of override. Sections 2 and 3 of this bill take effect on July 1, 2015.

CHAPTER 470**S. B. 71**

Passed February 25, 2015

(Passed into law without governor's signature)

Effective May 12, 2015

TAX COMMISSIONERS' COMPENSATION

Chief Sponsor: Todd Weiler
House Sponsor: Mike K. McKell

LONG TITLE**General Description:**

This bill amends the compensation provisions of the chair and commissioners of the State Tax Commission.

Highlighted Provisions:

This bill:

- ▶ sets the maximum salary for the chair and commissioners of the State Tax Commission.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

67-22-2, as last amended by Laws of Utah 2013, Chapters 214 and 310

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

Section 1. Section 67-22-2 is amended to read:**67-22-2. Compensation -- Other state officers.**

- (1) As used in this section:
- (a) "Appointed executive" means the:
- (i) commissioner of the Department of Agriculture and Food;
 - (ii) commissioner of the Insurance Department;
 - (iii) commissioner of the Labor Commission;
 - (iv) director, Department of Alcoholic Beverage Control;
 - (v) commissioner of the Department of Financial Institutions;
 - (vi) executive director, Department of Commerce;
 - (vii) executive director, Commission on Criminal and Juvenile Justice;
 - (viii) adjutant general;
 - (ix) executive director, Department of Heritage and Arts;
 - (x) executive director, Department of Corrections;
 - (xi) commissioner, Department of Public Safety;
 - (xii) executive director, Department of Natural Resources;

(xiii) executive director, Governor's Office of Management and Budget;

(xiv) executive director, Department of Administrative Services;

(xv) executive director, Department of Human Resource Management;

(xvi) executive director, Department of Environmental Quality;

(xvii) director, Governor's Office of Economic Development;

(xviii) executive director, Utah Science Technology and Research Governing Authority;

(xix) executive director, Department of Workforce Services;

(xx) executive director, Department of Health, Nonphysician;

(xxi) executive director, Department of Human Services;

(xxii) executive director, Department of Transportation;

(xxiii) executive director, Department of Technology Services; and

(xxiv) executive director, Department of Veterans' and Military Affairs.

(b) "Board or commission executive" means:

(i) members, Board of Pardons and Parole;

(ii) chair, State Tax Commission;

(iii) commissioners, State Tax Commission;

(iv) executive director, State Tax Commission;

(v) chair, Public Service Commission; and

(vi) commissioners, Public Service Commission.

(c) "Deputy" means the person who acts as the appointed executive's second in command as determined by the Department of Human Resource Management.

(2) (a) The executive director of the Department of Human Resource Management shall:

(i) before October 31 of each year, recommend to the governor a compensation plan for the appointed executives and the board or commission executives; and

(ii) base those recommendations on market salary studies conducted by the Department of Human Resource Management.

(b) (i) The Department of Human Resource Management shall determine the salary range for the appointed executives by:

(A) identifying the salary range assigned to the appointed executive's deputy;

(B) designating the lowest minimum salary from those deputies' salary ranges as the minimum salary for the appointed executives' salary range; and

(C) designating 105% of the highest maximum salary range from those deputies' salary ranges as the maximum salary for the appointed executives' salary range.

(ii) If the deputy is a medical doctor, the Department of Human Resource Management may not consider that deputy's salary range in designating the salary range for appointed executives.

(c) ~~[In]~~ (i) Except as provided in Subsection (2)(c)(ii), in establishing the salary ranges for board or commission executives, the Department of Human Resource Management shall set the maximum salary in the salary range for each of those positions at 90% of the salary for district judges as established in the annual appropriation act under Section 67-8-2.

(ii) In establishing the salary ranges for an individual described in Subsection (1)(b)(ii) or (iii), the Department of Human Resource Management shall set the maximum salary in the salary range for each of those positions at 100% of the salary for district judges as established in the annual appropriation act under Section 67-8-2.

(3) (a) (i) Except as provided in Subsection (3)(a)(ii), the governor shall establish a specific salary for each appointed executive within the range established under Subsection (2)(b).

(ii) If the executive director of the Department of Health is a physician, the governor shall establish a salary within the highest physician salary range established by the Department of Human Resource Management.

(iii) The governor may provide salary increases for appointed executives within the range established by Subsection (2)(b) and identified in Subsection (3)(a)(ii).

(b) The governor shall apply the same overtime regulations applicable to other FLSA exempt positions.

(c) The governor may develop standards and criteria for reviewing the appointed executives.

(4) Salaries for other Schedule A employees, as defined in Section 67-19-15, that are not provided for in this chapter, or in Title 67, Chapter 8, Utah Elected Official and Judicial Salary Act, shall be established as provided in Section 67-19-15.

(5) (a) The Legislature fixes benefits for the appointed executives and the board or commission executives as follows:

(i) the option of participating in a state retirement system established by Title 49, Utah State Retirement and Insurance Benefit Act, or in a deferred compensation plan administered by the State Retirement Office in accordance with the Internal Revenue Code and its accompanying rules and regulations;

(ii) health insurance;

(iii) dental insurance;

(iv) basic life insurance;

(v) unemployment compensation;

(vi) workers' compensation;

(vii) required employer contribution to Social Security;

(viii) long-term disability income insurance;

(ix) the same additional state-paid life insurance available to other noncareer service employees;

(x) the same severance pay available to other noncareer service employees;

(xi) the same leave, holidays, and allowances granted to Schedule B state employees as follows:

(A) sick leave;

(B) converted sick leave if accrued prior to January 1, 2014;

(C) educational allowances;

(D) holidays; and

(E) annual leave except that annual leave shall be accrued at the maximum rate provided to Schedule B state employees;

(xii) the option to convert accumulated sick leave to cash or insurance benefits as provided by law or rule upon resignation or retirement according to the same criteria and procedures applied to Schedule B state employees;

(xiii) the option to purchase additional life insurance at group insurance rates according to the same criteria and procedures applied to Schedule B state employees; and

(xiv) professional memberships if being a member of the professional organization is a requirement of the position.

(b) Each department shall pay the cost of additional state-paid life insurance for its executive director from its existing budget.

(6) The Legislature fixes the following additional benefits:

(a) for the executive director of the State Tax Commission a vehicle for official and personal use;

(b) for the executive director of the Department of Transportation a vehicle for official and personal use;

(c) for the executive director of the Department of Natural Resources a vehicle for commute and official use;

(d) for the commissioner of Public Safety:

(i) an accidental death insurance policy if POST certified; and

(ii) a public safety vehicle for official and personal use;

(e) for the executive director of the Department of Corrections:

(i) an accidental death insurance policy if POST certified; and

(ii) a public safety vehicle for official and personal use;

(f) for the adjutant general a vehicle for official and personal use; and

(g) for each member of the Board of Pardons and Parole a vehicle for commute and official use.

CHAPTER 471**S. B. 79**

Passed February 19, 2015

Approved April 1, 2015

Effective May 12, 2015

IMPEACHMENT AMENDMENTS

Chief Sponsor: J. Stuart Adams

House Sponsor: Stephen G. Handy

LONG TITLE**General Description:**

This bill amends which state and judicial officers are liable for impeachment.

Highlighted Provisions:

This bill:

- ▶ amends existing law to include justices of the peace as subject to impeachment for high crimes and misdemeanors or malfeasance in office.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

77-5-1, as enacted by Laws of Utah 1980, Chapter 15

77-6-1, as enacted by Laws of Utah 1980, Chapter 15

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

Section 1. Section 77-5-1 is amended to read:**77-5-1. Officers liable to impeachment.**

The governor and other state and judicial officers~~[, except justices of the peace,]~~ shall be liable to impeachment for high crimes and misdemeanors or malfeasance in office.

Section 2. Section 77-6-1 is amended to read:**77-6-1. Officers subject to removal.**

All ~~[justices of the peace and all]~~ officers of any city, county, or other political subdivision of this state not liable to impeachment shall be subject to removal as provided in this chapter for high crimes and misdemeanors or malfeasance in office.

CHAPTER 472**S. B. 116**

Passed March 12, 2015

(Passed into law without governor's signature)

Effective May 12, 2015

PUBLIC SCHOOL DROPOUT RECOVERY

Chief Sponsor: Aaron Osmond
 House Sponsor: Francis D. Gibson
 Cosponsors: Curtis S. Bramble
 Lyle W. Hillyard
 Alvin B. Jackson
 Peter C. Knudson
 Howard A. Stephenson
 Jerry W. Stevenson
 Daniel W. Thatcher
 Stephen H. Urquhart
 Todd Weiler

LONG TITLE**General Description:**

This bill provides for public school dropout recovery services.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires a local education agency to provide dropout recovery services;
- ▶ under certain circumstances, requires a local education agency to contract with a provider to provide dropout recovery services;
- ▶ requires a local education agency and the State Board of Education to report on the provisions of this bill; and
- ▶ directs the State Board of Education to make rules.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

53A-17a-172, Utah Code Annotated 1953

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

Section 1. Section 53A-17a-172 is enacted to read:**53A-17a-172. Use of minimum school program funds for dropout recovery services.**

(1) As used in this section:

(a) "Adequate monthly progress" means:

(i) an amount of progress that is measurable on a monthly basis and that, if continued for a full school year, would result in the same amount of academic credit being awarded to an eligible student as would be awarded to a regularly enrolled full-time student during a school year; or

(ii) completion of one-quarter credit of college and career readiness course work.

(b) "Attainment goal" means:

(i) for an eligible student up to 18 years of age:

(A) earning a high school diploma;

(B) earning a Utah High School Completion Diploma, as defined in State Board of Education rule; or

(C) earning an industry-based certificate that is likely to result in job placement; or

(ii) for an eligible student over 18 years of age, earning a high school diploma as required under Section 53A-12-101.

(c) "Average daily membership" means the same as that term is defined in Section 53A-17a-103.

(d) "Cohort" means a group of students, defined by the year the group enters ninth grade.

(e) "College and career readiness course work" means course work that prepares a student to succeed in a:

(i) post-secondary environment, such as course work designed to teach time management skills and study skills; and

(ii) work environment, such as:

(A) career and technical education courses;

(B) career exploration and planning courses;

(C) course work designed to teach the soft skills that are necessary to succeed in a work environment; and

(D) course work designed to prepare a student to pass an industry based certification exam.

(f) "Eligible student" means a student:

(i) who has withdrawn from a secondary school prior to earning a diploma with no legitimate reason for departure or absence from school;

(ii) who has been dropped from average daily membership for having a certain number of unexcused absences as described in rules established by the State Board of Education; and

(iii) (A) whose cohort has not yet graduated; or

(B) whose cohort graduated in the previous school year.

(g) (i) "Local education agency" or "LEA" means a school district or charter school.

(ii) "Local education agency" or "LEA" does not include:

(A) an alternative school as defined in Section 53A-1-1102; or

(B) a statewide virtual school.

(2) (a) An LEA shall provide a dropout recovery program for eligible students that includes the following dropout recovery services:

(i) recruiting eligible students;

(ii) working with an eligible student to identify and mitigate social barriers to regular school attendance;

(iii) developing a learning plan, in consultation with the eligible student to:

(A) identify an attainment goal; and

(B) specify adequate monthly progress toward the attainment goal;

(iv) monitoring an eligible student's progress against the eligible student's learning plan;

(v) providing tiered interventions for an eligible student who is not making adequate monthly progress; and

(vi) providing dropout recovery services to eligible students throughout the calendar year.

(b) An LEA shall allow an eligible student to enroll in a dropout recovery program under Subsection (2)(a) at any point during the calendar year.

(3) An LEA that does not meet the criteria described in Subsections (4)(a) and (b) may contract with a provider to provide one or more of the dropout recovery services described in Subsection (2)(a).

(4) An LEA shall contract with a provider to provide the dropout recovery services described in Subsection (2)(a) if:

(a) the LEA has a graduation rate that is lower than the statewide graduation rate, as annually calculated by the State Board of Education; and

(b) (i) on average over the previous calendar year, at least 10% of the eligible students in the LEA have not made adequate monthly progress toward an attainment goal; or

(ii) the LEA's graduation rate, as calculated annually by the State Board of Education, has not increased by at least 1% as compared to the previous school year.

(5) An LEA described in Subsection (4) shall ensure that:

(a) a provider that is contracted with under Subsection (4) has a demonstrated record of effectiveness engaging with and recovering eligible students; and

(b) a contract with a provider requires the provider to:

(i) provide the services described in Subsection (2)(a); and

(ii) regularly report an eligible student's progress to the LEA.

(6) (a) Subject to Subsection (6)(b), an LEA may count a student who was classified as an eligible student during a previous school year in average daily membership for the current school year if the eligible student is enrolled in a dropout recovery services program under Subsection (2)(a) during the current school year.

(b) An LEA may count a student in average daily membership under Subsection (6)(a):

(i) for a month during which the student makes adequate monthly progress, calculated in accordance with rules established by the State Board of Education under Subsection (7)(a); and

(ii) if a student re-enrolls in an LEA or statewide course or program, in accordance with the pupil accounting provisions under Section 53A-17a-106 and State Board of Education rule.

(7) The State Board of Education shall:

(a) make rules specifying procedures for calculating average daily membership under Subsection (6)(b)(i); and

(b) ensure that the amount accounted for under Subsection (6):

(i) does not exceed one pupil in average daily membership per student;

(ii) includes only the value of the kindergarten through grade 12 weighted pupil unit; and

(iii) excludes add-on weighted pupil units.

(8) An LEA shall annually submit a report to the State Board of Education on dropout recovery services provided under this section, including:

(a) the number of eligible students:

(i) in the LEA;

(ii) enrolled in a dropout recovery program under Subsection (2)(a);

(iii) making adequate monthly progress toward an attainment goal; and

(iv) counted in average daily membership under Subsections (6)(b)(i) and (ii); and

(b) funding allocated to provide for a dropout recovery program as described in Subsection (2).

(9) The State Board of Education shall:

(a) review reports submitted under Subsection (8);

(b) ensure that an LEA described in Subsection (4) contracts with a provider to provide dropout recovery services in accordance with Subsections (4) and (5); and

(c) annually report to the Education Interim Committee on the provisions of this section.

**LEGISLATION VETOED
BY THE GOVERNOR**

H. B. 197

Passed March 12, 2015

Vetoed April 1, 2015

EDUCATOR LICENSING AMENDMENTS

Chief Sponsor: Kim Coleman

Senate Sponsor: J. Stuart Adams

LONG TITLE

General Description:

This bill modifies provisions relating to educator licensing.

Highlighted Provisions:

This bill:

- ▶ requires the State Board of Education to make certain rules regarding administrative or supervisory licensing; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53A-6-110, as enacted by Laws of Utah 2003, Chapter 315

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

Section 1. Section 53A-6-110 is amended to read:

53A-6-110. Administrative/supervisory licensing.

(1) A local school board or charter school governing board may request, and the ~~[State Board of Education]~~ board may grant, a letter of authorization permitting a person with outstanding professional qualifications to serve in any position that requires a person to hold an administrative/supervisory license or certificate, including principal, assistant principal, associate principal, vice principal, assistant superintendent, administrative assistant, director, specialist, or other district position.

(2) ~~[The State Board of Education]~~ In addition to the positions described in Subsection (1), the board may grant a letter of authorization permitting a person with outstanding professional qualifications to serve in any position ~~[at the State Office of Education]~~ that requires a person to hold an administrative/supervisory license or certificate.

(3) The board shall make rules for an administrative/supervisory license that allow the board to license individuals from a variety of professional backgrounds, including individuals who do not:

- (a) hold a teaching license; or
- (b) have a graduate degree in an education area.



STATE OF UTAH

GARY R. HERBERT
GOVERNOR

OFFICE OF THE GOVERNOR
SALT LAKE CITY, UTAH
84114-2220

SPENCER J. COX
LIEUTENANT GOVERNOR

April 1, 2015

Dear Speaker Hughes and President Niederhauser,

As required by Article VII, Section 8 of the Utah Constitution, I am writing to provide you my objections to House Bill 197, EDUCATOR LICENSING AMENDMENTS, and to explain my decision to veto the bill.

Administrative licensing is the responsibility of the State Board of Education. The Board is already in the process of revising requirements for administrative preparation programs and administrative licensure requirements. The Board should be allowed to continue the work it is doing to improve administrative licensing. I appreciate Representative Coleman's interest in improving and broadening licensure options and encourage the Board to consider both her the input, and the input of our institutions of higher education who administer licensing programs and will have increased responsibilities with new paths to licensure.

Research shows that, second only to classroom instructions, principals have the most significant impact on student achievement. A high quality principal will hire, develop, and support talented teachers.

I am committed to increasing the academic outcomes for our students, while in the midst of a growing teacher shortage throughout the state. Administrator training and licensing is something we must get right and we must have confidence that the State Board of Education, working with our higher education partners, will do just that.

For these reasons, I disapprove of and veto House Bill 197, EDUCATOR LICENSING AMENDMENTS and return it to the House of Representatives.

Sincerely,

A handwritten signature in black ink that reads "Gary R. Herbert".

Gary R. Herbert
Governor

H. B. 385
 Passed March 12, 2015
 Vetoed April 1, 2015

MEMORIAL HIGHWAY DESIGNATION

Chief Sponsor: Keven J. Stratton
 Senate Sponsor: Curtis S. Bramble
 Cosponsors: Jacob L. Anderegg
 Johnny Anderson
 Patrice M. Arent
 Stewart Barlow
 Joel K. Briscoe
 Melvin R. Brown
 Rebecca Chavez-Houck
 Scott H. Chew
 LaVar Christensen
 Kay J. Christofferson
 Kim Coleman
 Jon Cox
 Rich Cunningham
 Bruce R. Cutler
 Brad M. Daw
 Brad L. Dee
 Sophia M. DiCaro
 Jack R. Draxler
 Susan Duckworth
 James A. Dunnigan
 Rebecca P. Edwards
 Steve Eliason
 Justin L. Fawson
 Gage Froerer
 Francis D. Gibson
 Brian M. Greene
 Keith Grover
 Craig Hall
 Stephen G. Handy
 Timothy D. Hawkes
 Sandra Hollins
 Gregory H. Hughes
 Eric K. Hutchings
 Don L. Ipson
 Ken Ivory
 Michael S. Kennedy
 Brad King
 Brian S. King
 John Knotwell
 Bradley G. Last
 David E. Lifferth
 Kay L. McLiff
 Mike K. McKell
 Justin J. Miller
 Carol Spackman Moss
 Merrill F. Nelson
 Michael E. Noel
 Curtis Oda
 Lee B. Perry
 Jeremy A. Peterson
 Val L. Peterson
 Dixon M. Pitcher
 Marie H. Poulson
 Kraig Powell
 Paul Ray
 Edward H. Redd
 Marc K. Roberts
 Angela Romero
 Douglas V. Sagers
 Scott D. Sandall

Dean Sanpei
 Mike Schultz
 V. Lowry Snow
 Robert M. Spendlove
 Jon E. Stanard
 Earl D. Tanner
 Norman K. Thurston
 Raymond P. Ward
 R. Curt Webb
 John R. Westwood
 Mark A. Wheatley
 Brad R. Wilson

LONG TITLE

General Description:

This bill modifies the Designation of State Highways Act by designating the Rebecca D. Lockhart section of the Veterans Memorial Highway.

Highlighted Provisions:

This bill:

- ▶ designates the existing portions of Interstate Highway 15 from Lehi Main Street, SR-73, to Spanish Fork Main Street, SR-156, as the Rebecca D. Lockhart section of the Veterans Memorial Highway; and
- ▶ requires the Department of Transportation to make the designation of this highway on future state highway maps.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

72-4-215, Utah Code Annotated 1953

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

Section 1. Section 72-4-215 is enacted to read:

72-4-215. Rebecca D. Lockhart section of the Veterans Memorial Highway.

(1) There is established the Rebecca D. Lockhart section of the Veterans Memorial Highway composed of the existing portions of Interstate Highway 15 from Lehi Main Street, SR-73, to Spanish Fork Main Street, SR-156.

(2) In addition to other official designations, the Department of Transportation shall designate the portions of the highway identified in Subsection (1) as the Rebecca D. Lockhart section on future state highway maps.



STATE OF UTAH

GARY R. HERBERT
GOVERNOR

OFFICE OF THE GOVERNOR
SALT LAKE CITY, UTAH
84114-2220

SPENCER J. COX
LIEUTENANT GOVERNOR

April 1, 2015

Dear Speaker Hughes and President Niederhauser,

As required by Article VII, Section 8 of the Utah Constitution, I am writing to provide you my objections to House Bill 385, MEMORIAL HIGHWAY DESIGNATION, and to explain my decision to veto the bill.

I appreciate the effort of our state legislators to recognize the service of our former speaker. I am disappointed with the controversy that has diminished the deserved recognition this bill intended to bring to Speaker Rebecca Lockhart. Further, I'm saddened if this discussion has caused any pain to the Lockhart family.

Today I received a call from Stan Lockhart, Speaker Lockhart's husband, asking me to veto this bill. Therefore, I honor his request.

I look forward to working together with the Lockhart family and the Legislature as we determine a meaningful way to recognize and memorialize the service, leadership and legacy of former House Speaker Rebecca Lockhart.

For these reasons, I disapprove of and veto House Bill 385, MEMORIAL HIGHWAY DESIGNATION, and return it to the House of Representatives.

Sincerely,

Gary R. Herbert
Governor

S. B. 94
 Passed March 11, 2015
 Vetoed April 1, 2015

**CORPORATE FRANCHISE AND
 INCOME TAX AMENDMENTS**

Chief Sponsor: Howard A. Stephenson
 House Sponsor: Daniel McCay

LONG TITLE

General Description:

This bill amends provisions related to a credit against or refund of an overpayment of corporate franchise or income taxes.

Highlighted Provisions:

This bill:

- ▶ defines a term;
- ▶ amends provisions related to a credit against or refund of an overpayment of corporate franchise and income taxes; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides for retrospective operation.

Utah Code Sections Affected:

AMENDS:

59-7-522, as last amended by Laws of Utah 2010, Chapter 216

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

Section 1. Section 59-7-522 is amended to read:

59-7-522. Definition -- Overpayments.

(1) As used in this section, "overpayment" means the same as that term is defined in Section 59-1-1409.

[~~(4)~~] (2) (a) Subject to Subsection [~~(4)~~] (2)(b), a claim for credit or refund of an overpayment that is attributable to a Utah net loss carry back or carry forward shall be filed within three years from the due date of the return for the taxable year of the Utah net loss.

(b) The three-year period described in Subsection [~~(4)~~] (2)(a) shall be extended by any extension of time provided in statute for filing the return described in Subsection [~~(4)~~] (2)(a).

~~[(2) If an overpayment relates to a change in or correction of federal taxable income described in Section 59-7-519, a credit may be allowed or a refund paid any time before the expiration of the period within which a deficiency may be assessed.]~~

(3) The commission shall make a credit against or refund of any overpayment of a tax under this chapter for a taxable year if, in accordance with Section 59-7-519:

(a) (i) a corporation agrees with the commissioner of internal revenue for an extension, or a renewal of an extension, of the period for proposing and

assessing a deficiency in federal income tax for that taxable year; or

(ii) there is a change in or correction of federal taxable income for that taxable year; and

(b) the corporation files a claim for the credit or refund before the expiration of the time period within which the commission may assess a deficiency.

[~~(3)~~] (4) The commission shall make a credit or refund within a 30-day period after the day on which a court's decision to require the commission to credit or refund the amount of an overpayment to a taxpayer is final.

Section 2. Effective date -- Retrospective operation.

(1) Subject to Subsection (2), this bill takes effect on July 1, 2017.

(2) This bill:

(a) has retrospective operation for a refund claim filed or pending on or after January 1, 2015; and

(b) applies to an amount for which the commission may assess a deficiency under Section 59-7-519.



STATE OF UTAH

GARY R. HERBERT
GOVERNOR

OFFICE OF THE GOVERNOR
SALT LAKE CITY, UTAH
84114-2220

SPENCER J. COX
LIEUTENANT GOVERNOR

April 1, 2015

Dear President Niederhauser and Speaker Hughes,

As required by Article VII, Section 8 of the Utah Constitution, I am writing to provide you my objections to Senate Bill 94, CORPORATE FRANCHISE AND INCOME TAX AMENDMENTS, and to explain my decision to veto the bill.

I believe that good governance requires that we accurately account and plan for our fiscal responsibilities. The 2017 effective date of this bill means that the costs of implementation were not funded, nor were they prioritized as part of the budget process in the passage of the bill. Additionally, because the tax policy is intended to be retroactive to January of 2015, but the effective date is not until July of 2017, the bill creates an inconsistency and needlessly complicates its implementation. After discussions with the Tax Commission, I am convinced that this should be enacted with the dates aligned.

Because I believe the underlying tax policy, if implemented with consistent dates, is a positive amendment to our tax code, I have committed to the sponsor to bring this bill back in the upcoming special session to pass the legislation with consistent dates.

For these reasons, I disapprove of and veto Senate Bill 94, CORPORATE FRANCHISE AND INCOME TAX AMENDMENTS and return it to the Senate.

Sincerely,

Gary R. Herbert
Governor

S. B. 249

Passed March 11, 2015

Vetoed April 1, 2015

**TRAX CROSSING BARS
OPERATIONS AMENDMENTS**

Chief Sponsor: Scott K. Jenkins

House Sponsor: Lee B. Perry

LONG TITLE

General Description:

This bill modifies the Traffic Code by amending provisions related to railroad crossings.

Highlighted Provisions:

This bill:

- ▶ amends provisions related to stopping a vehicle at a railroad grade crossing.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

41-6a-305, as last amended by Laws of Utah 2014, Chapter 39

41-6a-1203, as last amended by Laws of Utah 2012, Chapter 135

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

Section 1. Section 41-6a-305 is amended to read:

41-6a-305. Traffic-control signal -- At intersections -- At place other than intersection -- Color of light signal -- Inoperative traffic-control signals -- Affirmative defense.

(1) (a) Green, red, and yellow are the only colors that may be used in a traffic-control signal, except for a:

(i) pedestrian traffic-control signal that may use white and orange; and

(ii) rail vehicle that may use white.

(b) Traffic-control signals apply to the operator of a vehicle and to a pedestrian as provided in this section.

(2) (a) (i) Except as provided in Subsection (2)(a)(ii), the operator of a vehicle facing a circular green signal may:

(A) proceed straight through the intersection;

(B) turn right; or

(C) turn left.

(ii) The operator of a vehicle facing a circular green signal, including an operator turning right or left:

(A) shall yield the right-of-way to other vehicles and to pedestrians lawfully within the intersection

or an adjacent crosswalk at the time the signal is exhibited; and

(B) may not turn right or left if a sign at the intersection prohibits the turn.

(b) The operator of a vehicle facing a green arrow signal shown alone or in combination with another indication:

(i) may cautiously enter the intersection only to make the movement indicated by the arrow or other indication shown at the same time; and

(ii) shall yield the right-of-way to pedestrians lawfully within an adjacent crosswalk and to other traffic lawfully using the intersection.

(c) Unless otherwise directed by a pedestrian traffic-control signal under Section 41-6a-306, a pedestrian facing any green signal other than a green turn arrow may proceed across the roadway within any marked or unmarked crosswalk.

(3) (a) The operator of a vehicle facing a steady circular yellow or yellow arrow signal is warned that the allowable movement related to a green signal is being terminated.

(b) Unless otherwise directed by a pedestrian traffic-control signal under Section 41-6a-306, a pedestrian facing a steady circular yellow or yellow arrow signal is advised that there is insufficient time to cross the roadway before a red indication is shown, and a pedestrian may not start to cross the roadway.

(4) (a) Except as provided in Subsection (4)(c), the operator of a vehicle facing a steady circular red or red arrow signal:

(i) may not enter the intersection unless entering the intersection to make a movement is permitted by another indication; and

(ii) shall stop at a clearly marked stop line, but if none, before entering the marked or unmarked crosswalk on the near side of the intersection and shall remain stopped until an indication to proceed is shown.

(b) Unless otherwise directed by a pedestrian traffic-control signal under Section 41-6a-306, a pedestrian facing a steady red signal alone may not enter the roadway.

(c) (i) (A) The operator of a vehicle facing a steady circular red signal may cautiously enter the intersection to turn right, or may turn left from a one-way street into a one-way street, after stopping as required by Subsection (4)(a).

(B) If permitted by a traffic control device on the state highway system, the operator of a vehicle facing a steady red arrow signal may cautiously enter the intersection to turn left from a one-way street into a one-way street after stopping as required by Subsection (4)(a).

(ii) The operator of a vehicle under Subsection (4)(c)(i) shall yield the right-of-way to:

(A) another vehicle moving through the intersection in accordance with an official traffic-control signal; and

(B) a pedestrian lawfully within an adjacent crosswalk.

(5) (a) This section applies to a highway or rail line where a traffic-control signal is erected and maintained.

(b) Any stop required shall be made at a sign or marking on the highway pavement indicating where the stop shall be made, but, in the absence of any sign or marking, the stop shall be made at the signal.

(6) The operator of a vehicle approaching an intersection that has an inoperative traffic-control signal shall:

(a) stop before entering the intersection; and

(b) yield the right-of-way to any vehicle as required under Section 41-6a-901.

(7) (a) For an operator of a motorcycle, moped, or bicycle who is 16 years of age or older, it is an affirmative defense to a violation of Subsection (4)(a) if the operator of a motorcycle, moped, or bicycle facing a steady circular red signal or red arrow:

(i) brings the motorcycle, moped, or bicycle to a complete stop at the intersection or stop line;

(ii) determines that:

(A) the traffic-control signal has not detected the operator's presence by waiting a reasonable period of time of not less than 90 seconds at the intersection or stop line before entering the intersection;

(B) no other vehicle that is entitled to have the right-of-way under applicable law is sitting at, traveling through, or approaching the intersection; and

(C) no pedestrians are attempting to cross at or near the intersection in the direction of travel of the operator; and

(iii) cautiously enters the intersection and proceeds across the roadway.

(b) The affirmative defense under this section does not apply at an active railroad grade crossing as defined in Section 41-6a-1005, except as described in Section 41-6a-1203.

Section 2. Section 41-6a-1203 is amended to read:

41-6a-1203. Railroad grade crossing -- Duty to stop -- Malfunctions and school buses -- Driving through, around, or under gate or barrier prohibited.

(1) As used in this section, "active railroad grade crossing" ~~[has the same meaning as]~~ means the same as that term is defined in Section 41-6a-1005.

(2) (a) Whenever a person operating a vehicle approaches a railroad grade crossing, the operator of the vehicle shall stop within 50 feet but not less than 15 feet from the nearest rail of the railroad track and may not proceed if:

~~[(a)]~~ (i) a clearly visible electric or mechanical signal device gives warning of the immediate approach of a train;

~~[(b)]~~ (ii) a crossing gate is lowered, or when a human flagman gives or continues to give a signal of the approach or passage of a train;

~~[(c)]~~ (iii) a railroad train approaching within approximately 1,500 feet of the highway crossing emits a signal audible and the train by reason of its speed or nearness to the crossing is an immediate hazard;

~~[(d)]~~ (iv) an approaching train is plainly visible and is in hazardous proximity to the crossing; or

~~[(e)]~~ (v) there is any other condition that makes it unsafe to proceed through the crossing.

(b) It is an affirmative defense to a violation of Subsection (2)(a) if the operator of a vehicle, facing a clearly visible electric or mechanical signal device described in Subsection (2)(a)(i):

(i) comes to a complete stop, as described in Subsection (2)(a);

(ii) determines that:

(A) the crossing gate described in Subsection (2)(a)(ii) has not been lowered or has been raised;

(B) no other vehicle that is entitled to have the right-of-way under applicable law is sitting at, traveling through, or approaching the intersection;

(C) no train is approaching or passing; and

(D) no pedestrians are attempting to cross at or near the intersection in the direction of travel of the operator; and

(iii) cautiously enters the intersection and proceeds across the roadway.

(c) A railroad operator or railroad company shall not be liable for damage, injury, or death arising from a vehicle operator's entry into the intersection as described in Subsection (2)(b).

(3) (a) An operator of a vehicle who suspects a false activation or malfunction of a railroad grade crossing signal device where there is no gate or barrier may drive a vehicle through the railroad grade crossing after stopping if:

(i) the operator of a vehicle has a clear line of sight of at least one mile of the railroad tracks in all directions;

(ii) there is no evidence of an approaching train;

(iii) the vehicle can cross over the tracks safely; and

(iv) the operator of a school bus is compliant with written district policy.

(b) As soon as is reasonably possible, the operator of a school bus shall notify the driver's dispatcher and the dispatcher shall notify the owner of the railroad track where the grade crossing signal device is located of the false activation or malfunction.

(4) (a) A person may not drive a vehicle through, around, or under a crossing gate or barrier at a

railroad grade crossing if the railroad grade crossing is active.

(b) A person may not cause a non-rail vehicle, whether or not occupied, to pass through, around, over, or under or remain on a gate or barrier at a railroad grade crossing if the railroad grade crossing is active.

(c) A person may not cause a non-rail vehicle, whether or not occupied, to pass around, through, over, or under or remain in a rail or fixed guideway right-of-way in a manner that would cause a railroad train or other rail vehicle to make contact with the non-rail vehicle.



STATE OF UTAH

OFFICE OF THE GOVERNOR
SALT LAKE CITY, UTAH
84114-2220

GARY R. HERBERT
GOVERNOR

SPENCER J. COX
LIEUTENANT GOVERNOR

April 1, 2015

Dear President Niederhauser and Speaker Hughes,

As required by Article VII, Section 8 of the Utah Constitution, I am writing to provide you my objections to Senate Bill 249, TRAX CROSSING BARS OPERATIONS AMENDMENTS, and to explain my decision to veto the bill.

If allowed to go into law, this bill would endanger the safety of Utah drivers. Both Utah and Federal law require drivers to stop at train tracks when warning lights are flashing for their protection. Train/vehicle accidents are almost always fatal. Waiting at a flashing light for a few seconds may be inconvenient to some, but that small inconvenience prevents many unnecessary and devastating accidents.

For these reasons, I disapprove of and veto Senate Bill 249, TRAX CROSSING BARS OPERATIONS AMENDMENTS, and return it to the Senate.

Sincerely,

A handwritten signature in black ink that reads "Gary R. Herbert".

Gary R. Herbert
Governor

S. B. 278

Passed March 12, 2015

Vetoed April 1, 2015

**MOTION PICTURE
INCENTIVE AMENDMENTS**

Chief Sponsor: Curtis S. Bramble

House Sponsor: Brad R. Wilson

LONG TITLE

General Description:

This bill modifies the Motion Picture Incentive Fund.

Highlighted Provisions:

This bill:

- ▶ increases the maximum cash rebate incentive from \$500,000 to \$2,500,000 for a motion picture project.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63M-1-1804, as last amended by Laws of Utah 2011, Chapter 338

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

Section 1. Section 63M-1-1804 is amended to read:

63M-1-1804. Motion picture incentives -- Standards to qualify for an incentive -- Limitations -- Content of agreement between office and motion picture company or digital media company.

(1) In addition to the requirements for receiving a motion picture incentive as set forth in this part, the office, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall make rules establishing:

(a) the standards that a motion picture company or digital media company must meet to qualify for the motion picture incentive; and

(b) criteria for determining the amount of the incentive.

(2) The office shall ensure that those standards include the following:

(a) an incentive may only be issued for a state approved production by a motion picture company or digital media company;

(b) financing has been obtained and is in place for the production; and

(c) the economic impact of the production on the state represents new incremental economic activity in the state as opposed to existing economic activity.

(3) With respect to a digital media project, the office shall consider economic modeling, including the costs and benefits of the digital media project to

state and local governments in determining the motion picture incentive amount.

(4) The office may also consider giving preference to a production that stimulates economic activity in rural areas of the state or that has Utah content, such as recognizing that the production was made in the state or uses Utah as Utah in the production.

(5) (a) The office, with advice from the board, may enter into an agreement with a motion picture company or digital media company that meets the standards established under this section and satisfies the other qualification requirements under this part.

(b) Subject to Subsection 63M-1-1803(3), the office may commit or authorize a motion picture incentive:

(i) to a motion picture company of up to 20% of the dollars left in the state by the motion picture company, and a motion picture company can receive an additional 5%, not to exceed 25% of the dollars left in the state by the motion picture company if the company fulfills certain requirements determined by the office including:

(A) employing a significant percentage of cast and crew from Utah;

(B) highlighting the state of Utah and the Utah Film Commission in the motion picture credits; or

(C) other promotion opportunities as agreed upon by the office and the motion picture company; and

(ii) to a digital media company, if the incentive does not exceed 100% of the new state revenue less the considerations under Subsection (3), but not to exceed 20% of the dollars left in the state by the digital media company.

(c) A cash rebate incentive from the Motion Picture Incentive Restricted Account may not exceed [~~\$500,000~~] \$2,500,000 per state approved production for a motion picture project.

(d) The office may not give a cash rebate incentive from the Motion Picture Incentive Restricted Account for a digital media project.

(6) The office shall ensure that the agreement entered into with a motion picture company or digital media company under Subsection (5)(a):

(a) details the requirements that the motion picture company or digital media company must meet to qualify for an incentive under this part;

(b) specifies:

(i) the nature of the incentive; and

(ii) the maximum amount of the motion picture incentive that the motion picture company or digital media company may earn for a taxable year and over the life of the production;

(c) establishes the length of time over which the motion picture company or digital media company may claim the motion picture incentive;

(d) requires the motion picture company or digital media company to retain records supporting its

claim for a motion picture incentive for at least four years after the motion picture company or digital media company claims the incentive under this part; and

(e) requires the motion picture company or digital media company to submit to audits for verification of the claimed motion picture incentive.



STATE OF UTAH

GARY R. HERBERT
GOVERNOR

OFFICE OF THE GOVERNOR
SALT LAKE CITY, UTAH
84114-2220

SPENCER J. COX
LIEUTENANT GOVERNOR

April 1, 2015

Dear President Niederhauser and Speaker Hughes,

As required by Article VII, Section 8 of the Utah Constitution, I am writing to provide you my objections to Senate Bill 278, MOTION PICTURE INCENTIVE AMENDMENTS, and to explain my decision to veto the bill.

Tax incentives can be a very effective method of attracting business to the state and growing the Utah economy. However, motion picture related tax incentives, while important, do not provide the same return as other tax incentives we can and do offer.

Increasing the available tax incentive from \$500,000 to \$2,500,000, is not the most effective use of these important, but limited available incentive dollars. Moreover, the Utah Film Commission is in process of developing a long-term plan for the state to attract such filming activities to Utah. Enactment of this bill is premature.

For these reasons, I disapprove of and veto Senate Bill 278, MOTION PICTURE INCENTIVE AMENDMENTS and return it to the Senate.

Sincerely,

Gary R. Herbert
Governor



STATE OF UTAH

GARY R. HERBERT
GOVERNOR

OFFICE OF THE GOVERNOR
SALT LAKE CITY, UTAH
84114-2220

SPENCER J. COX
LIEUTENANT GOVERNOR

April 1, 2015

Dear President Niederhauser and Speaker Hughes,

Consistent with Article VII, Section 8 of the Utah Constitution, I am writing to inform you that I am allowing the following bills to go into law without my signature:

House Bill 368, EXECUTIVE COMPENSATION
Senate Bill 71, TAX COMMISSIONERS' COMPENSATION
Senate Bill 116, PUBLIC SCHOOL DROUPOUT RECOVERY

In regard to SB 116, PUBLIC SCHOOL DROUPOUT RECOVERY, while we are making great progress in assuring that Utah students graduate from high school, we are still losing 1 out of every 5 students. I believe we should embrace all methods to re-engage those students and assist them in completing high school.

Schools currently engage in a variety of dropout prevention and recovery programs, and opportunities exist for them to work with private providers entering this market. These programs should be developed and implemented at the local level, and don't need to be dictated by the legislature.

While I support the intent of SB 116, which is designed to improve dropout recovery programs, changes made to the final version of the bill left me with concern. Additionally, the bill did not include an appropriation, but it is estimated that the cost of implementation could reach \$13.2 million. I think the bill has the potential to help provide support to our students and increase graduation rates. Despite my concerns with some of the details, I have allowed the bill to become law without my signature.

Sincerely,

Gary R. Herbert
Governor



STATE OF UTAH

GARY R. HERBERT
GOVERNOR

OFFICE OF THE GOVERNOR
SALT LAKE CITY, UTAH
84114-2220

SPENCER J. COX
LIEUTENANT GOVERNOR

April 1, 2015

Dear President Niederhauser and Speaker Hughes,

As required by Article VII, Section 8 of the Utah Constitution, I am writing to provide you my objections to certain Items within Senate Bill 3, APPROPRIATIONS ADJUSTMENTS, and to explain my decision to veto these items within the bill.

I am vetoing 3 items within the 2015 APPROPRIATIONS ADJUSTMENTS:

1. Item 34, which is \$31,500 to the Lieutenant Governor's Office. This appropriation was intended to fund the policy associated with HB 186, STATE SCHOOL BOARD MEMBERSHIP AND ELECTION AMENDMENTS, which did not pass the Legislature and will not become law.
2. Item 175, which is \$127,000 to the State School Board. This appropriation was intended to fund the policy associated with HB 186, STATE SCHOOL BOARD MEMBERSHIP AND ELECTION AMENDMENTS, which did not pass the Legislature and will not become law.
3. Item 177, which is \$14,500 to the State School Board of Education. This appropriation was intended to fund the policy associated with SB 219, WORLD LANGUAGE PROFICIENCY RECOGNITION, which did not pass the Legislature and will not become law.

For these reasons, I disapprove of and veto Items 34, 175, and 177 of Senate Bill 3, APPROPRIATIONS ADJUSTMENTS, but otherwise sign and approve the bill.

Sincerely,

A handwritten signature in black ink that reads "Gary R. Herbert".

Gary R. Herbert
Governor

Resolutions

passed at the
General Session
of the
Sixty-First Legislature
2015

H.C.R. 1

Passed March 3, 2015
 Approved March 20, 2015
 Effective March 20, 2015

**CONCURRENT RESOLUTION
 DESIGNATING START BY BELIEVING DAY**

Chief Sponsor: Angela Romero
 Senate Sponsor: Aaron Osmond

LONG TITLE

General Description:

This concurrent resolution of the Legislature designates "Start by Believing Day."

Highlighted Provisions:

This resolution:

- ▶ expresses support for victims of sexual assault;
- ▶ expresses support for the Start by Believing campaign; and
- ▶ designates the first Wednesday in April as "Start by Believing Day."

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, the Utah Commission on Criminal and Juvenile Justice's 2007 study "Rape in Utah" found that one in three Utah women will be sexually assaulted in her lifetime, a rate that is higher than the national average for sexual assault crimes;

WHEREAS, the Utah Department of Public Safety reports that in 2012, there were 966 reports of rape or attempted rape, which is one rape every nine hours;

WHEREAS, research by the Utah Commission on Criminal and Juvenile Justice in 2007 and a United States Senate subcommittee 2010 hearing on crime and drugs indicate that many victims of sexual assault do not report the crime for fear of not being believed;

WHEREAS, national research has shown that false reports of sexual assault are rare and no more common than false reports of other types of crime;

WHEREAS, sexual assault is a violent crime and has devastating safety and health implications for every person in Utah, be they a victim, survivor, family member, loved one, friend, neighbor, or co-worker of a victim;

WHEREAS, End Violence Against Women International has developed a public awareness campaign entitled "Start by Believing" a message that, in part, confronts the reality that many victims do not get the support they need when they do report a crime;

WHEREAS, local governments and private business organizations around the state are adopting the Start by Believing campaign, and it is appropriate for Utah as a whole to support this simple and important message of support for victims of sexual assault; and

WHEREAS, if victims of sexual assault are believed and supported, they will heal more completely and more quickly, making Utah a better and healthier place:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, expresses support for victims of sexual assault and the Start by Believing campaign.

BE IT FURTHER RESOLVED that the Legislature and the Governor designate the first Wednesday in April as "Start by Believing Day."

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the state legislatures of the other 49 states, members of Utah's congressional delegation, End Violence Against Women International, Chief Jerald Monahan, the Utah Sexual Violence Council, and the Utah Crime Victims Council.

H.C.R. 2

Passed March 6, 2015
 Approved March 20, 2015
 Effective March 20, 2015

**CONCURRENT RESOLUTION
 DESIGNATING RELIGIOUS FREEDOM DAY**

Chief Sponsor: Brian S. King
 Senate Sponsor: Jim Dabakis

LONG TITLE

General Description:

This concurrent resolution of the Legislature and the Governor designates January 16th each year as "Religious Freedom Day."

Highlighted Provisions:

This resolution:

- ▶ designates January 16th each year as "Religious Freedom Day" in the state of Utah; and
- ▶ urges Utah's citizens and governments to remember and honor the nation's first religious freedom law, as written and championed by Thomas Jefferson and James Madison.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, the United States Congress in 1992 set aside January 16th as Religious Freedom Day to honor the passage of the Virginia Statute for Religious Freedom in 1786;

WHEREAS, Religious Freedom Day has been recognized by presidential proclamation annually;

WHEREAS, the Virginia Statute for Religious Freedom was written by Thomas Jefferson one year after writing the Declaration of Independence, and ushered into law by James Madison one year before he became a principal author of the United States Constitution;

WHEREAS, the Virginia Statute for Religious Freedom represents the first and defining law

establishing and protecting the rights of individuals to choose for themselves what they will or will not believe;

WHEREAS, the right to religious freedom as defined by Jefferson and Madison is fundamental to the success of a constitutional republic;

WHEREAS, the state of Utah was founded upon the principles of respect for the religious beliefs or non-beliefs of all persons, and the state constitution expressly provides since statehood in 1896 that "perfect toleration of religious sentiment is guaranteed" (Article III) and all citizens of this state shall enjoy equally all religious rights and privileges (Article IV);

WHEREAS, people from all parts of the world have come to the United States of America and Utah fleeing religious persecution;

WHEREAS, the Virginia Statute for Religious Freedom established that all individuals are free to believe as they will and that this shall in no wise diminish, enlarge, or affect their civil capacities;

WHEREAS, the Supreme Court of the United States has recognized repeatedly that the Virginia Statute for Religious Freedom right was an important influence in the development of the United States Constitution and the Bill of Rights:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, designates January 16th each year as "Religious Freedom Day" in the state of Utah.

BE IT FURTHER RESOLVED that the Legislature and the Governor urge citizens and local governments to remember and honor the nation's first Religious Freedom law, as written and championed by Thomas Jefferson and James Madison, and the enduring religious freedom guaranteed in the United States and Utah constitutions.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the members of Utah's congressional delegation and the state legislatures of the other 49 states.

H.C.R. 3

Passed February 26, 2015

Approved March 25, 2015

Effective March 25, 2015

**CONCURRENT RESOLUTION
RECOGNIZING THE 100TH ANNIVERSARY
OF THE SETTLEMENT OF CLARION, UTAH**

Chief Sponsor: Jon Cox
Senate Sponsor: Jim Dabakis

LONG TITLE

General Description:

This concurrent resolution of the Legislature and the Governor recognizes the 100th anniversary of the settlement of Clarion, Utah.

Highlighted Provisions:

This resolution:

- ▶ recognizes the 100th anniversary of the settlement of Clarion, Utah.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, for centuries European Jews were prohibited from owning land and were forced to abandon an agrarian existence for a more urban way of life;

WHEREAS, by the middle of the 19th Century, Jewish reformers advocated the Jews' return to a "purer life" based on occupations that required manual labor;

WHEREAS, in 1911, the Jewish Agricultural and Colonial Association of Philadelphia purchased 6,085 acres of land and water rights in southern Sanpete County from the Utah State Land Board for an agricultural experiment that they named Clarion;

WHEREAS, members of the association who traveled to Utah reported to their friends and neighbors back east that the soil was fertile, that they were given official assurance that the Piute Canal would soon be completed as a new source of irrigation water, and that Clarion would meet the needs and aspirations of would-be farmers;

WHEREAS, Clarion land was settled in phases, beginning with the arrival of 12 men who worked collectively to prepare the land for planting and irrigation, and was divided into family farmsteads as more settlers arrived;

WHEREAS, at its high point, more than 200 men, women, and children lived in the Jewish colony and cultivated over 2,800 acres of land;

WHEREAS, Clarion became one of the largest Jewish agrarian colonies west of the Appalachian Mountains;

WHEREAS, the Clarion colonists found that life in arid Utah was different from the promises made by their leaders and Utah state officials, as the soil proved to be very poor and only productive with extensive irrigation;

WHEREAS, the Piute Canal, a necessary source of water for the farmers, was not finished until 1918, two years after the demise of Clarion;

WHEREAS, colonists' morale was weakened by early and late frosts, heavy floods, crop failures, inexperience, and internal dissension;

WHEREAS, the deaths of two farmers and the loss of two babies in 1915 further weakened the colonists' will to stay in Clarion, and when the

colony could not make payment on the land, the state of Utah foreclosed;

WHEREAS, most colonists returned to their former homes in eastern cities while a few Jewish families, unwilling to give up on their dream, settled land near Clarion where they successfully farmed into the late 1920s;

WHEREAS, for the Jewish settlers who came to Utah, Clarion was not just a theoretical experiment - it was a real opportunity, for themselves and their families, to escape the poverty and stress of life in the ghettos of eastern cities;

WHEREAS, these colonists had sounded a clarion call to all Jews to return to the land for spiritual and physical revival;

WHEREAS, in Utah, they believed that they had found a haven from the violence of the European pogroms and the poverty of American cities;

WHEREAS, the hurdles to success in Utah proved too high and the Jewish farmers could not sustain their experiment nor lead a movement of Jews back to the soil; and

WHEREAS, that they failed is their history, that they dreamed and struggled against insurmountable odds is their legacy:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, recognizes the 100th anniversary of the settlement of Clarion, Utah, and urge the citizens of the state to remember the determination, fortitude, and sacrifice of those who struggled to start a new life there.

BE IT FURTHER RESOLVED that the Legislature and the Governor recognize that the story of the settlers of Clarion is one of hope and determination to better themselves and a people.

H.C.R. 4

Passed March 6, 2015
 Approved March 20, 2015
 Effective March 20, 2015

**CONCURRENT RESOLUTION
 RECOGNIZING THE 2015 PARLIAMENT
 OF THE WORLD'S RELIGIONS**

Chief Sponsor: Sandra Hollins
 Senate Sponsor: Jani Iwamoto
 Cosponsors: Patrice M. Arent
 Rebecca Chavez-Houck
 Rich Cunningham
 Susan Duckworth
 Michael S. Kennedy
 Carol Spackman Moss
 Marie H. Poulson
 Angela Romero

LONG TITLE

General Description:

This concurrent resolution of the Legislature and the Governor expresses support for the 2015 Parliament of the World's Religions.

Highlighted Provisions:

This resolution:

- ▶ recognizes the importance of the Parliament of the World's Religions as an international conference to find common ground between faiths;
- ▶ urges support for, and participation in, the Parliament of the World's Religions; and
- ▶ recognizes the Parliament of the World's Religions' focus on addressing violence and war, decreasing wealth disparities, caring for creation, and encouraging sustainable living.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, Utah will be in the international spotlight when Salt Lake City hosts the international interfaith conference of the Parliament of the World's Religions from October 15-19, 2015;

WHEREAS, Utah has the experience and existing infrastructure to embrace people from across the globe;

WHEREAS, over 10,000 people from around the world plan to attend the Parliament of the World's Religions to find common ground while respecting all faiths and beliefs;

WHEREAS, Utah has strong interfaith roots;

WHEREAS, Utah is the world headquarters of The Church of Jesus Christ of Latter-day Saints, which supports and promotes interfaith connections;

WHEREAS, The Church of Jesus Christ of Latter-day Saints Newsroom web page titled "Environmental Stewardship and Conservation" states, "All humankind are stewards over the earth and should gratefully use what God has given, avoid wasting life and resources and use the bounty of the earth to care for the poor and the needy" and "The earth and all things on it should be used responsibly to sustain the human family. However, all are stewards -- not owners -- over this earth and its bounty and will be accountable before God for what they do with His creations";

WHEREAS, the 2015 theme of the Parliament of the World's Religions is "Reclaiming the Heart of our Humanity: Working Together for a World of Compassion, Peace, Justice, and Sustainability";

WHEREAS, the 2015 Parliament of the World's Religions will focus on addressing violence and war, decreasing wealth disparities, caring for creation, and encouraging sustainable living;

WHEREAS, the 2015 Parliament of the World's Religions will put extra time and energy into reaching out to three special groups namely, young

people and students, indigenous peoples, and women;

WHEREAS, the 2015 Parliament of the World's Religions will host His Holiness the Dalai Lama and several other Nobel Peace Prize winners and religious dignitaries; and

WHEREAS, the 2015 Parliament of the World's Religions will generate over \$14 million in tourist-participant related revenues for the local economy:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, welcomes the thousands of participants in the Parliament of the World's Religions from around the world to the state of Utah.

BE IT FURTHER RESOLVED that the Legislature and the Governor particularly welcome young people and students, indigenous peoples, and women as participants in the 2015 Parliament of the World's Religions.

BE IT FURTHER RESOLVED that the Legislature and the Governor welcome His Holiness the Dalai Lama and several other Nobel Peace Prize winners and religious dignitaries.

BE IT FURTHER RESOLVED that the Legislature and the Governor recognize the Parliament of the World's Religions' focus on addressing violence and war, decreasing wealth disparities, caring for creation, and encouraging sustainable living.

BE IT FURTHER RESOLVED that the Legislature and the Governor recognize the importance of a strong interfaith movement.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the international interfaith conference of the Parliament of the World's Religions and the Salt Lake Interfaith Roundtable.

H.C.R. 5

Passed March 4, 2015

Approved March 24, 2015

Effective March 24, 2015

CONCURRENT RESOLUTION REGARDING AN INTERLOCAL AGREEMENT WITH JORDAN RIVER COMMISSION

Chief Sponsor: Rich Cunningham

Senate Sponsor: Jani Iwamoto

LONG TITLE

General Description:

This concurrent resolution expresses support for the interlocal cooperation agreement between state agencies and other governmental entities that have interests in the Jordan River watershed.

Highlighted Provisions:

This concurrent resolution:

- ▶ supports the involvement of the Utah Transit Authority, the Utah Department of Natural Resources, and the Utah Department of Environmental Quality in the Jordan River Commission; and
- ▶ encourages the development of comprehensive management plans for the Jordan River and its stream banks that address:
 - conservation and protection of the river's natural resources;
 - maintenance and development of recreation access; and
 - responsible economic development activities around the river.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, an Interlocal Cooperation Agreement (Agreement) establishing the Jordan River Commission was created in 2010;

WHEREAS, the Agreement is between state agencies and political subdivisions, including the Department of Natural Resources, the Department of Environmental Quality, the Utah Transit Authority, the Jordan Valley Water Conservancy District, Utah County, Davis County, Salt Lake County, municipalities located within the Jordan River watershed, and other interested governmental and non-governmental parties;

WHEREAS, the Agreement is entered into by the parties in order to:

- develop and implement comprehensive management plans for the Jordan River and its stream banks;
- encourage and promote multiple uses of the Jordan River;
- conserve and protect the Jordan River's natural resources;
- maintain and develop recreation access to the Jordan River; and
- monitor and promote responsible economic development activities around the Jordan River;

WHEREAS, the parties to the Agreement are enthusiastic about cooperating and coordinating on decisions about the Jordan River's future;

WHEREAS, the governing board of the Jordan River Commission currently consists of:

- an appointed elected official from each participating county;
- an appointed elected official from each participating municipality;
- an appointed representative from each participating department, division, or agency of the state of Utah;
- an individual appointed by the Governor of the state of Utah;
- an appointed member of the Utah Legislature whose district includes residents along the Jordan River;

- an appointed representative from each ex officio member; and
- an appointed member from each limited purpose local government entity;

WHEREAS, the state should be a party to any ongoing dialogue and involvement in the Jordan River's future and development, and should be at the forefront of input and planning;

WHEREAS, the Utah Transit Authority and state agencies, including the Department of Natural Resources and the Department of Environmental Quality, have a desire and obligation to help the Jordan River Commission succeed;

WHEREAS, these entities have committed to supporting the Jordan River Commission through financial or in-kind contributions, including office space, computers, telephone and Internet, GIS mapping, copying and printing, and use of equipment; and

WHEREAS, the Agreement also provides that the Utah Transit Authority and state agencies, including the Department of Natural Resources and the Department of Environmental Quality, may withdraw from the Jordan River Commission after proper notice of intent to withdraw:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, gives approval to the Utah Transit Authority and state agencies, including the Department of Natural Resources and the Department of Environmental Quality, to enter into the Interlocal Cooperation Agreement with the Jordan River Commission.

BE IT FURTHER RESOLVED that copies of this resolution be sent to the Jordan River Commission, the Utah Department of Natural Resources, the Utah Department of Environmental Quality, the Utah Transit Authority, and the Governor of the state of Utah.

H.C.R. 7

Passed March 12, 2015
 Approved March 20, 2015
 Effective March 20, 2015

CONCURRENT RESOLUTION URGING DEVELOPMENT OF METHODS TO MINIMIZE EXCESSIVE TESTING AND ITS NEGATIVE IMPACTS ON THE SCHOOLCHILDREN OF UTAH

Chief Sponsor: Marie H. Poulson
 Senate Sponsor: Aaron Osmond

LONG TITLE

General Description:

This concurrent resolution of the Legislature and the Governor urges the development of methods and protocols that will minimize excessive

standardized testing and its negative effects on Utah's public schoolchildren.

Highlighted Provisions:

This resolution:

- ▶ expresses support for educators throughout the state of Utah who strive to minimize excessive testing and its negative effects on Utah's public schoolchildren;
- ▶ urges that the Utah State Board of Education, with the participation of Utah's local school boards, parents, and teachers, to study methods and protocols related to testing that, given the current restrictions imposed by federal law, minimize testing and maximize the integration of testing into an aligned curriculum;
- ▶ urges the Utah State Board of Education to report those methods and protocols to the Utah Legislature's Education Interim Committee in the committee's September 2015 meeting;
- ▶ urges that, at that same meeting, the Utah State Board of Education also report to the Education Interim Committee any methods, approaches, and protocols that may require legislation to implement; and
- ▶ urges the Utah State Board of Education to make these legislative recommendations to allow the Education Interim Committee time to study the issues and develop potential legislation for introduction in the Utah Legislature's 2016 General Session.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, the appropriate use of assessment is to inform daily instruction;

WHEREAS, excessive and unnecessary testing in public elementary and secondary schools is counterproductive;

WHEREAS, parents and educators care about how students learn and should be held responsible for using available data, including appropriate formative assessments, to inform and differentiate instruction for each student;

WHEREAS, since the enactment of the No Child Left Behind Act of 2001, Utah has been obliged to shift too much of its focus in public education from teaching to testing;

WHEREAS, although standardized testing is a partial measure of performance in school, undue emphasis on such testing combined with the attachment of high stakes leads to a situation in which teachers may feel pressure to spend more time preparing students to take tests and less time educating;

WHEREAS, this situation leads to students spending more time taking tests and less time learning;

WHEREAS, many parents, concerned and hopeful that their children will gain knowledge in school that prepares them to face economic and other life challenges, question how excessive testing prepares their children;

WHEREAS, standardized testing often emphasizes rote memorization of basic facts rather than deep understanding and application of concepts;

WHEREAS, overemphasis on standardized testing in certain core areas restricts the implementation of a broad, rich curriculum;

WHEREAS, excessive standardized testing limits students' access to technology as a learning tool because this technology must be used to administer testing;

WHEREAS, high stakes standardized testing is different from and should not be confused with testing for Individualized Education Program development, Advanced Placement, International Baccalaureate, or American College Testing examinations for college credit;

WHEREAS, the Utah State Board of Education, with the participation of other stakeholders, should study and implement methods, approaches, and protocols related to testing that, given the current restrictions imposed by federal law, minimize the negative effects of testing and maximize the integration of testing into an aligned curriculum;

WHEREAS, the Utah State Board of Education should report those methods, approaches, and protocols it intends to implement to the Utah Legislature's Education Interim Committee in its September 2015 meeting; and

WHEREAS, at that same meeting, the Utah State Board of Education should also report to the Education Interim Committee any methods, approaches, and protocols that may require legislation to allow the Education Interim Committee time to study the issues and develop potential legislation for introduction in the Utah Legislature's 2016 General Session:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, expresses support for educators throughout the state of Utah who strive to minimize excessive and unnecessary testing on Utah's public schoolchildren.

BE IT FURTHER RESOLVED that the Legislature and the Governor urge Utah's education stakeholders, including the Utah State Board of Education, Utah's local school boards, parents, and teachers to study and develop methods and protocols, for implementation in Utah's public school classrooms, that minimize excessive and unnecessary testing on Utah's public schoolchildren.

BE IT FURTHER RESOLVED that the Legislature and the Governor urge that the Utah State Board of Education, with the participation of Utah's local school boards, parents, and teachers, study methods and protocols related to testing that, given the current restrictions imposed by federal law, minimize testing and maximize the integration of testing into an aligned curriculum.

BE IT FURTHER RESOLVED that the Legislature and the Governor urge that the Utah State Board of Education report those methods and protocols to the Utah Legislature's Education Interim Committee in the committee's September 2015 meeting.

BE IT FURTHER RESOLVED that the Legislature and the Governor urge that, at that same meeting, the Utah State Board of Education also report to the Education Interim Committee any methods and protocols that may require legislation to implement.

BE IT FURTHER RESOLVED that the Legislature and the Governor urge the Utah State Board of Education to make these legislative recommendations to allow the Education Interim Committee time to study the issues and develop potential legislation for introduction in the Utah Legislature's 2016 General Session.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the Utah State Board of Education and each of Utah's local public school boards.

H.C.R. 8

Passed March 9, 2015
Approved March 25, 2015
Effective March 25, 2015

CONCURRENT RESOLUTION ON CARBON SEQUESTRATION ON RANGELANDS

Chief Sponsor: Michael E. Noel
Senate Sponsor: David P. Hinkins

LONG TITLE

General Description:

This concurrent resolution of the Legislature and the Governor calls on the President of the United States to direct federal agencies that implement management practices that increase soil carbon sequestration to develop comprehensive plans that achieve the maximum amount of carbon sequestration possible and increase the economic and environmental productivity of rangelands and urges similar action within each state.

Highlighted Provisions:

This concurrent resolution:

- ▶ declares that emphasizing improved soil health as the primary means of removing atmospheric carbon dioxide represents a win/win solution to the current climate change controversy;
- ▶ calls on the President of the United States to direct those federal agencies currently permitted by law to implement management practices that increase soil carbon sequestration to develop, in a timely fashion, comprehensive plans to achieve the maximum amount of carbon sequestration possible in ways that will increase the economic and environmental productivity of rangelands;
- ▶ finds that these actions, if taken by the President of the United States, fit firmly within the purposes of the President's Executive Order 13653 and other statements made by the President;

- ▶ calls upon the leader of each legislative house in each of the other states to implement improved soil health as the primary means of removing atmospheric carbon dioxide to the maximum extent possible; and
- ▶ urges Utah state agencies with authority to manage lands to increase soil carbon sequestration, or that may encourage greater soil carbon sequestration on private lands, to also develop plans to accomplish these goals for the benefit of the environment and citizens of the state of Utah.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, the national debate over whether and to what extent human activity is contributing to climate change is increasingly heated and divisive;

WHEREAS, the federal government has identified carbon dioxide as a pollutant and as the major contributor to climate change;

WHEREAS, many of the proposals and technologies being considered by the federal government to reduce carbon dioxide emissions would, if implemented, cause major dislocation and great economic harm to the state of Utah and the nation;

WHEREAS, because of these negative impacts, many citizens strenuously oppose implementing the current carbon dioxide reduction proposals;

WHEREAS, forests, rangelands, and agricultural soils have long been recognized as major carbon sinks for removing and storing atmospheric carbon;

WHEREAS, these terrestrial carbon sinks have become less effective in storing atmospheric carbon in recent decades;

WHEREAS, due to sub-optimal management practices on vast acreages, terrestrial carbon sinks are actually releasing previously stored carbon into the atmosphere as carbon dioxide and therefore contributing to atmospheric carbon dioxide loading;

WHEREAS, in recent years, scientific research has resulted in much better understanding of the dynamics of healthy soil communities that are the active mechanism to sequester atmospheric carbon;

WHEREAS, in recent decades the development and application of advanced forestry, rangeland management, and agricultural practices have been demonstrated conclusively at the experimental, farm, and landscape scale to improve the health of these soil communities, thereby generating a wide range of economic and environmental benefits;

WHEREAS, these benefits include increased productivity and profitability of lands, restored native bio-diversity, improved watershed health and quality, improved quality and quantity of water, better wildlife habitat, increased resistance to drought, and in the long term, the sequestration of vast amounts of atmospheric carbon in the soil;

WHEREAS, while these advanced practices have been widely demonstrated in various locations, including Deseret Ranch in Utah, they have not been incorporated into federal land management practices to any significant degree;

WHEREAS, current unwise and unscientific rangeland management practices mandated by the federal government are not only the major cause of the continued widespread deterioration of public rangeland, and all the associated economic and environmental harm, but also are contributing to atmospheric carbon dioxide loading through the loss of carbon dioxide sequestered in these soils;

WHEREAS, far superior grazing policies, including those widely demonstrated at Deseret Ranch and other locations, could easily be adopted by federal management agencies and would not only reverse this current decline but would also heal ecosystems;

WHEREAS, these more effective grazing policies would produce a wide range of economic and environmental benefits;

WHEREAS, proven advanced forestry practices would, if adopted by federal land management agencies, substantially improve the health and productivity of forest lands, greatly reduce the risk of catastrophic fire, restore native biodiversity, and generate a wide range of other economic and environmental benefits while vastly increasing the amount of atmospheric carbon being sequestered;

WHEREAS, productive partnerships between federal, state, and local government agencies and private entities have shown great promise as they have implemented these best management practices on a landscape scale;

WHEREAS, terrestrial carbon sinks offer immense potential for removing vast amounts of atmospheric carbon;

WHEREAS, scientists calculate that if best management practices were applied to forests, rangelands, and agricultural lands, the lands have the potential to sequester all of the atmospheric carbon produced by human activities from the beginning of the Industrial Revolution to the present day;

WHEREAS, unlike the disruptive, unaffordable, and economically unsustainable approaches now being pursued, applying these techniques to sequester carbon long-term will result in net benefit to the public and private interests;

WHEREAS, this approach to carbon sequestration is clearly a win/win solution to the climate change debate;

WHEREAS, this approach effectively meets the concerns of those who believe that atmospheric carbon dioxide levels must be reduced while alleviating the concerns of those who oppose current approaches due to the harm to consumers, the state of Utah, and the nation because this approach generates major economic and environmental benefits at little or no net cost;

WHEREAS, Presidential Executive Order 13653 was signed in November 2013 and directs federal

agencies to prepare to deal with the effects of climate change; and

WHEREAS, this executive order has set as a goal for all federal agencies with any responsibility for natural resource management to “increase carbon sequestration”:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, declares that emphasizing improved soil health as the primary means of removing atmospheric carbon dioxide represents a win/win solution to the current climate change controversy.

BE IT FURTHER RESOLVED that the Legislature and the Governor call on the President of the United States to direct those federal agencies currently permitted by law to implement management practices that increase soil carbon sequestration to develop, in a timely fashion, comprehensive plans to achieve the maximum amount of carbon sequestration possible in ways that will increase the economic and environmental productivity of rangelands.

BE IT FURTHER RESOLVED that the Legislature and the Governor find that these actions, if taken by the President of the United States, fit firmly within the purposes of the President’s Executive Order 13653 and other statements made by the President.

BE IT FURTHER RESOLVED that the Legislature and the Governor call upon the leader of each legislative house in each of the other states to implement improved soil health as the primary means of removing atmospheric carbon dioxide to the maximum extent possible.

BE IT FURTHER RESOLVED that the Legislature and the Governor urge all state agencies with authority to manage lands to increase soil carbon sequestration, or that may encourage greater soil carbon sequestration on private lands, to also develop plans to accomplish these goals for the benefit of the environment and citizens of the state of Utah.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the President of the United States, the Majority Leader of the United States Senate, the Speaker of the United States House of Representatives, the United States Secretary of the Interior, the United States Secretary of Agriculture, the United States Secretary of Health and Human Services, the United States Secretary of Housing and Urban Development, the United States Secretary of Commerce, the United States Secretary of Energy, the United States Secretary of Transportation, the United States Environmental Protection Agency, the leader of each legislative house in each of the other states, and the members of Utah’s congressional delegation.

H.C.R. 10

Passed March 12, 2015
Approved March 23, 2015
Effective March 23, 2015

CONCURRENT RESOLUTION ON BASING AND INFRASTRUCTURE IN SUPPORT OF NATIONAL AND STATE DEFENSE

Chief Sponsor: Val L. Peterson
Senate Sponsor: Jerry W. Stevenson

LONG TITLE

General Description:

This bill strongly urges support for moving Air National Guard operations to Hill Air Force Base.

Highlighted Provisions:

This resolution:

- ▶ acknowledges and urges the integration of Reserve, National Guard, and Active Duty military components;
- ▶ notes the 2014 legislative study regarding the value and benefits of co-locating Utah Air National Guard with other components at Hill Air Force Base;
- ▶ supports the strategic value and location of Hill Air Force Base and the open air training and test ranges; and
- ▶ strongly encourages continuing Utah’s legacy of collaborative support for national and state defense.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, the National Commission on the Structure of the Air Force Act (Commission) was adopted by Congress in 2012 for the purpose of undertaking a comprehensive study of the structure of the Air Force to determine how best to fulfill current and future mission requirements;

WHEREAS, the Commission was required to submit its final report and recommendation not later than February 1, 2014, for legislation and administrative actions that may be appropriate;

WHEREAS, this concurrent resolution is a result of some of the recommendations from the study;

WHEREAS, the Commission notes that increasing integration of Reserve, National Guard, and Active Duty Component Airmen at headquarters and units, and increasing the number of integrated or multi-component or associate units will lead directly to improved processes as well as more effective and efficient employment of the total Air Force;

WHEREAS, the Commission noted that increasing the number of associate units could allow for consolidation of support infrastructure, which would create added efficiencies;

WHEREAS, the Commission noted that continuing to operate all current bases at the same level of effort will require the Air Force to reallocate present and future funding and reduce some of the

benefits that would otherwise be gained by the Commission's force structure recommendations;

WHEREAS, the increasingly complex security environment with its evolving asymmetric threats require greater collaboration between Utah communities and local, state, and federal authorities;

WHEREAS, the Legislature of the state of Utah and the Governor of Utah in the 2014 legislative session appropriated \$300,000 to study the value and benefit of co-locating the Utah Air National Guard with its KC-135R, Air Control, Intelligence, and other support missions with other active and reserve components at Hill Air Force Base to achieve the integration and efficiencies identified by the Commission;

WHEREAS, the United States Congress has provided ample authority to enable innovative solutions to reduce infrastructure, consolidate military forces, and increase total force integration, including the exchange authority in United States Code, Title 10, Section 18240, allowing the exchange of reserve component facilities such as those located at the Salt Lake International Airport at the Roland R. Wright Air National Guard Base;

WHEREAS, the United States Air Force, recognizing the strategic value and location of Hill Air Force Base, adjacent to the Utah Test and Training Range, selected the 388th Fighter Wing and the Air Force Reserve 419th Fighter Wing to become the USAF's first operational units flying the F-35A Lightning II, with the first jet projected to arrive at Hill Air Force Base in September 2015 and at least 72 jets projected to arrive in total;

WHEREAS, the Utah Test and Training Range provides responsive open air training and test services that support day-to-day training, large force training exercises, and large footprint weapons testing, thus assuring superiority for America's war fighters and their weapons systems; and

WHEREAS, the citizens of the state of Utah have demonstrated a legacy of support for national defense Hill Air Force Base being the direct result of a collaborative community, state, and federal effort beginning in 1935:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, expresses support for continuing Utah's legacy of support for national defense by collaboratively working with community, state, and national stakeholders to meet the challenge of today's budgetary and security environment by using the reserve component exchange and other authority to achieve required force integration, infrastructure consolidation, cost savings, and new efficiencies in the interest of the nation's long-term security.

BE IT FURTHER RESOLVED that the Legislature and the Governor urge support for expansion, consolidation, and protection of the Utah Test and Training Range to preserve this invaluable training area for future generations.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the United States Department of Defense, the United States Air Force, the National Guard Bureau, and the members of Utah's congressional delegation.

H. C. R. 11

Passed March 12, 2015

Approved March 30, 2015

Effective March 30, 2015

**CONCURRENT RESOLUTION
RECOGNIZING THE 50TH ANNIVERSARY
OF THE OFFICE OF THE STATE
FIRE MARSHAL**

Chief Sponsor: Eric K. Hutchings

Senate Sponsor: Curtis S. Bramble

Cosponsors: Johnny Anderson

Scott H. Chew

Kim Coleman

James A. Dunnigan

Gage Froerer

Mike K. McKell

Kraig Powell

Douglas V. Sagers

Norman K Thurston

R. Curt Webb

John R. Westwood

LONG TITLE

General Description:

This concurrent resolution of the Legislature and the Governor recognizes the 50th anniversary of the creation of the Office of the State Fire Marshal.

Highlighted Provisions:

This resolution:

- ▶ recognizes the 50th anniversary of the creation of the Office of the State Fire Marshal; and
- ▶ expresses continued support for the Office of the State Fire Marshal's management on behalf of its beneficiaries and recognizes its assistance to the state of Utah and its municipalities.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, in 1963, the Legislature of the state of Utah, recognizing the need to improve state fire prevention laws, passed House Bill 106, which created the Utah State Fire Prevention Board and the Office of the State Fire Marshal;

WHEREAS, the Utah Fire Prevention Board and the appointed State Fire Marshal fulfilled a legislative mandate by establishing a state fire code; and

WHEREAS, the Office of the State Fire Marshal has:

- established a firefighter training program at the Utah Technical College in Provo, an institution that continues to thrive and provide training for all 268 career and volunteer fire departments in Utah at Utah Valley University;

- established a State Fire Prevention Code that was approved by the Utah Fire Prevention Board and enacted by the Legislature; and
- built relationships and supported fire departments throughout the state:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, recognizes the 50th anniversary of the creation of the Office of the State Fire Marshal.

BE IT FURTHER RESOLVED that the Legislature and the Governor express continued support for the Office of the State Fire Marshal's management on behalf of its beneficiaries.

BE IT FURTHER RESOLVED that the Legislature and the Governor express support for the assistance provided by the Office of the State Fire Marshal to local fire departments with inspections, reviews, and fire investigations.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the Office of the State Fire Marshal and the Utah Department of Public Safety.

H.C R. 12

Passed March 12, 2015
 Approved March 23, 2015
 Effective March 23, 2015

**CONCURRENT RESOLUTION
 ON HEALTHCARE**

Chief Sponsor: James A. Dunnigan
 Senate Sponsor: Brian E. Shiozawa

LONG TITLE

General Description:

This concurrent resolution of the Legislature expresses a commitment to collaborate on a solution for the healthcare coverage gap.

Highlighted Provisions:

This resolution:

- ▶ recognizes that the executive and legislative branches have each proposed significant solutions to cover Utahns living in the coverage gap, but need more time to work together and agree on one specific resolution;
- ▶ expresses a commitment to ongoing collaboration and negotiations; and
- ▶ expresses a desire to reach a resolution by a target date of July 31, 2015.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, the Affordable Care Act has created a coverage gap, leaving Utah's poor and needy without adequate access to healthcare;

WHEREAS, the Legislature recognizes the importance for individuals and families to be as

self-sufficient as their particular circumstances allow, as well as that the lack of access to healthcare can impair a person's ability to provide for self and family;

WHEREAS, certainty, predictability, and maintaining the state's ability to meet its financial obligations are important issues;

WHEREAS, the United States Supreme Court is currently considering King v. Burwell, argued March 4, 2015, and will issue a decision in the coming months that could change factors related to the Affordable Care Act;

WHEREAS, all involved agree that doing nothing in regard to healthcare is not an option;

WHEREAS, the executive and legislative branches have each proposed significant solutions to cover Utahns living in the coverage gap, but need more time to work together and agree on one specific resolution on how to address this complex and weighty matter; and

WHEREAS, Governor Gary R. Herbert, Lieutenant Governor Spencer J. Cox, President Wayne L. Neiderhauser, and Speaker Gregory H. Hughes will work to find a resolution to this difficult and critical issue by a target date of July 31, 2015:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, commits to the people of Utah to continue to work toward finding a solution to this critical issue.

BE IT FURTHER RESOLVED, consistent with this resolution and discussions between the legislative and executive branches, that the parties will continue to collaborate with each other, and together negotiate with the President of the United States, Secretary Burwell, and the Centers for Medicare and Medicaid Services to find a solution that works for the people of Utah.

BE IT FURTHER RESOLVED, upon reaching an agreement and if necessary, that Governor Gary R. Herbert may call a special session in the 2015 legislative interim for the purpose of resolving this issue.

H. J. R. 1

Passed February 6, 2015
 Effective February 6, 2015

**JOINT RULES RESOLUTION
 ON PERFORMANCE NOTES**

Chief Sponsor: Rebecca Chavez-Houck
 Senate Sponsor: Luz Escamilla

LONG TITLE

General Description:

This joint rules resolution of the Legislature modifies provisions related to performance review notes.

Highlighted Provisions:

This resolution:

- ▶ requires the legislative fiscal analyst to review and analyze legislation to determine if it creates a new program or a new agency within one business day instead of three business days of receiving the legislation; and
- ▶ makes technical changes.

Special Clauses:

None

Legislative Rules Affected:

AMENDS:

JR4-2-404

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

Section 2. JR4-2-404 is amended to read:

**JR4-2-404. Performance review notes --
Review of performance measures.**

(1) As used in this section:

(a) (i) "New agency" means:

(A) a state governmental entity that did not previously exist;

(B) a governmental entity that requires a new appropriation for new funding;

(C) a governmental entity that is modified by legislation to add significant services or benefits that were not previously offered by the governmental entity; or

(D) a governmental entity that is modified by legislation to substantially expand the scope of individuals or entities that are entitled to receive the services or benefits offered by the governmental entity.

(ii) "New agency" does not mean a governmental entity that has been renamed or moved to another organizational position within that branch of government unless the governmental entity meets the criteria in Subsection (1)(a)(i)(C) or (D).

(b) (i) "New program" means a program:

(A) created by statute that did not previously exist;

(B) that requires a new appropriation or an increased appropriation for the purpose of adding significant services or benefits that were not previously offered;

(C) that is modified by legislation to add significant services or benefits that were not previously offered by the program; or

(D) that is modified by legislation to substantially expand the scope of individuals or entities that are entitled to receive the services or benefits offered by the program.

(ii) "New program" does not mean a program that has been renamed or moved to another organizational position within that branch of government unless the governmental entity meets the criteria in Subsection (1)(b)(i)(C) or (D).

(c) "Performance note" means the statement of performance measures and information that may

be required to be printed with certain legislation according to the requirements of this rule.

(2) (a) When the legislative fiscal analyst receives the electronic copy of approved legislation from the Office of Legislative Research and General Counsel, the legislative fiscal analyst shall, within [~~three business days~~] one business day, review and analyze the legislation to determine if it creates a new program or a new agency.

(b) If the legislative fiscal analyst determines that the legislation creates a new agency or a new program, the legislative fiscal analyst shall:

(i) notify the sponsor of the legislation that the legislation qualifies for a performance note;

(ii) notify the governmental entity that will supervise the new agency, or the governmental entity that will administer the new program, that the governmental entity must submit a performance note that meets the requirements of Subsection (6) to the legislative fiscal analyst within three business days; and

(iii) prepare a notice that contains the information required by Subsection (2)(c) and print the notice with the legislation.

(c) The notice shall:

(i) disclose that a performance note is required, disclose the name of the governmental entity required to provide the performance note, and disclose the date on which the performance note is to be provided by the governmental entity; or

(ii) disclose that a performance note is not required because the legislation does not create a new program or new agency.

(d) (i) The legislative fiscal analyst may extend the deadline for the governmental entity's submission of the performance note if:

(A) the governmental entity requests that the deadline be extended to a date certain in writing before the performance note is due; and

(B) the sponsor of the legislation agrees to extend the deadline.

(ii) If the deadline is extended, the legislative fiscal analyst shall indicate the extended deadline as part of the performance note that is ultimately printed with the legislation.

(3) If the sponsor of the legislation disputes the legislative fiscal analyst's determination as to whether a performance note is required, the sponsor shall contact the legislative fiscal analyst to discuss that disagreement and provide evidence, data, or other information to support a different determination.

(4) (a) (i) When a governmental entity provides a performance note to the legislative fiscal analyst, the legislative fiscal analyst shall provide a copy of the performance note to the sponsor.

(ii) The sponsor of the legislation shall either approve the release of the performance note or reject the performance note.

(b) If the sponsor approves the performance note provided by the governmental entity, the legislative fiscal analyst shall print the performance note with the legislation.

(c) If the sponsor rejects the performance note provided by the governmental entity, the legislative fiscal analyst shall print the following with the legislation:

(i) the performance note provided by the governmental entity, with a notation that the sponsor rejected the submission; and

(ii) if the sponsor provides an alternative performance note to the legislative fiscal analyst within three business days of receiving the performance note, the alternative performance note, with a notation that the sponsor provided the alternative note due to the sponsor's rejection of the governmental entity's submission.

(5) If the governmental entity does not provide a performance note by the submission deadline, the legislative fiscal analyst shall print a performance note with the legislation that indicates only that the governmental entity did not submit performance measures by the submission deadline.

(6) A performance note shall contain the following information:

(a) the name of the governmental entity submitting the performance note, as applicable;

(b) the names and titles of the individuals who prepared the performance note; and

(c) a statement of performance measures that:

(i) explains the purpose and duties of the new program or agency;

(ii) lists the services that will be provided by the new program or agency;

(iii) lists the goals and proposed impacts that the new program or agency intends to achieve within one, two, and three years;

(iv) lists the resources and steps required to achieve the goals and proposed impacts;

(v) lists the benchmarks that the new program or agency will monitor to measure progress toward the goals and outcome;

(vi) lists the performance measures that will be used to evaluate progress toward the goals and proposed impacts; and

(vii) states how information on progress and performance measures will be gathered in a reliable, objective fashion.

(7) The performance note is not an official part of the legislation.

(8) After legislation that creates a new program or a new agency has gone into effect, the legislative auditor general shall, subject to the procedures and requirements of Utah Code Section 36-12-15:

(a) provide an outline of best practices to the governmental entity that administers the new program or to the new agency;

(b) include in the outline information to assist that governmental entity or new agency with the creation of:

(i) policies that promote best practices;

(ii) performance measures; and

(iii) data collection procedures; and

(c) for a new program or a new agency that was created by legislation where the governmental entity failed to provide a performance note:

(i) provide a notice to the governmental entity that administers the new program or to the new agency that the governmental entity or agency is required to submit a performance note to the legislative auditor general within 30 calendar days of the date of the notice;

(ii) retain the performance note that is received from the governmental entity or new agency and forward a copy of the note to:

(A) the primary sponsor of the legislation;

(B) the opposite house sponsor of the legislation;

(C) the president of the Senate and speaker of the House; and

(D) the Senate minority leader and House minority leader; and

(iii) if the governmental entity or new agency fails to provide a performance review note within the required deadline, provide notice to those listed in Subsection (8)(c)(ii) that a performance note was requested from, but was not received from, the governmental entity that administers the new program or the new agency.

(9) The legislative auditor general may use the performance note in its review of new programs and agencies under Utah Code Section 36-12-15.

H.J.R. 2

Passed February 26, 2015

Effective February 26, 2015

**JOINT RESOLUTION REAPPOINTING
LEGISLATIVE GENERAL COUNSEL**

Chief Sponsor: Gregory H. Hughes

Senate Sponsor: Wayne L. Niederhauser

LONG TITLE

General Description:

This joint resolution of the Legislature approves the reappointment of John L. Fellows as the Legislative General Counsel.

Highlighted Provisions:

This joint resolution:

- ▶ approves the reappointment of John L. Fellows as Legislative General Counsel for a six-year term.

Special Clauses:

None

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

WHEREAS, pursuant to Utah Code Ann. Section 36-12-7, (1953), the Legislative Management Committee has recommended the reappointment of Mr. John L. Fellows as Legislative General Counsel for the Utah Legislature; and

WHEREAS, the reappointment of Mr. John L. Fellows in this position for a term of office of six years beginning May 12, 2015, is subject to further approval of a majority vote of both the House of Representatives and the Senate:

NOW, THEREFORE, BE IT RESOLVED by the Legislature of the state of Utah that the reappointment of Mr. John L. Fellows as Legislative General Counsel for the Utah Legislature be approved for a six-year term of office beginning May 12, 2015.

H.J.R. 4

Passed February 13, 2015
Effective February 13, 2015

**JOINT RESOLUTION REGARDING
CONFERENCE COMMITTEE REPORTS**

Chief Sponsor: Angela Romero
Senate Sponsor: Todd Weiler

LONG TITLE

General Description:

This rules resolution modifies the legislative rule governing conference committee reports.

Highlighted Provisions:

This resolution:

- ▶ requires the name and vote of each member of a conference committee to be listed on the conference committee report.

Special Clauses:

None

Legislative Rules Affected:

AMENDS:

JR3-2-603

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

Section 1. JR3-2-603 is amended to read:

**JR3-2-603. Conference committee report --
Contents -- Disposition.**

(1) The conference committee's report shall ~~be in writing~~;

(a) be in writing; and

(b) list the vote of each member of the conference committee by name.

(2) (a) Subject to Subsection (2)(b), the committee may report any modifications or amendments to the bill that they think advisable.

(b) A conference committee may not consider or report on any matter except those at issue between the two houses.

(3) (a) If the bill being discussed by the conference committee is a House bill, the Senate conference committee members shall present the conference committee report first to the Senate.

(b) If the bill being discussed by the conference committee is a Senate bill, the House conference committee members shall present the conference committee report first to the House.

(4) (a) After a motion to adopt the conference committee report is approved, the bill shall be put at the top of the third reading calendar in the first house for consideration.

(b) When the first house has acted on the bill, it shall transmit the bill and the report to the other house, along with a letter explaining its action.

(c) Before a house's vote is taken on the conference committee report, the report shall be read.

H.J.R. 6

Passed March 11, 2015
Effective March 11, 2015
(Retrospective operation to November 15, 2014)

**JOINT RULES RESOLUTION
PROVIDING FOR REIMBURSEMENT
FOR LEGISLATIVE TRAINING DAYS**

Chief Sponsor: James A. Dunnigan
Senate Sponsor: Ralph Okerlund

LONG TITLE

General Description:

This joint rules resolution of the Legislature modifies provisions related to legislative expense reimbursement.

Highlighted Provisions:

This resolution:

- ▶ defines a term;
- ▶ amends the powers and duties of the Legislative Expenses Oversight Committee; and
- ▶ allows expense reimbursement for lodging, meals, and transportation for certain authorized legislative training days.

Special Clauses:

This bill provides retrospective operation.

Legislative Rules Affected:

AMENDS:

JR5-1-101
JR5-1-102
JR5-2-101
JR5-2-102
JR5-2-103

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

Section 1. JR5-1-101 is amended to read:

JR5-1-101. Definitions.

As used in this title:

(1) "Authorized legislative day" means:

(a) a general session day, which includes any day during the period that begins on the day that the Legislature convenes in annual general session until midnight of the 45th day of the annual general session;

(b) a special session day;

(c) a veto override session day;

(d) an interim day designated by the Legislative Management Committee; or

(e) any other day that includes a meeting of a committee, subcommittee, commission, task force, or other legislative meeting, provided that:

(i) the committee, subcommittee, commission, task force, or other entity is created by statute or joint resolution;

(ii) the legislator's attendance at the meeting is approved by the Legislative Management Committee; and

(iii) service and payment for service by the legislator is not in violation of the Utah Constitution, including Article V and Article VI, Sections 6 and 7.

(2) "Authorized legislative training day" means a day, other than an authorized legislative day, for which the Legislative Expenses Oversight Committee approves the reimbursement of expenses for lodging, meals, or transportation for a legislator or legislator-elect to attend:

(a) chair training;

(b) an issue briefing;

(c) legislative leadership instruction;

(d) legislative process training;

(e) legislative rules training;

(f) new legislator orientation; or

(g) another meeting to brief, instruct, orient, or train a legislator or legislator-elect in furtherance of the legislator's or legislator-elect's official duties.

[~~(2)~~] (3) "Reimbursement" means money paid to compensate a legislator for money spent by the legislator in furtherance of the legislator's official duties.

Section 2. JR5-1-102 is amended to read:

JR5-1-102. Legislative Expenses Oversight Committee.

(1) The presiding officer and the majority leader and minority leader of each house are the Legislative Expenses Oversight Committee for that house.

(2) Each committee shall:

(a) establish procedures to implement the rules on legislative expenses, including establishing systems and procedures for the reimbursement of legislative expenses;

(b) ensure that procedures are established for the purpose of avoiding duplicate or improper payments or reimbursements; and

(c) meet at least annually, or at the request of a majority of the committee, to review legislative expenses and travel budgets.

(3) Each committee may, for a calendar year, authorize:

(a) up to four authorized legislative training days for a legislator; and

(b) up to two additional authorized legislative training days for a:

(i) legislator-elect; or

(ii) legislator who is in the first year of office.

[~~(3)~~] (4) The presiding officer may authorize temporary emergency legislative expenses.

Section 3. JR5-2-101 is amended to read:

JR5-2-101. Reimbursement of lodging.

(1) Subject to the other provisions of this section, if a legislator's official duties [~~for an authorized legislative day~~] necessitate overnight accommodations, the legislator may receive reimbursement for any actual lodging expenses incurred by the legislator, not to exceed the daily rates published in the administrative rules governing reimbursement of lodging expenses for state employees[.], for an:

(a) authorized legislative day; or

(b) authorized legislative training day.

(2) Reimbursement for actual lodging expenses for a legislator for an authorized legislative day or authorized legislative training day shall be as provided in procedures established by the Legislative Expenses Oversight Committee.

Section 4. JR5-2-102 is amended to read:

JR5-2-102. Reimbursement of meal expenses.

(1) Subject to the other provisions of this section, a legislator may receive reimbursement for any actual meal expenses incurred by the legislator in association with the legislator's official duties [~~for an authorized legislative day~~], not to exceed the rates and subject to the time calculation requirements set in the administrative rules governing reimbursement of meal expenses for state employees[.] for an:

(a) authorized legislative day; or

(b) authorized legislative training day.

(2) Reimbursement for actual meal expenses for a legislator for an authorized legislative day or authorized legislative training day shall be as

provided in procedures established by the Legislative Expenses Oversight Committee.

Section 5. JR5-2-103 is amended to read:

JR5-2-103. Reimbursement for transportation costs.

(1) A legislator may receive reimbursement for any actual transportation costs incurred by the legislator in association with the legislator's official duties for an:

- (a) authorized legislative day[-]; or
- (b) authorized legislative training day.

(2) Transportation costs reimbursed under this section shall be equal to:

(a) for travel by private vehicle, the actual mileage incurred by the legislator for the legislator's private automobile use to and from the legislative meeting, to be paid in accordance with the private vehicle mileage reimbursement rate that is applied when daily pool fleet vehicles are unavailable, as published in the administrative rules governing reimbursement of transportation expenses for state employees;

(b) for public transportation:

(i) the actual cost of the transportation incurred by the legislator to and from the legislative meeting;

(ii) the private vehicle mileage actually incurred by the legislator to and from the terminus of the public transportation; and

(iii) the cost of parking actually incurred by the legislator; or

(c) for commercial transportation:

(i) the actual cost of the transportation, which shall be limited to coach or standard economy class, incurred by the legislator to and from the legislative meeting;

(ii) the private vehicle mileage actually incurred by the legislator to and from the terminus of the commercial transportation; and

(iii) the cost of parking actually incurred by the legislator.

(3) Reimbursement for actual transportation costs incurred for a legislator for an authorized legislative day or an authorized legislative training day shall be as provided in procedures established by the Legislative Expenses Oversight Committee.

Section 6. Retrospective operation.

This joint resolution of the Legislature has retrospective operation to November 15, 2014.

H.J.R. 7

Passed March 6, 2015

Effective March 6, 2015

JOINT RESOLUTION CALLING FOR A BALANCED BUDGET AMENDMENT TO THE U.S. CONSTITUTION

Chief Sponsor: Kraig Powell

Senate Sponsor: Curtis S. Bramble

Cosponsors: Stewart Barlow

Melvin R. Brown

Scott H. Chew

Kay J. Christofferson

Kim Coleman

Bruce R. Cutler

Rebecca P. Edwards

Steve Eliason

Justin L. Fawson

Brian M. Greene

Stephen G. Handy

Timothy D. Hawkes

Gregory H. Hughes

Ken Ivory

John Knotwell

Bradley G. Last

David E. Lifferth

Merrill F. Nelson

Jeremy A. Peterson

Dixon M. Pitcher

Paul Ray

Scott D. Sandall

Mike Schultz

V. Lowry Snow

Jon E. Stanard

John R. Westwood

Brad R. Wilson

LONG TITLE

General Description:

This joint resolution of the Legislature calls for an Article V convention to propose a balanced budget amendment to the United States Constitution.

Highlighted Provisions:

This resolution:

- ▶ applies to Congress for the calling of a convention of the states, limited to proposing an amendment to the United States Constitution requiring that, in the absence of a national emergency, the total of all federal appropriations made by Congress for a specified period not exceed the total of all estimated federal revenues for that period, together with any related and appropriate fiscal restraints;
- ▶ requests that this application be considered as covering the same subject matter as the presently outstanding balanced budget applications from other states;
- ▶ requests that this application be aggregated with the outstanding balanced budget applications from the other states for the purpose of attaining the two-thirds of states necessary to require the calling of a convention, but not be aggregated with any applications on any other subject;
- ▶ intends that the application made in this resolution constitute a continuing application, in accordance with Article V of the United States Constitution, until the legislatures of at least

two-thirds of the several states have made applications on the same subject; and

- ▶ intends that this application supersede all previous applications by the Legislature of the state of Utah on the same subject.

Special Clauses:

None

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

WHEREAS, under Article V of the Constitution of the United States, “The Congress, whenever two thirds of both houses shall deem it necessary, shall propose amendments to this Constitution, or, on the application of the legislatures of two thirds of the several states, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes, as part of this Constitution, when ratified by the legislatures of three fourths of the several states, or by conventions in three fourths thereof”; and

WHEREAS, the Legislature of the state of Utah has determined that calling for a balanced budget amendment to the United States Constitution is in the best interest of the citizens of Utah and the citizens of the United States of America:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, by this resolution, and under the provisions of Article V of the United States Constitution, applies to Congress for the calling of a convention of the states limited to proposing an amendment to the Constitution of the United States requiring that, in the absence of a national emergency, the total of all federal appropriations made by Congress for a specified period may not exceed the total of all estimated federal revenues for that period, together with any related and appropriate fiscal restraints.

BE IT FURTHER RESOLVED, it is the intent of the Legislature of the state of Utah that the delegates to such convention are prohibited from considering any other amendment or change to the Constitution of the United States.

BE IT FURTHER RESOLVED that the Legislature of the state of Utah respectfully requests that this application be considered as covering the same subject matter as the presently outstanding balanced budget applications from other states, including, but not limited to, previously adopted applications from Alabama, Alaska, Arkansas, Colorado, Delaware, Florida, Georgia, Indiana, Iowa, Kansas, Louisiana, Maryland, Michigan, Mississippi, Missouri, Nebraska, Nevada, New Hampshire, New Mexico, North Carolina, Ohio, Pennsylvania, South Dakota, Tennessee, and Texas.

BE IT FURTHER RESOLVED that the Legislature of the state of Utah respectfully requests that this application be aggregated with the applications from those states for the purpose of attaining the two-thirds of states necessary to require the calling of a convention, but not be aggregated with any applications on any other subject.

BE IT FURTHER RESOLVED that the Legislature of the state of Utah intends that this application constitute a continuing application in accordance with Article V of the Constitution of the United States until the legislatures of at least two-thirds of the several states have made applications on the same subject; provided, however, that the Legislature retains the authority to rescind this resolution and thereby cancel this application at any time for any reason.

BE IT FURTHER RESOLVED that the Legislature of the state of Utah reserves the right to withdraw its application in the event that Congress attempts to do anything other than call the convention as dictated by Article V of the United States Constitution.

BE IT FURTHER RESOLVED that the Legislature of the state of Utah intends that once the convention of the states applied for herein has been convened, the Legislature retains full authority, at its sole discretion, to immediately rescind and thereby cancel this application for convention, for any reason, including but not limited to, if the convention moves to consider or propose any amendment or change to the United States Constitution other than the amendment identified in this resolution.

BE IT FURTHER RESOLVED that the Legislature of the state of Utah intends that this application supersede all previous applications by the Legislature on the same subject.

BE IT FURTHER RESOLVED that copies of this resolution be sent to the Vice President of the United States, as President of the United States Senate, and to the Majority Leader of the United States Senate, the Speaker of the United States House of Representatives, and the members of Utah’s congressional delegation.

H.J.R. 8

Passed Legislature March 2, 2015
Effective date (if approved by voters)
January 1, 2017

**PROPOSAL TO AMEND
UTAH CONSTITUTION —
OATH OF OFFICE CHANGE**

Chief Sponsor: Kraig Powell
Senate Sponsor: Aaron Osmond

LONG TITLE

General Description:

This joint resolution of the Legislature proposes to amend the Utah Constitution to modify the oath of office.

Highlighted Provisions:

This resolution proposes to amend the Utah Constitution to:

- ▶ make a technical change to the wording of the oath of office for elective and appointive officers.

Special Clauses:

This resolution directs the lieutenant governor to submit this proposal to voters.

This resolution provides a contingent effective date of January 1, 2017 for this proposal.

Utah Constitution Sections Affected:

AMENDS:

ARTICLE IV, SECTION 10

Be it resolved by the Legislature of the state of Utah, two-thirds of all members elected to each of the two houses voting in favor thereof:

Section 1. It is proposed to amend Utah Constitution, Article IV, Section 10, to read:

Article IV, Section 10. [Oath of office.]

All officers made elective or appointive by this Constitution or by the laws made in pursuance thereof, before entering upon the duties of their respective offices, shall take and subscribe the following oath or affirmation: "I do solemnly swear (or affirm) that I will support, obey, and defend the Constitution of the United States and the Constitution of [this] the State of Utah, and that I will discharge the duties of my office with fidelity."

Section 2. Submittal to voters.

The lieutenant governor is directed to submit this proposed amendment to the voters of the state at the next regular general election in the manner provided by law.

Section 3. Effective date.

If the amendment proposed by this joint resolution is approved by a majority of those voting on it at the next regular general election, the amendment shall take effect on January 1, 2017.

H.J.R. 10

Passed February 20, 2015
Effective February 20, 2015

JOINT RESOLUTION REGARDING PUBLIC EMPLOYEE HEALTH PLAN

Chief Sponsor: James A. Dunnigan
Senate Sponsor: Ralph Okerlund

LONG TITLE

General Description:

This joint resolution of the Legislature directs the Public Employees' Benefit and Insurance Program to adjust cost sharing and reserves for the 2015-2016 benefit year.

Highlighted Provisions:

This joint resolution:

- ▶ instructs the Public Employees' Benefit and Insurance Program to adjust out-of-pocket costs; and
- ▶ instructs the Public Employees' Benefit and Insurance Program to transfer excess reserves.

Special Clauses:

None

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

WHEREAS, in accordance with Utah Code Section 49-20-201, the state participates in the Public Employees' Benefit and Insurance Program;

WHEREAS, Utah Code Subsection 49-20-401(1)(i) provides that the program "maintain reserves sufficient to liquidate the unrevealed claims liability and other liabilities of the employee benefit plans as certified by the program's consulting actuary";

WHEREAS, Utah Code Subsection 49-20-401(1)(j) provides that the program "submit, in advance, its recommended benefit adjustments for state employees to . . . the Legislature; and . . . the executive director of the state Department of Human Resource Management";

WHEREAS, Utah Code Subsection 49-20-401(1)(l) provides that the program "determine benefits and rates based on the total estimated costs and the employee premium share established by the Legislature, upon approval of the board, for state employees";

WHEREAS, the federal Affordable Care Act requires health benefit plans to adopt a total maximum out-of-pocket cap that does not exceed the highest deductible permitted for a health savings account qualified plan;

WHEREAS, the state's traditional, non-health savings account qualified health benefits plan has multiple, separate maximum out-of-pocket limits that, when combined, will exceed the cap permitted under federal law at the state's next renewal; and

WHEREAS, the Public Employees' Benefit and Insurance Program's medical risk pool for the state of Utah contains excess reserves:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah directs the Public Employees' Benefit and Insurance Program to modify the traditional health benefit plan by merging all deductibles into a single medical deductible and all maximum out-of-pockets into a single maximum out-of-pocket within 1% of the plan's current actuarial value.

BE IT FURTHER RESOLVED that the Legislature directs the Public Employees' Benefit and Insurance Program to transfer to the state and its employees based on relative contribution shares \$19 million in excess reserves by July 1, 2015.

H.J.R. 11

Passed January 29, 2015
Effective January 29, 2015

JOINT RESOLUTION AUTHORIZING PAY OF IN-SESSION EMPLOYEES

Chief Sponsor: James A. Dunnigan
Senate Sponsor: Ralph Okerlund

LONG TITLE

General Description:

This joint resolution of the Legislature sets the compensation for legislative in-session employees for 2015.

Highlighted Provisions:

This resolution:

- ▶ sets the compensation for legislative in-session employees for 2015; and
- ▶ increases salaries for in-session employees consistent with the state-wide cost-of-living increase authorized in the 2014 Legislative Session.

Special Clauses:

This resolution provides retrospective operation to January 3, 2015.

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

WHEREAS, the Legislature acting under the authority of Section 36-2-2, Utah Code Annotated 1953, is required to set the compensation of its in-session employees by joint resolution:

NOW, THEREFORE, BE IT RESOLVED by the Legislature of the state of Utah that the compensation of legislative in-session employees for actual hours worked be set as follows:

Employees shall be paid the hourly rate as specified in this resolution.

Employees who are working their first annual general session shall be paid under the "Level 1" scale.

Employees who are working their second annual general session shall be paid under the "Level 2" scale.

Employees who are working their third annual general session shall be paid under the "Level 3" scale.

Employees who are working their fourth annual general session shall be paid under the "Level 4" scale.

Employees who are working their fifth to ninth annual general session shall be paid under the "Level 5" scale.

Employees who are working their 10th to 14th annual general session shall be paid under the "Level 6" scale.

Employees who are working their 15th to 19th annual general session shall be paid under the "Level 7" scale.

Employees who are working their 20th or more annual general session shall be paid under the "Level 8" scale.

Senate employees are designated with an "S." House of Representatives employees are designated with an "H."

General Session - 2015

Employee Position	Level 1 Wage	Level 2 Wage	Level 3 Wage	Level 4 Wage	Level 5 Wage	Level 6 Wage	Level 7 Wage	Level 8 Wage
Admin. Asst. to Third House (H)	\$11.40	\$11.69	\$11.99	\$12.28	\$12.58	\$12.91	\$13.23	\$13.56
Amending Clerk/ Committee Secretary (H-S)	\$12.70	\$13.00	\$13.29	\$13.59	\$13.92	\$14.24	\$14.57	\$14.93
Assistant Page Supervisor (H-S)	\$11.13	\$11.40	\$11.69	\$11.99	\$12.28	\$12.58	\$12.91	\$13.23
Asst. Sergeant-at-Arms (H-S)	\$11.13	\$11.40	\$11.69	\$11.99	\$12.28	\$12.58	\$12.91	\$13.23
Calendar/Voting System Specialist (H)	\$11.40	\$11.69	\$11.99	\$12.28	\$12.58	\$12.91	\$13.23	\$13.56
Committee Secretary (H-S)	\$12.41	\$12.70	\$13.00	\$13.29	\$13.59	\$13.92	\$14.24	\$14.57
Docket Clerk (H)	\$12.91	\$13.23	\$13.56	\$13.92	\$14.27	\$14.63	\$15.02	\$15.39
Docket Clerk/Legislative Aide (S)	\$13.97	\$14.33	\$14.71	\$15.09	\$15.48	\$15.89	\$16.31	\$16.74
Kitchen Hostess (H-S)	\$10.33	\$10.58	\$10.86	\$11.13	\$11.40	\$11.69	\$11.99	\$12.28
IT Technician (S)	\$12.91	\$13.23	\$13.56	\$13.92	\$14.27	\$14.63	\$15.02	\$15.39
Page (H-S)	\$10.33	\$10.58	\$10.86	\$11.13	\$11.40	\$11.69	\$11.99	\$12.28
Page Supervisor (H-S)	\$12.91	\$13.23	\$13.56	\$13.92	\$14.27	\$14.63	\$15.02	\$15.39
Public Information Specialist (H-S)	\$10.33	\$10.58	\$10.86	\$11.13	\$11.40	\$11.69	\$11.99	\$12.28
Receptionist (H-S)	\$10.33	\$10.58	\$10.86	\$11.13	\$11.40	\$11.69	\$11.99	\$12.28
Receptionist and Legislative Aide (S)	\$11.40	\$11.69	\$11.99	\$12.28	\$12.58	\$12.91	\$13.23	\$13.56
Audio Specialist (H-S)	\$10.86	\$11.13	\$11.40	\$11.69	\$11.99	\$12.28	\$12.58	\$12.91
Secretarial Supervisor (H-S)	\$13.92	\$14.24	\$14.57	\$14.93	\$15.28	\$15.64	\$16.03	\$16.40
Security (H-S)	\$10.33	\$10.58	\$10.86	\$11.13	\$11.40	\$11.69	\$11.99	\$12.28
Sergeant-at-Arms (H-S)	\$12.91	\$13.23	\$13.56	\$13.92	\$14.27	\$14.63	\$15.02	\$15.39
Supply/Copy Room Specialist(H)	\$10.33	\$10.58	\$10.86	\$11.13	\$11.40	\$11.69	\$11.99	\$12.28
Tour Liaison (H-S)	\$10.33	\$10.58	\$10.86	\$11.13	\$11.40	\$11.69	\$11.99	\$12.28
Video Specialist (H-S)	\$10.33	\$10.58	\$10.86	\$11.13	\$11.40	\$11.69	\$11.99	\$12.28

The compensation schedule established by this resolution has retrospective operation to January 3, 2015.

H.J.R. 12

Passed February 26, 2015
Effective February 26, 2015

**JOINT RESOLUTION ON
HOMELESS AND RUNAWAY YOUTH**

Chief Sponsor: Gage Froerer
Senate Sponsor: Luz Escamilla
Cosponsors: Patrice M. Arent
Scott H. Chew
Rebecca P. Edwards
Justin L. Fawson
Sandra Hollins
Eric K. Hutchings
David E. Lifferth
Curtis Oda
Jeremy A. Peterson
Dixon M. Pitcher
Douglas V. Sagers
Earl D. Tanner
R. Curt Webb

LONG TITLE

General Description:

This joint resolution of the Legislature designates the month of November as "Homeless and Runaway Youth Awareness Month."

Highlighted Provisions:

This resolution:

- ▶ designates the month of November as "Homeless and Runaway Youth Awareness Month"; and
- ▶ recognizes the efforts of those addressing the problem of youth homelessness.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah:

WHEREAS, between 900 and 5,000 youth in Utah experience homelessness each year, the majority of whom are forced to live outdoors, on the streets, or in other places unfit for human habitation;

WHEREAS, families with children are the fastest growing segment of the homeless population and now account for approximately one-third of all homeless individuals;

WHEREAS, homeless and runaway youth are more likely to become chronically homeless adults later in life;

WHEREAS, 32% of homeless youth attempt suicide;

WHEREAS, many youth experience isolation and trauma while homeless, which can lead to depression, anxiety, and post-traumatic stress disorder;

WHEREAS, one of every three homeless youth will take illegal drugs for the first time while homeless;

WHEREAS, many homeless youth are lured into prostitution within 48 hours of leaving home and

are susceptible to becoming victims of human trafficking;

WHEREAS, homeless youth are typically too poor to secure basic needs, are unable to access adequate medical or mental health care, and often engage in "survival sex" in exchange for food, clothing, or shelter;

WHEREAS, 12-36% of youth in foster care will experience homelessness at least once after exiting foster care;

WHEREAS, homeless youth are most often expelled from their homes without adequate resources after being physically, sexually, or emotionally abused by their guardians or after being separated from their parents through death, divorce, or family rejection;

WHEREAS, 75% of homeless or runaway youth have dropped out of school or will drop out of school; and

WHEREAS, a heightened awareness of the tragedy of youth homelessness and its causes is essential for programs involving businesses, families, law enforcement agencies, schools, and community and faith-based organizations to be effective at helping youth remain off the streets, and for making youth homelessness prevention a local and state priority:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah designates the month of November as "Homeless and Runaway Youth Awareness Month" and encourages businesses, organizations, and volunteers to continue to intensify their efforts to address the needs of homeless and runaway youth.

BE IT FURTHER RESOLVED that the Legislature supports the values and efforts of businesses, organizations, and volunteers who are dedicated to preventing youth homelessness and to meeting the needs of homeless children and teens.

BE IT FURTHER RESOLVED that the Legislature applauds the initiative taken, and the time and resources donated by businesses, organizations, and volunteers, to increase the public's awareness of the problems of youth homelessness and increase awareness of the causes and potential solutions for youth homelessness, and also applauds the work they have performed through effective public and private partnerships to prevent homelessness among children and teens.

H.J.R. 13

Passed March 10, 2015
Effective March 10, 2015

**JOINT RESOLUTION TO END
UNREPORTED FEDERAL LIABILITIES**

Chief Sponsor: Steve Eliason
Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This joint resolution strongly urges the federal government to recognize its unreported liabilities in its financial statements and enact changes that will resolve the national debt crisis.

Highlighted Provisions:

This resolution:

- ▶ strongly urges the federal government to recognize its unreported liabilities in its financial statements and to formally include all of its obligations in national debt computations; and
- ▶ strongly urges the leaders of the United States in the legislative and executive branches of government to enact changes that will resolve the escalating national debt crisis.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah:

WHEREAS, one of the most basic characteristics of financial reporting is that financial statements provide relevant and reliable information to users for decision making;

WHEREAS, accounting standard setting bodies, such as the Financial Accounting Standards Board, set generally accepted accounting principles (GAAP) so that investors, policymakers, citizens, and others can have access to relevant and reliable financial information;

WHEREAS, management of public companies must follow GAAP in order to maintain the confidence of investors as well as avoid regulatory entanglements, legal liability, and criminal prosecution;

WHEREAS, when entities or individuals have deviated from GAAP, the results have brought about disastrous consequences for corporations and individual investors;

WHEREAS, for example, when Enron Corporation failed, thousands of people lost their jobs and thousands of investors collectively lost billions of dollars;

WHEREAS, Enron was liable for billions of dollars in obligations that were not reported on its balance sheet as liabilities, which made it difficult for analysts and investors to clearly understand the true picture of Enron's financial position prior to its collapse;

WHEREAS, GAAP requires that a public company reports its obligations as a liability on its balance sheet;

WHEREAS, in particular, GAAP requires that estimated retirement benefits be recognized as a liability on the balance sheet;

WHEREAS, companies that have obligations to pay their current and former employees for health care and retirement benefits are required to

recognize and report these obligations as a liability on their balance sheet;

WHEREAS, the United States government has an obligation to pay citizens' future retirement benefits and health care benefits, primarily through Social Security and Medicare;

WHEREAS, United States taxpayers are rightfully entitled to these benefits because taxpayers regularly contribute Social Security and Medicare premiums to the federal government through payroll deductions;

WHEREAS, the United States government does not currently include most of its obligations for retirement and health care benefits as liabilities in its financial statements;

WHEREAS, the amount of reported federal debt is staggering;

WHEREAS, as of the end of fiscal year 2014, total reported liabilities of the United States, including debt held by the public and debt held by the United States government, were over \$18 trillion;

WHEREAS, noted professor and accountant Robert D. Allen, Ph.D., writing for the Journal of Accounting Education in 2013, observed that "it took more than 200 years from the time of George Washington until 1982 to accumulate \$1 trillion in gross federal debt. In the last 30 years gross federal debt has increased by an additional \$15 trillion";

WHEREAS, the amount of unreported federal debt is even more staggering;

WHEREAS, estimates of total federal debt, including unreported liabilities, are at least \$70 trillion;

WHEREAS, according to some studies, the total federal debt, including unreported liabilities, is more than \$200 trillion;

WHEREAS, the United States Government Accountability Office predicts that the amount of federal debt, both reported and unreported, will continue to increase over the next two decades as the baby-boomer generation continues to retire;

WHEREAS, formally recognizing unrecorded liabilities is an important step that will help Congress and the public to better understand the extent of the problems associated with the national debt and deficit spending; and

WHEREAS, formally recognizing these liabilities as part of the national debt will also place Congress and the public in a better position to evaluate spending priorities and make equitable spending decisions in the future:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah strongly urges the federal government to recognize its unreported liabilities in its financial statements and to formally include all of its obligations in national debt computations.

BE IT FURTHER RESOLVED that the Legislature of the state of Utah strongly urges the

leaders of the United States in the legislative and executive branches of government to enact changes that will resolve the escalating national debt crisis.

BE IT FURTHER RESOLVED that the Legislature of the state of Utah calls on Senator Orrin Hatch, Senator Mike Lee, Representative Rob Bishop, Representative Jason Chaffetz, Representative Chris Stewart, and Representative Mia Love to sponsor or cosponsor legislation in Congress to address unreported liabilities in national debt computation and vote in favor of federal legislation designed to address the national debt.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the President of the United States, the Majority Leader of the United States Senate, the Speaker of the United States House of Representatives, the Financial Accounting Foundation, the Government Accounting Standards Board, the Financial Accounting Standards Board, the Congressional Budget Office, the United States Government Accountability Office, and the members of Utah's congressional delegation.

H.J.R. 20

Passed March 12, 2015
Effective March 12, 2015

**JOINT RESOLUTION AMENDING
CIVIL PROCEDURE RULE 62**

Chief Sponsor: Douglas V. Sagers
Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This joint resolution amends Utah Rules of Civil Procedure, Rule 62.

Highlighted Provisions:

This resolution:

- ▶ amends Utah Rules of Civil Procedure, Rule 62, by eliminating the requirement that municipalities post a bond when appealing a judgment over \$5,000,000.

Special Clauses:

This resolution provides a special effective date.

Utah Rules of Civil Procedure Affected:

AMENDS:

Rule 62, Utah Rules of Civil Procedure

Be it resolved by the Legislature of the state of Utah, two-thirds of all members elected to each of the two houses voting in favor thereof:

As provided in Utah Constitution Article VIII, Section 4, the Legislature may amend rules of procedure and evidence adopted by the Utah Supreme Court upon a two-thirds vote of all members of both houses of the Legislature:

Section 1. Rule 62, Utah Rules of Civil Procedure is amended to read:

Rule 62. Stay of proceedings to enforce a judgment.

(a) Delay in execution. No execution or other writ to enforce a judgment may issue until the expiration of ten days after entry of judgment, unless the court in its discretion otherwise directs.

(b) Stay on motion for new trial or for judgment. In its discretion and on such conditions for the security of the adverse party as are proper, the court may stay the execution of, or any proceedings to enforce, a judgment pending the disposition of a motion for a new trial or to alter or amend a judgment made pursuant to Rule 59, or of a motion for relief from a judgment or order made pursuant to Rule 60, or of a motion for judgment in accordance with a motion for a directed verdict made pursuant to Rule 50, or of a motion for amendment to the findings or for additional findings made pursuant to Rule 52(b).

(c) Injunction pending appeal. When an appeal is taken from an interlocutory order or final judgment granting, dissolving, or denying an injunction, the court in its discretion may suspend, modify, restore, or grant an injunction during the pendency of the appeal upon such conditions as it considers proper for the security of the rights of the adverse party.

(d) Stay upon appeal. When an appeal is taken, the appellant by giving a supersedeas bond may obtain a stay, unless such a stay is otherwise prohibited by law or these rules. The bond may be given at or after the time of filing the notice of appeal. The stay is effective when the supersedeas bond is approved by the court.

(e) [(1)] Stay in favor of the state, or agency thereof. When an appeal is taken by the United States, the state of Utah, or an officer or agency of either, or by direction of any department of either, and the operation or enforcement of the judgment is stayed, no bond, obligation, or other security shall be required from the appellant.

~~[(e) (2) For purposes of this rule, a municipality shall not be considered a state agency exempt from the requirement of posting a bond, obligation, or other security when appealing a judgment for any amounts in excess of \$5,000,000. To stay the enforcement of any judgment over \$5,000,000, the municipality shall be required to post security with the appellate court in the amount by which the judgment exceeds the sum of \$5,000,000 and for any interest that may accrue during the appeal.]~~

(f) Stay in quo warranto proceedings. Where the defendant is adjudged guilty of usurping, intruding into or unlawfully holding public office, civil or military, within this state, the execution of the judgment shall not be stayed on an appeal.

(g) Power of appellate court not limited. The provisions in this rule do not limit any power of an appellate court or of a judge or justice thereof to stay proceedings or to suspend, modify, restore, or grant an injunction, or extraordinary relief or to make any

order appropriate to preserve the status quo or the effectiveness of the judgment subsequently to be entered.

(h) Stay of judgment upon multiple claims. When a court has ordered a final judgment on some but not all of the claims presented in the action under the conditions stated in Rule 54(b), the court may stay enforcement of that judgment until the entering of a subsequent judgment or judgments and may prescribe such conditions as are necessary to secure the benefit thereof to the party in whose favor the judgment is entered.

(i) Form of supersedeas bond; deposit in lieu of bond; waiver of bond; jurisdiction over sureties to be set forth in undertaking.

(i) (1) A supersedeas bond given under Subdivision (d) may be either a commercial bond having a surety authorized to transact insurance business under Title 31A, or a personal bond having one or more sureties who are residents of Utah having a collective net worth of at least twice the amount of the bond, exclusive of property exempt from execution. Sureties on personal bonds shall make and file an affidavit setting forth in reasonable detail the assets and liabilities of the surety.

(i) (2) Upon motion and good cause shown, the court may permit a deposit of money in court or other security to be given in lieu of giving a supersedeas bond under Subdivision (d).

(i) (3) The parties may by written stipulation waive the requirement of giving a supersedeas bond under Subdivision (d) or agree to an alternate form of security.

(i) (4) A supersedeas bond given pursuant to Subdivision (d) shall provide that each surety submits to the jurisdiction of the court and irrevocably appoints the clerk of the court as the surety's agent upon whom any papers affecting the surety's liability on the bond may be served, and that the surety's liability may be enforced on motion and upon such notice as the court may require without the necessity of an independent action.

(j) Amount of supersedeas bond.

(j) (1) Except as provided in subsection (j)(2), a court shall set the supersedeas bond in an amount that adequately protects the judgment creditor against loss or damage occasioned by the appeal and assures payment in the event the judgment is affirmed. In setting the amount, the court may consider any relevant factor, including:

(j) (1) (A) the judgment debtor's ability to pay the judgment;

(j) (1) (B) the existence and value of security;

(j) (1) (C) the judgment debtor's opportunity to dissipate assets;

(j) (1) (D) the judgment debtor's likelihood of success on appeal; and

(j) (1) (E) the respective harm to the parties from setting a higher or lower amount.

(j) (2) Notwithstanding subsection (j)(1):

(j) (2) (A) the presumptive amount of a bond for compensatory damages is the amount of the compensatory damages plus costs and attorney fees, as applicable, plus 3 years of interest at the applicable interest rate;

(j) (2) (B) the bond for compensatory damages shall not exceed \$25 million in an action by plaintiffs certified as a class under Rule 23 or in an action by multiple plaintiffs in which compensatory damages are not proved for each plaintiff individually; and

(j) (2) (C) no bond shall be required for punitive damages.

(j) (3) If the court permits a bond that is less than the presumptive amount of compensatory damages, the court may also enter such orders as are necessary to protect the judgment creditor during the appeal.

(j) (4) If the court finds that the judgment debtor has violated an order or has otherwise dissipated assets, the court may set the bond under subsection (j)(1) without regard to the limits in subsection (j)(2).

(k) Objecting to sufficiency or amount of security. Any party whose judgment is stayed or sought to be stayed pursuant to Subdivision (d) may object to the sufficiency of the sureties on the supersedeas bond or the amount thereof, or to the sufficiency or amount of other security given to stay the judgment by filing and giving notice of such objection. The party so objecting shall be entitled to a hearing thereon upon five days notice or such shorter time as the court may order. The burden of justifying the sufficiency of the sureties or other security and the amount of the bond or other security, shall be borne by the party seeking the stay, unless the objecting party seeks a bond greater than the presumed limits of this rule. The fact that a supersedeas bond, its surety or other security is generally permitted under this rule shall not be conclusive as to its sufficiency or amount.

Section 2. Effective date.

This resolution takes effect upon approval by a constitutional majority vote of all members of the Senate and House of Representatives.

H.J.R. 21

Passed March 10, 2015

Effective March 10, 2015

**JOINT RESOLUTION GRANTING
EASEMENTS FOR CONSTRUCTION
OF A TRAFFIC LIGHT**

Chief Sponsor: Rebecca Chavez-Houck
Senate Sponsor: Jim Dabakis

LONG TITLE

General Description:

This joint resolution of the Legislature grants the Utah Department of Transportation permanent and temporary easements to construct and maintain certain utility facilities associated with the construction of a traffic signal abutting the northwest corner of Capitol Hill grounds.

Highlighted Provisions:

This resolution:

- ▶ grants the Utah Department of Transportation permanent and temporary easements of an approximate size of 111.56 square feet to construct and maintain certain utility facilities associated with the construction of a signal at the intersection of Columbus Street and 500 North abutting the northwest corner of Capitol Hill grounds; and
- ▶ urges the Utah Department of Transportation to further advise the Executive Director of the Capitol Preservation Board as to the specific location and scope of any easements necessary for the construction and maintenance of the signal and related facilities, including a utility pole and two junction boxes near the intersection of Columbus Street and 500 North abutting the northwest corner of Capitol Hill grounds.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah:

WHEREAS, the Capitol Preservation Board has the responsibility to maintain, improve, and oversee the buildings and grounds on the Capitol Hill Complex;

WHEREAS, the Capitol Preservation Board may enter into agreements and contracts through its Executive Director;

WHEREAS, the Utah Department of Transportation has determined that permanent and temporary easements, with an approximate size of 111.56 square feet, are necessary to construct and maintain certain utility facilities associated with the construction of a signal at the intersection of Columbus Street and 500 North abutting the northwest corner of Capitol Hill grounds;

WHEREAS, the Utah Department of Transportation has a duty to provide safe transportation systems;

WHEREAS, the creation of the easements is a state transportation purpose as defined in Utah Code Section 72-5-102; and

WHEREAS, the Utah Department of Transportation has determined that it is necessary and in the public interest to acquire the easements from the Capitol Preservation Board in accordance with applicable law;

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah recommends that the Capitol Preservation Board, through its Executive Director, grants the Utah Department of Transportation permanent and temporary easements of an approximate size of 111.56 square

feet to construct and maintain certain utility facilities associated with the construction of a signal at the intersection of Columbus Street and 500 North abutting the northwest corner of Capitol Hill grounds.

BE IT FURTHER RESOLVED that the Legislature urges the Utah Department of Transportation to further advise the Executive Director of the Capitol Preservation Board as to the specific location and scope of any easements necessary for the construction and maintenance of the signal and related facilities, including a utility pole and two junction boxes near the intersection of Columbus Street and 500 North abutting the northwest corner of Capitol Hill grounds.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the Capitol Preservation Board and the Utah Department of Transportation.

H.J.R. 23

Passed March 9, 2015
Effective March 9, 2015

**JOINT RESOLUTION
REGARDING AGRITOURISM**

Chief Sponsor: Lee B. Perry
Senate Sponsor: Ralph Okerlund

LONG TITLE

General Description:

This joint resolution of the Legislature expresses that, due to the inherent risks of agricultural tourism activities, a person engaged in these activities should not be able to recover damages from an agricultural tourism operator for injuries resulting from those inherent risks.

Highlighted Provisions:

This resolution:

- ▶ recognizes that some risks are inherent in agricultural tourism activities; and
- ▶ expresses that, due to these inherent risks, a person engaged in agricultural tourism activities should not be able to recover from an agricultural tourism operator for injuries resulting from those inherent risks.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah:

WHEREAS, agricultural tourism activities are practiced by a large number of residents of Utah;

WHEREAS, these agricultural tourism activities contribute significantly to the economy of the state;

WHEREAS, few insurance carriers are willing to provide liability insurance protection to agricultural tourism operators;

WHEREAS, the premiums charged by liability insurance carriers have risen sharply in recent years;

WHEREAS, the sharp rise in premiums is due to confusion as to whether a participant in an

agricultural tourism activity assumes the risks inherent in the agricultural tourism activity;

WHEREAS, some risks are inherent in agricultural tourism activities; and

WHEREAS, a person engaged in agricultural tourism activities should not be able to recover damages from an agricultural tourism operator for injuries resulting from those inherent risks:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah recognizes that some risks are inherent in agricultural tourism activities.

BE IT FURTHER RESOLVED that the Legislature of the state of Utah expresses that, due to these inherent risks, persons engaged in agricultural tourism activities should not be able to recover damages from an agricultural tourism operator for injuries resulting from those inherent risks.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the Utah Insurance Department, the Utah Association of Independent Insurance Agents, and the members of Utah's congressional delegation.

H.J.R. 26

Passed March 12, 2015
Effective March 12, 2015

**JOINT RESOLUTION -
POTENTIAL INTERIM STUDY ITEMS**

Chief Sponsor: James A. Dunnigan
Senate Sponsor: Brian E. Shiozawa

LONG TITLE

General Description:

This joint resolution of the Legislature gives the Legislative Management Committee items of study it may assign to the appropriate interim committee.

Highlighted Provisions:

This resolution:

- ▶ gives the Legislative Management Committee items of study it may assign to the appropriate interim committee during the 2015 legislative interim; and
- ▶ suggests that the Legislative Management Committee, in approving studies, give consideration to the available time of legislators and the budget and capacity of staff to respond to the assigned studies.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah:

WHEREAS, the Legislative Management Committee is created by law as a permanent committee that may receive and assign matters for interim study by committees of the Legislature; and

WHEREAS, the 61st Legislature has identified potential issues for possible additional investigation and study:

NOW, THEREFORE, BE IT RESOLVED that the Legislative Management Committee may select from the following items of study to assign to the appropriate interim committee to study and make recommendations for legislative action to the 61st Legislature before the 2016 General Session.

BE IT FURTHER RESOLVED that the Legislative Management Committee, in making study assignments from this list and in approving study requests for individual committees, give consideration to the available time of legislators and the budget and capacity of staff to respond adequately to the number and complexity of the assignments given.

1. Health Insurance - to study the "crowd out" effect on health insurance costs in the next five to ten years and the "crowd out" effect's impact on the state budget.
2. Alcoholic Beverage Service - to study restaurant alcoholic beverage service (H.B. 339).
3. Assessment Bonding - to study assessment bonding and foreclosure.
4. Auto Dealers - to study the purpose for addressing auto dealer issues in legislation (H.B. 362 and H.B. 394).
5. Automobile Franchise Laws - to study issues related to automobile franchise laws.
6. Building Code Adoption - to study whether the residential building code adoption cycle should be three years or six years (H.B. 285).
7. Consumer Protections - to study code, rules, and regulations related to online and other disruptive means for conducting auto sales and related consumer protections.
8. Deferred Deposit Industry - to study what regulations should be imposed on the deferred deposit industry.
9. Earthquake Certificate - to study issues related to an earthquake resilience certificate.
10. Good Landlord - to study issues related to the Good Landlord Program (H.B. 268).
11. Good Landlord Revisions - to study changes to the good landlord program.
12. Hospital Liens - to study hospital liens with impact on insurance limits.
13. Impact of "Crowd Out" Related to Medicaid Expansion - to study whether private insurance companies are being damaged by the "crowd out" effect in other states that have accepted Medicaid expansion.
14. Impact of Medicaid Expansion on Employer Sponsored Insurance - to study whether businesses are dropping employer sponsored insurance in states that have accepted Medicaid expansion.
15. Insurance Adjuster Issues - to study appropriate exemptions for adjusters licensing,

how to treat company adjusters, and how to address out-of-state adjusters (1st Sub. H.B. 336).

16. Insurance Code Regulation of Health Sharing Ministries - to study whether certain faith based health care sharing ministries that have been in continuous operation since December 31, 1999, to provide coverage for certain health care expenses should not be subject to regulation under the Insurance Code (H.B. 431).

17. Interior Design Certification - to study optional interior design certification for expanded practice (2nd Sub. H.B. 126).

18. Interior Design Certification Amendments - to study whether to create a state certification for the practice of interior design and the requirements for obtaining the certification (S.B. 298).

19. Licensing Fee Delay - to study a six-month delay in paying a licensing fee (H.B. 450).

20. Liquor Licenses - to study non-profit liquor licensing (H.B. 241).

21. Minimum Wage - to study the impact of increases in the minimum wage.

22. Mortgages - to study issues related to mortgage financing.

23. Nurse Education Oversight - to study the regulation of nurse education programs by the Division of Occupational and Professional Licensing.

24. Subdivision Base Parcels - to study delinquent taxes on subdivision base parcels.

25. Subdivision Bonding - to study subdivision bonding and security.

26. Time-Based Requirements in Occupational Licensing - to study ways to facilitate applications for people who are otherwise qualified except for the completion of a time-based requirement (1st Sub. H.B. 235).

27. Arts Integration - to study the importance of arts integration in the core curriculum.

28. Auditing Function in Education and STEM Contracts with Third Party Providers - to study whether to require the State Board of Education and the Science, Technology, Engineering, and Math (STEM) Action Center to include a provision in contracts with a third party provider that would require an independent, external evaluator to perform annual performance and financial audits of a third party provider's services pursuant to the contract.

29. Career Technology Education - to study and review issues related to career technology education.

30. Charter School Funding - to study charter school local replacement funding.

31. Class Size - to study issues related to the class size reduction formula.

32. Dual Language Immersion - to study and review Utah Code Section 53A-15-105, Dual Language Immersion Program -- Pilot.

33. Early Reading and Literacy - to study early reading and literacy assessment in Utah Schools.

34. Education Budgeting - to study the education budgeting process.

35. Education Funding Formulas - to study how to simplify the complicated public education funding formulas.

36. Education Training Program Oversight - to study and clarify whether the State Board of Education can regulate, accredit, or approve teacher training programs in public and private universities (H.B. 257).

37. Ethics Training - to study ethics training for public school employees and volunteers.

38. Excessive Standardized Testing - to study excessive standardized testing and its negative impacts on Utah's schoolchildren (H.C.R. 7).

39. Higher Education Building Operation and Maintenance - to study state paid operation and maintenance on higher education buildings and the formula for determining operation and maintenance.

40. Local School District Block Grants - to study whether to authorize the State Board of Education to develop a block grant program for local education agencies (LEAs) (H.B. 397).

41. Math Instruction and Competency - to study math instruction and math competency in public education.

42. Procurement Code and Charter Schools - to study the Utah Procurement Code as it relates to charter schools to verify whether the code is being followed.

43. Property Purchase by Utah State University - to study Utah State University's purchase of property in Huntsville as a working research and education facility.

44. Roles of the Legislature and the State Board of Education - to study and clarify the proper role of the Legislature and the State Board of Education under the Utah Constitution (H.B. 263).

45. State School Board Accommodations - to study how to extend greater courtesy to the State School Board, including increasing pay, granting parking spaces at the capitol, granting office and meeting space, and integrating into appropriate legislative meetings.

46. State School Board Nominee Vetting Process - to study how to vet state school board nominees without having partisan elections (H.B. 186 and S.B. 104).

47. Student-Counselor Ratio - to study problems caused by the current student-counselor ratio and ways to improve counseling in public schools.

48. Voted and Board Levies - to study the equalization of voted and board levies for public education.

49. Affordable Housing and Transit - to study transit-oriented and transit-supportive developments.

50. Economic Development Tax Incentives - to study and review economic development tax incentives and follow up on the implementation of previous audit recommendations.

51. General Assistance Reimbursements - to study whether to establish that reimbursements to the Department of Workforce Services for General Assistance paid to a recipient while the recipient is awaiting the determination of federal Supplemental Security Income may be used by the department for the General Assistance program (2nd Sub. S.B. 42).

52. Intergenerational Poverty - to study and review with the Department of Workforce Services the progress being made and the next steps to help reduce poverty.

53. State Fair Lease - to study the Utah State Fair lease, including how it is structured and ways to improve longevity.

54. Volunteer Registry - to study the creation of a volunteer registry that will provide a central point for organizations to determine whether an individual who wants to volunteer has had a background check (S.B. 209).

55. Workforce Services Recodification - to study the recodification of additional sections of the Utah Workforce Services Code.

56. Campaign Disclosure - to study issues related to campaign disclosure, including deadlines and penalties.

57. Campaign Disclosure Process - to study issues related to the campaign disclosure process.

58. Campaign Finance Revisions - to study and review ways to simplify campaign finance requirements while ensuring transparency.

59. Citizens Customer Satisfaction Program - to study the creation of a Citizens Customer Satisfaction Program within the Office of the Utah State Auditor (H.B. 387).

60. Conflict of Interest - to study elections conflict of interest disclosure modifications.

61. Daylight Saving Time - to study whether to modify Utah's observance of daylight saving time (H.B. 247).

62. Disclosure Laws - to study campaign contribution disclosure laws.

63. Election Technical Cleanup - to study areas of the Utah Code that should be modified for consistency with other code sections.

64. Grounds for Removal from Office - to study how to remove elected officials from office due to health or mental illness issues.

65. In-Kind Contributions - to study what constitutes an in-kind contribution and under what

circumstances an in-kind contribution needs to be reported.

66. Low Voter Participation - to study past and present voter participation trends in Utah and other states, what administrative or other barriers may inhibit voter participation in Utah, what other states are doing to increase voter participation, and other issues. The study should include an analysis of past studies that have been performed on this topic (H.B. 200).

67. Monitoring Impact of Federal Rules and Regulations - to study the process and cost to monitor and address the impact of all federal rules and regulations on the state of Utah, its political subdivisions, and its citizens.

68. Releasing Election Results - to study whether election officials should be required, or allowed, to give updated election results after election night but before the official canvass.

69. State Auditor Records Appeal - to study whether to allow the state auditor to make an appeal to the State Records Committee for release of agency records in certain circumstances (H.B. 338).

70. Continuous Care Facilities - to study appropriate regulation of continuous care facilities.

71. Coverage for Eosinophilic Disorders - to study whether to require health insurance coverage for the use of an amino acid-based elemental formula, regardless of the delivery method of the formula, for the diagnosis or treatment of an eosinophilic gastrointestinal disorder (H.B. 230).

72. Homecare Cottage - to study the homecare cottage concept as a long-term portable care option for senior citizens.

73. Medicaid Accessibility - to study solutions to Medicaid accessibility.

74. Medicaid Preferred Drug List Expansion - to study whether to authorize the Department of Health to include all psychotropic and anti-psychotic drugs on the Medicaid program's preferred drug list (H.B. 156).

75. Midwifery Consent Forms - to study whether to require informed consent forms from unlicensed and licensed midwives.

76. Nurse Hotline - to study issues related to a nurse hotline.

77. Prescription Notification - to study whether to require a pharmacist to notify the prescriber when a biological product is dispensed if an interchangeable biological product is available and to establish the methods of notifying a prescriber (2nd Sub. H.B. 279).

78. Radon - to study radon education.

79. State Office of Rehabilitation Services - to study whether the Utah State Office of Rehabilitation within the State Board of Education should be moved to a different department or made a separate entity.

80. Telehealth/Telemedicine - to study telehealth and telemedicine, in conjunction with direct primary care, to expand affordable coverage options.

81. Unused Drug Recycling - to study the feasibility of recycling unused drugs.

82. Administrative Action Expungement - to study the classification and expungement of records under certain circumstances (H.B. 109).

83. Adult Guardianship - to study guardianship of incapacitated adults.

84. Alimony - to study issues related to guidelines for alimony.

85. Asset Forfeiture - to study issues related to civil forfeiture procedures (H.B. 167).

86. Capital Punishment - to study issues related to the death penalty.

87. Child Support Regarding Rape Offenders - to study whether to require offenders convicted of sexual assault to pay child support if a child results from the assault and the nonconvicted parent requests an order from the court or requests assistance from the Office of Recovery Services (H.B. 389).

88. Death Penalty - to study and comprehensively review the death penalty and the methods of execution.

89. Death with Dignity Act - to study the possibility of permitting physician aid in dying for adult Utah residents (H.B. 391).

90. Disabled Adult Guardianship - to study issues related to guardianship of disabled adults (H.B. 448).

91. Dismissal of Protective Order - to study and review potential changes to Utah Code Section 78B-7-115, Dismissal of protective order.

92. Divorces - to study criminal default divorces.

93. Domestic Violence - to study domestic violence, including how many incidents in the court system involve protective orders, child custody situations, or divorce.

94. False Information in Protective Orders - to study knowing falsification of information in a petition or proceeding for a protective order or a child protective order.

95. Graves v. N.E. Servs., Inc. - to study issues related to Graves v. N.E. Servs., Inc.

96. In re Estate of Hannifin - to study issues related to In re Estate of Hannifin.

97. Ivory Homes, Ltd. v. Utah State Tax Commission - to study issues related to Ivory Homes, Ltd. v. Utah State Tax Commission.

98. McArthur v. State Farm Mut. Auto. Ins. Co. - to study issues related to McArthur v. State Farm Mut. Auto. Ins. Co.

99. Medical Liability - to study whether a health care provider should only be responsible to the spouse, parent, or child of a patient for providing or failing to provide health care (H.B. 405).

100. Medical Marijuana - to study how Utah should proceed with the issue of medical marijuana.

101. Requirements for Judges - to study whether administrative law judges and justice court judges should be required to be attorneys.

102. State v. Graham - to study issues related to McArthur v. State Farm Mut. Auto. Ins. Co.

103. State v. McNearney - to study issues related to State v. McNearney.

104. State v. Roberts - to study issues related to State v. Roberts.

105. Van de Grift v. State - to study issues related to Van de Grift v. State.

106. Body Cameras - to study body cameras for peace officers.

107. Child Trafficking - to study issues related to child trafficking.

108. Constable Certification - to study the certification process of former law enforcement officers as constables, including basic training, recertification, and continuing education.

109. Driver Education, Training, and Testing - to study driver education completion requirements and whether to repeal a restriction preventing certain instructors from administering a driver skills test to a student who took the course from the same school or the same instructor (H.B. 359).

110. Human Trafficking - to study what law enforcement is currently doing, what new resources and statutory authority is needed, and how community organizations may assist.

111. Incarceration Costs - to study restitution for the costs of incarceration (H.B. 453).

112. Law Enforcement Use of Force - to study issues related to law enforcement use of force (S.B. 252).

113. Mental Health and Substance Abuse Funding - to study the costs and funding of community mental health and substance abuse treatment programs for inmates released from jail and prison under criminal justice reform.

114. Protection for Peace Officers - to study bulletproof windshields for peace officers.

115. Safety Inspection Repeal - to study the repeal of safety inspections on motor vehicles as a prerequisite to vehicle registration.

116. Sex Offender Treatment Approaches - to study changes in sentencing for sex offenders based on risk assessment and engagement in treatment programs.

117. Treatment Options for Sex Offenders - to study treatment options in jails, prisons, and community settings for sex offenders based on screening and risk assessments.

118. Air Quality - to study ways to improve Utah's air quality.

119. Air Quality Amendments - to study a five-year statute of limitations for violating the Environmental Quality Code. The study should also consider increasing civil penalties in the Air Conservation Act (S.B. 208, as amended).

120. Bear Lake - to study issues relating to Bear Lake, including additional boating, fishing, and camping development.

121. Beekeeping - to study potential changes to the Utah Bee Inspection Act (H.B. 224).

122. Emissions Testing - to study whether to assign color-coded stickers to counties having vehicle emissions testing to help determine whether vehicles are registered in counties that do not have emissions testing, yet reside in counties where emissions testing is required.

123. Farm Animals - to study the identification of stray farm animals.

124. Natural Resources Criminal Code - to study whether the Department of Natural Resources and Division of Wildlife Resources criminal codes should be reduced.

125. Oil Production - to study and review incentives for oil production

126. Public Lands Management - to study a possible Utah Public Land Policy Management Act.

127. Raw and Pasteurized Milk Sales - to study whether to allow a producer who sells raw milk at a self-owned retail store to also offer pasteurized milk for sale at the same location (H.B. 64).

128. River Management - to study various Colorado River management strategies.

129. Tire Fees - to study the merits of increasing the fee on purchasing new tires (H.B. 265).

130. Transferring Water Shares in a Mutual Benefit Corporation - to study whether to modify the Utah Revised Nonprofit Corporation Act to allow for the transfer of water shares in a mutual benefit corporation (H.B. 161).

131. Wildfire Mitigation - to study how to make property in the wildland urban interface more fire resistant.

132. Insurance for Lateral Sewer Lines - to study whether local government and sewer districts provide insurance to homeowners for lateral sewer lines.

133. Land Information Records - to study the way county assessors collect and hold data and its potential uses. The study should include how records might be organized and delivered to improve economic development opportunities, public safety, and aid in the efficient provision of government services while still protecting personal information.

134. Local Government Development Rights Transfer - to study whether to allow a municipality and county to enter into an agreement to allow the transfer of development rights between their respective jurisdictions (H.B. 287).

135. Manager-Council Form of Government - to study the manager-council form of government, with the primary focus on the role of the manager in representing the city and the city council in external relationships, both in industry and government.

136. Municipal and County Inspection Enforcement - to study municipal and county enforcement of ordinances regarding abatement of weeds, garbage, refuse, unsightly objects, and other conditions deemed to be a public nuisance.

137. Municipal Office Name Changes - to study whether to allow a municipal council, in a council-manager form of government, to change the title of mayor or manager (H.B. 267).

138. Electrical Grid - to study what Utah has done to protect its electrical grid and examine the work that has been done in other states to see if any of these approaches should be implemented in Utah.

139. Energy Issues Related to Large Electric and Natural Gas Consumers - to study municipal energy sales and use tax revisions to address large electric and natural gas consumers.

140. Financing Utilities and Infrastructure - to study alternative financing for utility development and infrastructure in ski areas.

141. Geographic Systems and Technologies - to study geographic information systems and digital mapping technology.

142. Impact of Regulations on Power Companies - to study the impact of Environmental Protection Agency regulations on regulated power companies in Utah.

143. Independent Energy Producers - to study issues related to independent energy producers (H.B. 457).

144. Information Technology Service Delivery - to study information technology services and delivery to state agencies.

145. Oversight of Broadband Expansion - to study the expansion of a broadband "super highway" and the need or advisability of Public Service Commission-like controls and oversight.

146. Transmission Line Regulation - to study and continue to review interstate electrical transmission line regulation.

147. Utility Conservation - to study incentives that can be provided to utility companies to encourage conservation by their customers.

148. Centrally Assessed Taxes - to study issues related to centrally assessed taxes.

149. Constitutional Change Impacting Golf Course Taxation - to study whether to change the

Utah Constitution to allow non-retail areas of golf courses to be taxed as green belt.

150. Corporate Income Taxes - to study the economic benefits of a corporate income tax cut.

151. E-Cigarettes - to study taxes on e-cigarettes.

152. Education Tax Credit - to study how to set up an education fund where the donations can be credited toward the state income tax owed, resulting in the decrease of the donor's taxable income and reducing minimum taxes charged by the federal government (H.B. 153).

153. Education Tax Credits - to study issues related to education tax credits.

154. Golf Courses - to study golf course tax exemptions.

155. Historic Preservation Credit - to study whether to grant a historic preservation tax credit exemption.

156. Income Tax - to study issues related to income taxes.

157. Income Tax Exemptions - to study and review all income tax exemptions.

158. Inheritance Tax - to study the effect of imposing a state inheritance tax.

159. Local Option Sales Tax Distribution - to study whether to adjust the local option sales tax distribution to 100% point of delivery of sale.

160. Non-Game Users - to study and examine options for an income tax check off for non-game users.

161. Payment Method for Water - to study whether to move Utah's payment for water from a property tax to a user fee.

162. Property Tax - to study issues related to property taxes.

163. Property Tax Cap Changes - to study the effect of changes to current caps on property taxes for education funding.

164. Property Tax Exemptions - to study and review all property tax exemptions.

165. Property Taxes and Water Rates - to study whether to lower property taxes and replace the taxes with water fee increases.

166. Public Debt Assessment - to study whether to assess the amount of public debt under Utah Constitution, Article XIV, Section 4.

167. Sales Tax - to study issues related to sales taxes.

168. Sales Tax Exemptions - to study and review all sales tax exemptions.

169. Sales Tax on Business Inputs - to study issues related to the sales tax on business inputs.

170. Severance Tax - to study severance tax revisions.

171. Tax Code Changes - to study simplifying the tax code, eliminating tax credits, and reducing tax rates.

172. Tax Credit for Wildfire Mitigation Measures - to study whether to enact a nonrefundable income tax credit for wildfire mitigation measures in certain areas for a certain period of time and the qualifications to receive the income tax credit (H.B. 196).

173. Tax Credits and Abatements - to study and evaluate the effectiveness of Utah's tax credits and abatements.

174. Tax Credits and Grants for Clean Fuel and Alternative Fuel Vehicles - to study the development of a database to reflect the impact of tax credits and grants for clean fuel and alternative fuel vehicles that have been available since the 1990s to determine the return on investment for the tax credits.

175. Taxes on Subdivided Property - to study apportionment of delinquent property taxes on subdivided property.

176. Truth in Taxation - to study whether to adjust Truth in Taxation to allow for Consumer Price Index adjustments.

177. Abuse Deterrent Opioid Analgesic Products - to study the efficacy of use and the barriers to use of abuse deterrent opioid analgesic drugs (S.B. 265).

178. Employment After Retirement - to study methods to allow certain postretirement employment (S.B. 91).

179. National Guard Benefits - to study a line of duty benefit for the National Guard.

180. Phased-Retirement - to study potential policies and costs relating to phased-retirement in the Utah Retirement Systems, including options that may allow for a gradual reduction in an employee's work arrangement while receiving part of a retirement allowance as a transition toward retirement.

181. Police and Fire Benefits - to study retroactive line of duty benefits for police and fire employees.

182. Postretirement Employment - to study issues related to postretirement employment.

183. Postretirement Reemployment - to study the actuarial costs and fiscal impacts to the Utah Retirement Systems of postretirement reemployment under the current restrictions and to study options and costs for revising Utah law on postretirement reemployment.

184. Public Employee Wellness Plan - to study ways to encourage employees to have and maintain a relationship with a primary care provider (H.B. 255).

185. Retirement Contribution Rates - to study and receive a presentation on preliminary retirement contribution rates.

186. Utah Retirement Systems Benefits Claims - to study statutes of limitations for benefits claims in the Utah Retirement Systems.

187. Utah Retirement Systems Modifications - to study and review annual Utah Retirement Systems modifications, including technical amendments.

188. Utah Retirement Systems Overview - to study an overview of systems, plans, and actuarial information.

189. Air Traffic in Residential Areas - to study the ability of the state to limit or restrict non-emergency air traffic over residential areas.

190. Fuel Taxes - to study issues related to fuel taxes.

191. Ground Transportation Services - to study the regulation of ground transportation businesses and ground transportation vehicles, including licensing, insurance, and background check requirements (2nd Sub. H.B. 440).

192. Liability Costs to State When Foster Children Obtain Learner Permit or Driver License - to study the cost to the state for assuming liability associated with foster children who obtain a learner permit or driver license, including the cost of state self-insurance, state contracts with insurers, or state reimbursements or subsidies to offset foster parent liability.

193. Motor Vehicle Safety Inspections - to study whether the burden that motor vehicle safety inspections places on citizens is justified (1st Sub. H.B. 371).

194. Railroad Crossings - to study issues related to safety at railroad crossings.

195. Railroad Revisions - to study whether to prohibit certain railroads from operating a freight train or light engine used in connection with the movement of freight unless the freight train or light engine has a crew consisting of at least two individuals (S.B. 50).

196. Registering Electric Bicycles - to study whether to require that electric bicycles be registered.

197. Sales Tax Earmarks for Transportation - to study ways to simplify the sales tax earmarks for transportation funding (H.B. 188).

198. Transportation Funding Modifications - to study whether to rename the Transportation Investment Fund of 2005 as the Rebecca D. Lockhart Transportation Investment Fund and to make changes to revenues deposited into the fund (H.B. 421 and 1st Sub. H.B. 421).

199. Use of Aviation Fuel Tax Revenues - to study statutory changes clarifying the purposes for which certain aviation fuel tax revenues may be expended.

200. Vehicle Towing - to study issues related to the use of a tow truck motor carrier, vehicle towing, whether to require tow truck drivers to have a criminal background check before performing tow truck services, and towing vehicles from private parking lots (H.B. 266 and 2nd Sub. H.B. 266).

201. Fiscal Notes - to study whether the Legislature should use dynamic scoring on fiscal notes.

202. Legislative Ethics Commission Issues - to study and review joint rules relating to the Legislative Ethics Commission, specifically an equal protection issue regarding who can file a complaint and the publicity related to filing a complaint.

203. Responsibility for Education Funding - to study and determine whether the Revenue and Taxation Interim Committee or the Education Interim Committee should be tasked with studying the complexities of education funding and appropriations.

204. Historic Districts - to study parameters and creation guidelines of historic districts.

205. Towing - to study statewide towing policies.

206. Work Zone Noise - to study nighttime work zone noise.

207. Transportation Prioritization - to study the Transportation Commission's prioritization process.

208. Enterprise Zone Amendments (H.B. 87).

209. Custom Fit and Talent Incentives - to study custom fit and talent incentives for high-demand, STEM-related jobs.

210. Insurance Waiver - to study the implications of Section 31A-22-305, which allows a named insured to reject uninsured motorist coverage by an express writing to the insurer, and study whether the minimum automobile insurance should be increased.

211. The feasibility of electric motorcycle fleet for local law enforcement.

H.R. 3

Passed January 26, 2015
Effective January 26, 2015

**HOUSE RESOLUTION HONORING
FORMER SPEAKER
REBECCA D. LOCKHART**

Chief Sponsor: Francis D. Gibson

Cosponsors: Jacob L. Anderegg

Patrice M. Arent

Stewart Barlow

Joel K. Briscoe

Rebecca Chavez-Houck

LaVar Christensen

Jon Cox

Susan Duckworth

James A. Dunnigan

Brian M. Greene

Stephen G. Handy

Sandra Hollins

Michael S. Kennedy

Brad King
 Brian S. King
 John Knotwell
 Mike K. McKell
 Justin J. Miller
 Carol Spackman Moss
 Curtis Oda
 Val L. Peterson
 Marie H. Poulson
 Johnny Anderson
 Scott H. Chew
 Kay J. Christofferson
 Kim Coleman
 Fred C. Cox
 Bruce R. Cutler
 Brad M. Daw
 Brad L. Dee
 Sophia M. DiCaro
 Jack R. Draxler
 Rebecca P. Edwards
 Steve Eliason
 Justin L. Fawson
 Gage Froerer
 Craig Hall
 Timothy D. Hawkes
 Eric K. Hutchings
 Don L. Ipson
 Ken Ivory
 Bradley G. Last
 David E. Lifferth
 Kay L. McCliff
 Daniel McCay
 Merrill F. Nelson
 Michael E. Noel
 Lee B. Perry
 Jeremy A. Peterson
 Dixon M. Pitcher
 Kraig Powell
 Edward H. Redd
 Marc K. Roberts
 Douglas V. Sagers
 Scott D. Sandall
 Dean Sanpei
 Mike Schultz
 V. Lowry Snow
 Robert M. Spendlove
 Keven J. Stratton
 Earl D. Tanner
 Norman K. Thurston
 Raymond P. Ward
 R. Curt Webb
 John R. Westwood
 Brad R. Wilson
 Mark A. Wheatley
 Angela Romero
 Paul Ray
 Jon E. Stanard

LONG TITLE

General Description:

This resolution of the House of Representatives honors the life and service of former Speaker Rebecca D. Lockhart.

Highlighted Provisions:

This resolution:

- ▶ honors former Speaker Rebecca D. Lockhart for her years of faithful, tireless service to the citizens of the state of Utah and the legislative process; and
- ▶ expresses the House's deepest sympathy to the members of her family.

Special Clauses:

None

Be it resolved by the House of Representatives of the state of Utah:

WHEREAS, Rebecca D. Lockhart was born in Reno, Nevada, on November 20th, 1968;

WHEREAS, Speaker Lockhart attended Brigham Young University where she obtained a degree in nursing;

WHEREAS, Speaker Rebecca D. Lockhart was elected to the Utah House of Representatives on January 1st, 1999, at the age of 30;

WHEREAS, during her tenure in the Utah House of Representatives, Speaker Lockhart served on the Access to Health Care and Coverage Task Force; the Administrative Rules Review Committee; the Commission on Federalism; the Education Interim Committee; the Education Task Force; the Executive Appropriations Committee; the Health and Human Services Appropriations Subcommittee; the Health and Human Services Interim Committee; the House Education Committee; the House Government Operations Committee; the House Health and Human Services Committee; the House Law Enforcement and Criminal Justice Committee; the House Legislative Expense Oversight Committee; the House Management Committee; the House Quasi-Governmental Entities Committee; the House Retirement and Independent Entities Committee; the House Revenue and Taxation Committee; the House Rules Committee; the House Rules Interim Committee; the House Transportation Committee; the House Workforce Services and Community and Economic Development Committee; the Joint House and Senate Rules Committee; the Judiciary, Law Enforcement, and Criminal Justice Interim Committee; the Law Enforcement and Criminal Justice Interim Committee; the Legislative Audit Subcommittee; the Legislative Management Committee; the Legislative Policy Summit; the Legislative Records Committee; the Natural Resources Appropriations Subcommittee; the Privately Owned Health Care Organization Task Force; the Public Education Appropriations Subcommittee; the Quasi-Governmental Entities Appropriations Subcommittee; the Redistricting Committee; the Retirement and Independent Entities Appropriations Subcommittee; the Revenue and Taxation Interim Committee; the

Subcommittee on Oversight; the Tobacco Subcommittee; the Transportation Interim Committee; the Transportation Planning Task Force; the Transportation, Environmental Quality, National Guard, and Veterans' Affairs Appropriations Subcommittee; the Utah Constitutional Revision Commission; and the Workforce Services Interim Committee;

WHEREAS, Speaker Lockhart faithfully served the citizens of the state of Utah as a member of the House of Representatives for 16 years;

WHEREAS, Speaker Lockhart's service to the citizens of the state of Utah was exemplary;

WHEREAS, beginning in 2011, Speaker Lockhart served two terms as the Speaker of the House;

WHEREAS, Speaker Lockhart was a loving wife to her husband, Stan, and devoted mother to her children, Hannah, Emily, and Stephen;

WHEREAS, Speaker Lockhart will always be remembered for her strength in leadership, selflessness in public service, devotion to family, trust in God's providence, and gratitude for a life fully lived;

WHEREAS, Speaker Lockhart was known for her inclusiveness and for fostering close friendships among the minority party during her time in the Legislature;

WHEREAS, Speaker Lockhart is widely revered as an exceptional role model for young women as Utah's first female Speaker;

WHEREAS, Speaker Lockhart's unwavering commitment to Utah's school children, economic development, and the bolstering of Utah's transportation infrastructure will be felt for generations;

WHEREAS, Speaker Lockhart was a tireless advocate for women in public service;

WHEREAS, Speaker Lockhart's life will be remembered as one of depth and accomplishment;

WHEREAS, Speaker Lockhart will be remembered as a wonderful example of the civic engagement that is the lifeblood of democracy and for a life spent in the service of others;

WHEREAS, Speaker Lockhart's commitment to engaging youth in public service was unmatched;

WHEREAS, Speaker Lockhart was known for reaching out to members of all faiths and her service in her own church; and

WHEREAS, her tireless leadership brought great distinction to the state of Utah:

NOW, THEREFORE, BE IT RESOLVED that the House of Representatives of the state of Utah expresses its most heartfelt gratitude for the life and service of Rebecca D. Lockhart, former Speaker of the Utah House of Representatives.

BE IT FURTHER RESOLVED that the House of Representatives expresses its deepest sympathy to

the family of former Speaker Rebecca D. Lockhart and assures them that she will always be remembered with love and gratitude by the citizens of Utah.

BE IT FURTHER RESOLVED that a copy of this resolution be presented to the members of the Lockhart family.

H.R. 4

Passed February 10, 2015
Effective February 10, 2015

**HOUSE RESOLUTION AMENDING
STANDING COMMITTEE RULES**

Chief Sponsor: James A. Dunnigan

LONG TITLE

General Description:

This resolution repeals and reenacts House standing committee rules.

Highlighted Provisions:

This resolution:

- ▶ defines terms;
- ▶ reorganizes standing committee rules;
- ▶ clarifies and expands the powers of a chair to:
 - preserve order and decorum; and
 - adopt time restrictions for witnesses and presenters;
- ▶ authorizes the speaker of the House to appoint a vice chair to standing committees;
- ▶ requires a standing committee chair to enforce standing committee rules;
- ▶ clarifies that review of legislation during a standing committee is subject to four distinct phases:
 - presentation by the sponsor;
 - clarifying questions by committee members;
 - public comment; and
 - committee action; and
- ▶ clarifies that privileged motions:
 - take precedence over non-privileged motions;
 - are to be accepted in a specified priority; and
 - except for a motion to adjourn, do not dispose of other pending motions.

Special Clauses:

None

Legislative Rules Affected:

ENACTS:

- HR3-2-203
- HR3-2-204
- HR3-2-303
- HR3-2-305
- HR3-2-306
- HR3-2-307
- HR3-2-308
- HR3-2-309
- HR3-2-310
- HR3-2-311

HR3-2-312
 HR3-2-313
 HR3-2-314
 HR3-2-315
 HR3-2-316
 HR3-2-317
 HR3-2-318
 HR3-2-319
 HR3-2-411
 HR3-2-412
 HR3-2-413
 HR3-2-507
 HR3-2-508
 HR3-2-509
 HR3-2-510
 HR3-2-511
 HR3-2-512

REPEALS AND REENACTS:

HR3-2-101
 HR3-2-201
 HR3-2-202
 HR3-2-301
 HR3-2-302
 HR3-2-304
 HR3-2-401
 HR3-2-402
 HR3-2-403
 HR3-2-404
 HR3-2-405
 HR3-2-406
 HR3-2-407
 HR3-2-408
 HR3-2-409
 HR3-2-410
 HR3-2-501
 HR3-2-502
 HR3-2-503
 HR3-2-504
 HR3-2-505
 HR3-2-506

REPEALS:

HR3-2-102
 HR3-2-103
 HR3-2-104
 HR3-2-601

Be it resolved by the House of Representatives of the state of Utah:

Section 1. HR3-2-101 is repealed and reenacted to read:

Part 1. General Provisions

HR3-2-101. Definitions.

As used in this chapter:

(1) “Chair” means:

(a) the chair of a standing committee; or

(b) a standing committee member who is authorized to act as chair under HR3-2-202.

(2) “Committee” means a standing committee created under HR3-2-201.

(3) “Dispose of legislation” refers to a committee action that transfers ownership of legislation to the

House Rules Committee, to another standing committee, or to the House floor.

(4) “Favorable recommendation” refers to a committee action that transfers ownership of legislation to the House second reading calendar.

(5) “Legislation” means a Senate bill, House bill, Senate resolution, House resolution, joint resolution, or concurrent resolution.

(6) “Majority vote” means a majority of a quorum as provided in HR3-2-203.

(7) “Original motion” means a non-privileged motion that is accepted by the chair when no other motion is pending.

(8) “Pending motion” refers to a motion starting when a chair accepts a motion and ending when the motion is withdrawn or when the chair calls for a vote on the motion.

(9) (a) “Privileged motion” means a procedural motion to adjourn, set a time to adjourn, recess, end debate, extend debate, or limit debate.

(b) Privileged motions are not substitute motions.

(10) “Substitute motion” means a non-privileged motion that is made when a non-privileged motion is pending.

(11) “Under consideration” means the time starting when a chair opens a discussion on a subject or piece of legislation that is listed on a committee agenda and ending when the committee disposes of the legislation, moves on to another item on the agenda, or adjourns.

Section 2. HR3-2-201 is repealed and reenacted to read:

Part 2. Creation and Organization of House Standing Committees

HR3-2-201. Standing committees -- Creation.

(1) There are created the following standing committees:

(a) Business and Labor;

(b) Economic Development and Workforce Services;

(c) Education;

(d) Government Operations;

(e) Health and Human Services;

(f) House Rules;

(g) Judiciary;

(h) Law Enforcement and Criminal Justice;

(i) Natural Resources, Agriculture, and Environment;

(j) Political Subdivisions;

(k) Public Utilities and Technology;

(l) Revenue and Taxation; and

(m) Transportation.

(2) The members of the Retirement and Independent Entities Committee created in Utah Code Section 63E-1-201 comprise a House standing committee.

Section 3. HR3-2-202 is repealed and reenacted to read:

HR3-2-202. Speaker to appoint committee members, chairs, and vice chairs.

(1) The speaker of the House shall appoint members of the House to each standing committee.

(2) The speaker of the House shall appoint a chair to each standing committee.

(3) The speaker of the House may appoint a vice chair to each standing committee.

(4) A vice chair may perform the duties of a chair:

(a) as requested by the chair; or

(b) in the absence of the chair.

(5) The chair, or the vice chair as authorized under Subsection (4), may designate a member of the committee to conduct a standing committee meeting when neither the chair nor the vice chair is able to attend a meeting.

(6) A committee member designated under Subsection (5) may conduct a committee meeting but may not perform the duties of a chair described in HR3-2-302 and HR3-2-303.

Section 4. HR3-2-203 is enacted to read:

HR3-2-203. Quorum requirements.

(1) Except as provided in Subsection (2), a majority of a standing committee is a quorum.

(2) In determining whether a quorum is present, the speaker, majority leader, majority whip, assistant majority whip, House Rules Committee chair, Executive Appropriations Committee chair, minority leader, minority whip, assistant minority whip, and the fourth member of leadership from the minority party are not counted in determining a quorum for a standing committee, except during the time that the representative is present at the meeting.

Section 5. HR3-2-204 is enacted to read:

HR3-2-204. Committee order of business.

Unless a standing committee chair, or a committee by majority vote, determines otherwise, the order of business for a standing committee is:

(1) call to order by the chair;

(2) approval of the minutes of previous meetings;

(3) announcement of the agenda;

(4) announcement of time restrictions, if any, subject to the requirements of HR3-2-304; and

(5) consideration of standing committee business.

Section 6. HR3-2-301 is repealed and reenacted to read:

Part 3. Duties of the House Standing Committee Chair

HR3-2-301. Chair to enforce legislative rules and procedures.

The chair shall ensure the integrity of the standing committee process by enforcing legislative rules and parliamentary procedure without delay.

Section 7. HR3-2-302 is repealed and reenacted to read:

HR3-2-302. Chair to set agenda -- Requirements.

The chair shall:

(1) set the agenda for a standing committee meeting; and

(2) ensure that legislation tabled by a standing committee is listed on a standing committee agenda as required by HR3-2-408.

Section 8. HR3-2-303 is enacted to read:

HR3-2-303. Chair to post notice and agenda -- Notification to sponsors.

(1) The chair shall cause a public notice and agenda to be posted at least 24 hours before each standing committee meeting as required under Utah Code Title 52, Chapter 4, Open and Public Meetings Act.

(2) The chair shall notify the chief House sponsor or chief Senate sponsor of legislation listed on an agenda of the time and place of the committee meeting in which the legislation will be considered not less than 24 hours before the committee meeting.

Section 9. HR3-2-304 is repealed and reenacted to read:

HR3-2-304. Chair may direct order of agenda -- Time restrictions.

The chair, or a committee by majority vote, may adopt committee procedures and time restrictions, including:

(1) directing the order of the agenda;

(2) directing the order in which a witness or presenter will be heard;

(3) directing the number of witnesses or presenters that will be heard; and

(4) limiting the time the committee will spend on:

(a) an item on the agenda; or

(b) an individual witness or presenter.

Section 10. HR3-2-305 is enacted to read:

HR3-2-305. Four phases when considering legislation.

Legislation under consideration by a standing committee is subject to four distinct phases during a committee meeting:

(1) the sponsor's presentation as provided in HR3-2-306;

(2) clarifying questions as provided in HR3-2-307;

(3) public comment as provided in HR3-2-308; and

(4) committee action as provided in HR3-2-309.

Section 11. HR3-2-306 is enacted to read:

HR3-2-306. Sponsor presentation.

(1) Except as provided in Subsection (2), during the presentation phase, a committee member may not amend legislation, substitute legislation, or dispose of legislation. All other motions are in order during the presentation phase.

(2) During the presentation phase of a committee meeting, the chair may accept a simple motion to amend legislation if the chair permits:

(a) committee questions and debate;

(b) public comment as provided in HR3-2-308;

(c) the sponsor of the legislation affected by the amendment to respond to the motion to amend; and

(d) the committee member who made the motion to amend to have the final word on the motion as required under HR3-2-313.

(3) During the presentation phase of a standing committee meeting, the chair shall:

(a) permit the chief sponsor or the legislator designated by the chief sponsor to be the floor sponsor in the opposite house to present the chief sponsor's legislation; and

(b) except as provided in Subsection (4), and at the election of a legislative sponsor, permit persons who have expertise on the legislation to assist with the presentation as provided in HR3-2-304.

(4) The chair may not permit:

(a) legislation to be presented if the legislative sponsor is not present; or

(b) legislative interns or legislative aides to present legislation.

Section 12. HR3-2-307 is enacted to read:

HR3-2-307. Clarifying questions.

(1) During the clarifying question phase, a committee member may not amend legislation, substitute legislation, or dispose of legislation. All other motions are in order during the clarifying questions phase.

(2) A chair shall allow members of the committee to ask the legislative sponsor questions, provided that the questions help to clarify the intent or purpose of the legislation or the meaning of the language of the legislation.

(3) The chair shall allow the legislative sponsor to respond to clarifying questions.

(4) The chair may allow, with the legislative sponsor's approval, a person authorized under HR3-2-306 to respond to clarifying questions from members of the committee.

Section 13. HR3-2-308 is enacted to read:

HR3-2-308. Public comment.

(1) During the public comment phase, a committee member may not amend legislation, substitute legislation, or dispose of legislation. All other motions are in order during the public comment phase.

(2) During the public comment phase of a committee meeting:

(a) the chair, or a committee by majority vote, may limit the time an individual witness or presenter speaks to a committee as authorized under HR3-2-304; and

(b) the chair, or the committee by majority vote, may terminate the public comment phase at any time.

(3) Unless the chair, or a committee by majority vote, permits additional public comment, once the public comment phase has ended only committee members, legislative sponsors, staff, and those authorized under HR3-2-307 may address the committee.

Section 14. HR3-2-309 is enacted to read:

HR3-2-309. Committee action.

During the committee action phase, a committee member may make motions to amend the legislation, to substitute the legislation, and to dispose of the legislation. All other motions authorized by this chapter are in order during the committee action phase of a committee meeting.

Section 15. HR3-2-310 is enacted to read:

HR3-2-310. Chair to preserve order -- Powers to preserve order.

(1) The chair shall preserve order and decorum during standing committee meetings by:

(a) controlling outbursts and demonstrations; and

(b) ensuring that committee members, presenters, witnesses, and visitors act in a dignified and respectful manner.

(2) To preserve order, the chair may:

(a) clear the committee room of any person who engages in disorderly conduct;

(b) recess a standing committee meeting; or

(c) request assistance from:

(i) the sergeant-at-arms; or

(ii) the Utah Highway Patrol.

Section 16. HR3-2-311 is enacted to read:

HR3-2-311. Chair to recognize committee members -- Remarks to be germane -- Committee members may make motions

when recognized -- Permission to address committee.

(1) The chair shall recognize a committee member who desires to speak to a subject that is under consideration by a standing committee.

(2) Upon recognition by the chair, a committee member:

(a) shall ensure that the member's remarks are germane to the subject under consideration; and

(b) may make a motion that is authorized by this chapter.

(3) Presenters, witnesses, visitors, staff, and committee members may not speak to a standing committee unless recognized by the chair.

Section 17. HR3-2-312 is enacted to read:

HR3-2-312. Chair to accept all motions that are in order -- Once accepted, the motion is pending.

(1) The chair shall accept a motion requested by a member of a standing committee who has been properly recognized unless the motion is prohibited by this chapter or by parliamentary procedure.

(2) To properly accept a motion, the chair shall:

(a) restate each verbal motion;

(b) identify the number of each written motion to amend or substitute legislation; and

(c) distribute copies of each written amendment or substitute to members of the committee.

(3) When a chair properly accepts a motion under Subsection (2), the motion is pending.

Section 18. HR3-2-313 is enacted to read:

HR3-2-313. Chair to allow response to motions before placing motions for a vote.

After a motion has been accepted, and before the chair places a motion for a vote, the chair shall permit:

(1) members of the committee to ask the committee member who placed the motion questions about the motion;

(2) members of the committee to debate the motion;

(3) the chief sponsor of the legislation that is affected by the motion to respond to the motion; and

(4) the committee member who placed the motion to have the final word on the motion.

Section 19. HR3-2-314 is enacted to read:

HR3-2-314. Chair to place motion for vote.

After the chair has permitted a committee member to sum on a motion as required under HR3-2-313(4), the chair shall place the motion for a vote unless the motion is withdrawn subject to the requirements of HR3-2-511.

Section 20. HR3-2-315 is enacted to read:

HR3-2-315. Chair to verbally announce vote on motions -- Motions pass with majority vote of a quorum -- Exceptions.

(1) After a standing committee votes on a motion, the chair shall:

(a) determine whether the motion passed or failed;

(b) verbally announce that the motion passed or that the motion failed; and

(c) if the vote on the motion is not unanimous, verbally identify by name either the committee members who voted "yes" or the committee members who voted "no."

(2) Unless otherwise specifically indicated in this chapter, motions pass with a majority vote of a quorum as defined in HR3-2-203.

Section 21. HR3-2-316 is enacted to read:

HR3-2-316. Chair may direct a roll call vote.

Although most motions will be determined by a voice vote, the chair, or a committee by majority vote, may direct a roll call vote.

Section 22. HR3-2-317 is enacted to read:

HR3-2-317. Chair to decide points of order -- Committee may appeal chair's decision.

(1) A chair shall rule on a point of order without committee discussion or debate.

(2) As provided in HR3-2-506, a committee member may:

(a) make a point of order; or

(b) appeal the decision of the chair.

Section 23. HR3-2-318 is enacted to read:

HR3-2-318. Chair to send standing committee reports to the House.

(1) When a standing committee approves a motion to dispose of legislation under the requirements of HR3-2-408 or HR3-2-403, the chair shall, no later than the next legislative day, submit to the chief clerk of the House:

(a) the official version of the legislation; and

(b) a committee report, signed by the chair, describing the committee's action.

(2) (a) A committee member who dissents from a motion to dispose of legislation may request to be listed by name on the committee report.

(b) If a committee member requests to be listed by name on a committee report, the committee report shall include the name of the committee member.

(3) If, for any reason, the chair does not submit a committee report to the chief clerk of the House as required in Subsection (1), the chief clerk of the House shall ensure that the official version of the legislation and the committee report are submitted before the end of the second legislative day after the legislation was acted on by a standing committee.

Section 24. HR3-2-319 is enacted to read:

HR3-2-319. Chair to ensure integrity of minutes -- Retention of minutes -- Content requirements.

- (1) The chair shall:
 - (a) ensure that a secretary takes minutes of standing committee meetings;
 - (b) present the minutes to the committee for approval; and
 - (c) send the approved minutes to the office of the chief clerk of the House.
- (2) The chief clerk of the House shall retain committee minutes for three years.
- (3) The chair shall ensure that committee minutes comply with the requirements of Utah Code Title 52, Chapter 4, Open and Public Meetings Act.
- (4) The chair shall ensure that committee minutes include:
 - (a) the date, time, and place of each committee meeting;
 - (b) a list of committee members present;
 - (c) each motion made;
 - (d) the vote on each motion;
 - (e) points of order; and
 - (f) the outcome of each appeal of the decision of the chair.

Section 25. HR3-2-401 is repealed and reenacted to read:

Part 4. Duties of the House Standing Committee

HR3-2-401. Standing committee review required -- Exceptions.

- (1) Except as provided in Subsection (2), the House of Representatives may not pass a bill, joint resolution, or concurrent resolution during the annual general session unless a House standing committee has given a favorable recommendation to the legislation.
- (2) Subsection (1) does not apply to:
 - (a) a resolution regarding legislative rules or legislative personnel;
 - (b) legislation that has been approved by a unanimous vote of an interim committee;
 - (c) the revisor's statute; or
 - (d) if the legislation was reviewed and approved by the Executive Appropriations Committee, legislation that:
 - (i) exclusively appropriates money;
 - (ii) amends Utah Code Title 53A, Chapter 17a, Minimum School Program Act;

(iii) amends Utah Code Title 67, Chapter 22, State Officer Compensation; or

(iv) authorizes the issuance of general obligation or revenue bonds.

Section 26. HR3-2-402 is repealed and reenacted to read:

HR3-2-402. Standing committee review of legislation with a fiscal impact.

Except as provided in HR3-2-401, a standing committee in one or both houses shall review legislation before the legislation is held in the opposite house because of its fiscal impact.

Section 27. HR3-2-403 is repealed and reenacted to read:

HR3-2-403. Standing committee duties -- Consider legislation in a reasonable time -- Dispose of legislation.

When a committee has completed its review of legislation, a standing committee shall dispose of the legislation by:

- (1) returning the legislation to the House Rules Committee;
- (2) tabling the legislation, subject to the requirements of HR3-2-408;
- (3) recommending that the legislation be read a second time and placed on the third reading calendar; or
- (4) referring the legislation to a different standing committee.

Section 28. HR3-2-404 is repealed and reenacted to read:

HR3-2-404. Motions to lift from the table, hold, amend, or substitute legislation.

In addition to the actions listed in HR3-2-403(2), a standing committee may approve one or more of the following motions on a single piece of legislation:

- (1) hold the legislation;
- (2) move to the next item on an agenda;
- (3) amend the legislation, subject to the requirements of HR3-2-406;
- (4) substitute the legislation, subject to the requirements of HR3-2-407; or
- (5) lift legislation from the table, subject to the requirements of HR3-2-408.

Section 29. HR3-2-405 is repealed and reenacted to read:

HR3-2-405. Consent calendar.

- (1) A standing committee may recommend that legislation in its possession be placed on the consent calendar if:
 - (a) the committee approves a motion, by a unanimous vote, that the legislation be read a second time and placed on the third reading calendar;

(b) immediately subsequent to that action, the chief sponsor requests that the legislation be placed on the consent calendar;

(c) in a separate motion and vote, the committee unanimously approves the sponsor's request to place the legislation on the consent calendar instead of the second or third reading calendar; and

(d) the legislation does not have a fiscal note of \$10,000 or more.

(2) If, in accordance with HR3-1-102, the House Rules Committee forwards a summary report from the Occupational and Professional Licensure Review Committee in conjunction with legislation referred to a standing committee, the chair shall ensure that the summary report is read orally to the committee before action is taken by the committee on the legislation that is related to the summary report.

Section 30. HR3-2-406 is repealed and reenacted to read:

HR3-2-406. Amending legislation -- Amendments must be germane.

(1) (a) Except as provided in Subsection (2), and if recognized by the chair during the committee action phase, a committee member may make a motion to amend the legislation that is under consideration.

(b) (i) A committee member may propose a verbal amendment to the legislation under consideration if the amendment contains 25 or fewer words.

(ii) Before proposing a motion to amend, a committee member shall ensure that a proposed amendment that contains more than 25 words is printed and distributed to committee staff and to all committee members present.

(2) (a) A committee member may only make a motion to amend that is germane to the subject of the legislation under consideration.

(b) A committee member who believes that an amendment is not germane to the subject of the legislation may make a point of order or appeal as described in HR3-2-506.

Section 31. HR3-2-407 is repealed and reenacted to read:

HR3-2-407. Substitute legislation -- Substitutes must be germane.

(1) Except as provided in Subsection (2), and if recognized by the chair during the committee action phase, a committee member may make a motion to substitute legislation that is under consideration.

(2) (a) A committee member may only make a motion to substitute that is germane to the subject of the legislation under consideration.

(b) A committee member who believes that an amendment is not germane to the subject of the legislation may make a point of order or appeal as described in HR3-2-507.

Section 32. HR3-2-408 is repealed and reenacted to read:

HR3-2-408. Legislation tabled in a standing committee -- Requirements.

(1) If legislation is tabled, the chair shall list the tabled legislation on the committee agenda for the next committee meeting.

(2) At the next committee meeting, the committee may, by a two-thirds vote, lift the tabled legislation from the table.

(3) If a motion to lift tabled legislation is successful, the standing committee may make any motion on the legislation that is authorized under this chapter.

(4) (a) If legislation is tabled by a committee and the legislation is not lifted from the table at the committee's next meeting, the committee chair shall submit a committee report to the chief clerk of the House informing the House that the legislation was tabled.

(b) After reading the committee report on the tabled legislation, the chief clerk of the House shall send the tabled legislation to the House Rules Committee for filing.

Section 33. HR3-2-409 is repealed and reenacted to read:

HR3-2-409. Reconsideration of action.

(1) Except as provided in Subsection (2), and if recognized by the chair, a committee member may make a motion to reconsider the committee's action on legislation if the legislation is:

(a) in the possession of the standing committee; and

(b) listed on the committee agenda as required by Utah Code Title 52, Chapter 4, Open and Public Meetings Act.

(2) A standing committee may not reconsider its action on a piece of legislation:

(a) more than once; and

(b) until the committee has considered other committee business.

Section 34. HR3-2-410 is repealed and reenacted to read:

HR3-2-410. Testimony may be taken under oath.

(1) At the direction of the chair, or upon a majority vote of the committee, the testimony of a witness, presenter, or visitor who speaks to a committee may be taken under oath.

(2) The chair or committee staff shall administer the oath.

Section 35. HR3-2-411 is enacted to read:

HR3-2-411. Additional standing committee meetings.

With permission from the speaker of the House, a chair may hold a committee meeting independent of regularly scheduled committee meetings on:

- (1) a single piece of legislation; or
- (2) the subject of two or more pieces of legislation.

Section 36. HR3-2-412 is enacted to read:

HR3-2-412. Closed standing committee meetings.

A standing committee may close a committee meeting in accordance with the procedures and requirements of Utah Code Title 52, Chapter 4, Open and Public Meetings Act.

Section 37. HR3-2-413 is enacted to read:

HR3-2-413. Prohibited from meeting while House is in session -- Exceptions.

(1) A standing committee may not meet while the House is in session unless:

- (a) the chair receives permission from the speaker to meet; or
- (b) a majority of the House approves a motion for the committee to meet while the House is in session.

(2) Unless a committee is authorized to meet as provided in Subsection (1), any action taken by a committee while the House is in session is invalid.

Section 38. HR3-2-501 is repealed and reenacted to read:

Part 5. Standing Committee Parliamentary Procedures

HR3-2-501. Obtaining the floor in committee -- Remarks to be germane.

(1) As required in HR3-2-311, a chair shall recognize a committee member who desires to speak to the committee.

(2) A committee member who is recognized by the chair may make a motion consistent with the requirements of this chapter.

- (3) A second to a motion is not required.

Section 39. HR3-2-502 is repealed and reenacted to read:

HR3-2-502. Committee members shall vote.

A committee member shall vote on every motion placed for a vote while the committee member is present at a meeting.

Section 40. HR3-2-503 is repealed and reenacted to read:

HR3-2-503. Privileged motions in committee -- General requirements, procedure, and priority.

- (1) Privileged motions:
 - (a) are non-debatable; and
 - (b) take precedence over non-privileged motions.
- (2) If a privileged motion is requested while another privileged motion is pending, the chair shall grant priority to the privileged motions in the following order:

- (a) adjourn;
- (b) set time to adjourn;
- (c) recess;
- (d) end debate or call the question;
- (e) extend debate; and
- (f) limit debate.

(3) Except for a motion to adjourn, a privileged motion, if adopted, does not dispose of other pending motions.

Section 41. HR3-2-504 is repealed and reenacted to read:

HR3-2-504. Original motions in committee -- General requirements, procedure, and priority.

- (1) Original motions:
 - (a) are debatable; and
 - (b) may be replaced with a substitute motion.
- (2) A committee member may not make an original motion if:

- (a) a privileged motion is pending; or
- (b) a substitute motion is pending.

Section 42. HR3-2-505 is repealed and reenacted to read:

HR3-2-505. Substitute motions in committee -- General requirements, procedure, and priority.

- (1) Substitute motions:
 - (a) are debatable; and
 - (b) take precedence over original motions.
- (2) (a) A committee member may make a substitute motion if an original motion is pending.

(b) A committee member may not make a substitute motion if:

- (i) a privileged motion is pending; or
- (ii) another substitute motion is pending.

(c) If a substitute motion is adopted, a substitute motion disposes of the original motion.

(d) If a substitute motion is not adopted, the original motion is pending.

Section 43. HR3-2-506 is repealed and reenacted to read:

HR3-2-506. Reserve the right to make a motion.

(1) Once recognized by the chair, a committee member may not make a motion after speaking to the committee unless the chair has first specifically granted the committee member permission to reserve the right to make a motion.

(2) If the chair has granted a committee member the right to make a motion as required in Subsection (1), the committee member's remarks

shall be confined to the subject of the motion to be made.

(3) A committee member may only reserve the right to make a motion to:

- (a) amend the legislation being debated; or
- (b) substitute the legislation being debated.

Section 44. HR3-2-507 is enacted to read:

HR3-2-507. Point of order -- Appeal of chair's decision.

(1) A point of order is not a motion and, except during a vote, may be made by a member of a standing committee at any time during a committee meeting.

(2) If a member of a standing committee is concerned that legislative rules or procedures are not being followed, the committee member may make a point of order.

(3) When a point of order is made, the chair shall immediately allow the committee member to state the member's point.

(4) A chair shall rule on the point of order without committee discussion or debate as provided in HR3-2-315.

(5) An appeal of the decision of the chair is not a motion and may be made by a committee member after the chair has ruled on a point of order.

(6) A standing committee may, by majority vote, override the decision of the chair on a point of order.

(a) If the committee overrides the decision of the chair, the ruling of a committee is final.

(b) If a committee does not override the decision of the chair, the ruling of a chair is final.

Section 45. HR3-2-508 is enacted to read:

HR3-2-508. Point of information.

(1) A point of information is not a motion and, except during summation or a vote, may be made by a member of a standing committee at any time during a committee meeting.

(2) If a member of a standing committee desires clarification on any aspect of a committee meeting, the committee member may make a point of information.

(3) When a point of information is made, the chair shall immediately allow the committee member to state the point.

Section 46. HR3-2-509 is enacted to read:

HR3-2-509. Division of a motion.

(1) A division is not a motion and, except during a vote, may be made by a member of a standing committee at any time during a committee meeting without being recognized by the chair.

(2) The committee member who divides a motion shall clearly state how the motion is to be divided.

(3) A committee member may not divide a motion to amend legislation in such a manner that could create an unintelligible or ambiguous result.

Section 47. HR3-2-510 is enacted to read:

HR3-2-510. Prohibited motions.

(1) (a) Except for a motion to adjourn, a committee member may not make a motion unless a quorum of the standing committee is present.

(b) When a quorum is not present, a motion to adjourn is passed with a majority vote of those present.

(2) No motion is in order during a vote.

(3) A point of order is not in order during a vote.

(4) A committee member may not make a motion to:

(a) strike the enacting clause of legislation;

(b) strike the resolving clause of a resolution;

(c) circle legislation; or

(d) place legislation on a time certain calendar.

Section 48. HR3-2-511 is enacted to read:

HR3-2-511. Repeating defeated motion.

(1) Except as provided in Subsection (2), a motion that is defeated may not be made by a committee member until the committee has considered other committee business.

(2) A motion to postpone legislation to a day certain, to postpone legislation indefinitely, or to return legislation to the House Rules Committee, if defeated, may not be made again by any committee member during the same committee meeting.

Section 49. HR3-2-512 is enacted to read:

HR3-2-512. A motion may be withdrawn.

A committee member who makes a motion may withdraw that motion at any time before the motion is placed for a vote.

Section 50.

Repealer.

This resolution repeals:

HR3-2-102, Standing committee review required -- Exceptions.

HR3-2-103, Standing committee review of legislation with fiscal impact.

HR3-2-104, Standing committees prohibited from meeting while House is in session -- Exceptions.

HR3-2-601, Committee reports.

H.R. 5

Passed March 9, 2015
Effective March 9, 2015

**HOUSE RESOLUTION REGARDING
MATHEMATICS PROFICIENCY AMONG
HIGH SCHOOL STUDENTS**

Chief Sponsor: Steve Eliason

LONG TITLE

General Description:

This resolution of the House of Representatives expresses support for a requirement that a Utah high school student be enrolled in, and pass, a mathematics course all four years of high school unless the student demonstrates mathematics proficiency.

Highlighted Provisions:

This resolution:

- ▶ recognizes the need for a highly educated workforce;
- ▶ recognizes the importance of attaining proficiency in mathematics while in high school; and
- ▶ urges the State Board of Education to consider a requirement that a high school student be enrolled in, and pass, a mathematics course all four years of high school unless the student demonstrates mathematics proficiency through completing certain high-level mathematics courses or through testing.

Special Clauses:

None

Be it resolved by the House of Representatives of the state of Utah:

WHEREAS, the state of Utah, Governor Gary Herbert, and the business community have indicated that future economic success requires a significant, continued, and focused effort to create a highly educated workforce with the necessary skills for employment;

WHEREAS, the Governor has set a goal to have 66% of the state's population between the ages of 25 and 35 achieve a post-secondary degree or certificate by 2020;

WHEREAS, a central component of Utah's statewide strategy is to increase degree and certification production in economic areas identified as high-demand and high-wage earning, with an emphasis on science, engineering, and health professions;

WHEREAS, this strategy requires significant focus on core academics, primarily mathematics, which prepares students for high-demand, high-wage occupations;

WHEREAS, many Utah industries, including technology, manufacturing, healthcare, and engineering are facing a significant shortage of the appropriately skilled, talented workers necessary to meet current industry employment needs;

WHEREAS, significant progress toward preparing individuals to meet industry needs in high-demand, high-wage employment sectors requires increasing focus and rigor in critical core academic areas, such as mathematics;

WHEREAS, increased focus and rigor in mathematics will provide economic opportunities for Utah's citizens and accelerate Utah's continued economic growth;

WHEREAS, the increased rigor of four years of required mathematics for high school students has been identified as a best practice in education;

WHEREAS, the states with the top performing schools, such as Massachusetts, Maryland, and Washington, have this requirement;

WHEREAS, requiring Utah high school students to demonstrate mathematics proficiency or complete four years of mathematics during high school would not change the net number of hours that students are required to spend in the classroom or the net number of hours that teachers would be required to spend teaching;

WHEREAS, given the Utah Constitution's charge that the State Board of Education exercise "general control and supervision," it is appropriate for this issue to be addressed by the board;

WHEREAS, exceptions for special education students and other circumstances may be considered when setting such a policy;

WHEREAS, Dr. Ruth V. Watkins, PhD, the Senior Vice President for Academic Affairs at the University of Utah, recently said, "One of the most influential actions we can take to strengthen academic preparation and increase college success -- through baccalaureate degree completion -- is to require four years of mathematics during high school. This ensures that students are academically prepared to enter college and successfully complete math course work in their freshman year.";

WHEREAS, more than 50% of Utah students entering the higher education system require mathematics remediation and developmental courses at significant cost to both students and taxpayers;

WHEREAS, students entering college who require remediation or developmental courses are significantly less likely to graduate;

WHEREAS, requiring high school students to demonstrate mathematics proficiency or complete four years of mathematics during high school is one of the most influential policy levers available to strengthen academic preparation and increase college success; and

WHEREAS, the House of Representatives of the state of Utah recognizes that there may be a need to address future increased resources necessary for successful implementation:

NOW, THEREFORE, BE IT RESOLVED that the House of Representatives of the state of Utah urges the Utah State Board of Education to consider a

requirement that a college-bound high school student be enrolled in, and pass, a mathematics course all four years of high school unless the student demonstrates mathematics proficiency through completing certain high-level mathematics courses or through testing.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the State Board of Education.

H.R. 6

Passed March 9, 2015
Effective March 9, 2015

HOUSE RULES RESOLUTION ON BILLS

Chief Sponsor: James A. Dunnigan

LONG TITLE

General Description:

This resolution amends House Rules regarding motions to lift legislation from a standing committee or the House Rules Committee and limits who may make a motion to uncircle legislation.

Highlighted Provisions:

This resolution:

- ▶ only permits the chief sponsor or the legislator designated by the chief sponsor to be the House floor sponsor of the legislation to make a motion to uncircle the sponsor's legislation; and
- ▶ requires that a motion to lift legislation to the third reading calendar receive a vote of two-thirds of those present if the legislation:
 - was tabled by a standing committee; or
 - failed to pass a standing committee motion recommending that the legislation be read the second time and placed on the third reading calendar.

Special Clauses:

None

Legislative Rules Affected:

AMENDS:

HR4-4-203
HR4-6-202

Be it resolved by the House of Representatives of the state of Utah:

Section 1. HR4-4-203 is amended to read:

HR4-4-203. Motion to lift legislation from committee.

(1) A representative may make a motion to lift [a piece of] legislation from a standing committee or the House Rules Committee and place it on the third reading calendar.

(2) [(a)] Except as provided in [Subsection (2)(b), if the motion is approved by a majority of the members present, the presiding officer shall direct that the legislation be placed on the bottom of the third reading calendar] Subsections (3) and (4), a

motion to lift legislation from a standing committee or the House Rules Committee may be approved with a majority vote of the members present.

(3) (a) A motion to lift legislation that was tabled by a standing committee requires a vote of two-thirds of the members present.

(b) A motion to lift legislation that failed to pass a standing committee motion to send the legislation to the second reading calendar requires a vote of two-thirds of the members present.

~~[(b) During]~~ (4) A motion to lift legislation during the 43rd, 44th, and 45th day of the annual general session, and during any special session, ~~[a motion to lift a piece of legislation from a standing committee or the House Rules Committee must be approved by]~~ requires a vote of two-thirds of the members present.

(5) If a motion to lift legislation is approved, the presiding officer shall direct that the legislation be placed on the third reading calendar.

Section 2. HR4-6-202 is amended to read:

HR4-6-202. Motion to circle.

(1) A motion to circle ~~[a piece of]~~ legislation holds the legislation in place on the calendar.

(2) (a) A motion to circle preserves all amendments to the legislation already adopted by the House.

(b) A motion to circle extinguishes all amendments pending at the time that the motion is made.

(3) Legislation that has been circled may only be uncircled by the:

(a) chief House sponsor of the legislation; or

(b) representative designated by the chief Senate sponsor to be the House floor sponsor of the legislation.

~~[(3)]~~ (4) When a motion to uncircle is made:

(a) amendments already adopted by the House are part of the legislation; and

(b) any ~~[amendments that were being discussed]~~ pending motions to amend at the time the legislation was circled are extinguished and a new motion to amend must be made in order to revive them.

S.C.R. 2

Passed February 27, 2015
Approved March 20, 2015
Effective March 20, 2015

CONCURRENT RESOLUTION REGARDING NAVAJO WATER RIGHTS SETTLEMENT

Chief Sponsor: David P. Hinkins
House Sponsor: Jack R. Draxler

LONG TITLE

General Description:

This concurrent resolution of the Legislature and the Governor declares support for the negotiated settlement of federal reserved water rights between the Navajo Nation and representatives of the state of Utah.

Highlighted Provisions:

This resolution:

- ▶ declares support for the negotiated settlement of federal reserved water rights, particularly the state of Utah/Navajo Nation Reserved Water Rights Settlement proposed by a negotiating committee composed of the Navajo Nation and Utah representatives and currently being considered by a United States negotiating team.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, the Governor of Utah and the President of the Navajo Nation, by a memorandum of understanding dated August 13, 2003, agreed to jointly explore settlement of federal reserved water right claims for the portion of the Navajo Nation located in southeastern Utah;

WHEREAS, representatives of the state of Utah and the Navajo Nation have negotiated a proposed settlement in good faith;

WHEREAS, the proposed agreement identifies projects to be built that will provide drinking water to portions of the Navajo Nation located within Utah;

WHEREAS, the proposed settlement involves an amount of water and other provisions to minimize the impact of the settlement on Utah water rights, particularly municipal rights, and to assure that the water needed for the settlement fits within Utah's allocation from the Colorado River;

WHEREAS, the United States has appointed a federal negotiating team to represent its interest as trustee for the Navajo Nation;

WHEREAS, the federal negotiating team is currently evaluating the proposed settlement agreement;

WHEREAS, in exchange for providing most of the funds for construction of the drinking water projects that the agreement contemplates, the United States receives a valuable waiver of claims related to lands located within Utah;

WHEREAS, when the settlement is ratified by the Utah Legislature, the Navajo Nation, and the United States Congress, it will have the effect of law to resolve all controversies with regard to water right claims by the Navajo Nation and its members in Utah;

WHEREAS, in consideration of the promises made in and the value received from the settlement agreement, the state of Utah will be required to

contribute to the construction of projects identified in the agreement;

WHEREAS, the amount is currently projected to be approximately \$8 million;

WHEREAS, the state of Utah has established a Navajo Water Right Settlement Fund, into which money has been deposited in anticipation of the agreement's ratification;

WHEREAS, at the present time, the Utah Legislature prefers not to encumber additional funds for the settlement, recognizing these funds will likely not be expended during the upcoming fiscal year; and

WHEREAS, the state of Utah maintains a rainy day fund that contains sufficient money that could be used to fulfill its settlement obligations, if necessary:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, declares support for the negotiated settlement of federal reserved water rights, particularly the state of Utah/Navajo Nation Reserved Water Rights Settlement proposed by a negotiating committee composed of Navajo Nation and Utah representatives and currently being considered by a United States negotiating team.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the President of the United States, the Majority Leader of the United States Senate, the Speaker of the United States House of Representatives, the President of the Navajo Nation, the Navajo Nation Council, the Navajo Nation Department of Justice, and the members of Utah's congressional delegation.

S.C.R. 3

Passed March 4, 2015
Approved March 30, 2015
Effective March 30, 2015

CONCURRENT RESOLUTION URGING CONGRESS TO SUPPORT THE IMPLEMENTATION OF THE STATE'S SAGE-GROUSE CONSERVATION PLAN

Chief Sponsor: Kevin T. Van Tassell
House Sponsor: Scott D. Sandall

LONG TITLE

General Description:

This concurrent resolution of the Legislature, the Governor concurring therein, urges Congress to support the state's sage-grouse conservation plan.

Highlighted Provisions:

This resolution:

- ▶ urges Congress to provide no funding to the United States Secretary of the Interior to consider, prepare, write, or issue a petition finding or proposed regulation for greater sage-grouse management through fiscal year 2025;
- ▶ resolves that the state implement its sage-grouse conservation plan; and

- ▶ urges Congress to enact legislation recognizing and encouraging state primacy in the long-term management of sage-grouse and its habitat.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, the state of Utah is committed to the conservation of greater sage-grouse (*Centrocercus urophasianus*) and its present habitat located within the state;

WHEREAS, the state of Utah has produced a statewide sage-grouse conservation plan in support of this commitment;

WHEREAS, the Division of Wildlife Resources in the Department of Natural Resources possesses significant expertise in the management of greater sage-grouse and its habitat, and experts in the division have been working extensively in full cooperation with the federal agencies managing federal lands within the borders of the state;

WHEREAS, the Endangered Species Act requires the United States Secretary of the Interior to take into account the state of Utah's efforts to protect greater sage-grouse prior to the Secretary's determination that the species is endangered or threatened;

WHEREAS, implementation of the state's conservation plan will produce scientific data related to disease or predation of the species, the adequacy of existing regulatory mechanisms, and other natural or human-influenced factors affecting the species' existence, all of which must be considered by the United States Fish and Wildlife Service in making a determination whether to list greater sage-grouse as threatened or endangered under the Endangered Species Act;

WHEREAS, categorical exclusions from the National Environmental Policy Act are necessary to allow the federal land management agencies to remove pinyon-juniper trees that are harmful to greater sage-grouse habitat;

WHEREAS, the state of Utah wishes to continue its collaboration with other states possessing current habitat for greater sage-grouse;

WHEREAS, the United States Congress and the President of the United States are to be commended for recognizing the unprecedented collaboration among the various states regarding greater sage-grouse conservation and the need to continue on-the-ground conservation and monitoring activities, as recognized through the enactment of Section 122 of the Consolidated and Further Continuing Appropriations Act of 2015; and

WHEREAS, time is needed to finalize and implement the state conservation plan over a period of multiple, consecutive sage-grouse life cycles to determine the efficacy of the plan and the need for modification, if any:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, urges Congress to provide no funding to the United States Secretary of the Interior to consider, prepare, write, or issue, pursuant to Section 4 of the Endangered Species Act of 1973 (16 U.S.C. Sec. 1533), a petition finding or proposed regulation for greater sage-grouse for a period of 10 years through and including fiscal year 2025.

BE IT FURTHER RESOLVED that during this period, the state of Utah will implement its sage-grouse conservation plan, thereby establishing and enhancing its efficacy over time.

BE IT FURTHER RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, urges Congress to enact legislation recognizing and encouraging state primacy in the long-term management of sage-grouse and its habitat to ensure an effective and balanced approach that seeks to recover and protect sage-grouse populations while protecting state economic interests, educational funding from state lands, and valid existing rights, including private property rights.

S.C.R. 4

Passed March 11, 2015

Approved March 30, 2015

Effective March 30, 2015

**CONCURRENT RESOLUTION
REGARDING THE CREATION
OF NATIONAL MONUMENTS**

Chief Sponsor: Stephen H. Urquhart

House Sponsor: Michael E. Noel

LONG TITLE

General Description:

This concurrent resolution of the Legislature and the Governor urges Congress to create a process for establishing a national monument that includes public participation and local and state involvement.

Highlighted Provisions:

This resolution:

- ▶ urges Congress to create a process for establishing a national monument that includes public participation and local and state involvement;
- ▶ expresses opposition to the presidential creation of any large area national monument as a violation of the Antiquities Act's smallest-area-compatible mandate;
- ▶ declares that unchecked exercise of power concentrated in the President has serious consequences for Utah, as nearly 60% of the state is federally owned; and
- ▶ urges Congress to check the President's ability to exercise this power by amending the Antiquities Act to clarify its actual intent, which is to establish small discrete monuments or memorials.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, the Antiquities Act of 1906, 16 U.S.C. Sec. 431, authorizes the President of the United States to bypass congressional, state, and local land management policies and tie up any federal land in a state through national monument declarations;

WHEREAS, the Antiquities Act requires that a national monument be designated within the smallest area compatible with the proper care of federal lands containing historic landmarks, historic and prehistoric structures, or other objects of historic or scientific interest;

WHEREAS, in 1996, the President of the United States abused the intent of the Antiquities Act with the creation of the Grand Staircase-Escalante National Monument without any consultation with state and local authorities or citizens;

WHEREAS, the size of the Grand Staircase-Escalante National Monument in Garfield and Kane counties far exceeded "the smallest areas compatible" with the feigned objectives of that monument;

WHEREAS, the Antiquities Act fails to provide public, local, state, or congressional participation in the act's limited processes compared with the public participation and environmental review aspects of other federal laws, including the Federal Land Policy and Management Act of 1976 (FLPMA) and the National Environmental Policy Act (NEPA);

WHEREAS, a confirmed United States Department of Interior internal memorandum declares other areas in Utah "may be good candidates for National Monument designation under the Antiquities Act";

WHEREAS, the Tenth Amendment to the United States Constitution states, "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States";

WHEREAS, lands in the San Rafael Swell and Cedar Mesa areas of Utah are currently managed by the United States Bureau of Land Management (BLM) under the FLPMA;

WHEREAS, FLPMA directs the BLM to manage public lands according to Resource Management Plans which "shall be consistent with State and local plans to the maximum extent [the Secretary of Interior] finds consistent with Federal law and the purpose of [FLPMA]";

WHEREAS, the state of Utah and the counties of Emery, Wayne, and San Juan have recently completed an expensive and protracted multi-year FLPMA and NEPA process with the BLM and the public to revise and update the BLM's Resource Management Plans in planning areas which include the San Rafael Swell and Cedar Mesa areas;

WHEREAS, the revised Resource Management Plans do not call for the creation of national

monuments in the San Rafael Swell and Cedar Mesa areas;

WHEREAS, creating national monuments in the San Rafael Swell and Cedar Mesa areas would violate and undercut the integrity of the Resource Management Plans revision process in Emery, Wayne, and San Juan counties where the San Rafael Swell and Cedar Mesa areas are situated, and would be inconsistent with the plans and policies of the state of Utah and those counties and their duly elected governmental boards and leaders;

WHEREAS, creating national monuments in these areas would violate the constitutional guarantee of a republican form of government as well as federal statutory consistency requirements of FLPMA;

WHEREAS, a presidential proclamation declaring national monuments in the San Rafael Swell and Cedar Mesa areas would single-handedly bypass the revised Resource Management Plans and the universal opposition by the duly elected leaders of the state of Utah and the affected counties;

WHEREAS, Utah favors protecting the remarkably scenic, recreational, and sensitive areas of the San Rafael Swell and Cedar Mesa areas;

WHEREAS, continued grazing and environmentally sensitive energy and mineral development in the San Rafael Swell and Cedar Mesa areas can be done in such a way as to protect and preserve scenic and recreational values;

WHEREAS, as history has demonstrated in the case of the Grand Staircase-Escalante National Monument, many thousands of acres of important grazing and mineral and other multiple use resources and values have been closed to reasonable development due to the multi-hundred thousand acre national monument designation;

WHEREAS, Congress has considered numerous proposals to abolish or limit the President's authority to establish monuments under the Antiquities Act in recent years; and

WHEREAS, Utah's economy, industry, culture, way of life, and its viability as a sovereign state guaranteed a republican form of government depend on reasonable multiple-use access to the BLM lands in the San Rafael Swell and Cedar Mesa areas of the state, most of which would be taken away through national monument designation;

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, expresses its support for Congress to create a common sense process for the federal government to establish a national monument in any state that includes extensive public participation and local and state involvement.

BE IT FURTHER RESOLVED that the Legislature and the Governor express their opposition to the presidential creation of any large

area national monument in the state as an abuse and violation of the Antiquities Act's smallest-area-compatible mandate.

BE IT FURTHER RESOLVED that the Legislature and the Governor declare that this unchecked exercise of power concentrated in the President portends serious consequences for Utah, as nearly 60% of the state is federally owned.

BE IT FURTHER RESOLVED that the Legislature and the Governor urge Congress to check the President's ability to exercise such power by amending the Antiquities Act to clarify its actual intent, which is to establish small discrete monuments or memorials as existed in Utah prior to the unfortunate creation in 1996 of the Grand Staircase-Escalante National Monument.

BE IT FURTHER RESOLVED that copies of this resolution be sent to the Majority Leader of the United States Senate, the Speaker of the United States House of Representatives, and the members of Utah's congressional delegation.

S.C.R. 6

Passed March 10, 2015
 Approved March 30, 2015
 Effective March 30, 2015

**CONCURRENT RESOLUTION
 SUPPORTING VIETNAM VETERANS**

- Chief Sponsor: Curtis S. Bramble
 House Sponsor: Val L. Peterson
 Cosponsors: J. Stuart Adams
 Allen M. Christensen
 Jim Dabakis
 Gene Davis
 Margaret Dayton
 Luz Escamilla
 Wayne A. Harper
 Deidre M. Henderson
 Lyle W. Hillyard
 David P. Hinkins
 Jani Iwamoto
 Alvin B. Jackson
 Scott K. Jenkins
 Peter C. Knudson
 Mark B. Madsen
 Karen Mayne
 Ann Millner
 Wayne L. Niederhauser
 Ralph Okerlund
 Aaron Osmond
 Brian E. Shiozawa
 Howard A. Stephenson
 Jerry W. Stevenson
 Daniel W. Thatcher
 Stephen H. Urquhart
 Kevin T. Van Tassell
 Evan J. Vickers
 Todd Weiler

LONG TITLE

General Description:

This concurrent resolution of the Legislature and the Governor expresses strong support for all military personnel who served and sacrificed in the Vietnam War.

Highlighted Provisions:

This resolution:

- ▶ expresses strong support for all military personnel who served and sacrificed in the Vietnam War, no matter the political affiliation and disagreements over the Vietnam War, and calls on all Americans to show that support to all those who wear the uniform;
- ▶ offers a heartfelt, belated welcome home and expression of gratitude to all Vietnam War military personnel; and
- ▶ urges communities across the state of Utah to consider appropriate expressions of support and recognition for Vietnam veterans living in their midst.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, we are fortunate to live in a time when military personnel returning from the battlefield are greeted with heartfelt respect and gratitude;

WHEREAS, in the 1960s and 1970s, many Vietnam War veterans returning from service received a very different reception;

WHEREAS, members of the United States Armed Forces who served bravely and faithfully for the United States during the Vietnam War were often wrongly criticized for their government's policy decisions;

WHEREAS, the Vietnam War was an extremely divisive issue and a conflict that caused a generation of veterans to wait too long for the American public to acknowledge and honor their efforts and services;

WHEREAS, like any large-scale conflict, the Vietnam War was filled with pain, horror, and brutality;

WHEREAS, the Vietnam War, like all other wars, cut short many lives filled with great promise;

WHEREAS, unfortunately, expressions of bitterness, anger, and hatred regarding the United States' involvement in the war were aimed not only at those whose decisions placed the United States in the conflict, but also at those who heeded the call to serve their country in the armed forces;

WHEREAS, those who fought in the Vietnam War have always felt a debt to those who never came home, who served and left this earth too soon;

WHEREAS, it is a national shame and disgrace that Americans did not welcome home our troops from Vietnam with open arms and yellow ribbons, but instead with harsh criticism and denigration;

WHEREAS, thanks to the example of Vietnam veterans who warmly welcome home troops from

Iraq and Afghanistan, Americans have only in recent years learned how to properly show appreciation for the warriors who serve this country with valor, regardless of the debate over the issue of war itself;

WHEREAS, Vietnam War memorials in communities throughout the state have done much to remind citizens of the need to support veterans, both then and now, who are battered and in need of help from those in whose place they fought;

WHEREAS, Remember My Service Productions is the project coordinator for an unprecedented gift to recognize all 7.4 million Vietnam veterans during the peak 50th commemorative years of 2015-17;

WHEREAS, a commemorative gift presented to each Vietnam veteran in every state will be produced on behalf of a non-profit coalition, including the Association of the United States Army and the Naval Historical Foundation;

WHEREAS, the gift includes a hardbound, 160-page book, "A Time to Honor: Stories of Service and Sacrifice"; a feature documentary, "To Honor and Remember"; an interactive eBook; and digital archives of all Vietnam-era Division magazines; and

WHEREAS, the state of Utah sent almost 28,000 young men to Vietnam putting our state fifth highest per capita and an estimated 47,000 Vietnam veterans are Utah residents today;

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, stands united in its strong support of all military personnel who served and sacrificed in the Vietnam War, no matter the political affiliation and disagreements over the Vietnam War, and calls on all Americans to show that support to all those who wear the uniform.

BE IT FURTHER RESOLVED that the Legislature and the Governor welcome you, our Vietnam War veterans, home 50 years too late, but with heartfelt gratitude for your service.

BE IT FURTHER RESOLVED that the Legislature and the Governor urge communities across the state to consider appropriate expressions of support and recognition for Vietnam veterans living in their midst.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the United States Department of Veterans Affairs, the Veterans of Foreign Wars, the Utah Department of Veterans' and Military Affairs, the Utah Association of Counties, the Utah League of Cities and Towns, the Utah Vietnam Veterans of America, and the members of Utah's congressional delegation.

S.C.R. 7

Passed March 9, 2015
Approved March 30, 2015
Effective March 30, 2015

**CONCURRENT RESOLUTION
REGARDING A MILITARY TEST
SITE IN WESTERN UTAH**

Chief Sponsor: Curtis S. Bramble
House Sponsor: Douglas V. Sagers

LONG TITLE

General Description:

This concurrent resolution of the Legislature and the Governor expresses support for a military test site in western Utah under certain conditions.

Highlighted Provisions:

This resolution:

- ▶ expresses support for the Utah Test and Training Range Expansion Proposal for a military test site in western Utah, provided the conditions listed in the resolution are included in the final proposal.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, Hill Air Force Base is the largest single-site employer within the state of Utah;

WHEREAS, 25,563 direct personnel work within Hill Air Force Base, including 5,525 military, 3,767 military dependents, and 12,545 civilians;

WHEREAS, Hill Air Force Base creates an estimated \$1.24 billion in jobs annually;

WHEREAS, Hill Air Force Base has a total annual economic impact of \$3.31 billion;

WHEREAS, Hill Air Force Base's 388th Fighter Wing and the Air Force Reserve 419th Fighter Wing will become the Air Force's first operational squadrons of the F-35 Joint Strike Fighter;

WHEREAS, 72 jets will be supported by these fighter wings;

WHEREAS, for aircrew training and weapons testing, the Utah Test and Training Range is the largest overland safety footprint available in the Department of Defense;

WHEREAS, 5th generation weapons, including the F-35 Joint Strike Fighter, the F-22 Raptor, and weapons such as the future Long-Range Strike Bomber and long-range, ultra-fast, non-nuclear, hypersonic weapons, require a larger weapons testing footprint than exists within the current Utah Test and Training Range;

WHEREAS, each year, the Department of Defense publishes a Sustainable Ranges Report to Congress;

WHEREAS, this report summarizes the department's actions to ensure the long-term sustainability of its ranges;

WHEREAS, consistently highlighted in these reports are three Utah Test and Training Range deficiencies:

- inability to accommodate 5th generation aircraft and weapons;
- potential encroachment from development that would disrupt test and training capabilities; and
- congestion resulting from increased activity in fulfillment of the United States Air Force, the United States Army, and National Guard missions;

WHEREAS, expansion of the Utah Test and Training Range would alleviate these deficiencies and ensure the viability of Hill Air Force Base and the Utah Test and Training Range for decades to come;

WHEREAS, the proposal to expand the Utah Test and Training Range includes the withdrawal of over 625,643 acres of Bureau of Land Management land for use by the Secretary of the Air Force for national security purposes;

WHEREAS, the Utah Test and Training Range Expansion Proposal would consolidate School and Institutional Trust Lands parcels and improve the Utah Test and Training Range’s ability to fulfill current and future mission requirements; and

WHEREAS, Utah Code Section 63L-2-201 requires the Legislature to approve a plan to sell or transfer 10,000 or more acres of School and Institutional Trust Lands, and the final proposal shall still be subject to final legislative approval:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, expresses support for the Utah Test and Training Range Expansion Proposal, provided the following conditions are part of the final proposal:

- the proposal will not create a net gain of federal lands within the state of Utah;
- as outlined in the expansion proposal, a “Resource Management Group” will be established to provide regular and continuing input to the Secretary of the Air Force on matters involving public access to, use of, and overall management of the public land withdrawn by the proposal;
- continued access and use of the withdrawn lands by the public will continue, except during times of temporary closure by the Air Force;
- no new federal wilderness will be designated through this proposal;
- the grazing permits currently contained within the withdrawn areas will be maintained;
- Interstate 80 will not be closed as a result of this proposal;
- current restricted airspace and military operating area of airspace will not be expanded, adjusted, or changed through this proposal;
- nothing in this proposal relating to the reestablishment of bighorn sheep in the

Newfoundland Mountains will change existing agreements between the Air Force, the Bureau of Land Management, the Utah Department of Natural Resources, and the Utah Division of Wildlife Resources;

- no munitions ordinance will intentionally land or be detonated within the withdrawn areas;
- in the event of the release of unintended munitions ordinance onto the withdrawn lands, the Secretary of the Air Force will conduct the land appropriate response activities in accordance with applicable laws and regulations;
- nothing in the proposal will prevent the use, access to, or access of ground emergency response, to the withdrawn areas;
- access to the Knolls Special Recreation Management Area will continue, except through temporary closures by the Air Force;
- this proposal will not limit or alter any existing rights to access National Historic Trails, or other federal or state historic landmarks, except through temporary closures by the Air Force; and
- this proposal will not alter or change existing water rights or uses in Utah’s West Desert.

BE IT FURTHER RESOLVED that the Legislature and the Governor support the continued exploration of this plan but reserves the approval or rejection required by Utah Code Section 63L-2-201 until the body is presented with a final proposal.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the Secretary of the Air Force, the Secretary of the Army, the Commander of the National Guard of the United States, the Utah National Guard, the United States Secretary of the Interior, the Department of Defense, the Bureau of Land Management, the Utah Department of Natural Resources, the Utah Division of Wildlife Resources, the Utah School and Institutional Trust Lands Administration, Hill Air Force Base, Hill Air Force Base’s 388th Fighter Wing and the Air Force Reserve 419th Fighter Wing, the Utah Test and Training Range, and the members of Utah’s congressional delegation.

S.C.R. 8

Passed March 4, 2015
Approved March 20, 2015
Effective March 20, 2015

**CONCURRENT RESOLUTION
REGARDING TRANSPORTATION
FOR PERSONS WITH DISABILITIES**

Chief Sponsor: Karen Mayne
House Sponsor: Brad L. Dee

LONG TITLE

General Description:

This concurrent resolution of the Legislature and the Governor expresses support for the Utah

Transit Authority Coordinated Mobility Department's efforts to survey all transportation service providers for older adults, persons with disabilities, and other citizens of Utah in an effort to inventory all mobility resources available to address unmet transportation needs.

Highlighted Provisions:

This resolution:

- ▶ expresses support for the Utah Transit Authority Coordinated Mobility Department's efforts to inventory the services provided by transportation service providers for older adults, persons with disabilities, and other citizens of Utah;
- ▶ encourages transportation service providers for people with disabilities to supply the Utah Transit Authority Coordinated Mobility Department with requested information in order to make a complete inventory of all transportation options available to older adults, persons with disabilities, and other citizens of Utah; and
- ▶ encourages ongoing efforts that promote cooperation and coordination of services and resources provided by transportation service providers for persons with disabilities in ways that will better serve older adults, persons with disabilities, and other citizens of Utah and provide easier and more accessible transportation services and efficiencies, preserve resources, and create cost savings.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, approximately 197,607 older adults and approximately 190,626 persons with disabilities live along the Wasatch Front;

WHEREAS, hundreds of transportation service providers serve people with disabilities;

WHEREAS, these transportation service providers for people with disabilities face transportation delivery, funding, and policy challenges;

WHEREAS, transportation providers for people with disabilities have not coordinated their transportation efforts or services;

WHEREAS, under the Moving Ahead for Progress in the 21st Century Act (MAP 21), the Federal Transit Administration requires mobility coordination;

WHEREAS, Section 5310 of MAP 21 requires projects from local coordinated plans to meet the transportation needs of older adults, persons with disabilities, and other citizens of Utah;

WHEREAS, Governor Herbert asked the Utah Transit Authority to inventory all transportation options available to older adults and persons with disabilities;

WHEREAS, to better serve the older adults, persons with disabilities, and other citizens of Utah,

more accessible, efficient, and cost-saving uses of mobility resources are needed; and

WHEREAS, these resources will help to successfully address the coordinated mobility issues facing transportation service providers for older adults, people with disabilities, and other citizens of Utah and assist the development of mobility coordination between the various mobility providers:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, expresses support for the Utah Transit Authority Coordinated Mobility Department's efforts to inventory the services provided by transportation service providers for older adults, persons with disabilities, and other citizens of Utah.

BE IT FURTHER RESOLVED that the Legislature and the Governor encourage transportation service providers for persons with disabilities to supply the Utah Transit Authority Coordinated Mobility Department with requested information in order to make a complete inventory of all transportation options available to older adults, persons with disabilities, and other citizens of Utah.

BE IT FURTHER RESOLVED that the Legislature and the Governor encourage ongoing efforts that promote cooperation and coordination of services and resources provided by transportation service providers for persons with disabilities in ways that will better serve older adults, persons with disabilities, and other citizens of Utah and provide easier and more accessible transportation services and efficiencies, preserve resources, and create cost savings.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the Utah Department of Human Services, the Utah Department of Health, the Utah Department of Transportation, Wasatch Front Regional Council, and the Utah Transit Authority.

S.C.R. 9

Passed March 12, 2015
Approved March 30, 2015
Effective March 30, 2015

**CONCURRENT RESOLUTION
RECOGNIZING THE IMPORTANCE
OF UTAH'S SPORT AND OLYMPIC
LEGACY EFFORTS**

Chief Sponsor: J. Stuart Adams
House Sponsor: Steve Eliason

LONG TITLE

General Description:

This concurrent resolution of the Legislature and the Governor acknowledges the important role that Utah's sport and Olympic legacy activities play in our economy and branding.

Highlighted Provisions:

This resolution:

- ▶ expresses support for Utah’s ongoing sport and Olympic legacy activities;
- ▶ expresses appreciation for and support of Utah’s efforts to continue to strengthen and expand its position as “The State of Sport” in the national and international sport and Olympic spaces; and
- ▶ encourages Utah to remain “ready, willing, and able” as the opportunity arises to continue to host major sporting events of all kinds and be prepared should an opportunity arise to host a future Olympic Games.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, the 2002 Olympic and Paralympic Games was an unforgettable and truly remarkable event in the history of Salt Lake City and the state of Utah;

WHEREAS, the 2002 Olympic and Paralympic Games left a powerful and lasting impact that has facilitated Utah’s ability to build a robust sports brand and create a significant Olympic legacy;

WHEREAS, Utah’s sports brand has been an ongoing benefit to Utah’s citizens, the state’s image, and the state’s economy;

WHEREAS, Utah continues to invest in sport and Olympic legacy activities that are being conducted at an extraordinarily high level;

WHEREAS, Utah has hosted hundreds of major Olympic and non-Olympic sporting events since the 2002 Games that have enhanced Utah’s economy, image, and global position in sport;

WHEREAS, Utah’s world-class Olympic and non-Olympic venues continue to host events and train athletes and also allow Utah’s citizens to use and enjoy these world-class facilities;

WHEREAS, Utah’s sports community continues to be unified in its effort to strengthen Utah’s sport and Olympic legacy initiatives and amplify Utah’s global sport brand as “The State of Sport”;

WHEREAS, Utah continues to actively partner with and support the mission and charter of the United States Olympic Committee, the International Olympic Committee, and many other partners who are helping Utah enhance its sport and Olympic legacy;

WHEREAS, Utah’s sport and Olympic legacy efforts continue to leverage and use significant 2002 Games infrastructure and assets, including athletic and related venues, transportation improvements, “green” initiatives, and many other elements from the 2002 Olympic Winter Games that continue to provide significant benefit to Utah’s citizens and economy;

WHEREAS, because of Utah’s excellence in hosting of the 2002 Winter Olympic and Paralympic

Games, extraordinary sport and institutional knowledge continue to be used in the hosting of many major sporting events of all types; and

WHEREAS, Utah is “The State of Sport,” and sport and Olympic legacy activities continue to generate and drive significant economic benefit and return on investment to Utah’s economy and image:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, expresses support and encouragement to the Utah Sports Commission and its many partners, including the Utah Olympic Legacy Foundation, venues, sports partners, the national governing bodies of sport and international sports federations, community partners, volunteers, and others in their efforts to keep Utah well positioned globally in sports and the Olympic movement so that when the opportunity arises, Utah will stand “ready, willing, and able” to welcome the world back.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the International Olympic Committee, the United States Olympic Committee, the Utah Sports Commission, the Utah Olympic Legacy Foundation, the Governor’s Office of Economic Development, the Utah State Chamber of Commerce, and the members of Utah’s congressional delegation.

S.C.R. 10

Passed March 11, 2015

Approved March 30, 2015

Effective March 30, 2015

**CONCURRENT RESOLUTION
REGARDING PUBLIC LANDS INITIATIVE**

Chief Sponsor: David P. Hinkins

House Sponsor: Scott H. Chew

LONG TITLE

General Description:

This concurrent resolution of the Legislature and the Governor expresses support for the Public Lands Initiative and for locally driven land use planning over unilateral federal action regarding Utah’s public lands.

Highlighted Provisions:

This resolution:

- ▶ expresses support to counties in Utah that choose to participate in the Public Lands Initiative;
- ▶ expresses the Legislature’s commitment to the ideals of local control, local ownership, and local lands management;
- ▶ expresses the Legislature’s preference for locally driven land use planning over the unilateral use of the Antiquities Act of 1906;
- ▶ expresses support for the efforts of Utah’s congressional delegation and participating counties in Utah to bring some resolution to the long-standing public land disputes; and
- ▶ encourages the ongoing Public Lands Initiative to move forward.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, perpetual land management, land use, and access disputes on public lands in the state reduce economic development opportunities in local communities and impede successful management of lands and resources;

WHEREAS, resolving perpetual land management, land use, and access disputes would bring regulatory certainty to local governments, spur economic development, and improve land, wildlife, air, water, forest, and range health;

WHEREAS, the Public Lands Initiative (PLI), an effort spearheaded by Utah's congressional delegation, the Governor's Office, Native American tribes, non-governmental organizations, and various Utah counties, is intended to bring resolution to perpetual land management, land use, and access disputes and create some regulatory certainty for the citizens in Utah's public lands counties;

WHEREAS, PLI has the potential to boost mineral production, create jobs and economic growth, diminish the federal footprint in local communities, protect livestock grazing, enhance outdoor recreational opportunities, and increase state and local management of lands and resources;

WHEREAS, PLI provides an opportunity to relocate captured school trust parcels into more accessible, energy-rich areas of the state that could provide a higher return for Utah's schoolchildren;

WHEREAS, PLI is complementary to Utah's Transfer of Public Lands Act, as both efforts are designed to bring greater local control, local ownership, and public lands management to local communities;

WHEREAS, nothing in the PLI will prejudice the Utah's Transfer of Public Lands Act;

WHEREAS, the PLI is a critical first step in ongoing efforts to restore state control over the land within the state's border;

WHEREAS, Utah's congressional delegation, the Governor's Office, and the Legislature are committed to empowering local elected officials and garnering support from those closest to the land as part of PLI;

WHEREAS, several locations in Utah have been listed on United States Department of the Interior national monument planning documents;

WHEREAS, the Legislature and the Governor prefer locally driven land use planning over the unilateral use of the Antiquities Act of 1906; and

WHEREAS, unilateral executive actions in any Utah county would impede locally driven planning efforts and likely stifle future public land management progress;

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, expresses strong support to counties in Utah that choose to participate in the Public Lands Initiative.

BE IT FURTHER RESOLVED that the Legislature and the Governor express their commitment to the ideals of local control, local ownership, and local lands management and the belief that the Public Lands Initiative would strengthen these ideals.

BE IT FURTHER RESOLVED that the Legislature and the Governor express their preference for locally driven land use planning over the unilateral use of the Antiquities Act of 1906.

BE IT FURTHER RESOLVED that the Legislature and the Governor express support for the efforts of Utah's congressional delegation and Utah's participating counties to bring some resolution to long-standing public land disputes and encourage the Public Lands Initiative to move forward.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the President of the United States, the Secretary of the United States Department of the Interior, the Utah Association of Counties, the Utah League of Cities and Towns, the Governor's Office of Economic Development, the Utah Chamber of Commerce, the Native American Tribes participating in the Public Lands Initiative, and the members of Utah's congressional delegation.

S.J.R. 1

Passed February 18, 2015
Effective February 18, 2015

**JOINT RESOLUTION URGING
INTERSTATE SHARING OF PUTATIVE
FATHER REGISTRY INFORMATION**

Chief Sponsor: Luz Escamilla
House Sponsor: Jacob L. Anderegg

LONG TITLE

General Description:

This joint resolution of the Legislature urges actions to promote the interstate sharing of putative father registry information.

Highlighted Provisions:

This resolution:

- ▶ urges each state, district, and territory of the United States to enact the Compact for Interstate Sharing of Putative Father Registry Information;
- ▶ urges the Uniform Law Commission to develop model state laws that promote the interstate sharing of putative father registry information; and
- ▶ urges Congress to enact legislation that promotes the interstate sharing of putative father registry information, while respecting state control over related public policies.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah:

WHEREAS, “putative father” means a man who may be the biological father of a child because the man had a sexual relationship with a woman to whom he is not married;

WHEREAS, “putative father registry” means a registry of putative fathers maintained and used by a state as part of its legal process for protecting a putative father’s rights;

WHEREAS, “state” includes a state, district, or territory of the United States;

WHEREAS, because states do not share putative father registry information, a putative father must register with the state in which his child will be born to preserve the putative father’s rights;

WHEREAS, a putative father may not know in which state his child will be born if the child’s mother does not inform him of where she intends to give birth or if she misleads him about where she intends to give birth;

WHEREAS, without accurate information about where his child will be born, a putative father does not know in which state he must register to preserve his rights;

WHEREAS, the United States Congress has not yet enacted legislation facilitating the interstate sharing of putative father registry information;

WHEREAS, Utah has created the Compact for Interstate Sharing of Putative Father Registry Information, which any state, district, or territory of the United States may join by enacting the compact into state law:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah urges each state, district, and territory of the United States to enact the Compact for Interstate Sharing of Putative Father Registry Information.

BE IT FURTHER RESOLVED that the Legislature of the state of Utah urges the Uniform Law Commission to develop model state laws that promote the interstate sharing of putative father registry information.

BE IT FURTHER RESOLVED that the Legislature of the state of Utah urges the United States Congress to enact legislation that promotes the interstate sharing of putative father registry information, while respecting state control over related public policies.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the legislative bodies of each state, district, and territory of the United States; the Uniform Law Commission; the Majority Leader of the United States Senate; the Speaker of the United States House of Representatives; and the members of Utah’s congressional delegation.

S.J.R. 4

Passed March 4, 2015

Effective July 1, 2015

JOINT RULES RESOLUTION -- MEDICAID ACCOUNTABLE CARE ORGANIZATIONS

Chief Sponsor: J. Stuart Adams
House Sponsor: James A. Dunnigan

LONG TITLE

General Description:

This joint resolution of the Legislature amends the legislative rule for executive appropriations and the base budget.

Highlighted Provisions:

This resolution:

- ▶ requires the base budgets to include funding for Medicaid accountable care organizations in specified amounts.

Special Clauses:

This rules resolution provides a special effective date.

Legislative Rules Affected:

AMENDS:

JR3-2-402

Be it resolved by the Legislature of the state of Utah:

Section 1. JR3-2-402 is amended to read:

JR3-2-402. Executive appropriations -- Duties -- Base budgets.

(1) As used in this rule:

(a) “Base budget” means amounts appropriated by the Legislature for each item of appropriation for the current fiscal year that:

(i) are not designated as one-time in an appropriation, regardless of whether the appropriation is covered by ongoing or one-time revenue sources; and

(ii) were not vetoed by the governor, unless the Legislature overrode the veto.

(b) “Base budget” includes:

(i) any changes to those amounts approved by the Executive Appropriations Committee; and

(ii) amounts appropriated for debt service.

(2) (a) The Executive Appropriations Committee shall meet no later than the third Wednesday in December to:

(i) direct staff as to what revenue estimate to use in preparing budget recommendations, to include a forecast for federal fund receipts;

(ii) consider treating above-trend revenue growth as one-time revenue for major tax types;

(iii) hear a report on the historical, current, and anticipated status of the following:

(A) debt;

(B) long term liabilities;

(C) contingent liabilities;

- (D) General Fund borrowing;
 - (E) reserves;
 - (F) fund balances;
 - (G) nonlapsing appropriation balances;
 - (H) cash funded infrastructure investment; and
 - (I) changes in federal funds paid to the state;
- (iv) decide whether to set aside special allocations for the end of the session, including allocations:
- (A) to address any anticipated reduction in the amount of federal funds paid to the state; and
 - (B) of one-time revenue to pay down debt and other liabilities;
 - (v) approve the appropriate amount for each subcommittee to use in preparing its budget;
 - (vi) set a budget figure; and
 - (vii) adopt a base budget in accordance with Subsection (2)(b) and direct the legislative fiscal analyst to prepare one or more appropriations acts appropriating one or more base budgets for the next fiscal year.

(b) In a base budget adopted under Subsection (2)(a), appropriations from the General Fund, the Education Fund, and the Uniform School Fund shall be set as follows:

(i) if the next fiscal year ongoing revenue estimates set under Subsection (2)(a)(i) are equal to or greater than the current fiscal year ongoing appropriations, the new fiscal year base budget is not changed;

(ii) if the next fiscal year ongoing revenue estimates set under Subsection (2)(a)(i) are less than the current fiscal year ongoing appropriations, the new fiscal year base budget is reduced by the same percentage that projected next fiscal year ongoing revenue estimates are lower than the total of current fiscal year ongoing appropriations; ~~and~~

(iii) in making a reduction under Subsection (2)(b)(ii), appropriated debt service shall not be reduced, and other ongoing appropriations shall be reduced, in an amount sufficient to make the total ongoing appropriations, including the unadjusted debt service, equal to the percentage calculated under Subsection (2)(b)(ii)[-]; and

(iv) the new fiscal year base budget shall include an appropriation to the Department of Health for Medicaid accountable care organizations in the amount required by Section 26-18-405.5.

(c) The chairs of each appropriation subcommittee are invited to attend this meeting.

(3) Appropriations subcommittees may not meet while the Senate or House is in session without special leave from the speaker of the House and the president of the Senate.

(4) All proposed items of expenditure to be included in the appropriations bills shall be

submitted to one of the subcommittees named in JR3-2-302 for consideration and recommendation.

(5) (a) After receiving and reviewing subcommittee reports, the Executive Appropriations Committee may refer the report back to an appropriations subcommittee with any guidelines the Executive Appropriations Committee considers necessary to assist the subcommittee in producing a balanced budget.

(b) The subcommittee shall meet to review the new guidelines and report the adjustments to the chairs of the Executive Appropriations Committee as soon as possible.

(6) (a) After receiving the reports, the Executive Appropriations Committee chairs will report them to the Executive Appropriations Committee.

(b) That committee shall:

(i) make any further adjustments necessary to balance the budget; and

(ii) complete all decisions necessary to draft the final appropriations bill no later than the 39th day of the annual general session.

Section 2. Effective date.

(1) If S.B. 98, Medicaid Accountable Care Organizations, 2015 General Session, becomes law, this resolution takes effect on July 1, 2015.

(2) If S.B. 98, Medicaid Accountable Care Organizations, 2015 General Session, fails to become law, this resolution does not take effect.

S.J.R. 6

Passed March 2, 2015
Effective March 2, 2015

**JOINT RESOLUTION URGING
CONGRESS TO SUPPORT
EQUITY AND SALES TAX FAIRNESS**

Chief Sponsor: Wayne A. Harper
House Sponsor: Steve Eliason

LONG TITLE

General Description:

This joint resolution of the Legislature urges the United States Congress to pass legislation for fair and constitutional collection and remittance of state and local sales and use taxes by both in-state and remote sellers.

Highlighted Provisions:

This resolution:

- ▶ urges Congress to pass, without delay, federal legislation for the fair and constitutional collection of state and local sales and use taxes;
- ▶ urges that Congress consider the following principles and ideas when drafting the legislation:
 - utilizing state-provided or state-certified tax collection and remittance software that is simple to implement and maintain;
 - immunity from civil liability for retailers utilizing state-provided or state-certified software in tax collection and remittance;

- tax audit accountability to a single state tax audit authority;
 - elimination of interstate tax complexity by streamlining taxable good categories;
 - adoption of a meaningful small business exception so that small businesses that sell remotely are not adversely affected by the legislation; and
 - fair compensation to the tax collecting retailer; and
- affirms that, through passage of the legislation, Congress will:
- foster consistent standards for in-state and remote sellers who are obligated to collect state and local sales and use taxes, providing equal, consistent, and fair treatment among traditional brick and mortar retailers, brick and click retailers, catalogue retailers, and Internet only based retailers; and
 - require similarly situated purchasers to pay the same sales and use tax rates, regardless of which type of retailer they make their purchases from and regardless of where that retailer is located.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah:

WHEREAS, United States Supreme Court decisions in *National Bellas Hess v. Department of Revenue*, 386 U.S. 753 (1967) and *Quill Corp. v. North Dakota*, 504 U.S. 298 (1992), require a seller to have physical presence in a taxing state before the state may require the seller to collect and remit sales and use taxes on transactions that occur within that state;

WHEREAS, the United States Supreme Court also declared in the *Quill Corp. v. North Dakota* decision that Congress could exercise its authority under the commerce clause of the United States Constitution to decide “whether, when, and to what extent” the states may require sales and use tax collection and remittance on remote sales;

WHEREAS, states and localities that use sales and use taxes as a revenue source may not collect revenue from some portion of remote sales commerce;

WHEREAS, since 1999, various state legislators, governors, local elected officials, state tax administrators, and representatives of the private sector have worked together to develop a streamlined sales and use tax system currently adopted in some form in 24 states under the Streamlined Sales and Use Tax Agreement;

WHEREAS, between 2001 and 2002, forty states enacted legislation expressing their intent to simplify the states’ sales and use tax collection systems, and to participate in discussions to allow for the collection of states’ sales and use taxes;

WHEREAS, the actions of these states provide justification for Congress to enact legislation to allow states to require remote sellers to collect the states’ sales and use taxes;

WHEREAS, any federal legislation should be fair to both in-state and remote sellers and purchasers, whether such legislation requires sales and use taxes to be collected on a point of sale or point of delivery basis;

WHEREAS, Congress, in considering federal legislation, should consider the following principles and ideas:

- utilizing state-provided or state-certified tax collection and remittance software that is simple to implement and maintain;
- immunity from civil liability for retailers utilizing state-provided or state-certified software in tax collection and remittance;
- tax audit accountability to a single state tax audit authority;
- elimination of interstate tax complexity by streamlining taxable good categories;
- adoption of a meaningful small business exception so that small businesses that sell remotely are not adversely affected by the legislation; and
- fair compensation to the tax collecting retailer;

WHEREAS, the Utah State Legislature and other state legislatures have acknowledged the complexities of the current sales and use tax system, formulated varied alternative collection systems, and shown the political will to make changes in their respective sales and use tax systems;

WHEREAS, the enactment of legislation by Congress that allows states to require remote sellers to collect the states’ sales and use taxes will facilitate the states’ ability to enforce their current laws for collecting sales and use taxes on remote sales;

WHEREAS, requiring remote sellers to collect sales and use taxes may broaden Utah’s sales and use tax base and potentially enable the Utah State Legislature to lower sales and use tax rates;

WHEREAS, empowering states to collect sales and use taxes on in-state and remote sales is consistent with the Tenth Amendment to the United States Constitution and is a states’ rights issue; and

WHEREAS, adoption of hybrid origin sourcing provisions in legislation enacted by Congress will:

- create an unlevel playing field between in-state and remote sellers by giving an advantage to those remote sellers located in the lowest rate state;
- result in a tax increase on all purchasers who make purchases from remote sellers located in any taxing jurisdiction with a rate higher than the rate in the purchaser’s jurisdiction;
- require purchasers to pay sales or use tax on certain purchases from remote sellers that are currently exempt from sales and use tax;
- require sellers that make both remote and non-remote sales to have two tax calculation systems operating simultaneously;

• put the sales and use tax revenues of a state that are generated by remote sales into the hands of the other states; and

• likely cause the sales and use revenues to decline as sellers and purchasers develop methods to legally circumvent paying sales and use taxes:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah urges the United States Congress to pass, without delay, and the President of the United States to sign, federal legislation that provides for the fair and constitutional collection of state and local sales and use taxes.

BE IT FURTHER RESOLVED that the Legislature of the state of Utah urges that, in passing this federal legislation, Congress consider the following principles and ideas:

• utilizing state-provided or state-certified tax collection and remittance software that is simple to implement and maintain;

• immunity from civil liability for retailers utilizing state-provided or state-certified software in tax collection and remittance;

• tax audit accountability to a single state tax audit authority;

• elimination of interstate tax complexity by streamlining taxable good categories;

• adoption of a meaningful small business exception so that small businesses that sell remotely are not adversely affected by the legislation; and

• fair compensation to the tax collecting retailer.

BE IT FURTHER RESOLVED that the Legislature of the state of Utah affirms that, through passage of this legislation, the United States Congress will foster consistent standards for in-state and remote sellers who are obligated to collect state and local sales and use taxes, providing equal, consistent, and fair treatment among traditional brick and mortar retailers, brick and click retailers, catalogue retailers, and Internet only based retailers and require similarly situated purchasers to pay the same sales and use tax rates, regardless of which type of retailer they make their purchases from and regardless of where that retailer is located.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the Majority Leader of the United States Senate, the Speaker of the United States House of Representatives, the chair and co-chair of the Senate Finance Committee, the chair and co-chair of the House Judiciary Committee, and the members of Utah’s congressional delegation.

S.J.R. 7

Passed March 5, 2015

Effective March 5, 2015

**JOINT RESOLUTION ON
WILD HORSES AND BURROS**

Chief Sponsor: Evan J. Vickers

House Sponsor: Mike K. McKell

LONG TITLE

General Description:

This joint resolution of the Legislature urges the United States Congress to create a process for transferring to the state of Utah authority to protect and manage feral horses and burros within its borders.

Highlighted Provisions:

This resolution:

- ▶ urges Congress to create a process for transferring to the state of Utah authority to protect and manage feral horses and burros within its borders; and
- ▶ urges the Governor to draft a feral horse and burro management plan that:
 - reflects the general objectives and purposes of the Wild Free-Roaming Horses and Burros Act of 1971;
 - protects and manages feral horses and burros within the state;
 - recognizes the sovereign interests of resident Indian tribes;
 - protects and balances livestock forage allocations with feral horse and burro requirements;
 - maintains healthy range and water resources;
 - protects and balances the habitat needs of terrestrial and aquatic wildlife; and
 - maintains an ecological balance on the land.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah:

WHEREAS, feral horses and burros are well established and abundant in Utah and across the West;

WHEREAS, feral horse and burro numbers in Utah significantly exceed, in many management areas, the population objectives established by the United States Forest Service and Bureau of Land Management pursuant to the Wild Free-Roaming Horses and Burros Act of 1971 (16 U.S.C. Sec. 1331, et seq.);

WHEREAS, excessive feral horse and burro populations in Utah are damaging range and water resources, consuming forage allocated to livestock and wildlife, abridging multiple-use principles applicable to public lands, and otherwise impairing the natural ecological balance on impacted lands;

WHEREAS, 16 U.S.C. Sec. 1333(b)(2)(iv) of the Wild Free-Roaming Horses and Burros Act requires the United States Forest Service and Bureau of Land Management to “immediately

remove excess animals from the range so as to achieve appropriate management levels” when populations exceed established objectives;

WHEREAS, the United States Forest Service and Bureau of Land Management have failed to adequately act to remove excess feral horses and burros damaging Utah’s public and private lands, which is reducing available forage allocated to livestock and negatively impacting wildlife and its habitat;

WHEREAS, feral horse and burro numbers are expected to rise 20% or more each year -- significantly adding to the number of animals over established population objectives and their commensurate impact to state sovereign interests in healthy ecosystems, range health, agriculture, and wildlife;

WHEREAS, feral horse and burro populations are growing faster than adoption and holding facilities have capacity to accommodate, and the United States Forest Service and Bureau of Land Management refuse to utilize lethal removal as a management tool to remove excess feral horses and burros, as required by 16 U.S.C. Sec. 1333(b)(2)(iv)(C);

WHEREAS, feral horse and burro populations are expected to grow unchecked by the federal government, to the detriment of the state of Utah and the health, safety, and welfare of its citizens; and

WHEREAS, healthy ecosystems, hunting, wildlife viewing, ranching, and livestock production contribute significantly to the economy, heritage, and quality of life in Utah:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah urges the United States Congress to create a process for transferring to the state of Utah authority to protect and responsibly manage the feral horses and burros on public and private lands within its borders.

BE IT FURTHER RESOLVED that the Legislature strongly urges the Governor to bring interested stakeholders and governmental interests together to prepare a state feral horse and burro management plan.

BE IT FURTHER RESOLVED that the Legislature urges that the objectives and strategies of the plan reflect the general objectives and purposes of the Wild Free-Roaming Horses and Burros Act, protect and responsibly manage feral horses and burros within the state, recognize the sovereign interests of resident Indian tribes, protect and balance livestock forage allocations with feral horse and burro requirements, maintain healthy range and water resources, protect and balance the habitat requirements of terrestrial and aquatic wildlife, complement existing wildlife species management plans, and maintain an ecological balance on the land.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the Speaker of the House of the United States House of Representatives, the

President of the United States Senate, the United States Secretary of the Interior, the United States Secretary of Agriculture, the Governor of the state of Utah, and the members of Utah’s congressional delegation.

S.J.R. 8

Passed March 4, 2015

Effective March 4, 2015

**JOINT RESOLUTION URGING
ADOPTION OF THE REGULATION
FREEDOM AMENDMENT**

Chief Sponsor: Todd Weiler

House Sponsor: Val L. Peterson

LONG TITLE

General Description:

This joint resolution of the Legislature urges the United States Congress to adopt the Regulation Freedom amendment to the United States Constitution.

Highlighted Provisions:

This resolution:

- ▶ urges Congress to adopt, as an amendment to the United States Constitution, the Regulation Freedom Amendment; and
- ▶ proposes the amendment as requiring a majority vote of the United States House of Representatives and the United States Senate to approve any proposed federal regulation, following a written declaration of opposition to such proposed federal regulation by one quarter of the members by either of the aforementioned House of Representatives or Senate.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah:

WHEREAS, the growth and abuse of federal regulatory authority threatens our Constitutional liberties, including those guaranteed by the Bill of Rights in the First, Second, Fourth, and Fifth Amendments of our Constitution;

WHEREAS, federal regulators must be more accountable to elected representatives of the people and not immune from such accountability;

WHEREAS, the United States House of Representatives has passed the Regulations from the Executive in Need of Scrutiny (REINS) Act with bipartisan support;

WHEREAS, the REINS Act requires that Congress approve major new federal regulations before they can take effect;

WHEREAS, though the REINS Act is a tremendous beginning in providing a check on federal regulatory authority, enactment of the REINS Act may be repealed or waived by a future Congress and President;

WHEREAS, an amendment to the United States Constitution does not require the President’s

approval and cannot be waived by a future Congress and President, but only repealed through the same constitutional amendment process:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah urges the United States Congress to vote to propose the Regulation Freedom amendment to the United States Constitution as follows:

“Whenever one quarter of the members of the United States House of Representatives or the United States Senate transmits to the President their written declaration of opposition to a proposed federal regulation, it shall require a majority vote of the House of Representatives and the Senate to adopt that regulation.”

BE IT FURTHER RESOLVED that a copy of this resolution be transmitted to the members of Utah’s congressional delegation, and the Speaker of the House of Representatives and the President of the Senate of every state legislature in the United States.

S.J.R. 9

Passed March 6, 2015
Effective March 6, 2015

**JOINT RESOLUTION ON
SMALL BUSINESS RETIREMENT
PLAN AVAILABILITY**

Chief Sponsor: Todd Weiler
House Sponsor: Jon Cox

LONG TITLE

General Description:

This joint resolution of the Legislature urges Utah’s workers and the business community to work with the Legislature to develop a model for providing small business retirement savings through the workplace.

Highlighted Provisions:

This resolution:

- ▶ strongly urges Utah’s workers and the business community to join with the Legislature to study and develop a model for saving for retirement through the small business workplace that is accessible to the workers of Utah and consider legislation, if needed, to put the plan into action.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah:

WHEREAS, for millions of people facing the risk of running out of savings after they retire, a self-sufficient retirement is no longer a reality;

WHEREAS, more than 55 million American workers do not have a way to save for retirement at work, leaving them more likely to rely on Social Security as their only source of retirement income;

WHEREAS, the average annual Social Security benefit in Utah is \$15,100;

WHEREAS, more than 244,000 Utah residents received Social Security in 2012;

WHEREAS, census data shows that about 7%, or 19,924, of older Utahns are living in poverty, and without Social Security income, and an additional 35% of older Utahns, or 94,346 people, would fall into poverty;

WHEREAS, Utah’s low and middle income older adults are even more reliant on Social Security earned benefits, as they typically receive 72% of their family income from Social Security;

WHEREAS, taxpayers shoulder the added burden of ensuring that retirees have their basic needs met through safety net programs;

WHEREAS, Utahns’ defined contribution account balances have remained stagnant since the Great Recession;

WHEREAS, according to the Employee Benefit Research Institute (EBRI), half of so-called “baby boomers” and “Generation X-ers” are at risk of financially insecure retirement;

WHEREAS, the nation and its working families face a vast retirement savings deficit, estimated to be as much as \$6.6 trillion, or about \$57,000 per household;

WHEREAS, the median retirement account balance is \$3,000 for all working-age households and \$12,000 for near-retirement households;

WHEREAS, polls show that 84% of Americans are concerned that current economic conditions are impacting their ability to achieve a secure retirement;

WHEREAS, in Utah, 52.6% of private sector workers have no access to a retirement plan, like a 401K, through their employer;

WHEREAS, nationally, only 14% of businesses with fewer than 100 employees offer their employees a retirement savings account or pension;

WHEREAS, removing barriers to access retirement savings vehicles for the more than 525,000 Utahns with no way to save for retirement at work remains a great challenge;

WHEREAS, research shows that offering a person a way to save through their job dramatically increases their ability to save;

WHEREAS, an individual is over 15 times more likely to save for retirement if the employer offers a plan than if employees must find an Individual Retirement Account (IRA) on their own;

WHEREAS, only 5% of people without access to a payroll deduction plan at work will, on their own, purchase an IRA;

WHEREAS, in 2011, EBRI found that 88% of respondents indicated that it was important to be able to have their own retirement savings plan contributions automatically deducted from their paychecks;

WHEREAS, 86.45% of businesses in the state have fewer than 20 employees, but the remaining

businesses employ 76.3% of the population, or 970,269 Utahns;

WHEREAS, the vast majority of Americans will accept the responsibility to build a financially secure retirement;

WHEREAS, a secure retirement should be made achievable for everyone who works hard throughout their lives; and

WHEREAS, it is in the best interest of Utah's small business employees, Utah small businesses, and the state for action to be taken now to enable Utahns to prepare for their futures and allow them to be self-sufficient in retirement rather than depend on government services:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah strongly urges Utah's small business employees and its small business community to join with the Legislature and the Utah treasurer to study and develop a model for saving for retirement through the workplace that is accessible to the workers of Utah and consider legislation, if needed, to put the plan into action.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the Utah Chapter of the American Federation of Labor and Congress of Industrial Organizations, the Utah Chamber of Commerce, the Utah Association of Independent Insurance Agents, the Utah Insurance Department, the Utah Small Business Development Center, the Utah Association of Certified Public Accountants, the American Association of Retired Persons, Utah Chapter, and the members of Utah's congressional delegation.

S.J.R. 11

Passed March 2, 2015
Effective March 2, 2015

**JOINT RULES RESOLUTION -
PURCHASE OF WORKING MEALS**

Chief Sponsor: Lyle W. Hillyard
House Sponsor: Melvin R. Brown

LONG TITLE

General Description:

This joint rules resolution of the Legislature addresses a legislative staff office providing a working meal for a legislator.

Highlighted Provisions:

This resolution:

- ▶ allows a legislative staff office to purchase a meal for a legislator in certain circumstances and allows for that legislative staff office to receive reimbursement for the purchase.

Special Clauses:

None

Legislative Rules Affected:

ENACTS:

JR1-4-201

Be it resolved by the Legislature of the state of Utah:

Section 1. JR1-4-201 is enacted to read:

Part 2. Working Meals

JR1-4-201. Working meals --

Reimbursement to staff offices.

(1) A legislative staff office may purchase a meal for a legislator who is working with the staff on legislative duties through a mealtime subject to the rate limitations provided under JR5-2-102.

(2) The House, Senate, another legislative staff office, or a legislator, may reimburse a legislative staff office for a meal provided under Subsection (1).

S.J.R. 13

Passed March 4, 2015
Effective March 4, 2015

**JOINT RESOLUTION ON
LONGER COMBINATION VEHICLES**

Chief Sponsor: Kevin T. Van Tassell
House Sponsor: Don L. Ipson

LONG TITLE

General Description:

This joint resolution of the Legislature asks Congress to eliminate the freeze on longer combination vehicles and consent to the creation of a voluntary compact between western states that will establish uniform standards for operation of longer combination vehicles.

Highlighted Provisions:

This resolution:

- ▶ affirms the use of longer combination vehicles as a way to increase productivity and reduce traffic congestion, fuel consumption, and emissions;
- ▶ requests that the United States Congress eliminate the freeze on longer combination vehicles; and
- ▶ requests that the United States Congress consent to the creation of a voluntary compact between western states that will establish uniform size and weight limits, routes, configuration, and operating conditions for longer combination vehicles.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah:

WHEREAS, one of the most significant ways to improve the freight system performance on the highways of the western United States is through the use of more efficient trucks and truck combinations;

WHEREAS, over the past two decades, longer combination vehicles (LCVs) -- which are tractor-trailer combinations with two or more

trailers that have a gross vehicle weight exceeding 80,000 pounds -- have demonstrated considerable benefits to the general public through increased productivity, higher safety ratings, increased fuel savings, emissions reductions, and congestion mitigation;

WHEREAS, a Federal Highway Administration freeze on state authority to expand the use of LCVs has been in place since 1991, and since that time there has been substantial growth in population, traffic congestion, vehicle registration growth, vehicle miles traveled, and vehicle emissions;

WHEREAS, eliminating the freeze on LCVs for the affected states, including Utah, will give these states the flexibility to establish uniformity in LCV oversight and find ways to benefit from LCV operations in each of the affected states and throughout the western United States; and

WHEREAS, consenting to a voluntary compact or agreement between the states of Colorado, Idaho, Kansas, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, and Wyoming will allow these states to establish uniform size and weight limits for LCVs, which are not to exceed 129,000 pounds gross vehicle combination weight or 100-foot cargo carrying length, and adopt LCV routes, configurations, and operating conditions:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah urges Congress to lift the freeze on longer commercial vehicles for the affected western states, including Utah, in order to take advantage of new transportation strategies to improve highway efficiency and reduce vehicle miles traveled, traffic congestion, fuel consumption, and air pollution emissions.

BE IT FURTHER RESOLVED that Congress consent to the creation of a voluntary compact or agreement between the states of Colorado, Idaho, Kansas, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, and Wyoming that will establish uniform LCV size, capacity, routes, configurations, and operating conditions.

BE IT FURTHER RESOLVED that copies of this resolution be transmitted to the governor of Utah, the Speaker of the House of Representatives and the President of the Senate of the United States Congress, the Utah congressional delegation, and the Western States Transportation Alliance.

S.J.R. 14

Passed March 11, 2015

Effective March 11, 2015

**JOINT RESOLUTION SUPPORTING
CREATION OF A GI BILL FOR
THE UTAH NATIONAL GUARD**

Chief Sponsor: Karen Mayne
House Sponsor: Val L. Peterson

LONG TITLE

General Description:

This resolution strongly urges the Utah Legislature to recognize the valuable contribution that service members and veterans make in the nation's defense and to support the creation of a Utah GI Bill.

Highlighted Provisions:

This resolution:

- ▶ urges the Utah Legislature and Utah's federally elected delegation to recognize the valuable contributions by United States service members and veterans; and
- ▶ strongly urges those elected officials to enact laws to provide for state and federally supported educational programs for eligible service members and veterans who are residents of the state.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah:

WHEREAS, one of the most basic services a person can provide to the person's country is that of serving in the defense of that country;

WHEREAS, volunteering to serve in the armed forces requires sacrifices by the individual and the individual's family up to and including one's life;

WHEREAS, being deployed by state or federal command substantially interrupts a service member's life and that of the service member's family;

WHEREAS, both educational and employment opportunities are deferred or lost when a service member is deployed, especially to a combat zone;

WHEREAS, service members, whether active duty, reserve, or National Guard, have been activated and deployed from Utah to numerous combat zones for extended or multiple tours of duty;

WHEREAS, service members upon returning from overseas deployment, including combat zones, must be reintegrated into society as veterans;

WHEREAS, reintegration into society includes rebuilding family ties, re-establishing employment or finding new employment, and re-starting or pursuing additional education;

WHEREAS, the United States Montgomery GI Bill pays a maximum monthly amount for 36 academic months that is inadequate to cover the cost of college and living expenses, especially if the recipient has a family;

WHEREAS, the original United States GI Bill following WWII was adequate to cover the cost of college and living expenses at the time, but has not kept pace with rising costs over the years;

WHEREAS, the Selective Service ended the draft in 1973 and the all volunteer military was created;

WHEREAS, the armed forces currently have few incentives available to attract volunteers to replace service members who leave before retirement;

WHEREAS, many members of the volunteer armed forces were recruited with the promise of adequate GI Bill benefits to pay for education;

WHEREAS, the current Montgomery GI Bill and related state programs are all based upon earning a bachelor's degree in 36 academic months;

WHEREAS, most recipients do not earn a bachelor's degree in 36 academic months; and

WHEREAS, recipients must work part or full time to support their families and cover living expenses while attending institutions of higher education:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah strongly urges the federal government to recognize that service members need additional GI Bill support in order to achieve their goals of a college education and related employment.

BE IT FURTHER RESOLVED that the Legislature of the state of Utah strongly urges the leaders of the United States in the legislative and executive branches of government to partner with the states in funding state GI Bill programs that will allow a recipient to finish the recipient's college education with as little disruption as possible.

BE IT FURTHER RESOLVED that the Legislature of the state of Utah urges the Veterans' and Military Affairs Commission and the State Board of Regents to study the issue of viable funding for service members and veterans eligible for educational benefits to complete a college education.

BE IT FURTHER RESOLVED that the Legislature of the state of Utah calls on Senator Orrin Hatch, Senator Mike Lee, Representative Rob Bishop, Representative Jason Chaffetz, Representative Chris Stewart, and Representative Mia Love to sponsor or cosponsor legislation in Congress to partner with the states in supporting a state GI Bill.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the President of the United States, the Majority Leader of the United States Senate, the Speaker of the United States House of Representatives, and Utah's congressional delegation.

S.J.R. 15

Passed March 11, 2015
Effective March 11, 2015

JOINT RESOLUTION ENCOURAGING UTAH WORKERS BE EMPLOYED IN THE PRISON RELOCATION EFFORTS

Chief Sponsor: Karen Mayne
House Sponsor: Stephen G. Handy

LONG TITLE

General Description:

This resolution of the Legislature encourages Utah firms to employ Utah workers in the Utah state prison relocation efforts.

Highlighted Provisions:

This resolution:

- ▶ acknowledges that only state tax dollars will be used in the prison relocation efforts;
- ▶ recognizes the positive economic effects of the prison's relocation; and
- ▶ encourages the state to procure services for the prison relocation efforts that will substantially employ Utah workers.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah:

WHEREAS, the relocation efforts for the Utah state prison will be paid by state funds only, and will not be paid with federal funds;

WHEREAS, these state funds will be derived from Utah taxpayers;

WHEREAS, the prison relocation will create jobs and be an economic engine for the state of Utah;

WHEREAS, the relocation of the Utah state prison has the potential to employ a substantial number of workers, both in the relocation itself and in any indirect economic development opportunities that may arise from the prison's relocation; and

WHEREAS, the ingenuity and hard work of the Utah workforce is to be commended and should be further encouraged through increased employment opportunities:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah encourages the state to procure services from Utah firms that will substantially employ Utah workers for the Utah state prison relocation efforts.

BE IT FURTHER RESOLVED that copies of this resolution be transmitted to the board of directors of the Associated General Contractors of Utah, the director of the Division of Facilities Construction and Management, and the Utah congressional delegation.

S.J.R. 16

Passed March 11, 2015
Effective March 11, 2015

JOINT RULES RESOLUTION ON INDEPENDENT LEGISLATIVE ETHICS COMMISSION HIRING MODIFICATIONS

Chief Sponsor: Lyle W. Hillyard
House Sponsor: Stephen G. Handy

LONG TITLE

General Description:

This rules resolution modifies procedures related to the filing and review of complaints filed with the Independent Legislative Ethics Commission and the commission's procedural requirements.

Highlighted Provisions:

This resolution:

- ▶ updates cross references;
- ▶ permits, in limited circumstances, the hiring of an individual to assist the Independent Legislative Ethics Commission in reviewing and processing confidential ethics complaints;
- ▶ permits an ethics complaint to be filed within 60 days of an election if the complaint is due to a conviction, guilty plea, plea of no contest, or plea in abeyance of a crime of moral turpitude;
- ▶ clarifies that a required dismissal for disclosure of an ethics complaint is for disclosure of the name of a party to the complaint, not merely the existence of the complaint;
- ▶ removes the requirement for the commission to notify the Senate and House Ethics Committee chairs of the existence of a complaint;
- ▶ provides that the commission shall notify the president of the Senate or speaker of the House of Representatives of the parties to and the nature of the allegations of each complaint, not merely the existence of a complaint; and
- ▶ adds language to emphasize that individuals informed about an ethics complaint during the confidential review period are required to keep the confidentiality of the complaint until the commission makes a recommendation on the complaint.

Special Clauses:

None

Legislative Rules Affected:

AMENDS:

- JR6-1-201
- JR6-2-104
- JR6-3-101
- JR6-3-102
- JR6-4-101

Be it resolved by the Legislature of the state of Utah:

Section 1. JR6-1-201 is amended to read:

JR6-1-201. Declaring and recording conflicts of interest -- Financial disclosure form.

(1) As used in this section, "conflict of interest" [is as] means the same as that term is defined in Utah Code Section [~~20A-11-1603~~] 20A-11-1602.

(2) A legislator shall file a financial disclosure form in compliance with Utah Code Section 20A-11-1603 and according to the requirements of this section:

(a) on the first day of each general session of the Legislature; and

(b) each time the legislator changes employment.

(3) The financial disclosure form shall include the disclosures required by Utah Code [~~Section 20A-11-1603~~] Title 20A, Chapter 11, Part 16, Financial Disclosures.

(4) (a) The financial disclosure form shall be filed with:

(i) the secretary of the Senate, for a legislator that is a senator; or

(ii) the chief clerk of the House of Representatives, for a legislator that is a representative.

(b) The secretary of the Senate and the chief clerk of the House of Representatives shall ensure that:

(i) blank financial disclosure forms are made available on the Internet and at the offices of the Senate and the House of Representatives; and

(ii) financial disclosure forms filed under this rule are made available to the public on the Internet and at the offices of the Senate or the House of Representatives.

(5) (a) Before or during any vote on legislation or any legislative matter in which a legislator has actual knowledge that the legislator has a conflict of interest which is not stated on the financial disclosure form, that legislator shall orally declare to the committee or body before which the matter is pending:

(i) that the legislator may have a conflict of interest; and

(ii) what that conflict is.

(b) The secretary of the Senate or the chief clerk of the House of Representatives shall:

(i) direct committee secretaries to note the declaration of conflict of interest in the minutes of any committee meeting; and

(ii) ensure that each declaration of conflict declared on the floor is noted in the Senate Journal or House Journal.

(6) This requirement of disclosure of any conflict of interest does not prohibit a legislator from voting on any legislation or legislative matter.

Section 2. JR6-2-104 is amended to read:

JR6-2-104. Independent Legislative Ethics Commission -- Meetings -- Staff.

(1) The Independent Legislative Ethics Commission shall meet for the purpose of reviewing an ethics complaint when:

(a) except otherwise expressly provided in this title, called to meet at the discretion of the chair; or

(b) called to meet by a majority vote of the commission.

(2) A majority of the commission is a quorum.

(3) (a) The commission shall prepare, on an annual basis, a summary data report that contains:

(i) a general description of the activities of the commission during the past year;

(ii) the number of ethics complaints filed with the commission;

(iii) the number of ethics complaints reviewed by the commission;

(iv) the number of complaints filed against a member of the House of Representatives;

(v) the number of complaints filed against a member of the Senate;

(vi) a summary description of any ethics complaints that were recommended by the commission for review by a Legislative ethics committee; and

(vii) an accounting of the commission's budget and expenditures.

(b) The summary data report shall be submitted to an appropriate committee of the Legislature on an annual basis.

(c) The summary data report shall be a public record.

(4) ~~[(a)]~~ The Senate and the House of Representatives shall employ staff for the commission at a level that is reasonable to assist the commission in performing its duties as established in this chapter.

~~[(b)]~~ (5) (a) The Legislative Management Committee shall:

(i) authorize each staff position for the commission; and

(ii) approve the employment of each staff member for the commission.

(b) Notwithstanding Subsection (5)(a), the commission may hire an individual without authorization from the Legislative Management Committee if:

(i) the individual is hired by a majority vote of the commission, which authorization, in order to preserve the confidentiality of the complaint, shall be discussed and voted upon in a closed meeting of the commission;

(ii) the individual is hired for the purpose of assisting the commission with organizing, reviewing, and marshaling facts and evidence raised in connection with a complaint filed with the commission;

(iii) the individual is hired on a temporary, contractual basis; and

(iv) the total amount payable under the contract for services does not exceed \$5,000.

(c) A contract issued under Subsection (5)(b) is a private record as provided in Utah Code Section 63G-2-302.

~~[(e)]~~ (6) Staff for the commission shall work only for the commission and may not perform services for the Senate, House of Representatives, or other legislative offices.

Section 3. JR6-3-101 is amended to read:

JR6-3-101. Ethics complaints -- Filing -- Form.

(1) (a) The following individuals, who shall be referred to as the complainants, may file a complaint against an individual legislator if the complaint meets the requirements of JR6-2-201 and Subsection (1)(b):

(i) two or more members of the House of Representatives, for a complaint against a

representative, provided that the complaint contains evidence or sworn testimony that:

(A) sets forth facts and circumstances supporting the alleged violation; and

(B) is evidence or sworn testimony of the type that would generally be admissible under the Utah Rules of Evidence;

(ii) two or more members of the Senate, for a complaint against a senator, provided that the complaint contains evidence or sworn testimony that:

(A) sets forth facts and circumstances supporting the alleged violation; and

(B) is evidence or sworn testimony of the type that would generally be admissible under the Utah Rules of Evidence; or

(iii) two or more registered voters currently residing within Utah, if, for each alleged violation pled in the complaint, at least one of those registered voters has actual knowledge of the facts and circumstances supporting the alleged violation.

(b) A complainant may file a complaint only against an individual who is serving as a member of the Legislature on the date that the complaint is filed.

(2) (a) Complainants shall file a complaint with the chair of the Independent Legislative Ethics Commission.

(b) ~~[(A)]~~ Except as provided in Subsection (2)(c), an individual may not file a complaint during the 60 calendar days immediately preceding:

(i) a regular primary election, if the accused legislator is a candidate in the primary election; or

(ii) a regular general election in which the accused legislator is a candidate, unless the accused legislator is unopposed in the election.

(c) Notwithstanding Subsection (2)(b), an individual may file a complaint within the time frame provided in that subsection if:

(i) the complaint includes evidence that the subject of the complaint has been convicted of, plead guilty to, entered a plea of no contest to, or entered a plea in abeyance to a crime of moral turpitude; and

(ii) the crime of moral turpitude is one of the allegations contained in the complaint.

(3) The complainants shall ensure that each complaint filed under this rule is in writing and contains the following information:

(a) the name and position or title of the legislator alleged to be in violation, who shall be referred to as the respondent;

(b) the name, address, and telephone number of each individual who is filing the complaint;

(c) a description of each alleged violation, including for each alleged violation:

(i) a reference to:

(A) the section of the code of conduct alleged to have been violated; or

(B) the criminal provision violated and the docket number of the case involving the legislator;

(ii) the name of the complainant or complainants who have actual knowledge of the facts and circumstances supporting each allegation;

(iii) the facts and circumstances supporting each allegation, which shall be provided by:

(A) copies of official records or documentary evidence; or

(B) one or more affidavits, each of which shall comply with the following format:

(I) the name, address, and telephone number of the signer;

(II) a statement that the signer has actual knowledge of the facts and circumstances alleged in the affidavit;

(III) the facts and circumstances testified to by the signer;

(IV) a statement that the affidavit is believed to be true and correct and that false statements are subject to penalties of perjury; and

(V) the signature of the signer;

(d) a list of the witnesses that the complainants wish to have called, including for each witness:

(i) the name, address, and, if available, one or more telephone numbers of the witness;

(ii) a brief summary of the testimony to be provided by the witness; and

(iii) a specific description of any documents or evidence complainants desire the witness to produce;

(e) a statement that each complainant:

(i) has reviewed the allegations contained in the complaint and the sworn statements and documents attached to the complaint;

(ii) believes that the complaint is submitted in good faith and not for any improper purpose such as for the purpose of harassing the respondent, causing unwarranted harm to the respondent's reputation, or causing unnecessary expenditure of public funds; and

(iii) believes the allegations contained in the complaint to be true and accurate; and

(f) the signature of each complainant.

Section 4. JR6-3-102 is amended to read:

JR6-3-102. Privacy of ethics complaints -- Contempt -- Enforcement of finding of contempt -- Dismissal.

(1) (a) Except as provided in Subsection (1)(b) or (c), a person, including the complainants, the respondent, commission members, a committee chair or vice chair, or staff to the commission or a committee, may not disclose the existence of a complaint, a response, nor any information

concerning any alleged violation that is the subject of a complaint.

(b) The restrictions in Subsection (1)(a) do not apply to:

(i) a complaint or response that is publicly released by the commission and referred to an ethics committee for review under the procedures and requirements of JR6-4-204, and the allegations contained in the publicly released complaint or response; or

(ii) the respondent's voluntary disclosure of a finding by the commission that no allegations in a complaint were proved, after that finding is issued by the commission under the procedures and requirements of JR6-4-204.

(c) Nothing in this rule prevents a person from disclosing facts or allegations about potential criminal violations to law enforcement authorities.

(2) A person who violates the provisions of Subsection (1)(a) is in contempt of the Legislature and proceedings may be initiated to enforce the finding of contempt using the procedures provided in JR6-2-304 and Utah Code Section 36-14-5.

(3) ~~[If the existence of]~~ Except as provided in JR6-4-101(3), if the identity of the legislator who is the subject of an ethics complaint or the identity of the filer of an ethics complaint is publicly disclosed during the period that the Independent Legislative Ethics Commission is reviewing the complaint, the complaint shall be summarily dismissed without prejudice.

Section 5. JR6-4-101 is amended to read:

JR6-4-101. Review of ethics complaint for compliance with form requirements -- Independent requirements for complaint -- Notice.

(1) Within five business days after receipt of a complaint, the staff of the Independent Legislative Ethics Commission, in consultation with the chair of the commission, shall examine the complaint to determine if it is in compliance with JR6-2-201 or JR6-3-101.

(2) (a) If the chair determines that the complaint does not comply with JR6-2-201 or JR6-3-101, the chair shall:

(i) return the complaint to the first complainant named on the complaint with:

(A) a statement detailing the reason for the non-compliance; and

(B) a copy of the applicable legislative rules; and

(ii) notify the president of the Senate and the chair and vice-chair of the Senate Ethics Committee, if the legislator named in the complaint is a senator, or the speaker of the House of Representatives and the chair and vice-chair of the House Ethics Committee, if the legislator named in the complaint is a representative, that:

(A) a complaint was filed against a member of the Senate or House, respectively, but was returned for non-compliance with legislative rule; and

(B) the fact that a complaint was filed and returned shall be kept confidential until the commission submits its annual summary data report as required by JR6-2-104.

(b) If a complaint is returned for non-compliance with the requirements of this title, the complainants may file another complaint if the new complaint independently meets the requirements of JR6-3-101, including any requirements for timely filing.

(3) If the chair determines that the complaint complies with the requirements of this rule, the chair shall:

(a) accept the complaint;

(b) notify the president of the Senate and the chair and vice-chair of the Senate Ethics Committee, if the legislator named in the complaint is a senator, or the speaker of the House of Representatives and the chair and vice-chair of the House Ethics Committee, if the legislator named in the complaint is a representative~~[, that]~~:

(i) ~~that a complaint has been filed against [an unidentifed]~~ a member of the Senate or House, respectively;

(ii) of the identity of the legislator who is the subject of the complaint and the identity of the person or persons filing the complaint;

(iii) of the nature of the allegations contained in the complaint; and

~~[(ii) the identity of the legislator and the allegations raised in the complaint are confidential pending the commission's review of the complaint; and]~~

~~[(iii)]~~ (iv) that the fact that a complaint was filed, the nature of the allegations raised in the complaint, and the identity of the legislator and the complainants shall be kept confidential until the commission publicly discloses the existence of the complaint via:

(A) a recommendation that an allegation in the complaint be heard by a legislative ethics committee; or

(B) submission of the commission's annual summary data report as required by JR6-2-104;

(c) notify each member of the Independent Legislative Ethics Commission that the complaint has been filed and accepted and that the existence of and contents of the complaint and the identities of the parties shall be kept confidential; and

(d) promptly forward the complaint to the legislator who is the subject of the ethics complaint via personal delivery or a delivery method that provides verification of receipt, together with:

(i) notice that the existence of and contents of the complaint, and the identities of the parties, are confidential and should not be publicly disclosed;

(ii) a copy of the applicable legislative rules; and

(iii) notice of the legislator's deadline for filing a response to the complaint.

S.J.R. 17

Passed March 12, 2015

Effective March 12, 2015

JOINT RESOLUTION RECOGNIZING THE 800TH ANNIVERSARY OF MAGNA CARTA

Chief Sponsor: Howard A. Stephenson

House Sponsor: Kim Coleman

Cosponsors: J. Stuart Adams

Curtis S. Bramble

Allen M. Christensen

Jim Dabakis

Gene Davis

Margaret Dayton

Luz Escamilla

Wayne A. Harper

Deidre M. Henderson

Lyle W. Hillyard

David P. Hinkins

Jani Iwamoto

Alvin B. Jackson

Scott K. Jenkins

Peter C. Knudson

Mark B. Madsen

Karen Mayne

Ann Millner

Wayne L. Niederhauser

Ralph Okerlund

Aaron Osmond

Brian E. Shiozawa

Jerry W. Stevenson

Daniel W. Thatcher

Stephen H. Urquhart

Kevin T. Van Tassel

Evan J. Vickers

Todd Weiler

LONG TITLE

General Description:

This joint resolution of the Legislature recognizes the 800th anniversary of Magna Carta.

Highlighted Provisions:

This resolution:

- ▶ recognizes the 800th anniversary of Magna Carta; and
- ▶ recognizes that principles embodied in Magna Carta, including freedom, justice, the rule of law, and that no leader is above the law, have stood the test of time and sustain free people and nations today.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah:

WHEREAS, Magna Carta is an 800-year-old document, marked by the seal of King John of England in 1215, containing the idea that no one is above the law;

WHEREAS, Magna Carta still forms the foundation of many modern ideas and documents today;

WHEREAS, Magna Carta means “Great Charter” in Latin;

WHEREAS, Magna Carta was not the first document in which a monarch agreed in writing to safeguard the rights, privileges, and liberties of the clergy and the nobles by placing limits on the power of the crown;

WHEREAS, thirty-four years after the Norman Conquest, Henry I set a precedent on his accession to the throne in 1100 when he issued a royal proclamation, the Coronation Charter, designed to atone for the past abuses of his predecessor, William Rufus;

WHEREAS, the principles included in the Coronation Charter dated back to the laws of King Ethelbert of Kent, circa 604, and subsequent laws of the kings of Kent leading up to the end of the first millennium;

WHEREAS, even though the Coronation Charter is acknowledged as the precursor to Magna Carta, it was forgotten or ignored by four kings, and almost one queen, over the course of the next century;

WHEREAS, it was only after the Archbishop of Canterbury, Stephen Langton, showed Henry I’s 113-year-old proclamation to England’s barons that the idea of a new and improved charter took hold;

WHEREAS, by this time, other charters containing principles included in Magna Carta had achieved traction and acquired a heritage, demonstrating that even proclamations of over a 100 years old could be used as leverage and justification to force a reluctant king to respect certain individual liberties;

WHEREAS, Magna Carta originated as a peace treaty between King John and his barons, who had captured London;

WHEREAS, Magna Carta was first drafted in June 1215 and granted by King John, who used his Great Seal to authenticate the document at Runnymede, in Surrey;

WHEREAS, despite the pageantry at Runnymede, Magna Carta suffered a similar, more rapid demise than Henry I’s Coronation Charter;

WHEREAS, although King John agreed to Magna Carta at first, he quickly became bitter when its terms were enforced;

WHEREAS, King John wrote to Pope Innocent III to get Magna Carta annulled;

WHEREAS, the Pope agreed with King John, saying Magna Carta was “illegal, unjust, harmful to royal rights and shameful to the English people,” and declared the charter “null and void of all validity forever”;

WHEREAS, by August 1215, the Pope had annulled the document;

WHEREAS, full-scale civil war then broke out between King John and his barons, which did not end until after King John’s death in 1216;

WHEREAS, a more modern version of Magna Carta was reissued by King John’s son, Henry III, in 1225;

WHEREAS, Magna Carta was finally enrolled as part of English law by Edward I in 1297;

WHEREAS, Magna Carta inspired the charismatic Simon de Montfort;

WHEREAS, de Montfort, an Anglo-Norman rebel nobleman, convened a parley in a field near Kenilworth Castle, Warwickshire, in 1264;

WHEREAS, the parley was not only in defiance of King Henry III, but was radical in that it provided for democratically elected knights and borough representatives from throughout the kingdom and is recognized as the first directly elected Parliament;

WHEREAS, at the conclusion of the English Civil War when the monarchy of Charles II was restored, Magna Carta helped codify the ancient writ of habeas corpus passed by Parliament in 1679;

WHEREAS, this act strengthened the ancient and powerful writ, which had been a feature of English Common Law since before Magna Carta, and served to safeguard individual liberty by preventing unlawful or arbitrary imprisonment;

WHEREAS, ideas of freedom, democracy, and the rule of law to which all are subject and that are such a feature of Magna Carta, spread to the rebellious colonies of the New World;

WHEREAS, the Declaration of Independence, as penned by Thomas Jefferson, indicted George III on numerous breaches of English Common Law enshrined within Magna Carta, to which the 13 colonies were equally bound;

WHEREAS, the Declaration of Independence, signed July 4, 1776, became the legal justification for the Revolutionary War;

WHEREAS, Magna Carta has become much more than a peace treaty between a quarrelsome king and his barons in 1215;

WHEREAS, over the past 800 years, the ideals of Magna Carta have gathered momentum and assumed a greater authority concerning liberty and justice;

WHEREAS, Magna Carta’s lasting iconic value as the foundation of so many world democracies lies in the power of an idea, a principle, which states that nobody, including the king, is above the law of the land;

WHEREAS, central clauses of Magna Carta have not only stood the test of time, but have a potency of their own that has defeated hundreds of attempts at annulment, repeal, modification, and suspension by successive monarchs and governments;

WHEREAS, Magna Carta has transcended barriers of language and the divisions of cultures and ideologies;

WHEREAS, Magna Carta has become an idea that can never be uninvented or unimagined;

WHEREAS, 800 years later, the ideas of freedom and justice have become essential parts of humankind;

WHEREAS, even today, Magna Carta is invoked and cited whenever basic freedoms come under threat;

WHEREAS, the principles in Magna Carta will no doubt continue to have a huge influence wherever freedom is under attack;

WHEREAS, on the 800th anniversary of Magna Carta, it is time to deepen our understanding of the crucial role it has played in the development of human rights, democracy, and liberty; and

WHEREAS, there are hundreds of events and activities, including many sponsored by the Magna Carta 2015 Committee, being planned and taking place to commemorate 800 years of Magna Carta:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah recognizes the 800th anniversary of Magna Carta.

BE IT FURTHER RESOLVED that the Legislature of the state of Utah recognizes that principles embodied in Magna Carta, including freedom, justice, and the rule of law, have stood the test of time and sustained free people and nations today.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to President of the United States, the Majority Leader of the United States Senate, the Speaker of the United States House of Representatives, the Magna Carta 2015 Committee, and the members of Utah's congressional delegation.

S.R. 1

Passed February 9, 2015
Effective February 9, 2015

**SENATE RESOLUTION
AMENDING SENATE RULES**

Chief Sponsor: Kevin T. Van Tassell

LONG TITLE

General Description:

This resolution repeals and reenacts Senate Standing Committee rules and amends special floor procedures and repeals postage allowance.

Highlighted Provisions:

This resolution:

- ▶ defines terms;
- ▶ reorganizes standing committee rules;
- ▶ clarifies and expands the powers of a chair to:
 - preserve order and decorum;

- adopt time restrictions for witnesses and presenters;
- ▶ authorizes the president of the Senate to appoint a vice chair to each standing committee;
- ▶ requires a standing committee chair to enforce standing committee rules;
- ▶ clarifies that review of legislation during a standing committee is subject to four distinct phases:
 - presentation by the sponsor;
 - clarifying questions by committee members;
 - public comment; and
 - committee action;
- ▶ clarifies that privileged motions:
 - take precedence over non-privileged motions;
 - are to be accepted in a specified priority; and
 - except for a motion to adjourn, do not dispose of other pending motions; and
- ▶ makes technical corrections to special floor procedures.

Special Clauses:

None

Legislative Rules Affected:

AMENDS:

SR4-3-101
SR4-3-301
SR4-4-401
SR4-7-106

ENACTS:

SR3-2-204
SR3-2-305
SR3-2-306
SR3-2-307
SR3-2-308
SR3-2-309
SR3-2-310
SR3-2-311
SR3-2-312
SR3-2-313
SR3-2-314
SR3-2-315
SR3-2-316
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Be it resolved by the Senate of the state of Utah:

Section 1. SR3-2-101 is repealed and reenacted to read:

Part 1. General Provisions

SR3-2-101. Definitions.

As used in this chapter:

- (1) "Chair" means:
 - (a) the chair of a standing committee; or
 - (b) a standing committee member who is authorized to act as chair under SR3-2-202.
- (2) "Committee" means a standing committee created under SR3-2-201.
- (3) "Dispose of legislation" refers to a committee action that transfers ownership of legislation to the Senate Rules Committee, to another standing committee, or to the Senate floor.
- (4) "Favorable recommendation" refers to a committee action that transfers ownership of legislation to the Senate second reading calendar.
- (5) "Legislation" means a Senate bill, House bill, Senate resolution, House resolution, joint resolution, or concurrent resolution.
- (6) "Majority vote" means a majority of a quorum as described in SR3-2-203.
- (7) "Original motion" means a non-privileged motion that is accepted by the chair when no other motion is pending.
- (8) "Pending motion" refers to a motion starting when a chair accepts a motion and ending when the motion is withdrawn or until the chair calls for a vote on the motion.
- (9) (a) "Privileged motion" means a procedural motion to adjourn, set a time to adjourn, recess, end debate, extend debate, or limit debate.
- (b) Privileged motions are not substitute motions.

(10) "Substitute motion" means a non-privileged motion that is made when a non-privileged motion is pending.

(11) "Under consideration" means the time starting when a chair opens a discussion on a subject or piece of legislation that is listed on a committee agenda and ending when the committee disposes of the legislation, moves on to another item on the agenda, or adjourns.

Section 2. SR3-2-201 is repealed and reenacted to read:

Part 2. Creation and Organization of Senate Standing Committees

SR3-2-201. Standing committees -- Creation.

(1) There are created the following standing committees:

- (a) Business and Labor;
- (b) Economic Development and Workforce Services;
- (c) Education;
- (d) Government Operations and Political Subdivisions;
- (e) Health and Human Services;
- (f) Judiciary, Law Enforcement, and Criminal Justice;
- (g) Natural Resources, Agriculture, and Environment;
- (h) Revenue and Taxation;
- (i) Rules; and
- (j) Transportation, Public Utilities, and Technology.

(2) The Senate members of the Retirement and Independent Entities Committee created in Utah Code Section 63E-1-201 comprise a Senate standing committee.

Section 3. SR3-2-202 is repealed and reenacted to read:

SR3-2-202. President to appoint committee members, chairs, and vice chairs.

- (1) The president of the Senate shall appoint members of the Senate to each standing committee.
- (2) The president shall appoint a chair to each standing committee.
- (3) The president may appoint a vice chair to each standing committee.
- (4) If the president does not appoint a vice chair to a standing committee, the chair may appoint a vice chair.
- (5) A vice chair may perform the duties of a chair:
 - (a) as requested by a chair; or
 - (b) in the absence of the chair.
- (6) The chair, or the vice chair as authorized under Subsection (3), may designate a member of

the committee to conduct a standing committee meeting when neither the chair nor the vice chair is able to attend a meeting.

(7) A committee member designated under Subsection (6) may conduct a committee meeting but may not perform the duties of a chair described in SR3-2-302 and SR3-2-303.

(8) If a chair, vice chair, or the chair's designee are not present at a committee meeting, the most senior member of the majority party who is a member of the committee may chair a standing committee meeting, but that person may not perform the duties described in SR3-2-302 and SR3-2-303.

Section 4. SR3-2-203 is repealed and reenacted to read:

SR3-2-203. Quorum requirements.

(1) Except as provided in Subsection (2), a majority of a standing committee is a quorum.

(2) In determining whether a quorum is present, the president, majority leader, majority whip, assistant majority whip, Senate Rules Committee chair, Executive Appropriations Committee chair, minority leader, minority whip, assistant minority whip, and the fourth member of leadership from the minority party are not counted in determining a quorum for a standing committee, except during the time that the senator is present at the meeting.

Section 5. SR3-2-204 is enacted to read:

SR3-2-204. Committee order of business.

Unless a standing committee chair, or a committee by majority vote, determines otherwise, the order of business for a standing committee is:

- (1) call to order by the chair;
- (2) approval of the minutes of previous meetings;
- (3) announcement of the agenda;
- (4) announcement of time restrictions, if any, subject to the requirements of SR3-2-304; and
- (5) consideration of standing committee business as provided in SR3-2-302(2).

Section 6. SR3-2-301 is repealed and reenacted to read:

Part 3. Duties of the Senate Standing Committee Chair

SR3-2-301. Chair to enforce legislative rules and procedures.

The chair shall ensure the integrity of the standing committee process by enforcing legislative rules and parliamentary procedure without delay.

Section 7. SR3-2-302 is repealed and reenacted to read:

SR3-2-302. Chair to set agenda -- Requirements.

The chair shall:

- (1) set the agenda for a standing committee meeting;

(2) ensure that legislation referred to the committee is considered by the committee within a reasonable time;

(3) ensure that legislation tabled by a standing committee is listed on a standing committee agenda as required by SR3-2-408; and

(4) ensure that legislation placed on the time certain calendar in the Senate is listed on a standing committee agenda before it is scheduled to be heard by the Senate.

Section 8. SR3-2-303 is repealed and reenacted to read:

SR3-2-303. Chair to post notice and agenda

-- Notification to sponsors.

(1) The chair shall cause a public notice and agenda to be posted at least 24 hours before each standing committee meeting as required under Utah Code Title 52, Chapter 4, Open and Public Meetings Act.

(2) The chair shall notify the chief Senate sponsor or chief House sponsor of legislation listed on an agenda of the time and place of the committee meeting in which the legislation will be considered not less than 24 hours before the committee meeting.

Section 9. SR3-2-304 is repealed and reenacted to read:

SR3-2-304. Chair may direct order of agenda -- Time restrictions.

The chair, or a committee by majority vote, may adopt committee procedures and time restrictions, including:

- (1) directing the order of the agenda;
- (2) directing the order in which a witness or presenter will be heard;
- (3) directing the number of witnesses or presenters that will be heard; and
- (4) limiting the time the committee will spend on:
 - (a) an item on the agenda; or
 - (b) an individual witness or presenter.

Section 10. SR3-2-305 is enacted to read:

SR3-2-305. Four phases when considering legislation.

Legislation under consideration by a standing committee is subject to four distinct phases during a committee meeting:

- (1) the sponsor's presentation as provided in SR3-2-306;
- (2) clarifying questions as provided in SR3-2-307;
- (3) public comment as provided in SR3-2-308; and
- (4) committee action as provided in SR3-2-309.

Section 11. SR3-2-306 is enacted to read:

SR3-2-306. Sponsor presentation.

(1) Except as provided in Subsection (2), during the presentation phase, a committee member may

not amend legislation, substitute legislation, or dispose of legislation. All other motions are in order during the presentation phase.

(2) During the presentation phase of a committee meeting, the chair may accept a simple motion to amend legislation if the chair permits:

- (a) committee questions and debate;
- (b) public comment as provided in SR3-2-308;
- (c) the sponsor of the legislation affected by the amendment to respond to the motion to amend; and
- (d) the committee member who made the motion to amend to have the final word on the motion as required under SR3-2-313.

(3) During the presentation phase of a standing committee meeting, the chair shall:

- (a) permit the chief Senate sponsor or chief House sponsor to present the sponsor's legislation; and
 - (b) except as provided in Subsection (4), and at the election of a legislative sponsor, permit persons who have expertise on the legislation to assist with the presentation as provided in SR3-2-304.
- (4) The chair may not permit:
- (a) legislation to be presented if the legislative sponsor is not present; or
 - (b) legislative interns or legislative aides to present legislation.

**Section 12. SR3-2-307 is enacted to read:
SR3-2-307. Clarifying questions.**

- (1) During the clarifying question phase, a committee member may not amend legislation, substitute legislation, or dispose of legislation. All other motions are in order during the clarifying questions phase.
- (2) A chair shall allow members of the committee to ask the legislative sponsor questions, provided that the questions help to clarify the intent or purpose of the legislation or the meaning of the language of the legislation.
- (3) The chair shall allow the legislative sponsor to respond to clarifying questions.
- (4) The chair may allow, with the legislative sponsor's approval, a person authorized under SR3-2-306 to respond to clarifying questions from members of the committee.

**Section 13. SR3-2-308 is enacted to read:
SR3-2-308. Public comment.**

- (1) During the public comment phase, a committee member may not amend legislation, substitute legislation, or dispose of legislation. All other motions are in order during the public comment phase.
- (2) During the public comment phase of a committee meeting:
- (a) the chair, or a committee by majority vote, may limit the time an individual witness or

presenter speaks to a committee as authorized under SR3-2-304; and

- (b) the chair, or the committee by majority vote, may terminate the public comment phase at any time.
- (3) Unless the chair, or a committee by majority vote, permits additional public comment, once the public comment phase has ended only committee members, legislative sponsors, staff, and those authorized under SR3-2-306 may address the committee.

**Section 14. SR3-2-309 is enacted to read:
SR3-2-309. Committee action.**

During the committee action phase, a committee member may make motions to amend the legislation, to substitute the legislation, and to dispose of the legislation. All other motions authorized by this chapter are in order during the committee action phase of a committee meeting.

**Section 15. SR3-2-310 is enacted to read:
SR3-2-310. Chair to preserve order --
Powers to preserve order.**

- (1) The chair shall preserve order and decorum during standing committee meetings by:
- (a) controlling outbursts and demonstrations; and
 - (b) ensuring that committee members, presenters, witnesses, and visitors act in a dignified and respectful manner.
- (2) To preserve order, the chair may:
- (a) clear the committee room of any person who engages in disorderly conduct;
 - (b) recess a standing committee meeting; or
 - (c) request assistance from:
 - (i) the sergeant-at-arms; or
 - (ii) the Utah Highway Patrol.

**Section 16. SR3-2-311 is enacted to read:
SR3-2-311. Chair to recognize committee members -- Remarks to be germane --
Committee members may make motions when recognized -- Permission to address committee.**

- (1) The chair shall recognize a committee member who desires to speak to a subject that is under consideration by a standing committee.
- (2) It is within the discretion of a chair to recognize a committee member who desires to speak to the same subject more than twice.
- (3) Upon recognition by the chair, a committee member:
- (a) shall ensure that the member's remarks are germane to the subject under consideration; and
 - (b) may make a motion that is authorized by this chapter.
- (4) Presenters, witnesses, visitors, staff, and committee members may not speak to a standing committee unless recognized by the chair.

Section 17. SR3-2-312 is enacted to read:

SR3-2-312. Chair to accept all motions that are in order -- Once accepted, the motion is pending.

(1) The chair shall accept a motion requested by a member of a standing committee who has been properly recognized unless the motion is prohibited by this chapter or by parliamentary procedure.

(2) To properly accept a motion, the chair shall:

(a) restate each verbal motion;

(b) identify the number of each written motion to amend or substitute legislation; and

(c) distribute copies of each written amendment or substitute to members of the committee.

(3) When a chair properly accepts a motion under Subsection (2), the motion is pending.

Section 18. SR3-2-313 is enacted to read:

SR3-2-313. Chair to allow response to motions before placing motions for a vote.

After a motion has been accepted, and before the chair places a motion for a vote, the chair shall permit:

(1) members of the committee to ask the committee member who placed the motion questions about the motion;

(2) members of the committee to debate the motion;

(3) the chief sponsor of the legislation that is affected by the motion to respond to the motion; and

(4) the committee member who placed the motion to have the final word on the motion.

Section 19. SR3-2-314 is enacted to read:

SR3-2-314. Chair to place motion for vote.

After the chair has permitted a committee member to sum on a motion as required under SR3-2-313(4), the chair shall place the motion for a vote unless the motion is withdrawn subject to the requirements of SR3-2-511.

Section 20. SR3-2-315 is enacted to read:

SR3-2-315. Chair to verbally announce vote on motions -- Motions pass with majority vote of a quorum -- Exceptions.

(1) After a standing committee votes on a motion, the chair shall:

(a) determine whether the motion passed or failed;

(b) verbally announce that the motion passed or that the motion failed; and

(c) if the vote on the motion is not unanimous, verbally identify by name either the committee members who voted "yes" or the committee members who voted "no."

(2) Unless otherwise specifically indicated in this chapter, motions pass with a majority vote of a quorum as described in SR3-2-203.

Section 21. SR3-2-316 is enacted to read:

SR3-2-316. Chair may direct a roll call vote.

Although most motions will be determined by a voice vote, the chair, or a committee by majority vote, may direct a roll call vote.

Section 22. SR3-2-317 is enacted to read:

SR3-2-317. Chair to decide points of order -- Committee may appeal chair's decision.

(1) A chair shall rule on a point of order without committee discussion or debate.

(2) As provided in SR3-2-506, a committee member may:

(a) make a point of order; or

(b) appeal the decision of the chair.

Section 23. SR3-2-318 is enacted to read:

SR3-2-318. Chair to send standing committee reports to the Senate.

(1) When a standing committee approves a motion to dispose of legislation under the requirements of SR3-2-408 or SR3-2-403, the chair shall, no later than the next legislative day, submit to the secretary of the Senate:

(a) the official version of the legislation; and

(b) a committee report, signed by the chair, describing the committee's action.

(2) If, for any reason, the chair does not submit a committee report to the secretary of the Senate as required in Subsection (1), the secretary of the Senate shall ensure that the official version of the legislation and the committee report are submitted before the end of the second legislative day after the legislation was acted on by a standing committee.

Section 24. SR3-2-319 is enacted to read:

SR3-2-319. Chair to ensure integrity of minutes -- Retention of minutes -- Content requirements.

(1) The chair shall:

(a) ensure that a secretary takes minutes of standing committee meetings;

(b) present the minutes to the committee for approval; and

(c) send the approved minutes to the office of the secretary of the Senate.

(2) The secretary of the Senate shall retain committee minutes for three years.

(3) The chair shall ensure that committee minutes comply with the requirements of Utah Code Title 52, Chapter 4, Open and Public Meetings Act.

(4) The chair shall ensure that committee minutes include:

(a) the date, time, and place of each committee meeting;

- (b) a list of committee members present;
- (c) each motion made;
- (d) the vote on each motion;
- (e) points of order; and
- (f) the outcome of each appeal of the decision of the chair.

Section 25. SR3-2-401 is repealed and reenacted to read:

Part 4. Duties of the Senate Standing Committee

SR3-2-401. Standing committee review required -- Exceptions.

(1) Except as provided in Subsection (2), the Senate may not pass a bill, joint resolution, or concurrent resolution during the annual general session unless a Senate standing committee has given a favorable recommendation to the legislation.

(2) Subsection (1) does not apply to:

(a) a resolution regarding legislative rules or legislative personnel;

(b) legislation that has been approved by a unanimous vote of an interim committee;

(c) the revisor's statute; or

(d) if the legislation was reviewed and approved by the Executive Appropriations Committee, legislation that:

(i) exclusively appropriates money;

(ii) amends Utah Code Title 53A, Chapter 17a, Minimum School Program Act;

(iii) amends Utah Code Title 67, Chapter 22, State Officer Compensation; or

(iv) authorizes the issuance of general obligation or revenue bonds.

Section 26. SR3-2-402 is repealed and reenacted to read:

SR3-2-402. Standing committee review of legislation with a fiscal impact.

Except as provided in SR3-2-401, a standing committee in one or both houses shall review legislation before the legislation is held in the opposite house because of its fiscal impact.

Section 27. SR3-2-403 is repealed and reenacted to read:

SR3-2-403. Standing committee duties -- Consider legislation in a reasonable time -- Dispose of legislation.

(1) As required by SR3-2-302(2), a chair shall ensure that legislation referred to the committee is considered by the committee within a reasonable time.

(2) When a committee has complied with the requirements of SR3-2-302(2), a standing committee shall dispose of the legislation by:

(a) returning the legislation to the Senate Rules Committee;

(b) tabling the legislation, subject to the requirements of SR3-2-408;

(c) recommending the legislation to the second reading calendar; or

(d) referring the legislation to a different standing committee.

Section 28. SR3-2-404 is repealed and reenacted to read:

SR3-2-404. Motions to lift from the table, hold, amend, or substitute legislation.

In addition to the actions listed in SR3-2-403(2), a standing committee may approve one or more of the following motions on a single piece of legislation:

(1) hold the legislation;

(2) move to the next item on an agenda;

(3) amend the legislation, subject to the requirements of SR3-2-406;

(4) substitute the legislation, subject to the requirements of SR3-2-407; or

(5) lift legislation from the table, subject to the requirements of SR3-2-408.

Section 29. SR3-2-405 is repealed and reenacted to read:

SR3-2-405. Consent calendar.

(1) A standing committee may recommend that legislation in its possession be placed on the consent calendar if:

(a) the committee approves a motion, by a unanimous vote, to send the legislation to the second reading calendar;

(b) immediately subsequent to that action, the chief sponsor requests that the legislation be placed on the consent calendar; and

(c) in a separate motion and vote, the committee unanimously approves the sponsor's request to place the legislation on the consent calendar instead of the second reading calendar.

(2) If, in accordance with SR3-1-102, the Senate Rules Committee forwards a summary report from the Occupational and Professional Licensure Review Committee in conjunction with legislation referred to a standing committee, the chair shall ensure that the summary report is read orally to the committee before action is taken by the committee on the legislation that is related to the summary report.

Section 30. SR3-2-406 is repealed and reenacted to read:

SR3-2-406. Amending legislation -- Amendments must be germane.

(1) (a) Except as provided in Subsection (2), and if recognized by the chair during the committee action phase, a committee member may make a motion to amend the legislation that is under consideration.

(b) (i) A committee member may propose a verbal amendment to the legislation under consideration if the amendment contains 25 or fewer words.

(ii) Before proposing a motion to amend, a committee member shall ensure that a proposed amendment that contains more than 25 words is printed and distributed to committee staff and to all committee members present.

(2) (a) A committee member may only make a motion to amend that is germane to the subject of the legislation under consideration.

(b) A committee member who believes that an amendment is not germane to the subject of the legislation may make a point of order or appeal as described in SR3-2-506.

Section 31. SR3-2-407 is repealed and reenacted to read:

SR3-2-407. Substitute legislation -- Substitutes must be germane.

(1) Except as provided in Subsection (2), and if recognized by the chair during the committee action phase, a committee member may make a motion to substitute legislation that is under consideration.

(2) (a) A committee member may only make a motion to substitute that is germane to the subject of the legislation under consideration.

(b) A committee member who believes that an amendment is not germane to the subject of the legislation may make a point of order or appeal as described in SR3-2-506.

Section 32. SR3-2-408 is repealed and reenacted to read:

SR3-2-408. Legislation tabled in a standing committee -- Requirements.

(1) If legislation is tabled, the chair shall list the tabled legislation on the committee agenda for the next committee meeting.

(2) At the next committee meeting, the committee may, by a two-thirds vote, lift the tabled legislation from the table.

(3) If a motion to lift tabled legislation is successful, the standing committee may make any motion on the legislation that is authorized under this chapter.

(4) (a) If legislation is tabled by a committee and the legislation is not lifted from the table at the committee's next meeting, the committee chair shall submit a committee report to the secretary of the Senate informing the Senate that the legislation was tabled.

(b) After reading the committee report on the tabled legislation, the secretary of the Senate shall send the tabled legislation to the Senate Rules Committee.

Section 33. SR3-2-409 is repealed and reenacted to read:

SR3-2-409. Reconsideration of action.

(1) Except as provided in Subsection (2), and if recognized by the chair, a committee member may make a motion to reconsider the committee's action on legislation if the legislation is:

(a) in the possession of the standing committee; and

(b) listed on the committee agenda as required by Utah Code Title 52, Chapter 4, Open and Public Meetings Act.

(2) A standing committee may not reconsider its action on a piece of legislation:

(a) more than once; and

(b) until the committee has considered other committee business.

Section 34. SR3-2-410 is repealed and reenacted to read:

SR3-2-410. Testimony may be taken under oath.

(1) At the direction of the chair, or upon a majority vote of the committee, the testimony of a witness, presenter, or visitor who speaks to a committee may be taken under oath.

(2) The chair or committee staff shall administer the oath.

Section 35. SR3-2-411 is enacted to read:

SR3-2-411. Additional standing committee meetings.

With the president of the Senate's permission, a chair may hold a committee meeting independent of regularly scheduled committee meetings on:

(1) a single piece of legislation; or

(2) the subject of two or more pieces of legislation.

Section 36. SR3-2-412 is enacted to read:

SR3-2-412. Closed standing committee meetings.

A standing committee may close a committee meeting in accordance with the procedures and requirements of Utah Code Title 52, Chapter 4, Open and Public Meetings Act.

Section 37. SR3-2-413 is enacted to read:

SR3-2-413. Prohibited from meeting while Senate is in session -- Exceptions.

(1) A standing committee may not meet while the Senate is in session unless:

(a) the chair receives permission from the president to meet; or

(b) a majority of the Senate approves a motion for the committee to meet while the Senate is in session.

(2) Unless a committee is authorized to meet as provided in Subsection (1), any action taken by a committee while the Senate is in session is invalid.

Section 38. SR3-2-501 is repealed and reenacted to read:

Part 5. Standing Committee Parliamentary Procedures

SR3-2-501. Obtaining the floor in committee -- Remarks to be germane.

(1) As required in SR3-2-311, a chair shall recognize a committee member who desires to speak to the committee.

(2) A committee member who is recognized by the chair may make a motion consistent with the requirements of this chapter.

(3) A second to a motion is not required.

Section 39. SR3-2-502 is repealed and reenacted to read:

SR3-2-502. Committee members shall vote.

A committee member shall vote on every motion placed for a vote while the committee member is present at a meeting.

Section 40. SR3-2-503 is repealed and reenacted to read:

SR3-2-503. Privileged motions in committee -- General requirements, procedure, and priority.

(1) Privileged motions:

(a) are non-debatable; and

(b) take precedence over non-privileged motions.

(2) If a privileged motion is requested while another privileged motion is pending, the chair shall grant priority to the privileged motions in the following order:

(a) adjourn;

(b) set time to adjourn;

(c) recess;

(d) end debate or call the question;

(e) extend debate; and

(f) limit debate.

(3) Except for a motion to adjourn, a privileged motion, if adopted, does not dispose of other pending motions.

Section 41. SR3-2-504 is repealed and reenacted to read:

SR3-2-504. Original motions in committee -- General requirements, procedure, and priority.

(1) Original motions:

(a) are debatable; and

(b) may be replaced with a substitute motion.

(2) A committee member may not make an original motion if:

(a) a privileged motion is pending; or

(b) a substitute motion is pending.

Section 42. SR3-2-505 is repealed and reenacted to read:

SR3-2-505. Substitute motions in committee -- General requirements, procedure, and priority.

(1) Substitute motions:

(a) are debatable; and

(b) take precedence over original motions.

(2) (a) A committee member may make a substitute motion if an original motion is pending.

(b) A committee member may not make a substitute motion if:

(i) a privileged motion is pending; or

(ii) another substitute motion is pending.

(c) If a substitute motion is adopted, a substitute motion disposes of the original motion.

(d) If a substitute motion is not adopted, the original motion is pending.

Section 43. SR3-2-506 is repealed and reenacted to read:

SR3-2-506. Point of order -- Appeal of chair's decision.

(1) A point of order is not a motion and, except during a vote, may be made by a member of a standing committee at any time during a committee meeting.

(2) If a member of a standing committee is concerned that legislative rules or procedures are not being followed, the committee member may make a point of order.

(3) When a point of order is made, the chair shall immediately allow the committee member to state the member's point.

(4) A chair shall rule on the point of order without committee discussion or debate as provided in SR3-2-315.

(5) An appeal of the decision of the chair is not a motion and may be made by a committee member after the chair has ruled on a point of order.

(6) A standing committee may, by majority vote, override the decision of the chair on a point of order.

(a) If the committee overrides the decision of the chair, the ruling of a committee is final.

(b) If a committee does not override the decision of the chair, the ruling of a chair is final.

Section 44. SR3-2-507 is enacted to read:

SR3-2-507. Point of information.

(1) A point of information is not a motion and, except during a vote, may be made by a member of a standing committee at any time during a committee meeting.

(2) If a member of a standing committee desires clarification on any aspect of a committee meeting,

the committee member may make a point of information.

(3) When a point of information is made, the chair shall immediately allow the committee member to state the point.

Section 45. SR3-2-508 is enacted to read:

SR3-2-508. Division of a motion.

(1) A division is not a motion and, except during a vote, may be made by a member of a standing committee at any time during a committee meeting without being recognized by the chair.

(2) The committee member who divides a motion shall clearly state how the motion is to be divided.

(3) A committee member may not divide a motion to amend legislation in such a manner that could create an unintelligible or ambiguous result.

Section 46. SR3-2-509 is enacted to read:

SR3-2-509. Prohibited motions.

(1) (a) Except for a motion to adjourn, a committee member may not make a motion unless a quorum of the standing committee is present.

(b) When a quorum is not present, a motion to adjourn is passed with a majority vote of those present.

(2) No motion is in order during a vote.

(3) A point of order is not in order during a vote.

(4) A committee member may not make a motion to:

(a) strike the enacting clause of legislation; or

(b) circle legislation.

Section 47. SR3-2-510 is enacted to read:

SR3-2-510. Repeating defeated motion.

(1) Except as provided in Subsection (2), a motion that is defeated may not be made by a committee member until the committee has considered other committee business.

(2) A motion to postpone legislation to a day certain, to postpone legislation indefinitely, or to return legislation to the Senate Rules Committee, if defeated, may not be made again by any committee member during the same committee meeting.

Section 48. SR3-2-511 is enacted to read:

SR3-2-511. A motion may be withdrawn.

A committee member who makes a motion may withdraw that motion at any time before the motion is placed for a vote.

Section 49. SR4-3-101 is amended to read:

SR4-3-101. Bills placed on calendars.

(1) (a) The secretary of the Senate shall cause each bill reported to the Senate by a Senate standing committee or the Senate Rules Committee to be placed at the bottom of the second reading

calendar or on the consent calendar in the order that the bill is received.

(b) The presiding officer shall ensure that each bill that is placed on the second reading calendar [but lacks] without a fiscal note is circled until the fiscal note is received.

(2) The secretary of the Senate shall ensure that each bill on the second reading calendar that is passed by a constitutional majority vote is placed at the bottom of the third reading calendar.

Section 50. SR4-3-301 is amended to read:

SR4-3-301. Amendments in order on second or third reading -- 10 word rule -- Passage of amendments by a majority vote.

(1) A motion to amend a piece of legislation is in order on second or third reading.

(2) (a) Except as provided in Subsection (3) or (4), a senator may, if recognized by the presiding officer while the Senate is debating a piece of legislation, make a motion to amend the legislation.

(b) (i) A senator may verbally propose an amendment to a piece of legislation if the amendment contains 10 words or fewer.

(ii) A senator shall ensure that a proposed amendment containing more than 10 words is printed and distributed to the secretary of the Senate and to all senators before the amendment is proposed.

(3) (a) The senator making the motion to amend shall ensure that the amendment is germane to the subject of the original legislation under consideration.

(b) If a senator believes that an amendment is not germane to the subject of the original legislation, the senator may raise a point of order alleging that the amendment is not germane.

(c) The presiding officer shall rule on the point of order by determining whether or not the amendment is germane to the subject of the original legislation.

(4) A constitutional amendment, resolution, or bill requiring a constitutional two-thirds vote for final passage may be amended by a majority vote.

(5) When legislation is amended by the Senate, the secretary of the Senate shall:

(a) for each page of the legislation modified by a Senate amendment, cause a new page to be printed that clearly identifies each Senate amendment to that page; and

(b) print that new page on tan paper on the second reading and on goldenrod-colored paper on the third reading.

Section 51. SR4-4-401 is amended to read:

SR4-4-401. Concurrence calendar.

(1) After the secretary of the Senate or the secretary's designee reads the transmittal letter from the House informing the Senate that the

House has amended or substituted a piece of Senate legislation, the presiding officer shall place the legislation on the concurrence calendar.

(2) (a) During the first 43 days of the annual general session, the legislation shall remain on the concurrence calendar over at least one night before the Senate may consider the question of concurrence.

(b) During the last two days of the annual general session and during any special session, the Senate may consider legislation for concurrence after the Senate has been given a reasonable time to review the House changes.

(3) (a) When presenting legislation to the Senate for concurrence, the presiding officer shall ask the sponsor of the legislation for a motion.

(b) The sponsor of the legislation may move to either:

(i) concur with the House amendments; or

(ii) refuse to concur with the House amendments and ask the House to recede from their amendments.

(c) If a motion to concur with the House amendments passes by majority vote, the presiding officer shall:

(i) pose the question: "This bill (resolution) has been read three times. The question is: Shall [~~the Senate concur with the House amendments~~] this bill (resolution) pass?"; and

(ii) take the final roll call vote on the legislation.

(d) If a motion to refuse to concur with the [~~Senate~~] House amendments and ask the [~~Senate~~] House to recede from their amendments passes by a majority vote, the secretary of the Senate shall return the legislation to the House for its further action.

(e) If the House refuses to recede, the Senate and House shall follow the procedures and requirements of JR3-2-601 relating to the appointment of a conference committee.

Section 52. SR4-7-106 is amended to read:

SR4-7-106. Voting or changing vote after the vote is announced.

After the vote is announced, a senator may not vote or change the senator's vote unless:

(1) the Senate has possession of the legislation;

~~(1)~~ (2) there is unanimous consent of the senators present; and

~~(2)~~ (3) the result of the vote is not changed.

Section 53.

Repealer.

This resolution repeals:

SR1-8-101, Senator postage allowance.

SR3-2-102, Standing committee review required -- Exceptions.

SR3-2-103, Standing committee review of legislation with a fiscal impact.

SR3-2-104, Standing committees prohibited from meeting while the Senate is in session -- Exceptions.

SR3-2-601, Committee reports.

S.R. 2

Passed February 26, 2015

Effective February 26, 2015

**RESOLUTION AMENDING
STANDING COMMITTEE RULES**

Chief Sponsor: Kevin T. Van Tassell

LONG TITLE

General Description:

This resolution expands the number of legislators who are authorized to present legislation to a standing committee and allows substitute legislation to be adopted during the presentation phase of a standing committee meeting.

Highlighted Provisions:

This resolution:

- ▶ authorizes the chief sponsor to designate another legislator to present the chief sponsor's legislation to a Senate standing committee.

Special Clauses:

None

Legislative Rules Affected:

AMENDS:

SR3-2-306

Be it resolved by the Senate of the state of Utah:

Section 1. SR3-2-306 is amended to read:

SR3-2-306. Sponsor presentation.

(1) Except as provided in Subsection (2), during the presentation phase, a committee member may not amend legislation, substitute legislation, or dispose of legislation. All other motions are in order during the presentation phase.

(2) During the presentation phase of a committee meeting, the chair may accept a simple motion to amend or substitute legislation if the chair permits:

(a) committee questions and debate;

(b) public comment as provided in SR3-2-308;

(c) the sponsor of the legislation affected by the amendment to respond to the motion to amend; and

(d) the committee member who made the motion to amend to have the final word on the motion as required under SR3-2-313.

(3) During the presentation phase of a standing committee meeting, the chair shall:

(a) permit the chief [~~Senate sponsor or chief House~~] sponsor or another legislator designated by the chief sponsor to present the chief sponsor's legislation; and

(b) except as provided in Subsection (4), and at the election of [~~a legislative~~] the chief sponsor or the chief sponsor's designee, permit persons who have expertise on the legislation to assist with the presentation as provided in SR3-2-304.

(4) The chair may not permit:

(a) legislation to be presented if the [~~legislative~~] chief sponsor or another legislator designated by the chief sponsor is not present; or

(b) legislative interns or legislative aides to present legislation.

S.R. 3

Passed March 9, 2015
Effective March 9, 2015

SENATE RESOLUTION ENCOURAGING CONGRESS TO PASS RECOMMENDED LEGISLATION ON NATIONAL PARKS

Chief Sponsor: Jim Dabakis

LONG TITLE

General Description:

This resolution of the Senate encourages the United States Congress to approve legislation granting all children in the fourth grade, and their families, free admission to the national parks of the United States during the 2015-2016 school year.

Highlighted Provisions:

This resolution:

- ▶ encourages the United States Congress to approve legislation granting all fourth grade children in the United States, and their families, free admission to the national parks of the United States during the 2015-2016 school year; and
- ▶ invites President Obama to travel to Utah during the coming months with the First Family to experience the natural beauty of the "Mighty Five" national parks within the state of Utah.

Special Clauses:

None

Be it resolved by the Senate of the state of Utah:

WHEREAS, a 2010 Kaiser Family Foundation study found that young people now devote, on average, more than seven hours per day to electronic media use;

WHEREAS, President Obama has taken significant steps to promote the use of America's national parks;

WHEREAS, on February 19th, 2015, President Obama established the "Every Kid in a Park" initiative;

WHEREAS, the "Every Kid in a Park" initiative would grant all fourth grade students in the United States, and their families, free admission to all national parks and federal lands and waters during the 2015-2016 school year;

WHEREAS, President Obama has stated that the purpose of the initiative is to inspire the next generation to discover all that America's public lands and waters have to offer;

WHEREAS, the "Every Kid in a Park" initiative coincides with the 100th Anniversary of the establishment of the National Park Service in 2016;

WHEREAS, President Obama has visited 48 countries during his seven years of presidency, including two separate trips to the country of India;

WHEREAS, President Obama has visited 47 states since taking office in January 2009, leaving out only the states of South Carolina, South Dakota, and Utah;

WHEREAS, the state of Utah holds five national parks, known commonly as "The Mighty Five," which is more than any other state except California and Alaska; and

WHEREAS, Utah's tourism industry employs 132,000 Utahns and provides over \$1 billion in revenue to the state of Utah:

NOW, THEREFORE, BE IT RESOLVED that the Senate of the state of Utah encourages the United States Congress to approve legislation granting all children in the fourth grade in the United States, and their families, free admission to the national parks of the United States during the 2015-2016 school year.

BE IT FURTHER RESOLVED that the Senate of the state of Utah invites President Obama to travel to Utah during the coming months with the First Family to experience the natural beauty of Utah's five national parks, known commonly as "The Mighty Five."

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the Majority Leader of the United States Senate, the Speaker of the United States House of Representatives, and the members of Utah's congressional delegation in accordance with JR4-1-303.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the President of the United States, inviting him and his family to explore the five national parks in Utah.

LAWS
of the
STATE OF UTAH, 2015

Passed at the
FIRST SPECIAL SESSION
of the
SIXTY-FIRST LEGISLATURE

Convened at the State Capitol in the City of Salt Lake
August 19, 2015
and Adjourned Sine Die on
August 19, 2015

STATE OF UTAH



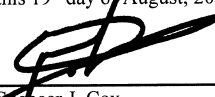
OFFICE OF THE LIEUTENANT GOVERNOR

CERTIFICATE

THIS IS TO CERTIFY that the acts and resolutions published in this volume are, according to our best information and belief, full and correct copies of the originals passed at the 2015 First Special Session of the Sixtieth Legislature of the State of Utah, as they appear of record in the Office of the Lieutenant Governor; and that the 2015 First Special Session of the Sixty-First Legislature of the State of Utah convened and adjourned at the Capitol in Salt Lake City on the 19th of August, 2015.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Great Seal of the State of Utah at Salt Lake City, this 19th day of August, 2015.





Spencer J. Cox
Lieutenant Governor

**CHAPTER 1
S. B. 1003**

Passed August 19, 2015
Approved August 20, 2015
Effective August 20, 2015

CRIMINAL LAW AMENDMENTS

Chief Sponsor: J. Stuart Adams
House Sponsor: Eric K. Hutchings

LONG TITLE

General Description:

This bill modifies code provisions regarding criminal offenses and criminal penalties that were amended in HB 348, "Criminal Justice Programs and Amendments," 2015 General Session.

Highlighted Provisions:

This bill:

- ▶ amends a cross reference regarding a conviction for the possession of certain scheduled controlled substances; and
- ▶ amends the penalty regarding the offense of failure to provide notice regarding damage to an unattended vehicle.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

41-6a-401.7, as last amended by Laws of Utah 2015, Chapter 412
76-10-503, as last amended by Laws of Utah 2015, Chapter 412

Be it enacted by the Legislature of the state of Utah:

Section 2. Section 41-6a-401.7 is amended to read:

41-6a-401.7. Accident involving injury, death, or property damage -- Duties of operator, occupant, and owner -- Exchange of information -- Notification of law enforcement -- Penalties.

(1) The operator of a vehicle involved in an accident under Section 41-6a-401.3 or 41-6a-401.5 shall:

- (a) give to the persons involved:
 - (i) the operator's name, address, and the registration number of the vehicle being operated; and
 - (ii) the name of the insurance provider covering the vehicle being operated including the phone number of the agent or provider;
- (b) upon request and if available, exhibit the operator's license to:
 - (i) any investigating peace officer present;
 - (ii) the person struck;

(iii) the operator, occupant of, or person attending the vehicle or other property damaged in the accident; and

(iv) the owner of property damaged in the accident, if present; and

(c) render to any person injured in the accident reasonable assistance, including transporting or making arrangements for transporting, of the injured person to a physician or hospital for medical treatment if:

- (i) it is apparent that treatment is necessary; or
- (ii) transportation is requested by the injured person.

(2) The operator of a vehicle involved in an accident under Section 41-6a-401.3 or 41-6a-401.5 shall immediately and by the quickest means of communication available give notice or cause to give notice of the accident to the nearest office of a law enforcement agency.

(3) The occupant of a vehicle involved in an accident under Section 41-6a-401.3 or 41-6a-401.5 who is not the operator of the vehicle shall give or cause to give the immediate notice required under Subsection (2) if:

- (a) the operator of a vehicle involved in an accident is physically incapable of giving the notice; and
- (b) the occupant is capable of giving an immediate notice.

(4) Except as provided under Subsection (5), if a vehicle or other property damaged in the accident is unattended, the operator of the vehicle involved in the accident shall:

- (a) locate and notify the operator or owner of the vehicle or the owner of other property damaged in the accident of the operator's name, address, and the registration number of the vehicle causing the damage; or
- (b) attach securely in a conspicuous place on the vehicle or other property a written notice giving the operator's name, address, and the registration number of the vehicle causing the damage.

(5) The operator of a vehicle that provides the information required under this section to an investigating peace officer at the scene of the accident is exempt from providing the information to other persons required under this section.

(6) A violation of ~~this section~~ Subsection (4) is a class C misdemeanor.

Section 3. Section 76-10-503 is amended to read:

76-10-503. Restrictions on possession, purchase, transfer, and ownership of dangerous weapons by certain persons -- Exceptions.

- (1) For purposes of this section:
 - (a) A Category I restricted person is a person who:
 - (i) has been convicted of any violent felony as defined in Section 76-3-203.5;

- (ii) is on probation or parole for any felony;
- (iii) is on parole from a secure facility as defined in Section 62A-7-101;
- (iv) within the last 10 years has been adjudicated delinquent for an offense which if committed by an adult would have been a violent felony as defined in Section 76-3-203.5;
- (v) is an alien who is illegally or unlawfully in the United States; or
- (vi) is on probation for a conviction of possessing:
- (A) a substance classified in Section 58-37-4 as a Schedule I or II ~~[in Section 58-37-8, or]~~ controlled substance;
- (B) a controlled substance analog; or
- (C) a substance listed in Section 58-37-4.2.
- (b) A Category II restricted person is a person who:
- (i) has been convicted of any felony;
- (ii) within the last seven years has been adjudicated delinquent for an offense which if committed by an adult would have been a felony;
- (iii) is an unlawful user of a controlled substance as defined in Section 58-37-2;
- (iv) is in possession of a dangerous weapon and is knowingly and intentionally in unlawful possession of a Schedule I or II controlled substance as defined in Section 58-37-2;
- (v) has been found not guilty by reason of insanity for a felony offense;
- (vi) has been found mentally incompetent to stand trial for a felony offense;
- (vii) has been adjudicated as mentally defective as provided in the Brady Handgun Violence Prevention Act, Pub. L. No. 103-159, 107 Stat. 1536 (1993), or has been committed to a mental institution;
- (viii) has been dishonorably discharged from the armed forces; or
- (ix) has renounced his citizenship after having been a citizen of the United States.
- (c) As used in this section, a conviction of a felony or adjudication of delinquency for an offense which would be a felony if committed by an adult does not include:
- (i) a conviction or adjudication of delinquency for an offense pertaining to antitrust violations, unfair trade practices, restraint of trade, or other similar offenses relating to the regulation of business practices not involving theft or fraud; or
- (ii) a conviction or adjudication of delinquency which, according to the law of the jurisdiction in which it occurred, has been expunged, set aside, reduced to a misdemeanor by court order, pardoned or regarding which the person's civil rights have been restored unless the pardon, reduction,

expungement, or restoration of civil rights expressly provides that the person may not ship, transport, possess, or receive firearms.

(d) It is the burden of the defendant in a criminal case to provide evidence that a conviction or adjudication of delinquency is subject to an exception provided in Subsection (1)(c), after which it is the burden of the state to prove beyond a reasonable doubt that the conviction or adjudication of delinquency is not subject to that exception.

(2) A Category I restricted person who intentionally or knowingly agrees, consents, offers, or arranges to purchase, transfer, possess, use, or have under the person's custody or control, or who intentionally or knowingly purchases, transfers, possesses, uses, or has under the person's custody or control:

(a) any firearm is guilty of a second degree felony; or

(b) any dangerous weapon other than a firearm is guilty of a third degree felony.

(3) A Category II restricted person who intentionally or knowingly purchases, transfers, possesses, uses, or has under the person's custody or control:

(a) any firearm is guilty of a third degree felony; or

(b) any dangerous weapon other than a firearm is guilty of a class A misdemeanor.

(4) A person may be subject to the restrictions of both categories at the same time.

(5) If a higher penalty than is prescribed in this section is provided in another section for one who purchases, transfers, possesses, uses, or has under this custody or control any dangerous weapon, the penalties of that section control.

(6) It is an affirmative defense to a charge based on the definition in Subsection (1)(b)(iv) that the person was:

(a) in possession of a controlled substance pursuant to a lawful order of a practitioner for use of a member of the person's household or for administration to an animal owned by the person or a member of the person's household; or

(b) otherwise authorized by law to possess the substance.

(7) (a) It is an affirmative defense to transferring a firearm or other dangerous weapon by a person restricted under Subsection (2) or (3) that the firearm or dangerous weapon:

(i) was possessed by the person or was under the person's custody or control before the person became a restricted person;

(ii) was not used in or possessed during the commission of a crime or subject to disposition under Section 24-3-103;

(iii) is not being held as evidence by a court or law enforcement agency;

(iv) was transferred to a person not legally prohibited from possessing the weapon; and

(v) unless a different time is ordered by the court, was transferred within 10 days of the person becoming a restricted person.

(b) Subsection (7)(a) is not a defense to the use, purchase, or possession on the person of a firearm or other dangerous weapon by a restricted person.

(8) (a) A person may not sell, transfer, or otherwise dispose of any firearm or dangerous weapon to any person, knowing that the recipient is a person described in Subsection (1)(a) or (b).

(b) A person who violates Subsection (8)(a) when the recipient is:

(i) a person described in Subsection (1)(a) and the transaction involves a firearm, is guilty of a second degree felony;

(ii) a person described in Subsection (1)(a) and the transaction involves any dangerous weapon other than a firearm, and the transferor has knowledge that the recipient intends to use the weapon for any unlawful purpose, is guilty of a third degree felony;

(iii) a person described in Subsection (1)(b) and the transaction involves a firearm, is guilty of a third degree felony; or

(iv) a person described in Subsection (1)(b) and the transaction involves any dangerous weapon other than a firearm, and the transferor has knowledge that the recipient intends to use the weapon for any unlawful purpose, is guilty of a class A misdemeanor.

(9) (a) A person may not knowingly solicit, persuade, encourage or entice a dealer or other person to sell, transfer or otherwise dispose of a firearm or dangerous weapon under circumstances which the person knows would be a violation of the law.

(b) A person may not provide to a dealer or other person any information that the person knows to be materially false information with intent to deceive the dealer or other person about the legality of a sale, transfer or other disposition of a firearm or dangerous weapon.

(c) "Materially false information" means information that portrays an illegal transaction as legal or a legal transaction as illegal.

(d) A person who violates this Subsection (9) is guilty of:

(i) a third degree felony if the transaction involved a firearm; or

(ii) a class A misdemeanor if the transaction involved a dangerous weapon other than a firearm.

Section 4. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's

signature, or in the case of a veto, the date of veto override.

CHAPTER 2**H. B. 1001**

Passed August 19, 2015

Approved August 27, 2015

Effective August 27, 2015

(Retrospective operation to March 12, 1953)

STATUTE OF LIMITATIONS AMENDMENTS

Chief Sponsor: Michael E. Noel

Senate Sponsor: David P. Hinkins

LONG TITLE**General Description:**

This bill clarifies that a particular statute is a statute of limitations rather than a statute of repose.

Highlighted Provisions:

This bill:

- ▶ clarifies the application of a particular statute of limitations; and
- ▶ clarifies that it was effective as a statute of limitations at the time of codification.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides retrospective operation.

Utah Code Sections Affected:**AMENDS:**

78B-2-201, as last amended by Laws of Utah 2009, Chapter 146

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 78B-2-201 is amended to read:**78B-2-201. Actions by the state.**

(1) The state may not bring an action against any person for or with respect to any real property, its issues or profits, based upon the state's right or title to the real property, unless:

[~~(1)~~] (a) the right or title to the property accrued within seven years before any action or other proceeding is commenced; or

[~~(2)~~] (b) the state or those from whom it claims received all or a portion of the rents and profits from the real property within the immediately preceding seven years.

(2) The statute of limitations in this section runs from the date on which the state or those from whom it claims received actual notice of the facts giving rise to the action.

Section 2. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

Section 3. Retrospective operation.

This bill has retrospective operation to March 12, 1953.

CHAPTER 3**S. B. 1001**

Passed August 19, 2015

Approved August 27, 2015

Effective August 27, 2015

(Retrospective operation to January 1, 2015)

**CORPORATE FRANCHISE AND
INCOME TAX AMENDMENTS**

Chief Sponsor: Howard A. Stephenson

House Sponsor: Daniel McCay

LONG TITLE**General Description:**

This bill amends provisions related to a credit against or a refund of an overpayment of corporate franchise or income taxes.

Highlighted Provisions:

This bill:

- ▶ defines a term;
- ▶ amends provisions related to a credit against or a refund of an overpayment of corporate franchise or income taxes; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides retrospective operation.

Utah Code Sections Affected:**AMENDS:**

59-7-522, as last amended by Laws of Utah 2010, Chapter 216

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 59-7-522 is amended to read:**59-7-522. Overpayments.**

(1) As used in this section, "overpayment" means the same as that term is defined in Section 59-1-1409.

~~[(1)]~~ (2) (a) Subject to Subsection ~~[(1)]~~ (2)(b), a claim for credit or refund of an overpayment that is attributable to a Utah net loss carry back or carry forward shall be filed within three years from the due date of the return for the taxable year of the Utah net loss.

(b) The three-year period described in Subsection ~~[(1)]~~ (2)(a) shall be extended by any extension of time provided in statute for filing the return described in Subsection ~~[(1)]~~ (2)(a).

~~[(2) If an overpayment relates to a change in or correction of federal taxable income described in Section 59-7-519, a credit may be allowed or a refund paid any time before the expiration of the period within which a deficiency may be assessed.]~~

(3) The commission shall make a credit against or refund of any overpayment of a tax under this chapter for a taxable year if, in accordance with Section 59-7-519:

(a) (i) a corporation agrees with the commissioner of internal revenue for an extension, or a renewal of an extension, of the period for proposing and assessing a deficiency in federal income tax for that taxable year; or

(ii) there is a change in or correction of federal taxable income for that taxable year; and

(b) the corporation files a claim for the credit or refund before the expiration of the time period within which the commission may assess a deficiency.

~~[(3)]~~ (4) The commission shall make a credit or refund within a 30-day period after the day on which a court's decision to require the commission to credit or refund the amount of an overpayment to a taxpayer is final.

Section 2. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

Section 3. Retrospective operation.

This bill:

(1) has retrospective operation for a refund claim filed or pending on or after January 1, 2015; and

(2) applies to an amount for which the commission may assess a deficiency under Section 59-7-519.

CHAPTER 4
S. B. 1002

Passed August 19, 2015
Approved August 27, 2015
Effective August 27, 2015

MEDICAID INSPECTOR
GENERAL AMENDMENTS

Chief Sponsor: Deidre M. Henderson
House Sponsor: Mike K. McKell

LONG TITLE**General Description:**

This bill amends the requirements for the qualifications of a Medicaid inspector general.

Highlighted Provisions:

This bill:

- ▶ amends the qualifications necessary to be appointed the Medicaid inspector general.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

63A-13-201, as last amended by Laws of Utah 2013, Chapter 310 and renumbered and amended by Laws of Utah 2013, Chapter 12

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63A-13-201 is amended to read:**63A-13-201. Creation of office -- Inspector general -- Appointment -- Term.**

(1) There is created an independent entity within the Department of Administrative Services known as the "Office of Inspector General of Medicaid Services."

(2) The governor shall:

(a) appoint the inspector general of Medicaid services ~~[in accordance with Subsection (5)(b), and]~~ with the advice and consent of the Senate; and

(b) establish the salary for the inspector general of Medicaid services based upon a recommendation from the Department of Human Resource Management which shall be based on a market salary survey conducted by the Department of Human Resource Management.

(3) A person appointed as the inspector general shall: ~~(a) be a certified public accountant or a certified internal auditor; and (b)]~~ have the following qualifications:

~~[(4)]~~ (a) a general knowledge of the type of methodology and controls necessary to audit, investigate, and identify fraud, waste, and abuse;

~~[(4)]~~ (b) strong management skills;

~~[(iii)]~~ (c) extensive knowledge of ~~[, and at least seven years experience with,]~~ performance audit methodology;

~~[(4)]~~ (d) the ability to oversee and execute an audit; and

~~[(4)]~~ (e) strong interpersonal skills.

(4) The inspector general of Medicaid services:

(a) shall ~~[, except as provided in Subsection (5),]~~ serve a term of four years; and

(b) may be removed by the governor, for cause.

(5) ~~[(a)]~~ If the inspector general is removed for cause, a new inspector general shall be appointed, with the advice and consent of the Senate, to serve the remainder of the term of the inspector general of Medicaid services who was removed for cause.

~~[(b) The term of office for the inspector general of Medicaid services in office on January 1, 2013, shall end on December 31, 2014. The governor may appoint an inspector general for a four-year term on January 1, 2015.]~~

(6) The Office of Inspector General of Medicaid Services:

(a) is not under the supervision of, and does not take direction from, the executive director, except for administrative purposes;

(b) shall use the legal services of the state attorney general's office;

(c) shall submit a budget for the office directly to the governor;

(d) except as prohibited by federal law, is subject to:

(i) Title 51, Chapter 5, Funds Consolidation Act;

(ii) Title 51, Chapter 7, State Money Management Act;

(iii) Title 63A, Utah Administrative Services Code;

(iv) Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(v) Title 63G, Chapter 4, Administrative Procedures Act;

(vi) Title 63G, Chapter 6a, Utah Procurement Code;

(vii) Title 63J, Chapter 1, Budgetary Procedures Act;

(viii) Title 63J, Chapter 2, Revenue Procedures and Control Act;

(ix) Title 67, Chapter 19, Utah State Personnel Management Act;

(x) Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act;

(xi) Title 52, Chapter 4, Open and Public Meetings Act;

(xii) Title 63G, Chapter 2, Government Records Access and Management Act; and

(xiii) coverage under the Risk Management Fund created under Section 63A-4-201;

(e) when requested, shall provide reports to the governor, the president of the Senate, or the speaker of the House; and

(f) shall adopt administrative rules to establish policies for employees that are substantially similar to the administrative rules adopted by the Department of Human Resource Management.

Section 2. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

H.C.R. 101

Passed August 19, 2015
Approved August 20, 2015
Effective August 20, 2015

**CONCURRENT RESOLUTION
APPROVING SITE FOR NEW
STATE CORRECTIONAL FACILITIES**

Chief Sponsor: Brad R. Wilson
Senate Sponsor: Jerry W. Stevenson

LONG TITLE

General Description:

This concurrent resolution of the Legislature and the Governor approves a site for new state correctional facilities.

Highlighted Provisions:

This resolution:

- ▶ recites the policy decision to move the state prison facilities currently located in Draper to another location;
- ▶ recites the history of the process of identifying a suitable site for new state correctional facilities;
- ▶ approves the site chosen by the Prison Relocation Commission as the site for the development of new state correctional facilities;
- ▶ directs the Division of Facilities Construction and Management to acquire property at the site adequate for the development of new state correctional facilities; and
- ▶ expresses the intent of the Legislature and Governor as to the redevelopment of the former state prison property.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, in 2014 the Legislature passed and the Governor signed H.C.R. 8, Concurrent Resolution Regarding Moving the State Prison, in which the Legislature and Governor concluded that “it is sound public policy and in the best interests of the state to move the prison facilities from their current location in Draper” and that “the Utah State Prison facilities currently located in Draper should be relocated from that site to one or more other suitable locations in the state”;

WHEREAS, in 2014 the Legislature and Governor created the Prison Relocation Commission to “carefully and deliberately consider, study, and evaluate how and where to move the state prison”;

WHEREAS, the Prison Relocation Commission identified approximately 50 properties offered by their owners as potential sites for new correctional facilities and, through a lengthy and careful process, narrowed that list of potential sites to four;

WHEREAS, in legislation passed during the 2015 General Session, the Prison Relocation Commission was directed to “choose the site for the construction of new prison facilities from among the [four] sites that the commission recommended as potential

sites” in its February 27, 2015 report to the Legislature and Governor and to report the commission’s choice to the president of the Senate, the speaker of the House of Representatives, and the Governor;

WHEREAS, that legislation also requires the state to pay all costs that are necessary for, incidental to, or convenient to the development of the new correctional facilities;

WHEREAS, the Prison Relocation Commission has carefully and deliberately studied, evaluated, and assessed the four sites and, through its team of consultants, subjected the four properties to considerable technical study and evaluation for suitability for the construction of new state correctional facilities;

WHEREAS, after due deliberation and consideration of all the available technical and other information on the four sites under consideration, the Prison Relocation Commission has determined that the site located near I-80 and 7200 West in Salt Lake City provides the best long-term value to the state, has chosen that site as the site for the development of new state correctional facilities, and has recommended that site to the Legislature and Governor; and

WHEREAS, the construction of new, state-of-the-art correctional facilities is vital to the success of the Justice Reinvestment Initiative and the criminal justice system reforms established by the passage H.B. 348, Criminal Justice Programs and Amendments, during the 2015 General Session:

NOW, THEREFORE, BE IT RESOLVED by the Legislature of the state of Utah, the Governor concurring therein, that the site chosen by the Prison Relocation Commission near I-80 and 7200 West in Salt Lake City be approved as the site for new state correctional facilities to replace the correctional facilities currently located in the city of Draper.

BE IT FURTHER RESOLVED that the Division of Facilities Construction and Management is directed to proceed, as provided by law, with the acquisition of the necessary property at the chosen site for the construction of new state correctional facilities.

BE IT FURTHER RESOLVED that the Legislature and Governor express their intent that, after the new correctional facilities are constructed and occupied, the former state prison property in Draper be redeveloped in a way that produces optimal job growth and long-term economic benefit and value to the state and minimizes the displacement of other development.

BE IT FURTHER RESOLVED that the Legislature and Governor express their intent that the redevelopment of the former state prison property in Draper be done in strict compliance with all ethics and conflict of interest provisions of the law applicable to legislators and state employees.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the Utah Department of Corrections and the Division of Facilities Construction and Management.

UTAH CODE SECTION INDEX

The following Code Section Index lists, in section order, each Utah Code section affected by bills passed during the 2014 General Session. The first column lists the section affected. The second column lists the action taken with the following abbreviations: A = Amends, E = Enacts, F = Former Section Number, N = Renumbered and Amended, R = Repeals, T = Technical Renumbers, X = Repeals and Reenacts. The third column lists the bill number. The fourth column lists either the former number or the new number, if applicable. The fifth column lists the chapter number.

See Technical Action Index (page 2835) for explanations and clarifications of sections that were technically renumbered.

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78B-5-618	A	HB 400		217	HR3-2-413	E	HR 4		
78B-5-805	X	HB 228		153	HR3-2-501	X	HR 4		
78B-6-103	A	SB 101		194	HR3-2-502	X	HR 4		
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78B-8-302	A	HB 215		210	JR3-2-402	A	SJR 4		
78B-12-102	A	SB 191		45	JR3-2-603	A	HJR 4		
78B-12-401	A	SB 229		359	JR4-2-404	A	HJR 1		
78B-12-402	A	SB 229		359	JR5-1-101	A	HJR 6		
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JR6-3-101	A	SJR 16							
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SR3-2-308	E	SR 1							
SR3-2-309	E	SR 1							
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59-7-522	A	SB 1001	3
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TECHNICAL ACTION INDEX

Subsection 36-12-12(2)(g) of the Utah code grants the legislative general counsel the power to “correct any technical errors . . . in order to enroll the legislation and prepare the laws for publication;” The following Technical Action Index lists Utah Code sections that were modified by the Office of Legislative Research and General Counsel after the 2013 General Session to resolve technical errors identified by the office. The modified sections are listed in order by the section numbers used to identify them in the bills.

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10-2-102.13	10-2a-106	T	H.B. 245	157	Renumbered by coordination clause in SB199, Chapter 352. Revisor instructions to modify language in HB245, Chapter 157.
10-2-128	10-2a-305	N	S.B. 199	352	Repeal and reenact in HB97, Chapter 111, takes precedence, but renumbering still needed.
10-2-128.1	10-2a-305.1	T	H.B. 97	111	Renumbered by coordination clause in SB199, Chapter 352.
10-2-128.2	10-2a-305.2	T	H.B. 97	111	Renumbered by coordination clause in SB199, Chapter 352.
10-2-131	10-2a-307	T	H.B. 245	157	Renumbered by coordination clause in SB199, Chapter 352.
10-2a-403		E	S.B. 199	352	Revisor instructions to modify language.
13-51-108		E	S.B. 294	461	The section as enacted in SB294, Chapter 461, does not take effect per coordination clause in HB24, Chapter 244.
31A-22-322	13-51-108	T	H.B. 24	244	Coordination clause direction to renumber and modify language.
34-49-101	34-50-101	T	H.B. 232	263	Technically renumbered to avoid duplication of section number used in HB0242, Chapter 156.
34-49-102	34-50-102	T	H.B. 232	263	Technically renumbered to avoid duplication of section number also used in HB242, Chapter 156.
34-49-103	34-50-103	T	H.B. 232	263	Technically renumbered for proper placement in title.
34-49-104	34-50-104	T	H.B. 232	263	Technically renumbered for proper placement in title.
34-49-105	34-50-105	T	H.B. 232	263	Technically renumbered for proper placement in title.
34A-5-102.7		E	S.B. 296	13	Revisor instructions to modify language.

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49-20-412	49-20-413	T	H.B. 148	068	Technically renumbered to avoid duplication of section number also used in SB265, Chapter 455.
53A-1-102	53a-1-102.5	T	H.B. 360	417	Technically renumbered for proper placement in Utah Code.
53A-1-710	53A-1-711	T	H.B. 68	384	Technically renumbered to avoid duplication of section number also used in SB222, Chapter 446.
53A-1-1201	53A-1-1301	T	S.B. 196	443	Technically renumbered to avoid duplication of section number also used in SB235, Chapter 449.
53A-1-1202	53A-1-1302	T	S.B. 196	443	Technically renumbered to avoid duplication of section number also used in SB235, Chapter 449.
53A-3-432		E	S.B. 240	300	Coordination clause direction to modify language.
53A-6-306		A	H.B. 124	389	Repeal and reenact in HB345, Chapter 311, takes precedence.
53A-15-1501	53A-15-1601	T	H.B. 198	149	Technically renumbered to avoid duplication of section number also used in HB124, Chapter 389.
57-8-56	57-8-57	T	H.B. 99	387	Technically renumbered to avoid duplication of section number also used in HB304, Chapter 213.
57-8a-104		A	S.B. 118	325	Composite with SB80, Chapter 34, and HB99, Chapter 387, resulted in language identical to future section. No need for future section.
57-8a-225	57-8a-226	T	H.B. 99	387	Technically renumbered to avoid duplication of section number also used in HB304, Chapter 213, and SB118, Chapter 325.
57-8a-225	57-8a-227	T	S.B. 118	325	Technically renumbered to avoid duplication of section number also used in HB304, Chapter 213, and HB99, Chapter 387.
57-21-2.7		E	S.B. 296	13	Revisor instructions to modify language.

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59-7-616		A	S.B. 18	283	Repeal in HB402, Chapter 417, takes precedence.
59-7-618	59-7-619	T	S.B. 216	356	Technically renumbered to avoid duplication of section number also used in SB292, Chapter 460, and HB406, Chapter 467.
59-7-618	59-7-620	T	S.B. 292	460	Technically renumbered to avoid duplication of section number also used in SB216, Chapter 356, and HB406, Chapter 467.
59-10-1033	59-10-1034	T	S.B. 216	356	Technically renumbered to avoid duplication of section number also used in HB406, Chapter 467, and SB292, Chapter 460.
59-10-1033	59-10-1035	T	S.B. 292	460	Technically renumbered to avoid duplication of section number also used in SB216, Chapter 356, and HB406, Chapter 467.
59-10-1110		A	S.B. 18	283	Repeal in HB402, Chapter 417, takes precedence.
63A-3-8	63A-3-108	T	H.B. 256	3	Technically renumbered for proper placement in Utah Code.
63B-24-101	63B-25-101	T	H.B. 454	182	Technically renumbered to avoid duplication of section number also used in SB9, Chapter 281.
63G-20-303		E	S.B. 297	46	Revisor instructions to modify language.
63H-7-206	63H-7a-206	T	S.B. 237	450	Coordination clause direction to delay effective date to 7/1/2015, renumber section, and modify language.
63I-2-217		A	H.B. 351	465	Revisor instructions to modify language.
63I-2-235		E	H.B. 55	104	Merged language with language from SB292, Chapter 460.
63M-1-3403.5	63N-2-503.5	T	H.B. 402	417	Technically renumbered for proper placement in Utah Code.

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63M-1-3406	63N-2-506	N	S.B. 18	283	Repeal in HB402, Chapter 417, takes precedence on July 1, 2015, but renumbering in SB18 was still needed.
64-13-10.5	64-13-10.6	T	H.B. 348	417	Technically renumbered for proper placement in Utah Code.
72-1-212	72-1-213	T	H.B. 362	275	Technically renumbered to avoid duplication of section number also used in HB289, Chapter 267.
73-3-8		A	H.B. 25	245	Coordination clause direction to modify language.

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